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PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Tuesday, August 26, 1980*

The House met at 12 o'clock noon.

The Reverend Sigfrid Paulson, Unity Church of Christianity, Houston, Tex., offered the following prayer:

Let us take a few moments to be grateful for each other and for all who pray with us today.

Our Heavenly Father, Creator of heaven and Earth, we still our busy minds and open our hearts to Your love.

Let there be peace in our beautiful spaceship, Earth, and let it begin anew right now in us. Inspire us to remember that we are created in Your image, energized by Your love and life. Stir up Your Spirit within: Clear our vision, lift our faith, regenerate our will, expand our love into peaceful creative action.

The light of God surrounds us
The love of God enfolds us
The power of God protects us
The presence of God watches over us
Wherever we are, God is.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 1177) entitled "An act to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. WILLIAMS, Mr. PELL, Mr. NELSON, Mr. CRANSTON, Mr. METZENBAUM, Mr. SCHWEIKER, Mr. JAVITS, Mr. HATCH, Mr. HUMPHREY, and Mr. STAFFORD to be the conferees on the part of the Senate.

THE REVEREND J. SIGFRID PAULSON

(Mr. ROSE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSE. Mr. Speaker, the United States of America has prospered and our freedoms expanded because this is a nation that cherishes unity in diversity.

We are proud of our many denominations of spiritual belief and broad spectrum of religious faith. As Americans, we seek a higher vision under God to constantly perfect ourselves and our Nation. Accordingly, we welcome today the opening prayer offered by a minister of a denomination that is relatively few in numbers but very great in spirit.

I refer to the Reverend J. Sig Paulson, minister of the Unity Church of Christianity. Reverend Paulson has come to us from Houston, Tex., to inspire this House today with an opening prayer.

It is good and fitting that a nation that inscribes on its currency the words, "In God We Trust," reflect on the insight that America is built upon more than materialism and scientific achievements. Our Nation rests upon faith in a universal God who may be approached through the many paths to Christ consciousness.

When we finally reach that glorious city upon the hill and contemplate the view from its summit, we will look down and see that many paths led upward to the same destination.

TWO HUMAN BEINGS

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I would like to bring to the attention of this House two human beings, two people. One is Raoul de Wallenberg, who was in the Swedish Embassy in Budapest in the days of the war. At great risk to himself and completely unselfishly, he rescued people. He arranged for their exit from danger and finally himself was arrested by the Soviets and taken off into the Soviet Union. Since that time no one knows what has happened to him. We have had word that he has been seen in various prisons, but Raoul de Wallenberg for all intents has disappeared. But his act has not disappeared nor has his courage and we should certainly insist on getting some account of what has happened to him.

The second person, Mr. Speaker, is somebody far less famous. It is Ivan—and I would like to make his name clear—it is Ivan Javiliak; brought to my attention by a compatriot of ours, Ihor Koszman, who lives in my district. As Mr. Koszman writes most touchingly, "this is not a famous man, not a famous dissident. He is an ordinary man who has sacrificed all for the right to live free." What he is now asking is that his wife and child should be allowed to come from the Soviet Union. They do not live in Moscow or Leningrad where they might have access to foreign correspondents. They live in a little country town, his wife and child do, a little country town where they are terribly subjected to the KGB and the harassment that would perhaps not be countenanced, although a great deal is countenanced, in Moscow or Leningrad itself.

Two human beings, one lost for many years, that we really must not forget among the heroes, and one still hoping that his wife and child can join him, according to the agreement signed not only by this Nation, but by the Soviet Union itself. The reunification of families was promised and in this case it is denied.

Mr. Speaker, I think we should speak of these things from time to time.

☐ 1210

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS OF COMMITTEE ON THE JUDICIARY TO SIT TODAY DURING 5-MINUTE RULE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary be permitted to sit today while the House is reading for amendment under the 5-minute rule.

The purpose of the permission is to allow markup of H.R. 5615, the Intelligence Identities Protection Act.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I serve

☐ **This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.**

● **This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.**

on this subcommittee and would also like to be on the floor. I would say to my friend from California (Mr. EDWARDS) I note that every hearing has been in the afternoon. I note we have extended over the 7 days that we were allowed, and the Speaker has granted 3 additional days.

I do not really think we ought to have this rush at the last few hours. I am wondering why this is necessary and would yield to the gentleman under my reservation.

Mr. EDWARDS of California. If the gentleman will yield, the problem is that we have had no other time to mark up the bill. The hearings have just been completed. The full committee is meeting today, tomorrow, and we will not be able to work Friday or Monday, being holidays. Our time runs out on Wednesday next.

Mr. ASHBROOK. Further reserving the right to object. I will be attending at 2 o'clock, but I do want to come back here when we are under the 5-minute rule. For that reason I would be glad to meet tonight.

For that reason I would be constrained to object, Mr. Speaker.

The SPEAKER. The rules require 10 Members to object.

(Messrs. MYERS of Indiana, DEVINE, ROTH, RUDD, COLEMAN, KRAMER, RITTER, CONABLE, and BAUMAN also objected.)

The SPEAKER. A sufficient number has objected.

Objection is heard.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit for the markup of H.R. 3806, the Court of Appeals for the Federal Circuit Act.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, that request is only for that one bill and does not include the Criminal Code revision?

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman.

Mr. EDWARDS of California. That is for only one bill. The gentleman is correct.

Mr. BAUMAN. I thank the gentleman, and withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CONGRESSMAN WEISS INTRODUCES LEGISLATION TO DETER UNLAWFUL REMOVAL OF GOVERNMENT RECORDS

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, today I am introducing legislation I hope will close a serious gap between our ideal of openness in government and the access the public actually enjoys, as illustrated by the recent Henry Kissinger telephone transcripts case.

Mr. Kissinger removed transcripts of his conversations as Secretary of State from his office shortly before he stepped down as Secretary and deeded them to the Library of Congress. Although the Solicitor General has conceded that at least some of the transcripts qualify as official records, the Supreme Court ruled that these transcripts do not have to be returned to the Government's control and opened to the public under the Freedom of Information Act.

My proposed legislation would create a private right of action to enable citizens to compel the return of wrongfully removed public documents. Under current law, only an agency head, with the assistance of the Administrator of General Services, can initiate an action to recover records in such cases.

I believe this legislation offers the strongest useful deterrent to the unlawful removal of records at all levels of government. In the Kissinger case, Justice Brennan noted that—

> It is Congress which has the resources and responsibility to fashion a rule about document retention that comports with the objectives of the Freedom of Information Act.

I urge my colleagues to accept this charge and join me in supporting this legislation.

IS ADMINISTRATION SABOTAGING ITS OWN LEGISLATION?

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, it is again with a great deal of sadness that I have to ask the question: Where is the regulatory reform bill; where is the legislative veto bill which has over 230 cosponsors? Is there somebody holding up the House of Representatives from doing its will on this legislation?

The regulatory reform bill was the centerpiece of the administration's proposal to streamline, modernize, and reform our Government. Yet I suggest to my colleagues that the administration is holding up its own bill in a committee of this House because they are afraid to let the democratic legislative process work. The time has come for these bills to be brought out to the floor. Let this House work its will and let the American people benefit and judge the results, because they are going to judge harshly if these bills are not voted on. These bills have broad, bipartisan support.

If the administration is trying to sabotage its own bill, that is not only bad legislation, that is stupid politics.

GOVERNOR REAGAN'S SOUND CHINA POLICY

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, Governor Reagan's position on continued U.S. relations with mainland China and the people of Taiwan is consistent with the intent of Congress through passage of the Taiwan Relations Act.

Governor Reagan has pledged to implement that policy of maintaining peace and promoting extensive close and friendly relations between the United States and the 17 million people on Taiwan, as well as the 1 billion people of the Chinese mainland.

A Reagan administration would not continue the current Carter administration policy of attempting to humiliate Taiwan and unilaterally abrogate trade agreements and other relations with our longtime friend and ally.

Of major importance is Governor Reagan's pledge that, as President, he would not accept the interference of any foreign power in the process of protecting American interests and carrying out the laws of our land.

This is a responsible policy, a policy of firm leadership which should gain renewed respect for the United States throughout the world.

Mr. ROTH. Mr. Speaker, President Carter and his administration have again demonstrated that they will stop at nothing in the continuing attempt to rescue their tattered and discredited foreign policy.

Using the Secretary of State as a political front man was not bad enough. This morning we find the U.S. Ambassador to the People's Republic of China making totally ridiculous, totally unfounded and totally political statements.

In truth, President Carter never wanted the Taiwan Relations Act. He has failed to enforce it. He has done everything he could to circumvent the act. The petty practices of the Carter administration defy belief:

Taiwan Government officials are not permitted to meet with U.S. officials in either United States or Taiwan Government offices.

Taiwan military officers are no longer permitted to train in the United States.

Taiwan citizens are no longer admitted to the U.S. service academies.

The Carter State Department has forced the closing of five Taiwan consular offices in direct violation of the Taiwan Relations Act.

The Carter administration recently tried to ban all imports from Taiwan labeled "Made in the Republic of China."

The Carter administration imposed a 1-year ban on arms supplies to Taiwan, even though the Taiwan Relations Act provides for continued trade in defensive arms.

The Carter administration unilaterally canceled the civil aviation agreement with Taiwan that had been in force since 1947.

United States-China relations in the past 3½ years are yet another example of the dither, blunder, bluster, and gratuitous insult that has characterized the Carter administration's foreign policy around the world.

COUNTDOWN FOR PEACE CONTINUES; 71 DAYS UNTIL NOVEMBER 4

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, the countdown for peace continues. There are 71 days until election and we say the same thing we have been saying for the past 10 days: "Mr. Carter, keep us out of war."

We have watched the China debate and it has been rather interesting because we have seen the Democratic candidates attempting to elevate their capitulation to the Chinese Communists to a virtue. We understand that. That is politics and we will put up with it.

In Poland we see the State Department giving no encouragement whatsoever to the latest freedom fighters. That is politics. We understand that.

In defense we see Secretary Brown trying to put a chestnut out before the people. Here is a project, a secret project that was started in prior administrations and they are trying to use that as a coverup to say that we do not need the B-1 bomber or a new modern bomber force. That is politics and we understand that.

We would say on our side that we will give Mr. Carter the green light in many areas for his mistakes, go ahead and make them. We would say for his foolish policies, go ahead and continue them. For wasting taxpayers' money, go ahead and waste it for the next 71 days.

But please, Mr. President, do not get us in a politically motivated war. Our patience and tolerance for your "politics as usual" will stop the moment you try to involve us in any unnecessary military adventure.

THE MISSING INGREDIENT

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, I think most of us would agree that there are numerous problems, both financial and structural, associated with the Nation's social security system.

Our constituents complain about these problems; various study groups and commissions tell us about them in voluminous reports, printed and televised news stories remind us of them frequently, and our own experiences often bear them out.

But as legislators, we have not yet faced these problems squarely. We made some major changes 3 years ago, but we still left the system with a longrange actuarial deficit equal to about 1.4 percent of taxable payroll, which can be translated into some $800 billion current dollars. We also left a great number of unanswered questions involving the treatment of women under the system, large segments of uncovered employment—mainly Federal—the balance—or lack of it—between welfare and individual equity elements, and a spiraling tax schedule.

Since the 1977 amendments, the system has encountered new financial difficulties. Our response has been to make some trust fund adjustments, postponing an impending crisis until the 97th Congress has a chance to act. Meanwhile, myriad structural problems remain and promise to become even more difficult to solve.

Responsible answers obviously will not be easy to reach. But we can reach them. Reports on key issues by a variety of study groups already are available, and more will be ready early next year. The essential ingredient for success is a congressional commitment to long term planning. So far, it has been a missing ingredient. We are going to have to find it or our national social insurance system cannot survive.

□ 1220

THE FEDERAL CROP INSURANCE CORPORATION SCANDAL

(Mr. COLEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN. Mr. Speaker, the Federal Crop Insurance Corporation scandal goes on. The USDA has proposed the removal of a third official of the FCIC for allegedly engaging in prohibited or irregular personnel practices.

The official is the personnel officer for the FCIC who allegedly participated in putting into practice or failed to stop a number of purported improper personnel measures by three other officials of the Corporation. Two of the officials—the Deputy Manager and the Assistant Manager—have been targeted for removal by the Department.

But administrative action against the FCIC Manager is being held up pending a ruling on his application for disability retirement. This disability retirement application came as a result of a call from the Secretary's own office advising the FCIC Manager as to how to avoid the consequences of his involvement in the FCIC scandal.

Mr. Speaker, I am again calling for hearings on this matter by the House Committee on Agriculture.

TASS OUTLINED CONCESSIONS OFFERED TO STRIKING WORKERS BY POLISH OFFICIALS DESIGNED TO END THE STRIKE

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, in a highly unusual admission by the Kremlin, the Soviet Government's news agency Tass acknowledged that Poland's economic situation was grave and outlined concessions offered to striking workers by Polish officials designed to end the strike. Thus, the Soviets have broken their silence on the Polish situation.

It is significant that some 3 months from now the United States will join other cosignatory nations, including Poland and the U.S.S.R., in Madrid to review implementation of the Helsinki Accords. Foreign intervention in the Polish conflict would contradict the very basic principle I of the Helsinki Accords, which recognizes sovereign equality and each nation's rights to freely choose and develop its own political, social, economic, and cultural systems. Foreign intervention would directly violate principle VI which calls upon cosigners to Helsinki to abstain from the use of military force. It would also violate principle VIII, which asserts the right of a people's self-determination. Force to break the strike on the part of the Polish Government or the Soviet Union would violate the very core of the Helsinki agreements.

About 220 Members of this body, a majority of the House of Representatives, have thus far joined with me in a resolution to reaffirm our commitment to this international agreement and express our view that external intervention by foreign powers in Poland would violate fundamental human rights essential to the preservation of security and cooperation in Europe.

RESOLUTION TO REVOKE IRANIAN DEMONSTRATORS' VISAS

(Mr. DUNCAN of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN of Tennessee. Mr. Speaker, during the recent district work period several of my constituents expressed great disappointment over the way the U.S. Government handled the recent situation when so-called Iranian students demonstrated in the streets of Washington. They found it hard to believe that such a demonstration could be allowed, and were angry because the "students" were not deported immediately. It is clear to me that the Iranians have conducted themselves in the manner they have because they were confident that the U.S. Government would probably do no more than issue a mildly denouncing statement, or threaten with no intention of taking action. They will only begin to respect us when we stand up for our rights as a sovereign nation should. Instead of asking the Iranian demonstrators if they wanted to return home, we should have with force if necessary put them on a plane for the return to Tehran. They are here as guests in our country. Whether they leave or stay is our choice, not theirs.

Accordingly, I today announce my support for a resolution introduced by the gentleman from Minnesota (Mr. HAGEDORN) urging the Secretary of State to immediately revoke the visas of the arrested Iranian demonstrators. He has this authority by virtue of the Immigration and Nationality Act; all that is needed is the will to exercise it. America is growing impatient and wants to stop the ridiculous chain of events that began last November. This resolution is a step in the right direction for a change.

SECOND BUDGET RESOLUTION

(Mr. KRAMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KRAMER. Mr. Speaker, as I look over the agenda for the rest of the week, I see no mention of the second budget resolution. Thus, I can only assume that the Democratic leadership is sticking with its plan to postpone consideration of next year's budget until after the election. I can understand why the leadership would want to take this tack. Just a couple of months ago, when the House passed the first budget resolution, members on the majority side of the aisle were falling all over themselves to pat themselves on the back for passing a balanced budget. They did not mention that this was to be accomplished by an enormous tax increase. Now it appears that even these additional taxes will not be enough to balance the 1981 budget, which by conservative estimates is already $30 billion in the red. I can understand the embarrassment of having to admit this on the eve of the election. Nevertheless, the American people have a right to know the truth; indeed, the law requires that we complete work on the budget by September 15. Mr. Speaker, there are still 39 days remaining until the scheduled start of the recess, and 70 days until the election. There is still plenty of time to consider next year's budget. A lameduck session is not necessary.

ONE-MINUTE SPEECHES

(Mr. PEYSER asked and was given permission to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, last week I had made the request that perhaps both the Republican and the Democratic sides could stop the political speeches during the 1 minutes and use 1 minutes for the purpose they were designed for. But obviously that does not seem to be happening, so I would not want the day to pass, when we have heard all these wonderful things about Governor Reagan's China policy, which is now called the on-again, off-again China policy. The issue is really sounding—like a soap opera these days—is George Bush or Governor Reagon going to decide what we do with Taiwan or with China. Who knows?

Now that we have Governor Reagan introducing the question of evolution into the campaign—and that certainly is a very important issue for the country to be discussing today, as to whether the Darwinian theory has any validity. This is going to be a very interesting campaign. Obviously, from the Republican side I am sure we are going to go back to many issues that date back for the last 100 or 150 years, instead of facing the problems of today. Maybe after today we can get down to using the 1 minutes for the real purpose and not have this political oratory.

FREE ELECTIONS IN NICARAGUA—ABOUT 5 YEARS FROM NOW

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I hope I can be definitive in my remarks.

I would be remiss in not calling to your attention the fact that there will be "free elections" in Nicaragua. If you do not believe it, you can refer to the speech made 2 days ago by Daniel Ortega, one of the Sandanista rulers. He said yes, they will have free elections in Nicaragua about 5 years from now. He did not give an exact date, but Ortega thought 5 years would be a good period of time. So for those in the leadership of this House who have done so much to give American tax dollars to the Communist government of Nicaragua, perhaps you will be around to see those elections 5 years from now. If you believe they will be held, you may also believe in Santa Claus. But the way taxpayers' money has been handed out to Nicaragua, you may well believe in Santa Claus.

EARLE C. CLEMENTS JOB CORPS CENTER

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from further consideration of the bill (H.R. 8010) to amend the Comprehensive Employment and Training Act to designate a Job Corps center as the "Earle C. Clements Job Corps Center" and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. ASHBROOK. Reserving the right to object, Mr. Speaker, I only reserve it for the purpose of stating that the minority is in 100 percent agreement with the chairman. I would ask the chairman if he, under my reservation, would like to take maybe 1 minute to explain the purpose of this bill.

Mr. PERKINS. If the gentleman will yield, this bill was reported out of the House Committee on Education and Labor unanimously. At present the Job Corps center is known as the Breckenridge Corps center in the home community of former U.S. Senator and Gov. Earle C. Clements. He has been a great leader in Kentucky, in the State senate, as Governor, and more or less an institution in the U.S. Senate. He has looked closely into the operation of this Job Corps center since it was established in 1965, and he has been more interested in the center than any man living, to my personal knowledge. I felt that it was appropriate before his birthday to name this Job Corps center for him—along with the remainder of the Kentucky delegation. We all agree. I want to thank the gentleman from Ohio for his cooperation.

Mr. ASHBROOK. I thank the gentleman from Kentucky.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the bill, as follows:

H.R. 8010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Comprehensive Employment and Training Act (29 U.S.C. 801 et seq.) is amended by inserting after section 468 the following new section:

"EARLE C. CLEMENTS JOB CORPS CENTER

"SEC. 469. The Secretary shall designate the Job Corps facilities located in the State of Kentucky in Union County and Muhlenburg County as the 'Earle C. Clements Job Corps Center'. Any reference in law, map, regulation, document, record, or other paper of the United States to the Job Corps facilities specified in the first sentence of this section shall be held to be a reference to the 'Earle C. Clements Job Corps Center'.".

SEC. 2. The table of contents of the Comprehensive Employment and Training Act is amended by inserting after the item relating to section 468 the following new item:

"Sec. 469. Earle C. Clements Job Corps Center.".

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

☐ 1230

THE VETERANS' ADMINISTRATION HEALTH-CARE AMENDMENTS OF 1980—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is the further consideration of the veto message of the President on the bill, H.R. 7102, to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes.

The question is, will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Texas (Mr. ROBERTS) for 1 hour.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation now under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ROBERTS. Mr. Speaker, I strongly recommend that we override the President's veto of H.R. 7102, as amended. If we do, I am sure the veto will also be overridden by the Senate and the bill will become law. Its enactment is vital to the Veterans' Administration and our Nation's veterans.

On May 19, by a vote of 406 to 1, the House passed and sent to the Senate H.R. 7102, the Veterans' Administration Health-Care Personnel Act of 1980. On June 5, the bill passed the Senate unanimously. Among other things, the bill would increase the special primary and incentive pay for certain physicians and dentists employed by the Veterans' Administration.

It would authorize the establishment of a scholarship program for physicians and nurses, a program similar to those being effectively utilized by the Department of Defense and the Department of Health and Human Services. The bill contains various pay and other incentives for nurses and other veterans health-care personnel so critically needed by the agency.

Mr. Speaker, we all know the difficulty the Department of Medicine and Surgery is having in recruiting and retaining young, highly skilled physicians. It is also experiencing extreme difficulty in recruiting and retaining skilled nurses.

The situation became so critical in the early 1970's that in 1975 Congress found it necessary to provide additional pay incentives for certain physicians. The Physicians' and Dentists' Pay Comparability Act of 1975 authorized the Administrator to pay up to $13,500 in special and incentive pay to hard-to-recruit physicians. The average payment made under current law is about $7,000. H.R. 7102, vetoed by the President, would increase the special pay for the first time since 1975, a 5-year period when the inflation rate has been staggering.

Although the President in his veto message states that he is concerned about attracting and retaining excellent VA physicians, he says the current salary and benefits are more than sufficient to accomplish this. Neither the Administrator of Veterans' Affairs, the Chief Medical Director, nor anyone within the agency agrees with the President.

When the Chief Medical Director appeared before our committee on April 16 of this year to explain his difficulty in recruiting and retaining highly qualified physicians, he stated that a large majority of those leaving employment with the Veterans' Administration are leaving because of noncompetitive salary, fringe benefits, and retirement benefit considerations.

He further stated that recruitment is becoming increasingly difficult, with periods required to recruit averaging almost 10 months, and recruitment for some medical specialists taking between 1 and 2 years in many cases. In fiscal year 1979 the agency spent about $18 million to contract with private physicians to provide certain critical services such as radiology, pathology, anesthesiology, and similar services. Hopefully, when fully implemented, this bill will save that $18 million and more.

Mr. Speaker, I will not take too much time of the House to discuss the merits of this legislation. We clearly established the need for the bill back in May.

I am frankly puzzled and at a loss to understand the action of the President. He obviously did not listen to his Administrator of Veterans' Affairs, his chief adviser on veterans' issues. Mr. Cleland knows and the President should know that several hundred beds have been closed in some VA hospitals because of a lack of nurses. In a report to the committee in July, the Chief Medical Director's office informed us that more than 400 beds had been closed because of nursing shortages. The report stated that more than 200 beds had been closed in the State of California alone. Yet the President vetoes a bill that is specifically designed to fill those vacancies and to reopen those beds.

The committee has also been advised, through a recent survey of all VA hospitals, that there are currently 723 physician vacancies and 1,051 nursing vacancies. If funds and personnel were available based on current patient demand, these hospitals could use 1,482 more physicians and 4,716 more nurses. Yet the President says the bill is not needed—that current salaries and benefits are enough. I wish he would tell that to needy sick and disabled veterans who are being turned away from VA hospitals and outpatient clinics.

The President also states that the bill is too costly. I do not know where he got his cost figures for this bill.

He says the special pay for physicians, alone, would cost $80 million during the next fiscal year. That is simply not true. According to the Congressional Budget Office, the special and incentive pay for all physicians and dentists in the bill that passed the House in May would be $40 million. The cost of the amendments worked out with the Senate, which the President vetoed, are even less.

Finally, the President failed to mention a major cost-saving provision contained in the bill. He makes no reference to an amendment supported by the Committee on the Budget that would realize projected savings of $109 million in the next fiscal year.

He does not mention that this cost-saving provision more than offsets the cost of the increase in physicians' and dentists' pay. If enacted, the bill will save more than $50 million next year.

Mr. Speaker, I do not understand where the President is coming from on veterans' issues. He has been criticized by many veterans, and some organizations, for being insensitive to veterans' needs. I am beginning to understand their feelings. Through the Office of Management and Budget he has continued to reduce health-care personnel. In the last 2 years his policies have brought about reductions of more than 6,000 positions.

Congress, by legislative mandate, forced him to add back 3,800 of those positions last year. The Appropriations Committee has added another 1,000 in the fiscal year 1981 appropriations bill to help restore the cuts that he has made. We know that more than 5,000 beds have been closed during the past 2 years, while patient demand is at an all-time high. These actions, Mr. Speaker, do not support the President's statement that during his period in office he has "worked with the VA to insure that the health care provided to our veterans is the finest in the world."

I submit there are thousands throughout our land who feel his policies have substantially reduced the agency's ability to provide adequate health care for our veterans.

It is regrettable the President has seen fit to veto this bill. We have no choice but to override his veto. Otherwise, I can assure the Members of the House that the quality and quantity of veterans' health-care and treatment will be adversely affected. Therefore, I urge that you vote "aye" on the override.

Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Speaker, I rise in support of the motion to override the Presidential veto of H.R. 7102, the Veterans' Administration Health Care Personnel Act of 1980.

Frankly, I am perplexed by this veto. Both the House and Senate Committees of Veterans' Affairs worked closely with representatives of the Office of Management and Budget and the Office of Personnel Management in an effort to respond to their initial concerns about this measure. In his veto message the President states that the major reason for his action is that title I, dealing with VA physicians and dentists pay comparability would provide Veterans' Administration physicians with 30 percent more pay than physicians in the Defense Department, that it would provide a total of $80 million a year in unwarranted salary bonuses and that these funds should be targeted for veterans themselves.

Mr. Speaker, these attempts to justify the veto demand rebuttal.

First, I wish to specifically address that portion of the veto message which states "* * * midcareer VA physicians could earn 30 percent more ($76,200 to $58,700) than the maximum authorized for Armed Forces physicians." These figures are in dispute.

In order for a VA physician to receive $76,200 per year he would have to receive $48,700 base pay out of a maximum of $50,000 authorized by law plus the total of $22,500 in special pay and special incentive pay (a virtual impossibility) plus the maximum of $5,000 special pay for service in a remote area. That these levels of pay and bonus pay would combine at all, could occur only in the most rare instance.

Not only is such a pay level improbable but the comparison used in the veto message does not reflect the accepted midcareer level for members of the armed services, traditionally 12 years at the VA, traditionally the chief salary level.

Using these accepted definitions of midcareer service and applying the more realistic average pay levels, rather than maximum levels, one finds that the average midcareer pay in the armed services, based upon the latest enactment, signed into law earlier this year is $51,100 whereas the average for a midcareer VA physician is $55,000.

That slight disparity is easily reconciled when one considers the perquisites available to Armed Forces physicians, such as noncontributory retirement, nontaxable housing and subsistence allowances, commissary and exchange privileges and so forth, which are not available to VA physicians.

Second, the suggestion that the special pay provisions would cost $80 million a year appears to be faulty. The Congressional Budget Office which estimated the cost of title I in the original House bill at $40 million, placed a cost figure on the amended bill which Congress approved of only $34.7 million for fiscal year 1981. The Congressional Budget Office further estimates that the cost of title I during the following 4 years will average no more than $50.6 million per year.

Third, it is a fact that there is a pressing need for 1482 additional physicians in the Department of Medicine and Surgery. The current ceiling placed upon the number of physicians permitted, on account of budget restraints and personnel ceilings which were allocated to the VA is 759 short of what is needed. The current low pay for VA physicians has compounded that shortage and resulted in serious recruiting and retention problems which account for a current total of 723 vacancies in that Department. Clearly, enactment of H.R. 7102 will enable the VA to fill those vacancies which in turn will provide a greater capability to meet the needs of those veterans who need it most.

Let me remind my colleagues again that title I would provide the first increase in special pay for VA physicians in 5 years and it would make these pay provisions permanent for all VA health care professionals. The amounts involved are similar to the provision of H.R. 6982, the Uniformed Services Health Professionals Special Pay Act of 1980 for military doctors which was signed into law on June 28 of this year. This bill would bring VA physicians' pay into line with physicians' pay embraced by that measure.

In light of this serious deficiency which directly affects the medical care of eligible veterans in need of it, I find it impossible to agree that the provisions of title I are extravagant or unwarranted as alleged in the veto message.

I might also observe that those who advised the President regarding H.R. 7102 appear to be poorly informed indeed not to be aware of the fact that higher quality physicians will substantially improve the health care delivered in the VA hospitals and that this would result in a major direct benefit to our veterans. In short, this bill represents a significant benefit to the veterans of our Nation, not just the VA physicians. The bottom line, as my colleagues know, is that this bill in its totality will save the taxpayers at least $51 million in the first year after its enactment and much more in future years.

Mr. Speaker, I am also concerned that the veto message would suggest that H.R. 7102 will work to the disadvantage of the Department of Defense; that suggestion is predicated upon the questionable comparison of pay for Armed Forces physicians and VA physicians to which I have previously referred. Further comment is needed.

Because of the many differences, comparison of VA and DOD physician salary levels is at best a difficult task. The OMB has used an improper approach that on first glance would falsely show the VA paying much higher salaries. The tables that OMB provides include a combination of average base pay and maximum special pay under old authorities. They make no comparison of the new DOD special pay levels and the proposed VA special pay levels. They have compared pay using three parameters: First, entry level, which is a point in time; second, midcareer, which is some period of years or a particular point in time; and third, senior, which is a level of achievement. These are not homogeneous parameters. For numerous other reasons, the OMB data comparisons are invalid.

The primary and overwhelming difference between the VA and DOD is the source of recruitment. Over half of all DOD physicians are serving obligated service from the DOD health professions scholarship program (HPSP) and other government-sponsored graduate education and for a variety of other reasons. This is a noncompetitive source of recruitment which the VA does not enjoy. At the very outset, comparisons of VA and DOD pay levels can be questioned. Data contained in House Report 96–517 (DOD special pay bill) indicate that over 70 percent of the DOD work force has under 6 years' service. The noncompetitive nature of DOD pay is further borne out by the fact that only 1 in 10 DOD scholarship recipients choose to remain in DOD after the obligated service period. This same report further indicates that even with the new special pay authority, DOD projects a continuing heavy reliance on obligated service from the HPSP scholarship program and the uniformed services university graduates. This suggests a continuing noncompetitive salary structure. The VA has no such source of new physician recruits and must compete in the open market with the private sector for physician manpower.

Another fallacy in the OMB comparison is the fact that over 32 percent of all DOD physicians are in residency training and are included in figures that are compared to regular VA staff. Adding the 3,800 VA residents into statistics for the VA would substantially change the comparison, especially at the entry levels. The VA entry-level average would be reduced to the $20,000–$25,000 range. This factor alone invalidates the entry-level pay comparison. Other factors such as the noncontributory retirement system, and medical and dental benefits in DOD are not accounted for in the comparisons.

The composition of the VA and DOD work force differs widely. Clearly, the VA has the more experienced work force. Over 60 percent of the DOD work force is under 35 years old. As of January 1, 1980, 78.3 percent of the total VA work force was either board certified, 64.3 percent, or board eligible, 14 percent. By comparison, 24 percent of the total DOD physician work force is board certified. A large percentage of VA staff hold faculty appointments in affiliated medical schools and significant numbers are involved in research.

Generally speaking, the VA has a more experienced and better qualified work force of physicians. There are many other differences between the VA and DOD such as the health problems of our patients, the added complexities of the VA's research and education missions and others that we have not addressed in this paper.

Realizing all the differences between the VA and DOD we come back to the justification of the proposed VA special pay. Vacancies are increasing, recruitment periods are increasing, the quality of our new recruits is declining and we are placing an ever-increasing burden on our affiliates for salary supplementation. Certain specialists which are vital to the VA are becoming almost impossible to recruit with an ever-increasing number of physicians being contracted for at higher contract rates.

My subcommittee held extensive hearings on VA physicians' recruitment and retention problems prior to introducing H.R. 7102. The data we received indicated as I mentioned earlier that as of July 1, 1980, the VA is short 1,482 physicians. It is also short 4,716 nurses, with the result that 400 needed beds are out of service. This situation has exacerbated the acute shortage of inpatient services available to non-service-connected veterans. The VA physician recruiting and retention problems have been severe with losses of full-time physicians during the past 2 years whose numbers have exceeded gains by more than 10 percent. The ramifications of this situation are brought into focus by the realization that recruiting of a full-time physician takes a minimum of 10 months on the average and in scarce specialties more than 20 months. Due to the inflationary impact on existing special pay, this situation is growing worse.

Mr. Speaker, we should not ignore the fact that the health care personnel scholarship program provided by this bill will serve to substantially increase, in the long term, the numbers of doctors and nurses coming into the VA medical system. The program is a logical extension of the health manpower training mission of the VA, which is affiliated with 104 of the Nation's medical schools. As the largest national health-care provider, the VA has an outstanding record of training health-care professionals for our country. Significantly, this program would serve best those areas of critical shortages in the VA such as radiologists, pathologists, anesthesiologists, and so forth, who are difficult to recruit and at the same time provide physicians and nurses in geographic areas where there is a critical shortage of such specialties.

The most important aspect of this provision is that it would reduce the practice of "contracting out" with private physicians in scarce specialties and in remote geographic areas in order to provide for needed services. In 1979, the cost of "contracting out" was approximately $18 million. That cost is estimated to exceed $21.5 million in fiscal 1980. While this program will cost $14 million during its first year, it will ultimately save the taxpayers more than $130 million during its program life.

The bill also authorizes 15 health care facilities as centers for geriatric research, education and clinical services to enhance the VA's medical treatment program for aged veterans. The number of veterans aged 65 and over is now 2½ million. Current projections indicate that their number will exceed 7 million by 1990. It is obvious, therefore, that the demand for geriatric treatment in the VA in the next decade will far exceed its present capabilities. This program is needed to meet that accelerated demand.

Finally, Mr. Speaker, I wish to point out that one of the most important provisions of H.R. 7102 would produce savings of $109 million in fiscal year 1981 and thereafter, while insuring that veterans who are over 65 years of age, who are eligible for medicaid or VA pension benefits or nonservice veterans who do not possess the financial means to provide for private medical care will continue to use VA facilities as now provided. However, under this provision the administrator may look beyond the oath which certain nonservice-connected disabled veterans must now sign prior to admission to a VA medical facility in verifying that financial need.

In summary, this bill as passed by Congress will substantially improve the capability of the VA administrator to recruit and retain health-care professionals for our veterans hospital system in order to provide the high quality medical care that the Congress desires and which this Nation's veterans deserve. In the process, it will save the taxpayers at least $51 million in the first year and more than $323 million in the next 4 years. I strongly urge my colleagues to support the motion to override the veto of this important piece of legislation.

Mr. ROBERTS. Mr. Speaker, I yield 5 minutes to the distinguished ranking minority member of the committee, the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Speaker, I intend to vote to override the President's veto, and I urge my colleagues to do likewise.

The President in his veto message makes light of the 3 years of effort the Veterans' Affairs Committee has spent in drawing up a permanent pay plan that will attract and retain quality health-care professionals in the Veterans' Administration. The efforts of our committee were ratified by the full House on May 20, by a vote of 406 to 1.

In his veto message, the President made a number of unsupportable statements. He claimed that "this bill would provide $80 million a year in unwarranted salary bonuses rather than target that amount on veterans themselves." Mr. Speaker, the cost of the physicians and dentists pay section of this legislation is $34.7 million, not $80 million. Furthermore, money spent on quality health care, including physicians pay, is indeed money spent on veterans, as they are the beneficiaries of the care. If money spent on physicians does not impact directly on veterans, perhaps the President might like to try an experimental program whereby veterans hospitals are staffed on a purely voluntary basis, and then see what type of care exists.

I assume, therefore, that the key word in the President's veto message is "Unwarranted," meaning that the pay increases being offered are not necessary. The President later states in his message that he is "concerned about attracting and retaining excellent VA physicians," but that "current salary and benefits are more than sufficient to do that." If this is true, Mr. Speaker, why has the ratio of part-time physicians to full timers in the VA system more than doubled in the past 10 years? Why are more than 90 percent of the doctors now being hired by the VA "part-timers," while 70 percent of those offered full-time positions refuse them? Why has the Department of Medicine and Surgery experienced a net loss of more than 200 physicians just since 1978, at a time when our veterans population continues to grow, and our World War II veterans are reaching the age where they need more extensive medical care? And why is the highest loss rate of physicians in the 25 to 34 age group, that age level where the career physicians of tomorrow are being determined? Clearly, Mr. Speaker, if the problem does not go away, the doctors will. And the alternative then becomes more part-timers and more highly expensive contract hiring, at a level up to 85-percent higher than a physician's salary, for the same work.

In his veto message, the President claims that VA physicians will receive up to 38 percent bonuses from an average salary of $55,000 a year. I do not wish to quibble, Mr. Speaker, but in 1979, the average VA physician grossed less than that amount, even with special pay added onto his salary. In fact, of the more than 6,000 VA physicians, only the 173 "Executive Level" physicians averaged more than $53,500. And Mr. Speaker, this was gross income. By comparison, the average physician in this country made $68,600 in net income in 1979, according to official American Medical Association figures. With respect to the increase, I am informed that a more realistic percentage from this bill is 20 percent. When we consider that the cost of living has increased 54 percent since the present law was enacted, while salary increases have increased only some 29 percent, I believe the figures in H.R. 7102 are more than justified.

Support for this legislation has come from every area. In addition to the loyal support from the major veterans groups, even sources as diverse as the Vietnam veterans adviser to Penthouse magazine have noted the seriousness of the VA physician drain. In its August editorial, devoted entirely to the merits of H.R. 7102, that column warned that "the evidence suggests that Carter and his 'social engineers' feel no real empathy toward veterans of all of America's wars and national emergencies, who have earned the right to medical care. The VA's medical system has been crippled and allowed to deteriorate, thereby justifying its absorption into a national health care system."

Mr. Speaker, to allow this veto to stand is simply another nail in the coffin of the VA medical system. Surely a president who has cut more than 10 thousand beds out of that system cannot be expected to understand the urgent need for quality physicians. But we in the Congress can, and I urge all of my colleagues to join me in overriding this unfortunate and untimely veto.

Mr. ROBERTS. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Subcommittee on Pensions and Compensation, the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I strongly urge the Members of the House to override the President's veto of the Veterans' Administration Health Care Personnel Act of 1980. I do so because, in my view, the President has been poorly advised in reference to this bill. It is imperative that we pass this legislation. The overwhelming support for the bill was reflected in the vote in May when we passed the bill by 406 to 1. This bill is the result of 2 years' hard work by the Subcommittee on Health Facilities and Benefits, chaired by the distinguished gentleman from Virginia (Mr. SATTERFIELD) and the ranking minority member of the full committee (Mr. HAMMERSCHMIDT). A great deal of effort has gone into this bill, both in the House and the Senate.

The President's ill-advised veto would deny adequate care to needy, sick, disabled, and aged veterans. The average age of the World War I veteran is now more than 80 years. In addition, there are now more than 2 million veterans of World War II who are older than 65 and over 5 million such veterans have passed the age of 60. We must have the very best physicians available to treat these veterans. The President's veto would deny the Veterans' Administration the resources to go into the marketplace and purchase skilled health care physicians.

Mr. Speaker, last year the VA spent more than $18 million for fee contracts with private physicians for radiology, anesthesiology, pathology, and similar services. Hopefully, the enactment of this legislation will allow the Veterans' Administration to recruit physicians who can perform these services rather than providing such services on a contract fee basis.

Last year, more than $400,000 was spent for private radiology services at the Jackson Hospital because of the hospital's inability to recruit a radiology staff. There is no ear, nose, throat staff at the Jackson VA hospital. This bill will allow us to recruit in this area. One anesthesiologist at the hospital may leave unless the special pay for physicians is increased. The Veterans' Administration is unable to recruit certain surgeons at the Jackson facility because of the pay structure. Many physicians now full time are electing to convert to part time because of inadequate pay.

A similar situation exists at the VA hospital in Biloxi, although it would appear the situation may not be as critical there as in Jackson.

The point is, Mr. Speaker, although one may not like the idea of having to pay these types of salaries to certain highly qualified physicians, if we are to continue to provide quality health care to our veterans, we have no other choice.

The President has indicated that he feels this legislation would adversely impact on the military to recruit and retain physicians. What he did not say was that the House has already taken action to increase the special and incentive pay for military physicians. In addition, what he did not say was that military physicians will be given a cost-of-living adjustment in October which is expected to be substantially more than that to be provided for VA physicians. In addition, it should be noted that 70 percent of the physicians entering military service are graduates of the Department of Defense health professions scholarship program or other Government sponsored graduate education and are participating in internship or residency training at a lower entry level of compensation.

It is true that the Veterans' Administration must pay a higher rate of pay at the entry level into the Veterans' Administration because the Veterans' Administration does not have a scholarship program whereby physicians with obligated service could come on board at a lower entry level of compensation. H.R. 7102 would authorize the Administrator of Veterans' Affairs to establish a scholarship program so that the VA can pay a lower rate of compensation for those who agree to serve an obligated period of service.

Currently, because of the marketplace, the Veterans' Administration must pay between $40,000 and $45,000 for the type of physician it wishes to serve in the Veterans' Administration. He is highly skilled and highly trained. The overwhelming majority are board certified. They are quality physicians and if we are to recruit and retain more of them, we simply must increase the pay. It is an economic factor we must recognize.

Finally, Mr. Speaker, the President did not discuss in his message a main feature of H.R. 7102, a reform provision that, if enacted, would realize savings of more than $100 million during the next fiscal year. This savings would more than offset the full implementation of H.R. 7102 which is estimated by the Congressional Budget Office to be less than $50 million in the next fiscal year. CBO has estimated that the bonus provision of the bill would cost about $34 million and the proposed scholarship program another $14 million if fully funded.

Mr. Speaker, we certainly must maintain a strong military health care program, and the military pay bill we recently passed, and which the President recently signed, will provide some assurance that this will be done.

We must also maintain a strong veterans' health-care program as well because once the individual serves his obligation, and is entitled to health care as a veteran for having served on active duty, we must not allow him to be treated by other than the very best. The quality of health care in the VA is excellent and the high standards we have established must be maintained. That can be done only if we get the highly trained physician to look after our veterans. Therefore, Mr. Speaker, I urge my colleagues to vote to override the President's veto of H.R. 7102.

I am still puzzled why the President vetoed the bill—as far as I know the President has done no work to support his position, no letters, no contacts by White House staff—it seems that the administration is playing games with an important piece of legislation.

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Mr. ROBERTS. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Speaker, I rise to urge my colleagues to join in the override of the President's veto of this important piece of legislation for veterans.

I must say that the veto itself confounds my imagination and shocks my conscience. Certainly the veto reveals that the President is not aware of the deplorable conditions that exist in some VA hospitals where serious vacancies of doctors and nurses are the order of the day.

There are 700 physician vacancies in VA hospitals, there are 4,700 nursing vacancies, and 37 percent of the doctors currently employed at the VA are those who have been educated in foreign institutions. Granted many of these are brilliant doctors in many cases, but there is a communication problem that the VA patient has to deal with.

The problems in the VA health system were addressed by this legislation, and consequently the veto is totally unwarranted. Also, I would like to mention title III, which deals with geriatric medicine. We all know that veterans are getting older. The veterans of World War I are in their eighties and the veterans of World War II are in their sixties. We have now almost 5 million over 60, and in 1985 we will have 9 million over 60. And what are we doing about geriatric medicine?

Today I received a telegram from Dr. Valery A. Portnoi, who is the Director of Geriatric Medicine at the George Washington University Medical Center, who stated:

> As I have stressed in the past, the establishment of demonstration centers for geriatric medical research and the training of medical personnel and clinical operations, are essential steps toward improving health care delivery systems for the elderly and ultimately improving their health status. As I have pointed out recently in the pages of the New England Journal of Medicine, all previous legislation concerning medical care for the elderly was futile in achieving the goal of improvement of the health status of the elderly. Ignorance and neglect of the health profession regarding proper care for senior citizens continues to increase. The only two forms of medical care that are readily available for the elderly are hospitalization for acute care and institutionalization. Alternatives to this dehumanizing care should be sought based on new knowledge of specific medical, psychological, and social problems of the elderly. We need a comprehensive approach to treatment provided at specialized centers. Positive changes in care for the elderly will be possible only if they are based on scientifically provided models of better socio-medical clinical practice that are headed by specially trained clinicians-geriatricians. It is unfortunate that the President decided to join those who provide "lip service" to health care problems, rather than support actions based on a genuine concern about the well being of the elderly.

Mr. Speaker, certainly there should be other alternatives. The alternatives contained in title III of this bill which was my original legislation coordinates the research capacity of the VA with clinical care and medical school curricula. A new alternative which would be developed from the knowledge of scientific, medical, sociological, and social problems of the older population, plus comprehensive treatment and care by the VA at its medical centers, provides the only answer for geriatric care. These programs will provide a change in the care of the elderly, not only for veterans but for all senior citizens everywhere, at various community hospitals and health care centers.

For this reason, not only do veterans' organizations support this legislation but certainly all senior citizens groups support it as well. We would be striking a blow for the veteran and for the senior citizen if we were to let this legislation stand as it passed the House.

Mr. Speaker, I would suggest that the President has given lipservice to defense and lipservice to the veterans and shown a total lack of concern for the care of the defenders of our country to whom we have made a commitment for medical care. His veto must—and I am confident will—be overridden.

Mr. ROBERTS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. MOTTL).

Mr. MOTTL. Mr. Speaker, I rise to strongly support overriding the Presidential veto of H.R. 7102, as amended. The enactment of this measure is essential if the veterans of this Nation are to be provided both the quality and quantity medical care necessary to meet their needs and which this Nation has committed itself to provide for those who served their country in its Armed Forces during periods of war. Many of the individuals we are talking about are severely disabled as a result of the part they played in protecting the freedoms this Nation now enjoys. Many of their fellow servicemen gave their lives to protect these freedoms.

As the chairman of the Veterans' Affairs Committee has stated, a recent survey of all VA hospitals indicated a total of 723 physician vacancies and 1,551 nursing vacancies due to the VA's inability to recruit and retain qualified personnel. If the President had provided all of the funds necessary to meet the demands for physicians and nurses, the figure would more than double in the case of physicians and be increased fourfold in the case of nurses. I ask Members, how can the President in his veto message say that this bill is not needed and the current salaries and benefits are more than adequate to recruit and retain the qualified personnel needed to provide health-care services to veterans?

In my own district the VA medical center reports a shortage of 11 full-time and 7 part-time physicians and 32 full-time and 3 part-time nurses. Currently two 40-bed wards are closed due to shortages of professional personnel. The President states that he, too, is concerned about attracting physicians and goes on to say that the salary and benefits are more than sufficient to do that. The President is either receiving bad advice or rejecting any sound advice he is receiving—he certainly does not know the facts. He goes on to say in his veto message, and I quote:

> I would prefer that the Congress target funds more directly on improving health-care benefits and treatment for veterans.

I ask Members, where was President Carter when the VA was forced to reduce its professional staff by more than 8,000 over the last 3 years because of budgetary constraints placed on the agency by his administration? The Congress appropriated funds over and above his budgetary limitations in fiscal year 1979 to employ an additional 3,800 professional personnel and is currently adding funds for an additional 1,000 to his fiscal year 1981 budget request. Mind you, this was at the initiative of the Congress—not the Executive.

I urge Members to vote "aye" to override the Presidential veto of H.R. 7102. If this is not done, there will shortly begin the largest exodus of professional personnel from the ranks of the veterans' medical program seen since the World War II days. I would also remind Members that at the time the VA medical program consisted of little more than a "warehousing" operation.

Mr. ROBERTS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. LEATH).

Mr. LEATH of Texas. Mr. Speaker, I join my distinguished chairman in urging my colleagues to override the President's veto of H.R. 7102. Justification for the bill has been clearly established.

First, we know the Department of Medicine and Surgery is experiencing major difficulty in recruiting and retaining certain physicians, dentists, and nurses. This was clearly laid out by Dr. Donald Custis, the VA's Chief Medical Director during oversight hearings before our committee earlier this year.

Second, because VA cannot recruit in critical specialty areas, such as radiology, pathology, and other such areas, the Agency spent more than $18 million in contract fee services last year.

Third, the special pay provisions the Congress enacted in 1975 have never been increased, notwithstanding the fact that inflation has been substantial during that 5-year period.

Fourth, according to the Chief Medical Director, more and more VA physicians are electing to convert to part-time service.

Fifth, according to a recent committee survey, more than 4,000 nurses are needed to take care of patient demand. Vacancies occur because of several reasons, one major reason being salary. H.R. 7102 would establish a scholarship program so that VA could get more nurses into the system each year. The committee survey disclosed that more than 400 beds are now closed because of a shortage in nursing staff. The survey also disclosed that more than 700 physician vacancies currently exist. In my district alone, there is a shortage of 22 full-time physicians and 43 full-time nurses who cannot be recruited due to the better salaries and other benefits available to them in the private sector.

Mr. Speaker, the President's veto message suggests that the enactment of the special pay provisions of H.R. 7102 would cost $80 million in fiscal year 1981. As the chairman of the full committee has pointed out, this is not true. The Congressional Budget Office has estimated that the bill would cost $37.5 million during the next fiscal year, which includes full implementation of the proposed scholarship program.

Mr. Speaker, the President did not mention a major reform provision of the bill that would save some $109 million next year should the bill become law. With this cost-savings provision, the next savings in Federal outlays next year would be more than $71 million. This is a very important provision of the bill which the President failed to mention.

Finally, Mr. Speaker, the President has stated that this bill would in some unexplained way adversely affect the military's ability to recruit and retain physicians. We recently passed a bill to enhance the military. The President signed that bill. I strongly supported it on the floor of the House. If I thought for a minute that this bill would in any way adversely impact on the Department of Defense, I would oppose it. But it will not. The point is we have at least done something to take care of the problems encountered by the military in their recruitment and retention efforts. We must do the same for the Veterans' Administration. At a time when some 12 million World War II veterans, whose average age is rapidly approaching 60 years, we must have the best possible trained physicians and nurses available to take care of them.

Our obligation to those who serve in defense of our country continues after the individual serves on active duty. Our commitment to care for our veterans must not diminish.

I urge my colleagues to vote "aye" and override the President's veto.

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Mr. ROBERTS. Mr. Speaker, I yield 2 minutes to the distinguished ranking minority member on the Subcommittee on Compensation, Pension, Insurance and Memorial Affairs, the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, the great veterans' organizations who keep a close watch on VA hospitals have been sounding the alarm over this administration's policies toward veterans. During the Veterans of Foreign Wars annual convention held this month in Chicago, the organization's national commander called the President "antiveteran" because of bed reductions and shortages of medical personnel in VA hospitals.

The national commander of AMVETS said, and I quote:

> The Carter administration is bent on a path which could ultimately destroy the VA as the Nation's sole independent provider of veterans' services.

The Disabled American Veterans' national commander criticized the administration's veterans' policy, pointing out that—

> Thousands of eligible veterans have been denied VA medical care during the past two years.

The American Legion has denounced the President's veto of H.R. 7102 in the strongest terms and called on Congress to rectify his action by overriding it.

Mr. Speaker, medical administration experts both in and out of the Veterans' Administration agree this legislation is urgently needed in the interests of providing quality care to veterans who require medical treatment. It is grounded in fact, not fiction. The message accompanying the President's veto of H.R. 7102, the Veterans' Administration Health

Care Personnel Act of 1980, appears to be a work of fiction.

It is fiction, not fact, that the current salaries and benefits of VA physicians are more than sufficient to attract and retain excellent physicians. In 1978, a VA survey revealed that losses of its full-time physicians exceeded gains by 10 percent. More than 70 percent of all offers for full-time positions were rejected by qualified candidates. The average time required to recruit a full-time physician was almost 10 months—20 months in some scarce specialties.

Soaring inflation during the 2 years following this survey has caused the situation to deteriorate further because of the widening gap between VA physicians' pay and that of their counterparts in the private sector. We are told the VA is now short some 1,500 physicians and the equivalent of one average-size hospital of 400 beds is out of operation as a result of the loss of physicians.

The Presidential message exhorts Congress to target funds more directly to improving health care benefits to veterans. Mr. Speaker, how can sick veterans be more directly served than by providing them with qualified physicians? Health care cannot be bought by the yard in a bargain basement. I, for one, am not prepared to turn over the medical care of America's military veterans to physicians who are unable to earn a living in the private sector.

The President has stated that active duty military physicians earn far less than the physicians' salaries and bonuses proposed in the VA Health Care Personnel Act. This is another piece of fiction, Mr. Speaker. The Department of Defense does itself no credit in recommending the veto on these grounds. The Committee on Veterans' Affairs deliberated long and conscientiously on the possible impact the measure would have on DOD's recruitment of military physicians. We were convinced by the evidence it would be negligible.

The fact is that 70 percent of the physicians who enter military service have graduated from some kind of Government-paid education program and are serving a period of obligated service. The VA does not have this source for physicians and must recruit on the open market.

Another fiction noticeable in the veto message concerns the cost of H.R. 7102. Mr. Speaker, I must conclude the White House was misinformed on this matter. Rather than costing "a large sum of money" as the President states, the bill includes provisions that will save $50 million the first year and more than $300 million during the subsequent 4 years.

The fact is, Mr. Speaker, that the Veterans' Administration cannot get physicians because physicians can make more in the private sector. The situation is very serious and the veto must be overridden.

Mr. ROBERTS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, I rise in support of the action of the Veterans' Affairs Committee to override the President's veto. The President, by vetoing this particular bill, asked each of us in the House and the Senate to rethink our action on this particular bill, H.R. 7102. I have taken the opportunity to go back and relook at the provisions in each of these sections of the bill, and I come back feeling as strongly as I did when we passed the bill back on May 19, 1980, that the bill is a good one, that it is workable and that it makes sense.

I do not personally fault the President for analyzing and reviewing and vetoing the bills which he has problems with, and I think we in Congress have the right to override him when we think he is in error. I believe we will overwhelmingly do that in this case.

Let me give three quick reasons why I think we should override the veto.

First, the cost savings that are in this bill. There are cost savings in the provisions to provide the opportunity of the VA to seek third-party payment in insurance cases providing almost $109 million a year. I would like to see this provision extended and broadened, but I think this is a good first step.

Second, there are cost savings which come in the fact that the VA will not have to contract out for physicians, and nursing services and this will enable the VA itself to hire qualified and capable physicians and nurses.

And, third, I think it is important to look at the needs of the veterans' hospitals. I do not believe that this bill will solve all of the problems of the Veterans' Administration hospitals. I think retaining physicians with quality salaries is important; but I think it also points up in the right direction and, hopefully, we will go on to provide adequate equipment, adequate quality of space for these physicians, and provide for the upgrading of the Veterans' Administration hospital system so that it is the best hospital system in the Nation. Mr. Speaker, I strongly urge all Members of this body to vote to override the President's veto of H.R. 7102, the Veterans' Administration Health-Care Personnel Act of 1980.

This body, by the overwhelming vote of 406 to 1, passed this measure on May 19, 1980. The bill passed the Senate unanimously on June 5, 1980. As has been indicated, the bill would increase the primary and incentive pay for certain physicians and dentists in the VA and would authorize the establishment of a scholarship program for physicians and nurses. This scholarship program, for all intents and purposes, parallels the one currently authorized by the Department of Defense and the Public Health Service of the Department of Health and Human Services. It also contains various pay and other incentives for nurses and other health care personnel so critically needed by the Veterans' Administration to provide quality health care to our Nation's veterans.

The special pay and special incentive pay for physicians and dentists provided for in H.R. 7102 would cost only $38.5 million in fiscal year 1981 and an estimated $40 million for each of the next 4 years. It does not cost $80 million as indicated in the President's veto message. One provision alone in this bill has a net savings of $109.1 million in fiscal year 1981 and a total of $627.4 million over the next 4 years. The veto message failed to mention the cost savings that are provided for in this most important bill.

Mr. Speaker, the VA has clearly demonstrated that under its current pay structure, it cannot attract and retain qualified personnel in sufficient numbers to maintain the veterans' medical program at a level to deliver quality care in the quantity needed. This bill is warranted, and I urge all Members to vote "aye" to override President Carter's veto of H.R. 7102.

Mr. ROBERTS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Speaker, I rise in support of the motion to override the President's veto of H.R. 7102, the Veterans Health Care Amendments of 1980, legislation which is sorely needed by the Veterans' Administration and our Nation's veterans, despite the comments contained in the President's veto message.

My colleagues who have preceded me during this discussion have more than adequately explained the urgency of this legislation. The President cannot have it both ways—he cannot profess concern for and support of our Nation's veterans while making nationally televised appearances, and then, upon returning to the confines of the White House, veto vital legislation which greatly enhances the medical services provided for our veterans.

Included within the provisions of H.R. 7102, which passed the House of Representatives by a vote of 406 yeas to 1 nay, are the provisions of H.R. 4015, the Veterans Senior Citizens Health Care Act, which unanimously passed this body by a vote of 406 yeas, zero nays. In his message, the President states that he would prefer that we target funds more directly on improving health care benefits and treatment for benefits. I submit, Mr. Speaker, that this is precisely what is to be accomplished by this legislation and I strongly urge that my colleagues support this measure and override the President's veto of this vital legislation.

The House of Representatives has already spoken on these issues—we must not retreat in the face of "Presidential" opposition. Rather than detract from the benefits earned defending our country, it is time America lived up to her commitment to all her veterans, "To care for him who shall have borne the battle and for his widow and orphan."

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I rise in support of the override.

Mr. Speaker, the proposal we have before us today is certainly among the most appropriate and beneficial bills to come before us this session. This proposal will help provide the veterans of this country with services from medical personnel which they need and deserve. Earlier this summer I had the opportunity to visit a Veterans' Administration facility in my congressional district. Although the condition of the facility itself appeared to be excellent and capable of at least adequately meeting the needs of Nebraska's veterans, it was clear that the hospital lacked sufficient medical personnel in numerous areas.

Mr. Speaker, I am appalled that President Carter has decided to give the care of our Nation's veterans such a low priority. The men and women of this country who have served in our Armed Forces certainly deserve better. Not only do they deserve better, they deserve the best medical personnel we can reasonably provide. The sacrifices they have made have benefited each and every American. We have an obligation to keep the Nation's commitments to them.

Mr. Speaker, on May 20 of this year the House passed H.R. 7102 by an overwhelming vote of 406 to 1. I feel that we can send the President a clear message concerning congressional and American support for our veterans by overriding his veto with an overwhelming vote. I urge every member to support this override.

Mr. ROBERTS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. I want to thank my friend, the gentleman from Texas (Mr. ROBERTS), for yielding.

Mr. Speaker, I feel compelled to speak out strongly against the President's recent veto of H.R. 7102, the Veterans' Administration Health Care Personnel Act of 1980.

It is hard to understand where the President is coming from. I am afraid he is once again lost in the Rose Garden, chasing rabbits.

Never have I witnessed a clearer signal of congressional intent than was displayed on this piece of legislation. The House overwhelmingly passed this bill by the whopping vote of 406 to 1; and the Senate passed their companion measure (S. 2534) unanimously.

The President just does not have his facts straight. The President commented that the VA physicians special pay increase will cost $80 million annually. CBO estimates the increase will cost $34.7 million in fiscal year 1981 and average $51 million the next 4 years.

In addition, the bill will actually create cost savings totaling nearly $52 million annually. These cost savings will accrue from a reduction in the necessary number of contract services for specialists like radiologists and pathologists; and from greater success in keeping good, young physicians in service longer.

The President called this pay increase "unwarranted." This is the first pay increase in 5 years. The VA is finding it extremely difficult to recruit and retain qualified physicians because potential income in the private sector is considerably higher. Currently there are 723 physicians vacancies in the Veterans' Administration. I certainly do not call that an "unwarranted need."

I do not understand either how the President could, just last week, reaffirm before the national convention of the American Legion, his administration's support for Federal programs designed to care for our Nation's veteran population, and then, less than 24 hours later, veto this important piece of legislation. Shame.

America's veterans have made tremendous sacrifices for their country. They deserve the very best medical care, and the very best hospital system we can provide them. There are 30 million American veterans out there that are counting on us to override this ill-conceived Presidential veto.

● Mr. FISH. Mr. Speaker, on May 20 of this year, the House of Representatives voted 406 to 1 to approve H.R. 7102, the Veterans Administration Health Care Personnel Act of 1980. As one of that overwhelming majority, I believe the bill's increased incentives for qualified doctors and nurses is vital to improve the level of health care for our Nation's veterans.

VA hospitals presently have over 900 vacancies for full-time physicians and 4,600 vacancies for full-time nurses. VA doctors have not had a special pay increase in 5 years. The number of VA hospital beds has decreased, medical research has been stifled, and far too many veterans have had their health care entitlements reduced or denied outright.

Our VA hospital system must remain strong and viable. Any American who has served this country in a uniform has earned the right to the best care possible. H.R. 7102 would assist the VA in recruitment, retention, and training of critically needed medical specialists and nurses. We should all be proud of the efforts of the Congress in meeting the needs of our veterans.

The necessity and practicality of this legislation is clear. I am shocked and amazed that President Carter vetoed H.R. 7102 less than 24 hours after expressing his support of the armed services and veterans programs in an address to the National Convention of the American Legion. The President's claims of high costs and "unwarranted" special pay increases in his veto message have been refuted by the Congressional Budget Office, the Armed Services Committee, and an invalid comparison between VA salaries and DOD pay scales. VA physicians are recruited at a later age and receive far fewer fringe benefits than their DOD counterparts. Thus, the higher average pay for VA doctors is both warranted and necessary to provide needed services to veterans.

The Congress cannot allow this blatant denial of health care to our former servicemen. I urge a strong, unanimous vote to override this ill-advised veto.●

Mr. ROBERTS. Mr. Speaker, I have no further requests for time.

I ask my colleagues to vote aye on the override, and I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BROWN of California). The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 401, nays 5, not voting 26, as follows:

[Roll No. 488]

YEAS—401

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen

Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rosenthal
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—5

Ashley
Beilenson
Bolling
Giaimo
Rostenkowski

NOT VOTING—26

Abdnor
Chisholm
Cleveland
Conyers
Daschle
Dodd
Evans, Ga.
Ford, Mich.
Guyer
Holtzman
Leach, La.
Lederer
Lundine
McCloskey
Mathis
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Myers, Pa.
Rose
Rousselot
Stewart
Thompson
Watkins
Wilson, Bob
Young, Alaska

□ 1310

The Clerk announced the following pairs:

Mr. Lederer with Mr. Abdnor.

Mr. Murphy of New York with Mr. McCloskey.

Mr. Mollohan with Mr. Bob Wilson.

Mr. Thompson with Mr. Rousselot.

Mr. Rose with Mr. Young of Alaska.

Mr. Myers of Pennsylvania with Mr. Guyer.

Mrs. Chisholm with Mr. Cleveland.

Mr. Dodd with Mr. Watkins.

Mr. Daschle with Mr. Mathis.

Mr. Ford of Michigan with Mr. Evans of Georgia.

Mr. Moorhead of Pennsylvania with Mr. Conyers.

Mr. Stewart with Ms. Holtzman.

Mr. Lundine with Mr. Leach of Louisiana.

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will notify the Senate of the action of the House.

PERMISSION FOR SUBCOMMITTEE ON ENERGY RESEARCH AND PRODUCTION OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT THIS AFTERNOON WHILE HOUSE IS IN SESSION

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Energy Research and Production of the Committee on Science and Technology be permitted to sit this afternoon during the time the House is in session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONGRATULATING AMERICANS WHO PARTICIPATED IN SECOND OLYMPIC WINTER GAMES FOR PHYSICALLY DISABLED

Mr. HANLEY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the resolution (H. Res. 689) congratulating Americans who participated in the second Olympic winter games for the physically disabled, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the resolution, as follows:

RESOLUTION

Expressing the sense of the House that it offers its congratulations to Americans who participated in the second Olympic winter games for the physically disabled in Gielo, Norway, and to the organizations who helped to promote the event.

Whereas the second winter Olympics for the physically disabled was held January 30 through February 8 in Geilo, Norway; and

Whereas twenty-seven Americans traveled to Norway to represent the United States in competitions against more than four hundred blind, amputee, and paralyzed athletes from eighteen countries; and

Whereas those Americans did an outstanding job not only by competing but by winning six separate medals: four gold, one silver, and one bronze: Now, therefore, be it

Resolved, That it is the sense of the House that it extend its hearty congratulations to all of the members of the 1980 United States handicapped Olympic team for a job well done; and recognizes the International Federation of Sports for the Disabled, the National Handicapped Sports and Recreation Association, and the United States Association of Blind Athletes for their successful efforts in organizing and producing the second winter Olympics for the physically disabled.

The SPEAKER pro tempore. The gentleman from New York is recognized for 1 hour.

Mr. HANLEY. Mr. Speaker, House Resolution 689 expresses the sense of the House that it offer its congratulations to Americans who participated in the second Olympic winter games for the physically disabled in Geilo, Norway, and to the organizations who helped to promote the event.

House Resolution 689 has been cosponsored by a majority of the Members of the House.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, I also am most hopeful that the House will act affirmatively on this bill. I want to congratulate the chairman of the committee and the ranking minority member, the gentleman from Illinois (Mr. DERWINSKI) for allowing my bill to come to the floor at this time.

Mr. Speaker, I would like to say that the American team that participated in this particular program was made up of 27 members and these members won four gold, one silver and one bronze medal. These people deserve the same kind of credit that we gave to the members of our other Olympic team, both of these, of course, are our own American Olympic teams.

I thank the gentlemen for their action and yield back the balance of my time.

□ 1330

Mr. HANLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I think it is most appropriate we have this strong support for this very commendable resolution. Mr. Speaker, I would like to take this opportunity to commend my colleagues for their support of H.R. 689 expressing the sense of this House in congratulating the 27 members of the U.S. team participating in the second winter Olympic games for the physically disabled in Geilo, Norway, earlier this year.

The 27-member U.S. team who entered the competition were blind, amputees and paralyzed, yet they were all highly tested racers from past competition.

The tremendous achievements of these athletes serves to illustrate not only they have overcome the limitations of their handicaps, but the potential which one can attain when handicapped individuals are given the opportunity to develop their skills.

The U.S. team truly serves as an inspiration to us all and I am pleased in joining my colleagues in congratulating those who participated in the second Olympic winter games for the physically disabled.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANLEY. Mr. Speaker, I ask unanimously consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON H.R. 5892, WIND ENERGY SYSTEMS ACT OF 1980

Mr. FUQUA. Mr. Speaker, I call up the conference report on the bill (H.R. 5892) to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 1, 1980.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. FUQUA) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. WALKER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to report to the House that the committee of conference on H.R. 5892, the Wind Energy System Act of 1980 has succeeded in resolving the major differences in the House bill and the Senate substitute. The conference agreement establishes a well-defined, aggressive, goal-oriented program for the development of this Nation's vast wind energy resource, which has been estimated to have the potential of 1.7 quads by the year 2000.

One of the most outstanding features of H.R. 5892 is the creation of well-defined objectives for the utilization of wind energy systems. These objectives include the establishment of an 8-year program to reduce the cost of wind energy systems to a level competitive with conventional energy systems, and the goal of having total capacity of 800 megawatts of wind energy systems installed by the end of fiscal year 1988 with 100 megawatts provided by small wind systems. These objectives, once established, will provide definite guidance to DOE in formulating and implementing the programs established by this bill.

The conference agreement represents the careful blending together of the strongest provision from the House bill and the Senate substitute. After much effort and deliberation, the conferees have structured a piece of legislation that will specify an accelerated program for wind energy systems, leading to their widespread use in supplementing and replacing conventional methods of generating electricity, especially those methods based on imported oil. I believe that this legislation is responsive to these needs.

I would like to compliment Congressman RICHARD OTTINGER, the chairman of the Subcommittee on Energy Development and Applications, Congressman JOHN WYDLER, ranking minority member of the Science committee, Congressman HAMILTON FISH, ranking minority member of the subcommittee as well as the other conferees, for the fine work they have done in formulating this legislation. Their aggressive leadership and sound work were instrumental in developing this piece of legislation so as to insure that we have created a successful program for wind energy systems.

Mr. Speaker, I consider H.R. 5892 to be a responsible piece of legislation which deserves our support. We must continue to develop solar energy applications that show great promise for the future as well as serve our needs today. With this legislation, we will be able to develop wind energy systems in a rational and comprehensive manner. This will insure that the taxpayers' dollars are used in as efficient and effective manner as possible. I urge my colleagues to accept the conference report on this legislation.

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the wind energy conference report and hope that the Members of the House adopt it overwhelmingly. This is an instance of Congress moving ahead in the area of alternative energy sources.

This is a great opportunity for Congress to take a stand by saying that in the future we want to depend on a variety of sources of energy. The wind energy conference report gives us this opportunity to assure that in the future Americans will have the opportunity to draw upon wind energy as one of many sources of power that will provide us much needed new electrical generation.

I would like to congratulate Members on the minority side, including the gentleman from Vermont (Mr. JEFFORDS), and the gentleman from California (Mr. CLAUSEN) who have worked so hard to make certain that this bill becomes law. They were among the people who were out in the lead. I think we should note, not only the work of the committee, but the people who do not serve on the committee who worked very hard to make certain that wind energy is included in our energy mix of the future.

I do have a couple of requests for time, Mr. Speaker, and I will be asking for that time at the appropriate point in the proceedings.

Mr. FUQUA. Mr. Speaker, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I want to thank my chairman, the gentleman from Florida (Mr. FUQUA) for his great help with this legislation as well as the minority member, the gentleman from New York (Mr. FISH).

The legislation is designed to make wind applications, both small and large machines, completely commercial by the year 1990. It sets forth a progressive program for achieving those goals.

The conference report on H.R. 5892, the Wind Energy Systems Act of 1980 has greatly strengthened the provisions of this legislation that overwhelmingly passed this body last December by a vote of 382 to 23. It is the culmination of more than a year's effort since it was first introduced in April 1979 by Congressmen NORM MINETA of California, JIM JEFFORDS of Vermont, and the ranking majority member of my subcommittee, JIM BLANCHARD, of Michigan.

H.R. 5892 provides Congress an opportunity to take positive action in the development of a renewable alternative energy source which can begin contributing to this Nation's growing domestic energy requirements today. It provides a firm commitment to an 8-year program designed to bring the cost of wind energy systems down to a level competitive with conventional energy sources. It provides a package of financial assistance for potential purchasers of wind energy systems to enable wind energy to realize its vast potential.

The high potential of wind energy has now become widely recognized. The President's Domestic Policy Review on Solar Energy identified wind energy as having the largest potential of any of the solar electric technologies to provide significant amounts of electricity by the end of the century. The DPR estimated that wind energy can contribute 1.7 quads of power by the year 2000. The recently released Mitre Corp. "Analysis of National Energy Plans" estimated an even higher potential when it identified wind as potentially contributing 2.5 quads in the year 2000. If these contributions can be reached then it would mean that in 2000, wind energy would be producing more electricity than the Nation received from all sources in 1950.

The provisions in H.R. 5892 have been carefully crafted so that the program they create will enable both small and large wind energy system to begin contributing to our energy needs. I would briefly like to outline the three key programs this legislation will establish.

THE SMALL WIND PROGRAM

The small wind program as contained in H.R. 5892 is a 5-year, research, development, demonstration and Federal procurement effort with the goals of producing small wind systems that are competitive with conventional sources of energy and of installing 100 megawatts of small machines by the end of fiscal year 1988. There are two key elements of this small wind effort: First, research, development and demonstrations of limited numbers of prototype small machines; and second, Federal procurement of small wind energy systems, for their use by various Federal agencies.

Additional R. & D. and limited demonstrations of these machines is needed to improve their reliability, to reduce the cost of small machines, and to identify and understand where the true applications for small machines are, and how they actually function in the different applications. The testimony and the information DOE provided by subcommittee during its hearings last year on this legislation, indicated that the cost reductions resulting from this work, as well as the better understanding of which markets and application are best suited to small machines would greatly assist the commercialization of small machines.

The conferees agreed to delete the cost-shared grants for purchasers of small machines that was in the bill when it passed the House. In lieu of the grants for small wind machines the Secretary is to procure approximately 1,700 machines and utilize them in various Federal applications.

The conferees were concerned that the grants for small wind energy systems would possibly be counterproductive and stunt the market and industry growth that is anticipated to result from the already existing tax credits and loans that are available for the purchase of these systems. It was feared that consumers would delay using the 40-percent tax credit in the hope of receiving a 50-percent grant at some point in the future.

To assure that this small wind program receives adequate funding during its 5-year life the conferees, agreed to a requirement that at least 25 percent of the funds appropriated each year for the overall wind program go for this effort.

LARGE WIND PROGRAM

The large wind program is an 8-year research, development, demonstration, and technology applications effort with the goals of producing large wind systems that are competitive with conventional sources of electric generation and of installing 700 megawatts of large machines by the end of fiscal year 1988.

There are three key elements in the large machine program: First, research, development and demonstration of additional prototypes; second, cost shared grants for the purchase of the large machines; and third, direct loans for multiple machine windfarm projects.

Research, development, and loans to windfarm projects would be emphasized in the initial year of the program. This will allow for the development of the next generation of large machines (the MOD-5, MOD-6, and the Bureau of Reclamation's system verification unit). The administration very strongly recommended this early commitment to R. & D. while delaying the emphasis on cost shared grants until these more advanced machines are available. This is a valid recommendation since the MOD-5 machine is estimated to be 30 to 50 percent cheaper than the MOD-2 in production. The MOD-2 is presently the most advanced megawatt scale machine in DOE's program.

The cost shared grants for the first 6 years will be on the basis of a maximum of 50-percent DOE share. In years 7 and 8, this would be reduced to a maximum of 25 percent. This reduction in the final 2 years is warranted since full commercial scale production facilities for the MOD-5 and MOD-6 would come online in fiscal year 1987.

The conferees agreed to include the Senate provision providing direct loan authority for at least four multiple machine windfarm projects. The loans would be for a period of up to 20 years and would cover up to 75 percent of the total purchase and installation cost of the wind energy systems.

This loan authority will apply to any windfarm project whether the windfarm utilizes large or small wind energy systems. This authority shall be utilized to provide assistance to at least four projects involving a total combined capacity of no more than 320 megawatts, but the appropriation for a given fiscal year for a single wind farm shall not exceed 50 percent of the total wind appropriations for the wind program in that year.

WIND RESOURCE ASSESSMENT PROGRAM

The last key program contained in H.R. 5892 is a 3-year wind resource assesesment effort. This program will do three things: First, validate the existing wind resource information; second, provide instrumented towers on loan to individuals for 1 year to test their specific wind site; and third establish a wind data center (in NOAA) to collect the wind resource data and put it into a form that is useful to the public and disseminate that information. A first-year authorization of $10 million is called for to begin this effort.

We are now embarking upon a transition period in our energy future. We are moving from an era of cheap energy to one where all our alternatives for providing energy will be very expensive. We must begin to rely on our renewable resources to meet future demands. This transition period may be painful, but necessary in order to assure that our country is equipped with diversified and reliable energy sources. As we have already done in the past, we must again learn to utilize the wind at a scale and in a manner which can contribute to satisfying our energy needs. This legislation is a substantial effort to improve our technology and acceptance of this important energy resource.

The Wind Energy Systems Act has received widespread support and I urge my colleagues to agree to the conference report.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I rise in support of this conference report.

I join with my coauthors Mr. MINETA, Mr. BLANCHARD, and subcommittee Chairman OTTINGER in endorsing the conference report on H.R. 5892, the Wind Energy Systems Act of 1980. This compromise version of the bill I originally cointroduced with Mr. MINETA and Mr. BLANCHARD last year should provide the impetus for developing the most promising renewable source of electrical energy. I am proud to have taken part in forming the proposal before us today.

The House conferees are to be commended for reaching an agreement which adopts the goals outlined in the House version of the bill, especially the goal of 100 megawatts over a 6-year period for small wind machines.

It is my strong belief that wind energy should be an important component of this Nation's energy policy. Wind provides an energy source with infinite supply security, as do a variety of other renewable energy alternatives. For this reason, wind and other renewables are attracting more and more serious attention.

The conference report before us today sets forth an aggressive research, development and demonstration program with a goal of producing 800 megawatts of electricity by the end of fiscal year 1988. This is approximately the equivalent of 6 million barrels of oil a year.

The wind program authorized by this legislation seeks to accelerate ongoing research and development activities in areas where lack of knowledge limits the widespread utilization of small and large wind energy systems. The provision for demonstration projects will facilitate the collection of data needed to achieve greater use of wind energy.

This conference report also contains the House provisions mandating a national wind resource assessment program which will make wind resource information available to Federal agencies and other prospective purchasers of wind machines. Another House provision included by the conferees requires the Department of Energy to prepare and present to Congress a detailed program management plan which will outline staffing and funding requirements to meet the goals of the wind energy program.

The conferees adopted most of the House provisions to insure to the greatest extent practicable that small business concerns will have realistic and adequate opportunities to participate in the programs under this act. A provision added by the conferees, guaranteeing that at least 25 percent of all moneys appropriated shall be expended in the implementation of small wind energy systems activities, should also facilitate the continued participation of small business in the wind energy field.

Perhaps the most valuable aspect of this legislation for the promotion of wind energy systems is the section requiring the implementation of technology application programs. One particularly significant provision establishes a loan program subsidizing up to 75 percent of the total purchase and installation costs of small or large wind energy machines obtained by a public or private entity for use in a wind energy system. This program should go far to bring about economies of scale thereby stimulating wind industry production and lowering the cost of wind energy equipment. The provisions limiting the size and number of wind energy systems eligible for loans should insure the diversification of wind energy development.

The programs authorized by this legislation will assist the development of wind energy technologies, stimulate the wind energy industry, and lower the cost of wind energy relative to conventional sources. The promising potential of wind energy in this age of dwindling resources has become more evident as nonrenewable energy costs rise. When wind energy becomes economically viable, it can supply up to 13 quads of energy, which represents 7 percent of projected U.S. demand in the year 2000.

In light of wind energy's importance to a viable national energy program, and the need for the programs established by H.R. 5892, I urge my colleagues to give the same mandate to this conference report as they did to the House bill.

Mr. FUQUA. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. Mineta), who is the chief sponsor of this legislation and has worked very hard with our committee in bringing it to us today. I want to commend him for his efforts and his leadership on behalf of this legislation.

Mr. MINETA. Mr. Speaker, I would like to commend the chairman of the Science and Technology Committee, Mr. Fuqua, and the chairman of the subcommittee, Mr. Ottinger, and others involved in securing passage of this bill. I wish to thank my colleagues, Mr. Blanchard and Mr. Jeffords, and their staffs for their hard work in the conference with the Senate.

I rise in support of the conference report for the Wind Energy Systems Act of 1980, with the belief that there will be strong support for this timely and necesessary legislation. The Senate approved the conference report on the 6th of August, and it is my hope that the House will move expeditiously to follow suit.

The act consists of three primary projects: First, there is the small wind energy systems program, which is designed to encourage the fledgling small wind energy industry by allowing Federal procurement of small wind energy systems and their subsequent installation at appropriate sites throughout the country.

Second, the act calls for the establishment of an 8-year, large wind energy systems program with the goal of providing 700 megawatts of power by the end of 1988. Included in this program are provisions for a minimum of four "wind farms," which will account for 320 megawatts of energy, employing both small and large wind energy systems.

Third, the Wind Energy Systems Act of 1980 allocates up to $10 million for a 3-year wind resource assessment program, to determine where the ideal energy sites are located in this vast land.

We as a nation are engaged in the difficult process of altering long ingrained habits of energy consumption. You and I, as Representatives of the American people, have been entrusted with the difficult task of defining the course we must take toward energy independence. A wide range of energy capabilities is needed to complement one another, providing the diversity necessary to free us from ever again becoming dangerously dependent on one source of power. I urge every Member, on both sides of the aisle, to approve the conference report, and send this bill on to the President to become law. Together, private industry and the Federal Government can harness the inexhaustible bounty of the wind for the good of all, and thereby bring to fruition the hopes that are at the heart of the Wind Energy Systems Act of 1980.

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Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Wydler).

Mr. WYDLER. Mr. Speaker, I rise in support of the conference version of H.R. 5892. This legislation represents a great deal of hard work by the Members of both bodies in arriving at a bill which incorporates the strong points of two considerably different approaches to bringing wind energy into the commercial marketplace.

Major progress has been made since the National Science Foundation began a small research program in 1979 aimed at applying the major aeronautical advances of the previous 20 years to the development of advanced wind energy systems. The primitive wind systems of the 1930's have been outclassed by modern machines of a megawatt and more which can come within 30 percent of the cost of conventional power in a desirable wind resource area. Smaller wind machines are already beginning to penetrate the commercial market.

I am especially pleased that the legislation retains the strong emphasis on a near-term, well-managed research and development program to bring on a new generation of large wind energy systems. These machines should finally make large wind competitive with conventional electricity in a variety of locations. If, in contrast, we had chosen to pour money into a small wind grants program, we would have run the risk of having a choice of incentives before the public that would undoubtedly have slowed down the commercialization of these machines. We were in danger of repeating the mistakes made during 1977–78 in the energy tax section of the National Energy Act. At that time the sales of solar hot water heaters nosedived when the 20-percent tax credits for solar devices were proposed. These sales remained at a very low level for over a year during the torturous NEA Confrence.

Similarly, sales of small wind machines would have languished while taxpayers debated whether it was better to take today's 40-percent tax credit or wait for the possibility of a larger grant at some future date. Setting aside 25 percent of the funds under the legislation for small wind R. & D. and Government purchases of small wind systems as outlined in the conference report is much less likely to have an adverse effect on the private market.

It is clear that we have further to go before large wind systems can reach their potential for supplying electricity to selected grids throughout the country. However, I do believe that wind energy is the most promising source of solar electricity for the year 1990 or even 2000. I urge my colleagues to put the taxpayers' money where the near to midterm promise is and vote to accept the work of the conference.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Clausen).

Mr. CLAUSEN. Mr. Speaker, I rise in strong support of the wind energy conference report and not only to compliment Chairman Fuqua and the committee but also my colleague, the gentleman from California (Mr. Mineta) for having taken the initiative and being a prime sponsor of this legislation. Quite frankly, I am proud to be associated with these efforts.

Mr. Speaker, the Wind Energy Research, Development and Demonstration Act of 1980 has tremendous potential for giving us a major boost during the years ahead in our effort to achieve energy independence for this country.

This legislation is important for the contribution it will make toward increasing our supply of renewable energy, but it is also significant for the opportunity it presents to small firms to enter the energy field.

The nature of wind energy systems lends itself to the inventive capabilities of a great many small but innovative businesses we have throughout the country. A large number of firms with the potential to participate in this exciting new field are found in my area of northern California. We also have some of the best wind conditions, particularly in our coastal areas, of any part of the Nation. Other rural areas throughout the United States can, with this wind energy program, offer the same assets to the Nation's effort to achieve energy self-sufficiency.

Mr. Speaker, the critical nature of our energy supply demands that we utilize every conceivable alternative energy source. This legislation will help to open the door to one of the most exciting and intriguing new energy sources. I urge the adoption of the conference report.

Mr. WALKER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Fish).

Mr. FISH. Mr. Speaker, I rise in support of the conference report on H.R. 5892, the Wind Energy Systems Act of 1980. This legislation provides for an aggressive program over the next 8 years to develop both large and small wind energy systems. This conference report molds our efforts to make wind energy systems competitive with conventional energy systems. It calls for a coordinated Federal program to meet this goal to be carried out by the Department of Energy, with the support of NASA and other Federal agencies.

We have only recently awakened to our pressing energy needs. Recent energy shortages and the dramatic increases in the price of crude oil have made us painfully aware of our energy problems. Our Nation's inability to face our energy situation head on and to take drastic action may soon come to haunt us. This legislation represents yet another step in moving forward with a vigorous solar energy research, development and demonstration program that will help us to reduce our reliance on uncertain foreign oil supplies.

The Wind Energy Systems Act of 1980 will allow us to begin a serious effort to harness a great potential by establishing a well-balanced program that will permit us to develop both large and small wind energy systems in a reliable and cost-effective manner. It calls for consideration of the extent of our wind energy resources, and development of wind systems that can best take advantage of this resource. With this program in place, we hope to reach a total capacity of at least 800 megawatts of wind energy systems.

I would like to congratulate my fellow conferees on this legislation for their extremely fine work. Through their efforts, I believe that we have structured a comprehensive and well-thought out piece of legislation that will allow us to effectively harness the potential of wind. The distinguished gentleman from Florida (Mr. FUQUA), the chairman of our committee, and the distinguished gentleman from New York (Mr. WYDLER), the ranking minority member, should be commended for their fine leadership in bringing this legislation to the floor. In addition, the distinguished chairman of our subcommittee (Mr. OTTINGER), should also be congratulated for his fine work. They have spent many long hours in structuring a national wind program that will insure the success of our efforts.

I am particularly pleased with several of the changes recommended by the conferees. First, I am heartened to see that the conferees have called for an overall study to determine the need for any additional incentives for either users or manufacturers to accelerate the use of wind energy, rather than several small independent studies. Furthermore, I am pleased to see the conferees recommend a strong technology applications program to stimulate the widespread use of wind energy systems. I would hope that the Department of Energy will press forward with this program and utilize the authority provided for Federal financial assistance to achieve the goals of this act.

Wind energy offers us a renewable energy resource that can be developed in a manner consistent with our environmental goals. The committee received many hours of testimony that utilities and communities are ready and willing to make commercial wind energy a reality now. Wind energy systems can be used for a wide range of applications, such as for residential, industrial and agricultural use, and for utility central power electric generation. These systems can also be of great potential for use in other nations where the energy demands of remote villages cannot be presently met.

Our Nation must now recognize that we must look to other sources if we are to satisfy our energy needs in the future. A strong commitment to develop renewable resources such as the Sun must be reaffirmed to assure that progress continues in developing competitive solar applications. This legislation is another tool that will help us meet the national goal of deriving 20 percent of our energy needs by the year 2000 from the Sun. It provides a clear signal that wind energy is a major component of our national energy strategy, and that the Federal Government will develop a coherent program to support it.

Mr. Speaker, our Nation anxiously awaits to see if we can meet the challenge offered in harnessing the energy of the Sun. This legislation represents part of our answer to this challenge. It is an important step in helping us on our way to becoming energy independent. I urge my colleagues to support the conference report.

Mr. WALKER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROYER).

Mr. ROYER. Mr. Speaker, I strongly support the conference report on H.R. 5892, the Wind Energy Systems Act of 1980. This legislation provides for a focused, goal-oriented program that will allow us to tap the great potential offered by our wind energy resources. It requires the Department of Energy to work closely with other Federal agencies to reach the program goals.

I would like to congratulate the House and Senate conferees for their diligent efforts on this legislation. I believe that they have chosen the appropriate level of funding for our wind program to insure that our taxpayers' moneys are spent in the most effective manner possible. In particular, I would like to commend the chairman of our committee, DON FUQUA, and ranking minority member, JOHN WYDLER, for their fine leadership in bringing this legislation to the floor. We must also acknowledge the dedicated efforts of the distinguished ranking minority member of our subcommittee, HAMILTON FISH, JR.

Wind energy has been identified as one promising resource that may be able to contribute 1.7 quads of energy by the year 2000. With further reduction in costs, wind energy systems will be used for many residential, agricultural, industrial, and large-scale utility applications. The actions that we are taking today will allow us to accelerate our use of this resource and help us to further relieve our dependence on foreign oil supplies. I would urge the Department of Energy to move forward aggressively with this program so that we can reach our goal of making wind energy systems competitive with conventional energy resources by the end of fiscal year 1988.

I am especially pleased with many of the positive changes made by the conferees. The small wind program has now been structured to effectively stimulate commercial markets for these systems and to avoid any further counterproductive Federal activities. I support the small wind Federal procurement program established in this legislation.

Furthermore, while the conferees have stricken the House provisions which set aside 10 percent of large wind energy system demonstration funds for Federal agency projects, I would hope that this action is not misconstrued to mean that the Federal agencies would not work together in our national wind program. I urge the Department of Energy to continue to promote increased Federal agency coordination as we develop our Nation's wind resources and to take advantage of all existing Federal programs. This will permit the Department of Interior and other Federal agencies to play an active role in the development of both large and small wind energy systems. In this manner, DOE will be able to effectively utilize the expertise offered by these agencies and to avoid duplication.

Mr. Speaker, I believe that we must vigorously pursue the development of all of our renewable resources. Congress must assume an aggressive role in providing the necessary incentives to make alternative energy sources such as wind, an integral part of our Nation's future energy supply. This legislation incorporates the necessary ingredients to develop reliable and durable wind energy systems. I urge swift passage of this conference report.

Mr. WALKER. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. MCKINNEY).

Mr. McKINNEY. Mr. Speaker, I could not congratulate the committee nor the author more. With my good friend who is now U.S. Senator, the gentleman from Massachusetts, Mr. TONGAS, and the gentleman from Massachusetts, Mr. MARKEY, I have been cochairman of the New England Energy Congress. We wrote the first regional energy plan. We know there was not a macro answer, such as the nation found with the atomic bomb or with the space program. We realized that the solution to this energy problem is micro, and this is one of the most important parts of the microsolution.

I congratulate the committee and thank my good friend, the gentleman from Florida (Mr. FUQUA) who worked so hard on the synthetic fuels bill. We are just now about to add one more part to the entire puzzle of saving America and making it independent from OPEC and the foreign oil barons that are destroying our economy and endangering our national security.

Mr. FUQUA. Mr. Speaker, I want to yield at this time 3 minutes to the distinguished gentleman from Michigan (Mr. BLANCHARD), a member of the committee and one of the original sponsors of this legislation and, likewise, who spent many hours and hard work in trying to bring this legislation to us.

Mr. BLANCHARD. Mr. Speaker, I thank my dear chairman of the Committee on Science and Technology.

Mr. Speaker, about a year and a half ago several of us in the House got together with our staffs to discuss what kinds of initiatives were not going on that ought to be going on in the energy research and development field. It became clear that wind energy was probably the most promising near-term source of solar energy, and in those early days—I speak of the gentleman from California (Mr. MINETA), the gentleman from Vermont (Mr. JEFFORDS), and their staffs and my staff—we began to work on this project, along with Henry Eaton of the Science Committee, and especially Don Teague of the Department of Energy. We came up with what we thought was a very promising approach. After some refinement our work is embodied in this bill. There was also help from Lou Divone of the Department of Energy. It turned out during the course of hearings on our bill that wind energy from the expert point of view showed more promise than even we had imagined, and today's final conference report version is the culmination of our work and the work of our very capable staff. I want to thank the staff, Don Teague, and our subcommittee chairman, DICK OTTINGER. This bill is also an example of the types of projects that under the leadership of the chairman of the Committee on Science and Technology, the gentleman from Florida (Mr. FUQUA), with a bipartisan committee and a bipartisan approach, have been enacted for the future. They may not show immediate results tomorrow or next year, but in several years, the out years, as we address the energy problem, I think we are going to be thankful for the congressional action on this and other measures.

Let me just add that most experts predict that wind energy by the year 2000 will provide the equivalent of all of the electric power that we used to have in the year 1950. I want again to commend our subcommittee and commend the staff for their help.

If I have any time left, I yield back the remainder of my time.

Mr. WALKER. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Mr. Speaker, the importance of a diversified energy policy which provides a sufficient level of funding for alternative energy forms such as wind cannot be understated when developing national energy policy. It is absolutely essential that we reduce our energy dependence on oil, particularly unstable and costly OPEC oil. For these reasons, I rise in strong support of H.R. 5892, the wind energy conference report, and urge its speedy passage.

This legislation will provide the necessary financial incentive to accelerate the growth of a commercially viable wind energy industry by providing financial assistance in the form of loans, contracts, grants, cooperative agreements and direct Federal procurement for wind energy projects.

A primary goal of this 8 year wind energy program is to reduce the cost of electricity produced by wind energy and make it competitive with conventionally generated electricity. Although this legislation clearly is not a cure-all for our energy problems, wind energy, in conjunction with other alternatives such as gasohol, solar, geothermal, and hydro, to name a few, will make increasingly greater contributions to our goal of a stable and secure energy future for our country. Therefore, I reiterate my support for alternative energy development and urge your favorable consideration of this conference report.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. WINN).

Mr. WINN. I thank the gentleman for yielding.

Mr. Speaker, I, too, rise in support of the conference report on H.R. 5892. As a conferee, I will not try to rename all of the people who deserve credit for the great job that was done on this bill, but I can say it was one of the few conferences that I have ever participated in where every one of those conferees was dedicated to furthering the provisions of this bill. This legislation will establish a solid foundation for the wind energy technology. A technology that will play an ever-increasing role in our energy future. It has been exceedingly clear to me that the solution to our energy problems does not lie in a single energy concept but in a multiplicity of concepts, concepts that can be tailored to meet the geographic and societal needs of the energy users. For example, in my home State of Kansas, many areas would lend themselves very well to the application of wind machines. However, the only way this technology can be brought to fruition in a timely fashion is with Federal assistance.

This legislation is well balanced between the demonstration of the technology with wind farms and the development of new, more advanced wind energy machines. This is very important if we expect to establish a long-term future for wind energy.

This is a small step on the road to energy independence, but it is nonetheless an important one. I support this legislation and would encourage my colleagues to do the same.

Mr. WALKER. Mr. Speaker, I have no additional requests for time.

● Mr. GOLDWATER. Mr. Speaker, in 1979, this country imported over 8 million barrels of oil per day, which cost us a yearly total of about $55 billion. In 1980, although we have practiced greater conservation measures than ever before, we still continue to import petroleum at the astounding rate of 7.3 million barrels of oil per day, and the price tag for this year's indulgence has already cost us more than last year's total tab. Furthermore, it is predicted that the total cost for our petroleum habit will run over $90 billion.

Clearly, conservation alone cannot solve our energy crisis. We need to pursue an aggressive and diversified energy "independence" policy, which includes alternative energy resources as well as conservation, to end our addiction to foreign oil sources. We have the opportunity right now, Mr. Chairman, to send OPEC a message that we are not going to continue to depend on their narcotic. H.R. 5892, the Wind Energy Systems Act of 1980, would allow this country a chance to start shrugging off OPEC's needle.

H.R. 5892 authorizes matching grants, loans, and contracts for a 5-year small wind energy systems program and an 8-year large wind energy systems program. Certain limited applications of both large and small wind energy systems are currently economically feasible, but we need to commit this Nation to a policy that would accelerate widespread utilization of wind energy. This legislation before us today would help do just that. Furthermore, a 3-year assessment program is authorized by this legislation which will validate existing known wind resources, investigate other areas of the United States where wind energy may prove feasible, establish a wind energy data collection system, and make public information available on known U.S. wind energy resources.

Wind energy is a clean, natural source of renewable energy, and it has the potential to become economically comparable to conventional energy sources. This bill should begin to address some of the problems, such as electrical storage facilities and site limitations, which have heretofore plagued widespread commercialization of wind energy.

Mr. Speaker, we consume energy faster than it can be provided for our dependent Nation. In fact, the current imbalance between supply and demand is very likely to increase in the immediate future. But if we commit ourselves to the development of alternate fuels, we may well become a satisfied exporter of energy instead of an habituated importer.●

● Mr. HEFTEL. Mr. Speaker, I am pleased to rise in strong support of the conference report on H.R. 5892, the Wind Energy Research, Development, and Demonstration Act. H.R. 5892 is designed to accelerate wind energy development in the Department of Energy by authorizing an 8-year program with the object of bringing wind energy costs down to a level where they will be competitive with conventional energy systems.

Mr. Speaker, wind energy is not some exotic, futuristic idea. It is an energy source with a solid technological base going back many years. Already, the cost of energy generated by wind power is the most nearly competitive with conventional fuels of any renewable power source, with the possible exception of the direct burning of wood. Wind electricity generating systems are projected to eventually become competitive with coal and oil-fired powerplants—and with little or no environmental impact.

Mr. Speaker, I am hopeful that my home State of Hawaii will achieve electrical energy self-sufficiency by 1990. I have long felt that Hawaii could be a national laboratory for developing renewable resources. However, this dream will be realized only if the Federal Government develops integrated research and development programs within the Department of Energy which incorporate all of the viable natural energy alternatives. As the various indigenous sources evolve from the R. & D. phase, certain ones will become obviously attractive and cost-competitive. I believe that wind energy has the potential to be one of the first alternative energy sources to prove out commercially.

In my view, H.R. 5892 contains the elements necessary to promote a viable wind program at the Department of Energy. The bill sets a specific national goal of 800 megawatts of wind energy capacity by 1988 and it provides an 8-year time frame and the necessary funding to meet that goal. In addition, the bill would enable the Government to provide financial assistance to private industry in the form of contracts, cooperative agreements, grants and loans for the development of advanced small and large wind energy conversion systems.

This provision would enable the wind industry to develop steadily over the course of the program because of the assurance that Federal funds would be available to assume some of the risks associated with technological development. Finally, and perhaps most importantly, the multiyear program envisioned by H.R. 5892 would be a clear indication of the Government's commitment to the utilization of wind energy in the United States.

Mr. Speaker, I would like to take this opportunity to congratulate my distinguished colleagues, Mr. MINETA, Mr. BLANCHARD, and Mr. JEFFORDS, for their outstanding work as the original authors of this legislation. I would also like to applaud my distinguished colleagues on the Science and Technology Committee, Mr. OTTINGER and Mr. FUQUA, for their leadership in bringing this legislation to the House floor. Mr. Speaker, I am confident that H.R. 5892 will accelerate the growth of a commercially viable and competitive wind energy industry in this country, and I look forward to working with my colleagues in the months ahead in fashioning a broad based energy program in which wind energy plays an increasingly significant role.●

● Mr. AKAKA. Mr. Speaker, I want to take the time to recognize the efforts of the distinguished chairman of the Committee on Science and Technology in shepherding this bill through Congress. The conference report on wind energy truly represents a laudable effort to meet our energy independence goal.

Wind energy is the most cost-effective alternative to solar energy. It is clean throughout the Nation. Turbines utilizing wind energy are now operating in Clayton, N. Mex.; Culebra, Puerto Rico; Boone, N.C.; Goodnoe Hills, Wash., and Kahuku, Hawaii. With enactment of H.R. 5892, we will be closer to the more widespread use of wind energy. This legislation takes the much needed step toward the early commercialization of wind energy systems.

I add my enthusiastic support to H.R. 5892 and encourage my colleagues to support the report.●

Mr. FUQUA. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 6974, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1981

Mr. PRICE. Mr. Speaker, I call up the conference report on the bill (H.R. 6974) to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loans, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 18, 1980.)

The SPEAKER pro tempore. The gentleman from Illinois (Mr. PRICE) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Speaker, the conference report was printed in the CONGRESSIONAL RECORD for Monday, August 18, beginning on page 21715 and, thus, has been available to all Members for the required 3 days.

Mr. Speaker, recognizing the compressed schedule that the House is facing this week and for the remainder of the session, I will attempt to highlight the major provisions of the conference agreement on H.R. 6974.

The conference committee reached agreement with the Senate after eight regular conference sessions and a number of meetings by designated panels of the conference which addressed specific items of clear disagreement.

As is usually the case with a conference on the annual defense authorization bill, there were many difficult differences which required extended initial negotiations between the two Houses. However, let me assure my colleagues that there were full discussions of all important issues and clear and frank expressions of divergent views.

The conference committee sat in closed session when required for national security purposes pursuant to the authority granted by the House on July 22, 1980.

As in past years, the committee received outstanding cooperation from the House Select Committee on Intelligence in arriving at agreements with regard to those items of joint responsibility.

I would also like to express my sincere appreciation for the conscientious efforts by those subcommittee chairmen and ranking members who represented the committee's position in the various panels which met during the conference.

By major categories, the dollar authorizations approved by the conference were as follows:

Procurement: $35.770 billion.

Research and development: $16.888 billion.

Civil defense: $120 million.

The total dollar authorization of the bill, including the above three categories and $75 million for educational incentives, is $52.853 billion. This compares with an original authorization of $53.143 billion in the House bill and $51.960 billion in the Senate amendment.

The conference this year, reflecting the concerns of both Houses, devoted a major portion of its attention to matters involving military personnel.

For example, in the military compensation area, the conference report includes over $1 billion in additional pay and benefits for the military. The major provision in that area is the inclusion of an 11.7 percent pay increase for military personnel effective October 1, 1980.

The active military strength for the Armed Forces was pegged at 2,065,356, with the strength figures for the individual services as follows:

Army: 775,300.
Navy: 537,456.
Marine Corps: 188,100.
Air Force: 564,500.

The conference experienced considerable difficulty in arriving at an agreement on the quality requirements for Active Force recruits. The Senate bill had extensive provisions on this subject. The conference report limits male Army enlistments to no more than 35 percent nonhigh school graduates in fiscal year 1981, and provides that no more than 25 percent of personnel enlisted in all services in the same fiscal year could be from those who scored below the 30th percentile on entrance tests. In following years, no more than 25 percent of personnel enlisted in each service could fall in this lower group.

Another area of difficulty was in the research and development approach to the MX missile basing formula. The Senate bill limited initial construction in the Great Basin area of Nevada and Utah to 2,300 protective shelters and directed the Department of Defense to study a split basing mode for the remaining 2,300 shelters. The House bill contained no such references.

After lengthy conference debate, the compromise bill language makes clear the intent of Congress to commit itself to a complete MX system of 200 missiles and 4,600 shelters wherever located, while directing the Defense Department to study the concept of split basing and report to the Committees on Armed Services the results of this study no later than February 1, 1981. The conference report makes clear that this split basing study should in no way delay achieving the earliest practicable IOC for the system.

You will recall that the House bill did not include funding to begin development of a new strategic airlift aircraft designated as the CX. The Senate authorized $50 million for that project. Again, after serious debate, the House receded and agreed to authorize $35 million for development of the CX, with restrictions that would require verification of the need for the aircraft and the magnitude of Defense airlift requirements.

While both House and Senate bills provided for the reactivation of the battleship *New Jersey* and the aircraft carrier *Oriskany*, the dollar figures differed and the conferees with little difficulty arrived at a compromise.

Also, among other seapower agreements, the conference authorized two nuclear attack submarines, and $285 million for the purchase and modification of eight SL-7 commercial ships for enhanced sealift.

The conference agreement would authorize 146 more aircraft than requested by the administration—80 of these are combat aircraft.

In the area of aircraft for fiscal year 1981, there was an agreement to authorize $701.6 million for 30 F-14A aircraft, $1,591.5 million for 60 F/A-18 aircraft, and $37 million for 2 C-9B aircraft for the Navy.

I should also note that the conference

agreement will authorize $3.3 billion for aircraft spares and repair parts, $3 billion for aircraft modernization, and $1.8 billion for aircraft support equipment and facilities. In fact, 48 percent of all the funds authorized to be appropriated for aircraft will go for spares and repair parts, aircraft modification, and for aircraft support equipment and facilities.

For new strategic aircraft, the conferees authorized $375 million for full-scale engineering development of a multi-role bomber aircraft to achieve an initial operational capability as soon as practicable, consistent with the aircraft selected, but not later than 1987. This aircraft should have the capability of performing the missions of a conventional bomber, a cruise missile launch platform and a nuclear weapons delivery system.

The conference committee devoted considerable attention to the differences in House and Senate provisions which would require annual authorizations of appropriations for operation and maintenance accounts. The Senate provision was much more restrictive being applicable only to major repair work on certain ships. The House provision, on the other hand, was applicable to operation and maintenance items across the board.

The Senate agreed to the House provision with an amendment requiring a Defense Department report annually with reference to operation and maintenance funds for aircraft flying hours, ship steaming hours, and related training and repair work, all of which address military readiness.

As the Members are aware, the committee has been acutely concerned over readiness matters for the past several years and this oversight provision represents our initial effort to get a stronger grasp on annual funding for the personnel and materiel readiness of our forces. It is our intention to focus our operation and maintenance oversight effort on readiness areas.

I strongly urge all Members to support adoption of the conference report. I ask unanimous consent to revise and extend my remarks.

Now, let me briefly summarize the agreement on other important differences that were discussed in conference.

As indicated previously, the conference report includes over $1 billion in additional pay and benefits for military personnel. Over a dozen items are included relating to pay and benefits, and two adjustments were made to military retired pay. The major provision in this area is the specification of an 11.7 percent pay increase for military personnel.

Other military compensation changes include an increase in the maximum enlistment bonus authorized for enlisted members in critical skills from $3,000 to $5,000; the maximum reenlistment bonus was increased from $15,000 to $20,000. The standard rate of per diem for military personnel on temporary duty was increased from $35 to $50 per day, with increases from $50 to $75 per day for reimbursement in high-cost areas. A new bonus for aviators with 6 to 18 years of service was authorized.

I might point out that provisions similar to these were included in a bill (H.R. 7626) recently reported by the Committee on Armed Services.

With respect to military retired pay, the conferees agreed to defer the September 1980 cost-of-living adjustment until March 1981, at which time a full year's increase would be provided. Thereafter, semi-annual increases to military retired pay would continue to be provided unless and until such time as the civil service retirement system is changed to provide for an annual adjustment.

The Senate amendment contained a provision that would require that retired pay be based on the retiree's highest 3 years of basic pay as compared to the current method which uses the retiree's final basic pay in computing retired pay. The conferees agreed to a high-3 average—but this provision would not apply to anyone now on active duty or who initially entered active duty before the date of enactment.

The conferees agreed to authorize a 1-year test of several new educational assistance programs aimed at improving recruiting and retention. The implementation of an effective educational assistance program may well be the best approach for the Volunteer Force to attract personnel of needed quality. That program was authorized $75 million in funding.

A Department of Defense-wide ceiling of 986,000 for civilian personnel was agreed to that includes civilian employees of industrially funded activities.

The conferees also agreed to impose permanent restrictions on proposed contracting out in the Department of Defense that are similar in effect to those now contained in the law for fiscal year 1980.

The Minuteman program was awarded $5 million to start deploying additional Minuteman III missiles in Minuteman II silos and $24.7 million for the Minuteman survivable power program.

In addition to aircraft previously listed, the conference agreement would provide 88 UH-60 and 17 AH-1S combat helicopters for the Army; 42 F-15 and 6 A-7 combat aircraft for the Air Force; and 12 A-6E combat aircraft for the Navy.

Also, the report authorizes six FFG-7 guided missile frigates, long-lead funding for one mine countermeasure ship, design and development funds for a DDG-X follow-on destroyer, and additional research and development funding to permit a definitive recommendation to the Congress for a new class of aircraft carrier.

Mr. Speaker, I would like to point out the following errors in the R. & D. tables in the printed copy of the conference report (No. 96-1222):

On page 70, line item 204, high energy laser, the budget request figure should be 32,525 instead of 32,535 as shown.

On page 73, line item 350, studies and analyses, the conference report figure should be −26,461 instead of −26,410 as shown.

Also on page 73, line item 351, undistributed reduction the conference report figure should be −47,640 instead of −46,646.

In addition, on the second table appearing on page 29, the headings should read as follows:

Column 1, take— Column 2, multiply by— Column 3, add— Column 4, subtract—

Instead of—

Col 1's take— Col. 2's multiply by— Col. 3's add— Col. 4's subtract—

□ 1350

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 6974 and I urge its adoption by the House.

The gentleman from Illinois (Mr. PRICE) has done an excellent job of summarizing the major provisions of the bill as agreed to in conference with the Senate and I see no need to replow the same furrow. Instead, I would like to use my time to place this historic bill in an overall context of what it is going to mean to Americans over the coming decade.

I associate the term "historic" with this bill advisedly because I know from long experience that rhetorical embellishment is not exactly an unknown commodity in this Chamber. Still, with due regard for the dangers of exaggeration I do think this is an historic bill. It is a bold departure from the trends of the latter 1970's and it signals the end of an era of benign neglect of our defenses—the end of an era of national self-delusion.

For almost a decade, Congress has been routinely cutting defense budgets by $2 to $7 billion a year under the presumption that we were not really hurting defense, just trimming an ounce or two of fat from an overfed defense establishment. For some strange reason we developed a mindset in the seventies of dividing spending neatly into two categories: Defense, and nondefense.

We frequently found ourselves debating defense programs in terms of their social utility relative to such things as CETA jobs. And we heard constantly from liberal economists about how inflationary defense spending is compared to other forms of Government spending.

I think the events of the past year have restored some balance to our thinking. Suddenly we are reminded of a fundamental law of economics in a dangerous world—nothing is more inflationary than inadequate defense spending because ultimately it makes the currency worthless.

H.R. 6974 is a harbinger of that restored balance to our national perspective. It reverses a decade-long trend by adding, not cutting, $7 billion from defense. But it is not a knee-jerk reaction to Iran and Afghanistan. It is not a confrontation with the President. It is not a budget buster and most definitely it is not a choice for guns over butter.

Rather, it is a thoughtful, balanced response to the realities of our time—a blueprint for the eighties.

More than any defense bill in recent memory, it strikes a balance between force modernization and near term readiness, by adding not only ships, aircraft, tanks, and missiles, but also the spare parts and the modification funds to get maximum mileage out of the old workhorses. And it expands future authorization bills to give equal priority to day-to-day operation and maintenance funding.

This bill redresses a major deficiency by initiating development of a new multirole bomber. But the decision looks to the future. It does not chart a collision course with the President revisiting the B-1. That decision was made at a different time, in a different context and under different assumptions about the future than now prevail.

This bill looks forward with a series of initiatives to enhance our rapid deployment force capability, and to get on with designing and building new classes of warships for the future.

Though this bill represents a major step forward, I think it is important to note that it keeps one foot firmly rooted in the present. It incorporates an 11.7 percent pay increase for our military personnel, along with 15 other provisions designed to selectively improve military compensation and benefits. Taken as a whole, these initiatives will improve the quality of life of our military personnel and their families and at least slow the "brain drain" that has resulted in so many key personnel leaving the service to take higher paying jobs in the civilian sector.

Mr. Speaker, it is customary for conferees to tell the House they have brought back a compromise bill that is worthy of support although it is not all they had hoped for. In this particular case, I want to state very positively that I think the compromise is better than either the House or Senate versions of H.R. 6974. The conferees on both sides of the aisle in both Houses did their job seriously and with a great sense of urgency. And in large measure that was due to the leadership of Chairman Price.

I urge the adoption of the conference report.

Mr. PRICE. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. Stratton).

Mr. STRATTON. Mr. Speaker, although I am generally regarded as one of the more enthusiastic proponents in this House in support of an adequate defense, some Members may have noted that I am the only member of the conference who did not sign the report.

I refrained from signing the report because I was, on account of illness, unable to be on hand for the final 2 days of the conference, and thus was unable to participate in the discussion of one particular item in disagreement on which I had some very strong feelings. By not signing the report I wanted to leave myself free to raise this matter on the floor today, and hopefully to establish a bit of legislative history which could forestall some of the damage I fear might otherwise be caused by this particular item.

I refer to section 1006 of the conference report, "Report on Allied Commitments to Defense Spending." This section in general berates our NATO allies and Japan for not undertaking defense burdens "commensurate with their economic resources," and complains of the "continued unwillingness of those countries to increase their contributions to the common defense * * *"

It directs the Secretary of Defense to report to the Congress by March 1 of next year on whether these allies are bearing their "fair and equitable" share of the common defense burden, the extent to which these countries have met the NATO goal of a 3-percent annual increase in defense spending, and whether their contributions to the NATO long-term defense program are in fact adequate.

Mr. Speaker, I have no particular quarrel with this section in so far as it applies to NATO. We already have an annual report from NATO on which countries are or are not increasing their spending by 3 percent.

As far as the long-range NATO defense program is concerned, we do not even know what it is yet. So Secretary Brown may have some trouble reporting on what is being done to implement a nonexistent program.

I am not worried about NATO. They are used to this sort of thing. Another rap on the knuckles will not do them any harm.

What does bother me, however is that Japan is not a member of NATO. It makes no sense to apply NATO goals to a country which is not a signatory of the NATO treaty.

Japan is in fact one of our most important allies in the Pacific. Our former colleague, George Bush, said yesterday in Tokyo that Japan is a "pillar" of our policy in Asia. This is even more true today now that U.S. commitments in the Indian Ocean have drawn down heavily on U.S. military strength in the Pacific.

Moreover, as Mr. Bush also pointed out yesterday, the Japanese Government has recently begun to increase its defense expenditures; and this increased defense effort was reaffirmed just 2 days ago by the new Japanese Premier, Mr. Suzuki.

In view of these recent increases, Mr. Speaker, I am concerned that the language of section 1006, unless carefully interpreted, could have precisely the opposite effect from what the Senate amendment intended, and could discourage further Japanese defense increases rather than encourage them.

Therefore, Mr. Speaker, I would appreciate it if the distinguished chairman of the committee, Mr. Price, would respond to one or two questions which seek to clarify the meaning of several portions of section 1006.

In subsection C of section 1006 of the conference report, the Secretary of Defense is required to submit a report to Congress. The first part calls for "a comparison of the fair and equitable shares of the mutual defense burdens of these alliances that should be borne by the United States, by other member nations of the North Atlantic Treaty Organization, and by Japan * * *" Since there is nothing that establishes "fair and equitable shares," I am correct in assuming that it is not the intent of the conference to require the Secretary to evaluate a specific country's defense activities against some arbitrary quantitative standard?

Mr. PRICE. The gentleman is correct. A realistic evaluation of a nation's defense spending program would certainly have to take into account not only economic performance and budget outlays, but also a country's domestic political environment and legal restraints. There must also be an appreciation of how the country's defense posture fits into its international position.

Mr. STRATTON. From my reading of section 1006 it seems clear that the Secretary is expected to report on current defense programs and future plans, rather than attempting to rate past performances.

Mr. PRICE. That is correct. All of us, including the United States, need to improve our defense performances. Certainly the conference committee did not expect that anything useful to our common defense could be accomplished by trading charges of inadequate past efforts with our allies. What the conference committee wanted to do was to encourage all parties to meet increased defense requirements.

Mr. STRATTON. Subsections 3, 4, and 5 of section 1006 all relate to NATO member nations, and to agreements and plans set up specifically within the NATO framework. Since Japan is not a member of NATO, I would assume that these items could apply only to NATO members.

Mr. PRICE. Correct again. Since Japan is not a member of the NATO alliance, any specific reporting with regard to Japanese defense efforts would be done in the light of Japan's particular circumstances.

Mr. STRATTON. In recent days the press has carried stories indicating an increased interest in Japan for larger defense spending in the light of changed defense conditions in the Western Pacific. While the tenor of section 1006 appears critical of our allies, am I correct in assuming that nothing in this section is designed to forestall voluntary efforts by countries allied with us to increase their own defense spending?

Mr. PRICE. Once again the gentleman is right. Even we in the United States have not done as much as some in this Congress would like to see. Certainly we the conferees welcome and encourage increased defense activity on the part of our allies, especially when it represents the voluntary decision of these governments themselves.

□ 1400

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. Petri).

Mr. PETRI. Mr. Speaker, I rise in support of the conference report. I wish to point out to my colleagues that this conference report contains a program of forgiveness of student loans in exchange for enlisted service in certain critical military jobs, to be selected by the Secretary of Defense.

My colleagues may recall that this proposal was overwhelmingly adopted by the House as an amendment to the Higher Education Act reauthorization last November. That bill was a logical place for it, since it offers students a way of paying for their educations without starting their careers loaded down with debt. At the same time, the DOD authorization is an equally logical home for such a program, since it provides a valuable incentive for recruiting and retaining enlisted personnel who already have some higher education.

I wish to commend the House conferees on the defense authorization bill for agreeing to include this program in their bill, and thereby in the defense budget. It will provide one more example of defense expenditures supporting valuable social purposes beyond the immediate area of defense itself.

Finally, I wish to point out that the loan forgiveness is limited to new enlistees only. Therefore, if it does not work, it will cost nothing. I wish there were more Government programs of which that could be said.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BOB WILSON).

Mr. BOB WILSON. Mr. Speaker, I rise in support of this conference report. I just want to take a moment to congratulate our committee, particularly the chairman and the staff, who are I think coming out with a very good compromise with the Senate.

This particular conference proves the wisdom of the conference system in that we in the House are always sort of specialists in our conference, while the Senators are the generalists. They are on a lot of committees, and they do not know nearly as much about the subject matter when they get there. Our attendance this year was 100 percent most of the time on our side, and usually about 20 percent on the Senate side.

I was proud of the way the conference operated, and particularly proud of the fact that the chairman of our committee was the chairman of the conference and came out with this very good compromise on the procurement bill. I am happy to support it.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, I want to join with the gentleman from California and associate myself with his remarks. The conference result came about as a matter of give and take. It was strictly a compromise. There are some matters that were compromised that I personally do not agree with.

May I state to the Members of the House also that I do not think this bill adequately provides for the defense of the United States today in view of the threat that we face. In no case are the airplanes authorized in this bill being provided at the most economical rate—in many cases it is at the least economical rate. But, that certainly is not the fault of the House Armed Services Committee; it is not the fault of the Senate Armed Services Committee. It could very well be the fault of this House in not providing—and I think it is the fault of this House and of the Senate in not providing—enough of the budget to meet the threat that the United States now faces.

□ 1410

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I yield 7 minutes to the gentleman from Pennsylvania (Mr. DOUGHERTY).

Mr. DOUGHERTY. Mr. Speaker, I rise to express some reservations and concerns about the inclusion in this conference committee report of ships that have been designated as SL–7's. These are containerships which are alleged to have a speed of 33 knots.

My concern, Mr. Speaker, is that by including these in the conference committee report we have bypassed the authorizing subcommittee. I am a member of the Subcommittee on Seapower. These ships were never considered by our subcommittee.

I personally have very strong reservations about our purchasing the SL–7's. Unfortunately, they are in the bill, and there is little we can do about it.

I think we should go on record, though, in saying, Mr. Speaker, that the SL–7's do not address what I consider to be the immediate concern, and that is the rapid deployment force and the maritime prepositioning ship concept that this administration has put such great emphasis on.

I am concerned that we have, with the SL–7, a ship of questionable value, and I wish that the subcommittee had had a chance to go into a detailed investigation of these vessels.

I do intend, when the defense appropriations bill comes up, to raise the question about the appropriateness of funding the purchase of these SL–7's.

Mr. BENNETT. Mr. Speaker, will the gentleman yield?

Mr. DOUGHERTY. I am glad to yield to the chairman of the Subcommittee on Seapower.

Mr. BENNETT. Mr. Speaker, I would like to make the following comments in regard to the acquisition of the eight SL–7's provided for in H.R. 6974:

First. As early as February of this year, the Seapower Subcommittee began hearings on the lack of strategic sealift in our Armed Forces. With the event of the rapid deployment force, this need for strategic sealift dramatically increased.

Second. At that time, in February of this year, the proposal by the Defense Department to purchase these ships was being handled by the Maritime Administration of the Department of Commerce. Deputy Secretary of Defense Claytor testified vigorously in support of these ships before my subcommittee. However, since the Maritime Administration was considering this proposal, the Seapower Subcommittee felt it was inappropriate at that time to include the authorization of these ships in this defense bill.

Third. Since the spring the Maritime Administration has stated it was unable to buy these ships and transfer them to the Department of Defense. As a result, the Senate Armed Services Committee included these ships in their bill. Both committees support fully the 100-percent immediate increase in the strategic sealift capability that these 33-knot containerships provide for the country. To build these ships new would cost anywhere from $160 to $200 million. In this bill we are efficiently purchasing these ships for $35 million a piece. In no other way could the quantity of sealift in the period of time we are talking about be made available to the Department of Defense.

Fourth. I am aware of the three ships currently under construction that are also available for acquisition by the Department of Defense. I am also in favor of acquiring them in next year's budget. They are in no way in competition with the SL–7 ships since the SL–7 ships act both as a strategic reserve for sealift and as a possible rapid deployment force ship. The three ships also under consideration could be converted to a maritime prepositioning role and be used very successfully by the rapid deployment force.

In summary, Mr. Speaker, I do not oppose the future acquisition of additional maritime prepositioning ships. We need all we can get. I must emphasize that proceeding on with the immediate acquisition of the eight containerships is necessary.

Mr. DOUGHERTY. Mr. Speaker, if I may reclaim my time, although I have a great deal of respect for my friend and colleague, the chairman of the Subcommittee on Seapower, I think the point should be made on the record that these ships are containerships.

As to the size of the containers the SL–7's carry, they are 35-foot containers. The standard DOD containers are 20-foot and 40-foot containers, and therefore, these ships have to be modified in some way to handle the 20- and 40-foot containers.

The second thing is that before the Subcommittee on Seapower the Navy testified that the SL–7's do not have a roll-on, roll-off capability to fit in with the RDF/MPS concept. To the specific question I asked as to the roll-on, roll-off capacity in the rapid deployment force, the answer was, "no," that we are looking at roll-on, roll-off ships, and the SL–7's are not designed for that purpose although they can attain the speed of 33 knots.

I have been advised of some serious questions as to whether they can actually go 33 knots because of the vibration that the ship experiences at that speed.

Finally, we should go on record as saying that if we have to take these containerships and change them to a roll-on, roll-off capability, it will cost us $82 million per ship to give them this roll-on, roll-off capability. I think if we are committed to trying to do that, to make them roll-on, roll-offs, then downstream in fiscal years 1982 and 1983 we are looking at about $600 million in expenditures to change these vessels over from containerships to roll-on, roll-off ships.

Mr. Speaker, I just wanted that on the record, and I appreciate my colleague's contribution to the debate.

Mr. TRIBLE. Mr. Speaker, will the gentleman yield?

Mr. DOUGHERTY. I yield to the gentleman from Virginia.

Mr. TRIBLE. Mr. Speaker, I think the point that needs to be made here, although I vigorously support the acquisition of these ships for our rapid deployment force, is that we should not be procuring merchant ships out of the SCN—naval ship—building account. Those moneys should be dedicated to the acquisition of fighting ships for our Navy.

Moreover, I think it is very bad public policy for us to authorize and appropriate moneys for ships that have not yet been purchased. We are now in the negotiation process. We are trying to procure these ships at the best cost possible, and it is folly for us to compute the price of these ships prior to the completion of those negotiations.

So, Mr. Speaker, I want to join with my colleague in expressing these reservations.

Mr. DOUGHERTY. Mr. Speaker, I appreciate the comments of the gentleman from Virginia, with which I agree, and I think the point which has to be made, I say to my colleague, the gentleman from Virginia, is that the SL-7's—and this must be on the record—in their present configuration are not suitable for the rapid deployment force.

Mr. Speaker, I yield back the balance of my time.

Mr. PRICE. Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I certainly rise in support of this conference report.

On behalf of the Committee on Veterans' Affairs, I would like to establish legislative history and ask the chairman of the Subcommittee on Military Personnel, the gentleman from Texas (Mr. WHITE), a question pertaining to two 1-year pilot programs to provide educational assistance for certain individuals. As I understand it, the House added one pilot program on educational assistance under section 901.

Mr. Speaker, title IX of the conference agreement would establish two 1-year pilot programs that would provide educational assistance for certain individuals entering or reenlisting in the service after September 30, 1980, and before October 1, 1981. Section 901 would establish one such program, and section 903 would establish another. Section 903 would be accomplished through proposed changes in the post-Vietnam veterans educational assistance program provided for under chapter 32 of title 38, United States Code. The program is administered by the Veterans' Administration.

Since section 901 appears to be almost identical to the pilot program which recently passed the House, my question is: Will this proposed test program also be administered by the Veterans' Administration? I had asked this question when the amendment was offered by the distinguished gentleman from Texas (Mr. WHITE). At the time, he assured me that it was intended that the Veterans' Administration administer the program rather than the Department of Defense.

So there can be no misunderstanding on this issue, do we have assurance that this remains our intent?

As I say, Mr. Speaker, I talked to the distinguished gentleman from Texas, and he assured me that this program would be administered by the Veterans' Administration.

Mr. WHITE. Mr. Speaker, if the gentleman will yield, that is correct. The Department of Defense does not have the structure to administer this, and it should properly be under the Veterans' Administration, so there will be no conflict there.

Mr. MONTGOMERY. Mr. Speaker, I certainly agree. This is what the Committee on Veterans' Affairs would prefer. The Senate added, under section 903, an additional educational program. That is also a pilot program.

Can the gentleman assure me that this will be administered by the Veterans' Administration?

Mr. WHITE. Yes; these two programs are not exclusive of one another. Both of the pilot programs would be administered as an attempt to offer what is the best incentive to develop the All-Volunteer Force and the reserves as well, and these would be administered by the Veterans' Administration.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from Texas (Mr. WHITE).

Mr. Speaker, I would like to take a few minutes more to comment about the provisions that would affect the National Guard and the Reserve forces.

Mr. Speaker, I am particularly pleased that this act provides some procurement and personnel incentive items that will assist our National Guard and other Selected Reserve forces in achieving a higher degree of combat readiness.

I hope that these and additional incentives together with better equipment for the National Guard and Reserve will improve recruiting and retention. We must, however, keep ourselves prepared to return to the draft if our strength levels and the quality of the recruits in the active forces and the Reserves do not improve.

The personnel incentive items for the Guard and Reserve include:

Doubling the educational benefits from $500 to $1,000 per year to a maximum of $4,000 during a 6-year enlistment which should improve quality of personnel.

Enlistment/reenlistment bonuses for more personnel and in particular a marked increase of incentives for the Army National Guard and Army Reserve which are the lowest in strength.

Extension of bonuses for the Selected Reserve until September 30, 1985.

Guard/Reserve affiliation bonus for critical skilled personnel coming out of the Active Forces.

A bonus of $600 for a 3-year extension in the Individual Ready Reserve (IRR).

Educational loan forgiveness for service in the Selected Reserve.

Pay increase of 11.7 percent which will not be a great amount for Guard/Reserve members, but it will help compensate for gas used going to drill.

This act, also, authorizes equipment that will help modernize our Guard/Reserve forces as follows:

Seventeen AH-1S helicopters for the ARNG which added to the 12 authorized last year will give the ARNG 52 helicopters for NATO deployment out of a requirement of 369 authorized—however, we are still significantly short of helicopters.

Six A-7K two-place combat capable fighters, when added to the 24 A-7K's authorized by the Congress the past 2 years will enable Air Guard units to better train and save energy. I might point out that if the Congress had not added on buys of 103 A-7's in past years that at least 5 Air National Guard fighter units would still be flying F-100's.

Six C-130H's. These tactical airlifters are needed to replace C-130A's that are over 20 years old and will also retain a production line that might be needed in an emergency.

An increase of 12 F-15's which hopefully will be dedicated to the air defense role.

An increase of $60 million to accelerate the KC-135 reengining which will increase operational capability, enhance safety and reduce noise levels.

Provide for a two-place, A-10 to facilitate training and save fuel in our Guard/Reserve tactical fighter units.

Provide a 30-millimeter gun pod for Guard/Reserve A-7's and F-4's to give us a tank killing capability in NATO with those fighters.

Provide advanced procurement of F-15 long lead items so that the fiscal year 1982 production rate will allow 60 more aircraft to modernize Guard/Reserve units.

If I appear pleased over the personnel incentives and hardware in this act, it is because I have seen my fellow Members realize the importance of the Selected Reserves to national defense and that this Congress is taking affirmative action to improve the quantity and quality of these cost effective Guard/Reserve forces.

Although some small gains have been made by the Ready Reserves the fact remains they are still 186,000 short of their wartime strength levels. The Army National Guard alone is over 86,000 and the Army Reserve over 70,000 short of their wartime strength levels. The Individual Ready Reserve is still over 400,000 short of the level needed to meet mobilization requirements.

One last point—this Nation cannot fight a major conflict without the National Guard and Reserves. I congratulate this body for its foresight and urge its continued support of the Selected Reserves—we still have a long way to go.

□ 1420

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. I thank the gentleman for yielding.

Mr. Speaker, I wholeheartedly endorse this conference report which provides essential procurement, research, and development authorization for the Department of Defense.

The $52.7 billion recommended by the conference agreement is almost $6 billion more than requested by President Carter.

However, both Houses have independently approved these higher levels of spending by overwhelming majorities—despite opposition from the White House.

The escalating public demands for increased defense spending appear to have quelled the White House's further opposition to these increases.

It should have been clear to the administration in January—as it is clear today—that in light of Soviet aggression, the President's defense budget was simply inadequate for the gravity of the times.

It is my hope that Congress is convinced that we must make an assessment of Soviet intentions based on stark, existing reality, not the administration's fantasy-land visions of how they wish things were.

While these new and additional aircraft and naval vessels will be costly, it should be remembered that sometimes it costs more to preserve freedom than it does to achieve it in the first place.

The additions incorporated within this conference report are moderate proposals which will accelerate desperately needed, long-range improvements in our national defense, particularly with respect to naval and air power.

Indecisive and conflicting policies have characterized the last 3½ years. The Carter administration has squandered precious time during which improvements should have been begun in our defense capabilities in response to Soviet action.

Instead, our aimless policies have given a signal of weakness to our allies and adversaries alike.

Our Nation simply cannot afford to postpone any longer the production of the additional and improved armaments on which the security of our Nation and the free world will rely in the 1980's and beyond.

I urge the adoption of the conference report.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I reserve the balance of my time.

Mr. PRICE. Mr. Speaker, I yield 3 minutes to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I rise to congratulate the conferees and to speak a word in support of this conference report. It moves us forward into the new fiscal year with a strong commitment to the Nation's defenses. We shall be undertaking in fiscal 1981 the largest dollar increase in national defense that we have undertaken in any year since World War II.

Particularly am I pleased that the conference has authorized $375 million for work on a modern aircraft to replace our aging fleet of B–52's. When this bill was before the House earlier this year, I argued that the quickest and best and least wasteful way to modernize our manned bomber fleet would be by an adaptation of the FB–111 aircraft.

The conferees have included this as one of three alternate designs upon which these funds may be spent. The others would be some adaptation of the B–1 aircraft and an as yet undesigned "advanced technology" bomber. The conference report directs that the President shall make a recommendation by March of next year as to which of these three routes he finds most preferable. It directs also that the decision be one which can result in an operational aircraft not later than 1987.

This is a step long overdue. We dare not rely upon the cruise missile alone, nor upon our fleet of intercontinental ballistic missiles. The manned bomber is an essential, indispensable part of the defense triad. Along with land-based and sea-based striking power, it has provided us the deterrent which has kept the world out of a nuclear conflict for the past 35 years.

As President John F. Kennedy said:

> Only when our arms are sufficient beyond doubt can we be certain beyond doubt that they will never be employed.

This conference report moves our Nation back in the direction of military sufficiency beyond doubt, and I urge its enthusiastic support.

Mr. PRICE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, I ask unanimous consent, at the request of the gentleman from Texas (Mr. KAZEN), to introduce into the RECORD at this point his statement. Due to official duties elsewhere with the committee, he was unable to be here.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

● Mr. KAZEN. Mr. Speaker, I rise today to support the action of the conferees on the 1981 Department of Defense Authorization Act.

Section 502 of the conference report is substantially the same as a provision added at my suggestion during floor consideration in the House. This section will save the taxpayers money by requiring that decisions on whether to perform a job with private contractor employees paid by the Government or with regular direct-hire employees will be based on which can do the same job with the same specifications at a lower cost. In the past, base commanders have often been forced to use more expensive contractor employees because an arbitrarily low personnel ceiling prevented them from having enough direct-hire employees to do the job, even though they could do it for less. Section 502 will now prevent such actions.

Open competition is the bedrock of our free enterprise system. Section 502 uses competition to insure that the taxpayer is spared inflated expenses whether those expenses come from using Federal employees directly on the Government payroll or from using contract employees indirectly on the same payroll. Section 502 uses open competition to stimulate a more efficient organization of the Government's own direct work force so that high bureaucratic overhead cost will not be allowed to stand in the way of an efficient work force. Thus, this section both saves the taxpayer money and makes his Government more efficient.

Most important, however, is the fact that this section returns to the base commander a greater degree of continuity in and control over the civilian work force at his installation. It eliminates the artificial pressure of low personnel ceilings to use indirect-hire employees. As a member of the Committee on Armed Services, I know of the complaints by military commanders that they lack effective control of outside employees even though tax dollars are used to pay them. These commanders object to the reduction in quality and security that often accompanies use of indirect-hire employees.

Despite these obvious problems with using private contractors, section 502 does not prohibit their use by the Department of Defense. Instead, this section merely relies on competition to insure that tax money is wisely spent and the Government is efficiently organized. No group—whether direct Federal employees or indirect private contractors—has a God-given right to tax dollars.

I am well aware of the campaign launched by certain groups against this section. I welcome the conferees' awareness of the genuine problems which section 502 addresses as reflected in their decision to make this provision permanent law. I will, of course, continue to watch development under this section closely.●

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I want to direct an inquiry to our chairman, the gentleman from Illinois (Mr. PRICE).

Mr. Speaker, I am in strong support of this DOD authorization legislation. I supported it when it left the House, and I want to support it here today. But I am seriously concerned with the Senate amendment that strikes out the current twice-yearly adjustment of the cost-of-living increase for military retired pay. I realize it does make this contingent on a similar change in current law providing a semi-annual cost-of-living adjustment for Federal civilian retirees. In my area, the retired military personnel need this twice-a-year cost-of-living increase, and this seems to be one of the main concerns that they have. Retired Federal civilian employees share their concern.

They have been able to show me, particularly in southern California, where the cost of living is so high, that they cannot make ends meet if they have to wait, and not get a September cost-of-living increase. I realize in March they would receive a full year's cost-of-living increase, but it may be done on an annual basis thereafter, if the same is applied to Federal civilian retirees. This will work a continuing hardship on both groups of retirees. I would like to have some understanding as to why the committee accepted the Senate amendment, and some assurances to retirees as to their future.

Mr. PRICE. If the gentleman will yield, we accepted the Senate amendment because we were directed to by the budget resolution. There was nothing else we could do. But it is a one-time matter, and I think the committee is more in agreement with the gentlemen than it is the language of the bill. But we are faced with realities.

Mr. ANDERSON of California. But if a similar provision does not then become enacted, so far as the Federal civilian retirees are concerned, am I correct in my understanding that this change will not go into effect for our military retirees?

Mr. PRICE. That is correct.

Mr. ANDERSON of California. I thank the gentleman.

Mr. PRICE. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. I thank the distinguished chairman for yielding.

Mr. Speaker, I think that the gentleman knows the questions I am going to ask. Let me simply say that, with respect to section 202(a) of the conference report, which deals with the MX missile, the language seems to go beyond either the Senate or the House bill, and it states that the purpose of this section is "to commit the Congress to the development and deployment of the MX missile system, consisting of 200 missiles and 4,600 hardened shelters, and to insure that deployment of the entire MX system is carried out as soon as practicable."

This raises some questions in my mind as to the effect on other statutes already on the books that are going to have to be followed if this project is to proceed in the normal course, and I would like to ask the distinguished chairman this question.

Is there any provision in this report which is intended to amend or which could be construed as amending the Federal Land Policy and Management Act of 1976?

Mr. PRICE. No, there is not.

Mr. SEIBERLING. I would also like to ask the chairman if there is anything in this conference report which is intended to amend or could be construed as amending the Engle Act of February 28, 1958, as that act deals with the requirement of congressional approval of any withdrawal of 5,000 acres or more of public lands for military purposes?

Mr. PRICE. That law is not amended by this bill.

Mr. SEIBERLING. Finally, I would like to ask if there is anything in this report which is intended to amend or to waive or could be construed as amending or waiving any other provision of the public land laws or the laws regarding the appropriation or disposition of public lands, waters or interests therein?

Mr. PRICE. No. There is no intent to amend or waive standing law relating to public lands. The purpose of section 202 is to limit initial deployment in the Great Basin Area of Nevada and Utah to 2,300 shelters pending a study of split basing. However, the language makes clear the congressional commitment to development and deployment of the full MX system.

□ 1430

Mr. SEIBERLING. I thank the gentleman.

Mr. PRICE. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Let me further, by way of explanation, point out to the gentleman, I agree with the replies of the Chair, but I was the author of this language, as chairman of the R. & D. subcommittee. We are definitely committing the Congress to 200 missiles and 4,600 shelters. That is a commitment of this Congress. Of course, we cannot bind any future Congresses. But there is no way we could also affect the jurisdiction of the committee of the gentleman.

I would hope that he does not use that jurisdiction to the detriment of the MX system, which I think this country very badly needs in order to protect its land-based missile systems.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Ohio.

Mr. SEIBERLING. There is no assurance that this gentleman will be chairman of the Subcommittee of Public Lands in the next Congress, but I am merely trying to make it clear that the existing laws that deal with the withdrawal and disposition of public lands are not amended by this conference report.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LLOYD).

Mr. LLOYD. Mr. Speaker, I will not consume the full 2 minutes. I would say that I am in support of this conference report. I am not totally happy with all of the things that appear in this report. On the other hand, I think that, considering the constraints placed upon us we have come up with an agreement that is fundamentally sound for the defense of this country, the conferees, the committee, have done an outstanding job.

I would ask that the Members of this body consider the following as we go down the line considering our defense weapons systems.

First of all, let us take a good look at the operation and maintenance moneys which have to be put in to maintain these systems. Do not put the system in if you do not have the ability to maintain it.

Second, let us, for goodness sakes, continue trying to retain the very qualified personnel we have in our armed services through a lot of the things that have been included in this. Money is one. Consideration, if you will, as first-class citizens of our country is another. These are very important elements.

Last, but not least, I would ask those of this body who find fault with this bill, do not cheap shot the bill. It is a good bill. We have done the best we can. We have a lot of commitments in the world. I would ask this body, please, please try to be responsible in the way we address subject areas.

Mr. Speaker, I also would like to acknowledge my chairman, the gentleman from Missouri (Mr. ICHORD), who, I think, has done a very outstanding job in the areas of research and development. His contributions in the areas of defense, frankly, are outstanding.

I want the gentleman to know that I have enjoyed working with him, and I for one will certainly miss him when he does not return next term.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MINISH).

Mr. MINISH. Mr. Speaker, I rise in opposition to the conference report on H.R. 6974.

I have always been a supporter of a strong defense. No one questions that we have to spend money and a lot of it to protect ourselves and our allies. However, while I support spending money for defense, I do not think we should throw it away. And, there one section in this conference report which, if it is passed, will mean throwing a lot of money away.

Section 1005 contains a 5-year suspension of the Vinson-Trammell Act, a law which is intended to restrict excessive profits on the part of defense contracts. This suspension was added in conference. It was not part of the House bill. In fact, on this extremely important piece of legislation there has never been a markup in the House, there has never been floor consideration and there was 1 short day of hearings before the House Armed Services Committee. I might add that at these hearings, a number of witnesses, including three Members of Congress and Adm. Hyman Rickover, who knows more about procurement than anyone alive, opposed suspending Vinson-Trammell. Yet, the House conferees accepted this provision. Since the whole conference was done in 1 day, I do not think Vinson-Trammell received much discussion there either.

In suspending the Vinson-Trammell Act, the Congress is once again bending to the wishes of the defense industry. Here we are, getting ready to spend $52,774,000,000 on defense procurement and we are unwilling to keep one small law which requires some accountability on the part of defense contractors.

By suspending rather than amending Vinson-Trammell, we are sweeping 5 years of defense profiteering under the rug and we are setting the stage for a permanent abolition of checks on defense contractors. This action is irresponsible, it is cynical, it is motivated by special interests and it is in blatant disregard of our duty to the people who elected us and who pay our salaries.

As I said at the outset, I have always been a supporter of a strong defense. I do not vote against this conference report lightly. But, I cannot, in good conscience, go along with it as long as it has such a terrible provision as the Vinson-Trammell suspension.

Will anyone on either side yield me some time to respond to the gentleman from New York, my good friend (Mr. STRATTON)?

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. My good friend from New Jersey, I think, is a little bit offbase in his interpretation of section 1005. As he knows, I conducted a detailed hearing on this matter, and in fact, the final version of this proposal, as it appears in the conference report is the version that I recommended on the basis of our hearing and which the conference unanimously accepted.

If the gentleman recalls, the original Vinson-Trammell amendment in the Senate exempted all those contracts which would be "completed" prior to October 1, 1981. But, as the gentleman knows, the "completion" of a defense contract, the precise completion date, is very hard to determine. So the language which we substituted is the language of a bill which the chairman, the gentleman from Illinois (Mr. PRICE) had introduced, which says only those contracts for which "final payment" is made before October 1 would be exempt.

And, as the gentleman from New Jersey recalls, the Assistant Secretary of Defense in those hearings of ours testified that he knew of not one single contract applicable to Vinson-Trammell section that would be paid for finally prior to October 1, 1981.

So, if the gentleman will read those lines of section 1005 closely, he will recognize that no exemption from the provisions of the Vinson-Trammell Act will apply to any contract for which final payment is made before October 1, because there are no contracts that are going to have their final payment made before the 1st of October; hence no contracts will in fact be exempt pursuant to section 1005.

In other words, the gentleman does not fully appreciate the subtle way in which the House conferees have changed the basic thrust of the original Senate amendment, and did so in a way that fully accords with the interpretation of the distinguished gentleman from New Jersey.

Moreover, let me remind the gentleman that on page 103 of the conference report is the additional commitment that the conferees made, namely, that before October 1, 1981, we are going to conduct a total review of the Vinson-Trammell Act and try to come up with a revised piece of legislation which will put a fair limitation on defense profits but not under the outmoded terms of the old Vinson-Trammell Act.

So my good friend really has no reason to be disturbed, or to vote against this great conference report.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. DICKS).

□ 1440

Mr. DICKS. Mr. Speaker, I want to rise in support of the conference report.

I would like to ask the chairman one question to make sure I understand the provision of the bill that affects the military retirees COLA. As I understand it, unless the reconciliation package is enacted, there will not be a suspension of the September cost-of-living increase for military retirees. In other words, this is contingent upon the enactment of the reconciliation bill or a separate bill being passed; is that correct?

Mr. PRICE. Mr. Speaker, if the gentleman will yield, the gentleman is correct.

Mr. DICKS. There has been a major effort in the Committee on Rules to try to protect the cost of living increase for both civilian and military retirees, which I happen to strongly support; I wanted to make sure that was the gentleman's understanding as well.

Mr. PRICE. That is my understanding and I state that the gentleman is correct.

Mr. DICKS. Again, I think the gentleman. I want to express my support for this important legislation with that reservation.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I had an earlier request from the gentleman from California. I would be pleased to yield 2 minutes to the gentleman from California (Mr. BADHAM).

Mr. BADHAM. Mr. Speaker, I rise in strong support of this conference report, because it does represent an increase to our procurement and defense spending over the past few years.

I will have to say, though, that comments have been made that this is a huge increase and this is going to fix the defense of the United States. I wish that were true. I wish that were true. I wish there were more moneys in here for more programs. Unfortunately, even though it deserves our support it still is falling short of our needs. The buys for various type of aircraft: F-18, F-15, F-16, KC10, and various types of ships: FFG, SSN, SSBN are larger than they were, but they are nowhere near big enough to make efficiency in the purchasing by the United States of America for its defense needs.

I certainly commend the work of the conferees, particularly our chairman and our minority members for the work they have done. I think and I hope that next year it will be even better. I support this conference report too, because it turns the corner. The administration has finally admitted that we are not doing as much as we should be in the area of defense. I hope that the corner having been turned that we continue in the next years to increase the proper defense budget and signal to our friends and potential adversaries that America will defend itself.

● Mr. HALL of Ohio. Mr. Speaker, I rise in support of H.R. 6974, the conference report on the Department of Defense authorization for fiscal year 1981.

I commend the conferees for their work in resolving the differences between the House and Senate versions of this military procurement legislation. The $52.8 billion authorized in this bill will contribute significantly to the improvement of our defense posture and our military preparedness.

In particular, I am pleased that this legislation emphasizes the upgrading of our conventional forces. The tactical equipment authorized in this bill, especially the inventory for the Rapid Deployment Force, should enhance our capability to respond quickly to the crisis situations that are likely to confront us in the immediate future.

I would like to take a moment to comment on an emerging area of weapons development addressed in this bill that could become the defense issue of this decade. I am referring to the directed-energy weapons programs.

I note that the conferees have accepted the Senate position to provide an additional $8.3 million for the Defense Advanced Research Projects Agency's charged particle and neutron beam technology programs. The House Armed Services Committee's increased support for these programs is encouraging.

Recent reports in the media have called attention to the growing Soviet work on directed-energy weapons, particularly those that could be used against U.S. low-orbiting satellites. Pentagon officials have been quoted saying that the Russians are spending three or four times as much as we are on particle beam and high-energy laser development.

While there are technical obstacles to early production and deployment of directed-energy weapons, it is possible that the Russians might be in a position to threaten our reconnaissance satellites within the next few years. Evidently, they are making a commitment to development of this technology.

Needless to say, the first country to develop operational directed-energy or particle beam weapons will enjoy an important strategic advantage. That country would have the first science fiction-style "death ray" that would make obsolete many of our current strategic nuclear weapons.

Based on earth, these weapons could direct powerful beams traveling at the speed of light to destroy satellites, missiles, or aircraft. Based in space, they could intercept intercontinental missiles seconds after they were launched.

The first generation of these "Star Wars" type weapons would require an almost complete reevaluation of present strategic planning. There is no question that our security would be very seriously threatened if the Russians were able to apply this kind of technology before we were.

It is my understanding that the Pentagon plans to spend about $199 million in 1981 on high-energy laser research. While this is certainly a good deal of money, I think defense expenditures of this kind have to be evaluated in terms of other defense outlays. For example, the legislation before us authorizes $1.6 billion for development of the MX missile and its multiple protective basing system. The bill also authorizes $300 million in research and development funds and $75 million long-lead procurement funding for a new manned bomber to replace the B-52. While no particular design or specific plane is designated, the new bomber is supposed to be deployed in 1987.

Theoretically, both of these weapons systems would be seriously jeopardized by an operational directed-energy weapon. Of course, since we cannot now predict when beam weapons will be available, we have to move ahead with what is currently feasible.

Nevertheless, I hope that we will not one day soon pick up the newspaper and learn that the Russians have achieved a technological breakthrough that gives them the capability to destroy our satellites or otherwise neutralize our strategic defense system. News of that kind would send shock waves around the world that have not been felt since the launching of sputnik 23 years ago.

My concern is that the administration and the Congress should make research and development of directed-energy weapons a defense priority—certainly as much of a priority as some of the other long-range projects we are authorizing today. I am not advocating massive defense spending or a new arms race. I am, however, urging an increased commitment to development of laser and particle beam technology. The additional funding approved by the conferees is a start in this direction.

I urge my colleagues to vote in favor of this conference report.●

● Mr. EDGAR. Mr. Speaker, today we vote on the 1981 defense authorization conference report. I, like most of you, will vote to accept the conferees' report. However, I do so with some misgivings. I seriously considered voting against the report knowing full well that to do so would have been a futile gesture as far as the final passage of the conference report. We operate by compromise in this body, knowing that to operate otherwise means that nothing would be passed. We accept some things that we would otherwise reject in order to see some of the things accomplished that we have set as personal goals, our sense of right and wrong tells us should be done, our sense of justice tells us must be done, and, yes, even those things that we feel we must do to be reelected.

Today, I am faced with the dilemma of voting for this measure because of the many necessary provisions it contains. Yet it is frustrating because it also contains one of the most offensive provisions possible. I have chosen to describe it as a monument to man's insanity. The term is not original; however, it is most appropriate. I am speaking of the MX missile and its proposed mobile basing system of 4,600 shelters, 23 for each 200 MX missiles. I object not to the MX missile but to the basing system. Let us go ahead and build the MX missile if we must—but let us replace some of the current land-based intercontinental ballistic missiles—ICBM's—with it—then let us choose some other alternative to the costly and environmentally unacceptable basing system that has been proposed. Yes, there are other alternatives to the MX basing system, many of which have been discussed by this body in the past.

Why should we discuss the issue again? Because it is so vitally important to the Nation. Must we embark on this insane project? The answer is "No."

Let us review how we got where we are now. First we are told that the Russians are developing their missile accuracy to the point that they have, or soon will have, hard target kill capability, meaning that they can destroy our land-based missiles, while they are still in their silos, with a first-strike.

I am sure that we are all familiar with the frequently stated assertion that the Russian missiles have much greater megatonnage in their warheads than we do, which means they have to have even less accuracy than we do to have a reasonable assurance of destroying a hardened target.

We fear allowing ourselves to get into a position where our land-based ICBM's can be destroyed in a "first strike" by the Russians. Even if our land-based missiles were destroyed in a first strike we would still have over 400 bombers and 41 nuclear missile submarines remaining with which to retaliate. Even if the bomber force were destroyed we would still have the 41 submarines which even our military tells us the Russians cannot now locate, nor do we expect them to be able to do so in the foreseeable future. These submarines, as the force is now planned, will be carrying over 600 missiles which will have over 6,000 nuclear warheads—more than enough to give the Russians cause for restraint when contemplating a strike against our country.

Our analysis should not stop here for this is not the complete story. We must also look at the reality of the Russian missile threat to us. It is frequently alleged that the Russians have recently vastly increased their defense spending.

It is said that they are spending money on defense at a much greater rate than we or our allies are. Some have even said that the Russians doubled their defense spending during this past decade. None of these assertions seem to stand up under closer analysis. The only claim that can be substantiated under close scrutiny is that the Russians are spending a greater part of their gross national product (GNP) on defense than we are. And why not? Our GNP is twice that of the Soviet Union. The net result is that we are still spending more actual money on defense by some estimates than the Russians are!

Arthur M. Cox, a former CIA official and now a writer specializing in Soviet affairs, recently had the following to say about Soviet defense spending in an article in the Washington Post on August 17, 1980, entitled "Why the Soviets 'Doubled' Arms Spending":

> In 1976, the CIA made what appeared to be an astounding discovery about Soviet defense outlays. News outlets throughout the country headlined the story, "CIA Doubles Estimate of Soviet Defense Spending." The media were very poorly briefed. Nobody at CIA thought the Soviets had suddenly increased their defense spending by 100 percent. But the impression was allowed to stand and has not been clarified.
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> A recent study published by the U.S. Air Force and prepared by the U.S. Strategic Institute said: "Estimates prepared by the Central Intelligence Agency, as well as by U.S. academic economists, have been in error by as much as 100 percent. The CIA estimates were accepted without question until 1976, when they were acknowledged to be grossly in error and doubled. Economists have not yet recovered from the shock of that experience."
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> Former President Richard Nixon in his new book, "The Real War" says: "In 1976 the CIA estimates of Russian military spending for 1970–1975 were doubled overnight as errors were discovered and corrected . . . When the first concrete steps toward arms control were taken, American presidents were being supplied by the CIA with figures on Russian military spending that were only half of what the agency later decided spending had been. Thanks, in part, to this intelligence blunder, we will find ourselves looking down the nuclear barrel in the mid-1980s."
>
> Congress recently authorized the largest U.S. defense budget in history because most members of Congress also have come to believe that the Soviet have doubled their defense spending during the decade of the 1970s.
>
> But the facts are very different. At no time has the Soviet defense budget been increased by more than 3 percent a year.
>
> The CIA has an admittedly difficult job estimating what the Soviets spend on defense because so much is secret. The figure which the Soviets publish in their annual budget doesn't come close to approximating Soviet defense totals. The CIA tries to estimate the dollar cost of the Soviet military by determining what it would cost the United States to duplicate the Soviet defense establishment. This is obviously subject to considerable error because there are such vast differences in the costs of U.S. and Soviet defense programs.
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> The most glaring difference is in military manpower. The Soviets have about 4.4 million military personnel compared to a U.S. figure of 2.1 million.
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> The CIA makes an estimate of the dollar cost of the 4.4 million Soviet force multiplied by U.S. military pay and allowance rates. This results in a significant distortion because U.S. military personnel are volunteers with relatively high levels of pay and allowances. The Soviet forces, on the other hand, are drafted and paid about one-fifth the U.S. rate.
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> When this method of costing Soviet defense began in the early 1970s, the CIA concluded that the Soviets were spending between 6 and 8 percent of their gross national product (GNP) for defense. At the time, the United States was expending about the same percentage of its GNP for defense. Today, the U.S. figure is closer to 5 percent. However, it is often forgotten that the U.S. has a GNP which is about double that of the Soviets.
>
> During the period from 1973 to 1976, as CIA analysts refined their methodology and obtained better intelligence, they made an important breakthrough. In costing Soviet defense production they had been crediting the Soviets with efficiency which was close to that of the United States. What they discovered was the Soviet defense production, in fact, was not very efficient. Thus, the Soviet defense effort was absorbing a greater share of the GNP than previously believed.
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> Here is what the published 1978 CIA report said: "The new estimate of the share of defense in the Soviet GNP is almost twice as high as the 6-8 percent previously estimated. This does not mean that the impact of defense programs on the Soviet economy has increased—only that our appreciation of this impact has changed. *It also implies that Soviet defense industries are far less efficient than formerly believed.*" (Emphasis added.)
>
> The CIA increased the percent of GNP from 6-8 to 11-13, but there had been no doubling of the rate of actual Soviet defense spending. There was merely an increase in CIA's estimate of the share of GNP expended for defense. What should have been cause for jubilation was never adequately explained to the Congress and the public. Instead, for the past four years, a misperception that there has been a great surge in Soviet defense spending has gone uncorrected.
>
> In fact, there have been no dramatic increases in Soviet defense spending during the entire decade. Here is what the CIA paper published in January 1980 said for the 1970–79 period: "Estimated in constant dollars, Soviet defense activities increased at an average annual rate of 3 percent." In other words, the Soviets have indeed been increasing their defense budget, each year, at about

the same rate as the United States and most of its NATO partners. The U.S. defense budget for next year calls for an increase, in real terms, of about 5 percent.

From the standpoint of weighing the essential defense burden of the United States and Russia, there are several factors that should be given much greater emphasis when the executive branch is presenting the facts to Congress.

The first is the great difference between the defense contribution made by the European allies of the United States and the Warsaw Pact allies of the Soviet Union. In 1978, the European NATO members expended $75 billion for defense and France, a non-NATO ally, spent $16 billion—a total of $91 billion. The Warsaw Pact members, other than the U.S.S.R., expended $23 billion, or one-fourth of the defense spending of our European allies.

Perhaps even more important in considering the relative defense burdens is the cost shouldered by the U.S.S.R. in defending against China. The U.S. Defense Department says: "At least 22 percent of the increase in the Soviet defense budget during these 13 years [1964–1977] has been attributed to the buildup in the Far East . . . The high construction costs in Siberia suggest that the intelligence estimates may understate the cost of the Soviet buildup in the Far East substantially." In addition, according to the Defense Department, the Soviets "station as much as 25 percent of their ground forces and tactical air power on their border with China."

The Soviet burden of defense against China comes more sharply into focus when note is made of the fact that the Soviets have 44 divisions facing China and 31 divisions facing NATO. Of the 31 divisions in Central Europe, four are standing guard in Hungary and five have remained in Czechoslovakia since the invasion of that country in 1968. In other words, there are about twice as many divisions committed to the China front as to the West German front.

Furthermore, the U.S. does not have to match the Soviet forces facing China. Those forces are at the end of a long and tenuous line of communication that can be severed, in time of war, by missile strikes. These are not forces that can be readily transferred to combat in a European war. On the other hand, if it is argued that the U.S. defense budget should provide forces to counter the Soviet threat to China, then the Chinese defense budget should be included on our side—a total of $35 billion.

The combined NATO defense budgets are greater than the combined Soviet-Warsaw Pact defense budgets and if the China factor is included, the Soviet proportion of defense facing the U.S. and its allies is less than 75 percent of that of the NATO powers.

These are facts which Congress should have before it when it weighs the budget appropriation decisions in the next few weeks. The Soviets have an ample defense budget, but it still does not equal its potential adversaries. The perception of Soviet military superiority is an illusion based, in large part, on a misunderstanding of the facts.

Well, you might ask, if the Russians have not significantly increased their defense spending, why are we? Good question. Not an easy one to answer, however.

First, I am not quarreling with the need to increase our defense spending because I believe that we have allowed parts of our defense forces to deteriorate. We must act without delay to restore their operational capability. I am especially concerned with the state of our conventional forces. I am obviously not the only one because the Defense Authorization Act and conference report very clearly deal with the problem. I commend my colleagues, and especially the conferees, for their actions to restore our conventional capabilities. If I differ with my colleagues at all where it concerns our conventional forces it would be to increase the sense of urgency to do more.

My problem and concern is not with the amount of money spent on restoring our conventional capabilities. Nor is it with the much needed pay increase to our military personnel, which I fully support. I believe we have been remiss in not providing this increase sooner. We should never have allowed the status of our military families to deteriorate to the point that they qualify for the food stamp program. I do not wish to cast aspersions on anyone that finds it necessary to accept and use food stamps, nor any other welfare program, for these programs were designed and passed by the Congress to help the needy—not to lower their status or to place them in an inferior position.

We are supposed to be providing our military personnel with the necessary pay and benefits to provide an adequate standard of living. We, quite obviously, are not living up to our responsibilities if it is necessary for them to use the food stamp program to subsist. They deserve better treatment for the vital services they are providing our society. I wholeheartedly support the conferees' actions in providing for increased pay and benefits for our military personnel.

My argument is with the MX missile—more specifically with the MX missile basing system that has been proposed. A case can be made for the need to counter the increased accuracy of the Russian missiles. A case can even be made for the need to counter the Russians' periodic development of new missiles when one considers the forces driving their development.

We are all familiar with our system of building new military hardware systems. It starts with someone, either a military or civilian analyst, defining a new or previously unidentified threat to our society or allies. This is followed by a statement of need to counter the threat, and a proposal to Congress to authorize the development of a new system followed by the appropriation of funds.

It is necessary that I describe our basic system in order to draw a distinction with the Russian way of doing business. It is said that the Soviets have three separate design bureaus whose very existence depends on their designing military missile systems.

These design bureaus compete for their existence by periodically producing new missiles. Every 8 to 10 years, it is estimated, the separate design bureaus produce a series of missiles. Some of these are then put into production. We are then put into the position of designing a new missile system, or improving an old one, to counter the new Russian missile.

So, for the purpose of this argument, let us concede there is a need to counter a new Russian threat, whether it is a new missile, improved accuracy of an existing missile, or large warheads. Let us examine what our options are to counter this threat. Is it only the MX missile with its outlandish basing system? I submit that it is not.

We have been asked, and are on the verge of approving, the full-scale engineering development of the MX missile and a Multiple Protective Structure (MPS) basing mode. Moreover, we, the Congress, find that a survivable land-based ICBM system is vital to the security of the United States and to a stable strategic balance between the United States and the Soviet Union, and that timely deployment of a new basing mode is essential to the survivability of this Nation's land-based intercontinental ballistic missiles.

But is it? Have we raised the TRIAD to a sacred level? Why is it necessary that we have a survivable land-based missile force—to give the Russians something to shoot at? When we have a survivable sea-based nuclear missile force is it necessary that we also have a land-based ICBM force? Is it just to perpetuate an Air Force organization? To continue the TRIAD? Again, why?

The obvious question is: Why would not the sea-launched ballistic missile (SLBM) force suffice if it is undetectable now and in the foreseeable future? Is it a question of having enough SLBM forces? I think not because we can expand the SLBM forces more quickly and at less expense than the MX missile and the MPS basing mode can be built.

As a matter of fact the SLBM approach has many advantages over the MX missile and MPS basing mode. First, the SLBM force is relatively undetectable. Second, we expect it to remain so for the foreseeable future. Aviation Week and Space Technology quote an operational submarine commander in their June 16, 1980, issue as saying:

> People have been talking about a breakthrough in antisubmarine warfare to increase the detectability of submarines for the past 20 years, and it has not happened, and I do not see it changing in the next 10 years. I have worked with our own ASW (anti-submarine warfare) forces, which are very good, and they cannot find us, so I do not see the Soviets with any better capability in the near future. No one has a better survivability than the SSBN (submarine ballistic missile) force.

Third, it is constantly on the move, not located in a fixed shelter. Fourth, it is far less expensive (the current planned force of 14 Trident submarines plus missiles will cost $28 billion and are planned to be built even if we build the MX missile) and the Trident force can be expanded for a fraction of what the MX missile and MPS basing mode will cost. The MX missile and MPS basing mode is estimated to cost between $34 and $56 billion and, perhaps, as much as $100 billion if there is no SALT II treaty. Fifth, in the event the SALT II treaty is not ratified the Soviets acquire no advantage over the SLBM force. This is not the case with the MX missile and its MPS basing mode. Sixth, the SLBM force either has, or can be improved to have, a "hard-target-kill capability" if that is deemed necessary. This could be accomplished by the development of the Trident II missile including terminal guidance from the NAVSTAR global positioning system (GPS) or improvements to the stellar inertial system. I commend the conferees for their wisdom and foresight in providing $65 million in research and development funds for the Trident II missile. Seventh, the current planned SLBM force will have over 6,000 warheads on their missile and this can be expanded at the rate of over 190 additional warheads with each Trident submarine that we choose to add. Last, but by no means least, the SLBM force takes up no precious real estate, requires no allocation of scarce water resources and displaces no one from their homes. If the Russians decide to shoot at it (if they can locate any part of it) they will be firing at the ocean—not our territory.

Now, let us look at the MX missile system and its MPS basing mode. First, it it is potentially vulnerable, that is, even though each missile could be located in any of 23 separate shelters the security could be compromised, or the Russians could target each of the 4,600 shelters. Second, the system is obviously detectable since the shelters can be seen from satellites which means it can be targeted with missiles with hard-target-kill capability. Third, it is a fixed system regardless of how the Department of Defense euphemistically wishes to describe the basing mode. All the opponent has to do is to break the security basing code or target all the shelters and the system is totally compromised. Fourth, the system is exorbitantly expensive, the second most expensive construction project in the history of civilization (our interstate highway system is supposed to be the most expensive), and might become the most expensive if it has to be expanded beyond the planned 4,600 protective shelters. This may be an incorrect claim since we don't know how much the Pyramids of Giza actually cost to build in "then year dollars." A bit of irony may be evident here.

If we build the MPS basing mode we may be leaving a monument to future generations who will marvel at our incredible insanity at spending so much of our resources on so needless a task. Fifth, if the SALT II treaty is not ratified or the Russians choose to violate it, they could target all 4,600 shelters and totally compromise the system. Sixth, as demonstrated earlier, the MX missile and its MPS basing mode is not needed with an adequate SLBM force. Seventh, and, perhaps, the most telling point in view of the first six, the MX missile and its MPS basing mode is an environmental disaster. It takes up thousands of acres of land. The fact that most is desert makes it no less of a disaster.

The current instructions of the conferees may force a split basing mode, that is, part in Utah and Nevada and part in another location, most likely western Texas and eastern New Mexico. In this event it will displace even more people. The MPS basing mode will require over 8,000 miles of roadways which will require a tremendous amount of concrete to support the 190,000 pound missile and its 800,000 pound transporter. Added to all of this is the requirement for the allocation of scarce water resources for construction and maintenance of the MPS system in an area that is in desperate need of all the water resources available.

In my view, the case against the MX missile, and particularly the MPS basing mode is overwhelming. Why we are proceeding is incomprehensible to me. If we are determined to spend this enormous amount of money then let us spend it more sensibly: Build additional Trident submarines and develop the Trident II missile with its improved accuracy. When we are done with that we can get on with doing more important things in our society. Let us escape from this insane position that we find ourselves in. We do not need to build this monument to our insanity.●

● Mr. DORNAN. Mr. Speaker, I would like to express my support for and thanks to the Armed Services Conference Committee for this bill. I believe that it takes a significant step in the right direction toward the goal of strengthening our defense posture. To be particularly commended are those conferees who are members of the majority party, whose leader, the President, has made clear his opposition to this bill, despite a clear and undeniable need for it.

I also want to voice my support for the committee's decision with respect to the follow-on aircraft for the B-52. The committee has directed the Secretary of Defense to report to the Armed Services committees by next March 15—beware, Soviets, the Ides of March—a status report including his recommendations for a follow-on aircraft to be chosen from among the committee's recommendations. The conference is to be congratulated for directing the Secretary to do so, so as to prohibit any further footdragging and the needless delays which have characterized this administration's attitude toward a B-52 successor and toward our whole defense program in general.

I hope the defense bill to come out of the Appropriations Committee will exhibit the same degree of concern for our defense capabilities as this authorization bill. Of course, if it does not, there are many of us who are fully prepared to vigorously take corrective action on the House floor.●

● Mr. LUNDINE. Mr. Speaker, I intend to vote against the conference agreement pending before us on the fiscal year 1981 Defense Department Authorization. I do so reluctantly because I do recognize that we must increase our effort in the defense area, particularly in bolstering efforts to attract and retain qualified military personnel. I do support the decision by the conferees to grant an 11.7-percent across-the-board pay raise to our military personnel in the upcoming year, and also the fair benefits package aimed at attracting and keeping needed personnel in our Armed Forces.

At the same time, these benefit changes amount to only $1 billion of a $52.8 billion authorization bill, which I believe to be too strongly biased toward spending on weapons hardware. The largest single slice of this $52.8 billion authorized by this bill will go toward spending on new weapons systems. Included in this authorization is $1.6 billion for the MX mobile missile system, which I believe is technically unproven and can only serve at this time to exacerbate the arms tension in the world thereby doing serious damage to future efforts to arrive at a SALT II agreement with the Soviet Union.

Finally, I feel disposed to oppose this authorization bill, as I did when the House passed its version of this bill, because it exceeds budget limitations included in the first budget resolution approved by this Congress. The $52.8 billion authorization included in this conference agreement is $5.5 billion above the President's revised budget request to Congress. In addition, it is $2.2 billion above the estimate included in the First Budget Resolution approved by Congress, which is an attempt to set forth the first balanced budget for this country in 12 years. I do not believe we can continue to make progress toward a balanced budget for this country if we do not exercise fiscal discipline on authorization bills, whether they be in the area of defense or any other policy matter of national concern.●

● Mr. SANTINI. Mr. Speaker, I would like to take a moment of my colleagues' time to talk about an issue which you have heard me address before—the MX missile. I hate to sound like a broken record on this subject, but until you quit playing my song, I feel compelled to remind you that Nevada has a great deal at stake when it comes to MX. H.R. 6974 authorizes $1.6 billion for the MX missile and to my knowledge makes the first congressional commitment to a land based MPS deployment.

Second, we do not yet have a congressional affirmation that long-term economic impact assistance will be forthcoming. Community aid is absolutely essential to whatever area has the dubious honor of hosting the MX missile system and all the accompanying burdens for State and local governments.

I know that my fellow House colleagues will keep Nevada and Utah in mind when the next opportunity arises to show that you are willing to assure our States that if we get the 4,600 or more missile shelters you will be there not just with exotic weaponry, but with badly needed support for such things as sewers, roads, hospitals, and other critical, if commonplace, requirements which the MX deployment will generate.

Let me add just a word here about the split basing provisions which my good friends in the Senate added to this piece of legislation. I want to note here that I applaud their support for a concept which I initiated in September 1979. I am distressed about the language of section 202 of this bill because it practically invites Congress to discard the split basing concept, for any reason whatsoever, not just military considerations. In addition, the split basing language in this bill says that after the first 2,300 missiles are deployed in the initial deployment area, the remaining 2,300 shelters may be placed in that same initial deployment area if an alternate site is rejected on the basis of a Department of Defense study.

Forgive me if I seem paranoid on this issue, but lately I find that Nevada is in the untenable position of being a finalist for all the Nation's controversial or undesirable projects. Nevada already has underground nuclear testing and low level radioactive waste. I really must urge my colleagues in the name of national fairness and reasonableness to recognize what you are asking one State to do for the entire Nation. Nevada will do its share and more. But from my initial amendment effort in 1979 I believe Congress must give its serious consideration to the split basing proposal. Such serious consideration is not in evidence in any of existing or pending legislation.●

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I have had a request from the chairman of the Committee on Armed Services for time.

Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Speaker, I thank the gentleman from Virginia.

I take this time only to inform the House that this is the last appearance on this floor in the consideration of the defense authorization bill for six members of our committee: The gentleman from Missouri, DICK ICHORD; the gentleman from Michigan, LUCIEN NEDZI; the gentleman from California, BOB WILSON; the gentleman from California, CHARLIE WILSON; the gentleman from South Carolina, MENDEL DAVIS, and the gentleman from Texas, JOE WYATT.

We want to express our best wishes to all of them and we hope they will be back in some capacity, even as visitors, to help us when we bring the annual authorization bill to the floor next year and in the years ahead. Each of them has made a contribution to the national security of the United States of which he can be deeply proud.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I yield myself 30 seconds, just to mirror the sentiments expressed by the chairman on the departure of these most valuable members of our committee.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I thank the distinguished gentleman from Virginia for his generosity.

Mr. Speaker, I rise principally in order to support the position expressed by the very able gentleman from New Jersey (Mr. MINISH).

Notwithstanding to the contrary the explanation given by the distinguished chairman of the subcommittee, the gentleman from New York (Mr. STRATTON), is correct in that the House conferees did narrow the scope of the amendment so that the Vinson-Trammell exemption only applies to those contracts where final payment occurs before October 1, 1981.

However, the exemption still exists no matter how narrowly it is drawn, and thus for the first time in 50 years we are going to remove the final tool that the American people have had to check on the profits of a number of defense contractors.

And the end result of this amendment will be that we will have set a precedent for eventually removing all protections we have in dealing with the $70 billion defense industry. I cannot believe that this action is in the best interests of the American people.

I am afraid that despite a bill that I will have to vote for because it is of such a serious nature to our vital defense, it leaves the country stripped naked of any protection from the war profiteer, which we still have amongst us. Not since Lincoln's day and the result of the passage of Lincoln's Act, you will recall Lincoln became incensed when he discovered some war profiteering going on around the Capitol here and he had cause to have the Lincoln Act passed, which was our only protection until the beginning of World War II; but since then we have had some law on the statute to guard against the out and out war profiteer.

I want my fellow Members to realize that in the passage of this bill, sneaked in and layered in as a sleeper clause, is this very tricky proviso having to do with the Vinson-Trammell Act.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, the gentleman from Texas is a good friend of mine. I would not want to have the gentleman leave in the record a misunderstanding as to what the conference report has actually done on the matter of the Vinson-Trammell Act. The fact of the matter is that if there was any sneaking in the conference, it was the conferees on the part of the House who managed to insert in this section that in effect would prevent the kind of exemption that the gentleman from New Jersey has been worried about. The Senate's original provision did provide a long period of contracts that would be exempt. But the gentleman from Texas can be happy that the House conferees succeeded in amending the original version so that in fact no defense contracts will be exempt. He can really put his mind at rest on this point.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. Mr. Speaker, I thank the gentleman for yielding. This conference report contains a provision which I hope and believe will add to our military readiness, both short term and sustained.

Heretofore the authorizing committees of the House and Senate have not taken an indepth look at our operations and maintenance accounts and other readiness matters. Hereafter this will be done.

We have a fine fighting force, but it is on paper. We are not ready. Hopefully the implementation of this provision will correct this deficiency.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise in opposition to the DOD authorization conference report, H.R. 6974. Obviously, in any $52.8 billion measure, including the $35.8 billion procurement and $16.9 billion research authorization in this conference report, a Member of Congress can find some fault.

I think it is incumbent upon us to seek a balance of the various programs and commitments. As an example, I agree with the increased maintenance and operation commitment reflected in this measure but in the final analysis, this total measure lacks the essential balance that should exist in our major military procurement and research authorization.

Based on the analysis of a number of key procurement programs, I find serious flaws that result in commitments to unworthy programs. One of the most glaring examples is the FA–18 in which the cost projections of the program have spiraled from $6 million per plane in 1975 to $26 million in 1981. At the same time, the specifications for the FA–18 are being weakened and the program misses deadline after deadline and yet serious technical problems persist.

Congress cannot responsibly discipline spending unless we more closely analyze the impact of defense spending, especially the procurement and research aspects of defense commitments.

I regret sincerely that the only avenue today is to vote against this measure. I led a number of members, for example, unsuccessfully seeking hearings before the House authorization committee to uncover the problems with the FA–18. We were somewhat successful in testimony before the defense appropriation subcommittee.

The members of the authorization and appropriation committee have obvious problems with meeting the request for hearings over defense matters because of their scope and dimension. Clearly all Members of this House share the responsibility to engage more intensely in oversight of the defense program and its impact on our budget and ability to maintain our viability as a leader of the free world.

This measure, H.R. 6974, I believe moves us down a road in the wrong direction where we are not holding close enough accountability over a variety of programs and the performance of contractors.

Raising the dollars committed by itself in the short term will not result in the near term for the lack of proper planning and will instead result in imprudent commitments and cause the authorization of faulty initiatives and programs awash in a sea of undisciplined spending.

A "no" vote on the conference would surely send this measure back to conference where a tempered discipline of these defense procurement spending programs might yet be attained in this year.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I have no further requests for time.

Mr. PRICE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DICKS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 360, nays 49, not voting 23, as follows:

[Roll No. 489]

YEAS—360

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCormack
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Waxman
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—49

Baldus
Bedell
Beilenson
Bingham
Bonior
Brodhead
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Dellums
Drinan
Early
Edwards, Calif.
Forsythe
Garcia
Gephardt
Gray
Johnson, Colo.
Kastenmeier
Kildee
Leland
Lundine
Maguire
Markey
Minish
Mitchell, Md.
Moffett
Nolan
Obey
Ottinger
Rangel
Reuss
Richmond
Rodino
Rosenthal
Roybal
Sabo
Seiberling
Stark
Studds
Vanik
Vento
Weaver
Weiss
Yates

NOT VOTING—23

Abdnor
Anderson, Ill.
Cleveland
Conyers
Daschle
Dodd
Evans, Ga.
Fenwick
Ford, Mich.
Holtzman
Leach, La.
Lederer
McCloskey
McDade
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Myers, Pa.
Rousselot
Stokes
Thompson
Watkins
Young, Alaska

☐ 1500

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Stokes against.

Mr. Lederer for, with Mr. Conyers against.

Until further notice:

Mr. Murphy of New York with Mr. Abdnor.

Mr. Mollohan with Mrs. Fenwick.

Mr. Moorhead of Pennsylvania with Mr. Leach of Louisiana.

Mr. Myers of Pennsylvania with Mr. McCloskey.

Mr. Dodd with Mr. McDade.

Mr. Daschle with Mr. Watkins.

Mr. Evans of Georgia with Mr. Rousselot.

Mr. Ford of Michigan with Mr. Young of Alaska.

Mr. CONTE changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 6974, the Department of Defense Authorization Act of 1981.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6721, AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1980

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1255) on the resolution (H. Res. 769) providing for the consideration of the bill (H.R. 6721) to provide for the improvement of the Nation's airport and airway system, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7668, INTELLIGENCE OVERSIGHT ACT OF 1980

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1257) on the resolution (H. Res. 771) providing for the consideration of the bill (H.R. 7668) to strengthen the system of congressional oversight of the intelligence activities of the United States, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6628, NUCLEAR REGULATORY COMMISSION AUTHORIZATION, FISCAL YEAR 1981

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1254) on the resolution (H. Res. 768) providing for the consideration of the bill (H.R. 6628) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6806, AMENDING INTERNAL REVENUE CODE OF 1954 REGARDING TREATMENT OF PUBLIC UTILITY PROPERTY

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1256) on the resolution (H. Res. 770) providing for the consideration of the bill (H.R. 6806) to amend sections 46(f) and 167(l) of the Internal Revenue Code of 1954 regarding the treatment of public utility property and to provide a transitional rule with respect thereto, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6417, SURFACE TRANSPORTATION ACT OF 1980

Mr. DERRICK, from the Committee on Rules, submitted a privileged report

(Rept. No. 96-1253) on the resolution (H. Res. 767) providing for the consideration of the bill (H.R. 6417) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 5168, MILITARY PERSONNEL AND COMPENSATION AMENDMENTS OF 1980

Mr. NICHOLS. Mr. Speaker, I call up the conference report on the bill (H.R. 5168) to extend certain expiring provisions of law relating to personnel management of the Armed Forces.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 19, 1980.)

The SPEAKER pro tempore. The gentleman from Alabama (Mr. NICHOLS) will be recognized for 30 minutes, and the gentleman from New York (Mr. MITCHELL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama.

□ 1510

Mr. NICHOLS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased today to bring to the House the conference report on H.R. 5168—a bill originally designed to extend certain expiring personnel management authorities. The conference report includes not only these extensions but also a number of critically needed improvements to the military compensation system.

We have all become aware of the growing number of manpower problems being experienced in the Armed Forces today. These include significant year-of-service maldistributions, skill shortages, and recruiting shortfalls—in terms of quantity and, possibly, quality—in the active force and significant and pervasive shortfalls in the reserves.

I believe the solution to these problems lies in focused attempts: First, to modify compensation for those specific categories of personnel in which identifiable problem exist; and second, to remove financial irritants associated with military service that adversely affect the individual member's decision to continue on active duty.

The amendments to H.R. 5168 follow this approach.

As you know, significant problems exist in retention of pilots; the amendments would increase flight pay by 25 percent.

The Navy exhibits critical shortfalls in its mid-career petty officer force—possibly the most significant manpower problem today; many of these shortages occur in the seagoing ratings. The amendment addresses these problems by providing significant immediate increases in sea pay. I might also note that the Senate included a provision that would extend eligibility for selective reenlistment bonuses to those enlisted members in critical skills who possess 10 to 14 years of service. This provision was not included in this conference report because a broader provision encompassing this provision was included in the conference report on H.R. 6974.

These amendments would focus compensation on identified problem areas recognizing that not all services are experiencing the same problems or the same degree of problems nor are these problems extant in every career field.

The amendments would also address irritants suffered by career military personnel. For example, the current ceiling on reimbursement for mileage in conjunction with a permanent change of station move would be removed. In addition, a new allowance, a variable housing allowance would provide an additional payment to military personnel stationed in high-cost areas of the United States. These two provisions would assist the service member in meeting personal expenses incurred as a result of the military's way of doing business.

A number of other provisions are contained in the conference report that correct anomalies in current law. For example, authority would be provided for Army and Air Force reserve enlisted personnel to retire with an immediate annuity after 20 years of active duty. Current law does not provide this authority which does exist for reserve enlisted members of the Navy and Marine Corps and for Regular and Reserve officers of all services.

The variable housing allowance is the major improvement to military compensation included in the conference report. Authority to provide this allowance would be provided from October 1, 1980. Effective for fiscal year 1982 and thereafter, however, the variable housing allowance would become an entitlement with a specific formula provided in law. It is the conferees' strong desire and intent that the variable housing allowance be implemented no later than October 1980, and that the level of payments be substantially the same as it would be if the entitlement were to begin on October 1, 1980. The specific formula is not being recommended by the conferees during the first year only to permit the Secretary of Defense flexibility in addressing unforeseen problems that may arise as a result of implementation of such a new, substantial program.

Mr. Speaker, the conference report on H.R. 5168, together with other actions affecting military compensation being considered simultaneously, will, I believe, have a very substantial impact on stabilizing and reversing the manpower problems we face today. Consequently, I strongly urge the Members to support the conference report on H.R. 5168.

Mr. MITCHELL of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 5168. This will represent a great stride forward in terms of addressing some of our critical military manpower problems.

In 12 major seagoing ratings (for pay grades E-5 through E-9), the Navy has only 56 to 83 percent of required strength. The Navy needs 298,000 petty officers but only has 276,000— a shortage of 22,000. The Navy has only 9,000 pilots but needs 9,700. The Air Force will be 14 percent short of pilots by fiscal year 1982, and it is little wonder considering that the continuation rate for Air Force pilots from the 6th to the 11th year of service was only 25 percent in fiscal year 1979 compared to an objective of 59 percent. Retention of second term Air Force enlisted members dropped from 75 percent in fiscal year 1975 to 60 percent in fiscal year 1979. Retention of careerists fell from 97 to 91 percent that same period.

Although we face a range of manpower problems, the most pressing are retention problems. The amendments that were added to the original version of H.R. 5168 address the retention problem directly. Increased flight pay and sea pay will have a favorable effect on two of the most significant personnel shortages we are experiencing. These shortages will not be removed overnight, but the provisions in the conference report will surely result in substantial improvements.

Retention of individual members is also influenced by how they perceive they are being treated by the military service in terms of being "reimbursed" for expenses resulting from their employment.

The conference report removes the statutory ceiling on reimbursement for mileage in conjunction with a move—an expense incurred only because of military orders. This amendment focuses additional compensation directly to the point at which it is needed: The member who incurs the expense.

The centerpiece of the conference report is the variable housing allowance. This provision authorizes an additional allowance for members stationed in a high-cost area equal to the difference between the average cost of housing in that area and 115 percent of the member's basic allowance for quarters. This provision will be especially valuable to members assigned to areas like Washington, D.C., San Diego, Calif., and New York City.

Several conferees, I was one of them, felt we should remove the discretionary authority from OMB for the variable housing allowance—that we should make this program an entitlement immediately. However, the majority prevailed and the precise formula is not made a part of the statute the first year. But let me assert strongly that it is the unanimous intent of the conferees that this program be implemented fully in October 1980. Implementation of this program could conceivably result in some unusual circumstances that could not be foreseen at this time. The majority felt flexibility to handle these circumstances should be provided for that reason, and that reason only.

Delays in the effective date or partial implementation would be entirely inconsistent with the expressed intent of the conferees.

It took the administration a long time to recognize the necessity for, and value of, these congressional initiatives, but the President finally expressed his support when he visited the U.S.S. *Nimitz* on Memorial Day. It is now imperative that the Congress, and the President, follow through on the commitments made to our military personnel at that time.

Mr. Speaker, I urge all Members to support the conference report.

Mr. Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. Dickinson).

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as the ranking member of the Special Subcommittee on NATO Standardization, Interoperability, and Readiness of the Committee on Armed Services, I would like to point out that the subcommittee returned recently from a visit to four different NATO countries. In England we met with the Defense Minister and other senior defense officials. One of the most important things I learned, and I think this was the case for all of us on the trip, was that the United Kingdom was having the same problems in regard to retention of military personnel. They found that the loss of highly trained personnel was one of the most expensive drain on their defense budget.

They have had our experience of recruiting personnel, spending thousands and thousands of dollars training them to do a technical job in today's technical warfare scenario where we have rockets, computers, tanks, and aircraft—providing them with desirable and rare marketable skills—only to lose them to industry. We have trained them, given them valuable skills and then after they have gained experience and we need them most as valuable members of the defense team, they leave for better pay and benefits in civilian life. Trained personnel have been leaving our services in droves just as in the case of the British.

The thing the British told us that was most impressive to our group was that within the past 3 years they have given their military a 33-percent raise. Last year they gave an 18-percent raise to their middle-career military personnel. They said they were astounded by the results—that the massive loss and outward flow of skilled personnel had modified to the point where it is no longer a great problem.

The British identified two things that were most important in retention—and that is what we are talking about here today and that is what this committee has been working on. One was self-pride, self-esteem, and on the esteem in which service personnel are held in the community.

□ 1520

How the military was regarded in the community, whether or not military people are regarded as second-class citizens or first-class citizens. Military people, like the rest of us, want to be treated like first-class citizens. The second point is just as important. They want to be able to pay their bills and provide their families a decent life. That is part of being a first-class citizen.

The SPEAKER pro tempore. The time of the gentleman from Alabama has expired.

Mr. MITCHELL of New York. Mr. Speaker, I yield 1 additional minute to the gentleman from Alabama.

Mr. DICKINSON. So, I think what the committee has proposed to do and what the committee proposes to do now, is to recognize the worth of those in uniform, and to give them adequate compensation, at least with a reasonable comparability to the civilian sector, and to stop the drain and erosion of our trained personnel. The British have done this and their personnel erosion has dropped to a trickle.

They feel that they have conquered their problem. I think this is what we are trying to do—and this legislation would be a giant step in that direction.

I certainly support the efforts of the committee whose members worked long and hard on this bill, and I would certainly ask all my colleagues to vote in support of the bill.

Mr. NICHOLS. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. Dicks), who has been a strong supporter over the years of the military.

Mr. DICKS. Mr. Speaker, I want to take this opportunity to congratulate the conferees, and in particular the gentleman from Alabama, Chairman Nichols and the ranking member Mr. Mitchell, for their dedicated efforts in seeing the Nunn-Warner military compensation provisions included in this conference report enacted.

I am particularly pleased that the important variable housing allowance has been established as an entitlement beginning in October of next year. For too long we have witnessed the phenomenon of the "geographic bachelor" who must leave his family behind, because quarters allowances are not adequate to provide even modest housing for them in high cost areas. This and the other provisions of Nunn-Warner included in this report are an important first step toward addressing the serious manpower problems we face in our armed services. Its enactment will provide a clear signal that the Congress recognizes that adequate compensation, while not the only necessary ingredient in healthy recruitment and retention, is certainly a primary ingredient.

I am encouraged by the growing attention to this important aspect of our defense posture. Just last year, few either inside or outside the Congress had focused on the real implications of adverse trends in the retention of skilled career personnel. I am happy to say that the members of the Armed Services Committee were a notable exception to this lack of focus.

Now the issue is the subject of countless newspaper editorials, television specials, and has even made the cover of Time. The change of heart from the President regarding this package is particularly welcome.

Important as Nunn-Warner is, we must not fall into the trap of thinking it solves the compensation problem, and that we can go back to the old habits of cutting back benefits and placing artificial pay caps on the military in order to trim dollars from the Federal budget. The task of making the military an attractive career option once again will not be an easy one. A recent analysis by the Congressional Budget Office indicates that correction of the over 70,000 noncommissioned officer shortfall, will take several years and much additional effort.

The House Defense Appropriations Subcommittee on which I serve will be doing its part. We will be recommending, in addition to full funding for these Nunn-Warner provisions, additional funds for reenlistment bonuses and an endorsement of the average 11.7-percent pay raise.

In the longer term, we must closely examine the entire range of military compensation to determine what course will provide the greatest return in terms of improved retention of quality individuals. Two areas which I feel deserve special attention are improvements in medical benefits and in educational incentives.

I am aware that the defense authorization conference report includes the Senate enacted provision calling for a test of various educational options to determine their effectiveness. One of these options, forgiveness of student loans in exchange for service commitments, holds special promise in my judgment since it provides an incentive to remain in the service and will attract those with a higher level of education, especially among the junior college level. I intend to work to see that this test is implemented.

Literally thousands of service people are watching what we do on this issue. Those who have extended their service commitment by less than a full enlistment of 2 years has increased dramatically over the last 2 years. In the Navy alone, the number has tripled to nearly 16,000. These people are waiting to see if the new rhetoric on compensation is followed through with concrete action. The provisions of H.R. 5168 provide the foundation, and in my judgment are among the most important steps we can approve for strengthening our real defense capabilities.

I am confident that this body will approve this report and that we can proceed on toward further steps on this critical issue.

This action will provide real steps toward improving our All-Volunteer Forces.

Again, Mr. Speaker, I want to congratulate my distinguished chairman for his efforts, and commend the efforts of Mr. Mitchell of New York, the ranking minority member, and the other members of the committee as well.

Mr. NICHOLS. Mr. Speaker, I just want to commend the gentleman from Washington State, who is an important member of the House Committee on Appropriations. We know of his strong support over the years in behalf of military compensation, and want to thank him for his statement.

Mr. MITCHELL of New York. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. Trible).

Mr. TRIBLE. Mr. Speaker, I rise to join my colleagues today in applauding the efforts of the conferees in confronting what I regard to be the most serious problem facing our national defense today, the retention of highly skilled, trained military personnel.

Nunn-Warner and the other congressional initiatives will help, but they simply will not answer the military manpower problems that we face. We must do more.

Indeed, a computer simulation of the effects of Nunn-Warner recently completed by the Department of the Navy indicated that the impact of current congressional initiatives on retention will be minimal. I repeat the word, minimal. Only a substantial increase in military pay and allowances correlates positively with personnel retention.

□ 1530

So while I welcome Nunn-Warner and the other current congressional actions, it must be emphasized that these initiatives will not solve our retention problems. These manpower problems will not go away. They are squarely before this Congress, and it is vital that we act.

I call to the attention of my colleagues legislation, the National Defense Compensation Act, which the gentleman from Florida (Mr. Bennett) and I have introduced in this body, and Senator Armstrong in the other body. This legislation would increase in real terms pay and allowances to career men and women in our armed services. The National Defense Compensation would repeal the President's authority to impose caps on military cost-of-living increases, provide catch up increases for loss of earnings to inflation because of prior year caps, and provide increases in the most critical specialty areas.

A majority of the members of the Committee on Armed Services and indeed a majority of the members of the Subcommittee on Military Compensation have cosponsored this legislation.

Our bill enjoys broad bipartisan support because our colleagues know that only a meaningful pay increase will stem the exodus of skilled and highly trained personnel from our armed services.

This is the only answer. Real increases in military pay, as expensive as they might be, as difficult as they might be for this body to enact, are the only answer.

So let me say in conclusion, Mr. Speaker, that I want to applaud the chairman of the subcommittee and the ranking Republican member for their efforts. But let this be only a first step. Military manpower problems will continue to plague us unless and until this body gathers the courage to increase military pay and allowances.

I would hope that the good gentleman from Alabama (Mr. Nichols) will give this matter every consideration and hold prompt hearings on legislation to increase military pay and allowances.

Mr. Speaker, I yield back the balance of my time.

Mr. MITCHELL of New York. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. Rudd).

Mr. RUDD. Mr. Speaker, I, too, hope, as the gentleman from Virginia (Mr. Trible) expressed, that this will be the first step in perfecting and improving the situation in our Armed Forces. This bill to increase military pay and allowances is long overdue.

Retention rates for pilots in the Navy and Air Force are lesss than half the required number.

The Navy is having serious difficulty retaining adequate numbers of submariners and surface warfare personnel, and Air Force are less than half the required numbers of engineers and navigators.

As a result of declining reenlistment rates among second and third termers, our Armed Forces currently have a shortage of more than 73,000 noncommissioned officers.

In my capacity as a member of the House Budget Committee's task force on defense and international affairs, I have visited many U.S. military installations and ships at sea over the past several years.

I can personally attest to the fact that this retention problem, this shortage of critically skilled personnel in our military services, has directly resulted from the Government's failure to provide adequate pay for military people on a par with pay earned by civilian counterparts of comparable age and education in business and industry.

I say this legislation is long overdue, because the inability of our military services to attract and keep a sufficient number of high-quality personnel to perform their worldwide mission has been known for several years.

Yet the Carter administration, until the President's recent visit to the U.S.S. *Nimitz*, where he reversed his position on this issue, had steadfastly opposed military pay increases proposed here.

There was even talk among top echelons of the administration of a Presidential veto of this bill as late as a week before the President's speech in support of the Nunn-Warner amendments aboard the *Nimitz*.

This failure of the Carter administration to recognize the needs of our military personnel, and to get behind better pay for our men and women in uniform, has had a very negative impact on service morale and the defense readiness of our Nation.

Had the President supported this measure at the outset of his administration 3½-years ago, when the all-volunteer military started to experience the serious manpower problems that have now reached such disgraceful proportions, this situation could have been avoided.

Congress cannot allow insufficient pay to continue driving high quality people out of the service.

No matter how sophisticated, weapons cannot be effectively operated and maintained without sufficient numbers of qualified people.

This legislation will help to rectify the military pay problem that has undermined our national security and will help reestablish our commitment to the preservation of a top quality career military service.

I urge adoption of the conference report.

Mr. Speaker, I would like to commend the hard work and the dedication that has been displayed by the subcommittee chairman, the gentleman from Alabama (Mr. Nichols), and by the ranking minority member, the gentleman from New York (Mr. Mitchell). I thank them for their work in this regard. I applaud them, and again I do urge support for the conference report.

Mr. NICHOLS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida (Mr. Bennett), the chairman of the Subcommittee on Seapower.

Mr. BENNETT. Mr. Speaker, the bill before us, represented by this conference report, is an excellent bill. It addresses specific items where needs have arisen, and they are addressed with precision and care. I congratulate the subcommittee on its fine work in bringing this bill before us. Together with the bill which has just been passed, the conference report we considered before this, the procurement bill containing a general pay raise, we have indeed made a major step forward in addressing the need for increased emoluments for the people in the armed services.

However, in all honesty, despite the very material steps forward which these two bills provide, and despite the tremendous needs of the national defense for ships, planes, missiles, tanks, and other items, there still is a very great residual need for additional benefits to the average man and woman in the armed services. Therefore, I hope the Congress will address this issue, preferably before the end of this Congress but certainly in the next Congress, which I think will probably be a more defense-minded Congress than the one that now exists.

If all Members of Congress are reelected, as they may be, it is my opinion that their constituents will demand a stronger national defense stance from the Congress as a whole.

I do sincerely hope the Congress will soon address this question further and obtain even more adequate pay to stimulate people to remain in the services, where they are desperately needed.

In saying this, Mr. Speaker, I am in no way downgrading the legislation which has been passed in this Congress, because I think it has been done very thoughtfully, very carefully, and with great precision and great ability. I congratulate the subcommittee on its work.

So, I rise in strong support of the conference report on H.R. 5168. I am very keenly aware of the manpower problems we face, particularly in the Navy. Shortages in our career petty officer force are having an adverse impact on our ability to send our ships to sea. Significant problems exist in retention of pilots and other personnel in compensation areas.

H R. 5168, as reported for conference, in terms of both the personnel management and compensation provisions, will have a very substantial and positive impact on our military personnel.

Mr. Speaker, I urge strong support for the conference report on H.R. 5168.

Mr. NICHOLS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Downey).

Mr. DOWNEY. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to congratulate the gentleman on the work that the subcommittee has done on this bill. It was my good fortune for two terms to serve on the Subcommittee on Military Compensation, and I miss the work.

I think, in our rush to provide more money and improve the armed services, all of which needs to be done—we have talked at length hereabout the retention needs and the problems we have in the services, and there are a couple of problems we still need to focus on—the fact is that we have a retirement system that costs us $14 billion this year and increases by almost $900 million a year, and there is not going to be any abatement in that between now and the year 2000.

We are retiring the very people we need to retain. The average retirement age of a noncommissioned officer is age 39. He is certainly capable of fighting at that age, and I would dare say that if I were going to go into combat, I would want that sort of experience rather than losing it by retirement.

The average age of a retired officer who serves 20 years is age 43. All of this on top of the retention problem, on top of the fact that retirement costs us $14 billion.

Let us address the force structure. We have never taken a hard look or had the courage to do anything about our force structure. We have as many flag-ranked officers in our Army, Navy, and Air Force today, with 2.5 million folks under arms, as we had at the end of World War II, when we had 11.3 million men under arms.

We can go out to any Air Force base and walk on a B-52 and find a captain and a lieutenant in the cockpit and find a lieutenant colonel doing the electronic countermeasures. That is crazy. We should have the highest ranking officer flying that airplane so that there is no doubt in anybody's mind who is in charge.

Mr. Speaker, the gentleman from Alabama (Mr. NICHOLS) has done yeoman work in this regard on retirement and on other things, but let us not kid ourselves. Throwing money at this problem is not going to solve it. There are a lot of things relating to management that need to be done and done quickly.

□ 1540

Mr. NICHOLS. Let me respond, if I might, to the gentleman from New York, and say to him that we miss his expertise on the committee and the sound advice he has always provided.

I am not here to defend the number of generals or admirals that we have. I have heard it alleged, that we have as many or maybe more generals and admirals than we had in World War II. I would remind the gentleman that the military today is much more technically oriented than it was some 35 or 40 years ago. We have many more major procurement problems today. It is a more technical army. We have more research and development.

I would say to the gentleman that the figures that I have are that presently we have some 1,119 flag officers in the armed services. Under provision of the bill some 2 years ago, that figure is scheduled to drop to 1,073 by October 1981.

● Mr. WOLFF. Mr. Speaker, today, the House is scheduled to consider conference reports on two bills which are of vital importance to the defense of our Nation: The Department of Defense Authorization Act and the Military Personnel and Compensation Amendments of 1980. I support the provisions of the Authorization Act as they relate to the procurement of needed weapons and materiel—it is clear that our military must have the best tools available to accomplish its mission. At this time, however, I would emphasize my strong support for those provisions of H.R. 6974 and for H.R. 5168, the personnel and compensation amendments, which focus attention on the severe problems which face our Armed Forces in the area of recruitment and retention of highly qualified military personnel.

Initially, I would note that I opposed the legislation earlier this year to resume peacetime selective service registration. I have always opposed a draft in peacetime and I opposed draft registration because of my conviction that such a proposal would not solve the real personnel problems which face our military. Registration certainly will not even address the problems of retention of trained personnel within the services. Yet, if we are to provide adequately for the national defense, we must make the All-Volunteer Army effective and of a size necessary to respond to a national emergency.

When the move toward a Volunteer Army was made in 1970, there was confidence that our military forces could be maintained at a sufficiently high level through volunteer enlistment. Yet in 1979, for the first time since the AVF was established, none of the armed services had achieved its recruiting objective. Overall, the armed services fell short of the goal by almost 25,000. In the 7 years since the end of the draft, the number of active duty military personnel have dropped almost 16 percent from 2.3 million to about 2 million men and women.

The problems in recruitment represent only one side of the personnel difficulties in today's military. Retaining qualified individuals is the other half. Approximately 30 percent of today's male enlistees do not even complete their first term of enlistment. Moreover, the services have been losing an average of more than 75 percent of those completing their first enlistment since 1976. Within the different service branches, the story is the same or worse. More than 90 percent of all first-term personnel did not reenlist in the Marine Corps in 1979, while 80 percent did not reenlist in the Air Force during the same period. Over the past few years, the second-term retention rate in the Air Force has declined from 75 to 59 percent, in the Navy from 64 to 45 percent, and in the Marines from 47 to 45 percent. These examples attest to the seriousness of the problem and have led to critical shortages in all branches of the service of midlevel NCO's, pilots, technicians, and personnel in needed specialties. Losses of these experienced men and women are difficult to compensate for through recruitment. For every man or woman who reenlists after their third tour, the services need four fewer recruits to be trained to take their places.

Mr. Speaker, in the debate which has proceeded in the Nation and in this House on this issue in the past year, much has also been said about the relative quality and ability of the individuals currently being recruited. While I remain fully confident that the caliber of our military personnel is very high, this must be a concern in an era of the increasing complexity of arms and weapons systems. We must insure that our fighting men can utilize effectively the technology which helps us remain No. 1 in terms of our military strength. Yet it should not be too surprising that such concerns have made such headway, for the prime reason that these problems exist is that we have allowed military pay and benefits to lag far behind levels commensurate with the need to attract highly qualified men and women into the ranks of our Armed Forces.

The need for a better level of compensation for our men and women in uniform can be seen dramatically with a few examples of situations which exist for personnel who are, at this moment, on the front lines in defense of the interests of this Nation; 12 of the 13 Marines taken hostage in Iran have been paid below what the Bureau of Labor Statistics says is necessary to maintain a lower standard of living; their average salary of $8,200 is 30 percent below this lower standard, and their hourly earnings for a typical 60-hour workweek are markedly less than the $3.10 minimum wage. All 13 Marine hostages, who risked their lives in guarding the Embassy, make 40 percent less than the average foreign employee in an overseas U.S. Embassy.

A plane handler on the nuclear-powered U.S.S. *Nimitz*, a carrier recently deployed to and returned from the Indian Ocean during the Iranian crisis, normally works 16 hours a day or about 100 hours per week. At that rate, he makes less per hour than a cashier at McDonald's, lives below the poverty level and is eligible for food stamps. As a bonus, he has probably not seen his family for 6 months. A chief petty officer on that same ship with 17 years of service makes the same salary as a janitor on union scale and puts in twice as many hours.

While the real earnings of military officers have been falling, civilian workers have been enjoying steady raises. Between 1972 and 1978, real earnings jumped 12 percent for a blue-collar Federal employee and 6.3 percent for unionized labor in private industry.

In comparing the scales of military and civilian workers, one finds the following disparities: A military police sergeant with 5 years of service receives an annual stipend of $13,200 while a sergeant in a city police force often makes $20,000. A boiler technician with 10 years of military service makes $15,200, while his counterpart in the private sector receives an annual salary of $22,700. A computer programmer makes $23,000 as a private worker, $8,500 more than if he or she worked in the military. The largest difference in salary is between pilots working in the military and those in private industry. An air force pilot, a captain with 8 years of service, makes $27,800 per year. A copilot for a major airline receives an annual salary of $48,000—a hefty $20,200 or about 50 percent more than his military counterpart.

Inadequacies in pay place a particularly heavy burden on our soldiers on overseas duty—especially in Europe. The pressures and loneliness of life in a foreign land can often lead to boredom and alienation among young soldiers with few outlets for recreation or social activity that they can afford. One outlet which is often available is the flight into drug abuse—and the severity of this problem, I believe, is directly attributable to the low standard under which they must exist.

A recent study by the Select Committee on Narcotics Abuse and Control, which I chair, noted that the situation for our troops in Germany is such that "for those who do leave the military post, and seek entertainment in the German economy, the current value of deutsche marks relative to the American dollar has made it prohibitively expensive. The young recruit's dream of travel in a foreign land, fostered by recruiting advertisements, is cruelly turned into a nightmare when faced with the reality of cost." Problems of drug abuse, poor morale, and other personnel problems can be attributed to the low pay and benefits received. Such problems affect the readiness and effectiveness of our military forces and should underscore the need for action to redress this serious situation.

Given situations like these, it is not surprising that the services cannot meet recruiting quotas and that career people are leaving the armed services in record numbers. It is especially the loss of skilled personnel, midlevel officers and NCO's that is the hardest to cope with. Many of these individuals are dedicated and sincere in their desire to remain in the service, but cannot pass up opportunities in the private sector which will enable them to provide better livings for themselves and their families.

It is in this context, then, that the debate has proceeded in the Congress over the past year. I wish to commend my colleagues on the Armed Services Committee, and in the other body, who have grappled with these issues in the conference committee. The reports which they have filed, I believe, offer concrete solutions to the personnel problems which face our military. The provisions of the conference reports do not represent complete and final answers to these problems, but I trust that they will be a major step forward in meeting our peacetime military needs without recourse to the draft.

Provisions in the DOD Authorization Act include a long-needed pay increase of 11.7 percent for active duty personnel. In addition, the reports provide for increases in bonuses offered personnel upon reenlistment, and increases in per diem expenses for temporary travel duty. The report also includes important improvements in the civilian health and medical program for the uniformed services (CHAMPUS). One of the most important benefits offered to military personnel and their dependents is the provision of health care services. Yet shortages of medical personnel and inadequacies in the current CHAMPUS program too often have forced military families to resort to private medical care which they must pay for out of pocket. The provisions in the legislation to include medical exams and immunizations for young children and increases in cost sharing for handicapped dependents will help to alleviate some of the problems in this area.

The steps to address the personnel problems are significantly expanded upon by provisions contained in the conference report on the Military Personnel and Compensation Amendments of 1980. The report sets out increases in key areas that should assist in the retention of skilled personnel within the ranks. Included are a 25-percent hike in aviation career incentive pay, an increase in sea pay rates, and a 10-percent increase in the basic allowance for subsistence.

Also included are important provisions to ease burdens on military families by authorizing a variable housing allowance, effective October 1, designed to provide the difference between the average cost of housing in a high cost area in the United States and 115 percent of the members' basic allowance for quarters. This will help military personnel provide adequate housing for their families at stations where insufficient on-base housing exists.

I vigorously support these steps to address the causes of our problems with recruitment and retention of military personnel. Our action in this regard, I hope, will show our men and women in uniform that the Congress is serious in recognizing the difficulties that they must face in their service to the Nation. Yet the passage of these two measures will, as we all know, not solve the problem completely or for all time. Continued study and investigation of ways to improve our military forces must be undertaken if we are to be sincere in our concern. I will continue to be interested in needed actions to meet the personnel problems short of a peacetime draft and stand ready to support and work for legislation to adequately meet these needs.●

Mr. NICHOLS. Mr. Speaker, I have no further requests for time.

Mr. MITCHELL of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NICHOLS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 399, nays 0, not voting 33, as follows:

[Roll No. 490]

YEAS—399

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar

Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—33

Abdnor
Anderson, Ill.
Cavanaugh
Cleveland
Conyers
Daschle
Devine
Dixon
Dodd
Duncan, Tenn.
Evans, Ga.
Hall, Tex.
Holtzman
Leach, La.
Lederer
McCloskey
McDade
Marriott
Michel
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Myers, Pa.
Pritchard
Roberts
Rousselot
Shannon
Stokes
Thompson
Watkins
Williams, Mont.
Wilson, C. H.
Young, Alaska

☐ 1550

The Clerk announced the following pairs:

Mr. Thompson with Mr. Abdnor.
Mr. Roberts with Mr. Marriott.
Mr. Lederer with Mr. Pritchard.
Mr. Mollohan with Mr. Young of Alaska.
Mr. Murphy of New York with Mr. Michel.
Mr. Myers of Pennsylvania with Mr. Devine.
Mr. Moorhead of Pennsylvania with Mr. Cleveland.
Mr. Stokes with Mr. McCloskey.
Mr. Cavanaugh with Mr. Rousselot.
Mr. Daschle with Mr. Duncan of Tennessee.
Mr. Dodd with Mr. McDade.
Mr. Evans of Georgia with Mr. Charles H. Wilson of California.
Mr. Hall of Texas with Mr. Williams of Montana.
Mr. Conyers with Mr. Watkins.
Ms. Holtzman with Mr. Leach of Louisiana.
Mr. Shannon with Mr. Dixon.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1600

GENERAL LEAVE

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

CHAMPUS INPATIENT COST-SHARING RATES FOR CERTAIN SURGERY PERFORMED ON AN OUTPATIENT BASIS

Mr. WHITE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3351) to amend chapter 55 of title 10, United States Code, to authorize dependents of members of the uniformed services serving on active duty to use CHAMPUS inpatient cost-sharing rates for certain surgery performed on an outpatient basis.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mrs. HOLT. Mr. Speaker, reserving the right to object, I do so for the purpose of allowing my friend, the gentleman from Texas, an opportunity to explain this measure.

Mr. WHITE. Mr. Speaker, will the gentlewoman yield?

Mrs. HOLT. I would be happy to yield.

Mr. WHITE. Mr. Speaker, I thank the gentlewoman for yielding, and I will be happy to explain the bill.

This bill would authorize the use of inpatient cost-sharing rates for certain surgery performed on an outpatient basis. The enactment of this bill will result in cost-savings to the Government while not requiring CHAMPUS patients to pay any additional fees.

In the way of background, the establishment of CHAMPUS preceded the evolution of current medical techniques permitting certain kinds of ambulatory surgery to be performed on an outpatient basis. The current cost-sharing formulas under CHAMPUS encourage dependents of uniformed service active-duty members to seek inpatient care for surgical procedures which could otherwise be performed on an outpatient basis. The incentive for beneficiaries to seek inpatient care is that it will greatly reduce their out-of-pocket costs. Physicians tend to accommodate the use of inpatient care as opposed to outpatient care, since their professional fees are not significantly different in either case.

Under the present CHAMPUS payment formula, active-duty dependents receiving inpatient care are not required to pay an annual deduction, but they are liable for a fee of $25 per admission, or the prevailing rate at a military hospital, whichever is the greater amount. However, outpatient care requires dependents to pay an annual deductible of $50 ($100 family maximum), plus 20 percent of the CHAMPUS-determined allowable charge remaining after the deductible has been met. Therefore, dependents have a clear incentive to use inpatient care since, in all cases, this will result in a significantly smaller copayment by the patient.

But, because the average cost for inpatient care exceeds the average cost for outpatient care by about $367 per procedure, the Government's copayment for inpatient care is significantly higher than it is for the same medical procedure on an outpatient basis.

Thus, the present law encourages beneficiaries to seek inpatient procedures for what in reality could be outpatient care, thereby, creating a higher total cost to the Government.

In summary, the proposed legislation would authorize the use of inpatient rates for selected ambulatory procedures and thus, remove the incentive to use inpatient facilities which will result in cost savings to the Government. The Department has estimated the savings to be about $2 million over 5 years.

Mrs. HOLT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill as follows:

H.R. 3351

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1079(b) of title 10, United States Code, relating to contracts for medical care for spouses and children of members of the uniformed services, is amended by adding at the end thereof the following new clause:

"(4) $25 for surgical care that is authorized by subsection (a) and received while in an outpatient status and that has been designated (under joint regulations to be prescribed by the Secretary of Defense and the Secretary of Health, Education, and Welfare) as care to be treated as inpatient care for purposes of this subsection. Any care for which payment is made under this clause shall not be considered to be care received while in an outpatient status for purposes of clauses (2) and (3).".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DOCUMENTATION OF VESSELS WITH COASTWISE PRIVILEGES

Mr. ASHLEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1442) to authorize the documentation of the vessel, *Sara,* as a vessel of the United States with coastwise privileges, as amended.

The Clerk read as follows:

S. 1442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of title 46 of the United States Code, particularly but not limited to section 27 of the Merchant Marine Act of 1920, as amended (46 U.S.C. 883), or any other provision of law, the Secretary of the department in which the Coast Guard is operating shall cause the vessels Sara (vessel numbered 530082), Aurelia Four, Alice (vessel numbered 289731), Albatross (vessel numbered 299537), Hillbilly I, and Kailua (registration numbered AK–7716–B) to be documented as vessels of the United States, with the privileges of engaging in coastwise trade so long as each such vessel being so documented is owned by a citizen of the United States.

SEC. 2. The vessel Sara which was constructed in a country other than the United States, is, pursuant to section 1, granted the privilege of engaging in coastwise trade only so long as the vessel is owned by a citizen of the United States and is operated for a nonprofit purpose.

SEC. 3. Section 502 of the Merchant Marine Act, 1936, is amended by adding at the end of subsection (g) thereof two new subsections to read as follows:

"(h) The Secretary of Commerce is authorized to construct, purchase, lease, acquire, store, maintain, sell, or otherwise dispose of national defense features intended for installation on vessels. The Secretary of Commerce is authorized to install or remove such national defense features on any vessel (1) which is in the National Defense Reserve Fleet as defined by section 11(a) of the Merchant Ship Sales Act of 1946, (2) which is requisitioned, purchased, or chartered under section 902 of the Merchant Marine Act, 1936, (3) which serves as security for the guarantee of an obligation by the Secretary of Commerce under title XI of this Act, or (4) which is the subject of an agreement between the owner of such vessel and the Secretary of Commerce to install or remove such national defense features. Title to such national defense features which the Secretary of Commerce determines are not to be permanently incorporated in a vessel shall not be affected by such installation or removal unless otherwise transferred in accordance with the provisions of this title V.

"(i) The Secretary of Commerce shall submit the plans and specifications for such national defense features and the proposals for their acquisition, storage, utilization, or disposition to the Navy Department for examination thereof and suggestion for such changes therein as may be deemed necessary or proper in order that such features shall be suitable for the use of the United States Government in time of war or national emergency. If the Secretary of the Navy approves such plans, specifications, or proposals as submitted, or as modified in accordance with the provisions of this subsection, he shall certify such approval to the Secretary of Commerce.".

SEC. 4. Section 209(b) of the Merchant Marine Act of 1936, is amended by (a) deleting from clause (2) the words "and cost of national defense features"; (b) inserting after clause (2) the following new clause: "(3) cost of national defense features;"; and, (c) renumbering the remaining clauses accordingly.

SEC. 5. Notwithstanding any other provisions of law, any vessel engaged in the coastwise transportation of coal produced in the United States, from a port in the United States to another port in the United States, shall until June 30, 1987, have the priority to berth at any such ports ahead of any waiting vessels engaged in the export trade of coal produced in the United States: *Provided*, That, the Secretary of Commerce may, if he determines that it is in the national interest eliminate priority berthing, as provided herein, at any such port or ports, and to report such action to the Congress within 30 days.

The SPEAKER pro tempore. Is a second demanded?

Mr. SYNDER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. ASHLEY) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support S. 1442, legislation which would empower the Coast Guard to grant six vessels U.S. documentation and the right to engage in the domestic coastwise trade. The *Sara*, one of these vessels, is an historic ship built in Denmark in 1900 and presently owned by the State of Oregon. This legislation will make it possible to utilize this vessel for nonprofit educational purposes.

The remaining vessels which would be affected by S. 1442 are five U.S. built vessels which, though presently owned by U.S. citizens, have been partly or wholly owned in the past by persons who were not U.S. citizens. The 1920 Merchant Marine Act requires that vessels engaging in domestic commerce be entirely owned by U.S. citizens. Any record of full or partial ownership of a U.S. vessel by a foreign national disqualifies that vessel from engaging in the domestic trade.

This legislation would permit these five vessels to engage in the coastwise trade. Information elicited during the committee's consideration of S. 1442 indicated that the owners of these vessels, if not permitted to utilize them in the coastwise trade, would suffer substantial economic harm.

There is no indication that enactment of this legislation would be harmful to the U.S. shipbuilding base or the maritime industry; yet, House failure to approve this legislation will cause significant economic loss to the owners of these vessels.

Clearly Congress should approve legislation which will stimulate the economic climate.

S. 1442 also contains provisions related to the acquisition of national defense features for certain merchant vessels. Under this legislation, the Secretary of Commerce acting with the Secretary of the Navy will prepare specifications for national defense features to be installed on vessels of the national defense reserve fleet, vessels requisitioned, chartered or purchased by the Maritime Administration pursuant to the Merchant Marine Act, 1936, vessels which are security for Government guaranteed loans under the 1936 act, and vessels subject to an agreement between the owners of the vessel and the Secretary of Commerce. This amendment was requested by the administration as a method to acquire features deemed necessary to the national defense.

During markup of the bill an amendment was offered which would have given priority berthing to vessels carrying coal in the coastwise trade over those coal transporting vessels engaged in foreign commerce. The reason for this amendment is that electric utility generating plants have been, pursuant to our energy self-sufficiency policy, converting from oil to coal as the energy fuel source. At the same time, coal exports have begun to accelerate to the point that existing port facilities occasionally cannot cope with demand. Traditionally, vessels moving coal for domestic consumption have been given preference when loading or unloading, but port operators have recently begun to notify domestic trade carriers—and ultimate consumers—that traditional preferences were no longer to be honored since no legal basis exists for the extension of the privilege.

The amendment would provide the necessary legal basis by giving the Secretary of Commerce discretion. Since the committee had had insufficient time to consider the effect of the amendment, it was proposed that the committee offer an amendment addressing the problem following the receipt of further information, including the position of the administration. Since the committee has received comment from the administration which does not oppose the amendment, the committee offers an amendment to S. 1442 which addresses the need first advanced while protecting the legitimate interests of others who might be affected by this change.

☐ 1610

Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. AUCOIN).

Mr. AUCOIN. Mr. Speaker, I thank the gentleman for yielding. One of the provisions of S. 1442 would permit an historic sailing vessel, the *Sara*, to be exempted from the Jones Act and sail with commercial passengers on board off the Oregon coast. The *Sara* is one of only three wooden schooners in the world remaining from the turn of the century, and if exempted as provided by this bill, she could take passengers out for educational cruises. The *Sara* is owned by the Newport Maritime Historical Association. The proceeds from her cruises would go strictly to maintain this unique and glorious vessel as she continues to impart her lessons of maritime history to all visitors in the 20th century and beyond.

While traveling in Oregon last month, I visited the *Sara* and her rightfully proud stewards, Bob and Elaine Baker. The affection and humility with which the Bakers maintain their sailing companion is contagious: One cannot help but recognize that the *Sara* is the vicar of our maritime heritage. Although her era may be past, she remains to share her memories with us today. The Bakers demonstrated that to me when I toured this wooden schooner. I only hope that thousands more after me will have this opportunity—to feel the thrill of heeling an offside wind of this maritime beauty, emerging from the days of the 19th century when wooden schooners represented the hallmark of maritime design.

I urge my colleagues to recognize the educational richness that awaits all landlubbers in the future if the *Sara* is permitted to sail domestically. The Newport Maritime Historical Association awaits its many guests and is ready to welcome them to the historic opportunity of sailing aboard the *Sara*. Despite her Danish origins in 1900, she should be allowed to share her maritime prowess with Americans in 1980. I urge passage of S. 1442.

Mr. ASHLEY. Mr. Speaker, I reserve the balance of my time.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support S. 1442, a bill to direct the Secretary of Transportation to document certain vessels as vessels of the United States so as to entitle them to engage in the coastwise trade of the United States. This legislation is necessary because 46 U.S.C., section 883, otherwise known as the Jones Act, prohibits vessels which have been documented or sold foreign, from engaging in the coastwise trade of the United States.

The subject vessels were originally addressed in six separate pieces of private legislation but due to the similiarity of all these bills, and for ease of legislative handling, the committee decided to incorporate all of these bills into one.

S. 1442 also contains a provision, proposed by the administration, that authorizes the Secretary of Commerce to acquire or dispose of national defense features intended for installation on certain vessels. This authorization would be applicable to any ship currently operating in, or being constructed for operation in the U.S.-flag merchant marine, that is suitable for use as a military auxiliary in an emergency or wartime.

Another provision in this bill confers priority berthing privileges at U.S. ports to coal carrying U.S.-flag vessels engaged in the coastwide trade. This provision is necessary due to the inordinate amount of delay which many U.S. ships must contend with while loading and unloading at U.S. ports.

The committee feels that such a provision is appropriate due to the anticipated heavy reliance which many eastern utilities will have upon the use of U.S. produced coal. This provision should expedite conversion by these utilities from oil to coal. Since this provision only addresses the domestic transportation of domestic coal, the committee believes that there will be no adverse implications toward our foreign trading partners.

The bill was unanimously supported by the committee. I urge its passage.

Thank you.

Mr. Speaker, I have no additional requests for time.

● Mr. DONNELLY. Mr. Speaker, I rise to urge the House to pass S. 1442, with the addition of section 5, relating to priority berthing for domestic-flag vessels engaged in the coastwise coal trade.

This amendment will provide substantial additional security for New England residents and residents in other areas along the east coast, as our utilities and industry make the transition from reliance on imported oil to reliance on domestic coal. It will also prevent our citizens from being burdened with excessive costs which arise from the delays currently being experienced in the coal shipping ports along the Chesapeake Bay.

The amendment is required because the loading equipment at these ports cannot yet meet the increasing demand for American coal. At the moment, ships must wait 20 to 30 days before receiving a cargo. For U.S.-flag vessels, demurrage charges for the waiting period average $10,000 to $20,000 per day. Prior to July of this year, domestic-flag ships in the coastwise coal trade were granted a priority at U.S. ports, under which they would move to the head of the line when they entered the port. Thus, after the ship currently receiving a cargo had finished, the domestic-flag ship engaged in the coastwide trade which is first in the port would receive its coal cargo, and the ships waiting for export cargoes would maintain their line positions.

In July, the port operators determined to change this policy. The purpose of the amendment offered today is to restore the previous policy as a legal requirement, subject to the power of the Secretary of Commerce to determine that it was in the national interest not to grant the priority.

Thus, under the amendment, a domestic flag vessel engaged in the coastwise trade would, upon entering the port, be assured of moving to the dock and receiving its cargo as soon as the ship then being loaded finished. Of course, if there were another domestic vessel engaged in the coastwise trade which had entered the port first and which was still awaiting its cargo, that ship would receive its cargo prior to the newly arrived ship. Export ships would continue to be served in the order of their entering the port.

The amendment will assure that domestic coal users, who depend on coal from Virginia, West Virginia, and Kentucky, which is transshipped through the Chesapeake Bay, will receive shipments in a timely and economic fashion. On the other hand, because there are currently only three ships operating in the coastwise trade capable of carrying coal, and at most eight ships which reasonably could be converted to the trade, export shippers will not experience any substantial or additional delays beyond that which they now routinely accept because of the congestion of the ports and their outmoded equipment. By its own terms, the priority will expire on June 30, 1987, when additional new equipment should have been installed.

The amendment contains a further safeguard, permitting the Secretary of Commerce to override the priority, upon a determination that the national interest requires it. In order to override the priority, the Secretary would be required to identify the specific national interest upon which his decision rests, the port or ports to which the decision applies and, of course, provide a statement of reasons detailing the relationship between the national interest and his decision to override the priority, in accordance with the usual requirements for agency determinations. This statement of reasons would be transmitted to Congress within 30 days of the decision.

It is certainly our intention that the Secretary provide appropriate notice and an opportunity for affected parties to be involved in the process leading to the decision on whether to override the priority.

In summary, under the terms of this amendment, vessels supplying domestic coal to American industry and utilities will receive their cargoes on a timely basis, thus insuring that we can continue our move from the use of oil to the use of our abundant domestic coal reserves, without incurring a substantial economic penalty.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. ASHLEY) that the House suspend the rules and pass the Senate bill, S. 1442, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title was amended so as to read: "An act to authorize the documentation of certain vessels as vessels of the United States, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT ON WEDNESDAY, AUGUST 27, 1980, AND THURSDAY, AUGUST 28, 1980, DURING 5-MINUTE RULE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Legislation and National Security of the Committee on Government Operations be permitted to sit during proceedings under the 5-minute rule on Wednesday, August 27, 1980, and Thursday, August 28, 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

YOUTH ACT OF 1980

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6711) to extend the authorization of youth training and employment programs and improve such programs, to extend the authorization of the private sector initiative program, to authorize intensive and remedial education programs for youths, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6711, with Mr. MURTHA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, June 23, 1980, all time for general debate on the bill had expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Education and Labor, now printed in the bill, shall be considered by title as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate title I.

Title I reads as follows:

H.R. 6711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Youth Act of 1980".

TITLE I—YOUTH TRAINING AND EMPLOYMENT

EXTENSION AND REVISION OF PART A OF TITLE IV

SEC. 101. (a) Title IV of the Comprehensive Employment and Training Act is amended—

(1) by striking out section 401 and 402 and inserting in lieu thereof the following:

"STATEMENT OF PURPOSE

"SEC. 401. It is the purpose of this title to provide a broad range of coordinated employment and training programs for eligible youth in order to provide effectively for comprehensive employment and training services, to improve their opportunities for future employability and increased earnings; to increase youth employability by promoting mastery of basic skills, employability skills, and employment skills; to promote a partnership among employment and training officials, educators, and private sector employers that effectively links education, training, and work experience for disadvantaged youth.";

(2) by striking out the heading of part A and section 411 and inserting in lieu thereof the following:

"PART A—YOUTH EMPLOYMENT AND TRAINING

"PURPOSE OF PART A

"SEC. 411. It is the purpose of this part to provide, through a system of basic and incentive grants, for federally funded employment experience, skill training, and remedial programs designed to improve long-term employability of disadvantaged youth and other youth with substantial difficulties in obtaining and retaining employment. These programs may include such combinations of work experience, skill training, remedial education, counseling, and supportive and followup services as may be determined to be required after assessment of the needs of the individual. The programs shall be operated to the extent feasible on the basis of collaborative arrangements between prime sponsors and the employment, training, and educational institutions serving youth at the local level and shall be administered in such a way as to make for the maximum involvement of educational agencies, community-based organizations, labor-market intermediaries, labor organizations, and private for-profit organizations, all with the end purpose of preparing eligible youth for long-term, stable, unsubsidized employment.

"ACHIEVEMENT STANDARDS AND RECORDS

"SEC. 412. (a) Each prime sponsor receiving funds under this part shall obtain recommendations from the youth council, the prime sponsor's planning council, the private industry council, educational agencies, relevant juvenile and criminal justice agencies, business, labor organizations, community-based organizations, and other community organizations in the development of achievement standards to serve as indicators, accepted in the community, of youth achievements needed to obtain and retain unsubsidized jobs in the private sector.

"(b) Each prime sponsor receiving funds under this part shall establish and maintain an individual achievement record for each participating youth as a continuing record to document that youth's needs and competencies, including skills, education, employment, and training obtained by that youth. Such record shall be maintained and periodically updated during the entire period of the youth's participation in the program, and shall, to the maximum extent feasible be coordinated with any school attended by the youth. Such record shall be confidential and information contained therein shall be available only to persons who require it as part of their responsibilities in operating, administering, or evaluating programs under this part, except that information may be shared with employers, educators, and others upon the specific authorization of the participant.

"PARTICIPANT ASSESSMENT

"SEC. 413. (a) In order to assess the appropriate mixture of training or employment services, or both, needed by each youth receiving assistance under this part, each prime sponsor receiving assistance under this part shall, in consultation with educational and other appropriate agencies, formulate, with each such youth at the time of entrance into the program, a personalized employability plan designed to lead such youth to unsubsidized employment. In establishing such plan, each prime sponsor shall take into consideration a youth's skills, interests, and career objectives, subject to the availability of services, and shall consider the barriers to employment or advancement faced by that youth in order to assist that youth to attain unsubsidized employment.

"(b) At any time a youth begins to receive education, training, or supportive services partly or wholly assisted under this part, the prime sponsor shall assess the appropriateness of such employment, training, or services. For youth that are attending high school or enrolled in a program which leads to a certificate of high school equivalency, such assessment shall be jointly made by the prime sponsor and the appropriate official of that school or educational program. The assessment shall be periodically reviewed by the prime sponsor, or jointly by the prime sponsor and the appropriate school official, as the case may be, and included in each youth's employability plan.

"ELIGIBLE PARTICIPANT

"SEC. 414. (a) Except as provided in subsection (b) or (c), for purposes of this part the term 'eligible youth' means a youth who is—

"(1) economically disadvantaged; and

"(2) (A) aged sixteen to nineteen, inclusive;

"(B) if enrolled in high school or in a program which leads to a certificate of high school equivalency, aged twenty or twenty-one; or

"(C) with respect only to counseling, occupational information, and school-to-work transition services, aged fourteen or fifteen.

"(b) Notwithstanding subsection (a), 20 percent of the funds available for subpart 1 of this part may be used for youth (as described in paragraph (2) of such subsection) who are not economically disadvantaged as required by paragraph (1) of such subsection, but who have encountered special barriers to employment, such as language barriers, physical handicap, pregnancy or maternity, alcohol or drug abuse, supervision by State or other authorities, or supervision by and jurisdiction of the juvenile or criminal justice system, or who are participants in a program authorized under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) or who are youth of migrant or seasonal farmworker families.

"(c) Notwithstanding subsection (a), any participant in any program authorized under subpart 4 of part A of title IV of the Higher Education Act of 1965 (relating to programs for students from disadvantaged backgrounds) shall be an eligible youth for purposes of this part.

"ELIGIBLE APPLICANTS

"SEC. 415. Eligible applicants for purposes of this part are prime sponsors qualified under section 101, sponsors of Native American programs qualified under section 302 (c) (1), and sponsors of migrant and seasonal farmworker programs qualified under section 303.

"SPECIAL RULES

"SEC. 416. The Secretary shall prescribe such rules and regulations to govern Native American and migrant and seasonal farmworker programs under this part as may be required to meet special circumstances in the conduct of such programs."; and

(3) by striking out subparts 1, 2, and 3 of part A of such title and inserting in lieu thereof the following:

"Subpart 1—Basic Grants for Youth Employment and Training Programs

"PURPOSE OF SUBPART 1

"SEC. 421. It is the purpose of this subpart to establish programs designed to make a significant long-term impact on the structural unemployment problems of youth, supplementary to but not replacing programs and activities available under title II of this Act, to enhance the job prospects and career opportunities of young persons, and to provide employment, community service opportunities, and such education, training, and supportive services as are necessary to enable participants to secure suitable and appropriate unsubsidized employment in the public and private sectors of the economy. To the maximum extent feasible, education, training, and employment opportunities afforded under this subpart shall be interrelated and mutually reinforcing so as to achieve the goal of enhancing the job prospects and career opportunities of youths served under this subpart.

"PROGRAMS AUTHORIZED

"SEC. 422. (a) The Secretary is authorized to provide financial assistance to eligible applicants to provide employability development opportunities and supportive and follow-up services to eligible youth to promote the transition to unsubsidized employment, including—

"(1) useful and constructive work or career employment experience opportunities, coupled to the maximum extent feasible with ancillary skill training, remedial education, counseling, services offered under subpart 4 of part A of title IV of the Higher Education Act of 1965, or other employability development or supportive services, in community improvement and conservation projects and in the provision of socially useful services, but only in accordance with the employability plan prepared under section 413;

"(2) services to prepare the youth to participate effectively in the program including—

"(A) outreach;

"(B) assessment;

"(C) orientation;

"(3) education related activities, including—

"(A) improvement of educational competencies;

"(B) remedial education;

"(C) literacy training and bilingual education;

"(D) attainment of high school equivalency certificates, or certification which, under State law, is equivalent to a high school diploma, including provision of basic skills training;

"(4) youth labor market services, including—

"(A) counseling;

"(B) providing information concerning the labor market, including information concerning occupations and the availability of training and other occupational preparation;

"(C) placement, job development, and other assistance to obtain unsubsidized employment and referral to employability development opportunities;

"(D) job sampling, including vocational exploration in the private and public sector and programs aimed at exposing students to actual work experiences through workshops and cooperative education programs;

"(E) institutional and on-the-job training, including inculcation of specific occupational skills and the development of good work habits and attitudes;

"(F) career counseling and programs to increase knowledge of the world of work in general and of the specifics of particular job openings and career options;

"(5) supportive services for youth, including—

"(A) child care;

"(B) transportation assistance;

"(C) followup services through cooperative arrangements between employers and the providers of the services, or otherwise, for up to ninety days for youth placed in unsubsidized employment to assist them in retaining such employment, but the cost of providing such services shall not be included in any computation of the prime sponsor's cost per placement;

"(6) other youth services, including—

"(A) activities promoting education-to-work transition;

"(B) job restructuring to make jobs more responsive to the purpose of this subpart, including assistance to employers in developing job ladders or new job opportunities for youth, in order to improve work relationships between employers and youth;

"(C) community-based central intake and information services for youth;

"(D) programs and services to overcome stereotyping in job development, referral, and placement based on sex, ethnic group, criminal or juvenile record, or handicapped status;

"(E) programs and outreach mechanisms to increase the participation rate of minorities and women in the labor force;

"(F) promotion of the targeted job tax credit, and the Federal bonding program for those unable to obtain fidelity bonding, to help youth obtain and retain employment; and

"(G) career intern programs, jointly conducted by community-based organizations and local educational agencies, for the improvement of educational and employment opportunities for eligible youth; and

"(7) special programs in new career areas, occupational fields that are experiencing shortages, and fields in which national need is increasing, such as solar energy and other forms of energy conservation and weatherization.

"(b) In order to carry out this subpart, a Governor or an eligible applicant (1) may enter into contracts with project applicants (as defined in section 3(20)) or employers organized for profit, but payments to such employers shall not exceed the amounts permitted under section 121(1), or (2) may operate programs directly if, after consultation with community-based organizations and nonprofit groups, a Governor or eligible applicant determines that such direct operation will promote the purpose of this subpart.

"(c) The provisions of sections 102, 104, and 107 shall apply to all programs and activities authorized under this section.

"ALLOCATION OF FUNDS

"Sec. 423. (a) From the sums available for this subpart in accordance with section 441—

"(1) an amount equal to 5 percent of such sums shall be made available to Governors for special statewide youth services under subsection (c);

"(2) an amount equal to not less than 3 percent of such sums shall be made available for programs authorized under section 422 for Native American eligible youth;

"(3) an amount equal to not less than 3 percent of such sums shall be made available for programs authorized under section 422 for eligible youth in migrant and seasonal farmworker families; and

"(4) the remainder of such sums shall be made available to prime sponsors for programs authorized under section 422.

"(b)(1) Amounts available for each of the purposes set forth in paragraphs (1) and (4) of subsection (a) shall be allocated among the States in such a manner that—

"(A) 37.5 percent thereof shall be allocated in accordance with the relative number of unemployed persons within each State as compared to the total number of such unemployed persons in all States;

"(B) 37.5 percent thereof shall be allocated in accordance with the relative number of unemployed persons residing in areas of substantial unemployment (as defined in section 3(2)) within each State as compared to the total number of unemployed persons residing in all such areas in all States; and

"(C) 25 percent thereof shall be allocated in accordance with the relative number of persons in families with an annual income below the low-income level (as defined in section 3(16)) within each State as compared to the total number of such persons in all States.

"(2) In determining allocations under this subsection the Secretary shall use the best available data as determined by the Secretary.

"(3) Amounts available to prime sponsors under paragraph (4) of subsection (a) shall, out of the total amounts allocated to each State under such paragraph, be allocated by the Secretary among prime sponsors within each State in accordance with the factors set forth in paragraph (1) of this subsection.

"(c) The amount available to the Governor of each State under paragraph (1) of subsection (a) shall be used in accordance with a special statewide youth services plan, approved by the Secretary, for such purposes as—

"(1) providing financial assistance for employment and training opportunities for eligible youths who are under the supervision of the State, with consideration given those youth under the jurisdiction of juvenile or criminal justice agencies;

"(2) providing labor market and occupational information, in conjunction with the State occupational information coordinating committee (established pursuant to section 161(b) of the Vocational Education Act of 1963), to prime sponsors and local educational agencies, without reimbursement;

"(3) providing for the establishment of cooperative efforts between State and local institutions, including (A) occupational and career guidance and counseling and placement services for in-school and out-of-school youth; and (B) coordination of statewide activities carried out under the Career Education Incentive Act;

"(4) providing financial assistance for expanded and experimental programs in apprenticeship trades, or development of new apprenticeship arrangements, in concert with appropriate businesses and labor unions or State apprenticeship councils;

"(5) carrying out special model employment and training programs and related services between appropriate State agencies and prime sponsors in the State, or any combination of such prime sponsors, including subcontractors selected by prime sponsors, with particular emphasis on experimental job training within the private sector; and

"(6) carrying out cooperative efforts with institutions of postsecondary education throughout the State sponsoring projects funded under subpart 4 of part A of title IV of the Higher Education Act of 1965 (relating to special programs for students from disadvantaged backgrounds), focusing on preparing eligible youth for careers in which persons from disadvantaged backgrounds are significantly underrepresented.

"(d)(1) Subject to section 302 of the Youth Act of 1980, not less than 22 percent of the amount allocated to each prime sponsor under paragraph (4) of subsection (a) of this section may be used only for programs under this subsection.

"(2) The amount available to each prime sponsor under paragraph (1) may be used only for programs for youth carried out pursuant to agreements between prime sponsors and local educational agencies. Each such agreement shall describe in detail the appropriate education arrangements, employment opportunities, training, and supportive services which shall be provided to eligible youth who are enrolled or who agree to enroll in a program leading to a secondary school diploma or a certificate of high school equivalency, a junior or community college degree, or a technical or trade school certificate of completion. Each such agreement shall describe in detail the appropriate alternative education arrangements for those youth who require such services. Each such agreement shall contain provisions to assure that funds received pursuant to the agreement will not supplant State and local funds expended for the same purpose.

"(3) No funds under this subsection may be used until the prime sponsor has entered into an agreement with each appropriate local educational agency, as required by section 220(b) of the Youth Act of 1980, unless the Secretary waives the requirement of this paragraph on the basis of a determination that the prime sponsor has made a good faith effort to enter into such agreement or agreements.

"(e) Programs receiving assistance under paragraph (1) of subsection (a) shall give special consideration, in carrying out programs authorized under section 422, to community-based organizations (as defined in section 3(4)) which have demonstrated effectiveness in the delivery of employment and training services.

"CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

"Sec. 424. (a) The Secretary shall not provide financial assistance to an eligible applicant for programs authorized under section 422 unless such eligible applicant provides adequate assurances that the standards set forth in subpart 3 will be met and unless such eligible applicant submits an application in such detail as the Secretary may prescribe. Each such application shall—

"(1) describe the programs, projects, or activities to be carried out with such assistance, together with a description of the relationship and coordination of services provided to eligible participants under this subpart with similar services offered by local educational agencies, postsecondary institutions, the public employment service, the courts of jurisdiction for status and youthful offenders, other youth programs, community-based organizations, businesses and labor organizations consistent with the requirements of sections 121 and 203, and assurances that use will be made, to be extent appropriate, of all existing programs and facilities, whether public or private, and that, to the maximum extent feasible, use will be made of any services that are available without reimbursement from the State employment service that will contribute to the achievement of the purposes of this subpart;

"(2) provide assurances that the application will be coordinated, to the maximum extent feasible, with services to youth under title II, but services to youth under that title shall not be reduced because of the availability of financial assistance under this subpart;

"(3) provide assurances that the application will be coordinated, to the maximum extent feasible, with the plans submitted for the purposes of section 483;

"(4) provide assurances that in the implementation of programs under this subpart, there will be coordination, to the extent appropriate, with local educational agencies, private sector initiatives under title VII of this Act, postsecondary institutions, special statewide school districts, community-based organizations, public assistance agencies, businesses, labor organizations, public and private job training programs, other youth programs, the apprenticeship system, the courts of jurisdiction for status and youthful offenders programs, and (with respect to the referral of prospective youth participants to the program) the public employment service system;

"(5) provide assurances that in the implementation of programs under this subpart, there will be coordination, to the extent feasible, with activities conducted under the Career Education Incentive Act;

"(6) provide assurances that employment and training services to any participant under this subpart will not duplicate services being received by that participant under title XX of the Social Security Act;

"(7) provide assurances that allowances will be paid in accordance with the provisions of section 124 and such regulations as the Secretary may prescribe for this subpart;

"(8) provide assurances that the application will be reviewed by the appropriate prime sponsor planning council in accordance with the provisions of section 109 and by the private industry council;

"(9) provide assurances that a youth council will be established under the prime sponsor planning council by such eligible applicant in accordance with subsection (b) of this section;

"(10) provide assurances that effective means will be provided through which youths participating in the projects, programs, and activities under this subpart may acquire appropriate job skills and language proficiency training appropriate to such skills and be given necessary basic education and training, and that the applicant will comply with sections 412 and 413 of this title;

"(11) provide assurances that the eligible applicant will take appropriate steps to develop new job classifications, new occupations, and restructured jobs;

"(12) provide assurances that employment and supportive services will be provided to youthful offenders;

"(13) provide that the funds available under section 423(d) shall be used for programs authorized under section 422 for eligible youth through arrangements to be carried out by a local educational agency or agencies or postsecondary educational institution or institutions; and

"(14) provide such other information and assurances as the Secretary may deem appropriate to carry out the purposes of this subpart.

"(b) Each youth council established by an eligible applicant shall be responsible for making recommendations to the prime sponsor planning council and the prime sponsor with respect to the youth plan, program operations, and the establishment and implementation of performance standards. Each such youth council's membership shall include representation from the local educational agency, local vocational education advisory council, postsecondary educational institutions, juvenile and criminal justice agencies, the private industry council, labor organizations, the public employment service, local government and nongovernment agencies and organizations which are involved in meeting the special needs of youth, the community served by such applicant, the prime sponsor, and youth themselves. Not less than one-fourth of the youth council membership shall be comprised of youth. The youth council shall be representative of the ethnicity of the community to be served. The prime sponsor shall be responsible for providing staff for professional, technical, and clerical assistance to the youth council.

"(c) No program of work experience for in-school youth supported under this subpart shall be entered into unless an agreement has been made between the prime sponsor and a local educational agency or agencies, after review by the youth council established under subsection (b). Each such agreement shall—

"(1) set forth assurances that participating youth will be provided meaningful work experience (such as cooperative vocational education), which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular unsubsidized employment or self-employment;

"(2) be administered by a local educational agency or agencies or a postsecondary educational institution or institutions within the area served by the prime sponsor, and set forth assurances that the agreement has been reviewed by the youth council established under subsection (b);

"(3) set forth assurances that job information, counseling, guidance, and placement services will be made available to participating youth and that funds provided under this program will be available to, and utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

"(4) set forth assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youths;

"(5) set forth assurances that the eligible applicant will advise participating youths of the availability of other education, employment, and training resources provided under this Act, and other resources available in the local community to assist such youths in obtaining employment or self-employment; and

"(6) set forth assurances that youth participants will be chosen from among eligible youth who need work to remain in school, and shall be selected by the appropriate educational agency or institution, based on the certification for each participating youth by the school-based guidance counselor that the work experience provided in an appropriate component of the overall educational program of such youth.

"Subpart 2—Youth Incentive Entitlement and Supplement Work Projects

"PURPOSE OF SUBPART 2

"SEC. 431. (a) It is the purpose of this subpart to provide the Secretary with authority to establish a program entitling economically disadvantaged youth in selected poverty areas to part-time employment, full-time employment, or other appropriate compensated activity, or a combination thereof, by allowing eligible applicants to use funds provided under subpart 1 to pay one-half the cost associated with such employment and appropriate compensated activity and providing the other half of such cost from funds available for this subpart.

"(b) For the purposes of this subpart, appropriate compensated activity for each youth receiving assistance under this subpart shall be determined by a school-based guidance counselor and shall consist of activities outside the youth's regular course of study, such as work sampling, vocational education, community service, alternative or remedial education, cultural activity, training any other general education, or any other activity or combination thereof determined appropriate in order to maximize the employability potential of such youth or to assist such youth in making satisfactory progress toward attaining a diploma or a certificate of high school equivalency. Such compensated activity shall be approved as part of the youth employability plan as required by section 413.

"(c) For purposes of this subpart, entitlement activity includes otherwise unavailable employment, training, or appropriate compensated activity, or any combination thereof.

"ENTITLEMENT PROGRAM AUTHORIZED

"SEC. 432. (a) The Secretary shall enter into arrangements with eligible applicants for the purpose of providing—

"(1) part-time entitlement activity during the school year for eligible youth (from selected poverty areas served by such eligible applicant) who resume or maintain attendance in secondary school for the purpose of acquiring a high school diploma or in a program which leads to a certificate of high school equivalency; and full-time entitlement activity during the summer months for such youth; and

"(2) otherwise unavailable full-time employment under section 433(3) for economically disadvantaged youth aged 16 to 21, inclusive, from such selected poverty areas who have such a diploma or certificate.

"(b) The Secretary shall, on the basis of the most recent reliable data on the amount of funds which will be available for purposes of this subpart for a fiscal year and on the basis of the number of economically disadvanaged youth, aged sixteen to twenty-one, inclusive, residing in poverty areas served by eligible applicants, make available to each eligible applicant a tentative allocation of such funds. Such notice shall be given sufficiently in advance of the date required for submission of applications under section 434(a) for such fiscal year to provide such eligible applicants with adequate guidance in formulating such applications in a manner most likely to avoid the imposition of the measures described in section 434(b)(2). Such notice shall be revised as necessary to inform eligible applicants of changes made necessary by succeeding events or alteration in the bases of the projections.

"(c) Each eligible applicant whose application for assistance under this subpart is approved by the Secertary shall provide the entitlement activity described in subsection (a) to unemployed youth described in subsection (a) who resides within the selected poverty area and who apply to the prime sponsor for entitlement activity. The Secretary shall provide to each eligible applicant, from funds available for carrying out this subpart in accordance with section 441 or made available by the Secretary from funds available for section 448, the amount which that eligible applicant is eligible to receive under subsection (d).

"(d) Each eligible applicant whose application has been approved under section 434(b) shall be eligible to receive from funds available for this subpart, for each youth who is provided entitlement activity by that eligible applicant, one-half the costs associated with providing such entitlement activity.

"(e)(1) For purposes of this section, the term 'poverty area' means any Bureau of the Census geographical division in which, on the basis of the most recent satisfactory data available to the Secretary, 20 percent or more of the residents are at or below the poverty level, computed on the basis of the criteria of poverty used by the Bureau of the Census.

"(2) For purposes of this section, the term 'selected poverty area' means any portion or all of a poverty area or aggregation of poverty areas which is selected for services under this subpart pursuant to section 434(a)(2).

"EXTENT OF ENTITLEMENT ACTIVITIES

"SEC. 433. Entitlement activities provided under this subpart shall be comprised of the following:

"(1) Part-time entitlement activities during the school year, not to exceed an average of twenty hours per week for each youth, and not to last less than six nor more than nine months, in entitlement activities provided by community-based organizations of demonstrated effectiveness which have a knowledge of the needs of disadvantaged youth; local educational agencies; institutions of higher education; special statewide school districts; nonprofit private organizations or institutions engaged in public service; nonprofit voluntary youth organizations; nonprofit private associations, such as labor organizations, educational associations, business, cultural, or other nonprofit private associations; business; units of general local government; or special purpose political subdivisions either having the power to levy taxes and spend funds or serving such special purpose in two or more units of general local government.

"(2) Full-time employment, training, or a combination thereof during the summer months, not to excede forty hours per week for each youth employed, and not to last less than eight weeks in any of the entities described in paragraph (1), and, for those participating youth who successfully obtain a high school diploma or its equivalency at the end of the regular school year, full-time employment for the next following summer.

"(3) Full-time employment for youth described in section 432(a)(2) in critical national priority projects such as solar energy and other forms of energy conservation and development, economic development, housing rehabilitation, and conservation of resources (including preservation of public infrastructure capital).

"APPLICATIONS AND SECRETARIAL REVIEW

"Sec. 434. (a) Any eligible applicant which desires to receive assistance under this subpart shall submit to the Secretary, at such time (after publication of the tentative allocation under section 432(b)) and in such manner as the Secretary may require, an application which shall provide—

"(1) a description of the procedure to be utilized by the eligible applicant to publicize, consider, approve, audit, and monitor youth entitlement activities funded by the eligible applicant under this part, including copies of proposed application materials, as well as examples of audit and client characteristics reports;

"(2) a description of the area or areas (within or congruent with the poverty area or areas or aggregation of poverty areas served by the eligible applicant) selected for purposes of programs under this subpart consistent with the tentative allocation published under section 432(b) and with paragraph (4) of this subsection;

"(3) a statement of the estimated number of youth to be served in accordance with section 432 by the eligible applicant;

"(4) assurances that the eligible applicant will provide, from funds received under subpart 1 of this part, one-half the costs associated with entitlement activities provided under this subpart;

"(5) assurances of compliance with the provisions of sections 442 and 443 (relating to wage provisions and special conditions);

"(6) assurances that the eligible applicant has, in the development of the plan, consulted with public and private nonprofit educational agencies including vocational and postsecondary education institutions, special statewide school districts, and other agencies which offer high school equivalency programs; public employers, including law enforcement and judicial agencies; State and local public assistance agencies; labor organizations; voluntary youth groups; community-based organizations; organizations of demonstrated effectiveness with a special knowledge of the needs of such disadvantaged youth; and with the private industry council; and assurances that arrangements are made with appropriate groups to assist the eligible applicant in carrying out the purposes of this subpart;

"(7) assurances that arrangements are made with the State employment security agencies to carry out the purposes of this subpart;

"(8) an agreement that funds available under title II for economically disadvantaged youth employment programs and funds available for the summer youth program under part C of this title for eligible youth will be used in support of entitlement activity authorized under this subpart;

"(9) assurances that the applicant will comply with the limitations contained in section 433, except that, in the case of an eligible youth who is determined by the prime sponsor in accordance with standards prescribed by the Secretary to be exceptionally needy, the twenty-hour limitation contained in section 433(1) may be waived;

"(10) assurances that whenever employment involves additional on-the-job institutional, or apprenticeship training provided by the employer, and if such training is not paid for in full or in part by the eligible applicant under any other program authorized under this Act, wages may be paid in accordance with the provisions of section 14(b) of the Fair Labor Standards Act of 1938, and with the balance being applied to the cost of training;

"(11) assurances that (A) arrangements have been made (i) with the appropriate local educational agency or with the institution offering a certified high school equivalency program that such youth is enrolled and meeting the minimum academic and attendance requirements of that school or education program, and (ii) with employers that such youth meet the minimum work and attendance requirements of such employment, and (B) that any entitlement activity is conditioned on such enrollment and requirements;

"(12) assurances that special efforts will be made to recruit youth from families receiving public assistance, including parents (of dependent children) who meet the age requirement of this subpart;

"(13) assurances that subsidies to encourage private employers to provide employment and training opportunities under this subpart will not exceed the net cost to the employer of the wages paid and training provided; and

"(14) assurances that the eligible applicant will make available the data necessary for the Secretary to prepare the reports required by section 127.

"(b)(1) Except as provided in paragraphs (2) and (3), the Secretary shall, in reviewing applications submitted by the prime sponsors under subsection (a), approve only those applications submitted by prime sponsors who in addition to fulfilling the requirement of subsection (a) have—

"(A) demonstrated the administrative capacity to operate an entitlement program and are willing to devote sufficient resources for this purpose;

"(B) designated, as an area for programs under this subpart, a selected poverty area of only such size and scope that funds expected to be available will be sufficient to provide entitlement activity to all youth eligible for such activity residing in such area;

"(C) developed an agreement with the appropriate local educational agency or agencies concerning—

"(i) procedures for designating and qualifying counselors for in-school youth;

"(ii) procedures for allowing for flexible school hours to accommodate the provision of entitlement activities offered under this part;

"(iii) procedures for developing an education and employability plan for each in-school youth participating in the program;

"(iv) procedures under which counselors will apply standards of bona fide participation in the program and provide for designated periods for suspension from the programs when such standards are not met;

"(v) procedures that provide more varied entitlement activities for youth who are making satisfactory progress toward their high school diploma or a certificate of high school equivalency, under objective criteria developed in consultation with the appropriate local educational agency or State educational agency, and require youth who are not making satisfactory progress under such objective criteria to participate in necessary remedial education that will lead to satisfactory progress; and

"(vi) procedures to involve the private industry council in the development of entitlement activity opportunities offered under this part.

"(2) If the Secretary determines that the amount of funds available for carrying out this subpart in accordance with section 441, together with any funds made available by the Secretary from funds available for section 448, are not sufficient to pay in full the sum of the amounts for which eligible applicants with approved applications are eligible under section 432(c) the Secretary may—

"(A) direct each eligible applicant to submit an amendment to its application reducing (by reduction of the size of the selected poverty area) the amount requested under this subpart; or

"(B) withdraw the approval of all such applications and approve only the number for which sufficient funds are available, selected on the basis of such additional criteria of merit and need as may be prescribed by the Secretary.

"(3) The Secretary shall, in approving applications submitted by prime sponsors under this part, assure that applications from prime sponsors representing rural poverty areas will receive equitable consideration in the distribution of funds.

"SPECIAL PROVISIONS

"Sec. 435. (a) Entitlement activity under this subpart shall develop the participant's role as a meaningful member of the community, and may include employment and training in such fields as environmental quality, solar energy, and other forms of energy conservation and development, health care, education, self-employment, social services, public safety, crime prevention and control, transportation, recreation, neighborhood improvement, rural development, conservation, beautification, and community improvement projects.

"(b) No funds for employment under this subpart shall be used to provide public services through a nonprofit organization, association, or institution, or a nonprofit private institution of higher education or any other applicant, which were previously provided by a political subdivision or local educational agency in the area served by the project or where the employment and training takes place, and no funds will be used under this subpart to provide such services through such an organization or institution which are customarily provided only by a political subdivision or local educational agency in the area served by such project or where the employment and training takes place.".

(b) Title IV of the Comprehensive Employment and Training Act is further amended—

(1) by redesignating subpart 4 of part A as subpart 3;

(2) by striking out section 441 and inserting in lieu thereof the following:

"ALLOCATION

"Sec. 441. Not more than 10 percent of the amount available for purposes of this part for any fiscal year in accordance with section 301 of the Youth Act of 1980 shall be available for the purpose of section 448. Of the remainder of the amount available for this part for any fiscal year in accordance with section 301 of such Act, 80 percent shall be available for purposes of subpart 1 of this part and 20 percent shall be available for purposes of subpart 2 of this part.";

(3) by striking out "SUBPARTS 2 AND 3"

in the heading of section 444 and inserting in lieu thereof "SUBPART 1";

(4) by striking out "subparts 2 and 3" each place it appears in subsections (a) and (b) of such section and inserting in lieu thereof "subpart 1";

(5) by inserting after section 447 the following new section:

"SECRETARY'S DISCRETIONARY FUNDS

"SEC. 448. (a)(1) From the sums available for purposes of this section in accordance with section 441, the Secretary of Labor is authorized—

"(A) to provide supplemental funds to eligible applicants under subpart 1 and under subpart 2 for the purpose of—

"(i) promoting specially worthy programs under such subparts;

"(ii) providing recognition for increased service to youth who have encountered special barriers to employment, such as language barriers, physical handicap, pregnancy or maternity, alcohol or drug abuse, supervision by State or other authorities, or supervision by and jurisdiction of the juvenile or criminal justice system, and youth of migrant and seasonal farmworker families; and

"(iii) providing additional allocations for areas experiencing significant increases in unemployment;

"(B) either directly or by way of contract or other arrangement, with prime sponsors, public agencies, and private organizations, to carry out innovative and experimental programs to test new approaches for dealing with the unemployment problems of youth and to enable eligible participants to prepare for, enhance their prospects for, or secure employment in occupations through which they may reasonably be expected to advance to productive working lives; and

"(C) provide an outreach and public information program designed to maximize job development and job training opportunities for youthful offenders and to inform such offenders of employment, training, and educational opportunities under this title.

"(2) Programs described in paragraph (1)(B) shall include grants awarded to not less than two and not more than five selected prime sponsors (who have an approved entitlement program under subpart 2) of an amount sufficient to test the efficacy of a completion bonus program for youth who successfully obtain a high school diploma or certificate of high school equivalency. Such bonus shall be in an amount not less than the equivalent of three hundred hours of paid compensation and shall take the form of either tuition support or employment subsidies or a combination thereof. The Secretary may at his or her discretion alter the conditions of the bonus in order to test its merits.

"(3) Programs described in paragraph (1)(B) shall include, where appropriate, cooperative arrangements with educational agencies to provide special programs and services for eligible participants enrolled in secondary schools, postsecondary educational institutions, and technical and trade schools, including job experience, counseling and guidance prior to the completion of secondary or postsecondary education and making available occupational, educational, and training information through statewide career information systems.

"(b) In carrying out or supporting programs under subsection (a)(1)(B), the Secretary shall consult, as appropriate, with the Secretary of Commerce, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, and the Director of the Community Services Administration.

"(c) Funds available under this section may be transferred to other Federal departments and agencies to carry out functions delegated to them pursuant to agreements with the Secretary.

"(d) The Secretary and prime sponsors, as the case may be, shall give special consideration in carrying out innovative and experimental programs assisted under this section to community-based organizations (as defined in section 3(4)) which have demonstrated effectiveness in the delivery of employment and training services and those which jointly conduct with local educational agencies career intern programs for the improvement of educational and employment opportunities for eligible youth."; and

(6) by inserting "(as defined in section 414)" immediately after "eligible youth" in section 481.

(d) The table of contents of the Comprehensive Employment and Training Act is amended by striking out the item pertaining to section 402 and by striking out all the matter pertaining to part A of title IV and inserting in lieu thereof the following:

"PART A—YOUTH EMPLOYMENT AND TRAINING

"Sec. 411. Purpose of part A.
"Sec. 412. Achievement standards and records.
"Sec. 413. Participant assessment.
"Sec. 414. Eligible participant.
"Sec. 415. Eligible applicant.

"Subpart 1—Basic Grants for Youth Employment and Training Programs

"Sec. 421. Purpose of subpart 1.
"Sec. 422 Programs authorized.
"Sec. 423. Allocation of funds.
"Sec. 424. Conditions for receipt of financial assistance.

"Subpart 2—Youth Incentive Entitlement and Supplemental Work Projects

"Sec. 431. Purpose of subpart 2.
"Sec. 432. Entitlement program authorized.
"Sec. 433. Extent of entitlement activities.
"Sec. 434. Applications and Secretarial review.
"Sec. 435. Special provisions.

"Subpart 3—General Provisions

"Sec. 441. Allocation.
"Sec. 442. Wage provisions.
"Sec. 443. Special conditions.
"Sec. 444. Special provisions for subpart 1.
"Sec. 445. Academic credit, education credit, counseling and placement services, and basic skills development.
"Sec. 446. Disregarding earnings.
"Sec. 447. Relation to other provisions.
"Sec. 448. Secretary's discretionary funds.".

EMPLOYMENT SERVICES FOR YOUTH

SEC. 102. The Act of June 3, 1933, entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes" (29 U.S.C. 49 et seq.), also known as the Wagner-Peyser Act, is amended by inserting after section 5 the following new section:

"SEC. 6. (a) Each State which desires to receive funds under this section shall submit to the Secretary of Labor a supplement to the plans submitted under section 8, in such form and containing or accompanied by such information and assurances as the Secretary may by regulation require. Such supplement shall be submitted in accordance with the procedures prescribed under sections 110, 423(c), and 433(c) of the Comprehensive Employment and Training Act and section 161(b) of the Vocational Education Act of 1963. In any State which does not submit such a supplement, the Secretary may, directly or by contract with other State or local agencies, operate programs as described in this section from the sums available in accordance with subsection (e).

"(b) Supplements submitted under subsection (a) shall provide for the establishment of general employment services for youth which shall include—

"(1) orientation for youthful job seekers to labor market conditions and requirements, including job search workshops;

"(2) referral to supportive services;

"(3) efforts to promote targeted jobs tax credit and on-the-job training opportunities in the private sector; and

"(4) placement activities.

"(c) In addition to the requirements of subsection (b), supplements submitted under subsection (a) shall provide for the establishment of inschool service to assist youths to make a successful transition from school to working life which shall include—

"(1) dissemination of labor market information;

"(2) development of job search skills;

"(3) development and operation of automated data systems to provide accurate, current information on job availability;

"(4) conducting vocational aptitude testing;

"(5) providing matching funds for services and training for school counselors, such as training workshops; and

"(6) promoting the consultation of school systems with private employers in the development of curriculums.

"(d) No payment may be made with respect to a program approved for purposes of this section in excess of 80 percent of the cost of the activities proposed in such supplement.

"(e) Funds appropriated pursuant to subsection (f) shall be allocated among the States as follows:

"(1) 50 percent of the amount appropriated pursuant to subsection (f) for any fiscal year shall be allocated on the basis of the number of individuals age sixteen to twenty-one, inclusive, residing in the State, determined on the basis of the most recent satisfactory data available to the Secretary of Labor;

"(2) 25 percent of the amount appropriated pursuant to subsection (f) shall be allocated on the basis of the average annual number of such individuals age sixteen to twenty-one, inclusive, who are unemployed and residing in such State, determined on the basis of the most recent satisfactory data available to the Secretary of Labor; and

"(3) 25 percent of the amount appropriated pursuant to subsection (f) shall be allocated on the basis of the number of such individuals age sixteen to twenty-one, inclusive, who the economically disadvantaged and residing in such State, determined on the basis of the most recent satisfactory data available to the Secretary of Labor.

"(f) There are authorized to be appropriated to carry out the provisions of this section $50,000,000 for fiscal year 1981 and such sums as may be necessary for each fiscal year thereafter.

"(g) As used in this section, the term 'economically disadvantaged' means a person who has, or is a member of a family which has, received a total annual family income which, in relation to family size, was not in excess of the higher of (1) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (2) 70 percent of the lower living standard income level, as defined in section 3(17) of the Comprehensive Employment and Training Act.".

REPORT ON ARTIFICIAL BARRIERS TO EMPLOYMENT

SEC. 103. The Secretary shall include in the annual report required by section 127 of the Comprehensive Employment and Training Act a statement of findings on the progress made in the implementation of the provisions of such Act relating to the elimination of artificial barriers to employment.

Mr. PERKINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a few weeks ago the committee, under the leadership of the gentleman from California (Mr. Hawkins), the gentleman from Pennsylvania (Mr. Goodling), and the gentleman from Vermont (Mr. Jeffords) called up H.R. 6711 and we completed general debate. At that time I was in Florida with the gentleman from Florida (Mr. Stack) conducting hearings, and was unable to be present.

Mr. Chairman, today we are calling up for consideration H.R. 6711, the Youth Act of 1980. This legislation represents a comprehensive approach for dealing with the serious youth unemployment problem facing this country.

Youth unemployment is one of our country's most urgent economic problems. While the overall unemployment rate for youth is high, for disadvantaged and minority youth it is intolerable. And given current economic policies aimed at reducing inflation, we can expect even higher youth unemployment rates.

I submit that it will be to the detriment of our society if we allow youth unemployment to simply run this course.

However, the response to these dire statistics cannot be in the form of piecemeal programs. Our strategy must include a broad range of opportunities for both in-school and out-of-school youth and must call for coordination of both the CETA and the education systems.

This balanced piece of legislation before us today contains all of these elements. It is based on a proposal sent to the Congress by the President early this year. Bipartisan amendments to both titles of the bill has insured that the two pieces fit together well.

Title I of H.R. 6711 amends the existing title IV, part A of CETA and focuses primarily on out-of-school youth. To guarantee program stability, these amendments to CETA do not take effect until fiscal year 1982 and are authorized through fiscal year 1985.

The amendments to CETA contained in this title will enable an additional 450,000 young people to be served. When added to current program levels, this means that title I will serve over 2.5 million youth.

Title I attempts to streamline the CETA delivery system and reduce administrative costs and delays by consolidating individual youth programs and eligibility requirements. The youth employment and training programs and the youth community conservation and improvement projects are consolidated into a single basic grant program. In addition, the bill sets one eligibility standard for title IV, part A. The bill also authorizes a modified youth incentive entitlement program as a matching grant program and requires the basic grant program to be coordinated with the summer youth program.

Title I also strengthens and extends those provisions of existing law which are successful. For example, title I distributes funds to prime sponsors according to the existing formula which takes into account levels of unemployment, concentration of unemployment, and numbers of poor families.

Title I of the bill also extends the 22 percent setaside of funds for programs carried out pursuant to joint agreements between prime sponsors and local educational agencies, with some modifications to make it more flexible.

Title II of H.R. 6711 focuses primarily on disadvantaged in-school youth who need extra help in the basic skills and adapting to a work environment before they can get good jobs. Title II creates a new program of Federal aid for school-based programs which, when fully implemented, will provide education services to approximately 1 million secondary school students.

Funds under title II would be distributed to local school districts with the highest concentration of poor children. In turn, the school districts are required to select the neediest secondary schools and area vocational schools for assistance.

Title II funds are to be used for activities to improve the basic skills, general employability skills and specific job skills of educationally deprived youth. Each school must develop a plan for use of these funds, in consultation with a broadly representative school site council.

An important provision of title II requires each local educational agency to spend at least 25 percent of its grant on vocational education. In addition, title II requires 22 percent of each school district's funds to be set aside for programs carried out pursuant to joint agreements with prime sponsors. These two set-asides can be counted against each other if joint agreements with area vocational schools are involved.

Title II is authorized for fiscal year 1981 through 1985 and will be administered by the Department of Education.

Consideration of these two titles in a single legislative package provides the Congress with an unprecedented opportunity to make a dent in the youth unemployment problem. I urge my colleagues to pass this legislation.

In closing I would like to note that President Carter considers this bill to be his most important domestic initiative this year. This bill has also been endorsed by the House Republican Conference. The bill before us today clearly must be moving in the right direction if it has such strong bipartisan support from both the Carter administration and the conference of all Republicans in the House.

Mr. Chairman, I urge that the Members resist weakening amendments and endorse the committee's bill.

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AMENDMENT OFFERED BY MR. HAWKINS

Mr. HAWKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hawkins: Page 7, line 4, strike out "subsection (a)" and insert in lieu thereof "subsection (a)(1)".

Page 75, lines 4 and 6, and page 79, lines 23 and 25, strike out "212(f)" and insert in lieu thereof "211(f)".

Mr. HAWKINS. Mr. Chairman, the purpose of my amendments, is merely to make technical changes required to correct inadvertent oversights in the committee's bill.

The committee's principal objective in adopting H.R. 6711 is to facilitate coordination between youth programs under title IV of CETA and education programs for disadvantaged students. To this end, H.R. 6711 provides that individuals participating in "Special Programs for Students From Disadvantaged Backgrounds" under subpart 4, part A of title IV of the Higher Education Act of 1965 are eligible for participating in youth programs under title IV of CETA.

The problem with that is that the individuals participating in the programs under the Education Act have an eligibility age requirement up to 27, whereas under the proposed bill before us, age 21 is the cutoff. What we simply do in this instance is to make it in conformity with the proposal before us to make sure that age 21 is the age cutoff under both programs.

My first amendment would make it clear that participation in programs under title IV of CETA is limited to those individuals who fall within the age parameters outlined in section 414(a) of this bill.

My second amendment merely corrects an improperly referenced subsection.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

The minority has reviewed the amendment. We have no problem with the amendment. We believe it helps clarify the intent of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Hawkins).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords: Page 17, line 3, insert "(A)" immediately after "provided", and on line 7, insert immediately before the period the following: ", or (B) to youth identified under section 215(b) of the Youth Act of 1980 (but use of funds for such identified youth shall not be counted as part of the funds described in section 414(b))".

Mr. JEFFORDS. Mr. Chairman, first, before I talk about the amendment, which is purely a technical one, I would like to make a few comments. First I want to commend both Chairmen Hawkins and Perkins in particular for the cooperation we have had on this bill. I have never worked on any bill where we have had more joint meetings between the majority and the minority and with all of the interest groups involved. We all sat down for hours to work out the differences between both the minority, the majority and the interest groups involved, because in this bill we are dealing with a very serious problem. It is a problem which we are all aware of but which we fail to give adequate attention.

That is that there are more young people right now in the unemployment market than at any other time in our history. There are more unemployed young people now than at any time in our history. We have now somewhere around 2 million young people who are without jobs. Unemployment, as serious as it is for many, is much more serious for our teenagers with unemployment for youth ranging around 20 percent. In the 16- to 21-year-old bracket, jobs are down about 700,000 from a year ago. We are dealing with a serious youth unemployment problem.

Also, on the educational side, we have an extremely serious problem with our educational program. When school starts there will be about 2.4 million young people who ought to be in school who will not be in school; who have dropped out for one reason or another. Dropout rates in some of our cities range up to 52 percent. That is, 52 percent of the eligible students in high school are not attending. Connected with this issue is a serious crime problem. Forty percent of our serious crimes are committed by young people, and out of that, 2½ times as many crimes are created by dropouts as are created by other young people.

This is an excellent bill. It is directed at trying to deal with some of these problems. What it does, it streamlines the bureaucratic maze of youth programs that we now have. It complements rather than overlaps these programs, some of them which are at cross-purposes. It puts an emphasis on job training as an essential part of education, not just as an alternative to education. It focuses on skills in new areas to try to prepare our young people for jobs that are available. It also recognizes the needs and the differences of the problems in the rural areas. It prepares our young people for entering into the private sector.

The Youth Act is consistent with both party platform approaches to resolving our Nation's serious economic problems. As adopted in Detroit, the Republican platform calls for a series of steps to stimulate private and individual investment in a new growth of the economy with a heavy emphasis on tax reduction. But this approach depends on a skilled and productive labor force which is a key element on reducing inflation. Over the past decade, the Nation simply has not produced this kind of work force because youth have been graduating from schools without the necessary tools to make them employable. At the same time, too many youth are dropping out of school and are becoming a permanent drain on society. We believe that in this one area the Government can make a contribution by emphasizing a cooperative effort by industry, labor and our schools to make youth better prepared to participate in a strong and growing sector economy.

In short, this bill takes a rather large and historically inefficient bureaucracy, and refocuses it upon the very real problems faced by young people and the American economy today. Its passage should be a milestone in Government reform, by making the Government work for the people who need services and for the taxpayers.

Not everyone is happy with the bill, there is no question about that. Each side would like more money. The educators would like more for their share of the pie. The alternative education people would like more of the money on their side. Some would like more power on one side or another. You know you have a good bill when everybody is a little unhappy and when the interest groups recognize the value of the bill and are willing to accept something less than they would like.

Now, I will speak to my amendment.

I offer an amendment which I believe is technical in nature but might be construed as being more substantive. This amendment amends the 22-percent set-aside provision contained in title I to make the eligibility the same for the CETA 22-percent as the "education 22 percent." As currently drafted, only CETA primes can spend their funds on only CETA eligibles, whereas the school can spend it either for youth certified under 215(b) or CETA eligibles.

Unless this provision is changed, there could be no joint funding or administration of a single project, and no commingling of funds. It would mean that no school youth could participate in a program invloving CETA funds without going through the laborious process of being certified as "CETA" eligibles. In practical effect, there is little if any difference on the economic need of 215(b) and CETA youth. This amendment would simply make a joint agreement easier to develop and administer, by enabling prime sponsors to serve either CETA youth eligibles or youth designated under 215(b) without additional and cumbersome administrative expenses. The amendment also allows CETA sponsors to serve 215(b) youth without having these expenditures count against their 20-percent discretionary moneys which are available under section 414(b) for the specially needy, such as the handicapped, regardless of income.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, may I say that the amendment refers to the intent of both sides. The amendment is acceptable to this side. This is an excellent amendment and we commend the gentleman for offering it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer two amendments, and I ask unanimous consent that the amendments be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. JEFFORDS: Page 28, line 22, insert ", subject to the limitation contained in section 122(h)(2)," immediately after "employment".

Page 24, line 13, strike out "under subpart 1" and insert in lieu thereof "under other provisions of this Act".

Page 30, beginning on line 2, strike out "under subpart 1 of this part" and insert in lieu thereof "under other provisions of this Act".

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont that the amendments be considered en bloc?

There was no objection.

Mr. JEFFORDS. Mr. Chairman, I rise today to offer two amendments, en bloc, which I believe are technical in nature. Both amend the provisions of the youth incentive program as revised by title I of this bill, and clarify certain inconsistencies. The first applies the same limit on the length participation as in all CETA to the supplemental work projects which are available to certain out of school youth. The second allows prime sponsors to match their incentive moneys from the funds available under all of CETA and not just from subpart 1. This would allow much greater opportunity for primes to participate in the incentive program and is consistent with the mandate in the current law. It should be noted that prime sponsors cannot apply funds under title II of this bill to the match.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, as I understand these two amendments one limits duration to 78 weeks full time and the other allows a match for entitlement to be from other provisions of the act. That is my understanding of the amendments.

Mr. JEFFORDS. The gentleman is correct.

Mr. HAWKINS. We feel the amendments are in conformity with the intent of the authors of the act. We are willing to accept the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JEFFORDS: Page 12, strike lines 16 and 17 and insert in lieu thereof: "solar energy and other forms of energy conservation development."

Page 28, line 25, immediately after "and development" insert "including those described in section 448(a)(1)(D)".

Page 38, line 9, strike "and."

Page 38, line 14, strike the period and insert in lieu thereof "; and" after such line insert the following:

(D) projects jointly arranged and funded with the Secretary of Energy which will employ eligible youth, particularly those described in section 432(a)(2), in solar energy and other forms of energy conservation and development.

Mr. JEFFORDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. JEFFORDS. Mr. Chairman, the bill before us contains language in several sections which authorizes education and training activities in new emerging employment areas such as alternative energy and conservation. This amendment would expand on those sections by authorizing projects jointly arranged and funded with the Secretary of Energy.

I think it is important to make maximum use of the resources that exist in other Federal agencies, to develop the best possible training programs in this new and expanding job field. Joint programs may provide the most desirable vehicle for promoting the important goals of employing youth in meaningful and productive jobs, conserving energy and developing alternative energy sources.

Two of the most crucial problems facing the country today include chronic unemployment among young people and the need to develop alternative energy sources. These problems intersect in that, curiously, a major obstacle to the dissemination of small-scale alternative energy technology is a shortage of skilled technicians in both construction and installation.

Surveys have indicated that poor installation of solar devices is often a far greater problem than equipment failure. "Solar installation technicians" are too often plumbers with no solar training or experience.

This problem can impede the development of alternative energy industries by engendering public reluctance to invest in these technologies for some time to come. For example, the problems of early heat pumps in the fifties prevented their widespread use for nearly 20 years.

While the need for trained technicians may impede development of alternative energy sources, this area also offers major potential for unemployed and disadvantaged youth. A program to train young people in alternative energy and conservation would equip these individuals to enter a new, emerging employment field.

There is great potential for continued job growth in this field. In direct employment alone, alternative energy technologies and conservation measures will stimulate at least 2.5 times as many jobs nationally as would the use of an equivalent amount of oil, natural gas, and electricity, according to the Subcommittee on Energy of the Joint Economic Committee. The Department of Energy estimates that solar hot water, heating, and cooling technologies in residential applications could create up to eight times as many direct jobs as conventional sources. Furthermore, the California Public Policy Center found that California's unemployment rate could be halved in a year if solar power was sufficiently developed.

The ripple effect from the indirect employment created by alternative energy technologies would be felt throughout the economy. For example, a study prepared for the Subcommittee on Energy of the Joint Economic Committee determined that every million dollars of Federal investment in solar energy and energy conservation would result in over 33,000 jobs.

An alternative energy and conservation training program for unemployed youth makes good sense from a number of angles. It would help provide jobs for unemployed and disadvantaged youth. These would not be make-work jobs, but meaningful employment in a new productive and expanding economic sector. A solar job training program would also provide the skilled employees needed to staff an important fledgling industry. Such a program would cost relatively little, provide substantial economic returns and promote the important goal of conserving and diversifying our energy resource base.

I urge the adoption of this amendment.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, is the money to fund the programs referred to—which are highly acceptable, does this money come from the discretionary fund?

Mr. JEFFORDS. That is correct.

Mr. HAWKINS. Mr. Chairman, with that understanding we accept the amendments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont.

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

Mr. MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take the well, first of all, to commend the chairman of the subcommittee, the gentleman from California (Mr. Hawkins) and the chairman of the full committee, the gentleman from Kentucky (Mr. Perkins) as well as the ranking minority members for the work they have done on title I of this legislation, which I think, in fact, will make a very real contribution to providing both jobs and training to unemployed youth in this country.

Mr. Chairman, I also take the well at this time to tell Members of the House that I will be offering an amendment later to strike title II because I believe that title II does nothing to help the plight of the millions of unemployed youth in this country and I think that this House will have to make a choice as to whether it wants to continue the mistakes of the past, whether it wants to continue with the rhetoric of the past or whether or not, in fact, it wants to deliver services.

I think it is a very important choice to make. It has been suggested that title II of this legislation is carried both in the Democratic and Republican platforms. I do not think we ought to pass title II because it is good for the Republican Party or because it is good for the Democratic Party, I think we ought to pass title II if and only if it is good for unemployed youth in this country. I would suggest to this Congress that that is, in fact, not the case. Title II is an effort to look like you are doing something when you do not have the guts to do what you want to do. This committee staff, the staff of the gentleman from California (Mr. Hawkins) and the staff of the Subcommittee on Elementary and Secondary Eduction for months listened to the problems of the high schools, about high schools that fail and high schools that succeed, we listen to the problems of unemployed youth and we listen to the experts.

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I believe that title II now goes contrary to the testimony we received. The experts told us about the need to attack the problem at a young age, at junior high school level. The bill fails to do that. Title II fails to do that.

We talked about the need to provide basic skills. Title II fails to do that. We talked about the need to concentrate resources, all the Job Corps program on individual youths. Title II in fact spreads the money school-wide, across the board.

So, I suggest that what we will have later on, when I offer my amendment to strike title II, is that we will have a choice for this Congress. We will have a choice of the continuation of the same old shell game that we have placed on the public before an election year, because this program is being heralded as a billion-dollar effort; this title is a billion-dollar effort to help the unemployed of this country achieve basic skills; and yet, it does not do that.

If anybody in this Congress really believes that this Congress is going to propose and is going to even appropriate an additional $1 or $2 billion in new moneys, I want that person to come forward and say so. But, this is a shell game on the black population, on the poor population of this country, where unemployment is of the greatest consequence, because that money is not going to come forth because the administration that has sent us this program is the same administration that recommended hundreds of millions of dollars' worth of rescissions for the current budget program, in the very heart of this program. This Congress voted to rescind those moneys in concentration grants that provide basic skills to underprivileged young people.

This is the same administration that is recommending rescissions for the next year in these same programs, but they want the minority communities, the young people of this country to believe that in fact they are really going to do something for them. We are not.

What title II will do is set us off on a 2-year planning program to design the programs that are now in place. For a long time, liberals have stood around and said, "You know, you can't just solve problems by throwing money at them." That is to defend your vote for money bills.

The conservatives have said, "You can not go on continuing to over-promise and under-deliver, because that undermines the credibility of the Government."

Today is your chance, because I am thoroughly convinced that title II completely misses the mark at which it was aimed. We will have more to say about that as we get into the amendment to strike title II, and I would hope that my colleagues will join me in my effort to defeat title II of this legislation.

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Petri: Page 37, line 5, strike out "section" and insert in lieu thereof "sections"; page 40, line 7, strike out the close quotation marks and the remainder of such line and after such line insert the following:

"REGULATIONS; REQUIREMENTS AND REVIEW

"Sec. 449. Any regulations issued by the Secretary or by any other official of the Department of Labor in connection with or affecting the administration of any program authorized under this part shall meet the same requirements of, shall be subject to the same public comment and congressional review and disapproval and revision process established by, and shall take effect only in accordance with section 431 of the General Education Provisions Act.

Page 41, before line 1, strike out the close quotation marks and the following period in the item pertaining to section 448 and after such item insert the following:

"Sec. 449. Regulations; requirements and review.".

Mr. PETRI. Mr. Chairman, I offer this amendment in behalf of my colleague, the Honorable JOHN BUCHANAN of Alabama. It is similar to amendments that have been offered a number of times in connection with different legislation that has been before this House by the distinguished Member from Georgia (Mr. LEVITAS), having to do with legislative veto.

Mr. Chairman, I rise to offer an amendment to title I of H.R. 6711. My amendment would require that any regulations issued by the Secretary of Labor regarding the administration of any programs authorized under part A of title IV of the Comprehensive Employment and Training Act (CETA) must comply with the requirements of section 431 of the General Education Provisions Act (GEPA).

Section 431 of GEPA imposes certain standards on the Secretary of Education with regard to any regulations promulgated by the Department of Education concerning Federal education programs. For example, regulations must cite the particular section of the statutory law upon which the provision is based; no proposed regulation may take effect until 30 days after it is published in the Federal Register; during the 30-day period prior to the date upon which the regulation is to be effective, interested parties must be given the opportunity to comment upon the proposed regulations; and all regulations must be applied and uniformly throughout the 50 States.

Of greatest importance to the thrust of my amendment is the provision in section 431(d) which provides that any regulation of general applicability must be transmitted to the Speaker of the House of Representatives and to the President of the Senate. The final regulations will become effective in less than 45 days after the transmission to Congress unless the Congress finds, by concurrent resolution, that the final regulation is inconsistent with the Act from which it derives its authority, and thereby disapproves the final regulations.

The Comprehensive Employment and Training Act does not currently have a similar provision regarding the possibility of a legislative veto by the Congress. The scope of my amendment only applies to those CETA youth employment programs that we are authorizing here today under title IV–A of CETA. This amendment, therefore, will not effect any other program authorized by CETA.

As most of my colleagues are aware, earlier this year, the Committee on Education and Labor recommended, and the Congress adopted, resolutions of disapproval of four sets of final education regulations promulgated by the Department of Education. Congress vetoed these regulations under section 431 of GEPA because it felt that they violated the statute from which they received their authority.

The rejected sets of regulations included those regulations governing the arts in education program, the law-related education program, the Education Appeal Board, and title IV of the Elementary and Secondary Education Act relating to instructional equipment and the purchase of gymnasium equipment.

While I will not elaborate on the specific reasons for vetoeing the regulations, I think that I am justified in claiming that the Education and Labor Committee almost unanimously supported the disapproval. In a letter to Secretary Harris on June 12, 1980, 32 members of the committee noted that these regulations exceeded the authority delegated by Congress to the Department.

In spite of such widespread and bipartisian support of the congressional veto, Secretary Hufstedler on July 23, 1980, responded that she would only change one of the four regulations that were disapproved and that further changes would occur, if at all, in future years.

Obviously, the legislative veto of these regulations and the subsequent decision by the Secretary to ignore most of the vetoes may lead up to a constitutional court confrontation between the executive and legislative branches. It is my understanding that in early September the Subcommittee on Elementary, Secondary, and Vocational Education will hold a hearing on this issue. It is my hope that both Secretary Hufstedler and the Attorney General, the person upon whose opinion the Secretary decided to ignore the veto, will both be able to testify.

I believe that a discussion of the events of the past five months regarding the veto of the education regulations is necessary to set the stage for the amendment I offer here now. The Committee on Education and Labor has proposed a bill which seeks to coordinate, in many cases for the first time, youth employment programs authorized in CETA and education programs newly authorized here today. It is the committee's intent that there be significant interchange and cooperation between CETA recipients and education recipients at the local level and that, at the Federal level, there be coordination between the Department of Education and the Department of Labor. An amendment by Mr. JEFFORDS adopted in full committee makes the funding of this act a single line item in the budget, thereby forcing the strengthening of the employment/education linkage. It is even possible that some of the regulations promulgated under the Youth Act will be joint regulations.

Some members who work closely with the CETA programs may be concerned that a failure to disapprove any regulations proposed by the Department of Labor may indicate a concurrence with those regulations. This is not the case and is not my intent in offering the amendment. In section 431(D)(1) of GEPA it states that—

> Failure of the Congress to adopt such a concurrent resolution with respect to any such final regulation prescribed under any such Act, shall not represent, with respect to such final regulation, an approval of finding of consistency with the Act from which it derives its authority for any purpose, nor shall such failure to adopt a concurrent resolution be construed as evidence of an approval or finding of consistency necessary to establish a prima facie case, or an inference or presumption, in any judicial proceeding.

It should be also noted that, although regulations now must be disapproved in whole under GEPA, conferees to H.R. 5192, Education Amendments of 1980, have agreed to an amendment which would allow disapproval of regulations in part. Hopefully, this will be enacted into law within the next several weeks.

I urge my colleagues to support my amendment, so that Congress can once again exercise its constitutional right and obligation to disapprove regulations which do not comport with the authorizing statute.

Mr. HAWKINS. Mr. Chairman, will the gentleman from Wisconsin yield?

Mr. PETRI. I yield.

Mr. HAWKINS. Mr. Chairman, this side is fully aware of the amendment. Inasmuch as it makes both titles consistent and it is in conformity with previous action taken by the House, it seems to me there is no need to further debate the issue. We are perfectly willing to accept the amendment if the gentleman from Wisconsin is willing to rest on that.

Mr. PETRI. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. PETRI).

The amendment was agreed to.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman. I will not take 5 minutes, but I would like to address the chairman and the ranking minority members of this important committee and subcommittee. If I understand correctly, on page 18, line 12, it speaks of private sector initiatives under title VII of this act. I would like to bring to the attention of my colleagues some excellent programs that are being worked under this particular dispensation, fine training programs conducted by reputable companies in which trainees, funded by CETA funds, will receive permanent employment in the companies that are training them.

This, to me, is one of the most hopeful developments in CETA. These are hard-core unemployed youths; they are working in the CETA program and making of it something of which we can all be proud; carefully done with the cooperation of the CETA administrator, in my particular district, with the approval of the AFL–CIO, as well as the company, the company counsel, and everyone else.

One type of program is directed to those who would like to enter private employment in the construction field. They receive their apprenticeship training, and their apprenticeship card when they finish the program. The other type of program is worked out with the community colleges, and the companies which have agreed to employ the successful graduates of the program. They move into good starting jobs, averaging $8,000 and $10,000 a year in those companies.

This is the kind of program that really offers hope. I do not think the country at large and perhaps even my colleagues realize what good CETA is doing in these very fine programs which offer so much hope to our young people.

Mr. JEFFORDS. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I certainly agree with everything the gentlewoman has said, and I know that both the subcommittee and committee have reported out legislation which would extend, reinforce, and improve the title VII programs. I must say that I am deeply concerned, as I know the gentlewoman is, not to see it on any list of priority legislation for this term. I would hope that the majority side would see fit to make sure that this program does get extended and improved.

Mr. PERKINS. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I agree with the gentlewoman's statement. I have always felt that what she suggested could be done under title VII. I feel that we should deal with it in separate legislation. We can easily do it in separate legislation. I will cooperate with Mr. Jeffords and Mr. Goodling, and we will do that.

Mrs. FENWICK. I thank the chairman.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Panetta: Page 10, line 5, insert "(i) before "occupations".

Page 10, line 6, insert before the semicolon the following: "; and (ii) service opportunities in programs established in the Domestic Volunteer Service Act of 1973 or in any other Federal, State, or local service programs, and service opportunities in private organizations involved in community improvement and conservation projects and in the provision of socially useful services".

Page 39, line 15, insert "the Secretary of Defense," after "Commerce,".

Page 42, line 10, strike out "and"; on line 11, strike out the period and insert in lieu thereof "; and"; and after such line insert the following:

"(5) provision of information concerning military and civilian volunteer service opportunities.

Page 42, after line 17, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

"(2) dissemination of information concerning military and civilian service opportunities;

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

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Mr. PANETTA. Mr. Chairman, the amendment before the House is really a composite of a number of minor language changes in title I designed to make sure that information on service opportunities is disseminated along with other job and career information under the programs authorized in the Youth Act. The changes I propose are not controversial in any way and will serve to coordinate our jobs programs with our efforts to attract individauls to service, whether it is in the military or in some civilian capacity. There is no excuse in our free society for failing to provide sufficient information to our young people about all service opportunities available to them.

As many of my colleagues know, I have sponsored legislation (H.R. 6868) to create a Presidential Commission on National Service. That bill has received enthusiastic support in the House from a number of my colleagues, including Representatives McCloskey, Cavanaugh, Simon, Spellman, Wolpe, Fazio, Lloyd, Addabbo, Lagomarsino, Coelho, Bonior, McCormack, Bingham, McClory, Downey, Edgar, LaFalce, Gray, Bielenson, Neal, Fithian, Frost, and Heftel.

The goal of creating the Commission is to raise the issue of national service in an effort to tap the creative energies of our young people in service to the country. With the issue of draft registration and a possible draft on the minds of many of our citizens, I believe it is essential that we provide the format for a constructive and far-ranging debate on the issue of national service. By the way, a counterpart proposal to mine has been sponsored by Senators Tsongas and Cranston in the Senate and has made progress as an amendment to the domestic violence bill, having already passed the Labor and Human Resources Committee. That bill is awaiting floor action in the Senate. It is my hope that a House-Senate conference committee on the domestic violence bill will agree to accept the national service commission language.

The basic premise of the National Service Commission proposal is that we cannot expect our youth to serve if we do not at least ask them. In fact, we need to challenge them to serve. That same premise underlies my amendments today. The amendments provide a framework in which to inform young people about useful opportunities available to them. The objective I have in mind is to broaden the spectrum of opportunities and options available to young people, whether they happen to be "disadvantaged" or not, to gain employment and to provide volunteer service to the community and to the country.

My intent is simply to provide a framework for informing young people as to the opportunities which exist for volunteer service. My intent is to round out the laudable programs authorized by the legislation before us, to draw a complete picture of opportunities for young people. To exclude information on volunteer opportunities for young people is to continue a policy of segregation in which volunteer service is restricted to certain segments of our society when it should be encouraged and available for all.

Volunteer experience, whether it is in conservation work, in assisting the elderly, in the Peace Corps, or in national defense fields, can be of great value to developing a young person's subsequent employment and career choices and opportunities. Volunteer experience can provide useful on-the-job training, yielding much in the way of useful skills important to one's competitiveness on the job market. Volunteer service, furthermore, can provide very valuable personal rewards which help to remind those who volunteer that they can play a constructive role in society by serving others.

Thus, my amendments seek to broaden employment and career counseling programs and employment information programs to include other service opportunities. Specifically, the amendments propose four language changes or additions in title I of the reported bill. Three of the amendments are relatively minor. The major language change proposed by my amendment occurs in the section dealing with labor market services authorized by the bill (page 10). This added language would require that information concerning "service opportunities in programs established in the Domestic Volunteer Service Act of 1973 or in any other Federal, State, or local volunteer program, and service opportunities in private organizations involved in community improvement and conservation projects and in the provision of socially useful services" be included in youth labor market services.

The other language additions proposed in this amendment would, first, include the Secretary of Defense among the agency chiefs with whom the Secretary of Labor is required to consult in forming employment and career programs (page 39, line 15); and, second, add military and civilian volunteer service opportunities in the array of employment services for youth contained in the Wagner-Peyser amendments section of title I (page 42, lines 10 and 18).

Mr. Chairman, I am very proud to be joined in sponsoring this amendment by Representatives Bingham, Petri, Cavanaugh, McCloskey, and Simon. This is a sound amendment which will help to serve the needs of our Volunteer Armed Forces and our civilian volunteer service programs. The amendment will help rekindle a spirit of service and patriotism which has been lost during the last two trying decades. I urge the support of my colleagues for this important amendment.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, there is a splendid program of service to the elderly on the edge of my district. CETA trainees go out and help elderly people and ill people who are at home, and when the trainees complete their program, every single one of them, a hundred percent, has been taken up into private jobs in the private sector because they are so well trained. It is a wonderful program.

Mr. PANETTA. Mr. Chairman, I thank the gentlewoman from New Jersey (Mrs. Fenwick).

Mr. Chairman, the basic point here is to provide that kind of broad perspective to those who do come in under the labor services market and make available the market services that are provided in the bill so that there is a broad perspective of all the service opportunities that are available.

A number of us on the House side have discussed the possibility of a voluntary national service program that would begin to explore service opportunities that can be made available to all of our youth in the country. This, I think, would be an important step to begin to procure the kind of counseling that could be provided to our youth.

Basically, the amendments require these kinds of service opportunities be made available on a broad perspective to our youth who come into the labor market service program, and in that way I think we can broaden the perspective and the opportunities that our youth can have in this country.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I have reviewed the amendment from the minority's perspective, and we feel it is a fine amendment and improves the bill. We appreciate the effort by the author of the amendment.

Mr. HAWKINS. Mr. Chairman, if the gentleman will yield, we agree with the view just expressed. We have seen the amendment, we think it is an excellent amendment, and we accept it.

● Mr. CAVANAUGH. Mr. Chairman, I rise in support of the Panetta amendment because I, too, believe that we in the Congress have thus far shortchanged the youth of our Nation by failing to even ask them to devote their time and energies to meeting the pressing service needs with which we are today being faced, both civilian and military. The Panetta amendment will be a small step in the right direction to rectify this failure, and I take this opportunity to bring to the attention of my colleagues the further need for the creation of a Presidential Commission in National Service.

I am pleased to have joined with the gentleman from California (Mr. PANETTA) in sponsoring legislation—H.R. 6868—to accomplish this objective, and even though we have already begun the registration of 19- and 20-year-old men for the draft, I believe it is imperative that the Congress, the President, and the people of this country make a comprehensive assessment of the fairness and adequacy of our current system of military manpower procurement and of our other goals and aspirations for the future, and then to begin the task of designing a fair and flexible program of national service which America's youth will support and in which they will participate with ambition and enthusiasm.

I have introduced legislation in this Congress to establish a public service system—H.R. 3603—to provide expanded service opportunities, both civilian and military, for our young people, and I welcome the ideas and input of my colleagues. But the debate must begin now. Building the necessary consensus upon which the success of such program ultimately depends will be a difficult and time-consuming task, but it is one which I believe we must undertake and in which we must succeed if we are to survive as a nation.

In addition to the pressing manpower needs of the armed services, our country has many needs which are equally essential to the national interest and which are becoming even more difficult to meet within current budget constraints. The care and protection of our natural resources, the health care needs of our poor and elderly, the redevelopment and revitalization of our urban areas are all areas of current commitment by our National Government, and yet the resources which we have available to meet these needs are diminishing. The concept of national service which I and others in the Congress have put forward offers an innovative and practical mechanism with which we can begin to address these needs, while at the same time providing valuable work experience to those in our society who bear a disproportionately high share of the burden of unemployment—the young.

Mr. Chairman, I urge my colleagues to support this amendment to bring within the purview of the Youth Act additional opportunities for service, and I further encourage my colleagues to support the efforts of the gentleman from California (Mr. PANETTA) and myself to establish a Presidential Commission on National Service, so that we may move forward in our efforts to meet the future manpower needs of the Nation in a fair and cost-efficient manner.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate II.

Title II reads as follows:

TITLE II—FINANCIAL ASSISTANCE TO MEET BASIC AND EMPLOYMENT SKILLS NEEDS OF SECONDARY SCHOOL YOUTH

FINDINGS; PURPOSE

SEC. 201. (a) FINDINGS.—The Congress finds that:

(1) High levels of youth unemployment predominantly occur among disadvantaged and minority youth, particularly those who live in poor urban and rural areas.

(2) Key factors contributing to high rates of youth unemployment are a lack of basic reading, writing and computational skills, and a lack of general employment and job-seeking skills.

(3) Secondary schools and area vocational schools can play a critical role in improving youth employment through the development of basic and employment skills by building on existing Federal and State assistance for educational services for disadvantaged students, most of which is presently channeled to elementary and postsecondary school students.

(b) PURPOSE.—The purpose of this title is to provide financial asistance—

(1) to increase youth employability by promoting mastery of basic skills and employment skills among disadvantaged youth in grades seven through twelve who are enrolled in school, and youth up to age twenty-one who left school prior to earning a certificate of graduation, through locally developed school- and community-based programs, except that grade six may also be included where it is the lowest grade at a school site which also includes any grade of seven through twelve;

(2) to target resources and services on schools with high concentrations of poor or low-achieving students; and

(3) to promote a partnership among educators, employment and training officers, and private sector employers that effectively links education, training, and work experiences for disadvantaged youth.

DURATION OF ASSISTANCE

SEC. 202. During the period beginning October 1, 1980, and ending September 30, 1985, the Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for grants made on the basis of allotments under this title.

ALLOCATION OF FUNDS

SEC. 203. From funds available to carry out this title for any fiscal year in accordance with section 301 of this Act—

(1) 2.5 percent shall be made available to carry out subpart 1 of part B;

(2) 15 percent shall be made available to carry out subpart 2 of part B;

(3) 1.5 percent shall be made available to carry out section 252;

(4) one-half of 1 percent, or $5,000,000, whichever is less, shall be made available to carry out section 254;

(5) 1 percent shall be made available to carry out section 255(1) and 1 percent shall be made available to carry out section 255(2); and

(6) the remainder of such funds shall be made available to carry out part A of this title.

PART A—PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

BASIC GRANTS—ELIGIBILITY AND AMOUNT

SEC. 211. (a) ELIGIBILITY FOR GRANTS.—(1) Subject to the provisions of subsection (c)(4) and subsection (f), each county in a State is eligible for a grant under this part for any fiscal year if—

(A) the number of youth counted under paragraph (2) of this subsection exceeds five thousand and exceeds 5 percent of the total number of youth aged five through seventeen in the county, or

(B) the number of youth counted under paragraph (2) exceeds 20 percent of the total number of youth aged five through seventeen in the county.

(2)(A) The number of youth to be counted for purposes of paragraph (1) of this subsection and subsections (b) and (c) is the aggregate of—

(i) the number of youth aged five through seventeen in the county from families below the poverty level, as determined under subparagraph (B);

(ii) the number of youth aged five through seventeen in the county from families above the poverty level, as determined under subparagraph (C); and

(iii) the number of youth aged five through seventeen in the county (I) living in institutions for neglected or delinquent youth (other than such institutions operated by the United States) but not counted pursuant to subpart 1 of part B of this title for the purposes of a grant to a State agency, or (II) being supported in foster homes with public funds, as determined under subparagraph (C).

(B) For the purposes of this subsection, the Secretary shall determine the number of youth aged five through seventeen from families below the poverty level on the basis of the most recent decennial census from which satisfactory data is available. In making this determination, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census, except as otherwise provided by Act of Congress.

(C) For purposes of this subsection, the Secretary shall determine the number of youth aged five through seventeen from families above the poverty level on the basis of the number of such youth from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making those determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such youth and the number of youth of such ages living in institutions for neglected or delinquent youth, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of youth described in the preceding sentence, the criteria of poverty and the form of such criteria required by that sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of the determination.

(b) AMOUNT OF GRANT—PUERTO RICO.—(1) The amount of the grant for which the Commonwealth of Puerto Rico is eligible under this part for any fiscal year shall be an amount which bears the same ratio to the sums available for this part under section 203(6) for that year as (A) the product of the total number of youth in the Commonwealth counted in accordance with subsection (a)(2) multiplied by 32 percent of the average per pupil expenditure in the United States multiplied by the percentage described in paragraph (2) bears to (B) the aggregate of the products resulting from multiplying the total number of youth in each State counted in accordance with subsection (a)(2) by 40 percent of the amount determined under paragraph (3).

(2) The percentage referred to in paragraph (1)(A) is the percentage that results when the average per pupil expenditure of Puerto Rico is divided by the lowest average per pupil expenditure of any of the fifty States.

(3) The amount referred to in the paragraph (1)(B) is the average per pupil expenditure for the State, except that (A) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, the multilier shall be 80 percent of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure for the State is more than 120 percent of the average per pupil expenditure in the United States, the multiplier shall be 120 percent of the average per pupil expenditure in the United States.

(c) AMOUNT OF GRANT—OTHER STATES.—(1) For each county in a State other than the Commonwealth of Puerto Rico eligible to receive a grant under this section for any fiscal year, the Secretary shall determine the product of—

(A)(i) two-thirds of the number of youth in excess of five thousand counted under subsection (a)(2), or (ii) the number of youth counted under that subsection in excess of 20 percent of the total number of youth aged five through seventeen in that county, whichever is greater; and

(B) 40 percent of the amount determined under paragraph (2).

(2) The amount referred to in paragraph (1)(B) is the average per pupil expenditure in the State in which the county is located, except that (A) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, the multiplier shall be 80 percent of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure for the State is more than 120 percent of the average per pupil expenditure in the United States, the multiplier shall be 120 percent of the average per pupil expenditure in the United States.

(3) Subject to the provisions of paragraph (4) and (5), the amount of the grant for which an eligible county is eligible under this part for any fiscal year shall be an amount which bears the same ratio to the sums available for this part under section 203(6) for that year, less the amount paid to the Commonwealth of Puerto Rico under subsection (b), as the product (determined under paragraph (1)) for that county for that fiscal year bears to the sum of those products for all counties that are eligible in accordance with subsection (a) for that year.

(4) In the case of any county that satisfies the eligibility requirements for receipt of a grant contained in subsection (a), but whose grant, calculated in accordance with the provisions contained in paragraph (3) of this subsection, would amount to less than $25,000, the amount which that county would otherwise be eligible to receive under this section shall not be paid to that county and shall be retained by the State educational agency and added to the amount available to the State educational agency for the purposes of making payments in accordance with the provisions of subpart 2 of part B of this title.

(5) If the aggregate of the grants, calculated in accordance with the provisions of paragraph (3), for which eligible counties in a State are eligible, amounts to less than one-third of 1 percent of the total funds available under section 203(6) for this part for any fiscal year, then the total payment to the State under subsection (d) shall be increased to an amount equal to that percentage, and the allocations of counties in other States shall be ratably reduced to the extent necessary to bring the aggregate of those allocations within the limits of the funds available under section 203(6), except that those ratable reductions shall not operate to bring the total payment to any other State below that percentage, and the allocations of counties in other States shall be further ratably reduced as necessary to make the total payment to each State no less than that percentage. The amount by which a State's payment is increased under the first sentence of this paragraph shall be retained by the State educational agency and added to the amount available to that agency for the purpose of making payments in accordance with the provisions of subpart 2 of part B of this title.

(d) PAYMENT; USE OF FUNDS.—The Secretary shall pay to a State the total amount for which the counties in that State are eligible under this section for any fiscal year. Subject to the provisions of subsection (f), the State educational agency shall, pursuant to criteria established by the Secretary, allocate each county's allotment among the local educational agencies that are eligible in accordance with the provisions of subsection (e)(2) and whose school districts lie (in whole or in part) within that county. The allocation shall be based on the distribution in those districts of youth aged five through seventeen from low-income families, determined in a manner consistent with section 117 of the Elementary and Secondary Education Act of 1965.

(e) LOCAL PROGRAM APPLICATIONS.—(1) A local educational agency which meets the criteria under paragraph (2) and has submitted an application (or an amendment thereto) to the State educational agency is eligible for a grant under this part for each of the three fiscal years for which the application (or amendment) is made. The State educational agency shall process payments to the local educational agency within forty-five days after the date of receipt of an application that substantially meets the requirements of this title. The State educational agency shall notify the local educational agency with respect to any part of the application which does not meet the requirements of this title. The State educational agency may withhold such payment if that agency determines that the application will not provide for the use of funds in a manner consistent with the requirements of this title.

(2) A local educational agency is eligible to receive a payment from the county allotment under paragraph (1) if at least two hundred of its youth aged five through seventeen, or at least 20 percent of those youth, are from low-income families as determined by the State educational agency in a manner consistent with section 117 of the Elementary and Secondary Education Act of 1965. A local educational agency may combine with another local educational agency for the purpose of establishing eligibility for a payment under the preceding sentence and for the purpose of submitting the application under paragraph (1) and meeting the other requirements of this part.

(3) The amount paid to a local educational agency under this section, exclusive of the amount required to be reserved by that agency in accordance with section 220, shall be used for activities undertaken pursuant to the application under paragraph (1) and shall be subject to the other requirements of this part.

(f) STATE ALLOCATION TO STATE BOARD FOR VOCATIONAL EDUCATION.—(1) In any county in which there is one or more local educational agencies eligible for grants under this part and in which there is one or more area vocational schools not under the administrative control or supervision of local educational agencies, the Secretary shall pay to the State board for vocational education an amount equal to 25 percent of the total amount of the allotments of such county. The State board for vocational education shall make available, for programs which meet the requirements of this subsection, to the local educational agencies in such county and any area vocational schools in such county not under the administrative control or supervision of such agencies, an amount equal to that portion of the amount paid to such board pursuant to the preceding sentence which would, pursuant to subsections (d) and (e), have been available to such agencies in such county (but for the requirements of this subsection).

(2) The State board for vocational education shall approve an application of any local educational agency and area vocational school seeking assistance under this subsection only if such application has been submitted jointly by such agency and school pursuant to an agreement between them for the conduct of a program under this subsection and such program—

(A) meets the requirements of sections 213, 214(a)(3), 215, 216(b), 217, 218, and 219, and

(B) serves youth who are (i) identified under section 215(b) or (ii) eligible for services under part A of title IV of the Comprehensive Employment and Training Act.

(3) In any case in which an area vocational school and a local educational agency are unable to enter into an agreement for purposes of this subsection, the State board for vocational education shall establish procedures for a resolution thereof.

(4) Any plan approved under this subsection may be amended to the extent necessary to make it compatible with a joint agreement between a prime sponsor and a local educational agency which meets the requirements of section 220, and any such amendments shall not require further approval by the State board for vocational education.

SELECTION OF SCHOOLS

SEC. 212. (a) SCHOOL ELIGIBILITY.—A school shall be eligible to receive assistance under this part through a local educational agency only if—

(1) such school—

(A) provides secondary education, as determined by the State educational agency, to youth in grades seven through twelve; or

(B) is designated as an area vocational school serving youth from among ages eleven through twenty-one; and

(2) (A) the school serves a large number or percentage of youth from low-income families, determined in a manner consistent with section 122 of the Elementary and Secondary Education Act of 1965; or

(B) the school serves a large number or percentage of low achieving youth as determined by a measurment of basic skills designated for such purpose by the State educational agency, consistent with the purposes of this title.

(b) RANKING AND SELECTION OF SCHOOLS.—(1) A local educational agency shall rank all of its designated schools from highest to lowest in concentration of students from low-income families, determined in a manner consistent with section 122 of the Elementary and Secondary Education Act of 1965. Notwithstanding the preceding sentence, the agency may rank a school that is eligible under subsection (a) (2) (B) ahead of a school that (as measured under subsection (a) (2) (A)) has a significantly lower concentration of students deficient in basic skills achievement. A local educational agency may conduct separate rankings for each set of designated schools serving comparable grades or ages, but the total number of eligible schools may not exceed that produced under a single ranking.

(2) Nothing in this subsection shall be construed to prevent a local educational agency from providing assistance to all of its designated schools.

DEVELOPMENT OF SCHOOL PLANS

SEC. 213. (a) PLAN REQUIREMENT.—No school may receive funds under this title unless it develops, and submits to the local educational agency at such time as the agency may require, a three-year plan meeting the requirements of subsection (b) which describes the manner in which the school intends to use the funds, together with such amendments or revisions to the plan as may be required by the local educational agency. Such plan shall be reviewed and commented upon by the school site council prior to its submission to the local educational agency. Provision shall be made for individual council members who wish to indicate their dissent in whole or in part from the plan as submitted. Additionally, the chief administrator of the designated school shall, prior to the submission of the plan, consult with the youth council established under part A of title IV of the Comprehensive Employment and Training Act and the appropriate prime sponsor.

(b) CONTENTS OF PLAN.—The three-year plan required under subsection (a) shall contain a description of—

(1) specific short-term and long-term goals, consistent with applicable standards and additional goals prescribed under subsection (d), for improving basic skills achievement, reducing the student dropout rate, improving student attendance, improving employment skills, strengthening the transition to work, and eliminating stereotyping by race, sex, national origin, or handicapping condition, with all resources available to the school (including resources under this title);

(2) the methods by which—

(A) the school will achieve the goals set forth pursuant to paragraph (1);

(B) the school will achieve the goals set forth pursuant to paragraph (1) through the use of alternative education programs;

(C) the school staff's abilities to assist in achieving the goals set forth pursuant to paragraph (1) will be improved;

(D) the community will be involved in the implementation of the plan, including specific provisions designed to involve parents in the education of their children;

(E) the school will seek to involve the prime sponsor and the private sector to assist in the development of general work experience and cooperative vocational education programs for students in grades ten through twelve;

(F) the school will comply with any requirements imposed by the local educational agency with respect to funds made available under section 220;

(G) the school, by itself or together with other organizations, will seek to attract to a school or alternative education program those youth aged sixteen through twenty-one who left school prior to earning a certificate of graduation and youth aged sixteen through twenty-one who have completed high school but who require remedial basic skills training; and

(H) the school will comply with section 215(b).

(c) GRANTS FOR PLANNING AND INSERVICE TRAINING.—(1) Any local educational agency shall use funds it receives from amounts appropriated under section 301(a) (2) of this Act to provide assistance to designated schools to develop plans under this subsection and to carry out additional activities under paragraph (2). In providing assistance to any designated school under this subsection, a local educational agency shall provide each school with funding sufficient to ensure the development of a comprehensive school plan consistent with the purposes of this title. The local educational agency shall provide technical assistance to designated schools to assure applications of high quality, and such agency shall maintain fiscal responsibility and accountability for such funding.

(2) In addition to expenses directly related to the development of a school plan under this subsection, a designated school may use funds received under this subsection for expenses relating to inservice training designed to prepare school staff for the implementation and operation of the plan. Any inservice training supported by funds under this subsection shall be coordinated with any other inservice training conducted by the school, the local educational agency, or the State educational agency.

(3) A local educational agency may provide planning assistance to a designated school under this subsection only if it also provides such assistance to all other eligible designated schools that apply and are ranked higher under section 212(b).

(d) MINMUM STANDARDS FOR PERFORMANCE GOALS.—The State educational agency shall establish minimum standards, based on general guidelines issued by the Secretary, with which the performance goals set by schools under subsection (b) (1) must comply. The State educational agency may establish goals in addition to those required by subsection (b) (1) which reflect that State's educational needs. Such standards and goals shall take into consideration local factors affecting the performance potential of such schools and shall be developed only after widespread consultation and hearings with practicing local educational agency representatives, and such standards shall reflect their recommendations.

ALLOCATION TO SCHOOLS

SEC. 214. (a) ALLOCATION OF FUNDS TO SCHOOLS.—Except as provided in subsection (b), a local educational agency shall determine the amount and duration of assistance to designated schools to be made available with funds under this part, exclusive of funds reserved for purposes of sections 219 and 220, in accordance with the following requirements:

(1) The local educational agency shall take into account both the need of the designated school, as indicated by its ranking under section 212(b), and the quality of the school plan as submitted in accordance with section 213(a). The Secretary shall prescribe the method by which local educational agencies shall weigh each of these factors in determining which eligible schools shall be provided assistance under this part. No school shall be given assistance, however, unless and until a majority of the members of its school site council have indicated their accord with the plan as submitted for final approval to the local educational agency. The local educational agency shall have the right to alter the school site plans as necessary to be consistent with contracts and formally adopted district wide policies of the local education agency, and such alterations shall not be subject to approval by the school site council.

(2) Subject to the availability of funds under this part and subject to section 215 (d), the local educational agency shall provide assistance, for no fewer than three consecutive years, to each school selected by it under paragraph (1), so long as the local educational agency determines that the school is making substantial, documented progress toward achieving the objectives set forth in the plan submitted under section 213.

(3) Any school selected to receive assistance under paragraph (1) shall receive assistance in amounts that will enable it to conduct activities that will have a major, sustained effect on the achievement, retention, and employment opportunities of disadvantaged youth receiving assistance under this title. Subject to the availability of funds under this part, each such school shall receive a minimum award not less than the greater of the following:

(A) $15,000; or

(B) 25 percent of the product of (i) the State average per pupil expenditure as determined under section 211(c) (2), multiplied by (ii) the total number of youth who are from low-income families, determined in a manner consistent with section 122 of the Elementary and Secondary Education Act of 1965.

(4) If any school selected to receive assistance under paragraph (1) uses special State or Federal funds to provide compensatory education in the basic skills to youth in the same grades being served by the program assisted under this part, the local educational agency may take these funds into consideration in determining the amount of assistance provided to the school under this section.

(b) ALTERNATIVE ALLOCATION.—In the case of any local educational agency—

(1) in which the concentration of youth from low-income families is uniformly distributed among all schools eligible under section 212(a), or

(2) which meets the requirements of section 606(a) (1) of the Emergency School Aid Act (title VI of the Elementary and Secondary Education Act of 1965), relating to engaging in activity to desegregate elementary and secondary schools,

that agency, after consultation with the district-wide advisory council established under title I of the Elementary and Secondary Education Act of 1965, may request the State educational agency to approve an alternative proposal (consistent with section 220) for distributing funds under this section in lieu of the distribution required by subsection (a). The State educational agency shall approve any proposal submitted under the preceding sentence if it determines that the local educational agency's alternative would more effectively meet the needs of the lowest achieving students of that agency.

(c) RESTRICTIONS.—During any fiscal year subsequent to the first fiscal year for which appropriations are made for purposes of this title, a local educational agency may use—

(1) not more than 4 percent of the funds received by it under this part for that year (A) to assist designated schools to develop plans under section 213 for programs designed to improve the basic and employment skills of disadvantaged students, (B) to provide technical assistance to such schools, and (C) for administrative expenses; and

(2) not more than 10 percent of such funds for in-service training.

PROGRAM REQUIREMENTS

SEC. 215. (a) SCHOOL SITE COUNCIL.—Any school that receives planning assistance under this part shall establish a school site council to advise the chief administrator of that school in the development of a school plan that meets the requirements of section 213(b). In the event that the school plan is funded by the local educational agency in accordance with section 214, the school site council shall advise the chief administrator on the implementation of the plan and on the attainment and evaluation of the goals in such plan and shall also advise the local education agency on its monitoring of progress toward the attainment of these goals. The council members shall be selected in accordance with criteria of the Secretary, shall represent the school's student population, and shall have representatives from each of the following groups: (1) parents of children enrolled at that school; (2) teachers at that school; (3) local business; (4) organized labor; (5) prime sponsors; (6) students; and (7) community-based organizations. Teachers shall constitute at least one-third of the total membership of the council. The chief administrator of the school shall serve as chairman of the council. Any school-based council which meets the membership requirements of this subsection may be designated to serve as the school site council.

(b) STUDENT SELECTION.—A designated school shall use funds made available under this part for programs in which youth identified as having the greatest need for special assistance will be given priority, determined on the basis of a locally developed or selected objective evaluation of lack of basic skills achievement and of barriers to employment and education.

(c) COORDINATION; RECORDS.—(1) No program may receive assistance under this title if it does not seek to use activities presently being funded by a local prime sponsor or training facilities available from a prime sponsor, area vocational school, community-based organization, or community college.

(2) Each designated school and local educational agency shall make every effort possible to assure that the students who receive education and training with funds provided under this title in such designated schools will, to the extent necessary, also receive employment and training opportunities with funds provided under title II, part A of title IV, and title VII of the Comprehensive Employment and Training Act.

(3) For each student who will receive education and training with funds provided under this title, the school or organization providing such education and training shall develop a basic skills and employment record compatible with the record required by section 413 of the Comprehensive Employment and Training Act and that contains elements approved by the prime sponsor and the local private industry council established in accordance with section 704 of such Act.

(d) EVALUATION OF COMPLIANCE WITH PERFORMANCE GOALS.—(1) Each local educational agency shall, at the end of each school year for which funds are provided under this part, evaluate the progress of each designated school which receives such funds during such year in meeting the short-term and long-term goals set forth in that school's plan pursuant to section 213(b)(1). Any such school—

(A) which is determined by the local educational agency to have failed in any one year for which funds are provided under this part to make substantial progress toward meeting such goals, shall be given written notice of such determination and shall be provided with technical assistance for such purpose by the local educational agency; and

(B) which is determined by the local educational agency to have failed in any two consecutive years for which funds are provided under this part to make substantial progress toward meeting such goals, shall be ineligible for assistance under this title for any subsequent year.

(2) Determinations under paragraph (1) shall be made on the basis of evaluations conducted by the local educational agency and shall involve the school site council required under section 2(a). Notices issued pursuant to paragraph (1)(A) and evaluations conducted under this paragraph shall be transmitted to the State educational agency.

(3) In any case in which a school has been declared ineligible for further assistance pursuant to paragraph (1)(B), the funds for which such school would otherwise have been eligible shall be used either to increase the allocations of other schools selected for assistance or to select and fund additional designated schools.

(e) AUTHORIZED ACTIVITIES.—A designated school shall use funds provided under this part for activities which are designed to meet the special educational and training needs of the youth in that school. Priority under this part shall be given to schoolwide activities designed to improve student achievement in the basic skills, but activities funded under this part may also include—

(1) vocational exploration and instruction in employment skills, including career education and the use of advanced learning technology;

(2) the promotion of education-to-work transition;

(3) specific occupational skill training only where there has been documented evidence of local need for such training;

(4) remedial education in the basic skills, including the use of advanced learning technology;

(5) vocational training;

(6) programs to overcome stereotyping in job placement on the basis of race, sex, national origin, or handicapping condition;

(7) the provision of training to improve the abilities of school staff as indicated in the school's plan submitted pursuant to section 213(b);

(8) alternative education programs to carry out the activities described in paragraphs (1) through (6); and

(9) other necessary services, such as child care, transportation, and counseling, as indicated in the school's plan.

EXPENDITURES FOR VOCATIONAL EDUCATION

SEC. 216. (a) MINIMUM ALLOCATION FOR VOCATIONAL EDUCATION.—Each local educational agency receiving funds under this title shall use not less than 25 percent of such funds for vocational education. Such funds may be made available for vocational education offered in any designated schools (whether secondary schools or vocational education schools) or in other area vocational schools which are not designated schools. The State board for vocational education shall review and approve that portion of the application of the local educational agency respecting the use of such funds for vocational education.

(b) PROGRAM REQUIREMENTS.—The State board for vocational education shall approve that portion of the application of the local educational agency respecting the use of funds under this section if that agency's application under sections 211(e) and 213 provides assurances that—

(1) any programs of vocational education supported under this section do not duplicate any other programs in the area of the local educational agency, including those supported under the Comprehensive Employment and Training Act;

(2) services supported under this section will serve youth who are (A) identified under section 215(b), or (B) eligible for assistance under part A of title IV of such Act;

(3) reasonable efforts will be made to use vocational training facilities in the area of the local educational agency even if such facilities are not under the administrative control or supervision of such agency, and when such facilities are separately administered, the governing board or boards will be consulted in the approval of programs under this section;

(4) vocational education services will be designed, in consultation with the private industry council established under section 704 of such Act, to provide occupational skills which are documented to lead to immediate employment in the local area served;

(5) any such services will be planned as part of any agreement developed under section 220, to the maximum extent feasible, in consultation with prime sponsors which serve the area;

(6) funds will be used for purposes described in subsection (c);

(7) the training to be provided is related to realistic employment opportunities as determined through use of job demand data, especially that available through the State occupational information coordinating committee established under section 161 of the Vocational Education Act;

(8) efforts will be made to reach out-of-school youth and to provide programs to meet their needs through existing or alternative education arrangements;

(9) all training programs shall be integrated closely with remedial education in the basic skills; and

(10) all programs assisted under this section will be reported to the Vocational Education Data System, if such system is in operation in the State.

(c) USE OF FUNDS.—Vocational education services supported under this section shall include—

(1) combined programs providing basic and employment skills;

(2) preparation of the basic skills and employment records required under section 215(c)(3), or to assist the prime sponsor serving the area to meet the requirements of section 412 or 413 of the Comprehensive Employment and Training Act;

(3) provisions of cooperative vocational education; supervised work experience; on-the-job training; on-site industry specific vocational education as authorized under title VII of such Act; work experience or career exploration, linked to related in-school instruction in basic skills, under the supervision of the chief administrator of the school;

(4) provision of career guidance services, including trained individuals to assist youth participating in the program to relate services provided under this section to that youth's education and career goals; and

(5) outreach activities necessary to inform potential participants of the opportunities available under this section.

(d) FUNDS AVAILABLE UNDER SECTION 212 (f).—In the case of any local educational agency which is in a county described in section 212(f) and which has a joint plan with an area vocational school approved by the State board for vocational education for the purpose of conducting programs under such section, funds received and used by such school for purposes of such plan may be deemed to be funds used by that agency as required by the first sentence of subsection (a).

LOCAL ADVISORY COUNCILS

SEC. 217. (a) EDUCATIONAL ADVISORY COUNCILS.—In conducting planning for purposes of this part, a school shall consult with any appropriate federally required local educational advisory council, including those established pursuant to title I of the Elementary and Secondary Education Act of 1965, the Vocational Education Act of 1963, the Bilingual Education Act, the Indian Education Act, and the Emergency School Aid Act, and with other appropriate representatives of the community.

(b) OTHER ADVISORY COUNCILS.—Each local educational agency that receives funds under this title shall consult with any appropriate advisory council established for that district under Federal law (such as those established under title I of the Elementary and Secondary Education Act of 1965 and the Vocational Education Act of 1963) on the implementation and operation of the programs assisted under this title.

FUNDING REQUIREMENTS

SEC. 218. (a) MAINTENANCE OF EFFORT.—A local educational agency is eligible for assistance under this title for any fiscal year only if the State educational agency finds that the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than the combined fiscal effort per student or the aggregate expenditures for that purpose for the second preceding fiscal year.

(b) RESOURCE EQUIVALENCY.—(1) A local educational agency receiving funds under this part shall ensure that the regular funds from non-Federal sources for schools receiving funds under this part be substantially equivalent, in the aggregate, to the funds provided similar schools not funded under this part.

(2) A local educational agency receiving funds under this part must ensure that these funds increase the level of resources available to schools receiving funds under this part and that Federal, State, and local supplemental funds be equitably distributed, in the aggregate, to schools receiving funds under this title in comparison with similar schools not receiving funds under this title.

PARTICIPATION OF YOUTH ENROLLED IN PRIVATE SCHOOLS

SEC. 219. (a) GENERAL REQUIREMENTS.—To the extent consistent with the number of youth in the school district of the local educational agency who are enrolled in private elementary and secondary schools but who would otherwise be identified under section 215(b), such agency shall make provision for including educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such youth can participate and which meet the requirements of section 215(e). Expenditures for educational services and arrangements pursuant to this section for such youth in private schools shall be equal (taking into account the number of youth to be served and the educational needs of such youth) to expenditures for youth enrolled in the public schools of the local educational agency.

(b) BYPASS PROVISION.—If any local educational agency is prohibited by law or has been determined by the Secretary to have substantially failed to provide for the participation required by subsection (a), the Secretary shall arrange for the provision of services to the youth described in such subsection in the same manner as is required by section 130(b) of the Elementary and Secondary Education Act of 1965 with regard to educationally deprived youth in private schools. Such arrangements shall be made in accordance with paragraph (3) of such section and the making of determinations of the need for such arrangements (and any judicial review sought by State or local educational agencies) shall be conducted in a manner consistent with paragraph (4) of such section.

MINIMUM AMOUNT REQUIRED FOR JOINT PROGRAMS

SEC. 220. (a) MINIMUM AMOUNT REQUIRED.—(1) From the sum of the amounts available to any local educational agency under this part, an amount equal to not less than the product of such sum multiplied by the number described in paragraph (2), divided by one hundred, may be used only for programs described in subsection (b).

(2) Subject to section 302 of this Act, the number described in this paragraph for any period is the percent of funds allocated to prime sponsors under section 423(a)(4) of the Comprehensive Employment and Training Act (as amended by title I of this Act) which such prime sponsors are required by section 423(d) of such Act (as so amended) to use for programs carried out pursuant to agreements between such prime sponsors and local educational agencies.

(b) REQUIREMENTS OF JOINT PROGRAMS.—(1) The amount available under subsection (a) may be used by the local educational agency only for programs carried out pursuant to agreements between local educational agencies and prime sponsors, for youth—

(A) identified under section 215(b), or

(B)(i) who are eligible for assistance under part A of title IV of the Comprehensive Employment and Training Act, and

(ii) who reside in attendance areas served by designated schools receiving assistance under this title.

(2) Each such agreement shall describe in detail the appropriate educational arrangements, employment opportunities, training, and supportive services which shall be provided to such youth who are enrolled or who agree to enroll in a program leading to a secondary school diploma or a certificate of high school equivalency, a junior or community college degree, or a technical or trade school certificate of completion. Each such agreement shall describe in detail the appropriate alternative education arrangements for those youth who require such services. Each such agreement shall contain provisions to assure that funds received pursuant to the agreement will not supplant State and local funds expended for the same purpose.

(c) FUNDS AVAILABLE UNDER SECTION 212(f).—In the case of any local educational agency which is in a county described in section 212(f) and which has a joint plan with an area vocational school approved by the State board for vocational education for the purpose of conducting programs under such section, funds received under such section and used to carry out programs described in subsection (b) may be counted toward the amount such agency is required to use for such purpose by subsection (a)(1).

PART B—PROGRAMS OPERATED BY STATE AGENCIES

Subpart 1—Programs for Special Populations

ELIGIBILITY AND AMOUNT

SEC. 221. (a) ELIGIBILITY.—A State educational agency or a combination of such agencies shall be eligible for a grant under this part for each of the three fiscal years for which an application is made, to establish or improve, either directly or through local educational agencies or other State agencies, programs for migratory youth of migratory agricultural workers or of migratory fishermen and programs for youth in institutions for neglected or delinquent youth or in adult correctional institutions which meet the requirements of section 222.

(b) AMOUNT OF GRANT.—(1) For each State eligible to receive a grant under this subpart for any fiscal year, the Secretary shall determine the product of—

(A) the number of youth in the State who are counted in accordance with the provisions of paragraph (4); and

(B) 40 percent of the amount determined under paragraph (2).

(2) The amount referred to in paragraph (1)(B) is the average per pupil expenditure in the State, except that (A) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, the multiplier shall be 80 percent of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, the multiplier shall be 120 percent of the average per pupil expenditure in the United States.

(3) The amount of the grant to a State under this subpart for a fiscal year shall be an amount which bears the same ratio to the total funds available for this subpart for that year as the product determined under paragraph (1) for that State for that fiscal year bears to the sum of the products for all States that are eligible for a grant under this subpart for that fiscal year.

(4) The number of youth to be counted for purposes of paragraph (1) is the aggregate of—

(A) the estimated number of migratory youth of migratory agricultural workers or of migratory fishermen who are aged five through seventeen entered in the Migrant Student Record Transfer System and who reside in the State full time;

(B) the full-time equivalent of the estimated number of such migratory youth who are aged five through seventeen entered in the Migrant Student Record Transfer System and who reside in the State part time, as determined by the Secretary; and

(C) the number of neglected or delinquent youth in average daily attendance, as determined by the Secretary, at schools for those youth operated or supported by a State agency and in institutions for neglected or delinquent youth or in adult correctional institutions, including schools providing education for those youth under contract or other arrangement with the State agency.

PROGRAM REQUIREMENTS

SEC. 222. (a) REQUIREMENTS FOR APPROVAL OF APPLICATION.—The Secretary may approve an application submitted under section 221 only if the Secretary determines that—

(1) payments will be used for programs at the secondary school level which are designed to improve the basic and employment skills of migratory youth of migratory agricultural workers or of migratory fishermen (and which, to the extent feasible, include alternative education programs), and to coordinate those programs with similar programs in other States, including the transmittal of pertinent information with respect to school records of those youth;

(2) in planning and carrying out programs there has been and will be appropriate coordination with State employment and training programs, and programs administered under section 303 of the Comprehensive Employment and Training Act of 1973;

(3) the programs will be administered and carried out in a manner consistent with the basic objectives of part A of this title; and

(4) payments will be used for programs at the secondary school level which are designed to improve the basic and employment skills of youth in institutions for neglected or delinquent youth or in adult correctional in-

stitutions (and which, to the extent feasible, include alternative education programs), and these programs shall be designed to support educational services supplemental to the basic education of those youth that must be provided by the State, and shall be administered and carried out in a manner consistent with part A of this title.

(b) Bypass Provision.—If the Secretary determines that a State is unable or unwilling to conduct educational programs for migratory youth of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such youth, the Secretary may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose the Secretary may use all or part of the total grants available for any such State under this section.

Subpart 2—State Supplemental Programs

ELIGIBILITY AND AMOUNT

Sec. 231. (a) Eligibility.—(1) A State educational agency, upon its application for a fiscal year, shall be eligible for a grant under this subpart for each of the three fiscal years for which the application (or any amendment thereto) is made to establish or improve programs designed to develop the basic and employment skills of disadvantaged students in schools which meet the requirements of section 212(a) but are within local educational agencies which do not receive assistance under part A of this title. Funds received by a State educational agency under this subpart shall be made available to such schools through local educational agencies which have submitted applications therefor to the State educational agency in such form and at such time as such agency may require.

(2) For purposes of this subpart, an area vocational school that is not part of any local educational agency within a State and that serves youth from among ages eleven through twenty-one shall be treated as a local educational agency.

(b) Amount of Grant.—(1) For each State eligible to receive a grant under this subpart for any fiscal year, the Secretary shall determine the product of—

(A) the number of youth in the State who are counted in accordance with section 211(a)(2); and

(B) 40 percent of the amount determined under paragraph (2).

(2) The amount referred to in paragraph (1)(B) is the average per pupil expenditure in the State, except that (A) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, the multiplier shall be 80 percent of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, the multiplier shall be 120 percent of the average per pupil expenditure in the United States.

(3) The amount of the grant which shall be made available to a State under this subpart for any fiscal year shall be an amount which bears the same ratio to the total funds available for this subpart under section 203(2) as the product determined under paragraph (1) for that State for that fiscal year bears to the sum of the products for all States that are eligible for a grant under this subpart for that fiscal year.

PROGRAM REQUIREMENTS

Sec. 232. The Secretary may approve an application submitted under section 231 (or any amendments thereto) only if the Secretary determines that—

(1) payments will be used for planning and implementing programs that are designed to improve the basic and employment skills of disadvantaged students and that, to the extent feasible, include alternative education programs;

(2) programs will be conducted at schools which meet the requirements of section 212(a) but are within local educational agencies which do not receive assistance under part A of this title;

(3) the State will administer the programs under this subpart in a manner consistent with part A, including the requirement that not less than 25 percent of each grant shall be used for programs of vocational education in designated schools, and the requirements of section 219 to the extent consistent with the number of youth in the attendance areas of the designated schools who are enrolled in private elementary and secondary schools;

(4) the State will consult with appropriate advisory councils established at the State level pursuant to Federal education laws (such as the Vocational Education Act of 1963) and pursuant to the Comprehensive Employment and Training Act in formulating plans and administering programs under this part; and

(5) the State has established an equitable method for determining the eligibility for and amount of grants to be made to local educational agencies under this part.

Part C—General Provisions

COORDINATION, TECHNICAL ASSISTANCE, DISSEMINATION OF INFORMATION, AND MONITORING

Sec. 251. (a) Coordination.—Each State educational agency shall carry out a comprehensive program to coordinate activities assisted under this title with employment and training activities and other relevant activities conducted in the State, and to provide technical assistance upon request to local educational agencies and State agencies which request such assistance with respect to the use of funds received under this title.

(b) Technical Assistance.—The comprehensive program required by subsection (a) shall include technical assistance for management procedures, for planning, development, implementation, and evaluation of school programs, and for preparation of applications.

(c) Dissemination of Information.—Each State educational agency shall also adopt procedures for disseminating to local educational agencies and State agencies (1) significant and relevant information derived from educational research, (2) information about successful education projects designed to improve basic and employment skills, and (3) such other information as will assist local educational agencies and State agencies in planning, developing, implementing, and evaluating programs assisted under this title, including information on occupational demand and supply for labor areas provided by the State occupational information coordinating councils established under section 161 of the Vocational Education Act of 1963.

(d) Monitoring, Enforcement, and Complaint Resolution.—(1) Each State educational agency shall, in accordance with its plan under section 171 of the Elementary and Secondary Education Act of 1965 (together with any amendments submitted for purposes making such plan applicable to funds provided under this title of this Act) and in accordance with the requirements of section 172 of such Act (read as if such section referred to payments under this title of this Act), monitor compliance by local educational agencies with the provisions of this title and shall enforce the compliance of local educational agencies with the requirements of section 215(d), including the adequacy of the evaluations conducted under section 215(d)(2). In conducting the monitoring required by this paragraph and in enforcing the requirements of this title with respect to funds provided under this title, the State educational agency shall, insofar as practicable, conduct such monitoring in coordination with monitoring and enforcement activities under title I of the Elementary and Secondary Education Act of 1965.

(2)(A) With respect to monitoring compliance, resolving complaints, and conducting other enforcement activity with respect to funds provided under this title, each State educational agency shall have the same authority and responsibility with respect to local educational agencies and such funds as is provided by sections 167, 168, 169, and 170 of the Elementary and Secondary Education Act of 1965 with respect to such agencies and funds provided under title I of such Act.

(B) Each local educational agency which receives funds under this title shall, in accordance with its written procedures under section 128 of the Elementary and Secondary Education Act of 1965, resolve complaints received from the school site council required under section 215(a), advisory councils listed in section 217(a), parents, teachers, or other concerned organizations or individuals, concerning violations of this title or of applicable provisions of the General Education Provisions Act in connection with programs under this title.

(C) The Secretary of Education shall, in accordance with the written procedures under section 184 of the Elementary and Secondary Education Act of 1965, resolve appeals from final resolutions of State Educational agencies, and resolve complaints received directly from the schoolsite council established under this title, advisory councils listed in section 217(a), parents, teachers, or other concerned organizations or individuals, concerning violations of this title or of applicable provisions of the General Education Provisions Act in connection with programs under this title, and conduct independent onsite investigations of complaints if the Secretary deems necessary.

(3) In any case in which funds are withheld from a local educational agency under the authority of paragraph (2)(A), the State educational agency is authorized to enter into arrangements with alternative providers of educational services to carry out the purposes of this title with the funds so withheld.

(4) In any case in which the Secretary receives an allegation, supported by substantial evidence, that a local educational agency is failing to carry out its responsibilities under section 215(d), the Secretary shall take appropriate enforcement action in manner consistent with the provisions of part E of the General Education Provisions Act, except that the Secretary may refer the allegation to the State educational agency for a period not to exceed one hundred and twenty days for resolution pursuant to its authority under this subsection.

PAYMENTS FOR STATE ADMINISTRATION

Sec. 252. From the amounts allocated to States under this title, the Secretary is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this title, except that the total of those payments in any fiscal year shall not exceed the amount made available for purposes of this section in accordance with section 203(3). In any case in which the State educational agency is not also the State board for vocational education, the State educational agency shall make available to such board in each fiscal year at least 25 percent of funds paid to such agency under this section.

ADMINISTRATIVE PROVISION

Sec. 253. (a) Data and Reporting System.—The Secretary of Labor and the Secretary shall develop a common data and reporting system for the activities assisted under this title and under part A of title IV of the Comprehensive Employment and Training Act, and shall make full use of the National Occupational Information Coordinating

Committee established under section 161 of the Vocational Education Act of 1963 in achieving this objective.

(b) Review of Census Data.—The Secretary shall, as soon as may be practicable, obtain from the Bureau of the Census data from the 1980 decennial census on the number of students aged eleven through seventeen who would be counted under sections 211(a)(2) and 221(b)(3) of this title. After reviewing such data, the Secretary shall submit to the Congress as soon as practicable an analysis of the effect of using students of such ages, rather than students aged five through seventeen, as the basis for allocating funds under this title.

PROGRAM DEVELOPMENT

Sec. 254. In order to further the purposes of this title, from funds made available to carry out this section the Secretary may make grants to State and local educational agencies, and other public and nonprofit private agencies, organizations, and institutions, including prime sponsors, to carry out development and demonstration activities the purposes of which may include linking prime sponsors and schools, training teachers, and administrators to work with youth served by this title, and encouraging local educational agencies to establish alternative school arrangements and inschool programs.

PROGRAMS IN THE TERRITORIES AND SCHOOLS OPERATED BY THE BUREAU OF INDIAN AFFAIRS

Sec. 255. From funds made available to carry out this section the Secretary shall make payments to—

(1) local educational agencies in Guam, American Samoa the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands for the purpose of assisting programs designed to improve the basic and employment skills of disadvantaged students; and

(2) the Secretary of the Interior for the purpose of arranging the provision of services designed to improve the basic and employment skills of disadvantaged Indian youth.

The Secretary shall make payments under this section in amounts that are consistent with the respective needs of the recipients and according to terms that the Secretary determines will best carry out the purposes of this title.

DEFINITIONS

Sec. 256. Except as otherwise provided, for purposes of this title:

(1)(A) The terms "average daily attendance", "average per pupil expenditure", "county", "local educational agency", "parent", and State educational agency" have the meanings given in section 198 of the Elementary and Secondary Education Act of 1965.

(B) The terms "area vocational school" and "vocational education" have the meanings given in section 195 of the Vocational Education Act of 1963.

(2) The term "alternative education programs" means those education programs that—

(A) use subject matter, teaching methodology, or any combination thereof, which is not generally offered to students of the same age or grade level in traditional school settings;

(B) offer a range of educational options, including those programs of demonstrated effectiveness operated by community-based organizations (as defined in section 3(4) of the Comprehensive Employment and Training Act);

(C) include the student in the process of planning the educational program to be offered; and

(D) employ methods and materials that (i) facilitate attainment of academic, vocational, and social skills and (ii) are relevant to the educational needs and interests of the student.

(3) The term "basic skills" means the skills of reading, mathematics, and effective communication, both written and oral,

(4) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance, and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under this title or under title I or part B or C of title IV of the Elementary and Secondary Education Act of 1965.

(5) The term "designated school" means any school meeting the requirements contained in section 212(a).

(6) The term "employment skills" means—

(A) those skills directly related to the preparation of an individual for paid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree;

(B) skills that aid individuals in making career decisions;

(C) those qualities that are not occupation-specific that enable a person to secure and retain a job, such as the ability to complete a job application, to appreciate the importance of punctuality and job responsibility, and to respond constructively to supervision.

(7) The term "prime sponsor" means any agency, organization, unit of government or other entity designated in accordance with section 101 of the Comprehensive Employment and Training Act of 1973.

(8) The term "Secretary" means the Secretary of Education.

(9) The term "State board for vocational education" means the agency designated in accordance with section 104 of the Vocational Education Act.

(10) The term "State" means any of the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

TECHNICAL AMENDMENTS OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Chairman, I offer technical amendments in order to make technical corrections in the bill.

The Clerk read as follows:

Technical amendments offered by Mr. Perkins: On page 54, line 11 insert the word "plan" in lieu of the word "application";

On page 54, line 13 insert the word "plan" in lieu of the word application";

On page 54, line 16 insert the word "plan" in lieu of the word "application";

On page 54, line 19 insert the word "plan" in lieu of the word "application";

On page 54, line 21 insert the word "plan" in lieu of the word "application";

On page 54, line 24 insert the word "plan" in lieu of the word "application";

On page 55, line 2 insert the word "part" in lieu of the word "title";

On page 55, line 13 insert the word "plan" in lieu of the word "application";

On page 55, line 18 insert the word "plan" in lieu of the word "application";

On page 56, line 15 insert the words "a plan" in lieu of the words "an application";

On page 56, line 17 insert the word "plan" in lieu of the word "application";

On page 72, beginning on line 3 insert the word "plan" in lieu of the word "application";

On page 72, beginning on line 7 insert the word "plan" in lieu of the word "appplication"; and

On page 72, line 9 insert the word "plan" in lieu of the word "application."

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that the technical amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. PERKINS. Mr. Chairman, the present bill states that school districts and area vocational schools must submit applications to States for vocational educational portions of their programs. That provision should read, "plan" instead of "application," and these amendments would make that correction.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Kentucky (Mr. Perkins).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goodling: Page 46, line 10, strike out "and"; on line 14, strike out the period and insert in lieu thereof "; and"; and after line 14 insert the following new paragraph:

(4) to provide alternative and worksite education programs for students living in areas with high concentrations of poor or low-achieving students.

Page 47, line 12, strike out "and" and immediately after such line insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

(6) 3 percent shall be made available to carry out subpart 3 of part B; and

Page 87, immediately after line 12, insert the following new subpart:

Subpart 3—Alternative and Worksite Education Programs

ELIGIBILITY

Sec. 241. From funds made available under this subpart, a State educational agency shall make grants to community-based organizations and to local educational agencies for the purpose of conducting programs providing alternative and worksite education which meet the requirements of section 242. In making such grants such agency shall give preference to community-based nonprofit organizations which apply and which are located within areas served by local educational agencies eligible for assistance under part A of this title.

PROGRAM REQUIREMENTS

Sec. 242. An organization desiring to receive a grant under this subpart shall submit to the State education agency an application which shall provide assurances that each program funded under this subpart will—

(1) serve students in grades seven through twelve;

(2) increase students' academic achievement and placement in full-time employment and postsecondary training or education;

(3) encourage direct relationships between the program and local employers to implement job sampling, job training, and bridge jobs for its students;

(4) provide for students served by the program a minimum of eight hours and a maximum of twenty hours of worksite training or employment per week;

(5) provide intensive academic and occupational counseling to each student served by the program, and assign overall responsibility to each enrolled student to one of the instructors employed by the program;

(6) operate classroom and worksite education programs twelve months per year;

(7) be staffed with not less than one adult paid employee or volunteer for each fifteen students served;

(8) enroll students on a voluntary basis, and not accept compulsory student referrals from public schools or criminal justice agencies;

(9) inform the local educational agency

of the area served of the alternative education programs being provided; and

(10) develop and implement new and innovative approaches to expand outreach in order to effectively meet the needs of the target groups of students.

ALLOCATION OF FUNDS

SEC. 243. From the funds available for purposes of this subpart, the Secretary shall allocate to each State an amount which bears the same ratio to the amount so available as such State's allocation under part A of this title bears to the sum of such allocations.

Page 95, immediately after line 3, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(4) The term "bridge job" means a job leading to career employment following successful completion of related academic and vocational training.

Page 96, immediately atfer line 18, insert the following new paragraph:

(11) The term "worksite education" means the progressive development of skills associated with a defined set of work processes to be covered sequentially in the course of employment in an occupation, trade, or industry and which is upgrading in nature, integrated with and supplemented by classroom instruction and consistent with a career pattern of advancement.

Mr. GOODLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GOODLING. Mr. Chairman, I rise to offer an amendment for the gentlewoman from New York (Mrs. CHISHOLM) to provide 3-percent set-aside of funds under title II of H.R. 6711 for alternative education programs. The question was raised by the gentlewoman when this bill was before the Rules Committee as to whether there existed sufficient emphasis on alternative education programs.

At that time, I pointed out to the gentlewoman that H.R. 6711, contained many provisions for alternative education programs.

For example, under the school plan in section 213, the contents of the plan must describe "the methods by which the school, by itself, or together with other organizations, will seek to attract to a school or an alternative education program those youth aged 16–21 * * *." Additionally, the authorized activities which are enumerated in section 215(e) include a specific reference to "alternative education programs to carry out activities" under this title. Finally, and perhaps most important, is the joint agreement which directs both the local educational agency and the prime sponsor to use set-aside funds from both titles to meet the needs of youth. Those needs definitely include the need for alternative education. And there are some very effective alternative programs in operation now, especially in the larger urban areas.

As a former school administrator, I am chiefly concerned that we do not establish programs for alternative education that compete with the programs currently in operation by the local public schools. I believe there may be some cases where students are unable to learn in the traditional classroom setting, and an alternative education program may provide some relief to them in acquiring the basic skills needed to live normal and productive lives. For that reason, I support the amendment offered for the gentlewoman of New York, in acknowledgement of very unusual and exceptional needs that some students may have that may not be met by the traditional public school system. In no way am I supporting an erosion of the traditional system of education upon which this country has achieved its greatness.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the committee chairman.

Mr. PERKINS. Mr. Chairman, the gentlewoman from New York (Mrs. CHISHOLM) has been very persistent on this approach for a long period of time, and since it affects a limited amount of funds and since it will lead to better programs serving youth who might not be reached in the regular school programs, I feel that we should accept this amendment.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the subcommittee chairman.

Mr. HAWKINS. Mr. Chairman, there is one point about the amendment, it seems to me, that should be clarified.

As I understand the amendment, it sets a specific percentage amount that is to be used for alternative education purposes. Is this amount in addition to what is otherwise done under the act?

Mr. GOODLING. Mr. Chairman, the gentleman is correct, it is in addition.

Mr. HAWKINS. So that it is an additional amount over and above what is otherwise provided for alternative education under the act?

Mr. GOODLING. That is correct.

Mr. HAWKINS. Mr. Chairman, I agree, then, with the chairman of the committee.

Mr. GOODLING. Mr. Chairman, there are many different places in the bill where we talk about alternative education, and we give them every opportunity to use alternative education since certainly there have been some very effective alternative programs in operation now, particularly in the larger urban areas.

As a former school administrator, my major concern is to make sure that we do not establish programs for alternative education if we are already doing well in that area with our regular program. I am not in any way trying to erode what I consider to be a very effective and important program, public education, in this country—a system that has worked very well. I am merely saying that there are many youngsters who are being reached presently by alternative education programs and we should not forget them at this time.

Mr. Chairman, I yield at this time to my extremely able colleague, the gentlewoman from New York (Mrs. CHISHOLM), to further explain this amendment.

Mrs. CHISHOLM. Mr. Chairman, I thank the gentleman very much for yielding.

Mr. Chairman, I am happy to join my colleague and good friend, Mr. GOODLING, in offering this amendment to title II of the Youth Act.

This modest amendment merely insures that qualified nonprofit community-based organizations which offer alternative education programs can participate in the bill's stated goal of preparing disadvantaged youths for meaningful productive lives.

As my colleagues may be aware, I have had serious reservations about title II's focus on local educational agencies. While many schools have made commendable progress in reaching and teaching problem youth, many others are unable or unwilling to make the extra necessary effort. A 45-percent dropout rate from New York City's public schools is shocking evidence of the failure, for thousands of teenagers, of traditional teaching methods. How many more thousands of unskilled, unmotivated, youths can we permit to spill onto our cities' streets before we act to reverse the flow?

The success of CBO alternative education programs in meeting the educational and vocational needs of certain young people is well-documented. Urban league street academies, OIC career intern programs, and many many others have proven their effectiveness. H.R. 6711's many references to CBO's and alternative education indicates that our Education and Labor Committee recognizes the significant role nontraditional schooling can play.

The bill's references may not, however, be translated into funded programs on the local level unless we mandate, by this amendment, that at least 3 percent of the allocated funds be specifically set aside for these programs. Given a historic ignorance, suspicion or even hostility felt by public school administrators toward this kind of competition, I feel it is imperative that we not leave the decision to fund alternative education programs solely in the hands of local superintendents and principals.

In addition, existing CBO programs usually have had lower per-pupil expenditures than nearby public schools. Any Federal funds we direct to these programs would not only be likely to produce successful students but would also be very cost effective.

Mr. Chairman, this is not an anti-public-school amendment. The bulk of the bill's funds will still go to the local public schools making a new attempt to teach disaffected youths. It is, Mr. Chairman, a pro-youth amendment that expands education options for today's and tomorrow's dropouts.

I commend my colleague, Mr. GOODLING, for offering the amendment, and I strongly urge its adoption.

☐ 1700

Mr. GOODLING. And may I say that it is only, also, a beginning. Title II attempts to tackle the problem that we have been dealing with for a long time, but the problem up to now has been treated by so many different groups going their own way. Finally, in title II we have a golden opportunity now to force all of these people to plan together and to show us exactly how they are going to do something about unemployed youth. And if they fail, they do not get funded the second year.

It is the first golden opportunity we have had in this House to force all people, working toward the betterment of young people, to work together. If they do not work together, they do not get funds. The beauty of this bill also is the School Site Council, which is made up of many different people representing all of the people in that particular community. And they have a great deal to say about the direction we should go in order to do better and to correct areas where we have failed in the past—and that is to provide all of the necessary tools for young people to be able to go out into the world and to get that job. Many jobs go begging today because of educationally disadvantaged youth, not only youth who do not have certain skills for that particular job.

So we finally have in title II an opportunity to make everyone work together to plan so that they can tackle this problem of unemployed youth.

(By unanimous consent, Mr. Goodling was allowed to proceed for 1 additional minute.)

Mr. GOODLING. Mr. Chairman, I yield to my colleague, the gentleman from Vermont (Mr. Jeffords).

Mr. JEFFORDS. Mr. Chairman, first, I just want to commend the gentlewoman from New York (Mrs. Chisholm). I know that the testimony she gave before our commitee was extremely helpful, as was the bill which she presented in helping us to design our own legislation. I do recognize that New York City has special problems, problems which make it inviting to ask for more and more Federal assistance in the alternative school area. I would only like to say that in my travels around the country, there are also many school systems which have not faltered or come as close to failing, as in New York City. I think that title II can be helpful to bringing schools such as these in New York up to par by requiring those schools to work together with the alternative education programs in their area. By learning from alternative education programs we can have better school systems which will make the expenditure of Federal funds less necessary.

I am very much in favor of title II. I think this amendment is an improvement. It gives more emphasis, as the gentlewoman would like, to special assistance to those areas with critical problems.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Goodling).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Miller of California: Page 45, beginning on line 1, strike out all of title II through line 18 on page 96, redesignate title III as title II.

Page 16, line 18, strike out "section 302" and insert in lieu thereof "section 202".

Page 17, strike out line 13 and everything that follows through line 19.

Page 36, lines 15 and 18, strike out "section 301" and insert in lieu thereof "section 201".

Page 96, strike out line 21 and everything that follows through line 15 on page 98 and insert in lieu thereof the following:

Sec. 201. There are authorized to be appropriated such sums as may be necessary to carry out part A of title IV of the Comprehensive Employment and Training Act for fiscal year 1981 and each of the four succeeding fiscal years.

Page 98, line 17, redesignate section 302 as section 202, and on line 22 strike out "and section 220 of this Act".

Page 99, line 9, redesignate section 303 as section 203, and beginning on line 11 strike out "section 301(a)(1) of this Act" and insert in lieu thereof "section 201 of this Act for fiscal year 1981".

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, it is with a great deal of personal difficulty that I take the well today to oppose title II of this legislation.

In the past 6 years that I have been in the Congress and have been a member of the Education and Labor Committee I have tried to do all that I can for young people in this country by way of my own legislation and in supporting the legislation of the chairman of the committee and others to help young people in this country with their educational goals, achievements, and to help young children in many other ways. And today I find that I have put all of those credentials on the line because, as a liberal Member of Congress, I am going to ask this Congress to strike title II of this legislation which is being held out as a unique opportunity, as a golden opportunity, as a means of dealing with unemployed youth on the educational side of the issue for the first time ever.

I will submit to this Congress that that is not in fact the case. It is with a great deal of difficulty that I find myself opposing the committee on which I sat over these years. But I think the question to be asked and the answer is far more serious than my standing with members of my own committee or my credentials as a liberal or my credentials as someone who is interested in young people in this country, because to me the question is one of the integrity, first of all, of this body, on whether or not we are prepared to deliver what we promise. The same goes for the Administration of this country, whether or not they are prepared to deliver what they promise. And, finally, our obligation to the poor, to the young, to the unemployed of this country, our obligation not to lie to them, not to suggest that we are about to engage in a bold new initiative to spend a billion dollars or in fact really 2 billion dollars of new moneys to address the problems of youth unemployment in this country.

I want to challenge that. I want to challenge that in the most serious manner that I have ever challenged a program on the floor of this Congress because I have sat here for 6 years and, as I have said earlier, many Members have said time and again here on the floor of the Congress and to their constituents in the town hall meetings, in the Rotary Clubs, in the Kiwanis Clubs, and the chambers of commerce that, you know, you cannot solve problems by just throwing money at them. And then they have said to other groups, "What you cannot do is that the Federal Government in this country cannot continue to overpromise and underdeliver."

I suggest to the Members that this legislation in title II does exactly that. It holds out the idea that we are going to make dramatic changes in how we teach basic skills in this country. It holds out the idea that there is going to be a dramatic new effort to teach vocational skills in this country within our schools. But it does not do that. The basic skills will get those moneys which are left over because the more powerful lobby, the vocational education groups, came in and creamed 25 percent of the money right off the top. They came and took that money to do what? To do exactly what they are doing today. But, mind you, they are impatient to do exactly what they are doing today because their reauthorization does not come up until next year, which is 3 or 4 months away.

We are starting oversight hearings on this portion, on the reauthorization of vocational education, next month. But they cannot wait. So come in and cream the money out of this legislation and come back next year and get some more.

I do not think that is how you write legislation. It is very clear that there is a consensus among the special interests, among the interest groups of this legislation, because they all have their finger in the pie, they all have their finger in the pie for a little something. And while they come around and say, "We agree with you on the merits, this is the only new money."

The only new money to do what? To help unemployed youth in this country to get a job, to acquire basic skills? Or to get the Federal Government to pay half of another teacher's salary? I thought the commitment was to help the unemployed youth of this country.

Now, we had hearings, we had hearings for months on this problem, and what we kept hearing was that if we could bring the basic skills program, title I, which has been our most effective effort in teaching basic skills in this country, if we could bring that program up to the junior high level, stay with these kids, keep these skills going, that that would be very helpful. And that is what the Secretary of Education asked us to do.

☐ 1710

The CHAIRMAN. The time of the gentleman from California (Mr. Miller) has expired.

(By unanimous consent, Mr. Miller of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, then if we could bring down some of the job training, some of the employability skills, filling out résumés, going through job interviews, mock job interviews, if we could bring that down from the high school to the junior high level, we would help some of these young people.

Why do we come together at the junior high level? Because testimony was given to us time and again that this is where young people in this country make a decision whether or not to continue their education or to drop out. So let us deal with it there so we do not have to deal with the dropout years later. It makes sense to me. It made sense to most of the experts and to the committee. But that is not what the legislation does.

The legislation goes off in the other direction to treat the older population, people who have already completed high school rather than trying to provide a little bit of preventive care with the junior high school level. So I think it fails in that regard.

The next set of testimony we heard was, if you want to do something about youth unemployment with the hard core youth who may be unemployed for the rest of their life, if you want to do something about that, you are going to have to put considerable resources on the scope of the Job Corps, which puts almost $2,000 per individual behind it as a residential program. But if you are not prepared to make that commitment of concentrated resources on the individual, we will fail just as we have failed in the past. That is what the Congressional Budget Office told us. It made sense to me. It made sense to the experts. It made sense to the committee. That is not what this legislation does.

In effect, it takes the money and spreads it schoolwide, schoolwide projects, rather than targeting on the individual youth. Then we heard from the Vice President's task force and a lot of other independent studies that the reason these people cannot get jobs is not so much the question of whether they can do that particular job, but they simply do not have the basic skills to compute, to write, to read, in the manner in which an employer would like those individuals to have. And in fact, if they had those skills, the many employers today would prefer to train those individuals themselves rather than relying on the vocational education programs. But the youngsters do not have those basic skills.

Yet, this legislation says in this bold new initiative, we will provide those skills provided there is money left over. I do not think that is how one addresses a golden opportunity to deal with the crying-out problem of young people who cannot read or write.

Finally, let me say this: The Members have received the "Dear Colleague" letter from me, which has tried to outline the duplicative nature of this legislation where it sets out the goals of this legislation and then points out that if you are concerned about basic skills, there are at least two sections of title I that deal with that; if you are concerned about vocational education, there are six sections in the existing law that deal with that and cooperative agreements, which I will address later; there are at least two sections in existing law that do that.

The fact is this legislation really creates nothing new, but hopefully it will purchase some political good will for this Congress and for this President. But I do not think that ought to be the basis on which we pass this legislation.

We had a panel come before the committee in the hearings called High Schools that Succeed or Successful High Schools. Then we had a panel of people who run successful vocational education programs.

At the end of their discussion about what made a successful vocational educational program and job training program, the cooperation of the gentleman from Atlanta, Ga., testified how he got the labor unions, how he got the business community and the educational community, the CETA people, all together to create training and jobs and job opportunities.

Other people talked about how they worked with CETA and the educational programs. What they were telling that committee as they were saying we want you to pass this bill; what they were telling that committee was that they can do everything that they want to under existing law, that this bill really gives them nothing more than money; but it does something else. It creates additional administrative burdens.

I suspect that is why the school boards association opposes it and the school principals oppose it, because they see there is no new program. They are simply setting up dual administration. For a Congress that talks about reducing paperwork and cutting redtape that is a very strange way to address that problem.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has again expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 5 additional minutes.)

Mr. MILLER of California. The point is this, that it is suggested that for the first time it was said here, and the Vice President says it in his letter, that for the first time education and labor and CETA and these programs are going to work together.

This is existing law. They are doing that today, not as extensively as I would like, and not as extensively as the gentleman from Vermont (Mr. JEFFORDS) would like, who has been pushing them to work together; but they are in fact doing it. This legislation really does not broaden that at all.

I think it is very important that this body keep these points in mind. This body understands the problem which we have, because I think it is very clear. If one reads over the committee report, one reads existing law, and one will find that in fact one is playing with smoke and mirrors instead of politics because one is creating the illusion. I do not think that is what we want to do.

It is very clear that for the foreseeable future somewhere between 2 and 4 million youth will carry the brunt of our problem of unemployment in this country, and that we cannot let these lives be wasted or their dignity be diminished by the deregulation of long-term unemployment or underemployment.

This country and this Congress must make every effort to expand employment opportunities for these young people, but these efforts must be real. The efforts we make must provide real hope. The efforts we make must provide real solutions. I am sorry to say that section 2 of this legislation does not address the solutions for such a grievous problem. Rather, it creates the illusion of solutions when there are none; and it creates the illusion of a new initiative, but there are none. It creates the illusion of an expression of concern by this Congress, but there is none. This Congress cannot in good faith tell the poor and the unemployed youth of this country that we are truly concerned about their plight if this is the solution we offer them.

To pass this legislation is to repeat the failures of the past and to continue the cruel hoax of raising poor people's hopes and aspirations and then to provide none.

If this Congress passes title II of this legislation, we are engaging in a shell game, a shell game, because this is the same Congress that just a few weeks ago, with the consent of the administration, cut $100 million from identical programs to help these same unemployed youth, a shell game because this is the same administration, that is offering this title II as a solution, has recommended cuts in excess of $340 million in these identical programs that are to help these unemployed youth, $340 million from the programs that are to be the basic foundation of this highly publicized new initiative for unemployed youth.

This legislation is presented to the Congress as a proposal to attack the twin causes of youth unemployment, the lack of basic skills and the lack of job skills. And yet, the administration has recommended to this Congress and that Congress is in fact considering budget cuts in excess of $340 million in these exact programs.

We cannot in good conscience tell the poor youth of this country that we cut drastically programs today to help them, but yet offer them future expectations that will never be funded to the tune of $2 billion.

Unlike Steve Stone, this legislation is all windup and no delivery. Title II, after great fanfare, does nothing more than provide an empty promise of adequate funding for the problems of unemployed youth. This program was announced as a billion-dollar effort, but let us look at the facts regarding the funding of title II. In order for title II to be funded, we have got to raise in excess, to meet that goal, of a billion new dollars, 1 billion new dollars.

□ 1720

Now, who in this House can look into the face of a poor and an unemployed youth and tell that person that this Congress will appropriate 2 billion new dollars? Who in this House is willing to raise once again the expectations of people that the Government is going to meet their needs and then take the responsibility for the anger of those people when those needs are not met?

We must be willing to take the responsibility, because there is not a single person in this House who really believes that we will appropriate 2 billion new dollars next year and if we go ahead and vote title II with that knowledge, we are playing a very terrible trick on the poor of this country.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. Mr. Chairman, during the 6 years that I have been in Congress, I along with many other people have very consistently attacked the Defense Department budget. When we thought there was waste, when we thought there was mismanagement, when we thought that a particular airplane or a tank could not meet the mission, we attacked it and sought to delete it.

Now, for many of us we find out that the reverse is true. We have a program on our own committee, we have a program that stands for everything I believe in, but it will not do the mission.

I think the test of this Congress is whether or not many of us who have leveled that criticism at other Departments are going to be prepared to back up that criticism when it falls into our own backyard.

It is not enough just to simply find waste or mismanagement or poor design in one part of the budget, but never to look at your own part of the budget where your efforts are concentrated.

I can remember when the gentlewoman from New York, Ms. ELIZABETH HOLTZMAN, raised the issue of the summer feeding program. Liberals scampered all over, people involved in nutrition, and said, "How can she raise these issues? Doesn't she know this is a program that we need?"

The fact of the matter is it was filled with fraud, misuse and mismanagement.

I think we have got to become that kind of critic in this Congress when dollars are so hard to come by. As a liberal Member of this Congress, I do not want to be dedicated to decades of deficits, not at all. I want to be able to go home to my district, to other districts, and to explain every dollar I voted for; but this $50 million in title II at the beginning is $50 million you cannot explain, because it buys nothing other than a little bit of silence by the educational constituency of this country. It does not buy a solution to the problems of unemployed youth.

So I would hope we would take this challenge in the manner in which it is met in title II. I would hope that the Congress would join me in voting against it, because I do not see how we can expect to keep the faith of the minority community, the poor community, if once again we throw up a great deal of fanfare about what we would like to do, but then we do not come back and fund it. There is no realistic belief that this program, even if it was designed as I would like it to be designed, is going to be funded; so I think we ought to concentrate on our efforts on putting more money into title I. We are going to reauthorize vocational education just a few months from now. Let us make our effort there on the ongoing exemplary programs with the greatest rate of return to both the unemployed and to the taxpayer.

I would hope I could have the support of all Members to strike title II.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from California very forcefully stated his case, but if a youngster, if a teenager or a youth cannot read and write, what are we going to do about it? That is what this education title is all about. When I was in high school, I went to a settlement school. We were compelled to take courses in masonry, mechanical drawing, carpentry, all those things, go out on the job on Saturdays and spend at least 1 hour a day. At that time, the youngsters, the teenagers, could go to the mining communities and get jobs. Some of those people are the best carpenters today all over the country; but without that education, they could not have read blueprints in the first and second year of high school, which we were taught. If we just disregard the education aspects of this title, we are going to leave these youth in the cities, the urban areas of this country and the rural areas, without any capability of doing a job and they will never be employed.

Now, surveys of employers have verified that educational deficiencies are a major factor contributing to youth unemployment. I do not think any of us would deny that. Even in areas where good jobs are available, the lack of basic educational competencies prevent youth from obtaining them.

Then again, the gentleman from California referred to title I of the Elementary and Secondary Education Act. Even if we appropriated an additional $2 or $3 billion more than we are appropriating today for title I, in all likelihood it would still be spent in the elementary grades. It would never reach this type of youth that we are talking about here in junior high school and in senior high school.

In my judgment, the Carnegie Council on Policy Studies in Higher Education and other distinguished groups have estimated that perhaps as many as 20 percent of high school graduates are deficient in the basic skills.

What is wrong in requiring the schools to do this? It is voluntary on the part of the secondary schools, altogether voluntary. It they want to participate and get this money, they must coordinate and work with the prime sponsors, with all the other groups, to do something about basic education.

I think we would be derelict in our responsibility if we did not have this educational title to require the teaching of the basics. Any youngster should know how to read and write. He should know something about calculations. This is what we are doing and that is all we are doing.

Unless we authorize funds for school-based programs, we cannot bring about true coordination between the education and the CETA systems.

Under the committee bill, an equal partnership is forged by requiring both the schools and the prime sponsors to set aside portions of their funds for joint agreements. Unless the schools have a financial stake in this agreement, we will not be able to foster coordination and avoid duplication to the maximum extent.

Now, I believe the schools in the distressed sections of the cities, in the low income sections, all of them will participate. If we do not have school leadership interested enough to help educate the young, the teenagers that cannot read or write, and help them in mathematics, those principals should get out of the school system.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

(By unanimous consent, Mr. PERKINS was allowed to proceed for 3 additional minutes.)

Mr. PERKINS. Mr. Chairman, I would think that the majority of educators over this Nation wholeheartedly support the educational title in this bill, because it fits in with the labor title. If we are going to do something about the unemployed youth, we have got to have them educated in the basics. There is no other way to get around it.

Mr. Chairman, the existing educational programs do not adequately address the problem of youth unemployment. Most of the Federal education funds are targeted to elementary or post-secondary students, with only 12 percent going to secondary school students.

☐ 1730

I personally feel, and I think the majority of the Members of this House feel that 22-percent set-aside in title II of the youth bill, to be used for joint agreements, gives real teeth to the possibilities of CETA education cooperation. There is no pot of money in any education program now existing that would be comparable to the 22-percent set-aside in title II of H.R. 6711.

If we have school districts that do not want to participate in this program there is nothing in the bill that compels them to participate. All we are saying is, if you want to cooperate with CETA programs, with prime sponsors and labor and with all other groups in your community, we want you to get together, work some of these educational problems out to improve youth employment, and work up a plan. I would think that all of the members of this committee should vote against the Miller amendment to strike title II. If we do not do something for the youth that cannot read and write, why are we here with this bill?

The only way to do it is through an educational title. I would ask all of my colleagues to vote against the gentleman's amendment.

Mr. GOODLING. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, we just heard an eloquent and emotional 18-minute presentation from my colleague from California which was very well presented. There is only one problem. He was not talking about title II of this bill. He could not be talking about title II of this bill because if he was, most of it was not an accurate statement he was making in relation to title II, which was the same situation relative to the "Dear Colleague" letters we received.

Let me just talk about a few of those

areas and then some general observations.

First of all, 81 percent of all of this money in title II is distributed as we distributed ESEA title I money.

Second, our major target is those young people ages 11 to 17. That is where the major target is. We are taking care in ESEA title I, not adequately, but to some degree, the elementary youngsters, and we are targeting in this title II ages 11 through 17.

After telling us how terrible title II is and what it does not do, we were then told that $50 million does not buy us anything. What $50 million does for the first time is insist that if they want that $50 million they have to plan, they have to show how they are going to do something about unemployed youth, how they are going to do something about youngsters who are having trouble with the three R's. For the first time we are insisting that not just some people in ivory towers make this decision but that the community determine what has gone wrong and what works so that we can, in fact, tackle this problem we are trying to tackle.

I guarantee that $50 million for the first time guarantees us if they are going to spend any money beyond that they are going to have to show exactly how they are going to solve the problems that are facing us in education and in the employment world as far as youth are concerned.

Second, we heard a lot about opposition by school boards about opposition by school principals, and we were told that they are opposed to the bill because of the amount of work involved, paperwork, and so forth. Let me tell my colleagues that is not why they were opposed to it. First of all, they went over it line by line and agreed originally to it.

But then there were two things that bothered them. No. 1, there was not enough money and that is true of everything that comes before us. There is not enough money. I would say there is not enough money. But that is the best that we can do at the present time, and we must work from a starting point.

Second, they oppose it because they do not like the committee report language about the school site council. That language is there because we are trying to force them to hear what the community says has been wrong in the past so they can correct it and so we do not throw more money after bad programs. But, in fact, we then force them to coordinate their efforts. Yes; that is true of vo ed. If they want that money, one penny of this money, they must show in this plan exactly how they are going to make better use than they have ever made before. They, too, must become a part of this plan and show how we are going to deal effectively with the problem.

We have one amendment I think from the gentleman from New York that will probably tighten up that particular area. So I think we have to stop these attempts to amend the bill at the last minute since the gentleman from California did not offer these amendments during the entire proceedings, during the entire time it was in subcommittee, full committee, or while we were continuing this dialog with all of the agencies that work on these issues.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent Mr. Goodling was allowed to proceed for 5 additional minutes.)

Mr. GOODLING. This is a starting point. We are not hoodwinking anyone. We are merely saying they have not done well in the past, statistics show they have not done well in the past, and we are saying that we are spending $15 billion a year on youth crime. Is that not foolish? Why not help these youth become productive in our society and in our system?

We are saying that for the first time, do not go out there in your own little world, whether you are CETA, whether you are vo ed, whether you are the school board, whether you are the principals, whether you are the community officials, but rather sit down and look at the situation, show why we have failed in the past, and come up with what will probably work in the future. Then we will be willing to try to fund a coordinated program and to move that program forward.

There were so many inaccuracies that I do not want to get involved in one by one indicating what they were. I merely point out that this may be our last opportunity to really make a concerted effort to force all people working with young people to work together to tackle the problems that are created when youngsters cannot read and write and when a youngster is not prepared for the jobs that are out there waiting for him, but he does have the skills.

We are trying to force them to work together for the first time, and I think it is a worthwhile effort. If we eliminate title II, forget it. We have done nothing. All we have done is reauthorized some more of the same. We have accomplished nothing.

So we must have the accompaniment of title II in order to make title I a working, worthwhile program.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

I would like to point out that I do not sit on the subcommittee that wrote title II, but I sit on the one that wrote title I. I suppose there might be a feeling that if we knock out title II that more money will be available for title I. But I do not feel like that.

I have spent close to a year or a year and a half traveling around this country visiting one city after another trying to analyze in my own mind what it must be that we must do to help the young people of this country, to stop the dropouts and to help the unemployment problem. Without exception, and totally in contradiction to what the gentleman from California said, the people that are working in this area said that what we have to do is, just as the gentlemen from Pennsylvania and Kentucky were saying is get the people to sit down and find out what is going wrong with our system.

□ 1740

What is going wrong with our school system? What is going right about some of these alternative programs? Let us get them to sit down together. Let us get them to work together, and in divisive programs, they will work. In those areas where that is happening—I can name some: Berkeley out in the gentleman's area, and Baltimore—the city officials have sat down, and they have worked with the school people, and all the programs are working well. They are working well because they understand the problems. They understand that in order for a young person to be employed, he has to have basic skills that the private sector round table No. 2 suggests they have.

We cannot hire people who cannot read or write. It does not make any sense to allow your school programs to go wandering off in high school not facing the basic problems of how young people can get jobs, and to put all the money in an alternative school system and build around it. If you are going to say, To heck with the school system, forget them, sure, strike title II. Let us build a Federal high school program.

I have confidence that our school systems can come back, and that they can learn from those who have been successful, that they can develop a program by working jointly together that will give us the basic skills to make our young people employable, and give our young people a tool, because they can see when they come back to school that they are going to have a job. They will have a job and improve our society. That is what title II will do—work hand in glove with title I. Get all of these people to work together to find the answers to our young people's problems.

I listened to the very impassioned speech of the gentleman from California and many times I agree with him. This time I cannot. It is so totally contradictory to everything I have learned from my traveling around the country and from everything we heard in the committee.

Mr. GOODLING. Mr. Chairman, I would like to summarize, first of all, why I oppose the amendment and why title II is necessary in just four points:

First, as surveys of employers have verified, educational deficiencies are a major factor contributing to youth unemployment;

Second, title I of the bill alone cannot adequately address this lack of educational and employment skills;

Third, unless we authorize funds for school-based programs, we cannot bring about true coordination between the education and the CETA programs;

Fourth, existing educational programs do not adequately address the problem of youth unemployment.

Most of this Federal money at the present time is targeted to elementary or postsecondary students.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Goodling was allowed to proceed for 1 additional minute.)

Mr. GOODLING. Most of it is targeted to the elementary levels, with only about

12 percent going to the secondary level. I again say without title II we will lose that golden opportunity to insure that all people, all agencies, all organizations working to try to promote a better way for youth in this country; we will lose the opportunity to insure that they work together to do just that so that we cannot throw money out and hoodwink people, but that, once and for all we can force them to plan adequately and show us exactly how they are going to succeed.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MILLER of California, and by unanimous consent, Mr. GOODLING was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding. I would just like to say that it is very interesting that we are going to spend $50 million to change the educational fraternity in this country to make them do that which they are supposed to do. Because they are failing, we are going to give them $50 million and they promise to do what the gentleman from Vermont (Mr. JEFFORDS) has said people all over the country told him they were already doing.

Mr. JEFFORDS. If the gentleman will yield, that is not what I said.

Mr. MILLER of California. The gentleman from Vermont told me he heard from people running successful programs in Baltimore and Berkeley, and we heard from the gentleman from Atlanta and up in Paterson, N.J. They are working under existing law combining employers, CETA programs, educational programs. They are doing it under existing law because we have a 22-percent set-aside.

Mr. GOODLING. Mr. Chairman, I would like to claim back my time.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GOODLING was allowed to proceed for 2 additional minutes.)

Mr. GOODLING. First of all, we are not taking $50 million to ask anybody to do anything they are presently supposed to be doing.

Mr. MILLER of California. What are they supposed to be doing?

Mr. GOODLING. What we are saying is we want $50 million spent to insure coordination with those working on youth employment problems and those who normally made the determination as to what is best in the field of education. We are spending $50 million to coordinate the efforts of people, CETA people, alternative programs, all of these people who are working toward the good of young people, but off on their own. We are saying this is a coordinated effort that we are going to put forth. So I would hope, again, that we would not make the mistake at this particular time of doing away with that one opportunity we have, and the only one we have had since I have been here, to change the direction we are going in this battle against youth unemployment. It is our one hope and our only hope.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding. I just want briefly to point out that what I said is 4 out of 16,000 school districts apparently are doing a good job of working in the right direction, but that gives us a little bit of room for improvement.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Alabama.

Mr. BUCHANAN. I thank the gentleman for yielding.

I would like to strongly associate myself with the remarks of the gentleman from Pennsylvania (Mr. GOODLING) and to applaud him and the gentleman from Vermont (Mr. JEFFORDS) for their leadership on this matter. We are seeking to make the most of our most precious resources—our young people. The gentleman is right, and I hope he will be supported by the committee.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I feel sort of like the inveterate gambler who, knowing that the roulette wheel was fixed, kept going back and losing his pay check, and when he was asked why he did it, he said that crooked as it was, it was the only wheel in town.

I say that by way of preface in indicating that very reluctantly I am going to be opposing the amendment of the gentleman from California (Mr. MILLER). Additionally, I must say in doing so that I have a great deal of concern that his projections and his predictions may in fact be very, very accurate.

Although I admire and applaud the work that the Subcommittee on Elementary and Secondary Education has done, and the work of the distinguished chairman and the ranking minority member, the gentleman from Pennsylvania, knowing the past record of the educational establishment, as well as that of the Federal Government, I cannot be as optimistic as they or the subcommittee has been in projecting the tremendous success that is going to follow from the expenditure, hopefully, of something of about $1 billion in title II. I think that we spend nationally at all levels of government probably somewhere in the vicinity of $110 billion in our elementary and secondary and vocational education efforts, and it is very, very difficult to see how an additional billion dollars in expenditures is going to turn that massive establishment around and change the failure rate that currently exists.

In my own community in New York we spend somewhere in excess of $2.5 billion in elementary and secondary education programs, most of it coming from the taxpayers of the city of New York, some significant amount from the State, and some important amount from the Federal Government. Yet the dropout rate that we have in our high schools is in excess of 45 percent.

Unhappily, it is not just my community, but I have seen statistics indicating that in community after community across the country the same thing is happening. So I am going to oppose the amendment because I would like to think that perhaps because of this new focus by the Federal Government on insisting on planning and accountability, that some better things will happen. But I suspect that better things really will not start happening until the people in our home communities insist that the billions or millions or hundreds of thousands that are raised and spent at the local level be spent properly so that in fact the kids attending those schools and leave them will leave with an education. I do not know what else I can say.

I hope that I am wrong in my pessimism, and I hope that the gentleman from California (Mr. MILLER) is wrong in his. I hope that the distinguished gentleman from Pennsylvania (Mr. GOODLING) and the chairman, the gentleman from Kentucky (Mr. PERKINS), are correct. I will be voting with them, because I guess I am an eternal optimist, but I am a cautious one at the same time.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I will be pleased to yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding. Let me just say that I appreciate the gentleman's comments, but let me suggest to him and to the Congress that this is not the only game in town, because there is an original proposal which suggested there was another game in town.

☐ 1750

I find it inconceivable that the chairman would say that even if we funded title I as we should, and it has taken 10 years to get to the level of funding it has now, there would not be enough money for high schools.

Mr. Chairman, I think what we are doing is, we are really covering up the inadequacy of our efforts to educate young people in this country. However, the program does work in title I. It was testified it could be brought to the junior high school level, but we turned our back on that.

Mr. Chairman, a great deal has been made here to the effect that this is the first time we can coordinate people. Yet we know we have existing in the law that the gentleman from California (Mr. HAWKINS) has written, the 22-percent set-aside in CETA which requires coordination and many school districts are, in fact, taking advantage of it and running very successful programs.

Let me say, also, that there is another game in town and it will be here 3 months from now and that is when we reauthorize the billion dollar effort by this Government in vocational education.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MILLER of California and by unanimous consent, Mr. WEISS was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. Will the gentleman continue to yield?

Mr. WEISS. I do yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, when we reauthorized that effort, mind you that this Congress told those people they must go in and help the urban areas, the neediest students. They have done it but we are now going to give them $50 million. All of this talk about basic skills, reading, writing and arithmetic, so to speak, we cream 25 percent of the money right off the top for vocational education and almost every major study that has looked at vocational education has questioned the wisdom of it. One study went so far in fact—I think it was the Carnegie Council which our chairman mentioned—which said, "Vocational education. Change everything including the name."

In this new effort for these people who have failed, we are giving them, writing into law, 25 percent of the money to go to them. Not to basic education but 25 percent of the money. What did vocational education say about its ability to meet the needs of the neediest students? In the June 24 letter the American Vocational Association in commenting on the newest regulation said that:

> The Federal share of expenditures. National priority programs. The suggested change proposed by the Federal Government would reduce the program money for regular programs while increasing the Federal share of monies going to special populations.

They refer to the handicapped, the needy, and poor youth.

> We believe there is sufficient money for the special populations in the Vocational Education Act and in other Federal statutes.

So, there are other games. We can beef up our vocational education effort, we can beef up, and we have, the 22-percent set-aside that the gentleman from California (Mr. HAWKINS) has offered. We can beef up title I and we can require that those programs work together but what we do not have to do is throw $50 million on the table for a lot of people who have resisted the best interests of the students in this country on the promise that they will be good this time. I would hope the gentleman would reconsider whether or not he must vote for title II on the basis it is the only game in town.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I am pleased to yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I would like to make two comments. First of all, we are not giving any money to vocational education. If vocational education cannot prove, cannot jointly plan, and cannot show the local community, the people the gentleman was talking about, that they can, in fact, do a better job, that they can, in fact, change their direction in dealing with youth, they do not get anything. So, you know, we are just not giving anything to anyone. They have to prove that, in fact, there is some way that they can earn our respect to receive that.

A second question. It was mentioned that this is not the only game in town.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. JEFFORDS and by unanimous consent, Mr. WEISS was allowed to proceed for 1 additional minute.)

Mr. JEFFORDS. Will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Vermont.

Mr. JEFFORDS. The second statement was that this is not the only game in town, that there is another. I am not sure. We may have been referring to what the administration originally sent up. Now that was a disaster because there was no coordinated effort in that, and second, the Department of Education has said this is a much better project than what they originally sent up.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I will be happy to yield to the gentleman from California.

Mr. MILLER of California. The gentleman keeps reinterpreting my remarks. I suggest what the other game is is that there is reauthorization of vocational education coming, we have a title I program and, in fact, we are giving this money to these people. In fact, that is what we are doing, because we are buying some time between now and the election because we cannot produce the results. And then the billion dollars will come, I guess in the Republican administration or with President Carter's new administration. The billion dollars new money will come in the same year in which he has requested a rescission of $100 million in these existing programs. So I want to say that I do not think we ought to hold out that ray of hope to the unemployed youth of this country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce that this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 491]

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1810

The CHAIRMAN. Three hundred eighty-seven Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. Miller) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 60, noes 342, not voting 30, as follows:

[Roll No. 492]

AYES—60

Akaka
Anthony
Bedell
Beilenson
Bennett
Bonior
Bonker
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Coelho
Crane, Daniel
Crane, Philip
Davis, S.C.
Dellums
Dixon
Downey
Eckhardt
Edwards, Calif.
Fazio
Gephardt
Harkin
Hightower
Holt
Hutto
Johnson, Calif.
Jones, N.C.
Kastenmeier
Kramer
Lehman
Leland
Lowry
McKay
McKinney
Madigan
Maguire
Miller, Calif.
Miller, Ohio
Mineta
Moffett
Murphy, Pa.
Nolan
Panetta
Patterson
Paul
Pease
Richmond
Rosenthal
Russo
Sensenbrenner
Staggers
Stark
Steed
Udall
Van Deerlin
Waxman
Weaver
Wirth
Yates

NOES—342

Addabbo
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Dickinson
Dicks
Donnelly
Dornan
Dougherty
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hinson
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDonald
McEwen
McHugh
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Pashayan
Patten
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Rudd
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—30

Abdnor
Cleveland
Conyers
Daschle
Devine
Dingell
Dodd
Duncan, Oreg.
Evans, Ga.
Giaimo
Hall, Ohio
Holland
Holtzman
Hyde
Leach, La.
Lederer
McCloskey
McDade
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Myers, Pa.
Nedzi
Roberts
Rousselot
Thompson
Watkins
Wilson, C. H.
Whitehurst
Young, Alaska

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1820

The CHAIRMAN. Are there additional amendments to title II?

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Miller of California: Page 45, line 14, strike out "and area vocational schools".

Page 55, beginning on line 21, strike out all of subsection (f) through line 13 on page 57.

Page 57, strike out lines 18 through 24 and insert in lieu thereof the following:

(1) such school provides secondary education, as determined by the State educational agency, to youth in grades seven through twelve; and

Page 71, beginning on line 19, strike out section 216 through line 11 on page 75 and redesignate the succeeding sections and conform cross-references thereto accordingly.

Page 79, beginning on line 23, strike out subsection (c) through line 6 on page 80.

Page 86, beginning on line 20, strike out "the requirement that not less than 25 percent of each grant shall be used for programs of vocational education in designated schools, and".

Page 91, line 15, strike out "In any case" and everything that follows through line 19.

Page 93, line 22, strike out "(A)" and on page 94, strike out lines 3 through 5.

Page 96, strike out lines 13, 14, and 15, and redesignate the succeeding paragraph accordingly.

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, the purpose of this amendment is to strike vocational education from title II where it appears. The purpose of doing this is that we already have a major program of vocational education in this country, and the reauthorization, the regular reauthorization, for this program is scheduled for next year. This committee, in fact, will commence hearings on that reauthorization next month.

The idea of including vocational education in this program is that they can serve and we will mandate that they serve low-income, needy students and those people most in need of their services to acquire job skills.

Let me say to the Members of this Committee that that is already the existing law. In fact, that law has been mandated but in fact that law has been ignored. So the situation is this: that again we come along, and we are going to lock into this time for the program vocational education for up to the theoretical tune of a quarter of a billion dollars, but next year we are going to come back under a completely separate program and ask the Members to reauthorize vocational education to the tune of $850 million or in excess of that.

I just do not think you can have it both ways. I say this because this Congress has authorized very extensive studies, the NIE study on how well is vocational education doing today. The results of that study will not be in for another couple of months, and yet we are going to go ahead and pledge and write in a mandate of 25 percent of all this money shall go to vocational education and then come along next year and ask you to write another billion dollars for vocational education. I think we ought to have the evidence in. We have had independent studies that have been done that suggest that maybe the cost effectiveness is not as great as we would like or the impact on the ability of young people to hold jobs, to improve themselves as a result of vocational education, is not what we like.

So I would hope that we would not go ahead and give away this amount of money, writing in the 25 percent mandate for vocational education before we know the results of the evidence. I think it is just simple accountability in how you want to run the Government. Do you want to give them the money first and then find out how well the program is doing? Or do you want to wait until you get the studies in and base it upon the studies that we already have to suggest that in fact we should not just hand out this money this year?

Again, I would say that the American Vocational Association, the lobby group for the vocational schools in this case, has already said that they have enough money, that there are sufficient funds already to meet the group that we desire to hit in title II. If that is the case, why are we locking them in for an additional amount of money when we have the reauthorization of the Vocational Education Act up next year?

So I would hope that we would do the prudent thing, we would wait, we would save ourselves the potential liability of a quarter of a billion dollars and, throughout the normal reauthorization program next year, we will have oversight hearings and we will report a bill back to this Congress to deal with this situation. I hope the Members will favor my amendment to strike this provision from the bill.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment.

First, let me state that the vocational schools throughout Appalachia—and I know in my district—are working well. All of the area schools have a waiting list now from a thousand to 3,000 youth who cannot attend vocational school. When they graduate, they already have a job, 99 percent of them. So I want to say to the gentleman from California that there is a shortage of vocational funds today throughout this Nation, regardless of what some of the leaders or some of the lobbyists may have told the gentleman from California. There is a tremendous shortage of vocational education funds.

I think we all know that specific job skills are as important as general employability skills in preparing youth for the labor market. That has been proven time and time again, and there is no substitute for experience on the job, a hands-on experience. We have a coordinated and an integrated approach envisioned in the bill that cannot be successsful without the participation of vocational education programs. The facilities, equipment, trained personnel and experiences in working with community businesses and labor, which vocational education institutions can provide, are too valuable to ignore, Mr. Chairman, in this case.

I want to say to the gentleman from California that throughout the urban areas of this country, people who write me and whom I talk to almost every day tell me vocational training is very successful. There was a time when a lot of money was wasted on vocational education. But today, I think, in 98 percent of the cases it is job-oriented. The youth are getting the training, the best training. That is what we expect. Next year in hearings, we will want to bring out this issue, because we want job orientation. From all of the reports I get, 95 percent of the youth who are trained in the vocational schools of the country are able to get jobs when they get through those schools. So there is no throwing away of money.

This program has been helpful to the disadvantaged youth. The resources have been very limited. Currently, the Federal contribution for disadvantaged students in vocational education amounts to only $50 per student. A recent study of vocational facilities showed that while central cities contained 22.8 percent of the total population, they contain only 8.1 percent of the secondary level vocational facilities.

I want to make another observation. There has been a lot of talk around here this afternoon about duplication. In my judgment, there is no duplication.

□ 1830

Title I funds under the Elementary and Secondary Education Act are spent, in most cases, in the elementary grades, one through six mostly. This is as it should be, because of the shortage of these funds; and those funds go to practically every district of the Nation because you have disadvantaged youth in almost every area.

In this bill, the funds are targeted, and if the school districts do not elect to file the plan and take advantage of this program, they do not get any money. It is purely voluntary. If the school districts do not get any money, naturally, vocational educational institutions in that school district do not get any money.

I would ask the Members of the House to vote against the gentleman's amendment.

The amendment would do great harm to the youth program of the country, and we would virtually have no program if this amendment were passed.

Mr. PETRI. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from California.

Mr. Chairman, vocational educational schools should be the very heart of the program to prepare students for jobs.

Mr. Chairman, I rise in strong opposition to the gentleman from California's amendment to eliminate the role for vocational education institutions in youth employment programs.

Vocational education schools, as their name defines them, should be at the very heart of a program to prepare students for jobs.

This bill, H.R. 6711, addresses the root problems of youth unemployment—specifically the lack of coordination and cooperation between the labor market and the education system. Our education system is varied, and I believe it would be a great mistake to exclude the vocational education schools from participation in this important joint venture.

The Vice President's Task Force on Youth Employment, the group that did much of the background research on the scope of the problem we are addressing today, made reference to the contribution of vocational schools, and I quote:

> Vocational schools are good at doing many of those very things which the Task Force has identified as being central to running effective programs. They link learning with doing and they spell out their goals in ways which both students and parents can accept and understand. Vocational schools incorporate the learning of reading and writing into their training in actual job skills, so that the participants can see the connection between the ability to read and doing good work.

In my home State of Wisconsin, we have an exceptionally good vocational education system, one that offers a fine example of a program that equips people with the necessary kills to find a job, and actually trains young people for specific job opportunities that have been identified in the local labor market. In Wisconsin, 89 percent of all 1978 completers of vocational education training programs found a job. That is 89 percent.

I argue that it would be highly irresponsible to support this amendment to cut out vocational education schools from participation in this new youth employment effort. In Wisconsin, the vocational education system has proven effective in helping young people prepare for and find jobs. While Wisconsin's system is exemplary, it is by no means unique and it is clearly a suitable resource to call upon for the task of combating our high rates of unemployment among young people.

The amendment suggests that we ought to delete funding for vocational education schools under the new youth employment programs, with an eye toward reauthorizing the Vocational Education Act. But this misses the point of the programs we are authorizing, and the point of the programs authorized under the Vocational Education Act. In fiscal year 1978, Federal funds did provide services to some 2 million disadvantaged students, special vocational services offered under the Vocational Education Act. However that amounted to approximately $50 per student, and those reached were hardly even the tip of the iceberg of unemployed youth.

The programs we are authorizing today will have a distinctly different focus. They will be focusing on needy youth as the sole target group. And these programs will be required to be offered in coordination with basic skills and other training programs offered under the education component of the bill. The Vocational Education Act does not address the needs of disadvantaged youth in particular; nor does that act address the crucial facet of coordination with an array of institutions concerned with young people and their future as productive, contributing, and self-supporting members of society.

The need for this legislation has already been described. The figures for youth unemployment are staggering, and the prospects for these youth are bleak. It is imperative that we come to grips with the problems of our young people, particularly their preparation for the job market, because they are our future.

We hold the keys to a brighter future for these young people, and we should not consider the option of leaving doors locked and sealed to them.

I urge defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred and one Members are present, a quorum.

The pending business is the demand

of the gentleman from California (Mr. MILLER) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: Page 56, line 4, insert ", subject to paragraph (5)," immediately after "shall" and on page 57, after line 13, insert the following new paragraph:

(5) (A) The State board for vocational education shall provide assistance to an area vocational school under this subsection only if such school serves a large number or percentage of youth from low-income families, determined in a manner consistent with section 122 of the Elementary and Secondary Education Act of 1965, and shall rank such schools from highest to lowest in the concentration of students from such families.

(B) The State board for vocational education shall take into account both the need of the area vocational school, as indicated by its ranking under subparagraph (A), and the quality of the school plan as submitted in accordance with section 213(a). The Secretary shall prescribe the method by which the State boards for vocational education shall weigh each of these factors in determining which eligible schools shall be provided assistance under this subsection.

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, let me say to the Members of the House it was not my idea to bring this bill up late in the afternoon, but I hope that the Members would understand that I think this is a matter of great concern and importance to the Congress and to the country. I would also hope that they understand that I believe the amendments I have are of merit, substantive, and of importance.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. The gentleman mentioned it was not his idea that the bill come up late in the afternoon. I would like for the record to show that it is 6:35 p.m. in the evening.

Mr. MILLER of California. I have been waiting so long.

We have just decided that we are going to set aside 25 percent of the money for vocational education in this bill, and I think one of the things we have to understand is that it was pointed out by the minority members of the committee that in fact this is highly targeted money for specific population of low-income, underprivileged young people who are in desperate need.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Was this printed in the RECORD?

Mr. MILLER of California. Yes.

Mr. GOODLING. What date?

Mr. MILLER of California. I will have to get that information for the gentleman.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Kentucky.

Mr. PERKINS. I did not see it in the RECORD, but I think there is an incorrect page reference maybe here.

Mr. MILLER of California. It is my understanding this was published in the June 18 group of amendments.

Mr. Chairman, as I started to point out, the purpose of this is to make sure that the area of vocational education schools come under the same targeting requirements as the rest of the schools under this program so that we can be assured that they are using the money for the purposes of addressing the same population of low-income students as the rest of the program is required to do.

Now, it has been held out that is the purpose of this act, and that is the purpose for which we are giving them the money; and that is what they are going to have to describe how they do. If they do not do that, they cannot have any money. It is the intent of this legislation, very simple, to bring one very select group of schools, area vocational education schools, into compliance with the act as it applies to the rest of the schools under this legislation.

I ask for this body's consideration, a positive vote in support of this amendment.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment.

No vocational schools get any money unless the school district submits a plan, and those plans are approved. Naturally, these school districts are in areas where we have a considerable number of disadvantaged youth who are unemployed. In those cases, the vocational educational schools within that school district will receive money.

I oppose this amendment, because it is not appropriate for many area vocational schools. These schools frequently serve very large areas, even many counties, and they draw their students from several surrounding counties.

Therefore, it is not possible to know how many students attending these schools are from low-income families unless there were to be an income survey done of the families.

I believe that most of us would try to avoid such income surveys wherever we can. This amendment also does not make sense in requiring that area vocational schools be ranked with local high schools in terms of the number of disadvantaged students they serve. An area vocational school can be serving very many disadvantaged students, but because its total student body comes from such a large area, the proportion of disadvantaged students in the school may not seem very high.

Under the Miller amendment, that school would consequently not qualify for funding even though it was serving many disadvantaged students and just as many as may be in concentrated areas.

I would ask the Members to vote against this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The amendment was rejected.

□ 1840

AMENDMENT OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA: Page 74, line 23, strike out "and" at the end of such line, and on page 75 strike out the period at the end of line 3 and insert "; and" in lieu thereof, and after such line insert the following:

(6) to the extent determined by the Secretary, provision of services for the establishment of vocational-based youth enterprises to stimulate community improvement and to serve as learning activities which will contribute to the ability of participants to secure and retain stable employment or self-employment.

Mr. FUQUA. Mr. Chairman, on behalf of my good friend and colleague, Congressman WES WATKINS of Oklahoma, who could not be here today, I offer an amendment to H.R. 6711, the Youth Act of 1980.

This amendment would encourage vocational education to make entrepreneurship a part of the vocational education experience of youth. Today's youth are encouraged to think about jobs they might seek and for whom they might work, but not how they might take the knowledge and know-how acquired through vocational education to create a job for themselves.

Some studies have indicated that about 10 percent of all vocational education graduates, after 5 to 10 years' experience, are self-employed, owning their own business. For youth in depressed communities, it seems especially important that we allow them an opportunity to experience ways of producing a product and/or providing a service that others need and are willing to purchase. This can help them grasp a dream of how they might make a job for themselves through applying the knowledge and skills acquired in vocational education.

We need to encourage American youth to dream about creating small business, because it is from America's small business that the majority of new jobs emerge in local communities.

Mr. Chairman, I fully and firmly support the action initiated by Congressman WATKINS and I urge my colleagues to adopt this significant amendment.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, several days ago the gentleman from Oklahoma (Mr. WATKINS) discussed this amendment with me. There is no objection on our side to the amendment, since it would give needed encouragement to youth to learn the skills needed to run their own businesses and thereby redevelop their own local communities.

I know of no objection to the amendment.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, there is no objection from the minority.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. Fuqua).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords: Page 92, line 21, insert "(1)" immediately after "include"; on line 22, strike out "training teachers," and insert in lieu thereof "(2) training teachers", and on line 23, strike out "title, and" insert in lieu thereof the following: "title, (3) providing special professional recognition to teachers, administrators, and others who make a special contribution toward serving youth under this Act, and (4)".

Mr. JEFFORDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. JEFFORDS. Mr. Chairman, although the amendment at the desk is a minor one in terms of the rewards of the Youth Act, it reflects what I believe is the critical element in the success or failure of any endeavor—reward to those who participate. Too often, we forget that not only those who receive the benefits of the program should be rewarded but those who often, at great sacrifice enable the program to work. We often take those who serve to carry out these policies for granted. In this respect, I believe we should clearly establish a way to recognize those educators, and employment and training specialists who will be devoting themselves to addressing the serious needs of low-income youth. I believe this recognition should come in a form that clearly will improve the standing of these individuals among their peers so that their involvement will not be a personal sacrifice, with no commensurate recognition by society.

In a bill I proposed earlier this session, most of which has been incorporated in title I, I called for establishing a National Institute for Education and Work in which those who participate in serving these young people could come together to discuss their mutual problems and successes. At the same time, the Institute would serve to recognize these individuals for their involvement. It was my feeling that such recognition would benefit these individual's personal reward that makes a hard task just a bit easier. For we all know that an individual looks for and thrives on the recognition of their peers.

A minor amendment, yes, but a significant one for encouraging a full and active participation for those who will be working in the very difficult and threshold effort. My amendment simply allows the Secretary of Education the discretion to establish a way of recognizing these individuals and does nothing more.

I am hopeful the Secretary will find means for doing so because I feel that such recognition can only serve to assure the success of the effort we are initiating.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, we accept the amendment as an amendment to the committee bill.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. Jeffords).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Miller of California: Page 72, line 10, strike "provides assurances that", and insert "describes how" or "provides a description of how".

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the distinguished gentleman.

Mr. PERKINS. Mr. Chairman, it is my understanding of the gentleman's amendment that it would modify the requirement that local school districts applying to State boards of vocational education must provide assurances that certain activities will be undertaken to a requirement that these applications must describe how these activities will be undertaken.

I see no objection to the amendment, since I believe that it solely makes the committee bill more precise.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, the minority has no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Miller).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Miller of California: Page 47, after line 14, insert the following new section:

PROHIBITION OF USE OF FUNDS FOR MATCHING

Sec. 204. No funds provided under this title shall be used to provide the non-federal share of the cost of any programs described in sections 111 (a) or (b) of the Vocational Educational Act of 1963.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the distinguished gentleman.

Mr. PERKINS. Mr. Chairman, we see no objection to the amendment and we accept it on this side.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. Yes.

Mr. GOODLING. Mr. Chairman, we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Miller).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WEISS

Mr. WEISS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Weiss: Page 57, after line 13, insert the following new paragraphs:

(5) No area vocational school shall be given assistance under this subsection unless and until a majority of the members of its school site council have indicated their accord with the plan as submitted for final approval to the local governing board of the area vocational school. The local governing board of the area vocational school shall have the right to alter the school site plans as necessary to be consistent with contracts and formally adopted areawide policies of the governing board of the area vocational school, and such alterations shall not be subject to approval by the school site council.

(6) Subject to the availability of funds under this subsection, the State board for vocational education shall provide assistance to an area vocational school for no fewer than three consecutive years, so long as the board determines that the school is making substantial, documented progress toward achieving the objectives set forth in the plan submitted under section 213.

Mr. WEISS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. WEISS. Mr. Chairman, I would like to offer two amendments to the section dealing with area vocational schools which are not under the administrative control or supervision of the local educational agency.

These amendments have been slightly modified at the request of some members of the education community. I believe that my objective, that is, establishing uniformity and equitable treatment in this legislation, is not only met but strengthened by these modifications.

Programs conducted by these area vocational schools are now subject to a number of the same requirements for schools and vocational schools under a local educational agency. These requirements include consultation with other local educational advisory councils, work with private industry councils, the actual formation of a school site council, and others.

However, unlike schools and vocational education schools under a local education agency, school site councils for area vocational education schools are not required to indicate their accord with the school's plan, nor are they required to demonstrate that real progress is being made toward achieving their plan's objectives.

My two amendments draw language from section 214(a) (1) and (2) and apply these requirements to area vocational education schools.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I would be pleased to yield to the distinguished gentleman.

Mr. PERKINS. Mr. Chairman, we have no objection to the amendment. We accept it.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I would be pleased to yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we think it is a clarifying amendment and we accept it.

The **CHAIRMAN.** The question is on the amendment offered by the gentleman from New York (Mr. Weiss).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. WEISS

Mr. WEISS. Mr. Chairman, I offer three amendments, and ask unanimous consent that they be considered en bloc.

The **CHAIRMAN.** Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Weiss: Page 64, line 18, insert "or resumption of school attendance" immediately after "retention".

Page 71, after line 12 insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(8) programs to encourage youth who left school prior to earning a certificate of graduation to return to school;

Page 92, line 23, insert "motivating youth to continue or resume school attendance," immediately after "title,".

Mr. WEISS. Mr. Chairman, I would like to offer three amendments en bloc to address the problem of the number of youths who are dropping out of school before graduation. Although services to dropouts are already encouraged in some parts of this legislation, I believe that these amendments will strengthen these provisions, and further encourage the adequate provision of services for youths who do not graduate.

Although there seems to be some difficulty in obtaining up to date information on the number of dropouts within a school district, a U.S. Department of Education survey compared the number of graduates with the ninth grade enrollment level 4 years earlier. Although not exact, this data places into perspective the magnitude of this problem. It is estimated that more than 1 out of 2 students in Chicago, St. Louis, and Detroit will not graduate. In Cleveland, Philadelphia, and Washington, 40 percent of students drop out. This high rate knows no geographic boundary; even in the Sun Belt cities, the dropout rate exceeds 30 percent, with Dallas and Houston losing 33 percent of their enrollees, and Los Angeles, 30 percent. One of three students enrolled in these schools will not receive their high school diploma. Nationwide the Department estimates that 26 youths will drop out for every 100 students who obtain a diploma.

The legislation that we are considering today is ultimately designed to increase a youth's employment skills, basic skills, and employability. However, if we do not adequately address the problem of an increasing dropout rate, we will be defeating the very purpose of this legislation. Research points to a positive correlation between completion of high school and later employment. The Vice President's Task Force on Youth Employment reported in their "Review of Youth Employment Problems, Programs, and Policies" that the employment gains of a high school graduate far exceed those of a dropout. Between the ages of 20 and 24, the employment gap between graduates and dropouts had reached 11 percent; 28.7 percent of the dropouts were unemployed whereas 17.3 percent of the high school graduates were unemployed. One of the major findings reported by the task force includes this statement:

> There is broad agreement that education increases both employment stability and earnings and partially offsets the effects of inequalities in family background. Educational attainment increases labor force participation, and employment stability. Four years of high school . . . are associated with an increase in earnings of 40–50%.

The amendments that I offer today are in recognition of these findings. Although percentages about the rate of dropouts may be inexact, there can be no dispute with the fact that the number of students who are dropping out must be reduced, and that by reducing this rate, the number of employed and employable youths will increase.

The first amends the allocation to schools section which presently requires that schools conduct activities that will have a major effect on a youth's achievement and other qualities. This amendment simply adds the phrase "or resumption of school attendance" after the word retention. This is designed to encourage the school to conduct activities which will encourage youths to return to complete their education.

The second amendment adds under authorized activities, other activities the school may provide to encourage youths to complete their education. The final amendment adds as one of the purposes of the Secretary's demonstration and development activities the motivation of youth to continue or resume school attendance.

I believe that these amendments will encourage schools to provide activities to draw students back into the school, and encourage the development of demonstration activities whose successful results could be replicated nationwide.

Mr. PERKINS. Mr Chairman, will the gentleman yield?

Mr. WEISS. I would be pleased to yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, this includes dropouts. I see no objection to the amendment.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I would be pleased to yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, the minority accepts the amendment.

The **CHAIRMAN.** The question is on the amendments offered by the gentleman from New York (Mr. Weiss).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Miller of California: Page 66, line 11, insert "(1)" immediately before "During"; on lines 15 and 22, redesignate paragraphs (1) and (2) as subparagraphs (A) and (B); on lines 16, 19, and 20, redesignate clauses (A), (B), and (C), as clauses (i), (ii), and (iii), respectively; and after line 23 insert the following new paragraph:

(2) During any fiscal year for which appropriations are made for purposes of this title, a local educational agency shall use not less than one-half of the funds received by it under this part for that year for programs and services for students in grades seven through nine.

Page 86, line 20, insert "(A)" immediately before "the requirement", and on line 22, strike out "and" and insert in lieu thereof "(B) the requirement that not less than one-half of the funds available to any local educational agency under such part shall be used for programs and services for students in grades seven through nine, and (C)".

Page 62, after line 17 insert the following new paragraph:

(4) Any local educational agency shall use not less than one-half of the funds it receives under this subsection for planning and inservice training in schools serving students in grades seven through nine.

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The **CHAIRMAN.** Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, earlier I said to the committee that I was very concerned that enough money was not being provided to the problems of young people at the junior high school level and that I felt that given the evidence that was submitted to the committee that we ought to be very concerned with these young people, because in fact it has been established that many people who make a decision to drop out of high school, to change their lifestyles, do it at this very young age and then carry out that decision in the 9th, 10th, and 11th grades.

I want to read to the committee some testimony that was provided to our committee by Dr. Joan Lipsett, who is in the Center for Early Adolescence in North Carolina, who testified:

> The decision to drop out of school is often made during the preceding high school years.

Second, she presented some of the evidence that was put together by the National Institute of Education in their State school study which tells us:

> The National Institute of Education's (NIE's) Safe School Study tells us that boys in the seventh grade of junior high schools are the most victimized of our students. The only part of our population for whom first admissions to mental hospitals increased in the 1970's were adolescents under 15. The only age group for which the birth rate is increasing are girls fifteen and under. The incidence of running away peaks around ages 14 and 15. Alcohol abuse is becoming a serious problem from adolescents. The National Institute on Alcohol Abuse and Alcoholism reports that 19 percent of 14 to 17-year-olds experience alcohol-related problems. The average age of initiation to alcohol is 12.9. Sixty-two percent of seventh graders

> and 80 percent of eighth graders drink. Beginning at age 10, there is a steady rise in youth's contact with police and courts. Studies indicate that juvenile crime begins to "bloom" during early adolescence.

I think it would be a terrible tragedy if we really talked about the problems of unemployed youth and failed to provide the moneys to help those youth that apparently are the most critically in need of our help who are engaged in social problems in record numbers and make these decisions to drop out of school at such an early age.

I think at the least if we are starting to parcel out money in this legislation by mandate, if you will, that as we were told by the Secretary of Education and we were told by other experts that what we wanted to try to do was to bring the concentration of focus on this very young group.

So what my amendment does is to say that at least 50 percent of the money in title II will be used in this young age population during their formative years at the junior high school level.

I would hope that the committee will give favorable consideration to this legislation, so again perhaps we can prevent some of the problems that are so costly to correct in later years.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment.

First, let me state that we do not know how much money will be appropriated in 1982, 1983, 1984, and 1985. These are the years that we are talking about.

This amendment is an undue restriction on local school districts. I believe that we should give the local people the discretion to determine whether their needs are greater at the 7th through 8th grade level or in the later years of high school.

☐ 1850

The gentleman from California this afternoon talked about duplication with title I. We spend practically all of the title I money throughout the country in the elementary schools and in the 7th and 8th grade for the disadvantaged. Hardly any of that title I money is spent in the high schools of this country. It is nearly all spent in the elementary schools and some of it in the 7th and 8th grades.

Why should we then usurp the discretion of the local school districts where they have boards and well-coordinated different groups, all the interested groups in the community, and try to mandate this from Washington?

My colleagues can spend money now under this legislation in the 7th and 8th grades if the school districts and the councils involved want to and everybody agrees this is where it should be spent. There are no restrictions now and the flexibility is here.

Let us not destroy that flexibility in this bill. I would think the local schools know more about where this money should be spent than we here in Washington. I say again we do not know how much money is going to be appropriated in 1982, 1983, and 1984 for this purpose.

Regardless of the amount appropriated, half of it is split with labor. We hold the CETA youth programs in title I of this bill harmless, and all over and above that is equally divided.

So I would urge the Members of this body to vote against the gentleman's amendment. They can do this now at the local school districts and if everybody involved at the local level agrees, they can do just what the gentleman from California wants done.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am sympathetic to the idea behind this, but there is a real problem here because we are saying in grades 7 through 9 you must spend 50 percent of the money. We would be taking from the school site council the opportunity to determine where their real need is, and in some schools that may not be the need, so I do not think we can get in the business of saying you have to use 50 percent of this money for grades 7 and 9. We are targeting the ages 11 through 17 in this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of Califonia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. MILLER of California: Page 66, line 11, insert "(1)" immediately before "during"; on lines 15 and 22, redesignate paragraphs (1) and (2) as subparagraphs (A) and (B); on lines 16, 19 and 20, redesignate clauses (A), (B), and (C), as clauses (i), (ii) and (iii), respectively; and after line 23 insert the following new paragraph:
>
> (2) During any fiscal year for which appropriations are made for purposes of this title, a local educational agency shall use not less than 40 percent of the funds received by it under this part for that year for programs and services for students in grades seven through nine.
>
> Page 86, line 20, insert "(A)" immediately before "the requirement", and on line 22, strike out "and" and insert in lieu thereof "(B) the requirement that not less than 40 percent of the funds available to any local educational agency under such part shall be used for programs and services for students in grades seven through nine, and (C)".

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, this amendment has the same intent as the previous amendment, but I am having a rather difficult time getting time to speak. I use this procedure, therefore. What this amendment does is say you only have to use 40 percent. For those people who are upset about 50 percent, you can now vote for 40 percent.

The point is this: That we have a very vulnerable group of young people in our school system who need a concentration of effort to help them get through that very tough time of life so they do not become dropouts, so they do not become criminals, and we spend billions later.

I would like to read to the committee from what the Secretary of Education told us:

> We know that title I (ESEA) works. Compensatory education programs have proven their ability to help disadvantaged youngsters achieve at or above grade level. We also know that the very real gains that title I youngsters show in grades 1 through 4 can be lost if those programs are not sustained into the upper grades.
>
> Unfortunately, since funds have not been available under title I to provide comprehensive coverage . . . most school districts have chosen to focus these resources on younger children.
>
> We must redress that imbalance . . . by investing in programs that enhance the . . . skills of disadvantaged junior and senior high school students.
>
> As we have learned from our title I experience, the earlier the intervention, the more effective the treatment . . . that is why we are encouraging school districts to concentrate at least half of their resources on the junior high school youngsters. We know we can be more effective in preventing dropouts by reaching young people before they become totally discouraged and alienated from school.

Again I want to cite the question of cost effectiveness for those who are so concerned about how we are spending this money. I would quote what Dr. Lipsett said again before the committee that—

> It is at the very least cost ineffective to spend considerable amounts of money on the very young in the early grades of schooling without following through to make good on our investment. Likewise, it is an inefficient use of our public moneys to concentrate on remediation and reeducation at the time of transition into the labor market, while failing to support necessary programs in the middle grades that could reduce the need for later widespread remediation. Most importantly, it is tragic to fail to place more of our resources at a key point in education, a time of maximal growth and stress, when the possibilities for positive intervention in young people's lives are almost boundless.

The point is we can deal with the problem in a preventative fashion, or we can deal with it later by putting billions of dollars in our justice system, into our unemployment system, into our retraining programs, our remedial education programs. We can continue to do that or target the money early.

Let me just close by saying two gentlemen got up here and said how can we tell these local districts to spend this money at the junior high school level. We just told them they had to spend 3 percent of the money for alternative education programs. We just told them that they had to spend 25 percent for vocational education. But somehow now my amendment does not jive because we are telling local school districts what to do.

I suggest that is what this legislation is doing, and that is why the school boards are opposed to this legislation. So let us not get it all mixed up here, because I suspect we are going to have a lot of conflicting amendments. But what is good for one is good for the other. We have the 3-percent set-aside and the 25 percent for vocational education, and now I am going to try to put a little money in on behalf of the junior high school students who are the most vulnerable school age population.

I ask for an "aye" vote.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment. I do not know where we are going at this late hour, because this is the same amendment the gentleman offered just a few moments ago except he has cut the percentage from 50 percent down to 40 percent. He also has another amendment to cut it down to 35 percent if he offers it in a few minutes.

But I think that we all know that the local school districts know best where to spend their money, and the council and all of the advisory groups in the community will make that decision.

Again let me state that title I serves many of the elementary grades, 7 and 8, the elementary grades. It hardly ever reaches high schools.

We do not know what the appropriation will be. It was all right that we mandated the small amount of 3 percent for outside organizations that the gentleman referred to, but to here mandate 40 percent and destroy local flexibility is unreasonable.

Mr. GOODLING. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

There is no question that under title I at the present time some of the money is flowing on in the follow-through programs where they picked up a youngster at a young age and followed him right on through the grades.

However, my experience in education would tell me that if they get this money, since we are targeting ages 11 through 17, most of the money is going to go to that 11-, 12-, and 13-year-old. It is going to go there simply because it is so much easier to do remedial work with that group than it is as the youngster gets older. So I just think it will naturally flow there.

☐ 1900

They had that opportunity. The school site council helps direct them, and I have to oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MILLER of California. Mr. Chairman, on that I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 493]

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Bafalis
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cheney
Chisholm
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Hughes
Hutchinson
Hutto
Ireland
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDonald
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Pashayan
Patten
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
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Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1910

The CHAIRMAN. Three hundred and fifty-nine Members having answered to their names, a quorum is present, and the Committee will resume its business.

The pending business is the demand of the gentleman from California (Mr. MILLER) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

☐ 1920

Mr. WEISS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of engaging in a colloquy with the distinguished chairman of the Committee on Education and Labor.

Throughout the bill reference is made to the assessment of a youth's employment skills. And in the definitions section, the definition of employment skills includes those skills which are not occupation specific such as job responsibility and responding constructively to supervision. Would the gentleman clarify the intent of this section? Is it the intent of the committee to encourage the use of testing and tests, and in particular personality tests to attempt to determine the youth's nonoccupation specific skills, or their ability to respond constructively to supervision, or be responsible on the job?

Mr. PERKINS. I would be pleased to respond to the gentleman. It certainly was not the committee's intent to require the use of testing and specifically of personality testing. Nor was it our intent to encourage such use. We clearly intend to give local school districts and prime sponsors freedom to use whatever means they believe best to achieve these purposes.

Mr. WEISS. Mr. Chairman, I thank the gentleman.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. MILLER of California: Page 60, line 25, strike out "ten" and insert in lieu thereof "seven".

Mr. MILLER of California. Mr. Chairman, the purpose of this amendment is to make sure that vocational education is applied to students who are currently enrolled in grades 7, 8, and 9; and does so by deleting grade 10 and lowering the grade threshold to grade 7.

The purpose of this again is based upon the testimony of the Secretary of Education and many other witnesses before our committee, to make sure that we concentrate the dual purposes of this program both in getting young people to acquire basic skills and provide job skills at the level where they are making decisions as to whether or not to stay in school.

As I pointed out earlier in my comments, that apparently is at the junior high school range. So, this amendment would say that vocational educational services must be offered to students in 7th, 8th, and 9th grades as well as the 10th grade.

I want to read to the Members what the people representing the Council for Great City Schools testified. They said that vocational education has not served the neediest students, and I quote:

> Vocational education is the oldest of the Federal programs (related to youth employment) but in many ways is the most stagnate. Its funds continue to be spread in a per child basis throughout the nation and its focus remains on student placements. Because of this emphasis the most "job ready" youth are ones chosen for vocational education slots while the neediest of teens fall through the cracks to become our unemployed. Vocational education is focused in grades 11–12 for the most part, a point at which most of the "high risk" youth have already left school.

In testimony from the coordinator of an occupational work adjustment program in Columbus, Ohio, he testified to the committee that—

> There is "need for a program designed for students between the ages of 14 and 15. . . . it is much easier to place 1 year old students on jobs in the private sector" . . . so the need is for the younger students. In Ohio, vocational education currently does not serve these students.

The point is this: We do not deny that these young people need employability skills. They need to be shown the direction that gainful employment is within their possibility; they need to be shown that they can acqure the skills to go out and get a job, because apparently what we now see from the existing system is this, that they do not see any hope of getting a job. They do not understand what skills they will need, and they fail to move ahead to acquire those skills, and therefore determine that the job market is a hopeless place for them to pursue, and they drop out of school. What happens is that we come along later, and we try to retrain these people when they are much older.

Again, I think the point of this amendment is, we can make an effort to provide for preventative care and preventative teaching and preventative acquisition of these basic job-related skills to the younger people, or we can wait and try to catch them at the 11th and 12th grades where they have already made a decision to drop out, or in fact as the people from the urban schools have said, they have already left school.

We have to remember something. In New York City; the gentleman from New York City and the gentlewoman from New York (Mrs. CHISHOLM) testified that the dropout rate may be as high as 45 percent in the high schools. That means that when we go to work to concentrate our effort, 45 percent of them may have fled.

What are we going to do? Are we going to spend money on that effort, or put the money up front?

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I have two questions. When the gentleman talks about grades 7 and 8, is he talking about 11-, 10-, 12-year-olds, or is he talking about someone who may be in that grade but because of problems may be 16, 15? That is question 1.

Question 2, when the gentleman talks about general work experience, is he talking about a job for a 12-year-old or a 9-year-old? What exactly does the gentleman mean by that?

Mr. MILLER of California. What we are talking about is, we are talking about, to answer the gentleman's question, extending the components of vocational education to the junior high school level. We heard testimony from the committee——

Mr. GOODLING. The gentleman said general work experience. That is what has me confused.

Mr. MILLER of California. The amendment specifically talks about vocational education. The point was that we heard testimony from the witness from Ohio that in fact they were providing work experience, and the Secretary of Education came before us and recommended that we provide means to provide it. Remember, we talk about a stipend for these junior high school aged students so that they could get out and get general work experience. So it is the intent, if that component of vocational education is applicable, then it ought to be provided for younger students who maybe are not ready to get general work experience. We can help them understand what the potential in the job market in their community may be.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 4 additional minutes.)

Mr. MILLER of California. So, while the middle schools, so to speak, provide education for a range of students in different age brackets, the fact is many of them must be, given the dynamics of our economy, exposed to the opportunities of work—to actual work, if it applies—and to gaining employability skills.

□ 1930

Hopefully the other part of the legislation, the basic skills, will also be addressed at the junior high school level.

So I think this amendment is a very rational one. If we are really talking about title I and title II working together, we must understand that we have got to bring this component of education to the junior high school level so that it can be dealt with there.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I am delighted to yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, in the gentleman's interpretation, in his discussion of the amendment, he keeps referring to vocational education. However, the amendment merely strikes "ten" on line 25 and inserts in lieu thereof "seven".

So the gentleman does leave in the language which provides that in connection with the private sector, general work experience can then be given to those grade 7, which might go down as low as age 11 or 12.

In this amendment, does the gentleman intend, therefore, in connection with the private sector, to be affording general work experience for young people at that age level? Is that the intent?

Mr. MILLER of California. Mr. Chairman, it is my intent that the full range of programs be available to grades 7 through 11, because it is now 10 through 12. It covers that full range of programs to be made available.

We have heard much testimony here in the last few minutes about the overwhelming judgment of the local school boards, and I would suspect that a local school board, if it was not applicable or was not necessary or they did not deem it in the best interest, would not send an 11-year-old out for general work experience, but at the same time they might want to provide that 11-year-old with some understanding about the world of work, as they say, or about employable skills across the board.

But there are also people in those grades who are much older because they have stayed back and had learning difficulties. They are 14, 15, and 16 years old, and they are still at the junior high school level. So it is a discretionary thing.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has expired.

(On request of Mr. HAWKINS, and by unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. HAWKINS. Mr. Chairman, will the gentleman yield further?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, does not the amendment allow youth at ages 11 or 12 to be given general work experience in the private sector? Is that the intent, to be providing children at that age with general work experience?

Mr. MILLER of California. That is at the discretion of the local school board.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment, and I will only take a couple of minutes.

I think it would be beneficial to many youngsters if they had work experience from the third grade on through high school. That was my privilege when I was in the grades, for an hour a day. But to take a seventh-grade youngster and put him in the training program and let that seventh-grade youngster spend a half day or so in a vocational training school, I think, is stretching it a little too far.

I think that the Members will agree with me, because that youngster should be learning the basics in the elementary grade, in the seventh grade.

Besides that, let me repeat again that the local school districts have the authority, if they want to extend this training to seventh and eighth graders, to do so. They have that flexibility now. But we may waste some limited funds if we do not know what will be appropriated. I hope the funds will be appropriated in the future, but we do not know.

Mr. Chairman, let us not destroy a bill that has been well thought out by putting some amendments in here that are unreasonable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The amendment was rejected.

The CHAIRMAN. Are there other amendments to title II?

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: Page 61, line 9, insert "unemployed" immediately before "youth".

Mr. MILLER of California. Mr. Chairman, I will say to the Members of the committee that the purpose of this amendment is to make sure that if we are going to try to do something about unemployed youth, we direct it to unemployed youth and not employed youth. This simply makes a change, requiring that the word "unemployed" be inserted before the word "youth".

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I have no problems with the amendment, as long as we say we will give a preference to the unemployed youth.

Mr. PERKINS. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The amendment was agreed to.

The CHAIRMAN. Are there any additional amendments to title II?

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: Page 60, line 2, insert "(including that of teenage parents)" immediately after "student dropout rate".

Page 71, after line 9, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(7) special programs and services to address the needs of and to retain teenage parents;

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, the purpose of this amendment is to make sure that we make an effort toward keeping school-age mothers, if you will, in school, because we know in many cases—and I have read the statistics—unfortunately, that is not so.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, we accept the amendment on our side.

Mr. GOODLING. Mr. Chairman, if the gentleman will yield, I have no problems with the amendment as long as we are not making it a special case, as long as we are including them and they are to be included with the same emphasis as the other people in the other categories.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to title II?

Mr. MILLER of California. Mr. Chairman, I want to extend my streak here. I feel like the Orioles: It is late in the season.

AMENDMENTS OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I have a group of amendments at the desk that I wish to offer en bloc, and it is my understanding that they are acceptable. I hope the Members will vote for the amendments, and I offer them en bloc.

Mr. GOODLING. Mr. Chairman, we have no objection to those amendments en bloc.

The CHAIRMAN. The Clerk will report the amendments.

Mr. PERKINS. Mr. Chairman, while the Clerk is looking for the amendments, I want to state that we have reviewed them several times, and we accept them.

The CHAIRMAN. The gentleman from Kentucky (Mr. PERKINS) accepts the amendments. We are waiting for the Clerk to locate the amendments.

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc and be considered as read, and that they be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. MILLER) that the amendments be considered as read and considered en bloc?

The Chair will state that there is a technical problem here. We have to get the amendments first. Does the gentleman from California (Mr. MILLER) want to come up to the Clerk and give us the amendments to make sure that we have the right ones?

The Clerk now has the amendments. Is there objection to the request of the gentleman from California (Mr. MILLER) to dispense with the reading of the amendments by the Clerk?

Mr. GOODLING. Mr. Chairman, reserving the right to object, could we have the Clerk just read the page and the line?

Mr. JEFFORDS. Mr. Chairman, reserving the right to object, will the gentleman tell us which amendments these are that he is offering?

Mr. MILLER of California. Yes, I would be glad to do that.

The CHAIRMAN. First of all, the Chair will state that at the initial request of the gentleman from Pennsylvania (Mr. GOODLING), the Clerk will read the page and the first line.

(The Clerk proceeded to read the page and line numbers of the amendments.)

Mr. PERKINS (during the reading). Mr. Chairman, if the gentleman will yield to me, these are the amendments that we have agreed to. They are just technical and informational amendments, and we accept them. I refer to the ones that the Clerk has read thus far.

☐ 1940

Mr. GOODLING. Mr. Chairman, we are trying to find page 63, line 5. We have not found it yet. Did the Clerk say 63, line 5?

Mr. MILLER of California. I would be glad to offer them individually, one at a time.

Mr. GOODLING. Just so that we know what they are.

The CHAIRMAN. The Clerk will continue to read the number and the first line.

The Clerk proceeded to read the number and the first line of the amendments.

The CHAIRMAN (during the reading). The Clerk will suspend.

Mr. GOODLING. Reserving the right to object, Mr. Chairman, the Clerk read page 63, line 5. We cannot find that. The Clerk will have to read that amendment. I cannot find it.

The CHAIRMAN. The Clerk will report that amendment.

The Clerk proceeded to read the amendment.

Mr. GOODLING (during the reading). We have no objection.

The CHAIRMAN. The Clerk will continue to read the number and the first line, without objection.

The Clerk concluded reading the number and first line of the amendments.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. MILLER) that the amendments be considered as read and considered en bloc, and that they be printed in the RECORD?

There was no objection.

The amendments are as follows:

Amendments offered by Mr. MILLER of California: Page 62, line 19, insert (1)" immediately before "The State".

Page 63, after line 5, insert the following new paragraph:

(2) States which have previously established minimum standards in the form of minimum competency, proficiency, or basic skills standards, and which have met the requirements of paragraph (1) are exempt from the requirements of this subsection.

Page 68, line 7, after the period, insert the following: "The chief administrator of the school shall provide to the school site council and the local education agency, upon request, a written description of the criteria and process for selecting students to participate in programs funded under this part.".

Page 67, insert after line 21 the following new sentence: "The council shall establish bylaws regarding its operation."

Page 87, line 21, insert "and members of school site councils" immediately after "State agencies".

Page 88, line 6, insert "and members of school site councils" immediately after "State agencies".

Page 88, line 11, insert "and school site councils" immediately after "State agencies".

Page 63, line 15, strike out "the need of the designated school" and insert in lieu thereof "those designated schools having the greatest need for assistance under this part".

Page 71, after line 12, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly);

(8) special programs to address the problems of and to retain students who would otherwise be suspended or expelled from school;

Page 60, line 3, insert "reducing disciplinary exclusions" immediately after "student attendance,".

Page 58, line 10, strike out "(1)", and on page 59 strike out lines 1 through 3.

Page 88, line 4, insert "(1)" immediately before "Each"; on lines 6, 8, and 10, redesignate clauses 1, 2, and 3 as clauses (A), (B), and (C), respectively; and after line 16 insert the following new paragraph:

(2) Not later than 120 days after enactment of this Act, the Secretary shall, in order to assist State educational agencies in carrying out the provisions of paragraph (1), initiate a program of technical assistance and information dissemination.

Mr. MILLER of California. Mr. Chairman, these amendments, again, are for the purposes of trying to provide additional focus for this program so that it indeed impacts on the students and those schools which need the funds to the greatest extent within our student population.

It is my understanding that both the majority side of the committee and the minority side of the committee have reviewed the amendments and have agreed to accept them.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, as I understand these amendments, they are technical and informational, and these are the last of the Miller amendments.

Mr. MILLER of California. Unfortunately, yes.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we have no objection to the amendments.

Mr. MILLER of California. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered en bloc by the gentleman from California (Mr. MILLER).

The amendments were agreed to.

The CHAIRMAN. Are there other amendments to title II?

Mr. BUCHANAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise not to offer an amendment, rather to express concern about the provision detailed in section 218(b) of H.R. 6711, which specifies resource equivalency requirements which all local educational agencies receiving funds under title II must follow.

The intent of this funding requirement appears to be similar to that of the comparability requirement under title I of the Elementary and Secondary Education Act.

The resource equivalency provision was among those issues initially raised by the committee when the President sent down his youth education and employment legislation.

In making every effort to determine the intent of the administration on this provision, it became clear that there was confusion at all levels. Although the resource equivalency provision is similar to the comparability provisions in title I of ESEA, the administration could not explain how the resource equivalency provisions substantially differed from those currently used under the title I program.

Various interested groups of State educators and civil rights associations were involved in lengthy discussions to arrive at a clear expression of what comparability provision would be workable in this program. Progress was interrupted by the publication, on June 11, 1980, of proposed regulations governing the implementation of the title I ESEA program. Due to the changes specified for the comparability provisions in the proposed regulations, it became necessary for all interested parties to reevaluate their respective positions. For this reason, I state for the record and urge my colleagues to join me in requesting that the other body look carefully at this provision during their consideration of the Youth Act of 1980. I believe that it is imperative that this issue be clarified, and that congressional intent not be left to the discretion of the regulation writers to determine.

The CHAIRMAN. Are there other amendments to title II? If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III—GENERAL PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

Sec. 301. (a)(1) There are authorized to be appropriated such sums as may be necessary to carry out part A of title IV of the Comprehensive Employment and Training Act for fiscal year 1981.

(2) There are authorized to be appropriated $50,000,000 to carry out section 213(c) of this Act for fiscal year 1981.

(3) There are authorized to be appropriated such sums as may be necessary for fiscal year 1982 and each of the three succeeding fiscal years of which—

(A) the sum of—

(i) an amount equal to (I) the amount available for part A of title IV of the Comprehensive Employment and Training Act for fiscal year 1980, or (II) the total amount appropriated pursuant to this paragraph for a subsequent fiscal year, whichever is less, and

(ii) one-half of any amount appropriated pursuant to this paragraph for such subsequent fiscal year in execss of the amount available for part A of title IV of the Comprehensive Employment and Training Act for fiscal year 1980,

shall be available to carry out part A of title IV of the Comprehensive Employment and Training Act (as amended by title I of this Act); and

(B) the remainder of any amount appropriated for any such subsequent fiscal year in excess of the amount available for part A of title IV of the Comprehensive Employment and Trainng Act for fiscal year 1980 shall be available to carry out title II of this Act.

(b) To the end of affording the responsible State, local, and Federal officers concerned adequate notice of available Federal financial assistance under the provisions of and the amendments made by this Act, appropriations under subsection (a) are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the pending fiscal year and one for the succeeding fiscal year.

JOINT REGULATIONS

Sec. 302. (a) The Secretary of Education and the Secretary of Labor may, by joint regulation, require that the percentage of funds required to be used for joint programs between prime sponsors and local educational agencies under section 423(d) of the Comprehensive Employment and Training Act and section 220 of this Act be increased (from 22 percent) by 3 percent for each fiscal year beginning after September 30, 1982.

(b) The Secretaries shall notify the Congress not later than thirty days prior to promulgating any regulation under subsection (a). In the event that the Secretaries determine not to issue any such regulation for any fiscal year described in such subsection, they shall so report to the Congress and shall include in such report a statement of the reasons for such determination.

EFFECTIVE DATE; TRANSITION PROVISIONS

Sec. 303. (a) The amendments made by section 102 shall take effect on October 1, 1981.

(b) Funds appropriated pursuant to section 301(a)(1) of this Act may be used for the purpose of developing plans for the implementation of programs under part A of title IV of the Comprehensive Employment and Training Act as amended by section 103 of this Act.

(c) For the purpose of promoting the accuracy of the tentative allocation required by section 432(b) of the Comprehensive Employment and Training Act (as amended by this Act) by notifying potential recipients of their approximate share of that allocation, the Secretary of Labor shall, within thirty days after the date of enactment of this Act, distribute to each potential applicant for funds under part A of title IV of that Act a list of the poverty areas (as defined in section 432(e) of that Act) in such applicant's State, the number of residents of such areas who are at or below the poverty level, and the total number of such individuals in such areas nationally. The Secretary is authorized to make the first tentative allocation under such section 432(b) on the basis of expressions of interest from such applicants in response to the materials distributed pursuant to the preceding sentence.

Mr. WEISS. Mr. Chairman, I have an amendment to title II.

The CHAIRMAN. Is there objection to returning to title II of the bill?

Mr. SNYDER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. WEISS. It is at the desk, Mr. Chairman.

The CHAIRMAN. The Chair will advise the gentleman from New York that he was not on his feet, and we have already passed title II.

● Mr. MITCHELL of Maryland. Mr. Chairman, with some admitted reluctance, I rise in support of H.R. 6711, the Youth Act of 1980. I share the concern of many of my colleagues, including members of the Education and Labor Committee, that title II of the measure before us today fails to adequately address the impact of chronic unemployment among minorities and youths from lower income families.

The fact that 42 percent of Hispanics, 39 percent of blacks, and only 7.6 percent of whites are less than 18 years old strongly indicates that the current youth unemployment problem will move rapidly to become a minority unemployment dilemma throughout this decade. Right now, in some of our major cities, we are faced with a minority youth unemployment rate as high as 30 percent. In recognition of this alarming fact, title I, youth training and employment, has been carefully designed to foster the critical involvement of the private sector in the alleviation of long-term structural unemployment among our Nation's youth.

The need for the passage of an initiative which embraces the initial intention of H.R. 6711 goes without question. We cannot realistically expect the prevailing problem of low-level productivity to correct itself in the absence of adequate skill training programs for the youth of this Nation. Moreover, we are constantly working to insure that our educational institutions focus on an orientation toward labor market conditions and requirements.

I believe that the stated intentions of title II are commendable. Certainly such stated objectives as, first, a concentration of resources on urban and rural communities where the need is greatest; second, the continued stress on private sector participation; third, clear performance standards for program participants and services providers; fourth, the linkage of high school curriculums objectives with basic skills programs; and, fifth, the development of additional occupational skills training programs, are critical. It is questionable, however, that the meeting of such objectives, as addressed in the measure before us, will adequately serve our low-income, secondary school students.

I am particularly concerned that the poverty formula, which will serve as the basis for the dispersal of title II moneys to States, may be plagued by inequitable distribution. The subsequent distribution to the neediest districts within those States; and, finally, only to schools within those districts which have substantial concentrations of poor children, may leave many schools which are greatly in need, completely without funds due to a failure to qualify for participation. To address this problem, the Department of Education has proposed that the State receive a supplemental grant to enable it to meet the needs of those schools which may not be adequately reached by the basic formula. I am concerned that the reliance upon such a supplemental may leave the affected schools quite vulnerable to the impact of adverse economic situations.

In addition to this problem, title II leaves itself very susceptible to the evils of administrative and cost duplicity. The bill includes postsecondary students and institutions among the eligible participants to receive title II funds. We have the Higher Education Act to address this level, and the focus of such funds in this area is questionable. Moreover, such a provision detracts from the title II available funds to be targeted for use at the junior high and high school levels.

I applaud the committee and the Department of Education for seriously attempting to focus needed attention on the critical necessity of employability programs for our schoolchildren. However, I must warn that we pay careful attention to the efforts of our colleagues, through amendments, to bring those intentions into realistically structured approaches.

I know that there are additional concerns about H.R. 6711. The validity and continued use of vocational education as a mainstay for many of our low-income youth is being questioned. Of particular concern to me is also the failure of the measure before us to provide a more sufficient level of targeted funding to alternative educational facilities. While many of us are not convinced that alternative structures can act as adequate surrogates for the traditional school system, we have to face the fact that a growing number of our youth will have to rely on these establishments. We could use the bill before us to initiate a serious commitment to upgrading these facilities.

I do hope that my colleagues will carefully evaluate the efforts of Representatives MILLER and CHISHOLM, members of the Education and Labor Committee, who are fighting to make H.R. 6711 a well structured measure. We need the initiatives set forth by the bill's objectives. For the sake of our youth, let us seriously consider guiding the passage of H.R. 6711 through this body.●

● Mr. FRENZEL. Mr. Chairman, I would love to vote for a bill that would make a real impact on youth employment. But H.R. 6711 is merely a rehash of the old programs that have not worked very well in the past.

Yes, some of the CETA youth job programs work. Some of them work very well. I have been a vigorous supporter of some of these programs.

However, looking at the broad range of CETA youth job programs, one sees a very poor return on the taxpayers' dollar. Studies, by the GAO and others, confirm the lack of effectiveness. So do regular news stories in our daily papers.

In my judgment, something new and different is needed, but H.R. 6711 is more of the same old thing. And if the committee could not give us innovation, it could at least have concentrated on those few programs which are proven winners.

The bill is not wholly without merit. It is an improvement over existing law, especially in title II, where coordination between sponsors is mandated, and a special emphasis on vocational education is added.

But the improvements are modest in comparison with the scope of the problem. My negative vote is really a protest against this body's unwillingness to improve the program so that there will be some assurance that the nearly $1 billion authorized will be well spent.●

● Mr. WATKINS. Mr. Chairman, the majority of Americans have come to realize that the soundest, most productive investment a nation can make is in the education of its children. Through the Youth Act of 1980, we have the opportunity to improve the ability of our Nation's educational system to combat a chronic national condition—an ever-increasing youth unemployment rate.

In this day and time of limited resources, our Nation is learning to make the most of what we have through increased productivity. We now have the opportunity to help our Nation's ultimate resource, our youth, become productive members of society. The Youth Act is a commendable effort on behalf of the Education and labor Committee to focus education and training programs on young people that are groping to obtain direction for their lives. It focuses on the needs of high school youth for specific career-oriented education, a need that is not always met in a traditional high school setting.

Vocational education has proven to be extremely effective in helping young people obtain the necessary skills for employment, thus benefitting themselves, their communities, and our society as a whole. It has been argued that basic skills training should focus on students in junior high school rather than those in high school, but we must realize that the critical situation we face today concerns the multitude of youth that do reach the high school level only to realize they possess little opportunity for employment in the private sector. These students quickly become discouraged since they do not possess either the ability or the basic skills to pursue additional education that would improve employment opportunities. It is at this point that a large segment of our greatest resource—our youth—becomes a nonproductive part of society, destined to an existence far below that level which their actual potential would allow with only a little guidance and direction at the proper time.

A program to combat youth unemployment must provide the opportunities for disadvantaged youth to link education with job training, experiencing the relationship between school and a private sector job. We need to encourage American youth to think about jobs they might seek and for whom they might work, but even further, we need to encourage American youth to apply the knowledge and skills acquired through education to create a job for themselves.

Title II of the Youth Act recognizes the far-reaching capabilities of secondary and vocational schools to provide school-based programs in basic and employment skills training. This bill would allow poor youth in depressed communities, both rural and urban, an opportunity to acquire those skills essential for competing for good jobs. The target established for vocational education funding in this bill is set at 25 percent of available funds. This is a very reasonable target, and has been recommended by the Education and Labor Committee after extensive deliberation. It provides the targeting that is drastically needed to prepare youth citizens for a responsible role in life.

Vocational education has proven to provide the necessary link in connecting education and training to employment. I believe you will find the results of Oklahoma's outstanding vocational education program both impressive and indicative of the abilities of such a program to help combat youth unemployment.

The unemployment rate for students in Oklahoma completing regular secondary level vocational education programs is only 3 percent. For those completing postsecondary programs, the unemployment rate is only 1 percent; 77 percent of all students completing secondary level vocational education programs in Oklahoma are employed in the field they studied or a related one. And, for those completing postsecondary programs, 96 percent are employed in the field they studied or a related one. I believe these figures speak for themselves; vocational education can and does possess a great employment potential for its participants.

The Youth Act represents a positive approach to helping our youth become self-supporting, productive citizens. We must confront the current crisis of youth unemployment, and we should support the Education and Labor Committee's efforts in this regard.●

Mr. HINSON. Mr. Chairman, the overall unemployment rate is expected to climb to between 8.4 and 9.4 percent during the fourth quarter of this year, and the Congressional Budget Office (CBO) predicts unemployment to remain that severe well into 1981. The picture for youth is much more bleak.

The Mississippi State Employment Security Commission projects that practically one of every three young men and women in our State who wants a job will go unemployed in 1981. Minority youth will fare even worse.

The effects of such high rates of unemployment are as disastrous as they are numerous. There is widespread despair.

Despite the almost $100 billion which has been spent on public sector employment and training programs, poor people and young people are finding that structural unemployment problems still persist. This sad condition cannot continue. The Federal Government's expensive efforts must result in long-term gains for the Nation's unemployed.

In order to affect long-term gains, Federal employment and training programs must focus on job placement within the private sector. These programs must be coordinated with efforts of private industry in order to increase job opportunities. Four of five jobs are in the private sector.

The objective of H.R. 6711, the Youth Act of 1980, is to provide poor youth between the ages of 16 and 21 years old with a variety of programs and services designed to enhance their private sector employability. The act's various approaches are targeted toward the poorest and most hard hit areas in the Nation, with community participation vigorously sought.

Many businesses have previously been reluctant to get involved with CETA. Many have blamed their reluctance on Government paperwork. Many have argued that CETA prime sponsors failed to match training programs with their businesses' manpower needs. And others have been turned off by CETA's less than satisfactory image.

However, the 1978 passage of title VII of CETA signaled a welcomed change in focus for Federal employment and training policy—away from public service employment (PSE) and toward private sector initiatives for youth and the disadvantaged. There is great need to accelerate this trend toward private sector initiatives if the needs of the structurally employed are to be addressed adequately.

The Youth Act of 1980, H.R. 6711, provides Members of Congress with an opportunity to further this trend.

Moreover, the act links CETA with the educational system. Public-private partnerships, nonprofit organizations, and community-based organizations are vigorously sought for the purpose of providing linkages between the schools, the CETA system, and the private sector.

Some organizations have become very successful in this area. They provide both in-school and out-of-school youth with opportunities to acquire or upgrade their job skills, to become oriented to the workplace, and then to move into unsubsidized private sector employment.

An example of such an organization is 70001 Ltd., which conducts 59 programs in 24 States and is starting a program in Mississippi. They provide a wide variety of preemployment training, educational and motivational activities, job placement in the private sector, and retention services. 70001 Ltd. was started by Thom McAn, Inc., in Wilmington, Del., in 1969 and enjoys the support of 45 business and trade associations as well as hundreds of local businesses.

The Youth Act of 1980 will encourage such organizations as 70001 Ltd. to help our Nation's youth prepare for and take advantage of existing employment opportunities.

The youth, who have been particularly hard hit by the present recession, are the foundation of our Nation's future. They deserve to be taught necessary skills that they might be able to improve their own lives. With this act, Congress has the opportunity to begin to lay the foundation for long-term solution rather than allowing the Government to continue to deal with a critical unemployment problem with short-term solutions.

● Mr. BIAGGI. Mr. Chairman, today we have before us legislation which addresses one of our most pressing domestic problems which we face as a Nation—youth unemployment. This bill, H.R. 6711, the Youth Act of 1980 of which I am an original cosponsor, was sent to Congress in January of this year by President Carter. In doing so, this administration committed itself to this issue by making this bill its No. 1 domestic priority for 1980. Clearly, approval of this legislation is critical if we are to begin to eliminate the chronic situation of increasing numbers of our young people on the streets—and without the skills to help them into the job market.

As New York's ranking member of the House Education and Labor Committee, I have been involved with this bill since its inception. The reason why is very clear—unemployment statistics nationwide are grim and particularly dismal in my own city of New York. Youth unemployment has always run in excess of the national figures. With a recession, the situation is grossly compounded. At the present time, we are looking at youth unemployment figures for the first quarter of 1980 of 16.2 percent for 16- to 19-year-olds, with my own State of New York registering even higher figures at 22.1 percent. Especially tragic is that in New York City, this figure is even higher at 27.4 percent with the overall minority youth figures compounding this figure at 34.4 percent.

Yet since the time of the submission of this bill to Congress, our economic condition has significantly deteriorated, as we enter a recession of moderate magnitude. Recession traditionally means higher unemployment and thus far, this is holding true. Expectations are that the unemployment rate may reach 8 percent by the year's end.

This bill, H.R. 6711, provides targeted assistance to the most disadvantaged of our youth to assist them in developing basic job training skills in school before they graduate. The centerpiece of this legislation is its recognition of the need to coordinate existing youth employment programs with education programs. It represents a long overdue union of two mainstays of our society.

Title I of this bill extends our current youth employment programs in title IV of CETA through fiscal year 1985. While there is no one, clear cause of youth unemployment, we do know that it is left unchecked by the lack of jobs for youth as well as the absence of coordination between educational and job training. CETA has provided us with an impressive example of how youth employment programs can and should work. We have rightfully placed these programs in title I of the Youth Act to provide a strong foundation upon which to build the newer portion of this initiative, the education component in title II.

While we have learned that jobs are important to keeping youth productive members of society, we are also painfully aware that many of these youth lack the basic educational skills which allow them to find and maintain meaningful employment or to advance in the jobs they currently hold. Title II provides a new program of job training, vocational skills and remedial education to high school age youth who need this training to enter the world of work. The money in this title is targeted to provide services to our most needy young people, largely through both secondary schools and area vocational schools, as well as community-based educational organizations. Built into this title is close cooperation between the educational community, employment and training officials and private sector employers.

If we do not rise to the challenge of assisting these youth, we are simply opening the door for their continued slide toward a lifetime of poverty, joblessness, despair, and even crime—the ultimate act of desperation. Many of our current high school programs are inadequate for the needs of this population. The dropout rate for my own city of New York is an incredible 45 percent. Of those who do remain in school through graduation, the Carnegie Council on Policy Studies reports that at least 20 percent of these students lack adequate basic skills.

Title II of this bill will help us close many of the gaps in our current high school programs which in many cases are inadequate for the needs of disadvantaged, low-income youth. Funds are targeted to the neediest of our students in low-income urban and rural areas. Responsibility for these programs rests at the local level in order to instill a greater sense of responsibility for these youth at the community level. In addition, we have built upon the positive lessons of vocational education and have provided for such programs in the implementation of these educational programs.

To receive funds under this title, eligible schools must submit plans to local educational agencies which will detail how they will serve eligible youth in the community. These plans must have the approval of the school's site council, also established under this bill and made up of interested members of the education and labor community. Final funding of these proposals will be based upon both need and quality of plan.

To further coordinate the linkage for working programs in the education and employment arena, the committee bill requires that 22 percent of the funds under this title be used for joint programs between local educational agencies and CETA prime sponsors. I am confident that such joint programs will insure that disadvantaged youth receive the proper job and basic skills training in order to prepare them for the world of work.

The pressing need for this legislation is even more pronounced if one examines the existing Federal programs which have been created for our students and schools. The Elementary and Secondary Education Act—our single, largest Federal education program—provides educational opportunities to our youngest school children. In addition, we have the Higher Education Act, which provides extensive aid to postsecondary students. What we are currently lacking in our Federal educational policy is a coordinated program to help those students—in junior high and high schools—in that difficult transition between childhood and adulthood into the world of work. This bill, H.R. 6711, will provide the missing piece to completing a full-scale, coordinated Federal education policy for all our students, from our youngest preschoolers to our senior citizens, who are going back to schools in record numbers.

I also wish to commend our distinguished chairman, Mr. PERKINS, for his commitment to seeing this bill through our committee in an expeditious as well as judicious fashion. Credit should also go to GUS HAWKINS, who chairs our Employment Opportunities Subcommittee and is a long-standing advocate of full employment opportunities for all our citizens. I am aware that we moved on a very fast track with this bill and it is commendable that my colleagues worked so hard to reach an accord on this bill with concerned members of the education and labor community to produce a truly bipartisan measure that merits our support.

Surely we cannot expect that the problem which urban areas face in these days of rising inflation and unemployment can be quickly and painlessly eliminated. However, this bill before us today, the Youth Act of 1980, provides a bold, new initiative which can help us to begin teaching our youth to help themselves. I fully support it and urge my colleagues to do the same.●

● Mr. STOKES. Mr. Chairman, I simply cannot let the debate and amendments on H.R. 6711 go by without stating for the record the need for our Department of Labor and our city, county, and State officials to concentrate more on using community-based organizations to target Federal funds to those who need them most in our inner cities.

I have introduced community-based organizations jobs legislation for adults and youth the past four sessions of Congress because I consider this such a critical issue.

Ever since the Nixon administration introduced us to manpower revenue sharing, our community organizations have had to fight and struggle to secure funds and maintain their comprehensive programs in the face of administrators who fail to acknowledge the value of a demonstrated track record of effectiveness.

I notice that Chairman HAWKINS of the Employment Opportunities Subcommittee has retained the provision of the Original Youth Demonstration Project Act in this bill, H.R. 6711. This means that community-based organizations like the Opportunities Industrialization Centers, the National Urban League, recruitment training programs and labor union related training programs should be given special consideration by prime sponsors as deliverers of employment and training services.

Maintaining this provision is critical. These community-based organizations understand the problems facing our youth. Moreover, the people in the neighborhoods are provided the opportunity to actively participate in solving problems that so directly affect them. Since the neighborhoods have so much at stake, they are in the best posiiton to effect real change.

OIC, for example, has created an antidropout program which has been tested in five cities and proven effective in areas with high school dropout rates as high as 50 percent.

The program, called the career intern project, was included in the 1980 Youth Act as an amendment accepted by Chairman HAWKINS of the subcommittee and by the Committee of the Whole under Chairman PERKINS.

This program enables students to attend an alternative high school if they have dropped out or if they are considered serious risks for dropping out before graduation. The record shows that, among the students in the program, over 70 percent were either employed or in college or technical school after attending the alternative school.

As this example demonstrates, community-based organizations play a critical role in our attempt to reduce unemployment among youth. I urge my colleagues to support special provisions for community-based organizations as is done in this legislation.●

● Mr. PURSELL. Mr. Chairman, I rise to express my support for the bill before us—the Youth Act of 1980 (H.R. 6711). This legislation addresses one of the most serious and continuing problems facing our Nation—youth unemployment.

While the national jobless rate stands at an unacceptable 7.7 percent—over 14 percent in my State of Michigan—the rate for potential workers between the ages of 16 and 19 approaches 20 percent. Chronic youth unemployment is particularly concentrated among disadvantaged and minority groups. Poor youth are twice as likely to be unemployed as their middle class counterparts, and less than half of the young blacks seeking work can find it.

Unfortunately, this situation is not a temporary one, simply awaiting the country to work its way out of the current recession. Rather youth unemployment has risen continuously since World War II, regardless of conditions in other segments of the workforce.

As a member of the Education and Labor Committee during my first term in Congress, I recognized the need to deal with this deplorable situation and was pleased to participate in developing the Youth Employment and Demonstration Projects Act of 1977. The committee, including my Michigan colleagues BILL FORD and DALE KILDEE, is to be commended for its outstanding work this year in building on the experience gained through these projects and presenting to us a bill that has bipartisan support, as well as the backing of education and community groups from throughout the Nation. Needless to say, H.R. 6711 is a compromise, but it is one that is workable, meaningful and comprehensive.

Title I consolidates three major programs authorized by the 1977 act administered by the Department of Labor. Title II establishes a new program, administered by the Department of Education, to improve youth employability through school-based training in basic and employment skills, such as reading, writing, arithmetic and work habits.

The committee, thus, has acknowledged that the answer to the youth unemployment problem lies both in the labor market and in the educational system, along with coordination and cooperation between the two. For example, it is especially noteworthy that dropouts are three times as likely to be unemployed as high school graduates.

During my service on the Education and Labor Committee, I participated in formulation of the so-called "Quie Amendment," which is now part of the Comprehensive Employment and Training Act (Public Law 95-524). This provision requires all prime sponsors to actively seek involvement of local educators in designing programs under various CETA titles.

That amendment was a small, but important step, in forming necessary partnerships between the schools and all others active in the tasks of insuring adequate employment opportunities and preparing young people for those positions. This legislation today brings us a great distance further down the road of coordination and cooperation essential to meet these goals.

Accordingly, I highly recommend H.R. 6711 to my colleagues and pledge my best efforts to its passage and subsequent implementation, as well as to future actions aimed at insuring meaningful jobs—jobs that produce not only more goods and services, but that provide a source of increased dignity and pride to each and every American.●

Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the chair, Mr. MURTHA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6711) to extend the authorization of youth training and employment programs and improve such programs, to extend the authorization of the private sector initiative program, to authorize extensive and remedial education programs for youths, and for other purposes, pursuant to House Resolution 702, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 337, nays 51, not voting 44, as follows:

[Roll No. 494]

AYES—337

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Anthony
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hillis
Hinson
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Lehman
Leland
Lent
Levitas
Livingston
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McClory
McCormack
McHugh
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—51

Archer
Bauman
Beard, Tenn.
Brown, Ohio
Butler
Cheney
Cleveland
Collins, Tex.
Conable
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Dickinson
Frenzel
Gramm
Hagedorn
Hall, Tex.
Hance
Harsha
Hightower
Holt
Ichord
Jeffries
Kelly
Kindness
Kramer
Latta
Leath, Tex.
Lee
Lewis
Loeffler
McDonald
McEwen
McKay
Maguire
Martin
Michel
Miller, Calif.
Miller, Ohio
Montgomery
Paul
Robinson
Rudd
Satterfield
Sensenbrenner
Stenholm
Stockman
Stump
Taylor
Wyatt

NOT VOTING—44

Abdnor
Alexander
Anderson, Ill.
Annunzio
Ashley
Badham
Barnard
Burgener
Conyers
Daschle
Devine
Dodd
Duncan, Oreg.
Evans, Ga.
Holland
Holtzman
Hyde
Jones, N.C.
Leach, La.
Lederer
Lloyd
Luken
McCloskey
McDade
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Myers, Pa.
Nedzi
O'Brien
Patten
Quayle
Roberts
Rousselot
Schroeder
Staggers
Symms
Thompson
Vander Jagt
Watkins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Young, Alaska

□ 2000

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio for, with Mr. Barnard against.

Until further notice:

Mr. Alexander with Mr. O'Brien.

Mr. Murphy of New York with Mr. Bob Wilson.

Mr. Thompson with Mr. Abdnor.

Mr. Staggers with Mr. Hyde.

Mr. Mollohan with Mr. Quayle.

Mr. Patton with Mr. Rousselot.

Mr. Ashley with Mr. Burgener.

Mr. Myers of Pennsylvania with Mr. Badham.

Mr. Charles H. Wilson of California with Mr. Young of Alaska.

Mr. Roberts with Mr. Symms.

Mrs. Schroeder with Mr. Vander Jagt.

Mr. Watkins with Mr. McDade.

Mr. Nedzi with Mr. McCloskey.

Mr. Moorhead of Pennsylvania with Mr. Conyers.

Mr. Jones of North Carolina with Mr. Leach of Louisiana.

Mr. Lederer with Ms. Holtzman.

Mr. Daschle with Mr. Duncan of Oregon.

Mr. Dodd with Mr. Holland.

Mr. Evans of Georgia with Mr. Lloyd.

Mr. Charles Wilson of Texas with Mr. Luken.

Mr. STARK changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

TITLE AMENDMENT OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. PERKINS: Amend the title so as to read: "A bill to extend the authorization of youth training and employment programs and improve such programs, to authorize intensive and remedial education programs for youth, and for other purposes.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO CORRECT SECTION NUMBERS, PUNCTUATION, REFERENCES AND CROSS REFERENCES IN THE ENGROSSMENT OF H.R. 6711

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill H.R. 6711, the Clerk be authorized to correct section numbers, punctuation, references and cross references to reflect the actions of the House in amending the bill H.R. 6711.

The SPEAKER pro tempore (Mr. Fary). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6711, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

THE FBI STORY

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, as we all know, the late 1960's and early 1970's were a turbulent time in our Nation, a time when emotions concerning the Vietnam war were tearing at the seams of our society. It also was a time when terrorist activity was at its greatest in our recent history.

It was felt then, and I believe rightly so, that our national security was threatened by this rise in terrorism. And we, as a nation, turned to our Federal law enforcement body, the Fedral Bureau of Investigation, to ferret out this evil, and bring the subversives to justice.

It is deeply disturbing, therefore, to learn of the plight of two of the very men we turned to for help. W. Mark Felt and Edward S. Miller are two former FBI officials who were in charge of the early 1970's pursuit of the terrorist "Weather Underground." These two men, entrusted with protecting the national security, are scheduled to stand trial soon on charges of conspiring to violate civil rights. They are accused of ordering break-ins in 1972 and 1973 at five apartments in hopes of finding letters or other clues as to the Weathermen's whereabouts.

A number of very serious questions are posed by this impending trial, and for the benefit of my colleagues, I offer an article which appeared in the August 18, 1980, issue of the Wall Street Journal.

I think it is important that these two public servants know that we stand with them, that we will not turn our backs now, after they served us in our time of need. The very fabric of our law enforcement capabilities is threatened by this case, but I am confident that, in the end, these Government agents will be vindicated, and their colleagues' faith in our criminal justice system will be restored.

The article follows:

FBI Story

Two former FBI officials in charge of the early '70s pursuit of the terrorist "Weather Underground" are scheduled to stand trial soon on charges of conspiring to violate the civil rights of their quarry's friends and relatives. More than two years and four months have elapsed since the Justice Department sought the original indictments, the kind of trial delay that recently led a court to order a convicted triple murderer released from jail.

Trial procedure isn't the only problem with the FBI case. The prolonged hesitation at Justice hints at doubts about its judgment in this particular balancing of civil liberties against national security. Perhaps national security concerns weren't as trivial and the FBI professionals weren't as reckless as the post-Watergate mind had assumed.

The FBI's former acting associate director, W. Mark Felt, and its former assistant director, Edward S. Miller (in charge of intelligence), are accused of ordering break-ins in 1972 and 1973 at five apartments in hopes of finding letters or other clues to the Weathermen's whereabouts. (Former acting FBI Director L. Patrick Gray III is also charged; but the government has severed his case until it disposes of his subordinates.)

The defense is planning to show that the FBI had serious reason to suspect foreign involvement with the Weathermen, and the delay comes because Justice has been denying it the documents to do so. One could wonder what use a foreign power would expect to make of the Weathermen, a repellent collection of spoiled upperclass brats. But one also wonders just what is in those classified documents the government has been refusing to release.

The full story is being censored in the judge's chamber, but enough has leaked out to indicate the problem isn't simply "graymail", wherein the defense tries to deter a trial by threatening to force disclosure of sensitive documents. Yes, it turns out, the Weathermen *were* in touch with Cuba, North Vietnam and North Korea. Yes, one member even traveled to Algeria to meet with PLO leader Yasser Arafat. (The meeting fell through, but Arafat offered to reimburse the expenses.) The FBIs earlier report of no foreign involvement was misleading because some crucial information wasn't shared within the bureau and the standards of proof for "involvement" were too rigid.

The government might argue that even these circumstances don't justify break-ins, but then let it explain what circumstances do. Even in the heat of its moral flush, Justice has declined to make a case about an illegal FBI entry at an Arab center in Dallas. The break-in yielded a list of 94 alleged Fatah agents said to be planning the assassinations of American Jewish leaders.

Do the Weatherman deserve greater constitutional protection than potential Arab assassins? After all, these sons and daughters of lawyers and bureaucrats have claimed bombings in a men's room in the U.S. Capitol, Gulf Oil's international headquarters and the Los Angeles office of the California Attorney General, among other incidents. Three of their members died when they accidentally blew up a Manhattan townhouse where they were assembling bombs. A bomb which may have been theirs claimed the life of a San Francisco policeman. Not bad reasons for law enforcement concern.

The reward for this concern, however, has been a costly Justice Department investigation (some estimates top $20 million), forcing some 140 agents and former agents to retain counsel at their own expense even though Messrs. Felt and Miller took blame for the break-ins voluntarily to cut short this turmoil. The Society of Former Special Agents of the FBI has spent more than a million dollars to defend its members. The cost in shattered FBI morale can't be measured.

And now, when the terrorist bombings are coming from right-wing groups like the anti-Castro Omega 7, the same voices that egged on this case complain that the FBI can't defend internal security. Indeed, Cuban, Russian and Iranian agents can play the bully-boy on American soil with unprecedented impunity. The suspect in the recent Bethesda assassination of an anti-Khomeini Iranian exile had such obvious contacts with Iranian diplomats that the earlier kinds of surveillance might have prevented the crime.

A balance can and must be struck between national security and individual rights that favors personal freedom. But things have gone too far when government agents are threatened with harsher punishment than the Weathermen they were chasing.

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THE BRAVE AND COURAGEOUS POLISH PEOPLE

The SPEAKER pro tempore (Mr. Fary). Under a previous order of the House, the gentleman from California (Mr. Dornan) is recognized for 10 minutes.

Mr. DORNAN. Mr. Speaker, we are witnessing a tremendous test of will in Poland. It has been reported that a Bulgarian artillery unit arrived in northern East Germany last night, complementing the arrival of a Czechoslovakian tank unit. The arrival of these forces just happens to coincide with a massing of East Bloc personnel for Warsaw Pact military exercises scheduled for early September. There are, according to published sources, approximately 20,000 Soviet troops in Poland, manning two armored divisions. Other sources indicate that there may be as many as four armored divisions in the country. As the tension mounts during the next few days, I think that we ought to reflect upon what is truly happening in Poland. We are witnessing an inspiring display of character and courage on the part of the Polish people in their continuing struggle for freedom.

During my first trip to Poland, the first of several trips, about 15 years ago, I asked to see the Warsaw ghetto. I was taken to an area where there was a nice memorial, but it was really just a massive vacant lot. Then, I went into a small museum off the city center square. There, I saw a large photograph of the great city of Warsaw in the winter of 1944. There was virtually no shape visible, just endless white. The site was blanketed with a heavy snowfall, rolling low hills as far as the eye could see, with a few jagged sticks haphazardly sticking out of the barren landscape.

The post World War I revitalized Poland was victimized again by a cruel history, caught in the great totalitarian squeeze play in 1939 organized by the butchers Adolf Hitler and Joseph Stalin. The plains of Poland once again became an arena of European cruelty and courage, the first open battlefield of the Second World War. The great suffering of the Poles, particularly the Polish Jews of Warsaw, was almost beyond comprehension. But so was the great courage of the Polish resistance. The price of that resistance was brutal, remorseful Nazi and Kremlin oppression and the physical destruction of the ancient and beautiful city of Warsaw itself. The Kremlin's occupation and the installation of a Communist puppet government dashed hopes of the Polish people for a true postwar liberation. Unfortunately, it was an arrangement acceded to by the Western Allies at the heartbreaking Yalta Conference.

Warsaw rose like a phoenix from this rubble of the great holocaust. Some people in this country have had a lot of fun making jokes at the expense of the Polish people over the last decade, but I think even they are about to be shocked into dead seriousness by a repeat of Polish courage. We are all about to see what an incredibly heroic people our Polish brothers and sisters are, and what their thousand year history has taught the world over and over. True grit.

We have a truism in the English speaking world, "You can't keep a good man down."

Well, "you cannot keep a good people down," and I hope this House of the people finds a means to respond imaginatively and forcefully to what will probably be a period of awful suffering for the great Polish people as they once again rise up and demand their freedom. This yearning for liberty will continue among the peoples of all captive nations as long as they are crushed under Communist totalitarian rule.

Mr. Speaker, the strikes in Poland are growing even at this very moment and include at least 150,000 workers. It is especially significant that Pope John Paul II has broken his careful silence on his homeland and has told pilgrims at the Vatican that "we here in Rome are united with our fellow Poles." In Warsaw, oppressed by an alien regime, the Poles can thank God that they are not alone, bereft of great moral and spiritual support. Now the Kremlin has its answer to the brutal Stalin's cynical question: "How many divisions does the Pope have?" Looking over the hundreds of thousands of factory workers and their supporters, the Holy Father seems to have done quite well indeed.

Whatever the outcome of the current crisis, certain facts will forever stand forth as testimony to an unadulerated truth: The communism of Poland, like communism in virtually every other country, is not a "worker's movement." The Polish Communist Government, which now sits in power only because it can call upon an invading reserve of the Kremlin's massive military strength, is not a "worker's government." The so-called "People's Democracy," the phrase that Communist propagandists always use to describe the Polish state, is anything but a "people's democracy," a fact bluntly admitted by former politburo member Jan Szydlak who recently rejected the workers' demands for greater political freedom with the remark:

> The Communists do not intend to give up their power, nor to share it with anyone else.

For all of the froth of "government concessions", that is the bottom line. I have never heard a better description of political conditions in Poland. Never.

Mr. Speaker, let us join together in this House and show moral support for the brave Poles, a people whose history is itself a celebration of national independence, a deep and abiding religious faith, and great courage in the face of extreme adversity.

God save Poland.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. DORNAN. I am delighted to yield to the gentlewoman.

Mrs. FENWICK. Mr. Speaker, I am happy and moved that our colleague has brought this to the attention of the House. I would like to associate myself with his remarks.

Mr. DORNAN. I thank the gentlewoman.

THE TAX ON MARRIAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PEYSER) is recognized for 60 minutes.

GENERAL LEAVE

Mr. PEYSER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. PEYSER. Mr. Speaker, I rise today to discuss an inequity which exists in our tax structure. Specifically I am speaking about the "marriage tax" which penalizes the two-earner married couples. While I have raised many questions on a number of taxes or tax cut proposals that have been made, this is one that really should be addressed immediately and one which a number of Members in the House have already taken a very definite and positive action on. The gentlewoman from New Jersey (Mrs. FENWICK), the gentleman from Virginia (Mr. FISHER), the gentleman from New York (Mr. CONABLE), and others have already introduced and have legislation before the Ways and Means Committee.

I would like to point out that the marriage tax is the difference between the tax liability of a married couple in which each spouse earns income and the couple files jointly as compared with the combined tax liability of these same two people if each were to file as an unmarried taxpayer.

This marriage penalty begins to occur when one spouse earns at least one-fifth of the family income.

Let me give my colleagues an example of what is involved. If a man and woman each earned $15,000 in 1979 and they were single they would have each paid a Federal income tax of $2,345 for a combined tax liability of $4,690. If these same two people had been married the tax on a $30,000 income filed jointly would have been $5,593. The marriage penalty tax would have been $903.

This, Mr. Speaker, obviously does not make good sense.

I would like to quote for a moment, Mr. Speaker, what is happening as a result of this tax. I am extracting from a statement of the gentleman from Massachusetts (Mr. DRINAN) and would then ask that the statement be put into the RECORD immediately following mine.

What Mr. DRINAN says here at the outset is that:

> Two clergymen in Culver City, California announced earlier this summer that they are willing to perform secret marriages to allow newlyweds to escape higher taxes on their combined incomes. "We will perform marriage ceremonies in the eyes of God, but not in the eyes of the IRS," said Rabbi Allen Malker of Temple Akiba. Said the Rev. Robert Johnson of the Grace Lutheran Church, "It's not a legal ceremony, but it is not an illegal ceremony."

It just seems to me, Mr. Speaker, when we have clergymen going to this extreme, at this point it is high time that the House take real action on this matter.

Mr. Speaker, to highlight again the feature of the current law which led to the marriage penalty, in the first place a different standard deduction for single and married taxpayers exists. While two single individuals may each claim a standard deduction of $2,300 for a total of $4,600, married taxpayers may claim only $3,400.

Second, the tax rate faced by the second worker of a married couple are higher because the total income is subject to our graduated tax rate.

Mr. Speaker, in 1979 approximately 16 million Americans paid a marriage tax penalty of $8.3 billion. This penalty works against families with two wage earners, which is especially disturbing given the fact that with the ever-increasing inflation, a great many families need two incomes in order to make ends meet.

By taxing married couples more heavily than individuals, we are penalizing the institution of marriage. Further, we are discouraging the nonworking spouse—generally the woman—from taking a job. I recently received a letter from a woman in my district which accurately sumarizes the present inequity. She wrote:

> My boyfriend and I would like to marry. If we do so, our Federal income taxes will total several thousand dollars more each year than if we choose to remain single. This result is due to the fact that we are both wage earners and there is not a large gap between the levels of our incomes. I have told him that we ought to remain single until we decide to have children and put away the money saved toward the purchase of a home. Emotionally, this is not an easy decision to accept.
>
> I really sympathize with those couples who are married, working and raising children, carrying an increased tax burden as well as the costs of raising a family.

Mr. Speaker, there are several bills which have been introduced which seek to redress this serious inequity. In both the 95th and 96th Congress, the gentlewoman from New Jersey (Mrs. FENWICK) has introduced legislation which would give married couples the option of filing separate returns as single individuals or filing jointly. This bill has over 230 cosponsors.

Bills have also been introduced by the gentleman from Virginia (Mr. FISHER) and the gentleman from New York (Mr. CONABLE) which would provide some relief to the two-earner married couple through a deduction equal to a percentage of earned income of the spouse with the lower salary.

Mr. Speaker, the House Ways and Means Committee held hearings on this issue in April. Testimony was given by both Members of Congress and private citizens that the tax laws are prompting more and more taxpayers either to divorce and reap gains by filing returns as single taxpayers or to avoid marriage in the first place.

Mr. Speaker, it is clear that we must act to correct the existing discrimination that the tax code perpetrates against married couples. I urge the Ways and Means Committee to report legislation which would eliminate the marriage tax penalty.

Mr. Speaker, I would simply say that I have talked to members of the Ways and Means Committee and they have indicated a complete willingness to move ahead with this tax as an individual measure. I would say the purpose of this special order tonight is to provide that stimulus that I hope will motivate the committee to move promptly on this.

● Mr. DRINAN. Mr. Speaker, two clergymen in Culver City, Calif., announced earlier this summer that they are willing to perform secret marriages to allow newlyweds to escape higher taxes on their combined incomes. "We will perform marriage ceremonies in the eyes of God, but not in the eyes of the IRS," said Rabbi Allen Malker of Temple Akiba. Said the Reverend Robert Johnson of the Grace Lutheran Church, "It's not a legal ceremony, but it is not an illegal ceremony."

The latest version of the so-called marriage tax was created by Congress in 1969 when it tried to remove from the tax code what was termed the tax on remaining single. The objection to provisions that led to a single person with an income of $20,000 paying more than a couple with the same combined income—the proper result of a progressive tax code—was based on the notions, since discarded, that two can live as cheaply as one, and that one member of a couple is the taxpayer while the other is a tax shelter in the form of a spouse. The removal from the Tax Code of what was perceived to be an inequity caused a situation with which we are now all too familiar: Two married working people, one of whom earns no more than 80 percent of their total income, pay more tax than if they were not married.

A few approaches to the problem have been suggested, such as allowing spouses to file as single taxpayers. Such an approach, however, would ignore the principle that two couples with the same income, no matter what the percentage derived from each respective spouse, should pay the same income tax. Because of the effects of a graduated income tax, a couple with an 80–20 percent split in income that files single returns would pay 40 percent more taxes than a couple with the same $10,000 earned on a 50–50 percent basis by both spouses.

Another proposal, to provide a two-earner couple with a 10-percent tax credit on the income of the lower earning spouse, has the same disadvantage of treating various couples with the same combined incomes differently on the basis of the spouses' earning ratio.

I concede the problem is difficult, but we should not correct it by creating a new one. I favor a return to the tax provisions that existed before 1969: income splitting that attributes one-half of a couple's combined income to each spouse. Michael and Robert McIntyre pointed out in the May 1980 issue of the Tax Reform Research Group's People & Taxes:

> Income splitting makes the reasonable assumption that married partners share the total family income equally and that each individual spouse therefore has about the same ability to pay taxes as a single person with half of the family income. . . . Besides eliminating the tax on marriage, income splitting has the additional very important advantages of: treating all married couples with similar incomes the same, no matter what the types of income or the nominal earnings division between the spouses; maintaining a progressive rate structure; and easy administrability. There is no other approach to the problem which satisfies these three objectives.

We have all heard numerous examples of couples paying more taxes after marriage or less after divorce. Every married couple can save taxes by divorcing and splitting their income as part of the alimony agreement. Income splitting for married taxpayers would remove this tax benefit of divorce.

Let us be aware that any legislation to eliminate the marriage tax entails a tax reduction; the marriage tax now raises $23 billion for the U.S. Treasury—over nine times the excise taxes on tobacco, four times the taxes on alcohol, and three times the highway-use taxes. If this Congress is still committed to a balanced budget—and projections for fiscal year 1981 already include a deficit of $30 billion—it must remember that any additional revenues to cover those now unfairly collected by the marriage tax will ultimately be borne largely by married people who constitute three-quarters of all taxpayers. This reality should not, however, discourage us from insuring that Federal revenues, totaling whatever amount, are raised fairly.

Having served as editor-in-chief of the Family Law Quarterly, chairman of the ABA's section on family law, and a professor of family law at the Boston College Law School, I have long been aware of this quirk in our tax laws. I have sponsored and cosponsored legislation in the past few Congresses to deal with it. I hope that this Congress will accept the opportunity to finally abolish the tax on marriage.●

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I will be very pleased to yield to the gentlewoman from New Jersey who has been one of the prime movers for the past 2 years on this particular measure. I am delighted to yield at this time.

□ 2020

Mrs. FENWICK. I thank my colleague for yielding.

I would like to thank the gentleman from New York (Mr. PEYSER) for scheduling this special order on what millions of Americans consider to be the most unfair feature of our Federal Tax Code—the "marriage tax."

I would also like to commend the gentleman from New York (Mr. PEYSER) as a cosponsor of our bill. Now we have 237 Members of this House who are in favor of H.R. 3609. I am happy that H.R. 3609 is a successor to a bill which I have introduced in every single Congress since I came here in January 1975. We cannot continue an unfair and inequitable tax.

The clergymen who have been quoted by the gentleman in the well, Mr. PEYSER, are joined by many others. I received a letter 2 or 3 years ago from a priest in Florida who begged me to press forward with this bill because it was causing such tremendous strain on the people of his parish. Senator MATHIAS who introduced this bill in the Senate last year received a letter from a Protestant clergyman in Maryland who said:

> You can hardly believe what I am now writing you. Contrary to everything that my Christian conscience would dictate to me, when young people come before me, I sometimes counsel not to marry on account of the penalty that marriage incurs under our Federal Code.

I think the time has come when we have to stop this. I am happy to see that Secretary Miller of the Department of the Treasury and many, many other authorities, including both platforms of the political parties, have endorsed some form of relief for the working and married people of this country. It is an unfair tax. It is contrary to sound social policy.

I congratulate our colleague, the gentleman from New York, for asking for this special order on this subject.

Mr. Speaker, under present law, a husband and wife who both work generally pay more tax than they would if they were single. The resulting penalty has at least two negative effects: It discourages marriage, and it discourages married women who want to go to work.

I have proposed to eliminate this "tax on marriage" by simply allowing two-earner married couples to be taxed as if they were single. This change is long overdue. The marriage tax was created "inadvertently," according to several Members of the Ways and Means Committee, more than 10 years ago. We have yet to correct that mistake.

Several States are ahead of Congress in this respect. They have "combined-separate" tax forms, which allow couples to file separately on the same form by placing two columns on the tax form. If we adopted this format for our Federal tax forms, we could allow couples to pay separately according to the rate schedule for singles while minimizing the added administrative burden placed upon the Internal Revenue Service.

In addition, the fact that increasing numbers of married women are now working makes this change necessary. More than half of all the married women in the country now work, which means that up to 40 million Americans, more than half the married couples in America, may be paying the marriage tax. Demographic experts testified at the House Ways and Means Committee's hearings on the marriage tax in April that by the end of this decade, at least two-thirds and perhaps as many as three-quarters of all the married women in the country will be working. So the problem will become even more widespread, and the need for change will become even more dramatic in the years to come.

Elimination of the marriage tax is not only long overdue, it is also sensible and widely supported. A recent poll conducted by the Gallup organization for the White House Conference on Families found that 83 percent of those surveyed favored elimination of the marriage tax. Significantly, 77 percent of the single individuals surveyed supported this change.

In addition, the recently adopted platforms of both the Republican and Democratic Parties call for the elimination of the marriage penalty. The National Taxpayers' Union, the President's Interdepartmental Task Force on Women, the Women's Equity Action League, the American Association of University Women, and Business and Professional Women have all endorsed H.R. 3609, which allows married couples to file as singles.

A recent Justice Department study called the marriage tax "the major source of sex discrimination within the Tax Code." The study was referring to the fact that by taxing the income of the second spouse at such a high marginal rate, our current Tax Code has the effect of discouraging many married women from going to work. For example, if a husband married to a nonworking wife earns $10,000, he pays $702 in taxes—assuming that he does not itemize deductions. If his wife goes to work for the same $10,000 salary, the couple's tax bill jumps to $2,745. The effective tax on her income is $2,143. Significantly, the United States is the only country in the OECD—the only major industrialized country in the free world—in which the tax cost of the second earner's entry into the work force is higher than that of the first.

Clearly, we must act. I am, of course, happy to note that the Senate Finance Committee has recognized this need and has included a provision which would reduce the marriage tax in its proposed tax cut bill. I am very pleased that a congressional committee has reported legislation on the marriage tax issue, because I have been working on this issue since I was first elected to Congress. But I would hope that when this issue comes before the House, we will adopt a more comprehensive and straightforward approach to this problem.

The Finance Committee has proposed to grant married two-earner couples a deduction of 5 percent on the first $30,000 earned by the lesser earning spouse in 1981, with the deduction rising to 10 percent in subsequent years. While such a provision would reduce the marriage tax, it would not eliminate it. It would only reduce it partially. Dissatisfied couples would still cry out for change, fly to Haiti in the winter for divorces, and do the many desperate things they are doing now to fight this unfair marriage penalty. Adoption of the deduction proposal would only serve to perpetuate the source of the problem—the aggregation of spouse's incomes. Instead of going to the source of the problem, it would only add another twist to our already hopelessly complicated code, providing an arbitrary level of relief, and in some cases, providing relief even where no marriage penalty exists.

At a comparable cost, we could adopt H.R. 3609 and completely eliminate the marriage penalty. It is estimated that H.R. 3609 would reduce Federal revenues by about $8 billion annually. The Senate's deduction proposal, meanwhile, will cost at least $5 billion annually. If the initial revenue impact of H.R. 3609 is felt to be too great, however, it could be phased in gradually over a number of years. The difference between the tax rate schedule for marrieds filing separately and that for singles could be reduced by 20 percent a year for 5 years, for example, at a cost of under $2 billion in the first year. Yet at the end of the 5-year period, the marriage penalty would be completely eliminated, once and for all.

Mr. Speaker, I greatly appreciate the opportunity to take the floor and call for the elimination of this tax. I thank all of my colleagues who have joined me in this effort, and I sincerely hope that we will accomplish our goal in the very near future.

Mr. PEYSER. I appreciate the gentlewoman's comments. In keeping with what she has just said, I would like to point out I have just received a letter from a young woman who told me that she is living with a young man whom she really wants to marry. She said she really feels guilty about living this way, but they have decided, because of what it would cost them if they get married, that until they have children or she becomes pregnant, they will not marry. This just is not right.

Mrs. FENWICK. If the gentleman will yield further, that is what started me on this whole thing. A young woman spoke to me in exactly those terms in the autumn of 1974. That is what started me on the whole subject. I had no idea what was happening to the working people of this country.

Mr. PEYSER. I thank the gentlewoman.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I will be glad to yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding. I want to commend the gentleman from New York (Mr. PEYSER) for taking this special order. I want to associate myself not only with the remarks that he has made but also to associate myself with the real champion, the gentlewoman from New Jersey (Mrs. FENWICK), who has been carrying the principal burden as far as the House is concerned on the repeal of the so-called marriage tax. Each one of us has made reference to cases in point or life examples of where the people in contemporary society are struggling with their consciences simply because of the inequities that are involved in our existing Tax Code. So, once again, as a cosponsor of the legislation I want to commend the gentleman for his taking the special order, again giving the Members of this House a chance to expand on this effort. I cannot believe with 237 Members who have already cosponsored this legislation that the Committee on Ways and Means and the Department of the Treasury would not accede to the requests that are being made and will continue to be made until such time as this inequity is resolved.

Mr. PEYSER. I thank the gentleman for his comments. One of the things I am hoping for is that the Committee on Ways and Means will be willing to take this as a separate issue, because the problem is what has been happening is that they have been holding it as part of a major tax reform program. I am not arguing the pros and cons of major tax reform, but here is a measure where people, as we know, are suffering as the gentleman pointed out, and we could pass this through the House immediately. I am just hopeful we can create the pressure to bring this about.

I will be glad to yield to my friend.

Mr. CLAUSEN. I thank the gentleman for yielding. Of course, I will use everything that I have in the way of influence at my command to advance that objective, because the Committee on Ways and Means, I am sure, is convinced that the overwhelming majority of the Members of the House are on the right side, and it is just a matter of time when they would yield to what is the right position. So I would certainly join the gentleman in the well, the gentlewoman from New Jersey, (Mrs. FENWICK), and all those who are interested in this particular legislation in advancing it to fruition.

Mr. CARNEY. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I will be glad to yield to the gentleman from New York.

Mr. CARNEY. I thank the gentleman for yielding. I, too, would like to echo the sentiments of my colleague, the gentleman from California (Mr. CLAUSEN), and I would like to commend my colleague, the gentleman from New York State (Mr. PEYSER) who is in the well now, for bringing this special order tonight. At the same time I think we would like to pay that same type of compliment to the gentlewoman from New Jersey (Mrs. FENWICK) for her position that she has taken for the past several years on this bill. It is a bill whose time is now with 237 cosponsors. I think that before we end our business in the 96th Congress this bill should be brought to the floor of this House for some sort of final resolution. I believe with 237 cosponsors we know what that would be and, hopefully, we could have that same success in the Senate and we can end this very inequitable situation that we have with our present law again.

May I commend the gentleman from New York for his activities here today. Hopefully, this will stimulate the rest of our colleagues to bring this bill out before the end of the 96th Congress.

Mr. PEYSER. I thank the gentleman for his comments.

Mr. PETRI. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I will be glad to yield to my friend, the gentleman from Wisconsin.

Mr. PETRI. I thank the gentleman for yielding.

Mr. Speaker, I would like to commend the gentleman from New York (Mr. PEYSER) for calling this special order to focus attention on the important issue of the "tax on marriage," and would like to take particular note of the contributions of the gentlewoman from New Jersey (Mrs. FENWICK) to the worthwhile effort for reforming this unnecessary quirk in our Federal Tax Code. Our distinguished colleague, Mrs. FENWICK, has done a more than admirable job in marshaling support for outright repeal of the marriage tax through her bill, H.R. 3609, which I have cosponsored. Her insistence on sound public policy in this area should result in more equitable tax treatment of the hard-earned dollars of America's working men and women.

Several of our colleagues have noted the origin of the tax on marriage, but I would like to reiterate one point that is crucial to consideration of repeal of this tax. That is, the tax on marriage was created inadvertently. It was a mistake, generally recognized as such, and the opportunity to rectify this oversight should not be passed by.

Until 1969, unmarried people generally paid higher Federal taxes than their married counterparts. So the remedy for this inequity was to fiddle with the tax tables so that a single wage earner would not benefit greatly by marrying someone with an independent income. However, in fiddling, Congress created the "Tax on Marriage," the catch-phrase describing the situation whereby a husband and wife who both work generally pay more tax than they would if they were single. The tax falls on a married couple if the income of one spouse exceed 20 percent of the income of the other—the more equal the two incomes, the larger the tax.

There are several real effects of this tax policy. First, we are discouraging marriage. While some have questioned whether young people are making the decision to marry on such practical grounds as their tax liabilities, I have talked to several people who are. Certainly a tax penalty that can easily exceed $2,000 and can go as high as $4,400 per year, creates a strong disincentive to marriage. And we are all familiar with the highly publicized cases of couples divorcing at the end of the calendar year to avoid such penalties.

Another real effect is the frustration many working wives feel having made the decision to go to work only to discover that their income is so heavily taxed that the decision barely pays off. In fact, the effective tax rate on a $20,000 second income can easily reach 55 percent or more when social security and State income taxes are included. One working wife and mother wrote to me that she went to work to provide, in her words, "such luxuries as shoes for my children."

Were married couples given the option of filing as individuals, as proposed under H.R. 3609, this would, of course, result in a relatively higher tax burden on the family with one worker earning, for example, $20,000, than the family with two workers earning $10,000 each. In my view, this would be an acceptable disparity, giving tacit recognition to the additional costs incurred through a spouse's decision not be a full-time homemaker. The $20,000 single-earner family filing a joint return would still pay less tax than a single person earning $20,000. Of course, any tax reduction for certain married couples increases the percentage of the total tax burden that falls on everyone else. However, if we must choose between overtaxing marriage and excessively encouraging it, surely it is preferable to err on the side of encouraging this valuable institution.

The Senate Finance Committee has chosen to recommend an alternative approach to reducing the tax on marriage, not through outright repeal, but by granting a tax deduction for the second earner. There are several flaws to this approach. First, I would argue that this would clutter our already complicated Tax Code. In the waning days of March and early April, we all heard numerous complaints about the seemingly unnecessary proliferation of lines in the Federal tax return forms. Through a deduction for the second earner, we would be adding yet another, when the approach of H.R. 3609 could be so much simpler and more straightforward.

Moreover, the tax deduction for a second earner maintains the tax policy of devaluing the second earner's income. This would only continue the insult to the second wage-earning spouse.

Finally, Mr. Speaker, I would like to point out that my home State of Wisconsin already allows married couples with two incomes the option of filing as if they were single. It is an honest and equitable approach and I commend it to the Congress, as proposed by the gentlewoman from New Jersey in her bill, H.R. 3609.

Mr. PEYSER. I thank the gentleman for his comments.

I think in conclusion, Mr. Speaker, I simply want to again emphasize the need to move forward on this program. The bill is before the Committee on Ways and Means, and it is my hope that by public participation by Members of Congress clearly stating their desire to move ahead on this bill, before the 96th Congress adjourns we can have enacted this legislation.

● Mr. OBERSTAR. Mr. Speaker, today's special order offers a welcome opportunity to speak out on behalf of my constituents who have written to me or spoken to me about the unfair tax burden on married couples in which both spouses work.

These couples are counting on us to act to remove an inequitable tax burden they bear simply because they are married.

I have cosponsored the legislation introduced by our colleague, the gentlewoman from New Jersey (Mrs. FENWICK), which would allow married couples to file as though both partners were single. I hope that this Congress will enact that legislation, or some form of it, in this session, either pre- or post-election.

The marriage tax costs 19 million married couples almost $5 billion annually. In the past few months, I have come to see this cost not just as an aggregate figure but in its impact on the lives of individuals.

In the past 6 weeks, I have held 16 congressional town hall meetings to give the people I represent the opportunity to speak out on the issues before Congress. At just about every meeting, my constituents raised the marriage tax issue. These people are not couples with incomes of $100,000, but middle income people fighting inflation and facing a substantially higher tax because they are married.

In the months since I cosponsored the Fenwick bill, I have come to realize the importance of this legislation.

I want to thank the gentleman for New York (Mr. PEYSER) for sponsoring this special order. I hope that it furthers our efforts to offer working couples meaningful relief. I hope that this House will vote soon on legislation that provides adequate tax relief to middle and low-income working Americans.

I hope that repeal of the marriage tax will be attached to that kind of tax bill, and not to one which provides a disproportionate share of the benefits of a tax cut to the richest of Americans. ●

● Mrs. HOLT. Mr. Speaker, as a cosponsor of H.R. 3609, introduced by the distinguished gentlewoman from New Jersey (Mrs. FENWICK), I am happy to participate in the special order requested by the gentleman from New York (Mr. PEYSER) to discuss the urgent need to repeal the inequitable "marriage tax." H.R. 3609 already has 237 cosponsors and although it was introduced on April 10 last year, the House Ways and Means Committee did not hold hearings on it until April 2 this year.

More than half of all married women in American are employed outside their homes. Many have taken outside jobs for reason of economic necessity, and many to fulfill personal ambitions.

But an unusual tax burden is imposed on them for working. For Federal tax purposes, a wife's income is combined with that of her husband, and the total is then subject to a higher tax rate than they would experience if they were taxed separately on their individual incomes.

It is called "the marriage tax," and it causes married couples to lose an estimated $5 billion per year to the Federal Government. It may also be a factor in causing many couples to avoid the marriage ceremony and make other arrangements.

Any fair person must be outraged at "the marriage tax." A married woman should be able to take employment without her family being abused by an abnormally high tax burden.

Mr. Speaker, the time has come for Congress to repeal the "marriage tax" by giving married couples the option of filing as though each spouse were single. This should be part of any new tax legislation.●

● Mr. BRINKLEY. Mr. Speaker, I rise in support of Representative FENWICK's bill, H.R. 3609, to repeal the marriage penalty tax by allowing married two-earner couples the option of filing as if they were single. I feel that this bill is superior to other legislative efforts in that it provides the vehicle by which we can eliminate the penalty entirely. This can be accomplished in 1 year or gradually by reducing the difference between the schedules for married couples and single individuals by 20 percent annually for 5 years beginning next year. Also, Representative FENWICK's bill is a simpler approach than the two-step deduction adopted last week by the Senate Finance Committee.

H.R. 3609 will not create a hardship for any other group of taxpayers, as it will only affect those who are subject to the marriage penalty tax.

This popular measure is a feasible approach to correcting a situation which will be multiplied in years to come as more and more wives take jobs outside the home. Let us eliminate both the disincentive to marriage and disincentive to work by totally removing unfair tax treatment of married couples.●

● Mr. WOLFF. Mr. Speaker, I wish to take this opportunity to applaud the efforts of both the Senate Finance Committee and my colleague, Mr. PEYSER, for their efforts to focus upon and hopefully alleviate the so-called marriage penalty which plagues our system of taxation. Although this issue has become central to many of our attempts to correct the imperfections which pervade our Tax Code, this issue is of particular salience today. Over the past decade, we have witnessed a dramatic shift in the American work force, with more and more women infusing today's job market and providing substantive contributions to our Nation's productivity. In part this phenomenon is the result of sociological trends or the more tangible product of the "women's movement," but we must not let sociological studies obscure the more fundamental reason for this phenomenon: Necessity.

With the cost of raising a family, maintaining adequate housing, providing clothing and meals, and funding even nominal amounts of transportation reaching unmanageable levels, many women are returning to work simply to insure that these basic expenses will be afforded. We have all heard from these women—women who have been more than willing to return to work outside of their homes and accept the additional burden on their time and energies, but who are unwilling to be financially penalized by taxes over and above the prescribed rate for an individual income. These dual-income families fail to understand why their taxes are so much higher than their single counterparts whose income is devoted only to their personal expenses, rather than the expenses of an entire family.

I share their inability to fathom such an inequitable system of taxation. I fail to understand why an unmarried couple making $15,000 each in 1979 paid between 14 and 26 percent each in taxes, while the married couple making the same amount paid between 21 and 32 percent—or an additional $903. One need not consult an accountant to realize the financial incentives which we have provided for cohabitation.

I'm sure we have all read the stories of couples who choose to divorce in December only to remarry in January in an attempt to avoid this curious "tax on marriage." Although such adventures may be seen as amusing to some, they attest to a sobering flaw within our system of collecting revenues. It is my fervent hope that this penalty will be abolished as soon as possible—and that we might begin to consider the impact of all of our legislation upon the family structure and remain mindful of this impact when correcting old laws or initiating new.●

● Mr. MINISH. Mr. Speaker, it is a pleasure to participate in this special order aimed at correcting the tendency of our tax structure to exact a higher levy from married people than from those who are single.

There is a lot of fashionable political talk these days about preserving the family, although what the Government should or could do in that way is not always clear. In this case, however, we can take a simple action which is entirely appropriate and just by removing the penalty which married couples face at tax time. We have heard stories about couples repeatedly divorcing and remarrying just to avoid being penalized for their marital status every April. I have heard from constituents who are on the verge of dissolving their marriage and simply living together in order to save hundreds of tax dollars annually. The fact is that this quirk of our tax system punishes millions of ordinary couples, and their numbers are increasing as more and more two-career couples become a reality of the job market. In many marriages, both partners work because they want to, but it is particularly ironic that the marriage tax hits hardest those couples who work because they have to make ends meet. The "marriage tax" adversely affects the lives of people who are under enough pressure already.

I have favored legislation to correct this inequity for some time now, but we have seen such bills stuck in Congress year after year. It would be a shame for the 96th Congress to expire without resolving this problem. The Democratic platform for 1980 has pledged specifically to "end tax discrimination that penalizes working married couples," and here is one campaign promise we can redeem now, even before the elections. We have before us several good bills to deal with the problem. In reconciling them, I think we should look for the least complicated solution, one which would simply allow married couples the option of filing returns as if they were single, and by extending to single individuals the same tax benefits of income splitting which are now enjoyed by those who are married. This approach is simple and just. My own bill embodies it, and some of the other bills before the House do so as well.

I am prepared to support any version of this legislation which is founded on the principle of equal treatment of individual taxpayers. Let us act now to send the Senate some good legislation and eliminate this unfair situation in 1980. Thank you.●

● Mr. HOLLENBECK. Mr. Speaker, I am joining today with many of my colleagues in calling for changes in existing law which discriminate against married persons.

The basic structure of our income tax laws which favors married, one-earner couples, dates back to 1948. At that time, in the average American family, the husband worked and the wife stayed at home. Now 30 years later, families in which both husband and wife work outnumber one-earner couples. Yet despite this change, the male "head of the household" concept still holds fast in our national tax policy.

Unfortunately, by trying to solve the inequity between single and married persons, Congress failed to anticipate the millions of married women entering the labor force during the last decade. The Tax Reform Act of 1969 established a new, lower rate schedule for single wage earners and ignored the impact this would have on households with two wage earners. This new rate schedule, combined with an increase in the standard deduction has produced what is commonly known as the "marriage tax."

This tax structure forces millions of working couples to pay more in Federal income taxes than they would if they were single. The Treasury Department estimates that 16 million working couples have paid an additional $8.3 billion in 1979 taxes simply because they were married. Much of the extra tax revenue is a result of a couple's income being combined for tax purposes, thus pushing the household into a higher tax bracket than either spouse would be individually. The result is a tax on married couples at all income levels. For example, a husband and wife each earning $15,000 a year pay a penalty of $907 on their joint return. At higher income levels the penalty is even greater.

In testimony before the House Ways and Means Committee, it is documented that "thousands" of couples are quietly getting "tax divorces" every year. Thus, we are faced with one of today's greatest ironies. The U.S. Tax Code actually encourages people to save money by divorcing or remaining single.

It is not right to penalize people for adhering to a socially moral way of living. It is not right, in this era of runaway inflation to discourage people from working to help meet the family bills. And it is not right to penalize women who wish to pursue a career for getting married. I appeal to the Members of this body to seize this opportunity to repeal the unfair tax burden on married couples. There are several bills pending in the Ways and Means Committee right now which would extend such equity to our tax laws. As a cosponsor of legislation allowing married, two-earner couples the option of using the singles' tax rate for each spouse's own income, I cannot overemphasize the importance of invoking immediate changes in existing law.●

● Mr. HINSON. Mr. Speaker, I believe it is time for the serious consideration of legislation to repeal the "tax on marriage." Several proposals have been introduced to alleviate this gross inequity in our tax laws, ranging from allowing married couples the option of filing as if they were still single, each taking the single zero bracket amount and each using the single rate schedules, to giving married couples a tax deduction of 10 percent of the lower earning spouse's income. Reconciling the many complex and different approaches will not be an easy task; but as one of the many cosponsors of legislation addressing the existing "marriage penalty," I urge that we reach some form of a workable and equitable solution to this problem.

I feel that it is fundamentally wrong for our Federal tax structure to create a situation which penalizes married people and destroys a wide range of normal incentives for family stability and maximum work efforts. The marriage tax, by its very nature, strikes at the deepest traditions of our society. Furthermore, the present tax law does not reflect present social conditions. Clearly, with 57 percent of today's families having both the husband and wife working, the male "head of household" concept which holds sway in national tax policy is no longer accurate nor fair. The Internal Revenue Service has estimated that more than one-half of all taxpayers are married, and at least one-half of all married couples are two-earner couples. This marriage tax adversely affects one-quarter of all American taxpayers at all income levels.

Until some solution is reached to append the "marriage penalty" embedded in our income tax codes, millions of working, tax-paying Americans will be unjustly discriminated against and the family concept will be undermined, as couples are actually given a financial incentive for divorce. The "marriage penalty" poses a national problem which demands the immediate attention of this Congress, and I urge my colleagues to join me in seeking quick action on this all-important remedial legislation to repeal the tax on marriage.●

● Mr. BEREUTER. Mr. Speaker, I commend my colleague for requesting this special order today to discuss the inequities of the "marriage tax."

One of the first bills I cosponsored as a new Member of Congress was that sponsored by my distinguished colleague from New Jersey, Congresswoman FENWICK, which would eliminate this unfair tax. So far, Congress has not acted on this bill or similar proposals offered by other Members. I hope this effort today will move Congress to act this year.

Every year millions of Americans pay extra taxes simply because they are married. Under present law, a husband and wife who both work generally pay more tax than they would if they were single. This may not have been a serious problem when husbands were the lone breadwinners in most families. That is not the case now. IRS figures show that over half of all the married couples in our country are two-earner couples. This means that as many as 38 million Americans are affected by the "marriage tax."

Now is the time to eliminate this unfair tax and have our tax code respond to changing social conditions. We can do this by repealing the "marriage tax" and allowing individuals the option of being taxed as if they were single.

I would like to have printed in the RECORD at this point a recent editorial by the Omaha World Herald, largest newspaper in my State, which has come down firmly in favor of repeal of this unfair tax.

[From the Omaha World Herald, Aug. 8, 1980]

WORKING COUPLE NEEDS A BREAK

There are inconsistencies in the nation's income tax laws, but the so-called "marriage tax penalty" is one of the worst.

Because of the way the tax laws are written, a married working couple has to pay more tax than two single persons making the same amounts.

It is periodically deplored, but nothing gets done about it.

The subject came up at a congressional hearing on the tax code. Several proposals for correcting the marriage penalty are pending. But Emil M. Sunley, deputy assistant Treasury secretary, declined to make a recommendation on any of them. The Carter administration has made no proposals of its own.

One couple, recently married, totaled up their income taxes and found they would have to pay an additional $2,400. At one time, couples were getting divorced, using the favorable tax break to take a vacation at some exotic island, and then remarrying upon return. The Internal Revenue Service quickly put an end to this. Yet the tax penalty continues.

While several solutions have been suggested, simply giving couples the option of filing separate returns or filing jointly would end the impasse.

The government is dragging its feet, apparently because it might lose revenue.

Marriage is in enough trouble in this country, with the divorce rate high, without having to face the additional burden of higher taxes. The law encourages live-in relationships.

There should be no more delay in changing the tax code.●

● Mr. QUAYLE. Mr. Speaker, I rise to commend the Senate Finance Committee for its recommendation of a tax cut measure and particularly for "seeing the light" and the need to overcome the burden which the marriage tax imposes on working couples.

The marriage tax refers to the fact that when two working people marry, they generally pay more tax than they would if they had remained single. If one spouse's income is at least 20 percent of that of the spouse, the couple will pay extra tax under the current tax rates.

There is currently a schedule called "married filing separately," but these tax rates are higher than for either the single or married filing jointly schedules. For example, if two individuals earn $20,000 and $10,000, respectively, they would pay $6,047 if they filed as "married filing separately," $5,592 as "married filing jointly," and $5,014 if they filed as two single individuals.

The Senate bill does not go nearly far enough in removing this marriage tax. It allows for a 5-percent deduction for the smaller of the two salaries. Thus a couple earning $15,000 would pay $5,993 under the Senate plan.

I have introduced legislation which would simply permit married taxpayers to file singly or jointly, whichever would yield the lower tax. Under this proposal, the couple earning $15,000 each could file as individuals and pay $5,210, a savings of $783.

I urge my colleagues to take a meaningful step toward ending the marriage tax and supporting single filing for married couples.●

● Mr. RITTER. Mr. Speaker, I rise in strong support of H.R. 3609, a bill to eliminate the tax on marriage, of which I am a cosponsor.

It is a shame that 535 astute and intelligent Members of Congress must have their eyes pried open before they take some action on this obvious inequity in our tax system. We are constantly reminded by all forms of media as well as our constituents of sad and frustrating tales of people who must choose not to marry in order to live within their means. Marriage should be a joyous expression of love and the desire to form a family unit. But tax policy, in this instance, works against that very cornerstone of our communities and our country—the family. We need to nurture and cherish the family. We need Government policies which do not penalize the economic underpinnings of the family. Indeed, the very meaning of the word "economy," going back to ancient Greek, is "family."

Since coming to Congress almost 2 years ago, I have advocated cutting back on personal income taxes. Every dollar taken from the American people in taxes is one less dollar that could be working to produce much needed savings, create "real" jobs and strengthen the economic health of America. Inflation has firmly established a situation where more and more families must bring in two incomes just to make ends meet. If Congress is going to help the American public fight inflation—which it is at least talking about doing during this election year—it seems to me one of the most logical places to start is with the elimination of the marriage tax penalty. By eliminating this tax penalty, we not only reduce the taxes the American family is forced to bear in these costly times, but we right a wrong that Congress helped to create. In my opinion, and I'm sure in the opinion of the more than 230 cosponsors of this bill, H.R. 3609 is one necessary building block in the effort to restore permanent incentives and provide the climate of lasting prosperity we need to get our economic house in order.●

● Mr. BALDUS. Mr. Speaker, I am pleased to be participating in this special order today because I believe that it is important during this preelection rash of tax cut proposals for us to reflect upon what we, in Congress, can be doing to really provide some tangible tax relief for our constituents back home in our respective States. We have seen many proposals for many different types of tax cuts and credits, but I can't think of one of them that addresses the direct concerns of as large a group of citizens as the proposal that calls for a repeal of the so-called marriage tax.

The marriage tax penalty came into being in the late 1960's, when the tax structure was revamped to remove what was then an unfair tax burden on single people. It was simply inadvertent that single people ended up paying taxes at lower rates than those people who were married and both working. The net effect is that some 19 million two-wage-earner families are paying a marriage tax to the Federal Government, and those who are aware of it are rightfully angry and resentful at having to do so.

We no longer live in a day and age where it is a luxury for a married woman to work nor where it is more customary for a married woman not to work. Furthermore, for many it has become a downright economic necessity to have a secondary wage earner in a family. It is unfortunate that these marriage tax penalties work special hardship on women who work since they are most frequently the secondary wage earners in a family. A woman may face the steepest tax rates in the tax code because her income is taxed on top of her husband's and the rates of progressivity is much higher in the married schedule than in the other schedule. This same penalty is also faced by the increasing numbers of professional couples who end up paying the highest taxes of all. It is not just a matter of a few hundred dollars assessed upon those few couples in extremely high tax brackets: It signifies approximately $4,500 in extra taxes for married couples earning $35,000 each, and approximately $1,700 for married people earning $20,000 each.

It is no laughing matter that each and every one of us here today has received letters from our constituents claiming that they have either divorced or are considering the possibility of divorce as a means to avoid this tax on their marriages.

It would seem to me that our tax system would do better to reward those men and women who are working together to raise and support a family and themselves—rather than make it increasingly more difficult for them to make ends meet trying to do so.

I believe that we, in Congress, would do well to consider the fact that a repeal of this inequitable tax on marriage would provide more tax relief for a larger number of our constituents than most of the tax proposals that have been introduced in this Congress.

Thank you.●

● Mr. PATTEN. Mr. Speaker, it appears that some semblance of a tax cut will emanate from the 96th Congress. While no one can be certain of how such a tax cut will be composed, I urge that any reduction in taxes be predicated upon a guarantee by the leadership to remedy the marriage penalty in the Internal Revenue Code of 1954.

For those of us who have spent the past decade on this issue, it is clear that the tax cut of 1980 may be the only vehicle to bring about an expeditious end to the marriage tax. During his testimony before the House Ways and Means Committee, Emil Sunley of the Department of the Treasury cited the marriage penalty as a problem of high priority, and an issue which would be addressed by the administration once the requisite funds became available. With recent discussion of a $30 billion tax cut, I say to all my friends on this issue, "the funds are available—Congress now has the means to take action."

Let me assure the skeptics that our objective is far more noble than to merely provide tax relief for a certain group of citizens. We all recognize that middle America has been taking it on the chin in this period of high inflation, high interest, and rising unemployment. Our purpose in remedying the marriage penalty, however, is to provide fairness and justice for those who have, for too long, been discriminated against by our present Tax Code.

Our objective is also bipartisan. This is because the issue of the marriage penalty pervades political and ideological boundaries. Lower- and middle-income couples, the women's right movement, and even the institution of marriage itself is jeopardized by our inaction. Therefore, I call on my colleagues to make every effort to insure that the 96th Congress does not adjourn without this body having put to rest the issue of the marriage tax.

If we agree that the prerequisite to any cut in taxes should be a provision to resolve the marriage penalty, then I would ask my colleagues to look at a plan that I proposed earlier this year. In March 1980, I introduced H.R. 6798, the Marriage Penalty Offset Tax Credit Act. H.R. 6798 employs the tax credit as an equitable and economically prudent method of remedying a substantial portion of the marriage penalty.

The following excerpt of my testimony provides an explanation of how the Marriage Penalty Offset Tax Credit Act would help to ease the harsh effects of the marriage tax. In the crucial weeks ahead, it is my hope that the House Ways and Means Committee will take action to guarantee that the tax cut of 1980 will include a provision addressing the marriage penalty. To that extent, I offer the Marriage Penalty Offset Tax Credit Act of 1980 as a means toward achieving our goal.

TESTIMONY OF REP. EDWARD J. PATTEN, OF NEW JERSEY, BEFORE THE HOUSE COMMITTEE ON WAYS AND MEANS, APRIL 2, 1980—THE MARRIAGE PENALTY OFFSET TAX CREDIT ACT OF 1980 (H.R. 6798)

Mr. Chairman, I am appreciative of the opportunity to address your Committee today. My purpose is to discuss the Marriage Penalty in the Internal Revenue Code, and in specific, the use of a tax credit to remedy this problem.

The present structure of the Internal Revenue Code of 1954 provides a substantial subsidy to married one-paycheck couples, at the expense of married two-paycheck couples. More specifically, the Marriage Penalty generally occurs when neither spouse earns greater than 80 percent of the combined family income.

This penalty is extremly harsh. Many couples are assessed hundreds, and sometimes thousands of dollars in taxes, merely because they fall within the two-paycheck penalty bracket. We know that 19 million couples are affected by the Marriage Penalty each year. The IRS estimates that the penalty amonuts to $11 billion annually.

The tax rates within the Internal Revenue Code have had a checkered history. However, it is fair to say that although Congress did not create the current rates with a discriminatory intent, the present code has been systematically discriminating against lower and middle income families, the institution of marriage, and the equal rights of women. Recognizing the situation as it stands, we have a duty to act affirmatively. We can no longer sit back idly, perpetuating the discriminatory nature of our tax code. To that extent, I must commend you Mr. Chairman, and all of the members of this Committee, for holding hearings today and taking the first step in what undoubtedly will be a long and arduous task of remedying the Marriage Penalty.

The following are brief examples of some of the Marriage Penalty's most blatant discriminatory effects:

1. LOWER AND MIDDLE INCOME COUPLES

What is most intolerable about the Marriage Penalty, is that it primarily discriminates against lower and middle income families. Couples with a combined income within the ranges of $5,000 to $50,000 bear 99 percent of the Marriage Penalty. It is estimated that in 1974, less than 1 percent of the couples paying the penalty had a combined income in excess of $50,000.

It is sad to note that those primarily affected by the Marriage Penalty are least able to bear its burden. These lower and middle income couples are the same families who are presently being most crippled by double-digit inflation, double-digit interest rates, and soon to follow I fear, double-digit unemployment. We need not add insult to injury by making these couples continue to pay more than their fair share of taxes.

2. THE INSTITUTION OF MARRIAGE

There is much evidence to suggest that the weakening of the family unit is eroding the basic fiber of our society. I was raised as a traditionalist, so I believe firmly in the institution of marriage. As a personal aside, I note that this year marks the 45th anniversary of my own marriage.

Whether or not you believe as I do in this sacred institution, I think you will agree that at the very least, the American people deserve a tax system which harbors no prejudice for or against the institution of marriage. Unfortunately, the present Internal Revenue Code offers the American people less than they deserve with respect to this issue.

As Commissioner Kurtz has witnessed

through litigation, the Marriage Penalty is forcing many couples to resort to quickie divorces for tax purposes. These couples remarry and subsequently divorce again before the next tax year emerges. The number of married couples who have been forced to take this route represents only the "tip of the iceberg." We can never begin to estimate those who have opted in favor of nonmarital cohabitation, solely because of a tax system which discriminates against marriage.

3. EQUALITY FOR WOMEN

Nor has the Marriage Penalty been a friend of the women's movement. In short, the penalty is repugnant to modern social reality and to the equal rights of women. Since first coming to Congress, I have witnessed the number of married women in the work force triple. Unfortunately, some of these married women were forced to enter the job market due to economic necessity. It is a somber fact that under present economic circumstances, it takes two paychecks to maintain a family. Yet, despite our sad state of economic affairs, many married women have entered the work force in realization of the new opportunities afforded them through changes in the law and enlightened thinking. For these women, the Marriage Penalty serves as a major obstacle toward reaching their full potential.

The Marriage Penalty tells women, "it will be cheaper for you to remain in the home as a housewife, than to enter the active labor force and explore a career in any of the ever expanding number of job opportunities." It would truly be ironic for a government on one hand to give women the legal right to be all they can be, while at the same time perpetuating economic disincentives to discourage women from exercising their newly won rights.

Congress cannot be oblivious to the increasing number of married women in the work force. Nor can we ignore the chilling effect the Marriage Penalty has had on this nation's goal of achieving equality for women.

MARRIAGE PENALTY OFFSET TAX CREDIT ACT OF 1980

There is no secret to eradicating the Marriage Penalty from the Internal Revenue Code. Creating one tax rate schedule for both married and single persons would permanently end this controversy. The IRS claims that the cost of eliminating the penalty would be $11 billion. I support proposals which would eliminate the Marriage Penalty. However, I have been in these hallowed halls too long to know that this Congress is not prepared to bear the $11 billion price tag of this proposal.

Mr. Chairman, most of us in this room have spent nearly a decade trying to remedy the Marriage Penalty problem. To this date, we have failed to attract sufficient support from our colleagues to move this issue beyond square one. I find that especially in a year when the President is asking us to balance the budget, a permanent solution to the problem of the Marriage Penalty is not politically feasible.

Despite the fact that it is impractical to think that Congress can eliminate an $11 billion Marriage Penalty in one year, there are 38 million Americans desperately in need of some form of immediate relief. Recognizing the major symptoms of the Marriage Penalty, I have introduced H.R. 6798, the Marriage Penalty Offset Tax Credit Act of 1980.

Let me preface my discussion of H.R. 6798 by emphasizing that my bill does not portend to the definitive answer to the Marriage Penalty problem. However, I believe that especially through the use of the Tax Credit, H.R. 6798 can serve to eliminate a substantial portion of the penalty, especially among lower and middle income couples, at a cost which is fiscally responsible.

TAX CREDITS AND EQUITY

I have seen many proposals dealing with the Marriage Penalty. As I recall, most of these proposals would use a deduction to help offset the Marriage Penalty. I am an ardent supporter of Tax Credits as opposed to deductions, and my bill relies firmly on the concept of using the Tax Credit to help remedy the Marriage Penalty.

Unlike itemized deductions, Tax Credits are available to all eligible married couples, regardless of whether they file the long or short form with the IRS. Moreover, where deductions provide a greater benefit for persons in higher income brackets, a Tax Credit provides a dollar for dollar deduction against tax owed, without discriminating on the basis of income. As a matter of equity, it makes far more sense to combat the Marriage Penalty with a Tax Credit.

ELIGIBILITY

Mr. Chairman, I have seen some proposals which would provide *all* married couples with a deduction or credit to remedy the Marriage Penalty. However, these proposals are excessive.

Whenever one spouse earns greater than 80% of the total earned income of the husband and wife, the Marriage Penalty dissipates. In fact, these one-paycheck families presently enjoy a Marriage Benefit under the Internal Revenue Code. If our aim is to offset the Marriage Penalty at a cost affordable to this Congress, we cannot provide those couples presently receiving a Marriage Benefit with additional deductions or credits.

H.R. 6798 provides for a Tax Credit equal to 10% of the earned income of the Secondary Wage Earner (i.e. the spouse earning 50% or less of the couple's combined earned income). The maximum credit allowable is $500 and the credit is nonrefundable. In order to make H.R. 6798 as lean and efficient as possible, I have formulated the Marriage Penalty Offset Tax Credit to only trigger when couples are actually faced with a Marriage Penalty.

Under the Marriage Penalty Offset Tax Credit Act of 1980, a married couple would only be eligible for a 10 percent tax credit when the Secondary Wage Earner earns 30 percent or more of the combined earned income of the husband and wife. The 10 percent tax credit shall be reduced by one percent for every percent the Secondary Wage Earner earns less than 30 percent of the couple's combined earned income.

As you can see from the eligibility table, my Tax Credit would dissipate with the Marriage Penalty. There is no Tax Credit for couples where one spouse earns 80 percent or more of the combined income of the husband and wife (i.e. one-paycheck families).

ADDITIONAL CONSIDERATIONS

1. Earned Income under H.R. 6798, is the same as defined under I.R.C. § 43(c)2.

2. Only one spouse shall be treated as the Secondary Wage Earner, even when both husband and wife each earn 50 percent of their combined earned income.

3. The Tax Credit is only allowable where married couples file a Joint Return under I.R.C. § 6013.

Eligibility Table for the Marriage Penalty Offset Tax Credit Act of 1980

Second wage earner's percentage of earned incomes:	*Tax credit percentage*
50 to 30 percent	10
29 percent	9
28 percent	8
27 percent	7
26 percent	6
25 percent	5
24 percent	4
23 percent	3
22 percent	2
21 percent	1
20 to 0 percent	0

EFFECT

I am especially pleased with the results indicating that H.R. 6798 would have its primary impact upon married couples filing joint returns in the $5,000 to $50,000 ranges of income. As stated earlier, these taxpayers are most in need of immediate relief. While my bill would not eliminate the entire Marriage Penalty, it would provide eligible lower and middle income couples with genuine assistance until such time as the Congress is able to completely eliminate the Marriage Penalty.

Earlier in the year, the IRS conducted a revenue study on several of my proposals to remedy the Marriage Penalty. Their results indicated that a bill similar to H.R. 6798 would cost about $5.5 billion. Since that study, I have incorporated several refinements in my proposal which leads me to believe that H.R. 6798 may cost substantially less than projected by the IRS. Chief among those refinements was basing eligibility on earned income percentages, instead of gross income.

In order to receive a more accurate projection of the cost of H.R. 6798, I have commissioned the Joint Committee on Taxation to conduct a revenue study on the Marriage Penalty Offset Tax Credit Act of 1980. I am confident that my proposal will cost the Treasury less than $5 billion.

As an additional note on cost, I must emphasize one point, Mr. Chairman. Our actions here today should not be construed by our fellow members or the White House, as providing eligible married couples with a tax cut. That issue has become a matter of partisan debate and presidential politics. Rather, what we are doing today is simply eliminating the injustice of over-taxation which has been wrongfully imposed upon 38 million Americans for almost one decade.

CONCLUSION

Mr. Chairman, while I have spoken unwaveringly in support of H.R. 6798, I must pay deference to the expertise of yourself and this Committee.

I do know, for example, that there will be instances in which the Marriage Penalty Offset Tax Credit will not only remedy the Marriage Penalty, but occasionally overcorrect the inequity. Also, this Committee may develop an opinion on whether or not the Marriage Penalty Offset Tax Credit should be non-refundable. But collateral issues aside, I hope that I may impress upon this Committee the importance of adopting the Tax Credit as a means to offset a substantial portion of the Marriage Penalty.

We are going to hear many proposals today, from many able men and women who are genuinely concerned about the lower and middle income married persons who are in such desperate need. I can only hope that when this Committee concludes its work, it will see fit to incorporate the concept of the Tax Credit and the provisions of the Marriage Penalty Offset Tax Credit Act of 1980, as a viable legislative program to help the working married couple.●

Mr. PEYSER. Mr. Speaker, I yield back the remainder of my time.

SUMMARY OF MAJOR RECOMMENDATIONS OF THE NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Corman) is recognized for 15 minutes.

● Mr. CORMAN. Mr. Speaker, at a press conference this morning, Wilbur J. Cohen, Chairman of the National Commission on Unemployment Compensation, presented a summary of the major recommendations of the Commission, along with a summary of the positions of the Commission members on each issue that was considered.

I have included the outline summary of the Commission's major policy recommendations at the end of this statement and hope that all Members will take the time to read it. The compete preliminary document released today can be obtained by calling the National Commission Office at 235–2782. The comprehensive final report of the Commission is expected to be completed by the end of September.

The National Commission on Unemployment Compensation was established by Public Law 94–566, enacted in October 1976. This law directed the Commission to undertake a thorough and comprehensive examination of the Federal-State unemployment compensation system and, on the basis of that examination, to recommend to Congress and the President necessary and appropriate changes in the unemployment compensation law.

The Commission was chaired by former Secretary of Health, Education, and Welfare Wilbur J. Cohen, and was composed of representatives of management, labor, and the general public. It included one Member of Congress, Representative MARY ROSE OAKAR of Ohio. The Commission completed its consideration of legislative recommendations on June 30. This concluded 28 months of dedicated effort by the Commission members and staff, including 80 days of working meetings—37 days of public hearings—in 18 different cities, the commissioning of 65 research projects and preparation of over 5,000 pages of research and analysis. The final report of the Commission will address a broad range of issues, covering the financing, adequacy, and administration of unemployment benefits.

The Commission's recommendations should provide the legislative agenda for unemployment compensation in the 97th Congress. It is my intention to incorporate the Commission's recommendations into a bill as soon as the Congress receives the final report and to hold public hearings before the Subcommittee on Public Assistance and Unemployment Compensation as soon as the schedule permits.

The Commission has provided the most thorough and important examination of the Federal-State unemployment compensation system that has ever been undertaken. The congressional response should be commensurate with the work of the Commission in its thoroughness, objectivity, and commitment to strengthening the unemployment compensation system.

The material follows:

OUTLINE OF MAJOR RECOMMENDATIONS OF THE NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

I. REMOVAL OF UNEMPLOYMENT COMPENSATION ACCOUNTS FROM THE UNIFIED FEDERAL BUDGET

State unemployment compensation revenues, benefit payments, and trust fund reserves should not be used in computing Federal income or expenditures. Inclusion of these items in the Federal budgetary process not only distorts Federal budget realities, but has led to congressional decisions based upon truncated deliberations without full hearings and adequate consideration of the substantive issues involved and their impact upon State unemployment compensation programs.

II. FINANCIAL—RECOMMENDATIONS FOR PUTTING THE FEDERAL-STATE PROGRAM ON SOUND FINANCIAL FOOTING

A. Increase in Federal Unemployment Tax Act (FUTA) taxable wage base:

1. Establish wage base as a percent of national average total wage in covered employment so that as wages increase, the base will increase automatically.

2. 50 percent beginning in 1983; 55 percent beginning 1985; 60 percent beginning in 1987; and 65 percent beginning in 1989.

B. Reduce employer payroll taxes for past debts:

1. Reduce employer payroll taxes under FUTA by canceling current indebtedness from FUTA collections to Federal general revenues:

(a) Federal Supplemental Benefits ($5.8 billion)

(b) Federal share of Extended Benefits paid when the national trigger was on in 1975 through 1978 ($3.3 billion)

2. Reduce employer payroll taxes under State unemployment compensation laws by rebating to the States the State share of Extended Benefits paid when the national trigger was on in 1975 through 1978 ($3.3 billion).

Total reduction in employer payroll taxes: $12.4 billion.

C. Strengthen requirements for borrowing from loan fund to assure prudent financial policies:

1. Moneys borrowed in the future should bear interest;

2. Acceptable State solvency provisions required as a condition for borrowing;

3. No further deferrals of repayment;

4. Permit States to repay loans from their trust funds on an incremental installment basis as an alternative to recapture through automatic increases in employer FUTA taxes.

D. Reinsurance—provide States protection against unusually heavy benefit costs in order to maintain State solvency:

1. Financed from a contribution rate of 0.1 percent of taxable payrolls over at least a seven-year period (without increasing present FUTA tax);

2. Initial rate of payment not to exceed 30 percent of excess costs (however defined) and no payment before 1985 (prorated if balance in fund is insufficient for full payout);

3. Benefits costs must exceed 2.7 percent of taxable payrolls before a State could qualify;

4. Reexamine reinsurance experience at end of decade.

E. Establish Board of Trustees for UI trust funds to:

1. Set investment policy for trust fund;

2. Report to Congress on estimated amounts to finance sound administration;

3. Develop improvements in policies and laws governing management of trust funds, and recommend changes to improve financing, benefits and administration of UI, ES programs;

4. Explore State investment of specified portion of its reserve funds in non-Federal obligation to earn higher rate of interest than available by Federal investment.

Board to consist of three cabinet officers and representatives of employers, labor, and the general public.

F. Correct FY 1982 shortfall in funds for State costs of administration:

Present appropriation ceilings that permit only a fixed portion of FUTA collection for administration of UI and ES programs will result in a FY 1982 shortfall of $230 million. Recommend a one-time congressional authorization to raise the ceiling and permit transfer from unused FUTA funds. An additional $100 million advance from general revenues will also be needed.

G. Recommendations to the States on financing—(not Federal law changes):

1. States should reexamine State solvency provisions and establish objective of a reserve balance based on careful evaluation of past and prospective benefit-cost ratios and future revenue-generating capacity;

2. Ensure effective charging of all benefits in fund replenishment provisions of solvency arrangements.

3. Eliminate zero minimum tax rates and establish maximum rates in terms of anticipated benefit costs;

4. New employer rates equal to average rate for their industry.

5. In any individual State, the operation of its system of experience rating and tax schedules should be adjusted in relation to the wage base and the amount of tax revenues needed to assure the solvency of the trust fund.

III. REMOVE UNEMPLOYMENT BENEFITS FROM BEING SUBJECT TO FEDERAL INCOME TAX

1. Taxation of benefits may be offset by an equal increase in benefits;

2. Discriminatory treatment since not all other income is presently taxed under Federal Income Tax;

3. No effective way for IRS to police tax provision.

IV. BENEFITS—RECOMMENDATIONS FOR ENSURING A SOUND BENEFIT STRUCTURE

A. Repeal current Federal standards:

1. Repeal current FUTA requirement that States restrict eligibility of certain undocumented alien workers.

2. Repeal current FUTA requirement that States deny payment of benefits to professional athletes under certain conditions.

3. Repeal current FUTA requirement that States reduce benefits by amount of any pension payment received by a claimant.

4. Repeal FUTA provisions requiring States to deny benefits to professional employees between school terms and prohibiting States from applying such denial to nonprofessional employees of colleges and universities. Permit States discretion to handle issues of payment or denial during school breaks without Federal restrictions.

B. Establish Federal basic minimum benefits standards:

1. Maximum equal to 55 percent of State average weekly wage beginning in 1982, 60 percent in 1984, 66⅔ percent in 1986.

2. Weekly benefit below State maximum that averages at least 50 percent of individual's average weekly wage.

3. No more than 39 weeks of work for 26 weeks of benefits.

4. Change current FUTA requirement barring total cancellation of benefit rights to prohibit any cancellation of benefits rights except for fraud and receipt of disqualifying income.

C. Greater protection during periods of heavy unemployment and to older workers:

1. Change State Extended Benefit trigger to remove the 120 percent factor, establish the trigger as an IUR of 4.0 percent seasonally adjusted for a 13-week moving average and repeal current 5.0 percent option.

2. Establish permanent (triggered) FSB-type program extending total benefits to maximums of 52 weeks and 65 weeks during periods of high unemployment.

3. Establish lifetime reserve benefit program for workers 60 and over with at least 40 social security quarters of credit and current UI eligibility—to a maximum total benefits of 52 weeks.

D. Program for Displaced Homemakers:

Recommend that Congress and Department of Labor give consideration to possible solutions to problems of this group through: unemployment insurance credits for equivalent work; transfer of unemployment compensation credits earned by spouse; and pilot projects or studies.

E. Recommendations to States—(not Federal law changes):

1. Weekly benefit amount of not less than 50 percent, preferably 60 percent, of claimant's average weekly wage.

2. Maximum of 66⅔ statewide average weekly wage, with periodic adjustment to ensure that a significant percentage (75–80 percent) have a 50 percent wage replacement rate.

3. Partial benefit formula that provides strong incentives to accept part-time work.

4. Minimum qualifying requirement of at least 14 weeks but not more than 39 weeks for 26 weeks of benefits.

5. No disqualification for voluntary leaving with good cause including compelling family obligations and sexual harassment

6. Disqualification for misconduct limited to misconduct connected with the work.

7. No reemployment and earnings requirement for any disqualifying act.

8. Disqualifications for discharge for misconduct, refusal of work, voluntary quit should be for a variable number of weeks depending upon seriousness of the action.

9. No specific actively seeking work availability requirement.

F. Extend and maintain coverage:

1. To agricultural workers on the same basis as other workers instead of current limitation to farms with ten or more workers or a $20,000 quarterly payroll;

2. To household workers if employer pays $50 (instead of $1,000) for such service in a quarter;

3. Oppose pending legislation redefining independent contractor which would remove substantial numbers of workers from unemployment compensation coverage

V. INITIATIVES FOR INCOME MAINTENANCE OF THE LONGER-TERM UNEMPLOYED

A. Increase in CETA job slots:

In the absence of any other Federal programs to provide job opportunities to those who have exhausted unemployment compensation benefits, the total number of CETA job slots should be doubled, from 450,000 to 900,000.

B. Financing of unemployment compensation benefits for CETA workers:

Proposals to repeal funding of unemployment compensation benefits to CETA job-programs employees from the Federal Unemployment Benefit Account (general revenues) should be rescinded. Repeal would require that annual cost of $35–50 million be paid from CETA program grant funds or other State or prime sponsor sources.

C. Unemployment Assistance:

Recommend establishment of a program of income-tested benefits, administered completely separate from unemployment compensation, to provide some minimum protection for all unemployed persons exhausting or not eligible for unemployment compensation benefits, and for whom no other job or program is available.

VI. MORE EFFICIENT ADMINISTRATION

A. Permit U.S. Treasury Department to delegate State collection of FUTA taxes.

B. Allocate additional Federal funds to improve techniques and develop special procedures for detection of fraud, errors, and tax delinquencies.

C. Require quarterly wage reporting to assist cross-matching and prompt payment of benefits.

D. Strength appeals process:

1. Remove specific obstacles in State laws to fair hearings and take steps to ensure all parties know and understand the law, their rights and obligations.

2. Improve quality of hearings and determinations by developing better trained, more competent referees.

3. Establish specific promptness standard for second-level appeals performance.

E. Strengthen and implement procedures aimed at speeding the processing of interstate claims and appeals.

F. Increased Grants-to-States for administrative financing for unemployment compensation and employment service;

1. Full funding of cost model instead of 85 percent as in FY 1980;

2. Greater flexibility to States to use funds and retain funds until third quarter;

3. Reauthorization of Reed Act money for use by States;

4. Improved Federal staffing for technical assistance to States.

G. Strengthening and improving the United States Employment Service (ES):

A substantial and continuing increase in basic ES staffing is imperative to meet the needs of unemployment compensation claimants and all other unemployed workers and of employers in filling job vacancies promptly.

Instead of the present 15-year-old ceiling of 30,000 ES position, a gradual increase should begin as quickly as feasible, using four ES staff years per 10,000 workers in the civilian labor force, to reach 50,000 positions by 1985.

H. Administrative costs of non-FUTA subject employers (State and local government, and nonprofit employers):

These costs should not continue to be borne by FUTA subject employers, as at present. One possible option is to have such costs paid from Federal general revenues.

VII. SPECIAL EMPLOYEE PROTECTION PROGRAMS (TRADE ADJUSTMENT ACT, ETC.)

A. Special Federal programs should not be paid concurrently or be a supplement to UI.

B. Total costs of such programs should be paid from general revenues.

C. Amount and duration of special program benefits should not be considered precedent or pattern for UI.●

IN MEMORY OF REPRESENTATIVE HAROLD RUNNELS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, I join my colleagues in sadly paying tribute to the memory of Representative Harold Runnels, whose service to his constituents in New Mexico and the Nation ended with his death on August 6.

Mr. Speaker, Harold Runnels brought his knowledge of the energy industry to his work on the Committee on Interior and Insular Affairs where he was a forceful advocate of policies he considered best for the Nation's future needs. As a member of the Committee on Armed Services, he supported measures to maintain a strong national defense.

The effectiveness with which Harold Runnels served in this body is attested to by the fact that he was the first officeholder in New Mexico's history to be without opposition in either the primary or general election in 1978. This year Congressman Runnels had only token opposition in the primary and no opponent in November.

I had the privilege of knowing Harold Runnels since 1971 when he began his service in the House. His reputation for honesty and straightforwardness was well-deserved.

Mr. Speaker, Harold Runnels was also one of the wittiest and engaging persons to sit in this body.

In his last months with us we also recognized his courage as he fought a valiant battle against illness—a battle he knew could not be won.

Mr. Speaker, Harold Runnels served the Nation well. He will be missed.●

TALK OF FEDERAL PROMOTION OF EDUCATIONAL EXCELLENCE IS HOGWASH

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. ASHBROOK. Mr. Speaker, President Carter claims to be the most "pro-education" President in our Nation's history. For the next 71 days we can expect that claim to be repeated over and over again. We can expect to hear Mr. Carter boasting about his increases in Federal education spending, and his creation of a Cabinet-level Department of Education.

But there is a serious problem with this claim. The programs expanded by Mr. Carter and the Democratic Congress have actually harmed education. Academic achievement, as measured by standardized test scores, has been going downhill ever since massive Federal involvement began 15 years ago. Public confidence in the schools has been declining since at least 1970, teacher morale is at its lowest point in history, and so many principals in the public schools are planning to leave their jobs that within 2 years we worry that not many "exceptional" principals will be left.

If there is one thing the Federal Government has shown it cannot do, it is the promotion of educational excellence. Mr. Carter's education bureaucracy is required by law to set specific goals for its programs and to report annually to Congress on its progress toward those goals; but the bureaucrats have never once obeyed that law, and the Democratic Congress has never penalized them for not obeying. Their skills in the NEA are part of the problem and so right along with Federal meddling.

What Washington can do is to make it harder for teachers to teach by strangling them with redtape, and that is exactly what Mr. Carter and the Democratic Congress have done. The Federal paperwork burden on State and local educators for the coming school year amounts to about 10 million man-hours, and every minute of that time will be taken away from what these educators want to do and what local taxpayers hired them to do. There are over 1,000 pages of fine print regulations propounded by education bureaucrats—not all in this administration, of course, but certainly expanded by Carter appointees.

The only way to rescue the public school system is to take power away from Mr. Carter's bureaucrats and restore it to individual principals, classroom teachers, and democratically elected local school boards. This administration and this Congress have chosen to travel in precisely the opposite direction—toward greater centralization—and that mistaken choice has harmed every school in America.●

THE RAILROAD RETIREMENT SYSTEM MUST BE SAVED

(Mr. FISH asked and was given permission to extend his remarks at this point.)

● Mr. FISH. Mr. Speaker, I wish to address the House in the matter of an early hearing and quick enactment of legislation which is of critical importance to railroad workers throughout the United States, their wives and their dependents.

The bill to which I refer is H.R. 7793.

I have joined with others in this body in cosponsoring this important measure which must be enacted before this Congress adjourns if we are to save the basic railroad pension system for which railroad men and women have worked throughout their full railroad employment and to which they are deservedly entitled.

There are more than 91,000 persons in New York State alone who depend heavily upon a railroad retirement pension as their basic, if not their only, source of income during their retirement years. Those individuals affected include active and retired railroad employees, their wives and their dependents.

Throughout the country there are more than 1½ million participants and beneficiaries in the railroad industry whose secure future depends upon a speedy resolution of the problems which this bill addresses.

These problems, with which the bill is concerned, are twofold. First, the cost-of-living provisions in the Railroad Retirement Act which adjust the amount of the retirement benefit in terms of the declining value of the dollar will expire on January 1, 1981, unless these provisions are reauthorized by Congress. Second, an immediate and significant cash crisis has developed in the railroad retirement system, which if not forestalled, will cause a total collapse of the program before too long.

Current law provides for an annual adjustment in the railroad pension based on 32.5 percent of the annual increase in the Consumer Price Index. These annual adjustments are really minimal in impact as they represent less than one-third of the cost of living adjustment applied to the social security benefit or to the Federal employees retirement benefit.

The preretirement cost-of-living adjustment provided for in current law amounts to 62.5 percent of the annual fluctuation in the Consumer Price Index. This too will expire if this legislation is not enacted. Indexing in the railroad retirement program is based on a complicated formula which calculates the dollar amount of the pension and takes into consideration, among other factors, levels of earnings in preinflation years. Thus extension of this provision is essential to a substantive pension policy.

I firmly believe that few will argue with continuing this limited form of indexing to reflect the declining purchasing power of retirement dollars. It is a matter of equity, pure and simple.

The other problem addressed by this bill is the cash flow crisis currently afflicting the railroad retirement system. The financial stability of the system has steadily declined over the last few years and, if nothing is done to alleviate the crisis, the projected balance in the railroad retirement account will reach zero by 1986. Of course the effects of this could be felt by as early as mid-1982 if the general economic trend does not improve.

This economic condition has been caused by a number of factors of which the most significant appears to be inflation. High unemployment resulting in fewer payroll dollars going into the system coupled with the continuing drain of windfall benefit payments have aggravated the shortfall to the present point of crisis.

In other words, and more simply, payments far exceed revenues right now and the revenue produced solely from the 9.5-percent payroll tax is not enough.

The bill further provides for a variable or self-adjusting tax which will go up or down depending on whether the railroad retirement reserve goes up or down. It is modeled after the system which has worked so successfully in the financing of the railroad unemployment insurance program. This variable tax is designed to maintain a minimum of 3 months' reserve at the lowest point of the account.

In point of fact if Congress does not act this year to save the railroad retirement system—heretofore a self-financing system—then we can expect that some form of Federal subsidy will be necessary next year to tide the system over its cash crisis. This infusion of general funds for this purpose would be unprecedented and would certainly make the argument for a Federal bailout in other areas much more likely.

The consequences of a collapse of the railroad retirement system are much too devastating to contemplate. We cannot let this happen. That the 96th Congress act in this matter cannot be questioned.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Peyser, for 60 minutes, today.

(The following Members (at the request of Mr. Livingston) to revise and extend their remarks and include extraneous material:)

Mr. Dornan, for 10 minutes, today.

Mr. Rhodes, for 60 minutes, on August 28.

Mr. Gilman, for 60 minutes, on September 3.

(The following Members (at the request of Mr. Tauzin) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Corman, for 15 minutes, today.

Mr. Downey, for 5 minutes, today.

Mr. Brademas, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Fish, to extend his remarks prior to the vote on the veto overriding of H.R. 7102.

Mr. Dornan, to extend his remarks immediately preceding the vote on H.R 6974.

Mr. Santini, to extend his remarks immediately preceding the vote on H.R. 6974.

Mr. Mitchell of Maryland, on H.R. 6711, the Youth Act of 1980, in the Committee of the Whole today.

(The following Members (at the request of Mr. Livingston) and to include extraneous matter:)

Mr. Campbell.
Mr. Ritter.
Mr. Conte.
Mr. Michel.
Mr. Goodling in two instances.
Mr. Hyde.
Mr. Livingston.
Mr. Findley.
Mr. Lagomarsino in three instances.
Mr. Hollenbeck.
Mr. Green.
Mr. Dornan in two instances.
Mr. Derwinski in two instances.
Mr. Quayle.
Mr. Roth.
Mr. Ashbrook in two instances.
Mr. Pursell.

(The following Members (at the request of Mr. Tauzin) and to include extraneous matter):

Mr. Barnes in two instances.
Mr. Ichord.
Mr. Stokes in two instances.
Mr. Nowak in five instances.
Mr. Rodino.
Mr. Dingell in two instances.
Mr. Weiss.
Mr. Fisher.
Mr. Hamilton.
Mr. Moffett.
Mr. Whitley.
Mr. Mavroules.
Mr. Young of Missouri.
Mr. Stark.
Mr. Moorhead of Pennsylvania.
Mr. Giaimo.

Mr. Wolff in two instances.
Mr. Minish.
Mr. McDonald.
Mr. Harris.
Mr. Patten.
Ms. Oakar in two instances.
Mr. Donnelly.
Mr. Skelton.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2549. An act to authorize appropriations for fiscal years 1981, 1982, and 1983 for the Atlantic Tunas Convention Act of 1975, and for other purposes.

[*Inadvertently omitted from the Record of August 25, 1980*]

S. 496. An act to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (the act of June 24, 1974; 88 Stat. 266), to increase the appropriations authorization for the Small Reclamation Projects Act of 1956 (70 Stat. 1044), and for other purposes.

ENROLLED BILL SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5892. An act to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

On August 11, 1980:

H.R. 7102. An act to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes; and

H.R. 7786. An act to amend Public Law 90–331 to provide for personal protection of the spouses of major Presidential and Vice-Presidential candidates during the 120-day period before a general Presidential election.

On August 21, 1980:

H.J. Res. 589. Joint resolution providing additional program authority for the Export-Import Bank.

ADJOURNMENT

Mr. PEYSER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 27 minutes p.m.), the House adjourned until tomorrow, Wednesday, August 27, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5162. A letter from the Acting Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice that a decision has been made to convert the military family housing maintenance function at Williams Air Force Base, Ariz., to contractor performance, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

5163. A letter from the Acting Assistant Secretary of the Air Force (Research), Development and Logistics), transmitting notice that a decision has been made to convert the military family housing maintenance function at Columbus Air Force Base, Miss., to contractor performance, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

5164. A letter from the Secretary of Education, transmitting proposed final regulations to implement Executive Order 12185 on energy conservation awareness, pursuant to section 431(d)(1) of the General Education Provision Act; to the Committee on Education and Labor.

5165. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting reports covering the second and third quarters of fiscal year 1980 on the Commission's hiring and promotion of minorities and women, pursuant to section 201(h) of the Energy Reorganization Act of 1974, as amended (91 Stat. 1482); to the Committee on Post Office and Civil Service.

[*Omitted from the Record of August 25, 1980*]

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 6121. A bill to amend the Communications Act of 1934 to make certain revisions in the provisions of such act relating to the regulation of telecommunications activities; with amendment. Referred to the Committee on the Judiciary for a period ending not later than October 1, 1980 for consideration of such provisions of the bill and amendment as fall within its jurisdiction under clause 1(m), rule X (Report No. 96–1252, pt 1).

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 767. Resolution providing for the consideration of H.R. 6417. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes (Rept. No. 96–1253). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 768. Resolution providing for the consideration of H.R. 6628. A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes (Rept. No. 96–1254). Referred to the House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 769. Resolution providing for the consideration of H.R. 6721. A bill to provide for the improvement of the Nation's airport and airway system, and for other purposes (Rept. No. 96–1255). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 770. Resolution providing for the consideration of H.R. 6806. A bill to amend sections 46(f) and 167(l) of the Internal Revenue Code of 1954 regarding the treatment of public utility property and to provide a transitional rule with respect thereto (Rept. No. 96–1256). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 771. Resolution providing for the consideration of H.R. 7668. A bill to strengthen the system of congressional oversight of the intelligence activities of the United States (Rept. No. 96–1257). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7779. A bill to amend the Internal Revenue Code of 1954 to authorize three additional judges for the Tax Court; with amendments (Rept. No. 96–1258). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 96–1259). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 8023. A bill to amend the Social Security Act to provide that the Federal Government will gradually take over the local share of welfare and medicaid costs, and for other purposes; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. BROOKS (for himself, Mr. Wright, Mr. Pickle, Mr. Kazen, Mr. Hall of Texas, Mr. Charles Wilson of Texas, Mr. Collins of Texas, Mr. Gramm, Mr. Archer, Mr. Eckhardt, Mr. Leath of Texas, Mr. Wyatt, Mr. Stenholm, Mr. Leland, Mr. Hance, Mr. Loeffler, Mr. Paul, Mr. Frost, Mr. Mattox, Mr. Gonzalez, Mr. Hightower, Mr. White, Mr. de la Garza, Mr. Johnson of California, Mr. Harsha, and Mr. Clausen):

H.R. 8024. A bill to change the name of Aubrey Lake, Tex., to Ray Roberts Lake; to the Committee on Public Works and Transportation.

By Mr. ECKHARDT (for himself and Mr. Waxman):

H.R. 8025. A bill to limit medicare and medicaid payments for certain drugs; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. GOODLING (for himself and Mr. Ashbrook):

H.R. 8026. A bill to amend the Farm Labor Contractor Registration Act of 1963; to the Committee on Education and Labor.

By Mr. OBERSTAR:

H.R. 8027. A bill to provide for the extension of the period for repayment of revenue bonds issued by the St. Lawrence Seaway

Development Corporation to the Secretary of the Treasury from 50 years to 80 years, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. PASHAYAN (for himself and Mr. Coelho):

H.R. 8028. A bill to amend the Internal Revenue Code of 1954 to provide for nonrecognition of gain on the sale or exchange of farm property under rules similar to the rules for nonrecognition of gain on the sale or exchange of a principal residence; to the Committee on Ways and Means.

By Mr. WEISS:

H.R. 8029. A bill to amend title 44, United States Code, to permit citizen suits to recover records wrongfully removed from agency files; to the Committee on Government Operations.

By Mr. WON PAT:

H.R. 8030. A bill to grant diversity jurisdiction to the District Court of Guam, and to grant such jurisdiction to such court regardless of the sum or value of the matter in controversy; to the Committee on Interior and Insular Affairs.

By Mr. MOORHEAD of Pennsylvania:

H.J. Res. 600. Joint resolution to authorize and request the President to designate the week of September 7, 1980, to September 14, 1980, as "National Life Flight Week"; to the Committee on Post Office and Civil Service.

By Mr. DORNAN:

H. Con. Res. 421. Concurrent resolution expressing the sense of Congress for the Polish people; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1918: Mr. Traxler and Mrs. Smith of Nebraska.

H.R. 3258: Mr. Stanton.

H.R. 4223: Mr. Beard of Rhode Island, Mr. Conte, Mr. Gray, Mr. Green, Mr. Rinaldo, and Mr. Whitehurst.

H.R. 5211: Mr. Roe.

H.R. 5401: Mr. Seiberling, Mr. Roe, Mr. Jenrette, Mr. Mattox, Mr. Rodino, Mr. Ottinger, Mr. Erdahl, Mr. Bennett, Mr. Mitchell of Maryland, Mr. Buchanan, Mr. Rosenthal, Mr. Thompson, Mr. Miller of Ohio, Mr. Nowak, Mr. Porter, Mr. Panetta, Mr. Weaver, Mr. Van Deerlin, Mr. Lundine, Mr. Preyer, Mr. Oberstar, Mr. Neal, Mrs. Collins of Illinois, Mr. Bailey, and Mr. Stokes.

H.R. 6194: Mr. Petri, Mr. Heftel, and Mr. Royer.

H.R. 6402: Mr. Badham.

H.R. 6637: Mr. Michel, Mr. Dannemeyer, Mr. Goldwater, and Mr. Stockman.

H.R. 7089: Mr. Price, Mr. Murphy of Illinois, Mr. Cotter, Mr. Gray, Mr. Lehman, Mr. Scheuer, Mr. Conyers, Mr. Young of Missouri, Ms. Spellman, Mr. Vento, and Mr. Yates.

H.R. 7254: Mr. Barnes, Mr. Scheuer, Mr. Boland, Mr. Butler, Mr. Moffett, Mr. Stark, Mr. Daschle, and Mr. Wirth.

H.R. 7286: Mr. Mollohan.

H.R. 7319: Mr. Jenrette, Mr. Ottinger, Mr. Gingrich, and Mrs. Spellman.

H.R. 7557: Mr. Pickle, Mr. Preyer, and Mr. Evans of the Virgin Islands.

H.R. 7688: Mr. Williams of Montana, Mr. Hopkins, Mr. Moffett, Mr. Scheuer, Mr. Fascell, Mr. Duncan of Tennessee, Mr. Evans of the Virgin Islands, Mr. Stack, Mr. Oberstar, Mr. Evans of Indiana, Mr. Porter, Mr. Coelho, Mr. Paul, Mr. Marriott, Mr. Mavroules, Mr. AuCoin, Mr. Dougherty, Mr. Roe, Mr. Levitas, Mr. Ullman, Mrs. Spellman, Mr. Mathis, and Mr. Ginn.

H.R. 7749: Mr. Sebelius, Mr. Thomas, Mr. Derwinski, Mr. Royer, Mrs. Spellman, and Mr. Railsback.

H.R. 7770: Mr. Petri, Mr. Fuqua, and Mr. Kostmayer.

H.R. 7846: Mr. Archer, Mr. Collins of Texas, Mr. Royer, Mr. Forsythe, Mr. Stockman, Mr. Badham, Mr. Whitehurst, Mr. Edwards of Oklahoma, Mr. Derwinski, Mr. Erdahl, Mr. Stangeland, and Mr. Mineta.

H.R. 8012: Mr. Ottinger.

H.J. Res. 69: Mr. Ullman and Mr. Brown of Ohio.

H.J. Res. 488: Mr. Whitten and Mr. Murphy of New York.

H.J. Res. 502: Mr. Kemp, Mr. Murphy of Illinois, Mr. Winn, Mr. Lederer, Mr. Downey, Mr. Walgren, Mr. Van Deerlin, Mr. Scheuer, Mr. Murphy of Pennsylvania, Mr. Fazio, Mr. Porter, Mr. Richmond, Mr. Whitehurst, Mr. Stark, Mr. Edwards of California, Mr. Beilenson, Mr. LaFalce, Mr. Conyers, Mr. Bevill, Mr. Clay, Mr. Stack, Mr. Barnes, Mr. Marks, Mr. Hawkins, Mr. Oberstar, Mr. Maguire, Mr. McCloskey, Mr. Peyser, Mr. Rodino, Mr. Murphy of New York, Mr. Ratchford, Mr. Hyde, Mr. Weiss, Mr. Yates, Mr. McDade, Mr. Forsythe, Mr. Frenzel, Mr. Corman, and Mr. Myers of Indiana.

H.J. Res. 511: Mr. Broyhill, Mr. Daschle, Mr. Horton, Mr. Oberstar, Mr. Collins of Texas, Mr. Forsythe, Mr. Hinson, Mr. Mitchell of New York, Mr. Dannemeyer, Mr. Leach of Iowa, Mr. Grisham, and Mr. Whitehurst.

H.J. Res. 594: Mr. Tauke.

H. Con. Res. 134: Mr. Dodd and Mr. McClory.

H. Con. Res. 354: Mr. Gingrich.

H. Con. Res. 376: Mr. Fisher.

H. Con. Res. 404: Mr. Atkinson, Mrs. Spellman, Mr. Green, Mr. Bedell, Mr. Lungren, Mr. Frost, Mr. Downey, Mr. Ertel, Mr. Bonker, Mr. Phillip Burton, and Mr. Kildee.

H. Con. Res. 405: Mr. Volkmer, Mr. Cheney, Mr. Sawyer, Mr. Thomas, Mr. Livingston, Mr. Carney, Mr. Conable, Mr. Lagomarsino, Mr. Symms, Mr. Marriott, Mr. Sebelius, Mr. Clausen, Mr. Jeffries, Mr. Clinger, Mr. Michel, Mr. Evans of Delaware, Mr. Sensenbrenner, Mr. Moore, Mr. Solomon, Mr. Stangeland, Mr. Ashbrook, Mr. Erdahl, Mr. Jeffords, Mr. Edwards of Oklahoma, Mr. Loeffler, Mr. Hagedorn, Mr. Shuster, Mr. Ritter, Mr. English, Mr. Weaver, Mr. Hance, Mr. Baldus, Mr. Patterson, Mr. Walker, Mr. Beard of Rhode Island, Mr. Young of Missouri, Mr. Stockman, Mr. Cleveland, Mr. Gingrich, Mr. Rudd, Mr. Hinson, Mr. Corcoran, Mr. Derrick, Mr. Daschle, Mr. Lujan, Mr. Young of Florida, Mr. Glickman, Mr. Coughlin, Mr. Deckard, Mr. Coleman, Mr. Mathis, and Mr. Paul.

H. Res. 759: Mr. Pepper, Mr. Murphy of Illinois, Mr. Derwinski, Mr. Broomfield, Mr. Corman, Mr. Kemp, Mr. McDade, Mrs. Byron, Mr. Forsythe, Mr. Hughes, Mr. Sebelius, Mr. Lungren, Mr. Rhodes, and Mr. Johnson of California.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

414. By the SPEAKER: Petition of the Municipal Council, Jersey City, N.J., relative to funding for new sewage treatment and water plants; to the Committee on Public Works and Transportation.

415. Also, petition of the Association of Chief Executives of the Pacific Basin, relative to the proposed dumping and storage of nuclear waste in the Pacific Basin region by Japan; jointly, to the Committees on Foreign Affairs, and Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7112

By Mr. WEISS:

—Page 3, after line 4 insert the following new subsection (and redesignate the succeeding subsection accordingly):

"(c) Authorization of Appropriations for Allocations to State Governments.—

"(1) In general.—In the case of any entitlement period described in paragraph (2), there are authorized to be appropriated to the Trust Fund $2,300,000,000 to make allocations to State governments under section 107 for such entitlement period.

"(2) Entitlement periods.—The following entitlement periods are described in this paragraph:

"(A) The entitlement period beginning October 1, 1981, and ending September 30, 1982; and

"(B) The entitlement period beginning October 1, 1982, and ending September 30, 1983.

Page 5, line 6, strike out the close quotation marks and the following period and strike out lines 7 through 23 and insert in lieu thereof the following:

"Sec. 107. Allocations to State Governments.

"From any amount appropriated pursuant to section 105(c) (1) for any entitlement period beginning on or after October 1, 1981, there shall be allocated to each State government an amount which bears the same ratio to the amount so appropriated for that period as the amount allocable to that State under section 106(b) bears to the sum of the amounts allocable to all States under section 106(b).".

(b) Conforming Amendments.—

(1) Payments.—Section 102(a) (1) of the Act is amended by striking out "the entitlement" and inserting in lieu thereof "the allocation, if any,".

Page 6, strike out lines 6 through 11 and redesignate the succeeding subparagraph accordingly.

H.R. 7765

By Mr. LOTT:

—On page 54, strike all after line 18 through line 4 on page 55 and insert in lieu thereof the following:

"EFFECTIVE DATES

"Sec. 416. This subtitle and the amendments made by this subtitle shall become effective upon the date of the enactment of this Act".

—On page 54, strike lines 19 through 21; and on page 55 strike lines 3 and 4.

H.R. 7998

By Mr. ASHBROOK:

—Page 51, after line 23, insert:

Sec. 308. None of the funds appropriated by this Act shall be expended to enforce such part or parts of the regulations promulgated to carry out the provisions of title IX of the Education Amendments of 1972, Public Law 92–318, which have been found by three United States circuit courts of appeal to exceed the statutory authority under which they were promulgated, and by one United States circuit court of appeals not to exceed such authority, unless and until the United States Supreme Court shall have resolved the conflict in these decisions in favor of the validity of the challenged part or parts of the regulations.

And renumber the remaining section accordingly.

—Page 51, after line 23, insert:

Sec. 308. None of the funds appropriated by this Act (other than those specifically appropriated to fund authorizations for bilingual education programs) shall be used by the Secretary of Education to enforce regulations which would require a State or local educational agency, as a condition of eligibility for the receipt of funds appropriated under this Act, or otherwise, to address the educational needs of students of limited English-speaking ability by a program other than one of intensive instruction in English.

And renumber the remaining section accordingly.

—Page 51, after line 23, insert:

SEC. 308. None of the funds appropriated by this Act shall be expended to enforce such part or parts of the regulations promulgated to carry out the provisions of title IX of the Education Amendments of 1972 (Public Law 92-318) which have been found to exceed the statutory authority under which they were promulgated:

(1) within the area of jurisdiction of a United States circuit court of appeals which has made such a finding and which has not been reversed by the Supreme Court of the United States; or

(2) within the area of jurisdiction of a United States circuit court of appeals when one or more United States district courts within such area has made such a finding, and in which there is no contrary finding by a United States district court, and such finding has not been reversed.

And renumber the remaining section accordingly.

—Page 60, after line 19, insert:

SEC. 510. None of the funds appropriated by this Act shall be expended pursuant to any order or injunction of any court of the United States which would compel the expenditure of such funds for a purpose for which such expenditure is specifically prohibited by this Act.

By Mr. HANSEN:

—On page 9, line 13, strike out the figure "$207,206,000" and insert the figure "$181,520,000".

By Mr. HARRIS:

—Page 57, line 17, insert the following new section:

SEC. 501. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

—Page 57 after line 17, insert the following new section:

SEC. 501. In the case of any agency which has, for the period beginning on October 1, 1980, and ending on July 31, 1981, obligated less than 80 percent of the funds appropriated to such agency under this Act for the fiscal year ending September 30, 1981, the amount of funds which shall be available to such agency and which may be apportioned to such agency under section 3679 of the Revised Statutes of the United States (31 U.S.C. 665) for the period beginning August 1, 1981, and ending September 30, 1981, shall be reduced by an amount equal to 80 percent of the funds appropriated to such agency under this Act for the fiscal year ending September 30, 1981, reduced by the amount of funds obligated by such agency under this Act during the period beginning on October 1, 1980, and ending on July 31, 1981.

By Mr. KRAMER:

—Page 48, line 6, strike out $238,882,000" and insert in lieu thereof $226,937,900".

—On page 52, line 11, strike out $158,047,000" and insert in lieu thereof $154,047,000".

By Mr. MILLER of Ohio:

—Page 60, after line 19, add:

SEC. 510. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum.

By Mr. PEASE:

—Page 3, line 2, strike out the colon and insert in lieu thereof the following: ", and at least $20,000,000 shall be for training under section 236 of the Trade Act of 1974:".

By Mr. ROYBAL:

—On page 28, strike out line 24 and all that follows thereafter through page 29, line 10, and insert in lieu thereof the following: "For expenses necessary to carry out the provisions of title III of the Crude Oil Windfall Profit Tax Act of 1980 (Public Law 96-223), $1,800,000,000.".

By Mr. WALKER:

—Page 52, after line 3, insert the following new section:

SEC. 309. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

—Page 60, after line 19, insert the following new section:

SEC. 510. No part of any appropriation contained in this Act shall be used in connection with the issuance, implementation, or enforcement of any rule, regulation, standard, guideline, recommendation, or order which includes any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex, and which requires any individual or entity to take any action with respect to (1) the hiring or promotion policies or practices of such individual or entity, or (2) the admissions policies or practices of such individual or entity.

By Mr. WEAVER:

—Page 44, line 12, strike "$407,689,000" and insert $408,064,000 including $375,000 which should should remain available until expended for section 525 of the Education Amendments of 1976, and;".

SENATE—*Tuesday, August 26, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God of all life and all history come amongst us as the unseen reality of all our striving. Guide us through the duties of this day with joyous hearts and confident spirits. Grant that our words and deeds may fit the pattern Thou hast for the Nation. Be with us when we separate. Give journeying mercies to those who travel. Out of the coming contests forge a new and a better nation where the things that are unseen and eternal transcend the things which are seen and temporal. Lead us and this Nation in paths of righteousness for Thy name's sake and bring us at last to be at peace in Thy perfect kingdom.

We pray in that name which is above every name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 26, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting majority leader, the Senator from Kentucky, is recognized.

THE JOURNAL

Mr. FORD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. Mr. President, I have nothing to use my 10 minutes for this morning. I am glad to yield to the minority leader.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader, the Senator from Tennessee, is recognized.

Mr. BAKER. Mr. President, I thank the acting majority leader.

STATEMENT BY GOVERNOR REAGAN ON TAIWAN

Mr. BAKER. Mr. President, on Wednesday of last week I had the opportunity to discuss with the distinguished majority leader the statements Governor Reagan had made concerning our relations with Taiwan. I said then that his statements with respect to Taiwan were properly the subject of consideration in a Presidential campaign, and that I looked forward to further amplification of those statements.

At a press conference yesterday, Governor Reagan issued a clear and definitive statement of his view of what our relationship should be, not only with Taiwan, but as well with the People's Republic of China. It is my hope that this statement receives as much attention as the remarks which occasioned it.

In his statement, Governor Reagan demonstrates a thorough understanding of the delicate balance of relations constructed by the Taiwan Relations Act. He knows, and it is clear that he knows, that the United States cannot and should not adopt a "two-China" policy. More importantly, the statement demonstrates an understanding that great nations, while they may share many interests and disagree on others, may still go forward and build a strong and constructive relationship.

I favor and support a continuing strengthening of our relations with Peking and I believe it very much to our mutual benefit to pursue together those interests we have in common. But I also share Governor Reagan's frustration as I have watched over the past 18 months the conduct of our relations with Taiwan, the framework for which was established by Congress in the Taiwan Relations Act.

I believe Governor Reagan's statements were born of the frustration which we share and which I fully understand. I am pleased that he has issued this statement which I consider a principled and unassailable exposition of our future relations with China and Taiwan. I commend it to my colleagues, I invite further comment on it, and I ask that it be inserted in its entirety in the RECORD. I would add, as well, Mr. President, that the Wall Street Journal, in its lead editorial this morning, places the entire episode in the proper perspective. The editorial accurately describes the situation as I see it and I ask that it too be placed in the RECORD following Governor Reagan's statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY RONALD REAGAN

Ten days ago George Bush and I met with you here in Los Angeles on the occasion of his departure for Japan and China, a trip he undertook at my request. As we stressed at the time, the purpose of the trip was to provide for a candid exchange of views with leaders in both countries on a wide range of international topics of mutual interest. Ambassador Bush returned last evening, and has reported his findings in detail.

We are both very pleased with the results of his extensive discussions. In a series of meetings with distinguished leaders in Japan, including Prime Minister Suzuki, Former Prime Ministers Fukuda, Kishi and Miki, Foreign Minister Itoh and Minister of International Trade and Industry Tanaka, he had the opportunity to hear their views and recommendations concerning the future of U.S.-Japanese relations.

Our Republican Party Platform stresses that Japan will remain a pillar of our policy for Asia, and a Reagan-Bush Administration will work hard to insure that U.S.-Japanese relations are maintained in excellent condition, based on close consultation and mutual understanding.

Japan's role in the process of insuring peace in Asia is a crucial one, and we must reinforce our ties with this close ally. Japan is our second most important trading partner, and we are her first. We have close ties in other fields, too. A most important example is the U.S.-Japan Mutual Security Treaty which recently marked its twentieth anniversary.

Understanding the Japanese perspective is important for the success of American policy. As Ambassador Bush will tell you in detail, he found Japanese leaders unanimous in their view that the United States must be a strong, reliable, leading partner.

I appreciate receiving their views, and I am grateful to them for the courtesies extended to Ambassador Bush. I would also like to express my appreciation to, and regard for, U.S. Ambassador Mike Mansfield, who also extended many courtesies.

Of equal importance was Ambassador Bush's trip to China, where he held a series of high-level meetings. As I said on August 16, "we have an obvious interest in developing our relationship with China, an interest that goes beyond trade and cultural ties. It is an interest that is fundamental to a Reagan-Bush Administration."

The meetings in Beijing provided for extensive exchanges of views. George has reported to me in great detail the points of similarity and agreement, as well as those of dissimilarity and disagreement. Since the objective of the trip was to have just such an exchange without necessarily reaching agreement, I believe that the objective was reached.

We now have received an updated, first-hand report of China's views, and the Chinese leaders have heard our point of view.

While in Beijing, Ambassador Bush and Richard Allen met at length with Vice Premier Deng Xiaoping, Foreign Minister Huang Hua, as well as with other top foreign policy experts and military leaders. I appreciate the courtesies which the Chinese leaders extended to our party, and I also wish to thank U.S. Ambassador Leonard Woodcock for his kind assistance.

We now maintain full and friendly diplomatic relations with China. This relationship began only a few years ago, and it is one which we should develop and strengthen in the years ahead. It is a delicate relationship, and the Reagan-Bush Administration will handle it with care and respect, with due regard for our own vital interests in the world generally, and in the Pacific region specifically.

China and the United States have a common interest in maintaining peace so that our nations can grow and prosper. Our two-way trade has now reached approximately $3.5 billion annually, and China's program of modernization depends in a major way on Western and U.S. technology.

Along with many other nations, we and China share a deep concern about the pace and scale of the Soviet military buildup. Chinese leaders agree with Japanese leaders that the United States must be a strong and vigorous defender of the peace, and they specifically favor us bolstering our defenses and our alliances.

It is quite clear that we do not see eye to eye on Taiwan. Thus, this is an appropriate time for me to state our position on this subject.

I'm sure that the Chinese leaders would place no value on our relations with them if they thought we would break commitments to them if a stronger power were to demand it. Based on my long-standing conviction that America can provide leadership and command respect only if it keeps its commitments to its friends, large and small, a Reagan-Bush Administration would observe these five principles in dealing with the China situation.

GUIDING PRINCIPLES FOR THE FAR EAST

First, U.S.-Chinese relations are important to American as well as Chinese interests. Our partnership should be global and strategic. In seeking improved relations with the People's Republic of China, I would extend the hand of friendship to all Chinese. In continuing our relations, which date from the historic opening created by President Nixon, I would continue the process of expanding trade, scientific and cultural ties.

Second, I pledge to work for peace, stability and the economic growth of the Western Pacific area in cooperation with Japan, the People's Republic of China, the Republic of Korea and Taiwan.

Third, I will cooperate and consult with all countries of the area in a mutual effort to stand firm against aggression or search for hegemony which threaten the peace and stability of the area.

Fourth, I intend that United States relations with Taiwan will develop in accordance with the law of our land, the Taiwan Relations Act. This legislation is the product of our democratic process, and is designed to remedy the defects of the totally inadequate legislation proposed by Jimmy Carter.

By accepting China's three conditions for "normalization," Jimmy Carter made concessions that Presidents Nixon and Ford had steadfastly refused to make. I was and am critical of his decision because I believe he made concessions that were not necessary and not in our national interest. I felt that a condition of normalization—by itself a sound policy choice—should have been the retention of a liaison office on Taiwan of equivalent status to the one which we had earlier established in Beijing. With a persistent and principled negotiating position, I believe that normalization could ultimately have been achieved on this basis. But that is behind us now. My present concern is to safeguard the interest of the United States and to enforce the law of the land.

It was the timely action of the Congress, reflecting the strong support of the American people for Taiwan, that forced the changes in the inadequate bill which Mr. Carter proposed. Clearly, the Congress was unwilling to buy the Carter plan, which it believed would have jeopardized Taiwan's security.

This Act, designed by the Congress to provide adequate safeguards for Taiwan's security and well-being, also provides the official basis for our relations with our long-time friend and ally. It declares our official policy to be one of maintaining peace and promoting extensive, close, and friendly relations between the United States and the seventeen million people on Taiwan as well as the one billion people on the China mainland. It specifies that our official policy considers any effort to determine the future of Taiwan by other than peaceful means a threat to peace and of "grave concern" to the United States.

And, most important, it spells out our policy of providing defensive weapons to Taiwan and mandates the United States to maintain the means to "resist any resort to force or other forms of coercion" which threaten the security or the social or economic system of Taipei.

This Act further spells out, in great detail, how the President of the United States, our highest elected official, shall conduct relations with Taiwan, leaving to his discretion the specific methods of achieving policy objectives.

The Act further details how our official personnel (including diplomats) are to administer United States relations with Taiwan through the American Institute in Taiwan. It specifies that for that purpose they are to resign for the term of their duties in Taiwan and then be reinstated to their former agencies of the U.S. government with no loss of status, seniority or pension rights.

The intent of the Congress is crystal clear. Our official relations with Taiwan will be funded by Congress with public monies, the expenditure of which will be audited by the Comptroller General of the United States; and Congressional oversight will be performed by two standing Committees of the Congress.

You might ask what I would do differently. I would not pretend, as Carter does, that the relationship we now have with Taiwan, enacted by our Congress, is not official.

I am satisfied that this Act provides an official and adequate basis for safeguarding our relationship with Taiwan, and I pledge to enforce it. But I will eliminate petty practices of the Carter Administration which are inappropriate and demeaning to our Chinese friends on Taiwan. For example, it is absurd and not required by the Act that our representatives are not permitted to meet with Taiwanese officials in their offices and ours. I will treat all Chinese officials with fairness and dignity.

I would not impose restrictions which are not required by the Taiwan Relations Act and which contravene its spirit and purpose. Here are other examples of how Carter has gone out of his way to humiliate our friends on Taiwan:

Taiwanese officials are ignored at senior levels of the U.S. government.

The Taiwan Relations Act specifically requires that the Taiwanese be permitted to keep the same number of offices in this country that they had before. Previously, Taiwan had 14 such offices. Today there are but nine.

Taiwanese military officers are no longer permitted to train in the United States or to attend service academies.

Recently the Carter Administration attempted to ban all imports from Taiwan labeled "Made in the Republic of China," but was forced to rescind the order after opposition began to mount in the Congress.

The Carter Administration unilaterally imposed a one-year moratorium on arms supplies even though the Act specifies that Taiwan shall be provided with arms of a defense character.

The Carter Administration abrogated the Civil Aviation Agreement with Taiwan, which had been in effect since 1947, in response to demands from the People's Republic of China.

I recognize that the People's Republic of China is not pleased with the Taiwan Relations Act which the United States Congress insisted on as the official basis for our relations with Taiwan. This was made abundantly clear to Mr. Bush, and, I'm told, is clear to the Carter Administration. But it is the law of our land.

Fifth, as President I will not accept the interference of any foreign power in the process of protecting American interests and carrying out the laws of our land. To do otherwise would be a dereliction of my duty as President.

It is my conclusion that the strict observance of these five principles will be in the best interests of the United States, the People's Republic of China and the people on Taiwan.

The specific implementation of these treaties will have to await the results of the election in November, but in deciding what to do I will take into account the views of the People's Republic of China as well as Taiwan. It will be my firm intention to preserve the interests of the United States, and as President I will choose the methods by which this shall best be accomplished.

REAGAN AND CHINA

As soon as it became evident last spring that Ronald Reagan would be the Republican presidential nominee, press speculation began over how long it would be before the Californian got himself in trouble by shooting from the hip on an important public policy question.

A lot of people thought they had found the answer when Mr. Reagan last week raised hackles in Peking with his insistence on an "official" U.S. relationship with Taiwan. The candidate had unnecessarily raised a sensitive issue that had long ago been settled, it was alleged, fulfilling all the worst fears about how a President Reagan would conduct foreign policy. His running mate, George Bush, had drawn maximum publicity to all this by trying to explain it all to China's top leadership on a well-publicized visit to Peking.

And yesterday, in a chaotic-sounding press conference in Los Angeles, the Republican team didn't succeed very well in explaining where the difference lies between such subtle shades of meaning as "official" and "government-to-government." Was it another case of a candidate "shooting himself in the foot" as did George Romney with his complaint about being "brainwashed" by the incumbents or Gerald Ford's televised insistence that Poland wasn't under the heel of the Soviet Union?

We don't much think so. Whatever confusions resulted from the question-and-answer session in Los Angeles, Mr. Reagan made his position on Taiwan clear in the statement he read at the outset. Moreover, it is a respectable and responsible position, one that expresses a tenet of the Reagan philosophy that he has no reason to jettison.

Mr. Reagan said clearly that he supports the present U.S. law that addreses U.S.-Taiwan relations. The prescriptions of that law about how the U.S. conducts its business with Taiwan could hardly be anything other than "official," since they are the law of the land. He was critical of the Carter administration for seemingly going out of its way to embarrass a country that has been a showcase of the type of economic development we profess to believe in. It is a developing nation that borrowed external capital, invested it wisely and is building a better life for its citizens than is available in most other countries in Asia. Mr. Reagan's fundamental position is that Taiwan should be treated with consideration and respect and that we should not be cowed by the fear that Peking might be annoyed at American self-assertiveness.

None of this requires the U.S. to sunder its strategically important and growing entente with Peking. It would merely make it clear to Peking that the U.S. adheres to certain principles that do not evaporate when a former adversary makes friendly overtures. Mr. Bush may not have had great success in selling this in Peking, but, considering how easy a time China's rulers have had with Mr. Carter, why would anyone expect him to get a hearty welcome?

The semantic tangle that Mr. Reagan found himself in yesterday was the sort of thing that can prove embarrassing to a candidate. The important thing, however, is whether the candidate is right on the substantive issue and we find the Reagan position more attractive than that of Mr. Carter.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR EAGLETON

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Missouri (Mr. EAGLETON) is recognized for not to exceed 15 minutes.

JERUSALEM RESOLUTION

Mr. EAGLETON. Mr. President, the United States has again faltered in its handling of a sensitive U.N. resolution critical of Israeli policies. Last week's decision not to veto the so-called Jerusalem resolution was, in my opinion, a grave mistake.

During 1980, the United Nations has established a dismal record for itself. On no fewer than eight occasions, the organization has acted to condemn Israeli policy and thus further damage prospects for resumption of the stalled Middle East peace negotiations. That is a particularly alarming record for an international body whose one reason for being is to foster the cause of peace among nations.

Mr. President, the message of these resolutions could not be clearer. Supporters of PLO interests are repeatedly using the U.N. as a forum to attack Israel and chip away at its support in the world community. Given the past failure of the United States to exercise its veto rights, it is no surprise that PLO interests have again sought to use the Council as a tool to foment censure of Israel for formally declaring Jerusalem its permanent and undivided capital. It dismays me that the United States failed to employ the use of its veto power on a measure that so clearly warranted it. Such timidity will surely invite even stronger resolutions in the future.

In the forcefully worded rebuke he delivered before the Security Council, Secretary of State Muskie made the strongest possible case for vetoing the resolution. He quite correctly noted that the measure "fails to serve the goal of all faiths who look to Jerusalem as holy," and added:

> We must share a common vision of this ancient city's future—an undivided Jerusalem, with free access to the holy places for people of all faiths.

In defending the U.S. abstention, Secretary Muskie declared the resolution "fundamentally flawed" because it singles out Israel without regard to the actions of other parties or to the difficult issues of this historic dispute. Referring collectively to the several recent anti-Israel resolutions, Mr. Muskie attacked the U.N.'s activities when he charged:

> I believe that in its work on the Middle East over the past five months, the United Nations has been the focus of attempts not to advance the cause of peace but to restrain it, contrary to the ideals and purposes of this institution.

In addition, he pointed out that the Jerusalem resolution and those that preceded it, "have failed the critical tests of reason, of balance."

Mr. President, the United States failure to veto a measure as damaging as the Jerusalem Resolution is deplorable. In my opinion, the abstention will have no effect other than to encourage hard-line Islamic nations to again attempt to misuse the United Nations mechanism. It is time the United States drew the line against such provocative manuevers and made it clear to all it will not waver from its long standing commitment to Israeli security.

ORDER OF BUSINESS

Mr. STENNIS. Mr. President, will the Senator yield me his remaining time?

Mr. EAGLETON. I yield the remaining time.

Mr. STENNIS. I thank my colleague. I hope it is agreeable with the Chair.

The ACTING PRESIDENT pro tempore. The Senator may proceed.

Mr. STENNIS. Mr. President, I especially thank the Senator from Missouri. It is characteristic of him to be helpful.

LONG-TERM POLICIES TOWARD RECESSIONS; CONGRESS BLAMED FOR CHAOS IN DOMESTIC AID PROGRAMS; FIELD FOUNDATION RESTUDIES POLICIES AFTER 40 YEARS

Mr. STENNIS. Mr. President, I was greatly encouraged yesterday when, by coincidence, there were three items in the New York Times of serious import but they were all what I consider to be on the positive, affirmative, side and a positive approach to our problems.

In the New York Times of August 25, 1980, on the front page, these three articles that I will refer to now quite briefly appeared, and then I will ask permission to put them into the RECORD. I add that even in the confusion of a Presidential election year—and that is part of our system—there is emerging what I think is challenging and helpful, this positive thinking of a constructive nature. I refer with some pride to the fact that we have a bipartisan Joint Economic Committee, now chaired by the Senator from Texas (Mr. BENTSEN), which is working diligently on a positive approach to the economic structure and the economic problems, of the Nation and making real headway in the unanimous or nearly unanimous reports that they make.

I am now referring to the article here entitled "Joint Panel Urges Long-Term Policies Toward Recessions. Bipartisan Congressional Report Assails Temporary Remedies and Stresses Production."

I want to add that this is a field entirely beyond my special application, but what they are saying here certainly seems to me to make a lot of sense, and I hope we can follow up on their suggestions. I highly commend and thank the Senator from Texas, Mr. BENTSEN, whose knowledge and leadership in this field is excellent and I believe it will be highly fruitful.

I ask unanimous consent that this article to which have referred, written by Robert D. Hershey, Jr., be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JOINT PANEL URGES LONG-TERM POLICIES TOWARD RECESSIONS

(By Robert D. Hershey, Jr.)

WASHINGTON.—In perhaps the strongest bipartisan economic statement from Congress in decades, the Joint Economic Committee said today that the nation must stop treating recessions as temporary emergencies requiring hasty remedies and should instead look for long-term solutions.

The committee's midyear report reflects what has become a broad feeling on Capitol Hill that the economy cannot be successfully "fine tuned." It also puts heavy emphasis on the increasingly popular idea, especially among Republicans, that people must be encouraged to produce more rather than to consume more.

The 20-member committee, made up of senior Senators and Representatives, is the principal Congressional forum for discussion of broad economic issues. It does not originate legislation, but it plays an influential advisory role in shaping economic policy.

PARTISAN IN THE PAST

During the mid-1950's and through the next two decades it was strongly partisan, generally reflecting liberal Democratic views calling for stimulation of demand. In recent years, the committee has become more conservative under the leadership of its chairman, Senator Lloyd M. Bentsen, Democrat of Texas, and its vice chairman, Representative Richard Bolling, Democrat of Missouri. Now the panel increasingly tends to take up problems of production and to emphasize a united bipartisan front.

Today's report was endorsed by all but one of the committee's 12 Democrats—who include Senator Edward M. Kennedy of Massachusetts—and all eight Republicans. Only Representative Parren J. Mitchell, a Maryland Democrat, withheld his support. He said he did so because the report did not endorse an immediate fiscal stimulus to help the nation's 8 million unemployed workers, including 2.5 million blacks.

Today's report, which focused on the Government's response to the six recessions since World War II, shows disillusionment with economic policies followed by this country during most of that period.

The report concluded that "Government attempts to shorten the duration or reduce the intensity of recessions through countercyclical programs initiated during specific downturns have been ineffective."

In fact, the panel found, in a number of cases the measures not only come too late to help but also damaged the economy by overstimulating the recovery.

Exhibiting profound disenchantment with economic forecasting, the committee declared: "The onset of a recession is rarely, if ever, accurately anticipated, and the existence of a recession may not be known until several months or quarters after it has begun." And even when a recession has been recognized, the panel added, it is not possible to predict how deep it will be or how long it will last.

These problems are compounded by the Government's delays in acting and by additional lags while a public works program, for example, is carried out and its impact is transmitted to the economy, the committee said. It concluded that such uncertainties are "if anything more pronounced" when Government actions are based on monetary policy rather than fiscal, or public spending, policy.

Instead of "scattered, hit-or-miss" Government responses, the committee said, "the prudent course of action during a recession is to design new policy initiative to steer the recovery along the most desirable path so as to improve the structure and the performance of the economy over the long run."

Accordingly, the panel recommended that about half of the next tax cut be designed to increase productivity by stimulating corporate investment in new plant and equipment. The other half, it said, should reduce personal tax rates to encourage "work, saving and investment at the individual level." The tax bill approved by the Senate Finance Committee last week is broadly consistent with these goals.

WORKER TRAINING URGED

The Joint Economic Committee said existing antirecession programs should be overhauled to stress training of unemployed workers in skills that will be needed in the private sector.

"Economic policy must focus on the supply side of the economy, on the long-term capacity to produce, and not just on the current recession," the report said.

Unless Congress makes such changes, the committee said, the economic recovery this time is likely to be "very weak" and the entire decade could be marked by high rates of both inflation and unemployment.

The presnt consensus on the committee owes much to acceptance by most of its members of a long-held minority view stressing the debilitating effect of inflation on real corporate earnings and investment and on the costs of Federal regulation.

One example of the way committee thinking has changed lies in a passage from its 1976 report, which was at odds with the Ford Administration and was full of confidence that the economy could be "managed" over the short term.

"The Joint Economic Committee must deplore the continual statements of Administration officials that purvey ignorance and misinformation to the public on matters of economic policy," it said four years ago. "Despite its deficiencies, economics has become a highly developed discipline. Administration officials often speak as though they had heard nothing of its progress in the past 40 years."

Mr. STENNIS. Further along the same line there is an article by John Herbers in the New York Times entitled "Chaos in Domestic Aid Programs Is Laid to Congress in U.S. Study." I am not affirming that I believe all these points are correct and true, but certainly there is a great element of truth in it, and we have to take the blame anyway because it is within the congressional responsibilities.

I want to add though that the tremendous volume of work that these 100 Senate Members have to do, these people who compose the Senate, in the field of active legislation and also oversight is so great that it is getting to where it is almost humanly impossible to give the degree of attention by these constitutional officers, the 100 Senators, that the problems really deserve.

I refer to another item here that I noticed with some considerable interest which is entitled "Field Foundation Restudies Polices After 40 Years." That is a story, of course, of the Field Foundation after the first 40 years, and with the great good they have done, not all of which I would agree with, of course, but they are restudying their approaches, and it looks to me as if in this field of education they are going to lean more heavily toward the idea of the basics in education.

I ask unanimous consent that these two articles to which I have referred, in order to give them further spread and publicity, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CHAOS IN DOMESTIC AID PROGRAMS IS LAID TO CONGRESS IN U.S. STUDY

(By John Herbers)

WASHINGTON.—A Federal commission, ordered by Congress to conduct a thorough study of the state of American Government, has concluded that Congress itself is chiefly to blame for what it found to be an unmanageable, wasteful and unaccountable system of domestic aid programs.

The Advisory Commission on Intergovernmental Relations, created by Congress in 1959 to make seemingly innocuous studies in Federal-state relations, has come to the conclusion that the Federal system is simply out of control. It also found that the declining influence of political parties is contributing to the problem.

The panel has begun to publish its newest findings in a series of provocative reports and background papers that Congress commissioned in 1976 in response to rising public discontent with Government at all levels.

The 26-member commission is required by law to consist of six members of Congress, three officials from the Executive branch, four governors, four mayors, three state legislators, three elected county officials and three private citizens, each appointed for two-year terms. Former Mayor Abraham D. Beame of New York is the current chairman. The commission has a staff of about 37, headed by Wayne Anderson, the executive director.

A LACK OF UNDERSTANDING

"Neither public officials nor the general public comprehend fully the new complexities of domestic public policy, or adequately control—or even check—the myriad forces that have generated it," the commission said in its first printed volume, titled "A Crisis of Confidence and Competence."

Yet the language and conclusions in that volume are mild compared with some of its documents yet to be published. In some of those, the commission depicts the Federal Government as so overloaded with programs and issues that it cannot cope with need for reforms.

The myriad programs are so intertwined among the state, local and Federal Governments that no government can deal with them, according to the commission.

While all levels of government and the courts were found to have played roles in the failures of the last two decades, the commission singled out Congress as having had more to do with bringing about "the crisis of confidence" than any other entity.

"Our findings belie the notion that Congress acts as a great rubber stamp for Presidential, bureaucratic or interest group initiatives," the commission said. "In fact, in many instances the opposite would be far closer to the truth."

Congress was depicted as quick to take on minor new issues, but timid in drawing up such needed reforms as overhauling the welfare system. Members of Congress were found to be so preoccupied with such narrow concerns as potholes, libraries, rat control and policemen's pensions that they had little time to deal with such major responsibilities as foreign affairs and the economy.

STATES HEED CRITICISM

All this might have gone unnoticed—Congress has been ignoring the commission's advice for years—had not the group's findings and recommendations become the fulcrum for an incipient revolt by the states against the Federal Government.

The National Governors Association, with the support of the National Conference of State Legislatures, has formally called on the President and Congress to appoint a high-level commission next year to recommend reforms in the Federal system, including the realignment of powers between the state and Federal Governments, through legislative or constitutional change.

That move, made at the governors' annual convention in Denver this month, was based on a similar recommendation that the commission made at a meeting in Washington earlier this summer.

The commission has suggested that reform could begin with a series of "tradeoffs" that would give the Federal Government full responsibility in some areas while giving the states responsibility for other areas.

For example, the Federal Government could take over the full costs and responsibility for public welfare, including Medicaid, social services and food stamps. It would also assume responsibility for social insurance, including unemployment insurance, and housing programs.

The panel suggests that the states could then take over the responsibility for education, libraries, fire protection, police and corrections, natural resources, hospitals and health services. While the commission maintains that there would be little difference in the costs that each would have to bear, it contends that the public would at least know who was responsible for what.

Many of the more than 500 grant programs could then be consolidated or phased out, according to the commission.

In documents supporting its recommendations for change, the commission said that much of the "increasingly dysfunctional" state of the Government stemmed from the decline in the influence of national political parties, which once served to keep "the bulk of domestic governmental issues and programs completely out of the Washington arena."

This situation, it said, leads to "a total confusion" in official role playing. "Presidents act almost as frequently in a mayoral or a gubernatorial role as a national Presidential one," the commission said, "and Congress plays municipal and county council almost as often as it acts as a national deliberative body. It has produced a situation where no level or set of officials is performing the functions it is best suited to perform."

PROBLEM IS DESCRIBED

The commission contends that Congress has refused to assume full responsibility for functions that should be purely national, such as income maintenance, health insurance and welfare. Nor has Congress been willing to relinquish matters that should be strictly local, such as urban parks, rural fire control and acquaculture according to the commission.

"A rather fanciful form of federalism, then, has emerged," it said. "Basic policies in most program areas appear to be made in Washington and their implementation achieved through decisions, orders, mandates, conditions, regulations and the lure of Federal loot for 12 million state and local civil servants.

"And, in the end, the fancy becomes caprice because the subnational governments, their elected officials and bureaucracies are capable of highly differentiated responses to all this—in terms of compliance, cooperation, participation and conflict," the commission said. "Equally fanciful is any notion that the Federal aid system as a whole protects the interests of the needy or equalizes levels of public services. Questions of equity are largely ignored in the scramble for benefits."

That the Federal Government is capable of controlling such a system, despite 14 years of repeated failures, is one of the "pervasive myths" of Washington, the commission said.

"Where does this leave the electorate?" the commission asked. "Frustrated, fearful, alienated and/or angry. The system has become highly incomprehensible even to those whose job it is to have an overall understanding of it."

Field Foundation Restudies Policies After 40 Years

(By Kathleen Teltsch)

The Field Foundation, one of the country's leaders in liberal philanthropy, has changed its top director and decided to review its grant-making policies.

The foundation, established 40 years ago by Marshall Field, the late millionaire retailer and philanthropist, has been regarded as a pioneer in support of civil-rights causes and antipoverty undertakings. Because it has frequently been an innovator—it was one of the first to support voter registration in the South in the early 1960's—the foundation has had a significant influence on the activities of other, and sometimes wealthier, foundations.

The changes in the foundation's administration were announced by Mrs. Marshall Field 3d, the board chairman, in a brief statement that underscored the private philanthropy's intention to maintain its "traditional commitments" to programs to protect civil liberties and civil rights and to support its work on behalf of children. In its most recent report, the foundation listed assets of $16 million and said it had spent $1.8 million in grants. The report was made in November 1979.

The foundation, which is based in New York City, accepted the resignation of its longtime director, Leslie W. Dunbar, a political scientist and civil-rights activist. As his successor, the foundation named Richard W. Boone, who had been acting director while Mr. Dunbar was away on a two-year leave of absence.

The differences between the outgoing director and the foundation officers and some board members were said to have developed since Mr. Dunbar ended a two-year sabbatical last fall, and they erupted at a board meeting in June. At that time a decision was made to review the foundation's financing policies.

"It was unpleasant for everyone," Mr. Dunbar said of the June meeting, explaining during an interview last Tuesday that he had tendered his resignation shortly thereafter to make it easier for board members to conduct their review.

"I was afraid that the restudy would focus around me, and I didn't want that," Mr. Dunbar said. He had sought to resign in 1977 but had been persuaded instead by Morris B. Abram, the foundation's president, to take a leave of absence

Mr. Abram has been a personal friend of Mr. Dunbar's since the two were brought together two decades ago by their common interest in the civil-rights movement in the South.

Mr. Dunbar, who is 59 years old, joined the foundation in 1965 from the Southern Regional Council, an organization of white and black Southerners set up in 1944 to work for "equal opportunity for all the South's people."

Under his direction, the Field Foundation, besides its older, traditional concerns, also focused on what were perceived as abuses of government power both at home and abroad in the name of national security. Grants were made to organizations for studies on covert surveillance, erosion of civil liberties and also to support research on American armaments programs.

While most of Mr. Dunbar's proposed grants were approved, some were challenged The board refused to give funds to the Committee Against Registration and the Draft and, pending the forthcoming policy review, held off on a recommended grant of $50,000 to continue studies or armaments transfers and human rights by the Institute for Policy Studies in Washington.

The institute is a controversial research organization, described by some as "liberal" or "leftist" and by its director, Robert Borosage, as a "center for research, education and social invention." At least some of the foundation's board members were said to have questioned activities of the institute, one being its submission of a human-rights complaint to the United Nations focusing on the treatment of American Indians.

According to Mr. Dunbar, his harmonious relations with the officers of the Field Foundation underwent a sudden change last fall when he returned from his sabbatical and, for the first time, "lost the feeling that he was interpreting the will of the board."

Consequently he decided to step aside, so the foundation members could decide if they wanted to continue financing programs that examined activities of the Government that were justified as "national security interests." As Mr. Dunbar sees it, civil liberties will be increasingly threatened in the next few years by a return to what he calls the "free-wheeling" activities of Government intelligence agencies.

One of the differences between now and the "McCarthyism of 30 years ago," he said, is that there are organizations around to monitor the Government's "inherent tendency" to abuse civil liberties, and there are also competent litigators to fight back.

During several interviews by telephone, Mr. Abram acknowledged that divergencies existed, but he insisted that they were not between him and Mr. Dunbar but involved the institutional position of the foundation.

"Les has increasingly seen the problem of the United States and international peace as being threatened by what he describes as United States militarism," Mr. Abram said. "The institution did not accept his vision that the U.S. is the principal offender in the arms race or the disturber of world peace. The U.S. is not always right, but it certainly is not always wrong, and, comparably, it is one of the most moral of nation states."

SCHOLAR PROTESETS RESIGNATION

The Dunbar resignation prompted a protest to the foundation's directors from Vine Deloria Jr., a legal scholar and writer on Indian affairs, who joined the board in April. He warned that the departure of "the most respected foundation executive in the country" would severely damage the foundation's reputation. Citing Mr. Dunbar's close ties to minority groups, he insisted that acceptance of the resignation would arouse "suspicions" about the foundation's future undertakings.

Mr. Boone, who is 53, has also had a long career in assisting minority groups, particularly youth, in positions within and outside government, and he had been selected by Mr. Dunbar to serve during his sabbatical. Previously he was director of the Citizens Crusade Against Poverty and director of the Robert F. Kennedy Memorial.

Mrs. Field, reached by telephone praised Mr. Dunbar's "magnificent" contributions to the foundation, but she added pointedly that before he joined it, the institution had already acquired its reputation as one of the most liberal and innovative foundations in the tradition initiated by her late husband.

She was reminded of an incident, she said, in which her husband was criticized for provoking attacks by sticking out his neck, and he had responded, "What's a neck for?"

Mr. STENNIS. I thank the Senators for this time and now yield the floor.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may proceed as if in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER (Mr. Ford). Without objection, it is so ordered.

Mr. PROXMIRE. I commend my friend from Mississippi for what he has just said. I served for 4 years as chairman of the Joint Economic Committee. This is the first time Senator Bentsen has put together a unified report by Republicans and Democrats alike as to our approach to economic problems, and I join Senator Stennis in congratulating Senator Bentsen on doing a marvelous job.

That panel has been led by such outstanding people as Paul Douglas, who was, of course, a great economist; Hubert Humphrey, whom we all know was a tremendously able Senator; but nobody—and, as I say, I chaired it for 4 years—had been able before to unify that committee as Senator Bentsen has done.

Mr. STENNIS. Mr. President, if the Senator will yield, let me thank him for his remarks and especially commend him for the fine work he has consistently done over the years in this field. His contribution has been real and it has been great.

Mr. PROXMIRE. Mr. President, I am so glad that the Senator from Mississippi has called our attention to this matter. It was a front page article in the New York Times, and I was very impressed by that, too.

He also properly pointed to the chaos in the domestic affairs article. That was an allegation by the Governors. And they are feeling their oats. They are very concerned about what is happening to revenue sharing. I think we can anticipate a struggle in the next couple of years in that area.

I think it was most constructive for the Senator from Mississippi to call this vital article to our attention. And, of course, the Field Foundation shift to a more basic education grant is another area I think we should take note of. So I want to thank my good friend from Mississippi for calling our attention to these articles.

THE MISSING TREATY

Mr. PROXMIRE. Mr. President, on July 2, 1980, the Senate unanimously ratified the International Convention on Maritime Search and Rescue, the International Atomic Energy Agency Safeguards Agreement, and the 1978 Protocol of the International Convention for the Safety of Life at Sea.

That we should approve these agreements unanimously should come as no surprise to anyone, Mr. President. We are a nation which places a very high value on human life. We are always seeking ways to preserve and enhance it. We set industry standards to protect the health of workers around the world; we establish procedures to save the lives of those in trouble in the open sea, no matter what their nationality.

But apparently, Mr. President, we draw the line at genocide. We approve all sorts of international safety regulations and rescue procedures, but we fail to support an international prohibition of race murder.

Where are our values, Mr. President? Where are our priorities?

What kind of sense does it make to approve safety standards while failing to condemn mass murder? What safety are we providing for members of threatened races, religious sects, or national groups?

The picture of shipwrecked sailors being pulled from the sea by efficient rescue teams is a warming one, Mr. President. But not warm enough to take away the chill we must feel when we face up to the horrors of genocide. The author, Herman Wouk, in "War and Remembrance," assists us to this confrontation:

> As the cart passes the SS officers, there is a whiff of the disinfectant, rather like carbolic acid. The naked people look not much different than they did less than half an hour ago, except that they are absolutely still now, streaked with excrement, and all jumbled together, some with jaws hanging open and wide eyes fixed and staring—old men, little children, pretty women, in an inert heap.

Would safety regulations have saved these people, Mr. President? Would maritime search and rescue efforts have been of any use to them?

Eighty-five nations have united to proclaim genocide an international crime. Only one major nation has lacked the initiative to take this demonstrative step. That nation, Mr. President, is the United States of America. And this body—the U.S. Senate—is the only obstacle to passing the Genocide Treaty. Every President—Republican and Democrat—has pleaded with us to pass it. The House has no voice in this. It is up to us.

Three international agreements were approved by the U.S. Senate on July 2. The Genocide Treaty was not one of them. Why not?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business, H.R. 2977, which the clerk will state by title.

The legislative clerk read as follows:

> A bill (H.R. 2977) to provide for Federal support and encouragement of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, to provide for coordination of Federal programs and activities relating to domestic violence, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order there will now be 10 minutes equally divided on an amendment by the Senator from Kansas (Mr. DOLE).

UP AMENDMENT NO. 1525

(Purpose: To assure representation of groups with interest in service opportunities for handicapped individuals on the Commission on National Service)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1525.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

> On page 53, line 13, after "youth" insert a comma and the following: "handicapped individuals,".

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DOLE. Mr. President, my staff has informed me that the committee has agreed to accept this amendment. I am pleased with the committee's action as I truly believe this amendment strengthens the intent of the National Service Commission.

NATIONAL SERVICE COMMISSION

Mr. President, H.R. 2977, the Domestic Violence Prevention and Services Act and National Service Commission Act, includes authority to establish a Presidential Commission on National Service.

The concept of a national service program is not new. Since 1910, when the first national service concept was proposed, there has been much discussion of this concept within the private and public sectors. We have seen numerous versions of this concept in operation with the establishment of the CCC (Civilian Conservation Corps), Peace Corps, and ACTION.

Mr. President, my amendment is direct and to the point, it simply amends the language of the bill to include representation of groups with interest in service opportunities for handicapped individuals on the Commission on National Service.

The amendment that the Senator from Kansas is offering is not so much on the question of the pros and cons of a national service program rather to the makeup of the Commission. As you know, the Commission will eventually offer recommendations to the Congress as to the feasibility of such a program.

The Senator from Kansas has yet to be convinced of the merits of any mandatory service, except in the event of a national emergency. Thus, it is my hope that this Commission, after careful consultation with each of the constituent groups which will be affected by national service, will provide the facts enabling an informed decision to be made on this very important matter.

Mr. President, I strongly believe that the Commission can be effective only if its membership is broadly representative of those individual organizations, and groups that would or should be most affected by the development of a national service program.

Again, I want to state that this amendment is intended to help promote the participation of handicapped individuals in all decision processes of this country.

Mr. CRANSTON. Mr. President, I am very pleased to accept the amendment by my colleagues from Kansas (Mr. DOLE) to include representatives of organizations and groups with a primary interest in service opportunities for handicapped individuals among the groups specifically mentioned for participation by their representatives on the Presidential Commission on National Service. I have been privileged to work with the Senator from Kansas on many matters and bills to assist and protect disabled persons. I am most appreciative of his interest and concern in developing this amendment, and, on behalf of our side I am more than happy to accept it.

Mr. DOLE. Mr. President, I appreciate very much the statement by the Senator from California. We have worked together in a number of areas with reference to handicapped and disabled Americans. I appreciate his continuing interest in this effort.

Mr. CRANSTON. Mr. President, I am sure the amendment is acceptable to the minority also.

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. DOLE. Mr. President, I yield back any remaining time.

Mr. CRANSTON. Mr. President, I yield back any remaining time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (UP No. 1525) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 30 minutes equally divided on an amendment by the Senator from Missouri (Mr. DANFORTH).

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield briefly?

Mr. DANFORTH. I yield.

Mr. ROBERT C. BYRD. Mr. President, Senator YOUNG has been very patiently waiting. I wonder if we can accommodate him at this point.

The ACTING PRESIDENT pro tempore. Does the Senator request that the time not be taken from either side?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be recognized for not to exceed 2 minutes without the time being taken from either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LOUIS L'AMOUR GOLD MEDAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and this has been cleared with the minority leader—that the Senate proceed to the consideration, for not to exceed 2 minutes, of S. 1953, Calendar Order No. 988.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1953) to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Louis L'Amour.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs with amendments as follows:

On page 2, line 10, strike "$15,000" and insert "$20,000";

On page 2, line 15, after "machinery," strike "and";

On page 2, line 16, after "expenses," insert "and the gold medal";

So as to make the bill read:

That (a) the President of the United States is authorized to present, on behalf of the Congress, to Louis L'Amour, a gold medal of appropriate design in recognition of his distinguished career as an author and his contributions to the Nation through his historically based works. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There are authorized to be appropriated not to exceed $20,000 after October 1, 1981, to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal and the appropriation used for carrying out the provisions of this subsection shall be reimbursed out of the proceeds of such sale.

(c) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. YOUNG. Mr. President, I am very pleased Chairman PROXMIRE and his committee approved this bill to authorize a commemorative gold medal to be presented by the President on behalf of Congress to the distinguished American author, Louis L'Amour, in recognition of his most significant contributions to the United States. I am pleased, too, to be associated with the bill's several cosponsors, including Senators GARN, WALLOP, BURDICK, KASSEBAUM, THURMOND, STEVENS, LAXALT, ARMSTRONG, MCGOVERN, and SASSER.

I cannot help but feel this is one of the most meritorious gold medal bills considered by the Senate. This provides an opportunity to express the gratitude of the American people to this man whose name is synonymous with historical novels on the American frontier.

Louis L'Amour is recognized as a foremost authority on the life and times of the western frontiersman. The settlement of the vast territory known as the "Western Frontier" was an experience unique to America. The courageous men and women who ventured westward into this territory fraught with danger sought against almost insurmountable odds, to build our Nation. Louis L'Amour, in a unique way, tells the story of this great American adventure. He honors those who sought little recognition. He records their struggle to survive in the wilderness and their success in building the foundation for our great Nation. He epitomized the adventurous western spirit.

Mr. President, many books have been written on the westward movement, but few, if any, relate the experiences of these brave Americans as Louis L'Amour does. He is renowned for his painstaking attention to detail. He meticulously researches this tough but thrilling period of our history. Although his novels are fictional, they are based on actual people, places, and events.

His works are authentic. Louis L'Amour bases his literary works on historical records, such as diaries which were kept by a high percentage of the pioneers and which, through extensive and exhaustive efforts, he has been able to find. He has located family journals and it is not uncommon to find him searching through libraries at home and abroad, courthouse records and newspapers, and other valuable material to obtain the most accurate information available.

To Louis L'Amour, accurate accounts of the lives of the early pioneers are crucial. Minute details are never overlooked. He has set the record straight on many misconceptions about the westward movement. He is an expert on the Old West.

He shares his vast knowledge with the tens of millions of people throughout the world who read his novels about one of the last great frontiers. He has authored 77 books, and over 100 million copies bear his name.

Louis L'Amour has united the people of this country from coast to coast and made them friends with the pioneers who grappled with an untamed and hostile land.

But more importantly, Mr. President, Louis L'Amour has won our Nation a host of friends abroad. He is without question one of our most valuable literary ambassadors. His books have been translated into as many as 19 foreign languages, which in itself demonstrates the wide acceptance and respect for Louis L'Amour.

His novels are accurate and wholesome, making them the kind that can be shared by families and read and enjoyed by young and old alike. Louis L'Amour has the admiration of his readers, for in their hearts and minds he brings alive this very significant chapter in our Nation's past. Louis L'Amour has done much for our Nation and our people. He plays a major role in our understanding of the Old West.

Mr. President, by honoring Louis L'Amour, we honor the brave men and women who settled the West. Had it not been for the important diaries and records they kept, along with the legends that have been passed down by generations, it would be impossible for Louis L'Amour to write the brilliant accounts of the lives they led. But he has sought out this information and has embellished it for generations to come. He has enhanced the American spirit and helped to affirm our continued dedication to our most cherished values.

Louis L'Amour assures us that this heritage will not be lost, but will become a major part of our folklore forever. Mr. President, in this high-technology era in which we live, it is evident that people yearn to know more of the adventures of the frontiersmen who, through Louis L'Amour, have become heroes in their own right. He is without question a great American who has made significant contributions to the United States.

Mr. President, I urge my colleagues to approve this meritorious bill without delay. In the past, the United States has honored dedicated Americans with the national gold medal. Louis L'Amour is deserving of this high honor. He is a proud American who has dedicated his life to preserving a very important part of our American heritage.

Louis L'Amour has excited millions of people in this country and throughout the world with the fascinating stories which came out of the settling of the

West by the courageous men and women who built a solid foundation for our great Nation and the character of our people.

Mr. President, I thank the leaders for bringing up this bill now, especially the distinguished majority leader, and my good friend the Senator from Missouri, Mr. DANFORTH, for yielding me this time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATOR WENDELL FORD

Mr. ROBERT C. BYRD. Mr. President, the enactment of legislation to provide for the development of new energy resources has proved to be a most difficult and contentious undertaking. Assuring our Nation's future energy security has and will continue to require leadership, industry and ingenuity. During the 96th Congress, the Senate passed critical measures on energy production, utility coal conversion, the Energy Mobilization Board, and the windfall profit tax, thereby providing the blueprint for America's future energy independence. No one has been more involved in forging this program than Senator WENDELL FORD, of Kentucky.

As Governor of his State, WENDELL FORD displayed the kind of foresight and leadership which have served him so well in the Senate. He was responsible for the establishment of a $57.5 million State research and development program to find new ways of using coal. When he came to the Senate 6 years ago, Senator FORD was determined to see the Federal Government follow Kentucky's example. As a member of the Senate Energy Committee, and as chairman of its Subcommittee on Energy Resources and Materials Production, he has been one of the principal architects of legislation to make synthetic fuels from coal and oil shale a reality. He has fought to increase Federal support for coal research and development, to improve this Nation's energy transportation network and to provide economic assistance for areas impacted by energy development. He served tirelessly on the conference committees on the Energy Mobilization Board, and natural gas pricing and synthetic fuels legislation, constantly striving to strike the balance that will make our energy programs work.

WENDELL FORD has been an ardent spokesman for coal as chairman of the Senate Coal Caucus. He has been an outspoken proponent of increased use of coal by industry and utilities, cosponsoring and managing legislation which was overwhelmingly passed by the Senate to mandate 80 utilities to convert to coal. His support and persistence have won Kentucky two important synthetic fuel pilot projects—the H-coal plant at Catlettsburg and the SRC I facility. In advocating increased coal use, Senator FORD has advanced our Nation's most vital economic and national security interests, as well as supporting one of Kentucky's most important industries.

Senator FORD has brought his special brand of down-home commonsense to other areas as well. He was responsible for a remarkable achievement—the enactment of the Federal Trade Commission authorization bill in a form which returned the FTC to a position of respect and responsibility while curbing excessive Government regulation. Since assuming the chairmanship of the Consumer Subcommittee of the Commerce, Science, and Transportation Committee, WENDELL FORD has given real meaning to the duty of congressional oversight. Since 1977, the subcommittee has held 27 different sets of hearings, all personally chaired by the distinguished Senator from Kentucky, including vigorous inquiries into the activities of the Consumer Product Safety Commission, the National Highway Traffic Safety Administration, and the FTC. Trivial and time-consuming Government regulation became the subcommittee's target as Senator FORD strove to weed out those rules and regulations which create a burden on business and consumers while serving no useful public purpose. This is the type of effective leadership that is needed to insure that the Federal Government remains responsive to the American people.

Kentucky's agricultural economy has also had a strong advocate in Senator WENDELL FORD. He has been an outspoken defender of price supports for tobacco and has worked with U.S. Trade Representatives Robert Strauss and Reuben Askew to win trade concessions to benefit the tobacco industry. He has supported legislation to maintain the family farm, which is the backbone of Kentucky agriculture, and he has urged that increased production of gasohol as an economical source of energy and a wise use of America's agricultural capacity.

WENDELL FORD is an effective spokesman for the people of Kentucky. His No. 1 priority has been to keep in touch with his constituents, traveling back to his State almost every weekend. He is a valued Member of the U.S. Senate, aiding the leadership as a deputy whip and serving as chairman of the Senate Democratic Campaign Committee. His warmth and good humor are appreciated by his colleagues and his legislative skills are widely respected. He has put the experience he gained in State government to good use in tackling the problems his State has in dealing with complex Federal programs and the Federal bureaucracy.

We look forward to WENDELL FORD's continued contribution to the Nation's leadership.

IMPROVING OUR PORTS

Mr. ROBERT C. BYRD. Mr. President, we have reached the end of an era in world energy supplies. The ready availability of oil—the basis for economic growth in the past few decades—has passed. The development of new energy sources has become an urgent necessity. Substitutes for oil, particularly to generate electricity and industrial power, must be encouraged if the industrialized and developing nations are to avoid crippling economic dislocation.

There is international recognition that increased coal use to meet growing energy demand will be required. Last year, the member nations of the International Energy Agency adopted principles calling for a strong steam coal utilization strategy and the active promotion of an expanded and reliable international steam coal trade. This past June, at the Venice economic summit, the industrialized democracies committed that no new oil-fired generating capacity would be constructed and that coal production and use would be doubled by 1990. The Venice summit communique states that it will be necessary "to improve infrastructures in both exporting and importing countries, as far as is economically justified, to insure the required supply and use of coal."

While the U.S. Congress, particularly the House of Representatives, has struggled to devise a program to mandate our own coal-capable utilities to convert to coal, the European Community has moved swiftly to implement this policy. The strength of their commitment to the substitution of coal for oil in the generation of electricity can be witnessed by the line of coal colliers waiting to be loaded at our ports. U.S. steam coal exports have jumped from almost nothing in 1978, to more than 2 million tons last year and are projected to reach between 9 and 12 million tons in 1980. The explosive export growth has caught the major coal ports unprepared. The inability of our ports to handle more coal is now one of the greatest constraints on increased exports.

The world coal study, recently completed at MIT, projects that the international trade in coal may increase to 100 million tons or more per year. The United States can and must provide much of this coal. The exploitation of our vast coal reserves for export can provide a critical offset in our balance-of-payment deficit. Increased coal production will put American miners back to work. And the increased dependency of our allies and developing countries on American coal, rather than OPEC oil, will have highly advantageous foreign policy implications.

For all of these reasons, the United States must invest in improving our rail and port facilities. Our European trading partners have indicated that they will not sign long-term supply contracts if we do not have the port facilities to move the coal. Currently, coal colliers must wait at Norfolk Harbor as long as a month to be loaded, costing the companies that buy the coal $15,000 to $20,000 a day while they sit idle. This delay can add as much as $3 a ton to the price of U.S. coal, making it difficult to compete with other coal exporting nations.

The Department of Energy has undertaken a full-scale review of the coal export situation. Experts from the Army Corps of Engineers, which would be responsible for much of the dredging and other construction work, are participating in this study, to be concluded in the late fall. It is hoped that the results of this study will provide a coordinated plan and legislative agenda to improve our ports and railroads. We have little time to waste, as we cannot allow competing coal exporting nations to capture this crucial trade.

An article in the New York Times of August 24, 1980 described the coal moving and handling difficulties at Hampton Roads, Va. Other ports, such as Baltimore and Philadelphia, may also be appropriate centers for this expanded coal trade, but require expensive improvements as well. This initiative must and will be one of the principles of any reindustrialized program and will be one of the first orders of business when the 97th Congress convenes.

I ask unanimous consent that the New York Times article of August 24, 1980, "Hampton Roads: Catching up to the Coal Boom," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 24, 1980]

HAMPTON ROADS: CATCHING UP TO THE COAL BOOM

(By Eric Pace)

NORFOLK, VA.—The courteous, soft-spoken pilot who came on board the Indian coal freighter *Kasturba* outside the Virginia port of Hampton Roads was no ordinary guider of ships.

He was Capt. Richard L. Counselman Jr., president of both the Virginia Pilots Association and the Maritime Association of Hampton Roads, a vast and historic harbor complex that includes the port cities of Norfolk, Portsmouth, Chesapeake and Newport News—the gateway for more than two-thirds of the nation's overseas coal exports.

But even Captain Counselman was unable to take the *Kasturba* into Hampton Roads, whose four miles of brackish, blue-gray water—the battleground of the ironclads *Monitor* and *Merrimac* in the Civil War—constitute one of the world's finest natural harbors. With 40 other freighters waiting to put in at the coal-loading piers, the captain had to park the ship in a second-string anchorage 20 miles away to begin what could be a 21-day wait for a turn to pick up its cargo.

Under traditional nautical terminology, such protected places near shore where ships can ride at anchor are called "roadsteads," or "roads." That Hampton Roads offers so many safe places for ships to anchor has contributed to the evolution of its name and to its prestigious standing in the world maritime community. But that so many coal vessels are anchored in the local waters these days is not something the port is proud of.

Each day a collier waits costs an average of $15,000, and with the world increasingly coming to Hampton Roads for the bounty of the rich United States coal fields, the back-ups are putting a roadblock into the path of this harbor's entry into the new coal age.

In a sort of classic pincer movement, two major rail networks, the Norfolk & Western and the Chesapeake & Ohio, are steadily bringing coal from Virginian and other interior mines to the continent's edge. But the limited ability of the coal-moving and loading system to handle the booming demand for export coal at Hampton Roads has snarled the flow of what has become a promising major export item. As a result, conflicts have developed among coal producers, transporters and buyers over who is to blame.

"We cannot be tied to you by long-term coal contracts if you do not have the port facilities to move the coal to us," Philippee Julienne, a coal-buying representative for France, said at a recent coal industry gathering at Richlands in southwestern Virginia. "And your railroads are saying that they will not build the piers without the contracts." He said that delays at Hampton Roads were proving enormously costly for France this year.

"We would like to see contracts set up long term," Allen B. Childress, an executive of the Norfolk & Western, said recently. "Everybody wants someone else to make the commitment first before they make the commitment."

Despite the problems, vast amounts of coal are being moved through Hampton Roads: 24 million tons were loaded during the first six months of 1980—95 percent of it for export. That was a marked increase from the 17 million tons loaded during the same period in 1979. And the figure is expected to exceed 46.4 million tons this year, compared with 1979's total of 34 million tons, which was valued at more than $1.8 billion.

The port and the surrounding area are hoping to benefit from the boom—as the world moves toward increasing use of coal as a substitute for costly oil from the volatile Middle East—but the current transport problems have Hampton Roads running scared. Although Federal payrolls and spending—notably at the Norfolk naval base and the huge Newport News shipyard—have blunted the impact of the recession in the area, the role coal plays in the regional economy is great.

The movement of each ton of export coal onto a freighter here brings $18.42 to the state economy, port authority officials report, including $12.86 that the coal companies spend getting the coal to dockside; $3.78 that is paid for fuel supplies, repairs and other services to the coal vessels, which are known as colliers; and $1.55 that is paid to have the coal put on board.

But coal's presence reaches a far greater universe than the flossy suburbs and gleaming office towers that coexist with substandard housing and patches of shabbiness here.

The coal-rich Appalachian region to the west, already plagued by substantial unemployment among miners, could be turned into a boom area by increased coal exports. And the big coal customers in Europe and Japan are eager to tap the United States supplies; millions of dollars have been invested in Appalachian mines by France, Germany, Rumania and Japan.

Indeed, the United States economy as a whole has a deep interest in exploiting its vast coal reserves as a way to offset a mounting foreign payments deficit that has been aggravated by the high price of oil from abroad.

"If nothing is done about this apparent breakdown in our coal transportation network, America will not be able to fully develop its coal resources and will have to forfeit a multibillion-dollar business," said John W. Warner, Virginia's Republican Senator, who is pressing for a bill that would provide $300 million for dredging Hampton Roads channels to accommodate larger coal ships.

With those kinds of stakes, the incentives for solving the problems of Hampton Roads are great. "Everybody's trying to get their act together here now," Captain Counselman said. "We've trying like mad to remain the No. 1 exporting port for coal."

The maritime association, the Virginia Port Authority, the coal companies and the railroads have all been taking steps toward easing the bottleneck. But the task is complex and made more so by environmental questions, which have also complicated plans to build a new oil refinery at Portsmouth. And there is a certain amount of urgency involved; because Hampton Roads is facing stepped-up competition from Baltimore and other rival ports.

In fact, some of the major coal companies are looking elsewhere. The Consolidation Coal Company, for example, the nation's second-largest producer, recently bought a marine terminal in Baltimore for $30 million. And officials of the Port Authority of New York and New Jersey have been studying the possibility of getting more coal-export business for their area, which accounted for only 3,000 tons last year.

But steps are being taken to bring Hampton Roads' problems under control. The port authority's chairman, Glenn J. Sedam Jr., is to meet soon with representatives of several coal-producing companies to discuss the industry's future and the possible construction of an additional coal-export installation here.

Mr. Sedam, a lawyer, said that the success of such a facility would depend greatly on cooperation from the Chessie System, which owns the Chesapeake & Ohio, and Norfolk & Western. "They have the ability to strangle it if they won't deliver coal to it," he said.

The steps that the railroads have already taken include sending in efficiency experts and providing instruction for inexperienced coal shippers.

And earlier this month, Chessie reopened an inactive coal pier in Newport News, which is on Hampton Road's north side, to increase its loading capacity. It has spent money dredging around its coal piers in Norfolk and has stepped up its loading activity at the two coal piers there.

There is hope that there will be additional investment in facilities here by the two railroads, both of which want to merge with other railroads. "Future equipment needs, new facilities and yard expansions are all under study," John T. Collinson, president of the Chessie System's railroads, said recently.

Predictions of the impact of the mergers differ, but officials here note that Chessie's prospective union with Seaboard Coast Line Industries would provide Chessie with direct access to the south side of Hampton Roads on track now owned by Seaboard—track that would become very important, they say, if another coal pier were to be built on the south side.

The coal companies have also acted to reduce the delays. The A. T. Massey Coal Company, a subsidiary of the St. Joe Minerals Corporation with headquarters in Richmond, has arranged to buy an oil-loading pier in Newport News from Chessie and plans to convert it to load coal. The cost of the pier and the conversion is to be more than $60 million.

For its part, the Army Corps of Engineers has been working on the plans to deepen Hampton Roads channels, to 55 feet from their present level of 45 feet. But planning for the project has been complicated by doubt about where to put the material dredged up from the port's muddy bottom. The material, which resembles chocolate pudding, has been polluted by pesticides and other substances, which has raised the concern of environmentalists. After much study, the Corps of Engineers now envisages dumping the material on the Craney Island landfill area on Hampton Roads' south side and in an area of the Atlantic Ocean eight miles off the Virginia coast.

Similarly, environmental considerations have stirred debate over the proposed oil refinery in Portsmouth, which would be one of only two in the state. But last month, a Federal judge in Richmond upheld the state's issuing of an effluent discharge permit for the installation, and an executive of the company that is to build it said that work would proceed.

Still, the oil business plays a relatively small role in the work of Hampton Roads compared to the coal trade: 28 million barrels of oil imports moved through the port last year, and 94,000 barrels of oil products were exported. Coal exports constituted 80 percent of Hampton Roads' total export tonnage in 1979, with corn and soybeans making up 12 percent.

There are many industries dotting the region around the port. They range from the new 113,000-square-foot Gwaltney Hot Dog Company plant in Portsmouth—said to be the world's largest frankfurter factory—to the busy Newport News Shipbuilding yard—also said to be the world's largest.

The yard is where the nuclear-powered aircraft carrier Carl Vinson was launched in March. It is now being outfitted there, with its hulking superstructure swathed in scaffolding. The yard also has contracts for preliminary work toward another big aircraft carrier, which is to cost $1.3 billion. Operated by a division of Tenneco Inc., the yard has 23,000 employees and is hiring more, thanks to the continued Government business.

The impact of Government funds is even more evident across the water from Newport News, on Hampton Roads's south side, which is the site of Norfolk's naval complex, the largest such layout in the world. All told, serving or retired military personnel and their family members make up 35 percent of the population of the five cities on the south side.

With such a Government presence, the region has been somewhat insulated from the national economic downturn. Unemployment in the five cities was 7.1 percent in June, which was the highest for the area since January 1978, but less than the national figure of 7.8 percent. "This area is holding up much better than other portions of the United States because it's so highly dependent on Government funds," said Thomas Olds, a Newsport News shipyard executive.

The relative prosperity here is so pronounced, local people like to say, that in the poorer regions of the Carolinas an indigenous version of the "Three R's" is taught: "reading writing, and the road to Norfolk."

Still, the road from Norfolk to the world's coal consumers remains more or less jammed. But local officials are eager to get things moving more efficiently. "Other ports want our business," said Mr. Sedam, the port authority chairman, "but this port is going to get out there and be very aggressive."

DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2283

(Purpose: To strike title I and instead to authorize the same amounts as under title I to be added to the title XX ceiling of the Social Security Act)

Mr. DANFORTH. Mr. President, I call up my amendment No. 2283.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an amendment numbered 2283.

Mr. DANFORTH. I ask unanimous consent that further reading be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 1, line 9, strike title I and insert in lieu thereof the following: That there are authorized to be appropriated $15,000,000 for fiscal year 1981, $20,000,000 for fiscal year 1982, and $30,000,000 for fiscal year 1983. Such appropriated sums shall be added to the indexed ceiling amount otherwise applicable under section 2002(a)(2)(A) of the Social Security Act.

Mr. DANFORTH. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The yeas and nays have already been ordered.

Mr. DANFORTH. Mr. President, I yield myself 5 minutes.

The issue presented by this amendment is not whether or not there should be a domestic violence prevention and services program. The issue is not whether Federal funds should be made available for such a program. Each of those two points is conceded by the amendment. Rather, the sole issue that is presented by this amendment is whether a new, duplicative categorical grant program, with new Federal bureaucracy and new requirements on the States, should be created to administer such a program or, in the alternative, whether such a program should not be conducted under title XX of the Social Security Act, the existing Federal block grant program for social services.

The domestic violence program is specifically provided for in title XX of the Social Security Act, the basic social services block grant program. Title XX provides, among other things, that funds under the title XX block grant program may be used by the States for "preventing or remedying negligence, abuse, or exploitation of children and adults unable to protect their own interests or preserving, rehabilitating, or reuniting families."

Furthermore, in H.R. 3434, which was passed by the Congress and signed into law by the President just a few months ago, the conference report specifically states as follows:

> As in both the House and Senate bills effective October 1, 1979, title XX funds could be used for emergency shelter for not in excess of 30 days in any 6-month period as a protective service to an adult in danger of physical or mental injury, negligence, maltreatment, or exploitation.

So, Mr. President, under title XX, the block grant program, exactly the purposes intended to be served by the bill which is now before the Senate can be served. What my amendment would do is authorize precisely the same funds that are authorized under the bill, but instead of going to a separate categorical grant program, these funds would be added on to title XX of the Social Security Act. Further also to track this bill, these particular add-on funds would be subject to the appropriation process. So the funding would be identical in amount, the only difference being that, instead of setting up a new categorical grant program with all of the strings attached to local governments and with all of the bureaucracy required to administer such a program, the funds, instead, would be added on to title XX.

From the standpoint of matching, under my amendment, the matching requirements would be much more favorable to the States than is the case under the bill. The matching requirement for title XX funds is 25 percent for the State's share. Under the bill, the local match is 25 percent the first year, then going up to a third the second year, and 50 percent the third year.

Mr. President the clearest way to leverage decisions on the State basis is to use categorical grants and to use categorical grants with high match requirements. That is the way to take over State and local decisionmaking. This amendment is designed to remedy that problem and the issue that the Senate will be voting on is whether or not we prefer the categorical grant approach or, instead, the block grant approach.

The ACTING PRESIDENT pro tempore. The 5 minutes of the Senator from Missouri has expired.

Who yields time?

Mr. CRANSTON. Mr. President, I yield myself 10 minutes.

I want to restate my opposition to the amendment of the Senator from Missouri (Mr. DANFORTH).

I am strongly opposed to this amendment which would eliminate title I of this bill, the domestic violence program, and transfer funds that might have gone into title I programs into the General Social Security Act title XX fund. There is no doubt in my mind that an attempt to deal with the problem of domestic violence through the use of the already limited title XX funds would be a grossly inadequate and cost-ineffective way to provide assistance to victims of domestic violence and their families.

As I stated yesterday, after nearly 3 years of carefully examining the problem of domestic violence and various proposals to address this tragic social problem, I feel very strongly that there is a great need for legislation which specifically addresses the problem of domestic violence. Title I of the legislation pending before us today confronts the problem of domestic violence in a very specific and positive manner. A simple transfer of funds authorized under this bill to the general title XX social services program would clearly be insufficient to meet the genuine needs of the victims of domestic violence.

The title XX program of grants to States for social services is a program already under excessive stress due to major reductions recently enacted by the Congress. In fact, title XX funds have been cut sharply for fiscal year 1980—by $200 million from their 1979 level as a result of the enactment of Public Law 96–272—and the fiscal year 1981 level returns merely to the fiscal year 1979 level of $2.9 billion. The $15 million increase the Senator from Missouri has proposed hardly balances the great squeeze facing the States in their title XX programs this year and next.

There is absolutely nothing in Mr. DANFORTH's proposal that would assure that the transferred funds would be used for domestic violence victims. In fact, it is more likely that any additional funds available under title XX would be eagerly sought by the programs and projects which now are receiving title XX funding and facing the large reductions in real dollars in the availability of title XX funds.

In sum, States are hardly able to maintain existing programs at their current level—let alone fund new programs. Yet, the Senator from Missouri would suggest domestic violence victims should be told to turn to title XX for the help they need.

Mr. President, I want to make one additional observation on the inadequacy of title XX to meet the needs of domestic violence victims. Title XX is basically a social services program focused upon low-income individuals. Generally, families whose incomes are above 115 percent of the poverty line are excluded from title XX services.

Yet, Mr. President, one of the things we know about domestic violence is that it affects families of every economic level. It is found in the homes of the college educated, in middle and upper income families as well as those in lower economic levels. The income restrictions in title XX—and its general focus on low-income individuals—could severely hamper efforts to help victims of domestic violence and could preclude the type of grants envisioned by title I to agencies serving the general public, such as law enforcement personnel or emergency rooms, which deal with victims of domestic violence of all economic levels.

Domestic violence is not a problem suffered only by low-income families and needs a legislative response which is not tied, as title XX programs generally are, to the economic status of the victim.

Mr. President, in addition to the basic question of whether any of the funds which would be added to title XX by the Senator's amendment would ever be used to help any domestic violence victims, this approach totally ignores much of what we have attempted to achieve in title I. This amendment would not provide any mechanism for encouraging States to involve local and community groups in long-term planning for assistance to domestic violence victims. Nor would his proposal do anything to encourage shelter and service providers to develop alternative long-range funding mechanisms independent of Government—a matter of much debate yesterday as we agreed to my modification of Senator HUMPHREY's amendment, dealing with a local share and nongovernmental funding sources.

Moreover, Mr. President, by adopting this approach, we would eliminate all of the carefully drafted provisions of title I aimed at providing for evaluations of the effectiveness of domestic violence programs as well as provisions limiting the size and duration of grants—further provisions designed to encourage projects to limit their dependency upon Federal funding.

As well, the effort to emphasize programs in the private sector through the requirement that two-thirds of the funds received by the States go to private nonprofit entities would be lost.

Likewise, our efforts to make sure that the bulk of the funds are expended on direct services—emergency shelter services—for domestic violence victims rather than on indirect services, would be lost. And there would be no coordinating effort at the Federal level nor any authority to provide technical assistance or training in a cost-effective efficient manner. Nor would there be any vehicle for the sharing of information on effective approaches—leaving each State and community on their own to find out what techniques, successes, or failures had been achieved in other localities.

Mr. President, the amendment of the Senator from Missouri would discard all of the checks and balances which have been painstakingly built into this legislation; it would ignore the pleas of victims of domestic violence for help; and it would place these victims at the bottom of the long list of groups seeking funding from the already hard-pressed, reduced title XX program.

The record is clear that we cannot continue to ignore the problem of domestic violence. We must not forget the terrible toll this problem places upon law enforcement personnel as well as the shattered families themselves; one-fifth of all police deaths and 40 percent of police injuries occur in domestic violence situations. My colleagues heard the statistics and the data over and over during our debate yesterday.

Mr. President, simply put, this amendment would destroy our effort to deal with the problem of domestic violence. We cannot continue to turn our back on this problem and hope it will disappear or that somehow, some way, somebody else will take care of it. That is what this amendment would do and I strongly urge its defeat.

Mr. President, in conclusion, I would like to make it very clear to my colleagues who support legislation to address the problem of domestic violence, that a vote for the pending amendment is a vote against any effective action to help domestic violence victims and prevent domestic violence incidents.

Mr. President, I reserve the remainder of my time.

Mr. DANFORTH. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized for 5 minutes.

Mr. DANFORTH. Mr. President, first, just to correct what I am afraid is a misstatement of the law made by the Senator from California when he stated that title XX is means tested and that, therefore, a domestic violence program under title XX would not be available to low-income people, that is not correct.

Under section 2002(a)(6) of the Social Security Act, it is specifically provided that the income test does not apply to services directed at the goal of preventing or remedying neglected youth, or exploitation of children and adults unable to protect their own interests.

So the means test argument just simply does not apply.

A domestic violence prevention and services program established under title XX would be equally available to people who were rich, poor, or everywhere in between.

Second, Mr. President, when we vote on final passage on this bill in a week or so, 2 weeks, whenever it is going to be, at that time the decision will be made by the Congress as to whether we want any program or not.

That is the time, whether or not my amendment is adopted, we will have a vote on whether or not there is going to be any additional money for this particular program.

Indeed, at times of tight budgets and high deficits, I am sure the argument will be made that maybe we do not want any new programs or any new increases in levels of existing Federal programs. But that issue, on whether or not we want any domestic violence program, is not presented by the amendment of the Senator from Missouri.

The sole issue that is presented in this amendment is whether or not the additional funds, if there are to be additional funds, should come in the form of categorical grants or in the form of block grants.

The Senator from California argues that in his belief the funds are more efficiently spent if they are in the form of categorical grants. I cannot agree with that because the nature of categorical grants is to set up a new bureaucracy.

This program will set up a new bureaucracy instead of availing itself of the existing title XX program. It sets up specific requirements that have to be met by State governments. Some 10 percent, for example, of the funds have to be spent on a State plan.

Therefore, Mr. President, instead of placing all of these funds in the hands of people who are in need, a good portion of the program is going to just increase the cost of Government itself, simply because it is a categorical grant program.

Now, it is quite true that when decisions are left to State governments, State governments might decide things differently than we in Washington would decide them. If we devise categorical grant programs, and this is always the argument for categorical grants programs, then we maintain the control on how the decisions are made. We make the decision here in Washington. The basic philosophical question that is put before the Senate on this amendment is this: Do we really believe that? Do we really believe that decision should be made right here? Or do we believe in the block grant concept, which allows the States discretion on whether to spend money on domestic violence prevention or drug abuse or alcohol abuse or numerous other social services?

I believe that the mood of the country is such that Washington does not, in fact, have all the answers and that it is fundamental to our system that people at the local level and State level should have responsibility for making decisions as to public policy.

That is the whole issue presented by this amendment—not whether or not there should be domestic violence prevention services, not whether or not there should be increased Federal funding. Instead, the sole question is this: Do we believe that there should be yet another categorical grant program, yet another bureaucracy, yet more restraints and restrictions and redtape on local government, or do we believe in the block grant concept?

The PRESIDING OFFICER (Mr. Zorinsky). The time of the Senator has expired.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. How much time does the Senator desire?

Mr. HUMPHREY. One minute.

The PRESIDING OFFICER. The Senator has 4 minutes and 35 seconds remaining.

Mr. HUMPHREY. Mr. President, I do not want to impose upon my colleague's time; neither is it necessary, after his eloquent argument, to say much more.

However, as the floor manager for this side, I urge our colleagues to accept the Danforth amendment. For those States which choose to make domestic violence prevention their first priority, the money still will be there—in fact, will be there in more generous quantities, given the more favorable matching formula proposed by Senator Danforth. Those States which have other priorities they rank first will be in a better position to address the needs to which they give priority.

Mr. CRANSTON. Mr. President, the arguments have been made, so I will not take any additional substantial time.

If the amendment of the Senator from Missouri is adopted, the effect would be to gut the domestic violence program. There is no assurance that any money at all—no assurance that one penny—would be allocated to dealing with the problem of domestic violence if the amendment is adopted. For that reason, I oppose the amendment very strongly.

I am prepared to yield back my time.

Mr. DANFORTH. Mr. President, of course, if the Senate wants absolute assurance that State governments never will do anything wrong, the thing to do is to establish a whole host of categorical grant programs. If State governments are given no authority to make decisions, they will not make wrong decisions. Clearly, when decisionmaking power is allowed locally, local governments or States governments can make good decisions or bad decisions.

I do not know of any monopoly of wisdom in Washington. But even if we had a monopoly of wisdom in Washington, the whole concept of the country, as I understand it, is that we should have a diversity of decisionmaking; that the concept of revenue sharing is that there should be diversity of decisionmaking on spending funds; that the concept of a block grant is that there should be a diversity of decisionmaking on the spending of Federal funds; that the concept of a categorical grant is that there should be no diversity of decisionmaking; and that we in Washington should tailor make the programs and gain the very assurances that the Senator from California states that he wants.

The absolute maximization of the leverage power of Federal decisionmaking is by having relatively high match requirements on Federal funds. With high match requirements, we not only can decide how Federal money is being spent but also, in effect, how local money is being spent.

Therefore, under title XX, the match requirement is 25 percent. Under this bill, the match requirement goes up in 2 years to 50 percent, absolutely maximizing our ability in Washington to tailor-make programs and to make decisions. It is my view that that is absolutely wrong, as a matter of concept.

Again, under title XX, it is specifically provided that funds under title XX which would be increased by the Danforth amendment, in exactly the amount of the bill, can be used for preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests. That is not income testing under title XX.

Under H.R. 3434, just passed by Congress this year, it is expressly provided that title XX funds can be used for emergency shelter.

Mr. President, I am prepared to yield back the remainder of my time.

● Mr. DOLE. Mr. President, the purpose of the Danforth amendment is to preserve the block grant concept rather than allow categorical grants to proliferate.

The amendment would strike title I of the domestic violence bill which provides Federal matching funds to States for establishing and running shelters for battered spouses.

Authorize Federal matching funds over and above the statutory ceiling for social services under title XX of the Social Security Act in the amounts which would have been available under title I of the domestic violence bill—$15 million in fiscal year 1981, $20 million in fiscal year 1982, and $30 million in fiscal year 1983.

Provide that the additional funds for title XX must go through the appropriations process and, like most other title XX funds, will be available to the States at a 75 to 25 match to be used for any social services the States determine are appropriate.

Title XX was established to financially aid the States to provide social services to help individuals to become or remain self-sufficient; the States have always been free to decide what services to provide to whom.

Categorical programs, such as that created under the domestic violence bill, establish Federal rather than State priorities for providing services.

Under title XX, States already provide protective services to adults, counseling, alcohol and drug abuse treatment, day care, and other services not only directed at the immediate problems suffered by victims of domestic violence but also directed at the root causes of such violence.

The Congress has given a lot of lip service recently to cutting Federal programs, turning social decisions back to levels of government better equipped to handle them and reigning in the Federal bureaucracy; this amendment gives us the opportunity to put our votes where our mouths are.

The Federal Government has no business getting into the treatment of domestic ills of this nature in any event, and we already have a social services mechanism for putting funds in the hands of the States to deal with these problems; we should use that flexible mechanism rather than create another program with its own bureaucracy which puts unnecessary limits on the States.

It makes no sense to spend months trying to balance the budget and then turn around and create a program with built-in increases in funding and the potential for extraordinary growth; instead we should use the existing title XX program and the appropriations process to decide if more Federal money should be funneled into social services to help solve the domestic violence problem.

As Senator Danforth has said, this is a very simple issue: either the Senate prefers categorical grants to States which limit their ability to determine what is best for their citizens or we prefer block grants which give the States the flexibility to make their own choices based on the needs of their citizens as they see them.

The Senator from Kansas believes we should opt for the latter approach, and I strongly urge my colleagues to support the amendment.●

The PRESIDING OFFICER. Does the Senator from California yield back his time?

Mr. CRANSTON. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Missouri.

Mr. CRANSTON. Mr. President, a parliamentary inquiry. We vote on two amendments successively. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. CRANSTON. Which is first?

The PRESIDING OFFICER. The Danforth amendment is pending first.

Mr. CRANSTON. Followed by the Levin amendment?

The PRESIDING OFFICER. The Levin amendment.

Mr. CRANSTON. Each is a 15-minute rollcall vote?

The PRESIDING OFFICER. That is correct.

Mr. CRANSTON. I thank the Chair.

The PRESIDING OFFICER. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Alaska (Mr. Gravel), the Senator from Louisiana

(Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from West Virginia (Mr. Randolph), the Senator from Connecticut (Mr. Ribicoff), the Senator from Alabama (Mr. Stewart), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff) and the Senator from West Virginia (Mr. Randolph) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from New Mexico (Mr. Domenici), the Senator from Nevada (Mr. Laxalt), the Senator from South Dakota (Mr. Pressler), the Senator from Delaware (Mr. Roth), the Senator from Wyoming (Mr. Simpson), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 36, nays 46, as follows:

[Rollcall Vote No. 379 Leg.]

YEAS—36

Armstrong
Baker
Byrd,
  Harry F., Jr.
Chafee
Cochran
Cohen
Danforth
Dole
Eagleton
Exon
Garn
Goldwater
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Lugar
McClure
Morgan
Nunn
Percy
Proxmire
Schmitt
Schweiker
Stennis
Stevens
Thurmond
Tower
Warner
Young
Zorinsky

NAYS—46

Baucus
Bayh
Bentsen
Biden
Boschwitz
Bradley
Burdick
Byrd, Robert C.
Cannon
Chiles
Cranston
Culver
DeConcini
Durenberger
Durkin
Ford
Glenn
Hart
Hatfield
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Pryor
Riegle
Sarbanes
Sasser
Stafford
Stevenson
Stone
Tsongas
Wallop
Williams

NOT VOTING—18

Bellmon
Boren
Bumpers
Church
Domenici
Gravel
Laxalt
Long
Magnuson
McGovern
Pressler
Randolph
Ribicoff
Roth
Simpson
Stewart
Talmadge
Weicker

So Mr. Danforth's amendment (No. 2283) was rejected.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1524 (SUBSEQUENTLY AMENDMENT NO. 2284)

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the amendment of the Senator from Michigan. The question is on agreeing to the amendment of the Senator from Michigan. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Alaska (Mr. Gravel), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Connecticut (Mr. Ribicoff), the Senator from Alabama (Mr. Stewart), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. Ribicoff) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from New Mexico (Mr. Domenici), the Senator from South Dakota (Mr. Pressler), the Senator from Delaware (Mr. Roth), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The PRESIDING OFFICER (Mr. Sarbanes). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 27, nays 58, as follows:

[Rollcall Vote No. 380 Leg.]

YEAS—27

Bayh
Biden
Bradley
Cranston
Culver
Durkin
Heinz
Hollings
Inouye
Jackson
Johnston
Kennedy
Leahy
Levin
Lugar
Mathias
Matsunaga
Metzenbaum
Mitchell
Pell
Randolph
Riegle
Sarbanes
Sasser
Stone
Tsongas
Williams

NAYS—58

Armstrong
Baker
Baucus
Bentsen
Boschwitz
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Danforth
DeConcini
Dole
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hatch
Hatfield
Hayakawa
Heflin
Helms
Huddleston
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
McClure
Melcher
Morgan
Moynihan
Nelson
Nunn
Packwood
Percy
Proxmire
Pryor
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—15

Bellmon
Boren
Bumpers
Church
Domenici
Gravel
Long
Magnuson
McGovern
Pressler
Ribicoff
Roth
Stewart
Talmadge
Weicker

So Mr. Levin's amendment (No. 2284) was rejected.

UP AMENDMENT NO. 1526

(Purpose: Technical amendment)

Mr. CRANSTON. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. Cranston) proposes an unprinted amendment numbered 1526.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 24, insert the following: beginning with "local" strike out all through "organizations" on page 11, line 1 and insert in lieu thereof "units of general local government".

On page 13, line 18, strike out "Director of the Center" and insert in lieu thereof "Secretary".

On page 15, line 5, strike out "Director" and insert in lieu thereof "Secretary".

On page 15, line 9, strike out the comma and "through the Director,".

On page 16, line 24, strike out "local public agencies" and insert in lieu thereof "units of general local government".

On page 23, line 1, strike out "Director" and insert in lieu thereof "Secretary".

On page 23, line 6, strike out "Center" and insert in lieu thereof "Secretary".

On page 23, line 16, strike out "consult with the Director and".

On page 24, line 11, strike out "Director" and insert in lieu thereof "an officer designated by the Secretary from the Department of Health and Human Services".

On page 25, line 21, strike out "Director" and insert in lieu thereof "Secretary".

On page 28, strike out lines 11 through "for" on line 18 and insert in lieu thereof the following: "Secretary for making grants to States under section 102(a); not less than 22 per centum nor more than 24 per centum shall be used by the Secretary for making grants to units of general local government under section 102(b); not less than 1 per centum nor more than 3 per centum shall be used by the Secretary for making grants to Indian tribes, intertribal organizations, and urban Indian organizations under section 102(c); 10 per centum shall be used by the Secretary for making grants to States under section 103; and 5 per centum shall be used for".

Mr. CRANSTON. Mr. President, this is a technical amendment which makes conforming changes in the text of the bill to reflect the amendments of the Senator from Utah which were adopted yesterday, deleting the requirement for a national center and modifying the direct grant provisions under section 102(b) of title I. I believe that these changes are acceptable to the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1526) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. KENNEDY. Mr. President, I have long recognized the vital role that the family plays in our society, and have long believed that the proper role of Government is not to interfere with the family. Our goal is to take the needed steps to strengthen families, and to provide the background and the framework in which they can best function.

Throughout my career in the Senate, I have been a strong advocate for programs to fill the needs of the family, whether in education policy, aid to the handicapped, Head Start, health care, child welfare, tax policy, social security, or employment. The legislation we are considering today, the Domestic Violence Prevention and Services Act, S. 1843, addresses a problem which not only undermines the family structure, but exacts a tremendous social cost. It is a problem which for too long has been hidden from society, but which can no longer be neglected.

Domestic violence cuts across all socioeconomic lines and has been described as reaching "epidemic proportions." A 1977 national study of domestic violence, conducted by Dr. Murray Straus of the University of New Hampshire, found that of the couples surveyed 3.8 percent of the women were victims of one or more physical attacks by their husbands during the prior 12-month period. Nationwide this translates into 1.8 million abused wives.

In 1978, the Boston City Hospital reported that 70 percent of the assault victims examined in the emergency room were women who were abused in their homes.

A Maryland State Police survey reported that almost 90 percent of its 15,312 cases of spousal violence involved assaults or attempted assaults on women.

In Kansas City in 85 percent of all spousal homicides or aggravated assaults, the police were called to the home more than once, and in 50 percent of the homicide cases, they were called five or more times before the homicide occurred.

Violence in the home is a subject about which little has been done. Yet it is a pervasive problem which exists in all settings—urban as well as suburban. The victims of domestic violence suffer from a multitude of problems including legal, medical, economic, and psychological. In most instances abused women have no place to turn. They endure the situation believing that it will change or fearing the unknown if they leave and seek outside assistance. Many are economic prisoners, unable to support themselves or their children if they leave. And there is little support from the legal system.

The fact is that women who have been victimized at home have too often found themselves victimized again by a society which ignores their plight. Only recently have we become aware of the seriousness of the problem and that its victims need help.

At the same time, we must face the realization that violence in the home is rarely limited to one victim. It occurs not only between spouses, but includes children, infants and the elderly. A recent Connecticut study revealed that in 40 percent of the cases where mothers were being abused by father, these fathers were also beating the children of the household. And, many of the children of violent households become abusers of their own spouses and children, perhaps also of the very parents who once hurt them.

We live, unfortunately, in a violent society. Domestic violence is another manifestation of a society that has lost respect for the individual. The purpose of S. 1843 is to provide real help to the real victims of domestic violence. It will also provide help for the perpetrators of domestic violence to end the cycle of violence.

Mr. President, in 1977 I was a primary cosponsor of the first bill introduced in the Senate to address this issue. Representative BARBARA MIKULSKI was the chief sponsor of domestic violence legislation on the House side. Compassion and understanding has been the hallmark of her leadership throughout the development of this legislation, and I am grateful to have had the benefit of her counsel. I also wish to acknowledge the important contributions of Representative LINDY BOGGS who introduced the first domestic violence bill in the House.

In the Senate, Senator CRANSTON is to be commended for his leadership on this serious issue. I joined with him as an original cosponsor of this legislation and strongly support its comprehensive approach.

S. 1843 does not seek to impose a federally mandated solution to the problem of domestic violence, but rather provides an effective mechanism to provide Federal support to State, local, and community activities to prevent domestic violence, and to provide direct services to the victims. It also provides an efficient means of coordinating Federal programs and activities pertaining to domestic violence.

I would further point out that the domestic violence legislation enjoys a broad range of support among religious groups, women's organizations, police, corrections and law enforcement associations, civil rights groups, civic associations, State and city agencies, and legal and medical associations.

It is my hope that this legislation will be quickly enacted and signed into law so that this much-needed assistance to States and local communities can begin.●

Mr. CRANSTON. Mr. President, a third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

MENTAL HEALTH SYSTEMS ACT

Mr. KENNEDY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1177.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1177) to improve the provisions of mental health services and otherwise promote mental health throughout the United States, and for other purposes.

(The amendment of the House is printed in the RECORD of August 22, 1980, beginning at page 22728.)

Mr. KENNEDY. Mr. President, I move that the Senate disagree to the House amendment and request a conference with the House, and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Chair appointed Mr. KENNEDY, Mr. WILLIAMS, Mr. PELL, Mr. NELSON, Mr. CRANSTON, Mr. METZENBAUM, Mr. SCHWEIKER, Mr. JAVITS, Mr. HATCH, Mr. HUMPHREY, and Mr. STAFFORD conferees on the part of the Senate.

DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

The Senate continued with the consideration of the bill H.R. 2977.

Mr. ROBERT C. BYRD. Mr. President, have the yeas and nays been ordered on the bill on final passage?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

EXPORT TRADING COMPANIES, TRADE ASSOCIATIONS, AND TRADE SERVICES

Mr. ROBERT C. BYRD. Mr. President, under the order of yesterday, I am authorized to call up S. 2718, Calendar Order No. 785, Export Trade Act, after consultation with the minority leader. Consultations have been had. I therefore execute the order by calling up Calendar Order No. 785.

The PRESIDING OFFICER. The bill will be stated.

The assistant legislative clerk read as follows:

A bill (S. 2718) to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Robert Russell of the Banking Committee staff, and

Patricia Sherman and Andrew Carothers of my staff be granted the privilege of the floor during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President I yield to the distinguished Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank the Senator for yielding.

I ask unanimous consent that Mr. Bill Reinsch of my staff be granted the privilege of the floor during debate and rollcalls on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, the United States ran a trade deficit in June of $2.28 billion, the 50th consecutive monthly trade deficit.

The trade deficits mount with no end in sight, adding to inflation and unemployment, weakening the dollar and our influence in the world, while 20 thousand American companies which could export do not.

For years the United States relied on the conventional wisdom, including a weak dollar and higher growth rates abroad, to right the trade deficits. The futility of that course is now obvious—but the United States still has no export policy.

In January 1978, the Senate Subcommittee on International Finance commenced a year-long study of U.S. export policy. Its report recommended a number of measures to improve U.S. competitiveness. These recommendations included the establishment of export trading companies to provide a broad range of export services to U.S. producers, linking them with overseas markets. The subcommittee also recommended revision of the Webb-Pomerene Act of 1918 to clarify the antitrust laws relating to export trade associations and export trading companies, and the use of tax incentives, such as expanding the export benefits of DISC, to enable U.S. producers to compete with their foreign competitors in the world market.

This bill implements those recommendations. It facilitates the formation of American export trading companies to bring the products of small- and medium-sized American firms to foreign markets and also benefit the largest corporations with new possibilities for "package" deals and exported turnkey projects.

The trading companies would represent all American companies worldwide, spotting market opportunities, meeting the price competition, absorbing exchange rate fluctuations, handling the details of export transactions and, through their services as intermediaries, offering a full range of services and products to foreign purchasers and domestic producers.

S. 2718 would: First, increase the financial leverage of all exporters by directing the Export-Import Bank to develop an improved guarantee program to support commercial loans to U.S. exporters; second, direct the Secretary of Commerce to promote export trading companies by providing information on such companies to U.S. producers; third, permit banks to make limited investments in export trading companies. Such investments could not exceed 5 percent of a bank's capital, and all controlling investments by banks and all investments over $10,000,000 would be subject to prior approval and conditions imposed by Federal bank regulatory agencies to insure the safety and soundness of banks and fair competition; fourth, authorize additional appropriations to the Economic Development Administration and Small Business Administration to support increased loans and guarantees for U.S. exports, including exports through U.S. export trading companies.

Title II would revise the Webb-Pomerene Act of 1918 to clarify the antitrust provisions applicable to export trade associations and export trading companies and provide a certification procedure which would enable such associations and companies to obtain antitrust preclearance for specified export trade operations. The clearance procedure would facilitate exports by permitting firms to determine in advance exactly which export trade activities would be immune from antitrust suit and which ones would not.

Title III of the bill would extend the tax deferral available under the DISC—Domestic International Sales Corporation—provisions of the tax code to the exports of export trading companies, including exports of services. The use of subchapter S of the tax code, which permits certain passthroughs to shareholders of closely held corporations would be allowed for some export trading companies. Title III has been introduced separately as S. 2757 and referred to the Committee on Finance for its consideration. Accordingly, I intend to offer an amendment deleting these provisions from the bill.

The success of trading companies in exporting U.S. products has already been demonstrated by foreign trading companies. Mitsui Trading Co. is America's sixth largest exporter. Foreign trading companies represent the businesses of many foreign nations to the disadvantage of the United States in all the world's markets.

Mr. President, this bill will substantially improve the Nation's ability to compete in the world. It will result in more jobs for American workers and will improve our ability to pay for the goods and services we import, including oil. It carefully balances other objectives, including the safety and soundness of banks, with increased export promotion.

This bill will not, by itself, restore the competitiveness of the United States in a newly competitive world. But it is a first step toward a strong export policy for the United States. No other step will do more to strengthen the marketing of American goods and services in the world. Basically, the bill repeals disincentives and impediments in the law. It is a deregulation bill. It helps to put American industry on the same footing as its foreign competitors. It gives American business, especially small business, a chance to compete in the world.

I urge the Senate's support of S. 2718.

Mr. HEINZ. Mr. President, S. 2718 is the first serious attempt by this Congress to remedy the dramatic competitive decline in the United States vis-a-vis our trading partners and our trading competitors.

This bill is the product of nearly 3 years of concerted effort by Senator STEVENSON and our committee, which has held hearings including witnesses from virtually every segment of our economy, from academics, from business people, from labor, from consumers, from exporters, from importers.

It represents, perhaps, the most carefully researched response to a national problem that I have seen in my nearly 10 years in legislative service.

And that problem is that we are faced with a situation in which our trade deficit is getting progressively worse. That is a serious problem, Mr. President, because it is through our earnings in exports that we pay our ever-increasing import bills, particularly the $90 billion a year for our oil imports.

We should be mightily concerned because, notwithstanding a burgeoning Federal budget deficit, estimated in this "year of the balanced budget" at some place between $30 billion and $40 billion, the sad fact is that our trade deficit, which is not between the American Government and our people, but between the American people and other foreign trading partners, threatens to be larger than our Federal budget deficit.

This fact—that our trade deficit is larger than our budget deficit—is a sign of the deep economic trouble this country is in.

I would be the first to admit that perhaps the legislation that we bring to the Senate floor today will not solve every one of our trading problems. It would at least bring us into the 20th century as far as international trade is concerned, and put us on a par with our trade competitors who have long been better organized and better structured for global competition.

With respect to trade opportunities, we approved the implementing legislation on the MTN about a year ago and that was a major step toward breaking down the barriers to free and fair international trade.

However, it seems our trading competitors have taken far more advantage of those lessened barriers than we have, and the fault, if it lies anyplace, lies with the Government here in Washington, D.C.

While it is a fault, perhaps, not of commission but of omission, it is nonetheless a problem that we believe must be remedied, and remedied promptly through the passage of the strongest possible bill that we can get from this Congress and from this administration.

I believe that S. 2718 in its present form is such a bill. By opening the door to the establishment of export trading companies, it will break down the barriers that we have erected over the years to the creation of meaningful institutions to help us and our firms, our employees, and our employers, export.

There is something of an irony to the fact that the sixth largest exporter in the United States is a Japanese trading company. Where, we may ask, are all the American trading companies?

The answer is that while a few may on paper exist, in terms of structure and the ability to perform, the ability to get financing, the ability to offer services, the answer is that American trading companies do not exist. With rare exceptions, they are here only in name.

That is why our trading companies legislation, S. 2718, which addresses many of the disincentives to the effective formation and operation of trading companies, is so important.

So perhaps in the future we will be able to displace as the No. 6 U.S. exporter the Mitsui Trading Co., and maybe we will have some American trading companies right up there in the top 5 and relegate the Mitsuis and the others to the bottom 100.

Mr. President, there is one other issue to which I would like to briefly address myself. It has to do with a provision in this legislation regarding bank participation in export trading companies.

Very simply, if we are to mobilize our small- and medium-sized manufacturers into exporting, we have to have what I can best describe as strong and full service trading companies. That means financing, that means the participation of some kind of financial institutions, that means the participation, therefore, in our society of both banks and bank holding companies.

Without them, we cannot have successful, financially strong, trading companies unless we want to continue to operate with one or both arms tied behind us.

The Commerce Department has estimated that there are about 20,000 small- and medium-sized firms that could be exporting but are not. Export trading companies will facilitate the entry of these firms into world trade. The United States neglects billions of dollars in potential export business each year because small- and medium-sized producers cannot afford the cost and risks involved in fully developing opportunities to market their products and services abroad.

It is all too easy to explain away the nonparticipation of these 20,000 small- and medium-sized firms identified by the Commerce Department, who could export profitably but do not. The conventional wisdom is that these firms have compared the large, rich domestic market with the risky international environment and decided not to take chances, or that they have simply refused to make the effort necessary to find the right export management firm to handle the international segment of their business. These explanations may well be valid. But they do not justify inaction on the part of the administration or Congress. I believe that, in this case, we must go beyond the conventional wisdom and create an environment in which the export market actually becomes an attractive alternative to the expansion of domestic market opportunities. Export trading companies can do just that.

Obviously, we are not going to solve this problem overnight. But every successful program of trade promotion is a step in the right direction. Small- and medium-sized businesses have too long been excluded from the role in our Nation's export picture which similar sized firms play for our trade competitors. Where our competitors have incentives and official credit and promotion programs, we have antitrust barriers and structural impediments to surmount before our firms can even begin to compete.

This bill will help to overcome some of those barriers by encouraging the development of intermediaries to provide the marketing and financial tools necessary to help smaller business, while at the same time helping them to benefit from economies of scale and diffusion of risk.

The Japanese Shoshoga, or trading company, has strong financial ties with financial institutions, and this lesson has not been lost on many other countries. The same is true for the Europeans and Brazilians, and all the other countries that have strong trading companies.

Without question, if we want to get into the 20th century where exporting is concerned, we must have trading companies with financial muscle.

Second, there is, to me, some irony in the fact that if we do not permit American banks and bank holding companies to have necessary financial participation in American trading companies, they would be in the unique position of being able to own outright foreign trading companies in other countries, as they do now, but not here. We would be putting our American banks in the strange position of undercutting and weakening our trade surplus by the successful operation of trading companies in Brazil, Europe, and other places, owned or substantially owned by them, while prohibiting them from strengthening our trading position by permitting them to do the same thing here that they are permitted to do overseas.

We believe our legislation properly addresses this issue.

I hope that my colleagues will stand firm with Senator STEVENSON and me, with our subcommittee, and with our committee, and will defeat any crippling amendments to this bill, regardless of the color under which they may appear before our colleagues.

Allowing the participation of the banking organizations in export trading companies does involve some risk but the provisions of this bill limits their financial exposure to such a degree that the risk is quite minimal if not as close to nonexistent as can be obtained in an uncertain world. At this point, is it not more important to ask, what do we risk if we do not act to increase our exports? That risk is known. Our trade deficit will continue to grow. If we assume that we will continue with the same track record for 1980 as the first quarter of this year, we will have a $44 billion deficit; $14 billion more than last year.

In evaluating the relative risks involved in an enterprise, we should consider all the possibilities. In this case, we must weigh the risk to the banks of their involvement against the benefits to our economy which will be accrued by increased exports. The sponsors of this legislation believe that ETC's will significantly increase U.S. exports—particularly those of small- and medium-sized businesses—if they are adequately capitalized. At this point, the most effective way for ETC's to raise capital is to encourage banks to get into the business. If the Senate takes actions that will discourage the participation of banks in ETC's, it will have significantly decreased the probability that this legislation will be an effective vehicle with which to obtain the goal of increased exports, a goal upon which we all agree.

S. 2718, which includes the Export Trading Company Act of 1980 and the Export Trade Association Act of 1980, can substantially and permanently expand U.S. exports, particularly by small- and medium-sized firms that do not export at present. S. 2718 would revise Government policies which have tended to discourage formation of U.S. export trading companies in the past. S. 2718 aims at long-term improvement in America's trade posture through improved export intermediation by private American export traders.

Title I of S. 2718 would: First, increase the financial leverage of all exporters by directing the Export-Import Bank to develop an improved guarantee program to support commercial loans to U.S. exporters; second, direct the Secretary of Commerce to promote export trading companies by providing information on such companies to U.S. producers; third, permit banks to make limited investment in export trading companies (such investments could not exceed 5 percent of the banking capital and all controlling investments and all investments over $10,000,000 would be subject to prior approval and conditions imposed by Federal bank regulatory agencies to insure the safety and soundness of banks and fair competition); fourth, authorize additional appropriations to the Economic Development Administration and Small Business Administration to support increased loans and guarantees to enable expansion of U.S. exports, including exports through U.S. export trading companies.

Title II would revise the Webb-Pomerene Act of 1918 to clarify the antitrust provisions applicable to export trade associations and export trading companies and provide a certification procedure which would enable such associations and companies to obtain antitrust preclearance for specified export trade operations. The clearance procedure would facilitate exports by permitting firms to determine in advance exactly which export trade activities would be immune from antitrust suit and which ones would not.

Title III extends the tax deferral available under the DISC (Domestic International Sales Corporation) provisions of the tax code to exports of export trading companies, including exports of services. The use of subpart S of the tax code (which permits certain passthroughs to shareholders to closely held corporations) would be allowed for some export trading companies. Title III has been introduced separately as S. 2757 and referred to the Committee on Finance for its consideration.

Mr. President, I urge my colleagues to study this bill carefully, to weigh its enormous benefits against the risks of inaction, and then to join with me in providing an overwhelming vote in favor of this vital legislation.

Mr. President, I wish to pay special thanks to my retiring colleague, Senator STEVENSON. I know of no one who has been more scholarly, more thorough, more zealous, or more singleminded in his dedication to improving the economic position of this country—in particular, its international economic position.

I know of no one who has worked harder on a piece of legislation as well as an approach to an overall problem, involving not just this measure but also the Export Administration Act amendments and other initiatives to strengthen the exporting community of this country, than has Senator STEVENSON.

It has been a great personal pleasure for me to have the opportunity, as the ranking minority member on the International Finance Subcommittee, to work with him in this very important effort. It is my view that with his retirement at the end of this year, we will be losing a literally irreplaceable asset, a knowledgeable man, committed to his job and to this country.

I would be remiss, therefore, if I did not take this opportunity, on behalf of all our colleagues, to thank Senator STEVENSON for his leadership, for his vision, for his hard work, and for his effective management of these and related issues over a long period of time. I shall miss his presence. I know that my colleagues will join me in saluting his valuable work. We hope to have the continued benefit of his guidance and counsel, even if it be from some place farther away than across the aisle.

Mr. PROXMIRE. Mr. President, will the Senator from Pennsylvania yield?

Mr. HEINZ. I am happy to yield to my friend from Wisconsin.

Mr. PROXMIRE. Mr. President, in the course of his remarks, the distinguished Senator from Pennsylvania said that our trade deficit is becoming progressively worse and our deficit will be larger than the budget deficit—a near catastrophe to our country.

I ask my good friend from Pennsylvania if he would argue that this is because our exports have been lagging, that they are not expanding the way we would expect them to expand in a growing economy. Is that what he argues?

Mr. HEINZ. The Senator from Pennsylvania maintains that our trading position is deteriorating.

Almost every country in the world is experiencing a growth in exports and in imports. We are experiencing a growth in nominal terms in both, but we are not experiencing a growth in exports as large as our growth in imports.

That creates a trade deficit. That creates a weakening of the dollar. That creates, in part, devaluations because of the floating dollar, which is inflationary and further weakens the dollar.

To me, it is relatively immaterial whether we are exporting more this year than last year. The question is, Are we playing our proper role in the world economy? Are we competitive? Or are we losing our margin for success and, instead, creating a ledger for future failure?

If one looks at the economies of Japan, West Germany, and others, to name a few, one will be forced to the conclusion that they are healthy because, among other things, they are able to maintain a strong currency and have that strong currency because they export more than they import.

Even a country like Japan, which is short on natural raw materials within its geographical boundaries, is able, nonetheless, to accomplish export miracles.

However, we have more in the way of worldwide commitments to peace and to international stability than does Japan. Therefore, I believe it is essential that we move aggressively to strengthen our clearly deteriorated international economic position.

Mr. PROXMIRE. The Senator from Pennsylvania indicated that we were lagging in our exports compared to Germany and Japan. That certainly was the strong implication of what he said. That is not true. That is not the fact.

What do the facts show? The facts show that since 1972, the rate of increase in exports for the United States has been 20.5 percent. That is a greater increase in exports than that of Germany and Japan and twice the increase in our gross national product.

In fact, according to statistics compiled in 1979 by the Federal Reserve Bank of St. Louis and just released, the U.S. exports are up 20.5 percent per year; Germany, 20.4 percent per year; and Japan up, 19.7 percent per year from 1972 to 1979. It is hard to find a developed country in the world with a larger increase in exports.

There is not case the Senator can make, on the basis of the facts, that our exports are lagging, that the reason for our deficit is that our exports are lagging.

The Senator knows that the reason for our trade deficit is that our imports are increasing, and they are increasing for a number of good reasons. One is that we are unable to compete in the automobile industry and other industries as effectively as we should, because we are losing our productivity.

Mr. HEINZ. Will the Senator permit me to respond?

Mr. PROXMIRE. Certainly—on the Senator's time.

Mr. HEINZ. I appreciate that.

Mr. PROXMIRE. The Senator has the floor.

Mr. HEINZ. First of all, anybody who would contend that our international economic position is stronger today than it was 5 years ago must be reading something different from what this Senator has been reading.

In 1972 we had on our merchandise account a net balance of minus $6 billion; we had a surplus of nearly $1 billion in 1973; a dificit of $5 billion in 1974; a surplus of $9 billion in 1975, and a dificit of $9 billion in 1976. Since that time, what concerns me is that our trade deficits have been running at or near $30 billion a year: $30.8 billion in 1977, $33.8 billion in 1978, $29.5 billion in 1979.

If we compare the first quarter of 1979 with the first quarter of 1980, our trade deficit for the first quarter of 1980 is running at twice the rate of last year's disastrous performance.

So, regardless of what reasons one may try to bring forward through manipulation of the statistics, the fact is that one would have to be something of an ostrich to conclude, based on the numbers, that we do not have any problem. We have major problems.

I respect what the Senator from Wisconsin has said. He is an excellent mathematician. He could not have got through Harvard Business School without being one, and I salute the Senator from Wisconsin for some great creativity.

Mr. PROXMIRE. Mr. President, may I say to my good friend from Pennsylvania I appreciate that very much, but looking at the arithmetic, the Senator knows perfectly well the way we look at our international balance is not solely on the basis of our trade balance. Our balance on current account is the more comprehensive measure of our position. That includes not only the trade balance. That includes the balance on what the tourists spend abroad. That includes foreign aid. That includes what we sell and and what the tourists spend in this country and it also includes our return from investments abroad, which is a very big positive item. That is the way we get to our total current account balance. That is the overall balance that indicates how we are doing.

On the basis of our current account balance we over the last 8 years have been virtually even. We have had a deficit of an average less than $400 million a year, and that is the way, as the Senator knows, that we are able to pay for what we import with what we not only export but our return on investment and our receipts from service exports and other receipts.

Overall, the case has not been made by the distinguished Senator from Illinois and the Senator from Pennsylvania that this country's international balance is as bad as it is. I know that is the current belief. I know if one walks down the street and asks the people about this who have any knowledge at all and know what we are talking about, most of them would say, yes, we are in terrible shape. But look at the facts. Look at the facts, and the facts show that we have increased our exports, No. 1. The facts show, No. 2, that even with the big increase that we have in imports that our balance on current account, which includes everything, shows that we are very close to a balance over the last 8 years.

Furthermore, Mr. President, we have been able to do this in spite of the fact that we suffered the worst inflation in our history and a drop in productivity.

There is the answer. If we want to do something about improving our international position, we do not have to be so concerned about exports as we do about improving our basic economic position, increasing our productivity, reducing our inflation, and then our trade deficit will take care of itself.

I say all this preliminary to the fact. I think there is much good in the bill of the Senator from Illinois and the Senator from Pennsylvania. However, I do think that it goes so far in destroying the relationship between banking and commerce in this country that we can modify that slightly, and I mean only slightly, and have a good bill which will help promote exports.

Mr. HEINZ. Mr. President, has not the Senator's time for debate expired?

Mr. PROXMIRE. I think I have the floor.

Mr. HEINZ. It is my time, I think, still.

Mr. PROXMIRE. There is no time on this bill at all.

Mr. HEINZ. Mr. President, I yielded to the Senator from Wisconsin.

Mr. PROXMIRE. No.

The PRESIDING OFFICER. The Senator from Wisconsin has the time.

Mr. HEINZ. Very well. I apologize to the Senator from Wisconsin. I thought I had yielded to him.

Mr. PROXMIRE. Mr. President, I am simply saying to my good friend from Pennsylvania that if he will accept our amendment submitted by the Federal Reserve and look at the amendment, he will see it is a very moderate amendment. It only slightly modifies the bill of the Senator from Illinois and the Senator from Pennsylvania. If he will do that, I think he will see that we would be able to help promote exports without having the unfortunate effect of determining a principle that we have had in this country for over 100 years of keeping banking and commerce separate and we could do so in accordance with the recommendation of the Federal Reserve Board, of Mr. Volcker and Mr. Wallick, and other people who devoted a great deal of time and are deeply concerned about this and in fairness to banks, big and small, in this country.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 1963

(Purpose: To delete tax provisions from the bill)

Mr. STEVENSON. Mr. President, I call up amendment No. 1963.

Mr. TSONGAS. Mr. President, will the Senator yield so that I may make a statement?

Mr. STEVENSON. Yes; but first I wish to have the amendment stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an amendment numbered 1963:

Beginning on page 40, line 10, and continuing to the end of the bill, delete all of title III—Taxation of Trading Companies.

Mr. STEVENSON. Mr. President, before I yield to my good friend from Massachusetts, I wish to thank the Senator from Pennsylvania for his charitable words of a moment ago. He is too modest. Our work has been the work of a partnership that goes back many years now.

It has been a great satisfaction and pleasure for me to work with him on many of the structural weaknesses in our economy, including our failure to support our exports abroad, and I have no doubt that that work will continue with his leadership after I have left the Senate. I am grateful to him.

I yield to the Senator from Massachusetts for a question.

Mr. TSONGAS. Mr. President, I wish to make a statement.

Mr. STEVENSON. Without losing my right to the floor, Mr. President, I ask unanimous consent to yield to the Senator from Massachusetts for that purpose.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. PROXMIRE. Mr. President, I did not hear the unanimous-consent request. What was it?

The PRESIDING OFFICER. The request was that the Senator from Illinois be permitted to yield to the Senator from Massachusetts for a statement without losing his right to the floor.

Mr. PROXMIRE. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. Mr. President, I rise in strong support of S. 2718, the export trading company bill.

Let me at the outset comment on the statements made by the former chairman of the committee, and that is to try to give the impression that somehow the U.S. export position is rosy and that we need not worry about it.

That is a singular view, and I do not know anyone out in the real world trading community who shares it.

The example has been given, and correctly so, that U.S. exports are increasing at a rate equal to that of a major trading competitor. That is quite true.

The question is, What base do we start from? If we have a situation where 10 percent of our GNP and 20 percent, let us say, of Germany's increases at the same rate, that increase is correct. But what is not correct is that that increase is far more significant in terms of dollars and in deutsche marks for the German than it is for the United States. So we increase at the same rate but in absolute terms we fall farther and farther behind, which is exactly what is happening with the United States relative to the Germans, the Japanese, and others. So we can use these figures any way we wish, but in reality the fact is that if we take the posture that our export situation need not improve then that will be received joyously by the Japanese and the Germans who—like our exporters—know better.

This bill is very important and I think anyone who comes from a State that has export potential should be particularly concerned about it. The fact is that if we look at the United States in its relative position to our major competitors we simply do not take the export game seriously.

The only reason we are in a situation with our dollar in decline or not strong relative to the yen and the deutsche mark is that these are the competitors, and, for these competitors, the export trading company bill would be a modest, kindergarten step which they have left far behind.

The Japanese know, the Germans know, and the Swiss know they have to export to survive. Well, the United States traditionally has had something like 93 percent of its product consumed domestically, so it was not necessary for our exporters to worry about exchange rates and devaluations and all the intricacies of international trade.

Well, that era is over. You cannot import the kind of dollar amounts of oil we do, cars, TV sets, what have you, and not be in a position where we are hemorrhaging so badly that in time the entire structure will fall apart. The United States simply will not survive as a world power, industrial power, if we do not develop our ability to compete in international markets.

This bill is at best a modest step in that direction, and to have the argument made that it should be watered down even further I think is ludicrous on its face.

In addition, those companies of the United States that have the greatest potential for export in terms of new commodities, new products, innovations, happen to be the small- and medium-sized businesses, about 20,000 of them. I hope the concern for those kinds of companies will prevail in our deliberations today.

I have been involved in this issue for the last 2 years, and have served on the subcommittee which developed the legislation, and I would like to commend the Senator from Illinois and the Senator from Pennsylvania on their initiative. I think what they are talking about is, perhaps, considered a new idea now, but most people will recognize this as the obvious step as the years go on.

The issue before the Senate today concerns the nature of the bank investments in the export trading company.

The subcommittee held extensive hearings on this matter. There were prolonged negotiations with the bank regulatory agencies and, indeed, with other governmental departments. This legislation is a compromise. It is not the original legislation. It represents, I think, the best case compromise which facilitates banking involvement and, also protects the public interest. It provides a meaningful role for financial institutions, while carefully providing for proper restraints on that role.

There are those who argue that we do not want the banks to be a major participant in export trading companies. However you may come down on that, the fact is if you take the bankers out in any significant way you do not have an export trading company. If you are not going to have an export trading company that does not mean anything, we should not even pass the bill.

Banks will supply two critical resources that small- and medium-sized companies need to have. One is investment capital. Go out and talk to some of your small businesses and ask them why they cannot be involved in the export trade, and invariably you get the response that they do not have the capital to do it.

Second, and more importantly, the small companies simply do not have the knowledge and managerial expertise in international financing. Those can only be supplied by the banks and those in the banking community.

If we try to undermine the role of the banks in this legislation, there is going to be one certain result, and that is the banks are going to withdraw. Banks will simply not be willing to play a leading role without the kind of controls which will insure sound management, minimization of risks, and the enhancement of profit.

We can structure a bill here that will make sure that in no possible case can there be any kind of violation or any kind of possible misdeed by any bank. But what you end up with is a structure that is appealing to nobody, and again we have a hollow shell of legislation that is passed out of the Senate.

I will submit for the Record the criteria in the legislation that limits what the banks can do. I think they are quite sound. To weaken even further the banking participation, we would make the legislation not worth passing.

Finally, let me comment on the concern about the antitrust implications of the bill. There is going to be an amendment filed by the Senators from Wisconsin, Ohio, and Massachusetts, and obviously I have a great deal of respect for these Members and generally vote with them.

The fact is, however, that to weaken this bill further beyond the compromise that came out of the deliberations of the committee is simply not wise. I think if we are going to be in a position to compete effectively with the Germans, the Swiss, the Japanese, and others, we have to be willing to look at exports in perhaps a somewhat different fashion, and I hope my colleagues, looking to the long-term viability of our country in the export trade around the world, will see fit to stick with the committee version.

I thank the Senator from Illinois. I ask unanimous consent that the limitations on the banking participation be printed in the Record.

There being no objection, the limitations were ordered to be printed in the Record, as follows:

LIMITATIONS

While the legislation permits banks to acquire a controlling interest, banking participation is limited in the following ways:

Investment in ETCs is limited to 5 percent of the bank's capital and surplus.

Total bank exposure of both investments and loans is limited to 10 percent of capital and surplus.

Bank regulatory agencies must approve controlling investments of ETC voting stock, even if the interest is less than $10 million.

Bank regulatory agencies must approve acquisitions by consortia of banks for more than 50 percent of an ETC, even if individual bank investments are not equivalent to a controlling interest.

The name of an ETC may not be similar to that of a bank investor.

A bank must terminate its ownership of an ETC if the ETC takes speculative positions in commodities.

Banks are specifically prohibited from making preferential loans to an ETC that it controls, which insures the availability of bank credit to competitors.

In addition, the banking regulatory agencies are given numerous powers and authorities with respect to banking involvement in ETCs. These include power to disapprove applications where export benefits are outweighed by adverse banking factors, and conditions which limit financial exposure, possible conflicts of interest and unsound banking practices.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I would like to respond to the Senator while he is on the floor. The Senator from Utah is patiently waiting to call up some amendments and, therefore, I will defer my questioning of the Senator from Massachusetts until the Senator from Utah has had a chance to have had his amendments considered.

Mr. STEVENSON. Mr. President, the pending amendment strikes title III from the bill. Title III extends the provisions of DISC to trading companies. It also makes it clear that they are eligible for subchapter S treatment.

Those provisions have been introduced separately and referred to the Committee on Finance where they are being considered. Because they are being considered there, and that is the appropriate committee, it would not be appropriate, I believe, for the Senate to act on these provisions in this bill.

Mr. PROXMIRE. Mr. President, if the Senator will yield very briefly on this amendment, which I will support, I think it is a good amendment.

Mr. STEVENSON. I have not yielded back.

Mr. PROXMIRE. I beg the Senator's pardon.

Mr. STEVENSON. But I will yield the floor eventually.

Mr. PROXMIRE. May I tell the Senator that if he will yield for a question, I just want to ask for the yeas and nays on this amendment. I will explain why, and without the Senator's yielding I cannot do it very well.

Will the Senator yield for 30 seconds so that I can explain?

Mr. STEVENSON. Yes. I hope he will explain why we have to have the yeas and nays on an amendment as to which there is no opposition.

Mr. PROXMIRE. The reason why, Mr. President, I think the yeas and nays are necessary on this is, it is my understanding that this is in the House bill or likely to be in the House bill. It will be in conference, and an amendment like this, which is so important, I think it is necessary that we have a Record vote. I think the Record vote will indicate the Senate's position emphatically that the DISC provision should be out, and for that reason I think we should have a rollcall vote.

Mr. STEVENSON. Mr. President, the vote of the Senate, whether it is recorded or not, will indicate nothing about the position of the Senate on this issue because the amendment is offered only with a view to giving the Committee on Finance an opportunity to report legislation on a House-originated bill. As we all realize, this bill, which is not House-originated, would be subject to a point of order on the House side.

Mr. PROXMIRE. May I suggest that we set this amendment aside temporarily and let the Senator from Utah call up his amendment, and we can act on them and then act on the amendment of the Senator from Illinois. Is that all right?

Mr. STEVENSON. It is not all right, but I do not have much choice except to ask unanimous consent that the amendment be temporarily laid aside, Mr. President, in order to permit the Senator from Utah to bring up his amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Chair recognizes the Senator from Utah.

UP AMENDMENT NO. 1527

(Purpose: To add clarifying language to this bill)

Mr. GARN. Mr. President, first, let me thank my colleagues for asking unanimous consent. My amendments are brief and they are going to be accepted.

Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah (Mr. Garn) proposes an unprinted amendment numbered 1527.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 35, between lines 19 and 20, insert the following:

(f) Compliance with other laws—Each association and each export trading company and any subsidiary thereof shall comply with U.S. export control laws pertaining to the export or transshipment of any good on the Commodity Control List to controlled countries. Such laws shall be complied with before actual shipment.

Mr. GARN. Mr. President, this is the first of two amendments that are needed to clarify important aspects of the future role of export trading companies in East-West trade.

My first amendment simply clarifies the fact that export trading companies shall be required to comply with U.S. export control laws. This amendment makes it incumbent on both the shipper and the export trading company to see that export control laws have been observed before an item is shipped, and that no loopholes are used to avoid these laws because there has been a middleman involved in the exporting process.

It also requires export trading companies, which are not mentioned in the Export Administration Act at present, to provide end use statements whenever they transship goods included on the commodity control list. This means that the intended end use following each transshipment facilitated by that company shall be described fully.

I understand this amendment is acceptable to the managers of the bill.

Mr. HEINZ. Mr. President, I have examined the Senator's amendment. I think it is a meritorious amendment, and certainly for the minority side we are prepared to accept it.

Mr. STEVENSON. Mr. President, as I understand this amendment it makes it clear that the exports of trading companies from the United States are subject to the Export Administration Act, and that certainly is our intention.

I think it is a sound amendment. It makes what was intended clear, and that being the case I am delighted to accept the Senator's amendment.

Mr. GARN. I thank the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

Mr. GARN's amendment (UP No. 1527) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1528

Mr. GARN. Mr. President, I send another unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 1528.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 37, line 9, after the period, add the following: "The Office Export Trade in the Commerce Department shall report to the Congressional Committees of appropriate jurisdiction on an annual basis, all East-West trade transactions requiring validated licenses, and any other relevant information on the role of U.S. export trading companies or subsidiaries thereof in East-West trade."

Mr. GARN. Mr. President, my second amendment calls for an annual report to Congress on the East-West trade activities of export trading companies and any subsidiaries they may establish abroad. After my recent experience with Commerce Department reticence, I feel this is the only way Congress will have to assess the role of these new companies in an important foreign policy area. If these companies become involved in the shipment and transshipment of strategic goods, the appropriate congressional committees should have some means of judicious oversight over the implications of such involvement for the country's security and economic welfare.

This is simply requiring that these companies, if they are created under the terms of this bill, would report to Congress on an annual basis.

I understand the managers are willing to accept this amendment.

Mr. STEVENSON. Mr. President, I think this is a sound amendment, too. It does require reports, as the Senator indicated. Those would be of value to the committee. I am prepared to accept the amendment.

Mr. HEINZ. Mr. President, we are prepared on our part to accept the amendment, as well.

Mr. GARN. I thank my colleagues.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah (Mr. GARN).

The amendment (UP No. 1528) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I thank my colleagues for their consideration.

AMENDMENT NO. 1963

Mr. STEVENSON. Mr. President, I believe under the previous order, the Senate now returns to amendment No. 1963, is that correct?

The PRESIDING OFFICER. The pending business now before the Senate is the amendment offered by the Senator from Illinois.

Mr. STEVENSON. Amendment No. 1963?

The PRESIDING OFFICER. Amendment No. 1963.

Mr. STEVENSON. That is the amendment which deletes the tax provisions. The Senator from Wisconsin wants a rollcall vote. That is his right.

But I think the record should show that many of us who vote for this amendment do not support the amendment. We are voting for the amendment in order to give the committee, the Finance Committee, an opportunity to consider the issue and to report legislation on a House-originated bill. These tax provisions would make the bill subject to a point of order in the House.

So, many of us who support the amendment will vote against it; that is to say, those of us who support the tax provisions will vote for the amendment which deletes them. So the rollcall vote, in my humble judgment, will indicate nothing about the true feeling of the Senate on this issue.

With that, I hope, if the Senator insists, that we can proceed to a rollcall vote and get this amendment out of the way.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. STEVENSON. I am happy to yield to the distinguished Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I want to associate myself with Senator STEVENSON's remarks. I strongly support the DISC provisions in the bill that we reported. But I also support deleting them from the legislation at this time so that we may give the Senate Finance Committee the appropriate opportunity to study and, hopefully, report, as is their right, a revenue measure that contains the amendments to DISC that will make the export trading company legislation work.

I would only add that, as a member of the Finance Committee—and I see two other very distinguished members of the committee on the floor, Senator BENTSEN and Senator DANFORTH—that we are going to do everything we can to expedite consideration of a DISC provision to go hand in hand with this legislation.

I am reasonably confident that such a provision will not only be acceptable to the members of the committee but that it will, in fact, be taken up during the week of September 13 when the committee will reassemble to put together a committee amendment to the bill earlier reported. I am quite confident that the committee amendment will include a DISC provision that is necessary to making the export trading company legislation work.

Therefore, while I support the DISC provisions in this bill, I also support removing them at this time and will vote for the motion to take them from this bill. But I do not want anyone to misunderstand my position in terms of support of the substance.

Mr. BENTSEN. Will the Senator yield for a further comment?

Mr. STEVENSON. Yes, I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, I would like to support and buttress those remarks. As a member of the Finance Committee, we have a responsibility there and the jurisdiction there. DISC has had substantial support within that committee. I think it is an integral part of what we are trying to do in encouraging exports. I support this as a procedural thing for the establishment of jurisdiction.

I compliment the chairman of the subcommittee, the Senator from Illinois, for all that he has done over the years in trying to encourage exports. Before people really understood how much exports were a part of testing the effectiveness and the efficiency of our economic system and contributing to trying to curb inflation and holding the value of the dollar, the Senator from Illinois was out there leading the fight.

I hope that in this very important piece of legislation we will not break down in procedural questions, because I think it is very fitting, with the long fight we have had in leading this, that, frankly, I would like to see this as one of his many major contributions in his tenure in the Senate, not just because I want his name on it, but because I think it is a great step in trying to encourage exports for our country.

I will, therefore, support his position in returning that portion of it to the Finance Committee for their consideration. I also say to Senator HEINZ that I am confident we could move very quickly after September 13 to take positive action on it.

Mr. STEVENSON. Mr. President, I thank the Senator for his very kind words and also for his explanation of his support for the amendment. It now would appear, on the basis of this record, that there is substantial support in the Senate for the tax provisions.

I am also grateful to my colleagues for their assurances that those provisions will receive attention soon in the Finance Committee, the appropriate committee, and with, I think, on the basis of everything I know, a very strong possibility of favorable action by the Senate on these provisions this year, a year in which it is probable that the Congress will act on taxes. So I thank them.

If we are going to have a rollcall vote——

Mr. PROXMIRE. Mr. President, may I have the floor?

Mr. STEVENSON. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, in the first place, I think we should be very clear that what we are doing is exactly what the Senators from Illinois and Pennsylvania say—we are not acting on the substance of this matter. We are acting on whether or not we should proceed to include these tax provisions without waiting for hearings and without waiting for determination by the Finance Committee on it.

They have had some hearings, I presume, but they have not come to a conclusion on it. They have jurisdiction and we do not. As a matter of fact, the prime jurisdiction in this matter, as we all know, under the Constitution is the Ways and Means Committee in the House and with the House itself. So we are really jumping the gun by putting this into a bill without having our own Finance Committee and without having the House having had a chance to act on it first.

Mr. President, the tax provisions here would make the export trading companies with bank ownership eligible for DISC tax treatment. They would make receipts from the export trade services eligible for DISC tax benefits. They would exclude export trading companies from the requirements of subchapter S relating to closely held corporations requiring that 20 percent of such a corporation's annual income be domestic income.

I am afraid that the committee's action on the Tax Code is another example of the questionable procedures that have been followed in considering this bill. The bill should not be considered at all by the Senate until the tax writing committees have given detailed consideration to these tax provisions.

That was my position last May and I have been saying this since then. I am grateful to my good friend from Illinois and my good friend from Pennsylvania for finally coming around to my views.

That is why I think this is such an important vote. It does not, I would agree wholeheartedly, indicate that they have changed their mind as to whether or not these tax provisions should be in it. It does indicate, however, that they agree now, and we ought to make that very clear by an emphatic Senate vote, that we should not act until the Senate Finance Committee has had a chance to give us their views on this. They have jurisdiction; we do not.

On substantive grounds, I join with the administration in opposing this major expansion of the tax benefits afforded to export activities.

In the most recent committee hearings on this legislation, Commerce Secretary Klutznick, giving the administration's position, stated the following:

> Many, if not all, ETCs should be able to meet the requirements of present DISC legislation and benefit from DISC tax deferral status. Modification of U.S. banking laws to permit bank ownership of export trading companies will effectively expand DISC coverage without requiring any change in the DISC statute itself. However, to amend DISC legislation to cover exports of all services, as well as services provided by other U.S. firms to export trading companies, as S. 2379 would do, would definitely alter the nature and scope of the DISC program and substantially increase its revenue costs. The present realities of the budget situation do not permit such an extension at this time. I could also raise questions about our international obligations in this area and our concerns for tax equity.

Assistant Treasury Secretary Bergsten subsequently provided the committee with a more detailed statement of the administration's position and with estimates of the potential impact of title III on tax revenues. Giving what were styled as "conservative estimates," the Bergsten letter stated that the extension of DISC benefits to "services produced in the United States" could result in revenue losses of $200 to $500 million and similar coverage of "export trade services" could cost the Treasury $100–$200 million. I also agree with the administration's opposition to the amendments to subchapter S contained in title II on the ground that any legislation of this sort should be considered within the context of the proposal by the Joint Committee on Internal Revenue Taxation to overhaul subchapter S. This seems to me to be perfectly reasonable and in fact far preferable to precipitous actions by this committee.

For that reason, Mr. President, I am glad the Senator from Illinois submitted his amendment, and for that reason I think it is appropriate that we have a rollcall so it is clear where the Senate stands on legislation that may be in the House bill. For that reason, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, we are looking at what could be a 3-year $100 billion hemorrhage on trade. We have had some $60 billion in the last 2 years and it could approach $40 billion this year. We have expanded our trade. We made some substantial increases in the amounts of exports. But the problem that we run into is other countries are also doing the same thing. So we get down to a question of what percentage of that export trade belongs to the United States.

For a long time in this country, we had such an incredible domestic market that we did not think foreign trade was necessary to us. So we ignored it. But now we find that we have substantial inroads in our own domestic markets because of the competitiveness of some of the other countries and the growth that they have shown.

I think one of the real tests for the efficiency of an economy is how it does on trade, how it does against the competitor.

You do not have to follow everything that your competitor does and everything that the most successful one does. But you can learn from what they have done.

If you look at the Japanese and the incredible increase they have had in their trade, what they have been able to accomplish, one of the tools that they have used is export trading companies to try to assist.

The question is, Should banks be involved? Well, I think they ought to have the opportunity to be involved. I share the concern of my friend from Wisconsin about control of export trading companies by banks. I do not want a repetition of the system in Germany. If you want to buy an interest in a company in Germany, who do you go to? You go to a bank and they sell you an interest in the company because they own it. They do not have the kind of stock exchange and the stock market that we have in this country. They have that kind of power and I do not want to see it happen in this country.

But I do think where we have put limitations on them, where it requires the regulatory authority's approval before you allow it, that you can have that kind of control and you can protect that kind of an encroachment.

We held 9 days of hearings by the Joint Economic Committee in the Far East and there we found a diminishing percentage of the trade that is being carried on by the United States, an incredible increase by Taiwan, by Hong Kong, by Japan, by South Korea, and our not adjusting to the local markets, not doing the enterprising we ought to do, not establishing name identification, and we sure did not see much in the way of small companies involved, not there.

What do we do about it? Why can the bank help?

Well, while we were holding our hearings in Hong Kong, I had three representatives of three banks in Houston, Tex., regional banks, who had representatives in Hong Kong, who were paying for the rent on offices, paying for the salaries of those representatives there. Who do they want to promote? They would like to promote their depositors back home.

They would love to see an increase in the size of the small businesses or the medium-size business depositing with them back in their hometown. They would like to do it, because that makes him more successful, a bigger depositor of their bank.

But time and time again we have small businessmen, or heads of medium-size companies, that decide, "I would really like to take a trip to Hong Kong, and I would like to find some excuse to expense it. So what I am really going to say is this is a business trip and I am going over there to explore the foreign markets."

At least 99 times out of 100 I am sure he does not accomplish much of anything, other than getting an upset stomach.

Then he comes back and argues with the IRS and then he really does have an upset stomach because they deny it. They say this was not a serious effort.

But if he has the representatives of his local bank where he has the contracts, they send the letters of introduction off and he arrives over there. They tell him what he can do, how he can adjust the local market, who he ought to see, give him the introductions, help him get underway and hopefully, seriously, do a job in selling his products overseas.

We have to see more of that type of thing accomplished. That is why I think the trading companies are very important and that is why I believe that having the banks having the capability or the ability to become involved in that is also very important and a major contribution that can be made. I strongly support that.

I believe that the trading companies are one of the positive, affirmative things we can do this year to show that we are deeply concerned about trade for our country.

We have done a lot of other things but this is more meaningful. We have taken the commercial attachés from the State Department and put them under the Commerce Department, as commercial attachés, who are the lowest on the pecking order. If you want to continue to grow in the State Department, be sure to take a commercial attaché's job. Years ago we took the agricultural attachés away from them and now we have taken the commercial attachés away from them. Now we are seeing a step forward. I think this is a major thing that can be accomplished to try to help the export of U.S. products.

I would hope very much that before we leave for the Labor Day recess we will have taken positive action.

The Senator from Illinois has been in the forefront of this fight for a long time. He has given a great deal of thought and consideration to it. I would like to see it implemented to do something to help us be more affirmative, to show we are more serious about what we want to do in increasing trade.

I assure you, Mr. President, with the drain on our dollars going to the OPEC countries, because of what is happening to us in the importation of oil, we are going to see the competition for trade intensify substantially. This is one of the positive things we can do to help.

Mr. President, as an original cosponsor of S. 2718 I am convinced this legislation is absolutely essential if the United States is to succeed in the tough, competitive world of trade. I am also pleased to see that so many of my colleagues concur in this analysis and 55 Senators have agreed to cosponsor the Export Trading Companies Act.

It is no secret, Mr. President, that this country's recent trade performance leaves much to be desired. During the past 2 years our balance of trade deficit has exceeded $60 billion and could go over $40 billion this year alone.

This chronic hemorrhage of dollars abroad contributes to domestic inflation. It debases the value of currency and undermines efforts to deal with our energy problems. It creates real doubts about our future access to rapidly expanding world markets. The magnitude and persistent nature of our deficits suggest that the United States is in danger of becoming uncompetitive in world trade.

Before America can return to world economic leadership and compete successfully in the international marketplace, we must demonstrate that we can put our own economic house in order. Our problems with trade are obviously a function of deep-seated domestic economic problems like inflation, declining productivity, low rates of savings and investment, and excess demand in the system. It will take time, sacrifice, and discipline to achieve the sort of fundamental reforms required to restore a healthy, dynamic American economy characterized by stability and real growth. As we succeed in this effort our trade performance will inevitably improve.

The long term nature of our economic problems should not, however, discourage us from taking steps that will have an immediate and favorable impact on our ability to export.

The time has long since passed when American business and industry can accept unique, self-imposed restraints on our ability to market our products abroad.

S. 2718, the Export Trading Companies Act, will clearly promote American commercial interests and act as a spur to our exports. We have seen that efficient export trading companies, able to provide a wide variety of services for their clients, have been an essential ingredient in the commercial success of nations like Japan that have emerged as consistent winners in the battle for export opportunities.

Earlier this year I traveled to East Asia with a delegation from the Joint Economic Committee. The purpose of our trip was to assess American competitiveness in the world's fastest growing market.

While in the region we met with members of the American business community and with local government officials. We held 9 days of hearings. And I can tell you, Mr. President, that the issue of export trading companies was high on the agenda in every country we visited.

The American business community overseas, the people who are on the front lines in the battle for world markets, made the point time and again that our export performance would be well served by legislation to permit more efficient and effective American export trading companies. And S. 2718 is precisely the sort of legislation they were talking about.

Thousands of smaller and medium size U.S. businesses are currently put off by the risks and complexity of exporting. S. 2718 will facilitate and encourage their entry into export markets. Trading companies of the type envisioned in this legislation will help spread out the risks of foreign trade and absorb currency fluctuations. They will help identify emerging market opportunities, assist in organizing joint construction projects abroad, and handle the logistics of foreign trade that currently deter so many potential exporters.

In addition, S. 2718 helps to clarify many of the long-standing antitrust ambiguities that currently hinder the formation of American consortia to bid on significant export projects. Senator DANFORTH and I have long been interested in the effort to update the Webb-Pomerene Act and make it applicable to the export of services as well as goods. S. 2718 accomplishes that objective. It also expands and clarifies the antitrust exemption for export trade associations and transfers administration of the act to the Department of Commerce. It creates an office within Commerce to promote joint export activities and establishes a specific certification procedure that will eliminate the element of uncertainty in current law.

I am also enthusiastic, Mr. President, about the banking aspects of the Export Trading Company Act which would permit the U.S. banking community to participate in export trading companies and provide the financial resources and expertise that have become such an essential ingredient in the success of our competitors. We have seen, time and again, that the ability to offer attractive credit terms to potential foreign buyers often means the difference between winning and losing sales.

While the United States has traditionally discouraged relationships between banks and trading companies, our competitors in trade have gone in the opposite direction and, with bank-owned trading companies, have frequently gained a competitive advantage over U.S. exporters. By permitting U.S. banks to acquire ownership in export trading companies under specified conditions, S. 2718 would provide an important new asset in our drive to restore export competitiveness to the American economy.

This legislation is not a line for line copy of the Japanese model; it does not provide for unrestricted bank access to export trading company ownership. By demanding approval of Federal banking agencies in appropriate circumstances, S. 2718 contains the necessary safeguards to prevent abuses when banks enter commercial export activities. A bank that owns stock in a trading company is also prohibited from making credit available to that company on terms more favorable than those afforded similar borrowers in similar circumstances.

For too long, Mr. President, this Nation has approached international trade as a luxury rather than a necessity. Today success in the world of trade has become an indispensable ingredient of domestic prosperity. The United States has been slow to adjust and adapt to the changing environment of trade, and our share of world exports has decreased dramatically as a result.

As we move to bring about the fundamental reforms that will restore stability and real growth to our domestic economy, we can all agree on the necessity of removing, wherever possible, impediments to American exports.

Our exporters must compete against the combined resources of the most efficient and aggressive trading nations in the world. I can see no good reason to continue to deny them the support and assistance of full-fledged American export trading companies.

Enactment of the Export Trading Company Act will even up the rules of the game and enable our exporters to compete more effectively for world markets.

This legislation reflects high credit on the work of Senator STEVENSON and his colleagues on the International Finance Subcommittee. It clearly deserves the support of the Senate and I hope we can move quickly to enact it into law.

Mr. PROXMIRE. Will the Senator yield?

Mr. BENTSEN. I am glad to yield. I understand the concern of my friend from Wisconsin.

Mr. PROXMIRE. I want to tell the Senator from Texas that I agree with virtually everything he said. That may shock him a little bit, because he may have anticipated that I take a little different position on trading companies. I do not.

I think the Senator will also agree that the report of the Joint Economic Committee, on which he did such a magnificent job in getting agreement of both Republicans and Democrats, is a powerful expression of the absolute necessity that we improve our productivity and reduce the rate of inflation. That is the heart and soul of our export problem. If we can get inflation under control and improve our productivity, then we can make progress on exports and on reducing our trade deficit. The Senator has been one of the leading fighters in that field. He has made some very constructive suggestions as to how to do it.

Would the Senator consider the amendment I am offering, recommended by the Federal Reserve Board, which would still permit the banks to have an ownership position in export trading companies—No. 1—and in the event that the Federal Reserve determined that in order to improve our export position with respect to a particular bank in a particular area, it was necessary for the banks to have a controlling ownership position—more than 20 percent ownership position—they would be permitted to go ahead and do that? Why would that not be a practical approach that would get around a situation that would otherwise knock out 100 years of experience, in which we have separated the banks from commerce?

We all know what a terrific disadvantage it is to try to compete with another firm which is owned by a bank, because they have access to credit. There is every reason in the world to expect that they are going to be able to beat you to the punch on it. We not only have opposition from the Independent Bankers Association to the bill in its present form—representing the small banks—but I am sure the overwhelming majority of businessmen concerned with the kind of competition they would have, would also oppose this bill unless we can get this kind of reasonable modification in accordance with the recommendations of the Federal Reserve Board.

Mr. BENTSEN. Mr. President, I understand the Senator's point, but I think the limitation of 20 percent is one that gets down to a level where we are not going to have a serious participation on the part of the bank. Then we say, OK, we let them have an exemption for that if they can prove that an export opportunity is going to be lost.

Mr. PROXMIRE. If the Senator will yield on that, they can own up to 100 percent if the Federal Reserve Board approves it.

Mr. BENTSEN. That is what I said, with the exception that they have to prove that an export opportunity would be lost. This gives me some concern, that definition in a particular frame of time, as to being able to get that sold and to have it in a continuing thing.

In addition to that, if I am going to be operated on, I sure want the knife in the hands of a friendly surgeon. I just really do not believe that is what the situation is here. We have someone who is going to operate that really does not want you to have any of it.

Mr. PROXMIRE. The whole purpose of the bill is, if the Senator will yield, to expand exports. If it cannot meet that test, why should we permit something that can pose a serious danger to the competitive system we have had in this country and that, for 100 years, we have followed in prohibiting banks from engaging in commerce?

Otherwise, it would permit, without the approval of the Federal Reserve Board, banks to own any number of businesses where they would compete unfairly. This is a very moderate modification of the export trading company legislation.

Mr. BENTSEN. I say to my friend, when we talk about 100 years of doing something one way, that does not necessarily mean that conditions have not changed, time has not changed, competition has not changed. I think, finally, we have to adapt to it. That is what we are talking about doing here. I believe that this is a positive move forward with very careful safeguards placed around what the banks might be able to do.

Mr. PROXMIRE. If the Senator will yield very briefly, the term "services" in the bill is defined as the following on page 4, line 14:

> (3) the term "services produced in the United States" includes, but is not limited to accounting, amusement, architectural, automatic data processing, business, communications, construction franchising and licensing, consulting, engineering, financial, insurance, legal, management, repair, tourism, training, and transportation services.

That is about as comprehensive a litany as we can get and, as I say, it is not confined to that. They can get into almost anything.

What I am proposing is—certainly the Federal Reserve Board is a friendly surgeon. As the Senator knows, they are expert in this area. They certainly are in favor of doing all they can to promote a strong dollar and to improve our export position. But this would safeguard our banking structure. I hope the Senator will consider the amendment.

As I say, I view a vote for the amendment as a vote in favor of export trading companies, not a vote against them.

Mr. TSONGAS. Will the Senator from Texas yield?

Mr. BENTSEN. I am happy to yield.

Mr. TSONGAS. I would like to inquire of the Senator from Wisconsin——

Mr. BENTSEN. Mr. President, I shall give up the floor. If I am going to be a conduit, I would rather the Senator would have the floor on his own.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, if I may inquire of the chairman, he made the statement that small- and medium-sized companies were opposed to the bill in its present form. My experience is just to the contrary. Before we let that argument pass without a challenge, I should like to give the Senator from Wisconsin an opportunity to provide the authority for that statement.

Mr. PROXMIRE. Mr. President, after the Senator from Massachusetts left the committee—which was a great loss, believe me—he was replaced by a very brilliant Senator, GEORGE MITCHELL. But we also miss my good friend from Massachusetts. After that, as the Senator knows, we had hearings on this matter. We had the export management companies come in and they opposed the bill. I do not, but they did. They are small businesses and they represent small businesses.

I do not argue that they were right. They are not. But I say that what the small businesses oppose is having banks in a position to own a competitor and then compete from a position where, if there is any credit crunch—and we all know there are going to be credit crunches in the future—their competition will not get the money they need and they will get it.

Mr. TSONGAS. Is the Senator saying in his argument that small- and medium-sized businesses are opposed to the bill—the exact contrary of what I have been told by all the people I have dealt with in Massachusetts—that it is existing export companies who, by definition, would now have competition if this bill passes? Is that it?

Mr. PROXMIRE. No, what I am telling the Senator is I do not know whether they are opposed to the bill or not. I am not opposed to the bill and they may well support my position. I say it stands to reason that, on the basis of representation we have had for years and years—the Senator knows how often insurance companies, auto leasing companies and others have come up and said, "Do not let the banks get into this business. They do not know what they are doing, they make mistakes in the business, but they have a colossal advantage—they have credit. They give our competition credit which we cannot get." That is where I say we run into opposition on the part of small businesses.

Mr. TSONGAS. Mr. President, I simply say that any Senator listening who would like to find out how smaller companies feel about it should give them a call between now and the vote, because I have talked to a number of Massachusetts-based companies that have enormous export potential. They are strongly in favor of this bill. I just did not want the statement to go unchallenged that gave the impression that these companies are opposed. It is just the opposite.

Mr. PROXMIRE. Mr. President, as long as the Senator has the floor, he made a statement earlier and I would appreciate it very much it he would permit me to question him for just a couple of minutes.

The Senator talked about the decline of the dollar compared to the deutschemark and the yen. He indicated, I presume, the reason that he made that allegation was that he felt the dollar declined in part because our exports were too feeble, they should be built up and they should be greater than they were.

He said that, after all, sure, we may have a bigger increase percentagewise in exports than Japan and Germany, but that does not mean anything, because we start from a smaller base than they do.

Mr. TSONGAS. As a percentage of GNP, that is correct.

Mr. PROXMIRE. As a percentage of GNP. But I think that nobody, including, I am sure the Senator from Massachusetts, on mature reflection, would expect that we would ever have exports in relationship to gross national product as great as, say, in Japan, Germany, or England. No way. They have to import virtually all their food in both Germany and Japan. They import virtually all their oil. They are small islands that have to export a great deal to pay for that. We are not in that position.

What I am saying, however, is that on the basis of statistics which are very clear—no one has refuted them—we have increased our exports more than our competitors have, percentagewise and absolutely.

Mr. TSONGAS. Mr. President, I was in the Chair yesterday when the chairman was making statements on the increases—as I recall, 20-percent increases—perhaps all the comments he made yesterday were in the 20-percent range.

If the chairman starts off with the premise that we can never hope to be a major trading power percentagewise, as the Japanese and the Germans, he is correct.

I do not happen to share that assumption.

The only reason the Japanese and Germans have done it is because they have the discipline to do it. It has nothing to do with imports and exports, because many countries around the world have exactly the same problems in terms of energy and food that do not happen to have major trading companies.

The difference is that they decided they will be in this thing and do it well. That is the same kind of discipline I would like to see us impose on ourselves.

Mr. PROXMIRE. May I say to my good friend from Massachusetts that we both agree we should have export trading companies, we both agree we should improve our exports. I would put more emphasis on whether or not we can improve our productivity, or our fight against inflation.

I think that it fundamental and more important. But I have no objection to the trading companies, provided we have the kind of traditional and healthier competitive relationship than in the past in respect to banks and competition, to those at a disadvantage, when the bank owns a competitor and the smaller business has to compete without that access to credit.

Mr. TSONGAS. Another way of arguing it is that we can send the United States in to play tennis with the Japanese and give them a paddle ball. If we do not give them the tools, why bother with the process?

Mr. PROXMIRE. The Federal Reserve is not interested in sabotaging this legislation. They made a perfectly sincere proposal to permit us to have effective export trading companies.

They take a position which I think is very moderate, that the banks can own completely an export company. They can own the whole thing.

However, they should come for approval, if they own more that 20 percent, to the Federal Reserve to make sure they meet the requirements of the act, which is necessary in order to increase our exports.

Mr. TSONGAS. I spent 2 years on the Senator's committee, and listened to the chairman argue with the Federal Reserve. Now they happen to be in agreement with the chairman. So now we have wisdom and prudence at the Federal Reserve.

I would also like to point out that the bill contains the following limitations:

Investment in ETC's is limited to 5 percent of the bank's capital and surplus. Total bank exposure of both investments and loans is limited to 10 percent of capital and surplus. Bank regulatory agencies must approve controlling investments of ETC voting stock, even if the interest is less than $10 million. Bank regulatory agencies must approve acquisitions by consortia of banks for more than 50 percent of an ETC, even if individual bank investments are not equivalent to a controlling interest. The name of an ETC may not be similar to that of a bank investor. A bank must terminate its ownership of an ETC if the ETC takes speculative positions in commodities.

That, I would argue, is rather significant, and that was what the compromise in the committee was all about.

One could argue that we have gone too far. It seems to me, if we go further, in essence we kill the bill.

Mr. PROXMIRE. If the Senator will yield for a moment, the 5-percent figure the Senator refers to in capital and surplus, of course, that is not very much for a little bank. With a big bank, it can be plenty.

Furthermore, these are highly leveraged operations, as the Senator knows.

It is perfectly possible a big bank, under these circumstances, with 5 percent of their capital and surplus, 10 percent, including loans, would be in a position to have a very decisive and extensive ownership position that could be very damaging to competitors.

I am willing to go along with this, providing the Federal Reserves says it is necessary in order to increase our exports.

I do not see why that is unreasonable.

Mr. TSONGAS. In that position, we may have a situation where we cannot compete. The Japanese and Germans have those kinds of tools and that capability.

Mr. PROXMIRE. I say to my friend from Massachusetts, the Senator indicated this is simply a matter of providing financing to export companies. It is not. It will allow banks to take a position in commodities and goods. Banks have no expertise whatever in warehousing and merchandising goods.

There is nothing in the bill keyed to small business specifically. This would be something that could work with the large business, instead.

Does the Senator agree with that, that this bill does go beyond financing, this permits banks to take positions on commodities or goods?

Mr. TSONGAS. I simply reiterate the statement I made earlier that the bank must terminate its ownership of an export trading company if the trading company takes speculative positions on commodities.

Mr. PROXMIRE. What expertise do the banks have in buying commodities and buying goods and warehousing, merchandising?

Mr. TSONGAS. I suppose one could argue, what expertise do small companies have now?

Mr. PROXMIRE. We have had bad experience with banks getting out; once beyond financing, we are in great trouble. We had to bail out some of those banks.

That is the kind of thing. I do not think the Senator from Massachusetts or the Senator from Wisconsin are far apart.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 1963) of the Senator from Illinois.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr.

CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. STEWART), the Senator from Georgia (Mr. TALMADGE), and the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New Mexico (Mr. DOMENICI), the Senator from South Dakota (Mr. PRESSLER), the Senator from Delaware (Mr. ROTH), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 84, nays 0, as follows:

[Rollcall Vote No. 381 Leg.]

YEAS—84

Armstrong
Baker
Baucus
Bayh
Bentsen
Biden
Boschwitz
Bradley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NOT VOTING—16

Bellmon
Boren
Bumpers
Church
Domenici
Gravel
Kennedy
Long
Magnuson
McGovern
Pressler
Ribicoff
Roth
Stewart
Talmadge
Weicker

So Mr. STEVENSON'S amendment (No. 1963) was agreed to.

Mr. STEVENSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. JAVITS. Mr. President, will the Senator yield to me such time as I may require?

Mr. STEVENSON. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I thank my colleague very much.

Mr. President, I support this legislation which I know from my own involvement in it has been arduously crafted for over a year by Senators STEVENSON, DANFORTH, and others, including Senator HEINZ. I am very grateful that they have done what is so essential for the American export trade.

The provisions of this bill relating to export trading companies in particular reflect the kind of dynamic innovation that our export trade so sorely requires. It has been apparent to many of us in the Congress that the way out of our deteriorating export competitveness is not to be achieved simply through exchange rate movements or changes in the business cycle—both of which, in their own way provide intermittent, but increasingly unpredictable fillips to our international competitiveness.

Yet any export trade policy—and that is what we have been talking about for the past year, Mr. President—must include innovative tools whereby our export potential is unleashed and supported by Government action.

Despite recent indications from the administration that things are better than they appear respecting our trade performance, our export performance is still in a grim state. One can look at relative improvements in the current account brought about principally by altered rules for repatriated earnings, or one can look at the leveling off of our massive trade account deficit as cause for optimism.

But Mr. President, in the markets that will increasingly determine our export competitiveness, the facts are clear. U.S. companies are being out-hustled and outsold in the developing countries and third markets of the world. It is clear that we need aggressive marketing to establish a foothold in these areas before our competitors lock up these markets for their own goods, technologies and suppliers.

Both the concept of the Export Trading Company and the strengthening provisions of the Webb-Pomerene Act are forceful and positive changes that I hope will serve as the cutting edge for further export expansion ideas taking shape here in the Congress and in the private sector. We have ideas before us that have been advanced by the President's Export Council, on which Senator STEVENSON and I sit, through the Senate Export Caucus, of which I am a member, through the various trade committees in the Congress and through private trade groups. Yet, as witnessed by the recent unfortunate events surrounding the Eximbank appropriations measure, I feel we have some distance to go before either we or the administration can muster the will to support similar innovative ideas like the Export Trading Company proposal.

This legislation before us today represents tireless negotiations and compromise with those who believe that these proposals go too far in untying the hands of U.S. business to sell overseas. The most difficult of these discussions involved the exemptions granted to export trade associations and export trading companies from Clayton Act and FTC antitrust provisions.

Mr. President, the provisions of the bill carefully safeguard the principles of our antitrust laws and permit ample coordination among the Secretary of Commerce, the Attorney General and the FTC to insure that certain conditions are met prior and subsequent to the certification process.

I think it is well documented that uncertainty, or at least perceived uncertainty, about the extraterritorial application of U.S. antitrust laws is one of the greatest single inhibitors to increased U.S. foreign trade and investment. The overwhelming handicap of not knowing how his operation will be looked upon by law enforcers here at home compounds the inherent problems resulting from the already uncertain and risky climate abroad which faces the U.S. businessman engaged in exports.

This uncertainty results in the loss of new markets for U.S. exporters who forgo opportunities to be daring and innovative and rely instead on tried and true markets. Furthermore, even those businessmen who take advantage of the Webb-Pomerene Act maintain that the exemption presently provided is too narrow to allow them sufficient support to compete in the fiercely competitive world marketplace of today.

This matter of extraterritorial application of U.S. antitrust law is of special concern to me. As the sponsor with Senator MATHIAS of S. 1010, a bill to establish a Commission on the International Application of U.S. Antitrust Laws, I have sought to provide a thorough review of this subject. The aim of the Commission is to address these concerns and to promote a more productive relationship between the antitrust laws and the U.S. business community. The antitrust provisions of S. 2718 are necessary steps in the direction of rationalizing our antitrust objectives with our international trade interests. As proposed in S. 1010, the Commission would assess additional steps that may be taken in this direction without compromising our continuing goal of viligant antitrust enforcement.

The growing size of foreign conglomerates and the active participation of foreign governments in commercial activities make it very difficult for U.S. firms to compete effectively, for they are hindered by strict antitrust constraints which do not affect their foreign competitors. I am convinced that we must continue vigorously to enforce very high standards for business practices affecting U.S. citizens. On the other hand, we must not completely disregard pragmatic considerations when dealing with cartels and combinations created with either the support or the encouragement of foreign governments.

Under current export practices, the bids for a foreign construction contract in many cases will include several from small U.S. companies, but only one bid from each foreign country. That one bid is generally from a large consortium which has been organized with the approval of the foreign government and frequently with an active government role.

To cite a specific example, I refer to a recent article in the August 18, 1980 issue of Business Week entitled "The Engineers Leading a National Export Drive." The article tells of the formation of a State-created engineering corporation (Technip) owned by a consortium of French companies, banks and government agencies including the French Atomic Energy Commission and the Banque National de Paris. In fact 82 percent of Technip's stock is held by government agencies, nationalized companies and state controlled banks. As one industry analyst put it, "When Technip does it, it offers a complete package." In the developing world, increasingly the principal competitive arena for U.S. manufactured exports, Technip has been dubbed France's "export strike force."

I ask unanimous consent that the entire article appear at the end of my remarks.

Mr. President, to those who indicate that proposals such as S. 2718 are premature, I would say look to the developing country markets and see what U.S. bidders are confronting. S. 2718 is a modest and necessary tool which can open up our export base to small and medium sized firms and also can provide U.S. exporters with a team approach in third markets that will increasingly be the proving ground for U.S. export policy.

I would also add that I am opposed to the pending amendment which would further restrict majority ownership by banks of export trading companies. Controlling interest by banks is vital to the success of this export legislation. The amendment being proposed would not only impose excessively strict requirements before controlling interest would be approved by banking authorities, but in my opinion would needlessly deter bank investment in ETC's since bank investment strategies increasingly call for controlling interest to safeguard bank and depositor interests.

I thank my colleague for yielding.

Mr. PROXMIRE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Illinois has the time.

Mr. JAVITS. I will yield.

Mr. PROXMIRE. Mr. President, I am not going to take much time.

I do say I have great respect for the Senator from New York, as he knows.

I am wondering if the Senator has had a chance to look at the Federal Reserve Board amendment which would permit banks to have an ownership interest, in fact permit them to go to 100 percent under some circumstances. The circumstances are that the Federal Reserve itself would have to determine that this was necessary in order to promote exports. Absent that, the banks would still be allowed to own 20 percent.

But what our amendment would do would be to follow what the Federal Reserve recommended to us and would not permit banks to get involved in commerce and trade unless we had this highly competent and expert agency determining that that was necessary in order to promote exports.

Mr. JAVITS. Mr. President, the Senator enjoys my equal respect and regard.

I will look at it again. I have examined that amendment. I feel that the export trading corporations are so essential to our country that I wish to go with the committee bill and on that ground, but I will examine the Senator's points and look at the Federal Reserve idea again.

Mr. PROXMIRE. I appreciate very much the Senator's openmindedness on this. He is as expert as anybody in this body on banking, trade, finance, and exports and of the importance of exports to our foreign policy as well as to our commerce and our economy.

So I do hope the Senator will take another look at this amendment.

As the Senator knows, Chairman Volcker, a man of great ability, and Mr. Wallich, who has given this his principal attention by the Federal Reserve Board, an outstanding economist, both feel very fervently and strongly about this amendment, and I hope the Senator will take another look at it.

Mr. JAVITS. As I said before, I will. But I think this matter of freedom of action is essential if we are to have the kind of support we need.

Mr. DANFORTH. Mr. President, the United States needs to become an aggressive exporter of its goods and services. One need only look at our growing trade deficit to appreciate that our industries are losing the competitive battle within world markets.

For the first 70 years of this century our Nation had a positive trade balance with its trading partners. For the better part of this century, U.S. industry was efficient, had innovative capacity, and was unexcelled in technological leadership. Today, the statistics and the outlook is not that encouraging. In 1977 the United States ran a $26.5 billion deficit, a $28.5 billion deficit the next year, and a $25 billion deficit last year. This year the projected trade deficit is $30 billion. The economic stability of our Nation is being swiftly eroded.

In the last two decades the U.S. share of free world exports declined from 15 to 11 percent. Within the last 5 years our major competitors have managed to increase real exports by 4 percent a year, while the value of U.S. exports, adjusted for inflation, has shown little if no growth. Looking at the relative importance of exports as a percentage of GNP, U.S. exports account for approximately 7 percent of GNP in contrast to Japan where exports account for 14 percent of GNP and for 22 percent of GNP in Germany. Something has to be done to spur U.S. exports.

Mr. President, S. 2718 is a step in that direction. The bill encourages and provides a framework within which export trading companies may be formed. The bill enables banking institutions to invest in export trading companies under specified and carefully regulated conditions. Further, S. 2718 significantly amends the Webb-Pomerene Act of 1918 to clarify the antitrust provisions applicable to export trade associations and provides a certification procedure whereunder export trading companies and trade associations may receive antitrust clearance for specified export trade activities.

Mr. President, I would like to address my remarks to the antitrust provisions of S. 2718, specifically title II. Title II finds its origin in S. 864, the Export Trade Association Act of 1979 introduced by myself and Senators BENTSEN, CHAFEE, JAVITS, and MATHIAS on April 4, 1979, and later joined on by Senator HEINZ. Hearings were held on S. 864, and other bills, on September 17 and 18, 1979, before the Subcommittee on International Finance of the Senate Committee on Banking, Housing, and Urban Affairs. A revised version of S. 864 was introduced on February 26, 1980, as amendment No. 1674. Hearings on the revision were held on March 17 and 18, and April 3, 1980.

Before I address myself to the particulars of title II of S. 2718 I believe a brief historical background of the current law—the Webb-Pomerene Act of 1918 (15 U.S.C. 61–66)—which title II amends will prove beneficial.

In 1914 Congress directed the Federal Trade Commission to study and report to the Congress on the conditions affecting U.S. export trade. In 1916 the Federal Trade Commission published a report that found American manufacturers and producers when attempting individually to enter foreign markets to be at a disadvantage because of strong combinations of foreign competitors and organized buyers. The report also noted that the threat of antitrust prosecutions under the Sherman Act deterred exporters from carrying out collective efforts to challenge foreign cartels.

In response to the findings of the FTC report, Congress passed in 1918 what has come to be known as the Webb-Pomerene Act. The purpose behind passage of the Webb-Pomerene Act was to provide U.S. exporters with the ability to compete in international markets on an equal basis with their foreign competitors. The Webb-Pomerene Act provides a limited exemption from both the Sherman and Clayton Antitrust Acts to qualified joint ventures in export trade known as Webb-Pomerene associations. The Webb-Pomerene law exempts from U.S. antitrust laws any association established "for the sole purpose of engaging in export trade," (15 United States Code, Section 62) as long as the association, its acts, or any agreements into which the association enters, do not: first, restrain trade within the United States; second, restrain the export trade of any domestic competitor of the association; or third, artificially or intentionally enhance or depress prices within the United States of commodities of the class exported by such association or substantially lessen competition within the United States or otherwise restrict trade therein (15 United States Code, Sec. 62).

The Webb Act defines "export trade" to include only "trade or commerce in goods, wares, or merchandise exported, or in the course of being exported from the United States" (15 United States Code, section 61). As is obvious, the Webb Act does not extend to exports of services.

Mr. President, both the legislative history of the Webb Act and the administrative and judicial interpretation of the act shed light on its scope and intended effect.

The debate on pasage of the Webb Act was centered on the resolution of two points mentioned in the FTC report. These were: First, that American firms and U.S. exports might be benefited if cooperative arrangements reduced the costs of foreign marketing or enhanced the bargaining power of American firms when dealing with foreign buyers; and second, that domestic trade might be affected adversely if cooperative arrangements enabled American firms either to exploit consumers in the home markets or exclude non-members firms from the export market.

The legislative history of the Webb Act, including both House and Senate Reports and the debates in the CONGRESSIONAL RECORD, evidences that Congress presumed that formation of export trade associations would enable smaller American firms to compete more effectively with large and powerful firms abroad by permitting American sellers to combine and bargain collectively. It was believed that the combined power of American firms would provide the means for entry into foreign markets which previously were blocked by the power and tactics of sellers and buyers abroad.

Early in the history of the Webb Act the FTC issued a letter setting forth its enforcement intentions. In that letter, known as the 1924 "silver letter," the FTC announced that an association could qualify under the Webb Act if it existed for no other purpose than to fix prices and allocate sales in foreign markets—as long as the substantive criteria set forth in the act were met—and while foreign corporations were excluded from membership in Webb associations, these associations might enter into any cooperative arrangements with non-nationals which might enhance their trade position in foreign markets.

A second determination of the "silver letter"—permitting restrictive agreements between Webb associations and foreign nationals—was rescinded in 1955. Under the new criteria outlined by the FTC, if export associations enter into restrictive agreements with foreign competitors, those agreements will not be within the antitrust protections of the Webb Act and the lawfulness of the associations' activities will be judged under the Sherman Act, as would similar conduct by an individual exporter.

After issuance of the "silver letter" it was not until the 1940's that further clarification was afforded the scope of the Webb-Pomerene antitrust exemption through a series of investigations conducted by the commission known as the "202 series of recommendations." These investigations concluded that a Webb-Pomerene association may not.

Enter into agreements of any kind with domestic producers who are not members of the association which fix prices, terms of sale, or otherwise restrain the free export of goods of non-member firms. Pipe Fittings and Valve Export Association. (1948)

Enter into agreements of any kind whereby exports of domestic nonmember producers are deducted from the export quota of the association. Florida Hard Rock Phosphate Export Association. (1945)

Enter into agreements of any kind which prohibit association members from selling to domestic exporters in competition with the association, or which deduct sales by a member within the United States from the member's export quotas through the association. Phosphate Export Association. (1946)

Falsely represent that it is the sole export representative of the United States in a given industry. Pacific Forest Industries. (1940)

Enter into agreements of any kind with owners or operators of shipping terminals, thereby restricting use of such terminals to only association members. Phosphate Export Association. (1946)

Be involved in acquiring control of any patent or process useful in the production of the goods it markets. Sulphur Export Corporation. (1947)

Enter into an agreement of any kind which precludes or restricts the right of the association or its members from using a trademark or label in the United States. General Milk Co., Inc., Ltd. (1947)

Enter an agreement of any kind whereby it controls or attempts to control any of the terms or conditions of sales by its members within the United States. Phosphate Export Association. (1949)

Enter an agreement of any kind with any foreign producer or cartel whereby the United States is designated as an exclusive trade area, or imports into the United States are otherwise curtailed or restricted. Export Screw Association of the United States. (1947)

Own stock, either directly or indirectly through subsidiaries, in corporations or other producers outside the United States. Export Screw Association of the United States. (1947)

Enter an agreement of any kind whereby foreign producers are guaranteed the right to sell within a given area a specified tonnage over and above sales in that area by the association. Sulphur Export Corp. (1947)

Enter an agreement of any kind which discriminates among its members as to the right of withdrawal, resignation or restricting the right of former members to compete with the association after withdrawal. Phosphate Export Ass'n. (1946)

Conduct office operations jointly with a domestic trade association. Carbon Black Export, Inc. (1949)

Enter an agreement of any kind to "maintain the status quo" in the world market of the industry and to do nothing which would encourage or increase competition in the industry. Sulphur Export Corp. (1947)

Take into membership anyone who is not a citizen of the United States, nor any foreign purchaser, customer, representative or agent of a foreign company. Phosphate Export Association. (1946).

In 1966 the Commission in Advisory Opinion No. 91 determined that membership by a firm owning foreign entities is permissible in a Webb-Pomerene association.

Further clarification as to the parameter of the antitrust exemption provided under the Webb Act has been gained through adjudication of a number of cases brought by the Department of Justice. Of these cases there are two major decisions which interpret the scope of the Webb Act.

In the first case, United States against Alkali Export Association (Southern District, New York, 1944) the court found that a Webb association had violated the Sherman Act by participating in foreign cartels that engaged in practices resulting in the use of monopoly power to extinguish the competition of independent domestic competitors engaged in export trade and, which carried out practices that stabilized domestic prices by removing surplus products from the domestic market. In the second case, United States against Minnesota Mining Mfg. (District Court, Massachusetts, 1950) the court held that an export association could not establish or operate jointly-owned facilities abroad and then went on to give illustrations of conduct that a Webb association may lawfully carry out: First, an association could be created by a majority of the firms in an industry; second, the association could be used as the members' exclusive foreign outlet; third, members of the association could agree that goods would be purchased only from member producers; fourth, resale prices could be fixed for the associations' foreign distributors; fifth, prices could be fixed and quotas established for members; and sixth, foreign distributors could be required to handle only the members' products.

The Minnesota Mining case provides the most authoritative interpretation of the scope and rationale of the antitrust exemption under the Webb-Pomerene Act. As stated by the court:

> Now it may very well be that every successful export company does inevitably affect adversely the foreign commerce of those not in the joint enterprise and does bring the members of the enterprise so closely together as to affect adversely the members' competition in domestic commerce. Thus every export company may be a restraint. But if there are only these inevitable consequences, an export association is not an unlawful restraint. The Webb-Pomerene Act is an expression of Congressional will that such a restraint shall be permitted.

In enacting the Webb-Pomerene Act, Congress envisioned an eager American business community availing itself of the opportunity to pool its facilities, resources, and expertise in such a fashion as to implement an ambitious joint exporting program. That vision never materialized.

At their high water mark between 1930 and 1935, Webb-Pomerene associations numbered 57 and accounted for approximately 19 percent of total U.S. exports. Today the number of associations has dwindled to around 30 and their share of total U.S. exports has dipped to less than 2 percent.

The reasons for this poor showing are many. To list but a few:

The business community traditionally has placed top priority on tapping the vast domestic market and has been much slower to focus on the prospects overseas.

The ever-expanding U.S. service industries have been excluded from qualifying for the act's antitrust exemption.

The Department of Justice, and to a lesser extent the Federal Trade Commission have been perceived by the business community as exhibiting a thinly veiled hostility toward Webb-Pomerene associations. Therefore, the threat of antitrust litigation has served as a deterrent to broader utilization of the Webb-Pomerene Act.

All in all, there remains the strong impression among most parties that the Webb-Pomerene Act is a quaint relic of the past—a cracked plate that is not good enough to be brought out for company and yet not so useless as to be thrown away. This is regrettable, particularly at a time when we are suffering year in and year out $30 billion deficits.

Title II to S. 2718 modifies the Webb-Pomerene Act in a way that will permit many more American firms to make use of its updated provisions to promote exports.

Title II does the following:

It makes the provisions of the Webb-Pomerene Act explicitly applicable to the exportation of services. (The National Commission for the Review of Antitrust Laws and Procedures made this same recommendation in its report to the President.)

It expands and clarifies the act's antitrust exemption for export trade associations, and provides an antitrust exemption for export companies formed under title I of S. 2718.

It requires that the antitrust immunity be made contingent upon a preclearance procedure.

It transfers the administration of the act from the FTC to the Department of Commerce.

It creates within the Department of Commerce an office to promote the formation of export trade associations and trading companies.

It provides for the establishment of a task force whose purpose will be to evaluate the effectiveness of the Webb-Pomerene Act in increasing U.S. exports and to make recommendations regarding its future to the President.

Mr. President, with respect to amendments made to the Webb-Pomerene Act by title II of S. 2718, section 201 states the short title of the act while section 202 sets forth findings by the Congress regarding exports and joint exporting activities and the need for amending the 1918 Webb-Pomerene Act (15 United States Code, sections 61 to 66).

Section 203 amends section 1 of the Webb-Pomerene Act (15 United States Code, section 61) and defines the pertinent terms to be used in the amended Webb-Pomerene Act. "Export trade" is amended to include trade in services as well as that in goods, wares or merchandise. "Service" is defined as meaning intangible economic output and is intended to be an all-encompassing definition, a term not limited by usage relevant to any particular point in time. The term "trade within the United States" retains the definition under section 1 of the Webb-Pomerene Act. The definition of "antitrust laws" is intended to be all inclusive of both Federal and State statutes prescribing the competitive norms within the marketplace. Within the Federal jurisdiction this includes the Sherman Act, the Clayton Act, the Wilson Tariff Act and the Federal Trade Commission Act. The remaining definitions in section 203 are self-explanatory. It should be noted that the amendments to the Webb Act contained in title II are expanded to include qualified "export trading companies" as well as Webb associations.

Mr. STEVENSON. If I may inquire of the Senator from Missouri as to section 203 of title II.

Mr. DANFORTH. You may.

Mr. STEVENSON. There seems to be some discrepancy between the language of S. 2718, as reported by the Senate Banking Committee and the section-by-section analysis contained in Senate Report 96-735. Specifically, section 203 of the bill includes the following definition of "association":

> The term "association" means any combination, by contract or other arrangement, of persons who are citizens of the United States, partnerships which are created under and exist pursuant to the laws of any state or of the United States.

The section-by-section analysis of section 203 in the committee report includes the following:

> The term "association" refers to any combination of persons, partnerships, or corporations, all of which must be citizens of the United States or created under the laws of any State or of the United States. A foreign controlled subsidiary created under the law of any state or of the United States, however, cannot be a member of the "association".

Your original bill, S. 864, which is now title II of S. 2718, contained a prohibition against export trade association participation by foreign controlled subsidiaries located in the United States. However, that limitation was deleted in the revised version of S. 864 (Senate amendment 1674), was not included in S. 2718 as reported. Because participation of foreign controlled entities has been an area of uncertainty as well as controversy, clarification of the discrepancy between the bill's actual language and the committee explanation is desirable. Specifically, does title II of S. 2718 contain any prohibition against the participation of foreign controlled subsidiaries?

Mr. DANFORTH. There is no such prohibition as long as the foreign controlled subsidiaries meet the requirement of paragraph (5) of section 1 of the act that they be "created under and exist pursuant to the laws of any State or of the United States."

Mr. STEVENSON. I thank the Senator from Missouri.

Mr. DANFORTH. Section 204 of title II amends sections 2 and 4 of the Webb-Pomerene Act (15 United States Code, sections 62 and 64) and establishes the scope of the antitrust exemption. Section 2 of the Webb-Pomerene Act exempts from the application of the Sherman and Clayton Antitrust Acts (specifically sections 1 to 7 of title 15 of the United States Code) any Webb association that is established for the sole purpose of engaging in export trade; does not restrain trade in the United States; does not restrain the export trade of any domestic competitor of the association; that does not artificially or intentionally enhance or depress prices within the United States of commodities of the class exported by the association; or does not substantially lessen competition within the United States.

Section 4 of the Webb-Pomerene Act extends the jurisdiction of the Federal Trade Commission Act to include unfair methods of competition used in export trade even though the acts were engaged in outside the United States.

Section 204 of title II establishes a new section 2 to the Webb-Pomerene Act. Section 2(a) sets out the eligibility criteria for the antitrust exemption afforded under the act for export trade associations and trading companies. Section 2(a) establishes six eligibility criteria. They are that the association or trading company and their export trade activities:

First, serve to preserve or promote export trade;

Second, result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of such association;

Third, do not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by such association;

Fourth, do not constitute unfair methods of competition against competitors engaged in the export trade of goods, wares, merchandise, or services of the class exported by such association;

Fifth, do not include any act which results, or may reasonably be expected to result, in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the association or export trading company or its members; and,

Sixth, do not constitute trade or commerce in the licensing of patents, technology, trademarks, or knowledge, except as incidental to the sale of the goods, wares, merchandise, or services exported by the association or export trading company or its members.

With the exception of the requirements in paragraphs (1), (4), and (6) of section 2(a) of the act—provisions that impose additional criteria for eligibility in addition to those found in the standards of the current Webb-Pomerene Act—the substantive law of antitrust as modified by the amended Webb-Pomerene Act—the substantive law of antitrust as modified by the amended Webb-Pomerene Act has not been altered. The amendment of the Webb-Pomerene Act by section 204(a) of title II of S. 2718, with the exceptions as noted, is a codification of court interpretations of the Webb-Pomerene exemption to the domestic antitrust laws. In this regard I make specific reference to the decision in United States against Minnesota Mining & Manufacturing Co. which I alluded to earlier in my remarks. Also, the amendment is consistent with the present enforcement policy of both the Department of Justice and the Federal Trade Commission.

As stated by Ky Ewing, Deputy Assistant Attorney General, Antitrust Division, Justice Department, during hearings on

S. 864 (now title II to S. 2718) before the International Finance Subcommittee of the Senate Banking Committee on September 18, 1979:

> We note (that S. 864) would require that a restraint of U.S. domestic trade be substantial before the exemption would disappear. The purpose of this proposal . . . is to bring the Act into what we conceive to be the current state of antitrust law interpreted by the court. (September 17, 18 hearing record on Export Trading and Trade Associations, p. 138.)

Similarly, Daniel Schwartz, Deputy Director, Bureau of Competition, Federal Trade Commission, testified that the antitrust standards specified in S. 864 "are essentially equivalent to the standards of the Webb-Pomerene Act." (September 17, 18 hearing record on Export Trading and Trade Associations, p. 194.)

In his prepared statement, Mr. Ewing further explained that:

> The judicially accepted legal threshold test for applicability of the Sherman Act to activity abroad places a heavier burden on government and private plaintiffs than that applicable domestically. The presence of a substantial and foreseeable effect on U.S. domestic or foreign commerce is required, not merely some minimal effect. (September 17, 18 hearing record on Export Trading and Trade Associations, p. 144.)

Mr. Ewing also noted in his testimony before the subcommittee that:

> The Department of Justice has long predicated its enforcement efforts in export related matters upon the ability to prove a substantial and foreseeable effect on U.S. commerce. (September 17, 18 hearing record on Export Trading and Trade Associations, pp. 154–155.)

Mr. HEINZ. Would the Senator from Missouri yield for a question on section 204(a)?

Mr. DANFORTH. Yes.

Mr. HEINZ. If section 204(a) is nothing more than a codification of not only current judicial understanding of section 2 of the Webb Act but also the enforcement intent of both the Department of Justice and the Federal Trade Commission, why was it necessary to amend this section of the Webb Act with the exception of paragraphs (1), (4), and (6) as you noted?

Mr. DANFORTH. The amendment is necessary to provide certainty to the business community in their international trade activities assuring them that their activities do not run afoul of domestic antitrust laws. This is accomplished by establishing a certification procedure and by codifying not only present applicable case law but also the enforcement intentions of the antitrust oversight branches of our Government. Two examples will suffice. Under the present Webb-Pomerene Act if an activity of a Webb association is "in restraint of trade within the United States" (section 2 of the Webb-Pomerene Act) then the international trading activity of that association is not exempt from prosecution under the antitrust laws. When is a "restraint" actionable? When it is de minimus, insignificant, something more than inconsequential, substantial, or just what kind of measurement is to be employed? The Court in Minnesota Mining held that the restraint has to be something more than the inevitable consequences of the joint activity of competitors. The Department of Justice stated its enforcement intent under the Webb Act to be against joint exporting activities that have a substantial and foreseeable restraint on domestic trade. It would seem to this Senator that for the business community to be sure as to the circumstances under which its international trade conduct is to be held accountable, that the test judging the conduct be written in law. It is for this reason that "substantial" modifies the phrase "restraint of trade" and "substantially" modifies "lessening of competition" in section 2(a) of the act.

A second example relates to section 2 of the Webb-Pomerene Act which states that a joint exporting activity which "artificially or intentionally enhances or depresses prices within the United States" is outside the scope of the antitrust exemption provided by the act. The point I wish to make here is that for a business venture to rely on such a test—"artificially or intentionally"—is to place reliance on a standard which gives a false sense of security to joint exporting activities. The courts in the area of antitrust jurisprudence have developed a test that looks not to the mind—intent of the actors—but to the foreseeable consequences of their actions—the effect. It is for this reason that under paragraph 3 of section 2(a) of the act, the eligibility criteria is that the joint exporting activity does not "unreasonably enhance, stabilize or depress prices within the United States * * *", a test that looks to the effect of the actions, not at the intent of the actors.

Mr. HEINZ. I thank the Senator from Missouri for his explanation.

Mr. DANFORTH. It should be noted that the eligibility criteria found in paragraph (6) of section 2(a) of the act requires nothing more than a determination by the Secretary that the international trading activity of the trade association or export trading company not be solely trade in the "licensing of patents, technology, trademarks, or know-how" with the exception that such trade may be present if it is incidental to the sale of goods or services. It is the purpose of S. 2718 to further U.S. export trade in goods and services and not to promote trade in processes or ideas that could well result in the opposite effect occurring.

Mr. President, under section 2(b) of the act an export trade association, export trading company and their respective members that have their trade, trade activities and methods of operation certified according to the procedures set forth under section 4 of the act and carried out in conformity therewith are exempt from the operation of the antitrust laws be it private or sovereign—State or Federal—enforcement of those laws. The immunity from prosecution under the antitrust laws is complete from the day the certification goes into effect until it is either revoked or rendered invalid pursuant to actions taken under section 4 (d) or (e) of the act. If a revocation or invalidation occurs under the act, the loss of immunity is prospective only.

Mr. STEVENSON. Will the Senator from Missouri yield for an inquiry?

Mr. DANFORTH. Yes.

Mr. STEVENSON. Would the Senator, for the benefit of his colleagues, and as the author of title II of S. 2718, explain how the antitrust immunity provided under title II, which attaches after certification, differs from the antitrust immunity afforded under the current Webb-Pomerene Act.

Mr. DANFORTH. I would. Under current law, a Webb-Pomerene association that complies with the filing requirements of section 5 of the Webb Act and which is not in violation of the substantive law standards of section 2 of the Webb-Pomerene Act is exempt from the operation of the antitrust laws but only as to those sections of the Sherman and Clayton statutes set out in the Webb-Pomerene statute. Further, neither the fact of immunity nor the extent thereof is known until an association is sued and obtains a judicial determination that section 2 of the Webb-Pomerene Act has not been violated. What the Webb association has is only a hope. A case in point is United States against United States Alkali Export Association—Southern District of New York, 1944. In that case a Webb association was charged with entering into agreements with foreign cartels for the purposes of dividing world alkali markets, assigning international quotas, and fixing prices in certain territories other than the United States. The Webb association admitted the agreements but asserted in defense that it had complied with the filing requirements of section 5 of the statute, that its activities were not in violation of section 2 of the statute and therefore the association was immune from prosecution under the antitrust laws. Notwithstanding the association's belief that it was in compliance with the law, the court found to the contrary. The court's holding placed the arrangements employed by the alkali association outside the protective provisions of the Webb Act and exposed the association to liability under the antitrust laws. The Webb association which was organized in 1919 found out, after appeals, that the antitrust immunity which it believed it had for 40 years did in fact not exist.

Under the procedures established by title II of S. 2718, a Webb association—or for that matter an export trading company—whose export trade activities have been certified and which association or company acts within that certification knows for certain that those activities are exempt from both private and sovereign enforcement of either State or Federal antitrust laws.

The latter, besides encompassing the Sherman and Clayton antitrust laws and the Wilson Tariff Act includes the antitrust provisions of the Federal Trade Commission Act, sections 5 and 6 thereof. The certainty provided through the certification process is not lost until action is taken pursuant to the provisions of title II either to revoke or invalidate the certification. If the latter occurs, the loss of the antitrust exemption is prospective—for future conduct only.

Mr. STEVENSON. I thank the Senator. I can see that title II provides certainty to Webb associations and trading companies as to what activities they may undertake without fear of prosecution or suit under the antitrust laws.

Mr. DANFORTH. Under section 2(c) of the act, when a certificate is issued by the Commerce Department, and the Department of Justice or Federal Trade Commission has previously advised the Department of Commerce of its disagreement with a determination to issue a certificate granting immunity under the act, the immunity from the operation of the antitrust laws is held in abeyance for 30 days. This provision is applicable to the issuance of a certificate under section 4(b).

Section 205, Mr. President, provides conforming changes in style to section 3 of the Webb-Pomerene Act (15 United States Code, section 63).

Section 206 amends sections 4 and 5 of the Webb-Pomerene Act (15 United States Code, sections 64 and 65) and adds an additional seven sections to the act. Section 4 of the Webb-Pomerene Act extended the jurisdiction of the Federal Trade Commission Act to include acts committed outside the United States. Under title II both the Department of Justice and the Federal Trade Commission have authority to seek invalidation of a certificate when the export trade, export trade activities, or methods of operation of the association or trading company no longer meet the requirements of section 2 of the act. One of the eligibility criteria under the act, specifically paragraph (4) of section 2(a), is that of "unfair methods of competition," an antitrust standard uniquely within the expertise of the Federal Trade Commission and a standard which establishes a norm of competitive behavior prescribed by section 5 of the Federal Trade Commission Act. While under the current Webb Act there exists no exemption for joint exporting activity that may be found to violate section 5 of the Federal Trade Commission Act, such an exemption is provided under the Export Trade Association Act of 1980."

Section 5 of the Webb-Pomerene Act establishes administrative requirements for associations operating under the act. Each association, within 30 days after its formation, has to submit a statement to the Federal Trade Commission giving details concerning its certificate of incorporation and bylaws. The association must also furnish to the Commission such information as the Commission requests. The Commission may also investigate associations if it believes that the law may have been violated. Recommendations for readjustment can be made by the Commission and if the association does not comply with the recommendations the Commission may refer its findings to the Department of Justice for any appropriate action. Under the present Webb-Pomerene law a Webb association that complies with the filing requirements of section 5 would not know if it had an immunity from the operation of the antitrust laws until a judicial determination was rendered that section 2 of the Webb-Pomerene Act had not been violated.

Mr. President, section 206 of title II provides a new section 4 to the Webb-Pomerene Act. Section 4(a) establishes the procedure to apply for certification as either an export trade association or export trading company. The section, specifically paragraphs (1) through (9), describes the information to be included in the application for certification which paragraphs I believe are self-explanatory. Most notable of the informational filing requirements are a description of the circumstances showing that the association or export trading company will serve a need in promoting the export trade in the goods or services involved, a description of the methods by which the association or company intends to conduct its export trade and any other information which is reasonably available to the applying parties and which is necessary for the grant of certification.

Under section 4(b)(1) the Secretary of Commerce is required to certify an association or company within 90 days after receiving the application. During this 90-day period the Secretary will have the opportunity to consult with both the Department of Justice and the Federal Trade Commission. The purpose for the consultation is to provide an opportunity for the two antitrust enforcement agencies of our Government to share with the Secretary of Commerce their respective analysis of and any concerns they may have relative to the eligibility criteria of the act, section 2(a).

Under section 4(b)(1) an association or company will be granted a certificate upon a determination by the Secretary that first, the association or trading company and their respective export trade, trade activities, and methods of operation meet the requirements of section 2 of the act and second, that the association or company and their respective activities will serve a specified need in the promotion of the applicable export trade.

Mr. HEINZ. Will the Senator from Missouri yield for a question?

Mr. DANFORTH. Yes.

Mr. HEINZ. There has been some concern raised as to the application of the "needs test" in title II of S. 2718. As the Senator from Missouri is aware, in its report to the President and the Attorney General on January 22, 1979, the National Commission for the Review of Antitrust Laws and Procedures concluded that if the Congress determines that it is necessary to continue the Webb-Pomerene exemption, it should seriously consider that before any immunity from the operation of the antitrust laws is afforded an association of joint exporters, the latter "be required to make a showing of need." Under section 2(a) of the act, specifically paragraph (1), one of the eligibility criteria for ascertaining whether a certification is to be issued is whether the joint exporting activities "serve to preserve or promote export trade." How are the eligibility criteria of section 2(a)(1) related, if at all, first to the needs showing under section 4(a)(6) and second, to the needs determination required of the Secretary under section 4(b)(1)?

Mr. DANFORTH. There is no relationship.

Mr. HEINZ. Would the Senator then explain what is required in the showing of a specified need under section 4 and the reason for the eligibility criteria of paragraph (1) of section 2(a)?

Mr. DANFORTH. The reason for providing an exemption from the operation of the antitrust laws for the joint exporting activities of either a Webb association or export trading company is that without such an exemption, and an exemption which is certain, it would not be reasonable to conclude that such joint exporting activities would be undertaken except on an infrequent basis. Therefore, to encourage such activity, an exemption is available. However, the exemption should only be utilized to preserve—that is to say, maintain the status quo—or promote—that is to say, add to—export trade. To be eligible for the exemption such a finding—that the association or trading company will preserve or promote export trade—should be made by the Secretary of Commerce. Further, since the existence of that fact is one of six eligibility criteria, the finding would be subject to judicial consideration under a section 4(e) action.

On the other hand, the determination by the Secretary under section 4(b)(1) utilizing information tendered pursuant to section 4(a)(6) is not subject to judicial consideration under a section 4(e) action. The reason behind requiring the Secretary to not only determine that the six eligibility criteria of section 2(a) will be met but that the activities of the Webb association or export trading company will serve a specified need in promoting the export trade covered by the certification is simple. It was believed that those seeking to avail themselves of the benefit of the Webb-Pomerene exemption should come forward and share with the oversight agency, the Department of Commerce, the reasons they believe their activities will be in furtherance of the export trade of our Nation. The needs demonstration required by section 4 of the act is nothing more than a subjective explanation by the association or trading company as to how its activities will further U.S. trade. The Secretary in his determination will either agree or disagree with that evaluation.

Mr. HEINZ. I thank the Senator. I too believe that the needs showing within section 4 contemplates nothing more than a subjective explanation by the Webb association or trading company that the activities of the association or company will further U.S. export trade.

Mr. DANFORTH. Mr. President, the Secretary, under section 4(b)(1) must specify in the certificate the permissible export trade, trade activities, and methods of operation of the association or company. The immunity from the operation of the antitrust laws provided by section 2(b) of the Act applies to those enumerated activities.

Under section 4(b)(1) the Secretary must issue the certificate or deny the application 90 calendar days after an application is filed but may extend that process by an additional 30 days with the agreement of the applicant. After an application is filed, by the 45th day, the Secretary is to deliver to the Attorney General and the Federal Trade Commission a copy of any certificate the Secretary proposes to issue. No later than 15 days thereafter—in the case of a certificate delivered on the 45th day, by the 60th day—the Attorney General or Commission may give written notice of an intent to offer advice on the determination. If the Commission or Attorney General does not respond within the 15-day period or formally advises the Secretary of no disagreement with his intent to issue a certificate then the Secretary may issue a certificate at any time. If the Attorney General or Commission advises the Secretary of an intent to offer advice on the application, then such advice must be provided the Secretary within 45 days of the date the Attorney General or Commission received from the Secretary a copy of the proposed certification. In the case of the Attorney General or Commission notifying the Secretary of Commerce of his intention to offer formal advice on the 60th day after the certificate has been filed the formal advice must be given by the 90th day, since the proposed certificate was tendered to each agency on the 45th day. The extension of time afforded under section 4(b) applies only to the granting of the certificate and not to the time during which the Attorney General or Commission is obligated to act.

Mr. STEVENSON. Would the Senator yield for a question on section 4(b)(1)?

Mr. DANFORTH. Yes.

Mr. STEVENSON. What is the purpose of the last sentence of section 4(b)(1)? Is it not the intent of the author of this title that the two respective antitrust enforcement agencies establish a process similar to that utilized for enforcement of the domestic antitrust laws whereby they will reconcile any potential conflict as to which agency will enforce its respective law against a given company or industry in a manner so that all those concerned know that one or the other agency will assume primary jurisdiction?

Mr. DANFORTH. Yes, that is the intent.

Mr. STEVENSON. I thank the Senator.

Mr. DANFORTH. Mr. President, section 4(b)(2) of the act provides that an association may request expedited consideration on its application. The time constraints in section 4(b)(1) must still be honored but it is expected that if a need is demonstrated justifying expedition then all affected agencies will act in due speed.

Section 4(b)(3) provides a mechanism whereby an association whose application for certification or amendment thereto is denied is to be afforded a hearing with respect to that determination pursuant to section 557 of title 5 of the United States Code.

Section 4(c) of the act requires that after certification, if there occurs a material change—meaning something more than inconsequential—related to the association or trading company's membership, trade, trade activities or methods of operation, then an affirmative duty on the part of the association or company exists to report the change to the Department of Commerce. At the time the report is made the association or company may request that its certification be amended. Under section 4(c) if the request for an amendment to the certification is reported by the association or company within 30 days of the fact of the change the antitrust immunity provided by the act continues uninterrupted if the material change subsequently becomes incorporated into the certification through approval by the Secretary of Commerce. The decision as to whether the 30-day test has been met is within the discretion of the Secretary who shall state such when acting upon the request for an amendment to the certification. It should be noted that any interruption in the period of the antitrust immunity occasioned by the failure to notify the Secretary of a material change within the 30-day period does not affect the scope of the underlying certification except as to that part relevant to the material change. One final comment concerning section 4(c) is necessary. The request to obtain certification for a material change must be made within the 30-day period after the change occurs. The decision by the Secretary to accept the request and approve the change is not required to be made within the 30-day period.

Under section 4(d) the Secretary, after notification to an association or trading company and after affording it a hearing, may require that the association or company amend its organization or methods of operation to correspond to its grant of certification. Further, if the Secretary determines that the eligibility criteria of section 2(a) of the act are no longer met, the Secretary must either revoke the certification or himself make such amendment to the certification to satisfy the eligibility criteria of the act.

Mr. President, section 4(e)(1) authorizes either the Department of Justice or the Federal Trade Commission to bring an action to invalidate, in whole or in part, the certification granted to an association or trading company on the grounds that the eligibility criteria of section 2 of the act are no longer being met. Once an association or trading company's export trading activity has been certified under the act, the only action provided by law against the association, trading company or their respective members would be either a self-initiated action by the Secretary under section 4(d) of the act or an action by the Department of Justice or Federal Trade Commission under section 4(e) of the act.

Mr. HEINZ. Will the Senator yield for a question on section 4(e) of the act?

Mr. DANFORTH. Yes.

Mr. HEINZ. Would a private party have a cause of action against a Webb association, trading company or their respective members under the Federal, or for that matter, State antitrust laws for injury to it?

Mr. DANFORTH. Section 4(e)(3) of the act provides that only the Department of Justice or the Federal Trade Commission has standing to bring a cause of action in court against a trading company or Webb association for violation of section 2 of the act. Therefore, apart from the complained-against activity being ultra vires to the certification, a private party has no standing to bring suit. However, after a certificate has been revoked or invalidated, a private party could have standing to bring an action under the antitrust laws based on activities subsequent to the revocation or invalidation. I would also point out that a private party who may be "aggrieved by an order of an appropriate banking agency" pursuant to section 105(e)(1) of S. 2718 (Title I of the legislation) may not employ the broad standing provision of section 105(e)(1) in order to obtain standing against an export trading company or association with respect to its export trade, trade activities and methods of operation.

Mr. HEINZ. I thank the Senator.

Mr. DANFORTH. Under section 4(e)(1), before the Department of Justice or Federal Trade Commission may sue to invalidate a certification, it is required to notify the affected parties 30 calendar days in advance. It is anticipated that this 30-day period will allow sufficient time for the parties to resolve their differences, if at all possible. The 30-day notification period is not applicable to an action seeking a restraining order under section 4(e)(2).

The authority of the district court under an action for invalidation is to consider the issues de nova. The only issues that are before the court are whether the requirements of section 2(a) of the act, the eligibility criteria, are being complied with by the association or trading company. While the Secretary of Commerce must consider the requirements of section 2(a) and determine that the activities of the association or trading company will serve a specified need in promoting the applicable export trade in order to issue a certificate, the specified need determination of the Secretary is not an issue which is subject to consideration by the district court in a section 4(e)(1) action.

The district court in a section 4(e)(1) action may either issue an order invalidating the certificate, after which the association or company may continue to exist but does so without the protection of the antitrust immunity of section 2(b) of the act, or require the association or company to modify its organization or methods of operation in order to comply with the requirements of section 2(a) of the act.

Under section 4(e)(2), during the 30-day period the effective date of the grant of certification is held in abeyance, the Department of Justice or Federal Trade Commission may seek an applicable order prohibiting the certificate from taking effect. It is anticipated this right of action granted by section 4(e)(2) will be used sparingly. This provision for a temporary restraining order or prohibition is applicable to the issuance of a certificate pursuant to section 4 of the act. Further, the common law requirements applicable to the granting of either a temporary restraining order or preliminary injunction must be met by the moving party before the court can issue such an order. Congress means for this not to be an easy burden to overcome.

The provision for the restraining order or prohibition was added at the request of the Department of Justice. It exists as a safety valve where, in the opinion of the antitrust enforcement agencies of our Government, the Secretary of Commerce intends to issue a certification to either a Webb association or a trading company and there exists, on the face of the certification, obvious violations of section 2 of the act.

The sole issue before the court is whether on the face of the certification there exist such obvious violations of section 2 of the act that a restraining order or prohibition must be issued.

Mr. President, section 5 of the act mandates that within 90 days after enactment, the Secretary of Commerce, after consulting with both the Department of Justice and the Federal Trade Commission, publish proposed guidelines. The guidelines are to relate to the process by which the Secretary of Commerce will reach his determinations under section 4 relative to whether the requirements of section 2 of the act are being met. The guidelines shall be periodically reviewed and revised where warranted.

Sections 6 and 7 of the act are self-explanatory. Section 9 of the act requires that portions of applications, amendments, and annual reports that contain trade secrets or confidential business or financial information, which if disclosed could competitively harm the party submitting the information, be held confidential and not disclosed except as provided under section 9(b). The latter section, under specific circumstances, allows disclosure to the Attorney General or Federal Trade Commission. Sections 10, 11, and 12 of the act, I believe, are also self-explanatory.

Mr. President, in September 1978, President Carter announced his initial steps toward the formulation of a coordinated national export policy. At that time, he called for a reduction of domestic barriers to exports. He urged that the laws and policies affecting the international business community, including the antitrust laws, be administered firmly and fairly but with "a greater sensitivity to the importance of exports than has been the case in the past." S. 2718 seeks to give some teeth to that proclamation. Particularly, the changes in the Webb-Pomerene Act that we advocate will assure a more hospitable attitude toward those whose important task it is to push American goods and services abroad. Yet, at the same time, the provisions which we offer for consideration today are tough enough to allow the appropriate authorities to uncover and terminate any domestic anticompetitive spillover from the operations of export trade associations or trading companies.

Mr. President, this bill alone is not going to solve the problem of our trade deficit. It is only a step, but it is a significant step in the right direction.

UP AMENDMENT NO. 1529

(Purpose: To include non-profit service organizations in the definition of export trading companies and to encourage the involvement of small, medium-size and minority businesses in export activities)

Mr. STEVENSON. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 1529.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 22, insert after "services", the following new language: ", particularly by small, medium-size and minority concerns,".

On page 5, line 10, insert after "company", the following new language: ", whether operated for profit or as a non-profit organization,".

On page 6, line 4, at the end of the sentence delete the period and add the following new language: ", whether operated for profit or as a non-profit organization.".

On page 9, line 16, insert after "company," the following new language: ", whether operated for profit or as a non-profit organization,".

On page 14, line 7, insert after "concerns" the following new language: "(with special emphasis on small, medium-size and minority concerns)".

On page 17, line 5, strike out "smaller and medium-sized" and insert in lieu thereof "small, medium-size and minority".

On page 19, line 5, insert after "guarantees," the following new language: "and operating grants to non-profit organizations,".

On page 19, line 10, strike out "or" and insert in lieu thereof a comma.

On page 19, line 11, insert after "medium-size" the following new language: "and minority".

On page 20, line 10, immediately preceding the word "Guarantees" insert the following new language: "The Board of Directors shall attempt to insure that a major share of any loan guarantees ultimately serves to promote exports from small, medium-size and minority businesses or agricultural concerns.".

On page 23, line 20, insert after "corporations" the following new language: ", whether operated for profit or organized as non-profit corporations,".

Mr. STEVENSON. Mr. President, if I am granted the floor, I will offer a series of amendments all of which, I believe, are noncontroversial, and most of which are technical and clarifying.

This is such an amendment. It simply clarifies the definition of an export trading company and an association under the Webb-Pomerene Act to make it clear that not-for-profit organizations can be trading companies. This will permit local and State nonprofit trade centers to participate in export development activities through the trading company structure.

The amendment will be of particular value to small- and medium-sized and the minority businesses which do not now sell goods abroad but which could, with this medium, engage in export activities.

It insures that minority businesses will participate in export development by making them eligible for EDA and SBA loans and guarantees extended to export trading companies.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

Mr. PROXMIRE. I am sorry, I missed that. This is an amendment the Senator is offering; will he identify the amendment?

Mr. STEVENSON. It is an unprinted amendment.

Mr. PROXMIRE. In the first place, this amendment, as I understand it, in approval standards places particular emphasis on small- and medium-sized and minority concerns and, as thus, is an improvement in the bill. I criticized the bill before because it did not have this in it. I think this represents an improvement.

Is it in the standards for approval of the application that the focus must be on small-, medium-sized, and minority concerns?

Mr. STEVENSON. Yes, it also makes it clear that not-for-profit organizations can be trading companies. It clarifies the definition in that respect which otherwise is ambiguous. That is all it does.

Mr. PROXMIRE. Does it indicate if the application is not focused on small-medium-sized, and minority and not-for-profit concerns that the application will not be approved?

Mr. STEVENSON. No, it does not do that. The applications in question are to EDA and SBA. It simply underscores the public interest in providing assistance to minority businesses without making any changes in the underlying laws with respect to EDA and SBA and their authorities to support in the case of SBA all small businesses, and in the case of EDA all businesses.

Mr. PROXMIRE. I misunderstood. When I said I favored the amendment, I understood this affected the section for approval. Otherwise it just seems to be rhetoric. It seems to say that we favor small, medium-sized, and minority concerns but we are not going to insert it into our criteria for approval and, therefore, the bill still does not provide effective protection to make sure that this would promote small, medium-sized, and minority concerns which, as we know, provide a big potential for exports, but have been neglected because they do not feel they have the financing or the expertise.

Mr. STEVENSON. Well, Mr. President, it does also apply to applications to the appropriate Federal banking agencies. It does so on page 14 of the bill, making it clear that one of the criteria to be applied by such agencies is the benefit for minority business. But it does not confine all export trading companies to minority trading companies.

Mr. PROXMIRE. Well, supposing an application came along that did not involve small, medium-sized, and minority concerns, it is a big bank and it is a large firm. Would they be able to—would the approval go ahead anyway?

Mr. STEVENSON. If they meet all of the criteria, yes. The principal beneficiaries would be small and medium-sized businesses.

Mr. PROXMIRE. How is that determined if they are dealing with a large firm?

Mr. STEVENSON. Because the application——

Mr. PROXMIRE. That means if a large firm buys some supplies from a small business or minority business they would qualify, some materials or supplies or whatever, as a subcontractor?

Mr. STEVENSON. The trading companies, regardless of who has investments in the trading companies, will be serving all American industry. The principal beneficiaries of those trading companies, including those which are likely to be most successful and active, that is to say, the bank-controlled trading companies, will be small and medium-sized businesses because they otherwise are without the means with which to sell their goods in foreign markets. That is what the trading companies do. That is the purpose of the legislation.

Mr. PROXMIRE. Then if there are no benefits demonstrable to small business, the application should be denied?

Mr. STEVENSON. In every instance there are going to be benefits to small business.

Mr. PROXMIRE. Must that be demonstrated?

Mr. STEVENSON. Even if the customer of the trading company is the largest American company, it has small business suppliers who will be indirect beneficiaries.

Mr. PROXMIRE. Then I cannot see that this amendment does anything at all, except to indicate we are all in favor of small business.

Mr. STEVENSON. It does not. It is purely, as I said, a clarifying, technical amendment.

It puts emphasis on support for minority businesses; it makes it clear that not-for-profit organizations can be trading companies.

Mr. PROXMIRE. Well, Mr. President, I certainly will not oppose the amendment. But, as I think our colloquy has indicated, it does not have a great deal of force. It certainly does not, as the Senator frankly admits, mean that small business, medium-sized business, and minority concerns are going to have any particular advantage they would not have otherwise.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

Mr. STEVENSON's amendment (UP No. 1529) was agreed to.

Mr. STEVENSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1530

(Purpose: To extend the Notification Time Period for additional bank investment in subsidiary export trading companies—§ 105(b)(2))

The PRESIDING OFFICER. Is there further amendment?

Mr. STEVENSON. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 1530:

On page 11, line 13, strike "sixty" and insert in lieu thereof "ninety".

Mr. STEVENSON. Mr. President, under section 105(b)(2) of S. 2718, a banking organization with a controlling interest in an export trading company must give the appropriate bank regulatory authority 60 days prior written notice before it makes any additional investment in a trading company's subsidiary or before the trading company's subsidiary engages in any new line of activity.

As a result of advice by the Comptroller and the Chairman of the Federal Deposit Insurance Corporation, I am offering this amendment to lengthen that notification period by 30 days so that the total period would be 90 days. That should be sufficient to afford the regulatory agency adequate time for the consideration of any such proposals.

Mr. PROXMIRE. Mr. President, will the Senator yield on this amendment?

Mr. STEVENSON. Yes.

Mr. PROXMIRE. Mr. President, is there a position taken by the regulatory agencies if they ask for the additional time?

Mr. STEVENSON. Yes.

Mr. PROXMIRE. Do they say 90 days would be adequate?

Mr. STEVENSON. That is what they requested.

Mr. PROXMIRE. They requested that. That was the Federal Reserve, the Comptroller, and FDIC?

Mr. STEVENSON. I think the FDIC was the only one that asked for this and it is getting what it asked for. This is the same period already provided for bank holding company investments under section 4(c)(8) of the Bank Holding Company Act.

Mr. PROXMIRE. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois (Mr. STEVENSON).

The amendment (UP No. 1530) was agreed to.

UP AMENDMENT NO. 1531

(Purpose: To extend the Approval Period of Controlling Investments by banks in export trading companies—§ 105(b)(3))

Mr. STEVENSON. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 1531.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, lines 8–9, strike "the ninety-day period which" and insert in lieu thereof "a period of one hundred and twenty days, which period".

Mr. STEVENSON. Mr. President, under section 105(b)(3) of S. 2718, the appropriate Federal banking agencies have 90 days to act on any application by a banking organization to invest more than $10 million in an export trading company or to acquire a controlling interest in an export trading company.

This amendment responds to suggestions by the Comptroller of the Currency and the chairman of the Federal Deposit Insurance Corporation. It extends that approval period to 120 days. In this case, the approval period is 30 days longer than the comparable period provided under the Bank Holding Act. But we are once again trying to be responsive to the interests and the desires of the regulatory agencies. I do not know of any opposition to this amendment.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, as I understand it, this amendment extends from 90 days to 120 days a period for what?

Mr. STEVENSON. The approval of applications by banks for controlling interest in trading companies.

Mr. PROXMIRE. Approval of the application by the Federal Deposit Insurance Corporation?

Mr. STEVENSON. Whatever the regulatory agency is.

Mr. PROXMIRE. Did the Senator say this was the request of the FDIC?

Mr. STEVENSON. And the Comptroller.

Mr. PROXMIRE. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois (Mr. STEVENSON).

The amendment (UP No. 1531) was agreed to.

Mr. STEVENSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2279

(Purpose: To prohibit speculation in securities and foreign exchange by export trading companies in which banks may invest (section 105(c)(3)))

Mr. STEVENSON. Mr. President, I call up amendment No. 2279.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an amendment numbered 2279.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, insert after "commodities contracts" on line 14, the following new language ", in securities, or in exchange,".

Mr. STEVENSON. Mr. President, section 105(c)(3) of the bill, which was recommended by the Board of Governors of the Federal Reserve System, requires a banking organization that owns any voting stock of an export trading company to terminate its ownership of such stock if the export trading company speculates in commodities. The chairman of the FDIC recommended that section be broadened to preclude any speculation in foreign exchange and securities.

I believe the distinguished chairman of the Banking Committee has expressed similar concerns. This amendment is intended to alleviate the concerns which I believe he has expressed and which have been expressed by the chairman of the Federal Deposit Insurance Corporation.

It makes it clear that a banking organization would have to terminate its stock interests in a trading company if that trading company took positions in securities or exchange, other than, of course, as necessary in the ordinary course of its business operations.

Mr. PROXMIRE. Will the Senator yield?

Mr. STEVENSON. Yes.

Mr. PROXMIRE. First, as far as the amendment itself is concerned, as I read it, it says:

> On page 13, insert after "commodities contracts" on line 14, the following new language ", in securities, or in exchange,".

Is there an omission there? Should that be "in foreign exchange"?

Mr. STEVENSON. That might make it clearer. It is certainly intended to be foreign exchange. We are trying to be comprehensive here in order to include foreign exchange. But "foreign exchange" is more descriptive and I guess we would lose nothing by changing it from "exchange" to "foreign exchange."

Mr. PROXMIRE. I think that would be a little more helpful.

The Senator has indicated, in response to our criticism, that this amendment would require approval for a continuing position by a bank in a commodity contract, for approval for them to engage in a commodity contract before a bank, for example, could buy a certain amount of wheat or grain, or whatever. In connection with an export trading company, it would need approval. Is that what this amendment does?

Mr. STEVENSON. The Senator is correct. If it is a bank-controlled trading company, before it took any such position for speculative reasons, as opposed to the ordinary course of its trading company activities, it would have to obtain approval.

Mr. PROXMIRE. It simply would limit it, then, for speculative reasons. However, as the Senator has pointed out, if this is for ordinary business transactions, it would still not meet my fundamental criticism, which is that the banks have no expertise in this area. They have gotten into trouble in speculating in real estate. Here they would be speculating in commodities.

The speculation, of course, can be defended as being just the ordinary course of operations, depending on the kind of trading company that they have purchased. This would obviously be helpful, but it would seem to me it would not eliminate the fundamental objection, which is that banks would still take positions in the ordinary course of business through the companies they own in commodities.

Mr. STEVENSON. The bill simply gives the agencies the authority to determine what is speculation and what is not. The trading company, to be successful, obviously has to acquire title to goods, including commodities. One of the purposes is to create intermediaries which can absorb exchange rate fluctuations. That means that they will be dealing in foreign exchange. But we prohibit—the agencies cannot permit because we prohibit—speculation in foreign exchange or in securities. Because there is a need to distinguish between perfectly legitimate business and ordinary activities in the conduct of trade, the agencies will have regulatory authority to determine which is which. Should a trading company exceed its authority under the law, as well as the regulations to come, it could be divested. A bank-controlled trading company could be divested of all investment by the bank.

Mr. PROXMIRE. The language on page 13 reads:

> A banking organization that owns any voting stock or other evidences of ownership of an export trading company shall terminate its ownership of such stock if the export trading company takes positions in commodities or commodities contracts other than as may be necessary in the course of its business operations.

This will insert the additional language "in securities or in exchange." Is that right?

Mr. STEVENSON. Yes.

Mr. PROXMIRE. So the problem which it seems to me presents itself here is, who will determine whether or not the bank has terminated its ownership? Is this by a banking regulatory body, the Federal Reserve, the FDIC, or the Comptroller?

Mr. STEVENSON. First of all, the bank in its application to the regulatory agency has to describe all the activities of the trading company. With respect to those activities, including—and this is explicit on page 14 of the bill—including taking title of goods, wares, merchandise, commodities, and so on, "the appropriate Federal banking agencies shall establish standards designed to insure against any unsafe or unsound practices."

We have the law, we will have the regulations, we will have the application and the reaction from the regulatory agency which can impose additional standards, and, finally, in addition to all of those prohibitions, the threat of divestiture as a result of action by the appropriate agency if, in violation of any of those provisions, the bank-controlled trading company speculates, that is to say, takes title, deals in exchange, commodities, or securities in a way that is speculative and not in the ordinary course of its trading company business.

I do not know what more can be done than that. If there is anything more that can reasonably be done to accomplish the objective, which is to encourage legitimate trading activities and not speculation, we will be happy to consider it. We have gone as far as we know how to go and have gone as far as the regulatory agencies have suggested that we go. On this point, at least, I do not know of any problem from the Federal Deposit Insurance Corporation, the Federal Reserve Board, or the Comptroller.

(Mr. BRADLEY assumed the chair.)

Mr. PROXMIRE. Let me see if I understand this. Suppose there is a bank or a bankholding company. Say there is a bank, which is under the jurisdiction, for purposes of this legislation, of the Federal Deposit Insurance Corporation. Would they have the Federal Deposit Insurance Corporation make this judgment as to whether or not they would have to terminate their ownership, or would all three of the regulatory agencies have to make the determination?

Mr. STEVENSON. It is the appropriate Federal regulatory agency, which in the case offered by the Senator, would be the FDIC. We assume, as in the case of all banking regulation, these agencies would get together through the medium of the examination council and establish procedures and regulations which are uniform.

Mr. PROXMIRE. That is a good presumption. That is not required in the legislation. It may or may not happen. As the Senator knows, in the real world what can happen in this legislation is that the Federal Deposit Insurance Corporation with respect to a State nonmember bank may have one view, the Comptroller with regard to a national bank may have an entirely different view, and the Federal Reserve Board with regard to a State member bank would have a different view. So in the way the regulations have operated to date, in spite of the fact that they have been trying to work together, they often provide conflicting positions.

Mr. STEVENSON. Yes. Well, this bill is not intended to overhaul the regulation of banks. It accepts the existing structure for the regulation of banks. I know the Senator from Wisconsin has complaints about that structure, and I think he makes a strong case. But I do not think this is the place to resolve these large questions about what institutions regulate the banks.

Mr. PROXMIRE. I think it is a reasonable position. The only objection that this Senator would have is that here, again, we would have a temptation on the part of the regulator to compete on the basis of laxity. As Arthur Burns said when Chairman of the Federal Reserve Board, there is competition in laxity. Here is another opportunity for them to attract a bigger constituency.

Mr. STEVENSON. The law as it stands now defines which agency has the jurisdiction. The Congress has responded to the concerns of the Senator by writing into law the examination council, the very purpose of which is to eliminate a competition in laxity and to establish uniformity through cooperation between all these agencies. So far as I know that system is working well.

Mr. PROXMIRE. Would the Senator give the Examination Council the authority to administer this determination? The statute then would assure that we would have uniform regulation.

Mr. STEVENSON. The Bank Examination Council is not itself a regulatory agency. It is more of a method for cooperation among the regulatory agencies. I do not see how we would do that. If the Senator has in mind some expression of intent, that is to say some language which might indicate that it is our intention for these agencies to work out whatever differences exist between them through the Bank Examination Council, then, yes, in fact that is our expectation and our hope. If we can do anything to fulfill it by being more explicit in the law, I think that should be considered.

Mr. PROXMIRE. We did it in the depository deregulation agency that we set up for handling regulation Q. We gave them this kind of coordinating authority and it worked. Why could we not do it in this case for the regulatory council?

Mr. STEVENSON. Offhand, Mr. President, I have no problem. Indeed, I think it makes a lot of sense. Maybe we should take a little time to try to work out some language which would accomplish the objective which I believe we both share.

Mr. PROXMIRE. Mr. President, would the Senator be willing to—we can do this one of two ways. We can have a quorum call and have the staff work it out or we can lay this amendment aside and proceed to another amendment. Meanwhile, it would not delay the Senate. Either way the Senator wants to operate is fine with me.

Mr. STEVENSON. Mr. President, it occurs to me that the Senator from Wisconsin might be most interested—and I would be, too—in an amendment that requires these agencies to cooperate through the Bank Examination Council with respect to all of their responsibilities under the bill. Maybe, therefore, we ought to act on this amendment and try to prepare an additional amendment which would have that effect.

Mr. PROXMIRE. That is fine. I would have no objection to that. We can act on this amendment, with the understanding that we shall work on another amendment that we can put in that would require greater coordination for the whole bill.

Mr. STEVENSON. Mr. President. I think the Senator has made an excellent suggestion. I shall be happy to work with him on it.

Mr. President, this has been discussed with the minority. I do not know of any opposition to it.

Mr. DANFORTH. There is no objection, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2279) was agreed to.

Mr. STEVENSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENSON subsequently said: Mr. President, I ask unanimous consent that on amendment No. 2279, approved by the Senate, that the amendment be modified by inserting on page 13, line 14, the word "foreign" before the word "exchange."

This carries out the understanding earlier with the Senator from Wisconsin which we neglected to take care of at the time.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

AMENDMENT NO. 2280

(Purpose: To define the scope of activities of export trading companies in which banks may invest section 105(a) (13))

Mr. STEVENSON. Mr. President, I call up amendment 2280 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes amendment numbered 2280.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, strike lines 14 through 18 and insert in lieu thereof the following new definition of export trading company:

"(13) for the purposes of this section, the term 'export trading company' means a company which does business under the laws of the United States or any State and which is exclusively engaged in activities related to international trade: *Provided, however*, That any such company must also either meet the definition of export trading company in section 103(a) (5) of this Act, or be organized and operated principally for the purpose of providing export trade services, as defined in section 103(a) (4) of this Act: *Provided, further*, That nothing in this Act shall be construed to permit any such company, for purposes of this section, (A) to engage in the business of underwriting, selling, or distributing securities in the United States, or (B) to engage in manufacturing or agricultural production activities in the United States.".

Mr. STEVENSON. Mr. President, it has been suggested by some, including, I believe, the distinguished chairman of the Committee on Banking, that export trading companies could, theoretically, enable a bank to engage in nonbanking and nontrading activities. It has been suggested that a bank-owned export trading company could engage in nontrading activities—that is to say, activities unrelated to export trade. That is not our intention at all. I believe this amendment will make our intention clear.

Mr. President, the amendment would strike the definition of export trading company in section 105(a) (13) and insert in lieu thereof a definition which provides as follows:

First, to be an eligible investment for a banking organization under section 105, an export trading company must be "exclusively" engaged in activities related to international trade. The bill had provided that it must be "principally" engaged in such activities.

This language reflects the recommendation of the Comptroller of the Currency that all activities of bank-owned export trading companies should be related to international trade. While this would include barter, import, so-called third-country trade, it would clearly not include manufacturing, agriculture, securities, or other such activities.

Second, while the bank-owned trading company must be exclusively engaged in international trade activities, it must also meet the other exporting tests that are now in the bill. Those tests are found in section 103(a) (5).

The amendment removes any doubt that the definition of trading companies specifically provides that no bank-owned trading company can engage in the securities business in the United States or anywhere else, or engage in manufacturing or agricultural production. These prohibitions are intended to reaffirm the basic policies of the Glass-Steagall Act and the Bank Holding Company Act.

Mr. President, I emphasize that this definition of trading companies applies only to bank-owned trading companies. Other trading companies could be involved to some extent in nontrading activities. I am hopeful, Mr. President, that this amendment does respond to the concerns which have been expressed to the effect that, as drafted, the bill might permit banks to engage in nonbanking and nontrade activities. That was not our intention.

Mr. President, I modify the amendment to eliminate, on line 12 and on line 13, the phrase "in the United States" to make it clear that these nontrading bank activities which are proscribed are proscribed worldwide.

I send that modification to the desk.

Mr. PROXMIRE. Mr. President, before the Senator sends the modification to the desk, I wish to ask a question.

I have the printed amendment before me here. In my printed amendment, on page 2, lines 3 and 5, it is stated "or distributing securities in the United States," and "to engage in manufacturing or agricultural production activities in the United States."

Do those references which confine the activity to the United States mean that it cannot be engaged in something other than international trade?

Mr. STEVENSON. That is correct. The amendment has been modified in two places, to make it clear that the underwriting, selling, distributing of securities is proscribed no matter where it takes place—United States or abroad.

Mr. PROXMIRE. That is fine. That is on page 2, lines 3 and 5, "in the United States" is deleted, is that correct?

Mr. STEVENSON. On page 2 of the printed amendment, yes, the Senator is correct.

The PRESIDING OFFICER. The amendment is so modified.

The amendment as modified is as follows:

> On page 9, strike lines 14 through 18 and insert in lieu thereof the following new definition of export trading company:
>
> "(13) for the purposes of this section, the term 'export trading company' means a company which does business under the laws of the United States or any State and which is exclusively engaged in activities related to international trade: *Provided, however*, That any such company must also either meet the definition of export trading company in section 103(a)(5) of this Act, or be organized and operated principally for the purpose of providing export trade services, as defined in section 103(a)(4) of this Act: *Provided, further*, That nothing in this Act shall be construed to permit any such company, for purposes of this section, (A) to engage in the business of underwriting, selling, or distributing securities, or (B) to engage in manufacturing or agricultural production activities."

Mr. STEVENSON. Mr. President, this amendment has also, I believe, been cleared on the minority side. I do not know of any opposition to it.

Mr. DANFORTH. Mr. President, the amendment is acceptable to the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 2280) as modified was agreed to.

Mr. STEVENSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 2280, AS FURTHER MODIFIED

Mr. STEVENSON subsequently said: Mr. President, it has been brought to my attention that amendment No. 2280 as modified, to this bill, already approved by the Senate, contained an inadvertent error. I ask unanimous consent that that amendment be further modified to add the words, "whether operated for profit or as a nonprofit organization" after the words "international trade" and before the colon.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, much of the discussion this morning has related to the question of the so-called banking sections of the pending legislation. There is pending at the desk, and after Senator PROXMIRE has called up his amendment, having to do with the banking subject, I, on behalf of myself, Senator PROXMIRE and Senator KENNEDY, will call up an amendment having to do with the antitrust aspects of this legislation.

I. INTRODUCTION

Mr. President, at the outset let me say that I share the goal of this legislation: the creation of a workable competitive framework for American businesses engaged in export trade.

But I also strongly believe in our national commitment to free and open competition as the guiding force of our economic system. To preserve this system, we must be extremely careful before granting or expanding exemptions from our antitrust laws.

One such exemption which has been on our books since 1918 is the Webb-Pomerene Act: Webb-Pomerene grants immunity from the antitrust laws to associations engaged solely in export trade so long as such associations do not substantially lessen competition within the United States or restrain the export trade of any domestic competitors.

II. S. 2718—WHAT IT DOES

Title II of S. 2718 expands the Webb-Pomerene exemption. First it makes the provisions of the act explicitly applicable to the exportation of services. Second, it expands and clarifies the act's exemption for export trading companies. Third, it transfers the administration of the act from the Federal Trade Commission to the Department of Commerce.

It is in that particular last area, particularly, that there is concern as to the propriety and rightness of the legislation as it comes to the floor.

S. 2718 gives the Secretary of Commerce the responsibility for determining whether the antitrust exemption will be granted pursuant to the certification process set out in the bill. In the event that the Attorney General or the FTC believe that the granting of such an exemption would substantially lessen competition in U.S. commerce, contrary to the eligibility requirements of the bill, they can so advise the Secretary of Commerce. But the important point is that the Secretary is free to disregard that advice and grant the exemption. That provides a wide hole in the entire antitrust laws.

It so happens that the present Secretary of Commerce is an extremely able and dedicated public servant. It is to the administration's credit that they have been able to bring him on board in that role and to accept those responsibilities. I have tremendous respect for him. He is not only an able public servant, he is my good friend, and I think the world of him.

But the legislation is not applicable to any one particular Secretary of Commerce. Although I would be inclined to have confidence in this particular Secretary of Commerce, the fact is that we must draft legislation and pass legislation that is applicable regardless of who may be the incumbent Secretary of Commerce.

So what we find is that the Secretary of Commerce is in the position to grant the antitrust exemption and the only recourse left to the Attorney General or the Commission is to bring an action within 30 days in Federal district court seeking to invalidate the granting of the exemption.

Mr. President, there are many things I am for and against. But there is one thing I know I am very strongly against. That is, more litigation in our courts. We need no more of that.

It is not enough to say that there is recourse for the Attorney General and the FTC to be able to go into court, because the Government should not be fighting one arm of Government against the other. Further, Commerce Department approval carries with it immunity from suits by private parties or State attorneys general for failure of the export companies to meet the eligibility requirements of the act.

III. OUR AMENDMENT

Our amendment leaves the nature and scope of the antitrust exemption granted by S. 2718 intact. It does, however, alter the procedural framework:

First, instead of giving the Secretary of Commerce exclusive authority to determine the grant of an antitrust exemption as in the current bill, our amendment gives that authority to the Secretary in conjunction with the Attorney General or the Federal Trade Commission. If the Attorney General or the Commission believe that granting the exemption would substantially restrain competition contrary to the eligibility provisions of S. 2718, the Secretary is precluded from granting the exemption.

Now, is it not right, is it not proper, that the arm of Government, in this case those arms of Government, both the Antitrust Division or the Attorney General, as well as the Federal Trade Commission, should have the authority to pass on the question of whether or not there should be an antitrust exemption, and that is all that is being attempted in this effort by our amendment.

It is a major difference to talk about there being an advisory opinion, because my good friend from Illinois, the author of this legislation, recognizes that there is a propriety in having the Attorney General and the FTC as a part of the process.

But, more than being a part of the process, it is a question of having validity to the position taken by the Attorney General or the FTC, where there is an antitrust question involved.

Second, it eliminates the authority of the Attorney General or the Commission to seek to invalidate, through Federal court action, the Secretary's granting of the antitrust exemption. By giving the Attorney General or Commission a direct say in the decisionmaking process, such litigation authority is not necessary. We have effectively eliminated the need to go to court.

Third, it eliminates the authority of the Attorney General or Commission to seek to invalidate the antitrust exemption certification through Federal court action in situations where the Attorney General or FTC originally had no objection to the grant of such an exemption.

That, too, is proper; because if they are not going to object in the first instance, it is inappropriate that they go into court once the decision has been made available to those business organizations involved.

IV. REASONS FOR THE AMENDMENT

The main thrust of our amendment is, of course, the grant to the Attorney General or the FTC of what, in effect, is a veto power over the grant of any antitrust exemption.

S. 2718 quite properly charges the Secretary of Commerce with the responsibility of encouraging and promoting the development of export trading companies. Yet, it also gives him authority to determine whether our antitrust laws should be enforced. It seems to us inherently difficult, if not impossible, to pursue both functions fairly and effectively.

The Attorney General and the Commission both have substantial expertise about competition and antitrust issues and they are free from any responsibility or interest in either promoting or discouraging export trading associations or companies. If an exemption and immunity from our antitrust laws is to be granted, it should be granted by the agency or agencies responsible for interpreting and enforcing those laws. They also have the greatest expertise in analyzing the competition issues set forth as eligibility requirements under the bill.

We are confident that the Attorney General and the Commission will not take a prosecutorial bias into their determinations. We believe they will fully and fairly fulfill their statutory responsibility consistent with the intent of Congress; namely, to grant an antitrust exemption where the activities of the export company will not substantially lessen competition in the United States or anticompetitively injure domestic competitors.

By giving the Attorney General or the Commission authority in the granting of the antitrust exemption, we eliminate the need for extending authority to litigate to the Attorney General to seek Federal court reversal of the Secretary's decision. We thereby eliminate the anomaly of two of our most important executive agencies going into court, one taking one position on behalf of the Government and the other taking a position diametrically opposed to that.

Mr. President, our Government has enough matters in court and our Government has enough problems on a day-by-day basis that we should not be providing a way to expend thousands and perhaps hundreds of thousands of dollars of the taxpayers' money while one part of the Government goes into court and takes one position and the other side of Government goes into court and takes another position.

Is it not right, is it not appropriate, that the two arms of Government that traditionally have been given antitrust authority, the two arms of Government that have been most concerned about free competition, should have the right to participate and actually to be involved in the determinative question of whether or not an antitrust exemption should exist?

However, if the Attorney General or the Commission has authority over the grant of the antitrust exemption, something additional will be added. It will be that businessmen would have the certainty that a decision granting the exemption will not subsequently be overturned by either the Attorney General or the Commission. As a matter of fact, is it not right that once a decision is made, it become a finality?

The fact is that under the present legislation, if the Secretary of Commerce decides that there should be an exemption and the FTC or the Attorney General wants to question that decision, they have the right to go into court after the fact, and the businessmen will never know what the answer is, until the court finally rules on it.

I believe that the amendment we are proposing would very much short circuit that entire process. It would provide for finality when the Attorney General and the FTC had signed off. But today, if the proposal made by the Senator from Illinois were to become law, there would not be any finality, and, actually, we would be expanding the process many months, perhaps years, into the future.

Because we feel as we do about bringing the issue to a head, we have eliminated the authority of the Attorney General or the Commission to seek to invalidate the exemption in those situations in which they had not opposed it initially.

Mr. President, I am concerned about the public being protected in these circumstances. I represent to the Senate that there is adequate protection to the public in such circumstances, because, under our amendment, the Attorney General retains the right to file an antitrust action where an export company goes beyond the scope of its certified and approved activities and thereby substantially lessens competition. I also point out that the Secretary of Commerce has authority to revoke or modify an exemption certification where that is appropriate.

We also have left intact the appeal process from a negative determination on an application for the antitrust exemption. Our amendment makes it clear that the appeal process contemplated in the bill applies to a negative determination by the Attorney General, or Commission as well as the Secretary of Commerce.

CONCLUSION

In conclusion, I believe that this amendment substantially strengthens this important legislation. It leaves the nature and scope of the proposed antitrust exemption completely intact, but better protects the American people from unfair restraints of trade, and lessening of competition, by modifying the procedural aspects.

Mr. President, at a later point, I will address myself further to the economic consequences that would result from the adoption of the Export Trading Company Act of 1980 in its present form.

We should recognize that this is a serious inroad into the antitrust protection that this Nation has been proud of for so many years. It is an incursion into the antitrust processes and procedures where the FTC and the Attorney General have been involved.

I have tremendous respect for the author of the measure and for his past history of concern for antitrust laws, antitrust protections, and for his concern with respect to export trade.

I share that concern with him in connection with the subject of export trade. I recognize that it is in our Nation's interest that we help American businesses in every way possible in expanding that export trade. I have no quarrel with the basic thrust of the legislation in that respect. But like in so many other areas, sometimes the legislation that is proposed to achieve a particular objective goes beyond the pale just a bit.

In this instance, I believe that it has gone beyond the pale and would break down some of the antitrust concerns which so many Americans share. It is for that reason that at the appropriate time I will call up the amendment that has been introduced by myself, Senator PROXMIRE and Senator KENNEDY.

Mr. President, I suggest the absence of a quorum.

Mr. DANFORTH. Mr. President, will the Senator withhold that?

Mr. METZENBAUM. Yes.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 2281 (AS MODIFIED)

(Purpose: Technical amendments)

Mr. DANFORTH. Mr. President, I call up amendment 2281, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an amendment numbered 2281, as modified.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 4, delete the word "sourced" and insert in lieu thereof the word "produced" and further on line 5 insert the following after the word "States": ", and".

On page 5, line 6, insert a "," after the word "financing".

On page 23, line 4, delete the word "includes" and insert in lieu thereof the word "means".

On page 23, between lines 5 and 6, insert the following new paragraph (4) and renumber (4) through (10), as numbers (5) through (11) respectively:

"(4) METHODS OF OPERATION.—The term 'methods of operation' means the methods by which an association or export trading company conducts or proposes to conduct export trade.".

On page 24, line 22, insert the phrase ", export trade activities" after the word "trade".

On page 25, lines 4, 8, and 12, insert the phrase "or export trading company" after the word "association" on each line.

On page 26, lines 5 and 6, delete the phrase "with respect to its export trade, export trade activities, and methods of operation".

On page 26, lines 7 and 8, delete the phrase "as relates to their respective" and insert in lieu thereof "with respect to their".

On page 26, line 8, delete the word "or" and insert in lieu thereof the word "and".

On page 26, line 10, delete the second

"the" and insert in lieu thereof the word "this".

On page 26, line 14, delete the word "the" and insert in lieu thereof the word "an".

On page 26, line 16, insert the word "export" after the word "such".

On page 27, line 19, delete the first word "company".

On page 28, line 11, insert the phrase "or export trading company" after the word "association".

On page 28, line 12, insert a "," after the word "activities".

On page 28, line 13, insert the phrase "or export trading company" after the complete word "association".

On page 29, line 6, insert the phrase "or export trading company" after the partial word "ation".

On page 30, line 13, insert the word "and" after the partial word "ation".

On page 30, lines 17 and 18, delete the phrase "that the association or export trading company and its activities".

On page 31, line 16, delete the phrase "notice and" and insert in lieu thereof the word "noticed".

On page 34, line 11, delete the word "chairman" and insert in lieu thereof the word "Commission".

On page 34, line 15, delete the phrase "the certification" and insert in lieu thereof the phrase "its certificate".

On page 34, line 18, delete the "," after the word "failed".

On page 34, line 22, delete the word "revocation" and insert in lieu thereof the word "invalidation".

On page 35, line 19, delete the word "criteria" and insert in lieu thereof the words "eligibility requirements".

On page 37, line 15, delete the phrase "such Act" and insert in lieu thereof the phrase "the Export Trade Association Act of 1980".

On page 38, lines 16–18, delete in its entirety lines 16 and 17 and the partial word "tion" on line 18.

On page 40, line 9, delete the number "14" and insert in lieu thereof the number "13".

On page 35, line 2, delete the word "and" and insert in lieu thereof the word "or".

On page 37, line 17, delete the number "5" and insert in lieu thereof the phrase "4(a)(1)–(9)".

On page 26, line 14, insert the phrase "in whole or in part" after the word "validation".

On page 31, line 10, insert the phrase "and the petitioning association or export trading company" after the word "Secretary" and further delete the word "his" and insert in lieu thereof the phrase "the Secretary's".

On page 39, line 10, delete the phrase "it to modify its" and insert in lieu thereof the phrase "the association or export trading company to modify its respective".

On page 39, line 10, insert the phrase ", and in so doing afford the association or export trading company a reasonable opportunity to comply therewith," after the word "operations".

On page 39, line 10, insert the phrase", and section 4" and insert in lieu thereof the phrase ", sections 5 and 6" and further on line 4 delete the number "44" and insert in lieu thereof the numbers "45, 46".

On page 34, line 19, delete the word "The" and insert in lieu thereof the phrase "Except in the case of an action brought during the period before an antitrust exemption becomes effective, as provided for in section 2(c),".

Mr. DANFORTH. Mr. President, this amendment is simply in the nature of a technical amendment. It makes various grammatical corrections as technical corrections for the purpose of clarifying the bill. It has been cleared with the majority and minority managers of the bill and I believe all interested parties.

Mr. PROXMIRE. Mr. President, is the amendment of the Senator from Missouri pending?

The PRESIDING OFFICER. The amendment of the Senator from Missouri is pending.

Mr. PROXMIRE. Will the Senator identify the amendment again? I am very sorry. I stepped out of the Chamber momentarily.

Mr. DANFORTH. Yes, amendment 2281 relating to technical corrections.

Mr. METZENBAUM. Mr. President, will the Senator from Missouri yield for a question?

Mr. DANFORTH. I yield.

Mr. METZENBAUM. This amendment, as I understand it, is a technical amendment dealing with the antitrust aspects of the legislation?

Mr. DANFORTH. Yes, It makes certain grammatical changes throughout the bill and clarifying changes with respect to the antitrust portion.

Mr. METZENBAUM. And there is nothing substantive in the amendment?

Mr. DANFORTH. There is nothing substantive in the amendment.

Mr. METZENBAUM. Mr. President, I have no objection to it from an antitrust standpoint and I gather it is that part of the bill that is affected.

Mr. PROXMIRE. I have no objection.

Mr. DANFORTH. I move the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment (No. 2281), as modified, was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2282, AS MODIFIED

(Purpose: To provide for automatic certification of existing Webb-Pomerene Associations)

Mr. DANFORTH. Mr. President, I call up amendment No. 2282, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an amendment numbered 2282, as modified.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, line 18, redesignate paragraph (3) as paragraph (4), and insert immediately after paragraph (2) the following new paragraph:

"(3) AUTOMATIC CERTIFICATION FOR EXISTING ASSOCIATIONS.—Any association registered with the Federal Trade Commission under this Act as of April 3, 1980, may file with the Secretary an application for automatic certification of any export trade, export trade activities, and methods of operation in which it was engaged prior to enactment of the Export Trade Association Act of 1980. Any such application must be filed within 180 days after the date of enactment of such Act and shall be acted upon by the Secretary in accordance with the procedures provided by this section. The Secretary shall issue to the association a certificate specifying the permissible export trade, export trade activities, and methods of operation that he determines are shown by the application (including any necessary supplement thereto), on its face, to be eligible for certification under this Act, and including any terms and conditions the Secretary deems necessary to comply with the requirements of section 2(a) of this Act, unless the Secretary possesses information clearly indicating that the requirements of section 2(a) are not met.".

On page 37, strike out lines 10 through 19, and insert in lieu thereof the following:

"SEC. 8. TEMPORARY ANTITRUST EXEMPTION FOR EXISTING ASSOCIATIONS.

"(a) ELIGIBILITY.—To be eligible for the antitrust exemption provided by this section, an association must have been registered with the Federal Trade Commission under this Act on April 3, 1980.

"(b) DURATION.—The antitrust exemption provided by this section shall extend only to the existence of an eligible association, and to agreements made and acts done by such association, prior to 180 days after the date of enactment of the Export Trade Association Act of 1980, or, in the event that an eligible association files an application for certification pursuant to section 4 of this Act during such 180 days, prior to the Secretary's determination on such application becoming final.

"(c) EXEMPTION.—Subject to the limitations in subsections (a) and (b), nothing contained in sections 1 to 7 of the Sherman Act shall be construed as declaring to be illegal an association entered into for the sole purpose of engaging in export trade and actually engaged solely in such export trade, or an agreement made or act done in the course of export trade by such association, provided such association, agreement, or act is not in restraint of trade within the United States, and is not in restraint of the export trade of any domestic competitor of such association: *Provided*, That such association does not, either in the United States or elsewhere, enter into any agreement, understanding, or conspiracy, or do any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein.".

Mr. DANFORTH. Mr. President, for the information of the Senator from Ohio this does go to the antitrust portion of the bill.

Section 206 of title II adds a new section 8 to the Webb-Pomerene law. Section 8, as presently drafted, provides a procedure for automatic certification under the Export Trade Association Act of 1980 for existing Webb-Pomerene associations if associations request to be certified within 180 days after enactment of such act. Under section 8 existing Webb-Pomerene associations would lose the immunity from the operation of the antitrust laws afforded them under section 2 of the present Webb-Pomerene law on the date of passage of the Export Trade Association Act of 1980. Yet, under section 8, as presently drafted, a Webb-

Pomerene association which seeks certification under the Export Trade Association Act of 1980 would not obtain the immunity afforded it under section 2(b) of that act until it was certified by the Secretary of Commerce. The certification is not retroactive to the date of passage of such act.

Under my amendment, an existing Webb-Pomerene association which requests certification within the applicable time would not lose the immunity from the operation of the antitrust laws provided under section 2 of the present Webb-Pomerene law until a final determination is made pursuant to the provisions of the Export Trade Association Act of 1980.

Under the amendment, new paragraph (3) of section 4(b) provides automatic certification for existing Webb-Pomerene associations which request such certification within 180 days after enactment of the act. Under the amendment, the certification process for existing Webb-Pomerene associations is to comport with the process applicable to other associations seeking certifications under the act, with two exceptions:

First, under paragraph (3) of section 4(b) the Secretary's review of the application for certification is to be summary in nature. Specifically, the Secretary is required to determine whether the application shows "on its face" whether a certificate should issue. It is further stated that unless the Secretary "possesses information clearly indicating that the requirements of section 2(a) are not met"—again, by looking at the application "on its face" and having available the advice of the Department of Justice or Federal Trade Commission—the Secretary must issue the certificate for the export trade, export trade activities and methods of operation that meet the requirements of section 2(a) of the act.

Second, when issuing a certificate pursuant to paragraph (3) of section 4(b) the Secretary need not determine that the association and its activities "will serve a specified need in promoting the export trade of the goods, wares, merchandise or services described in the application." An existing Webb-Pomerene association need not have to demonstrate that its existence is in furtherance of U.S. export trade. Such would be presumed.

The second part of the amendment I am offering strikes section 8 of title II to S. 2718. Under new section 8 it is made clear that an existing Webb-Pomerene association which seeks certification under the Export Trade Association Act of 1980 within 180 days after such act's enactment retains the immunity from the operation of the antitrust laws it had under section 2 of the present Webb-Pomerene law. This is accomplished by reenacting section 2 of such law, as provided under subsection (c) of section 8, but making the immunity provided by subsection (c) applicable only to existing Webb-Pomerene associations that meet the requisites of subsections (a) and (b) of section 8.

The immunity which is carried over by section 8 from the current Webb-Pomerene law is not lost by a Webb-Pomerene association to which it attaches until a final determination is made as to the association's request for certification. For instance, if the Secretary under paragraph (3) of section 4(b) determines not to issue a certificate to an existing Webb-Pomerene association or determines not to certify a method of operation requested in the application, and the association appeals that determination under the provisions of new paragraph (4) to section 4(b), the immunity provided by section 8 continues to attach until a final decision is reached on the Webb-Pomerene association's request for certification.

Mr. PROXMIRE. Mr. President, will the Senator yield on his amendment for a question?

Mr. DANFORTH. I yield.

Mr. PROXMIRE. One of the problems, as the Senator knows, when we amend sections of the bill is that it may make it impossible under the Senate rules to amend that section further. That is why when we have a committee amendment we get unanimous consent that the amendment be treated as original text subject to further amendment.

Will the Senator have any objection to that kind of unanimous-consent request here now? We could examine it at some time over a period of a half-hour or so with the Parliamentarian and get his opinion, but I am sure the Senator does not want to block the Metzenbaum-Kennedy amendment.

Mr. DANFORTH. No, I have no objection to that and no intent to block that amendment. I will, of course, oppose it when it is raised but that is a separate issue.

Mr. PROXMIRE. If the Senator will get unanimous consent that his amendment could be treated as original text subject to further amendment, I will appreciate it very much.

Mr. DANFORTH. All right. Mr. President, I ask unanimous consent that the amendment be treated as original text and subject to further amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DANFORTH. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Missouri.

Mr. METZENBAUM. Mr. President, there are certain antitrust aspects to the amendment that I do not find objectionable or any problem with, and I have no objection to the Senate acting promptly on the amendment.

Mr. STEVENSON. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 2282), as modified, was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1532

(Purpose: To conform the definition of Bankers' Bank to its definition in P.L. 96-221—§ 105(a)(5))

Mr. STEVENSON. Mr. President, I send another technical amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 1532.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike lines 12 through 16 on page 7 and insert in lieu thereof the following:

(5) the term "bankers bank" means any bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks (except to the extent State law requires directors' qualifying shares) and if such bank is engaged exclusively in providing banking services for other banks and their officers, directors, or employees.

Mr. STEVENSON. Mr. President, this amendment improves and clarifies the definition of bankers' banks in the bill.

The amendment provides a more accurate definition of bankers' banks which, under section 105, are permitted to invest in export trading companies. Bankers' banks are banks formed and owned by banks engaged exclusively in providing services for other banks.

Under the bill, a number of small banks in a State could form a bankers' bank in order to hold their interest in a trading company, thus allowing them to combine more efficiently their banking resources. This simply improves and makes more definite the definition of bankers' banks.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I think it is a better definition in the bill. It is much clearer, and I am happy to support it.

Mr. STEVENSON. Mr. President, this has been approved, I believe, on the minority side, and I do not know of any opposition to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (UP No. 1532) was agreed to.

Mr. STEVENSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1533

(Purpose: To define more restrictively "Capital and Surplus"—§ 105(a)(10))

Mr. STEVENSON. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 1533.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, insert a semicolon after "profits" on line 1, and strike the remainder of line 1 and all of line 2.

Mr. STEVENSON. This amendment strikes language which permitted each bank regulatory agency to include within the definition of capital and surplus "such other items" as the agency might deem appropriate.

With this amendment capital and surplus would be limited to paid-in and unimpaired capital and surplus, and undivided profits.

The amendment was recommended by the chairman of the Federal Deposit Insurance Corporation. I do not know of any opposition to it.

Mr. PROXMIRE. Mr. President, once again this is a substantial improvement because what it does, of course, is to provide that capital and surplus does mean unimpaired capital and surplus and undivided profits, but not everything else they want to throw in, which is what the language of the bill itself did provide before the Senator from Illinois properly amended it. So I am happy to support his amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (UP No. 1533) was agreed to.

UP AMENDMENT NO. 1534

(Purpose: To authorize bank regulatory agencies to establish Standards on Taking Title for Export Trading Companies in which Banks Invest More than $10 million or which Banks Control—§ 105(d)(2))

Mr. STEVENSON. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 1534:

On page 15, strike lines 1–16 and insert in lieu thereof the following:

"appropriate Federal banking agencies may, by order, regulation, or guidelines, establish standards designed to ensure against any unsafe or unsound practices that could adversely affect a controlling banking organization investor. In particular, the appropriate Federal banking agencies may establish inventory-to-capital ratios, based on the capital of the export trading company subsidiary, for those circumstances in which the export trading company subsidiary may bear a market risk on inventory held."

Mr. STEVENSON. Mr. President, this amendment eliminates the requirement that the banking agencies establish standards for taking title within a certain time period. Second, it gives the regulatory agencies specific authority to establish inventory-to-capital ratios for export trading company subsidiaries of banking organizations. Third, it makes all such authority permissive and gives the agencies maximum flexibility in implementation. They can proceed on a case-by-case basis or act by general regulation or overall statements of policy or guidelines.

It is intended to respond to some recommendations by the Independent Bankers Association and also the chairman of the Federal Deposit Insurance Corporation, who did suggest more flexibility. It should moderate some of the burdens on the agencies, increasing their authority and give the maximum flexibility for dealing with bank interests in trading companies.

I hope, therefore, the Senate will adopt the amendment.

Mr. PROXMIRE. Mr. President, this amendment has merit, but it illustrates some of the difficulty with the bill.

As I understand this amendment, it provides that the appropriate Federal banking agency may establish an inventory to capital ratio and enforce that. That would mean the inventory to capital ratio, say, is 10 to 1 is all right; the 11 to 1 may not be regarded as sufficient capital, excessive inventory.

The problem is that you have three different regulatory bodies, and one could provide 5 to 1, another could provide 10 to 1 or 20 to 1. Maybe 10 to 1 is a proper ratio and 5 to 1 too restrictive; 20 to 1 would be much too permissive.

This is another illustration of why it would be so helpful if we could concentrate regulation either in the Federal Reserve or in the Bank Regulatory Council so that a single agency could make the determination and make it uniform and consistent. But I have no objection to the amendment.

I hope as we proceed with the bill that the Senator from Illinois and the Senator from Pennsylvania will consider modifying the bill to give the authority to the Regulatory Council so that we can have a consistent application to this legislation.

Mr. STEVENSON. Mr. President, the Senator makes this good point again, and I respond again by just saying that this is not the time or the bill with which to overhaul the regulatory structure for financial institutions in the United States. This bill accepts the existing structure. But I do recognize the validity of much of what the Senator says.

The Congress has responded to his concerns in the past by creating the Bank Examination Council for the very purpose of coordinating the activities of these regulatory agencies and establishing uniform policies and procedures with respect to regulation of banks. And I would, therefore, be willing to do what I think would happen anyway, which is make it clear that in this case as in all cases we do rely on the agencies through the Bank Examination Council to coordinate their activities, their policies, regulations, and so on, so that none of the concerns expressed by the Senator materialize. I hope we can work to that end and, in the meantime, that we can approve this amendment.

Mr. PROXMIRE. If the Senator will yield, I am not trying to reform our regulatory system at all. The Senator from Illinois raises a perfectly proper point. If we are trying to reform it now, that obviously would take hearings and action by the committee and we should have an entirely different bill.

What I am trying to do in this case, however, is to do what we did with regulation O, which is give the power to a particular group to act and in this case—and only in this single authority with respect to the export trading companies—it would be given to the Regulatory Council. They would not have any regulation over the other myriad of responsibilities that all three of the regulatory bodies have now, but it would be an assurance that, as far as this legislation is concerned, we would have uniform regulations and it would, frankly, eliminate one of the principal objections I have to the legislation. Offhand, I cannot think of any reason I should oppose the bill if we could get an agreement on this kind of concentrated authority and power. I am talking about a power, not just an opportunity to sit down and talk it over and then go back and decide what they want to do individually.

Mr. STEVENSON. Mr. President, I am certainly willing to work with the Senator. Maybe we could work something out. Offhand, I have some reservations about giving the power to regulate all of the activities of the banks in connection with trading companies to an agency which, really, is not an agency. It is not a bank regulatory agency. It is more of a mechanism, a coordinating mechanism for those which are bank regulatory agencies. But our objective is the same. I would certainly like to try to work something out with the Senator.

Mr. PROXMIRE. I certainly hope so. All I am talking about is that we give the Regulatory Council the power to issue the regulation and the agencies which carry it out. They would obviously follow through with them. But the regulations themselves would be uniform.

Mr. STEVENSON. Let me discuss it with the Senator and with others and see if we cannot work something out along those lines.

Mr. President, I do not know of any opposition to this amendment. It has been cleared with the minority.

The PRESIDING OFFICER (Mr. MOYNIHAN). The question is on agreeing to the amendment of the Senator from Illinois (Mr. STEVENSON).

The amendment (UP No. 1534) was agreed to.

Mr. STEVENSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1535

(Purpose: To clarify that the removal of statutory restrictions to bank investment in export trading companies applies only to banking laws)

Mr. STEVENSON. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 1535:

On page 9, line 20, strike the word "other" and insert after the word "law" the following new language: "applicable only to banking organizations".

Mr. STEVENSON. Mr. President, I offer this amendment at the request of the administration. It is another clarifying amendment. It makes it clear that the removal of the statutory impediments in section 105(b)(1) to bank investment in export trading companies refers only to banking laws and not to securities or other laws.

Again, I do not know of any opposition to this amendment. It is technical. It has been cleared with the minority.

Mr. PROXMIRE. Mr. President, as I understand it, the Senator's amendment would make it clear that we are referring only to laws applicable to banking organizations. Is that correct?

Mr. STEVENSON. The Senator is correct.

Mr. PROXMIRE. It is a technical amendment, in that sense?

Mr. STEVENSON. Yes.

Mr. HEINZ. Mr. President, as I understand the amendment, it is clarifying and technical in its nature. I certainly can accept it on behalf of the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois (Mr. STEVENSON).

The amendment (UP No. 1535) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the Senator from North Carolina has an amendment that he would like very much to have considered by the Senate. I think he can be here in a very few minutes. For that reason, I am going to suggest the absence of a quorum. If we cannot reach him right away, then I have a statement I would like to make. I hope that the Senator from Illinois and the Senator from Pennsylvania will permit that brief quorum call.

UP AMENDMENT NO. 1536

(Purpose: To require State law to govern the activities of State-chartered banks)

Mr. MORGAN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) for himself and Mr. PROXMIRE, proposes an unprinted amendment numbered 1536:

On page 18, after line 24, insert the following new section:

"(g) Nothing in this legislation shall be construed to permit a State chartered bank to invest in an export trading company unless the State chartered bank is specifically permitted to do so by State law."

Mr. MORGAN. Mr. President, first, I commend the distinguished Senator from Illinois for the work he has done on this bill promoting export trading companies. From time to time he has been nice enough to keep me infromed of what he was doing. I certainly share with him his concern for trying to enhance the abilities and the opportunities of this country to engage more in the export business. But there is one provision in it which bothers me because of my own philosophical beliefs about our so-called system of federalism which I think sometimes we are inclined to forget.

I thank my colleague, the Senator from Illinois, for recognizing this problem. I think he was trying to find a cure for it. However, I am not quite sure I agree—in fact, I do not quite agree—with his remedy.

The bill, as I understand it, would involve itself with State-regulated banks. It would permit State-regulated banks to engage under the provisions of this bill to the extent that federally chartered banks would.

While I have no objection to State banks doing so, and I hope, as a matter of fact, that State banks will if this legislation is finalized, but I believe very strongly in the dual system of banks. I do not believe that we in the Congress should be passing laws that in any way attempt to regulate banks chartered by the various States or to enhance the authority granted to them by the various States.

After all, it is the State regulatory agencies which are charged with the solvency and the accountability of the various States.

This is not a new problem with me, or not a new thought with me. I believe my colleagues on the Banking Committee know that consistently during my tenure in the Senate and on the Banking Committee, I have tried to oppose every measure that in any way attempted to subject State-chartered banks to Federal control, to Federal regulations, or to Federal involvement, here, again, because of my very strong belief that the dual banking system is important to America, and also because of my very strong belief in the provisions of the Constitution which say that all powers not granted to the Federal Government are reserved to the States.

I want to give a number of examples.

Earlier this year when interest rates were a problem and some of the usury laws of the various States tended to hamper the ability of the States to carry on their commerce, there was an effort made on more than one occasion to preempt State usury laws. Although I recognized the hardship that existed, it was my strong feeling then, and it is still my strong feeling, that the people on the State level should be the ones to remedy the situation. After all, the closer a government is to the people, the more attentive or the more knowledgeable it is of hardships which may exist and the more quickly or more readily relief can be granted.

I was not able to win my point on every occasion because the Congress did, over my objection, preempt the usury laws of the various States.

However, I think we did gain some concessions, because generally, most of those preemption laws provided that the State laws were preempted but that, then, the States could come back and reenact them. Well, half a loaf was better than none and I think that was at least some concession toward the State's authority and the State's right to regulate its own chartered institutions.

Here again, when Congress—I believe last November—passed the Financial Institutions Deregulation Act of 1979 or 1980, or whatever it was, I moved to strike provisions that enabled the Federal Reserve Bank to require reserves from State-chartered banks. If my recollection serves me correctly, the Senate on that occasion agreed with me and did strike it, saying, in effect, that that would subject State-chartered institutions to Fedral control. However, in trying to work out the differences between the House and the Senate, the conference committee put that provision back in and it was ratified by Congress—here again, over my objections in the Senate.

Mr. President, none of those things is relevant to the question before us, except for the point of trying to show to my colleagues my continued concern about those of us here in Congress enacting legislation which interferes with the rights of the States to regulate their own institutions.

I see my colleague from Illinois has already recognized the problem, for which I am thankful, because there is an amendment on my desk, which I think he had proposed to offer, that would authorize the State to restrict the rights of State banks to engage in these activities, but it would have taken affirmative action on the part of the State to permit it. All my amendment does is say that State banks cannot participate unless and until they are authorized by the laws of the State under which and by which they are chartered. I think that is a reasonable provision and I think, Mr. President, that many States would, in States where banks want to participate, readily adopt this and see the wisdom of it. I hope that my State would. Here again, Mr. President, I think it is a decision that ought to be made by the States.

The proponents of this bill can make a persuasive case as to why we ought to go on now and let the States do it, giving to the States the right but also requiring them to take affirmative action to get out from under the provisions of this law. But I can make a persuasive case for Federal regulation or Federal control for almost everything that this Congress has ever done. My colleagues last year, when they were attempting to preempt and did preempt State usury laws, made some very persuasive arguments, and I agree with their arguments. But I just felt that we were seeking relief in the wrong place.

I hope that my colleagues will accept this and I shall promise them this: If they do accept it and if the State banks in my State want to participate or there is a desire to get those banks to participate, I shall do what I can to assist them in doing that. I feel sure that my legislature, which is certainly very much concerned about export business—my goodness, we export soybeans, we export tobacco. We are beginning to sort of pat ourselves on the shoulder and talk about how great we are in the export business. We have a Governor in North Carolina who is very aggressive in this area. He has gone on his own trade missions abroad. We in North Carolina have some offices—I think we have one in Japan, maybe one in Europe—maybe in Germany—trying to promote exports and I surely do not want to do anything to discourage it.

Mr. President, this is consistent with my basic philosophy and, I might also add, is consistent with the unanimous position taken by the Governors Conference of this country, just recently meeting in Colorado.

I thank the Senator.

VETERANS PHYSICIANS COMPARABILITY ACT—MESSAGE FROM THE HOUSE

The PRESIDING OFFICER. Will the distinguished Senator from Wisconsin have the kindness to withhold so the Senate may receive a message from the House?

At 2:26 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House, having proceeded to reconsider the bill (H.R. 7102) to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, on reconsideration by the House, and two-thirds of the House of Representatives agreeing to pass the same.

The PRESIDING OFFICER. The Chair lays before the Senate the President's veto message on H.R. 7102, which the clerk will state, and it will be spread in full upon the Journal.

The assistant legislative clerk read as follows:

> *To the House of Representatives:*
>
> I am returning without my signature H.R. 7102, the Veterans Administration Health Care Amendments of 1980, because this bill would provide $80 million a year to Veterans Administration ("VA") physicians in unwarranted salary bonuses rather than target that amount on veterans themselves.
>
> As President, I have worked with the VA to ensure that the health care provided to our veterans is the finest in the world. Toward that goal, during the last three years, I have supported and signed legislation to expand and improve the treatment of all veterans who need to receive care from the Veterans Administration. Clearly, much more remains to be done for our veterans, and it is essential that we direct additional funds to those most in need.
>
> What is *not* essential, and what does *not* further our goal of directly helping sick and disabled veterans, is spending a large sum of money to give VA physicians currently earning an average of $55,000 a year up to 38% bonuses, making them by far the highest paid medical personnel in the entire government. Indeed, so generous are the bonuses provided in this bill that mid-career VA physicians could earn 30% more ($76,200 vs $58,700) than the maximum authorized annual salary for Armed Forces physicians. The Defense Department has recommended a veto of this bill because this differential in pay may adversely affect its ability to solve the current physician recruitment and retention problems in the military.
>
> I am concerned about attracting and retaining excellent VA physicians. But the current salary and benefits are more than sufficient to do that. At the same time, the current level of health care is not, in all areas, sufficient. Therefore, rather than spend $80 million on unneeded bonuses for a relatively few physicians, I would prefer that the Congress target funds more directly on improving health care benefits and treatment for veterans.
>
> I therefore urge the Congress to pass a bill which meets the other goals of H.R. 7102, including the Veterans Administration real and specific needs for certain physician specialists, while providing—from the money that would have been projected for excessive bonuses—for improved health care treatment of veterans.
>
> JIMMY CARTER.
>
> THE WHITE HOUSE, *August 22, 1980.*

THE EXPORT TRADING COMPANY ACT OF 1980

The Senate continued with consideration of the bill.

Mr. PROXMIRE. Mr. President, will the Senator from North Carolina yield?

Mr. MORGAN. I am happy to yield.

Mr. PROXMIRE. I congratulate the Senator from North Carolina on his position. That may come as something of a surprise. He and I have been on opposite sides when this kind of issue has come before the Banking Committee and before the Senate. I must confess that it is with a heavy heart that I have opposed him in the past.

I opposed him with respect to overriding State laws on usury. I felt that was absolutely essential. I may have been wrong, and I did it with a heavy heart, recognizing there was a great deal of justice in the position taken by my good friend from North Carolina.

Mr. President, in this case I cannot for the life of me see how his amendment could enfeeable the bill. It seems to me it would strengthen the bill. It would provide what is much more important, of course, a recognition of the integrity of the bank regulators and of the sovereignty that we have written into our Constitution with respect to our States.

Mr. President, is the Senator from North Carolina familiar with the Conference of State Bank Supervisors?

Mr. MORGAN. Yes, Mr. President, I am.

Mr. PROXMIRE. Will the Senator permit me to read from a short letter which they have written on this subject?

Mr. MORGAN. I shall be happy to hear it.

Mr. PROXMIRE. This letter was dated July 24 and addressed to me as chairman of the Banking Committee. They have said this, with respect to S. 2178, the bill before us, the Export Trading Company Act of 1980:

> In accordance with your request for comments by the Conference of State Bank Supervisors regarding the above bill, this is to advise that the Conference shares your concerns that this bill would violate the principle of the separation of banking and commerce, which concept has done much to prevent an unhealthy concentration of economic power in this country. Bank equity in nonbanking enterprises, like government equity is the worst type of contrived credit allocation.
>
> While we are supportive of the stated objective to increase U.S. exports, we believe that to permit banks to hold a controlling equity interest in export trading companies would raise serious regulatory problems of the type which the Federal Reserve Board and the FDIC have spelled out in communications on this bill.
>
> The worthy goal of increased exports can be achieved more effectively by reducing government-related burdens on producers of goods and services which might be sold abroad. High taxes, government-fed inflation, consequent high interest rates, government-sponsored labor monopoly, related high labor costs and direct control adversary-type government regulations, all merit attention ahead of another government program—particularly one which has all the ingredients of more, not less, regulatory burdens. The Export Trading Company Act of 1980 inevitably would take on more of the characteristics of high government costs and a bureaucratic power structure than of export expansion.
>
> Finally, representing the primary chartering and regulatory source for state-chartered commercial banks, the Conference must express its strong objection to those provisions in S. 2718 which would permit state-chartered commercial banks to take equity positions in business enterprises in violation of state banking codes banning such action. This proposed action would constitute a serious preemption of state authority to determine the operating powers of banks which they charter and supervise. Certainly in the absence of some overriding national policy considerations, which we do not perceive here, CSBS must object to those statutory provisions in S. 2718 which would enlarge state-chartered banks' powers beyond those which a state authorizes for its institutions.
>
> Sincerely,
>
> LAWRENCE E. KREIDER,
> *Executive Vice President-Economist.*

Mr. President, that is precisely the issue that the Senator from North Carolina would address. What they are saying here is that if the States are to have any genuine, respected authority over their banks, they should not be overridden by this kind of legislation on this issue.

I want to tell my friend from North Carolina once again that while I disagree, as I assume the Senator from North Carolina may disagree with some of the arguments here, frankly, I think the trading company is a good idea, provided that the amount of bank equity is limited and the Federal Reserve Board, or some other single agency, has authority to determine whether or not the power is necessary to expand our exports.

I do not think the rest of the legislation is objectionable. In fact, I think it can be very constructive. But certainly, the part the Senator would amend that deals with the authority of the State banking regulators and would interfere with that authority and override and deny their authority, I think is wrong. The Senator's amendment would correct that.

Mr. MORGAN. I thank my distinguished chairman.

Mr. President, I do have in my State a very active and competent and aggressive commissioner of banks. He is our regulatory authority, or State regulator.

I have known him for many years. I knew him when he was in State government as the commissioner of revenue for our State, then he became a vice president of one of the largest corporations in our State. He is now back in that position as commissioner of banks, and he is very cognizant of that fact.

I have a tendency, every time this question arises, to expound on a point of our philosophy, upon my own philosophy of the rights of the States.

But I really do not think we can tell that story too much. I certainly cannot, coming from North Carolina.

I am not the first North Carolinian to ever raise this question. As a matter of fact, Mr. President, I cannot resist saying to this Senate that my State was not a part of the United States when it came into existence. In March of 1789, we refused to ratify the Constitution of the United States even though 11 other States had already ratified it, and the United States had come into being because at least nine had ratified it.

The reason we did not ratify it was this very reason. North Carolinians were individualists. They were afraid of a government far removed from the people. They were concerned because there was nothing in the Constitution that was brought to us from Philadelphia that guaranteed that we in the States would enjoy these privileges.

I know very well that one of the proponents of the Constitution said in that debate in Hillsboro that we do not have to worry about usurpation of powers by the Federal Government, we do not have to worry about the deprivation of rights, because, after all, we are not going to be ruled any more by a king, or monarch, or somebody from the ruling class, or the elite. We are going to govern ourselves, and surely, we would not deprive ourselves of these precious rights and we would not remove government far from the people.

I remember there was a man in that convention who later held this same Senate seat I now hold, who said, in effect, that there lies within the breast of every human being a secret lust for power, and these rights cannot be entrusted even to our own.

It was not until the Congress, after the formation of the United States, after George Washington's election, until after this Congress had proposed the amendments, which now constitute the first 10 amendments, had been submitted to the people and at least one State ratified those amendments, before my State would even consider coming into the Union. We set out 27 different provisions that we said had to be incorporated into the Constitution before we would even consider becoming part of the Union. One of those provisions was that all rights not specifically delegated to the Federal Government in the Constitution would be reserved to the States.

If my recollection serves me correctly, that is the 10th amendment.

So, my philosophy is one I grew up with. It is one that has been prevalent in North Carolina from the very beginning. We did not have an opportunity to vote for Washington because of that.

It follows on through, down through my immediate predecessor (Mr. Sam Ervin), who I suspect spent most of his life on the floor of this Senate, jealously defending the same kind of rights of the States that I am now defending.

So I do feel very strongly about it, although I support everything that the Senator from Illinois (Mr. STEVENSON) is trying to do with regard to promoting export trade. I just feel so strongly about it that I feel I have to oppose it.

Mr. PROXMIRE. If the Senator will yield further, the Senator from North Carolina has been extremely consistent and eloquent. I think he is winning Congress to his position on this. I hope he does, because he should.

But this particular issue is unusual because it deals, as the override or usury did not, with the dual banking system, which goes to the very heart of our trying to diversify economic power in this country, and try to give as much of the economic authority, in the economic sphere, as possible to the States and not have the Federal Government have a monopoly.

The heart of the dual banking system is the chartering and regulation process. If the States lose that authority, the dual banking system becomes, in my judgment, a sham.

Now, the power of the institution goes to the heart of the charter. In other words, if the bank regulators are going to lose the authority to determine whether or not a bank can diversify into commerce, which it does to some extent, and I think constructively does so, it seems to me that is an extraordinary bad precedent. If certainly enfeebles the dual banking system.

So if the Federal Government dictates the powers of the State banks, it takes over the chartering and regulatory process.

In that sense, this part of the bill strikes at the heart of the dual banking system itself, something I think all of us on the Banking Committee, particularly the Senator from North Carolina, but all of us, are aware of, and in varying degrees support.

Mr. MORGAN. It strikes me that if we give the State banks this authority to act independently of their regulatory agencies, that we could, in effect, have State banks' soundness jeopardized without, maybe, even the regulatory agency knowing about it.

I wonder if the Senator from Illinois would yield for a short colloquy with me on this.

Mr. STEVENSON. By all means. I am happy to. The Senator has the floor.

Mr. MORGAN. Does the thrust of the Senator's bill, would the thrust of what the Senator seeks to accomplish by his bill, be substantially hampered if the State banks had to get permission of their own States before they could participate?

All I am trying to say is this: Is the thrust of the Senator's bill so important that it would be jeopardized by saving to the State banks. "You must go through your normal regulatory authority before you can participate"?

Mr. STEVENSON. Mr. President, so far as I know, no State legislature in the country has addressed this issue. Therefore, no State regulatory agency at the present time has the authority to permit the State banks to do what the national banks would be permitted to do under this bill.

So there could be some significant delay before State banks could participate in the ownership of trading companies. That could put the State banks at a disadvantage, as the national banks get into trading companies. What is more, it also could retard the development of trading companies, which we believe is very dependent on participation by banks, including State banks. So there is some concern about the effects on the trading companies.

However, I am very impressed by what the Senator from North Carolina and the Senator from Wisconsin have said, and I share their concerns about the federal system and the wisdom of respecting and preserving it. I also share their concerns about anything we might do here to impair the dual banking system.

Therefore, at the appropriate time, I should like to address all these concerns, including my concern about the viability of trading companies, getting them off to a strong start, by offering a substitute for the Senator's amendment, on behalf of myself and Senator HEINZ, Senator GARN, and Senator TOWER.

If the Senator will yield to me further, I will explain what we have in mind, and perhaps he can accept this as a substitute.

Mr. MORGAN. I will yield in a moment.

I suspect that if I were to call the major State banks in my State today, they would say, "I wish you would withdraw your amendment, because we would like to have this authority."

I believe that is pretty prevalent, by the fact that all too often we want to have our cake and eat it.

I remind the Senator of the situation in which we found ourselves in the Banking Committee a few days ago, when the independent insurance agents of America were asking us to preempt State laws in order to prohibit bank holding companies from selling insurance. I do not believe that bank holding companies should sell insurance.

Here, again, I was troubled by the same idea: that the insurance agents were asking us, on one hand, to preempt State laws for that purpose but, on the other hand, they were saying, "Don't let the Federal Government regulate insurance."

In that connection, we then offered an amendment to that bill, saying, "All right, let's set up a commission to study the preemption of State laws."

Let me say, first, that my friends in the banking community supported my view: "You should not preempt State laws. Let the States regulate the insurance agents. This bill has no business up here."

Then, when we offered an amendment to the same bill, to set up a study commission and report back in 17 months with regard to preemption of usury laws.

the same people who were hollering "States' rights" to me a few minutes before said, "No, let's not do this, because this would preempt all State usury laws for 17 months."

What I am saying is that, human nature being what it is, we sometimes look at things as to how they will affect us in the immediate future.

I suspect that what I am doing probably would meet with the disapproval of a great many of my State banks, but I do not believe they should be allowed to have their cake and eat it.

Mr. PROXMIRE. Mr. President, I understand that the Senator from Massachusetts is prepared to speak. Perhaps while he is speaking, the staffs could work together and see if we could work out an acceptable compromise on this issue.

I know that the Senator from Illinois had an amendment that related to this directly and went part of the way toward the problems posed here by both the Senator from North Carolina and the Senator from Wisconsin.

Will the Senator permit the Senator from Massachusetts to speak briefly?

Mr. MORGAN. Yes.

Mr. KENNEDY. Mr. President, I support the amendment Senator METZENBAUM will propose dealing with the antitrust exemption contained in this bill. The bill as it now stands would allow the Secretary of Commerce to grant the members of an export trading company an exemption from the antitrust laws. It would allow the Attorney General to sue in court to set aside the exemption when he believes it is not warranted.

The amendment that Senator METZENBAUM and I have offered would simplify this system and, in doing so, would offer additional protection to the American public. It would have the Attorney General, not the Secretary of Commerce, decide whether an exemption is warranted. If he decided to grant the exemption, however, his decision would be final. It would grant immunity from both subsequent private antitrust suits and Government actions.

There are two basic reasons why this amendment should be enacted. First, the Attorney General, not the Secretary of Commerce has the relevant expertise. The Attorney General has administered the antitrust laws for nearly 100 years. The Secretary of Commerce has little experience in the antitrust area. This fact is highly relevant, for the bill does not purport to set aside antitrust standards. Rather, the bill allows an exemption only if the exempted agreement will not lead to "a substantial lessening of competition or restraint of trade." The Justice Department has administered standards like this one for years. It has also habitually authorized practices that do not violate those standards. It has a system of granting "business review" clearances to firms whose agreements are not anticompetitive. To allow a different agency to administer this exemption threatens to weaken it to the detriment of the public.

We have seen some agencies in the past abuse the power to grant immunity from the antitrust laws. The Civil Aeronautics Board and the Interstate Commerce Commission each, for many years, cost consumers billions of dollars by granting antitrust immunity where it was not warranted. We also know that abuse of this power in the antitrust area could threaten the public with the creation or sustenance of international cartels. In the past, we have seen international cartels, such as the quinine cartel, force buyers to pay exorbitantly high prices for drugs or other items in foreign trade.

Thus, it is particiularly important, when giving agencies the power to grant antitrust exemptions, to guarantee that this power cannot be abused. To do so, it is vital that the power rest in the hands of the Attorney General, who understands and can administer fairly the complex legal rules contained in the antitrust laws, and not delegate that power to an agency without experience in this area.

Second, the business community, in exporting, is less in need of exemptions from the antitrust laws, than in need of certainty about what it can and cannot do. The antitrust laws themselves allow agreements among exporters when those agreements are "reasonable."

The basic problem for business, however, is how to know whether an agreement is "reasonable," particularly when private plaintiffs, as well as the Government, may challenge any such agreement in court. The bill, without our amendment, will not give business this certainty. To the contrary, it will spawn lawsuits, as the Attorney General challenges the Secretary of Commerce's determinations in court. That has been the experience under the merger law exemptions contained in the Bank Merger Act of 1966. I have every reason to believe that this similar statute would lead to similar uncertainty and legal tangle. With our amendment, however, the business community will have the requisite certainty. The exporters would make a single stop—at the Department of Justice—and ask for clearance. If their agreement is reasonable, immunity will be granted. Then, neither private plaintiffs, nor the Attorney General, will sue further, thus allowing the export companies to go forward with their proposed arrangement.

In sum, Mr. President, I believe that our amendment will better carry out the purposes of this bill than the language it now contains in this area. It will provide increased certainty to allow business planning; it will provide increased protection for the consumer from possible agency abuse of the power to grant immunity from the antitrust laws. For these reasons, at the appropriate time when the amendment is offered and debated I hope that it will be accepted

Mr. President, earlier this year we were able to make substantial progress in reducing dramatically the antitrust exemption in the trucking area, for example, which will mean greater competition in establishing the prices to move goods through the motor carrier bureaus and across the trucking lanes of this country.

Earlier last year when we passed the airline deregulation legislation we also reduced dramatically the types of immunities from the antitrust laws that were created under previous legislation.

The fact that we eliminate some of the antitrust exemptions does put a higher premium on the activity and the action of the Department of Justice and on the Antitrust Division.

But I do think that that is the appropriate place for these types of judgments to be made. They have the expertise. They have the knowledge. They have the know-how. And with the type of amendment that has been fashioned I believe that we will actually expedite many of the purposes of the legislation.

Finally, I am mindful that the Justice Department itself has indicated to the committee its willingness to effectively waive this type of intervention, but I do take notice of the fact that the antitrust division itself did not state a position on this particular issue. It has been brought to my attention that those who have been the most concerned about the forces of competition in our society, the maintenance of our antitrust laws, competition, and the protection of the consumers believe that the kind of remedy that the Senator from Ohio (Mr. METZENBAUM) has offered, in which I join with him, offer the best opportunity to carry forward the spirit of this legislation, do it in a timely fashion and also protect the consumers of this country.

We welcome the opportunity. I know the Senator from Ohio as well as myself welcome the opportunity to work with the members of the committee in trying to achieve the objectives which we have presented in our amendment, but we have been unable to make those adjustments and changes to date. I do think that they are of sufficient importance and hope that we will be able to have an opportunity to discuss those further.

Mr. PROXMIRE. Mr. President, will the Senator from Massachusetts yield?

Mr. KENNEDY. I yield.

Mr. PROXMIRE. Mr. President, I thank the Senator from Massachusetts for his comments and I wish to ask him a question or two. Before I do that I wish to point out the Senator from Massachusetts has been the leading force in the Senate in calling for deregulation, particularly deregulation of airlines and elsewhere. If we are going to deregulate we have to recognize the fundamental regulator in American commerce has been competition. That is far more effective and far more satisfactory, of course, than bureaucratic interference. The Senator has recognized that over and and over again. That is what disturbs me here, and that is what is at stake here. Let me read to the Senator from the committee report that makes that so clear. I read just two short paragraphs:

> Between 1930 and 1935 Webb-Pomerene associations numbered 57 and accounted for approximately 19 percent of total U.S. exports. By 1979 the number of associations had dwindled to 33 and their share of total U.S. exports had dipped to less than 2 percent.
>
> The reasons for this poor showing are many. First, the vast majority of the 250 or so Webb-Pomerene associations formed over the last 60 years lacked sufficient product-market domination to exert foreign market price control and membership discipline.

What that is saying is they did not have the ability to fix prices and did not have the ability to allocate markets. They did not have the authority in that respect.

Let me point out what the bill provides. On page 29 at the top of the page it provides that this kind of information will be filed with the Commerce Department for the Commerce Department to make a decision.

> The export trade activities in which the association or export trading company intends to engage and the methods by which the association or export trading company conducts or proposes to conduct export trade in the described goods, warest, merchandise, or services, including, but not limited to, any agreements to sell exclusively to or through the association, any agreements with foreign persons who may act as joint selling agents, any agreements to acquire a foreign selling agent, any agreements for pooling tangible or intangible property or resources, or any territorial, price-maintenance, membership, or other restrictions to be imposed upon members of the association or export trading company.

The difficulty here, as the Senator pointed out, is that this would go to the Commerce Department. The Commerce Department has no experience, no expertise in the area of antitrust. The Justice Department has it now.

We would take that away from the Commerce Department and in the judgment of the Senator from Wisconsin that would certainly enfeeble our ability to enforce our antitrust laws.

I wish to congratulate the distinguished Senator from Massachusetts on his statement.

I ask the Senator this: Could price fixing, allocation of markets abroad, sanctioned by the Commerce Department complicate our foreign trading relations?

Mr. KENNEDY. Mr. President, I just wish to indicate to my friend and colleague that the Senator has stated the situation exactly as I understand.

There is also a provision in here which states that after the Department of Commerce acts they can have the action for validation of the certificate by the Attorney General or chairman.

So actually what we are doing, we are having a preliminary standard which is basically an antitrust standard which has been established in this legislation and which the Antitrust Division has the expertise, the understanding, and the know-how, and is making judgments on that standard almost daily, being applied by the Commerce Department, and then if the Justice Department should make a judgment for invalidation then it all has to return to the Justice Department and we get the delay. We get the uncertainty. We have all the disadvantages of the bureaucracy. And what we are proposing is that the agency of Government which has the expertise, the understanding, the knowledge, and the know-how make the judgment and make it final and make it certain.

So, for all the businesses in this country that are attempting to be involved in this procedure and can meet the other criteria of the legislation they can just go to one shop, so to speak. They know when they receive the judgment determined by the Justice Department that it will be the final judgment made.

There will be the degree of certaintly that will be made by the agency that has both the knowledge and the understanding in this area. What we can be assured of, to the extent that we can be assured of anything, is that the Antitrust Division is going to try and maintain its responsibility in protecting the consumer of this country.

Mr. PROXMIRE. Could not this division of authority complicate our foreign trading relations? For example, suppose we have some country that is moving in the direction of stronger antitrust laws and we come in as the very powerful, superpower, very vital and important trading nation, with our proposals for price fixing and for maintenance of certain markets and for exclusions of some people from the markets. Could we not destroy that movement toward the kind of thing we have been trying to promote in the world for years, the kind of market system of which we all approve so warmly?

Mr. KENNEDY. The Senator is quite correct. He makes a very valid point. I know it is in an area where the Senator has a great deal of expertise as the result of considerable hearings, but it certainly would be my understanding that that could be the case.

It seems to me that this amendment which we offer is reasonable. It does seem to me to reduce bureaucratic shopping, and it also insures that the application of the rules of antitrust laws will be made by those who have been charged by the administration and by Congress with insuring their fair, just, and adequate application.

It does seem to me to be completely consistent with the legislation, and it seems to me to be, quite frankly, contributive to the direction that the sponsors of the legislation would like to go in this very narrow and limited area.

I would just remind the Senate that over the period of the last two sessions we have learned, I think, very clearly that the carving out of antitrust exemptions and the creation of immunities have cost consumers in this country a great deal. They have contributed to the fires of inflation.

It seems to me we want to insure that this new piece of legislation is not going to contribute to that type of policy which, I think, the Senate now in its wisdom is increasingly rejecting and it is relying, as it should, on the forces of competition in our society.

Mr. PROXMIRE. Mr. President, if the Senator will yield further, because I do not want to hold up the Senate any longer, I know this is a very important piece of colloquy which has taken place, but as I understand the Senator from Massachusetts and Ohio, with the Metzenbaum-Kennedy, and now which I am cosponsoring with them, amendment, this does not take the position that we want to discourage export trading companies. We want to promote them.

Mr. KENNEDY. The Senator is absolutely correct.

Mr. PROXMIRE. It does not go to the people but it goes to the procedure of who shall have jurisdiction here.

Mr. KENNEDY. The Senator is quite correct.

I just want to make a parenthetical point. It seems to me that one of the major additional problems we have faced in fashioning and shaping our export policy over the period of recent years is the requirement of multiagency shopping. This has complicated it. The major industries of this country have been able to develop the kind of staff and resources so as to be able to do it.

In many instances they have not been as energetic as some of the newer and younger companies. One of the major hinderances I have seen in talking to small businessmen and women across this country is the fact that they want to reduce the number of agencies they are going to have to shop around for, and they also want certainty, and this amendment achieves that.

We achieve certainty, predictability, and we reduce the kind of bureaucracy which I think has hindered the possibilities for foreign export. But I do want to state that I agree fundamentally with the Senator from Wisconsin when he says that we do need a strong export policy. We do want to insure legislation which wil be enacted to help and assist us in achieving that policy. I certainly want to reach that outcome in a way which is going to be fair to the exporters, fair to our consumers, protect them and enhance the United States as a powerful trading partner.

I thank the Senator.

VETERANS PHYSICIANS COMPARABILITY ACT—VETO

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed for not to exceed 10 minutes to the consideration of the President's veto message on H.R. 7102.

The PRESIDING OFFICER (Mr. TSONGAS). Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I ask that Mr. SIMPSON and Mr. CRANSTON control the time equally.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7102.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

> The House of Representatives having proceeded to reconsider the bill (H.R. 7102) entitled "An Act to amend title 38, United

States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The Senate proceeded to reconsider the bill (H.R. 7102), the Veterans Physicians Comparability Act, returned to the House by the President on August 22, 1980, without his approval, and passed by the House of Representatives, on reconsideration, on August 26, 1980.

Mr. CRANSTON. Mr. President, I rise to urge my colleagues to join with me and with our colleagues in the House of Representatives in voting to override the President's veto on Friday of H.R. 7102, the Veterans' Administration Health-Care Amendments of 1980. The House vote to override earlier today was 401 to 5.

Mr. President, as I stated yesterday, I sought to avoid a confrontation with the administration on this issue by personally discussing the matter with the President. However, I believe that the bill Congress sent to the White House on August 11 was a sound and responsible one—carefully designed to meet very real needs in the VA health-care system—and that the President received singularly bad advice and took inappropriate action in vetoing H.R. 7102.

I call for an override of the veto because not only are the reasons stated in support of the veto ones with which I cannot agree, but the reasons stated are premised on major factual misstatements. As I will demonstrate shortly, the veto message consists of one incorrect statement after another.

Mr. President, during the development of H.R. 7102, numerous meetings were held with representatives of the administration, including officials of the Office of Management and Budget, the Office of Personnel Management and, on many occasions, of the Veterans' Administration. Throughout this process, there was a bona fide effort on the part of the two Committees on Veterans' Affairs to accommodate the concerns raised by the administration, and a great many changes were made in the final legislation as a result of those efforts.

Mr. President, yesterday I had a "Dear Colleague" letter delivered to each Senator's office that included, as enclosures, the President's veto message on H.R. 7102 together with a rebuttal to the points made in that message. Another copy of that letter and enclosures is being placed on each Senator's desk at this time, and the text of the letter and attachments were prinited in the RECORD yesterday at my request at 22884.

The first basis mentioned in the veto message as justifying a veto was the cost of the special pay increases included in H.R. 7102. In the veto message, the cost of these increases was described as $80 million. Simply stated, that figure is wrong. The Congressional Budget Office estimates the fiscal year 1981 cost of the special pay increases as $31.7 million—the effective date of the increases is delayed until January 1, 1981—and the cost for each of the next 4 fiscal years as $44.9 million. Thus, the message is in error on what appears to be a point fundamental to the veto. I would also like to note that, because of a major cost savings provision in title IV of the bill, CBO estimates a fiscal year 1981 net cost savings for the total measure of over $50 million and savings over the first 5 years of over $350 million.

Mr. President, the VA's special pay authority was enacted in 1975 to help address significant recruitment and retention problems facing the VA at that time—including difficulties resulting from a lack of comparability with the rates of pay available to military physicians because of increases in those rates enacted shortly before the time of the 1975 VA legislation. Although the VA's special pay authority was extended a number of times between 1975 and the present, the rates of special pay themselves have not been increased for 5 years. The information available on the effectiveness of the special pay program suggests that it worked as intended in the first year or two after it was enacted but that it had largely lost its impact by 1978. Over the period from 1975, DOD likewise had little assistance in its efforts to attract quality physicians and so, although neither agency was progressing in a satisfactory manner, at least DOD and VA remained roughly comparable.

However, earlier this year, the Congress passed and the President signed the Uniformed Services Health Professionals Special Pay Act of 1980, Public Law 96-284, a measure that provided for very significant increases in special pay for DOD doctors. I strongly supported that legislation when it was before the Congress because I recognized that a legitimate and compelling need existed for the increases in special pay it provides for. However, I believe that the same need exists in the VA, and to suggest, as the veto message does, that this is not the case is to ignore both the record made by the two Committees on Veterans' Affairs this year and the reality of the marketplace for physician services that was recognized in the case of DOD by Public Law 96-284.

Mr. President, another erroneous point in the veto message is that Congress proposes to increase compensation for VA physicians as an end in itself. This line of argument assumes, most mistakenly, that somehow any problems in VA health care can be remedied by targeting funds on the veteran patients and not providing pay increases to the health-care providers, including VA physicians. The logic of this point escapes me.

Certainly, there are other needs in a health-care system beyond assuring an appropriate mix of qualified health-care personnel. But equally obviously, there can be no health-care system without the needed personnel. It is abundantly clear to me and the Committees on Veterans' Affairs in both Houses—and, to this point a bipartisan, nearly unanimous Congress—to the veterans service organizations and to individual veterans across the country, that VA physician staffing is not all it could or should be and that the quality of VA health care suffers accordingly.

There certainly are many excellent, dedicated physicians in the VA, but there are not enough of them. The declines in the various indicators of the quality of VA physician staffing—board certification, source of medical education, quality of prior experience, and academic appointments—demonstrate the decrease in overall physician quality within the VA. In addition, many qualified physicians are leaving full-time service in the VA in mid-career for a part-time appointment, a trend which bodes badly for the future of the VA, I believe. Without a strong basic core of dedicated, career physicians, I am concerned that the VA health-care system will be in jeopardy in the not too distant future. Health care through the VA is one of the key components in the overall scheme of veterans' benefits, and it must be maintained under a strong and viable system. To achieve that result, the personnel needs of the system must be met, and I believe H.R. 7102 is a most appropriate step toward that end.

Mr. President, the final area in which the veto message is in error involves the relationship between compensation for DOD physicians and the special pay provisions in H.R. 7102 for VA physicians. I would note at the outset that I do see a relationship between DOD and VA.

On the one hand, the VA must be strong to back up the Defense Department's health care resources in the event of war. I have recently been stressing this point a great deal, and the GAO, in a recently released report, "The Congress should mandate formation of a military-VA-civilian contingency hospital system," buttresses this point most convincingly. Second, the VA and DOD are both Federal sector employers and, as such, may be viewed in a somewhat similar light by some physicians evaluating career options.

However, despite these valid bases for comparing the two systems, I do not believe that it is possible to make a genuine comparison of the two systems or to insist on a direct analogy between them. As is discussed more fully in the "Dear Colleague" letter I sent yesterday, the DOD and VA work forces are very dissimilar, as are their sources of physician recruitment, and the overall design of the two system's pay provisions.

However, Mr. President, to the extent that a comparison of the two pay systems can be made, the veto message is again in error. The statement that a mid-level VA physician could earn more than the highest-paid DOD physician is not grounded in fact. Quite the contrary is true since there would be a reasonable comparability between the maximum pay for physicians under both systems when the effect of Public Law 96-284 and H.R. 7102 are considered—$70,900 for the O-6 level in the military with 22 years of service, in effect since July, increasing to $76,000 after the October 11.7 percent military pay raise, compared to a maximum now for VA physicians of $61,800, increasing to $77,610 as of January 1.

The military figures I am using—unlike those in the veto message—are based on the standard DOD estimates of real military compensation—RMC. However, there are a great many benefits that are received by DOD physicians which are not taken into account in the RMC figures, such as medical and dental care, PX and commissary privileges, various tax advantages, and noncontributory retirement available after 20 years, that also are not available to VA physicians. When these considerations are factored into a comparison of the two systems the notion that H.R. 7102 would somehow make VA physicians pay superior to the value of DOD compensation is totally undermined.

Mr. President, as a final point on the issue of the relationship between the VA and DOD, I want to note that the committee was very cognizant of DOD's need for physicians throughout the consideration of H.R. 7102, and it took steps to guard against any untoward impact on the military services ability to recruit and retain sufficient qualified personnel. I believe that this effort was successful, and I regret that DOD's interests were raised as a basis for vetoing a bill that had the fully legitimate goal of assuring that the VA—as well as the military—is able to recruit and retain the physicians needed.

I urge my colleagues to join with me in voting to override this ill-conceived veto so that H.R. 7102 can become law. The overwhelming margin by which the House of Representatives voted to override the veto earlier this afternoon—401 to 5—attests to the inappropriateness of the veto. The VA must be able to provide quality health care to the Nation's sick and disabled veterans—that is our national obligation—and H.R. 7102 will provide the much needed wherewithal for the agency to fulfill that mission.

I would like to yield 1 minute to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Chair will say that the Senator from Wyoming controls the remaining time.

Mr. SIMPSON. Mr. President, I ask unanimous consent for an additional 3 minutes of time for the distinguished chairman of the committee. I have now been advised that Senator THURMOND would like 2 or 3 minutes of time. I will require no more than that myself. I wonder if the majority leader would agree to that?

The PRESIDING OFFICER. Is there objection to the request? If not, it is so ordered.

The Senator from California has 3 minutes remaining.

Mr. CRANSTON. Would the Senator like to proceed first?

Mr. SIMPSON. Mr. President, I yield myself 3 minutes of my time.

Mr. President, as the ranking minority member of the Veterans' Affairs Committee, I would like to join my esteemed colleague and the chairman of the Senate Veterans' Affairs Committee in urging the Senate to override the President's veto of H.R. 7102, the Veterans' Administration Health Care Amendments of 1980.

I am very much aware that he has made every effort, as chairman of the committee, to avoid this veto confrontation. I point out to my colleagues that the Veterans' Affairs Committee of the Senate has dedicated a great deal of time and effort this year in developing legislation that best serves the interest of the Nation's veterans. We had so many difficult choices to make; indeed, we were forced to make a variety of painful reductions in veterans programs to satisfy our obligations under the Budget Act, and we went back to the drawing board many times.

I can assure you that any authorizing legislation to include H.R. 7102 that has been reported by the Veterans' Affairs Committee in this year was subjected to very close and careful scrutiny. We would not have reported this bill were we not thoroughly convinced that it was absolutely critical to affording veterans the medical care they both deserve and require.

We met our obligations under the budget and we must now meet our obligation to insure that this Nation's veterans receive appropriate medical care from sufficient numbers of qualified and capable physicians.

The President remarks that the additional compensation afforded to VA physicians by this bill "is not essential" and "does not further our goal of directly helping sick and disabled veterans."

I find this statement to be an absolute flight from logic. We can build the best hospitals and equip them with the latest in medical technology; but if we cannot provide an adequate number of qualified physicians and certified specialists, we cannot hope to offer the quality of care necessary to meet the needs of our veterans population.

Attracting and retaining VA physicians is "essential" and does very much to "further our goal of directly helping sick and disabled veterans."

Without the necessary incentive and special pays, the Veterans' Administration will continue to lose qualified physicians and certified specialists to the civilian health care market. I do not feel that the VA can indefinitely continue to recruit foreign-born graduates of foreign medical schools—and even these individuals, once they achieve board certification, are abandoning their positions within the VA or converting to part-time status. I believe that it is indicative of the problem the VA has in attracting and retaining high quality physicians to note that in 1979, 2,166 of the 6,221 full-time physicians employed by the VA were foreign-born graduates of foreign medical schools.

The PRESIDING OFFICER. The Senator has used his 3 minutes.

Mr. SIMPSON. Mr. President, I yield myself an additional 30 seconds of my allotted time.

In closing, Mr. President, let me note that I will not be taking the lead in overriding vetoes of spending bills on very many occasions. But in this instance, the President's veto is so patently ill-conceived that I cannot, in good conscience, passively accept the consequences of his action. H.R. 7102 is essential to the maintenance of a first-rate health care system for the veterans of this compassionate Nation.

Mr. President, I reserve the remainder of my time for Senator THURMOND at the appropriate time.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I yield 2 minutes to the distinguished Senator from Colorado, who is the author of the Uniform Services Health Professionals Special Pay Act, and who played a key part in its enactment by Congress. He is a member of the Armed Services Committee and a valued friend of the veteran.

Mr. HART. Mr. President, I support the vote to override the President's veto of H.R. 7102, the Veterans' Administration Health-Care Amendments of 1980.

As the principal sponsor in the Senate of legislation to provide for increases in special pay for military physicians that was ultimately enacted as the Uniformed Services Health Professionals Special Pay Act of 1980, Public Law 96-284, I am keenly sensitive to the needs of DOD to improve its ability to recruit and retain physicians. At the same time, and in fact because of my involvement with military physician staffing concerns, I also realize that the Veterans' Administration is faced with problems in its efforts to recruit and retain physicians similar to those confronting DOD.

Mr. President, in his veto message, the President raised concerns about DOD's physician recruitment efforts as a justification for the veto of H.R. 7102. I do not believe that the President's concerns in this regard are well founded.

Mr. President, first and foremost, it must be recognized that the two work forces are very different and DOD and VA are not really competing for the same physician personnel. DOD has and will continue to rely on obligated service to recruit a work force that is younger and less experienced than VA's and this difference is fully appropriate in light of the different medical missions of the two agencies.

Nevertheless, Mr. President, it is important that the two agencies not be in a competitive relationship and I am convinced that, rather than creating an imbalance between VA and DOD, H.R. 7102 will serve to help restore the balance that existed prior to the enactment of the military physician pay legislation earlier this summer. I know that the chairman of the Committee on Veterans' Affairs (Mr. CRANSTON) is aware of DOD's needs for physician personnel—he strongly supported the military physician pay legislation when it was before the Senate this year—and I know that he and the entire committee were careful in designing H.R. 7102 to prevent any VA improvements from having an adverse impact on DOD. I believe that they succeeded in their efforts and I regret that the President was advised to the contrary.

Mr. President, I join with my good friend, the chairman of the Veterans' Affairs Committee (Mr. CRANSTON) in urging our colleagues to vote to override the President's veto of H.R. 7102. The VA is facing many of the same problems faced by DOD in its attempts to recruit and retain doctors. Public Law 96–284 will help alleviate those problems for DOD and I do not believe that the VA should be restricted in its efforts to find suitable remedies because of unfounded fears about any impact on DOD. Our Nation's veterans deserve quality health care through the VA and a fundamental predicate to that goal is sufficient quality personnel to provide such care. H.R. 7102 is a well designed measure that will help achieve that end and should be enacted without further delay.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I yield 1 minute to the distinguished Senator from West Virginia (Mr. RANDOLPH), an outstanding member of our committee and a great leader in numerous efforts on behalf of veterans.

Mr. RANDOLPH. Mr. President, those Senators who have spoken in favor of overriding the presidential veto are not doing it in a sense of opposition, per se, to the Chief Executive of our Republic. Those of us who favor the veto—and I shall support it on the rollcall—know that the medical personnel of the Veterans' Administration are capable and are dedicated in their work. They are not compensated as are others, such as Defense Department physicians.

In West Virginia we have Veterans' Administration hospitals, in Beckley, Clarksburg, Huntington, and Martinsburg. I have personally visited these facilities. I have carefully reviewed the physician shortages.

I feel that the advisors of the President on this issue have done so on the basis of fallacy rather than fact.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CRANSTON. Mr. President, I yield my remaining time to the Senator from South Carolina.

The PRESIDING OFFICER. There is no time remaining.

Mr. THURMOND. Mr. President, I ask unanimous consent for 3 minutes.

The PRESIDING OFFICER. The Chair will state that the Senator from Wyoming has 1 minute and 14 seconds remaining.

Mr. SIMPSON. Mr. President, I yield the remainder of that time to the Senator from South Carolina. The chairman of the committee, Senator CRANSTON, has yielded the remainder of his time to the Senator from South Carolina. How much time is that?

The PRESIDING OFFICER. There is no remaining time to the Senator from California.

Mr. THURMOND. Mr. President, I ask unanimous consent for 3 minutes.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I was dumbfounded that the President vetoed this veterans bill. He vetoed it on a theory that the VA doctors will be paid more than defense doctors.

I yield to no one my interest in the defense establishment. But I must say, in all fairness, that the defense doctors do get PX and commissary privileges, they get housing allowances—nontaxable—they get medical and dental benefits, and they do not contribute to their retirement.

The VA doctors do contribute to their retirement. They pay 7 percent of their retirement to civil service, so, really, you cannot hardly compare the two. If you are able to really compare them, I think the benefits would be about the same, approximately the same. In fact, the VA may end up with a little bit less.

Further, this bill not only contains a provision for an increase in benefits for VA doctors, but it contains a geriatric provision, which is very important. This provision provides for studies in different centers of this country for our older people and what can be done to help these older people. It will not only help the older veterans and their families, it will help all older people.

As I say, I was just dumbfounded that the President saw fit to veto this bill.

Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum which shows where the President's veto message is incorrect in several areas; an outline showing VA doctors' pay and DOD doctors' pay; and letters sent to me from the American Legion, the Veterans of Foreign Wars, and the Disabled American Veterans concerning this subject.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRESIDENT'S VETO MESSAGE OF H.R. 7102 IS INCORRECT IN SEVERAL AREAS

1. Veto message: "Bill would provide 80 million a year—in "unwarranted salary bonuses—"

Fact: Title I of H.R. 7102, the special pay provision is estimated by CBO to cost $31.7 million in fiscal year 81 and $44.9 million for each of the next four years.

2. Veto message: ". . . current salary and benefits are more than sufficient to do that (attract and retain VA excellent physicians)".

Fact: 599 full-time physicians have converted to part-time status in the last three years. In 1979, 2,166 VA physicians were foreign-born and graduates of foreign medical schools. In 1979, full-time board certified VA physicians dropped 49.3 percent to 45.5 percent. Recruitment of a full-time radiologist takes over 2 years.

3. Veto message: H.R. 7102 increases in special pay would "give VA physicians currently earning an average of $55,000 a year up to 38 percent bonuses . . ."

Fact: The current maximum a VA physician can receive is $61,800. The maximum possible under H.R. 7102 would be $76,200—an increase of 23 percent, not 38 percent. Under recently enacted Public Law 96–284 which became effective July 1, the percentage increase in the maximum pay for military physicians is 17 percent for senior-level physicians and 25 percent for mid-level physicians. Not only has this increase become effective, on October 1, DOD physicians will receive the 11.7 percent cost-of-living raise.

VA physicians will, depending on Congressional Action, receive a cost-of-living increase (7 percent recommended in the budget); however, the $50,100 statutory cap will prevent many senior-level VA physicians from receiving any increase.

VA DOCTORS

Base pay: $40-$42,000—capped at $50,100. Special pay based upon factors; specific job (Service chief-Dept. Chief): 9,900–15,300; scarce specialty: 4,000–15,500; bd. cert.: 2,000, full time status: 6,000, tenure 1,000-3,000, hard-to-recruit areas 2,000-5,000.

Retirement: Contributory-Civil Service (7% of pay).

Profile of VA Dr.: Over 35 yrs.; bd. certified; several yrs. experience; treating ill and older people.

DOD DOCTORS

Base Pay: upper $20's-(Capt.) Special pay based upon factors:

Lump sum at start: $10,000.

Incentive base on specialty: up to $8,000.

Eligible for yearly bonus.

Retirement — non-contributory — retirement after 20 yrs; 4 yrs. schooling counting towards retirement.

PX and Commissary privileges.

Housing Allowance—non taxable.

Medical and Dental benefits.

Profile of DOD Dr.: upper 20's; just out of residency training; non-bd. certified; treating basically younger and well individuals.

THE AMERICAN LEGION,
Washington, D.C., August 26, 1980.

Hon. STROM THURMOND,
Senate Committee on Veterans Affairs,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: The American Legion is appalled by the President's action on August 22 to veto H.R. 7102, the Veterans' Administration Health Care Amendments of 1980. We view the veto as a disservice to America's veterans and we endorse your efforts to override that veto.

This legislation, as approved by Congress, is an attractive proposal for several reasons. First, it substantially enhances the ability of the Veterans' Administration to retain qualified health care personnel by improving salaries, especially for those who are in critical medical specialty fields. Second, it enhances that agency's ability to recruit qualified personnel by establishing a scholarship program for medical and nursing students. Third, the Act's provision authorizing the Veterans' Administration to more closely scrutinize eligibility for free health care will produce cost-savings in fiscal year 1981 sufficient to fund the salary increases and the scholarship program authorized therein, with the Federal Treasury realizing an additional $57 million surplus.

It is our understanding that a major part of the President's rationale for vetoing H.R. 7102 was his belief that it would unfairly compete with DoD's efforts to recruit and retain qualified physicians. We reject this line of reasoning as being both inaccurate and insufficient to justify a veto.

The President's veto message made reference to comparative physician salary figures which, first, grossly misrepresented the facts in the case and, second, attempted to oversimplify the matter by failing to address all relevant arguments. One such argument deals with the attractiveness of military service in fringe benefit areas, items which are critical to any medical student's career decision. In fact, the message seems to imply that Congress failed to recognize the potential for competition between the two pay proposals—a particularly serious implication when one considers that both chambers have voted on two versions of the military physican proposal and this VA physicians proposal within the past six months.

The American Legion, having been a strong advocate of both physician packages, is convinced that each will effectively work toward its designed goal and that neither of them will significantly dilute the impact of the other. We, therefore, reiterate our support for the enactment of H.R. 7102 through your efforts to override the President's ill-advised veto.

Sincerely,

MICHAEL J. KOGUTEK,
National Commander.

Veterans of Foreign Wars
of the United States,
Washington, D.C., August 25, 1980.
Hon. Strom Thurmond,
Committee on Veterans' Affairs,
U.S. Senate,
Washington, D.C.

Dear Senator Thurmond: Needless to say, I was appalled when on Friday, August 22, the President vetoed H.R. 7102, the "Veterans' Administration Health-Care Personnel Act of 1980," particularly, in view of the cost-savings provisions therein of $109 million.

The President's rationale "that mid-career VA physicians could earn 30 percent more ($76,200 vs. $58,700) than the maximum authorized salary for Armed Forces physicians," is in my opinion a transparent coloring of the facts and untenable. The alleged 30 percent more for mid-career VA physicians is more than offset by fringe benefits available to Armed Forces health-care personnel in that a 20 percent savings in cash outlays is available through use of commissaries and exchange facilities and the additional 10 percent is easily offset by tax-free quarters' allowances for Armed Forces personnel as well as free medical care for their dependents. In addition, DOD recruitment is directed at medical school graduates serving their internship while, on the other hand, 58 percent of VA physicians are over 35 years of age and 50 percent are board certified.

On behalf of the 2.5 million men and women of the Veterans of Foreign Wars and our Ladies Auxiliary and all of our nation's 30 million veterans, I urge in the strongest possible terms override of the President's veto of H.R. 7102.

Sincerely,

T. C. Selman,
Commander-in-Chief.

Disabled American Veterans,
Washington, D.C., August 25, 1980.
Hon. Strom Thurmond,
U.S. Senate,
Washington, D.C.

Dear Senator Thurmond: On Thursday of last week, Jimmy Carter appeared before a National Convention of the American Legion and publicly declared his gratitude to those who have served in our nation's Armed Forces. He reaffirmed the support of his Administration for federal programs designed to care for our nation's veteran population. Less than 24 hours later, President Carter *vetoed* H.R. 7102, the Veterans' Administration Health Care Personnel Act of 1980.

I am appalled and shamed by what I consider to be the most unparalleled display of hypocrisy ever committed by a President of the United States.

It is no secret that the quality of VA health care has suffered tremendously under the Carter Administration. Thousands of VA hospital beds have been slashed from the system, the ranks of direct health care personnel have become demoralized and decimated, medical research in the VA is at a standstill, untold numbers of veterans have had their health care entitlements reduced or been denied medical treatment and services outright, etc. The litany is almost endless.

And now this latest affront to all those who have ever donned a military uniform of the United States.

At a time when our VA hospitals have over 900 vacancies for full-time physicians and 4600 vacancies for full-time nurses which it cannot. fill, at a time when 500 of our ever-decreasing number of VA hospital beds lie idle because there is no one to staff them, Jimmy Carter characterizes a bill that would enable the VA to recruit and retain qualified physicians, dentists and nurses as being "unwarranted", "not essential" and "excessive".

Without a doubt, the veto of H.R. 7102 is the capstone in this Administration's policy of abandonment of VA health care.

By sending this measure to the White House, the Congress has graphically demonstrated that it has not abandoned VA health care, that it has determined that our VA hospital system shall remain a strong and vibrant national resource.

I urge that you vote to override the President's veto of H.R. 7102.

Sincerely yours,

Stan Pealer,
National Commander.

Mr. THURMOND. Mr. President, I express the hope that this Senate will have the courage to override this veto. The House has just overridden it by a vote of 401 to 5. This Senate ought to override it. It is not right. The veterans are entitled to the provisions of this bill. I hope the Senate will override it and see that those veterans get that benefit.

Mr. MATHIAS. Mr. President, last Friday, August 22, President Carter vetoed a much-needed piece of legislation, the Veterans' Administration Health-Care Amendments of 1980, H.R. 7102. This bill is designed to improve the quality of health care for our veterans by promoting the recruitment and retention of vital medical personnel, establishing a geriatrics and gerontology advisory committee, and strengthening the VA's ability to recover costs of care and services provided for non-service-connected disabilities. The President focuses on title I, relating to recruitment and retention of personnel, as the major reason for vetoing the bill.

Although the President, in his veto message, expresses support for insuring that the "health care provided to our veterans is the finest in the world," a position which I vigorously support, his veto would have the opposite effect. The provision of quality health care relies to a great extent on having adequate numbers of qualified personnel to furnish that care. But the VA system, with its uncompetitive salary structure, is becoming increasingly unable to attract and keep qualified health care professionals. The number of full-time physician vacancies tripled during the 12-month period from April 1979 to April 1980.

In the past, the VA has relied on interim special pay provisions while a permanent salary structure could be provided. Now, when the Congress approves legislation which makes significant progress in this direction, the President vetoes the bill. We must act to reverse the decline in the quality of health care provided to our veterans caused by the personnel shortages in the VA. I urge my colleagues in the Senate to override the President's veto of this legislation and reverse this trend.

Mr. JAVITS. Mr. President, last Friday, August 22, the President vetoed H.R. 7102, the Veterans' Administration Health-Care Amendments of 1980 because of provisions it contains authorizing special pay programs for physicians and other health care providers in order to provide for improved recruitment and retention of health personnel in the VA health-care system. Mr. President, I disagree with the President's view on this bill and feel that the special pay programs authorized in the legislation are vitally necessary to insure the availability of high quality health care services to our Nation's veterans.

The President's major reasons for vetoing the bill included:

First, the bill represented an unnecessary expenditure of $80 million per year;

Second, current salary levels and benefits are adequate to recruit and retain health-care providers into the VA health-care system; and

Third, the pay provisions are so generous that a midcareer VA physician could earn 30 percent more than the maximum authorized annual salary for Armed Forces physicians.

Mr. President, these arguments are simply incorrect. With respect to the President's first point, the CBO estimates that the special pay provisions would cost $31.7 million in fiscal year 1981 and $44.9 million in each of the next 4 fiscal years—not $80 million as the President suggested. Moreover, current salary levels and benefits are not adequate to recruit and retain health-care providers in the VA system. Veterans health facilities report widespread staff vacancies. In addition, roughly one-third of full-time VA physicians are alien foreign medical graduates. And the percentage of full-time board-certified physicians dropped from 49.3 percent in 1978 to 45.4 percent in 1979. Such statistics indicate, contrary to the President's assertion, that current salary levels and benefits are not adequate to meet the needs of the VA health-care system.

Finally, it is inaccurate to draw direct parallels between pay scales and benefits of military and VA physicians. For example, benefits such as free medical and dental care, commissary and PX privileges, certain tax advantages, and noncontributory retirement are enjoyed by military physicians and no VA physicians. Furthermore, the President's statement indicating that a midcareer VA physician could earn 30 percent more than the maximum authorized annual salary for Armed Forces physicians is simply incorrect. The maximum authorized salary for military physicians will be over $76,000 after the October military pay raise; under H.R. 7102 (effective January 1, 1981), the maximum a VA physician could receive is $77,610. Given the other benefits for military physicians which I discussed earlier, the military physician will continue to be compensated well above the VA physician.

Mr. President, I oppose the President's veto of this bill and urge my colleagues to override this action.

The PRESIDING OFFICER. All time has expired. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required and the clerk will call the roll.

Mr. CRANSTON. Mr. President, a parliamentary inquiry. A yea vote is a vote to override and a nay vote is a vote to sustain the veto. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. STENNIS. Mr. President, on this vote, I have a pair with the distinguished Senator from Washington (Mr. Magnuson) and the distinguished Senator from South Dakota (Mr. McGovern). If they were present and voting, they would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Idaho (Mr. Church), the Senator from Alaska (Mr. Gravel), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Connecticut (Mr. Ribicoff), the Senator from Alabama (Mr. Stewart), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from New Mexico (Mr. Domenici), the Senator from South Dakota (Mr. Pressler), the Senator from Delaware (Mr. Roth), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. Pressler) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The yeas and nays resulted—yeas 85, nays 0, as follows:

[Rollcall Vote No. 382 Leg.]

YEAS—85

Armstrong
Baker
Baucus
Bayh
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Lugar
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stennis, against.

NOT VOTING—14

Bellmon
Boren
Church
Domenici
Gravel
Long
Magnuson
McGovern
Pressler
Ribicoff
Roth
Stewart
Talmadge
Weicker

The PRESIDING OFFICER. On this vote the yeas are 85 and the nays zero. Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States notwithstanding.

UNANIMOUS-CONSENT AGREEMENT—MILITARY PROCUREMENT CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 4:45 p.m. today, the Senate proceed to the consideration of the military procurement conference report, if the papers have arrived by then, and, if not, upon their arrival, and that there be 30 minutes time limitation on the report, 15 minutes under the control of Mr. Proxmire, and 15 minutes under the control of Mr. Stennis.

Mr. METZENBAUM. I had told Senator Stennis that I would like to comment about an amendment they dropped out of the bill. It is not a matter at issue, but I would like about 7 minutes.

The PRESIDING OFFICER. Is there objection to the request?

Mr. HEINZ. Reserving the right to object.

Mr. TOWER. Reserving the right to object.

Mr. ROBERT C. BYRD. Mr. President, Mr. Metzenbaum wants 10 minutes.

Mr. METZENBAUM. Ten minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 40 minutes to the side, 40 minutes to be controlled by Mr. Tower, 15 minutes by Mr. Stennis, 15 minutes by Mr. Proxmire, and 10 minutes by Mr. Metzenbaum, on the military procurement conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2719.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2719) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

(The amendment of the House is printed in the Record of August 22, 1980, beginning at page H7584.)

Mr. PROXMIRE. Mr. President, I move that the Senate disagree on the amendment of the House, and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. Tsongas) appointed Mr. Proxmire, Mr. Williams, Mr. Cranston, Mr. Garn, and Mr. Tower, conferees on the part of the Senate.

EXPORT TRADING COMPANIES, TRADE ASSOCIATIONS, AND TRADE SERVICES

The Senate continued with the consideration of S. 2718.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I would like to inquire about amendments to the export bill.

The Senator from Virginia (Mr. Harry F. Byrd, Jr.) has an amendment. Would the Senator agree to a time limitation?

Mr. HARRY F. BYRD, JR. Ten minutes.

Mr. ROBERT C. BYRD. Ten minutes, equally divided, on the amendment of the Senator from Virginia (Mr. Harry F. Byrd, Jr.).

Mr. PROXMIRE. As the Senator knows, I have an amendment and I do not want a time limitation on that amendment.

Mr. ROBERT C. BYRD. All right.

Mr. President, I ask unanimous consent that there be a time limitation of 10 minutes on the amendment by the Senator from Virginia (Mr. Harry F. Byrd, Jr.) equally divided.

Mr. HEINZ. Reserving the right to object—

Mr. ROBERT C. BYRD. It is an amendment which the Senate has adopted on a previous occasion. As a matter of fact, it is an amendment which I offered.

I temporarily withhold my request.

Would Mr. Metzenbaum be agreeable to a time limitation on his amendment? I have discussed it with him, and earlier——

Mr. METZENBAUM. I do not want to agree to a time limitation. But I give assurance that when the Proxmire amendment is concluded and I call up my amendment, that I do not contemplate being involved in a lengthy discussion.

But there are some others who are cosponsors with me on the subject and I prefer not to enter into a time agreement.

Mr. ROBERT C. BYRD. All right.

Then Mr. Proxmire has an amendment, Mr. Metzenbaum has an amendment, and Mr. Harry F. Byrd, Jr., has an amendment.

Does any other Senator have an amendment?

Mr. PROXMIRE. Senator Morgan has an amendment pending.

Mr. ROBERT C. BYRD. Yes. Rather than the pending amendment by Mr. Morgan.

Then, may I say that it is hoped by the leadership that the Senate can move along and expedite action on this measure. It is the intention of the leadership to be in late today until the measure is finished.

Several Senators addressed the Chair.

UP AMENDMENT NO. 1536

Mr. STEVENSON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from North Carolina.

Mr. STEVENSON. Mr. President, the Senator from North Carolina has been a strong supporter of exports. He has been one of the principal architects of this bill.

We did not, in approving it in committee, have any intention of preempting the States.

I, therefore, am prepared to accept his amendment.

I yield to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I will agree with my colleague from Illinois in this matter.

Mr. PROXMIRE. Mr. President, before we act on the amendment, I want to be sure we are in a position to hold this amendment in conference. I have no illusions about the conference. I expect to be a member of the conference, inasmuch as the measure emerges from our committee. I have had a chance to observe the position taken by other members of the committee, and I hope we are going to sustain this amendment.

A rollcall vote would be one way of doing it, but I do not want to delay the Senate with a rollcall vote on this amendment. Since I take it there is unanimity and I understand that both the Senator from Illinois and the Senator from Pennsylvania support this amendment, I hope they will do their best to sustain it in conference.

Mr. STEVENSON. I support the amendment. I have indicated earlier that I believe there is a preferable way of handling this matter. I have every intention of supporting the wishes of the Senate and will always do so in conference. I hope that if this bill is passed, we can expect the same of the distinguished Senator from Wisconsin, in conference, with respect to all the provisions of the bill.

Mr. HEINZ. Mr. President, if the Senator will yield, I believe that the Senator from North Carolina has focused on a very important issue with his amendment, and I certainly support what he is trying to do.

I can say with great sincerity that this is a legitimate amendment, a legitimate issue for us to consider, and I believe that the Senate position is something we should uphold in conference.

Mr. PROXMIRE. I thank the Senator.

Once again, I am not going to ask for a rollcall vote on this one, but I hope we can vindicate the trust that the Senator from North Carolina is placing in us by not asking for a rollcall vote. I believe we would have a virtually unanimous vote, since the managers of the bill support it, but I hope we can translate that into keeping it in the final bill.

Mr. MORGAN. I thank the Senator from Wisconsin and the managers of the bill. I believe that, with their support, it would be unanimous; and in the interest of time, I will not ask for a rollcall vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from North Carolina.

The amendment (UP No. 1536) was agreed to.

UP AMENDMENT NO. 1537

(Purpose: To limit the funds authorized for the operation of the Senate in Fiscal Year 1981)

Mr. HARRY F. BYRD, JR. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. HARRY F. BYRD, JR.) proposes an unprinted amendment numbered 1537:

At the end of the bill, add a new section.

"Sec.   . In the fiscal year beginning October 1, 1980, the aggregate amount of funds made available to the Senate shall not exceed 90 per centum of the aggregate amount of the funds made available for such purposes for the fiscal year beginning on October 1, 1979."

Mr. HARRY F. BYRD, JR. Mr. President, this amendment requires a reduction of 10 percent in the cost of operation of the Senate. It is identical to an amendment I offered on June 2, 1980, as modified by an amendment in the second degree by the distinguished majority leader. This modified amendment was agreed to in the Senate on a rollcall vote of 82 to 1, and the amendment I have just sent to the desk is the precise amendment which was approved by the Senate at that time.

As I see it, it is essential that there be a cutback in the huge growth of Federal spending.

In my view, the projected spending total in the first concurrent budget resolution for 1981, which we passed in June, was far too high at $613 billion. Already, the administration and the Budget Committee are advising us that the total will be at least $21 billion higher than that.

In the reduction of Federal spending, the legislative branch should set an example for the Government and the Nation.

The amendment I have presented would require that the aggregate of funds made available to the Senate in 1981, including such items as funds for each Senator to operate his office, for employment and travel, and for committee operations, be held to 90 percent of the level authorized for such purposes in the current fiscal year of 1980.

I understand that outlays for the Senate and its committees for these purposes amount to approximately $210 million for the current year, so the reduction could reach $21 million. However, it probably will be less, because some Senators—myself included—do not use their full entitlement for expenses.

The amount involved, in terms of a total Federal budget of $634 billion, is not particularly significant. But the step being urged here is significant, because it is a matter of the Senate setting an example in the fight against inflation.

Mr. President, I hope this amendment will be approved overwhelmingly by the Senate, as it was approved overwhelmingly on June 2 of this year.

I reserve the remainder of my time.

Mr. HEINZ. Mr. President, I believe it is a mistake to clutter up this measure with nongermane amendments, and I really have grave reservations about opening any doors at all to nongermane amendments.

One mitigating factor in this instance is that, as the Senator from Virginia pointed out, this amendment has been adopted by the Senate by an overwhelming vote. Because that is the case, I do not see any reason to drag things out, and I am willing to accept the amendment, with the understanding that has been stated.

Mr. STEVENSON. Mr. President, for that reason, and only that reason—namely, that it was adopted overwhelmingly in the Senate prior to this—I am willing to accept the amendment and take it to conference.

Mr. HEFLIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from South Dakota (Mr. PRESSLER), the Senator from Delaware (Mr. ROTH), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators who wish to vote?

The results was announced—yeas 81, nays 2, as follows:

[Rollcall Vote No. 383 Leg.]

YEAS—81

Armstrong
Baker
Baucus
Bayh
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stone
Thurmond
Tower
Wallop
Warner
Williams
Young
Zorinsky

NAYS—2

Stevens
Tsongas

NOT VOTING—17

Bellmon
Boren
Church
Domenici
Goldwater
Gravel
Javits
Kennedy
Long
Magnuson
McGovern
Pressler
Ribicoff
Roth
Stewart
Talmadge
Weicker

So Mr. Harry F. Byrd, Jr.'s amendment (UP No. 1537) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I know of only two more amendments, I believe, those of Mr. Proxmire and Mr. Metzenbaum. I am told by Mr. Proxmire that his amendment will take a good while—3 or 4 hours?

Mr. PROXMIRE. At least.

Mr. ROBERT C. BYRD. So I suggest that Senators schedule their day accordingly. It will be a long day and a long session because it is the intention of the leadership to finish the bill today.

I hope we will not have to go too late, but I suggest that Senators not be under any illusions. The Senate will be in late in order to finish this bill.

Several Senators addressed the Chair.

Mr. GLENN. Mr. President, I rise to urge my colleagues to vote in support of S. 2718, a bill to encourage exports by facilitating the formation and operation of export trading companies. The purpose of this bill is to improve U.S. export performance at a time when American companies are facing vigorous competition in the international marketplace. From every corner of the world, Government planning and financing of foreign trade challenges the resources of American firms. To meet this challenge, American companies must organize the most efficient business operations possible. We in Government must do what we can to help American business meet this challenge. We can no longer sit idly by while American firms lose their competitive edge. We must act now to free the adventurous spirit of American enterprise from the yoke of tax laws and Federal regulations that limit its resourcefulness.

One way in which we can do this is by facilitating the formation of trading companies. The trading company is not a new idea. It is as old as commerce itself and has enjoyed great success in other countries. In Japan, for example, the top 10 trading organizations, the Sogo Shoshas, account for approximately 60 percent of Japan's imports and 50 percent of its exports. Trading companies have also played an important role in the economic growth of many European countries. Yet, despite their historical and international success, trading companies have not flourished in the United States.

There are several reasons—both economic and legal—for this failure. It is my contention that the economic conditions no longer prevail and that the legal restraints are outdated as well. First, we have been generally self-sufficient for the bulk of our economic needs throughout our Nation's history. Second, the industrial revolution occurred early in our history and its effects spread quickly. This made the acquisition and distribution of goods easy and further reduced our dependence on foreign trade. Third, the large size of our domestic market meant that American businessmen had ample growth opportunities close at hand and with relatively low risks involved. These factors, all product of our unique geographic and economic heritage, limited the attractiveness and need of foreign trade companies. These unique conditions no longer prevail. The interdependence and competitiveness of the world market make it impossible for the United States to sustain its economic growth while operating on out-dated notions of resource self-sufficiency in limited domestic markets. We must acknowledge and respond to the very real international challenges that confront us in foreign trade.

Unfortunately, Federal laws and regulations limit our ability to respond to these new challenges. For example, Government regulations prevent U.S. banks from offering many important trading services. In addition, antitrust uncertainties deter many U.S. firms from cooperating with other U.S. producers in their organization of export activities. These restrictions are anachronisms. They hamper American firms at a time when foreign governments are cooperating with and, in many instances, subsidizing and directing the efficient operation of export trade. These restrictions cost American businessmen opportunities abroad and cost American workers jobs at home.

Mr. President, S. 2718 addresses many of these obstacles and facilitates the formation and operation of export trading companies. It accomplishes this by allowing banking organizations to play a significant role in the future success of American export trading companies. In the past, many small- and medium-sized firms found foreign markets difficult to penetrate and too costly to do business in. Bank participation will enhance opportunities for small- and medium-sized firms to export their products by giving them access to the capital, financing and financially-related services and marketing capacities which U.S. banking organizations can provide.

While the degree of future bank participation in export trading companies, and the forms that such participation may take, remain unclear at this point, section 105 of the bill sets certain limitations on the level of involvement permitted banking organizations that invest in or finance these companies.

S. 2718 permits banking organizations to invest up to $10 million in one or more export trading companies without prior regulatory agency approval as long as that investment does not amount to control. Investments in excess of $10 million, or any investment or action which amounts to control of an export trading company, must be approved by the appropriate Federal banking agency.

The bill sets an overall limit on a bank's involvement by prohibiting the total cost of its direct and indirect investments in and loans to an export trading company from exceeding 10 percent of the bank's capital and surplus. Total equity investment by a bank in one or more trading companies cannot exceed in the aggregate 5 percent of the bank's capital.

Some have argued that these restrictions do not go far enough, that banks should not be allowed to gain control of an export trading company, an innovation that would represent a substantial departure from the long-established separation of banking and commerce in our economic system. They fear that the public's deposits may become exposed to undue risk if banks acquire ownership control of trading companies.

Legitimate questions concerning the scope of bank participation do merit careful consideration. With their international offices, experience in trade financing, and familiarity with domestic U.S. producers, banks will be likely sources of leadership in forming export trading companies. But I feel that S. 2718 includes important safeguards which not only insure against any unsound banking practices, but also insure against any unfair competitive advantages accruing to a trading company or export trade service firm with a bank investor.

A specific provision of the bill prohibits banks from extending credit on a preferential basis to an export trading company in which it has an equity interest. This subsection meets a traditional concern of U.S. policy that banks not favor their affiliates in lending practices. But even without the inclusion of this provision, the Financial Institutions Regulatory and Interest Rate Control Act of 1978 already provides safeguards against such unfair competitive advantage to banking institutions.

The 5-percent limit placed on total equity investments and the 10-percent limit placed on a bank's total investments in or financing of trading companies protect banking organizations from overexposure. I see no harm in allowing a bank to own a trading company as long as such limitations exist. In fact, I think it is wiser to permit banks to have equity and management control over their affilitate relationships rather than to have that capital exposed to decisions by majority nonbank partners. Banking organizations would probably be more inclined to form export trading companies if they can control their investments. Such investments would also be a long-term incentive for them to establish the additional framework needed to provide a complete range of export services.

In addition, S. 2718 stipulates that any proposed or existing investments by banking organizations in trading companies may be terminated by the appropriate Federal regulatory agency upon its determination that the ownership or control of any such investment constitutes a serious risk to the financial safety, soundness or stability of that bank. I believe that these limitations, when combined with the banking agencies' broad regulatory, supervisory, and examination powers and existing legal restrictions, such as on loans to affiliates, assure that this legislation will not create a serious risk to the safey and soundness of bank participation in export trading companies.

I support this bill because I firmly believe that we in Congress must finally recognize the link between international trade and domestic prosperity. This link is especially clear in my home State of

Ohio. Nationally, Ohio ranks fourth in manufactured exports, ninth in agricultural exports and first among the States in jobs related to exports. More than 1 out of every 8 Ohio jobs in the manufacturing sector is dependent on export markets and the produce from 1 of every 3 acres of Ohio farmland is exported.

Unfortunately, exporting remains principally the domain of large corporations with strong marketing staffs and financial backing. There are many firms and financial institutions in the State of Ohio with great potential as participants in the formation of trading companies. I am hopeful that this bill and other trade-related legislation before the Congress will aid their efforts to increase exports from our State.

The challenge before us is clear. Improving our export performance is one of this Nation's most critical economic priorities and cooperation between business and Government is a critical ingredient in any comprehensive national effort to bring this about. For this reason, and in light of my previous comments, I urge my colleagues to oppose any amendments that would restrict the operation of export trading companies and to support S. 2718 as reported.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, first, I want to make it clear that the only difference between the Senator from Illinois, the Senator from Pennsylvania and myself is on the procedures here. It is not on the substance. What I want to do is to have this legislation administered by a single authority. I am perfectly willing to have the Examination Council, which includes the FDIC and the Comptroller and the Federal Reserve Board, make a decision. But I think we should concentrate it. I do not think it should be scattered and diffused, because if we do that we will have inconsistency, and if we do that I think there is likely to be competition and laxity, and if we do that I think it is much more likely that we are going to have a situation in which the banks may well become involved—much more likely that they will be involved—in commerce under circumstances that are unnecessary. That is all that is separating us.

Mr. President, I still maintain, and I want to reiterate and emphasize the fact, that this bill is fundamentally founded on the erroneous premise that we have lagging exports. The fact is we do not have lagging exports. Our exports have increased twice as fast as the gross national product has increased since 1972, twice as fast.

I cannot think of any other major area, big area, involving tens of billions of dollars in the economy in which we have had that big an increase.

Exports have not been doing badly; they have been doing well in relationship to everything else in our economy. The gross national product measures everything, and exports, as I say, have been going up at an annual rate of 20 percent.

The gross national product has been going up at a rate of 10 percent. That is not an indication of a lag. It is an indication of an expansion.

Furthermore, Mr. President, as I pointed out earlier, and my good friend who now occupies the chair (Mr. TSONGAS) disagreed vigorously, gave good reason for disagreeing, but I once again reiterate the fact that this country's exports grew more rapidly than those of Germany during this time, more rapidly than those of Japan, more rapidly, of course, than those of the United Kingdom, more rapidly than Belgium or Sweden or Canada.

Mr. President, the fundamental notion on which this bill is bottomed is that our exports are not doing well and we have to gut our antitrust laws, we have to abolish a relationship with respect to our banks and the rest of the economy that has served us well for 100 years just is not substantiated by the facts.

The real problem—if we have a problem on exports, and I think we do—of course, is the declining productivity and inflation. I think all of us recognize that productivity has been sharply declining in this country, the rate of increase in productivity. As a matter of fact, in the last couple of years it has actually been declining not just in its rate of increase but it has been going down. A shocking kind of situation.

I have on my door a chart that compares the increase in productivity in this country over the last 20 years. In the first place, the period ending 10 years ago and, in the second place, the period ending in 1979. It shows that in both periods the United States increase in productivity was behind every other developed country in the world. It shows that the decline for all countries, unfortunately—all the free countries—has been substantial, but the decline on the part of the United States has been virtually catastrophic.

There is nothing here that will increase our productivity. That is what we have to do. We have a program for increasing productivity. We have a program for decreasing the burden the Federal Government represents on the Government and decreasing taxes. That will help improve our export performance as well as curbing imports. But gutting our antitrust laws and inviting the banks to step in to commerce certainly will not help.

Mr. President, this act is a bill which, as I have said—and I repeat—I may support if amendments are adopted to safeguard the risks inherent in bank control of export trading companies and if the Antitrust Division of the Justice Department is not stripped of its jurisdiction to administer antitrust laws governing joint ventures of U.S. companies doing foreign trade. But I am convinced that this bill has made no progress. Once it passes here, it has to go over to the House of Representatives and be considered there. There are a number of Congressmen in the House—far more than in the Senate—who are very skeptical about this bill. If it is going to become legislation this year, I think we need to develop a consensus on it here in the Senate.

Who opposes this bill? The Federal Reserve and the Federal Deposit Insurance Corporation, two of our three principal regulatory agencies, oppose the bill as drafted. How about the banking profession? If you could argue that the banking profession was solid, that the bankers supported the bill, you might have a strong argument. But the fact is that most of the bankers—the Independent Bankers Association, representing virtually all of the small- and middle-size bankers in the country—oppose the bill as drafted, as I am going to document.

As we have indicated previously, those small businessmen now engaged in export trade, particularly the export associations, appeared before our committee in the last hearings that we had and opposed the bill as drafted.

Mr. President, I will not oppose reasonable efforts to increase exports. I want to throw out the bathwater, but I do not want to throw the baby out with the bathwater.

The separation between banking and commerce and the enforcement of the antitrust laws has served this Nation and our free economy well. I wonder if any Senator really wants to gut our antitrust laws in order to establish institutions called export trading companies.

We need to take care in this legislation that, in permitting banking organizations to overstep the bounds between banking and commerce, we build in protections and we build those in in a significant way, guarding against undue risks for the banking system and conflicts of interest in the granting of credit by financial institutions.

We also need to take care in this legislation that associations of American companies engaged in foreign trade will not complicate our foreign relations and will not substantially and adversely affect U.S. commerce.

(Mr. MITCHELL assumed the chair.)

Mr. PROXMIRE. Mr. President, in a previous colloquy that I had with the Senator from Massachusetts, Senator KENNEDY, we pointed out that if this bill passes it could discourage other countries from trying to establish effective antitrust laws and to secure the kind of competition that has been the great boon for this country. Because this legislation encourages price fixing. And I quoted from the reports and from the legislation itself to show where and how it does that.

It encourages fencing off certain areas for exclusive handling by particular concerns. It shifts the administration of the antitrust laws to the Commerce Department from the Justice Department respecting trade. Now, that just will not do.

What does the Commerce Department know about the antitrust laws? No experience with it. The Justice Department has the expertise, they have the experience, and they have established a reputation of being champions of free enterprise and competition.

We know there is always a temptation on the part of every competing businessman to reduce competition. I have been in business long enough to want to do that myself. Adam Smith was absolutely right that any time you get the competitors together, businessmen or competitors together, you can expect a conspiracy in the restraint of trade. It is the most natural thing in the world. It is the way business operates and businessmen themselves will admit that.

That is why it is vitally important that we do everything we can to maintain the integrity of our antitrust laws and why we cannot do that if we are going to shift administration of the antitrust laws from the Justice Department which, as I say, developed a clear and well-respected adverse position, and shift that instead to the Commerce Department, which is the one department in our Government which has a responsibility for representing business, the interests of business, and promoting business.

I do not think anybody, any fair-minded person, would say, under those circumstances, that the administration of the antitrust provisions with respect to trading companies would be in the hands of an objective, concerned agency that would fight to protect competition if we move it, as the bill does, to the Commerce Department.

Mr. President, the controversy concerning bank participation comes down to the circumstances in which banking organizations may be permitted to control export trading companies. As I say, the Federal Reserve and the FDIC believe that control carries with it a commitment to the enterprise that goes beyond the capital commitments. Export trading companies engage in high-risk ventures. If banks are to control export trading companies, the risk must be reduced, along with potential for conflicts of interest.

Along with the Senator from Texas, Senator TOWER, the Senator from Massachusetts, Senator KENNEDY, and the Senator from Ohio, Senator METZENBAUM, I intend, at a later date, to offer printed amendment numbered 2276, which will alleviate the concerns I have expressed by permitting banking organizations control of export companies subject to the standards designed to minimize the risks and conflicts of interest.

Mr. President, the antitrust provisions of this bill are not only the concern of a few Senators, they are the concern of people who have been most deeply and directly involved in the export business.

I received a letter from the president of the International Commodities Export Corp. That man is Mr. E. S. Finley.

Mr. Finley's letter was written in July. It is a remarkable letter, because he, of course, is an expert in the export business. His firm lives by exporting. His firm has done a magnificent job in increasing their exports. I think that they know as much about the export business and how to increase exports as virtually anyone you can get.

What does he say? Let me read from his letter. He says:

> I am writing to you with regard to the legislative proposals aimed at stimulating U.S. exports and in particular with regard to those which would expand the Webb-Pomerene Act and its exemption in the antitrust laws.
>
> I founded this company 3 decades ago and have led it to a point where we play a significant role in the export of fertilizers and allied products. We were able to do this because we have paid attention to the forces of supply and demand; because we were willing to be competitive.

Mr. Finley underlines that:

> One measure of our success is the fact that, since 1948, U.S. exports have gone up 1,400 percent.

That is about fifteenfold:

> While our exports have gone up 9,200 percent.

In other words, this man is talking as an expert whose exports have increased more than six times as rapidly as U.S. exports generally. Obviously, he speaks from authority, he speaks from a position of success, he knows what he is talking about. He goes on to say:

> Surely, we have shown that we are in favor of expanding the U.S. export trade to which we have made such a contribution. We are, however, in favor of basing such expansion on increased—not restricted—competition.

Mr. Finley goes on to say:

> The purpose of this letter is to warn you of the dangerous features of any expansion of the antitrust exemptions under the Webb-Pomerene Act. I have testified in 1978 before the National Commission for the Review of Antitrust Laws and Procedures (copy enclosed). I have also presented a policy statement before National Journal's Policy Forum in 1979 (copy enclosed). In both of these papers I have described a most typical of all Webb-Pomerene associations and have shown that contrary to the generally accepted concept, the expansion of the Webb-Pomerene Act's antitrust exemption will not stimulate an increase in our exports. This exemption was intended originally by Congress to enable small U.S. businesses to compete against European cartels. Contrary to this intent, this exemption has enabled, in fact, the large U.S. companies to form cartels of their own, most often in the areas where there is practically no foreign competition.

Of course, Mr. Finley is talking about the Webb-Pomerene Act in its present form. The situation would become far worse if we adopt the pending bill. He goes on to say:

> This exemption has discouraged, and not encouraged, competition and it will lead to further U.S. cartelization and control over the flow of U.S. exports. If exports are being restrained now (as they certainly are), they would be restrained even more if such bills were to pass.

He is talking about the bill pending before the Senate at this moment. Continuing:

> Moreover, the Webb-Pomerene associations benefitting from our antitrust exemptions are composed of members which, together, dominate also our domestic scene. Their immunized actions taken with respect to export pricing and quoting have a direct and adverse effect on the domestic market which they are able to influence simultaneously.

I think a lot of people should be struck by that because I think many feel that here is somebody talking about foreign trade and so our passing this bill may interfere with competition abroad. I have indicated the difficulty there. But what Mr. Finley points out is that this will have a perverse effect on competition within this country. As he points out, "Thus, our farmer, our worker, our tradesman, and, of course, our consumer, is forced to pay higher prices for the product."

He goes on to say:

> The 1967 FTC study and hearings on the operation of Webb-Pomerene conducted by the U.S. Senate demonstrated how little that Act and its antitrust exemption have done to encourage U.S. exports since 1916. To stimulate U.S. exports, we do not need the continuation and expansion of an act which encourages anti-competitive behavior.
>
> We need, instead, to recognize that our failure to gain our appropriate share of the export market is due to this very anti-competitiveness which, in turn, contributes dramatically to our overall declining productivity, inflation and much, much higher domestic prices of products.

Mr. President, this reinforces, certainly, the point I have been trying to make here, that the way to increase our exports is to improve our productivity. What Mr. Finley says, as an experienced and highly successful businessman, is that the passage of legislation of this kind will reduce competition, which I do not think anybody can deny it certainly will, and in doing so, of course, increase prices because the principal regulator we have of higher prices is competition. Those higher prices, of course, will increase inflation, increase prices in this country, and make it harder for us to sell abroad, not easier, as well, of course, as make it much harder for the consumer.

Then Mr. Finley points out:

> The companies who need it the least benefit from the anti-competitive blessing of Webb-Pomerene and have produced hordes of witnesses to testify about the desirability of continuing that blessing.

I have been in this body for 23 years and I love it and I have great respect for my colleagues, but we all know that when we are talked to by our friends at home, and the people who talk to us are the ones who have a stake and have a benefit in this, we listen. Of course, if we did not listen we would not be around here very much.

But there are times when we have to recognize that the testimony we get does not come from the consumers, it does not come from those who are interested in competition; it comes from people who want to reduce competition, it comes from people who perfectly naturally want to do their best to increase their profits by reducing competition as much as possible.

Mr. Finley points out:

> The general public who will be adversely affected cannot usually muster the resources to make its voice heard.
>
> Our export markets will expand with more—not less—competition. Companies such as ours can contribute to the give and take of the marketplace if they are allowed to. As my National Journal article illustrates all too graphically, the Webb-Pomerene associations operate by excluding such companies as ours from the marketplace so that prices can be set for export and domestically, and production can be restricted.
>
> A number of commissioners of the National Commission for the Review of Antitrust Laws and Procedures favored outright

> repeal of the Act. The majority decided that if any antitrust immunity should be granted, it should de minimis require a demonstration that the proposed association would not adversely affect either the domestic or international trade of the U.S.

I do not know anybody who has proposed that kind of safeguard. I have not proposed it. What I proposed is simply that the Federal Reserve be allowed to make a determination before they permit the export trading association to be owned by a bank; that is, more than 20-percent owned, that is essential to promoting exports. That is all we are asking, even though we know it would have an adverse effect on competition. We do not go nearly as far as Mr. Finley. I wish we could, but we are not going to. We offer an extraordinarily modest and limited amendment.

Mr. Finley concludes:

> It is increased competition and increased productivity that represent the foundations on which to build an expanded export trade.

How true, Mr. President.

We are certainly not going to get it unless we improve productivity, unless we reduce inflation. As I say, the evidence we have indicates that whatever effect the Export Trading Act will have, it will be to increase inflation and reduce productivity.

Mr. President, I have here also a letter from the president of the Midland, Inc., which is an exporter, which also represents, as I say, an expert in the field. This man is named Leonard M. Goldstein. It is a letter to Senator METZENBAUM. He has this to say:

> I am writing this letter to you because of your involvement in the Senate Sub-Committee reviewing legislation concerning the Export Trading Company. I have the feeling that my viewpoint will be received sympathetically, because I find that you traditionally represent my point of view on most issues, and your votes in the Senate would pretty much be mine if I were there instead of you. This is not too surprising, inasmuch as we received our educations at the same university and in the same fraternity house, only a few years apart.
>
> Midland, Inc. is an Export Management Company and the writer has been involved in International Trade for 35 years. My experience in this field causes me to look with a great deal of skepticism at the legislation which would provide for Export Trading Companies.
>
> While I am in complete agreement with the goals Congress seeks to achieve thru the Export Trading Company and other legislation designed to encourage U.S. export activity, I seriously doubt that your colleagues have zeroed in on the real source of the current problems and, therefore, I fear that you will fall far short of the mark in trying to solve them.
>
> As you must know, up until a relatively few years ago, we traditionally enjoyed large, favorable trade balances and unlike almost all other developed nations of the world, principally Europe and Japan, international trade was not looked upon as an important factor in our economic well-being. True, when anyone bothered to examine the facts, they soon found that millions of Americans were employed as a result of our export trade; but certainly, with very few exceptions, most domestic manufacturers during the period of 1946 thru 1979, achieved generally favorable profit results without depending upon foreign trade. The Japanese Ministry of Foreign Affairs in their analysis concerning U.S. export competitiveness describes our country as the world's "biggest and most indifferent exporter". My own experience in dealing with literally dozens of small and medium sized American manufacturers, would certainly reinforce that description. Surely, no one can deny that our country has been a reluctant exporter.

Mr. President, this letter was written by a man who has been an exporter for 35 years, one who recognizes that we have been far too casual in promoting our exports and that we should and can do a far, far more effective job. Yet he says that this legislation is the wrong way to go.

He goes on to say:

> If one were to try to isolate the single most powerful barrier to expansion of our export trade, it would be the relative indifference of the American manufacturer to the overseas market. I have found that even those companies that are most active internationally, invariably lean domestically when there is any kind of priority decision to be made. Very few American manufacturers are willing to design for and service foreign markets. A U.S. producer, who will readily risk hundreds of thousands, if not millions of dollars on new ventures, new products and new markets in the United States, becomes extremely conservative outside our borders. Incidentally, I would recommend your reading the Japanese report, which was prepared by the Japanese Embassy in Washington and is titled "Analysis of Selected Economic, Legal, Social and Organizational Factors Concerning the U.S. Exports, or Impairing U.S. Export Competitiveness."
>
> The issue then it seems to me, Senator Metzenbaum, would be how do we get their attention—that is the attention of the American, small and medium sized manufacturer, to the potential profits available to him overseas. I really do not believe that there is any basis, in fact, for the proposal that says the Export Trading Company is the answer to our problem.
>
> The Export Management Company is, and has been available for many years, to provide the expert services required to enable the small and medium-sized manufacturer to partake of the world market. The Export Trading Company, and specifically the involvement of banks in such companies, is fraught with danger. It seems to me that it sets up a classical conflict of interest when I approach my bank for funds to finance expansion of my export activities in competition with their own Export Trading Company operations. Furthermore, the Export Management Company, because of its very nature, which demands sensitivity and attentiveness to the needs of each overseas market, is in a far better position to provide positive results for the manufacturer, than this new, glamorous, well-financed (and I would guess ponderous and rigid as well), brain child of some large bankers.
>
> There is either great naivete, or a complete lack of understanding, when the proponents of this legislation would have one believe that we should have the Export Trading Company because it has proven to be so successful in countries such as Japan and Germany. First of all, I am not aware of the Export Trading Company's existence in Germany as it operates in Japan, where it seems to be a very unique type of organization, filling the needs of that singular market. One needs to remember that Japan and Germany, as well as other European and Scandinavian countries, have depended, for their very existence, on international trade. There certainly are a great many other more valid factors that have been responsible for the success of those countries, in creating and maintaining a favorable balance of trade.
>
> Finally, it seems to me that there are some things that Congress can do that will stimulate and influence American manufacturers toward greater interest and attention to the export markets of the world.
>
> First of all, the most effective way to get the manufacturer's attention is to provide him the opportunity to earn more profit on the export sale than on the domestic sale. This is done in many ways by our competitors, most of them involving tax advantages or incentives. In some countries certain domestic taxes are waived on merchandise shipped overseas, and in others, different forms of tax benefits are provided the exporter.
>
> Secondly, the overseas offices of the United States Department of Commerce must provide a great deal more service to the exporter than is done currently. In the late 1940's and 1950's, when I first entered the international field, the Department of Commerce provided exporters a great many facilities and services without charge. Today the services seem to have diminished, but now we pay for them. In comparison, I have found, because we also represent Canadian manufacturers, that the counterpart of our commercial attachés, working for the Canadian government, provide all kinds of specific and special services for the taxpayer. These include providing lists of potential customers, market-by-market, personal survey work and arranging for appointments between exporter and potential customers when the exporter visits a particular country. My experience has been that our Commerce people are usually overstaffed and underworked. Unfortunately, however, we are unable to just write a letter to the commercial attaché in Paris, describing a new kind of widget that we are manufacturing, sending him literature and price information and asking if he can provide us some assistance in putting us in touch with potential importers for the product.
>
> In summary, therefore, it is my firm belief that it is not the Export Trading Company, or any other cosmetic types of activity which will change the image of the United States as an "indifferent exporter". Instead, it is going to take real profit incentives and meaningful assistance on the part of our staffs overseas, to turn this thing around. I am sure you know that oil prices mean that the United States, just as Western Europe and Japan, now has to be very, very much concerned about its export activity. The problems that have been created in the past seven years, with the advent of OPEC, will not be resolved by some surface-like creation of new organizations which are supposed to provide miracles.
>
> Sincerely,
>
> LEONARD M. GOLDSTEIN,
> *President.*

Mr. President, I might say that I do not share the views of Mr. Finley and Mr. Goldstein completely. I think that, in general, they are experienced men in the field, highly successful men in the field. They obviously know what they are talking about. I think we should listen to their recommendations carefully. I happen to think that export trading companies can play an important role. I intend to introduce legislation to that end.

But I do not, as chairman of the Senate Banking Committee, want to be in the position of having them destroy the separation we have had for more than 100 years of banking and commerce. I think this is vicious. I think it can be very adverse to competition.

I think it will not be long before our constituents will be coming in and asking, "How in the world could you have voted for that bill? It puts me in competition with a competitor owned by a bank. In any kind of a credit crunch I cannot make out. He can get all the credit he wants, and obviously, I cannot."

That is just what the pending bill before the Senate would do. It is that kind of unfairness I am trying my best to correct as much as I possibly can.

Mr. President, I have read a letter from Mr. Finley. I qualified him as president and chief executive officer of a highly successful commodities export corporation.

I would like to now read from his testimony because it is very telling testimony before our Banking Committee on July 25 of this year.

Incidentally, this firm not only has had a vast increase, but they have an annual volume of close to a quarter of a billion dollars. So, obviously, he speaks with enormous success, as I say, and with vast experience in the field. He says:

> Nobody can question the importance of increased exports to our economy. While those of the other industrialized countries frequently represent 20 to 40 percent of their gross national product, ours represent barely 10 percent. With a continuing annual trade deficit running into many billions of dollars, it is understandable that all of us are deeply concerned. Unfortunately, some well-meaning legislators and certain private interests are creating a climate of panic to gain quick acceptance of solutions which eventually will hurt our country much more than the current deficits. Indeed, I am sad to note that Congress can only come up with a bill to encourage the creation of U.S. "trading companies" and expanded antitrust exemption of U.S. export activities by amendment of the Webb-Pomerene Act.
>
> These voices are simply saying that if we will allow virtually unbridled price fixing, with immunity under antitrust laws, our failure to export a substantial share of our gross national product will have been corrected. I am chagrined by this bill as a business man, as an exporter, as an entrepreneur and as an economist.
>
> For the past two decades, we have been told over and over again that billions of dollars worth of potential annual export business is neglected because small and medium size producers are unable to develop foreign markets. We have also been told that only one in ten U.S. manufacturing firms sells abroad. We are told that this new legislation would help materially to get these small producers to export. The fallacy of it is that the world has changed in the last quarter of a century and even the developing and under-developed countries now have local industries which can produce the needed goods we are talking about and therefore, in most cases, make it almost impossible for the U.S. to succeed in such exports. We are also told that important service contracts abroad elude our major contractors.
>
> But there is nothing in our antitrust laws that prevents our major contractors to join together in projects.
>
> This highly publicized bill, S. 2718, tells us that we should go the OPEC way. My personal experience tells me otherwise. One measure of the success of my company is the fact that, since 1948, U.S. exports have gone up 1,400 percent, while our own exports have gone up 9,200 percent. We did not need any protective devices or legislation to do this. We were able to do it because we paid close attention to the forces of supply and demand and because we were willing to be competitive. Surely, we have shown that we are in favor of expanding U.S. exports by making this contribution over the years. We are in favor of further expansion, but we believe that such expansion should be on the basis of increased, and not restricted, competition.
>
> The purpose of my coming here is to warn this committee of the dangerous features of any expansion of the antitrust exemptions under the Webb-Pomerene Act. I have testified in 1978 before the National Commission for the Review of Antitrust Laws and Procedures. I have also presented a lengthy policy statement before the National Journal's Policy Forum in 1979.
>
> I have testified before the Subcommittee on Foreign Commerce of the Committee on Commerce on S. 2754 in January, 1972.
>
> In many of these papers, I have described typical Webb-Pomerene associations and have shown that, contrary to the generally accepted concept, the expansion of the Webb-Pomerene Act's antitrust exemption—

Which is, of course, what the pending bill does. Continuing:

> Will not stimulate an increase in our exports. As we all know, this exemption was intended by Congress originally to enable small U.S. businesses to compete against the then prevailing European cartels. Contrary to this intent, this exemption has enabled, in fact, large U.S. companies to form cartels of their own, most often in the areas where there is practically no foreign competition.
>
> Moreover, this exemption has discouraged, and not encouraged, competition and has led, and continues to lead, to further U.S. cartelization and control over the flow of U.S. exports. If exports are being restrained now, as they certainly are, they would be restrained even more if such bills were to pass. The most disturbing fact about all this is that the Webb-Pomerene associations benefitting from antitrust exemptions are composed mostly of members which, together, dominate also our domestic scene. Their immunized actions taken with respect to export pricing and setting quotas have a direct and adverse effect on the domestic market which they are able to influence simultaneously.

Mr. President, I think that is a very serious charge. It is a charge that should concern us because it means, of course, prices are going to be higher for consumers, it means we are enfeebling the forces of competition by undermining the antitrust laws, and it means that the legislation we are adopting here, in the long run, far from helping our exports, will hinder them because, as I say, the basic problem with the American economy today is inflation.

We all know that if we can increase productivity and reduce inflation we will increase our exports and do other things even more important. But we cannot do that if we are going to undermine the principal institutional provision we have now in the law in this country, the antitrust laws which enforce competition.

It is fascinating. We hear lots of talk on inflation and how we can cope with it by holding down Federal spending, by getting agreement on the part of the workers not to demand such high wages and salaries. We get many other suggestions, including wage and price controls. Some of these suggestions are constructive. I believe that holding down the budget and holding down wage increases can be helpful. But by far the most effective way we can combat inflation is to stimulate and encourage competition every way we know.

Our principal weapon in this regard should be the antitrust laws. It does not make any sense, when the No. 1 problem of our economy, the No. 1 issue facing us, when we go home and talk to our people, is inflation. We know that we are in the worst inflation we have been in during the peacetime history of our country.

Last month, inflation happened to be zero, for 1 month. Everybody knows that was a phony. The underlying rate of inflation is at least 9 percent, probably 10 percent. It was higher than that a while ago and can go much higher again.

For us to adopt legislation here that is going to aggravate inflation, in the judgment of the best experts we can get to testify on it—people who have had the greatest experience in the field—does not make any sense.

I continue to read from the testimony of Mr. Finley:

> Thus, our farmer, our worker, our tradesman and, of course, our consumer, is forced to pay higher prices for the product.
>
> The 1967 FTC study and hearings on the operation of Webb-Pomerene conducted by the U.S. Senate demonstrated how little that Act and its antitrust exemption have done to encourage U.S. exports since 1916. To stimulate U.S. exports, we do not need the continuation and expansion of an act which encourages anti-competitive behavior.
>
> We need, instead, to recognize that our failure to gain our appropriate share of the export market is due to this very anti-competitiveness which, in turn, contributes dramatically to our overall declining productivity, inflation and much, much higher domestic prices of products.
>
> The companies who need it the least benefit from the anti-competitive blessing of Webb-Pomerene and have produced hordes of witnesses to testify about the desirability of continuing that blessing. The general public who will be adversely affected cannot usually muster the resources to make its voice heard.

DEFENSE AUTHORIZATIONS, 1981—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the conference report on the military procurement bill. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6974) to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of August 18, 1980.)

Mr. STENNIS. Mr. President, I understand that there are 40 minutes to each side. The 40 minutes of the so-called opposition will be under the control of the Senator from Texas (Mr. Tower). On the other side, 15 minutes will be under my control, 15 minutes are allotted to Senator Proxmire, and 10 minutes are allotted to Senator Metzenbaum.

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. Mr. President, I will take a few minutes with respect to this matter, and then we can yield time.

The conference report on H.R. 6974, the fiscal year 1981 defense authorization bill, is fully endorsed by me and all other Senate conferees, each of whom has signed this report.

We had an active, vigorous conference, with all 17 members of our committee serving as conferees. I asked that they be appointed because all had taken an active part, sometimes a vigorous part, in the writing of this bill.

This bill adds up to the largest number of dollars of any military authorization bill ever presented to the Senate. The bill has been under the process of construction and refinement for many months. There have been hearings, rehearings, and subcommittee hearings—more than 45 of them by our committee and subcommittees—and a similar effort was made in the House of Representatives. We had approximately eight long sessions among the conferees as well as additional meetings among subunits of the conferees. Our Defense Appropriations Subcommittee has had 18 hearings. During all this time, we had two or three debates on the budget resolution.

Mr. President, I particularly thank all members of our committee, including the subcommittee chairmen and the ranking minority members, for the splendid work they did in dealing with this matter.

As an indication of how many items are to be considered in this bill, there were 700 differences between the House bill and the Senate bill when we started our conferences. A great deal of work went into the bill by highly competent staff members, and I especially thank Mr. Hugh Evans, who is the senior legislative counsel member of the Senate group. He is not a member of our staff directly, but he did a world of work in connection with this matter.

Mr. President, I do not have much time, and I do not believe much time is needed. This bill is a new start, we might say, with reference to the most modern weaponry that science and money can provide—ships, aircraft, tanks, missiles, and other weapons of all kinds. It is really a source of pride to think that we do have the ability and knowhow—and so far we have the money—to provide such a massive array of military power.

I believe that the most serious problem connected with our defense is the shortage of certain types of U.S. military manpower. Frankly, I am disappointed that we do not have a system to get enough of the necessary manpower to carry out what we need and to handle the complex military weaponry we have. Recent years have brought about a weakness in our ability in this field. Without dwelling on it now, it has been fully explained through hearings and debates. It adds up to the fact that our All-Volunteer Force, with all deference to it, is not sufficiently supplying the manpower—enough of the right talent, capacity, courage, willpower, and determination—to fill the role our units need.

This brings me to think about and pay tribute to a great many very rugged Reserve units that we have scattered through all of our services. They represent a great deal of talent, training, and a special form of patriotism that fits in so well with the needs of our time. I wish to see the Reserves assigned more of the real missions and given substantially more of the hardware, the machinery, the weaponry, the planes, and other items. We are improving the system in that way.

We had a very fine debate this year with reference to the military Selective Service Act that was directed at the matter of registration. This legislation was passed by a considerable vote in each house and signed by the President who had recommended it. Contrary to some predictions there was a quiet, orderly, and I thought very fine patriotic response as a whole to this law that required young men who were born in a certain 2-year period to register.

Incidentally, there is a military pay increase carried in this bill. In round terms an additional $700 million is included, which is enough to help in certain needed areas. I think it will provide some help but I do not believe that it is yet a substitute for a reasonable Selective Service Act. When I say "reasonable" that means one without any kind of exceptions, excuses, or any kind of deferment.

I think now that peacetime registration is understood better and accepted by the public that I hope the situation will be such next year, regardless of who is President, that we can move on this matter. I have dwelt on the registration matter over and over because of its necessity and because of its obvious importance.

I point out, also, that we put in additional planes, ships, and missiles. We emphasize the spares as parts of our readiness progress. We were impressed, also, by the high cost of all of these items. We compensated for that in that we know we have the best weaponry, as good as can be found anywhere. We do have the know-how to continually have the best and the most modern weaponry.

We are building up the naval power and I wish it were faster. We are building up the active inventory of planes. I think we can look forward to a continuation of these programs.

Mr. President, I ask unanimous consent that my prepared statement and a summary of the conference report be inserted in the Record.

Along with others, I will be glad to answer questions that might be on the minds of any of the Members at this time.

I yield the floor.

There being no objection, the statement and summary were ordered to be printed in the Record, as follows:

STATEMENT BY SENATOR STENNIS

Mr. President, the report from the committee of conference on H.R. 6974, the Fiscal Year 1981 Defense Authorization Bill, is fully endorsed by myself and all other Senate conferees, each of whom has signed this report.

Long hours were spent in conference with our dedicated colleagues from the House of Representatives on this military authorization bill. The result is most positive and satisfying. We have succeeded in combining the best thinking of both Houses into one comprehensive and well-reasoned bill. The differences between the House bill and the Senate amendment were carefully studied to find those elements that would most effectively and efficiently improve America's defense posture and preparedness.

The conference committee greatly benefitted from the participation of the entire Senate Armed Services Committee, all 17 members of which were appointed as conferees. The Senate conferees worked hard in presenting and defending the Senate's positions. There were over 700 differences between the House bill and the Senate amendment. Eliminating these differences took eight long sessions by the full conference committee and many sessions as well by various subcommittees.

CONFERENCE REPORT IS A MAJOR MILESTONE IN A LONG PROCESS

This conference report represents a major milestone in a long process of development and review of the authorization request of the Department of Defense. The Military Departments began work on this request a full 20 months ago. Before it was forwarded to the Congress, this authorization request was carefully reviewed and refined by the Secretary of Defense and his assistants and finally by the President and others within his Executive Office. The work of those in the Department of Defense—both uniformed and civilian—should be recognized for their initial work on this request as well as their useful testimony and counsel on these important matters.

This careful review was continued within the Congress. The Senate Armed Services Committee had a total of 45 hearings by the full committee or subcommittees. Twelve markup sessions by the full committee were necessary to fully cover all of the issues. The Senate itself vigorously debated many of the important issues decided by this Defense Authorization Bill. On the House side, a similar effort was made including a total of 32 hearings and markup sessions by the full House Armed Services Committee and 68 hearings by its subcommittees. And now, the conference report with its thoughtful recommendations is at hand. Next comes the appropriations process. The Senate Defense Appropriations Subcommittee has had 18 hearings to date. While this entire process is not completed, this conference report is a major and most significant milestone.

RECOGNITION OF HARD WORK BY COMMITTEE MEMBERS

As Chairman of the Armed Services Committee, I am proud of this conference report and the hard work of the committee membership during the last 8 months leading to this result. I particularly want to thank the distinguished Senator from Texas, Mr. Tower, who as the ranking minority member of the committee has provided his extensive expertise and wise counsel.

While every member of the Armed Services Committee contributed to this bill, the chairmen and the ranking minority members of each subcommittee should be especially recognized: Senators Nunn and Jepsen of the Manpower and Personnel Subcommittee; Senators Culver and Warner of the Research and Development Subcommittee; Senator Byrd of Virginia and Senator Goldwater of the General Procurement Subcommittee; and Senators Morgan and Humphrey of the Procurement Policy and Reprogramming Subcommittee. The Committee also benefited from special reports by Senators Cannon and Goldwater on aircraft programs, by Senator Exon on programs related to the Rapid Deployment Force and by Senator Levin on civil defense.

TRIBUTE TO HUGH EVANS, SENIOR LEGISLATIVE COUNSEL OF THE SENATE

I would also like to recognize the dedicated work of Hugh Evans, a senior legislative counsel of the Senate. While not a member of the Committee staff, but rather of the overall Senate staff, Mr. Evans provided most valuable assistance to the committee in the preparation of the conference report. His careful and thorough technical review of the bill greatly improved the clarity of the legislation. He exhaustively researched each provision to ensure that the decisions of the conference committee were accurately and effectively translated into law. The conference report was significantly improved by his determined and skillful efforts. The entire Armed Services Committee salutes Hugh Evans in appreciation for his many contributions to this bill and for his long hours of work.

H.R. 6974 IS A MASSIVE BILL

As reported by the committee of conference, H.R. 6974 is a massive bill. It covers all phases of American military posture and preparedness around the world. In dollar terms, it is the largest military authorization bill in this Nation's history.

The bill contains authorization for procurement of the ships, aircraft, tanks, missiles, and other weapon systems that will sustain America's military might. Programs for research and development of new and advanced weaponry are included as are authorizations for civil defense. The bill also sets personnel end strengths—both civilian and military—and contains extensive provisions relating to military compensation and benefits.

The military program authorized by this bill will give the boost to America's defenses which is needed to meet the challenges to peace and freedom that are emerging in many areas of the globe. This bill definitely provides our military forces with the weapons and equipment necessary to meet the challenges we face now and are likely to face in the future. Enactment of this legislation should serve as a clear and certain signal to friend and foe alike that the United States will continue to take the steps necessary to protect our vital interests and to defend the values cherished by the American people.

MANPOWER

H.R. 6974 also devotes considerable attention to our most serious defense problem: shortages of certain types of U.S. military manpower. U.S. defense efforts in recent years have been weakened by the inability to attract and retain sufficient numbers of competent military personnel with the necessary skills, knowhow, discipline, and dedication.

The basic fact is that the All Volunteer Force is not working. It is not providing the manpower—both in terms of numbers and of quality—that we need. It has lessened the sinews of real military discipline that is the foundation of strong and capable military units. It has unfairly spread the burden of military service so that the composition of our military forces is not representative of our society as a whole.

Another criticism of the volunteer concept is its high cost. The President's fiscal year 1981 budget includes some $78 billion for manpower costs—about 51 percent of the total defense budget and a 50 percent increase since 1975. The substantial pay, bonus, and allowance increases made since creation of the All Volunteer Force, along with recruiting and other expenditures made in the drive for volunteers, have not achieved the desired result. Recruiting for the active forces has fallen short of the mark; the National Guard and Reserve are below authorized strengths; and the quality problems of those who do volunteer has been highlighted in debate on the Senate floor.

The conference report takes several actions that, it is hoped, will somewhat help these manpower problems. Reflecting concern on the manpower quality problem, the conference report places restrictions on male non-high school graduates who may enter the Army and on the recruits entering all Services who score poorly on the entrance examination. These restrictions set the standards for our military manpower.

To help meet these standards, the conferees added about $1.0 billion in military pay and benefit raises in addition to approving the $3.4 billion increase in military compensation requested by the President and authorized $75 million in increased military education benefits. We hope that this money will help, but we know that these added funds are not the solution. We must not expect too much from these pay and benefit raises. There is no testimony that gives a factual presentation of how much help these steps will afford. They may temporarily help, but the basic problems will continue. A revised form of draft will be necessary to correct our military manpower problems—and there is no time to lose.

As we enter the decade of the 1980's, the need for a new revised selective service system is the most critical security issue facing America. The draft system that is now on the law books was largely written to meet the wartime manpower needs of World War II with some modification during the Korean War and Vietnam war periods. I believe we should look toward a selective service system designed to operate in peacetime with a capacity to expand in time of war. This system must be perceived as being as fair as possible with few, if any, exemptions and with only a limited period during which any person is liable to call by random selection except in emergencies.

Reinstitution of peacetime registration of young men has been accepted by the American public. Resistance to renewal of registration has been minimal. The public must become better informed as to the facts on our manpower situation. The country should then proceed with the necessary task of development and use of a new and fair form of military draft. This is no quick conclusion with me. I am fully convinced after close examination and helping try to make the Volunteer forces concept work that it will not work. The remedy is a new type of Selective Service.

SUMMARY OF THE PROCUREMENT RECOMMENDATIONS OF THE CONFERENCE REPORT

Compared to the President's authorization request for fiscal year 1981 of $46.9 billion, the conference report authorizes $52.9 billion for procurement, research and development, civil defense and educational benefits for military personnel—an increase of $5.9 billion over the request. In addition, the military compensation and benefit raises approved by the bill will add about $1.0 billion to defense spending in fiscal year 1981.

More than 90 percent of the increase over the President's authorization request recommended by the committee of conference is for procurement additions. The naval shipbuilding program was increased by $2.2 billion—about a 35 percent addition—above the President's request.

There were very few differences in the shipbuilding program to be resolved by the conference committee. In addition to the 16 ships requested by the President, the conference report authorizes an additional SSN–688 nuclear attack submarine, two more FFG–7 guided missile frigates, reactivation of the *New Jersey* battleship and *Oriskany* aircraft carrier and procurement and modification of eight existing SL–7 commercial containerships. These additions to the shipbuilding program will increase the rate of modernization of the U.S. Navy and most importantly will, through the use of existing combatants and cargo ships, put additional warfighting potential and projection capabilities at sea soon.

Moreover, research and development funding was recommended for several important shipbuilding initiatives: design work on a new class of light aircraft carriers, improvement of the AEGIS cruiser, design of a new DDG–X destroyer, design of a LH–X (VSS) air-capable amphibious ship, and analysis of the potential of diesel electric submarines.

Aircraft procurement for all Services was increased by $2.4 billion over the President's request. Procurement of a total of 612 aircraft and helicopters would be authorized by this bill, or 146 aircraft and helicopters more than requested by the President. These additions recommended by the conference committee include 55 combat aircraft, 25 combat helicopters, 14 support aircraft and 52 trainer aircraft and helicopters. Key among these additions are 6 more F–14's and 12 more F–18's for the Navy and 12 more F–15's for the Air Force. Total procurement authorizations for these aircraft are 30 F–14's, 60 F–18's and 42 F–15's. The conference also approved the Administration's request for 180 F–16's for the Air Force.

Another important aircraft initiative authorized by the conference report is a 25 percent increase in the request for aircraft spares and repair parts. This recommendation was based upon the concern about the inadequate readiness of military aircraft. Included in this increase, which totals $643 million, is an additional $136 million for Navy replenishment spares and $216 million for replenishment spares and $181 million for war reserve spares for the Air Force.

The conference committee also authorized funding of the AV–8B aircraft for the Marine Corps, a program of special interest to the Congress. The bill authorizes $243 million for research and development and $90 million in procurement for the AV–8B program.

For the record and for those who reconcile dollar amounts, the bill totals for Navy aircraft and Air Force aircraft are $0.3 million and $2.0 million less respectively than the program decisions described in the Statement of Managers. This results from an administrative error. The bill totals are correct, and these dollar differences are unspecified reductions in the appropriate accounts.

For tracked combat vehicles, 569 XM–1 tanks and 400 Fighting Vehicle Systems are authorized. The House bill and Senate amendment were in agreement on these important Army procurement programs. Funding for both Army and Marine Corps tracked combat vehicles were approved at or near the authorization request. The Army's funding was increased by $69 million, or 3 percent, while the Marine Corps' funding was approved at the requested level.

Authorization for procurement of missiles was increased by $533 million above the request of $6.6 billion. Two-thirds of the increase is for additional Navy missile procurement including 150 more Harpoons, 30 more Tomahawks, 80 HARMs and 240 more Standard MRs.

Authorization funding for Navy torpedo procurement was also increased substantially—more than double the authorization request. In addition to the requested torpedo procurement, 144 MK–48 torpedoes, 288 MK–46 torpedoes and 280 MK–60 Captor mines are authorized.

SUMMARY OF R. & D. RECOMMENDATIONS

The conference report recommended a total of $16.9 billion for research and development—an increase of $410 million above the President's request. Two of the major research and development issues in conference involved strategic programs. Regarding a new bomber, the conference provided $300 million for full-scale engineering development of a multi-role bomber aircraft in addition to $75 million in procurement funds for this program. Candidate aircraft for this effort are to include advanced technology aircraft, the B–1 bomber aircraft and derivatives of the B–1, and the FB–111B/C aircraft. The Secretary of Defense is directed to submit by March 15, 1981, a status report on this development effort including his recommendations on which aircraft should be developed.

The language differences between the House and the Senate on the MX missile were resolved by adopting bill language making it clear that the Congress is committing itself to a complex MX system of 200 missiles and 4600 shelters, wherever the missiles and shelters may be located, while directing the Secretary of Defense to study the feasibility of the "split-basing" concept.

Another major conference issue in research and development was the C–X strategic airlift aircraft. The House bill provided no funds for this program while the Senate amendment contained $50 million. The conference committee compromised on an amount of $35 million and bill language, similar to that contained in the Senate amendment, restricting expenditure of these funds pending submission of a study of overall mobility requirements by the Secretary of Defense.

SUMMARY OF MANPOWER PROVISIONS

Regarding manpower, the conferees agreed to an 11.7 percent military pay raise and authority for the President to reallocate up to 25 percent of the basic pay increase by grade and years of service; both of these provisions were in the Senate amendment.

The conferees also agreed to fifteen other provisions affecting military compensation and benefits.

Key among these provisions are increases in the maximum amounts of the enlistment and reenlistment bonuses for active forces from $3,000 to $5,000 and from $15,000 to $20,000 respectively, a continuation bonus of up to 4 months' basic pay for each year an aviator extends on active duty, and $75 million for a 1-year test of increased educational assistance for military personnel. These programs and other manpower provisions in the bill should help attract and assist in the retention of personnel with greater skills.

AUTHORIZATION OF OPERATION AND MAINTENANCE

The conferees agreed to expand the authorization process to cover operation and maintenance funds as recommended by the House bill. Authorization of operation and maintenance was recommended by the conferees because of the increased concern over the readiness of U.S. military units. The conferees further agreed that the Armed Services Committees should focus their review on those portions of operation and maintnance funding with the greatest impact on force readiness.

CONCLUDING REMARKS

I urge my Senate colleagues to approve the conference report on the Defense Authorization Bill. The overall direction of the bill is consistent with real national security needs. The compromises reached by the conferees preserve the heart of the Senate amendment while incorporating valuable and worthwhile elements of the House bill. After careful review, I am certain that the Senate will fully endorse the conference report.

Summary Outline of the Defense Authorization Act, 1981

The conference report accompanying H.R. 6974 authorizes $52,853 million for military procurement, research and development, civil defense and educational benefits for military personnel. This authorization funding is $5,945 million more than the President's amended request. This authorization for fiscal year 1981 is $11,463 million—or 28 percent—above the fiscal year 1980 authorization.

FISCAL YEAR 1981 AUTHORIZATION RECOMMENDATIONS OF CONFERENCE REPORT

[Millions of dollars]

	March amended request	House bill	Senate amendment	Conference report	Conference report changes to		
					Amended request	House bill	Senate amendment
Procurement	30,310.3	36,261.8	34,897.4	35,769.8	+5,459.5	−492.0	+872.4
Research and development	16,478.3	16,714.5	16,903.2	16,888.5	+410.2	+174.0	−14.7
Civil defense	120.0	167.0	114.5	120.0		−47.0	+5.5
Educational benefits			45.0	75.0	+75.0	+75.0	+30.0
Total authorization	46,908.6	53,143.2	51,960.7	52,853.3	+5,944.7	−289.9	+892.6

In addition to these authorizations, the conference report approved military compensation and benefit raises, above those proposed by the President, that will add about $1.0 billion to defense spending in fiscal year 1981.

PROCUREMENT

About 92 percent of the authorization increase was for additional procurement. Naval shipbuilding and aircraft procurement were substantially increased.

CONFERENCE RECOMMENDATIONS ON PROCUREMENT

[In millions of dollars]

	Authorization	Change to request
Naval vessels	8,363.2	+2,184.0
Aircraft	16,974.1	+2,371.3
Missiles	7,087.1	+533.1
Tracked combat vehicles	2,359.3	+68.8
Torpedoes	386.6	+216.2
Other weapons	599.5	+86.2
Total	35,769.8	+5,459.5

NAVAL SHIPBUILDING

The conference report approved the authorization request for 16 new ships and two ship conversions. Added to this request was authorization for procurement of one more SSN–688 submarine and two more FFG–7 frigates, reactivation of the *New Jersey* battleship and *Oriskany* aircraft carrier, and purchase and modification of eight SL–7 commercial containerships. With these additions, the authorized shipbuilding program includes 31 ships:

Two CG–47 cruisers, one LSD–41 amphibious ship, six FFG–7 frigates, one Trident submarine, two SSN–688 submarines, five T–AGOS (SURTASS) ships, one T–AKX maritime prepositioning ship, one ARS salvage ship, Service Life Extension Program for the *Saratoga* aircraft carrier, conversion of a T–AK cargo ship, reactivation of the *New Jersey* battleship, reactivation of the *Oriskany* aircraft carrier, and purchase and modification of eight SL–7 containerships.

AIRCRAFT PROCUREMENT

The requested authorization for aircraft procurement is increased by about 15 percent by the conference report.

CONFERENCE RECOMMENDATIONS ON AIRCRAFT PROCUREMENT

[Dollar amounts in millions]

	Authorization		Change to request	
	Quantity	Amount	Quantity	Amount
Army aircraft	111	$1,076.4	+31	+$143.0
Navy aircraft	195	6,150.6	+91	+1,135.3
Air Force aircraft	306	9,747.1	+24	+1,093.0
Total	612	16,974.1	+146	+2,371.3

The requested authorization was for 466 aircraft and helicopters. The conference recommends authorization of 612 aircraft and helicopters, or an increase of 146. In addition, the authorization funding of aircraft spares and repair parts was increased by $643.2 million, or about 25 percent, to help improve the readiness of military aircraft.

The sole aircraft authorization request for the Army was for 80 UH–60A Black Hawk helicopters. The conference increased the authorization to 88 UH–60A's and added 17 AH–1S Cobra-TOW helicopters and 6 C–12D utility aircraft.

A total procurement of 104 aircraft and helicopters were requested for the Navy. The conference authorized the requested procurement and added 91 aircraft and helicopters. Combat aircraft were increased by 37 (12 A–6E's, 3 EA–6B's, 6 F–14's, 12 F–18's and 4 P–3C's); support aircraft, by 2 C–9B's; and trainer aircraft and helicopters, by 45 T–34C's and 7 TH–57C's. Funding of the AV–8B aircraft for the Marine Corps was also authorized with $243 million in research and development and $90 million in procurement.

For the Air Force, procurement of 282 aircraft was requested of which all but 10 were combat aircraft. The conference added 12 F–15's, 6 A–7K's, and 6 C–130H's to the request for a total of 306 aircraft. Total Air Force aircraft authorizations in the conference report are 180 F–16's, 42 F–15's, 60 A–10's, 6 A–7K's, 2 E–3A's, 6 KC–10A's, 4 TR–1's, and 6 C–130H's. In addition, $382 million is authorized for the U.S. contribution to the NATO E–3A AWACS program.

COMBAT VEHICLE PROCUREMENT

Tracked combat vehicle procurement is authorized at $2.313.5 million for the Army and $45.8 million for the Marine Corps. These levels are $68.8 million, or 3 percent, greater than requested for the Army as requested for the Marine Corps.

Included at the request level in the Army account are authorizations for 569 XM–1 tanks and 400 Fighting Vehicle Systems. The House bill and the Senate amendment were in agreement on these important combat vehicle programs.

MISSILE PROCUREMENT

The conference report increases missile procurement by about 8 percent from the President's request with two-thirds of the increase provided for Navy missiles.

CONFERENCE RECOMMENDATIONS ON MISSILE PROCUREMENT

[In millions of dollars]

	Authorization	Change to request
Army	$1,580.5	+$66.1
Navy	2,236.4	+348.8
Marine Corps	94.0	+19.6
Air Force	3,176.2	+98.6
Total	7,087.1	+533 1

The procurement numbers for Army surface-to-air and anti-tank/assault missiles were authorized at requested levels. Included in this request were 183 PATRIOT missiles for which the funds may not be obligated or expended until the Secretary of Defense certifies that the PATRIOT missile system is suitable for hardware production.

Authorization of Navy missiles was approved as requested and was increased by 30 Tomahawk, 150 Phoenix, 80 HARM, and 240 RIM-66E Standard MR missiles. The Marine Corps' request for 347 Stinger missiles was also authorized.

For the Air Force, 480 Air Launched Cruise Missiles and 11 Ground Launched Cruise Missiles are authorized. Funding for Sparrow missiles was increased by $22.3 million and $90.0 million, which was not requested, was added for the Rapier air defense missile. The conferees also agreed to authorize $5.0 million for the deployment of additional Minuteman III missiles in existing Minuteman II silos and $24.7 million for the Minuteman survivable power program.

TORPEDO PROCUREMENT

The President's request for torpedo procurement was $170.4 million. The conferees agreed to authorize $386.6 million for these programs, an increase of $216.2 million. Included in this increase are 144 MK-48 torpedoes, 288 MK-46 torpedoes and 280 CAPTOR mines which were not requested.

RESEARCH AND DEVELOPMENT

The programs authorized by the conference report would increase the President's request for military research and development by $410.2 million, or by slightly more than 2 percent.

CONFERENCE RECOMMENDATIONS ON RESEARCH AND DEVELOPMENT

[In millions of dollars]

	Authorization	Change to request
Army	3,248.0	+13.5
Navy	5,112.8	+247.2
Air Force	7,159.9	+126.5
Defense agencies	1,325.7	+23.0
Test and evaluation, defense	42.1	
Total	16,888.5	+410.2

The most significant research and development results of the conference were the recommendation of a series of new and important initiatives for Navy shipbuilding and the resolution of three controversial Air Force programs—a new bomber, the MX missile and the C–X aircraft. In addition, the conferees agreed to increase the authorization request for the Trident II missile system to $65 million, or $28.1 million above the request.

For the Navy, research and development authorization included $30 million for design work on a new class of light aircraft carriers, $40 million for improvement of the AEGIS cruiser, $74 million for design of a new DDG–X destroyer, $9 million for design of an LH–X (VSS) air-capable amphibious ship, and $2 million for analysis or the potential of diesel electric submarines.

The conferees authorized $300 million for full-scale engineering development of a multi-role bomber aircraft, in addition to $75 million in procurement funds, to achieve an Initial Operational Capability (IOC) as soon as practicable, consistent with the aircraft selected, but not later than 1987. This aircraft should have the capability of performing the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system. The Secretary of Defense is directed to submit a status report to the Committees on Armed Services of the House and Senate on this effort by March 15, 1981, to include his recommendations on which aircraft should be developed. Candidate aircraft shall include but not be limited to advanced technology aircraft, the B–1 bomber aircraft and derivatives of the B–1 aircraft, and the FB–111B/C aircraft.

The compromise bill language adopted by the conference on the MX missile is intended to make clear that Congress is committing itself to a complete MX system of 200 missiles and 4600 shelters, wherever the missiles and shelters may be located, while directing the Department of Defense to study the feasibility of the concept known as "split basing." The conferees direct that the Secretary of Defense submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than February 1, 1981, the results of this study identifying locations, in addition to the Great Basin of Nevada and Utah, that might be suitable for construction of the remaining multiple protective shelters and evaluating the costs and the military, environmental, and socioeconomic consequences associated with such further construction and deployment in all such areas.

The Air Force requested $81.3 million to begin full-scale development of a new strategic airlift aircraft, designated C–X. The House bill authorized no funds for this program, while the Senate amendment authorized $50.0 million. The conferees agreed on an authorization of $35.0 million for development of this aircraft, but because the conferees share a number of concerns about the C–X program, not more than $15.0 million of this amount can be obligated and expended prior to February 1, 1981. Remaining funds may be obligated and expended 60 days following submission of a report by the Secretary of Defense on the C–X program. The report required of the Secretary is similar to the report requested in the Senate amendment.

RAPID DEPLOYMENT FORCE

Within the procurement and research and development authorizations, the conference report recommends important programs related to the Rapid Deployment Force. Several on-going mobility programs were approved: $298.4 million for procurement of KC–10A Advanced Tanker Cargo Aircraft, $236.7 million for modification of C–5A and C–141 strategic airlift aircraft and $54.8 million for enhancements of the Civil Reserve Air Fleet.

Two requested initiatives were also approved: $207 million for procurement of one maritime prepositioning ship and $35 million for research and development of the C–X aircraft.

In addition, the conference report recommends procurement funds for two congressional initiatives related to the Rapid Deployment Force: $285 million for the eight SL–7 containerships and $26 million for lightweight armored vehicles for the Marine Corps.

PERSONNEL END STRENGTH AUTHORIZATIONS

The end strengths for active forces, reserve forces, and civilian personnel authorized by the conference are:

ACTIVE FORCES

	Authorization	Change to request
Army	775,300	−500
Navy	537,456	+3,856
Marine Corps	188,100	+2,900
Air Force	564,500	
Total	2,065,356	+6,256

The conferees adopted a provision on the quality of active force recruits placing the following limitations on new accessions for the military:

for fiscal year 1981, the Army can enlist or induct no more than 35 percent non-high school graduates among the male non-prior service accessions in the Army;

for fiscal year 1981, the Services as a whole may not enlist or induct more than 25 percent of the new accessions from personnel who score between the 10th and 30th percentile on the entrance examination;

for fiscal year 1982, each Service may not enlist or induct more than 25 percent of its new accessions from personnel who score between the 10th and 30th percentile on the entrance examination;

for fiscal year 1983 and each fiscal year thereafter, each Service may not enlist or induct more than 20 percent of its new accessions from personnel who score between the 10th and 30th percentile on the entrance examination.

The conferees agreed that the Secretary of Defense may exceed the limitations on personnel scoring between the 10th and 30th percentile if he determines it is in the interest of national security and the House and Senate pass a concurrent resolution of approval.

RESERVE FORCES

The conference approved the requested average strength levels for reserve forces, totaling 880,000 prsonnel, without change, but added 500 Naval Reservists on full-time active duty.

CIVILIAN PERSONNEL

The conferees agreed to provide an overall Department of Defense authorization for civilian personnel of 986,000, a reduction of 4,000 from the President's request. The conferees agreed that none of the reductions proposed would come from activities that are industrially funded.

MILITARY COMPENSATION AND BENEFITS

In an effort to redress the serious personnel problems of the Services, the following provisions regarding military compensation and benefits, which will have a budget impact of adding about $1.0 billion to defense spending, were adopted by the conference:

A 1-year suspension of the current pay raise mechanism and an 11.7 percent increase in military basic pay, subsistence and quarters allowance effective October 1, 1980.

Authority for the President to reallocate up to 25 percent of the basic pay increase by grade and years of service, with a provision that such a reallocation cannot be used to increase the raise in basic pay above 11.7 percent for personnel with 4 years or less of service.

An increase in the enlistment bonuses for active forces from $3,000 to $5,000 for certain skills.

An increase in reenlistment bonuses for active forces from $15,000 to $20,000.

A one-year extension of the enlistment and reenlistment bonuses and educational assistance program for all units of the Army Guard and Reserve.

A new selective affiliation bonus for the Selected Reserve.

A new reenlistment bonus of $600 for the Individual Ready Reserve for a one-year trial.

An increase in the per diem allowance from $35 to $50 for military personnel on temporary duty travel and an increase from $50 to $75 in the maximum reimbursement for high cost areas.

An increase in the reimbursement paid for moving a mobile home or trailer.

Discretionary authority for the Secretary of Defense to offer up to 4 months of basic pay for each year an aviator extends on active duty for aviators with 6 to 18 years of service.

A 2-year extension of the Marine Corps Platoon Leaders Class (PLC) program.

A family separation allowance for E–1's through E–4's with 4 years or less of service.

$75 million for a directed one-year test of increased educational benefits as contained in both the House and Senate bills including a loan forgiveness program.

In the CHAMPUS program, coverage for routine infant medical care and an increase from $350 to $1,000 per month in the maximum coverage for handicapped dependents.

With respect to military retired pay, a once yearly cost-of-living increase as opposed to the current twice yearly adjustment, contingent on a similar change in current law for Federal Civilian retirees.

The basis for calculating retired pay of the uniformed services is changed to an average of the highest 3 years of basic pay rather than final basic pay. This provision applies to individuals who join the service after the date of enactment of this bill.

CIVIL DEFENSE

The House bill provided $167 million for attack-related civil defense while the Senate amendment authorized $114.5 million. The conference report recommends $120 million, which was the President's authorization request.

The conferees agreed, with minor changes, to language in the Senate amendment which makes an important statement on overall U.S. civil defense policy.

GENERAL PROVISIONS

The conferees agreed to eight general provisions in the bill.

The most important of these general provisions was the requirement for annual authorization of appropriations for operation and maintenance beginning with fiscal year 1982. Authorization of operation and maintenance was recommended by the conferees because of the increased concern over the readiness of U.S. military units. The conferees agreed that the Armed Services Committees should focus their review on those portions of operation and maintenance funding with the greatest impact on force readiness. Key among these portions are aircraft flying hours, ship steaming hours, battalion training days, and depot maintenance.

The conference report adopted a provision, contained in the Senate amendment, that would restrict eligibility for benefits awarded based on service in the military to those who have completed at least 2 years of active service, except in cases of injury or certain unusual circumstances relating to hardship or disability.

The conference report also contains a provision that would exempt certain contracts from liability for payment under the profit limitation provisions of the Vinson-Trammell Act of 1934 and would prohibit the responsible agencies from implementing the statute before October 1, 1981. This provision is to relieve contractors of contingent liability under the statute, for which no regulations have been promulgated, until the Congress has an opportunity to revise the outmoded law. The Senate amendment had proposed to relieve from liability contractors whose contracts were completed between October 1, 1976 and October 1, 1981. The conference report modifies this slightly by specifying contracts for which final payment was made during this 5-year period.

The conferees agreed to a provision, modifying language in the Senate amendment, expressing the sense of the Congress that NATO allies and Japan should increase their contributions to common defense to levels more commensurate with their economic resources and that the President should seek from these allies greater acceptance of international security responsibilities and greater contributions to the common defense including, when appropriate, greater contributions to host nation support. The conferees also agreed to require the Secretary of Defense to submit by March 1, 1981 a one-time report addressing the issues of burden-sharing, real growth in defense spending and implementation of common defense commitments by NATO member nations and Japan.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

Mr. President, I wish to commend our distinguished chairman, Senator STENNIS, for the splendid leadership that he provided during the course of our conference, deliberations, and negotiations on this year's military procurement bill. He has always provided valuable guidance. In his years of dedicated service we have come to take his splendid leadership for granted.

I also commend the staff members of the Armed Services Committee of the Senate for the very fine work that they did in preparation of the conference. I especially thank the Republican conferees from the Senate on the conference committee who unhesitatingly responded to every request to lend their valuable assistance and special knowledge in helping to resolve the complex and sometimes controversial issues in the conference.

This DOD authorization conference report now before the Senate recommends fiscal year 1981 defense authorizations about $6 billion above the request for procurement and research and development and, moreover, recommends legislation to increase military pay and benefits by a net increase of over $1 billion.

It is important to recognize that both the House and Senate Armed Services Committees independently assessed the fiscal year 1981 DOD authorization request and manpower proposals, and determined that they were seriously inadequate. These two separate and independent analyses concluded that the President's defense request must be increased by a minimum of $6 to $7 billion. For comparison, the service chiefs testified before the Senate Armed Services Committee that increases of $10 to $11 billion were required.

It is also important to note that the Senate itself voted to increase the national defense function of the first concurrent budget resolution by almost $9 billion. In fact, the Senate overwhelmingly rejected every single attempt on the floor to reduce that defense recommendation by votes of 2 to 1 or more. The mandate of the Senate and the Congress is quite clear—the fiscal year 1981 defense request is inadequate, it must be increased. This DOD authorization conference report is the first step in meeting that need.

Mr. President, the chairman has provided a detailed summary of the items in the conference report as well as a general summary of the entire fiscal year 1981 DOD authorization bill, as amended, including program recommendations not in conference. I refer my Senate colleagues to the chairman's remarks for this detail, which I will not repeat. Instead, let me simply illustrate that this recommended increase in the fiscal year 1981 DOD authorization represents a balanced allocation of additional funds for critically needed improvements in force readiness, for urgently needed near-term initiatives to enhance our rapid-response force capability, and for restoring reductions in planned force modernization. This recommended authorization by no means simply constitutes a $6 billion increase in so-called "hardware" procurement traditionally viewed as adding to planned modernization. This is a balanced recommendation providing additional funds for readiness, for near-term initiatives, and for force modernization.

For readiness, this authorization bill as amended recommends $2.8 billion for initiatives not contained in the President's request. To address now critical manning problems adversely impacting combat readiness, especially within the Navy, the conference recommendations include a net increase in military manpower benefits of almost $1.6 billion. This recommendation includes an 11.7-percent pay raise for the military, which can be selectively allocated to redress epidemic losses of highly trained, mid-level personnel. This compares to the President's 7.4 percent budget request. It is interesting to note that even the President's recent July-revised projection for defense still only allows for a woefully inadequate 9.1 percent military pay raise.

Also for readiness, the recommendation adds over $700 million for desperately needed spare parts for missiles and aircraft, some of which are fully mission capable less than one-half the time.

Finally, for combat sustainability—another integral part of overall combat readiness—the authorization recommendation adds $500 million to the request for torpedoes and air- and ship-launched missiles to begin to address critical inventory shortfalls, with inventory of some air-to-air missiles as low as 30 to 40 percent of combat readiness requirements.

To increase our rapid-response force capability and to enhance naval forces to meet our increased Indian Ocean commitment in the near-term, the recommendation adds over $0.8 billion for near-term initiatives. Almost $300 million has been added for immediate purchase of eight SL–7 cargo ships for fast sealift. About $550 million is included to reactivate and modernize the battleship *New Jersey* and the aircraft carrier *Oriskany* as near-term initiatives appealed for by the Chief of Naval Operations—but not requested by the Secretary of Defense—to enhance naval forces to meet our increased commitment to the Indian Ocean.

Now, for force modernization, the recommended fiscal year 1981 DOD authorization as amended by the conferees adds about $3 billion in procurement. Aircraft procurement is increased by $1.7 billion, adding 146 aircraft, 52 of which are noncombat trainers for basic flight instruction. The recommendation still only restores 12 of the 81 Air Force aircraft deleted by the administration from last year's plan for fiscal year 1981 and only adds 89 of the 134 naval aircraft not requested but needed to meet minimum active force requirements based on Navy testimony. In addition, the recommendation includes 37 aircraft for guard and reserve forces. The Administration requested no aircraft for these forces whose combat capability is a critical part of our total force planning.

For strategic forces modernization, most significantly, the conferees added $75 million for procurement and $300 million for research and development to begin development of a multi-role, manned penetrating bomber to be deployed as early as practicable but not later than 1987 in order to enhance our strategic forces during the "window of vulnerability" in the 1980's. Also of interest is the conferees agreement to authorize initial funding ($5 million) for the deployment of additional Minuteman III missiles in Minuteman II silos.

For naval forces modernization, the authorization recommendation adds $1.3 billion for new ship construction, including one additional nuclear attack submarine to provide two of the three required based on Navy testimony and including two additional FFG–7 guided missile frigates to restore the procurement to the six planned 1 year ago.

In summary, the authorization recommendation adds to the defense request $2.8 billion for force readiness, almost $1 billion for near-term initiatives, especially as related to the Indian Ocean, and $3 billion in procurement for force modernization. This is a balanced recommendation. It will improve our overall military capability and force posture. Recent claims by the Secretary of Defense that increased defense funding proposed by Congress "jeopardizes the added military capability we all seek" since the increases create "a serious imbalance in the President's defense programs" are preposterous and represent calculated deception.

A legislative provision of special importance and significance in the authorization bill is the agreement by the conferees to begin authorization in fiscal year 1982 of the "operations and maintenance" or O. & M., account of the Department of Defense budget. This legislative step would allow—in fact, require—the Armed Services Committees of the Congress to review the readiness implications of the O. & M. request as well as the O. & M. implications of the weapon system procurement requests. This new legislative requirement will undoubtedly result in more disciplined, more comprehensive authorization recommendations in the future—even better suited to overall defense needs.

Mr. President, the fiscal year 1981 DOD authorization conference report is the result of the careful and extensive review of both Armed Services Committees and represents our collective judgment. It deserves full support and unqualified endorsement of the Senate. I call on my colleagues—indeed, I urge them—to vote for this conference report to express once again their conviction that we must begin immediately to take those steps necessary to provide our Nation with the capability required to meet our national security objectives. This is the first step and only the first step, but it is a step which surely must be taken.

Mr. President, I yield to the distinguished Senator from Arizona (Mr. GOLDWATER) such time as he may require.

Mr. GOLDWATER. I thank my friend from Texas.

Mr. President. I will not take long.

I also commend the distinguished chairman of the committee for the way he conducted the committee during the entire year. I wish to join my friend from Texas in thanking the members of the staff for the always good work that they have done.

Mr. President, I think we have to realize that appropriating, even authorizing, this amount of money, the most that we have ever authorized in peacetime, is not something that is easy to do.

The prices of our equipment we buy today are absolutely overwhelming. When I think of the most expensive airplane we flew in World War II, being the old B–24, that cost $244,000, and realize that today a single-seater fighter plane can cost as much as $20 million to $25 million, and that when the F–14 is ready to take off on a mission and she has $1 million worth of ammunition tied under her, and we are looking at a main battle tank now that is going to cost over $1 million, it is not easy for us to do the things that we used to do more easily.

Mr. President, I would like to remind our colleagues and the American people that the first charge of the Constitution to our Government is to defend the people of our country wherever they may be, to defend them, their freedoms, and their property, and to do this we have to be far better prepared than we find ourselves today.

I totally disagree with the President and some members of his Cabinet when they try to tell us we are still superior to the Soviets. From the testimony of the Joint Chiefs of Staff, and particularly the Chairman, given before our committee, we are not.

I think while we should not make the target to be vastly superior to the Soviets, we should at least make the target one that we can accomplish our mission with, namely, to defend our people and to defend their rights and their freedoms.

Mr. President, I do not want to go all through this bill. It is a lengthy bill, and the Chairman has touched on it and others will touch on it. I would like to take just one point as an example, and maybe two.

No matter how much good equipment we have unless we have good men and good women now the system means nothing.

We have been very derelict in the military in our failure to recognize the growing needs of the specialists and the enlisted ranks in the grades of sergeant and above. We have been very derelict in our recognition of the needs of junior officers, particularly pilots, in all the services. I am happy to say that this bill takes a great step toward alleviating some of those shortcomings we have been having in the past several years.

Mr. President, we also have in this bill money for the Air Force to develop a new aircraft that will be someplace between the giant C–5 and the not so small C–141. We need this plane to accomplish getting our troops wherever they have to be gotten to around the world.

I would just like to mention, for example, that if we plan to move a mechanized division from the United States to an area where there is no pre-positioned equipment we would have to move the division's 16,000 soldiers, plus 50,000 tons of cargo, and to do this by air would require 400 trips by the giant C–5 transports, and we just have 70 of them when they are all in flying condition; and 1,200 trips by the C–141, and there are 234 of them in the full-strength fleet.

By contrast, the equipment for the whole division can move on just three large, properly equipped cargo ships.

Mr. President, our merchant marine is in such bad condition that we do not even have those cargo ships.

I mention this one item to point out that the problems of the military are not confined to just the equipment alone that we think of in use on the battlefield or in the sky or on the seas. We have these problems of lift that we never had to consider before, and we have the problems of the men and women in the military.

Mr. President, I am very proud and very happy to join with my colleagues on the Armed Services Committee in recommending to the Senate that we overwhelmingly adopt the conference report. It is a good report. It is well-thought out, very well-worked out, and I think in all of my years on the Armed Services Committee that it comes closer to unanimity than any one I can remember.

I yield the floor and I thank my friend from Texas.

Mr. STENNIS. Mr. President, I yield the floor to the Senator from Colorado.

Mr. HART. Mr. President, I thank the chairman.

I wish to join my colleague from Arizona in commending this bill to our colleagues for their satisfactory acceptance. It is a good bill, and one which strongly reflects the original Senate bill. I think that is particularly true, Mr. President, with regard to naval issues where the conference bill almost exactly reflects the Senate position.

The Senate owes a great deal of thanks to the distinguished chairman of the Armed Services Committee, Senator STENNIS, for the favorable outcome of the conference. He worked tirelessly for the Senate viewpoint. He was highly effective on all matters, but especially so on the very important naval issues in dispute. Again, the bill strongly reflects the Senate viewpoint on those issues.

Of great importance were a series of naval R. & D. initiatives, initiatives taken by the Senate to give us more shipbuilding options in the future. Today, we must too often choose between building ships which are so expensive we can never build the number we need, or building no ships at all. Why? Because neither the Navy nor the Administration has developed other options, options which would permit us to have ships which are individually effective yet also affordable in the numbers needed. In the absence of action by others, the Senate has sought to address this problem.

The Senate bill contained R. & D. initiatives for light carriers, for a combined amphibious assault ship and VSTOL carrier, for a naval version of the advanced Harrier VSTOL aircraft, for conventional attack submarines, and for modular naval weapons and sensors, among others. Thanks to strong support by the chairman, and equally by the members of the Senate R. & D. Subcommittee, especially Senators CULVER and WARNER, all these initiatives were approved by the conference. I am deeply grateful to the chairman and the R. & D. Subcommittee conferees for their insistence on the Senate positions, and I believe the Senate should be grateful also.

I do believe the conference report language on one of these items could use some clarification. The program I refer to is the light carrier. In the Senate report, the language made quite clear the intent of the program, which provides $30 million in design money for a light carrier. The report established the following guidelines for the light carrier:

First. Size: Every effort should be made not to exceed 40,000 tons full-load displacement.

Second. Aircraft complement: Ship should be capable of operating most—but not necessarily all—of existing or planned CTOL and VSTOL aircraft. In this regard, ski jump technology should be aggressively pursued. Should actual testing verify current analysis, ski jump should be considered for use rather than catapults because of ease of construction and simplicity of operation.

Third. Life-cycle costs: Emphasis during ship design should be placed on minimizing the personnel requirements and reducing life-cycle costs. Attention should be given to ship modularity to permit mission change without major and costly conversion.

Fourth. Vulnerability: Attention should be given to minimizing the vulnerability of the light carrier and weapons systems by such means as location of key equipments in less vulnerable areas of the ship, armorplating of vital areas, and silencing to reduce acoustic signature.

Fifth. Acquisition cost: In order to acquire a number of light carriers, cost is a matter of singular importance to the committee. Therefore, a target of $1 billion in 1981 dollars is suggested for follow-ship costs.

The conference report language is more general. It states:

> If the United States Naval forces are to continue to carry out their mission, there is strong evidence to support the need for additional aircraft carrier forces. For over three years, the Navy has been studying various sea-based aircraft platform alternatives. Despite this intense study effort, no program has been forthcoming to increase naval air capability at sea. Air-at-sea continues to provide the greatest flexibility in meeting new and challenging technological changes in warfare. It would be shortsighted indeed to fail to provide adequate forces, and especially air capable platforms, in this era of increasing Soviet naval capability. In providing for adequate forces in the years ahead, the Navy should consider carriers of all various designs.
>
> Therefore, $30 million is authorized for such additional R&D effort as may be required to permit a definitive recommendation by the Navy to the Congress for a new class of aircraft carrier.

I believe some explanation of legislative intent may be helpful in establishing the meaning of the conference language.

I believe more certainty is needed in that legislative intent, and discussion of that subject may be helpful in that connection.

First, the "definitive recommendation" to the Congress called for in the conference report requires a light carrier design sufficiently well developed to permit authorization of the ship by the Congress. We are not speaking here merely of a need for a general recommendation. We have enough of those, from many sources. What we need now, and what this $30 million is for, is a ship; a specific ship, a ship that is through the contract design phase.

Second, the conference report language, by not addressing the specific characteristics of the ship, especially as regards size and cost, leaves the Senate report language still in force as far as the legislative intent is concerned. The carrier design to which this $30 million is to be applied should not exceed 40,000 tons full load displacement, nor $1 billion in fiscal year 1981 dollars for follow-ship cost. These goals are necessary if the purpose of the light carrier program—which is carriers sufficiently affordable to permit us to have greater numbers—is to be achieved.

Third, where the conference report language states, "In providing for adequate forces in the years ahead, the Navy should consider carriers of all various designs," the report is referring to existing carriers as well as to those which may be procured in the future. Thus, the language does not suggest the $30 million in carrier R. & D. funds can be applied to any carrier other than the light carrier as described in the Senate report language. The conference report language merely affirms what the Senate has made clear all along: that the light carriers envisioned here would supplement, not replace, the existing force of 12 large carriers, creating a mixed force of large and light carriers, carriers "of all various designs" which will be in service "in the years ahead."

The Navy of course may and probably should consider carrier designs for the future in addition to the light carrier as described in the Senate bill. This same bill contains a separate initiative for a smaller VSTOL carrier, the LH-X (VSS). However, the $30 million in carrier R. & D. money in this bill may not be applied to designs other than the light carrier as described in the Senate bill. That is the legislative intent.

Again, Mr. President, this is a good conference report. It is much more the Senate bill than the House bill. It is a victory for the Senate positions. I urge my colleagues to support it.

Mr. President, I thank the Senator from Mississippi, the distinguished floor manager.

The PRESIDING OFFICER. The time of the Senator from Mississippi has expired.

Who yields time?

Mr. METZENBAUM. Mr. President, I yield myself 5 minutes of my own time.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to address the chairman of the Armed Services Committee and to indicate to him the continuing concern I have had over a period of years.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. Will the Senator from Ohio please suspend until the Senate is in order.

The Senator from Ohio.

Mr. METZENBAUM. I thank the chairman of the Armed Services Committee and the Presiding Officer.

Over the years I have risen on this floor to discuss with the chairman of the Armed Services Committee competitive bidding by the Department of Defense, and routinely we have seen the Department of Defense award contracts on a noncompetitive bid basis, so much so that studies have been made over the years by the distinguished Senator from Wisconsin (Mr. PROXMIRE), who pointed out in one series of studies how as much as 50 percent could be gained if competitive bidding were used.

And other studies have been made by the GAO and by various other governmental agencies, all of which have indicated the need to use competitive bidding. The Secretary of Defense himself has been quoted in the New York Times as saying one of his great frustrations has been his inability to cause competitive bidding to be a reality of life in the Department of Defense.

Several years ago I came to the floor of the Senate and offered a couple of amendments on the subject of competitive bidding to a Department of Defense appropriations bill. It was approved by the Members of the Senate and lost out in the conference committee.

In this year, also, I came to the floor of the Senate not attempting to address myself to the total issue of competitive bidding, but limiting the issue to the question of sole procurement of experts and consultants by the Department of Defense and requiring certain new reporting requirements as pertains to the Department of Defense hiring these consultants and experts without using competitive bidding and without giving prior notice.

When that matter went to the conference committee, again the House, which did not have it in, insisted on their position, the Senate receded, and the amendment came out.

But, having said that, that is the bad news. I would also like to address myself to the good news, because I think that in this instance the good news is better than the bad news. Although we lost technical language of the amendment itself that had been offered and agreed to on the floor of the Senate, it is a fact that the conferees did recognize that legislation has been introduced in both House of Congress relating to contracts for procurement of experts and consultants and that the present regulations require certain types of notification prior to award of such contracts. Therefore, they said, "We will delete the language in the Senate amendment."

Well, that is bad on its face and that would disturb me much, except that the conferees went on to say, and I read the language of the report:

> The conferees insist, however, that in order to closely monitor such contract awards, the Secretary of Defense, during fiscal year 1981, submit, on a quarterly basis, a report containing a listing of all contracts for consultants and experts that are (1) awarded without the required 10 days' publication and (2) on a basis other than advertisement and acceptance of the lowest competitive bid.

They went on to say:

> Each such report should include the type of contract, the scope of work, the reason for a sole source or other award, and the reason for waiver of notification or other waiver being given.

Mr. President, I think, frankly, that the report language actually goes further than the amendment that had been adopted on the floor of the Senate. I hope that the Department of Defense understands that they are to live up to the report language. If they live up to the report language, we will not have changed the law but we will at least have established a precedent and maybe we will have given a message from both Houses of Congress that both Houses of Congress do not believe that there ought to be sole source procurement of experts and consultants without adequate notice in advance and without competitive bidding.

If we take that major step forward with respect to the experts and consultants, then I hope that the next step will be, in connection with all procurement, except certain specified exceptions, that in all cases we will be using competitive bidding and we will be using advertisements in advance.

Mr. President, there are not any of us in Congress who do not support the concept of the military having adequate funds to make our Nation No. 1 throughout the world. But that does not mean that we have to waste funds at the Department of Defense—and they have been wasting them. They continue to waste those funds. They are indifferent to the concerns of the Congress and the people.

I believe we are giving a message by this report language, a message saying that we expect the Department of Defense to use competitive bidding, to use prior notice and to see to it that we can save some dollars while at the same time maintaining our military strength.

Mr. President, I commend the chairman of the Armed Services Committee, who is actually the leader in this respect, for this language being included in the report. I think he has done a superb job. I am very proud to associate myself with him.

Mr. STENNIS. We certainly thank the Senator very much for a lot of hard work he has done.

Mr. COHEN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. The Senator from Ohio has 4 minutes remaining?

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. Mr. President, I yield 1 minute to the Senator from Maine.

Mr. COHEN. Mr. President, I wish to say, in response to the Senator, that this problem of the wasting of Government money or taxpayer's money through unsolicited proposals or through sole source contracts is endemic throughout our bureaucracy.

The Senator pointed simply to the defense industry as such and the defense establishment. I agree with the Senator in his point.

Senator LEVIN of Michigan and I have introduced a measure in this body just last week, after hearings which lasted for some 11 months investigating the problem of hurry-up spending in which agencies wait until the last month of the fiscal year in which to contract out to various experts and to various contractors. We have found that is the most abused period of time through sole source contracts.

So we welcome the Senator to join in this bill that we have introduced. I believe there will be another bill introduced in the House. We welcome the Senator's support, not only to get at the problem of defense spending, but Government spending at all levels.

Mr. METZENBAUM. I thank the Senator from Maine. I might point out to him that I have joined with the junior Senator from Arkansas on this very same subject. I will be very happy to look at the Senator's language and associate myself with it after I have an opportunity to read it.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes and 33 seconds remaining.

Mr. METZENBAUM. Mr. President, I yield 33 seconds to my friend from Alabama.

Mr. HEFLIN. Mr. President, I would like to express my support for the conference report and also extend my appreciation to all my colleagues, and also the conferees for adopting the $15 million increase in the ballistic missile defense program. Although the command which administers the program is located at Huntsville, Ala., it is a program of national importance; and, thus, my interest is far from parochial.

Now, Mr. President, I would like to speak on a topic that has a direct bearing on this report—the Anti-Ballistic Missile Treaty (ABM) of 1972. As we know, the Soviet Union's quest for global domination—seen most recently in the wake of Afghanistan—has postponed debate of SALT II, and in the words of my distinguished colleague from New Mexico (Mr. DOMENICI) has placed "the entire future of the SALT process in doubt, and thus makes it appropriate to reexamine all strategic force concepts, including ABM, which were previously deemed incompatible with the SALT process." This is vital because, if the SALT Treaty should go unratified or the existing "gentlemen's agreement" be abrogated, a new round of offensive improvements in the area of nuclear weapons is likely; and the potential vulnerability of our land-based missiles within a few years demand that we examine a ballistic missile defense system.

For years, debate has revolved around the issue of whether, to what extent and in what role, we should deploy an ABM system. The basic options have been seen as protection of our missiles and/or our cities from a nuclear attack. In one sense, the debate was settled by the ABM Treaty in 1972 which, in the words of a respected arms control analyst, limited ABM systems in such a way as to encourage the eventual termination of an existing American ABM program and to discredit in the eyes of the American public the entire notion of ballistic missile defense.

Now, 8 years later, the ABM Treaty continues to be a cornerstone of American policy and is regarded by some as the great success of the U.S. arms control policy in the post-war period. It has been argued by its supporters that this agreement, which limits the development and deployment of ballistic missile defenses, constituted a radical departure in Soviet strategy and signaled Moscow's acceptance of the U.S. policy of mutual assured destruction (MAD).

Yet, Mr. President, I contend that this treaty falls into the current category of arms agreements where the biggest and perhaps the only beneficiary has been the Soviet Union, not the United States. We, the United States, are responsible for this disparity which can easily be seen when one looks back on the ABM Treaty debate. The most striking feature of the debate was the massive and almost willful failure of the anti-ABM forces to give serious attention to Soviet attitudes. A brief look at the Soviet actions preceding the treaty prove that the signing was not an indication of a Soviet acceptance of U.S. policy, as arms control proponents have claimed.

After the Cuban missile crisis, the Soviets were determined never again to allow themselves to be face down by superior American force. As early as 1964, they unveiled the galosh ABM system designed to defend Moscow. In the meantime, the idea of negotiating limitations on strategic arms had gained headway in both countries.

While receptive to offensive arms control, the Soviets initially displayed considerable distaste for any ABM limitations. When asked about a moratorium on ABM development, Soviet Premier Kosygin asserted that an antimissile defense "is not a cause of the arms race, but represents a factor preventing the death of people."

This Soviet distaste to ABM limitations conveniently and drastically changed after successful tests of our Safeguard ABM system.

Though somewhat limited, this system was still very potent and directly threatened the success of the Soviet preemptive counterforce strategy. The logical Soviet solution to this problem was to freeze both Soviet and United States deployment and attempt to close a technological gap by means of an intensified research and development program.

Thus, my belief is that the Soviets signed the ABM Treaty, not of a newfound conviction of the wisdom of mutual assured destruction, but in order to arrest the planned deployment of the American Safeguard system and to dampen American interest in a strategic field in which this country held at that time a commanding technical lead.

The Soviet Union succeeded in their plan, conveniently with the help of anti-ABM forces, whose argument against deployment of the ABM was based on two premises. The first argument was technical.

Questions were raised about the ability of the safeguard radar to track many targets simultaneously, and also that the ABM radar technology would be unable to keep pace with the ability of the Soviets to saturate the defense with penetration decoys and eventually with multiple independently targetable re-entry vehicles, MIRV's.

Technical advances made since the treaty have easily overcome these problems and have shown the capability to respond to further increases in the Soviet threat.

The second argument that anti-ABM forces gave was based on the strategic view that had achieved status during the 1960's—the view that stable nuclear deterrents requires each side to possess an assumed capability of inflicting unacceptable damage upon the other.

Under the logic of this mutual assured destruction, ABM and every other form of strategic defense were undesirable. By demonstrating belief in the possibility of defense against nuclear attack by the other side, they suggest belief in the possibility of successful nuclear attacks by one's own side.

As I explained earlier, the Russians have never adopted this policy of MAD, and the administration apparently abandoned it publicly a few weeks ago. Today, the argument that an ABM system does not coincide with our MAD strategy holds no water because the policy of MAD no longer seems to exist.

Therefore, I ask, Mr. President, why should we continue to abide by this obsolete treaty that limits our ability to deter nuclear attack, especially in view of the fact that if we do not do something soon, the vulnerability of our land-based missile will leave us open to nuclear blackmail by the Soviet Union. If this question were posed to ABM opponents, they would respond that any attempts to change the ABM Treaty would endanger all arms control agreements and result in a new and further expensive arms race. Of course, it would be unwise to deny that a serious return to ABM defense might have great consequences for the future direction of strategic programs in both the United States and the Soviet Union. However, I contend, Mr. President, that we have been in an arms race—and a losing one, I might add—with the Soviet Union for the past decade, despite so-called arms control agreements. The vulnerability of our land-based missiles proves the existence of this arms race. In response to ABM opponents' claim that a new and expensive arms race would occur, it is my judgment that the limited Soviet economy could not handle increased expenditures to cover a new arms race in the area of defense systems, but would have to readjust their expenditure decisions.

Therefore, would it not be more desirable to engage in an arms race that builds weapons to defend our country, instead of a race that builds weapons to destroy? Now, this would be a real move toward limiting offensive nuclear weapons, thus reducing the chance of nuclear war.

Also, Mr. President, a move toward ABM defense would open up a new range of strategic possibilities and provide a cushion in American strategic planning that is currently lacking. Of course, I am not ignoring the fact that the Soviets are likely to engage in an intensified competition in this area.

Yet, once faced with a prospect of competing in a technological game in which this country enjoys—and which this country will certainly continue to enjoy important advantages, it is conceivable that the Soviets will prove much more amenable to strategic restraint.

So, I ask, why should we continue to abide by a treaty that mandates parity in one of the few areas where we hold a clear technological advantage, especially since our BMD system, integrated with a deceptively based MX system, would provide protection to our land-based ICBM forces at the lowest cost that has ever been analyzed.

In conclusion, Mr. President, what must be done in a systematic and serious rethinking of the role of the ballistic missile defense in American nuclear strategy. As I explained earlier, the policy of MAD apparently no longer exists, thus an ABM system could play a very vital role in our policy of strategic deterrence.

Therefore, we must have a comprehensive nuclear strategy ready before 1982 when the United States and the Soviet Union meet for the ABM review conference. This conference could have drastic consequences for American interests if it is not preceded by a review of strategic requirements for the 1980's.

We must not allow, Mr. President, this country to remain in the very vulnerable and costly situation that we face today and in the days ahead.

Mr. METZENBAUM. Mr. President, I yield 1 minute to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I appreciate the Senator from Ohio yielding to me.

Mr. President, I applaud the Senator from Ohio for bringing this matter to the Senate's attention. I am very pleased that the conferees did adopt some language as it relates to the hiring of consultants and especially in an attempt to stop many of the abuses that we are finding today in sole-source contracting. This, of course, only relates specifically to the Department of Defense.

Mr. President, I can state that in S. 2880 we are trying to approach this subject on the whole of the Federal Government and trying to look at the entirety, the entire spectrum of Federal contracting out, specifically as it relates to sole-source contracting. We feel that if the provision in S. 2880 can prevail, we will certainly make giant steps forwards in curtailing some of the abuses that we have found.

Once again, I commend the Senator from Ohio. I am proud that I joined with him as a cosponsor and proud to have him join me as a cosponsor of S. 2880.

Mr. METZENBAUM. Mr. President, if I have any time remaining, I yield it to my friend from Mississippi.

The PRESIDING OFFICER. The Senator has 27 seconds remaining.

Mr. TOWER. Mr. President, I yield such time as he may require to the distinguished Senator from Maine (Mr. COHEN).

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I wish to add my own words of commendation to the chairman of the committee and also the ranking minority member, Senator TOWER, for their leadership on this particular measure. It is a complicated bill with many new weapons systems and new programs.

I express my appreciation for having the opportunity to serve on the committee under their leadership. I particularly express my support to Senator TOWER for something I believe he initiated this year, the first time, at least, since my service in the Congress, including that in the House. Many of us attempted to talk, from time to time, about increasing defense spending on a percentage basis. We have talked in the past about a 3-percent solution for NATO countries, including the United States. Some have talked about a 5-percent solution. Some have gone as high as a 10-percent solution.

I believe that Senator TOWER is correct in recognizing it is not the percentage of increase that is of critical concern but, rather, what kinds of systems are needed and what is the level of spending which is necessary to keep this country free and secure, not only for our people but for our allies and also for our interests around the world.

For the first time, Senator Tower brought forth an opportunity for the members of the committee to consider a series of options, options 1, 2, and 3, or A, B, and C, which were available at that time, giving the members of the Senate Armed Services Committee an opportunity to evaluate specific systems, what was necessary in terms of professional military judgments, and whether we were prepared to support the level of spending necessary in their judgment. I commend him for that initiative and associate myself with his efforts.

Mr. President, during Senate consideration of H.R. 6974, the Defense Authorization bill, our distinguished colleagues, Senator Cranston and Senator Matsunaga, expressed concern over language in the Armed Services Committee's report on that bill. The report, on page 121, suggested that a program of educational assistance, as provided in the authorization bill "may well be the last hope of the Volunteer Force to attract personnel of needed quality."

Senator Cranston, chairman of the Veterans' Affairs Committee and a supporter of the All-Volunteer Force, said that he categorically rejected that suggestion. Senator Matsunaga, also a member of the Veterans' Affairs Committee and one of the leading forces in bringing the Volunteer Army into being and in working for improved pay and benefits for those in uniform, joined in taking strong exception to the committee language.

I share their deep concern, and I want to thank them for drawing attention to the erroneous statement made in the committee report. When the Armed Services Committee was marking up the authorization bill, I raised an objection to the draft language which had been drawn up suggesting that an educational benefits package might be the last chance to preserve the Volunteer Army. The committee agreed to change the language. Through an apparent oversight, however, the change was not made.

The Armed Services Committee's report should have said: "But an effective educational assistance program may well be the best approach for the Volunteer Force to attract personnel of needed quality." Unfortunately, because of the inadvertent inclusion of incorrect, rejected language, a misleading impression has been created.

Realizing that corrections somehow never catch up with inaccuracies, I hope in this case that we can be successful. Already, I have seen one magazine article which uses the incorrect language as the basis of a story it ran on the education package. My only hope is that by drawing attention on the floor today to the regrettable situation which has resulted from use of the wrong language, we will establish a clearer perspective for evaluating the importance of the education program.

I want to point out that the language which should have appeared in the committee report on the bill does appear in the conference report on the measure. On page 96 of the conference report, it is stated:

> The implementation of an effective educational assistance program may well be the best approach for the volunteer force to attract personnel of needed quality.

A 1-year test program, as provided in this legislation, may not provide sufficient time to determine whether educational incentives are, in fact, the best approach for attracting top-quality recruits. I think, though, that we are taking an important step in moving toward improved educational benefits. From this experiment, I hope we will have the basis for developing a program which will encourage educationally motivated men and women to enlist and reenlist.

One of the recurring themes before the Armed Services Committee in this past year has been about the devastating effect that ending the GI bill had on military recruiting. It is more than coincidence, I believe, that the dropoff in recruit scores on military entrance exams occurred just after the GI bill was ended.

The way to reverse this situation is through a combination of programs such as we have included in our package. Forgiveness of student loans, a proposal I introduced in this body, holds great potential for attracting those with a college education into our Reserve and Active Forces.

I firmly believe that educational incentives, along with fair compensation for those serving their Nation, do offer the best approach for attracting top quality enlistees. But I join my colleagues, Senator Cranston and Senator Matsunaga, in categorically rejecting any claim that they may be the last hope for the Volunteer Army.

I regret that the correction I requested when we marked up the authorization bill inadvertently was not made. At the same time, however, I want to offer two commendations for allowing the record to be set straight. Were it not for the vigilance of the two distinguished members of the Veterans' Affairs Committee, and for their colloquy on the floor, the misimpression might have been allowed to stand. I also want to thank the staff of the Armed Services Committee for going back over the notes of the meeting at which I raised the objection and for making the correction in language in the conference report. That should do much to set the record straight.

Educational incentives should help attract quality recruits. Those incentives should, if applied properly, enable us to build a better military. But we must keep their impact in perspective. If there is a "last hope for the Volunteer Force to attract personnel of needed quality," that hope lies with a Congress which has failed to provide the incentives necessary to maintain that force. Through the efforts in this Congress to improve pay and benefits and to provide this educational incentives package, we are reversing the record of nonsupport. We must now keep this momentum going and continue to take necessary steps which will demonstrate to our men and women in uniform that we do care about the job they are doing on behalf of their Nation and that we are committed to providing programs to maintain a strong Volunteer Force.

Mr. PROXMIRE. Mr. President, it is my understanding under the unanimous-consent agreement I have 15 minutes. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. PROXMIRE. So far we have had nothing but sweetness and light and, unfortunately, I will have to shatter that sweetness and light because I think this is a bad conference report. I oppose it because of its budgetary excesses, its undisciplined priorities, and its inflationary effect on the national economy. The distinguished Senator from Mississippi has said this is the largest procurement bill we have ever had. That is true. The conference report agrees on a military procurement budget of $52.8 billion, which is, incidentally, $700 million beyond, over, what we did in the House, and we had a very, very big bill at that time.

This reflects a 12.6 percent increase over the administration's request of some $46.9 billion. Let me repeat that. This is 12.5-percent higher than President Carter asked us to pass. He asked us to pass a big procurement bill.

It is higher, including all of the changes that President Carter may have made in the meanwhile. There was a clamor to try to reduce this bill after it passed the House.

According to the Secretary of Defense and the President, the original request was not only in line with all other national priorities, but it was sufficient to meet the known international threats to our security. So we are about to substitute a new assessment for the relative military balance for that so carefully calculated by the Secretary of Defense and his advisers.

Mr. President, how do we ever get into this position? In the first place, I think that, unfortunately, in recent years, the defense procurement bill has become another porkbarrel bill, a bill in which those who wanted to get more for their States got more for their States, unfortunately; in which the merits of the programs have too often been ignored in order to provide more jobs or more opportunities for profits in various sections of the country. In other words, it is a porkbarrel bill with all the problems that a porkbarrel bill represents.

The basis for the reassessment, the basis for our going so high, for our going over the administration, for our going far higher than ever before, is an oft quoted but little examined statistical reevaluation of United States and U.S.S.R. defense spending. That reevaluation allows advocates of increased military spending to claim that the Soviet Union has outspent the United States by 30 percent or 40 percent or even 50 percent, depending upon the category of spending addressed. This is the so-called dollar costing method. The Soviet defense programs are costed out in U.S. dollars. That is, every component of Soviet defense spending is viewed as if it were produced here in the United States in U.S. dollars, with U.S. inflation, with U.S. prices, with U.S. manpower costs.

How utterly ridiculous this method is is disclosed when you compare it with what the ingredients are. Thus, the Soviets huge standing army, more than twice that of the United States, is given costs equal to what it would be to produce that army here in the United States with the All-Volunteer Force pay costs.

Mr. President, assume we apply that to the Chinese Army. They have something like 7.5 million people in the Chinese Army. Suppose we paid all of them the way we pay people in this country. On that basis we would argue the Chinese are paying far more for their defense than we are, and they would be. That indicates how ridiculous it is for us to simply take their manpower and, of course, give their manpower the kind of treatment we give ours, wholly unrealistic.

They have a draft system in Russia which we do not have. They pay their military people about one-fifth of what we pay them. They use their military people to harvest crops and build roads. They have about 1 million of their people mobilized on the Chinese border. There just is no comparison.

Mr. President, then the figures are used over and over in the American press to suggest and outright claim that the U.S.S.R. is outspending the United States in defense. This is done in the face of the clear disclaimer that the CIA places on these figures, and they have made the calculation.

There was an excellent letter which appeared in the Washington Post a week ago Sunday by a CIA expert who had been responsible in great part for this computation, saying how wholly we had been deceived in this estimate and how, in fact, the increase in Soviet spending had never exceeded 3 percent a year, in spite of the fact that we argue it has been increasing at such a much more rapid rate than anything we have done or contemplate doing.

Mr. President, the CIA says about their statistics:

> Estimated dollar costs do not measure actual Soviet defense expenditures or their burden on the Soviet economy. Similarly, dollar cost analysis does not reflect the Soviet view of the distribution of the Soviet Union's defense effort. Neither the system of accounts nor the structuring of expenditures by military mission is the same for the Soviet Ministry of Defense and the U.S. Department of Defense.

Now, consider that disclaimer. First, they say you cannot use the dollar cost method to measure actual Soviet expenditures. That makes any statement about the Soviets outspending the United States by 30 percent or 40 percent or 50 percent to be a simple, obvious error. It simply is not true.

We are comparing a phantom army with a real army, a phantom army that has no economic reality, no basis in cost or burden to the U.S.S.R. economy. It is a statistician's mirage. And yet these figures are cited over and over as justification for the huge increase in defense spending this year.

Mr. TOWER. Will the Senator yield for a clarifying question? Is he saying that the Soviet Army is simply a phantom army?

Mr. PROXMIRE. Of course not. What I am saying is that what they are doing is to apply the pay that we have for our Army to an army of 4.3 million, which is an army which is used entirely differently than our Army.

You can only measure an army, as the Senator knows, by the weapons they have available. If we used this technique, we would have to apply the same measurement to the Chinese, I suppose. I hope that the Senator from Texas would not argue that the Chinese, because they have far more people than the Soviet Union or this country—in fact, more than both combined—have more power than both combined. I am saying this statistic does not mean anything, that that comparison is meaningless.

Mr. President, it is time that the American public understands that these quotes about being outspent by the U.S.S.R. are just plain inaccurate. They are nonsense, balderdash, baloney, phony, fake, and, I might add, untrue.

Mr. President, the gross total of this bill aside, contained therein are commitments to several military programs I believe to be most unwise and injudicious. Foremost among these is the $1.6 billion commitment to the MX missile system. The MX is a curious concept—curious because each week we get a new version of the MX. Rails, trenches, loops, straight lines—the geometry of the deployment scheme is a mapmaker's delight. And, of course, we cannot decide where to put it. This bill accomplishes a neat political trick by mandating that one-half of the 4,600 shelters for the MX be outside of Utah and Nevada. This is a new form of revenue sharing or perhaps burden sharing—a spread-the-wealth plan—except that no one really wants the full impact of the MX in their area.

In addition, the Congress is insisting that a World War II battleship and a Korean war aircraft carrier be taken out of mothballs and added to the fleet. The Defense Department objects to both projects. I repeat, the Defense Department objects to both those projects. We are taking in this bill a World War II battleship and a Korean war aircraft carrier out of mothballs and adding them to the fleet.

In addition, the conference report deletes the $94 million needed for B-52 modernization while adding $300 million for research and development and $75 million for long lead procurement of a new multirole bomber to be deployed by 1987.

Mr. President, there is good news and bad news in this conference report. I have just told the bad news and, unfortunately, I think that outweighs the good news. But there is good news. There are positive as well as negative aspects. In part, this bill continues the emphasis, well placed in my opinion, of rewarding our military personnel with pay and benefits to which they are entitled. The authorization of $1 billion for the 11.7-percent pay raise is a welcomed change from prior years, when military personnel were forced to defray part of the cost of inflation out of their own pocketbooks. If the All-Volunteer Force is to work, we must attract and hold qualified, skilled personnel and adequate pay and benefits is the place to start.

Mr. President, the military force is like any other group of human beings. We have to pay them adequately. That is why I think the Senate was wise to override the veto this afternoon. There is no question that we are losing competent people. When we lose maintenance people, when we lose engineers, when we lose pilots who cost a great deal to train, it is an enormous loss. No matter how good our equipment may be, unless we have capable, competent, able people, and we certainly have them in the military, unless we retain them, give them the incentive to stay, we are obviously going to weaken our military greatly. So in that respect, I think this conference report is good. I approve of that.

Mr. President, I do not want my vote against this conference report to be interpreted as opposition to the pay raise. To the contrary, I have supported and shall continue to support increases in pay, but I cannot overlook the economic and military consequences of the unbridled and misdirected spending in this bill.

Mr. President, I ask for the yeas and nays on passage of the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. I yield the floor.

Mr. TOWER. Mr. President, I shall yield in just a moment to my colleague from South Carolina, but I cannot let what the Senator from Wisconsin has said go totally unanswered.

Mr. President, even if we proceed on the assumption that the method of calculating Soviet defense expenditures is phony, we still have to consider the threat based on what the Soviets have. Even if they got it all for nothing, even if it were free, the fact remains that they have more ships, more intercontinental ballistics missiles, more submarines, more artillery pieces, more tactical aircraft than the United States does. The fact is that they are superior to us in virtually every aspect of military endeavor, with the possible exception of strategic capability. And there, we have only a rough equivalency and we are losing that. So that is what we have to look at.

The Senator from Wisconsin is focusing on entirely the wrong thing. It does not matter what the relative amounts spent by the United States and the Soviet Union are. What matters is the relative military posture of the two countries.

The Senator from Wisconsin said we should measure an army by the weapons available to it. If you want to measure it by that, look at what the Soviets have compared to what we have. This is typical of the Senator from Wisconsin. His way of stopping Russian aggression is to slap a wheat embargo on the Soviet Union. His way of fighting Soviet aggression is to impoverish the American farmer and to cut back on defense spending.

I am certain the Soviets are scared to death by the wheat embargo. Rats. They could not care less. So a few of their citizens suffer a little discomfort because they get 2½ pounds less a year—2½ pounds less—with the embargo than they would get without it.

Mr. President, do you think the people in the Kremlin give a damn about that? Of course not. There will be meat on Brezhnev's table tonight and tomorrow night and the night after that. And he will exercise sway and control over his people by virtue of an authoritarian government with the military power to back it up. And he will go into Afghanistan or any other place he wants to go, as long as he believes there is no likelihood of a credible challenge by the United States of America through a strong foreign policy and the military force to back it up.

Mr. President, I certainly hope the Senate will not buy the means of fighting aggression of the Senator from Wisconsin—that is, by taking wheat markets away from the American farmer—but by arming this country with what it needs to provide a credible deterrent to aggression.

I yield 3 minute to the Senator from South Carolina.

Mr. PROXMIRE. Will the Senator yield to me?

Mr. TOWER. Mr. President, I have yielded to the Senator from South Carolina. I shall be glad to have a colloquy with the Senator from Wisconsin later, but I have yielded to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I support the conference report on H.R. 6974, the Defense Authorization Act for Fiscal Year 1981, which authorizes $2.8 billion in defense spending.

These funds include $35.7 billion in procurement, $16.9 billion in research and development, and $120 million in civil defense.

This bill represents the most determined effort the Congress has undertaken in recent years to bolster our sagging Defense Establishment. It increases by approximately $7 billion the budget request submitted by President Carter.

Besides addressing our procurement needs, the bill authorizes a 11.7 percent pay increase for military personnel and provides 15 new or increased items relating to military pay and benefits. I consider this pay raise and increased incentives as very important in slowing the loss from the services of valuable, trained military personnel.

Among the significant procurement items in the strategic area, the conference agreed to provide $375 million for research, development, and procurement of a new bomber. The conference report language permits selection of a new bomber by March of 1981 from among the various candidates such as the B–1 and variants, the FB–111, and the new technology bomber.

A compromise was also reached in the MX missile language which stresses the need to move forward with deployment of this program. In another important strategic area, the funding for the Navy's Trident II missile was increased by splitting the difference between the two bills.

In the shipbuilding area, both bills contained aggressive programs in excess of that recommended by the administration. These higher levels were approved by the conference which, in addition, provided funds for reactivation of the *New Jersey* battleship and the *Oriskany* carrier.

Mr. President, the conferees also agreed on a number of increases in aircraft procurement. The recommended levels of aircraft procurement were hardly meeting the attrition rates, and the increased rate approved by the conference significantly lowers the unit cost.

Especially gratifying was the decision of the conference to procure needed aircraft for the Reserve and Guard. While our committee did not include these items in the Senate bill, the Senate conferees wisely receded to the House on such items as A–7K trainer aircraft, C–130 transport planes, and attack helicopters for the Guard and Reserve.

Mr. President, this conference report represents nearly 2 weeks of work by the Senate and House conferees and I urge its acceptance by the Senate.

I thank the Senator for yielding.

Mr. PROXMIRE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. PROXMIRE. Mr. President, I say to my good friend from Texas, in the first place, I am delighted to hear the Senator from Texas agree that it may be—he did not say it was, but it may be phony for us to make this comparison that they spend 30 or 50 percent more by simply taking their Army and trying to reproduce it here.

The Senator talked about weapons. That is where he concentrated his fire. He said they have more ships, more planes, more missiles. That is another illusion. So they have more ships. What is important is the firepower, the tonnage, the capacity of those ships. How many aircraft carriers do they have?

Mr. TOWER. Will the Senator yield? I am delighted——

Mr. PROXMIRE. Mr. President, we would have 14. If I had my way, we would have cut out the additional aircraft carrier we have. We already have 6 to 1 predominance over the Soviet Union in aircraft carriers. Obviously, they can deliver far more firepower than the ships the Soviet Union has. How can we justify spending $2.5 billion, not counting the planes that cost another $7.5 billion, on a small destroyer or some other weapons system that is far smaller?

Furthermore, Mr. President, our submarines. We have fewer submarines, but ther are quieter.

The submarines are also faster, far tougher to detect. Our planes are better. We have more warheads than the Soviet Union. Surely, they have more throwaways. We have more warheads than the Soviet Union.

Mr. President, the point I make is not that we can resolve here tonight or in several days which country has the greatest military power. What I say is that we should not just automatically take the notion that they have 30 or 50 percent, whether they are encouraging spending at a far greater rate than we are.

When we look at what the CIA tells us, and I have had hearings in committee every year for 10 years, those hearings have been in executive session, they show they are behind us in every single technological respect.

Furthermore, I am proud to support the wheat embargo. It is doing the job.

That is one of the reasons for the strike in Poland, because they are not able to ship the kind of feed grain they have in the past.

Furthermore, the testimony we have had on the record—this is not executive session—before our committee by the intelligence agency, indicates the strikes in Russia, the automobile plants, the truck plants, and the tank plants, are caused in large part because they do not have the meat they should have. Of course, they cannot process the meat because they do not have their feed grains to feed their cattle.

There is not any question, Mr. President, that the wheat embargo is difficult for us. Of course, it is tough for our farmers, and hard for our taxpayers. But, Mr. President, since that wheat embargo went in, our farm exports have gone up.

Nobody can tell me under those circumstances this is not a price worth paying, when we have the kind of difficulty we now have in the Soviet Union, the kind of protest they have, and also, of course, the consequences the Communist Party is suffering in Poland.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Texas.

Mr. TOWER. Mr. President, the Senator from Wisconsin has really demolished his own argument when he talks about the fact that we have superior tonnage than the Soviet Union. This is true. He said we had a 6-to-1 edge on aircraft carriers. We used to have a 14-to-nothing edge on aircraft carriers.

The Soviets are building carriers now and that is symptomatic of other things they are doing. They are building capital ships at a great rate on a per annum basis than the United States. They are building more tonnage than we are. They are not going to tolerate our retaining this narrow edge of maritime superiority unless we show them that we intend to maintain that edge by funding and authorizing the capital ships necessary.

Even what we have in this budget is inadequate in terms of our projected naval shipbuilding needs.

If we lose that tenuous margin of maritime superiority, we are really in the soup because we must protect our sealanes of communication. They are lifelines to the United States. The Soviets do not need to protect sealanes for anything except perhaps a little chocolate and bananas. They have what they need. They do not require the sealanes of communication.

But if the sealanes of communication are cut, then this will have a disastrous effect on the economic welfare of the people of the United States of America.

They are outbuilding us on ships. Yet, the Senator from Wisconsin would have us shrink our shipbuilding program.

The fact is that they are ahead of us.

Mr. PROXMIRE. Will the Senator yield?

Mr. TOWER. It was pointed out, 20,000 tanks facing us in central Europe against 7,000 for NATO. Is the Senator from Wisconsin going to pretend that is not an edge?

I do not care how much they paid for them to get there. They are there.

If we do not do something about it, then we are going to find our power diminished in this world to the extent there will only be one superpower left. Then watch the other nations of this world rush to make their unilateral accommodations with the Soviet Union, whether we have a wheat embargo or not.

I yield to the Senator from Virginia.

Mr. WARNER. Mr. President, I would like, momentarily, to direct a question to my distinguished colleague from Wisconsin. But by way of preparatory comment, I would like to express my appreciation to the chairman of the committee, the Senator from Mississippi (Mr. STENNIS), and to the ranking minority member, the Senator from Texas (Mr. TOWER).

I am nearing the completion of 2 years of service on this committee with these two fine leaders. I wish to express to them my personal gratitude.

I believe that they treat each and every member of the committee, be it a freshman or a senior veteran, with equality and give them every opportunity to participate in the work of our committee.

We also enjoy a very fine staff which has worked hard to put together this bill that we are soon to address.

I followed the colloquy here with great interest between the Senator from Wisconsin and the Senator from Texas. The Senator from Texas closed by briefly stating that this Nation has been a maritime nation since its very inception, dependent more and more each year on the sealanes, not only to nourish and feed our economy, our way of life, but also to protect us from enemies.

All of our principal allies save Canada, and to a lesser extent Mexico, are upon either the Atlantic or Pacific Ocean, and they, too, are dependent on the sealanes as a link between the United States and our perimeter of defense.

Yet, historically, the Soviet Union, and I say this in a most dispassionate way, has been a land nation, building slowly in concentric circles, acquiring neighboring countries.

We know that their perimeter of defense is Poland and Czechoslovakia, and on down through Rumania and Bulgaria, and that is their concept of defense. They can reach their allies by a simple road, most often.

It always has perplexed me why they want to enter into this naval race with the United States for they are not dependent on the seas, either historically or today, for raw materials or support of their allies.

I ask the Senator, and I would be interested in his views, as to why the Soviet Union, under the guidance of Admiral Gorshkov over the past 15 years, has taken a navy from just a coastal defense force to where it is today, capable of challenging the United States on every ocean and every sealane of the world. What is the purpose and the motivation there?

Mr. PROXMIRE. Obviously, the Soviet Union has demonstrated that much of what they believe in was represented by force and violence. They said that.

They will do it if they can. We have to deter them.

If anybody thinks I do not think we have to have a strong military force, he is wrong. I think we do. The question is, how much.

As the Senator from Texas indicated, we have more naval tonnage, we have 6 aircraft carriers, 13 aircraft carriers——

Mr. TOWER. We will not have them forever.

Mr. PROXMIRE. We have a decisive advantage here.

What I am saying is that it is how much.

Obviously, we can make an argument for an infinite expenditure. We have spent a trillion dollars on defense, I suppose we can make that argument, because we do not know for sure how much they are building.

The fact is, however, that on the basis of the best information we can get, we have a clear and decisive naval advantage over the Soviet Union today.

It is not everything it was years ago. Of course not. But, nevertheless, it is still decisive in most respects.

Mr. WARNER. The Senator used the term "advantage." Yet the man probably best capable to judge the potential of the Navy is the Chief of Naval Operations.

Mr. PROXMIRE. The Senator from Virginia is a distinguished Senator and also a former Secretary of the Navy. He knows a great deal about this. He also knows, I think, if we are going to call for the final word on how much we need, we do not go to the Chief of Naval Operations. He will tell us he wants everything he can possibly get. The wish list is infinite.

You would not go to the head of HEW to ask how much they would like to have for health, education, and welfare.

Mr. TOWER. I am afraid the Senator from Wisconsin does not go to the doctor when he is sick, either, because he is afraid that the doctor will give him the wrong diagnosis and send him a bill.

Mr. WARNER. We in the United States enjoy today only the slimmest margin of superiority, and that margin is fast disappearing.

Mr. TOWER. Mr. President, I yield 5 minutes to the distinguished Senator from California.

Mr. CRANSTON. I thank the Senator from Texas very much.

Mr. President, this conference report on the fiscal year 1981 defense authorization bill contains a very important congressional initiative. Section 204, a modification of the Glenn-Cranston amendment, requires the Secretary of Defense to develop and build a multirole bomber to replace the B–52. The defense bill provides $75 million in procurement funds and $300 million in development funds for this bomber program. This section requires that the multirole bomber must be capable of fulfilling the three roles currently filled by the B–52 aircraft: Strategic penetrating bomber, cruise missile carrier, and conventional bomb carrier. The Secretary of Defense is required by the amendment to report to Congress by March 15, 1981, on the design of the aircraft he believes can best meet these criteria.

The legislative intent of this amendment is clear. Since cancellation of the B–1 in 1977, Congress has waited for the Defense Department to design a replacement for the B–52. Now, in 1980, Congress will wait no longer. Instead, Congress has acted. This bill directs that work begin on the multirole bomber.

I stress this because Secretary Brown, in a recent statement, suggests that he interprets section 204 as requiring him only to "study" the issue of a new multirole bomber, not to prepare to build one.

On the ABC television network program, "Issues and Answers," on August 17, 1980, with Bob Clark and John McWethy, Secretary Brown said:

> We have, as I told the Congress in unclassified testimony, design studies on bombers that might be used in the late 80s and early 90s should we decide to go ahead with a new bomber design, and of course we've been working on, and always worked on various kinds of advanced technology, aerodynamic, electronic, and so forth. . . . But there is no full-scale development program for new intercontinental bomber.

Clark then asked:

> Mr. Secretary, I have sensed some sort of a smog around your remarks here. The President rejected plans, stopped the B-1 bomber . . . are there now plans in the works for the President to propose a new manned bomber, whether the B–1 or some successor to the B–1?

Secretary Brown answered:

> Whether we will need a new penetrating bomber is not clear, but the Congress has asked us in the authorizing legislation that is now passing through the Congress to look at the B–1 and its derivatives, the FB–111

> and its derivatives, and any new bomber design involving new technologies that we can come up with. And we will proceed to do that, but there's no decision to go ahead with any new bomber and the design is that of paper design.

Clark asked:

> Well, these decisions don't come straight out of the blue because there is so much paperwork and planning and drafting involved before they come to pass. Can you rule out now during the Presidential campaign there will be no proposal for a new manned bomber?

Secretary Brown replied:

> There will be no proposal for a new manned bomber. There will be a willingness to study what Congress has asked us to study, that is which design makes sense. But there will be no propoal, no decision.

Mr. President, these remarks seem to characterize the Glenn-Cranston amendment as requiring only a study. As such, they are a serious misinterpretation of that amendment. And those of us who thought that the existence of the "stealth" program indicated that Secretary Brown had recognized the need for a new manned bomber were greatly disappointed to hear the Secretary say he still does not think it is "clear" whether we need a new manned bomber.

Let me make clear the relationship between "stealth" and the Glenn-Cranston amendment. Senators GLENN and CULVER and I were aware of the stealth program when we drafted the amendment. Our amendment stated that in designing the multirole bomber, the Secretary of Defense could consider "advanced technology aircraft," in addition to the B–1, the FB–111, and variants of the B–1 and FB–111. This phrase "advanced technology aircraft" was meant to include the stealth technology program, though Senators GLENN and CULVER and I could not acknowledge this because the very existance of stealth was still secret at that time. Moreover, the amendment deliberately required the new bomber to have an initial operational capability of 1987 precisely to allow the Secretary of Defense to consider the stealth technology program as well as the B–1 and FB–111.

I believe it is critical that the United States have the very best bomber to meet the enemy air defense threat of the future. Thus, the Glenn-Cranston amendment was designed to allow the Secretary of Defense the opportunity to incorporate the most advanced technology into that new bomber. Last Thursday, in light of the very detailed information about the stealth program which I read in the press—including reports indicating that the California defense industry is among those working on stealth—I asked Dr. William Perry, Under Secretary of Defense for Research and Engineering, to brief me more fully about the results of the stealth technology development effort. I learned that stealth may be the largest leap in air-defense related technology since the creation of radar itself.

In sum, the Glenn-Cranston amendment allows the Secretary of Defense to incorporate, where possible, the fruits of the stealth technology program into the multirole bomber mandated by that amendment.

And, the stealth program does not supplant the Glenn-Cranston amendment. Rather, since the Secretary of Defense has not committed himself to building a bomber to replace the B–52, whether it is based on stealth or other bomber technology, the Glenn-Cranston amendment is all the more necessary as it requires the Secretary of Defense to develop and produce a new bomber which can be operational by 1987.

Mr. President, the conferees made changes in the Glenn-Cranston amendment during the conference, of course. The changes made were improvements, because they strengthened the Glenn-Cranston amendment and clarified the legislative intent behind it. In light of these clarifications, I find Secretary Brown's misinterpretation of section 204 all the more disturbing.

COMPARISON OF GLENN-CRANSTON AMENDMENT WITH CONFERENCE VERSION—SECTION 204

First, the conferees agreed to fund the multirole bomber at a level of $375 million, which is $248 million more than was contained in the Senate bill. This increased level of funding demonstrates the importance Congress attaches to the development of a multirole bomber and provides a better level of funding with which to launch its program.

Second, the conferees designated $75 million of the $375 million as procurement funds, to be spent on long-lead items. The Senate bill had designated no funds for procurement. These procurement funds will allow the Defense Department to move quickly once it has decided on the design of the multirole bomber to purchase those items which must be ordered long in advance. This will insure that actual production of the multirole bomber can proceed as soon as possible once the design decision is made.

Third, the conferees advanced the level of the research and development effort for the multirole bomber. The Senate bill specifies that the funds were for the "advanced development and engineering development of a strategic bomber." Senator WARNER proposed that language on the floor of the Senate, and it was incorporated into the Glenn-Cranston amendment. The purpose and effect of Senator WARNER's language was to stress that Congress wants the actual development of the multirole bomber to begin in fiscal year 1981 and that a mere study or "paper" effort is not satisfactory. The changes made in the language by the conferees further strengthen this purpose and effect. The conferees stated that the $300 million must be spent on "full-scale engineering development" rather than "advanced development and engineering development." Since "full-scale engineering development" is the next stage of research and development beyond "advanced development and engineering development" in defense lexicon, the effects of the change is to further the basic message of the Glenn-Cranston amendment: Congress wants action, not more study.

Fourth, the conference language underscores the Congress insistence on speedy development of the multirole bomber. The Glenn-Cranston amendment adopted by the Senate stated that the Secretary of Defense must recommend an aircraft "which can achieve an initial operation capability in 1987." The conference version improves this by stating that the Secretary of Defense must develop an aircraft "to achieve an initial operational capability as soon as practicable, consistent with the aircraft selected, but not later than 1987."

Fifth, the conferees improved the wording relating to the report required on the multirole bomber. The Glenn-Cranston amendment stated that "the Secretary of Defense shall submit a report on the results of this effort, including comparisons * * *" and the conference language states "the Secretary of Defense shall submit a status report on the results of the development effort to date." I feel this change, though seemingly small, underscores the original intention in requiring the report. That is, we wish to stress that work on selecting the new bomber must commence with the beginning of the fiscal year, October 1, 1980, and the Secretary of Defense must be prepared to report on the status of that effort as the Armed Services Committees consider the fiscal year 1982 defense authorization bill.

Sixth, the language of the conference report further emphasizes that the law directs the Secretary of Defense to make a selection of a new bomber, which must fulfill the roles of a conventional bomb, cruise missile carrier and strategic penetrating bomber and must report this selection to the Congress. The conference report states on page 82:

> The Secretary of Defense is directed to submit a status report . . . to include his recommendations on which aircraft should be developed.

I welcome this clarification.

Seventh, the conferees did decide to change the reporting date from February 15, 1981, to March 15, 1981. I am not convinced that the Secretary needs that additional month, given the number of years he has had to study the issue of a follow-on bomber to the B–52 since cancellation of the B–1 bomber in 1977. However, the new reporting date will still provide the Senate and the House Armed Services Committees with the Secretary's recommendation for the multirole bomber before markup of the fiscal year 1982 defense authorization bill, and therefore I will raise no objection to this change.

With these changes made in conference to the Glenn-Cranston amendment, there should be no doubt in Secretary Brown's mind as to Congress intent. I call on the members of the House and Senate Armed Services Committees to follow with care the efforts of the Defense Department on the multirole bomber to insure that the legislative intent of the amendment is complied with.

I compliment my colleagues in the Senate who served on the conference committee for these "improvements" to the Glenn-Cranston amendment. I wish to thank Senator CULVER, chairman of the Armed Services Subcommittee on Research and Development, and Senator WARNER, ranking minority member of that subcommittee. Senators CULVER and WARNER were key cosponsors of the amendment, and I thank them for their support, help and cooperation.

Mr. President, I ask unanimous consent that the Glenn-Cranston amendment, as adopted by the Senate, the final version of the amendment, as adopted by the conference, the portion of the transcript of Secretary Brown's appearance on "Issues and Answers" related to the multirole bomber aircraft, and Dr. Perry's and Mr. Brown's press conference statements regarding the "stealth" technology program be printed in the Record for the convenience of my colleagues in the Senate and all readers of the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

On page 38, line 11, insert the following: strike the figure "$9,541,943,000" and insert in lieu thereof: "$9,516,943,000."

Section 201, page 45, line 23, strike the figure "$7,135,197,000" and insert in lieu thereof $7,160,197,000." On page 45, line 24, strike out the semicolon and insert in lieu thereof "and of which not more than $91,000,000 may be obligated or expended for the advanced development and engineering development of a strategic bomber which can achieve an initial operation capability in 1987. Such advanced development and engineering development shall include but not be limited to the FB–111B/C aircraft; a multi-role bomber aircraft, a variant of the B–1 bomber aircraft; and advanced technology aircraft, or an appropriate mix of such aircraft, so long as such aircraft have the capability of performing the missions of conventional bomber, cruise missile launch platform and nuclear weapons delivery system."

On page 51, line 21, insert the following:

Section 206: The Secretary of Defense shall vigorously pursue the advanced development and engineering development of a strategic bomber which maximizes range, payload and ability to perform the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery in both the tactical and strategic role. The Secretary of Defense shall submit a report on the results of this effort including comparisons of advanced technology aircraft with the B–1 and derivatives of the B–1 and the FB–111B/C in terms of cost and military effectiveness. This report shall be submitted to the Committees on Armed Services of the Senate and House by February 15, 1981.

Conference Report on Fiscal Year 1981 Defense Authorization Bill Final Strategic Bomber Language

MULTI-ROLE STRATEGIC BOMBER

Sec. 204. (a) The Secretary of Defense shall vigorously pursue full-scale engineering development of a strategic multi-role bomber which maximizes range, payload, and ability to perform the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system in both the tactical and strategic role.

(b) Of the funds authorized to be appropriated for the Air Force under this title, $300,000,000 may be obligated or expended for full-scale development, following compliance with subsection (c), of a multi-role bomber aircraft to achieve an Initial Operational Capability as soon as practicable, consistent with the aircraft selected, but not later than 1987. Such aircraft shall have the capability of performing the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system.

(c) The Secretary of Defense shall submit a status report to the Committees on Armed Services of the Senate and House of Representatives by March 15, 1981, on the results of the development effort to date. The Secretary shall include in such report comparisons of the various candidate aircraft in terms of cost and military effectiveness. Candidate aircraft shall include, but not be limited to, advanced technology aircraft, the B–1 bomber aircraft and derivatives of the B–1 aircraft, and the FB–111B/C aircraft.

(Note.—Title I, Procurement, contains $75 million for procurement of long-lead items associated with this multi-role bomber program.)

Issues and Answers

Mr. McWethy. Mr. Secretary, bits and pieces about a new bomber called Stealth have been leaking out over the past week. Can you shed any light on what this new bomber is?

Secretary Brown. We have, as I told the Congress, in unclassified testimony, design studies on bombers that might be used in the late 80s and early 1990s should we decide to go ahead with a new bomber design, and of course we've been working on, and always worked on various kinds of advanced technology, aerodynamic, electronic and so forth. The details of these technologies, as is the case, for example, with many intelligence programs, are kept secret and I intend to continue to keep them secret.

Mr. McWethy. There have been reports that a limited number of members of Congress have been funneling money to the Defense Department to build a new bomber in a skunk-works kind of situation, and that they have already slipped some preproduction money to them.

Secretary Brown. It is, of course, the case that all of the money that is appropriated for the Defense Department is approved by the Congress. And we have always kept the appropriate members of Congress informed about the details of new technologies, whether intelligence or anything else. But there is no full-scale development program for a new inter-continental bomber.

Mr. Clark. Mr. Secretary, I have sensed some sort of a smog around your remarks here. The President rejected plans, stopped the B–1 bomber. The Republicans are making a very big campaign issue out of that.

Secretary Brown. Yes.

Mr. Clark. Is there, are there now plans in the works for the President to propose a new manned bomber, whether the B–1 or some successor to the B–1?

Secretary Brown. The President cancelled the B–1 on the basis that it was not sure enough of being able to penetrate Soviet air defenses at the end of the 1980s and in the 1990s. That judgment has been very, very much born about, that is verified by the recent Soviet improvements in ther air defense systems. That was a correct judgment.

The President decided at the same time that cruise missiles, which are a lot harder to see, fly a lot lower, would be much better able to penetrate Soviet defenses. And so we have a very substantial cruise missile program, with the cruise missiles actually coming into the force at the end of 1982.

Whether we will need a new penetrating bomber is not clear. But the Congress has asked us in the authorizing legislation that is now passing through the Congress to look at the B–1 and its derivatives, the FB–111 and its derivatives, and any new bomber design involving new technologies that we can come up with. And we will proceed to do that, but there's no decision to go ahead with any new bomber and the design status is that of paper design.

Mr. Clark. Well, these decisions don't come straight out of the blue because there is so much paperwork and planning and drafting involved before they come to pass. Can you rule out now during the Presidential campaign there will be no proposal for a new manned bomber?

Secretary Brown. There will be no proposal for a new manned bomber. There will be a willingness to study what Congress has asked us to study, that is which design makes sense. But there will be no proposal, no decision, there can't be because it's not far enough along in design for a new bomber.

Statement by William J. Perry, Under Secretary of Defense for Research and Engineering

World War II demonstrated the decisive role that air power can play in military operations. It also demonstrated the potential of radar as a primary means of detecting aircraft and directing fire against them. On balance, though, the advantage clearly was with the aircraft. Subsequent to World War II, defensive missiles—both ground launched and air launched—were developed and "married" with radar fire control systems. This substantially increased the effectiveness of air defense systems, shifting the balance against aircraft. For the last few decades we have been working on techniques to defeat such air defense systems. At present, our military aircraft make substantial use of electronic countermeasures (jamming) and flying low to place themselves in "ground clutter," both of which degrade the effectiveness of air defense radars. By these means we have maintained the effectiveness of our military aircraft in the face of radar-directed defensive missiles.

However, the Soviets continue to place very heavy emphasis on the development and deployment of air defense missiles in an attempt to offset the advantage we have in air power. They have built thousands of surface-to-air missile systems, they employ radars with high power and monopulse tracking circuits which are very difficult to jam, and in the last few years they have developed air-to-air missiles guided by "look-down" radars which are capable of tracking aircraft flying in "ground clutter."

Because of these developments and because of the importance we attach to maintaining our air superiority, we have for years been developing what we call "penetration" technology: the technology that degrades the effectiveness of radars and other sensors used by air defense systems. A particular emphasis has been in developing that technology which makes an aircraft "invisible" to radar. In the early 60's, we applied a particular version of this technology to some of our reconnaissance aircraft.

In the mid-70s we applied it to the cruise missiles then being developed (Tomahawk and ALCM). By the summer of 1977 it became clear that this technology could be considerably extended in its effectiveness and could be applied to a wide class of vehicles including manned aircraft. We concluded that it was possible to build aircraft so difficult to detect that they could not be successfully engaged by any existing air defense systems. Recognizing the great significance of such a development we took three related actions: first, we made roughly a ten-fold increase in our investment to advance this technology; second, we initiated a number of very high priority programs to apply this technology; and third we gave the entire program extraordinary security protection, even to the point of classifying the very existence of such a program.

Initially we were able to limit knowledge of the program to a very few Government officials in both the Executive and Legislative Branches and succeeded in maintaining complete secrecy about the program. However, as the program increased in size—currently the annual funding is 100 times greater than when we decided to accelerate the program in 1977—it became necessary to brief more people. The existence of a

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• "Invisible" is of course a figure of speech.

stealth program has now become public knowledge. But even as we acknowledge the existence of a stealth program, we will draw a new security line to protect that information about the program which could facilitate a Soviet countermeasures program. We will continue to protect at the highest security level information about:

a. the specific techniques which we employ to reduce detectability;

b. the degree of success of each of these techniques;

c. characteristics of specific vehicles being developed;

d. funds being applied to specific programs; and

e. schedules of specific programs.

With those ground rules, I think you can see that I am extremely limited in what I can tell you about the program. I will say this. First, stealth technology does not involve a single technical approach, but rather a complex synthesis of many. Even if I were willing to describe it to you, I could not do it in a sentence or even a paragraph. Second, while we have made remarkable advances in the technology in the last three years, we have been building on excellent work done in our defense technology program over the last two decades. Third, this technology—theoretically at least—could be applied to any military vehicle which can be attacked by radar-directed fire. We are considering all such applications and are moving with some speed to develop those applications which are the most practical and which have the greatest military significance. Fourth, we have achieved excellent success on the program, including flight tests of a number of different vehicles.

STATEMENT BY SECRETARY OF DEFENSE HAROLD BROWN

I am announcing today a major technological advance of great military significance.

This so-called "stealth" technology enables the United States to build manned and unmanned aircraft that cannot be successfully intercepted with existing air defense systems. We have demonstrated to our satisfaction that the technology works.

This achievement will be a formidable instrument of peace. It promises to add a unique dimension to our tactical forces and the deterrent strength of our strategic forces. At the same time it will provide us capabilities that are wholly consistent with our pursuit of verifiable arms control agreements, in particular, with the provisions of SALT II.

For three years, we have successfully maintained the security of this program. This is because of the conscientious efforts of the relatively few people in the Executive Branch and the Legislative Branch who were briefed on the activity and of the contractors working on it.

However, in the last few months, the circle of people knowledgeable about the program has widened, partly because of the increased size of the effort, and partly because of the debate underway in the Congress on new bomber proposals. Regrettably, there have been several leaks about the stealth program in the last few days in the press and television news coverage.

In the face of these leaks, I believe that it is not appropriate or credible for us to deny the existence of this program. And it is now important to correct some of the leaked information that misrepresented the Administration's position on a new bomber program. The so-called stealth bomber was *not* a factor in our decision in 1977 to cancel the B–1; indeed, it was not yet in design.

I am gratified that, as yet, none of the most sensitive and significant classified information about the characteristics of this program has been disclosed. An important objective of the announcement today is to make clear the kinds of information that we intend scrupulously to protect at the highest security level. Dr. Perry, my Under Secretary of Defense for Research and Engineering and a chief architect of this program will elaborate on this point further.

In sum, we have developed a new technology of extraordinary military significance. We are vigorously applying this technology to develop a number of military aircraft and these programs are showing very great promise.

We can take tremendous pride in this latest achievement of American technology. It can play a major role in strengthening our strategic and tactical forces without in any way endangering any of our arms control initiatives. And it can contribute to the maintenance of peace by posing a new and significant offset to the Soviet Union's attempt to gain military ascendancy by weight of numbers.

I would now like to ask Bill Perry to give you some additional details on our stealth program.

Mr. TOWER. Mr. President, I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I should like to give my views on the importance of the military procurement conference agreement and on its relationship to the budget resolution.

I think it is no secret to the Senate where I stand on matters dealing with national security. For years we have witnessed significant increases in Soviet defense spending levels that have resulted in vast improvements in their military capabilities.

We have seen direct Soviet aggression in Afghanistan and Soviet-backed aggression in Southeast Asia, Africa, and the Middle East. Over this same time period, favorable worldwide opinion of the economic and military strength of the United States has diminished. I am disheartened and concerned by these trends. My colleagues in Congress are concerned. The American public and our allies abroad are concerned.

While the administration voices similar concern about this situation, its followup has been inadequate. This is why I have led the fight in the Congress to improve the defense program to enable the United States to counteract the Soviet drive for superiority. We need to spend more—more for pay and benefits of our military personnel—more for the operational readiness of our forces and equipment—and more for new equipment that provides for the technological superiority of the U.S. Armed Forces.

That has been my position and that position will not change. But, it is attainable only if we have the will to do it and this is a large responsibility that we in the Congress must share with whomever sits in the White House. Even if we have to use some diplomatic persuasion or out-and-out bluntness to get our point across..

That is why I favor the trends set in the conference agreement before us. However, I must warn the Senate of my concerns about the priorities set in this agreement and about the relationship between the spending it would allow and the spending assumed in the budget resolution.

Let me first tell the Senate where the budget resolution stands today. The first budget resolution was approximately $6 billion over the President's March defense budget request. The priorities assumed in the budget resolution placed $4 billion of this $6 billion in military personnel and operations and maintenance. The remaining $2 billion was assumed for procurement and R. & D.

In July the President revised his economic forecast and supplied the Congress with new estimates for national defense spending totals. As a result of this action, the President added $7 billion in budget authority and outlays to his previous estimate. These revised estimates essentially provide the funds for military personnel and O. & M. at the amounts assumed in the first budget resolution. The primary difference between the President and the first resolution in these two areas is that the President provides for only a 9.1 percent pay raise for military personnel while the resolution provides for 11.7 percent.

Although the President included the Congress increases for O. & M. and personnel in his revised request, he did not include the provisions for additional procurement and research and development that had been provided in the first budget resolution.

Last Thursday, the Budget Committee completed its markup of the second budget resolution. As part of that markup the committee adopted revised totals for national defense of $173.6 billion in budget authority and $159.4 billion in outlays—an increase of $3.1 billion in budget authority and $5.6 billion in outlays over the first budget resolution totals. The basis for this increase was the committee's decision to adjust the national defense function to take account of outlay reestimates associated with faster spending of prior-year budget authority and to insure that there were sufficient funds available to maintain the program assumptions that had been the basis of the first budget resolution.

Since the President revised his economic assumptions and increased his O. & M. and manpower funding levels to roughly those assumed in the first budget resolution, the proposed ceilings for national defense set in the second budget resolution exceed the President's revised defense request by slightly over $2 billion in budget authority. This $2 billion difference essentially reflects the difference between the President's request and the Budget Committee's assumptions of the added funds that are necessary to maintain the procurement initiatives assumed by Congress in the first budget resolution.

The procurement authorization conference agreement exceeds the President's request by approximately $6.5 billion. It takes no magican to see that $6.5 billion is greater than the proposed $2 billion increase to the President's request contained in the second budget resolution. It is obvious that something has to give if we are to stay within our proposed budget ceilings.

What I want the Senate to know is that we cannot fully fund the authorizations provided in the conference agreement and also fully fund our vital O. & M. readiness and military personnel needs. It simply cannot be done and still maintain budget integrity.

Hopefully, the defense appropriations bill will shortly be before us. That bill will become the legislative vehicle whereby the Congress will make its decision regarding priorities in the defense program. I sincerely hope that at that time the Congress develops a realistic balance among our manpower, readiness, and procurement needs.

Mr. TOWER. Mr. President, I yield 3 minutes to the Senator from Iowa.

Mr. JEPSEN. Mr. President, I had not intended to comment on this bill until remarks were made by the Senator from Wisconsin about the grain embargo. I just want to put into perspective and into the realm of accuracy the situation with respect to the grain embargo.

The Senator from Wisconsin said—and being from Wisconsin he should know better—that the grain embargo is directly responsible for causing the meat shortage in Russia. I suggest that the meat on the table takes at least 24 months to get there. The gestation period for a cow, once it is bred, is 283 days. When a calf is born it takes 14 to 18 months before it becomes meat on the table. If there is a shortage of meat on the table in Russia, it started 18 to 24 months ago. The embargo is 8 months old.

The grain embargo is a dismal failure and was politically motivated. It is not a partisan matter. All Senators from neighboring States around Wisconsin, Republican and Democrat, have called for an end to the embargo. The Governors Conference today called for an end to the embargo. It was a unanimous vote except that the Governor of Kansas abstained.

The embargo was a unilaterally implemented, economic sanction. It was doomed from the start unless we had a monoply on grain production. It was doomed from the start unless we had cooperation from other nations in enforcing and implementing the embargo.

Contrary to what the President said when he announced the embargo, contrary to what was announced to the general public in this country, we found out very quickly, within 24 hours, that other countries which raise grain had not agreed to go along with the embargo. In fact Argentina and Australia increased their exports immediately. Canada, which did agree 8 days after the embargo to go along with the United States, said about 3 weeks ago that it was a blunder, withdrew, and immediately sold an additional 1.4 million metric tons of grain to Russia.

I sat in the DIA committee hearing with the Senator, and the Defense Intelligence Agency said the grain embargo had very little impact.

This is just to set the record straight.

Mr. TOWER. Mr. President, I yield 3 minutes to the Senator from Ohio.

Mr. GLENN. Mr. President, I wish to fully endorse the remarks of my distinguished colleague from California. As usual, his arguments are accurate, concise, and penetrating. The statement of the Secretary of Defense is troubling and we should not leave any room for doubt as to our intentions regarding the issue of a modern bomber.

What is even more deeply troubling to me is that this treatment of the multirole bomber, when combined with other straws in the wind leads to an impression that we may not be dealing seriously with our Nation's defense.

In addition to the Secretary of Defense's misinterpretation of a clear congressional directive to build a new bomber, we have reports that two of the three supply ships planned for the highly touted rapid deployment force will be eliminated from next year's defense budget. This, along with other shipbuilding cuts and indecision about strategic airlift requirements could leave us with a rapid deployment force that is neither rapid nor deployable and may not even be a real force.

We read of a Presidential decision that directs how future nuclear wars might be fought. And then we read that the United States lacks the weapons capable of implementing the new strategic targeting policy.

The credibility of our national will and of our military capabilities must never be in doubt—either by our friends or by those who would oppose us. Not because this is an election year. Not because votes may—or may not—go to the candidate who out-hawks the others, but because our Nation's future depends on universal recognition that we are capable and that we are resolute.

This Congress has done its work well in this year's authorization bill. On the matter of a new bomber:

It is not our intent that our airmen should continue to go in harm's way in antiquated aircraft.

It is not our intent that we be presented with yet another study.

Briefly:

It is our intent that the Secretary of Defense come here early next year to report what kind of aircraft will be built and explain how he arrived at that decision.

It is also our intent that the modern bomber must be capable of performing as a conventional bomber, cruise missile launcher, and nuclear weapons delivery system.

And, Mr. President, it is our intent that we want this plane to begin appearing on our runways—not in a study—but on our runways as soon as practicable, but not later than 1987.

Mr. President, the language that came from the conference committee tells the Secretary of Defense in section 204(b) "Of the funds authorized to be appropriated for the Air Force under this title, $300 million may be obligated or expended for full-scale development following compliance with subsection (c)," and so forth.

That leaves no doubt what the intent was.

When the Secretary of Defense says there will be no proposal for a new manned bomber he is thwarting the will of Congress and I think he should take note of these remarks at the earliest possible time.

I thank the distinguished Senator from Texas.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. TOWER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has 3 minutes and 30 seconds remaining.

Mr. TOWER. I yield 1 minute to the Senator from Maine.

Mr. COHEN. I thank the Senator for yielding.

Mr. President, I was interested in Senator TOWER's statement over the weekend condemning the release of the information on what is now referred to generally as the stealth program.

As the Senator from California said only a very few limited number of Senators had access to that highly classified information. It is one thing for a report to come out in a newspaper and quite another for our Secretary of Defense to then hold a public hearing and then confirm its actual planning operation.

But I simply wish to note that in today's Wall Street Journal there is a story about Kodak reported mulling a 35-millimeter camera being made in Japan and utilizing a cartridge film. The article itself points out that the weapon would be a Japanese-made 35-millimeter camera with the Kodak label. In Rochester, N.Y., Kodak, as is its custom, would not confirm or deny that it is considering such a camera.

I commend the Secretary of Defense to adopt such a policy of noncommital in the future.

Mr. ROBERT C. BYRD. Mr. President, the fiscal year 1981 defense procurement authorization conference report—H.R. 6974—is a major contribution to our national security effort. It is extraordinary in both complexity and magnitude. It is the largest peacetime defense procurement authorization in our Nation's history, and it covers a wider range of issues than any procurement bill in the past. It is the product of hundreds of hours of hearings, markup sessions, floor debate, and conference. Each of the six Senate Armed Services subcommittees was involved in the preparation of this bill, and all of the members of the committee served on the conference committee. The Senate owes a great debt of gratitude to those members, and especially to the chairman of the Armed Services Committee, Senator STENNIS; and the ranking minority member, Senator TOWER.

Over the past several years, the Senate has set a course of significant and steady increases in the defense budget. This year, the Senate voted to set as a target for fiscal year 1981 a growth in the defense budget, after inflation, of 8.5 percent in budget authority, and of 5.5 percent in outlays. This conference report will contribute toward achievement of those goals.

The administration and Congress have undertaken a number of initiatives to enhance our defense preparedness and to revitalize our Armed Forces for the jobs facing them in the 1980's. This bill sustains those initiatives. Among them are:

Accelerated acquisition of Navy ships and Air Force fighter aircraft;

Overhaul and modernization of major Army weapons systems;

Pursuit of technological breakthroughs in strategic weaponry, while strengthening all three legs of our strategic triad;

Increased military presence in the Pacific and Indian Oceans and in the Middle East;

Constant attention to the effectiveness and strength of the North Atlantic Treaty Organization;

Enhanced readiness through military registration and steps to retain career military personnel; and

Steps to improve and invigorate our intelligence agencies.

Events of the past few years have reminded the American people of the need to maintain a first-rate security capacity. That is the purpose of this bill. The planned inventory of Navy ships in 1985 is 27 percent higher than the low point of that inventory, in 1978. The bill before us, H.R. 6974, will contribute to that goal by authorizing $8.4 billion for Navy shipbuilding, and by adding 17 new ships.

At the end of fiscal year 1980, the Air Force will have 516 F-15 fighter aircraft, compared to only 94 in 1976; and it will have 158 F-16's, compared to 2 in 1976. H.R. 6974 will add, for fiscal year 1981, 42 F-15's and 180 F-16's.

Our contribution to NATO is part of our policy to strengthen the European theater through a program of equipment modernization. All NATO members have pledged to increase defense spending by 3 percent a year, after inflation. For the 5-year period ending with fiscal year 1981, U.S. troop strength in Western Europe will have grown by more than 44,000 military personnel—a 15-percent increase. H.R. 1954 will contribute toward maintenance of that force.

The bill before us breaks new ground by authorizing $1.1 billion for the rapid deployment force. This force will give us needed flexibility in the Middle East and Southwest Asian theaters.

In our strategic arsenal, the technological breakthrough offered by the cruise missile has been pursued. H.R. 6974 authorizes continued purchase of cruise missiles. The bill also authorizes deployment of 200 MX missiles to strengthen the land leg of our strategic triad. Additional funds over the President's request have been included for research and development of the Trident II missile. New funds also have been included for seed money for a new generation of manned strategic bombers.

Last February, the Senate authorized $0.5 billion in additional pay and allowances. H.R. 6974 authorizes additional funds to cover an 11.7 cost-of-living military pay increase, and to cover special bonuses for both pilot and general troop reenlistment, per diem, educational and medical benefits and reserve pay.

H.R. 6974 also will add 2,900 troop positions to the Marines.

Finally, congressional review of general military readiness is strengthened by bringing operations and maintenance accounts into the regular authorization process.

I congratulate the committee on adoption of this conference report. Our troops in the field will benefit from increased pay and benefits, and from improved equipment. This bill also gives our military commanders additional flexibility to tailor our defense responses to a changing world. Finally, this bill represents a sound response to the defense needs raised by the administration and by both Houses of the Congress.

I wish to thank again the chairman of the Armed Services Committee, Senator STENNIS; and the ranking minority member of the committee, Senator TOWER; and the other members of the committee for the time and effort they have put into this legislation.

They have the gratitude of the Senate, and of the Nation.

Mr. PROXMIRE. Mr. President, I yield back my time. The yeas and nays have already been ordered.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the conference report.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENSON (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Idaho (Mr. CHURCH). I have voted no. If the distinguished Senator from Idaho were present, he would vote "yea." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK) and the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from New Mexico (Mr. DOMENICI), the Senator from New Yory (Mr. JAVITS), the Senator from Idaho (Mr. McCLURE), the Senator from South Dakota (Mr. PRESSLER), the Senator from Delaware (Mr. ROTH), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber who desire to vote?

The result was announced—yeas 78, nays 2, as follows:

[Rollcall Vote No. 384 Leg.]

YEAS—78

Armstrong
Baucus
Bayh
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—2

Hatfield
Proxmire

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

NOT VOTING—19

Baker
Bellmon
Boren
Burdick
Church
Domenici
Gravel
Javits
Kennedy
Long
Magnuson
McClure
McGovern
Pressler
Ribicoff
Roth
Stewart
Talmadge
Weicker

So the conference report was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the conference report was adopted.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPORT TRADING COMPANIES, TRADE ASSOCIATIONS, AND TRADE SERVICES

The PRESIDING OFFICER. The Senate will now resume consideration of S. 2718.

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I should alert Senators to the fact that the ERISA legislation may still be brought up today. Senator WILLIAMS was here on the floor a moment ago and indicated that they have about worked everything out.

I turn to the distinguished Senator from New Jersey (Mr. WILLIAMS). Will the Senator enlighten the Senate on what the prospects are for action on ERISA yet today?

Mr. WILLIAMS. Mr. President, at this point, I can only respond that it is a possibility that we will be able to bring it up, but I cannot say more than that. There are developments even within the last 2 minutes that lead me to feel that I can only call it a possibility.

Mr. ROBERT C. BYRD. Mr. President, may I say that the Senate will continue on into the evening on the Export Trading Act until we can make some disposition one way or the other or decision with respect to ERISA.

I am informed by my congenial and very able friend, Mr. PROXMIRE, who never misses a rollcall vote in this Senate and who has the all-time record for rollcall votes, that he does not intend to let the export trading bill pass the Senate today. He, very frankly, conscientiously, and straightforwardly, informed me a little while ago that he intended to filibuster the export trading bill.

That being the cause, I suggest to Senators that they stay around until we can determine whether or not ERISA is going to be called up and whether or not Mr. PROXMIRE really means to filibuster.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. Regrettably, I must say to the majority leader, and for the edification of my colleagues, that there will not be a vote on the export trading bill tonight if I can help it. If I am still conscious and able to speak, there will not be a vote on the bill tonight.

Mr. ROBERT C. BYRD. What about tomorrow?

Mr. PROXMIRE. Well, it depends on my endurance, if I can keep going, yes. If the Senator wants to keep it in session for 36 hours, I will do my best.

Mr. ROBERT C. BYRD. The Senator from West Virginia does not want to keep us in session. But we will be in tomorrow if the Senator is not going to let us vote this evening. That does not mean we have to stay in all night, of course. But the Senate will be in tomorrow.

Then there will be a cloture vote, I am sorry to say, but I am acting on the instructions of the distinguished Senator from Wisconsin (Mr. PROXMIRE). I will be offering a cloture motion and there will be a cloture vote on the export trading bill when the Senate returns on Wednesday, a week from tomorrow.

Mr. PROXMIRE. Well, that is entirely up to the leader, if we have a session tomorrow. I understood we were not going to have one.

Mr. ROBERT C. BYRD. We will have a session tomorrow.

The PRESIDING OFFICER. If there is no further amendment, third reading of the bill.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business before the Senate is S. 2718.

Mr. PROXMIRE. Mr. President, about 1½ hours ago, when the Senate began consideration of the conference report of the military procurement bill, I was speaking on the export trading company bill. I was quoting a distinguished and highly successful exporter, Emil Sherer Finley.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I regret to offer the cloture motion, but I do it with a smile and the Senator understands.

Mr. PROXMIRE. Mr. President, I certainly do. The Senator from West Virginia, the majority leader, has been more than fair. I appreciate what he had to do as leader.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

> CLOTURE MOTION
>
> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the bill S. 2718.
>
> Adlai E. Stevenson, Alan Cranston, Jennings Randolph, Patrick J. Leahy, Robert C. Byrd, Claiborne Pell, Jake Garn, John Heinz, Lawton Chiles, Joseph R. Biden, Jr., Paul E. Tsongas, Max Baucus, Lloyd Bentsen, Henry M. Jackson, Bill Bradley, Robert Dole, Rudy Boschwitz, Dennis DeConcini, Thomas F. Eagleton, John C. Danforth.

Mr. STEVENS. Mr. President, may I ask the leader to respond to a question? I have just finished talking to one Member on our side who I assured there was no reason to come back because we were going to recess tonight and that there would be no possibility of votes tomorrow.

I have not discussed with the distinguished Senator from Wisconsin the question of what might occur tomorrow on this bill in order to qualify it for a vote on the Wednesday we return, a vote on the cloture petition. Would there be any possibility in the leader's mind of any rollcall votes tomorrow if we are in for the purpose of qualifying the vote for cloture on the following Wednesday?

Mr. ROBERT C. BYRD. If the Senate can complete action on ERISA this evening, there is still a possibility that ERISA may be called up—Senator WILLIAMS is working on the matter—if that is disposed of this evening, that is the only question mark, with respect to ERISA. There might be a vote on that. There might be a vote on tomorrow.

Mr. STEVENS. We may not even get that bill tonight, to my understanding. I thought we had an understanding that if we finished these other matters there would not be any votes tomorrow.

Mr. ROBERT C. BYRD. We had an understanding that with the other matters, as the Senator said, including the Export Trading Act, we would go out tonight and go over until Wednesday, a week from tomorrow. But the Senator from Wisconsin is exercising his right under the rules and does not wish to let the Senate act on the measure tonight or tomorrow, which, as I said, is within his right.

Certainly, he can keep the Senate from voting on the measure today or tomorrow. But other than the possibility that there would be a vote on ERISA, I have no intention to have any vote on anything else. The Senator from Wisconsin would have to speak for himself as to whether or not he would call for a rollcall vote on anything else, such as a motion to recess.

Mr. PROXMIRE. I certainly would not. I want to do all I can to avoid a roll call. I promise that I will do everything I possibly can. It is my understanding that the purpose of going out tomorrow was to enable Senators to get that extra day. I cannot understand why we cannot act on ERISA tonight. If we cannot act on ERISA tonight, why not act on it when we come back?

Mr. STEVENS. I believe we can dispose of the cloture today by unanimous consent, if it would meet with the majority leader's agreement and the agreement of the Senator from Wisconsin. This Senator intends to leave tomorrow morning to take his last son to college. I do not plan to be here in any event. Our leader has gone, thinking there would be no necessity for being here tomorrow.

Mr. PROXMIRE. I have no objection at all, if the Senator wants to forgo that additional day, concerning the cloture motion. That would be fine.

Mr. ROBERT C. BYRD. I appreciate the willingness of the distinguished Senator from Wisconsin to allow the Senate to proceed to a vote on cloture a week from tomorrow even though the Senate will not be in tomorrow. Therefore, I ask unanimous consent that if the Senate goes out today and does not come in tomorrow, the vote occur on Wednesday a week from tomorrow under the cloture rule as though the Senate had been in session on tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. The only thing that possibly remains is the ERISA.

Mr. STEVENS. We will do our best to help the majority leader work through that problem. As I said, I must leave tomorrow morning.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. PROXMIRE. Mr. President, as I was saying, Mr. Emil Sherer Finley is president and chief executive officer of a tremendously successful export company which has increased their exports by over 9,000 percent in the last relatively few years. He has a company which now has a volume of close to a quarter billion dollars. He obviously is qualified to talk about exports and how to increase them. He has far, far more experience than anybody in this body. He said this, in the course of his presentation to the Senate:

> In many of these papers, I have described typical Webb-Pomerene associations and have shown that, contrary to the generally

> accepted concept, the expansion of the Webb-Pomerene Act's antitrust exemption will not stimulate an increase in our exports. As we all know, this exemption was intended by Congress originally to enable small U.S. businesses to compete against the then prevailing European cartels. Contrary to this intent, this exemption has enabled in fact, large U.S. companies to form cartels of their own, most often in the areas where there is practically no foreign competition. Moreover, this exemption has discouraged, and not encouraged, competition and has led, and continues to lead, to further U.S. cartelization and control over the flow of U.S. exports.

What he is saying is that the Webb-Pomerene Act and the kind of action that we would take under the bill that is pending would discourage competition. This expert on exporting, this man who has been such a smashing success, has said that it would lead to further U.S. cartelization and control over the flow of U.S. exports.

He says this:

> If exports are being restrained now, as they certainly are, they would be restrained even more if such bills were to pass. The most disturbing fact about all this is that the Webb-Pomerene associations benefitting from antitrust exemptions are composed mostly of members which, together, dominate also our domestic scene. Their immunized actions taken with respect to export pricing and setting quotas have a direct and adverse effect on the domestic market which they are able to influence simultaneously. Thus, our farmer, our worker, our tradesman and, of course, our consumer, is forced to pay higher prices for the product.
>
> The 1967 FTC study and hearings on the operation of Webb-Pomerene conducted by the U.S. Senate demonstrated how little that Act and its antitrust exemption have done to encourage U.S. exports since 1916. To stimulate U.S. exports, we do not need the continuation and expansion of an act which encourages anti-competitive behavior.
>
> We need, instead, to recognize that our failure to gain our appropriate share of the export market is due to this very anti-competitiveness which, in turn, contributes dramatically to our overall declining productivity, inflation and much, much higher domestic prices of products.
>
> The companies who need it the least benefit from the anti-competitive blessing of Webb-Pomerene and have produced hordes of witnesses to testify about the desirability of continuing that blessing. The general public who will be adversely affected cannot usually muster the resources to make its voice heard.
>
> Our export markets will expand with more—not less—competition. Companies such as ours can contribute to the give and take of the marketplace if they are allowed to.

Now, Mr. President, I would like to refer to Dr. Henry Wallich, who is. as we all know, a Governor of the Federal Reserve Board, their expert in this area, and the Federal Reserve Board's witness before our committee. Dr. Wallich is a former professor at Yale University. He was a columnist who has appeared in Newsweek. He is recognized as one of the most eloquent economists in the country and certainly an expert on banking and an expert on international economics. He is about as well-qualified as anybody on the Federal Reserve Board could be to speak on this. He is probably the most accomplished and widely respected professional economist on the Federal Reserve Board.

In appearing before our committee, this is what Dr. Wallich had to say:

> I am pleased to submit a statement on S. 2379, a bill that is designed to facilitate the formation and operation of export trading companies. My statement on behalf of the Board of Governors is limited to the section of the bill that provides for bank investment in trading companies.

Of course, that is the section that concerns this Senator and that is the section which our amendment would address. Continuing:

> The Board strongly supports the view the United States needs a strong export sector, and I have been concerned that exports are sometimes hampered by Government regulations. It is noteworthy that under such handicaps, U.S. exports have nevertheless grown rapidly in the last several years.

Mr. President, Dr. Wallich is the outstanding expert on this matter at the Federal Reserve and generally. He does point out in his statement that he favors a strong export center, as does the Board itself. The exports have grown rapidly in the past several years under severe handicaps. But he does say this:

> This growth however has reflected in good part the depreciation of the dollar, and the improved competitive position of the United States that has resulted, as well as the benefits from the expansion of economic activity abroad. Over the past two years exports have increased 50 percent in value and 20 percent in volume, with strong performances in both agricultural and manufactured goods.

Mr. President, consider that. Over the past 2 years, exports have increased 50 percent in value and 20 percent in volume. You would think, from the tears shed by the supporters of this bill, that exports were on their last legs, that exporters were really suffering. But in this recession, in spite of all the other difficulties that we have, in spite of the fact that inflation makes it very difficult for exports, over the past 2 years, exports have increased 50 percent in value. That is 50 percent. And 20 percent in physical volume, with stronger performance in both agriculture and manufactured goods.

We should expect that growth in our exports will depend in part on growth in the main markets in which we sell. Thus, as economic activity slows abroad, we should expect growth in our export sales to slow also, although we still look for some increase in exports of manufactures this year. Further growth in exports and a narrowing of the U.S. trade deficit in the years ahead will depend on our ability to bring inflation under control and to establish an environment favorable to growth of productivity and the international flows of goods and services.

Every economist who testifies, particularly the highly competent economists like Dr. Wallich, point out that if we are going to increase our exports, we do it by improving our situation on inflation, holding our prices down, and that means, of course, improving our productivity. Nobody argues that export trading companies are going to play any part except maybe a modest, negative part in that. In fact, they may do more harm than good as far as our productivity is concerned and increasing our competitiveness and thereby holding down prices through competition; they will reduce, not increase our capacity.

Dr. Wallich goes on to say:

> Among the measures already taken to strengthen U.S. exports are certain actions by the Federal Reserve to increase the capabilities of Edge Corporations to provide international banking services. I recently reviewed these measures before this Subcommittee. These changes in rules for Edge Corporations were in response to the Congressional mandate in the International Banking Act, and were designed to help the financing of exports. One change expanded the powers of Edge Corporations by permitting them to finance the production of goods for export. A second change permitted Edge Corporations to establish domestic branches, thereby increasing the possibilities for international banking services to expand into new areas. In the nine months since this change in Board regulation, the Board has approved applications for branches of Edge Corporations in 11 cities, including five cities in which no Edges have previously operated. A number of other applications for Edge Corporations are anticipated over the next few months.
>
> The concrete benefits of these actions in expanding international banking services, and in particular in facilitating the financing of U.S. exports will, of course, be observed only gradually. But we believe that they may be significant over the longer run.
>
> The bill before this committee—

He is talking now about the bill before the Senate—

> seeks to strengthen U.S. exports by facilitating the establishment of export trading companies that could supply and package a range of services necessary for exporting, and that could also engage directly in selling goods for export. It would enlist the support of U.S. banks for both types of activities by permitting banks and Edge Corporations to invest in export trading companies. In this connection it might be noted that although banks and Edge Corporations cannot now invest in such trading companies, bank holding companies are permitted to hold up to 5 percent of the stock of nonbanking companies as passive investments.
>
> The Board shares the view that banks have expertise in some of the areas noted in the bill. U.S. banks can now provide, either directly or through their Edge Corporations and affiliates, a wide variety of services relating to exports. In addition to a full range of financing services, these include foreign exchange facilities, information on foreign markets and economies, introductions, business references, and advice on arranging shipments. A number of U.S. banks with sizable networks of international banking and financial facilities have substantial expertise in these areas. Moreover, the provision of these advisory and ancillary services are a useful adjunct to international financing, which is the principal business of many banks and of Edge Corporations. Edge Corporations have wide latitude under the law to provide advisory services relating to exporting. In addition, in the case of uncertainty about the permissibility of certain activities, Edge Corporations may apply under the Board's procedures for permission to broaden the scope of the export-related services that they offer.

Mr. President, what all this says, of course, is that under present law, present practice, there is a great deal that can be done without changing the law to provide bank financing of exports and to bring the expertise of banking and the assistance of banking into the act.

Then what does Dr. Wallich say? Of course, he is the authority on this as the representative of the Federal Reserve Board in this area. He says:

> No requests of this sort have yet been received. The Board would of course review any such applications carefully in the light of all the surrounding circumstances.
>
> Extension of the investment powers of banking institutions to include companies that buy and sell goods and services for their own account would go far beyond these existing financial facilities. Such an extension would raise basic questions regarding the traditional separation of banking and commerce. This tradition, which stands in sharp contrast to the practice in some countries abroad, helps ensure that banks will remain impartial arbiters of credit and contribute to a healthy competitive environment in the commercial sector.

That one paragraph states the case about as well as it can be stated. This is what we want to do. Those of us who want to modify the Stevenson-Heinz bill want to make sure that we do not have an unnecessary intrusion of banks into commerce so that banks can compete unfairly with industry.

We have had this separation for 100 years. It served us well. Whenever there has been any departure from it, there have been loud and perfectly legitimate and proper and understandable complaints from those who have to compete with a business that is owned by a bank.

It gets all the credit it needs when it is needed, especially in credit crunch periods and, of course, the unaffiliated independent competitor does not get it. So the competition is grossly unfair.

Dr. Wallich goes on to say:

> The separation of banking and commerce has a long tradition in American banking. It is embodied in the Bank Holding Company Act, and endorsed by the Board. That tradition has served this nation well in promoting economic competition and a strong banking system. In addition, the Board has several more specific concerns about a breaching of the separation of banking and commerce, as is proposed in S. 2379.

Dr. Wallich, speaking for the Federal Reserve, says this:

> (a) The possibility that bank-owned companies or manufacturing companies dealing with them will have more favorable access to bank credit than other companies. For example, the associated company might well receive more liberal credit terms such as lower interest rates, longer maturities, and less stringent collateral requirements.

I do not think that anybody who is realistic or has been in business would deny that is what happens. Obviously, if anybody in this Senate were a banker he would be inclined to provide better terms for a bank that his own bank owned. It is natural and predictable. It is what happens over and over again.

Anybody who says that would not happen believes in the tooth fairy. We know that happens.

Dr. Wallich goes on to say:

> Moreover, as between otherwise equal potential borrowers, the bank might well make credit available to an associated company but not to others. Thus, there is a potential for unfair competition among trading companies.

I recall so well addressing a group of automobile dealers, they leased automobiles and were in competition with the banks who were also leasing. They made a case that would bring tears to anybody's eyes. No matter how hard they tried or how competitive they were, or how much more efficient, competent, and knowledgeable than the banks, they were beat every time because the banks had the credit and the competitors not associated with a bank did not have the credit.

Dr. Wallich goes on to say:

> (b) The exposure of the bank that arises from risks encountered in commercial trading and the holding of inventories. This risk is enhanced when high leveraging is involved as is typically the case with trading companies.

Of course, mainly, the bank will invest a relatively small ownership capital and the borrowing body, trading company, will be highly leveraged, so that the loss which wipes out the entire equity is larger than the capital investment and that is a risk that does not occur just occasionally, but often. That danger is typical, according to Dr. Wallich, and he, of course, is right. He continues:

> Margins for error are small in circumstances where the nature of the business necessarily contains the potential for sizable price movements and marked shifts in demands for products. In the case of Japanese banks associated with Japanese trading companies large losses were sustained in one instance where a trading company failed, and difficulties have been encountered by others.

Now, we are always pointing to the Japanese. Everything they do seems to be what we should try to imitate.

There is no question, they have had great success.

But I think Dr. Wallich points to the fact that they take risks, too, that in a specific case do not work out. The trading companies fail and the banks suffer and the banks' stockholders suffer, too.

Often, under those circumstances, if the case is sufficiently bad, it may well be that a bank would have to be bailed out.

Now, as Dr. Wallich goes on to say:

> (c) The possibility of conflicts of interest in the exercise of its credit judgment between the bank's fiduciary responsibility to depositors and its ownership interests. Examples of such classic conflicts are legion, the more obvious ones being where bank management runs undue risks in extending credit to such an associated company in the hopes that the company will be successful and provide a handsome return to shareholders and hence management: or where it continues to extend credit to an associated company in distress rather than cut its losses.

Dr. Wallich points to the increased complexity of the bank supervision:

> For bank supervisors, as for bank management, there are very substantial differences between supervising banking and financial activities and supervising commercial enterprises, which involve risks that must be evaluated and controlled on the basis of specialized knowledge and expertise.
>
> The Board would be concerned about this legislation also because of the precedent that would be established. In today's environment, with rising prices for energy and the need for painful cuts in many areas of the economy, pressures might well arise for banks to make investments in areas where worthwhile economic and social objectives are being threatened by the need to economize. Taken alone, each of these objectives might be worthwhile, but in aggregate they could represent a substantial claim on bank capital.

To summarize very quickly what the Federal Reserve Governor is saying is that these are dangers.

First, the possibility that bank-owned companies, or management companies dealing with them, will have more favorable access to bank credit than other companies.

Second, the exposure of the bank to areas of some risk encountered in commercial trading and the holding of inventories.

Three, the possibility of conflicts of interest in the exercise of its credit judgment between the bank's fiduciary responsibility to depositors and its ownership interests.

Finally, the increased complexity of bank supervision.

Now, Dr. Wallich says:

> The Board would be concerned about this legislation also because of the precedent that would be established. In today's environment, with rising prices for energy and the need for painful cuts in many areas of the economy, pressures might well arise for banks to make investments in areas where worthwhile economic and social objectives are being threatened by the need to economize. Taken alone, each of these objectives might be worthwhile, but in aggregate they could represent a substantial claim on bank capital.
>
> We need to remember that bank capital is low already—about $90 billion for all banks relative to total liabilities of $1.5 trillion.

That means bank capital represents only about 6 percent of a bank's liabilities. That means a decline of 6 percent in a bank's net worth, typically, in the average case, wipes it out. That is the average case. There are many banks which have a far lower capital ratio.

There are banks, as we all know, that have capital ratios that are less than 3 percent.

Now, it is this factor, among others, which makes the Federal Reserve Board concerned about permitting the banks to get into this high risk area of export trading companies where, as I say, the leverage is very high and where bad news for a couple of years could put a bank in very serious danger, particularly if the bank were suffering any other difficulties.

As Dr. Wallich points out:

> Capital ratios have been declining over the years, in part as a result of inflation, and there is now little room in bank balance sheets for new generic risks.

This does provide a new generic risk. He says:

> If we now encourage banks to divert capital from its traditional role as a support for lending activity and to invest it in nonbanking activities, we are necessarily curtailing the amount of lending that banks can do for other purposes. Bank capital can most productively be invested in supporting banking activity.

Mr. President, I believe we should be very sensitive to that. All of us can recall, I believe, how concerned we were at the dearth of capital available to lend to farmers and small businessmen a few months ago, early this year. There was a terrific credit crunch, with very high interest rates. We had many people come to our office and point out what a tough time they had getting credit.

As Dr. Wallich points out, this will make it tougher. The banks already are undercapitalized. They need capital desperately, and their capital is going to be absorbed for this purpose; and it is a purpose which, as I pointed out earlier, the most successful exporters say will not be helpful. In fact, it will be counterproductive.

This is what Dr. Wallich says:

> Edge Corporations, banks and bank holding companies may currently engage in some of the activities offered by trading companies. Moreover, the Board has established procedures under the recently revised Regulation K by which member banks, bank holding companies and Edge Corporations can apply to engage in new international activities, and the Board is committed to processing applications in an expeditious manner. Banks are, of course, not permitted to engage in "buying or selling goods, wares, merchandise or commodities in the United States," and the Board has supported this limitation on bank activity.

Mr. President, as we all know, the Chairman of the Federal Reserve Board, Paul Volcker, was overwhelmingly approved by this body a relatively short time ago. I believe most of us feel that he has done a good job under very difficult circumstances as Chairman of the Federal Reserve Board. It is about the only effective inflation fighting agency we have in the Government.

Dr. Volcker has taken unpopular but certainly very strong anti-inflation positions since he has been in office, and I believe that the esteem and respect that Chairman Volcker has has been enhanced by his performance.

Chairman Volcker addressed himself to this subject and wrote me a letter on it several days ago, on August 20. This is what he wrote:

> I am responding to your letter requesting a draft amendment to S. 2718, the Export Trading Company Act of 1980, to permit bank holding companies under special circumstances to have a controlling interest in export trading companies while maintaining a general policy that banking organizations should not ordinarily be permitted to control export trading companies.
>
> The principal difference between the bill reported by the Senate Banking Committee and the recommendations contained in my letter of May 12 is that the bill permits U.S. banks to acquire controlling interests in export trading companies. The issue of control is of course an important one. The recommendations in my letter of May 12 would help keep risks to banks at manageable levels provided that the banks had non-controlling investments. It continues to be my view that banking organizations should not generally be permitted to control export trading companies in view of the implicit commitments of bank resources. the increased financial risk that accompany control and the need to maintain the line between banking and commerce.
>
> The issue of permitting banks to extend their area of operations arises, as you know, in many contexts other than export trading companies. Control often carries an implicit commitment by a bank to place the full resources of the institution behind its subsidiary. In many institutions this is a matter of corporate policy, and it is recognized in the market place. As your Committee report notes, a banking organization is more likely to become involved in the management and operation of an export trading company if it has a controlling interest in that company. Although a bank may judge that it can operate an international commercial banking business more efficiently and safely through controlling investments in affiliates, control and the involvement in management in a non-banking business would increase the potential financial risk to the owning banks, and might also increase the likelihood of conflicts of interest.

So we should have our eyes wide open as to what we are doing here, particularly if we do not modify the Stevenson-Heinz bill; because if we fail to modify this bill we are being warned by the Chairman of the Federal Reserve Board—if anybody knows whereof he speaks in this matter, he does—that we will be decreasing the safety and soundness of our banks and we will be creating a situation which, according to the best judgment of the Federal Reserve, is dangerous.

I will read that sentence again, because others may disagree. He says:

> Although a bank may judge that it can operate an international commercial banking business more efficiently and safely through controlling investments in affiliates, control and the involvement in management in a nonbanking business would increase the potential financial risk to the owning banks, and might also increase the likelihood of conflicts of interest. This consideration lies behind the recommendation that as a norm bank ownership interest be limited to less than 20 percent.

The Export Trading Company Act seeks to limit these risks by providing that controlling investments by banks be subject to prior approval and statutory safeguard. Prior approval is all we are asking, and we even have tempered that and have been turned down.

It does not have to be the Federal Reserve Board. It can be the consolidated committee that acts together. It can be a combination of the Federal Reserve, the Comptroller of the Currency, and the FDIC acting in concert. We are perfectly willing to permit that and to withdraw our objection, if that can be done.

But we have been told that will not work. We would confine the authority to that particular function; and we have ample precedent, as we have indicated over and again here today, for that kind of transfer.

Chairman Volcker goes on to say:

> The Export Trading Company Act seeks to limit these risks by providing that controlling investments by banks be subject to prior approval and to certain statutory safeguards. My concern about the provisions of S. 2718 that are designed to give supervisors powers to step in and prevent unsafe practices is that it would involve the supervisors to a substantial degree in decisions regarding operations of export trading companies. Bank supervisors are not able to anticipate all future eventualities in acting on applications and are unlikely to be able to supervise the operations of export trading companies sufficiently closely to ensure that risks to banks could be avoided, when those risks are magnified by bank control and involvement in management.
>
> Finally, I should note that the sort of detailed supervision of export trading company operations that might be necessary under S. 2718 would be contrary to the philosophy adopted by the Board in its recent amendments of Regulation K, which sought to reduce the need for detailed supervisory review, and regulation of international bank operations.
>
> The control issue goes to the heart of concerns that have been long standing in legislation and policy. Apart from its significance in this case, it also would be an important precedent in other areas. Consequently, I continue to feel that legislation in this area should be consistent with the basic presumption that a line be maintained between banking and commerce. In my personal opinion, that concept could perhaps reasonably be bent to recognize some special circumstances that might arise in which limited purpose (and presumably limited in size) export trading companies might be permitted, upon application to bank regulators, to be controlled by a bank. That would accommodate situations where an ETC designed for certain specialized purposes (i.e., for particular projects or rather specialized trade and financing problems) might not be established without the possibility of strong bank sponsorship.
>
> I do not conceive of such an "exemption" from the basic presumption against control being extended to large, general or multiple purpose, export trading companies that would be capable of standing on their own feet without bank sponsorship—able to attract and retain necessary management and expertise and, indeed, ready to do business with competing banks.

And here is another reason, Mr. President, why our amendment makes sense. As Chairman Volcker points out the big export trading companies have no need to be owned by the bank. They could have the bank have 20-percent ownership, but for the bank to have control under those circumstances would serve no purpose. As Chairman Volcker points out, the big export trading companies would have the expertise and the access to the credit market to enable them to do a perfectly adequate and complete job without having the banks get involved.

That is the kind of judgment we would get if our amendment which would require the Federal Reserve or some other single agency to make a decision as to whether or not the ownership over 50-percent ownership by the bank would be necessary to increase exports.

Then, Chairman Volcker goes on to say:

> However, there may indeed be certain special circumstances in which the risks associated with bank control of an export trading company would be outweighed in the public interest by the salutary effect the trading company would have in promoting U.S. exports. This situation might exist when particular goods and services currently not being offered in international trade could be marketed by having access to the expertise of a bank assisted export trading company. Further, if the exposure of the trading company (and its bank holding company owner) is reasonable in relation to its activities, it may be in the public interest to permit control of the export trading company. The critical element in any case involving control is the need for bank involvement in the organization and continued operation of such an export trading company. This condition could be met when, for example, the limited size, specialized purpose or temporary nature of the proposed

> new export facility makes it unlikely that it could attract the financial management, expert resources and knowledge of foreign markets without the commitment implied by bank control.

This the Chairman of the Federal Reserve would permit and so would I, and so would our amendment, so would the amendment, of course, which is offered really by the Federal Reserve itself.

Chairman Volcker goes on to say:

> The export of many products requires a high degree of sophistication and specialized knowledge in the areas of marketing, documentary requirements, financing, etc. In order for a banking organization to control an export trading company, it must bring to the enterprise already existing expertise that is essential to the successful operation of the export trading company. I would expect further that the need for continued bank involvement would be demonstrable on an ongoing basis.
>
> One issue which I have not addressed previously in the context of the control issue is whether, in those cases where the export trading company is to be controlled by a banking organization, it is preferable that ownership reside in the bank or in the bank holding company. This issue was discussed at the Committee's hearings several weeks ago. Limiting controlling interests to bank holding companies would be consistent with the general scheme of Federal banking laws which requires that nonbanking activities be performed by a corporate entity separate from the bank. Also, this approach would be more harmonious with concerns about breaching the line between banking and commerce.
>
> There is an argument that all investments, including those below 20 percent of the export trading company's stock, should be restricted to bank holding companies. However, a good case can be made that passive minority investments of a purely financial nature and with reduced risk to the investor should be permitted for banks as well as bank holding companies.
>
> The enclosed draft amendments to S. 2718 are consistent with the views expressed in the foregoing paragraphs. As a footnote, I would mention that there is no reference in the amendments to a procedure requiring sixty day notification before a banking organization engages through an export trading company in "any line of activity, including specifically the taking of title to goods, wares, merchandise, or commodities, if such activity was not disclosed in any prior application for approval."

That particular part was, I think, taken care of by an amendment offered by the distinguished Senator from Illinois a little earlier.

The last paragraph in the Volcker letter reads as follows:

> By permitting bank control of export trading companies only where there is a clear need, I believe the purposes of S. 2718 can be accomplished. At the same time, the concerns I have expressed as to bank exposure would be mitigated by allowing the bank regulatory agencies to review critically any proposal in light of the risks involved. If S. 2718 were amended to permit bank holding company control in these limited circumstances, I would be prepared to support this legislation.

This is precisely the amendment that I am offering. The amendment is suggested by the Chairman of the Federal Reserve Board. In spite of all the perfectly legitimate thoroughly understandable concerns he has about bank involvement in this area, the Chairman of the Federal Reserve Board has not only said that the banks should be allowed to control 2 percent of an export trading company, but he goes further than that. He says they should be allowed to control and, as a matter of fact, even 100-percent control under our amendment, but they should get the approval of the Federal Reserve Board before that, and the argument between the Senator from Illinois and the Senator from Wisconsin is whether or not a single agency, and I have suggested both the Federal Reserve Board and the Examination Council, either one—we will take either one of them—should be the agency that can make the decision. Otherwise, we have a competition in laxity which is most unfortunate.

Mr. President, just today, August 26, the Vice Chairman of the Federal Reserve Board, Mr. Schultz, wrote me a letter on this matter. It is a short letter, and I think the Senate should be aware of this letter because I think it is of considerable importance. He writes as follows:

> In the absence of Chairman Volcker, I am writing to comment on an issue related to S. 2718, the Export Trading Company Act of 1980. It is our understanding that consideration will be given to permitting national banks in special circumstances to have a controlling ownership interest in an export trading company.
>
> While supporting legislation to permit a bank holding company to acquire a controlling interest in certain limited circumstances, as set forth in Chairman Volcker's letter of August 20, I would be opposed to allowing banks to acquire such a controlling ownership interest primarily for safety and soundness considerations.
>
> Our experience indicates that a bank may feel obligated to bail out a troubled subsidiary, particularly when it is wholly-owned. The use of a bank's funds to rescue a troubled ETC could have a substantially adverse effect on the financial condition and future operation of that bank. By placing controlling interest of ETC's in the bank holding company, the bank would be better insulated from the uncertain risks of this new operation. The insulation from the bank is more complete in the bank holding company because of existing statutory restrictions on the amount of funds a bank holding company can take from its subsidiary banks.

It goes on to say:

> It should also be noted that almost all of the banks that would be likely to control an ETC are part of bank holding companies. Moreover, most of these bank holding companies would appear to possess the financial capacity, independent of their bank, to make the necessary capital investment needed to organize and operate an ETC.
>
> Finally, I would note that S. 2718 draws substantially from provisions of the Bank Holding Company Act, particularly those that deal with the nonbanking activities of bank holding companies. Over the years the Board and its staff have developed considerable expertise in administering the Bank Holding Company Act—expertise which would be valuable in supervising and regulating this new area of banking organization activity. Authorizing control to be acquired only at the bank holding company level would take advantage of that expertise as well as promote safety and soundness and uniform administration of the Act.

Mr. President, for the life of me I cannot understand what is wrong with that, with having bank holding companies serve as the device by which the banks could own and control 100 percent, under the circumstances where that is necessary, the export trading company. That would permit us to have a situation where the Federal Reserve Board, as Vice Chairman Schultz has pointed out, has the expertise, has the experience, in dealing with the bank holding company agent, and it would permit maximum protection of the banks because the bank holding company would be the agency that would own the export trading company, not the bank itself.

The expertise would be involved, the financing would be involved, the conflict of interest would be sharply reduced, the unfair competition would be reduced, and all of the positive and constructive benefits that could go to export trading companies would go to them under the Federal Reserve amendment.

So I hope when the Senate votes on this a week from tomorrow, when we return, they will keep this in mind and permit us to have a vote up and down on the Federal Reserve amendment, without having it, through some parliamentary device, prevented by some intervening amendment or something of the kind.

Mr. President, I suggest the absence of quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. STEVENSON. Mr. President, much has been said, not by me, about the competitiveness of the United States. I do not see how there can be much doubt about the decline which has set in. I do not, however, want to prolong this debate. But for those who are interested, I ask unanimous consent that a statement of Michael Aho, Director of the Office of Foreign Economic Research of the Bureau of International Labor Affairs in the Department of Labor, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF MICHAEL AHO

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear here today to discuss a subject of vital concern: the international competitiveness of the United States. You and the other members of the Committee are to be complimented on your excellent work investigating factors which contribute to the competitiveness and long-run health of the U.S. economy.

As background for the Administration's review of U.S. competitiveness mandated by section 1110(b) of the Trade Agreements Act of 1979, my office prepared five background analyses on different aspects of U.S. international competitiveness. The Administration's report will be released shortly. Today, I would like to discuss the results of our research studies. I am submitting the executive summaries of the five studies and a short paper for the record.

Over the past two decades, the United States has suffered an erosion in its competitive position in world markets and in the domestic market. This conclusion is based upon extensive empirical research which analyzed the trade of 34 countries in over 100 commodities. The increased international competition facing U.S. producers is mainly the result of changing world resource supplies and technological capabilities. Because of higher rates of growth in investment and expanded research activity in other countries, the United States has experienced a relative decline in its trade performance over the past two decades.

To some degree this is to be expected because the United States emerged from World War II with its industrial base intact, giving it a unique position in the world economy. That unique position has disappeared with the more rapid growth of investment, skilled labor, and most recently, research and development efforts by other countries. This rapid growth has narrowed the range of products in which the United States has a decided competitive advantage.

Every day we read about increased competition in traditional industries like steel and autos that has caused adjustment problems for workers, firms and their communities as some plants have been forced to close down or reduce production as a result of increased import competition. At the same time the United States is also experiencing increasing competition in high technology industries like aircraft and computers which have historically been our strength. Furthermore, it is likely that this competition will continue and increase in the 1980s because of the higher rates of investment and the increased technical effort by our major competitors.

We at the Labor Department are very concerned about the long-run competitive structure of the U.S. economy. The decline in U.S. trade performance increases our concern about the competitive position of U.S. industry because changes in trade performance are a leading indicator of changes in the competitiveness of our domestic economic base.

In conducting our research we examined, at both an aggregate and a highly detailed commodity level, the competitiveness of U.S. producers in world markets. We examined both the short-term, and the more subtle long-term, changes in this competitiveness. A variety of measures and indicators were used to examine and assess changes in competitiveness and the structure of trade.

Our results provide statistical support for many of the assertions made in the popular press that the United States has suffered a deterioration in its competitive position and that Japan is one of the principal sources of increased competition in many key U.S. export products. However, like most issues, there is evidence showing positive as well as negative developments. Therefore, let me present some evidence on both sides.

Among the positive developments in the international competitive position of the United States are the following:

Over the decade of the 1970's the volume of total U.S. exports increased by the same amount (80 percent) as the average of the other seven major industrial countries. Manufacturing exports expanded by 79 percent compared to 85 percent for the other major industrial countries.

Capital goods showed a record trade surplus of $32.6 billion in 1979.

Agricultural goods also had a record trade surplus of $18 billion in 1979.

Manufacturing exports increased by 23 percent in 1979, compared to 17 percent for our major competitors.

Among the negative developments:

Net trade: The United States had a trade balance deficit for 6 years during the 1970's and a deficit in manufacturing for 3 years. On a disaggregated commodity level, net trade is theoretically the best indicator of competitiveness. Of the major export categories, the United States has gone from being a net exporter to a net importer in several important categories including automobiles, telecommunications apparatus and inorganic chemicals.

In 1979, five of the seven major industrial countries had larger trade surpluses in manufacturing than the United States. Among the major industrial countries, we maintain a bilateral trade surplus in manufactures only with Canada. The bilateral deficits in manufactures trade are largest with Japan (—$17 billion) and Germany (—$5 billion).

Loss of export shares: Although trade is becoming increasingly important to the U.S. economy, the United States is playing a relatively smaller role in the world economy. Our analysis of U.S. export market shares for 102 manufactured commodities indicated that since the 1960's, the United States had trend declines in 71 percent of the commodities compared to 26 percent for Japan and 24 percent for West Germany. Most of the U.S. declines occurred in the 1960's with the 1970's representing mostly a period of stabilization but at reduced levels.

Among the top five U.S. manufacturing export earners (road motor vehicles, nonelectrical machinery, aircraft, other electrical machinery, and office machines (computers)), only aircraft had an increase in its export market share. In many of the traditionally strong U.S. exports, the decline in share had been greater than the decline in the share of overall manufacturing.

Increased competition from foreign producers in the domestic market:

Import penetration ratios have increased in many of the important manufacturing sectors, including inorganic chemicals, electric power machinery, power generating machinery and automobiles.

Erosion of our competitive position in formerly strong export commodities in third market areas:

A comparison of U.S. export performance with that of four major competitors (France, Germany, Japan and the United Kingdom) in common third markets showed that of the top 17 U.S. export commodities, 14 experienced share losses in the world market between 1962 and 1969, and all 17 showed losses to these competitors between 1970 and 1977.

The research also focused upon trade performance in high technology products which, along with certain agricultural products, have traditionally been a principal source of strength in the U.S. trade balance. High technology products include aircraft, computers, and many chemical and machinery products.

Our findings indicated that the United States still has a comparative advantage in technology-intensive products in world markets. In particular, when compared to its major competitors, the United States still has: (1) a greater concentration of high-technology exports; (2) one of the largest export market shares in high-technology products; (3) the greatest technological content in its exports, and, thus, more high-technology products among the products which characterize its comparative advantage.

There are several indications, however, that U.S. dominance in world trade of high-technology products is being eroded. This is troublesome because these are the sectors which contribute the most to productivity growth and holding down inflation. The indications of this erosion are:

The U.S. export market share in technology-intensive commodities has fallen over time. In 1977, the U.S. share fell to second behind Germany, whose share had remained roughly constant since the early 1960s. During that period Japan's share quadrupled to a point where it was just behind the United States and Germany.

The decline in the U.S. share and the improved performance by Japan and Germany were present throughout the entire period even after exchange rate realignments began in 1971.

Many high technology products show continuing increases in their import penetration ratio that are more rapid than for manufacturing as a whole. Several of the technology-intensive products had such a rapid growth of imports relative to exports that the United States became a net importer of these products.

The United States is losing out to competitors in some of its traditionally strong products in third market areas.

Among the major U.S. competitors, Japan exhibits the most dramatic change in trade performance in technology-intensive commodities. Between 1962 and 1977, the share of technology-intensive products in total Japanese exports and the technological content of Japan's exports more than doubled. Japan now has the largest trade surplus in technology-intensive products. In the 1960's Japan's trade performance in high technology products ranked low among Organization for Economic Cooperation and Development (OECD) countries. Since then, Japan has risen to second, behind only the United States as an exporter of technology-intensive products. Finally, Japan has begun to compete successfully in technology-intensive products with the United States and other major countries in third market areas, where all competitors face the same market conditions.

The rapid growth of Japanese exports of technology-intensive goods, and the growing share of Japan's exports to markets that were traditionally dominated by U.S. producers, demonstrate that Japanese competitiveness in technology-intensive goods is increasing. Consequently, Japan has joined the United States in having a competitive advantage in technology-intensive products, and this implies that competition between the two countries in these products will increase in the future.

What factors are responsible for this decline in U.S. international competitiveness?

The factors which can affect the international competitive position are manifold. They include: (1) the longer term factors which affect cost, investment in newer capital equipment and innovation and technical change; (2) input costs, including the effects of taxation policy and energy costs; (3) labor-management relations; (4) policies of other nations such as trade barriers and industrial policy; (5) a number of largely nonquantifiable factors related to the product, including quality, delivery time, servicing; (6) managerial initiative and objectives, including entrepreneurial effort in developing new markets, devotion to quality control, etc.; (7) finally, U.S. export promotion policies as well as policies which inhibit exports.

A consistent explanation emerging from our analysis is that the decline in U.S. trade performance since the early 1960's is the result of changing world resource supplies and technological capabilities. These changes are the result of differences in the rates of growth across countries of net investment in equipment and research activity, and the acquisition of skills through education and other training.

Capital available per worker in the United States grew at an annual rate of 1.7 percent between 1963 and 1975, well below that of other developed countries and many of the major developing countries. The percentage of skilled workers in the U.S. labor force grew at an annual rate of 1.3 percent between 1963 and 1975, also below that of most countries.

This relatively slower growth in U.S. capital and skilled labor, along with differences in the growth of these resources in other countries, has altered the distribution of resources among countries and has thereby expanded the capabilities of many countries to supply products to the world market.

The U.S. share of world capital fell from 42 percent in 1963 to 33 percent in 1975. By comparison, Japan's share of world capital increased twofold over the same period, from 7 to 15 percent. The U.S. world share of skilled labor fell from 29 percent to 26 percent; its world share of arable land, however, increased from 27 to 29 percent.

The decline in the U.S. share of the world's capital stock is the result of slower real growth in the United States combined with the fact that the United States allocated a smaller proportion of its national income to investment than its major competitors. In 1978, the United States allocated only 7.3 percent of its gross national product (GNP) to gross fixed capital formation in machinery and equipment whereas Japan allocated 10.9 percent, Germany 8.9 percent, France 9.1 percent, and the United Kingdom 9.2 percent. In terms of total gross fixed capital formation, the United States allocated 18.1 percent, Japan 30.2 percent, Germany 21.5 percent, France 21.5 percent, and the United Kingdom 18.1 percent.

The share of U.S. output devoted to research and development declined from 2.97 percent to 2.27 percent between 1964 and 1977. Japan's share rose from 1.48 to 1.94 percent; Germany's rose from 1.57 to 2.26 percent.

Research and development and investment in skills and capital equipment are factors which affect the long-run competitive position of a country and they are also the major sources of productivity growth. In recent years, U.S. productivity growth has slowed in manufacturing and it lags behind that of all of our major foreign competitors, except the United Kingdom. Over the last decade, manufacturing productivity in the United States increased by an average of 2.5 percent per year. In Japan, the average increase was 5 percent, in West Germany, 5.5 percent, in France, 4.5 percent, and in Canada, 4 percent.

This more rapid growth of capital, skilled labor, and technical resources by other countries relative to the United States has intensified competition in traditionally strong U.S. export products and has narrowed the range of products in which the United States has a competitive advantage. This competition will continue and increase in the 1980's because the United States continues to lag behind other countries in net real investment growth and because of the relative decline in our research and development effort.

With these results in mind, let me raise a few policy issues.

INDUSTRIAL POLICY

The United States does not have an explicit industrial policy, but to the extent that our major competitors adopt industrial policies, and target their industrial development, we are faced with the results of their industrial policy. For example, the focus of Japan's industrial strategy for the 1980's is to develop high technology industries as their next source of industrial strength. If this industrial targeting is successful, then the competition from Japan we are currently experiencing will increase. The semiconductor industry has already become a source of some concern.

It is imperative that our policies be directed toward enhancing the competitiveness and flexibility of U.S. industry so that we can respond to this challenge. Enhancing the competitiveness of high technology, export-oriented firms will increase the demand for higher skilled and more productive workers. But we cannot overlook the adjustment problems created by the internationalization of our economy.

ADJUSTMENT PROBLEMS

In order to export, the Nation has to import. If policies were to be adopted to restructure industry and to encourage the exports of high technology products, we need to recognize and deal with the adjustment problems created by such a policy. The workers in more traditional, import-competing industries are on average less skilled, less educated, lower paid, older and more like to be female or members of minority groups. (See Table 1). In short, those workers who would have to bear the brunt of the adjustment burden are least able to afford it. They are also the least occupationally mobile. This contrasts sharply with the higher skilled and better educated workers needed in the higher technology industries and suggests that training and adjustment programs may be necessary to facilitate the transfer of displaced workers. More should be done to retrain and to help these workers to adapt their skills to new occupations in other industries. The Department of Labor is presently designing a pilot project to determine the feasibility of providing readjustment to displaced workers.

INTERNATIONAL TRADE AGREEMENTS

The nontariff barrier codes, particularly on government procurement and subsidies, which were agreed to during the Multilateral Trade Negotiations, need to be implemented and the ensuing developments closely monitored. In industries such as telecommunications and information processing, the governments in other countries often serve as the purchasing agent. Since the United States has traditionally had a competitive advantage in these industries, we must ensure that U.S. firms have access to foreign markets on an equal footing with local competitors in these markets. There are many potential problems involved with trade in higher technology products which may require new negotiations and new negotiating strategies. In order to learn more about the problems, the Department of Labor is cosponsoring a research project with the Office of the U.S. Trade Representative to examine the potential for negotiations.

LABOR, MANAGEMENT, AND GOVERNMENT COOPERATION

Some influence on the competitive position of the United States lie outside the immediate realm of policy. One of these areas is labor-management relations. Differences among nations in the degree to which labor and management cooperate with one another can have an effect on the international competitiveness of their firms and industries. This seems to be the case in Japan and Germany, which have had the best trade performance in recent years and where labor and management cooperate closely with one another.

Close cooperation between labor and management can allow them to address mutual problems which interfere with productivity growth. The United States should encourage joint efforts on the part of labor and management to improve productivity which in turn can have a direct effect on U.S. competitiveness in world markets. Joint efforts could also help to smooth the process of adjustment to economic change.

An effort in tripartite cooperation among labor, management and Government has been begun in the steel industry with the formation of Steel Tripartite Advisory Committee. The Committee is concentrating its efforts on community adjustment, productivity improvement and industrial modernization. A similar tripartite effort is included as part of the President's economic program for the automobile industry. As these efforts proceed, they should provide the experience needed to assess the applicability of cooperative approaches for U.S. industry. In order to obtain a more in-depth look at labor management relations and adjustment policies in other countries, the Department of Labor is cooperating with the Japanese Ministry of Labor on a research project which involves cross-national comparisons and onsite visits.

Let me conclude by observing that competitive advantage does not remain constant. Research and development and investment in capital equipment and labor skills are key factors which affect the long-run competitive position of a country and they are also the major sources of productivity growth. To the extent the United States undertakes less real investment and devotes less resources to research and development than its major competitors, then the long run international competitiveness of U.S. industry will be reduced. Over time, larger capital expenditures overseas in newer facilities will enhance the competitiveness of foreign firms. Increased research and development will enable them to develop newer products and processes with which U.S. firms will have to compete. Although depreciation of the dollar will make U.S. products look more attractive in world markets, this will reduce our real income and overall welfare at home. Not doing enough to lower costs and develop newer, higher quality products may lead to a long-run structural decline in the U.S. competitive position in manufacturers and even in high-technology manufactures.

The United States needs to encourage investment and research to prevent such a decline. Expanded investment and innovative activity would not only affect U.S. long-run competitive advantage, but would also contribute to the productivity growth which is necessary for the Nation to enjoy real income gains in the future.

Mr. Chairman, this concludes my prepared statement. If the Committee has any questions, I would be happy to answer them.

CHARACTERISTICS OF THE INDUSTRIES IN WHICH TRADE HAD THE LARGEST POSITIVE AND NEGATIVE IMPACT UPON JOB OPPORTUNITIES, 1964–75

	Average of the 20 industries in which trade had the most favorable impact on job opportunities*	Overall manufacturing average	Average of the 20 industries in which trade had the least favorable impact on job opportunities
Demographic characteristics of the labor force (percentage):[1]			
Female	21.5 (23.2)	29.4	41.1
Minority	7.4 (6.0)	10.1	11.5
Under 25 yr old	15.4 (15.2)	16.4	15.8
Over 50 yr old	24.4 (23.8)	26.5	28.0
Family income below the poverty level	5.8 (4.3)	7.0	9.8
Annual earnings under $10,000	72.1 (70.0)	77.4	81.7
Annual earnings under $12,000	83.5 (82.2)	87.2	89.7
High school education (4 yr)	39.1 (40.8)	36.6	34.0
College education (4 yr)	6.9 (7.6)	5.1	3.1
Occupational breakdowns and industry characteristics:			
Unionized workers as a percentage of the labor force[2]	40.0 (38.0)	49.0	51.3
Skill measured as a percentage of the average wage in manufacturing (1973)[3]	104.0 (105.2)	100.0	97.8
Skilled workers as a percentage of the labor force[4]	55.8 (59.2)	50.0	38.8
White collar workers as a percentage of the labor force[5]	36.3 (39.4)	30.3	21.1
Technical intensity (scientists and engineers as a percentage of the labor force)[6]	6.87 (7.76)	3.20	2.29
Technical intensity (R. & D. as a percentage of sales)[7]	5.90 (6.58)	2.36	1.39
Foreign direct investment proxy (foreign dividends plus tax credits as a percentage of firm's assets)[8]	.53 (.59)	[9].34	.52

*The weighted average in parentheses is calculated by excluding veneer and plywood; sawmills and planing mills; and logging. These industries should be considered separately due to their relatively high natural resource content and geographic concentration of production.

[1] Source: Census of Population, 1970, Subject Reports: Industrial Characteristics, U.S. Department of Commerce, 1972, (Washington, D.C.: U.S. GPO).

[2] Source: Freeman, Richard and James Medoff, "New Estimates of Private Sector Unionism in the United States," Industrial and Labor Relations Review, vol. 32, No. 2, (January 1979).

[3] Source: Employment and Earnings, U.S. Department of Labor. Index is the average hourly wage in the industry divided by the average hourly wage in manufacturing.

[4] Source: Census of Population, 1970, Subject Reports: Occupations by Industry, U.S. Department of Commerce, 1973, (Washington, D.C.: U.S. GPO) Skilled workers are defined to include professionals, managers, sales, clerical and craftsmen.

[5] Source: Same as 4. White collar workers include all defined as skilled except craftsmen.

[6] Source: C. F. Bergsten, T. Horst and T. Moran, American Multinationals and American Interests, (Brookings Institution: Washington, D.C.) 1978, table 3–2.

[7] Source: R. Kelly, "The Impact of Technological Innovation on International Trade Patterns," Staff Economist Report, ER–24, Department of Commerce (December 1977).

[8] Source: Bergsten, Horst and Moran, table 3–2.

[9] Median.

Source: C. M. Aho and J. Orr, "International Trade and Domestic Employment: Characteristics of Workers in Trade-Sensitive Industries", Economic Discussion paper 2, Office of Foreign Economic Research, Bureau of International Labor Affairs, Department of Labor, April 1980.

SUMMARIES OF RECENT ANALYSES ON U.S. INTERNATIONAL COMPETITIVENESS AND THE CHANGING STRUCTURE OF U.S. TRADE

(By Thomas O. Bayard)

TRENDS IN U.S. TRADE: 1960–79

Executive summary

International trade is becoming increasingly important to the U.S. economy. A common measure of the domestic significance of foreign trade, the ratio of U.S. exports plus imports to GNP, has risen from 10 percent in 1960 to almost 22 percent in 1979. This report summarizes the most important trends in U.S. trade since 1960 and attempts to assess the impact of changes in macroeconomic factors such as real GNP growth, inflation, and exchange rate changes on U.S. trade flows.

Although trade is becoming increasingly important to the U.S. economy, the United States' role in the world economy is becoming smaller. The U.S. share of total world exports declined from 18 percent in 1970 to 14 percent in 1979. The U.S. share of world exports of manufactures fell from 21 percent to 17 percent in the same period. The United States experienced a substantial loss of market share in the import markets of Japan and the developing countries, but increased its share of centrally planned economies' imports in the 1970's.

The United States had small surpluses in its agricultural trade in the 1960s. Agricultural exports soared in the 1970s, mainly on the strength of increased exports to the developed countries and, especially, to the centrally planned economies. The surplus averaged well over $10 billion since the mid-1970s. In 1979, the U.S. agricultural trade surplus reached a record of $17.9 billion.

Because of the importance of U.S. manufactured exports and imports in total trade, the manufactured goods trade balance has tended to coincide with the movements in overall trade balance and to be influenced by the same macroeconomic trade factors. The surplus in manufactures declined through the late 1960s and a deficit emerged in 1972. Since then, there have been wide fluctuations in the manufactures trade balance. In 1979, the United States had a surplus of more than $4 billion in manufactured products.

The United States trade position in manufactures has been particularly strong in capital equipment and high-technology products. Both of these designations frequently apply to the same product category (e.g., advanced electrical machinery). In 1979, the United States trade balance in capital goods reached a record surplus of $32.6 billion. There is evidence, however, that the United States is losing its lead in high technology exports in recent years; in large part to Japan. Although U.S. exports of consumer and automotive products have grown rapidly in recent years, import gains have kept ahead of those of exports and the trend since the 1960's has been toward greater trade deficits in these products.

The United States ran small trade deficits in petroleum and petroleum products through the 1960s. The emergence of OPEC as a successful cartel was in part due to the growth in U.S. (and Western) dependence on energy imports. Both the volume and the price of oil imports tended to increase in the early 1970s, although the volume of imported oil has dropped significantly over the last two years. Recent declines in U.S. oil import volumes have been more than offset by rapid price increases. The oil deficit grew from $3 billion in 1971 to $55 billion in 1979 and has had a dampening effect on U.S. economic growth.

The U.S. trade surplus with the developed countries (DCs) declined through the 1960s. Deficits emerged in the late 1960s and early 1970s. In 1979, however, a large improvement took place in the U.S. trade position vis a vis developed countries because of a substantial increase of U.S. exports to these countries.

The less developed countries supplied 45 percent of total U.S. imports in 1979 compared with only 26 percent in 1972, primarily because of the rapid rise in oil imports. The LDC's share of U.S. exports rose from 31 percent in 1972 to 37 percent in 1979.

CHANGES IN THE INTERNATIONAL PATTERN OF FACTOR ABUNDANCE AND THE COMPOSITION OF TRADE: A MULTI-COUNTRY ANALYSIS OF CHANGING COMPARATIVE ADVANTAGE IN MANUFACTURED GOODS WITH SPECIAL REFERENCE TO THE UNITED STATES

(By Harry P. Bowen)

EXECUTIVE SUMMARY

This paper assesses the role of changes in relative resource supplies across countries as an explanation of the changing structure of U.S. trade and the growing competition to United States producers in international markets since the early 1960s. Although focusing primarily on the United States, the analysis also considers the impact of changing resource supplies on the trade structure of thirty-three other countries. In so doing, the analysis provides a basis for understanding the impact of relative resource changes on U.S. comparative advantage within the world economy.

The analysis first examines the changes that have occurred in the availability of resources (capital, labor of differing skills and land) across the thirty-four countries over the period from 1963 to 1975. Next, using traditional input-output methods, an analysis of the relationship between changes in resource structure and changes in the composition of trade as reflected in the changes in a country's implicit exchange of these factors' services is conducted. Finally, a formal statistical analysis of the resource determinants of U.S. comparative advantage is conducted at five points in time over the period from 1963 to 1975.

Overall, the analysis indicates that a consistent explanation for the decline in U.S. trade performance since the early 1960s is the result of changing world resource supplies. These changes are the result of differences in the rates of growth across countries of net real investment in equipment and the acquisition of labor skills through education and other training.

The data on resource supplies indicate that there have been substantial changes in resource structure across countries. In particular, it is found that the capital abundance position of the United States has been substantially eroded since the early 1960s. In terms of the growth in capital per worker, the United States outpaced only two countries: Ghana and Yugoslavia, both of which showed a decline. In comparison, Japan's capital per worker grew at an average annual rate of 10.1 percent, second only to Korea whose relative capital endowment grew at the surprisingly rapid rate of 11.9 percent per year. Other countries showing relatively rapid rates of growth in capital per worker include Greece, Spain, Hong Kong, Brazil and Mexico. As a result of this differential growth, the United States fell from first to sixth on the basis of the ranking of capital available per worker. This relative decline is also found, to a lesser degree, with respect to the U.S. availability of skilled labor.

When resource structure was assessed on the basis of a country's world share of each resource, similar declines for the United States were found. In particular, the U.S. share of world capital fell from 44 percent in 1963 to 33 percent in 1975. By comparison, Japan's share of world capital increased twofold over the same period, from 7 to almost 15 percent. The U.S. world share of skilled labor fell from 29 percent to 26 percent, its world share of arable land, however, increased from 27 to 29 percent.

Examining the changes in the composition of a country's trade and its exchange of factor services, the results indicate that changes in the availability of resources in the United States relative to the rest of the world have had a major impact on the structure of U.S. trade. In particular, the structure of U.S. trade since the late 1960s has been significantly influenced in the capital-intensive sectors and the composition of U.S. trade has shifted such that its relative exchange of capital services with the rest of the world has declined. This finding is consistent with the decline in the capital abundance position of the United States relative to the rest of the world.

When U.S. exports going to developed and developing countries are examined, the results suggest that the accumulation of skilled labor and capital in the developed countries has contributed to a decline in the absorption of these factors from the United States and that, therefore, these countries have expanded their ability to compete in those sectors representing major U.S. manufacturers' exports. The results also suggest that the accumulation of capital in the less developed countries has reduced their absorption of capital services from the United States but that they continue to absorb increasing amounts of skilled labor.

The formal statistical analysis of the resource determinants of U.S. comparative advantage indicates that the changes in the resource availability of the United States relative to other countries provide a significant explanation of the changes in U.S. trade structure and the increasing competition to the United States in world markets. It is found that skilled labor and capital remain important determinants of the commodities in which the United States has a comparative advantage. But given this, what matters for changes in trade performance in such products among countries is the rate at which these resources are accumulated.

In this regard, the findings indicate that the relatively more rapid growth of physical capital, and to a lesser degree, skilled labor by the developed countries has enabled them to become increasingly competitive in those commodities representing U.S. comparative advantage. The results further indicate that the increasing accumulation of physical capital and semiskilled labor by the developing countries has enhanced their ability to compete in those commodities representing U.S. comparative disadvantage. Therefore, the results suggest that both U.S. export and import-competing industries will face increasing competition in the 1980s. The likely consequence of this increased competition in world markets will be to narrow the range of products representing U.S. comparative advantage.

Trends in Technology-Intensive Trade: With Special Reference to U.S. Competitiveness

(By C. Michael Aho and Howard F. Rosen)

EXECUTIVE SUMMARY

Recently there has been a decline in U.S. research effort both relative to its trading partners and relative to past efforts. Consequently, the question arises whether the United States will lose its competitive advantage in those technology-intensive commodities which have traditionally characterized its comparative advantage.

This paper examines recent trends in the pattern of trade in technology-intensive products to see whether there has been an erosion of the U.S. competitive position in these products. The analysis is basically descriptive and uses a variety of measures to compare U.S. trade performance in technology-intensive commodities with that of other major industrial countries for the period from 1962–1977.

The analysis employs and compares all of the methodologies and indicators normally used to examine competitiveness and comparative advantage. These include: largest export earners, net exports, export-import ratios, "revealed" comparative advantage indices and exports and imports relative to domestic production and consumption. The analysis also examines U.S. export performance relative to major competitors in important commodities in third markets where all producers face the same market conditions.

The analysis shows that, in recent years, there has been a noticeable shift in the pattern of trade in high-technology products. The United States still maintains a strong competitive (and comparative) advantage in technology-intensive products, but U.S. competitiveness in those products in world markets has been deteriorating. The primary source of increased competition is Japan.

Several indicators revealed that high-technology products have been the source of strength in the overall U.S. manufacturing trade balance. Technology-intensive products comprise an increasing proportion of U.S. exports. Every year since 1962, the United States has had a trade surplus in technology-intensive products.

Relative to its major competitors, the United States still has (1) a greater concentration of high technology exports; (2) one of the largest export market shares in high technology products; (3) the greatest technological content in its exports; and (4) more technology-intensive products among the products which comprise its comparative advantage. However, there are several indications that the U.S. dominance in trade of high-technology products is beginning to erode.

The U.S. export market share in these commodities has fallen over time. In 1977, the U.S. share fell to second behind Germany, whose share had remained roughly constant over the fifteen-year period. During that period Japan's share quadrupled to a point where it was just behind the United States and Germany. The decline in the U.S. share and the improved performance by Japan and Germany were present throughout the entire period even after the exchange rate realignments began in 1971.

Another indication of a decline in U.S. competitiveness is the sustained increase in the import penetration ratio in high technology products. For many of the products the increases in their import penetration ratio was more rapid than for manufacturing as a whole. On a net export basis, several of the technology-intensive products had such a rapid growth of imports relative to exports that the United States became a net importer of those products. Finally, the United States is losing out to competitors in some of its traditionally strong products in third market areas.

Japan exhibits the most dramatic change in trade performance in technology-intensive commodities. Between 1962 and 1977, there was a remarkable shift in the structure of Japanese exports towards the higher technology industries. The share of these products in total exports more than doubled over the 1962–1977 period. Japan now has the largest trade surplus in technology-intensive products. In the 1960s Japan's trade performance in high technology products ranked low among the OECD countries. Since then, Japan has risen to second, behind only the United States as an exporter of technology-intensive products. The amount of technology embodied in Japan's exports has more than doubled between 1962 and 1977. Finally, Japan has begun to compete very favorably with the United States and other major countries in third market areas, where all competitors face the same market conditions.

The fact that U.S. exports remain more technology-intensive than exports from other major industrialized countries indicates that the United States has not lost its comparative advantage in technology-intensive goods. But the rapid growth of Japanese exports of technology-intensive goods and the growing share of Japan's exports to markets that were traditionally dominated by U.S. producers, demonstrate that Japanese competitiveness in technology-intensive goods is increasing. If these trends continue, competition between the two countries will increase in the future as both countries specialize on exporting similar products.

Research and development is one of the factors which affects the long-run competitive position of a country. To the extent the United States devotes less resources to research and development than its major competitors, then the long run international competitiveness of U.S. industry will be reduced. Increased R&D by firms in other countries will enable them to develop newer products and processes with which U.S. firms will have to compete. Although depreciation of the dollar will make U.S. products look more attractive in world markets, this will reduce real income at home. Not doing enough to lower costs and develop newer, higher quality products could lead to a long-run structural decline in the U.S. competitive position. To prevent such a decline the United States may need to put more resources into research activity.

Assessing the Changing Structure of U.S. Trade in Manufactured Goods: An Analysis and Comparison of Various Indicators of Comparative Advantage and Competitiveness

(By Michael Aho, Harry P. Bowen, and Joseph Pelzman)

EXECUTIVE SUMMARY

This paper examines the growing importance of international trade to the U.S. economy and attempts to determine those commodities in which the United States has increased, maintained or lost a comparative and competitive advantage. The analysis focuses on the changes in the trade structure of the United States over the period from 1962 to 1977. The analysis is conducted at a highly disaggratated level using 102 manufacturing categories as defined at the 3-digit level of the Standard International Trade Classification (SITC).

A major contribution of this paper is that the analysis of U.S. trade structure and trade performance is based on an extensive list of indicators normally used to measure a country's performance in world markets. These indicators are first used to examine the changes that have occurred in the structure of U.S. comparative advantage and that of its major competitors. Cross-tabulations of the indicators at specific points in time as well as their change over time are then used to examine the relationships between the indicators and to determine a consistent list of commodities (based on all the measures) in which the U.S. has maintained or lost a comparative and/or competitive advantage.

Having established that international trade is playing an increasing role in U.S. economic activity, a determination of the specific commodities accounting for this growing interdependence was then made. This was accomplished using two measures, the ratio of exports to domestic shipments and the ratio of imports to apparent consumption.

Among the commodities with a high ratio of exports to domestics shipments and which therefore play an important role in the U.S. export sector are: machinery and appliances—other than electric, aircraft, power generating machinery—other than electric, and chemicals.

The commodities demonstrating a high import to apparent consumption ratio include musical instruments, pottery, textile and leather machinery, iron and steel tubes, silver and footwear.

A number of different measures were then used to determine the structure of U.S. comparative advantage and U.S. trade performance. These measures were:

Indexes of Revealed Comparative Advantage.—Two indexes were used. One is defined as a country's world market share of a particular commodity divided by the country's share of total world manufacturing exports. The second index is the ratio of a country's exports to imports of a particular commodity divided by the ratio of its total manufacturing exports relative to its total manufacturing imports.

Net Exports (divided by domestic shipments).

Import Penetration Ratio (divided by the overall manufacturing import penetration ratio).

Constant Market Share Residual.—At a commodity specific level, the CMS procedure identifies two component effects contributing to export growth. One is due to the increase in world trade of the commodity and the other is due to the regional or market distribution of the country's exports of the commodity. Once these two effects have been determined the residual effect is measured as the difference between the actual increase in exports and that which would have occurred had the country maintained its market share of the commodity in each regional market. When this residual effect is negative it is interpreted as a decline in competitiveness. Conversely, when the residual effect is positive it is taken to mean that the country has increased its competitiveness.

Based on the changes in the two indexes of revealed comparative advantage between 1962 and 1977, changes in U.S. trade performance across the 102 manufacturing commodities were examined. The results of this analysis indicated that:

Five commodities showed improved performance based on both indexes of revealed comparative advantage. These were: other inorganic chemicals, manufactured fertilizers, cotton fabrics-woven, glass and miscellaneous nonferrous base metals.

Three commodities revealed a disadvantage on both indexes. These were: articles of rubber, n.e.s. (representing mostly rubber tires), telecommunications apparatus and miscellaneous manufacturers.

Fourteen commodities maintained an advantage on the basis of both indexes. These included: explosives, tools for use in the hand or in machines, electric power machinery, and electrical medical apparatus.

Twelve commodities maintained an advantage on the basis of one index and revealed a disadvantage on the other. Notable among these twelve are: inorganic chemicals, road motor vehicles, medical and pharmaceutical products, plastics and metalworking machinery.

The above results were based only on changes in the indexes between two years, 1962 and 1977. As an indication of overall changes, the trend changes in three of the more important indicators (net exports, revealed comparative advantage and import penetration) were computed based on annual data and lists of the commodities showing either consistent positive or consistent negative performance across those indicators were complied. These are presented below.

Commodities showing consistent positive performance were:

Organic chemicals.
Other inorganic chemicals.
Essential oils, perfume and flavour material.
Fertilizers, manufactured.
Explosives and pyrotechnic products.
Leather.
Veneers, plywood boards.
Paper and paperboard.
Textile fabrics, woven other than cotton.
Tulle, lace, embroidery.
Special textile fabrics and related products.
Floor coverings, tapestries, etc.
Glass.
Rails and railway track of iron or steel.
Nickel.
Lead.
Tin.
Miscellaneous nonferrous base metals.
Machines for special industries.
Equipment for distributing electricity.
Scientific measuring and controlling instruments.
Photographic supplies.

Commodities showing consistent negative performance were:

Inorganic chemicals.
Manufactures of leather.
Articles of rubber, nes.
Pig iron.
Universals, plates and sheets of iron or steel.
Zinc.
Wire products (excluding electric).
Nails, screws, nuts and bolts.
Manufactures of metals, nes.
Telecommunications apparatus.
Domestic electrical equipment.
Road motor vehicles.
Furniture.
Clothing (except fur clothing).
Fur clothing.
Footwear.

Overall, the cross-tabulations indicated that the measures most often agreed as to the commodities with declining international performance. When net exports was used as the base indicator of trade performance, the indicators showing most agreement as to changes in trade performance were first the two indexes of revealed comparative advantage and then the constant market share residual.

Lastly, the results indicate that the United States has improved its performance in many of its key export products including scientific instruments and certain chemical products. But the United States has also suffered an erosion in its international performance in the key export earning sectors of telecommunications apparatus and road motor vehicles. These changes reflect changes in the composition of U.S. trade in response to changes in world trade and international competition. Continuing adjustments are likely to occur as resources are reallocated toward those sectors showing improved performance.

A CONSTANT MARKET SHARE ANALYSIS OF U.S. EXPORT GROWTH

(By Harry P. Bowen and Joseph Pelzman)

EXECUTIVE SUMMARY

This paper examines the movements of U.S. world market export shares between 1962 and 1977. It also evaluates the performance of U.S. exports in particular subperiods over the 1962–1977 period rising the Constant Market Share (CMS) model. The particular subperiods analyzed are 1962–1969, 1970–1973 and 1974–1977. The entire analysis was performed for 102 manufacturing commodities defined at the 3-digit SITC level. In the main body of the paper an indepth analysis of the performance of the top eighteen U.S. manufacturing export earners over the entire 1962–1977 period is conducted as is a CMS analysis of the growth of total U.S. manufacturing exports.

An appendix provides a comprehensive and concise summary of U.S. export performance for each of the 102 commodities. For each 3-digit group, a brief written summary is given indicating the changes in U.S. relative export performance, a brief list of the major competitors in each commodity, and a summary of the CMS results. Further information on U.S. trade performance is provided in the form of a graph indicating the movement in both the U.S. world share of exports and U.S. net exports over the 1962–1977 period.

Although trade is becoming increasingly important to the U.S. economy, the United States is playing a relatively smaller role in the world economy. An analysis of U.S. export market shares for 102 manufactured commodities indicated that the United States had trend declines in 71 percent of the commodities compared to 26 percent for Japan and 24 percent for West Germany. Most of the U.S. declines occurred in the 1960s with the 1970s representing mostly a period of stabilization.

Among the top five U.S. manufacturing export earners (road motor vehicles, nonelectrical machinery, aircraft, other electrical machinery, and office machines (computers)), only aircraft had an increase in its export market share.

The Constant Market Share model facilitates the analysis of this export performance by enabling one to attribute U.S. export growth to four specific sources:

The growth of world trade.
The commodity composition of U.S. exports.
The market distribution of U.S. exports.

A residual representing the difference between the actual increase in a country's exports and the increase that would have occurred had the country maintained a constant share in each market and in each commodity.

This model allows one to address the following questions: (1) What would U.S. exports have been if they had expanded at the same rate as world trade? (2) What is the influence of the commodity composition of U.S. exports on its export performance? (3) What is the effect of the relative growth in demand for U.S. exports in key country or regional markets? (4) What portion of U.S. export growth is unexplained by these factors? The changes in this last component are usually attributed to changes in competitiveness.

The CMS results for total U.S. exports indicated the following:

Over the entire 1962–1977 period the United States experienced a decline in its competitiveness as reflected by the CMS residual with most of this decline occurring in the 1962–1969 period.

During the 1962–1969 subperiod the United States export performance was enhanced by the relatively faster growth in key markets but this was not sufficient to offset major declines in competitiveness.

During the 1974–77 subperiod a positive source of U.S. export growth was the favorable commodity composition of its exports.

The decline in the competitiveness component of the CMS equation may not necessarily imply a general loss in U.S. competitiveness for two reasons:

A comparison of the various countries' export unit values over the 1962–1977 period demonstrated that during the 1970–1977 period the growth in U.S. export unit values was far smaller than its major competitors with the exception of Japan during 1974–1977.

A comparison of growth rates of gross domestic product (GDP) indicated that in each of the three subperiods the growth of U.S. GDP was less than that of its major competitors.

Therefore, it is possible that the decline in U.S. competitiveness as captured by the CMS analysis may, in part, be attributed to differences in GDP growth rates and differential increases in export unit values among major trading partners not reflective of actual changes in competitiveness.

To substantiate the conclusions based on the analysis of total U.S. exports, and to determine if major shifts across commodities had occurred during the 1962–1977 period, the CMS analysis was performed separately for each of the 102 manufacturing commodities. The results of this analysis indicated that:

In most cases the decline in U.S. export shares in the 1960's and early 1970's was due to residual competitiveness factors.

The growth of U.S. exports in the 1974–1977 period was retarded by both the slower growth in key U.S. export markets as well as competitiveness factors.

Whereas the 1960s represented primarily a period of decline in U.S. competitiveness, the latter part of the 1970's appears to have been a period of realignment in response to major changes in international trade.

Under ideal circumstances, the CMS analysis would allow for separate identification of each of the above effects. In practice, however, this procedure is subject to a number of biases on both conceptual and empirical grounds. Therefore, to determine the extent to which the CMS results generated were susceptible to identifiable biases, three sensitivity tests were conducted. In particular, variations in the overall CMS estimates were examined as a result of changes in:

The choice of base year.

The level of aggregation of commodities.

The definition of the world market.

The results of the various sensitivity tests indicate that:

The CMS component estimates were not severely affected by the commodity aggregation but did appear highly sensitive to both changes in the base year chosen and to variations in the definition of the world market.

Its high sensitivity to base year changes supported the conclusion that major structural changes have occurred in the U.S. export sector.

U.S. TRADE PERFORMANCE: THE ROLE OF CHANGES IN RESOURCE ENDOWMENTS AND CHANGES IN TECHNOLOGY

(By C. Michael Aho and Harry P. Bowen)

There is no doubt that the United States has declined as a dominant force in world trade. The U.S. share of manufactures exports has declined from over 25 percent in the early 1960s to 15.5 percent in 1979. This note discusses reasons for the decline in the level of the U.S. share and also some of the relative changes that have occurred.[1] It also explains some of the reasons for the increased international competition facing U.S. industries.

A principal reason for the reduced dominance of the United States in world trade is the more rapid accumulation of capital and skilled labor abroad. Between 1963 and 1975, the capital available per worker in the United States increased by 1.7 percent per year whereas the percentage of highly-skilled labor in the work force increased by 1.3 percent per year.

In contrast, capital per worker in Japan increased by 10.1 percent per year while the percentage of skilled workers in Japan's labor force increased by 3.4 percent per year. In fact, the growth in U.S. capital per worker was the lowest among the developed countries as well as many of the developing countries. This was also true, for the most part, of the growth in the percentage of skilled workers in the U.S. labor force.

The relatively slower growth of the U.S. capital stock could reflect both the slower real growth of U.S. GNP and the fact that the United States allocates a smaller proportion of its GNP to investment. In 1978, the United States allocated only 7.3 percent of its GNP to gross fixed capital formation in machinery and equipment, whereas Japan allocated 10.9 percent, Germany 8.9 percent, France 9.1 percent, and the United Kingdom 9.2 percent. In terms of total gross fixed capital formation, the United States allocated 18.1 percent, Japan 30.2 percent, Germany 21.5 percent, France 21.5 percent and the United Kingdom 18.1 percent.

The relatively slower growth in capital and skilled labor in the United States, along with the growth of these resources in other countries, has resulted in a reallocation of capital and skilled labor around the world. Table 1 provides an indication of the reallocation of capital and skilled labor by showing the U.S. world share of capital and professional/technical workers in 1963 and 1975. The world resource shares of selected countries are also shown. In 1963, the percentage of the world's capital located in the United States was 42 percent. By 1975, the U.S. share of the world's capital had fallen to 33 percent. Japan's share of capital more than doubled, from 7 to 15 percent. Note that the United States' share of skilled labor also declined between 1963 and 1975.[2]

TABLE 1.—WORLD SHARE OF CAPITAL AND SKILLED LABOR

	Capital		Skilled labor	
	1963	1975	1963	1975
United States	41.93	33.43	29.36	26.33
Japan	7.09	14.74	7.84	8.62
Germany	9.12	8.27	7.08	6.56
United Kingdom	5.60	4.89	6.97	6.44
France	7.14	7.94	6.57	6.24
Mexico	1.07	1.59	1.64	2.12
Korea	.13	.40	.57	1.64
Brazil	1.63	2.38	2.88	3.82
Hong Kong	.08	.12	.21	.19

A more direct picture of the changes in resource availability between the United States and other countries can be obtained by examining the availability of capital and skilled labor resources on a bilateral basis. Table 2 contains bilateral comparisons between the United States and selected countries. These data indicate, for example, that in 1963 the United States had six times the amount of capital compared to Japan and almost four times the amount of skilled labor. But by 1975, the United States had only two times Japan's capital and just over three times the amount of skilled labor. Clearly, the most dramatic change among those shown is that between the United States and Korea where the disparity in capital availability was substantially reduced.

TABLE 2.—RELATIVE CHANGES IN CAPITAL AND SKILLED LABOR

[Ratio of U.S. share to other country's share]

	1963	1975
Capital:		
United States/Japan	5.91	2.27
United States/Germany	4.50	4.04
United States/United Kingdom	7.49	6.84
United States/Mexico	39.19	21.03
United States/Korea	332.54	83.57
United States/Hong Kong	524.13	278.58
Skilled labor:		
United States/Japan	3.74	3.05
United States/Germany	4.15	4.01
United States/United Kingdom	4.21	4.08
United States/Mexico	17.90	12.42
United States/Korea	51.51	35.11
United States/Hong Kong	139.81	138.58

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[1] Often the concepts of comparative advantage and competitiveness are confused. Depreciation of the dollar will enhance the competitiveness of all U.S. industries relative to foreign competitors. Comparative advantage refers to the structure of trade relative to trading partners. A nation will always have a comparative advantage in something.

If the United States were to experience a trade deficit, say because of a loss of an export market overseas (net capital flows held constant at zero to simplify the discussion), the dollar would depreciate, thereby enhancing U.S. industrial competitiveness. The important questions are how the U.S. trade balance would be brought back into balance and which sectors would be involved. The dollar depreciation will increase the volume of exports and decrease the volume of imports, and assuming stability conditions hold, will bring the value of exports and imports back into balance. Which sectors respond is determined by underlying comparative cost considerations and will depend upon the structure of resource endowments and technology and how they change over time in different countries. Nonetheless, some sectors will respond and on the export side, they will be the sectors that are more competitive internationally. From a policy perspective however, it is important that industries and agriculture continually try to enhance their competitiveness (through investment, research, etc.) because depreciation of the dollar will lead to a deterioration in the terms of trade. Thus, depreciation of the dollar can always increase the competitiveness of U.S. industries, but only at the cost of a real income loss for domestic consumers as the real cost of imports in terms of exports rises.

[2] However, the U.S. world share of arable land increased between 1963 and 1975 from 27 percent to almost 30 percent. Thus, the United States is becoming increasingly abundant in land relative to capital and skilled labor, and it would be expected that this would enhance the international competitiveness of the agricultural sector relative to manufacturing.

These changes in the resource position of the United States both with respect to the world and individual countries have had their impact on the composition of U.S. trade. One method for assessing this impact is to examine the changes in the implicit exchange of capital and skilled labor services that are contained, or embodied, in U.S. trade as a result of changes in the composition of trade. Figure 1 shows the ratio of capital services to total labor services embodied in U.S. manufactured exports to the developed and developing countries. Figure 2 shows the ratio of skilled labor to total labor services embodied in U.S. manufactured exports to these two country groups.

(Figures mentioned in the text not printed in RECORD.)

These figures indicate that, over time, the composition of U.S. manufactures trade has shifted toward those commodities which employ less capital per worker in production and thus that both the developed and developing countries have absorbed less capital per worker from the United States. These charges are consistent with higher rates of capital accumulation abroad than in the United States. Further, since the early 1970s, the composition of U.S. manufactures trade to the developed countries has shifted toward those sectors employing less skilled labor indicating a reduced absorption of skilled labor by the developed countries from the United States. However, since the early 1960s, the composition of U.S. manufactures trade to the developing countries has shifted continuously toward the more skill-intensive commodities and thus the developing countries are absorbing more skilled labor services.

These comparisons suggest that the changes in the structure of factor abundance of the United States relative to the rest of the world have had a significant impact on the structure of its trade. More detailed statistical analysis confirmed these results.[3] In particular, the relatively more rapid growth of physical capital, and to a lesser degree skilled labor (human capital), by the developed countries has enabled them to become increasingly competitive in those commodities in which the United States has traditionally had a comparative advantage. The results also indicated that the increasing accumulation of physical capital and semi-skilled labor by the developing countries has enhanced their ability to compete in many manufacturing commodities. This suggests, therefore, that both export and import-competing industries in the United States will face increasing competition in the 1980s if the U.S. share of world resources continues to decline.

The decline in U.S. research and development effort both relative to the effort in other countries and relative to our own past effort could also be partially responsible for the increased competition being experienced by U.S. industry and for the changes in the structure of U.S. trade. Tables 3 and 4 compare research and development expenditures as a percentage of GNP and the number of scientists and engineers per 10,000 workers for the major countries.[4]

Technology-intensive products have traditionally been the source of strength in the U.S. trade balance.[5] All of the empirical evidence indicates that in the past the United States has had a unique advantage in the trade of high technology products. However, that unique advantage is slowly disappearing. in part because of the increased research and development effort overseas.

Figure 3 compares the technological content of U.S. manufacturing exports and imports over time and confirms that the United States has been and remains a net exporter of products which utilize relatively more technological input (research and development). Figure 4 compares the technological content of U.S. manufacturing exports to developed and developing countries over time. Since 1971, there has been a significant decline in the technological content of U.S. manufacturing exports to the developed countries. The technological content of U.S. manufacturing exports to the developing countries continues to increase, but only slightly. These findings are similar to the results for skilled labor, but are not surprising because the industries which intensively use skilled labor tend also to be technology-intensive.

TABLE 3.—R. & D. EXPENDITURES AS A PERCENTAGE OF GROSS NATIONAL PRODUCT, 1964–77

Country	1974	1968	1972	1975	1977
France	1.81	2.08	1.86	1.82	1.79
Germany	1.57	1.97	2.33	2.39	2.26
Japan	1.48	1.61	1.85	1.94	[1] 1.94
United Kingdom	2.30	2.29	2.06	2.05	NA
United States	2.97	2.83	2.43	2.30	2.27

[1] 1978.

Source: National Science Board, Science Indicators 1978, Washington, D.C., 1979, table 1–1.

TABLE 4.—SCIENTISTS AND ENGINEERS PER 10,000 IN THE LABOR FORCE, 1965–77

Country	1965	1968	1972	1975	1977
France	21.0	26.4	28.1	29.3	[1] 29.9
Germany	22.6	25.9	35.7	39.4	40.5
Japan	24.6	31.1	38.1	47.9	49.9
United Kingdom	21.4	17.2	27.8	30.6	NA
United States	64.1	66.9	58.3	56.4	57.4

[1] 1976.

Source: National Science Board, Science Indicators 1978, Washington, D.C., 1979, table 1–3.

Finally, Figure 5 and Table 5 compare the technological content of manufacturing exports of the major OECD countries for the period from 1962 to 1977. The technology-intensity of U.S. exports has remained almost constant over time showing only a slight decline after 1971.

TABLE 5.—TECHNOLOGY CONTENT OF OECD MANUFACTURED GOODS EXPORTS

	1962	1966	1970	1974	1977
United States	3.3	3.1	3.7	3.6	3.5
France	2.0	2.2	2.2	2.1	2.3
Germany	2.1	2.2	2.3	2.2	2.3
Japan	1.8	2.1	2.5	2.4	2.8
United Kingdom	2.3	2.6	2.5	2.6	2.7
OECD	2.3	2.3	2.5	2.4	2.5

Although there has been little change in the level of technological content of European manufactures exports, there has been a significant increase in the technological content of Japanese manufactures exports. By 1977, Japan ranked second behind the United States in terms of the technological content of its exports. This confirms the widespread impression that the United States is experiencing increased competition from Japan in the more technically sophisticated industries. A comparison of export market shares in third market areas reinforces this conclusion.

Changes in relative competitiveness in high-technology products can best be measured by examining exports of the major countries to a third market region where everyone faces the same market conditions. Such a comparison reveals that the United States has been losing ground, particularly to Japan. For example, in 1962 the U.S. share of exports of high-technology products to developing countries was 46 percent. By 1970 the U.S. share had dropped to 31 percent and it fell further to 25 percent in 1977. In contrast, Japan's share rose from 6 percent in 1962 to 13 percent in 1970 and to 22 percent in 1977. Thus, although the United States maintains the lead in exports of high-technology products, its competitive advantage is being eroded at least with respect to Japan.

In conclusion, the changing distribution of world resources, and thus their availability among countries, along with the increased technical effort by our major competitors are jointly responsible for the relative decline in the dominance of the United States in world trade. Because the United States emerged from World War II with its industrial base intact, it had a unique position in the world economy. That unique position has now largely disappeared, and the United States must now concentrate on keeping its industrial and agricultural base competitive because, if past trends continue, U.S. industries are likely to face increased international competition in the future.

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Mr. STEVENSON. Mr. President, much has also been said about the issue of controlling interests by banks in trading companies, and the position of the Federal Reserve Board on that issue.

The most comprehensive statement of which I am aware on that issue is by the Comptroller of the United States. He discusses at some length the importance of bank participation through controlling interests in trading companies, and concludes that not only will the trading companies be served but also the banks.

Therefore, I also ask unanimous consent that a statement by the Comptroller before the Committee on Banking, Housing, and Urban Affairs be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF JOHN G. HEIMANN

This is in response to the Committee's request for the views of the Office of the Comptroller of the Currency on the "Export Trading Company Act of 1980" (S. 2718). We welcome the opportunity to comment on this legislative proposal. Our comments are limited to those provisions which permit bank participation in new export trading ventures.

S. 2718 is designed to promote the expansion of U.S. exports through the formation and operation of export trading companies ("ETCs") to facilitate the export of goods and services on behalf of small- and medium-sized firms. The bill provides for a significant role for U.S. banking organizations as an important component of the promotion of exports by permitting their investment in and ownership of ETCs.

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[3] After identifying the commodities which constitute the U.S. export and import bundles, the analysis was carried out for a cross section of thirty four countries at five different points in time. See Bowen (1980) for details.

[4] See National Science Foundation (1980) for a more complete discussion.

[5] Aho and Rosen (1980) identify seventeen 3-digit commodities as technology intensive and compare recent U.S. trade performance in these commodities with overall U.S. manufacturing trade, with past U.S. performance and with the performance of major competitors.

This Office supports the concept of export trading companies and urges the enactment of this legislation. Our national interests require the strengthening of U.S. competitiveness in world markets. The proposed ETCs appear to be a viable means to further that national objective. Various testimony on S. 2718 and similar bills has strongly advocated bank participation as an essential element to successful trading company operations. ETCs require the capital, financing, financially-related services, and marketing capacities which U.S. banking organizations can provide through their national and international networks to small- and medium-sized firms across the U.S. We believe that it is necessary for a significant role to be taken by banks to assure the success of ETC operations.

While the degree of future bank participation in ETCs, and the forms that such participation may take, remain unclear at the early conceptual stage of developing a U.S. model for trading companies, we do anticipate a wide range of bank lending to and investment in ETCs. This would reflect the diversity of probable bank participants as well as the diversity of the local and regional businesses which ETCs would serve. Permitting banks to have equity interests in ETCs would be a long-term incentive for them to establish the additional organizational framework necessary for them to provide a complete range of services to effectively promote exports of goods and services. A bank prudentially may require a controlling interest in an ETC in which it becomes an active participant. For these reasons we do not want to foreclose a bank's ability to acquire such an interest. Accordingly, we support ownership of ETCs by banking organizations if the reasonable supervisory safeguards in S. 2718 are enacted.

Equity participation by banks in ETCs would to a limited extent breach the traditional policy of separating banking and commerce. However, we believe that S. 2718 addresses the national interest of export promotion in a way which preserves the safety and soundness of the banking system. The Congress has previously permitted limited bank participation in commercial activities over the past 60 years to accommodate particular national needs—our current trade imbalances require similar legislative action.

A healthy and expanding export sector has become increasingly essential to a strong U.S. economy, the stability of our external accounts, and our critical fight against inflation. Exports contribute significantly to U.S. employment, production and growth; enable economies of scale which contribute to the efficient use of resources and reduced prices; and provide a constructive method for the payment for U.S. imports of essential and desired commodities. U.S. industries must be able to compete abroad if they are to maintain their ability to compete at home.

The Commerce Department reports that only 10 percent of the 250,000 U.S. manufacturing firms export their products and that total U.S. exports account for the lowest percentage of gross national product of any industrialized nation. Also, 95 percent of U.S. manufacturing firms are small- or medium-sized companies which employ less than a thousand persons. These companies represent a small share of exports, about 10–15 percent of total U.S. exports. Conversely, most U.S. exports are the sales of a small number of U.S. firms. Approximately 100 U.S. firms account for 50 percent of the total exports of U.S. manufacturers. The purpose of this bill is to strengthen the international competitiveness of the U.S. by providing small- and medium-sized U.S. firms increased opportunities to export. At present, these firms face a number of structural obstacles and disincentives to exporting which are difficult for the independent firm to overcome.

FLEXIBLE ETC SERVICES

At the present time, small- and medium-sized U.S. firms have four primary methods available by which they may export goods and services. They may: sell directly to foreign end-users; sell through foreign agents or brokers; sell through U.S. export management companies; or, find a large U.S. multinational firm that needs certain products for specific overseas activities. These methods apparently have not provided U.S. firms with adequate opportunities to export their goods and services. These methods entail problems for small- or medium-sized firms which act as disincentives to exporting. Such practical barriers include:

Selling directly overseas ties up the current cash flow of U.S. firms because of slower payment time than in the domestic market.

Foreign export agents or brokers often demand total product control and extremely flexible pricing.

The majority of export management companies lack the expertise to handle more than one or two specialized product lines. Most of these companies lack the management and capital necessary to expand geographically and to establish overseas sales offices.

Generally, large U.S. multinational firms do not directly involve smaller firms in foreign trade.

Besides these difficulties, small- and medium-sized U.S. firms lack other necessary capabilities and expertise such as specialized knowledge of markets to match specific product demands, funds for the development of a foreign market for their particular products, adequate working capital, and adequate financing for foreign purchasers of goods or services. These problems have substantially contributed to the lack of participation of many small- and medium-sized U.S. firms in export trade.

The export trading companies would be an alternative to the existing cumbersome export mechanisms and would encourage the involvement of small- and medium-sized U.S. firms in export trade. As demonstrated by the successful operation of export trading companies in other countries, an export trading company can develop and provide an integrated package of managerial and financial services to facilitate exports. Export trading companies, through volume transactions, also permit economies of scale to reduce the costs of exporting goods or services by U.S. firms.

Export trading companies abroad have proved to be effective. They act as more than intermediaries handling a broad spectrum of products. Export trading companies not only function as a bridge between suppliers and users of products but also provide many other services essential to successful exporting. For example, an export trading company may offer expertise in financing, credit services, market analysis, distribution channels, documentation, leasing, communications, accounting, foreign exchange and advertising. Essentially, an export trading company reduces the requirements for special expertise and capital investment of firms interested in exporting. U.S. businesses should not be deprived of the same advantages as those enjoyed by foreign competitors through their access to such foreign ETC exporting assistance.

THE ROLE FOR BANKS

U.S. banking organizations should play a significant role in the development of export trading companies. They can contribute significantly to U.S. export capabilities in several ways. First, banks have extensive national and international networks comprised of branches, subsidiaries, affiliates, representative offices and correspondent relationships. These networks not only can provide essential marketing and other services abroad but, more importantly, these networks extend throughout the U.S. touching virtually all small- and medium-sized firms. Second, U.S. banks can provide through that network a wide range of export-related financing as well as ancillary services, such as assistance and guidance in the identification of foreign markets, foreign exchange, trade documentation, transportation and warehousing. Third, banks can provide export trading companies and exporters the financing necessary for export transactions.

Major foreign banks which are involved in export trading companies provide a convenient single-source service for exporters abroad. U.S. banks, however, are not authorized under existing laws to offer the complete range of services essential to attracting small- and medium-sized U.S. firms into exporting their goods and services.

Traditionally, the export promotion efforts of U.S. banking organizations have been adjunct to overall commercial lending because their operations have been legally confined to those activities which are considered to be closely related to the business of banking. U.S. banking organizations have the systems, skills, and experience necessary to provide one-stop export services to U.S. firms but need broader authority to do so. S. 2718 would provide that authority by permitting participation in ETCs by banking organizations.

U.S. bank investment in ETCs would facilitate achievement of the underlying purposes of the proposed legislation. With equity participations in ETCs, banks could readily package essential one-stop exporting services which would greatly reduce the expertise and overhead expenses required of individual firms seeking to sell abroad.

There are other reasons why S. 2718 properly permits U.S. banks to invest in ETCs. First, the investment authorities contained in S. 2718 would increase the number of possible investors and available capital to form ETCs. Second, banks with their international offices, experience in trade financing, and familiarity with domestic U.S. producers, are likely sources of leadership in forming ETCs. They possess many of the skills important to ETC organization and management. Third, their investment in ETCs would provide banking organizations with an incentive to create the long-term organizational framework necessary to accommodate export promotion as a mainstream function. Finally, by permitting U.S. banking organizations to hold equity investments in ETCs, S. 2718 would rationalize the present system of authorities. U.S. banks are presently permitted to be involved in foreign ETCs which can buy and sell goods and services abroad. Foreign banks operating in the United States may also own a foreign ETC which can export goods to the United States.

We do not know, however, the degree and forms of participation that U.S. banks may develop with ETCs. We also cannot forecast whether banks would immediately begin to organize ETCs should this bill be enacted. We are only working with a conceptual model for ETCs at this time. However, we anticipate that, should the legislation be passed, U.S. banks over time would develop ETC relationships suited to the wide range of commercial transactions generated by their own local and regional economies. We are confident that U.S. multinational banks would seize any new opportunities in this area. Moreover, multinational and regional banks would also offer ETC facilities and participations to local banks and firms through joint ventures.

We support the provisions of S. 2718 which provide for U.S. banking organizations to own a controlling interest in ETCs. This Office generally prefers banks to have equity and management control over their affiliate relationships rather than have that capital exposed to decisions by majority non-bank partners. It also is reasonable to expect banks to be more inclined to form ETCs if the banks can control their investment and the ETC's activities. The unfavorable bank experience during the early 1970's with less than controlling participations in REITs, foreign banks and finance companies have led U.S. banks to adopt investment strategies which generally avoid non-controlling positions in affiliates.

We recognize that equity participation by U.S. banking organizations in ETCs would represent an exception to traditional policy which separates banking and commerce. However, we believe that the proposed legislation is consistent with previous exceptions Congress has made in order to further necessary national policies. Congress has permitted banks to own equity participations in Edge Act Corporations, international financial or holding companies, commercial corporations oriented towards national or community purposes, and bank service and other banking related entities. Similarly, we believe this bill addresses the national interest (of export promotion) in a way which preserves the safety and soundness of U.S. banking system.

SUPERVISORY SAFEGUARDS

The proposed legislation contains several necessary supervisory safeguards regarding U.S. bank involvement in ETCs. First, S. 2718 addresses entry and aggregate investment limitations: U.S. banks could not invest more than $10 million or acquire a controling interest in an ETC without prior agency approval; a U.S. bank would not be permitted to invest more than 5 percent of its capital and surplus in the stock of one or more ETCs; the aggregate amount of loans and investments a U.S. bank could make in an ETC would be limited to 10 percent of the bank's capital funds; and, no group of banks could acquire more than 50 percent of an ETC without prior agency approval, even if no one bank were to acquire a controlling interest, and no bank were to invest $10 million or more.

Second, the legislation would also establish several other restrictions on banking organization investors and ETCs. For example, the name of an ETC could not be similar in any respect to that of a banking organization investor. If an ETC takes speculative positions in commodities, all banking organization investors would be required to terminate their ownership interests. A banking organization would be prohibited from making preferential loans to any ETC in which it has any interest, or to any customers of such an ETC. These limitations and restrictions have been structured to provide minimal financial exposure by banking organizations in ETCs and to prevent conflicts of interest.

Most importantly, S. 2718 provides substantial regulatory flexibility to the federal financial supervisory agencies to control investments by banking organizations in ETCs. If an agency determines that the anticipated export benefits of an investment are outweighed by adverse banking factors, the agency may disapprove an investment application submitted by a particular bank. Controlling investments in ETCs by banking organizations can otherwise be limited by (1) conditions imposed by the agencies to limit a banking organization's financial exposure or to prevent possible conflicts of interest or unsound banking practices; and (2) standards set by the agencies regarding the taking of title to goods and inventory by the ETC subsidiary, to ensure against unsafe or unsound practices that could adversely affect a controlling banking organization. The agencies may examine bank-controlled ETCs and may use their cease-and-desist authority to enforce any and all requirements of the law. The agencies may also require divestiture of any ETC investment that would constitute a serious risk to a banking organization investor.

These provisions adequately mitigate the supervisory concerns which we expressed regarding earlier proposals as to the safety and soundness of participating national banks. We do not feel, therefore, that additional statutory restrictions—such as a specific limit on the maximum interest a banking organization may have in an ETC, or a minimum capital ratio for bank-owned ETCs—need be enacted. As you know, Edge Act Corporations (EACs) must now operate within a leveraging regulation which requires paid-in capital and surplus to equal at least seven percent of an EAC's consolidated risk assets. The administrative authority granted to the federal agencies by S. 2718, in our opinion, will allow similar requirements to be imposed upon bank-owned ETCs through implementing regulations, with appropriate variations to take account of different types of permissible ETC activities. We believe that such regulatory authority to fashion particular limitations is preferable to a specific statutory provision.

While we support this legislation, we recommend that certain amendments be adopted. First, the definition of "export trading company" should be clarified to limit non-exporting activities by ETCs to conduct which facilitates U.S. exports, such as activities necessarily involved in international barter arrangements. The bill, as presently drafted, defines an ETC as a company organized and operated "principally" to export U.S. goods and services, among other activities. This definition should be supplemented by a requirement that all activities of an ETC be "related to" international trade.

Second, the specific time limits for agency disposition of investment applications should be extended. S. 2718 requires agency action within 60 days of written notice from a banking organization of its intention to make additional investments or to have an ETC undertake certain activities. S. 2718 would require agency action within 90 days of notice from a banking organization of its intention to make an investment of $10 million or more or to acquire a controlling investment in an ETC. We suggest that these time limits be extended to 90 days in the former case, 120 days in the latter. In either case, an agency's failure to disapprove or impose conditions on a proposed investment within the appropriate time limit would result in the investment being deemed approved. We believe that the additional 30 days will allow the appropriate agencies to give more extensive considerations to new investment or activity proposals. At a minimum, specific statutory authority should be provided for the agencies to extend the time period in appropriate cases.

We fully support the objectives of S. 2718—encouraging the efficient provision of export trade services to U.S. producers and suppliers. The restrictions on bank involvement should adequately protect depositors of banking organizations which choose to participate in the management of ETCs. The limited opening of this area of activity to banks will create a unique U.S. export trading company system to allow more U.S. producers to benefit from existing international marketing networks and trade financing expertise.

Mr. BAKER. Mr. President, 10 years from now, when we review our efforts to resurrect the American economy, the legislation we consider today, the Export Trading Companies Act, will be seen as a major step in eliminating the uneasy relationship between Government and the private sector.

America needs a vigorous export policy. Our balance-of-trade deficits, which have grown significantly over the past several years, would be even greater were it not for the strength of our agricultural and high technology exports.

We can do even better. S. 2718 will improve U.S. export performance by encouraging the creation of companies designed to enhance the export capabilities of thousands of small- and medium-sized American producers.

The major problem for potential American exporters has been the marginal cost of establishing export capabilities. This bill is designed to eliminate the many disincentives to exportation of goods and services by cutting through the regulatory obstacles to aggressive international trade competition.

This bill will not solve all our problems. For far too long, we have shackled American enterprise in rules and regulations which our foreign competitors are free to ignore. We have tried to impose on the international market the rules which govern our domestic markets, and the American economy has paid the price.

Senators on the Banking, Housing and Urban Affairs Committee have expressed some concern about commercial bank participation in export companies, and their concern is not without merit. But we all agree that we must take the risks in order to reverse the mounting trade deficits of the last few years.

The managers of this bill, Mr. STEVENSON and Mr. HEINZ are to be congratulated on their work. They have produced a bill which addresses the core problems facing American exporters.

Speaking for the Members on this side of the aisle, I would like to express my admiration for the senior Senator from Illinois who is retiring from the Senate at the end of this session. His efforts on the behalf of American enterprise and the American people deserve our greatest respect and appreciation.

Mr. THURMOND. Mr. President, I rise today to express my support of S. 2718, the Export Trading Company Act of 1980, of which I am pleased to be a cosponsor.

The purpose of this important legislation is to promote and facilitate the formation of export trading companies and associations. Under the provisions of this bill, the Economic Development Administration and the Small Business Administration are directed to give special consideration to loan and guarantee applications of export trading companies. The Export-Import Bank is directed to establish a program to provide loan guarantees to export trading companies. In addition, banks are allowed to invest in these companies; and in so doing provide the expertise so necessary to the success of the export trading company.

Mr. President, this bill also establishes a mechanism whereby certain activities of export trading companies are exempt from application of antitrust laws. This exemption is granted through a preclearance procedure, and is vital if these companies are to be successful.

Mr. President, I cannot overemphasize the need and importance of increasing our exports. Every other industrialized nation has a higher rate of exports relative to GNP than does the United States. It is no wonder that we find ourselves with a devalued dollar and an unfavorable balance of payments. Furthermore, each additional billion dollars in exports creates between 40,000 to 50,000 new jobs—jobs that are desperately needed by the Nation's unemployed.

Mr. President, fewer than 10 percent of our domestic manufacturing firms are engaged in exporting. Most small and medium sized producers cannot afford the costs and risks involved in fully developing opportunities to market their products and services abroad. The establishment of export trading companies will do much to help these smaller companies overcome the present barriers prohibiting their entry into the export market.

Mr. President, I sincerely hope that my colleagues in the Senate will recognize the need and importance of this legislation and support its passage.

EXPORT TRADING COMPANIES: HELPING TO REALIZE AMERICA'S EXPORT POTENTIAL

Mr. BRADLEY. Mr. President, this Nation's economic performance during the past decade has made us all more aware of the primary role that international trade and investment now plays in determining levels of growth, employment, and income in the United States. Increasingly, global markets shape the structure of U.S. industry by creating new demand for the output of some sectors, reducing demand for others and sorting out the competitive position of firms within industries. Having our economy become more intertwined in this way with the economies of foreign nations presents us with attractive opportunities as well as with competitive challenges.

These opportunities and challenges alike require that we have a national trade strategy aimed at turning the United States into an effective trading Nation in the rapidly changing international economy. To be successful our trade strategy must promote:

First, strongly competitive industries;

Second, a capacity for economic adjustment based on the fair distribution of costs and benefits attending adjustment among the affected segments of American society;

Third, a clear sense of the economic directions that will enhance the competitive advantages of the United States, reinforced by supportive public policies and market behavior; and

Fourth, an improved integration of U.S. domestic and foreign economic policies founded on greater attention to maximizing the benefits of trade to the United States.

Recognizing the need for formulating a national trade strategy, the Finance Trade Subcommittee currently is holding hearings on changing world economic conditions and the prospects for a trade strategy. I have the honor to chair these hearings. The urgency of adopting an integrated approach to the international challenges and opportunities facing us today has been continually underscored during the sessions we have had so far.

Trade can have much the same positive effect on living standards as advances in technology or productivity—with the added benefit that trade does not incur additional investment costs. With trade based on comparative advantage, Americans exchange goods and services they produce at relatively less cost for what foreign producers make relatively more cheaply than Americans. As with productivity gains, with trade too, Americans get "more" than they otherwise would get for "less".

Competitive exports are the means by which Americans can get "more for less." Regrettably, indications are that the United States is not now exporting at its full potential. To the extent that we fall short of this potential, we short-change ourselves of the benefits of trade, essential benefits such as more jobs, increased technological progress and productivity, higher income and quality of life, anti-inflationary pressures, a stronger dollar and a larger pool of economic resources with which to realize U.S. national security interests abroad.

There are a variety of obstacles that are keeping the United States short of its export potential. Many obstacles stem from Government policies and practices, with sound, but nontrade purposes, which inadvertently have an adverse impact on exporting. Other obstacles can be traced to a history of strong domestic markets in the United States, a history which means that U.S. producers have paid relatively little attention to foreign market opportunities.

This as inattentiveness is in sharp contrast to the OECD countries who are now our fierce competitors for international markets. For example, Japan, almost bereft of natural resources, realized very early in its economic development that in order to pay for its essential raw materials and food, it had to become a vigorous exporter of manufactured goods. Over the years, Japan's exporting tradition has evolved into a powerful trade strategy unrivaled in its efficiency and adaptability to changing world circumstances. But Japan is by no means the only industrialized country that places far greater emphasis on exporting to invigorate its economy than does the United States. France and Germany sell some 35 percent of their manufactured products abroad; the Benelux countries sell 60 percent of their manufactures abroad; the United States still exports less than 10 percent of its manufactured products.

With merchandise trade deficits that have hovered around $30 billion in recent years, we can no longer afford to neglect our export potential.

S. 2718, the Export Trading Companies Act introduced by Senator STEVENSON, takes an important step in assisting U.S. companies to narrow the gap between export potential and current performance. I am proud to be one of the early cosponsors of this legislation and gratified that my judgment is now confirmed beyond dispute by the good company of 51 of my distinguished colleagues.

Mr. President, as you know, the purpose of the bill is to promote exports by facilitating the formation of export trading companies or associations, and it is well designed to do this. Its key achievement is to permit export trading companies to integrate a range of export services, most importantly banking services into a single one-stop shop for firms wanting to export.

A second important achievement is to reduce obstacles posed by antitrust laws to the formation of export trading companies without undermining the legitimate purpose of these laws in deterring activity that restrains competition in domestic markets. An array of conditions and certification procedures established by the bill safeguard the integrity of the banking system and the public interest in strong competition in domestic markets.

The departments and agencies charged with administering banking and antitrust law are vested with important powers of certification and review and they will be expected to exercise these powers with vigilant concern for the larger public interest.

As a result of having reasonably balanced the Nation's interest in promoting exports and regulating markets in order to promote competition and equity, existing export trading companies will multiply and will be able to enhance considerably their effectiveness. American exports will be in a position to compete more vigorously with products of foreign enterprises, whose governments long ago adopted more consolidated approaches to trade.

The bill is particularly a boon to small businesses. Small businesses in America are now just beginning to appreciate what America's big businesses have known for some time: The world has become smaller, national markets are interdependent and opportunities for market growth beyond U.S. borders are even greater than growth opportunities within them. Today, exports account for nearly 10 percent of United States' GNP, but U.S. small business generates some 15 percent of export sales.

I know small business can do better given the right opportunities. S. 1718 offers this kind of right opportunity to small business. For it is small business which now lacks adequate access to information, specialized skills, economies of scale, international marketing and distribution systems, and most importantly, export financing. Big business, most of which is multinational, already has achieved these trade advantages, particularly the integration of export-related services, through its internal structure or through long-term contracts or business relationships. This bill helps overcome informational and organizational barriers to exporting for small business. It thereby opens the field to a class of business that I believe can take on a dynamic role in improving America's trade performance.

Mr. President, we are now in a position to move quickly and make a forceful statement in support of American exports—and therefore American prosperity—by unanimously adopting this much-needed legislation. I truly hope adoption will be unanimous.

Mr. President, I know Senator STEVENSON has worked long and tirelessly on making the export trading companies bill a sound, responsible piece of legislation. He has tried to accommodate, consistent with the bill's objectives, the concerns of his colleagues and of executive branch agencies. The bill is a worthy compromise in the fullest sense. I commend Senator STEVENSON on his foresight in introducing the idea of export trading companies to the U.S. Senate, his creativity and judgment in working through the provisions of the bill, his flexibility in responding to the legitimate concerns of others, and his determination to stay the course until the necessary work is done. I am proud to be part of the effort under his distinguished leadership and I am sure his efforts will be rewarded with passage of this legislation today.

Mr. LEAHY. Mr. President, today the Senate has an opportunity to approve legislation which is of vital importance to our Nation's economy.

The goal of realizing our Nation's full export potential has been heightened by today's conditions of recession and rising unemployment, and S. 2718, the export trading company bill, will bring us dramatically closer to realizing that goal.

The fact that our Nation continues to neglect a major share of our potential export business is inexcusable. It is inexcusable given today's rising levels of unemployment. It is inexcusable given the long string of consecutive trade deficits we have mounted, and the weakening of the dollar and added domestic inflation that have resulted from those deficits.

Mr. President, S. 2718 would encourage the provision of export trading services to tens of thousands of small- and medium-sized companies not now realizing their full export potential. The products of these companies would, in many instances, be highly competitive in world markets. It is essential that we do all we can to see that they reach those markets.

It is my strong belief that this bill will facilitate a marked improvement in our Nation's long-term export performance and trade posture.

The provisions in the bill which permit bank participation in the operations of export trading companies are, I believe, especially important to the effectiveness of this legislation.

Those provisions, like the bill itself, were the result of countless hours of delicate negotiations. It would be unwise and counterproductive for us to amend or delete these provisions here on the Senate floor.

Mr. President, in closing I would like to commend the junior Senators from Illinois and Missouri, and others, for their untiring efforts in drafting and redrafting this export trading company legislation. Their efforts, coming at this time of less than favorable economic circumstances, have done a tremendous service to our Nation's economy and businesses.

Mr. DURENBERGER. Mr. President, my Minnesota constituents are chomping at the bit to increase exports. Congressman BILL FRENZEL and I recently held our second trade conference in Minnesota and the attendance was outstanding. We had people from agriculture, high-technology companies, banks, and an entire range of other companies.

Their message was clear: Give us just a little encouragement and just a little relief from the present obstructions to trade, and we will start reducing our balance-of-trade deficit and improving our economy.

S. 2718 is a significant step in that direction and I wholeheartedly support it.

I am especially pleased to support the additional funding for SBA's participation in promoting export expansion. Numerous successful small businesses are just a step or two away from becoming international in scope. This added emphasis by SBA should help them take that all important step.

There is no reason why exports should account for only 7.5 percent of our GNP, the lowest percentage of any industrialized nation. There is no reason why we should not be the world's leading exporter instead of second to Germany and barely ahead of Japan. By freeing our business sector to more easily form export trading companies and associations we are following a successful pattern established by most European and Asian countries. These companies and associations provide the necessary economies of scale in financing, marketing and other areas to greatly increase the participation of smaller and medium-size companies in the export field.

We need to significantly close the gap between our exports and our imports. Foreign oil alone will cost close to $80 billion in 1980. This trade deficit continues to weaken the international value of the dollar.

Exports are already a significant factor in our economy. Nearly one-third of all farm production is exported. Over 12 percent of our employment is related to exports. The potential is even greater and I am glad to support this aid to fulfilling that potential.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with Mr. PROXMIRE. I ask unanimous consent that I may offer a cloture motion and that it be considered as having been entered on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the bill S. 2718.

Robert C. Byrd, Alan Cranston, Jennings Randolph, Patrick J. Leahy, Claiborne Pell, Jake Garn, John Heinz, Adlai E. Stevenson, Lawton Chiles, Joseph R. Biden, Jr., Paul E. Tsongas, Max Baucus, Lloyd Bentsen, Henry M. Jackson, Bill Bradley, Robert Dole, Rudy Boschwitz, Dennis DeConcini, Thomas F. Eagleton, John C. Danforth.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that amendments in the first degree may be offered up until 1 p.m. tomorrow as though the Senate were in session tomorrow. I think this would be a courtesy we would extend to the distinguished Senator from Wisconsin if we go to cloture, and I would like to make this request as a courtesy to Senators who might oppose it.

Mr. PROXMIRE. Mr. President, I thank the distinguished leader. I want to be sure we have an opportunity to vote on the amendments this Senator offers and the Senator from Ohio and the Senator from Massachusetts offer.

Earlier today I obtained unanimous consent to have the Danforth amendment treated as original text for purposes of amendment. The Senator from Illinois introduced a whole series of amendments. They were excellent amendments in many cases, and they were offered as if they were committee amendments.

I am concerned that it may be those amendments may amend parts of the bill which our amendment might affect, and for that reason I ask unanimous consent that the Federal Reserve amendments, which I am sure the Senator from Illinois is fairly familiar with, be in order notwithstanding the fact that they may amend a part of the bill which the Senator's previous amendments have affected.

I also ask unanimous consent that the Metzenbaum-Kennedy amendment be in order under the same condition.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, would these amendments be germane otherwise under cloture?

The PRESIDING OFFICER. They have to be germane.

Mr. ROBERT C. BYRD. I understand that they would have to, but the Senator is asking unanimous consent that they be in order. Would they otherwise be in order?

The PRESIDING OFFICER. If the Senator gets unanimous consent they will be in order.

Mr. ROBERT C. BYRD. Yes. That is why I am reserving the right to object.

Can the Parliamentarian advise the Chair as to whether or not the amendments, the aforementioned amendments, would be germane?

Mr. PROXMIRE. They are 2276 and 2277.

The PRESIDING OFFICER. Amendment 2277 is germane. Amendment 2276 does not appear to be germane.

Mr. ROBERT C. BYRD. Mr. President, I will leave it up to the distinguished Senator from Illinois as to whether or not he wants to allow that amendment to come in under cloture. That amendment would not be permitted in under cloture. But if the request by Mr. PROXMIRE is agreed to, it would be allowed to come in notwithstanding the invoking of cloture. I will leave it up to the distinguished Senator from Illinois.

Mr. STEVENSON. Mr. President, reserving the right to object, and assuming these amendments are germane, would they be in order as amendments to the bill as it is now amended?

The PRESIDING OFFICER. Amendment 2277 amends the bill in more than two places and will be subject to a point of order on that ground.

Amendment 2276 also amends the bill in more than two places and would be subject to a point of order on that ground.

Mr. STEVENSON. Would they not also be out of order as amendments to parts of the bill which have already been amended?

The PRESIDING OFFICER. The only restriction on amendments to a part of the bill already amended is if they directly amend an amendment already agreed to. These would not fall in that category.

Mr. STEVENSON. I thank the Chair.

Mr. President, I will object. I do not wish, however, to deprive the distinguished Senator from Wisconsin of a vote on his amendment, nor do I wish to deprive the Senator from Ohio of a vote on his amendment.

Therefore, if my friends, the authors of these amendments, were willing to agree to an order which established a time for such votes by the Senate, after even more time to debate, if that is their desire and if the majority leader is willing, I would not object. But, under these circumstances, I regret that I must do so.

Mr. PROXMIRE. Mr. President, I think the Senator from Illinois is reasonable. I understand his position.

I would agree to a time limitation. What the Senator, as I understand it, is suggesting here is that we agree to a vote, either at a certain time or with a certain amount of time allowed on each amendment. I think, under the circumstances that would be fine, if we qualify both amendments to say vote on one after an hour of debate. I do not know what Senator METZENBAUM wants to do. I would have to consult with him. But I think he probably would have something like the same time necessary.

I would not insist, under those circumstances on proceeding.

As the Senator from West Virginia knows very well, I can file a whole series of amendments and I can break this down into parts and so forth and qualify it and just not amend it in two places. But I think what we all want to do is get the votes on these amendments. We have discussed them at great length today.

Therefore, I would agree to an unanimous-consent agreement that would have us vote at a certain time on my amendment. I will do my best to urge the Senators from Ohio and Massachusetts to agree to have a vote at a certain time on their amendment.

Mr. STEVENSON. Mr. President, reserving the right to object, I thank the Senator and commend him for both his forthcoming and cooperative attitude.

I would have no objection to an order which established a time for the votes on these two amendments.

I do think, in order to accomplish our purpose, it would be necessary for such an order to guard against a number of additional amendments and that, therefore, the order might also rule out other amendments or establish a time for the vote on final passage.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the return of the Senate on Wednesday, a week from tomorrow, after the two leaders have been recognized under the standing order, and the order for the recognition of a Senator—I believe there is an order in?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. The Senate resume consideration of the pending measure, the Export Trading Act; that Mr. PROXMIRE be recognized to call up his amendment numbered 2276; that there be 1 hour debate thereon, equally divided between Mr. PROXMIRE and Mr. STEVENSON, and the vote then occur up or down on the amendment; after which there be 1 hour on an amendment by Mr. METZENBAUM, to be equally divided in accordance with the usual form; after which the Senate will proceed immediately to third reading, without further amendment, motion, debate, or point of order; after which the Senate proceed immediately to a vote on final passage, without further debate, motion, or point of order; and that there be no time for debate on a motion to reconsider the vote on final passage; provided further, that on an amendment by Mr. RIEGLE to provide assistance to small business to hire export managers, there be a 30-minute time limitation, the time to be equally divided in accordance with the usual form; and on an amendment by Mr. HELMS to strike the EDA, there be a 30-minute time limitation, equally divided in accordance with the usual form; and, of course, with the additional proviso that if the agreeement is entered into, the cloture motion that has been entered would be withdrawn.

Mr. STEVENS. Mr. President, reserving the right to object, and I do not think I shall object, how many amendments then are taken care of by this agreement and is it a closed agreement that there be no other amendments?

The PRESIDING OFFICER. It would not shut out second-degree amendments, but it would shut out the debate on second-degree amendments.

Mr. PROXMIRE. Mr. President, would the Senator consider modifying his unanimous-consent agreement to provide that there be no second-degree amendments? Because, otherwise, we have no way of knowing what is likely to come in. I would feel better, if the Senator from Illinois would not object.

Mr. STEVENSON. I have no objection.

Mr. ROBERT C. BYRD. Mr. President, I make that request.

Mr. PERCY. Mr. President, reserving the right to object.

Mr. STEVENS. If the Senator will withhold a minute; are we acquainted with the text of the four amendments? Are they identified in the request sufficiently to know the subject matter? I am sorry I came in late in the discussion.

The PRESIDING OFFICER. The subject matter has been identified.

Mr. STEVENS. No other first-degree amendments would be in order?

The PRESIDING OFFICER. The Senator is correct; or second-degree amendments.

Mr. STEVENS. I heard that, yes. I thank the Chair.

Does the Senator from Illinois wish to object?

Mr. PERCY. Mr. President, I reserved the right to object to inquire, because the Senator from Illinois has a particular problem. My plane at Dulles does not land until 5 o'clock Wednesday night. I intended fully to be here tomorrow to work and hoped that we would not be having business that would require a lot of voting.

The PRESIDING OFFICER. Will the Senator use the microphone. It is very difficult to hear.

Mr. PERCY. Mr. President, I wondered what the timing would be on these votes and whether or not it would be possible to back them up or push them off until Thursday morning when more Senators would be back, considering that there would be at least four votes. We would get all of the debate out of the way and just have them when the full Senate would be here.

Mr. ROBERT C. BYRD. Mr. President, I do not wish to put off votes until Thursday. We are knocking tomorrow off. The Senate was supposed to be in tomorrow. I do not think we should extend this to add another day to the Labor Day break. I say this respectfully to the distinguished Senator. It is perfectly all right with me to have the votes occur, say, at 3 or 4 o'clock on Wednesday afternoon, but to put them over until Thursday I would not be agreeable to.

Mr. PERCY. Would it be possible to have them back-to-back beginning at 6 o'clock and have them finished up by 7 o'clock? That would enable the Senator from Illinois to get back. I would not make that request other than the fact that it is a very important engagement that I have on the west coast and there does not seem to be any way I can get back that I know of before 5 o'clock. We land at Dulles. It is not unusual for us to be here until 6:30 or 7 in the evening. Having been away, that would certainly accommodate the Senator from Illinois very much and I do want to vote on this measure.

Mr. ROBERT C. BYRD. Of course, I do want to accommodate the Senator from Illinois but I do not want to inconvenience the entire Senate to do it.

Mr. PERCY. It is just a question of getting a plane out of the west coast that would get here in time.

Mr. ROBERT C. BYRD. I would be glad to give the Senator from Illinois a live pair if he wishes to have a live pair. I would be glad to do that.

Mr. PERCY. No; I would want to vote on this measure. The Senator knows how strongly I feel about it. I certainly want to be as accommodating as I possibly can be. The question that I have is in the past we have backed up votes. We are certainly planning to be here up until 7. If there is any reason someone cannot stay here until 7, the Senator from Illinois would weigh his request against that Senator. We would ordinarily begin this voting process by 3 or 4 o'clock. The Senator from Illinois is asking for a couple more hours.

Mr. ROBERT C. BYRD. The voting process, as laid out in the request, would probably depend on what time the Senate comes in on its return. I had earlier thought we would come in at 10 o'clock that day because the Senate will have been out a week and a day, or a week. The Senate is only going to have about 25 days, including Saturdays, give a day or two one way or the other, when the Senate returns until it goes out again. I will get the Senator live pairs on his votes, if he wishes, or try to get live pairs for him, but I would like to see the Senate get on with its business. There may or may not be other business that would take us up to 6 or 7 o'clock. If there were, I would have no particular problem. There may be other Senators who are going to leave. If we enter into an agreement tonight to accommodate a Senator to have these votes not occur before 6 or 7 o'clock, there may be Senators who are not here today who plan to leave at 5 o'clock or 6 o'clock, and thereby they would be discommoded. I wish we could accommodate every Senator.

Mr. STEVENS. Reserving the right to object, Mr. President, what time will we be coming in on Wesnesday, if I might ask the leader?

Mr. ROBERT C. BYRD. I plan to come in at 10 o'clock because we are going to take up another bill, the veterans vocational rehabilitation bill.

Mr. STEVENS. We have a series of special orders also that morning, do we not?

Mr. ROBERT C. BYRD. We have one special order.

I am advised there are three. We are going to have the veterans vocational rehabilitation bill.

The PRESIDING OFFICER. The Chair wishes to correct a statement. There are no special orders on Wednesday. On Thursday there are special orders.

Mr. STEVENS. I might state to the Chair, it would be my hope that the requests of Senators HATCH and BAKER for 15 minutes each that morning would be granted. I am just trying to figure out the time in terms of this time agreement. If the time did start running on this bill at noon, is the leader still going to take up the veterans bill?

Mr. ROBERT C. BYRD. Yes. Under the order that was entered earlier the veterans vocational rehabilitation bill would be coming up on Wednesday following the disposition of the Export Trading Act.

Mr. STEVENS. That would be afterward, under the order?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Would it be convenient to take it up before, under the arrangements we are now preparing, instead of awaiting the completion of the export bill?

Mr. ROBERT C. BYRD. There is no time agreement on the veterans vocational rehabilitation bill.

Mr. STEVENS. But it was contemplated it would be the pending business when we came back?

Mr. ROBERT C. BYRD. That is true. But it was also contemplated that the Senate would complete action on the now pending business before we went out today.

It is perfectly all right with me, if it is agreeable to the distinguished Senator from Illinois and the Senator from Wisconsin——

Mr. STEVENS. I spoke to the Senator from Wyoming (Mr. SIMPSON) and he indicated he was prepared to take that up when we came back.

Mr. ROBERT C. BYRD. If they have no objections to go ahead with the veterans vocational rehabilitation bill, it is all right with me.

The request that I have just offered was to the extent that immediately after the two leaders are recognized on Wednesday and the order for a Senator—I thought an order had been entered—the Senate would return to this bill, which means that if this order is entered, the Senate will be back on this bill on that Wednesday. We have a time agreement on it, if it is entered into, and it would have to be disposed of before we go to the veterans vocational rehabilitation bill. If Senators want to proceed with the two in reverse, it is all right with me.

Mr. STEVENS. Does the Senator from Wisconsin see any problem? That would be my request on the leadership. Unfortunately, I will have to miss the votes on this bill in any event. But I do think we might take up the veterans bill after my discussion with Senator SIMPSON.

Mr. ROBERT C. BYRD. May I say also that if this request is not agreed to, the Senate will be voting at about 1 hour and 15 minutes after the Senate comes in, the Senate will be voting on cloture on this bill, and the Senator from Illinois would miss that vote. I have a considerable degree of confidence that cloture will be invoked, in which case there will be votes all afternoon. So whether or not we get the agreement, I think what is going to happen is that we will be voting all afternoon if we do not get the agreement, which would mean that we would have the votes in any event.

Mr. STEVENS. Might I ask my good friend as a matter of accommodation if we could not change the order, to go ahead with the time agreement as outlined, to take up the veterans bill, grant the request of Senators HATCH and BAKER for their 15 minutes following the other individual special order, and complete the veterans bill prior to taking up this bill under the time agreement as specified? That would carry the matter into probably Thursday morning at the latest in consideration of this bill.

Mr. ROBERT C. BYRD. Mr. President, in any event, let me withdraw that request temporarily.

ORDER FOR RECOGNITION OF SENATORS BAKER AND HATCH ON WEDNESDAY, SEPTEMBER 3, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. HATCH and Mr. BAKER be recognized, each for not to exceed 15 minutes, on Wednesday a week from tomorrow, following the standing order for the recognition of the two leaders.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. STEVENS. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, what is the wish of Mr. STEVENSON and Mr. PROXMIRE? Do they wish to reverse the order of these two bills?

Mr. STEVENSON. Mr. President, is there any estimate as to how long the veterans bill will take?

Mr. ROBERT C. BYRD. May I ask the distinguished senior Senator from Illinois, when he took on the engagement in California, did he not take into consideration that they might be some rollcall votes during the day?

Mr. PERCY. The Senator from Illinois miscalculated totally. I cleared the deck for tomorrow, figuring we would be here right up until the last minute, and took the chance that, with all the family wedding and a lot of family members out there, I just hate to break into that. I was planning on landing at 5 o'clock. I thought we were coming in at noon so that we would not be voting immediately.

Mr. STEVENS. Mr. President, if the Senator from Illinois will yield to me, I have just been informed that we have an objection on this side to taking up the veterans bill prior to the export bill. I reluctantly report that to the leadership.

Mr. CRANSTON. Prior to when?

Mr. STEVENS. Prior to the export bill. It was the understanding that it would follow the export bill and there is an objection that I have to raise.

Mr. PROXMIRE. Mr. President, I am perfectly willing to have this come any time at all at the convenience of the leader. Any time he and Senator STEVENSON want to schedule it is fine with me. We can have it early on Wednesday, late on Wednesday, Thursday—whenever.

Mr. ROBERT C. BYRD. I thank the Senator from Wisconsin. This is characteristic of him and I am most appreciative.

Mr. PERCY. Would it be possible, Mr. President, is it acceptable to those managing the bill to have the votes either on Wednesday, beginning at 6 o'clock or 6:15, or Thursday morning? Finish all the debate on Wednesday and have a time certain for Thursday morning or Wednesday morning?

Mr. ROBERT C. BYRD. Mr. President, suppose there is a Senator who has engagements on Thursday morning who is not here now. We are going to discommode that Senator.

I think the time will have to come when Senators simply have to take their chances. They either accept an engagement or they let the engagement go. If they accept the engagement, they miss rollcall votes. We are all adults here and we know what our responsibilities and duties are in the Senate. We know that we either make a promise and keep it to speak elsewhere, or we turn down the engagement and stay here and make the rollcall votes. I sometimes marvel at how the Senate stands the strains of accommodating every individual Senator.

Mr. CRANSTON. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. CRANSTON. Is there not an agreement—not a time agreement, but an agreement—that the veterans vocational rehabilitation bill will be laid down?

Mr. ROBERT C. BYRD. Oh, yes, Mr. President.

Mr. CRANSTON. So it is already in the works, despite any objection on that side to taking it up.

Mr. ROBERT C. BYRD. Yes; that is true, Mr. President. But if this request is agreed to, the cloture motion will be vitiated. If the request is not agreed to, then there will be a vote on cloture, and I assume it will be invoked. The last time a cloture motion was entered, cloture was invoked the very first time around. If that is the case, then we shall have rollcall votes on that Wednesday afternoon, like it or not.

Mr. President, I have indicated my willingness to give the distinguished Senator a pair on each of the votes if that would assist him. I do not like to give pairs, because I like my rollcall votes to count back home, where the people are watching my voting record.

Mr. President, I renew the request.

The PRESIDING OFFICER (Mr. RIEGLE). Is there objection?

Mr. STEVENS. Reserving the right to object, does this mean that the export bill will go ahead of the veterans bill?

Mr. ROBERT C. BYRD. It does, Mr. President.

Mr. STEVENS. The agreement that was previously mentioned, four amendments in the first degree, no amendments in the second degree, and this expression will follow upon no amendment—was there some request for no time for reconsideration?

Mr. ROBERT C. BYRD. Yes; there will be no time for no debate on the motion to reconsider.

The PRESIDING OFFICER. The Chair advises that it will be the first order of business upon returning on Wednesday.

Is there objection?

The Chair hears none. It is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator from Illinois for yielding in this instance to the needs of the Senate. I personally appreciate it very much.

Mr. STEVENS. May I ask the leader about the balance of the evening? Are we going to try to finish this matter this evening?

Mr. CRANSTON. May I ask another question? Are we going to lay down the vocational rehabilitation bill, and could we deal with the Dole amendment, which is noncontroversial? We can take that very swiftly.

Mr. ROBERT C. BYRD. The veterans legislation will automatically come down at the close of business under the order for opening statements only. If Senators would like to allow an amendment or so this evening——

Mr. DOLE. I have one that they are willing to accept, if I can find my staff.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. DOLE may call up an amendment to the veterans vocational rehabilitation bill today, it being understood that the managers will accept the amendment and that there will be no rollcall vote.

Mr. DOLE. It is the naming of a hospital.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

It is so ordered.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, may I ask my friend the leader—we have an increasing number of people who are trying to leave, if it is possible to leave this evening. Is it the intent to have votes tonght? The ERISA matter will be worked out.

Mr. ROBERT C. BYRD. Mr. President, is there any intention to request the yeas and nays on the ERISA matter? I see no indication of such.

Mr. STEVENS. I previously checked that on my side and the indication was that there would be no requests. I assume there will be no further votes this evening.

Mr. ROBERT C. BYRD. Mr. President, I state that there will be no further rollcall votes today

EMPLOYEE RETIREMENT INCOME SECURITY ACT

Mr. ROBERT C. BYRD. Mr. President, under the order of yesterday, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 3904.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill amendment of the Senate to the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes.

(The amendment of the House is printed in the RECORD of August 25, 1980.)

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Labor and Human Resources be accorded the privileges of the floor during the consideration of this matter, and during all rollcall votes thereon: Steven Sacher, Gary Ford, Michael Goldberg, Peter Turza, Mildred Dunmore, Susan Painter, Irene Linton, Martin Jenson, Thomas Altmeyer, and Luther Washington,

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1538

Mr. WILLIAMS. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment to H.R. 3904 with a further amendment, which I send to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1538 to the House amendment.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 414 and insert in lieu thereof the following:

"Sec. 414. (a) Section 3304(a)(15) of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: 'except that—

"'(A) the requirements of this paragraph shall only apply in the case of a pension, retirement or retired pay, annuity, or other similar periodic payment under a plan maintained (or contributed to) by a base period or chargeable employer (as determined under the State law), and

"'(B) the State law may provide for limitations on the amount of any such a reduction to take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment;'

"(b) The amendment made by subsection (a) shall apply to certifications of States for 1981 and subsequent years."

Mr. WILLIAMS. Mr. President, last month we amended and approved, by a vote of 85 to 1, H.R. 3904, the Multiemployer Pension Plan Amendments Act of 1980. However, over objections by Senator JAVITS, myself, and others, the Senate included amendments to such unrelated laws as the Occupational Safety and Health Act, the Mine Safety and Health Act, and the Civil Rights Act of 1964. Earlier this week, the House of Representatives deleted these nongermane amendments, made several germane changes, and passed the bill, as amended, for a second time. The Senate must now pass on the most recent House version of the bill.

Our decisions today will likely determine the fate of this legislation. So I ask my colleagues to weigh its merits carefully. I ask that this great institution not deny 8 million Americans, working and retired, the protections that this bill affords.

Four committees of the Congress have considered this legislation, and four have approved it. Both business and labor have scrutinized its every word, and both support it. Uniformly, those groups who would be affected by this measure, those who would be protected by it, and those who must pay for it, support its enactment.

We have worked for 2 years, and drawn on 6 years of practical experience, in fashioning this legislation. We have assured sounder funding of multiemployer plans. We have more equitably allocated the burden of paying for pension benefits in these plans. And we have, most importantly, provided substantial benefit protection for the 8 million workers covered by these plans.

Mr. President, it is time to act. On August 1, a law which everyone agrees is unfair, unworkable and potentially enormously expensive, took effect because the Senate added nongermane amendments that paralyzed the House in its deliberations on this matter.

Only now—a month later—has a fragile compromise been struck in the House that allows us one more opportunity to enact this legislation.

We should delay no more. I ask my colleagues not to again ensnare this legislation in a tangle of unrelated matters.

It is clear that the House feels that substantive and fundamental changes to essential worker protection programs such as the mine safety and health program, the occupational safety and health program, and our Nation's equal employment opportunity programs should not be made in an ill-considered manner, in connection with pension legislation.

I believe that there is wisdom in the action which has been taken by the House, and I believe that in view of the necessity of enacting this pension legislation, the Senate should accede to that action.

The effects of those nongermane amendments are, as we are coming to understand them, profound. For example, the amendment offered by the Senator from Oklahoma, relating to the Occupational Safety and Health Act, would exempt 2.4 million workplaces from safety inspections under OSHA.

These workplaces employ 9 million workers. This was not a mere codification of the existing appropriation rider. The current appropriation rider exempts 800,000 fewer workplaces, and denies protection to 3.8 million fewer workers than does the amendment of the Senator from Oklahoma.

I believe, as I have always believed, that such profound changes in statutory programs should be adopted by the Congress only after thorough study by the legislative committee. It is only as a result of such study that we can fully appreciate the effects of our actions. The House of Representatives apparently shares that belief, and it would not accept this amendment. I would urge my colleagues to accept the wisdom of the House's position.

The same can be said for the amendment offered by the Senator from Wyoming, as modified by the Senators from Georgia and Florida.

That amendment would transfer from the jurisdiction of the Mine Safety and Health Administration the mines that so far this year are responsible for 66 percent of all the mining fatalities which did not occur in coal mines. And that amendment would transfer those mines to an agency which is truly unequipped to deal with the safety and health problems at those very hazardous operations. OSHA has no experience in mine safety, it has no standards, and it would no doubt take years for OSHA to develop applicable standards. It has limited resources, and could not devote enough of these resources to the hazardous mines.

The House of Representatives was just unwilling to agree to such dramatic changes to the programs of two Federal agencies without a clear understanding of the need and a clear idea of what the effects of this change would be on workers.

With respect to both of these amendments, I certainly do not believe that by agreeing to the House's refusal to accept these amendments, we are saying that that is the end of the matter. It is not. These are clearly matters for continuing scrutiny by both the Senate and the House of Representatives.

But by agreeing now to the House's refusal to accept these nongermane amendments, we are rededicating ourselves to the careful and thoughtful examination of important programs through the proper legislative procedure. We are rededicating ourselves to the proposition that the Congress of the United States will not rush to ill-considered conclusions.

In addition to striking these nongermane amendments, the House made several changes in the pension provisions of the bill. Although I, of course, much preferred the Senate bill in these areas, I am prepared to accept most of the changes that have been made by the House.

I would like to summarize these changes briefly for my colleagues:

First. The Senate version of the bill provided that the Hawaii prepaid health care law would not be preempted by section 514(a) of the Employee Retirement Income Security Act of 1974. It also required the Secretary of Labor to conduct a study of the feasibility of extending this exemption to other State health care laws.

The House deleted this provision.

Second. The Senate version of the bill did not allow the benefit guarantee level to be reduced except by Congress.

The House has amended this provision so that, if premiums prove inadequate to support the guarantee level, the guarantee level will decrease automatically to the point at which it can be supported by premiums. In sum, the House version does not require the Congress to act in order for guarantees to be decreased.

Third. The House added to the Senate bill a provision that was in the earlier House version. This provision would authorize the trustees of a multiemployer plan that is in serious financial difficulty to reduce or eliminate benefit increases that have been in effect for less than 5 years.

The Senate version of the bill did not grant plan trustees this authority.

Fourth. The Senate bill provided for compulsory arbitration of disputes over an employer's withdrawal liability. The plan was to have met its burden of proof in the arbitration with respect to the plan's unfunded vested benefits if certain standards were satisfied, and the arbitrator's findings of fact were to be presumed correct—subject to rebuttal—in any subsequent court proceeding.

The House amended this provision to provide that any plan determination would be rebuttably presumed to be correct in any proceeding—whether before an arbitrator or a court.

Fifth. Both the Senate and House versions of the bill allow an employer that withdraws from a multiemployer plan to pay withdrawal liability in annual installments in accordance with a payment schedule determined by the plan. Under the Senate bill, the amount of an employer's annual payment was based on the employer's highest contribution base units and rates in 2 of the previous 5 years.

The House changed the manner in which the two amounts are determined. The House bill focuses on the 3 plan years in the last 10 during which the employer's contribution base units and rates were greatest.

Sixth. Both the Senate and the House versions of the bill direct the PBGC to establish by regulation a supplemental guarantee program for multiemployer plans. This program will insure benefits that exceed the guarantee levels established in the bills.

As passed by the Senate, H.R. 3904 provided that the PBGC would establish terms and conditions that a plan must satisfy in order to qualify for supplmental coverage. The House added specific requirements for coverage, including a requirement that, generally, a plan's assets equal or exceed 15 times the plan's annual benefit payments.

Seventh. Both the Senate and the House bills contain a "safe harbor" funding provision for plans in reorganization. This safe harbor has the effect of limiting the increase in required employer contributions for plans in reorganization.

Under the Senate bill, a plan in reorganization could increase benefits for either past or future service and still get the benefit of the safe harbor rule, but employers would be required to contribute amounts necessary to fund the normal cost of the increase.

The House amendment provides that if a plan in reorganization increases benefits for past service, the employers lose the protection of the safe harbor rule.

Eighth. The Senate version of the bill authorized a special reinsurance fund for employers in the building and construction industry.

The House deleted this provision.

Ninth. The Senate version of the bill granted the General Accounting Office access to the records of plans, employers and unions on their study of the program.

The House bill limits access to plan records only.

Tenth. The House modified the Senate provision regarding unemployment compensation to assure that unemployment compensation is not reduced as a result of increases in social security of railroad retirement benefits, and made certain other changes in this area.

Eleventh. As approved by the Senate, H.R. 3904 provided that if a participant is retired or within 36 months of his normal date of retirement on July 29, 1980, the participant's benefit would be fully rather than partially, guaranteed.

The House excluded from this rule's protection participants in plans that are terminated as a result of all employers withdrawing from the plan.

Twelfth. As approved by the Senate, H.R. 3904 provided a mandatory de minimis deductible of the lesser of $100,000 or 0.75 percent of the plan's total unfunded vested benefits. The House reduced the dollar amount in this formula to $50,000.

Mr. President, the amendment that I have offered simply would strike the unemployment compensation pension-offset provisions adopted by the House and insert in their place the pension-offset provision adopted by the Senate as an amendment to the pending legislation on July 29.

The amendment would limit the pension offset to those persons who are receiving pension or retirement income from an employer for whom they worked during their unemployment compensation base period or an employer who is chargeable for unemployment compensation benefits under the State law.

The amendment also would authorize the States to limit the amount of the pension offset to take into account employee contributions to the pension or retirement plan from which they are receiving benefits.

Under the amendment, this change in the current requirements of law would apply to certifications of State unemployment compensation programs by the Secretary of Labor for 1981 and subsequent years.

Mr. President, the changes made by this amendment are not entirely satisfactory to me.

They do reduce the harmful effects of the unfair and punitive pension-offset requirement of current law. Fewer retirees will suffer the reduction of the unemployment benefits to which they have a right. Some will suffer smaller reductions in those benefits than under current law.

But the inequities are not eliminated—or even reduced to an acceptable minimum—by the provisions of this bill as it now stands. Many of those problems would be solved by the language that came over to us from the House earlier today—language that we find it necessary to remove for the time being so as not to endanger or further delay enactment of this urgently needed legislation in the midst of complex impediments posed by the Congressional Budget Act and its procedures.

With the language in H.R. 3904 as we are now about to vote final passage, there remains the unacceptable discrimination against older workers whose retirement income derives from pensions or annuities. For these workers, unemployment benefits frequently will be reduced by some or all of the amount of their retirement benefits, but there is no such offset for those who have retired on the proceeds of regular savings, life insurance, real estate holdings, or investments in securities.

H.R. 3904 now provides that the States "may" take account of employee contributions to the pension fund, but it should flatly so require. To deny an involuntarily unemployed older worker full entitlement to unemployment compensation benefits, reducing them by the amount of the claimant's own contributions to a pension fund, is one of the inequities of current law that probably will remain in some States. The most glaring case in point involves individuals who were self-employed during their regular working years and established a Keogh plan retirement account entirely with their own funds. After retirement, and after being laid off from a job that may have been necessary for survival, they find that their own financial resources, saved over the years, are being used to reduce their unemployment benefits. This kind of treatment should be flatly prohibited, which the bill does not do.

Some unemployed workers still will have their unemployment benefits reduced, even if the employer who funded their pension is not the same employer who is charged for the unemployment benefits. In other cases, social security recipients will continue to lose unemployment benefits to the extent or half or somewhat less of their social security payments.

Mr. President, H.R. 3904 is one of the most important and urgently needed bills with which I have been involved in many years. Since we are operating under a severe time restriction for enactment of the ERISA provisions of this bill, I am constrained not to press further at this time for improvement of the pension-offset provisions in the bill, although they represent half or less of a loaf of relief for retired Americans who must work to survive.

I remain convinced, however, that the remaining inequities in the pension-offset as modified by this bill—and they are numerous—must be dealt with promptly. I also believe that outright repeal of the pension-offset provision is the only solution.

Therefore, I shall work diligently with Senator Javits and the other cosponsors of S. 3012, our bill to repeal this provision altogether, for its enactment at the earliest possible time. I would welcome the support of all Senators in this endeavor.

Let me repeat what I said earlier. I believe that, with respect to the ERISA provisions, the Senate bill was a better bill, that it afforded greater protection for participants and beneficiaries, and for employers as well. I especially dislike the House provision under which guarantee levels can be reduced without congressional action.

But, taken as a whole, the bill before us is a sound bill. It will greatly improve the lot of America's retirees. And, most importantly, I believe that the time has come for conciliation, and for action.

This unemployment-offset amendment, Mr. President, was originally offered by the Senator from Rhode Island (Mr. Chafee) and the Senator from New Jersey (Mr. Bradley). My understanding is that it will be favorably received when this measure is returned to the House.

Mr. CHAFEE. Mr. President, this amendment which we have presented stays within the budget. This is an amendment that both the House and the Senate have passed previously and, indeed, the Senate has passed it twice.

I understand, as the Senator from New Jersey has pointed out, that the House will accept this amendment. So it assures the passage of ERISA which we all believe is so important.

So, Mr. President, I enthusiastically join in support of this amendment and in support of the overall bill.

Mr. BRADLEY. Mr. President, I am pleased that this amendment has been offered again and that the Senate will adopt it.

I think that it moves a great distance toward resolving the very serious human problems caused by the offset provision in the law that became effective April 1 of this year.

I support this measure. It is probably not the best that we could have gotten under an ideal circumstance, but that is not the world we live in. I think it goes a long way toward resolving this very serious inequity for pensioners who are employed in a second job, laid off, and denied the unemployment compensation they have a right to.

So I strongly support the amendment and urge that we adopt it.

Mr. STEVENS. Mr. President, the distinguished Senator from New York (Mr. Javits) has had to depart early this evening. I ask unanimous consent that the statement he would have made at this time appear in the Record at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. JAVITS. Mr. President, we come to the Senate floor today with H.R. 3904 as amended by the House of Representatives in response to the Senate amendments passed on July 29, 1980. Despite my opposition to certain changes made by the House, I am recommending to the Senate that it accept the latest House version and consider but two amendments.

As Senator Williams and I reported to the Senate on August 6, 1980, the failure of the House to respond to the Senate bill before August 1, 1980, resulted in ERISA's present termination insurance going into effect. While I know of no multiemployer plans which have terminated since August 1—in part, I believe, because of uncertainty about congressional intentions—a potentially dangerous situation persists.

There are at least five plans I know about for which it is economically advantageous to terminate under the present rules, particularly the 30 percent of net worth limitation on employer liability and the 100 percent guarantee of vested benefits. If these five plans with gross termination liabilities totaling $1.1 billion terminated, and we assume collection of employer liability similar to what the Pension Benefit Guaranty Corporation (PBGC) has experienced to date, the net liability which could be shifted to the PBGC by these five plans alone is $800 million.

In light of the prsent law, annual 50-cent premium per participant and the fact that the PBGC has already committed virtually all of its funds to plans covered during the discretionary period, the PBGC, even with its $100 million borrowing authority from the Treasury, would have insufficient resources to pay the potential guaranteed benefits under these plans.

The bill approved by the House makes the following changes in the Senate-passed bill:

The Wallop amendment which would transfer regulatory authority of stone, sand, and gravel, clay and phosphate surface mining from the Mine Safety and Health Administration to the Occupational Safety and Health Administration was deleted.

The Boren amendment which would grant a permanent blanket exemption for certain small businesses from the enforcement provisions of the Occupational Safety and Health Act was dropped.

The Schweiker amendment which would exempt Government contractors with five or fewer employees from the affirmative action requirements of any equal employment opportunity Executive order was dropped.

The Chafee-Bradley amendment which would, among other things, require the reduction of unemployment compensation benefits by the amount of a pension benefit only if the pension comes from the last employer, was expanded so that payments under either the Social Security Act or the Railroad Retirement Act cannot be used to reduce unemployment insurance benefits.

The Wallop amendment to expand the de minimis rule on employer withdrawal liability was dropped.

The Domenici amendment which would apply the present 100-percent guarantee to the benefits of the participants in multiemployer plans who were in pay status as of July 29, 1980 or who are within 3 years of normal retirement and are vested was made inapplicable to participation in plans that are terminated as a result of all employers withdrawing from the plan.

The Bentsen-Long amendment to facilitate a program by the South Bend Lathe Co. to pay lost pension benefits to its employees was left intact.

The Cranston amendment giving the PBGC regulatory authority to modify the motion picture element of the entertainment industry withdrawal liability rule was kept.

In addition, the House made the following changes to the ERISA bill:

The provision saving the Hawaii prepaid health care law from ERISA preemption was deleted.

A provision that benefit guarantees automatically be reduced if the Congress does not approve a PBGC request for increased premiums was added.

An amendment to require that a plan electing supplemental guarantee coverage meet a 15 to 1 assets to benefit ratio test was added.

A provision permitting a plan in reorganization to reduce or eliminate benefits not in effect for 5 years was added.

The provision requiring arbitration of disputes over withdrawal liability was dropped, and a requirement that a plan's withdrawal liability determinations be presumed correct was added.

The Senate safe harbor provision for funding under the minimum contribution requirement was replaced by a rule that if a plan in reorganization increases benefits for past service, the employers lose the protection of the safe harbor rule.

The Senate provision on the annual amount payable under the 20-year cap on withdrawal liability would be changed so that it would be computed in relation to the 3 years during which an employer's contribution base units were the highest out of the 10 years preceding a withdrawal.

The Senate provision authorizing a special insurance fund for employers in the building and construction industry was deleted even though certain related Tax Code provisions were maintained.

The Senate provision granting the General Accounting Office access to records of plans, employers, and unions for a GAO study of the insurance program was limited to plan records only.

Mr. President, I am pleased with the changes the House made dealing with unemployment insurance and the providing of a full guarantee for certain participants in or near pay status. The House's elimination of the unemployment insurance offset regarding social security and railroad retirement benefits is a significant step toward the full elimination of the retirement income offset as provided in my bill, S. 3012. Unfortunately, in order to get this bill through the Senate, it appears necessary to replace the House provision with the more limited, original Senate provision. I am also of the view that the House's deletion of the OSHA, MSHA, and affirmative action Senate amendments was desirable.

I am greatly troubled by the House changes which would disadvantage participants and beneficiaries of employee benefit plans. Among these, I would include the adding of the automatic guarantee reduction provision, the asset-benefit test for supplemental guarantee coverage, and the permissive authority of plans to eliminate certain recently guaranteed benefits. These provisions are a step backward from the policy of protecting plan participants and beneficiaries. Ordinarily, I would oppose these provisions and others in the House bill, but under the present time pressures for passage of this measure, I am willing to accept these changes in order to pass a bill today. The House's deletion of the Hawaii preemption exemption would also disadvantage participants and beneficiaries, and the Senate may wish to consider restoring the exemption provided in the original Senate bill for the limited situation.

I recommend to my colleagues that they vote for passage of the bill before us even though they may dislike certain aspects of what the House has done to the Senate bill. If we do not act today, the consequences in the months and years ahead may be most unfortunate.●

Mr. BAUCUS. Mr. President, will the distinguished Senator from New Jersey yield for a clarification?

Mr. WILLIAMS. I am happy to yield to the Senator from Montana.

Mr. BAUCUS. First, I commend the Senator from New Jersey for his able leadership in securing passage earlier this week of the Multiemployer Pension Plan Amendments Act of 1980. Let me assure my colleague that I am hopeful we can remove all obstacles to prompt enactment of this vital legislation.

If the Senator from New Jersey would permit me, I would appreciate a clarification about section 410 which deals with the treatment of certain severance pay arrangements and supplemental retirement income payments as welfare plans.

The CONGRESSIONAL RECORD of July 29 describes the severance pay provision as permitting the Department of Labor to prescribe rules to treat certain severance pay arrangements and supplemental retirement income payments as welfare plans rather than as pension plans. Under the explanation, an employer could provide for the payment of monthly supplemental payments to retirees based on a formula amounting to 3 percent multiplied by the retiree's monthly pension benefit multiplied by the number of years that such retiree's pension benefit has been in pay status.

As the Senator knows, I introduced this provision as an amendment to the ERISA legislation when the Senate Finance Committee considered the bill earlier this year. I offered the amendment at the request of the Montana Power Co. when I learned that the company's practice of providing supplemental payments to its retirees to cope with rising inflation could be jeopardized under ERISA requirements.

Briefly, the Montana Power Co. has a voluntary supplemental payments program, in addition to a retiree's normal pension, which is designed to enable retirees to cope with the inflationary forces in our economy. In 1975, the Department of Labor issued certain regulations which severely restricted the company's practice of making these supplemental payments to retired workers. The amendment I offered, therefore, is intended to allow companies such as the Montana Power Co. to provide supplemental payments to retirees to reflect inflation. The amendment in no way represents an attempt to circumvent or undermine the underlying principles of ERISA.

My question to the Senator from New Jersey is this: Is it his understanding, based upon the Montana Power Co. arrangement I have just described, that they would qualify for the special treatment afforded supplemental cost-of-living programs under section 410 of the ERISA legislation?

Mr. WILLIAMS. The Senator is correct. Let me assure my friend from Montana that section 410 of the Multiemployer Pension Plan Amendments Act of 1980 is drafted to allow the Montana Power Co. to continue this practice of providing supplemental cost-of-living adjustments to its retirees, in addition to its normal pension payments. It is certainly not our intent to deter or prohibit certain arrangements which are designed to enable retired workers to cope with the brutal impact of inflation. I thank the Senator for clarifying the purpose of section 410.

Mr. BRADLEY. Mr. President, I want to confirm once again with my distinguished colleague, the chairman of the Senate Labor and Human Resources Committee, that the withdrawal liability provisions do not apply retroactively to events such as, for example, a closing of a facility which occurred prior to April 29, 1980, the effective date of the withdrawal liability provisions.

Specifically, I want to confirm that a technical change in the language of section 4217 was not intended to alter the purpose of that section, as stated in the joint explanation of 1076. My understanding is that neither contributions nor base units attributable to facilities closed before April 29, 1980 will be taken into account in any of the following determinations: First, whether or not a partial withdrawal, as defined in section 4205, has occurred; second, the amount of unfunded vested benefits allocable to a withdrawing employer pursuant to section 4211; third, the partial withdrawal adjustment set forth in section 4206; and fourth, the determination of annual liability payments pursuant to section 4219 (c).

Is that understanding correct?

Mr. WILLIAMS. Yes, that is correct. The withdrawal provisions are not to apply retroactively to closing of a facility which occurred prior to April 29, 1980. Specifically, neither contributions nor base units attributable to a facility closed before April 29, 1980, will be taken into account for any purpose.

Mr. DOLE. Mr. President, I support the efforts here to finally resolve this controversy. I strongly support the efforts by Senator CHAFEE. I am pleased there has been an agreement on that. I understand that the House will agree to that amendment.

I believe this bill could have been drafted with more sensitivity in the interests of those who will have to live with its rules. The bill is a significant improvement over present law.

In fairness, it is fair to all employers and those who remain in multiemployer plans, as well as those that withdrew, also improves stability of the termination insurance system and helps assure that benefit guarantees will be available to retirees as needed.

I certainly urge that we accept this bill.

Mr. President, the multiemployer pension plan bill which the Senate sent to the House last month was, in this Senator's opinion, balanced in its concerns for the interests of employers, employees, and retirees, and the multiemployer plans themselves.

We reduced the level of guaranteed benefits and provided for increased premiums to protect the termination insurance system.

We imposed liability on employers who withdraw from multiemployer plans to protect the plans from insolvency.

At the same time, we recognized that the burden on employers, especially smaller employers, could be very great, possibly too great to bear. We, therefore, provided several minor exceptions to the withdrawal liability provisions. One very important protection which immediately comes to mind is the $100,000 mandatory de minimis provision which Senator WALLOP proposed as a floor amendment and which was accepted by a convincing majority of the Members.

Another important protection for withdrawing employers was our provision concerning the base period for computing withdrawal liability. The House provision will greatly increase withdrawal liability because it refers to employment history up to 10 years prior to the year an employer withdraws from a plan. Our provision looks back only 5 years because we recognized that liability should be based upon more current data.

We also were concerned about employees, especially older employees and retirees. We thus, eliminated a plan's authority to reduce benefits while in reorganization. It should be noted that the PBGC itself informed the Finance Committee that this provision would have no substantial effect on plan solvency.

We also included a provision to grandfather retirees and employees who will soon retire under present law benefit guarantee levels. The reason for this is simply that these people will have insufficient time to save additional amounts for retirement years to make up for reduced guaranteed benefits.

The House has decided to return to us a bill that is less attractive from the standpoint of both employers and employees. They have substantially increased withdrawal liability for employers while allowing unnecessary cutbacks in guaranteed benefits to the detriment of employees.

Multiemployer plans are of great importance to workers in certain industries with high turnover or which use hiring halls. Without multiemployer plans, many individuals would never work for one employer long enough to receive pension benefits.

It is important to protect the termination insurance system from plan insolvencies. It is questionable, however, whether a system with insufficient protections for either employers or employees will remain viable for long.

This Senator has long argued that there is need for a review of the impact of this legislation on employers, employee benefits, and the pension plans. The Senate bill included the requirement of a GAO study and congressional hearings. The House version of this provision limits the authority of the GAO to obtain records only from plans, not from either employers or unions. It may be very difficult to determine the effect of this legislation on employers, for instance, without adequate information from them.

The House has also stricken from the Senate bill several additional provisions which seemed reasonable and meritorious to a majority of us.

Included among those measures is Senator WALLOP's provision to place surface mining operations under the jurisdiction of OSHA, rather than MSHA. This measure has enjoyed wide support and should not have been summarily rejected by the House.

Similarly, the provision to exempt small businesses from affirmative action guidelines was very persuasively argued by Senator SCHWEIKER and is of substantial merit. Equally important is Senator BOREN's OSHA amendment relating to small business.

I strongly support Senator CHAFEE's amendment to modify the unemployment compensation pension offset provision. I do not believe the House version of the modification is sound. Furthermore, I do not believe the Senate should be forced to accept the more costly unemployment compensation package passed by the House. I hope we will agree to reinstate the original provision we passed last month.

This Senator understands the importance of this bill to the employers, employees, and plan trustees who have waited and lived with uncertainty about the law that will apply to multiemployer plans. Nevertheless, this Senator is disappointed that the House did not consider these nongermane provisions as carefully as they may merit.

One feature of the Senate bill I am pleased has been retained in the bill before us is that withdrawal liability does not apply retroactively. This includes events such as, for example, a closing of a facility which occurred prior to April 29, 1980, the effective date of the withdrawal liability provisions.

A technical change was made in the language of section 4217 but this was not intended to alter the purpose of that section, as stated in the joint explanation of 1076.

The withdrawal provisions will not apply retroactively in any way to closing of a facility which occurred prior to April 29, 1980. Specifically, neither contributions nor base units attributable to a facility closed before April 29, 1980, will be taken into account for any purpose relating to the imposition or computation of withdrawal liability.

I believe there is no question about this interpretation.

In conclusion, the Senator from Kansas believes this bill could have been drafted with more sensitivity to the needs and interests of those who will have to live with the rules it contains. However, the bill is a significant improvement over present law. It is fairer to all employers—those who remain in multiemployer plans as well as those who withdraw. It may also improve the stability of the termination insurance system and help assure that benefit guarantees will be available to retirees if needed.

The Senator from Kansas, therefore, urges that the Senate, in the spirit of compromise, accept this bill.

I congratulate those that have been able to build this compromise bill this evening: Senators WILLIAMS, CHAFEE, BRADLEY, MATSUNAGA, JAVITS, and others who have shown great interest in the measure.

Mr. JEPSEN. Mr. President, we are here once again to try and pass the multiemployer pension plan amendments to ERISA. Yesterday, the House passed this bill by a unanimous vote. A month ago, the Senate passed it with only one dissenting vote. I cast that vote.

As I pointed out in a subsequent statement, I voted against S. 1076 at that time because I felt that it was unreasonable to expect the Senate to have to vote on such complicated and far-reaching legislation without the benefit of a committee report or sufficient time for study or debate.

Another concern I had is that this legislation would do for multiemployer pension plans what ERISA has already done for single-employer pension plans; namely, put them out of business. The fact is that ERISA has been a disaster for many small companies. Its strict requirements and excessive paperwork caused many companies to simply drop their pension plans rather than submit to ERISA. In the 5 years since implementation of ERISA, 59,365 pension plans were terminated, compared to only 17,895 during the previous 5 years. And the ratio between new pension plans and terminated plans has fallen from 13.5 to 1 before ERISA to 4 to 1 since ERISA. I fear that the same thing will happen to those Americans covered by multiemployer pension plans as well, as the result of S. 1076. As Robert Merry wrote in the Wall Street Journal on July 31, the multiemployer pension bill "could contribute to the eventual demise of multiemployer pension plans, which in turn would threaten the financial well-being of millions of current and future retirees."

I am the first to admit that a lot of pension plans are in serious trouble today, particularly multiemployer plans. General Motors, for example, has an unfunded vested benefit liability of $6.1 billion. Ford's liability is $1.9 billion, Chrysler's is $1.2 billion, and United States Steel's is $1 billion. Lockheed's unfunded pension liability amounts to 117 percent of its net worth. LTV's amounts to 87 percent of its net worth; Chrysler's to 66 percent of its net worth; National Steel's to 47 percent of its net worth; and Bethlehem Steel's unfunded pension liability comes to 46 percent of its total net worth. And the situation is getting worse, as pension benefits promised in earlier years begin to make themselves felt.

At this point I am including a table listing the pension liabilities of 100 major companies. For these companies, unfunded vested benefit liabilities rose almost 14 percent last year alone, compared to 5.5 percent the year before:

		Unfunded prior service costs		Unfunded vested benefits		Fiscal 1979 or 1980 pension and retirement expense	
Company	Fiscal year end	Millions	As percent 3-yr average pretax profit	Millions	As percent net worth	Millions	As percent labor expense
Allied Chemical	12	$406.0	113.6	$62.0	4.3	$62.0	7.2
Aluminum Co. of America	12	880.0	168.3	492.0	19.5	146.0	10.7
Amerada Hess	12	5.3	.7	0	0	7.3	NR
American Brands	12	250.1	56.1	183.1	10.3	59.5	NR
American Can	12	433.5	200.0	191.6	18.1	89.3	7.3
American Home Products	12	0	0	NR	NR	8.1	1.1
American Stores	1	18.3	34.2	5.4	1.6	26.8	NR
American Telephone & Telegraph	11	NR	NR	229.1	.5	2,641.7	14.9
Ashland Oil	9	2.6	4.4	0	0	27.4	NR
Atlantic Richfield	12	NR	NR	118.0	1.9	143.0	12.7
Beatrice Foods	2	98.3	19.0	0	0	51.9	NR
Bendix	9	515.0	211.8	244.4	23.6	93.3	7.9
Bethlehem Steel	12	1,057.0	−1,536.3	1,191.0	46.3	312.7	10.6
Boeing	12	NR	NR	100.0	5.4	128.7	5.7
CPC International	12	205.0	77.1	120.4	12.2	36.5	5.3
Caterpillar Tractor	12	1,100.0	133.7	445.0	14.5	151.8	6.7
Charter	12	10.0	5.4	7.5	1.2	NR	NR
Chrysler	12	1,864.0	−478.0	1,200.0	65.8	260.6	7.0
Cities Service	12	100.0	23.9	IS	0	37.7	7.8
City Investing	12	138.0	65.9	35.0	3.8	26.9	NR
Coca-Cola	12	IS	0	NR	NR	33.0	NR
Colgate-Palmolive	12	99.3	31.7	NR	NR	41.0	NR
Conoco	12	IS	0	NR	NR	104.3	9.0
Consolidated Foods	6	18.1	8.4	IS	0	24.0	NR
Continental Group	12	446.0	223.9	0	0	96.8	7.0
Deere	10	365.0	77.5	278.0	14.1	137.0	7.8
Dow Chemical	12	NR	NR	12.3	.3	115.3	7.2
Du Pont	12	1,525.4	119.0	787.8	14.8	425.7	11.7
Eastman Kodak	12	524.0	34.3	0	0	228.7	7.2
Engelhard Minerals & Chemicals	12	48.4	16.4	IS	0	20.4	NR
Esmark	10	178.0	142.2	166.0	19.1	36.9	NR
Exxon	12	NR	NR	0	0	546.0	13.1
Federal National Morgage Association	12	NR	NR	0	0	2.7	NR
Firestone Tire & Rubber	10	544.2	747.9	217.2	14.8	79.1	4.5
Ford Motor	12	5,100.0	209.9	1,920.0	18.4	811.2	6.1
Foremost-McKesson	3	NR	NR	0	0	13.2	NR
General Dynamics	12	NR	NR	80.0	9.3	76.1	5.2
General Electric	12	1,082.0	50.5	706.0	9.6	412.9	5.0
General Foods	3	214.0	51.3	IS	0	59.2	6.5
General Motors	12	11,900.0	199.0	6,100.0	31.8	1,571.5	7.0
General Telephone & Electronics	12	471.3	38.7	0	0	278.0	NR
Georgia-Pacific	12	73.0	14.4	30.0	1.5	35.0	NR
Getty Oil	12	NR	NR	0	0	36.2	10.2
Goodyear Tire & Rubber	12	845.2	239.9	454.0	21.0	144.6	6.5
Grace (W.R.)	12	NR	NR	0	0	31.1	2.5
Great Atlantic & Pacific Tea	2	6.0	32.1	0	0	42.5	NR
Gulf & Western Industries	7	347.0	125.8	160.0	10.7	64.5	NR
Gulf Oil	12	519.0	21.1	63.0	.7	161.0	10.9
Halliburton	12	NR	NR	IS	0	71.8	2.8
IC Industries	12	107.8	71.9	68.1	5.2	24.3	NR
International Business Machines	12	788.0	14.4	190.0	1.3	971.0	NR
International Paper	12	318.0	77.9	158.0	5.9	72.0	5.8
International Telephone & Telegraph	12	613.0	73.7	116.0	2.1	266.0	5.2
Jewel	1	0	0	NR	NR	22.1	NR
Johnson & Johnson	12	NR	NR	0	0	49.4	3.7
K Mart	1	NR	NR	0	0	43.6	2.2
Kraft	12	5.8	1.7	2.9	.2	40.7	4.7
Kroger	12	126.8	93.5	44.5	7.3	71.9	NR
LTV	12	980.0	1,897.7	624.0	86.9	182.0	NR
Litton Industries	7	IS	0	51.0	5.5	41.4	NR

Company	Fiscal year end	Unfunded prior service costs		Unfunded vested benefits		Fiscal 1979 or 1980 pension and retirement expense	
		Millions	As percent 3-yr average pretax profit	Millions	As percent net worth	Millions	As percent labor expense
Lockheed	12	949.0	1,038.7	391.0	117.4	160.0	10.7
Loews	12	72.2	21.9	25.5	2.5	20.0	NR
Marathon Oil	12	NR	NR	0	0	29.7	11.1
McDonnell Douglas	12	NR	NR	116.0	8.4	176.2	10.8
Minnesota Mining & Manufacturing	12	500.0	50.2	0	0	82.5	4.3
Mobil	12	NR	NR	283.1	2.7	285.3	7.7
Monsanto	12	493.6	93.7	34.9	1.3	92.3	6.0
National Steel	12	NR	NR	660.0	46.7	96.5	7.6
Occidental Petroleum	12	93.0	7.5	NR	NR	27.9	3.5
Pacific Gas & Electric	12	NR	NR	0	0	77.7	10.8
Penny (J. C.)	1	172.0	35.7	0	0	55.0	NR
PepsiCo	12	NR	NR	3.0	.2	36.7	NR
Philip Morris	12	53.6	7.1	NR	NR	54.0	NR
Raytheon	12	111.2	41.7	96.7	10.9	39.1	3.4
Republic Steel	12	914.0	792.0	526.0	35.3	101.4	7.6
Reynolds (R. J.) Industries	12	309.0	34.8	43.0	1.3	75.0	NR
Rockwell International	9	540.0	136.2	330.0	21.4	236.0	8.6
Safeway Stores	12	0	0	0	0	109.9	NR
Sears, Roebuck	1	906.0	77.9	136.0	1.8	186.3	NA
Shell Oil	12	126.0	8.4	NR	NR	155.0	13.2
Signal	12	255.0	94.9	NR	NR	73.2	NR
Southland	12	NR	NR	0	0	NR	NR
Sperry	3	NR	NR	0	0	94.5	NR
Standard Oil (Indiana)	12	NR	NR	67.4	0	109.6	8.5
Standard Oil Co. of California	12	314.0	14.2	0	0	79.9	7.1
Sun	12	19.1	2.1	6.2	.2	76.5	NR
TRW	12	470.0	143.9	148.0	12.8	96.8	4.7
Tenneco	12	230.0	27.5	55.0	1.5	96.0	NR
Textron	12	256.0	88.9	24.0	2.1	58.0	4.5
Trans World	12	321.7	460.5	287.0	44.1	108.7	6.8
UAL	12	725.0	666.4	190.0	16.4	182.0	NR
Union Carbide	12	896.0	130.5	133.0	3.3	172.6	8.0
Union Oil Co. of California	12	NR	NR	0	0	38.5	7.9
United Brands	6	114.0	NR	23.8	4.4	16.7	NR
U.S. Steel	12	1,300.0	−1,446.6	1,000.0	20.4	389.5	7.7
United Technologies	12	272.4	53.2	41.6	1.7	160.3	5.5
Westinghouse Electric	12	924.0	204.6	904.0	39.9	182.0	NR
Weyerhaeuser	12	207.0	35.2	NR	NR	58.6	5.2
Woolworth (F. W.)	1	NR	NR	42.3	3.3	25.9	NR
Xerox	12	NR	NR	0	0	229.5	NR
Composite		45,892.0	92.3	22,420.7	7.1	16,113.7	7.9

Source: Standard & Poor's Compustat Services.

The problem is that as union wage demands became greater and greater, companies sought to defer as many benefits as possible in order to stay in operation. So in lieu of wage increases they promised pension benefits. The workers were happy with this arrangement because they were able to acquire nontaxable benefits. Companies benefited also because it allowed them to accumulate capital.

The abuses which gave rise to ERISA, by and large, occurred in the multiemployer pension plan area, where unions had control of the pension plan rather than the employers. We are all familiar, I am sure, with the abuses involving the Teamsters' Central States Pension Fund. The unions have not really concerned themselves much with the actuarial soundness of their plans. Each year they negotiated with employers for specific contributions to the pension plan that were not necessarily sufficient to pay for vested benefits being promised by the unions.

Now we have gotten ourselves into a fix whereby it would be to the advantage of many multiemployer plans to terminate, with the Federal Government picking up the tab. Here, today, at the last possible minute, we are trying to do something about this by changing the law. Since August 1, 1980, the Government has been liable for billions of dollars of pension liabilities accrued by these multiemployer plans. Luckily, none have terminated yet.

In my view, this exercise only points out the futility of our efforts to straighten out this mess. The law is excessively complicated and really does not solve the problem of actuarially unsound pension plans. It merely makes the U.S. taxpayer liable. If the economy weakens any further, as the result of the Carter administration's disastrous policies, we may find ourselves facing an avalanche of liabilities for pensions that will run into the multibillion-dollar range. What we are doing today is a band-aid, stop-gap solution to one aspect of the problem.

This is another example of Congress abdicating its legislative responsibility to deal with a serious problem in a thorough and realistic manner. I agree that all employees that have entered into pension agreements with employers should be guaranteed their pension as long as the employer is in existence. I do not agree that it is the Government's responsibility to financially protect and bail out the employers and labor unions who knowingly mismanaged and misrepresented pensions and pension funds. There has always been professional, financially secure and actuarily sound pension plans available from the life insurance industry—and I hasten to add—they have always paid their claims as promised. Appropriate action by this Congress would have required all pension funds that are suspect of mismanagement or misrepresented to be corrected immediately by appropriate private sector action. For some reason—investigations by the Labor Department and other governmental bureaus have mysteriously faded into the bureaucratic woodwork. I assure you that we will attempt to correct that in the next session of Congress.

Mr. DURENBERGER. Mr. President, portions of section 4203 of the bill under consideration today provide for a special withdrawal liability procedure from a multiemployer pension plan in the trucking industry to fit the unique conditions that exist in that industry. For example, the contribution base of a plan in the trucking industry almost always will be protected because motor freight volume is relatively constant. When one employer leaves a plan, affected employers will almost always be reemployed by another employer who takes his place. In addition, many of these pension plans provide portability through reciprocal agreements.

Because of these unique circumstances in the motor carrier industry, a withdrawal occurs under this section if an employer ceases all covered operations under the plan and either PBGC determines that the plan has suffered substantial damage as a result of such withdrawal, or the employer fails to furnish a bond in the amount of 50 percent of the employer's withdrawal liability. Thereafter, PBGC has 5 years to determine if the employer's withdrawal, together with any other withdrawals, has damaged the plan's contribution base. In this case, the employer will be treated as having withdrawn from the plan and the bond will be paid to the plan. Thus, this amendment provides for a withdrawal liability procedure modified for the conditions that exist in the trucking industry which fully protects the plan's contribution base.

With specific reference to 4203(d)(1)(A), it should be observed that if the majority of the contributions to any pension plan are made by employers en-

gaged in the over the road (long) and short haul trucking industry, the household goods moving industry and the public warehousing industry, this withdrawal liability procedure will apply to all employers who contribute to such a plan.

● Mr. RANDOLPH. Mr. President, I rise again in support of the multiemployer pension reform bill. Although I have reservations regarding two particular germane changes that the House has made to the ERISA bill, I urge my colleagues to support the bill now before us. We cannot risk delaying this bill any longer by attaching highly controversial, nongermane amendments to it—the stakes are too high for retirees, for the Government, and for stable labor-management relations.

I wish to say a special word to all my colleagues who have a particular interest in the health and stability of the coal industry. Great progress has been made in the effort to rebuild a workable labor-management relationship in the coal fields. This bill is carefully designed to further encourage that process while protecting the interests of all retired miners. However, without enactment of this legislation, there are grave concerns that many of the same severe economic pressures that seriously complicated the last coal negotiations will again threaten negotiations which are scheduled to begin in several weeks.

Those unnecessary pressures, which resulted from the liability provisions in ERISA may now be even greater since mandatory coverage went into effect on August 1. This legislation is too important to risk by again attaching controversial nongermane amendments.

I am fearful if we do not act now, our moment may pass. Several pension plans are already teetering on the brink of disaster and could bankrupt the Government's pension insurance system, resulting in extreme pressures to utilize Federal revenues to prop up the system. While there will be another day for those who support several nongermane amendments, there may not be another chance to put together the broad base of support for this bill that now exists among retirees groups, labor, and management.

As I have said, I am not entirely pleased with the House's actions regarding certain changes they have made. I am seriously disturbed by the House provision that will automatically result in another cutback in pension guarantees if the bill's premiums are inadequate to support its guarantees and if such premiums are not affirmatively raised by Congress. Such a severe cutback should not be left to the bureaucracy, nor allowed to go into effect by congressional inaction. The issue of whether to cut guarantees, raise premiums, or do a combination of both should be left to congressional action.

This issue may not materialize. However, depending on PBGC's experience with the bill's premiums, and since one of my major concerns, the UMWA pension plans, contractually guarantees the retiree's benefits, I have reluctantly come to the conclusion that these provisions must not hinder this bill's passage. I will, however, strongly fight any future efforts to further cut back on these guarantees.

In addition to contractual guarantees, all present retirees will retain 100 percent guarantees by the PBGC in most cases. While I would have greatly preferred the final Senate provisions regarding trustee authority to cutback on pension benefits, the 100-percent guarantee provisions help to moderate the concern that I have with the greater flexibility the House bill provides in this regard.

I expect PBGC, however, to promulgate strict regulations to insure that plan trustees will not prematurely or arbitrarily exercise this authority to cut back benefits. It is my further understanding from the House, and Chairman WILLIAMS, that these House changes do not in any way affect the substance of the colloquy that I engaged in with Chairman WILLIAMS during earlier Senate debate on the fiduciary responsibilities of plan trustees.

Therefore, I strongly urge the Senate to accept the House-passed bill.●

Mr. WILLIAMS. Mr. President, Senator JAVITS and I have a number of comments on the version of H.R. 3904 presently before this body.

DEFINITION OF EMPLOYER

Under current law, a group of trades or businesses under common control, whether or not incorporated, is treated as a single employer for purposes of employer liability under title IV. Thus, if a terminating single employer plan is maintained by one or more members of a controlled group, the entire group is the "employer" and is responsible for any employer liability. The leading case in this area is *Pension Benefit Guaranty Corporation* v. *Ouimet Corp.*, 470 F. Supp. 945 (D. Mass. 1979), in which the court correctly held that all members of a controlled group are jointly and severally liable for employer liability imposed under section 4062 of ERISA. The bill does not modify the definition of "employer" in any way, and the Ouimet decision remains good law.

OBLIGATION TO CONTRIBUTE

The bill defines obligation to contribute as an obligation arising—

First, under one or more collective bargaining, or related, agreements, or

Second, as a result of a duty under applicable labor-management relations law.

The committees intend that the term obligation to contribute under a collective bargaining, or related, agreement apply to any situation in which an employer has directly or indirectly agreed to make contributions to a plan. This includes cases in which the employer signs a collective bargaining agreement or a related agreement such as a participation agreement or memorandum of understanding, and cases in which the employer agreed to be bound by an association agreement.

PARTIAL WITHDRAWAL

It is desirable to clarify the meaning of one of the general partial withdrawal liability tests—that described by proposed ERISA section 4205(b)(2)(A)(i)—about which there may be some confusion. This provision describes a partial withdrawal in a case where the employer permanently ceases to have an obligation to contribute under one or more but fewer than all collective bargaining agreements under which the employer has been obligated to contribute to the plan but continues to perform the same type work under the collective bargaining agreement for which contributions were previously required or where the employer transfers the same type work to another geographical location. Examples of these two situations are where an employer bargains out of making contributions to a plan that the employer was previously required to make under a collective bargaining agreement that is otherwise in effect with respect to other requirements, or, where work that was undertaken at one geographic location for which contributions to a plan were made is transfered by the employer to another of his plants at a different geographic location where contributions to a plan for the work performed are not required.

AVOIDANCE OR EVASION OF LIABILITY

We intend that the term "employer" be construed in a manner consistent with the bill and its purposes. We intend that employers not be able to evade or avoid withdrawal liability through changes in identity, form or control, or through transactions which are less than bona fide and arms length. Hence, for example, a building and construction industry employer—or for that matter any employer contributing to a plan—will not be able to evade withdrawal liability by "going out of business" and resuming business under a different identity.

WITHDRAWAL LIABILITY FUNDS

The bill provides for the establishment of withdrawal liability payment funds. It is useful to clarify the material contained in the Joint Explanatory Statement on S. 1076 printed in the RECORD on July 24, 1980 at page S10120. Under the bill, the board of trustees of a fund is composed of equal representation of employer trustees and employee trustees of plans that contribute to the fund. In addition, the committees intend that PBGC rules with respect to withdrawal liability funds will not require competitive liability between the PBGC administered fund and one of the private reimbursement funds. In other words, PBGC's rules may have other objectives as stated in the bill, but PBGC may not use its rulemaking power to assure that the PBGC-administered fund secures competitive equality with private reimbursement funds.

If the fund so provides, it may pay an employer's attributable liability as long as the employer's total liability is paid to the plan in a single payment and the fund is subrogated to the rights of the plan against the employer regarding attributable liability. The bill provides definitions of attributable and unattributable liability for these purposes. It is noted that if a fund does not provide for the payment of employer's attributable liability, the distinction between such liabilities and unattributable liabilities as described in the bill (which may be further defined by the corporation), need not apply. Therefore, in the case of a fund that does not insure attributable liabilities, it is intended that the definition of unattributable liability in the bill will not be applicable but the fund may establish its own definition of unattributable liability.

CONSTRUCTION INDUSTRY "SUPERTRUST"

New ERISA section 4223(h) as added by the earlier Senate version of H.R. 3904 would permit the establishment by building and construction industry employers of a tax exempt trust to protect such employers from the risk of having to pay higher contributions under a multiemployer plan necessitated because of a decline in the plan's contribution base or for other reasons. This provision recognized the continuing risk to employers remaining as plan contributors of being required to make higher contributions to plans to fund benefits for plan participants whenever other employers cease to be contributing employers.

Subsection (h) was dropped from the bill yesterday by the House for reasons unrelated to the continuing recognition by Congress that building and construction industry employers are faced with a risk of potential importance under various circumstances arising out of their participation in multiemployer pension plans. It is recognized that such employers may wish to insure themselves against such risks by the purchase of insurance from an insurance carrier or other person, and nothing in the Multiemployer Pension Plan Amendments Act of 1980 should be construed to prohibit the purchase of insurance by such employers, from any other person.

CERTAIN PRE-1980 WITHDRAWALS

The bill excludes certain reductions in an employer's contribution base that occurred prior to April 29, 1980, from the computation of that employer's withdrawal liability (section 4217(a)). The bill gives PBGC the authority to prescribe regulations to reallocate that portion of an employer's withdrawal liability to other employers. It is the intent of the Congress that plans must reallocate that liability in a manner not inconsistent with the PBGC regulations.

BENEFIT REDUCTIONS IN REORGANIZATION

The bill provides that a plan in reorganization may only reduce accrued benefits under certain conditions. One of the conditions is that the plan may not subsequently reduce the rate of employer contributions; however, it is not intended to proscribe subsequent reductions in the rate of employer contributions in the event previously reduced benefits are restored. Thus, if a plan has reduced benefits, and the benefit is later restored, the bill would not prohibit a decrease in the rate of employer contributions.

DISCRETION OF PLAN TRUSTEES

We do not intend to restrict plan sponsors' prudent exercise of judgment in administering the withdrawal liability provisions generally. It is expected that plan trustees will need to make practical collection decisions which are consistent with their fiduciary duties and characteristic of any responsible creditor concerned with maximizing the total ultimate recovery at supportable costs. Thus, for example, where it is prudent and in the participants' interest, plan trustees may decide to settle a withdrawal liability dispute for less than the full amount claimed, to cooperate with an employer's other creditors in a contractual or court-supervised renegotiation of the employer's indebtedness, or even to forego the assessment or further collection of liability where it is apparent from the circumstances that the costs involved would exceed the amount likely to be recovered.

PLANS NOT AMENDED TO COMPLY WITH ERISA

It has been brought to our attention that a significant number of pension plans—perhaps as many as 25,000—have never been amended to conform with the requirements of title I of ERISA. This is particularly disturbing because title I contains a number of requirements relating to minimum vesting and participation standards, mandatory joint and survivor annuities, and so forth, that provide crucial protection to plan participants.

Under current law, the PBGC guarantees pension benefits that are nonforfeitable under the terms of a terminated plan. As a result, if a plan administrator or plan sponsor has not amended a plan to comply with ERISA, the PBGC is unable to guarantee the benefits to which a participant is entitled under the standards established by title I of ERISA. In effect, innocent participants are paying the price when their employers disregard the law.

We believe that when a nonamended plan terminates, the PBGC should guarantee those benefits to which the participant would have been entitled if the plan had conformed to the essential requirements of title I, subtitle B, part 2. Accordingly, the bill amends current law to delete the requirement that the PBGC may only guarantee benefits that are nonforfeitable under the terms of a plan. Under the bill, the PBGC has authority to guarantee benefits for which the participants have satisfied the appropriate requirements of title I of ERISA. We expect the PBGC to issue regulations to implement these provisions of the bill in a practicable manner. For example, the regulations may provide that a nonamended plan will be treated as if it had been amended to satisfy the provisions of section 203(a)(2)(A) of ERISA. The PBGC regulations will treat a plan as having been amended on the date that section 211 of ERISA provided that the relevant provisions of title I first applied to the plan. The regulations will also apply to those plans which were not amended on a timely basis, but which were later amended in contemplation of termination. Thus, the appropriate plan amendments will be deemed to have been effective on the date provided in section 211. This provision applies to plans that terminate after the date of enactment of the bill.

DELINQUENT CONTRIBUTIONS

Recourse available under current law for collecting delinquent contributions is insufficient and unnecessarily cumbersome and costly. Some simple collection actions brought by plan trustees have been converted into lengthy, costly, and complex litigation concerning claims and defenses unrelated to the employer's promise and the plan's entitlement to the contributions. This should not be the case. Federal pension law must permit trustees of plans to recover delinquent contributions efficaciously, and without regard to issues which might arise under labor-management relations law (other than 29 U.S.C. 186). Sound national pension policy demands that employers who enter into agreements providing for pension contributions not be permitted to repudiate their pension promises.

In this regard we endorse judicial decisions such as *Lewis* v. *Benedict Coal Corp.*, 361 U.S. 459 (1960); *Lewis* v. *Mill Ridge Coals, Inc.*, 298 F.2d 552 (6th Cir. 1962); and *Huge* v. *Long Hauling Company, Inc.*, 590 F.2d 457 (3rd Cir. 1978). Cases such as *Western Washington Laborers-Employers Health and Security Trust Fund* v. *McDowell*, F. Supp., 103 LRRM 2219 (W.D. Wash., 1979) and *Washington Area Carpenters Welfare Fund, et al.* v. *Overhead Door Company*, C.A. No. 79-0097, USDC D.C., April 22, 1980, are considered to have been incorrectly decided and this legislation is intended to clarify the law in this respect by providing a direct, unambiguous ERISA cause of action to a plan against a delinquent employer.

These same principles apply to a plan's claim for employer withdrawal liability assessed in accordance with this legislation.

The public policy of this legislation to foster the preservation of the private multiemployer plan system necessitates that provision be made to discourage delinquencies and simplify delinquency collection. The bill imposes a Federal statutory duty to contribute on employers that are already obligated to make contributions to multiemployer plans. A plan sponsor that prevails in any action to collect delinquent contributions will be entitled to recover the delinquent contributions, court costs, attorney's fees, interest on the contributions owed and liquidated damages. The intent of this section is to promote the prompt payment of contributions and assist plans in recovering the costs incurred in connection with delinquencies.

It is intended that the specific provisions of this section concerning interest and liquidated damages are not limitations on the amounts otherwise set forth in collective bargaining agreements or plan documents; they constitute a minimum, not a maximum. For example, we understand that there are multiemployer plans which currently provide, in the event of employer contribution delinquency, for the payment of interest and liquidated damages which are in excess of the provisions of this section. Such practice will not be affected by the provisions of this section which directs a court to award unpaid contributions, interest, liquidated damages, reasonable attorney's fees, and costs as well where the plan does not sufficiently address such items.

Under the provisions of the bill, in addition to any other consequences that flow from a default in paying withdrawal liability, a failure to make withdrawal liability payments within the time prescribed is to be treated in the same manner as a delinquent contribution to the plan.

The PRESIDING OFFICER. Does any other Senator desire recognition?

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Chair is about to put the question. Does the Senator from Hawaii——

Mr. MATSUNAGA. I have an amendment to offer.

Mr. WILLIAMS. Is there an amendment pending with no further discussion?

Mr. MATSUNAGA. This is not an amendment to the amendment, if an amendment is pending.

Mr. WILLIAMS. We are ready for the question on the amendment.

The PRESIDING OFFICER. The Chair will withhold the amendment of the Senator from Hawaii.

The Chair would say to the Senator from Hawaii that no amendment is in order at this point.

The Chair inquires: Does the Senator from Hawaii wish to have this amendment considered as an amendment to the matter that is now pending?

Mr. MATSUNAGA. Yes.

A point of inquiry: If the amendment now pending is adopted, will it then be in order for me to offer mv amendment?

The PRESIDING OFFICER. The Chair advises that what is pending is a motion to concur with an amendment, so that if that action were to be taken, that would foreclose the Senator from Hawaii from offering his amendment.

Mr. MATSUNAGA. It is for that reason that I offer my amendment as an amendment to the pending amendment. This would be an additional amendment which has been agreed to by the floor manager.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA) proposes an unprinted amendment numbered 1539 to unprinted amendment numbered 1538.

The amendment is as follows:

(Purpose: To restore the waiver of preemption in the case of the Hawaiian Health Care Plan)

At the end of UP–1538 add the following:

SEC. 417. WAIVER OF PREEMPTION IN CASE OF HAWAIIAN HEALTH CARE PLAN

(a) Section 514(b) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraph (B), subsection (a) shall not apply to the Hawaii Prepaid Health Care Law (Haw. Rev. Stat. 393–1 through 51), as in effect on January 1, 1979.

"(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any State tax law relating to employee benefit plans.

"(C) Notwithstanding subparagraph (A), parts (1), (4), and (5) of this subtitle shall supersede the State law described in such subparagraph, but the Secretary may enter into cooperative arrangements under this paragraph and section 506 with officials of Hawaii to assist them in effectuating the policies of provisions of such laws which are superseded by such parts.".

(b) The Secretary of Labor shall conduct a study on the feasibility of extending the exemption from section 514 (a) of the Employee Retirement Income Security Act of 1974 to include other State laws which establish health care plans and report to the Congress within 2 years after the date of the enactment of this Act.

(c) The amendment made by this section shall take effect on the date of the enactment of this Act.

Mr. MATSUNAGA. Mr. President, when the Senate passed H.R. 3904, the Multi-Employer Pension Amendments of 1980, on July 29, 1980, by a vote of 81 to 1, it approved a provision which would establish an important and long overdue clarification of the intent of Congress on the preemption of the Hawaii Prepaid Health Care Act of 1974 by the Employee Retirement Income Security Act of 1974 (ERISA).

Unfortunately, the substitute amendment to H.R. 3904 that was adopted by the House of Representatives on August 25, 1980, arbitrarily deleted this vitally important provision to the State of Hawaii.

The Hawaii State Legislature began consideration of the Prepaid Health Care Act legislation in 1971, about the time Congress began its review of private pension programs. The Hawaii State Legislature passed the Prepaid Health Care Act legislation in April 1974, prior to the passage of the ERISA legislation by Congress.

Since the Prepaid Health Care Act concerned only the mandated provision of basic comprehensive health insurance protection for employees, and since the Federal Government had not yet taken any formal action on national health insurance legislation, the Hawaii State legislature did not envision a conflict with any existing or immediately anticipated Federal laws when it passed the Prepaid Health Care Act legislation in April 1974. Indeed, the State legislature clearly and rightfully felt that it was pioneering a new and uniquely innovative area of State law when it passed the Prepaid Health Care Act legislation.

In November 1977, however, a Federal district court in San Francisco ruled that because the Hawaii Prepaid Health Care Act and State health insurance laws, generally, were not specifically exempted by Congress, the Hawaii act was preempted by ERISA's broad preemption authority over State laws. This ruling was made in spite of the court's own finding that the legislative history of ERISA contains no mention of preempting State health insurance laws.

The court found that Congress specifically exempted from preemption State laws concerning unemployment compensation, worker's compensation and disability insurance, but concluded that the preemption of the Hawaii Prepaid Health Care Act was accomplished by the inadvertence, if not by the intention of Congress. The court stated that the resolution of this ambiguity in ERISA preemption authority lies with the Congress and not the courts.

The court's decision was rendered in a suit filed by Standard Oil Co. of California against the Hawaii Prepaid Health Care Act. It is the only formal complaint ever received by the State from any employer doing business in Hawaii over the health insurance requirements of the act. The suit was based solely on this ambiguous congressional intent of ERISA's preemption authority over Hawaii's State health insurance law.

During the 95th Congress, with the cosponsorship of Senator INOUYE, I introduced legislation which would clarify this intent of Congress with respect to the preemption of the Hawaii Prepaid Health Care Act. Over the past 3 years, the hearing records of both the Committee on Labor and Human Resources and the Committee on Finance have explicitly and conclusively indicated that the preemption of the Hawaii health insurance law was never envisioned or intended by Congress. In fact, both committees have acknowledged the need to correct this serious ambiguity in ERISA preemption authority through the approval of the Matsunaga amendment to S. 1076, the Senate companion bill to H.R. 3904.

As a result of the passage of the Prepaid Health Care Act, Hawaii has the most comprehensive basic health insurance protection for its residents in the entire country. Because the Hawaii act is based on a community standard of outpatient and prevention-oriented health insurance protection which was established by the private sector over a period of 40 years, the mandated health insurance coverage did not include any inefficient, inappropriate, or uneconomical benefits.

Over the past 4 years, several nationally recognized health economists have made a close and analytical study of Hawaii's health care delivery system and have all concluded that the system is a model of free market competition, in which the consumer is the greatest beneficiary, and that it is a very practical and economical approach to the provision of basic comprehensive health insurance protection for the State's residents.

The passage of this narrow exemption strictly for the Hawaii Prepaid Health Care Act from preemption by ERISA would permit the continuation of this exemplary health care delivery system for all of Hawaii's residents and is therefore vitally important to the State of Hawaii. It is strongly supported by the Committee on Labor and Human Resources, the Committee on Finance, the U.S. Department of Labor, the State of Hawaii, the American Council of Life Insurance, the Health Insurance Association of America, the Hawaii State Federation of Labor AFL–CIO, and the International Longshoremen's and Warehousemen's Union.

Because the passage of the Hawaii Prepaid Health Care Act preceded the passage of ERISA in 1974 and because Congress clearly never intended to preempt this uniquely innovative and successful State law, this august body will no doubt agree with me that it remains the right of the State of Hawaii to retain the Prepaid Health Care Act and all the benefits guaranteed by the law for all of Hawaii's residents.

The amendment which I am offering

would restore the Senate-approved provision relative to the Hawaii State Prepaid Health Care Act to H.R. 3904.

I thank the distinguished chairman of the committee on Labor and Human Resources, Senator WILLIAMS, for his patience and understanding in this matter. His continued support of a measure vitally important to Hawaii and its people is deeply appreciated.

Mr. President, I urge the adoption of my amendment.

Mr. STEVENS. Mr. President, I wish to make an inquiry.

It is my understanding that when the bill was sent to the House, the amendment that the distinguished Senator from Hawaii is offering was part of the Senate-passed version. The House has deleted that amendment, among others, and sent the bill back to the Senate. We are now adding an amendment to the bill as passed by the House which restores a portion of the matter deleted; and this, in effect, puts the Hawaii amendment back in that category.

Does the Senator from Hawaii agree with that statement?

Mr. MATSUNAGA. Yes; I do agree with that statement. However, I might explain to the Senator from Alaska that the so-called Hawaii amendment was included by error in a list of amendments which were deemed to be nongermane by the House. The Hawaii amendment was in fact a germane amendment. The floor manager in the House indicated that they did make a mistake in listing this amendment as being nongermane. I have spoken to those who might be objecting to this amendment on the House side, and it appears now that they will accept this amendment if added to the House-passed bill.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. STEVENS. I yield to the Senator from Kansas for the purpose of asking a question of the Senator from Hawaii.

Mr. DOLE. Mr. President, I want to confirm what the Senator from Hawaii has said.

We have been in telephone conversation with Representative ERLENBORN of Illinois and Representative ASHBROOK of Ohio. As I understand it, they have conveyed to both Senators from Hawaii, Senator INOUYE and Senator MATSUNAGA, that they now have no opposition and that they will try to work it out on the House side so that this bill can finally become law.

Mr. MATSUNAGA. If the Senator from Alaska will yield, I will respond to the Senator from Kansas. Representative ASHBROOK indicated to me that he has no objection; but that he would discuss the matter with Representative ERLENBORN. In talking with Representative ERLENBORN, he indicated that he had not had a chance to discuss the matter with Representative ASHBROOK.

When I told Representative ERLENBORN that Representative ASHBROOK had indicated to me that he would not object to the Hawaii amendment, Representative ERLENBORN said that he would need to speak to Representative THOMPSON, and if Representative THOMPSON has no objection, he did not see any reason to object. However, he said he could not give me a definite answer until he had conferred with Representative THOMPSON.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. MATSUNAGA. I yield to the Senator from New Jersey.

Mr. WILLIAMS. Representative THOMPSON, who manages this bill in the other body, is fully aware of this amendment. It was offered by the Senators from Hawaii, and it has been in our bill since it has come from the Finance Committee.

In earlier discussions with Representative THOMPSON, he indicated that he viewed the amendment offered by the Senator from Hawaii favorably.

Mr. MATSUNAGA. I thank the Senator from New Jersey for confirming my belief that the House is prepared to accept my amendment.

Mr. STEVENS. Mr. President, may I continue my inquiry to the Chair?

If this amendment is adopted in the form offered now as an amendment to the amendment, will it restore the Hawaii amendment in the form that it passed the Senate originally?

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The Chair cannot interpret the effect of the amendment.

Mr. STEVENS. I am not seeking to get the Chair's interpretation of the amendment. I just want to make sure that in form it is going back into this bill as it was when it passed the Senate previously.

The Senator from Hawaii stated that the intent is the same. I am just asking a procedural question.

It is not being offered as an amendment to the amendment but, rather, as an amendment in its own right. Will it come out in the bill so that it is an amendment standing on its own?

The PRESIDING OFFICER. The Chair is not advised as to the precise wording of the amendment.

Mr. DOLE. It is the same wording?

Mr. MATSUNAGA. Exactly.

If the Senator from Alaska will yield, I wish to assure him that language of my amendment is exactly the same language of the amendment which was agreed to by the Senate by a vote of 85 to 1 on July 29 of this year.

Mr. STEVENS. I have not been precise in my request to the Chair.

It is my understanding that it will not affect the language which was in the original amendment that was previously agreed to. It will be added at the end of that section. Is that right?

The PRESIDING OFFICER. It amends language at the end of the bill.

The question is on agreeing to the amendment offered by the Senator from Hawaii.

The amendment was agreed to.

Mr. WILLIAMS. Mr. President, this lengthy and complex legislation was developed by the administration and crafted and refined by the Committee on Labor and Human Resources and the Committee on Finance over a period of more than 2 years. It represents the dedicated work of many. Now that we have reached this stage in our consideration of this measure, I want to take just a few moments to acknowledge the contributions of several dedicated staff members.

Certainly, Steve Sacher, who is the general counsel of the Committee on Labor and Human Resources, has been instrumental in the development of this bill, as he has in the development of other pension legislation. Gary Ford of our staff also made a major contribution in negotiating and crafting the ERISA reform legislation that we now have before us. In what can only be described as a model of bipartisan cooperation, they worked closely over a period of many months with Peter Turza of Senator JAVITS' staff, who made a very significant contribution in the development of this bill.

Also, Mr. President, the technical and support assistance of Ms. Mildred Dunmore, Ms. Irene Linton and Ms. Susan Painter of this committee must be acknowledged. They worked behind the scenes, and they worked long hours, and they were unselfish in their devotion to this project.

I must also acknowledge the contributions of the members of the staff of the Committee on Finance. The bill is really the joint product of the staffs of both committees, and the efforts of Jack Curtis, Jeff Gates, and Richard Belas of the staff of the Finance Committee are certainly apparent in the bill. Similarly, the important work of the staff of the Joint Committee on Taxation, in both the Senate and the House, should be acknowledged, especially the efforts of the committee's staff director, Bob Shapiro, and committee staff members Bill Lieber, Richard Stanger, and Sandra Mills.

Staff of the Pension Benefit Guaranty Corporation have provided invaluable assistance to both the Senate and House committees. In particular, Robert Nagle, PBGC's executive director, Henry Rose, the Corporation's General Counsel, Gerald Cole, head of the Office of Policy and Planning, and Mitch Strickler, Vince Cicconi, J. P. Morgan, Terry Deneen and Terry Craig are to be commended for their tireless efforts over a grueling 2 years.

From the Treasury Department, we received expert assistance from Daniel Halperin, Deputy Assistant Secretary for Tax Legislation, Douglas Sorenson of the Office of Tax Legislative Counsel, Ellen A. Hennessy of the Office of the Chief Counsel, IRS, and Kenneth T. Yednock of the Office of the Assistant Commissioner EP/EO, IRS.

Stuart Sirkin, Chief, Division of Policy Planning of the Office of the Administrator, pension and welfare benefit programs, and Gretchen Young, employee benefit plan specialist were the very capable representatives of the Department of Labor and gave generously of their time and talents.

The PRESIDING OFFICER. The question is now on the motion of the Senator from New Jersey as amended by the Senator from Hawaii.

The motion, as amended, was agreed to.

Mr. CHAFEE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHAFEE. I want to make certain

that the amendment presented by the Senator from New Jersey dealing with the pension offset and the revision thereto is now standing, that it is now enacted, that it has not been vitiated by the amendment of the Senator from Hawaii. Is that correct?

The PRESIDING OFFICER. It has not been. It has been supplemented.

Mr. CHAFEE. So the language presented by the Senator from New Jersey——

The PRESIDING OFFICER. Has been supplemented by the Senator from Hawaii.

Mr. STEVENS. Mr. President, is that matter subject to reconsideration?

The PRESIDING OFFICER. Yes, it is.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. CHAFEE. Mr. President, I understand that now these amendments will be sent back to the House. Is that correct?

The PRESIDING OFFICER. The Senate has concurred in the House amendments with the additional amendments offered by the Senate.

Mr. CHAFEE. By the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey and the Senator from Hawaii.

Mr. CHAFEE. And now it will proceed back to the House?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISABLED VETERANS REHABILITATION ACT OF 1980

Mr. CRANSTON. Mr. President, I call up calendar order No. 796 and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1188) to improve and modernize the vocational rehabilitation program provided service-disabled veterans under chapter 31 of title 38, United States Code, and for other purposes,

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs with an amendment to strike all after the enacting clause and insert the following:

That (a) this Act may be cited as the "Disabled Veterans Rehabilitation Act of 1980".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—REHABILITATION AMENDMENTS

SEC. 101. (a) Chapter 31 is amended to read as follows:

"Chapter 31. TRAINING AND REHABILITATION FOR SERVICE-CONNECTED DISABLED VETERANS

"Sec.
"1500. Purpose.
"1501. Definitions.
"1502. Basic entitlement.
"1503. Periods of eligibility.
"1504. Scope of services and assistance.
"1505. Duration of rehabilitation programs.
"1506. Initial and extended evaluations; determinations regarding serious employment handicap.
"1507. Individualized vocational rehabilitation plan.
"1508. Allowances.
"1509. Entitlement to independent living services and assistance.
"1510. Leaves of absence.
"1511. Regulations to promote satisfactory conduct and cooperation.
"1512. Revolving fund loans.
"1513. Books, supplies, and equipment.
"1514. Vocational rehabilitation for hospitalized members of the Armed Forces and veterans.
"1515. Vocational rehabilitation outside the United States.
"1516. Rehabilitation resources.
"1517. Employment assistance.
"1518. Personnel training, development, and qualifications.
"1519. Rehabilitation research and special projects.
"1520. Pilot program of independent living services and assistance.
"1521. Veterans' Advisory Committee on Rehabilitation.
"1522. Evaluations after individual unemployability adjudications.

"§ 1500. Purpose

"The purposes of this chapter are to provide for all services and assistance necessary to enable veterans with service-connected disabilities to achieve maximum independence in daily living, and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment.

"§ 1501. Definition

"For the purposes of this chapter—

"(1) The term 'independence in daily living' means the ability of a veteran, without the services of others or with a reduced level of the services of others, to live and function within such veteran's family and community.

"(2) The term 'medical condition' means a disability, including an alcohol or drug dependence or abuse disability, or combination of disabilities of a veteran.

"(3) The term 'program of education' has the meaning provided in section 1652(b) of this title.

"(4) The term 'program of independent living services and assistance' includes both (A) the services provided for in this chapter that are needed to enable a veteran to achieve independence in daily living, including, but not limited to, such counseling, diagnostic, medical, social, psychological, and educational services as are determined by the Administrator to be needed for such veteran to achieve maximum independence in daily living, and (B) the assistance authorized by this chapter for such veteran.

"(5) The term 'rehabilitated to the point of employability' means rendered employable in the occupation for which a vocational rehabilitation program has been provided under this chapter.

"(6) The term 'rehabilitation program' means (A) a vocational rehabilitation program, or (B) a program of independent living services and assistance for a veteran for whom a vocational goal has been determined not to be reasonably feasible.

"(7) The term 'serious employment handicap' means a significant impairment of an individual's ability to prepare for, obtain, or retain employment consistent with such individual's abilities, aptitudes, and interests.

"(8) The term 'vocational goal' means a gainful employment status that is consistent with an individual's abilities, aptitudes, and interests.

"(9) The term 'vocational rehabilitation program' includes both—

"(A) the services provided for in this chapter that are needed for the accomplishment of the purposes of this chapter, including, but not limited to, such counseling, diagnostic, medical, social, psychological, independent living, economic, educational, vocational, and employment services as are determined by the Administrator to be needed—

"(i) in the case of a veteran for whom the achievement of a vocational goal has not been determined not to be reasonably feasible, (I) to determine whether a vocational goal is reasonably feasible, (II) to improve such veteran's potential to participate in a program of services designed to achieve a vocational goal, and (III) to enable such veteran to achieve maximum independence in daily living, and

"(ii) in the case of a veteran for whom the acheivement of a vocational goal is determined to be reasonably feasible, to enable such veteran to become, to the maximum extent feasible, employable and to obtain and maintain suitable employment, and

"(B) the assistance authorized by this chapter for a veteran receiving any of the services described in clause (A) of this paragraph.

"§1502. Basic entitlement

"An individual veteran shall be entitled to rehabilitation under the terms and conditions of this chapter if such individual—

"(1) is a veteran who has a service-connected disability which is, or but for the receipt of retirement pay would be, compensable under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940; or

"(2) is, pending discharge or release from active military, naval, or air service, hospitalized in a hospital over which the Secretary of Defense has jurisdiction.

"§ 1503. Periods of eligibility

"(a) Unless a longer period of eligibility is authorized pursuant to subsection (b), (c), or (d) of this section, educational assistance or rehabilitation may not be afforded to a veteran under this chapter after the end of the ten-year period beginning on the date of such veteran's discharge or release.

"(b) (1) If the Administrator determines that a veteran has been prevented from entering or completing a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a medical condition made it infeasible for such veteran to participate in such a program, the ten-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

"(2) If the Administrator determines that a veteran has been prevented from entering or completing a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of its section because (A) such veteran had not met the requirement of a discharge or release under conditions other than dishonorable before (i) a change, correction, or modification of a discharge or dismissal made pursuant to section 1553 of title 10, (vi) a correction of the military records of the service department concerned under section 1552 of title 10, or (iii) other corrective action by competent authority, or (B) such veteran's discharge or dismissal was, under section 3103 of this title, a bar to benefits under this title before the Administrator made a determination that such discharge or dismissal is not a bar to such benefits, the ten-year period of eligibility shall run from the date on which such veteran's discharge or dismissal was so changed, corrected, or modified or the Administrator made such determination, as appropriate.

"(3) If the Administrator determines that a veteran has been prevented from entering or completing a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because such veteran had not established the existence of a service-connected disability which is compensable under chapter 11 of this title and such veteran has a serious employment handicap, vocational rehabilitation may be afforded such veteran during the ten-year period beginning on the date on which notification is mailed to such veteran that it has been determined that such disability exists.

"(c) A veteran who is in need of services to overcome a serious employment handicap may be afforded a vocational rehabilitation program after the expiration of the period of eligibility otherwise applicable to such veteran if the Administrator determines that an extension of the applicable period of eligibility is necessary for such veteran based upon such veteran's particular employment handicap and need for such services and if—

"(1) such veteran had not previously been rehabilitated under this chapter;

"(2) such veteran had previously been rehabilitated under this chapter but (A) such need for such services has developed from, or as a result of, a change in such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran previously received vocational rehabilitation under this chapter, or (B) the occupation for which such veteran had been so rehabilitated was not appropriate in view of such veteran's employment handicap and abilities; or

"(3) the Administrator determines, under regulations which the Administrator shall prescribe, that an extension of the period of eligibility of such veteran is necessary to carry out the purposes of this chapter.

"(d) A veteran whose disability or disabilities are so severe that the achievement of a vocational goal by such veteran is determined not to be reasonably feasible may be afforded a program of independent living services and assistance under this chapter after the expiration of the period of eligibility otherwise applicable to such veteran if the Administrator determines that an extension of the period of eligibility of such veteran is necessary for such veteran to achieve maximum independence in daily living.

"§ 1504. Scope of services and assistance

"(a) Services and assistance which the Administrator may provide under this chapter, pursuant to regulations which the Administrator shall prescribe, shall include—

"(1) evaluation, including periodic reevaluations as appropriate with respect to a veteran participating in a rehabilitation program, of the potential for rehabilitation of a veteran, including diagnostic and related services (A) to determine whether such veteran's disability or disabilities cause a serious employment handicap and whether a vocational goal is feasible for such veteran, and (B) to provide a basis for planning a suitable vocational rehabilitation program or a program of services to improve the vocational rehabilitation potential or independent living status of such veteran, as appropriate;

"(2) educational, vocational, psychological, employment, and personal adjustment counseling;

"(3) an allowance and other appropriate assistance, as authorized by section 1508 of this title;

"(4) a work-study allowance as authorized by section 1685 of this title;

"(5) placement services to effect suitable placement in employment, and postplacement services to attempt to assure satisfactory adjustment in employment;

"(6) personal adjustment and work adjustment training;

"(7) vocational and other training services and assistance, including individualized tutorial assistance, tuition, fees, books, supplies, and licensing fees, and equipment and other training materials determined by the Administrator to be necessary to accomplish the purposes of the rehabilitation program in the individual case;

"(8) loans as authorized by section 1512 of this title;

"(9) treatment, care, and services described in chapter 17 of this title;

"(10) prosthetic appliances, eyeglasses, and other corrective and assistive devices;

"(11) services to a veteran's family as necessary for the effective rehabilitation of such veteran;

"(12) for the most severely disabled veterans requiring homebound training or self-employment, or both homebound training and self-employment, such license fees and essential equipment, supplies, and minimum stocks of materials as the Administrator determines to be necessary for such a veteran to begin employment and are within the criteria and cost limitations that the Administrator shall prescribe in regulations for the furnishing of such fees, equipment, supplies, and stocks;

"(13) travel and incidental expenses under the terms and conditions set forth in section 111 of this title, plus, in the case of a veteran who because of such veteran's disability has transportation expenses in addition to those incurred by persons not so disabled, a special transportation allowance to defray such additional expenses during rehabilitation, job seeking, and the initial employment stage;

"(14) special services related to blindness and deafness, such as—

"(A) language training, speech and voice correction, training in ambulation, and one-hand typewriting;

"(B) orientation, adjustment, mobility, reader, interpreter, and related services; and

"(C) telecommunications, sensory, and other technical aids and devices; and

"(15) services necessary to enable a veteran to achieve maximum independence in daily living.

"(b) A program of independent living services and assistance may include the types of services and assistance described in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796).

"(c) A rehabilitation program (including individual courses) to be pursued by a veteran shall be subject to the approval of the Administrator.

"§ 1505. Duration of rehabilitation programs

"(a) The period of extended evaluation under section 1506(b) of this title for a veteran for whom the reasonable feasibility of achieving a vocational goal is undetermined may not exceed twelve months, except that such period may be extended for additional periods of up to six months each if the Administrator determines that, during the extended period concerned, it is reasonably likely that a determination can be made with respect to such veteran as to whether the achievement of a vocational goal is reasonably feasible.

"(b) Except as provided in subsection (c) of this section, the period of a vocational rehabilitation program for a veteran under this chapter following a determination of the reasonable feasibility of achieving a vocational goal may not exceed forty-eight months, except that, in the case of a veteran who is determined to have a serious employment handicap, the counseling and placement and postplacement services described in section 1504(a) (2) and (5) of this title may be provided for an additional period not to exceed eighteen months.

"(c) In the case of a veteran who has been determined to have a serious employment handicap, the Administrator may extend the period of vocational rehabilitation for such veteran to the extent necessary to enable such veteran to achieve a vocational goal if—

"(1) such veteran had previously been rehabilitated to the point of employability under this chapter but (A) such veteran's need for further vocational rehabilitation has developed from, or as a result of, a change in such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran had been so rehabilitated, or (B) the occupation for which such veteran had been so rehabilitated was not appropriate in view of such veteran's employment handicap and abilities; or

"(2) the Administrator determines, under regulations which the Administrator shall prescribe, that such an extension is necessary to carry out the purposes of this chapter.

"(d) Unless the Administrator determines that a longer period is necessary and likely to result in a substantial increase in a veteran's level of independence in daily living, the period of a program of independent living services and assistance for a veteran under this chapter following a determination that such veteran's disability or disabilities are so severe that the achievement of a vocational goal is not reasonably feasible may not exceed twenty-four months.

"§ 1506. Initial and extended evaluations; determinations regarding serious employment handicap

"(a) A veteran with a service-connected disability who applies for benefits under this chapter shall be provided with an initial evaluation consisting of such services described in section 1504(a)(1) of this title as are necessary to determine whether such veteran has a serious employment handicap and to determine, if reasonably feasible without extended evaluation, whether the achievement of a vocational goal is reasonably feasible for such veteran.

"(b) Where the Administrator has determined that a veteran has a serious employment handicap and that the achievement of a vocational goal is reasonably feasible for such veteran, such veteran shall be provided counseling in accordance with an individualized written plan of vocational rehabilitation developed under section 1507(a) of this title.

"(c) Where the Administrator has determined that a veteran has a serious employment handicap but the Administrator is unable to determine, in an initial evaluation pursuant to subsection (a) of this section, whether or not the achievement of a vocational goal is reasonably feasible, such veteran shall be provided with extended evaluation consisting of the services described in section 1504(a)(1) of this title, such services under this chapter as the Administrator determines necessary to improve such veteran's potential for participation in a program of services designed to achieve a vocational goal and enable such veteran to achieve maximum independence in daily living, and assistance as authorized by section 1508 of this title.

"(d) As expeditiously as possible (and, if applicable, not later than the end of the period of extended evaluation for a veteran under subsection (c) of this section, including any extensions under section 1505(a) of this title), the Administrator shall determine whether the achievement of a vocational goal by such veteran is reasonably feasible. In determining whether the achievement of a vocational goal is reasonably feasible, the Administrator shall resolve any reasonable doubt in favor of determining that such achievement is reasonably feasible.

"(e) In connection with each period of extended evaluation of a veteran and each rehabilitation program for a veteran who is determined to have a serious employment handicap, the Administrator shall assign a Veterans' Administration employee to be responsible for the management and followup of the provision of all services (including employment assistance under section 1517 of this title) and assistance under this chapter to such veteran.

"§ 1507. Individualized vocational rehabilitation plan

"(a) The Administrator shall formulate an individualized written plan of vocational rehabilitation for a veteran described in section 1506(b) of this title. Such plan shall be developed jointly with such veteran, and shall include, but not be limited to (1) a statement of long range rehabilitation goals for such veteran and intermediate rehabilitation objectives related to achieving such goals, (2) a statement of the specific services (which shall include counseling in all cases) and assistance to be provided under this chapter, (3) the projected date for the initiation and the anticipated duration of each such service, (4) objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and (5) the name and business address and telephone number of the Veterans' Administration employee assigned responsibility for the management and followup of the provision of such services and assistance to such veteran.

"(b) The Administrator shall review at least annually the plan formulated under subsection (a) of this section for a veteran, and such veteran shall be afforded the opportunity to participate in each review of such plan. Based on such review, the Administrator shall, jointly with such veteran, redevelop such plan as appropriate.

"(c) Prior to agreeing to a plan under subsection (a) of this section or to any redevelopment or denial of redevelopment of a plan under subsection (b) of this section, a veteran shall be informed of such veteran's opportunity for a review as set forth in the following sentences. If a veteran does not agree to such plan, redevelopment, or denial of redevelopment, such veteran may submit to the person described in subsection (a)(5) of this section a written statement, prepared by or for such veteran, containing such veteran's objections to such plan and requesting a review of the plan as proposed. The Administrator shall review such statement and the plan as proposed and render a decision on such review not later than ninety days after the date on which such veteran so submits such statement, unless a longer period, not to exceed one hundred and fifty days, is allowed for rendering such decision in certain cases under regulations of the Administrator.

"§ 1508. Allowances

"(a)(1) Except for a veteran who makes an election under subsection (f) of this section, each veteran shall be paid a subsistence allowance in accordance with this section during a period determined by the Administrator to be a period of such veteran's participation under this chapter in (A) extended evaluation, or (B) a rehabilitation program.

"(2) A veteran who is determined to have a serious employment handicap and who is determined, at the conclusion of such veteran's pursuit of a program of vocational rehabilitation under this chapter, to be rehabilitated to the point of employability shall be paid a subsistence allowance, as prescribed in this section for full-time training for the type of program that the veteran was pursuing, for two months following the conclusion of such pursuit.

"(b) Except as otherwise provided in this section, the subsistence allowance paid to a veteran under this chapter shall be determined in accordance with the following table, and shall be the monthly amount shown in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of program being pursued as specified in column I:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$265	$328	$386	$29
Three-quarter-time	199	246	289	21
Half-time	132	164	194	14
Farm cooperative, apprentice, or other on-job training:				
Full-time	231	279	322	21
Extended evaluation:				
Full-time	265	328	386	29
Independent living training:				
Full-time	265	328	386	29
Three-quarter-time	199	246	289	21
Half-time	132	164	194	14".

"(c)(1) If the vocational rehabilitation program for a veteran includes training on the job by an employer in any month, such employer shall be required to submit to the Administrator a statement in writing showing any wage, compensation, or other income paid by the employer to such veteran for such month, directly or indirectly. Based upon such written statement, the Administrator is authorized to reduce the subsistence allowance of such veteran to an amount considered equitable and just in accordance with criteria which the Administrator shall establish in regulations which the Administrator shall prescribe.

"(2) A veteran pursuing on-job training or work experience as part of a vocational rehabilitation program in a Federal agency under the provisions of section 1516(a)(1) of this title without pay or for nominal pay shall be paid the appropriate subsistence allowance rate provided in subsection (b) of this section for an institutional program.

"(d)(1) The Administrator shall, in accordance with regulations, which the Administrator shall prescribe, not inconsistent with regulations governing the determination of full-time status and part-time status under chapter 34 of this title, define full-time and each part-time status for veterans participating in rehabilitation programs under this chapter.

"(2) A veteran participating in extended evaluation on less than a full-time basis may be paid a proportional subsistence allowance in accordance with regulations which the Administrator shall prescribe.

"(e) In the case of a veteran pursuing a rehabilitation program on a full-time residential basis in a specialized rehabilitation facility, the Administrator may, upon the request of such veteran, (1) pay to such facility the cost of such veteran's room and board in lieu of payment to such veteran of the subsistence allowance (not including any portion payable for any dependents) payable under subsection (b) of this section, and (2) pay to such veteran that portion of the allowance for dependents payable, as determined by such veteran's dependency status, under subsection (b) of this section for a full-time institutional program.

"(f) To the extent that a veteran who is determined to be entitled to rehabilitation under this chapter has remaining eligibility for and entitlement to educational assistance benefits under chapter 34 of this title, such veteran may elect, as part of a vocational rehabilitation program under this chapter but in lieu of the services and assistance described in section 1504(a)(3) (other than an allowance and other assistance under this subsection) and section 1504(a)(7) and (8) of this title, to pursue an approved program of education and receive allowances and other forms of assistance equivalent to those authorized for veterans enrolled under chapter 34 of this title, if the Administrator approves the educational, professional, or vocational objective chosen by such veteran for such program. In the event that such veteran makes such an election, the terms and conditions applicable to the pursuit of a comparable program of education and the payment of allowances and provision of assistance under such chapter shall be applied to the pursuit of the approved program of education under this chapter.

"(g)(1) Notwithstanding any other provision of this title, the subsistence allowance for a veteran who is pursuing a rehabilitation program under this chapter while incarcerated in a Federal, State, county, or local prison or jail, shall be paid as follows:

"(A) If such veteran has no dependents, the Administrator shall withhold such allowance while such veteran is so incarcerated and pay such allowance to such veteran upon such veteran's release from prison or jail or, at the request of such veteran, purchase with such allowance, and hold for such veteran, United States Government securities and deliver them to such veteran upon such veteran's release from prison or jail.

"(B) If such veteran has one or more dependents, the Administrator shall pay such allowance to such veteran's dependent or dependents (or the legal guardian or guardians thereof) designated by such veteran to receive such allowance, but only to the extent that both the veteran and the designated dependent or dependents (or the legal guardian or guardians thereof) so request. To the extent that such veteran does not request the Administrator to pay to a particular dependent of such veteran an amount payable on account of such dependent or such dependent does not join in such request, the amount involved shall not be paid to or accrued by such veteran. The Administrator shall, while such veteran is so incarcerated, withhold any amount of such allowance, not payable on account of a dependent or dependents, that is accrued by such veteran and shall pay such amount to such veteran upon such veteran's release from prison or jail or, at the request of such veteran, purchase with such amount, and hold for such veteran, United States Government securities and deliver them to such veteran upon such veteran's release from prison or jail.

"(2) The provisions of paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a rehabilitation program under this chapter while placed and residing in a halfway house or while participating in a work-release program.

"(h)(1) Notwithstanding any other provision of this title, the allowance for a veteran who has made an election under subsection (f) of this section and who is pursuing an institutional program of education under this chapter while incarcerated in a Federal, State, county, or local prison or jail, shall be computed and paid as follows:

"(A) If such veteran is pursuing a program of education on a half-time or more basis and has no dependents, the Administrator shall pay such veteran such amount, not in excess of the appropriate rate, as is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans pursuing the same program. The Administrator shall withhold any amount in excess of such cost and pay such amount to such veteran upon such veteran's release from prison or jail or, at the request of such veteran, purchase with such excess amount, and hold for such veteran, United States Government securities and deliver them to such veteran upon such veteran's release from prison or jail.

"(B) If such veteran is pursuing a program of education on a half-time or more basis and has one or more dependents, the Administrator shall pay such veteran such amount, not in excess of such appropriate rate, as is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans pursuing the same program; and the Administrator shall pay any amount in excess of such cost to such veteran's dependent or dependents (or the legal guardian or guardians thereof) designated by such veteran to receive such excess amount, but only if both the veteran and the designated dependent or dependents (or the legal guardian or guardians thereof) so request. To the extent that such veteran does not request the Administrator to pay to a particular dependent of such veteran an amount payable on account of such dependent or such dependent does not join in such request, the amount involved, if not payable to such veteran under the first sentence of this subparagraph, shall not be paid to or accrued by such veteran. The Administrator shall pay any excess amount accrued by such veteran to such veteran upon such veteran's release from prison or jail or, at the request of such veteran, purchase with such excess amount, and hold for such veteran, United States Government securities and deliver them to such veteran upon such veteran's release from prison or jail.

"(2) The provisions of paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a program of education under this chapter while placed and residing in a halfway house or while participating in a work-release program.

"(i) Notwithstanding any other provision of this title, in the case of a veteran pursuing a rehabilitation program while receiving care in a Veterans' Administration hospital, nursing home, or domiciliary facility, or in a facility with which the Administrator, under the provisions of chapter 17 of this title, has contracted for such veteran's care at Veterans' Administration expense, the subsistence or (if such veteran has made an election under subsection (f) of this section) other allowance appropriate for the type of training pursued shall, after such veteran has been receiving such care for thirty days, accrue and be withheld (and converted to securities), paid to dependents, and paid to such veteran upon discharge from such facility under the same terms and conditions set forth in subsection (g) or (h) of this section, as appropriate, except that the Administrator shall, upon the request of such veterans, pay to such veteran all or part of such monthly allowance payments as are determined to be necessary to meet continuing financial obligations of such veteran.

"(j) Payment of a subsistence allowance may be made in advance in accordance with the provisions of section 1780(d) of this title.

"§ 1509. Entitlement to independent living services and assistance

"Where the Administrator has determined under section 1506(d) of this title that the achievement of a vocational goal by a veteran is not reasonably feasible, such veteran shall be entitled, pursuant to the provisions of section 1520 of this title, to a program of independent living services and assistance designed to enable such veteran to achieve maximum independence in daily living.

"§ 1510. Leaves of absence

"The Administrator shall prescribe such regulations as the Administrator determines necessary for granting leaves of absence to veterans pursuing rehabilitation programs under this chapter. During authorized leaves of absence, a veteran shall be considered to be pursuing such program.

"§ 1511. Regulations to promote satisfactory conduct and cooperation

"The Administrator shall prescribe such rules and regulations as the Administrator determines necessary to promote satisfactory conduct and cooperation on the part of veterans who are pursuing rehabilitation programs under this chapter. If a veteran fails to maintain satisfactory conduct or cooperation, the Administrator may, after determining that all reasonable counseling efforts have been made and are not reasonably likely to be effective, discontinue services and assistance unless the Administrator determines that mitigating circumstances exist. In any case in which such services and assistance have been discontinued, the Administrator may reinstitute such services and assistance only if the Administrator determines that—

"(1) the cause of the unsatisfactory conduct or cooperation of such veteran has been removed; and

"(2) the rehabilitation program which such veteran proposes to pursue (whether the same or revised) is suitable to such veteran's abilities, aptitudes, and interests.

"§ 1512. Revolving fund loans

"The revolving fund established pursuant to part VII of Veterans Regulation Numbered 1(a) is continued in effect, and may be used by the Administrator, under regulations prescribed by the Administrator, for making advances, not in excess of twice the amount of the full-time institutional monthly subsistence allowance for a veteran with no dependents, as set forth in section 1508(b) of this title, to veterans pursuing rehabilitation programs under this chapter. Such advances, and advances from such fund made before the effective date of the Disabled Veterans Rehabilitation Act of 1980, shall bear no interest and shall be repaid in such installments, as may be determined by the Administrator, by proper deductions from future payments of compensation, pension, subsistence allowance, educational assistance allowance, or retirement pay.

"§ 1513. Books, supplies, and equipment

"Any books, supplies, or equipment furnished a veteran under this chapter shall be deemed released to such veteran, except that if the Administrator determines that, because of fault on such veteran's part, such veteran has failed to complete the course involved, the Administrator may require such veteran to return any or all of such books, supplies, or equipment not actually expended, or to repay the reasonable value thereof. Such books, supplies, and equipment may be turned in to educational or training institutions for credit under such terms as may be approved by the Administrator, or may be disposed of in such other manner as the Administrator may determine.

"§ 1514. Vocational rehabilitation for hospitalized members of the Armed Forces and veterans

"(a) Services and assistance may be provided under this chapter to an individual who is hospitalized pending discharge from active military, naval, or air service if such individual would be eligible for such services and assistance except for the fact that such individual has not been discharged or released from such service. In such cases, no subsistence allowance shall be paid.

"(b) Services and assistance may be provided under this chapter to a veteran who is receiving care in a Veterans' Administration hospital, nursing home, or domiciliary facility or in any other hospital or medical facility.

"§ 1515. Vocational rehabilitation outside the United States

"Pursuant to regulations which the Administrator shall prescribe, a program of vocational rehabilitation under this chapter may be provided outside the United States if the Administrator determines that such training is (1) necessary in the particular case to provide the preparation needed to render a veteran employable and enable such veteran to obtain and retain suitable employment, and (2) in the best interest of such veteran and the Federal Government.

"§ 1516. Rehabilitation resources

"(a) Notwithstanding any other provision of law, for the purpose of providing services under this chapter, the Administrator may—

"(1) use the facilities of any Federal agency (including the Veterans' Administration) to provide training or work experience as part or all of a veteran's vocational rehabilitation program without pay or for nominal pay when the Administrator determines that such training or work experience is necessary to accomplish such veteran's rehabilitation;

"(2) use the facilities, staff, and other resources of the Veterans' Administration;

"(3) employ such additional personnel and experts as the Administrator considers necessary; and

"(4) use the facilities and services of any Federal agency, agencies maintained by joint Federal and State contributions, private institutions and establishments, and private individuals.

"(b) (1) While pursuing on-job training or work experience under clause (1) of subsection (a) of this section, a veteran shall be considered to be an employee of the United States for the purposes of the benefits of chapter 81 of title 5, but not for the purposes of laws administered by the Office of Personnel Management.

"(2) (A) Use of facilities, staff, and other resources of the Department of Medicine and Surgery under clause (2) of subsection (a) of this section, to provide rehabilitation services under this chapter, including hospital care and medical services described in chapter 17 of this title, shall, as provided for in a veteran's individualized written plan under section 1507 or 1520(a) of this title, be procured through contract with such department; and the amounts of payments for such services shall be determined in accordance with current accounting principles used within such department, subject to review and modification by the Administrator with respect to the reasonableness of proposed charges.

"(B) Except as provided in chaper 17 of this title, hospital care and medical services provided under this chapter shall be furnished in facilities over which the Administrator has direct jurisdiction.

"(3) Use of facilities and services under clause (4) of subsection (a) of this section, shall be procured through contract, agreement, or other cooperative arrangement.

"§ 1517. Employment assistance

"(a) A veteran with a service-connected disability who has participated in a vocational rehabilitation program under this chapter or a similar program under the Rehabilitation Act of 1973 and who is determined to be employable shall be furnished assistance (including any assistance necessary to assure that such veteran receives the benefit of any applicable provisions of law or regulation providing for special consideration or emphasis or preference for such veteran in employment or training) in obtaining employment consistent with such veteran's abilities, aptitudes, interests, and employment handicap. Such assistance may include (1) direct placement of such veteran in employment, (2) utilization of the services of United States employment and training outreach program specialists under section 2003A of this title, and (3) utilization of the job development and placement services of (A) programs under the Rehabilitation Act of 1973, (B) the State employment service and the Veterans' Employment Service of the Department of Labor, (C) the Office of Personnel Management, and (D) any other public or nonprofit organization having placement services available. To the extent that resources are available, a veteran without a service-connected disability who has participated in such a similar program and who is determined to be employable may be furnished the assistance described in the preceding sentence.

"(b) (1) If a veteran has completed vocational rehabilitation for self-employment in a small business enterprise under this chapter, the Administrator shall cooperate with the Small Business Administration to assist such veteran to secure a loan for the purchase of equipment needed to establish such veteran's own business and to assure that such veteran receives the special consideration provided for in section 8 of the Small Business Act (15 U.S.C. 633(b)).

"(2) The Administrator may, under the terms and conditions set forth in clause (12) of section 1504(a) of this title, furnish a veteran described in such clause who has trained under a State rehabilitation program with the objective of self-employment in a small business enterprise such supplementary equipment and initial stocks and supplies as are determined to be needed by such veteran if such supplementary equipment and initial stocks and supplies, or assistance in acquiring them, are not available through the State program or other sources.

"(c) The Administrator shall prescribe regulations, with the concurrence of the Secretary of Labor in light of the provisions of title V of the Rehabilitation Act of 1973 (29 U.S.C. subch. V) and section 2012 of this title, and regulations prescribed thereunder, to authorize payments to be made to employers for providing on-job training to veterans who have been rehabilitated to the point of employability in individual instances where the Administrator determines that such payment is necessary to obtain the needed on-job training or to begin employment. Such payments shall not exceed the direct expenses incurred by such employers in providing such on-job training or employment opportunity. If any such veteran participates in such on-job training that satisfies the criteria for payment of a training assistance allowance under section 1787 of this title, such veteran shall, to the extent that such veteran has remaining eligibility for and entitlement to such allowance, be paid such allowance.

"§ 1518. Personnel training, development, and qualifications

"(a) The Administrator shall provide a program of ongoing professional training and development for Veterans' Administration counseling and rehabilitation personnel engaged in providing rehabilitation services under this chapter. The objective of such training shall be to assure that rehabilitation services for disabled veterans are provided in accordance with the most advanced knowledge, methods, and techniques available for the rehabilitation of handicapped persons. For this purpose, the Administrator may employ the services of consultants and may make grants to and contract with public or private agencies (including institutions of higher learning) to conduct such training and development.

"(b) The Administrator shall coordinate with the Commissioner of the Rehabilitation Services Administration in the Department of Education and the Deputy Assistant Secretary for Veterans' Employment in the Department of Labor for planning and carrying out personnel training in areas of mutual programmatic concern.

"(c) Notwithstanding any other provision of law, the Administrator shall establish such qualifications for psychologists providing evaluation and rehabilitation services to veterans under this chapter and for employees performing the functions described in section 1506(f) of this title as the Administrator determines are necessary and appropriate to assure the quality of rehabilitation programs under this chapter. In establishing such qualifications, the Administrator shall take into account the provisions of section 4105(a)(10) of this title and the qualifications established for comparable personnel under the Rehabilitation Act of 1973 (29 U.S.C. ch. 16).

"§ 1519. Rehabilitation research and special projects

"(a) The Administrator shall carry out an ongoing program of activities for the purpose of advancing the knowledge, methods, techniques, and resources available for use in rehabilitation programs for veterans. For this purpose, the Administrator shall conduct and provide support for the development or conduct, or both the development and conduct, of—

"(1) studies and research concerning the psychological, educational, employment, social, vocational, industrial, and economic aspects of the rehabilitation of disabled veterans, including new methods of rehabilitation; and

"(2) projects which are designed to increase the resources and potential for accomplishing the rehabilitation of disabled veterans.

"(b) For the purpose specified in subsection (a) of this section, the Administrator is authorized to make grants to or contract with public or nonprofit agencies, including institutions of higher learning.

"(c) The Administrator shall cooperate with the Commissioner of the Rehabilitation Services Administration and the Director of the Institute of Handicapped Research in the Department of Education, the Deputy Assistant Secretary for Veterans' Employment in the Department of Labor, and the Secretary of Health and Human Services regarding rehabilitation studies, research, and special projects of mutual programmatic concern.

"§ 1520. Pilot program of independent living services and assistance.

"(a) During fiscal years 1982 through 1985, the Administrator is authorized to contract with public or nonprofit agencies (including contracting for services under section 1516 (b)(2) of this title) with a demonstrated capacity to conduct programs of independent living services for severely handicapped persons to provide, under regulations which the Administrator shall prescribe, programs of independent living services and assistance under this chapter in various geographical regions, to veterans as to whom it is determined that the achievement of vocational goals is not reasonably feasible, who are selected pursuant to criteria prescribed in such regulations, and who have remaining entitlement and periods of eligibility for rehabilitation under this chapter. The Administrator shall, to maximum extent feasible, include in such program substantial numbers of such veterans receiving long-term care in Veterans' Administration hospitals and nursing homes and in nursing homes with which the Administrator contracts for the provision of care to veterans. A program of independent living services and assistance for a veteran shall consist of such services described in section 1504 (a) and (b) of this title as the Administrator determines necessary to enable such veteran to achieve maximum independence in daily living. Such veteran shall have the same rights with respect to an individualized written plan of services and assistance as are afforded veterans participating in vocational rehabilitation under section 1507 of this title. Any contract for services that are initiated with respect to any veteran prior to the end of fiscal year 1985 may be continued in effect after the end of fiscal year 1985 for the purposes of providing services and assistance to such veteran in accordance with the provisions of this chapter. Programs of independent living services and assistance shall be initiated for no more than five hundred veterans in each of the fiscal years 1982 through 1985, and the first priority in the provision of such programs shall be afforded to veterans for whom the reasonable feasibility of achieving a vocational goal is precluded solely as a result of a service-connected disability.

"(b) Not later than September 30, 1984, the Administrator shall submit to the Congress a report on the programs of independent living services and assistance provided for in subsection (a) of this section. Such report shall include—

"(1) the results of a study which the Administrator shall conduct of the accomplishments and cost-effectiveness of such programs, including the extent to which (A) such programs have met needs for comprehensive independent living services that would not otherwise have been met, (B) severely disabled veterans have achieved and maintained greater independence in daily living as a result of participation in the programs, and (C) costs of care in hospital, and nursing home, and domiciliary facilities have been and may be avoided as the result of such services; and

"(2) the Administrator's recommendations for any legislative changes with respect to the provision of independent living services and assistance to veterans for whom the achievement of a vocational goal is not feasible.

"§ 1521. Veterans' Advisory Committee on Rehabilitation

"(a) The Administrator shall appoint an advisory committee to be known as the Veterans' Advisory Committee on Rehabilitation (hereinafter in this section referred to as the 'Committee'). The members of the Committee shall be appointed by the Administrator from the general public and shall serve for terms to be determined by the Administrator not to exceed three years. Service-connected disabled veterans shall constitute not less than one-half of the membership of the Committee, and the Committee shall also include individuals who have distinguished themselves in both the public and private sectors in the fields of rehabilitation medicine, vocational guidance, vocational rehabilitation, and employment and training programs. The Administrator may designate one of the members of the Committee as the chairperson of the Committee. The Committee also shall include representatives of the Department of Medicine and Surgery and the Department of Veterans' Benefits, of the Commissioner of the Rehabilitation Services Administration and of the Director of the National Institute for Handicapped Research in the Department of Education, of the Deputy Assistant Secretary for Veterans' Employment in the Department of Labor, and of the Secretary of Health and Human Services.

"(b) The Administrator shall advise and consult with the Committee on a regular basis with respect to the administration of veterans' rehabilitation programs under this title.

"(c) The Committee shall submit to the Administrator and the Congress an annual report on the rehabilitation programs and activities of the Veterans' Administration, and shall submit such other reports or recommendations to the Administrator and the Congress as the Committee determines appropriate. The annual report shall include an assessment of the rehabilitation needs of veterans and a review of the programs and activities of the Veterans' Administration designed to meet such needs.

"§ 1522. Evaluations after individual unemployability adjudications

"Following the adjudication of a claim under chapter 11 of this title of any veteran for total disability on the basis of such veteran's individual unemployability resulting from service-connected disability, the Administrator shall provide for a comprehensive diagnostic evaluation by Veterans' Administration employees responsible for such evaluations under this chapter when, in the opinion of the Administrator, there exists a potential for the vocational rehabilitation and employment of such veterans.".

(b) The items relating to chapter 31 in the table of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are amended to read as follows:

"31. Training and Rehabilitation for Service-Connected Disabled Veterans 1500".

TITLE II—EMPLOYMENT AND EDUCATION AMENDMENTS

SEC. 201. Section 220 is amended by—

(1) amending the catchline by inserting "and promotion" after "Coordination";

(2) inserting after "title" a comma and "and shall actively promote the effective implementation, enforcement, and application of all provisions of law and regulations providing for special consideration, emphasis, or preference relating to employment, training, and other related opportunities for veterans, with particular emphasis on the needs of veterans with service-connected disabilities and other eligible veterans taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title"; and

(3) amending the table of sections at the beginning of chapter 3 by amending the item relating to section 220 by inserting "and promotion" after "Coordination".

SEC. 202. Section 244 is amended by inserting after "Adiministration" in clause (1) a comma and "and, in cooperation with the Secretary, actively seek to promote the development and establishment of employment, training, and other opportunities for veterans, with particular emphasis on the needs of veterans with service-connected disabilities and other eligible veterans, taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title".

SEC. 203. Section 1652 is amended by—

(1) inserting after "chapter" the first time it appears "and chapter 36 of this title";

(2) striking out in subsection (e) "For the purposes of this chapter and chapter 36 of this title, the" and inserting in lieu thereof "The";

(3) striking out in subsection (f) "For the purposes of this chapter and chapter 36 of this title, the" and inserting in lieu thereof "The"; and

(4) striking out in subsection (g) "For the purposes of this chapter and chapter 36 of this title, the" and inserting in lieu thereof "The".

SEC. 204. Section 1701(a) is amended by—

(1) inserting after "chapter" the first time it appears "and chapter 36 of this title";

(2) striking out in paragraph (9) "For the purposes of this chapter and chapter 36 of this title, the" and inserting in lieu thereof "The";

(3) striking out in paragraph (10) "For the purposes of this chapter and chapter 36 of this title, the" and inserting in lieu thereof "The"; and

(4) striking out in paragraph (11) "For the purposes of this chapter and chapter 36 of this title, the" and inserting in lieu thereof "The".

SEC. 205. Section 1772 is amended by adding after subsection (c) the following new subsection:

"(d) The Administrator shall be responsible for the approval of all programs of training on the job other than those described in subsection (c) of this section (including apprenticeship programs), and shall exercise this responsibility directly or through agreements with non-Veterans' Administration sources, including those described in section 1771(a) of this title. Pursuant to regulations jointly prescribed by the Administrator and the Secretary of Labor, the Administrator shall actively promote the development of programs of training on the job (including programs of apprenticeship) for the purposes of section 1777 and 1787 of this title and shall utilize the services of veterans' employment and training outreach program specialists under section 2003A of this title to promote the development of and, as appropriate, approve such programs.".

SEC. 206. Section 1777 is amended by—

(1) amending subsection (a) by—

(A) striking out "Any State approving agency may approve a" and inserting in lieu thereof "A";

(B) inserting "may be approved" after "apprenticeship)";

(C) striking out "it finds that"; and

(D) striking out "subsections (b) and (c)" and inserting in lieu thereof "subsection (b)";

(2) amending subsection (b) to read as follows:

"(b) The Administrator, after consultation with the Secretary of Labor, shall prescribe regulations specifying criteria for the approval of programs of training on the job (including registered and nonregistered apprenticeship training meeting the standards of apprenticeship published by the Secretary pursuant to section 50a of title 29) in order to carry out the provisions of subsection (a) of this section and to assure the appropriateness of the training provided in meeting the purposes of chapters 34 and 35 of this title. Such criteria for a program of training on the job (other than a program of apprenticeship) shall include a certification that—

"(1) the training content and procedures of the course are adequate to qualify the eligible veteran or person for appointment to the job for which such veteran or person is to be trained;

"(2) the wages to be paid the eligible veteran or person (A) upon entrance into training are not less than wages paid nonveterans in the same training position and are at least 50 per centum of the wages paid for the job for which the veteran or person is to be trained, and (B) will be increased in regular periodic increments until, not later than the last full month of the training period, they will be at least 85 per centum of the wages paid for the job for which such veteran or person is being trained;

"(3) there is reasonable certainty that the job for which the eligible veteran or person is to be trained will be available to such veteran or person at the end of the training period; and

"(4) the job customarily requires full-time training for a period of not less than three months and the length of the training period is not longer than that customarily required by training establishments in the community."; and

(3) striking out subsection (c) in its entirety.

SEC. 207. Section 1787(a) is amended to read as follows:

"(a) An eligible veteran or an eligible person shall be paid a training assistance allowance as prescribed by subsection (b) of this section while pursuing a full-time program of training on the job (including a program of apprenticeship) approved under section 1777 of this title, subject to the conditions and limitations set forth in chapters 34 and 35 with respect to educational assistance.".

SEC. 208. Section 2003 is amended by inserting after "veterans' employment representative" the first time it appears "(and shall assign full-time clerical support to each such representative)".

SEC. 209. (a) Chapter 41 is amended by inserting between sections 2003 and 2004 the following new section:

"§ 2003A. Veterans' Employment and Training Outreach Program

"(a)(1) The Secretary of Labor shall make available each State, directly or by grant or contract, such funds as may be necessary to support a program of employment and training outreach designed to meet the employment needs of veterans, especially disabled veterans of the Vietnam era. Funds provided to a State shall be sufficient to support the assignment of one veterans' employment and training outreach program specialist for each 5,300 Vietnam-era and disabled veterans residing in such State. Such specialist shall be a veteran, and shall be a disabled Vietnam-era veteran or disabled veteran unless the Secretary finds that a disabled Vietnam-era or disabled veteran is not available, and shall be compensated at a rate not less than the rate prescribed for an entry level professional in the State concerned. Such additional funds as may be necessary to support the reasonable expenses of such specialists for training, travel, supplies, and fringe benefits shall also be available by the Secretary to the State.

"(2) Specialists assigned pursuant to paragraph (1) of this subsection shall be in addition to and shall not supplant employees assigned to local employment service offices pursuant to section 2004 of this title.

"(b) Pursuant to regulations prescribed by the Secretary, veterans' employment and training outreach program specialists shall be assigned only those duties directly related to meeting the employment needs of eligible veterans, with priority for services as follows: to disabled Vietnam-era veterans who are participating in or have completed a program of vocational rehabilitation under chapter 31 of this title; to other disabled veterans; and to other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title. Maximum emphasis shall be placed on assisting economically or educationally disadvantaged veterans. Not more than three-quarters of the veterans' employment and training outreach program specialists in each State shall be stationed at local employment service offices in such State. Specialists not so stationed shall be stationed at centers established by the Veterans' Administration to provide a program of readjustment counseling pursuant to section 612A of this title, veterans assistance offices established by the Veterans' Administration pursuant to section 242 of this title, and such other sites as may be determined appropriate in accordance with regulations jointly prescribed by the Secretary and the Administrator.

"(c) Each veterans' employment and training outreach program specialist shall carry out the following functions for the purpose of providing services to eligible veterans in accordance with the priorities set forth in subsection (b) of this section:

"(1) Develop job and job training opportunities for such veterans through contacts with employers, especially small- and medium-sized private sector employers.

"(2) Pursuant to regulations jointly prescribed by the Secretary and the Administrator, promote, develop, and, as appropriate, approve apprenticeship and other on-job training positions pursuant to section 1787 of this title.

"(3) Carry out outreach activities to locate such veterans through contacts with local veterans organizations, the Veterans' Administration, the State employment service agency and local employment service offices, and community-based organizations.

"(4) Provide appropriate assistance to community-based groups and organizations and prime sponsors under the Comprehensive Employment and Training Act in providing services to such veterans.

"(5) Provide appropriate assistance to local employment service offices employees with responsibility for veterans in carrying out their responsibilities pursuant to this chapter.

"(6) Consult and coordinate with other appropriate representatives of Federal, State, and local programs for the purpose of developing maximum linkages to promote employment opportunities for and provide maximum employment assistance to such veterans.

"(7) Carry out such other duties as will promote the development of entry-level and career job opportunities for such veterans.

"(d) Individuals serving as staff in the Disabled Veterans Outreach Program conducted under title III of the Comprehensive Employment and Training Act on the date of enactment of this section shall be appointed as veterans' employment and training outreach program specialists in the State in which such individual is so serving, unless the Secretary for good cause shown determines that such individual is not qualified for such appointment.

"(e) The Secretary shall administer the program provided for by this section through the Deputy Assistant Secretary for Veterans' Employment.".

(b) The table of sections at the beginning of chapter 41 is amended by inserting after the item relating to section 2003 the following:

"2003A. Veterans' Employment and Training Outreach Program.".

SEC. 210. Chapter 34 is amended by—

(1) striking out in the last sentence of section 1677(b) "$288" and inserting in lieu thereof "$317";

(2) amending the table contained in paragraph (1) of section 1682(a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$342	$407	$464	$29
Three-quarter-time	256	305	349	21
Half-time	172	204	232	14
Cooperative	276	323	367	21";

(3) striking out in section 1682(b) "$311" and inserting in lieu thereof "$342";

(4) amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$276	$323	$367	$21
Three-quarter-time	207	243	276	17
Half-time	139	162	184	11";

(5) striking out in section 1692(b) "$69" and "$828" and inserting in lieu thereof "$76" and "$911", respectively; and

(6) striking out in section 1696(b) "$311" and inserting in lieu thereof "$342".

SEC. 211. Chapter 35 is amended by—

(1) striking out in section 1732(b) "$251" and inserting in lieu thereof "$276"; and

(2) striking out in section 1742(a) "$311", "$98", "$98", and "$10.40" and inserting in lieu thereof "$342", "$108", "$108", and "$11.40", respectively.

SEC. 212. Chapter 36 is amended by—

(1) striking out in section 1786(a)(2) "$311" and inserting in lieu thereof "$342";

(2) amending the table contained in paragraph (1) of section 1787(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$249	$279	$305	$13
Second 6 months	186	217	243	13
Third 6 months	124	155	180	13
Fourth and any succeeding 6-month periods	62	92	119	13";

and

(3) striking out in paragraph (3) of section 1798(b) "$311" and inserting in lieu thereof "$342".

TITLE III—TECHNICAL PROVISIONS; EFFECTIVE DATE

SEC. 301. Section 612(f)(2) is amended by inserting "any veteran for whom medical services are provided pursuant to an individualized written plan of rehabilitation developed under chapter 31 of this title" after "more".

SEC. 302. Section 1781 is amended by inserting "or subsistence allowance granted under chapter 31" after "36".

SEC. 303. Section 1795 is amended by—

(1) amending clause (4) to read as follows:

"(4) chapters 32, 34, 35, and 36 of this title, and the former chapter 33";

(2) striking out the comma immediately following "thereof)" and inserting in lieu thereof a period; and

(3) striking out "but this section shall not be deemed to limit the period for which assistance may be received under chapter 31 alone." and inserting in lieu thereof a period and the following new sentence: "No person may receive assistance under chapter 31 of this title in combination with assistance under any of the provisions of law cited in clauses (1), (2), (3), and (4) of this section for a period in excess of forty-eight months (or the part-time equivalent thereof) unless the Administrator determines that additional months of benefits provided for by such chapter are required to accomplish the rehabilitation purposes set forth in such chapter.".

SEC. 304. Section 1631(a)(1) is amended by adding at the end thereof the following new sentence: "The 36-month maximum shall be subject to the provisions of section 1795 of this title limiting the aggregate period for which any person may receive assistance under two or more programs of education administered by the Veterans' Administration.".

SEC. 305. Section 1682 is amended by adding at the end the following new subsection:

"(h) Notwithstanding any other provision of this title in, the case of an eligible veteran pursuing a program of education while receiving care in a Veterans' Administration hospital, nursing home, or domiciliary facility or in a facility with which the Administrator, under the provisions of chapter 17 of this title, has contracted for such veteran's care at Veterans' Administration expense, the educational assistance allowance appropriate for the type of training pursued shall, after such veteran has been receiving such care for thirty days, accrue and be withheld (and converted to securities), paid to dependents, and paid to such veteran upon discharge from such facility, as appropriate, under the same terms and conditions set forth in subsection (g) of this section, except that the Administrator shall, upon the request of such veteran, pay to such veteran all or part of such monthly allowance payments as are determined to be necessary to meet continuing financial obligations of such veteran.".

SEC. 306. Section 1624(a) is amended to read as follows:

"(a)(1) If a participant dies, the amount of such participant's unused contributions to the fund shall be paid to the living person or persons first listed below:

"(A) The beneficiary or beneficiaries designated by such participant under such participant's Servicemen's Group Life Insurance policy.

"(B) The surviving spouse of the participant.

"(C) The surviving child or children of the participant, in equal shares.

"(D) The surviving parents of the participant, in equal shares.

"(2) If there is no such person living, such amount shall be paid to the participant's estate.".

SEC. 307. The authority to make loans in the increased amounts authorized under sections 1512 and 1798(b)(3) of title 38, United States Code, as amended by sections 101(a) and 211(3) of this Act, respectively, shall be effective only to such extent or in such amounts as are provided in appropriation Acts. The preceding sentence shall be effective only if, on the day a bill containing amendments substantively identical to the amendments made by sections 101(a) and 211(3) of this Act to increase the amounts of loans authorized by sections 1512 and 1798(b)(3) of such title is passed by the House of Representatives or the Senate, there is in effect in such body a rule which provides that it shall not be in order in such body to consider a bill containing such amendments unless such bill provides that the authority to make such loans in such increased amounts shall be effective only to such extent or in such amounts as are contained in appropriation Acts.

SEC. 308. (a) Except as provided in subsection (b) of this section the provisions of this Act shall become effective on October 1, 1980.

(b) With respect to veterans who are participating in a program of vocational rehabilitation under chapter 31 of title 38, United States Code, on September 30, 1980—

(1) individualized written plans of vocational rehabilitation shall be formulated un-

der section 1507 of such title (as amended by section 101(a) of this Act) for such veterans to the extent that and at such times as the Administrator determines that the formulation of such plans is feasible and on the basis of such priorities for the formulation of such plans as the Administrator shall prescribe; and

(2) extensions may be granted a veteran under section 1503(c) and 1505(c) of such title (as amended by section 101(a) of this Act) without regard to the requirement for a determination of a serious employment handicap.

The PRESIDING OFFICER. The Senator from California may proceed.

Mr. CRANSTON. Mr. President, I rise in support of S. 1188, the proposed Disabled Veterans Rehabilitation Act of 1980, as reported from the Committee on Veterans' Affairs. This legislation includes provisions to improve and modernize Veterans' Administration rehabilitation programs for service-connected disabled veterans by comprehensively restructuring and recodifying chapter 31, title 38, United States Code, and provisions to enhance training and employment of opportunities for veterans.

INTRODUCTION

Mr. President, on May 21, 1978, as chairman of the Committee on Veterans' Affairs, I introduced S. 1188 at the request of the administration. On February 19, 1980, I submitted amendment No. 1661 to S. 1188.

On February 28, 1980, the committee held a hearing, which I chaired, on the bill and the amendment. Those testifying included Guy H. McMichael III, General Counsel of the Veterans' Administration, Robert Humphreys, then Commissioner, Rehabilitation Services Administration, Department of Health, Education, and Welfare, Dennis R. Wyant, Deputy Assistant Secretary for Veterans' Employment, Department of Labor, Edward A. Densmore, Deputy Director, Human Resources Division, General Accounting Office, Edward V. Roberts, director, State Department of Rehabilitation, State of California, experts with backgrounds in various aspects of rehabilitation, and representatives of the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, the Blinded Veterans Association, the Paralyzed Veterans of America, and of other concerned organizations.

At that hearing, Mr. President, the committee received extensive, uncontradicted testimony, that the 37-year-old statutory framework in chapter 31 of title 38 is out of date and badly in need of a thorough overhaul. During the decades since the basic legislative foundation for the VA's vocational rehabilitation was laid, there have been many major advances in rehabilitation concepts and great changes in the role of handicapped individuals in our society. A most significant development in that regard was the congressional enactment of the Rehabilitation Act of 1973 revising and refocusing the Federal-State vocational rehabilitation program and promoting the availability of comprehensive services and educational, training, and employment opportunities for seriously handicapped persons. As a principal author of that landmark legislation in 1973, I have been most concerned that the concepts and methods—now both developed and tested by experience—under the Rehabilitation Act are made fully available to service-connected disabled veterans under the VA chapter 31 program.

Witnesses at our hearing generally emphasized the need for a legislative structure that would provide a basis for and foster the provision of a comprehensive range of services through an administrative process assuring that various types of services needed by the individual service-connected disabled veteran are provided in a coordinated, effective manner. Thus, the testimony indicated a need for a rehabilitation program capable of meeting the many physical, psychological, and emotional needs that an individual may have following a disabling injury or illness, as well as providing the training and assistance necessary to equip the individual for an occupation or profession that is suited to his or her abilities, aptitudes, and interests.

Mr. President, after carefully reviewing the testimony received by the committee and the written comments and other documents, the committee met in open session on April 2, 1980, and voted to report favorably S. 1188 with an amendment in the nature of a substitute. Titles I and III of the bill as reported are derived, with modifications, from amendment No. 1661. Title II consists of employment and education provisions derived from oversight hearings held in 1979 and 1980 and information and recommendations received by the committee as part of its continuing oversight responsibilities, and from S. 2308, introduced by the Senator from South Carolina (Mr. THURMOND), on February 2, 1980.

HIGHLIGHTS OF S. 1188 AS REPORTED

Mr. President, S. 1188 as reported, which I will refer to as the committee bill, contains three titles—title I, "Rehabilitation Amendments;" title II, "Employment and Education Amendments;" and title III, "Technical Provisions; Effective Date." I shall highlight certain major provisions of titles I and II of the committee bill.

TITLE I—REHABILITATION AMENDMENTS

Mr. President, the rehabilitation amendments contained in title I of the committee bill incorporate the recommendations of those who testified at the February 28 hearing, both with respect to the broad statutory framework for VA rehabilitation programs for service-connected disabled veterans and to specific details as to services which may be necessary to prepare a service-connected veteran for an occupation and to function with the maximum possible independence in his or her family and in the community.

Among the major provisions of title I of the committee bill are those which would expand the scope of services authorized under chapter 31 in certain respects. The new services would include, very importantly, pretraining services to help improve the ability of severely disabled veterans to participate in vocational training and independent living services for seriously disabled chapter 31 participants in need of this kind of assistance to achieve a maximum level of independent, self-sustaining life in their families and communities and to achieve the capacity for vocational rehabilitation.

The committee bill would also create a 4-year pilot program of independent living services—limited to 500 new participants each year—for those who are determined to be too severely disabled to pursue a vocational goal. In addition, the committee bill would provide the opportunity for extended, in-depth evaluation of rehabilitation potential in the relatively rare cases in which it is impossible to determine at the time of the initial evaluation whether it is reasonably feasible for the veteran to pursue a vocational goal. During the period of extended evaluation, the veteran could be provided independent living services and services to improve his or her potential for pursuing training toward a vocational goal.

Title I of the committee bill would also expand the purpose and effective operation of the chapter 31 program beyond achieving employability of the veteran to helping the veteran find and maintain employment in a suitable job, and would place emphasis on the provision of employment assistance, including extensive postplacement services. The types of employment assistance to be furnished veterans under chapter 31 as revised by this title would include a broad range of services, such as direct VA assistance in job placement and VA use of the various outreach and job development services provided by other agencies.

In addition, the Administrator would be required to provide any assistance needed to assure that the veteran receives the benefit of any applicable special consideration, preference, or emphasis in employment or training for which the veteran is eligible under any provision of law or regulation. Also, certain very severely disabled veterans would be made eligible, within criteria and cost limits that the Administrator would prescribe in regulations, for such items as license fees and essential equipment, supplies, and minimum stocks as the Administrator determines to be necessary for the veteran to begin employment or start his or her own small business.

The committee bill would also authorize payments to employers, under regulations which the Administrator would prescribe with the concurrence of the Secretary of Labor, to defray the employers' direct expenses in providing on-job training and employment opportunities to veterans rehabilitated under chapter 31 where such payments are necessary for the veteran to obtain needed training or to begin employment.

In sum, as these examples show, title I of the committee bill seeks to make certain that, following completion of a vocational rehabilitation program, a veteran with a serious employment handicap is assured of all reasonable assistance that he or she may need in making a successful entry into the workforce and adjusting to his or her employment situation.

I would like to stress at this point that the provisions of part A of title II of the committee bill that were designed to enhance employment and related opportunities for veterans, are likewise designed to be of general benefit to chapter 31 participants in their efforts to seek suitable employment and, in certain respects, would provide for particular emphasis on helping meet the employment needs of chapter 31 participants.

Title I of the committee bill would also provide for a 10-percent cost-of-living increase in the existing chapter 31 subsistence allowance rates and establish new rates, at levels commensurate with the existing rates as so increased, for the new categories of chapter 31 participation that the committee bill would create—extended evaluation and programs of independent living services and assistance. In addition, provisions in the committee bill are designed to eliminate the financial incentive under current law for service-connected disabled veterans attending low-tuition schools to receive the higher GI bill allowances available to them under chapter 34 and, thus, to forego participation in a chapter 31 program, even though they could benefit substantially from the counseling and other services available only under chapter 31.

According to the GAO's report on the current VA vocational rehabilitation program from 1973 to 1977, 92 percent of veterans with a 100-percent disability who would be eligible for services under chapter 31, trained under chapter 34 instead. To help assure that disabled veterans receive the counseling and other services they may need to be successfully rehabilitated, the committee bill would permit chapter 31 participants to elect—to the extent that they have chapter 34 eligibility and entitlement—to receive under chapter 31, chapter-34-equivalent allowances instead of the subsistence allowance, tuition, and fees, and certain other assistance specified in chapter 31.

Finally, Mr. President, I would also like to note that title I of the committee bill would provide for more efficient use of the time and efforts of chapter 31 counseling psychologists by focusing their services directly on veterans who are in need of them. Thus, the committee bill would require that individualized written plans of vocational rehabilitation be prepared only for veterans who have serious employment handicaps and would mandate counseling only for those veterans. In all other cases, counseling would—in order to avoid unnecessary and perfunctory counseling sessions—be available upon the veteran's request.

TITLE II—EMPLOYMENT AND EDUCATION AMENDMENTS

PART A. VETERANS' EMPLOYMENT PROVISIONS

Mr. President, title II of the committee bill would make a series of amendments to title 38 that are designed to enhance employment, training, and other employment-related opportunities for veterans, particularly those who have service-connected disabilities, those who are participating in or have completed chapter 31 vocational rehabilitation programs, and those to whom the employment emphases in chapter 42 apply, which includes Vietnam-era veterans as well as service-connected disabled veterans.

First, the provisions of the committee bill would require the Administrator of Veterans' Affairs to play an increased, active role in advocating the effective implementation of existing laws and regulations relating to employment, training, and other employment-related opportunities for veterans and, in cooperation with the Secretary of Labor, in developing and establishing such opportunities. These provisions are intended—in light of the fact that the VA is the one Federal agency with overall priorities and responsibilities pertaining to the assistance of veterans—to provide the Administrator with explicit authority and responsibility to serve as a central focus for coordinating and promoting Federal efforts to meet veterans' employment needs.

Second, the committee bill would also increase the accountability of the Administrator with respect to the VA's program of training on the job under the GI bill and streamline and enhance the program so as to make it more attractive to both employers and eligible trainees. These modifications are also designed to encourage the development of increased linkages between this program and other programs that provide incentives to employers to hire certain veterans.

Third, the committee bill would establish a new veterans' employment and training outreach program—VETOP—in the Department of Labor. This new program is modeled on the current, highly successful disabled veterans outreach program—DVOP—now conducted by the Department of Labor under the Comprehensive Employment and Training Act. "VETOP" specialists—like "DVOP" staff—would have a variety of responsibilities and duties designed to promote employment and training opportunities for veterans, especialy chapter 31 trainees and those who have service-connected disabilities—both within local employment service offices and at locations such as the new veterans' readjustment counseling centers.

PART B. GI BILL COST-OF-LIVING INCREASE

Mr. President, title II of the committee bill would also provide for a 10-percent cost-of-living increase in GI bill benefits.

The purchasing power of the GI bill dollar has declined since 1970 as a result of the continued rise in the cost of living as measured by the Consumer Price Index—CPI—and an increase is long overdue. Since 1970, the Congress has increased benefits almost 78 percent. However, the increase in the CPI from 1970 through July 1980 has been close to 119 percent. Since the last increase in benefits, made by Public Law 95-202, effective October 1, 1977, the cost of living has increased by more than 30 percent. This rate of inflation has created hardships for many veterans attempting to pursue education under the GI bill.

On January 24, Mr. President, in connection with the consideration of the proposed "GI Bill Amendments Act of 1980," the Senate approved a 15-percent cost-of-living increase, effective September 1, 1980, in the rates of GI bill educational assistance allowances. The cost of the 15-percent rate increase was estimated by the Congressional Budget Office—CBO—to be $376 million for fiscal year 1981.

However, in connection with the congressional budget for fiscal year 1981, that increase has been reduced in the committee bill to a 10-percent increase effective October 1, 1980. Moreover, despite repeated efforts of myself and other members of our committee to secure adequate levels in the first concurrent resolution on the budget for fiscal year 1981—House Concurrent Resolution 307—for this increase, together with other high-priority legislation regarding veterans' programs, the first budget resolution does not make adequate provision for this increase.

Consequently, in S. 2885, the proposed "Reconciliation Act of 1980," which the Senate passed on June 26 pursuant to section 3 of the first budget resolution, the Senate passed a provision—section 801—requiring that the Senate-passed GI bill rate increase be reduced to 10 percent and that its effective date be postponed to January 1, 1981. Consistent with the Senate action, I will include in the committee amendment that I intend to offer to the committee bill, a provision to postpone until January 1, 1981, the effective date of the 10-percent GI bill rate increase.

COST ESTIMATE

Mr. President, according to estimates received from CBO, the cost resulting from the enactment of the committee bill during the first 5 years following enactment would be $291.0 million in fiscal year 1981; $372.9 million in fiscal year 1982; $326.9 million in fiscal year 1983; $256.7 million in fiscal year 1984; and $211.7 million in fiscal year 1985. The costs for fiscal year 1981 would be reduced to $167 million as a result of making the GI bill increases effective on January 1, 1981.

SUMMARY OF COMMITTEE BILL PROVISIONS

Mr. President, in addition to the major provisions outlined above, the committee bill would make many other substantive changes in title 38 to improve and modernize rehabilitation programs for service-connected disabled veterans and to enhance employment, training, and educational programs for veterans, as well as making several amendments of a technical nature. I would like now to summarize the provisions of each of the three titles of the committee bill.

Title I of the committee bill, "Rehabilitation Amendments," would comprehensively restructure and recodify chapter 31 of title 38, relating to vocational rehabilitation for service-connected disabled veterans. Included in title I of the committee bill are provisions that would:

First, provide that the purposes of revised chapter 31 are to provide for all services and assistance necessary to enable service-connected disabled veterans to achieve maximum independence in daily living and, to the maximum extent possible, to become employable and obtain and maintain suitable employment.

Second, extend the basic eligibility period for participation in a program of rehabilitation from 9 to 10 years, with authorization for the Administrator to extend this period if a disability—including a drug or alcohol dependence or abuse disability—made the veteran's participation infeasible, if the veteran had not met the requirement of a discharge or release under conditions other than dishonorable but the nature or character of the discharge or release was changed—or a statutory bar to benefits was removed—by appropriate authority, or if the veteran had not established the existence of a service-connected disability; and provide a full 10 years of eligiblity from the date on which the veteran satisfies the nature-of-dicharge requirements or is determined to have a service-connected disability.

Third, provide for an extension of the period of eligibility for a veteran with a serious employment handicap if the veteran satifies the nature-of-discharge litated under chapter 31 to the point of employability, if the veteran's service-connected disability has changed so that the veteran is no longer able to perform the functions of the occupation for which the veteran had been rehabilitated under chapter 31 to the point of employability, if that occupation has proven inappropriate, or if the Administrator otherwise determines that an extension is necessary to carry out the purposes of chapter 31; and would provide in the case of a veteran for whom it has been determined that the achievement of a vocational goal is not reasonably feasible, for an extension if necessary for the veteran to achieve maximum independence in daily living.

Fourth, provide for a broad, expanded range of services and assistance for veterans participating in chapter 31 programs, which would generally enable to VA to provide whatever services and assistance are determined to be necessary to help a service-connected disabled veteran achieve the maximum level of rehabilitation, including pre-training services, various forms of employment assistance, and independent living services and assistance.

Fifth, provide for an initial evaluation process to determine whether a service-connected disabled veteran applying for benefits under chapter 31 has a serious employment handicap and to determine, if reasonably feasible without extended evaluation, whether the achievement of a vocational goal is reasonably feasible for the veteran.

Sixth, provide for a period of extended evaluation of up to 12 months—during which services necessary to improve the veteran's vocational potential and ability to function independently may be provided—in the case of a veteran who has been determined to have a serious employment handicap but for whom a determination could not be made during initial evaluation as to whether the achievement of a vocational goal is reasonably feasible; provide for additional periods of extended evaluation of up to 6 months if the Administrator determines that, during the extended period, it is reasonably likely that a determination can be made as to whether a vocational goal is reasonably feasible for the veteran; and require the Administrator to determine, as expeditiously as possible during initial or extended evaluation, the reasonable feasibility of the achievement of a vocational goal and to resolve any reasonable doubt in favor of determining that the achievement of a vocational goal is reasonably feasible.

Seventh, generally provide each eligible veteran with 48 months of entitlement to vocational rehabilitation and provide that a veteran who has been determined to have a serious employment handicap may receive 18 additional months of counseling, placement, and post-placement services; and provide eligible veterans whose disabilities are so severe that the achievement of a vocational goal is not reasonably feasible with 24 months of entitlement—under a pilot independent living services program—to independent living services and assistance, which may be extended if the Administrator determines that a longer period is necessary and likely to result in a substantial increase in the veteran's level of independence in daily living.

Eighth, require the Administrator to formulate jointly with a veteran who has been determined to have a serious employment handicap and for whom it has been determined that the achievement of a vocational goal is reasonably feasible, an individualized written plan of vocational rehabilitation; and provide for a special, expedited "appeal process" if the veteran does not agree to the plan.

Ninth, authorize a subsistence allowance to be paid to a veteran during any period, as determined by the Administrator, that the veteran is participating in a rehabilitation program—including a program of either vocational rehabilitation, including a period of evaluation, or of independent living services and assistance; and authorize a 2-month post-training subsistence allowance for a veteran who has a serious employment handicap and who has been determined to be rehabilitated to the point of employability.

Tenth, increase by 10 percent the existing monthly subsistence allowance rates for veterans participating in rehabilitation programs under chapter 31; and increase the maximum amount that may be loaned to a chapter 31 participant from $200 to twice the full-time institutional monthly subsistence allowance for a veteran with no dependents.

Eleventh, authorize veterans participating in rehabilitation programs under chapter 31 who have remaining eligibility for entitlement to educational assistance benefits under chapter 34 to make an election to receive, in lieu of a subsistence allowance and certain other forms of assistance specified in chapter 31, an allowance and assistance equal to that provided to veterans enrolled in GI bill training under chapter 34.

Twelfth, modify the method of payment of allowances to a chapter 31 participant who is incarcerated or who is receiving care for a period of more than 30 days in a hospital, nursing home, or domiciliary facility at VA expense, generally by providing for the escrow of amounts not paid as dependents' allowances during the period of the veteran's incarceration or care and for payment of the escrowed amount upon the veteran's release.

Thirteenth, authorize the Administrator to contract with the VA's Department of Medicine and Surgery—D.M. & S.—for the use of D.M. & S. facilities and services for the provision of rehabilitation services under chapter 31; and authorize the use of chapter 31 funds to reimburse D.M. & S. for the costs of providing such services.

Fourteenth, provide for a 4-year—fiscal years 1982 through 1985—pilot program of contract independent living services and assistance in various geographic regions for those severely disabled veterans, limited to 500 new individual contracts annually, for whom the achievement of a vocational goal is determined not to be reasonably feasible; and require a report to Congress not later than September 30, 1984, on the pilot program.

Fifteenth, require the Administrator to provide a program of ongoing professional training and development for VA chapter 31 counseling and rehabilitation personnel in order to assure that rehabilitation services for veterans are provided according to the most advanced knowledge, methods, and techniques; and require the Administrator to coordinate with the Rehabilitation Services Administration and the Department of Labor in planning and carrying out personnel training in areas of mutual programmatic concern.

Sixteenth, establish a Veterans' Advisory Committee on Rehabilitation, whose members would be appointed by the Administrator from the general public, with at least one-half the membership being service-connected disabled veterans; and require an annual report to the Administrator and the Congress on its assessment and review of VA rehabilitation programs.

Seventeenth, require VA vocational rehabilitation personnel to accomplish a comprehensive diagnostic evaluation of a service-connected disabled veteran following the adjudication of the veteran's disability compensation claim for a 100-percent disability rating on the basis of such veteran's individual unemployability, if it appears that the veteran may have the potential for vocational rehabilitation and employment.

Mr. President, title II of the committee bill, "Employment and Education Amendments," is divided into two parts. Part A, "Program Adjustments," would amend three chapters of title 38—chapter 3, Veterans' Administration; Officers and Employees; chapter 36, Administration of Educational Benefits; and chapter 41, Job Counseling, Training, and Placement Service for Veterans. Included in part A of this title are amendments which would:

First, require the Administrator of Veterans' Affairs to play an increased, active role with respect to advocacy of the effective implementation, enforcement, and application of existing laws and regulations relating to employment, training, and other related opportunities for veterans.

Second, require the Administrator, in cooperation with the Secretary of Labor, to seek actively to promote the development and establishment of employment, training, and other employment-related opportunites for veterans.

Third, make the Administrator directly responsible and accountable for the promotion, development, and approval of programs of training on the job for the purposes of GI bill benefits.

Fourth, streamline and update the provisions setting forth the approval criteria for programs of training on the job.

Fifth, require the provision by the Department of Labor of direct secretarial support to veterans' employment representatives assigned to the States.

Sixth, establish a new veterans' employment and training outreach program—VETOP—modeled after the successful disabled veteran outreach program—DVOP.

Part B of title II of the committee bill, "GI Bill Rate Increases," includes amendments to chapters 34, 35, and 36 of title 38, relating to educational assistance for veterans, survivors, and dependents, which would provide for a 10 percent cost-of-living increase in rates of educational assistance and training allowances paid to persons eligible for such benefits under these chapters.

Mr. President, title III of the committee bill, "Technical Provisions; Effective Date," includes provisions which would:

First, provide certain chapter 31 participants with the same eligibility and priority for the receipt of VA outpatient care and the same eligibility for contract outpatient care as veterans with service-connected disabilities rated as 50 percent or more disabling.

Second, add a reference to chapter 31 subsistence allowances—including chapter 34 equivalent allowances—to the existing provisions barring the payment of chapter 34, 35, or 36 educational assistance allowances to certain Federal personnel receiving training at Government expense.

Third, add a reference to the chapter 32 post-Vietnam era veterans' educational assistance program in the listing of VA educational assistance programs under which no person may receive benefits for an aggregate period of more than 48 months; and delete the reference to chapter 31 from that listing, but generally provide that no person may receive assistance under chapter 31 in combination with assistance under the listed education programs for a period in excess of 48 months.

Fourth, modify the method of payment of educational assistance allowances to chapter 34 GI bill trainees while such trainees are receiving care in a community hospital, nursing home, or domiciliary facility at VA expense.

Fifth, include in the statutory scheme for the distribution of a deceased participant's unused contributions to the chapter 32 post-Vietnam era veterans' educational assistance fund the deceased participant's surviving spouse, children, and parents.

Sixth, provide for a conditional limitation on the authority to implement the increase, proposed in titles I and II, in the maximum amounts of VA chapter 31 subsistence loans and chapter 34 education loans.

Mr. President, in order that all Senators and the public may have a full understanding of the various provisions of the committee bill, I ask unanimous consent that there be printed in the Record at this point pertinent excerpts from Senate Report No. 96–746 accompanying this bill.

There being no objection, the excerpts from the Senate report were ordered to be printed in the Record, as follows:

Discussion

TITLE I: REHABILITATION AMENDMENTS

Background

History of VA Vocational Rehabilitation Programs

Throughout our Nation's history, our people and our Federal Government have shown special concern for meeting the needs of those who are disabled as a result of wartime service in the country's Armed Forces and, more recently, as the result of service in time of either war or peace. Federal assistance to those so disabled has been based upon the national purpose that everything possible should be done to help the disabled veteran readjust to civilian life.

The first effort to provide specifically for vocational rehabilitation began in 1917 when the Congress enacted the War Risk Insurance Act of 1917, Public No. 90, 65th Congress. That Act included, as part of its benefits package for service-connected disabled veterans, general provisions for vocational rehabilitation, without specifying how rehabilitation was to be accomplished.

In 1918, the Vocational Rehabilitation Act, Public No. 178, 65th Congress, was enacted and provided more specific provisions for a service-connected disabled veteran's vocational rehabilitation program. To be eligible to participate in that program, the veteran had to demonstrate an inability to carry on gainful employment or reenter the occupation that the veteran left when entering active service.

Following training, and as part of the program, responsibility for finding suitable employment for rehabilitated veterans was placed upon the Government. The vocational rehabilitation program for World War I disabled veterans terminated in 1928. During the program, approximately 675,000 veterans applied for rehabilitation, of whom approximately half were rated as eligible for rehabilitation training.

On December 12, 1941—5 days after the Japanese attack on Pearl Harbor—President Roosevelt requested the joint efforts of several Federal agencies, including the Veterans' Administration, to study the problems of rehabilitating disabled World War II veterans. Subsequently, in 1943, Congress enacted Public No. 16, 78th Congress, which included provisions for a vocational rehabilitation program for those who incurred service-connected disabilities in active service on or after December 6, 1941, and prior to the termination of hostilities in World War II. The purpose of that program was to restore employability lost by virtue of a handicap due to service-connected disability. A veteran participating in that program was provided with a subsistence allowance and the VA paid tuition and fees for the training that the veteran pursued. By 1950, approximately 550,000 disabled veterans from World War II had benefited from the program.

Shortly after the outbreak of the Korean conflict, President Truman recommended the renewal of the World War II vocational rehabilitation program. Congress responded to this recommendation with the enactment in 1950 of Public Law 894, 81st Congress, and that Act as amended in 1951 by Public Law 110, 82nd Congress, provided a vocational rehabilitation program similar to the World War II program, for veterans who incurred service-connected disabilities and needed to overcome the handicap of a disability incurred or aggravated by such service. However, the disability had to be a direct result of armed conflict or incurred by a serviceperson either while engaged in extra-hazardous service or while the United States was engaged in war; and training was required to be completed by participating veterans on or before August 20, 1963.

Thus, vocational rehabilitation legislation historically has been enacted to address the prospective needs of service-connected disabled veterans when the Nation was faced with an existing or potential major military conflict. However, in 1962, with the enactment of Public Law 87–815, vocational rehabilitation benefits were granted to any veteran of World War II and the Korean conflict if he or she had a service-connected disability rated as 10 percent or more disabling and was in need of vocational rehabilitation; and a veteran whose disability was incurred after World War II and at any time other than during the Korean conflict was also made eligible for vocational rehabilitation benefits if his or her service-connected disability was rated as 30 percent or more disabling or, if rated less than 30 percent, if he or she had a pronounced employment handicap.

In 1974, Public Law 93–508, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, liberalized the eligibility requirements for vocational rehabilitation—now, as so liberalized, the current requirements under chapter 31 of title 38—by extending the eligibility to any veteran with a service-connected disability rated 10 percent or more disabling who is in need of vocational rehabilitation, defined as training for the purpose of restoring employability lost by virtue of a handicap due to service-connected disability. This measure made the eligibility requirements of the existing program for both wartime and peacetime veterans comparable to the eligibility requirements of the programs provided to veterans of World War II and the Korean conflict.

From June 1943 through January 1980, a total of approximately 831,700 disabled veterans trained under the VA vocational rehabilitation program. Of those, 621,300 were World War II veterans, 77,000 were veterans of the Korean conflict, 23,600 were post-World War II peacetime veterans who were trained after 1972 when the law was changed to provide for their eligibility, and 109,800 were Vietnam-era veterans. As of the end of January 1980, there were a total of 14,900 veterans in vocational training under chapter 31.

Need for Revision of Current VA Vocational Rehabilitation Program

Throughout the period from 1943 through the present, Congress has enacted various laws, in addition to those mentioned, expanding and making improvements in many aspects of the VA's rehabilitation program and increasing the level of subsistence allowance in light of the inflation that occurred during that period, but the purpose and structure of the program have remained intact, without comprehensive revision. In light of changes in the general field of rehabilitation of handicapped persons since World War II and in light of the enactment of Public Law 93–112, the Rehabilitation Act of 1973, the Senate Committee on Veterans' Affairs has for 6 years had major concerns regarding the need for major revisions in the chapter 31 program.

The Rehabilitation Act of 1973 substantially restructured and redefined concepts regarding handicapped individuals generally and rehabilitation services and training and employment opportunities for them.

Thus, in 1974, in the Committee report to accompany S. 2784, S. Rept. No. 93-907, on page 52, the Committee noted that the vocational rehabilitation chapter and the implementating regulations had many inconsistencies and strongly recommended that the VA thoroughly review chapter 31 for possible legislative and administrative changes, particularly in light of the Rehabilitation Act of 1973.

Again, in 1976, for substantially the same reasons, the Committee—in its report to accompany S. 969, the Veterans Education and Employment Assistance Act of 1976, S. Rept. No. 94-1243, on page 43—urged the VA to conduct a thorough review of the vocational rehabilitation program for possible legislative and administrative changes. The Committee also noted that it expected the Administrator of Veterans' Affairs, in the conduct of the study, to confer with the Commissioner of the Rehabilitation Services Administration in the Department of Health, Education, and Welfare.

However, by 1977, the Committee had received no such recommendations from the VA. Thus, the Committee included in S. 457, the GI Bill Improvement Act of 1977, a provision requiring the Administrator, after consultation with the Commisisoner of the Rehabilitation Services Administration in the Department of Health, Education, and Welfare, to submit to the President and the Congress by March 1, 1978, a report of a study of the VA's vocational rehabilitation program under chapter 31.

That provision, as enacted in section 307 of Public Law 95-202, required that the report include the Administrator's recommendations for changes in chapter 31, recommendations with respect to the need for services of vocational rehabilitation specialists to provide chapter 31 trainees with appropriate job development and job placement assistance, recommendations for utilizing the veterans education programs provided for by chapters 32, 34, 35, and 36 to meet the needs of disabled veterans eligible for chapter 31 training, and a description and analysis of the scope and quality of the chapter 31 program in comparison to vocational rehabilitation provided under the Rehabilitation Act of 1973.

That study, entitled "A Study of the Provisions for Veterans Vocational Rehabilitation", submitted on October 5, 1978, as well as a subsequent VA study entitled "Summary Report of the Vocational Rehabilitation (Chapter 31) Program Evaluation", conducted pursuant to section 219 of title 38 and submitted on October 5, 1979, strongly indicate that the present VA vocational rehabilitation program is antiquated and in need of a complete overhaul—rather than piecemeal amendment—to be able to best serve the rehabilitation needs of the most deserving group of veterans—those who are disabled while serving our Nation in its Armed Services.

The VA, in its study and program evaluation, highlighted several areas of the current vocational rehabilitation program as needing new emphasis and attention. The most basic conclusions were that VA vocational rehabilitation programs needed to provide more comprehensive services and that the goal of vocational rehabilitation should be suitable employment, rather than completion of training. The VA also cited needs for improved outreach efforts to seriously disabled veterans, more effective case management and coordination of all vocational rehabilitation services in individual cases, improved, ongoing staff development, and improvements in job assistance, followup activities, and records systems.

In addition, the VA evaluation report emphasized the need for a more aggressive program management approach, including an improved, more structured review and evaluation system.

In 1978 VA report also indicated that, between 1973 and 1977, individuals with disability ratings of 30 percent or greater have increased their use of chapter 34 benefits and decreased their use of chapter 31 benefits in recent years.

Following up on the VA studies, on May 11, 1979, the Administrator of Veterans' Affairs submitted legislation to modernize and make extensive improvements in the chapter 31 vocational rehabilitation program, which was introduced as S. 1188.

Although the VA studies provided much useful information and the Administration-requested bill would do much to make needed improvements in the current vocational rehabilitation program, the Chairman believed that a further, independent study was needed to develop information, in addition to that contained in those studies, on certain major issues before the Committee undertook to make the first comprehensive revisions of the vocational rehabilitation program in more than 25 years. Thus, in a March 1, 1979, letter to the Comptroller General, the Chairman requested that the General Accounting Office conduct an extensive study of the program.

The GAO report submitted on February 26, 1980, entitled "New Legislation and Stronger Program Management Needed to Improve Effectiveness of VA's Vocational Rehabilitation Program" (HRD-80-47), generally affirmed the VA's findings with respect to several problem areas, revealed additional problems, and recommended various administrative and legislative changes.

The GAO's strongest recommendation for change was made in the area of central management. The GAO indicated that the limited effectiveness of the current VA vocational rehabilitation program stems from poor central management and a lack of accountability for program results.

GAO also recommended the implementation of the case-manager concept whereby one person would be assigned the responsibility and held accountable for the veteran's case from point of application through employment placement, including followup services to be provided the veteran.

The methods of VA outreach efforts were also criticized in the GAO report, as was the prolonged time it takes to process applications for those veterans interested in enrolling in the chapter 31 program. Also, according to the GAO, the emphasis of the VA vocational rehabilitation program is primarily on financial assistance rather than on comprehensive rehabilitative services, and followup services are often inadequate.

The VA has indicated its concurrence in most GAO findings and recommendations for administrative action, and a willingness to initiate substantial efforts to improve and streamline the program.

Although the Committee bill provisions place emphasis on affording comprehensive rehabilitation services, provide for the improved management of individual cases involving veterans with serious employment handicaps, and provide for followthrough employment-assistance services following the veterans' completion of vocational rehabilitation, it understands that many factors relating to the administration and management of the chapter 31 program, are beyond the reach of legislation and will have a very critical effect on the future success of VA rehabilitation programs for service-connected disabled veterans. Thus, the Committee is encouraged by the emphasis that the Administrator of Veterans' Affairs, Max Cleland, has placed on VA rehabilitation programs. During the next few years, the Committee plans to monitor very closely the VA's activities in this field.

Committee bill provisions

Title I of the Committee bill would restructure chapter 31 of title 38 to update, improve and expand Veterans' Administration rehabilitation programs for service-connected disabled veterans under that chapter.

At the February hearing the Committee received extensive, uncontradicted testimony, that the 37-year-old statutory framework in chapter 31 of title 38 is out of date and badly in need of a thorough overhaul. During the decades since the basic legislative foundation for the VA's vocational rehabilitation was laid, there have been many major advances in rehabilitation concepts and great changes in the role of handicapped individuals in our society. A most significant development in that regard was the congressional enactment of the Rehabilitation Act of 1973 revising and refocusing the Federal-State vocational rehabilitation program and promoting the availability of comprehensive service and educational, training and employment opportunities for seriously handicapped persons. Witnesses generally emphasized the need for a legislative structure that would provide a basis for and foster the provision of a comprehensive range of services through an administrative process assuring that various types of services needed by the individual disabled veteran are provided in a coordinated, effective manner. Thus, the testimony indicated a need for a rehabilitation program capable of meeting the many physical, psychological, and emotional needs that an individual may have following a disabling injury or illness, as well as providing the training and assistance necessary to equip the individual for an occupation or profession that is suited to his or her abilities, aptitudes, and interests.

Various witnesses also emphasized the importance that a rehabilitation program in order to be most effective needed to be able fully to meet the individual's needs at each stage of the process—from the very outset, beginning with outreach to and motivation of the veteran to participate in rehabilitation, through evaluation of the veteran's particular needs, and the planning and provision of services and assistance that the veteran may need to be prepared for an occupation and to function with maximum independence in his or her family and community, and culminating in the obtaining of, adjustment to, and maintenance of suitable employment.

The Committee has fully considered the recommendations of those who testified at the hearing—both with respect to their recommendations regarding the general nature and broad outlines of a statutory framework for the VA's rehabilitation program for service-connected disabled veterans, and with respect to a great variety of specific details that they recommended be incorporated in the legislation. Thus, the Committee bill incorporates many features responsive to specific concerns raised at the hearing and reflects an effort to make provision for truly comprehensive services that will help to assure each eligible veteran of full opportunity for a productive life.

The section-by-section analysis which appears at a later point in this report provides a detailed description of each of the provisions of this title of the Committee bill and the changes made from current law. The following discussion outlines the major purposes of and concepts embodied in the Committee bill.

Scope of Services

The Committee bill would specify a broad range of services and assistance that the VA may provide to participants in chapter 31 programs. The intention with respect to specifying such services is to provide clear authority for the full range of diagnostic, evaluative, counseling, pre-training, training, post-placement, and other services that may be needed to assist the veteran in entering and pursuing rehabilitation and in finding, adjusting to, and maintaining employment. This range of services very closely parallels those available to nonveterans participating in a program of rehabilitation in Federal-State vocational rehabilitation program under the Rehabilitation Act of 1973.

As the Administrator explained in his May 11, 1979, letter transmitting the administration-requested legislation, the VA interpretation of current law equates vocational rehabilitation under chapter 31 with training and thus does not provide for pretraining services that may enable a veteran, whose mental or physical disability renders entry into training infeasible, to prepare for entry to a training program. The Committee bill would authorize such services.

In addition, the Committee bill would make clear that the VA may provide, as part of a vocational rehabilitation program, services to enable the veteran to achieve maximum independence in daily living. For many veterans with serious disabilities which impair their abilities to care for themselves, to move about in their homes and communities, and to communicate and deal effectively with others, these so-called "independent living services" are essential to enable them to achieve a maximum level of independent, self-sustaining life in the community, which, in turn, the Committee views as often critical to their ability to find and hold gainful employment in the community. The Committee bill deals specifically and fully with the provision of independent living services both in terms of such services in conjunction with extended evaluation and vocational training as well as through a 4-year pilot program of independent living services and assistance (discussed more fully, below) for those who are determined, at least in the earlier stages of rehabilitation, to be too severely disabled to pursue a vocational goal.

The provision of clear authority for both pre-training, post-training, and independent living services in the Committee bill reflects, in part, the Committee's view that the VA's rehabilitation program should provide an integrated, nonfragmented approach in order to offer seriously disabled veterans the best opportunity to realize their full potentials. Thus, whereas the current VA program under chapter 31 is focused primarily on vocational training and relies on other programs to meet more basic needs relating to the veteran's ability to function, the provision of the Committee bill recognize the importance of providing a unified program of vocational, prevocational, nonvocational, and post-training services and assistance and focus responsibility and accountability on the chapter 31 program and its management and counseling personnel for the success of the entire rehabilitation effort.

Evaluation of Rehabilitation Potential

For a rehabilitation program to serve an individual veteran fully and effectively, provision must be made for achieving a full understanding of the veteran's disabilities and abilities at the outset and, in appropriate cases, for periodical reevaluations of the veteran's progress and possibly changing needs. The Committee recognizes that in certain cases, because of particularly serious and intractable disabilities, the evaluation process may necessarily be extensive in order to gain a fair assessment of the veteran's capabilities and prospects for rehabilitation and make a valid determination of the type of vocational objective that might be appropriate for the veteran.

Thus, the Committee bill provides both for an initial evaluation, intended to be of brief duration and, where necessary, extended evaluation. In both cases, the basic purpose of evaluation is to assess the veteran's needs in order to provide a basis for planning and appropriate program rehabilitation. In addition, the Committee bill would specifically require determinations as to whether the veteran has a serious employment handicap and whether the achievement of a vocational goal is reasonably feasible for the veteran. The determination regarding the existence of a serious employment handicap provides the basis for focusing VA counseling and other resources on such veterans (as discussed below); and the determination regarding the reasonable feasibility of a vocational goal provides the basis for the veteran to move on to a vocational rehabilitation program, where such a goal is reasonably feasible, or, where it is not—at least not yet—to pretraining to make it more feasible or to possible participation in the pilot program of independent living services and assistance for which the Committee bill provides.

Where the necessary assessments and determinations cannot be made during initial evaluation, the Committee bill, as noted, provides for a period of extended evaluation—a new concept, drawn from the Rehabilitation Act of 1973, in chapter 31. During extended evaluation, the veteran could be provided, in addition to services of a diagnostic and evaluative nature, services that may be necessary and appropriate to improve the veteran's ability to pursue a program leading to a vocational goal as well as the veteran's ability to live and function independently.

Extended evaluation generally may not exceed 12 months. Where necessary, however, the Committee bill would authorize an extension of up to 6 months if it is reasonably likely that a determination could be made during the period of the extension as to whether a vocational goal is feasible for the veteran. Additional extensions of up to 6 months each would be authorized under the same circumstances. In requiring specific determinations regarding the necessity for extensions at periodic intervals no greater than 6 months, the Committee's goal would be to cause movement toward an end of extended evaluation and, it is to be hoped, toward establishment of a vocational goal whenever feasible.

To assist further in accomplishing this end and to make every attempt to avoid extended evaluation where it is not clearly necessary and to prevent it from becoming a convenient "dumping ground" for difficult cases, the Committee bill would require that determinations as to whether the achievement of a vocational goal is reasonably feasible be made as expeditiously as possible and that any doubt as to whether or not the achievement of a vocational goal is reasonably feasible be resolved in favor of determining that such achievement is reasonably feasible. This provision was adopted by the Committee after receiving forceful testimony at the February hearing from Edward V. Roberts, Director of the California State Department of Rehabilitation, who strongly urged this approach. According to his testimony, which also was endorsed by the other rehabilitation specialists at the hearing, it is very important in the rehabilitation process to start the individual moving as quickly as possible toward a vocational objective in order to avoid the onset of various secondary problems such as alcohol and drug dependence and abuse and depression, and to provide goals that challenge the individual to strive toward achieving the highest levels of independence, education, training, and employment that are reasonably possible.

Individualized Written Rehabilitation Plans

When it has been determined that the veteran has a serious employment handicap and that the achievement of a vocational goal by the veteran is reasonably feasible, the Committee bill would require the development of an individualized written plan of vocational rehabilitation (hereafter referred to as plan).

The plan, which would include counseling in all cases, would also include, but not be limited to (1) a statement of long-range rehabilitation goals and intermediate rehabilitation objectives related to achieving the goals; (2) a statement of the specific services and assistance to be provided the veteran; (3) the projected date for the initiation and the anticipated duration of each such service; (4) objective criteria and an evaluation procedure and schedule for determining whether the objectives and goals are being achieved; and (5) the name and business address and telephone number of the Veterans' Administration employee (case manager) assigned responsibility for the management and followup of the provision of services and assistance to the veterans. The plan would be developed jointly with the veteran and would be required to be reviewed at least annually.

With respect to the requirement that the plan be developed jointly with the veteran, the Commissioner of the Rehabilitation Services Administration and the Director of the California State Department of Rehabilitation both testified at the February hearing that the similar requirement in the Rehabilitation Act of 1973 had been implemented successfully and served to enhance the individual's participation in the rehabilitation process. The Director of the California Department further testified that a joint development of an individual's plan serves as a kind of "contract" between the disabled individual and the agency providing services that holds each party accountable.

Under the Committee bill, the veteran would be afforded the opportunity to participate in the periodic review of his or her plan and, any redevelopment of the plan would be required to be accomplished jointly.

Also, to enhance the quality of the veteran's participation in the development and redevelopment and to provide for a prompt, impartial means for resolving differences over the contents of the plan between the veteran and the VA personnel responsible for its content, the Committee bill would establish an expedited, informal appeal process whereby such differences would be decided by a VA employee in an administrative position superior to those directly responsible for the plan. Before agreeing to any plan or to its redevelopment, the veteran would be advised of this opportunity for the review of the plan and his or her objections to it.

Participants in the pilot program of independent living services and assistance would have the same substantive and procedural rights with respect to an individualized written plan of services and assistance.

Employment Assistance

A principal focus of the Committee bill is to enlarge the stated purpose and effective operation of the vocational rehabilitation program under chapter 31 beyond achievement of the employability of the veteran to the actual employment of the veteran in a suitable job and the maintenance of the veteran in employment. Under current law, the stated purpose of vocational rehabilitation is that of "restoring employability, to the extent consistent with the degree of disablement, lost by the virtue of a handicap due to service-connected disability", and present section 1511(5) authorizes the Administrator to "cooperate with and employ the facilities of other governmental and

State employment agencies for the purpose of placing in gainful employment persons who have received vocational rehabilitation". However, the February 1980 GAO report, as well as the VA studies of October 1978 and 1979, indicate that job placement services, post-placement services to help with the veteran's adjustment in employment, and other post-training followup are seriously deficient under the VA's current program.

The Committee bill includes in the statement of purposes of chapter 31 clear language to make it possible for the veteran "to obtain and maintain suitable employment", and also mandates, rather than merely authorizes, that the Administrator furnish employment assistance to a veteran who has a serious employment handicap and who has been determined to be employable.

The Committee bill would also require such assistance to be provided service-connected disabled veterans who have participated in either vocational rehabilitation under chapter 31 or a similar Federal-State program under the Rehabilitation Act of 1973—and, to the extent of available resources, would authorize help for a veteran without a service-connected disability. The employment assistance to be furnished such veterans under section 1517 of the Committee bill would include a broad range of services such as direct VA assistance in job placement and VA use of the various outreach and job development services provided by other agencies, including the services of veterans employment, training, and outreach program specialists under new section 2003A of title 38, as proposed to be added by section 209 of the Committee bill, Federal-State vocational rehabilitation programs under other public or nonprofit organizations. In addition, the Administrator would be required to provide any assistance needed to assure that the veteran receives the benefit of any applicable special consideration, preference, or emphasis in employment or training for which the veteran is eligible under any provision of law or regulation.

At the February 28 hearing, the Committee received from the General Counsel of the Veterans' Administration, the Commissioner of the Rehabilitation Services Administration, the Department of Education, and the Deputy Assistant Secretary for Veterans' Employment in the Department of Labor, very favorable responses to the suggestion that these three agencies work together, utilizing their individual areas of expertise and avoiding duplicative efforts, to assure that the important employment purpose in revised chapter 31 would be carried out.

Various other provisions of the Committee bill are also designed to provide the veteran with maximum, appropriate opportunities for and assistance in seeking employment. Thus, the provision for a special travel allowance for veterans whose disabilities require them to incur extraordinary expenses authorizes the continuation of such an allowance, following the veterans' participation in vocational rehabilitation, while the veteran is seeking employment and during the initial employment phase (new section 1504(a)(13)).

In the cases of the most severely disabled veterans requiring homebound training or self employment, or both, the Committee bill would authorize the provision, within criteria and cost limits that the Administrator would prescribe in regulations, of such license fees, and essential equipment, supplies, and minimum stocks as the Administrator determines to be necessary for the veteran to begin employment. Also, in the case of any veteran who has completed vocational rehabilitation for self-employment in a small business enterprise, the Administrator would be required to cooperate with the Small Business Administration to assist the veteran to secure a loan for the purchase of equipment needed by the veteran to establish his or her own business and to assure that the veteran receives the special consideration provided for veterans in section 8 of the Small Business Act.

The Administrator would also be required to prescribe regulations, with the concurrence of the Secretary of Labor, to authorize the VA to make payments to employers for providing on-the-job training to veterans who have successfully completed vocational rehabilitation under chapter 31. Such payments could be made for the purpose of defraying (and could not exceed) his employers' direct expenses in providing the veteran with an on-job training of employment opportunity.

Finally, the Committee would note that, for veterans who have a serious employment handicap, the bill would make available post-training counseling and placement services for up to 18 months (or longer if specifically determined to be necessary for rehabilitation purposes) in order to help assure that the veteran finds a suitable job and makes a satisfactory adjustment to it.

INDEPENDENT LIVING

As previously noted in the discussion of the scope of services authorized under chapter 31 as it would be revised by the Committee bill, the Committee bill expressly provides for the provision of independent living services for chapter 31 participants who need assistance in achieving maximum independence in functioning in their communities and families. Thus, a veteran may be provided such services during extended evaluation and vocational training. In the case of some severely disabled veterans, the Committee believes that such services can be extremely valuable to the achievement of a vocational goal because the ability to function independently in the community is very frequently of vital importance to the individual's ability to participate in training and education programs or to obtain and maintain gainful employment.

In the cases of those veterans whose disabilities are so severe that following evaluation it is determined that the pursuit of a vocational goal is not feasible, the Committee bill would entitle such veterans to independent living services and assistance under the 4-year pilot program during fiscal years 1982 through 1985 in various geographic regions. Under this pilot program, the VA would provide up to 500 veterans per year, with independent living services and assistance through contractual arangements with public or nonprofit agencies with expertise in the provision of such services.

At the February hearing, the Commissioner of the Rehabilitation Services Administration in the Department of Education, testified that independent living services are long overdue and would be a highly desirable and important adjunct to the VA's rehabilitation system and could serve important vocational purposes as well. In this connection, the Committee wishes to stress that, although at the time the veteran enters a program of independent living services and assistance it would have been determined that achievement of a vocational goal is not reasonably feasible for the veteran, the possibility of reversing that determination should continue to be reexamined. In fact, the possibility is that, as the veteran attains certain independent living skills his or her potential for vocational training may increase. The Commissioner also stressed in his testimony that the most desirable approach for the VA in carrying out the pilot program would be to contract for such services with programs that have already been established rather than to initiate any parallel program solely from VA resources and personnel.

Thus, the Committee bill would authorize the Administrator to contract with public or nonprofit agencies that have demonstrated a capacity to conduct programs of independent living services for severely handicapped persons. This contract authority would include the authority to contract with the VA's Department of Medicine and Surgery (DM&S). The Committee notes in this regard that this would enable part of the pilot program to be carried out in the very fine DM&S blind rehabilitation centers.

The Committee bill would provide a broad delineation of the scope of independent living services and assistance, by making them coexistive with services and assistance that may be provided under section 702 of the Rehabilitation Act of 1973, as added in the 1978 amendments (Public Law 95–602) to that Act. Thus, under chapter 31, severely disabled veterans would be entitled to the full range of services and assistance—including appropriate accommodations to and modifications of living space, attendant care, and prevention services—that are available to nonveterans under the Rehabilitation Act of 1973.

In order to help the Congress assess the effectiveness of independent living services and assistance to these severely disabled veterans and determine whether they should be expanded to reach all such veterans under chapter 31 and be made a permanent entitlement, the Committee bill would mandate a study by the Administrator focusing on the key aspects of the pilot program and require that a report of the study, including the Administrator's recommendations, be submitted not later than September 30, 1984, the end of the third fiscal year of the 4-year pilot program.

Allowances

In addition to the established subsistence allowances for institutional training and farm cooperative and on-job training—rates which the Committee bill would increase by 10 percent—the Committee bill would establish new rates to correspond with the provisions in the Committee bill that would establish extended evaluation and a pilot program of independent living services and assistance. The full-time rate for each of these new types of programs would be equal to the full-time rate for institutional training as part of a vocational rehabilitation program (as proposed to be increased by 10 percent by the Committee bill).

The subsistence allowance paid to a veteran during vocational rehabilitation is intended to defray his or her living expenses. Since, under this chapter, the VA pays the costs of tuition, fees, books, and other training material, the allowance does not include any amount for such expenses. Thus, chapter 31 subsistence allowance rates are set at amounts lower than the GI Bill educational assistance allowance rates under chapter 34—the full-time institutional-training rate under the chapter 31 subsistence allowance for a veteran with no dependents is $241 ($265 with the 10-percent increase proposed in title I of the Committee bill) and the corresponding institutional-training rates for the chapter 34 educational assistance allowance is $311 ($342 with the 10-percent increase proposed in section 210 of the Committee bill).

These differences in the monetary consequences for the veteran with a service-connected disability in terms of chapter 31 and chapter 34 participation have apparently produced certain unfortunate results. The reports received by the Committee from both GAO and the VA indicated that there has been a definite shift in recent years away from the use by service-connected disabled veterans with severe disabilities of chapter 31 vocational rehabilitation benefits to the use of the chapter 34 GI Bill education assistance allowance. It was reported that many such veterans enrolled in State-supported schools with low tuition and fees elect to train under the chapter 34 program because the educational assistance allowance they receive under that program is substantially higher than the subsistence allowance they would receive under chapter 31, and the fact that the VA would pay their tuition and fees under chapter 31 does not detract from the financial attractiveness to them of chapter 34 benefits when college tuitions are low.

Unfortunately, however, a chapter 34 participant—even though service-connected disabled—is not eligible for counseling and other services available under chapter 31. Thus, the effect of an election of chapter 34 benefits is to cut the veteran off from chapter 31 services which may be of substantial value to his or her rehabilitation and employment.

To eliminate this disparity in the financial attractiveness of chapter 31 and chapter 34 benefits and thus help to assure that disabled veterans receive the counseling and other services they may need to be successfully rehabilitated, the Committee bill (new section 1508(f)) would permit chapter 31 participants to elect, to the extent that they have chapter 34 eligibility and entitlement, to receive under chapter 31 allowances which are chapter-34-equivalents instead of receiving payment of the subsistence allowance, tuition, and fees, and certain other assistance specified in chapter 31.

The Committee notes that a veteran under chapter 31—despite the fact that he or she would still be in receipt of levels of benefits prescribed by chapter 34—would still be considered, by virtue of his or her enrollment in the chapter 31 program, an eligible member of a target group—"a vocational rehabilitation referral"—for the purposes of the Targeted Jobs Tax Credit authorized by section 51 of the Internal Revenue Code as amended by section 321 of the Revenue Act of 1978 (Public Law 95-600). This authority provides for a tax credit of up to $3,000 a year to an employer who hires a member of a targeted group.

Focusing of Services on Veterans With Serious Employment Handicaps

In order to achieve the most efficient use of chapter 31 personnel and other resources, the Committee bill would focus such resources on those veterans likely to have the greater need for services and assistance—those who have a serious employment handicap. Thus, as indicated, during evaluation, a determination would be required as to whether the veteran has such a handicap.

Where it is determined that the veteran has a serious employment handicap, the Committee bill would require that a case manager be assigned to the veteran—to manage and followup on the services and assistance to be provided—that an individualized written plan of vocational rehabilitation be prepared, that the plan provide for counseling services, and that those counseling services actually be provided.

Other veterans would, of course, be eligible for counseling services, and the Committee intends that such services be made available to any chapter 31 participants as necessary. However, there would be no statutory mandate that such services be provided in all cases. Thus, in many cases, unnecessary, routine, perfunctory counseling sessions could be avoided, and the time and efforts of chapter 31 counseling psychologists would be conserved in order to focus them most directly and fully on those who have serious employment handicaps or who, although not so seriously handicapped, feel a specific need for counseling services. This refocusing of counseling resources meets one major GAO recommendation.

TITLE II: EMPLOYMENT AND EDUCATION AMENDMENTS

Part A, "Program Improvements", of title II of the Committee bill would make a series of amendments designed to enhance employment opportunities for eligible veterans. These amendments focus primarily on improvements and expansions of existing programs now conducted by the VA and the Department of Labor.

Part B, "GI Bill Rate Increases", of title II would provide for a rate increase of 10 percent in GI Bill educational assistance allowances.

Part A—Program Improvements

Background

The Committee, in carrying out its continuing oversight responsibilities, has focused on issues related to veterans' employment in a series of hearings this session on Vietnam veterans readjustment. The first four hearings in this series—held in Chicago on January 25, in Los Angeles on January 26, and in Washington, D.C. on February 21 and March 4—have provided the Committee with an extensive review of existing job-training and employment programs and an understanding of where improvements need to be made. The Committee received much testimony indicating that what is needed to meet the employment-related needs of Vietnam-era veterans is not extensive new programs but rather initiatives to provide for more effective and forceful use of existing programs and enforcement of existing laws designed to meet the employment needs of veterans. The Committee also observed that there are substantial prospects for making existing programs and benefits work more productively in helping overcome veterans' employment problems through the development of stronger interrelationships between such programs and benefits so that the advantages of each may serve better to supplement the beneficial aspects of the others. In this context, part A of the Committee bill would make a number of amendments designed to strengthen and improve current efforts in this area.

Committee bill provisions

Administrator's increased responsibilities for advocacy and promotion of certain federal programs

Section 220 of title 38, United States Code, currently requires the Administrator to seek to achieve maximum reasonable effectiveness coordination, and interrelationship of all services and programs affecting veterans and their dependents carried out by Federal Government agencies other than the VA and the maximum coordination of those non-VA services and programs with services and programs carried out by the VA. Pursuant to this authority, the VA carries out a variety of initiatives designed to enhance programs and services for veterans and dependents, including coordination with other Federal agencies on the distribution of information pertaining to veterans.

A major current VA undertaking which the VA asserts is carried out pursuant to this authority is the Career Development Center (CDC) project, under which centers have been established on a pilot-project basis in two cities, and 35 new centers are scheduled for operation in 1980. These centers are designed to provide veterans with full career development training, including systematic, comprehensive evaluation, counseling, and referral services. This type of consolidation of multiple efforts to assist veterans should help overcome the many inefficiencies that result from fragmented services and help all of the programs concerned achieve maximum effectiveness. Ironically, however, the Committee notes that the Veterans' Employment Service of the Department of Labor was not involved in the development of the CDC project. Recently, the VA has advised that specific steps have been taken to inform the Veterans' Employment Service and other appropriate agencies about the operations of the centers and to establish appropriate coordination and referral procedures with such agencies. The Committee expects the Administrator to assure that such information and coordination activities are carried out effectively in a way consistent with the asserted underlying section 220 authority.

Section 201 of the Committee bill would build on the existing section 220 authority by expanding the Administrator's responsibilities in connection with various Federal programs to include the active promotion of effective implementation, enforcement, and application of all provisions of law and regulations providing for special consideration, emphasis, or preference relating to employment, training, or other opportunities for veterans. In this regard, the Committee intends that the Administrator assume the role of an active advocate in connection with a wide variety of provisions of law and regulations affecting veterans, particularly those related to employment and training.

Over the years, many provisions of law have been enacted relating to veterans' employment that do not fall within the jurisdiction of the VA. These include such initiatives as the Targeted Jobs Tax Credit (TJTC) enacted by the Revenue Act of 1978 (Public Law 95-600); mandatory listing and affirmative action provisions for disabled and Vietnam-era veterans pursuant to section 2012 of title 38; job counseling, training, and placement services under chapter 41 of title 38 (implemented through the Veterans' Employment Service and indicators of compliance required to be met by the State employment security agencies); veterans preference (under title 5 of the United States Code), veterans readjustment appointments (under section 2014(b) of title 38), and noncompetitive appointments (under section 3112 of title 5) in civil service employment; special consideration for disabled and Vietnam-era veterans in programs conducted under the Comprehensive Employment and Training Act (CETA); and special consideration for veterans in the provision of small business loans under the Small Business Act of 1954, as amended. Each such provision is aimed at helping veterans to prepare for, obtain, or enhance employment, but, with implementation responsibilities scattered among various Federal agencies, a lack of focus has tended to prevent these provisions from being carried out with maximum effectiveness with respect to veterans.

In October 1978, in connection with his Message on the Progress of Veterans of the Vietnam Era, the President announced the establishment of the White House Veterans' Federal Coordinating Committee (WHVFCC), in order to improve the delivery of services to veterans and implement the President's ordered improvements in employment opportunities, educational opportunities, and other veterans' services and benefits. Initially, this seemed to be a promising effort to improve executive branch efforts targeted on Vietnam-era veterans.

However, on a number of occasions, the Committee has sought input from the WHVFCC. On December 21, 1979, the Committee requested specific information from the executive director of the WHVFCC for use by the Committee during a forthcoming series of hearings being conducted on Vietnam veterans readjustment. A response to that request was asked to be provided by January 17. A second request for this information was made in early February. To date, this specific information has not been received.

In addition, the Committee requested the executive director of the WHVFCC to appear and present testimony during the series of hearings. This request was at first ignored and then refused by the executive director on the grounds that White House policy does not permit members of the White House staff to appear before congressional committees. Instead, representatives from various

Federal agencies—the VA, the Department of Labor, the Department of Health, Education, and Welfare—have testified at these hearings on their agencies' efforts.

Finally, in a letter dated March 3, 1980, the executive director of the WHVFCC advised the Committee that a status report on the implications of the Presidential Review Memorandum was being prepared and would be transmitted to the Committee shortly. More than 2 months later, this report has not been submitted.

Thus, the Committee is unable to conclude other than that the WHVFCC has failed to achieve any significant gains in terms of interagency efforts to improve services to veterans and serve as a central focus for the Federal Government's responsibilities in this regard. The Committee believes, however, that there continues to be a demonstrated need for coordinated efforts in this area—particularly with respect to employment. Thus, the purpose of this amendment is to establish the VA—the one agency with overall priorities and responsibilities pertaining to the assistance of veterans—as a focal point within the executive branch for promoting the effective implementation, enforcement, and application of these and other provisions of law and regulations aimed at enhancing employment, training, and other opportunities for veterans. The Committee intends for the Administrator, in carrying out this responsibility, to take an increased, active role in assuring that congressional intent with respect to each of these programs is fully carried out.

Section 201 of the Committee bill also would require the Administrator, in carrying out this advocacy responsibility, to place particular emphasis on the needs of service-connected disabled veterans and of other eligible veterans taking into account applicable rates of unemployment and the employment emphasis set forth in chapter 42 (as it is proposed to be amended by section 802 of S. 870 as passed by the Senate in H.R. 5288 on January 24, 1980) which require contractors with the Federal Government to have affirmative action plans for the hiring and promoting of seriously service-connected disabled and Vietnam-era veterans.

The Committee, while recognizing that progress has been made in terms of the employment situation for Vietnam-era veterans generally, is deeply concerned by continuing high rates of unemployment among disabled, younger, and minority group veterans. For example, during the first quarter of 1980, rates of unemployment for younger Vietnam-era veterans reached 17 percent. Rates of unemployment for all Vietnam-era veterans under 40 in the first quarter exceeded the comparable rates for 1979—in one case, for Vietnam-era veterans age 25 to 29, by more than 27 percent. Black and other minority group veterans also experienced rates of unemployment exceeding those of their nonveteran peers, as well as those of 1979, during the first quarter.

These veterans and others whose unemployment rates evidence the greatest need for assistance are to receive, under the Committee provisions, particular attention from the Administrator in connection with his proposed new advocacy role.

Administrator's Increased Responsibilities for Promotion of the Development and Establishment of Certain Opportunities for Veterans

Section 244 of title 38 currently requires the Administrator, in providing outreach services to veterans for the purposes of assuring that veterans receive timely and appropriate assistance in obtaining benefits to which they are entitled, to cooperate with and use the services of various Federal, State, or local organizations. In this connection, the Administrator is required to arrange with the Secretary of Labor for the matching of veterans with appropriate job or job-training opportunities.

Section 202 of the Committee bill would expand upon this authority to require the Administrator, in cooperation with the Secretary of Labor, to seek actively to promote the development and establishment of employment, training, and related opportunities for veterans. In carrying out his promotional responsibility, the Administrator would be required to place particular emphasis on the needs of those veterans also stressed in section 201 and discussed, *supra*.

The Administrator's activities could take a variety of forms—ranging from promotion of effective implementation of the law to actual outreach activities targeted at providers of employment and training opportunities. In this regard, the Committee intends that duplication of existing efforts—such as those conducted by the Department of Labor pursuant to the Secretary's responsibilities as set forth in section 305 of CETA to provide for an outreach and public information program to promote maximum job opportunities for veterans—will be minimized and that maximum coordination will be sought by the Administrator in carrying out this expanded responsibility.

Taken together, sections 201 and 202 are intended to make explicit the authority of and responsibility for the Administrator to be an active participant in policymaking regarding veterans employment needs. The Committee does not intend that the functions of other agencies should be usurped by the Administrator but rather that such functions be supplemented by the VA and that the Administrator take an active and forceful role in advocating and stimulating the implementation of employment-related initiatives.

Improvements in the VA's Program of Training on the Job

Since 1944, the GI Bill has provided a program of assistance to veterans and other eligible persons (spouses and dependent children of veterans with service-connected disabilities rated permanently and totally disabling and of veterans who have died from service-connected causes) under which they may elect to use their GI Bill benefits for pursuit of a program of training on the job. Eligible trainees may choose to train in an apprenticeship or other on-job training position. Apprenticeship training seeks to train a worker in the full-range of a craft; other on-job training generally seeks to bring an individual in a shorter time to an acceptable skill for a particular job.

Under these programs, a VA-approved employer must assure the veterans or eligible person of a permanent job upon successful completion of the training program. During the training period, the employer pays the trainee less than the regular wage and the VA pays a training assistance allowance that is reduced at 6-month intervals. The monthly training assistance allowances, currently and as title II, part B, would propose to increase them by 10 percent for the pursuit of training on the job are set forth in the following table:

TABLE 1.—GI BILL ALLOWANCES FOR PROGRAMS OF TRAINING ON THE JOB (SEC. 1787(b) OF TITLE 38)

	Existing law				S. 1188 (title II, part B)			
	No dependents	1 dependent	2 dependents	Each additional dependent	No dependents	1 dependent	2 dependents	Each additional dependent
Periods of training:								
1st 6 mo	$226	$254	$277	$12	$249	$279	$305	$13
2d 6 mo	169	197	221	12	186	217	243	13
3d 6 mo	113	141	164	12	124	155	180	13
4th and any succeeding 6-mo periods	56	84	108	12	62	92	119	13

Programs of training on the job have been successful in assisting veterans in reentering the labor market following military service that has often provided few civilian skills. Such programs are also valuable to veterans whose experiences in the labor market since service have resulted in limited career potential and marginal-skill jobs.

The Committee, in its review of veterans' employment and training assistance programs, has noted three characteristics of apprenticeship and other on-job training programs: Participation rates have been relatively low; the programs have been quite successful for veterans who participate in them; and the costs of approving training-on-the-job positions for purposes of the use of GI Bill benefits have been very high.

Of the 5.1 million Vietnam-era veterans who have participated in the current GI Bill through fiscal year 1978, only 465,227—or 9.1 percent—have participated in full-time programs of training on the job. In fiscal year 1979, an estimated 84,000 veterans participated in programs of training on the job, more than 10 percent less than the 93,600 who participated in fiscal year 1978. There has been a continual decline in the number of veterans participating in this type of training since 1974 when almost 129,000 were enrolled in such programs.

A variety of factors account for the low and declining rates of participation. The dropoff in recent years parallels the decline in overall GI Bill participation rates, which can generally be attributed to constantly increasing numbers of Vietnam-era veterans who have completed their pursuit of training under GI Bill programs and have taken their places in permanent employment, and to the effect of the 10-year delimiting period on the declining numbers of veterans who have educational assistance eligibility remaining. The impact of an economic downturn also adversely affects levels of participation in this kind of program as the job market constricts. As unemployment rates rise, new opportunities for training programs decrease, often very sharply as they did during the 1975 recession. The Committee also believes that a rather slow-moving administrative process resulting in lengthy delays from the point at which the employer or veteran first applies for participation until the VA issues the first training allowance has also depressed participation rates.

In a 1978 General Accounting Office (GAO) study, entitled "Veterans Response to GAO Questionnaires on the Operation and Effect of VA Educational Assistance Programs under 38 U.S.C. 1651", apprenticeship and other on-job training programs were found to have an outstanding record of success for those who participated in them; 85 percent of the Vietnam-era veterans who trained under the GI Bill in apprenticeship programs and 77 percent who trained in other on-job training programs stated they had achieved their primary training objective. By comparison, only 56 percent and 49 percent of those who enrolled in undergraduate college and vocational technical programs, respectively, thought they had achieved their primary training objective.

The GAO also found that 89 percent of those who completed apprenticeship training were placed in jobs related to their training and that 86 percent of those who completed other on-job training programs found related employment.

With respect to the costs of approval of programs of training on the jobs, the Committee notes a report prepared for the VA pursuant to Public Law 95-202 by the National Academy of Public Administration Foundation, entitled "GI Course Approvals", which contains an extensive discussion of the approval process for programs of training on the job. In that report, the Academy stated:

On-the-job approvals are costly. Some 43 percent of the contracts costs of State approval agencies in 1978 were attributable to the on-the-job and apprenticeship approvals for 93,578 trainees, or about $60 per trainee, compared to $5 for each trainee at an educational institution.

The report discusses in depth a variety of issues related to the approval of programs of training on the job, including apprenticeship registration, the requirements for a progressive wage scale and for determinations of prevailing wage rates, and the lack of uniform and objective approval criteria for programs of training on the job.

Sections 205 through 207 of the Committee bill would make a series of amendments, related to the VA's program of training on the job, designed to streamline the approval process and provide for increased participation in the program by both employers and veterans.

Under current law, responsibility for approvals of programs of training on the job generally resides with State approving agencies (SAA's). Approvals of apprenticeship training programs by SAA's are made pursuant to standards of apprenticeship published by the Secretary of Labor pursuant to section 50a of title 29, United States Code. Other on-job training programs must meet criteria set forth in present section 1777 of title 38 which include detailed specifications relating to wages, length of training, and training content.

The procedures used by SAA's in approving programs are generally consistent among SAA's. The process usually begins when an expression of interest in the program is received by the SAA from an employer or a veteran. An initial site inspection/approval visit is then conducted by the SAA in order to assure that the criteria set forth in law and regulations are met. The SAA assists the employer in making the application and in selecting job titles and wage schedules, and assists the employer and the veteran in completing necessary documentation. Thereafter, the SAA submits the documentation to the VA so that benefits may be awarded. This process takes an average of 4 weeks or less. Approvals for additional trainees by an already-approved employer are generally made in the same fashion. SAA's visit each active employer or business establishment at least once a year and, in some cases, twice.

In 1971, the VA launched an extensive outreach campaign to create new opportunities in these training positions. Regional VA offices were instructed to utilize employees from its Adjudication Division to make contacts with potential employers. SAA's were instructed to approve training positions prior to the time a veteran was available to fill the position so as to reduce the interval between the time a veteran was matched with a position and the time the first benefit check was received. Emphasis was placed on smaller businesses, and notices of new opportunities were to be disseminated quickly to the U.S. Employment Service so that qualified applicants could be sought. The VA made additional funds and employee-years available for this outreach campaign, and the initiative was successful in expanding training positions for veterans and contributed to the peak enrollments in 1974.

Since that time, however, the VA's program of training on the job has ceased to be a priority. Outreach and promotional efforts are virtually nonexistent, and the program has been criticized by congressional committees on a number of occasions, particularly for lack of coordination between the VA and the Department of Labor in terms of referring eligible veterans for open positions despite attempts to provide for such coordination through an interagency agreement.

Section 205 of the Committee bill would amend section 1772 of title 38 in order to make the Administrator directly responsible for the promotion, development, and approval of programs of training on the job. The Committee believes that the Administrator should be more actively involved in efforts in this area and should have a more visible role, especially in terms of developing and promoting opportunities.

In this connection, the Committee notes that, on January 24, 1980, the Senate approved the proposed "GI Bill Amendments Act of 1980" (S. 870/H.R. 5288) containing a provision for a targeted delimiting date extension for the use of GI Bill educational benefits by certain Vietnam-era veterans. Under that legislation, an eligible Vietnam-era veteran with entitlement to educational benefits remaining could have up to 3 additional years to use those benefits for pursuit of a program of training on the job. The Committee believes that in this context, the Administrator's increased responsibilities would be especially important in helping to assure that maximum opportunities are made available for unemployed and underemployed Vietnam-era veterans, reaching the end of their delimiting periods, who could benefit from that extension.

The Committee stresses that the basic purpose of amendment proposed by section 205 is to increase the accountability of the Administrator with respect to programs of training on the job. The Committee is concerned by reports of lack of uniform and objective approval criteria for approval of programs. The October 1979 VA-submitted report notes that "interpretations and application of statutory requirements differ from one VA regional office to another. A Central Office advisory opinion is often given only to the regional office requesting it, and different judgments by different regional staff . . . cause confusion and frustration . . .". The Committee believes that by making the Administrator directly accountable—to the Congress and the public—for the development, promotion, and approval of programs, much of the confusion and frustration—which eventually adversely affects the veteran trainee—can be avoided.

The provisions of section 205 of the Committee bill would specify that the Administrator, in carrying out responsibilities with respect to promotion, development, and approval of programs, could utilize both VA and non-VA sources, including the SAA's. The Committee is aware that SAA's have been involved in approval of training programs for over 30 years and have developed much valuable expertise. The Committee expects that the Administrator would make the necessary arrangements to gain the benefit of this experience and expertise so that approvals will be made in the most efficient and effective manner possible.

Additionally, the Committee bill provisions would require the Administrator to utilize the services of the new veterans' employment and training outreach program specialists (discussed below) in carrying out those responsibilities. The Committee expects that this involvement would also result in the development of increased job-training opportunities for veterans.

Section 207 of the Committee bill would make a series of amendments to section 1777 of title 38 dealing with the criteria for approval of programs of training on the job. When the present criteria were enacted in 1967, they were based on criteria drawn from the original provisions of the World War II GI Bill. Since that time, the Federal Government—and particularly, the Department of Labor—has accumulated extensive experience and expertise with programs of training on the job—most recently under such authorities as CETA and the Manpower Development and Training Act of 1964.

In light of that experience, the Committee believes that the criteria for approval of programs of training on the job should be made more realistic in terms of the labor market of the 1980's by drawing on the experiences of both the VA and the Department of Labor. Thus, the Committee bill would require the Administrator and the Secretary to jointly prescribe regulations for approval of programs.

The proposed legislation would simplify the present criteria while retaining the safeguard relating to wages, appropriateness of training, and assurances of future employment. In addition, the Committee bill would reduce, from 6 months to 3 months, the minimum length of VA on-job training programs for which GI Bill benefits may be used, and remove the 2-year maximum limitation on the training period for such programs. The Committee believes that in some cases valid and valuable training may be accomplished in less than 6 months and expects that criteria developed for approval of such shorter training will assure its value. It notes that under the Help through Industry Retraining and Employment (HIRE) program—one of the components of the President's economic stimulus package of 1977, under which employers were reimbursed for their training costs in hiring veterans and other eligibles—the *maximum* length of training is 6 months. Since that is the *minimum* length of training under the present VA program, very few linkages of the two programs—which would result in benefits to both employers and veterans—have been developed. Quality job-training opportunities have been developed under the HIRE program—although not nearly as many as the Committee had hoped—and the failure to develop effective linkage between the two initiatives is thus disappointing and wasteful. These linkages should be improved as a result of the shorter minimum period proposed in the Committee bill.

With respect to the removal of the 2-year maximum on other than apprenticeship training, the Committee likewise believes that there may be valid programs of training requiring more than a 2-year training period—such as those in the allied health fields. The maximum training period would, of course, be limited to the veteran's months of entitlement up to a maximum of 45 months.

In this regard, the report submitted by the VA, "GI Course Approvals", indicates that some VA officials believe the duration of a training program is often determined "backwards, assigning arbitrary lengths of time to each portion of training so that the portions add up to the whole—usually, the maximum permissible time of two years." The report further notes that SAA staff report that "[employers, especially in small companies, may not want to go through the approval process for a 6- to 12-month program." Thus, they design a program of the maximum 2-years' duration.

The suggestion was made in the report that "a more realistic training period should be arrived at by listing the skills and knowledge to be mastered, relying on the [Labor Department's] *Dictionary of Occupational Titles* definitions, and then allocating a reasonable amount of time to each skill."

The Committee believes that this suggestion has merit and expects that, in developing criteria for the approval of programs of training on the job, the Administrator and the Secretary will address this issue, particularly with respect to the approval of programs of on-job training of less than 6-months and greater than 2-years' duration, so that appropriate periods of training will be determined for individual cases. In addition, the Committee expects that the streamlining of the approval process will encourage employers to seek approval of valid on-job training programs of shorter duration.

The Committee bill would also delete from present section 1777(c) certain specified criteria for the approval of a program of training other than apprenticeship training. These criteria include requirements for related instruction; adequate space, equipment, instructional material and personnel; and adequate records of the trainee's progress. The deletion of these criteria is designed to provide greater flexibility but not to relax necessary quality-control standards for approval of a training establishment. In prescribing the required regulations regarding training procedures as part of implementing this section, the Administrator and the Secretary should take into consideration whether some or all of the deleted criteria are necessary to assure the value of the training.

The Committee wishes to note in this regard that prime sponsors under CETA are required to develop maximum feasible linkages between their programs and the VA's program of training on the job. It is anticipated that the criteria developed by the VA and the Labor Department would result in increased implementation of this requirement. The Committee does not expect that all on-the-job training programs approved under CETA would be approved automatically for VA benefits but does expect that the criteria will provide for the joint approval, with increased efficiency, of more quality training positions.

The Committee stresses that it plans to monitor very closely implementation of these new provisions related to programs to training on the job. The Committee expects that there will be a substantial increase in the number of veterans training and employed as a result of these amendments, but intends that such an increase not be made by lowering the quality of the training experience itself or diminishing the benefit to the veterans of participation in the program.

Secretarial Support for State Veteran's Employment Representatives

Section 2003 of title 38 requires the Secretary of Labor to assign to each State a veterans' employment representative (SVER). In addition, the Secretary is required to assign an assistant veterans' employment representative for each 250,000 veterans residing in the State. These representatives are Federal employees of the Veterans' Employment Service of the Department of Labor.

In 1979, in connection with the President's fiscal year 1980 budget, the Department of Labor proposed to eliminate all of the 52 secretarial positions in the offices of the SVER's and to offset the impact of these cuts by having each State employment security agency (SESA) provide secretarial and clerical assistance to the SVER attached to it.

This proposal was criticized widely by many individuals, organizations, and members of Congress on the grounds that it would severely undermine the work of the SVER's. Nine members of the Veterans' Affairs Committee joined in a letter to Secretary of Labor Ray Marshall regarding these proposed cuts on March 6, 1979, urging reconsideration of the proposal to eliminate secretarial support for the SVER's Secretary Marshall responded to that letter on April 3, 1979, indicating that while no incumbent would be removed from a secretarial position, the Department's plans to require SESA's to provide secretarial assistance had not been modified. Chairman Cranston subsequently wrote again on May 1, 1979, to Secretary Marshall raising additional concerns and Secretary Marshall responded on May 30, 1979, further clarifying the Department's plans to implement the proposed elimination of secretarial support to the SVER's.

This proposed cutback was also the focus of extensive questioning by Senator Strom Thurmond and the Chairman at an oversight hearing of the Committee on May 23 1979, focusing on veterans' employment. Again, no modification of the Department's proposal was forthcoming.

Subsequently, an amendment directing the Secretary to continue to provide direct secretarial support to the SVER's, offered by Senator Quentin Burdick, to the Labor-HEW Appropriation Act for Fiscal Year 1980, and agreed to by the Senate Committee on Appropriations, was incorporated into law by reference in Public Law 96–123, enacted on November 20, 1979. This had the effect of blocking the implementation of the Department's proposal for fiscal year 1980.

On February 2, 1980, Senator Thurmond introduced S. 2308, a bill to amend section 2003 of title 38, United States Code, to provide for the assignment of clerical or secretarial employees to assist veterans' employment representatives assigned to the States. The purpose of this bill was to codify in law a requirement for direct secretarial support for the SVER's and to assure that no elimination of such support would occur in the future. The measure is cosponsored by all Members of the Committee, as well as Senator Dole.

During Committee consideration of S. 1188, a provision derived from S. 2808, was incorporated into title II of the Committee bill as section 208, to amend section 2003 of title 38 to require the Secretary of Labor to assign to each SVER direct full-time clerical support and assure that this support is continued and protected against any proposed cutbacks in the future.

Veterans Employment and Training Outreach Program

In January of 1977, the Department of Labor unveiled a three-pronged initiative designed to reduce the high rates of unemployment among Vietnam-era and disabled veterans. The three components of the initiative, which were part of the President's economic stimulus package, were the Help through Industry Retraining and Employment (HIRE) program, a 35-percent newhire goal for Vietnam-era veterans in public service jobs under titles II and VI of CETA, and the Disabled Veteran Outreach Program (DVOP).

Under the DVOP program, nearly 2,000 disabled veterans were hired with Federal funds (totaling $26 million) by State employment security agencies (SESA's) in the spring and summer of 1977, and assigned to local employment service offices. DVOP units were established in 100 of the Nation's largest cities with every State supplied with a DVOP capability on a State-wide basis if it had no large cities.

The primary mission of the DVOP program is to identify disabled veterans in need of employment assistance and help them to obtain needed employment services, including counseling, job development, and placement. The program's design is to locate and help find jobs for disabled veterans—primarily those from the Vietnam conflict—through the use of formerly unemployed disabled veterans working as DVOP staff who understand the needs of other veterans in the same predicament and can serve as models demonstrating to employes how well disabled veterans can work when given a chance.

DVOP staff receive both classroom and on-the-job training in local employment services offices to acquaint them with the full range of services available to veterans They are taught to recognize a veteran-applicant's need for indepth career counseling or other services. In addition, DVOP staff are prepared to provide veteran-applicants with information about educational, medical, employment, and social services available to them from the VA, CETA prime sponsors, vocational rehabilitation offices, and other public agencies and community services groups.

Though the money for the salaries and expenses of the DVOP program is currently made available through title III, "Secretary's Federal Responsibilities", of CETA, DVOP staff are generally considered employees of local employment service offices. DVOP staff perform duties similar to those performed by the regular employment service staff but are required to concentrate their efforts only on disabled and other veterans. Their duties, pursuant to a Department of Labor field memorandum (FM No. 227–77, dated March 30, 1977) are to:

(1) Assist in duties related to the placement of veterans only and not be assigned other duties or programs requiring significant amounts of time, such as solely administrative or clerical duties.

(2) Perform intensive outreach to locate disabled Vietnam-era veterans through contacts with local veterans organizations, CETA prime sponsors, colleges, universities, trade schools, Veterans' Administration hospitals, U.S. Veterans Assistance Centers, local agencies such as the Urban League, OIC (Opportunities Industrialization Centers), SER, and other community service groups.

(3) Screen local office applicant files to identify disabled veterans, with emphasis on Vietnam-era disabled veterans, for appropriate referral to job-order listings, particularly public service employment opportunities available through CETA prime sponsors, and job-training opportunities developed through the HIRE program.

(4) Assist local office staff in contacting employers primarily through personal visits, to encourage them to hire or train disabled veterans.

(5) Assist local staff in developing job or training opportunities for individuals disabled veterans, with particular emphasis on disabled Vietnam-era veterans.

(6) Assist the local veterans' employment representative to achieve optimum local office liaison with community groups and veterans organizations.

In fiscal year 1979, although program emphasis continued to be placed on obtaining suitable employment for disabled Vietnam-era veterans, DVOP staff were required to assume wider responsibilities relating to veterans in order to provide maximum assistance to minority and disadvantaged veterans. Greater emphasis was also placed on job development and employer relations.

The program, although one of the most successful of the initiatives mounted by the

Administration to deal with the problems of unemployed veterans, has not been without its problems. In the early stages, initial staffing progressed slowly in some States and vacancies remained unfilled for long periods of time. Orientation and training were not always timely and sometimes less than adequate. Diversion of DVOP staff to general employment service activities not related to veterans—or "mainstreaming"—was not uncommon. However, many of these problems have been corrected, and monitoring by the Department of Labor has tended to curb extensive mainstreaming of DVOP staff.

As noted above, the program has been highly successful. Through the cooperation of the VA, listings have been furnished to DVOP staff of more than one-half million Vietnam-era veterans with service-connected disabilities rated as compensable. These veterans have been the focus of DVOP outreach efforts and those contacted have been offered personalized employment assistance, including job counseling and referral to supportive services, as necessary. During the period January 1977 through January 1980, DVOP staff have contributed to the successful placement in jobs of more than 135,000 disabled Vietnam-era veterans.

The degree of success enjoyed by the program is evidenced by the Department's decision to continue the program. Initially, the program was scheduled to terminate in September 1978. However, the Department made the decision to continue the program at fiscal year 1978 levels through fiscal year 1979 and, subsequently, through fiscal year 1983 at gradually reduced levels. At this time, there are 1,600 staff assigned to DVOP, and the program is funded for fiscal year 1980 at a level of $25.1 million. The Department's plans for fiscal year 1981 call for an end of year level of 1,000 staff at funding of $21 million.

During the Committee's hearings on Vietnam veterans readjustment much testimony was received in support of the continuation of the DVOP program at its initial levels as a permanent part of the Nation's efforts to meet the employment needs of veterans. At the Los Angeles hearing held on January 26, 1980, as well as at an earlier employment oversight hearing held in Washington, D.C., on May 23, 1979, the Committee heard from a number of DVOP staff regarding their personal experiences with the program and their very strong support for its continuation on a permanent basis. In addition, the Committee has received many communications of support from individuals nationwide. The American Legion, Veterans of Foreign Wars, Disabled American Veterans, AMVETS, Military Order of the Purple Heart, and Marine Corps League have all adopted resolutions in support of permanent continuation of the program.

Thus, section 209 of the Committee bill would provide, on a permanent basis, for the conduct of a program modeled on the successful DVOP design—the veterans' employment and training outreach program (VETOP).

The Committee bill would require the Secretary to make sufficient funds available to each State in order to support a level of appproximately 2,000 VETOP specialists nationwide. The VETOP specialists, as entry level professionals, would carry out functions and duties in much the same way as DVOP staff now do, reaching out to eligible veterans and making job development contracts with employers. In carrying out these duties, VETOP specialists would be required to assign their priorities in the following order: Disabled veterans who have participated in or completed a program of vocational rehabilitation under chapter 31 of title 38; other disabled veterans; and other eligible veterans, taking into account the needs of categories of veterans with relatively high rates of unemployment (such as young Vietnam-era and minority group Vietnam-era veterans) and the employment emphasis set forth in chapter 42, Employment and Training of Disabled and Vietnam Era Veterans, of title 38 (as it is proposed to be amended by section 802 of S. 870 as passed by the Senate in H.R. 5288 on January 24, 1980)—particularly Vietnam-era veterans. (Chapter 42 also emphasizes veterans with serious service-connected disabilities but such veterans would be included in the first or second priority categories.)

The Committee bill would provide that not more than three-quarters of the VETOP specialists could be stationed in local employment services offices. Other specialists could be stationed at such locations as the new readjustment counseling centers established by the VA pursuant to section 612A of title 38 for Vietnam-era veterans, the VA's U.S. Veterans Assistance Centers (USVAC's), and other locations as determined appropriate by the Secretary and the Administrator, such as at community-based organizations. The concept of readjustment counseling centers and the "store-front" approach were designed primarily to address the needs of those Vietnam-era veterans who are not seeking assistance from the VA because they view the agency as a part of an unresponsive, overwhelming Federal bureaucracy. Early experience shows that these veterans coming to these centers often have serious job-related difficulties. The Committee believes that for such veterans, the linking of needed job-related assistance should be facilitated and that VETOP specialists could be an important element in assuring maximum assistance with minimum referrals to other agencies. However, the Committee does not intend to require the full-time permanent outstationing of a VETOP specialist at each readjustment counseling center; rather, the Committee believes that the outstationing of specialists in such centers could be on a part-time basis and should only be in accordance with interagency and local determinations, as appropriate. In addition, VETOP specialists could provide valuable assistance to many so-called "self-help" community-based veterans groups that conduct outreach efforts and provide employment assistance to Vietnam-era veterans.

Among the duties specifically assigned to the VETOP specialists by the Committee bill would be the responsibility for promoting, developing, and approving, in accordance with regulations developed jointly by the Administrator and the Secretary, opportunities for VA programs of training on the job. In this regard, the Committee expects that VETOP specialists would be sufficiently familiar with other Federal initiatives designed to assist veterans seeking jobs—such as the Targeted Jobs Tax Credit—so as to familiarize employers with the possible linkages that exist and how these programs can be beneficial to both the employer and the veteran.

The Committee bill would provide that the VETOP program would be administered through the office of the Deputy Assistant Secretary for Veterans' Employment. In this regard, the Committee intends that the Department would carry out monitoring of the program in order to avoid the abuses and problems that occurred in the DOVP program, and that appropriate grievance and other procedures be developed for the administration of the program so as to provide for resolution of issues arising in its implementation—such as employee complaints, salary levels, and other day-to-day related matters.

Part B—GI bill rate increases

Part B of title II of the Committee bill, "GI Bill Rate Increases", would provide for a 10-percent increase in the amount of GI Bill educational assistance allowances paid pursuant to chapter 34, 35 and 36. The following table compares the benefit levels for the various allowances provided for by current law with the benefit levels which would be effected on October 1, 1980, under the Committee bill.

TABLE 2.—COMPARISON OF BENEFIT LEVELS IN CURRENT LAW AND AS PROPOSED BY COMMITTEE BILL

	Existing law				S. 1188			
	No dependents	1 dependent	2 dependents	Each additional dependent	No dependents	1 dependent	2 dependents	Each additional dependent
INSTITUTIONAL AND COOPERATIVE TRAINING (COLLEGE TRAINING) (CH. 34, SEC. 1682(A))								
Full-time	$311	$370	$422	$26	$342	$407	$464	$29
Three-quarter	233	277	317	19	256	305	349	21
Half-time	156	185	211	13	172	204	232	14
Cooperative	251	294	334	19	276	323	367	21
FARM COOPERATIVE TRAINING (CH. 34, SEC. 1682(A))								
Farm cooperative:								
Full-time	$251	$294	$334	$19	$276	$323	$367	$21
Three-quarter	188	221	251	15	207	243	276	17
Half-time	126	147	167	10	139	162	184	11
APPRENTICESHIP OR OTHER ON-JOB TRAINING (CH. 36, SEC. 1787)								
Periods of training:								
1st 6 mo	$226	$254	$277	$12	$249	$279	$305	$13
2d 6 mo	169	197	221	12	186	217	243	13
3d 6 mo	113	141	164	12	124	155	180	13
4th and any succeeding 6-mo periods	56	84	108	12	62	92	119	13

OTHER PROVISIONS

	Existing law	S. 1188
Flight training	$288	[1] $317
Active duty and less than half-time	311	[2] 342
Correspondence courses	311	[3] 342
Special supplementary Assistance	69	[2] 76
Loan	311	[5] 342

OTHER PROVISIONS–WAR ORPHANS, WIDOWS, AND WIVES EDUCATIONAL ASSISTANCE (CH. 35)

	Existing law	S. 1188
Full time	$311	$342
Three-quarter time	233	265
Half-time	156	172
Institutional-business courses	251	272
Special restorative training	311	346

[1] 90-percent of established charges, with 1 mo charged to entitlement for each $317 cost.

[2] Establishment charges for tuition and fees, but not to exceed full-time rate of $342 per month.

[3] Established charges, with 1 mo charged to entitlement for each $342 cost.

[4] Per month, with maximum of $911.

[5] Amount of available loan determined by multiplying months of entitlement to educational assistance times the value of 1 mo entitlement ($342) up to maximum of $2,500.

A chronology of educational assistance allowances since the beginning of the current GI Bill program (in 1966)—including the rate increase proposed by the Committee bill—are shown in the following table:

TABLE 3.—CHRONOLOGY OF ACTUAL AND PROPOSED EDUCATIONAL ASSISTANCE RATES UNDER POST-KOREAN CONFLICT AND VIETNAM-ERA VETERANS' GI BILL PROGRAM

Law, effective date, and type of Course	Percentage increase for single veteran	Single veteran	Veteran and 1 dependent	Veteran and 2 dependents	Additional dependents
Public Law 89-358, June 1, 1966: Full-time institutional		$100	$125	$150	
Public Law 90-77, October 1967:					
Full-time institutional	30.0	130	155	175	$10
Full-time cooperative farm		105	125	145	7
Full-time training on the job		80	90	100	
Public Law 91-219, Feb. 1, 1970:					
Full-time institutional	34.6	175	205	230	13
Full-time cooperative farm		141	165	190	10
Full-time training on job		108	120	133	
Public Law 92-540, Oct. 1, 1972:					
Full-time institutional	25.7	220	261	298	18
Full-time cooperative farm		177	208	236	14
Full-time training on job		160	179	196	8
Public Law 93-508, Dec. 3, 1974, retroactive to Sept. 1, 1974:					
Full-time institutional	22.7	270	321	366	22
Full-time cooperative farm		217	255	289	17
Full-time training on job		189	212	232	9
Public Law 94-502, Oct. 1, 1976:					
Full-time institutional	8.0	292	347	396	24
Full-time cooperative farm		235	276	313	18
Full-time training on the job		212	238	260	11
Public Law 95-202, Oct. 1, 1977:					
Full-time institutional	7.0	311	370	422	26
Full-time cooperative farm		251	294	334	19
Full-time training on the job		226	254	277	12
S. 1188, Oct. 1, 1980:					
Full-time institutional	10.0	342	407	464	29
Full-time cooperative farm		276	323	367	21
Full-time training on the job		249	297	305	13

The current GI Bill program was established in 1966 in order that (1) service in the Armed Forces be made more attractive, (2) eligible veterans and dependents might benefit from attaining a higher educational level than they might otherwise have been able to afford, (3) individuals whose lives and careers have been disrupted by their active duty in service might receive vocational and educational readjustment assistance, and (4) individuals who served their country honorably might attain the vocational or educational objectives they would have otherwise realized had they not served in the military. Since the inception of the current GI Bill in 1966, Congress has intended that the educational assistance allowance cover, in part, the costs incurred by the veteran-student for tuition, fees, books, supplies, subsistence, and other associated costs.

Since 1966, Congress has increased the rates of educational assistance by more than 200 percent. Yet, even the benefit increases provided by past amendments have not assured that benefit levels kept pace with the rate of inflation from year to year. For example, in 1976, Congress increased GI Bill educational assistance allowances by 8 percent. However, the increase in the cost of living (as measured by the Consumer Index (CPI))—between September 1, 1974, and effective date of the increases provided by Public Law 93–508, and October 1, 1976, the effective date of increases provided by Public Law 94–502—was 14.08 percent.

The Committee believes that a cost-of-living increase in GI Bill benefits is long overdue. The GI Bill purchasing power has declined since 1970 as a result of the continued rise in the cost of living as measured by the CPI. The Congress has increased benefits almost 78 percent since 1970 (from $175 to $311). However, the increase in the CPI from 1970 through April 1980 has been close to 111 percent. Since the last increase in benefits, made by Public Law 95–202, effective on October 1, 1977, the cost of living has increased by more than 30.3 percent. This rate of inflation has badly eroded the value of the GI Bill educational assistance dollar and has created hardships on many veterans attempting to pursue their educations under the GI Bill.

On January 24, in connection with the consideration of the proposed "GI Bill Amendments Act of 1980," the Senate approved a 15-percent cost-of-living increase in the rates of educational assistance allowances paid under chapter 31, 34, 35, and 36 of title 38. At that time, the cost of this rate increase, effective September 1, 1980, was estimated by CBO to be $22 million for fiscal year 1980 and $376 million for fiscal year 1981 and to total $1.4 billion over the period fiscal year 1980 through 1984.

The Committee is deeply committed to providing relief to veterans training under the GI Bill. Likewise, the Committee is concerned about the need to balance the Federal budget and understands the necessity of curbing Federal expenditures as a necessary step toward efforts to reduce inflation.

Consequently, after serious examination and consideration, the Committee, in conjunction with its March recommendations to the Senate Budget Committee, recommended that a 10-percent increase in GI Bill benefits be enacted in lieu of the 15-percent increase that had already passed the Senate. This percentage increase is consistent with the President's recommendations made in his January and revised budgets for fiscal year 1981.

Thus, part B of title II of the Committee bill would provide for a 10-percent increase in GI Bill educational assistance allowances prescribed by chapters 34, 35, and 36 of title 38. A comparable increase in benefit levels for chapter 31 is proposed to be made by section 101(a) of the Committee bill. CBO estimates the fiscal year 1981 cost of this increase, together with the cost of the increase in chapter 31 rates, would be $258 million. Thus, this proposal would result in $118 million in savings over the Senate action taken earlier this year.

TITLE III: TECHNICAL PROVISIONS AND EFFECTIVE DATE

New section 1516(a)(2)(B) of title 38 (as proposed to be added in the revision to chapter 31 made by section 101(a) of the Committee bill) would require that health-care services provided as a part of rehabilitation program under chapter 31 be provided in VA-operated health-care facilities except where otherwise authorized under chapter 17 (health care). Section 301 of the Committee bill would—in light of this requirement and in order to assure chapter 31 participants who have serious employment handicaps and whose care is called for in their rehabilitation plans appropriate eligibility for and priority in the provision of outpatient care in VA facilities and on a contract basis—amend present section 612(f)(2) to provide chapter 31 participants with the same eligibility for VA outpatient care that veterans with service-connected disabilities rated at 50-percent-or-more disabling presently have. This would have the effect of including these chapter 31 participants together with 50-percent-rated veterans in the second priority category for VA outpatient care in present section 612(i), behind veterans receiving treatment for a service-connected disability, and of making chapter 31 participants eligible for contract care on the same basis as 50-percent-rated veterans (which is the same, under present section 601(4)(C)(i) and (ii), as the basis on which contract care is available for the treatment of a service-connected disability).

Section 305 of the Committee bill would amend section 1624(a) of title 38 to revise the current law provision designating those to whom a deceased participant's unused contributions to the chapter 32 educational fund are to be paid. Under current law, such unused contributions are paid to the person or persons designated by the deceased participant as the beneficiaries of the participant's Servicemen's Group Life Insurance (SGLI) policy, or, where the participant had no SGLI policy or had made no such designation, to the deceased participant's estate.

The Committee agrees with the approach reflected in current law that payment be made directly to those persons whom the participant probably would have liked to receive his or her unused contributions—instead of being paid to the participant's estate—and that the designated SGLI beneficiaries may be presumed to be those whom the participant would desire to be benefited.

However, the Committee does not believe that current law goes far enough in enabling payment to be made directly to the persons who, in all likelihood, the participant would have wished to receive payment if the participant is not covered under SGLI or has not designated an SGLI beneficiary.

Thus, section 305 would amend the provision involved so that the deceased participant's unused contributions to the educational fund be paid to the participant's SGLI beneficiary, or, if the participant is not covered under SGLI or has not designated a beneficiary, to the participant's surviving spouse, or, if there is no surviving spouse, to the participant's surviving child or children, or if there is no surviving child, to the participant's parents—thus simplifying payment and tax consequences in these instances. Under the amendment, only where there is no surviving spouse, child, or parent would payment be made to the participant's estate.

Section 308 would generally provide for an October 1, 1980, effective date.

Other provisions in this title are technical in nature and are described below in the section-by-section analysis of the bill.

COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the Congressional Budget Office, estimates that the costs resulting from the enactment of the Committee bill during the first 5 years following enactment would be $291.0 million in fiscal year 1981; $372.9 million in fiscal year 1982; $326.9 million in fiscal year 1983; $256.7 million in fiscal year 1984; and $211.7 million in fiscal year 1985. A detailed breakdown of the costs, as estimated by CBO, over the 5-year period follows:

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE—MAY 15, 1980

1. Bill number: S. 1188.

2. Bill title: Disabled Veterans Rehabilitation Act of 1980.

3. Bill status: As ordered reported by the Senate Veterans' Affairs Committee, April 2, 1980.

4. Bill purpose: To improve and modernize the vocational rehabilitation program provided service disabled veterans under chapter 31, title 38, U.S.C., to provide a 10 percent cost-of-living adjustment for those who train under the GI Bill, Vocational Rehabilitation and Survivors' and Dependents' Educational Assistance programs, make modifications to the GI Bill on-the-job-training program, create an outreach program for veterans employment and training and for other purposes.

5. Cost estimate: This bill would result in additional future federal liabilities through an extension of existing entitlements that would require subsequent appropriation action to provide the necessary budget authority. The figures shown as "Required Budget Authority" represent an estimate of the additional budget authority (BA) needed to cover the estimated outlays (O) that would result from enactment of S. 1188. Only provisions which have a budget impact are itemized.

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
TITLE I					
10-percent rate increase for ch. 31:					
Budget authority	10.6	15.1	15.3	12.7	10.7
Outlays	9.6	15.5	15.6	13.0	10.7
Elimination of the requirement that disabled veterans show a need for vocational rehabilitation:					
Budget authority	2.1	5.3	6.3	6.9	7.4
Outlays	2.1	5.3	6.3	6.9	7.4
Other improvements to ch. 31:					
Budget authority	16.4	19.0	16.9	16.6	16.3
Outlays	16.1	19.3	16.9	16.6	16.3
Total title I (function 700):					
Budget authority	29.1	39.4	38.5	36.2	34.4
Outlays	27.8	40.1	38.8	36.5	34.4

	Fiscal year—				
	1981	1982	1983	1984	1985
TITLE II					
Changes in OJT:					
Budget authority	1.9	5.7	3.9	2.5	1.9
Outlays	1.9	5.7	3.9	2.5	1.9
Expanded outreach program (function 500):					
Budget authority	12.9	23.6	34.8	42.7	46.1
Outlays	12.9	23.6	34.8	42.7	46.1
10-percent rate increase for chs. 34 and 35:					
Budget authority	275.4	296.9	243.7	168.3	129.3
Outlays	248.4	303.5	249.4	175.0	129.3
Total title II (function 700 except as noted):					
Budget authority	290.2	326.2	282.4	213.5	177.3
Outlays	263.2	332.8	288.1	220.2	177.3
Total cost:					
Budget authority	319.3	365.6	320.9	249.7	211.7
Outlays	291.0	372.9	326.9	256.7	211.7

6. Basis of estimate:

TITLE I—REHABILITATION AMENDMENTS

This title would restructure chapter 31 of title 38, U.S.C. to update, improve and expand the Vocational Rehabilitation Program for service connected disabled veterans under that chapter. Major provisions of this title would:

(1) Enlarge the purpose and effective operation of the VA's rehabilitation programs beyond the veterans' employability to obtaining and maintaining employment and to enable a veteran to achieve independence in daily living.

(2) Specify a broad range of services and assistance that may be provided under chapter 31 in order to provide clear authority for a full range of evaluative, counseling, independent-living, pretraining, training, and employment-assistance services. (The VA interpretation of current law equates vocational rehabilitation under chapter 31 with training and thus does not provide for pretraining services that may enable a veteran, whose mental or physical disability renders entry into training infeasible, to prepare to enter into a training program.)

(3) Provide authority for independent living services to help a veteran with very serious disabilities to live and function within his or her family and community (including authority for a 4-year (fiscal years 1982–1985) pilot program of independent living services and assistance (limited to 500 new veterans entering the program each year) for veterans as to whom the achievement of a vocational goal has been determined not to be reasonably feasible).

(4) Enable veterans participating in chapter 31 rehabilitation programs who have remaining eligibility for and entitlement to chapter 34 (GI Bill) benefits to receive, as part of their chapter 31 benefits, allowances and assistance equal to the chapter 34 allowances and assistance appropriate to their training programs in lieu of payment of the subsistence allowance, tuition, and fees and of certain other services and assistance provided for under chapter 31.

(6) Establish a Veterans Advisory Committee on Rehabilitation.

(7) Eliminate the requirement that disabled veterans show a need for vocational rehabilitation before receiving it.

(8) Provide a 10 percent cost-of-living increase for those training under chapter 31.

(9) Provide for a liberalization of the delimiting period and associated eligibility and provide for a liberalization of entitlement.

CBO and the VA have identical cost estimates for provisions of this title except for items (7) and (8).

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
Cost for all items except (7) and (8):					
Budget authority	16.4	19.0	16.9	16.6	16.3
Outlays	16.1	19.3	16.9	16.6	16.3

Item (7): The VA has estimated that the elimination of the requirement that disabled veterans show a need for a program of vocational rehabilitation would result in 1,000 additional trainees in fiscal year 1981 at a cost of $3.8 million. They assume that none of these veterans would have trained under chapter 34. CBO believes that it is unrealistic to assume no offset for chapter 34 training. CBO's estimate assumes that in fiscal year 1981 two-thirds of the additional 1,000 trainees would have trained under chapter 34 at two-thirds of the cost. Because chapter 34 is a declining program, the offsets are reduced.

	1981	1982	1983	1984	1985
Additional trainees under ch. 31	1,000	2,000	2,000	2,000	2,000
Number who would have trained under ch. 34	667	955	648	441	309

COST ESTIMATE

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
Estimated budget authority	2.1	5.3	6.3	6.9	7.4
Outlays	2.1	5.3	6.3	6.9	7.4

Item (8): CBO assumes additional persons will train in the Vocational Rehabilitation Program when benefit levels are raised above what they would have been. VA estimates do not.

ESTIMATED TRAINEES

	Fiscal year—				
	1981	1982	1983	1984	1985
Current law	25,500	22,900	20,300	17,600	15,000
With rate increase	26,800	25,500	23,000	19,800	16,800

These additional trainees plus the rise in the average benefit is expected to result in additional budget authority in fiscal year 1981 of $10.6 million and $9.6 million in outlays.

COST ESTIMATE

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
Estimated budget authority	10.6	15.1	15.3	12.7	10.7
Outlays	9.6	15.5	15.6	13.0	10.7

TITLE II—EDUCATION AND EMPLOYMENT AMENDMENTS

This title would do three things: (1) Enhance the GI Bills on-the-job-training program so as to make the program more attractive to both employers and employees; (2) establish a new Veterans' Employment and Training Outreach Program (VETOP); and (3) provide for a 10 percent rate increase for those training under the GI Bill (chapter 34) or the Survivors' and Dependents Educational Assistance Program (chapter 35).

Item (1): This item would modify the OJT program in various ways. It would require that the VA become actively involved in promoting veterans employment programs including not only the VA's own programs but also programs in other agencies. It would place responsibility for the approval of on-the-job training with the Administrator of the VA and require that the Administrator and the Secretary of Labor to issue joint regulations specifying the criteria for the approval of programs.

It is intended that, under the new criteria many existing on-the-job training positions—such as those conducted under the HIRE program—could be considered approved for GI Bill benefits. In this fashion, existing programs which offer an incentive to employers to train individuals could be linked more easily to a program of assistance to veterans.

Additionally, because it is anticipated that approval process could be simplified and the apparent employer-perceived Government interference reduced, employers would be more likely to participate in the program, particularly if by virtue of hiring certain veterans—those participating in a program of vocational rehabilitation or those who served during the Vietnam era and who are economically disadvantaged—they become eligible for a tax credit under the Targeted Jobs Tax Credit (TJTC) program. Employers would also be given more latitude through a reduction in the minimum length of on-the-job training from 6 to 3 months.

By placing the responsibility of approval with the Administrator, it is anticipated that the approval itself would become more cost-effective and timely. The Administrator could choose to approve programs directly or through agreements with non-VA sources, such as the new VETOP specialists or State approving agencies.

These amendments would also make the Administrator responsible for the promotion of development and establishment of programs of training on the job.

CBO estimates assume both savings and costs would result from this set of provisions. Savings would result because the VA anticipates assuming the approval process themselves and it expects that payments to State approval agencies would be more than the cost of doing the approvals themselves. The Veterans' Administration has estimated that by eliminating payments to State approving agencies for this function it would save $4.8 million in fiscal year 1981. This would be offset by a cost of $2.4 million which would be required to pay additional employees. Costs would also result because additional trainees would be induced into training as a result of the liberalizations under this set of provisions. These additional trainees would also result in additional expenses.

The following table shows the impact on trainees and the one following it shows the impact on costs.

IMPACT ON TRAINEES

	1981	1982	1983	1984	1985
Estimated additional trainees due to this provision	4,000	5,900	4,000	2,700	1,900

IMPACT ON EXPENDITURES OVER CURRENT LAW

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
Elimination of payments to State approving agencies	−4.8	−3.4	−2.3	−1.6	−1.1
VA approval costs	2.4	1.7	1.2	.8	.6
Cost of additional trainees	4.0	7.1	4.8	3.2	2.3
Administrative and counseling costs for additional trainees	.3	.3	.2	.1	.1
Net additions to expenditures as a result of OJT modifications	1.9	5.7	3.9	2.5	1.9

This estimate reflects what the expenditure impact would be if this provision modified current law. It does not account for the fact that this provision has a complementary companion piece in S. 870 (passed the Senate January 24, 1980) to extend the delimiting date for on-the-job training. If the current provision passed along with S. 870, the on-the-job training modifications would apply there as well. This would result in additional costs as follows:

COST OF MODIFICATIONS OF ON-THE-JOB-TRAINING AS APPLIED TO THE 3-YEAR EXTENSION OF THE DELIMITING DATE AS PASSED BY THE SENATE UNDER S. 870

[By fiscal years, in millions of dollars]

1981	1982	1983	1984	1985
1.7	3.	2.	0	0

Item 2: This provision would establish a new Veterans' Employment and Training Outreach Program (VETOP) in the Department of Labor. This program would make available to each State sufficient funding to support 2,000 VETOP specialists nationwide. These specialists would supplement but not supplant the existing staff of Veterans' Employment Service and local veterans' employment representatives. They would have a variety of duties designed to promote employment and training opportunities for eligible veterans. This program would absorb the Disabled Veterans Outreach Program (DVOP) now conducted by the DOL under title III of CETA. The costs of the new VETOP program would be offset by what the DVOP would have cost.

COST ESTIMATE

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
Cost of VETOP program	33.9	36.6	39.5	42.7	46.1
Cost of DVOP program	−21.0	−13.0	−4.7	0	0
Net addition to cost	12.9	23.6	34.8	42.7	46.1

Item 3: The provision would raise benefit levels by 10 percent for chapters 34 and 35 (respectively, the GI Bill and the Survivors and Dependents Educational Assistance Program). It is expected that this will raise expenditures in two ways. First, it will cause the average cost per trainee to go up by about 10 percent. Second, it will cause additional persons to train who would not have trained otherwise. The following table shows the estimated number of veterans training under the GI Bill with and without the 10 percent increase.

ESTIMATED NUMBER OF VETERANS WHO WILL TRAIN UNDER THE GI BILL

[In thousands]

	Fiscal year—				
	1981	1982	1983	1984	1985
Without the 10-percent increase	668	442	291	200	141
With the 10-percent increase	720	516	350	238	167

Similar relative differences occur for the smaller Survivors' and Dependents' Educational Assistance Program.

COST ESTIMATE

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
Estimated budget authority	275.4	296.9	243.7	168.3	129.3
Outlays	248.4	303.5	249.4	175.0	129.3

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Al Peden (225-7766).
10. Estimate approved by:

C. G. NUCKOLS
(For James L. Blum,
Assistant Director for Budget Analysis).

SECTION-BY-SECTION ANALYSIS OF S. 1188 AS REPORTED

Section 1

Subsection (a) of section 1: Would provide that the Committee bill may be cited as the "District Veterans Rehabilitation Act of 1980".

Subsection (b) of section 1: Would provide that whenever in the Committee bill an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—REHABILITATION AMENDMENTS

Section 101

Would amend, by comprehensively restructuring and recodifying it, chapter 31 of title 38, United States Code, relating to vocational rehabilitation programs for service-connected disabled veterans, to improve, modernize, and expand rehabilitation opportunities for such veterans. This section, derived from Amendment No. 1661, would expand Veterans' Administration rehabilitation programs beyond vocational training programs provided under current law to include comprehensive rehabilitation consisting of all services and assistance necessary to evaluate a veteran's potential for pursuing a vocational goal, to prepare a veteran to participate in vocational training, and to enable a veteran to achieve maximum independence in daily living, and, to the maximum extent feasible, obtain and maintain suitable employment. The provisions of chapter 31 as proposed to be revised are as follows:

New section 1500.—Purposes: Would state the purposes of chapter 31 as being to provide all services and assistance necessary to enable a service-connected disabled veteran to achieve maximum independence in daily living, and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment. Present chapter 31 does not contain a provision stating the purposes of this chapter. However, present section 1501(2) defines the term "vocational rehabilitation" as meaning—

> training (including educational and vocational counseling, all appropriate individualized tutorial assistance, and other necessary incidental services) for the purpose of restoring employability, to the extent consistent with the degree of disablement, lost by virtue of a handicap due to service-connected disability.

Thus, the Committee bill would enlarge the purpose of vocational rehabilitation under chapter 31 beyond enabling the veteran to achieve employability to enabling the veteran to obtain and maintain suitable employment, and would add enabling the veteran to achieve maximum independence in daily living to the chapter 31 purposes. ("Independence in daily living" would be defined in proposed new section 1501(1), as discussed in the analysis below.) In addition, the stated purposes of chapter 31 would be expanded, in terms of the services to be provided, to include "all services" necessary to achieve the rehabilitation of the veteran, and the concept of rehabilitation would be expanded beyond the provision of services and assistance to help overcome a handicap due to a service-connected disability to include the complete rehabilitation of a veteran with a service-connected disability, including rehabilitation with respect to any non-service-connected disabilities which the veteran may have.

New section 1501.—Definitions: Would define certain terms for purposes of chapter 31, as follows (with numbering corresponding to the clauses in this new section):

(1) The term "independence in daily living" would mean the ability of a veteran—without the help of others or with a reduced level of help from others—to live and function within his or her family and community. The wording is intended to parallel the conceptualization of such independence in title VII of the Rehabilitation Act of 1973, under which State vocational rehabilitation programs provide Federally-assisted independent living services and assistance. No comparable definition appears in present chapter 31, which provides only for vocational rehabilitation and does not expressly provide for services and assistance to help the veteran achieve independence in daily living.

(2) The term "medical condition" would be defined to include an alcohol or drug dependence or abuse disability. This term is used in proposed new section 1503, which provides for a "tolling" (extension) of the veteran's chapter 41 period of eligibility delimiting period) while a medical condition makes it infeasible for the veteran to participate in vocational rehabilitation. Present section 1503(b)(1), relating to delimiting-period extension, provides that an extension may be granted a veteran who lacks "medical feasibility for training because of disability". Under that provision, it is unclear whether or not an alcohol or drug dependence or abuse disability would be considered a "disability" for purposes of extending a veteran's period of eligbility. This definition would thus clarify that such a disability would be so considered.

(3) The term "program of education" would have the same meaning provided in present section 1652(b) of title 38, where the term is used to define the educational or training pursuits for which GI Bill benefits may be provided under present chapter 34. This term is used in proposed new section 1508(f) in conjunction with the proposed provision for veterans participating in vocational rehabilitation under chapter 31 to receive the equivalent of chapter 34 allowances and assistance in lieu of the subsistence allowance and certain forms of assistance specified in chapter 31.

(4) The term "program of independent living services and assistance" would be defined broadly to include all services determined to be necessary to enable a veteran to achieve maximum independence in daily living and the assistance authorized in chapter 31 for veterans receiving such services. The term is used in connection with the pilot program of independent living services and assistance that would be established under proposed new section 1520 for those service-connected disabled veterans for whom the achievement of a vocational goal is determined not to be reasonably feasible.

(5) The term "rehabilitated to the point of employability" would mean rendered employable in the occupation for which the veteran received training in a vocational rehabilitation program under the chapter.

(6) The term "rehabilitation program" would mean either a vocational rehabilitation program (which can include independent living services), as proposed to be defined in clause (9) of this new section, or a program of independent living services and assistance, as proposed to be defined in clause (4).

(7) The term "serious employment handicap" would mean a significant impairment of a veteran's ability to prepare for, obtain, or retain employment consistent with such veterans' abilities, aptitudes, and interests. This term is used in various provisions in chapter 31, as proposed to be revised, which provide a focusing of counseling and certain other services on veterans who have such a handicap (for example, new sections 1506(b) and 1507) which make provision for delimiting-date extensions and extended entitlement for certain such veterans (new sections 1505(b) and 1503(c), respectively).

(8) The term "vocational goal" would mean a gainful employment status that is consistent with the veteran's abilities, aptitudes, and interests.

(9) The term "vocational rehabilitation program" would be defined broadly to include all services necessary to accomplish the purposes of chapter 31, as stated in proposed new section 1500, from evaluation of a veteran's rehabilitation potential through placement in a suitable job and followup employment counseling. Such services would include, but not be limited to, such counseling, diagnostic, medical, social, psychological, independent living, economic, educational, vocational, and employment services as are determined necessary by the Administrator. Such services, including, as necessary, independent living services during an evaluation period and vocational training period, would be provided to a veteran for whom the achievement of a vocational goal has not been determined not to be reasonably feasible in order to determine whether a vocational goal is reasonably feasible, to improve the veteran's potential to achieve a vocational goal, and to enable such a veteran to achieve maximum independence in daily living. In the case of a veteran for whom the achievement of a vocational goal has been determined to be reasonably feasible, such service would be provided to enable the veteran to become employable and obtain and maintain suitable employment. (Thus, where the achievement of a vocational goal is determined not to be reasonably feasible for a service-connected disabled veteran, he or she would be ineligible to participate in a vocational rehabilitation program but would have entitlement for participation in a program of independent living services and assistance.) A "vocational rehabilitation program" would also include allowances and assistances as authorized in chapter 31.

Present section 1501(2) provides for certain specific vocational rehabilitation "training services", including educational and vocational counseling and individualized tutorial assistance, but does not provide for any additional services except in the phrase "and other necessary incidental services". The VA, although it presently provides for a broad range of vocational training and related services under this provision does not, under current law, generally provide pretraining services to enable a veteran to develop the potential to pursue vocational training. As the Administrator explained in his May 11, 1979, letter transmitting the Administration-requested legislation, the VA interpretation of current law equates vocation rehabilitation with training and thus the VA does not offer pretraining services to enable a veteran, whose mental or physical disabilities render entry into training infeasible, to prepare to enter into a vocationally-oriented training program. The Committee bill would expand the range of services and assistance authorized to be provided under chapter 31 to include pretraining services for veterans who could not enter a program of vocational rehabilitation because of a lack of ability to participate in vocational training, as well as independent living services to enable the veteran to achieve maximum "independence in daily living", as that term is proposed to be defined in clause (1) of this new section.

New section 1502.—Basic entitlement: Would extend basic entitlement for chapter 31 benefits to all veterans who have a service-connected disability that is, or but for the veteran's receipt of retirement pay would be, compensable under present chapter 11 (service-connected disability compensation) of title 38. Under present section 1502(a), basic entitlement is limited to veterans who are in need of vocational rehabilitation, which is defined in present section 1501(2) as training to restore "employability . . . lost by virtue of a handicap due to service-connected disability." Thus, under current law, entitlement is limited to veterans who need training to overcome an employment handicap resulting from service-connected disability, and the Committee bill would eliminate the requirement of a determination that the veteran's service-connected disability constitutes some form of employment handicap.

As under current law, only veterans with disabilities arising out of service on or after September 16, 1940, would have entitlement to chapter 31 benefits. Also as under current law, present section 1510, an individual who would be eligible for chapter 31 benefits but for the fact that he or she has not yet been discharged or relieved from active service, would have basic entitlement for chapter 31 benefits while hospitalized in a Department of Defense hospital pending discharge from active service.

New section 1503.—Periods of eligibility:

Subsection (a): Would lengthen the basic period of eligibility (delimiting period) in current law, present section 1503(a), from 9 to 10 years following the veteran's discharge or release from active-duty service. A 10-year basic delimiting period would be consistent with the 10-year basic GI Bill delimiting period under present chapter 34.

Subsection (b): Would both modify each set of circumstances under which an extension of the delimiting period may be based due to certain factors temporarily precluding the veteran's participation in vocational rehabilitation under chapter 31, as well as revise the method by which the length of such extensions are calculated.

Present section 1503(b) provides for a 4-year extension of the current 9-year delimiting period when the veteran has been prevented from completing vocational rehabilitation within the 9-year period because (1) the disability made the veteran's training infeasible, (2) the veteran had not timely met the requirement of a discharge or release under conditions other than dishonorable but the nature of the discharge or release was changed by appropriate authority, or (3) the veteran had not timely established the existence of a service-connected disability.

The Committee bill would provide that the 10-year delimiting period would not run during any period that the veteran is prevented from entering or completing a vocational rehabilitation program under this chapter because a medical condition made it infeasible for the veteran to participate in such a program. Also, by virtue of the definition of "medical condition" proposed in new subsection 1501(2), the Committee bill would make clear that a medical condition entitling the veteran to a "tolling" of the 10-year delimiting period includes an alcohol or drug abuse or dependence disability—as would the Senate-passed amendment to section 1662(a)(1) of title 38, with respect to GI Bill trainees, in section 201 of H.R. 5288 as passed by the Senate on January 24, 1980, which provides for including such a disability among the disabilities which result in a tolling of the 10-year delimiting period for chapter 34 benefits. (See S. 870 as reported on September 7, 1979, S. Rept. No. 96-314, 96th Cong., 1st sess.)

The Committee bill would also provide each eligible veteran with a full 10 years of eligibility from the date on which the veteran satisfies the nature-of-discharge requirements or the veteran is determined to have a service-connected disability.

Similarly, the Committee bill would expand the existing chapter 31 delimiting-period-extension provision with respect to the nature-of-discharge requirements so that a full 10 years of chapter 31 eligibility would be afforded in cases where a determination by the Administrator removes such a bar.

Subsection (c): Would, in terms generally parallel to current law, provide for a delimiting-period extension for an eligible vetran who has a serious employment handicap if either the veteran has not previously been rehabilitated under chapter 31 to the point of employability, or the veteran's service-connected disability has worsened to the extent that the veteran is no longer able to perform the duties of the occupation for which he or she was so rehabilitated. In comparison to the Committee bill, which proposes to make service-connected disabled veterans who have a "serious employment handicap" (as proposed to be defined in new section 1501(7)) eligible for consideration for a delimiting-period extension in these circumstances, present section 1503(c) provides such eligibility to veterans who are "in need of vocational rehabilitation to overcome the handicap of blindness, or other serious disability, resulting from a service-connected disability".

In addition, the Committee bill also would provide for an extension where the occupation for which the veteran had previously been rehabilitated under chapter 31 to the point of employability has proven to be inappropriate in light of the veteran's employment handicap and abilities. There is no comparable provision in current law.

The Committee bill would provide for an extension where the Administrator determines that an extension is necessary to carry out the purposes of this chapter.

This is designed to provide the Administrator with sufficient discretion to provide an extension as necessary to meet vocational rehabilitation needs following a determination of the appropriateness of granting an extension in an individual case of a veteran with a serious employment handicap. There is no comparable discretionary provision for an extension of the period of eligibility under current law.

Subsection (d): Would provide for a delimiting-period extension in the case of a veteran for whom the achievement of a vocational goal is determined not to be reasonably feasible if it is determined that an extension is necessary for such veteran to achieve maximum independence in daily living. This would provide authority for an extension of the period of eligibility for such a veteran to participate in a program of independent living services and assistance, eligibility and a program which do not exist under present law.

Since current law does not provide for programs of independent living services and assistance, there is no comparable extension provision in current law.

New section 1504.—Scope of services and assistance: Would provide for a broad and expanded range of services and assistance that the Administrator may furnish to participants in chapter 31 programs. As previously noted in the analysis of new section 1501(9), current law does not clearly specify the services and assistance available to veterans while participating in vocational rehabilitation training. The Committee bill provisions would continue in effect all existing authority in current law for services and assistance furnished under chapter 31 and expand such services and assistance to provide clear authority for the full range of diagnostic, evaluative (including periodic reevaluations as appropriate), counseling, pretraining, employment, and other services that may be necessary to assist the veteran in entering and pursuing rehabilitation and in finding, adjusting to, and maintaining suitable employment.

Subsection (a): Would provide that the services and assistance authorized to be provided under chapter 31 pursuant to regulations which the Administrator must prescribe, shall include services and assistance as follows (with numbering corresponding to the clauses in this subsection):

(1) Evaluation (including periodic reevaluations as appropriate for a veteran participating in a rehabilitation program, of a veteran's potential for rehabilitation), including such diagnostic and related services as are needed to determine whether the veteran has a serious employment handicap and whether a vocational goal is reasonably feasible for the veteran and to provide a basis for planning a suitable vocational rehabilitation program, or a program to improve the veteran's rehabilitation potetnial or independent living status. There is no specific provision in current law for such evaluations. The purpose of this provision would thus be to provide an explicit statutory basis for the provision of whatever evaluation services are needed in connection with an eligible veteran's participation in a chapter 31 rehabilitation program.

(2) Educational, vocational, psychological, employment, and personal adjustment counseling. Under current law, in present section 1501(2), vocational rehabilitation expressly includes educational and vocational counseling, and VA regulations (38 CFR § 21.700) provide for personal adjustment counseling "whenever needed prior to entering training, while pursuing training, or in adjusting to employment following training." Specific provisions for such counseling services in this provision in the Committee bill would thus underscore the congressional intention that a broad range of counseling be available to veterans participating in chapter 31 programs.

(3) An allowance and other appropriate assistance, is authorized by new section 1508. The allowances and certain other assistance payable under proposed new section 1508 and the differences between the provisions of new section 1508 and current law with respect to allowances and other assistance, are described below in the analysis of that new section.

(4) A work-study allowance is auhtroized by present section 1685. This provision recodifies the provision in present section 1502(d) relating to the eligibility of chapter 31 participants to perform veteran-student services under present section 1685, under which an additional educational assistance allowance, referred to as the "work-study allowance", is paid for services in connection with various VA program activities, and veterans with service-connected disabilities rated 30-percent or more disabling receive a priority in the provision of work-study assignments.

(5) Placement services to effect suitable employment of a veteran and postplacement services to attempt to assure satisfactory adjustment in employment. Employment assistance services for chapter 31 participants under the Committee bill and the differences between the provisions of the Committee bill and current law with respect to employment assistance, are described below in the analysis of proposed new section 1517.

(6) Personal and work adjustment training. There is no specific provision for such training in current law. However, such training is provided as part of the "training . . . for the purpose of restoring employability", provided for in the definition of "vocational rehabilitation" in present section 1501(2). Provision for such training in this provision of the Committee bill would thus underscore the congressional intention that comprehensive training opportunities, including training necessary to help assure the maintenance of employment after the completion of vocational training, be made available to veterans who participate in chapter 31 programs.

(7) Vocational and other training services and assistance, including individualized tutorial assistance, tuition, fees, books, supplies, and licensing fees, and equipment and other training materials determined by the Administrator to be necessary to accomplish the purpose of rehabilitation in individual cases. Under current law, present section 1501(2), vocational rehabilitation expressly includes "training" and "individualized tutorial assistance", and "training" has been interpreted to include tuition, fees, books, supplies, and licensing fees, and equipment and other training materials necessary for vocational rehabilitation. Present section 1509, relating to the release to or return by the veteran of books, supplies, and equipment furnished under chapter 31, recognizes that such items may be furnished as part of vocational rehabilitation; and VA regulations (38 CFR §§ 21.230–21.243) provide de-

tailed rules for the furnishing, release, and return of such items, including tools and other training materials. The Committee is also advised that, under current VA practice, the VA pays the cost of license fees necessary for the veteran to engage in the occupation for which he or she trained under chapter 31.

Thus, this provision of the Committee bill would clarify and codify current laws, regulations, and practice with respect to these forms of assistance in vocational rehabilitation and, to the extent appropriate for programs of independent living services and assistance—for which provision would be made in proposed new sections 1509 and 1520—extends their applicability to include such programs.

(8) Loans, as authorized by proposed new section 1512, which recodifies, with certain modifications (including an increase in the maximum amount of loans) present section 1507. The provisions of new section 1512 and the changes it would make in current law are described below in the analysis of that new section.

(9) Treatment, care, and services described in present chapter 17 of title 38. Such treatment, care, and services encompass a comprehensive range of medical and dental treatment, care, and services.

Present section 1506 authorizes the Administrator to furnish chapter 31 participants with medical care, treatment, and hospitalization as necessary to accomplish the purpose of chapter 31, whether or not such medical care, treatment, or hospitalization is otherwise authorized under chapter 17 of this title. VA regulations (38 CFR § 253(a)) condition entitlement to such health care on a medical determination that treatment is necessary to enable the veteran's entry into, continuation in, or expeditious return to a course of training.

This provision of the Committee bill would thus recodify the Administrator's authority to provide a comprehensive range of inpatient and outpatient care and services to chapter 31 participants and make clear that such care and services for a chapter 31 participant may be furnished as a chapter 31 benefit as part of the veteran's entitlement under this chapter. In the Committee's view, this provision, together with proposed new section 1516(2)(A), which would provide for the procurement of rehabilitation and health care and services from VA health-care facilities for chapter 31 participants, would help to provide for the furnishing of all services needed to meet the rehabilitation and health needs of the veteran in a comprehensive, coordinated manner. Of course, under the definitions of "program of independent living services and assistance" and "vocational rehabilitation program" in proposed new section 1501 (4) and (9), determinations that such care and services are necessary to achieve a rehabilitation purpose would continue to be required.

(10) Prosthetic appliances, eyeglasses, and other corrective and assistive devices. Present section 1506 authorizes the Administrator to furnish chapter 31 participants with "prosthesis" on the same basis as medical care, treatment, and hospitalization, as discussed above in connection with clause (9) of this subsection; and the same VA regulations noted above (38 CFR § 21.253) provide for the "[f]urnishing and repair of orthopedic and/or prosthetic appliances." Thus, in a manner similar to that discussed above in connection with clause (9) of this subsection, it is the Committee's intention to authorize the Administrator to provide comprehensively, as part of chapter 31 programs, for the furnishing of all corrective and assistive devices that chapter 31 participants require.

(11) Services to a veteran's family as necessary for the effective rehabilitation of such veteran. There is no specific provision for such services in current law as part of vocational rehabilitation. However, under chapter 17, relating to health care and services, the VA has authority to provide such mental health services, consultation, professional counseling, and training for a veteran's family members as may be essential for the effective treatment or rehabilitation as part of the veteran's VA hospital care (section 601(5)(B)) and as part of outpatient services in connection with the treatment of a service-connected disability or, under certain circumstances, following VA hospitalization (section 601(6)(B)). Thus, although such services generally could be provided as chapter-17-described services under clause (9) of this subsection (discussed above), the Committee intends by specially including necessary services to the veteran's family to assure that all necessary services to the family will be available and to underscore the Committee's view that such services may be very important to the rehabilitation process in some cases.

(12) License fees, essential equipment, supplies, and minimum stocks of materials that the Administrator determines necessary for the most severely disabled veterans requiring homebound training or self-employment, or both, and that are within the criteria and cost limitations that the Administrator would be required to prescribe in regulations. There is no provision in current law for the furnishing or such fees, equipment, supplies, and stocks, and, under VA regulations (38 CFR §§ 21.239 and 21.242), relating to furnished supplies to veterans pursuing training in the home and furnishing veterans with special equipment, only such supplies and special equipment as are necessary for the veteran's training are furnished. Thus, Committee bill would provide new authority for the Administrator to provide certain very severely disabled veterans to undertake the gainful employment for which training had with "start-up" items necessary for the veteran been provided.

(13) Travel and incidental expenses under the terms and conditions set forth in section 111 of title 38, plus, in the case of a veteran who, because of his or her disability, has transportation expenses in addition to those incurred by persons not so disabled, a special transportation allowance to defray such additional expenses during rehabilitation, job seeking, and the initial employment stage. Under subsection (a) of present section 111, the Administrator is authorized to "pay the actual necessary expense of travel (including lodging and subsistence), or in lieu thereof an allowance based upon mileage traveled, of any person to or from a Veterans' Administration facility or other place in connection with vocational rehabilitation . . .", and under subsections (b) and (c), the Administrator may pay the fee and travel expenses of an attendant for a chapter 31 participant.

The Committee bill would provide assurance that the extraordinary travel costs of a seriously disabled veteran do not interfere with his or her participation in rehabilitation and efforts to seek and embark upon employment.

(14) Special services related to blindness and deafness, including language training, speech and voice correction, training in ambulation, and one-hand typewriting; orientation, adjustment mobility reader interpreter, and related services; and telecommunications, sensory, and other technical aids and devices. There is no express provision for such special services, aids, and devices under current chapter 31. However, under chapter 17 (health care), "mechanical or electronic equipment" to overcome the handicap of blindness (section 614(b)) and therapeutic and rehabilitative devices (section 617) may be provided to certain service-connected disabled veterans. VA regulations authorize the provision, under chapter 31, of "special equipment made up of items which, because the nature of the veteran's handicap are necessary to enable him to undertake and pursue successfully the prescribed course of training", including "[s]pecial equipment . . . required for training purposes . . . to overcome the handicap of blindness (38 CFR § 21.242 (a) and (b)), and, under certain circumstances, reader service, necessary for the successful pursuit of a course of vocational rehabilitation by a veteran with a visual impairment" (38 CFR § 21.279(a)). The purpose of this provision of the Committee bill would thus be to provide an explicit statutory basis in chapter 31 for the provision of whatever special services, aids, and devices may be needed in connection with enabling blind or deaf eligible veterans to participate successfully in a chapter 31 rehabilitation program.

(15) Services necessary to enable a veteran to achieve maximum independence in daily living. There is no express provision in current law or VA regulations for furnishing, under chapter 31, such independent living services. However, under chapter 17, health care, rehabilitative services that may be provided as part of hospital care and medical services to eligible veterans are sufficiently broad in scope to cover such services (section 601 (5), (6), and (8)).

Under the Committee bill, independent living services would be authorized to be provided, under chapter 31, at any stage of participation that they are needed.

Subsection (b) would provide that a program of independent living services and assistance may include the types of services and assistance described in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796). Thus, this provision would assure that all of the services which are available to nonveterans under Federally-assisted State rehabilitation programs would be made available to veterans in need of such services and assistance. There is no comparable provision under current law.

Subsection (c) would subject rehabilitation programs (including individual courses) under chapter 31 to the approval of the Administrator. Present section 1502(a) states "such vocational rehabilitation [shall be furnished] as [may be] prescribed by the Administrator". VA regulations generally refer to approval of training in excess of 4 years (38 CFR § 21.206) and section 210 of title 38 relating to the general authority of the Administrator implies such authority. However, there appears to be no explicit authority to provide for the requirement that the Administrator approve rehabilitation programs in the individual case. Thus, the Committee bill would codify the Administrator's right to approve or disapprove rehabilitation programs under chapter 31.

Section 1505.—Duration of rehabilitation programs: Would establish the length of time, in months, that an eligible veteran would have entitlement to benefits under this chapter.

Subsection (a): Would provide that, in the case of a veteran for whom the reasonable feasibility of achieving a vocational goal is undetermined, the period of extended evaluation (discussed below in the analysis of proposed new section 1506(b)) may not exceed 12 months, except that the duration of extended evaluation may be extended for additional periods of up to 6 months if the Administrator determines that during the extended period it would be reasonably likely that a determination could be made as to whether or not the achievement of a vocational goal is reasonably feasible for such a veteran.

Since current law does not provide for extended evaluations, there is no comparable provision in current law regarding the months of entitlement to such evaluation.

Subsection (b): Would except as provided in subsection (c) of this new section, provide that, following a determination that the achievement of a vocational goal is reasonably feasible for a veteran, the period of a vocational rehabilitation program for a veteran may not exceed 48 months, except that, in the case of a veteran who is determined to have a serious employment handicap, the counseling and placement and postplacement services described in proposed new section 1504(a) (2) and (5) may be provided for an additional period of up to 18 months.

Present section 1502(b) provides that a course of vocational rehabilitation may not exceed 4 years unless the Administrator prescribes a longer period. By regulation (38 CFR §§ 21.20(b) and 21.203(c)), this general 4-year limitation has, in the case of institutional training, been equated with 48 months of entitlement, and charges to entitlement for three-quarter and half-time training are measured and assessed on the same basis as charges to entitlement for GI Bill training under chapter 34. VA regulations (38 CFR § 21.290) also require the provision of "follow assistance" for employed veterans "where . . . it is determined that such assistance is required" and provide for such assistance to continue "for a period of time necessary to determine that there is reasonable assurance that the [veteran] . . . has made a satisfactory employment adjustment."

In providing for 48 months of basic entitlement, the Committee intends to provide for continuation of the current administrative policy with respect to the charging of entitlement for part-time institutional training and to provide for the extension of that policy to include such independent living training, extended evaluation, and training or work experience in a Federal agency for no or nominal pay as is provided on a part-time basis.

With respect to the express provision for counseling, placement, and postplacement services generally for up to 18 months beyond the basic 48-month period in the cases of veterans with serious employment handicaps, it is the Committee's intention to underscore the VA's responsibility to provide such assistance to these veterans after the completion of training in order to assure that they receive all appropriate help in obtaining and maintaining suitable employment. Of course, in appropriate cases, this 18-month period could be extended in accordance with subsection (c) of this new section.

Subsection (c): Would, in the case of a veteran determined to have a serious employment handicap, provide the Administrator with authority to extend the duration of a period vocational rehabilitation beyond 48 months to the extent necessary to enable the veteran to achieve a vocational goal where the veteran's need for further vocational rehabilitation arose out of a worsening of the veteran's service-connected disability to the extent that the veteran is prevented from performing the duties of the occupation for which the veteran had been rehabilitated, or the veteran had previously been rehabilitated under chapter 31 to the point of employability, but either the occupation for which the veteran had been rehabilitated proved not to be appropriate in view of the veteran's employment handicap or abilities.

In addition, the Administrator would be given discretionary authority to provide an extension where the Administrator determines, under regulations which the Administrator would be required to prescribe that an extension is necessary to carry out the purposes of chapter 31 (as set forth in proposed new section 1500).

Under current law, present action 1502(b), the Administrator is given broad discretion to prescribe a period of vocational rehabilitation longer than 4 years, and by regulation (38 CFR § 21.206) training is authorized for a period greater than 4 years where, among other situations, the veteran "cannot be trained to employability in [a suitable occupation] . . . without exceeding 4 years training time", or "training in excess of 4 years is necessary in order to qualify the seriously handicapped veteran for employment."

It is the Committee's intention in providing for broad discretion, under regulations that the Administrator must prescribe, to grant an extension to a veteran with a serious employment handicap to allow for similarly broad standards to be applied in such cases as long as the extension would actually be necessary to carry out the purposes of vocational rehabilitation under chapter 31.

Subsection (d): Would provide that the duration of a program of independent living services and assistance for a veteran for whom it has been determined that the achievement of a vocational goal is not reasonably feasible, may not exceed 24 months, unless a longer period is necessary and likely to result in a substantial increase in a veteran's level of independence in daily living.

Since current law does not provide for such programs of independent living services and assistance, there is no comparable provision in current law regarding the duration of such programs.

New section 1506.—Initial and extended evaluations; determinations regarding serious employment handicap.

Subsection (a): Would require that each veteran with a service-connected disability who applies for benefits under this chapter be provided with an initial evaluation consisting of such diagnostic and evaluative services described in new section 1504(a)(1) as are necessary to determine whether the veteran has a serious employment handicap and to determine, if reasonably feasible during an initial evaluation, whether the achievement of a vocational goal is reasonably feasible for the veteran. (In addition, under section 1504(a)(1)(B), evaluation services would be provided for the purposes of planning a suitable vocational rehabilitation program for the veteran.) The determination in all cases whether the veteran has a serious employment handicap is, under the provisions of the Committee bill, necessary in all cases because various other provisions—including certain delimiting period extension provisions (new section 1503(c)), and provisions authorizing additional months of entitlement (new section 1505(c)), and requiring certain counseling services (new section 1506(b)), the development of an individualized written plan of vocational rehabilitation (new section 1507(a)), and the assignment of a case manager (new section 1506(e))—are keyed to the determination that such a handicap exists. There is no comparable provision in current law.

Subsection (b): Would require that, where it is determined that the veteran has a serious employment handicap and that the achievement of a vocational goal is reasonably feasible, the veteran be provided with counseling in accordance with an individualized written plan of vocational rehabilitation. (The plan and the inclusion of provision of counseling in the plan would be required under proposed new section 1057 (a).) There is no comparable provision in current law.

Subsection (c): Would provide that. where it is determined that a veteran has a serious employment handicap but it cannot be determined during the initial evaluation pursuant to subsection (a) of this new section whether or not a vocational goal for the veteran is reasonably feasible, the veteran is to be placed in extended evaluation. During extended evaluation, diagnostic and evaluative efforts would be provided in an attempt to determine whether or not a vocational goal is reasonably feasible and, as appropriate, to plan a program to improve the veterans' vocational rehabilitation potential and independent living abilities. In addition, a veteran in extended evaluation would be entitled to such services under this chapter as the Administrator determines necessary to improve the veteran's vocational rehabilitation potential and to achieve maximum independence in daily living. During a period of extended evaluation, the veteran would be entitled to an allowance as specified in new section 1508 (a)(1), (b), and (d)(2).

There are no comparable provisions under current law.

Subsection (d): Would require that determinations regarding the reasonable feasibility of achieving a vocational goal be made as expeditiously as possible and that any reasonable doubt be resolved in favor of determining that the achievement of a vocational goal is reasonably feasible. If the veteran has been placed in extended evaluation under subsection (c) of this new section, the determination regarding the feasibility of a vocational goal would be required to be made by the end of the period of extended evaluation, including any extensions of that period granted under new section 1505(a). These requirements are intended to assure that veterans are not needlessly placed or continued in extended evaluation when there is a reasonable possibility of involving them in vocational training.

There is no comparable provision in current law.

New section 1507.—Individualized vocational rehabilitation plan:

Subsection (a): Would require the Administrator to formulate an individualized written plan of vocational rehabilitation for each veteran determined to have a serious employment handicap. Each such plan would be required to be developed jointly with the veteran and to include, but not be limited to: (1) A statement of long-range rehabilitation goals and intermediate rehabilitation objectives related to achieving those goals; (2) a statement of the specific services, which must include counseling in all cases, and assistance to be provided the veteran; (3) the projected date for the initiation and the anticipated duration of each such service; (4) objective criteria and an evaluation procedure and schedule for determining whether the objectives and goals are being achieved; and (5) the name and business address and telephone number of the Veterans' Administration employee (case manager) assigned responsibility, pursuant to new section 1506(e), for the management and follow up of the provision of services and assistance to the veteran.

There is no comparable provision in current law and VA regulations (38 CFR § 21.212) requiring in all cases a "detailed individual training program" are less specific with respect to the content of the program.

Subsection (b): Would require the Administrator to review the plan at least annually and afford the veteran the opportunity to participate in the review. Based on this review, the Administrator would be required, jointly with the veteran, to redevelop the plan as appropriate.

Subsection (c): Would provide for a special appeal process if the veteran does not agree either to the plan, its redevelopment, or the denial of its redevelopment. Thus, this subsection would require that, prior to agreeing to the plan or to any redevelopment or denial of redevelopment of the plan, the veteran be informed of his or her opportunity for a review. The procedures for such a review would be as follows: If the veteran does not agree to the plan or redevelopment or denial of redevelopment of the plan, the veteran may submit to his or her "case manager" (the VA employee described in new section 1506(e)) a written statement setting forth the veteran's objections to the plan and requesting a review of the plan as proposed to him or her. The Administrator would be required to review the plan as proposed and the veteran's statement, and to render a decision within 90 days after the veteran submits his or her statement unless a longer period of up to 150 days is allowed in certain cases under regulations prescribed by the Administrator.

It is the Committee's intention that, unless the veteran is receiving assistance from another person in preparing his or her statement objecting to the plan, such as a service officer of a veterans' service organization, VA personnel would, upon request, provide the veteran with any assistance that he or she may need in expressing his or her objections in writing. With respect to the conduct of the review, the Committee expects that generally a first review would be conducted within the VA regional office administering benefits to the veteran and that, where appropriate and necessary, a further review would be conducted in the VA Central Office. The provision for allowing between 90 and 150 days for completion of the review is intended to allow for an extended review period in extraordinary cases or where Central Office review is provided. In all cases, it is the Committee's intention that an impartial review be provided and that no such appeal be finally denied except by VA personnel in a higher administrative position than the employee or employees who proposed the plan. Also, the Committee notes that this special review process is intended to supplement, not supplant, the veteran's other rights in general VA adjudications and appeals processes.

There are no comparable provisions in current law.

New section 1508.—Allowances: Would provide for the computation and payment of allowances for veterans participating in programs under this chapter and increase by 10 percent existing monthly subsistence allowance rates.

Subsection (a); Would provide that—except for veterans who make an election pursuant to subsection (f) of this new section to receive, in lieu of a subsistence allowance and certain other chapter 31 forms of assistance, an allowance and assistance equal to those provided to veterans enrolled in training under chapter 34, relating to GI Bill educational assistance—subsistence allowances would be paid to a veteran during any period, as determined by the Administrator, that the veteran is participating in extended evaluation or a rehabilitation program (proposed to be defined in new section 1501(6) to include both a vocational rehabilitation program and a program of independent living services and assistance). In addition, a veteran who has a serious employment handicap and who, at the conclusion (either by completion or by early termination) of such veteran's pursuit of a program of vocational rehabilitation, has been determined to be rehabilitated to the point of employability, would be paid a subsistence allowance for the following 2 months at the full-time rate for the type of training the veteran had been pursuing.

Present section 1504(a) provides for the payment of a subsistence allowance only for participation in a course of vocational rehabilitation. Thus, the Committee bill would provide for allowances in two new categories of chapter 31 participation that the Committee bill would create—extended evaluation and a program of independent living services and assistance.

The provision in this subsection of this new section for the payment to a veteran with a serious employment handicap of a subsistence allowance for the 2 months following the veteran's pursuit of a program of vocational rehabilitation under this chapter would replace the provisions of present section 1504(a) which entitles a veteran who has been determined to be employable to the payment of a subsistence allowance for 2 months after that determination has been made. Under VA regulations (38 CFR §§ 21.204 and 21.281), the making of that determination corresponds with the completion or termination of the course of training, and the Committee bill provision would be consistent with those regulations. In the case of a veteran who trained on a part-time basis, however, whereas VA regulations (38 CFR § 21.134) limit this 2-month post-training payment to twice the part-time rate that the veteran was receiving when he or she was determined to be employable, the Committee bill would provide for such payments to be at the full-time rate in all cases for the type of training involved. In addition, there is no distinction in current law between those who have and do not have a serious employment handicap.

Where a veteran has elected to receive a chapter-34-equivalent allowance in lieu of a subsistence allowance, it is the Committee's intention that the postvocational training allowance be based on the chapter 31 subsistence allowance applicable to the type of training that the veteran has pursued.

Subsection (b): Would, in terms substantively equivalent to the provisions of present section 1508(b), provide for the computation of subsistence allowances for veterans participating in a program of vocational rehabilitation based on whether the type of program being pursued is institutional training or is farm cooperative, apprenticeship, or other on-job training, and would provide a 10-percent increase in the subsistence allowance rates for vocational rehabilitation. In addition, this subsection would provide for the computation of new allowances for extended evaluation and a program of independent living services and assistance. In both cases, the full-time rate would be equal to the full-time rate for institutional training for a program of vocational rehabilitation. Less than full-time rates for extended evaluation would be established in regulations which the Administrator would be required to prescribe under subsection (d)(2) of this new section. Three-quarter-time and half-time rates for programs of independent living services and assistance would be equal to the corresponding part-time institutional training rates for vocational rehabilitation programs.

Subsection (c): Would continue in effect the substance of the provisions of present section 1504(c) which require that, where the veteran's vocational rehabilitation includes training on the job, the employer submit to the VA monthly statements of the income that the veteran has received from the employer and which authorize the Administrator to reduce the subsistence allowance payable to the veteran for the months involved to an amount considered equitable and just. However, the Committee bill would add a requirement that the Administrator prescribe regulations setting forth criteria for exercising the authority to make such reductions.

In addition, this subsection would clarify that, where a veteran is pursuing, as part of a vocational rehabilitation program, on-job training or work experience in a Federal agency (under the provisions of new section 1516(a)(1)) without pay or for nominal pay, the veteran is entitled to a subsistence allowance at the appropriate rate provided in subsection (b) of this new section for institutional training. Under present section 1511, training or work experience in a Federal agency for which no pay is received is authorized as part of vocational training, and, under the VA's interpretation of the current law provisions establishing subsistence allowance rates, present section 1504(b), payments in such cases are required to be made at the rate provided for on-job training—a rate that is lower than the institutional training rate in light of the fact that on-job training participants ordinarily receive some wages. Since, in the Committee's view, the institutional rate is more appropriate where the training or work experience is for no or nominal pay, the Committee bill would so provide.

Paragraph (1) of subsection (d): Would require the Administrator to define, for a veteran participating in a rehabilitation program, full-time and each part-time status in accordance with regulations that the Administrator would be required to prescribe that would not be inconsistent with regulations governing the determination of such status under chapter 34, relating to GI Bill educational assistance. Under present section 1504(d), the Administrator is required to define full-time and part-time, but there is no requirement for the Administrator to prescribe regulations or to define full-time status and part-time status under chapter 31 so as to avoid inconsistency with full- and part-time status definitions under chapter 34.

Paragraph (2) of subsection (d): Would provide that, in the cases of a veteran participating in extended evaluation on less than a full-time basis, a subsistence allowance may be paid, in accordance with regulations that the Administrator must prescribe, at a rate proportional to the full-time rate for extended evaluation. Since current law makes no provision for extended evaluation, there is no comparable provision in current law.

Subsection (e): Would provide that, where a veteran is pursuing a rehabilitation program on a full-time basis in a specialized rehabilitation facility, the Administrator may, upon the veteran's request, pay the facility for the cost of the veteran's room and board in lieu of paying the veteran the subsistence allowance otherwise payable, exclusive of any amounts payable to the veteran for dependents, and pay to the veteran any subsistence allowance amount payable for the veteran's dependents. Thus, where the facility's charges for room and board exceed the single-veteran allowance rate, the VA would be authorized to pay those charges that the veteran would be unable to pay from the allowance payable for his or her subsistence if it were paid. This subsection would not apply in the case of a veteran participating in a rehabilitation program while receiving care in a medical facility at VA expense under chapter 17, relating to health care; subsection (i) of this new section would apply in such cases.

There are no comparable provisions in current law.

Subsection (f): Would permit a veteran—to the extent that he or she has remaining eligibility for and entitlement to GI Bill educational assistance benefits under chapter 34—to elect chapter-34-equivalent benefits in lieu of certain services and assistance provided for in chapter 31. To receive chapter-34-equivalent benefits, the veteran must be pursuing training that would qualify for such benefits as an approved program of education under chapter 34, and the benefits would consist (1) of an allowance equal in amount to the amount of the chapter 34 educational assistance allowance payable for that type of training and (2) other forms of assistance available to a veteran pursuing such training under chapter 34 (such as education loans under section 1798, a work-study allowance under section 1685, and a tutorial assistance allowance under section 1692). The chapter-34-equivalent benefits would be provided in lieu of the chapter 31 benefits for which the veteran would otherwise be eligible under new section 1504(a)(3) (the subsistence allowance and other assistance authorized under the provisions of this new section, section 1508, other than the provisions of this subsection), (7) (vocational and other training services and assistance, including individualized tutorial assistance, tuition, fees, books, supplies, and licensing fees, and certain equipment and other materials), and 1504(a)(8) (loans under new section 1512). Where a veteran makes an election under this subsection, the terms and conditions applicable to the pursuit of a comparable chapter 34 program of education and to the payment of allowances and provision of assistance under chapter 34 (for example, provisions relating to charges to entitlement and the making of education loans) would apply to the veteran's pursuit of an approved program of education under chapter 31.

There is no comparable provision in current law.

Subsection (g): Would modify the method of payment of subsistence allowances in the case of an incarcerated veteran participating in rehabilitation under chapter 31 in a manner similar to that in section 207(3) of H.R. 5288, as passed by the Senate on January 24, 1980, would modify the method of payment of educational assistance allowances to incarcerated veterans pursuing GI Bill training on a half-time or more basis under chapter 34. (See section 107(3) of S. 870 as reported on September 7, 1979, S. Rept. No. 94–314, 96th Cong., 1st sess.)

Paragraph (1) of subsection (g): Would require the Administrator, where the veteran has no dependents, to withhold all subsistence allowances during the veteran's incarceration and pay the allowances withheld to the veteran at the time of the veteran's release from incarceration. Upon the veteran's request, the Administrator would invest the amounts withheld in United States Government securities. If investment in securities is made, the Committee intends that the Administrator seek to invest the funds in the highest interest yielding securities. These withholding and investment provisions are designed to block the flow into prisons of funds not needed for educational costs and to provide for the accrual of funds to assist incarcerated veterans in readjusting to society upon their release.

Where the veteran has one or more dependents, the Administrator would pay the subsistence allowance to the dependent or dependents designated by the veteran to the extent that both the veteran and the dependent so designated request payment of the allowance to be made. To the extent that the veteran does not request payment to a particular dependent of an amount payable on account of that dependent, or the dependent does not join in the request, the amount involved would not be accrued by or paid to the veteran. Amounts not paid to or payable on account of the veteran's dependent, would, as in the case of a veteran with no dependents, be withheld, invested in securities (if the veteran so request), and given to the veteran upon release from incarceration. These provisions for veterans having dependents would serve the same purposes described above with respect to veterans without dependents, and would, in addition, by requiring both the veteran and dependent to agree to any payment to a dependent, protect some dependents of incarcerated veterans from the unwitting loss of eligibility for various forms of public assistance through the receipt of allowances that may be of less value to the dependents than such assistance.

Paragraph (2) of subsection (g): Would provide that the provisions of paragraph (1) of this new subsection would not apply in the case of eligible veterans pursuing rehabilitation programs while in halfway houses or on work-release programs. In these instances, such veterans would receive allowances under chapter 31 on the same basis as nonincarcerated veterans.

There is no comparable provision in current law.

Subsection (h): Would provide a method of payment of allowances to a veteran participating in a chapter 31 program of vocational rehabilitation who has elected to receive chapter-34-equivalent allowances under subsection (f) (discussed above) of this new section for the pursuit of training on a half-time or more basis. This method of payment would be substantively identical to the method provided for in the Senate-passed provisions in section 207(3) of H.R. 5288 for the withholding, during the veteran's incarceration, of amounts in excess of the costs to the veteran of tuition and fees, the conversion of any withheld amounts to Government securities, payments to dependents, and payments to the veteran upon release. In this regard, this subsection makes no provision for incarcerated veterans training on a less than half-time basis, since present section 1682(b) in chapter 34, which would govern the payment of allowances in such cases, provides that, in the case of such training, payment is made only for the cost of tuition and fees, or the half-time rate, whichever is the lesser. (It should be noted that this subsection would be unnecessary if section 207(3) of H.R. 5288 as passed by the Senate is enacted since proposed subsection (f) of this new section would provide that the terms and conditions applicable to chapter 34 educational assistance allowances would apply to the chapter-34-equivalent allowances and the provision that H.R. 5288 would add would then apply.) The provisions of the Committee bill would provide as follows:

Paragraph (1) of subsection (h): Would provide that, where an eligible veteran is pursuing a program of education on a half-time or more basis, payment of a chapter-34-equivalent allowance would be made directly to the veteran in an amount no greater than the cost of tuition and fees. If the veteran has one or more dependents, the dependents' allowance in excess of the cost of the veteran's tuition and fees would be paid to the veteran's dependent or dependents, but only if the veteran requests such payment and the dependent or dependents concur in such request. If no such request is made, or the dependent or dependents do not concur, no dependents' allowances would be paid or accrued. The portion of the veteran's allowance in excess of the cost of tuition and fees, if any, would be held in escrow by the Administrator under the same terms and conditions specified for veterans with no dependents or released to the dependents if the veteran requests such release and the dependents concur in the request. This provision, by requiring both the veteran and dependent to agree, would protect some dependents of incarcerated veterans from the unwitting loss of eligibility for various forms of public assistance through the receipt of allowances that may be of less value to the dependents than such assistance.

Any amounts accrued by the veteran, but not paid to the veteran or the veteran's dependents, would be held in escrow by the Administrator for the veteran and would be released to the veteran at the time of his or her release from incarceration. At the request of the veteran, the Administrator would invest such excess amount in United States Government securities. If such investment is made, the Committee intends that the Administrator seek to invest the funds in the highest interest yielding securities. This provision is designed to block the flow into prisons of funds being paid in the form of assistance allowances not needed for educational costs and to provide for the accrual of funds to assist incarcerated veterans in readjusting to society upon their release.

Paragraph (2) of subsection (h): Would provide that the provisions of paragraph (1) of this new subsection would not apply in the case of eligible veterans pursuing training while in halfway houses or on work-release programs. In those instances, such veterans would receive allowances on the same basis as nonincarcerated veterans.

Subsection (i): Would provide that, in the cases of veterans receiving care in a hospital, nursing home, or domiciliary facility at VA expense if the veteran has been institutionalized for more than 30 days, the allowances payable under this chapter to the veteran would accrue and be withheld (and converted to securities), paid to dependents, and paid to the veteran upon discharge from the facility under the same terms and conditions set forth in subsection (g) or (h) of this new section—depending on whether the veteran had made an election under subsection (f) of this new section. However, upon the request of the veteran, the Administrator would pay to the veteran so much of the allowance as the veteran needs to meet his or her continuing financial obligations during such institutionalization.

There is no comparable provision in current law.

Subsection (j): Would recodify the provision in present section 1502(d) authorizing subsistence allowance payments to be made in advance in accordance with section 1780 of title 38 to veterans participating in a rehabilitation program under chapter 31.

New section 1509.—Entitlement to independent living services and assistance: Would provide that where the Administrator has determined under new section 1506 (d) that the achievement of a vocational goal is not reasonably feasible for a veteran, such veteran shall be entitled, pursuant to the provisions of new section 1520 (which, as discussed below, provide for a pilot program of independent living services and assistance for veterans as to whom it is determined that the achievement of a vocational goal is not reasonably feasible), to a program of independent living services and assistance designed to enable the veteran to achieve maximum independence in daily living.

There is no comparable provision in current law.

New section 1510.—Leaves of absence. Would, in terms generally substantively identical to the provisions of present section 1505, authorize the Administrator to prescribe regulations for granting leaves of absences to chapter 31 participants. However, the provision in present section 1505 limiting such leaves of absence for a veteran to no more than 30 days in any 12-month period would be deleted. The Administrator would thus be given the discretion to reconsider that limitation and to incorporate it in the regulations with or without modification or not at all.

During authorized leave, the veteran would, as under present section 1505, be considered to be pursuing a program of rehabilitation and would be entitled to continue to receive an allowance under this chapter during a period of authorized leave.

New section 1511.—Regulations to promote satisfactory conduct and cooperation: Would require the Administrator to prescribe such rules and regulations as the Administrator determines to be necessary to promote satisfactory conduct and cooperation on the part of veterans pursuing rehabilitation programs under chapter 31. Where a veteran fails to maintain satisfactory conduct or cooperation, the Administrator would be authorized, after determining that all reasonable counseling efforts have been made and are not reasonably likely to be effective, to discontinue services and assistance under chapter 31 unless the Administrator determines that mitigating circumstances exist. Where services and assistance have been discontinued, the Administrator would be authorized to reinstitute them only if the Administrator determines that the cause of the veteran's unsatisfactory conduct or cooperation has been removed and that the veteran's rehabilitation program (whether the same as the veteran's previous program or a revised program) is suitable to the veteran's abilities, aptitudes, and interests.

Present section 1508 contains a substantively similar requirement for the Administrator to prescribe rules and regulations to promote "good" (as compared to "satisfactory" in the Committee bill) conduct and cooperation on the part of veterans participating in vocational rehabilitation, and specifically provides that penalties for the breach of such rules and regulations may extend to (1) forfeiture of 3 months of subsistence allowances, and (2) permanent disqualification from further vocational rehabilitation. No specific provisions regarding the nature and extent of penalties are set forth in the Committee bill. The Committee does not generally favor the imposition of penalties in such situations.

There are no provisions in current law comparable to the Committee bill provisions which mandate the exhaustion of reasonable counseling efforts prior to a discontinuance of rehabilitation services and assistance and establish standards for reinstituting rehabilitation services and assistance after a discontinuance.

New subsection 1512.—Revolving fund loans: Would recodify with certain modifications, present section 1507, relating to the making of loans to chapter 31 participants from a revolving fund. The Committee bill would increase the maximum amount that may be loaned to a chapter 31 participant from $200 to twice the full-time institutional monthly subsistence allowance for a veteran with no dependents, as set forth in new section 1508(b) (2×$265=$530).

As under current law, these loans would bear no interest and would be repaid in installments as determined by the Administrator, by deductions from future payments of compensation, pension, or retirement pay. The Committee bill would also provide for the deduction of installment payments from subsistence allowances or educational assistance allowances.

Under the Committee bill, loans under this provision would not be available to veterans who have elected, under new section 1508(f), to receive chapter-34-equivalent allowances and assistance, because chapter 34 makes provision for such veterans to obtain loans under present subchapter III of chapter 34.

Section 306 of the Committee bill would provide that the increase in the maximum loan would take effect only to such extent or in such amounts as are contained in Appropriations Acts if, under a rule of the House of Representatives or the Senate, such a provision is required in order for a bill providing for such an increase to be in order at the time the House of Representatives or Senate passes a bill providing for this increase. (See the analysis of section 306, below.)

New section 1513.—Books, supplies, and equipment: Would recodify, without substantive change, the provision of present section 1509, relating to the release to a veteran of books, supplies, and equipment furnished to him or her under this chapter and the required return and disposition of such books, supplies, and equipment (or repayment for their reasonable value) when, because of the veteran's fault, he or she has failed to complete the course involved.

New section 1514.—Vocational rehabilitation for hospitalized members of the Armed Forces and veterans:

Subsection (a): Would recodify the provisions of present section 1510, which authorize the provision of vocational rehabilitation under chapter 31 to an individual in the active military, naval, or air service, who is hospitalized pending discharge from active service and who but for the fact that he or she has not been discharged or released, would be eligible for participation in a chapter 31 program. The only substantive modification would be to expand this authority to include the provision of all service and assistance (other than a subsistence allowance or chapter-34-equivalent allowance pursuant to new section 1508(f) under chapter 31, not just vocational rehabilitation as under present section 1510. As under current law, since such an individual would be receiving his or her military pay while participating in rehabilitation, no allowance would be payable.

Subsection (b): Would expressly authorize the provision of services and assistance under chapter 31 to a veteran who is receiving care in a VA hospital, nursing home care, or domiciliary care facility or in any other hospital or medical facility. Current law neither specifically authorizes nor prohibits the provision of chapter 31 services and assistance in such circumstances. However, VA regulations (38 CFR § 21.226) prescribe certain rules and conditions for the provisions of training under chapter 31 while a veteran is hospitalized in a VA facility. It is the Committee's intention that, as a result of the enactment of this provision, the Administrator reevaluate such regulations and expand them to include appropriate provisions relating to the provision of all rehabilitation services and assistance provided for in the Committee bill and the provisions of such services and assistance in VA nursing home and domiciliary care facilities and other health-care facilities, as well as in VA hospitals.

New section 1515.—Vocational rehabilitation outside the United States: Would authorize, pursuant to regulations that the Administrator must prescribe, a chapter 31 participant to pursue a program of vocational rehabilitation outside the United States if the Administrator determines that such training is necessary in a particular case to provide the preparation needed to render the veteran employable and that vocational rehabilitation outside the United States is in the best interest of the veteran and the Federal Government.

Current law, present section 1502, simply prohibits the provision of vocational rehabilitation outside the United States to a veteran "on account of post-World War II service if the veteran, at the time of such service, was not a citizen of the United States". However, current VA regulation (38 CFR § 21.20(c)) limits the availability of vocational rehabilitation in a foreign country (other than the Philippines) by specifying that such training may be authorized only if adequate training for the selected objective is not available in the United States and if training is pursued under the direct supervision of a representative of the VA. According to the VA's report entitled A Study of the Provisions for Veterans Vocational Rehabilitation, Chapter 31, Title 38, United States Code, submitted in February 1978, this regulation has the effect of essentially ruling out the possibility of foreign training since the VA has no means of furnishing direct supervision of vocational rehabilitation trainees in foreign countries.

Thus, the Committee bill would establish specific criteria under which the Administrator would be required to prescribe regulations to permit pursuit of vocational rehabilitation training outside the United States—as pursuit of postsecondary education is permitted outside the United States for participants in the chapter 34 or 35 educational assistance programs pursuant to sections 1676 and 1723 of title 38 (as proposed to be clarified by sections 206(b) and 303(3), respectively, of S. 870 as passed by the Senate in H.R. 5288 on January 24, 1980). The Committee bill would also eliminate the prohibition based on citizenship at the time of service.

New section 1516.—Rehabilitation resources:

Subsection (a): Would generally authorize the Administrator—in providing training or work exeprience as part of a chapter 31 participant's vocational rehabilitation program—to make use of various Federal facilities, staff, and resources and would authorize the Administrator to employ such additional personnel and experts as the Administrator considers necessary. The Administrator would also be authorized, in providing any services under chapter 31, to make use of facilities and services maintained by joint Federal and State contributions, private institutions and establishments and private individuals.

Present section 1151 provides the Administrator with substantially the same authorities with respect to the provision of vocational rehabilitation.

Paragraph (1) of subsection (b): Would provide that a veteran pursuing on-job training or work experience as part of his or her vocational rehabilitation program would be considered an employee of the United States for purposes of being entitled to Federal employees workers' compensation (under chapter 81 of title 5, United States Code), if injured while engaged on this on-job training or work experience, but would not be considered a Federal employee for purposes of laws administered by the Office of Personnel Management.

Present section 1511 contains substantively identical provisions.

Where such training or work experience is afforded a veteran who has a serious employment handicap, it is the Committee's intention that the veteran's individualized written plan of rehabilitation so provide.

Paragraph (2) of subsection (b): Would specifically authorize the Administrator to contract with the VA's Department of Medicine and Surgery (DM&S) for the use of DM&S facilities and services for the provision of rehabilitation services under chapter 31—including hospital care and medical services authorized under chapter 17, relating to VA health care, as provided for in a veteran's individualized written plan of rehabilitation under new section 1507, relating to plans for vocational rehabilitation, or new section 1520 (a), relating to plans for independent living services and assistance—and would authorize reimbursement of DM&S for such services. Under current law, DM&S provides certain rehabilitative services (defined in present section 601(8)) under chapter 17 of title 38 as part of hospital and medical care of veterans, but coordination with chapter 31 programs has been cited as a major difficulty. This provision is designed to help overcome such difficulties by providing a strong relationship between chapter 21 rehabilitation activities and DM&S medical care. Also, under current law, health-care services provided by DM&S to chapter 31 participants are funded through the VA's medical care appropriations account even though the care is directly related to the veteran's rehabilitation The Committee bill provision would provide for the funding of such care through the VA's readjustment benefits account which, as a source of expenditures for entitlements, is a more secure funding source.

The amounts of payments to DM&S for such services would be determined in accordance with accounting principles used within DM&S at the time the services are provided and would be subject to review and modification by the Administrator with respect to the reasonableness of DM&S's proposed charges. Except as provided in chapter 17, which sets forth certain criteria, in present section 601(4)(C), for the provision of health care and services at VA expense in non-VA facilities, hospital care and medical services provided under this chapter would be required to be furnished in VA facilities.

There are no comparable provisions in current law. The Committee notes that the general requirement that health care and services for chapter 31 participants be furnished by VA facilities would place chapter 31 participants on an equal basis with other service-connected disabled veterans with respect to eligibility for contract care in non-VA facilities. Under the amendment to the present 612(i) proposed to be made by section 301 of the Committee bill, chapter 31 participants would be entitled to the same priority consideration in the provision of VA outpatient care as veterans with service-connected disabilities rated as 50 percent or more disabling.

Paragraph (3) of subsection (b): Would provide that the use of non-VA facilities as authorized in subsection (a) of this new section for the provision of rehabilitation services under chapter 31, shall be procured through contract, agreement, or other cooperative arrangement. This provision codifies the current general VA practice with respect to the making of arrangements for the use of non-VA facilities. The only express provision currently in chapter 31 in this respect, present section 1511(4), authorizes the VA to make use of public or private institutions or establishments "by agreement or contract".

New section 1517.—Employment assistance: Would require the Administrator to provide a wide range of employment assistance efforts to disabled veterans who have participated in vocational rehabilitation under chapter 31 or in Federal-State programs under the Rehabilitation Act of 1973. Thus, this new section provides a much greater emphasis on employment assistance than the only provision currently in chapter 31 regarding such assistance, present section 1511, which authorizes—but does not require—the Administrator to "cooperate with and employ the facilities of other governmental and State employment agencies for the purpose of placing in gainful employment persons who have received vocational rehabilitation".

Subsection (a): Would provide that employable service-connected disabled veterans who have participated in a vocational rehabilitation program under chapter 31 or a similar Federal-State program under the Rehabilitation Act of 1973 shall be provided—and, to the extent resources are available, employable veterans without service-connected disabilities, may be provided—with assistance in obtaining suitable employment. Such assistance would include direct VA placement services, use of the services of veterans' employment and training outreach program specialists under new section 2003A (proposed to be added by section 209 (a) of the Committee bill), and the placement services of Federal-State programs under the Rehabilitation Act of 1973, State employment services and the Veterans' Employment Service of the Department of Labor, the Office of Personnel Management, and other public or non-profit organizations having services available.

The Committee bill would also require the Administrator to provide assistance to assure that veterans receive the benefit of any applicable provision of law or regulation which provides for special consideration, emphasis, or preference to be given veterans in employment or training.

Paragraph (1) of subsection (b): Would require the Administrator to cooperate with the Small Business Administration (SBA) (1) to assist veterans who have completed chapter 31 vocational rehabilitation for self-employment in a small business enterprise to secure a loan for the purchase of equipment necessary to establish such veteran's own business and (2) to assure that the veteran receives the special consideration with respect to SBA loans provided for in section 8 the Small Business Act (15 U.S.C. 633(b)).

Paragraph (2) of subsection (b): Would provide that the Administrator may—under the terms and conditions set forth in new section 1504(a)(12) (discussed above), relating to the provision of certain equipment, stocks, and supplies to the most severely disabled veterans requiring homebound training or self-employment, or both, to enable them to begin employment—furnish veterans who have trained under a Federal-assisted State rehabilitation program with the objective of self-employment in a small business enterprise, such supplementary equipment and initial stocks and supplies as the veteran needs if those materials (or assistance, such as a loan, in acquiring them) are not available through the State program or other sources (such as the Small Business Administration).

Subsection (c): Would require the Administrator to prescribe, with the concurrence of the Secretary of Labor, regulations under which payments would be authorized to be made to employers for providing on-job training to veterans rehabilitated under this chapter to the point of employability where necessary for the veteran to obtain needed training or to begin employment. The formulation of such regulations would be required to take account of the provisions of title V of the Rehabilitation Act of 1973 and regulations prescribed thereunder, requiring that certain Federal contractors take affirmative action with respect to the employment of handicapped persons and prohibiting programs or activities receiving Federal financial assistance from discriminating against otherwise qualified handicapped persons, and section 2012 of title 38, requiring certain Federal contractors to take affirmative action with respect to the employment of certain service-connected disabled veterans and Vietnam-era veterans. This requirement that such provisions be taken into account is intended to avoid unnecessary Federal expenditures in situations where the prospective employer is otherwise required to make a special effort—including making reasonable workplace accommodations—to provide for the employment of the veteran concerned. Payments under this subsection would not be permitted to exceed the direct expenses incurred in providing the on-job training or the employment opportunity.

This subsection would also provide that, if a veteran is participating in such on-job training and the training meets the criteria for payment of a training assistance allowance under present section 1787, relating to GI Bill training assistance allowances for on-job training under chapter 34, the veteran shall—to the extent that he or she has remaining eligibility for and entitlement to such an allowance—be paid that allowance.

New section 1518.—Personnel training, development, and qualifications:

Subsection (a): Would require the Administrator to provide a program of ongoing professional training and development for VA chapter 31 counseling and rehabilitation personnel in order to assure that rehabilitation services for veterans are provided according to the most advanced knowledge, methods, and techniques. The Administrator would be authorized to employ the services of consultants and make grants to and contract with public and private agencies in order to conduct such training and development.

There is no comparable provision in current law.

Subsection (b): Would require the Administrator to coordinate with the Commissioner of the Rehabilitation Services Administration in the Department of Education and the Deputy Assistant Secretary for Veterans' Employment in the Department of Labor in planning and carrying out personnel training in areas of mutual programmatic concern.

There is no comparable provision in current law.

Subsection (c): Would require the Administrator to establish qualifications for chapter 31 psychologists and the VA employees (case managers) assigned responsibility for the management and followup of rehabilitation services to veterans who have a serious employment handicap. In establishing such qualifications, the Administrator would be required to take into account the qualifications required for psychologists employed by the VA's Department of Medicine and Surgery and the qualifications required of psychologists and persons carrying out case-management responsibilities in Federal-State vocational rehabilitation programs under the Rehabilitation Act of 1973.

There is no comparable provision in current law.

New section 1519.—Rehabilitation research and special projects:

Subsection (a): Would require the Administrator to carry out ongoing programs for the purpose of advancing the knowledge, methods, techniques, and resources available for use in rehabilitation programs for veterans. For that purpose, the Administrator would be required to conduct and provide support for research and studies concerning various specified aspects of the rehabilitation of disabled veterans, including new methods of rehabilitation, and for projects designed to increase the resources and potential for accomplishing the rehabilitation of disabled veterans.

Subsection (b): Would, for the purpose specified in subsection (a) of this new section, authorize the Administrator to make grants to or contract with public or nonprofit agencies, including institutions of higher learning.

Subsection (c): Would require the Administrator to cooperate with the Commissioner of the Rehabilitation Services Administration and the Director of the Institute of Handicapped Research in the Department of Education, the Deputy Assistant Secretary for Veterans' Employment in the Department of Labor, and the Secretary of Health and Human Services regarding studies, research, and special projects of mutual programmatic concern.

There is no comparable provision in current law.

New section 1520.—Pilot program of independent living services and assistance: Would provide for a 4-year (fiscal years 1982 through 1985) pilot program of contract independent living services and assistance for those severely disabled veterans for whom the achievement of a vocational goal is determined not to be reasonably feasible.

Subsection (a): Would authorize the Administrator, during fiscal years 1982 through 1985, to contract with public or nonprofit agencies (including the Department of Medicine and Surgery (DM&S) under new section 1516(b)(2), authorizing the Administrator to procure from DM&S rehabilitation services under chapter 31) to provide in various geographic areas programs of independent living services and assistance under chapter 31 to veterans for whom it is determined that the achievement of vocational goals is not reasonably feasible. This authority to enter into contracts would be limited to contracts with agencies that have a demonstrated capacity to conduct independent living services programs for handicapped persons, and the Administrator would be required to prescribe regulations regarding the contract services and assistance to be provided under this subsection and establishing criteria for the selection of veterans to participate in this pilot program. No more than 500 veterans per year could be taken into the pilot program in each of the 4 fiscal years of the programs, and first priority in selection would be required to be given to veterans for whom the reasonable feasibility of a vocational goal is precluded solely as the result of a service-connected disability. To the maximum extent feasible, the Administrator would include among those selected substantial numbers of veterans receiving long-term care in VA hospitals and nursing care homes and in other nursing care homes at VA expense. To be eligible to participate, a veteran must have remaining entitlement (under new sections 1502 and 1505(d)) and eligibility (under new section 1503(a) and (d)) for independent living services and assistance.

Veterans participating in the pilot program would be provided such services described in new subsections (a) and (b) of new section 1504, which, respectively, set forth the scope of services and assistance generally authorized for chapter 31 participants and authorize the provision, in programs of independent living services and assistance, of the range of services and assistance authorized under section 702 of the Rehabilitation Act of 1973 to be provided to participants in Federal-State rehabilitation programs. In addition, this subsection would provide veterans participating in the pilot program with the same rights with respect to an individualized written plan of services and assistance as are afforded under new section 1507 to veterans participating in a vocational rehabilitation program.

Any contract for services that is initiated with respect to a veteran before the end of fiscal year 1985 could be continued thereafter for the purposes of providing services and assistance to the veteran.

Subsection (b): Would, in order to assist the Congress in assessing the effectiveness of programs of independent living services and assistance for severely disabled veterans and determining whether such programs should be expanded to reach all such veterans and be made a permanent entitlement under chapter 31, mandate a study by the Administrator focusing on the accomplishments and cost-effectiveness of the pilot program and require that a report on the results of the study, including the Administrator's recommendations, be submitted to the Congress not later than September 30, 1984, the end of the third fiscal year of the 4-year pilot program. The study would be required to develop information (to be included in the report) on the extent to which (1) the program meets needs for comprehensive independent living services that would not otherwise have been met, (2) severely disabled veterans are helped through the program to achieve and maintain greater independence in daily living, and (3) the costs of care in hospital, nursing home care, and domiciliary care facilities have been and may be avoided through the provision of independent living services.

New section 1521.—Veterans' Advisory Committee on Rehabilitation: Would establish a Veterans' Advisory Committee on Rehabilitation (hereafter referred to as "the Committee").

Subsection (a): Would require the Administrator to appoint the members of the Committee from the general public, with not less than half the membership being service-connected disabled veterans. The Committee would also include individuals who have distinguished themselves in the public and private sectors in certain fields relevant to the rehabilitation of veterans. In order to help assure adequate coordination within the VA and among relevant Federal agencies and to assure that the Committee has the perspectives of Federal officials with particularly relevant responsibilities, the Committee would include representatives of the VA's Department of Medicine and Surgery and Department of Veterans' Benefits, of the Commissioner of the Rehabilitation Services Administration and of the Director of the National Institute for Handicapped Research in the Department of Education, of the Deputy Assistant Secretary for Veterans' Employment in the Department of Labor, and of the Secretary of Health and Human services.

Subsection (b): Would require the Administrator to advise and consult with the Committee on a regular basis regarding the administration of veterans' rehabilitation programs under title 38.

Subsection (c): Would require the Committee to submit to the Administrator and the Congress an annual report on the rehabilitation programs and activities of the VA, including an assessment of the rehabilitation needs of veterans and a review of the VA's programs and activities designed to meet those needs, and such other reports or recommendations as the Committee deems appropriate.

There is no comparable provision in current law.

New section 1522.—Evaluations after individual unemployability adjudications: Would require, after the adjudication of a service-connected disabled veteran's claim for a rating of total disability on the grounds of individual unemployability and if the Administrator considers that the veteran may have the potential for vocational rehabilitation and employment, that the veteran be provided with a comprehensive diagnostic evaluation by chapter 31 VA personnel. This provision is designed to help assure that a veteran with vocational rehabilitation potential would be afforded every opportunity and encouragement for paticipation in vocational rehabilitation as close as possible to the time when a disability-related, severe employment problem is recognized.

There is no comparable provision in current law.

Subsection (b) of section 101 would amend the tables of chapters at the beginning of title 38 and part III of title 38 in the United States Code to reflect the amendment to the title of chapter 31 proposed to be made by section 101(a) of the Committee bill.

Title I.—Cost: It is estimated that the enactment of the provisions of title I of the Committee bill would cost $27.8 million in fiscal year 1981 and a total of $177.6 million in fiscal years 1981 through 1985.

TITLE II—EMPLOYMENT AND EDUCATION AMENDMENTS

Part A—Program improvements

Section 201

Would amend present section 220, relating to Veterans' Administration efforts to promote the coordination of all Federal programs affecting veterans and their dependents.

Clause (1) of section 201 would amend the heading of present section 220 to reflect the changes proposed to be made by this section of the Committee bill.

Clause (2) of section 201 would amend present section 220 to require the Administrator actively to promote the effective implementation, enforcement, and application of all provisions of law and regulations relating to employment, training, and other opportunities for veterans, and, in carrying out this responsibility, to place particular emphasis on the needs of veterans with service-connected disabilities and of other eligible veterans, taking into account applicable rates of unemployment and the employment emphasis set forth in chapter 42 of title 38, relating to employment and training of disabled and Vietnam-era veterans. The Committee's intention regarding this emphasis is to assure, first, that the needs of service-connected disabled veterans are emphasized, and, second, with respect to all other veterans eligible for the benefit of such laws and regulations, that the Administrator give particular attention to the needs of categories of veterans with relatively high rates of unemployment (such as young Vietnam-era veterans and minority group Vietnam-era veterans) and those veterans focused upon by chapter 42 (as it is proposed to be amended by section 802 of S. 870 as passed by the Senate in H.R. 5288 on January 24, 1980)—Vietnam-era veterans. (Chapter 42 also applies to veterans with serious service-connected disabilities, but they would be included in the first category for emphasis.)

Present section 220 makes the Administrator responsible for seeking to achieve maximum feasibility effectiveness, coordination, and interrelationship of all programs and activities affecting veterans carried out by all agencies of the Federal Government. The purpose of this amendment is to require that, with respect to employment, training, and other opportunities, the Administrator also take an active advocacy role by promoting effective implementation of the various laws. Thus, the Administrator would be responsible for seeking to ensure that programs conducted by the VA, as well as provisions implemented by other Federal agencies affecting veterans—for example, the CETA program within the Department of Labor, the VCI program conducted by the Department of Education, the civil service veterans' preference laws, and the provisions mandating preference for veterans under the Small Business Act—are implemented effectively in accordance with the law and congressional intent.

Clause 3 of section 201 would amend the present table of sections of chapter 3 to reflect the changes proposed by this section of the Committee bill.

Section 201—Cost: Enactment of the provisions of section 201 is estimated to entail no significant cost.

Section 202

Would amend clause (1) of present section 244, relating to the utilization of other agencies in carrying out the purposes of subchapter IV of chapter 3 of title 38, which include the provision of effective outreach services to eligible veterans with respect to VA benefits and services, to require the Administrator, in coperation with the Secretary of Labor, to seek actively to promote the development and establishment of employment, training, and other opportunities for veterans. In carying out this responsibility, the Administrator would be required to place special emphasis (as proposed in section 201 of the Committee bill with respect to the active promotion of the implementation of laws relating to such opportunities) on the needs of veterans with service-connected disabilities and other eligible veterans, taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42, as discused above.

Clause (1) of present section 244 currently requires the Administrator only to make certain arangements with the Secretary of Labor to match eligible veterans with appropriate job or job-training opportunities. Thus, the purpose of this amendment is to place with the Administrator the additional responsibility, in cooperation with the Secretary, to promote employment, training, and other opportunities for veterans through benefits and services administered by the VA—for example, the VA's on-job training program. Thus, the Administrator would have the responsibility, in connection with the VA's outreach services program, to promote actively VA programs of job, on-job training, and other employment-related opportuniites for eligible veterans.

Section 202—Cost: Enactment of the provisions of section 202 is estimated to entail no significant cost.

Section 203

Would amend present section 1652, relating to definitions for the purposes of veterans' educational assistance under present chapter 34, to clarify that the definitions applicable to chapter 34 in present section 1652 apply as well to chapter 36, relating to the administration of educational benefits. Curently, certain of these definitions do not expressly apply to chapter 36 despite the fact that the terms involved are used extensively in chapter 36.

Section 203—Cost: Enactment of the provisions of section 203 is estimated to entail no cost.

Section 204

Would amend present section 1701(a), relating to definitions for the purposes of survivors' and dependents' educational assistance under present chapter 35, to make the same type of clarifications proposed by section 203 of the Committee bill with respect to the applicability to chapter 36 of definitions in chapter 34.

Section 204—Cost: Enactment of the provision of section 204 is estimated to entail no cost.

Section 205

Would amend present section 1772, relating to the approval of education and training courses for purposes of veterans', and survivors' and dependents', educational assistance under present chapters 34 and 35, respectively, to add a new subsection (d), as follows:

New subsection (d): Would make the Administrator responsible for the approval of all programs of training on the job (including apprenticeship programs) for purposes of the utilization of GI Bill benefits and provide that the Administrator may exercise this responsibility directly or through agreements with non-VA sources, including State approving agencies. The new subsection would also require that, pursuant to regulations jointly prescribed by the Administrator and the Secretary of Labor, the Administrator actively promote the development of programs of training on the job for purposes of the utilization of GI Bill benefits and utilize, as appropriate, the services of the veterans' employment and training outreach program specialists proposed in section 209 of the Committee bill.

Under current law, State approving agencies function as the approval agents for programs of training on the job (except for certain apprenticeship programs in which interstate carriers provide the training involved in more than one State), and extensive criteria for the approval of such programs are codified in section 1777. It is the purpose of this amendment to place the responsibility of approval with the Administrator in order to foster streamlining of the approval process itself (as proposed in the revisions of the section 1777 approval criteria set forth in section 206 of the Committee bill) and make the Administrator directly accountable for the timely and cost-effective approval of maximum opportunities for VA programs of training on the job for veterans and other eligible persons.

Section 205—Cost: It is estimated that enactment of the provisions of section 205, together with the enactment of section 206 of the Committee bill, would cost $1.9 million in fiscal year 1981 and a total of $15.9 million in fiscal years 1981 through 1985. (This estimate does not assume enactment of the targeted delimiting date extension proposed in S. 870 as passed by the Senate in H.R. 5288 on January 24, 1980; if such an extension were enacted, enactment of the provisions of sections 205 and 206 of the Committee bill would cost an additional $1.7 million in fiscal year 1981 and $6.7 million in fiscal years 1981 through 1985.)

Section 206

Would amend present section 1777, relating to the approval of programs of training on the job for the purposes of veterans', and survivors' and dependents', educational assistance under present chapters 34 and 35, respectively.

Clause (1) of section 206 would make conforming amendments in present section 1777(a), relating to the criteria for the approval of training on the job, to reflect the changes proposed by section 205 of the Committee bill regarding the direct responsibility of the Administrator for the approval programs of training on the job.

Clauses (2) and (3) of section 206 would amend subsections (b) and (c) of present section 1777, relating to the criteria for the approval of training on the job, to delete the existing provisions and replace them with a revised subsection (b) that would require the Administrator and the Secretary of Labor jointly to prescribe regulations—in order to carry out the provisions of present section 1777(a) (as proposed to be amended by clause (1) of this section of the Committee bill) and to assure the appropriateness of training—specifying criteria for the approval of programs of training on the job (including registered and nonregistered apprenticeship training meeting the standards of apprenticeship published by the Secretary pursuant to present section 50a of title 29). Criteria for the approval of a program of training on the job other than a program of apprenticeship would be required to include the following certifications:

(1) The training content and procedures of the course are adequate to qualify the individual for the job for which training is received. This criterion is identical to the criterion set forth in present section 1777(c) (1), except that the training procedures of the course (as well as the training content of the course as under current law) would be taken into account. In this regard, the Committee notes that certain specified criteria set forth in present section 1777(c) would be deleted—such as requirements for related instruction; adequate space, equipment, instructional material, and instructor personnel; and adequate records of progress. It is not the Committee's intention to prohibit the inclusion of such criteria in the approval process for a program of training. Rather, the Committee intends that, in prescribing regulations to specify the criteria for approving programs of training on the job, the Administrator review the criteria in present section 1777(c) regarding training procedures and determine whether to include, modify, or omit all or some of those criteria in the new regulations.

(2) The wages meet certain criteria identical to those set forth in present section 1777(b)(1).

(3) A reasonable certainty exists, as required in present section 1777(b)(2), that the job involved will be available at the end of the training period.

(4) The job customarily requires full-time training of not less than 3 months and the length of the training period is no longer than customarily required by training establishments in the community. Under clauses (2) and (3) of present section 1777(c), the length of training may not be less than 6 months or longer than 2 years and the length of training may not exceed the length of training customarily required by training establishments in the community. The effect of this provision would thus be to reduce the minimum length of training and to delete the 2-year maximum.

Thus, it is the purpose of this section of the Committee bill to provide for the streamlining of the approval criteria in light of changes that have occurred in the area of on-the-job training programs since the enactment of this section in 1971 in Public Law 90–77, including the development of an extensive Federal expertise with the operation of such programs and, at the same time, to preserve the integrity of the VA's program of training on the job in providing quality training to veterans and other eligible persons.

Section 206—Cost: The cost of the enactment of the provisions of section 206 have been estimated in conjunction with the cost of the enactment of section 205; the combined estimate of the costs of enactment of both sections is noted above in the analysis of section 205.

Section 207

Would make conforming amendments in present section 1787(a), relating to the payment of a training assistance allowance for the pursuit of a program of training on the job, to reflect the changes proposed to be made by sections 203, 204, and 205 of the Committee bill.

Section 207—Cost: Enactment of the provisions of section 207 is estimated to entail no cost.

Section 208

Would amend present section 2003, relating to assignment of State veterans' employment representatives, to require the Secretary of Labor to assign full-time clerical support to each State veterans' employment representative. Current law makes no explicit reference to clerical support for the State veterans' employment representatives, but such support is presently provided directly by the Secretary. However, such direct support was threatened by budgetary cutbacks for fiscal year 1980. The effect of this amendment would be to assure the continuation of this support against any cutbacks that may be proposed in the future.

Section 208—Cost: Enactment of the provisions of section 208 is estimated to entail no cost.

Section 209

Would amend present chapter 41, relating to job counseling, training, and placement service programs for veterans.

Subsection (a) of section 209 would add a new section 2003A, entitled "Veterans' Employment and Training Outreach Program," to establish a program of employment and training outreach modeled on the highly successful Disabled Veterans Outreach Program (DVOP), conducted under the Comprehensive Employment and Training Act (CETA). The new section would consist of five subsections as follows:

Subsection (a) of new section 2003A: Would require the Secretary of Labor to provide sufficient funds to each State for the establishment of a program of veterans employment and training outreach. The funds provided each State would be required to be sufficient to support the assignment of one veterans' employment and training outreach program (VETOP) specialist for each 5,300 Vietnam-era and service-connected disabled veterans residing in the State. This would establish the program at a level of approximately 2,000 specialists nationwide. These specialists would be in addition to the employees of local employment service offices assigned pursuant to present section 2004 and would not be considered employees of the employment services in each State for the purposes of any personnel ceiling level established by the Federal Government for State employment agencies. Each VETOP specialist position would be required to be filled by a service-connected disabled veteran of the Vietnam era or a service-connected disabled veteran, unless the Secretary finds that such a veteran is not available, in which case any veteran (as defined in section 101 (2) of title 38) may serve in the position. VETOP specialists would be paid at a rate not less than the rate prescribed for an entry level professional in the personnel system of the State concerned. In addition to funds for the salaries of these specialists, funds would be required to be made available to the State by the Secretary for training, travel, and supplies and fringe benefits for each specialist.

Subsection (b) of new section 2003A: Would provide that, pursuant to regulations prescribed by the Secretary, VETOP specialists must be assigned only those duties directly related to meeting the employment needs of eligible veterans and that priority of services to such veterans be in the following order: To disabled Vietnam-era veterans who are participating in or have completed a program of vocational rehabilitation under chapter 31 of title 38, to other disabled veterans, and to other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphasis set forth in chapter 42. (The terms "applicable rates of employment" and "employment emphases set forth in chapter 42" are discussed in the analysis of section 201 (2) of the Committee bill, above.) Maximum emphasis would be required to be placed on assisting economically or educationally disadvantaged veterans.

This new subsection would provide that not more than three-quarters of the VETOP specialists in a particular State may be stationed in local employment service offices in that State and would require that specialists not stationed in such local offices be stationed at VA readjustment counseling centers established pursuant to present section 612A, United States Veterans' Assistance Centers established pursuant to present section 242, and other appropriate sites, as determined under regulations to be prescribed jointly by the Secretary and the Administrator. The Committee expects that such other sites would include community-based organizations and VA or Department of Labor regional offices.

Subsection (c) of new section 2003A: Would prescribe the functions for the NETOP specialists and require that, in carrying out these functions, for the VETOP, these specialists provide services in accordance with the priorities set forth in subsection (b) of new section 2003A. The VETOP specialists' functions are set forth in clauses (1) through (7) of subsection (c), as follows:

Clause (1) of subsection (c): Would require VETOP specialists to develop job and job training opportunities for eligible veterans through contacts with employers. Emphasis would be required to be placed on the development of such opportunities through contacts with small- and medium-sized private sector employers.

Clause (2) of subsection (c): Would make VETOP specialists responsible, pursuant to regulations to be prescribed jointly by the Secretary and the Administrator, for promoting, developing, and, as appropriate, approving programs of training on the job pursuant to section 1787 as proposed to be amended by section 206 of the Committee bill. It is the Committee's intention that such regulations permit VETOP specialists to maximize opportunities for programs of training on the job for eligible veterans and foster linkages between the VA's program and other Federal employment assistance efforts, such as the Targeted Jobs Tax Credit established by Public Law 95-600, while preserving the successful aspects of the existing in the VA's program of training on the job.

Clause (3) of subsection (c): Would require VETOP specialists to carry out outreach activities to locate eligible veterans through contacts with local veterans' organizations, the VA, State employment security agencies, local employment service offices, and community-based organizations.

Clause (4) of subsection (c): Would require VETOP specialists to provide appropriate assistance to community-based organizations and CETA prime sponsors in providing services to eligible veterans.

Clause (5) of subsection (c): Would require VETOP specialists to provide appropriate assistance to employees of local employment services offices (assigned pursuant to existing section 2004) in carrying out their responsibilities related to veterans. In this regard, it is the Committee's intention that VETOP specialists not be mainstreamed into the day-to-day operations of the local employment services office, but rather that, with respect to programs for veterans, they supplement and enhance the services already provided by these local employees.

Clause (6) of subsection (c): Would require VETOP specialists to consult and coordinate with representatives of other Federal, State, and local programs for the purpose of developing maximum linkages between various programs in order to promote employment opportunities for and provide maximum employment assistance to eligible veterans.

Clause (7) of subsection (c): Would require VETOP specialists to carry out other duties that would promote entry-level and career opportunities for veterans.

Subsection (d) of new section 2003A: Would provide that those individuals serving as DVOP staff on the date of enactment of this section would be appointed as VETOP specialists unless good cause is shown in individual cases for not making such an appointment. The purpose of the provision is to provide for an orderly transition and assured continuity between the two programs.

Subsection (e) of the new section 2003A: Would provide for the Secretary to administer VETOP through the Deputy Assistant Secretary for Veterans' Employment (DASVE) or a successor to that office (as is provided for in section 805 of S. 870 as passed by the Senate in H.R. 5288 on January 24, 1980). It is the Committee's intention that the DASVE have functional responsibility for the implementation, monitoring, and enforcement of the provisions of this new section.

Subsection (b) of section 209 would amend the present table of sections of chapter 41 to reflect the changes proposed by this section of the Committee bill.

Section 209—Cost: Enactment of the provisions of section 209 is estimated to cost $12.9 million in fiscal year 1981 and a total of $160.1 million in fiscal years 1981 through 1985. The cost reflects an offset of a total of $38.7 million representing the projected cost of DVOP as now funded by the Department of Labor.

Part B—GI Bill Rate Increases

The amendments made by this part would provide for a 10-percent increase in the rates of educational assistance under chapters 34, 35, and 36 of title 38, in lieu of the 15-percent increase passed by the Senate in title I of H.R. 5288 on January 24, 1980.

Section 210

Would amend chapter 34, relating to veterans' educational assistance, to increase by 10 percent the rates of educational assistance.

Clause (1) of section 210 would amend subsection (b) of present section 1677, relating to the computation of charges to a veteran's educational assistance entitlement for the receipt of an educational assistance allowance for the pursuit of flight training, to increase by 10 percent the educational assistance allowance amount based on which 1-month's entitlement to educational assistance is charged.

Clause (2) of section 210 would amend present section 1682, relating to the computation of educational assistance allowances, to increase the rates of such allowances by 10 percent. (Under present section 1732, the rates in section 1682 for institutional, farm cooperative, and independent study training for a veteran without dependents apply to survivors' and dependents' educational assistance under chapter 35. Thus, the rate increase provided for in this clause would apply to assistance for such training under chapter 35.)

Clause (3) of section 210 would amend present section 1692(b) relating to individualized tutorial assistance, to increase by 10 percent the maximum monthly amount and total maximum amount payable to an eligible veteran for tutorial assistance.

Section 211

Would amend chapter 35, relating to survivors' and dependents' educational assistance, to increase by 10 percent certain rates of educational assistance.

Clause (1) of section 21 would amend present section 1732(b), relating to the computation of the educational assistance allowances paid for pursuit of certain full-time programs of education consisting of institutional courses and alternate phases of training in a business or industrial establishment, to increase the rate by 10 percent.

Clause (2) of section 211 would amend present section 1742(a), relating to the training allowance for special restorative training, to increase by 10 percent the rates of allowances payable and entitlement charged for pursuit of a course of such training.

Section 212

Would amend chapter 36, relating to administration of educational benefits, to increase by 10 percent the references to the rates of certain educational assistance allowances.

Clause (1) of section 212 would amend present section 1786(a)(2), relating to the computation of charges to educational assistance entitlement for the receipt of a educational assistance allowance for the pursuit of training by correspondence, to increase by 10 percent the educational assistance allowance amount based on which 1-month's entitlement to educational assistance is charged.

Clause (2) of section 212 would amend present section 1787(b), relating to the computation of training assistance allowances payable to veterans and other eligible persons for apprenticeship or other on-job training, to increase by 10 percent the rates of training assistance allowances for pursuit of such training.

Clause (3) of section 212 would amend present section 1798(b)(3), relating to the maximum aggregate amount of VA educational loans that may be made to any veteran or other person, to increase the maximum aggregate amount within the existing overall limit of $2,500 by 10 percent.

Part B—Cost: Enactment of the provisions of Part B is estimated to cost $284.4 million in fiscal year 1981 and a total of $1.1 billion in fiscal years 1981 through 1985.

TITLE III—TECHNICAL PROVISIONS; EFFECTIVE DATE

Section 301

Would amend present section 612(f)(2) to provide chapter 31 participants with the same eligibility for VA outpatient care that veterans with service-connected disabilities rated at 50-percent-or-more disabling presently have. This would have the effect of including chapter 31 participants together with 50-percent-rated veterans in the second priority category for VA outpatient care in present section 612(i), behind veterans receiving treatment for a service-connected disability, and of making chapter 31 participants eligible for contract care on the same basis as 50-percent-rated veterans (which is the same, under present section 601(4)(C)(i) and (ii), as the basis on which contract care is available for the treatment of a service-connected disability). However, a chapter 31 participant receiving care for a service-connected disability would, of course, retain his or her entitlement to priority in the first category.

Section 302

Would amend present section 1781 to add a reference to the chapter 31 subsistence allowances to the existing provisions barring the payment of chapter 34, 35, or 36 educational assistance allowances to an individual who is on active duty in the Armed Forces and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Education or Health and Human Services in the case of the Public Health Service), and to an individual who is training under the Government Employees Training Act and receiving a full salary while in such training. For the purposes of this provision, the term "subsistence allowance" would be especially defined to include a chapter-34-equivalent allowance paid pursuant to new section 1508(f), as proposed to be amended by section 101(a) of the Committee bill.

Section 303

Would amend section 1795, generally limiting to 48 months (or part-time equivalent thereof) the aggregate period for which a person may receive assistance under the laws cited therein, to delete chapter 31 from—and include chapter 32, relating to the post-Vietnam-era veterans' educational assistance program in—the listing of the laws to which that limit applies. In addition, section 1795 would be amended to provide that no person could receive assistance under chapter 31 in combination with assistance under the laws cited therein for a period in excess of 48 months (or the part-time equivalent thereof) unless the Administrator determines that additional months of benefits under chapter 31 are required to accomplish the rehabilitation purposes set forth in chapter 31 (in new section 1500 as proposed to be added by section 101(a) of the Committee bill).

Under current law, chapter 32 is not included and chapter 31 is included in the listing of laws to which the 48-month maximum applies, but that limit is explicitly made inapplicable to the receipt of assistance under chapter 31 alone.

Thus, the effects of this amendment are to subject the receipt of chapter 32 benefits in combination with other VA educational assistance to the 48-month maximum and to authorize the Administrator to provide an exception to the 48-month maximum for a chapter 31 participant where necessary for rehabilitation purposes, as discussed above.

Section 304

Would amend section 1631(a)(1) to clarify that the 36-month (or part-time equivalent) limitation on the receipt of benefits under chapter 32, relating to the post-Vietnam-era veterans' educational assistance program, would be subject to the provisions of section 1795, as proposed to be amended by section 303 of the Committee bill, as discussed above.

Section 305

Would add a new subsection (h) to present section 1682, relating to educational assistance allowances payable to chapter 34 GI Bill trainees, to modify the method of payment of such allowances to eligible veterans while they are receiving care for more than 30 days in a VA hospital, nursing home, or domiciliary facility, or other health-care facility at VA expense. The method of payment, as proposed to be revised, would be substantively identical to that described above in the analysis of new section 1681(1) as proposed to be added by section 101(a) of the Committee bill.

Section 306

Would amend present section 1624(a), relating to the chapter 32 post-Vietnam-era veterans educational assistance program, to modify the provision designating those to whom a deceased chapter 32 participant's unused contributions to the chapter 32 educational fund are to be paid. Under current law, such unused contribtions are paid to the person or persons designated by the deceased participant as the beneficiaries of the participant's Servicemen's Group Life Insurance (SGLI) policy, or, where the participant had no SGLI policy or had made no such designation, to the deceased participant's estate.

The Committee bill would provide that deceased participant's unused contributions to the chapter 32 educational fund be paid to the living person first listed below:

The participant's SGLI beneficiary.

The participant's surviving spouse.

The participant's surviving child or children, in equal shares.

The participant's parents.

Thus, under the Committee bill, only where there is no SGLI beneficiary or surviving spouse, child, or parent would payment be made to the participant's estate.

Section 307

Would provide that—if, on the date that either the House of Representatives or the Senate passes a bill containing the amendments to sections 1512 and 1798(b)(3) of title 38 proposed to be made by sections 101(a) and 211(3) of the Committee bill to increase the maximum amounts of VA direct loans under chapters 31 and 34, respectively (vocational rehabilitation subsistence loans and GI Bill education loans), a rule in that body requires that, for the bill to be in order it must provide that the authority to make such loans in such increased amounts shall be effective only to such extent or in such amounts as are contained in appropriation Acts—such authority would be effective only to such extent or in such amounts. This provision is added to the bill in anticipation of the possibility that section 16 of S. Con. Res. 86, as passed by the Senate on May 12 and currently pending in conference, may be adopted as part of the rules of the Senate and the House regarding new guaranteed and direct loans. Section 16 provides:

> It shall not be in order in the House or Senate to consider any bill, resolution, or amendment authorizing new direct loans or new loan guarantees unless that bill, resolution, or amendment also provides that the authority to make or guarantee such loans shall be effective only to such extent or in such amounts as are contained in appropriation Acts. This section shall not apply to agricultural price support and related programs of the type in operation on January 1, 1980, which are funded through the Commodity Credit Corporation.

Section 308

Would provide for an October 1, 1980, effective date for the Committee bill except in two respects in connection with veterans who are participating in chapter 31 vocational rehabilitation on the day before the effective date (hereinafter referred to as "current participants").

First, in light of the practical impossibility of individualized written plans of vocational rehabilitation being prepared (under new section 1507 as proposed to be added by section 101(a) of the Committee bill) for all current participants on the first day that the legislation goes into effect, the Administrator would be authorized to provide for the formulation of plans for these veterans on the bases of feasibility and priorities that the Administrator would determine.

Second, the granting of delimiting period and entitlement extensions, under new sections 1503(c) and 1505(c), respectively, providing for extensions under certain circumstances in the cases of veterans with serious employment handicaps, would be authorized for current participants without a requirement that they be determined to have a serious employment handicap. This provision would both facilitate the administration of the transition to the new program and assure that current participants do not lose their eligibility for consideration for extensions on the grounds that they are determined not to have such a handicap.

Title III—Costs: Enactment of the provisions of title III of the Committee bill is estimated to entail no significant cost.

CONCLUSION

Mr. CRANSTON. Mr. President, I reiterate that the provision of effective, comprehensive rehabilitation services for disabled people is an area of my deepest personal commitment, and that there is no group within our society more deserving of our efforts in this regard than those who, while serving in our Nation's Armed Forces, received disabling injuries. Indeed, the best possible services and assistance for service-connected disabled veterans has long been, and will continue to be, the top priority of the Committee on Veterans' Affairs. Thus, I am extremely pleased that the Senate is moving ahead with this legislation to make needed, comprehensive improvements in the chapter 31 rehabilitation program for service-connected disabled veterans, and with the other important changes in current law which would be made by the committee bill. I strongly recommend that the Senate take favorable action on this legislation.

In closing, Mr. President, I express my particular appreciation to the ranking minority member of the committee, the distinguished Senator from Wyoming (Mr. SIMPSON), for his continuing very able assistance on this legislation. As always, it is a pleasure serving with him on the committee. I would also like to express my thanks to the distinguished Senator from South Carolina (Mr. THURMOND), for his fine work on S. 2308, which he introduced on February 2, 1980, to assure the continued direct assignment of full-time clerical or secretarial employees to assist State veterans' employment representatives. This measure was incorporated in section 208 of title II of the pending legislation. I also extend my appreciation to the other Senators who are cosponsors on this bill and have been very helpful—Senators TALMADGE, RANDOLPH, DURKIN, MATSUNAGA, and STAFFORD who serve with us on the Committee on Veterans' Affairs—and Senator MCGOVERN.

Mr. President, I also express my thanks to the members of the committee staff for their hard and effective work on this bill—Janice Orr. Michael Buchanan, Babette Polzer, Ed Scott, Jon Steinberg, Julie Susman, and Harold Carter. They were most ably assisted by Ingrid Post, Becky Walker, Terri Morgan, Karen Anne Smith, Ann Garman, Julia Butler, Jim MacRae, and Walter Klingner. I also want to thank minority staff members Garner Shriver, Ken Bergquist, and John Pressly for their diligent and productive efforts.

Mr. SIMPSON. Mr. President, I shall be very brief.

I also have enjoyed working with Senator CRANSTON. It always has been a very fascinating experience and very much a learning experience for me in my first term in the Senate, and I have come to enjoy that experience very much.

The Disabled Veterans Rehabilitation Act of 1980 comes before the Senate in S. 1188. I believe this bill is a very fair and just measure and that my colleagues recognize the necessity in its passage.

This bill is principally designed to restructure and recodify chapter 31 of title

38, United States Code, relating to rehabilitation programs for service-connected disabled veterans. This bill also makes related amendments to chapters 3, 34, 35, 36, and 41. These various amendments will restructure the various VA functions for service-disabled veterans and, at the same time, provide for a modest cost-of-living increase in educational assistance and training allowances for eligible veterans and dependents.

Specifically, Mr. President, title I of this bill would update, improve, and expand VA rehabilitation programs for service-disabled veterans. The major provisions of this title will do a number of things that will be beneficial—both to the veteran and to the VA. First of all, it enlarges the scope of the VA's rehabilitation efforts beyond the mere employability of the veteran in order to include programs designed to find the veteran employment and to insure that he maintains the capability to perform effectively in order to retain his job.

This title also provides emphasis on developing the ability of the veteran to achieve the maximum possible independence in his day to day life—consistent with the extent of his physical limitations. Nothing erodes the spirit of a person more than the realization that he may be a burden to others. Where possible every disabled veteran must be given the opportunity to achieve and maintain employability as well as the capability to live life with all possible independence.

To accomplish this objective this legislation provides the VA with the clear authority for a full range of services for the veteran. Such services include evaluation, counseling, independent-living assistance, pretraining, training, and employment-assistance. For these veterans for whom achievement of a vocational goal is impossible, a maximum effort will be made to insure that the veteran receives the therapy, training and assistance necessary to function as independently as possible within both family and community.

Title I of S. 1188 will also enable those veterans participating in chapter 31 rehabilitation programs, who are still eligible for and entitled to chapter 34 benefits (the GI bill), to receive similar allowances and assistance as those who are receiving chapter 34 benefits. Therefore, such veterans would receive chapter 34 benefits appropriate to their training programs in lieu of payment of the subsistence allowance, tuition, and fees and of other certain specified services and assistance as is provided for under chapter 31.

To assist the VA in effecting the necessary programs, this legislation establishes a Veterans Advisory Committee on Rehabilitation, to be constituted of a wide range of individuals who have the requisite knowledge in the field of rehabilitation. This will naturally include disabled veterans who have successfully effected rehabilitation—those who have a first-hand perspective of the promises and limitations of vocational rehabilitation. This title will also provide for a 10 percent cost-of-living increase for those veterans training under chapter 31. The last cost-of-living increase for chapter 31 recipients was in October 1977. Considering the ravages of inflation, such an increase can, at best, be classified as most minimal.

The total cost of this title is estimated at $29.1 million for fiscal year 1981 rising to $34.4 million in fiscal year 1985. These figures include the cost-of-living increase and other improvements to chapter 31.

Title II of S. 1188 has three essential provisions. First of all, it will improve the GI bill's on-the-job-training (OJT) programs by making them more attractive to both employees and employers. This provision will require the VA to actively promote not only its own OJT programs but also similar programs in other Federal agencies. This legislation will also allow many existing OJT programs to qualify for approval under either chapter 31 (vocational rehabilitation) or chapter 34 (the GI bill). Such programs may possibly include the HIRE program, and other programs that meet the requisite criteria for approval. Thus, existing employer incentive programs that train individuals can be individually linked to programs of assistance for veterans.

Second, title II of this bill would establish a new veterans' employment and training outreach program (VETOP). This program would be modeled after the highly successful disabled veterans outreach program (DVOP) conducted under the Comprehensive Employment and Training Act (CETA), by the Department of Labor. The third and last of these essential provisions provides for a 10-percent rate increase for those training under the GI bill (chapter 34) or the survivors' and dependents' educational assistance program (chapter 35). This would be in lieu of the 15-percent increase passed by this body in title I of H.R. 5288 on January 24, 1980. This minimal increase is as vital as the 10-percent increase is for chapter 31 recipients, and for the same reasons.

The costs of title II of this bill are $290.2 million in fiscal year 1981 declining to $177.3 million in fiscal year 1985. This decline is predicted since it is anticipated that there will be far fewer veteran participants in any of these programs by 1985. The total costs of this bill, once in effect on October 1, 1980, would be $319.3 million in fiscal year 1981 but will decrease to $211.7 million by 1985.

Mr. President, I believe that S. 1188, the Disabled Veterans Rehabilitation Act of 1980, as amended, is a very necessary effort for us in Congress in order to continue to satisfy our commitment to those veterans of our Nation who have suffered the most in service to their country. I trust my colleagues will support the passage of S. 1188.

UP AMENDMENT NO. 1540

(Purpose: To rename the Veterans' Administration Medical Center in Topeka, Kansas, as the "Colmery-O'Neil Veterans' Administration Medical Center")

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mrs. KASSEBAUM, proposes unprinted amendment numbered 1540.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 71, lines 4 and 5, strike out "Technical provisions; effective date" and insert in lieu thereof "Miscellaneous Provisions".

On page 74, between lines 21 and 22, insert the following new section:

SEC. 308. The Veterans' Administration Medical Center in Topeka, Kansas, on and after the date of enactment of this Act, shall be known and designated as the "Colmery-O'Neil Veterans' Administration Medical Center", in honor of the late Harry W. Colmery and Ralph T. O'Neil. Any reference to such center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed a reference to the Colmery-O'Neil Veterans' Administration Medical Center.

On page 74, amend line 22 to read as follows:

"SEC. 309. (a). Except as provided in section 308 of this Act and subsection (b) of".

Mr. DOLE. Mr. President, I might state at the outset I wish to thank both my colleagues, the distinguished Senator from California (Mr. CRANSTON) and the distinguished Senator from Wyoming (Mr. SIMPSON) for permitting me to offer this amendment at this time and for agreeing to accept the amendment.

It will honor two outstanding Americans from Kansas. I do have the approval of the entire Kansas delegation.

The amendment is offered for myself and my colleague, Senator KASSEBAUM, with the approval of five Members of Congress from Kansas.

Mr. President, for those who have had any interest or involvement in veterans' affairs, the names of "Harry Colmery and Ralph O'Neil" should require no explanation as to their many contributions to country and fellowman. For those who did not have the good fortune of knowing these men, I would like to tell you briefly about these great Americans, and why we are proposing this legislation:

HARRY W. COLMERY

Harry Colmery devoted his entire life to championing the cause of the veteran. During his military duty he served as instructor of officers in infantry drill regulations, squadron commander, assistant adjutant and acting adjutant of Carrothers Field, and as judge advocate and defense counsel before general and special courts-martial. He also served in the Officers Reserve Corps, Air Service.

As Past National Comander of the American Legion, Harry provided the inspiration and leadership which have become the cornerstone of this veterans' organization. Harry Colmery is also regarded as one of the principal drafters of the GI bill of rights and one who also spent much of his life orchestrating veteran benefit programs.

The insight and compassion evident in this important document are typical of the forces which guided his life. No matter what the undertaking, Harry pursued it with a spirit of reaching out to help his fellowman.

He further displayed his commitment to the principles which made this country great through his active participation in numerous civic and professional groups. Harry was also an active member and leader in the Republican Party. He was a member of the National Republican Policy Committee, a delegate to the 1936 national Republican convention—at which Alf Landon was nominated—and a Republican primary candidate to the U.S. Senate in 1950.

RALPH T. O'NEIL

Ralph O'Neil was also a man who devoted a great deal of his life to the interest and involvement in veterans' affairs. His sterling career in the military was only the beginning of a lifelong participation in public service activities and organizations.

His service as a soldier may be summarized by the statement that he served in six major engagements and led in person the first detachment of American troops which crossed the Neuse River near the historic city of Sedan and established the bridge head at Dun-Sur-Meuse. Ralph was gassed, injured in action, cited for gallantry in action on the field of battle, recommended for the DSC, decorated with the Silver Star and with the Order of Commander of the Crown of Italy.

As past national commander of the American Legion, Ralph's dedication and hard work led to the improvement of veterans medical care. Ralph traveled throughout the country urging that we needed "beds awaiting veterans—not veterans awaiting beds." His concern and diligent efforts led to a provision by Congress that established some 8,000 additional hospital beds for veterans.

A lifelong member of the Democratic Party, Ralph actively participated in the councils which formulated the policies of the party. His influence in national affairs was also recognized and utilized by his party in many Presidential campaigns; particularly in 1932, when he was the national head of the ex-service men's organization and assistant to national chairman Farley.

I am very honored serving a State that has such a strong tradition of veterans who continue in service to their fellow men after their military service. Therefore, the task of choosing only two men to immortalize at our Topeka, Kans., Veterans Hospital was extremelly difficult.

Mr. President, at this time I express my deepest appreciation to my distinguished colleagues of the Veterans Committee; and especially Senator SIMPSON, ranking member of the Veterans Committee and Senator THURMOND, without their support this measure could not have been possible. I would also like to thank Mr. Troxal Mellinger, the Kansas State Commander of the Veterans of Foreign Wars; Mr. John W. Carr, the State Commander of the American Legion; and Mr. John Snyder, the Kansas State Commander of disabled American Veterans, and all the national offices of these organizations for their valuable contribution of this matter.

Mr. President, in addition I note that this amendment has the full support of the entire Kansas congressional delegation. Mr. President, I urge prompt consideration and passage of this important piece of veterans legislation.

Mr. President, I ask unanimous consent to have printed in the RECORD letters which I have received in relation to this matter.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 22, 1980.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, D.C.

DEAR BOB: It has been brought to my attention that you intend to amend previously introduced legislation to rename the Veterans' Hospital in Topeka.

It is my understanding that your amendment will add the name of Ralph T. O'Neil to that of Harry W. Colmery in the identification of the V.A. Hospital.

Bob, I think this is a fine way to honor these two distinguished Kansans, and you can count on my support.

With all good wishes,
Most sincerely,

LARRY WINN, Jr.,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 23, 1980.

Hon. BOB DOLE,
Dirksen Senate Office Building.

DEAR BOB: I understand you are planning to amend S. 2413, naming the Veterans Administration Hospital in Topeka the Harry Colmery Veterans Administration Hospital, to include Ralph O'Neil, the first National Commander of the American Legion from Kansas.

In this regard, I wish to offer my strongest possible support of the amended bill. It is most fitting that both Harry Colmery and Ralph O'Neil's achievements as past National Commanders from Kansas be remembered in this manner. This past week I had the opportunity to speak to several of our friends and fellow Kansas American Legionnaires and they, too, are most enthusiastically supportive of the amended bill.

I, of course, will do all I can to get S. 2413 passed by the House and hope you will let me know of any further action I might take in support of this bill.

Sincerely yours,

KEITH G. SEBELIUS.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 22, 1980.

Hon. BOB DOLE,
U.S. Senate,
Washington, D.C.

DEAR BOB: It has been brought to my attention that you intend to amend previously introduced legislation to rename the Veterans' Hospital in Topeka.

It is my understanding that your amendment will add the name of Ralph T. O'Neil to that of Harry W. Colmery in the identification of the V.A. Hospital.

You can count on my support for this way of honoring these two distinguished Kansans.

With best regards,

DAN GLICKMAN.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 22, 1980.

Hon. BOB DOLE,
Dirksen Senate Office Building.

DEAR BOB: I want to take this opportunity to offer my support and endorsement of recent legislation introduced by you and Senator Kassebaum to rename the Veterans' Administration Hospital in Topeka.

To rename the hospital after Mr. Harry W. Colmery and Mr. Ralph T. O'Neil would, I believe, be a very fitting tribute to these two great Americans from our state of Kansas.

We are both aware of the long and distinguished careers these men had in veterans' affairs and I believe both are very deserving of the honor you and Senator Kassebaum have proposed.

Again, I offer my support for the Colmery-O'Neil Veterans' Administration Hospital and trust the proposal will receive prompt and favorable consideration.

Best wishes.
Sincerely,

BOB WHITTAKER.

MAY 22, 1980.

Hon. ALAN CRANSTON,
Ranking Member, Veterans Affairs Committee, U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is to let you know of my agreeability in amending S. 2413 for the purposes of changing the name of the Veterans Administration Hospital in Topeka, Kansas.

I understand Senator Dole has asked that his bill be amended to read "Colmery-O'Neil" instead of the original "Harry W. Colmery Veterans Administration Hospital". As you may know I have introduced similar legislation in the House to change the name to "Harry W. Colmery", but am not adverse to having it read "Colmery-O'Neil". I appreciate your consideration of this request.

Sincerely,

JIM JEFFRIES,
Member of Congress.

Mr. DOLE. Mr. President, I say very quickly what this amendment does is to name the Veterans' Hospital in Topeka, Kans., the Colmery-O'Neil Veterans' Administration Medical Center and I think it is self-explanatory and has been cleared on both sides.

Mr. CRANSTON. Mr. President, I have no objection to the amendment offered by the distinguished Senator from Kansas (Mr. DOLE) which would rename the Veterans' Administration Medical Center at Topeka, Kans., the "Colmery-O'Neil Veterans' Administration Medical Center."

Mr. President, the Committee on Veterans' Affairs has an informal policy with respect to the naming of VA medical facilities after individuals. The committee policy basically does not favor naming such facilities after living persons and, in the cases of deceased persons, calls for the concurrence of all Members of the Congressional Delegation of the State concerned and of the State components of the major veterans' organizations. As my colleague has stated in his remarks, these criteria have been fully met, and I appreciate his cooperation in this regard.

Therefore, we are perfectly prepared to accept the amendment.

Mr. SIMPSON. Mr. President, our side of the aisle also accepts the amendment of the Senator from Kansas and appreciates his working with the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (UP No. 1540) was agreed to.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is ordered.

THE 90TH BIRTHDAY OF COL. HARLAND D. SANDERS

Mr. HUDDLESTON. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

Mr. HUDDLESTON (for himself, Mr. FORD, Mr. JEPSEN, Mr. CHAFEE, Mr. GOLDWATER, Mr. CRANSTON, Mr. ROBERT C. BYRD, Mr. METZENBAUM, Mr. HELMS, Mr. JOHNSTON, Mr. GLENN, Mr. THURMOND, Mr. HARRY F. BYRD, JR., Mr. BAYH, Mr. BRADLEY, Mr. SASSER, Mr. BAKER, Mr. MITCHELL, Mr. GARN, Mr. JAVITS, Mr. NELSON, Mr. YOUNG, Mr. BENTSEN, and Mr. DOLE) proposes a resolution (S. Res. 512) to congratulate Colonel Harland D. Sanders on the celebration of his 90th birthday.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I will not object, I believe this resolution has been cleared on both sides of the aisle.

Mr. STEVENS. Mr. President, it is my understanding that this deals with the Colonel Sanders Resolution and it has been cleared on this side.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

Mr. HUDDLESTON. Mr. President, I thank the distinguished majority leader and the acting minority leader.

Mr. President, the resolution contains the names of 25 cosponsors, thereby staying the requirement by the Judiciary Committee that it not go directly to that committee.

The resolution simply commends one of America's outstanding citizens, Kentuckian, Col. Harland Sanders, who will be observing his 90th birthday in a few days. I ask that the resolution be agreed to.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 512

Whereas, Colonel Harland D. Sanders is one of the world's most recognized personalities;

Whereas, the Colonel, in his capacity as "Kentucky's Official Ambassador of Goodwill" and in his capacity as the Nation's unofficial goodwill ambassador, travels some 250,000 miles per year promoting international understanding.

Whereas, the Colonel is universally recognized as a pioneer in the fast-food industry;

Whereas, the Colonel by virtue of his charitable foundation's generous contributions to programs for the research and rehabilitation of illness in children, has never forgotten those less fortunate than he;

Whereas, the Colonel not only gives money but also gives of his time, working at age 89 as last year's Chairman of the March of Dimes campaign; visits the handicapped children participating in the unique handicapped scouting program he sponsors; speaks to senior citizens, motivating them always to feel useful and that life has a purpose for them; and

Whereas, the Colonel is a tireless, energetic symbol of what senior citizens can accomplish in all fields of endeavor;

Now, therefore, be it resolved that the Senate of the United States wishes to extend its hearty congratulations to Colonel Harland D. Sanders on the celebration of his 90th birthday.

EARLE C. CLEMENTS JOB CORPS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 8010, which is a House bill at the desk.

The PRESIDING OFFICER (Mr. HEFLIN). The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8010) to amend the Comprehensive Employment and Training Act to designatee a Job Corps Center as the "Earle C. Clements Job Corps Center".

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read the first and second times, and the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, it is with very special feeling that I rise in support of this legislation to honor one of the closest friends and wisest counselors that I have had, and that is my good friend, Earle Clements.

Over the years, no individual has had a greater influence on my life—or, for that matter, on the State that both of us were privileged to serve in the U.S. Senate.

Earle Clements has served his community, State and Nation well, from county clerk to U.S. Senator, and this bill to name the Morganfield Job Corps Center in his honor is most appropriate.

After many years in Washington, Earle has returned to the land of his roots and now lives back in his hometown of Morganfield. We miss him here, but those of us who are privileged to be from the Bluegrass State know that there is no place like home.

A farmer, teacher, and athlete, Earle C. Clements held political office for more than 30 years, including Governor, U.S. Representative and U.S. Senator, before losing in his bid for reelection to a third term in the U.S. Senate in 1956. Long after that defeat, however, he has continued to be a prominent force in State and national activities of the Democratic Party.

Mr. Clements was born on a farm in Union County, son of Aaron W. and Sallie Tuley Clements.

After graduating from Morganfield High School with the class of 1915, he entered the College of Agriculture at the University of Kentucky. During the 1915–16 seasons, he played center on one of UK's winning football teams and was honored by selection to the "All-Southern" eleven in 1916.

On July 9, 1917, he entered World War I as a private in the infantry and mustered out as a captain on September 12, 1919.

In the years 1920–31 he coached the Morganfield High School football team as a hobby. In 1922 he became sheriff of Union County, serving until 1926, when he was elected county clerk.

On January 18, 1927, Earle Clements married Sara M. Blue, daughter of James Samuel and Lou Willis Blue of Morganfield.

He served two terms as county clerk, his second term ending January 1, 1934. At that time he was elected Union County judge and after the first term, was reelected for service until 1941.

From 1942 to 1944, Clements was a member of the State Senate from the fourth district, serving Union, Webster, and Henderson counties. He was Democratic floor leader in 1944.

In 1944, he was elected to the 79th Congress and was reelected to the 80th Congress in 1946. He resigned his seat in the House after being elected Governor. He did a turnabout in 1950 when he resigned as Governor to take a seat in the U.S. Senate.

In 1947, Clements was elected Governor over Republican Eldon S. Dummit by a vote of 387,795 to 287,756.

As Governor, he witnessed the beginning of a new $6 million Capitol Annex, the lowering of racial barriers, the riddance of the $5,000 salary limit on public officials, and the establishment of long-range economic surveys for Kentucky's industrial growth and development.

In 1950, Governor Clements was elected at the same time to both a short term and a full 6-year term to the U.S. Senate. He defeated Charles I. Dawson, the Republican candidate, by a majority of more than 56,000 votes.

This unusual situation was created when the occupant of that seat for 22 years, Senator Alben Barkley, was elected Vice President of the United States.

After that election in 1948, Governor Clements appointed Garrett L. Withers to fill Barkley's Senate seat. Senator Withers stepped aside toward the end of the term for a special election to fill the remainder of the session and to elect a full-term Senator. Clements made the race successfully and resigned the governorship to move on to the Senate.

In 1956, he was an unsuccessful candidate for reelection to the Senate, being defeated by Republican Thurston B. Morton by a narrow margin. Governor Clements is still active in politics, though he has not again been a candidate for public office. I know that my colleagues who know and respect him as I do will agree that this tribute to him is well deserved.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was read the third time and passed.

Mr. FORD. I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PREPRIMARY REPORTS FOR STATE OF LOUISIANA

Mr. ROBERT C. BYRD. Mr. President, the Office of Public Records, Office of the Secretary of the Senate, Room A–623, 119 D Street, NE., will be open Monday, September 1, 1980, from 9 a.m. to 12 noon, to receive the 12-day preprimary reports for the State of Louisiana. If any questions arise, please contact that office on 224–0322.

LOST FREEDOM IN ESTONIA, LATVIA, AND LITHUANIA

Mr. BRADLEY. Mr. President, today I would like to remind my colleagues that August marks a very sad anniversary—40 years ago this month the Soviet Union secured its brutal hold over the Baltic States.

Historically Estonians, Latvians, and Lithuanians had distinct languages and societies, and all they lacked for full nationhood was political independence. Finally, in 1918 as the First World War was ending, they were able to declare themselves independent republics. Quickly forming democratic governments, they took their places in the world community by becoming members of the League of Nations. On July 28, 1922 the United States established diplomatic relations with all three states. Freedom lasted for 22 years until June 1940 when, pursuant to its understanding with Nazi Germany, the Soviet Union ruthlessly invaded the three defenseless republics. After rigging elections and installing puppet governments in each state, the Soviets cemented their domination of the Baltic States in August 1940 by incorporating them into the Union of Soviet Socialist Republics.

The United States refused to accept Soviet control over this area in 1940, and we still maintain diplomatic relations with representatives of the former independent governments. Although 40 years have passed, our resolve to see an end to Soviet tyranny in the Baltic States remains as firm as ever. The Soviet invasion of Afghanistan only reinforces our commitment to the cause of liberty in the formerly independent republics on the Baltic.

In sad commemoration of the loss of freedom in Estonia, Latvia, and Lithuania, I ask unanimous consent to have printed in the Record a statement prepared by the Joint Baltic American National Committee describing in fuller detail the Soviet invasion and occupation of the Baltic States.

There being no objection, the statement was ordered to be printed in the Record, as follows:

The Soviet Invasion and Occupation of the Baltic States

Soviet armies invaded and occupied the independent Baltic countries of Lithuania, Latvia and Estonia from June 15–17 in 1940, destroying the freedom of three nations and peoples which had established themselves as viable European states since having gained their independence in 1918. The initial stage for the invasion was set on August 23, 1939, with the signing of a Treaty of Non-aggression between the U.S.S.R. and Nazi Germany, secret protocols of which assigned the Baltic States to the Soviet sphere of influence.

With Soviet troops being massed on the borders of Lithuania, Latvia and Estonia, the militarily inferior countries acquiesced to Soviet imposed pacts of mutual assistance, concluded in September and October of 1939. These pacts granted permission to the Soviets to establish a limited number of military bases on Baltic territory. The Soviets next provoked a number of border incidents, then in early June of 1940 charged the three Baltic States with having formed a military alliance against the U.S.S.R., charges which were groundless. These Soviet acts culminated on June 14, when Lithuania was presented with an ultimatum, to be answered within 24 hours, which demanded formation of a new Lithuanian government acceptable to the U.S.S.R. and freedom of entry for a massive contingent of Soviet troops. Like ultimata were presented to Estonia and Latvia on succeeding days. The invasion of Lithuania began on June 15, of Latvia and Estonia on June 17. Mechanized units of the Soviet army were followed soon by units of Soviet security police. With press, radio and telegraph under Soviet control, the complete isolation of the Baltic States from the outside world was carried out in a number of days. Freedom of organization and of public assembly were suspended and Baltic government officials and military officers were imprisoned and executed.

Soviet emissaries arrived in the Baltics to direct the occupation and to form the new governments. Elections of Soviet puppet parliaments were directed, with only a communist slate of candidates allowed. These nonrepresentative bodies then "requested" that the Baltic States be incorporated into the U.S.S.R. This was accomplished when Lithuania on August 3, 1940, Latvia on August 5, and Estonia on August 6, were "admitted" as members of the U.S.S.R.

One year later, on June 14–15, 1941, the Soviets carried out a mass deportation of Balts, roughly 30,000 from each nationality, to slave labor camps in Siberia. With these first deportations through others lasting into the early 1950's, approximately 10 percent of the Baltic peoples were subject to this fate, constituting an overt Soviet effort to eradicate Baltic nationalism and to pave the way of Sovietization and Russification of Estonia, Latvia and Lithuania.

PROSECUTION FOR EXTORTION, BLACKMAIL, AND RELATED FORMS OF VIOLENCE — S. 1722

Mr. McCLURE. Mr. President, when S. 1722 is considered in the Senate, I will offer an amendment to put unions on the same footing as other persons and organizations with respect to prosecution for extortion, blackmail, and related forms of violence.

Currently, labor unions can be prosecuted under 18 U.S.C. 875, 876, and 877, if a perpetrator travels across State or international boundaries, or if the mails are used in the course of the commission of the offense.

In addition, as Deputy Assistant Attorney General Ron Gainer pointed out in a June 20 speech to the lawfirm of Seyfarth, Shaw, Fairweather, & Geraldson, unions can currently be freely prosecuted under the Travel Act, 18 U.S.C. 1952.

The Public Service Research Council, which has a long-standing interest in labor violence, argues that these four sections would allow prosecution in virtually every instance in which death, injury, or serious property damage is threatened or perpetrated in connection with a labor dispute, whether by labor or management.

Unfortunately, section 1722 of the Criminal Code recodification bill would exempt from the purview of all of these sections violence which occurs in the course of a labor dispute, unless the Attorney General can and will comply with a strict set of certification requirements.

The Deputy Assistant Attorney General has stated his opposition to section 1722. And I am told that Senator Kennedy's Judiciary Committee aide Kenneth Feinberg has privately expressed reservations about the section. As nearly as I can tell, the only support for the labor union exemption comes from certain officers within the AFL–CIO, which is said to have drafted the section 1722 language.

I cannot believe that either the rank and file union membership or most labor union leaders favor insulation from prosecution for those very few rotten apples who use threats and violence to achieve labor union objectives.

In fact, I call upon the honest and law-abiding citizens who make up the leadership and membership of America's labor unions to support the vigorous prosecution on those few outlaws who would use their labor union affiliation as a shield to protect them from prosecution from unlawful acts.

In any organization—be it a union, a corporation, or even Congress—there may be those who from time to time violate the law. This should not be used to impugn the fundamental honesty and integrity of the vast majority of the persons who make up those organizations.

But neither is it the role of the leadership of any of those organizations to exempt their membership from the full application of the laws of the United States.

For this reason, I am today sending around to the offices of my colleagues a total of 13,886 petitions which I have received from all parts of the country, urging that those who engage in violence and then hide behind labor unions be subject to the same laws as other Americans.

I would urge my colleagues to carefully consider this issue in light of the considerable interest from their friends and constituents—many of them no doubt labor union members.

NEW BOMBER LEAKS

Mr. McCLURE. Mr. President, for the last week, the newspapers have been filled with accounts of a highly classified "stealth" bomber program which may some day produce aircraft which are virtually undetectable by radar. That this program exists has now been publicly confirmed by Secretary of Defense Brown, but administration disclosures of the existence of this highly classified program have apparently been going on for some time.

On August 14, 1980, George C. Wilson wrote in the Washington Post, "President Carter will commit himself to developing a new strategic bomber, perhaps as early as tonight when he accepts renomination at the Democratic National Convention, Government sources said yesterday. Such a commitment would steal a march on GOP standard-bearer Ronald Reagan and his adherents who have lambasted Carter for cancelling the B–1 bomber in 1977."

Last week's press conferences by Secretary Brown and the stories printed during the Democratic Convention, however, were not the first actions taken by administration officials to make known the existence of this advanced bomber technology. During Senate debate on the defense authorization bill this year, momentum toward congressional commitment to a near-term strategic bomber was softened by administration assertions in the halls of Congress that application of this advanced technology was near at hand.

In fact, despite the impression which has been left with some members of the press and, perhaps, with some of the American people, President Carter has not committed himself to a new strategic bomber employing advanced technology. He has simply revealed the existence of this highly classified program in order to reduce the criticism he has received for his decision to cancel the B–1 and to discourage efforts by the Congress to undo that mistake. If President Carter should announce that he is beginning a new strategic bomber program which would exploit advanced technologies, he will be once again lagging behind and responding to recommendations contained in the Republican Party platform, just as he did when he announced his new strategic targeting doctrine.

For clarification of the issues surrounding the so-called "stealth" bomber, I would commend to my colleagues a statement by Senator John Tower, ranking minority member of the Armed Services Committee, and a statement by Dr. William Van Cleave, defense adviser to Ronald Reagan. I ask unanimous consent that these documents be printed in the Record, along with the newspaper article.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement of Senator John Tower

I would like to make a statement about Secretary Brown's revelation yesterday concerning "stealth technology."

While I have had knowledge of this technology program for some time, I have been very much impressed by how well this closely guarded secret has been kept. In fact, I commend jouralists who had some knowledge of the existence of this technology and who forebore from publishing. I hope you will continue to use this same good judgment about this and other important defense technologies.

Today, it is not my intention to disclose anything new about this technology. I would not even comment at all if I did not believe that the American public is being deceived by the Administration's version of events.

To be blunt, the Administration is attempting to make political hay out of what Secretary Brown announced yesterday as "a major technological advance of great military significance". I would have remained silent if Secretary Brown's press release had not been so obvious as to its intent.

Furthermore, during the recent Senate debate on the strategic bomber question, as Administration agents were scurrying from office to office on Capitol Hill, leaking and dropping hints about this technology, trying to kill any chance for a bomber that could be deployed quickly, I kept my silence. In the past few days, my worst fears have been realized. Therefore, I have come to the judgment that I cannot keep my silence any longer.

In recent weeks, the Carter Administration has been conducting a media blitz aimed at revising the history of President Carter's pallid performance on national defense. Thus, the President announced on the deck of the aircraft carrier *NIMITZ* support for military benefits issues Congress was about to enact and which he had strongly resisted for months. Now, the President has announced a new strategic targeting policy which sounds very much like what we called for in the Republican Platform. All of this was to be expected, especially in an election year.

However, the Administration's selective leak of highly classified information concerning "stealthy bomber technologies" goes beyond the bounds of propriety, even in an election year. Everyone privy to the details of this technology was clearly aware of the importance of keeping this promising technology secret for as long as possible so as not to alert the Soviet Union to the need to develop countermeasures. Nevertheless, through selective leaks and even through carefully orchestrated briefings and press conferences, the Administration is performing a sleight-of-hand act to conceal its real intent and to reduce its current political embarrassment.

I deplore this gross violation of security which is misleading and dangerous in two respects. First, no bomber is likely to be deployed using this technology until the 1990s. Therefore, it contributes nothing to our strategic deterrent during the 1980s when this nation faces its greatest military threat since Pearl Harbor. Promises by President Carter about a paper bomber are a hollow response to the strategic inferiority we will face in the 1980s. This inferiority would have been less severe, according to Chairman of the Joint Chiefs, General David Jones, had Carter not cancelled the B–1. Based on Carter's record of performance, we must conclude that Carter's promises are worth nothing.

The second effect of the Administration's leak concerns the reaction in Moscow. Having now been officially notified by the President that their future could be less bright in the 1990's, there is all the more incentive for them to use their current military advantage for aggression before we catch up. Thus, with a bluff premised on something that may or may not happen in the 1990's, President Carter has raised the risks of Russian aggression today. Secretary Brown, in his statement yesterday, recognized confirmation that this technology will certainly encourage Soviet development of countermeasures.

It has been my experience after nearly twenty years in the Senate, sixteen of which have been spent on the Armed Services Committee, and after serving as Vice Chairman of the Intelligence Committee, that it is ten times worse to confirm officially a leak. With all due respect to the media, when the U.S. government publicly confirms leaked information, it is given a lot more credence by the Kremlin.

For myself, I will reveal no more than what the Administration has already unveiled, but I would like to place what has been revealed in proper perspective.

The timing of the Administration's revelation of the "stealth" technology is politically motivated and does not coincide with either a new breakthrough or a new commitment.

"Stealth" technology is not new, but it does offer promise for the future. While the technology may work, it is reckless grandstanding on the part of the Secertary of Defense to insinuate that his stealthy bomber is to be deployed in the 1980's. In fact, what the Carter Administration is trying is a "snow job".

Experts familiar with "stealth" technology agree that the application of this technology to a strategic bomber, if proven feasible, will be very difficult and very expensive and may not be possible until the 1990's, long after a new manned bomber is most needed.

The Ford Administration pursued both the B–1 and "stealth" technology. A recent Air Force committee strongly supported development and procurement of a multi-role bomber derived from the B–1, and Congressional leaders who argued for a B–1 derivative in the FY 1981 defense authorization bill did so in full knowledge of the "stealth" program.

As "stealth" technology proves itself feasible for a strategic bomber, such a bomber is more likely to be deployed by a pro-defense administration which believes in the need for a manned bomber than by an anti-defense administration which starves defense programs and then makes grandiose promises in election years.

The Administration, which has opposed the development of a new manned penetrating bomber on principle, has made no commitment to building a "stealth" bomber. In fact, the "stealth bomber" program has been slowed in the last year.

It appears to me that Mr. Carter feels morally justified in being untruthful and in jeopardizing national security to advance his reelection prospects.

Statement by William R. Van Cleave

For purely political election year reasons, Jimmy Carter has had his Secretary of Defense violate the sanctity of some of the most tightly controlled and highly classified national security information, a technology development program whose eventual effectiveness depends critically on the secrecy necessary to stay ahead of Soviet countermeasures. Jimmy Carter is obviously so concerned about the emerging truth of the dangerous state of our military capability after three years of his Administration that he is willing to put in jeopardy the eventual success of this program by announcing it prematurely. Being unable to run a campaign on his real defense record, he is trying to conjure up a new one.

Moreover, he grossly exaggerates what we know of the effectiveness of this technology and distorts the time factors involved in any eventual application of the technology. His Secretary of Defense proclaims that this technology assures that our vehicles can successfully penetrate Soviet air defenses, but then he acknowledges that he means that this future capability of the 1990's can penetrate existing air defense systems. Perry proclaims that this technology makes an aircraft invisible to radar; and then footnotes that "invisible is of course a figure of speech." Maybe we should call this the Figure of Speech Program, rather than Stealth. It is like the Emperor's clothes. You can't see it. And the reason you can't see it is that it isn't there!

Added to this invisibility is the uncertainty about the application of the technology, acknowledged by Brown and Perry, and the lack of any decision concerning a real strategic bomber, which—using the excuse of this 1990's technology—the Carter Administration intends to delay, and delay. Invisibility plus uncertainty plus indecisiveness plus continued delay equals what? It equals Carter's defense program, but not any real, tangible capability.

We are, however, gratified that Jimmy Carter has admitted his mistake on the need for a penetrating bomber, but we still have no program with which to face this critical decade of the 1980's.

We, of course, welcome advanced research and development programs that might lead to improvements in our defense, and we strongly support a program to produce a new strategic bomber, but in timely fashion; not paper programs aimed uncertainly at the distant future.

The Republican platform specifically endorses: accelerated development and deployment of a new manned strategic penetrating bomber that will exploit the $5.5 billion already invested in the B–1, while employing the most advanced technology available.

Advances, yes; miracles, no. There are no panaceas for our defense problems.

The fact is that technology continues to advance. This very program is the result of such evolution (not revolution). But we cannot always wait for new technologies that seem to be just over the horizon. We would never get around to producing anything if we did that, while the strategic balance would continue its deterioration.

This program, as a substitute for early deployment of a B–1 derivative, would delay for years the introduction of an effective new bomber to our force. It is no answer to our strategic requirements for the 1980s, but is yet another 1990s paper solution. And, I am concerned—indeed, I am convinced—that the announcement of this program, as if it were already an actual bomber program, is yet another Carter gimmick. It allows him to appear to be doing something to provide a modern bomber force, while in fact actually delaying a bomber program. I repeat that this is a technology development program, with some future promise—at least until the Administration blew its security—but not an actual strategic force program. The Administration has blurred the distinction.

President Gains Endorsement For MX Blockbuster Missile

(By George C. Wilson)

President Carter will commit himself to developing a new strategic bomber, perhaps as early as tonight when he accepts renomination at the Democratic National Convention, government sources said yesterday.

Such a commitment would steal a march on GOP standard-bearer Ronald Reagan and his adherents who have lambasted Carter for canceling the B1 bomber in 1977.

Breakthroughs in technology, sources said, will enable Carter to argue that his cancellation was a good move because the contemplated new bomber could foil Soviet defenses which are becoming lethal enough to down a B1.

One key breakthrough is a top-secret way to make a long-range bomber virtually invisible to enemy radar used to detect invading aircraft and aim guns and missiles at them.

Some Air Force enthusiasts have nicknamed this new bomber "Stealth" because of its ghost-like qualities. Technocrats explain Stealth presents a small, virtually undetectable "cross-section" to radar beams searching for it. They call it the High Technology Aircraft.

Presidential aides have drafted remarks about a new bomber for Carter to deliver to the convention tonight. But the president could decide to hold off. It depends in part on how he reads the mood of the convention, sources said.

"You're going to hear about these new bomber breakthroughs sooner or later in this campaign," one knowledgeable official said in discussing the administration's plan for combating Reagan's claim that Carter has let down the nation's guard by canceling the B1 and other actions.

Although the Air Force is secretive about the breakthroughs for foiling enemy radar, Lt. Gen. Kelly H. Burke, Air Force research chief, has said publicly that "high on our list of hardware explorations" in looking for a new bomber "is radar-absorbing material to reduce radar cross-sections, which would improve survivability against both surface-to-air missiles and look-down, shoot-down" interceptor planes.

William J. Perry, Pentagon research chief, contends that Soviet strides in developing airborne radar that can look down and spot invading, low level bombers would doom the B1, which some members of Congress are still championing.

Perry also opposes the Strategic Air Command's proposal to stretch the F111 into a long-range bomber for the 1980s and 1990s. "Over my dead body," Perry once said in asserting that the stretched F111 did not make sense. He would rather go for new technology to stay ahead of Soviet defenses.

Carter is thus in position to contend that the Pentagon experts agree that a better bomber than the B1 was worth waiting for. He does not have to commit himself to putting a bomber in production since that decision is years away.

Beside combating Reagan, Carter's commitment to a new bomber would get him off the hook with Congress. The House and Senate, in compromising on a weapons money bill this year, directed the Carter administration to choose some kind of bomber by next March 15.

For fear the Pentagon would balk at putting a new bomber in production, as it has for two decades now with the B70 and then the B1, Congress said it wanted whatever bomber was chosen to be in service by 1987.

Although this sounds like plenty of time to design and produce a new bomber, it actually is not. Modern warplanes take about 10 years to advance from the drawing board to the runway.

To some Air Force leaders, this means Carter will have to settle for a bomber simpler to build than the Stealth, perhaps leaving an opening for a variant of the B1. But they concede going back to any kind of bomber resembling the B1 would be politically uncomfortable for Carter.

An attractive middle ground for Carter would be to promise to develop a new bomber, give the public a peek at the wonder technology now in reach—such as airplane skins which absorb or deflect radar beams—and leave the specific choice open until after the November election.

The Air Force Scientific Advisory Board studied various bomber options last month and concluded that the new plane should be able to perform a multitude of missions, not just deliver a nuclear weapon to a stationary target. Missiles are accurate enough to do that, the board reasoned.

A multimission bomber could attack moving targets, drop mines or fire missiles at ships, the board concluded and reportedly discouraged the idea that a virtually "invisible" aircraft like Stealth could be built anytime soon.

Jimmy Carter would not be the first Democratic president to disclose warplane secrets to dramatize a commitment to a strong national defense. President Johnson on Feb. 29, 1964, ripped the secrecy veil off the A–11 spy plane built at the Lockheed "Skunk Works" in California, a highly secret facility that is expected to contribute technology to any new bomber deployed by the United States.

PROPOSED FISH RESTORATION ACT WOULD HELP STATES PROTECT AND EXPAND SPORT FISHING OPPORTUNITIES

Mr. RANDOLPH. Mr. President, recreational fishing is the most popular participative outdoor sport in the United States with approximately 60 million Americans benefiting from the physical challenges and the esthetic environments which characterize the sport.

The angling harvest, too, is valuable. Fish worth an estimated $1.5 billion per year are consumed at the nation's dinner tables. For Americans, fishing is a well-established tradition, and we have innocently assumed that because of our bountiful resources our children's children will continue to enjoy the same opportunity.

Mr. President, this is not a time for complacency. Our fisheries resources, beset by problems of pollution and depletion for agricultural and industrial purposes, are being required to support an ever-increasing demand from the angling public. If we are not prepared to dramatically increase efforts to protect, restore, and enhance our fisheries resources we should be prepared to tell 60 million frustrated fishermen where else they can go.

Government at every level shares responsibility for what has happened to our fisheries resources. In most instances, however, it is the individual States which must correct the problems. The fisheries agencies in the 50 States have the authority, professional skills, and the determination to meet this challenge, but their efforts are being strangled for want of adequate funding. Virtually all State funds for fisheries management and research must come from the fishermen themselves through a variety of licenses. Despite continuing increases in license costs, the purchasing power of license revenues continues to decline through inflation and is less today than in 1970. During this past 10-year period, some 15 million additional fishermen began placing added demands on the resources and fisheries agencies in the face of declining revenues were given new and broadened missions. A 50-State survey conducted early this year disclosed a need for nearly $80 million in new funds per year simply to maintain acceptable fisheries management programs. Even larger amounts will be needed to meet future challenges.

Mr. President, in August of last year, Senator LONG and I introduced S. 1631 to relieve this critical dollar shortage by expanding the funding base of the Dingell-Johnson Federal Aid to Fisheries Restoration Act. Our bill, offered with the endorsement of every nationwide recreational fishing organization and many other conservation groups, would supplement the present 10 percent manufacturers excise tax on sales of fishing tackle with a similar tax on sales of previously exempt tackle items plus a 3 percent manufacturers excise tax on sales of most recreational boats, motors, and boat trailers. This tax will generate an estimated $80 million to $100 million per year which the States are prepared to match on the established one-to-three basis. We have reasoned that, since more than 80 percent of all recreational boating concerns fishing, it is appropriate that owners of pleasure craft and the boat and motor industry support the protection and enhancement of these resources. It is also apparent that boaters, even nonfishing boaters, are using and greatly benefiting from fishermen investment in access areas, new lakes, and other facilities and services provided by State fisheries agencies with fishermen funds.

On May 20, the Committee on Environment and Public Works held a hearing on S. 1631. That hearing produced strongly supportive testimony from virtually all State fisheries agencies plus approximately two dozen conservation and recreational fisheries organizations. I believe the bill would receive strong support by the Senate as a whole.

Representative JOHN BREAUX and 35 colleagues have introduced companion legislation in the House (H.R. 6074) and have held hearings on that bill. Hopefully quick action by the House on this tax measure will pave the way for additional Senate consideration. It may well mean the future of recreational fishing as we know it and as we are determined it must remain. Even under the most ideal of circumstances, considerable time will elapse between the introduction of problem-solving legislation and the actual solution of the problem. The pressures on the Nation's fisheries resource agencies are growing rapidly. In the finest user-pays traditions, America's recreational anglers have asked that Congress enact this Federal aid to fisheries legislation and have expressed their willingness to pay.

FARM INCOME

Mr. COCHRAN. Mr. President, farmers have faced more than their share of problems this year. Sharp increases in input costs, record interest rates during planting, depressed prices during the major marketing season, and now crop failures in many areas of the country have combined to put farmers in a financial bind.

Many farmers will not survive this year, not because they are poor managers, but because they are not allowed to operate in a market environment where they can make a profit.

In my State, like those in many other major agricultural regions of the country, farmers have been hit by the worst weather in recent memory. Cotton yields in Mississippi are expected to be down 17 percent, soybeans down 28 percent and corn yields down 31 percent. Weather conditions have not improved since this assessment was made in early August. If anything, crops may have deteriorated.

The pending reductions in production have strengthened prices, leading many to think that the worst is over. While it is true that the higher prices are welcomed relief to those with products to sell, those hit by a crop failure have nothing to cheer about.

Farm income prospects for the year have remained the same throughout. The August "Agricultural Outlook Report" published by USDA provides the latest assessment. This report confirms that farm income is still expected to decline 30 percent. When inflation is taken into account, the purchasing power of farm income this year will be down nearly 40 percent.

This points out a flaw in the administration's farm policy of depending on a crop failure to provide price strength. Higher prices benefit farmers when derived from increased demand or from reductions in production through less acreage. When supplies are reduced by lower yields, the result is simply to drive the cost per unit to prohibitive levels. Often the resulting higher prices do not cover the actual unit cost.

We now have the curious spectacle of USDA "recalculating" farm income in an effort to make this year's disastrous decline in income seem less severe by comparison. The Department of Agriculture now says that the decline in income this year will only be 11 to 22 percent rather than the 22 to 37 percent indicated earlier. This recalculation will not fool anyone except a few bureaucrats in Washington. It definitely will not help pay the bills.

To help improve farm income, we need to get effective control of inflation, to develop markets rather than embargo them, and make it easy for foreign customers to purchase U.S. farm products through direct credit programs rather than guaranteed loan programs proposed by the administration. This will provide price strength through the marketplace and give farmers incentive to produce for profit rather than wait for a crop failure for higher prices.

SUPERFUND: WHO SHOULD PAY?

Mr. BRADLEY. Mr. President, the 96th Congress has an excellent opportunity to pass legislation to deal with what I believe may be the most important environmental problem any Congress will ever have to deal with—the spread of dangerous chemicals onto our land and the detrimental effects that such contamination can have on our population.

I have seen in my home State of New Jersey the fear that can grip a town when it is believed chemical contamination is crippling its children.

I have seen how a chemical company improperly stocked 50,000 barrels of toxic and explosive material in Elizabeth. In June of last year, I testified before the Committee on Environment and Public Works and said:

> The potential effects of an explosion at the Chemical Control Corporation site are staggering. One need only remember that only a few miles away across the river is Manhattan. Clearly, a disaster here would affect millions of people.

We saw those barrels explode on the eve of Earth Day's 10th anniversary and just recently learned that additional explosives such as picric acid and nitroglycerin could have detonated on the site. It was only luck which prevented this incident from becoming a full-fledged human disaster.

Last month the Committee on Environment and Public Works reported a bill which addresses a host of problems created by the improper disposal of dangerous chemical wastes, spills and other releases of toxic contaminants. S. 1480, the Environmental Emergency Response Act, commonly known as the "superfund" legislation, would not only provide for the cleanup of inactive hazardous waste disposal sites, but would also provide liability, compensation, cleanup and emergency response for the release of hazardous substances into the environment.

One aspect of this important legislation—and a major reason why I am a cosponsor of S. 1480, is that it correctly answers the question of who should pay the costs associated with the problems caused by the release of chemical contaminants into the environment.

A major thrust of the Senate legislation, since its inception by Senators CULVER, Muskie and STAFFORD, has been that those found responsible for harm caused by chemical contamination should pay the cost that such damages incur. Those costs will first be centered in provisions to make those responsible for harm, liable for the costs. And, second, if the costs of response, cleanup and compensation have to be recovered from a federally-created fund, then those contributions to the fund should come from those interests who benefit the most from the production and commerce of the hazardous substances which cause the harm.

The approach taken by the committee has been called a "superfund" approach because after 3 years an $800 million a year fund would be authorized with one-eighth paid by general revenues and the bulk of the fund supported by fees from industry. The fund would be large because the problem is large.

The fee itself would be placed on the feedstocks—or the building blocks of all hazardous substances—and, as the Senate report on S. 1480 states, it would "raise more revenue without creating significant economic impact in the national economy than a fee on wastes and products because it spreads costs more broadly throughout the chain of commerce of hazardous products and wastes."

The chemical industry opposes the fund and fee concept inherent in the Environmental Emergency Response Act reported from committee. The industry argues first, that because the problem of toxic chemicals in the environment is a "societal" problem, society at large—or the taxpayers—should directly pay the bill for the problems caused by improperly handled deadly chemicals. Second, the industry asserts that it is inappropriate for the chemical industries of today to provide the up-front funds needed to protect society from damages caused by past disposal practices.

Both of these beliefs are misdirected.

To assume that the average taxpayer should pay the bulk of the incredible costs of cleanup, emergency response and compensation which continue to mount from past releases, is to assume that the average American taxpayer is to blame for past mishandling of dangerous chemicals. This obviously is not true. What we are all guilty of is ignoring this growing problem for such a long time. I am not so naive as to believe that the costs of this fund will not ultimately be passed on to the consumer in higher prices. But

I believe the real cost of items which have deadly byproducts should be reflected in their final price. We neither benefit the producer, the consumer, nor the public at large to do otherwise.

To ignore those who have erred in the past with respect to hazardous substances would, in essence, be telling those who profit from the introduction and use of hazardous chemicals in our society that the longer it takes for actual hazards to appear, the less responsible they are for the consequences of those actions.

Furthermore, the assertion by the Chemical Manufacturers Association that the chemical industry would pay a disproportionate share of the fund is unfounded. S. 1480 provides that the taxpayers of this country will assume more than 50 percent of the cost of the authorized fund. The bill requires industry to pay 87.5 percent, and the Federal Treasury to contribute the remaining 12.5 percent. But assuming an industry tax bracket of 45 percent, after tax deductions for payment to the fund, the net industry contribution would be 48 percent, while the taxpayers would pay for approximately 52 percent. In fact, the general public will pay an even larger proportion due to the State or local cost-sharing required for Government response of problem sites.

The second major criticism by the chemical industry arises from their belief that it is unfair to tax today's industries to pay for the cleanup and compensation resulting from past chemical problems which they maintain they had no part in creating. CMA has called the fee system "selective, inequitable, and oppressively burdensome."

But the belief that it is somehow inappropriate for those industries doing business today to help finance a means to protect our society against damages caused by past disposal practices has been rejected by all the congressional committees which have examined the issue carefully. It is reasonable to assume that today's generators bear a substantial share of the responsibility for the problems resulting from past unsafe chemical disposal. It should be noted that 85 percent of the 53 largest chemical companies in the nation began generating chemical wastes more than 10 years ago.

The Library of Congress has recently conducted research on the corporate ownership patterns of the major chemical companies from 1939 to 1979 in order to determine the longevity of those companies.

The Library of Congress found that:

> The lists show that of the top ten chemical firms in 1939, four are in the top ten in 1979. All are still in existence in 1979 in some form, however, some firms are not conducting business under their old corporate title but were acquired by other firms.

The analysis found that 5 of the top 10 firms in 1960, as in 1954, were still in the top 10 in 1979; 8 of the top 10 in 1968 remained in that category in 1979.

This demonstrates a continuity between those chemical companies of the past and the major companies of today. Not only is the chemical industry the source of most hazardous wastes, but the majority of the chemical wastes come from the large companies. Therefore, legislated fees, which might be imposed on those who profit from the production and use of hazardous chemicals today, will not be inequitable because the actors—then and now—are basically the same.

Furthermore, we cannot accept the argument that the generators of wastes did not know how these products were being stored or disposed. Other legislation now regulates the transporters and operators of disposal sites. Nonetheless, the current problems directly relate to production and disposal and the costs should reflect that fact.

Whether the specific question by those who would oppose S. 1480 is couched in terms of strict liability or the shifting of presumptions created by statute, the real question remains unchanged: Who should pay when chemical harm has taken place?

The State of New Jersey has already established a superfund because our citizens recognize the urgent need to clean up potentially lethal toxic wastes. My State cannot afford continued Federal inaction. Citizens of other States are not fortunate enough to have such a State effort.

I am a cosponsor of S. 1480, the Environmental Emergency Response Act, because I recognize the urgency and dimensions of the problem, as well as placing the burden of who should pay for those damages in the proper place.

I look forward to hearings soon on S. 1480 in the Finance Committee, on which I serve, to discuss this very issue. I want to emphasize here the urgent need to bring this issue to the floor of the Senate in this session of Congress. There is not much time left to debate and pass such important legislation. We cannot afford to wait—and the victims of toxic chemical contamination cannot afford to pay the consequences.

A MAN FOR ALL SEASONS—GEORGE HERMAN OBERTEUFFER

Mr. PACKWOOD. There died yesterday a good man and a great leader. He was George Herman Oberteuffer—known to generations of Oregon boys, now grown to manhood, as Chief Obie.

He was for 40 years an executive of the Boy Scouts, and for 32 of those years he was the scout executive of the Portland Area Council of the Boy Scouts. Many a lad in those years when asked, "What do you want to be, son, when you grow up?" responded, "I want to be like Chief Obie." A higher compliment a man could not have.

Upon his retirement in December 1957, Chief Obie could look back upon a lifetime of leadership with the knowledge that he had left a legacy likely to be matched by few and exceeded by none.

Two articles written upon his retirement in the Oregonian and the Oregon Journal in 1957 well capsulized his life to that time. Those articles read as follows:

[From The Portland (Oreg.) Oregonian, Dec. 29, 1957]

G. H. OBERTEUFFER

From the windows of his farm south of Portland there is a view of Mt. Hood which has been a source of constant enjoyment and inspiration for G. H. Oberteuffer, who will retire at the end of this year as executive of the Portland area Boy Scout Council.

A tall, athletic man whose looks belie his 65 years, the moutains and trails of the West have been a virtual necessity for Oberteuffer as he has followed his 39 years of professional scouting, for he is a man who lives what he teaches.

In his long career there have been several occasions when he has been asked to take a national job in the scout movement, but this would involve leaving Oregon, a thing he cannot bring himself to do.

STAFFERS FIND DIFFICULTIES

Even though he has reached the compulsory retirement age, members of his staff know he is a hard man to keep up with in outdoor action. "I've got to have exercise," he says. "I have stood for vigorous action on the part of my professional staff, for you can't do good with the boys unless you believe what you teach."

He was illustrating this even during his last staff meeting at Camp Meriwether on the Oregon Coast. After the meeting he proposed a hike over Cape Lookout to Netarts bay and return, a trip of some 18 miles. "Well, some of them laughed at me, but we went ahead anyhow, and the weather was just right. It turned out to be a lovely hike."

To most of his staff and to the 32,000 boys in scouting under the direction of the Portland area council, Oberteuffer is known simply as "Obie," and he admits that it is probable that many of his workers don't know his correct name.

The nickname is, perhaps, a symbol of the intimate manner in which Oberteuffer has guided the council or 32 years and seen it grow from 2000 boys enrolled in about 80 troops to the present 990 troops scattered through 15 western Oregon and Washington counties.

BOYS ISSUE CALL

For all his deep interest in the job ("I wouldn't have traded it for anything," he states), Obie got into professional scout work largely by accident—and by a call from boys themselves.

Educated in Portland and the University of Oregon, where he took a premed course, Oberteuffer found on graduation that restricted finances made it impossible to continue a medical education.

"I've kept up my interest in science, though," he notes, waving to a large shelf of scientific works in the comfortable study of his home.

"I got switched off onto teaching," he recalls, "and in fact was offered a teaching fellowship at the University of California. But that came two weeks after I had accepted the post of scout executive for the Spokane area."

It was in Spokane some years earlier that Obie had his first experience in scout work, serving as counselor during a summer period. He then went to McMinnville, where he became principal of the high school, but one night "some boys came over after supper and said they had lost their scoutmaster."

HOBBIES INCLUDE RIDING

"They asked me to take the job, and I said 'No'. But they said, 'We're not going to leave until you say you will.' So I did, and I've never regretted it."

That was 39 years ago. Later at a meeting of scout leaders, he decided to go into the work professionally, and received the Spokane post.

All his life Oberteuffer has been a horseman. On his nine-acre farm now he has two saddle horses, a brood mare and three colts, and one of his hobbies has been to ride the Skyline trail along the crest of the Cascades and Sierras.

In the early days, he recalls, the Portland area had many blank spaces in it where scouting was unknown. "Scoutmasters then had to be people who knew woods lore, and they weren't always easy to find.

"But nowadays we realize that leadership is a job for several people, a scoutmaster and a troop committee with at times the aid of experts. A scoutmaster now can call on assistants for technical work."

This, he indicates, has made it easier to facilitate the growth of scouting. "Men used to be afraid to take the job of scoutmaster, because they thought they might be stuck with a gang of kids and left high and dry, and perhaps it was that way at times, but not today."

It was in 1926 that Camp Meriwether was built south of Cape Lookout, and for 18 years Obie directed the camp activities. "I made a lot of contacts with the boys during that period, and I still hear from many of them."

He has found that if a boy is a scout "long enough to have an adequate scouting experience" chances are slight that any delinquency problems will develop.

VETERAN OFFERS EVIDENCE

"I can prove this from the boys I've known, and who are now grown men. We're not a reform movement at all, but I do believe that after a decent home and a good school and church, scouting is probably the next in line.

"I don't think scouting has all the answer, but it does teach self-reliance. It teaches the boys to go it themselves, rather than sit on their fannies and watch it done."

The fastest growing part of the Portland council under his leadership has been the Cub Scout program. "It caught on like wildfire."

Today more than 60 percent of the boys of Cub Scout age, from 8 to 10 years, are in cub packs. In the Boy Scout age group 11 to 12 years, 40 percent of the boys are enrolled, and in Explorer ages, from 14 to 16 years, 25 percent are enrolled.

Obie's special pride has been the growth of camps in the area. Camp Clark is just north of Camp Meriwether, and is a primitive area where the boys do their own cooking.

At Camp Baldwin and at Baldwin ranch east of the Cascades near Dufur, boys get a taste of ranching, while at Camp Cooper in the Coast mountains they have excellent fishing. At a camp at Spirit Lake they can engage in boating and hiking.

And at Nanitch point lodge on Mount Hood there is an 80-boy ski facility.

In Happy Valley east of Mt. Tabor is a unique training cottage for scout leaders, completed two years ago. It is the only training center of its kind in the United States.

Soon to open is a new headquarters building at 25 S. W. Grant Street. "It will have a view of the east side and of Mount Hood," Obie says, but a new executive will sit in Obie's chair.

"I don't have any feeling of regret about retiring," he says. "In fact, my wife and I have been planning for it. I may do some writing about scout work and do some volunteer work. I don't want to just sit, so I'll be staying in things downtown. But I'll have more time with my horses. I haven't had a chance to ride for fun nearly as much as I'd like to."

[From the Portland (Oreg.) Oregon Journal, Dec. 29, 1957]

RETIRING "OBIE LEAVES MARK ON PORTLAND AREA: SCOUTING—EXECUTIVE SERVES 40 YEARS

(By Betty Ann Rettenmier)

"If I were doing an article on Obie's retirement, I'd begin in a satirical way," said a long-time volunteer Boy Scout worker.

"I'd say first that Obie did not personally lay all of the rails for the Oregon Trunk Railway when he was a young man. He did not own the wild horse of the reef of the well-known campfire story he tells. He was not present when the sailing ship 'Struan' was wrecked near Camp Meriwether—all Boy Scout legends to the contrary. You know how he personalizes every story he tells."

The Scouter was talking about his friend, George Herman Oberteuffer, Boy Scouts of America executive of Portland area council since 1925.

Another of Obie's good friends, a former assistant, Guy Miller, of Eugene, will take his place behind the big desk in Boy Scout headquarters after January 1.

Obie, a tall, handsome horseman with broad shoulders, shrewd, blue eyes, a warm handshake, and a sense of humor to match, is not a retiring personality. His firm hold on the reins of a job in a profession noted for the policy of transfer for advancement has made him unusual in the eyes of many professional Scouters throughout the country.

He has had many chances for higher pay in Scouting posts elsewhere, including executiveship of four of the largest councils in large eastern metropolitan cities. But as he once told job interviewers, in explaining his preference for the Northwest, "Please show me three things—a horse, a mountain, and a tree."

Obie's 40-year influence on the youth and adults of the Northwest cannot be measured. Statistically speaking, there were 2,061 boys and leaders registered with the Boy Scouts when he came to Portland in 1925. Total registration now is about 42,000.

One of the council's first summer camps, acquired after Obie came to Portland, was Meriwether, near Tillamook. Boys vied Tom Sawyer fashion for the honor of saddling Obie's horse, Skipper, and for other camp chores. Obie, his wife, the former Mildred Healy, daughter Georgie Ann, and son Bill, spent most of 17 summers there.

The Council has grown from Multnomah County and part of Columbia County to its present 15,000 square miles, comprising 15 counties in Oregon and Washington. There now are 18 professional staff men and an office force of 15 to administer the Scouting program and direct training of volunteer leaders.

Scouting in his beloved Northwest has become much more imaginative under Obie's leadership than the cartoon type assistance of little ladies across the street and burning of fingers at camp fires. Portland area scouts can climb mountains, go on 100-mile horseback rides, travel by canoe down the Willamette, go winter camping in the snow, plant trees in the Tillamook burn, help in rescues, and go scouting in Europe and the Far East.

There also are swim and first aid meets, the annual drive to collect for the Goodwill Industries, craft shows, circuses and the individual skill requirements which help a boy to be more resourceful.

Besides Meriwether, summer campers of today have a choice between Spirit Lake, Camp Baldwin on Mount Hood slopes, Camp Clark on the Meriwether Reservation and Camp Cooper near the Coast Range summit in Tillamook County.

There is also a Nanitch Point mountain lodge, Camp Millard in Clackamas County for weekend campers, a new Portland office building under erection, and a training center in the architectural style of a small timberline lodge on Mount Scott, where Obie rode his favorite horse as a boy.

"I hate to think that Obie will be retiring," recently wrote Kenneth A. Wells, one of Obie's first assistants in Portland and now national director of the Boy Scouts' research service in New Brunswick, N.J. "I know it is inevitable," he said, "but for me he is somewhat the eternal youth.

"My experiences with Obie were the richest ones of my life, and it is extremely difficult to put into words even a fragment of a proper expression of my feelings.

"I have always felt that he was a man with a profound respect for the worth and dignity of others. His sense of what is right and just grows from his deep faith in all human beings.

"I have felt that he always and everlastingly sought for the truth without ever expecting to find it. I am sure that his personal hurt at a friend's failure was much keener than his personal pleasure at a friend's success.

"By my standards, he is one of the most deeply religious of men. I suppose if I were to try to phrase it in one sentence, I would have to say, 'He is the finest man I have ever known.'"

Obie, dubbed by many "the best friend a boy ever had," is in his best wisecracking form at staff meetings when his team sets goals, plans activities and training sessions and works on the highly detailed "keep-it-simple-make-it-fun" program of leadership and character-building for boys.

Here's a sample of his advice on getting along with the approximately 12,000 adult volunteers, "Tell 'em plainly what you think. Then smile."

The "aura" of Obie, the ability to inspire others to help boys and to make the growing up years memorable, has been compared to that of a well-known evangelist. And to Obie, as one of the custodians of a great idea, his profession has many of the elements of a children's crusade. As Obie puts it, a successful Boy Scout executive is a cross between a preacher, college president and a little boy playing Indian.

It all began at McMinnville one evening in 1916, when Obie, then principal of the high school, was approached by three boys to head a scout troop, now No. 233. After several hours of persuasion, Obie consented. The trio left at midnight.

Obie caught the vision of Scouting during two summers as a camp counselor near Spokane and became a B. S. A. executive in 1918. First assignment was Spokane, where he remained until promoted to regional executive in 1924. He came to Portland the following year as council executive.

Says Wells: "He made numerous, rather drastic changes in the local council organization and I remember distinctly that a group of us who were then considered older Boy Scouts held a rather formal debate at one of the Portland schools, probably Sunnyside. I was the principal debater on the question, "Resolved: That the changes being made by the new Scout executive are not desirable." I took the affirmative side, namely that they were not desirable. As I remember it, my side won the debate.

Portland was a natural homing point for the Oberteuffers, and the new job meant less travel away from home. Obie's father, W. G. Oberteuffer, had moved his family there when Obie was three years old from Washington, D.C., to accept an office in the Army Quartermaster department. Obie went through Portland schools, then worked his way through the University of Oregon. His B.A. degree was in education, after a switch from pre-med.

While at Oregon he boarded with a sister, Mrs. E. R. Moller, now of Hood River, his freshman year, and lived at the Beta Theta Pi house for the rest of his college career.

A brother, Dr. Delbert Oberteuffer, chairman of the physical education department at Ohio State University, shares Obie's love of the out-of-doors. They once hiked from Seaside to Portland and operated a scout camp near Spokane together.

Two other brothers, Robert K. and William G., live in California.

Obie was the first man in the Boy Scout movement to thumbs-down military style camping, with tents in rows and morning exercises. He changed it to informal groups of boys at a number of campsites.

From the time son Bill was a small boy "hiking" with Obie to Wahtum Lake, riding in a packsack on his father's shoulders, he also has been an outdoorsman. Bill, Georgie and Obie had many riding and hiking trips along the Pacific Crest trail during family activity years. In 1937, Obie accompanied his son and a group of scouts on horseback to Chico, Calif., part of the 1,300 mile way from Mt. Hood to Tijuana. In 1953, Obie hiked with Bill and his wife Margaret for 250 miles along the John Muir trail in California.

It was Bill, however, who introduced his father to trout fishing, deer hunting and mountain climbing. Obie climbed his first and only major peak at 59 with Bill and Margaret, experienced mountaineers, as guides. Bill and Margaret, incidentally, share another of Obie's enthusiasms. Both are Portland high school teachers.

Some of Obie's honors are a surprise when mentioned to his family because "he never talked about them at home." The "boss executive" is a member of the Clackamas County sheriff's posse, was on the national board of the Camp Fire Girls, president of the Oregon Social Workers and vice president of the Pacific Coast Camp Directors Association. He also has been president and master of the fox hunt of the Lake Oswego Hunt Club. Obie also was one of two organizers of the Boys and Girls Council, which was the forerunner of the group work and recreation division of the Council of Social Agencies.

When one of Portland's most active public figures retires, he has plans. One of them, broached to a field man on his staff, goes like this: "Say, how about a horse trek next summer to Crater Lake? I'll sign on as wrangler for $6 a day and grub."

I could close this eulogy here, and the reader would realize that a fine man had died. It would be incomplete and indeed unfair, however, if I didn't tell more.

I didn't know Chief Obie during his Scouting days. As a matter of fact, I never met him prior to his retirement. It was only in the early 1960's when I started to date his daughter Georgie, now my wife, that I became acquainted with Obie. He was everything and more that anyone who had known him for a lifetime ever said.

Love is not a word I use carelessly. But if ever one man loved another, I indeed loved Obie.

In his retirement he was more active than most people yet to retire. He continued to give. He taught horseback riding, not just to the neighborhood children, but to many children throughout the Portland area including special classes for the deaf. His stern but gentle hand, even in retirement, continued to guide yet another generation who grew to love and admire Obie as much as did the rest of us. He even went the extra mile and attempted to teach me horseback riding. He started with a clumsy, albeit willing, student. While he was to have a score and more of happy years in retirement, I think he felt that even that length of time wouldn't be sufficient to get me past the rudimentary stage of horsemanship.

So he turned instead to giving me counsel during my formative years in politics and during my years of marriage to his daughter. He was a wise and willing adviser. He was never obtrusive. He never forced his views. Yet he was always ready to listen. When dispassionate judgment was needed, he would be ready to give it if asked. And when given, it was better advice for free than that which could be purchased at any price from any source.

He was a willing worker. I can well recall Obie in his early seventies pulling the other end of a two-man crosscut saw as we steadily worked our way through trees blown down on my property after a storm. Though forty years my senior, he was by far ready and able to work further into the evening than I.

In his mid-seventies Obie became a member of the Portland Metropolitan Youth Commission. Serving with people one third his age, he matched them idea for idea. He wove carefully a pattern of advice based in part upon his years of experience in dealing with youth and in part on his full realization that the world had changed.

The greatest pleasure of all, however, was to watch our children grow and mature at Obie's side. The love he lavished on them would be the envy of any grandchild. Yet, it was not the fawning love of a grandparent who could spoil and then return the child to its parents. It was the same love and leadership that he had given to children and young people throughout his life. Our children were simply blessed to have more of it because of the family relationship.

He was one of the few people I have ever met who could give love and leadership in appropriate proportion. He was one of those unique people who could properly keep in balance memories to be cherished and remembered while fully realizing that times past could never be relived. To his last days Obie could live in the contemporary swirl of youth who did not yet know what memories were. He mingled among them in such a way, however, that when those youths eventually approach Obie's age, they indeed will remember their youth and Obie's part in it and will truly know how fond memories are. More a man could not ask. He was truly a man for all seasons.

THE FAMILY FARM

Mr. PERCY. Mr. President, the August 15 edition of the Christian Science Monitor ran an interesting and informative column written by Mr. Robert B. Delano, president of the American Farm Bureau Federation. The column entitled "The Family Farm Does Not Need Saving," accurately describes the state of America's biggest and most successful business.

In Illinois, we have close to 105,000 farms. They come in all shapes and sizes. These amazing units of productivity farm an astounding 28.6 million acres of some of the richest soil in the country. Illinois ranks first in the Nation in agricultural exports contributing favorably to our Nation's balance-of-payments. For example, only about 28 percent of Illinois' corn crop will be used on the farm where it is produced. The rest, close to 900 million bushels, will be moved away from the home farm to other markets both foreign and domestic. These figures point up the fact that more than ever before American farmers rely on the world market for their livelihood.

I ask unanimous consent that the article be printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE FAMILY FARM DOES NOT NEED SAVING

(By Robert B. Delano)

In an election year when a grain embargo, high interest rates, inflation, and extremely adverse weather conditions are playing havoc with the nation's agricultural economy, political panaceas are the last thing farmers need. However, many political "answers" to falling farm income can be expected between now and the Nov. 4 general election.

What America's food and fiber producers do need is political and public recognition that the family farm, while changing, is alive and well despite efforts by many in politics and elsewhere to argue otherwise.

Public confusion has been created by talk of corporate takeover of U.S. agriculture, of mysterious "middlemen" who supposedly inflate food prices, and by suggestions that the best answer to falling farm income is more of the same government involvement which helped create it.

It is time for the American people to compare the realities of today's agriculture with the media myths that surround it.

The agricutural figures are astonishing. In the United States only 3 percent of the population handles all of the farming activities needed to feed and clothe the other 97 percent!

Even more astounding this task is done so well by this small group that even in times of high inflation, food prices have not risen nearly as much as have other mainline living costs.

While a majority of the entire population must engage in agriculture in a number of other countries (65 percent in India), each American farmer feeds nearly 70 others—about 20 of them living in other countries.

Wholesale application of modern technology to American farming has made this production possible. "Peasants" in developing countries sow grain by hand and harvest with sickles, while U.S. farmers use high-speed mechanical drills for seeding and harvest with self-propelled combines.

So many Americans have been freed from the hard work of farming in so little time—historically speaking—that much of the U.S. population has only a hazy understanding of what now takes place in the country.

With the vast majority of all voters living in cities and towns, it is not inaccurate to say that the future of American agriculture depends to a large degree on the clarity of this understanding.

Unless well traveled, many otherwise knowledgeable Americans might deny that food in this country is a bargain, although food here now costs less in terms of average disposable income than literally anywhere else in the world.

The 16.5 percent U.S. share of after-tax income spent on food compares with 23 percent for the United Kingdom and Belgium, 25 percent for Finland, 26 percent for France, 28 percent for Denmark, and 35 percent for the Soviet Union. In selected developing countries, the food-cost share is between 50 and 80 percent of disposable income.

There are those who suggest that, good as the U.S. food production record is, there are hidden costs in terms of diminished human values as, in theory, corporate agriculture engulfs the family farm.

They may be reassured. Conglomerate farming—that is, farm ownership and operation by large corporate interests poses little or no threat to family farming.

Fifty years ago, from 2 to 3 percent of all U.S. farms could be classed as corporate operations. Today, that has fallen to less than 2 percent. Further, almost all of these incorporated farms (over 80 percent) also are family owned and operated, with 10 or fewer family stockholders. The family farm is often incorporated for tax-saving reasons and to create a separate legal entity to allow the continued operation of the farm as a viable family unit on the demise of the original owners.

Conglomerates that enter agriculture have a long and dismal record of failure. Returns on conglomerate farm investments are something less than 4 percent. Conglomerate farming is not a growth industry.

But, through consolidation and sometimes incorporation, the family farm is changing in keeping with a changing America. Political or social pressures to prevent change in an attempt to recapture the virtues of a simpler life could hurt the family farm by freezing it in a rigid, moribund pattern.

A return to the "good old days" of horse-

and-buggy farming would require that one person in five leave his or her nonfarm occupation to work in production agriculture. There, a first job would be to produce and train about 25 million horses and mules to do the farmwork (about 21 million were in use 50 years ago) and about a third of our present farm acreage would go to feed this horsepower.

Food would cost about twice as much as now, with just barely enough to go around. Diets would run heavily to cabbage and potatoes with little meat, cheese, or milk.

A bright spot would be agriculture's independence from OPEC oil—but, since farming consumes only about 3 percent of total U.S. energy, this wouldn't be of much national help.

Of course, such a retreat from the advances made by modern agriculture in America is out of the question. Farmers and their families only wish to keep moving—forward! That is progress.

Progress, stimulated by reduced political tampering and lessened regulatory interference with the farming and ranching business, will do more to sustain the family farm than any panaceas offered by vote-seekers campaigning this year to "save the family farm!"

NOW IS THE TIME

Mr. PERCY. Mr. President, I wish to point out to my colleagues a significant speech made by R. Hal Dean, chairman and chief executive officer of Ralston Purina Co.

Hal Dean's address at the St. Louis Convention Center, on July 2, 1980, is significant for two reasons. First, he discusses American agriculture as "the greatest continuing example of the success of private enterprise and productivity the world has ever known." It has been the startling leaps in agricultural productivity that have given us the most abundant, least expensive, foods in the world. Second, Mr. Dean dramatically brings to our attention the danger to our entire economy and way of life if the growth in the cost and size of Government continues in the future as it has in the past.

As he so aptly points out at the conclusion of his remarks, "now is the time" to take action to slow this serious expansion of Government into the private economy. He is right on target with his assessment.

Mr. Dean notes the extent to which Federal spending has grown in the last 25 years. Whereas in the 1950's and 1960's Federal expenditures accounted for 18 to 19 percent of GNP, we are now facing a Federal budget that consumes 23 percent of GNP. Unless we act soon to place a lid on spending, the private economy, which generates those dollars in the first place, will be imperiled. It is time to wind down Federal spending so that it is roughly in the "historical" range of the 1950's and 1960's.

Those of us who worked so hard to establish a budgetary process for Congress several years ago were optimistic that by this time we could be working on a Federal budget that was essentially balanced. Many of us are dismayed that—for a variety of reasons—we have been frustrated in this effort. The so-called balanced budget for fiscal year 1981, passed by Congress this spring, is now in deficit by over $17 billion and the administration is forecasting a fiscal year 1981 deficit of $30 billion.

I did not support the spring budget resolution because of this ruse and I will find it hard to support the final budget this fall if spending is still growing by leaps and bounds.

Another important point touched on by Hal Dean is tax policy. Taxes in fiscal year 1981 are set to rise by $86 billion, sapping paychecks and corporate earnings alike. The combination of inflation and taxes have, in Mr. Dean's words, resulted in "a shortfall in capital formation and thus an almost catastrophic downtrend in American productivity." The Congress Joint Economic Committee has just released its midyear report and has unanimously recommended a slash in the burden of taxation to stimulate economic growth.

It is as if the committee had acted on Hal Dean's excellent comments in this regard. I for one am more determined than ever to develop tax policies that will boost economic growth and productivity, thereby meeting more human needs through growth of the private sector. The tax bill recently reported by the Finance Committee moves us in that direction.

As Hal Dean points out, "now is the time" for these initiatives.

Mr. President, I ask unanimous consent that Mr. Dean's statement be printed in the RECORD at the close of my remarks.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY R. HAL DEAN

Good morning, ladies and gentlemen.

What a proud and historic occasion we are witnessing here today. It is very difficult for me to express the level of excitement I feel. The idea of such a grand convention has been a dream for a long time. As Dub has noted, the reality of our being together—physically or by television—is a wonderful achievement . . . the sort of thing which could only become possible in our modern world of high speed transportation and communication.

In the minutes we have together this morning I would like to share a few personal thoughts about agribusiness today, some observations as to what trends are occurring in the general business environment, and, finally, some ideas with regard to our shared futures as Americans.

At the risk of possibly embarrassing you, Mister or Mrs. Dealer, I think it is worthwhile to begin by taking a moment for some self-examination. In considering what factors distinguish you from many business people today, it occurs to me that there is something very special about you and your role as a dealer.

As suppliers of hundreds of products to America's farmers, you and your business are directly linked to the greatest success story America has to tell to its citizens and the world in 1980. Despite the seemingly endless bad economic news from Washington, the bombast from Tehran, the latest OPEC price hikes or whatever, American agriculture remains what it has been for decades—the greatest continuing example of the success of private enterprise and productivity the world has ever known.

In the midst of all the disturbing economic indicators, American agriculture continues to not only maintain its leadership position in the world, but to increase its productivity, year after year. This is a magnificent, continuing achievement which—unfortunately—most Americans continue to take for granted.

Well, this is one instance where someone wants to set the record straight and to give proper credit where it is long overdue: By providing many of America's farmers with the tools to do their jobs more efficiently from a cost/benefit standpoint, you play a vital role—in fact, a critical role—in making this great American success story possible.

I congratulate you.

As builders of American agriculture and, more specifically, of the quality of life in your own community, I know you are concerned about the advancement of policies in our nation which have increasingly come to bear on all of our lives. This morning I would like to single out two major trends for you and then talk about America's future in more general terms.

In 1979 the Public Relations Society of America commissioned a major study of the attitudes of Americans as they look forward to the decade of the 1980's. Although the study and its findings were somewhat complex, one basic conclusion clearly emerged from all of the investigation.

Many Americans — especially younger Americans—have developed a very strong sense of what they see as their entitlements. They see their Nation and their future providing them with several things: Good housing, a clean environment, cheap energy, cheap public transportation, a college education, comprehensive health care, and several other conditions, all of which boil down to one notion: The country owes me a great deal. Notice I did not say that these were expectations. These are what people indicate they are entitled to. Without any sacrifice on their part. A big difference.

Well, as business people, you know who would pay for all of these increased goodies. After learning of this study and its implications, I asked myself the obvious question: Why have so many Americans developed such an attitude?

I believe a good part of the answer lies in the fact that a majority of Americans—six out of 10—are on the dole from the Federal Government in some fashion. Through that portion of the Federal budget which consists of so-called transfer payments, we have become a Nation in which the number of persons who receive no such payments, and work, and pay their taxes—folks I call the producers—are outnumbered by those who in at least one way have a hand out for the Federal dollar. I call such people the takers.

Now, I will readily acknowledge that many of these payments such as Medicaid, Medicare and Social Security, etc.—go to Americans who in most instances desperately need the money and deserve it. But what has happened since the early 50's is that this well-intended aid has clearly grown like Topsy to the point where the total bill outstrips the Nation's ability to meet the cost. Programs such as food stamps and Aid to Dependent Children have grown in huge proportion to their original scale when enabling legislation was first enacted. I note that Senator PROXMIRE, a superb legislator in behalf of social programs, has recently announced his opposition to the Food Stamp program as it is constituted today.

Things have gotten out of hand. The transfer payment segment of the Federal budget has been growing under Republicans and Democrats alike at an annual rate of about 8½ percent over the past quarter-century. This is considerably faster than the overall national economy has been growing.

Seeing how much you can get from Uncle Sam has become a national pasttime. Unfortunately, few people seem to have read the Pogo cartoon strip and learned that "The enemy is us" and, I might add, the enemy still pays the bills.

Slowly, without our noticing at first, government policy has grown so great in its influence upon our citizen's lives, that it has come to now directly affect social change among individuals. That may sound rather exaggerated, but consider this:

With the emphasis on satisfying the demands of the takers at the expense of the producers, our Nation's annual budget has reached the point where almost 75 percent of spending is mandated by a law. We've been locked in, until now, to such at trend. That trend, of course, has given us a string of deficit Federal budgets which has generated the devastating rate of inflation which influences the quality of all of our lives.

Within the past year, many Americans became so convinced that prices would skyrocket that they went out on a buying spree the likes of which we may never see again. Credit card companies found customer accounts going over limits. People seemed to show little concern about being able to meet payments. They only seemed to care about acquiring that new micro-wave before its price went up 10 percent.

What impact did the public's perception of the government's ability to check inflation have upon America's financial institutions? It was devastating. To meet their spending, people pulled their money out of savings accounts in an unprecedented manner. Personal savings, as a percent of family after tax income, sunk to 4½ percent at the end of 1979. Twenty years ago savings was recognized as a key goal of young Americans in order to generate sufficient down payment to buy a home. Today, many young Americans have given up on that dream, and simply put their money into keeping their heads above water. They feel that there is no incentive to save. especially since savings interest has been taxed, up to now.

This is a clear example of how we have changed as a society and it troubles me a great deal. We are a nation alone in the so-called developed world with regard to family savings. Consider these percentages of personal savings as a percent of after tax income in some other nations. Remember, Americans are averaging 4½ percent.

Canada, 9 percent, West Germany, 14 percent. Great Britain, 17 percent. France, 17 percent, and Japan, 25 percent.

Congressman Jack Kemp of New York has succinctly stated the problem:

Quote. "If you tax something, you get less of it. If you subsidize something, you get more of it. The problem with the United States today is that we tax work, savings, thrift, production, capital, and we subsidize nonwork, welfare and consumption." Unquote.

There is no question in anyone's mind that economic growth must come first in our society—for without it there will be no means to fund social goals.

In the past 10 years, inflation combined with an almost Marxist progressive tax code has produced an increasing penalty on individual initiative, risk, savings and investment.

I might also note that now the term "windfall" has taken on a new and accusatory meaning. Americans must come to realize that our government itself is reaping an unprecedented "tax windfall" resulting from the progressive income tax and its inflationary programs and policies.

As inflation continues unchecked, it undermines our capital structure and thus further erodes our nation's productive capacity.

So inflation and taxation, the twin grim reapers, are working in tandem to lower our standard of living. Taken together these conditions have a devasting effect on the attitude of American workers and have, in large part, brought about the shift from a thrift to a spending society.

The result has been a shortfall in capital formation and thus an almost catastrophic downtrend in American productivity.

The 19th century Scottish essayist, Thomas Carlyle, put the capital formation requirement in very straightforward terms:

"Man is a tool-using animal . . . without tools he is nothing, with tools he is all."

These are sobering facts, especially because they are part of a trend which is now more than a decade in duration. Obviously, the trend cannot be allowed to continue. The capacity of the tax-paying producers to satisfy the demands of the many takers has reached its limit.

In an ironic way, one of our greatest national problems at this time may be helpful in enabling many Americans to understand why we must change this trend. I'm referring to the energy crisis and the increasing acceptance of the need for conservation as at least a short-term solution until alternative sources are developed.

There is clearly a growing acceptance of the fact that our natural resources are not unlimited . . . that the utilization of our natural assets of clean water, air, land and energy is finite. But it is time that federal policy recognize another finite resource abroad throughout the land—capital. There is just so much capacity on the part of the American small businessman and corporation to meet the cost of government which insists upon nth-degree techniques of environmental and other regulatory requirements which produce a tiny result at an enormous price to our national economic stamina.

Day after day, week after week, month after month, we hear or read of federal intentions to cut the cost of various types of regulation or red tape. However, the fact of the matter is that day after day, week after week, month after month we continue to be faced with the same non-productive demands to fill out forms or to install yet another new and improved filtration system. This policy is sapping American business of what little profit it is able to generate in an inflationary, recession economy. It must be changed!

Again, a basically sound social idea of the need to protect the natural environment has been subverted into a monstrous perversion of the original intent. In the macro sense, this is part of overall evolution and growth of government which we have permitted to mushroom since the end of World War II.

We are all aware of the astronomical stories of government growth. I became aware of some facts the other day which shocked me. Consider this:

Today more than 40 percent of a worker's productivity and wages goes to support government and this percentage is growing every day.

Since 1950, total U.S. employment is up 44 percent; federal government employment is up 193 percent; state and local government payrolls are up 865 percent. As a result, property taxes are up 550 percent, sales and gross receipt taxes are up 794 percent and personal income taxes are up 2,373 percent.

In this century, population in the U.S. has only grown around threefold, while federal spending has multiplied 600 times.

I mention these incredible examples not to be flippant but to underscore the seriousness of the situation. We are running out of time. The private enterprise system has just so much resiliency left in it after being forced to fuel the bloated and unnecessary federal hot air boilers for these many years.

The time is late, but there are several encouraging signs within recent months. A small but active and influential number of key legislators and federal officials are hearing the statements of business people and are becoming motivated to work in our behalf. Many of these people are not traditional supporters, but are, instead, now convinced that business people are not merely crying wolf. The tin ears in Washington are still affixed in many Capitol offices, but many are being pulled off by concerned and involved business people who are getting this message across.

The logic of sunset legislation and tax policy reform, among many constructive strategies, is being heard.

Interestingly, this new-found empathy for the thoughts and concerns of the business person is coming from new quarters, some of which are quite unexpected. Recently, Harold Williams, chairman of the influential Securities and Exchange Commission, made the following statement on the need for regulatory reform:

"We need to develop a coherent set of principles aimed at creating an equilibrium between the energies of a free, private economy and the meliorating effect of regulation. That equilibrium must not fetter the private sector and prevent it from continuing to provide us with the wealth necessary to attain our national aspirations."

I consider this to be an important statement, one which speaks not only to regulation but which naturally opens the door to the larger question of government spending policy which I touched on earlier.

There are enormous tests ahead for our nation's economy, its business people and all other Americans. The collision of government economic policy against the unreasonable expectations of entitlement of many Americans will soon be heard across this land unless there is a new sense of reality in our nation's administration.

I know you share the view that our nation remains a great nation founded on great principles. But we also have great problems, many of which have been induced by government policy over the long term. How can we hope to overcome the terrible inertia of this pattern?

Recently, it has occurred to me that a substantial part of the answer to that question lies before us so plainly that we have been overlooking it. When you compare the strengths and weaknesses of our free society with those of a controlled society, we can identify one significant distinction.

In the controlled society, the state represents that civilization's only institution. All policy stems from the position of the state on various issues. In our nation, on the other hand, we have a diverse and influential variety of free institutions—all of which contribute toward the creation of the people's views on public issues.

Sometimes strengths are also weaknesses, but I believe that our society's greatest strengths are its institutions.

Consider the rich contributions made to our world by the impact of our modern, free institutions: churches, unified labor, business, medical institutions, the gamut of nonprofit organizations, an uncontrolled press and other media, the educational community, and many others—all shaping the evolution of the American public's free expressions regarding public issues.

Now, you may take the cynical view and say that this freedom has led us down a road toward so-called polarization and single issue politics. Well, I would have to concede that view has some validity. But consider the alternative—a nation in which our choices and points of view are dictated to us.

And, more importantly, look what is beginning to happen among representatives of our society who disagree. Our free institutions are realizing that disagreement born out of a common concern is the first step in true problem-solving. Instead of engaging in endless name-calling, increasing numbers of people who represent our key institutions are sitting down to discuss their disagreements. Agreeing often in advance that they share a common concern—say, the state of the environment—Americans are beginning to more fully utilize the inherent strength of our institutions. Through sincere communication premised on the notion of seeking a better way to handle our problems, Americans are learning how to better understand each other and the problems confronting us.

I'd like to take a minute to provide a specific example of what I'm referring to. A few weeks ago the education center at our Keystone resort in Colorado was the site of a very special seminar. The subject was the vexing problem of hazardous waste disposal. The attendees to that seminar were, as you might expect, environmentalists, and government environmental officials. I would suggest to you that such dialogue would not have taken place five years ago.

In that instance and in countless others, a new sort of modern local and national leadership is emerging, a leadership made possible by the flexibility of our institutions to change in order to meet our society's needs.

Yes, I would agree that the process is painfully slow, but, I think it is most important that we take note of the fact that such change—however painful at first—is able to occur.

This sort of activity gives me a sense of encouragement, not that I expect some imminent major breakthroughs in any of the major public issue areas which concern me as a businessperson and an American. But because, in a larger sense, it indicates that Americans are recognizing the fact that we all have a stake in the resolution of the major issues of today . . . and that we have very little time remaining to sit around and point fingers of blame . . . and that through sincere efforts of utilizing our network of free institutions we can achieve solutions, make compromises or at least ameliorate the harmful impact of many current trends.

This is the time, it seems to me, to more fully mobilize the inherent strength of our local and national institutions. At the risk of appearing overly dramatic, I call on you in this regard, upon your return home, to give serious consideration to your own involvement in this process.

As I have indicated, there is a cadre of people in Washington who would welcome your ideas and expressions of concern and assistance. Unfortunately, there are also many legislators and agency personnel who are not yet convinced that the situation in government is serious nor that anyone out there west of the Potomac really gives a damn about their government's conduct.

As a leader in your community and in the agribusiness industry, your voice will not only be heard, it will be forceful and, through your usual degree of diligence and hard work, you can be effective.

I invite you to join in this effort. I can think of no more important use of our time and personal energy. The future of the private enterprise system and, with it, much of the quality of our nation's future are at stake.

It is time that we, as business leaders, transcend our immediate day to day problems and begin to focus on the future.

It is time we acknowledge that we cannot and should not depend on "the other guy" to do it for us.

It is time we get serious with ourselves and our legislators about setting clear goals for governmental reform.

It is time we stop talking and start doing in Washington and across the land.

"Now is the time."

Thank you.

THE GAS LINES MAY BE JUST AS LONG NEXT TIME

Mr. PERCY. Mr. President, last summer's gasoline lines today are only a memory, but the question of what caused them remains. A recent series in the Chicago Sun-Times points out that panicked customers, shortened station hours and oil companies' inventory policies each played a part in creating the lines. But they were not the only culprits.

According to Thomas J. Moore, a reporter for the Sun-Times, the Department of Energy failed to plan ahead for the shortage, so that when the crunch finally came, the DOE was unable to do much about it. I agree with Mr. Moore's assessment.

The Permanent Subcommittee on Investigations, of which I am ranking minority member, recently held hearings on the DOE's gasoline allocation program, which is our Nation's first line of defense against a gasoline shortage. We were told that, far from easing the shock of the shortage, DOE's hasty, ill-considered actions actually made the gas lines worse. Witness after witness told of DOE's inattention to the threat of energy emergencies.

Mr. Moore concludes:

> That threat is not going to go away. The oil industry and the federal government ought to get together to improve contingency planning so they can handle the next crisis better than they did the last one.

I thoroughly agree. In my view, two of the DOE's most important responsibilities are to plan for energy emergencies and to manage those emergencies effectively when they do occur.

Mr. President, I ask that the final article in Mr. Moore's series from the Chicago Sun-Times of July 31, 1980, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GAS PINCH—KEY QUESTIONS ANSWERED

(By Thomas J. Moore)

This series has examined the problems of "the new world of oil" that began to emerge early last year after oil production halted for two months in Iran. These articles conclude with some key questions and answers.

Q: Were the gasoline lines artificially created by the oil companies?

A: Substantial quantities of gasoline that could have been made available to consumers were not. The crisis was in no sense faked. The reason why gasoline deliveries were reduced varied by company. Some simply didn't have gasoline. Some had gasoline at the time and feared a future shortage. Still others must have calculated that it was to their benefit to keep a large stock.

Q: Did the oil companies conspire to hold back the supplies?

A: From the evidence available so far, it doesn't look that way. Each company seemed to be out for itself, scrambling to get all the crude oil it could. Some were much more successful than others.

Q: If the companies didn't conspire, why did nearly all cut back supplies in May, June and July?

A: That remains one of the most disturbing facts about the gasoline crisis. With a few exceptions, the large oil companies uniformly reduced supplies available in those three months, although their stockpiles and access to crude oil differed substantially. Both before and after that period there were larger and more logical differences in the amount of gasoline each company supplied.

Because the monthly supply decisions are publicly announced, there was no need for any conspiracy. It was clear from reading the trade newspapers that the major refiners were cutting back.

Once it was evident that we were going to have gas lines, it may have been difficult to buck the trend. A firm that advertised that it had plenty of supply might find some of its gasoline given to a competitor, or motorists might flock to its stations and quickly drain away those extra gallons of gasoline. The safe thing to do in a crisis is hunker down and hold on to supplies. It is not clear where playing it safe ends and hoarding begins.

Q: How does the oil industry explain what happened?

A: The American Petroleum Institute, the trade association of the large oil companies, thinks differently. Here is a summary of its explanation:

Supplies were reduced somewhat by the Iranian revolution but probably not enough to cause gasoline lines. The lines were caused by a combination of consumer panic and the Energy Department.

Consumers became alarmed and got into lines to top their tanks unnecessarily. Gasoline stations began to shorten hours as supplies ran low, which made the gasoline lines worse.

The Energy Department allocation program forced the oil companies to ship gasoline to where it was not needed and prevented them from sending to where it was in demand. Finally, price controls prevented the free market from distributing the supply.

Q: What's wrong with this explanation?

A: We should be skeptical of an industry trade association that finds government and consumers at fault and its own members completely blameless.

There are elements of truth in the API analysis but the thrust of this series was that the prime cause of the crisis was that the oil companies did not deliver enough gasoline.

Q: Who is really to blame for the gasoline lines?

A: One of the reasons we got so few convincing explanations last summer is too many people were trying to find someone to blame and not enough were trying to find answers.

The Sun-Times inquiry does not find any villains. It found a series of mistakes that resulted in a shortage that should not have occurred.

The oil companies held on to too much gasoline. In part they were worried about supplies, but they also had to notice a tight market keeps prices moving up. They may have miscalculated how much rising prices would reduce demand.

The Energy Department was either unwilling or unable to get the gasoline out of storage tanks and on the market.

When the shortage began, some consumers made a bad situation worse. As time passed, and with the help of odd-even rationing and minimum-purchase rules, citizens learned how to avoid most of the lines.

Q: Can anything be done to prevent another crisis?

A: This country imports 42 percent of its oil. Much of it comes from remote and unstable regions of the world. Alternative energy in quantity is unlikely to be available much before 1990.

Between now and then Americans face a period of high vulnerability in which a shortage could occur at any time that would make last summer's lines seem like a pleasant memory.

That threat is not going to go away. The oil industry and the federal government ought to get together to improve contingency planning so they can handle the next crisis better than they did the last one.

THE 19TH AMENDMENT

Mr. DeCONCINI. Mr. President, on August 26, 1920, the 19th amendment to the Constitution received final certification and over 26 million women gained the right to vote. Today, on the 60th anniversary of women's suffrage, we rededicate ourselves to the goals of the early suffragettes for equal rights for all citizens.

The women's suffrage amendment was neither the beginning nor the end of a long struggle for equal rights for women. Today we are still seeking to insure, constitutionally, that all American women have the equality of opportunity. Today there are over 80 million American women of voting age; women comprise over 40 percent of the American work force; and, yet, for every $1 that an American man earns, an American woman only earns 59 cents.

The official beginning of the suffragette movement in the United States was in 1848 at the first convention for equal rights for women held in Seneca Falls, N.Y. That convention, led by Elizabeth Cady Stanton and Lucretia Mott, concerned themselves with the abolition of slavery, voting rights for women and blacks, and equal rights under the law for all citizens of the United States. It was 20 years before the first amendment was introduced into the Senate calling for the vote for women and another 52 years until women's suffrage was attained through the 19th amendment. Three years later, the Equal Rights Amendment was introduced into the Congress. Yet, it was not until March 22, 1972, that House Joint Resolution 208, the Equal Rights Amendment, received final congressional approval.

During the past 8 years, much has been accomplished toward final ratification of the amendment; much remains to be done. I joined the majority of my Senate colleagues who voted for extension of the time limit to ratify the ERA, but now time is running short. June 20, 1982, is the deadline for ratification; 35 States have ratified the amendment and 3 more are still needed.

I am committed to achieving ratification of the ERA. I have encouraged the legislature in my own State of Arizona to expeditiously complete ratification of the ERA; I ask my colleagues to do the same. The Equal Rights Amendment may be one of the most important pieces of legislation of the 1970's, and we cannot afford to let it die.

I recognize that the ERA will not solve all the problems of inequity facing American women. Problems of equal pay and equal opportunity will not be solved overnight. The Congress and State legislatures need to deal with many difficult issues including education, training and child care for working mothers. However, the ERA is the cornerstone for finding remedies. The ERA will provide a constitutional foundation for solving the problems of all women whether they be homemakers, working mothers, single women or retirees. Perhaps most importantly, the ERA will provide the logical conclusion to the Declaration of Independence: "We hold these truths to be self-evident that all Men and Women are created equal, that they are endowed by their Creater with certain unalienable Rights, that among these rights are Life, Liberty, and the Pursuit of Happiness."

I believe that the early suffragettes would be shocked to see that, in the 132 years since Seneca Falls and the 60 years since ratification of the 19th amendment, there is still no Equal Rights Amendment in our Constitution. Let us commit ourselves to seeing that in the 1980's, equality of rights under the law shall not be abridged on account of sex.

ADDRESS BY DR. GEORGE DURST

Mr. THURMOND. Mr. President, Dr. George Durst, a distinguished South Carolinian and a fellow alumnus of Clemson University, recently delivered an outstanding speech at the 50th anniversary of the graduation of the class of 1930.

In his speech, Dr. Durst, discusses the remarkable advances our country has made in the last half-century and stresses the importance of a strong national defense in what he terms the "real world."

Mr. President, in order to share this speech with my colleagues, I ask unanimous consent that it appear in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address of Dr. George G. Durst

Class of 1930!!! 50 years!!! I don't believe it!!! Our crowd of classmates have been acting like a bunch of sophisticated sophomores even since we got here!!!

When we were students, there was the happy rumor that Winthe was going to be moved to Clemson and put on Hotel Hill!!!

That was like the one about the ice cream refrigerator breaking down in the dairy building—with free ice cream available for all!!!

So what happens?—We came back yesterday and found ourselves, of all things, put on Hotel Hill—in a women's dormitory!!!

This supreme irony!!! Reminds us of that old cartoon "Born 50 years too soon."

This is a time for nostalgia and bittersweet memories!!!

What an era in which we have lived!!!

Our childhood memories reach back to the times when the principal personal transportation was by shoe leather or horse or mule; over dusty or muddy roads. We came to Clemson when the Model T Ford was in its glory and when we left, some of the roads had been paved, and the Model A Ford had replaced the Model T.

We've seen the miracle of transportation go on into rockets and incredible trips to the moon.

We've seen medical science; from the days of iron quinine and strychnine; to penicillin, polio vaccine and open heart surgery.

Plant breeding—has realized the age old dream of growing two ears of corn where one once grew. One of our own classmates, the late, noted Dr. W. C. Barnes is credited with developing, at the Clemson Coastal Experiment Station, new and much improved strains of cucumbers that now account for seventy per cent of those grown throughout the world!

We've seen communications go from the telegraph, morse code and the hand cranked telephone with "central" asking for "number please"—to radio, television, computer technology and communication satellites.

The production of energy; From the water wheel and wood or coal fired steam engines to the miracles of atomic power.

I hold a vivid memory of one of our Clemson professors telling us that there was—if it only could be released, enough energy in a teaspoonful of atoms to propel an ocean liner across the Atlantic. That prophetic statement has been called to mind many times as we have seen the wonderful developments and applications of atomic energy.

The use of this great source of badly needed energy must not be limited by narrow minded and ill informed obstructionists!!!

There have been no deaths from commercial atomic power plants! ! ! However, we of the class of 1930, can remember many fatal steam boiler explosions in the saw mills and cotton mills of our youth.

I repeat—what an era in which we have lived! ! !

We came to Clemson only seven and three quarter years after the end of World War I, and we left here only nine years before the outbreak of World War II.

Our Clemson training served us and our nation well. We had the training and maturity to become mostly field grade officers during that war. I'm sorry I don't have more specifics, but I know our class had at least six full Colonels, one Brigadier General and one Major General. It's dangerous to attempt to say more because I'm sure too much would be left out. Perhaps, before it's too late, someone in the history department here, working for an advanced degree, will do, as a thesis, a study of the contributions of Clemson men in the defense of our nation. It would make indeed a very proud story! ! !

Memories of Clemson days! ! !

Our Freshmen shaved heads! ! !—Hazing!—Some hazing helped us to develop the self control and self discipline that later stood us in good stead in tough situations during war and peace.

Our class was included in the last two trips by the Corps of Cadets to Columbia, there to pitch our pup tents on the State Fair Grounds!!! That was a never to be forgotten experience!!! The State Fair—The Midway—The Steel Building, seeing friends, family and politicians everywhere—Big Thursday!

We beat Carolina all the three years our classmates were eligible to play varsity football—and what celebrations!!!—including a memorable snake dance down Main Street in Columbia.—This could properly be called the beginning of the growth of Clemson football into its present greatness; for it had been in decline from the days of Coach Heisman until then.—Two of our classmates were kept on at Clemson and helped coaches Neely and Howard to develop the great teams that first won national recognition in the Cotton, The Sugar, The Orange and The Gator Bowls.

Other cherished memories!

What a dream land the talented student artists created of the old wooden gymnasium for our dances, and the flock of beautiful girls coming to the dances!!—break dances—one was introduced to and expected to dance with, those ladies from all over the state and beyond.

We remember the summer R.O.T.C. Camp. Most of us crowded into second hand Model T Fords and made a disorganized caravan through Atlanta and on to Anniston, Alabama and Fort McClellan.

We came to Clemson four hundred fifty freshmen. Four years later one hundred seventy-five graduated. Many had fallen out for financial reasons. The 1929 stock crash took a terrible toll! Finishing; we were faced with the great depression of the early 1930's! That's when the Clemson instilled overall training and character building stood out!!!

On entering we all had high dreams of making a million dollars. The Class of 1930 has done very well in that respect. I don't know how many could now be classed as such, but I do know of several bonafide millionaires from our class—(If the present rate of inflation continues, we all may become technically millionaires, but our millions won't be worth much!!!)

Our Alumni Office informs me that records show that we have had twenty-five ranking executives in business or industry, fifteen have been career military men, eleven teachers at colleges or technical schools, many others own their own businesses or farms; we've had three physicians, and one attorney, many have been elected or appointed to high offices or positions in government. Previously mentioned are two who served our Alma Mater as coaches.

Our class has actively supported the Athletic Program, The Clemson Alumni Association, and through the Alumni Association the Academic Programs, (I have just learned of a gift amounting to more than one quarter million dollars received by the Alumni Association from one of our classmates). Four of our members have received the Alumni Distinguished Service Award—the Alumni Associations highest award—one of our members has served as National President of the Alumni Association.

We are proud of the continued progress made by our Alma Mater under the far sighted vision of Thomas G. Clemson and all those leaders who have followed him.

So, I bring you Greetings! and a Challenge! from the Class of 1930!!

Members of our class have been through great and terrible adventures since we left.

The great depression! with its Bread Lines! Bank Failures! and Mortgage Foreclosures!—We know something of unemployment and social problems!!

We have seen formerly great nations defeated, demorilized, and their whole social structures disrupted!!

We have seen unspeakable conditions existing among people whose homelands were subjected to enemy occupation!!

The evil tragedy and the terrors of prisons, concentration camps and gas chambers we have also witnessed!!

We know something of war and what war means to nations and people who have been defeated!!!!

Unfortunately, there are today those in high places debating about moneys spent on Military preparedness versus various social programs.

My classmates who for fifty years have been out in the real world and literally on the firing lines join me in bringing one message!!!

There can be no security!!! no welfare!!! no social programs!!! for our richly blessed Nation in the real world as it exists today without our first—making all the needed sacrifices to be fully prepared—with both the means and the determination to defend ourselves and our way of life!!!!

THE NEED FOR A REVITALIZATION OF AMERICA'S ECONOMIC POWER

Mr. THURMOND. Mr. President, much has been said in recent months, even by President Carter, that our Nation is in an irreversible economic and political decline. I reject this thinking, and I believe the American people also reject it.

While there may be periods in our history when we experience economic or political setbacks, our ability to overcome these problems should never be doubted and our determination to remain the greatest and strongest Nation in the world should always be pursued.

Mr. President, in this connection, a recent editorial entitled, "A New Social Contract" appeared in the August 6, 1980 issue of the Aiken Standard newspaper. This editorial addresses these issues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A NEW SOCIAL CONTRACT

The new by-phrase "reindustrialization of America," to which Democrats as well as Republicans now pay ardent lip-service, is ideal for this campaign year. Even though it is imprecise, it sounds good and serves well the candidate who wishes to bid for the simultaneous support of labor and business management. For, "reindustrialization" is a broad term that covers the country's economic malaise, recaptures the image of the past when U.S. industry ruled supreme, and calls for an industrial reformation.

We shall hear much more about "reindustrialization" and not merely from the politicians. This spring, Harvard University and the New York Stock Exchange jointly sponsored the First Conference on U.S. Competitiveness to examine why Japan, and not the United States, is the most dynamic, most technologically competitive, best managed economy in the world. The conference observed that the decline in U.S. economic power is a major factor behind the lack of U.S. dominance in the councils of the world—a dominance that was once taken for granted.

We find a sure storm signal in the falling rates of U.S. productivity. Japan and Germany are consistently outstripping the United States in economic productivity. While U.S. manufacturing growth has dwindled to 1.6 percent annually, the growth rate for Japan and Germany has steadily increased to about 5 percent. Output per manhour has actually declined in some key U.S. industries during the last decade.

The United States is still the world's most productive society, but the trends are going the wrong way. Last year, the American share of manufactured exports worldwide declined to 15 percent compared to a new high of 21 percent for West Germany.

Ironically, while the output of U.S. workers, compared with world rivals, has been declining, the hourly wages for U.S. workers have soared much faster and higher than those in any other nation.

Appropriately, the Harvard-Stock Exchange conference recognized the destructive role of the federal government: tax laws that discourage saving and investment, paralyzing costly overregulation, and incoherent trade policies and export strategies. But the conference took an equally hard look at U.S. corporate management that has presided over declining auto, steel, shoe, textile, and other stricken industries.

Richard W. Kopcke, an economist with the Federal Reserve Bank of Boston, places about half the blame for slumping U.S. productivity on slower capital accumulation and plant modernization caused partly by mismanagement but largely by faulty taxation and rising inflation rates. In any event, the miserable results can be seen in a weakened dollar and larger and larger trade and payments deficits.

Most economists agree the OPEC price increases have not helped, but cannot be blamed primarily for declining U.S. productivity. After all, this country produces about half of its oil requirements compared with Japan and West Germany that must import all of theirs.

What to do?

In a recent and exhaustive analysis of this problem by the magazine Business Week, it was suggested that the time has come for cooperation rather than confrontation among America's three big partners: labor, business, and government. This would embody in a "social contract" not unlike the close economic-government relations existing in Japan, West Germany, Brazil, Mexico and South Korea.

Business Week makes the point with which we agree, that the first initiative for this must come from business and labor because neither Congress nor the Administration is capable of providing the leadership necessary for a "reindustrialization of America." Leaders of the various economic and social groups should strive without delay, therefore, for a consensus of what is needed and present this agenda to Washington.

The basic immediate problem is that much of the country's corporate leadership has been shaken and demoralized into accepting the U.S. economic decline as inevitable. The first order of business, then, is for America's business and labor leaders to regain their confidence and to reasert the old Yankee traits of ingenuity, trading, and work ethic that have provided this country the highest standard of living anywhere in the history of mankind.

U.S. FOREIGN POLICY AND IRAN

Mr. THURMOND. Mr. PRESIDENT, America has changed its direction in foreign policy so often in recent years that our allies no longer look to us for leadership.

This lack of policy direction could be related to our continued renunciation of the use of force even from a contingency planning standpoint. The recent adverse reaction by the administration to the statement by Republican Presidential Candidate Ronald Reagan that our effort in Vietnam was "a noble cause" is a symptom of the administration attitude which fails to even use our military power as a policy tool in dealing with various Communist advances. It seems that the administration still suffers from what some have termed the "Vietnam Syndrome."

This attitude may have unnecessarily prolonged the Iranian crisis as we telegraphed to the revolutionary leaders there that they need not fear any military action on our part.

In connection with this new policy, I commend to the attention of my colleagues a recent article written by Jeffrey B. Gayner, Director of the Washington-based Heritage Foundation. This article appeared in newspapers throughout the country, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IRAN AND THE "VIETNAM SYNDROME"

(By Jeffrey B. Gayner)

The continuing Iranian débâcle has understandably generated considerable despair and frustration. But the latest episode in this seemingly endless crisis—the disastrous rescue attempt—could have the positive effect of generating the kind of serious evaluation of US policy that has been smothered in the silence that non-partisanship and the carefully controlled non-flow of authoritative news has until now dictated.

It is possible, therefore, that the failure of the rescue mission can provide the impetus to rescue us from the Administration's naive missionary policy which has been so long on moral rhetoric, but so short on resolute action.

The refusal of the Carter Administration to use or even acknowledge the relevance of armed force in international relations has, time-and-time again, led to never-ending negotiations and eventual acommodation to adamant adversaries. Such a line runs from the Panama Canal treaties to recongnition of communist China, the Rhodesian embargo to aiding Nicaraguan Marxists, accepting Soviet bases in Cuba and SALT agreements, and now to the Iranian revolution and the Afghanistan invasion.

Consider the resignation of Secretary of State Cyrus Vance. The Secretary has understandably aroused enormous sympathy as a thoroughly decent and honourable man who quit as a matter of principle. But the principle at issue obviouly reveals the essence of the failure of our foreign policy over the past three and a half years. Vance, and innumerable other key figures at the State Department and in the Administration, suffer from an apparently incapacitaing Vietnam syndrome concerning the use of force.

Ironically, Vance resigned over the use of what now appears an incredibly modest force for the limited purpose of freeing American hostages. Quite possibly limiting the rescue mission to so few men and little equipment contributed to its ignominious demise in the desert. Yet even 90 men and eight helicopters challenging Teheran led Vance to fear a possible escalation eventually inviting Soviet retaliation. The division in the Administration concerned this level of risk taking.

The object lesson of contrasting the Soviet and American positions on the use of force become gruesomely clear in Afghanistan. While we sent 90 men to Teheran, the Soviets ordered 90,000 men to Kabul and violently overthrew the existing government.

Tens of thousands have died and hundreds of thousands have fled the Brezhnev blitzkrieg. The American response to this brutal breach of the peace has been to suggest the reinstitution of the draft and the boycotting of the Olympics—proposals that have been more divisive in the West than destructive of the Red Army's capacity to hold Afghanistan. We apparently dare not aid those fighting for their independence, although the Kremlin showed no similar reluctance to arm their proxies in South Vietnam who eventually killed over 50,000 American servicemen. Afghanistan, indeed, will become the Soviet's Vietnam—communist aggression will again prevail by military force.

In contrast, American policy in Iran has amply demonstrated our irresolution through a tortuously slow escalation of actions against Teheran.

This American campaign has lacked any compelling credibility. The U.S. obviously has the capacity to hold all of Iran hostage for as long as Khomeini's terrorist squad hold Americans hostage. Instead of immediately cutting off food and other supplies destined for Iran, we waited long enough for Teheran to find alternative sources. We waited weeks before even closing down Iranian consulates around the United States and fully five months before ousting the Iranian diplomatic corps; and now we protest to Europeans for 'foot dragging' by waiting five weeks to impose sanctions on Iran. We noisily called for the deportation of Iranians residing here, but we now find that immigration officials have timidly allowed even more of Khomeini's followers into the United States. These are the same immigration officials who are trying to stem the flow of Cuban refugees from Castro tyranny.

The actions the U.S. has taken lack credibility in Iran and around the world. Just as the painfully slow escalation of the war in Vietnam ended in disaster, so also the snail's-pace escalation in Iran has only reinforced our adversary's perception of the lack of resolve by the United States to defend its vital interests.

We have not learned yet that in an increasing number of instances patience is not a policy but a substitute for tough decisions.

We casually watched the Shah and his successors fall as we hoped for the best; this watchful waiting policy has continued to the present. The alleged complexity of the world has apparently incapaciated our leaders from sensing basic realities. Some effective middle ground of action must exist for the United States to take between the Soviet's sledgehammer approach to problems and our amorphous ambivalence.

The sooner we find that middle ground, the better.

THE DEATH OF MRS. JENNY C. CHILDS

Mr. THURMOND. Mr. President, recently, the Republican Party of South Carolina lost a dear and devoted employee to cancer.

Jenny C. Childs, from Chapin, S.C., passed away on August 4, 1980, after a short and unexpected illness.

She had been active in State and local politics for many years. She had worked for the South Carolina Republican Party for over 4 years, and had served two terms as president of the South Carolina Federation of Republican Women.

She was born in Pickens County and was married to Thomas L. Childs of Chapin. She was a member of the Chapin Baptist Church.

I had known Jenny for many years. She was an outstanding lady who well served the public and her country.

Jenny was dedicated and sincere in everything she undertook. She served the Republican Party unselfishly in many capacities. She was an inspiration to those around her.

My heartfelt sympathy is extended to her husband, Tom, and to her children. Mrs. Linda McClary of Irmo, and Capt. Thomas Michael Childs, stationed in Germany. I know she will be sorely missed.

Mr. President, in order that I might share an article from The State newspaper in Columbia, S.C., and two statements from the South Carolina Republican Party, about this fine lady, I ask unanimous consent that these be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

[From the Columbia (S.C.) State,
Aug. 4, 1980]

MRS. CHILDS, POLITICIAN

Mrs. Virginia Cantrell Childs, 49, wife of Thomas L. Childs, of Chapin, died Sunday at Baptist Medical Center.

Born in Pickens County, she was a daughter of the late Carl F. and Mae Bell Dorsey Cantrell. She was a member of Chapin Baptist Church.

Mrs. Childs, active in local and State Republican party activities, served two terms as president of the South Carolina Federation of Republican Women.

Surviving are her husband; a daughter, Mrs. Linda McClary of Irmo; a son, Capt. Thomas Michael Childs, stationed in Germany; a sister, Mrs. Kathleen Cantrell Powell of Pickens; two brothers, Virgil Charles Cantrell of Pickens and Franklin Cantrell Jr. of York; and a granddaughter.

The family suggests that those who wish may make memorials to the American Cancer Society.

Plans will be announced by the Dunbar Funeral Home.

REPUBLICAN NATIONAL COMMITTEE,
August 8, 1980.

MEMORANDUM

Re Jenny C. Childs Memorial Fund.
To State GOP Leadership.
From Beverly Gosnell, National Committeewoman.

The South Carolina Republican Party lost a close and dear friend and worker this past weekend in the passing away of Jenny Childs.

Jenny was an inspiration to us all. Always working to make her Party grow, she developed the love and respect of everyone she came in contact with.

To best remember Jenny and her devotion to the Party, a Memorial will be established in her name. A committee will be named to determine the best use for this memorial (such as an Intern Program or perhaps a Scholarship Program). This Memorial will be continued year after year and is completely separate from the S.C. Republican Party Finance Program.

In the meantime, if you wish to contribute please send your gift to the Jenny C. Childs Memorial Fund to my attention, in care of S.C. Republican Party, P.O. Box 5247, Columbia, S.C. 29250. The money will be deposited into a savings account. You will receive further details once the Committee is established and has met.

Jenny's love for all will live in our hearts forever.

SOUTH CAROLINA REPUBLICAN PARTY,
August 1980.

JENNY CHILDS
1931–1980

With deep shock and sorrow the S.C. Republican Party notes the untimely loss of a dear friend and faithul worker, Jenny Childs.

Jenny served the party in many capacities at all levels—most recently as full time Receptionist in state party headquarters and as the immediate past President of the S.C. Federation of Republican Women. Her friendly disposition and genuine concern for all people with whom she worked made her a well known and beloved Republican leader. Her enthusiasm for and dedication to the success of the party and its candidates will be sorely missed. Our heartfelt sympathy is extended to her husband Tom, and children, Mike and Linda.

Jenny, "May the Lord Bless you and keep you and make his face to shine upon you, now and forevermore." Amen

TIME TO REESTABLISH A REASONABLE DISTRIBUTION OF POWER BETWEEN THE STATES AND THE FEDERAL GOVERNMENT

Mr. MORGAN. Mr. President, once again I rise to express by deep concern over the continuing trend to imbalance the relationship between States and the

National Government in favor of the latter. The authority of the States is being eroded to a degree that raises serious questions about the functioning of federalism today. Many regulations, court decisions, and congressional actions appear to challenge the very foundations upon which this Nation was built.

The Founding Fathers created a carefully layered system of separate units with specified functions. In order to maintain this constructive and productive relationship, Hamilton and Madison enjoined the Congress to ask "Is this legislative proposal an appropriate function for the Federal Government?" Unfortunately, in our haste to impose national standards, in our sincere attempt to let righteousness flow from Washington, we have largely disregarded the question posed in the Federalist Papers. The tenth amendment which reserves unlisted powers to the States and the people has become, as is often said, a hollow shell. It is our obligation, Mr. President, to insure that this situation is corrected.

I have no doubt, Mr. President, that the Congress is a major culprit in the process of diluting what was once a positive and reenforcing federalism. We passed grant programs without determining whether a national solution was required. In some cases, we expect actions on part of the States and local governments without providing the necessary funding. In other cases, we are by-passing State governments all together when dealing directly with cities and local communities. It is no wonder that the Advisory Commission on Intergovernmental Relations refers to us as "Congress plays municipal and county council almost as often as it acts as a national deliberative body." We must not allow this impression to continue to exist.

For this reason, Mr. President, I am pleased to note that the States, through their Governors, are forcefully beginning to reassert the authorities that once belonged to the States. When the National Governors' Association met in Denver in early August, a strong plea was made for a fundamental reassessment of the relationships between the Federal, State, and local governments. Such a reassessment is long overdue; I strongly support it, and I am convinced that it will strengthen our system of government.

Many excellent statements were made by the participants, and new ideas on federalism advanced which I would like to share with my colleagues. Governor Otis Bowen from Indiana, the past chairman of the association, makes an urgent plea for a greater reliance upon the States which have "modernized their constitutions, streamlined their administrative structures, and vastlv expanded their fiscal powers." The drift toward centralized bureaucratic rule cannot continue, and States must be permitted to assume their rightful place in a constructive partnership.

Mr. President, I ask unanimous consent that excerpts from a speech delivered by Governor Bowen be printed in the Record.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Gov. Otis R. Bowen, Indiana

What I have enjoyed most about our meetings is the opportunity to debate and seek agreement on the great issues that face our nation from a perspective that is more fundamental and more enduring than that of partisanship.

Woodrow Wilson, who was a great scholar as well as governor and president, once wrote that "the question of the relation of the states to the federal government is the cardinal question of our Constitutional system. At every turn of our national development, we have been brought face to face with it, and no definition either of statesmen or of judges has ever quieted or decided it. It cannot, indeed, be settled by the opinion of any one generation, because it is a question of growth, and every successive stage of our political and economic development gives it a new aspect, makes it a new question."

Today, it is indeed a new question, and one that is full of hazards and opportunities for the states. For events in Washington and in the world in just the last 12 months have made it evident that we stand at what Wilson called "a new turn in our national development."

It is clear, for example, that we are in the midst of a shift in federal resources away from domestic programs and toward policies designed to insure our national security in an increasingly dangerous and unstable world.

It is also clear that Washington has changed the terms of the partnership that was envisioned during the dramatic growth of the intergovernmental aid system in the 1960s and that was symbolized for many of us by the enactment of the general revenue sharing program in 1972.

That partnership was based on mutual respect and trust, on a sharing—not only of revenues but of responsibilities, on a conviction that by joining together, federal, state, and local governments could improve the material well-being of our citizens while preserving to the maximum degree their right to self-government.

Although the intergovernmental partnership is functioning reasonably well in a number of areas, the signs of change are not difficult to find:

The federal aid system has become more fragmented, not less, since 1972, more subject to special interest group pressure and bureaucratic whim and less responsive to the commonsense judgements of elected political leaders.

While federal aid has declined, federal rules and red tape have grown, as Washington has sought control not only of its funds but of ours. It is now obvious that in many programs the federal government's policy voice far exceeds its financial commitment.

The expansion of programs through which the federal government deals directly with tens of thousands of local governments has undermined the ability of the states to coordinate resources in traditional policy areas and has made many cities dangerously dependent on federal aid.

The rising federal tax burden, which this year will reach 22 percent of GNP, the highest level since World War II, has not only failed to balance the federal budget but is eroding public support for all domestic spending and foreclosing the fiscal options of state and local governments.

Finally, the Governor's recommendations for achieving budget restraint through increased flexibility and lower overhead costs, which we made in December 1978 at a time when virtually all others were demanding higher spending, have been ignored. Instead, when the budget was resubmitted in March, a disproportionate share of the cuts came in the form of an unprecedented breach of commitments to flexible federal-state partnership programs—revenue sharing, LEAA, welfare reform, highways, economic development, preventive health and others. . . .

The new economic, fiscal, and political realities confronting the nation demand a new response from the states, a response that is more aggressive, more independent, more skeptical of federal power . . . a response that I believe should be based less on revenue sharing than on revenue keeping.

One approach to revenue keeping—and there are many others—is to secure the enactment of a federal tax credit for a portion of state sales and income taxes. Through such a tax credit, the states would have more room to raise their own resources in order to meet—at lower cost and more efficiently—the important needs which they have defined, and to assume responsibilities in areas where the federal government is performing poorly. Such a tax credit would reduce the growing imbalance between federal and state revenues—now 22 percent of GNP compared to 7 percent—but still enable the federal government to meet important national objectives.

It would circumvent not only the worst features of an unnecessarily complex and inefficient grant system but also the entrenched alignments of special interest groups that pervade our nation's capital.

Such a change in the federal tax code also could be progressive, granting relief not just to the well-off who now claim state and local taxes among their itemized deductions but to low and moderate income families who do not itemize.

We should not delude ourselves that persuading the Congress to make such a change will be an easy task, but neither should we underestimate our constitutional and political powers to bring about constructive change.

One thing is clear: whatever direction we decide to pursue, the time to act is now. We cannot afford to pass by this "new turn in our national development" and allow the drift toward centralized bureaucratic rule to continue.

Let us therefore say to whoever is elected this year to the Presidency and the Congress: "We, the nation's Governors, pledge to work cooperatively with you to meet the needs of our people. But in their name and in their interest, we demand of you a commitment to a partnership worthy of the name."

Mr. MORGAN. Mr. President, another eloquent statement was made by Governor Richard Snelling of Vermont who points to the bureaucratic nightmare that has been created by Federal assistance. State revenue sharing has been eliminated this year and with it much of the flexibility that existed in fiscal cooperation. Block grants, once given for broad purposes, have now become more and more restrictive, and categorical grant programs are still overburdened with conditions and controls. Perhaps it is time for a more clearly delineated division of fiscal responsibilities?

Mr. President, I ask unanimous consent that excerpts from a speech delivered by Governor Snelling be printed in the Record.

There being no objection, the excerpts

were ordered to be printed in the RECORD, as follows:

Governor Richard A. Snelling, Vermont

What we call American federalism today is far from the delicately balanced intergovernmental relationship dreamed of in Madison's day. Today the Federal system is not really Federal; it isn't even systematic. The textbook distinctions between State and Federal interests have been blurred by the evolution of the Federal grants-in-aid system, now consisting of almost 500 separate programs, and States and local governments have lost much of their own identities, becoming more like "sub-national units" than independent members in a Federal system.

Some programs in the grants system are "entitlements" to States but for the purpose of carrying out Federal mandates. Some are "optional" grants, available to States and municipalities on an annual basis. But all provide a common problem—they are part of a system that is fundamentally disorganized, overregulated and bound up in a twisted mess of good ideas and missed opportunities. The Federal presence in State and local governments does not even resemble the concept of federalism held by American political leaders a generation ago . . .

Things have changed enormously in the last twenty years. Now 4 out of 10 State and local employees are actually Federal employees in disguise, marching like a secret army to the guidelines and regulations of Washington. Now almost 25 percent of the budgets of State and local governments are Federal tax dollars, recycled and restricted and guarded by serious penalties for noncompliance with even minor details. The grant-in-aid system cost 83 billion dollars in fiscal year 1979 alone, and accounted for 17 percent of the total budget of the U.S. Government. . .

When the grants-in-aid system began to take shape almost fifty years ago, it came as a reaction to the fiscal and administrative limitations of State and local governments, when America was in the midst of the great depression. The Federal Government assumed the burden of need the States could not afford, because the States had legal limits to their capacity to carry debt and the Federal Government had few apparent objections to deficit spending. And after all, only the Federal Government can print money and expand the money supply. Curiously enough, many of the program designs originated in individual State programs first—unemployment insurance in Wisconsin, food stamps in Vermont, for instance.

Once the programs became federalized, however, Washington decided that State and local governments needed detailed regulations and guidelines to insure accountability and uniformity in the administration of these programs. The States and municipalities, it was argued, were not as sophisticated or as capable of implementing Federal goals by themselves, without the firm leadership of the Washington bureaucracy.

Today those roles are reversed. Today the Federal Government stands in critical need of greater accountability, because of its failure to control Federal spending, while the States, on the basis of their wide experience with grants administration, have become the more efficient and effective government operation. States today are better at fiscal management, targeting resources, and planning for the future than the Federal Government, which now stands as the worst example of uncontrolled growth and bad management in the intergovernmental system.

In the last decade or two, some efforts toward reform have been tried, but without lasting success. Block grants, offering State and local governments more flexibility in determining priorities and designing programs, were invented in the 60's, but have always been limited to a small percentage of the full grants budget. Some State and local leaders were suspicious of the idea of block grants at first, fearing that they were certain opportunities for Federal grants cutbacks.

Even those block grants that were acclaimed as offering States and municipalities greater freedom were not always administered in that same spirit. The language in the HUD community development block grant, for instance, describes a smorgasbord of activities cities can undertake, but Federal administrators of this program have actually restricted its use almost entirely to housing programs.

The history of the last decade of Federal reform has not been very inspiring. The next logical step for the grants system would have been to look for innovative ways to restructure and streamline existing grant programs, but instead Congress has consistently reverted to its old habit of enacting narrow, categorical grant programs, trussed up with the usual conditions and controls so familiar to the States and local governments over the years. Overall the system continued to grow ever larger and more cumbersome, until it reached its high water mark in 1978. 1978 was the year "fiscal restraint" entered the political vocabulary.

1980 will be remembered, among other things, as the year the State share of revenue sharing died. If a eulogy were to be given, it would rank this program as one of the best in a series of attempts to rationalize the federalist system. It was only eight years old when it succumbed to budget-balancing fever. The Congress killed it, with some help from the President. It was easy, almost painless, to strike the 2.6 billion dollars from the budget, in the name of a pseudo-balance.

Revenue sharing was Federal money without strings. It was the largest domestic program ever enacted by Congress, and it allowed States the discretion to put the funds where the States thought the money would do the most good. Administration of these funds cost only one-twelfth of 1 percent of total funds granted, compared to the 12 to 17 percent most categorical grant programs expend on administration. It was a first step away from the rigid, time-consuming and wasteful grant system, although many Members of Congress were never comfortable with the trust it reposed in the States.

This lack of confidence has always seemed ill-founded. The States and cities, by almost everyone's admission, have used the money wisely, for projects as diverse as property tax relief, community improvement, and the extension of necessary services to needy people formerly without hope and opportunity under the present grants system.

State revenue sharing was cut from the budget, in lieu of the broad structural reforms called for by the condition of the present grants system, in part because of the strong forces arrayed against reform. ACIR has identified an iron triangle—consisting of Members of Congress and their staffs, Federal employees and special interest groups—devoted to maintaining the status quo, for the sake of its own survival.

In spite of these barriers to reform, however, dramatic change in the Federal system is now a real possibility, given the present climate of fiscal and budgetary restraint. The taxpayer revolt demonstrated that there are necessary limits to government growth. The budget-balancing process in Congress this year proved that an incremental approach to reform cannot offer us the real cost savings that system-wide reform would provide. The continuing failure of the grant-in-aid system to deliver on its promises of ever greater aid and benefits to its various constituencies is leading America ever closer to the inevitable, comprehensive and systematic overhaul the Federal system so desperately needs.

We can have a government that works, but we truly do need to rebuild the system from the ground up. We can have a system that provides broad opportunities for freedom, human growth, security and wise stewardship of our resources, if we think seriously about who knows best how to administer programs. We can have an accountable and efficient Federal system, but only if we only learn to focus on results, rather than process; on needs, rather than regulations; on people, rather than programs.

Mr. MORGAN. Finally, Mr. President, there are the remarks by Gov. Bruce Babbitt, of Arizona, which I strongly recommend to everyone's attention. He not only exhorts us "to dust off the Federalist Papers," a sentiment with which I heartily agree, but he also provides us with an agenda for action. Foremost is his demand for the States to be given a voice on Federal legislation, followed by his suggestion, first made by my predecessor Senator Sam Ervin, to clarify the method by which States can initiate constitutional amendments.

Mr. President, I ask unanimous consent that a speech delivered by Governor Babbitt be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

Gov. Bruce Babbitt, Arizona

Many modern observers believe that the states are obsolescent, headed the way of the passenger pigeon and the Edsel. Others, less pessimistic, would say that the states will always have a role, if only to administer Federal grants and carry out Federal mandates.

It didn't begin that way. The proper relation between the states and the Federal Government was a central issue in the Constitutional Convention. The extent to which the states and the Central Government should have different, sharply differentiated functions was debated extensively by Alexander Hamilton and James Madison in the Federalist Papers, the most important book on American government.

Today, however, the Federal system is in complete disarray. Congress has lost all sense of restraint. The Congress no longer even asks the question that preoccupied Hamilton and Madison: "Is this legislative proposal an appropriate function for the Federal Government?"

It is long past time to dust off the Federalist Papers and to renew the debate commenced by Hamilton, Madison, and Jefferson.

They would ask not only whether a proposal is a good program, but also "Is this a Federal function?"

They would ask, "Is it the role of the National Congress to fund programs for jellyfish control? A comprehensive program for rat control? Grants to local libraries?"

They would ask, "Is it appropriate to have a national program that buys typewriters, desks, guns and patrol cars for local police agencies across the entire continent?"

They would certainly ask how the Federal Government has come to be so deeply involved in that most uniquely local of all American institutions, the public school.

And, they would ask how we have allowed their most original creation, a carefully layered system of separate units with specified functions to become scrambled into one undifferentiated governmental omelette.

They would ask what happened to the concept of enumerated powers in Article I, and why the 10th Amendment, reserving powers to the states, is a hollow shell.

If the states are to have a future, the process of sorting out and separating must begin now. We must devise ways to unscramble the omelette and reconstitute a layered Federal system in which each level of government has its own flavor, shape and function.

I suggest several ways to begin the process of unscrambling and differentiating the roles of the state and the Federal Government.

First, each proposed Federal law should be required to contain a "Federalist footnote," an explicit explanation to the public (and to the shades of Hamilton and Madison) of why the proposal is a matter of Federal concern and why it should not be addressed at the state and local level.

I would also propose two constitutional changes. Neither makes substantive changes. Neither advocates specific social or fiscal policies. Rather, each is a neutral proposal designed to clarify and enhance the procedural role of the states in the Federal process.

The states should advocate a Constitutional Sunset process for all Federal legislation. In its essence, a Constitutional Sunset amendment would allow the states, by petition of ⅔ of state legislatures, to sunset any piece of Federal legislation, other than laws relating primarily to defense and foreign relations. Constitutional Sunset would provide a powerful check on Congress, and it would restore the state-Federal nexus lost by enactment of the 17th Amendment.

Alexander Hamilton argued in the Federalist that the election of U.S. Senators by state legislatures would be the most powerful restraint on Federal invasion of state prerogatives. With that check lost by enactment of the 17th Amendment providing for direct election of Senators, Constitutional Sunset could restore the balance.

The states should also demand congressional action on the legislation originally conceived by Senator Sam Ervin, which would clarify the method by which states initiate constitutional amendments and to remove the threat of a runaway convention. For many years Congress has paid lip service to the Ervin amendments, but failed to act. Many of us believe that Congress refuses to act because it prefers to oppose state initiated amendments by waving the bloody shirt of a runaway convention, a potential problem that it could readily resolve. If Congress refuses to legislate, the states themselves should initiate a constitutional amendment to clarify the amending procedures of Article V.

Finally, the President, the Congress, the Governors and the state legislatures should initiate a national convocation, outside the Constitutional process, to review the state of Federalism and make recommendations for action as we approach the bicentennial of the Constitution.

The states are at a crossroads. One branch of that road could lead to abolishing the states. Governors could then be designated as regional representatives of the Federal Government. State capitols might become area service offices for HHS and HUD.

The other branch could lead to a renewal of the debates initiated by Hamilton, Madison, and Jefferson and a revival of true Federalism.

Mr. MORGAN. In conclusion, Mr. President, the time has come in our national history to consider specific steps which will reestablish a reasonable redistribution of power between the States and the Federal Government. We must see whether a better functional division of responsibility can gain greater public support. We must bring greater cohesion to our grant programs with the objective of restoring the governmental vigor to our States which they once possessed in abundance. We must exercise greater self-control in our own legislative efforts to insure that only problems requiring a national solution be addressed by the Congress. Perhaps States should have a veto over Federal legislation which directly affects them. Ultimately, there may also be a need for the States to have their own spokesman in the executive branch of the Federal Government who can protect their interests before administrative decisions are made.

Many of these ideas need further exploration and, for this reason, I welcome the initiative taken by the National Governors' Association that seeks to establish a national commission on federalism. I shall support such a step.

A BALANCED FEDERAL BUDGET

Mr. DECONCINI. Mr. President, there was a time—not too long ago—when the American economy was a paragon of efficiency, productivity and responsible management. While the rest of the world suffered the ravages of inflation and recession, the American economy experienced only minor fluctuations on its consistently upward course. The American dollar, like American citizenship, was prized; indeed, it served as the functional equivalent of a world currency.

Today, however, the American economy is in decline. We are beset by persistent inflation and declining productivity. The response of our Government has been to place massive restrictions on credit to drive interest rates through the ceiling. Simultaneously, we have done little or nothing to slow down the ever-growing Federal deficit or to make provision for capital improvements in our industry.

Apologists for this policy are fond of claiming that this alarming inflation rate is the result of higher oil prices. Certainly, there is an element of truth in this contention. However, all the recent studies that I have seen indicate that only a fraction of the overall inflation rate is attributable to the price of oil. It is far too easy to point the finger abroad and make the culprits nations over whose actions we have little control. In doing this, the Government absolves itself of blame; more importantly, it justifies continuing in the same old ways.

For the first time in decades, this Congress seriously considered the issue of a balanced budget. Together with a number of distinguished colleagues, I introduced a constitutional amendment to mandate a balanced Federal budget except under certain specified conditions. Hearings were held on the proposal in the Judiciary Committee, but we failed to report it by a slim margin. Although not immediately successful, the balanced budget amendments did focus the attention of the Congress and the Nation on the growing unmanageability of the Federal deficit.

When the Federal Government spends more in tax dollars than it collects, it must resort to borrowing. This has a number of obvious ramifications. First, by spending more than it takes in, the Government clearly contributes to the inflationary spiral. It creates new money without any concomitant creation of goods or services. Thus, the net effect is for consumers to bid up the price of goods which simultaneously spurs workers to demand higher wages to allow them to keep abreast of or slightly outdistance inflation. Like a vicious circle, this pushes the cost of goods and services up which further contributes to the rising price index.

Second, but just as important, borrowing by the Federal Government to finance its deficit competes with business and individual borrowing in the Nation's money markets. The artificially created competition for loanable funds drives the price of borrowed money upward. Business, then, is forced to pay more for the capital it needs to expand, adding yet another turn to the inflationary screw. Indeed, there are times when expansion is slowed because capital for long-term investment is simply not available.

The resulting intolerably high inflation rates cause the Government to panic. Its solution is quintessentially short-term and short-sighted—it raises interest rates through the Federal Reserve System. Thus, at a time when the average consumer and the average businessman is being devastated by inflation because of the steadily dwindling purchasing power of the dollar, interest rates soar. High interest rates do not cure inflation. Overly high interest rates only add to inflation. What they cure, in the short run, are further increases in interest rates. This occurs because at some point the cost of borrowing money is even greater than the projected inflation rates. Thus, the demand for capital decreases; but the demand for capital is also the key to industrial expansion and increases in productivity. Unless productivity increases, there can be no real increases in the standard of living.

I would hope the present administration would heed the lessons of the last few years and recognize that there is no magic formula to cure inflation. The "spend, spend, spend" credo of the Johnson-Nixon administrations is as deceptive as an old-fashioned cure-all—it tasted good, but did nothing to cure the underlying illness. Indeed, deficit spending may taste good to some voters and politicians, but it only makes the economy sicker, and the prospects of healing dimmer.

What we need is a different kind of medicine, one that may not taste as good, but which will help cure both the body politic and the economy. That may be a bitter pill to some—especially in an election year—but unless we put the brakes on the runaway Federal deficit and learn to live within our means, our inflation rate will continue at unacceptably high levels and productivity will continue to decline. Even though the constitutional amendment approach has been temporarily stalled, we must demand that the Federal budget be in balance. We must also demand that the Federal Reserve System not artificially push up interest rates so that American families are pushed out of the housing and other markets.

Economic sanity will eventually produce economic health. But if we continue to opt for "Dr. Washington's cure-all, spend-all tonic," we will continue to be in deep, deep trouble. A little self-restraint and a little political courage are required. It is certainly within our character as a people to make the short-term sacrifices necessary to preserve the integrity of this great Nation and its economic system.

THE GRAIN EMBARGO IS WORKING

Mr. HUDDLESTON. Mr. President, my colleagues and the American people have been understandably concerned over reports that the administration's restrictions on the sale of U.S. feed grains to the Soviet Union have failed to penalize the Soviet Union for their invasion of Afghanistan.

The press has been reporting Soviet successes in buying this grain from other countries. But these reports have missed the real story.

For the Soviet consumer and the Soviet bosses that story is dark and looking darker. To make up for the lost grain, the Soviets have had to cut way back on meat production. In May of this year total Soviet meat output was down 5 to 6 percent from May a year ago. In June, meat production dropped 10.7 percent, and in July it was 15 percent below July 1979. This was reported in the Soviet press, but has received little or no attention in this country.

Those are dramatic shortages for Soviet consumers who had hoped that some day their per capita meat consumption could get up at least to the level of Eastern Europe. In Hungary and Poland people eat 156 to 159 pounds of meat a year on the average, which is far below the U.S. level of 244 pounds per year.

But this year the Soviets will not even make their goal of 139 pounds per capita. They are stuck where they were in 1975—a disastrous harvest year at 125 pounds per capita. That is what the American grain embargo means to the U.S.S.R. in 1980.

What it means in 1981 is equally severe. Last week Secretary of Agriculture Bob Bergland testified that the Soviet grain harvest in 1980 would be in the range of 200 to 225 million metric tons—and most likely in the vicinity of 210 million metric tons.

Sources available to me, however, indicate that worsening weather conditions in the Soviet Union make even that target an unlikely goal. New data leads U.S. experts to estimate that Soviet crop prospects are heading down to the 200 million metric-ton range for this year.

Last year's Soviet crop was only 179 million metric tons, the smallest since 1975. To make up the difference between what they grew and what they needed the Soviets wanted to import 36 million metric tons between last fall and now. They failed to meet that target.

For that period they are going to run 8 to 9 million metric tons short of what they wanted, and the new harvest outlook means they will be in the same fix next year too.

The press, which has reported the grain purchases the Soviets did make around the world, did not report one peculiar aspect of these imports. Since they do not come from the United States, they arrive in smaller loads, and Soviet ports have not been able to handle those loads efficiently.

The average load per ship has dropped and the time those ships spend in port has gotten longer and longer. All of this means that the Soviets next year will want to buy substantially more than the 30 million metric tons they wanted in 1980—grain they wanted but could not get.

And it means that the Soviets will not be able to handle that volume of imports even if they can find sellers willing to supply them.

While the news media in this country has failed to adequately convey the hardships caused by the American embargo, there can be little doubt that the hardships are known and felt in the Soviet Union.

No less that other farm-State Senators, I regret very much that the embargo has caused problems for our own farmers. Measures have been taken to offset those impacts, some of which were not implemented as quickly as I would have liked.

But the fact is that the embargo is having the desired effect of making the Soviets pay a heavy price for their invasion of Afghanistan. And it is important that the American people, and especially the American farmer, understand that the sacrifices they have been called upon to make are serving a success purpose.

THE POLISH PEOPLE

Mr. DURENBERGER. Mr. President, all Americans rightly feel great sympathy and admiration for the Polish people, who have retained a strong national identity throughout centuries of occupation or outright annexation by foreign powers. It speaks well of the Poles, and it reflects the best in all people, that the Poles have never forgotten their heritage or surrendered their quest for greater self-determination. This is why neighboring colonial powers and empires have always feared even such a benign thing as the music of Chopin. It is Chopin's famous work, "The Polonnaise," which has served to inspire the Polish people throughout the past century and a half.

Because of my own Polish heritage, I am acutely aware of the courage of those workers now demanding what we take for granted in this country. But it is also because of my Polish heritage that I am aware of the delicate nature of relations between Poland and the Soviet Union. For centuries, the Poles have had to live in the shadow of one empire or another, and they have suffered frequent intervention at the hands of numerous foreign dictators. They have had to adapt to this situation, and they have therefore won only partial victories. However reprehensible this is, it is also reality. When they have pressed too hard and frightened too many foreign potentates, the Poles have suffered occupation.

The Polish strikers themselves have shown great sensitivity to this situation, and have been careful to state their demands in language which is at least superficially orthodox by Marxist standards. While they are undeniably challenging the status quo, they are taking pains to avoid a crisis, for they know that they will lose everything if the Soviets should intervene. They are as astute as they are courageous.

American support must be tempered with the same wisdom. I and other Americans want the Poles to succeed in their quest for an improved quality of life. But we must follow the example shown by the Pope and by the strikers themselves insuring that our support and our sympathy do not become gratuitious provocation, resulting only in disaster.

ADM. HYMAN RICKOVER'S TESTIMONY ON S. 2880, CONSULTANT REFORM ACT

Mr. PRYOR. Mr. President, on Wednesday, August 20, 1980, I had the honor of presiding over a hearing of the Senate Governmental Affairs Committee on S. 2880, the Consultant Reform Act of 1980 which I, together with 17 other Members of the Senate have introduced.

It was a special honor and privilege that day to have a most distinguished citizen and public servant Adm. Hyman G. Rickover, testify. I take this opportunity to place in the RECORD the written statement of a man who has the admiration and affection of millions of Americans.

The material follows:

OPENING REMARKS OF ADM. H. G. RICKOVER

Thank you for inviting me to testify on S. 2880, a bill aimed at eliminating abuses that have been brought to light by this committee, the General Accounting Office, and others, regarding the Government's use of consultants. Among these abuses are:

A. Contracting for useless or unnecessary work.

B. Showing favoritism in the award of contracts—particularly in contracts to former Government employees.

C. Using consultants to perform agency functions or to circumvent agency personnel ceilings.

D. Commissioning studies to buy time while creating an impression of action.

E. Paying excessive rates for consultants.

These problems are not new. I observed many of them before World War II when I first came to Washington to run the Bureau of Ships electrical section. Even in those days there were self-proclaimed experts with impressive credentials who could be hired to perform studies and give advice. After a few encounters with these so-called "experts," I decided I would be much better off taking advantage of and, where necessary, developing in-house Government expertise to provide the supervision and technical direction for my programs.

I now limit contracts under my cognizance to bona fide equipment manufacturers and shipbuilders, for research and development, design, production, and maintenance work. My programs depend heavily on input from such manufacturers. I do not use the services of the so-called "think tanks" or consulting firms.

I am not saying that all consulting firms are incompetent, or that all consulting contracts are unnecessary or wasteful. Once in a great while a short-term need for specialized knowledge and expertise might be best filled by a consultant. I can conceive that consulting firms may be useful to help with the work of some civilian agencies, for example, in gathering data or conducting statistical surveys.

In the Defense Department, however, there has been a rapid growth in the use of consultants as a result of increased workloads, personnel hiring restrictions, and easy access to consulting services. Many consultants are friends or former co-workers of Defense Department employees. In my opinion, vast sums are being wasted through consulting contracts. Moreover, in terms of delay and inefficiency the true cost to the Government of useless studies and excessive use of consultants far exceeds the contract amounts.

The use of consultants often impedes, rather than facilitates, action by Government agencies. For the past two decades consultants and systems analysts have endlessly studied and debated the relative merits of nuclear and non-nuclear ships, and the proper composition of our future Navy. Contracts for studies frequently waste the time of agency personnel who often must educate the so-caled experts doing the study, assist them in gathering the data, and then respond to their reports and recommendations—which often defy common sense.

Studies have been conducted in attempts to prove that non-nuclear aircraft carriers and cruisers are as effective as, but cheaper than, nuclear powered carriers and cruisers; that, in response to the Soviet Union building faster submarines we should build slower submarines; that we should once more consider building diesel powered submarines; and so on. Some years ago one Defense Department study concluded it would be cost effective to sink 10 of our Polaris submarines.

Each year there is controversy in the Department over the shape of the Navy's future shipbuilding programs. Often the concession to those whose programs are cut back is a promise to conduct "further studies." As a consequence, the Navy's long-range shipbuilding program has for years been in turmoil.

Another problem which results from excessive use of consultants is that the skills and motivation of Government personnel tend to atrophy. Where consultants prepare the Government's long-range plans and budgets, draft contracts, prepare responses to Congress, and the like, the Government people become mere figureheads, avoiding the hard thinking and the "dirty details." As a result, Government project officers and contracting officers who rely on consultants to draft their contracts are often poorly equipped to negotiate and administer them. In a recent case, an Assistant Secretary of the Navy hired consultants to prepare a report of the Navy's ship procurement process. The Navy command responsible for ship procurement then hired consultants, including a firm involved in writing the report, to draft the Navy's response.

With virtually unlimited personnel resources available from consulting firms, Government offices have undertaken marginal work they would otherwise have not done. Once under contract, aggressive consultants can sometimes turn these minor or unimportant jobs into major projects resulting in follow-on contracts and additional profits.

Probably the best way to cut down on waste in the consulting business is to reduce drastically the funds available for this purpose and to make them more visible throughout the budget process. This is particularly important in the case of large defense programs where the vast sums being given to consultants are hidden in the total program cost.

In addition, Congress should make it difficult for Government agencies to contract with consultants. Agencies tend to use consultants excessively mainly because funds for this purpose are readily available to large numbers of Government employees, and consulting contracts are easy to award. For these reasons, approval levels for such contracts should be set high in the chain of command, preferably at the Secretarial level, to reduce the likelihood of "make-work" projects and favoritism.

Existing Federal statutes and Defense procurement regulations appear to set strict limits on the hiring and pay of consultants. There are prohibitions against using consultants to perform duties which could be performed by regular employees; to avoid personnel hiring requirements; or to circumvent civil service procedures and pay limitations.

But these restrictions are easily circumvented. The Defense procurement regulations, for example, point out that by statute the maximum rate of pay for individual consultants or experts cannot exceed the top rate of the Civil Service pay scale. But these limits do not apply in cases where the Government contracts with a company for specific tasks. As a result, former Government employees and others who want to be paid more than the law prescribes for individual consultant agreements, join consulting firms.

In recent months, the President, through the Office of Management and Budget, has directed Government agencies to tighten their controls over consulting contract procedures. Hopefully this will result in improvement. However, history has shown the need for more permanent safeguards. The bill you are considering today, S. 2880, is a step in the right direction. However, to be effective it should be strengthened substantially.

I have the following comments and recommendations:

1. The bill's provisions should be directed specifically at consulting contracts, as the title "Consultant Reform Act of 1980" suggests, rather than all contracts. The problems which need to be addressed arise primarily with the award of consulting contracts to perform studies, provide advice, or perform paperwork jobs and administrative services for the Government agencies. Applying the provisions of S. 2880 to contracts such as those for research and development; design, production, maintenance, or operation of hardware; housekeeping services; supply contracts and the like, will cause unnecessary paperwork, delay day-to-day work, and mask the consulting abuses which should be the focus of the bill.

2. I agree with the requirement to publicize proposed consulting contracts in excess of $10,000 in the Commerce Business Daily. This will close a loophole in existing regulations which could be interpreted as exempting consulting contracts from the requirements to publicize. But this requirement will not do much to prevent abuses. Few will be able to discern from skillfully worded public announcements whether contracts are really necessary, or whether they stem from special relationships between consultants and their generous clients. It is all too easy for those charged with spending money that is not their own to be generous.

If the purpose of such a reporting requirement is to enhance competition for consulting contracts, you should bear in mind that many consulting contracts are awarded on a cost reimbursement basis with little or no objective criteria for judging contractor performance either before or after the fact. In these cases, the traditional benefits of competitive bidding are largely lost.

3. S. 2880 proposes to broaden public access to Government contract files and amend the Freedom of Information Act to provide access to contractor data developed under Government contracts. I consider that public access to contract data already allowed under the Freedom of Information Act should not be broadened. The disadvantages would far outweigh the advantages. Not many citizens will be willing or able to ferret out consulting contract abuses by going through Government or contractor files. Those who would benefit most from the proposed provision are claims lawyers and others who already have seized upon the Freedom of Information Act as a vehicle with which to harass the Government. Under this Act they already obtain information they could not otherwise obtain about their competitors, as well as data with which to devise a basis for bid protests or lawsuits against the Government. Further, making all data generated under Government contracts subject to the Freedom of Information Act would place some contractors in the position of having to decide whether to forego Government contracts or risk the disclosure of proprietary data to competitors.

4. The provision that would limit procurement obligations in the last two months of a year to 20 percent should apply only to consulting contracts. If this provision is applied across the board to all procurements, data on last minute contracting for consultants would be lost in sums totaling many millions of dollars for other delayed procurements.

5. The requirement for formal evaluation of contractor performance, and for listing detailed information on reports generated under contracts should apply only to contracts with consultants. Applying these requirements to all contracts would generate unnecessary paperwork. The list of required reports for the TRIDENT ship construction contract, for example, is more than 90 pages long and includes reports for such items as construction status, cost, schedules, weight, design submittals and the like. I see no benefit in applying the proposed requirements for consultants to other contracts.

6. The requirement that agencies identify and justify amounts in their budgets for consulting contracts is a good one. I would go a step further and require that such sums should be requested by agencies and authorized by Congress as a specific line item in the agency budget.

7. I agree with the proposed requirement requiring disclosure of conflict of interest situations; also sanctions in cases where contractors do not make truthful disclosures. In addition, I recommend that any company that does consulting work or employs a subcontractor to do consulting work should be required to disclose the names and past affiliations of any former Government employees who will be used on a project; the proposed rate of pay for his service; and in the case of "unsolicited" proposals, whether any Government officials suggested directly or indirectly the submission of that proposal.

8. The bill should require that any consulting contract in excess of $50,000 be approved, at a minimum, at the Assistant Secretary level. Each approving official in the chain should also be required to certify that he is personally knowledgeable of the work to be done; that the work needs to be done; and that it cannot be performed in-house.

9. Either the General Services Administration or the Office of Management and Budget should be required by law to establish a standard set of offeror certifications and terms and conditions. These would be required for all consulting contracts. At a minimum these should include:

(a) Standards for cost charging to consultant contracts.

(b) Requirements for consultants to certify that the rates charged to the Government are no higher than those charged to the contractor's most favored commercial customer.

(c) A prohibition against Government agencies paying consultants at a rate higher than the top of the Civil Service pay scale, except with the prior written approval of the head of the agency.

10. Require the Inspector General of each agency to review annually the agency's use of consulting contracts and compliance with applicable requirements. The results should be submitted to the Office of Management

and Budget and to the appropriate Congressional oversight committee.

I believe S. 2880, modified as I have recommended, will go a long way toward discouraging many of the abuses which have come to light.

However, I must not convey the impression that by enactment of your legislation, the problems will go away. Those in the consulting business are shrewd and have friends in Government. These Government employees themselves often look forward to acquiring the fruits of the consulting cornucopia, with the assistance of their friends already in the racket.

Consulting to Government today is an endeavor requiring little responsibility, but assures financial success. Your legislation may hinder the process for a while, but I doubt the abuses will be eliminated. At any moment during a 24-hour day only one-third of the people in the world are asleep; the other two-thirds are awake and creating problems. Consultants are wide-awake, clever people who can ferret out where the manna is, as they have amply proved.

A LONG-RANGE TAX REDUCTION PROGRAM NEEDED

Mr. PERCY. Mr. President, we have heard a great deal from the present administration about tax cuts in the last several months. Just a few weeks ago, Treasury Secretary Miller testified that it is not an appropriate time for the Congress to consider a tax cut. On Thursday, the administration is expected to announce its new economic program which will most likely include tax cuts for individuals and business. But apparently the administration intends to stand firm on its position that the Congress wait until next year to enact tax reduction legislation.

I believe this is a mistake. Fortunately, the Senate Finance Committee also rejected this advice last week when it ordered reported to the Senate a tax cut plan that will help offset the nearly $90 billion tax increase that will go into effect next year.

In light of this discussion and the imminent unveiling of the administration's recommendations, I thought my colleagues would be interested in a brief news item that appeared in the Wall Street Journal last October. The story quotes Alfred Kahn as saying:

> In the next few months, we are actively planning the kind of tax incentive plans that will get at the basic problems of inflation.

That was encouraging news at the time. Many of us looked forward to seeing those plans when it became apparent that the Nation's economy had taken a nosedive and that productivity was in its second worst slump since 1947.

This article concludes by pointing out that—

> Mr. Kahn emphasized, however, that the administration won't consider any across-the-board tax cuts while consumer spending and housing starts remain strong.

Therein lies the irony of this small news item: according to the administration, we cannot afford tax cuts when the economy is healthy and we cannot afford them when it is ailing.

Mr. President, I ask unanimous consent that the Wall Street Journal article of October 19, 1979, be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Tax Incentive Programs Being Mulled Kahn Says

ATLANTA.—Alfred Kahn, chairman of the Council on Wage and Price Stability, said here that the administration is considering some tax incentive plans targeted at fighting inflation.

Speaking to 300 businessmen at a Project Management Institute seminar, Mr. Kahn said that "in the next few months, we are actively planning the kind of tax incentive plans" that will "get at the basic problems of inflation." He didn't elaborate.

In recent months, various administration officials have discussed tax cuts such as accelerated depreciation allowances for business.

Mr. Kahn emphasized, however, that the administration won't consider any across-the-board tax cuts while consumer spending and housing starts remain strong.

Mr. PERCY. Mr. President, for some time, I have joined my colleagues on this side of the aisle in emphasizing the need for a long-range program of tax reduction that will stimulate business investment and offset automatic tax increases caused by inflation known as bracket creep. Last week, the Finance Committee recommended a package of tax reduction proposals which incorporated many of the measures we have advocated, some for several years.

On balance, the tax cut package is a good one. It takes much from the economic program developed under the leadership of Senator Jack Javits and the subsequent legislation introduced by Senator Jack Danforth which all 41 Republican Senators endorsed in July 1979; and the Tax Reduction and Job Creation Act of 1980 introduced by Senators Dole, Roth, and Baker with my support and that of 33 other Republican Senators.

The Finance Committee package will cut individual income tax rates and provide more rapid writeoffs for business investment. It also incorporates a proposal which Senator Cranston and I introduced to increase the capital gains exclusion from 60 to 70 percent for individuals, making the effective maximum rate under committee bill 20.1 percent. The package also adopts the same reduction for the alternative corporate capital gains tax rate, from 28 to 20 percent.

The committee adopted a modified version of the popular 10–5–3 plan which was included in both Republican proposals. This measure calls for a 2–4–7–10 depreciation system for equipment and machinery, an optional 20-year, straight-line writeoff for structures, and an election to expense up to $25,000 of expenditures each year for new or used equipment and machinery.

Just as important, the package includes a cut in the maximum corporate tax rate from 46 to 44 percent by 1982 and wider corporate brackets to benefit small businesses—very similar to the Danforth-Javits Tax Reduction Act of 1978—and a tax credit for research and development expenditures authored by Senator Danforth and included in the 1979 Republican package.

Increased individual savings incentives are provided in the form of expanded individual retirement accounts and the problem of the so-called marriage tax penalty is addressed with a deduction for 5 percent in 1981—10 percent in 1982—of the first $30,000 for the spouse with the lower earnings.

Mr. President, I commend the Finance Committee for taking this very important initiative. The committee, in recommending tax cuts for businesses and individuals effective January 1, 1981, has recognized that the economy cannot afford to wait until sometime next year, contrary to the administration's view. I hope the Senate will act on these proposals at the earliest possible date.

NATIONAL STRATEGIES TO END DEPENDENCE ON FOREIGN OIL ARE SERIOUSLY FLAWED

Mr. PERCY. Mr. President, ending America's dependence on imported oil is one of the greatest challenges our Nation faces today. Yet our present strategies for ending that dependence are seriously, if not fatally, flawed, as the distinguished former Secretary of the Treasury George Shultz recently pointed out. The administration's gasoline rationing plan, which Congress has approved, is a financial nightmare. It would cost over $100 million to develop and roughly $2 billion to administer. Yet all this money may buy America little protection, as the plan is so fraught with problems that it might be useless when an emergency does strike. More important, all the talk about rationing may deflect us from taking other, more meaningful actions which could reduce America's vulnerability to oil shortages.

Mr. Shultz made several other important points about the economy, regulatory burdens on American business, and national defense issues in his recent appearance on "Meet the Press."

Mr. President, I ask unanimous consent that the transcript of Mr. Shultz' "Meet the Press" interview be printed in the Record, and I recommend it to my colleagues.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Mr. Shultz's "Meet the Press" Interview

Mr. Monroe. Our guest today on Meet The Press is economist George P. Shultz, former Secretary of Labor and former Secretary of the Treasury under President Nixon. Mr. Shultz is Vice Chairman of the Bechtel Companies, engaging in international construction. He's a member of Ronald Reagan's economic advisory committee.

Mr. Shultz, we're facing an economic crisis involving deepening recession and high inflation. Senator Kennedy says that President Carter is using Republican economic policies to meet this crisis. You've been talking for some hours recently with Governor Reagan. Do you think he would use genuinely different economic policies?

Mr. Shultz. He certainly would.

Mr. Monroe. In what respect?

Mr. Shultz. He would do things intended to release the energies of the enterprises of this country to do creative things, to do new things, to improve our productivity, and really to get our economy rolling in a healthy direction.

Mr. Monroe. Don't President Carter and the Democratic economic advisors claim to be doing the same kinds of things? How can Republicans argue, for example, with President Carter's policies when they seem very close to classic Republican policies, such as emphasis on a balanced budget, refusal to go in for wage/price controls, hints of a tax cut next year, but not until after the budget and inflation come under better control?

Mr. Shultz. The president's budget that the Congress has just acted on contains a gigantic tax increase. Any talk about tax cuts has to be put in proportion to the huge tax increase that the administration has proposed and the Congress has accepted.

The administration recently imposed detailed credit controls, which were a bad mistake, on the American economy. The administration has just sent up to Congress a proposal to ration gasoline, which among other things is said by them to cost almost $100 million to develop and almost $2 billion to administer. Those are not policies that I would advocate, and I don't believe they are policies that Governor Reagan would tolerate as president.

Mr. Monroe. The president is hinting about a tax cut for next year. It's expected that that tax cut will include in it proposals to spur American productivity. How do you think you'll be able to distinguish the president's tax cut from the one advocated by Governor Reagan?

Mr. Shultz. Governor Reagan has advocated a reduction in the tax burden in practically every speech that he has made that I've read, and certainly wants to point these reductions in taxes at things that will stimulate investment and improve the productivity of our economy. To the extent that our friends in the Democratic Party, President Carter, and the Congress, come around to that point of view, I'm all for it.

Mr. Rowen. Mr. Shultz, do you fully agree with Governor Reagan's economic philosophy and program as he's articulated it, or do you have any reservations at all?

Mr. Shultz. I think Governor Reagan is very much on the right track in the general line of policy that he has been advocating lately, and I might note, at least insofar as I've been able to follow it, and I have followed it, that basically he has been advocating for many years the things he advocates now.

Mr. Rowen. Let me be specific. Do you agree with his proposal for a massive $30 billion tax cut?

Mr. Shultz. I certainly do. I think that right now we should identify the long-term strategy that we want to be on to create a healthy economy, and be thinking in terms of where we want to be three, four, five years from now. One of the things that we want and which I think is essential is to have a lower rate of taxation on the American people. As I said a minute ago, the rate of taxation on the American people is being raised in the proposed budget, and I think we should get it back at least to an even keel with the past year.

Mr. Rowen. Don't you think that Governor Reagan is overpromising, perhaps in the same pattern as President Carter did last time around, when he says we can cut taxes, increase military spending, and still balance the budget? Is that a realistic point of view?

Mr. Shultz. I think it comes down to three questions:

First, how much do you need to increase spending for defense? I think we need to have a substantial increase in spending for defense.

Second, how much help do you think you will get when you reduce taxes from the reaction of people to that in terms of their behavior? I think right now the risks in our economy are so great that we won't get nearly the reaction that we can expect once we create a more healthy situation.

And third, how successful can a determined president be in keeping non-defense spending under control? I believe that a determined president with help all around can do a great deal in that regard and make the kind of statement that you've put forward a realistic statement.

Mr. Rowen. In your mind, though, if you had to assign priorities at some point, and sometimes it comes down to that, should increased military spending or taking care of the sick economy, as you've called it, take priority?

Mr. Shultz. Defense and a healthy economy go together, of course, but I believe what we should do is to figure out what we must do for our defense, and after we've done that, then let the budget and tax decisions be in a follow-on position to that. We must do what we need to do in defense.

Mr. Will. If we can believe what we read in newspapers there is an argument going on in Reagan circles about a matter of degree, that you were just talking about. That is, how much response there would be in terms of increased economic activities, and hence, increased revenues to the government as a result of lower tax rates. There are those on the one side in the Reagan camp who says we can cut 30 percent in three years, and there are other who say that there has to be accompanying spending reductions and that the 1963 analogy with John Kennedy's tax cut doesn't hold in our times.

In other words, that Reagan by being wedded to this substantial tax cut is over-optimistic about the amount of revenues that would come in; you might have an enormous deficit and enormous inflation.

Where do you come out in this argument?

Mr. Shultz. I think that we have to get control of spending as we reduce taxes. In fact, I think if your object, as I believe it should be, is to reduce the call of the government on the resources of the country and release it more to private hands, you have no alternative but to confront spending, because what's spent in the budget plus what is spent as a result of off-budget financing and government guarantees, plus the mandated activity that government calls upon the private sector to do, that is the measure of the government's call on our resources whether you finance it by taxes or by borrowing or however you finance it. So I think you just have to confront that issue.

Mr. Will. That's a question of political will, and on the evidence of the budget process in the last few weeks, there's reason to doubt whether Congress has that political will. Is it your advice to Governor Reagan that he should confront the country with the necessity for decreased government benefits?

Mr. Schultz. What you have to do in order to get the result that Mr. Rowen was talking about is control the rise in nondefense spending. If you can make that increase more moderate than it's been in recent years, you can get there from here.

Mr. Will. You're a Californian, and the people of California were just recently given a chance by referendum to cut their income taxes in half, and they rather substantially rejected that proposal. Does this indicate that the tax revolt in general has lost its steam; and second, that it's politically difficult to promise tax cuts if people think they're also going to lose something in terms of federal benefits, government benefits?

Mr. Schultz. In California we had a tax reduction, following the so-called Proposition 13 that's been well publicized. We've also had an amendment to the California Constitution that is directed toward the control of spending. I think in general people said that, we have constitutionally put a limit on spending and we've taken a swipe at taxes, and we think we've given a message to our government in California as to where we want to go; now let's see if this new system will work.

Mr. Levine. I imagine you would agree that the country is in a recession, and you've spoken of holding down all expenditures except those for defense. Does that mean that a Ronald Reagan administration would cut back on aid to those who are unemployed, would simply let the recession run its course?

Mr. Shultz. I think the most important program that helps people who have become unemployed in the kind of recession we're having, which is constituted of big layoffs in major industries—people draw unemployment insurance. I think the unemployment insurance program is a very important program. I've always supported it. When I was in the government as Secretary of Labor and in other positions, I tried in many respects to improve it. It is in place, and it will work. I don't think anybody would want to cut back on it. I certainly wouldn't.

Mr. Levine. You spoke earlier of releasing the energies of business under a Reagan administration. How would you specifically go about releasing those energies which you've referred to?

Mr. Schultz. I think that there are two things that must be done. One is to, to lessen the tax burden, particularly as it hits productivity-generating investment, particularly as it hits people who are creative and innovative. That's one side of it.

The other side of it is to make sense out of the regulatory overlay that goes across our whole economy and represents a very big stack of wild cards that anybody making an investment is forced to play with.

So those are the two things that I think have to be done. If you do them, there's a lot that will come forward, particularly if we can create an economic environment that doesn't have this high inflation and the uncertainties of where it's going to go.

Mr. Levine. You advocate, as indeed does Governor Reagan, a balanced budget. As you look back, why weren't you able to achieve a balanced budget when you were in a position of authority, both as head of the Office of Management and Budget and later as Secretary of the Treasury?

Mr. Shultz. The budget that has just been voted on by the Congress is supposed to be balanced. I don't suppose any of you think it will be balanced. I certainly don't think it will turn out to be balanced. I think the policies that are being followed by our government right now are virtually insane.

There's no way to balance the budget when we have a recession of the dimensions that we are starting into right now. Think of it. We're starting a recession. Monetary policy is in one of the tightest holes since World War II, and on top of that, there is proposed in the budget an increase in tax revenues on the order of $90 billion. At least a third of that, perhaps more than a third of that, constitutes tax rate increases. Who ever heard of economic policy imposing that kind of policy on an economy that's going into a recession?

Mr. Monroe. You have been talking about cutting government spending. In response to Mr. Levine, you said you would not cut government spending in relation——

Mr. Shultz. I've been talking about keeping government spending from continuing this terrific rise that it has been in.

Mr. Monroe. Would this mean in relation to health programs, welfare programs, job programs, that there would be cuts or that there would simply be no increases?

Mr. Shultz. You have to look at these programs and figure out, as we continuously do, but perhaps not as intensively as we should, how well they are really working, whether or not we can get more mileage out of the spending that takes place by reforming their structure or doing them a different way, and all of that sort of thing. They deserve a close scrutiny.

Mr. MONROE. You are talking about scrutinizing most closely those areas of government spending that go to help poor people, the disadvantaged, are you not?

Mr. SHULTZ. I didn't make any such statement at all. All I talked about was that we must do a decent job on defense. If we don't defend ourselves adequately, all the rest of this business is not worth very much. So we must do that.

That leaves a very large chunk of money being spent by the government for all sorts of things, and that's what we need to concentrate on and get control of.

Mr. MONROE. On another subject, there's been some speculation that you might possibly be considered to be Secretary of State in a Reagan cabinet, if that comes about. Would you be interested in that position?

Mr. SHULTZ. I'm very well satisfied with what I'm doing. I'll be delighted to see a President Reagan administration. There are an awful lot of good people that can man it, and some good fresh people who haven't undergone the rigors of government service who I think should be given an opportunity.

Mr. ROWEN. You spoke a moment ago of the need to reduce, I think you said, the "regulatory overlay," which I guess translates, more or less, into getting government out of business affairs.

Were you in favor of the government rescue effort for Chrysler, and do you think that Governor Reagan would have pursued such a policy?

Mr. SHULTZ. I think that was a mistake. I was not in favor of it.

Mr. ROWEN. Do you think that Governor Reagan would tend to keep the government away from such rescue operations, holding firm to a free market policy?

Mr. SHULTZ. That would certainly be his instinct, as I have listened to him talk and talked with him.

Mr. ROWEN. Do you agree with his suggestion that the auto industry is so overregulated that in effect we're making a mistake by saying that an American should not have the God-given right to buy a gas guzzler if he wants to?

Mr. SHULTZ. I think the American automobile industry has been regulated to death, almost literally to death, in the case of one of the companies. I think it's partly because of the nature of the regulation.

Mr. ROWEN. You're blaming Chrysler's bad situation on government regulation?

Mr. SHULTZ. Partly.

Mr. ROWEN. Not on mis-management on the part of the company?

Mr. SHULTZ. I said partly.

Mr. ROWEN. Okay But where do we go——

Mr. SHULTZ. I'll give another reason why our automobile companies look as though they missed the market on small cars and cars that are not gas guzzlers, to use your phrase.

That goes back to the Government's price control on gasoline. The price of gasoline in the United States has been roughly half what it is in other parts of the developed world. As a result, consumers in other countries have insisted on small cars that are very economical on gas. Consumers in the United States were presented by their government with very low prices relative to everybody else, and they preferred larger cars until very recently, when the prices started rising and people became genuinely concerned about the availability of gasoline.

Mr. WILL. A cluster of short answer questions:

Would you favor changing the way we calculate the Consumer Price Index and also changing the extent to which we index government benefits?

Mr. SHULTZ. I think those are questions that deserve examination. I don't consider myself enough of a student of the precise statistics of the Consumer Price Index to want to say an unqualified, yes, but I think the answer is probably yes.

Mr. WILL. How big is the deficit to be in fiscal '81? In the alleged balanced budget?

Mr. SHULTZ. Oh, above $50 billion.

Mr. WILL. About $50 billion?

Mr. SCHULTZ. Above $50 billion.

Mr. WILL. How deep will unemployment go?

Mr. SCHULTZ. I think right now unemployment is probably around 8.5 percent, the unemployment rate——

Mr. WILL. Double digit?

Mr. SCHULTZ. In the middle of May our figure was 7.8 percent, and the unemployment insurance statistics suggest that it has been rising pretty rapidly since then. So it's probably well, well above 8 percent. I think it's certainly going to get above 9 percent. And it may very well be that this will be a year in which we have double digits in three dimensions.

We've had double digit inflation. We've had double digit interest rates. And it is conceivable that we'll have a double digit unemployment rate.

Mr. WILL. There's obviously going to be a political impulse on the part of a President seeking re-election to do something anti-recession in the midst of this. What can he do that won't make it worse?

Mr. SHULTZ. What should be done is to identify the long-term path that we want to be on, and then get on it as fast as we can.

One dimension of getting on it—and I think we have to think of this long run in terms of a mosaic that's got a lot of pieces to it—one of the pieces is that taxes are too high, and the budget that's up there, as I've said, contains big tax rate increases. So I think we should have a reduction in tax rates now.

Mr. LEVINE. In reply to my previous questions, Mr. Shultz, you described why the President Carter administration will not be able to balance the budget, but what my question was was this:

Why were you, in your position of authority as head of Office of Management and Budget and as Treasury Secretary, unable to achieve what you advocate, namely a balanced budget?

Mr. SHULTZ. Well, I don't advocate a balanced budget under any and all circumstances. and I never have. I did put forward the idea of a balanced budget at—when the economy is healthy. And I think myself that that is a pretty good concept, although it never seemed to sell around here very well. But it's still a good concept.

Balancing the budget is tough, but it was balanced in fiscal 1969. That's the last time. The last budget that I had to do with when I was Director of the Office of Management and Budget did come in almost balanced. I think it was in the red about two or three billion.

I might say also about whether or not you can control spending, you remember that in 1972 the budget was projected to spend about $260 billion. We said that it should be contained to $250. We campaigned for that in the Congress. We tried to get a spending ceiling, which we weren't able to get, and people said this was just a lot of politics, that we couldn't control it. Do you remember what that budget finally came in at? $246.6 billion. So if you do put in the effort, you can get there.

Mr. LEVINE. In a recent speech, earlier, this month in fact, you said, "Right now, the general view seems to be that anyone who serves in the government should have his head examined." In view of that, do you think Ronald Reagan will have difficulty choosing a vice presidential candidate who would accept that? Whom would you like to see be in that job?

Mr. SHULTZ. I'm not a political type person, and I don't know what, what the selection—I'm sure he'll select somebody of great ability and leadership qualities for that post. I do think that whoever is president must concern himself with the problem of attracting the ablest people into government, because government is very important. We have to do it well, and it takes good people to do it well.

Mr. MONROE. Thank you, Mr. Shultz, for being with us today on "Meet the Press."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal, which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:07 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following bill and joint resolution:

H.R. 507. An act to authorize Federal participation in stream rectification, Trinity River division, Central Valley project, California, and for other purposes; and

S.J. Res. 83. Joint resolution to authorize the Camp Fire Girls of Cundys Harbor, Maine, to erect a memorial in the District of Columbia.

The enrolled bill and joint resolution were subsequently signed by the Acting President pro tempore (Mr. PROXMIRE).

ENROLLED BILLS SIGNED

At 1:08 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 496. An act to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (the Act of June 24, 1974; 88 Stat. 266), to increase the appropriations authorization for the Small Reclamation Projects Act of 1956 (70 Stat. 1044), and for other purposes; and

S. 2549. An act to authorize appropriations for fiscal years 1981, 1982, and 1983 for the Atlantic Tunas Convention Act of 1975, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. PROXMIRE).

At 2:26 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House, having proceeded to reconsider the bill (H.R. 7102) to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, on reconsideration by the House, and two-thirds of the House of Representatives agreeing to pass the same.

The message also announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 2719. An act to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 7411. An act authorizing the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Mass., and authorizing the Secretary to administer the United First Parish Church as a national historic site, and for other purposes; and

H.R. 8010. An act to amend the Comprehensive Employment and Training Act to designate a Job Corps Center as the "Earle C. Clements Job Corps Center."

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5892) to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies.

The message further announced that, pursuant to the provisions of 22 U.S.C. 276a-1, as amended by Public Law 95-45, the Speaker has appointed Mr. PREYER, Chairman; Mr. DERWINSKI, Vice Chairman; Mr. FOUNTAIN; Mr. PEPPER; Mr. BOWEN; Mr. LEVITAS; Mr. ICHORD; Mr. DE LA GARZA; Mr. DUNCAN of Oregon; Mr. BROOMFIELD; Mr. MCCLORY; and Mr. BUTLER as members of the delegation to attend the Conference of the Interparliamentary Union, to be held in Berlin, East Germany, on September 16 through September 24, 1980, on the part of the House.

At 5:00 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 2080. An act to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5168) to extend certain expiring provisions of law relating to personnel management of the Armed Forces.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6974) to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7434. An act to provide for the establishment of the Boston African American National Historic Site in the Commonwealth of Massachusetts, and for other purposes.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 5892. An act to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. PROXMIRE).

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 7411. An act authorizing the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Mass., and authorizing the Secretary to administer the United First Parish Church as a national historic site, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 7434. An act to provide for the establishment of the Boston African American National Historic Site in the Commonwealth of Massachusetts, and for other purposes; to the Committee on Energy and Natural Resources.

ENROLLED MEASURES PRESENTED

The Secretary of the Senate reported that on today, August 26, 1980, he had presented to the President of the United States the following enrolled bills and joint resolution:

S. 496. An act to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (the Act of June 24, 1974; 88 Stat. 266), to increase the appropriations authorization for the Small Reclamation Projects Act of 1956 (70 Stat. 1044), and for other purposes;

S. 1998. An act to provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation;

S. 2055. An act to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon;

S. 2549. An act to authorize appropriations for fiscal years 1981, 1982, and 1983 for the Atlantic Tunas Convention Act of 1975, and for other purposes; and

S.J. Res. 83. Joint resolution to authorize the Camp Fire Girls of Cundys Harbor, Maine, to erect a memorial in the District of Columbia.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4477. A communication from the Chairwoman of the Merit Systems Protection Board, transmitting, pursuant to law, a report on an apportionment or reapportionment which might indicate a necessity for a deficiency or supplemental estimate; to the Committee on Appropriations.

EC-4478. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, a report on certain transfers of funds appropriated to the Department of Defense; to the Committee on Appropriations.

EC-4479. A communication from the Assistant Secretary of the Army for Manpower and Reserve Affairs, transmitting, pursuant to law, proposed legislation to provide authority for additional nominations for appointment to the military academies; to the Committee on Armed Services.

EC-4480. A communication from the Assistant Secretary for Research, Development and Logistics of the Air Force transmitting, pursuant to law, a report advising that transient aircraft maintenance at Vandenberg Air Force Base, California, will be converted to performance under contract; to the Committee on Armed Services.

EC-4481. (Not assigned.)

EC-4482. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, a report on the Strategic and Critical Materials Stock Pile; to the Committee on Armed Services.

EC-4483. A communication from the Acting Secretary of Transportation, transmitting, pursuant to law, the 1980 Highway Safety Stewardship Report; to the Committee on Commerce, Science, and Transportation.

EC-4484. A communication from the Vice President for Governmental Affairs of the National Rail Passenger Corporation, transmitting, pursuant to law, the report for June, 1980, on revenues and expenses; to the Committee on Commerce, Science, and Transportation.

EC-4485. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to certain contractor indemnifications on the Northeast Corridor Improvement Project; to the Committee on Commerce, Science, and Transportation.

EC-4486. A communication from the Assistant Secretary of Interior, transmitting draft legislation to amend the Wild and Scenic Rivers Act for inclusion of 21 additional rivers in the national system; to the Committee on Energy and Natural Resources.

EC-4487. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report evaluating materials used by trade associations in making annual estimates of Outer Continental Shelf oil and gas reserves and estimates of ultimate recovery; to the Committee on Energy and Natural Resources.

EC-4488. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report "A Shortfall in Leasing Coal from Federal Lands: What Effect on National Energy Goals?"; to the Committee on Energy and Natural Resources.

EC-4489. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a prospectus proposing the acquisition of space by lease in Austin, Texas; to the Committee on Environment and Public Works.

EC-4490. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed prospectus which proposes continued occupancy under a succeeding lease of space located at 1755 Jefferson Davis Highway, Arlington, Virginia; to the Committee on Environment and Public Works.

EC-4491. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed prospectus which proposes the acquisition of space by lease in Los Angeles, California; to the Committee on Environment and Public Works.

EC-4492. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed prospectus which proposes continued occupancy under a succeeding lease of space located at 1030 15th Street, NW., Washington, D.C.; to the Committee on Environment and Public Works.

EC-4493. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed prospectus which proposes the acquisition of space by lease in Los Angeles, California; to the Committee on Environment and Public Works.

EC-4494. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the National Visitor Center Facilities Act of 1968 to authorize the Architect of the Capitol to provide steam to the facility; to the Committee on Environment and Public Works.

EC-4495. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal-State Environmental Programs—The State Perspective"; to the Committee on Environment and Public Works.

EC-4496. A communication from the Charleston, Oregon Sanitary District, transmitting, for the information of the Senate, responses to various statements in the report of the Comptroller General entitled "EPA Should Help Small Communities Cope With Federal Pollution Control requirements"; to the Committee on Environment and Public Works.

EC-4497. A communication from the United States Trade Representative, transmitting, pursuant to law, the Twenty-Fourth annual report of the President on the Trade Agreements Program, and various protocols and agreements negotiated thereunder; to the Committee on Finance.

EC-4498. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the statistical appendix to the annual report of the Secretary of the Treasury on the State of the Finances for fiscal year 1979; to the Committee on Finance.

EC-4499. A communication from the Acting Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to August 19, 1980; to the Committee on Foreign Relations.

EC-4500. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Weak Financial Controls Make The Community Services Administration Vulnerable to Fraud and Abuse"; to the Committee on Governmental Affairs.

EC-4501. A communication from the Mayor of the District of Columbia, transmitting, a draft of proposed legislation to amend the District of Columbia Self-Government and Governmental Reorganization Act to clarify the limitations on the legislative authority of the Council of the District of Columbia; to the Committee on Governmental Affairs.

EC-4502. A communication from the Director of Administration, Department of Energy, transmitting, pursuant to law, a proposed new system of records for the Department of Energy for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC-4503. A communication from the Assistant Secretary of Housing and Urban Development for Administration, transmitting, pursuant to law, a proposed new system of records for the Department of Housing and Urban Development for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC-4504. A communication from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to amend title 18, United States Code, to implement the Convention on the Physical Protection of Nuclear Material, and for other purposes; to the Committee on the Judiciary.

EC-4505. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations implementing Executive Order 12185 on Energy Conservation Awareness; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and referred as indicated:

POM-847. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Governmental Affairs:

"RESOLUTION No. 573

"Whereas, geographical barriers and expensive or slow postal service impede access to information by organizations and professions, most significantly the Guam Public Library system, and are particularly significant to the non-contiguous parts of the United States and its territories and to the visually impaired; and

"Whereas, the delivery of library books and materials and audio-visual materials by surface mail causes serious delays in delivery, often resulting in the receipt of information when it is no longer of use; and

"Whereas, domestic telecommunication rates do not apply to non-contiguous areas of the United States; now, therefore, be it

"*Resolved*, That the Fifteenth Guam Legislature respectfully requests the United States Postal Service to change appropriate policies and regulations so that all library materials addressed to and from non-contiguous parts of the United States and its territories will be sent as first class mail at surface mail rates; and be it further

"*Resolved*, that Federal Communications Commission policy regarding telecommunications rates concerning library services should be revised to ensure that domestic rates apply to non-contiguous parts of the United States and its territories; and be it further

"*Resolved*, That the United States Postal Service handle library materials addressed to or coming from the visually impaired as first-class mail; and be it further

"*Resolved*, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States; to the United States Congressman for Guam; to the Speaker, U.S. House of Representatives; to the President Pro Tem, United States Senate; to the United States Postmaster General; to the Federal Communications Commission; to the United States Postmaster General for Guam; to Magdalena Taitano, Territorial Librarian; and to the Governor of Guam."

POM-848. A resolution adopted by the Senate of the State of Ohio; to the Committee on Commerce, Science, and Transportation:

"RESOLUTION

"Whereas, The members of the Senate of the 113th General Assembly of Ohio seek to have the Congress of the United States repeal efforts by private interest groups to dismember the current Conrail system, taking for themselves the lucrative lines and leaving for the public only those lines which are in need of subsidy; and

"Whereas, The taxpayers of the United States have already invested $3.3 billion in the ailing system, expecting in return good service and inexpensive transportation for their investment. The job has not been an easy one. Eighteen thousand miles of track have been abandoned, fourteen thousand jobs have been lost. Another $1.3 billion is projected to be spent with the loss of an additional twenty-three thousand jobs. Federal support was given in an effort to curb the enormous losses incurred under private management; and

"Whereas, The United States Railway Association, who watched this massive federal assistance program improve our railroad system, now wants these revitalized Conrail lines to be returned to the private sector, thus giving a $3.3 billion bonus to private railroads. Its recommendation is to turn over the profitable Conrail lines to private corporations while letting the federal government continue to underwrite the losses on the remaining lines. Such opportunism should not be allowed to flourish at the expense of the American taxpayer; and

"Whereas, Ohio, as well as many other states, has been willing to make sacrifices during the transition period from private to public control. The desire to achieve a workable, economically feasible railroad system motivated the states to accept otherwise oppressive cutbacks in jobs and services. Now that the belt-tightening measures are working, the United States Railway Association would have the States lose the investment that taxpayer dollars made possible; therefore be it

"*Resolved*, That we, the members of the Senate of the 113th General Assembly Ohio, in adopting this Resolution, urge the Congress of the United States to retain Conrail within the public sector for the benefit of the country and its citizens. At a time when mass transportation systems provide the key to our energy problems, it is more necessary than ever to protect the country's investment; and be it further

"*Resolved*, That the Clerk of the Senate transmit duly authenticated copies of this Resolution to the President of the United State Senate; to the Speaker of the United States House of Representatives; and to the members of the Ohio Congressional Delegation."

POM-849. A resolution adopted by the Legislature of the Virgin Islands; to the Committee on Energy and Natural Resources:

"RESOLUTION No. 1014

"Whereas Senator J. Bennett Johnson introduced a bill, S. 2017, that would require the Federal Internal Revenue Service to collect income taxes in the Virgin Islands, a function now performed by the local Virgin Islands Department of Finance; and

"Whereas the President of the United States proposed, on February 14, 1980, that the Internal Revenue Code be 'fully extended' to the territories, replacing the 'mirror' system of income tax now in effect and endorsing collection by the Federal Internal Revenue Service; and

"Whereas since 1922, tax collection within the Virgin Islands has been the responsibility of the Territory; and

"Whereas the imposition of Federal collection of taxes after more than half a century of local prerogative over collection responsibility flies in the face of the historical commitment by the United States to greater local autonomy for the territories; and

"Whereas the characterizations of the new federal control as 'Statelike' treatment for the territories is mere window-dressing of the bitter fact that the people of the Virgin Islands are now being deprived of any direct control over the manner and method of tax collection; and

"Whereas Virgin Islanders have long been without voting representation over the amount of income taxes collected, the proposals by Senator Johnston and the President would now remove from their oversight and review the tax collection officials themselves—totally unlike a State which, through elected representatives and the Presidential vote, can directly influence both the amount and the method of federal taxation; and

"Whereas the new federal proposals would continue to cover over into the Virgin Islands Treasury the amounts collected under application of the Federal tax code, this covering over does not justify the fact that the people themselves have never had direct voting influence over the amounts covered and are now to be deprived of local control of the manner and method of tax collection; Now, Therefore,

"Be it resolved by the Legislature of the Virgin Islands:

"Section 1. The Congress of the United States and the President of the United States are hereby petitioned to reject and withdraw any proposal that would deprive the people of the Virgin Islands from maintaining local control over the manner and method of tax collection under the 'mirror theory' of taxation.

"Section 2. Immediately upon the passage of this Resolution, the President of the Legislature shall forward signed copies to the President of the United States, the Vice President, as President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Committee on Energy and Natural Resources and each member thereof, the Chairman of the House Committee on Interior and Insular Affairs and each member thereof and the Secretary of the Interior."

POM-850. A resolution adopted by the Suffolk County Legislature, Suffolk County, New York, requesting the United States Senate to approve S. 1872, to amend Title 38, United States Code, amending acts to be known and cited as the "Vietnam Veterans Act"; to the Committee on Veterans' Affairs.

POM-851. A resolution adopted by the Association of Chief Executives of the Pacific Basin, opposing nuclear waste dumping and storage in the Pacific Basin Region; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Human Resources, with an amendment:

S. 2490. A bill to provide certain requirements for infant formula, and for other purposes (Rept. No. 96-916).

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. Res. 509. An original resolution to pay a gratuity to Madeline R. Miller.

By Mr. PELL (for Mr. CHURCH), from the Committee on Foreign Relations, with amendments and an amendment to the title:

S. Res. 484. A resolution relative to the Treaty of Mutual Cooperation and Security with Japan and announcing Tokyo conference (Rept. No. 96-917).

By Mr. MELCHER, from the Select Committee on Indian Affairs, without amendment:

S. Res. 510. An original resolution authorizing supplemental expenditures by the Select Committee on Indian Affairs (Rept. No. 96-918). Referred to the Committee on Rules and Administration.

By Mr. BAYH, from the Committee on the Judiciary, with an amendment:

S. 506. A bill to amend title VIII of the Act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes (together with minority and additional views) (Rept. No. 96-919).

By Mr. JACKSON, from the Committee on Armed Services, without amendment:

S. 3074. An original bill to authorize appropriations for the Department of Energy for national defense programs for fiscal year 1981, and for other purposes (Rept. No. 96-920).

S. Res. 511. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3074. Referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Jack Hood Vaughn, of the District of Columbia, to be an Assistant Administrator of the Agency for International Development (Ex. Rept. No. 96-50).

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MATHIAS:

S. 3065. A bill to amend title 5 of the United States Code to provide special comparability allowances to physicians employed by the United States Government in order to enhance the recruitment and retention of such physicians; to the Committee on Governmental Affairs.

By Mr. CHILES (for himself and Mr. STONE):

S. 3066. A bill to provide for the use and distribution of the award granted by the Indian Claims Commission to the Seminole Nation as it existed in Florida on September 18, 1823, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. MORGAN:

S. 3067. A bill to direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel Capt. Tom to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY:

S. 3068. A bill to discharge the States from the obligation of repayment of money deposited with them under the Act of June 23, 1836; to the Committee on Finance.

By Mr. NELSON:

S. 3069. A bill to amend the Internal Revenue Code of 1954 to make the investment tax credit for motor vehicle manufacturing property refundable; to the Committee on Finance.

By Mr. DURENBERGER:

S. 3070. A bill to amend the Revenue Act of 1978 with respect to foreign tax credit adjustments for capital gains; to the Committee on Finance.

By Mr. JOHNSTON:

S. 3071. A bill to amend the Internal Revenue Code of 1954 to provide a credit for investment in equity securities of domestic corporations; to the Committee on Finance.

By Mr. MELCHER:

S. 3072. A bill to establish the Rattlesnake National Recreation Area and Wilderness in the State of Montana; to the Committee on Energy and Natural Resources.

By Mr. INOUYE:

S. 3073. A bill to amend chapter 55 of title 10, United States Code, to improve vision care services under CHAMPUS; to the Committee on Armed Services.

By Mr. JACKSON (from the Committee on Armed Services):

S. 3074. A bill to authorize appropriations for the Department of Energy for national defense programs for fiscal year 1981, and for other purposes. Original bill reported and placed on the calendar.

By Mr. STONE:

S. 3075. A bill to prevent unnecessary spending by government offices at or near the end of a fiscal year; to the Committee on Governmental Affairs.

By Mr. DURKIN:

S. 3076. A bill to provide an exemption from the tax on failure to distribute income, by and on excess business holdings of, a private foundation under the Internal Revenue Code of 1954; to the Committee on Finance.

By Mr. MOYNIHAN:

S.J. Res. 197. Joint resolution to authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day"; to the Committee on the Judiciary.

By Mr. HEINZ:

S.J. Res. 198. Joint resolution to authorize and request the President to designate the week of September 7, 1980, to September 14, 1980, as "National Life Flight Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS:

S. 3065. A bill to amend title 5 of the United States Code to provide special comparability allowances to physicians employed by the U.S. Government in order to enhance the recruitment and retention of such physicians; to the Committee on Governmental Affairs.

FEDERAL PHYSICIANS COMPARABILITY ACT OF 1980

● Mr. MATHIAS. Mr. President, over the past years I have been concerned about the difficulties Federal agencies encounter in recruiting and retaining first-rate medical people in the general schedule, the Veterans' Administration and the uniformed services. I have sponsored and cosponsored several bills and their extensions to remedy this significant recruitment and retention problem by providing variable incentive pay for medical personnel.

This legislation includes:

S. 1947 (H.R. 5015)—an act to extend the Federal physicians comparability allowance of 1978.

S. 2844—a bill to extend temporarily certain special pay provisions pertaining to physicians and dentists by the Veterans' Administration.

S. 2845—a bill to extend temporarily certain special pay provisions pertaining to medical officers of the uniformed services.

Public Law 95-603—The Federal Physicians Comparability Alowance Act of 1978.

Public Law 94-123—An act to provide special pay and incentive pay for certain physicians and dentists employed by the Department of Medicine and Surgery of the Veterans' Administration in order to enhance the recruitment and retention of such personnel.

Several bills, passed in the 96th Congress' second session, are intended to promote the recruitment and retention of health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration and to revise the special pay provisions for medical officers and other health professionals in the uniformed services. The bill I am introducing today would put the pay of general schedule physicians on a par with what their Veterans' Administration and uniformed services colleagues receive for performing identical medical services, frequently working side-by-side.

Everyone wants to have access to first-class medical care. But outstanding physicians, although devoted to public service, cannot justify remaining in the employ of the Federal Government to the detriment of their livelihood and life-style. Comparability pay allowances are only reasonable measures to retain their services.

Today there are 2,187 physicians in the general schedule. They serve in a number of Federal agencies—Department of Health and Human Services, Department of the Army, National Aeronautics and Space Administration, Federal Aviation Administration, Food and Drug Administration, U.S. Postal Service, Department of Commerce, Central Intelligence Agency, Library of Congress, D.C. Public Health clinics, National Security Agency, National Science Foundation, Social Security Agency, Drug Enforcement Agency, Bureau of Engraving and Printing, National Bureau of Standards, Department of Energy, Tennessee Valley Authority, Panama Canal Zone, Department of Labor.

These physicians provide diagnostic, preventive or therapeutic services to patients, conduct medical research and experimentation and identify causes or sources of disease or disease outbreak. They evaluate physical fitness, provide initial treatment of on-the-job illness or injury and perform preemployment examinations, preventive health screenings, medicolegal autopses, fitness-for-duty examinations and the evaluation of disability. They are responsible for the administration of medical and health programs including the administration of patient care or medical research and experimentation programs.

The Office of Personel Management indicates that the causes of employee retirement include cardiovascular conditions, malignancy, diseases of the bones and joints, bronchial disease, diseases of the eye, ear, nose and throat, genitourinary conditions, cirrhosis, gastrointestinal diseases and mental and nervous diseases. These medical problems need to be evaluated very seriously.

Any Federal employee who requires a medical fitness-for-duty examination in order to determine retirement eligibility options desperately needs high quality competence on the part of the physician who is responsible for the examination and, subsequently, for the determination, in large part, of that employee's future income.

The cost of this legislation, an annual expenditure of $42.1 million (estimated by my staff and the staff of the American Academy of Federal Civil Service Physicians), would be fully offset, I believe, by the high order of medical care and service provided by this cadre of general schedule physicians. I believe Federal employees deserve the best health care available anywhere in this Nation. It is important to recruit and retain the best physicians to provide this care.

For these reasons, I introduce my bill, S. 3065, the Federal Physicians Comparability Act of 1980, to bring to general schedule physicians appropriate equality for joining and remaining in Government service.

I ask unaminous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3065

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Federal Physicians Comparability Act of 1980."

SEC. 2. Subchapter IV of chapter 59 of title 5, United States Code, relating to allowances, is amended by amending section 5948 to read as follows:

"§ 5948. Physicians comparability allowances

"(a) Notwithstanding any other provision of law, a Government physician who has been employed by the Federal Government for a period of not less than one year shall be entitled to special pay in accordance with this section and such regulations as the President or his designee may prescribe.

"(b) A physician who meets the requirements described in subsection (a) is entitled to a variable special payment at the following rates:

"(1) $5,000 per year, if the physician has less than six years of creditable service under subsection (f).

"(2) $10,000 per year, if the physician has at least six but less than eight years of creditable service under subsection (f).

"(3) $9,500 per year, if the physician has at least eight but less than ten years of creditable service under subsection (f).

"(4) $9,000 per year, if the physician has at least ten but less than twelve years of creditable service under subsection (f).

"(5) $8,000 per year, if the physician has at least twelve but less than fourteen years of creditable service under subsection (f).

"(6) $7,000 per year, if the physician has at least fourteen but less than eighteen years of creditable service under subsection (f).

"(7) $6,000 per year, if the physician has at least eighteen but less than twenty-two years of creditable service under subsection (f).

"(8) $5,000 per year, if the physician has at least twenty-two or more years of creditable service under subsection (f).

"(c)(1) Subject to the provisions of this subsection, a physician who is entitled to a variable special payment under subsection (b) is entitled to an additional annual incentive payment of $10,000 for any twelve-month period during which the physician is not undergoing medical internship or initial residency training, as determined under regulations prescribed under subsection (h).

"(2) In order to receive an annual incentive payment described in paragraph (1), a physician shall execute a written agreement under which the physician agrees to remain on active duty for a period of not less than one year beginning on the date the physician accepts the award of such payment.

"(3) Any agreement under paragraph (2) shall specify the terms under which the head of the agency and the physician may elect to terminate the agreement, and the amounts, if any, required to be refunded by the physician for each reason for the termination, including the amount required to be refunded under paragraph (4).

"(4) A physician who voluntarily terminates employment before the end of the period for which a payment was made to such physician under this subsection shall refund to the United States an amount which bears the same ratio to the amount paid to such physician as the unserved part of such period bears to the total period for which the payment was made.

"(d) A physician who is entitled to a variable special payment under subsection (b) who is board certified, as determined under regulations prescribed under subsection (h), is entitled to an additional payment for board certification at the following rates:

"(1) $2,000 per year, if the physician has less than ten years of creditable service under subsection (f).

"(2) $2,500 per year, if the physician has at least ten but less than twelve years of creditable service under subsection (f).

"(3) $3,000 per year, if the physician has at least twelve but less than fourteen years of creditable service under subsection (f).

"(4) $4,000 per year, if the physician has at least fourteen but less than eighteen years of creditable service under subsection (f).

"(5) $5,000 per year, if the physician has eighteen or more years of creditable service under subsection (f).

"(e)(1) The special pay authorized under subsections (b) and (d) of this section shall be paid monthly. The special pay authorized under subsection (c) of this section shall be paid annually at the beginning of the twelve-month period for which the physician is entitled to such payment.

"(2) Special pay authorized under this section is in addition to any other pay or allowance to which a physician is entitled. The amount of special pay to which a physician is entitled under this section may not be included in computing the amount of any increase in pay authorized by any other provision of this title, or in computing retired pay, severance pay, or readjustment pay.

"(f) For purposes of this section, creditable service is computed by adding all periods during which a physician was employed by the Federal Government in active service.

"(g) For purposes of this section, the term—

"(1) 'Government physician' means any individual employed as a physician who is paid under—

"(A) section 5332 of this title, relating to the General Schedule;

"(B) subchapter VIII of chapter 53 of this title, relating to the Senior Executive Service;

"(C) chapter 54 of this title, relating to the Merit Pay System;

"(D) section 5361 of this title, or similar statutory authority, relating to administratively determined pay for certain specially qualified scientific or professional personnel;

"(E) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b), relating to the Tennessee Valley Authority;

"(F) title 4 of the Foreign Service Act of 1946 (22 U.S.C. 861–890), relating to the Foreign Service;

"(G) section 10 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), relating to the Central Intelligence Agency;

"(H) section 1202 of the Panama Canal Act of 1979, relating to the Panama Canal Commission; or

"(I) any system of pay established by the United States Postal Service;

"(2) 'agency' means an Executive agency, as defined in section 105 of this title, the Library of Congress, and the District of Columbia government; and

"(3) 'special pay' means the variable special payment authorized under subsection (b), the annual incentive payment authorized under subsection (c), and the payment for board certification authorized under subsection (d).

"(h) The Director of the Office of Personnel Management shall prescribe regulations for the administration of this section. At a minimum, such regulations shall include standards for determining—

"(1) whether the physician is board certified for purposes of subsection (d) of this section; and

"(2) the categories of physicians to whom the special pay provisions apply under this section.

"(i) The Director of the Office of Personnel Management shall conduct a review every two years of the special pay for Federal physicians authorized by this section. A report of the results of the first such review shall be submitted to the Congress not later than September 30, 1982, and the results of each subsequent review shall be submitted to the Congress not later than September 30 of each second year thereafter.".

SEC. 3. (a) Except as provided in subsection (b), the amendment made by section 2 of this Act shall apply to the special pay payable for periods beginning after the last day of the month in which this Act is enacted.

(b) The amendment made by section 2 of this Act does not affect the validity of any agreement which was entered into before the date of enactment of this Act under the provisions of section 5948 of title 5 of the United States Code which were in effect on the day before the date of enactment of this Act, if the physician covered by such agreement elects to continue to receive a comparability allowance under such an agreement rather than to receive special pay as authorized under section 5948 of title 5 of the United States Code, as amended by section 2 of this Act.●

By Mr. LEAHY:

S. 3068. A bill to discharge the States from the obligation of repayment of money deposited with them under the Act of June 23, 1836; to the Committee on Finance.

● Mr. LEAHY. Mr. President, today I am introducing a bill to discharge the States from the obligation of repayment of money deposited with them under the act of June 23, 1836.

For several years prior to 1836 the United States had been enjoying an era of great prosperity and world trade. When the surplus in the Treasury continued to increase beyond all expectations the administration of President Andrew Jackson reported that the balance on hand, with the accruing receipts, was "likely for some time to come to exceed the real wants and just objects of the Government for expenditure"—report of the Treasurer, 1836, page 687—and it was decided to deposit the surplus with the 26 existing States according to the number of electoral votes each had.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD a table which outlines the amounts distributed to the 26 States at that time.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

State:	*Amount*
Alabama	$669,086.79
Arkansas	286,751.49
Connecticut	764,670.60
Delaware	286,751.49
Georgia	1,051,422.09
Illinois	477,919.14
Indiana	860,254.44
Kentucky	1,433,757.39
Louisiana	477,919.14
Maine	955,838.25
Maryland	955,838.25
Massachusetts	1,338,173.58
Michigan	286,751.49
Mississippi	382,335.30
Missouri	382,335.30
New Hampshire	669,086.79
New Jersey	764,670.60
New York	4,014,520.71
North Carolina	1,433,757.39
Ohio	2,007,260.34
Pennsylvania	2,867,514.78
Rhode Island	382,335.30
South Carolina	1,051,422.09
Tennessee	1,433,757.39
Vermont	669,086.79
Virginia	2,198,427.99
	28,101,644.91

Mr. LEAHY. Pursuant to act of Congress, act of June 23, 1836, chapter 115, 5 statutes 52, the U.S. Government deposited $28,101,644 with the several States in the form of interest-free demand loans. My own State of Vermont received $669,086.79, which has now been held in trust for 144 years. The act of 1836 did not specify any conditions under which these funds were to be used. The only proviso was that the monies were to be returned to the Federal Government upon call.

It is with a great sense of pride that I recount the words Senator Boggs spoke in 1971 when he said:

> The only States to profit in the long run as a result of the surplus revenue of 1836 were Vermont and my own State of Delaware.

But while Vermont has profited from the 1836 payment, we have also carried this liability for some 144 years now.

For 74 years nothing further was done by the Congress or the Treasury. Then by the act of June 25, 1910, 36 Statutes 776, the Treasurer of the United States was relieved from further accountability for these deposits. However, the States were not discharged. To the contrary, the act provided in part:

> *Provided,* That the credit herein authorized to be given to the Treasurer of the United States shall in no wise affect or discharge the indebtedness of the several States to the United States as is provided in said Act of Congress, approved June 23, 1836, and shall be made in such manner as to debit the respective States chargeable therewith upon the books of the Treasury Department, until otherwise directed by the Congress.

For 70 years now, we have had the strange anomaly of States remaining liable to the Federal Government for the very deposits for which the Federal Government was relieved of accountability.

Prior to June 25, 1910, the Secretary of the Treasury carried the total of the surplus revenues distributed to States in 1837 as part of his cash accountability but labeled it as "unavailable funds of the General Treasury." After the act of June 25, 1910, the Treasury was relieved of cash accountability and Congress was left with the responsibility of deciding what should be done with the deposits.

After 144 years of confusion it is time for Congress to meet that duty and decide whether to demand repayment from the States, or to relieve the States from the obligation of repayment of money deposited with them. Any attempt to demand repayment would create more problems than it would solve. Many of the States have either no record of the money, lost it through improvident loans, spent it on establishing schools, or had their funds liquidated during the Civil War. It would be unrealistic to expect these States to repay after all these years.

The only sensible solution is to wipe these obligations off the books. Since the Treasury is no longer accountable for the debt under the act of June 25, 1910, it is not carried as an asset on the books of the United States. At the present time it is recorded only as a memorandum book entry and the removal of the debt would in no way affect the balance in the Treasury. Nor would it affect the public debt.

It is unfair to permit this confused condition to prevail. Under the act of June 25, 1910, Congress has to resolve this situation. After 144 years of uncertainty, let us clear the record.●

By Mr. NELSON:

S. 3069. A bill to amend the Internal Revenue Code of 1954 to make the investment tax credit for motor vehicle manufacturing property refundable; to the Committee on Finance.

AUTOMOTIVE MANUFACTURING INVESTMENT TAX CREDIT ACT OF 1980

● Mr. NELSON. Mr. President, today I am introducing the Automotive Manufacturing Investment Tax Credit Act of 1980.

This proposal would provide immediate economic relief to the domestic automotive manufacturing industry by allowing auto companies a refundable investment tax credit for all investments in business equipment and machinery. Basically, the companies will be allowed to take the general investment tax credit permitted under current law even if they are not making a profit.

Under present law, with certain special rules for utilities, railroads and airlines, earned investment tax credits can be used to offset only the first $25,000 of tax liability plus 70 percent of the tax liability in excess of $25,000. Credit exceeding that limit can be carried back 3 years and, generally, forward 7 years.

Although the purpose of the credit is to encourage acquisition of new equipment by reducing its cost, and thereby to provide an incentive for making equipment purchases, the present rules, particularly the nonrefundable aspect of the credit, discriminate against taxpayers with low or nonexistent profits. These taxpayers are often fledgling businesses seeking to become established in a competitive industry or businesses in a period of rapid growth. The current rules have an extremely adverse impact on businesses in capital intensive industries.

The investment tax credit was originally adopted as a subsidy to encourage businesses to buy new equipment in order to modernize our Nation's industrial capacity. However, it is extremely unfair that the companies that need the subsidy the most do not receive it. If a company is having difficulty making a profit, for whatever reason, it is unable to use the investment credit. The company obviously plans to become profitable. It does not intend to go out of business. Yet the single most important investment incentive that could be used by the company to grow and expand and become more competitive is unavailable to it until it turns a substantial profit. This may take years for the new business or the company experiencing temporary economic difficulties. And by that time the relief provided may be too little and too late because other more established and profitable competitors may have already wiped out the underdog.

Nowhere is this more evident than in the domestic auto industry. During the next decade, U.S. auto companies must undertake a massive retooling and modernization program in order to compete with the Japanese and Germans. This will require enormous capital investments. During this period companies such as American Motors, Chrysler and Ford will have either a very low or nonexistent Federal tax liability due to heavy depreciation and business expense deductions. As a result, these companies will not be entitled to the investment tax credit unless it is made refundable because they cannot afford to wait some 7 years in order to claim tax credits they cannot use today. They need the credits now in order to provide the necessary funds for a rapid modernization program.

Some experts maintain that accelerated depreciation is the solution for the auto industry's capital formation requirements. But accelerated depreciation deductions without a refundable investment tax credit simply will not do the job for the auto industry. In fact, if the companies take greater depreciation, they will have even less profits against which to take their investment tax credits. However, the two taken together—rapid depreciation and a refundable tax credit—would provide a complete capital cost recovery system for the automotive industry.

It is imperative that Congress act now, America's auto industry is in serious trouble. Sales and production have suffered their steepest decline in 20 years, dropping some 23 percent between 1979 and 1980 alone. Auto and parts supplier industries are suffering the worst layoffs since World War II. This month, 350,000 auto workers are out of work, together with hundreds of thousands more in related industries, such as steel, rubber, textiles, and tools. The crisis in the auto industry could cost Federal and State governments over $2 billion this year alone in lost revenues and increased spending. The automobile industry is a major customer for thousands of small and medium-sized businesses throughout the country. The industry uses one-fourth of all the steel consumed in the United States, one-half of the iron, almost two-thirds of the synthetic rubber, and one-third of the zinc.

The investment tax credit is a highly valuable means of stimulating capital formation by taxpayers who are profitable and thus incur a tax liability. But it is of no immediate value to taxpayers such as certain domestic auto companies who are suffering losses and thus incur no tax libility, this legislation will assist the auto industry at a time of need when it is engaged in a massive retooling effort to produce more fuel-efficient vehicles in the face of competition from imports and escalating fuel costs. It will assist in putting thousands of American workers back to work.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3069

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 46(a)(10)(A) of the Internal Revenue Code of 1954 is amended to read as follows:

"(10) SPECIAL RULES IN THE CASE OF ENERGY PROPERTY.—Under regulations prescribed by the Secretary—

(A) IN GENERAL.—This subsection and subsection (b) shall be applied separately—

(i) first with respect to so much of the credit allowed by section 38 as is not attributable to the energy percentage or the application of the regular percentage to motor vehicle manufacturing property,

(ii) second with respect to so much of the credit allowed by section 38 as is attributable to the application of the energy percentage to energy property, and

(iii) then with respect to so much of the credit allowed by section 38 as is attributable to the application of the regular percentage to motor vehicle manufacturing property."

(b) section 46(a)(10) of the Internal Revenue Code of 1954 is further amended by adding new paragraphs (C) and (D) to read as follows:

"(C) REFUNDABLE CREDIT FOR MOTOR VEHICLE MANUFACTURING PROPERTY.—In the case of so much of the credit allowed by section 38 as is described in subparagraph (A)(iii)—

(i) paragraph (3) shall not apply, and

(ii) for purposes of this title (other than section 38, this subpart, and chapter 63), such credit shall be treated as if it were allowed by section 39 and not by section 38.

"(D) MOTOR VEHICLE MANUFACTURING PROPERTY DEFINED.—For purposes of this paragraph, the term 'motor vehicle manufacturing property' means section 38 property which is used in connection with the trade or business of manufacturing motor vehicles, and the term 'motor vehicles' means vehicles driven or drawn by mechanical power manufactured primarily for use on the public streets, roads and highways, except vehicles operated exclusively on rail or rails."

(c) section 46(b) of the Internal Revenue Code of 1954 is amended by adding a new paragraph (4) to read as follows:

"(4) CERTAIN UNUSED CREDITS MADE REFUNDABLE.—Notwithstanding paragraphs (1) and (3), in the case of unused credits accumulated in the two unused credit years before the taxable year ending before January 1, 1981, which are attributable to the application of the regular percentage to motor vehicle manufacturing property (as defined in section 46(a)(10)(D)), section 46(a)(3) shall not apply, and such unused credits shall be treated as if they were allowed by section 39 and not by section 38 in the taxable year ending before January 1, 1981."●

By Mr. DURENBERGER:

S. 3070. A bill to amend the Revenue Act of 1978 with respect to foreign tax credit adjustments for capital gains; to the Committee on Finance.

FOREIGN TAX CREDIT ADJUSTMENTS FOR CAPITAL GAINS

● Mr. DURENBERGER. Mr. President, I am introducing a bill in the nature of a technical correction relating to the determination of foreign source income, where one corporation realizes gain from the disposition of stock in a second corporation.

Mr. President, prior to the Tax Reform Act of 1976, it had been possible for a domestic corporation to increase the limitation on allowable foreign tax credits by selling at a location outside the United States the stock of a second corporation. The capital gain on that sale was treated as foreign source income even though the corporation whose stock was disposed of derived all or substantially all its income from sources in the United States instead of from foreign sources.

In order to deal with this situation, the Tax Reform Act of 1976 amended Code section 904 to provide that the gain from disposition of the stock of the second corporation would be U.S. source income unless (i) the stock was sold in the foreign country where the second corporation had derived more than 50 percent of its income for the immediately preceding 3 years, or (ii) the stock was sold in a foreign country that imposed at least a 10-percent tax on the gain from disposition of the stock. Section 904(b)(3)(C).

There is no apparent reason why gain from the disposition of stock of a corporation which derives most of its income from foreign sources should be treated as U.S. source income. Indeed, so long as the underlying earnings and earnings potential which give the stock its value are foreign source, it is only logical that gain on disposition of the stock should be treated as foreign source income also. This is true whether or not the corporation whose stock is sold may, by happenstance, have derived more than 50 percent of its income in one particular foreign country.

It is, for example, illogical to treat as foreign source income the gain from disposition of stock of a corporation which derived 51 percent of its income in foreign country A and 49 percent in the United States; and not to treat as foreign source income gain from the disposition of stock in a corporation which derived 100 percent of its income from sources outside the United States—one-third in each of foreign countries A, B, and C. Obviously, the gain should be foreign source in any case where the corporation whose stock is sold derived more than 50 percent of its income from sources outside the United States.

It is also obviously the case that there is no necessity to require that the country where the stock is sold impose at least a 10-percent tax on the gain. Capital gain taxes in foreign countries are usually less than in the United States and in some cases nonexistent. In those cases, a difference in the characterization of income based on the nominal distinction between a 10-percent and a 9-percent rate, or even a zero rate, is purely arbitrary.

In other cases, however, the capital gain tax rate in the country where the corporation derives most of its income may be higher than the U.S. rate. There is no rational reason for requiring a U.S. corporation to pay the highest possible foreign tax rate on the sale, or to make the sale in a country which imposes a tax of at least 10 percent. In both cases, the effect is merely to increase tax payments by U.S. taxpayers to foreign countries and to increase the amount of available foreign tax credit.

These defects in the Tax Reform Act of 1976 were recognized and partially corrected by title VII of the Revenue Act of 1978 which dealt with technical corrections to the Tax Reform Act of 1976. Section 701 (u)(2)(C) of the 1978 act added Code section 904(b)(3)(D) which corrected the 1976 act insofar as concerns gain from the disposition of stock in a liquidation. Section 904(b)(3)(D) in effect provides that gain from the disposition of stock by means of liquidition of a foreign corporation will be treated as foreign source income if the liquidated corporation derived more than 50 percent of its income from foreign sources for the immediately preceding 3 years. This correction of the 1976 act eliminated the requirement that the corporation have derived more than 50 percent of its income in any one particular foreign country and eliminated the requirement that at least a 10-percent tax have been paid in the foreign country where the liquidation occurred. As previously discussed, section 904(b)(3)(D) represents the correct rule for determining the source of gain from the disposition by one corporation of stock of a foreign corporation outside the United States. Because the amendment made by the 1978 act was a technical correction of the 1976 act, it was made effective as of the effective date of the provision in the 1976 act which it corrected; that is, taxable years beginning after December 31, 1975.

The 1978 act failed, however, to correct the 1976 act insofar as concerns gains from the disposition of stock in a foreign corporation when that disposition is in the form of a sale of stock instead of a liquidation. There is no apparent distinction between a liquification of a corporation and a sale of at least 80 percent of the stock of the corporation. The same rule, the one provided by the technical correction in the 1978 act, should apply in both situations.

Mr. President, this bill amends section 701(u)(2)(C) of the 1978 act to provide that a sale of at least 80 percent of all classes of stock of a corporation would be treated the same as a liquidation.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3070

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 701(u)(2)(C) (relating to foreign tax credit adjustments for capital gains) of the Revenue Act of 1978 is amended—

(i) by inserting "And gain from sale of stock of certain foreign subsidiaries" after "gain from liquidation of certain foreign corporations";

(ii) by inserting "either" after "shall not apply with respect to";

(iii) by inserting "or a sale of at least 80 percent of the total number of shares of all classes of stock of a foreign corporation," after "to which part II of subchapter C applies"; and

(iv) by inserting "or sale" after "during which the distribution".

(b) Effective Date.—The amendments made by section (a) shall apply to taxable years beginning after December 31, 1975.●

By Mr. JOHNSTON:

S. 3071. A bill to amend the Internal Revenue Code of 1954 to provide a credit for investment in equity securities of domestic corporations; to the Committee on Finance.

INDIVIDUAL EQUITY INVESTORS' INCENTIVE ACT OF 1980

● Mr. JOHNSTON. Mr. President, today I am introducing legislation to reward Americans who sacrifice immediate consumption in order to increase their savings through investment in U.S. corporate stock, the foundation of our productive free enterprise system. Simply stated, my bill provides a 10-percent tax credit (up to a maximum of $1,000 per individual) for the cost of purchasing equity securities each year a taxpayer increases his or her investments in such securities over the previous year's holdings. This bill will stimulate a shift of investment from debt to equity as a source of capital for economic growth and will stimulate an expansion of the numbers of individual Americans with a stake in the future of American enterprise.

Mr. President, there is no stronger advocate of the laws of supply and demand and the role of the free market than I. Unfortunately, the free market has not always been permitted to allocate resources. We all recognize how the free market has been disregarded by an OPEC cartel. What is not so obvious is how the free market has been disregarded by governments which accord their own industries an unfair competitive advantage over our own. Our most recent historical response to the intrusion of foreign governments in the marketplace has been to negotiate fair and consistent rules within which our own private enterprise could effectively compete. Nevertheless, there has been a steady erosion of markets and the competitive postures of our own industries resulting from the penetration of foreign government supported industries.

Mr. President, it is time we learn again the lessons of OPEC and begin to boost the capacity of American industry to face the challenges of new realities. As we begin to tighten our belts and to forego the extravagance of excessive energy consumption through conservation, so too must we begin to eliminate excessive borrowing and to increase savings. As we begin the long journey toward energy independence through more exploration and production and more investment in alternative energy sources, so too must we create the environment for investments which will once again permit our economy to exhibit that innovation and vitality which led the world to recovery after World War II.

No one in Congress or in the administration doubts that the challenges of revitalizing the U.S. economy will be easy. Profound changes in the marketplace have taken place over the past several decades. I am convinced, however, that the challenges will be less difficult once American enterprise shifts from excessive dependence on capital sources which retard innovation, initiative, and development and commercialization of new technology. In recent years, American industry has more and more depended on debt for expansion and new production. Now that American industry is being called upon to demonstrate its superior creativity, its response will more than likely be feeble if excessive debt continues to straddle its balance sheets. This problem has been well summarized in an August 14 Washington Post article by James Rowe, entitled "Corporate America Wallowing in Debt." I ask unanimous consent that the August 14 article by James Rowe be included in the Record at the conclusion of my remarks.

In my view, excessive dependence on debt fosters rigidity and inflexibility. Excessive debt stifles innovation and initiative and inhibits productive risk taking which has historically characterized American enterprise. The legislation I have introduced today partially offsets the tax preference for debt financing and begins to shift tax preferences toward equity-risk capital financing.

Mr. President, I fully appreciate the efforts of the Senate Finance Committee and others to promote capital formation through corporate and capital gains tax reduction. The proposed adjustments of depreciation ranges and the proposed authorizing of alternative depreciation methods are commendable and I do not doubt that I will support them. Nevertheless, these proposals do not address the issues of democratic capitalism or the fundamental problems associated with excessive debt. My distinguished colleague from Louisiana, Senator Russell Long, however, has long been a pioneer in the effort to expand the equity/ownership base of corporate America. His approach has focused primarily on incentives for employee stock ownership plans. While I continue to support my senior colleague's efforts in this area, I have concluded that his efforts must be expanded beyond employee stock ownership plans.

The bill I have introduced addresses straightforwardly the expanded ownership by Americans of American industry. Employee ownership of corporate stock will continue to receive the highest level support, but the options available to individual Americans for ownership will be expanded beyond the companies within which they are associated. As diversification by industry is important as an end itself, so should diversification of stock ownership by Americans in domestic corporations be an important end itself. My legislation accomplishes this objective.

Mr. President, the legislation I have introduced is not unlike the French Monory Law and is similar to legislation offered in the House by Congressman Schulze and in the Senate by Senator Nelson. Enacted in 1978, the French Monory Law permits each French household an annual income tax deduction of 5,000 French francs, or approximately $1,250, for net new investments in shares of French companies. Unlike Congressman Schulze's original version, my bill limits the 10-percent tax credit to incremental increases in equity securities and excludes debt securities from qualifying for the credit benefit. Because the Federal Reserve regulates the growth of money supplies and indirectly the cost of money, any effort on the fiscal side to stimulate borrowing or to affect the cost of borrowing can be offset by independent monetary policies. Unlike Senator Nelson's bill, my legislation is not limited to "new issues" of equity securities of small businesses. The problems relating to supply side economics, productivity, and reindustrialization are not those of small business alone. Excessive balance sheet debt is not solely a characteristic of small business.

I have not limited the benefit of the tax credit to "new issues" of equity securities because the vitality and strength of the secondary markets are equally as important to capital formation and to increased investments in new equity issues.

There is no doubt that original distribution of equity securities is enhanced by the confidence of investors in the liquidity provided in the secondary markets. The availability of the tax credit for purchases of equity securities in the secondary markets is also fully consistent with policies to promote expansion of corporate ownership. My legislation carefully limits the availability of the tax credit to incremental increases of or net additions to a taxpayer's investment in equity securities of domestic corporations. The 1 year holding for qualified securities necessary to be entitled to the credit also prevents premature liquidations of a taxpayer's equity security portfolio after filing for the incentive credit.

Mr. President, it takes no great intellectual nor even an economist to understand the objectives of my legislation. The first objective is to reduce corporate reliance on excessive debt in order to stimulate innovative production and expansion of America's industrial base. Second, my bill proposes to increase individual savings which, in recent years, has been at an all time low. Finally, my bill promotes "popular capitalism" by stimulating an increase in the ownership base of industrial America.

Mr. President, it is most important to recognize that the reindustrialization of America will never occur if we wait for the OPEC petrodollar or the eurodollar to begin the process. Reindustrialization of America will begin only with American dollars and with American investment. Self-help is good for the individual soul and will be good for American productivity. It is time, Mr. President, that Americans take stock in themselves and begin to save and invest in their own futures. By rewarding ordinary individual American taxpayers who demonstrate faith and confidence in the economic foundation of America, we establish the necessary preconditions for renewing American productivity and enterprise.

There being no objection, the article was ordered to be printed in the Record, as follows:

Corporate America Wallowing in Debt

(By James L. Rowe, Jr.)

New York—American corporations are sinking deeper into debt.

As their debt loads mount, which has been happening to a frightening degree in the last decade, companies will find it more difficult to expand and modernize their facilities.

The botom line is jobs, the political watchword of the 1980 presidential campaign.

The growing inefficiency of much of American industry has been recognized by economists and politicians alike. That's what the so-called reindustrialization debate is all about.

Without a vastly more efficient and expanded industrial plant, the United States will find it nearly impossible to provide the high-paying manufacturing jobs that were the bulwark of the U.S. economy for most of the century and that promise economic prosperity for many lower-income citizens.

For the deeper a company gets into debt—and the shorter-term that debt becomes—the harder it is to expand during periods of good times because it is that much harder to maintain the debt load during bad times.

Henry Kaufman, the chief economist for Salomon Brothers whose prescient forecasts of interest rates have made him Wall Street's latest guru, said that corporations face an "unprecedented" and perhaps unachievable challenge: "restoring balance sheets to some reasonable level of normality."

In a recent study, Kaufman and his colleagues James McKeon and David Foster noted that at the start of the 1960s equity—stock and retained earnings—accounted for two-thirds of the capitalization of manufacturers. Today equity accounts for only half.

"The extraordinary volume of debt financing has overwhelmed additions to equity. The growth of equity was behind debt in the second half of the '60s. The next decade, however, witnesed an alarming widening of this gap. For nonfinancial corporations, market debt alone grew more than $620 billion, while total liabilities (including bank loans) rose $900 billion, more than doube the $420 billion . . . additions to equity."

Furthermore, companies have been finding it more difficult to sell long-term debt—bonds—and have been relying upon their banks, the commercial paper market and other sources of short-term money.

But the more a company relies upon debt, the more exposed it becomes to adversity and the shorter the term of that debt, the greater the exposure.

When times get tough, a company can omit a dividend or dip into its retained earnings. The company must keep up payments on its long-term bonds, but it has to continuously refinance its short-term borrowings.

As a company gets deeper in debt, an ever-growing share of its income must go to pay off its creditors.

In 1973, manufacturing companies as a whole had earnings about 6.1 times greater than their interest payments. In 1979—which in terms of the usual business cycle is equivalent to 1973 in being at the end of an expansion—that ratio had fallen to 4.4 times.

But things are worse than they seem, Kaufman contends. The manufacturing sector of the economy includes the oil industry, one "whose capitalization has for long been higher in equity than most others and which has not suffered the same degree of deterioration that most have. . . . When this industry is excluded from the calculations, the balance sheets of nonpetroleum manufacturers are found to be even more seriously deficient in equity capitalization."

As business cycles run their normal course, companies usually fluctuate from being what economists call "liquid"—that is cash-rich and clear of most short-term debts—to being heavily in debt.

Companies are deepest in debt at the end of an economic boom. During the end of a recession and the beginning of a recovery, companies sell stocks and bonds in order to pay off the short-term debt.

Corporations have been issuing bonds at a record pace since May. But with interest rates coursing up again and bonds becoming more difficult to sell, companies have been moving back into the short-term market.

"But even if that proves short-lived, it would take well over a year of monthly public bond calendars exceeding $6 billion each, heavy private placement volume and unprecedented repayments of short-term debt merely to restore" corporate balance sheets to their best levels of the 1975–79 boom, Kaufman said. But the 1975–79 period was weak compared with the 1960s and 1950s, when the nation's industrial establishment was in good shape.

But because investors, shaken by the bond market collapses of recent years, are skeptical about investing their money in long-term securities and because the federal government is borrowing in the long-term market more than it did in 1975 and 1976, such a performance by corporations is unlikely, Kaufman said.

There are no magic solutions to the problem, although an end to inflation—which would give investors the confidence to invest in long-term debts and stocks again—is the usual nostrum. An end to inflation, however, does not seem in the cards.

In the meantime, while politicians talk about reindustrializing America, building $12 billion jobs programs or granting tax incentives to businesses to invest, they must come to grips with the corporate debt overload.

A faster tax writeoff will be an inducement to step up investment only as long as a company does not substantially boost its debt exposure to take advantage of that tax incentive.●

By Mr. INOUYE:

S. 3073. A bill to amend chapter 55 of title 10, United States Code, to improve vision care services under CHAMPUS; to the Committee on Armed Services.

● Mr. INOUYE. Mr. President, today I am introducing legislation that would provide for a comprehensive and preventive vision care program for members of the Uniformed Services and their dependents, by removing the present legislative restrictions under the civilian health and medical program of the Uniformed Services (CHAMPUS).

Presently, there are approximately 9.1 million Department of Defense beneficiaries worldwide, of which 8.6 million are eligible for CHAMPUS benefits.

Under my proposal, eye examinations, including, but not limited to, preventive and diagnostic services, when performed by a doctor of optometry, osteopathy or medicine, will be authorized for reimbursement. In cases that are deemed appropriate, lenses and eyeglass frames will also be provided.

During our recent deliberations on the fiscal year 1980 Department of Defense appropriations bill, we decided to remove our prior Appropriations Committee restriction on optometry services. We did this primarily in recognition that all the available evidence now indicated that eye/vision disorders comprise the second most chronic health condition in our Nation. Given the pressing need to retain highly trained personnel in the Armed Services, it was our considered judgment that "skimping" on eye/vision care as a means of controlling costs, simply no longer made any sense. Unfortunately, however, it now becomes evident to me that it is also necessary to modify the basic CHAMPUS authorization act to accomplish our purpose.

Across our Nation, the major health provider of these vision services has been the doctor of optometry, commonly called the optometrist. He or she presently provides approximately two-thirds of the vision care services in the United States, and thereby functions as the basic entry point to the entire health care system for those in need of vision care.

The optometrist is exceptionally well prepared for this very important role. I understand that approximately 85 percent of the students entering optometry school have completed 3 or more years of college, usually majoring in the biological or physical sciences. The optometry professional curriculum itself consists of a total of 4 additional years, leading to the degree of Doctor of Optometry. Seven schools also have graduate programs which grant a Master of Science degree and six have programs leading to a Ph. D. in physiological optics. There are 14 fully operational schools and colleges of optometry nationwide that is Ohio State and the University of California. The total enrollment now approaches 5,000 with an aggregate graduating class of approximately 1,000 doctors of optometry each year. In all, there are currently approximately 20,000 active optometrists in the United States.

During our Senate Appropriations Committee deliberations I was particularly distressed to learn that at this time it has been estimated that only 50 percent of the United States' population who require some form of vision care services actually receive them. The American Optometric Association estimates that this figure can be broken down demographically as follows:

1. 25 percent of Americans under age 20.
2. 40 percent between ages 20–30.
3. 50 percent between ages 30–40.
4. 70 percent of those aged 40–50.
5. 85 percent of those aged 50–60.
6. 95 percent of those over 60.

Furthermore, apparently 46 percent of the U.S. population aged 18 to 44 wear corrective lenses, and over 51 percent of our total population wear corrective lenses. Undoubtedly, the proportions are not significantly different for our active duty personnel or their families. Of special interest, 90 percent of the vision care services required are considered to be within the scope of the Optometrists Practicing Act.

In my judgment, it is now time for the Congress to commit ourselves to providing high quality health care to all our active duty personnel and their dependents. Without question, this must include ready access to eye/vision care, and especially the preventive examinations. For too long now, we have only talked about the importance of preventive services; the time has now come to provide them.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 55 of title 10, United States Code, is amended as follows:

(1) Section 1079 is amended—

(A) By striking out ", well-baby care, and eye examinations may not be provided," where it appears in subsection (a)(3) and inserting in lieu thereof "and well-baby care may not be provided;";

(B) by striking out the period at the end of subsection (a)(5) and inserting a semicolon in lieu thereof;

(C) by inserting the following new clause at the end of subsection (a):

"(6) eye examinations and vision care services (including but not limited to preventive, diagnositc and treatment services) may be provided when performed by a doctor of optometry, osteopathy or medicine"

Sec. 2. This Act becomes effective October 1, 1980.●

By Mr. STONE:

S. 3075. A bill to prevent unnecessary spending by government offices at or near the end of a fiscal year; to the Committee on Governmental Affairs.

FEDERAL GOVERNMENT FISCAL RESPONSIBILITY ACT OF 1980

Mr. STONE. Mr. President, I have been working for a number of years to bring Federal spending under control. I have supported across-the-board budget cuts to reduce total Government spending without gutting any particular program. I have also cointroduced a constitutional amendment tying growth of the Federal budget to the growth of national production in the preceding year. One cause of excessive Federal Government spending is a Government custom know as "end-of-fiscal-year dumping." This is the use it or lose it philosophy that results in the practice of Federal offices spending their budget allotment prior to the end of the fiscal year, whether the expenditures are needed or not, to avoid having any unspent funds. It is a practice which some studies have shown is fairly widespread throughout the Government.

I understand why the agencies do it: They are fearful that if they have a surplus 1 year, their reward for prudent management will be a budget cutback the next year, when they may legitimately need additional funds. And because the response to a surplus is often a budget reduction, it has become the mark of a smart administrator to make sure a department, division, or agency spends every penny of its allotted budget. This wrong-headed attitude costs the taxpayers a great deal of money.

Last October I wrote to the Comptroller General requesting that the General Accounting Office study the current spending practices of the agencies to gage the magnitude of the problem. Several Congressmen have also written to the Comptroller on this topic. On July 28, the GAO released its major study of this area, following up some earlier, preliminary reports. The July report verifies what has been suspected and what the earlier reports indicated—there is a significant amount of abnormally high expenditures in the fourth quarter at a number of agencies and offices. A majority of the 16 agencies covered in the July report had year-end "surges" of spending. The September surge (which is defined as the amount of funds obligated during September which are in excess of the average amount of funds obligated during the prior 11 months) is particularly dramatic at certain agencies.

The Department of Housing and Urban Development had a September surge in fiscal year 1978 of 956 percent—obligating over $20 billion in September as opposed to the prior 11 month average of under $2 billion. Their September 1979 surge was down, but still amounted to 317 percent. The Environmental Protection Agency's September surges were 436 percent for 1978 and 526 percent for 1979 (representing obligations of 33 percent of their yearly total and 36 percent, respectively). And the State Department had September surges of 133 percent and 510 percent for 1978 and 1979.

Specific examples which the GAO has uncovered, give an idea of the scope of the problem:

First. In April of 1977, the Commissioner of the Public Buildings Service of the General Services Administration, notified the regions that there were large unobligated balances in three accounts and urged them to obligate them before the end of the fiscal year. The regions complied and in one region obligations from one account increased in September by 111 percent over the monthly average of the rest of the fiscal year;

Second. In 1975, the Maritime Administration awarded 42 percent of its contracts in the last 2 days of the fiscal year, and 73 percent in the last month of the fiscal year;

Third. Since 1976, HUD has invalidly obligated a significant portion of its appropriations for assisted housing at the end of each fiscal year. In fiscal year 1979 HUD deobligated $7 billion of the invalid obligations and reobligated the money. HUD expects to deobligate and reobligate several billion in this fiscal year;

Fourth. In five of seven contracts awarded under the Indian Self-Determination and Education Assistance Act of 1975 that GAO reviewed, the Bureau of Indian Affairs added funds near the end of a fiscal year although no increases were requested and there was no indication of how the extra money would be spent;

Fifth. The Judiciary, Department of Energy, and Environmental Protection Agency, made more than 60 percent of their last quarter obligations in September for both fiscal years 1977 and 1978;

Sixth. Seventeen contracts were signed on the last day of fiscal year 1979 by the Acting Commissioner of Education over the objections of the Director of the Grant and Procurement Division. A thorough review of seven of these contracts found four as questionable (totaling more than $1.3 million).

Seventh. An aide to U.S. Commissioner Ernest Boyer cautioned Boyer that the end of the 1979 fiscal year was coming and that unless money was spent, surplus funds would lapse; suggestions for spending the money included remodeling the offices of the Commissioner and the Executive Deputy Commissioner.

In its analysis of what causes Government officials to frantically spend funds at the end of a fiscal year—even if the funds are not tied to a specific year and would be available beyond the last quarter of a fiscal year—the GAO listed two reasons which are really part of the same philosophy: First, the belief that all funds must be spent before the end of the fiscal year to avoid agency reprograming or congressional inquiries about unspent appropriations; and second, the perception that a manager is evaluated, in part, on spending ability. These two reasons go hand-in-hand. The other reasons cited by agency officials for larger year-end spending sprees are lack of effective advance procurement planning systems and appropriations and budget processing delays that push decisions about grant awards and purchasing toward the end of the fiscal year.

Obviously there are going to be many reasons, and some quite legitimate, for a particular office spending a disproportionate amount of its appropriations at the end of a fiscal year. But it is clear from the many examples which the GAO uncovered of questionable grants and other obligations being made in the final days of the fiscal year that there are large sums of money—perhaps billions of dollars—being spent every year for unnecessary goods or being given to undeserving grant applicants.

Besides the large sums being wasted through this practice, the GAO report hints at the large amount of overtime that is being paid by the agencies at the end of the fiscal year to the employees who are processing the grants and purchase orders by which the unspent appropriations are being improperly diverted. Additionally, these year-end surges result in the regular procurement process being short-circuited; regulations and laws being violated; goods and services being contracted for at higher prices than would be the case in less hurried negotiations; inadequate justification for contracts or awards; and lower employee morale due to the heavy workload at the end of the year.

Presidents as far back as Johnson have issued directives to try to halt end-of-fiscal-year dumping. In 1979, the Director of the Office of Management and Budget issued detailed instructions to all executive department heads to control this practice, emphasizing that preventing unnecessary Federal Government buying is a key to controlling inflation; but still it continues.

Several Members of Congress have introduced legislation aimed at halting these practices by imposing a percentage limit on the amount of obligations an agency may enter into in the last quarter of the fiscal year. While I think this approach has some merit, I do not think it gets at the heart of the problem. Bureaucrats will be clever enough to adjust their "dumping" schedule to an earlier quarter, if necessary, to get around a fourth-quarter cap and a set limit does not take into account that for individual agencies or offices there may be a very legitimate reason for spending more than 20 percent (or whatever the figure) of their budget. Additionally, the ceiling approach provides no real incentives for offices to abstain from spending in any quarter nor does it instill a regard for proper procedures.

As a July 19, 1979, GAO letter report to Representative IKE SKELTON notes with regard to the 20-percent fourth-quarter cap in the Defense and Foreign Assistance Appropriations bills, such limits "do not guarantee that (the obligations which are incurred in the fourth quarter) * * * are for goods and services needed at that time or that proper procurement practices are followed." The July 1980 GAO report backs such a limitation only as a temporary way to get a handle on the problem.

After reviewing the GAO reports, I have isolated several aspects of the year-end spending surge which I think need to be addressed by the Congress:

First, the lack of incentive on the part of Government offices to effect savings in their areas;

Second, the lack of any systematic review of "dumping" practices and of guidelines by which to measure agency spending;

Third, the fear that if a surplus is realized one year, it will be seen not as effective management but rather as poor budget planning, reflecting an inflated request for money for that fiscal year; and

Fourth, the lack of any certain penalty against an office found "dumping" funds.

Today I am introducing legislation which seeks to stop the end-of-fiscal-year dumping practice, by addressing the underlying reasons for the problem. Entitled the "Federal Government Fiscal Responsibility Act of 1980," the bill directs the Comptroller General, after consultation with the appropriate congressional committees, to issue regulations which define practices that will constitute "dumping." It places the responsibility for instituting controls to prevent unnecessary year-end spending on the head of each Government office covered by the bill. Unlike some legislation which focuses only on the agencies, my bill would also cover congressional offices, support agencies of the Congress, each office under the control of the President, and the Judiciary.

Each head of a Government office would be empowered to provide awards or other forms of public recognition to employees who contribute to the elimination of unnecessary spending. This will, hopefully, set a positive, competitive tone in the offices to see who can achieve savings as opposed to the current contest to see who can find the most creative ways to unload surplus tax dollars. Additionally, by resolution, the Congress will recognize the public servants who, through efficient and prudent management, accomplish their duties for less than the original estimate.

The policing of this new cost-cutting effort will be done through systematic random audits of the GAO. Obviously, it is too big a task to constantly monitor every office, but the knowledge that each year certain offices will be selected for a thorough audit of their spending practices, should serve as an effective check on the "dumping" problem.

Finally, the bill addresses the congressional response that is necessary to encourage offices to make savings. In some ways this is the most difficult part of the legislation to draft because, in order for it to work, there must be a conscious commitment on the part of every Member of Congress to revise the way he/she thinks about end-of-year surpluses. The bill instructs the authorizing and appropriating committees not to reduce a Government office's new budget authority on the basis that the office achieved a savings in the preceding year. It does recognize that budget reductions may be justified for other reasons but these would have to be spelled out in the committee report. The bill also allows a surplus in 1 year to be carried over to the next fiscal year's budget authority for that office. The bill is drafted to provide a floor on new budget authority of the amount provided to the office in the year of the surplus, plus the surplus amount itself. Any decrease in this amount—plus an inflation adjustment—has to be explained and cannot be for the purpose of penalizing the office for incurring a surplus. This provision is to encourage offices to accumulate surpluses and not to fear budget reductions because of them.

In the case of the Appropriations Committee, an additional reason for being able to reduce an office's new budget authority below the floor would be if such a floor would result in the appropriations bill exceeding the level of total new budget authority or total budget outlays set forth in the most recently passed concurrent resolution on the budget.

Most office budgets go up each year, so the savings will usually go to absorb some or all of the increase that would otherwise come out of new revenue sources. Only in the case where no (or a very low) budgetary increase was requested for an office and no good reason for reducing the office's budget existed, would the addition of the savings to the preceding year's budget authority result in an office getting more funds than it would otherwise require in a particular year. Such instances should be few, and given the constant monitoring of spending practices that the bill envisions, it would continue to be the office's responsibility to spend only such sums as are necessary and justified in any fiscal year.

But even more important than this reward for good management is the penalty to be imposed for dumping funds. In the event a Government office is found to have engaged in unnecessary spending during a fiscal year, the committees are directed to authorize new budget authority which cannot exceed the amount of new budget authority for the preceding year, reduced by the amount of the unnecessary spending. Thus an office found by the GAO to be wasting tax dollars in this fashion will find any increase in their budget denied to them and will additionally be penalized the amount of any funds they wasted the preceding year.

To summarize, the bill seeks to insure that offices which have savings will get funded at least the preceding year's level plus the amount of the savings (barring the need to reduce the amount for such reasons as transfer of functions to another agency; elimination of a program, et cetera). It also guarantees that offices that have excess funds and try to conceal it by spending the money will see their budget cut back correspondingly.

This bill incorporates the major recommendations in the GAO report. It places the responsibility for proper spending practices squarely on the head of each Government office. In striving to bring this problem under control the office heads will want to consider the GAO advice that advance procurement planning with a system to monitor such planning, be instituted. They will also want to review their documentation procedures. The major thrust of the bill is aimed at overturning the presumption that managers will be judged on their spending abilities and that all available funds must be spent by the end of a fiscal year. I think the other GAO recommendations can be implemented within the framework of this legislation.

Mr. President, "dumping" is a serious problem and reflects an attitude within the Federal bureaucracy that may cost taxpayers billions of dollars each year. This legislation would go a long way toward eliminating the practice.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Government Fiscal Responsibility Act of 1980."

STATEMENT OF FINDINGS AND POLICY

SEC. 2. (a) The Congress finds and declares that—

(1) a significant amount of spending by government offices at or near the end of the fiscal year is unnecessary and wasteful;

(2) the congressional and administrative response to a government office which has a surplus in its budget at the end of the fiscal year has been to decrease the budget of such office for the succeeding fiscal year;

(3) such responses, and a concern about such responses, has created an atmosphere which encourages a government office to spend all the funds appropriated to such office for each fiscal year; and

(4) there is no incentive for a government office to refrain from spending all the funds appropriated to such office for any fiscal year and no systematic process to review whether an office is unnecessarily spending funds at or near the end of a fiscal year.

(b) It is the policy of the United States to—

(1) eliminate unnecessary spending by government offices at or near the end of each fiscal year; and

(2) recognize and reward any such office which carries out its functions and programs through prudent and efficient management without engaging in unnecessary spending.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "government office" means—

(A) every agency within the meaning of clauses (A) through (G) of section 5721 (1) of title 5, United States Code;

(B) each office and committee of the Senate and the House of Representatives;

(C) the office of the Architect of the Capitol;

(D) the General Accounting Office;

(E) the Congressional Budget Office;

(F) the Cost Accounting Standards Board;

(G) the Office of Technology Assessment; and

(H) each office or council within the Executive Office of the President which submits a request for appropriations to the President under section 215 of the Budget and Accounting Act, 1921;

(2) the term "head of each government office" means—

(A) in the case of an Executive agency, the individual designated by statute, Executive Order, or regulation as the head of such agency;

(B) (i) in the case of the Department of the Army, the Secretary of the Army;

(ii) in the case of the Department of the Navy, the Secretary of the Navy; and

(iii) in the case of the Department of the Air Force, the Secretary of the Air Force;

(C) in the case of a court of the United States, the Chief Justice or Chief Judge of that court;

(D) in the case of the Administrative Office of the United States Courts, the Director of such Office;

(E) in the case of the Library of Congress, the Librarian of Congress;

(F) in the case of the United States Botanic Garden, the Director of such Garden;

(G) in the case of the Government Printing Office, the Public Printer;

(H) (i) in the case of a committee of the Senate or the House of Representatives, or a joint committee of the two Houses, the chairman of such committee;

(ii) in the case of the Office of any Member of Congress, the Member;

(iii) in the case of the Office of the Vice President, the Vice President;

(iv) in the case of any other office in the Senate, the individual designated by the President pro tempore of the Senate; and

(v) in the case of any other office in the House of Representatives, the individual designated by the Speaker of the House of Representatives;

(I) in the case of the office of the Architect of the Capitol, the Architect of the Capitol;

(J) in the case of the General Accounting Office, the Comptroller General of the United States;

(K) in the case of the Congressional Budget Office, the Director of such Office;

(L) in the case of the Cost Accounting Standards Board, the Chairman of such Board;

(M) in the case of the Office of Technology Assessment, the Director of such Office; and

(N) in the case of each office or council referred to in paragraph (1) (H), the individual designated by statute, Executive Order, or regulation as the head of such office or council;

(3) the term "unnecessary spending" means any obligation or expenditure of budget authority by a government office at or near the end of a fiscal year which meets the regulations established by the Comptroller General of the United States under section 4;

(4) the term "savings" means any amount of budget authority provided to carry out any program or function of a government office in any fiscal year which is not obligated or expended by such office in such fiscal year; and

(5) the term "budget authority" has the same meaning as in section 3(a)(2) of the Congressional Budget and Impoundment Control Act of 1974.

REGULATIONS FOR UNNECESSARY SPENDING

SEC. 4. Within 120 days after the date of enactment of this Act and after consultation with the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives, the Comptroller General of the United States shall issue regulation describing those actions which constitute the unnecesary obligation or expenditure of budget authority by a government office at or near the end of a fiscal year. Regulations issued by the Comptroller General of the United States under this section shall be binding on all government offices.

ENCOURAGING THE ELIMINATION OF UNNECESSARY SPENDING

SEC. 5. (a)(1) The head of each government office shall institute such controls and take such other action as may be necessary to eliminate unnecessary spending by the office. Such action may include the provision of awards or other public recognition to officers and employees who contribute to the elimination of unnecessary spending.

(2) The head of each government office which is subject to chapter 45 of title 5, United States Code, shall make awards under paragraph (1) in accordance with such chapter. The head of any government office which is not subject to such chapter shall make awards under paragraph (1) in such amounts and in such manner as the head of the office determines appropriate.

(b) As soon as possible after the end of each fiscal year, the head of each government office shall prepare and transmit to the Congress a report describing the savings of the office during the preceding fiscal year.

The report shall list the divisions of the office which were responsible for such savings and the programs of the office in which such savings were made.

(c) Notwithstanding any other provision of law, any savings of a government office during a fiscal year shall remain available for obligation or expenditure during the succeeding fiscal year for the same purpose for which such funds were appropriated.

AUDITS OF GOVERNMENT OFFICES

SEC. 6. By April 1 of each fiscal year, the Comptroller General of the United States shall perform random selective audits of at least 15 government offices to determine whether such offices have engaged in substantial unnecessary spending during the preceding fiscal year. In performing such audits, the Comptroller General may examine such classes of obligations and expenditures made by a government office or such classes of functions and programs carried out by a government office as the Comptroller General determines appropriate.

CONGRESSIONAL ACTION

SEC. 7. (a) At the beginning of each fiscal year, the Congress shall recognize by appropriate resolution each government office which has achieved savings during a fiscal year.

(b) In reporting any bill or resolution to authorize the enactment of new budget authority for a fiscal year for a program or function carried out by a government office, each committee of the Senate and the House of Representatives having legislative jurisdiction over such program or function (except the Committees on Appropriations) shall—

(1) in the case of any program or function with respect to which such government office achieved savings in the preceding fiscal year, authorize the enactment of new budget authority for such fiscal year for such program or function in an amount which is not less than the amount of the new budget authority authorized for the preceding fiscal year for such program or function plus the amount of any savings achieved by such office with respect to such program or function in the preceding fiscal year, except that such committee may authorize the enactment of such new budget authority in an amount which is less than such amount if such committee includes in the report accompanying such bill or resolution (A) a statement indicating that the committee is not authorizing the enactment of such new budget authority in such lesser amount solely on the basis that the office achieved such savings and (B) a statement of the reasons for such lesser authorization; and

(2) in the case of any program or function with respect to which such government office engaged in unnecessary spending during the preceding fiscal year (as determined by the Comptroller General of the United States pursuant to section 6)—

(A) authorize the enactment of new budget authority for such fiscal year for such program or function in an amount which does not exceed an amount equal to the total amount of new budget authority authorized to be enacted for the preceding fiscal year for such program or function reduced by the amount of any such unnecessary spending; and

(B) consider additional reductions of such new budget authority to prevent additional unnecessary spending by such office.

(c) In reporting any bill or resolution to provide new budget authority for a fiscal year for a program or function carried out by a government office, the Committees on Appropriations of the Senate and the House of Representatives shall—

(1) in the case of any program or function with respect to which such government office achieved savings during the preceding fiscal year, provide new budget authority for such fiscal year for such program or function in an amount which is not less than the sum of the amount of new budget authority provided for the preceding fiscal year for such program or function plus the amount of any savings achieved by such office with respect to such program or function in the preceding year, except that such committee may provide such new budget authority in an amount which is less than such sum if such committee includes in the report accompanying the bill or resolution—

(A) a statement indicating that the committee (i) is not providing such new budget authority in such lesser amount solely on the basis that the office achieved such savings or (ii) is providing such new budget authority in such lesser amount in order that the enactment of the bill or resolution as reported would not violate section 311(a) of the Congressional Budget Act of 1974; and

(B) a statement of the reasons for the provision of such new budget authority in such lesser amount; and

(2) in the case of any program or function with respect to which such government office engaged in unnecessary spending in the preceding fiscal year (as determined by the Comptroller General of the United States pursuant to section 6)—

(A) provide budget authority in an amount which does not exceed the total amount of new budget authority provided in the preceding fiscal year for such program or function reduced by the amount of any such unnecessary spending; and

(B) consider additional reductions of new budget authority to prevent additional unnecessary spending by such office.

(d) Effective beginning with the second fiscal year after the fiscal year in which this Act is enacted each amount of new budget authority referred to in paragraphs (1) and (2) of subsection (c) shall be adjusted to reflect changes during the preceding fiscal year in the Consumer Price Index (all items, United States city average) published by the Bureau of Labor Statistics.

(e) The provisions of subsections (a), (b), (c), and (d) and clauses (i) through (v) of section (3)(2)(H) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

By Mr. MOYNIHAN:

S.J. Res. 197. A joint resolution to authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day"; to the Committee on the Judiciary.

CONSTANTINO BRUMIDI DAY

● Mr. MOYNIHAN. Mr. President, the joint resolution I am introducing today will recognize a man whose work enriches our workplace, and delights the millions of tourists who visit the Capitol each year. I speak of Constantino Brumidi, the distinguished artist, who spent the years 1855 through 1880 painting the fresco and frieze of the rotunda dome, and many of the frescos that decorate the Capitol, including those on the corridors of the Senate wing, the formal offices of the President and Vice President, the Senate reception room, and the present House and Senate Appropriation Committee rooms. This year marks the 175th anniversary of Brumidi's birth. It seems fitting that we honor this man affectionally known as the "Michaelangelo of the Capitol of the United States" on September 18, the day that marks his arrival, 128 years ago, on these shores from Italy.

Brumidi once said:

> I no longer wish fame and fortune. My only ambition and my only long lasting prayer is that I may live long enough to make the Capitol beautiful, in the only country on Earth where liberty exists.

Brumidi did not live long enough to complete his work, but he surely made the Capitol beautiful.

New York's Mayor Koch has already approved a proclamation for "Brumidi Day," and a special mail cancellation with the postmark "Constantino Brumidi—U.S. Capitol Artist—175th Anniversary," will be used that day. We in Congress, surrounded as we are by the artwork that so beautifully expresses Brumidi's devotion to his adopted country, should take this opportunity to acknowledge our appreciation of this great artist and patriot, and the contribution he made to our Nation's heritage.●

By Mr. HEINZ:

S.J. Res. 198. A joint resolution to authorize and request the President to designate the week of September 7, 1980, to September 14, 1980, as "National Life Flight Week"; to the Committee on the Judiciary.

LIFE FLIGHT WEEK

● Mr. HEINZ. Mr. President, today it gives me great pleasure to introduce a joint resolution requesting the President to designate the week of September 8 to 15, 1980 as "Life Flight Week." This resolution, which will be offered in the House by Representative WILLIAM MOORHEAD commemorates the achievements of American technology in the field of health care, which are manifested in Allegheny General Hospital's "life flight" service.

"Life flight" was the first emergency medical helicopter transportation service in the Northeastern United States. The helicopters cover a 4-State area, encompassing a radius of 130 miles around Pittsburgh, Pa., linking 98 urban and community hospitals with specialty care facilities in Pittsburgh. Over 700 persons have been assisted during life flight's 2-year operation.

Since life flight will celebrate its second anniversary during the week of September 8 through 15, 1980, it is most appropriate to recognize both the worthy achievements and the admirable promise of future cooperation between medical and transport technologies which are embodied in life flight.

Mr. President, I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 198

Whereas, Life Flight has provided rapid transportation to medical facilities for critically injured and ill persons via helicopter;

Whereas, 700 patients from four different States have been served by Life Flight in the two years of its existence;

Whereas, Life Flight connects the staffs and facilities of 98 urban and community hospitals to foster vital cooperation among medical providers;

Whereas, Life Flight provides a model for other communities in developing integrated medical service across a wide interstate area;

Whereas, other communities should be encouraged to adopt services like Life Flight; and

Whereas, September 8, 1980, marks the third anniversary of Life Flight: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate the week of September 7, 1980, to September 14, 1980, as "National Life Flight Week" and to call upon Federal, State, and local government agencies and the people of the United States to observe such week with appropriate programs, ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. Sasser, the Senator from Oklahoma (Mr. Boren), and the Senator from Mississippi (Mr. Cochran) were added as cosponsors of S. 2, a bill to require authorizations of new budget authority for Government programs at least every 10 years, to provide for review of Government programs every 10 years, and for other purposes.

S. 336

At the request of Mr. Mathias, the Senator from Virginia (Mr. Warner) was added as a cosponsor of S. 336, a bill to amend the Internal Revenue Code of 1954.

S. 2216

At the request of Mr. Chafee, the Senator from Tennessee (Mr. Baker) was added as a cosponsor of S. 2216, a bill to improve the intelligence system of the United States; and for other purposes.

S. 2490

At the request of Mr. Williams, the Senator from Pennsylvania (Mr. Schweiker), the Senator from New York (Mr. Javits), the Senator from Massachusetts (Mr. Kennedy), and his name were added as cosponsors of S. 2490, a bill to provide certain requirements for infant formula, and for other purposes.

S. 2520

At the request of Mr. Durenburger, the Senator from Illinois (Mr. Percy) was added as a cosponsor of S. 2520, a bill to amend the Internal Revenue Code of 1954 to increase the amount of the unified credit allowed against estate tax and gift tax.

S. 2753

At the request of Mr. Bayh, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 2753, a bill to prohibit the importation into the United States of motor vehicles, and of parts of motor vehicles, that are products of the Union of Soviet Socialist Republics.

S. 2890

At the request of Mr. Levin, the Senator from Georgia (Mr. Talmadge), the Senator from Missouri (Mr. Eagleton), the Senator from Wisconsin (Mr. Nelson), and the Senator from West Virginia (Mr. Robert C. Byrd) were added as cosponsors of S. 2890, a bill for the relief of Maria and Timofei Chmykhalov, and for Lilia, Peter, Liubov, Lidia and Augustina Vashchenko.

S. 2926

At the request of Mr. Tsongas, the Senator from Nevada (Mr. Laxalt), the Senator from Hawaii (Mr. Matsunaga), the Senator from Arkansas (Mr. Bumpers), the Senator from California (Mr. Hayakawa), the Senator from Illinois (Mr. Stevenson), the Senator from New York (Mr. Moynihan), the Senator from Arizona (Mr. Goldwater), the Senator from Kansas (Mr. Dole), and the Senator from Kentucky (Mr. Huddleston) were added as cosponsors of S. 2926, a bill to provide for an accelerated research, development, and demonstration program to achieve confirmation of the engineering feasibility of magnetic confinement fusion, and for other purposes.

S. 2967

At the request of Mr. Nelson, the Senator from Maryland (Mr. Mathias) was added as a cosponsor of S. 2967, a bill to amend the Internal Revenue Code of 1954 to provide estate and gift tax equity for family enterprises, and for other purposes.

S. 2968

At the request of Mr. Sasser, the Senator from Missouri (Mr. Danforth) was added as a cosponsor of S. 2968, a bill to amend section 2809 of title 42, United States Code, to provide for the establishment of heat crisis programs during periods of heat emergencies.

S. 2979

At the request of Mr. Metzenbaum, the Senator from Iowa (Mr. Culver), and the Senator from Kentucky (Mr. Ford) were added as cosponsors of S. 2979, a bill to amend the Railroad Retirement Act of 1974 and the Internal Revenue Code of 1954 to assure sufficient resources to pay current and future benefits and to extend certain cost-of-living increases.

S. 3007

At the request of Mr. Hollings, the Senator from Kansas (Mr. Dole), and the Senator from Oklahoma (Mr. Bellmon) were added as cosponsors of S. 3007, a bill entitled the "Methane Transportation Research, Development, and Demonstration Act 1980."

SENATE JOINT RESOLUTION 176

At the request of Mr. Inouye, the Senator from California (Mr. Cranston), the Senator from California (Mr. Hayakawa), the Senator from Alabama (Mr. Stewart), the Senator from Minnesota (Mr. Durenberger), and the Senator from Wisconsin (Mr. Nelson) were added as cosponsors of Senate Joint Resolution 176, a joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 5, 1980, as "National Port Week," and for other purposes.

AMENDMENT NO. 1690

At the request of Mr. Mathias, the Senator from Florida (Mr. Stone) was added as a cosponsor of amendment No. 1690 intended to be proposed to S. 1722, a bill to codify, revise, and reform title 18 of the United States Code; and for other purposes.

SENATE CONCURRENT RESOLUTION 116—SUBMISSION OF A CONCURRENT RESOLUTION ON THE BALTIC STATES QUESTION

Mr. THURMOND submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. Con. Res. 116

Whereas the United States, since its inception has been committed to the principle of self-determination;

Whereas this essential moral principle is also affirmed in the Charter of the United Nations;

Whereas the Union of Soviet Socialist Republics is, according to its constitution, a voluntary federation of autonomous republics;

Whereas the three Baltic Republics (the Republic of Lithuania, the Republic of Latvia, and the Republic of Estonia) did not become member republics of the Union of Soviet Socialist Republics voluntarily but rather were occupied militarily by the Russian Armed Forces in the early days of World War II and subsequently incorporated by force into the Union of Soviet Socialist Republics and have since been governed by governments approved by, and subservient to, the government of the Union of Soviet Socialist Republics;

Whereas the ethnic makeup of the Baltic peoples (the Lithuanians, Latvians, and Estonians) is distinctly foreign in language, culture, common traditions, and religion from that of the Russian people;

Whereas, by deportation and dispersion of the native populations of the Baltic States to Siberia and by a massive colonization effort in which Russian colonists replace the displaced native peoples, the Soviet Union threatens complete elimination of the Baltic peoples as a culturally, geographically, and politically distinct and ethnically homogeneous population

Whereas, despite such treatment, the spirit of the citizens of the Baltic States is not broken and the desire of the citizens of the Baltic States for national independence remains unabated;

Whereas the United States has consistently refused to recognize the unlawful Soviet occupation of the Baltic States and has continued to maintain diplomatic relations with representatives of the independent Republics of Lithuania, Latvia, and Estonia; and

Whereas the United Nations and the United States delegation to the United Nations have consistently upheld the right of self-determination of the people of those countries in Asia and Africa that are, or have been, under foreign imperialist rule: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the President and the Secretary of State should take all necessary steps to bring the Baltic States question before the United Nations and to urge that the United Nations request the Soviet Union—

(A) to withdraw all Russian and other nonnative troops, agents, colonists, and controls from the Republics of Lithuania, Latvia, and Estonia, and

(B) To return all Baltic exiles from Siberia and from prisons and labor camps in the Soviet Union;

(2) until the Baltic States become independent, the Secretary of State should, through such channels as the United States Information Agency and other information

agencies of the United States Government, do his utmost to bring the matter of the Baltic States to the attention of all nations by means of special radio programs and publications;

(3) the United States should not agree to the recognition by any international conference, of the Soviet Union's unlawful annexation of Lithuania, Latvia, and Estonia, and it should remain the policy of the United States not to recognize in any way the annexation of the Baltic States by the Soviet Union.

(4) the President should require that all government map publishers, and should request that all private map publishers show, on all maps of Europe, the Republics of Lithuania, Latvia, and Estonia as independent states, with a footnote explaining that the military occupation and forced incorporation into the Soviet Union of Lithuania, Latvia, and Estonia has never been recognized by the United States;

(5) the right of self-determination should be returned to the peoples of Lithuania, Latvia, and Estonia through free elections conducted under the auspices of the United Nations after Soviet wtihdrawal from the Baltic States; and

(6) the right of self-determination should be made a prime political objective of the United Nations and should be accorded through free elections under the auspices of the United Nations to all peoples now involuntarily subjugated to Soviet communism.

THE BALTIC STATES

Mr. THURMOND. Mr. President, the unprovoked invasion of Afghanistan by the Soviet Union on December 27, 1979 reaffirmed to the world that the Soviet leadership has not abandoned its aggressive, expansionist policies. Their lack of respect for freedom, dignity, and the right of self determination has shown itself time and again since the Communists came to power in Russia and began their drive for world domination. Yet, in spite of the Kremlin's efforts, resistance and unrest among the brave peoples in Nations under Communist domination continues, as evidenced by events now occurring in Afghanistan and Poland.

Mr. President, the Baltic Republics of Lithuania, Latvia, and Estonia have suffered Soviet domination for 40 years. Today, I offer a resolution reaffirming our refusal as a free people to recognize the unlawful incorporation of the Baltic States into the U.S.S.R.

Mr. President, Lithuania, Lativa, and Estonia all lost their freedom to the Soviet Union within a span of a few days and in a manner that has become all too typical. Just before the outbreak of World War II, all three of the Baltic Republics were forced—under threat of invasion—to sign a mutual assistance treaty with the Soviet Union under which Soviet military bases were established in strategic locations. As soon as this was done, the Republics found themselves at the mercy of the occupying Soviet military forces.

The next step in the incorporation of the Baltic Republics into the U.S.S.R. was the infiltration of Soviet spies and agents into the political and social institutions of the Republics. In July 1940, elections were held on demand of the Kremlin in each of the Republics for the purpose of forming a new government "friendly" to the Soviet Union. As expected, the pro-Soviet candidates were declared elected in each of the countries. These new governments wasted no time in requesting incorporation of their respective countries in the U.S.S.R. Lithuania, Latvia, and Estonia thus ceased to exist as independent, sovereign states.

Mr. President, passage of the concurrent resolution I have submitted today will reaffirm to the world our commitment to the principle of true self determination. It will send a clear message to the Kremlin that we do not and will not recognize the subjugation of independent states by the Soviet Union.

SENATE CONCURRENT RESOLUTION 117—SUBMISSION OF A CONCURRENT RESOLUTION CONCERNING THE FATE OF RAOUL WALLENBERG

Mr. MOYNIHAN (for himself, Mr. Pell, Mr. Boschwitz, and Mr. Church) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. Con. Res. 117

Whereas in July 1944, at the request of the American War Refugee Board and the Swedish Government, Swedish Diplomat Raoul Wallenberg undertook a mission of mercy to Budapest, Hungary, as a result of which thousands of Hungarian Jews were saved;

Whereas considerable evidence exists that Raoul Wallenberg was abducted by Soviet forces in Hungary in 1945, in violation of international standards of diplomatic immunity;

Whereas Soviet officials originally denied having custody of Wallenberg, but subsequently stated that a prisoner named "Walenberg" died in a Soviet prison in 1947;

Whereas reports from former Soviet prisoners indicate that Wallenberg may not have died in 1947 but may still be alive in a Soviet prison;

Whereas significance of Wallenberg's heroic and humanitarian actions has been obscured by the wall of silence that surrounds his fate;

Whereas the continued internment of Wallenberg, if indeed he is still alive, is in direct contravention of the Final Act of the Helsinki Conference on Security and Cooperation in Europe, which states: "The participating states will respect human rights and fundamental freedoms . . . and fulfill in good faith their obligations under international law . . ."; and

Whereas the purpose of the Madrid Conference on Security and Cooperation in Europe to be held in November, as stated at the Belgrade Conference held in 1978, is to "continue the multilateral process initiated by the CSCE" to review compliance with the Helsinki Final Act; Now, therefore, be it

Resolved by the Senate (House of Representatives concurring), that it is the sense of the Congress that the President should express to the Soviet Government the deep concern of the Congress and the American people for the fate of Raoul Wallenberg, and should urge the Soviet Government to cooperate fully in ascertaining his fate.

Sec. 2. It is further the sense of the Congress that the United States delegation to the review meeting of the Conference on Security and Cooperation in Europe which will be held in Madrid in November 1980 should urge that the case of Raoul Wallenberg be considered at that meeting by the signatory countries to the Final Act of the Helsinki Conference on Security and Cooperation in Europe.

RAOUL WALLENBERG

● Mr. MOYNIHAN. Mr. President, I join today with my colleagues from Minnesota, Idaho, and Rhode Island in submitting a concurrent resolution that seeks to add one small item to the agenda of the Madrid Review Conference on Security and Cooperation in Europe. Our concern is with the fate of Raoul Wallenberg, a hero of the closing days of the Second World War, who succeeded in saving thousands of Jews from Nazi totalitarianism only to fall victim to the "liberating" forces of the Red Army. Despite the immunity he enjoyed as a Swedish diplomat, he was taken prisoner by the Soviet forces, and since that time, despite the inquiries of family, friends, and governments alike, the Soviet Government has been unwilling to provide an account of what befell him in their custody.

The continuing Soviet silence on this question for 35 years has been a breach of international legal norms, and we would be unwise to expect any cooperation now. Yet there is an opportunity before us to raise this issue in an international forum. In acceding to the Final Act of the 1975 Helsinki Conference on Security and Cooperation in Europe, the Soviet Union not only reiterated these traditional obligations of international law and diplomacy, but assumed also the obligation to join with other European nations in reviewing each nation's record of compliance.

The next such review conference will be held this fall in Spain. To my colleagues and me it seems the appropriate occasion to ask once more for Raoul Wallenberg's freedom, if he is still alive, and for an explanation if he is not.

Mr. President, our Nation has experienced directly an assault on our diplomatic representatives, and we have no difficulty in seeing this principle in the case of Raoul Wallenberg. But we ask our Government to press his case at Madrid not on these grounds but as a champion of liberty. Security and cooperation—these are the principles the review conference will uphold, but still more must we remember our deepest attachment of all—to the struggle for freedom that Raoul Wallenberg symbolizes to this day.●

SENATE RESOLUTION 509 — ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. Res. 509

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Madeline R. Miller, widow of Donald S. Miller, an employee of the Senate at the time of his death, a sum equal to nine months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 510 — ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MELCHER, from the Select Committee on Indian Affairs, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. Res. 510

Resolved, That S. Res. 357, Ninety-sixth Congress, agreed to March 4 (legislative day, January 3), 1980, is amended as follows:

(1) In section 1, strike out "January 2, 1981,", and insert in lieu thereof "February 28, 1981,";

(2) In section 2, strike out "$525,300", and insert in lieu thereof $630,360"; and

(3) In section 3, strike out "January 2, 1981.", and insert in lieu thereof "February 28, 1981.".

SENATE RESOLUTION 511—ORIGINAL RESOLUTION REPORTED TO WAIVE THE CONGRESSIONAL BUDGET ACT

Mr. JACKSON, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on the Budget:

S. Res. 511

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 3074, a bill to authorize appropriations to the Department of Energy for national security programs for fiscal year 1981 and fiscal year 1982, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 3074 as reported by the Committee on Armed Services.

AMENDMENTS SUBMITTED FOR PRINTING

DISASTER RELIEF ACT AUTHORIZATIONS—S. 3027

AMENDMENT NO. 2285

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to S. 3027, a bill to extend authorization for the Disaster Relief Act, and for other purposes.

LEGISLATIVE ACTION NEEDED TO OVERCOME BUREAUCRATIC OBSTACLES TO PROVIDING NEEDED DISASTER RELIEF TO PENNSYLVANIA RESIDENTS AFFECTED BY 1972 HURRICANE AGNES FLOOD

● Mr. HEINZ. Mr. President, the amendment I am today offering to S. 3072 is intended to correct a gross inequity that has been perpetrated upon residents of the area of Wilkes-Barre, Pa., as a result of bureaucratic bungling on the part of the Federal Emergency Management Agency and its predecessor, the Office of Emergency Preparedness.

The history of Wilkes-Barre's longstanding efforts to secure disaster relief funds so that restoration of streets and other work to undo the damage wrought by the 1972 Hurricane Agnes flood is a long and complex one. For the benefit of my distinguished colleagues, let me briefly summarize the contents of my voluminous files on this subject.

Following the 1972 Agnes flood, FEMA approved and advanced to the city of Wilkes-Barre funds for the restoration of the Osterhout Free Library and other nonprofit privately owned libraries. By FEMA's own admission, these funds were approved and advanced with the knowledge that the libraries in question were not municipally owned.

After the funds for library in restoration in Wilkes-Barre had already been spent, FEMA determined that it had in fact erred in approving this funding, that the privately owned nonprofit libraries were not eligible recipients of assistance under the Disaster Relief Act.

As a result, FEMA deleted some $612,000 from the city's outstanding claim with FEMA to compensate for the funds that had erroneously been advanced to Wilkes-Barre.

Because Wilkes-Barre had already spent these funds for library restoration, as earmarked by FEMA, the effect of this denial of part of the citv's claim has been to preclude the restoration of streets in the city's neighborhoods damaged by the flood. In short, for years the residents of Wilkes-Barre have been denied the disaster relief to which they are legally entitled as a result of bureaucratic snafus for which they were not responsible.

The purpose of this amendment, therefore, is to correct the gross injustice which has been perpetrated on the citizens of Wilkes-Barre by authorizing FEMA to reimburse for the restoration of the libraries as if they were eligible under the Disaster Relief Act. This language has been drafted by counsel at FEMA and will correct this inequity without opening the proverbial floodgates to new disaster relief claims.

I hope that my distinguished colleagues can support this amendment as S. 3072 comes up for consideration.

I ask unanimous consent that copies of recent correspondence from FEMA and a chronology of FEMA's action to date on Wilkes-Barre's claim be inserted in the RECORD. Finally, I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

Amendment No. 2285

At the end of the bill, add the following:

"SEC. 4. Any privately owned nonprofit library damaged or destroyed by Hurricane Agnes in 1972 in the State of Pennsylvania is hereby entitled to assistance as if eligible under the provisions of the Disaster Relief Act of 1970 as in effect at the time of such disaster."

Federal Emergency
Management Agency,
Washington, D.C., August 18, 1980.

Hon. H. John Heinz, III,
U.S. Senate,
Washington, D.C.

Dear John: You have requested the opinion of the Federal Emergency Management Agency (FEMA) concerning the appropriateness of the language found at section 4 of H.R. 6863, 96th Cong., 2d Sess., to authorize relief for six private nonprofit libraries in Pennsylvania which were damaged in 1972 in Hurricane Agnes. That provision currently states:

"Sec. 4. Any privately owned nonprofit library damaged or destroyed by Hurricane Agnes in 1972 in the State of Pennsylvania is hereby declared eligible for assistance under the provisions of the Disaster Relief Act of 1970 as in effect at the time of such disaster."

FEMA's Office of General Counsel believes that the language of section 4 of H.R. 6863 is inadequate because it indicates that the libraries for which relief is sought were ". . . eligible for assistance under the provisions of the Disaster Relief Act of 1970." In fact, the need for the proposed relief legislation has arisen because these libraries were not eligible for assistance under the terms of the Disaster Relief Act of 1970. The language of the proposed legislation can be modified slightly to correct this problem. Our Office of General Counsel suggests the following language:

"Sec. 4. Any privately owned nonprofit library damaged or destroyed by Hurricane Agnes in 1972 in the State of Pennsylvania is hereby entitled to assistance as if eligible under the provisions of the Disaster Relief Act of 1970 as in effect at the time of such disaster."

House Report No. 96–962, which accompanies H.R. 6863, contains a brief discussion of the proposed legislation. The Report states at page 3 that enactment of section 4 of H.R. 6863 would relieve the Osterhout Library of liability to the Federal Government in the amount of $457,318, and would relieve the West Pittston Library of liability to the Federal Government in the amount of $9,984. These figures do not represent the full amount of the costs of repairing these two libraries following the damages they suffered in Hurricane Agnes. Neither of these two libraries has undergone final audit following completion of their repairs and, until final audit, it is not possible to calculate precisely what amount they would be eligible for if the proposed legislation were enacted. However, our best estimates of the amounts they would be eligible for are $565,423 for the Osterhout Library and $48,986 for the West Pittston Library. We, therefore, recommend that the statistics in the House Report be amended to the higher figures, but with the proviso that the exact amounts for the relief of these libraries are subject to final audit.

I hope this information is of assistance to you. If I can be of any further assistance in this matter, please feel free to contact me.

Sincerely yours,

John W. Macy, Jr.,
Director.

Federal Emergency
Management Agency,
Washington, D.C., June 30, 1980.

Hon. H. John Heinz III,
U.S. Senate,
Washington, D.C.

Dear John: This is in response to your letter of June 4, 1980 concerning the City of Wilkes-Barre's disaster claim that stems from the Agnes disaster in Pennsylvania.

Our Regional office in Philadelphia approved funds for a privately owned library in Wilkes-Barre whose damages were included by the City in its own project application. It was the Region's understanding that the City owned the library. Funds were advanced to the City, based on the approved project application, and a portion of those funds was earmarked for the library.

Subsequent to that transaction the library was found to be a private nonprofit facility and therefore ineligible under PL 91–606, the disaster law in effect at that time. (Private nonprofit libraries then, as now, were ineligible under the law.) The amount advanced for the library ($457,318) was recouped by the Region by withholding that amount from later payments to the City. The total eligible cost of restoration of the library (if it were eligible) is unknown until such time as the library records are audited by FEMA auditors.

Wilkes-Barre had approached our Regional Office with the proposal that the indebtedness be lifted from them by FEMA and be placed on the library so that the City would be released from responsibility for the expenditure of the $457,318 by the library, and FEMA would then have to look to the library for the return of that amount.

Our contractual agreement (project application) is with the City. When its agent signed the project application the City assumed responsibility for all funds advanced or paid to it. We have no such agreement with the library, nor could we, since under PL 91–606 a private nonprofit organization could not apply for disaster assistance on its own behalf.

The Reauthorization Bill—H.R. 6863—which is pending Congressional action includes in Section 4 relief for private nonprofit libraries that were damaged by Hurricane Agnes. My Associate Director William Wilcox, testified on that Bill on March 26, 1980. A copy of the Committee Report is enclosed for your information.

The special legislation that is pending Congressional action which we as an agency have endorsed, would provide relief for Osterhout Library as well as five other private, nonprofit libraries in Pennsylvania.

I am very concerned about Osterhout Library and the City's problem and I can assure you that as soon as the bill is passed we will have an audit made of Osterhout's records so that the proper amount of payment may be expedited. However, under the circumstances I do not believe there is anything to be gained by the City from a visit at this time. We will be glad to discuss the problem with them by telephone if they have any questions.

I will continue to monitor the progress of the bill and work with you towards a solution of the problem as rapidly as possible.

Sincerely yours,

JOHN W. MACY, Jr.,
Director.

SUMMARY OF F.E.M.A.'S ADMINISTRATIVE ACTION

1. September 11, 1972:

On this date a letter from Mr. David Lacy, Assistant City Planner, to Mr. Kevin Nelson of OEP (see Exhibit A) requested that OEP make decision concerning the legal status of the Osterhout Library. The letter clearly requests that OEP make such a determination. The letter also requested information regarding whom should be the sponsor of an application for the Osterhout Library if OEP deemed it eligible for assistance.

2. September 13, 1972:

Mr. Ray Willman, OEP, attended a meeting on this date with City officials and officials of the Osterhout Library (see Exhibit B, minutes of meeting). It was reported that OEP had designated the Library as "a public institution" thereby making it eligible for funding through OEP. It was also determined by OEP that the City should act as the agent for funding. OEP's decision was made with full knowledge of the fact that the library was not municipally owned.

3. November 28, 1972:

On this date, Mr. Dick, State Council of Civil Defense, advised the City that Supplement #1 (Osterhout Library Claim) had been approved in the amount of $591,450. See Exhibit C–1 and C–2 for notice of approval and Exhibit C–3. The engineering analysis provides further documentation that Supplement #1 was approved with full knowledge that the library was not municipally owned. Please refer to Exhibits D–1 and D–2, and D–3.

The important point to be acknowledged is that OEP made the initial mistake. It appears that OEP officials in field did not fully understand the criteria for eligibility for libraries. The City and the Osterhout Library acted in good faith under the advice and direction of OEP.

4. The actual funding to the Library was divided into two phases. Phase I was the physical restoration of the building and Phase II was a grant-in-lieu for the replacement of books, periodicals, etc.

5. September 1975:

A federal audit is completed on Phase I and approved in the amount of $173,531.42 (see Exhibit E).

6. April 9, 1975:

With Phase II (grant-in-lieu) still incompleted, Mr. Paul Cain and Ms. Barbara Bosak (FDAA) advised the Library to request for a time extension. (See Exhibit F).

7. August 5, 1975:

All work under Phase II is completed. The Osterhout Library requests an audit for full settlement for their claim.

8. August 20, 1975:

Mr. Herbert Herman, FDAA, conducts a final inspection on the grant-in-lieu portion of the claim. See Exhibit G for a copy of the Final Inspection Report. Under Item 10 (Remarks), Mr. Herman states

"Applicant has spent the exact amount of the grant-in-lieu in a careful manner with very good records and documentation. All costs are in order and therefore full reimbursement is recommended subject to final audit."

9. May 17, 1976:

Mr. Arthur T. Doyle (FDAA Regional Director) notifies Mr. Craig Williamson (Acting Director of State Council of Civil Defense) that FDAA was now questioning the eligibility of thirteen libraries throughout the State which received assistance (see Exhibit H). The Osterhout Library is one of such libraries. The letter also notes a survey was conducted for each library, and a copy of FDAA's survey of the Osterhout is forwarded to Wilkes-Barre for verification of its accuracy (see Exhibit I).

Two important points for verification are:

(1) from August 20, 1975, the date which a final audit was requested, FDAA took no positive action to schedule such audit. If such an audit were conducted the City of Wilkes-Barre would today be in a more favorable position, i.e. we would have received a bill of collection rather than FEMA's withholding of funds;

(2) the survey of the Osterhout Library (Exhibit 1) was forwarded to us by FDAA. Thus a review of the information contained within it again verifies that Supplement No. 1 was approved by FDAA with full knowledge that the Osterhout was a private non-profit library.

10. July 29, 1976:

Mr. Dallas Dick (State Office of Civil Defense) advised the City of Supplement #37 which deletes $612,000 from the claim as a result of FDAA's declaration of ineligibility (see Exnibit J).

11. August 13, 1976:

Mr. Arthur Silverblatt, Attorney for the Osterhout Library, prepares the appeal. (See Exhibit K).

12. October, 1976:

Mr. Arthur Doyle notifies Mr. Oran K. Henderson (Director of the State Council of Civil Defense) that libraries must be owned by the state or local government to be eligible (see Exhibit L). Mr. Doyle notes in this letter that two outstanding appeals based on the Doctrine of Estoppel, Law of Restitution etc. had been referred to the FDAA Administrator for his determination. To date we have never received a formal notice per the Law of Restitution under Mr. Silverblatt's appeal.

13. 1978, 1979, 1980:

The City has requested that FEMA issue a bill of collection to the Osterhout in order that other funds programmed for street restoration within the South Wilkes-Barre Disaster Urban Renewal Project could be released. FEMA has advised us that such action cannot be taken.

NOTICES OF HEARINGS

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. SASSER. Mr. President, I would like to announce that the Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs will hold a hearing on S. 2691, the State and Local Government Cost Estimate Act of 1980 and a related measure. The hearing will be held in Room 3302, Dirksen Senate Office Building at 9:30 a.m. on September 4, 1980.

For further information regarding this hearing, you may wish to contact John Callahan or Andrew Conlin of the Subcommittee staff at 224–4718.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. HARRY F. BYRD, JR. Mr. President, I wish to announce that the Subcommittee on Taxation and Debt Management of the Senate Committee on Finance will hold a hearing on Wednesday, September 10, 1980 on H.R. 6883, the Installment Sales Revision Act of 1980, and several miscellaneous tax bills.

The hearing will begin at 9 a.m. in room 2221 of the Dirksen Senate Office Building.

The following pieces of legislation of general application, unless otherwise noted, will be considered. Revenue estimates will be available at the time of the hearing:

H.R. 6883—This bill would revise the installment sales provisions of the Internal Revenue Code (Code Sec. 453) and related code sections to simplify the tax treatment of installment sales. Senators Long and Dole have introduced a similar measure, S. 2451.

S. 2512—Introduced by Senator Mathias. Would allow architects, engineers and other design professionals to deduct from gross income money paid into a self-insurance fund set up to cover service liability losses and expenses.

S. 2900—Introduced by Senator Mathias. Would extend the exemption from the Federal Unemployment Tax Act to officers and crew of vessels between 10 and 15 tons when such vessels are subject to the same restrictions as vessels under 10 tons.

S. 2915—Introduced by Senator Roth. Would provide that for purposes of Sec. 904 (relating to the limitations on the foreign tax credit), gain from the disposition of a patent, copyright or other similar property right which would otherwise qualify as a Sec. 1231 asset, shall be treated as ordinary income rather than as capital gain.

S. 2916—Introduced by Senators Dole and Talmadge. Would allow the investment tax credit, to the etxent it is attributable to the active conduct of a trade or business, to be claimed against alternative minimum tax liability on a current basis.

Witnesses who desire to testify at the hearing must submit a written request, including a mailing address and phone number, to Michael Stern, Staff Director, Committee on Finance, Room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on September 2, 1980.

Witnesses who are not scheduled to make oral presentation, and others who desire to present their views to the subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearing. These written statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with five (5) copies to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than September 12, 1980.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Human Resources has scheduled a hearing on Friday, September 5, 1980, at 8 a.m., in room 4232 Dirksen Senate Office Building, on the nomination of John C. Truesdale, of Maryland, to be a member of the National Labor Relations Board.

COMMITTEE ON THE JUDICIARY

Mr. METZENBAUM. Mr. President, the Judiciary Committee hearing on S. 2216, the Intelligence Identities Protection Act, scheduled for Wednesday, August 27, 1980, has been postponed until Friday, September 5, 1980. The hearing will begin at 9 a.m. in Room 2228 of the Dirksen Senate Office Building on the 5th.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. HARRY F. BYRD, JR. Mr. President, I wish to announce that the subcommittee on Taxation and Debt Management will conduct a hearing on extending the Airport and Airway Trust Fund and the aviation-related excise taxes transferred to that trust fund which are slated to expire or be reduced on October 1, 1980. The hearing will be held on Monday, September 8, 1980 in room 2221 of the Dirksen Senate Office Building and will begin at 10:00 a.m.

Witnesses who desire to testify must submit a written request to Michael Stern, staff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on September 2, 1980.

Written testimony submitted by witnesses not making oral statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with five (5) copies by September 12, 1980, to Michael Stern, staff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, the Committee on Labor and Human Resources has rescheduled the hearing on the home energy assistance program for September 24 at 10 a.m. in room 4232 of the Dirksen Senate Office Building. This hearing will be the first in a series of hearings to be held in Washington and in the field by the committee in the anticipation of the reauthorization of this program next year. Announcement of the scheduling of these additional hearings will be made in the near future. For further information on these hearings, please contact Pat Markey (224–0326) or Mary McGrath (224–1099) of the committee staff.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. PRYOR. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold hearings on S. 2116, S. 2267, and S. 2327 on September 4, 1980, at 10 a.m., in room 3302 of the Dirksen Senate Office Building.

Anyone wishing additional information about the hearing may contact the committee staff at 224–4751.

SPECIAL COMMITTEE ON AGING

CHILES AND DOMENICI ANNOUNCE HEARINGS—SOCIAL SECURITY: WHAT CHANGES ARE NECESSARY?

Mr. CHILES. Mr. President, on behalf of Senator DOMENICI and myself I am pleased to announce that the Senate Committee on Aging will next month begin a series of hearings entitled "Social Security: What Changes Are Necessary?" We have scheduled the opening hearing for September 16, 1980 in room 5110, Dirksen Senate Office Building beginning at 10 a.m.

Older citizens throughout my State of Florida and around the country have been asking a very simple and obvious question: What is the true status of social security financing and why does not Congress do something to make it secure? I think the time has come to give them some straight answers. Despite our efforts in 1977 to put social security on sound footing, we are now told that more needs to be done. Resolving the short and long term financing problems of social security must be a top priority for the 97th Congress. It is time to make the necessary hard decisions, and to restore full confidence in America's most popular and successful domestic program.

In its oversight capacity, I feel the Committee on Aging is ideally suited to help shed light on the major social security issues likely to come before Congress next year. It is my hope that the work we have planned will complement and not duplicate the work of other committees. At the same time it is our intention to bring into clearer focus the changes that are now being proposed.

Any quick review of opinion on the status of social security will show that all minds do not view the future in the same way. As examples, compare the following:

The Advisory Council on Social Security in December, 1979, stated:

> The social security system has met all its obligations over the past 40 years, and this council is thoroughly convinced that any fear that benefit payments will be interrupted is unjustified. . . . After reviewing the evidence, the council is unanimously convinced that all current and future social security beneficiaries can count on receiving the benefits to which they are entitled.

Fortune magazine in their August 25, 1980 issue warned:

> The cost of carrying the aged and disabled in the style we have become accustomed to promising them may ultimately be more than workers are willing to pay. If no changes are made in the Social Security system, the tax rate needed to finance benefits 50 years from now will be double or possibly triple the current rate.

The Washington Post in a June editorial concluded:

> Social security is so important to the well-being of millions of Americans that it is difficult to view calmly any threat to its financial stability. But the problems highlighted . . . by the Social Security trustees are really not cause for major alarm. They can and should be fixed quickly and easily by a technical change in the way revenue is allocated among the . . . trust funds. Given that the country has entered a period so far somewhat badly charted by economic forecasters, however, people might be wise to arm themselves psychologically for more surprises. . . . The important thing is to maintain steadfast support of the Social Security system, and work these problems through as they arise.

Michael Boskin, Stanford professor of economics, before the Budget Committee earlier this year testified:

> The Social Security system is in serious trouble today. Put simply, when the post-World War II baby boom generation retires early in the next century, the ratio of retirees to workers in our society will increase from one retiree for every three and one-quarter workers to one retiree for every two workers. Combined wtih other economic factors, this creates a long-term deficit in the Social Security System of hundreds of billions of dollars.

It should come as no surprise that there exists a wide spectrum of viewpoints on the present problems and future directions of social security. In fact, at least six groups have been reviewing this program over the past several months and have made several major recommendations. These groups include:

HEW: Social Security and the Changing Roles of Men and Women—Report issued February 1979.

1979 Advisory Council on Social Security—Report issued December 7, 1979.

Universal Social Security Coverage Group—Report issued March 1980.

Social Security Board of Trustees—1980 Annual Report issued June 17, 1980.

President's Commission on Pension Policy—Interim Report issued May 1980.

National Commission on Social Security—Interim Report issued on January 11, 1980.

In short, debate has begun in earnest about many issues deeply imbedded within social security—and the major focus is on financing. With the payroll tax already scheduled to rise from 6.13 to 6.65 percent on January 1, 1981, the average American worker will once again be reminded that the cost of social security hits close to home.

In just a short time, the 97th Congress will convene and we will become embroiled in the day-to-day struggles over balancing the budget, tax cuts, and inflation. It is inevitable that social security financing questions will become part of that debate. With a program as large and complex as social security, there is a clear risk that the issues of most concern will not receive the time and attention they might otherwise deserve. It is therefore our intention that the hearings announced today will provide the time and the opportunity for more deliberate and careful study; and at the close of our review, I am hopeful that our committee members will be in a position to make helpful recommendations to Congress.

Mr. DOMENICI. Mr. President, I am extremely pleased to join with Senator Chiles today in announcing a series of hearings by the Senate Committee on Aging on "Social Security: What Changes Are Necessary?"

As a member of both the Senate Budget Committee and the Committee on Aging, I am concerned about the financial soundness of the social security system from both the fiscal and social perspectives.

There is hardly an American family today that is not touched by social security. The program covers over 90 percent of the Nation's employed persons. It is a major source of income for two-thirds of the beneficiaries over 65, and for almost a third of our Nation's elderly it is practically their only source of income. Social security sends out 35 million checks each month totaling over $12 billion. Its annual cost of living increases have undeniably been a factor in reducing the poverty rate among the elderly from 33 percent in 1959 to 14 percent in 1978.

Even though social security monthly payments replace only a portion of preretirement income people retiring up through the present have received a favorable overall return on their investment. For example the average current retiree receives about a $42,000 net transfer from the social security system. This is six times the amount these beneficiaries paid in, plus interest. So indeed, most people have gotten back far more than they paid into the system and they are generally satisfied with it.

Social security has been remarkably generous and seemingly sound. But, we now face a rapidly changing demographic picture. More people are living longer and more people are reaching retirement age. Indeed, life expectancy has increased by 25 years since 1900. When this positive accomplishment is combined with the trend toward early retirement, the result is an increase in the number of people who are expecting a retirement income.

Since social security is a pay-as-you-go system, with the benefits financed by the currently working population, the ratio of retired to active workers is a critical issue. When the baby-boom generation born during the 1940's and 1950's reaches retirement age following the year 2000 the retired population will mushroom. For example, if current fertility and mortality rates continue, by the year 2030 there will be only two people of working age for every one of retirement age, versus three workers per retiree today.

On one side of this dilemma knowledgeable experts tell us that OASI and DI are soundly financed by the planned payroll tax increases, interfund borrowing, and shifting health insurance financing to some source of general revenues. On the other hand equally qualified theorists maintain that we are facing a serious long-term crisis in financing the system and that only major change will save us.

I listen to these convincing positions and wonder how much reform is needed—what is the right amount of change? It is becoming increasingly clear that this payroll tax financed system is extremely vulnerable to high inflation, high unemployment, and declining productivity.

The primary solution we have accepted at the moment is simply to raise payroll taxes. The August 25, 1980 Fortune magazine described these projected social security payroll tax increases as a nightmarish burden. The article noted that:

> The social security tax increases that have had Americans screaming lately are nothing compared with what's coming when the baby boom starts retiring around 2010.

This year the combined social security tax rate—including both the employer's and the employee's "contributions"—is 12.25 percent of taxable payroll. Under present law, the levy will rise to 15.3 percent in 1990.

The magazine projected payroll tax rates for 2010, 2030, and 2050 under three sets of assumptions—optimistic, intermediate and pessimistic. The "intermediate" tax rates in the projections are 16.6 percent in 2010, 25.4 percent in 2030, and 25.0 percent in 2050. Most pension experts think the intermediate tax rates are about the lowest Americans can reasonably hope for unless benefits are reduced.

Mr. President, this article summarizes well the major issues and points being made by economists and other analysts regarding the future of social security. Therefore, I ask unanimous consent that the text of the article be printed in the Record following my statement.

Not only does social security affect the daily lives of 35 million Americans who are beneficiaries, but any change in a system which adds over $12 billion a month to the economy has far reaching implications. Even minor changes in the system may affect the interaction between social security and savings, capital formation, employment and productivity.

The Senate Committee on Aging has been conducting a study of major income and employment issues affecting older Americans. A series of hearings on "Work after 65" revealed a growing interest on the part of employers to hire and retain workers past the usual retirement age. As a part of its attempt to highlight these issues in June of 1980, the committee published an information paper entitled "Emerging Options for Work and Retirement Policy." This comprehensive background document examines the potential economic impact of an aging population, suggests further research needed and outlines policy options for major income and employment issues.

Mr. President, these hearings, which will take an in depth look at several approaches to reform of the social security system, are a continuation of this major issue exploration by the committee. The committee intends that this will be a comprehensive and objective approach to examining the broad range of proposed solutions, analyzing them and hopefully making some recommendations which will be helpful to us when we take up legislation on this matter in the 97th Congress.

It has been my observation that the broader the involvement of the committee and Members of the Senate in an issue and the greater our corporate level of understanding, the better the legislative results.

For this reason I am particularly hopeful that the information produced will result in a heightened level of understanding of these complex issues on the part of all of our colleagues in the Senate. If the Committee on Aging can present information in a way which will help to sort out the mindboggling options in this terribly complicated problem and result in a more informed decision when legislation is considered, we will have performed a most appropriate and helpful service to the entire Senate.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Fortune, August 25, 1980]

How To Save Social Security

(By A. F. Ehrbar)

Last spring, when Washington was carrying on its brief flirtation with a balanced budget, some people in the Carter Administration and on Capitol Hill actually were talking out loud about cutting Social Security benefits. Specifically, they proposed holding the automatic cost-of-living raise that beneficiaries got on July 3 to something less than the 14.3 percent increase in the consumer price index. Would-be cost cutters in the Office of Management and Budget and the Congressional Budget Office figured it would be fair to trim $4.7 billion from the scheduled $16.8-billion increase because the C.P.I. has been overstating inflation recently.

Hardly anyone took the proposal seriously, of course. The survival instinct still stops politicians from reducing transfer payments to 31 million voters in an election year. Yet the fact that responsible officials mentioned the proposal at all suggests that an across-the-board cut in Social Security benefits may no longer be politically unthinkable. Even many liberals agree that benefits must be trimmed—especially those promised to workers now in their 30s or younger.

The cost of carrying the aged and disabled in the style we have become accustomed to promising them may ultimately be more than workers are willing to pay. If no changes are made in the Social Security system, the tax rate needed to finance benefits 50 years from now will be double or possibly even triple the current rate, which will raise $150 billion or so this year. Happily, though, a couple of comparatively modest changes—raising the retirement age in the next century and revising the benefit formula—could avert such horrific costs, provided the changes are made soon.

Next year alone, the Social Security tax rate jumps from 6.13 percent to 6.65 percent—for a combined employer-employee rate of 13.3 percent—and the taxable wage base scoots up from $25,900 to $29,700. The new rate and wage base work out to a maximum tax per employee of $1,975, nearly $400 more than this year's maximum. Adding in the employer-paid portion, which most economists agree is passed back to employees as lower wages, high-income workers will pay $3,950 in Social Security taxes next year.

A CONGRESSIONAL FLIP-FLOP

Onerous as the 1981 tax hike may be, it is only the fourth of eight increases mandated by Congress in 1977. By 1990 the combined employer-employee tax rate will climb another two percentage points to 15.3 percent, and after next year the wage base will rise at the same pace as average wages. If wages increase at a real rate of 1.5 percent through the Eighties, high-income workers in 1990 will pay Social Security taxes of $5,300—in 1981 dollars.

Congress began scrounging around for ways to roll back those increases just a month after it voted for them. Chairman Al Ullman of the House Ways and Means Committee, for instance, has been touting a value-added tax as a replacement for part of the payroll levy, and Senator William Roth Jr., cosponsor of the Kemp-Roth tax-cut bill, suggested using some of the tax on "windfall" oil profits to eliminate the 1981 increase. Congress may still substitute a less visible tax for part of the Social Security increases, but it's unlikely to reduce total tax collections.

In fact, Congress may well raise taxes even higher. The package of tax increases legislated in 1977 was supposed to put Social Security on a solid footing, but it hasn't kept the system out of the red. Rapid inflation has ballooned benefits while high unemployment and meager real wage gains have depressed revenues. As a result, the Social Security Administration has been depleting the trust funds that are its working capital.

The Old Age and Survivors Insurance trust fund will be exhausted by late next year or early 1982. The administrators can continue paying benefits after that if Congress allows them to borrow excess reserves from the disability- and hospital-insurance trust funds. But there is a good chance that the combined funds won't be adequate to finance benefits by early 1984.

Every year, Social Security actuaries make three projections of future costs and revenues—optimistic, intermediate, and pessimistic. In this year's intermediate projection, which assumes the current recession will be mild and short, the combined trust funds squeak through 1984 with a small safety margin and then rebuild to a comfortable level. But many, including some liberal congressional aides who ordinarily play down Social Security problems, say the intermediate projection is too optimistic. In the pessimistic projection the system goes broke in January 1984, and stays broke.

WHEN BABY-BOOMERS RETIRE

The immediate financial crunch is a mere inconvenience compared to the one that's coming when the baby-boom generation starts retiring 30 years from now. As the multitudes born in the philoprogenitive years following World War II leave the labor force after 2010, the retired population will mushrom. Meanwhile, the population of revenue-producing workers will stagnate because the baby boom was followed by the comparatively barren Sixties and Seventies. By 2030, when the last of the boomers will be over 65, the combined payroll tax rate needed to finance benefits probably will be at least 25 percent of taxable payroll, and could be as high as 36 percent.

Those estimates, and the ones for 2050 in the chart on the preceding page, are derived from the Social Security Administration's intermediate pessimistic projections (few rational adults heed the optimistic one). Most of the striking difference between the two estimates reflects different assumptions about future fertility and mortality rates. In the pessimistic estimate, the fertility rate continues to fall, as it has in all industrialized countries for the last 150 years, and life expectancy improves at a rapid pace. Those factors combine to lift the number of beneficiaries per 100 workers from 31 today to 68 in 2030 and 84 in 2050 (the number of persons aged 20 to 64 actually declines after 2070). The intermediate estimate assumes a slower gain in life expectancy and an increase in the fertility rate; the number of beneficiaries per 100 workers reaches 52 in 2030 and remains fairly constant after that.

As with the shorter forecasts, many pension experts believe the intermediate projections are too optimistic. One is Thomas Woodruff, executive director of the President's Commission on Pension Policy, a group studying the effects that the baby boom will have on all retirement systems. Woodruff believes the pessimistic projection is more realistic, though the President's Commission is using the intermediate one so its forecasts will be comparable to those of other researchers.

The problem of paying for the retirement of the baby-boom generation is more urgent than it might appear. The only way to avoid sky-high payroll tax rates is to reduce promised benefits, and that should be done soon if it is to be done at all. Cutting benefits may be politically impossible if we wait until the Nineties, when the oldest of the postwar generation will be only ten or 15 years away from collecting them. Moreover, it's questionable whether society should alter longstanding commitments so soon before they come due. Says William Agee, chairman of Bendix Corp. and one of the few businessmen who has made a close study of Social Security: "Procrastinating until the burden forces the breaching of promises will only make the problem worse. Young and old will be pitted against one another in a fearful battle over the remains of a shrinking economy."

Two simple changes would eliminate the need for any payroll tax increases beyond the level now set for 1990. One is to raise the retirement age, starting in the year 2000, from 65 to 68. A new study by four economists at the National Bureau of Economic Research shows that such a change would eliminate the long-term deficit in the Old Age and Survivors portion of Social Security. Using the Social Security Administration's intermediate projection, the economists calculated that the present value of the old-age deficit is about $885 billion. That is, the old-age benefits that will be paid over the next 75 years—discounted to the present at a 3% real interest rate—are $885 billion more than the old-age portion of the payroll taxes that will be collected.

The total deficit, including the hospital portion of Medicare and disability benefits, is much larger. Stanford economist Michael J. Boskin, who headed the National Bureau study team, figures that the hospital and disability deficits come to 50% to 70% of the old-age deficit. That puts the present value of the total Social Security deficit at $1.3 trillion to $1.5 trillion—more than double the national debt.

When Boskin's team calculated the effect of raising the retirement age to 68, they came up with a $200-billion surplus in the old-age portion of the system. Says Boskin, a 34-year-old baby-boomer who advocates later retirement: "Altering the length of retirement by a single year, by changing either the retirement age or life expectancy, raises or lowers the Social Security deficit by about $350 billion."

A CASE FOR LATER RETIREMENT

While raising the retirement age obviously amounts to a benefit cut, it wouldn't mean a large reduction in the length of retirement. Robert Myers, a former chief actuary of Social Security and another proponent of later retirement, estimates that a man 68.9 years old in the year 2000 will have the same life expectancy a 65-year-old had when the Social Security Act was passed in 1935; for women, life expectancy at 72.5 will be the same as it was at age 65 in 1935.

Boskin and Myers have a lot of support in their call for a later retirement age. The National Commission on Social Security, set up by Congress to evaluate possible changes in the system, has tentatively endorsed a plan to raise the eligibility age to 68 over a 12-year period starting in 2000. The President's Commission has recommended that Congress consider raising the age, and the last two Social Security Advisory Councils have supported the idea. The councils are groups that assess the state of the system every four years.

Most of the opposition to later retirement comes from Social Security expansionists like former Commissioner Robert Ball, old-age lobbyists like the American Association of Retired Persons, and Congressmen. In 1977, Barber Conable, the ranking Republican on the Ways and Means Committee, proposed a plan similar to the one endorsed by the National Commission. Conable couldn't even muster the support of the Republicans on the committee, but he did draw 3,000 letters from enraged Gray Panthers.

PRICE INDEXING VS. WAGE INDEXING

The other change that would bring large savings is an adjustment in the benefit formula that Congress adopted in 1967. That formula ties initial benefit levels to average wages. That is, future retirees will be entitled to benefits that rise by the same amount as average wages until a person is 60; after that, an individual's benefits are tied to the C.P.I. Since wages rise faster than prices over the long run, benefits paid to future retirees will be higher than the present ones, even in constant dollars. The idea behind the formula, called "wage indexing," is to assure that pensions replace a constant percentage of pre-retirement income.

An alternative is to index initial benefits to prices instead of wages. Under that formula Social Security would gradually replace a smaller percentage of pre-retirement income, but it would provide future retirees with at least as much purchasing power as persons retiring this year. In fact, the formula for determining initial benefits would cause them to continue to rise in real terms, though at a slower rate. In 1977, a congressional consulting panel headed by Harvard economist William C. Hsaio estimated that a worker with average earnings who retires in 2050 would get a pension with a real value of triple the current benefit under wage indexing and double the present benefit under price indexing. Hsaio, who favors price indexing, figures it would save roughly the same amount as raising the retirement age.

In addition to reducing costs, price indexing would boost private savings and economic growth. Social Security cuts into savings by diminishing the need to provide for retirement—though the magnitude of the effect is a matter of hot dispute. Studies by Martin Feldstein, president of the National Bureau of Economic Research and another price-indexing proponent, indicate that Social Security may reduce private savings by as much as 38 percent.

If we changed the benefit formula and raised the retirement age, the combined cost savings would wipe out the entire long-term Social Security deficit and leave room for a payroll tax cut sometime after the year 2000. The lower costs would also give Congress the flexibility it will need to correct some of the system's deficiencies, such as the inequitable treatment of working wives.

BILLION-DOLLAR NIBBLES

Under current law a couple gets 150 percent of the husband's basic pension while both are alive, and the survivor gets 100 percent after one of the two dies. That benefit usually is greater than what working wives can collect on their own earnings (they can't take both), so most of them get nothing in return for the payroll taxes they pay. Since Congress isn't likely to repeal the 50 percent bonus for housewives, correcting the mistreatment of working wives will be expensive. And with a majority of wives now in the labor force, voters are bound to demand some such change.

Unfortunately, Congress has no similarly simple options for dealing with Social Security's short-term financial troubles. Slashing benefits to current retirees still is politically unthinkable; it also would be morally indefensible to cut payments to persons who depend on Social Security just to get by. However, a handful of unnecesary benefits could be eliminated without harming the truly needy. The cuts would be puny relative to total costs, but just nibbling at Social Security can save several billion dollars a year.

One potential cut is the payment to survivors between 18 and 21 years old who are full-time students. The benefit was added in 1965, before Congress created the panoply of college-assistance programs available now. Another benefit that could go is the payment to surviving spouses with 16- and 17-year-old children. The reasoning behind the benefit is that single parents aren't able to work, but that obviously isn't the case when children reach 16. A third prospective cut is the $255 lump-sum death benefit, originally meant to cover burial costs.

The benefit most deserving of elimination is the so-called minimum payment, intended to help persons whose covered earnings were too low to qualify for even a subsistence-level pension. The prime beneficiaries now are federal employees. Though exempt from Social Security taxes, many moonlight in order to qualify for the minimum pension. The Congressional Budget Office estimates that those four cuts, all of which were proposed by President Carter last year, would save $3.2 billion a year by fiscal 1985.

PENALIZING THE INDUSTRIOUS

Two other desirable reforms would actually entail higher costs, but would make the system fairer. One is to get rid of the earnings test for retirees between 65 and 72. They now lose 50 cents in benefits for every dollar they earn over $5,000. The provision, which exacts a large penalty from poor retirees who want to supplement their benefits, doesn't affect those with substantial capital income or private pensions. In effect, the system applies a means test to beneficiaries who work but not to those who are idle.

Eliminating the earnings test for people 65 and over would be surprisingly cheap. Last year the Social Security Administration saved only $2.1 billion by reducing the benefits of workers who earned too much. The full cost wouldn't even be that high because many retirees would work more—and so pay more Social Security and income taxes—if they didn't have to sacrifice benefits.

The second reform, and the most controversial of all possible changes, is to reverse the income-tax treatment of Social Security—tax the benefits and exempt the payroll taxes. The common view, of course, is that benefits should be tax-exempt because retirees paid for them with after-tax dollars. In fact, Social Security is a welfare system that dispenses benefits on the basis of past earnings instead of need, with proportionately larger payments going to low earners. The Internal Revenue Service (not Congress) originally exempted the benefits from income taxes in 1940 precisely because they were welfare payments. Moreover, the taxes a worker pays have no direct relation to the benefits he receives; taxes are determined by the cost of paying benefits to others during the years he works.

The case for taxing Social Security benefits rests on the enormous wealth transfers the system effects—not just from high earners to low earners, but also from one age group to another. One estimate of the intergenerational transfers, shown in the table above, was calculated by Boskin and his associates. They defined a transfer as the difference between the pension benefits a person will receive and what he could have earned by investing the old-age portion of his taxes (including the part paid by the employer) in an annuity with a 3 percent real return. They found that persons born before 1913 who survived to collect benefits will, on average, receive net transfers of nearly $60,000 in 1980 dollars. In other words, persons born before 1913 "paid for" only 14 percent of the benefits they will collect. The other 86 percent is a windfall. In contrast, persons born between 1943 and 1952 will pay $374 more in taxes than they'll collect in retirement benefits, and persons born after 1952 will suffer successively larger losses.

A SUBSIDY FOR HIGH EARNERS

Some wealth transfer from the richer working-age generation to the poorer retired generation is justifiable. But Social Security makes glaringly inequitable transfers from poor young workers to rich retirees. As Boskin says, "It makes little sense for current unskilled workers to surrender income to subsidize retired doctors and lawyers beyond fair returns on the taxes they paid."

Reversing the tax treatment would help redress that imbalance. Exempting young workers from income taxes on their "contributions" would reduce their total Social Security losses somewhat because the value of the tax savings would be greater than the taxes they would eventually pay on benefits. The deduction would be worth more to high-income individuals in higher tax brackets, but they ultimately would pay higher taxes on benefits; on balance, over their lifetimes, the change probably wouldn't have much effect on the wealth transfers among workers the same age.

The change would be fair to retirees as long as they were taxed only on benefits over and above the payroll taxes they paid into the system—a tax treatment identical with that now given to employee thrift plans, where workers invest after-tax dollars and pay taxes only on the earnings. Including benefits in taxable income wouldn't penalize the elderly poor; some 60 percent of Social Security recipients would pay no taxes at all.

A case can be made that an elderly couple with $15,000 of income from Social Security and a private pension deserves preferential tax treatment. But a stronger case can be made for a worker with a wife and two or three children and the same income. His Social Security payroll deduction this year will be $919.50, on which he'll pay another $130 or more of income taxes.

In 1978, the change would have cost $5.4 billion in lost income-tax revenues. Mickey D. Levy of the American Enterprise Institute made a study of the effects of various tax treatments of Social Security and found that exempting payroll taxes would have reduced income-tax revenues by $9.4 billion in 1978. Including benefits (in excess of payroll taxes paid) in the recipients' taxable income would have increased revenues by $4 billion, and taxing all benefits would have boosted revenues $6.9 billion.

A PASSION FOR CAMOUFLAGING COSTS

The political history of Social Security gives little reason for optimism about any of these reforms, with the possible exception of eliminating the earnings test. Congress has frequently boosted benefits over the years, comfortable in the knowledge that the full bill for its vote-getting largess would come due only in the distant future. In the process, Social Security has evolved from a reasonably modest program to keep the elderly out of extreme poverty into a full-blown federal pension system.

Congressmen frequently talk of reforming the system, especially now that some of the formerly distant costs are driving up the tax rate. But the talk focuses more on camouflaging costs than on reducing them. Says Jake Pickle, chairman of the Ways and Means subcommittee on Social Security: "We've had 120 bills to freeze the taxes, but nobody's talking about cutting those benefits. If somebody does say he's going to cut benefits, we may want to freeze him."

The forces working against change are formidable. Cutting current benefits would anger the elderly, more of whom vote than any other age group, yet it wouldn't save enough to permit a sizable tax cut. Cutting future benefits is politically expensive because the elderly, ever watchful, see any reduction as a precedent that threatens their own benefits.

THIS CRAVEN COLLECTIVE

Barber Conable, weary and bent from previous battles, is despondent about the prospects for heading off the long-term crisis. "We should be able to design a system based on the facts of the baby boom," he says. "But it's going to take a Congress that is politically accountable, and this Congress is not. This craven collective will break and run as soon as they get 300 letters on a subject."

Still, under pressure from a public indignant over big increases in an extremely visible tax, Congress and the White House may be starting to move away from the traditional politics of Social Security. President Carter's proposal to cut certain benefits last year was a remarkable event. Though Congress rejected the cuts out of hand, a few Democrats on Ways and Means are starting to talk as though some reductions might really be possible at last. Pickle, for one, has been saying that a later retirement age might be possible. And Jim Jones of Oklahoma, an influential young member of the committee, hopes to engineer a major overhaul of the system next year.

Jones believes that public outrage over next January's payroll tax increase, combined with the looming 1984 deficiency in the trust funds and the bad news about the long-term deficit that will be coming out in the final reports of the National Commission and the President's Commission, will force Congress to act. "The average Congressman has put Social Security out of his mind," Jones says. "But the events of history are converging, and the public will demand that we do something." Jones's assessment that the nation at last has an opportunity to get control of the largest "uncontrollable" in the budget seems correct, but the opportunity is sure to dwindle if Congress delays for long.

Mr. COHEN. Mr. President, one of the major issues which will confront the 97th Congress is the question of how best to maintain the short- and long-range fiscal stability of the social security system.

As a member of the Special Committee on Aging, I am pleased that the committee has decided to hold hearings on this critical issue. The hearings which the committee will hold should lay a solid groundwork for the debate anticipated next year.

The September 16 hearing will focus closely on two major areas: The projected financial crisis, and long-range overall changes needed for social security. That hearing will provide the basis for an indepth review of the wide range of questions which must be considered if we are to have comprehensive legislation to strengthen the system.

For the millions of Americans participating in social security, the hearings we will hold this fall and the legislation we will almost surely consider next year will have profound significance. Only 3 years ago, Congress approved legislation which, we believed, would solve the problems with the system. Our optimism proved to be unfounded. The economic difficulties of the past few years have had a strong, negative impact on the system.

Even under the most optimistic economic assumptions, social security faces severe new short-run strains because of those national economic problems. Even the large social security tax increases approved in 1977 will not be enough to keep the system solvent unless the Nation's economy improves substantially. The system cannot withstand many more record cost-of-living increases on the order of the 9.9 percent boost in 1979 and the 14.3 percent jump this year.

As we look to solutions to social security's financing problems, we must do so with an eye toward the economy. We must also take into account changing population patterns. People now live longer and retire earlier. Today, there are 3.3 workers for each person receiving benefits. By the year 2030, the ratio will shrink to 2 to 1.

Social security trustees have said they believe that the system can get by for a few years through interfund borrowing, if the economy stabilizes. If economic conditions remain bad, or if they worsen, shifting money from one trust fund to another will not be enough.

A number of proposals for strengthening social security have been put forward. These include increasing social security taxes, allowing the medicare portion to be paid by general tax revenues, cutting back benefits, changing cost-of-living computations, taxing half the benefits, and providing universal coverage.

There are problems with all of these proposals, and it may be difficult to reach a consensus on the best approach to take in dealing with social security's financial difficulties. We owe it to the American people to take the steps necessary, however complex or controversial, to insure the future fiscal strength of the system.

The Aging Committee's hearings provide an important forum for early consideration of some of the alternatives before us. They will, I hope, be a prelude to development of thoughtful recommendations for legislative solutions to social security's problems.

I look forward to participating in the hearings. Senator CHILES, the chairman of the Aging Committee, and Senator DOMENICI, the committee's ranking Republican, deserve great credit for initiating their valuable efforts to draw attention to an issue we will almost surely be asked to confront next year.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. STEVENSON. Mr. President, I ask unanimous consent that the select committee on Indian Affairs be authorized to meet during the session of the Senate today to consider the State of Maine judgment legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PLANT WATERING

● Mr. SASSER. Mr. President, I call the attention of my colleagues to an article in a recent issue of the U.S. News & World Report entitled "Just Say They're Watering Down Your Tax Dollars." The article retells our efforts here in the Senate and in the Congress to eliminate nonessential expenditures of plant watering services for Federal employees. The article points out that despite our legislative efforts, the plant watering contracts still go on and on and on—just like Tennyson's Brook—to the tune of $54,400 a year. I shall submit the article for the RECORD at the conclusion of my remarks.

COMPTROLLER GENERAL'S DECISION

Mr. President, a recent letter to me from the Acting Comptroller General indicated that he was informing the six delinquent agencies that these latest plant watering expenditures are in violation of law, that such contracts shall be canceled immediately, and that the General Accounting Office will be forced to take formal exception to any illegal payments made for plant maintenance services rendered after April 30, 1980.

AGENCY RESPONSE

I am pleased to inform my colleagues today that the six affected agencies have finally communicated to the Comptroller General that they have taken corrective action to terminate the plant watering contracts found to be in violation of the Comptroller General's decision and the law.

CONCLUSION

Mr. President, I believe that this is one battle for the taxpayers of our country that has been waged and won.

The article follows:

JUST SAY THEY'RE WATERING DOWN YOUR TAX DOLLARS

Lawmakers are discovering they often are no match for bureaucrats seeking to circumvent the intent of Congress.

Consider the losing battle Senator Jim Sasser (D-Tenn.) has been waging against the use of private contractors to tend ornamental plants in government offices.

During a hearing last year by a Senate Appropriations subcommittee that Sasser heads, he learned that a tiny bureaucracy called the Copyright Royalty Tribunal was paying $1,100 a year to have its plants fed and watered.

Further investigation found that taxpayers had spent $816,700 over four years on plant-care services throughout the government, an amount "equivalent to the taxes paid by 400 hard-working Tennessee families in a year," Sasser pointed out.

Armed with that information, he easily won approval of an amendment outlawing the use of public funds for that purpose.

However, recently a follow-up by congressional investigators showed that seven agencies are still paying $54,400 a year to contractors for plant services.

"Most incredible was the revelation that the Internal Revenue Service is wasting nearly $33,000 to have its plants watered," says Sasser. "I just can't imagine that the nation's tax collector would lead such a waste parade."

INTERNATIONAL ANTITRUST TASK FORCE

● Mr. MATHIAS. Mr. President, in May, the Governmental Affairs Committee unanimously reported out S. 1010, my bill to establish a task force to examine the international implications of U.S. antitrust laws. I expect that the measure will be soon scheduled for floor action and passed by the Senate.

In that regard, I think it might be appropriate to address the concerns of some of my colleagues who view S. 1010 as a potential threat to antitrust enforcement. Frankly, I can understand their concern, but I want to reassure them that the original impetus and continuing pressure for enactment comes from precisely the opposite direction.

My original associate, Senator JAVITS, and I, have long shared the conviction that the antitrust laws are the basic tenets of our great free enterprise system. S. 1010 is true to that conviction, and we expect the task force will suggest ways to enhance the efficient and effective enforcement of the antitrust laws.

Recently, I asked the former Chief of the Foreign Commerce Section of the Antitrust Division, Douglas E. Rosenthal, to prepare a "statement of purpose" for the proposed task force. Drawing on his extended experience, he has written an excellent summary of the issues that the task force should address. In so doing, I think he gets to the heart of the matter—that we owe it to both our allies and our own international traders to come to grips with their serious concerns.

Rather than summarize Mr. Rosenthal's statement of purpose, I request that it be printed in full in the RECORD at the conclusion of my remarks. In anticipation of the upcoming debate on S. 1010, I would urge all of my colleagues to read it.

The statement follows:

STATEMENT OF PURPOSE

There are four important goals of the foreign economic policy of the United States that are relevant to the work of this Commission. One is to promote open and competitive markets for both imports and exports. Two is to maintain amicable diplomatic relationships with nations with whom we trade. Three is to help American workers and enterprises when they suffer sudden, substantial, and sometimes unfair, hardship in international commerce. Four, and no less important for being only recently appreciated, is to facilitate export opportunities for U.S. goods and services.

The first goal is embodied in our antitrust laws, which represent not only rules for proper conduct in the market place, but also an expression of America's commitment to a system of economic freedom. The second is reflected in our diplomatic policy, in our commitment to seek to resolve disputes with other nations with due regard for the fact that not every sovereign people approves of our institutions or accepts the validity of our laws. The third goal is embodied in our trade law which seeks to set appropriate limits to sometimes necessary departures from free market principles. The fourth goal is furthered by pending legislation seeking to lessen or remove existing impediments to the aggressive marketing of U.S. exports.

It is becoming increasingly apparent that in particular policy applications these goals may conflict. The primary task of this Commission is to consider the apparent conflict between the first goal, the goal of antitrust, and each of the other three goals. To the extent significant conflicts are determined to exist, the Commission is responsible for recommending practical compromises that will, to the fullest extent possible, express continuing commitment to and preservation of all four goals of U.S. policy. This Commission shall be committed to free markets; it shall be committed to seeking accommodations with our trading partners; it shall be committed to assisting those Americans seriously injured in the international market place; and it shall be committed to the promotion of U.S. exports. It is charged with recommending small limitations on one goal in a particular context where that is likely to yield a net expansion of offsetting goals in a variety of contexts. This exercise need not produce a fundamental reconstitution of U.S. policy or U.S. institutions. However, where sharp conflicts between two desirable objectives appear unavoidable, the scope and elements of such conflicts shall be laid out so that possible further executive, legislative and judicial action may be considered.

The most important of apparent conflicts is between the effective enforcement of U.S. antitrust law and amicable relations with our trading partners—including our closest and most important allies. The jurisdiction of U.S. antitrust law is broader in scope than that of every other nation in the world—have, perhaps the Federal Republic of Germany. U.S. antitrust investigations involve procedures which contradict foreign ideas of fairness. What we in the U.S. do by legal proceedings between private persons, other nations, even other nations with our common law heritage, only do by diplomacy between governments. These differences are leading us into increasingly serious international economic confrontation. Are there ways to reduce these confrontations without unraveling the fabric of U.S. antitrust enforcement?

Many American business executives perceive that the antitrust laws discourage aggressive export marketing—especially where exporting would be enhanced by joint ventures among competitors. Do the antitrust laws discourage such aggressive marketing? If so, is it appropriate that they do so? If not, and if there is a problem, how can they be modified so that exports are not inappropriately disadvantaged?

There is an increasing perception of conflict between antitrust law and policy, on the one hand, and trade law and policy, on the other. The antitrust laws are hostile to international cartels. In certain limited instances, U.S. trade law promotes international cartelization through import limitations and orderly marketing agreements. Some suggest that the antitrust laws discourage U.S. industries from legitimately exercising rights conferred under the trade law. Others claim that the antitrust laws limit the ability of foreign industries to settle U.S. domestic trade actions. How true are these assertions and what should be done about the problems that generate them?

The specific Commission objectives set forth in Section 3 of this statute fall within one of these three areas of perceived conflict. They should be studied in greater or lesser degree depending upon the extent to which they are judged relevant to the cause or cure of one of these three sets of problems.●

ON FINITE OIL RESOURCES

● **Mr. TSONGAS.** Mr. President, many of us have been urging for some time that the fundamental reality of the current energy situation is that oil and gas are finite resources. But there are still those who believe that if we just unshackle the oil companies and decontrol the price of oil, then we would have as much oil as we need. As much as I would like to tell this to my constituents, it just is not so.

In this Nation, we will spend more for oil and invest more for exploration, but we will find less oil. The giant fields that gushed oil out of the ground were found long ago and are now being emptied.

An article that appeared in the Wall Street Journal on July 8, 1980 bears these points out. Mr. President, I ask that the full text of the article appear in the RECORD.

The article follows:

DESPITE BIG OIL HUNT, U.S. CRUDE OUTPUT IS LIKELY TO KEEP SLIDING

(By Rich Jaroslovsky and John R. Emshwiller)

When President Carter announced his decision last year to decontrol U.S.-produced crude oil, he acknowledged that the higher prices would sting American consumers. But he saw a silver lining: "The immediate effect of this action will be to increase production."

It's increasingly apparent, though, that the silver lining doesn't exist. Despite a boom in oil exploration and drilling, U.S. crude-oil production seems likely to continue its long-term decline, and at rates sharper than even some pessimists had predicted. Too little oil is being found to sustain the pesent flow, say energy experts both within and outside the government, and the outlook may be bleak indeed.

Certainly any hopes of increasing domestic output, or even holding production steady at the current 8.6 million barrels a day, are fading fast. "We aren't going to get the quick kick-up in production that the public has simplistically been led to expect," a senior Energy Department official says flatly. Instead, analysts are anticipating further declines in U.S. output during the next decade and—unless demand drops even more than optimists hope—perhaps greater U.S. dependence on foreign oil.

PECULIAR ECONOMICS

"Unfortunately, as prices get higher, production forecasts get lower," says Lawrence Goldstein, senior economist for the Petroleum Industry Research Foundation. "It is peculiar economics."

The past optimism grew out of the belief that decontrol would lead companies to find and extract large quantities of oil that were uneconomical to produce with price controls in force. Now, though, many producers and analysts are echoing Paul Hoenmans, executive vice president of Mobil Corp's exploration and production division, who says, "It doesn't appear there are great volumes of oil yet to be found in the U.S."

The problem is basic. Production from the lower 48 states, where the U.S. pumps most of its oil, has been falling nearly 4 percent annually since 1973 as old fields are depleted. For a while, that decline was offset by surging Alaskan output. Soon, though, Alaska is expected to level out for several years, and the outlook for the lower 48 is growing gloomier.

Unpublished Energy Department, figures show that some major U.S. oil companies are losing lower-48 production at a rate exceeding 10 percent a year, with one concern showing a dismal 17 percent drop. "We are inordinately dependent on aging, over-the-hill fields now in irreversible decline," the senior energy officials says.

HARDER TO FIND

At the same time, new oil is becoming harder and harder to discover. Despite occasionally promising finds, such as in the Overthrust Belt in the Rocky Mountains, the nation isn't adding enough new reserves to offset what it is using. "The price is there, the incentive is there, but we aren't getting the oil," says Lisle Reed, an Energy Department oil analyst. "The resource base is shot."

So a crunch may be coming, and soon. Since President Carter's hopeful words last year, the Energy Department has been quietly but steadily backing down from its initial public projection for 1985 production of nine million to 9.3 million barrels a day. The agency says production will still be higher than it would have been without decontrol, but it now officially projects that output will sag to about eight million barrels daily in 1985.

And nearly everybody else calls those official figures still too high. Exxon Corp. forecasts U.S. production in 1985 at about 7.9 million barrels a day, with a drop to 6.1 million by 1990. Mr. Reed sees 1985 output at 6.5 million barrels. An unreleased Energy Department study is gloomier yet; even with speedier leasing of government lands for exploration and a pickup in Alaskan production—both far from certain—the study says 1985 output may fall below seven million barrels.

Even optimists concede the country needs a lot of breaks to improve the outlook. Shell Oil Co. says it thinks 1990 production could still total nine million barrels a day, but it estimates that about a third of that must come from oil yet to be discovered.

DRILLING AT RECORD PACE

Of course, companies are out looking for that oil. Spurred by decontrol and higher prices, drilling is going on at record rates. But that effort isn't turning up a lot more oil.

"Price doesn't really have much to do with finding oil," Mr. Reed maintains. "Price does have an effect on drilling, but drilling isn't the major factor in adding new oil. The key to finding oil is opening up fresh new territory." The trouble is, he says, that most of the territory in the U.S. has already been plumbed—and much of what's left is under environmental or other constraints.

Some new oil is being found. Government figures show that the thousands of smaller producers are finding about as much oil as they are producing. "We're holding our own," says C. John Miller, president of the Independent Petroleum Association of America, a group of smaller operators.

It's the big companies, though, that are having the big problems. To offset the huge quantities of oil they pump, these companies must find huge new fields just to stay even. And, in many previously promising areas such as the Baltimore Canyon, they aren't finding them. "Over the last five years, exploration in what were viewed as hopeful areas have turned up fairly negative results," an Exxon official says.

Gloomy pronouncement may fuel public speculation that the oil companies are purposely sitting on big reserves to create a shortage and drive up price. Even normally skeptical government officials, though, doubt that's the case.

"Production and exploration units have virtually unlimited budgets right now," says Paul Bloom, the Energy Department's special counsel and a man who has accused the companies of billions of dollars of chicanery in pricing. After reviewing production activities of the major companies, Mr. Bloom concluded that almost every feasible effort is being financed. "The dollars are chasing projects," he says.

Adds the department's Mr. Reed: "The oil people are out there busting their tails. It isn't their fault, but the oil they've been finding isn't significant in terms of the nation's demand."

Many oilmen complain, though, that the government isn't doing all it could to help them. They particularly cite, as deterrents to the hunt for oil, the new "windfall profits" tax and policies on leasing public land and offshore areas.

Still assailing the tax months after its passage, one executive says that with fewer and fewer big pools of oil to be found, "we are looking at going after smaller, costlier fields. And there is a real question whether the extra cost will soon overtake the remaining extra revenue" after the tax.

That damping effect isn't yet in evidence, the independent producers' Mr. Miller concedes, but he anticipates it later in the decade as drilling costs continue to rise. On the other hand, he contends that if oil prices were allowed to climb without the windfall tax, "I think we could arrest this decline in crude-oil production and kick it back up."

Government officials disagree with that notion, though, and so do some oil-industry executives. The prospects for finding much more oil are so bleak, says Robert Baldwin, president of Gulf Oil Corp's refining and marketing unit, that "if crude oil went to $100 a barrel, we couldn't arrest the decline rate." (The world price now averages a bit over $30 a barrel.)

Admittedly, Mr. Baldwin says, "there's a lot of area yet to be looked at" in the U.S. "But none of those represent the kind of crude-oil production we had in say, East Texas or Louisiana." What the country needs, he says, "is to find three or four accumulations like Alaska's North Slope." And that, he adds, isn't likely.

To get at what oil is left, many observers expect a concerted effort by the oil industry to persuade the government to speed up the leasing of public lands and promising offshore areas, especially in Alaska, for exploration and production. "In Alaska, some of the most promising areas aren't going to be available until the late 1980s" under current government timetables, Mobil's Mr. Hoenmans complains. And a federal official predicts that the government is "going to be under increasing and soon excruciating pressure" to allow more drilling sooner.

Already, Republican presidential candidate Ronald Reagan is urging increased effort in Alaska, and he has even asserted that the state may have more oil than Saudi Arabia. While Mr. Reed of the energy agency dismisses that claim, he does say that "we've got a gold mine in Alaska . . . just bountiful potential," and says he objects "violently" to the planned pace of development there.

Just how much oil Alaska has is a subject of hot debate, with environmentalists arguing that pro-development forces have substantially overestimated the potential. In any event, though, production from the state's more remote areas will pose severe technical and logistical problems that even the industry says will require much time, money and effort to conquer.

The Carter administration is more hopeful about the prospects for using "tertiary," or enhanced, recovery methods to get more oil out of depleting fields in the lower 48 states. These costly, still-exotic techniques are designed to flush out more of the oil—up to two-thirds of the original pool, in some cases—left in the ground when a field's pressure drops and it can't be worked by normal methods.

By some estimates, tertiary recovery—which includes such techniques as injecting steam, carbon dioxide or chemicals into the field—could yield up to one million barrels a day of extra production by 1990, compared with only a trickle now. It is "the only area of optimism" on the production front, Mr. Goldstein says.

But it may take five to seven years before tertiary methods really begin paying off, Mr. Reed says, and "the first round of results has been kind of disappointing." Indeed, another energy official says almost every big producer "has at least one field they privately refer to as a disaster," where an expensive production-increasing plan either didn't work or even made matters worse. Adds Gulf's Mr. Baldwin: "Most of the people who express euphoria about tertiary recovery almost certainly don't know the facts."●

COST OF HEALTH CARE IN AMERICA

● Mr. **DURENBERGER**. Mr. President, in the Washington Post this morning, it was reported by Spencer Rich that the cost of health care in America last year rose to $943 per person.

This startling news underscores the concern many of us have about the uncontrolled inflation of health care costs. A recent report from the Health Care Financing Agency (HCFA) predicted that by 1990, the cost of health care would exceed $3,000 per person.

Given these statistics, there is no doubt in my mind that we cannot continue subsidizing medical care in the same old ways. We must turn rather to new approaches, new directions which hold promise of restraining costs. Only by such changes can we in Congress responsibly approach filling the gaps in present medical insurance coverage.

The Health Incentives Reform Act, S. 1968, which I have sponsored together with Senators Dave Boren and John Heinz, proposes such new ideas. And while this so-called procompetitive approach is new to Congress, it is by no means new to the Nation as a whole. The Twin Cities in Minnesota have thriving competition in health care; other examples exist in Seattle, Wash., Hawaii and elsewhere.

I commend the following article to readers of the Record, and hope that these new figures will drive home the point we have been making: Health care costs simply must be restrained by more open reliance on competitive, market forces.

The article follows:

AVERAGE HEALTH BILL WAS $943 PER PERSON IN 1979

(By Spencer Rich)

Americans spent $212.2 billion on their health last year, an average of $943 per person and an increase of 12.5 percent over the previous year.

Secretary of Health and Human Services Patricia Roberts Harris, in yesterday's announcement, said the $212.2 billion health spending for calendar 1979 worked out to 9 percent of the gross national product, the highest proportion ever.

Thirty years ago the figure was only 4.4 percent. But the share of national treasure spent on health has been growing steadily in the post-World War II era, fueled by the growth of employer-provided health insurance and by implementation of Medicare and Medicaid.

The HHS figures show that by far the biggest health cost is hospitals—$85.3 billion last year. In addition, $40.6 billion went to doctors, $17.8 billion to nursing homes, $17 billion to drugs and $13.6 billion to dentists.

HHS calculated that hospital costs went up 12.5 percent from 1978 to 1979. This includes federally run hospitals and state and local psychiatric and long-term care hospitals, as well as nonfederal acute-care hospitals.

HHS has earlier calculated that 1979 costs for nonfederal acute-care hospitals had risen 13.4 percent, substantially faster than HHS 1979 guidelines of 11.7 percent.

Continued growth of hospital costs beyond the HHS guidelines could help boost a new Carter administration drive for mandatory hospital cost controls.

The cost-control bill was beaten in the House in 1979 after a massive campaign by the Federation of American Hospitals, American Hospital Association and other industry groups that said voluntary cost-control efforts could do the job.

A remarkable feature of the health statistics is the growth of government expenditures for health as a proportion of the total.

In 1950, about a quarter of all health spending came from federal, state or local government sources, and the other three-quarters from private resources. By 1979, however, $406 of the total $943 per person came from government sources—43 percent.

In 1979, the federal government paid $61 billion for health, state and local governments paid $30.5 billion and insurance companies paid $54 billion. Patients laid out $60 billion from their own pockets.

Medicare and Medicaid—the two giant federal programs—amounted to about $51 billion, including state matching funds, or about a quarter of the national health outlay.

And Medicaid, which totaled $29.3 billion, now is as big by itself as all three major federal-state, income-support welfare programs combined (Supplemental Security Income, Aid to Families with Dependent Children, and food stamps).●

FEDERAL GIVEAWAY PROGRAMS

● Mr. **SASSER**. Mr. President, on four recent occasions I have reported to my colleagues about the activities being conducted by the Government Printing Office—at the direction of the Library of Congress and the Smithsonian Institution—under an obscure law with its antecedents dating back to the 19th century.

Under section 1719 of title 44 of the U.S. Code, over 1.6 million copies of 20,441 publications are printed for distribution to foreign governments, including the governments of the Soviet Union, Cuba, and Iran. This Federal giveaway program costs the taxpayer at least $1.1 million a year. In return for the 1.6 million copies we print for shipment overseas, we receive 275,486 in return, or a 6 to 1 disadvantage.

ORIGINAL INTENT

Apparently, this citation in title 44 was originally intended for the exchange of official journals, parliamentary documents, and literary publications.

There may be some justification for sending such documents as the Congressional Record, the Federal Register and the Public Papers of the President to foreign countries in exchange for similar documents published by those countries.

However, Mr. President, I can see no justification for sending such sensitive publications as Army Field Manuals, and Army Technical Manuals (including the publication "Field Artillery Battalion, LANCE") to the Governments of the Soviet Union, Cuba, and others. Most of these documents are being sent automatically with no thought as to how they may be used.

PURPOSE OF TRANSFER PROGRAM

Mr. President, section 1719 of title 44, United States Code, provides for the distribution of Government publications, including the Congressional Record, to foreign governments which agree to send the United States similar publications of their governments for delivery to the Library of Congress.

As I have earlier indicated, the United States ships numerous military manuals, Defense Intelligence Agency publications and Central Intelligence Agency publications to the Soviet Union and 30 other foreign powers. We do not receive Soviet KGB or military manuals in return.

H.R. 7302

Mr. President, on June 3, the House of Representatives passed H.R. 7302 which would transfer to the Superintendent of Documents the function of distributing Government publications to foreign governments. Mr. President, I am opposed to the continuation of this program in its present form in which we appear to be receiving far less than what we get. I believe this program is fraught with abuse, waste, error, and confusion—especially confusion. Moreover, I can see no good reason why a program such as this should be shifted from the executive branch to the legislative branch. The legislative branch of Government should not be placed in the position of having to decide which Executive Branch Agency (DIA, CIA, DOD) documents should be shared with other countries. That is an executive and administrative function.

NEED FOR REFORM

Over the past 2 months I have been urging that those who now have the responsibility for the distribution of these U.S. Government publications to foreign powers should exert some measure of discipline so that the appropriate balance can be struck between what we give and what we get. I am in no way opposed to the concept of the exchange program and, indeed, believe if conducted properly, it can make a healthy and positive contribution to mutual understanding among nations. However, this program, as it now stands, appears to fall far short of that goal and the intent of Congress. I have urged that it be cleaned up, that Federal agency officials should carefully screen any documents sent overseas, and that it should be left where it is in the executive branch.

DEFENSE DEPARTMENT RESPONSE

I am encouraged, Mr. President, that representatives of the affected agencies have taken notice of my remarks in the Record and have been in contact with my office about my concerns. Progress is being made.

The Under Secretary of Defense for Policy Review, Adm. Daniel Murphy, shares my concern about the transfer to any country of Defense Department technical data and other information which might prove detrimental to U.S. interests. Accordingly, in response to the concerns I have expressed, he has issued a memorandum to the Secretaries of the Military Departments, the Chairman of the Joint Chiefs of Staff and the Directors of the Defense Agencies asking that all Defense Department components review their policies and procedures with respect to the approval and issuance of unclassified field manuals, technical manuals and other publications containing valuable technical or operational data.

Admiral Murphy and the staff of the Department of Defense are to be commended for their timely efforts to tighten up the international exchange program by limiting distribution of documents required for official use or for administrative or operational purposes only, and precluding further shipment of such documents to the Soviet Union, Cuba, Iran, and others.

Admiral Murphy's memorandum follows:

Memorandum for Secretaries of the Military Departments, Chairman of the Joint Chiefs of Staff, and Directors of the Defense Agencies

DISTRIBUTION OF UNCLASSIFIED PUBLICATIONS

Recently, certain members of Congress expressed concern over the subject matter of a large number of unclassified US Government publications automatically distributed to foreign governments under the International Exchange Program. A large portion of these are Defense-originated publications including, among others, field manuals and technical manuals developed for use of the armed forces.

I share the expressed Congressional concern over the transfer to any country of Department of Defense technical data and other information which might prove detrimental to US interests. I am particularly concerned that the DoD proponents of publications such as field manuals and technical manuals may not be giving due consideration to the fact that when these documents are published, they become eligible for automatic distribution to foreign governments including the Soviet Union, Cuba, and Iran under the International Exchange Program.

Accordingly, I ask that all DoD Components review their policies and procedures with respect to the approval and issuance of unclassified field manuals, technical manuals and other publications containing valuable technical or operational data. If it is determined that such publications should not be made available under the International Exchange Program and constitute publications required solely for official use or strictly for administrative or operational purposes, it is recommended that a legend substantially as follows be placed on such publications and that printing requisitions indicate clearly distribution limitations:

"Distribution Statement—This publication is required for official use or for administrative or operational purposes only. Distribution is limited to US Government agencies. Other requests for this document must be referred to (insert controlling DoD office)."

We will arrange with the Library of Congress and the Government Printing Office that DoD documents to which the legend is applied are not included in the International Exchange Program.

Daniel J. Murphy,
Admiral, USN (*Ret.*).●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the Congressional Record this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received requests for determinations under rule 35 which would permit Ms. Mary E. Stansel, a member of the staff of Senator Heflin, Mr. John Robertson, a member of the staff of Senator Hatfield, and Ms. Jacqueline B. Parker, a member of the staff of Senator Levin, to participate in a cultural exchange program sponsored by a foreign educational organization, The Tamkang College of Arts and Sciences, in Taiwan from August 10 to August 17, 1980.

The committee has determined that participation by Ms. Stansel, Mr. Robertson, and Ms. Parker in the program in Taiwan, at the expense of Tamkang College, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Ms. Catherine M. Anderson, a member of the staff of Senator Sasser, to participate in a cultural exchange program sponsored by a foreign educational organization, The Tamkang College of Arts and Sciences, in Taiwan from August 10 to August 17, 1980.

The committee has determined that participation by Ms. Anderson in the program in Taiwan, at the expense of Tamkang College, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received requests for determinations under rule 35 which would permit Mr. Dennis Thomas (a member of the staff of Senator Roth), Mr. Michael J. Altier (a member of the staff of the Judiciary Committee), and Mr. Michael C. Moffet (a member of the staff of Senator Kassebaum) to participate in a cultural exchange program sponsored by a foreign educational organization, the Tamakang College of Arts and Sciences, in Taiwan from August 10 to August 17, 1980.

The committee has determined that participation by Messrs. Thomas, Altier, and Moffet in the program in Taiwan, at the expense of Tamkang College, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Ms. Lorraine Huang, a member of the staff of Senator CRANSTON, to participate in a cultural exchange program sponsored by a foreign educational organization, the Tamkang College of Arts and Sciences, in Taiwan from August 10 to August 17, 1980.

The committee has determined that participation by Ms. Huang in the program in Taiwan at the expenses of Tamkang College, is in the interests of the Senate and the United States.●

CONSUMER SUBCOMMITTEE HOLDS OVERSIGHT HEARINGS ON FTC MOBILE HOME RULE

● Mr. BAYH. Mr. President, last week the Consumer Subcommittee of the Senate Commerce Committee, chaired by our distinguished colleague from Kentucky, WENDELL FORD, held an oversight hearing on the Federal Trade Commission's proposed trade regulation rule affecting the sale and service of manufactured housing. The hearing, held pursuant to an agreement Senator FORD and I reached when the FTC authorization bill was on the floor, was a broad-based inquiry into the need for additional Federal regulation of an industry that is already one of the most extensively regulated—indeed the most regulated segment of the housing industry—and the way in which consumers of manufactured housing can be served in the most efficient and least costly way possible.

Representatives from the FTC, HUD (which already regulates the construction of manufactured housing), the manufactured housing industry, State government, a public interest housing organization, and the manufactured housing dealers' organization testified. So you can see, Mr. President, the hearing in which I participated after delivering my testimony, provided a forum for all sides of this important issue to be aired, which underscores the far-reaching and thorough way Chairman FORD conducts the Consumer Subcommittee's oversight hearings.

There are several pieces of testimony that were introduced into the record at the hearings that I would like to share with my colleagues, Mr. President—including my own and that of the distinguished majority whip of the House, JOHN BRADEMAS. It is our opinion that if further regulation of this pervasively regulated industry is needed—and we are not convinced that any new regulation is needed until Congress has had more time to study the Mobile Home Act's dramatic effect on consumer complaints—then the responsibility for that program should be under HUD's jurisdiction.

Also, Mr. President, I would like to call your attention to one other very important piece of testimony that was presented to the subcommittee last week. Although she did not testify in person before the subcommittee, Dr. Suzanne Lindamood, an associate professor of housing at Kansas State University, did prepare remarks on the FTC's proposed rule. Her testimony is particularly compelling, Mr. President, because it represents what I believe is an objective look at this problem. Of equal significance is the fact that Professor Lindamood is one of eight consumer—and I stress "consumer"—representatives on HUD's Mobile Home Advisory Council. Professor Lindamood, who notes at the outset of her statement that she is "not inherently opposed to the type of regulation proposed by the FTC," goes on to maintain that "I have not, however, seen convincing evidence that would lead me to conclude that the regulation is necessary."

Mr. President, because Congress will be involved in this issue in the days ahead, I ask that my testimony—along with Congressman BRADEMAS' and Professor Lindamood's—be printed in the RECORD.

The testimony follows:

TESTIMONY OF SENATOR BIRCH BAYH

Chairman Ford, and members of the Subcommittee, thank you for the opportunity to appear today and participate in your oversight hearings on the Federal Trade Commission's proposed Trade Regulation Rule on mobile home sales and service. My statement will be short. I am here to listen to the distinguished group of witnesses your Subcommittee has assembled here today for this inquiry into the FTC's proposed TRR.

Under your leadership, Mr. Chairman, this subcommittee has provided Congress with a model of what we should be doing to fulfill our important oversight function. Yours is not a task I envy, however, inasmuch as—I think it is fair to say—the FTC has been one of the most active agencies of the executive branch. It seems to be that we are faced with one key question when we fulfill the duty of oversight—whether it is oversight over an active agency or an inactive agency—and that question is: has the agency carried out the will of Congress in serving the public interest? I have been involved in government long enough to know that this concept has no uniform definition, but when Congress is engaged in oversight of the Federal Trade Commission I believe we should be guided by an inquiry into whether the FTC is examining ways to protect the consumer at the least cost to the consumer.

The recently passed FTC Authorization legislation—the passage of which, Chairman Ford, is testimony to your skill as a legislator and leader—supports my claim that Congress is gravely concerned that the FTC is carrying out its duties without proper attention to the costs, benefits, need and authority of its regulatory initiatives. This is a particularly important issue when it comes to the regulation of mobile homes—or manufactured housing, as the industry appropriately desires to be called. The manufactured housing industry now provides 93% of the housing available in this country for under $35,000. And more importantly, the median income of a mobile home purchaser is $10,000 per year. People who live in manufactured homes tend to be young families, rural families, families living on fixed incomes; in other words, the very people Congress should be most attentive to when examining federal programs. We should be attentive to the kind of consumer protection afforded these people when they purchase mobile homes, and we should be attentive to whether these people are being helped or hurt by the kind of "consumer protection" that's being proposed. In other words, as the Joint Economic Committee said in its recent report on balance in government regulation, we should examine whether the contemplated regulatory initiative is cost-effective.

When I took the Senate floor last December to announce that I intended to sponsor an amendment to the FTC authorization legislation to block the FTC's mobile home TRR, I did so because, based on the information available to me at that time, I was gravely concerned that the Commission was about to promulgate a regulation which was not cost-effective. It seemed to me then and—without prejudging the testimony that will be presented today—it seems to me now that the Commission has failed to address—to my satisfaction—the role that one of its sister agencies plays in the regulation of the mobile home industry. I am referring, of course, to HUD's regulation of mobile home construction and safety.

I am confident that Undersecretary Marrero and the industry representatives present today will describe HUD's mobile home program in detail. For my part, allow me to go back and provide a little history on the subject of manufactured housing regulation. In the early 70's, it became clear that there were product difficulties with mobile homes. The FTC began a proceeding in 1972, but in 1974 Congress responded to consumer complaints by passing the National Mobile Home Construction and Safety Standards Act of 1974.

At that time Congress decided that mobile homes were part of the housing industry, and gave authority to HUD to regulate all aspects of the manufacture and design of mobile homes in order to insure their quality and soundness. At about the same time Congress also enacted the Magnuson-Moss Warranty Federal Trade Commission Improvement Act which was aimed at promoting the full and complete disclosure of the terms and conditions of warranties, and setting standards for classifications of "full" or "limited" warranties. I supported both pieces of legislation, because I believed, on balance, that the consumers of this country would be well-served by them.

Significantly, the manufactured housing industry is the only segment of the housing industry that is regulated to this extent. The modular housing industry is not as thoroughly regulated, and the site-built housing industry is not as thoroughly regulated. As a result of the Mobile Home Act, consumer complaints have declined dramatically. The number of mobile home complaints coming into HUD in 1979 represented about one-tenth of one percent of the total mobile homes built. I believe everyone in this room will agree that the quality of mobile homes available to consumers is significantly better since the implementation of the Mobile Home Act in June 1976.

But now, based on consumer complaints that pre-date the implementation of the Mobile Home Act, the staff of the FTC has recommended, in a 700-page report that was made available only 10 days ago, that the Commission go forward with a trade regulation rule that will result in an inflationary impact on a product designed for people who can least afford further price increases without any promise of significant benefits to these consumers. The FTC staff says the increased cost per home will be $100–$125; an expert consulted by the Commission testified that the cost of compliance with the Rule would be $272 in 1978 dollars and further stated that the record supporting the need for the Rule was "thin;" the industry says the increased price per home might run from $700 to $1200.

I am also concerned, Mr. Chairman, about the impact that the rule will have on the small businesses that comprise 30 percent of the producers and almost all of the dealers of manufactured housing. The big companies can afford the costs of compliance, but what about the smaller manufacturers who have already incurred great costs in complying with the Mobile Home Act? And what about the dealers? I am concerned that the bigger companies will simply expand their direct marketing efforts and drive the dealers out of business so as to reduce the number of consumer complaints.

Returning to the FTC staff's estimates of the inflationary impact of the proposed rule, even if I were to accept that estimate at face value—and based on my experience, regulatory agencies frequently underestimate the inflationary impact of their decisions—I am not convinced that the FTC staff asked itself the key question: should they be involved in this proceeding at all? The staff report says that HUD does not have the authority to undertake the regulation of mobile home sales and service, which, in my view, is open to some question, and as a result the FTC's proceeding is justified. The question of whether the FTC has the expertise to involve itself in this proceeding is never addressed. Nor the need for this regulation in 1980.

When an agency begins an inquiry into an issue in 1972 it seems to me that what we may be seeing is an example of institutional inertia. Once the process begins moving, it continues to move regardless of the changes that occur along the way. Changes like the Mobile Home Act.

Since 1976 the Department of Housing and Urban Development has built an impressive program for regulating the construction of mobile homes, and possesses a staff with expertise in mobile home issues. I should point out that HUD personnel know the difference between a mobile home and a modular home. I'm not sure the FTC does. Are you aware, Chairman Ford, that one of the "consumer complaint letters" that the FTC has been carrying around Capitol Hill—a letter from a law firm in Kentucky—concerns a modular home? This letter is supposed to serve as an example of the need for a trade regulation for mobile home sales and service. When you couple this example with the problem that I stated earlier—that the staff report makes no effort to differentiate between complaints based on homes built before the implementation of the Mobile Home Act and those built afterward—I have serious doubts as to whether there is a need for any further regulation, and—if there is—whether the FTC is the appropriate agency to be involved in the regulation of the mobile home industry.

So, Mr. Chairman, I think we need to keep in mind two questions as we proceed today. First, is there a need for further regulation of the manufactured housing industry to protect consumers—and is that regulation cost-effective? Then, if the further regulation is needed—and the increased price of a mobile home to consumers can be justified—the second question is: should the FTC be running the program?

In closing, let me return to the Joint Economic Committee report I referred to earlier. The authors of the JEC report make a number of policy recommendations on how Congress can do a better job of making government regulation more responsive to the needs of society.

The first recommendation calls on Congress to encourage those regulatory initiatives that are cost-effective. The second recommendation is that Congress should assist in the identification of cost-effective means of implementing regulatory goals. One of the ways Congress can do that, the report states, is to coordinate the reporting requirements of regulatory agencies and reduce the number of overlapping agency jurisdictions. We have the opportunity today to begin implementing some of the worthy policy recommendations of the JEC.

One last comment, Mr. Chairman. Protection of the consumer is the goal of everyone in this room. This proceeding is designed as an inquiry into how we can achieve that goal in the most cost-effective way. If a regulation is promulgated which prices manufactured housing out of the reach of a lower-income family, or forces a small businessman out of business, we have not fulfilled the goal of consumer protection. By the same token, if there are gaps in the federal government's response to real consumer protection problems, we must make certain that the agency with the best understanding of the existing problems is the one charged to fill those gaps.

Thank you for the opportunity to testify, Chairman Ford. I'd be delighted to answer any questions, but I know my distinguished colleague from the House side, John Brademas, is on a tight schedule.

STATEMENT BY CONGRESSMAN JOHN BRADEMAS

Mr. Chairman, distinguished Members of the Senate Commerce Consumer Subcommittee:

I want to thank you very much for this opportunity to testify on the proposed Federal Trade Commission rule requiring mobile home manufacturers and dealers who choose to offer written warranties to provide full and timely service for covered defects.

As you know, the proposed FTC rule was issued last Monday, August 11. It is now open to public comment for sixty days, ending October 14. The Federal Trade Commission is expected to act on the proposed rule soon after that date.

Mr. Chairman, the third District of Indiana, which I have the honor to represent, is a major manufacturer of mobile homes. Elkhart, Indiana, located in my district, has the distinction of being the "Mobile Home Capital of the United States."

Over the past year, the mobile home industry has been hard hit by the recession, and far too many mobile home workers are jobless.

I believe that the proposed FTC rule is a prime example of government over-regulation costly to consumers and harmful to the industry and its workers.

Mr. Chairman, let me take just a few minutes to outline my reasons for opposing FTC regulation of the mobile home industry.

The Federal Trade Commission report, which recommends additional Government regulation concerning the warranties most mobile home companies already offer, was initiated nearly eight years ago.

This was prior to passage by Congress of the 1974 Mobile Home Construction and Safety Act, which gave the Department of Housing and Urban Development authority to set standards for mobile home construction.

The FTC report does not differentiate between mobile homes built before the Mobile Home Construction and Safety Act and those built after its implementation.

Mr. Chairman, I believe the proposed FTC rule would duplicate Federal regulations already on the book. Under the Mobile Home Construction and Safety Act, the Department of Housing and Urban Development requires mobile home manufacturers to inspect their products and to certify that they meet certain fire and safety requirements. The law sets standards for plumbing and electrical systems and has led to improvements in the quality and durability of mobile homes.

Under the Mobile Home Construction and Safety Act, Mr. Chairman, manufacturers of mobile homes must recall, repair, and replace major structural defects and safety standards any time during the lifetime of the mobile home. This is in addition to any warranty now offered by the manufacturer.

Mr. Chairman, from reviewing estimates provided by the Federal Trade Commission and the mobile home industry, it is clear to me that the FTC proposal is expensive.

The FTC gives a conservative estimate that it would cost manufacturers, thereby consumers, no more than $100 to $125 to comply with these proposed rules. An independent consultant has testified before the FTC that the cost would be closer to $275, while the industry estimates the additional cost to run between $800 and $1,000.

These costs would be passed on to consumers. Today, the median income of a prospective mobile home owner is $10,000 per year. Therefore, the proposed FTC rule would increase housing costs for those least able to afford it and would be extremely burdensome to young families and those living on fixed incomes.

Mr. Chairman, we must work to ensure that mobile homes are well built and safe.

To date, existing HUD regulations have been effective in improving the quality of mobile homes. So, too, have been State mobile home standards, self-regulation by the mobile home industry, and competition between manufacturers and dealers.

If there is a need for further regulation of the mobile home industry to protect mobile home buyers, we should seriously consider the Department of Housing and Urban Development, which has already shown expertise in this industry, as the Government agency responsible for establishing and enforcing further mobile home regulations.

Mr. Chairman, workers in my Congressional district are proud of the high quality mobile home they produce.

These homes meet a vital need for safe, decent and affordable housing.

Mr. Chairman, I hope that you and members of this Subcommittee will give the proposed FTC rule your careful review.

Again, I very much appreciate this opportunity to testify before your Subcommittee this morning.

STATEMENT OF SUZANNE LINDAMOOD

My name is Suzanne Lindamood, and I am an associate profesor of housing in the Department of Family Economics at Kansas State University. I have a Ph.D. in Housing from the Department of Consumer Economics and Housing, Council University. My doctoral dissertation was a comparison of mobile home and conventional home residence in social, economic, and housing terms. I am a consumer member of the HUD mobile home advisory council, author of a college textbook—Housing, Society and Consumers (West Publishing Company, 1979), editor of the professional journal—Housing and Society, and a reviewer for the Journal of Consumer Affairs. I have also directed several large household surveys on housing conditions and satisfaction, and have for seven years taught graduate and undergraduate courses in housing, research methods, and research for policy analysis. I am speaking today for myself only, and not on behalf of any organization.

My primary concern and the context in which I am speaking today is the housing situation that lower income consumers face and the potential impact of the additional regulation proposed by the Federal Trade Commission on the housing choices available to them. I am not inherently opposed to the type of regulation proposed by the FTC. At this time I have not, however, seen convincing evidence that would lead me to conclude that the regulation is necessary. I feel that the FTC has not gathered solid quantitative evidence of the benefits of the proposed regulation and it has not shown that the regulation would solve the warranty problems of mobile home consumers. The FTC has provided no evidence as to whether most mobile home consumers are willing and able to pay more for the estimated increase in quality.

I will address three issues in my statement today—(1) the impact of additional regulations on lower income consumers; (2) the adequacy of existing regulations of mobile homes; and (3) the adequacy of the private market process in meeting the needs of mobile home consumers.

IMPACT ON THE LOWER INCOME CONSUMER

The main problems facing housing consumers today is cost, not quality. Many housing policies adopted at the local, state and federal levels have had the goal of increasing quality, but have had the result of imposing severe cost problems on consumers, especially on lower income consumers. We see quality problems in rural and urban areas, so we pass stricter housing and building codes at the local level. We pass zoning restrictions to keep our lower quality homes and to maintain the character of an area. We see renters paying a large portion of their incomes for rent, so we pass rent control. The end result of all of these individual regulations is a decrease in the availability of lower cost housing, and an increase in cost. The rent income ratio has been increasing rapidly, and now about half of low income renters pay 35 percent or more of their income for rent. The fundamental problem is that the higher the quality required in housing, the more it will cost. An increase in cost to consumers means either that they decrease the money available for food, clothing and medical care, or that they seek out lower cost housing that they can afford.

Many of the quality requirements have gone beyond what is reasonable in terms of health and safety, and although the intention may be for better housing, the cost burden is on the consumer, and sometimes the result is lower quality housing rather than higher quality housing. In the case of mobile home owners purchasing at the lower end of the price range, most would be renters if they could not own a mobile home. Consumer research has shown that the most important aspect of housing to the majority of people is ownership, and consumers indicate that they would react to increasing housing costs by choosing a lower quality of unit in order to remain a homeowner. Additional regulations could deny consumers the opportunity to choose the most appropriate quality-cost tradeoff.

In order to justify a mandatory increase in quality which is unrelated to health and safety, research is needed which clearly ascertains whether consumers are willing and able to pay for that increase. All other things being equal, consumers want higher quality and more warranty service, but in the real world, there is no free lunch. We need to determine whether the consumer feels that extra cost is worth it. The FTC report argues that the expected benefits of higher quality and better warranty service would be greater than the cost of regulation. Although the FTC does not present concrete evidence of this, it is plausible, yet it does not allow for the fact that consumers have different preferences and resources.

Mobile home are virtually the only new housing being built for lower income persons by either the public or private market. Manufacturers will respond to extra regulation by passing the cost on to the consumer. Some lower income consumers will not benefit from the improved quality because they will not be able to buy mobile homes. For lower income consumers the alternatives to buying new mobile homes are buying used mobile homes and renting conventional housing which is of lower quality than new mobile homes. Research has shown that mobile home are more desirable to consumers than other lower cost housing options due to ownership possibilities, and the mobile type of structure is preferred to duplexes, townhouses and high rises by many consumers. If higher quality housing is an important societal goal, then we should deal with the issue of how society can help lower income consumers pay for the higher quality, not how to force them to pay for it without assistance.

It is difficult to come up with an exact cost for the proposed FTC regulations, with estimates ranging from $125 to $1,000. Taking $500 as a midpoint (and likely as any other estimate to be accurate) this represents a 6.25 percent increase in the price of an $8,000 mobile home. Using one estimate of the price elasticity of mobile home demand (Gates, 1980) we could expect a 15 percent drop in sales.

The FTC has not provided any quantitative breakdowns of the benefits we are told would come from the proposed rule. The FTC has asserted that the benefits would exceed the costs and has assumed, without substantiation, that the increased cost would be good for consumers. In order to do an adequate economic analysis of the impact, a survey needs to be done that would provide information on consumers' preferences, likely behavior, and alternatives available to them, in addition to quantifying the cost of unperformed warranty service.

ADEQUACY OF EXISTING REGULATIONS

The purchaser of a new mobile home is already one of the best protected housing consumers. The mobile home is the only class of housing that is covered by mandatory national construction codes (the HUD standards). In addition, each consumer must receive an owner's manual which states the warranty obligation of the manufacturer; to whom to write if they have a warranty problem; and the HUD address if they do not receive satisfaction. I know of no other type of housing in which the consumer receives this much information either about the home or about what to do if problems arise.

In terms of problems related to safety and durability I believe that the HUD mandate under Title 6 is proving successful. Research indicates that the mobile home being built today is a safe and durable product. If there are violations of the standards, they should be dealt with by HUD, and regulations that would essentially duplicate HUD's mandate to ensure safety and durability would be an additional unwarranted burden at this time.

As to the issue of the quality of mobile homes, the FTC report implies that the mobile home consumer is facing a worse situation than other housing consumers, and that special action needs to be taken. I have seen no studies that provide solid evidence that mobile homes have more problems than other housing. Two recent studies of conventional housing found that a majority of recent purchasers of housing (new homes were not separated from existing) encountered problems. (White 1979, Meeks, 1980) I have seen no studies of mobile home warranty problems that would stand up to normally accepted standards for consumer research. The Ohio study the FTC chose to emphasize in a recent news release would be characterized by most survey researchers as fatally flawed, as it did not follow standard survey procedures to assure a representative sample. Also, the type of information needed was not gathered, and the type of data analysis needed was not performed.

One means by which we weigh the overall adequacy of a housing unit in meeting the criteria the occupants feel important is the reported satisfaction level of the occupants. Studies comparing the satisfaction levels of mobile home occupants to conventional home occupants have found high levels of satisfaction among both groups. (Moore 1979; Shelton 1979; Lindamood, 1974). We can conclude that mobile home residents do not view their housing as being worse than or having more problems than realistic housing alternatives.

I believe that the high satisfaction levels of mobile home residents, coupled with the protection now offered by the HUD standards indicate that the proposed FTC regulation is not needed at this time, and that any new regulations must be justified by sound, conclusive evidence.

FUTURE ADJUSTMENT OF THE MOBILE HOME MARKET

In a properly functioning unregulated product market, manufacturers will attempt to offer products of various quality and price levels to meet the demands of different types of consumers. Manufacturers need to be concerned about the reputation of their products, because consumers learn from experience and by word-of-mouth. The FTC reports on the proposed mobile home regulation ignore the possibility of market adjustment, since the implicit assumption is complete consumer ignorance of product quality before purchase. The FTC analysis also suggests that there is considerable price competition, and price sensitivity on the part of consumers, so that manufacturers and dealers have incentives to cut costs without regard to quality. This is plausible in the short-run, but in the long run there would have to be no communication among consumers for the situation to persist. A more plausible scenario would have the market process leading to a situation where mobile home purchasers got the quality for which they are willing and able to pay.

Therefore, I feel that the FTC has not adequately substantiated its case. The FTC bases the case for regulation on anecdotal information and some defective surveys of mobile home consumers. The expected benefits of the regulation are stated in qualitative not quantitative terms, and no consumer input was obtained on preferences or willingness to pay for additional quality or service. The FTC assumes that the existing HUD quality standards are inadequate, despite the fact that the standards have existed a relatively short time. The FTC ignores the potential harm the regulation might inflict on lower income consumers. I cannot support the proposed FTC regulation on the basis of the evidence presented by the FTC. I might support the proposed regulation if the FTC could present a comprehensive, quantitative analysis showing that the expected benefits were greater than the expected costs for most potential mobile home consumers.

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MEDICAL CARE

● Mr. DURENBERGER. Mr. President, I read with great interest the column by John S. Hoff, representing the National Council of Community Hospitals, in today's Washington Post. Titled "A Little Healthy Competition," the article discusses many of the issues my colleagues and I have been wrestling with over the past year on the Senate Finance Committee.

The Health Incentives Reform Act, S. 1968, which I sponsored together with Senators John Heinz and Dave Boren, is one of a growing number of "procompetitive" bills. Senator Schweiker is sponsor of such legislation in the Senate (S. 1590, the Comprehensive Health Care Reform Act), and there are four such bills in the House of Representatives. The unavoidable conclusion is that competition is catching on as the wave of the future in health care legislation.

Mr. Hoff describes several provisions of the most recent procompetitive bill, H.R. 7527, sponsored jointly by Congressmen Gephardt and Stockman. Like our own Health Incentives Reform Act, the Gephardt-Stockman bill would encourage employers to offer their employees a choice of health care plans; like our bill, theirs would encourage cost awareness on the part of consumers by giving them a dollar incentive to choose more efficient, lower cost plans; and like S. 1968, H.R. 7527 would limit the amount of an employer's contribution for health insurance which may be excluded from the employee's income tax.

Thus while each of the procompetitive bills differs in detail from the others, the basic tenets are the same: Our current methods of financing health care are inadequately competitive, promoting cost-unconsciousness and inefficiency; consumers of health care should be exposed to the cost of their care so that they can make cost-effective decisions; and providers of health care should be rewarded for providing high quality, accessible services at competitive price.

The National Council of Community Hospitals, which Mr. Hoff represents, has been a strong supporter of our bill and of the competitive approach in general. I am pleased to recommend the following article for readers of the Congressional Record.

The article follows:

A Little Healthy Competition

(By John S. Hoff)

The Post declared this spring that the antitrust laws are, with respect to medical care, "obsolete" and that they "undercut the public's real interests." I fear The Post may have rushed too quickly to judgment. The answers are not quite so clear as The Post's assertions would suggest.

The Richmond Planning Agency asked the Justice Department whether it could participate with hospitals in concerted action affecting the supply and price of health services. This has come to be known as "joint planning," a process in which a planning agency encourages hospitals to agree among themselves which hospital will provide what service.

Joint planning entails two or more hospitals in a community meeting together behind closed doors to divide up markets. This may work to the detriment of hospitals' customers. Indeed, the Richmond Planning Agency apparently contemplated concerted action on hospital prices. Joint planning also may harm other hospitals; it provides a means for the established hospitals to ensure under the ostensibly benign guise of planning that other hospitals in the community do not encroach upon their turf.

Society has made an emphatic decision to prohibit, not to encourage, collaboration by competitors. If we have determined that the "efficiencies" of permitting McDonald's and Burger King to divide markets and avoid duplication are not sufficient to warrant reductions in competition, why is that judgment not equally applicable to health care?

While the Post is incorrect in saying that the antitrust laws are obsolete in health care, that statement does flirt with the core issue. Economic competition in health care has been stifled by planning and regulation and a uniquely intrusive bureaucracy. It has been distorted by third-party cost reimbursement, which enables hospitals to compete in terms of service, plant and equipment while knowing that the patients' health insurance will pay for it.

The proper response to this state of affairs is to consider the benefits economic competition might provide.

Legislation to deregulate the health care delivery system (while retaining regulations that promote safety and quality) was recently introduced by Reps. Richard Gephardt (D-Mo.) and Dave Stockman (R-Mich.). The Gephardt-Stockman bill would require providers to compete in terms of price as well as quality. It would help all Americans in obtaining health care, including the self-employed and the working poor, who currently receive no federal assistance. The federal contribution would be provided in a way that would not anesthetize individuals to the cost of health care insurance, as is currently the case, but would require them to consider the cost as well as the quality of their health care.

The bill would limit the amount of an employer's contribution for health care plans that an employee may exclude from his taxable income. The bill does not have the government set the limit. It leaves it up to a community referendum: the limitation would be the average premium paid by similarly situated employees in the same community. If an employee purchased with an employer contribution a health care plan that cost more than this community average, the employee would have to report the excess as income and pay income taxes on it.

The Gephardt-Stockman bill further encourages cost-conscious purchasing decisions by providing that if an employee obtains coverage for less than the community average, he may keep the difference between the cost of the premium and the employer's contribution as a tax-free cash refund. To ensure that the employee is sufficiently insured, the refund would be available only if he purchased a plan that provided comprehensive health care coverage and protected him against large medical bills.

In this way, the bill remedies the fact that the tax laws now encourage employees to obtain more insurance (which is tax-free) rather than more wages (which are taxable). This condition has significantly contributed to increases in the cost of health care. The Gephardt-Stockman bill makes the tax laws neutral on the employee's choice between insurance and wages.

The American people are increasingly coming to the conclusion that a competitive system of private initiative rather than government regulation is the most effective and responsive way to provide services. Changing the economic incentives of the system could go a long way toward constraining cost increases and responding to the needs of the American people. Competition in the health care industry is not, as The Post's editorial implies, "obsolete" or "inconsistent with the public interest." Rather, it is being suppressed by a regulatory framework that is thwarting the public interest.●

SUBMERGED LANDS LEGISLATIVE HISTORY—H.R. 39, ALASKA LANDS BILL

● Mr. TSONGAS. Mr. President, I am submitting for myself, Senator Jackson, Senator Hatfield, and Senator Roth—the cosponsors of the substitute for the Energy Committee Alaska lands bill—additional information regarding a submerged lands provision in H.R. 39 which passed the Senate last Wednesday. This discussion is meant to serve as a legislative history for this provision, which was not in the bill as it was reported from committee.

The material follows:

Statement of Legislative History

Mr. Tsongas. By the beginning of the 95th Congress, some six years after the enactment of the Alaska Native Claims Settlement Act, only a small percentage of the forty-four million acre Native land entitlement had been conveyed to the Native regional and village corporations authorized by the Act to administer the Native claims settlement for the Alaska Native people. In response to this delay, the House of Representatives included a procedure in its version of H.R. 39 to immediately convey the core townships around each Native village (Section 801) and expedite the conveyance of the remainder of the entitlement (Section 802). Similar provisions were included in the version of H.R. 39 reported in 1978 by the Senate Energy and Natural Resources Committee. At the same time, and in response to the same concerns, Assistant Secretary of the Interior Martin initiated a comprehensive reorganization of the Bureau of Land Management Native Conveyance Office in Anchorage.

H.R. 39 as passed by the House last year retained the instant conveyance section, but dropped the expedited procedure for the conveyance of lands outside the core townships. The bill reported by the Senater Energy and Natural Resources Committee last fall retained both the instant and expedited conveyance provisions which were included in the bill which it reported during the previous Congress.

On February 12, 1980, Mr. Morris Thompson, then President of the Alaska Federation of Natives, by letter informed Senator Jackson that as a result of Secretary Martin's reorganization the land conveyance logjam had been broken and the rate of conveyance of Native lands was beginning to accelerate. However, President Thompson indicated in his letter that one major impediment to the success of the Native land conveyance effort still remained—the "submerged lands" issue.

The submerged lands issue identified by President Thompson is perhaps the most complex and confusing issue within the matrix of the Native land conveyance process. Pursuant to the Submerged Lands Act of 1953 and section 6(m) of the Alaska Statehood Act, title to unreserved lands beneath waters which were navigable at the time of Alaska statehood vested in the State of Alaska. Obviously, if such submerged lands are located within Native selection areas they are not available for conveyance by the Department of the Interior to the Native corporations, because title had passed from the Department on the State in 1959.

As a result, when a parcel of submerged land is located within a Native selection area, the Bureau of Land Management makes an administrative determination as to whether at the time of Alaska statehood the water covering the parcel was navigable. If it determines that the water was indeed navigable, the parcel is excluded from the conveyance (since it is already owned by the State) and additional acreage is conveyed to the corporation from among its other selections to compensate for the excluded parcel.

However, if the Bureau of Land Management determines that the water was not navigable at the time of Alaska statehood, then the parcel is conveyed to the corporation and charged against its acreage entitlement under the Alaska Native Claims Settlement Act.

Unfortunately, only the federal courts, not the Bureau of Land Management, can authoritatively determine the navigability of the water covering the submerged land which in my previous example was conveyed to the Native corporation as a result of the Bureau's administrative determination of non-navigability.

Next year, ten years from now, or a hundred years from now, the State of Alaska, or any other party with standing in the District Court to quiet title to the parcel, can challenge the administrative determination of non-navigability. And if the court agrees that the Bureau's determination was erroneous and, consequently, that the water was in fact navigable at the time of Alaska statehood, the Native corporation, through no fault of its own, loses title to the parcel since the Department of the Interior did not own the parcel at the time it was conveyed to the corporation. But since the parcel was already charged against the corporation's acreage entitlement under the Alaska Native Claims Settlement Act, and since the corporation's land selection authority has expired and its overselections most probably no longer exist, its total conveyed acreage will be reduced by the amount of acreage within the lost parcel.

As a result, a Native corporation being conveyed a parcel of submerged land under water determined by the Bureau of Land Management to be non-navigable is faced with an unenviable choice. It can either accept the conveyance and risk a future judicial determination of navigability with its resultant loss of title to the parcel and reduction of the corporation's total conveyed acreage, or it can refuse conveyance of the parcel by appealing the Bureau of Land Management's administrative determination or non-navigability to the Alaska Native Claims Appeal Board and then to the United States District Court.

Although exercise of the latter option theoretically preserves the corporation's acreage entitlement, the most recent example of the use of this approach (an appeal by the Doyon Corporation of Bureau of Land Management determinations of non-navigability of two small segments of the Nation and Kandik Rivers) resulted in a week-long hearing before the Alaska Native Claims Appeal Board involving an administrative law judge, lawyers representing Doyon, the State, and the Department of the Interior, and innumerable witnesses.

Doyon estimates that its selections alone contain at least five hundred similar bodies of water, not counting water bodies within the selections of its village corporations. It is estimated that approximately thirty-five hundred water bodies similar in character to those at issue in the Nation-Kandik appeal are included within Native selections filed throughout the state. Even a conservative extrapolation from the Doyon experience gives some indication of the staggering administrative, financial, and litigatory burden placed upon the Federal and State governments and the Native corporations and groups by the present situation.

The present situation with respect to this issue is intolerable for all affected parties. In recognition of this fact, the House of Representatives included a complicated provision dealing with this issue in the version of H.R. 39 which it passed last year. Section 918 of that legislation establishes a complex process for the conveyance of submerged land acreage to the Native corporations, with parcels under water bodies of a certain size not being charged against the corporation's acreage entitlement, while other parcels under smaller water bodies are charged against the entitlement. Complicated exchange provisions also are included.

Section 918 was not included in the bill reported last year by the Senate Energy and Natural Resources Committee because the Department of the Interior had not formally approved the amendment by the time the committee completed its work on H.R. 39. Since that time, however, the Department of the Interior has formally endorsed the concept embodied in section 918 of the House bill, as has the State of Alaska.

However, subsequent to the Department of the Interior's formal approval of the section 918 concept, a simpler approach to the resolution of the submerged lands issue was proposed. At the suggestion of the State the other interested parties began work on a new submerged lands amendment based upon the establishment of statutes of limitation for challenges to Native title to all parcels of submerged lands conveyed to the Native corporations and Native groups.

That amendment is now included as section 901 of the Senate-passed bill. The amendment has been reviewed and approved by the Department of the Interior, the Alaska Federation of Natives, and the State of Alaska. To my knowledge, this amendment represents the first time a state has agreed to confirm its ownership of submerged lands within a limited period of time established by legislation.

Because of the complexity of both the subject matter, and of the procedure established by the amendment, I believe that it would be helpful to briefly review several important provisions of section 901.

Subsection (a) establishes statutes of limitation within which any challenge to Native title of a parcel of submerged land, or any interest therein, must be brought in the United States District Court by the State of Alaska, or by any other party which meets the normal standing requirements which are a prerequisite to the prosecution of a civil action in the District Court. The time periods set out in the subsection are five years from the date of an interim conveyance which includes the challenged parcel, if the interim conveyance was executed after the date of enactment of this Act, and seven years after the date of enactment of this Act, if the interim conveyance was executed on or before the date of enactment of this Act.

The five and seven year distinction is important and has a sound, rational basis. Soon some fifteen million acres of land will have been conveyed to Native corporations pursuant to the Alaska Native Claims Settlement Act. This acreage contains hundreds, and perhaps thousands, of parcels of submerged land, the majority of which has not been evaluated by the State of Alaska because prior to the passage of this amendment there was no statute of limitations within which the State was compelled to identify and confirm its ownership under the Submerged Lands Act.

Consequently, it would be manifestly unfair to now compel the State to evaluate all of the determinations of non-navigability for all of those hundreds of parcels of submerged land within five years, while at the same time evaluating all of the determinations of non-navigability which will be made by the Bureau of Land Management after the date of enactment of this Act. However, the State has assured me that within the next seven years it can evaluate all determinations of non-navigability of waters covering submerged lands already conveyed. Consequently, section 901 establishes two distinct time periods in order to ensure that State interests will be adequately protected.

It also should be noted that the amendment repeatedly employs the phrase "parcel of submerged land." Lest there be any confusion engendered by the use of this term, I would like to explain briefly the types of acreage and interests in land within the purview of the term. Native lands are normally conveyed by a document called an interim conveyance. Each interim conveyance describes the lands conveyed by that particular document. A map of the land conveyed by the interim conveyance may reveal that some or all of the lands described in the document are covered with water. By the use of the term "parcel" it is intended that the submerged lands amendment apply to any or all of the acreage covered with water described in an interim conveyance. For example, a ten mile river may meander through land described in a particular interim conveyance. A challenge to Native title to all of the acreage under the river, a challenge to only one acre, or a challenge to only a few acres under a small segment of the river, all must be filed in the United States District Court within the requisite time limit.

The term "parcel" also includes both the surface estate and the subsurface estate which may be conveyed to different corporations. For example, several regional corporations have selected subsurface estate in lieu of the subsurface estate under the surface estate selected by villages located within wildlife refuges. The term "parcel" is intended to apply to any subsurface estate independent of its surface estate, as well as to surface and subsurface estates conveyed to a village or group corporation and its companion regional corporation. It also applies, of course, to any surface estate conveyed independent of its subsurface estate.

Subsection (a) also recognizes that not all Native lands have been, or will be, conveyed by interim conveyance. Because they already have been surveyed, some Native lands have been, or will be, conveyed by the execution of a patent, without going through the interim conveyance procedure. With respect to these conveyances, the statutes of limitation begin to run from the date of execution of the patent.

For the purposes of subsection (a), an interim conveyance and a patent are "executed" at the time they are signed and dated by the official of the Bureau of Land Management authorized to execute such documents. Notice of such execution should be promptly made to the State and other affected parties.

Subsection (b) clarifies that a determination by the Bureau of Land Management that the water covering a parcel of submerged land is not navigable shall not be subject to review by the Alaska Native Claims Appeal Board, and that the execution of the conveyance document described in subsection (a) shall be the final agency action by the Secretary of the Interior with respect to the navigability issue. All administrative remedies will have been exhausted and the ownership of the submerged land within the conveyance area may be determined in the United States District Court, if such a determination is sought within the time period established by subsection (a). The only exceptions to the principles which I have just outlined are appeals of determinations of non-navigability which are pending before the Alaska Native Claims Appeal Board on the date of enactment of this Act, and original judicial actions to quiet title to lands beneath a water body brought in a United States District Court by the State, or by a person with standing, prior to any Bureau of Land Management determination regarding the non-navigability of the water body.

With respect to pending appeals, which are few in number, the Alaska Native Claims Appeal Board is not divested of jurisdiction. However, such appeals must be valid. They must be prosecuted by persons who have satisfied the requirements for standing before the Alaska Native Claims Appeal Board. However, if all parties involved in an existing appeal before the Appeal Board mutually stipulate to a dismissal in order to have the case decided in a Federal court, we would expect the Alaska Native Claims Appeal Board to immediately grant the dismissal.

Subsection (c) awards each Native corporation or Native group which is a defendant in any action brought pursuant to subsection (a) its actual costs and actual attorney's fees, including all costs and attorney's fees incurred on appeal, in any instance in which the Federal courts judicially affirm the corporation's or group's ownership of the parcel of submerged land which is the subject of the action. With respect to this provision, it should be emphasized that while the purpose of this subsection is to make each affected defendant corporation and group whole for all legal expenses to which it has been subjected by a non-prevailing plaintiff, including the State of Alaska if it is a non-prevailing plaintiff, in an action challenging the corporation's or group's title to submerged land, I fully expect that the Native corporations and groups will exercise reasonable restraint with respect to the costs and fees which they incur defending such litigation.

Subsection (d) states that no Native corporation or Native group shall be determined to have been conveyed its acreage entitlement under the Alaska Native Claims Settlement Act until the statutes of limitation in subsection (a) have run and any civil actions filed pursuant to that subsection have been reduced to a final judgment. During this time period a major purpose for maintenance of Native overselections will be to ensure that adequate replacement lands will be available to fulfill a corporation's or group's acreage entitlement if it should lose title to a parcel of submerged land because of a judicial determination of navigability.

The amount of overselections retained by each corporation and group during the pendency of the conveyance process should be reasonably related to the magnitude of the potential loss of submerged lands by such corporation or group, and may be reduced by the Secretary pursuant to his existing authority. However, it must be emphasized that the expiration of the statutes of limitation and the absence of any civil actions filed pursuant to subsection (a) are not justification for the elimination of a corporation's or group's overselections if other portions of the corporation's or group's acreage entitlement have not yet been fully conveyed.

Subsection (e) establishes a procedure through which the State of Alaska, by agreement with the affected Native corporation or group, may acquire submerged lands acreage which otherwise would be conveyed to such corporation or group. Until such time as the acreage acquired by the State pursuant to this subsection may be determined to be navigable and vested in the State pursuant to section 6(m) of the Alaska Statehood Act, the acreage shall be charged against the State's acreage entitlement under section 6(b) of the Statehood Act.

Mr. President, the remainder of the provisions of the amendment are self-explanatory. However, I would like to emphasize one additional, very important component of this amendment. The Native corporations and Native groups are concerned that they be conveyed full and complete title to the lands which they have selected and which they have a right to receive pursuant to the Alaska Native Claims Settlement Act. At the same time, the State of Alaska is concerned that its title to water bottoms conveyed to it in 1959 be confirmed.

Under the terms of the amendment, a parcel of submerged land determined by the Bureau of Land Management to be covered by non-navigable water will be conveyed to the appropriate Native corporation or Native group (unless litigation is initiated by the State, or another party with standing, prior to conveyance by the Bureau of Land Management). The State is thereafter free to seek a judicial determination of the ownership of the parcel within the time period established by this amendment. Any parcel which is the subject of a civil action filed pursuant to subsection (a) will remain in Native ownership during the pendency of the action. However, it should be emphasized that the District Court may grant preliminary injunctive relief to permit continued public use of the parcel during the pendency of the action, if the granting of such relief is appropriate under the law and under the facts relating to the particular parcel at issue.

As this amendment and its context clearly indicate, the statutes of limitation established for determining title, as between the State and the various Native corporations, to certain submerged lands, have no applicability to the determination of title to submerged lands in Alaska which are not first determined by the BLM to be eligible for conveyance to Native corporations under the terms of the Alaska Native Claims Settlement Act.

And finally, it should be noted that this amendment is not intended to have any effect, either positive or negative, on the result in any future litigation challenging the correctness of the Secretary's initial decision not to treat conveyances of submerged lands to Native corporations and Native groups in the same manner in which conveyances to other entrymen are treated, that that is quitclaiming submerged acreage under lakes larger than fifty acres and streams wider than three chains to the entryman, but not charging such submerged acreage against the entryman's entitlement.

Mr. Stevens. I concur with this discussion of the submerged lands provision in H.R. 39 as passed by the Senate.●

U.S. RELATIONS IN ASIA-PACIFIC REGION

● Mr. LAXALT. Mr. President, our relations with the nations and peoples of the Asia-Pacific region are vital to our national interest. Broadening and deepening our relationship with the People's Republic of China while continuing to expand our close ties of friendship with Japan, Korea, Taiwan, and the other nations in the region has to be among our most pressing foreign policy priorities.

But how to go about it? In December of 1978, the Carter administration tried a new approach. Throwing over the policies of its predecessors, it accepted for all practical purposes unchanged, the Chinese "Three Conditions." Normalization with Beijing was thus achieved in a manner which previous administrations had rejected as an unacceptable compromise of a close U.S. ally. A mutual security treaty, among our most sacred commitments, was unilaterally abandoned, leaving our friends with serious questions as to the steadfastness of our remaining commitments, and Beijing's leaders with what had to be private doubts as to the seriousness of our pursuit of our new relationship.

Many of my colleagues shared my misgivings about this rather shabby treatment of Taiwan. No one objected to normalization of relations with Beijing. It was a healthy step that had to come. But did it have to carry such a high price tag?

Dr. Kissinger, President Ford, former Under Secretary of State Rostow, and others close to the negotiations or who journeyed to Beijing in a private capacity, at the time said "No." The People's Republic of China was fervently searching for a counterweight to Soviet expansionism in Asia, and against this grave threat they considered Taiwan a largely peripheral issue.

As my good friend and colleague Barry Goldwater told the Senate little more than a week ago:

> President Carter was more Chinese than the Chinese. The policies he adopted were not insisted upon by Communist China officials. Instead they are the policies of American amateurs who are preoccupied with what seems fashionable at the moment, rather than what is sound or necessary over the long run.

But all this is prolog. The question now is the future. The Congress has passed the Taiwan Relations Act, aimed at continuing our friendship with Taiwan while we seek through other avenues to expand our ties with Beijing. Governor Reagan realizes that there is but one China. He also recognizes our need to stand by our friends on Taiwan as the Congress intended when it passed the Taiwan Relations Act. If elected, he will end the series of unedifying petty harassments which have for too long characterized this administration's conduct of our relations with Taiwan. He will also continue to pursue avenues of common interest with the People's Republic of China. But above all, he will pursue peace and security in the Asia-Pacific region in a way which is fully cognizant of the extreme sensitivity and complexity of the various interrelationships in the region and the legitimate interests of all those involved.

Mr. President, Governor Reagan spoke cogently and forcefully to this question yesterday at a press conference in Los Angeles. I ask that the text of his remarks be printed in the Record.

The remarks follow:

Statement by Ronald Reagan

Ten days ago George Bush and I met with you here in Los Angeles on the occasion of his departure for Japan and China, a trip he undertook at my request. As we stressed at the time, the purpose of the trip was to provide for a candid exchange of views with leaders in both countries on a wide range of international topics of mutual interest. Ambassador Bush returned last evening, and has reported his findings in detail.

We are both very pleased with the results of his extensive discussions. In a series of meetings with distinguished leaders in Japan, including Prime Minister Suzuki, Former Prime Ministers Fukuda, Kishi and Miki, Foreign Minister Itoh and Minister of International Trade and Industry Tanaka, he had the opportunity to hear their views and recommendations concerning the future of U.S.-Japanese relations.

Our Republican Party Platform stresses that Japan will remain a pillar of our policy for Asia, and a Reagan-Bush Administration will work hard to insure that U.S.-Japanese relations are maintained in excellent condition, based on close consultation and mutual understanding.

Japan's role in the process of insuring peace in Asia is a crucial one, and we must reinforce our ties with this close ally. Japan is our second most important trading partner, and we are her first. We have close ties in other fields, too. A most important example is the U.S.-Japan Mutual Security Treaty which recently marked its twentieth anniversary.

Understanding the Japanese perspective is important for the success of American policy. As Ambassador Bush will tell you in detail, he found Japanese leaders unanimous in their view that the United States must be a strong, reliable, leading partner.

I appreciate receiving their views, and I am grateful to them for the courtesies extended to Ambassador Bush. I would also like to express my appreciation to, and regard for, U.S. Ambassador Mike Mansfield, who also extended many courtesies.

Of equal importance was Ambassador Bush's trip to China, where he held a series of high-level meetings. As I said on August 16, "we have an obvious interest in developing our relationship with China, an interest that goes beyond trade and cultural ties. It is an interest that is fundamental to a Reagan-Bush Administration."

The meeting in Beijing provided for extensive exchanges of views. George has reported to me in great detail the points of similarity and agreement, as well as those of dissimilarity and disagreement. Since the objective of the trip was to have just such an exchange without necessarily reaching agreement, I believe that the objective was reached.

We now have received an updated, first-hand of China's views, and the Chinese leaders have heard our point of view.

While in Beijing, Ambassador Bush and Richard Allen met at length with Vice Premier Deng Xiaoping, Foreign Minister Huang Hua, as well as with other top foreign policy experts and military leaders. I appreciate the courtesies which the Chinese leaders extended to our party, and I also wish to thank U.S. Ambassador Leonard Woodcock for his kind assistance.

We now maintain full and friendly diplomatic relations with China. This relationship began only a few years ago, and it is one which we should develop and strengthen in the years ahead. It is a delicate relationship, and the Reagan-Bush Administration will handle it with care and respect, with due regard for our own vital interests in the world generally, and in the Pacific region specifically.

China and the United States have a common interest in maintaining peace so that our nations can grow and prosper. Our two-way trade has now reached approximately $3.5 billion annually, and China's program of modernization depends in a major way on Western and U.S. technology.

Along with many other nations, we and China share a deep concern about the pace and scale of the Soviet military buildup. Chinese leaders agree with Japanese leaders that the United States must be a strong and vigorous defender of the peace, and they specifically favor us bolstering our defenses and our alliances.

It is quite clear that we do not see eye to eye on Taiwan. Thus, this is an appropriate time for me to state our position on this subject.

I'm sure that the Chinese leaders would place no value on our relations with them if they thought we would break commitments to them if a stronger power were to demand it. Based on my long-standing conviction that America can provide leadership and command respect only if it keeps its commitments to its friends, large and small, a Reagan-Bush Administration would observe these five principles in dealing with the China situation.

GUIDING PRINCIPLES FOR THE FAR EAST

First, U.S.-Chinese relations are important to American as well as Chinese interests. Our partnership should be global and strategic. In seeking improved relations with the People's Republic of China, I would extend the hand of friendship to all Chinese. In continuing our relations, which date from the historic opening created by President Nixon, I would continue the process of expanding trade, scientific and cultural ties.

Second, I pledge to work for peace, stability and the economic growth of the Western Pacific area in cooperation with Japan, the People's Republic of China, the Republic of Korea and Taiwan.

Third, I will cooperate and consult with all countries of the area in a mutual effort to stand firm against aggression or search for hegemony which threaten the peace and stability of the area.

Fourth, I intend that United States relations with Taiwan will develop in accordance with the law of our land, the Taiwan Relations Act. This legislation is the product of our democratic process, and is designed to remedy the defects of the totally inadequate legislation proposed by Jimmy Carter.

By accepting China's three conditions for "normalization," Jimmy Carter made concessions that Presidents Nixon and Ford had steadfastly refused to make. I was and am critical of his decision because I believe he made concessions that were not necessary and not in our national interest.

I felt that a condition of normalization—by itself a sound policy choice—should have been the retention of a liaison office on Taiwan of equivalent status to the one which we had earlier established in Beijing. With a persistent and principled negotiating position, I believe that normalization could ultimately have been achieved on this basis. But that is behind us now. My present concern is to safeguard the interest of the United States and to enforce the law of the land.

It was the timely action of the Congress, reflecting the strong support of the American people for Taiwan, that forced the changes in the inadequate bill which Mr. Carter proposed. Clearly, the Congress was unwilling to buy the Carter plan, which it believed would have jeopardized Taiwan's security.

This Act, designed by the Congress to provide adequate safeguards for Taiwan's security and well being, also provides the official basis for our relations with our long-time friend and ally. It declares our official policy to be one of maintaining peace and promoting extensive, close, and friendly relations between the United States and the seventeen million people on Taiwan as well as the one billion people on the China mainland. It specifies that our official policy considers any effort to determine the future of Taiwan by other than peaceful means a threat to peace and of "grave concern" to the United States.

And, most important, it spells out our policy of providing defensive weapons to Taiwan and mandates the United States to maintain the means to "resist any resort to force or other forms or coercion" which threaten the security or the social or economic system of Taipei.

This Act further spells out, in great detail, how the President of the United States, our highest elected official, shall conduct relations with Taiwan, leaving to his discretion the specific methods of achieving policy objectives.

The Act further details how our official personnel (including diplomats) are to administer United States relations with Taiwan through the American Institute in Taiwan. It specifies that for that purpose they are to resign for the term of their duties in Taiwan and then be reinstated to their former agencies of the U.S. government with no loss of status, seniority or pension rights.

The intent of the Congress is crystal clear. Our official relations with Taiwan will be funded by Congress with public monies, the expenditure of which will be audited by the Controller General of the United States; and Congressional oversight will be performed by two standing Committees of the Congress.

You might ask what I would do differently. I would not pretend, as Carter does, that the relationship we now have with Taiwan, enacted by our Congress, is not official.

I am satisfied that this Act provides an official and adequate basis for safeguarding our relationship with Taiwan, and I pledge to enforce it. But I will eliminate petty practices of the Carter Administration which are inappropriate and demeaning to our Chinese friends on Taiwan. For example, it is absurd and not required by the Act that our representatives are not permitted to meet with Taiwanese officials in their offices and ours. I will treat all Chinese officials with fairness and dignity.

I would not impose restrictions which are not required by the Taiwan Relations Act and which contravene its spirit and purpose. Here are other examples of how Carter has gone out of his way to humiliate our friends on Taiwan:

Taiwanese officials are ignored at senior levels of the U.S. government.

The Taiwan Relations Act specifically requires that the Taiwanese be permitted to keep the same number of offices in this country that they had before. Previously Taiwan had 14 such offices. Today there are but nine.

Taiwanese military officers are no longer permitted to train in the United States or to attend service academies.

Recently the Carter Administration attempted to ban all imports from Taiwan labeled "Made in the Republic of China," but was forced to rescind the order after opposition began to mount in the Congress.

The Carter Administration unilaterally imposed a one-year moratorium on arms supplies even though the Act specifies that Taiwan shall be provided with arms of a defense character.

The Carter Administration abrogated the Civil Aviation Agreement with Taiwan, which had been in effect since 1947, in response to demands from the People's Republic of China.

I recognize that the People's Republic of China is not pleased with the Taiwan Relations Act which the United States Congress insisted on as the official basis for our relations with Taiwan. This was made abundantly clear to Mr. Bush, and, I'm told, is clear to the Carter Administration. But it is the law of our land.

Fifth, as President I will not accept the interference of any foreign power in the process of protecting American interests and carrying out the laws of our land. To do otherwise would be a dereliction of my duty as President.

It is my conclusion that the strict observance of these five principles will be in the best interests of the United States, the People's Republic of China and the people on Taiwan.

The specific implementation of these treaties will have to await the results of the election in November, but in deciding what to do I will take into account the views of the People's Republic of China as well as Taiwan. It will be my firm intention to preserve the interests of the United States, and as President I will choose the methods by which this shall best be accomplished.●

PROPOSED ARMS SALES

● Mr. PELL. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $5 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of a proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the three notifications I have received.

The notifications follow:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C. August 18, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-87, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $30.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.
Director.

Transmittal No. 80-87

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Saudi Arabia.

(ii) Total estimated value: Major Defense Equipment*, $0.0 million; Other, 30.0 million; Total, $30.0 million.

(iii) Description of articles or services offered: Construction and related services necessary to provide an expanded underground command and operations center.

(iv) Military department: Army (HAZ, Amendment No. 2).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in Section 28 report.

(viii) Date report delivered to Congress: 18 Aug., 1980.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., August 19, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-90, concerning the Department of the Army's proposed Letter of Offer to Tunisia for defense articles and services estimated to cost $23.8 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director.

[Transmittal No. 80-90]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Tunisia.

(ii) Total estimated value: Major defense equipment,* $22.5 million; other, $1.3 million; total, $23.8 million.

(iii) Description of articles or services offered: Three hundred I-CHAPARRAL, MIM-72F, missiles.

(iv) Military department: Army (UDL).

(v) Sales commission, fee, etc., paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending 31 March 1980.

(viii) Date report delivered to Congress: 19 August 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 19, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-91, concerning the American Institute in Taiwan's proposed Letter of Offer to the Coordination Council for North American Affairs for defense articles and services estimated to cost $15.5 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director.

[Transmittal No. 80-91]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Coordination Council for North American Affairs (CCNAA), Pursuant to P.L. 96-8.

(ii) Total estimated value: Major defense equipment*, $14.5 million; Other, $1.0 million; Total, $15.5 million.

(iii) Description of articles or services offered: Ninety I-HAWK missiles.

(iv) Military department: American Institute in Taiwan for the U.S. Army (XYG).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: 19 August, 1980.●

A NEW STEEL POLICY

Mr. HEINZ. Mr. President, as the American steel industry continues to sink into one of the deepest crises in its history, it is vital that the Congress turn its full attention to new policy initiatives that will create a new industrial policy for the United States and restore our steel industry to a position of world competitiveness.

Achieving that result, of course, demands a thorough understanding of the current problem. An important contribution to that understanding has recently been made by Eugene Frank of M. Waddell and Towne, Inc. I have known and respected Gene Frank for a long time. He is clearly one of the Nation's foremost analysts of the steel industry, whose incisive comments have been a great contribution to the Senate Steel Caucus.

Gene has recently completed a new analysis of the industry which deserves the close attention of all those who share my concern for the future of steelmaking in the United States.

Mr. President, I ask that Gene Frank's study, along with a recent letter on steel policy sent to the President by the four leaders of the Senate Steel Caucus, be printed at this point in the RECORD.

The study and letter follow:

STEEL INDUSTRY AND THE 1980'S: THE DECADE FOR DECISION

In the very near future, our government must decide if it wants a viable domestic steel industry and a strong industrial base for this nation.

The steel industry issue has become an issue of national significance. The evidence documenting this statement is overwhelming.

For a multiplicity of reasons, world demand for metal during the decade of the '80s will increase substantially from current levels. Most every nation, regardless of size, maturity or political bent will have to consume more metal, to attain its political, social and economic goals. Each nation will endeavor to have a strong and growing economy to provide jobs for expanding labor forces. Standards of living must be improved in order to provide all people with adequate food, shelter, clothing and medical and dental care. Most nations will expend special effort to overcome their energy, pollution and transportation problems as well as rebuild the infrastructures of their industries and cities.

The accomplishment of these goals will require metal. Regardless of what skeptics may say, the world is and will be for some time to come, in the "Steel Age." We cannot progress and improve living standards without steel.

Currently, due to economic dislocations, caused by the oil cartel, the world is in a period of oversupply of steel. The energy crisis has sent economics into a tailspin, promoting many steel producing nations to use their steel industries exports as a cushion against unemployment and to obtain currency to pay for escalating energy costs. The steel export push by foreign producers at below-cost-of-production prices has not only strapped them financially, but has also put a strain on many of the governments that either own or subsidize them. It should be emphasized that the dumped imports into the American market created artifically low price levels here, injured our industries' capabilities and increased unemployment.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

As a result, not only have steel expansion plans been postponed or discarded but many foreign producers became more concerned about survival and began to rationalize their production facilities.

When world demand picks up the supply will not be there because of the rationalization and absence of expansion. Sometime during the decade of the '80s steel will be in short supply in world markets.

Regardless of whether demand merely approaches the supply level or exceeds it by one ton or one hundred and fifty one million tons, which is a distinct possibility, steel prices on the world market will become chaotic. The desire of many nations to escalate world prices in order to recoup past losses and fund necessary expansion plans will be hard to suppress.

It must be remembered that most foreign governments use their steel industries as instruments of social, economic, and foreign policy rather than as a profit center. By contrast, the American company which has to compete against the resources of an entire nation, must make a profit to survive. Foreign steel industries, aside from being used to maintain employment levels and obtain foreign currency by exporting also provide below-cost feedstock for other exporting industries such as automobiles and trucks. Massive amounts of indirect steel imports are entering the United States in the form of autos, trucks and parts, injuring both the auto and steel industries.

Because the U.S. marketplace is the most open in the world, it has served as the dumping ground for excess foreign steel production and with the dumping of steel is the associated unemployment caused in American steelworkers ranks. As a result of these action, the American marketplace is also becoming the burial ground for a number of American steel plants. These plants became weakened after years of being impacted by unfairly traded imports which captured domestic market growth and contributed to artificially low prices. The low prices and loss of volume prompted a cost/price squeeze and a capital shortfall which along with mandated massive pollution expenditures, curtailed modernization programs. The inability to obtain an adequate return on capital prompted the closing of plants and the idling of tens of thousands of American steelworkers.

In contrast to our plant closings, other countries are advertising their new facilities throughout the United States, an accomplishment only made possible because of our open market policy and lack of enforcement of our trade laws.

Foreign governments place considerable strategic and economic importance on their steel industries and view them as national assets, the most essential ingredient for industrialization, economic development and the economic stability of their nation.

The U.S. government, in contrast, has taken a wholly different view. For two decades, this country has chosen not to enforce its trade laws to prevent the dumping of steel in our marketplace. Instead, under the banner of free trade and the desire to control domestic steel prices and wages, it has welcomed the dumped imports.

In essence, our government by not enforcing its trade laws has permitted many inefficient foreign industries to push once efficient American plants out of their own marketplace.

Nor is the U.S. policy allowing dumped steel imports the only policy that differs from foreign policy. This nation has enacted laws and regulations that built up unrealistic costs for its steel industry and did nothing to provide such things as adequate depreciation, tax reform, support for new technology and a reasoned approach to pollution control.

As an example, some of our foreign competitors allow equipment to be written off in two years while we were held to fifteen years.

In summary, our government has lacked the foresight to recognize the necessity of having a viable domestic steel industry. Instead, it has chosen to sacrifice its steel industry in the arena of international politics. International politics should not be permitted to govern international trade and decide domestic economic policy.

Today, the United States is the only industrialized nation in the free world unable to supply its own steel requirements. With each day that passes, this nation continues to liquidate its steel sector, despite its ability to compete if competition is fair.

As the liquidation of the American steel industry persists, this nation's dependence upon unreliable foreign sources of supply increases.

By 1990, it is likely that the U.S. will be consuming between 135 and 150 million tons of steel. If the current pace of industry liquidation continues, this nation's steel industry will only have the capability to ship between 80 and 85 million tons of finished product in that year.

We cannot afford to import 50 to 70 million tons of steel. Dependence upon foreign sources for such quantities would be as damaging to the U.S. economy as this country's current dependence on foreign oil. And dependence upon foreign sources for substantial quantities of both steel and oil would cause irrepairable damage to the U.S. economy and our national security.

The need to import such vast quantities of steel must be avoided at all costs. When world steel markets tighten, international steel prices will no doubt escalate as they have in the past. In fact, the possibility exists that offshore steel might not be available at any price. It's also conceivable that when combining future levels of inflation with shortages, international steel prices could exceed $1,000 per ton—so that, even if the steel were available, the need to purchase 50 to 70 million tons of foreign product could result in a deficit balance of steel trade approximating 50 to 70 billion dollars. We then have to think of our oil and auto deficits and our eroded industrial base.

Past government policy, or lack of policy, has contributed substantially to the steel crises of 1980. Since July of 1979 approximately 80,000 American steelworkers have lost their jobs, many steel plants have been closed permanently and most companies have started to lose money on their steel operations.

While the future of additional millions of tons of capacity hangs in the balance, along with thousands of additional steel jobs, agencies of the U.S. government battle over "Turf Rights." Without a well-defined national policy for the steel industry to serve as a guide, job-secure employees of the Justice Department and the Council on Wage and Price Stability will not permit themselves to be overshadowed by the International Trade Commission or the trade laws of this nation.

As an example, if the criminal laws of this nation were not enforced, every man, woman and child would demand they be enforced. What is so different about steel communities, auto communities, labor and industries insisting that our trade laws be enforced. They have, along with the entire nation been severely injured because of trade abuses. They must take the issue and the individuals involved, who have placed themselves above the law of the land and who do not know the difference between free trade and fair trade, to the courts and also to task at the election polls.

Nor will Treasury, the EPA, the Council of Economic Advisors, the State Department and others take a back seat to anyone in their efforts to use the steel industry and the steelworkers as political whipping boys. As the agencies fiddle, the nation burns and the communist nations and our friendly trading partners cheer.

The price of this lack of policy and the battle for Turf Rights will not only be paid for by the unemployed steelworker, the devastated steel communities and a steadily emaciated steel industry. It likewise will be paid for by a weakened U.S. economy and a crippled national security effort.

For two decades the people of the United States have been without an adequate economic plan. They have watched the United States begin an economic slide which could result in this nation becoming a second-rate economic power. It must be realized that the United States has been in an "economic hot war" and has been losing battle after battle, but they know we have not yet lost the war. Today, even after two decades of battering, the American steel industry is still competitive in its own marketplace.

A wiser legislative branch, led by the Congressional Steel Caucus, the Senate Steel Caucus, along with a better informed Administration and supported by the labor movement and all of industry will see to it that this nation has a winning overall game plan and a solid plan for its steel sector. With everyone in our government pulling in the same direction instead of pulling the industrial base of this country apart our future will be secure.

As for the steel industry, it must be realized that all the problems of the industry must be dealt with in concert. The treatment of one problem without the treatment of all will not be effective.

A sound sectorial plan for steel, because of its unique status, could serve as a format for all of industry. Industries such as autos, fasteners, shoes, textiles, tires and rubber, televisions and many others have been under seige with comparable problems. Every industry in the United States can't be in trouble because of inefficient labor and inadequate management.

To solve the steel crisis the U.S. must enforce its trade laws, balance its pollution goals with its economic goals, provide adequate capital formation by shortening depreciation, installing favorable investment-tax credits through reform of our tax laws and reduce the number of oppressive regulations now suffocating all of industry.

After the cancers that have crippled our industries are cured, American ingenuity will come to the forefront and set the pace for research and development and the adoption of new technology which again will set the world standard for excellence and competence.

For those companies, plants and communities that survive the current crisis, the steel needs of our economy alone are so great that if the domestic industry is allowed to serve those needs a bright future is assured.

The American heritage that rightfully belongs to this nation's youth will be passed on to them intact as soon as this nation adopts a sound economic plan.

U.S. SENATE,
Washington, D.C., July 23, 1980.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The growing crisis in our economy has affected some sectors more than others. Of particular concern to us is the deteriorating situation in the steel industry. We estimate approximately 75,000 steelworkers are now unemployed, more than at the worst of the 1977 crisis. Capacity utilization is down to less than 55 percent and expected to fall even further.

We are aware that your Administration has been considering various alternatives to help revitalize the steel industry, a discussion which began last winter when several companies were considering filing anti-dumping petitions, but which is only now moving towards resolution. We are concerned about the time this process has taken and in an effort to accelerate the decision making process, we are writing to provide our own suggestions as to how this unprecedented situation in the industry can be met.

First, with respect to the capital cost problem, a great variety of approaches are possible.

All of us support a revision in depreciation schedules to shorten asset lives for long-term capital investments. Such a revision must address the capital formation problems of the steel industry and should include serious consideration of a complete revision of the present complex depreciation schedules for all industry such as suggested in the 10–5–3 proposal, the Capital Cost Recovery Act.

One measure of particular importance for the steel industry would be one-year amortization of pollution control equipment. We support environmental standards that protect the health and safety of our steelworkers and indeed all our citizens. It is clear, however, that our pollution control laws impact unequally on different industrial sectors, with steel being one of the hardest hit. Pollution control expenses in the next couple of years could be as high as 50 percent of new investment in the steel industry. We believe that in the case of such a basic industry it is appropriate for the government to spread the burden of these exceptional costs by providing a tax benefit. Such a step will not only facilitate timely compliance with environmental standards, it will also contribute to solving the industry's overall capital problems. Furthermore, there would be no distortion of investment patterns since these are mandated expenditures.

We can further enhance capital formation through revision of the investment tax credit. The present investment tax credit tends to provide the greatest benefits for assets with useful lives of seven years. The credit is graduated up to 10 percent for assets with shorter lives, but it does not go beyond 10 percent for assets in the steel industry with longer lives. A revision of the investment tax credit to provide more equal return on investment for all asset lives would not only help the steel industry, but some of the very short-lived assests used in the auto industry as well.

Under present law, if industrial revenue bond financing and rapid amortization of pollution control equipment is used, the investment tax credit is reduced to only 5 percent. The full 10 percent investment tax credit could be applied to pollution control facilities regardless of whether rapid depreciation and tax exempt bonds are used as well.

Also, the investment credit could be made refundable, particularly for industries like steel. In many cases, companies are losing tax credits to which they are entitled because they haven't sufficient tax liability to absorb them.

With respect to environmental regulations, we support environmental standards that protect the health and safety of our steelworkers and indeed all our citizens. We would urge that the EPA and the Administration strengthen their resolve to work in a cooperative manner with individual steel companies with regard to environmental compliance schedules. There has been some progress in this area, but much more must be done. The limited life policy should be aggressively utilized. Standards should be reviewed on a continuing basis. In particular, we urge EPA to weigh carefully all relevant factors in its enforcement of compliance deadlines. This is especially important in those cases where local and state governments have made reasonable efforts to achieve implementation plans that are not yet approved. It is both unfair and uneconomic to expect industry to spend many millions of dollars to meet a compliance deadline when the plan that is supposed to map that compliance is not approved, and which may, when it is finally approved, dictate a different course of action than the one taken.

While we applaud the bubble concept as a constructive and creative idea, it has not solved all the steel industry's problems. Application of the concept is constrained by numerous regulatory factors which have made its relevance to the steel sector marginal at best. Consideration should be given to allowing this system to be more broadly utilized.

In the area of trade, it was our view earlier this year that you would have been well-advised to pursue a policy of a two-track system of relief against unfairly priced foreign imports, utilizing both an improved trigger price mechanism and permitting pursuit of anti-dumping complaints on a selective basis. Other voices in the Administration prevailed, and such action was not taken. We are now seeing the consequences of that misjudgment as our trade relations with Europe and Japan worsen and no early warning system exists for either the basic or specialty steel industry against foreign steel imports sold at a predatory price. In this regard, it simply makes no sense to characterize as either inflationary or unnecessary, policy needed to protect the domestic industry at a time when it is particularly vulnerable against predatory pricing. It is likewise difficult for us to see how the continued progress of the now pending dumping cases will resolve all the above problems.

Nor has there been the development of the International Steel Committee into the kind of genuinely constructive forum for solving issues arising from world steel trade that we sought in 1978. The reticence on the part of our representatives or the reluctance of the other nations of the OECD to arrive at formulas for general improvement of the present situation are sources of keen disappointment. We strongly urge that this international forum, established specifically for the resolution of such trade disputes, be aggressively utilized.

We repeat our long-held view that this matter is best resolved through a settlement satisfactory to all parties. We believe each party has retained sufficient flexibility in its position to permit such a settlement and that there are a number of acceptable alternatives worth pursuing. We stand ready to assist in faciliating such a settlement with the industry. Should such an agreement include the restoration of the Trigger Price Mechanism, we would recommend that its coverage be extended to include speciality steel products as well.

With respect to the critical issue of steel research and development, neither industry nor government has done nearly enough. Although future tax reforms can provide the industry with a portion of the capital necessary for such activity, there is no doubt that government must dramatically increase its support of both basic and applied research. At present, federal support for basic research in steel-making amounts to under 2 percent of the industry's R&D spending—far less than the government contributes for any other category of industrial research. Additional help could come in the form of tax incentives to encourage greater steel industry R&D spending. But more directly, both the scale of steel-making and the industry's reliance on already well-established technologies means that the need for Federal assistance in funding pilot-plant demonstration projects is undeniable.

We particularly note the importance of the commercialization of coke-making and coal-based technologies that would improve blast furnace productivity, meet environmental attainment standards and improve worker safety. This is a particularly vital area for government-industry cooperation. It is essential to the overall recovery of the steel industry and would provide substantial benefits to the coal industry as well. Congress has taken the initiative in this regard, and we hope to be able to count on your continued interest, support and cooperation in this area.

Finally, we want to again emphasize our view that there must be a focus of leadership on steel policy matters within the Administration. For far too long, this country has relied on crises and ad hoc commissions to generate and carry out what has passed for national steel policy. We have some evidence that this responsibility for steel policy matters has unofficially devolved on Secretary Klutznick. If that is the case, it would be helpful, both to him and to those of us in Congress concerned about the steel industry, if such status were publicly and officially announced.

Mr. President, we have been leading the Senate Steel Caucus since its inception and have met with you and members of your Administration on a number of occasions to discuss steel problems. We recognize and appreciate your commitment to solving this basic industry's problems, and we hope you appreciate our commitment as well as our determination to seek legislative solutions on our own if appropriate leadership from the Executive Branch is not forthcoming.

Sincerely,

JOHN HEINZ.
BIRCH BAYH.
JENNINGS RANDOLPH.
JOHN GLENN.

SAFETY GUIDELINES FOR OFFICES

Mr. METZENBAUM. Mr. President, occupational diseases kill about 100,000 Americans each year. While OSHA regulations have made some headway in this area, much remains to be done. A major part of the problem stems from the fact that one-quarter of America's workers spend their days in offices, worksites not covered by existing OSHA regulations.

The hazards associated with office environments are just now being discovered. Products such as air fresheners, solvents, adhesives in building products, cleaning fluids, fire-retardant chemicals, and finishes may be turning the insides of offices into veritable danger zones. Faulty ventilation systems are now thought to be the primary culprit in the spread of bacterial infections such as Legionnaire's disease. In addition, some insulating materials contain starch, a prime breeding ground for disease-causing fungi.

Health hazards in the office are not

limited to structural deficiencies. The increased use of video display terminals has presented us with a new set of problems. Over half of America's office workers now use some sort of data processing equipment. Complaints from these workers include soreness and redness in the eyes, back and neck pains, and dizziness. Although the levels of radiation emitted by these machines are fairly low, we do not yet know the effects of long-term exposure to low-level radiation. It is shameful to note that the Soviets have done more research on this subject than we have.

The extent of these health problems is hard to estimate. Clearly, a series of studies on the health effects of substances commonly used in offices, of poorly ventilated buildings, and of new kinds of office machinery is badly needed.

It is my hope that the findings of these studies will result in safety guidelines for offices. Such guidelines would provide both employees and workers with reliable information about the possible risks of various office environments. Once we have sufficient knowledge we can take the necessary precautions and make America's offices safer, healthier, and more productive.

I submit the following materials for the Record.

The materials referred to are as follows:

[From the Dayton (Ohio) News, Apr. 24, 1980]

Study Probes Computer Drawbacks

(By Sid Karpoff)

The office of the future will be completely automated and will place a variety of new stresses on clerical workers and secretaries, according to a report issued Wednesday by Dayton Women Working and its national umbrella organization.

The report entitled "Race Against Time: Automation of the Office", says that over 10 million micro-processors are in use around the United States and that 40 percent of the total work force in the country will be involved in some form of information processing by 1985.

The report says that the continued introduction of computer systems in offices around the country is resulting in elimination of jobs by consolidating tasks that a single person can handle through a computer operation.

According to Debra Walker, staff member of Dayton Women Working, the move toward automation "is not as much concerned with efficiency as in terms of control. Managers will be able to tie more office workers to a single location for more hours during the day in order to monitor their work," she said.

Already there have been recorded increases in the rate of stress-related diseases among office workers who work with the automated equipment, the report says, including increased eye and back strain, nausea and headaches.

Walker said even with the increased work load that clerical workers and secretaries are being asked to absorb, their pay scales continue to lag far behind that of male counterparts.

She said Working Women is seeking to have Congress hold hearings to determine what the effects of automation in the workplace are and enact stringent requirements and standards to relieve the effects.

The release of the report coincided with National Secretaries Day.

[From the Dayton (Ohio) Journal Herald, Apr. 24, 1980]

Office Automation "Dehumanizing"

(By Judith L. Schultz)

Offices are fast becoming factories of paperwork for the 18 million clerical workers in the United States, a major new report by Working Women, National Association of Office Workers, says.

The office as factory is not just a clever reference to the growing use of automated word processors and business machines.

According to the report, released yesterday, National Secretaries Day, dehumanization and fragmentation of jobs by technology is becoming a major threat to clerical workers, who are in the fastest growing segment of the labor force.

Women, who hold 80 percent of all clerical jobs, will be affected disproportionately by the computerization of their jobs, the report said.

The report, "Race Against Time: Automation of the Office," was released locally by Dayton Women Working.

Noreen Wilhelm, director, said during a press conference, that automation of office jobs certainly has advantages in terms of efficiency, but the dangers it presents to the women office worker are serious.

Secretaries, bank tellers and file clerks—whose jobs are the first targeted for automation—are liable to face downgraded jobs, added job stress and occupational disease, more piecework with less room for responsibility or creativity on the job, and eventually fewer jobs because of automation, Ms. Wilhelm said.

"Our concern is that, in the process of automation, jobs be redesigned with the human factor in mind," she said.

Automation increasingly has meant that the office worker who used to do a variety of tasks each day now sits all day in front of a word processor or video display terminal (VDT) doing only one step in a long process of work, much like an assembly line worker.

Often, the clerical worker in these circumstances faces additional work pressures as quotas demand that more information be entered into the computer each day.

These "piecework" jobs, often done in office cubicles that prevent any contact with other workers, usually are downgraded from secretarial or clerk jobs.

"So, yes, absolutely you are going to see pay cuts involved. In one instance cited in the study, a secretary who used to earn $155 a week now makes $135 a week as a word processor," Ms. Wilhelm said.

Eventually, because the computer can do more work, quicker, than a secretarial pool or several clerks, "job cuts will be common," she said.

And the Working Women report also cites a study of secretarial-clerical workers riveted in front of keyboards all day that found a fourth of them suffer from "severe muscular distress in the arms, neck and shoulders, diagnosed as an occupational disease. The problems are significantly worse among VDT operators, and are exacerbated by rapid-work pacing."

Ms. Wilhelm stressed that the move by office managers to automation is not made with "efficiency as the whole reason. Control of the workforce is a key factor because it is easy to supervise the amount of work done."

Dayton Women Working is joining the call, with other like organizations, for congressional hearings to provide a public airing of problems associated with automation; a moratorium on further manufacture and introduction of VDTs until safer and better designed machines are developed; and further studies by the U.S. Department of Labor to assess the impact of automation in key industries.

"We can't just let automation come in and then say, 'that's the wave of the future,'" Ms. Wilhelm said. "First we need to see that it can be controlled and adapted to the people who have to work with it."

Race Against Time: An Overview of Office Automation

The American workforce is undergoing enormous changes as clerical work replaces manufacturing employment as the base of the economy. Now clerical work is being transformed by automation of the office. What is the effect of automation on the job itself, on the American economy, and on the office worker? Office workers are in a race against time trying to answer these questions before irreparable harm is done.

There are 10,000 times as many computers in use today as there were 25 years ago.

In the early 1950's, there were barely 1,000 computers in the United States; by the end of 1980, industry experts estimate that 10 million minicomputers will be at work across the country.

The widespread use of the computer has been made possible by the introduction of microprocessors in the 1970's. A single "computer-on-a-chip" in 1985 may have 25 times the capacity of a computer which filled an entire room 15 years ago.

In addition, microprocessors have reduced computation costs 100,000 fold since 1960. In fact, if computers are compared to cars in terms of cost and technology, M.I.T. estimates that the production of a Rolls Royce would cost $2.50 and the car would run for 312,500 miles on a half gallon of gasoline.[1]

Already extensively used in the offices of the federal government, multinationals and financial institutions, mini-computers, with their low cost, high power, and small size, make it possible for medium and small businesses to introduce office automation. According to *Technology Review*, sales of small business computers are expected to triple by 1984, creating a $10 billion market.

If total computer sales continue at their present annual growth rate of 12 percent, the computer industry predicts that its revenues will be the largest in the world by 1990, outstripping both auto and oil giants.[2]

As the United States continues the historic transition to an "information economy", clerical workers will be more affected by the widespread office automation than other sectors of the white collar workforce.

By the end of 1979, clerical workers numbered 18 million, accounting for 18% of all employment. Since women hold 80% of all clerical jobs, clerical employment accounts for 35% of the country's 42 million working women, according to the Bureau of Labor Statistics.

Over 50% of the 20 million new jobs projected by 1990 will be in white collar work: managerial, professional, technical, sales, and clerical. The U.S. Department of Labor estimates there will be 4.8 million new jobs for clerical workers—such as bank tellers, secretaries, typists, and computer/peripheral equipment operators—making clerical work the fastest-growing occupation in the 1980's.

Of the estimated 3.5 million offices in the U.S., about 1.5 million are considered large enough for some form of office automation.[3] IBM estimates that, by 1985, 40% of the total workforce will be employed in jobs primarily involved in information-processing.

A report by Siemans, the West German high technology firm, estimates that 40% of the work done in the office today is suitable for automation by 1990.

Occupations which are targeted for automation—file clerks, bookkeepers, secretaries and typists, and bank tellers—are all at least 90% female.

Management's idea of the office of the future is a recreation of the factory of the past.

To move to electronics is "a way to en-

Footnotes at end of article.

force discipline and standardization in the office," says one business expert.[4] "Business can finally monitor and measure the clerical function," add another.[5]

Future office workers could become as physically restricted as their blue-collar counterparts on the assembly line with the introduction of conveyor belts to move documents and files, and modular "cockpitlike" workstations, predicted by U.S. News & World Report (9/18/78). White collar shift work is increasing to get the most out of the new machines, and piecework—pay-per-line-of-information processed—is beginning to appear.

Automation in the office means the majority of women office workers will be paid less for doing more work, in jobs which are more monotonous, and which offer fewer opportunities for advancement.

Across the country, clericals working at video-display-terminals (VDT's) average only $7 a week more than conventional typists in 1979; in many Sunbelt cities, they earn even less than typists.[6] But numerous studies show that typing speed increases from 50% to 150% when word-processing equipment is used,[7] computer vendors claim that document production can be increased by as much as 500%.[8]

Contrary to business assertions that automation will upgrade most jobs, successful automation means that large numbers of employees perform the tedious, quick but accurate work of data entry. A federal study in the 1960's found that 70 percent of the new automated jobs in a large bank were low-rated, and that one bank reduced the average pay for certain clerks by 22 percent after automation.[9]

Interchangeable data entry operators are already absorbing the jobs of many file clerks, keypunch operators, bookkeepers and bank tellers. While such semi-skilled clerical jobs abound, skilled clerical jobs are being eliminated. The Word Processing Plan of IBM calls for the elimination of the personal secretary, who performs the most varied tasks in clerical work, and is highest paid.

IBM claims that "soaring clerical wages" are a major incentive for office automation and cites the 68 percent increase in the average secretary's pay from 1965 to 1975. However, the cost of living between 1967 and 1977 increased 86 percent! In banking and insurance, among the most automated industries, wages for clericals are 8 percent to 19 percent below the national averages by occupation, according to the Department of Labor.

Sex discrimination in employment continues within the newly emerging computer occupations.

The very first operational computer, the ENIAC used to perform the calculations for the atomic bomb in 1944–45, was successfully programmed by 100 women who were hired to do what was mistakenly identified as as "clerical" (and thus "women's") work.

As computer programming occupations were defined as technical and professional, they became overwhelmingly male. Although women re-entered programming in the 1970's, they remain only 19 percent of all computer specialists and are concentrated in the lowest-skilled and lowest-paid computer jobs as applications programmers and coders.

The majority of computer-related clerical positions are held by women: 95.6 percent of key punch and key entry operators; 62 percent of computer/peripheral equipment operators; and 75 percent of all office machine operators are women.[10]

A sociological study of five large employers in 1977 found that when computerization was introduced, the proportion of low-level clerical jobs remained the same, and that clericals were rarely upgraded to fill new skilled jobs. The study found that the automated clerical jobs were more mechanical and narrow, and that "the main avenues for clerical workers are either horizontal or downward."[11]

Even though it takes fewer people to do more work, office automation has not reduced the need for clerical workers—at least not yet.

In the 1960's the U.S. Department of Labor found that banks could handle the same volume of work with reductions in labor requirements of 40 to 50 percent.[12] In 1976, the Bureau of Labor Statistics found that employment growth in banking had slowed in relation to increased volume of transactions.

From 1960 to 1973, banking transactions increased 8.3 percent a year, and employment grew at an annual rate of 4.5 percent. But from 1973 to 1976 employment growth slowed to 3.2 percent a year while banking transactions continued to rise sharply at a 7.2 percent annual rate.

Although employment in certain occupations—such as bookkeepers, stenographers, and many types of clerks—will level off or decline, the overall need for clerical workers is apparently absorbing the potential employment displacement effects of automation in clerical-intensive industries such as banking and insurance.

However, the design of technology at this point is mainly being determined by what management wants—and it is already clear computers are sold by promises of reduced labor. "What can't be automated will be done by executives and by part-time employees," predicts Larry Wells of Creative Strategies International, a California consulting firm.

Studies in France and Great Britain predict enormous employment displacement in the future. A report prepared for the French Ministry of Industry by advisor Simon Nora predicts 30 percent displacement in the banking and insurance workforce; British economists believe office automation could lead to permanent unemployment levels of up to 20 percent.[13]

Ten other countries have initiated major studies on the effects of office automation. However, the U.S. Department of Labor currently has no method for calculating the impact of automation on employment projections.

OFFICE AUTOMATION MAY BE HAZARDOUS TO YOUR HEALTH

Clerical workers rank second-highest victime of stress-related diseases, including coronary heart disease (CHD), according to a 1977 NIOSH study of 130 occupations. According to recently released findings of the Framingham Heart Study, women clerical workers with children and blue collar husbands are almost twice as likely to develop CHD than men.[14]

An estimated seven to 10 million people work on VDT's the key units of office automation. Recent studies link VDT's to eyestrain, migraine headaches, nausea, lower and upper back pain and occupational stress. Studies in Austria and Sweden indicate that adequate break time and redesign of jobs are essential if health risks are to be reduced for VDT operators.[15]

Unless occupational safety and health findings are taken into acount, office automation will integrate stress-causing factors directly and permanently into clerical jobs. The health of clerical workers will be severely threatened by rapid pacing of work enforced by computerized monitoring, increased job dissatisfaction due to less varied work and lack of advancement opportunities, and eye- and muscle-strain from VDT's in poorly designed jobs.

"People will adapt nicely to office systems if their arms are broken," an IBM official told Business Week in 1975. "And we're in the twisting stage now."[16]

The resistance to office automation by secretaries and managers alike is widely recognized as a factor that has slowed the rate of penetration by automated office systems. Despite rapid advances, office technology is still incomplete. Fierce competition between the major computer companies will spur the drive for new innovations. IBM and Xerox sink annual sums of $1.5 billion or more into research and development efforts.

Although the pace of technological innovation seems overwhelming, office workers and managers will continue to have an impact on the penetration of automation into the office. IBM's Vice President William F. Laughlin (cited above) makes it clear that his company does not have endless patience with those who might resist the office of the future.

Office workers must organize to protect their futures.

Women office workers are engaged in a race against time. Unless clericals organize to influence automation in the 1980's—while the technology is still being developed—the health, well-being and employment of women office workers will be sacrificed for the sake of management's constant quest for "corporate progress."

FOOTNOTES

[1] *White Collar*, May, 1979.

[2] *Technology Review*, Nov., 1979.

[3] Uhlig, Ronald P. *et al., The Office of the Future* (ICCC. 1979).

[4] *Computer Decisions*, July-August 1979: A roundtable on the "office of the future" for vendors, users and consultants.

[5] Donald C. Vadnais of 3M in *Nation's Business*, Feb., 1979.

[6] Administrative Management Society, *Office Salaries Directory*, 1979–80.

[7] *White Collar*, May, 1979: on FIET Conference on Computers and Work (1978).

[8] *Nation's Business*, Feb., 1979.

[9] *Technology and the American Economy*, Vol. II (Washington, D.C. 1966).

[10] U.S.D.L., B.L.S., *Employment and Earnings*, January 1980.

[11] Glenn & Feldberg, *Social Problems* 25, October, 1977).

[12] U.S.D.L., B.L.S., *Technological Trends in Major American Industries*, Bulletin No. 1471 (DC, 1966).

[13] *New Scientist*, April 26, 1979).

[14] *American Journal of Public Health*, Feb., 1980.

[15] Olav Ostberg, *International Journal of Occupational Health & Safety* (Nov./Dec., 1975), and H. Holler *et al. Stresses and Strain on the Eyes Produced by Work with Display Screens*, Vienna, Austria, 1975).

[16] *Business Week*, June 30, 1975: special issue on "The Office of the Future."

REPORT ON VISIT BY ANDREW HYDE TO THE VASHCHENKO AND CHMYKHALOV PENTECOSTAL FAMILIES IN THE AMERICAN EMBASSY, MOSCOW

● **Mr. MATHIAS.** Mr. President, a young constituent of mine, Andrew Hyde of Westmoreland Hills, has just completed an internship with a member of Parliament in the House of Commons, the Honorable David Atkinson. His work with the Member of Parliament was similar to that of interns on Capitol Hill. He dealt with constitutent problems, environmental matters, and Council of Europe issues.

One thing that Andrews did for Mr. Atkinson, however, was very unusual. He visited the Soviet Union to meet with the members of the Vashchenko and Chmykhalov families who have sought sanctuary in the American Embassy in Moscow. Two years ago these families came from Siberia to Moscow to seek help from our Embassy in order to emigrate from the Soviet Union on the grounds of religious conscience. They live in cramped quarters in the Embassy, afraid to leave the shelter that we have provided for them. Andrew was asked to meet with the family and to bring back a progress report to Mr. Atkinson.

I ask that the report prepared by Andrew Hyde on the Vashchenko and Chmykhalov Pentecostal families be printed in the Record.

The report follows:

Report on the Visit by Andrew Hyde

I arrived at the Embassy around 1:00 pm and was escorted out to a courtyard to meet the families.

They had been told of my planned visit, and they were waiting in their quarters in the basement of the Embassy.

They arrived five minutes later, accompanied by a member of the Embassy Staff and two others who were to act as my translators. Introductions were made all around, as they faced me with the two translators.

After passing on the greetings and best wishes from both Mr. Atkinson and Reverend Pollock, I explained to them who I was, and what my interests concerning them were. I said that I had come to the Soviet Union on my own, primarily as a tourist, but that Mr. Atkinson, who had visited them nine months before, was interested in a personal update on their situation.

I went on to update events in Europe, concerning them. I told them that Mr. Atkinson had brought their plight on the floor of the House of Commons as part of an adjournment debate he was presenting on the freedom of Religion in Eastern Europe and the USSR, and he had also prepared a written declaration for the Council of Europe, of which he is a member, concerning the granting of their exit visas. They had not known about that, and appeared very pleased.

I went on to describe the news from Reverend Pollock, that the American version of his book; The Siberian Seven was due out in the next several weeks. This, they had known about, but were glad to hear of its confirmation. Also much to their delight I handed them a photograph of themselves from Reverend Pollock.

I inquired as to how they were getting along, and if any visible progress was being made with the Soviet Government. They replied that they were being treated well at the Embassy, but were becoming even more concerned about the fate of their relatives at home. Pytor Vashchenko told me that they had heard recently from them, and that Alexander, their son, who is in prison for refusing to join the army since it would jeopardise his chances of being allowed to emigrate, was subject to continual harassment and abuse from the authorities.

Maria Chmykhalov detailed to me how her family had been informed by a Soviet Government representative that the United States no longer wanted her and her son Timofei or the Vashchenkos, and that they were only searching for an excuse to kick them out of the Embassy. The family, however, knew the opposite to be the truth, and this only helped to reinforce it to them. They knew there was a great deal of support for the seven in the United States and elsewhere.

Pytor also related to me how his family was still being threatened at home. The Authorities had attempted to make a deal: they would issue visas to the families at home, if they would only disown the seven in the Embassy. They flatly refused.

I asked the translators what sort of contact the families had with the Soviet Government Departments for them. They replied none. The Soviets considered the families to be entirely an American problem, which had to be dealt with by the United States Government. Everytime a Senator or Congressman came to Moscow and asked about the families the Soviets merely responded that if they just went home, they would receive their exit visas as soon as it was determined that they hadn't broken any laws. This offer had been reiterated only several weeks prior to my visit.

The Translators told me, as I already know, that to accept what the Soviet Government offered was equivalent to suicide, and they knew it—from experience. Also recent world events had tended to obscure their case in some respects, yet strengthen it in others as their symbolism grew.

I asked them if I could be of some help to their cause. They thought it would be best if I could do what was possible to keep the publicity of their plight alive, and convince people of the need to write their legislative representative, be he a Member of Parliament or Congressman.

On the account of Maria's ill health we said our farewells and they returned to their quarters.

They seemed to look fairly well, though two years inside the Embassy had taken its toll, and the strain of their ordeal was showing. They were very pleasant and visibly delighted in having a visitor who was so young. Our conversation in the cold, crisp Moscow air lasted for approximately 20 minutes.●

IOWA NATURAL HERITAGE FOUNDATION HELPS PRESERVE IOWA'S PAST

● Mr. CULVER. Mr. President, as chairman of the Senate Resource Protection Subcommittee, I have long been involved in efforts to preserve outstanding natural and wildlife areas. The pressures for development are great, and many unique areas are lost every year. I believe it is essential that, wherever possible, we take the necessary steps to preserve these areas for future generations.

For this reason, I want to acquaint my Senate colleagues with the efforts of the Iowa Natural Heritage Foundation, a nonprofit private institution created by the Governor of Iowa. Under the chairmanship of Robert Buckmaster of Waterloo, the Foundation works with the State and private individuals to acquire and preserve acreage that is part of Iowa's natural heritage.

Recently I had the pleasure of working with the Foundation to help acquire "The Mines of Spain," near Dubuque. Part of the original land grant given Julien Dubuque by the Spanish Government in 1796, the "Mines," represent the last undeveloped bluffland along the Upper Mississippi River in Iowa, and is an irreplaceable component of Iowa's past. Along with a generous donation of land by the Lott family—the current owners of the site—a combination of State and Federal funds were needed to purchase the "Mines." I helped secure a $1.2 million grant from the Department of the Interior which, combined with State matching funds, enabled the Foundation to acquire the 1,300 remaining acres of "Mines of Spain" from the Lott family.

In a recent interview in the Waterloo Courier, Bob Buckmaster talked about the goals of the Iowa Natural Heritage Foundation and some of the future activities in which it will be engaged. I believe the type of work the Foundation is doing should serve as a model for similar preservation efforts around the country, and I ask that the interview be printed in the Record.

The interview follows:

Deal Negotiated on Preservation of Land Along Mississippi River

Robert Buckmaster was salmon fishing in Iceland when he got word that negotiators had reached an agreement on the Mines of Spain deal.

That land acquisition had been in the works for more than a decade, but once Buckmaster's group got involved, the arrangement was worked out within a year.

What sounds like a glamorous, international land deal was really an attempt to preserve a piece of Iowa's heritage. The Mines of Spain is a popular name for the 1,300 acre tract along the Mississippi River that was the site of the first white settlement in Iowa.

And Buckmaster's group—the Iowa Natural Heritage Foundation—is a private, nonprofit organization that series as a catalyst to help the state acquire and preserve Iowa's natural resources.

"If we want our grandkids to know what this state is like, we've got to start moving," said Buckmaster, who is Chairman of the Board of Black Hawk Broadcasting in addition to his work as Chairman of the foundation. "Iowa ranks 49th in the nation in the amount of publicly-held land," he said.

The Mines of Spain deal is the first large-scale acquisition in which the year old foundation has been involved.

The group was created to work as a liaison between government and private citizens who want to protect their land for future generations.

"Some people just don't trust government," said Buckmaster, citing the case of a Fairfield man who wanted to preserve 130 acres of timber and farmland.

"He doesn't trust the government, but he'll deal with us. We're going to take title to the land and lease it to the county conservation commission for 99 years."

The foundation is in the midst of a $5 million fund-raising project which Buckmaster said will give the group another advantage government does not enjoy—readily available money.

"Let's say the state hears of a piece of land they want to buy right now, but they don't have the money. We can borrow against the $5 million, take title and the state can buy it from us."

The fund will serve as an endowment, Buckmaster said, to provide income for operating expenses and colateral for loans.

The foundation's goal is not to acquire land itself but to serve as a "facilitator" for government, which Buckmaster said is best able to manage the property.

The foundation also hopes to get involved in research and education projects, such as developing a statewide conservation curriculum for the public school and compiling a survey of unique land areas.

"If we don't know what we have, how can we protect and preserve it?" Buckmaster asked, stressing the need for such programs.

He said only Connecticut ranks lower than Iowa in the amount of publicly owned land, probably because "so much of our land has economic value.

"Just 150 years ago, Iowa had seven million acres of timber," Buckmaster said. "Today it has 1.5 million acres. We used to have 25 million acres of native prairie; now we have 3,000 acres with no tract more than 80 acres.

"At one time we had seven million acres of wetlands; now its 100,000 acres. We drained it, tilled it, and farmed it."

Gerald Schnepf, executive secretary of the foundation, said he is hopeful the acquisition of the Mines of Spain area will encourage further preservation.

"We've put forth considerable effort and time. We had a great deal of patience, which government doesn't have," said Schnepf. "We can work at the landowner's pace—that's the kind of service we can offer."

The area adjacent to Dubuque's southern boundary was part of a Spanish land grant given to Julien Dubuque, who obtained lead-mining rights from the Indians in the late 1790's.

"It was the site of the first white settlement in this state," said Schnepf. "Iowa started right here."

The area was home to Indians as early as 5,000 B.C. and preliminary archeological studies suggest a wealth of Indian mounds and artifacts.

It is also home to several rare and endangered plants and animals, including the bald eagle, red-shouldered hawk and jeweled shooting star. The stands of black cherry, oak and walnut are of great commercial value, said Schnepf.

"The current owners are an elderly couple who started acquiring the land in the 1940's," said Schnepf. For about 15 years, people working in the owners' behalf tried to interest the National Park Service and the Iowa Conservation Commission in the land.

"But its more than 1,300 acres—and that's expensive," said Schnepf. "It's been appraised at between $3 million and $4 million."

So the foundation—with the help of Governor Robert Ray, Senator John Culver and local officials—put together a funding package that includes $700,000 in state money and $1.7 million in federal dollars to buy the land.

WEAK U.S. POLICY ENCOURAGES CASTRO MILITARY MOVES IN CENTRAL AMERICA

• Mr. HUMPHREY. Mr. President, if you can believe the shocking Evans and Novak newspaper column printed August 1, and I am inclined to, then two convoys of Soviet armaments have recently been delivered by Fidel Castro's Cuban regime to the Marxist Sandinista regime in Nicaragua.

Evans and Novak assert that the current purpose of these armaments and other Soviet tanks and long-range artillery is "for use in the coming battle for neighboring El Salvador."

Evans and Novak correctly point out that the Carter administration "has adopted the leftist cause in El Salvador, while giving a cold shoulder to anti-Communist elements."

Castro and his Soviet suppliers see what Evans and Novak see. No observer in the United States should be surprised that Soviet armaments are being rushed into Central America through the Marxist regime in Nicaragua.

The leftists appear to have targeted El Salvador as the next victim to fall to Marxism. For Castro and the Soviets, the situation is ripe right now. I think it is likely that there will be an explosion in El Salvador before the November elections.

Here are the reasons why I believe there may be an attempted Marxist takeover in El Salvador before our Presidential elections.

First. The Soviets and their agents know that a Reagan administration is unlikely to sit idly by while totalitarian Marxist revolutions, fueled with Cuban and Soviet aid, take over more countries in the Western Hemisphere.

Second. The Carter administration has a weak foreign policy when it comes to Central and Latin America. The United States has tolerated the wholesale growth of Soviet influence in this area under the Carter administration. Secretary of State Muskie has continued Carter's policies which actually foment Marxist revolution in the area.

Third. U.S. Ambassador to El Salvador, Mr. Robert White, is an unsatisfactory representative of U.S. interest there. He has embraced the left wing in El Salvadoran politics, while giving a cold shoulder to the moderates and the right.

Fourth. There are reports from within El Salvador that the Marxists are gathering force for a probable coup. The Marxists have now formed a Revolutionary Front just as the Sandinistas did before they seized power in neighboring Nicaragua.

Fifth. The U.S. State Department has urged El Salvador's Government to nationalize privately owned farms, banks, and businesses. These seizures have caused the virtual collapse of the country's economy, making unrest inevitable.

In sum, a revolutionary coup attempt or an invasion attempt, or both, are imminent in El Salvador.

I realize that foreign policy disasters for this country seem to help this President in the polls. Twice before, in Iran and Afghanistan, when Jimmy Carter was at record lows in public opinion polls, the public rallied to the President, expecting him to act as a U.S. President should. Instead, he dithered around, doing too little and doing it too late.

I doubt that the American people will be fooled a third time. This time, if President Carter wants to help himself with the American people, he should do the following:

He should act quickly and firmly to interdict the flow of Soviet arms into El Salvador through Cuba and Nicaragua.

He should immediately replace those in the State Department who are responsible for our left leaning policy which harasses all anti-Communist elements, particularly these days in El Salvador and Guatemala.

He should cancel all U.S. aid to the Sandinista regime in Nicaragua until they cease to be the tool of Communist revolution in Central America.

He should undertake a policy toward Nicaragua similar to that employed by this country against the Somoza regime in its last stages. That is, he should encourage those elements who oppose the current regime and encourage those who, in this case, want to restore economic and political freedom in Nicaragua.

Such a policy switch is probably beyond the capability of this administration. There are too many bureaucrats in the State Department and the White House. I repeat, though, that it would be both wise policy for our country and politically very helpful to our now very unpopular President.

If Señor Castro is to be stopped in his latest power grab in Central America, President Carter will have to move fast. It clearly appears that the Marxists are about to mount warfare in Central America while they see us led by a crippled presidency.

Mr. President, for the last year on the Senate floor I have been predicting Soviet-Cuban military moves in Central and Latin America.

I have introduced an amendment requiring the President to report to Congress every 90 days on Soviet military activity in Cuba. In addition, this provision would require an annual report on Soviet military assistance to Cuba and on the military capabilities of the Cuban armed forces.

This proposal is intended to ensure that Soviet military activities in the Caribbean are brought fully to the attention of the Congress in a timely fashion.

My proposal has been approved by both houses of Congress and is now awaiting Conference.

Mr. President, I ask that the Evans and Novak column entitled "Carter's Caribbean Choice" be entered in the RECORD.

The article follows:

CARTER'S CARIBBEAN CHOICE

Two convoys of ships carrying Soviet arms from Cuba have been secretly unloaded in Marxist Nicaragua to help build a growing weapons cache there for use in the coming battle for neighboring El Salvador, a development that may force beleaguered President Carter to reconsider his courtship of the left in Central America.

This secret supply undercuts the administration's policy of aiding Nicaragua's Sandinista regime in hope of preventing its total embrace of Moscow and Havana. Similarly, the administration has adopted the leftist cause in El Salvador, while giving a cold shoulder to anti-communist elements.

Thus, the revelation of Marxist Nicaragua's turning into a staging area for subverting El Salvador puts a hard Caribbean choice to Carter. Should he try to rally national support for himself on this issue, he would have to sacrifice his own policy. Yet senators in close touch with the worsening Caribbean crisis, such as Democrat Richard Stone of Florida, may demand exactly that.

Officials here believe the arms sent to Nicaragua are earmarked for use by Marxist factions in the battle for El Salvador. That is the next intended victim of Soviet-backed insurgency in what used to be Uncle Sam's back yard.

Exactly what equipment was delivered is not yet known to U.S. intelligence officials, who described the unopened crates as containing "heavy equipment." What these sources do know is that arms already delivered to Nicaragua include Soviet tanks and long-range artillery pieces. Like the arms in the newly disclosed two convoys, all came from Cuba.

For Jimmy Carter, this continuing evidence of Soviet-Cuban intentions to dominate the Caribbean comes at a precarious political moment in an area of critical sensitivity. If détente is dead elsewhere, Carter's men have worked hard to insulate Central America from the Cold War.

There has been a pattern to Carter decisions in the beleaguered Caribbean since he courted Cuba's Fidel Castro by canceling a

U.S. naval exercise at Guantanamo Bay in January 1977. Time and again, Jimmy Carter has either looked away or explained away each provocation: the sinister Nicaraguan mission to Moscow early this year; the appearance in Cuban waters last year of two Soviet submarines; the late 1978 discovery that Moscow was arming Cuba with late-model MiG23s potentially capable of nuclear delivery.

U.S. diplomats in Central America—especially Nicaragua and El Salvador—have operated on orders that amount to this: a warm embrace for the left, a cold shoulder to the right. Those who did not go along were removed. In successfully pressing for aid to Nicaragua, the administration unsuccessfully tried to get it on an unconditional basis with no democratic procedures required.

Carter may decide that the new Soviet arms challenge should not be dismissed with wordy assurances that all is well in the Caribbean. With opposition to his renomination rising and his standing in the polls sinking to record lows, Carter may react sharply to this new challenge from the Moscow-Havana axis.

After Carter backed out of his demand last September that the Soviet brigade be withdrawn from Cuba, the Iran and Afghanistan crises revived his political fortunes just in time for the primary season. Could Central America do the same now even if it means standing his present policy on its head?

But the case for action transcends election-year politics. "The Russians and the Cubans are testing, testing," one high-level official told us. If Carter allows this newest test to pass unchallenged, he added, no Caribbean country up to and including Mexico can fail to get the message: "It's up for grabs and they're doing the grabbing."

One Democratic senator who backs Carter's reelection will put this demand to Carter: make a complete disclosure to the American people; cut off the $65 million in U.S. aid now available to the Sandinista regime (and block an additional $70 million aid package now moving through Congress); prepare for action, including a naval blockade, if Castro again thumbs his nose at the White House.

Such actions might help Carter's fallen political fortunes. Far more important, they would finally show a glint of Carter steel at the U.S. back door that would match the genuine efforts he is making to block further Soviet encroachments in more distant parts.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. PELL. Mr. President, section 36 (b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that 10 such notifications were received, four on August 18 and six on August 19, 1980.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notifications follow:

Defense Security Assistance Agency,
Washington, D.C., August 18, 1980.
Dr. Hans Binnendijk,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated February 18, 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,
Ernest Graves,
Director.

Defense Security Assistance Agency,
Washington, D.C., August 18, 1980.
Dr. Hans Binnendijk,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

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The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $25 million.

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The Department of State is considering an offer to a North American country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,
Ernest Graves,
Director.

Defense Security
Assistance Agency,
Washington, D.C., August 19, 1980.
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Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

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The Department of State is considering an offer to a European country tentatively estimated to cost in excess of $25 million.

Sincerely,

Ernest Graves,
Director.

Defense Security Assistance Agency,
Washington, D.C., August 19, 1980.

Dr. Hans Binnendijk,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southeast Asian country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

Ernest Graves,
Director.

Defense Security Assistance Agency,
Washington, D.C., August 19, 1980.

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SENATOR MOYNIHAN ON THE UPCOMING SPECIAL SESSION OF THE U.N. GENERAL ASSEMBLY

● Mr. JAVITS. Mr. President, I would like to call the attention of my colleagues to an article which was written by my distinguished colleague from New York, Senator Daniel Moynihan, regarding the upcoming eleventh special session of the United Nations General Assembly, which is scheduled to begin on Monday, August 25. Senator Moynihan's timely article, which appeared in the Wall Street Journal on August 19, articulates the concern, which I share, that the world economy is facing a crisis which threatens the future of international economic cooperation and global development and which should be addressed at the upcoming global negotiations.

This international economic crisis has been precipitated by increasing energy costs and, if we do not take effective countermeasures soon, will seriously impede development and economic growth in both the oil importing developing nations and the industrialized countries. As a result of increased oil prices, the less developed nations (LDC's) increasingly face growing debt service payments and it is widely acknowledged that the needs of these countries cannot be met by the capital flows which are currently projected. The international economic system is thus faced with the choice of either increasing their capital flows into the LDC's or acquiescing to slower economic growth in these oil importing LDC's.

In this article, Senator Moynihan recognizes that as opposed to the post 1973–74 oil price increases, resolution of this problem cannot be undertaken without the active and responsible involvement of the oil producing countries in OPEC. In calling for OPEC to accept the responsibility for its oil-pricing policies, he cogently argues with supporting data, that the "U.S. and the West have no reason to feel apologetic" for the situation facing these LDC's.

Senator Moynihan's call on the LDC's, the industrialized countries and the OPEC nations to develop a working relationship borne out of a mutual interest in the survival of the world economy echoes the recent conclusions of the Brandt Commission. Increasing trade and financial ties between the LDC's and the industralized countries of the West have strengthened the economic linkages between development and economic growth in both groups of nations. While it is in the interest of the OPEC nations, which seek stable capital markets for their petro dollar surpluses, to avert a worldwide recession.

As Senator Moynihan notes, the forthcoming eleventh special session of the U.N. General Assembly provides the forum for serious negotiations regarding this problem with representatives from oil-producing nations. OPEC nations must be encouraged to share the responsibility with the industrialized countries to develop a program to ease the economic burdens which increased energy prices portend for the oil importing developing nations. In order to avert a global recession, agreements with the oil-producing nations to stabilize price and supply fluctuations of oil must be reached. At the same time it is imperative that OPEC nations directly channel increasing aid to the poorer nations.

Such a tripartite solution to the development problems of the 1980's can only result from the U.N. deliberations if the OPEC issue is faced head-on and not papered over. I join Senator Moynihan in urging the U.S. delegation to the U.N. special session, in a forthright manner and free of any guilt feelings, to raise the OPEC issue, thus increasing the possibility of success at New York. Mr. President I commend Senator Moynihan's article to my colleagues and request that it be printed in the Record.

The article follows:

A Pattern of Failure

(By Daniel Patrick Moynihan)

Next Monday the eleventh special session of the U.N. General Assembly will convene in New York to commence "global negotiations" on the condition of developing countries, and the future of international economic co-operation.

For the first time in the history of such conferences (there have been four since this the founding of the U.N.) the delegates will confront a true, as against a rhetorical, world economic crisis..

This is the crisis brought on by the OPEC cartel which has shaken the economies of the developed nations and devastated those of the less developed. The crisis is now compounded by the upheaval in Iran and Soviet advances. President Sadat has put it that the "entire Gulf region is shaking, not only Saudi Arabia, but all the emirates and sheikdoms there. . ."

OPPORTUNITY FOR THE U.S.

Just at the crisis is unprecedented so is the opportunity. For the first time in this history of "North-South" relations there is an intense and perceived interest in the parties reaching agreement; and perhaps for the last time the U.S. has the power to bring it about.

It is possible to devise an interlinking arrangement in which the oil producers would be secure in their nations; the developed countries in their oil supplies; and the developing economies in both. It is for us to provide military security to the Gulf, with the Europeans and Japanese helping in both money and arms; it is for the producers to fund the balance of payments of the least developed countries (LDCs); it is for the LDCs to recognize that their interests lie with the West and so to conduct themselves.

Success would be momentous. So would failure; much as the failure of the London Economic Conference of 1930, the sign of an international system that cannot save itself.

Failure is almost certain.

There have been two preliminary meetings. The UN Conference on Tariffs and Trade met in Manila in May 1979; the UN Industrial Development Organization (UNIDO) met in New Delhi last January. Both conferences failed. Both failed according to plan in a by-now ritualized pattern. The U.S. did not desire failure, any more than it will desire failure at the coming UN special session. But it acted so as to make failure almost certain, and is doing so once more. The only success has been that of the Soviets, for whom the Leninist doctrine persists: "The Worse the Better."

The pattern is simple enough. At the outset the LDCs, with a heavy majority of the votes, present a set of propositions that are not going to be agreed to. The Europeans and the Japanese keep their heads down. The U.S. asks that the majority be reasonable. It is not. Tensions mount, ending in a marathon closing session at which the original demands of the LDCs are adopted by them and rejected by the others in an atmosphere ranging from disappointment to bitter imprecation.

The New Delhi Conference of UNIDO followed the precise pattern. The Group of 77 arrived with a proposal for a vast transfer of wealth. The Americans responded with discussions of strategies for "endogenous industrialization." Nothing was achieved. An Indian newspaper headline read "Poor Nations Let Down by the Rich."

This did not, of course, prevent the adoption of the "New Delhi Declaration and Plan of Action" calling for a $300 billion "North-South global fund to promote industrialization of developing countries." The official press release explained, "The fund would provide financing on soft terms and would be controlled by the developing countries, while developed countries would provide the bulk of the resources." The developed countries voted against the declaration; the Socialist countries voted for, it being understood they would not contribute.

Now this is atrocious. The U.S., with Britain, founded the UN, set its directions and has paid far the greater share of its costs. The trade of the developing countries is overwhelmingly *with* the West; the transfer of capital to them is overwhelmingly *from* the West. Their economies can improve only as ours do—and vice versa.

Moreover, aid to the LDCs has increased. In an address in New York given at the time of the New Delhi Conference C. Fred Bergsten, Assistant Secretary of the Treasury for International Affairs, reported that for the least developed nations aid receipts increased from 2.6% of combined GNP at the outset of the 1970s to over 10% by 1978. For all countries with per capita income below $400 the growth was from 3.3% to 4.7% of GNP—an increase of a third within the space of a decade. Mr. Bergsten went through an impressive recitation and concluded: "The record clearly belies any view that the U.S. has been ungenerous in its help, or protectionist in its trade, or unresponsive to the needs of others."

The U.S. and the West have no reason to feel apologetic. The real problem for the LDCs is that oil price increases have routinely wiped out aid transfers and export earnings. OPEC is the dirty little secret of every conference on North-South relations, or as an American at the Tariffs and Trade meeting put it, the "hidden item on the agenda." We all have an interest in directly confronting the oil problem. External debt of non-OPEC developing countries grew from $142 billion in 1974 to $315 billion in 1978, and Salomon Brothers estimates that American banks are owed—from these LDCs—some 130% of their total equity capital and loan loss reserves.

It is difficult to ask the LDCs to confront the implications of OPEC. It is shattering alike to their hopes and to their ideology. And they do still have hopes that they might get some share of the swag if they keep quiet. But why do *we* keep quiet?

There will be barriers to success at this month's meeting. We will be dealing with national elites that have a vested interest in perpetuating a crisis that offers justification for the (largely Soviet) model of modernization through mobilization and strong central control. Also, the LDCs have learned that the failure of such conferences tends to bring forth yet greater offerings from a guilt-stricken Washington. Lastly, the Soviet Union and its proxies will be doing their best to keep the session from succeeding, a process in which old-fashioned fear plays a part. (At the June meeting of the Organization of African Unity, not a word was said about Cuban and East German troops marauding about the continent, but a stern resolution declared the American base at Diego Garcia, 1,200 miles out in the Indian Ocean, to be a "threat to Africa.")

But failure isn't inevitable if our representatives go into the session with something more than good intentions.

The last special session of the General Assembly on North-South relations was held in 1975, when I was ambassador to the UN. The session was expected to fail as its predecessors had done. It did not. After two intense weeks it ended with unanimous agreement to a long list of undertakings, including measures to deal with the OPEC-induced payments problems of the LDCs, without which a score of developing nations would have defaulted by now.

We took the initiative in a four-hour opening day speech—and held it. We stayed up longer, talked more, flooded the place with paper. We rejected nothing, but rewrote everything to conform in others' language to our proposals. We never got mad, but made clear that we would not shrug off failure, that we would try to make it costly for those we judged responsible. We ended up, after every possible crisis, with unanimous agreement.

It wasn't that hard. The LDCs needed an agreement, and we wanted one. The Europeans weren't against it, and the Soviets couldn't prevent it once our initiative took hold.

BRINK OF UPHEAVAL

The world is on the edge of convulsion. One successful meeting at the UN isn't going to change that, but another failure could bring us closer.

At a recent hearing in Washington, Congressman Bingham of New York asked former British Prime Minister Edward Heath what he would do about the coming special session. The answer was direct and useful. We have to "recreate" the world economy. We have to have a guarantee of oil supplies for the next 20 years in order to get out of the overdependence of the present period: a dependence the oil exporters don't want any more than the importers. We have to protect the exporters, and finance the importers. Everyone shares this interest—including the Soviets if they but know. There is a world economy: If it collapses everyone collapses.

The LDCs desperately need someone to raise the OPEC issue in a forum in which the oil producers have to listen and even negotiate. We, and only we, can do this. It is in everyone's interest that we should. The question is one of daring.●

SHOULD IT BE LEGAL TO HIRE ILLEGAL ALIENS?

● Mr. **HUDDLESTON.** Mr. President, the lack of jobs in the United States is creating economic, social and political problems which will haunt us for years to come. We know from experience that adequate employment is as necessary for the development of a stable and constructive society as it is for a growing economy. However, the lack of a rational and comprehensive immigation policy is exacerbating our already serious unemployment problem generated by an economic recession.

One of the outstanding columnists in this country, William Raspberry, has written about this unattended problem for a long time. In an article on the young children who are participating in inner-city violence, he again pinpoints uncontrolled immigration as one of the underlying causes of these problems. He states:

> These pitiful and very dangerous souls exist not only in Miami but in slums across America. Their situation (and, consequently, America's) grows worse with each new wave of immigrants who elbow ahead of them for a chance to start at the bottom; Cubans and Haitians in Miami, Mexicans in Texas and California, Vietnamese in cities from Arlington to Des Moines.

Unfortunately, much of this problem is our fault because, as Mr. Raspberry correctly points out, the older children "want desperately to work."

More recently he wrote an article which took a cool and logical look at the question: Should it be legal to hire illegals? Mr. Raspberry's conclusion is that the proposal to make it unlawful for American employers to hire illegal aliens "makes sense" to him. He states that:

> Sooner or later, somebody is going to have to start talking sense on the question of immigration.
>
> I have in mind in particular the immigrants now flooding illegally into this country. They may provide temporary relief for employers who've had trouble filling their bottom-of-the-barrel jobs, but, in the long term, they spell not "relief" but "trouble."

I agree completely with Mr. Raspberry's assessments and recently introduced a fair-hiring amendment (No. 1960) to S. 1763 which would make it illegal to hire illegal aliens.

I ask that both of Mr. Rapsberry's articles be printed in the RECORD.

The articles follow:

SHOULD IT BE LEGAL TO HIRE ILLEGALS?

It won't happen during the current political campaign, of course. But sooner or later, somebody is going to have to start talking sense on the question of immigration.

I have in mind in particular the immigrants now flooding illegally into this country. They may provide temporary relief for employers who've had trouble filling their bottom-of-the-barrel jobs but, in the long term, they spell not "relief" but "trouble."

It's no mystery why they come. America is still viewed by the world's oppressed as the land of opportunity, whether their repression is political, economic or some combination of these.

A poll taken last year by the Kettering Foundation found that fully one-third of Latin Americans wanted to leave their homelands to seek a better life—90 percent of them naming the United States as their home of choice. Southeast Asians, Soviet Jews, South Koreans, Mexicans, Ethiopians—millions of people in all parts of the world would, if they could, come to America.

Some of these millions do manage to get here and, when they do, they too often constitute an additional barrier to the employment of low-skilled black Americans whose joblessness already is a national disgrace.

The facile explanation is that the newcomers will work harder than native-born blacks and at less than the minimum wage. Thus, the explanation goes, blacks create their own unemployment. To which Roger Conner, executive director of the Federation for American Immigration Reform (FAIR), makes this response:

"To the extent that illegal immigrants work more cheaply, harder and with fewer protections than American workers, they are being exploited; and to the extent that they take good jobs at good pay with the protection of the law, they are competing illegitimately and unfairly for the jobs Americans want and need."

The almost inevitable result will be hostility, and occasionally open warfare, between the new immigrants and the blacks they displace.

As Labor Secretary Ray Marshall observed, "I am convinced that we are sowing the seeds of a serious future civil rights struggle, and we would be better off if we were to confront it now."

But we aren't confronting it. Indeed, one still hears talk of "amnesty" or blanket grants of citizenship for the illegals already in America.

Such proposals, while they seem only a common-sense way of dealing with a *fait accompli*, in fact are a recipe for exacerbating an already bad situation.

Awarding citizenship to illegal aliens not only penalizes those would-be immigrants who have waited patiently until their numbers are called but also creates a new wave of immigrants: the families of the new citizens who, by U.S. law, are automatically eligible for immigration.

Our refusal to face up to the problem of illegal immigration raises another serious question: what to do about the children of these illegal aliens a dozen or 20 years from now? Is there any doubt that there will be demands for full rights for these sons and daughters who, it will be argued, are Americans in all but the most technical sense?

Already a federal judge has ruled that 17 school districts in Texas cannot escape the burden of educating the children of the illegal aliens—estimated at between 40,000 and 110,000. The districts had asserted the right to charge them tuition. Judge Woodrow Seals rules otherwise, holding that they cannot deny the alien children the equal protection of the law.

Will that equal protection also put them in line for the benefits of affirmative action and other programs designed to increase opportunity for America's own minorities?

No one feels good about tramping on the aspirations of the world's huddled masses, but sooner or later we will have to grasp this moral and political nettle.

Conner has suggested one possible way. He would make it unlawful for Americans to hire illegal aliens. As the law now stands, it is a crime for an illegal alien to take a job; it is unlawful to harbor an illegal alien. But there is no federal law against hiring an illegal alien.

Changing the law in that regard would remove "the magnet of jobs," Conner believes, and thereby make it possible to control the flow of illegals into the country.

Once that is accomplished, with the aid of a beefed-up Immigration and Naturalization Service, Conner would be willing to support proposals to grant amnesties or pardons to the illegals already here.

The point, he says, is that "we must have an operative program for effective law enforcement *before* such pardons are granted."

It makes sense to me.

"Little Shorties," Little Hope

They call them, writes Post reporter Herbert Denton, "the litle shorties."

They are the 11-, 12- and 13-year-olds on the front lines of the brick-throwers and window smashers in Miami's angry Liberty City.

But to see them primarily as teen-age and pre-teen hoodlums is to miss nearly the whole tragedy of their situation, which is that they are hardly dry behind the ears and already almost totally without hope.

Saddest of all, their sense of hopelessness is an accurate reflection of their reality. Look at the world from their point of view and it's almost impossible not to be hopeless.

When you live in poverty and squalor, when the availability of your next meal is genuinely in doubt, when of every 10 black youths you see, eight cannot find work, you cannot dream midde-class dreams of a bright future. You dream, if at all, of survival.

The "little shorties," Denton wrote, have "no hope and, as a result, no fear."

Which is another way of saying that they have weighed their situation and concluded that they have nothing to lose. And so they strike out at "the crackers"—whites who, as they see it, are responsible for their hopelessness.

"You're not talking about a handful of kids," Denton quoted the editor of Miami's black newspaper, the Miami Courier, as saying. "You are talking about hundreds, hundreds who have no fear."

The absence of fear is a real concern to the authorities because it removes inhibitions to violence. These children are willing to risk their freedom, even their lives, to lash out at the system that has left them behind. Perhaps from their point of view, they really aren't risking so much.

But if these youngsters aren't afraid, the rest of America ought to be. There is no deadlier threat—to tranquility or to the "system"—than people who reckon that they have nothing to lose, who have no stake in preserving what the rest of us hold dear.

These pitiful and very dangerous souls exist not only in Miami but in slums across America. Their situation (and, consequently, America's) grows worse with each new wave of immigrants who elbow ahead of them for a chance to start at the bottom: Cubans and Haitians in Miami, Mexicans in Texas and California, Vietnamese in cities from Arlington to Des Moines.

The rationale for preferring the new immigrants to home-grown blacks is that the former are ambitious and the latter don't really want to work. (People keep on uttering this slander even when, in Miami, blacks find themselves suddenly ineligible for the low-grade jobs that used to be available because they now require fluency in Spanish.)

As a matter of fact, the most hopeful finding in Denton's dismal report is that the "little shorties" want desperately to work, although it's anybody's guess how long this last remnant of humanness will last.

Before it's too late, America must be made to recognize that the story of Liberty City is no more than an exaggeration of the story of the U.S. slums and to start looking for ways not to prevent the occasional explosion of despair but to solve the problem of uselessness.

The common characteristic of the most explosive slums, from Miami's Liberty City to Los Angeles' Watts, is the disappearance of business enterprise. While our leaders are busy fighting inflation, they might more usefully look for ways to entice businesses—black-owned businesses, preferably, but businesses of some kind—into the bombed-out central cities.

Business activity would help to halt the spreading blight and the revenues would make it possible to provide vital services to this frustrated underclass.

But the real bottom line would be the creation of jobs and the sense of hope that comes from being productive.

"Little shorties" do grow up.●

GOVERNMENT SHOULD HELP SHIPPERS PURCHASE RAILROADS

● Mr. CULVER. Mr. President, the bankruptcies of the Rock Island and Milwaukee Railroads have been a serious blow to the economy of my State. Liquidations of the two lines could result in a loss of over $300 million to Iowa's economy, along with loss of over 5,200 jobs. The economic consequences of the collapse of these lines, however, also goes far beyond its impact on a single State. It has a serious effect upon the entire grain export market, which in recent years has been the one bright spot in our balance-of-payment situation.

People in all parts of the country have gotten the message: Railroads are vital to America and essential rail lines must be preserved.

One of Iowa's most important lines that potentially faces abandonment is the grain-gathering "gateway" line of northwest Iowa from Iowa Falls through Estherville, Rake, Dows, and Buffalo Center. This line channels grain into the north-south line from Minneapolis to Kansas City which serves as the principal outlet by which western Iowa farmers transport commodities to Houston for export. Several railroad companies have expressed an interest in acquiring this "gateway" from the Rock Island system, but no formal offers have been made. Western Iowa farmers, in turn, cannot make long-range business plans without knowing that there will be service along the "gateway" in the future.

The Rock Island Transition Act provides $25 million for noncarrier acquisition of former Rock Island rail segments. These funds—drawn from the Federal Railroad Administration's section 505 rehabilitation program—are to be used to help private associations of shippers, farmers, or former rail employees purchase essential lines that would otherwise be abandoned. However, $25 million will not be enough to help private groups acquire rail segments across the Midwest.

In Iowa, shippers have recently formed the Iowa Falls Western Holding Co. to purchase 320 miles of the "gateway." The group has recently applied to the FRA for $25 million to acquire and upgrade the line. This single application would exhaust all Federal money currently available for noncarrier acquisition of the Rock Island. It is obvious that if the Federal Government is to provide realistic opportunities for shippers to purchase rail segments, more funds must be made available.

Last year, I offered the successful amendment to the windfall profit tax bill permitting windfall revenues to be used for railroad improvement. Recently, I put these revenues "to work" in the cause of improving midwestern rail transportation by introducing legislation to double the amount of funds available for noncarrier railroad acquisition under the "505" program. The bill earmarks $50 million for Rock Island purchase and $36 million for Milwaukee Railroad purchase, and specifies that the additional funds be made available from windfall profits tax revenues. This increase provides a more realistic pool of funds that will be needed to help private groups acquire essential rail lines.

Mr. President, many shippers are resting their economic futures on the purchase of rail lines and the reestablishment of efficient, permanent service. The Federal Government should not hold out the promise that all shippers can or should run their own railroads. But where there is solid evidence to suggest that shippers can acquire and operate rail lines, the Government should provide enough funds to help them get the job done. The Iowa shippers who are seeking to acquire the "gateway" can meet that test. I will continue to work for enactment of my legislation so that they and other groups of shippers throughout the Midwest can be assured of adequate rail service in the future.●

TRIBUTE TO THE PUBLIC/COMMUNITY HEALTH NURSE

● Mr. INOUYE. Mr. President, since 1893, when Lillian Wald established the Henry Street Visiting Nurse Service and proposed that her nurses be called "public health nurses," their sole mission has been to serve the public.

By 1901, there were 58 public health nursing organizations employing about 130 nurses; and in 1912 3,000 were engaged in what we now call public or community health nursing. The most recent data shows that as of January 1974, there are 65,104 public/community health nurses working in 11,516 agencies in all 50 States and Territories of our Nation.

Today, I would especially like to acknowledge the public/community health nurses' unique contribution to our Nation's health care system. In many ways, they are still the traditional public health nurses—but now with an even expanded role. This role has expanded in harmony with the changing concepts of health care delivery. Today, they not only work in federally funded State and local agencies such public health clinics, but also in schools, industries, ambulatory care centers, residences for unwed mothers, single room occupancy hotels, day care centers, senior citizen centers, and neighborhood health centers. As you can see, a public/community health nurse can be found in any setting that addresses a community health need.

Of special interest, even with this expanded role, our Nation's public/community health nurses still maintain a proud tradition of providing health care service through home visits. The public/community health nurses are those health professionals who still make housecalls. According to the latest available data from the Department of Health and Human Services, public/community health nurses made 7.8 million home visits to 3.9 million people in the program area of health promotion alone during the 1970–71 fiscal year. In addition, they made 13.3 million home visits to nearly 1.7 million persons with a chronic disease or disability.

What are public/community health nurses? He or she is first of all a registered nurse; that is a graduate of an approved nursing education program that was authorized by the State to prepare persons for licensure. This graduate must then meet various State requirements for licensure in the State he or she wishes to practice.

Historically, preparation as a registered nurse and on-the-job training used to be sufficient to meet the requirements of public health nursing. But in recent years, with the even greater emphasis on the family and community, over one-third of the public/community health nurses are now prepared at the baccalaureate level in programs accredited by the National League of Nursing. This has provided them with a liberal arts education and most importantly, essential nonelective core courses in both the theory and actual supervised practice of public/community health nursing. I might add, they still must meet the State licensing requirements.

Without question, this trend, within organized nursing, to become better prepared, highly trained professionals, has continued to upgrade health care services to the community. Presently there are 21 universities that offer a Masters of Public Health in Nursing (for example Johns Hopkins and Columbia) and 50 accredited, university affiliated schools of nursing, such as Yale and Catholic University, that offer a Master of Science in Public Health Nursing in 32 of our States.

The public/community health nurse with a master's degree is uniquely prepared to programmatically plan, coordinate and evaluate, and, in addition, supervise the actual practice of the baccalaureate public/community health nurse, home health aides, and other auxiliary personnel.

The public/community health nurse's practice functions in accordance with the American Nurses' Association Standards of Practice. Their function includes identifying subgroups within the community who are at higher risk of illness or poor recovery and targeting their resources toward those groups, families and individuals. The public/community health nurses see firsthand a family's difficulties and strengths, and then carefully assess the physical, psychological, economic, and environmental factors involved. In coordination with other health professionals, and various community groups who provide specialized backup care, they develop a system of total patient care management.

They often function as teachers, in the rehabilitation process, instructing families in physical care of the patient; including such procedures as giving hypodermics, positioning in bed or wheelchair, and helping families cope with the problems resulting from the patients convalescence.

With their primary emphasis being on prevention, the public/community health nurses observe family life, noting the health needs of all members of the family. Unlike the traditional "illness" orientation of their medical colleagues, these nurses advise their clients on good preventive health practices, including exercise, diet, and need for routine medical examinations. They support individuals whose mental health may be threatened and refer families to community resources for help with emotional problems, family planning, housing, and employment. In addition, they stress the importance of a special emphasis on planning for the community as a whole in order to improve the health of the community through nursing intervention. As I indicated, this intervention may involve working with a wide variety of community leaders, health related groups, populations at risk, families, individuals, and relevant sociopolitical interests. The active participation of the public is welcomed and even considered an essential ingredient in the process.

There is no question in my mind that the public/community health nurse has been shown to be cost-effective. In a 1977 report by the New York City Health Systems Agency and the Visiting Nursing Association of Greater New York, 500 chronically-ill individuals who were deemed eligible for long-term institutional care, but who were instead receiving public health nursing care, were surveyed.

It was found that the monthly median home health cost of primary care to these low-middle income patients, was 54 percent less than nursing home care would have been, and 32 percent less than had it been delivered in a formally designated health facility, such as a home for the aged.

Similarly, in a New York Research Demonstration Project, presently being conducted, home health care averaged 70 percent less in cost than long-term institutional care. I might add, that there were no complaints that lower quality care were being provided, and in fact, just the opposite was true. These individuals were very pleased to be able to remain at home and avoid institutionalization.

In conclusion, from all that I have heard and from my own personal experiences, the public health nurse, who today is more commonly called the public/community health nurse, has been doing an outstanding job. She was my family's major health care provider during my own youth.

And, for example, I personally did not ever see a doctor until I was 7, and then for a tonsillectomy. It was the periodic visits of the public/community health nurse that helped maintain the health of my family. I will always owe her a debt of gratitude as it was one of these health professionals that first discovered a physical impediment that had affected my brother's speech patterns, and which had been overlooked by our family doctor. Once discovered, it was readily corrected, but I am sure this single discovery had a profound effect on changing my brother's entire life. For without the ability to communicate, I shudder to think what would have been his future. It is for this preventive community health approach that I salute the public/community health nurse today.●

CRIMINAL CODE REFORM

● Mr. CRANSTON. Mr. President, the Los Angeles Times of August 24, in a well-reasoned editorial, argues that Congress should reject the proposed revision of the Federal Criminal Code (S. 1722) and, instead, "approach criminal law reform in cautious incremental stages that can be thoroughly debated and understood."

The Times sums up its case against the bill this way:

> Drafters of this legislation, who attempted the most momentous legislative reform in this nation's history, confronted the most difficult problem in a democracy: bringing freedom and state power into proper balance. They have tipped that balance against freedom and the individual, and the legislation that they devised should be rejected.

I agree with the Los Angeles Times' assessment of the bill.

The most significant provisions of the Federal Criminal Code Reform Act directly affect ordinary citizens in their relations with the Central Government powers. The controversial provisions of the bill are those which empower the Government to protect itself from individuals. The state, as we have seen, can be very vindictive in defending its interests.

Overzealous prosecutors tend to feel that the ends justify the means. Ambitious investigators know how to use grand jury and other investigative proceedings to coerce individuals and businesses.

Earlier versions of S. 1722 also tilted too far in favor of central Federal power against the individual and against our freedoms. I opposed these bills, and I oppose S. 1722 in its present form for the same reasons.

Our national effort to control crime is not dependent upon enactment of S. 1722. Criminal Code reform is not a key part of the war on crime. We are continuing and will keep up vigorous investigation and prosecution of criminal acts.

Americans enjoy unparalleled civil and political freedom partly because our

Constitution, in addition to the specific guarantees of the Bill of Rights, does not concentrate police power in any one place. On the contrary, the Constitution deliberately makes difficult the consolidation of police power.

The Department of Justice wants the Criminal Code reform bill passed because existing law is inconsistent, contains omissions, and is difficult to enforce from a prosecutor's point of view. If S. 1722 is passed, the Department of Justice will have in its grasp prosecutorial and investigative powers capable of reaching virtually every nook and cranny of American life. The only practical limitation on the scope of the Department's jurisdiction will be the limits of ingenuity of the prosecutors and their resources.

Another consequence of the bill will be a vast grant of new interpretive authority given to the Department of Justice and to the courts. As such, it amounts to giving a blank check to our law enforcement agencies to determine the extent of their own powers. When has an agency exercised self-restraint in similar circumstances?

Mr. President, Congress has been unable to determine the scope of a "charter" for the Federal Bureau of Investigation and the Central Intelligence Agency. There are good reasons for this inability, which are alluded to by the Los Angeles Times editorial: bringing freedom and state power into balance is an immensely difficult undertaking.

Furthermore, the context in which to make this difficult decision has not yet been established, for our vital law enforcement agencies still are in the midst of rebuilding after years of isolation from congressional oversight, of rule as private fiefdoms, and after a series of disgraces which still haunt the Nation.

The Criminal Code bill proposes to set fundamental policy in sentencing and other aspects of punishing criminal acts. There has been very little national discussion of whether mandatory sentencing, for example, is desirable. Prison alternatives are not discussed in the bill. The Department of Justice has asked for and received in the bill extraordinary authority to appeal sentences in criminal cases.

There has been little preparation for this type of debate on the part of Senators. The Judiciary Committee did not agree unanimously on these provisions, and yet we will be asked to decide after a period of debate some fundamental policy questions directly affecting the liberties and rights of Americans.

Mr. President, I agree with the Los Angeles Times' call for Congress to consider Criminal Code reform in cautious incremental stages. I urge my colleagues to consider this position, and I ask that the editorial of the Los Angeles Times of August 24 be printed in the Record.

The editorial follows:

A Scale Unbalanced

In the middle of a heavy workload, in a session dominated by the rancorous political maneuvering of a presidential election and with adjournment just six short weeks way, Congress will take up the most significant criminal-law reform legislation ever considered since the beginning of this nation.

Senate Bill 1722 and its companion bill in the House of Representatives (H.R. 6915) propose nothing less than a revision of the entire body of federal criminal law—a massive undertaking never before attempted, and one whose full implications have been studied by only a handful of legislators.

It is inconceivable under these circumstances that Congress can act rationally on legislation that pushes federal power into every nook and cranny of this nation. It is inconceivable, if the Senate and the House approve their respective bills, that their differences can be rationally reconciled in conference. Yet the Senate version may be considered this week and action by the House may follow shortly.

The legislation, which involves the incredibly complex task of consolidation and redefinition of more than 3,000 laws, should be aborted.

It would appear to be a task best left to the legal experts whose stated goal is to reduce the confusion of conflicting statutes that have accumulated over two centuries. But revision of the code represents far more than eliminating archaic laws, modernizing others and bringing all together in a tidy package. It would define the boundaries of American freedom, and affect the liberty of every individual and every social group in the nation. Rewriting the federal criminal code is in significance secondary only to rewriting the Constitution, and, as the Constitution was a profound political document, so is revision of federal criminal law a profound political undertaking.

The public, confronted with what may seem to be arcane disputes over abstruse legal language, may be only dimly aware that criminal law embodies the governing philosophy of a nation, and that politics, in the highest sense, has been at the root of the struggle over the code in the past decade.

The political struggle became explicit as soon as the National Commission on Reform of Federal Criminal Laws, appointed by President Lyndon B. Johnson, presented its rereport nine years ago. Richard M. Nixon's Justice Department, dissatisfied with the first Senate version of reform, wrote separate legislation that contradicted most of the national commission's recommendations.

What eventually emerged was a compromise measure, S 1, which was so repressive that it was denounced by former Sen. Sam Ervin (D-N.C.) as a design for what would be "essentially a police state." A second compromise, under the powerful sponsorship of Sen. Edward M. Kennedy (D-Mass.), coasted through the Senate, but the effort failed in the House.

Now the latest measure (S 1722), backed by Kennedy and the Justice Department, will be put before the Senate, and Rep. Robert F. Drinan (D-Mass.), chairman of the House Judiciary Committee, is pushing the House bill toward passage. Of the two, the Senate bill is more significant because it has the full weight of the Justice Department behind it, and likely will prevail if the legislation reaches conference.

In an attempt by its sponsors to pacify critics of prior reform legislation, S 1722 represents some improvement over preceding bills. It would expand the protection of civil rights, including the addition of sex to the category of unlawful discrimination, and the classes of persons protected would include aliens. It would repeal the Smith Act, which made it a criminal offense to advocate the overthrow of the government, and would repeal the Logan Act, the 1798 statute that prohibits private citizens from discussing foreign policy with foreign officials. If a judical order is held to have ivolated the First Amendment, that fact would be allowed as a defense against a charge of contempt of court.

But S 1722 carries forward a variety of provisions that outweigh these and some other gains.

The bill would give judges broad power to deny bail and imprison accused persons before they had been tried, which would undermine the principle that a person is innocent until proved guilty. The government would be allowed to appeal some sentences. A similar but narrower provision in current law has been held unconstitutional by an appeals court. S 1722 would retain the so-called immunity-use law, which forces witnesses to testify in exchange for partial immunity from prosecution as a result of their testimony. This provision would seriously erode the historic protections of the Fifth Amendment.

Sentence reform is attempted, but, in addition to allowing the government to appeal sentences, this section has other serious defects. It would eliminate parole, restrict good-time early release and not encourage alternatives to prison—an approach long urged by the American Bar Assn.

Various provisions of S 1722 could result in severe sanctions against the exercise of First Amendment rights, especially in time of an emergency. Persons writing or speaking against a war, even if the war were undeclared, could be liable to prosecution if military authorities interpreted their conduct as "inciting insubordination." News reporters could be charged with an offense if they refused to identify news sources or if under certain circumstances they disclosed information obtained by them from a government official. Federal employees who reveal government wrongdoing and journalists who receive such information could be charged with an offense. These defects by no means exhaust the list of the legislation's deficiencies.

Drafters of this legislation, who attempted the most momentous legislative reform in this nation's history, confronted the most difficult problem in a democracy: bringing freedom and state power into proper balance. They have tipped that balance against freedom and the individual, and the legislation that they devised should be rejected.

Congress can then approach criminal-law reform in cautious incremental stages that can be thoroughly debated and understood.

JURISDICTION OF STONE, CLAY, SAND, AND GRAVEL SURFACE MINING OPERATIONS

• Mr. BUMPERS. Mr. President, I rise today to join Senator Wallop in deploring the actions of the House of Representatives in refusing to allow a vote on the merits of the Senate amendment to transfer stone, clay, sand, and gravel surface mining operations from MSHA's jurisdiction to OSHA's jurisdiction.

The Senate has gone on record in support of this amendment and there is a broad base of support in the House of the legislation. There are six bills in the House which are almost identical to the Senate amendment and which have 219 sponsors and cosponsors. Yet the House of Representatives has refused to allow a vote on the substance of the proposal.

We are not trying to deprive the employees of these surface mining operations safety regulations in this legislation. We are simply trying to insure that the small employers who make up the sand, gravel, stone, and clay mining industries are governed by a flexible system of regulation which fosters a spirit of cooperation and not adversity between the regulated and the regulator.

Because of the importance in quickly passing this legislation, I do not intend to ask the Senate to amend the House-passed bill. However, I do wish to thank my fellow Senators for their support on this issue in the past and to promise that I will continue to work for passage of this legislation in the future.●

CLARKSVILLE LITTLE LEAGUE CHAMPS

● Mr. SASSER. Mr. President, the State of Tennessee and the citizens of Montgomery County and Clarksville are honored and proud to have been represented in the National Little League southeastern region tournament at St. Petersburg, Fla., this month.

The Clarksville National Little League All-Stars—a talented group of 14 excellent athletes—finished runnersup in the tournament. Although they fell in the final game to the champion Tampa, Fla., team, they gave it their best effort and have nothing for which to be ashamed.

These 14 young athletes represented their community well, finishing second in a tournament in which a total of 7,600 Little League players participated.

Under the able direction of team manager Carrol Poole and Coach Dan Ender, these youngsters came within two runs of winning the tournament and moving on to the national tournament at Williamsport, Pa. The team returned to Clarksville on August 24 after a grueling 15-hour bus ride, but they were in high spirits when they were greeted by a crowd of proud parents, friends, and prideful well-wishers. They represented their hometown and State with excellence and in the best tradition of sportsmanship.

These accomplished players played with tenacity, coming from behind several times to win the State tournament and earn the trip to the southeastern tournament. They represented several Little League teams in the Clarksville area, and I know all Tennesseans are proud of them.

The team members are Jimmy Galbreath, Eric Mazzie, Steve Miller, Craig Cross, Bryan Alsobrooks, John Davidson, Jim Brewer, Brad Cooper, Sean Thomas, Scott McLean, Chris Ender, Timmy Rye, Frank Goodlett, and Chad McKinny.

I am sure this competition has been a tremendous learning experience for the players. They have gained self-confidence and wisdom in the past several weeks.

I wish them well in future endeavors.●

EQUALITY DAY—AUGUST 26, 1980

● Mr. BAYH. Mr. President, 60 years ago today, the Constitution was amended to insure the right of women to vote. Since that time, great strides have been made to reaffirm and protect the rights of all citizens. Even though, to this date, two States have never ratified the 19th amendment to the Constitution, it was declared, in a certificate by the Secretary of State, dated August 26, 1920, to have been ratified by the legislatures of 36 of the 48 States.

Article XIX reads as follows:

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have power to enforce this article by appropriate legislation.

WOMEN'S SUFFRAGE

The 19th amendment to the Constitution of the United States was adopted after a long campaign by its advocates who had largely despaired of attaining their goal through modification of individual State laws. Agitation in behalf of women's suffrage was recorded as early as the Jackson administration but the initial results were meager. Beginning in 1838, Kentucky authorized women to vote in school elections and its action was later copied by a number of other States. Kansas in 1887 granted women unlimited rights to vote in municipal elections. Not until 1869, however, when the Wyoming Territory accorded women suffrage rights on an equal basis with men and continued the practice following admission to statehood, did these advocates register a notable victory. Progress continued to be discouraging, only 10 additional States having joined Wyoming by 1914, and, judicial efforts having failed, a vigorous campaign brought congressional passage of a proposed amendment and the necessary State ratifications.

Following the Supreme Court's interpretation of the 15th amendment, the State courts which passed on the effect of the amendment ruled that it did not confer upon women the right to vote but only the right not to be discriminated against on the basis of their sex in the setting of voting qualifications, a formalistic distinction to be sure but one which has restrained the possible applications of the amendment.

In only one case has the Supreme Court itself dealt with the amendment's effect, holding that a Georgia poll tax statute which exempted from payment women who did not register to vote did not discriminate in any manner against the right of men to vote, although it did note that the amendment "applies to men and women alike and by its own force superseded inconsistent measures, whether Federal or State."

The 19th amendment to the Constitution was proposed by the Congress on June 4, 1919. It only took 14 months to ratify by the requisite 36 States out of the 48 States.

My own State of Indiana ratified the 19th amendment on January 16, 1920, making it the 26th State to ratify women's suffrage.

Mr. President, it behooves us all to stop and reflect for one moment today on those courageous women and men who fought long and hard for the right of women to vote. I believe we can all agree, now, that this victory was well worth their every effort. I ask that my colleagues join with me in honoring those stalwart citizens of days goneby—and join with me in honoring the women and men of today who still keep the light burning for the promise of equality of all, irregardless of sex.

The Constitution of the United States was drafted as the living safeguard of individual freedom and equality under the law. It was conceived by those determined to achieve the blessings and the promise of freedom for all individuals. To insure the growth of that concept, provisions were made for amending procedures to the Constitution. The promise of equality has always been one of America's greatest traditions. The fear of equality has never been an American tradition. No woman or man who is a citizen of this great Nation should be denied equality under the law solely on the basis of being either male or female. The equal rights amendment now before the States for ratification would afford the protection of equal rights for both men and women.

Mr. President, the promise of equality is a traditional American way of life. I believe the United States of America and the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all, will prevail.●

ARMY ROTC SCHOLARSHIPS

● Mr. HATCH. Mr. President, as this Senate well knows, I have been an avid supporter of a strong national defense. For this reason, on August 4, 1980, along with a majority of this body, I supported H.R. 5766 which, among other things, doubled the authorized number of Army ROTC scholarships.

However, on August 12, 1980, some 4 days later, the American Bar Association Law Student Division brought to public attention a study which had been submitted to the Army some 10 months earlier. The study, which was prepared by individuals of the J. Rueben Clark Law School, at Brigham Young University, pointed out that scholarship cadets did not distinguish themselves in ROTC performance, their attitudes toward active duty, personal motivation, or career retention. This study also revealed serious morale problems among reservists, and those who had been affected by the draft in the Vietnam era.

Members of the ROTC regional command who received this study in October 1979, estimated it to be worth over $50,000, inasmuch as it is an unparalleled piece of research. Inasmuch as national Army leaders had full notice of this data some 6 months before H.R. 5766 was related to this body, it is doubly disturbing that this information was not brought to us before the vote was held on August 4.

The organizations and individuals who bring this information are credible. The Law Student Division of the American Bar Association is the second largest section of the ABA. With nearly 40,000 members, it is often said that it serves the function of being the conscience of the ABA. The J. Rueben Clark Law School and Brigham Young University, located in Provo, Utah, are sponsored by the Church of Jesus Christ of Latter-Day Saints, commonly known as the Mormon church.

At this institution the integrity of their graduates is as important as their academic distinction. Mr. Matthew Hilton, principle author of this study, began the research shortly before his nomination by Brigham Young University as a Rhodes and Danforth scholar candidate. He is currently on Law Review, Editor and Chief of the Legislative Drafting Service, and holds a commission in the U.S. Naval Reserve JAG Corp. Dr. Howard B. Christensen, coauthor and also at BYU, is nationally recognized for his work in statistics.

The fact that this study is being brought to us does not mean that these organizations or individuals do not favor a strong national defense. They do. And they also wish to help Congress correct present statutes so as to allow the Department of Defense to more effectively use appropriated monies to protect our Nation. C. S. Lewis observed that:

> The real traitor to our order is not the man who criticizes that order from within, but the man who flatters our self-complacency.

The American Bar Association Law Student Division has requested that those committees with supervisory authority over the Army ROTC program needed for authorization or appropriation review this data. I agree with this request. I suggest that hearings be held in the near future so that this additional and crucial information may be presented to Congress and aid us in our efforts to promote a stronger national defense. By so doing we will avoid a serious problem discussed by Sir William Butler when he noted:

That a nation who makes a strict line of demarcation between its fighting and thinking men is likely to have its fighting done by fools and its thinking done by cowards.

I trust we are neither.

I therefore request that this body recognize the efforts of these organizations and individuals by including this ABA Law Student Division resolution and executive summary of the report's relationship to H.R. 5766 in the Congressional Record. I also request hearings be held in short order to allow the allegations contained in said study to be presented to the appropriate committees of this body.

The information follows:

American Bar Association Law Student Division Recommendation

J. Reuben Clark Law School of Brigham Young University recommends adoption of the following resolution:

Resolved, That the Chairperson be empowered to appoint a committee of three to investigate the present status of R.O.T.C. law and programs, with special emphasis on the effect future changes in draft laws or other military related legislation will have on the program, and submit the results to interested congressional committees.

Resolved, That, where appropriate, the Division recommends congressional committees examining military affairs use, non-military personnel to present additional insights into the operation of military programs when such programs are being reviewed for additional appropriations in an effort to insure that all significant, viable alternatives are examined and discussed.

REPORT

On October 16, 1979, the J. Reuben Clark Law School submitted to the U.S. Army a three-year study evaluating the Army R.O.T.C. program in the West. Among other things, the study found serious problems in the cost-effectiveness of the majority of the ROTC recruiting practices, an absence of recognition by the Army of negative effects of the draft on the junior officer corps and serious problems of active duty which discouraged junior officers from further affiliation wtih the Armed Forces. Such observations had not been discussed earlier by the Army before appropriate congressional committees when military/civilian leaders were required to report on program status before receiving appropriations.

Even though the study was evaluated by several field commanders and found to be "an unparalleled piece of research" of "highly Professional quality," conservatively estimated to be worth $50,000, national Army leaders did not find it appropriate to discuss or mention any of these results in the recent legislation before Congress which doubled the size of the Army R.O.T.C. scholarship program. H.R. 5766 passed with amendments by the Senate on August 4, 1980, does not reflect some of the serious and sobering conclusions, found by the J. Reuben Clark Law School Legislative Drafting Service.

Inasmuch as current House leaders expect the amended bill to pass the House by voice vote after August 18, 1980, the place to submit the additional needed information questioning the value of both the scholarship program and the methods by which the latest legislation was introduced and passed by Congress is before the House and Senate Appropriations Committee, this resolution is to authorize such action be taken in the name of the ABA/LSD.

While R.O.T.C. legislation is not the most crucial matter in our national defense, alternative voices need to be heard as to exploring options in adequately maintaining such a defense. At this time, the effect of the draft on the R.O.T.C. program needs to be heard . . . especially if it will call attention to both the positive and negative aspects of such action.

This recommendation in no way denies the viability of maintaining an adequate national defense force. The principal author of the study still holds a reserve commission in the United States Naval Reserve. Rather, the issues involved concern the right of Congress to know of serious problems which are neither discussed nor raised in Congressional hearings and are possibly blocked from being heard by those who feel it would be adverse to the short term interests of the military.

Executive Summary

The American Bar Association/Law Student Division J. Reuben Clark Law School Legislative Drafting Service and Mr. Matthew Fenn Hilton request that appropriate Congressional committees involved with the review of H.R. 5766 hold hearings to re-evaluate the justification for authorizing the increase in Army ROTC scholarships from 6,500 to 12,000.

H.R. 5766 is the result of committee hearings held earlier this session on the former H.R. 3308 which dealt with designating 600 scholarships for the use of military junior colleges. Testimony in hearings on H.R. 3308 and written or spoken comments on the House floor indicate that the bill is premised on the assumption that an increase in the number of ROTC scholarships will increase the number of junior officers in the various components of the Army Reserve. H.R. 5766 passed the House on November 26, 1979 after two-thirds of the House approved a suspension of the rules. The Senate amended the bill on August 4, 1980. As of this date, the amended version has not been accepted by the House or been sent to conference.

While the Senate amendments are valuable, the greatest concern lies with the doubling of the size of the ROTC scholarship program. Concerns in this area have been expressed to national military leaders in the form of a study entitled Army ROTC in the West. This report, done as a public service, was submitted to the Army Region IV ROTC Headquarters on October 16, 1979. It was subsequently distributed to ROTC institutions in that Region and national military leaders.

Members of Region IV command found the study to be an "unparalleled piece of research" of "highly profesional quality", estimated to be worth at least $50,000 to the Army. The study noted, among other things, several basic conclusions which run counter to the assumptions behind the passage of H.R. 5766.

1. Commissioned scholarship cadets do not distinguish themselves from non-scholarship officers in any significant way in areas of participation in ROTC, career plans, perception of active duty or personal motivation while on active duty.
2. Those commissioned officers who served in the Reserves reported significant areas in their ROTC training and Reserve service which deterred them from either being more actively involved in their ROTC training, continuing their affiliation with the Reserves or being more motivated to fulfill assignments while in the Army.
3. The commissioned officers who joined ROTC because of a desire to avoid being drafted showed a significantly higher propensity to serve in the Reserves, even though they had a more negative perception of ROTC and their military service than those who were not influenced by the draft.

Because this information was not presented to appropriate Congressional committees when H.R. 5766 was considered, it is requested that Congress re-evaluate the present and proposed legislation dealing with the Army ROTC scholarship program.●

THE MAGNETIC FUSION ENERGY ENGINEERING ACT

● Mr. CRANSTON. Mr. President, I am pleased to announce that I am joining those of my colleagues who have endorsed and cosponsored S. 2926, the Magnetic Fusion Energy Engineering Act, 1980.

This bill, authored by my good friend from Massachusetts, Paul Tsongas, declares a Federal policy of promoting broad participation of domestic industry in magnetic fusion research and fostering cooperation among governments, universities, industries, and national laboratories in this highly promising energy-producing technology.

Californians have long been among the Nation's leaders in the research on magnetic fusion.

Fusion is far preferable to fission as an energy source, for at least three reasons:

Unlike fission, fusion would be proliferation-proof, stopping the ever-increasing danger that the spread of fissionable materials creates of a survival-threatening nuclear holocaust.

While all nuclear energy poses some radiation hazards, fusion reduces tenfold the potential health hazards of fission.

Uranium and other fissionable materials are scarce, finite resources dependence on which could some day lead us to another energy crisis, while the supply of hydrogen atoms upon which fusion depends is inexhaustible.

Moreover, the Tsongas bill reduces the taxpayers' burden by $19 billion over the House-passed McCormack bill, while still moving DOE's fusion program 15 years ahead of its present schedule.

I believe that S. 2926 gives us a technically balanced program at a sensible cost that avoids the danger of overaggressive commitment too soon, while moving research along at a rate that will maintain U.S. world leadership in the development of this very significant technology of the future.●

NO PRESSURE ON ISRAEL AFTER THE ELECTION

● Mr. LEVIN. Mr. President, an erudite editor in my home State of Michigan has been engaged in what he terms truth searching on the Carter administration plans regarding Israel and the Middle East. Philip Slomovitz, the editor of the Jewish News in Southfield, Mich., was not satisfied to let stand without question the "common reverberation" that President Carter would sell out Israel after the Presidential election in November. He challenged the administration to respond. What he got back from Press Secretary Jody Powell was a letter that he feels "emphatically demolished" the fears that the administration would resort to pressure on Israel to obtain peace in the Middle East.

Mr. President, I present for the Record the Jewish News' presentation of the exchanges between the always articulate and insightful Mr. Slomovitz and the President's press secretary.

The material is as follows:

White House Refutes "Fears" Re-Elected President Could Resort to "Pressures" for Israel's Submission

Distressing assumptions—which escalated into fears—that a re-elected President would have no obligation to pursue the policy of unrestrained defense of Israel's security and might yield to demands for "pressures" upon Israel to submit to enemy demands, was emphatically demolished in a statement to The Detroit Jewish News made in behalf of the President.

Press Secretary to the President Jody Powell registered the refutation in an extensive reply from the White House to the questions on this issue, raised primarily in the media and in some Jewish ranks, by the editor of The Detroit Jewish News.

Powell made this declaratory statement on the question of pressuring Israel:

"We can understand your concerns and desire to look behind the unsubstantiated reports and the speculations that some columnists—often without checking with anyone in a level to know—freely indulge in. Truth-searching, as you called it in your concluding paragraph, can sometimes be difficult. But the truth in this particular case is in the public statements, the unwavering commitments, and prayers, of the President."

The White House-Detroit Jewish News exchange of views on this vital issue follows:

The Jewish News,
Southfield, Mich., July 24, 1980.

President Jimmy Carter
The White House
Washington, D.C.

Dear Mr. President: Because it is a common reverberation, because the question we address to you is judged as a normality in the current political speculations, what we address to you will surely be related in the seriousness in which it is approached.

The predictions, if the reports are to be treated as justified and acceptable prophecy, is that 1981 will be a "tough" year for Israel. Some apply to such augury the definition "calamitous."

We are not dealing in secrets. The media keep emphasizing that the general trend is to await action on peace negotiations until after the Presidential election. The contention is that as of November 5 the avenues will be opened for pressure on Israel. It is not necessary to define the term. Pressure is assumed to mean obstruction in Israel's path against assuring that nation's guaranteed security.

Egyptian spokesmen have been quoted similarly, giving emphasis to the view that bidding time until after the election will give you the freedom to exert your influence. The intimation is that as of November 5 you will be a free man to act firmly, to deal with the Israel issue without interference from the pleadings that come in behalf of Israel from the friends and supporters of the Jewish state.

I repeat: this is not a question posed with animosity, with antagonism. It is an echo of what is being repeated in the spoken commentaries, in the printed columns of correspondents, in the conclusions reached that at the moment there is an election at stake, and that after November 5 the President will be a free man.

In the interest of the American principle of fair play, in justice to Israel and her position as a beleaguered nation, in the best interests of the incumbent who is a candidate for re-election—please permit me to resort to this annotation—it is vital that our respected leader, that the head of our government, make his position known on this vital, if embittered, question.

What of November 5 and its aftermath, Mr. President?

I address this question to you in all seriousness, with due respect for the man we honor as our President.

I sincerely hope for an early reply from you, in the spirit of truth-searching in which this is addressed to you.

Faithfully yours,

Philip Slomovitz.

The White House,
Washington, August 5, 1980.

Mr. Philip Slomovitz,
The Jewish News,
Southfield, Mich.

Dear Mr. Slomovitz: Thank you for your recent letter to President Carter expressing your concern over news media predictions and unsubstantiated reports that claim the year 1981, after the Presidential election, will be a "tough" year for Israel and that President Carter will be a free man to "bear down" on our friend and ally.

We regret that you lend so much credence to these reports and urge you to, once again, review the public record and the words and actions of President Carter.

In March 1978, he repeated a pledge he has never varied from: '"We have a commitment to the preservation of Israel as a nation, to the security of Israel, the right of the Israeli people who have suffered so much to live in peace, that is absolutely permanent and unshakeable." The President has never wandered from this commitment, and never will.

In his recent statement to the Democratic Platform Committee,' which laid down an agenda for 1981 and thereafter, the President pointed out: "Our nation feels a profound moral obligation to sustain and assure the security of Israel. That is why our relationship with Israel is, in most respects, a unique one. It is organic; it is derived from our deepest moral imperatives."

The President's commitment to achieving peace in the Middle East is also unshakeable. No previous President has devoted so much of his personal time, so much of his heart and soul, so much of his will power, and sincere prayer, to achieving peace in the Middle East than Jimmy Carter. I dare say, and I don't think anyone can challenge me, that this nation has never previously seen a President so deeply and sincerely committed to peace in the Middle East, the security of Israel, and to the principles of human rights as President Jimmy Carter—and this nation probably won't see a President with this kind of deep commitment again after Jimmy Carter.

We know of no intentions, to quote your words, of putting "pressure" on Israel after the elections. Our role has always been that of a mediator, a friend, talking to one side, then the other, trying to keep the negotiations alive and moving. Pressure never works and we do not employ it, and won't in the future. We will, however, continue to stress the vital importance of constantly working towards peace.

President Carter told the same Platform Committee: "We must move toward peace in the Middle East. Without peace, there is a growing prospect, indeed inevitability, that this region will become radicalized, susceptible to foreign intrusion, and possibly involved in another war. Thus, peace in the Middle East also is vital for our national security interests, and this is why we have a strategic interest in supporting Israel, the only democracy in this unstable region, as well as Egypt."

You wrote of echoes of what is being repeated "in the spoken commentaries, in the printed columns of correspondents, in the conclusions reached that at the moment there is an election at stake." But none of these sources carries the words of Jimmy Carter. The reports do not reflect the President and his plans. He has repeatedy made his commitments known, his intentions known, his hopes and prayers known, and has never wavered from them as regards Israel and the Middle East. Nor will he.

I do agree that 1981 will be a "tough" year. It will be tough on the United States because of our economic and energy problems. It will be tough on other nations which are suffering from higher inflation and more desperate energy problems than we are. It will be tough on nations of the Middle East as we try to work through some difficult negotiations. It will be tough on the developing Third World Nations, on the hungry people of the world. But "tough" also means challenge—an atmosphere in which President Carter is disciplined, compassionate, a man of peace and fair play.

We can understand your concerns and desire to look behind the unsubstantiated reports and the speculations that some columnists—often without checking with any one in a level to know—freely indulge in. Truth-searching, as you called it in your concluding paragraph, can sometimes be difficult. But the truth in this particular case is in the public statements, the unwavering commitments, and prayers, of the President.

Again, thank you for writing.

Sincerely,

Joseph L. Powell,
Press Secretary to the President.●

A CRISIS IN CONFIDENCE AND COMPETENCE

● Mr. DURENBERGER. Mr. President, "A Crisis in Confidence and Competence," a report issued by the U.S. Advisory Commission on Intergovernmental Relations (ACIR), in July of this year, was the subject of a recent article in the Washington Star. According to the article, the ACIR report presented a stinging indictment of Congress:

> Congress was depicted as quick to deal with minor new issues, but timid in drawing up needed reforms;
>
> Members of Congress were found to be so preoccupied with such narrow concerns they had little time to deal with major responsibilities.

Indeed, the headline of the article read, "Congress Is To Blame for Aid Program Ills, U.S. Study Panel Says." I shall submit this article for the Record at the close of my remarks.

I am critical of our Federal aid system; I see evidence every day that confirms my belief that the system is out of control. I am inclined to accept the notion that Congress must assume some responsibility for the current state of chaos. I read the ACIR report to find out where we in Congress had gone astray and how we might proceed to redeem ourselves.

Clearly, Congress created the 498 grant programs and has the power to change them. ACIR made that point clear. Yet, ACIR did not single out Congress for condemnation, as the newspaper article would have one believe. The report which was cited, the first in a series of 10, identified and presented an analysis of four key problems of federalism, and suggested that it was time for a major reassessment of the public purposes and responsibilities within the American system.

The four problems plaguing the intergovernmental system, as identified by ACIR, are familiar ones:

Administrative failures, redtape, and tension between levels of government, something ACIR calls the problem of implementation;

Poor performance and inadequate results—that is, programs have not brought about the results all of us expected or hoped for;

Excessive cost and waste—or fiscal "inefficiency";

Lack of adequate control and responsiveness through the political process, or the crisis of accountability.

Having identified the problems, and in the explanation of them, ACIR did not point a finger of blame alone at any one level of government or at any branch of Government. For example, in explaining the reason for the gap between national policies and concrete actions of governments at all levels to deal directly in implementing those policies, ACIR cited the difficulties inherent in trying to mobilize local efforts to achieve national program goals. I quote:

> While implementation often is not straightforward even in programs administered directly by the national government, the difficulties are multiplied many times in the intergovernmental arena. Here the traditional administrative "hierarchy of command" breaks down, owing to the political autonomy of state and local governments in the Federal system. Separate administrative, personnel and political systems are involved and—regardless of Federal requirements, conditions, or even mandates—these jurisdictions are not simply administrative agents of the national government.

The ACIR elaborates on its point by quoting Martha Derthick, a leading scholar of federalism and governmental policies:

> To achieve many of its domestic purposes . . . the federal government relies on local governments. However, because of the division of authority among governments in the federal system, the federal government cannot order these governments to do anything. It gets them to carry out its purposes by offering incentives in the form of aid, which they may or may not accept, and by attaching conditions to the aid. To achieve results, federal officials must have enough knowledge of local politics to perceive what incentives are necessary; they must supply the incentives in sufficient quantity; and they must direct the incentives to those holders of local power whose support is required to achieve the federal purpose. In short, they must intervene successfully in local politics.

Did Congress cause these four major problems with our intergovernmental aid system? In a real sense, the answer is "Yes," by creating so many single-purpose aid programs. But according to the ACIR report, "The problems identified can be regarded as symptoms, not root causes." What are the fundamental causes, asks ACIR, and then answers the question, "(O)n this question, no consensus emerges."

My point is simply this: For too long, all the participants in the intergovernmental system, and the media, have been quick to find fault with one another. Congress blames the Governors, the Governors say Congress has lost all sense of restraint; mayors, Governors, and national political leaders blame the Federal bureaucrats. While the hot potato is thrown from one group to another, no action is taken to bring about some positive changes.

At their recent conference in Denver, the Nation's Governors passed a resolution calling for Congress and the President to convene a National Commission on Federalism. The Commission would work for 2 years on legislative, administrative, and perhaps constitutional action to reform and rebalance the power relationships between the Federal and State governments. I would welcome such a Commission. I would welcome a forum for the positive and fruitful exchange of views on how the intergovernmental system can be improved; moreover, I would welcome the commitment of all concerned to implement some improvements. But remedial action will not be easy. By ACIR's own admission—

> It seems unlikely that any of the intergovernmental shortcomings catalogued here will be resolved easily, or by minor tinkering with the details of federal administrative practice.

However difficult the task, the conversations about reform must not be postponed.

Certainly Congress is not above criticism. I am discouraged that the grant reform bill is still tied up in the Intergovernmental Relations Subcommittee because so many special interests are afraid of a restructuring; I was disappointed that opponents were nearly successful in watering down the Sunset bill when it was marked up by the Governmental Affairs Committee; I believe it is time to bring the negotiations about regulatory reform to a close and move ahead with consideration of this bill on the Senate floor. I recognize these shortcomings of Congress, but I am not willing to believe that Congress alone is the obstacle to a smooth running intergovernmental system.

But we must move ahead to bring about some fundemental changes in the relationships between the Federal Government, and the States and their subdivisions. The problems are critical, and they will not go away by simply placing blame. I urge that we take up the offer presented by the Governors to establish a National Commission on Federalism and begin serious negotiations about meeting the needs of the people of this country.

The article follows:

Congress Is To Blame for Aid Program Ills, U.S. Study Panel Says

A federal commission, ordered by Congress four years ago to conduct a thorough study of the state of American government, has concluded that Congress itself is chiefly to blame for what it found to be an unmanageable, wasteful and unaccountable system of domestic aid programs.

The Advisory Commission on Intergovernmental Relations, created in the Eisenhower administration to make seemingly innocuous studies in federal-state relations, has concluded that the federal system is simply a series of provocative reports and background papers that Congress commissioned in 1976 in response to rising public discontent with government at all levels.

"Neither public officials nor the general public comprehend fully the new complexities of domestic public policy, or adequately control—or even check—the myriad forces that have generated it," the commission said in its first printed volume, titled "A Crisis of Confidence and Competence."

Yet the language and conclusions in that volume are mild compared with some of its documents yet to be published. In some of those, the commission depicts the federal government as so overloaded with programs and issues that it can not cope with needs for reforms.

The myriad programs are so interwined among the state, local and federal governments that no government can control them, according to the commission.

While all levels of government and the courts were found to have played roles in the failures of the last two decades, the commission singled out Congress as having had more to do with bringing about "the crisis of confidence" than any other entity.

"Our findings belie the notion that Congress acts as a great rubber stamp for presidential, bureaucratic or interest group initiatives," the commission said. "In fact, in many instances the opposite would be far closer to the truth."

Congress was depicted as quick to take on minor new issues, but timid in drawing up such needed reforms as overhauling the welfare system. Members of Congress were found to be so preoccupied with such narrow concerns they had little time to deal with major responsibilities.

Congress has been ignoring the commission's advice for years, but the group's findings became the fulcrum for an incipient revolt by the states against the federal government.

The National Governors Association, with the support of the National Conference of State Legislatures, this month formally called on the president and Congress to appoint a high-level commission next year to recommend reforms in the federal system, including the realignment of powers between the state and federal governments.

The commission has suggested that reform could begin with a series of "trade-offs" that would give the federal government full responsibility in some areas while giving the states responsibility for others.

For example, the federal government could take over the full costs and responsibility for public welfare, including Medicaid, social services and food stamps. It would also assume responsibility for social insurance, including unemployment insurance, and housing programs. The states could then take over the responsibility for education, libraries, fire protection, police and corrections, natural resource, hospitals and health services.

While the commission maintains that there would be little difference in the costs, the public would at least know who was responsible for what.●

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following Calendar Orders Nos. 991, 982, 983, 984, and 985.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANNUAL ADDRESS ON STATE OF THE JUDICIARY

The Senate proceeded to consider the bill (S. 2483) to amend title 28 of the United States Code, to require the Chief Justice of the United States to give an annual address to the Congress on the state of the judiciary, which has been reported from the Committee on the Judiciary with an amendment on page 2, line 4, strike "shall" and insert "may"; so as to make the bill read:

That title 28 of the United States Code is amended by inserting after section 6 the following new section:

"§ 7. State of the judiciary address

"The Chief Justice may at such times as may be mutually agreed by the Chief Justice, the majority leader of the Senate, and the Speaker of the House of Representatives, address in person the Senate and the House of Representatives meeting in joint session. Each such address shall include information on the state of the judiciary and recommendations for the enactment of such measures as the Chief Justice deems are necessary and expedient. During any calendar year in which the Chief Justice does not appear personally to make such an address, a copy of such address shall be transmitted to Congress not later than March 15 of each such year.".

SEC. 2. The table of chapters for chapter 1 of title 28, United States Code, is amended by inserting immediately below the item relating to chapter 6 the following new item:

"7. State of the judiciary address.".

SEC. 3. The amendments made by this Act shall take effect with respect to the first full calendar year occurring after the date of the enactment of this Act.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Alabama (Mr. HEFLIN) is recognized.

Mr. HEFLIN. Mr. President, I rise in support of Senate bill 2483, a bill which would request the Chief Justice of the United States to address on a periodic basis a joint session of Congress on the state of the U.S. judiciary.

Under the Constitution the responsibilities for governing this Nation are divided among three coequal branches: the legislative branch, the executive branch, and the judicial branch. Because of our attention to the business and duties of Congress, Members of the Senate and House are familiar with the intricacies and workings of, as well as problems facing, the legislative branch. Moreover, through various means and contacts, including the President's state of the Union message, Members of Congress are informed of the many programs and problems of the executive branch. In my judgment, however, Congress has given insufficient attention to the third coequal branch of government, the U.S. judiciary.

Although there are numerous points of contact at the committee and subcommittee level with the judicial system, the Congress as a whole largely ignores the third branch until some crisis situation demands that we provide additional Federal judges or implement some reorganization so that the judicial branch may accomplish its constitutional mandate without being overwhelmed with important, but time-consuming work.

At least a partial remedy to this situation would be for the leadership of the Congress to periodically invite the Chief Justice of the United States to appear before a joint session of Congress to inform the entire Congress as to the "State of the Judiciary." Such an address by the Chief Justice would not eliminate the need for congressional hearings and oversight, but would focus the attention of the Congress and the Nation on the many problems which face our judiciary allowing us to set priorities and provide impetus to programs which require congressional action.

Recognition of the need and importance of a "State of the Judiciary" address by the Chief Justice is not new. As far back as 1953, then Deputy Attorney General William P. Rogers made such a suggestion in an address to the Fourth Circuit Judicial Conference. Congressman ROBERT McCLORY has introduced a similar bill. In stressing the need for emphasizing to the people of this country the great importance of the judicial process in a free nation, Mr. Rogers stated that an address by the Chief Justice would "materially contribute to a better understanding among the three great branches of our Government."

In addition, the distinguished chairman of the Senate Judiciary Committee, Senator KENNEDY, and the able Senator BIRCH BAYH, have introduced similar legislation in the 94th and 95th Congress. I appreciate their assistance and guidance in this legislation and am delighted they are cosponsors of Senate bill 2483. I would also like to thank the distinguished ranking minority member of Judiciary, Senator STROM THURMOND, for his aid in the processing of this legislation.

Thank you, Mr. President.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

A bill to amend title 28 of the United States Code to request the Chief Justice of the United States to give an annual address to the Congress of the state of the judiciary.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the remainder of the request on the calendar orders.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR CERTAIN ACTION DURING THE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess of the Senate over to Wednesday, September 3, the Secretary of the Senate be authorized to receive messages from the House of Representatives and the President of the United States, and that they may be appropriately referred.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess of the Senate over until September 3, when the Senate reconvenes, the Vice President of the United States, the President of the Senate pro tempore, the Acting President pro tempore, and the majority leader as Acting President pro tempore may be authorized to sign all duly enrolled bills and resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

VESSEL INSPECTION AND MANNING LAWS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5164.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 5164) to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. On behalf of Mr. CANNON I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. CANNON, Mr. LONG, Mr. HEFLIN, Mr. PACKWOOD, and Mr. WARNER conferees on the part of the Senate.

RECESS OF THE SENATE FROM AUGUST 27 TO SEPTEMBER 3, 1980, AND ADJOURNMENT OF THE HOUSE FROM AUGUST 28 TO SEPTEMBER 3, 1980

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a concurrent resolution and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk

will report the concurrent resolution by title.

The legislative clerk read as follows:

Concurrent resolution (S. Con. Res. 118) providing for a recess of the Senate from August 27 to September 3, 1980, and an adjournment of the House from August 28 to September 3, 1980.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the concurrent resolution.

The concurrent resolution (S. Con. Res. 118) was agreed to as follows:

Resolved by the Senate (the House of Representatives concurring), That when the Senate completes its business on Wednesday, August 27, 1980, it stand in recess until 10:00 o'clock a.m. on Wednesday, September 3, 1980, and that when the House completes its business on Thursday, August 28, 1980, it stand adjourned until 12:00 o'clock noon on Wednesday, September 3, 1980.

TREATY OF MUTUAL COOPERATION AND SECURITY WITH JAPAN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 484.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 484) relative to the Treaty of Mutual Cooperation and Security with Japan and announcing Tokyo conference.

The Senate proceeded to consider the resolution which had been reported from the Committee on Foreign Relations with amendments as follows:

On page 2, line 5, strike "to convene a parliamentary and scholarly conference" and insert "in private and government forums";

On page 2, line 6, strike "commemorate" and insert "discuss";

On page 2, line 8, after the semicolon, insert "and how best to perpetuate and augment them;";

On page 2, line 9, strike "said conference is" and insert "any such discussions are";

On page 2, line 9, strike "in Tokyo on the dates of August 29 through August 31, 1980, under the auspices of the Japan Center for the Study of Security Issues, Hideaki Kase, chairman, and former Prime Minister Kishi, honorary chairman, with a distinguished Japanese organizing committee of parliamentarians and former ministers";

On page 2, line 16, strike "proceedings of the conference" and insert "discussions and evaluations";

• Mr. HATCH. Mr. President, I first want to thank the members of the Foreign Relations Committee for their efforts in reporting this resolution to the floor. I know that they, like the other committees of the Senate, have a busy schedule of business before them.

This resolution is to commemorate the 20th anniversary of the Treaty of Mutual Cooperation and Security between the United States and Japan. These past 20 years have seen these two great nations grow closer together through increased economic trade and cultural ties. The people of Japan have worked extremely hard in the past 30 years to rebuild a nation that suffered the ravages of war. They have worked closely with the people of the United States to realize the potential they held. Today they are the leading economic power in the Far East and one of the top three economic powers in the world.

As we begin the 1980's it would be useful to pause and reflect upon what has transpired. These past 20 years have been years of a strong and fruitful relationship. More importantly, they have laid the groundwork for an even better future. The year 1980 not only marks 20 years since the signing of the treaty, but it also marks a point only 20 years from the beginning of a new century. Events continue to swirl around us at an ever maddening pace, changing circumstances continually. The threats that we once knew 20 years ago have changed, some disappearing, other increasing in intensity. These events have forced the allies of the Western world to draw closer together, to cooperate in an expanded list of areas.

This resolution calls for the convening of forums to discuss and evaluate the achievements of the treaty and to look to the future. It calls for a clear and thoughtful discussion of the issues facing the two nations. This weekend, August 29–31, will see the first of such conferences being held. This conference will be held in Tokyo, Japan. A distinguished list of American scholars, headed by former President Gerald R. Ford, will sit down with their Japanese counterparts, led by Prime Minister Zenko Suzuki and one of the signers of the treaty, Nobusuke Kishi. They will meet and commence the task of planning for the future.

Mr. President, it is significant that such a conference is being sponsored and arranged by private think-tanks on both sides of the Pacific. It is a signal that private citizens of both nations recognize the problems facing Japan and the United States. It indicates that they are willing to look for solutions to the issues. On the American side the conference is being sponsored by the Heritage Foundation, the Georgetown Center for International Studies, Stanford Research Institute, and the Institute of American Relations. The cosponsor on the Japanese side is the Japan Center for the Study of Security Issues.

I will be attending this conference as a member of the U.S. delegation and in accordance with the resolution will report to the Senate on the decisions and actions of the conference.●

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The amendments were agreed to.

The resolution, as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas in 1960 the United States of America and Japan solemnly entered into a Treaty of Mutual Cooperation and Security;

Whereas over a period of twenty years since that time the Japanese people have faithfully fulfilled their commitments to the defense of Japan, as provided within the framework of that treaty;

Whereas the Mutual Defense Treaty between the United States and Japan has proven beneficial to both nations and provided for the defense of the western Pacific area;

Whereas the international security environment and the economic balance between the two nations has greatly changed during the past twenty years: Now, therefore, be it

Resolved, That it is the sense of the Senate that the twentieth anniversary of this treaty be commemorated and observed; and be it further

Resolved, That it is in the best interest of both the United States and Japan in private and government forums to discuss and evaluate the achievements of the Treaty of Mutual Cooperation and Security; and how best to perpetuate and augment them; and be it further

Resolved, That when any such discussions are held the Senate would express an interest in receiving a report as to the discussions and evaluations.

The title was amended so as to read:

A resolution relative to the Treaty of Mutual Cooperation and Security with Japan.

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I thank the Senator from West Virginia for his consideration.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

THE ALBUM OF AUSCHWITZ

Mr. LEVIN. Mr. President, today, at the Yad Vashem Museum in Jerusalem, Israel's living memorial to the holocaust an album filled with photographs of the Auschwitz prison camp, held privately by Mrs. Lili Meier, a survivor of the Auschwitz camp, will be placed in the museum for all the world to see.

These photographs are perhaps the most significant documentation of the acts which took place during the Nazi holocaust and the most complete visual record of the death camp at Auschwitz known to exist. A few of the photos from Mrs. Meier's album are widely recognized because she sold them after she was freed from prison in order to raise money to emigrate to the United States.

Mrs. Meier held the remaining photographs in her album at her home in Florida. Pictures in the album are overwhelming to anyone who views them. They are especially significant to Mrs. Meier as she appears in at least one of them, and they contain photographs of members of her family just before they were separated from her for the last time.

She found the album on a nightstand in a German barracks on the day Auschwitz was liberated by allied troops in December 1944. She held on to them as a stone on her heart, in her words until Nazi hunter Serge Klarsfeld located her last month. The photographs are extraordinary and unique historical documents, and they are also a vital personal and emotional record of one of the most tragic periods of world history.

Mr. President, I wish that we could enter these photographs in the RECORD at this time. Obviously, we cannot. Today, in Jerusalem, they will become a part of Yad Vashem. Soon, they will be available in book form. In recent days, the New York Times and the Washington Post have carried articles about Mrs. Meier and the "Holy Document" she has safely kept for the world all these years. The world now takes on the task of remembering, and avoiding a similar fate for any of its peoples.

I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

"HOLY DOCUMENT" OF AUSCHWITZ FOUND

(By Jo Thomas)

MIAMI, Aug 13—It is an album filled with photographs of people on the edge of death, the new Jewish arrivals at Auschwitz in 1944. A young survivor found the album and, in it, her own photograph and those of her parents, grandparents and little brothers, now all dead. She kept the album for 36 years.

It was not until three weeks ago that Serge Klarsfeld, a Nazi hunter, found Lili Jacob, now Mrs. Eric Meier, a waitress in Miami Beach, and told her the album was, in his words, "a holy document" containing all but three of the known photographs of the Jews at Auschwitz.

A number of photographs that Mrs. Meier sold from her album to the Jewish Museum in Prague in 1946 to get money to emigrate to the United States have been reproduced in books all over the world, Mr. Klarsfeld said in a telephone interview today. But the existence of the album itself had not been known.

The album is also significant, he said, because it shows that all the Auschwitz photographs, taken by an unknown official of the S.S. (Nazi elite guard), were made in 1944. Previously, he said, historians believed they were taken over a period of years.

Mrs. Meier has agreed to give the album to the Yad Vashem Museum in Israel in a ceremony Aug. 25.

CLOSING THE PAST

"A stone will come off my heart," she said this morning.

"I want to close the past," she said, looking at a stack of copies of the photographs in the album, which will remain in a bank vault until her departure. "I felt this was all I had left. I never thought of parting with it. But I'm feeling relieved that I'm doing the right thing."

She was 17 when she arrived at Auschwitz. Her family had lived in Bilki, a town then in Czechoslovakia and now in the Soviet Union. Her father was a cattle dealer. One day the whole family was told to gather a few things to go to a resettlement camp. The cattle cars took them instead to the death camp.

When her family was divided up by the guards, "three brothers went to the left with my father and the two youngest went to the right with my mother." She went on: "Me, they selected out. I looked like I could work. I ran back to my mother. The guard noticed me and ran back. He beat me up and called me all sorts of dirty names. He stabbed me in the arm with a bayonet. I never saw my parents again."

She testified against the guard in a 1964 trial in a German court in Frankfurt, and she still bears the scar of the bayonet wound on her arm. The tatoo she was given on May 9, 1944, was erased many years later in Miami Beach after she won a contest on the television program "Queen for a Day." She asked for a plastic surgeon to remove the tatoo, and it was done.

KNEW HER TATTOO NUMBER

When Mr. Klarsfeld rang her doorbell last month, he knew the tattoo number. It was one of the reasons Mrs. Meier changed her mind about being afraid to open her door.

On the day Auschwitz was liberated by Allied troops in December 1944, Lili Jacob was ill with typhus, lying in a camp hospital.

"We heard noise, music—something we never heard. So we ran down to see. I was weak and I passed out. Two of my friends carried me into a deserted German barracks.

"It was very cold. When I woke up, I was freezing. I saw a nightstand and reached for a pajama jacket. The album was underneath. When my friends came back, we looked in it and we found a picture of the rabbi who married my parents. Then I found a picture of my two brothers."

The photograph shows Selig Jacob, then 10 years old, and Zrilu, then 8½, a star pinned to his coat, the faces of both boys serious and uncertain.

Another photograph, on a page labeled in elegant script, "No More Capable Men," shows old people near a boxcar. One man with a white beard was her grandfather. A woman lying on the ground was her grandmother.

Lili Jacob was in the front row of another picture showing a crowd of young women in ill-fitting dresses, their heads shaved.

There are dozens of other pictures, some taken twice, as if the photographer wanted to be sure he was not out of focus: pregnant women walking to their deaths, old women and young children waiting outside the ovens in a pleasant grove chosen so they would not be alarmed.

The photographer is not known. Mr. Klarsfeld said today that he believes it was Ernst Hofmann, a teacher by profession, who had become assistant to the chief of the identification service at Auschwitz.

When she left the camp, Lili Jacob took the album with her. She married Max Zelmanovic, a childhood friend who had also survived the camps. Penniless, she sold some of the photographs in Prague in 1946 so she could come to the United States. When she arrived in New York in 1948, she had the album in her arms.

She has worked as a waitress at the famous Restaurant in Miami Beach for 26 years, and the years have brought two children and three grandsons. Mr. Zelmanovic died there years ago and she was remarried.

The walls of her home are hung with color photographs of smiling children, but she also treasurers the black and white pictures of people who do not smile—people who were caught for a moment before they vanished. Finally, she is ready to let them go.

"I am happily married. I have a good job. I have nice people to work for," she said. "After I go to Israel I'm going to Auschwitz. I want to close the past."

THE "MIRACLE" ALBUM OF AUSCHWITZ

(By Elisabeth Bumiller)

The faces of the Jewish girls who would die at Auschwitz are thick and sullen, framed by the peasant scarves of Eastern Europe, and then, beyond, an April sky made ashen by crematoriums that smoked 24 hours each day. This is a photograph of them straight off the cattle cars. Their eyes are ringed like those of raccoons, their bodies wrapped in lumpy coats that have, absurdly, the decorated fur collars and cuffs of another life.

One woman holds a crumpled scarf to her mouth. "She's crying because they took her child away from her," says one who was there. Near the crying woman is a young girl. In a burst of puckishness still intact from that other life, she sticks out a tongue at her Nazi picture-taker.

The one who was there: Lili Meier, 54, Miami Beach waitress, grandmother and owner of a rare photo album chronicling the horror inside Auschwitz. Her picture is in it, as are those of her brothers, parents and grandparents. Only she survived.

"I never look at it alone," she says. "Never." It is an album that chills even those who weren't there. And it is an album that is not easy to look at, even on a bright afternoon in her home.

Tomorrow, the collection of 192 pictures taken by a member of the German SS will be donated to the Yad Vashem museum in Jerusalem, a memorial to 6 million Jews who died in the Holocaust. Lili Meier will be there and so will Serge Klarsfeld, the Nazi-hunter who knocked on her door this summer. They talked through the screen. She had an album, he'd heard, and could he come in?

What he saw in her den made him pale. These are not pictures of nameless bodies, of open pits. These are faces—broad, rough faces from rural Hungary—that show human pain. These are faces of individual lives, haunting faces frozen on film: a small but enduring defense against the Nazis who captured them. They are both awful and wonderful souvenirs.

"Without that album," says Klarsfeld, "you wouldn't have a visual sense of the selection process of the separation of families, of the way to the gas chambers."

Says Susan Sontag, the cultural critic and author of a hook on photography: "In a certain way, these are more interesting than all the photographs made of what happened after the camps were closed. Any record of what these people did while living in the camp is extremely precious to us."

How Lili Meier found the album is one of those astonishing tales that emerge from the chaos of war. It was December 1944, and she was 17 and sick with typhus at a German camp hospital. The day was cold, and so she reached for a pajama jacket lying on a nightstand near her bed. Under it was a beautiful brown photo album. "Something just pulled me toward it right away," she said.

She clutched it to her thin chest as much for warmth as anything else. Then she slept. When she woke, she leafed through it and there, toward the end, she saw herself: a bald girl shorn of her long, dark hair standing with hundreds of other bald girls in front of a building at Auschwitz. She also saw her brothers and her parents, long since dead. She screamed.

"You must understand the miracle," says Klarsfeld. "One day, this man took his photographs and he photographed the woman who would one day find the album. It is very extraordinary. She understands that she had to give it to the museum. It's too important for a private person."

In this picture are two young boys, and even though the photograph is in black and white, you can tell that their cheeks are rosy. The one on the left stares straight at the lens. A pout. The one on the right is taller and stares off to the left, his right hand tugging at a button on his coat. He wears the cloth Star of David mandated by the Nazis, and behind him is the cattle car. The boys are too small to work, so soon they will die.

"These are two of my brothers," says Lili Meier, "Zrilu is 8½ and Selig is 10."

Lili Meier, who was Lili Jacob back then, had five brothers in all. They lived in Bilky, Czechoslovakia, a small border town in the Carpathian Mountains that had changed hands from Hungary. Now it is part of the Soviet Union. Surrounding it were potato fields and pines. The streets were cobblestone.

Lili Jacob's father was a horse trader who made enough money to keep his wife in crocheted curtains and a live-in maid. Lili went to high school in Bilky, took a train to see movies in the next town, and had a boyfriend her parents didn't like because his mother ran a rooming house. She was tall and dark and remembers taking long walks with him under fruit trees, another part of a pre-Nazi life she has come to paint as nothing but idyllic. Sometimes she would hear Hitler on the kitchen radio, but he was dismissed all around. "Everyone thought he was kind of a maniac," she says.

The maniac's troops marched into Czechoslovakia one day, and Bilky once again became part of Hungary. Then the rumors started. He was after the Jews.

The knock on her door came in April 1944. She and her family were ordered out, first to the yard of the town's synagogue, soon after to a ghetto in Berehobo, where they slept on the floor of a brick factory. Next there was a three-day train ride.

They got off at Auschwitz.

"Here's the train," says Lili Meier, pointing with a maroon fingernail to a picture numbered 35 in the album. "And here's the watchtower, and the smoke, constant, you know. Right away we started inhaling it from the crematoriums. Everybody got nauseous."

The train is long and black and beside it are huddles of people. Everyone looks hunched over, round and dull as old sacks in a row. Already the selection process is beginning. In one line are the women and children, in another the men. Soon they'll be subdivided into those who are strong enough for work and those who aren't. The sky, but for the gray smoke, is a flat off-white.

"I was standing next to my mother as they were sorting us," says Lili Meier. "The German came over and put me in the working group. But he noticed that I ran away, back to my mother. He stuck me in my arm with his bayonet and he said, 'You're in a concentration camp and you'd better behave or you'll be shot on the spot.' Then my mother marched away, and my father, and my five brothers. I never saw them again."

Lili's job was to clean the toilet cans. They were put on a cart that she pulled, horse fashion, with three other girls to the fields. There they emptied them, sometimes two and three times a day. If the girls weren't fast enough, the German soldiers whipped them across their backs.

Her breakfast was a slice of bread and water. Dinner was barley soup and bread again. Sleep was escape. "At least while you slept," she says, "you couldn't think."

A woman, stooped and bent, walks away from the camera to what she was told were the showers. Her arms are spread like mother-duck wings around three small children. She seems to be hurrying them along, hurrying them toward cleanliness. Behind her is a tiny overcoat with two spindly legs, the left foot stepping just ahead of the right as it dutifully follows grandmother. Above the shoes are two little anklets. At least you can't see the faces.

Lili Jacob was at Auschwitz six months, tatooed in blue ink on her forearm as number A10862. Serge Klarsfeld thinks that the man who took the pictures of her and the others was Ernst Hoffman, a teacher and deputy to the chief of the camp's identification service. "All of the photographs from that album were taken in one day or so—maybe two," says Klarsfeld. Many of them are identical, as if the photographer took two to make sure the event was properly recorded.

The album itself is titled *"Um Siedlung der Juden aus Ungarn,"* or, "The Downfall of the Jews from Hungary." The pictures are in neat chronology from arrival to crematorium, and appear to be presented as a proud testament to the efficiency of the Germans. But somehow, in seeing the agony of the faces, there comes a suggestion of sympathy from the photographer.

"No," says Lili Meier. She will not even discuss it.

"He can't wipe that expression off people's faces," says Sontag. "He could be looking at it in a sadistic way and reveling in their pain."

Lili Meier's pain has never really ended. She was liberated, still sick with typhus, by American troops in December 1944. By this time she had been moved to another camp hospital near Nordhausen, Germany. One day the prisoners heard English in the streets and realized they were free. To prove it to themselves, they rushed over to the German barracks. Lili, who passed out, was carried out by friends and placed on a bed inside the barracks. She found the album there.

Afterward, she went back to Bilky, where she waited. "Every day I would go to the train to see if somebody came back from my family—but nobody came back," she says. She soon married another camp survivor, then immigrated to America in 1948. She paid for her passport by selling some copies of the pictures to a museum in Prague. These have been reproduced in books on the Holocaust.

She and her husband, a butcher, settled near what is now Little Havana in Miami. The warm air was always softly protective, and the winter skies just plain brilliant Hibiscus bloomed red, and sometimes, on trellises and backyard porches, you could smell night jasmine. There was no gray in this world, no sights or smells to tug at her past. "I just love it here," she says.

In 1977 her husband died, and she has since remarried. She was, and still is, a waitress at The Famous in South Miami Beach, a kosher restaurant with seltzer and chocolate syrup on tables that are crowded and noisy on Friday nights. The place is loaded with yiddishkeit and waitresses who announce, "I've got one piece of chocolate cake left, you want it or not?" If you don't, they bring it anyway. Lili Meier has worked there for 26 years.

She kept her album in a closet or under a mattress. Looking at it always terrified her; yet, there was her mother, her brothers, her own bald head. They were pictures she loved as much as hated.

Regularly, she woke up screaming. It's better now, "I couldn't have spoken to you the way I've spoken now, with the years," she says. "I did see professional help, I'm not embarrassed about it. I always asked him 'How long am I going to cry?'"

Always there was the tattoo. Then in 1958, she was picked "Queen for a Day" on the old television show. Her requested prize was a plastic surgeon to remove A10862 from her forearm. No general anesthetic. "I said," she says, "'Look, doctor, I was wide awake when they tattooed it. I want to be wide awake to see that it's out.'"

She lives in a small house in Southwest 14th Street with her second husband, surrounded by plastic knickknacks, pictures of her grandchildren, and a life that is contentedly middleclass. Her two daughters are grown, and have come to see the album on their own terms. One wants to inherit copies of the pictures; the other refuses to even look at them.

There is still the loose end of Auschwitz. Part of the trip to Jerusalem—her first—will include a stop at the remains of the camp. "I want to see for myself that my parents are not there, that my parents are really dead," she says. "That's the only way I can rid myself of that memory."

The photographs are soon to be published in a book. She is pleased, and she announces this fact with pride. She wears white polyester pants, a purple velour top, endless gold jewelry and a bouffant hairdo. She drinks a glass of liquid protein as she tiptoes through the album. Finally, she comes to the last picture.

It is a close-up of the ovens. Three of them. The doors of two have been opened, perhaps by a guard under instructions from the photographer who wanted a precise documentary. They are empty and, except for the ashes and the few leftover bones, could just be old-fashioned ovens for baking bread. They are horrible.

Lili Meier puts her hands to her neck, then her face. This is impossible for her to see. She bounds from the den to the kitchen. "You're sure I can't offer you some lunch?" she says. She busies herself with coffee, grapefruit juice, cheese and soda creckers.

Later, back in the den, she can talk. "I have lived with this for so many years," she says. "It's been weighing so heavily on my heart. Now I want the album to be shown to the world. I don't want it hidden anymore."

(Mr. Baucus assumed the chair.)

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until 10:30 a.m. tomorrow.

The motion was agreed to; and, at 9:04 p.m., the Senate recessed until Wednesday, August 27, 1980, at 10:30 a.m.

NOMINATIONS

Executive nomination received by the Senate August 26, 1980:

INTERNATIONAL ATOMIC ENERGY AGENCY CONFERENCE

The following-named persons to be the Representative and Alternate Representatives of the United States of American to the 24th session of the General Conference of the International Atomic Energy Agency:

Representative:

John C. Sawhill, of the District of Columbia.

Alternate Representatives:

Gerard C. Smith, of the District of Columbia.

Roger Kirk, of the District of Columbia.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Anne Thorsen Truax, of Minnesota, to be a Member of the National Advisory Council on Women's Educational Programs for a term expiring May 8, 1982, vice Jon W. Fuller, term expired.

THE JUDICIARY

S. Gerald Arnold, of North Carolina, to be U.S. district judge for the eastern district of North Carolina, vice a new position created by Public Law 95-486, approved October 20, 1978.

WITHDRAWAL

Executive nomination withdrawn from the Senate August 26, 1980:

Charles B. Winberry, Jr., of North Carolina, to be U.S. district judge for the eastern district of North Carolina, vice a new position created by Public Law 95-486, approved October 20, 1978, which was sent to the Senate on March 29, 1979.

EXTENSIONS OF REMARKS

THE QUESTION OF ISRAELI USE OF U.S. WEAPONRY IN LEBANON

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. HAMILTON. Mr. Speaker, I want to share with my colleagues some correspondence I have had with the Department of State regarding reports that Israel may have used U.S.-supplied weapons within Lebanon in March of this year in possible violation of the law.

This inquiry to the Department of State was prompted by a March 16, 1980, Washington Post story which cited reports of a persistent deployment inside Lebanon by Israel of sophisticated American weaponry—tanks, artillery, and helicopter gunships.

The first response from the Department of State arrived June 30, 1980, and was classified. I requested an unclassified response which reached me July 31.

Fighting between Israeli and PLO forces has occurred recently and some Israeli forces entered Lebanon. I would note that the Department of State stated in the last paragraph of its letter that Congress will be notified promptly if facts develop which lead the Department to an assessment that a substantial violation of a relevant United States-Israeli bilateral agreement may have occurred.

The Washington Post article, my March letter and the unclassified July 31 response are included here for the information of my colleagues:

[From the Washington Post, Mar. 16, 1980]

ISRAELI ARMS DEPLOYMENT SAID TO VIOLATE U.S. LAW

(By Edward Cody)

BEIRUT, Mar. 15—Despite secret diplomatic protests by Washington, Israel has persisted in deploying advanced U.S.-supplied weaponry against Palestinian guerrillas within Lebanon in possible violation of American law, according to knowledgeable sources.

The U.S. arms, which under terms of their transfer to Israel are to be limited to defensive use, have been spotted a half-dozen times by international observers inside Lebanese territory in recent months despite a controversy generated last August by similar deployments, the Arab and Western sources said.

U.S. protests in the past have been followed by Israeli withdrawal of the disputed weapons, which have included heavy artillery, late-model tanks and sophisticated helicopter gunships, the sources said. But the weapons have turned up again on Lebanese soil some time later, they added.

The Carter administration has kept its protests private to avoid further friction with Israel, observers here said.

The deployments also are seen as a secondary problem compared to the dispute over Israel's settlements policy and the negotiations among Egypt, Israel and the United States over autonomy for Palestinians in Gaza and the West Bank.

[In Washington, the State Department refused to comment on its diplomatic consultations with Israel, but said that "Israel is well aware of our position" on the arms issue.]

Secretary of State Cyrus Vance said in a letter addressed during the August controversy to Rep. Clement Zablocki (D-Wis), chairman of the House Foreign Affairs Committee, that Israel had been told its use in Lebanon of some U.S. supplied arms may violate U.S. law and the conditions of their transfer.

"Further action on our part will depend on the course of events and our assessment of them," Vance added in the letter, a response to congressmen asking whether U.S. arms control laws had been violated by Israel.

Since then, and as the U.S.-made weapons were again spotted on Lebanese soil, U.S. Ambassador Samuel Lewis in Israel has been instructed a number of times to convey the Carter administration's displeasure in private protests to the government of Prime Minister Menachem Begin, the sources said.

According to Arab analysts here, the weapons have been deployed in Lebanon with increasing frequency in the last few weeks in response to a growing number of Palestinian commando raids on villages in the Israeli-sponsored "Free Lebanon" border enclave run by Christian militia leader Saad Haddad.

Israeli forces handed over the secessionist border strip, about 60 miles long and five miles deep, as they withdrew under international pressure following their invasion of the border area in the spring of 1978. With Haddad in control instead of U.N. forces, the area has become an Israeli-protected buffer separating northern Israel from the bulk of Palestinian guerrillas encamped in the southern Lebanon and headquartered in the town of Nabatiyeh.

Fighting has settled into a sporadic confrontation of limited artillery exchanges and village raids, with an occasional period of several days during which the shelling intensifies. It is during these periods of increased fighting that Haddad's Israeli sponsors bring in the heavy U.S.-made artillery such as 175mm howitzers and self-propelled cannons, Arab sources said.

During the intense shelling of last August, the Israeli 175mm howitzers were used with deadly effect against southern Lebanese villages that Haddad and his Israeli allies said were harboring Palestinian commandos. As a result, a large portion of the south's civilian population fled north to Sidon and Beirut. Since then, most have returned, with occasional temporary flights north during heavy exchanges.

The shelling has drawn little attention in recent months because its intensity is far below that of last August. There are, however, regular exchanges between Palestinian artillery near Nabatiyeh and Haddad's Israeli-supplied howitzers and Sherman tanks in "Free Lebanon" or Israel's own artillery deployed across the border.

In addition, Israeli patrols use U.S.-made helicopter gunships to raid Lebanese villages said to cooperate with the Palestinian guerrillas and to deploy their own U.S.-supplied tanks within the Haddad enclave, the sources said.

Israel made no public commitment to keep its U.S. weapons south of the Lebanon border after the August complaints. But the United States has applied public and private pressure to reduce Israeli shelling and aid to Haddad and to force compliance with the restrictions attached to U.S. arms.

MARCH 18, 1980.

Hon. CYRUS R. VANCE,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: The March 16, 1980, Washington Post carried a story from Beirut, Lebanon, indicating that Israel is persisting in deploying advance U.S.-supplied weaponry within Lebanon in possible violation of American law and that these weapons are being used against Palestinian guerrillas located in Lebanon.

I would want to know the following: (a) is any U.S.-supplied equipment now deployed in Lebanon and, if it is, what equipment is so deployed; (b) is this equipment in Israeli hands or has it been provided to the forces of Col. Haddad; (c) what understandings does the United States have with Israel about such deployments of U.S.-supplied equipment and are these understandings written or oral and from when do they date; (d) what is the United States doing to stop any such potential use of U.S.-supplied equipment; (e) do you consider it a violation of American law for any U.S.-supplied equipment to be provided by the Israelis to Col. Haddad forces or for that equipment to be deployed in Lebanon; (f) does the United States believe that a violation of American agreement may have occurred; (g) if a violation may have occurred, why was Congress not renotified?

I appreciate your consideration of these questions and look forward to an early reply.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

DEPARTMENT OF STATE,
Washington, D.C., July 31, 1980.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: I am writing in regard to your letter of July 21 in which you requested an unclassified response to questions concerning Israeli deployments of United States-origin military equipment within Lebanon.

From time to time, we have developed confirmed information that Israel has deployed small quantities of United States-origin military equipment in Lebanon. These deployments have generally involved very small amounts of equipment (three or four pieces), and have been limited in duration.

On receipt of such information, we have reminded Israel of its obligations concerning the use of FMS-origin defense articles and services. The Government of Israel has categorically assured us that there are currently no major items of United States-origin military equipment remaining in Lebanon from previous Israeli deployments there. We understand this response to mean that Israel has no items of U.S. supplied and controlled equipment in Lebanon which can be accounted for.

To the best of our knowledge there are currently no major items of U.S. supplied and controlled equipment deployed in Lebanon. Furthermore, we have no information that any United States-origin military equipment subject to U.S. controls has been provided to the Lebanese Christian forces by Israel since the February, 1978 instances, of which you are aware.

The use and transfer by Israel of defense articles and defense services acquired under the Foreign Military Sales program are governed by the terms of the standard form FMS sales contract (DD form 1513 Letter of Offer and Acceptance), which contract fulfills the requirements of the Arms Export Control Act. Insofar as the use by Israel of FMS-origin defense articles and services is concerned, the contract incorporates by reference the pertinent provisions of the Mutual Defense Assistance Agreement of July 23, 1952, between the United States and Israel, to the effect that the Government of Israel assures the United States Government that such equipment, materials, or services . . . are required for and will be used solely to maintain its internal security, its legitimate self-defense, or to permit it to participate in the defense of the area of which it is a part, or in United Nations collective security arrangements and measures, and that it will not undertake any act of aggression against any other state.

With respect to transfer, the terms of sale provide that Israel may not, without the prior consent of the United States, transfer ownership or possession of FMS-origin defense articles to anyone not an officer, employee, or agent of the Government of Israel. There are no agreements or understandings with the Government of Israel that are inconsistent with the foregoing limitations. We are satisfied that the Israelis fully understand the terms and conditions governing the use and transfer to third parties of FMS-origin defense articles and services.

Depending upon the specific circumstances, deployment in Lebanon of U.S.-supplied equipment subject to U.S. controls could be a violation of the terms of sale, as would any transfer to Major Haddad's forces.

From our assessment of the available facts, we do not believe there are grounds for a finding that a substantial violation of any relevant bilateral agreement may have occurred since our last notification. Should facts develop that would require a different conclusion, we will of course promptly take all necessary steps, including reports to the Congress in accordance with the law.

Sincerely,

J. Brian Atwood,
Assistant Secretary
for Congressional Relations.●

IN SUPPORT OF TAX REDUCTIONS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. RITTER. Mr. Speaker, the arguments for providing tax cuts to the American people in 1981 get stronger every day. More and more leading economists are expressing their support for some tax relief and the need for such relief in the very near future. Paul McCracken's article in the Wall Street Journal of August 18 is such a case in point. I urge all my colleagues, whether they support tax reductions or not, to review Mr. McCracken's astute points on the need for tax cuts as well as a shorter leash on Government spending.

The article follows:

The Road to Budget Balance

What would constitute responsible budget policy in 1980?

The case for bringing the federal budget into balance is strong, and this clearly ought to be the serious objective of budget management. There are two basic reasons. The requirement that the budget should be balanced does impose a strong discipline or constraint on the forces producing an increase in the share of economic resources allocated to the public sector. The balanced-budget rule in effect says to those in government: "If you increase spending (which governments are very much inclined to do), you must increase taxes (which governments are inclined not to want to do)."

The balanced-budget rule, in short, imposes on government a crude cost-benefit calculus. That over the years it was more than just rhetoric is indicated by the fact that from 1789 to 1929, excluding wars, black-ink years outnumbered red-ink years for the federal budget by close to three to one. And it is also clear enough from history that the economy then was delivering a better performance than has been true for several years of creating job opportunities, increasing real incomes, and avoiding major uncertainties about the future purchasing power of money.

GOOD OLD DAYS

From 1900 to 1929, for example, the unemployment rate averaged 4.7 percent, the consumer price index rose at the average rate of 2.5 percent per year (or 1.1 percent, if the World War I inflation is excluded), and productivity improved 2 percent per year (and with some tendency for the rate of increase to be accelerating). The candidate who could credibly put forward a program assuring that in the 1980s the unemployment rate would average 4.7 percent, the rate of inflation (assuming no war) would be 1.1 percent per year, the real incomes would rise 2 percent per year would deserve and probably get the job in November.

Now no one would suggest that the only difference between the 1970s and 1980s and the first three decades of this century is budget policy. Hopefully no one would go so far, however, as to suggest that differences in budget policy during these two periods are irrelevant in explaining their different records of economic performance. During the 30 years 1900 through 1929, there were 19 surplus years and 11 years of deficits, but three of the 11 deficit years were World War I. Thus, during those three decades surplus years outnumbered deficit years two to one. By contrast during the 30 years 1950 through 1979, there were only five surplus years, 25 with deficits, and no surplus year at all after 1969.

The stronger budget during the earlier 30-year period made two important contributions to that era's good economic performance. There was no pressure from large budgetary deficits crowding Washington in the direction of "printing new money" to cover the gap between revenues and outlays. And the tendency toward Treasury surpluses augmented the flow of savings, thereby enabling the orderly financing of vigorous rates of capital formation.

This does not mean that the spasm of effort, or at least rhetoric, earlier this year about a balanced budget for fiscal 1981 was good policy. For one thing it squandered some more of a commodity in uncomfortably scarce supply—namely, the credibility of government. At the time those at both ends of Pennsylvania Avenue were hoping to get points from the folks back home for fiscal rectitude, the folks back home saw the posturing for what it was—more rhetoric than substance.

The basic problem with the spasm of effort earlier this year to stitch together something that would look like a balanced budget was that it reflected no carefully devised strategy to bring outlays and revenues into balance with each other. This saga cannot begin with the phrase, "In the beginning . . ." The effort must take account of the fact that for close to half a century there has been inadequate fiscal discipline in the budgetary process. Unless there is a carefully developed strategy, efforts to achieve a balance in the budget will continue to be spasmodic, ad hoc, and in the end ineffectual, as 1980 demonstrated.

What might the elements of a strategy to achieve a stronger budget be?

The first requirement is to face frankly the fact that the share of any increased earnings diverted to government through higher taxes is now so high as virtually to assure a leaden, arthritic, creaking economy. Revised estimates from the "Mid-Session Review of the 1981 Budget" make this point dramatically clear. Federal revenues are now projected to rise from $518 billion in this fiscal year to $604 billion in fiscal 1981, a rise of $86 billion. During that same period state and local government revenues will probably rise almost $30 billion, for an increase in the total tax take of roughly $115 billion. Yet the administration's own economic projections indicate an increase in the total national income (which is more relevant than GNP) of something like $210 billion.

The nation's fiscal plan, in short, calls for the increase in taxes to absorb about 55 cents out of each projected additional dollar to be earned. And we profess bewilderment about the inability of the economy to perform well!

A particularly serious shortfall in the economy is, of course, capital formation. So serious is this shortfall that the net stock of capital per person at work, in real terms, has actually been declining instead of growing at its historical rate of 2.5 percent per year. This means impeded productivity and the slower introduction of new technology into the production process.

Why has this occurred? the most obvious reason is that corporate retained earnings in real terms last year were 10 percent lower than in 1969—this in an economy whose numbers at work have increased 24 percent. The major casualties of this under-investment are workers whose jobs are in jeopardy because they work in obsolete plants—and people generally who have been denied much hope of rising real incomes.

The first step for fiscal policy if we are to encourage economic progress, instead of economic arthritis and ultimately reach balance in the budget, is direct action on taxes so that a dollar is worth earning and saving and investing. Without such action, the probability of urgently needed economic revitalization is low, and without that economic revitalization the probability that the budget will ever be balanced is close to zero. The strategy of holding off on any tax action until the budget is balanced is simply leading us down the road to yet higher levels of public spending and budgets chronically in the red.

The second step in this strategy for achieving a stronger economy and stronger budget must be direct limitations on federal outlays. A mandate that the budget must be balanced, even if the result could be delivered, would in fact lead us to an overly large public sector and taxes so high as to have strong disincentive effects. The spending side of the budget must be attached directly to a shorter leash. The Congress should declare the ratio of federal outlays to GNP that represents public policy—with perhaps a two-thirds vote of both houses of Congress required to break this limit (and perhaps with the further provision that any federal disbursements beyond that limit would become, on a pro rata basis, the personal obligations of members of Congress).

CAMOUFLAGED TREND

The relentless pressures of interest groups feeding at the federal budget trough have resulted in a more rapidly rising proportion of our output and income being diverted to government than has been realized—a process camouflaged by the rapidly, and quite clearly dangerously, declining proportion of our economic resources devoted to national security. Direct payments to individuals are projected to rise 17 percent to 18 percent this year and again in fiscal 1981, though the capacity of the economy to enlarge real income and output is not over 3 percent. Outlays for federal pensions in the original budget message were projected to increase 12.5 percent next year—a figure that, when the books are closed in 1981, will almost certainly be found to be too small. If federal outlays for civilian purposes had enlarged during the last decade only as rapidly as the nation's total income and output (about 10 percent per year), the federal government would be spending $140 billion less in 1980, and after-tax incomes of people generally would be higher and rising more rapidly in real terms.

For well over a decade our strategy has been to reach a better economy by a generalized resistance to spending in order to achieve a balanced budget, thereby winning the right to tax reduction. This predictably has left us with swollen federal outlays, deficits, and an enervated economy. The road to a stronger budget and stronger economy by immediately taking needed tax action and directly attaching a shorter leash on spending is at least worth trying.●

NEEDED: CREATIVE APPROACH TO HOUSING PROBLEM

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. ANDERSON of California. Mr. Speaker, one of the most serious problems facing our Nation today is the shortage of reasonably priced housing. This shortage is certainly apparent to anyone who has tried to either purchase or rent a place to live. And it is a problem that, as the elected Representatives of the people, we must try to solve.

Unfortunately, the traditional approach to solving problems such as this have all too often centered on simply throwing money at them. The thinking has been, "throw enough money at the problem and it will go away." Well, that has been tried, and all that seems to have gone away is available housing. In Los Angeles, I am told, the vacancy rate is less than 1 percent.

Clearly, something needs to be done. A recent editorial in the Torrance Daily Breeze has fairly stated the problem—which is easy enough to do—and then gone on to suggest creative approaches aimed at its solution.

I believe we should all take heed.

[From the Daily Breeze, Aug. 21, 1980]

FIND BETTER WAYS

It is time to find better ways to house the nation's poor—a job the government apparently cannot do, despite the $3 billion a year the Department of Housing and Urban Development is spending on its subsidized housing program.

It is unfortunate, but not surprising, that the Section 8 housing subsidies, intended by Congress to help 40 million Americans who cannot afford adequate housing, have been found by the General Accounting Office to be wasteful and ineffective.

Housing is simply following the pattern of other well-intentioned federal programs in demonstrating that massive infusions of tax money will not cure the social ills they are intended to meet.

HUD has already signed contracts obligating $128 billion in future rent subsidy payments, but Section 8 programs are helping only 1.4 million of the 14.8 million families living in substandard or overcrowded dwellings.

This is tokenism, supported by a vast expenditure of tax money.

Predictably, the rent subsidy program suffers the same problems that commonly afflict federal giveaways.

In the first place, the GAO found, nobody tries to hold costs down. Rather, local administrators are under pressure to enroll as many reluctant landlords as possible and they do this by offering to pay inflated rents.

At the same time, little effort is made to check the eligibility of applicants and benefits are often wasted on the undeserving.

Worse, some obviously luxury apartment units were found by GAO where the government was paying rent subsidies as high as $7,000 a year.

To supplement a scaled-down rent subsidy program, other strategies should be tried. And experience makes it clear that these ought to be aimed at keeping direct government involvement at a minimum.

The nation's stock of low-cost dwellings can undoubtedly be increased simply by encouraging the construction of new housing. As new units are put on the market, less desirable ones are vacated to be filled at lower rents.

But, as has often been observed, complex permit systems, environmental requirements and a host of state and local land-use regulations, together with high interest rates, have practically mandated a housing shortage.

Governments at federal, state and local levels can take some positive steps, however, to reverse these pressures that create a tight housing market. The layers of approval now required for new construction can be reduced, density bonuses can be offered as an inducement to build low-rent units.

Surplus government land can be released for low-income apartment construction. Mortgage-backed bonds can be issued to underwrite low-interest mortgages.

All would help to relieve at lowered costs the tight housing market that works it's greatest hardships on low income families.●

GOVERNMENT HARD TO UNDERSTAND

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. MICHEL. Mr. Speaker, this Congress for many years has been guilty of solving problems with problems. We have sought to eliminate deficiencies in Government programs by enacting new programs with deficiencies of their own. We have sought to make up for the shortcomings of Federal agencies by creating new agencies which have shortcomings all their own.

What better example than the Energy Research and Development Agency, which the Congress created only to find that it was not up to the job of solving our energy problems? How did Congress react? Congress created the Department of Energy, and soon, no doubt, someone in this House will be on the floor with legislation to create a Federal agency to oversee the Department of Energy.

A newspaper in my district recently focused on this bureaucratic ferris wheel in the health field, where the Federal Government for so long promoted with mad abandon the construction of more facilities and more hospital beds. We are now in the process of attempting to reverse that misguided trend with another Government-sponsored program to slow growth and eliminate beds.

The newspaper's editorial comment points up the futility of the Government practice of surgery before diagnosis in its actions and its reactions to public need.

At this point I insert in the RECORD the editorial, "Government Can Be Hard To Understand," by Norma Cunningham, from the August 19, 1980, edition of the Register-Mail, Galesburg, Ill.

GOVERNMENT CAN BE HARD TO UNDERSTAND

Seldom have the vagaries of government been more adequately pinpointed than they were during a meeting of an area health planning agency last week.

One board member lamented the current attitude of government on a cutback in hospital beds by saying that the federal government for a number of years handed out generous grants to hospitals for construction and expansion but that same government is now ordering hospitals to "shape up."

For a number of years in the late 1960s and early 1970s, hospitals across the nation were eligible to apply for federal funds under the Hill-Burton Act. Hospitals which qualified and there were many of them in this area, received federal assistance for construction of new buildings or remodeling and addition to existing ones.

Quite naturally, there was a spurt in building activity among hospitals which saw an opportunity to replace aging structures or to expand and modernize them. That was seen then as a benefit to the patient and a step toward upgrading health care.

Within the last few years, Congress approved a measure calling for the establishment of health systems agencies to study and plan for health care needs and to avoid the duplication of services that result in increased costs to patients.

As part of the overall plan, federal guidelines have been drawn to reduce over-bedding and to eliminate specialized hospital services that do not meet standards of utilization. One of the guidelines has set a limit of four hospital beds for each 1,000 residents in an area, and if that guideline is put into effect without modification, it is going to mean that some hospital beds within the region served by the regional health systems agency will be taken out of service. Exactly how that will be done or what hospitals will be involved has not yet been decided, but there is little doubt that the rule will have some effect on this area.

It is also conceivable that strict application of the guidelines for specialized services like obstetrics, pediatrics and intensive care may reduce beds available for those services or even remove a service from a hospital if the occupancy rate does not meet standards.

When you consider the amount of taxpayer money that went into the construction or remodeling that made those beds available, it is hard to track the logic of those who first give and then take away, seemingly with little thought or planning. A private business that built a four-story building five years ago, only to discover now that it really only needed four rooms would be in real trouble with its stockholders.

And that is exactly why government is in trouble with its stockholders who are called upon every year to contribute to it. The taxpayer is learning that the government practice of surgery before diagnosis is turning out far too many botched cases.

The hospital-health care field serves as a perfect illustration of good intentions gone awry, but it is only one phase of government spending with little planning or long-range objectives. The same hospitals which were encouraged to build and expand are now being told that they may have overdone it.

There's no doubt that mounting health care costs are a concern. Health care is often not optional, but the bills which can result from a hospital stay can be devastating to a family's budget. For that reason, it is justifiable that there should be a concern in government for costs.

But taxpayers would give greater weight to government programs—and the expense of them—if there was more coordinated planning and less contradiction.

That's little enough to ask—and it's time that bureaucrats and elected officials began to listen.●

CLIFFORD EVANS HONORED

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. RODINO. Mr. Speaker, I would like the House to join me in recognizing one of the most respected members of the Washington press corps, Mr. Clifford Evans.

As vice president of RKO General Broadcasting's Washington News Bureau, Cliff covers an expansive range of stories concerning the events that affect the lives of all Americans. His reporting has been widely respected here in Washington and across the country. It has been my privilege to be Cliff's friend for many years, and my high regard for his professional standards is shared, I know, by many Members of this House.

This is why it is especially pleasing to note that this year Cliff was installed as vice president of the White House Correspondents. In addition to that honor, Cliff has received the prestigious Barnet Nover Memorial Award for Excellence in Broadcast Journalism. This is the first time that a broadcast journalist was so honored. He received the award for his reports from Jerusalem earlier this year on positive changes in the stalled Mideast peace talks.

Clifford Evans richly deserves this recognition. Cliff is persistent and thoughtful in getting to the heart of the matter he is reporting. He is fair but tough, and his professional talents have earned him awards from the United Nations Association, Variety magazine, the Newspaper Guild, and the Lasker Award among many others.

Mr. Speaker, the special honors bestowed upon Cliff this year are worthy of our notice and congratulations to RKO General's ace correspondent.●

SPEECH BY IKE SKELTON AT THE MFA CONVENTION IN COLUMBIA, MO.

HON. CHARLES WHITLEY

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. WHITLEY. Mr. Speaker, on August 11 during the recent congressional recess, my good friend and colleague, IKE SKELTON, a capable and effective member of the House Committee on Agriculture, addressed the MFA convention in Columbia, Mo. In it, he did an excellent job of summing up the current situation facing American agriculture and the prospects for the foreseeable future. I hereby submit it for inclusion in the RECORD for the benefit of my colleagues:

SPEECH BY CONGRESSMAN IKE SKELTON AT THE MFA CONVENTION IN COLUMBIA, MO.

As I speak to you today, these are not good times for Missouri agriculture. You know the problems better than I:

The increasing cost of producing farm commodities, led by the rapid escalation in fuel and fertilizer costs;

Low prices for almost all farm commodities, a problem which worsened in the wake of the suspension of grain sales to the Soviet Union;

Record high interest rates, which peaked just as many farmers were preparing to borrow money for the spring planting season; and,

Drought—perhaps the worst in our history, certainly the worst since the years of 1936 and 1954.

These are not new problems for those in farming. They have been with us before. But their effects seem to be as devastating as never before. The question we must ask is this: What can we, the farmer and his representatives in Congress, do together to assure strength in the agricultural economy, and to assure the survival of our system of highly efficient, owner-operated family farms?

FARM BILL—1981

As many of you know, the basic farm legislation comes up for renewal in 1981. Congress must give this legislation a thorough review. I am sure that the situation in agriculture today will lead many to advocate a massive revision in our farm laws. This must be rejected. In my view, the basic law is sound. It contains the tools which, if used properly, can protect farm income. This must be the task of Congress next year. We must make such changes as are necessary to insure that the flexibility granted to the executive branch by the farm law is utilized properly. Loan rates and target prices, for example, must be brought into line with present economic realities. In addition, we must review other laws which impact on the farm, such as Federal estate tax laws, to determine if amendments are necessary in these areas. But we should reject the "meat ax" approach in favor of the "scapel". The current crisis situation should not serve as an excuse for increased government involvement in agricultural decision-making, or for a radical departure from our traditional market-oriented agriculture.

GRAIN EMBARGO

The current embargo on grain shipments to the Soviet Union has been badly mishandled. Quite frankly, it has been most disappointing to me. It is clear that adequate steps have not been taken to fully protect farm incomes. Legislation which would establish the loan rate at the average market price for the 15 days prior to the announcement of an embargo is currently pending before the House. I introduced a version of this legislation. If it is not enacted this year, it should be a high priority item next year for inclusion in the basic farm law. Let me add this: during the entire embargo episode, I never heard an unpatriotic remark from a Missouri farmer.

As you know, I am a strong supporter of an aggressive agricultural export policy, my record is quite clear in this regard. However, I have noted that some have called for legislation to establish an all-out ban on grain embargoes. In light of this, we should look at the world in which we live—an increasingly dangerous world. Frankly, at the present time, our military strength is not what it should be. In the current world situation, we cannot have laws that might require us to trade with an enemy of this country during military conflict, or one who participates in aggression and terrorism which is contrary to our national security. In such situations, when there is no recourse, efforts should be made to insure that farmers alone do not bear the burden of such action. That is why I introduced legislation earlier this year for economic protection for the farmers against grain embargoes.

FARM EXPORTS

Embargoes aside, farm exports must continue to be a priority for Congress. We must carefully assess the value of the eleven trade offices established under the authority of the Agricultural Trade Act of 1978. Should their value be confirmed, we should move quickly to expand their number to the full authorization of twenty-five, concentrating on areas where there is a potential for increased sales of our farm goods. In addition, we need to improve the credit terms which our nation offers to our customers. Rigid credit terms have caused us to lose sales and miss new market opportunities. We need to make changes which would allow the financing needs of our potential customers to be accommodated on a flexible, case-by-case basis. Legislation which I introduced to put the commodity credit corporation export financing mechanism on a revolving fund basis is one such approach.

GASOHOL

Alcohol fuels made from domestically-produced, renewable resources offer a near-term alternative to lessen our dangerous dependence on imported oil, and can provide an additional market for surplus grain and agricultural wastes. Legislation to provide financial assistance to stimulate the production of alcohol fuels is now in place. We must move ahead rapidly on this program. We must dismiss the arguments of those nay-sayers who fret that the production of alcohol fuels might add to the cost of food. I doubt that this would be true, however, we must continue our all out efforts to make sure that our economic security is not beholden to the whims of the OPEC oil ministers.

RESTRICTIONS ON AGRICULTURE

Unfortunately, we will not be able to devote our full efforts to positive attempts to improve farm income. We must also be on the defensive against those, both in and out of government, who would place unwarranted and unreasonable restrictions on agriculture. We can expect, once again, to see assaults on the use of nitrates in meat, antibiotics in animal feed, and certain valuable pesticides. These assaults must be repulsed. I also expect controversy to continue over USDA's pamphlet on dietary guidelines. Two weeks ago, I attempted to amend the agriculture appropriations bill to cut off funding for these pamphlets. Although the amendment failed on a technicality, I will continue my efforts to see that these ill-founded and ill-advised dietary guidelines do not become the basis for far-reaching government intrusion into what kind of food farmers can produce and consumers can eat.

ROLE OF USDA

The issuance of the dietary guidelines is the manifestation of a more serious question concerning the proper role of the Department of Agriculture. Today, it is more essential than ever that USDA direct its primary attention to those basic programs of agriculture which directly affect farmers and farm production. Its basic purpose must remain what it was at its creation in 1862—to strengthen agriculture. USDA must speak for—and be a representative of—the American farmer within the government.

CONSERVATION AND RESEARCH

Although our emphasis should properly be on immediate solutions to the current crisis in farming, it would be foolish to overlook the long term. American agriculture is the foundation of our economic well-being. Agricultural productivity has allowed us to have the world's highest standard of living. Therefore, we must make every effort to preserve and protect our land and water resources. Shortsighted attempts to reduce funding for soil and water conservation programs, and for agricultural research must be rejected.

IMPORTANCE OF FARMER COOPERATIVES

We must also vigorously oppose any attempt to weaken our family farm system through amendments to the Capper-Volstead Act. Farmer cooperatives are a vital part of our economic system. They have helped our family farmers feed our Nation and much of the world, and they have served to check inflation. The effectiveness of farmer cooperatives should be increased, not reduced.

INFLATION

One area agriculture must become involved in is too often overlooked. Profit is a function of both the price received for a product and the cost of producing it. In recent years, the cost of producing farm commodities has skyrocketed. The cost of fuel used on farms rose 46 percent in 1979. A further large increase is a certainty for 1980. Farmers thus have a large stake in the fight against inflation. They must join the fight to curb excessive government spending, and to bring about energy independence.

FARMERS AND CONSUMERS

You as farmers and I, as a Member of the House of Representatives, from a State with a great agricultural tradition, have a job to do. We must let the American people know what a great buy their food really is. We must educate them on how much the productivity of the American farmer contributes to their standard of living.

Some comparative statistics with the Soviet Union are illuminating:

About 23 percent of the entire Soviet workforce is employed in agriculture, eight times that in the U.S.

The farm sector receives about one-fourth of all Soviet investment capital, five times more than that spent in the U.S.

Yet, the actual farm output of the Soviet Union is still only 80 percent of ours.

Here's the most striking statistic for those who might think the owner-operated family farm is outmoded—the 2-3 percent of the Soviet Union's farm land that is privately owned produces about 25 percent of all Soviet agricultural output.

Our agricultural system has allowed the American consumer to spend only about 16 percent of his income on food. The comparable figure for the Soviet Union is 45 percent. Even the other western democracies don't stack up—Germany is 27 percent, France is 24 percent, and the United Kingdom is 31 percent.

Despite inflation, today's family buys considerably more food than it did 25 years ago. Clearly, the cost of food to the American consumer is not high compared to the cost of producing it, compared to the cost of food in other countries, and compared to the cost of other things in America.

I am reminded of a story told by the late Congressman Jerry Litton, a great friend of Missouri agriculture. During consideration of farm legislation on the House floor, Congressman Litton looked at the gallery where various banners were being displayed. One read, "Milk is for children, not for profit". Jerry Litton's thoughts on seeing that banner are as meaningful today as they were then: "There'll be food available for Americans as long as there is profit in it for those who produce it."

This is the message we must take to the American consumer. We must overcome the kind of thinking represented by that banner. We must engage consumers in a dialogue, you with your customers and me with their representatives in Congress, and convince them that the survival of the family farm is a priority for all Americans.●

MCPL NUCLEAR ALERT XI: PRESIDENTIAL DIRECTIVE 59

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. HOLLENBECK. Mr. Speaker, the recently announced change in our strategic policy, codified in Presidential Directive 59, has provoked quite a bit of controversy in the media. Believing that a thorough understanding of the implications of this change will benefit all concerned Americans, Members of Congress for Peace Through Law has gathered together the best of the recent articles on this subject. The articles I am inserting today are among the more informed and thoughtful discussion of the change in our strategic posture, and I commend them to the attention of my colleagues, along with a copy of the letter forwarded to Mr. Carter by several Members of Congress.

[From the Bergen (N.J.) Record, Aug. 18, 1980]

MISGUIDED MISSILE

Presidential Directive No. 59 may sound like one of those innocent White House documents that's attached to a routing slip and circulated throughout the bureaucracy until it winds up in the wastebasket. In fact, this document is anything but innocent. It is a description of America's new strategy for conducting a nuclear war.

The strategy is simple and straightforward: Soviet cities and industries will no longer be the primary targets of America's nuclear weapons. From now on, our missiles and bombs will also be pointed at military targets, including the silos that house Soviet missiles and bombs. In other words, our long-standing threat of reducing Soviet cities and industries to rubble in the event of a nuclear attack against the United States will soon be replaced by the presumably more chilling threat of an all-out strike against military targets in the Soviet Union.

In Pentagon parlance, we are trading in our old strategic doctrine of "mutual assured destruction" (MAD, for short) for a new one of "flexible response." The old doctrine, with its apt acronym, held that as long as the United States had the military capacity to destroy every major Soviet city and industry even after we absorbed the first strike in a nuclear attack, Moscow would be deterred from launching such an attack in the first place. The new doctrine assumes no such thing; it is premised on the fanciful belief that the two superpowers could somehow fight a "limited" nuclear war in which one side would emerge victorious. Not too many military strategists believe this, of course; but they are convinced that the Russians believe it. And if the Russians believe it, they must be developing the capacity to fight a "limited" nuclear war. And if they're developing this capacity, we have to match them—warhead for warhead, bomber for bomber, first-strike capability for first-strike capability.

Who foisted this misguided missile plan on President Carter? Well, it certainly wasn't Secretary of State Muskie; he read about it in the newspapers. Nor can we blame the allies, who were as stunned as Mr. Muskie was when the president dropped his bombshell. Even Secretary of Defense Harold Brown and National Security Adviser Zbigniew Brzezinski can't be held totally culpable, although both have been pushing the "flexible response" doctrine for some time.

The distinct impression is that this sudden shift in our nation's nuclear strategy was fashioned not out of military necessity but political expediency. It has Ronald Reagan's mark all over it. It's almost as if Mr. Carter lifted an entire plank out of the Republican Party platform—the one directing our defense establishment to develop a "clear capability to destroy military targets"—and transformed it overnight into national policy. That the president did this on the eve of the Democratic Convention only heightens suspicion that the real target of his directive was the Republicans rather than the Russians.

It's an age-old practice for incumbents to play around with economic or social policies in order to blunt an opponent's criticism during a presidential campaign. But playing around with nuclear strategy is dangerous business, made all the more dangerous in this case by the frightening possibility that we might actually come to believe we could "win" a nuclear war, that we might someday come to view our most lethal atomic weapons as little more than common bullets in a "limited" nuclear exchange. If our old doctrine was mad, our new doctrine is sheer lunacy.

[From the Christian Science Monitor, Aug. 22, 1980]

STRATEGIC DELUSIONS

(By Charles W. Yost)

The "new" strategic doctrine recently adopted by the Carter administration (to the considerable annoyance of its secretary of state who was not consulted or informed) is of course not new at all but merely a resurrection of a policy proposed by a Republican secretary of defense, James Schlesinger, several years ago. What is new, and difficult to explain, is the formal adoption of so far-reaching and questionable a policy in the midst of an election campaign.

The essential feature of this "doctrine" is the curious contention that the "massive retaliation" provided by our strategic nuclear triad, the capability to destroy most Soviet cities and industrial establishments and to decimate its population, would not be sufficient to deter the Soviet Union from risking aggression against us but must be supplemented by a further capability to carry out attacks of pinpoint accuracy against Soviet missile sites and command centers. Among other reasons cited for this shift is that massive retaliation may be no longer "credible," and hence an effective deterrent, whereas the now projected threat to Soviet missiles and leaders is alleged to be more credible.

This is a transparent rationalization. If there is one fact about nuclear war between the United States and the Soviet Union which is crystal clear, it is that such a war could not be "limited" but would, within a few days at least, escalate into full-scale nuclear war. The Soviets are quite aware of this fact and indeed reiterated it in Pravda only a few days ago. The deterrent provided by our strategic triad—land-based missiles, submarine-based missiles, and bombers (soon to be fortified with cruise missiles)—is eminently "credible" to the Soviets. If all this will not deter them, the addition of a supplementary threat to their missiles—which of course would have to be launched first if it were to have much real effect—could hardly be expected to do so.

Indeed it is a projected Soviet "first-strike" capability against our land-based missiles by increasingly accurate Soviet SS-18s which we have been persistently protesting as threatening and "destabilizing." Does it not occur to us that a similar capability on our side would be, in Soviet eyes, even more destabilizing since more than two-thirds of the Soviets' strategic arsenal is concentrated in vulnerable land-based systems, as compared with only about one-third of ours?

The most serious threat of nuclear war is not in fact calculated aggression but a misperception on the part of one or both sides that the other is contemplating and preparing for a first strike. It is precisely such a misperception to which our new doctrine significantly contributes.

The real reasons for proclaiming this doctrine are not that the old one had ceased to be credible as a deterrent. Rather they are, first, that a justification is required for the deployment of new weapons with which technology is so extravagantly providing us and, second, that we are in the midst of a national debate about strategic defense, which is far more political than substantive, but which the administration obviously believes obliges it to show itself at least as tough-minded as its domestic adversaries. Unhappily this debate has long been based on the false assumption that one can never have too much of a good thing.

This combination of factors has, for example, committed the administration to the deployment of the MX missile, an enormously costly and environmentally damaging device which can only be justified, if at all, on the theory that our present threat of massive retaliation is not "credible." We have therefore slipped into the extraordinary situation of publicly undermining our own deterrent in order to justify a new generation of strategic weapons. This seems a particularly peculiar posture for an administration which has consistently recognized that arms control is an essential feature of national security and which continues to support ratification of SALT II.

One other element of this esoteric debate is the claim that Soviet strategic doctrine assumes a "war-fighting" capacity even in case of nuclear war. So what? So does American military doctrine. It is the responsibility of generals and admirals to prepare to fight, as best they can, whatever kind of war they may have to fight. That does not mean, either on the American or the Soviet side, that they want to fight such a war or intend to start one.

It is high time that strategic doctrine be brought out of the clouds and down to earth. The central fact is that any US-Soviet war would almost certainly be, or soon become, an unlimited nuclear war. The only way to forestall such a hideous eventuality is to prevent it from starting. To do so we need a well-calculated national defense, not strategic extravagances more likely to provoke than deter attack.

Out present strategic triad, strengthened by Trident submarines and cruise missiles, a SALT II agreement promptly followed by negotiation of SALT III reductions, new intermediate-range missiles in Europe if mutual limitations cannot be agreed, much better maintenance of the capabilities of forces already in being, an improvement in the quality of our armed personnel through better pay and benefits, and by restoration of the draft if necessary—these are the basic components of a realistic national security policy. Neither new technology nor domestic politics should be allowed to obscure or pervert them.

[From the New York Times, Aug. 24, 1980]

TERROR IN DISGUISE

(By Tom Wicker)

Suppose that sometime in the next few years, when they are expected to have the ability to do so, the Soviets should contrive to deliver about 2,000 nuclear warheads with a high degree of accuracy upon the 1,000 Minuteman missiles in the United States ICBM force, effectively wiping it out. What should an American President do in response? What could he do?

At that point, he would have lost about 25 percent of his strategic nuclear forces. But with perhaps 10 percent of the megatonnage that would remain to him in airborne and underwater launchers, he could order the assured destruction of 200 Soviet cities, containing more than 60 percent of the Soviet industrial base and 30 percent of the Soviet population (about 90 million people).

The trouble with that, numerous defense analysts now insist, is that the Soviets would retain, even after such retaliation, the power to launch a second strike against American cities that would be equally devastating. Since the President would know that, these analysts ask, would he in fact order that retaliatory attack? Or, to spare American cities, would he accept the loss of his ICBM's and bow to whatever demands the Soviets might make?

Secretary of Defense Brown and President Carter insisted this week that Mr. Carter's Presidential Directive 59 was designed to cope with such an a pocalyptic dilemma by giving a President more options for nuclear response and making it clear to the Soviets "that any or all of the components of Soviet power can be struck in retaliation, not only their urban industrial complex" (as Mr. Brown put it to the Naval War College).

He said the resulting "countervailing strategy" stressed "being able to employ strategic nuclear forces selectively" and put the Soviets on notice "that if they chose some intermediate level of aggression, we could, by selective, large (but still less than maximum) nuclear attacks, exact an unacceptably high price in the things the Soviet leaders appear to value most—political and military control, military force both nuclear and conventional, and the industrial capability to sustain a war."

All this may seem persuasive and as Mr. Brown noted, the United States has for years been aiming its nuclear power at a range of military targets as well as at Soviet cities. But both the basic assumptions and the practical conclusions need to be questioned outside the narrow world of defense specialists. For example:

Granted the agonizing quandary in which the cited example would place a President, would it be any greater than that of his Soviet opposite in deciding to launch the first strike? Whatever that leader's policy goal, he would be taking the calculated risk that his attack might and probably would result in the destruction, for all practical purposes, of modern Soviet society—including at least 60 percent of that industrial capacity he supposedly values so highly.

Mr. Brown said Soviet leadership "appears to contemplate at least the possibility of a relatively prolonged" nuclear exchange and that "in some circles at least they seem to take seriously the theoretical possibility of victory in such a war."

That's pretty thin stuff to go on, but assuming a Soviet leader so utterly unconscionable or mad as to chance it, might he not be even more likely to go ahead if he thought the American response would be on military targets only? If he envisioned a "relatively prolonged" but thus limited nuclear exchange might he not see more possibility of ultimate advantage than in having his cities and industrial base pulverized?

And though Mr. Brown strongly denied that the "countervailing strategy" sought a "first strike" capacity, are the Soviet leaders—particularly if they can conceive of a "winnable" nuclear war—likely to accept his assurances? If we think they might launch a first strike on military targets, why shouldn't they think we might, particularly as we "stress" our capacity for selective strikes? And if both sides think that of the other, isn't one ultimately likely to try it before the other can?

If these and other questions raise doubts about the "countervailing strategy" as a deterrent, what about its emphasis on the capacity to wage "limited" nuclear war, if necessary? Mr. Carter called that an "improvement in our nation's defense capability," but Mr. Brown conceded to the War College "the immense uncertainties involved in any use of nuclear weapons" and added, chillingly:

"We know that what might start as a supposedly controlled, limited strike could well—in my view would very likely—escalate to a full-scale nuclear war. Further, we know that even limited nuclear exchanges would involve immense casualties and destruction."

So the "improvement" comes down to much the same old threat, the same old balance of terror, made dangerously more "thinkable" in the guise of "additional options" for "flexibility"—and requiring, of course, vast new weapons programs. More about that in another article.

[From the Washington Post, Aug. 22, 1980]

THE PD59 AFFAIR

Presidential directives dealing with nuclear strategy can have a value in forcing the people who are responsible for these things to finish their sentences and face up to the implications of their policy. But there are also several respects in which these documents are endemically and incorrigibly phony.

First, no nuclear war could conceivably bear any resemblance to the scenarios assumed by these statements of strategic intent: if they do this, we do that, then if they come back with this, we can do the other . . . and so on. Invariably, bloody nuclear chaos is made to sound like something taking place on the center court at Wimbledon.

Second, the best people in our strategy-making apparatus know this. And their acknowledged purpose is not to lay out a prospectus for real war, but to create possibilities of action that, once known and believed, will discourage an opponent from trying us or from pushing too hard. So, it is perceptions of reality not reality itself, the Pentagon planners are mainly concerned with. Defense Secretary Harold Brown said as much in his Annapolis speech Wednesday.

Finally, merely as an exercise in policy-setting these documents have a certain air of fraudulence to them. It's not always so certain (and the present case is a good example) that the strategy preceded the weapons development needed to fulfill it. The strategy can be an after-the-fact justification or a belated acknowledgment that, whatever we were claiming our strategy and intent to be, we were, all along, developing an arsenal that could and would do something else.

There is a pronounced element of this post facto reasoning to the announcement that we have now formulated a nuclear strategy vis-a-vis the Soviet Union that incorporates the improved accuracies and other changed characteristics of nuclear weapons under development. For a long time, American government spokesmen were more or less forswearing certain war plans for which the government was, however, simultaneously beginning to create a uniquely suitable arsenal. And there have also been official statements and hints and lurches and lunges along the way to revelation of PD59 that such a change of strategy was being fashioned. When Secretary Brown said this was nothing new and not a total policy reversal, but something evolved and partial, he was no doubt absolutely right. And it also seems reasonable to us that there should have been some evolution. Much in the alternative scheme that this one supersedes had taken on the attributes of an immutable, sacred doctrine that it was heretical and bloodyminded even to question, no matter how politely or from what responsible motives. Nor did that alternative evidently make sufficient provision for dramatic changes in Soviet planning and strength.

But having acknowledged all that, we are bound to say there is something plenty fishy about the manner of disclosure of the altered strategy and the exclusion of Secretary Muskie from knowledge of what was about to happen. It cannot have been inadvertent or merely "thoughtless" or justified by any theoretical division of labor and jurisdiction: it was a calculated freeze-out. Mr. Muskie was thereby denied an opportunity to argue or discuss or recommend anything in relation to a presidential decision concerning the topmost order of national security business, a decision bound to have seismic reverberations in his own field of activity. He was faced with an accomplished fact.

Secretary Muskie was right to be furious and noisily so. Is he there for window-dressing? Is he going to be cut out of the big game when it involves that supremely important interconnection of military, strategic and diplomatic concerns that actually defines the U.S.-Soviet relationship? There is a downside to the evolutionary trend that has led to PD59, and you get the idea from what happened to Mr. Muskie that someone, somewhere might have been afraid that he would make that negative argument, that resistance, real or imagined, was being preempted.

If this is so it doesn't say much for the way in which the final decision was reached and inevitably—fairly or not—raises questions about the decision itself. But the alternative hypotheses aren't any better. Did someone—everyone—"forget" the secretary of state's claim to concern in these matters? Was someone trying merely to upstage and overwhelm him on the bureaucratic battlefield? For whom was the leak of the change of strategy intended? The Russians? The Republicans? The voters, bless their poor, much put-upon souls?

An administration under attack politically for a sogginess of spirit and weakness of will in defense matters surely has the right, even the duty, to answer back. And it also has the right/duty to let the potential aggressor whom all this hardware and planning is meant to deter from aggression know what American intentions are. But no administration serves itself or its constituency or the credibility of its policy when it lets disorderly and self-aggrandizing and suspicion-breeding politics get into the act, and is seen to close a key player out of the argument. That unfortunately is what seems to have happened in the PD59 affair.

[From the Washington Star, Aug. 14, 1980]

THE REBIRTH OF NIXON'S WAR PLAN

(By I. F. Stone)

It all started with Richard Nixon. The germ, the beginning and the rationale of President Carter's "new" limited nuclear war directive may be found in Nixon's State of the World message in 1971.

Nixon's phrases are virtually identical in their Delphic solemnity with those we are beginning to hear now. Nixon said we had to have the military means to "provide us with the alternatives appropriate to the nature and level of the provocation" so we can respond "without necessarily having to resort to mass destruction." This was the doctrine of limited nuclear war.

We then heard talk of the president's need for nuclear "options" and of the "immorality" of strikes against cities when we could "pinpoint" military objectives so that civilians, as innocent passersby, could go unscathed.

These "surgical" strikes would give both sides—almost in the very words of a famous soft drink advertisement—a pause for a Pepsi and "reflection," and interval of lucidity for "bargaining."

When James R. Schlesinger became Nixon's secretary of defense, the new policy was explained early in 1974 as a way of giving the United States "flexible response." It made nuclear war sound admirably antiseptic.

Schlesinger's salesmanship, though brilliantly seductive, ran into antagonism on Capitol Hill. A Senate Foreign Relations subcommittee summoned him to a hearing on March 4, 1974, and a scathing cross-examination by the chairman. The chairman was Sen. Edmund Muskie.

And now here we are again, six years later, in the middle of the Democratic national convention, and here's Nixon's old limited war doctrine, still alive, still being implemented and now given new impetus by a newly signed and surreptitiously unveiled "Presidential Directive No. 59" authorizing accelerated development of the new missiles, satellites and intelligence devices required.

And the secretary of state, now Muskie, protests that he wasn't consulted and was taken by surprise. The surprise attack may also give the secretary a pause for reflection. Such surprises finally drove his predecessor, Cyrus Vance, to resign.

The manner, timing and strategy of the directive's leak are still mysteries here. Somebody high up indeed called in two leading Pentagon correspondents, Richard Burt of the New York Times and Michael Getler of the Washington Post. They were given the story in a secrecy as deep as Deep Throat's. Secretary Brown and Dr. Brzezinski are the prime suspects.

One cute little touch makes me think it was Brzezinski. The correspondents were told, in the words of The New York Times account Aug. 6, that "neither the State Department nor the Arms Control and Disarmament Agency had been involved in formulating the strategy." That was rubbing it in, as Brzezinski so often did, in his private wars with Vance.

Unless the White House and the Pentagon are lying, this was not strictly true. They explain that State and ACDA did sit in on earlier discussions but before Muskie took office in May. Both White House and the Pentagon must have known, from their knowledge of what happened in 1974, that it was better to keep Muskie in the dark.

The timing of the leak was especially humiliating for Muskie. It came on the eve of his speech in San Francisco declaring that SALT II ought to be an issue in the presidential campaign.

How can one be for arms limitation with SALT II and at the same time be for an expansion of the arms race into a new dimension by making it possible to "pinpoint" limited nuclear first-strike targets? The leak, like the policy, was a low blow at Muskie and at all our hopes for a saner world.

I must add, as a postscript, that Muskie's interrogation of Schlesinger in 1974 led to the appointment of a special congressional advisory panel of prestigious nuclear war experts. They were asked to assess the reassuring casualty estimates furnished Congress by the Pentagon in support of its argument for "limited" war strikes.

The experts concluded unanimously in 1975 that the casualty figures in the projected limited war "exchanges" ("Tennis, anyone?") were "substantially too low" and "did not reflect the larger uncertainties." One of the signers of that report was the same Harold Brown who is now secretary of defense.

All this spells preparations for thermonuclear brinksmanship. As this is written, Richard Burt turned up in The Times with a new leak revealing two companion directives, Nos. 58 and 53. They deal with where and how to hide the president safely in a nuclear confrontation and how to protect command communications from radioactive disruption when and if the bombs begin to fall. Add draft registration, and all this spells perilous days ahead.

Are the Democrats nominating a new model Goldwater?

MEMBERS OF CONGRESS FOR PEACE THROUGH LAW,
Washington, D.C., August 26, 1980.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As Members of Congress long interested in and still committed to controlling nuclear arms, we are writing to express our deep concern over recent reports regarding your decision to implement a new strategic policy for the United States, reported as Presidential Directive No. 59.

Many serious questions and uncertainties arise as a consequence of this shift in strategic policy. We are deeply distressed that this policy seems based on the assumption that nuclear war is limitable. As we understand the new doctrine, its purpose is to allow for nuclear options short of a total strike—thereby enhancing our credibility in the use of nuclear weapons. We believe, however, that since it is extremely unlikely that nuclear war can be limited, this policy has precisely the opposite effect intended: it creates the illusion of flexible response, when in reality any decision to use nuclear weapons would have the same cataclysmic consequences as a total nuclear strike.

Moreover, we question whether, by providing ourselves with other, more "palatable strategic choices than assured destruction, we present a more effective deterrent to Soviet aggression. We can foresee circumstances in which, under this doctrine, our nuclear deterrent would in fact be weakened. Suppose the Soviets were preparing an invasion of Western Europe. Fearing that such an invasion might provoke us into an attack upon their nuclear arsenal, they would be forced to fire their missiles in order to avoid losing them. And the mere suspicion that the Soviets might behave in this way would force us into the same "use or lose" syndrome, in which the pressures compelling us to launch our own weapons might well prove irresistible.

This new policy would, we believe, mark the end of the arms control process, for two reasons. First, in order to make credible the counterforce threat, we envision a call to a massive arms race: the doubling of the already enormous MX program, the addition of very expensive ABMs to our arsenal, and the restructuring, at great costs, of our air defense and civil defense programs. And second, this "evolutionary" change in our strategic policy, stemming from improvements in the diversity and accuracy of our nuclear weapons, leads us to the conclusion that nuclear weapons technology is leading and therefore determining nuclear strategy. As more sophisticated types of weapons are added to our already overwhelming strategic capability, arms control agreements become much harder to negotiate, if not obsolete.

Mr. President, because strategic planning appears increasingly to be chasing, rather than directing, advances in weapons technology, we believe that, now more than ever, strategic decisions must be arrived at only after thorough and frank discussion among all those professionally responsible for developing our foreign and defense policies. We recognize the need for a certain amount of secrecy in the formulation of our nuclear strategy; nevertheless, we do not believe that a shift in policy of this magnitude should be made without prior consultation with the Secretary of State, the Arms Control and Disarmament Agency, and the Congress.

We request a full accounting of Presidential Directive #59 at the earliest possible time, and ask that its effective date be deferred until the Congress, the State Department, and the Arms Control and Disarmament Agency have had ample opportunity to consider and debate its implications.●

LEGISLATION TO AMEND TITLE 44, UNITED STATES CODE, TO PERMIT CITIZEN SUITS TO RECOVER WRONGFULLY REMOVED GOVERNMENT DOCUMENTS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. WEISS. Mr. Speaker, the right of citizen access to unclassified Government records is a fundamental principle of a free society, as Watergate reminded us. Yet we still face major obstacles to real openness.

Henry Kissinger's removal of telephone transcripts from his office shortly before he stepped down as Secretary of State 4 years ago illustrates one such obstacle. Mr. Kissinger removed these documents without the official review required by the Records Disposal Act, 44 U.S.C. 3301 et seq. The Solicitor General has conceded that at least some of the transcripts qualify as official records. Nonetheless, the Supreme Court has ruled that private citizens have no right under existing law to recover the papers for the public's view.

I am introducing legislation today to create a right of recovery, and to deter Government officials from such improper removal of documents.

Mr. Kissinger deeded the transcripts, which record his notes of telephone conversations while Secretary of State, to the Library of Congress after having them removed from the State Department. Neither the State Department's records official nor the Administrator of General Services reviewed them.

But in the court case that followed, *Kissinger* v. *Reporters Committee for Freedom of the Press,* 445 U.S. 136 (1980), the Supreme Court ruled that the State Department cannot be required to recover documents no longer in its possession to satisfy a Freedom of Information Act (FOIA) request for them—even if they were unlawfully removed.

According to the Court, both the Records Disposal Act and the Federal Records Act of 1950, 44 U.S.C. 2901 et seq., allow only an agency head, with the assistance of the Administrator of General Services, to initiate an action through the Attorney General to recover records in such cases. The Court could find no evidence in the two applicable statutes that Congress had contemplated a private right of action. Therefore, any individual's request, including that of the Reporters Committees, could be refused. The telephone transcripts are thus shielded from public scrutiny for at least 25 years, under the terms of Kissinger's bequest.

The former Secretary has clearly circumvented the Fredom of Information Act. The New York Times declared that the decision created "a loophole in the Freedom of Information Act big enough for high officials to walk through." And Justice Stevens, in a dissenting opinion, viewed the outcome in ominous terms, saying that:

> It thus creates an incentive for outgoing agency officials to remove potentially embarrassing documents from their files in order to frustrate future FOIA requests.

An election often signals a change in agency personnel. This is an especially appropriate time, then, to commence congressional action to insure that Henry Kissinger's conduct does not become standard practice.

Citizens must be granted the power to compel return of public records. This flaw in the Federal Records Management Acts must be corrected. Unless a private right of action is established, guarantees of open government are meaningless. To insure that the FOIA, in the words of Justice Brennan,

> Is to be more than a dead letter, we must necessarily incorporate some restraint upon the agency's powers to move documents beyond the reach of the FOIA requester.

Under my proposed legislation, an individual would have the right to bring suit in Federal district court to recover records unlawfully removed from any person or agency with custody of them. Prior to initiating any action, notice of the alleged violation must be given to the Administrator of GSA, the appropriate agency head, the Attorney General, and the person or agency which has custody of the documents. This notice provision permits the Government to comply with the procedures established in title 44 on its own initiative. If no action is taken within 60 days, the individual can commence proceedings. In the event the Attorney General starts an action to recover the records, the interested party can intervene in the Attorney General's suit, as a matter of right, to guarantee diligent prosecution of the litigation. The legislation also permits the awarding of court costs, plus reasonable attorney's fees, to any party in an action.

My proposal is consistent with the Federal Government's interest in record control. It would enable the agency executive to have the information available when he needs it, in accordance with the statutes' legislative intent. Citizen suits will supplement the Federal records management system by further insuring retention of important documents.

I believe this legislation offers the strongest useful deterrent to the unlawful removal of records at all levels of Government. I might note that I am also an original cosponsor of legislation introduced by my distinguished colleague and subcommittee chairman, Mr. PREYER, to give the Archivist of the United States authority to begin proceedings to recover documents. I feel this additional measure introduced today is necessary, however, to avoid undue restraint that may be placed upon a Government official, such as the Archivist, in this type of situation.

In Kissinger, Justice Brennan noted that "it is Congress which has the resources and responsibility to fashion a rule about document retention that comports with the objectives of the Freedom of Information Act." I urge my colleagues to accept this charge and join me in supporting this legislation.

H.R. 8029

A bill to amend title 44, United States Code, to permit citizen suits to recover records wrongfully removed from agency files

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 2905 of title 44, United States Code, is amended by designating the existing paragraph as subsection (a) and by adding at the end thereof the following new subsection:

"(b)(1) Except as provided in paragraphs (2) and (3), any person may commence a civil action on his own behalf against any person (including the United States and any other governmental instrumentality or agency to the extent permitted by the Eleventh Amendment to the Constitution) who is alleged to be in possession of any records removed from an agency in violation of the provisions of this chapter or of standards, procedures, or guidelines promulgated pursuant to such provisions. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order the return of any such records or to issue any other orders necessary to obtain compliance with such provisions, standards, procedures, or guidelines.

"(2) No action may be commenced under paragraph (1) prior to 60 days after the plaintiff has given notice of the alleged violation (A) to the Administrator of General Services, (B) to the head of the agency from which such records are alleged to have been removed, (C) to the Attorney General, and (D) to the person who is alleged to have custody of such records.

"(3) No action may be commenced under paragraph (1) if, within 60 days after receipt of the notice required by paragraph (2), the Attorney General commences and is diligently prosecuting an action for the recovery of the records to which such notice pertains, but if such an action is instituted the person giving such notice may intervene as a matter of right in such action.

"(4) In any action under this subsection, the Administrator, if not a party, may intervene as a matter of right.

"(5) The court, in issuing any final order in any action brought pursuant to paragraph (1) of this subsection, may award costs of litigation (including reasonable attorney fees) to any party, whenever the court determines such award is appropriate.".

SEC. 2. Section 3106 of title 44, United States Code, is amended by designating the existing paragraph as subsection (a) and by adding at the end thereof the following new subsection:

"(b)(1) Except as provided in paragraphs (2) and (3), any person may commence a civil action on his own behalf against any person (including the United States and any other governmental instrumentality or agency to the extent permitted by the Eleventh Amendment to the Constitution) who is alleged to be in possession of any records removed from an agency in violation of the provisions of this chapter or of standards, procedures, or guidelines promulgated pursuant to such provisions. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order the return of any such records or to issue any other orders necessary to obtain compliance with such provisions, standards, procedures, or guidelines.

"(2) No action may be commenced under paragraph (1) prior to 60 days after the plaintiff has given notice of the alleged violation (A) to the Administrator of General Services, (B) to the head of the agency from which such records are alleged to have been removed, (C) to the Attorney General, and (D) to the person who is alleged to have custody of such records.

"(3) No action may be commenced under paragraph (1) if, within 60 days after receipt of the notice required by paragraph (2), the Attorney General commences and is diligently prosecuting an action for the recovery of the records to which such notice pertains, but if such an action is instituted the person giving such notice may intervene as a matter of right in such action.

"(4) In any action under this subsection, the Administrator, if not a party, may intervene as a matter of right.

"(5) The court, in issuing any final order in any action brought pursuant to paragraph (1) of this subsection, may award costs of litigation (including reasonable attorney fees) to any party, whenever the court determines such award is appropriate.".●

IN MEMORY OF HANNAH FOGELSON

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. MOFFETT. Mr. Speaker, while the Nation's attention was focused on the Democratic Convention in New York, a dear friend and rare individual passed away. The news of Hannah Fogelson's death did not reach me until I returned home from New York, and I greatly regret that I was unable to be with her family and friends at her memorium.

Hannah was one of those persons who was always willing to lend a helping hand to those who relied on her. She was there for an elderly person in need of assistance, a progressive cause in need of a voice, or a maverick political candidate in need of a supporter. She was an unselfish, giving person who asked little in return for her good work except the eventual success of her causes.

Hannah's work with the elderly in New Britain, Conn., is reflective of her commitment to and recognition of the problems our senior citizens face daily. She understood the social and economic implications of their problems and sought change through the political process. The plight of the elderly was one of many issues Hannah became active in; she held leadership positions as a member of the Connecticut Caucus of Democrats as well as other progressive groups.

Hannah Fogelson served her community well and her passing is a great loss. Although she was 74 years old, her death is a painful shock to those of us who knew her well and her absence will be greatly felt.●

NORTHERN VIRGINIA COMMUNITY FOUNDATION

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. FISHER. Mr. Speaker, it gives me great pleasure to commend the people of the region of northern Virginia for their efforts in establishing the Northern Virginia Community Foundation. This foundation can be the vehicle through which all of us, individuals, businesses, and associations, can return to the community a portion of the wealth and resources from which we have all benefited. The foundation can become our community conscience.

The Northern Virginia Community Foundation will act as a unifying group to identify unmet philanthropic needs of the region, and to direct receipt and distribution of foundation funds. This foundation can further the philanthropic aims of the region, without duplicating efforts of existing organizations. Indeed, the Northern Virginia Community Foundation, with support from all of us, can assist with grants organizations already functioning in the region. Our U.S. Government encourages this kind of public spirited giving through provisions of its tax laws.

Similar foundations work well for community betterment in such areas as Cleveland, Dallas, San Francisco, and South Dakota.

All of us can rejoice that northern Virginia citizens are bringing to reality such a worthy concept.●

REAGAN AND CHINA

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. CAMPBELL. Mr. Speaker, today's Wall Street Journal contains an editorial that puts Governor Reagan's recent statements on China policy in perspective. It is a good counterbalance to the overreaction of some other elements of the media, and I commend it to my colleagues' attention:

[From the Wall Street Journal, Aug. 26, 1980]

REAGAN AND CHINA

As soon as it became evident last spring that Ronald Reagan would be the Republican presidential nominee, press speculation began over how long it would be before the Californian got himself in trouble by shooting from the hip on an important public policy question.

A lot of people thought they had found the answer when Mr. Reagan last week raised hackles in Peking with his insistence on an "official" U.S. relationship with Taiwan. The candidate had unnecessarily raised a sensitive issue that had long ago been settled, it was alleged, fulfilling all the worst fears about how a President Reagan would conduct foreign policy. His running mate, George Bush, had drawn maximum publicity to all this by trying to explain it all to China's top leadership on a well-publicized visit to Peking.

And yesterday, in a chaotic-sounding press conference in Los Angeles, the Republican team didn't succeed very well in explaining where the difference lies between such subtle shades of meaning as "official" and "government-to-government." Was it another case of a candidate "shooting himself in the foot" as did George Romney with his complaint about being "brainwashed" by the incumbents or Gerald Ford's televised insistence that Poland wasn't under the heel of the Soviet Union?

We don't much think so. Whatever confusions resulted from the question-and-answer session in Los Angeles, Mr. Reagan made his position on Taiwan clear in the statement he read at the outset. Moreover, it is a respectable and responsible position, one that expresses a tenet of the Reagan philosophy that he has no reason to jettison.

Mr. Reagan said clearly that he supports the present U.S. law that addresses U.S.-Taiwan relations. The prescriptions of that law about how the U.S. conducts its business with Taiwan could hardly be anything other than "official," since they are the law of the land. He was critical of the Carter administration for seemingly going out of its way to embarrass a country that has been a showcase of the type of economic development we profess to believe in. It is a developing nation that borrowed external capital, invested it wisely and is building a better life for its citizens than is available in most other countries in Asia. Mr. Reagan's fundamental position is that Taiwan should be treated with consideration and respect and that we should not be cowed by the fear that Peking might be annoyed at American self-assertiveness.

None of this requires the U.S. to sunder its strategically important and growing entente with Peking. It would merely make it clear to Peking that the U.S. adheres to certain principles that do not evaporate when a former adversary makes friendly overtures. Mr. Bush may not have had great success in selling this in Peking, but, considering how easy a time China's rulers have had with Mr. Carter, why would anyone expect him to get a hearty welcome?

The semantic tangle that Mr. Reagan found himself in yesterday was the sort of thing that can prove embarrassing to a candidate. The important thing, however, is whether the candidate is right on the substantive issue and we find the Reagan position more attractive than that of Mr. Carter.●

LACKAWANNA, N.Y., MAN LEADS AMERICAN LEGION

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. NOWAK. Mr. Speaker, it is a distinct pleasure to bring to my colleagues' attention the election of Michael J. Kogutek of Lackawanna, N.Y., as the new national commander of the American Legion.

Mike is a long-time friend and resident of the 37th Congressional District of New York, which I am privileged to represent.

In addition to his more than three decades' membership in the American Legion, Mike has been an active leader in a variety of community endeavors. I am confident that the dedication he has exhibited in the past will serve him well as he embarks on his new duties as national commander.

In the months ahead, I am sure that we will be hearing from Mike as he sets his course toward insuring that the most equitable job, educational and health benefits are available for the veterans who have served our Nation so diligently.

Certainly, I know I share the views of my fellow western New Yorkers in expressing pride that we have a native son leading this effort and in wishing him well in this vital work.

At this point, I insert in the RECORD copies of local newspaper articles reporting on Mike Kogutek's achievement:

[From the Buffalo Evening News, Aug. 21, 1980]

LEGONNAIRES ELECT WNYER AS LEADER

(By Peter Simon)

Michael J. Kogutek of Lackawanna today was elected national commander of the 2.6 million-member American Legion, fufilling a goal he has worked for since 1968.

Mr. Kogutek was chosen by acclamation at the American Legon's national convention today in Boston an hour after President Carter gave the keynote speech to the delegates.

A plant manager at Buffalo Brake Beam Co., Mr. Kogutek said the organization will take strong stands on national and international issues and seek to regain a leadership role in American politics.

"It is time for the American Legion to be heard once again in the halls of Congress and for its influence to be felt in the White House," he said during his campaign.

Mr. Kogutek said he plans to take a one-year leave from his job and spend a considerable amount of time at the Legion's headquarters in Indianapolis and its offices in Washington.

He also will travel extensively to talk about "Americanism."

Mr. Kogutek, 54, is a former police officer and commissioner of public works for the City of Lackawanna. He also was a past president of the Lackawanna Chamber of Commerce and the Central Railway Club of Buffalo and the 1977 recipient of the Am-Pol Eagle's citizen-of-the-year award.

In 1968, he was named state commander of the American Legion. It was then he decided to one day seek the national commander post. During his year as state commander, membership reached a new high, and Mr. Kogutek acquired a reputation as a aggressive spokesman for Legion platforms.

He is a Republican committeeman and supports the presidential bid of Ronald Reagan. Mr. Kogutek became a charter member of the Matthew Glab Post 1477, American Legion, 34 years ago and was Erie County commander 16 years ago.

[From the Buffalo Evening News, Aug. 22, 1980]

KOGUTEK ACHIEVES LEGION PINNACLE

(By Peter Simon)

After 34 years as a member of the American Legion, Michael J. Kogutek of Lackawanna has reached the pinnacle of success in the organization.

He was elected national commander Thursday at the group's convention in Boston, and became the first Western New Yorker to hold that post in the American Legion's 62-year history.

The election culminated two years of active campaigning, so Mr. Kogutek took a few hours to relax and enjoy the big day.

His wife Dorothy and their two children, Michael and Sharon, looked on proudly as Mr. Kogutek accepted the personal congratulations of President Carter.

Anthony Druzbik Jr., commander of the Legion's Buffalo district and a friend of Mr. Kogutek, presented the colors at the election session.

His job now, Mr. Kogutek said, is to put into practice his strong views on the role of the American Legion.

"I'm going to try to recruit a larger membership, and we're going to zero in especially on Vietnam veterans," said the president of the 2.6-million-member group.

"We're going to let Congress know how strong we are, and we have to reach some of the younger congressmen who know very little about our organization," Mr. Kogutek added.

"We'll work to preserve existing veterans' benefits and to get some new ones—particularly in the area of jobs and education," he added.

Mr. Kogutek said the American Legion will continue to press for a strong defense system, American support for Taiwan and South Korea, and improved pay for servicemen.

Mr. Kogutek said he will travel to Asis in December "to check on those bases out there." Also in the works is a visit to American servicemen in Europe and extensive traveling in the United States.

"And I will be seeing the president again Sept. 24 in the White House to present him with copies of the platform we adopted at the convention," he said.

Mr. Kogutek, a Republican committeeman and former Lackawanna commissioner of public works, said he will stay away from partisan politics.

"No longer do I have the luxury of supporting one candidate or another," he said.

[From the Buffalo Courier-Express, August 23, 1980]

NEW COMMANDER SEES NATIONAL ROLE OF LEGION GROWING

(By Daniel S. Parker)

Michael J. Kogutek, 54, joined the ranks of Hamilton Fish, the late Theodore Roosevelt Jr., and Maurice Stember when he became the fourth New York Legionnaire to attain the organization's highest position.

Kogutek, of 61 Leonard St., Lackawanna, was elected National Commander by acclamation at the American Legion's 62nd annual convention Thursday.

Returning from the convention at Greater Buffalo International Airport Friday, Kogutek—who will direct the 2.6 million member group—said he was "thrilled and ecstatic" with the honor, but said there is a lot of work ahead.

A veteran of the U.S. Navy with service in the South Pacific during World War II, Kogutek has taken a one-year leave from his job as plant manager of the Buffalo Beam Co. in Lackawanna.

"The role of the Legion in the 1980s will become more important," Kogutek said Friday, "because of our past advocation of a strong defense. Now our defense has deteriorated and the American Legion must insist that the White House and Congress institute new defense plans."

He said the Legion will ask Congress not to enact the SALT II Treaty "until it is properly amended so that the U.S. can have a definite accounting of Soviet build-up."

Kogutek, who met with the three major presidential candidates when they visited the Legion convention in Boston this past week, already plans to meet with President Carter in September.

After testifying before the Senate and House Veteran's Affairs Committees on Sept. 22-23, Kogutek will meet with President Carter in the White House on Sept. 24 to present him with the resolutions just adopted by the Legion convention.

Although the Legion doesn't endorse political candidates, Kogutek, noted, the organization encourages its members to "play an important part in the campaigns of candidates, especially those who are helpful to the American Legion's concerns."

Hoping to boost membership to 3 million, Kogutek stressed the importance of membership, saying, "we need more clout."

During his one-year term, Kogutek, a 34-year member of the Legion, hopes to maintain the Veteran's Administration hospital system and prevent it from becoming "party of a national insurance system."

He also plans to strengthen the Legion's youth operation such as its baseball, Boy's Nation, oratorical and, any essay programs, so "the youth of today are better equipped to handle themselves as adults."

Prior to his election Thursday, Kogutek has a longstanding association with the Legion. He joined the Matthew Glab Post 1477 in Lackawanna in 1946. In 1964 he was elected Erie County Legion commander. He became district commander for the eight Western New York communities in 1968.

Kogutek, when asked about the strike in Poland, said, "The Legion has not taken a position on it and I no longer have the luxury of commenting on it."●

FINANCIAL INTEGRITY ACT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. HYDE. Mr. Speaker, Federal agencies and the programs they administer have succumbed to a debilitating ailment that costs the taxpayers literally billions of dollars every year. This costly ailment has three names—waste, fraud, and abuse.

Because these three culprits are so commonplace, they no longer excite much anger—they have become accepted practice.

The GAO conducted an extensive study and reported a total of 130,000 cases of fraud and other illegal acts against 21 major agencies in the 2½ years ending March 31, 1979. GAO stated that poor internal controls are the No. 1 problem in Federal Government agencies. Knowing the source of the problem is half the battle.

With a sense of urgency pervading Congress to cut Federal spending and reduce inflation, this body would be irresponsible if it did not implement legislation to correct the identified problem.

I have introduced H.R. 8006 on August 22 identical to S. 3026 introduced on August 6 by Senators EAGLETON, PERCY, and MATHIAS, designed to strengthen the internal accounting and administrative controls maintained by Federal agencies.

Basically, this legislation will require each Federal agency to maintain effective systems of internal accounting and administrative control as an integral part of its management practices. The systems shall be evaluated on an ongoing basis and when detected, weaknesses must be promptly corrected. All levels of management of the agencies must involve themselves in assessing and strengthening the systems of internal accounting and administrative control to minimize fraud, errors, abuse, and waste of Government funds.

The head of each agency would be required to report on their systems by December 31 of each year. The reports are to be addressed to the President and made available to Congress and the public. The format for these reports and guidelines for performing control evaluations are to be established by GAO and OMB.

The bill I have introduced will not solve all the problems of fraud, waste, and abuse, but it will bring pressure to bear upon those responsible for the accountability of every single tax dollar appropriated to that agency by this body.

We rightfully express concern about cutting programs and services that have proven useful, but perhaps some of these programs can be retained if we eliminate waste and fraud wherever possible. One giant step in this direction is to affix responsibility in each agency, increase oversight and stewardship over the spending of our constituents hard earned tax dollars and install a degree of professional administration that has been sadly lacking.

I am hopeful the House will act promptly on this measure. By doing so, we will demonstrate our commitment to tightening the reins on Government spending and making federally funded programs more responsive to the needs of the people they are intended to help.●

FARM LABOR CONTRACTOR REGISTRATION BILL

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. GOODLING. Mr. Speaker, I am introducing a bill to clarify the Farm Labor Contractor Registration Act (FLCRA). The purpose of this bill is to focus the Labor Department's implementation of this act on the protection of migrant workers from abuses by crew leaders. That is what Congress intended in 1963 when the act was originally passed and again in 1974 when the act was substantially amended.

When I say this bill would clarify the act, I am referring to interpretations by the Department of Labor of certain ambiguities in the statute's wording that have resulted in applications beyond all reasonable and rational expectations. As I said at hearings on this act in 1978, our problem is one of legislation which was written for one purpose and got expanded somewhere along the line.

The result of the Labor Department's interpretations has been unnecessary and unproductive harassment for many Pennsylvania fruit and vegetable farmers, mushroom growers, fruit and vegetable processors, and other agricultural employers.

I am inserting in the RECORD at the end of my remarks a letter from Mr. Charles C. Kingston of Musselman's Fruit Products Division, Biglerville, Pa., explaining the problems his company has encountered.

I have heard of additional problems with the FLCRA from the Pennsylvania Food Processors Association, from the American Mushroom Institute of Kennett Square, Pa., and from the Pennsylvania Farmers Association. In the 95th Congress, the jurisdiction over this act was in the Subcommmittee on Economic Opportunity of the Committee on Education and Labor. At that time, I was the ranking minority member of the subcommittee.

We held hearings on the act in February 1978, and again in December 1978. We established in those hearings a clear record showing the need to clarify who is a farm labor contractor.

The Department of Labor says for the purposes of the FLCRA, any employee in agriculture and many processing plant employees are migrant workers, regardless of whether they are permanent, local, transient, seasonal, or otherwise or whether they return home overnight or not. Such an interpretation is a far stretch from what we intended. This bill defines the term "migrant worker" to mean migrant worker, including the day-haul worker.

This bill would also clarify the definition of farm labor contractor so that it does not include farmers or other fixed-base agricultural employers, or their full time or regular employees, or farmer cooperatives. This is consistent with the amendments to the act in 1974 when we explicitly intended farmers and other agricultural employers and cooperatives and their employees not to be regulated under this act as farm labor contractors or crew leaders. It is due to the interpretations of the Labor Department that the Department is now trying to implement the law contrary to our intent.

This bill is identical in substance to an amendment adopted recently in the Senate. The Senate amendment is title III of the child nutrition bill, H.R. 7664, as passed by the other body.

We will soon be going to conference on H.R. 7664. Although the Senate amendment is a nongermane rider, I do believe it responds to the problem and should be adopted by the House conferees.

I insert in the Record at this point a copy of the bill and a section-by-section analysis of it.

Musselman Fruit Products Division,
Biglerville, Pa., Nov. 12, 1979.

Listed below are the problems encountered by this company when we comply with the registration requirements under the Farm Labor Contractor Registration Act.

Proponents of the 1974 amendments to the act, as interpreted by the Department of Labor, will say that registration is simply an administrative act. It, in reality, involves much more than that.

1. We had to fill out the required forms to apply for the crew leader license. This was relatively simple. A single page notorized form was all that was required. However, information given on the form, i.e. that we would recruit, hire, furnish, transport and house migrant workers while acting as a crew leader, necessitated much more paperwork.

2. Our operation is such that in all cases our year-round farm employees supervise our picking crew. Many of our labor camps are not within walking distance of the orchard where the individual crews are working. Therefore, these year-round employees must transport these workers to and from work in company owned vehicles. Because they perform this activity, it is necessary to have them certified as crew leader employees by the Department of Labor. In 1978, we registered eight employees and in 1979 the figure was up to ten. Each of these people had to submit a physician's report evidencing good health and this must be resubmitted to the department every three years. Of course, these physical examinations are at company expense.

3. Each of these individuals had to be fingerprinted by the state police. At least four of these employees had to be fingerprinted more than one time and two were asked four times to return to the Penna. State Police barracks to be fingerprinted. The Dept. of Labor said the prints were illegible and could not be checked properly. These men were not suspected of having committed any criminal act and therefore considered this to be harassment.

4. All vehicles used to transport seasonal farm employees were required to be inspected according to a Dept. of Labor inspection form, regardless of the fact that all these vehicles are inspected semiannually as required by the state of Penna. Motor Vehicle Law, and each of the vehicles used to transport workers had a current inspection sticker in force. The inspection requirements for Penna., and for the Dept. of Labor do not vary very much. Vehicle inspection for FLCRA must be done every year and of course is simply an unnecessary expense.

5. A statement showing that we have adequate insurance had to be submitted with the application. This presented no problem, other than having to put the required information on the accepted department form. This information had to come from our corporate office in St. Louis.

6. We had to attach to the application packet a narrative summary of our migrant housing indicating type of construction, capacity, location and evidence of being approved housing under the various inspection authorities—i.e. OSHA and the Pa. Dept. of Environmental Resources. We have nine camps in Pennsylvania and one in West Virginia. Also included with the packet was a letter to the department certifying that the housing described does meet applicable state and federal safety and health standards.

In the event that we used an already-licensed crew leader as one of the people operating our camps, it was necessary to send to him, before he left home, a special housing form certifying that the camps which he would be occupying while with us meet all existing federal and state safety and health standards.

7. Prior to the crews leaving their home state, the department requires that the crew leader gives each employee a statement showing area of employment, type of work, transportation, housing and insurance given to the employee, wage rates, charges made for crew leader services, period of employment, any existing labor disputes and the name and address of the contractor. This information had to be furnished in English and Spanish. This was done with much difficulty in our case since we employ 180 to 200 workers each year coming from several different areas in the South.

8. The Crew Leader Registration Act requires that the contractor shall refrain from recruiting, employing or utilizing with knowledge the services of any person who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment. The act further stipulated that the contractor must make an affirmative showing of a bonafide inquiry of each prospective employee's status as a U.S. citizen. This, in effect, means that for every employee that the registered crew leader hires he must question each and every one of them regarding their status as a citizen or non-citizen of this country. In addition, they must see acceptable evidence of U.S. citizenship from each and every person—that is a birth certificate or a certificate of citizenship or a certificate of naturalization. If these are not available, then the employer—the crew leader—must see a U.S. identification card from the I.N.S. showing that this individual is legally admitted to the United States. In effect what this does is make the crew leader solely responsible for the legality of each and every one of his people. When employing 180 to 200 employees, this is a very difficult task at best. It is also the only law in the books in the U.S. that requires any employer to do this.

While the foregoing did not necessitate a tremendous expenditure of money, it did take up an awfully lot of time on some person's part preparing the documents required for this application. Having the application filled out, receiving the necessary cards, etc. has not changed our operation one bit. We are not doing anything now as registered crew leaders that we did not do prior to becoming registered.

Sincerely,

Charles C. Kingston.

H. R. 8026

A bill to amend the Farm Labor Contractor Registration Act of 1963

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Farm Labor Contractor Registration Act Amendments of 1980".

Sec. 2. Section 3(b)(2) of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2042(b)(2)) is amended—

(1) by striking out "personally", and

(2) by striking out "his" and inserting in lieu thereof "such person's".

Sec. 3. Section 3(b)(3) of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2042(b)(3)) is amended by striking out "on no more than an incidental basis".

Sec. 4. (a) Section 3(b) of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2042(b)) is amended by adding at the end thereof the following:

"(11) any nonprofit or cooperative association of farmers, growers, or ranchers, duly incorporated and qualified under the nonprofit association or farmer cooperative statutes of a State, and operated solely for the mutual benefit of the members thereof, and any fulltime or regular employee of such association or cooperative who engages in such activity solely for his or her employer.".

(b) Section 3(b) of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2042(b)) is amended—

(1) by strking out "or" after the semicolon in paragraph (9), and

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; or".

Sec. 5. Section 3 of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2042) is amended by adding at the end thereof the following:

"(h) The term 'for such person's own operation' refers to the operations of a person as a farmer, processor, canner, ginner, packing shed operator, or nurseryman, and includes all activities by such person or such person's employees with respect to the agricultural or horticultural commodities which are or will be the subject of or diverted from such operations, and regardless of whether such person has title to such commodities at the time such operations or activities are performed.

"(i) The term 'regular employee' includes an employee who is employed on a seasonal or part-time basis by any person referred to in subsection (b)(1) or subsection (b)(2) of this section.".

Sec. 6. Subsection 3(d) of the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2042(d)) is amended by inserting ", on a farm or ranch" after "grading".

Sec. 7. Subsection 3(g) of the Farm Labor Contractor Registration Act of 1963 (7

U.S.C. 2042(g)) is amended to read as follows:

"(g) The term 'migrant worker' means an individual engaged on a farm or ranch, on a seasonal or other temporary basis, in agricultural employment who cannot regularly return to his or her domicile each day after working hours, or who is transported from and to his or her domicile each workday by the person who recruits, solicits, hires, or furnishes such worker for agricultural employment on a farm or ranch owned or operated by another person.".

SECTION-BY-SECTION ANALYSIS OF FLCRA BILL

1. Title: The Farm Labor Contractor Registration Act Amendments of 1980.

2. Section 2 strikes the word "personally" and substitutes "such person's" for the word "his" in subsection 3(b)(2) of the Act. Subsection 3(b)(2) excludes farmers, processors, canners, ginners, packing shed operators, and nurserymen from the definition of "farm labor contractor," subject to certain limitations. The changes clarify subsection 3(b)(2) so that the listed businesses are excluded regardless of their form of doing business, including operating as an individual, corporation, partnership, association, joint stock company, or trust. This clarification reflects the interpretation adopted by the Ninth Circuit in *Marshall v. Green Goddess Avocado Corp.,* and by federal district courts in *Espinoza v. Stokely-VanCamp* and *Cantu v. Owatonna Canning Co., Inc.*

3. Section 3 deletes the phrase "on no more than an incidental basis" in subsection 3(b)(3) of the Act. Subsection 3(b)(3) excludes from the definition of "farm labor contractor" any full-time or regular employee of an entity listed in subsections 3(b)(1) or (2) if the employee engages in farm labor contracting activities solely for his employer "on no more than an incidental basis." The ambiguity of the phrase "on no more than an incidental basis" has resulted in much controversy and disagreement about how the Act should be implemented.

The Secretary of Labor told 52 Senators in a letter on November 26, 1979, that the phrase should be interpreted to mean no more than 20 percent of an employee's time. This interpretation is still vague and subject to different interpretations, as well as creating much difficulty in implementation. It also results in a situation where an employer is excluded from registration, but not the employee. As a matter of fairness and public administrative policy, many feel that in those situations in which the Act has excluded the employer from registration, his employee should be excluded as well.

Striking the phrase "on no more than an incidental basis" resolves these problems. Some have expressed concern that striking the phrase opens a loophole by allowing a crew leader to escape regulation by becoming a full-time or regular employee of an exempt employer. This fear is answered by the fact that an employer may be held liable for the actions of an employee. If an employee abuses a migrant worker, the employer may be held responsible under the Fair Labor Standards Act, the Wagner-Peyser Act, and numerous other statutes. The change is consistent with the original Congressional intent of the Act that a person, either an employer or an employee, is required to register under the Act if he supplies migrant workers for another operation or employer.

4. Section 4 creates a new subsection 3(b)(11) in the Act which excludes cooperative associations of farmers, growers or ranchers from the definition of "farm labor contractor."

5. Section 5 creates two new subsections, 3(h) and 3(i), which would provide as follows:

a. Subsection 3(h) defines the term "for such person's own operation", which is found in subsection 3(b)(2) (as amended by this bill). Subsection 3(b)(2) currently states that an employer is excluded from the definition of "farm labor contractor" if he supplies migrant workers "solely for his own operation." Congress added this phrase to ensure that a crew leader would not evade regulation under the Act by claiming also to be a farmer. However, the Labor Department has gone beyond Congressional intent by saying that an employer cannot be engaged "solely for his own operation" if he does not have title to the commodity. The new subsection 3(h) clarifies Congressional intent so that an employer can act solely "for such person's own operation" regardless of whether he has title to the commodity. This relates to the numerous situations throughout agriculture, including the livestock, cotton, citrus, fruit and vegetable industries, where a producer or processor performs an activity pursuant to his own operation, but does not have title to the commodity. Encompassed by the term "such person's own operation" are all activities by a person with respect to commodities which are or will be the subject of or diverted from his operation. For example, when a canner harvests a crop destined for his cannery, he is engaged in activities for his own operation, regardless of when title to the crop is deemed to pass. Under some circumstances, external blemishes resulting from causes such as insects, weather conditions, or cultural practices often render a grower's crop, or part of his crop, better suited for processing than for shipment in fresh form. For that reason, packing sheds often find it necessary to make advance commitments to handle a quantity large enough to provide reasonable assurance of an adequate supply which will be blemish free and suitable for shipment in fresh form when the crop matures. Then, at harvest time, as a part of his own operation, the packing shed selects the crops best suited for fresh shipment and takes those to its packing shed to be packed. The other crops, which are found to be best suited for processing, are diverted for delivery to processors for processing. The amendment would make clear that when a packing shed or its employees are engaged in the cultivation, harvesting, or handling of a crop so diverted, those activities are regarded as "for such person's own operation."

b. Subsection 3(i) defines the term "regular employee," found in subsection 3(b)(3) of the Act, to include any seasonal or part-time employee of an entity in 3(b)(1) or (2). The purpose is to state explicitly that, for example, a foreman, who in many agricultural sectors is employed on a seasonal basis, is excluded from the definition of "farm labor contractor," if he meets the other limitations of 3(b)(3).

6. Section 6 amends Section 3(d) of the Act to clarify Congressional intent in the definition of "agricultural employment." The amendment makes clear that the inclusion in the definition of "agricultural employment" of "handling, planting, drying, packing, packaging, processing, freezing, or grading" refers to those operations that are done on the farm or ranch. This is consistent with the references in the definitions of "agricultural employment" and "migrant worker" to agriculture as defined in the Fair Labor Standards Act and agricultural labor as defined in the Internal Revenue Code. Those two statutes have long been held to differentiate clearly between an operation on the farm and an operation in a plant or business away from the farm.

7. Section 7 is a new definition of the term "migrant worker" in subsection 3(g) of the Act. This definition reflects the underlying purpose of the Act: the protection of the true migrant agricultural worker. An agricultural worker whose domicile is on or near a farm, and who never comes in contact with a true labor contractor, does not need the Act's protections. The new definition covers the actual migrant worker as well as the "day-haul" worker.●

WE ARE BURYING OURSELVES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. DERWINSKI. Mr. Speaker, I direct the attention of the Members to a very penetrating article by John Battistella, a distinguished journalist writing in the Suburban Life Citizen, serving Cook County, Ill. In his column of Wednesday, August 20, Mr. Battistella discusses several important domestic as well as foreign policy decisions that this country has made in error. Mr. Battistella's astute observations follow at this point:

NIKITA ERRED ABOUT BURYING U.S.

While at the zenith of his career as premier of the Soviet Union, Nikita Krushchev said Russia "would bury the U.S."

How wrong he was.

We are burying ourselves * * * in a grave lined with decadence; marked by indigestion; brought on by unparalleled bounties; compounded by greed, corruption, mistrust and growing incompetence; much of it nurtured by decades of boasting.

How can one explain, for example, that a nation of 200 million supposedly intelligent people finds itself in a position to choose the next president not because of who is the best but rather according to who is not the worst.

Some media commentators say there are plenty of good men in commerce and industry to occupy the White House but that they are not interested in the presidency.

If this is true, how does one explain the troubled waters business and industry are trying to navigate, not a little of it attributable to foreign competition?

Detroit, for example, finds itself in a mess with drastically lower sales and corresponding layoffs.

The Motor City likes to tell the world that it invented mass production, but foreign competitors are beating Detroit at its own game.

Like Zenith Corp., Detroit is complaining of unfair foreign competition. But for decades our political and academic leaders have been telling us that free enterprise thrives on competition.

Were this true of our economy, it would be flourishing instead of wallowing in a growing morass of diminishing sales and an increasing army of unemployed.

There was a time when we boasted of our technological and industrial prowess, attributing much of it to Yankee ingenuity and know-how.

We are still being reminded of our technological "supremacy" but qualify it with lamentations of selling sophisticated technological equipment to Russia, the acknowledged potential adversary if hostilities break out.

Yet Washington, although at increasingly longer intervals, continues to tell the world that we are the most powerful nation on earth.

Whatever happened to Teddy Roosevelt's injunction, "Speak softly but carry a big stick?"

Proponents of our public education, especially elementary and high school, for decades have been singing its praises. "Quality education" they call it. Yet college and university officials are appalled at the academic level of many students wanting to venture into higher education.

How can educators and publishers justify using some textbooks with several pages devoted to the late Marilyn Monroe, but not a line about the assassination of President John F. Kennedy, or the resignation of Richard Nixon?

Teen-age pregnancies are soaring in the wake of years of sex education beginning in the elementary schools.

Then there is the American Civil Liberties Union which spends much of its time and efforts defending our rights. But we do not have an American Civil Duties Union. Is not one needed?

Free speech and expression and all other "reasonable rights" are in the U.S. Constitution. But aren't we paying a frightful price by permitting lobbyists to function under the protection of this freedom? Registering them does not curb them.

Free speech and a free press are among the sturdiest pillars of our society. But isn't lobbying and all its ugly forms and money behind it an abuse of the intent of free speech?

Freedom interpreted literally implies that it is there for anyone to have if one so chooses. But do we not owe as much to freedom as we expect from it?

It is the abuse of these privileges which we have come to accept as God-given rights.

Increasingly, rights all too often are wronged.●

AS FAMINE SPREADS IN EAST AFRICA, CONGRESS SHUTS THE U.S. LARDER

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. CONTE. Mr. Speaker, this year we have been witness to an abundance of brilliant publications on the state of the world economy, the environment, and the international political order. The Brandt Commission supplies us with clearly delineated goals for a peaceful and prosperous planet, chief among which was to achieve consensus and cooperation in the North-South Dialog. The Presidential Commission on World Hunger advocated solutions to the problems of hunger and malnutrition which daily confront four-fifths of the worlds population. Global 2000, provided startling projections of our future should we continue on our current collision course with the Earths' biological and ecological systems.

A common denominator in each of these reports was the highlighting of the issue of world hunger and underscoring the importance of solutions to this problem. However, major impediments remain in achieving the lofty objective of assuring that man's most basic right—the right to food—is met. The following article by Kenneth Schlossberg, which appeared in the Los Angeles Times, points out some of these major constraints, an admonition which Congress should in fact heed.

AS FAMINE SPREADS IN EAST AFRICA, CONGRESS SHUTS THE U.S. LARDER

For the past year and a half, a presidential commission on world hunger has been trying to find ways for the world to eliminate hunger and famine. The commission concluded that although massive famines have occurred throughout history, "acute international concern and improved emergency relief mechanisms have done much to reduce the scale of starvation caused by civil strife as well as natural disaster."

Yet, even as the commission was concluding its final session June 16, a famine situation had developed in the Somalia region of East Africa that may rival in its horrible consequences what the world has recently witnessed in Southeast Asia.

Moreover, while this tragedy has been unfolding, the American food-aid program—Food for Peace—has been paralyzed by the congressional battle to achieve a balanced budget. Whether the budget will actually be balanced a year from now is dubious. What is almost certain is that thousands of Africans will die because our country, the greatest food producer on earth, could not act in time to send 35,000 tons of food required during the last month.

The best description of the dimension of the crisis came last March in testimony by the Committee for Somali Refugee Relief before the U.S. Senate subcommittee on African affairs. At that time, it was estimated that there were 614,000 refugees in camps throughout Somalia and an additional 700,000 refugees roaming the interior of the country.

Most of the refugees are ethnic Somali although some 200,000 are from southern Ethiopia. Somalia and Ethiopia have been engaged in a long struggle for control of the Ogaden desert area; Ethiopia has generally gained the upper hand, hence the flight of the Somali.

The Department of State reports that 90 percent of the refugees in camps are women and children. Late last year, a U.S. mission to Somalia estimated that 153,000 children under age 6 were in the camps, and 60 percent of the total camp population is under 15 years of age.

The U.N. mission also reported that among children under 6, 60 percent had gland enlargement, including tuberculosis; 54 percent had acute purulent rhinitis; 30 percent had acute purulent ear infection; 26 percent had lung disease, including TB; 18 percent had diarrheal disease and 11 percent suffered from vomiting.

Malnutrition is, of course, rampant and, as usual, strikes hardest at young children, who are the least able to fight for available food, and at women, who are prepared to sacrifice the most so their children may survive. The ideal daily ration should be 100 grams of rice, 200 grams of millet or sorghum, 60 grams of sugar, 60 grams of oil, 100 grams of bread, 60 grams of powdered milk and a minimal amount of tea.

The actual daily ration is as little as one-third of that. All food must be brought in by trucks; there are no storage facilities in the camps. Frequently, a 10-day reserve supply is destroyed by heavy rains, which also render the roads impassable.

Dr. Kevin M. Cahill, director of the tropical disease center at Lenox Hill Hospital in New York, has had a long interest in Somalia and visited that country the same time as the U.N. mission. Cahill reported that epidemics of disease, such as cholera, are an imminent danger and "are associated with the virtual absence of safe drinking water, the lack of sanitary facilities, the ease with which infectious diseases spread among malnourished people, and the prevalence of insect-borne diseases."

At the time of Cahill's visit, there was no immunization program of any kind against polio, measles, diphtheria, cholera or malaria. There were no storage facilities for vaccine or medicines, and very few doctors. In one camp of 34,000, there was one French doctor, one Somali doctor and two nurses. In another camp of 34,000 people, there was one Somali doctor and 2,000 people had died in one week.

These conditions are not the result of unconcern by the Somali government. In a Congressional Record statement, Sen. George McGovern (D-S.D.), chairman of the African affairs subcommittee, said: "Unlike Southeast Asia, where some unwilling host governments literally pushed refugees back across borders or out into the sea, the Somali government has sought to accommodate refugees to the greatest degree possible. Since many of these refugees are ethnic Somali, the government has contributed up to $15 million for their care—even though Somalia has serious problems of growing debt and dwindling reserves of foreign exchange."

Somalia is about the size of Texas but, unfortunately, not nearly as well-off. It has an annual per capita income of $70. Its normal population is 3.4 million to 4 million people, 60 percent of whom are nomadic. It is also a net importer of food, normally importing one-fourth of the food supply used by its normal population. Due to a severe drought in the region, local food production is down significantly.

Based on the gravity of the situation, Dr. Jean Mayer, president of Tufts University in Boston and, as an internationally renowned nutritionist, vice chairman of the presidential commission on world hunger, wrote Congressional leaders in May, pointing out that the U.N. team which surveyed refugee needs in Somalia last December estimated that 160,000 tons of food would be required during the calendar year 1980. Of this amount, only 90,000 tons had been firmly pledged—73 percent by the United States.

"The date will soon pass when it will be possible to arrange for food shipments to reach Somalia in time to avert serious shortages," Mayer said. "Also, the total amounts now under consideration by other donors would cover only one-half of the additional 70,000 tons required for the rest of this year.

"Meanwhile, AID's Food For Peace Title II program is out of money . . . it now appears certain that thousands of people will begin to die of starvation."

Despite the urgency of this plea, a supplemental appropriation remained bottled up in Congress while the battle over the balanced budget resolution took place from mid-May until the first week in July. No food moved during this time period. While the budget was being balanced, the bellies were going empty.

The cause of this paralysis in American food aid is cited in the report of the presidential commission. As one of its recommendations on food aid, it proposed that Congress reinstate the "borrowing authority" of the Commodity Credit Corporation, since revised procedures adopted by Congress limit borrowing of currently appropriated funds. This eliminated the flexibility when special circumstances required urgent or extraordinary measures to provide food aid.

If nothing else comes of the commission's report, implementation of this recommendation would have been well worth the time and effort that went into it. If this flexibility is restored to our food aid effort, then once again we would be able to move with the speed that imminent starvation requires.

Most Americans probably would support such a change. Certainly when it comes to our own fellow citizens, we didn't let the budget issue stand in the way of meeting basic human needs. At the same time foreign food aid was caught in the budget battle, our domestic food stamp program was also running out of money. But it was exempted from the budget process so that our own hungry poor wouldn't suffer food shortages.

Perhaps the difference in the response is that there exists a political constituency and myriad watchdog groups to fight for food aid at home, while the hungry overseas go almost unrepresented—unless the world and national media raises a hue and cry about their plight.

What we need is a permanent, independent but government-funded commission to keep our own country's and other nations' feet to the fire on the hunger issue. We have a model in the U.S. Commission on Civil Rights, which annually oversees our progress in this area, holds public hearings and issues annual reports. If such a permanent U.S. commission on world hunger existed, it could quickly bring the public spotlight to bear on a potential tragedy.

This problem is going to get worse before it gets better. According to a final conclusion of the commission report, "A major crisis of global food supply—of even more serious dimensions than the present energy crisis—appears likely within the next 20 years, unless steps taken now to facilitate a significant increase in food production in the developing nations. Such a crisis would have grave implications for all nations, including the United States; but those nations with the largest numbers of hungry people would suffer the most."●

PROBLEM OF ACID RAIN

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. MITCHELL of New York. Mr. Speaker, I know that many of my colleagues in the House of Representatives—especially those in the Northeast—share my concern about the perplexing problem of acid rain. An August 6, 1980, editorial from the Evening Telegram of Herkimer, N.Y., forcefully articulates the growing concern for this issue among many residents of the Northeast:

ACID RAIN EFFECTS TOO DEVASTATING

The acid rain problem is one environmental difficulty demanding action. If it is not forced by complaints from the Northeast, particularly plagued by this type of fallout, it will be by Canada, which is also suffering from the impact.

The source of the pollution is the Ohio Valley, and it is caused primarily by coal-burning utility plants. In order to meet air standards, these plants simply built very high smokestacks, which carried sulphur fumes out of their own area and into the clouds, where they mingled with rain and have been coming down in the East as weak sulfuric acid.

There are ways of checking this at the source, without ceasing to burn coal. An expense is involved, but the present situation is causing such heavy losses that it would be more than offset. The acid has the effect of "sterilizing" lakes, particularly on high ground, as in the Adirondacks, killing not only fish, but all plant life and even insects on which they might feed.

In addition, this fallout damages forests, and has been blamed for many of the timber blights which have lately swept the Adirondacks, preying on trees weakened by the acid. Over a period of time, it also lessens the fertility of the soil, whether for growing timber or for farming.

The Northwest governors have repeatedly protested the situation, but have gotten nowhere, expecially because the use of coal instead of oil is being pushed as a conservation measure by the administration. However, if protests start coming from Canada, as they are expected to come soon, there is a little more prospect of action.

Environmental safeguards are basically not something being pushed by old ladies in tennis shoes. They have a definite economic basis, because when land and timber are destroyed the whole economy of the state suffers, just as the fishing industry suffers when oil spills or toxic chemicals kill fish or make them unfit to eat.

When something one state or group of states permits injures other states, it is time to put something ahead of pure states' rights. The rights of individuals end when they encroach on those of other people, and the same rule should apply in inter-state relations.

New York State and the rest of the Northeast should join to make sure that something is done, and there should not be much more delay. Much of the damage already done may be irretrievable.●

GOVERNOR REAGAN'S REMARKS ON THE TAIWAN RELATIONS ACT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. LAGOMARSINO. Mr. Speaker, the recent attention to Governor Reagan's statements regarding his views of U.S. policy toward Taiwan seems to me to have overlooked the point that Governor Reagan so clearly made in his news conference statement August 25—the guiding principle for U.S. policy is the Taiwan Relations Act.

There was some discrepancy surrounding the Bush trip to China and statements made before he left and while he was there. But, I think Bush has excellent credibility with the Chinese from his past experience there. He also knows there are still points of disagreement with respect to some aspects of the overall United States-China policy. But the Reagan statement yesterday clears up any misunderstandings about what the U.S. position should be based on the Taiwan Relations Act mandated by the Congress. A careful and consistent implementation of that act is what is needed, something which the Carter administration has failed to do.

I urge my colleagues to consider carefully what Governor Reagan says about the Taiwan Relations Act and the importance of our relations with Taiwan and China.

The statement follows:

STATEMENT BY RONALD REAGAN

Ten days ago George Bush and I met with you here in Los Angeles on the occasion of his departure for Japan and China, a trip he undertook at my request. As we stressed at the time, the purpose of the trip was to provide for a candid exchange of views with leaders in both countries on a wide range of international topics of mutual interest. Ambassador Bush returned last evening, and has reported his findings in detail.

We are both very pleased with the results of his extensive discussions. In a series of meetings with distinguished leaders in Japan, including Prime Minister Suzuki, Former Prime Ministers Fukuda, Kishi and Miki, Foreign Minister Itoh and Minister of International Trade and Industry Tanaka, he had the opportunity to hear their views and recommendations concerning the future of U.S.-Japanese relations.

Our Republican Party Platform stresses that Japan will remain a pillar of our policy for Asia, and a Reagan-Bush Administration will work hard to insure that U.S.-Japanese relations are maintained in excellent condition, based on close consultation and mutual understanding.

Japan's role in the process of insuring peace in Asia is a crucial one, and we must reinforce our ties with this close ally. Japan is our second most important trading partner, and we are her first. We have close ties in other fields, too. A most important example is the U.S.-Japan Mutual Security Treaty which recently marked its twentieth anniversary.

Understanding the Japanese perspective is important for the success of American policy. As Ambassador Bush will tell you in detail, he found Japanese leaders unanimous in their view that the United States must be a strong, reliable, leading partner.

I appreciate receiving their views, and I am grateful to them for the courtesies extended to Ambassador Bush. I would also like to express my appreciation to, and regard for, U.S. Ambassador Mike Mansfield, who also extended many courtesies.

Of equal importance was Ambassador Bush's trip to China, where he held a series of high-level meetings. As I said on August 16, "we have an obvious interest in developing our relationship with China, an interest that goes beyond trade and cultural ties. It is an interest that is fundamental to a Reagan-Bush Administration."

The meetings in Beijing provided for extensive exchanges of views. George has reported to me in great detail the points of similarity and agreement, as well as those of dissimilarity and disagreement. Since the objective of the trip was to have just such an exchange without necessarily reaching agreement, I believe that the objective was reached.

We now have received an updated, first-hand of China's views, and the Chinese leaders have heard our point of view.

While in Beijing, Ambassador Bush and Richard Allen met at length with Vice Premier Deng Xiaoping, Foreign Minister Huang Hua, as well as with other top foreign policy experts and military leaders. I appreciate the courtesies which the Chinese leaders extended to our party, and I also wish to thank U.S. Ambassador Leonard Woodcock for his kind assistance.

We now maintain full and friendly diplomatic relations with China. This relationship began only a few years ago, and it is one which we should develop and strengthen in the years ahead. It is a delicate relationship, and the Reagan-Bush Administration will handle it with care and respect, with due regard for our own vital interests in the world generally, and in the Pacific region specifically.

China and the United States have a common interest in maintaining peace so that our nations can grow and prosper. Our two-way trade has now reached approximately $3.5 billion annually, and China's program of modernization depends in a major way on Western and U.S. technology.

Along with many other nations, we and China share a deep concern about the pace and scale of the Soviet military buildup. Chinese leaders agree with Japanese leaders that the United States must be a strong and vigorous defender of the peace, and they specifically favor us bolstering our defenses and our alliances.

It is quite clear that we do not see eye to eye on Taiwan. Thus, this is an appropriate time for me to state our position on this subject.

I'm sure that the Chinese leaders would place no value on our relations with them if they thought we would break commitments to them if a stronger power were to demand it. Based on my long-standing conviction that America can provide leadership and command respect only if it keeps its commitments to its friends, large and small, a Reagan-Bush Administration would observe these five principles in dealing with the China situation.

GUIDING PRINCIPLES FOR THE FAR EAST

First, U.S.-Chinese relations are important to American as well as Chinese interests. Our partnership should be global and strategic. In seeking improved relations with the People's Republic of China, I would extend the hand of friendship to all Chinese. In continuing our relations, which date from the historic opening created by President Nixon, I would continue the process of expanding trade, scientific and cultural ties.

Second, I pledge to work for peace, stability and the economic growth of the Western Pacific area in cooperation with Japan, the People's Republic of China and Republic of Korea and Taiwan.

Third, I will cooperate and consult with all countries of the area in a mutual effort to stand firm against aggression or search for hegemony which threatens the peace and stability of the area.

Fourth, I intend that United States relations with Taiwan will develop in accordance with the law of our land, the Taiwan Relations Act. This legislation is the product of our democratic process, and is designed to remedy the defects of the totally inadequate legislation proposed by Jimmy Carter.

By accepting China's three conditions for "normalization," Jimmy Carter made concessions that Presidents Nixon and Ford had steadfastly refused to make. I was and am critical of his decision because I believe he made concessions that were not necessary and not in our national interest. I felt that a condition of normalization—by itself a sound policy choice—should have been the retention of a liaison office on Taiwan of equivalent status to the one which we had earlier established in Beijing. With a persistent and principled negotiating position, I believe that normalization could ultimately have been achieved on this basis. But that is behind us now. My present concern is to safeguard the interests of the United States and to enforce the law of the land.

It was the timely action of the Congress, reflecting the strong support of the American people for Taiwan, that forced the changes in the inadequate bill which Mr. Carter proposed. Clearly, the Congress was unwilling to buy the Carter plan, which it believed would have jeopardized Taiwan's security.

This Act, designed by the Congress to provide adequate safeguards for Taiwan's security and well-being, also provides the official basis for our relations with our long-time friend and ally. It declares our official policy to be one of maintaining peace and promoting extensive, close, and friendly relations between the United States and the seventeen million people on Taiwan as well as the one billion people on the China mainland. It specifies that our official policy considers any effort to determine the future of Taiwan by other than peaceful means a threat to peace and of "grave concern" to the United States.

And, most important, it spells out our policy of providing defensive weapons to Taiwan and mandates the United States to maintain the means to "resist any resort to force or other forms or coercion" which threaten the security or the social or economic system of Taiwan. This Act further spells out, in great detail, how the President of the United States, our highest elected official, shall conduct relations with Taiwan, leaving to his discretion the specific methods of achieving policy objectives.

The Act further details how our official personnel (including diplomats) are to administer United States relations with Taiwan through the American Institute in Taiwan. It specifies that for that purpose they are to resign for the term of their duty in Taiwan and then be reinstated to their former agencies of the U.S. government with no loss of status, seniority or pension rights.

The intent of the Congress is crystal clear. Our official relations with Taiwan will be funded by Congress with public monies, the expenditure of which will be audited by the Comptroller General of the United States; and Congressional oversight will be performed by two standing Committees of the Congress.

You might ask what I would do differently. I would not pretend, as Carter does, that the relationship we now have with Taiwan, enacted by our Congress, is not official.

I am satisfied that this Act provides an official and adequate basis for safeguarding our relationship with Taiwan, and I pledge to enforce it. But I will eliminate petty practices of the Carter Administration which are inappropriate and demeaning to our Chinese friends on Taiwan. For example, it is absurd and not required by the Act that our representatives are not permitted to meet with Taiwanese officials in their offices and ours. I will treat all Chinese officials with fairness and dignity.

I would not impose restrictions which are not required by the Taiwan Relations Act and which contravene its spirit and purpose. Here are other examples of how Carter has gone out of his way to humiliate our friends on Taiwan:

Taiwanese officials are ignored at senior levels of the U.S. government.

The Taiwan Relations Act specifically requires that the Taiwanese be permitted to keep the same number of offices in this country that they had before. Previously, Taiwan had 14 such offices. Today there are but nine.

Taiwanese military officers are no longer permitted to train in the United States or to attend service academies.

Recently the Carter Administration attempted to ban all imports from Taiwan labeled "Made in the Republic of China," but was forced to rescind the order after opposition began to mount in the Congress.

The Carter Administration unilaterally imposed a one-year moratorium on arms supplies even though the Act specifies that Taiwan shall be provided with arms of a defense character.

The Carter Administration abrogated the Civil Aviation Agreement with Taiwan, which had been in effect since 1947, in response to demands from the People's Republic of China.

I recognize that the People's Republic of China is not pleased with the Taiwan Relations Act which the United States Congress insisted on as the official basis for our relations with Taiwan. This was made abundantly clear to Mr. Bush, and, I'm told, is clear to the Carter Administration. But it is the law of our land.

Fifth, as President I will not accept the interference of any foreign power in the process of protecting American interests and carrying out the laws of our land. To do otherwise would be a dereliction of my duty as President.●

WOMEN'S EQUALITY DAY

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. GREEN. Mr. Speaker, today is the 60th anniversary of the ratification of the 19th amendment, which granted women the right to vote. It is also the 60th anniversary of Women's Equality Day, which was declared in recognition of the granting of the suffrage. Sixty years ago, this day was a milestone in the fight for women's rights and ended a 72-year battle for recognition of women as citizens who had a right to vote. Since 1920, much progress has been made in the area of women's rights. However, I would like to take this opportunity, on Women's Equality Day, to stress the importance of our continued efforts in this area.

In this Congress, we have made efforts to promote equal treatment of women. Last year, the Domestic Violence and Prevention Service Act was passed by the House, and this bill is now being considered by the Senate. I hope that this legislation, which recognizes and attempts to deal with a problem which has previously been overlooked, will be enacted into law this year. There are also many proposed changes in the social security benefit structure, the tax sheltered individual retirement accounts to benefit homemakers, and the elimination of the "marriage tax," which would benefit couples. Efforts to pass new laws in these areas mark the progress which has been made since the start of the suffrage movement in the United States and are encouraging to the many proponents of the women's rights movement.

Unfortunately, there are two issues which require further action and vigilance on our parts. The equal rights amendment was introduced in 1923—57 years ago—and the struggle for ratification of this vital amendment continues. We need approval by only three more States in order to give women their rightful place in the Constitution. It is my hope that with the combined efforts of the House, the Senate, State officials, and concerned citizens, this amendment will be ratified. We hope this will not take another 15 years, and thus last as long as the fight for the 19th amendment did. But whatever it takes, we shall continue this struggle.

Many of us who believe that women should have the right to choose whether or not to have an abortion have been fighting for years against restrictions on the use of Federal funds for them. Again in this Congress we are faced with decisions of the role of the Federal Government in providing abortion services. I feel it is essential to allow a woman the freedom to make this important decision on the basis of personal conviction, without regard to economic circumstance, and I urge my colleagues to consider these amendments and bills carefully.

In closing, I would compliment the individuals and groups who have worked hard toward the passage of legislation and the implementation of programs which seek to provide for the needs of women and to recognize their role as participants in all sectors of our society. As we work here in Congress, we must continue to devote our efforts toward making "Women's Equality Day" a reality.●

ANTIBIOTICS IN ANIMAL FEEDS—A MATTER OF POLICY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. DINGELL. Mr. Speaker, on May 7, 1980, I introduced with my distinguished colleague, Henry A. Waxman, H.R. 7285, the Antibiotics Preservation Act, a bill to preserve the therapeutic efficacy of human antibiotics, particularly penicillin and tetracycline, by restricting their current use in animal feeds.

Throughout 2 days of hearings that were held on the bill in June, and the discussions that have ensued, one point has become readily apparent—20 years of scientific investigation have provided us with volumes of relevant and incisive information on all aspects of this health threat, yet, definitive and unequivocal quantitative data establishing the precise magnitude of the human health risks is not at hand and never will be. The risks are real but impossible to quantitate given the profligate use of antibiotics for both therapeutic and agricultural purposes. Science has taken us as far as it can in providing decisionmakers with policy relevant information on this pervasive health risk. What we now face is a fork in the road where a prudent policy decision and not further study will be the pathfinder. In that vein, I commend to my colleagues the following articles from the New York Times and Science which call urgent attention to the need for a policy determination on the matter of antibiotics in animal feeds:

[From the New York Times, June 17, 1980]

New Worry Over Drugs in Animals—Antibiotics in Feed May Lessen Value in Humans

(By Robert Reinhold)

The widespread use of low doses of human antibiotics as additives in animal feed may be diminishing the value of "miracle drugs" in the treatment of humans.

That is the growing suspicion based on considerable but inconclusive evidence of doctors who have long wondered why they have had to administer ever larger doses of antibiotics to combat bacterial infections in their patients.

Part of the answer may be that the doctors themselves have so overused drugs like penicillin and tetracycline that the bacteria have learned to fight back, so to speak, by becoming resistant.

But the fear that drugs used in animals may also have a role has lent impetus to new legislation. In an effort to clear a decade-long regulatory logjam, two Congressmen have introduced a bill to give the F.D.A. explicit authority to ban the routine "subtherapeutic" use of human antibiotics in animal feed. Last week, hearings were held on the bill, called the Antibiotics Preservation Act, which is sponsored by Representative Henry A. Waxman of California and Representative John D. Dingell of Michigan, both Democrats.

The feed issue is a classic example of the regulatory dilemma that so often confronts the Government on scientific matters: A potential hazard to human health is recognized, but it can be remedied only by economic dislocation and, in this case, possibly by shrinking the food supply.

Meanwhile, the putative hazard has become so deeply entangled in the economy that politically powerful vested interests—the agriculture and drug industries—are able to thwart action.

Complicating matters in this case is the incompleteness of the evidence, and, according to a recent study by a panel of the National Academy of Sciences, the problem is so complex that it is probably impossible to devise a study to measure the risk. So the Government must act in the dark, balancing uncertain risk against known benefits.

"Therapeutic failure with these antibacterials would lead to large but presently unquantifiable morbidity and mortality in humans and animals," stated a recent report by the Congressional Office of Technology Assessment. "Once significant effects on human health do become widely observable and quantifiable, it may be too late to address the problem."

The stakes are not small. Nearly all poultry, 85 percent of pigs and hogs and about 60 percent of cattle are raised today on feed treated with antibiotics, mainly penicillin and tetracycline. The drugs are believed to prevent disease and promote growth, and they have helped transform agriculture by allowing big producers to raise large numbers of animals in small, confined feed lots.

According to drug industry sources, nearly half of all antibiotics made in the United States are sold for animal feed use. In 1979, this meant $243.7 million in total sales, according to figures compiled by the Animal Health Institute, a drug industry trade group.

Doubts about the wisdom of this practice have grown with its spread in the last 30 years, and many European countries have banned routine addition of antibiotics to feed. Though subject to debate, there is mounting circumstantial evidence that the resistance to antibiotics developed in intestinal Escherichia coli bacteria, or "flora," of animals can ultimately be transferred to pathogenic, or disease-causing, bacteria that invade humans.

The agents of this transfer are R plasmids, bits of extrachromosomal material that endow bacteria that contain them with resistance to certain antibiotics. The natural forces of "selection" favor the breeding of such bacteria with regular feeding of antibiotics that kill off nonresistant strains.

Many experts believe these R plasmids are capable of hopping about from one species of bacteria to another. Convincing, and to many worrisome, evidence of this has come from laboratories at the University of Washington and in the Netherlands. They found that the same type of R plasmids present in ordinary harmless intestinal bacteria were also present in two antibiotic-resistant pathogens: Hemophilus influenzae, which is thought to cause meningitis in infants, and Neisseria gonorrhoeae, which causes gonorrhea.

EPIDEMIC IN CONNECTICUT

A Salmonella epidemic in the nursery of a Connecticut hospital in 1976 was traced to infected calves on a dairy farm where the mother of one infant lived. The organism was found resistant to six antibacterials. However, a study published in the Journal of the American Medical Association last February did not say what, if any, antibiotic was used in the animal feed.

In another study, Prof. Stuart B. Levy of Tufts University fed chickens on a farm with tetracycline-supplemented feed. Within months, the intestines of humans living on the same farm were heavily laden with tetracycline-resistant bacteria, but not those of their neighbors on a nearby farm. Dr. Levy concluded: "The data from this and other studies argue strongly against the present-day practice of unqualified and unlimited use of antibiotic-supplemented feeds in animal husbandry."

Representative Dingell said in an interview that he was convinced that "this poses a substantial peril to the health of the American people." He dismissed arguments that the loss of the antibiotics would cost the food industry and public billions of dollars, saying adequate substitutes from among drugs not used for humans were available.

Others are more cautious. The National Academy of Sciences panel examined the evidence and concluded that "the postulations concerning the hazards to human health that might result from the addition of subtherapeutic antimicrobials to feeds have been neither proven nor disproven." However, it added that this does not mean the hazards do not exist.

RISK IS THEORETICAL

"The risk is theoretical," said Dr. L. M. Skamser of the American Cyanamid Company in Princeton, N.J., makers of chlortetracycline and a major supplier of farm feed drugs. He said there was "no evidence" linking animal feed drugs to human illness. "We need more study," he added.

Dr. C. D. Van Houweling, former head of the Food and Drug Administration's Bureau of Veterinary Medicine and now Washington representative of the National Pork Producers Council, said that not a single case of human illness could be traced to the antibiotics.

However, his successor, Dr. Lester Crawford, argues that the issue is whether doctors will have a good drug to use in the event of a widespread outbreak of an infectious disease like Salmonella infection. The erosion of penicillin's effectiveness through resistance, he said, might make it necessary to resort to newer antibiotics that are more toxic than penicillin and less effective than it once was.

Representative Dingell argues that conclusive evidence is not needed, that the risk warrants action. He acknowledges that his bill faces an "uphill fight," given the power of the livestock industry and the antiregulatory mood in Congress. The present bill appears to be in part an effort to circumvent the agriculture committees in Congress, which are hostile to regulation.

The F.D.A. has already tried to move on its own authority. But the agency's hands have been tied by Congress, which, after it proposed restrictions on the feed drugs in 1977, imposed a moratorium on restrictions until a full study could be completed. But now the National Academy of Sciences report says that such a study is impossible.

Thus, the F.D.A. finds itself in a "Catch-22 situation," in the words of Dr. Crawford. He said the agency would seek new guidance from Congress, which is often more sensitive to immediate economic and political concerns than long-term scientific ones.

[From Science, July 25, 1980]

HEALTH COMMITTEE INVESTIGATES FARM DRUGS—PROPOSED LEGISLATION WOULD ENABLE FDA TO BAN THE USE OF ANTIBIOTICS IN ANIMAL FEEDS

(By Eliot Marshall)

Although pigs are at center stage in this controversy, the National Pork Producers Council decided not to speak at hearings on the farm use of antibiotics held 12 and 24 June by Representatives Henry Waxman (D-Calif.) and John Dingell (D-Mich.). The congressmen were laying out the case for their bill (H.R. 7285), which would give the Food and Drug Adminstration (FDA) more power to carry out its intention of banning the use of penicillin and tetracycline as feed additives. The FDA has been blocked for 2 years now in this campaign by agricultural committees in Congress. They have insisted that the question needs more study, not action (see *Science*, 25 April). Dingell and Waxman are trying to break the logjam.

"We're dealing with raggedy science," said Dingell's aide, who explained that Dingell decided to push for new legislation because he thinks the experts are not likely to resolve the issue soon. A panel at the National Academy of Sciences concluded this spring that for technical reasons it may be impossible to prove what many people suspect—that using antibiotics in the barnyard helps create drug-resistent bacteria which will infect humans.

The Pork Council stayed away from the hearings, according to a letter from its president, "mainly because we do not consider it to be a good use of our time or [of that of] the members on the subcommittee"—Waxman's health and environment subcommittee of the House Interstate and Foreign Commerce Committee. The pork people may not have liked the idea that that their farm issue was being turned into a health issue. They declared it a boring scene, and kept their distance.

An aide to Dingell speculated that the Pork Council really stayed away out of embarrassment. Its chief lobbyist and regular Washington spokesman, C. D. Van Houweling, retired 2 years ago from the directorship of the bureau of veterinary medicine at the FDA. This office is directly responsible for animal drug policy, and it is being pressured mightily by the drug and meat producers to say that it is all right to mix penicillin and tetracycline in feeds as a growth promoter.

Van Houweling left office before the new bureaucrats' ethics code went into effect, and so he is not prevented from engaging in what the new code would call a conflict of interest. A year from the day of his retirement, he was free to lobby Congress and his old colleagues to see things the way the pork producers do. According to his own interpretation, however, he was free to act as he pleased on the "generic issue" involving antibiotics "the day after I walked out of the office." Yet it may still prove a bit hard for him to execute this change of roles with grace.

Van Houweling's situation contrasts, incidentally, with that of his successor, Lester Crawford. The latter will retire on 1 August to return to the faculty of the University of Georgia. Crawford told Science that the reformed ethics code, which does affect him, will mean that during his lifetime he will never be able to go before the FDA to argue his position—that the pork producers are wrong. He thinks that penicillin and tetracycline are so valuable as human medicines that their potency should not be compromised, which he thinks is happening today, by allowing them to be used as animal fatteners.

Had Van Houweling or his associates from the Pork Council shown up to speak, Dingell would have given them a hard time. No doubt the pork people knew this. In the event, Dingell dished out his invective to the Animal Health Institute, which he referred to as the "Animal Hypocrisy Institute." Its members (52 large drug makers) produce 90 percent of the veterinary pharmaceuticals used in this country each year. It too favors the use of penicillin and tetracycline in feeds. Dingell said, "Such groups are always eager to use science as a shill, and seek comfort in, and profit from uncertainties." This sort of language, Van Houweling said, is incredibly unfair, since every interest group has the right to organize under however fancy a name it chooses to make its views known.

The pork producers themselves gave a fairly good explanation for their absence. In the letter to the subcommittee, they said that this issue had already been reviewed by the Senate and House agriculture committees, and by the agriculture appropriations subcommittee in the House (all of which sided with the meat producers and drug companies against the FDA). The letter hinted that Waxman and Dingell were interfering in other people's business. It pointed out that there is no rock-solid proof that human health is being endangered by the use of antibiotics in feeds. And it chided the subcommittee for diverting its staff from attacking "the many pressing, critically important national problems facing this nation and Congress," among which is not the feed question.

Lastly, the pork people wrote, "Unfavorable publicity for our products, just when we are trying desperately to encourage the consumption of pork . . . is the last thing we need. Providing a public platform for misguided activists to make unfounded charges is a distinct disservice to not only the pork producers but all animal food producers in the U.S., and the U.S. consumer."

Van Houweling saw it as a case of "the wrong bill in the wrong committee at the wrong time." The cattlemen also stayed away, he pointed out. And he was baffled by Dingell's decision to intervene in a matter already being handled by other committees. "I don't see how he can push this as a health issue," Van Houweling said.

Where does the misguided activism come from? Thomas O'Brien comes from the Harvard Medical school, where he is associate professor of medicine and director of the microbiology laboratory at the Peter Bent Brigham Hospital. He told the subcommittee on 12 June that his concern about animal feeding practices stems not from a "theoretical" worry, but from what is already known about the behavior of bacteria. By creating an environment in which bacteria do battle over a long period with antibiotics, man is forcing the bacteria to remold themselves by evolutionary processes into strains which are invulnerable to the antibiotics used against them. The ability to resist antibiotics is carried in genes, and it can be passed from one generation to another. O'Brien thus described the problem as a cumulative one: the more we expose bacteria to antibiotics, the more we will have to contend with resistant strains.

None of this would affect animal feeds if animal bacteria were distinct from human bacteria, but they are not. Some strains inhabit both realms, and genes for resistance can pass freely from animal to human bacteria. O'Brien suggested that there may be a finite number of types of antibiotic to be discovered. He saw an ominous sign in the fact that there has been a declining rate of discovery of new types since 1960. In view of this, he said, it would be prudent to use our most valuable antibiotics—penicillin and tetracycline—most sparingly.

William Hewitt, chief of the division of infectious diseases at the University of California at Los Angeles, challenged the notion that antibiotics are a depleting resource, but agreed that penicillin and tetracycline are becoming obsolete for some illnesses because they have been so broadly administered over the last three decades. There is no evidence that feeding drugs to animals has contributed to this phenomenon, he said. He thought it would make more sense to restrict the human use of these drugs than to attack the farm problem.

Yet because 40 percent of the antibiotics used in this country are used in feeds, and because there are 18 substitutes for penicillin and tetracycline available at little extra cost, attacking the farm problem is the easiest thing to do.●

DENVER POST FEATURES CLARENCE STREIT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. FINDLEY. Mr. Speaker, the Sunday, August 17, issue of the Denver Post featured a great citizen of freedom, Clarence K. Streit, who has devoted 41 years to the advancement of the concept of federation of democracies.

The review was written by Kit Miniclier, Post staff writer and former expert on foreign affairs for the Associated Press.

The text of the Streit piece follows:

STREIT STILL STRESSES NEED FOR FEDERATION OF DEMOCRACIES

On the basis of his quotation above, Clarence K. Streit concludes that national patriotism has served increasingly to divide the world as man's inventions strive to bring its inhabitants closer together.

"The shame is not lessened . . . when a whole nation assumes that it has given more than it has received, that there is something naturally superior and peculiarly sacred in it, that it is the Elect of God or the Chosen People, that it is meant to be the lord of others.

"Like everything else that has outlived its usefulness, nationalism has changed from a beneficent into a maleficent force," dividing mankind, creating greater misunderstandings, quarrels and wars, he concludes.

Streit, a Rhodes Scholar and former New York Times foreign correspondent, penned these thoughts in 1939, on the eve of World War II, in proposing a union of the world's more experienced democracies.

His powerful argument for an end to national patriotism, a key phrase used by Adolf Hitler at the time, has been honored by statesmen on both sides of the Atlantic, and Streit has been credited with laying the foundation for the Atlantic Alliance and the North Atlantic Treaty Organization. Streit has been nominated several times for the Nobel Peace Prize.

Now 84, he recently completed a sentimental journey to many of the capitals of Europe he knew as a journalist, and stopped off in Denver en route to visit his childhood home in Missoula, Mont.

Streit, who long ago recognized the interdependence of mankind for raw materials, manufactured goods, inventions and political thought, has devoted 41 years to his dream of a federation of world democracies and feels it is as relevant today as it ever was—to prevent another major war and ease the coming world depression.

A federation of democratic nations psychologically would offset the impact of the depression because it would create confidence and faith, he said, citing the optimism of the first Continental Congress, operating with dollars "that weren't worth a damn" to develop a federal system built on "compromise after compromise."

He warned that the next global depression will be much worse than the last, partly because of the fragmentation of economic systems by small political entities, and the economic stress upon the small nations arising from high-interest Eurodollar debts and the soaring costs of vital raw materials, including oil from the OPEC countries.

"I'm not for imperialism or anything like it, but there was a form of economic stability during the last depression, with the British, French, Portuguese, Belgian and Dutch empires," he said.

"Today there is a worldwide money market which never sleeps. When the stock markets close in London they are still open in New York. When New York closes, San Francisco is still open, and then Tokyo and Hong Kong."

In arguing for "Union Now," the title of his first book, which initially was printed privately in 1939, Streit said the English, American and French revolutions recognized that men no longer needed mysticism to keep them together.

"They need only Union Now to bring them all together to free mankind still more. . . . They have now enough experience behind them and intelligence in them to understand that freedom lies in free men freely uniting, trusting in each other and depending on each other.

"They are mature enough to understand that the way to man's freedom can't possibly lie in worshiping the accident of birth."

He envisions a world government based on an expanding union of democracies "as countries grow up."

"But all that is in the far future. We've still got a job to do in our time," he said in an interview, expressing the hope that a convention of parliamentary democracies would set the stage for an Atlantic union.

Under his proposal, a convention of NATO countries would form the initial group, agreeing to transform their military alliance into a federal union which would become a member of the United Nations.

The union would secure the right of each member nation "to govern all its purely national affairs in complete independence," and provide for admission of other countries "as rapidly as this will advance liberty and peace."

Streit, founder of Federal Union Inc. a non-profit educational membership association, and editor of Freedom & Union, "a magazine of the democratic world," was honored by members of Congress in 1978 and 1979 for his vision.

A book of 150 letters from statesmen on both sides of the Atlantic paid tribute to his ideas. "This world—torn by conflicts, divided into factions—only can survive if nations stand together to forward mutual understanding and peace. Your ideas have inspired and encouraged men who aim at this great goal," wrote former West German Chancellor Willy Brandt.

"You are one of those rare individuals who have devoted your life to working against great odds for a great ideal. You have contributed enormously to the cause of peace and freedom in the world," added Richard Nixon.

John Anderson, R-Ill., now an independent candidate for president, told Streit: "You share with few the honor of having helped direct America toward a safer and more prosperous tomorrow."●

NEW BEGINNINGS WITH CULINARY ARTS

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. LIVINGSTON. Mr. Speaker, I believe the following article recently written by Ms. Renee Peck in the New Orleans Times-Picayune/States-Item will be of extreme interest to my colleagues who are concerned about prisoner rehabilitation.

The innovative approach to work training undertaken by Warden G. Joseph Putnam at the Jackson Barracks Work Training Facility in New Orleans will go far in placing these prisoners back into society with meaningful jobs. I might add that the prisoners' work training is quite practical considering the unique and outstanding tradition New Orleans has for "good eatin'."

The article follows:

NEW BEGINNINGS WITH CULINARY ARTS

(By Renee Peck)

Leonard Boyer had been up since 3 a.m., lining up pots and pans, paring vegetables, thawing chickens for his culinary arts class dinner that evening.

"I've always liked to cook," reflected the slim young man as he lifted the lid from a jar of paprika. "I like frying, baking, broiling, sauteing, the whole thing. This is my profession. I'd really like to be a chef."

"Knowing how to cook is a great thing for bachelors," grinned Alvin Pratt as he deftly stuffed boned chickens with a spicy rice dressing. "I always did like to cook—my mother had 18 kids and I used to help out in the kitchen. But my profession is working on the oil rigs. Still, it's always nice to have other talents to fall back on."

Other students moved busily around the kitchen, stirring sauces, garnishing trays of appetizers, sampling a bit of bread pudding or marinated crab. The scene could have been taking place in any commercial training kitchen. The hopes, desires, fears and aspirations of these students are the same as those of apprentice-chefs anywhere.

But these 11 students are not like their counterparts in other parts of the country. They are inmates at the state Work Training Facility in the Jackson Barracks. And, for them, this culinary arts class might make all the difference in overcoming a past mistake.

"Many people look on prisoners as nonproductive members of society," says Ronald Crawford. "How can that be corrected? By making us productive members of society, that's how. Train us to do something worthwhile, and we can contribute, too."

The first program of its kind in the country, the Work Training Facility's culinary arts class is designed to teach inmates a marketable skill, one that will enable them to find jobs and establish careers upon their release.

"Oh, I've always liked to cook, but if it can get me a job . . . well, that'll be the hard part," says James Jones, whose ultimate goal is to become a successful musician.

Almost every student's remark is prefaced with, "When I get out . . ." And perhaps for the first time, each aspiring chef is looking upon that time as a true chance for a new beginning.

"This is not just a cooking class," says Carmen Riley, culinary arts instructor at Elaine P. Nunez Vocational Technical School, which has helped sponsor the program. "We're not teaching just cooking, but how to deal with your fellow man. Students help one another, and there's a strong sense of unity.

"These inmates are learning to express themselves, which is very important to someone who is confined. Some had feelings of neglect, of constantly being kicked about. Now they are optimistic. For the first time, they're thinking, 'hey, maybe there is a chance for me.' "

The attractive young professor admitted that at first she was skeptical about instructing a class composed of prison inmates.

"You hear so many negative things about them. I didn't know what to expect. Society has us believe that these guys are hardened criminals who can't learn."

Instead, Riley found a group of men "starving for trades. They realized they had made mistakes and were crying for another chance. They really want to do better. I'm not saying that 100 percent of them will make something out of themselves. But 90 percent of my students are highly motivated, not only in class but in the entire facility. They're in class because they really want to be there."

And the class has come a long way in its four months of training. Members meet for two 3-hour sessions weekly. From textbook work on basic kitchen tools, safety, nutrition and ingredients, they have progressed to preparation skills involving techniques of frying, broiling, sauce making and garnishing. They recently embarked on cake baking and decorating, and when they complete the course at the end of this month, each will receive a certificate from Nunez Institute.

"Some of these guys couldn't even boil water when we started," says Riley. "Now they're deboning chickens and making cream sauces. The students help plan the coursework and have input into menus and subjects covered.

"And I leave it open as to what each student does. If one likes baking, he can concentrate on that. Others might prefer frying or garnishing. Different talents are emerging in different students. One student, Kirby Christopher, has taught himself wood carving and is good with his hands. He took to cake decorating with ease.

"To make this program work, students have to get more than a promise of a job out of class. They have to enjoy it and get something out of it. I don't look at a job as something to get paid for, there has to be something in it for the individual."

At the recent class dinner, it was obvious students were having a good time in front of the stove. Their cooking was seasoned with a sense of humor.

"Ever skin a rabbit?" asked Donald Fletcher as he prepared to demonstrate how to debone a chicken. "Well, this is something like that. Probably, anyway—I've never skinned a rabbit.

"I told my wife about the class and what we were doing," continued the fledgling chef as he cut deftly along the backbone. "She couldn't believe I was eating Trout Margeurite in prison.

"I didn't know anything when I started, but, man, now I know it all," grinned Joseph Morgan. "We do have a lot of fun together."

But behind the laughs and teasing remarks is a culinary crew that could compare favorably with any commercial kitchen in the city.

"My personal aim is to send out qualified guys," stresses Riley. "I'm not going to recommend them for a job just because they've completed the course. But almost any one of my students will have a definite headstart in any restaurant or hotel kitchen."

A second culinary arts class will begin at the Work Training Facility in September. And students who completed the first course will get advanced training in addition to helping supervise beginners.

The program has already drawn praise from a number of interested onlookers. "Without a doubt, the culinary arts class is the best thing that has ever happened to this institution," declares warden G. Joseph Putnam.

"There's a lot of talent here," says Nunez director John Kane. "And it's more than a teaching experience. It's opening up a whole new world to these students."

"The program has already been recognized by the American Institute of Architects, which is devoting an exhibit to it at its San Francisco convention," adds Charles Blaise, chairman of the Citizen's Advisory Committee which pioneered the program. "And the Washington, D.C., headquarters of the National Chamber of Commerce has heard about it and is interested in generating national publicity for it."

But the proof of the pudding, so to speak, will come when the first class graduate seeks that elusive job on the "outside."

"Students are already wondering, 'Will we really be accepted?' ", says Riley. "We're trying to place one student on work release in a hotel kitchen now. That first student out will have a lot of responsibility on his shoulders. People will be looking at him as an example. It's going to be an uphill battle, both for us and for society. If that first guy doesn't make it, he'll say 'It's because I'm an excon or because I'm the wrong color.'

"But we can't put a label on a guy just because he's once been in jail. We wouldn't have as much crime now if this sort of program had been available 15 or 20 years ago. It's simply a matter of caring. I get satisfaction in turning out not only a potential professional, but a person with character, too.

"We're a small group of people, but we're talking loud. I hope someone out there is listening."●

CONGRATULATIONS TO HUGH A. O'BRIEN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. DORNAN. Mr. Speaker, Hugh A. O'Brien, chief of police of the city of Manhattan Beach, Calif., will be honored at the Proud Bird restaurant in Los Angeles, Wednesday, September 10, by his many friends and colleagues for a quarter century of enlightened community leadership, perceptive law enforcement, and continued devotion to duty. I will be unable to attend this event, so I would like to take this opportunity to honor Chief O'Brien before this distinguished body.

Chief Hugh A. O'Brien of the Manhattan Beach Police Department will retire effective September 23, 1980. He has served the city of Manhattan Beach and its citizens for 25 years, over 7 years in the capacity of chief of police. O'Brien assumed the position of acting chief of police in 1972 and was thereafter appointed permanently as chief of police.

Since June 2, 1980, Chief O'Brien has enjoyed an earned leave from the city of Manhattan Beach. He has since accepted a position with Hughes Aircraft Co., El Segundo, as head of personnel security. At Hughes, O'Brien will be responsible for security investigation involving Hughes Aircraft employees.

Chief O'Brien has developed a distinguished record of professional law enforcement throughout his career. As a policeman, O'Brien began as an officer in 1952 with the El Segundo Police Department. In 1954, Chief O'Brien joined the Manhattan Beach Police Department and was assigned to the patrol division.

In 1956 O'Brien transferred to the police detective bureau specializing in vice control. He was promoted to sergeant in charge of the juvenile bureau in 1958. After 14 years as sergeant, he became a lieutenant with the Manhattan Beach Police Department in charge of the juvenile and investigation bureaus.

Chief O'Brien was promoted to captain in 1966 and was assigned to the patrol division. In 1969, he became captain in charge of the investigation and youth services division. In this position, he held responsibility for investigating felonies as well as planning and coordinating police-community relations programs.

Chief O'Brien has attended El Camino College and the University of Southern California. He holds an advanced certificate from the California Commission, Police Officer Standards and Training. O'Brien is a graduate of the F.B.I. National Academy, the University of Southern California Delinquency Control Institute and the U.S. Treasury Department Bureau of Narcotics Training Institute. Among his published writings are a booklet entitled "Laws for Youth", for which he received a National Award from the Ladies Home Journal magazine and an article concerning alarm systems published in the October 1968 Federal Bureau of Investigation Law Enforcement Bulletin.

Chief O'Brien is the recipient of numerous awards including the South Bay Bar Association "Outstanding Officer of the Year Award," the Manhattan Beach Jaycees "Citizen of the Year Award," and the Manhattan Beach Chamber of Commerce "Rose and Scroll Award." The California Assembly honored Chief O'Brien with a House resolution recognizing his "outstanding achievements as a law enforcement officer." The chief is associated with the International Association of Chiefs of Police, the Los Angeles County Peace Officer's Association, the Southern California and State of California Juvenile Officer's Associations, the Southern California Police Community Relations Officers Association, the Manhattan Beach Kiwanis Club, B.P.O.E. Lodge 1378, and the Manhattan Beach V.F.W. Post No. 9631. Chief O'Brien is an honorary life member of the California PTA, has served on the Governor's advisory committee on youth, and is a former member of the Southern California Juvenile Officers Association—board of directors.

Chief Hugh O'Brien served with the U.S. merchant marine from 1944 to 1946 during which time he participated in the invasion of Okinawa. He was a member of the U.S. Army 82d Airborne Division during 1946 and 1947. In 1950 he joined the U.S. Marine Corps serving with the First Marine Division in Korea during which time he participated in the invasion of Inchon Harbor, the capture of the city of Seoul, the Chosra River battle and the evacuation of the city of Hamnung, North Korea.

Chief O'Brien is a native of New York, N.Y., born September 11, 1927. He has lived in the South Bay area since 1941 graduating from Redondo Union High School in 1947. He currently lives in Torrance with his wife Michelle and three sons: Dan, 20, a junior at the University of Southern California; Tim, 18; and Michael, 12. His daughter, Erin, 23, is married to Michael Preston, a former Torrance resident.

Chief O'Brien has been an inspiration to the South Bay community. I am confident that the recognition which Hugh will receive on September 10 will result in continued service and dedication to our community.

Chief O'Brien, congratulations, and thank you.●

COMMEMORATION OF CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

• Mr. DERWINSKI. Mr. Speaker, for several weeks, I have been inserting articles and proclamations regarding the commemoration of Captive Nations Week. As a followup on this same topic, I wish to direct special attention to additional articles which appeared in publications across the country and to a proclamation issued by Gov. Bruce Babbitt of the State of Arizona.

First, I wish to begin with Governor Babbitt's proclamation, which is followed by two news accounts of observances of Captive Nations Week on each coast, one from the Buffalo, N.Y., News, and the other from the Richmond, Calif., North East Bay Independent & Gazette. As evidence of the great deal of public support in this country for those peoples suffering under Communist rule, I include several letters to the editor, the first appearing in the Marlborough, Mass., Enterprise by Mrs. Earle Tuttle; Mr. Joseph Trainor addressed his remarks to the editor of the Boston, Mass., Herald-American; a letter from the American Friends of the Anti-Bolshevik Bloc of Nations in the New York, News-World; followed by Mr. Ed Laete of the Estonian Society, Inc., of Omena Lake, Mich., which was published in the Sturgis, Mich., Journal and the final comments by V. V. Zebauers of Denver, carried in the Denver, Colo., Post.

The material follows:

PROCLAMATION FROM BRUCE BABBIT, GOVERNOR, STATE OF ARIZONA

CAPTIVE NATIONS WEEK

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Yietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations week and inviting the people of the United States to observe this week with appropriate prayer, ceremonies and activities and expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Bruce Babbitt, Governor of the State of Arizona, do hereby proclaim the week of July 13 through 19, 1980, as Captive Nations Week and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

[From the Buffalo (N.Y.) News, July 15, 1980]

CAPTIVE NATIONS—LEST WE FORGET

Every year since 1959, Captive Nations Week has been observed throughout the nation to help keep alive the hope of freedom within countries that have fallen under the Soviet yoke. This year is, as President Carter noted in his proclamation, a period when "Soviet aggression against Afghanistan is the latest stark reminder" of the reasons for the observance.

The observance lost some of its impact during the most cordial years of detente. Some people seemed to think that it was out of date, that the better policy was to develop closer ties with Moscow and seek to soften some of the harshness of the Soviet system. In 1977, President Carter seemed hesitant about even signing the annual proclamation, leaving it until the last moment.

Detente certainly is important, but it should never be forgotten that underlying it is the continuing conflict between the Western world and the Soviet empire. When two Soviet satellites sought to move toward freedom, they were overrun with Russian tanks—in Hungary in 1956 and in Czechoslovakia in 1968.

And in recent years, Moscow has demonstrated that it is not satisfied merely to keep what it has; it is always ready to exploit turmoil in Africa or Asia, and in the case of Afghanistan, it actually used its own troops to invade and occupy a previously independent country.

This week's observance is a useful reminder that all of the captive nations yearn to breathe free, and someday, surely, they will be.

[From the Richmond (Calif.) North East Bay Independent & Gazette, July 21, 1980]

SOVIET CONSULATE PROTEST

SAN FRANCISCO.—More than 100 demonstrators burned red flags and threw eggs at the Russian consulate in San Francisco Sunday.

They were protesting what they said was the execution of 15 Lithuanian soldiers in the Soviet Army who had refused to shoot civilians and prisoners of war in Afghanistan.

After the demonstration, some 50 cars led by a hearse went to a noon rally at Union Square, where protestors from more than a dozen countries gathered to remember "Captive Nations Day." The day is proclaimed each year by Congress for refugees and descendants of people in countries under Soviet domination.

[From the Marlborough (Mass.) Enterprise, July 29, 1980]

LET'S WAKE UP AMERICA!

To the Editor:

I wish more mention had been made by the media last week about the first Captive Nations Day program held under the hot noonday sun on the steps of our State House in Boston.

It delighted me to find Gov. King speaking to more than 75 gathered, some in colorful traditional costume, to read the list of the 45 countries now under godless Communism and to try to break through the wall of apathy.

The high point for me came after the singing of God Bless America when several different ethnic groups sang their national anthems—the facial expressions of beauty and determination shining forth in that sunlight, I'll never forget. The Cuban soprano had to pause as she sobbed quietly.

"These are our greatest allies in the free world today," said Edward F. King, main speaker for the hour-long rally, as he drew a parallel to our Civil War with his affirmation, "the world cannot exist half-slave, half-free."

As a ring of children brightly-dressed in the costumes of Latvia, Lithuania, Ukraine, Estonia, Cuba joined hands to sing about freedom and dance around a prostrate figure representing the Soviet bear, I was struck with the contrast between their faces and those of another circle of people I had just encountered having lunch on the Boston Common within earshot of the microphone.

"Here's a likely-looking group," I had said offering a complimentary copy of a special tabloid newspaper published by The Citizens' Forum and edited by my husband in observance of Captive Nations Week in this country. "Do you know what those voices are saying?" I asked a sophisticated-looking ring of a dozen young professional people seated under the trees. When a women replied, "We're sitting as far away from them as possible," I turned sadly away.

Is it possible we take our blessed freedom for granted? Perhaps we ignore at our peril what these people who long to return to their native lands, are trying to tell us. Wake up America!—Mrs. Earle W. Tuttle, Acton.

[From the Boston (Mass.) Herald-American, July 4, 1980]

THE BAMBOO CURTAIN SLAVES

The week of July 13-20 is Captive Nations Week. And although our government has abandoned them, we should not forget the political prisoners rotting away in the slave labor camps of Red China.

Today over 80 million Chinese are denied basic human rights. According to columnist Victor Reisel, between 40 to 50 million are confined in prison camps. The other 30 million are denied their rights due to their "bad class background," i.e. they happen to be relatives of people who were landlords before the revolution.

Most Americans cannot relate to 80 million political prisoners. That's a statistic. I think a cross-section of prisoners' stories would better serve to drive home the bestial brutality of Chinese Communism.

Liu Shihkun, 24, was approached by the Gonganbu (Ministry of Public Security) and told to serve as an informer. Liu refused. According to Amnesty International's book, "Political Imprisonment in the People's Republic of China," Liu, a pianist, had his fingers broken and was sent to prison for five years. If he survives the Chicom Gulag, he'll be out in 1983.

In 1974, Chung Chunte, 29, put up a wall poster in Peking, urging "more democracy" in the Chinese Communist Party. Chung was carted off to Jilin labor camp, where, in his own words, "I was at once ringed by four people who held my legs, twisted my arms and grabbed my head. They thrashed me before tying me with ropes."

Li Zhengtian 38, wrote an essay in 1977 in which he stated that "the masses of people demand democracy; they demand a socialist legal system . . . and they demand the human rights which protect people." Li was sentenced to life imprisonment in the dreaded Guandgong labor camp.

The prisoners of Chinese Communism have no Solzhenitsyn or Sakharov to speak out for them. So it's up to us. Next time you hear about the U.S sending military aid to Red China, remember Liu, Chung and Li, and demand that Congress stop funding Communist butchers!—Joseph Trainor. Attleboro.

[From the New York (N.Y.) News-World, July 21, 1980]

To All Who Love Freedom and Justice

As the world enters the 1980s, its peace and security are threatened by the growing power of the communist colonial empire, the U.S.S.R. Its tentacles are strangling freedom of nations and individuals, not only in the so-called Soviet Union and European satellites; but also in Cuba, Vietnam, Cambodia, Angola, Ethiopia, and the mountains and gorges of Afghanistan. They are presently poised to strike at Iran and the Middle East to grab the Free World's main oil reserves. The Soviet army, navy and air force outnumber Western defenses and are daily growing more menacing while the response of this country and the Free World as a whole has been feeble and inadequate.

Soviet propaganda has been allowed to capture the minds and hearts of millions of simple people throughout the world. The Free World's media very often themselves fall victim to Moscow's perfidious lies and repeat its propaganda masquerading as liberalism. By signing the Helsinki accord, the Free World's leaders have handed over all Eastern Europe to Moscow's tender mercies without leaving any hope to the Captive Nations for their eventual liberation.

We, who love freedom and believe in justice, cannot agree with such a situation. Ardently sympathizing with the liberation aspirations of the non-Russian nations imprisoned in the U.S.S.R.—the Ukrainians, Byelorussians, Lithuanians, Latvians, Estonians, Georgians, Armenians, Turkestanis, North Casucasians, Azerbaijanis, Cossacks, Tatars, and others—as well as those oppressed within the satellite states, voice our vehement protest against the inhuman totalitarian tyranny and terror practiced by Moscow, national enslavement, genocide and Russification, economic deprivation, exploitation of workers and peasants, cultural stultification, political and religious persecution, denial of the most basic human rights to nations and individuals by the Bolshevist Moscow regime, aided and abetted by those who support Soviet chauvinism, imperialism, colonialism, and communism.

We appeal to the freedom-loving people of the United States and the entire Free World: Beware of Moscow's traps. Beware of the resistance to all attempts of Moscow to infiltrate and capture non-communist nations. Remember that attack is the best defense.

Demand that government leaders, your representatives in the Congress, and the media show real official condemnation of Moscow's policies of genocide, Russification, national and religious persecution.—American Friends of the Anti-Bolshevik Bloc of Nations, Ukrainian Chapter, New York.

[From the Sturgis (Mich.) Journal, July 17, 1980]

Many Nations Still in "Captivity"

Editor: Each year the third week of July is designated as Captive Nations Week by our Congress and was signed by President Eisenhower in 1959. The key words of this law are, ". . . the President is authorized and requested to issue a proclamation . . . each year until such a time as freedom and independence shall have been achieved for all the captive nations of the world."

The sad truth is that since 1975, the number of captive nations is increasing because of the illegal seizures of Laos, Cambodia, South Vietnam, Angola and Afghanistan, by forces of Marxist-Atheistic-Communism.

The Afghan President was murdered by the Russian invading army. Another Communist was set up as new president and massive slaughter is taking place. Afghan people, devoutly Moslem, are fighting for their freedom. Such international crime as to take over other smaller countries is customary by Russian Communists. So the Marxist-Leninist holocaust continues. Also Cold War by Soviets continues.

The unbelievable American and free world self-destruction is that our government, and partly Congress, still by trade and loans, granted under the process of detente, helps Soviets to finance and build a military might for its projects devoted to the world conquest.

Indeed the Marxism-Communism is a global threat for the free world. During the Captive Nations Week there will be parades, proclamations, speeches in Congress and church services in awareness to keep America free and independent and that some day all the Captive Nations again will enjoy their God-given rights for self-determination, and Freedom from Marxist-Leninist-Communism's tyranny.

All nations have a right for independence.—Ed Laete, Estonian Society, Inc., Omena Lake.

[From the Denver (Colo.) Post, July 18, 1980]

Captive Nations

To the Denver Post:

On July 17, 1959, President Dwight D. Eisenhower signed into law the Captive Nations Week Resolution, Public Law 86-90, providing for designation of the third week of July as "Captive Nations Week."

It ends with: "The president is . . . authorized . . . to issue a similar proclamation each year until . . . freedom and independence shall have been achieved for all the captive nations of the world."

The number of nations under communist rule is increasing, the latest Afghanistan.

Who is next?—V. V. Zebauers, Denver.●

ST. LAWRENCE SEAWAY LEGISLATION: ENDING INEQUITY

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. OBERSTAR. Mr. Speaker, users of the St. Lawrence Seaway bear a burden borne by the users of no other federally constructed waterway.

Seaway users, through tolls charged on the seaway, pay all operation and maintenance costs. Furthermore, they must make an annual payment to reduce the outstanding capital construction debt. In 1980, Seaway users will reduce the $110 million debt by $2.5 million, in addition to paying all operation and maintenance costs. In 1982, that payment will rise to $5 million.

Frankly, this seaway policy discriminates against our entire Great Lakes region. The doubling of the debt service payment in 1982 will exacerbate the discriminatory policy.

I have introduced H.R. 3258, legislation to restructure the St. Lawrence Seaway Development Corporation to convert the outstanding debt into equity ownership by the U.S. Government. H.R. 3258 would require that tolls be sufficient to meet all operating and maintenance costs and to insure an annual return on the equity. H.R. 3258 would remove a burdensome debt repayment requirement which will force the United States to seek much higher tolls beginning in 1982.

Hearings held by the House Water Resources Subcommittee in Duluth on April 26, indicated widespread support throughout the Great Lakes and upper Midwest for H.R. 3258. It may not be possible, however, to enact H.R. 3258 at this late date in the session. In the interest of expediting seaway financing legislation, I am today introducing legislation which takes a less far reaching refinancing step than H.R. 3258.

The bill I am introducing would retain the present debt but would extend the repayment period from 50 to 80 years. That change would prevent the debt service payment from escalating in 1982 from $2.5 million to $5 million.

I must emphasize that this bill does not forgive the outstanding debt. It does require continued payment on the debt, but at a more reasonable level than that now scheduled for 1982 and beyond. This bill will enable the Great Lakes to remain active, as Congress intends, as America's fourth seacoast.●

REV. GEORGE NISHIMOTO, CLERGYMAN AND COMMUNITY LEADER

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Ms. OAKAR. Ms. Speaker, I am deeply saddened to learn of the death of an outstanding clergyman and community leader, Rev. George Nishimoto. Dr. Nishimoto was proud of his Japanese-American heritage and proud of his family. He was a true friend to the community and to me.

The following is an article which appeared in our Cleveland Plain Dealer:

Rev. George Nishimoto, Headed West Side Ecumenical Ministry

The Rev. George N. Nishimoto was an executive in the national offices of the United Church of Christ before coming here in 1974 as executive director of the West Side Ecumenical Ministry.

The Rev. Mr. Nishimoto, 64, of Lakewood, died Sunday at Cleveland Clinic Hospital after several months' illness with cancer.

Memorial services will be at 7 p.m. Thursday at Lakewood Congregational Church, 1375 W. Clifton Blvd.

The minister was a student at Eden Theological Seminary in St. Louis during World War II, but his family lived in San Francisco and was evacuated along with other Japanese-Americans from the West Coast and placed in a relocation center in Topaz, Utah.

After he received his bachelor of divinity degree from Eden in 1945, the Rev. Mr. Nishimoto did some pastoral work at Topaz. Later in the year he went to Chicago where he was associate secretary of the Greater Chicago church federation.

There he worked with the 40,000 to 60,000 Japanese-Americans who went to Chicago from relocation centers at the end of the war.

In 1947, he founded the Kenwood-Ellis Community Center and Church on Chicago's South Side and was pastor there until 1961, when he became pastor of the Japanese-American Congregational Church on the city's North Side.

Two years later he went to New York as executive secretary for Church Vocations and Student Care in the Council for Church and Ministry of the United Church of Christ.

In 1974 he came to Cleveland to direct the West Side Ecumenical Ministry, a social service agency of 39 Catholic and Protestant congregations on Cleveland's West Side in the near western surburbs.

The Rev. Mr. Nishimoto was a graduate of the University of California at Berkeley, and in 1950 received a master's degree from McCormick Theological Seminary, Chicago. Eden Seminary awarded him an honorary doctorate in 1971.

The Japanese-American Citizens League at its biennial convention this summer honored him with a citation for his work with Japanese-Americans.

He was in his third term as president of the league's Cleveland chapter.

He was a former chairman of the church and ministry committee of the Western Reserve Association of the United Church of Christ and a member of the UCC Ohio Conference Commission on Church and Ministry.

At Lakewood Congregational Church he was a member of the mission and service department and taught confirmation classes.

His hobbies were golf, swimming and painting, but he had little time for them.

Surviving are his wife, Toshi; sons, John Mark of Honolulu and Peter; a brother and a sister.●

FAIR TREATMENT FOR PROTESTERS

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. DONNELLY. Mr. Speaker, on July 18, 17 members of the Association of Lithuanian-American Young People were arrested after a peaceful protest outside the gate of the Soviet Embassy in Washington. These young men and women were expressing their outrage against the Soviet invasion of Afghanistan, the occupation of their native Lithuania since 1940, and the Soviet Union's cruel disregard for the most basic human rights.

As reported in the Saturday, July 19, Washington Post, "The protesters surrendered peaceably, even good naturedly, to the police." The 17 are charged with demonstrating within 500 feet of a foreign mission. It appears that the U.S. attorney's office is planning to prosecute the Lithuanian-Americans to the fullest extent of the law. The case is scheduled for September 16.

On July 27, 192 pro-Khomeini demonstrators were arrested after violent confrontations with District and U.S. Park Police. Several police officers and bystanders required emergency care following this incident which ensued when the pro-Khomeini protesters attempted to disrupt a peaceful rally organized by the Iran Freedom Foundation, a group which strongly opposes the continuing Embassy captivity. As you know, these students were released under what amounts to a blanket amnesty. All charges were dropped, even though not 1 of the 192 arrested could produce an INS entry-identification card, a Federal offense in most instances.

I need not recount how the arrested Iranians benefit by attendance at U.S. colleges and universities, yet they incessantly chant their support for the continuing imprisonment of our diplomatic personnel in Tehran, and its perpetrators.

Fellow colleagues, when has our Nation's sacred tradition of equal justice under the law declined so alarmingly that it, along with 52 of our countrymen, can be held bound and gagged by foreign terrorists?

In the words of one Lithuanian-American:

> While we do not believe that those arrested should be treated any better than the Iranians, we cannot understand why they should be treated worse.

Surely, in our Government's pledge to protect an individual's first amendment guarantee of free speech and assembly, we must refrain from persecuting those whose views we do not abide; but by the same token, it is equally unjust to give preferential treatment to those who castigate our Nation without restraint.

It is truly a sad day for our country when Americans must wonder why our Government treats our own citizens more severely than the misnomered students who grate so insolently on our Nation's patience.●

HAS THE SOVIET UNION VIOLATED THE BIOLOGICAL WARFARE CONVENTION?

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. BROWN of California. Mr. Speaker, there has been considerable discussion in the Congress about alleged Soviet violations of their treaty obligations concerning chemical and biological warfare in connection with an anthrax incident at Svendlovsk. While I have not examined this matter in depth, I have been concerned that efforts are being made to expand U.S. work on chemical and biological weapons in reaction to this incident.

Recently, I came across an article in the British scientific journal New Scientist written by the former Soviet scientist who first reported the alleged nuclear disaster in the Urals in the late 1950's. I was surprised that Dr. Zhores Medvedev considered the evidence of a major nuclear disaster far more overwhelming than the evidence of a Soviet treaty violation.

Frankly, I find the explanation of the Soviet anthrax incident in the following article to be more credible than other speculative accounts brought to my attention. Without making any firm judgments, I commend the following article to my colleagues. In the meantime, I urge my colleagues to resist precipitous actions in this area.

The article follows:

[From the New Scientist, July 31, 1980]

THE GREAT RUSSIAN GERM WAR FIASCO

(By Dr. Zhores Medvedev)

In May this year I received a letter from the director of the Federation of American Scientists, Dr. Jeremy J. Stone, in which he asked me to express "any ideas about the attached issue of a Soviet anthrax incident". I wrote back giving him my opinion on the anthrax story. I did not then see the need to write an article on the subject. The case was already in the hands of the CIA; the "attached issue" referred to by Stone was a press release from the US Senate of 16 April, 1980, on the intention to prepare the "Soviet Biological Warfare Resolution". I was sure that the CIA had many more resources than I did to find out all the details of the Sverdlovsk incident. However, recent reports indicate that the public version of the Sverdlovsk epidemic has contributed to the decision by the US House of Representatives to pass a resolution to start some work on the production of a so-called binary chemical weapon. This made me reconsider my initial passive attitude. I realised that even my limited knowledge about the background of the Sverdlovsk anthrax story might be of some interest to the public here and probably even to the CIA, which, as I found earlier from the CIA files on the 1958 Urals nuclear disaster, is not always able to assess information about the USSR correctly.

The story that there had been an outbreak of anthrax in Sverdlovsk became headline news in many Western newspapers on 19 March this year. David Passage, an official spokesman from the US State Department, had stated at a press conference the previous day that an "outbreak of disease" in Sverdlovsk, a city of 1.2 million people, had raised questions whether the Soviet Union had violated the terms of a 1975 convention that bans the development, production or stockpiling of biological agents or toxins. The United States has recently expressed concern to the Soviet Union about these reports. This statement was based, not on intelligence information, but on two articles, the first published in Now! magazine on 26 October, 1979, and the second published in Bild Zeitung of Hamburg, a sensational tabloid, on 13 February, 1980.

The US State Department statement contained no new information apart from what had been published in Now! and Bild Zeitung. Neither Now! nor Bild was the first to report their stories. In both cases the "sensation" appeared originally in an obscure Russian-language emigré magazine Possev published in Frankfurt. Possev (the word means "sowing" in Russian) is the paper of the NTS (the People-Workers' Alliance), which was founded in 1930 as a revolutionary anti-Soviet emigré group.

At the beginning of October 1979, Possev published a short unsigned story about an alleged bacteriological accident in Novosibirsk during the spring of 1979. According to this story, several thousands died of a mysterious disease. The escape of the bacteria was associated with secret research facilities near a suburb called Uktus.

On 26 October, 1979, this same story reappeared in Now! as a major cover story. There was no mention yet that the disease was a form of anthrax. David Floyd added some details trying to connect the disaster with the alleged secret bacteriological institute established in the Siberian Branch of Academy of Sciences of the USSR "which is headed by Dr. Knorre, a corresponding member of the Academy, and Dr. Solganik, a specialist in molecular biology". Akademgorodok, the science town near Novosibirsk where this institute was established, was described by Floyd as "a closed science town where much of the academy's most secret research work is done". When I read the article I telephoned the science correspondent of Now! and told him that the published information was wrong. It is well known that Akademgorodok is not a "closed town", but an open international research centre visited by many foreign scientists. Novosibirsk is also open to foreign tourists. Dr. D. G. Knorre and Dr. R. Salganik cannot be directors of the bacteriological institute: Knorre is head of the nucleic acid laboratory of the institute of organic chemistry; and Salganik is a deputy director of the institute of cytology and genetics in Novosibirsk. Knorre is also an editor of the international journal FEBS Letters, while Salganik is a member of some international biochemical and cell biology committees; they both often travel abroad.

I received no explanation from Now! for this part of its article, but I found the source in another emigré Russian language publication Russkaya Mysl (Russian Thought). In an article on Academician Yu Ovchinnikov, an emigré writer, Mark Popovsky, had made the same statement as Floyd about Knorre and Salganik.

At the beginning of January 1980, Possev published a more detailed story. This time, however, it was about a Sverdlovsk accident. The author, N.N., reported that there had been rumours in Sverdlovsk about an outbreak of anthrax ("Siberian ulcer") resulting from an explosion in the nearby military settlement, Number 19, south-west of Sverdlovsk. The cloud of anthrax bacteria was carried by the north wind over Kashino village. The first deaths were registered on 4 April. Afterwards some 30 to 40 people were dying per day for the next month.

Some details about the accident, although based on secondhand rumours, gave the impression that something really had happened in Sverdlovsk, probably a localised anthrax epidemic. Vaccination was carried out in only one suburb of Sverdlovsk. Other parts of the story were clearly false. N.N., for example, wrote that people could not get the bodies of their dead relatives for the funerals (this could well be the case as anthrax victims have to be cremated), but instead were given symbolic "empty coffins". The bacteria strain was indicated to be either V-21 or U-21. (The appearance of the name of the bacterial strain among local rumours is rather strange.) On 16 July, 1980, The New York Times published the same story, but named the strain as "I-21".

It was Possev's story that was reprinted as front page news by Bild Zeitung a few weeks later. The West German newspaper removed a few technical details, such as the names of the bacteria and how long the epidemic lasted. The same story appeared in Nature at the end of March, without indicating the source but containing all the details of Possev's version.

Mark Popovsky, who was interviewed by Science in April, did not add anything new to the Possev story, despite the fact that he insisted that he had got information from a friend in Sverdlovsk. Neither Bild, nor Nature nor Science has acknowledged the existence of Possev's story, but the links between them are clear, some statements being identical. Nature gave the name of the alleged bacterial strain (V-21) and the figure of dead in all cases was around 1000.

In April 1980, Possev acknowledged that its story was wrong and that what it had reported in 1979 as a "Novosibirsk case" was really a "Sverdlovsk case". In this new article the description of the origin of the epidemic was a clear mixture of its previous two stories. Uktus was now a suburb of Sverdlovsk and the germ plant was situated here, not in the "military settlement No. 19". Bodies of the dead were not burned, as in the earlier Bild and Possev versions, but buried in a disinfectant liquid.

The Soviet Union was officially asked by the US government for an explanation, and in a rather rare admission Tass acknowledged that there had been an anthrax epidemic in Sverdlovsk. According to Tass, this was caused by adverse weather conditions which had made sheep and cattle susceptible to contagious diseases, by lack of personal hygiene in tending livestock, and by the purchase of unbranded meat, wool and hides from unauthorized individuals. Tass also acknowledged that anthrax has never been completely eradicated from the Urals.

This explanation was initially accepted. Nobody in the West had really expected that there would be any official reaction from the USSR at all. It is true, of course, that anthrax still is quite a common problem among farm animals in the Urals, Siberia, Soviet Middle East and even Caucasus. However, human cases of anthrax were usually found in rural areas. A few days later the US government on the basis of "new intelligency reports", made clear that it could "refute the Soviet version of the anthrax story". However, all the "new intelligence" apparently consisted of was a few details published earlier in Possev, but missing in Bild.

The Sverdlovsk anthrax outbreak again made headline news in early July when the report of the US Congressional Committee on Intelligence was released (New Scientist, 10 July, p. 93). This report, however, did not contain any new details. It repeated the same information which had been published in the Possev articles. The only difference was that the mysterious V-21 or U-21 strains were correctly replaced by Bacillus anthracis spores. It was also revealed that the military settlement Number 19 was under the supervision of Colonel General Efim Ivanovich Smirnov. However, this name is familiar—Efim Smirnov was named in the Now! story last year. According to Now!, Efim Smirnov was head of the Red Army's medical services during the Second World War and is now responsible for the development of bacteriological weapons for the Ministry of Defence. A person who had such a high position in the Soviet Army 40 years ago would be a very old person by now. Anybody who knows the Soviet system will realise that such a ranking and old official must live and work in Moscow. He would not be in charge of local facilities at Sverdlovsk.

The Washington Post also distorted the original reports about the duration of the epidemic. Describing the case, the Washington Post informed: "This information indicates that approximately 1000 people died within a matter of hours." All Russian sources, however (Possev, Popovsky, and recently Russkaya Mysl), described an epidemic which lasted about one month with about 30 to 40 fatalities per day. Using independent emigre sources in Israel, the Sunday Times reported a total death toll of 300. The prolonged character of the epidemic (beginning in April and ending in May) is also consistent with the publication in April 1979 of three articles about anthrax in a local newspaper Vecherny Sverdlovsk. It is rather strange that even the original author, N.N., did not mention these articles.

Some of the data mentioned in the reports of this anthrax epidemic, can be checked easily using standard Soviet medical reference books. Anthrax is apparently still a serious problem in eastern parts of the USSR. This means that research and the production of the vaccine is certainly going on in research centres which, of course, are well sealed off from outside attention. The anthrax vaccine is made from live, and still virulent encapsulated bacteria. Immunity after vaccination is short and revaccination is necessary after one year. The vaccine is active for not more than two years. This means that the production of the anthrax vaccine entails large-scale cultivation of anthrax bacteria and production of spores.

The medical authorities in the USSR are certainly responsible for the anthrax outbreak in Sverdlovsk. It was connected either with tainted meat or wool or a laboratory accident. But there are no facts yet to indicate that the production of a bacterial weapon was the cause of the Sverdlovsk epidemic. The bacteriological facilities of the military system could take part in this work, but there has been no single fact published about the Sverdlovsk case which has indicated a possible stockpile of an actual anthrax weapon. If an outbreak of pulmonary anthrax (which is suspected by the CIA) is the result of the accidental explosion of an actual weapon (with a cloud of spores), then the stories that the epidemic continued for a whole month (with 30 to 40 casualties per day) could not have been the case. Pulmonary anthrax develops a few hours after the infection has been inhaled and the disease continues for only two to three days. Death is almost inevitable, not within three to four hours as reported, but two to three days. Intestinal anthrax is also lethal; death is usually within one to six days after infection. If the epidemic really lasted for one month, then the pulmonary form could have been present during only the first few days, not later.

The Sverdlovsk epidemic, as is usual in the USSR because of secrecy about all epidemics, will hardly be described in detail in Soviet medical literature. However, it is not reasonable to use arguments about the tragedy in Sverdlovsk to revive germ warfare preparations or chemical warfare research and production elsewhere. The unproved and artifically sensationalised reports about the alleged Soviet "violation" of the Biological Warfare Convention do not justify the possible violation of this Convention by other nations.●

THE 1980 OLYMPICS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. STOKES. Mr. Speaker, as the United States tried to pretend that nothing significant was taking place, the 1980 Olympic games in Moscow came off without any major disturbances. Perhaps this was because the major eruption came months before when we, under the guise of human rights and concern for the people in Afghanistan, decided to boycott the games and urged our allies to do likewise.

As you recall, I voted against that move. I felt then and still believe that it was a hypocritical political move especially taking into account the fact that we refused to support a similar boycott of the Olympic games by African nations at the 1972 Olympics.

What we started was not a fight for human rights but rather a tug of war with the Soviet Union using the Olympic games as a backdrop. But, Mr. Speaker, this was a political power race with no winner.

We proved our point to the 60 nations which boycotted the Olympics about the evils of Soviet expansionism but not to the over 100 nations that participated.

In the midst of this action, the situation in Afghanistan remains the same and the dreams of our athletes were thwarted—some forever.

Mr. Speaker, this should be proof that political games and the Olympic games do not mix. At this time, I would like to enter an article which appeared in U.S. News & World Report about the Olympic boycott.

OLYMPIC BOYCOTT: WHAT IT PROVED, WHAT IT DIDN'T

(By Robert P. Martin)

The Moscow Olympics turned out to be neither the roaring success sought by the Kremlin nor the disaster that boycotting nations had hoped to inflict on the Soviet Union as punishment for its invasion of Afghanistan.

As the two weeks of competition drew to an August 3 close, the profit and loss columns for the United States and Russia looked like this:

Athletes from Communist countries—especially the Soviet Union and East Germany—dominated competition. Many world records were set, as expected. A plus for Moscow.

The Russians did not win many new friends or admirers with their heavy security measures or their alleged cheating in some events. A debit for the Kremlin, which had hoped to enhance the Soviet image.

The games failed to persuade the non-Communist world to look more kindly on Soviet foreign policy in general or the Afghan invasion in particular. Besides the more than 60 nations that boycotted the games, 16 countries that did show up refused to march or show their flags in ceremonies. Another setback for Moscow.

President Carter's boycott failed either to get the games moved from Moscow or to induce Russia to pull its troops out of Afghanistan. That's a setback for the White House.

The press from the Communist world lambasted the U.S. and its boycotting allies for not participating and justifiably praised the Soviets for staging a stupendous athletic spectacle. That was no surprise—and no real gain for either side.

It all adds up to no clear victory for either of the superpowers in using the Olympic Games as a political weapon.

The boycott did damage the Olympic movement. But Olympic supporters doubt that the wound will prove fatal. The Olympics have survived other crises, such as the slaughter of Israeli athletes by Palestinian terrorists in Munich in 1972 and a boycott by African nations of the Montreal games in 1976.

Despite the U.S.-led boycott that kept many of the world's best athletes away, the games cannot be faulted for inferior performances.

More than 30 world records were set. In swimming, there were seven new world and 13 new Olympic marks. Poland's pole vaulter Wladyslaw Kozakiewicz set a world record of 18 feet 11½ inches. East German Gerd Wessig jumped a world-record height of 7 feet 8.8 inches.

Other records undoubtedly would have been broken if such boycotting nations as the U.S., West Germany, Japan and Canada had sent their stars here. Several Americans have exceeded the records that were set in Moscow. Says a British sportswriter: "With the Americans out of the games, a lot of competitors got medals they otherwise would never have had a chance of winning."

MEDALS WON IN MOSCOW OLYMPICS

	Gold	Silver	Bronze	Total
U.S.S.R.	77	59	46	182
East Germany	43	34	40	117
Bulgaria	6	16	16	38
Hungary	7	9	14	30
Poland	2	13	15	30
Rumania	5	5	12	22
Britain	5	7	8	20
Czechoslovakia	1	3	9	13
Italy	7	3	3	13
France	6	3	3	12
Others	25	29	47	101

Note.—Includes events completed through Aug. 1.

BOTTOM LINE

The boycott also meant that some athletes at the games performed far below Olympic standards. Many teams were beefed up with inexperienced performers at Soviet urging—and sometimes with Soviet financial aid—to swell the number of entrants.

Examples: Tanzania entered a men's field-hockey team for the first time simply to give Soviet organizers an even number of teams. It gave up a high total of 28 goals in three matches. A bicyclist from Zimbabwe fell off his cycle 10 yards into his first race. A Libyan swimmer finished more than a minute behind the winner in a 400-meter race.

Despite Soviet attempts to pad the entry list, the 5,928 competitors from 81 countries made up the smallest field since the Tokyo games of 1964.

Soviet journalists searched diligently among athletes, coaches and spectators for praise of the Soviet effort—and scorn for the boycotters. They found some of both.

When the U.S. government gave the U.S. Olympic Committee 10 million dollars to develop the American Olympic movement, a commentator for the Soviet news agency Tass said it "demonstrates once again the extent to which the shopkeeper mentality has affected the U.S. politicians who think that money can buy anything, including sports pride."

West Germany's head of the International Shooting Union was quoted as saying: "During the Olympics, Moscow has turned into a world center of peace, friendship and understanding peoples."

Moscow was indeed a zone of peace, free of violence or major demonstrations. But there was little chance for friendship or contact between the Soviet people and Western visitors. It was not a typically festive Olympic atmosphere.●

GRADUATION ADDRESS GIVEN BY WIFE OF CONGRESSMAN FISHER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. SKELTON. Mr. Speaker, recently, I had the opportunity and pleasure to hear Peggy W. Fisher, the wife of our distinguished colleague, Congressman JOSEPH L. FISHER, deliver the graduation address at Glebe Acres Preparatory School in northern Virginia.

Her talk to the students was most impressive, and I wish to acknowledge and share the fine advice Mrs. Fisher gave the students of Glebe Acres Preparatory School.

Her address is as follows:

GRADUATION ADDRESS, GLEBE ACRES PREPARATORY SCHOOL

I am honored to stand before you tonight to address this graduating class of 1980. This is a major turning point for you. Behind you lie twelve to fourteen years of schooling. Behind you lie the formative years when your family and teachers helped you to gather the tools that you will use the rest of your lives.

These tools include skills in communication, reasoning, research, self-discipline, creativity, and physicial and mental fitness. The tools of communication involve speaking, writing, listening and responding. If you can speak with clear articulation, if you choose your words well in both speaking and writing, and if you have learned to listen to the ideas of others and to respond to them thoughtfully, you are well on your way. Without the tools of communication you would be tongue-tied and ineffective. Without communication you would be out of touch with the world about you.

You have been given the tool of reason. Conflicting ideas have been presented, opposing philosophies, the pros and cons of choices to be made have challenged your judgment. You have discovered that these differences are essential ingredients in a free society. Yours is the responsibility to use the tool of reason well—to weigh your priorities, your understandings, your sources of knowledge. In the end your reasoning must be yours alone though you will listen to the reasoning of others as you come to your own conclusions.

You have been given the tools of research—the ability to dig out information through books and periodicals, through interviews and questioning. You have learned to organize your findings in written reports. The tools of research are vital in the professional world.

You have been offered the tool of self-discipline. If you have made use of this tool, you are fortunate, for you will have learned how to organize your time, to fit in a variety of expectations for yourself, to live up to your standards for yourself, to gain some power over the great frustration which threatens to overwhelm us all when the demands of life seem almost more than we can bear.

You have been offered the tools of creativity—whether in art or music or literary skill or in creativity of invention or scientific discovery or in creative thinking where innovative ideas could add new dimension to the lives of others as well as to your own.

You have been offered the tool of physical fitness. Respect for your body, its strength and health could make the difference literally of decades in your life and in the quality of the lives of children you may someday bring into this world. As long as you have good physical and mental health you can cope with whatever challenges life brings your way. Without good mental and physical health every task is made difficult.

These tools, then—the tools of communication, of reason, of research, of self-discipline, of creativity, and of physical and mental fitness, are tools which you will take with you wherever you may go. You will use them to build your lives as adults. You will use them and they will be further honed in higher education and professional training. You will use them as you become involved in your communities and in your work. They will undergird you in the homes you build. Cherish these tools.

There is one more resource which your family and your teachers have given you and which will stand you in good stead as you face the adult world—this is the ingredient of affection. Your welfare is important to them. Lovingly they have watched you mature. They may be a bit nervous as you go out on your own. You must forgive them if they seem concerned. It's not that they want to keep a tight grip on you. To the contrary they are eager for you to try your wings. But they don't want you to be hurt. They wonder if they could have or should have done better by you. They tend to blame themselves if things go wrong. You see, they love you. They care about you. They don't want to let you down. But they know too that they must let you go, just as you yourselves know that you must move up to the next rung on the ladder.

With these thoughts in mind I would like to read to you from poetry I have written.

YOU ARE A MAN, MY SON

You are a man, my son.
I look to you for hope,
For courage, love, and strength.
The time has come when you
Must lead the way, not I.
You are a man, my son.
In you I trust my dreams.

LOVELY DAUGHTER THAT YOU ARE

For you, my dear, a lifetime lies ahead:
Your childhood past, you enter now
Into a world of choices great and small.
Your love of beauty and your zest for life
Increase with your awareness of the world
Around you. You are beautiful,
My dear, and as we see you grow toward
Womanhood, our hearts are filled with love
And gratitude that you have lived with us
Enriching every day and every year.
Forgotten soon will be the tears and angry words.
Remembered, though, will be the love
That gave you life, that helped you grow
Into the lovely daughter that you are.●

FEDERAL RETIREMENT SEPTEMBER COLA SAVED

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. HARRIS. Mr. Speaker, Federal and military retirees will be receiving their full cost-of-living adjustments this September, and those employees who have retired prior to September 1 will receive the September 1980 COLA and the full March 1980 "look-back." I have worked for months to be able to make this statement and to stop the ill-conceived plan to once again make Federal employees the scapegoats of inflation.

I and other congressional supporters of the twice a year COLA were successful in keeping the budget reconciliation bill bottlenecked in the Rules Committee. This bill contains language to eliminate the "look-back" benefits, prorate the first COLA for new retirees, and eliminate the March 1981 COLA for all retirees. But the battle is not yet won. I have urged members of the Rules Committee to allow a separate yea or nay vote on section 401 of the bill relating to COLA adjustments when the legislation is again taken up after the Labor Day recess. A majority of the members of that committee have indicated that there is enough support for a separate vote on the COLA elimination.

I will continue my fight against the elimination of the March 1981 COLA. The purpose of the two cost-of-living adjustments is to protect retirees against inflation. This is not a cause of inflation but a response to it.

I am disturbed that the present budget resolution totally ignores a huge area of wasteful Federal spending. As chairman of the House Subcommittee on Human Resources, I have uncovered widespread waste and mismanagement of millions, perhaps billions, of dollars annually for private consulting contracts. I am particularly concerned at this time, then we in the Congress are pressured to cut key Federal programs, that we must not waste money on consulting services which could be used to decrease the Federal deficit or fund necessary human service programs. The American taxpayer should not have to subsidize big business through Federal contracting.

I offered an amendment in the House Post Office and Civil Service Committee to substitute the savings from my legislation, H.R. 4717, to eliminate wasteful Federal contracting and yearend spending, for the savings which would result from the elimination of one of the semiannual COLA's. My amendment narrowly missed passage by a vote of 8 to 10.

Every American must be willing to make some sacrifices if we are going to balance the budget and break the inflationary spiral. But I cannot see placing all of this burden on those who can least afford it, the elderly and the poor. Clearly, the savings accrued from the elimination of one COLA will have a negligible effect on the present budget deficit, while having a dramatic impact on the needs of thousands of Americans living on a fixed income.

I have introduced House Concurrent Resolution 365 expressing the sense of Congress to defeat any reconciliation bill or resolution which would alter the present cost-of-living formula for Federal and military retirees, and I urge my colleagues to vote against any reconciliation bill that eliminates the present "look-back" benefits or the prorating of annuities. The Federal Government made a commitment to its employees to provide certain retirement benefits as a condition of employment. Federal employees contribute 7 percent of their entire salary to the civil service retirement fund and their benefits are rightfully earned.

I will certainly continue my efforts to insure that our retirees are adequately protected against the ravages of inflation. I hope my colleagues soon realize the inequity of this situation and stop playing games with the pay and benefits of active and retired Federal and military employees.●

MAN IN WHITE HOUSE SHOULDN'T THROW STONES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. McDONALD. Mr. Speaker, it is interesting these days to hear what the President proclaims and then to watch what he does. He has always proclaimed he was building a strong national defense without any waste. So what does he do this week; he cancels the consolidation of Philadelphia and Atlanta offices of DCASR (Defense Contracting Administration Service) in Atlanta, which had been pending for several years. In furtherance of saving the taxpayers money, the White House announced the major reasons for the change were too many defense installations in the South and high unemployment in the Philadelphia area. The consolidation in Philadelphia will crown an office noted for its inefficiency, manned by 80 percent temporary employees and requiring costly new construction. Who gets it in the neck—the taxpayers and the Department of Defense as usual. Mr. George F. Will, the columnist, recently capsuled this trait of the President in a column entitled "Man in White House Shouldn't Throw Stones" that appeared in the Washington Post of June 15, 1980.

The column follows:

[From the Washington Post, June 15, 1980]

MAN IN WHITE HOUSE SHOULDN'T THROW STONES

(By George F. Will)

Jimmy Carter says Ronald Reagan's campaign will feature "demagoguery." Hmm. That's an interesting warning from the man who early in 1977, said: Hey, let's mail everybody some money—a $50 tax rebate.

Attacked entire classes of Americans, including doctors and lawyers.

Pandered to other public prejudices with repeated attacks on another safe target, oil companies.

Undermined respect for, and compliance with, the tax system by ridiculing it as "a disgrace to the human race."

Further lowered the discussion of complicated tax matters by displaying, for the merriment of yahoos, a stack of volumes containing the tax code, as though the size of the volumes is self-evident proof of something.

Lowered the tone still further by harping on the "three martini lunch."

BLAMED OPEC

Blamed most of America's inflation on wicked foreigners—OPEC—in spite of the fact that 11 of the 13 industrial nations that are more dependent on OPEC than America have lower inflation rates than America has.

Announced, as the economy tumbled into a free-fall, that his economic policies "suit me fine."

Said, as those policies produced the worst two consecutive months of rising unemployment statistics in the history of American unemployment statistics, that "no working man or woman can find fault with our policies."

Declared, six months after his treasury secretary declared the recession half over, and shortly before the shatterning unemployment figures, that the nation's economy had "turned the corner."

BIG SPENDER

Submitted a budget calling for a percentage increase of federal expenditures exceeded only once in a quarter of a century, and then denounced Edward Kennedy as "the biggest spender perhaps in the history of the United States Senate."

Said that, "The differences between me and Sen. Kennedy are very minor."

Shattered the record for peacetime tax increases, proposed a budget calling for the federal government to command the highest percentage of GNP since 1944, a year of total war mobilization—and then denounced as "ideological nonsense" Reagan's idea that taxes should be cut.

Said, three months ago, shortly before even his administration began to admit that the deficit will be at least $20 billion, that: "I don't have any doubt that we will have a balanced budget in 1981."

Delivered, 11 months ago, one of the worst speeches in the history of speeches, the "malaise" sermon in which he told the nation: I'm unpopular, so you're sick.

Followed that performance with yet another flamboyant visit to the porch of "average Americans."

Described SALT II, which not even a Democratic-controlled Senate would ratify, as "a major achievement of my administration.

WAFFLED ON CUBA

Went on television to make a histrionic declaration that the presence of Soviet combat troops in Cuba is "unacceptable."

Went on television to say that, come to think about it, the presence is acceptable.

Solemnly said that the invasion of Afghanistan was the gravest threat to peace since the Second World War—and then cut the defense budget.

U.N. VOTE

Deliberately supported a grossly anti-Israel U.N. resolution, and then when surprised by the public's revulsion, had his secretary of state say, in effect: Oops! It was all a misunderstanding.

Said: "If I ever lie to you, don't vote for me."

Said, when it suited his political situation: "I want the world to know that I am not going to resume business-as-usual as a partisan campaigner out on the campaign trail until our hostages are back here—free and at home."

Bashed the ayatollah with the national Christmas tree.

Went on television as the polls were opening in the Wisconsin primary, to announce, falsely, a breakthrough in the hostage crisis.

Said, months after two U.S. servicemen were killed defending the U.S. Embassy in Pakistan: "We've not had any loss of life during this administration because of people being sent into combat."

INCOMPLETE SUCCESS

Sprinted to Texas, on the eve of the Texas primary, to use a visit with the casualties of the rescue mission as a photo opportunity.

Baptized the rescue calamity "an incomplete success."

Having done his best to hold down military pay, used the men of the USS Nimitz, returning from an unreasonably long voyage, as props in a skit in which he said, in effect: Come to think about it, I'm for the pay increase I opposed until last week.

Enough, already.

Carter says Reagan is a demagogue. But, then Carter called Hubert Humphrey a "loser," LBJ a liar, and Edward Kennedy a "demagogue" whose campaigning is "very dangerous to our country," its principles, and peace. When Carter, directed by his inner compass to the low road, issues warnings about "demagoguery," he is indulging, characteristically, in that against which he pretends to be warning.●

BIRTH OF A FOREIGN POLICY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues a commentary by William Randolph Hearst, Jr., on the development of a specific foreign policy by Governor Reagan compared to the inconsistencies and contradictions of the policies of President Carter.

[From the Los Angeles Herald Examiner, Aug. 24, 1980]

BIRTH OF A FOREIGN POLICY

(By W. R. Hearst Jr.)

SAN FRANCISCO.—Despite the shock it caused some professional politicians of both parties, Gov. Ronald Reagan's declaration that the Vietnam war was a "noble cause" and his call for a military realignment that would put us on par with the Soviets was the first step in establishing a firm foreign policy. That is something we have been lacking for four years.

Many found it distasteful to bring the Vietnam issue out from under the rug where it has been hidden away for the last four years. After all, that war involved four administrations, two Republicans and two Democratic—those of Eisenhower, Kennedy, Johnson and Nixon—and its conclusion left us without a foreign policy.

It is nice to hear a clear and decisive voice—even if some of you disagree with Gov. Reagan's premise—instead of the waffling that has come from the White House and State Department since the Carter presidency began. I suspect that my disenchanted friend Cy Vance, who quit as Secretary of State, would have a lot to say if his professionalism did not keep him mute at this time.

Gov. Reagan, addressing delegates at the convention of the Veterans of Foreign Wars in Chicago, said that "world peace must be our Number One priority . . . but it must not be peace at any price, it must not be a peace of humiliation and gradual surrender" as the Soviet pressures against peace are built up.

The time has come, he said, for the U.S. to reassert its advantage in military strength to preserve world peace—such as it is—and to shake its "Vietnam syndrome" and recognize that intervention against the power spread of the Russian-backed North Vietnamese Communists was a "noble cause."

And then he delivered his uppercut, "let us tell those who fought in that (Vietnamese) war that we will never again ask young men to fight and possibly die in a war that our government is afraid to let them win."

There has never been a person whose judgment I respected, including my own father, who was not a firm believer in the fact that a strong military force, backed by a firm foreign policy, was the only way to secure world peace. No dictator is going to start a war if he knows he is certain to get hell beat out of him.

In Washington, Presidential Press Secretary Jody Powell said that Reagan is trying to have it both ways by proposing massive tax cuts and a balanced budget, as well as increased veterans' benefits.

The White House also wants things "both ways." President Carter helicoptered aboard the giant carrier Nimitz to congratulate the men on completion of their arduous mission in the Middle East.

He heard the men complain that they were unable to perform at top proficiency because of personal money worries. Their spouses had to work, they said. Their families were on food stamps. Their children could not have all the things required for a normal life. As a consequence, they worried about their loved ones while away on sea duty.

President Carter promised he would do something about getting higher pay scales in the military services, jumped back into the helicopter, and was barely seated at his White House desk when he ordered a freeze on military spending.

The tumultuous and inherently explosive situation in Poland is not to be taken lightly. Embattled Polish workers, unquestionably at the risk of their lives and backed by nearly all their countrymen, are on strike at the ports and industrial centers, demanding "bread and justice."

They defy Communist authority, forcibly installed in a devoutly Catholic nation by Stalin and the Red Army after World War II. The system imposed on them by force and terror has led 35 million Poles to force puppet regimes to collapse twice.

Now the third confrontation is at hand. We must ask ourselves: What kind of a "socialist system" is this that is incapable of feeding its own people and which has been supported by Western loans and credits the last 10 years to the tune of $30 billion? The Polish rag-tag government of Edward Gierek can't even pay interest and principal due on its loans this year.

Bernard D. Kaplan, Hearst European Correspondent who has spent considerable time in Poland, reported the dilemma facing France and Germany this way:

The two big Western continental countries, reports Kaplan, are trying to work out collective loans and credits to Poland for around $3 billion at low interest.

That would enable the Communist regime to satisfy the legitimate grievances of the strikers and help restore some economic order in the have-not nation.

Both Chancellor Helmut Schmidt and President Giscard D'Estaing are fearful lest the Poles explode with the dire consequences that could follow from direct Soviet intervention. Remember, World War II followed the German invasion of Poland. It isn't alarmist to predict that something similar could occur with the U.S.S.R savagely trying to repress rebellious Poles who have a long history of fighting oppression against long odds.

Polish-born Pope John Paul II, breaking his silence on the unrest to his homeland, was ever-mindful of Polish resistance against oppression. His carefully chosen words to a throng in St. Peter's Square were most solemn and compassionate.

"We here in Rome are united with our fellow Poles," declared the pontiff who then prayed to the Virgin Mary to protect Poland.

At this stage, the administration in Washington stays mum with the terse explanation that it will say and do nothing because American official views could trigger the Russians off to massive and savage intervention in the heart of Europe.

Soviet tactics haven't paid off in any satellite state, or with client regimes. Being quiet in the circumstances that currently convulse Poland is like being inert.

For better or worse, Ronald Reagan is putting together a specific foreign policy. Jimmy Carter has not done so in four years as president. Perhaps the upcoming election will spawn a new and firm foreign policy. It had better.●

UNEMPLOYMENT COMPENSATION RECOMMENDATIONS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Ms. OAKAR. Mr. Speaker, it is with great pride and honor that I announce to my colleagues today the release of the recommendations from the final report by the National Commission on Unemployment Compensation. As the only Member of Congress to have had an opportunity to be a member of the Commission, I can assure you that these recommendations for change in the Federal-State unemployment compensation program represent some 2½-years of comprehensive hearings and discussions held throughout the country.

As my colleagues may recall, the Unemployment Compensation Amendments of 1976—Public Law 94-566—included provision for the establishment of a National Commission on Unemployment Compensation to make a comprehensive study of the Federal-State Unemployment Compensation system, the first study of such depth since the passage of the Social Security Act in 1935. Seven members were appointed by the President and three each by the President pro tempore of the Senate and the Speaker of the House of Representatives. Wilbur J. Cohen, former Secretary of Health, Education, and Welfare, served as chairman by appointment of President Carter.

The active Commissioners who served on the Commission with me and whose participation provided a constructive framework for the discussion of the problems related to unemployment compensation were: Walter Bivens, deputy executive director (Retired), Mississippi Employment Security Commission; Mrs. Beatrice Coleman, president and board chairman, Maidenform, Inc.; Warren L. Cooper, vice president for public affairs, Midwestern Region, Kaiser Aluminum & Chemical Co.; John D. Crosier, executive vice president, Jobs for Massachusetts, Inc.; Wilbur Daniels, executive vice president, International Ladies Garments Workers Union; J. Eldred Hill, Jr., executive director, UBA, Inc.; Ken Morris, director, region 1-B, United Auto Workers; Dolores Gloria Sanchez, publisher, Eastern Group Publications, Inc.; Bert Seidman, director, Department of Social Security, AFL-CIO; and Edward T. Sullivan, business manager, Service Employees International Union, Local 254, AFL-CIO.

In releasing the recommendations, Wilbur J. Cohen, chairman of the Commission, stated:

> The Federal-State unemployment compensation and employment service system of our nation helps to stabilize the utilization and supply of labor and to cushion the adverse impact of unemployment on individuals and the economy. The system has proven its value under the impact of several recent recessions (especially in 1974-75 and again in 1980). The system is essential to a competitive market-priced and labor-exchange economy. It is also essential to a democratic and pluralistic society which values the importance of incentives, productivity, labor and capital mobility, and the alleviation of the hardships of jobless workers during periods of unemployment. But weaknesses in the system have become clearly evident. The system needs to be strengthened and improved both at the State and Federal levels as soon as possible.

The following is a list of the major recommendations made by the Commission.

I. REMOVAL OF UNEMPLOYMENT COMPENSATION ACCOUNTS FROM THE UNIFIED FEDERAL BUDGET

State unemployment compensation revenues, benefit payments, and trust fund reserves should not be used in computing Federal income or expenditures. Inclusion of these items in the Federal budgetary process not only distorts Federal budget realities, but has led to congressional decisions based upon truncated deliberations without full hearings and adequate consideration of the substantive issues involved and their impact upon State unemployment compensation programs.

II. FINANCING—RECOMMENDATIONS FOR PUTTING THE FEDERAL-STATE PROGRAM ON SOUND FINANCIAL FOOTING

A. Increase in Federal Unemployment Tax Act (FUTA) Taxable Wage Base.

1. Establish wage base as a percent of national average total wage in covered employment so that as wages increase, the base will increase automatically.

2. 50 percent beginning in 1983; 55 percent beginning in 1985; 60 percent beginning in 1987; 65 percent beginning in 1989.

B. Reduce employer payroll taxes for past debts.

1. Reduce employer payroll taxes under FUTA by canceling current indebtedness from FUTA collections to Federal general revenues:

(a) Federal Supplemental Benefits ($5.8 billion)

(b) Federal share of Extended Benefits paid when the national trigger was on in 1975 through 1978 ($3.3 billion)

2. Reduce employer payroll taxes under State unemployment compensation laws by rebating to the States the State share of Extended Benefits paid when the national trigger was on in 1975 through 1978 ($3.3 billion).

Total reduction in employer payroll taxes: $12.4 billion.

C. Strengthen requirements for borrowing from loan fund to assure prudent financial policies.

1. Moneys borrowed in the future should bear interest;

2. Acceptable State solvency provisions required as a condition for borrowing;

3. No further deferrals of repayment;

4. Permit States to repay loans from their trust funds on an incremental installment basis as an alternative to recapture through automatic increases in employer FUTA taxes.

D. Reinsurance—provide States protection against unusually heavy benefit costs in order to maintain State solvency.

1. Financed from a contribution rate of 0.1 percent of taxable payrolls over at least a seven-year period (without increasing present FUTA tax);

2. Initial rate of payment not to exceed 30 percent of excess costs (however defined) and no payment before 1985 (prorated if balance in fund is insufficient for full payout);

3. Benefits costs must exceed 2.7 percent of taxable payrolls before a State could qualify;

4. Reexamine reinsurance experience at end of decade.

E. Establish Board of Trustees for UI trust funds to:

1. Set investment policy for trust fund;

2. Report to Congress on estimated amounts to finance sound administration;

3. Develop improvements in policies and laws governing management of trust funds, and recommend changes to improve financing, benefits and administration of UI, ES programs;

4. Explore State investment of specified portion of its reserve funds in non-Federal obligation to earn higher rate of interest than available by Federal investment.

Board to consist of three cabinet officers and representatives of employers, labor, and the general public.

F. Correct fiscal year 1982 shortfall in funds for State costs of administration.

Present appropriation ceilings that permit only a fixed portion of FUTA collections for administration of UI and ES programs will result in a fiscal year 1982 shortfall of $230 million. Recommend a one-time congressional authorization to raise the ceiling and permit transfer from unused FUTA funds. An additional $100 million advance from general revenues will also be needed.

G. Recommendations to the States on financing—(not Federal law changes).

1. States should reexamine State solvency provisions and establish objective of a reserve balance based on careful evaluation of past and prospective benefit-cost ratios and future revenue-generating capacity;

2. Ensure effective charging of all benefits in fund replenishment provisions of solvency arrangements.

3. Eliminate zero minimum tax rates and establish maximum rates in terms of anticipated benefit costs;

4. New employer rates equal to average rate for their industry.

5. In any individual State, the operation of its system of experience rating and tax schedules should be adjusted in relation to the wage base and the amount of tax revenues needed to assure the solvency of the trust fund.

III. REMOVE UNEMPLOYMENT BENEFITS FROM BEING SUBJECT TO FEDERAL INCOME TAX

1. Taxation of benefits may be offset by an equal increase in benefits;

2. Discriminatory treatment since not all other income is presently taxed under Federal Income Tax;

3. No effective way for IRS to police tax provision.

IV. BENEFITS—RECOMMENDATIONS FOR ENSURING A SOUND BENEFIT STRUCTURE

A. Repeal current Federal standards.

1. *Repeal* current FUTA requirement that States restrict eligibility of certain undocumented alien workers.

2. *Repeal* current FUTA requirement that States deny payment of benefits to professional athletes under certain conditions.

3. *Repeal* current FUTA requirement that States reduce benefits by amount of any pension payment received by a claimant.

4. *Repeal* FUTA provisions requiring States to deny benefits to professional employees between school terms and prohibiting States from applying such denial to nonprofessional employees of colleges and universities. *Permit* States discretion to handle issues of payment or denial during school breaks without Federal restrictions.

B. Establish Federal basic minimum benefits standards.

1. Maximum equal to 55 percent of State average weekly wage beginning in 1982, 60 percent in 1984, 66⅔ percent in 1986.

2. Weekly benefit below State maximum that averages at least 50 percent of individual's average weekly wage.

3. No more than 39 weeks of work for 26 weeks of benefits.

4. Change current FUTA requirement barring total cancellation of benefit rights to prohibit any cancellation of benefit rights except for fraud and receipt of disqualifying income.

C. Greater protection during periods of heavy unemployment and to older workers.

1. Change State Extended Benefit trigger to remove the 120 percent factor, establish the trigger as an IUR of 4.0 percent seasonally adjusted for a 13-week moving average and repeal current 5.0 percent option.

2. Establish permanent (triggered) FSB-type program extending total benefits to maximums of 52 weeks and 65 weeks during periods of high unemployment.

3. Establish lifetime reserve benefit program for workers 60 and over with at least 40 social security quarters of credit and current UI eligibility—to a maximum total benefits of 52 weeks.

D. Program for displaced homemakers.

Recommend that Congress and Department of Labor give consideration to possible solutions to problems of this group through: unemployment insurance credits for equivalent work; transfer of unemployment compensation credits earned by spouse; and pilot projects or studies.

E. Recommendations to States—(not Federal law changes).

1. Weekly benefit amount of not less than 50 percent, preferably 60 percent, of claimant's average weekly wage.

2. Maximum of 66⅔ statewide average weekly wage, with periodic adjustment to ensure that a significant percentage (75-80 percent) have a 50 percent wage replacement rate.

3. Partial benefit formula that provides strong incentives to accept part-time work.

4. Minimum qualifying requirement of at least 14 weeks but not more than 39 weeks for 26 weeks of benefits.

5. No disqualification for voluntary leaving with good cause including compelling family obligations and sexual harassment.

6. Disqualification for misconduct limited to misconduct connected with the work.

7. No reemployment and earnings requirement for any disqualifying act.

8. Disqualifications for discharge for misconduct, refusal of work, voluntary quit should be for a variable number of weeks depending upon seriousness of the action.

9. No specific actively seeking work availability requirement.

F. Extend and maintain coverage.

1. To agricultural workers on the same basis as other workers instead of current limitation to farms with ten or more workers or a $20,000 quarterly payroll;

2. To household workers if employer pays $50 (instead of $1,000) for such service in a quarter;

3. Oppose pending legislation redefining independent contractor which would remove substantial numbers of workers from unemployment compensation coverage.

INITIATIVES FOR INCOME MAINTENANCE OF THE LONGER TERM UNEMPLOYED

A. Increase in CETA job slots.

In the absence of any other Federal programs to provide job opportunities to those who have exhausted unemployment compensation benefits, the total number of CETA job slots should be doubled, from 450,000 to 900,000.

B. Financing of unemployment compensation benefits for CETA workers.

Proposals to repeal funding of unemployment compensation benefits to CETA job-programs employees from the Federal Unemployment Benefit Account (general revenues) should be rescinded. Repeal would require that annual cost of $35-50 million be paid from CETA program grant funds or other State or prime sponsor sources.

C. Unemployment Assistance.

Recommend establishment of a program of income-tested benefits, administered completely separate from unemployment compensation, to provide some minimum protection for all unemployed persons exhausting or not eligible for unemployment compensation benefits, and for whom no other job or program is available.

MORE EFFICIENT ADMINISTRATION.

A. Permit U.S. Treasury Department to delegate State collection of FUTA taxes.

B. Allocate additional Federal funds to improve techniques and develop special procedures for detection of fraud, errors, and tax delinquencies.

C. Require quarterly wage reporting to assist cross-matching and prompt payment of benefits.

D. Strengthen appeals process.

1. Remove specific obstacles in State laws to fair hearings and take steps to ensure all parties know and understand the law, their rights and obligations.

2. Improve quality of hearings and determinations by developing better trained, more competent referees.

3. Establish specific promptness standard for second-level appeals performance.

E. Strengthen and implement procedures aimed at speeding the processing of interstate claims and appeals.

F. Increased Grants-to-States for administrative financing for unemployment compensation and employment service.

1. Full funding of cost model instead of 85 percent as in fiscal year 1980;

2. Greater flexibility to States to use funds and retain funds until third quarter;

3. Reauthorization of Reed Act money for use by States;

4. Improved Federal staffing for technical assistance to States.

G. Strengthening and improving the United States Employment Service (ES)

A substantial and continuing increase in basic ES staffing is imperative to meet the needs of unemployment compensation claimants and all other unemployed workers and of employers in filling job vacancies promptly.

Instead of the present 15-year-old ceiling of 20,000 ES positions, a gradual increase should begin as quickly as feasible, using four ES staff years per 10,000 workers in the civilian labor force, to reach 50,000 positions by 1985.

H. Administrative costs of non-FUTA subject employers (State and local government, and nonprofit employers).

These costs should not continue to be borne by FUTA subject employers, as at present. One possible option is to have such costs paid from Federal general revenues.

VII. SPECIAL EMPLOYEE PROTECTION PROGRAMS (TRADE ADJUSTMENT ACT, ETC.)

A. Special Federal programs should not be paid concurrently or be a supplement to UI.

B. Total costs of such programs should be paid from general revenues.

C. Amount and duration of special program benefits should not be considered precedent or pattern for UI.

Mr. Speaker, it is my sincere hope that Congress will seriously review the Commission's recommendations and take quick action. These recommendations deserve careful consideration and implementation. I want to thank the Speaker for appointing me to the National Commission on Unemployment Compensation. It has been a rich and rewarding experience.●

CORRECTING A REAL INJUSTICE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. STARK. Mr. Speaker, it has been 2 years since the Congress sent the District of Columbia voting rights amendment to the States for ratification. To date, nine States have approved the amendment.

I expect my home State, California, will be the 10th, perhaps within the next week. The following editorial from the August 25 edition of the Los Angeles Times presents convincing arguments for the quick ratification of this amendment by the necessary 38 States.

CORRECTING A REAL INJUSTICE

The 750,000 residents of the District of Columbia must pay taxes, serve in the military and even accept federal authority over their municipal government, yet they do not have a single voting member of Congress.

A constitutional amendment to correct that injustice by allowing the District to elect two senators and one member of the House of Representatives is now pending in legislatures across the country. None of the necessary 38 states have ratified it, but the California Senate has twice refused to concur in Assembly approval of the amendment.

Only last month, the upper house rejected the proposal by only three votes, but it may have another opportunity to do what is right.

Despite the earlier defeat of a resolution by Assemblywoman Maxine Waters (D-Los Angeles), Sen. Nicholas C. Petris (D-Oakland) is pushing identical legislation, and intends to bring it to the floor before the Aug.

31 adjournment if he can round up the votes to pass it.

He reduces the issue to its essentials when he argues that denial of representation to the District amounts to taxation without representation, and also denies its residents a voice in the enactment of laws that are as binding on them as on all other Americans.

But Petris' most conservative colleagues ignore the equities of the issue, and advance a number of specious reasons for opposing ratification. They say that adding two more members to the U.S. Senate would dilute the power of California's senators—an argument that could have been made against statehood for Alaska and Hawaii. They say that most Washingtonians work for the government, and would elect representatives who would vote to fatten their salaries and benefits—an argument that could be made for denying the vote to citizens of Sacramento and every other state capital in the country.

No, the real objection of most conservatives is that the District almost certainly would vote Democratic. So be it. It is wrong to withhold the franchise on the basis of party affiliation, just as it is wrong that the Voting Rights Act should apply to all sections of the country except the city where it was written into law.●

CALL DISTRICT FORUM ON NORTHERN IRELAND

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. WOLFF. Mr. Speaker, it has been my continuing effort to investigate and draw attention to the appalling situation in Northern Ireland. Inherent in our commitment to the defense of political liberty, our Nation assumes the responsibility of coming to the aid of the oppressed Catholic minority of Northern Ireland. It is the duty of Congress to fight discrimination and to uphold the tenets of human rights and civil liberties. I urge my colleagues to join me in my endeavors to remedy this situation by focusing attention and speaking out on this important matter. I insert in the RECORD today an article recently printed in my constituent newsletter calling for a district forum on Northern Ireland.

The article follows:

If the United States' commitment to human rights means what it says, we must speak out against violations of human rights no matter where they occur. We cannot be selective in our condemnation of abuses in one area of the world while turning our heads in silence on another.

Human rights violations take on many forms—They can be committed by lawless vigilantes or by authorities acting under the cover of law—but, in reality, these violations serve to undermine the basic tenets of law and order. Either motivation is repugnant to the cause of human rights.

Either we are or we are not, committed to the defense of basic human rights. We must condemn all violations of human rights, be they the result of terrorist activities in the Mid-east, Asia, Africa, Latin America, or those violations being carried out against the Catholic minority in Northern Ireland. We must make every effort to focus world attention on these injustices even though they may be committed in a nation which has been our closest ally—Britain.

What has happened in Northern Ireland ana continues to take place is not a religious war, but is the consequence of a traditional struggle brought about by the injustices of the past that are perpetuated today in political manifestations.

Violence is not the answer to political problems and I do not condone these acts taking place on either side. The violence must be ended if we are to achieve the human rights and civil liberties to which the people of Northern Ireland are entitled.

Consistent with my efforts over the years to investigate and voice strong objections to human rights violations and discrimination, I am calling together the leaders of the Irish-American community in the 6th Congressional District for an open forum to exchange views and determine what new steps can be taken to end the strife in Northern Ireland and attain a lasting peace.

The forum will be held on Wednesday, September 24, at 8:00 P.M., in the Irish-American Center at 297 Willis Ave., Mineola.

COMMITMENT TO HUMAN RIGHTS

It is the responsibility of Congress in its commitment to support worldwide human rights to investigate fully and speak out about the situation in Northern Ireland.

Let our nation move now to demand the restoration of human rights; the end to oppression of the minority and the freedom of political prisoners in Northern Ireland. Perhaps this approach is what is needed to deal with the root causes of the violence.

As most of you will recall, I have been to Northern Ireland and have personally witnessed the violence; have seen the terror and destruction in the streets; have observed the grief sticken families; and having to use an alias, Joe Branigan, (recognition as a Congressman would have concealed the true conditions), have been the only Congressman ever to venture inside the prison at Long Kesh.

The deprivation of human rights in Northern Ireland cannot be ignored by any peoples concerned with human and civil liberties of the individual. Our own nation, more than two centuries ago, rose up in rebellion to attain freedom from the oppressive practices of the British under King George III.

In 1698, during the reign of King William, the entire Catholic clergy was ordered out by the British and any who remained or returned were subject to being hanged, drawn and quartered. Prior to that infamous period, during the reign of King James I, the lands of the six Irish counties of Donegal, Derry, Tyrone, Fermanagh, Cavan, and Armagh, some 4 million acres, were confiscated and the owners driven away from their homes. The lands of Antrim Down and Monaghan had already been divided by the British and awarded to the favorites of the British Crown.

The "penal laws" enacted by the British in these early days on the Catholic population in Ireland read as some of the most inhuman acts ever imposed. For example, the Irish Catholic was forbidden to exercise his religion, forbidden to receive an education, enter a profession, hold public office, engage in a trade. He was forbidden to live in a corporate town or own a horse valued at more than 5 pounds. The Irish Catholic could not purchase or lease land, accept a mortgage, inherit land from a Protestant, hold a life annuity. He could not vote, could not keep arms, could not educate his child nor send him abroad for schooling.

In 1782, Ireland had a constitution and presumably was "independent" from England. However, the so-called "constitution" contained glaring violations of human rights. In brief, no Catholic could sit in the Irish Parliament or vote for a Member of Parliament. The infamous "Rotten Boroughs" were created, meaning that of the 300 members of Parliament, only 64 were from the Irish counties while 264 were from the "rotten boroughs" that were the property of British peers—and this at a time when three-quarters of the population in Ireland were members of the Catholic Church.

But the Irish remained undaunted in their quest for freedom and the right to liberty. Today, this determination to achieve human rights is as strong as ever. Just as those of Jewish heritage will never forget the oppression and holocaust wrought on their people, the Irish will not forget the centuries of discrimination under the British.

STRUGGLE GOES ON

In this century, the struggle has continued. In 1918 there was a general election in Ireland sponsored by the British, on the question of whether or not the people wanted self-rule or to continue under the British. Approximately 83 percent of the Irish people voted for self-rule. The British then deemed the election null and void, an act that unleashed a new wave of violence, guerrilla warfare and resistance. By 1921, the situation was so tense that the British realized they could never continue their hold on Ireland. However, to maintain their foothold, they took the area around Belfast with its enclave of British loyalists, and arbitrarily partitioned Ireland into two states. The Republic of Ireland in the south and Northern Ireland in the north to remain under British Crown, a basic gerrymander to retain power. Northern Ireland created out of terrorism remains a state of violence where discrimination against the Catholic Irish flourishes unabashed—in jobs, in housing, in the exercise of basic human rights. In Northern Ireland where there are cities with pro-British populations the unemployment rate is minimal, but in areas where the Catholics live, unemployment often surpasses 80 percent.

The British in Northern Ireland also exercise what they call "Special Powers," an abhorrent abuse of the law implemented in 1971 that permits the imprisonment of Irish nationals without charges or trial—blatant violation of human rights and civil liberties (as set forth in Britain's own Magna Carta) and the catalyst that ferments the spread of violence and unrest.

We in America must stand against this type of oppression regardless of the agent or instrument of that oppression. The free world must assure the peoples of Northern Ireland that we are truly committed to upholding human rights in that part of the world. The fight for justice is long and arduous, but until the discrimination and bigotry is harnessed in Northern Ireland, there will be no ultimate peace.●

JEWISH WEEK WARNS AGAINST PLO "MODERATE" LABEL

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. BARNES. Mr. Speaker, the local Washington metropolitan area newspaper Jewish Week published an important article in its August 14-20 edition describing the manipulation of the media by the PLO and its leader, Yasser Arafat.

I urge my colleagues to read the article and the analysis of author Martin H. Miller on the PLO's efforts to gain respectability through use of the press, and I commend Jewish Week and editor Joseph M. Hochstein for presenting this valuable essay. The article follows:

THE MEDIA RECYCLE ARAFAT AND THE PLO AS MODERATES

(By Martin H. Miller)

What motivates the press of America and Western Europe to serve as conveyors of propaganda for Yasser Arafat and the PLO? Why do our wire services, feature and news services, and daily newspapers give aid and comfort to the most prominent member of the international terrorist network, an organization dedicated to undermining and destroying the stability of our society? Even the penetration of the capitals of our world—Washington, Paris, Rome, London—by Palestinian assassins and PLO-trained murderers has failed to deter the journalist apologists for Arafat.

The latest instance is the interview of Arafat by Joseph Fitchett of the International Herald Tribune published August 2 in The Washington Post with a Beirut dateline. The article begins, "Palestine Liberation Organization Leader Yasser Arafat has denied that his guerrilla group recently called for the destruction of Israel or abandoned its interest in negotiating for a Palestinian state to coexist with Israel."

A few paragraphs later Fitchett notes, "Arafat accused Israel of trying to misrepresent the PLO with misleading documents widely publicized in Western Newspapers and circulated at the United Nations. These purport to prove that the PLO has reverted to its old hard-line goal of never compromising with Israel."

ARAFAT'S EXPLANATION

Fitchett presents Arafat's explanation of how the text of the manifesto or political program issued by Al Fatah after its recent 11-day conference in Damascus was leaked by a "radical Palestinian journalist to a Beirut newspaper, Al Liwa, which published it as a scoop giving Fatah's political platform." This is the text Arafat doesn't like. It proclaims the dedication to violence of the largest and most influential component of the PLO.

The latest "It really isn't so" approach in behalf of the PLO began to surface shortly after the Damascus conference. On its front page on June 7, The Washington Star published a New York Times News Service article datelined Beirut, built around an explanation by Mahmoud Labadi, "the chief PLO spokesman here," that the Al Fatah Damascus conference didn't mean it when it vowed death to the Jews. "The reports were the product of a misunderstanding."

Arafat's "moderation" was the theme of an article by The Washington Post correspondent Edward Cody dated July 5 from Beirut. In Cody's words, "Arafat and Farouk Quaddoumi, or Abut Lutf, head of the PLO political department and its unofficial foreign minister, are considered within the guerrilla leadership here as the chief proponents of moderation and use of diplomacy to advance the Palestinian case against Israel.

ARAFAT'S "RELUCTANCE"

"But they and their moderate allies have been outnumbered in recent Palestinian meetings, informed PLO officials say, particularly at the Fatah congress in Damascus that issued the June 1 communique." According to Cody, hard-line PLO-ers were pushing Arafat to violence because of the "lack of tangible progress from diplomacy." The Washington Post headline on the Cody article is, "Tough Rhetoric Masks PLO Strategy." The use of the word "rhetoric" helps to underscore the "moderate" nature of the PLO. Do you expect violence from people who engage in "rhetoric"?

Fitchett's August 2 article was unusual in presenting an alleged interest by Arafat in "negotiating for a Palestinian state to coexist with Israel." Some months ago, despairing of finding any evidence of the so-called Arafat policy of moderation, I telephoned one of the State Department's key office directors for the Middle East. He referred me to Arafat's conversations with Rep. Paul Findley of Illinois. When I wanted something more "official," more tangible, the best he could do was tell me to check the reports of the Foreign Broadcast Information Service, the U.S. agency which monitors foreign broadcasts and news reports. When I asked him how he explained Arafat's threat to "cut off the hands of the United States, to cut off the hands of Jimmy Carter," he retorted, "That's Arafat's high-flown rhetoric. Arafat does that sort of thing. It is unfortunate. It always comes out sounding awful."

I should have asked the State Department Middle East expert how "moderate" were the PLO murders of the American ambassadors to Lebanon and the Republic of Sudan. We could also ask International Herald Tribune correspondent Fitchett how "moderate" were the recent PLO murders of a French policeman and a neighbor of Shahpour Bakhtiar in Paris or the killing on July 27 of a Jewish youth and the wounding of 20 of his companions who were on their way to a summer camp, in Antwerp.

OFFICIAL VOICE OF PLO

We might ask Mr. Fitchett why he accepted so readily Arafat's explanation of "erroneous press reports to distort Palestinian intentions." Arafat and his apologists seem to have been unaware that the United States government monitored and published the text of the PLO broadcast of the resolutions of the Al Fatah conference. The broadcast was June 1 over the Voice of Palestine, the PLO's radio station in Beirut. The Foreign Broadcast Information Service gave its translation of the broadcast in its daily report for the Middle East and Africa dated June 5. It would be hard to find a more official voice for the PLO than its own radio station, broadcasting in Arabic to the Arab world.

The voice of Palestine transmitted verbatim some 49 paragraphs giving the political program or policy declaration of the Fourth Conference of Fatah in Damascus. Evident throughout is the determination to destroy Israel. What is given equal or higher priority is the PLO's hostility toward the United States. For example, "The United States stands at the top of the enemies of our people and nation. It is pursuing a policy hostile to our people, our revolution, our Arab nation and to all Arab and liberation forces.

"The United States supports the Zionist entity and its agents in the area and establishes military alliances aimed at surrendering the area to its military influence so that it may continue to plunder our nation's resources. For this reason, the world front hostile to U.S. policy must be strengthened and fight to foil this policy and to strike at U.S. interests in the area."

ROLE OF MEDIA

The Damascus conference also hailed Iran's humiliation of the United States and declared it would "strengthen our relations of struggle with the Islamic Revolution in Iran which brought down the strongest U.S. bastions in the area . . ."

The media generally ignores the anti-U.S. dedication of the PLO. Instead, at the time of the imprisonment of the American hostages in our embassy in Teheran, there were stories of how Yasser Arafat would persuade his friend, Ayatollah Khomeini, to release the Americans. Later, it turned out, the PLO helped to plan Iran's anti-American strategy and to guard the hostages.

Nor is there much mention of the PLO's collaboration with the Soviet Union to oust the United States from the Middle East. This PLO policy was also reiterated at Damascus. Our will is "to strengthen the strategic alliance with the socialist countries, especially the Soviet Union, as this alliance is necessary in order to confront effectively and seriously the U.S. and Zionist plots against the Palestine question and the world liberation issues."

Al Fatah and Yasser Arafat's plans for Israel were no secret for those who listened to the PLO's Voice of Palestine. As stated in the Damascus resolutions, ". . . Fatah aims to liberate the whole of Palestine . . . the political program stressed that the security of armed struggle and its continuing escalation must not be affected . . . in view of the fact that the armed popular revolution is the only inevitable path to liberate Palestine . . . to escalate armed struggle inside the occupied land and across all confrontation lines against the Zionist enemy . . . to stand firmly against any attempt to legalize the Camp David accord."

Especially ridiculous is the attempt to imply that Arafat must take the road of violence because his diplomatic moves have gone unrewarded. Not only do the United Nations and its constituent organizations devote themselves to advancing the PLO cause, a host of nations, separately and in regional alliances, salute Arafat and the PLO. But the recognition accorded Arafat and the PLO has brought only more PLO violence. Among the most afflicted have been the people of Arab lands on which the PLO has descended. Lebanon, for example, once the Switzerland of the Middle East—the Arab country which came closest to democracy—is now a shambles. The PLO was a major contributor, along with the Syrian "peace-keeping forces," to the killing of 70,000 Lebanese and the physical destruction of their country. Thousands of Arabs killed in other lands are part of the PLO toll.

NON-ARAB VICTIMS

Non-Arabs are victims, too, From 1973 through April 1979, Near East Report reveals, there were 1,575 terrorist attacks across Israel's borders, costing 133 lives. From 1967 to 1978 Arab terrorists in Europe, Asia and Africa killed, 1,133 people, wounded 2,498 and held 2,753 hostage. During this time, too, the PLO has been providing training, haven, money, intelligence and weapons to terrorist movements in Ireland, Germany, Japan, Italy, Africa and Latin America. American revolutionaries, too, have been trained in PLO camps.

These facts must be known to Joseph Fitchett, Edward Cody, and other Middle East "experts" who salute Arafat as a "moderate." Instead they should pay heed to Leonard J. Davis who observes in Near East Report, "When newspapers legitimize terrorists in words, they are no different than those nations which legitimize terrorists in diplomacy. They too become collaborators in terror."●

PERSONAL EXPLANATION

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. ROTH. Mr. Speaker, I was unable to be present on the afternoon of August 22. Had I been present, I would have voted as follows:

Rollcall 480, yea;
Rollcall 482, nay;
Rollcall 483, yea.●

THE WORKERS WHO DARE TO UNITE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. RITTER. Mr. Speaker, today our thoughts are with the Polish workers who continue to strike for critical economic and social demands, as pressure mounts to resolve their conflict with Communist government leaders. A majority of the Members of the House of Representatives have expressed their concern for the peaceful solution of the Polish confrontation without foreign intervention by joining me in cosponsoring House Concurrent Resolution 406. Members may be interested in the following commentary by George Will for the September 1 issue of Newsweek, which provides a historical and political perspective on the significance of the Polish workers' challenge.

The commentary follows:

THE WORKERS WHO DARE TO UNITE

In Poland a public servant's lot is not a happy one. The public is such a nuisance, and it is so hard to get good work done. Recently a Communist official who was being pestered by people who wanted to reopen a nineteenth-century church had a most tiresome time organizing a demolition team willing to dynamite the church.

What a spectacle. A regime committed to indoctrinating everyone with the intellectual junk of dialectical materialism reduces an old building to rubble in order to fight what materialists disbelieve in—the autonomous life and the power of ideas. And now another specter is haunting the regimes that are trying to keep a sinewy grip on Eastern Europe: the workers of their world might unite.

To those of us who believe that Western democracies are, whether they know it or not, in the fifth decade of a war with the totalitarians, there is satisfying historical symmetry in the fact that the specter rises from Poland, and especially from Gdansk. Forty-one Augusts ago Gdansk was Danzig, and appeasers were down to their last slogan: "Why die for Danzig?" Forty-one years ago last Sunday the Soviet Union became Hitler's ally, preparatory to raping Poland. In 1939 Danzig was the last inch of Europe's fuse. In 1980 Gdansk is a sputtering fuse of unknown length.

Poland has sputtered intermittently for three decades, but what now gives the world reason to hold its breath is that some of the strikers' demands threaten the regime's roots—or, rather, its buttresses; it has no roots. Today's troubles are no more about food prices than the American Civil War was about Fort Sumter. On other occasions of labor unrest, the regime has bought peace with economic concessions. This time not even a regime that believes everyman is "economic man" and believes history is a story of economic forces can believe that it faces an economic challenge.

Demands: True, some demands (such as abolition of special shops open only to police and party officials) pertain to relatively mundane idiocies and mendacities of Communist life. But shopping is not a minor matter in a country where the typical woman spends two hours and ten minutes a day waiting in lines. Anyway, the workers' critical demands attack the ligaments of totalitarianism: access for all religious groups to the mass media, guaranteed free expression for all, free trade unions.

The name of a dissidents' organization may seem stilted, but it defines the issue: Committee of Social Self-Defense. Polish society is at war with Poland's government. Totalitarianism means total domination of society by the state, suppression or politicization of all mediating structures—such as churches and labor unions—that act as buffers between the individual and the state. Totalitarianism is a twentieth-century disease, dependent on modern bureaucracy and other potential instruments of social control, such as broadcasting.

Today's drama in Poland is riveting because it says—it shouts: "Totalitarianism doesn't work. Indoctrination is less potent, human beings are less malleable, mediating structures rooted in the social soil are more resilient than totalitarians think." But thinking is not something totalitarians do elegantly. Totalitarianism is tyranny with delusions of grandeur, delusions rooted in intellectual rubbish about Herrenvolk or new socialist man. Intellectually, totalitarians are the most loutish tyrants. To signal confidence in its marionette in Warsaw, Moscow has just announced plans for a spanking new edition of the writings of Edward Gierek. Imagine, if you can bear to, curling up with one of those books.

Poland is the Soviet Union's largest "ally" (if that description can be used of a manacled nation). So it is delicious that strikers decorated the gates of Lenin Shipyard with the Polish flags, portraits of Pope John Paul II, and blue and white banners of the Virgin Mary. Lenin: founder of a "dictatorship of the proletariat" in which the proletariat is denied trade unions. Polish flags: dear me, didn't Lenin say workers have no fatherland, no country but the "socialist movement"?

The Pope: the most consequential statesman of our time is a Pole living abroad and governing a city-state 1/1,000th the size of Andorra, from which he governs Poland more, in a sense, than does the government planted by bayonets in Warsaw. The banner of Virgin Mary: religion is the *opiate* of the masses? Building Bolshevism is not all beer and skittles in a nation in which 30 million of the 35 million citizens are Catholics whose Catholicism is an undiluted fighting faith.

Domination: The Polish Government is arresting people. The Kremlin, too, is acting in character, jamming broadcasts from the West. Both are violating the Helsinki agreements on human rights and the freedom of information. But then, the point of the Helsinki meeting was less those pieces of paper than the West's formal acquiescence in Soviet domination of Eastern Europe—in the outcome of the 1939-45 phase of the war against totalitarianism.

Poland is surrounded by Soviet satellites and Soviet divisions, so the current drama, which is yet to be played out, can hardly come to a happy conclusion. Perhaps the fact that justice and power are so entirely on opposite sides encourages romantic and sentimental judgments. Viewed from afar, the Polish workers may seem nobler than any lot of people can be. But, on the other hand, the democracies, increasingly cynical about their leaders and themselves, are incapable of crediting anyone with virtues that they, like cattle at twilight, plod along without.

One would have to be made of marble not to be moved by the glimpses we get of Polish workingmen and -women organizing themselves against a leviathan. A grainy, black-and-white photograph of those people seated at a table, quietly taking their lives into their own hands by talking about organizing, is a reminder that the simple decencies of life only seem banal to people who owe their enjoyment of those decencies to the bravery of previous generations. To paraphrase what Dean Acheson said of Louis Brandeis, the Polish workers may receive some undiscriminating praise, but they are worthy of the urge which gives rise to it.●

TRIBUTE TO DOROTHY GAGE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. LAGOMARSINO. Mr. Speaker, I wish to bring to the attention of my colleagues the record of community service performed by my constituent, Mrs. Dorothy Gage, of Oxnard, Calif. Labor Day, September 1, 1980, marks the 25th year of Mrs. Gage's active participation in the Ventura County muscular dystrophy organization.

Mrs. Gage is the parent of three afflicted children and one healthy one. Her family was the first to be used in a research program at UCLA into the background and family involvement of muscular dystrophy.

Mrs. Gage pioneered the Ventura County Association of Muscular Dystrophy and is currently serving full time as county chairman. In addition, she has worked tirelessly for the muscular dystrophy telethon for the past 15 years.

I wish to join with the Ventura County Muscular Dystrophy Association in commending Mrs. Dorothy Gage for dedicated efforts in fighting muscular dystrophy.●

SUPERFUND: SCIENCE AND THE LAW

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. BROWN of California. Mr. Speaker, the following article appearing in the August 29, 1980 issue of Science magazine skillfully highlights the conflict between the scientific and legalistic or humanitarian approaches taken to the hazardous waste problems. This distinction is important to recognize as we consider the superfund legislation, since lack of understanding and conclusive scientific evidence have been sited in attempts to delay such legislation.

Any environmental regulations will ultimately be required to stand up under scientific scrutiny. However, I believe that we simply cannot afford the risks to our health and to the environment that delaying action pending extensive and prolonged scientific studies would entail. In a rush for conclusive scientific results, poor studies will be designed, further confusing matters and generating not understanding, but anger and a mistrust of science.

Clearly action is needed in cleaning up of hazardous waste sites, and further understanding of the problems caused by toxic materials is essential to reasonable legislation. I urge my colleagues to take positive action with regard to the superfund legislation, and amendments that may arise on the House floor that would provide funds for research to promote scientific understanding of the problems involved. The article follows:

[From Science, Aug. 29, 1980]

CONTINUING CONFUSION OVER LOVE CANAL

(By Barbara J. Culliton)

The task of bringing science to bear in solving the problems of Love Canal is still far from complete, and what has been accomplished to date is hardly an object lesson in how to apply science to public policy.

The controversy surrounding the chromosome aberration study commissioned by the Environmental Protection Agency (EPA) refuses to subside. With more studies of the health of Love Canal residents being planned, there is vigorous debate about what, if anything, such surveys can accomplish. Already apparent is a fundamental difference in approach between lawyers and scientists. The lawyers want quick results that can serve as evidence for law suits; researchers contend that environmental issues as complex as that of Love Canal defy almost any attempts to develop immediately useful data.

EPA's first attempt to bring science to bear on the Love Canal problem began last fall. Convinced that hundreds of families should be moved away from Love Canal, EPA attorneys asked the Department of Justice to seek a court order requiring Hooker Chemical Corporation to pay for the relocation of the families. It was Hooker that buried tons of toxic wastes in the abandoned canal in the 1940's and early 1950's. The Justice Department advised EPA to provide some evidence to the effect that continued residence in the Love Canal neighborhood was hazardous to health.

EPA officials decided that a search for chromosomal aberrations would fit the bill and, in January of this year, Dante Picciano of the Biogenics Corporation in Houston was commissioned to conduct a "pilot" study as quickly as possible.

Picciano, as it happened, was able to provide the evidence that EPA was looking for. The summary of his report, dated 14 May 1980, stated: "It appears that the chemical exposure at Love Canal may be responsible for much of the apparent increase in the observed cytogenetic aberrations and that the residents are at an increased risk of neoplastic disease, of having spontaneous abortions, and of having children with birth defects."

Before Picciano's findings could be submitted to any measure of peer review, they came to public attention, stirring new fears among the already distraught people of Love Canal and prompting renewed demands from them that they be relocated.

For more than a year, reports of excessive illness among Love Canal residents had been accumulating. Justice Department attorney Anthony Roisman calls the Picciano study the final straw that forced the policymakers to a decision. Presidential aide Jack Watson took a personal interest in the situation, as did other high-ranking Executive Branch personnel. Steps were taken to provide funds for relocation of some 700 Love Canal families and, according to a number of scientists, the policy-makers began exerting considerable pressure for additional (and speedy) studies of the health of Love Canal residents.

Yet the Picciano study, despite its considerable catalytic effect on the politicians, came almost immediately under severe criticism from scientists, and in particular from two review panels convened by the EPA. One panel was chaired by David Rall of the National Institute for Environmental Health Sciences, and the other, by Roy Albert of New York University Medical Center.

Both review panels criticized the Picciano study for its lack of controls (see Science, 13 June 1980), and the EPA has now accepted the verdict of the Albert panel that the lack of controls makes it impossible to draw any conclusions from the study. Certain technical criticisms made by the Albert panel, however, have been disputed by other scientists, such as Marvin Legator of the University of Texas, Galveston, and Margery Shaw of the University of Texas Health Science Center. Shaw believes that anomalies dismissed as artifacts by the Albert panel were real aberrations as claimed by Picciano. Picciano also has defended his study and explained why it was conducted without controls (see Letters, Science, 15 August 1980).

Quite apart from the controversy that has entrammeled the Picciano study, the EPA's original choice of a chromosomal aberration survey may not have been particularly well advised. As a tool for demonstrating health effects, chromosome studies are notoriously difficult to interpret. No more than a handful of specific diseases has been shown to be associated directly with a known chromosomal aberration. And past experience makes cytogeneticists extremely wary about drawing hard and fast conclusions. Thalidomide, for instance, does not produce chromosomal aberrations, whereas aspirin, which does, is not known to cause birth defects in humans although it does in lower animals. The fact that the Love Canal residents have been exposed to unknown amounts of chemicals adds to the difficulty of interpreting a chromosome study. Some cytogeneticists doubt if anything of value can be learned from such a study in the short term.

Nevertheless, if the people of Love Canal are willing—and it is not certain that they are—another, "more definitive" and controlled chromosome study will soon be started under the auspices of the Center for Disease Control (CDC) in Atlanta. It is likely that Michael Bender of Brookhaven, in collaboration with a group at the Oak Ridge National Laboratory in Tennessee, will conduct the study.

What will it prove? Bender, who says he is willing but "reluctant" to be involved, believes that the only reasons for a follow-up cytogenetic study at Love Canal is "humanitarian," to give the residents more information. He does not think it has the potential of being of any real value unless it is conducted as part of a long-range epidemiological study. Picciano agrees: "The only value of another cytogenetic study will be its long-term academic value," he says. "Besides, you don't need a cytogenetic study to know something's wrong up there at Love Canal. The trees don't have any leaves. The kids play with rocks, and when they throw them against a wall they explode."

According to Renata Kimbrough of CDC, "A second chromosome study will not resolve the Picciano controversy, nor will it prove that exposure to the dump is causing broken chromosomes. And if it is negative, that won't prove that there is no harm. The real problem is that we don't yet have the scientific tools to answer the kinds of broad questions that are being asked of us in situations involving dump sites and other environmental problems." To complicate matters further, Love Canal residents have threatended to boycott future studies or to give false information if they do participate.

In addition to a second chromosome study, plans are also under way to "assess the health" of the citizens of Love Canal by offering each an ordinary physical exam. "It would not be a study of much epidemiological value," according to Kimbrough but, if handled properly, could produce interesting baseline data for following the people for the next 10 or 20 years. The health assessment study will be conducted jointly by CDC and the State University of New York at Buffalo if they can agree on what should be included. Negotiations are not going smoothly.

In the continuing debate about what to do at Love Canal, two things are apparent. First, everyone is acutely aware that Love Canal is not only a problem in its own right but foreshadows problems to come. There are thousands of other toxic waste dumps throughout the country. Second, it is clear that scientists approach the issue from a decidedly different vantage point than do lawyers and policy-makers.

Where the scientific community seeks certainty and studies that measure up to the most rigorous standards, attorneys can willingly settle for much less. Roisman of the Justice Department explains that from a legal viewpoint, it is not necessary to prove beyond any doubt that exposure to chemicals at Love Canal caused chromosome aberrations that can be linked directly to disease. What Justice wants to show the court in its suit against Hooker is that such a chain of cause and effect is possible. "The laws we're seeking to implement all have to do with the idea of endangerment," Roisman says. "We need to show that there is risk."

A recent decision by the U.S. District Court in Arkansas set a precedent that the Justice Department thinks would apply to the Hooker case. The issue in the Arkansas case had to do with the hazards of exposure to minute quantities of dioxin. The Court did not require proof that citizens were being harmed before granting relief. Rather, it only required evidence that the presence of dioxin in the soil "gives rise to reasonable medical concern for the public health." Acknowledging the uncertainties involved, the Court said, "These concepts of potential harm, whether they be assessed as 'probabilities and consequences' or 'risk and harm,' necessarily must apply in a determination of whether any relief should be given in cases of this kind in which proof with certainty is impossible."

Despite the legal perspective, scientists remain concerned about the quality of research that will be used in future efforts to deal with environmental issues. At the very least, cytogeneticists would like to get together to devise a protocol that everyone can agree to, should additional chromosome studies be done. They plan to thrash it out when the American Society of Human Genetics meets in New York next month. Shaw says, "I think it is our civic duty to make sure these things are done right. The present situation is such a God-awful mess."●

TRIBUTE TO JAMES S. McDONNELL

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. YOUNG of Missouri. Mr. Speaker, James S. McDonnell, one of the towering figures in the development of the aviation industry in this century, died last week at his home in suburban St. Louis at the age of 81. Mr. McDonnell's dynamism and dedication—both as founder and board chairman of the McDonnell Douglas Corp., and as a civic leader—will inspire younger leaders of our Nation for years to come.

Starting with one employee in a small office more than 40 years ago, Mr. McDonnell developed McDonnell Douglas into one of the largest manufacturers of commercial and military aircraft, spacecraft, and missiles. The firm currently employs more than 82,000 persons, and had 1979 sales of more than $5 billion. Since the late 1950's, when the company received a contract for Mercury, the Nation's first manned orbital spacecraft, McDonnell Douglas has participated in every U.S. manned spacecraft program.

The firm's tradition of excellence is being accentuated again this week with the FAA's certification of the newest version of the DC-9—the sixth model built by the company.

Mr. McDonnell was born in Denver in 1899 and grew up in Little Rock. He attended Little Rock schools and was graduated from Princeton University in 1921 with a B.S. degree and honors in physics. He was interested in aviation and enrolled in the graduate program at Massachusetts Institute of Technology, where he received an M.S. degree in aeronautical engineering in 1925.

He wanted to learn how to fly and joined the Army Air Service for flight training at Brooks Field, San Antonio, Tex. He received his wings as a reserve second lieutenant in 1924. Leaving the military, he held several jobs in aircraft plants in the East and Midwest.

In 1938, after rising to chief project engineer for land planes with the Glenn L. Martin Co. of Baltimore, he decided to strike out on his own. In 6 months, he raised $165,000 from his own savings, family, friends, and businessmen, and decided on St. Louis as the location for his company. The McDonnell Aircraft Corp. was legally incorporated in July 1939.

The firm began to grow during World War II, manufacturing millions of pounds of aircraft parts. The company also designed and built its first airplane, a prototype bomber destroyer called the XP-67. Government contracts for jet propulsion research followed.

In 1943, the Navy contracted with McDonnell to design and develop a jet fighter that could operate from an aircraft carrier, the world's first. The result was the FH-1 Phantom I, a twin-engine fighter which first flew in 1946. The company has developed many outstanding military aircraft, including the F-4 Phantom II, the F-101 Voodoo, the F-15 Eagle and the F-18 Hornet.

In 1966, the Douglas Aircraft Co., recognized for its DC series of commercial airlines, issued merger discussion invitations. The two companies were joined the following year as the McDonnell Douglas Corp. Then, the firm began work on the DC-10, an advanced design wide-body airliner.

Until recently, Mr. McDonnell had remained active in the management of his company. As chairman of the McDonnell Foundation and president of the McDonnell Aerospace Foundation, he oversaw the distribution of millions of dollars to charity and medical and scientific research. He was a strong supporter of the United Nations and the North Atlantic Treaty Organization.●

INDUSTRIAL EXPERT AGREES WITH CONGRESS THAT RAPID DEVELOPMENT OF SYNTHETIC FUELS IS CRUCIAL TO THE UNITED STATES

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, as Members of the House of Representatives know, Congress passed historic legislation in late June to develop a viable synthetic fuels industry in the United States. This legislation, called the Energy Security Act, contained the House "fast-start" synthetic fuels program under the Defense Production Act of 1950.

The House approach, which I had the honor to champion, directs the President to take immediate action to expedite the development of synthetic fuels in the United States. That effort has gotten off to a wobbly beginning, but I am happy to report there are definite signs it is being placed on an accelerated track.

The absolute need for the United States to take swift action is described in illuminating detail by Mr. Edward Donley, chairman and chief executive officer of Air Products and Chemicals Inc., in a speech which he delivered before the Executives' Club of Chicago last April. The text follows:

SYNFUELS, SECURITY AND THE NATIONAL WILL

A MOVE IN THE DIRECTION OF ENERGY INDEPENDENCE

Today is the 18th of April—the anniversary of Paul Revere's ride 205 years ago across the countryside near Boston to warn the villagers of the march of British troops. Three years ago today, President Carter announced his first energy program. He has since called our energy crisis the moral equivalent of war.

There is more than a coincidence of dates involved here. We Americans are dangerously dependent upon a thin line of oil tankers stretched half around the world. This should worry us at least as much as the line of redcoats worried our ancestors at Lexington and Concord. If you recall Longfellow's famous poem, you'll remember the refrain, "The fate of a nation rode that night." In a very real sense, the fate of our nation rides now on the political decisions regarding energy which we are in the process of making.

Our energy security, like the energy security of all industrial nations, is still tied to events in far-off places. An interruption in the flow of oil from the Middle East would imperil the economies in all of the importing countries.

We saw this during the '74 embargo and again last year when the revolution occurred in Iran. Today our dependence on foreign oil, created in part by our own energy policy, has caused a serious balance of payments problem and aggravated inflation. It has also placed strains on the international monetary system, as all countries struggle to deal with the escalating costs of petroleum.

Moreover, America's credibility as a dependable ally is weakened when our supply lines reach across the globe to a region rent by deep and perhaps irreconcilable cultural, religious, nationalistic, and military conflicts. In some instances these societies despise our influence. In Iran, political forces which are mysterious to us have openly violated international law by seizing U.S. citizens and U.S. property.

What are we called upon by these circumstances to do? Fortunately we have at hand in the United States the resources to deal effectively with this problem. We have massive quantities of indigenous coal and shale—enough to furnish our energy needs for several hundred years. We have the technology to convert these raw materials into high quality clean fuels. We also have the capital formation capacity to provide the needed funds. And most importantly, we have the technically trained and educated people who can do the job.

But to make these resources work for us, we need a tripleplay approach to energy policy; conservation, deregulation, and technology development. All three of these elements already are underway to some extent. Gasoline consumption declined five percent in the United States during 1979. Total energy consumption by industry declined six percent between 1973 and 1978; at the time industrial production increased 12 percent.

In the area of deregulation, some controls have been removed. This will give petroleum companies better incentives to seek new domestic discoveries and to use enhanced recovery techniques. Beyond that, it will permit major efficiencies in what has become a torturously controlled distribution system.

But even with these improvements, domestic United States oil production is expected to decline steadily over the remainder of this century. Consequently, shrinking supplies will make it possible for OPEC to continue raising prices. An even greater danger is the possibility that futher political turmoil in the Middle East could occur and cut off or drastically reduce the flow of oil.

Our chief defense against this treat is to aggressively pursue synthetic fuels development. When we in the United States begin to produce synfuels, the price of these fuels will tend to become OPEC's ceiling price. OPEC will recognize that what we can do in a handful of plants, we can do in hundreds of plants. We will also have demonstrated the capacity to become more self-sufficient, and to hold in our hand the control over the rate at which dollars leave this country to buy foreign oil.

It's essential that we put our technologies to work to increase domestic fuel supplies and establish a limit on energy costs. As long as the United States remains so dependent on foreign oil for a large share of our energy, there is no way to constrain OPEC price increases.

If the free market, rather than a cartel, controlled our oil supplies, the development of synfuels would be an evolutionary process. The technologies to produce them would evolve gradually. As conventional oil production declined, the price of oil would rise enough to justify the development of a synfuels industry.

But given the present world oil supply situation, we must accelerate our development of synfuels to protect ourselves. This accelerated development of synfuels faces a combination of risks—business, environmental, technical, and regulatory. In the aggregate they are too much for a private capital system to bear alone. And unlikely as it seems today, OPEC could in the future reduce world oil prices to undermine the financial structure of a fully private synfuels industry.

As a result, the private sector has looked to the government for ways to mitigate these uncertainties. International political forces control the world energy business. We cannot leave our government completely out of the development of synthetic fuels. Assuring adequate future energy supplies at prices that will not bankrupt the United States must be a matter of national policy. In the present world geopolitical situation, this cannot be settled completely by strictly private industry.

However, a cooperative government/industry program to develop an American synfuels industry is not synonymous with intrusion of the Government into the free market. Pricing in the international oil market is controlled by the OPEC cartel. Building a synfuels industry would be a move toward restoration of competition and a free market. Government involvement is a necessary beginning that will end with private industry commercialization synfuels during the decade of the 80s.

There is ample precedent for the kind of government/industry cooperation which is necessary to accelerate commercialization of synthetic fuels. Air Products is an example of this—it's the one I know best.

Our cooperative efforts with the government date back almost to our founding in 1940. World War II created an urgent need for oxygen for use by aviators in our military aircraft. Air Products responded by designing and building oxygen generators to produce the gas for the government. We had the ability to develop the technology but the private sector rewards did not immediately justify the financial risks. So the government funded the research and development work and we proceeded.

During the Cold War, our nation's missile and space programs required large quantities of liquid oxygen and liquid hydrogen for use as aerospace vehicle propellants. Government-sponsored basic research and development contracts were awarded to our company to help meet these needs. These contracts were followed by pilot plants and demonstration plants. Subsequently, we—and our competitors—applied this technological know how successfully in the private sector, both here and overseas.

Reduced cost of industrial oxygen today is one of the commercial benefits reaped from these government/industry cooperative technological efforts. In 1945, oxygen cost about $1.00 per hundred cubic feet. Even though it is a very energy-intense product, oxygen now costs only about 30 cents. Why? Because the technology developed cooperatively by government and industry resulted in economies of scale which reduced costs and thus benefited the whole society.

I can't promise that kind of cost reduction for synthetic fuels, but in the history of chemical engineering every process which has been developed has followed a learning curve, which has resulted in lower costs as time and technical experience have been accumulated.

The technology for converting our nation's vast coal reserves into environmentally acceptable alternatives to imported oil and natural gas is ready today to be developed, demonstrated, and put to work. We have formed a new privately owned enterprise, International Coal Refining Company, which is now working with the government to apply this technology to the production of solid, liquid, and gaseous fuels and chemical feedstocks from domestic coal resources. International Coal Refining is building the first module of a new plant in Kentucky. It will cost approximately $1.3 billion and will produce 20,000 barrels per day of synthetic crude oil and related products by 1984. It is being designed to permit expanding it to a capacity of 100,000 barrels daily by the late 80s.

The Administration and Congress recognize the importance of this work and are now completing work on legislation that will foster the growth of a major coal-based synfuels industry. This industry will be based on Research and Development work that has gone on for several years in both the public sector and cooperatively in the public/private sector. In our own company, for example, we began this research work about ten years ago and have spent about $75 million in this effort during that period. The Department of Energy has been, for some time, moving ahead rapidly with the development of synfuels projects such as our solvent refined coal process and other processes.

A coal-based synfuels program has enormous potential. It would use both established and new technologies to convert our coal reserves into a variety of environmentally acceptable fuels. Processes of this general type have been successfully used elsewhere in the world for the past 40 years.

There are two classes of technologies that make synfuels from coal: existing technologies which can be put to work immediately and advanced technologies which are in the process of being demonstrated.

The existing processes for making synfuels from coal convert coal into synthesis gas—a mixture of carbon monoxide and hydrogen. This gas is a suitable feedstock for producing a variety of chemicals and fuels, including synthetic natural gas and synthetic gasoline. These technologies are well developed commercially, and we could build large-scale plants using them now.

The advanced technologies have passed through Research and Development and pilot plant phases only, and are now ready for commercial demonstration. They liquefy the coal by direct hydrogenation; that is, they add the hydrogen necessary to purify the coal and to convert it to oil. These newer technologies are more efficient than the existing processes and could produce up to 50 percent more fuel per pound of coal. The SRC-I (Solvent Refined Coal) process which we have been developing is one of the advanced liquefaction technologies and will be incorporated in the demonstration plant we are now building in Kentucky.

When and at what cost could coal-based synfuels be available?

Legislation now before the House of Representatives sets a production target of two million barrels of oil equivalent daily by 1990. The Senate version calls for 1.5 million barrels by 1995.

We estimate that at commercial scale, synthetic crude oil made by our SRC-I process could sell for approximately $30 per barrel in 1979 dollars. This syncrude could be converted to gasoline and other products in existing oil refineries. The synthetic gasoline could sell for about $1.50 at the pump, again in '79 dollars. The plant will also produce a solid product which can be used as a high quality, clean-burning fuel in power plants, thus reducing the need for utilities to burn imported oil.

I have emphasized coal-based synfuels because I know them best, and believe they are a realistic near-term alternative to imported oil. There are of course others with immediate potential, shale oil in particular. In addition to the SRC process, several synfuel developments should be pursued simultaneously through the demonstration stage. To commit to one or two technologies now, using only pilot plant or laboratory data as criteria, would be an unwise route to follow.

The legislation now before Congress would provide $20 billion for about the first five years of synfuels development. The primary objective would be to encourage private industry to develop synfuels through the use of purchase contracts, price guarantees, loans, and loan guarantees. The main thrust of the program is not toward direct grants to corporations or construction of government plants. Once the commercialization state is successfully reached, private investment should replace federal incentives.

Swift development of synthetic fuels is crucial to the United States. It would be a strong signal to OPEC—and a welcome one to our allies—that America is committed to the goal of eventual energy independence. As synfuels come into the market and cut our need for foreign oil, they will impose a price ceiling on energy, a ceiling that will be determined by market forces instead of the cartel's political decisions.

The development of an American synfuels industry will have other important effects. It will begin to reduce the outpouring of dollars we now spend for imported oil. In certain fields, such as computers and jet aircraft, the U.S. enjoys world technological leadership. This strengthens our capacity to fill the role as leader of the free world which the 20th Century has thrust upon us. If we continue now to move resolutely ahead with development of these synthetic energy programs, we will be able to provide this kind of technology leadership for ourselves and our allies well into the 21st Century.

This synfuels program would create hundreds of thousands of American jobs, requiring, for example, 50,000 engineers and 150,000 construction workers during its development years. The Kentucky plant we have planned, producing 100,000 barrels per day in 1990 would by itself create 50,000 new jobs in the coal mining and related support industries.

Finally, these developments will enable us to plan a more independent course in the management of future United States foreign policy.

To move in the direction of energy independence, we need the passage of the current legislation to provide for initial synfuels developments. For the administration and the congress to accomplish this in a free democratic society such as ours, a majority of our citizens must understand and support the program.

We have waited dangerously long. We need to go forward now and to be prepared to hold steady to a firm and resolute course for many years into the future.●

TRIBUTE TO DR. D. ALLAN BROMLEY

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

● Mr. GIAIMO. Mr. Speaker, I take this opportunity to pay tribute to an eminent scientist, inspiring teacher, and close friend, Dr. D. Allan Bromley.

Dr. Bromley is the president of the American Association for the Advancement of Science (AAAS) and also holds the Henry Ford II professorship of physics at Yale University. His accomplishments in the field of nuclear physics have represented breakthroughs in the areas of energy, medicine, and food production. As an adviser to congressional staffs and Federal agencies, Dr. Bromley has opened the lines of communication between the scientific community and the public. His commitment to the useful application of science can only benefit this country in the future.

I have firsthand knowledge of Allan Bromley's insight into the field of nuclear physics. On several occasions, I have had the pleasure of being his only student. We have sat in his office, and he has explained to me with chalk and board the intricacies of the latest scientific advances. Given the tremendous advances that science is making daily, Allan Bromley's ability to speak in language that the layman can understand leads to a greater appreciation of the importance of continued research into the pure as well as the applied science.

Mr. Speaker, I insert an article from the February 1980 issue of Science magazine in the RECORD as a fitting tribute to my good friend, Dr. D. Allan Bromley.

D. ALLAN BROMLEY, PRESIDENT-ELECT

(By Joseph Weneser)

In the fall 1979 election, D. Allan Bromley was chosen president-elect of the AAAS. I have been asked to tell you something of his work, style, and outlook. He is a noted nuclear physicist who holds the Henry Ford II Professorship of Physics at Yale University, where he teaches and carries on an active research program. He is one of the statesmen of science, who has given much of his time and administrative skill to the committees and organizations through which the science enterprise governs itself and speaks to our government. His industrial activities span an interesting range of the applications of technology and knowledge. Not least of all, he is a lucid and skillful speaker who frequently addresses public forums on topics of science and technology. If Allan Bromley appears from this description to be a very busy man, then I have correctly pictured him to you.

He was born in the farm country of northern Ontario, Canada, in 1926. It was typical of that time and that area that an education in the three R's was stressed and that verbal skills were acquired as a by-product of industrious reading of the Bible and the classics. A prize essay on the moral structure of society earned Allan an award that made possible his studies at Queens University in Kingston, Ontario. Whether acquired through this early training or through a benign heredity, his ability to express himself easily, coherently, and lucidly is a formidable asset for a spokesman of science.

After graduating from Queens University in Ontario with the degrees of Bachelor of Science and Master of Science, Bromley went to the University of Rochester, where he earned his Ph.D. in 1952 with a thesis in nuclear physics. He spent several years on the faculty at Rochester before returning to Canada, to the Chalk River Laboratory. There, Bromley and his co-workers installed the first of the new tandem electrostatic accelerators. Working with it, they began to investigate, in addition to experiments with light nuclei, how sizable amounts of nuclear matter interact with one another. Using beams of energetic nuclei (heavy ions), they demonstrated that there were unexpected but simple modes of motion in the peripheral collisions between compound nuclear systems.

Bromley was one of the pioneers of the field of heavy-ion nuclear physics, and in the early days of that subject—the late 1950's and early 1960's—he presented with missionary enthusiasm the many scientific opportunities that it offered. These include establishment of the basic modes of interaction of massive nuclei and the physical laws that characterize them—how they exchange energy, momentum, and mass. By using the large amounts of momentum carried into heavy-ion interactions, one could explore the domain of high angular momentum—an interesting and important part of the nuclear world that could be glimpsed from afar but could not otherwise be entered with laboratory experiments. Equally important was the possibility of breaking out of the narrow range of nuclear species to which nature had confined us, for heavy ions were the key to creating in the laboratory the full range of nuclear species. A host of technological applications provided additional allure.

But before these scientific advances could be achieved, new and more powerful electrostatic accelerators and cyclotrons had to be designed and built. Bromley's was a vigorous and convincing voice in making the case for these machines so that funding would be available. In the 1960's and 1970's the heavy-ion capabilities of the United States and of the world took a sizable step forward, and the scientific results that followed have made this investment a profitable one. The promise of this field is still bright, and the case for further investment compelling.

In 1960 Bromley left Canada to become director of research at the Heavy Ion Laboratory at Yale. While working with the Yale linear accelerator, he began a collaboration with the High Voltage Engineering Corporation to design an electrostatic accelerator with a significantly increased energy capability. The first of these accelerators, the Emperor Tandem Van de Graaff, provides the experimental beams for Yale's Wright Nuclear Structure Laboratory, one of this country's major academic nuclear physics centers. Bromley founded the Wright Laboratory in 1966 and has been its director since then, while also serving as chairman of Yale's Physics Department from 1970 to 1977. In addition, he is an enthusiastic teacher who continues to give graduate and undergraduate courses, and more than 25 students have obtained advanced degrees with him over the years.

I must turn now to another important area in which Bromley is active—in the organization, government, and justification of physics. In 1969 the National Academy of Sciences and the National Research Council, in response to the needs of a number of government agencies and the President's science adviser, undertook a survey of the physics research enterprise in the United States. The final product, the report entitled Perspectives in Physics, is now well known. Carrying out the survey and producing the report required a prodigious effort, taking several years and involving some 200 eminent physicists to a greater of lesser degree. As chairman of the central Physics Survey Committee, Bromley was very much the heart and soul—and frequently the brawn as well—of all aspects of the work and especially of the formulation of the projects.

The stimulus for this survey was a need to understand the status, opportunities, and problems of physics in the United States in 1969. In the preceding decade physics, and U.S. science in general, had a strong growth period. Then the outlook changed, and as the 1970's approached physicists faced steadily increasing competition for available federal support. Therefore, the committee took on the task of developing contingency alternatives to ensure the most effective use of the available support. It did so, not in the conventional manner of recommending specific funding levels, but by delineating "the scientific, and to some extent the social, consequences of several different rates of funding increase or decline for each subdiscipline" of physics. Unfortunately, the succeeding years saw effective declines in funding levels, and the need for agonizing choices between conflicting priorities was upon the physics community. The survey report provided an important step in forming the patterns of analysis and the modes of decision within that community—or more accurately, the several communities that represent the major subdisciplines of physics.

Out of the many things the committee accomplished, I find particularly interesting that it "attempted to place physics in perspective in U.S. society," to assess the contributions of physics and physicists, and to examine how the transference of discoveries made in the research enterprise could be improved. The first step alone—a survey of the practical applications that had become important parts of our technology, our medical usage, our food production, or other aspects of our lives—was an enormous undertaking. It could only be done in small part, but even the listing of the more spectacular and obvious cases was heartening and exciting. Whether evaluated in terms of lives saved, or the impossible dream made tangible, or, more crassly, money earned or saved in the economy, the spin-offs and applications justified the research program—even if one were to put aside the fundamental gain in knowledge of the nature of the physical world. To explore fully the dynamics of the interaction between pure research and its useful applications was beyond the charge of the survey, but it was a theme to which Bromley would return over the next years.

The survey report has served to give both government officials and scientists a balanced statement of what is at stake in the competition between dollars and scientific opportunities. Bromley took an important role and became a frequent traveler to Washington to explain the nuances of the survey to the funding agencies, to the office of the President's science adviser, to congressional staffs, and at congressional hearings. Many of us who took part in the survey feel strongly that better and easier communication with Washington and with the public is an absolute necessity for the health of both science and public decisions involving the uses of science. Allan Bromley is among the scientists who are convinced that they have an active responsibility and cannot remain as spectators.

In more recent years, Bromley has had several major commitments in addition to his continuing activities at Yale. He has been chairman of the U.S. National Committee of the International Union of Pure and Applied Physics since 1971 and has served on a number of committees reporting to the Defense Department and the Agency for International Development. In 1975 he was elected vice president of the International Union of Pure and Applied Physics and still holds that office. He is a member of the Joint Committee on Cooperation between the U.S. Department of Energy and the U.S.S.R. State Committee on Peaceful Uses of Atomic Energy in the area of fundamental research; he is also a member of the Joint Working Group on Science Policy between the U.S. National Academy of Sciences and the National Science Foundation and the U.S.S.R. Academy of Sciences and State Committee on Science and Technology. He has served on national advisory committees on the support of science in both Canada and West Germany. He headed the formal U.S. delegation of nuclear scientists that visited the People's Republic of China in May and June 1979.

Bromley is a consultant to the Argonne, Berkeley, Brookhaven, and Oak Ridge National Laboratories, to GTE, IBM, Union Carbide, and several other major industrial organizations. He is an associate editor of six international scientific journals and serves on the boards of directors of several major companies.

Nevertheless, the many enterprises in which Allan is involved leave time and space for family life and enjoyment. He and his wife, Pat, who works with the New Haven Colony Historical Society, live in one of the New Haven suburbs. Their son David is completing his doctorate in many-particle physics at Stanford, and their daughter Lynn is an assistant treasurer at the Chase Manhattan Bank in New York City. Allan is an avid audio fan, a photographer, and an enthusiastic hockey player.

When I telephoned Allan to congratulate him on his selection as president-elect of AAAS, he ended the conversation with "I'll be calling on you for some things that will need doing." My guess is that he will be calling on all of us; given the nature of our times, there will be a great many things that the scientists of AAAS could and should be doing.

THE FEC'S NONINVESTIGATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 26, 1980

• Mr. DORNAN. Mr. Speaker, yesterday I inserted into the RECORD the first three discrepancies concerning the Peck/Peck/Dennis/Stewart scandal.

Earlier this year, I had intended to submit this material to the Federal Election Commission as part of a formal complaint for adjudication.

However, after reading and rereading the letters which I exchanged with the FEC concerning this matter, I think any fairminded person would conclude that Congressman DORNAN is not going to get justice at the hands of the current FEC General Counsel Charles Steele. His letters are a masterpiece of obfuscation, and indifference toward the laudable goals which led to the establishment of the FEC in the first place.

Because nothing has been done by the responsible Federal officials, I have no recourse but to present this case to my colleagues and the public who are the ultimate arbiters in our constitutional scheme of government, of the performance of this Nation's public officials—elected or unelected.

The next three discrepancies are presented for your consideration. Judge for yourselves.

Peck says he had no reason to suspect the $13,000 in sequential cashiers checks, yet there are different versions of how the money was received. Addresses and occupations for some donors are not complete or correct.

Carey Peck and Terry Pullen—Peck's campaign manager—give different versions about the acceptance of the $13,000. Young Peck said the 13 cashiers checks had been inspected as they came into his headquarters and were found to be "good—that was real money and those were real people," Peck said. See February 5, 1980, Santa Monica Evening Outlook—an unfortunate story filled with uninvestigated and unsubstantiated disinformation.

Yet, Carey Peck's campaign manager, Terry Pullen, told Congressman DORNAN's campaign manager, Arnold Steinberg, in a face-to-face conversation in June 1980, that "we never bothered to check out the money."

Contrast the above with the following: "Peck said he had no reason to believe the contributions were made improperly"—El Segundo Beacon, January 30, 1980, article by Rich Connell.

Yet, FEC Chairman Tiernan had said that such circumstances were suspicious. The FEC had gone to court to deny tens of thousands of dollars of matching funds to Presidential candidate La Rouche, because of eight sequentially numbered cashiers checks—series of 2-4-2—and money orders all drawn on the same bank in amounts less than $50.

Carey Peck never knew or met 12 of the so-called people who donated maximum $1,000 donations. And he only solicited money from one of them. Congressman DORNAN has talked to a number of the donors. None of the "phantom donors" received so much as a thank you note for their phantom maximum $1,000 donations—such thank you notes are a standard fundraising policy, especially considering the amounts involved, and the fact that Carey planned to run again. According to James Dennis, he received a hurried phone call, just prior to the election, for more money. Dennis told Congressman DORNAN in front of the FBI, "Peck or Pullen phoned and begged, 'Can you send $9,000 or $10,000 more?'" He sent and/or hand-carried up to $11,000 more plus he claims he gave Gregory Peck $10,000, in cash, to invest in Dennis' name in Peck's Broadway play, "Sweeney Todd."

It simply is not reasonable to believe that "parties" were held at branches of the First National Bank of Birmingham, which resulted in sequentially numbered $1,000 checks being drawn and forwarded to the Carey Peck for Congress Committee. Persons who are wealthy enough to contribute $1,000 would use a personal check which provides a better record than a cashiers check for IRS and other critical accounting purposes.

Elsewhere, we find that "Peck and his former campaign treasurer, Stan Caiden, said there was no reason for suspicion because Dennis came highly recommeded by Cranston and Stewart"—see Daily Breeze, Torrance, Calif., January 29, 1980, by Rich Connell.

Congressman DORNAN has also had personal, face-to-face conversations with both Senator CRANSTON, and Senator STEWART. Each denied emphatically that they recommended Dennis to Carey Peck's campaign as a funding source.

We also find that Peck said his campaign workers checked with Dennis to verify the names and occupations (?) of the donors. His campaign also checked with some of the donor's businesses, Peck said—see Daily Breeze article cited above—Pullen now makes Peck a liar by saying they did not check with anything or anybody except Dennis' secretary. This would be an insult to Dennis.

Why would Carey Peck have to check the names if he had the cashiers checks in front of him? Why would Carey Peck's campaign workers check the businesses of the phantom contributors instead of checking with the contributors themselves? Although the above Peck statement is contradicted elsewhere, what could Carey's people have done and found. Remember that Carey said: "His campaign also checked with some of the donors businesses." Andy Shadix and James Dennis—whom Carey said he trusted—both worked at Dennis Mining Supply Co., a dummy corporation. There would be no reason to check these two. Since Carey's FEC forms list no home address or business address or occupation for Mike Henley, this reference could never be checked. That entry is blank to this day.

There is no occupation listed for "Robbie Chancey" who was 4 years old in the fall of 1978;

James Chancey is listed as employed at Alfa Coal Co., while Charles Mike Chancey is listed as working at Alfa Coal Sales—obvious "monkey business" with Federal forms. A long distance phone inquiry would have shown Peck that the Alfa Coal Sales or Alfa Sales Co., simply did not exist. Reporters have only to call the Alabama long distance operator, 205-555-1212 for information.

Roy J. Ledbetter, listed as employed by the Alabama Tennessee Oil Co., Birmingham, also worked for a company that did not exist in November-December 1978.

The phone book does not list a subcontractor, Johnny Desmond, Route 1, Prinston, Ala.

Max Gurley supposedly owns D & O Enterprises in Arley, Ala. Gurley's company also does not exist.

A check with the personnel division of the Birmingham branch of IBM—Mrs. Billy Snow 205-870-8950—would reveal that no Gary M. Dennis worked at any branch or part of the IBM Corp. in Birmingham in October-November 1978. That accounts for 10 of the phantom contributions which could be checked out to see if the Peck campaign had received "good" donations. Three are left.

First, let us consider Terry Henley, to pursue Mr. Peck's "alleged" inquiries with businesses where his phantom donors purportedly worked. As there are 90 State Farm agent offices in Birmingham, Carey would presumably have called the main State Farm number, 205-939-0001—an inquiry concerning personnel would have been directed to 205-933-6850—the regional office. They might not have even answered a question about a "sales trainee" because he was currently employed there and State Farm does not give out information about their current employees over the phone. However, if Peck did find out that trainee Henley worked there, did it not strike him odd that a "sales trainee" gave him $1,000?

Richard Morehart does work for Bessemer Oil in Bessemer, Ala. The company is so small that Richard himself might have answered the phone. He told Congressman DORNAN January 10, 1980, that Carey Peck never called or wrote to him about anything much less a $1,000 donation.

That leaves Wayne Moore, who is manager for the branch of the bank from which the suspect checks were drawn. He was never personally called by Carey Peck or the campaign or received a thank you, although he did meet Gregory Peck in October 1978. He too talked to Congressman DORNAN.

In view of the one probable or even possible contact, that is, Terry Henley, Carey Peck's latest explanations seem as limp as the others.

Recall, that title 2, United States Code, section 441(f) states that contributions made in the name of another are prohibited.

There is further reason to be suspicious of Carey Peck's handling of the phantom donors. We presume that Carey Peck sent "thank you notes" to his other $1,000 donors. If he did not send thank you notes to the Dennis contributors, was it because he did not formally want to find out whether the money was bad? As every candidate knows, he or she tries to keep the funding sources favorably disposed. If Peck claims he sent thank you notes, as he once told Daily Breeze reporter Rich Connell, then he has other problems. First, a check of the Birmingham City directory and phone book for the fall of 1978 does not produce the addresses which Carey listed in his FEC forms for Charles Mike Chancey, Jamie Chancey, or Robbie Chancey, or Roy Ledbetter. Any thank you notes sent to these four persons would have produced four letters returned by the post office indicating "no such address or person," by no later than December 10, 1978. This would have—or should have—made Carey suspicious.

The Birmingham street directory shows that 3164 is the smallest number for Starlake Drive and 3206 is the smallest street number for Starlake Circle. The Chancey address Peck cites is 2106 Starlake Drive. A Charles and Jamie Chancey were listed at 2112 Ceder Crest Drive in the fall of 1978. A check of the relevant phone directory for Max Gurley and Johnny Desmond in the summer of 1979 failed to produce those names or addresses listed by Carey Peck. Chalk up two more returned letters. This brings the total to at least six bad addresses which would have produced return mail to Carey and should also have produced suspicion in an honest candidate. The Roy Ledbetter address also appears bad. An observant mailman could possibly have found the correct street address for Gary Dennis at Mountain Lodge Apartments. However, if Peck claims he sent letters, he should produce the returned envelopes and start explaining why he was not suspicious in November or December 1978.

PECK CAMPAIGN LIQUIDATES DEBTS APPARENTLY WITH LAST OF DENNIS CONTRIBUTIONS

Jack Hentchell—former ITEL employee—told Congressman DORNAN on May 22, 1980, that it seemed to him Dennis had spent the night prior to the Chasen's dinner, 1978, at Gregory Peck's Carolwood mansion. If Dennis did arrive on the 14th of November in Los Angeles, it seems reasonable that Dennis brought the last five sequential cashiers checks with him. He says he did. What about Carey's prior claim that all the checks came in the mail? This $5,000 would have enabled the Cary Peck campaign to make out $4,803 in checks the next day to liquidate part of the campaign debt which they did—see relevant Peck FEC expenditure forms.

Even if Carey Peck's campaign did not cash the Dennis checks until November 25, 1978—receipt date on Carey Peck's FEC forms—was the presence of or firm anticipation of having bona fide cashiers checks—Dennis' in person pat on the back—the reason for making out $4,803 in checks on November 15, 1978, to cover prior campaign expenses? The bill repayments might have been mailed later than the date claimed for making out the check.

Since the Office of General Counsel of the FEC has previously been unwilling to discover anything about the receipt of the first five Dennis checks, or anything about the character of the remaining Dennis/Peck checks, perhaps another Federal agency should be involved—or is. Or was and has been called off.

Title 2, United States Code, section 437g(a)(2) states that the FEC shall make an investigation of an alleged violation of the Federal Election Campaign Act based upon information ascertained in the normal course of carrying out its supervisory responsibilities. For an investigation to take place four of the six members must vote affirmatively. Such investigation may include a field investigation or audit. In this outrageous scandal, absolutely nothing has been done except to divert press inquiries with disinformation.

EXCERPTS FROM CAREY PECK'S FEC FORM—ITEMIZED EXPENDITURES

Page	Check made out to	Date disbursed	Amount
1-6	Beverly Wilshire	Nov. 15	$1,884
2-6	Democratic National Commission	do	603
2-6	Vice Presidential Plane		
2-6	Val Dembroski	Nov. 15	41
2-6	General Telephone	do	528
3-6	Jules Glazir Accountant	do	963
3-6	MacArthur Beverage, D.C.	do	160
4-6	Pine Tree Transportation	do	90
4-6	Prod. Plus (radio)	do	48
5-6	Stahler Trucks	do	170
6-6	Xerox	do	316
	Total		4,803

Peck claims he returned money to Dennis voluntarily, yet Dennis' lawyer claims Dennis notified Peck by letter. Dennis claims he discussed it by phone with Peck people in March.

According to a February 2, 1980, Evening Outlook article by Will Thorne, Dennis' lawyer, Steve Salter, wrote a letter dated August 8 to the FEC which stated in part: "Mr. Dennis has previously notified the Peck campaign regarding these matters—of illegal contributions."

Yet, in an article by Rich Connell on January 29, 1980, in the Daily Breeze, Peck claimed he voluntarily returned the money without even talking to Dennis, only his lawyer, Salter—who denies this—unfortunately, Connell did not phone Salter or put this denial in what was supposed to be a definitive story.

Peck says he became suspicious about Dennis when he received Alabama news clippings involving Dennis' affairs. A reporter has yet to ask Peck the younger or Peck the elder if any, any, of their circle of friends or political pals "caught" the national broadcast of James Dennis' incredible ABC 20/20 television show bagman confessions. Really, an obvious question.●

SENATE—*Wednesday, August 27, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by Hon. DONALD W. RIEGLE, JR., a Senator from the State of Michigan.

PRAYER

Rev. James David Ford, D.D., The Chaplain, House of Representatives, offered the following prayer:

O gracious Lord, who has created the heavens and the Earth, grant to us the ability to see Thy glory and the works of Thy hand. May not the demands on our attention and time or the necessary commitments we make dull us from the awareness of the brightness and the opportunities of each new day. Help us to see the possibilities for service and good will that are about us wherever we are, and may we always be thankful for Thy daily grace and forgiveness. In spite of all our differences or difficulties may we lift up our eyes to Thee, O Lord, our Creator and Redeemer so that by doing we more clearly may see Thy will for us. Grant to us the assurance of Your presence and promise, this day and every day. In Thy name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 27, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD W. RIEGLE, JR., a Senator from the State of Michigan, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. RIEGLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized for not to exceed 10 minutes.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, for the information of my colleagues, I wish to say just a few words about the major legislation that needs to be completed prior to adjournment of the Senate this year.

When we return on September 3, the Senate will have 28 working days, including 5 Saturdays. I am not saying that the Senate will have to be in on those 5 Saturdays, but I am saying that if all 5 Saturdays were included, the Senate would only have 28 working days prior to the October 4 recess.

At this time, I expect that it will be necessary for the Congress to return after the November elections in order to complete action on priority measures. The joint congressional leadership has already announced that the Congress will return on Wednesday, November 12. It is hoped that during the month of September the Senate will be able to complete action on the remaining authorization bills, as many of the appropriations bills as possible, and as many conference reports as possible. The more we accomplish during September, the less we will have to consider when the Congress returns in November.

Mr. President, I will mention a few of the expiring authorizations and other matters:

The marine protection research measure, Calendar No. 744; title VII, CETA, Calendar No. 761; hazardous materials transportation, Calendar No. 768; Army Corps of Engineers/law enforcement, Calendar No. 793; Securities and Exchange Commission, Calendar No. 802; Department of Treasury/international affairs, Calendar No. 816; Water Resources Council, Calendar No. 824; military construction, Calendar No. 998; Department of Energy/weapons programs, Calendar No. 1002; health manpower, to be reported; revenue sharing, after the House acts; disaster relief, Calendar No. 976.

All of the 13 regular appropriations measures are yet to be considered. There are several conference reports. For example: higher education, foreign assistance, and child nutrition.

Then there are the really tough ones: The second concurrent budget resolution; any tax measures that may be taken up, before or after the elections.

May I say in that connection, I intend to have discussions with the Senate Democratic Policy Committee and with others of my colleagues with respect to any decision concerning the taking up of any tax bill. Upon the return of Mr. LONG following the election in Louisiana, this matter will be discussed with my colleagues in order that I might be able to get a consensus on whether or not the tax bill should be taken up this year and, if so, when.

Then, there is youth employment and also domestic violence which is on the calendar and which will be considered on September 4 under the order.

There is possibly legislation on regulatory reform; fair housing, Calendar No. 1001, is also a candidate; and there are others. A good bit remains to be done. There is also the resolution of disapproval on shipment of nuclear fuel to India.

I suggest to the chairmen that they seriously consider the halting of committee action on measures. The calendar is quite filled with measures already. There are 24 pages of items on the general calendar. Many of them will never be taken up. They will die on the calendar when the Congress adjourns this year. I hope that committees will not continue to grind out legislation that will not go anywhere, legislation that may be passed by the Senate but which will not go through the other body, and some legislation that will not even be taken up in the Senate.

Mr. President, I hope that committees would spare their time in reporting out, needlessly, any measures that are not going to be acted upon by the Senate or by the other body.

Finally, I thank my colleagues on both sides of the aisle for their continued cooperation and assistance with the leadership in the scheduling of legislation. I look forward to a continuing spirit of cooperation when we return from the Labor Day recess.

WARREN G. MAGNUSON

Mr. ROBERT C. BYRD. Mr. President, the U.S. Senate is often referred to as "the world's greatest deliberative body." WARREN G. MAGNUSON, the distinguished senior Senator from Washington, President pro tempore of the Senate, exemplifies the stature and reputation of the Senate. His knowledge and foresight, his experience and leadership are qualities which help to make this institution great. His countless contributions have enhanced the Senate.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Now serving his sixth full term, Senator MAGNUSON—or "MAGGIE," as his constituents and colleagues know him—has served in the U.S. Senate since 1944. Before being elected to the Senate, he was a Member of the House of Representatives. During his years of service to his State and to the Nation, he has compiled a record of accomplishments which is long, impressive, and far reaching. He has been a leader in a variety of fields—health, education, consumer protection, the environment, and employment—all of which have significant impact upon the lives of the American people.

Throughout his career, Senator MAGNUSON—recently called "Mr. Health" by the Washington Post—has been one of the strongest congressional advocates of medical research and assistance. In his first term in Congress, he cosponsored a bill to create the National Cancer Institute. During the debate on the legislation, then Congressman MAGNUSON said that one of the main purposes of the bill was:

> The hope that somewhere, someplace, out of this money . . . there will become known to the people of the United States the cause of cancer and the cure of cancer.

This major achievement initiated the war on cancer and "MAGGIE's" role as a national leader in health legislation.

As a freshman Senator, WARREN MAGNUSON introduced a bill to create the National Science Foundation, and the first medicare bill. He also authored legislation which established the National Health Services Corps, which recruits and assigns health professionals to serve areas where there is a shortage of health personnel. He has been a champion of the Public Health Service hospitals and clinics programs, and he has worked for the establishment of community health centers, These measures have brought needed medical care to millions of Americans. In Washington alone, Senator MAGNUSON's efforts succeeded in keeping open the Seattle PHS hospital and 7 other hospitals and 27 clinics. They are now expanding their services to provide health care to surrounding communities which do not have their own facilities.

Senator MAGNUSON cosponsored legislation to establish the National Institutes of Health (NIH). During the past 25 years, the NIH has made substantial progress in heart disease, leukemia, Hodgkins disease, infant mortality, hypertension, and numerous other diseases. NIH research has led to significant health care improvements and reductions in mortality.

Senator MAGNUSON has served on the Senate Appropriations Committee since 1953. In 1969, he became chairman of the Appropriations Subcommittee on Labor-Health, Education and Welfare (recently renamed Labor-Health and Human Services, and Education). As chairman of that subcommittee, he continues his long-standing interest in the health and well-being of the American people. He closely monitors health and social programs to insure that they are adequately funded and making the best use of their resources.

For his contributions to the health field as chairman of the Labor-HHS and Education Appropriations Subcommittee, Senator MAGNUSON was awarded the Albert Lasker Public Service Award in Health, often referred to as the "American Nobel Prize in Medicine." He donated the honorarium to the Fred Hutchinson Cancer Research Center, a center established through his own legislative efforts.

Senator MAGNUSON became chairman of the full Senate Appropriations Committee in January, 1978. As chairman of this important committee, he has made a concerted effort to cut inefficiency and waste in the Federal Government, while insuring that adequate funding is provided for vital programs. In the fiscal 1980 budget, his committee made sharp reductions in unnecessary Federal travel, low priority research, and funds for hiring private consultants.

At the same time, the committee provided additional money for valuable programs such as child immunization and preventive health care, vocational education training, and assistance for the elderly. By making cuts in unnecessary spending, the committee was able to add money for vital programs and still hold the budget $8 million below what the administration had originally proposed. This accomplishment was due largely to WARREN MAGNUSON's expert guidance.

Another of MAGGIE's hallmarks has been his concern for consumers. He was chairman of the Senate Commerce Committee from 1955 until 1978, and continues as a ranking member of the committee. As chairman, he became recognized as a major force in consumer protection legislation; his efforts are legendary. He is the author of more consumer protection legislation than any Member of the Senate. Some of the laws he actively supported include the Truth-in-Lending Act, the Magnuson-Moss Warranty Act, the Toxic Substances Control Act, the Poison Prevention Packaging Act, and the U.S. Fire Administration Act. Renowned for his contributions to and support for consumer issues over the years, in 1977, Senator MAGNUSON was named the "Consumer of the Year" by the National Consumer League.

Senator MAGNUSON has also devoted his attention and legislative skills to the field of energy. He sponsored legislation, recently enacted, to establish an independent synthetic fuels corporation charged with accelerating the production of synthetic oil and natural gas from domestic coal and oil shale. He has been a strong advocate of incentives to encourage the use of renewable resources such as solar, wind and geothermal power. He has also championed programs to develop hydroelectric dams in the Northwest and to promote the development of ocean thermal energy conversion systems. He has fostered hydroelectric projects in Washington, which have proved invaluable to the State for providing inexpensive electricity, jobs and reduced costs in living.

Senator MAGNUSON's career is filled with numerous other examples of his active involvement in issues of national and international importance. He has shown particular concern for the Puget Sound environment and fisheries. He is the author of the Ports and Waterways Safety Act, which made possible a traffic control system for vessels in Puget Sound to minimize the danger of collisions. The 200-mile fishing limit law is but one of the numerous legislative initiatives WARREN MAGNUSON has championed on behalf of American fishermen.

WARREN MAGNUSON has been in the forefront of numerous issues and has an enviable record of accomplishment. In national security, he has supported increased defense spending and incentives to help stem the exodus of skilled personnel from the military. In education he is an advocate of aid to help students meet the increasing costs of post-secondary education. In taxes, he cosponsored the small savers amendment, which excludes from Federal income taxes the first $200 of combined interest and dividends for an individual or $400 for a couple filing a joint return. In the environment, Senator MAGNUSON is the author of the Endangered Species Conservation Act. He sponsored the Safe Drinking Water Act, and he is a supporter of programs to recycle and reuse our resources.

Senator MAGNUSON's record speaks for itself. The causes he has championed and the accomplishments he has compiled, bear witness to this Senator's statesmanship. He has been a true leader in the Senate, and he continues to lead the way on the issues of current concern to Americans. It is an honor to work with "MAGGIE."

HELSINKI REVIEW CONFERENCE AGAIN FOCUSES ATTENTION ON GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the second Helsinki Review Conference will convene November 11 in Madrid. Thirty-five nations will be represented at that Conference. Of these nations, the United States will stand alone as the only major democratic nation and the only world power which has not ratified the Genocide Convention. Already the Soviet Union has begun its campaign to discredit this country's expressed devotion to human rights.

Soviet allegations about our failure to ratify the Genocide Convention will damage U.S. credibility at the conference not because the Soviet Union can boast a superior record on human rights. To the contrary, our failure to ratify the Genocide Convention will damage U.S. credibility at the Conference because it will prompt needless doubts about this country's devotion to human rights. Dr. William Korey of B'nai B'rith argues this point in "Sin of Omission," an important article which appears in the summer issue of Foreign Policy. In this article, Dr. Korey anticipates the impending encounter over U.S. credibility at the upcoming Conference and expertly clarifies for us the costs of our reluctance to ratify the Genocide Convention.

Dr. Korey is in a unique position to write on this topic. He has long been an ardent supporter of human rights. He is the author of "The Soviet Cage," an excellent and scholarly exposé of Soviet anti-Semitism and repression. As director of the B'nai B'rith International Policy Research Office, he has participated in a number of international conferences on human rights. He knows firsthand the embarrassment to U.S. representatives caused by the failure of this body to ratify the Genocide Convention.

Mr. President, I commend Dr. Korey for his expertise and foresight. I ask unanimous consent that the entirety of Dr. Korey's article be printed in the RECORD, and I add my voice to his in urging my colleagues to ratify the Genocide Convention before the November Conference.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SIN OF OMISSION

(By William Korey)

During 1979 the U.S. Commission on Security and Cooperation in Europe—the so-called Helsinki Commission—held hearings and issued several reports that predictably focused upon Soviet abridgments of the core of the Helsinki Final Act—the free movement of peoples and ideas. The documentation was supplemented in December of that year with a detailed semiannual report by President Carter to the commission that stressed Kremlin failings. Particularly emphasized was the massive assault by Moscow upon the various Helsinki monitoring committees in the USSR, thereby subverting the cornerstone of the Helsinki human rights principle.

The Soviet response deliberately avoided commenting on the American charges of noncompliance but cleverly shifted the discussion to a very different plane, the validity of which is certain to evoke broad support not only from the Warsaw Pact states but from the neutral and Western blocs as well. This should prompt concern in both the White House and Congress about America's human rights posture at international meetings.

On November 13 the Soviet daily *Pravda* highlighted the charge that "of the 40 existing international agreements on human rights, the United States of America has ratified only 10." The party organ editorialized that this statistical record is "not likely" to improve the characterized international public opinion as one of "indignation." In this manner the Soviets signaled how they will respond at Madrid to charges of Helsinki Basket III violations on the free flow of people and information.

Far more sharply pointed was a Moscow radio broadcast on December 9, the 31st anniversary of the Genocide Convention, which outlaws acts committed with an intent to destroy, in whole or in part, a national, ethnic, racial, or religious group. On the radio program "International Observers Roundtable," several major Soviet commentators highlighted the failure of the United States to ratify the genocide treaty. One commentator, noting the large number of contracting parties to this treaty, observed: "It can hardly be that the whole world is out of step, while the United States is in step." A second Moscow analyst, familiar with the proceedings of the Senate on various international rights treaties, noted sharply that "the Senate's position speaks quite eloquently . . . of the present American enthusiasm for human rights."

The American failure to ratify the genocide treaty is a profound embarrassment to U.S. representatives in international forums. Eighty-six countries are contracting parties to the convention. American allies and friends find it both puzzling and dismaying that the United States is the only major democratic country and the only world power not to become a party to the treaty. Several years ago, Arthur J. Goldberg told the Senate Foreign Relations Committee that during his tenure as U.S. ambassador to the United Nations he was often asked to explain the American failure to ratify the convention. "Frankly," he advised the Senators, "I never found a convincing answer. I doubt that anyone can."

The embarrassment carries overtones of a remarkable irony. For the United States was largely responsible for drafting and promoting the Genocide Convention in the U.N. General Assembly. After this first U.N. human rights treaty was unanimously approved in 1948, the United States hastened to be among the first to sign it. In June 1949 President Truman sent the treaty to the Senate, where it has since remained.

Few today recall the reasons for the initial opposition to the treaty, which sprung largely from the American Bar Association (ABA). It was argued that genocide and other human rights issues are not proper subjects for a treaty and that such treaties tilted the federal-state balance of authority toward unwarranted federal domination. Even then the arguments were regarded in many legal circles as anachronistic. Although the ABA reversed itself in 1976 and is today a vigorous supporter of the treaty, various conservative and isolationist organizations still hold to the ABA's earlier position.

In the early 1950s Senator John Bricker (R.-Ohio) gave expression to prevailing American fears about internationalism by proposing an amendment to the Constitution limiting presidential treaty-making authority. To defuse the momentum gathering in Bricker's favor, the late Secretary of State John Foster Dulles assured the Senate that human rights can best be effected by "methods of persuasion, education, and example" and not by "formal undertakings" such as treaties. While all subsequent administrations rejected the Dulles doctrine, lingering "Brickeritis" paralyzed Senate action.

The malaise has proved costly. It has raised questions about the credibility of U.S. leadership in the promotion of both human rights and international law. It has inhibited us from blowing the whistle in international forums on violators of human rights treaties, including those guilty of genocide. It has deprived the United States of a role in shaping the implementing organs created by some international treaties, especially the Covenant on Civil and Political Rights.

Most important, the malaise has made the United States vulnerable to charges of hypocrisy in all international forums, especially at the forthcoming Madrid conference. Indeed, the Final Act carries a ringing endorsement of human rights treaties and urges its signatories to fulfill obligations as set forth in such international declarations and agreements as the international covenants on human rights.

Few can doubt that human rights will emerge as a central element in East-West confrontation at the Madrid review meeting. Sensitizing the international community to the gross Soviet abridgments of Helsinki obligations is an essential and at times productive exercise in fostering compliance or preventing even more dangerous violations.

The United States, in view of its failure to ratify the genocide treaty and other human rights agreements, will be handicapped in championing these concerns. The Soviet response of last winter is warning enough. Yet laxity in responding to the challenge appears to be pervasive. The Senate leadership is reluctant to call up the genocide treaty without definitive assurances of a two-thirds favorable vote. It also anticipates a filibuster and, therefore, the need for support by three-fifths of the Senate to bring about cloture. With some incumbents threatened in their re-election campaigns by extreme conservative opponents, profiles in courage in supporting a breakthrough initiative will be hard to find.

Deputy Secretary of State Warren Christopher urged the Senate Foreign Relations Committee last November to approve ratification of several human rights treaties on its agenda, particularly the genocide convention.

But more than urgent appeals for ratification—including at least five such appeals by Carter—is required for passage. Without a determined and sustained administration initiative involving the investment of necessary political capital, a breakthrough is not likely to be achieved. And yet progress before the November meeting is indispensable if the U.S. commitment to human rights is to be vindicated and its role at Madrid uncompromised.

Mr. PROXMIRE. Mr. President this body and this body alone, the U.S. Senate, stands in the way of ratifying that convention. The President has asked for it. Every President, Republican and Democratic, since Harry Truman, has pleaded with the Senate to ratify the Genocide Convention. The time has certainly come when we should act. I plead with my colleagues to do so.

Mr. President, I thank my good friend, the majority leader, and I yield the floor.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for routine morning business for not to exceed 10 minutes.

THE LAMEDUCK SESSION

Mr. STEVENS. Mr. President, I reserve my time, but first I say to my good friend from West Virginia that it is very seldom that I disagree with him publicly, but I hope the Senate and the Congress will find some way to avoid a session after the election. The impact on my mind of the time I was sitting in the Chair until 4 p.m. on New Year's Eve, when we had come back after the election and accomplished nothing in the period for November to the end of December, is still so vivid that I just hope that, with the goodwill and cooperation of all Members of the Senate and House, it will be possible to finish our work, or at least to temporarily finish it to tie together a budget resolution and a continuing resolution on appropriations. If we can, somehow, convince the Congress that it is not in the public interest to have a lameduck Congress and a possibility—we on this side have to at least hope for the possibility of a lameduck President at the same time. If we are having a transition in the Presidency and a lameduck Congress at the same time, I do not think the public interest can possibly be served.

I do think that for that period every 4 years, when it is possible to have a change in the administration and the executive branch, Congress should not be here. Congress should not be involved in the process of working out the transition of Government on the executive level.

Even more than that, I am confident that it is almost impossible to accomplish controversial objectives in a period after an election.

I am sure my good friend has some reservations about the lameduck session, too, but I assure him, if there is anything we can do on this side of the aisle to assist in working out time agreements, or even work out understandings which would lead us to arrangements such as continuing resolutions on anything other than the budget resolution—I understand with the Budget Act, that is not possible. It is my hope that we shall try, anyway, to avoid that session after the election, because I really believe it is something that is not in the public interest in a Presidential election year.

I say that with all good feelings; I am sure my friend knows that. It is a difficult thing for me to contemplate such a session this year.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. STEVENS. I am happy to yield to my good friend.

Mr. ROBERT C. BYRD. Mr. President, I do not recommend a postelection session. I hope we shall not have to have it. I just say that, as of now, it appears that there will have to be one.

I do not anticipate a transition in the Presidency, I say to my good-natured friend, but regardless of that aspect, I think that whatever chance there is of our being able to avoid a post-election session lies in the ability to get time agreements and expedite the work on the remaining "must" legislation. As to whether or not there is a postelection session, part of our destiny lies in the hands of the other body. I appreciate the assurances of cooperation from the distinguished acting minority leader. I have to say that cooperation from the other side of the aisle has been good. I am proud to say that, glad to say it.

But it seems that, recently, there has developed a filibuster epidemic in the Senate. It seems that every week, there has to be a filibuster on something of late. I am not blaming the other side of the aisle for this; the more recent filibusters have occurred on this side of the aisle.

I hope that we can rid ourselves of the filibuster syndrome, in which a Senator or a couple of Senators will decide that they are going to hold up a bill and engage in an act of futility, which really holds up the Senate in its work. If we can get away from the filibuster binge and get time agreements on legislation and everyone cooperates, we can at least pare our work down to where, if we have to come back after the election, there will not be more than 1, 2, or 3 items left to do.

Mr. President, I thank the Senator for his assurance of cooperation. This is what it will require. We have to have the cooperation of both sides and I shall welcome the cooperations of all Senators in this regard.

Mr. STEVENS. Mr. President, I thank my distinguished friend from West Virginia. I yield such time as my distinguished colleague from Minnesota might desire.

THE LUBAVITCHER REBBE ON "FAMILY PLANNING"

Mr. BOSCHWITZ. Mr. President, I wish to enter into the RECORD today excerpts of a speech given by the Lubavitcher Rebbe, who is one of the truly saintly people of our age and one of the extraordinary leaders of the Jewish faith. The speech has to do with family planning and the Lubavitcher Rebbe's words and thoughts on it are very stirring. I hope that many of my colleagues will read it and read it with great care.

Mr. President, I ask unanimous consent that the excerpts in their entirety be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LUBAVITCHER REBBE ON "FAMILY PLANNING"

(Excerpts—abbreviated and freely translated—from his address to the Nshei uBnos Chabad Convention, 17 Sivan, 5740)

Children are the most cherished Divine blessing known to mankind. "Be fruitful and multiply, and replenish the earth, and subdue it" (Gen. 1:28) is the first precept and blessing in the Torah. It teaches us that the world was created for the sake of mankind, and that it is a Divine obligation to marry and raise a family, and bring up the children in accordance with the will of the Creator, so that the world will be populated by a human race worthy and capable of "subduing it"—not only physically and materially, but also spiritually; a humanity committed to the Divine laws of justice and morality and mutual concern, under the tutelage of our Heavenly Father.

A truly blessed home is one that is filled with the joy of children, boys and girls, who are reared in the ways of our first ancestors, Abraham and Sarah, "to follow in the way of G–d, practising righteousness and justice" (Gen. 18:19).

Marriage, is a sacred, Divinely ordained, institution founded on purity and sanctity of family life (Taharas Hamishpocho), the observance of which is a precondition of true and lasting happiness, highlighted by the blessing of healthy offspring, healthy both physically and spiritually. Each child that is born into the home represents an additional Divine blessing to the parents and grandparents; there are no unwanted children, and no child is a burden, G–d forbid.

Knowing that children are a blessing from G-d, parents have no reason to be apprehensive about being able to provide for the child. Surely the Giver of the blessing will provide. And "He who feeds and sustains the whole world" is able to take care of the children as well as of the parents.

If economic considerations cannot justify the limitation of a family, what about a home where the relationship between husband and wife is in need of improvement; should they hesitate about increasing the family? We must, again, turn to the Torah for guidance. The Torah teaches us that where a wife, by reason of immodest behavior, arouses the husband's suspicion and jealousy, thus creating a serious disruption of Sholom Bayis (harmonious relationship), but is found innocent of unfaithfulness, she will be rewarded by bearing offspring (Num. 5:29)—as a clear sign of G-d's favor and greatest blessing. For, children, more than anything else, cement the mutual relationship between husband and wife and the peace and harmony in their home.

In reality, any such argument for limiting the size of one's family on grounds of economic, or social considerations, or postponing having children until the relationship attains the highest level, and the like, is contrary to the spirit and letter of the Torah. Only in most exceptional cases is the use of certain contraceptives permitted by Jewish Law—and only a very competent Rabbinic authority is qualified to rule on whether such an exceptional situation does in fact exist.

The truth of the matter is that in the overwhelming majority of cases, all the arguments to justify birth control stem from the same source—the Yetzer Hora (evil inclination), that inner tempter, whose function is to distract a man or a woman, from the way of the Torah and test his/her faith in G-d. This wily Yetzer works cleverly. He will not attempt to persuade someone to recklessly disregard the Divine laws, but will clothe vice in a garment of virtue, saying that whatever reprehension there may be in denying oneself another child, it will be more than offset by being able to devote more time and attention to worthy good causes, communal causes, and the like.

Aside from the religious aspect, experience has shown that couples who take the path of so-called "family planning"—a catching phrase that appeals to the sense of orderliness and forethought, and purporting to give parents the right to decide if, and when, and how many children they should have, sooner or later discover to their great dismay, that it has been counter-productive in the very areas of its supposed advantages. The actual effects of family planning have been, and are, emotional upsets, frustrations, strained relationship between husband and wife, all of which inevitably take a toll of ill health. It has caused such couples to seek psychoanalysis, psychotherapy, marriage counselling in an effort, often futile, to straighten matters out. Thus, far from bringing orderliness into family life, family planning has caused disturbances and complications in the normal family affairs, with added financial burdens in doctors' bills, reduced mental and physical efficiency, not to mention the fact that family planning has often proved irreversible, and would-be parents eventually discovered that the blessing of children, or more children, has, alas, eluded them.

It does not require special perception or insight to realize that when the normal physical and spiritual process of married life, as decreed by the Creator and Giver of Life, is tampered with, distorted, or altered, the peace of the household is bound to be disturbed. It is folly to attempt to take over G-d's bookkeeping and accounting to figure out how many children He is able to care for.

Proponents of family planning have concentrated their main propaganda on the female partner in marriage, since she has the task of childbearing and rearing the infants. I therefore urge every woman not to be swayed by it, but rather reflect on the great, very great Divine blessing and privilege of motherhood, with complete trust in G-d that following the Divinely ordained way of life brings with it the three-fold blessing of children, life, and sustenance. Children—healthy children, happy children, and as many as G-d will grant; life—a life free of all those complications that unfortunately afflict the homes where family planning is practiced; sustenance—in a generous measure in all needs, and more.

No wife and mother needs to feel chagrined at being dubbed "old-fashioned", or at odds with modern times and modern culture. What "modern culture"? That which produced the Holocaust? The Holocaust of a million Jewish children? Indeed, the answer is: Every Jewish woman should realize, and do all she can to impress upon others, that it is a sacred duty and eternal merit of every Jewish mother to help replenish this horrible void.

Jewish women have a proud tradition and heritage of being the "Builders of the House of Israel". Even under the most abject conditions of slavery under the Pharaohs, with the horrendous decree of having their boy babies snatched from them and thrown into the Nile, they continued to bear children, and prolifically, even if it meant delivering them in the fields. It is this determination that produced the redeemer Moses, and the Divine hosts, whom he led to freedom: freedom not only from physical slavery, but also spiritual freedom with the receiving of the Torah at Sinai. Moreover, it is the children of that generation, and of all subsequent generations, that God accepted as guarantors that the Torah would be kept and cherished.

I further urge you, all the participants of this convention and all Jewish women everywhere, to take the initiative for a world-wide campaign to promote Taharas Hamishpocho and to bring the message of true motherhood into every home. Jewish women have historically played a crucial part in the preservation of our people, and they must do the same in the present critical times.

And in the merit of adhering to God's plan, all human planning and designs against our people, and against humanity in general will come to naught, and we can confidently look forward to the fulfillment of the Divine promise, through the mouth of our Prophet Micah (7:15): "As in the days of your exodus from the land of Egypt, I will show you wonders."

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar. I ask unanimous consent that the time required not exceed 2 minutes.

Mr. STEVENS. There is no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection; the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. The nominations are: Calendar Order No. 266 on page 3; calendar orders under Department of State on page 7; Calendar Order No. 284 on page 7, and the nominees under Civil Aeronautics Board and the first two nominees of the Corporation for Public Broadcasting on page 8, also including for confirmation the nominations placed on the Secretary's desk in the Navy.

Mr. STEVENS. There is no objection to that procedure, Mr. President.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The nominations will be stated.

FEDERAL ENERGY REGULATORY COMMISSION

The assistant legislative clerk read the nomination of John David Hughes, of Texas, to be a member of the Federal Energy Regulatory Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF STATE

The assistant legislative clerk proceeded to read the nominations.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominees be considered and confirmed en bloc.

Mr. STEVENS. There is no objection.

The ACTING PRESIDENT pro tempore. Without objection, the nominees are considered and confirmed en bloc.

The nominees considered and confirmed en bloc are as follows:

William Jennings Dyess, of Alabama, to be an Assistant Secretary of State.

Diego C. Asencio, of Florida to be Assistant Secretary of State for Consular Affairs.

Theresa Ann Healy, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sierra Leone.

Allen Clayton Davis, of Tennessee, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Revolutionary Republic of Guinea.

Walter C. Carrington, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal.

Peter Jon de Vos, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

Henry L. Kimelman, of the Virgin Islands, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the vote by which the nominees were confirmed en bloc.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

U.S. METRIC BOARD

The assistant legislative clerk read the nomination of Bruce Paul Johnson, of Nevada, to be a member of the Board.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CIVIL AERONAUTICS BOARD

The assistant legislative clerk read the nomination of James Robert Smith, of Florida, to be a member of the Civil Aeronautics Board.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORPORATION FOR PUBLIC BROADCASTING

The assistant legislative clerk read the nomination of Diana Lady Dougan, of Utah, to be a member of the Board of Directors; and the nomination of Lillie E. Herndon, of South Carolina, to be a member of the Board of Directors.

Mr. THURMOND. Mr. President, I rise to endorse the confirmation of Ms. Lillie E. Herndon of South Carolina for reappointment to the Board of Directors of the Corporation for Public Broadcasting.

I believe that Ms. Herndon is well qualified and deserving of renomination to this post. Her background gives evidence to the fact that she is an industrious and hard-working individual. Ms. Herndon graduated from Blaney High School in Blaney, S.C., in 1932. Soon after graduation, she enrolled in Draughn's Business School. Due to her daytime employment at a local department store, she attended night classes. Ms. Herndon graduated from Draughn's Business School in 1934. She has also been awarded an honorary doctorate of humanities degree from Columbia College.

Ms. Herndon's many years of service to her State and country have well qualified her for this position. She has served president of the National PTA, and chairman of the South Carolina State Board of Education. Ms. Herndon has served as the National Chairman of the Action for Foster Children Committee. She has served as the vice president of the National Association of State Boards of Education. In addition, Ms. Herndon has served as a U.S. delegate to international conferences on education in France, Israel, Egypt, and the Soviet Union.

Mr. President, Ms. Herndon has had 5 years of service as a member of the Board of Directors of the Corporation for Public Broadcasting. For the last 2 years, she has served as Chairman. During her 5 years of service on the Board, Ms. Herndon has missed only one Board meeting—and this was due to a snowstorm.

Mr. President, I can think of no one better qualified to serve as a member of the Board of Directors of the Corporation for Public Broadcasting. I sincerely hope my colleagues in the Senate will join me in supporting Ms. Herndon's renomination.

The ACTING PRESIDENT pro tempore. Did the Chair understand the Senator to say that there was a snowstorm in South Carolina?

Mr. THURMOND. The snowstorm must have been somewhere else and she could not get a plane back.

The ACTING PRESIDENT pro tempore. The Chair thanks the Senator.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that these two nominations be considered and confirmed en bloc.

Mr. STEVENS. There is no objection, Mr. President.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominees were confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE NAVY

The assistant legislative clerk read the nominations placed on the Secretary's desk in the Navy.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominees are considered en bloc and confirmed en bloc.

The nominees considered and confirmed en bloc are as follows:

Navy nominations beginning Frederick Aalbue, to be lieutenant (j.g.), and ending Michael W. Miller, to be lieutenant (j.g.).

Navy nominations beginning Russell S. Akerman, to be lieutenant, and ending Cheryl E. Hale, to be lieutenant.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the vote by which the nominations were confirmed en bloc.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominees.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the following Calendar Orders Nos. 982, 983, 984, and 985.

Mr. STEVENS. There is no objection, Mr. President.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FEDERAL PROPERTY FOR CIVIL DEFENSE

The Senate proceeded to consider the bill (S. 2566) to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes, which had been reported from the Committee on Governmental Affairs with amendments as follows:

On page 1, line 3, strike "SECTION 1." and insert "That (a)";

On page 2, at the beginning of line 1, insert "(A)";

One page 2, line 3, strike "(DCPA)";

On page 2, line 3, strike "and";

On page 2, at the beginning of line 4, insert "(B)";

On page 2, line 5, strike "law" and insert "Act";

On page 2, line 7, strike "the DCPA (Department of Defense)" and insert "such Agency";

On page 2, line 9, strike "property";

On page 2, line 10, strike "the Defense Civil Preparedness Agency" and insert "such Agency";

On page 2, line 12, strike "regarded as surplus property" and insert "disposed of in accordance with subsection (b)";

On page 2, at the beginning of line 14, insert "(b)";

On page 2, line 15, after "property" insert "described in subsection (a)";

On page 2, line 16, after "enactment" insert "of this Act";

On page 2, line 17, strike "Director," and insert "Director of the";

On page 2, line 22, strike "In order to accomplish the above, the Directors," and insert "SEC. 2. To carry out the first section, the Director of the";

On page 2, line 24, strike "such" and insert "the";

On page 2, line 25, strike "on loan" and insert "described in such section";

On page 3, line 1, after "after" insert "the date of";

On page 3, line 3, strike "the" and insert "a";

On page 3, line 7, strike "Administrator who may transfer the property to a Federal agency or to the appropriate State agency, upon its receipt, for distribution in accordance with subsections 202(a) and 203(j)" and insert "Administrator. Such property shall be disposed of pursuant to the provisions";

On page 3, line 12, strike "1979" and insert "1949.";

On page 3, line 12, strike "(40 U.S.C. 485(a) and 484(j)). Property not transferred as above shall be otherwise disposed of pursuant to the provisions of that Act.";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Federal personal property—

(A) transferred by a component of the Department of Defense to the Defense Civil Preparedness Agency by July 15, 1979,

(B) which is, on the date of enactment of this Act, on loan to a State or a State and local government jointly, under a written loan agreement executed by such Agency, and

(C) which was transferred with the functions and property of such Agency to the Federal Emergency Management Agency, shall be disposed of in accordance with subsection (b).

(b) The Administrator of General Services shall transfer title to the property described in subsection (a) to the State or local governments holding the property on the date of enactment of this Act upon receipt of a certification by the Director of the Federal Emergency Management Agency that the property is being used by the State or local government concerned for a purpose consistent with that for which it was furnished.

SEC. 2. To carry out the first section, the Director of the Federal Emergency Management Agency shall survey the property described in such section and shall, within one hundred and eighty days after the date of enactment of this Act, notify the Administrator of General Services of those items of property which are being used by a State or local government for the purpose for which the property was furnished. If property on loan is not being used in a manner consistent with the purpose for which furnished, the Director shall so notify the Administrator. Such property shall be disposed of pursuant to the provisions of the Federal Property and Administrative Services Act of 1949.

Mr. STEVENS. Mr. President, I wish to join in support of S. 2566. This is basically a technical bill that would enable States to take title to property that had been loaned to them by the Federal Government. It has been determined that repossession of the property would be burdensome and costly. S. 2566 is designed to transfer the property and the cost is minimal.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent the amendments be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments were agreed to en bloc.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RETIRED AIR TRAFFIC CONTROLLERS

The Senate proceeded to consider the bill (H.R. 1781) to amend title 5, United States Code, to provide that certain air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes.

Mr. STEVENS. Mr. President, I wish to join in support of H.R. 1781. This bill provides that the air traffic controllers employed by the Department of Defense receive the same retirement considerations as the Department of Transportation controllers. This bill extends the mandatory retirement and early retirement benefits presently applicable to Department of Transportation controllers to Defense Department controllers.

Such changes will not only encourage competent individuals to become air traffic controllers, it will also create a viable alternative for the latter part of their careers. Recognizing that separating and controlling air traffic is an arduous task, H.R. 1781 helps to insure that our controllers are operating at peak performance. Anything less would be unfair to them and jeopardize the general public.

Finally, occupational categories, entry requirements, training, and health standards for the controllers of the Departments of Transportation and Defense are identical. Therefore, it is only equitable that Defense Department air traffic controllers, with the same unique pressures and responsibilities as the Transportation Department controllers, should have the same retirement benefits.

The bill (H.R. 1781) was ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EMPLOYEE SURVIVORSHIP BENEFITS

The Senate proceeded to consider the bill (H.R. 5410) to amend title 5, United States Code, to require any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employee's spouse to notify (or take all reasonable steps to notify) the spouse of that election.

Mr. STEVENS. Mr. President, I wish to join in support of H.R. 5410. H.R. 5410 will amend the existing law to require that any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employee's spouse to notify the spouse of that decision. Whether the decision involved full, partial, or no survivor benefits, this amendment provides that at least the spouse is made aware of what his or her expectations for the future are. The law does not require that the spouse agree, nor does it entitle the spouse to a portion of the retiree's annuity in the absence of notification.

Passage of this measure will insure that a spouse is not inadvertently kept uninformed of whether she or he can count on a former spouse's annuity. Such information is certainly vital to the future planning of any spouse.

H.R. 5410 would simply make notification imperative and certainly save widows and widowers much misunderstanding and hardship in the long run.

UP AMENDMENT NO. 1541

(Purpose: To remove certain inequities in the Secret Service Retirement System)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment by Senator Pell and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), for Mr. Pell, proposes an unprinted amendment numbered 1541.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

One page 2, between lines 10 and 11, insert the following:

Sec. 2. The last sentence of section 12(b) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4–522), is amended to read as follows: "Any member of the United States Secret Service Division appointed from the Executive Protection Service, or appointed from the Metropolitan Police force prior to January 1, 1972, and assigned to duties directly related to the protection of the President shall receive credit for periods of prior service with the Metropolitan Police force, the United States Park Police force, or the Executive Protective Service toward the required ten years or more service.".

On page 2, line 11, strike out "Sec. 2." and insert in lieu thereof "Sec. 3.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. Pell be printed in the Record.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Statement by Senator Pell

I am offering an amendment to correct a small legislative oversight in our federal retirement laws, which affects a handful of Secret Servicemen.

By legislation enacted in 1940, Secret Service employees with 10 years service were allowed to elect coverage under the District of Columbia's retirement system—a much more generous one than regular civil service retirement is. Legislation enacted in 1964, which my amendment aims to correct, allowed members of the Executive Protective Service—when they transferred to the Secret Service—to credit periods of prior service with the District Police, Park Police, or Executive Protection Service towards the required 10 years. The reason for the change, I understand, was that the Secret Service was having trouble recruiting people from the Executive Protective Service and District Police because these people were reluctant to transfer to the Secret Service and be placed under the less generous provisions of the civil service retirement system.

For some reason, and I believe it was legislative oversight, the 1964 amendment applied only to personnel who were recruited to the Secret Service directly from the Executive Protection Service. Despite some legislative history which suggests that the Congress intended to do otherwise, personnel who were recruited from the District Police were not included in the 1964 legislation. At first, the Secret Service apparently believed they were, however, because a handful of men—one of them a constituent of mine—were informed that their credits could be transferred when they joined the Secret Service from the D.C. Police.

My amendment corrects the oversight by giving the credit for prior service with the Park Police, District Police, or Executive Protection Service to Secert Service personnel appointed from the D.C. police force—as well as those appointed from the Executive Protection Service. I would point out that the fiscal impact of the amendment as estimated by the Congressional Budget Office, is $31,000 over the next 5 years. But I do not think that the amount of money involved, which is relatively slight, is the paramount issue. I think it is only fair that we extend the same treatment to Secret Servicemen recruited from one branch of government that we extend to those who happen to be appointed from another branch. Having looked into the background of the problem, I believe that what my amendment achieves was meant to be included in the 1964 legislation.

I have testified on behalf of this amendment before the Civil Service and General Services Subcommittee, and I very much hope that my amendment will be accepted at this time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 1541) was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EMPLOYEE OFFICIAL TRAVEL EXPENSES

The Senate proceeded to consider the bill (H.R. 7072) to amend sections 5702 and 5704 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowances of Government employees on official travel, and for other purposes,

Mr. STEVENS. Mr. President, I wish to join in support of H.R. 7072. Essentially, this bill calls for a long overdue increase in the maximum rates of per diem for official Government travel. For a number of years, Federal employees, who are required to travel, have been forced to subsidize, without reimbursement, part of their own official travel.

In view of the continuing loss of comparability pay by Federal employees in comparison to private sector employees, we must not denigrate Federal employees again by refusing to approve this measure. There is no question that productivity is closely alined with morale and passage of this measure will, I believe, increase Federal employees' morale by acknowledging that they have, but should not continue to absorb costs that should rightfully be paid by the Federal Government.

This bill increases the maximum per diem rate from $35 to an austere $50 which still only provides for the most modest accommodations. In addition, per diem for certain high cost areas and to areas outside the contiguous 48 States is also increased. Finally, in light of present gasoline prices, this bill increases mileage allowances for official automobile use by Federal employees.

The bill (H.R. 7072) was ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent there be a brief period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL CLIMATE PROGRAM ACT AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 834.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1391) to amend section 9 of the National Climate Program Act to extend the authorization for appropriations for fiscal years 1981 and 1982.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

That section 9 of the National Climate Program Act (15 U.S.C. 2908) is amended to read as follows:

"SEC. 9. AUTHORIZATION FOR APPROPRIATIONS.

"In addition to any other funds otherwise authorized to be appropriated for the purpose of conducting climate-related programs, there are authorized to be appropriated to the Secretary, for the purpose of carrying out the provisions of this Act, not to exceed $50,000,000 for the fiscal year ending September 30, 1979, not to exceed $65,000,000 for the fiscal year ending September 30, 1980, not to exceed $25,500,000 for the fiscal year ending September 30, 1981, not to exceed $39,100,000 for the fiscal year ending September 30, 1982, and not to exceed $43,700,000 for the fiscal year ending September 30, 1983.".

SEC. 2. The National Climate Program Act (15 U.S.C. 2901 et seq.) is further amended by adding at the end thereof the following:

"SEC. 10. CIVILIAN EARTH REMOTE SENSING SYSTEM.

"(a) AUTHORITY.—The Secretary of Commerce is authorized, during the fiscal year 1981, to plan and provide for the development and operation of a civilian earth remote sensing satellite system.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for fiscal year 1981, $15,000,000 to carry out the provisions of this section.".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I ask unanimous consent that the committee amendment be adopted and treated as original text for the purpose of further amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 1542

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. That amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. CANNON, proposes an unprinted amendment numbered 1542.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Strike Section 2 of the Committee amendment to S. 1391, lines 20–25 on page 2 and lines 1–5 on page 3.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Mr. STEVENSON in connection with the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY SENATOR STEVENSON

This amendment would strike Section 2 of the bill dealing with a U.S. operational, civilian earth remote sensing system. Section 2 was added by the Committee on Commerce, Science, and Transportation to the climate legislation in the hope that a civilian earth remote sensing system could be implemented in fiscal year 1981.

For years the Committee on Commerce, Science, and Transportation and the Subcommittee on Science, Technology and Space have been urging the Administration to move forward with an operational land remote sensing satellite system. In Presidential Directive/NSC–54, dated November 16, 1979, the President assigned NOAA management responsibility to proceed with such a system. As the initial step NOAA was to prepare a transition plan that would outline the requirements necessary to move from the existing experimental system developed by the National Aeronautics and Space Administration to a fully operational system that would meet various public and private user requirements.

NOAA was given 6 months to produce the transition plan. The plan, minus recommendations and budget requirements, was completed on June 16, 1980. The Subcommittee on Science, Technology, and Space held hearings in June and July of this year to review the Administration document.

While NOAA has done a commendable job in a short time, neither the document made available to the Subcommittee not the hearings provide an understanding of the course of action to be followed by the Administration. Section 2 of S. 1391 provides NOAA with authority to move beyond planning and a study effort during fiscal year 1981. They have sufficient authority already to pursue such efforts. Since an Administration decision on specific actions is not likely to occur before January 1981, there is no current need to include Section 2 in the bill and, therefore, the Committee recommends it be deleted.

After all this time and Congressional interest it is unfortunate that the Administration, OMB in particular, is not ready to move forward vigorously with an operational civil land remote sensing system.

The Congress should establish long-term policy and the institutional framework necessary for a civilian earth remote sensing system. Such legislation was introduced earlier in this Congress, and I expect to introduce a modified version of that bill.

I urge the Senate to accept the amendmnt and approve the bill as amended.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Mr. STEVENSON on the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY SENATOR STEVENSON

The Senate has before it S. 1391, a bill to authorize appropriations to the Secretary of Commerce to carry out provisions of the National Climate Program Act for fiscal years 1981, 1982 and 1983. The bill also provides authorization for fiscal year 1981 for the development of a civilian earth remote sensing system.

In 1978 the Congress approved the National Climate Program Act, a bill developed by my Subcommittee on Science, Technology, and Space of the Committee on Commerce, Science, and Transportation. The Act recognizes that climate and climate fluctuations have major impact on food production, water resources, energy supplies and use, the economy and human welfare. Climatic conditions during the past 25 years have been relatively mild, but more severe weather conditions in the last few years may be indicative of significant climate fluctuations and change in the future. The severe heat and drought in the southwest is the most recent example of the impact of climate. Any climate changes would likely cause serious problems, and the United States needs to be prepared to adapt to future climate fluctuations should they occur.

Under the Climate Act, the objectives of the National Climate Program are: (1) to organize more effectively the Federal Government's planning, management and budgeting functious for climate research and advisory services; (2) to develop more reliable knowledge about climate and to improve the capability to forecast climatic changes; and (3) to use existing and future climate information to determine the effect of climatic change on agriculture, water and other areas.

Since passage of the Climate Act, the National Oceanic and Atmospheric Administration in the Department of Commerce has acted as lead Federal agency through a National Climate Program Office (NCPO). With the assistance of other agencies and Departments, NCPO prepared a 5-year plan. The Subcommittee held a hearing on that plan and found that it served as a sound basis on which to proceed with future program activities.

The plan outlines opportunities and provides specific priorities and budgeting requirements. The plan, if followed, would also implement the Congressional intent of having a balanced program i.e., one that combines new research with application of already existing information.

While the Program is progressing I am concerned, however, over the lack of support provided the NCPO which is responsible for overseeing the Program. The Administration requested only $1.0 million for FY 1981 for the office. It is not possible for NCPO to coordinate a $135 million program, prepare 5-year plans and annual reports, advise OMB on program priorities, support advisory groups, administer an intergovernmental grants program, and support the experimental climate forecast centers, all within its meager resources. Thus, the Commerce Committee reviewed the total climate program budget request and, specifically, the request by the Department of Commerce for Fiscal Year 1981. The Committee increased by $1.0 million the authorization level for the Secretary of Commerce in Fiscal Year 1981 to be used by the National Climate Program Office.

Based on our review of the implementation of the Climate Act, I believe continued authorization is justified. I urge my colleagues to support S. 1391.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment to the title.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. CANNON, proposes a title amendment as follows:

Amend the title so as to read as follows: "A bill to amend section 9 of the National Climate Program Act to extend the authorization for appropriations for fiscal years 1981, 1982, and 1983.".

The ACTING PRESIDENT pro tempore. Without objection, the title amendment is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the bill was passed and by which the amendment to the title was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOUSE CONCURRENT RESOLUTION 410—CORRECTIONS IN ENROLLMENT OF S. 2680

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 410, which makes corrections in S. 2680.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 410) directing the Secretary of the Senate to make corrections in the enrollment of S. 2680.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 410) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WHITE RIVER NATIONAL FOREST

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BUMPERS, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1967.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1967) entitled "An Act to modify the boundary of the White River National Forest in the State of Colorado", with the following amendment:

Page 1 of the Senate engrossed amendment, strike out lines 2 through 9, inclusive, and insert:

SECTION 1. The exterior boundary of the White River National Forest in the State of Colorado is hereby modified to include additional areas of approximately thirty-two thousand three hundred and seven (33,307) acres and three thousand eight hundred and forty-one (3,841) acres, in Eagle and Pitkin Counties, respectively, as generally depicted on the maps entitled "Boundary Modification, White River National Forest, Colorado" (Minturn Addition and Aspen Addition), dated July 1980.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BUMPERS, I move that the Senate concur in the House amendment to the Senate amendment.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Mr. BUMPERS.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY SENATOR BUMPERS

The House amendment to the Senate amendment to H.R. 1967 would add approximately 32,307 acres of land to the White River National Forest in Eagle County, Colorado and 3,841 acres in Pitkin County, Colorado, for a total addition of approximately 36,148 acres. The original House passed bill would have added approximately 69,081 acres to the Forest and the Senate amendment approximately 19,043 acres. The House amendment represents a fair compromise between the two versions.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE RESOLUTION 513—AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BAYH and Mr. THURMOND, I send to the desk a resolution and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 513) authorizing supplemental expenditures by the Committee on the Judiciary for inquiries and investigations.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Mr. BAYH.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY SENATOR BAYH

This resolution amends Senate Resolution 350 so as to increase total expenditures authorized for the Committee on the Judiciary by $197,000 from $4,971,700 to $5,168,700, of which the amount may be expended for the procurement of services of individual consultants is increased by $21,000 from $177,500 to $198,500. The additional monies would be applied to fund a new subcommittee established under the Judiciary Committee as approved by unanimous consent of the Senate on July 24, 1980. The subcommittee was mandated to conduct an investigation of activities relating to individuals representing the interests of foreign governments. The subcommittee shall submit to the Senate, not later than October 4, 1980, an interim or final report.

PURPOSE OF INVESTIGATION

This investigation was initiated by the unanimous consent of the Senate on July 24, 1980. Its purpose is to determine whether individuals representing foreign governments as their agents have attempted to influence the actions of the United States government. Moreover, the subcommittee is to determine if the current laws of the United States are sufficient to meet any such challenges and whether existing government agencies and departments have responded appropriately to any such attempts.

ORGANIZATION

By order of the Senate the newly formed subcommittee was made up of seven Members of the Judiciary Committee and two

Members of the Foreign Relations Committee.

In order to complete its task in the most efficient and economical manner, the subcommittee will use, to the extent possible, existing staff resources of its Members. The Members have agreed to designate members of their personal or Committee staff to serve as staff investigators assigned to the new subcommittee. There are nonetheless both salary and operational expenses which must be provided for by an increase in the amount the Committee on the Judiciary may expend for investigations. The subcommittee has retained a Special Counsel, it has retained the service of a former high ranking FBI official as Director of Investigation, and must reimburse the General Accounting Office for accountants and auditors who have been detailed to the subcommittee.

The investigation also will entail significant travel, deposition and witness expenses, as well as the possibility of retention of additional temporary outside consultants.

This resolution will provide funds to augment existing resources to enable the subcommittee to carry out its responsibilities. The subcommittee intends that the staff assigned by Members to this investigation, and consultant, will be a unified nonpartisan staff.

The resolution was agreed to, as follows:

S. RES. 513

Resolved, That section 2 of Senate Resolution 350, Ninety-sixth Congress, agreed to March 5 (legislative day, January 3), 1980, is amended by striking out the amounts "$4,971,700" and "$177,500" and inserting in lieu thereof "$5,168,700" and "$198,500", respectively.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE RESOLUTION 514—COMMENDING ROBERT C. LOUTHIAN FOR HIS SERVICE TO THE SENATE

Mr. ROBERT C. BYRD. Mr. President, on behalf of myself and Mr. BAKER, I send to the desk a resolution and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 514) commending Robert C. Louthian for his service to the Senate:

Whereas, Robert C. Louthian is retiring after having served for more than twenty-eight years as an attorney on the staff of the Office of the Legislative Counsel of the Senate; and

Whereas, during this long period of service Robert C. Louthian has performed his duties for the Senate with skill and distinction: Now, therefore, be it

Resolved, That the Senate of the United States extends its appreciation and gratitude to Robert C. Louthian for his long and faithful service in the Office of the Legislative Counsel of the Senate.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Robert C. Louthian.

The resolution was agreed to.

The preamble was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

REPORT OF DEFERRAL AND REVISION OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 234

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Appropriations, the Committee on the Budget, and the Committee on Commerce, Science, and Transportation, jointly, pursuant to order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a new Department of Commerce deferral of $15.8 million in funds for the International Energy Exposition in Knoxville, Tennessee. In addition, I am reporting a revision to a previously transmitted deferral for the National Oceanic and Atmospheric Administration's Coastal energy impact fund increasing the amount deferred by $0.5 million.

The details of each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *August 27, 1980*.

MESSAGES FROM THE HOUSE

At 11:09 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6308. An act to provide for an accelerated program of research and development of magnetic fusion energy technologies leading to the construction and successful operation of a magnetic fusion demonstration plant in the United States before the end of the twentieth century to be carried out by the Department of Energy;

H.R. 6864. An act to authorize appropriations for the administration of the Deepwater Port Act of 1974;

H.R. 6889. An act entitled the "Methane Transportation Research, Development, and Demonstration Act of 1980";

H.R. 7380. An act to establish the Big Sur Coast Area in the State of California;

H.R. 7682. An act to amend title 10, United States Code, to provide greater flexibility for the Armed Forces in ordering Reserves to active duty, and for other purposes;

H.R. 7694. An act to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam; and

H.R. 7865. An act to provide for an accelerated and coordinated program of light water nuclear reactor safety research, development, and demonstration, to be carried out by the Department of Energy.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 5168. An act to extend certain expiring provisions of law relating to personnel management of the Armed Forces, to provide a variable housing allowance for members of the uniformed services to reflect housing costs in different areas of the United States, to improve certain special and incentive pays for members of the uniformed services, and for other purposes; and

H.R. 6974. An act to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, track combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve Component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. RIEGLE).

The message further announced that the House agrees to the following concurrent resolution, without amendment:

S. Con. Res. 118 Concurrent resolution providing for a recess of the Senate from August 27 to September 3, 1980, and an adjournment of the House from August 28 to September 3, 1980.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 6308. An act to provide for an accelerated program of research and development of magnetic fusion energy technologies leading to the construction and successful operation of a magnetic fusion demonstration plant in the United States before the end of the twentieth century to be carried out by the Department of Energy; to the Committee on Energy and Natural Resources.

H.R. 6864. An act to authorize appropriations for the administration of the Deepwater Port Act of 1974; to the Committee on Environment and Public Works.

H.R. 6889. An act entitled the "Methane Transportation Research, Development, and Demonstration Act of 1980"; to the Committee on Energy and Natural Resources.

H.R. 7380. An act to establish the Big Sur Coast Area in the State of California; to the Committee on Energy and Natural Resources.

H.R. 7682. An act to amend title 10, United States Code, to provide greater flexibility for the Armed Forces in ordering Reserves to active duty, and for other purposes; to the Committee on Armed Services.

H.R. 7694. An act to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam; to the Committee on Armed Services.

H.R. 7865. An act to provide for an accelerated and coordinated program of light water nuclear reactor safety research, development, and demonstration, to be carried out by the Department of Energy; to the Committee on Energy and Natural Resources.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4506. A communication from the Acting Assistant Secretary of the Air Force (Research, Development, and Logistics), reporting, pursuant to law, that a study has been conducted with respect to converting the military family housing maintenance function at Williams Air Force Base, Arizona, and a decision has been made that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC-4507. A communication from the Acting Assistant Secretary of the Air Force (Research, Development, and Logistics), reporting, pursuant to law, that a study has been conducted with respect to converting the military family housing maintenance function at Columbus Air Force Base, Mississippi, and a decision has been made that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC-4508. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report that sets forth the financial condition and operating results of Working Capital Funds of the Department of Defense for the fiscal year ending September 30, 1979; to the Committee on Armed Services.

EC-4509. A communication from the Chairman, Advisory Council on Historic Preservation, transmitting, pursuant to law, a special report containing comments by a panel of the Advisory Council on Historic Preservation which met on July 14 and 15, 1980, at Mountain Home VA Medical Center, Johnson City, Tennessee; to the Committee on Energy and Natural Resources.

EC-4510. A communication from the General Counsel. Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-4511. A communication from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, certifying that, in order to maintain in the third quarter of fiscal year 1980 the budgeted level of operation for Radio Free Europe/Radio Liberty, Inc., $813,633 is needed because of the downward fluctuations in foreign currency exchange rates; to the Committee on Foreign Relations.

EC-4512. A communication from the Chairman, United States Nuclear Regulatory Commission, transmitting, pursuant to law, a report on the number of full-time permanent employees hired and promoted during the second and third quarters of fiscal year 1980; to the Committee on Governmental Affairs.

EC-4513. A communication from the Secretary, U.S. Consumer Product Safety Commission, transmitting, pursuant to law, a new system of records; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and referred as indicated:

POM-852. Joint resolution adopted by the Legislature of Palau; to the Committee on Energy and Natural Resources:

"HEM JOINT RESOLUTION No. 101

"Whereas, on July 9, 1980, the people of Palau voted on the Constitution of the Republic of Palau, as adopted by the Palau Constitutional Convention with amendments proposed by the Seventh Palau Legislature; and

"Whereas, pursuant to Subsection 3 of Section 3 of Public Law No. 7-2-8, the Election Commissioner certified and transmitted the results of the Referendum to the Legislature; and

"Whereas, the certified results of the Referendum are as follows:

"Total registered voters	7,082
Total yes votes	3,829
Total no votes	905
Invalid votes	165
Total votes cast	4,899
Percent of yes votes	78
Percent of no votes	19
Percent of invalid votes	3
Percent of registered voters voting	69;

"And

"Whereas, no complaints or irregularities concerning the Referendum have been registered or reported; and

"Whereas, this Legislature is the judge of the Referendum and the results thereof pursuant to Subsection 5 of Section 3 of Public Law No. 7-2-8; now, therefore,

"*Be it resolved* by the House of Elected Members of the Seventh Palau Legislature, Fifth Regular Session, 1980, the House of Chiefs concurring, that the results of the July 9, 1980 Constitutional Referendum are hereby approved and the Constitution of the Republic of Palau, as adopted by the Palau Constitutional Convention with amendments proposed by the Seventh Palau Legislature, is hereby declared adopted by the people; and

"*Be it further resolved* that certified copies of this Joint Resolution be transmitted to the President of the United Nations Trusteeship Council, the President of the United States, the United States Secretary of State, the United States Secretary of the Interior, the President of the United States Senate, the Speaker of the House of Representatives, the United States President's Personal Representative to the Micronesian Status Negotiations, the High Commissioner of the Trust Territory of the Pacific Islands, and the Acting District Administrator of Palau."

POM-853. A resolution adopted by the Legislature of Palau; to the Committee on Labor and Human Resources:

"HEM RESOLUTION No. 106

"Whereas, Section 314 (d) of the Public Health Service Act of 1944, as amended, 42 U.S.C. § 246 (d), directs the Secretary of Health and Human Services to 'make grants to . . . health and mental health authorities to assist in meeting the costs of providing comprehensive public health services'; and

"Whereas, the Trust Territory of the Pacific Islands was excluded from grants under this program until 1967, after it had been in existence for some 23 years; and

"Whereas, the President's proposed fiscal year 1981 budget would totally eliminate any alcohol or drug abuse program funding in Palau; and

"Whereas, it would be an act of bad faith for the United States to cut this crucial program while agreeing during negotiations for a Compact of Free Association with Palau that such funding would be continued at least at present levels; and

"Whereas, elimination of funding under this program would terminate the positions of eight medical personnel, leaving the sick without adequate care and increasing Palau's unemployment problem; now, therefore,

"*Be it resolved* that the House of Elected Members, Fifth Regular Session, 1980 that the United States Congress is hereby respectfully requested to restore fully the funding of the § 314 (d) program for grants for comprehensive public health services to a level which permit its uninterrupted continuation; and

"*Be it further resolved* that certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the House of Representatives of the United States Congress, the Secretary of the United States Department of Health and Human Services, and the High Commissioner of the Trust Territory of the Pacific Islands."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE:

S.J. Res. 199. Joint resolution designating the week of September 28–October 4, 1980 as "National High School Activities Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE:

S.J. Res. 199. Joint resolution designating the week of September 28–October 4, 1980, as "National High School Activities Week"; to the Committee on the Judiciary.

NATIONAL HIGH SCHOOL ACTIVITIES WEEK

● Mr. DOLE. Mr. President, it gives me great pleasure to introduce a joint resolution designating National High School Activities Week this fall during the week of September 28–October 4. It also gives me great pleasure to announce that our distinguished colleague in the House, the minority Congressman JOHN RHODES will be introducing an identical resolution in that body. For months, the National Federation of State High School Associations has been making recommendations for the promotion of their activities programs in conjunction with high schools across the country. This resolution already has the support of the President's Council on Physical Fitness and Sports.

IMPORTANCE OF EXTRACURRICULAR ACTIVITIES

While we all recognize the importance of a formal, academic high school education, very little attention is given to the significant role that extracurricular activities play in channeling the energies and talents of young people. The development of teenage interests outside the classroom is an extremely valuable way in which high school students are provided a means of social involvement and interaction among their peers. Often, these activities extend opportunities for teenagers to become involved in the affairs of their community, and this serves to instill in young people an early sense of civic duty.

Perhaps the most beneficial outcome of high school students' involvement in extracurricular activities is the development of a sense of self-awareness concerning their potential as individuals who can contribute to the society in which they live. High school activities give teenagers a chance to exercise their talents in areas which are of special interest to them, and, because they are specifically interested in what they are doing, they tend to do very well, even to the point of excelling. These kinds of activities enable students to participate in various programs on a voluntary basis, and, because they enjoy their participation, they tend to take more interest in their academic education during school hours.

Certain high school activities promote skills and talents in performance of an individual nature, like involvement as an editor, writer, or reporter on the school newspaper. Forensics, dance, and theater also emphasizes individual abilities. However, many more activities such as sports, debate, and participation in student government promote team spirit and provide many opportunities for interaction with individuals of the same age group who possess similar interests.

LEADERSHIP ROLE OF ACTIVITIES DIRECTORS

While emphasizing the importance of the activities themselves, it is important to recognize the role that the guidance and encouragement of teachers, coaches, and program directors play in enriching the lives of high school students. Most of those who participate will become better citizens, because of their involvement in extracurricular activities. The informal lessons they have learned are significant factors in the molding of their characters in later life. The leadership also provides these young people with a positive outlook toward getting along with other people.

Being a teenager is a difficult time of life, because young people go through so many changes during this period. Often there is little support and positive reinforcement from parents and siblings. This is a very fragile time for teenagers psychologically. Highly qualified teachers and other individuals who give so much of themselves, along with their time, in the process of conducting these activities quite often become friends and counselors, and sometimes even role models, for the young people with whom they work and play. Even more than their teaching roles in the classroom, these teachers who become friends and counselors instill in the students with whom they come in contact important attitudes and values that serve them throughout their lives.

This would seem to be an appropriate time to express appreciation to those who direct school activities. They have demonstrated enormous dedication, usually without the prospect of even minimal financial remuneration. Their chief reward comes only from the fulfillment of witnessing the growth and development of these young people they serve.

FUTURE SUCCESS POTENTIAL OF ACTIVITIES

At this point, I ask unanimous consent to have printed in the RECORD part of an article on National High School Activities Week by David Harty that expressed the long-range value of these extracurricular programs in terms of the future development of high school students.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

NATIONAL HIGH SCHOOL ACTIVITIES WEEK

(By David Harty)

The American College Testing Service (ACT) conducted a study of itself, comparing the value of four factors in predicting success (measured by self-satisfaction in participation in a variety of community activities two years after college). Three of the four factors—high grades in college, high grades in high school and high scores on the ACT test—were found to have no predictive value. The only factor which could be used to predict success in later life was achievement in "extracurricular" activities. The College Entrance Examination Board's Scholastic Aptitude Test (SAT) was also examined for its accuracy in predicting how successful a person might be at a chosen career upon graduation from college. Results indicated that "the SAT's offered virtually no clue to capacity for significant intellectual or creative contributions in mature life." The study found that the best predictor for creativity in mature life was a person's performance during youth, in independent, self-sustained ventures. These youngsters who had many hobbies, interests and jobs or were active in extracurricula activities were most likely to be successful in later life. Participation in activities does make better citizens.

The "Study Report on the Cost Impact of Interscholastic Programs" presented April 6, 1979, by the Minnesota State High School League indicates in a random sampling of school districts in Minnesota that approximately 2.03 percent of the general fund budget is spent on the interscholastic program. An informal tally of several school districts in the state of Iowa, revealed that somewhere between 1.5 percent and 2 percent of the general fund budget was expended on the interscholastic program for the 1977–78 school year. School activities are a bargain.

Mr. DOLE. Mr. President, I can think of no worthier cause that would deserve more public awareness than the important role that high school activities play in the lives of teenagers. Communities themselves benefit from involvement of high school students in that the activities keep young people busy with healthy, constructive programs, and often these teenagers become directly involved in community affairs. There has been so much emphasis on the importance of the formal academic classroom experience, that it is time that we gave some recognition and generated a greater amount of public awareness of "the other half of education." I ask the support of my colleagues in approving this resolution.●

ADDITIONAL COSPONSORS

S. 2983

At the request of Mr. SCHWEIKER, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2983, a bill to amend the Internal Revenue Code of 1954 to reduce the tax on capital gains.

AMENDMENTS SUBMITTED FOR PRINTING

EXPORT TRADING COMPANIES, TRADE ASSOCIATIONS AND TRADE SERVICES—S. 2718

AMENDMENT NO. 2286

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to S. 2718, a bill to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

ADDITIONAL STATEMENTS

ERISA

● Mr. WALLOP. Mr. President, on July 29 the Senate labored late into the night on S. 1076, the Multiemployer Pension Plan Amendments of 1980. Many Members were familiar with the history of the legislation, having worked on it in either the Finance or the Labor Committee. Those who were not directly involved in the consideration of the legislation were appraised by the floor managers in their introductory remarks of its detailed history, the time constraints surrounding enactment, and the need for the bill.

Nevertheless, many members including myself felt that certain additions and modifications to the legislation should be made. Accordingly, amendments were offered and adopted by the Senate. The two amendments I proposed were adopted by record votes: The "MSHA" amendment passed by a vote of 52 to 37. My second amendment, increasing the de minimis exemption for withdrawing small employers from $50,000 to $100,000 was adopted by a vote of 47 to 42. The Senate also adopted other amendments, including the Boren-Church OSHA amendment (48 yeas to 36 nays) the Schweiker affirmative action amendment; the Chafee pension offset amendment; and others.

Last night, Mr. President, we were back on the floor, a short month later, being asked to agree to House amendments to the Senate-passed bill. The House has seen fit to delete from the Senate-passed legislation several important provisions on which the majority of this body has expressed support. In particular, the MSHA amendment, the de minimis amendment, the OSHA amendment, and the affirmative action amendments have all been stripped from the bill. I deeply regret that the full House did not, as a result of its committee system and procedural rules, have an opportunity to vote up or down on the Mine Safety and Health Administration (MSHA) amendment. If such a vote had occurred, I am confident that it would have pased by a substantial majority, some 219 Members of the House being cosponsors of analogous bills which would transfer surface sand, gravel, stone and clay mining operations from MSHA to OSHA.

However, the message of the House leadership is clear: a vote on the merits of this proposal apparently will not occur in the context of this ERISA legislation. In light of their rather adamant position, I did not request the Senate to go through the exercise of voting once again to send the MSHA amendment back to the House.

As a body, we are clearly and firmly on record in support of the MSHA legislation as is the House. The will of the majority on the MSHA proposal having been blocked on this pension legislation, we will now redouble our efforts to move it at the earliest available moment on a measure other than H.R. 3904 (S. 1076).

My regrets on the MSHA amendment find company with my equally strong regrets about the House deletion of the de minimis amendment. This amendment provided limited relief to the smallest employers who will be most directly and seriously impacted by the extension of withdrawal liability to all employers. Not only would the amendment have mitigated the financial blow to a withdrawing small employer, but it would simultaneously have encouraged more small employers to join multiemployer plans, a result which is critical to the growth and maintenance of these plans.

The amendment was supported by the small business community whose voice, in this instance as in many others on this legislation, was drowned out by big business and labor. When this legislation takes effect, many small businessmen are going to wonder what hit them. I am disressed that the interests of these small businesses have not adequately been protected, and that, in the long run, the consequences of the House action will be to discourage small employers from entering plans.

In addition to the deletion of my two amendments, the House has made other significant changes in the ERISA legislation. One of these changes concerns me because of its punitive effect on withdrawing employers. Both the Senate and House versions of the bill allow an employer that withdraws from a multiemployer plan to pay withdrawal liability in annual installments in accordance with a payment schedule determined by the plan. Under the Senate bill, the amount of an employer's annual payment was based on the employer's highest contribution base units and rates in 2 of the previous 5 years. The House changed the manner in which the two amounts are determined. The House bill focuses on the 3 plan years in the last 10 during which the employer's contribution base units were greatest and the highest rate within the last 10 years.

This amendment is likely to impose real hardship upon many employers. This can be expected in many cases since the contribution rate will have increased in the most recent years, while the base will have declined over 10 years, thus reaching back to the earliest years of the plan when the base was greatest. The net effect of this formula is to impose upon a withdrawing employer an annual contribution rate that may exceed any amount the employer has ever paid during his previous years of active participation in the plan. In my view, this imposes a penalty on many employers at a time when they can least afford it and contrary to all assertions that withdrawal liability was not intended to be punitive.

Another disturbing House amendment restricts GAO to plan records for purposes of studying the multiemployer pension plan program. The Senate would have granted GAO access to the records of plans, employers and unions for purposes of carrying out their study. Under the House restrictions, it will be very difficult for GAO to ascertain with precision the impact the changes in the multiemployer pension law will have on employers, which was the Senate's design.

The House made other noteworthy modifications. However, rather than detailing each of these, I will sum up by saying that the House amendments to the Senate-passed ERISA bill do not improve the legislation. Suffice it to say that many of its provisions have not adequately been considered because of the time pressures surrounding enactment. I would venture to say that many of the private sector proponents of the legislation will soon be heard to complain about some of the same provisions that are now being heralded. We in Congress will undoubtedly hear from this Nation's small businesses who will find the withdrawal liability sections of the bill particularly onerous.

I have long understood the need for congressional action on ERISA and have supported that effort. Nonetheless, I am sorry that in our desire for prompt action we have sacrificed the usual careful scrutiny that helps avert future problems.●

DISABLED VETERANS REHABILITATION ACT OF 1980

● Mr. DOLE. Mr. President, at the request of the chairman of the Senate Veterans' Affairs Committee, Senator Cranston, I am submitting, for the Record, copies of letters from major veterans organizations in Kansas regarding my amendment to S. 1188.

Mr. President, my amendment will change the name of the Topeka Veterans Administration Hospital to honor two outstanding Kansans who devoted their lives to improving the lot of veterans all across the country. These two men are Harry Colmery and Ralph O'Neil.

For the Record, I submit the following correspondence:

American Legion,
Topeka, Kans., May 28, 1980.

Senator Robert Dole,
2213 Dirksen,
Washington, D.C.

Dear Senator: On behalf of 60,000 Kansas Legionnaires, I ask your full support in the use of Ralph T. "Dyke" O'Neil's name along with that of Harry Colmery's, in re-naming the Topeka V.A. Hospital.

Mr. O'Neil contributed a great deal to the Veterans of Kansas and this recognition is deserved and would be appreciated.

Sincerely,

John Wm. Carr,
Department Commander.

Veterans of Foreign Wars,
Department of Kansas,
June 6, 1980.

In re: Renaming of Topeka V.A. Medical Center.

Hon. Robert Dole,
U.S. Senator,
Dirksen Building, Washington, D.C.

Dear Senator Dole: In reference to my objection to the proposition to change the name of the Topeka V.A. Medical Center to Colmery-O'Neil V.A. Medical Center, I withdraw my disapproval of this action.

Respectfully yours,

Troxal Mellinger,
Commander.

Disabled American Veterans,
Washington, D.C., June 24, 1980.

Hon. Alan Cranston,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, D.C.

Dear Chairman Cranston: This is to confirm that this office has been advised by Mr. John Schneider, immediate Past Department Commander, DAV Department of Kansas, that the Kansas DAV organization, during its recent 1980 State Convention, endorsed the renaming of the VA Medical Center, Topeka, Kansas as the "Colmery/O'Neil VA Medical Center."

Sincerely,

John F. Heilman,
National Legislative Director.

Disabled American Veterans,
Department of Kansas,
June 6, 1980.

Senator Robert Dole,
U.S. Senate,
Washington, D.C.

Dear Bob: The Department of Kansas Disabled American Veterans supports you on your bill to rename Topeka Veterans Administration Hospital.

Sincerely,

John Schneider.●

VIETNAM'S GULAG

● Mr. HUMPHREY. Mr. President, I submit the following article from the August 21, 1980, edition of the Wall Street Journal for printing in the Record.

The article, written by Mr. Doan Van Toai, is a personal account of his imprisonment by the Vietnamese Communists in 1975 following the fall of South Vietnam. He was released from prison several years later, and eventually immigrated to the United States, where he is now doing research on Vietnam at the Fletcher School of Law and Diplomacy of Tufts University.

His account is only one example of the tremendous suffering experienced by the Vietnamese people following the fall of Saigon in 1975. It was exactly this type of totalitarian regime that we tried to prevent by participating in the conflict in Southeast Asia.

The article follows:

In Vietnam's Gulag, The Captives Die A Slow Death

(By Doan Van Toai)

One evening about five years ago I was at a concert in Saigon given by the National Concert Orchestra of North Vietnam. Suddenly, down the aisle marched Communist secret police, all carrying guns. They came up to me, and said: "Let's go outside."

They led me into an office of the theater. They said: "Are you Mr. Doan Van Toai?" and I answered: "Yes." They didn't say anything more but forced me to stand there for about an hour. Later they took me to police headquarters and said: "We are arresting you." I asked: "Why are you arresting me, what have I done?" but they only replied: "The best thing is for you to think and remember. It is for you to work out."

I was taken to a small cell. It was very dark—the only light coming from a small hole in the wall through which I could breathe fresh air. The first night I slept easily as I was still optimistic because I knew I hadn't done anything.

Each day I made a notch on the wall and soon I had been there for seven weeks. My only visitor was another prisoner—a girl who every morning would bring me a bowl of rice.

The first day she came I was very hungry and began to gulp the rice down but I soon realized they must have mixed some sand with it. It was impossible to eat. When they finally called me for questioning I asked the official why they had put sand in my rice. "So you remember what you have done wrong in the past," he said.

They made me write an account of my life and every morning would take me to their office where the air was very fresh. I wrote pages and pages so as to postpone the time when I would once more be shut up all day long.

I had first become involved in politics when I was a pharmacy student at Saigon University in the 1960s. At that time I believed Thieu was head of nothing but a puppet government in the hands of the Americans. I became interested in the struggle for peace at Saigon University and was elected vice president of the student union. When the student union president was arrested, I organized student demonstrations all over Vietnam against the Thieu government. For this as well as other activities, I was arrested and imprisoned many times by that government.

During these years the National Liberation Front had approached me to join them. But I refused, preferring to support their goals independently through the student union. At the end of the war in May 1975, I was asked to join the finance committee of the provisional revolutionary government. I agreed, but in a split over policy I soon resigned. (Although the Communists never told me this, I believe that my resignation was the cause of my arrest.)

After I finished my account I was taken to Le Van Duyet prison in the center of Saigon where I stayed for over two years.

I was put in a small cell with 50 others. People died every day through lack of medical attention and in the evening you could hear the voices call out: "Warden, this is room number three, someone has just died."

I was worried about my French wife and three sons and was anxious for them to leave Vietnam. I knew there could be reprisals against them and through one of the prison wardens—a former friend—I sent a letter to my wife saying not to wait for my release but to take the children to France. And if she had to write a letter to the authorities denying my existence, then she must.

When she finally left for France in June 1977, I felt easier. Then I heard the news of my mother's death. She had been denied medical treatment because she had one son in prison and another who had left with the Americans. I was very sad and very angry and through my friend again sent a letter to the chief of the secret police in Saigon saying: "You are responsible for my mother's death. I have now been in prison for 27 months and I still don't know what I have done to oppose the Communists. If you find out nothing then you must release me." More important, I had my friend bribe an important official.

Later I was called to the prison commandant's office and was told I was released. He said that the government needed me to cooperate with them. "If we give you an exist visa you must tell the West how wonderful everything is here. And how well we treat our prisoners." I agreed with them, but only I knew what I would really tell the West.

I was given an exit visa but didn't leave Vietnam immediately. In prison, I had given up hope for a free Vietnam. I had become very angry and very ashamed to have ever supported the NLF. I wanted to get rid of the Communist regime. But then I said to myself: "I think this because I have been in prison for over two years. Before I leave I must find out if the rest of the country feels the same way."

I discovered that everyone hated the regime because they were always hungry and were even less free than they had been under President Thieu. In Vietnam today there are over 800,000 people in prison and in so-called reeducation camps. In Cambodia the political prisoners were exterminated quickly but in Vietnam they die slowly.

When I was released my friends still in prison asked me to tell the world what is happening and, if no one will stand up to the Vietnamese Communists, to send them cyanide to put an end to their agony. "Help us to die quickly," they said.

In Vietnam nobody dares to protest for fear of arrest. Few people abroad speak because they fear for the safety of their families still in Vietnam.

But even if it means the death of myself and my family, I must do something for the thousands of prisoners who die each year and the millions of people who have to support the unsupportable and accept the unacceptable.●

SEA CHANGE OR MIRAGE? CARTER'S POLICY SHIFTS ON DEFENSE

● **Mr. DOLE.** Mr. President, in recent weeks the administration has released news of a heretofore secret development that would enable a new generation of strategic bombers to penetrate enemy radar undetected. The Soviet Union may have had some inkling of this discovery through its intelligence channels. With this unnecessary but politically timely public disclosure, however, we can be sure the Russians now are pulling out all stops to discover whatever they can about the stealth bomber technology, just as they did when they obtained the KH–11 spy satellite plans 2 years ago. Was there any military or diplomatic purpose to be served by this announcement?

In the same vein, Presidential Directive 59 regarding nuclear war strategy was recently leaked to the press corps to symbolize Mr. Carter's new get-tough policy with the Soviet Union. At least the President seems, partly by this belated articulation of a long process, to recognize after 4 years in office that we need to have a better balance of power in the world, and a reevaluated geostrategic policy toward the U.S.S.R., before we can have meaningful arms control discussions. SALT II is "O.B.E.", overtaken by events, and if it was ever marginally in our interests, it is obsolete now and must be renegotiated in a new context.

DEFENSE COMMITMENT QUESTIONS

But, these news stories so recently splashed over the Nation's headlines raise as many questions about our Nation's commitment to defense as they seem to solve. After delaying MX for 3 years, Jimmy Carter is now pushing it for all it is worth. After canceling the B–1 bomber and delaying its alternate, the cruise missile, he is now coming up with a new bomber from scratch. The Soviets must be calculating now, as they begin Warsaw Pact exercises on the borders of Poland, how much of this new rhetoric is election-year heroics and how much represents a new American awakening to the dangers of military and strategic neglect.

Things have been allowed to slip and slip badly in the last few years. During the last Arab-Israeli war, U.S. forces went on alert to deter Soviet intervention. Last week a key Soviet official in Moscow said that Russia would find it "difficult" to act the same way it did in 1973. "At that time we sought to contain the war (sic). We would not act the same way again in a confrontation." Now their military and strategic position has been allowed to become significantly enhanced while this administration delayed programs, cut defense expenditures and reduced the numbers of ships, planes, and missiles at our disposal.

We have heard of Mr. Carter's commitments before. Last Thursday he gave a rousing speech to the VFW convention. On Friday he vetoed the Veteran's Health Act of 1980, which was supported by every national veterans' group. Last spring he deemanded the Congressional Armed Services Committees hold back on defense spending, then flew out a few days later to *Nimitz* when it returned from duty off the coast of Iran for a highly publicized address to the crew, calling for more benefits and higher pay. Will the real Carter defense policy please stand up?

CARTER'S "NEW" STRATEGY

In yesterday's Washington Post, retired Lt. Gen. Edward Rowny analyzed what Presidential Directive 59 will mean for the United States in credible strategic terms. General Rowny was the military member, representing the Joint Chiefs of Staff, at the SALT II negotiations under three Presidents. Mr. President, I ask that his article be printed in the Record.

The article follows:

That 'New' Nuclear Strategy

The Carter administration is making quite a stir about the "revolutionary" thinking embodied in its Presidential Directive 59: a nuclear strategy giving priority to attacks on military targets in the Soviet Union rather than on Russian cities and industrial complexes. This is a more realistic and effective way to deter the Soviet Union, which has been inexorably building its military capabilities for the last 15 years. However, several hard questions about the administration's so-called new nuclear strategy still need to be answered.

One would expect that this strategy would bear the distinct imprint of the Democratic Party. I must note with a certain bemusement, however, how far the directive has moved toward the positions of previous Republican administrations and the 1980 Republican platform. Then-secretary of defense James Schlesinger announced in 1974 a similar revision in our targeting doctrine. But the Carter administration did not implement the programs needed to carry it out. In fact, President Carter seriously considered reducing the U.S. strategic force to a minimum deterrence level of 200 strategic missiles, while the Soviets presumably would have been allowed 10 times that number.

The 1980 Republican Party's platform has resurrected the earlier Schlesinger doctrine and calls for the programs to implement it: "Our objective must be to assure the survivability of the U.S. forces possessing an unquestioned, prompt, hard-target counterforce capability sufficient to disarm Soviet military targets in a second strike. We reject the mutually assured destruction (MAD) strategy of the Carter administration, which limits the president during crises to a Hobson's choice between mass mutual suicide and surrender."

It is said that imitation is the most sincere form of flattery. But the present administration's words describing the new policy are not merely flattering—they are vindicating. They offer a ray of hope to those of us who registered skepticism about the credibility of America's nuclear deterrent. Up to now, President Carter's approach to nuclear deterrence appeared to rest America's security on a position of minimum deterrence. In January 1979, he said: "Just one of our relatively invulnerable Poseidon submarines, comprising less than 2 percent of our total missile force, carries enough warheads to destroy every large and medium-sized city in the Soviet Union."

We know the concepts embodied in Presidential Directive 59 are not new and have been in bureaucratic channels for several years. Secretary of Defense Harold Brown hinted at a countervailing strategy in his two most recent posture statements. Clearly, we all would have benefited from having it sanctioned and implemented earlier. A more vexing question is why the new doctrine became policy at this time. Was it another ill-timed or ill-conceived leak? A more plausible answer seems to be that it was done for reasons of political expediency.

The most crucial question of all, however, is: Will the strategy in fact be implemented or will it fall by the wayside when the winds shift again? This is the same administration that canceled the B1 bomber, delayed the MX missile, postponed development of both the Trident II submarine missile and strategic cruise missiles and backtracked on the neutron warhead. Has the leopard changed its spots or has it merely camouflaged itself for the duration of the political campaign? If the latter is the case and Presidential Directive 59 falls by the wayside, the nation will be the loser.

Following the Soviet invasion of Afghanistan, President Carter reportedly said that he had learned more about the Soviets in one week than he had in the preceding three and a half years. Yet the military programs that he proposed since that time would increase our defense effort scarcely enough to make any difference.

Secretary of State Muskie's spontaneous reaction to the administration's new nuclear strategy indicates that he questions how it came about. He has just been briefed; we have yet to hear whether Muskie agrees with its wisdom. We have yet to learn if Muskie is convinced that the name of the game in deterrence is not what would deter us but what would deter Soviet leaders from attempting to capitalize on their newly acquired military capabilities.

Furthermore, the secretary recently called SALT II "indispensable to our security." Such a statement is ill advised. It is our military posture, not SALT, that is indispensable to our security. SALT II does not improve that posture. And to declare the treaty indispensable to our security is to tell the Soviet leaders that the United States is willing to permit its military security to become hostage to SALT.

Therefore, while the announcement of a new U.S. nuclear strategy is welcome, we must be concerned as to whether this newly enlightened administration can be counted on to act out of character. It is one thing to enunciate policy and quite another to execute it in the form of commitment to programs.

If the new strategic doctrine is to be implemented, our current forces must be survivable. The MX missile must be deployed in the most expeditious and economical manner. We must build more accurate land- and sea-based missiles, improve and protect our intelligence and communications systems and strengthen our virtually nonexistent strategic and civil defense against nuclear attack. Such programs have not been realistically addressed by the current administration.

In the final analysis, then, the crux of the matter is: Can the Carter administration be counted on to put its money where its mouth is?●

RIEGLE ISSUES VOTE CORRECTION

● Mr. RIEGLE. Mr. President, yesterday, the Senate approved a measure calling for a 10-percent reduction in the funds allocated for Senate operations. I inadvertently cast my vote against this proposal yesterday. I fully intended to support this bill, because, I feel strongly that it is important for Senate to set an example for other areas of government in the fight against inflation. On June 2, 1980, I did, in fact, vote in favor of a similar measure proposed by the distinguished majority leader.●

ANTI-IRANIAN RALLY

● Mr. LAXALT. Mr. President, the other day in Washington, a number of patriotic Americans had a rally to protest the continuing imprisonment of our hostages in Iran. Although attendance was not what many of us would have liked, my good friend SAM HAYAKAWA was there. As usual, he added strength and forcefulness to the meeting which sent a clear message to Khomeini that after nearly 300 days, he should at long last let our people go.

Senator HAYAKAWA has issued a statement in conjunction with that rally, which I think should be brought to the attention of all my colleagues. Therefore, Mr. President, I ask that Senator HAYAKAWA's statement and an article from the Washington Star be printed in the RECORD.

The statement follows:

STATEMENT BY SENATOR HAYAKAWA

I am here today because I believe we have let Iran spit in our faces, while we pretend its raining. Not only have Khomeini's henchmen held 52 of our citizens captive for almost 300 days, but now—on our own soil and probably with the Ayatollah's money—they demonstrate, agitate and propagandize in support of the principles of this semi-insane, so-called "holy man." It's time we put an end to this spewing out of pro-Khomeini anti-Americanism in the streets of our cities.

I firmly believe that Iranian citizens who agitate against the United States should be deported. While our laws guarantee the right of citizens and noncitizens alike to peacefully assemble and demonstrate for whatever cause they like, we must recognize that the present situation is extraordinary. We are in a state of belligerency with Iran—whether we declare it or not—as long as Iranians hold our people hostage. Iranian citizens in this country should behave with dignity and respect for the sensitivity of this situation—or they should be sent back to Iran. By ranting and raving in our streets, they create the possibility of confrontations with our own citizens. If an Iranian is seriously hurt, it could jeopardize the American hostages.

I was amazed to find that our immigration regulations do not provide the necessary Presidential authority for the deportation of dissident nationals. In searching for an appropriate legal means for their speedy deportation, I found that a section of the U.S. Code, written in 1798, can be applied to this situation with only a minor amendment.

Under our present law, if a foreign government perpetrates a "predatory incursion"—an invasion or attack—to U.S. territory, the President can proclaim citizens of that nation who are in the United States to be "alien enemies." The President would then have the authority to deport them. But for the purposes of this section of the law, our U.S. missions abroad are not considered to be U.S. territory and therefore not covered by this provision.

In March of this year, I introduced the "American Sovereignty Protection Act." The bill, very simply, states that an attack or "predatory incursion" to a U.S. mission abroad, with or without the taking of hostages, would allow the President to declare nationals of the invading country to be "alien enemies," subject to deportation.

My bill, S. 2437, has been languishing in the Senate Judiciary Committee for almost six months now. You can help it become law by writing to your Senators and Congressmen or the Senate Judiciary Committee. Representative William Whitehurst of Virginia has introduced companion legislation in the House of Representatives.

It is my hope that this rally and march will emphasize our concern for the hostages in Tehran and that it will be conducted with enthusiasm, vigor and dignity. Let's let the Ayatollah know that we have not forgotten our people. Let's let Iranian agitators know that their agitation only strengthens our Americanism.

FEW JOIN ANTI-IRANIAN RALLY HERE

(By Toni House)

Mark James, a 29-year-old stockbroker who thinks Americans should stand up for America, gazed out on the 150 faces before him on the Washington Monument Grounds yesterday and frowned.

James, who spent the last three weeks organizing the city's first anti-Iranian march, told authorities he hoped for a turnout of 10,000.

"We gave the American public an opportunity to speak out on a sensitive subject . . . to take a couple hours out of their day. Evidently Americans have forgotten the hostages," he mourned.

But the young organizer's spirits rebounded some with enthusiasm of the crowd that did turn out to march in a half-block long column up 17th Street NW and past the White House, singing "God Bless America" and waving American flags.

President Jimmy Carter was at the White House yesterday but did not appear as the crowd chanted "Wake up, Jimmy! Wake up, Jimmy!" However, the marchers drew considerable interest from tourists and other passersby who applauded or honked their car horns.

Some even jumped into the line of march, swelling the crowd to 250 as it moved north.

The march was called by James and about a dozen friends in an ad hoc committee called Americans Against Iran to demonstrate their concern for the 52 American hostages held in Iran and against Iranian propaganda activity in the U.S.

The committee had no financing and little experience. They ran off 10,000 fliers which they distributed on city street corners and counted on word of mouth and media exposure to draw the crowd, James said.

Myrtle Brickman, a colleague of James, was supportive. "It's a pretty good turnout considering there were no resources," she said. "I have a feeling if there was an organization behind it, we'd have a pretty respectable turnout."

The star of the rally was Sen. S. I. Hayakawa, R-Calif., sponsor of a bill to enable the U.S. to deport Iranian nationals, who marched with a bullhorn at the head of the column behind a sign proclaiming "Day 294," shouting "Go to Hell, Khomeini." Yesterday was the American hostages' 294th day of captivity.

Hayakawa's bill is aimed at the dissident Iranians who have demonstrated in Washington and elsewhere in favor of the Iranian leader, the Ayatollah Ruhollah Khomeini, and the holding of the U.S. hostages.

The bill would enable the president to declare nationals of a foreign country "alien enemies" and permit their deportation if their government were to make or permit an aggressive action against a U.S. mission abroad.

U.S. law now does not allow the deportation of people with proper visas unless they commit a law punishable by a year or more in prison.

"I am here today because I believe we have let Iran spit in our faces while we pretend it's raining," Hayakawa told the roaring marchers. "It's time we put an end to this spewing out of pro-Khomeini anti-Americanism in the streets of our cities."

Although James was discouraged at the number of people who turned out for the march, the marchers themselves seemed undaunted by their small numbers. Maria Cox and Eunice Lee, in Washington from El Paso, Texas, bore a homemade banner bearing a quote from Genesis obliquely referring to Iranians as the rear end of a wild ass.

"We're religious," said Cox of the reference.

And when it was over, people crowded around James with congratulations and suggestions for how to do it bigger and better next time.

"Why don't you have it during lunchtime when there will be more people around?" "We need a spokesman for our cause" and "Why don't you get a pig and dress it in a little black hat and a Santa Claus beard?" various people suggested.

"Why don't you organize the next march?" said James. "I'm going home."●

GEORGE STAFFORD WILL BE MISSED IN RURAL AMERICA

● Mr. DOLE. Mr. President, yesterday afternoon George Stafford announced that he is resigning his position on the Interstate Commerce Commission at the end of August.

Quite simply, I and my colleagues from Kansas are saddened to see him go. For over 13 years Commissioner Stafford has been a fixture at the ICC, as Commissioner, Vice Chairman and the Commission's first permanent Chairman.

George has been a lifelong Republican active in Kansas politics. He was Frank Carlson's right hand man for over 20 years, as executive assistant to Governor Carlson in the late forties and administrative assistant to Senator Carlson from 1950 to 1967. When I succeeded Senator Carlson in the Senate, it was George Stafford who aided the transition.

But Commissioner Stafford has performed his duties in an even handed, bipartisan manner. He was the choice of both Republican and Democratic administrations, having been appointed by President Johnson in 1967 and reappointed to a second term by President Nixon.

If George Stafford has been guided by any particular "special interest," it has been the transportation needs and problems of rural America. Those of us who represent America's heartland have known for over a dozen years that at least one man at the Interstate Commerce Commission understood the impact of ICC decisions on the railroads, highways, and airways of Kansas and the rest of rural America. That is not to say Commissioner Stafford was parochial or possessed limited vision. But it has always been reassuring to know that small town America would not be ignored as the ICC exercised its vast and important power.

George Stafford was born and reared in the Midwest. His hometown of Valley Falls, Kans. is not unlike my home of Russell or the thousands of other small communities across our Nation. It may very well be that the availability of transportation is more important to these small towns than the urban centers on each coast. Without adequate truck and rail service to these small rural communities, the isolation would be enhanced and the quality of life limited. Commissioner Stafford knows this in his bones.

Mr. President, during the past year I have been reminded over and over again of this simple fact. Many communities in my State have been awaiting the verdict. In the wake of the Rock Island Railroad's bankruptcy, would the trains continue to pull into town? The future of farmers, small businessmen, and entire towns has been on the line. As private citizens and Government have worked together trying to insure that the tracks would not go unused, the Interstate Commerce Commission often was the focal point for important decisionmaking. Through it all, George Stafford has been a friend and an advocate. Much to his credit, over 90 percent of this once-abandoned Rock Island track will have rail service this fall.

This is only the most recent example of the Commissioner's importance. As the senior member of the Nation's senior regulatory body, he has been on the cutting edge of important developments in transportation. It is hard to imagine the Interstate Commerce Commission without him.

Yes, George Stafford will be sorely missed. I congratulate him for years of service to his State and his Nation and wish George and his lovely wife Lena a happy and fruitful retirement.●

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may have until 5 p.m. on Wednesday, August 27, 1980, to file reports, bills, and conference reports.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECORD TO REMAIN OPEN UNTIL 3 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 3 p.m. today to submit statements for the Record and introduce bills and resolutions.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I believe authority has already been given for the signing of bills and joint resolutions, has it not?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I believe that the Secretary of the Senate has already been authorized to receive and make appropriate referrals of messages. Am I correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS UNTIL 10 A.M., WEDNESDAY, SEPTEMBER 3, 1980

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the provisions of Senate Concurrent Resolution 118, that the Senate stand in recess until the hour of 10 a.m. on Wednesday, September 3, 1980.

The motion was agreed to; and, at 11:12 a.m., the Senate recessed until Wednesday, September 3, 1980, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 17, 1980:

Federal Energy Regulatory Commission

John David Hughes, of Texas, to be a Member of the Federal Energy Regulatory Commission for the term expiring October 20, 1983.

Department of State

William Jennings Dyess, of Alabama, a Foreign Service officer of class 1, to be an Assistant Secretary of State.

Diego C. Asencio, of Florida, a Foreign Service officer of class 1, to be Assistant Secretary of State for Consular Affairs.

Theresa Ann Healy, of Virginia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sierra Leone.

Allen Clayton Davis, of Tennessee, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Revolutionary Republic of Guinea.

Walter C. Carrington, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal.

Peter Jon de Vos, of Florida, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

Henry L. Kimelman, of the Virgin Islands, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti.

U.S. METRIC BOARD

The following-named person to be a Member of the U.S. Metric Board for the terms indicated:

For the remainder of the term expiring June 14, 1982:

Bruce Paul Johnson, of Nevada.

CIVIL AERONAUTICS BOARD

James Robert Smith, of Florida, to be a Member of the Civil Aeronautics Board for the remainder of the term expiring December 31, 1980.

James Robert Smith, of Florida, to be a Member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1986.

CORPORATION FOR PUBLIC BROADCASTING

The following-named persons to be Members of the Board of Directors of the Corporation for Public Broadcasting for terms expiring March 26, 1986:

Diana Lady Dougan, of Utah.

Lillie E. Herndon, of South Carolina.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE NAVY

Navy nominations beginning Frederick Aalbue, to be lieutenant (j.g.), and ending Michael W. Miller, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 23, 1980.

Navy nominations beginning Russell S. Akerman, to be lieutenant and ending Cheryl E. Hale, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 28, 1980.

HOUSE OF REPRESENTATIVES—*Wednesday, August 27, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O Lord God, Your love created us and breathed into us the breath of life, we offer our prayers and supplication for the good of all Your people. We know that in every way we are different one from another—in our work or where we live or in the variety of our attitudes. Yet, O Lord, we praise Your name that in spite of all human differences, we are one in Your Spirit. We know that You look upon all Your creation with love and forgiveness and with the gift of peace. May each of us so focus our eyes on You that we may see our common humanity and our mutual goals and better serve those committed to our care. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate having proceeded to reconsider the bill (H.R. 7102) entitled "An act to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was resolved, that the said bill pass, two-thirds of the Senators present having voted in the affirmative.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6974) entitled "An act to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes."

The message also announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 8010. An act to amend the Comprehensive Employment and Training Act to designate a Job Corps Center as the "Earle C. Clements Job Corps Center."

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5164) entitled "An act to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CANNON, Mr. LONG, Mr. HEFLIN, Mr. PACKWOOD, and Mr. WARNER to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate with amendments to a bill of the House of the following title:

H.R. 3904. An act to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2719) entitled "An act to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. WILLIAMS, Mr. CRANSTON, Mr. GARN, and Mr. TOWER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 118. Concurrent resolution providing for a recess of the Senate from August 27 to September 3, 1980, and an adjournment of the House from August 28 to September 3, 1980.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would ask the gentleman from Pennsylvania (Mr. SHUSTER) what he intends to do with the doll. The Chair is not going to allow the Congress to be held up to ridicule and will object to any such exhibit being used in debate.

Mr. SHUSTER. Mr. Speaker, if I may respond, I simply want to introduce this duck as a symbol of the lameduck session that I want to speak to.

The SPEAKER. The Chair is of the opinion the Member would be holding the House up to ridicule and would ask the gentleman to make the speech without utilizing the apparatus or the doll or anything of that nature.

Mr. SHUSTER. Mr. Speaker, this is certainly not the intention.

The SPEAKER. That is the way the Chair feels about it and the Chair so rules.

POSSIBLE LAMEDUCK SESSION

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I hoped to be able to use the symbol I have here which we have named Donald Democrat, the poor little lame duck.

Yesterday in the Republican Policy Committee when we took our position in opposition to the lameduck session which has been announced for this Congress, we believe, Mr. Speaker, there is time to get the work of the people accomplished by working this Friday, for example, by not going out at 3 o'clock this Thursday, by extending to October 18 our adjournment and we believe that the real reason for not doing the people's work and instead for scheduling a lameduck session is a bit perhaps more cynical. It is to avoid the controversial votes which would be taken before the election. It would seem some might be more interested in getting reelected than staying here to vote and do the job which they were elected to do. We think Donald Democrat, the lame duck, symbolizes what is happening here. The majority is ducking the budget and its massive deficit, the majority is ducking the issue of a strong national defense, the majority is ducking the issue of inflation and unemployment, the majority is ducking the issue of high taxes.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

MAGNITUDE OF THE SOCIAL SECURITY PROGRAM

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, social security income and expenditures are growing at an amazing rate, both in dollar amounts and in their relationships to total Federal receipts and outlays.

Income to the trust funds which pay cash benefits is estimated this year to be $102.9 billion. When hospital insurance trust fund revenue is added, the total becomes $147.3 billion.

If no system changes are made, that figure will balloon to a quarter of a trillion dollars in 1984, and by the end of this decade it will be touching the half-trillion dollar mark. That would represent a 1,246-percent gain over a decade ago and a 242-percent advance from today's levels.

On the outgo side, the three funds fed by payroll taxes spent $29.7 billion in 1970, are estimated to be spending $149.2 billion this year, and are projected to spend $451.4 billion in 1990. Ten years ago, these expenditures represented about one-seventh of total Federal outlays. Today, they represent one-fourth, and if current projections hold, the gap between social security spending and all Federal spending will continue to narrow.

There are other reasons, of course, for the Congress to concentrate on social security. The number of taxpayers who support the system is at 110 million, and climbing; the number of beneficiaries is at 35 million, and rising even more rapidly.

There is no other governmental program comparable to social security in terms of income, outgo, and persons affected. Nothing even comes close.

Thus far, we have spent a relatively small amount of time on social security, and we have been able to avoid great confrontations on difficult social security issues. But we will not be able to get away with either dodge in the future. The sheer magnitude of the system will not let us.

POSSIBLE LAMEDUCK SESSION

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, normally I do not feel called upon to respond to ridiculous comments made in an obviously partisan fashion by one of our colleagues.

The gentleman from Pennsylvania (Mr. SHUSTER) has been so farfetched this morning in his wild allegations that it does warrant some response.

The gentleman has taken a position, so piously wrapping about himself the cloak of mock outrage, that it will be the fault of the Democratic leadership that we have to return for a so-called lameduck session, if, indeed, one should become necessary.

I would remind the gentleman, though I do not like being partisan, that it has been the continuous, repeated efforts of the Republican side to prolong debate, to drag out time, and to prevent our completing our work on schedule that have kept us from finishing at an earlier date. Notwithstanding that fact, I think we can take some pride in the House and in the fact that we have been pretty well on schedule in the enactment of appropriations bills. Today, if we will stay here and work, it is our firm intention to finish the Labor-HEW bill in 1 day.

We are doing everything possible, given the climate that exists on the other side and the strong sense of partisanship that exists in any election year, to finish this schedule. So far as the gratuitous comments are concerned, in which the gentleman from Pennsylvania accuses the Democrats of ducking issues, I think it might be well to suggest that if the gentleman does not want to go home on October 4 as we have promised and face the public, it might be those on his side who are ducking the responsibility of going back and reporting to the American people why they voted as they did.

For example, the gentleman mentions the budget. If I were he, I think I would be very leery about mentioning the budget, on the same grounds one should not mention rope in the house of a man who has been hanged. For years and years the Republican Party has been piously prating about the need for a balanced budget and in the last few years, particularly this year, they have been wrapping about themselves the garb of patriotism, draping a flag about their shoulders and saying, "We ought to increase defense spending."

Well, all right. In June we presented the first balanced budget in the past 12 years and it involved the largest single dollar increase in defense expenditures for any year since World War II. How did the Republican side vote? They voted no. Predictably, consistently, they have voted overwhelmingly against the budget year after year. And so they come with very unclean hands when they try to accuse the majority side of not having passed the budget, if, indeed, we are not able to pass the budget before October 4.

I can assure the gentleman it is the purpose of the majority and it is the purpose of the leadership that we shall do the best we can to expedite the completion of our legislative schedule, and that we shall keep our promise to let the Members go home and face the public beginning October 4.

□ 1010

THE 72D ANNIVERSARY OF BIRTH OF PRESIDENT LYNDON B. JOHNSON

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, today, August 27, is the 72d anniversary of the birth of President Lyndon B. Johnson. Issues come and go, trends change, the pendulum swings back and forth; but through it all, the vision that President Johnson had for this country continues to shine, and the improvements he made in the lives of millions of citizens are still felt everyday.

As members of the same legislative body where L. B. J. began his political career, we can be inspired by his drive and appreciative of his accomplishments. Despite reduced budgets, despite the legitimate questions we have about the role and size of Government. President Johnson's goals that our system should provide equal rights and economic opportunities for all are as relevant today as they were throughout the sixties.

A new book has just been published about L. B. J., and it is fascinating. Merle Miller has done an oral history about President Johnson, and it contains the stories, the personality and describes the motivations that made this complex but very human person tick.

In the book, "Lyndon," Hubert Humphrey describes L. B. J. in this manner:

> He was an All-American President. He was really the history of this country with all the turmoil, the bombast, the sentiments, the passions. It was all there. All in one man.

Today, Mr. Speaker, we remember our friend, President Johnson, and respect his accomplishments. He was our education President. He had the most pleasant and effective relationship with the Congress than any of our Presidents. He knew the Congress, and the Congress knew him. History will rate him as one of our best Presidents.

WHAT IS A LAMEDUCK?

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, the majority leader's 3-minute 1-minute speech appears to indicate that a postelection lameduck session likely commencing November 12 is probable. However, the history of the 20th amendment illustrates that a lameduck session violates the spirit, if not the letter, of the law.

As Emanuel Celler, the longtime chairman of the House Judiciary Committee, said in 1932 when they were debating that proposition:

> What is a lame duck? A lame duck is a wild bird which has been hit with a bullet by a hunter and is brought down. It is not killed, merely lamed and wounded. It is usually tractable, docile and easily tamed.
>
> So it is with lame ducks in the House and probably in the other House. They have been hit with the shot of their constituents and become very lame, docile, and tractable.
>
> Now, it seems to me inconceivable that for these many years lame ducks defeated by their constitutents have been able to come back to the House and vote on any proposition, be it appropriations or whatnot.

Mr. Speaker, if one would go through the CONGRESSIONAL RECORD and read the debate in 1932 surrounding the consideration of the 20th amendment, it becomes obvious that the main reason for adopting that amendment was to rid this institution of the practice of lameduck sessions. I would hope that we would not retreat to that pre-20th amendment position this year.

PRESIDENT CARTER DEFENSE CUTS LEAD TO WRONG ARMY IN WRONG WAR IN WRONG DECADE

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, if we may tear ourselves away from ducks of all stripes for a moment, I would like to call the attention of the House to an article in this morning's Baltimore Sun by Charles W. Corddry, an outstanding military correspondent. The article reveals that the Secretary of the Army, Clifford Alexander, and the Chief of Staff of the Army, Gen. Edward C. Meyer, have told Secretary of Defense Brown that the plans of the administration currently being discussed for the 1982 fiscal year budget are about to destroy the effectiveness of the U.S. Army. What was hitherto a secret memorandum reveals the Carter administration's total insincerity about building up our defenses and, in fact, the memorandum that I quote says:

> This is the wrong army prepared for the wrong war in the wrong decade.

The article details substantial cuts being planned by President Carter in the Army and its weapons, even to the point where his own Secretary of the Army says that the Army will lose its effectiveness to respond in the near future to any crisis that may occur. I think this is worthy of debate in the campaign, and I hope that Mr. Carter will explain why he is following this path while uttering soothing words of reassurance about our defense capabilities in public.

The article follows:

Army Leaders Say Cuts Would Result in Unpreparedness

(By Charles W. Corddry)

Washington.—The Army secretary and chief of staff have accused Defense Secretary Harold Brown's staff of making such drastic changes and cuts in planned programs that the Army would not be combat-ready, modernized or able to sustain itself in a protracted conflict.

In a harsh internal Defense Department document, Secretary Clifford L. Alexander, Jr., and Gen. Edward C. Meyer, the chief of staff, told Mr. Brown that the effect of his staff's decisions would be "the wrong Army prepared for the wrong war in the wrong decade."

In seeking to reverse program decisions advanced for the next budget, which goes to Congress in January, the Army leadership said minimum money needs for fiscal 1982 had been cut $1.4 billion below the level Mr. Brown himself issued in guidance in February.

They said $7.2 billion had been sliced from the five-year plan for fiscal 1982 through 1986 envisioned in Mr. Brown's "consolidated guidance" to the armed services.

The protests were sure to heighten the political debate being conducted against the background of Republican presidential candidate Ronald Reagan's claims of defense shortfalls.

The Army secretary and top military officer contended that the Pentagon staff actions raised questions about the "integrity" of the entire planning process.

Among their specific complaints, which filled eight single-spaced pages, were these:

Recent Program Decision Memoranda (PDM), prepared in Mr. Brown's office, canceled a secret new nuclear warhead for the 1,200-mile range Pershing II missile and a new nuclear shell for the 155-mm. howitzer. Both previously were primary objectives for updating tactical nuclear forces in Europe in the fiscal 1982–86 plan.

PDM among the last steps before submitting a budget to the president, demonstrated a lack of clear strategy and plans for using the Rapid Deployment Force, the all-service force for employment in remote trouble spots such as the Persian Gulf.

Higher priority was given to buying equipment for the force while the Army's numbers of lightly equipped battalions, suitable for rapid deployment, were threatened with reduction. Another "inconsistency" was the cut in planned ammunition stocks for the Army part of the Rapid Deployment Force from a 90-day to a 30-day supply. This was said to be counter to Mr. Brown's original guidance and to degrade significantly the Army's fighting ability.

War reserve stock level goals for major Army items were cut from 30 days to 15 days. The Army leadership contended this would be unacceptably low and would throw the service's procurement programs into disarray.

The support forces that each Army division in Europe would need by the 10th day after mobilization would number 22,000 men in various back-up units. Mr. Brown's staff ruled that 16,000 would be allowed.

The forces projected by the program decisions would not be capable of responding to potential challenges. The Army must have more resources, the leaders said, if it is to be the ground force that natural strategy calls for.

Since the critique was sent to Mr. Brown, he has met with service leaders to work on amended program decision memoranda. But sources indicated the Army made slight headway.

The Alexander-Meyer document was seen as the result of continual changes in original guidance to the Army since last winter. It will serve as a record for later appeals to President Carter and to Congress, in a year in which the disposition and the political pressures are to expand defense budgets.

The first full budget proposal for fiscal 1982 is to be assembled by September 15 for Mr. Carter's review.

The Army budget for the current fiscal year is $34 billion and for fiscal 1981, starting October 1, it will be about $40 billion. The likely range for fiscal 1982 is $45 billion to $48 billion.

The signature of General Meyer—handpicked by Mr. Carter over several senior generals—on the protest document was an indication of strong personal and professional feelings about the Army's fate, and, in the judgment of observers, of a willingness to put his career on the line.

He and Mr. Alexander left no doubt of their strong conviction that Mr. Brown's staff had ordered course changes in midstream and opened wide gaps between Army responsibilities and capabilities.

The Army created by the decision memoranda, they contended, would have "neither near-term readiness, modernization or sustainability."

It was not only the financial cuts they protested but the way in which the Brown staff ordered them to arrange programs.

The new Patriot air defense program, they said, was stretched out to make room for more of the short-range, European-designed Roland antiaircraft missiles. Delaying the Patriot's arrival in Europe by several years was a prime example of how the program decisions had degraded modernization of air defenses against an increasing Soviet aircraft threat, they said.

The decisions would cut the Army's planned purchase of Blackhawk utility helicopters to 40 percent of the need and would end a program for providing airborne target-detection and radar-jamming systems in the Blackhawk's basic airframe, they also said.

The two leaders cited, as additional evidence of "undermining" Army priorities, a decision lowering emphasis on a new attack helicopter armed with the Hellfire antitank missile in favor of items accorded lesser importance by the Army.

The Army heads strongly urged reversal of the decision against producing a new nuclear shell for 155-mm. howitzers, arguing current rounds have limited tactical use. Cancellation of the new weapon could produce adverse political reaction among allies, they contended.

In stating their worries about a slowdown and directed changes in the Army modernization program, the secretary and the general said the Soviet Union now holds qualitative and numerical superiority in most areas in ground forces.

They said Mr. Brown's office had "ignored" the sort of modernization program they considered essential to provide quality equipment for the Army in an orderly sequence.

PRESIDENT'S FIFTH ECONOMIC PLAN OF 1980

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, this morning I am interested in the much ballyhooed new economic plan to be announced shortly by the White House, because I think it raises some serious questions about whether the plan is intended to improve the Nation economically or Mr. Carter politically.

This is the fifth economic plan of 1980. In January, the President submitted a budget with a $16 million deficit. It cost a million dollars just to print it, and it was discarded and completely revised in 6 short weeks. In February, the President decided to embrace a balanced budget, but that did not last long. We now know the deficit is going to be near $50 billion.

On March 14, the President panicked and threw the country into a recession, millions of people out of work, with heavy-handed reckless credit policies. In June, he changed course again. He removed the falling credit restrictions and has muttered incoherently about tax cuts and jobs all summer long.

Now, he says he has found it. Is it political or is it economic? Since 1976, when the President first promised a balanced budget, we have had the highest peacetime tax burden, runaway Federal spending, two additional departments of Government, the highest inflation and interest rate ever, and the steepest economic decline since World War II.

I think it is much more reliable to look at the record than to look at the promises.

GROWTH IN GOVERNMENT

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, the American people have been expressing time and time again their concern about the growth of Government. Only the recent Democratic Convention, which was made up of 40 percent Government employees, seems unconcerned about the growth of big government.

A study I recently completed shows why the American people should be concerned about that growth. Over the last 25 years, the Federal Government has spent $6 trillion, 49 percent of which has been expended in the last 4 years. That represents a 799-percent increase in Government growth in that period of time, 25 years, and a 1,944-percent increase in social welfare spending.

In constant dollars, the situation over 25 years is even more disturbing, with a 116-percent growth in government as a whole, a 531-percent increase in social welfare spending, and only a four-tenths of 1 percent increase in defense spending.

Mr. Speaker, the American people have a right to be concerned about growth in Government.

THE 1-MINUTE SPEECH

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute.)

Mr. MITCHELL of Maryland. Mr. Speaker, my colleagues, the quality of the 1-minute speeches, particularly those which are vehemently partisan, has deteriorated to the point that I now have to play some word games while I listen to them. This morning, I played a word game beginning with "C" in the alphabet, trying to think of words that might describe these vehemently partisan 1-minute speeches.

Choler, meaning bilious;

Carping;

Cantankerous;

There is the word "cant," meaning insincere use of pious phraseology;

Catastrophe, an utter failure;

Chafing, as in irritating;

Crochety, as in annoying;

Clamor, as in din;

Clatter, as in rattling; and

Finally we come to the word "crud," something disagreeable or contemptuous.

DEMOCRATS ARE RESPONSIBLE FOR LAMEDUCK SESSION

(Mr. ERDAHL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERDAHL. Mr. Speaker, a few moments ago we heard the majority leader criticize the Republicans for two significant things. One was for voting against a balanced budget, which I think every Member of this House and the American people should know is not a balanced budget; it is a phony balancing. Even today it could be out of balance to the extent of between $30 and $40 billion.

The other charge which needs a response was to accuse the minority of controlling the schedule of this House, and possibly bringing about a lameduck session. Here too, every American should know that every single committee chairman, every single subcommittee chairman, and every committee is controlled by the majority of this Congress. The majority sets the schedule. The majority is responsible for a lameduck session which might occur, which the American people do not want.

To accuse the minority of this House for setting the schedule and possibly causing a lameduck session is like blaming the tail for wagging the dog.

□ 1020

RECESS OF THE SENATE FROM WEDNESDAY, AUGUST 27, 1980, TO WEDNESDAY, SEPTEMBER 3, 1980, AND ADJOURNMENT OF THE HOUSE FROM THURSDAY, AUGUST 28, 1980, TO WEDNESDAY, SEPTEMBER 3, 1980

The SPEAKER laid before the House the privileged Senate concurrent resolution (S. Con. Res. 118) providing for a recess of the Senate from August 27 to September 3, 1980, and an adjournment of the House from August 28 to September 3, 1980.

The Clerk read the title of the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 118

Resolved by the Senate (the House of Representatives concurring), That when the Senate completes its business on Wednesday, August 27, 1980, it stand in recess until 10 o'clock a.m. on Wednesday, September 3, 1980, and that when the House completes its business on Thursday, August 28, 1980, it stand adjourned until 12 o'clock noon on Wednesday, September 3, 1980.

The SPEAKER. Without objection, the Senate concurrent resolution is concurred in.

Mr. BAUMAN. Mr. Speaker, are we permitted to debate this matter?

The SPEAKER. No, it is not debatable.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wondered whether any Member intended to explain the necessity for the recess, in view of the fact there has been some objection quite obviously from the minority about recessing at all because of the announced lameduck session.

Is there any Member who wants to justify this and tell us why we should not stay here and do the business of the people?

The SPEAKER. The Chair will state that this is a long-announced recess, since the beginning of the year, and Members from both sides of the aisle expect to be home, of course, and in their district through Labor Day.

The gentleman from Maryland lives within driving distance of the Capitol, and he can go home on a daily basis, but the leadership must take into consideration those who live on the west coast and those who live in southern and northern sections of the country. The leadership, I am sure, was in agreement with this earlier in the year when the schedule for for the year was printed.

The question comes on adoption of the Senate concurrent resolution. Without objection——

Mr. BAUMAN. Mr. Speaker, I would further reserve the right to object, unless the Chair wants to put the question.

The SPEAKER. The Chair would like to put the question unless the gentleman desires to say something further. Does the gentleman reserve the right to object to adopting the concurrent resolution by unanimous consent?

Mr. BAUMAN. I reserve the right to object, Mr. Speaker.

I am only saying, Mr. Speaker, that the legislative schedule has been changed before. We have been told that we will recess on October 4, as opposed to staying and completing our work, and then we will come back into further session after the election. If that kind of a major change can be made, it seems to me there is still time for us to consider the possibility of staying in session, as has been suggested by the minority leader, the gentleman from Arizona (Mr. RHODES).

The SPEAKER. The Chair will put the question, and the Members, if they desire to vote on it, may vote as they see fit.

Mr. BAUMAN. I thank the Chair and I urge a vote against the recess so that we can stay here and finish our business and avoid a lameduck session.

The SPEAKER. The question is on the Senate concurrent resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Tht SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 155, not voting 36, as follows:

[Roll No. 495]

YEAS—241

Addabbo
Akaka
Albosta
Alexander
Anderson, Ill.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Badham
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Byron
Cavanaugh
Chisholm

Clay
Cleveland
Coelho
Collins, Ill.
Corman
Cotter
D'Amours
Daniel, Dan
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
English
Ertel
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Fuqua
Garcia
Gephardt

Giaimo
Gibbons
Ginn
Gonzalez
Gore
Gramm
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hinson
Holland
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leath, Tex.
Lehman
Leland

Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Lundine
Luken
McCormack
McDonald
McEwen
McHugh
McKay
Maguire
Markey
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Montgomery
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Quayle
Rahall
Rangel
Ratchford
Richmond
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Satterfield
Scheuer
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Solarz
Spellman
Stack
Staggers
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Whitley
Whitten
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Young, Mo.
Zablocki
Zeferetti

NAYS—155

Anderson, Calif.
Andrews, N.Dak.
Archer
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Broomfield
Broyhill
Burgener
Butler
Campbell
Carney
Carr
Carter
Cheney
Clausen
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Derwinski
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Fish
Forsythe
Frenzel
Gilman
Gingrich
Goldwater
Goodling
Gradison
Grassley
Green
Grisham
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hansen
Harsha
Heckler
Hillis
Hollenbeck
Holt
Hopkins
Horton
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lungren
McClory
McCloskey
Madigan
Marks
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
O'Brien
Pashayan
Paul
Petri
Porter
Pritchard
Pursell
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Stanton
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wylie
Yatron
Young, Fla.

NOT VOTING—36

Abdnor
Ambro
Applegate
Bonker
Bowen
Brown, Ohio
Burton, John
Chappell
Conyers
Deckard
Devine
Dodd
Evans, Ga.
Findley
Ford, Mich.
Frost
Gaydos
Glickman
Holtzman
Ichord
Leach, La.
Lederer
McDade
McKinney
Mathis
Mollohan
Moorhead, Pa.
Myers, Pa.
Nedzi
Reuss
Thompson
Watkins
Whitehurst
Wilson, C. H.
Wilson, Tex.
Young, Alaska

Messrs. GOODLING, SEBELIUS, GREEN, MOORE, PURSELL, and KELLY changed their votes from "yea" to "nay."

Mr. FLIPPO changed his vote from "nay" to "yea."

So the Senate concurrent resolution was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1030

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. NATCHER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7998) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1981, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Illinois (Mr. Michel) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7998, with Mr. Fuqua in the Chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Kentucky (Mr. Natcher) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. Michel) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. Natcher).

Mr. NATCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, one of the nicest things that has happened to me since I have been a Member of Congress is the opportunity that I have had to serve on the Subcommittee on Labor, Health and Human Services, Education and Related Agencies Appropriations. On this committee we have Bob Michel, of Illinois, Neal Smith, of Iowa, Silvo Conte, of Massachusetts, Ed Patten, of New Jersey, George O'Brien, of Illinois, Dave Obey, of Wisconsin, Carl Pursell, of Michigan, Ed Roybal, of California, Louis Stokes, of Ohio, and Joe Early, of Massachusetts.

These are all able Members of the House, Mr. Chairman.

As you know, our friend and colleague, Ed Patten, of New Jersey, is retiring at the end of this Congress and he will be missed by all of us. This will be the last regular bill that he will assist us present to the Congress.

Ed Patten is a kind, considerate man. He is a man of fine judgment with the courage to carry out his convictions, a true public servant. Throughout his long career in public life, he has been a friend of the working people, small business, industry, the farmers, professional people, and the veterans. In every position that he has served in either private or public, he has achieved distinction. His service in all of his assignments has been marked by a high sense of conscience and duty. He loves people and they in turn, love him. His contributions to better Government will long be remembered. Ed Patten has been good for the State of New Jersey and for the United States of America.

Mr. Chairman, today we present to the House the 1981 appropriation bill for the departments of Labor, Health and Human Services, and Education, and several related Government agencies. This is one of the largest and most complex appropriation bills that come before the House each year.

The total budget authority recommended in the bill is $84,551,710,000. In addition to this amount, we authorize the use of $201,556,762,000 in various trust funds such as unemployment compensation, social security, and railroad retirement. The grand total of appropriations, trust funds, permanent appropriations, and interfund transfers is $274,398,131,000. That is an increase of $29,991,967,000 over the grand total for all these programs in 1980.

This bill is $5,654,000 under the President's budget estimates for fiscal year 1981. It is $4,610,198,145 over the appropriation for 1980.

While the total amount in the bill is just under the President's budget total, the committee had to make many adjustments to individual programs because the budget proposed major cutbacks or terminations. The gross increases in the bill amount to $1,170,541,000 but they are offset by gross decrease of $1,176,195,000. So we tried to move funds around within the budget in order to maintain current funding levels wherever we could. We wanted to take care of programs which were omitted in the budget or which were cut back from last year.

For the benefit of the Members I want to highlight some of the details of the committee's recommendations.

DEPARTMENT OF LABOR

The bill includes $11.892,977,000 for the Department of Labor a reduction of $277,211,000 from the budget request and $1,291,357,000 below the 1980 appropriation. In addition, the bill includes authority to expend $2,169,808,000 from the

Unemployment Trust Fund, the amount requested and an increase of $211,109,000 over 1980.

The committee recommended $3,492,000,000 for public service employment under CETA. This will finance 369,000 jobs in 1981, about the same as the expected 1980 level. The Committee reduced the budget by $236,800,000 in title II–D because of a lower than expected enrollment level in 1980.

The bill includes $136 million for the Young Adult Conservation Corps, an increase of $12,128,000 over the budget request. The amount in the bill, together with expected carry-in funds from 1980, will support 12,600 service-years in 1981, an increase of about 900 over the level that could be funded with the budget request.

The committee made a reduction of $25,500,000 in CETA title III discretionary funds, to a revised level of $305.1 million. The committee turned down the budget increases totaling $5.5 million for research and development and technical assistance and training. We also made a reduction of $20 million in the base for other title III programs. The budget justification for these discretionary funds was very sketchy.

The committee added $10 million to the budget for community service employment for older workers. The revised total of $277.1 million will provide about 54,200 part-time jobs, an increase of about 2,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The bill contains $57,120,574,000 in budget authority for the new Department of Health and Human Services. This is the first appropriation bill which allocates funds separately to this new Department which came into existence as a result of the creation of the Department of Education. The amount recommended in the bill for health and human services programs is $5,284,464,000 more than available for these activities in 1980 but $336,605,000 less than requested by the President. In addition to the funds appropriated in this bill, this Department is charged with responsibility for administering $177,457,171,000 of trust fund programs—principally the social security retirement, disability, and health insurance activities.

Approximately $44 billion of the $57 billion included in this bill is allocated to the "entitlement" program administered by the Department. These include $2.9 billion for title XX social services programs, $7.3 billion for aid to families with dependent children, $7 billion for supplemental security income, $1.1 billion for black lung benefits, and $25.8 billion for the Federal funds share of medicare and medicaid. The committee has approved the President's budget request for these so-called mandatory or uncontrollable programs. These activities form the basis of our income security and health insurance programs for the needy. More than 50 million Americans are expected to benefit directly from these programs in 1981.

The committee has made a number of changes to the President's budget request for controllable or discretionary programs. This was done because of the committee's rejection of certain reductions proposed by the President and its desire to increase certain other programs but to keep the overall bill within the total requested by the President and provided for under the budget resolution. Among those areas to which the committee added money over the request were:

The National Institutes of Health, an additional $126 million for a total of $3,616 million.

Alcohol and drug abuse formula grants, an increase of $80 million to restore these programs to 85 percent of their funding level.

314(d) health incentive grants, an increase of $36 million to partially restore this program which the President proposed be eliminated.

Health planning, plus $15 million.

Emergency medical services, plus $8.9 million.

Included in those programs which the committee recomended be reduced below the level recommended by the President are:

Low-income energy assistance, minus $400 million for a total of $1,800 million.

Title XX social welfare training, minus $55 million.

Alcoholism project grants, minus $35.3 million.

Alcohol, drug abuse, and mental health research, minus $16.6 million.

Community health centers, minus $28 million.

Professional Standards Review Organization, minus $19 million.

Work incentives, minus $20 million.

In most cases the committee has recommended deletion or reductions in the amount of the increase proposed by the President rather than cutting programs below 1980 funding. As an example, while the recommendation for low income energy assistance is $400 million below the amount recommended by the President, it is $200 million more than available for this purpose in 1980. The committee has approved substantial increases over 1980 in a number of areas as requested by the President including the new child welfare services program ($163.5 million) and refugee assistance ($690 million).

DEPARTMENT OF EDUCATION

For the new Department of Education, the committee bill includes $14.137,984,000 over the President's budget request. The total amount recommended by the committee is $68.215,145 over the 1980 appropriation for education.

The President's budget proposed major cutbacks in several education program, such as impact aid, direct student loans, vocational education basic grants, support and innovation grants to school districts, public service, and mining fellowships. The committee restored these programs to approximately the level of 1980 appropriations.

For elementary and secondary education, we recommend $3,838,135,000. The largest program in this area is title I grants for disadvantaged children where the committee provides $3,369,772,000 for basic grants to State and local educational agencies. This is an increase of $254,179,000 over the 1980 appropriation. For concentration grants, we provide $145,000,000 an increase of $45,000,000 over last year.

For support and innovation grants to States and local school districts, the committee recommends $142,400,000, an increase of $46,400,000 over the budget. The committee amount is $55,000,000 less than last year which will mean that there will be a reduction in the number of innovative projects from 7,500 to 5,000 next year.

In this bill, we have $740,000,000, an increase of $406,000,000 over the budget request for school assistance in federally affected areas. Category B payments were reduced by $271,000,000 in the budget and we restored $224,000,000.

For equal educational opportunities, we recommend $292,008,000, a slight reduction from the 1980 appropriation. For education for the handicapped we recommend $1,102,050,000 an increase of $53,025,000 over last year. For vocational and adult education we restored the $37,500,000 reduction proposed for vocational education basic grants and approved a $20,000,000 increase for adult education.

For student assistance, we recommend the sum of $3,356,550,000 an increase of $200,800,000 over the budget request. For basic opportunity grants, we include the budget figure of $2,159,000,000 to continue the current program level. We recommend $370,000,000 for supplemental opportunity grants and $550,000,000 for work study. There was no budget request for direct student loans, but we provided $200,800,000 for this program.

For the student loan insurance fund, we approved the budget request of $1,390,990,000. We will need to reconsider this matter after the enactment of pending legislation which revises the guaranteed student loan program.

Mr. Chairman, for other higher education programs we recommended $407,689,000 which is an increase of $17,150,000 over the budget request. For school improvement programs, we recommended $166,973,000, a reduction of $7,480,000 from last year.

RELATED AGENCIES

The bill includes $1,400,175,000 for the related agencies, a reduction of $13,869,000 from the budget and an increase of $48,878,000 over 1980.

For the domestic programs of ACTION, the bill provides $158,047,000, a reduction of $11,107,000 from the budget but an increase of $12,463,000 over the 1980 amount. Included are $33.8 million for VISTA and $88.9 million for older American volunteer programs.

The committee recommends $537.8 million for the Community Services Administration, a net reduction of $1 million from the budget and $9.5 million below last year. Included are $394.3 million for community action agency funding and $6 million for the national youth sports program.

□ 1050

Mr. MICHEL. Mr. Chairman, I yield myself 13 minutes.

Mr. Chairman, as our distinguished chairman indicated, this bill contains $84.5 billion, the largest by far of all our domestic appropriations bills.

When the trust funds, such as social security and unemployment compensation, are added in, the total comes to $274 billion. This amounts to 43 percent of the total Federal budget.

I have been preaching for some time now on the need to place restraints on our entitlement programs, and this bill provides a graphic indication as to just how uncontrollable our entitlement programs have become.

The amount in the bill itself represents a 5.7 percent increase over the 1980 level. However, when the trust funds are added in, the total of $274 billion represents a 12 percent increase. That is because the trust funds themselves have gone up by 15 percent over 1980.

The impact of entitlements is even more striking when we look at the individual parts of this bill. Of the $4.6 billion by which the bill is above 1980, $1.3 billion represents increases for medicaid, $1.6 billion for medicare, $681 million for SSI, $92 million for black lung, and $1.4 billion for AFDC. These increases added together amount to $5.1 billion. To be sure, the bill shows some offsetting reductions due to shifts of funds from one year to another, but these figures do indicate that the bulk of the increases in the bill have resulted from these uncontrolled entitlements.

And that is not all. This bill does not contain $4.2 billion in additional unemployment funding which the administration indicates will be required, nor does it include another $1.3 billion which CBO estimates will be needed for medicaid, AFDC, and SSI.

So it is very evident from these figures that something must be done to restrain these uncontrollable entitlement programs if we are ever going to control Federal spending. Some positive steps have been taken as part of the reconciliation process, but we need to do a lot more.

High cost increases for entitlement programs are also reflective of a malfunctioning economy. Some of these increases are due to automatic cost-of-living increases resulting from high rates of inflation, and others are due to high rates of unemployment which increase the number of needy recipients. Taken together, they show just how badly the Carter administration has mismanaged the economy.

I mentioned earlier the $4.2 billion for increased unemployment costs which the administration has recently requested. You might be interested in knowing that over $23 billion is now expected to be paid out in unemployment benefits in 1981, an increase of $8 billion, or 53 percent, over the original estimate of just last January, and $9 billion above the 1980 level.

Thirteen million Americans are expected to receive unemployment benefits in 1981. As a comparison, just 8.3 million were paid unemployment benefits in 1979. At present, some 3.6 million are receiving benefits, compared with 1.3 million just 1 year ago.

Because most of the increases over 1980 in this bill are in the entitlement area, I have to say that overall it is a reasonably good bill. This is the first time in a long while that I have been able to say that about a Labor-HEW bill.

To be sure, there are a number of discretionary areas where reductions could be made, but the bill does come out below a reasonably tight budget by $5.6 million. Last year, the bill also came out below the budget, but then it was done with mirrors. This year the figures are reasonably straightforward, although with a few caveats.

For instance, we have not included some $609 million of items in the budget which are unauthorized. Last year, $932 million was appropriated for these items, including the health manpower programs in which the President has proposed significant reductions. So, if at some point along the line we end up restoring some of these proposed reductions, which seems likely, the overall appropriation level will surely exceed the budget.

Besides the unauthorized items, this bill also excluded $2.7 billion in new programs proposed by the President, including the youth initiative.

The biggest increases in the bill over the budget are $336 million for impact aid, $200 million for the direct student loan program, and $126 million for NIH. These are offset by decreases of $400 million in the low income fuel assistance program, and $250 million for CETA.

MICHEL AMENDMENT

Before touching on some of the specific items in this bill, let me state that we have not included any reduction for waste, fraud, and abuse, as has been included in the final version for the past 2 years. The Department of HEW has simply not produced the savings we have mandated. In 1980, for instance, they have projected savings of only $50 million of the $500 million we required. I do not know how we can enforce it, because if we do seek to mandate the savings, they simply take the money away from the States in an arbitrary fashion.

We do have in effect the error rate standards requiring that the States reduce their AFDC and medicaid error rates to 4 percent by 1982, and I think this offers our best long-run hope for producing savings through reduced waste. For instance, if the 4 percent error rate standard were in effect today, it would produce Federal dollar savings of $393 million in AFDC and $236 million in medicaid, for a total of $629 million.

I thus do not intend to offer a waste, fraud, and abuse amendment this year, because, unfortunately, it would simply represent a spinning of our wheels.

LABOR DEPARTMENT

CETA: The budget proposed an enrollment level at the end of 1981 of 240,000 jobs for the title II–D public service employment program, and 149,000 jobs for the title VI program. We have gone along with those levels, except that we have assumed a lower starting level for the II–D program, and thereby have reduced the budget estimate by $236 million. That assumption may not be all that sound, since the July enrollment level is already above the assumed starting level.

We have provided a small increase over the budget for the Young Adult Conservation Corps program, but the amount will still result in a cutback in this program below the 1980 level.

The language we added last year restricting the use of CETA funds for prisoners has been included in the bill again this year. We also included report language stating that the restriction does not apply to training. This language was needed to correct a misinterpretation on the part of the Labor Department.

Unemployment benefits: We have included $222 million to pay unemployment benefits to former public service employment jobholders. I never thought this was a proper expenditure, and it is encouraging to note that the Ways and Means Committee has proposed elimination of this payment as part of its reconciliation package. If this provision is adopted, we could see a reduction of about $50 million in this account in 1981, and much larger reductions in succeeding years.

Likewise, there is a reconciliation provision pertaining to ex-service personnel, who also receive benefits under the FUBA account. That provision could reduce costs by $45 million below the level we provided.

Employment service: One of the reasons the military is having difficulty in recruiting volunteers for the Armed Forces is the uncooperative attitude of the employment service. We have thus included report language on page 9 directing the Secretary of Labor to confer with the Secretary of Defense on ways and means by which the Labor Department can be more helpful in meeting military manpower needs.

Women in construction: You have probably heard from many of the contractors in your districts about the arbitrary "goals and timetables" for the employment of women being imposed upon them by the Labor Department. Contractors are unable to meet these standards because there are not enough trained women nor enough apprenticeship slots available for such training. Yet the Department has been emphasizing enforcement activities over the need to provide additional training opportunities.

We have included report language, on page 12, directing the Department to turn these priorities around, and to administer the program in a more uniform, less arbitrary manner, and with a little less redtape.

OSHA: The bill contains about $10 million for program expansion, over and above regular inflationary increases. This includes an additional $2 million for the development of new regulations, something which I really do not think we need at this point in time. You might also be interested in knowing that, despite President Carter's promise in 1976 to reduce Federal regulations, the number of OSHA regulations has gone up by a net of 94 pages in the Federal Register during the first 3 years of his administration.

We have retained all the limitations enacted last year except for the Schweiker amendment, which exempts small businesses with good safety records from inspections. I do not think there was any sound basis for leaving out that language.

Mine Safety Administration: We have retained in the bill the language we added last year prohibiting the Department from applying its detailed training standards to shell dredging or to sand, gravel, or limestone mines.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Community health centers: We reduced the budget request by $28 million, to $325 million. This still provides a $5 million increase over 1980. This program has received a significant increase in funding over the past few years, and we felt that it was now time for a greater effort to be placed on obtaining funds from other sources, such as third-party insurers, as well as to improve the management of the program.

Family planning: We provided $166 million, an increase of $4 million over both the budget and the 1980 level. I should mention that other HEW programs will be providing another $250 million for family planning in 1981, an increase of $26 million, or 12 percent, over 1980.

Emergency medical services: The budget proposed a substantial reduction, but we restored $9 million of it, bringing the total to $30 million. This is a proven program that saves lives and reduces health costs, but the administration wanted to cut it off in midstream. We said "no".

Health incentive grants (314–D): The administration wanted to eliminate this $68 million program of formula grants to the States, but we restored $36 million of it. The original amount under this program amounted to only 2.3 percent of all State public health expenditures, so they ought to be able to absorb the partial reduction.

NIH: The bill provides a $126 million increase over the budget, and a $187 million increase over last year. While this increase is slightly smaller than in previous years, I still felt we could have lived within the budget recommendations. The budget contained sufficient funding to provide a stabilized level of new and competing research grants, a goal which has been our prime objective over the past few years.

The bill contains a $36 million increase for research training grants, and among the Institutes, Cancer receives the biggest overall increase over the budget—$36 million.

Mental health: We reduced the budget request for the various mental health programs by $38 million. This still provides a $41 million increase over last year. The budget request represented a 16-percent increase, which was excessive.

Alcoholism and drug abuse formula grants: We have restored most of the funding for these formula grants to the States, which basically represent the core of the effort to fight alcoholism and drug problems. The administration proposed elimination of these programs, which was hard to understand in view of the continuing serious problems in these areas.

Health planning: The administration proposed a 30 percent, or $38 million, reduction for local health planning agencies, another reduction difficult to understand in view of the role such agencies play in trying to limit health costs. We restored $15 million of the reduction and suggest in the report that other health planning funds ought to be shifted to the local agencies. I would also suggest to the administration in view of its push for a reduction here, that it not require the agencies to perform all the functions provided in the law. It is obviously unfair to require agencies to perform tasks and then cut the funding necessary to allow them to do so.

PSRO's: The administration proposed a nearly $50 million, or 33-percent increase. We cut it to $30 million.

Low income energy assistance: The bill provides $1.8 billion, a reduction of $400 million below the budget but $200 million, or 12 percent above last year. If the States distribute this money only to those most in need, rather than to everybody in an income category, whether they really need the money or not, this increase should go even further toward helping the truly needy. We have also limited assistance to a maximum of $500 per household. Last year, States were making payments as high as $1,400 per household, which is ridiculous.

In addition, we have changed the formula from that contained in the windfall profits bill. Under that windfall profit formula, some cold weather States would actually lose funds, despite an increase in funding for the overall program. The formula in this bill would better spread the increases around and would insure that no State receives less than it did in 1980.

Refugee assistance: The bill contains $690 million for refugee assistance, nearly equal to the budget request and $173 million above last year. An additional $50 million for 1981 was included in the recently enacted supplemental.

Social services: We have provided the authorized level of $2.9 billion for grants to the States under title 20.

We also provided $163 million for child welfare services, the new program established by H.R. 3434. This is the amount requested by the Ways and Means Committee.

We have retained the 1980 ceiling of $75 million for State and local training, thus reducing the budget by $55 million. Most of the increase would have gone directly to institutions of higher education and was not really needed.

Head Start: $820 million is provided, an increase of $85 million over the 1980 level and equal to the budget request.

Aging: A total of $683 million is provided for the various aging programs, such as nutrition, social services, et cetera, an increase of $10 million over the budget and $31 million over 1980.

Day care regulations: The Department has recently issued a set of heavy-handed regulations prescribing Federal standards for day care. These regulations basically dictate the manner in which day care centers are to be operated, the number of staff per children, services to be provided, et cetera. This has basically been a State and local responsibility up to now, and there is no sound reason for the Federal Government to come in and establish such detailed standards.

The estimated cost of implementing these regulations over the next 4 years is $35 million to the Federal Government—not counting substantial additional amounts for training under the State and local training program—and $400 million to States and localities. The Department is also requesting 40 additional positions to implement these regulations.

The Senate version of the budget reconciliation bill contains a provision which delays the implementation date of the regulations for a year. I would hope, rather than us having to deal with the issue here, that the House conferees on the reconciliation bill would accept the Senate provision in this regard.

DEPARTMENT OF EDUCATION

Title I: For the most part we went along with the budget request, with some small adjustments here and there in the individual parts. A total of $3.5 billion is provided.

Support and innovation: The budget proposed a $100 million reduction in this program, and we restored about half of it. I think we could have made a bigger reduction in the State agency management part of this program, where the funds basically go to pay State salaries.

Impact aid: We restored most of the reduction proposed for this program, thus increasing the budget by $376 million, to a total of $790 million. My own long-established view, of course, is that a much sharper reduction could and should have been undertaken.

Emergency school aid: We cut the budget request by $34 million, and did this by eliminating most of the proposed increases over the 1980 level.

Education for the handicapped: We went along with the budget request of $1.1 billion, which is a $53 million increase over 1980. This represents enough to cover increased costs as well as to provide services to an additional 50,000 handicapped children.

Vocational education: We funded all the vocational programs at last year levels, thus restoring budget reductions of $54 million.

Student assistance: We went along with the budget request for the BEOG program, and restored $200 million to continue operation of the direct loan program. The BEOG amount will allow an increase in the maximum grant award to $1,800, up $50 from the 1980 level. A total of 2.5 million students will be receiving awards.

We left out a portion of the guaranteed loan funds, due to a lack of authorizing legislation.

Teachers centers: We reduced the budget request for teacher centers by $1.3 million, to last year's level of $13 million. This item gives me cause for concern, because it appears that the NEA is trying to muscle in and take control of the operation of these centers. Most of these centers are operated by local school districts, but the law requires that the governing boards for the centers be comprised with teachers as a majority. The NEA in many cases is controlling the selection of teachers to these boards.

Frankly, there appears to be little justification for even having these centers. All they do is provide additional training and advice to teachers which is already available in the schools of education of our colleges and universities. This is another of those small, categorical programs which should never have been started in the first place and ends up being used by special interest groups to further their own ends.

Bilingual regulations: Let me take a minute to discuss some language we included in the committee report pertaining to the bilingual regulations recently proposed by the Department of Education.

When we had the legislation before us creating the new Department, we heard all sorts of promises by its proponents that it would not interfere with local decisionmaking. Yet one of the first things out of the box from the Department is a regulation dictating how local school districts are to educate non-English-speaking children.

Let me cite for you just how specific those regulations are in this regard:

First. They require non-English-speaking children to be taught basic courses in their native languages.

Second. They prescribe the specifics of how such children are to be identified and assessed. They require all children to take achievement tests and arbitrarily state that all children scoring below a 40th percentile are to be considered non-English speaking.

Third. They prescribe specific class sizes and composition.

Fourth. They prescribe staffing requirements, qualifications for teachers, and teacher training requirements.

Fifth. They prescribe specific criteria for notifying parents.

Sixth. They establish additional recordkeeping requirements.

The additional cost to school districts of complying with these regulations will range between $180 and $590 million, according to the Department's own cost analysis.

It is absolutely ridiculous that the Federal Government should go this far in dictating local educational policy. The Civil Rights Act does not require it; the Supreme Court has not called for it; the act creating the Department prohibits it; but yet here we have it. The Department has become a law unto itself.

The time to nip this Federal usurpation of local authority is in the bud, before the regulations are finalized. That is why we included report language, and let me read it to you, because it is a very clear and specific message to the Department.

The committee is concerned about regulations proposed by the Department which would dictate to local school districts the methods and procedures by which they are to educate non-English-speaking children, at a potential additional cost of hundreds of millions of dollars to such districts. The law creating the Department of Education prohibits the Department from interfering with local decisionmaking in the areas of curriculum, administration, and personnel.

The committee believes that any final regulations should leave it up to local school districts as to how they provide equal education opportunities to non-English-speaking children. Specifically, such regulations should not require schools to teach basic courses in languages other than English, should not prescribe requirements for staffing, teacher qualifications, or teacher training, should not prescribe specific methods and procedures for identification and assessment, and should not prescribe class size or composition.

The Department has a responsibility for insuring that equal educational opportunities are provided to all children. It does not have any power or responsibility for specifying the methods used to provide such opportunities. If the Department feels it needs to establish regulations in this regard, then they should be of the broadest possible scope, allowing school districts many options. The enforcement activity should focus on whether a special effort is being made to assist non-English speaking students, and not on how it is being done.

RELATED AGENCIES

ACTION: The budget request has been reduced by $11.1 million. The amount in the bill still provides the agency a $12.4 million increase over last year. We cut the VISTA budget by $3.7 million, and the new volunteer demonstration program by $8.6 million, while increasing the Older American programs by $3 million. Sam Brown has never liked the Older American programs, basically because our senior citizens are not as easy to manipulate in the direction he wants to take the agency.

Community Services Administration: We basically went along with the budget for CSA, except that we restored $6 million to keep in operation the national youth sports program run under contract by the NCAA.

We also included language calling for management improvements by the agency, particularly in the area of procurements and audit follow-ups. Frankly, CSA is one of the worst run agencies in the Government. Even its own Inspector General has been highly critical. The General Accounting Office just last week issued a report strongly criticizing its management.

Where does the problem lie? It lies with the people appointed by President Carter to run the agency. When appointments are made with the primary objective of appealing to certain interest groups, and not on the basis of solid managerial expertise, you are going to have problems. And that is what we have and in CSA. I do not really look for much improvement until we get better talent over there.

Corporation for Public Broadcasting: The budget request of $172 million was approved. This represents advance funding for fiscal year 1983.

There has been some controversy surrounding the efforts of several public television stations to publish a magazine called DIAL and to solicit advertizing for it as a means of raising money. The issue is whether they will be directly or indirectly using Federal funds to help finance this endeavor, thus in effect using a Federal subsidy to give them an unfair competitive advantage over private commercial magazines.

The stations have stated that they will not be using Federal funds for the magazine, that the magazine will not be sold on newsstands, and that it will not be promoted on the air. I think the stations ought to be put on notice that we are going to be watching them in this regard, because we do have a fine line here, and we do not want to be in a position of either directly or indirectly favoring one publication over another.

Mr. NATCHER. Mr. Chairman, we have no further requests for time on this side, and I reserve the balance of my time.

Mr. MICHEL. Mr. Chairman, I yield 6 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, first I want to take this opportunity to compliment our chairman, BILL NATCHER, of Kentucky, not only for bringing out a good bill but for his fairness as chairman of this committee. I say in all sincerity, and I have been on the committee for 22 years, there is no man who chairs a committee better than BILL NATCHER. He is a gentleman, he is a gentleman with the witnesses, he is a gentleman and a fair player with all of the members of the committee.

I agree with every word he said about our good friend ED PATTEN who is leaving the committee. ED brought an unparalleled sense of humor to all committee proceedings. ED's exuberant and spontaneous personality added real heart to our committee. His wit and willingness to express himself graphically brought us all terrific joy. It is hard to describe ED's unique style on the floor, but to share it in committee is a rare treat. When issues got a bit heated and people got tight on some issue, ED PATTEN was always there to interject his sense of humor that would loosen all of us up. We are going to miss him. ED, you are a good man. You are a good man and you have served your people well. We love you, ED.

Those with eagle eyes among you—like my good friend, BOB MICHEL—have already noticed the very leanness of the Labor, Health and Human Services, and Education bill for fiscal 1981 that is before the House for consideration today.

When I say this is a lean bill, I am not talking about phony numbers or hollow cuts. This bill is trim, and it is trim because every member of the subcommittee markup, under the fine-tuned direction of my good friend, BILL NATCHER, of Kentucky, demonstrated fiscal responsibility during the 11 hours we spent in markup.

There is no denying that this was a tough bill to mark up. As we all know, there are many vital, human programs funded through these agencies. The quality of living experienced by millions of Americans of all ages, races, and creeds is significantly affected by the programs funded through this appropriation bill. The committee members really struggled to balance their own support of key programs like maternal and child health, biomedical research, student financial assistance, or energy assistance, with the harsh realities of the fiscal constraints that face this committee on every appropriation bill this year.

With the annual inflation rate currently in the neighborhood of 13 percent, I think it is truly remarkable that we have reported this important bill at a level below the President's budget, and even more remarkably at a level just 5 percent above the 1980 level. These figures alone confirm that this bill reflects and underscores our concern for the Nation's economic situation.

I am proud of the bill that we have before us today. There are few increases and they are modest. Many items have been held at, or very near, their 1980 level. And yet, within these fiscal restraints, this bill continues to provide strong Federal support for programs that are vital to the well-being of millions of American families.

There are areas and programs which every subcommittee member would have liked to have increased further than we were able, but we recognized our responsibility to hold the line.

I would like to touch on a few areas of particular concern to me. Unfortunately, the bill contains a significantly reduced Young Adults Conservation Corps. I was pleased to lead the initiative to raise it above the level the President proposed. His 50 percent reduction would have rendered the program ineffective. The President's action would have eliminated more than 8,000 young people from participation in the program. The committee's recommended level of $137 million for the YACC in 1981 will provide about 13,000 jobs for American teenagers. I consider that a critical minimum when you recognize that averall teenage unemployment is 16 percent, and unemployment among minority teenagers is nearly 30 percent.

In the area of health services, the bill contains $166 million dollars for family planning services. This figure is very lean particularly when you compare it with the fiscal 1980 level of $162 million. These funds support critical services to thousands of women and adolescents. This is an important program as it can help prevent the more than 1 million teenage pregnancies that occur each year, not to mention the nearly 400,000 abortions obtained by teenagers each year.

This bill also provides much needed support for alcoholism formula grants—a program the President proposed to eliminate. The committee's recommended level of $50 million for these formula grants is vital to the continuation of alcohol treatment and planning programs across the Nation. It is worth noting that even at the $50 million level, the program is actually funded at 10 percent below its fiscal 1980 level.

The bill contains $1.8 billion for low income energy assistance to help this Nation's needy citizens deal with the ever-increasing costs of heating their homes. The bill would provide very modest increases for many of the Northern Tier States, while providing more significant increases for many States in other sections of the country, including the South and West. Obviously, not every State comes out ahead of last year, but no State would receive less than last year under this bill. It is important to remember that this program was developed to help those States that face freezing winters deal with the high cost of home heating.

The committee's recommendation would establish the 1981 program under the authority of the Economic Opportunity Act of 1964, the same authorization as last year's program. The committee chose not to use the recently passed windfall profit authorization because it drastically skews the distribution of these funds to States that are not in as great a need of assistance as are the Northern Tier States.

Under Education, the committee has included $3.356 billion for student financial assistance programs, including BEOGS, SEOGS, work-study and direct loans. While it is hoped that this level will provide adequate support for the thousands of American college youth that need assistance with the skyrocketing tuitions of many colleges and universities, it is also worth noting that this level is actually $63 million below the 1980 level. Again, you can see that there were many tough decisions that had to be made.

I urge my colleagues in this body to support the measure before you today. It is the best darn Labor, Health and Human Services and Education bill that you have had before you.

I urge its swift adoption.

□ 1110

Mr. MICHEL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. PURSELL) who serves on the subcommittee.

Mr. PURSELL. Mr. Chairman, I will not take the full 5 minutes. I, too, want to congratulate the full committee and subcommittee for their outstanding work, the chairman, the gentleman from Kentucky (Mr. NATCHER), and the subcommittee ranking member, the gentleman from Illinois (Mr. MICHEL), the gentleman from Massachusetts (Mr. CONTE), and other members of the committee.

I think much will be discussed today on aspects of what I think basically is a good bill—NIH biomedical research, funding for higher education in America for young students. The student loan program, I think, is about $200 million.

I want to take a few minutes to express some comments on a subject that does not get any debate on this floor, and that is our young boys and girls of America. We have been talking about various issues in health, the national health insurance and other programs which may or may not be our future solution to improving the health of our country. But in this committee report, some of us have been interested in the development of elementary-secondary nutritional and physical education programs combined. So we have had some meetings with the President's Council on Physical Fitness, and they have assured us that they would like to lead a national effort in working with the Department of Education and the Department of Health and Human Services as a catalyst to try to improve physical education in the United States. The Members might be surprised to know that physical education is not being taught in a maximum curricula capacity like other basic subjects in our elementary system. It really has been deleted because of budget constraints within local school districts. Nutritional programs have been separate and apart from physical education, but we have a conflict with junk food and other problems in our society. So the President's Council is going to lead a national effort with universities throughout the United States to look at problems of elementary physical education and nutritional programs in the United States.

The Members might be surprised to know that of all first-graders in the United States of America, 15 percent are showing signs of obesity. We talk about later in life not having manpower for defense, we talk about the high expense of research and health costs at the senior age level because people have habitually abused their bodies through smoking and alcohol and other problems. So I think as a preventive effort in terms of the elementary and secondary schools, we should encourage the development through local control of physical education in every classroom in America, at least a part of each school day, for the growth of their physical as well as their mental development.

I am encouraged by this bill. I want to congratulate the chairman, the gentleman from Kentucky (Mr. NATCHER), for allowing some of us to spend some time on this in a concentrated effort.

Mr. NATCHER. Mr. Chairman, at this time I yield such time as he may consume to the Chairman of the Committee on Appropriations, the distinguished gentleman from Mississippi (Mr. WHITTEN). As the Members well know, Mr. Chairman, he is the dean of the House.

Mr. WHITTEN. I thank the Chairman.

Mr. Chairman, I rise in support of the pending bill and wish to pay tribute, if I may, to the members of this subcommittee, especially to the chairman, the gentleman from Kentucky (Mr. NATCHER) with whom I have served for many years. BILL NATCHER is the very tops in what a Member of Congress should be. This committee without exception is comprised of men of standing and ability and may I add such Members are needed on this subcommittee for no other bill goes through Congress any year which touches the well-being of the American people as much as do the programs that are included here. I want to commend not only the chairman, who is an outstanding Member of Congress, but all of the members of this subcommittee. They have met for months, taken the testimony of hundreds of witnesses on hundreds of appealing and worthy projects, and they have come out with a bill that is below the budget recommendations.

Mr. Chairman, the bill before us provides funds for Health Services, the Center for Disease Control, Social Security Administration, alcohol, drug abuse, and mental health, the National Institutes of Health, for elementary and secondary education, for rehabilitation and the handicapped, for vocational and adult education, for community services, railroad retirement, and many, many others.

As chairman of the 54-member Appropriations Committee, I serve as exofficio member of this and all other subcommittees. As you can see, this is a most enviable position in the Congress to be of service.

APPROPRIATION BILLS PASSED

This will make the 10th appropriation bill passed by the House of Representatives and, Mr. Chairman, I am proud to report that while meeting our basic needs the total in these bills is $3.2 billion below the budget. I say this because perhaps our greatest domestic problem is that of inflation.

Bills passed are those for Housing and Urban Development, for energy and water development, the Department of the Interior, for military construction, for State, Justice and Commerce, for the Department of Transportation, for Treasury, Postal Service, for legislative, and for Agriculture. Specific items of special interest to consitiuents in my district appear on page 19434 of the CONGRESSIONAL RECORD of July 24.

The bill for the Department of Defense has been marked up and awaits action.

AN OVERVIEW

Mr. Chairman, we face a real financial crisis brought about by many factors, the chief factor perhaps being the increased cost of energy. We have literally been held up by the OPEC nations of the Middle East. However, I believe the cause of our financial crisis goes a little deeper since we spent huge sums in effect defending Japan and West Germany, particularly. After World War II they were able to spend their money on their economy, developing new and modern factories to employ the most modern methods in direct competition with us in international markets. In addition, billions of American dollars flowed into Europe and Japan from our expenditures there. For years these dollars were hoarded for their security. However, when these and other nations became fearful of the value of our dollar, they started spending them, and they thereby greatly increased our inflation. In other words, they ran down the value of our dollar, which made everything cost us more in terms of cheap dollars.

INTEREST ON THE DEBT

To add to this problem, the Nation kept borrowing more and more, and by obtaining the money, interest rates started skyrocketing—doubling the interest our Government has to pay on its debt, an annual obligation.

Another serious problem is that various governmental agencies imposed greater and greater restrictions on industry, making it more and more expensive for America to produce, increasing the cost to the consumer and actually causing a reduction in U.S. output, giving advantages to foreign competitors.

And perhaps, we ourselves, as a nation, incurred more obligations than we were willing to pay for, adding to the public debt, and thus to the annual interest payment.

CORRECTIVE ACTION

We have spent and are spending billions of dollars to become self-sufficient in energy. The Government is reviewing restrictive regulations and seems to be making a little headway. We hope for a speedup.

We finally got the Federal Reserve Bank to take action to help bring down interest rates. No one could buy a home and no business could prosper at the high interest rates which prevailed. They took action and conditions improved. I regret, however, to say that interest rates seem to be creeping up again. We must do everything possible to balance our budget, to level off so as to stabilize the value of your money.

CONGRESSIONAL BUDGET ACT

Congress passed the Congressional Budget Control Act, fixing a ceiling on spending. I headed the study committee which recommended it. This legislation became necessary because the Congress was bypassing the annual review process of the Committee on Appropriations, I think because our committee had been below the budget every single year since World War II.

This budget ceiling process has not been as successful as we hoped because of the unexpected increases in the cost of fuel for the military and in the rate and amount of interest on the debt, plus the effect of inflation and other costs.

If we are to save the Budget Act, it is my belief we must amend the act to provide for the unforeseen emergencies, such as crop failure, floods, drought, or volcanoes.

NATIONAL DEFENSE

As most of you know, I have long supported the B-1 bomber and the nuclear carrier not only for their value in time of war but because they are invaluable in our effort to prevent war, which after all is what we seek.

We have recommended substantial increases in funds and equipment for the National Guard and Reserves which I know to be a bright spot in our defense.

The world picture is looking better. The labor unrest in Poland demonstrates the kinds of problems the Soviets are faced with in all of the Warsaw Pact countries such as East Germany and Romania. The Russian invasion of Afghanistan has not gone well. Resistance is not only continuing but is increasing. This attack on Moslem Afghanistan has upset the Arab countries which the Russians have been courting. Iran is no longer a friend of ours but they are not friendly with the Russians either, in part because of the Russian invasion of Afghanistan. To listen to some, you would think that we had all the problems, but we do not.

As to our overall action to support national defense, since 1977 our real defense spending has increased 10 percent during this period.

We have increased our capability of getting men to where we need them quicker, and to retain our preeminence at sea.

In the area of strategic forces, the new MX intercontinental ballistic missile system is being deployed in a mobile and surviviable basic mode to offset Soviet advances in missile accuracy. This will add greatly to our comparative strength.

We have made similar advances by placing Trident I missiles on Poseidon submarines and by building new Trident submarines. Our new submarines are much quieter and have a longer range than older models.

It has just been made public that we have developed aircraft which cannot be seen by Russian radar. Since World War II, the principal means of detecting aircraft has been with radar. Our newly developed aircraft will negate Soviet air defenses which cost them at least $100 billion. This is the most important breakthrough in military technology in recent years and gives us a considerable advantage.

I could give you details to show that we are moving forward in every area to maintain our superiority and it is costing more money. Our proposed defense appropriation bill is $157 billion as compared with this year's $131 billion.

PUBLIC WORKS, DEVELOPMENT AND SOCIAL PROGRAMS

In addition to funds for defense, the National Guard and Reserves, aircraft and nuclear carriers, we have provided funds for the Natchez Trace Parkway, the Tenn-Tom Waterway, funds in bills which have passed the House and are now in the Senate; for social security, medicaid and medicare, veterans assistance, vocational education, 4-H, FFA, Head Start, school lunch and other food programs, for our cities, towns, and counties which have made many capital improvements through the use of revenue sharing, the EDA, or the Appalachian Commission—things such as new courthouses, schools, libraries, and streets improvements; funds for water and sewer loans and grants, housing, flood control and watershed protection, soil conservation, reforestation, rural electrification and rural telephones; for agriculture, including research and extension, the Farmers Home Administration, Soil Conservation Service, forestry, and for price supports essential to the national economy.

AGRICULTURE AND OTHER PROGRAMS

We have provided for rural housing, sewer and water grants, in fact we have made available to small cities and rural areas all that we have in our major cities, except perhaps the great amount of grime and crime.

I point out to all the standard of living of most any nation is determined by how small a percentage of the time goes into providing food, clothing, and shelter. In

Russia, it takes almost 50 percent of their time. In our country, the records show it takes 16.5 percent of the time, which means that the other 83.5 percent is available to provide all the other thousand and one things that make for our high standard of living.

So I say to you here that our agricultural sector represents less than 5 percent of our people, but that 5 percent constitutes the biggest market that industry and labor has and is the biggest dollar earner for our country in world trade. Truly, agriculture is the key to our prosperity. But the man or woman engaged in agriculture may find that the farm chemicals or farm fertilizer that has been economical and cheap in the past has been restricted by their Government and they are then required to use something far more expensive and often far more dangerous.

Mr. Chairman, the House of Representatives is the peoples branch of Government, comprising 435 Members.

It is the Congress which disposes, the President who proposes, and the umpire or referee is the judicial branch headed by the Supreme Court.

It is easy to see that an individual Member has a real problem in trying to get the best he can for the people of his district, his State, and the Nation.

I feel most fortunate to be chairman of the Committee on Appropriations. I think it is perhaps the best place to serve the people—though we seldom get exactly what we would prefer. Besides being chairman of the Appropriations Committee and serving as chairman of the Agriculture and Rural Development Subcommittee, I am, under the rules, an ex officio member of the other 12 appropriations subcommittees. This means dealing with funds for all the many programs of Government. It also means dealing with the Senate in the many conferences on our bills. The penalty is that whatever we agree to in conference we have to sign and defend, while others who are not involved in the negotiations to get the best possible agreement can take individual and independent positions. Of course their views do not have the impact on the issues as those of the conferees who are active in the deliberations.

TWO WAYS TO SERVE

I have frequently said there are two ways to serve as a Representative in Congress. One is to sit back and merely record your views. While this approach may be popular with people who judge you by your vote alone, it accomplishes very little in obtaining results.

The other way to serve is to do all you can to bring about what you believe in, to accomplish something. They call us Congressman, but really the name is Representative in Congress; this means that a Representative is something like a lawyer working for you. It means getting the best settlement possible. It does mean that sometimes it may be a little more, other times you are forced to accept a little less. In other words, we must adjust the House position with that of the Senate and defend the settlement, while some of our colleagues have the luxury of voting "no."

With the support of my colleagues I hold a most enviable position in Congress to be of service, that of chairman of the Committee on Appropriations of the U.S. House of Representatives.

Mr. Chairman, I believe we must always do the best we can to solve our problems. Today it is our financial system that is in trouble, for our real wealth—our soil, our forests, our natural resources, our buildings, our roads, our schools, our factories, our cars, our television sets, our material wealth—greatly exceeds that of any nation in the history of the world. Surely such a rich country can solve its financial problems. It is up to us to do the job.

Mr. MICHEL. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, it seems important, at this time, to call the attention of the Members to several facts regarding the implementation, by the executive branch, of the Older Americans Act.

Near the end of April of this year, members of the House Select Committee on Aging learned that Secretary of Health and Human Services, Patricia Harris, planned to reorganize the Office of Human Development Services, the parent organization for the Administration on Aging. Because this reorganization involved considerable change in the delivery of services to the aging network under the Older Americans Act, both majority and minority members of the committee signed a joint letter to Secretary Harris asking that she postpone, for at least 60 days, the proposed reorganization. The letter was dated May 2, 1980. On May 8, 12 Members of the other legislative body signed and dispatched a similar letter. Twelve national aging organizations joined in making the same request of the Secretary.

These letters did not oppose the planned reorganization, they merely requested its postponement, for 60 days, while its legality under the Older Americans Act was checked and its impact on service delivery to the Nation's seniors was evaluated.

In arrogant disregard for the congressional request, Secretary Harris proceeded with the planned reorganization and made it official on May 18, 1980.

On the 28th of May, the House Select Committee on Aging received an answer to its request for a legal opinion on Secretary Harris' action, from the American Law Division of the Congressional Research Service. I will quote briefly from this opinion:

> Under Section 201 of the Older Americans Act, the Secretary of the Department of Health and Human Services may not approve the delegation of any function of the Commissioner on Aging. . . . Based on the legislative history, it appears that the Congressional intent behind the 1974 Amendments to the Older Americans Act was to foreclose all delegations of authority from the Commissioner on Aging. . . . Such delegations had to first be submitted to the Congress at least 60 days prior to their effective date. . . . We conclude that the Secretary is precluded from approving such transfer by Section 201 of the Older Americans Act.

This legal opinion will be made part of the RECORD.

Mr. Chairman, the Select Committee on Aging cannot legislate—its members can only advocate and provide oversight for older Americans. It is for the purpose of discharging this responsibility that I call the Members' attention to the record of this confrontation between the legislative and executive branches. As the ranking minority member of this committee, I want to make it clear that I and my colleagues feel strongly that the Secretary of Health and Human Services has acted with contemptuous disregard for the intent of Congress in this matter.

Mr. NATCHER. Mr. Chairman, I yield such time as he may desire to the distinguished gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Chairman, it is certainly not a revelation, Mr. Chairman, that millions of Americans are unemployed, or that crime is reported to be increasing, or that the Nation's prisons are literally bursting at the seams. Study after study shows that about half of those arrested in major metropolitan areas are unemployed, and that the youth unemployment rate is directly related to the number of offenses reported to the police.

In fact, a recent report by the Federal Bureau of Prisons concluded that even following 1 year after their release from Federal penal institutions, about one-half of young, adult males were still unemployed. Of course, these figures are not revelations either, and neither are the recent disturbances in Miami, put simply, crime is a very good indicator of the state of our economy, and right now, things look pretty bleak.

Last year, this body passed an amendment that would have earmarked at least $5 million for title III offender programs. I sponsored that amendment because the Department of Labor had been shirking its responsibility—responsibility not only to provide national coordination, but additional manpower services to offenders. The reason is very simple. Offenders are harder to place because of the stigma of an arrest or conviction record. They require much higher training costs, and frequently need special support services in the areas of drug or alcohol abuse.

This year, Mr. Chairman, I have some good news and I have some bad news to report about employment programs for offenders. The good news is that if it were not for CETA, programs for ex-offenders would literally disappear. That is the conclusion of a recent survey funded by the Justice Department.

The bad news is that according to one of DOL's own studies, CETA offender activities in fiscal year 1979 barely touched the needs of this group. To quote from this report:

> CETA has served less than 2 percent of offenders potentially eligible for services in fiscal year 1979.

In fact, more than half of the prime sponsors have no. I repeat, no programs targeted to ex-offenders.

Mr. Chairman, offenders not only need employment, but they also will only succeed with additional supportive services—such as drug rehabilitation, education, and even temporary housing. Although these services are mandated by title III, the Department is simply ignoring them, just as they are ignoring the mandate to eliminate artificial barriers to employment which discriminate against the hiring of the handicapped, the mentally ill, and especially ex-offenders.

Mr. Chairman we can remedy some of these problems by adding $5 million to title III discretionary funds for the purpose of implementing employment and supportive services to ex-offenders. Last year, DOL allocated only $2.7 million to title III offender programs, and this year, the budget level is uncertain due to a $20 million reduction in discretionary funds by the Appropriations Committee. This is not money for research, but is designed instead to leverage more programs for those who are especially disadvantaged by contact with the criminal justice system.

Winston Churchill once said that—

> What is done to the criminal is a very accurate index to the quality of any civilization.

Providing employment services to offenders is one way to improve the quality of life for all of us.

Mr. MICHEL. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman, I certainly want to commend the distinguished subcommittee chairman, the gentleman from Kentucky (Mr. NATCHER), for his work on this bill (H.R. 7998).

Chairman NATCHER is one of the ablest and most diligent Members of the House. He is a fair man. He has been most fair in his consideration of all issues.

I also wish to commend the distinguished ranking minority member, the gentleman from Illinois (Mr. MICHEL), another of the truly able Members of this body, for his work in bringing this bill before the committee today.

Mr. Chairman, I have many problems with this bill, not the least of which is the high cost and the ever-increasing size of many of the programs involved.

According to my own calculations, taking into consideration appropriations under this bill and appropriations not yet provided for programs under this bill's jurisdiction, Congress will end up appropriating $300 million more in budget authority and $1.7 billion more in outlays than assumed for these programs under the first budget resolution.

Since the defense bill will be the last major bill taken up by the Appropriations Committee this year, the inevitable result will be that the defense bill will become the target for cuts to keep total appropriations within the budget targets because other appropriations bills, such as this one, will ultimately exceed their targets.

Mr. Chairman, I was most pleased that the Appropriations Committee accepted report language which I offered to page 26 of the committee report accompanying this bill, concerning a sex education project of the Public Health Service's Center for Disease Control (CDC).

The committee report states:

> The Committee is concerned that the Center has gone beyond its limited mandate for disease control with a sex education project initiated in 1977. The Committee instructs the Center to provide a complete report of expenditures to date for this project and its objectives before any further funds are obligated. The Center is also instructed to ensure that no sex education activities being conducted under its auspices, including those of contractors and grantees, are carried on without formal approval of the governing body of the school or other organization involved in such activity. Further, no sex education program, project, course, activity, inventory, or questionnaire involving human participants is to be conducted under the auspices of the Center, its contractors, or grantees without the informed written consent of each participant or subject, or his parents or legal guardian in the case of a participant or subject under 18 years of age.

The sex education project to which the report refers was initiated in 1977, when the Center for Disease Control budgeted funds for the evaluation and improvement of U.S. sex education programs.

In fiscal years 1978 and 1979, CDC awarded $1,619,000 to a contractor—Mathtech, Inc., of Bethesda, Md.—for this project.

The funding came from CDC's overall health education program, not from any separate line item approved for this specific purpose by Congress.

Mathtech, Inc., the contractor selected by CDC for this project has been actively involved in the promotion of sex education throughout the United States.

Its report entitled "An Analysis of U.S. Sex Education Programs and Evaluation Methods," published and distributed throughout the country by CDC in July 1979, included a series of recommended student questionnaires containing many explicit and highly personal questions for adolescents of junior high age and older, concerning the full range of their sex attitudes, activities, and birth control methods.

I have been informed that the questionnaires were devised during the 1977–79 contract period by Mathtech, Inc., and then distributed to selected teachers known to Mathtech throughout the country who had expressed an interest in using them in the classroom.

This appears to have circumvented Office of Management and Budget Approval of such questionnaire use in conjunction with a Federal contract, which is required but was not done in this case.

The intent of the questionnaires, according to the CDC report, is to help evaluate "the effectiveness" of sex education programs for use by schools and other groups in local communities.

According to the CDC report, the questionnaires were pretested by different groups throughout the country before they were widely distributed as part of the report, in order to verify their "reliability and validity coefficients."

The field-testing was conducted by teachers in St. Louis, Philadelphia, Texas, and California, according to Dr. Peter Scales, one of the report's three authors, and involved about 200 youngsters of junior and high school age.

I am informed that some revisions of the questionnaires resulted from the pretesting before they were finalized for widespread public distribution and use via the CDC report.

The CDC report also listed 20 selected sex education programs throughout the country which the contractor termed "exemplary" comprehensive courses covering all aspects of human sexuality and student values.

Following publication of its July 1979 report, CDC awarded Mathtech, Inc., three additional contracts—

First. To develop model sex education programs to be made available to communities and other interested groups upon request;

Second. To develop and implement model sex education programs for parents; and

Third. To identify individuals and groups who can begin, expand, and support sex education programs for young people, and to identify and help overcome barriers to sex education.

These three new contracts are currently underway with fiscal year 1980 funds, and are intended to continue into fiscal year 1981.

Mr. Chairman, the amendment to the report adopted by the Appropriations Committee is intended to guarantee that no sex education program, project questionnaire, or other activity sponsored or funded by the Federal Government is adopted for use in schools or by other organizations without formal approval of the school board or appropriate governing body concerned.

The report instructions also require informed written consent from any participant or subject of such federally sponsored sex education activities, or from the parents or legal guardian of a participant or subject under 18 years of age.

However, I am still not convinced that this sex education program is justified at all.

Its rationale is based upon reducing unwanted teenage pregnancies, venereal disease, and providing alternatives to abortion.

I favor these goals.

However, many people believe that sex education programs in the public schools, no matter how well organized or presented, inevitably increase student awareness and interest in sex, as well as unrestrained sexual activity that increases unwanted pregnancy and VD, since such courses are rarely taught in the context of what is morally right and wrong in the eyes of most families.

In my judgment, Congress should

make sure that federally funded health education programs and other established programs for use in educating our youth are never designed to teach or legitimize immorality, sexual promiscuity, or homosexuality.

□ 1120

Mr. MICHEL. Mr. Chairman, at this time I yield such time as he may consume to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Mr. Chairman, in considering the recommendation of the Appropriations Committee that almost $175 million be appropriated for bilingual education, I think it is important that the goals of this program be clearly understood. In this regard I would like to compliment the Appropriations Committee for the description of the bilingual education program whilch appears in the committee report. I believe that this language accurately reflects the intention of Congress in reauthorizing title VII in 1978. The language on pages 87–88 of the report reads as follows:

> This program is authorized by Title VII of the Elementary and Secondary Education Act to develop English proficiency and increased educational opportunities for children who, because of their limited English proficiency, are not making satisfactory progress in school. To achieve this goal, assistance is provided to local school districts to increase their capacity to develop and maintain bilingual education programs which use the students' home language to the extent necessary to build basic skills while the students are learning English. (Pages 87–88.)

I would like to ask the distinguished chairman whether this statement from the committee report also reflects his understanding of the bilingual education program?

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN. I do yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, I would like to say to my distinguished friend from Missouri that at the time we presented the subcommittee report to the full committee, my friend, the distinguished ranking minority member on this subcommittee, the gentleman from Illinois (Mr. MICHEL), offered language relating to recently proposed regulations on bilingual education. I would like to yield to the gentleman from Illinois at this point.

Mr. MICHEL. Mr. Chairman, I thank the distinguished subcommittee chairman. If the gentleman will yield further, the answer to his question is yes.

Mr. COLEMAN. Then let me ask a further question. I would also like to ask whether it is the gentleman's understanding that, as the committee report language states, the Federal assistance authorized under the title VII program is to support only those local programs which "use the students' home language to the extent necessary to build basic skills while the students are learning English?" That is a direct quote from the report language.

Mr. MICHEL. Mr. Chairman, we mean what we say.

Mr. COLEMAN. By the gentleman's response may I assume that it is the clear intention of the committee not to provide funds for local programs which use the students' home language beyond that extent necessary to build basic skills while the students are learning English?

Mr. MICHEL. That is exactly right. As a matter of fact, I have raised this issue during the past couple of years during our hearings, because of evaluations of the program which showed that some projects were keeping children substantially beyond the point where they were knowledgeable in English. The Department stated that the standards were being tightened in this regard to insure a quicker transition. I hope they are following up in this regard, because title VII funds should only be used to move students into the mainstream as quick as possible, and, I might add, in as cost effective a manner as possible.

Mr. COLEMAN. I thank the subcommittee chairman and the ranking minority member of the subcommittee for their responses.

The key concept behind the bilingual education program is helping children of limited competence in the English language to achieve competence in English. It is to this standard that we must judge the results of the bilingual education program. To the extent that a particular program operated on the local level neglects the teaching of English, that program should not be called bilingual education within the meaning of title VII.

In enacting title VII, it was the intention of Congress to establish equal educational opportunity for all children. I believe that such an objective requires the teaching of English. The Bilingual Education Act sought to eliminate the disadvantages children of limited English-speaking ability were facing in the public schools. Typically, these children were two to three grade levels behind their counterparts who were proficient in English. The dropout rate for Hispanic students in some areas of the country were as high as 85 percent and a very small percent of these students were attending college.

Through the establishment of instructional programs in the home language of limited English-speaking students, Congress sought to make these students feel at home in the public schools. Congress also sought to provide these students with a clear path into the mainstream of employment and economic opportunity. In our predominantly English-speaking Nation, this requires the teaching of English.

Creating equal educational opportunities is not my only concern with the bilingual education program. I am also concerned about the broader consequences for our Nation if we consciously foster the growth of non-English-speaking language minorities through the bilingual education program. One need only think of the great political upheavals Canada is presently undergoing to appreciate the dangers of purposely creating basic splits in our society. In Canada, Quebec is, to a very large extent, a separate nation within a nation. English Canadians feel little in common with French Canadians and French Canadians feel little in common with English Canadians. They do not communicate with one another because they do not speak each other's language.

Mr. Chairman, the intent of title VII is clearly to ease the transition of students of limited English proficiency into the English-speaking mainstream. It is my hope that in approving title VII appropriations today, that we are signaling clearly to the Department of Education that the bilingual education program will be operated in accordance with this understanding.

● Mrs. HOLT. Mr. Chairman, these appropriations in H.R. 7998, and others to be considered, would be almost $1 billion under the target set by the Appropriations Committee for Labor, Health, Human Services, Education, and related agencies.

But any analysis of this legislation would be faulty if we failed to consider the assumptions of the conference report on the first budget resolution for 1981, which this House adopted several weeks ago. The appropriations in H.R. 7998 would be $1 billion more than the amount proposed for these activities in the first budget resolution.

What has happened can be summarized as follows: The Appropriations Committee did not accept the functional allocations recommended by the budget conference report. In allocating total budget authority, it reduced the amount available to its Defense Subcommittee and increased the amount available to its Labor-HEW Subcommittee.

The Defense Subcommittee was left with an allocation $2 billion less than the amount that House-Senate conferees had deemed necessary for defense, and the Labor-HEW Subcommittee received a target $2 billion higher than the conference report has proposed for its social programs.

This bill has not used all of that extra $2 billion that was taken from defense, but that does not alter the fact that this legislation is a budget buster. It is $1 billion over the conference report assumptions.

Also notable is the fact that the Defense appropriations bill will be the last to be considered this year, and this is part of a carefully designed scheme. The majority party leadership of this House has ordained that every other activity of the Federal Government will get its money first, and defense will get whatever is left.

Because of what is happening with this legislation, any attempt to appropriate the budgeted amount for defense will be condemned as budget busting.

This is an election year, and the majority party loves to pass out goodies to its many constituencies at such a time, even if this means postponing some desperately needed improvements in our deteriorating defense posture.

Mr. Chairman, I urge the House to defeat this legislation. The Committee should reduce the appropriations of $84.8 billion by at least $1 billion.

This bill is part of a design to play fast and loose with our national security, and we should not tolerate it.●

● Mr. ULLMAN. Mr. Chairman, I would like to call to the attention of my colleagues in the House a serious budgetary situation in Oregon which was not contemplated at the time we drafted the low-income energy authorization as part of the windfall profits tax legislation (H.R. 3919) enacted earlier this year. I understand that other States are in similar straits due to the recession and are likely to experience comparable problems.

I have noted that the Appropriations Committee, which provides $1.8 billion in low-income energy assistance, uses a different funding authority from that contemplated by the windfall profits tax legislation. The committee report states that the regulations promulgated on May 30 by the Department of Health and Human Services are to be used with only minor modifications. One of the primary criteria used is that States must maintain benefit levels in AFDC and SSI to be eligible for low-income energy assistance. This is commonly known as a maintenance-of-effort clause and is found in a number of Federal welfare laws and regulations. This clause was well intended and was meant to prevent States from reducing their own contributions to welfare benefit levels and later supplementing them with Federal moneys.

Oregon has a very good record in terms of its assistance to the poor. It has one of the highest AFDC benefit standards. It also supplements the Federal SSI benefit level for its elderly and disabled citizens. However, because of the severe recession, Oregon's unemployment rate has increased to 9.5 percent, and the number of workers on the unemployment rolls has doubled since April. Because of this reduction in the labor force, the State projects a $204 million revenue shortfall for fiscal year 1981. This is relative to a total general revenue budget of $1.277 billion. In light of its constitutional requirement to balance the budget and its inability to raise taxes significantly in a recessionary period, the State has had no choice but to cut back on its social services and income maintenance programs. Oregon spends one-third of its general revenue moneys on human services, of which AFDC payments are a substantial portion. Thus, it was impossible to avoid a reduction in these payment levels. Consequently, the State stands in violation of the maintenance-of-effort clause.

To guard against this kind of unplanned situation, the Secretary was given authority under the bill developed by the Ways and Means Committee to waive any requirements of the State plan that the Secretary found to be detrimental to achieving the purposes of the act. In this case I think it is abundantly clear that the State did not lower its benefit level just to offset the increased Federal funding. Failure to waive the requirement would put the low-income families of Oregon in an even more severe financial situation and does not achieve the Federal objective of increasing income maintenance payments to offset the oil price increases imposed by decontrol and OPEC. To clarify the record, I would hope that in the conference committee report this concern will be noted and that the Secretary, in determining whether a waiver may be applicable, will be directed to take into account a State's budgetary situation.●

● Mr. BIAGGI. Mr. Chairman, I rise in strong support of the amendment that will be offered by my friend and colleague from Connecticut who serves with me on the House Education and Labor Committee. The gentleman's amendment would restore funds for Educational Information Centers, authorized under title IV, part A, subpart 5, section 419 of the Higher Education Act of 1965.

As New York's senior member of the House Education and Labor Committee and the House Select Committee on Aging, I am strongly supportive of the work which EIC's have done in helping to provide important resource material to students looking for both information on financial aid as well as degree programs available to them. These information centers are particularly useful to those adults who have faced barriers to postsecondary education in the past, the adult, nontraditional student, who wished to pursue a degree to learn practical job skills or to upgrade current skills for career advancement. Our senior citizens of this Nation—who are returning to school in record numbers—are heavily reliant upon the work which EIC's are doing across the Nation.

I am aware that the committee, in its report to accompany this bill, cited duplication with our "TRIO" programs as the reason why it chose not to fund this $3 million program this year. As a member of the authorizing committee, I can assure my colleagues that the target population for our TRIO programs—low income, disadvantaged minority youth—is not the same population which EIC's were created for in our 1976 education amendments. Through the expansion of our financial aid programs to middle income families in the 1978 amendments, EIC's became even more pivotal in getting information to the adult, nontraditional students. I want to inform my colleagues that this emphasis on this type of student has been reinforced to an even greater extent in our reauthorization of our Higher Education Act this year and EIC's will play an even greater role as we seek to expand services to this population.

Mr. Chairman, I urge support of this amendment to assure that this very small, but effective program is maintained for our Nation's current and future student population. I am firmly committed to maintaining the integrity of the EIC program and feel that this is a small investment to make for so large a return for so many. I urge the adoption of the amendment.●

● Mr. ALBOSTA. Mr. Chairman, in 1973 the fire-retardant polybrominated biphenyl (PBB) was inadvertently mixed into livestock feed in Michigan. This contamination affected thousands of farm animals, resulting in their death or destruction.

Unfortunately, until the source of the contamination was determined, substantial amounts of PBB contaminated the meat and milk produced on those farms hit by PBB. The bloodstream of the people in Michigan, particularly in my area of Michigan and where farmers consume their own products, was infiltrated by this toxic chemical.

When I was in the Michigan legislature, I served as chairman of a special committee that investigated the PBB incident, and while there is currently a study going on through the National Institute of Environmental Health Sciences about the symptoms associated with PBB contamination, it appears evident that the State of Michigan Department of Public Health will not acknowledge the severity of the dangers of PBB until the actual toxicity level of that chemical is scientifically determined. In addition, information is needed that will determine the best way to dispose of PBB and clean it from the land.

It is my intention to request those two studies by the National Institute of Environmental Health Sciences, so the work can begin to help the people of Michigan rid themselves of this terrible problem.●

● Mr. FRENZEL. Mr. Chairman, my principal system to this bill is that it spends too much money, but the gentleman from Ohio (Mr. PEASE) will make an excellent point, regrettably with a very expensive amendment.

I believe that the worker retraining portion of Trade Adjustment Assistance is the most important part of that law.

Regular unemployment compensation will cover idled workers nearly as well as the trade-related special coverage. But that trade compensation assumes that the trade problem will soon go away. Unfortunately, usually it will not.

That is why the training element is so important. It is the only long-term protection, except for the employer assistance, in the TAA law.

I do believe the size of the Pease amendment is too big. Nevertheless, I believe this body owes a debt to the gentlemen for directing our attention to the shortage of funds for this function in the committee's bill.●

● Mr. MURPHY of New York. Mr. Chairman, I rise in support of the language contained in section 205 of the bill under consideration this afternoon, language which states "None of the funds provided by this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term."

The Congress has debated the abortion question and voted on variations of this provision—popularly known as the Hyde amendment—since 1976. Throughout the years of at sometimes heated discussion, I have steadfastly supported the Hyde language and consistently voted to prohibit Federal funding of abortions. I flew down from New York this morning prepared to once again join my like-minded colleagues and prevent any weakening of the abortion prohibition contained in this appropriations bill. However, I am delighted to find out that after the countless votes and hours of debate we have undertaken since 1976, it has finally been brought home to those Members of this body that seek to open up Federal abortion funding, that they cannot win, and that this year we can proceed with the consideration and approval of this bill with expediency.

The right to life, which the Hyde amendment guarantees, is the most sacred right any human has. In the case of the preborn, this right must be protected by those of us in this Congress because they obviously are unable to protect themselves. We have taken on this responsibility in other cases where individuals whose mental or physical conditions prevent them from acting on their own behalf. This must be our greatest obligation to those whom we represent.

Again, I congratulate the Members—both those who share my prolife commitment, and those who do not but made the reasonable decision this year not to engage in a battle for exceptions to the Hyde language that they could not win—and urge your approval of this bill.•

• Mr. GILMAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California (Mr. ROYBAL).

This amendment does absolutely nothing in terms either of alleviating or helping the low-income residents in some of the coldest parts of our Nation—the Northeast. In fact, the amendment seeks to change the formula in such a manner that the Northeastern States will be even worse off than they were last year. After all that has already been said about this exceptionally poorly conceived amendment, I would like to add that the approval of the amendment would not only prove to be a calamity for our citizens in the colder States, but most certainly would enhance the trend that is favoring the Sun Belt States.

Furthermore, there is no sound basis upon which this amendment may be justified, either in terms of dollars or actual need. Because of the recent rapid rises in home energy costs and lack of a definition of "need"; there is almost no information on the degree to which low-income households need or will need assistance. Up to this point, program cost estimates have typically been arbitrary dollar figures; the impetus to provide home energy aid has not come from firm estimates of need. Rather, it has arisen out of a perception that home energy cost increases have far outpaced any increases in income available to low-income households. Therefore, it is only logical to reason that the priority for low income should be centered around two fundamental points: First, those States which express the most urgent need in terms of severe weather and; second, those households which simply have no money at the moment and do need financial assistance. In any analyses of need and costs, it must be assumed that the major goal is to provide substantial aid primarily for home heating costs, but including some aid for other home energy costs, to a large proportion of the lower-income population.

Accordingly, it is necessary to maintain the existing formula, simply because the most severe weather happens to be in the Northeastern parts of the United States, and because the financial need for energy cost assistance is higher there than anywhere else in the United States due to the exceptionally high utility rates—which have brought on altogether new problems not faced by citizens of the Sun Belt. To support the Roybal amendment would be a vote against the Northeast, against the poor and against the idea of equity.

Mr. Chairman, I urge my colleagues to vote against this amendment which, for all intents and purposes, is an exercise in futility and not deserving of the sacrifices it would bring to bear on our elderly and the indigent.•

Mr. GRASSLEY. Mr. Chairman, the President's first budget request for fiscal year 1981 included $30 million for the social services and senior centers which are funded under title III of the Older Americans Act. This was an increase of about $33 million above the fiscal year 1980 funding level.

The need for the increase was very clear. Beginning in fiscal year 1981, the Older Americans Act requires that the support and administrative costs for the elderly nutrition services be transferred from the nutrition account to the account for the provision of social services. Both functions come under the same title of the act.

In his revised budget request for fiscal year 1981, the President deleted the $33 million increase for social services and Senior Centers, leaving the funding proposal for this function at essentially the same level as it was in fiscal year 1980. However, the law still requires that the support costs for the nutrition program be transferred to the social services account. Moreover, these costs will be greatly higher than has been the case in the past. This is due not only to inflation but to the fact that the nutrition program has been expanded to include home-delivered meals. The magnitude of these support costs is such that it will require a major reduction in such social services as health, recreation, transportation, housing, home repair, legal services, employment, assistance, outreach programs, and dozens of other services which are provided to the elderly by the area agencies on aging and their associated senior centers.

On August 27, the House voted to restore $10 million of the $33 million reduction contained in the President's budget request. This is a small step in the right direction, but a most timid and inadequate one. What was needed and what remains needed is the restoration of the full $33 million. Otherwise, the House will abandon services which are vital to the well being and to the dignity of thousands of older Americans who depend on these services as assurance against the alternative of institutional care.

In my opinion, the House has evaded its responsibility in this matter. Unless the Senate passes a measure which restores the money which the President cut from the program, and unless the House accedes to the Senate position, essential services to the elderly will be left derelict.

We must face our responsibility to see that this does not occur.

• Mr. FRENZEL. Mr. Chairman, the Departments of Labor, Health and Human Services, and Education appropriation bill for fiscal year 1981 is some $30 billion over the bill brought before us last year. Of course, that $30 billion does not even count some $700 million in programs not yet authorized, that are likely to be authorized. And, if this Congress follows its usual course, we will have at least one supplemental appropriation in multi-billion-dollar figures.

This bill, our largest single appropriation, comes at a time when we are asking the U.S. taxpayers to pay some $80 billion annually just for interest on Congress overspending. That total debt is not quite $1 trillion yet, but is getting close.

At the same time, we asked the American public this year to put a halt on their use of credit card spending. Our President's wage guideline limits workers to from 7½- to 9½-percent increases.

But Congress asked no sacrifice of itself. It did not falter one step. It just kept right on spending.

For instance, this bill is some $30 billion over last year, but it is only one of the more than a dozen appropriation measures that will be considered. My constituents are frustrated with the inflation that Congress has forced upon them and outraged by our spending habits. I, too, am outraged.

I cannot really blame our Appropriations Committee. They are forced to spend by law. The blame rests with Congress collectively, but most of all with its majority group and its leadership. But, whoever is at fault, this bill is just too expensive for me to support.

H.R. 7998 contains the funding for many worthwhile programs—programs that I have enthusiastically supported, and still do. Among those are biomedical research, mental health, child welfare services, elementary and secondary education, education for the handicapped, and programs for the aged. These programs all deserve increases.

However, many of the biggest budget busters are also included in this bill. Even though we have finally managed to cut it from last year by some $23 million, CETA is still slated to receive over $6 billion in funds in H.R. 7998. We have studied the program and know that it is mostly ineffective. Studies tell us it does not work; we know it does not work; and yet we continue to fund it to the tune of billions of taxpayers' dollars.

Last year we sent all SSI recipients a check for energy assistance. Those in nursing homes, those that lived in apartment buildings and those that lived with relatives, all received a check from the Federal Government to pay their utility bills. Many of them got money to pay utility bills, but they had no utility bills. H.R. 7998 includes $1.8 billion to carry on that program. Not only does it continue the program, but it gives away $200 million more of the taxpayers' money than last year. While some attempts were made to put more sense into this giveaway program, it still does not assure that the dollars will be used for the purpose for which they were intended.

Finally, the bill makes a valiant effort toward reducing impact aid spending by saving $35 million over last year's spending. The sad fact remains, however, that we are still scheduled to spend $224 million for category B kinds, or those children whose parents live or work on Federal property. The latter still provides the local school district with a property tax base. This program is particularly popular in the Washington, D.C. metropolitan area, where moms and dads work in the District of Columbia, but live in Maryland or Virginia. In these areas, the schools maintain a splendid tax base, but also receive in addition, huge, unwarranted, Federal handouts.

This bill preserves Congress record as the world's greatest, and most wasteful, spender. H.R. 7998 means not only that Congress does not care about present deficits, but also that it has no real interest in the manner in which taxpayers' dollars are spent. I suggest to my colleagues that they carefully consider $30 billion more than last year when they cast their vote on this bill.

Since no progress has been made in reducing entitlements and authorizations, I believe we have to vote down this bill, even though its principal offense is that it is financing other bad laws. H.R. 7998 is the best target available on which we can express displeasure with the congressional unwillingness to curb its spending.●

● Mr. EARLY. Mr. Chairman, I rise in support of H.R. 7998, the Labor, Health and Human Services, Education and related agencies appropriation bill for fiscal 1981.

I know that the Members are concerned about a great many of the programs in this bill. As we have frequently heard, this is a difficult year. In some instances reductions were made in appropriation requests. In others, the increases are not sufficient. All in all, though, I feel that it is a bill that deserves the support of the House.

I share the feeling of many of my colleagues who would have liked to have seen greater increases in many necessary and worthwhile programs. And, I would like to call to the attention of my colleagues one area, in particular, where I feel additional funds should have been provided. That is the National Institutes of Health.

The committee bill provides a total of $3.616 billion for the National Institutes of Health. While this is an increase of $126 million over the budget requests for the various institutes and $187.3 million over the comparable appropriation for fiscal year 1980, it is an increase of about 5.5 percent over the fiscal year 1980 appropriations. Although this increase may be viewed as generous by some, it will fund only slightly more competing research projects than proposed in the budget or funded in fiscal year 1980. Much of the increase will go toward restoring particular programs and activities which were reduced in the budget request—activities such as new research training opportunities which were eliminated, clinical trials, and categorical centers.

Congress has, for many years, taken a special interest in the National Institutes of Health. It has long recognized its importance to, and impact on, not only the economic aspects of health problems, but also the quality of life for millions of individuals both in our own country and abroad.

However, I feel that much more needs to be done—that our efforts should be intensified. We are all aware of the years of life lost to illness and of the disabilities which often deprive adults and children of active and productive lives. An investment in basic research returns far more in dollars than is expended. It has been estimated that each dollar invested in NIH research leads to approximately $20 in reduced health care costs and an increase in human productivity.

Support of research in medicine and health is as important as any other kind of knowledge that we could buy. It is a sound investment—an investment that provides many returns—and one that should be made.●

Mr. NATCHER. Mr. Chairman, we have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read the bill.

Mr. NATCHER (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the Record and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The bill is as follows:

H.R. 7998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums as appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1981, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $88,762,000, together with not to exceed $35,215,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which $7,202,000 shall be for carrying into effect the provisions of 38 U.S.C. 2001–2003.

EMPLOYMENT AND TRAINING ASSISTANCE

For expenses necessary to carry into effect the Comprehensive Employment and Training Act of 1973, as amended, and sections 326 and 328 of the Trade Expansion Act of 1962 (19 U.S.C. 1951 and 1961) and sections 236, 237, and 238 of the Trade Act of 1974 (19 U.S.C. 2101) and section 51 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 51), and sections 210, 211, and 212 of Public Law 95–250, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Comprehensive Employment and Training Act of 1973, as amended, $6,156,763,000 plus reimbursements, to remain available through September 30, 1982, and of which $1,910,000 shall be for the National Commission for Employment Policy: *Provided,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

TEMPORARY EMPLOYMENT ASSISTANCE

For public service employment, training, and related services, as authorized by title VI of the Comprehensive Employment and Training Act, $1,293,000,000, to remain available until September 30, 1982.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out activities under Title V of the Older Americans Act of 1965, as amended. $277,100,000, of which $221,680,000 shall be for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) and $55,420,000 shall be for grants to States under paragraph (3) of section 506(a).

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and allowances to unemployed Federal employees and ex-servicemen, as authorized by title 5, chapter 85 of the United States Code, of benefits and payments as authorized by title II of Public Law 95–250, of trade adjustment benefit payments and allowances, as provided by law (19 U.S.C. 1941–1944 and 1952; part I, subchapter B, chapter 2, title II of the Trade Act of 1974), and for reimbursement to States for unemployment benefits paid on the basis of public service employment as authorized by title II of the Emergency Jobs and Unemployment Assistance Act of 1974, as amended, and for reimbursements as authorized by section 121 of Public Law 94–566, $1,260,000,000 together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided,* That, in addition, there shall be transferred from the Postal Service Fund to this appropriation such sums as the Secretary of Labor determines to be the cost of benefits for ex-Postal Service employees: *Provided further,* That amounts received during the current fiscal year from the Postal Service or recovered from the States pursuant to 5 U.S.C. 8505(d) shall be available for such payments during the year: *Provided further,* That amounts received or recovered pursuant to section 208(e) of Public Law 95–250 shall be available for payments.

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For grants for activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49–49K; 39 U.S.C. 3202(a)(1)(E)); Veterans' Employment and Readjustment Act of 1972, as amended (38 U.S.C. 2001–2013); title III of the Social Security Act, as amended (42 U.S.C. 501–503); sections 312 (e) and (f) of the Comprehensive Employment and Training Act of 1973, as amended; and necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, 19 U.S.C. 1941–1944, 1952, and chapter 2, title II, of the Trade Act of 1974, and section 43 of the Airline Deregulation Act of 1978 including, upon the request of any State, the payment of rental for space made available to such State in lieu of grants for such purpose, $24,500,000, together with not to exceed $2,051,000,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which $354,200,000 shall be available only to the extent necessary to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic grant was based, which cannot be provided for by normal budgetary adjustments: *Provided*, That an additional $81,300,000 may be expended from the Employment Security Administration account to the extent necessary to meet additional costs of administration due to an increase of at least 15 percent in the rate of insured unemployment for a calendar quarter in 1981 over the rate of insured unemployment for the corresponding calendar quarter in 1980 which cannot be provided for within the amounts made available above: *Provided further*, That any portion of the funds granted to a State in the current fiscal year and not obligated by the State in that year shall be returned to the Treasury and credited to the account from which derived.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by subsection b(2) of section 3 of the Black Lung Benefits Revenue Act of 1977, and for nonrepayable advances to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1982, $660,000,000.

Labor-Management Services Administration

SALARIES AND EXPENSES

For necessary expenses for the Labor-Management Services Administration, $59,161,000.

Pension Benefit Guaranty Corporation

The Pension Benefit Guaranty Corporation is authorized to make such expenditures within limits of funds and borrowing authority available to such corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program through September 30, 1981, for such corporation.

Employment Standards Administration

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal and local agencies and their employees for inspection services rendered $171,057,000 together with $364,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshoremen's and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and fifty per centum of the additional compensation and benefits required by section 10(h) of the Longshoremen's and Harbor Workers' Compensation Act, as amended, $404,146,000 together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1981.

BLACK LUNG DISABILITY TRUST FUND

For payments from the Black Lung Disability Trust Fund, $922,244,000, of which $892,731,000 shall be available until September 30, 1982, for payment of all benefits and interest on advances under subsection (b)(2) of section 3 of the Black Lung Benefits Revenue Act of 1977, as authorized by section 424(a) (1), (2), and (4) of the Black Lung Benefits Act, as amended, and of which $20,970,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses and $10,543,000 for transfer to Departmental Management, Salaries and Expenses for expenses of operation and administration of the Black Lung Benefits program as authorized by section 24(a)(5) of the Black Lung Benefits Act, as amended: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 424(a)(5) of the Black Lung Benefits Act, as amended.

Occupational Safety and Health Administration

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $207,206,000: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for 10 or more violations: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any hunting, shooting, or fishing: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of 10 or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further*, That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the 6 months preceding such inspection: *Provided further*, That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe: *Provided further*, That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to the Occupational Safety and Health Administration by any provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978.

Mine Safety and Health Administration

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $148,398,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work and the purchase of not to exceed sixty-six passenger motor vehicles for replacement only: *Provided*, That the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided further*, That the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations: *Provided further*, That any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirement, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate or surface limestone mine.

Bureau of Labor Statistics

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $106,324,000.

Departmental Management

SALARIES AND EXPENSES

For necessary expenses for departmental management including $1,734,000 for the

President's Committee on Employment of the Handicapped, $113,490,000 together with not to exceed $2,293,000 to be derived from the Employment Security Administration account, Unemployment Trust Fund.

SPECIAL FOREIGN CURRENCY PROGRAM

For payments in foreign currencies, which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Department of Labor, as authorized by law, $70,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations to such agency for payments in the foregoing currencies.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this title shall be used to pay any prisoner for work performed prior to 12 months before the presumptive release date of such prisoner.

SEC. 103. No part of the funds appropriated under this title may be used to carry out any activities for or on behalf of any individual who is an alien in the United States in violation of the Immigration and Nationality Act or any other law of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens.

This title may be cited as the "Department of Labor Appropriation Act, 1981."

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Services Administration

HEALTH SERVICES

For carrying out titles III, V, VII, X, XI, and XII of the Public Health Service Act, the Act of August 8, 1946 (5 U.S.C. 7901), section 1 of the Act of July 19, 1963 (42 U.S.C. 253a), section 108 of Public Law 93-353, section 427(a) of the Federal Coal Mine Health and Safety Act as amended, and title V and XI of the Social Security Act, $1,231,787,000 of which $1,800,000 shall be available only for payments to the State of Hawaii for care and treatment of persons afflicted with Hansen's disease and $6,969,000 to be available until expended, shall be used to renovate the Public Health Service hospitals and the National Hansen's Disease Center: *Provided*, That this appropriation shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who has participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That when the Health Services Administration operates an employee health program for any Federal department or agency, payment for the estimated cost shall be made by way of reimbursement or in advances to this appropriation: *Provided further*, That when the Health Services Administration provides health care services to active duty Department of Defense uniformed services personnel and their dependents, to retired uniformed services personnel and their dependents, and to the dependents of deceased uniformed services personnel in a Public Health Service medical facility, payment for the estimated cost shall be made by way of reimbursement to this appropriation.

Center for Disease Control

PREVENTIVE HEALTH SERVICES

To carry out titles III and XVII of the Public Health Service Act, title IV of the Health Services and Centers Amendments of 1978, the Federal Mine Safety and Health Act of 1977, and the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft, $329,441,000 of which $5,951,000 shall remain available until expended and shall be for construction and equipment of facilities of or used by the Center for Disease Control ($4,951,000) and for providing assistance in health emergencies ($1,000,000): *Provided*, That training of employees of private agencies shall be made subject to reimbursement or advances to this appropriation for the full cost of such training: *Provided further*, That none of the funds appropriated under Section 314(d) of the Public Health Service Act may be used for the payment of salaries or expenses for any State-level administrative employee.

National Institutes of Health

NATIONAL CANCER INSTITUTE

For carrying out, to the extent not otherwise provided, the Public Health Service Act with respect to cancer, $1,001,330,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For expenses, not otherwise provided for, necessary to carry out the Public Health Service Act with respect to heart, lung, blood vessel, and blood diseases, $560,246,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For expenses, not otherwise provided for, to carry out title IV of the Public Health Service Act with respect to dental diseases, $71,206,000.

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

For expenses necessary to carry out title IV of the Public Health Service Act with respect to arthritis, rheumatism, metabolic diseases, and digestive diseases, $371,993,000.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For expenses necessary to carry out to the extent not otherwise provided, title VI of the Public Health Service Act with respect to neurological and communicative disorders and stroke, $253,838,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For expenses not otherwise provided for, to carry out title IV of the Public Health Service Act with respect to allergy and infectious diseases, $232,355,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For expenses not otherwise provided for, necessary to carry out title IV of the Public Health Service Act with respect to general medical sciences, $335,676,000.

NATIONAL INSTITUTE OF CHILD AND HUMAN DEVELOPMENT

To carry out, except as otherwise provided, title IV and title X of the Public Health Service Act with respect to child health and human development, $223,565,000.

NATIONAL EYE INSTITUTE

For expenses necessary to carry out title IV of the Public Health Service Act, with respect to eye diseases and visual disorders, $120,254,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

To carry out, except as otherwise provided, sections 301, 311 and 472 of the Public Health Service Act with respect to environmental health sciences, $97,269,000.

NATIONAL INSTITUTE ON AGING

To carry out, except as otherwise provided, title IV of the Public Health Service Act with respect to aging, $76,091,000.

RESEARCH RESOURCES

To carry out, except as otherwise provided, sections 301 and 372 of the Public Health Service Act with respect to research resources and general research support grants, $184,439,000: *Provided*, That none of these funds, with the exception of funds for the Minority Biomedical Support program, shall be used to pay recipients of the general research support grants programs any amount for indirect expenses in connection with such grants.

JOHN E. FOGARTY INTERNATIONAL CENTER FOR ADVANCED STUDY IN THE HEALTH SCIENCES

For the John E. Fogarty International Center for Advanced Study in the Health Sciences, $9,138,000 of which $1,700,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

NATIONAL LIBRARY OF MEDICINE

To carry out, to the extent not otherwise provided for, section 301 with respect to health information communications and parts I and J of title III of the Public Health Service Act, $44,730,000.

BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, where not otherwise provided. $11,750,000 to remain available until expended.

OFFICE OF THE DIRECTOR

For expenses necessary for the Office of the Director, National Institutes of Health, $22,549,000, including purchase of not to exceed thirteen passenger motor vehicles for replacement only.

Alcohol, Drug Abuse, and Mental Health Administration

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, and alcoholism; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended; the Drug Abuse Prevention, Treatment, and Rehabilitation Act; and the Community Mental Health Centers Act as amended (42 U.S.C. 2681, et seq.); $992,477,000 of which $5,425,000 for design and modernization and improvement of government owned or leased intramural facilities shall remain available until expended.

SAINT ELIZABETHS HOSPITAL

For expenses necessary for the maintenance and operation of the hospital, including clothing for patients, and cooperation with organizations or individuals in scientific research into the nature, causes, prevention, and treatment of mental illness, $94,273,000 or such amounts as may be necessary to provide a total appropriation equal to the difference between the amount of the reimbursements received during the current fiscal year on account of patient care provided by the hospital during such year and $118,595,000.

CONSTRUCTION AND RENOVATION, SAINT ELIZABETHS HOSPITAL

For construction, alterations, repair, improvement, extension, and equipment of facilities for or used by Saint Elizabeths Hospital: $1,500,000 to remain available until expended.

Health Resources Administration

HEALTH RESOURCES

For carrying out titles VII and XV of the Public Health Service Act and section 1122 of the Social Security Act, $168,260,000, of which $4,300,000 shall remain available until expended for loan guarantees made prior to fiscal year 1981 and interest subsidies under part B of title VII.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

During fiscal year 1981, no commitments for direct loans or loan guarantees shall be made.

Assistant Secretary for Health

SALARIES AND EXPENSES

For expenses necessary for the Office of the Assistant Secretary for Health and for carrying out titles III, XII, XIII, and XVII of the Public Health Service Act, titles IV, VI, VII, and VIII of the Health Services and Centers Amendments of 1978, $179,966,000: *Provided*, That funds contained herein for carrying out section 1303(i) and 1304(k) of the Public Health Service Act which are unobligated on September 30, 1981, shall remain available through September 30, 1982.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

Any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act and any other property or assets derived from operations respecting such loans and loan guarantees, including any money derived from the sale of assets, shall be available to the Secretary without fiscal year limitation for direct loans and loan guarantees as authorized by said title XIII, in addition to funds specifically appropriated for that purpose. During 1981, and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $155,000,000, and total commitments to guarantee loans shall not exceed $170,000,000 of contingent liability for loan principal.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retired pay of commissioned officers, as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan; Survivor Benefit Plan and payments for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C., ch. 55), such amounts as may be required during the current fiscal year.

Health Care Financing Administration

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, title XIX of the Social Security Act, $15,877,052,000.

For making, after June 30 the current fiscal year, payments to States under title XIX of the Social Security Act, for the last three months of the current fiscal year; and for making after July 31 of the current fiscal year, payments for the first quarter of the succeeding fiscal year; such sums as may be necessary, the obligations incurred and the expenditures made thereunder for payments under such title to be charged to the subsequent appropriation therefor for the current or succeeding fiscal year.

In the administration of title XIX of the Social Security Act, payments to a State under such title for any quarter in the period beginning July 1 of the prior year and ending September 30 of the current year may be made with respect to a State plan approved under such title prior to or during such period, but no such payment shall be made with respect to any plan for any quarter prior to the quarter in which a subsequently approved plan was submitted.

Such amounts as may be necessary from this appropriation shall be available for grants to States for any period in the prior fiscal year subsequent to June 30 of that year. No payment shall be made from this appropriation to reimburse State or local expenditures made prior to October 1, 1978 unless a request for reimbursement had been officially transmitted to the Federal Government by the State within two years after the fiscal year in which the expenditure occurred.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under section 217(g), 229(b), 1168 and 1844 of the Social Security Act, and sections 103 (c) and 111(d) of the Social Security Amendments of 1965, $9,577,120,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, and sections 1526 and 1533 (d) of the Public Health Service Act, $123,872,000, together with not to exceed $885,140,000, to be transferred to this appropriation as authorized by section 201(g)(1) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein: *Provided*, That such amounts as are required shall be available to pay travel expenses either on an actual cost or commuted basis, to an individual for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands to reconsideration interviews and to proceedings before administrative law judges under title XVIII of the Social Security Act: *Provided further*, That $10,000,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes (31 U.S.C. 665), only to the extent necessary to process workloads not anticipated in the budget estimates and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That none of the funds appropriated under this paragraph shall be allotted or otherwise awarded to any Professional Standards Review Organization which the Secretary of the Department of Health and Human Services has determined should be terminated from the Professional Standards Review Program because of its inability to effectively or efficiently discharge its responsibilities under the Social Security Act.

Social Security Administration

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(g)(1), 217(g), 228(g), 229(b), 702, and 1131(b)(2) of the Social Security Act, $672,225,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses either on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $1,097,751,000: *Provided*, That after July 31, such amounts for benefit payments as may be necessary may be charged to the subsequent year appropriation.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income program under title XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $7,005,117,000, to remain available until expended: *Provided*, That for carrying out these activities after July 31, such sums as may be necessary shall be available, the obligations and expenditures therefor to be charged to the appropriation for the succeeding fiscal year: *Provided further*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

ASSISTANCE PAYMENTS PROGRAM

For carrying out, except as otherwise provided, titles I, IV, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., ch. 9), $8,145,689,000, to remain available until expended.

For making, after June 30 of the current fiscal year, payments to States under titles I, IV, X, XIV, and XVI, respectively, of the Social Security Act for the last three months of the current fiscal year and for making after July 31 of the current fiscal year payments for the first quarter of the succeeding fiscal year such sums as may be necessary, the obligations incurred and the expenditures made thereunder for payments under each of such titles to be charged to the subsequent appropriations therefor for the current or succeeding fiscal year. No payment shall be made from this appropriation to reimburse State or local expenditures made prior to October 1, 1978 unless a request for reimbursement had been officially transmitted to the Federal Government within two years after the fiscal year in which the expenditure occurred.

LOW INCOME ENERGY ASSISTANCE

For expenses necessary to carry out a program of energy assistance for low income households as authorized under the Economic Opportunity Act, of 1964, $1,800,000,000 including $1,776,000,000 for special energy allowance grants to States or Territories, $20,000,000 which shall be transferred to the Community Services Administration for energy assistance to migrants and native Americans and $4,000,000 for Social Security administrative costs: *Provided*, That none of the funds appropriated in this paragraph shall be used to provide assistance either in cash or in kind to any household during fiscal year 1981 which exceeds a value of $500.

REFUGEE ASSISTANCE

For expenses necessary to assist in the domestic resettlement of recent immigrants to the United States as authorized under the Refugee Act of 1980, the Immigration and Nationality Act or the International Security Act, $690,457,000, to remain available until September 30, 1982.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $2,660,850,000 may be expended as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That such amounts as are required shall be available to pay travel expenses either on an actual cost or commuted basis, to an individual for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands, to reconsideration interviews and to proceedings before administrative law judges under titles II, XVI, and XVIII of the Social Security Act: *Provided further*, That $50,000,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes

(31 U.S.C. 665), only to the extent necessary to process workloads not anticipated in the budget estimates and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That $13,500,000 authorized herein shall be available only for acquisition of sites, construction, renovation, and equipment of facilities and for payments of principal, interest, taxes and any other obligations under contracts entered into pursuant to the Public Buildings Purchase Contract Act of 1954 and the Public Building Amendments of 1972, and shall remain available until expended.

Assistant Secretary for Human Development Services

GRANTS TO STATES FOR SOCIAL AND CHILD WELFARE SERVICES

For carrying out activities authorized by sections 420, 1110, and 2001 of the Social Security Act, $3,154,650,000, of which $163,550,000 shall be for child welfare services authorized by section 420, and of which not to exceed $75,000,000 may be used for training authorized by section 2001.

For making, after June 30 of the current fiscal year, payments to States authorized by section 2001 of the Social Security Act, for the last three months of the current fiscal year, and for making after July 31 of the current fiscal year, payments for the first quarter of the succeeding fiscal year; such sums as may be necessary, the obligations incurred and the expenditures made thereunder to be charged to the subsequent appropriations therefor for the current or succeeding fiscal year. No payment shall be made from this appropriation to reimburse State or local expenditures made prior to October 1978 unless a request for reimbursement had been officially transmitted to the Federal Government by the State within two years after the fiscal year in which the expenditure occurred.

HUMAN DEVELOPMENT SERVICES

For carrying out except as otherwise provided, sections 426, 1110, and 1115 of the Social Security Act, the Older Americans Act of 1965, as amended, the Child Abuse Prevention and Treatment Act, title II of Public Law 95–266 (Adoption Opportunities), the Runaway Youth Act, the Community Services Act of 1974, as amended, sections 106, 107, and 306 of the Comprehensive Employment and Training Act of 1973, and the Developmental Disabilities Services and Facilities Construction Act, as amended, $1,725,533,000, of which $6,000,000 shall be available for title VI of the Older Americans Act of 1965 as amended, $43,181,000 shall be for grants under part C of the Developmental Disabilities Services and Facilities Construction Act, $7,500,000 shall be for section 113 of such Act, and $3,000,000 to remain available until expended shall be for the White House Conference on Aging.

WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such program, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $365,000,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.

Departmental Management

GENERAL DEPARTMENTAL MANAGEMENT

For expenses not otherwise provided, necessary for general departmental management, including hire of six medium sedans, $126,468,000 together with not to exceed $8,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, $30,735,000, together with not to exceed $6,000,000 to be transferred and expended as authorized by Section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein. For making payments to States for Medicaid State fraud control units under Sections 1903(a)(6) and 1903(a)(7) of the Social Security Act for fiscal year 1981, $22,310,000; and for the fourth quarter of fiscal year 1980 and, after June 30, 1981, for the first quarter of fiscal year 1982, such sums as may be necessary, to be charged to the subsequent appropriation therefore for fiscal year 1981 or 1982. Funds provided for making payments for the first quarter of fiscal year 1981, shall be available for payments during the last quarter of fiscal year 1980.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $17,920,000, together with not to exceed $2,350,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $22,700,000.

General Provisions

Sec. 201. None of the funds appropriated by this title for grants-in-aid of State agencies, to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or

Sec. 202. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of research an amount equal to as much as the entire cost of such research.

Sec. 203. None of the funds contained in this title shall be available for additional permanent positions in the Washington area if the total authorized positions in the Washington area is allowed to exceed the proportion existing at the close of fiscal year 1966.

Sec. 204. Appropriations in this Act for the Health Services Administration, the National Institutes of Health, the Center for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, the Health Resources Administration, the Office of the Assistant Secretary for Health, the Health Care Financing Administration, and Departmental Management shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand eight hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide: rental or lease of living quarters (for periods not exceeding 5 years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country, purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS–18; not to exceed $9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

Sec. 205. None of the funds provided by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Sec. 206. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 328 of the Public Health Service Act.

Sec. 207. Funds appropriated to the Department of Health and Human Services under title II may not be used to pay the compensation of experts or consultants (other than full-time employees) or organizations thereof, or to procure by contract the services of experts or consultants or organizations thereof, in excess of $110,000,000 during fiscal year 1981. Expenditures for all consultant services in the fourth quarter of fiscal year 1981 may not exceed 30 per centum of the total annual fiscal year 1981 expenditure for such consultant services.

This title may be cited as the "Department of Health and Human Services Appropriation Act, 1981."

TITLE III—DEPARTMENT OF EDUCATION

ELEMENTARY AND SECONDARY EDUCATION

For carrying out, to the extent not otherwise provided, title I, parts A and B ($3,514,772,000), title IV, part C, title V, part B and title VII of the Elementary and Secondary Education Act; Public Law 92–506; and sections 1524 and 1525 of the Education Amendments of 1978, $3,838,135,000: *Provided*, That of the amounts appropriated above the following amounts shall become available on July 1, 1981, and shall remain available until September 30, 1982; title I, parts A and B

($3,514,772,000 of which $145,000,000 shall be for the purpose of section 117), title IV, part C ($91,400,000 and any reductions required thereby shall be proportionate among the States), and title V, part B ($51,000,000) of the Elementary and Secondary Education Act.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), $740,000,000 of which $75,000,000 shall be for payments under section 6 and $665,000,000 shall be for entitlements under sections 2 and 3 in accordance with subsections 5(c) (1) and (2) of said Act: *Provided*, That entitlements under section 3(b) (1) and (2) of that title shall be limited to payments made in accordance with the schedule described in section 5(c)(1) and entitlements under section 3(b)(3) of that title shall be limited to payments in accordance with the schedule described in sections 5(c)(1) and 5(c)(2)(A) of that title. The limitations in this Act shall not operate under the last two sentences of section 5(c) of the Act of September 30, 1950, to prevent the allocations and payments under section 5(c)(2)(A) provided for in this Act: *Provided further*, That the total amount paid with respect to entitlements under section 3(a) attributable to children who reside on, or reside with parents employed on, property which is described in section 403(1)(C) of said Act shall not exceed the amounts paid under that section in fiscal year 1980, and any reductions required thereby shall be derived by proportionately reducing the payments attributable to such children applied for by all local educational agencies under section 3(a): *Provided further*, That the provisions of section 5(e) shall not apply to this appropriation: *Provided further*, That funds appropriated under Public Law 94–303 for fiscal year 1976 payments under subparagraphs (A), (B), (C) and (D) of section 305 of the Education Amendments of 1974 remaining available after all claims have been paid shall be available for payments under section 7 of said Act: *Provided further*, That no payments shall be made under section 7 of said Act to any local educational agency whose need for assistance under that section fails to exceed the lesser of $10,000 or five per centum of the district's current operating expenditures during the fiscal year preceding the one in which the disaster occurred: *Provided further*, That none of the amounts appropriated herein shall be available for payments under the second paragraph (2) of section 305(a) of the Education Amendments of 1974.

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), $50,000,000 which shall remain available until expended, shall be for providing school facilities as authorized by said Act: *Provided*, That with the exception of up to $25,000,000 for section 10 and up to $22,000,000 for section 14 (a) and (b), none of the funds contained herein for providing school facilities shall be available to pay for any other section of the Act of September 23, 1950, until payment has been made of 100 per centum of the amounts payable under sections 5 and 14(c): *Provided further*, That, notwithstanding section 421A (c)(2)(A) of the General Education Provisions Act, the Secretary of Education is authorized to approve applications for funds to increase school facilities in communities located near the Trident Support Site, Bangor, Washington, on such terms and conditions as the Secretary may reasonably require without regard to any provision in law: *Provided further*, That notwithstanding section 421A(c)(2)(A) of the General Education Provisions Act, The Secretary of Education is authorized to approve applications for funds to increase school facilities in Bryan County, Georgia, on such terms and conditions as the Secretary may reasonably require without regard to any provision in law.

EQUAL EDUCATIONAL OPPORTUNITIES

For carrying out title IV of the Civil Rights Act of 1964, the Emergency School Aid Act, and title IX, part C of the Elementary and Secondary Education Act of 1965, $292,008,000: *Provided*, That the provisions of section 604(b)(2) of the Emergency School Aid Act relating to the reservation of funds shall not apply to sums appropriated under this Act.

LIBRARIES AND LEARNING RESOURCES

For carrying out, to the extent not otherwise provided, titles I and III of the Library Services and Construction Act (20 U.S.C., ch. 16); title II of the Higher Education Act; and title III, part A and title IV, part B of the Elementary and Secondary Education Act, $263,655,000: *Provided*, That $171,000,000 for title IV, part B of the Elementary and Secondary Education Act shall become available for obligation on July 1, 1981, and shall remain available until September 30, 1982.

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, $1,102,050,000, of which $922,000,000 for part B and $25,000,000 for section 619 shall become available for obligation on July 1, 1981 and shall remain available until September 30, 1982.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, as amended including section 130, and the International Health Research Act of 1960, $965,875,000, of which $845,750,000 shall be for activities under section 100(b)(1), $8,509,000 shall be for activities under section 100(b)(3), and $18,000,000 shall be for activities under section 711 of the Rehabilitation Act of 1973.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Vocational Education Act of 1963, as amended, the Adult Education Act, the Career Education Incentive Act, and title III, part E and title VIII, section 804 of the Elementary and Secondary Education Act, $925,497,000 of which $10,000,000 for part B, subpart 2 of the Vocational Education Act shall remain available until expended and $896,880,000 for the Vocational Education Act and the Adult Education Act shall become available for obligation on July 1, 1981, and shall remain available until September 30, 1982: *Provided*, That $6,500,000 for State advisory councils under section 105 of the Vocational Education Act shall be used to provide to each State, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Trust Territory of the Pacific Islands, and Northern Mariana Islands an amount equal to the amount it received in the previous fiscal year.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1 ($2.159.000,000), 2 ($370,000,000), and 3 ($76,750,000) of part A, and parts C ($550.000.000) and E ($200.800.000) of title IV of the Higher Education Act, $3,356,550,000, which shall remain available until September 30, 1982: *Provided*, That amounts appropriated for Basic Opportunity Grants shall be available first to meet any insufficiencies in entitlements resulting from the payment schedule for Basic Opportunity Grants published by the Secretary of Education during the prior fiscal year: *Provided further*, That pursuant to section 411(b)(4)(A) of the Higher Education Act, amounts appropriated herein for Basic Opportunity Grants which exceed the amounts required to meet the payment schedule published for any fiscal year by 15 per centum or less shall be carried forward and merged with amounts appropriated the next fiscal year.

STUDENT LOAN INSURANCE

For necessary expenses under title IV, part B of the Higher Education Act $1,390,990,000, to remain available until expended.

HIGHER AND CONTINUING EDUCATION

For carrying out title I–A, III, VIII, IX and XI and sections 417, 420, 745, and 1203 of the Higher Education Act; the Mutual Educational and Cultural Exchange Act of 1961; title VI of the National Defense Education Act; the National Science Foundation Act of 1950, section 3(a)(1); and title III, Part G of the Elementary and Secondary Education Act, $407,689,000 including not to exceed $10,000,000 for section 801(b) of the Higher Education Act: *Provided*, That $26,000,000 made available for interest subsidy grants under section 745 shall remain available until expended: *Provided further*, That no State shall receive less under title I–A of the Higher Education Act than it received for the fiscal year 1980.

HIGHER EDUCATION FACILITIES LOAN AND INSURANCE

For the payment of such insufficiencies as may be required by the trustee on account of outstanding beneficial interest or participations in assets of the Department of Education authorized by the Department of Health, Education, and Welfare Appropriation Act 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c)), $1,656,000 to remain available until expended, and the Secretary is hereby authorized to make such expenditures, within the limits of funds available in Higher Education Facilities Loan and Insurance, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 849) as may be necessary in carrying out the program set forth in the budget for the current fiscal year: *Provided*, That $25,000,000 is hereby released from amounts available in the Higher Education Loan Fund for Graduate Facilities. Notwithstanding the campus loan limits contained in the regulations, the Secretary may, in cases of special and critical need, provide funds in excess of the campus loan limit.

COLLEGE HOUSING LOANS

The aggregate amount of commitments for loans made from the fund established pursuant to title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749), for the fiscal year 1981 shall not exceed the total of loan repayments and other income available during such period, less operating costs. For the payment of such insufficiencies as may be required by the Government National Mortgage Association, as trustee, on account of outstanding beneficial interests or participations issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, amended (12 U.S.C. 1717), in assets of the College Housing Loan Fund as authorized by the Independent Offices and Departments of Housing and Urban Development Appropriation Act, 1968 (81 Stat. 341, 357), $14,271,000, to remain available until expended. During fiscal year 1981 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $110,000,000.

SCHOOL IMPROVEMENT

For carrying out the General Education Provisions Act, to the extent not otherwise provided, title II, title III, parts A, B, C, and L, and title IX parts A and E of the Elementary and Secondary Education Act; title V, part A and section 532 of the Higher Education Act; the Alcohol and Drug Abuse Education Act; part B of the Headstart-Follow Through Act; section 3(a)(1) of the National Science Foundation Act of 1950, as amended; and section 303(c)(2) of the Comprehensive

Employment and Training Act of 1973, as amended, $166,973,000.

Special Institutions

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101–105), $4,921,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For carrying out the National Technical Institute for the Deaf Act (20 U.S.C. 681, et seq.), $20,305,000.

GALLAUDET COLLEGE

For carrying out the Model Secondary School for the Deaf Act (80 Stat. 1027) and for the partial support of Gallaudet College authorized by the Act of June 18, 1954 (68 Stat. 265), $49,768,000, of which $6,594,000 shall be for construction and shall remain available until expended. If requested by the college, such construction shall be supervised by the General Services Administration.

HOWARD UNIVERSITY

For the partial support of Howard University, $133,983,000, of which $10,240,000 shall be for construction and shall remain available until expended. If requested by the University, such construction shall be supervised by the General Services Administration.

Office of Civil Rights

SALARIES AND EXPENSES

For expenses necessary for the Office of Civil Rights, as authorized by section 203 of the Department of Education Organization Act and for the Architectural and Transportation Barriers Compliance Board as authorized by Section 502 of the Rehabilitation Act of 1973, as amended, $49,215,000.

Departmental Management

SALARIES AND EXPENSES

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of 5 medium sedans, $238,882,000. During the current fiscal year up to $10,500,000 in collection of Federally insured defaulted loans may be transferred to the Salaries and Expenses account for the payment of related collection activities; together with not to exceed $600,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

EDUCATIONAL STATISTICS

For necessary expenses to carry out section 406 of the General Education Provisions Act, $9,947,000.

RESEARCH AND RELATED ACTIVITIES

For necessary expenses to carry out sections 404 and 405 of the General Education Provisions Act, $87,614,000.

EDUCATIONAL, RESEARCH, AND TRAINING ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be in excess to the normal requirements of the United States, for necessary expenses of the Department of Education, as authorized by law, $3,000,000 to remain available until expended. This appropriation shall be available, in addition to other appropriations to such agency.

General Provisions

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet College shall be subject to audit by the Secretary of Education.

SEC. 303. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of research an amount equal to as much as the entire cost of such research.

SEC. 304. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 305. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 306. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing, or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 307. Funds appropriated to the Department of Education under Title III may not be used to pay the compensation of experts or consultants (other than full-time employees) or organizations thereof, or to procure by contract, the services of experts or consultants, or organizations thereof, in excess of $35,000,000 during fiscal year 1981. Expenditures for all consultant services in the fourth quarter of fiscal year 1981 may not exceed 30 per centum of the total annual fiscal year 1981 expenditure for such consultant services.

SEC. 308. The total full-time equivalent employment of the Department of Education during fiscal year 1981 shall not exceed 7500.

This title may be cited as the "Department of Education Appropriation Act, 1981."

TITLE IV—RELATED AGENCIES

Action

OPERATING EXPENSES, DOMESTIC PROGRAMS

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, $158,047,000.

Community Services Administration

COMMUNITY SERVICES PROGRAM

For expenses of the Community Services Administration $537,800,000 of which $44,500,000 for the purpose of carrying out title VII, part A, of the Economic Opportunity Act of 1964 shall be available until September 30, 1982.

COMMUNITY DEVELOPMENT CREDIT UNIONS REVOLVING FUND

During 1981 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $1,000,000.

RURAL DEVELOPMENT LOAN FUND

During 1981 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $8,000,000. During 1981, total commitments to guarantee loans shall not exceed $2,000,000 of contingent liability for loan principal.

Corporation for Public Broadcasting

PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Public Telecommunications Financing Act of 1978, for the fiscal year 1983, $172,000,000: *Provided*, That these funds shall not be used to pay for receptions, parties, and similar forms of entertainment for government officials or employees: *Provided further*, That these funds shall not be available or used to aid or support any program or activity excluding from participation in, denying the benefits of, or discriminating against any person on the basis of race, color, national origin, religion, or sex.

Federal Mediation and Conciliation Service

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171–180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President; hire of passenger motor vehicles; and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93–360 for mandatory mediation in health care industry negotiation disputes, and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for mediation or complaints under the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.), and for expenses necessary for the Labor Management Cooperation Act of 1978 (29 U.S.C. 125a), $25,919,000.

Federal Mine Safety and Health Review Commission

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission, $4,617,000.

National Commission on Libraries and Information Science

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345), $691,000.

National Labor Relations Board

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management

Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $116,635,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary for carrying out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $4,780,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission, $7,860,000.

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE

SALARIES AND EXPENSES

For expenses necessary for the President's Commission to conduct a study of ethical problems in medicine and biomedical and behavioral research as authorized by 42 U.S.C. 300V, including costs of contracts, authorized by section 1803(c) of the Public Health Service Act, $1,500,000.

RAILROAD RETIREMENT BOARD

FEDERAL PAYMENT TO RAILROAD RETIREMENT ACCOUNT

For payment to the Railroad Retirement Account, as provided under sections 15(b) and 15(d) of the Railroad Retirement Act of 1974, $350,000,000, which shall be the maximum amount reimbursable for the subsidy for fiscal year 1981 costs.

LIMITATION ON ADMINISTRATION

For expenses necessary for the Railroad Retirement Board, $36,750,000, to be derived from the railroad retirement accounts: *Provided*, That $500,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the foregoing limitation has been achieved: *Provided further*, That notwithstanding any other provision in law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. (j); 45 U.S.C. 28a–r).

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $20,326,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners of the Home and the Surgeon General of the Army.

TITLE V—GENERAL PROVISIONS

SEC. 501. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18.

SEC. 502. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 503. Appropriations contained in this Act, available for salaries and expenses shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 504. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 505. The Secretaries of Labor, Education, and Health and Human Services are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 506. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 507. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient or agent acting for such recipient to engage in any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 508. The Secretaries of Labor, Education, and Health and Human Services are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 509. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or his parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

This Act may be cited as the "Department of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1981".

The CHAIRMAN. Are there any points of order against any part of the bill? The Chair hears none.

Mr. NATCHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will now make a unanimous-consent request that all debate on this bill and all amendments thereto close at 7 p.m. on the clock.

Mr. Chairman, as I briefly mentioned at the time of general debate when I made my first statement, we started hearings on this bill back in January. We concluded the hearings during the latter part of April. All of the members on our subcommittee attended these hearings, Mr. Chairman. We held hearings at night. We made up our mind we were going to bring this bill to the House of Representatives under the President's budget and the congressional budget resolution which we have done. The bill is $5,654,000 under the President's budget request.

Mr. Chairman, from time to time, not only this year, but last year and the year before—I have served on the Committee on Appropriations for 26 years—my friend, the gentleman from Massachusetts (Mr. CONTE) will tell you this is correct, Mr. Chairman, from time to time we bring our bills out here, we consume a lot of time, and we simply wear the House out.

Mr. Chairman, we have carefully considered this bill. Most of the issues have been thoroughly and repeatedly discussed in this House. This is a good bill and, Mr. Chairman, at this time I ask unanimous consent that all debate on this conclude at 7 p.m. on the clock and also on all amendments and amendments thereto.

Mr. CONTE. Mr. Chairman, reserving the right to object and I shall not object, I agree with the chairman. He and I have discussed this at great length. Most of the amendments that will be offered have been offered in the past and have been debated in the past, time and time again.

Mr. Chairman, the time specified is 7 o'clock, a time certain on this bill and any amendments thereto?

Mr. NATCHER. Mr. Chairman, the gentleman is exactly right.

Mr. Chairman, as one or two of our friends have pointed out to me in the last 2 or 3 days, we have had amendments offered to this bill, we have had certain matters discussed year after year. When we reach one of those points, Mr. Chairman, we are going to be reasonable, we are going to be fair, but we are going to ask that debate be limited on those amendments.

Mr. CONTE. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. BAUMAN. Mr. Chairman, I reserve the right to object.

Mr. Chairman, I would pose a question to the gentleman from Kentucky. There will be no intention on the part of the gentleman from Kentucky should this request be granted, to unduly hamper the rights of any Member to offer amendments germane to the bill, taking into account the fact that 7 o'clock would impose upon us an overall limitation on how many amendments could be debated?

Mr. NATCHER. If the gentleman will yield to me, Mr. Chairman, I want the gentleman to know that he has my word what the gentleman has just stated to the House that will take place. There will be no effort, no attempt to limit any Member as far as a legitimate amendment is concerned. We are not going to try to shut anyone off. We are going to be reasonable and we are going to be fair. I think the gentleman from Maryland, my friend, will say when we conclude this bill that we have done just exactly what we explained we would do.

Mr. BAUMAN. Further reserving the right to object, Mr. Chairman, I just want to state for the RECORD that the gentleman from Kentucky has been very kind to discuss this matter with me and with others on our side who are concerned about not only a limitation on time for amendments but the right of all Members to offer amendments and to be protected.

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I would only note at this point that the gratuitous slurs by the majority leader this morning about the minority holding up the proceedings of the House being a reason for a lameduck session are proven today to be false. We are not in any way, on the minority ride, trying to block the progress of this House. We have had votes without any rollcalls on more than 40 suspensions in the last few weeks, a sure sign of cooperation.

This is another example, I think, of the minority wishing to cooperate with the majority; and the gentleman from Kentucky, being one of the fairest Members of the House, I feel quite sure will honor his commitment to allow all Members to have their say.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I simply want to take this time to inform the Members that this bill does contain a number of items they ought to know about, which control fraud, abuse, and waste in programs under the operation of the departments in this bill.

In the Department of Health Services, for instance, this bill provides funding for 25 new audit positions, and special projects coordinated by the Inspector General's Office for investigations of waste, fraud, and abuse in Federal programs under this legislation. In addition, the bill makes it possible for the new State medicaid fraud control units to continue their investigations of fraud with the same level of Federal involvement we had this year. These fraud control units are just now getting some cases ready for trial in my State, for instance, and it is important that the investigations do not lose their momentum. Also at HHS, there have been some cases of waste and mismanagement which have been brought to our attention and which are addressed in this bill.

A GAO report, for instance, which studied the cancer control program at the National Cancer Institute came to the conclusion that significant problems existed in its operation. I think the report leaves little doubt that those involved in decisionmaking in cancer control have not had a clear idea of what they specifically expected to achieve with their $70 million expenditure. Consequently, this bill transfers $5 million from the cancer control operation at NCI to other parts of the Cancer Institute, and adds an additional $11 million for areas within NCI where we have been getting good results. Especially in something as critical as cancer research, we need to see to it that each and every dollar is spent wisely.

In addition, this bill includes a $1 million reduction in the budget for the Community Services Administration. This cut was made in the agency's administration accounts, and is designed to insure that CSA makes some improvements in management of programs. Very frankly, while most of the local community action programs across the country have made progress over the past few years in serving low income and elderly people, the Federal agency itself has some problems, especially, as the committee report indicates, in contracting and auditing, in which CSA's performance has been questionable.

I think this cut will bring to the attention of the administrators the necessity to clean up their shop in that respect.

Also, I should point out that at the Department of Labor there is an increase of more than $3 million over fiscal year 1980 for the Office of Inspector General. This office is just getting off the ground but it is intended to insure that we examine carefully programs such as CETA and other programs, which have had some rather bad publicity in the past because of waste and fraud. I suspect that we will be getting more information out of that agency as it gets into its work.

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REGULA: On page 57, after line 17, add a new section as follows:

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

And renumber the following sections accordingly.

Mr. REGULA. Mr. Chairman, first I would like to congratulate the subcommittee for including sections 207 and 307 in this bill. The best way to put an end to abuse and waste of contracting funds is to put a spending limit on the agencies. I understand that the figures in the bill are estimates provided by the administration on the amount needed for experts and consultants in the next fiscal year.

I have added this amendment requiring public disclosure of consultant contracts to each appropriations bill we have passed this year. I believe this is absolutely necessary if we are going to continue limiting agencies' spending for experts and consultants. With more information available to us next year it should be easier for the subcommittee to arrive at a realistic figure without depending on administration estimates which we have seen are unreliable since nobody has been able to provide a final figure on the number of consultants employed by the Government.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, I want to commend the gentleman for the initiative that he has taken on this matter, on this and the other appropriations bills that have come to the floor. It seems to me only fitting and proper that what we did for one department, we ought to be doing for all, and make it a uniform standard.

So, I commend the gentleman for offering the amendment here to our bill, and certainly have no objection to it.

Mr. REGULA. I thank the gentleman.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, I would like to say to the distinguished gentleman from Ohio, who is a member of the Committee on Appropriations, and one of the good members, that we have no objection on this side.

Mr. REGULA. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. REGULA).

The amendment was agreed to.

Mr. ROYBAL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to express my concern about report language that was introduced in full committee, at page 112 of the committee report. I refer to that language that may be interpreted to mean that the Department of Education's Office of Civil Rights should not enforce equal educational opportunity regulations for children who are unable to speak the English language. Knowing that the honorable gentleman from Illinois (Mr. MICHEL), who introduced this language, would not endorse the infringing of civil rights of any group of people in this great country of ours, I would point out that the proposed regulations covered in committee report language are regulations designed to protect the rights of students who come from homes where a language other than English is spoken, and not to mandate any Federal education program to local schools.

As all my colleagues know, the right to equal educational opportunities for children of limited English proficiency was unanimously upheld by the Supreme Court in the Lau against Nichols case in 1974. The Lau decision was for children of limited English proficiency what the Brown against Board of Education decision in 1954 was for the black and minority children. It was simply a guarantee of equal educational opportunity. As the Supreme Court stated, there is no equality of treatment merely by providing students with the same facilities, for students who do not understand English are effectively foreclosed from any meaningful education.

The Department of Education's proposed regulation in this area stems from this Department's ruling on the 1964 Civil Rights Act. Not only do the provisions of these regulations reflect past Federal court decisions and also past administrative policies on the part of the Department, but the proposed regulations project the rights of these students who number over 3.5 million.

The proposed regulations, however, also protect the rights of local districts. For too long local districts have had to negotiate with the Office of Civil Rights in this area without the benefit of specific and formal guidelines. By publishing proposed regulations which afford an amount of clarity, the Department is attempting to prevent arbitrary and capricious enforcement by agency bureaucrats. The clear focus of these regulations and the legal precedents make it clear that the language of the gentleman from Illinois would not be needed to obtain effective civil rights enforcement in this latter area. As we all know, to effectively protect the civil rights of all our children, factors such as identification and assessment of schools, class sizes, and class concepts have to be reviewed.

We have had to do this in matters of racial discrimination, sex discrimination, and in enforcing the rights of the handicapped.

To protect the rights of limited English-speaking children, the Department of Education proposed regulations, rightfully taking these factors into account.

I know that the gentleman from Illinois and many other Members of Congress share my concern that students of limited English proficiency be mainstreamed into regular English classrooms as soon as they are English proficient. The proposed regulations which are in clear and concise English clearly reflect this objective.

□ 1140

Mr. Chairman, we can go over the language, but I do not think it is necessary to take it paragraph by paragraph. I would like to ask the gentleman from Illinois (Mr. MICHEL) whether or not he agrees in general with this statement.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, I appreciate the gentleman's yielding.

Unfortunately, on the day when we were considering my amendment in the full committee, the gentleman was not there. I regret that we could not have had whatever exchange we may have had at that time, but it is just as well for purposes of legislative history that we discuss it here on the floor.

I would have to say that the gentleman and I share the same feelings with respect to how our young people are best taught bilingually. Without going into specifics, I think from the discussions we have had we share a common ground, and I certainly did not intend by my report language here to in any way suggest that school districts ought to be permitted to violate, for example, the Civil Rights Act. By no stretch of the imagination did I intend that.

The CHAIRMAN. The time of the gentleman from California (Mr. ROYBAL) has expired.

(On request of Mr. MICHEL, and by unanimous consent, Mr. ROYBAL was allowed to proceed for 5 additional minutes.)

Mr. MICHEL. Mr. Chairman, if the gentleman will yield further, the responsibility of the Department and its Civil Rights Office is to carry out the Civil Rights Act, by investigating complaints of discrimination and taking any necessary followup action.

In any normal proceeding the first step, I believe, is to determine whether discrimination exists, and if it is found to exist, then the defendant is allowed to develop remedies to rectify the problem. Only when the defendant is uncooperative or does not develop an effective solution does the Government step in and suggest a remedy.

My problem with the Department of Education is that with these particular regulations which they have just promulgated, they have ignored the first two steps here and jumped right to the third step. It has in effect unilaterally declared that all school districts with non-English-speaking children are guilty of discrimination, have been uncooperative in developing a solution and, therefore, must have a remedy imposed upon them.

Mr. Chairman, the Association for Supervision and Curriculum Development, the American Association of School Administrators, the American Federation of Teachers, the Council of Chief State School Officers, the Council of Great City Schools, the National Association of Elementary School Principals, the National Association of Secondary School Principals, the National Association of State Boards of Education, the National Conference of State Legislatures, the National PTA, and the National School Boards Association all want to come and testify against these regulations.

Mr. ROYBAL. Mr. Chairman, if the gentleman will permit me to continue at this particular time, I will add that these are proposed regulations? That is true, is it not?

Mr. MICHEL. Yes.

Mr. ROYBAL. But we also have an equal number and perhaps a greater number of people testifying in favor of those regulations. So since they are just proposed regulations at this time, I think we must discuss the language that the gentleman is proposing which is based on proposed regulations, regulations which have not yet gone into effect, regulations which will be reviewed by the general public for comment.

What I want to know is, whether the gentleman's language precludes bilingual education from being used wherever needed in the schools of this Nation. I do not believe that is the gentleman's intent.

Mr. MICHEL. Of course not.

Mr. ROYBAL. Mr. Chairman, I believe that it is the gentleman's intent—as it is also mine—that if a youngster is not proficient in the English language and speaks only the language of the home, whether it be French, German, Vietnamese, or Spanish or whatever, that he be given the opportunity to use the language of the home as a vehicle for the learning of English, and that once he becomes proficient in the English language, that is, proficient enough to be able to keep up with his first, second, third, or whatever class it is, he will no longer be the recipient of that kind of training. Once he reaches that level, he then is on an equal basis with everyone else to proceed in the regular curriculum with all the other children.

Mr. Chairman, that is my understanding of what the gentleman intends.

Mr. MICHEL. Mr. Chairman, if the gentleman will yield further, I do not want in any way to leave the impression here that I subscribe to the Department of Education issuing a uniform set of rules, regulations, and guidelines for the teaching of English in a bilingual setting. That ought to be varied, depending upon the school district and the area of the country, and it should depend on how they best feel they can teach the English language to those who are proficient only in their native tongue.

Mr. ROYBAL. But the gentleman does agree that the language of the home, whatever it happens to be, can effectively be used as a vehicle for the learning of English?

Mr. MICHEL. Well, it naturally can be, yes.

Mr. ASHBROOK. Mr. Chairman, will my colleague yield on that point?

Mr. ROYBAL. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for yielding, because I have been listening to his statement closely as this is an area in which I have great interest.

When the gentleman talks about the language of the home, I hope that my colleague, the gentleman from California (Mr. ROYBAL), is not indicating that he thinks bilingual education programs should be used to promote the language of the home for teaching such things as mathematics, the native history of that country, plain geometry, and so forth.

Could it not be directed for intensification of the ability of that young person to speak English? Is that my colleague's interpretation?

Mr. ROYBAL. That is correct. The language of the home is to be used as a vehicle for the learning of English. Once English proficiency is reached the child is ready to learn almost anything else.

I am sure that there is not a single Member of this House, for example, who would excel in any classroom in which everyone spoke a strange foreign language. But you would have a chance if the language of your home, in this case being English, were used as a vehicle to the learning of that language.

The CHAIRMAN. The time of the gentleman from California (Mr. ROYBAL) has again expired.

(On request of Mr. CORRADA, and by unanimous consent, Mr. ROYBAL was allowed to proceed for 5 additional minutes.)

Mr. CORRADA. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Puerto Rico.

Mr. CORRADA. Mr. Chairman, I rise to associate myself with the remarks of the distinguished gentleman from California in his concern over the language adopted by the Committee on Appropriations in its report on this bill, H.R. 7998. I am in extreme disagreement with the position taken by it on page 112 toward the recently proposed regulations on bilingual education. I am further most disappointed in this attempt to take a step backward in advancement toward extending equal educational opportunity to every child in our great country.

In 1964 Congress enacted the Civil Rights Act, title VI of which prohibits discrimination under any program or activity receiving Federal financial assistance. Under this act, each Federal agency is given rulemaking authority along with the responsibility to enforce the mandate of title VI. The Department of Education has fulfilled this requirement by publishing for public comment regulations for schools enrolling limited-English proficient students. The Appropriations Committee in undercutting the Department's regulations not only attempts to interfere in the agencies statutorily designated jurisdiction, but also blatantly ignores the 1974 Supreme Court decision which upholds this interpretation of title VI as it relates to education.

In its report, the Committee on Appropriations expresses concern over regulations which prescribe requirements for staffing, teacher qualifications, and class size or composition. Yet none of these standards can be attributed uniquely to the bilingual education program—they are, indeed, more generally applicable to civil rights enforcement such as handicapped rights, sexual or racial discrimination.

The issue is, therefore, not one of regulating the bilingual education program, but more importantly one of protecting the civil rights of the minority student. It would be highly improper for Congress to place upon the Department the responsibility for compliance while withholding the tools for enforcement.

Mr. Chairman, let me underline once again that my gravest concern is for the helpless minority child who is caught in this tug of war. The bilingual education program was created to give him an equal footing in his preparation and schooling so as to be competitive in the labor market and to claim his rightful place in our productive society. You must agree that education is the cornerstone of a youngster's life and by denying the limited English proficient student this education in an understandable format we are for all intents and purposes sentencing him to a never-ending uphill battle to attain equal footing with his peers. The price of such a goal is never cheap—yet it is only by showing our support in monetary terms that the sincerity of our intentions can be determined.

I am disappointed to see the budget for bilingual education reduced by $17 million for fiscal year 1981, however, I will not dispute the wisdom of the Committee on this issue as they struggle to stay within stringent fiscal constraints. My preoccupation goes beyond budgetary details and becomes a matter of philosophical ideology.

It is my purpose to have the intent of Congress clarified to show that we are in support of the bilingual education program and that we recognize the harmful ramifications which the report language, as stated, would have upon those children of limited English-speaking ability. This is not a matter to be taken lightly nor is it one which will quickly fade, and although some of the decisions which we must make are not easy we must nevertheless have the courage to support full implementation of the Civil Rights Act.

Mr. Chairman, in its report the Committee on Appropriations expresses concern about regulations which prescribe requirements for staffing, teacher qualifications, and class size or composition. Yet none of these standards can be attributed uniquely to the bilingual education program. They are, indeed, more generally applicable to civil rights enforcement, such as the handicapped's rights and sexual or racial discrimination.

□ 1150

The issue, therefore, is not one of regulating the bilingual program but, more importantly, one of protecting the civil rights of the minority students by providing certain guidelines so that equal educational opportunity under the Lau against Nichols decision of the Supreme Court would be allowed to these children, and it would be highly improper for the Congress to place on the Department of Education the responsibility for compliance with civil rights, yet withholding the tools for enforcement of these rights for children who have language problems in the schools. I would hope definitely that we would not want to give the impression that Congress for minority children who have language problems at school and that we will support the Lau against Nichols decision as the law of the land and provide the Department of Education with the instruments to enforce these civil rights.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Illinois.

Mr. SIMON. Let me just add that I read a column in the New York Times by Al Shanker, the president of the American Federation of Teachers, criticizing the regulations. We checked and checked on some other criticisms, and we found that many of the criticisms were on the rough drafts of the regulations rather than the final published regulations. It could be that the regulations do need further modification, but my guess is much of the criticism is directed not toward the published regulations but toward the original rough draft.

Let me add one other factor here that I hope will be increasingly a part of bilingual education. The people in our country whose mother tongue is another language represent a great resource for teaching—young people whose mother tongue is not English—whether it is Spanish, Vietnamese, Chinese, whatever it might be. We changed the law a couple years ago to encourage more children whose mother tongue is English to get into the bilingual program. Both the children whose mother tongue is English, and those whose mother tongue is not English, would benefit. That is happening on a small scale, but we find it is a healthy thing educationally to have that integrated kind of a class, and I hope that happens a great deal more.

Mr. ROYBAL. I thank the gentleman.

• Mr. WEISS. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from California, (Mr. ROYBAL).

The language in the Labor-HHS appropriations report raises serious questions about the commitment of this Congress, and this Nation to provide equal educational opportunities for all children. I believe that the report language does not accurately reflect the sense of this Congress, and obviously, not even the members of the Appropriations Committee.

The intent of Congress which has been established in policy, law, and by a court decision, could not be more clear. And Education and Labor Committee report dealing with the bilingual title of the Elementary and Secondary Education Act states that "large numbers of children of limited English proficiency have educational needs which can be met by the use of bilingual educational methods and techniques" and that "equal educational opportunity" at times requires such techniques. And the Supreme Court ruled in the 1974 case of Lau against Nichols that an equal educational opportunity was being denied when children whose language is other than English were taught in an English only classroom.

The Department of Education has recently issued proposed regulations designed to implement what has in effect been 5 years of departmental policy; policy which has led to agreements with the more than 400 school districts which enroll the majority of the Nation's limited English speaking students. These regulations are in draft form and are now subject to extensive public review and comment. Nationwide hearings are planned, including a hearing in New York City next month. To attempt to circumvent these proposed regulations now, by attaching language to an appropriations report, without hearings, without consideration, is not only foolhardy, but contrary to the deliberative process.

There are approximately 3.6 million school-age children from non-English-speaking homes who have a limited ability to speak or understand English. Two million four hundred thousand of these children are between the ages of 5 and 14. If we accept this report language without protest we may be denying these children an opportunity to receive an education, and we deny them a future.

I urge my colleagues to speak up against the report language. It simply is not the intent of the committee or this Congress to deny an equal educational opportunity to any of this Nation's children.●

Mr. BEREUTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as my colleagues may recall, last year, during the consideration of the Labor-HEW appropriations bill, this body adopted an amendment I offered which prevented HEW, now HHS, from using any of its fiscal 1980 monies for implementation of the system for hospital uniform reporting, SHUR.

I wish to bring to the attention of my colleagues developments which have occurred since that time, and then I will ask some questions of the very distinguished subcommittee chairman, the gentleman from Kentucky (Mr. NATCHER).

The language of the conference report on last year's bill with respect to the SHUR system stated:

> The conferees, therefore, direct that the Secretary not issue final regulations for the program until the Department's proposed revisions have been formally approved by the appropriate committee of each House designated by the Speaker of the House of Representatives and the majority leader of the Senate.

During floor consideration of the conference report, in response to my inquiry, the distinguished subcommittee chairman stated his expectation that the committee appointed by the Speaker would hold public hearings prior to giving its approval and that a date for implementation of the final reporting system would be up to that committee.

On March 19, 1980, the Department issued a proposed revision of the SHUR system, called the annual hospital report, AHR. It is my understanding that the Department has not yet completed its review of the comments it received in response to its notice of proposed rule making and has not as yet forwarded its final version to the House. Therefore, the Speaker has not yet appointed the appropriate committee to review the proposal as mandated by the conference report language.

I would like to ask the distinguished subcommittee chairman whether he is of the opinion that the conference report language prohibiting implementation of final regulations prior to committee approval remains applicable to the Department's proposed revision of the SHUR program.

I yield to the distinguished subcommittee chairman for that purpose.

Mr. NATCHER. Mr. Chairman, as the gentleman has pointed out to the members of the committee, we had a colloquy last year somewhat similar to this, and I want the gentleman in the well to know that the statement he has just made is correct.

Mr. BEREUTER. I thank the chairman. I have one further question:

Would it be the gentleman's conclusion that, therefore, it would not be necessary to amend the legislation currently under consideration to continue the restraint on the Department's action in this regard?

Mr. NATCHER. If the gentleman will yield, Mr. Chairman, I would like to say to the gentleman that that statement is correct. It would not be necessary.

Mr. BEREUTER. I thank the chairman.

I would like to indicate to the Members of the House that I continue to have substantial concerns regarding the Department's proposed revisions of the SHUR system, that I intend to make these concerns known when hearings on AHR are held by the appropriate committee or committees, and that I will continue to monitor this situation very closely.

Again, I thank the distinguished subcommittee chairman, the gentleman from Kentucky (Mr. NATCHER), for his kind response.

Mr. STOKES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as a member of the Labor/HEW Subcommittee, I rise in support of the fiscal year 1981 Labor-HEW Appropriations bill. At the outset, I want to personally commend the distinguished gentleman from Kentucky (Mr. NATCHER) who has made the work of the subcommittee much easier through his exceptional hard work. Our subcommittee chairman has demonstrated superb leadership in the development of this bill. He has always been fair and equitable and has permitted every member of this subcommittee every opportunity to serve his constituency. We are indeed fortunate in this Congress to have a chairman of the caliber of BILL NATCHER.

Mr. Chairman, our subcommittee worked very hard on this bill under very difficult circumstances. The fiscal year revised budget submitted by the President gave us a no growth budget and the spending constraints set under the first concurrent budget resolution made it difficult to address all of the real human needs which are provided for under the programs contained in this bill. But, I believe that the committee has made a valiant effort to insure that the health, education and welfare needs of the American people are met. Thus, I urge your support of the bill.

There are several items in this bill that I would like to mention specifically. The bill includes $7.4 billion for CETA employment and training programs. The committee's intent was to provide for 369,000 jobs under titles II-D and VI, although I am somewhat concerned that not enough funds have been provided to fund this number of jobs. I personally would have liked to see more money provided for more jobs. We have included report language, however, indicating that a supplemental appropriation request would be considered by the committee if the committee's enrollment assumptions turn out to be too low.

Because of my strong interest in the youth unemployment problem, which is particularly devastating among black youth, I hope you will support the committee's recommendation of $839 million for the summer youth employment program and $561 million for job corps. In addition, I am extremely pleased to note that our committee restored $6 million to the budget for the national youth sports program which the President had proposed to terminate. This program helps to keep thousands of young people who otherwise would have nothing to do during the summer constructively occupied. Most importantly, this program exposes young people to college campuses, provides athletic and health instruction, physicals, and meals.

Unfortunately, our committee was not able to consider funding for the new youth initiative since the necessary authorizing legislation has not yet worked its way through the Congress. However, our committee has indicated its desire to consider an appropriation for this purpose as soon as authorizing legislation is enacted.

In the area of health, the committee made significant decisions. For the National Institutes of Health (NIH), the President had proposed very little or no growth for most of the Institutes which would have crippled our Nation's research program. This bill protects and continues the Nation's investment in research and research training by providing $3.6 billion for NIH. The bill provides funds to stabilize individual investigator-initiated research projects at about 5,000 new and competing awards; and provides funds for new training awards.

I am particularly proud of NIH's increased emphasis on diabetes research for which the Congress has provided funding in past years and this year.

Major advances in diabetes research have been achieved through federally supported research. Most recently, scientists have succeeded in transplanting insulin producing cells from rats to mice, raising the possibility that human diabetics might ultimately be treated with transplanted animal insulin cells.

Additional funds are also provided in the bill to help to maintain current services levels in community health centers and in mental health professions training. Funds are included to help alleviate the severe underrepresentation of minorities in mental health disciplines, as recommended by the President's Commission on Mental Health. With respect to health planning our committee is very supportive of the health planning program and partially restored a 30-percent budget reduction recommended by the President. Unfortunately, we just could not find the funds to fully restore health planning funding to the current year's level.

The bill does well by our young people with respect to their educational development. At my urging, the committee recommends nearly $3 billion for title I basic and concentration grants, if there ever was a program deserving of congressional support, title I, is it. The National Institute of Education, GAO, and independent evaluators all agree that title I dollars are dollars well spent.

In addition, the concentration grant funds are sorely needed by school districts that have large numbers of low-income children who need additional services. These school districts, in general, are hurting financially and will be further disadvantaged by cutbacks in Federal revenue-sharing funds which in many States support local education. The bill before you includes increases for both title I basic and concentration grants so that every school district eligible for title I, assistance does better under the committee recommendations.

An equally good investment is the committee's recommendation of $820 million for Head Start and $164 million for child welfare services newly authorized under H.R. 3434.

Mr. Chairman, I could go on and on with respect to the specific provisions of the bill—among the programs which I have not mentioned are student financial assistance, higher education programs, programs for the elderly, title XX, and so forth.

I would like to take a final moment, however, to address a specific issue relating to training and technical assistance under the Community Services Administration (CSA) budget. CSA is one of the related agencies provided for in this bill. Our committee recommended a reduction in funds for training and technical assistance, however, I would like the RECORD to show my support of work of the national antihunger organizations which receive a portion of these funds. These organizations, including the interchurch council in my own congressional district, have performed a true service by working to insure that federally funded food programs serve poor people who are eligible and truly in need of assistance. I would hope that the Community Services Administration will continue to place a high priority on funding this activity.

In conclusion, Mr. Chairman, I think that our subcommittee has recommended an admirable bill, and I urge all my colleagues to support it.

☐ 1200

AMENDMENT OFFERED BY MR. PASHAYAN

Mr. PASHAYAN. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

JOHN E. FOGARTY INTERNATIONAL CENTER FOR ADVANCED STUDY IN THE HEALTH SCIENCES

For the John E. Fogarty International Center for Advanced Study in the Health Sciences, $9,138,000 of which $1,700,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

The Clerk read as follows:

Amendment offered by Mr. PASHAYAN: Page 20, line 5, strike out "$1,700,000" and insert in lieu thereof "$1,800,000".

Mr. PASHAYAN. Mr. Chairman, this does not add any money to the funding level. It merely permits the Gorgas Memorial Laboratory to use $1.8 million rather than $1.7 million from its parent fund.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. PASHAYAN. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, the distinguished gentleman in the well from California has been nice enough to submit his amendment to both sides prior to offering the amendment in the committee. We have had an opportunity to examine this amendment.

As the gentleman points out, it adds no money to this bill.

Mr. Chairman, that pleases us on this side immensely. I want the gentleman to know it. It adds no money.

The amendment as offered would make the amount earmarked for the Gorgas Memorial Laboratory $1.8 million instead of $1.7 million. We had this matter before the subcommittee at the time of the hearings. Unless there is some objection on this side, Mr. Chairman, that I know nothing about, we would accept the gentleman's amendment.

Mr. PASHAYAN. I appreciate the support of the chairman.

I should just like to say the Gorgas Memorial Laboratory does research in tropical diseases and supplies information to our armed services.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PASHAYAN).

The amendment was agreed to.

Mr. GARCIA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the Secretary of Education has proposed rules to implement provisions of title VI of the Civil Rights Act of 1964 preventing national origin discrimination in elementary and secondary education. The proposed rules prohibit recipients of Federal financial assistance from denying equality of access to any student because of that student's limited proficiency in English.

The action of some States in denying equality of access to large numbers of students with limited proficiency in English represents one of the most serious barriers to equal opportunity in education. The number of these students is large and growing. Estimates by the National Institute of Education and National Center for Educational Statistics place the number of limited English proficient schoolage children at over 3½ million. The overwhelming majority of these children were born in this country. Of all the limited English-proficient children in this country, the largest group is Hispanic. The second largest group speaks Asian languages such as Chinese, Korean, Vietnamese, and Cambodian.

Obviously the student who does not speak English will face difficulty obtaining an appropriate education. These limited English-proficient students face two main problems. First, they must be taught English. Second, while they are learning English, they must have the opportunity to keep pace with their English-speaking classmates who are learning other subjects. Localities implementing educational practices that do not address these problems impose substantial and unnecessary burdens on these students.

In the past, too many schools have failed to meet the needs of limited English-proficient students. Students who rely on a language other than English drop out of school at a much higher rate than that of members of their own ethnic, racial or socioeconomic group who speak English. For Hispanic students who primarily speak Spanish, this dropout rate is more than three times higher than that of Hispanic students who primarily speak English.

The Lau decision, which is the Supreme Court case that upheld these guidelines as an appropriate and permissible interpretation of title VI, involved approximately 3,000 limited English-proficient Chinese students enrolled in the San Francisco public school who were required to attend classes taught exclusively through English. The opinion of the Court noted that title VI of the Civil Rights Act of 1964 prohibited conduct which had discriminatory effect as well as conduct which was intentionally discriminatory.

The Court reasoned that exclusion based upon a characteristic unique to a national origin minority group had the same effect as an intentional scheme to exclude such a group from a realistic chance to obtain an education. In part, the opinion stated:

> There is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum: for students who do not understand English are effectively foreclosed from any meaningful education. (Lau, supra, at p. 566).

The recommendations in the committee report blatantly ignore the educational needs of more than 3 million children. The recommendations also ignore 5 years of Federal policy designed to implement the 1974 Supreme Court decision in Lau against Nichols, which recognized that non-English speaking children were being denied an equal educational opportunity when educated in English-only classrooms. Remedial efforts have led to more than 400 agreements between school districts and the Federal Government during these past 5 years. The Department of Education's recently proposed regulations represent a continuation of past efforts and merely attempt to clarify future direction. Indeed, we are eager to see this process completed expeditiously.

I urge my colleagues to reaffirm their commitment to the basic principle of equality in education and to support continued Federal efforts in the area of bilingual education.

Mr. Chairman, I want to say particularly to the gentleman from Illinois, the ranking minority member of the subcommittee, that there are all one or two questions that concern me. I would hope that he would be kind enough to respond.

In the gentleman's statement, in the language in the bill, the gentleman cites:

> The law creating the Department of Education prohibiting the Department from interfering with local decision making in the area of curriculum, administration and personnel.

What the gentleman from Illinois left out of that statement were the last seven words to the section which I believe should have stated, were "except to the extent authorized by law," taking us to the 1964 Civil Rights Act.

The problem I have, as a former legislator from the State of New York, I can tell the gentleman that in certain areas of the State we had no problem in implementing bilingual education programs yet in other areas of the State where there was an obvious need for it, the local school boards refused to come forward with a plan. We then had no choice but to go through with legislation to force the locality to compile. That is the part that worries me.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Illinois.

Mr. MICHEL. If I might respond to the gentleman, I would say that what the Department really ought to be doing in any regulations is to develop the process by which it investigates alleged cases of discrimination, and not prescribe the remedy. I would give them all the money in the world to do just that, but I think that what I want to make absolutely sure is that they do not prescribe the remedy because that remedy may be somewhat different in Ohio as in New York or in my home State of Illinois.

Wherever there is to be found a case of discrimination, such as suggested by the gentleman, there ought to be funds in this bill to investigate that and provide for a remedy.

Up to this point, what we see the Department doing is just assuming that there is this discrimination everywhere and therefore big government is going to come in and say, "You have got to do it this way," and I am just absolutely sure that is the wrong way to do it.

Mr. GARCIA. Just to follow up, in the Brown case tried in 1954, dealing with segregated schools, if we had left it up to the localities to implement the program to insure that both white and black students were to obtain an equal education, where would we be today? The Supreme Court decision made it possible.

Mr. MICHEL. I would respond to the gentleman by saying that ever since that Court decision and all the intervening years and all the different cases, locally around the country, some have been rationalized and adjudicated in different ways depending again upon the State and the locality and the district, the configuration, all kinds of factors that go into implementing that Supreme Court decision.

While it was a decision with which we all agree, it has been implemented in actual practice in a variety of ways depending upon the State and locale in which one finds the problem.

Mr. GARCIA. I would just like to thank the gentleman from Illinois, because I do get reassurance in the gentleman's tone and the manner in which he makes this presentation that he, as ranking minority member of this very important Appropriations Subcommittee, the subject of bilingual education, that is very important to Hispanics and more so every day to Asians, I am delighted that the gentleman's attitude is such as it is. That we can work with him to insure fairness as it relates to education for all people.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I listened to my colleague, and I wanted to ask him about one statement he made.

Did my colleague mean to say that the Lau decision, as he interpreted it, required bilingual instruction?

The CHAIRMAN. The time of the gentleman from New York (Mr. GARCIA) has expired.

(At the request of Mr. ASHBROOK and by unanimous consent, Mr. GARCIA was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. If the gentleman will continue to yield, did I understand my colleague to say that?

Mr. GARCIA. The Lau decision was based upon the city of San Francisco where there were 3,000 students of Asian background who were, in the opinion of the Court, and title VI of the Civil Rights Act of 1964 prohibited from an education. There was educational discrimination taking place in the city of San Francisco as it related to Asians.

Mr. ASHBROOK. The Court did not say, and I think I want the record to be sure to show that, the Court did not require or did not mandate the instruction of bilingual education. It simply said if there was discrimination, something should be done. Reasonable minds could probably differ as to the alternatives as to what could be offered. It might be intensive instruction in English. It could be bilingual, but the court did not, as I understand it, mandate bilingual education.

I think my colleague indicated in his comment that the court did mandate bilingual education. I simply want the record to show that the Supreme Court certainly did not mandate bilingual education.

Mr. GARCIA. It says there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum, for students who do not understand English are effectively foreclosed from any meaningful education.

Mr. ASHBROOK. I would agree with that 100 percent.

Mr. GARCIA. That was the crux of the Lau decision. Based upon the fact it was Asian students who had no knowledge of English or very little, that if one takes both the statements that I have just read, the paragraph, coupled with the fact that these students could not speak English, my interpretation would be that, yes, it was meant to teach bilingual education to a point in which these students would be proficient in the English langauge.

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Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield further, I certainly would accept that as the gentleman says it is his interpretation; but I think the record should show that the Court did not mandate the instruction of bilingual education.

The Court it clearly said something had to be done. Reasonable minds in Congress or in the Office of Education might differ as to what should be done. If my colleague interprets it to be bilingual education, that is fine, but I do not think that is what I would say, nor what the Court said.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

> SEC. 205. None of the funds provided by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

The Clerk read as follows:

> Amendment offered by Mr. BAUMAN: On page 37, line 9, strike the period, insert a colon, and add the following: "*Provided, however*, That the several states are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.".

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the distinguished gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, the gentleman from Maryland has been kind enough to submit to both sides a copy of his amendment. We have no objection to the amendment on this side.

Mr. BAUMAN. Mr. Chairman, I urge support for the amendment.

Mr. Chairman, the amendment before the Committee simply seeks to clarify a legal question which has plagued the States ever since a series of Federal courts have sought to impose their view of congressional intent with regard to the funding of abortions under the medicaid program. The result has been that many States have been forced against the wishes of their legislatures to fund abortions.

The amendment before us says that each and every State of the Union shall have the right to determine whether or not, or to what extent, if any, it will fund abortions. The amendment is nothing more than a reaffirmation of the States right to make this decision and a similar amendment was adopted by this House last December 11 by the overwhelming vote of 235 in favor and 155 opposed. That amendment was offered to the child health assurance program, H.R. 4962, which has not yet been acted upon by the other body. I offered the amendment at that time and I hope that it will again be adopted today.

Mr. Chairman, let me explain the background and need for this amendment and what my intent is in offering it here today.

The U.S. Supreme Court in its June 30, 1980, ruling upholding the constitutionality of the Hyde amendment (Harris against McRae and Williams against Zoaraz) rejected claims against the legislation which were grounded in the first and fifth amendments to the Constitution. At the same time, the Court held that States participating in the medicaid program are not required to fund "medically necessary" abortions on the grounds that title XIX of the Social Security Act "does not require a participating State to include in its plan any services for which a subsequent Congress has withheld Federal funding.

The language employed by the Court in analyzing the legislative history of title XIX and the various appropriations riders to which it has been subject rested upon the basic proposition that the essence of the medicaid program is a system of "cooperative federalism," a shared endeavor between the Federal Government and the States. By viewing the overall framework of the medicaid program in this light, the Court avoided consideration of the authorization-appropriation process or characterization of the nature of the Hyde amendment according to House rules. The Court nonetheless agreed with the result reached by the district court in McRae regarding the statutory question which was withdrawal of Federal funds for abortion in specific instances relieves any prior obligation of States under title XIX to fund "medically necessary" abortions. The Court characterized the Hyde amendment as a "substantive amendment" to the Social Security Act.

Mr. Chairman, while the constitutionality of State and congressional restrictions on the use of public moneys for abortion was upheld, the question whether a State must provide abortion services in those instances where Federal funds are available was not resolved. It is clear that the ambiguity in the opinions of the Supreme Court on this question can be resolved by a further act of Congress.

Mr. Chairman, it was this unresolved question which I was attempting to address when, as I have just said, I offered the States' rights amendment which was adopted last December 11. I seek to resolve the issue again today. My amendment seeks to make clear that Congress in no way intended to require any State funds to be obligated for abortions by making funds available in annual appropriations for medicaid.

The previous failure by Congress to enact language clarifying the obligation of the several States with respect to abortion funding under medicaid was the occasion of protracted litigation in numerous States beginning in 1978. At least 13 States whose statutory or budgetary scheme restricting abortion funding have subsequently been ruled constitutional were placed under Federal court orders to fund abortions because of a presumed requirement that "medically necessary" abortions be provided under title XIX. The failure of the Congress to clarify this question has resulted in needless confusion at the State level. States have been subjected to essentially erroneous interpretations of the Medicaid Act. This confusion has led to frustration of both congressional intent and of the will of State legislatures to meet their legitimate obligations under the Medicaid Act without being forced to provide abortion funding on demand.

Because the medicaid program is clearly an example of cooperation between the Federal and State governments, the Congress has a positive obligation to preclude further confusion at the State level resulting from the current ambiguity in Federal law. Congress should make clear that the several States retain authority under the Constitution, analogous to that of the Congress, to expend or refuse to expend public funds for abortion.

Mr. Chairman, I hope the adoption of this amendment by the House will once and for all make clear the intention of Congress and put an end to the uncertainty which exists.

I want to thank the gentleman from Kentucky (Mr. NATCHER) and the gentleman from Illinois (Mr. MICHEL) for their cooperation and support for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RATCHFORD

Mr. RATCHFORD. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

HIGHER AND CONTINUING EDUCATION

For carrying out titles I–A, III, VIII, IX and XI and sections 417, 420, 745, and 1203 of the Higher Education Act; the Mutual Educational and Cultural Exchange Act of 1961; title VI of the National Defense Education Act; the National Science Foundation Act of 1950, section 3(a)(1); and title III, Part G of the Elementary and Secondary Education Act, $407,689,000 including not to exceed $10,000,000 for section 801(b) of the Higher Education Act: *Provided*, That $26,000,000 made available for interest subsidy grants under section 745 shall remain available until expended: *Provided further*, That no State shall receive less under title I–A of the Higher Education Act than it received for the fiscal year 1980.

The Clerk read as follows:

Amendment offered by Mr. RATCHFORD: On page 44, line 13 after "section 801(b)" insert the following: "and $3,000,000 for education information centers under section 418".

Mr. RATCHFORD. Mr. Chairman, I offer this amendment to correct what I view as an oversight on the part of the committee in completing the difficult task of bringing this bill to the floor. The amendment would reinstate from funds provided in the bill $3 million for educational information centers, in fiscal year 1981, the same amount allocated to this program for the past 2 years, thereby allowing the continuation of this important program.

As many of my colleagues are aware, the educational information centers provide information, counseling, and referral services to individuals interested in pursuing a college education. The EIC's are particularly important because they serve as an essential link for adults attempting to enter, or to return to school. This need for supportive services to adults was emphasized repeatedly in the recent reauthorization of the Higher Education Act, and the EIC program was actually strengthened by the Committee on Education and Labor. It is only through the educational information centers, that all the student aid programs, designed to help adults get a college education, will be meaningful.

In the committee report on this appropriations bill, the rationale offered for elimination of the EIC program was that the centers duplicate the services offered under the TRIO programs. Yet the crucial point is that the target populations for the these programs are not the same—while the TRIO programs are designed to reach out to minorities, the poor and the disadvantaged, the EIC program is designed to reach the housewife, the factory worker, and the older American. The centers are in place, and working well in the great majority of States—we cannot afford to eliminate them at a time when postsecondary education for adults is so very important.

Mr. NATCHER. Mr. Chairman, will the gentleman from Connecticut yield at this point?

Mr. RATCHFORD. I would be happy to yield to the chairman of the subcommittee.

Mr. NATCHER. Mr. Chairman, I would like the members of the committee to know that the gentleman from Connecticut has been kind enough to submit to us on this side and to the other side as well, a copy of his amendment. We know about this amendment, Mr. Chairman. It is $3 million for education information centers.

For the benefit of the committee, in the 1979 fiscal year, the budget omitted this program. As the gentleman knows, the committee put the $3 million back in. In 1980 they again sent us the budget and left it out. We again put the $3 million back in the bill.

The amendment offered by the gentleman from Connecticut adds no money to this bill. The $3 million under the gentleman's amendment, and I believe the gentleman would agree with me, that the $3 million would come out of the total for higher education. It adds nothing to the bill. It puts the education information centers back in the same position that they were in in 1979 and 1980.

As my distinguished friend, the gentleman from Illinois (Mr. MICHEL) and also the other Members on that side recall, last year we put this money in.

Mr. Chairman, we have no objection to the amendment on this side.

Mr. CONTE. Mr. Chairman, will the gentleman from Connecticut yield to me?

Mr. RATCHFORD. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I have discussed this amendment with the gentleman from Connecticut. I wholeheartedly support this amendment. It is a good amendment and ought to be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. RATCHFORD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ASHBROOK: Page 60, after line 19, insert:
>
> "SEC. 510. None of the funds appropriated by this Act shall be expended pursuant to any order or injunction of any court of the United States which would compel the expenditure of such funds for a purpose for which such expenditure is specifically prohibited by this Act."

Mr. ASHBROOK. Mr. Chairman, this amendment is not addressed to any particular court action or any particular language in an appropriations Act. Rather, it is intended as a defense of the constitutional role of the Congress as the sole possessor of the power to appropriate Federal funds.

Clause 7, section 9, of article I of the Constitution provides:

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

Mr. Chairman, as we all know, a single U.S. district court judge—Judge Dooling of the U.S. District Court for the Eastern District of New York—found the Hyde amendment unconstitutional and ordered the Secretary of Health, Education, and Welfare to make payments for a purpose for which no appropriation had been made by law. Until that time, the plain language of clause 7 had governed the conduct of our governmental affairs, and the explicit grant of power to the Congress as the sole possessor of the power to legislate Federal appropriations had never been denied.

It was for that reason—one having nothing to do with the issue of medicaid payments for abortions—that on March 18 of this year 238 Members of this Congress, including a majority of the Members of this House filed an amici curiae brief with the Supreme Court of the United States in the case, Harris against McRae.

That brief convincingly argued the central point presented in my amendment—that a prohibition against the use of funds in an appropriations bill means that no funds are appropriated for that purpose—even if the prohibition is struck down by a court. It is asserted that funds cannot constitutionally be drawn from the Federal Treasury except "in Consequence of Appropriations made by Law," which is a power the Constitution vests solely in the Congress.

Judge Dooling apparently took the extraordinary position that a court can strike down a specific prohibition of expenditures in an appropriations act and order the expenditure made. The congressional brief correctly characterized that position as one which "ignores the nature of the appropriations power, disregards the practice and precedents of Congress, and in the most fundamental way subverts the Constitution of the United States by making meaningless the reservation to the Congress of the right to determine when 'money shall be drawn from the Treasury.'"

My amendment, which I hope will be offered to and made a part of this and every subsequent appropriations act, would protect this power from judicial incursion.

When the Supreme Court decided the McRae case on June 20, and held the Hyde amendment constitutional, it did so without ever addressing the issue of the sole authority of the Congress to appropriate Federal funds. Indeed, we cannot expect a court to address the issue unless it is so squarely presented that a case cannot be decided on any other grounds. That is how courts guard their powers. We can guard ours only through legislation, and that is what my amendment does.

Sadly, even though the Supreme Court on June 20 vacated the judgment of the district court and remanded the McRae case for further proceedings consistent with that action and the majority opinion, Federal moneys to this day continue to be spent for the prohibited purpose. This is an absolutely disgraceful situation, and one which my amendment is designed to prohibit from happening again. We need this amendment to protect the abortion funding prohibition in this bill.

Please observe that the wisdom of the Hyde amendment, or any similar action, is not at issue. Many who vigorously opposed the amendment joined in the amici curiae brief. Many of us opposed so-called anti-Vietnam war amendments which were attached to appropriations acts a few years ago, but I for one would have strongly opposed a court's assertion of the right to nullify such an amendment and order money spent for the prohibited purpose. In the absence of an appropriation—which only Congress can make—Federal money cannot be spent for any purpose.

So this is not a Democrat against Republican or a liberal against conservative issue. It cuts both ways and all ways. The issue is the integrity of the legislative power of Congress, which appears to be assaulted on all sides. We should surrender this constitutional power neither to the bureaucrats nor to the courts. Rather we must affirmatively assert it. That is what my amendment does, and I urge its adoption.

With regard to the question of abortion, this amendment is critical because on February 19 of this year the U.S. Supreme Court refused to stay Judge Dooling's January 15 order enjoining the Hyde amendment which thereafter forced the Department of Health and Human Services to pay for "abortion on demand" contrary to the will of this Congress as expressed in the fiscal year 1980 Labor/HEW appropriations bill. The Washington Post on February 20 reported that according to HEW's own figures, the Court's denial of this stay would involve over 400,000 such abortions and 88 million of Federal tax dollars in fiscal year 1980. And even though subsequently on June 30 the Court itself held the Hyde amendment constitutional, because of a technicality in the Court's own rules with regard to a motion for rehearing, the American people are still paying for abortion-on-demand at this very moment.

At this time it is not known when the Supreme Court will act on the motion for rehearing of its June 30 decision, and possibly it may not act until after the fiscal year 1980 ends on October 1. Should the Court not act before October 1 of this year, the matter then would be sent back before Judge Dooling after the next fiscal year begins, and the fiscal year 1981 bill now before this Congress could again be enjoined by Judge Dooling. This could happen if, as rumored, the plaintiffs raise the "free exercise of religion" argument on which the Court said they previously lacked standing. This action would present Judge Dooling with another reason to possibly enjoin the latest Hyde amendment now in this bill before us today.

My amendment is essential if we are to protect the integrity of the fiscal year 1981 Hyde amendment, and any and all provisions in this Appropriations Act from the raw judicial power of the lower Federal courts to order the expenditure of funds not appropriated by this Congress. The dangerous precedent we have already allowed should be a warning to all of us.

This amendment preserves the clear and explicit concept of the separation of powers between the executive and judicial branches over the appropriation of taxpayer dollars. I urge all of the Members of this body who joined the amicus brief in this case, as well as all others, to support this amendment. It is time now for Congress to clearly and explicitly stand up for its rights It may be Mr. Hyde's amendment today, but tomorrow it could be yours.

Mr. OBEY. Mr. Chairman, would the gentleman yield for a question?

Mr. ASHBROOK. Certainly, I would be glad to.

Mr. OBEY. Mr. Chairman, I understand that in this amendment the gentleman is saying that no funds shall be provided regardless of a court decision.

Mr. ASHBROOK. Where they are specifically probihited by the act. If there is no prohibition, if it is up in the air, I would assume they could.

Mr. OBEY. Is my understandng correct that the gentleman intends to offer another amendment later on in the bill relating to title IX, which in that case would, in fact, do just the opposite?

Mr. ASHBROOK. No; It would not do the opposite. As a matter of fact, based of the precedents of this House, it would simply say——

Mr. OBEY. I mean, in that case, does not the gentleman's amendment say that no funds shall be provided for enforcement of title IX where the court says that the expenditure of those funds would go beyond the will of the Congress?

Mr. ASHBROOK. Well, as my friend, the gentleman from Wisconsin knows, in title IX they are talking about regulations, not law, and not talking about the Congress acting. They are talking about the regulations.

Second, you are talking about a situation where the court of appeals, not even a lowly district court, but the courts of appeals in three jurisdictions has said that HEW exceeded their authority. In one jurisdiction they said they did not exceed their authority.

If my colleague will let me continue, my amendment in that case would simply say that where there is a regulation and two courts of appeals say HEW exceeded its authority only, one court of appeals found HEW did not exceed its authority, appropriated funds should not be spent until it has been litigated and affirmatively decided one way or another by the Supreme Court. This is a different situation.

Mr. OBEY. My only concern is that the gentleman appears to be relying upon a court decision in one instance and objecting to a court decision in the other. I do not see how that is intellectually consistent.

Mr. ASHBROOK. Well, in one case there is the law. It has been clearly determined in Harris against McRae what the law is. I am relying on that.

In the case of title IX, you have two conflicting court of appeals decisions, not on statutory law, but on a regulation. It was not an appropriation. It was not the Hyde amendment. It was not an enactment of this Congress. It was on a regulation issued by HEW that reasonable people on one side thought exceeded their authority.

Mr. OBEY. I understand that. I do not object to the gentleman's first amendment. I am not going to lodge any objection to it; but I would suggest that the gentleman is asking this House to take an inconsistent position if the gentleman pursues this amendment which asks us to make certain that the judgment of the court does not apply, but yet in the next instance on title IX to ask that the judgment of the court indeed do apply. I just do not understand how the gentleman can be that comfortable in relying on the court in one instance and not in the other.

Mr. ASHBROOK. In the one instance, in Harris versus McRae, the court decided that a statutory enactment did not exceed our constitutional abilities.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. In the case of title IX, we are talking about regulations which are contended in three jurisdictions to exceed the authority of the statute; so in both cases it is consistent because we are talking about the authority of the statute and whether the authority has been exceeded.

Mr. OBEY. But my point is that the gentleman is relying on a decision of the court which may or may not be final, because it has not yet been heard by the Supreme Court in the title IX case, as I understand it; so I do not understand if the gentleman is following the logic of this amendment, which I think is consistent, why the gentleman would then in the next instance give the court the benefit of the doubt, even though that court decision itself is not yet final. Why should a lower level court be able to impose its judgment on an agency of the U.S. Government in a process which is not yet final? That is my only objection to what the gentleman is trying to do.

Mr. ASHBROOK. Exactly that point was raised on the IRS amendment regarding private schools. In that case, you had a Federal district court order. It was unappealed. It was an order not a decision and the precedent of this House was that it had an uncontroverted status of law. That is what we are trying to get at here. If it is to be a precedent, it should not be in conflict in different court of appeals decisions.

Mr. OBEY. The gentleman is not uncomfortable being on both sides of the issue?

Mr. ASHBROOK. Let us discuss that when the amendment comes up.

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The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PEASE

Mr. PEASE. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

EMPLOYMENT AND TRAINING ASSISTANCE

For expenses necessary to carry into effect the Comprehensive Employment and Training Act of 1973, as amended, and sections 326 and 328 of the Trade Expansion Act of 1962 (19 U.S.C. 1951 and 1961) and sections 236, 237, and 238 of the Trade Act of 1974 (19 U.S.C. 2101) and section 51 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 51), and sections 210, 211, and 212 of Public Law 95–250, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Comprehensive Employment and Training Act of 1973, as amended, $6,156.763,000 plus reimbursements, to remain available through September 30, 1982, and of which $1,910,000 shall be for the National Commission for Employment Policy: *Provided*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

The Clerk read as follows:

Amendment offered by Mr. PEASE: Page 3, line 2, strike out the colon and insert in lieu thereof the following: ", and at least $20,000,000 shall be for training under section 236 of the Trade Act of 1974:".

Mr. PEASE. Mr. Chairman, I first want to commend Chairman NATCHER and all of the members of the Subcommittee on Labor-Health and Human Services and Education on the outstanding service you have provided in shaping this bill. It is never easy to strike a balance among hundreds of competing human needs. This task is especially difficult now as we struggle to exercise more fiscal discipline.

But there is one area of the bill that we can improve upon. There are no funds explicitly allocated in the fiscal year 1981 Labor-HHS appropriation bill for employment training in the burgeoning trade readjustment assistance (TRA) program. Despite the fact that more than $800 million is to be available in fiscal year 1981 to pay TRA benefits, there is no guarantee that even $1 will be available for TRA employment training. That does not make sense.

More than 200,000 auto workers have been laid off an recent months because of the recession and changes in consumer demand. Thousands more American workers in related industries like rubber and steel are out of work while we struggle to find coordinated approaches to reasserting our Nation's industrial strength.

These people need immediate help which they are receiving in TRA benefits and job search and relocation allowances. But some of them also need training for new jobs.

It was not the intention of the Congress to authorize a new unemployment compensation program under the guise of TRA when it approved the Trade Act of 1974. But it is true that virtually all of the emphasis and funding since then has been concentrated on TRA benefits and not on training.

The fact of the matter is the Trade Act was intended to cushion the impact upon American companies and workers affected by increased imports and to provide training for displaced workers in need of new skills and new jobs. But under current law we are required to appropriate funds for TRA benefits, job search, and relocation allowances. Training is the stepchild that only get funded if there are any title III–CETA discretionary moneys left over.

The time has come to upgrade the importance of employment training in the TRA program. Many idled American workers are signing up for training only to find that none is available. More than 1,000 unemployed auto workers in Lorain County in my district have registered for training in recent months, but there are no employment training programs in operation because the $1 million allotted for training in Ohio in fiscal year 1980 was used up last March—long before the full effect of the auto industry slump hit. And I am certain many of my colleagues are encountering similar problems in your districts.

The amendment I am offering will insure that at least $20 million will be available in fiscal year 1981 to fund TRA employment training for unemployed workers in such basic industries as autos, steel, and rubber. Specifically, my amendment allocates at least $20 million for TRA employment training out of the funds appropriated for CETA employment and training assistance.

This is a prudent first step toward restoring the importance of training in the much-maligned TRA program. Unless my amendment is approved, we will have absolutely no assurance that any CETA funds will be spent for badly-needed TRA training. In fact, rumor already has it within the Department of Labor that nobody should count on any of the $10 million mentioned in the Department's original budget plan—which was even less than the $13.7 million to be spent on TRA training in fiscal year 1980.

My amendment does not add any additional funds to this bill. It merely directs a small portion of the already-approved funding to a pressing need. I hope you will support it.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I am happy to yield to my colleague from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio.

The basic purpose of the worker trade adjustment assistance program under the Trade Act of 1974 is to help workers adjust to increased import competition. Congress placed considerable emphasis on accomplishment of adjustment through training when suitable employment opportunities are not available, including provisions to facilitate job search and relocation.

Trade adjustment assistance was not intended to be an income maintenance and compensation program. Unfortunately, it has largely become one, a reason being that funds for training are allocated annually from the Secretary of Labor's discretionary account under title III of CETA rather than from a trust fund which has never been established as the Trade Act required.

The need for training of import-impacted workers has never been greater than it is now. The $10 million allocated for training in fiscal year 1980 has run out long ago and the Labor Department has a backlog of requests for training that would require an additional $45 million. Only $10 million from the title III CETA fund was targeted for trade adjustment assistance training in fiscal year 1981. Now that the discretionary fund is being cut in this appropriations bill by $20 million, training funds for fiscal 1981 will probably be considerably less than $10 million. Clearly this amount is insufficient given our high and rising unemployment. Auto and other workers in our basic industries, who previously have not been seeking training in large numbers, now are in the realization that their layoffs are permanent not temporary. The fact that the availability of funding is so uncertain undermines fulfillment of the basic purpose of the trade adjustment assistance program.

The proposed amendment will provide some certainty as well as an increase in funding that is so clearly needed. I urge its passage.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. PEASE) has expired.

(At the request of Mr. GILMAN and by unanimous consent, Mr. PEASE was allowed to proceed for 2 additional minutes.)

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I am happy to yield.

Mr. GILMAN. Mr. Chairman, I, too, want to commend the gentleman from Ohio for focusing attention on this very important measure. I just want to clarify for my colleagues, if the gentleman will yield for a question, does the gentleman propose any additional money or is he earmarking money already in the bill for training purposes?

Mr. PEASE. There is no additional money in this amendment.

Mr. GILMAN. The gentleman is earmarking how much for training purposes?

Mr. PEASE. At least $20 million.

Mr. GILMAN. I commend the gentleman for this effort at a time when so many of our autoworkers and so many other workers in important industries are being laid off, and we find there have not been sufficient training moneys available. The gentleman's amendment will make certain at a time of need that there will be these training moneys available, and without adding additional funding to the bill. I would urge our distinguished chairman of the subcommittee and distinguished ranking member of the subcommittee and ranking member of the committee to support this measure.

Mr. PEASE. I thank the gentleman.

Mr. GILMAN. Mr. Chairman, I rise in strong support of this important amendment offered by my good friend, the gentleman from Ohio (Mr. PEASE).

Mr. Chairman, it is imperative that additional funds be earmarked for the trade readjustment program (TRA). This is one of the least costly of the programs authorized by the Trade Act of 1974, but one of the best values. Rather than paying people unemployment benefits, this amendment will provide for retraining experienced workers thrown out of their jobs by imports to qualify for available work.

Less than $10 million was allocated for this program under the Secretary of Labor's discretionary authority in the last fiscal year. That amount was grossly inadequate—and I frankly do not understand, given the fact that the money ran out so quickly and is so desperately needed, why the Labor Department came back with the very same $10 million request for fiscal 1981. The committee cannot be criticized for not giving this program higher priority, given the limited materials prepared for them by the Department in justification—but we are here on the floor today to ask that a far greater share of the $6 billion-plus employment and training budget be earmarked for this very important program.

Earlier this year, the Ford assembly plant in Mahwah, N.J., which abuts my congressional district, closed permanently, throwing thousands of my constituents out of jobs that many have held for as much as 15 and 20 years.

It is our obligation to those employed to live up to our responsibility to protect them in some measure from the effects of imports that we allow into our country—to retrain them for meaningful jobs in our economy.

In 1979, before the sharp upturn in job displacements due to imports, less than 10 percent of those who applied for job training were able to get it.

Only if we pass the amendment offered by the gentleman can we expect that the funds available for training these individuals will approach the required funding.

If the current flood of imports continues unabated, we will need to allocate more funding to this program; but this is a start and will provide funds for the workers now in need of training in the 26th Congressional District of New York and elsewhere across our Nation.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I am happy to yield.

Mr. MICHEL. I appreciate the gentleman yielding.

Did I understand the gentleman to say that he had a specific figure of workers that he knew were desiring training and were denied funds, for example, in his home State? I will tell the gentleman the problem I have. If my memory serves me correctly, a recent GAO report on the trade adjustment program pointed out that only about 2 percent of the workers who were drawing the benefits even expressed any interest in training and applied for it. Now, if there are several hundred thousand, 2 percent of that is a significant number, to be true.

But I am concerned because the original intent of this act was that there really were displaced workers as a result of imports, and that they had to be retrained and, frankly, moved to different parts of the country to be gainfully employed again. But we have gone a far cry from the original intent, and simply have an extension only on a broadened scale of unemployment compensation. It ought to go more directly to what the gentleman is talking about here, training. If that is the gentleman's intent, of course, and he can support that with some specific figures, and there are several thousand who would then take advantage of the training, I think it is well worthwhile.

The CHAIRMAN. The time of the

gentleman from Ohio (Mr. PEASE) has again expired.

(At the request of Mr. MICHEL and by unanimous consent, Mr. PEASE was allowed to proceed for 2 additional minutes.)

Mr. PEASE. I thank the gentleman very much. I am well aware of his interest in emphasing the training aspect of the whole TRA program. I am informed that there are 1,000 auto workers in my district who have expressed an interest in receiving training. The amount of funding that is provided this year is totally insufficient to meet that need.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I am happy to yield to the distinguished subcommittee chairman.

Mr. NATCHER. I want to commend the gentleman in the well, Mr. PEASE, for offering this amendment. The gentleman was nice enough yesterday to submit to us a copy of his amendment explaining to us what he had in mind.

I would like to call to the attention of the members of the committee that in the supplemental appropriation bill we approved $1,500,000,000 under the Trade Act. At that time, as my friend from Illinois (Mr. MICHEL) has pointed out, during hearings we tried to ascertain the exact number of unemployed automobile workers. The figure that we have at this time, Mr. Chairman, as of today, we have 265,000 automobile workers who are currently receiving trade adjustment benefits under the Trade Act, and many of these workers will not be called back by the automobile industry and will have to develop new job skills.

□ 1230

Mr. Chairman, the amendment offered by the gentleman from Ohio adds no money to this bill. It provides that at least $20 million of the discretionary funds shall be used for the purpose set forth in the amendment. I think the amendment is a good amendment. We have no objection to it.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I will be happy to yield to my friend from Michigan.

Mr. PURSELL. I want to congratulate our two committee leaders for supporting the amendment. I am not sure $20 million is adequate. Perhaps it should be $50 million. However, under the prevailing constraints I think it is reasonable. I want to point out there are other training programs available beyond TRA benefits in which workers can participate, either with universities or their local high schools in order to finish getting their high school degree or take basic votech program.

I do not think that Congress has hard data on the types of programs that are available and I am not sure that management and labor together encourage the basic assembly line workers to upgrade their skills.

I would ask that the record show that we as Members of Congress should encourage more development, more training programs even beyond TRA benefits so we can upgrade those skills in jobs other than just the auto industry because it is true as they point out some of these people will never go back to an auto job for the rest of their lives.

Mr. PEASE. Mr. Chairman, I thank the gentleman from Michigan for his contribution.

Mr. CONTE. Mr. Chairman, will the gentleman yield to me?

Mr. PEASE. I will be happy to yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I strongly support the gentleman's amendment and commend him for offering the amendment. I rise to support the gentleman's amendment calling for at least $20 million to be used for training programs under section 236 of the Trade Act of 1974.

The $20 million set aside by this amendment would not increase any outlays or budget authority for this bill. Neither would it reduce the amount of trade adjustment assistance provided by other sections of this bill.

It would simply provide that at least $20 million of title III, CETA funds under the discretion of the Secretary would be used to develop and maintain training programs for beneficiaries of trade adjustment assistance.

Mr. Chairman, there are an estimated 265,000 auto workers who are out of work or who are now working at jobs outside the auto industry for which they were never trained. I maintain that it is a wise investment not only for this Congress to provide these unemployed workers with trade adjustment assistance, but also to help retrain them so that they can reenter the workforce and provide more directly for their families.

This is a wise amendment and I urge my colleagues to support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. PEASE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

HUMAN DEVELOPMENT SERVICES

For carrying out except as otherwise provided, sections 426, 1110, and 1115 of the Social Security Act, the Older Americans Act of 1965, as amended, the Child Abuse Prevention and Treatment Act, title II of Public Law 95-266 (Adoption Opportunities), the Runaway Youth Act, the Community Services Act of 1974, as amended, sections 106, 107, and 306 of the Comprehensive Employment and Training Act of 1973, and the Developmental Disabilities Services and Facilities Construction Act, as amended, $1,725,533,000, of which $6,000,000 shall be available for title VI of the Older Americans Act of 1965 as amended, $43,181,000 shall be for grants under part C of the Developmental Disabilities Services and Facilities Construction Act, $7,500,000 shall be for section 113 of such Act, and $3,000,000 to remain available until expended shall be for the White House Conference on Aging.

The Clerk read as follows:

Amendment offered by Mr. BIAGGI: Page 32, line 11, strike out "$1,725,533,000" and insert in lieu thereof "$1,748,533,000".

Mr. BIAGGI. Mr. Chairman, I had intended to pursue this amendment but in the light of a discussion I have had with the subcommittee chairman, I ask unanimous consent to withdraw the amendment, but would like to engage in colloquy with the subcommittee chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from New York (Mr. BIAGGI)?

There was no objection.

Mr. BIAGGI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as an original member of the House Select Committee on Aging and cosponsor of the 1978 Older Americans Act amendments, I intended to offer this amendment which provides for a modest but essential addition in funds for title III-B of the Older Americans Act.

My amendment would have increased title III-B, the social services portion of the act, by $23 million and thereby brings the total appropriation level to $280 million.

The figure that I was proposing in this amendment is identical to that funding level proposed by the President in his first budget—namely $280 million. Unforseen economic conditions forced the submission of a second budget which recommended a funding level of $247 million.

The subcommittee saw fit to add $10 million to the title III-B program. This certainly will help, but it clearly is not the total solution.

Succinctly stated, title III-B is the glue which holds the Older Americans Act together. Nowhere is the relationship clearer than between the title III-B program and the nutrition program.

Under the terms of the 1978 Older Americans Act amendments, title III-B is to assume the funding responsibility for those supportive services necessary for the operations of the nutrition program. Previously, funding was provided by the nutrition program which has utilized approximately 20 percent of their budget on these services. Based on the FY 1980 appropriation figure of $320 million for the nutrition program, $64 million was spent on supportive services. This $64 million now becomes the funding responsibility of title III-B which is only being provided with a $10 million increase.

Let me make an even clearer illustration—title III-B provides the funds for transporting seniors to and from the various nutrition programs as well as for the national home-delivered meals program.

H.R. 7988 provides $350 million for the nutrition program, a $30 million increase from last year. Yet, unless we provide a corresponding increase in funds for title III-B, we may end up negating the value of the increase—or worse, promote interruptions in the nutrition program. My amendment would provide the necessary funds to keep the nutrition program operating successfully.

Title III–B has other responsibilities which merit a higher increase in funds than is proposed in this bill. Title III–B Services include: Senior citizen centers which offer a place in the community where seniors can engage in activities of interest to them and pursue friendships; transportation, counseling, and recreational and education activities, to name a few.

In preparation for this amendment I spoke as recently as yesterday with officials representing State and area agencies on aging. Universally, they tell me that $10 million will not be enough to fund their responsibilities under title III–B.

My amendment is both modest and defensible. It is offered in the spirit of cost effectiveness because funds spent on social services are in some cases responsible for keeping seniors out of more expensive nursing home care—also funded by the Federal Government.

Finally, let me conclude by again praising the chairman, Mr. NATCHER, for his outstanding commitment to the needs of older Americans. Last year, I offered an amendment seeking an increase in funds for title III–B. It was withdrawn with the assurances of the chairman that he would support a higher level in conference. The net result was a $50 million increase in funds for the title III–B program in fiscal year 1980. I hope for a similar result today.

Mr. Chairman, I would like to yield to the distinguished chairman of the Select Committee on Aging, the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Chairman, I would ask the gentleman to yield in order that I may state my strong support for the amendment that the gentleman has offered for funds for transportation and social services provided senior citizens under title 3(b) of the Older Americans Act.

Mr. Chairman, I rise in strong support of the Biaggi amendment to increase funds for transportation and social services provided to senior citizens under title III–B of the Older Americans Act.

The members of the Appropriations Committee and the Labor-HEW Subcommitte have faced a difficult challenge this year. Funding for social service programs was slashed by almost a half-billion dollars from last year's level under the terms of this year's first concurrent budget resolution. These cuts were made in the face of staggering increases in the cost of service delivery, as well as an increased service population. With all things considered, then, the members of the Appropriations Committee deserve to be commended for their excellent work in developing H.R. 7998.

Nevertheless, as chairman of the Select Committee on Aging, I cannot support the inadequate funding level for title III–B transportation and social services under the Older Americans Act. H.R. 7998 would fund transportation services at $257 million—a $23 million reduction from the administration's January budget request. The $280 million appropriation recommended by the President would have held funding at last year's level, with an increase that barely accounts for inflation. At that level, we could at least provide the same level of services as in fiscal year 1980, although the Administration on Aging predicts a significantly increased service population.

Mr. Chairman, inflation and greater numbers of needy elderly people have figured into the funding equation for years now. This year, however, there is a new factor in the equation. The 1978 Older Americans Act amendments prohibit the use of title III–C nutrition money for transportation of elderly persons to and from meal sites as of fiscal year 1981. Until this year, 20 percent of title III–C funds could be used for this purpose. Therefore, the funding level for title III–B, which represents a reduction in services due to inflation and increased clientele, must now absorb an additional 20 percent of the cost of transporting people to and from meal sites.

The current funding levels for hot meals are grossly inadequate. No Member of this body can ignore the two impoverished elderly persons languishing on the waiting list for every individual served a hot meal under the program. Over 400,000 senior citizens do receive one meal a day, 5 days a week, however. How cruel and ironic is the prospect of thousands of elderly people shut off from this worthy program, simply because they could not get to the meal site.

The strong support in this House for the title III–B transportation and social services program was evident when we authorized fiscal year 1981 funding at $480 million. Let us reaffirm that support by backing it up with the requisite dollars.

Mr. Chairman, the Biaggi amendment would merely reinstate the $280 million funding level originally requested by the President. Let us demonstrate that this body has more than a rhetorical commitment to the senior citizens whose very existence depends upon adequate access to the nutrition program.

Mr. NATCHER. Mr. Chairman, will the gentleman yield to me?

Mr. BIAGGI. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, since I have been a member of this committee and the Subcommittee on Labor, Health and Human Services and Education, we have always found the gentleman in the well to be very cooperative with the committee and especially does that apply to my distinguished friend, the gentleman from Florida (Mr. PEPPER).

I know of the gentleman's interest in the matter that he has under discussion before the committee at this time. I want the gentleman to know that in the future, in any supplemental appropriation bill or in any bill that comes to our committee containing additional funds pertaining to the subject matter that the gentleman is discussing with the committee at this time, that every consideration will be given to the matter. I want the gentleman to know that.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman and I am comforted by that assurance because on a prior occasion the gentleman made the same statement and was productive when the occasion arose. I want to thank the gentleman on behalf of myself and members of the Select Committee on Aging, for his concern for the elderly.

Mr. PEPPER. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Florida.

Mr. PEPPER. Mr. Chairman, I want to join my distinguished colleague from New York in expressing my appreciation, very warm gratitude to the distinguished chairman of the subcommittee, the able gentleman from Kentucky (Mr. NATCHER) for the very considerate and very meaningful attitude the gentleman and his subcommittee have displayed to matters pertaining to the elderly whether it be for their welfare, their income, their illness, or other matters vital to their interest. We are very grateful for the warm, compassionate attitude the gentleman from Kentucky and his subcommittee have always displayed.

Mr. BIAGGI. might add to that, the elderly of this Nation have no greater friend than the distinguished subcommittee chairman from Kentucky.

Mr. NATCHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the distinguished gentleman from Nebraska (Mr. CAVANAUGH).

Mr. CAVANAUGH. Mr. Chairman, I thank the gentleman for yielding. I would note that every Member of the House who has addressed the House today has paid his due respects and accolades to the chairman of the subcommittee. It is, I think, unquestioned in this House that the chairman of the subcommittee is legendary in his generosity and in his fairness to the Members of this House and it has been an honor to me in a brief time to serve with a Member who stands out as a historic figure in service to this House and in service to the country.

I rise for my last colloquy with the chairman on a subject in which we have engaged in many discussions. The gentleman has been so generous as to discuss with me the issue of impact aid to education. Once again, the chairman has directed this legislation which I am pleased to support through that difficult task of balancing the needs of fiscal responsibility and restraint with the needs of meeting legitimate educational needs of this country.

The Congress does have the responsibility to financially fund local school districts by providing funds to offset the cost of providing education to children of Federal personnel, especially military dependents through a program of impact aid in lieu of taxation of Federal facilities.

The committee has provided $790 million in fiscal year 1981 for carrying out title I of the act as amended, which is an increase of $376 million over the budget request but a decrease of $35 million below the 1980 appropriation. The 1980 appropiration was $39 million less than the 1979 appropriation. Costs are going up as funding is going down. If funds are reduced proportionately across entitlements, this causes the burden for replacing lost funds to fall heaviest upon the districts which are the most dependent upon and deserving of those funds.

I am concerned that in areas of heavily impacted districts, especially in the areas serving military installations, the educational programs of military dependents may be seriously affected. The districts most adversely affected by proportionate reductions are those heavily impacted districts which are 50 percent impacted with pupils in either category (A) or category (B) or both, These highly impacted districts serve either Indian reservations or military installations. The Congress recognized the special problem of heavily impacted districts by enacting section 3(d)2(B) of Public Law 81-874.

The criticism on the category (B) impact aid program is that the money goes to districts which do not need it. Only section 3(d)2(B) of Public Law 81-874 designates need as a prerequisite for funding. Section 3(d)2(B) is a budget balancing provision which directs the Secretary of Education to increase payments to the extent necessary to enable those districts which are at least 50 percent impacted with federally connected pupils to provide an educational program equivalent to those of comparable districts in their State.

Section 3(d)2(B) is designed to assist those districts which are heavily impacted, need the assistance the most, and have no other source of funding available despite reasonable tax efforts. This is why I am particularly concerned about the present status of section 3(d)2(B) of Public Law 81-874 (20 U.S.C. title 13, section 238), as amended.

Since this section has always been funded in the past and in a similar colloquy during consideration of the 1980 Labor-HEW appropriations bill (H.R. 4389), you, Mr. Chairman, assured me that sufficient funding was provided in the bill for section 3(d)2(B), I would like to know the intent of the committee with respect to this section for the 1981 fiscal year. Mr. Chairman, does the committee intend that districts which qualify for 3(d)2(B) funding be fully funded within the terms of the law when it becomes necessary to increase their rate of payments?

□ 1240

Mr. NATCHER. Mr. Chairman, the answer to that question is yes. As the gentleman from Nebraska knows, Mr. Chairman, when the budget for fiscal year 1981 was submitted it only had $6 million for category B of impact aid. The bill we now have before the committee contains $224 million. We put that amount back in the bill, and as the gentleman from Nebraska further knows, the amount under category A of impact aid totals $428 million.

In addition to that, we have in the bill $50 million for school construction, which is a part of the impact aid law.

Now, in answer to the gentleman's question, Mr. Chairman, the committee is fully aware that the heavily impacted districts will suffer a disproportionate loss of funds under the bill as the burden of replacing funds falls heaviest on those most reliant upon these funds. The committee has made provision for those districts which were heavily impacted by providing amounts sufficient to fund section 3(d)(2)(B) of Public Law 81-874.

So in direct answer to the gentleman, the answer to the gentleman's question would be "Yes."

Mr. Chairman, before finishing my statement, I would like for the members of the committee to know that it has been a distinct honor and privilege for us to serve with the distinguished gentleman from Nebraska, who has announced his retirement at the conclusion of this Congress. He has been an able, distinguished Member of the House. This is the kind of a Member on both sides of the aisle, Mr. Chairman, that we need in the House of Representatives.

Mr. CAVANAUGH. I thank the chairman. I thank the chairman for his kindness in this and every matter which I have brought before him.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

SEC. 307. Funds appropriated to the Department of Education under Title III may not be used to pay the compensation of experts or consultants (other than full-time employees) or organizations thereof, or to procure by contract, the services of experts or consultants, or organizations thereof, in excess of $35,000,000 during fiscal year 1981. Expenditures for all consultant services in the fourth quarter of fiscal year 1981 may not exceed 30 per centum of the total annual fiscal year 1981 expenditure for such consultant services.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 51, after line 23, insert:

"SEC. 308. None of the funds appropriated by this Act (other than those specifically appropriated to fund authorizations for bilingual education programs) shall be used by the Secretary of Education to enforce regulations which would require a State or local educational agency, as a condition of eligibility for the receipt of funds appropriated under this Act, or otherwise, to address the educational needs of students of limited English-speaking ability by a program other than one of intensive instruction in English." And renumber the remaining section accordingly.

Mr. ASHBROOK. Mr. Chairman, this amendment is intended to put a stop to one of the most outrageous and ill-considered power grabs ever attempted by Federal education officials. It would use a perfectly justified and reasonable decision of the Supreme Court of the United States to impose controversial and costly requirements on thousands of public schools in all parts of the Nation—requirements neither required nor contemplated by the Court itself.

I do not ask my colleagues to rely upon my explanation or interpretation of the proposed regulations requiring extensive bilingual education programs. Albert Shanker, president of the United Federation of Teachers, explained the situation very well in his regular article "Where We Stand" in this Sunday's New York Times. Mr. Shanker entitled his article "Ed Department Knows Best—Without Any Evidence; Can U.S. Force Schools To Go Bilingual?" Let me read the first half of this article, and submit the rest for the RECORD. He wrote as follows:

The new Department of Education has issued a set of proposed regulations on the education of children whose original language was not English. The proposal is an unmitigated disaster. It threatens the fabric of American education and the future of our country. The public should bring pressure on President Carter and Secretary of Education Shirley Hufstedler so that the plan is abandoned.

Back in 1974 the Supreme Court decided in Lau against Nichols that it was not enough for a school district to provide the same education for a child who could not understand English as it provided for children who do. The decision deserved support. Obviously, when a child who speaks and reads no English is put into a regular class, the child cannot be expected to understand or learn.

The Court did not say what should be done. It just ordered that something be done, something which recognized the special needs and problems of the non-English-speaking child. The Court suggested some approaches: "Teaching English to students of Chinese ancestry who do not speak the language is one choice. Giving instruction in Chinese is another. There may be others."

While the Court demanded that something special be done, it left open the question of the specific program to be used. It was to be left to educators to decide on just what is the best educational method . . . and to local school boards, elected by the people in their communities to oversee the schools. It was appropriate for the federal government to state and define the law, right for qualified professional educators to find the best educational methods and within the political province of local school boards to adapt programs to local conditions and needs.

Furthermore, there is no evidence that any given method of teaching children who do not speak English is better than another. Were there overwhelming evidence that one approach was successful while others were not, it might make sense to mandate the successful program. Where no such evidence exists, it makes sense to allow for professional and local choice . . . and for widespread experimentation so that better programs can be developed.

Now, despite the lack of evidence that one program is better than another, the Administration proposes to mandate one program for the majority of other-language children, whether or not that is the choice of the teacher, the principal, or the local school district. That program is bilingual education, instruction in the child's original language while the child is learning English.

Under the new rules, children from other countries with a different native language will be instructed in English if their English is superior to their use of their native language. Such children are few in number. Those who are superior in their native language—almost all—and whose English ability is at a level with 40% of all the students in the same grade nationally or statewide must be taught in both languages. In other words, unless an immigrant child is nearly at or above the average for native-born children, the child must be taught in both languages.

That is the heart of the matter. It is an absolutely correct interpretation of the holding in Lau against Nichols and of the requirements of these regulations. I submit that this is a flagrant example of "legislation by regulation" without any basis in law, and ought to be stopped. Mr. Shanker concludes his article with the observation that:

> This new policy is a radical change. It is bad for the child. It will do harm to the nation.

I can only add that it would do harm to our constitutional doctrine of separation of powers. My amendment would prohibit the Department of Education from requiring more than the Court indicated might be needed—instruction in English for children in our schools who do not understand English.

If local school districts wish to go beyond this and are able to go beyond this and provide supplementary programs of bilingual education, bicultural education, or whatever, that is their choice to make and my amendment leaves them free to make that choice. But it would prohibit the Department of Education to require such programs under the guise of enforcing the Lau decision. It would prohibit them from requiring schools to provide instruction in a language other than English when such schools feel that it would be ineffective, inadvisable, or downright impossible with the resources they have at their disposal.

If we believe in local control of education, if we oppose "legislation by regulation" or executive branch fiat, and if we oppose the deliberate distortion of the requirements of Supreme Court decisions, we shall adopt this amendment.

The entire Shanker column is included at this point:

[From the New York Times, Aug. 24, 1980]

ED DEPARTMENT KNOWS BEST—WITHOUT ANY EVIDENCE: CAN U.S. FORCE SCHOOLS TO GO BILINGUAL?

(By Albert Shanker)

The new Department of Education has issued a set of proposed regulations on the education of children whose original language was not English. The proposal is an unmitigated disaster. It threatens the fabric of American education and the future of our country. The public should bring pressure on President Carter and Secretary of Education Shirley Hufstedler so that the plan is abandoned.

Back in 1974 the Supreme Court decided in *Lau* v. *Nichols* that it was not enough for a school district to provide the same education for a child who could not understand English as it provided for children who do. The decision deserved support. Obviously, when a child who speaks and reads no English is put into a regular class, the child cannot be expected to understand or to learn.

The Court did not say what should be done. It just ordered that something be done, something which recognized the special needs and problems of the non-English-speaking child. The Court suggested some approaches: "Teaching English to students of Chinese ancestry who do not speak the language is one choice. Giving instruction in Chinese is another. There may be others."

While the Court demanded that something special be done, it left open the question of the specific program to be used. It was to be left to educators to decide on just what is the best educational method . . . and to local school boards, elected by the people in their communities to oversee the schools. It was appropriate for the federal government to state and define the law, right for qualified professional educators to find the best educational methods and within the political province of local school boards to adapt programs to local conditions and needs.

Furthermore, there is no evidence that any given method of teaching children who do not speak English is better than another. Were there overwhelming evidence that one approach was successful while others were not, it might make sense to mandate the successful program. Where no such evidence exists, it makes sense to allow for professional and local choice . . . and for widespread experimentation so that better programs can be developed.

Now, despite the lack of evidence that one program is better than another, the Administration proposes to mandate one program for the majority of other-language children, whether or not that is the choice of the teacher, the principal, or the local school district. That program is bilingual education, instruction in the child's original language while the child is learning English.

Under the new rules, children from other countries with a different native language will be instructed in English if their English is superior to their use of their native language. Such children are few in number. Those who are superior in their native language—almost all—and whose English ability is at a level with 40 percent of all the students in the same grade nationally or statewide must be taught in both languages. In other words, unless an immigrant child is nearly at or above the average for native-born children, the child must be taught in both languages.

School districts will have to comply or face federal prosecuton. They will need thousands of bilingual teachers—who are not available. They will be required to retrain their existing staff to become bilingual—a noble goal but one which is difficult and expensive and adds to the great burdens already faced by the classroom teacher. But also, while the existing teachers are learning to speak a second language, the regulations require that ". . . other bilingual individuals . . . provide services in the interim." In other words, instruction will be given by individuals not licensed or certified to teach. The Administration has determined—without any empirical evidence—that children from Spanish, Chinese, Italian, Vietnamese and many other backgrounds will learn more if taught in both languages by someone other than a teacher than if they are taught intensively to learn English by a regular teacher.

Still another section of the regulations sounds good but, in light of the previous conflicts on this issue, it may have ominous consequences. The regulations require educational programs and activities to be "operated with respect for the culture and cultural heritage of the . . . limited-English-proficient students." Does this mean just what it says? If so, there can be no argument. But it may mean much more. If a Puerto Rican teacher is employed to teach Mexican American children, could this be viewed as a lack of respect for the Mexican culture and heritage? Will this section be used to enforce the notion that only teachers of the same ethnic origins can teach their own?

The issues raised by the proposed federal regulations are huge. Should the U.S. government impose particular educational programs? Can it mandate programs which are still experimental and whose superiority has not been demonstrated? Can it override professional judgment and local control? And, should it impose huge new costs on hard-pressed local school districts? The goverment estimates the cost at between $180 million and $591 million, but that is like its estimate of the cost of educating the handicapped and of other programs. It will be much, much more, and with money in short supply, it will be taken from other current educational programs. Money that could be used to teach English intensively to these very children will be used for testing, placement and teacher language training.

But the biggest issue of all is the question of bilingualism. Will federal programs lead the U.S. to become another Quebec? The American people come from many cultures, many language backgrounds. One of the major purposes of the American public school has been to "Americanize" waves of immigrants—most of whom did not speak English. That meant teaching them English. Ethnic groups had their foreign language newspapers and neighborhoods where their language was spoken, their culture preserved. But in the schools, as in public life in general, English was used. This policy worked. It brought many together to forge a nation. This new policy is a radical change. It is bad for the child. It will do harm to the nation.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I would be happy to yield.

Mr. ROYBAL. Mr. Chairman, I would like to have some clarification as to what exactly takes place if the gentleman's amendment were to be adopted. Does it mean then that any school district cannot use the language of the home in any particular classroom even though that particular child does not speak the English language?

Mr. ASHBROOK. Absolutely not.

Mr. ROYBAL. Then, what does it mean?

Mr. ASHBROOK. Well, it means that the Secretary of Education cannot enforce in every school district a requirement that they go forward with one program that Department mandates in response, they say, to the Lau decision.

Mr. ROYBAL. The Lau proposals are not yet regulations, but proposals. They do not go so far as to say that every district must do it, but they do set particular guidelines so that a determination can be made on whether or not a particular child or children in that classroom would be in need of instruction using the language of the home. I do not see how the gentleman's amendment would actually improve this particular bill. On the contrary, it ignores the needs of students of limited English speaking ability and places him in an intensive English class.

I think we have already discussed the intent of the Michel amendment. We have already, I think, discussed the intent of the proposed Lau decision, or regulations. We know that they are going to be put out into floor debate countrywide. It seems to me that the gentleman's amendment at this time would not be needed, and it would be best that we not adopt it.

Mr. ASHBROOK. If my colleague would continue, the Michel amendment, of course, goes to the bilingual education program. As I have indicated, my amendment does not disturb in any way the programs and the appropriations to fund authorization for bilingual education programs. Those are ongoing, and if we want to make such programs available in the gentleman's district or in special districts where the need is greater than it would be in other parts of the country, they can continue to do that.

But, all I am talking about are the regulations which seem to go far beyond anything that is needed, which would require and mandate bilingual education programs, whether needed or not. That is precisely what I am endeavoring to do with my amendment. The gentleman indicated that regulations have not yet gone into effect. My amendment would prevent them from going into effect.

Mr. ROYBAL. Well, first of all, the regulations have to be presented and will be presented for discussion throughout the Nation. Final regulations then would be issued based on the findings at that particular time. What the gentleman's amendment, as I said, does is almost mandates that a particular classroom be taught only in the English language. If that is so, then it would be in violation of the Lau decision and violation of civil rights.

Mr. ASHBROOK. I do not agree with the gentleman at all.

Mr. CORRADA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I wish that the Members would oppose the Ashbrook amendment just offered. As our colleague pointed out, this is not really an amendment against bilingual education programs. It is even worse. It is an amendment against equal educational opportunity and civil rights of the children who would receive the benefit of these programs.

Let me explain why. In 1974 the Supreme Court of the United States, in the case of Lau against Nichols, decided that children who come from homes where the language is other than English and have a deficiency in being able to be proficient in the English language, are entitled as a matter of protection to their equal educational opportunity rights to be taught in the language spoken at home, while that child becomes proficient in the English language.

☐ 1250

In other words that special instruction is necessary for these children so that they will be able to develop skills in mathematics, in science, and so on, and instruction may be given in the language spoken at home while there is, of course, a strong effort to make that child become proficient in English so that then he can go into the mainstream of the regular classroom.

What the Ashbrook amendment is saying is that in the event that the Department of Education approves regulations that now are only proposed regulations—and they are subject to public hearings throughout the entire country where all groups are entitled to go and offer their views of those proposed regulations—what the Ashbrook amendment is saying is that in the event the regulations from the Department of Education to enforce these equal educational opportunities of these children are accepted, no moneys shall be spent to allow for such enforcement of these regulations.

What we are telling this Nation is that in the Constitution of the United States we talk about equal rights for everybody in this Nation. We are talking about protecting the right of children to education, but then we are telling the people of this Nation that we are not going to allow any funds to be provided to enforce these rights.

So I think that this amendment should be defeated, and in any event, I suggest to my colleague on the Committee on Education and Labor that people should appear and testify at the public hearings that are going to be held this fall before the regulations become final in December, and if next year our distinguished colleague thinks that some remedy is necessary, at that time in other education legislation, as a member of the Committee on Education and Labor he should make an effort to bring these issues to the members of the committee, but he should not try in an appropriations bill to formulate an education policy that could be a disservice to the opportunity of millions of minority children in this Nation to equal education opportunity. These children want to become skilled through education and be productive to our society so that they can then join the mainstream of the American society.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. CORRADA. I surely will yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I assure my colleague that I recognize he is a very able and accurate Member of Congress, but I am sure he did not mean to say what he said.

The gentleman said that the Lau decision required instruction in a non-English language to a child who is deficient in English. The Lau decision in no way requires that.

I will ask my colleague if that is what he meant to say. That is what he said. I say categorically, because I have studied the decision very carefully and studied its mandate, and it did not say that.

Mr. CORRADA. Mr. Chairman, may I ask, how does my colleague interpret that decision then?

Mr. ASHBROOK. Mr. Chairman, I interpret that decision as requiring actions, but the HEW or the Office of Education has set about to implement one course of action which was not required, and I am simply saying they should not force schools to go in that direction. They cannot say there is only one direction that all districts should go where there are English-deficient students in the enrollment.

We all want to help because I think we all agree with the thrust of the Lau decision but let me give the gentleman one example.

The CHAIRMAN. The time of the gentleman from Puerto Rico (Mr. CORRADA) has expired.

(On request of Mr. ASHBROOK, and by unanimous consent, Mr. CORRADA was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield further, let me give the gentleman an example of how these regulations go. If the gentleman will bear with me for just three sentences, under the new rule, children coming from other countries "with a different native language will be instructed in English if their English is superior to their use of their native language."

How many of those do we have? Not very many.

"Those who are superior in their native language"—that is almost all of them—and those "whose English ability is at a level with 40 percent of all the students in the same grade nationally or statewide must be taught in both languages."

In other words, unless an immigrant child is nearly at or above the average for native-born children, the child must be taught in both languages. How ridiculous can we get?

That is the type of regulation they are trying to implement. I am saying in my amendment that this is wrong, and they should not go forward with that type of regulation until we have had hearings, legislation and a congressional action.

We want to change the bilingual program but certainly not by regulation. They should not try to change law by regulations.

Mr. CORRADA. Mr. Chairman, if I may continue and reclaim my time, some of the objections the gentleman has raised may be raised concerning these proposed regulations—and that is only what the gentleman is talking about—in the hearings that will be held this fall. If those regulations are to be implemented, then we could tackle this problem and then say that in any event the regulations are only for the purpose of implementing the Lau against Nichols decision.

The regulations do not go beyond Lau against Nichols. They simply seek to provide guidelines so that local education agencies would be able to know what it is the decision requires from them and so that the guidelines can be effectively implemented.

But again let me say that this will be the subject of hearings, and I believe the amendment, in any event, is absolutely premature and would cripple what could be effective regulations to implement Lau, which is what I am sure my colleague would like to see happen.

Mr. ASHBROOK. Absolutely.

Mr. Chairman, if my colleague will yield further, No. 1, hearings do not prevent the implementation of regulations; and, No. 2, in the Department of Education we even have an example where the Secretary is on record defying our committee's action on regulations issued by that Department.

So in light of that, I say that my amendment is not only appropriate but necessary to see that they do not go forward with this one-track approach until we at least have some input and until the matter can be adequately heard before our committee.

Mr. CORRADA. Mr. Chairman, I hope that the amendment will be voted down.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this is part of a continuing conversation that we had earlier today. I wish that we did not need the money to enforce civil rights. In order to insure civil rights we really have no choice but to the Federal route, whether it be the Supreme Court or the congressional route.

If we left it up to the localities whether they should implement the program which the Supreme Court clearly decided in a case dealing with Asians living in San Francisco, left to the localities, we would never have had this program implemented.

We go back to the Brown decision of 1954 as it related to black and white schools. If we as a Nation did not take this action, where would we be today?

What we are trying to do is develop a country not of educational cripples but of contributors. What we are doing here with the gentleman's amendment is limiting the moneys—and I do not know exactly how much money the gentleman is talking about—and the amendment is unclear.

The language itself is not specific, I am sure some of the Members will question its fiscal impact. The problem I have with the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) is that what we are trying to do is progress. The gentleman's amendment would make it possible for those people who never had an interest in educating the downtrodden to continue with business as usual attitude.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, first, as for the civil rights aspect, I am sure my colleague understands that Albert Shanker has been in the forefront of the civil rights movement for years. I may not be able to make that statement myself, but I know that Albert Shanker can. I know that Albert Shanker takes the exact point of view that I am taking. I am sure that the gentleman has read his column in the New York Times.

Mr. GARCIA. Mr. Chairman, if I may reclaim my time, the advantage I have in talking about Albert Shanker is that I was a State representative for 13 years in New York State, and I can tell the gentleman that not once did I support his legislation because his legislation and whatever he tried to do was detrimental to the people. Especially as it dealt with bilingual education. So Albert Shanker, I will say to the gentleman, is not an authority.

Mr. ASHBROOK. Mr. Chairman, I lost on that one, and maybe I will try something else. That was strike 1, and I will say to the gentleman, "You got me on that one." This is strike 2.

Would my colleague, the gentleman from New York (Mr. GARCIA) honestly propose that a part of the civil rights of any student is to be taught in his native language arithmetic and all the various courses in education, or is it his basic right to learn English? I think that is the civil rights program we are talking about.

Mr. GARCIA. Mr. Chairman, I will ask the gentleman to listen to this. The gentleman from Puerto Rico (Mr. CORRADA) did not bring up the subject I would like to talk about.

In Puerto Rico, there are school districts that have a bilingual problem in reverse, the students speak English in many of the courses in Puerto Rico that are taught in Spanish, because the students were born in New York or Chicago or someplace on the mainland. So we have a problem there in reverse.

Mr. ASHBROOK. And that is handled by the bilingual program, funds for which and appropriations for which I do not even attempt to touch by this amendment. Is that not correct?

Mr. GARCIA. I appreciate what the gentleman from Ohio has said. The only point I am trying to make here is that I just wish his amendment was not necessary.

Mr. ASHBROOK. I do, too, but the Office of Education makes it necessary.

Mr. GARCIA. Mr. Chairman, I see it from a different point of view. My point is that I wish it were not necessary. I just wish that the local school districts and the various States would take it upon themelves to put justice forward as it relates to education. That has not been the case.

□ 1300

Historically that has not been the case in this country. We have had only one choice but to go either through the congressional route or to the courts. And so to that end I would say to the gentleman from Ohio that I believe there is no question in my mind that the amendment is bad. I disagree with it. I would hope that the Members of this Chamber would vote against the amendment.

Mr. ASHBROOK. I thank my colleague.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding, and I would like to pose a question to the chairman which is not directly on this amendment.

Mr. Chairman, in this bill there is $10,805,000 which provides for the lead-based poison prevention program. Recently it has been reported in the press of New York City that we have high levels of lead-based paint found in the school system, exposing children to potential harm. Would it be the chairman's understanding that the funds under this program could in fact be used by the city of New York in both detection and possible treatment for affected children?

Mr. NATCHER. Mr. Chairman, if the gentleman will yield to me at this point, I would like the gentleman to know that for a number of years our distinguished friend on the subcommittee, the gentleman from Ohio, Mr. LOU STOKES, each time when this matter has been brought to the attention of the subcommittee, has made a fight to see that adequate funds are appropriated as far as lead-based paint poisoning is concerned. Our friend, the gentleman from Ohio (Mr. STOKES), has made this fight down through the years. This is a serious matter, Mr. Chairman, and unless there is some restriction in the law that prohibits what the gentleman from New York City has in mind, I see nothing wrong with it.

Mr. BIAGGI. I thank the chairman, and I am deeply grateful to the gentleman from Illinois (Mr. HYDE) for yielding to me.

Mr. HYDE. I am delighted to be of help.

Mr. Chairman, I fully support the notion that we need bilingual education. I fully sympathize with students who do not have proficiency in English suddenly thrust into an atmosphere where they do not understand what is going on, they do not understand the language and they cannot learn. They need help, and they need special help. This should be a concern of ours.

But I do not view this amendment as adverse to that concept. This amendment says something that makes a lot of sense, and it simply says to the new, massive Department of Education, "Do not be telling local school districts which are in the trenches, which have to deal with the problem on a day-to-day basis, how to conduct their buisness."

You see, we knew when this new Department of Education was set up that the flow of power and decisional authority was going to be reversed. Instead of being localized in New York City where the problem is, in Chicago where the problem is, in Los Angeles, in San Antonio, now it is going to be made on the banks of the Potomac. That is the wrong way to go. Let us make these decisions, let us exercise our judgments where the problem is. Let us control education locally where it has always been controlled. But instead, it has to move to Washington where the elitists sit around the table and decide what is good for Puerto Rico, what is good for Miami, what is good for Chicago, what is good for New York.

This amendment does not prohibit bilingual education in any way that the gentleman from Puerto Rico or the gentleman from New York wants. It simply says to the Department of Education, "Do not be putting out regulations requiring States or local educational agencies, as a condition of eligibility for the receipt of funds appropriated, to address the educational needs of students of limited English-speaking ability by a program other than one of intensive instruction in English."

I am informed by staff that there are separate programs for bilingual education. They are not inhibited by this amendment by the gentleman from Ohio. They are not touched at all. We shall move forward with bilingual education. But I do resent the Department of Education pronouncing curricula for local school districts. And that is what they are doing. Next it will be history, next it will be geography. Let them keep their nose out of what is going to be taught and how it is going to be taught. Let the New York School Board, let the Chicago School Board make those decisions.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from Ohio.

Mr. ASHBROOK. The exact language of Justice Douglas in the Lau decision, which I will leave here on the desk for any of my colleagues who want to read it, reads as follows:

> Teaching English to the students of Chinese ancestry who do not speak the language is one choice. Giving instructions to this group in Chinese is another. There may be others. Petitioners ask only that the Board of Education be directed to apply its expertise to the problem and rectify the situation.

Now, the Office of Education comes in to them and says, "We have one approach for you, we are going to mandate one approach," and that is exactly what I am trying to negate in this particular amendment.

Mr. HYDE. It is the same thing HUD does in housing.

Mr. CORRADA. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from Puerto Rico.

Mr. CORRADA. Mr. Chairman, is the gentleman aware that we are talking here about proposed regulations that are open for comment and public hearings throughout the entire Nation as to how the Lau against Nichols decision should be implemented, that is, guidelines for implementing Lau?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Hyde) has expired.

(On request of Mr. Corrada and by unanimous consent, Mr. Hyde was allowed to proceed for 1 additional minute.)

Mr. HYDE. I continue to yield to my friend, the gentleman from Puerto Rico.

Mr. CORRADA. If those guidelines should go beyond what Lau against Nichols requires, I am sure that there are ways and means that this will be brought to the attention of the Department of Education and probably to court. But I am sure that the gentleman will not tell me that, in connection with the civil rights of minorities in this Nation, there is nothing that the Federal Government has to do in terms of seeing that equal educational opportunities are afforded. And if we leave, as the gentleman says, the merits in the hands of the local education agency, what is it that will happen? There will be many areas where there will be no sensitivity whatsoever, because this is a minority problem and the majority may not be concerned about these students.

What I am saying is that this Congress has to exercise the responsibility of seeing that the rights guaranteed by the Constitution of the United States be afforded to all American citizens.

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think what we should do at this particular point is to clarify the language of the amendment, and also the intent of the Lau remedies.

Under the Lau remedies, the following language can clearly be seen, and that is that "schools are required to provide instruction for elementary students through their strongest language until the students are able to participate effectively in a classroom where instruction was given exclusively in English." It is very clear. Once that student reaches English proficiency, he remains or is transferred to a class that uses nothing but English. The student then continues to progress according to his own ability.

Now, under the language of the gentleman from Ohio (Mr. Ashbrook), he says two things, the way I read the amendment. He says:

> None of the funds appropriated by this act (other than those specifically appropriated to fund authorizations for bilingual education programs) shall be used by the Secretary of Education to enforce regulations which would require a State or local educational agency, as a condition of eligibility for the receipt of funds appropriated under this act, or otherwise, to address the educational needs of students of limited English-speaking ability by a program other than one of intensive instruction in English.

That simply means that the young student will be placed in a program that uses intensive instruction in English. Therefore, it violates, in my opinion, his right to equal educational opportunity. The language, as I read it, and the gentleman can clarify it in just a moment, is actually in two steps.

□ 1310

The gentleman says it is all right if it is under the Department of Education Act, but none of the funds under this act can be appropriated unless moneys are used for the instruction of children in English intensive instruction class.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding.

I would like to say there is a decision that has come down since Lau which has just been brought to my attention. It is Rios against Read, eastern district of New York. It is an unpublished report. There was no appeal taken. I would like to read three of the paragraphs from this decision:

> Taken together, the statutes and the legislative history . . . mandate teaching such children subject matter in their native tongue by competent teachers.

And then on page 19:

> A denial of educational opportunities to a child in the first years of schooling is not justified by demonstrating that the educational program employed will teach the child English sooner than a program comprised of more extensive Spanish instruction. While the District's goal of teaching Hispanic children the English language is certainly proper, it cannot be allowed to compromise a student's right to meaningful education before proficiency in English is obtained.

The last paragraph reads:

> Thus, the statutory obligations upon the school district require it to take affirmative action for language deficient students by establishing an ESL and bilingual program and to keep them in such program until they have attained sufficient proficiency in English to be instructed along with English-speaking students of comparable intelligence.

I thank the gentleman very much for yielding.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Was it a State statute the court interpreted? If it is a district court decision on a State statute as against a Federal decision by the Supreme Court, there is a little bit of difference there.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from New York.

Mr. GARCIA. Under title VI of the civil rights law. It is a post-Lau decision. It was, again I repeat, the eastern district of New York. It is an unpublished opinion, Rios against Read. There was no appeal taken.

Mr. ASHBROOK. If my colleague would yield, in response, there would be no part on my amendment, and it is not its intention, and I do not think it would be its application to prevent any school district the gentleman is talking about from going ahead with any of the programs they want. All I am saying is that the Department of Education cannot require the program they would mandate.

The CHAIRMAN pro tempore (Mr. Jenkins). The time of the gentleman from California (Mr. Roybal) has expired.

(At the request of Mr. Weiss and by unanimous consent, Mr. Roybal was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

I am somewhat confused by the amendment, especially as it has been clarified now by the rereading of it by the gentleman from California. I listened with some sympathy to the gentleman from Ohio explaining how what he was trying to preclude was the Department of Education mandating one specific approach after the Supreme Court had laid out a number of possibilities, and then I listened to the amendment that the gentleman offers; and in fact, his amendment mandates that only one specific approach be utilized. That confuses and perturbs me.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Ohio.

Mr. ASHBROOK. That is not the case at all. I am only saying that the Secretary of Education cannot require one specific program. Local districts and States can meet local needs with whatever bilingual approach they provide to meet the need and the rights of the targeted student.

Mr. WEISS. If the gentleman will yield further, except one specific approach.

Mr. ASHBROOK. In New York, one can do anything one wants with local funds Federal bilingual programs have provided—and I have not disturbed them—for a variety of approaches. All I am saying is the Secretary of Education cannot say, "Let us go forward on this one track."

Mr. ROYBAL. Mr. Chairman, I can well understand the intent of the gentleman's amendment, but that is not the way it reads. If one reads the language, leaving out the little fringe words, it simply says that none of the funds appropriated under this act shall be used to address the educational needs of students of limited English-speaking ability in programs other than those of intensive instruction in English.

Mr. WEISS. That is right. It seems to me whatever the gentleman's intentions were, the drafting of that amendment flies directly in the face of its intention.

Mr. ASHBROOK. If the gentleman will yield further, he left off the most important operative words, "As a condition for the eligibility for the recipient of funds appropriated." That is what we are against is using the carrot and stick as a means of saying you do not get any Federal funds unless you implement this one approach mandated by the Department of Education.

The gentleman left out the most important words.

Mr. NATCHER. Mr. Chairman, the gentleman's amendment has been thoroughly discussed on both sides.

I ask at this time for a vote on the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. GARCIA. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 496]

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1330

The CHAIRMAN. Three hundred ninety-two Members have answered to their name, a quorum is present, and the committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York (Mr. GARCIA) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 213, noes 194, not voting 25, as follows:

[Roll No. 497]

AYES—213

Albosta
Ambro
Andrews, N.C.
Andrews, N.Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Boland
Boner
Bouquard
Brinkley
Broomfield
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Derrick
Derwinski
Dickinson
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Fithian
Flippo
Foley
Forsythe
Fountain
Frenzel
Gaydos
Gibbons
Gingrich
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hansen
Hefner
Hillis
Hinson
Holland
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Luken
Lungren
McClory
McCormack
McDade
McDonald
McEwen
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Mazzoli
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan

Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Neal
Nelson
Nichols
O'Brien
Oberstar
Pashayan
Paul
Perkins
Petri
Preyer
Pritchard
Pursell
Quayle
Quillen
Rahall
Regula
Rhodes
Ritter
Robinson
Rose
Roth
Rousselot
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walgren
Walker
Wampler
Whitehurst
Whitley
Whittaker
Wilson, Tex.
Winn
Wylie
Yatron
Young, Fla.

NOES—194

Addabbo
Akaka
Alexander
Anderson, Calif.
Anderson, Ill.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Bolling
Bonior
Bonker
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clausen
Clay
Coelho
Collins, Ill.
Conte
Corman
Cotter
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Early
Edgar
Edwards, Calif.
Emery
Fary
Fascell
Fazio
Ferraro
Fisher
Florio
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gilman
Ginn
Gonzalez
Gray
Green
Hall, Ohio
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Hightower
Hollenbeck
Howard
Jenrette
Johnson, Calif.
Kastenmeier
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Lloyd
Long, La.
Lowry
Lujan
Lundine
McCloskey
McHugh
McKay
Maguire
Markey
Matsui
Mattox
Mavroules
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Murphy, N.Y.
Musto
Natcher
Nolan
Nowak
Oakar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Porter
Price
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Santini
Scheuer
Schroeder
Seiberling
Shannon
Simon
Skelton
Smith, Iowa
Snowe
Solarz
Spellman
Stack
Steed
Stewart
Stokes
Studds
Swift
Synar
Tauzin
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Watkins
Waxman
Weaver
Weiss
White
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—25

Abdnor
Bowen
Brown, Ohio
Conyers
Deckard
Devine
Dodd
Eckhardt
Guarini
Harsha
Holtzman
Horton
Ichord
Leach, La.
Lederer
McKinney
Moorhead, Pa.
Murphy, Ill.
Myers, Pa.
Nedzi
Stark
Thompson
Wilson, C. H.
Wydler
Young, Alaska

□ 1340

The Clerk announced the following pairs:

On this vote:

Mr. Abdnor for, with Mr. Guarini against.

Mr. Brown of Ohio for, with Mr. Murphy of Illinois against.

Mr. Deckard for, with Mr. Conyers against.

Mr. Devine for, with Mr. Thompson against.

Mr. Wydler for, with Mr. Lederer against.

Mr. Young of Alaska for, with Mr. McKinney against.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 60, after line 19, insert the following:

SEC. 510. (a) None of the funds under this Act may be used to implement, administer, or enforce regulations issued under sec. 451 of the GEPA, 20 U.S.C. 1234, pertaining to the operations of the Education Appeal Board, 45 CFR Part 100–D (1980); regulations issued under sec. 321–322 of the Elementary and Secondary Education Act of 1965 (ESEA), 20 U.S.C. 2961–2963 pertaining to arts education, 45 CFR Part 161–C (1980); regulations issued under secs. 346–348 of the ESEA, 20 U.S.C. secs. 3001–3003, pertaining to law-related education, 45 CFR Part 161–G (1980); regulations issued under title IV of the ESEA, 20 U.S.C. 3081 et seq., pertaining to grants to State and local educational agencies for educational improvement resources and support, 45 CFR Part 134 (1980); or any other regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

(b) None of the funds under this Act may be used to terminate any program or activity with respect to which regulations have been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, this amendment is similar to one which has been adopted by this body on several other occasions relating to the withholding of funds for the purpose of implementing any regulation which has been disapproved by action of Congress pursuant to existing law. It is not a legislative veto amendment in and of itself, but it is an amendment which says that if there is already in place in the law a legislative veto and it is exercised in accordance with the law, then we should not be providing the funds for agencies to implement regulations which have been disapproved of through the orderly process established by law. This is not some theoretical problem. This is not some hypothetical concern.

In fact, with respect to this very appropriations bill, it is an extremely real matter. The Congress through existing legislative procedures vetoed four regulations issued by the Department of Education. Those regulations were vetoed after consideration in both Houses of Congress. However, even though these regulations were vetoed by action of both Houses, and it is my recollection by unanimous votes, the administration announced as its policy that they were going to implement the regulations, nevertheless. In a memorandum to officials in the Department of Education, the Secretary of Education said that, based on the opinion of the Attorney General, it is now the official policy of this administration and the Education Department to disregard these vetoes. She specifically stated:

> Accordingly, you are instructed to treat the disapproved regulations as final and effective rules, beginning immediately.

I suggest to my colleagues, Mr. Chairman, that that is outrageous. The law is very clear. The law provides for a disapproval procedure, and it is not up to this administration, this Secretary, or this President—or any President—to decide which laws they are going to follow and which laws they are not going to follow.

The administration's action makes the issue one of whether or not we in Congress are going to allow the law to be ignored. I do not believe any Member of Congress can stand by and allow our mandates to be treated in such a cavalier fashion. The Constitution of the United States requires the President of the United States to faithfully execute the laws. He is not given the authority to pick and choose those laws he wants to implement and those that he does not want to implement.

If there is a constitutional problem with legislative vetoes, let the courts decide it. Let the Supreme Court make the decision. But even those of us who would disagree with the legislative veto—and I suppose there are one or two people left who fall in that category—I think all of us must unanimously be in accord that once a veto has been exercised, that regulation is disapproved and we should not fund the administration to implement disapproved or vetoed regulations.

Let me mention one other item here. Section (b) of this amendment provides that programs which have been in place shall not be terminated because the regulations, new regulations implementing those programs, have been disapproved by Congress. That is a very important feature in this particular situation. The regulations which were vetoed by Congress dealt with programs which have been funded for a long time, programs which were in place and did not require the new regulations which were vetoed by Congres to carry them on.

The second part of this amendment will assure that those programs which were being conducted without these vetoed regulations will continue until new and revised regulations can be issued by the Department and put in place without being vetoed by the Congress. This portion of the amendment will ensure that funding for programs and the programs themselves will continue even if regulations affecting the programs have been disapproved by Congress. This section is included in order to protect the ongoing programs.

Mr. Chairman, I have offered this amendment so that we may be certain that the laws we have set forth with regard to legislative vetoes are enforced and not ignored. We are facing a significant challenge to our constitutional powers, and we must rise to meet it. My amendment will do so in simple direct fashion. I urge every Member of this body to support its passage.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to the gentleman.

Mr. FORD of Michigan. I thank the gentleman for yielding and I want to compliment the gentleman. As the ranking majority member on the Committee on Elementary, Secondary and Vocational Education and chairman of the Subcommittee on Postsecondary Education, I have been intimately connected with the so-called one-House veto that we have had in the General Education Provisions Act for a decade. The value of that provision has been that it was passed during the early days of the Nixon administration.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. FORD of Michigan, and by unanimous consent, Mr. LEVITAS was allowed to proceed for 3 additional minutes.)

Mr. FORD of Michigan. If the gentleman will continue to yield, the value is that over the years it has not had to be used. What it has produced in the past is a pattern. The regulation writers would sit down with the House and Senate committees and discuss the advisability of the regulation that they were proposing and how it would fit. For a long time that seemed to be working, and we would not have to veto regulations. Very recently there has been sparked—I think to a large extent by the gentleman's very active legislating, putting legislative vetoes in a number of other kinds of laws—a reaction on the part of some people who got a little stubborn in the executive branch about their prerogatives. They are now being stubborn to the point of trying to create a test where none should take place.

The gentleman from Colorado (Mr. KRAMER) has an amendment attempting to do the same thing. I think that the gentleman's amendment does it more effectively and more clearly. While this is not our committee, I believe that most members of the Committee on Education and Labor would agree that we want to protect a practice that has worked very well to keep an eye on the regulation writers at HEW, now the new Office of Education. I compliment the gentleman for this amendment and hope that it passes.

☐ 1350

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for his comments and his observations.

Mr. Chairman, I might say I have followed the activities of the Committee on Education and Labor in this process and I think it demonstrates the way in which this type of legislative veto mechanism can be properly used. The great fear that legislative vetoes will be exercised frequently really is an unnecessary fear. Once the administration knows the committee and Congress has some say so about it in the form of a veto, they will work with the Congress to develop reasonable regulations. It is regrettable they failed to do so in this instance and that it was necessary for the gentleman's committee to report out the veto resolution which was adopted by the Congress.

Mr. FORD of Michigan. Mr. Chairman, will the gentlman yield for a question?

Mr. LEVITAS. I will be happy to yield.

Mr. FORD of Michigan. One of the appeals of the gentleman's amendment, and his approach to the solution, is that it would not penalize local school districts nor would it threaten the continued flow of money to local school districts while a discussion was going on between the committees and the administration over the status of regulation.

Is it the understanding of the gentleman that money under an entitlement program, such as impact aid in title I and the others, would continue to flow to the school districts without regard to the status of disagreement between the administration and the executive, or the legislative branch, over pending regulations?

Mr. LEVITAS. The gentleman's interpretation of my intention is absolutely correct. That is precisely what I have included. Subsection (b) is to assure there will be no penalizing of the local schools as a result of a dispute between the legislative and the executive branches and these ongoing programs will continue to be funded under preexisting procedures which were in place before the vetoed regulations were issued.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 52, after line 3, insert the following new section:

SEC. 310. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

Mr. WALKER. Mr. Chairman, this amendment is basically language being offered as a preventive measure. You may remember when we first instituted the Department of Education there were amendments offered on the House floor by myself, there was an amendment offered in the Senate, both of which were adopted at one time or another in the Department of Education bill which related to school prayer. In both instances, the proponents of the Department had those amendments stricken out and the Department is now in operation and would have to be assumed based upon that as being somewhat antiprayer in its attitude. That has to be put together with the fact that in 21 of the 44 States that I recently polled, there is action pending in those States relative to voluntary prayer in the public schools. In those legislatures legislation has been introduced. In some cases it is moving. In the State of Massachusetts there is a law in the books relating to voluntary prayer in the public schools. Therefore, it is reasonable to assume at some point the Department of Education might decide that this is something they are going to stand in the way of.

All this amendment says is that the Department of Education shall not use its funds to prevent any State from going ahead with a voluntary school prayer program that it may wish to put into effect.

It seems to me there is no justification in our constitutional history for the present ban on voluntary prayer in our public schools. Certainly our modern public school curriculum has been adopted to provide a maximum choice of subjects to the students. Unfortunately, as a result of this Supreme Court decision, one of the few subjects to which our students may not be exposed is voluntary school prayer.

My reaction to the Supreme Court is that it has overstepped its bounds. That is not merely an emotional reaction. It is one that is supported in some of the highest courts of our States and by constitutional scholars.

In the Schempp against Abington case which decided the school prayer issue, Mr. Justice Clark speaking for the Court formulated a new set of legislative tests for measuring legislative action regarding Government entanglement with religion.

The test asks: "What are the purpose and effect of the enactment? If either is the advancement or inhibition of religion the enactment exceeds the scope of legislative power as circumscribed by the Constitution." In other words, in order to comply with demands of the establishment clause "there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion."

Erwin Griswold, dean of the Harvard Law School viewed this holding as "sheer invention" by the Court. Prof. Charles Rice of Notre Dame Law School has said that the establishment clause does not require Government abstention from all matters of religion. He asserts that the clause demands Government neutrality only as among the various sects of theistic religions and not that it must not show affirmative hospitality to theistic religion over the nontheistic creeds. Justice Joseph Story, a contemporary of the framers of the Constitution, I believe, would concur with Professor Rice's analysis.

Unfortunately, the prohibition of voluntary prayer in the schools flies in the face of constitutional history, scholarly constitutional analysis and the will of the majority of the American public.

The amendment I am offering here is offered to assure that as we go about attempting to correct an unjustified separation of prayer from the schools, the new Department of Education does not stand in the way of that process.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. PEYSER. I would like to ask a question. Has the Department of Education at this time done anything that would interfere with the type of program you are speaking of, are there any regulations presently existing?

Mr. WALKER. I would say to the gentleman, absolutely not. I know of no action that the Department of Education has taken in this regard. That is the reason I have described what I am doing as a preventive thing, based upon the fact there are a number of States moving in the direction of institution of voluntary prayer programs in their States.

Mr. PEYSER. Mr. Chairman, I have one further question. Is there any money at all in this appropriation bill as it now exists that could possibly be directed to this? I mean, is there anything in the bill itself which speaks to the prayer amendment?

Mr. WALKER. I am not aware there is any money in, except certain administrative funds, money which goes for public relations activities, could easily be diverted into that kind of a program if such an effort was deemed necessary by the Secretary.

Mr. PEYSER. Mr. Chairman, I thank the gentleman and I oppose the amendment even though it obviously does nothing.

Mr. ATKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania (Mr. Walker).

In 1962, the U.S. Supreme Court started handing down a series of opinions that collectively have become known as the "school prayer" cases. The Court held that the classroom recitation of nondenominational prayers on a voluntary basis by public school students constituted an "establishment of religion" that was prohibited by the first amendment of the U.S. Constitution if Government sponsorship was involved. We are all well aware that this line of judicial reasoning did not sit well with the American people in 1962 and that an overwhelming majority of the good citizens of this Republic still disagree with the Supreme Court on the need to restore this longstanding national tradition.

During the past 18 years, there has been a continuing popular effort to enact a legislative remedy to the school prayer issue. The longevity and resiliency of this movement are a testimony to the depth of feeling and public support for bringing the recognition of Almighty God back into the school systems that our people finance with their hard earned tax dollars.

I commend my distinguished colleague from Pennsylvania (Mr. Walker) for responding to the public concern for the restoration of school prayer. His amendment will preclude executive branch bureaucratic interference into this sensitive area and leave the resolution of this controversy where it ultimately must be decided—the Congress of the United States.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment, Mr. Chairman, I compliment the gentleman from Pennsylvania for his able persistence in keeping this subject before us for discussion. This amendment does afford me an opportunity to reiterate my support for voluntary prayer in public schools. My efforts to make this right unmistakable have always been overwhelmingly supported by the residents of central Ohio. I might say that one of the foundation stones of our democracy as written into the Constitution by our Founding Fathers is belief in a creator who endows us with certain inalienable rights. We should always guarantee the right of any citizen the freedom to recognize the Supreme Deity in any forum he chooses, including our public schools.

□ 1400

I can well remember back, Mr. Chairman, to my own days in public schools. We would begin our day with a brief nondenominational prayer, and a Pledge of Allegiance to the flag of the United States. These simple expressions of faith in God and our allegiance to America were a moment of serious reflection that generally tended to establish a positive atmosphere for the remainder of the day's classroom activities.

I think our generation is making it hard for young people to relate with our laissez faire attitude about family and school and belief in a supreme deity. I believe a positive vote on this amendment would reaffirm our belief in this basic principle.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding. I just take a few moments here to congratulate the gentleman for his leadership. I certainly appreciate his statement because as long as 8 years ago he was a leader on this floor on this issue, and has continued to be a national spokesman on the issue of school prayer. I appreciate his statement on this issue and his support for my amendment today.

Mr. WYLIE. I thank the gentleman for his comments of approval and for your excellent leadership.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Walker).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Harris: Page 57, after line 17, insert the following new section:

Sec. 501. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

Page 57 after line 17, insert the following new section:

Sec. 501. In the case of any agency which has, for the period beginning on October 1, 1980, and ending on July 31, 1981, obligated less than 80 percent of the funds appropriated to such agency under this Act for the fiscal year ending September 30, 1981, the amount of funds which shall be available to such agency and which may be apportioned to such agency under section 3679 of the Revised Statutes of the United States (31 U.S.C. 665) for the period beginning August 1, 1981, and ending September 30, 1981, shall be reduced by an amount equal to 80 percent of the funds appropriated to such agency under this Act for the fiscal year ending September 30, 1981, reduced by the amount of funds obligated by such agency under this Act during the period beginning on October 1, 1980, and ending on July 31, 1981.

Mr. HARRIS (during the reading). Mr. Chairman, I ask that the amendments be considered and read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Chairman, the amendemnt I am offering today is a simple amendment, yet it would have the effect of insuring that contract actions which violate existing law and regulations will not be funded through appropriations under this act. It has been drafted in order to conform to the House rules in that it merely requires adherence to existing law and regulations.

An investigation by my subcommittee has exposed numerous instances of agency noncompliance with revised OMB Circular A–76, which is executive branch policy guidance for acquiring commercial or industrial products and services, and OMB Circular A–120, which provides guidelines for the use of consulting services. These revised guidelines were issued by the Office of Federal Procurement Policy under authority granted by Public Law 93–400.

A–76 requires that determinations concerning the source of commercially available products and services shall be based on the results of a rigorous, uniform cost comparison analysis. The purpose of this policy is to insure that the taxpayers receive the best return on their tax dollars.

Recently, Department of Energy officials informed my subcommittee that a $5-million support service contract was let in May of 1980 without the benefit of the required cost comparison analysis. DOE officials were unable to explain why the requirement was ignored a full year after its effective date. This is just one of many examples which my investigation has uncovered.

At the same hearing we discovered that the Department of Energy was improperly using contract consultants in the formulation of national policy in violation of Circulator A-120. Most shocking of all was the revelation that these very same consultants who were improperly influencing national energy policy have undisclosed ties with the energy industry and the OPEC oil cartel.

Noncompliance with existing requirements is not limited to the Department of Energy. GSA spent a quarter of a million dollars more than necessary on a contract because of restrictive personnel ceilings in direct violation of A-76. HEW awarded 1,203 contracts during the 5-month period subsequent to the effective date of A-76. None of these actions were based on the required cost comparison analysis.

The list goes on and on.

Perhaps the most frustrating problem I have encountered in my 1½-year investigation of Federal contracting is the lack of complete and accurate information concerning the extent of the Government's contracting activity. Although regulations require procurement actions to be reported to a central repository (Federal Procurement Data Center), a recent GAO report prepared at my request shows that agencies have not fulfilled this requirement.

In fact, when I requested a list of contractual obligations for fiscal year 1979 for all executive agencies, HUD was listed as showing no contractual obligations for that year.

I can understand why an agency can have startup difficulties in establishing a new program. But I cannot understand or condone noncompliance with a direct legislative mandate fully 5 years after that mandate was enacted into law.

The amendment I am offering would have the effect of requiring adherence to legislative mandate and executive regulation in these vital areas. It is time for this Congress to use its power over the pursestrings to insure that its mandates are effectively implemented. I urge my colleagues to support this amendment.

Mr. Chairman, my amendment would establish firm controls over wasteful year-end spending sprees by limiting agency spending to 20 percent during the last 2 months of the fiscal year. This amendment has already been adopted to four fiscal year 1981 appropriations bills by overwhelming margins.

My Subcommittee on Human Resources has conducted an intensive investigation and received testimony from a wide variety of groups, individuals and Government agencies concerning the problem of year-end spending. The subcommittee's probe has revealed that funds appropriated for specific programs are not being rationally obligated to achieve the congressionally intended objective. Rather, much of the funds are being pushed out in the final weeks of the fiscal year on questionable contracts, grants and other spending.

GAO investigations, done at my request, are documenting the fact that funds are being diverted from the purpose laid out by Congress, causing millions, perhaps billions, of dollars, to be wasted on unnecessary projects and purchases during the last 2 months of the fiscal year. Federal agencies operate under a "use it or lose it" policy which reflects a fear that their budget will be cut the following year unless all funds are expended. Former Treasury Secretary Blumenthal has stated that year-end spending amounts to agencies "literally pushing money out the door with a wheelbarrow."

The administration has expressed concern about this wasteful year-end spending and has repeatedly issued directives to agencies in an effort to curb the abuses. Each summer since 1977, President Carter and OMB Director James McIntyre have urged agencies to avoid year-end spending sprees. Despite these directives, the year-end spending remains a major abuse. In fiscal year 1979, seven major Federal agencies spent more than 20 percent of their single year appropriations in the last 2 months of the fiscal year: 47.2 percent at HUD—$16 billion, 41.7 percent at EPA—$2.2 billion, 22.9 percent at HEW—$14.3 billion, 30.3 percent at Commerce—$907 million, 23.1 percent at Interior—$1.3 billion, 22.1 percent at Postal Service—$3.2 billion and 22.8 percent at DOT—$1.4 billion. If these seven agencies had limited spending to 20 percent in the last 2 months of the fiscal year, they could have saved $13 billion. I am convinced that a substantial portion of this amount could have been returned to the Treasury with minimal adverse effect on congressionally mandated programs.

Quite simply, the flurry of obligations at the end of the fiscal year is a very poor management practice. Increased year-end obligational activity places Government negotiators in a very poor bargaining position and results in contracts and grants being let and goods being purchased without adequate consideration. This "rush" to award contracts and grants seriously impairs the objectiveness as well as the thoroughness of the proposal evaluation process. In addition, I am particularly concerned that a large number of the contracts being let at the end of the year are sole-source to big firms ostensibly based on "unique qualification" and "time exigency." This type of year-end giveaway effectively bars firms without the "connections" and is "wired" against small businesses, which do not have the "inside track."

Direct congressional action to halt the year-end spending sprees must be taken. The waste clearly has not been eliminated administratively. As a matter of fact, it appears that while OMB has been monitoring outlays, it has been ignoring obligation rates. It makes no sense to me for OMB to check funds already "spent" while ignoring the even more important task of monitoring funds which could be saved. As a result, the practice of obligating "use it or lose it" funds at the end of the fiscal year has continued unabated.

Congressional support to limit year-end spending has been widespread. The House and Senate Budget Committees have included language in the fiscal year 1980 second concurrent resolution stating:

> The conferees are very concerned about wasteful government spending which may result from agency practices of obligating substantial amounts of funds during the last weeks and months of the fiscal year in order to avoid lapse of unneeded funds at the year end. . . . the conferees urge the appropriate committees to consider the need for language in FY 81 spending bills to control the obligation rates for federal programs or consider alternative legislative remedies for this program.

The conferees for the second budget resolution clearly felt Congress must take action to eliminate year-end spending abuses in all Federal agencies. In the report on the budget for fiscal year 1981, the House Budget Committee reaffirmed its concern about year-end spending and recognized that it is an area where savings can be made.

In addition, the Department of Defense has had a year-end spending limitation on its annual appropriation bill since 1953. And the Department of Health, Education, and Welfare had a year-end spending limitation in its fiscal year 1980 appropriation bill. Finally, my legislation—H.R. 4717 and H.R. 7287—to control year-end spending has bipartisan support from over 75 Members.

A year-end spending limitation has also been endorsed by the General Accounting Office in recent testimony before the Government Operations Committee:

> We support the temporary use of a limitation on year-end spending as a means of conveying Congress concern—not only with year-end spending itself—but with the need to strengthen the budget execution procurement process.

At a time when Congress is struggling to trim Federal spending and balance the budget, we cannot ignore this uncontrolled area of Federal spending. The abuse in year-end spending is widely recognized—let us not let it continue in fiscal year 1981. I strongly urge your support of my amendment to H.R. 7998, the Labor-HEW appropriations bill for fiscal year 1981.

● Mr. WAXMAN. Mr. Chairman, though I support the purpose of the Harris amendment, I am concerned about its effect on certain Federal programs. I hope the gentleman from Virginia can allay my fears. HHS pays the States for the Federal share of medicaid and various public assistance and social service programs on a quarterly basis. If these programs were to be limited to 20 percent for the last quarter, the States would receive substantially less than their full share of the Federal Government's financial participation. While I understand that this is an agency rather than a program cap, these programs constitute such a substantial share of the HHS budget that I am afraid that the extra 5 percent for these programs, when totaled, could easily bring the quarterly total to 20 percent of the agency budget and shut down all other programs and services funded by HHS for the last few months of each fiscal year.

I would like to know if this were to happen, whether the agency would be able to maintain all Federal programs. Is there any provision for a waiver so as not to, in effect, shut down important agency programs?●

Mr. HARRIS. Mr. Speaker, with regard to Mr. WAXMAN's statement, I certainly understand the concerns of the gentleman from California. First, the limitation applies agency-wide and thus, gives the agency considerable flexibility with the spending patterns of each of its programs. Second, we can, I am sure, in negotiation with the other body, come up with waiver provisions to take care of programs like this which can be seasonal in nature. I want to go on record as personally supporting such an approach.

Mr. NATCHER. Mr. Chairman, will the gentleman yield to me?

Mr. HARRIS. I will be happy to yield.

Mr. NATCHER. Mr. Chairman, these amendments have been previously offered and adopted in connection with other appropriation bills.

Mr. Chairman, we have no objection to either amendment.

Mr. HARRIS. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

LOW INCOME ENERGY ASSISTANCE

For expenses necessary to carry out a program of energy assistance for low income households as authorized under the Economic Opportunity Act, of 1964, $1,800,000,000 including $1,776,000,000 for special energy allowance grants to States or Territories, $20,000,000 which shall be transferred to the Community Service Administration for energy assistance to migrants and native Americans and $4,000,000 for Social Security administrative costs: *Provided*, That none of the funds appropriated in this paragraph shall be used to provide assistance either in cash or in kind to any household during fiscal year 1981 which exceeds a value of $500.

The Clerk read as follows:

Amendment offered by Mr. ROYBAL: On page 28, strike out line 24 and all that follows thereafter through page 29, line 10, and insert in lieu thereof the following: "For expenses necessary to carry out the provisions of title III of the Crude Oil Windfall Profit Tax Act of 1980 (Public Law 96-223), $1,800,000,000.".

The CHAIRMAN. The gentleman from California (Mr. ROYBAL) is recognized for 5 minutes in support of his amendment.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I thank the gentleman for yielding. I take this time to engage in a very short colloquy with the chairman of the subcommittee relative to the Helen Keller National Institute for the Deaf and Blind.

Mr. Chairman, as I understand it, it has been agreed that according to the desires and wishes of a number of the Members of this body, that there will be additional funding available for the Helen Keller Institute for the Deaf and Blind. Am I correct in that, Mr. Chairman?

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, the gentleman from New York is correct. As I recall, last year $2.5 million was expended in this program. The gentleman has in mind raising the amount up to $3.5 million, with no increase in the bill, but out of total rehabilitation services funding. As far as our committee is concerned, we would have no objection.

Mr. WOLFF. I thank the gentleman from Kentucky for all of his understanding and assistance.

Mr. Chairman, I had intended to offer an amendment at this time to provide additional funds for the Helen Keller National Center for Deaf-Blind Youth and Adults.

The Helen Keller National Center has faithfully served visually and orally handicapped citizens from across the country for the past 11 years, and is the only agency of its kind in the United States. The center is operated by the Industrial Home for the Blind under an agreement with HEW signed in 1969. The center's main facility is located in Sands Point, N.Y., and operates outreach facilities in 8 regional offices across the country, and provides financial assistance to 13 other rehabilitation centers at a rate of $100,000 per year. The center has provided hundreds of deaf-blind Americans with the chance to play a constructive role in society through its remarkably innovative and overwhelmingly successful methods of teaching.

Over the past 2 fiscal years, the center has been funded by Congress at a rate of $2.5 million per year. The center has wisely and judiciously used every drop of these precious funds to support much needed services. In the past 2 years, however, fuel, labor, and medical costs have risen so dramatically that the center has found it impossible to keep pace with inflation at the suggested level of funding.

Fortunately, the crisis has been headed off. Thanks to the efforts of the distinguished chairman of the subcommittee, Mr. NATCHER, $1 million in previously unearmarked funds will now be set aside for use by the center. Although the financial difficulties which the center has encountered in recent years are by no means completely solved, this is a step in the right direction. I wish to commend my distinguished colleagues Mr. ADDABBO, Mr. ROYBAL, and Mr. GILMAN for their support and assistance in helping to gain for the center these most valuable funds in this the centennial year of the birth of the late Helen Keller.

Mr. ROYBAL. Mr. Chairman, under the bill before us the committee has appropriated $1.8 billion for low-income energy assistance under the authority of the Economic Opportunities Act of 1964. My amendment proposes to do nothing more than appropriate the identical amount under the authorization provided by the Crude Oil Windfall Profit Tax Act of 1980, as requested by the administration.

My amendment neither increases nor decreases the amount appropriated by the committee for this worthwhile program. The authorization chosen by the committee allows the committee to propose its own formula to distribute the funds appropriated, thus effectively undoing the work and debate conducted by this House, by the Senate, and by the conference committee on the windfall profit tax. We passed that conference report less than 6 months ago.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, it would be my hope that the members of the committee would vote and support the amendment of the gentleman from California. It is the most equitable approach. I have been with this energy program ever since it was inaugurated many years ago, and this formula in the bill presently is completely unfair. This is an equitable approach, and I would hope that the money could be distributed for energy purposes for the poor throughout the country on the basis that the gentleman has proposed.

Mr. ROYBAL. I thank the gentleman.

May I say to the House that I am certain that no formula devised by any committee will meet with the approval of all the Members of the House. The truth of the matter is that the formula previously adopted is the fairest formula that has ever been presented to this House up to this time. We can probably go on discussing the merits of the cost of heating oil over the last 3 years, and whether or not we should consider changes in various forms of heating energy, particularly over the last 5 or 10 years. These are some of the points that can be brought up in debate, but I suggest to my colleagues that these points should not be debated on an appropriation bill.

If some of the Members have problems with or questions about the formula in the windfall profit tax, then let us debate amendments to that bill next year. This is neither the time nor the place in which to invent a new formula and ignore the one that we passed just a few months ago.

We must take into consideration the fact that many States have already relied on that formula passed by this House and by the other body, and have drafted guidelines and regulations that meet the provisions of these programs. If we impose a new authorization for these funds, some of the States may find themselves in the position of having to draft new regulations, thus delaying the implementation of the program well into the winter.

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Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I congratulate the gentleman on offering this amendment, and I rise in support of the amendment. Today we have the opportunity to select a formula for the distribution of funds for energy assistance to low-income elderly persons. We use a formula because we have no way of knowing how extreme next year's weather will be. We are all aware that any formula is an artificial tool. But even with that recognition, our responsibility is not diminished. It lies in forging that tool—shaping it by using the best knowledge that we have to accomplish its task.

Since 1973 the Community Services Administration has provided some assistance to low-income people to pay fuel costs. And in 1977 Congress appropriated funds for a special emergency energy program to pay excessive heating bills. In that year and in each year since, we have discussed the need for this program with great sympathy and concern for poor people who endured freezing temperatures because they were unable to pay for heat or who heated their homes but had no means to pay for it.

If we had been determining a formula for the distribution of energy funds prior to July, I have little doubt that we would have chosen a formula that was weighted so that it would provide moneys where we felt they were needed most to help people avoid illness and death—the Northern States. This summer, however, has brought with it fresh facts—mordant facts—that we cannot dismiss. The old, the frail, and the poor have yet another enemy in the from of intense, unmitigating heat. The elderly, especially those who suffer from heart disease, high blood pressure, respiratory illness, or diabetes, are particularly vulnerable to excessive and prolonged hot weather. As a result, during periods of very high temperatures older persons or those who have specific medical problems may build up body heat, which leads to illness or death.

We should also consider that in at least a dozen States, local governments and social service agencies have been compelled to distribute fans and air conditioners to the elderly and poor and to keep senior citizens centers open 24 hours a day so older persons from the community would have a comfortable and safe place to stay. It would have stretched these jurisdictions beyond their fiscal means had the Federal Government not come forth with additional funds.

I do not believe that any of my colleagues from the cold States have any positive arguments to support why it is more rational to send a greater amount of money to their States when over 2,000 people died in the summer in the South from heat-related illnesses. The formula we select should conform to the reality we have faced this summer. It must allow us to respond equitably to the needs of people in all regions of our country. It is my hope that you will join me, Mr. ROYBAL, and others, and take this opportunity to select a formula that responds to both the devastating conditions of excessively hot and cold weather.

Mr. FLIPPO. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Alabama.

Mr. FLIPPO. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from California (Mr. ROYBAL) and say that I strongly support his amendment. I thank the gentleman for offering it.

Mr. ALEXANDER. Mr. Chairman, I rise in support of the amendment offered by my colleague from California (Mr. ROYBAL). The issue here is not whether $1.8 billion will be made available next year for low-income energy assistance. The issue is how that money will be distributed.

When Congress enacted the Crude Oil Windfall Profit Tax Act of 1980 we included a low-income energy assistance program and made distribution instructions an integral part of the provisions. Athough the distribution instructions are tilted in favor of the coldest weather States they are fairer to all States than are the formulae proposed for use under the program language now in the bill before us.

It should be kept in mind that the distribution instructions in the Windfall Profit Tax Act have been before the whole Congress. The formulae developed in the appropriations bill before us were developed in the Committee on Appropriations Labor-HEW Subcommittee and are untouchable so far as this whole House are concerned. These formulae are not a part of the language of the appropriations bill, they are part of the language of the committee report and that report is not under consideration in the House.

Because the rules of the House prohibit legislation on an appropriations bill we have the choice of accepting the committee's formulae which are heavily weighted to the benefit of our coldest weather States or adopting the amendment before us using the Windfall Profit Act which has instructions not so heavily weighted for the cold States.

The Economic Opportunity Act of 1964, as amended, which the Committee on Appropriations proposes to use as authority for the funding of a low-income energy program does not contain a prejudice in behalf of cold- or hot-weather States. It is neutral. If the committee's intent had been to achieve fair treatment for all low-income persons with energy bill problems it could have done so by using the Economic Opportunity Act authorization. The fact that the formula developed in committee and used in the committee report more heavily in favor of our snowbelt States than even the Windfall Profit Tax Act instructions strongly indicates that fairness was not a real consideration before the committee.

Although my home State of Arkansas would receive $2.4 million more in low-income energy assistance under the proposal my colleague from California, I am not really satisfied with any of the formulae we have under consideration. None of them is really fair.

None of these formulae specifically take into account that in States where we have severe cold weather accompanied by snow and ice storms followed by severe hot weather, some people have suffered a double blow in this era of booming home energy bills. All these formulas appears to take the attitude that home air cooling in the summer is nice to have but not essential to human health.

In fact, the Windfall Profit Tax Act goes so far as to say that States can only assist with home cooling bills if the aid applicant has a doctor's certificate saying air-conditioning is a medical necessity. There is no similar requirement for home heating assistance.

I am advised that more people died in this Nation during the June–July heat wave than died from cold in the past half century.

The more than 1,200 people who died in 23 States in June and July because of the impact of climatic heat is just one of the tragic pieces of evidence of the dangers to human health and life excessive climatic heat poses.

In July 1966, 2,500 deaths related to climatic heat were reported in just three places, St. Louis, Illinois, and New York City.

These are only two of the repeated instances of these kinds of tragedies. They are found to a greater or lesser degree in every decade. And, heat waves, according to numerous scientific studies, strike the Nation at least every 2 years.

It is the dramatic instances that focus our attention on the dangers of excessive climatic heat. Death, especially in multiples, makes headlines. Heat-related illnesses are so frequent they rarely do. Yet, it is clear from medical studies reported in such publications as Environmental Research, an internal journal of environmental medicine and environmental science, that heat-induced or aggravated illnesses, accidents and productivity losses are a real and continuing hazard of stress caused by high climatic temperatures.

If the objective of the low-income energy assistance program is to provide a fair and compassionate governmental response to persons needing aid to pay essential energy bills then the cost of cooling should be figured into the distribution formula. If the program is simply a callous political response to the special interest pressures brought by the most densely populated of our States, which are at present the Snowbelt States, then we are well on our way to success and thoroughly trampling the American tradition of fair play in the process.

Mr. Chairman, I would like to ask a question of the gentleman from California (Mr. ROYBAL), and I would like to ask another question of one of the members of the committee, the gentleman from Wisconsin (Mr. OBEY), concerning the distribution of funds.

Mr. Chairman, directing this question to the gentleman from California (Mr. ROYBAL), there has been a great deal of debate, as you know, about what the low income energy assistance funds can be used for under the committee's proposal and under the provisions of the Windfall Profit Tax Act. I would like to know if it is the understanding of the gentleman from California (Mr. ROYBAL) that under the windfall profit tax law the States, in making their plans for using this money, have sufficient flexibility to allow some of the funds to be used for aid in paying cooling energy bills as well as heating bills.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from California.

Mr. ROYBAL. Mr. Chairman, that is precisely what my understanding is. The gentleman is correct.

Mr. ALEXANDER. Mr. Chairman, directing my next question to the gentleman from Wisconsin (Mr. OBEY), during full committee consideration of the low-income energy assistance proposal I understood the gentleman from Wisconsin (Mr. OBEY) to say that under the committee proposal the funding being recommended could be used for aid in paying heating bills or cooling energy bills, either one. As you know, there has been a great deal of debate about what funding under this program can pay for. I would like to know if my understanding of what the gentleman from Wisconsin said in committee is correct? Can this money be used for paying either heating energy or cooling energy bills, or both?

Mr. OBEY. Mr. Chairman, if the gentleman will yield, I would direct the gentleman's attention to the language on page 75 of the committee report which reads as follows:

> A State may choose to reserve a portion of its energy assistance allowance as a contingency to be used in the event of heat-related problems which might occur in the summer of 1981. The Committee urges those States with a history of heat-wave related problems to take into consideration the potential need for life-saving cooling assistance in the design of their energy programs.

So the answer is, "yes," and that is why we believe the committee formula is more equitable.

Mr. ALEXANDER. Mr. Chairman, would the gentleman also respond to this question:

Under the authority for energy assistance, Is it the gentleman's understanding of the law that it is up to the States to elect whether or not the funds appropriated under this bill can be used for either heating or for cooling assistance, or for both?

Mr. OBEY. Mr. Chairman, if the gentleman will yield, that is the committee's understanding. The purpose of the distribution formula this year is to give the Governors the widest possible latitude, with a couple of very narrow exceptions in determining exactly how their money is going to be used.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. OBEY) very much.

Mr. MICHEL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do so even though in my own State of Illinois, under the amendment, we would be receiving $5 million more than what we have in the committee formula. The fact is, however, that under the windfall profit tax formula 15 States would lose money, even with the $200 million increase that we have in the bill for this item.

Most of these States are States with the coldest climates, where the needs are most severe. I think that is what we were initially talking about with the fuel subsidy program.

On the other hand, some of the warmest-weather States, under the windfall profits tax formula, gain substantially. Florida would get a 150-percent increase and Louisiana over 100 percent. Hawaii gets over 400 percent, California and Arizona over 100 percent, Texas over 50 percent, Georgia over 50 percent, and Mississippi over 100 percent. We can see what the pattern is in the difference between the two formulas.

Under the committee formula, no State would lose funds, and all but five would gain. It is the fairest and the most equitable formula that we can adopt to put the money where the real needs are, and the States which suffered the greatest heat wave this summer would gain substantially under our committee formula.

Texas would go up by 25 percent, Oklahoma 27 percent, New Mexico 40 percent, Arkansas 24 percent, and Kansas 50 percent. There is thus substantial increased funding for these States to set aside for any possible heat waves next summer if they so choose, and, of course, the Governors under the State plans have the flexibility to do that.

I would urge the Members to support what our committee has done here, as distinguished from catering at this juncture to the old formula, what I call an antiquated formula that never even got started and that frankly is very disproportionate.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Arkansas.

Mr. ANTHONY. Mr. Chairman, I would just like to say for the record, that the gentleman's State, although he would yield on the formula that was in the windfall profit bill, and would go with the committee formula, it should be noted, would be the gainer of $2.1 million, whereas Arkansas would be the loser of $2.3 million. So I think that is significant.

Mr. MICHEL. No, Mr. Chairman, the gentleman is not correct.

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. Yes, I yield to the gentleman from Texas.

Mr. GRAMM. Mr. Chairman, there is only one problem with the gentleman's logic: it is invalid.

We have had numerous studies from the U.S. Weather Service that sought to determine what is the relation between heating needs and cold. They have found that substantially there is a linear relationship between how cold it is and how much you have to pay to heat. So if Massachusetts is three times as cold as Texas on average, which it is on heating degree days, it takes three times as much money to bring a house to 68 degrees.

The problem with the formula which has been offered by the gentleman from Wisconsin (Mr. OBEY) and the problem with the formula which was enforced last year is that, based on no engineering data, based on no logic, heating degree days are squared, so that States with three times the heating needs, on the basis of that individual part of the formula alone, are allocated nine times as much money.

What the Senate sought to do in a hodgepodge compromise is to eliminate about half the bias that existed in last year's formula.

But the objective of this bill was to help poor people who were cold—not poor people generally, regardless of temperature, but poor people who were cold.

It gets cold in Texas, it gets cold in north Florida, and all we are saying is that we should establish a formula that provides funds more closely to need, not a formula which squares need and, therefore, greatly distorts the money.

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Mr. MICHEL. Of course, that is not the first time there have been some complicated computations and formulas around here, whether it is a program for education, health, welfare, or all of the rest. And I just think that, on the basis of equity, what we were initially trying to get at with the fuel subsidy program was to help the cold States with their fuel problems.

The gentleman mentions the relationship between cold weather and the amount of funds a State receives. The fact is that Illinois has three times the number of heating degree days, which measure how cold it is, than does Texas. Under the committee formula, Illinois would receive three times the amount of funds as Texas. Under the windfall profit formula, Illinois would get only twice as much. In other words, Illinois is three times as cold, and under the gentleman's argument should, therefore, receive three times as much money as Texas. Yet under the formula the gentlman is supporting, Illinois would get only twice as much. I do not think that is either right or fair.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. MICHEL) has expired.

(On request of Mr. GRAMM and by unanimous consent, Mr. MICHEL was allowed to proceed for 2 additional minutes.)

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Texas.

Mr. GRAMM. I think that the whole country applauded when we had the allocation of slightly more than $20 million to assist those people who had been affected by heat, 1,200 people died. So as far as I know, that number is at least 10 times the number which has ever been established in the last decade of the number of people who died of cold. But the problem is that we are here allocating $1.8 billion. We are changing the formula on an amendment that the gentleman from Wisconsin (Mr. OBEY) offered on Friday afternoon.

Mr. OBEY. That is not correct.

Mr. GRAMM. We are changing a formula in such a way as to cut the allocation going to Arkansas by almost 40 percent, a State which suffered a large number of people killed by heat. We are cutting the allocation to Texas by a substantial portion at the very time that we find that heat kills as well as cold. We are taking a formula which is already unfair and which is already biased by the squaring provision and we are making it worse. That, basically, is our complaint.

Mr. MICHEL. The gentleman is entitled to his opinion.

Mr OBEY. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I think the point ought to be made that nobody's allocation is being cut under this formula. The gentleman from Texas is simply dead wrong when he says that. No one.

In addition, it should be pointed out that the committee, because of stories that some families received up to $1,400 last year, imposed a cap of $500 per family under the program. The Roybal amendment eliminates that cap. I do not think we want to be on record as doing that.

Mr. MICHEL. I would agree with the gentleman. I made that point earlier during discussion in general debate.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. MICHEL) has again expired.

(On request of Mr. GRAMM and by unanimous consent, Mr. MICHEL was allowed to proceed for 1 additional minute.)

Mr. GRAMM. If the gentleman will yield further, the gentleman from Wisconsin, whose State is among those six States that benefit most from the change in the formula which he has presented, fails to recognize that under his allocation formula, Alabama sees its percentage allocation drop from 1.17 to 0.82; Arizona's drops from 0.57 to 0.39. Moving on down, Kansas drops from 0.93 to 0.88. So, granted, we put more money in the program; but the relative share going to American taxpayers who have legitimate needs is being cut. That is undeniable. That is a fact.

Mr. MICHEL. Of course, what the gentleman has ignored altogether are the increases over last year which we are providing this year, and I just think that you cannot ignore that.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think we ought to put in perspective exactly what is happening on this amendment. Last year the Congress adopted a formula which, very frankly, was unfair to the South. It provided a much larger amount of the money available than it should have to Northern States. In response to that, Senator LONG, on the windfall profit tax legislation, adopted an amendment which, for the block grant portion of the program, provided phenomenal increases for the Southern States at the expense of the Northern States. So we had two formulas, one which grossly favored the North, another which grossly favored the South.

In addition to that, the Long formula, which the Roybal amendment seeks to adopt as our own today, was based on the assumption that there would be $3.1 billion available to fund this program. The problem is, we "ain't got no" $3.1 billion. We have got $1.8 billion. And so the committee is trying to find a way to distribute this money in a way which will not provide a net reduction below what any State had last year.

So what the committee did was say this: We should not take the Long formula, which resulted with the numbers available in this bill in net dollar reductions for 14 States, we should not take that formula. Rather, we should assure that every State gets at least the dollar amount that it got last year. And then we ought to distribute the rest on a little more fair basis.

We have a lot of people who are talking about what their States lose under the committee formula. The fact is, no State loses a dime under the committee formula. We are simply saying, for instance, to a State like Ohio, "Fellows, be satisfied with the 24 percent increase; do not insist upon the 27 percent increase." And we are saying to other States in a similar position, "In the interest of assuring that no State gets less than it got last year, you ought to be willing to take an increase for your State which is slightly smaller." That is what we do.

I want to point out some other problems with the Roybal amendment. The Roybal amendment adopts the Long formula, which provides for a $120 minimum grant to any family in the country eligible for the program. That in effect turns it into a new welfare program. I do not think we want to do that. I thought the purpose of this was to zero in on heating and cooling problems, not to create an additional AFDC program. But, nonetheless, if the Roybal amendment is adopted, the formula applies of the Long amendment, which means there is a $120 minimum payment to any eligible family rather than zeroing the money in on need.

Second, under the Roybal amendment, Hawaii gets six times as much money as it got last year. Now, pray tell, who is going to freeze to death in Hawaii? And, for that matter, who is going to suffer by intolerable heat in Hawaii? I know of no State that has a better climate in the entire Union. But they would get not the $400,000 they got last year, but $2.6 million, in addition to which, if the committee provision is not retained, we lose the cap which is in this bill right now on the amount that any family can receive under this program. We had families that received up to $1,400 last year under this program, and I do not think that is politically or substantively defensible. So the committee provision has a $500 cap on the amount that any one family can receive.

The issue of cooling has been brought up. This bill does not relate to the cooling versus heating issue. We make it possible for the Governors in their State programs to provide cooling or heating assistance because we eliminated the cutoff date for the spending of the program which applied to last year's bill.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. OBEY) has expired.

(By unanimous consent, Mr. OBEY was allowed to proceed for 2 additional minutes.)

Mr. OBEY. Mr. Chairman, this is my last point. The State of Texas last year received $28 million. Under the committee bill they will receive $35 million. But they are saying, "No, that is not enough. We want some States in the country to take a net reduction in the amount they had last year so we can get $55 million."

I suggest that that is not the fair way to approach it, and I would urge that Members support the commitee position.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Califorina.

Mr. FAZIO. Mr. Chairman, I would like to ask the gentleman this question: I think we are all aware of the problem the gentleman's committee faced when you were required to reduce the total allocation from $3.1 billion to $1.8 billion. But why did you not simply put in a hold-harmless clause to provide a floor below which no State could fall in the allocation and then reallocate the remainder of the funds? Why did you, if I can remember what you said, try to make the formula work "a little more fairly?" Why did you change the formula? That is really, I think, the essence of what we are arguing about. We are not opposed to caps on what an individual can obtain in assistance. I think we understand the need to make the program more flexible and give the Governors jurisdiction to distribute the funds. But you have changed the formula, you have done more than protect States that would have lost funds under the Long formula, and in doing so you have caused some States to lose a tremendous amount of money that they had anticipated under the full funding.

Mr. OBEY. I would suggest to the gentleman that losing money that you anticipated, that you did not get last year, is a whole lot less painful than losing money that you did get last year, in addition to which California is going to have, in your case, 80 percent more available in the State block grant program for the Governor to use where it is needed, because we are giving the Governors total authority this year as opposed to last year when you were having SSI recipients in San Diego get $37 and somebody on the Oregon border getting $37, whether they needed the same amount or not.

□ 1430

Mr. FAZIO. The gentleman and I would join the gentleman from Illinois (Mr. Michel) in agreement that we probably should have gone in that direction last year with more discretion for the Governors. The point I want to reiterate is the formula that you have offered which will cost Indiana, Illinois and Ohio, for example, and the other States that are in the loser category, is faulty and unnecessary. We resolved this issue in the windfall profit tax bill and we should stick with it.

Mr. OBEY. They will get substantially more money than they got last year.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment.

Mr. PEPPER. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Florida.

Mr. PEPPER. Mr. Chairman, I rise in strong support of the Roybal amendment to reinstitute the original formula for the distribution of low-income energy assistance funds among the States.

The original formula as written into the enabling legislation, the Windfall Profit Tax Act, was the result of a painstakingly constructed compromise. This compromise was designed to avoid the fatal flaws contained in the hastily conceived program which Congress enacted in desperation in order to provide emergency energy assistance before the winter of 1980. These efforts enabled thousands of low-income and elderly persons living in the "frost-belt" States to survive skyrocketing home heating costs last winter. Only a few months later, however, the tragic shortcomings became all too apparent. A seemingly interminable killer heat wave hovered over the southern third of the Nation. It did not relax its blistering grip until over 2,000 people, mostly low-income and elderly, had died.

The allocation formula in last year's program was not geared to temperature extremes, only to extremes in cold weather. No provisions were made for the devastating effects of prolonged, blazing heat on elderly people. Attempts to make such provisions were ridiculed and buried under charges of "regionalism" and "factionalism." Only after 2 months of a searing heat wave did the harsh reality that there were simply no funds available for cooling assistance become apparent.

Today we are 6 months older and 2,000 deaths wiser. I know that no Member of this body would ever willingly pay such a price for this knowledge. But what we know now is already embodied in the enabling legislation. Under the allocation formula for energy assistance in fiscal year 1981, a repeat of this tragedy could not occur. The formula is geared to extremes in temperature and recognizes the reality that blistering heat is every bit as fatal as bitter cold.

This carefully crafted formula was cavalierly scrapped in favor of the report language on page 76. The formula inserted into this appropriations bill is based once more on heating costs and on the number of days of extreme cold. This change should be rejected simply on the grounds that it legislates in an appropriations measure. More importantly, however, approval of this change threatens to unearth the spectre of thousands more heat-related deaths resulting from insufficient funds to help victims of excessive heat.

Mr. Chairman, the fiscal year funding level of $1.8 billion for the low-income energy assistance program falls drastically short of the $3.1 billion authorization. I suppose that this level reflects the optimistic meteorological assumptions of a very mild winter and a very mild summer. But this reduced funding rate leaves no margin for error. Last summer's experience indicates that the altered formula in the report language greatly exceeds this margin.

I urge every Member to reject the altered formula proposed in the committee report and to support this amendment to reinstate the original allocation formula.

Mr. MOAKLEY. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to my good friend from Massachusetts.

Mr. MOAKLEY. Mr. Chairman, I wish to express my strong support for the low-income energy assistance appropriations allocation formula as approved by the appropriations Committee.

The Northeast region of the United States, like the rest of our country, has been hard hit by rapidly escalating rates of inflation and unemployment. Much of the problem is due to our traditional overdependence on foreign sources of energy and by our lack of foresight in coping with the worldwide depletion of energy resources. Hardest hit, as always, are the poor and those on fixed incomes, who are not able to keep up with high inflation and with rising energy prices. As might be expected, the ranks of unemployed have risen as the economy has declined, and the Northeast can anticipate that there will be as much as a 40-percent increase in those eligible for fuel assistance this year, in comparsion to last year.

These same households, which are already hard pressed, are also the ones that often must rely on considerably older housing stock, which is rarely energy efficient.

Those of us who have been blessed with what this country has to offer can take advantage of new energy efficient household goods; we can take advantage of tax credits for reducing fuel costs; we can afford to buy the newer, more fuel efficient cars. But, the poor and the elderly are less fortunate and must rely on living in buildings with poor insulation, in driving older gas-guzzling cars or using mass transit which has seen dramatic rises in fare rates due to these same higher energy costs. It is a vicious circle, the circle of poverty, magnified to an even greater degree when our economic picture is not robust.

In Massachusetts, where we are repeatedly hit by severe winters, the poor and elderly become susceptible to the elements and are often placed in a position in which they must decide between paying their utility bills or buying food. This is simply a situation, given the resources of our Nation and our commitment to justice, that we cannot allow to happen.

Fuel prices, since he 1972 oil embargo, in Boston have skyrocketed. During the winter of 1978–79, in a 5-month period alone, the price of home heating oil rose by almost 26 percent. According to the Massachusetts energy office in one 2-week period in mid–1979, the price rose by 4.5 cents per gallon.

At present, the price of home heating oil is more than $1 per gallon, over 30 cents more per gallon than it was in June 1979. This means that in slightly more than a year's time, the price of home heating oil has risen by 50 percent.

It is perfectly clear that we must continue to relieve the financial pressures which are being placed on our Nation's poor by subsidizing their fuel bills until we can arrive at a sensible solution to our Nation's energy crisis.

Although Massachusetts will only receive an approximate 10 percent increase over last year's budget, while facing substantially higher percentages of newly eligible recipients, we believe the committee's recommendation is fair, not just to us, but to each region of the country with their own particular energy problems.

The committee formula will give each State, at a minimum, their 1980 allotment. It will also give fair increases, based on need, to those States which are hardest hit by the rapid rise in fuel costs and by the downturn in the economy.

Mr. Chairman, I urge my colleagues to support the committee's recommendation and to support their fair allotment formula.

Thank you.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Chairman, I rise in support of the Roybal amendment to the Labor-HHS-Education appropriations bill. The formula for distributing funds to be used for low-income energy assistance must reflect the true energy needs of all of our citizens in all parts of the country. It must reflect the fact that the poor and the elderly are threatened as much by the unrelenting heat of the summer Sun as the often brutal cold of the winter frost. Indeed, this summer we have experienced a heat crisis in many parts of the country leaving in its wake the tragic deaths of over 1,200 elderly Americans. These deaths and countless other heat-related illnesses might have been avoided if more people could have afforded to cool their homes.

Without increasing or decreasing the amount appropriated, the Roybal amendment will assure that Congress keeps faith with all the States by distributing low-income energy assistance funds in accordance with the provisions of the Windfall Profit Tax Act passed earlier by this Congress. The elderly citizens of the South—already held financially captive by inflation—must not be held hostage by those who refuse to acknowledge the real energy needs of people who happen not to live in the Northeastern United States.

I urge adoption of this amendment.

Mr. CONTE. Mr. Chairman, I stand to express my strong disagreement with the amendment offered by my good friend, and I say that respectfully, my good friend, the gentleman from California, Ed Roybal.

This amendment would drastically strew the distribution of funds under the low-income energy assistance program toward Southern and Western States at the direct expense of the very coldest part of the United States.

Mr. Chairman, when this program was established, it was understandably geared to meet the ever-increasing needs of low-income persons who were facing dire freezing winters and rapidly skyrocketing costs of home heating oil.

Last year Congress saw fit to provide this aid so that thousands of low-income families around the country would not be forced into the life-threatening situation of having to choose between feeding their families and heating their homes.

This body, under the authority of the Economic Opportunity Act of 1964, provided $1.6 billion in 1980, and while the amendment was not adequate to meet all of the needs, it did provide vital relief to many needy families.

In the Northeast, where conditions can be particularly severe during the winter months, my own State of Massachusetts, and its sister State of New York, provided their own State funds to assist in this program. These were the only States in the Union, the only States, compared to the rich States of California and Texas, to add their own State funds to the Federal doles. Massachusetts, $15 million; New York $10 million.

For the fiscal year 1981 the committee recommended once again using the authority of the Economic Opportunity Act of 1964 to operate the low-income assistance program. The committee has recommended a 12-percent increase over 1980 for a total of $1.8 billion. At the same time, the number of eligible households by the Long amendment has increased nearly 2 percent. Obviously, a $1.8 billion level is going to be spread very thin, particularly when you also consider that the cost of home heating oil may well increase from the current level of $1 a gallon to $1.15 to $1.20 per gallon this winter.

Let us face some other facts as well. We all know that the gentleman from Louisiana, Russell Long, pulled a fast one when he put in the windfall profit formula for energy assistance. He caught us sleeping, but we are not sleeping today. I should add to that, that when the windfall profit formula was being determined, and as it was being determined, we were talking about a program level at a minimum of $2.2 billion and a potential maximum appropriation of $3.2 billion. We all know the economic and the budgetary squeeze that we are in, and we can only go for the $1.8 billion under the budget authority.

Under the Long formula, southern and western tier States would receive outrageously—outrageously—large increases, many in the range of 150 to 200 percent.

At the same time, many States in the Northeast, the section of the country where they have very harsh winters, would actually receive less money than they did in 1980. That is absolutely unacceptable, and this amendment should be defeated.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. Conte) has expired.

(By unanimous consent, Mr. Conte was allowed to proceed for 3 additional minutes.)

Mr. CONTE. Under this amendment, Louisiana, the rich oil State of Louisiana, would receive 115 percent more, while New York would receive an 11-percent cut over last year under this amendment.

Florida—my good friend, the gentleman from Florida (Mr. Pepper), I was surprised at him, because I bled with him for the poor—that rich State and that great rich district of his, Miami, will get 147 percent more, more than they did last year. This is unconscionable. People are driving down to Florida by the thousands. Why? To pick the oranges and grapefruits and live in that sunny climate, and they want to come up here and grab this money away from those freezing people in New England. I am surprised.

My good friend, the gentleman from California, Ed Roybal, I was surprised at him. I stood side by side with him, shoulder to shoulder, fighting for the poor people, fighting for bilingual education, because he needed it; he needed it. And now my people need it. They are desperate. Why, they cannot take any more people in his State. Everybody has gone to California. How many more Congressmen are they going to get? Five? Six? Everybody is going to California. California, here I come. Why? Why? Because of the beautiful climate in California.

My population is going down because you have to go out there and chop the wood to keep your stove going, and huddle up there by the stove, because you cannot afford any oil; and you want to take this small morsel away from us.

I say to the gentleman from California (Mr. Roybal) I am surprised at him, because there is a man with the milk of human kindness in his veins—up until this point. I hope nobody will object when he asks unanimous consent to withdraw this amendment.

Mr. GRAMM. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, we have heard a great deal of rhetoric, some of it quite good, but I would like now to talk about the facts.

First of all, in 1980, when we established the low-income energy assistance program, we had a formula written for allocating those funds. Now, technically and in terms of engineering, we know what the relationship is between how cold it is and how much it costs to move a house from whatever degree temperature they face outside to 68°. That is one of the best-documented facts in the engineering of heating, and that relationship is linear. There is a linear, direct relationship between the number of heating degree days in a State and how much energy it takes to bring a house in that State up to 68°.

I cite the Systems Handbook of the American Society of Heating. In fact, the Department of Human—I lose these new names, they change so often—the old HEW has never presented any facts to substantiate the fact that we ought not to use the linear relationship in measuring need.

□ 1440

In 1980 when this formula was written, we took heating degree days and the number of poor people and we squared heating degree days, so these people in Massachusetts that have three times the heating needs of people in Texas did not get by that element of the formula alone, and there were other elements, three times as much money, which we are willing to give them because it is colder in Massachusetts. They, by that element of the formula, got nine times as much money.

When the Senate sought to rewrite the formula for fiscal year 1981, they did not sit down and try to come up with a fair formula. I grant that. They came up with a political collage whereby each State chose from six options that element which was fairest to them; but that formula did not bring justice. I have here a run that was done for my office by Health and Human Services which would allocate assistance on the basis of heating requirements alone. By that formula the States of the Northeastern United States, even by the Long formula, are still greatly overcompensated. In fact, the formula that the gentleman from California (Mr. Roybal) wants to go back to is a grossly inequitable formula which cheats 22 States of this country from what they are entitled to by the legitimate needs of their people as determined by how cold it is and how poor they are.

Now, second, when the gentleman from Wisconsin (Mr. Obey) offered an amendment to move us back to formulas that brought in squaring in a higher proportion to the Long formula; when the gentleman brought in not how cold it is and not how much does fuel cost, but how much has it gone up in the last few years, he distorted this formula further, a formula that was already distorted.

So I think the time has come to sit down in an authorization bill, not in an appropriation bill, and work out a fair formula. That is what I have sought to do with the speaker. We have not yet come to an agreement, but I think it is imperative here that we not take a formula that already cheats people and make that formula worse.

No amount of political rhetoric from the people who seek to gain by a formula that has no basis in fact and no basis in justice can change the fact that there is not, nor has there ever been, any relationship between heating degree days squared and the cost of heating.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the distinguished majority leader.

Mr. WRIGHT. I think the gentleman is making a significant statement. All of us surely do want to help people who are poor, wherever they live in this country—people who cannot afford to protect themselves against the severities of weather, whether it be extreme cold or extreme heat.

I wonder if the gentleman from Texas has any figures that would compare the number of people who have died in this present summer from extreme heat because they were not able to afford the kinds of protection that a modest amount of money might have brought for them, as against those who might have died from the extreme cold in winter just passed.

Mr. GRAMM. The best data, the best figure I have is a rough ball park figure; about 1,200 people this summer died from heat-related causes.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. Anthony, and by unanimous consent, Mr. Gramm was allowed to proceed for 5 additional minutes.)

Mr. GRAMM. Mr. Chairman, to complete that answer, by the most generous assessment that I have seen that brings in cold related deaths, we have in this year, which granted is a remarkable year, over 10 times as many people dying from heat-related causes as cold-related causes; but I remind the gentleman that the formula we seek to protect here does not provide for cooling. All we are saying is do not make an unfair formula which does not provide for cooling, which overcompensates some regions on heating, worse than it already is, when our people are dying from heat-related causes.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from Arkansas.

Mr. ANTHONY. Mr. Chairman, I thank the gentleman from Texas for yielding.

I would like to make a response to the gentleman in the well previously talking about how unconscionable it is that we are trying to defend our rights under this formula.

The State of Arkansas has been besieged with a very unusual heat wave this year. Because of the high utility bills, yes, the State of Arkansas has high utility bills also; 120 deaths directly related to the heat.

I think this is something that cannot be too dramatized and it is something that we should be aware of; so when you use the word unconscionable, I think with 120 funerals in Arkansas, that word could also be used.

I just would like to make three quick points. If this amendment carries and if the cap is removed, I do not think there is any question but what we could refine the language of the act to put the cap on. I strongly support the cap at $500. I think the amendment would probably go through without it.

Mr. CONTE. Mr. Chairman, will the gentleman yield to me?

Mr. GRAMM. I would be happy to yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, the gentleman is very kind to yield to me.

To the answer the gentleman from Arkansas just made in his statement, there is nothing to prevent the State leaders of Arkansas, the officeholders, to take this money, and Arkansas, mind you, under this Obey amendment gets 24 percent more than they got last year; there is nothing to prevent them from giving that money to the poor people for air-conditioning, or for fans or for electrical bills or other energy needs.

Furthermore, in regard to Texas, as I said, we have one of the fairest chairmen in the House of Representatives, the gentleman from Kentucky, Bill Natcher. When Texas got in trouble, the administration came up and they wanted $26 million in two reprograming requests. I think I was out in Detroit at the Republican Convention. I got a call from Bill Natcher's office saying, "Silvio, will you go along with this $26 million for reprograming for Texas and other States that are suffering because of the heat wave?"

I said, "Yes, sir, Mr. Chairman."

And within 5 minutes we reprogramed $26 million for Texas for the heat wave.

Mr. GRAMM. Mr. Chairman, reclaiming my time, I would like to respond to the gentleman. We are talking here about a $1.8 billion program. We appreciate the $26 million, but if Texas were given its fair share on the basis of heating, our allocation would be 46 percent above what the gentleman from California (Mr. Roybal) is seeking to preserve; so we are not asking for justice here. We know because the first formula was so biased that we are not going to get that. All we are saying is, having already been cheated, let us not make it rape. That is what the Obey change does.

I thank the gentleman.

Mr. BURGENER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, we seemed faced with a choice between two faulty proposals. I think, however, both of them at $1,800 million, the Roybal amendment as I understand it will not increase the amount of money; but if you come from a Southern or a Western State, you are far better off taking the Roybal amendment than you are going with the committee amendment, because the committee amendment skews the whole business toward the colder States.

I have a county of 90,000 people. Imperial County, where the summer temperatures are routinely 110 and 115 degrees. In terms of economic need, the unemployment there is currently 25 percent.

Now, admittedly, the Obey formula directs it heavily toward the North and Northeast unfairly, I believe, and the Roybal formula, which is the old one has some inequities in it, but at least gives it the desperate need for cooling more attention and would be the better way to go if you come from the South or the West.

I did not vote for this program initially. I think it started out at $200 million, with great difficulty trying to figure out how to divide it up.

Now, here we are at $1,800 million fighting over this money with a new formula that we think in the South and the West is grossly unfair, so I support the Roybal amendment and hope that even it will be improved.

Mrs. BOGGS. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the Roybal amendment.

I would just like to remind the House, Mr. Chairman, that we had many Federal programs in housing, in housing for the elderly, in private housing, that completely ignored all of the architectural necessities of the South, because it was so inexpensive to climatize a house. You could make a house cool in the summer and warm in the winter with a very small amount of money.

□ 1450

We built 202 housing programs for the elderly and handicapped in this manner. We have built other kinds of housing under VA and FHA 235, 236 programs and so on under many of the Federal programs where it was much cheaper to make small houses with low ceilings, with small windows, with no cross ventilation, with no porches. Now the people are caught in these small, erstwhile climatized houses unable to afford the present utility costs.

So it is absolutely necessary for us to be able to get some of this help, support, and relief to the people who are caught in houses out of which they cannot afford to move, and which they cannot afford to climatize properly to lead healthy lives. I would implore my colleagues not to discriminate against the elderly in the South when they are thinking about voting on this amendment.

● Mr. GRASSLEY. Mr. Chairman, the amendment before us purports to redistribute Federal grants for low-income energy assistance on the premise that relief from summer's heat is as necessary to the elderly as is protection against the cold of winter. The impetus for the proposal seems to stem from the fact that we are experiencing the hottest summer of the century.

Among persons whose deaths have been attributed to the unusual heat of this summer, a high percentage have been elderly. This is a good argument for the amendment except for the fact that the elderly comprise a high percentage of total deaths under all climatic conditions. I am not aware of any studies which prove that the age distribution of deaths over the past 2 months has been remarkably different from other summers in the past. Such observation does not lessen my deep concern for the elderly and especially the elderly poor who have suffered this summer's heat without air conditioning and sometimes without so much as an electric fan. However, it does suggest that a once-in-a-century summer should not distort our entire perspective on energy assistance. Where would this leave us if our next experience proves to be a once-in-a-century winter?

Cold kills people every year. That is a documented and irrefutable fact. In cold weather the elderly poor, especially, are subject to hypothermia, the gradual loss of internal heat which invariably leads to death unless the body heat is restored. It is the recognized lethality of prolonged exposure to cold which underlies the low-income energy assistance program.

It gets pretty hot in the Midwest and I know that Iowans appreciate relief from the heat of July and August just as much as anybody else. But it also gets mighty cold and it stays mighty cold for about 5 months. If this amendment tells Iowans that they are going to lose over $2 million in the energy assistance needed to get them through the winter, they are going to oppose it and so am I.

The net effect of the proposed amendment is to shift vast amounts of the funds for low-income energy assistance from the cold States into the Sun Belt. Maine loses about 25 percent of its total allocation and the Florida allocation is more than doubled. New York loses about $37 million and California gains over $43 million. Montana makes an 18-percent sacrifice while the allocations to Hawaii is increased by almost 300 percent.

What this seems to mean is that the Congress has more concern for people fanning themselves against the heat than it has for those who are huddled against the cold. Anyone who has had both experiences can tell you that it should be the other way around.

I urge my colleagues to join me in opposing this amendment.●

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I would like to touch on a subject that has been raised with relation to the warm climates. Many of the Members may recall within the last month the President enacted into law a fund, a reprograming fund consisting of some $21 million that would deal with the heat wave that struck the various States in our country. The majoriy leader, when the gentleman from Texas (Mr. WRIGHT) posed the question as to the number of deaths that resulted from excessive heat, he simply had to know that his State was one of the beneficiaries of this legislation because he engaged at that time in the floor debate. There is no question that we are concerned about the elderly and those who might be susceptible to the heat problems, but we did in fact, respond.

With relation to the overall approach to the energy problem so far as the poor and the elderly are concerned, I think it was a year or so ago we passed a bill of great magnitude. We appropriated some $1.65 billion. I did not think the formula was the most equitable then, nor do I think so now. Our concerns at that point were the freezing temperatures where people froze to death and were compelled to live under the most adverse circumstances. The administration, the Congress responded. The President signed the bill.

Now what we are trying to do is make what I believe is a formula that was not perfect to begin with even less equitable. I would suggest my colleagues give serious thought to the nature of this bill and its impact on the entire program because we may well be required to come back here next winter for some additional funding. We should not lose sight of the original purpose of the bill.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding. I would just like to again repeat a couple of points.

First, the Members from Texas who are objecting to the House formula ought to recognize that they are getting $7 million more than they got last year. If you support the Roybal amendment, you are taking money away from 14 States, they will get less money than they got last year so that Texas can get an even larger increase than they had in the past. In addition to that, the gentleman from California indicated that if you are a Westerner you ought to support the amendment because you do better under the Roybal amendment. That is true if you are a Westerner from California. But if you are from Colorado, Idaho, Montana, Nebraska, Oregon, or Wyoming, and a number of other States, you do better under the House bill.

Third, I want to point out if you look at the increase in the Btu equivalent requirements for heating in this country you will see that the increase for Houston has been approximately $2.01 per million Btu. In Boston, for instance, it is $2.84, which ought to give you an idea of where the biggest problems lie, if you simply look at the cost change in energy requirements over the last 2 years.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I am delighted to yield.

Mr. JEFFORDS. Mr. Chairman, I certainly want to commend the gentleman for his statements.

I would like to take this opportunity to describe the serious and potentially tragic problems that rising energy costs are causing for low-income people. At a time when consumer purchasing power is being constantly eroded by inflation, the cost of home heating oil in New England continues to escalate in dramatic proportions. For people on fixed incomes, particularly the elderly, this situation can literally force people to a choice between freezing and starvation. Only an adequate low-income fuel assistance program can cushion these individuals from the possibility of disaster in the winter months.

Mr. Chairman, the amount appropriated in fiscal year 1980 for low-income fuel-assistance sufficed only because we experienced an unusually mild winter in New England. If we face harsh weather conditions in 1980–81, many people will suffer severe financial difficulties as fuel costs continue to rise. While the situation would be hard if fuel assistance benefits were level funded with last year, it would be literally untenable if benefits were cut back. That is exactly what would happen to my State under the Roybal amendment. Last year, Vermont received approximately $9.4 million from the Federal Government for fuel assistance. Under the Roybal amendment, Vermont would receive about $8.3 million.

The problems that such a cutback would impose on low-income people in Vermont can be readily understood by examining recent fuel oil price history. In the fall of 1978, home heating oil customers paid an average price of 50 cents per gallon. One year later, consumers were paying prices in the mideighties, and fuel oil is now going for about $1.04 per gallon in New England. It is expected to rise at least to the $1.15 to $1.20 range this winter. To give you an idea of what this means in actual dollar terms for low-income Vermonters, the average heating bill for low-income fuel oil users in the 1978–79 heating season was $740; this amount increased to $1,260 in the 1979–80 winter. This represented an increase of $520 in 1 year. The percentage of income spent by low-income households for heating also increased dramatically: In 1978–79, low-income fuel oil users spent approximately 18 percent of their income for heating in Vermont; in 1979–80, that proportion had risen to 28 percent.

Fuel oil prices will continue to rise through the next year, as the administration oil price decontrol plan becomes fully implemented. I have opposed oil price decontrol, and I deplore the increment it will add to prices which would rise rapidly under the OPEC cartel actions, without the boost they will receive from oil price decontrol.

Mr. Chairman, the rising cost of home heating has become an untenable financial burden for many low-income families in the Northeast. The amount provided for in the committee bill, approximately $10.9 million for the State of Vermont, is modest next to the increased cost for this group. Home heating costs rose $12.1 million between 1978–79 and 1979–80 for low-income households.

A substantial cutback in Federal fuel assistance benefits is particularly unjust in the case of a State like Vermont, where people have conserved fuel oil and shifted to alternative home heating sources in record numbers. Fully one-half of Vermont households are making use of wood as a primary or backup heating source. Vermont has also made great strides in reducing fuel oil consumption over the last 5 years.

This is not the time to penalize States where people are making every effort to help themselves. I urge the defeat of the Roybal amendment.

Mr. BIAGGI. I would like to address myself to some of the thinking that goes on in the minds of our colleagues when they consider this legislation. They ofttimes are thinking about parochial interests. I want you to know that the original legislation dealing with providing relief for the elderly, the elderly and poor during the heat wave, was introduced by myself. None of that money came to New York. As a matter of fact, the people in Texas did very well, and rightly so because they were subjected to extraordinary heat.

What I am saying is I urge you not to think in terms of regional interests, of parochial interests. Think objectively, because that is what I thought about when I introduced the legislation.

We did not have that problem in New York. We knew the people in Missouri, Arkansas, Texas, and areas like that were dying in great numbers, extraordinary numbers. We responded as a national body. I suggest and I hope that my colleagues will think in similar fashion.

Mr. BEARD of Rhode Island. Mr. Chairman, I move to strike the requisite number of words and rise to oppose the amendment.

Mr. NATCHER. Mr. Chairman, will the gentleman from Rhode Island yield to me?

Mr. BEARD of Rhode Island. Yes; I will.

Mr. NATCHER. Mr. Chairman, not consuming any of the gentleman's time from Rhode Island, any of his 5 minutes, I just was wondering if we could get a time limit as to the balance of the debate on this amendment. This amendment started at 5 minutes after 2. We have now consumed nearly an hour.

Mr. Chairman, I would like to suggest and ask unanimous consent that all debate on this amendment and all amendments thereto end at 3:15.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. MOFFETT. Mr. Chairman, reserving the right to object, may I be recognized?

Mr. NATCHER. I will yield to the gentleman, but the gentleman from Rhode Island has the time.

Mr. BEARD of Rhode Island. Mr. Chairman, reclaiming my time at this point in order to be able to get my point across——

Mr. NATCHER. Mr. Chairman, I will make my request following the gentleman from Rhode Island.

Mr. BEARD of Rhode Island. If I may reclaim my time, I recognize the problems that people have experienced in Texas, the heat wave in other parts of the country, but I will tell my colleagues that Rhode Island and the North also has very similar problems. We have hot summers. We have had temperatures up to 100 degrees and over. We have had some elderly people with heart conditions suffer, and some have died. Maybe not as many as the people in Texas and other areas.

But we also have very cold winters. Under this formula last year, Rhode Island received $11.8 million. The Long-Roybal formula would have had us down to 10.5. The committee got us up to 12.7.

Why an increase? Very simple. Oil has gone up in the past year. Oil has not gone down, so why should our formula go down?

Cold is a matter of survival. If people do not have heat they will die. The same as some people have died in the Southern States from the heat. But it should be fair.

The State of Louisiana, it is incredible the increase they have gotten. If we only had been left alone at last year's level I might not have a big argument here today, but you are cutting my State, we are talking about old people, we were talking about poor people, not looking for an air-conditioner, looking for the ability to pay their oil bills. That is what we are talking about here today.

What SILVIO CONTE echoed was very similar to what I am saying right now. We are talking about survival, survival for the Southern States and the hot areas, but also survival in the cold States, in the cold States.

It is difficult for our people to survive with less money. Go after the oil companies. The oil companies have raised the price, so why should we be cut.

I would be less than a Representative from Rhode Island if I did not get up here and oppose this amendment. I could see Senator LONG looking out for his State, trying to get what he can get, but let us not be ridiculous. Let us not be ridiculous here regardless of where we come from. Let us be fair. Let us not cut the States that suffer the cold weather.

Now let me just take it back a few years ago when we had that blizzard of 1978. I will show you how stupid we can be in this country. Do you know where the heavy snow equipment was stored? Not in the North, it was stored in the Southern States. They had to fly the equipment in. When is the last time it snowed in Florida?

My colleagues know what I am saying. It is commonsense we are talking about here, commonsense. My people are asking questions about this Congress and what are we working with, are we working on all cylinders when they cut our formula and have to realize that oil bills have gone up.

As far as I am concerned, Senator LONG has made a mistake. I do not care where you come from. I do not care where you come from, let us be fair. If we want to have equity, let us treat everybody fair and do not cut a State like my State.

I am only one of two here in the House. We have two Senators. Texas has the majority leader. There is a big delegation in Texas and in California. The Southern States are a big bloc.

□ 1500

We are talking about survival. I am being fair, too. I understand your air-conditioning and the need for it. But understand what it is to be old and poor in a northern climate trying to survive. That is what we are here talking about. This formula basically stinks and I want it recorded that way. It is not fair. It is not fair to anyone and I hope the Congress, as a collective body here, has more commonsense than this amendment has and the people who sponsor it.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair would like to remind the Members that no personal references should be made to Members of the other body.

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I will be happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, following the allocated time of 5 minutes to the gentleman from Connecticut, I would like to ask unanimous consent that all the time on this amendment and all amendments thereto close at 3:20.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. ASHBROOK. Mr. Chairman, I reserve the right to object.

Mr. Chairman, the gentleman has been so fair, I am just wondering if we could get agreement from the Chair that Members would not rise and then ask unanimous consent to transfer their time to someone else.

Mr. NATCHER. Mr. Chairman, there will be no objection to that from this side.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Debate will cease at 3:20.

Mr. MOFFETT. Mr. Chairman, I think it is important at the outset to remind ourselves why we are here. I say this in recognition of the fact that the issue is one that has gone by us, and that is decontrol. We are here mopping up post-decontrol, it seems to me, and we have created another large new bureaucratic subsidy program as a band-aid on that decision that we made.

Now, I think when we have a list circulating around the floor, it has been my experience in my relatively short time here, when you have lists circulating on the floor of States that win and States that lose, it brings out the worst in all of us in this body.

I do not think anyone can remember a time when we had lists circulating on the House floor where this body—we may have done the right thing, but where we really acted as a body with a national interest in mind.

As the gentleman from Rhode Island has stated and the gentleman from Massachusetts (Mr. CONTE) has stated, obviously we have a parochial interest in this. Let us understand there are a couple of basic facts. When the windfall profit tax was passed that authorizing legislation envisioned $3.1 billion. It gave, in that formula, a tilt, it seems to me, that was very, very fair, to say the least, toward the South. I do not think anyone can argue with that.

For my own part, and I think this is true for most of the people from the North and from the northeast and New England, we never had any objection to that. At least I do not recall voicing any objection or hearing our people voice objection to that because we thought it was fair. The problem is, of course, that the $3.1 billion was then squeezed down to $1.8 billion by the Appropriations Committee and, as a result, our region is going to suffer greatly. My own State would receive less money and a number of other States, as the gentleman from Wisconsin (Mr. OBEY), has pointed out, would also receive much less money. So that is where we find ourselves.

Mr. Chairman, I might add when you look at the northeast and the question of the formula, we would not really be fighting over the formula, if the promises of the windfall profit tax had been kept, but they have not been kept. What we are saying now is we have some particular generic pricing problems in the Northeast. The northeastern consumers pay $44.95 for a hundred therms of natural gas, for example, compared to a national average of $35.23. That is $44 to $35.

Fuel oil prices, as my colleagues know, are significantly higher. Prices in New England are 1 cent a gallon higher than the national average of all fuel oil prices.

Coal costs are $140 per ton in New England, compared to a national average of $75. Even wood is more expensive; $96 per cord in New England compared to a $75 average. In total, New England energy consumers, all income classes, spend 26 percent more for energy than the average household in the country.

We have been conserving. Oil use in New England has dropped by 15 percent since the embargo, 1973–74, which is one thing that I think our region can say it has really excelled in and we are doing much better.

The criticism is made sometimes we do not do enough in terms of energy development. We are doing fuel cells and solar and hydro and biomass. There is no burning objection to a refinery in the northeastern part of the country, despite what some people may believe.

In addition to all this, if we look at the revenue-sharing formula which is headed for this floor, the oil-producing States are going to be allowed to get more money because of their oil severance taxes, because an oil and gas severance tax will be considered as part of their taxing efforts. So we lose there. There is going to be a $150 billion windfall to oil- and gas-producing States in the next 10 years because of their severance taxes so we are losing on that formula.

Now we are not blaming other regions for our problems but we do have unique problems and we urge you to just put those lists aside for a moment and try to get back to the goals of the original program. Or in the alternative, let us work on a compromise that can satisfy all regions.

But do not shortchange the Northeast.

The CHAIRMAN. Members standing at the time of the unanimous-consent request to limit debate will be recognized for 30 seconds each.

The Chair recognizes the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. Mr. Chairman, in support of the Obey committee amendment I would like to address the question of fuel costs very briefly. I would also like to point out that Illinois stands to lose if the Obey committee amendment prevails.

On valid fuel costs testimony before our committee, the estimates were: Oil from 1978 to March 1980, up 112 percent, for the balance of 1980, another 11 percent, and 1981, up 20 percent.

Gas, 1979 to March 1980, up 40 percent. Balance of 1980, up 2 percent; 1981, up 5 percent.

Electricity, 23 percent, 1 percent, and 1½ percent in the same periods.

The point I make is this: Fuel for heating is far and away and will continue to be more costly than fuel for air-conditioning and cooling.

This must persuade us to support the Obey committee amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas (Mr. ANTHONY).

Mr. ANTHONY. Mr. Chairman, I rise in strong support of the Roybal amendment, but I would also like to thank the committee for the additional funds that were provided for our State because of the unusual heat situation that we did face this summer. Arkansas ran out of money early and we went scrambling for funds because we did have people who were without fans and without cooling and we did have unprecedented deaths due to the heat wave in the State of Arkansas.

For the State of Arkansas we would like to thank you for making those additional terms available. It also points up the fact why I am fighting to keep this formula the way it is.

It is absolutely ludicrous to conclude that poor people struggling with their utility costs should be assisted when those costs are attributed to cold weather but ignored when the costs are caused by hot weather.

This summer my home State of Arkansas has experienced the most severe heat wave in recent memory. It is estimated that at least 120 people have died as a direct result of the unrelenting heat. Most were poor people. Many were elderly. Some were found on the floor of their homes with their electric fans or air-conditioners turned off because of fear that they could not pay next month's electric bill.

Mr. Chairman, I realize that this summer has been unseasonably hot in the Midwest and Southwest. For example, in Little Rock, Ark., since June 23, the temperature has exceeded 90° every day but one and during early July exceeded 100° for 20 consecutive days. We have no guarantee that this will not occur next year.

Under the allocation of funds formula contained in the bill, in its present form, Arkansas would receive 0.67 percent of the total, whereas under the formula prescribed in the amendment, the percentage would increase to 0.81 percent of the total. This represents a difference of over $2 million for the State of Arkansas.

Mr. Chairman, let me summarize by saying that without the amendment this bill penalizes poor people who happen to live in areas of this country other than the Northeast. I have mentioned the most glaring examples of cases where heat has caused death. It is also worth mentioning that without assistance thousands of poor people in my home State will be cold this winter because of the heat wave this summer. Their ability to pay for utilities this summer has been so strained that they will have to reduce the amount of heat used this winter.

Mr. Chairman, I urge that this amendment be adopted.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, I rise in strong opposition to the amendment. The purpose of this program after all, was to provide fuel assistance and that fuel assistance can be provided to all States in the way that they deem necessary for heating or for cooling and that is at the option of the Governors of the States, as it should be, and all States are treated fairly.

□ 1510

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. SHANNON).

Mr. SHANNON. Mr. Chairman, I rise in strong opposition to this amendment, as well. I think we have to keep in mind that at the time this program was conceived, and at the time we considered the windfall profit tax, and at the times when we were considering the appropriations for this program in the past, nobody intended that the sort of severe heat problems we have seen this year should be addressed by this program.

If there is a problem; if there is a need that has to be addressed in the Southern States of this country, as has happened this year, we should address them separately and not try to take a program that does not meet the heating needs of people in this country and ask it to do even more.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. Mr. Chairman, I would like to speak on behalf of the Northeast Coalition. I think the Obey proposal as written in the committee is fair when we look at all 50 States combined. So, I would ask the Members to oppose the Roybal amendment and support what I think is the fairest in terms of equity across this country.

The CHAIRMAN. The Chair recognizes the gentleman from Hawaii (Mr. AKAKA).

Mr. AKAKA. Mr. Chairman, I rise to support the Roybal amendment which provides funds under the low-income energy assistance program for the State of Hawaii. These funds have helped the poor in Hawaii face an ever-increasing burden of energy payments. They look to a future of paying even more for energy because of higher oil costs. Let me point out a number of facts:

First, electricity rates have doubled in 8 years and are scheduled to increase at a rate of 20 percent per year.

Second, 90 percent of electricity in Hawaii is produced from oil products. Hawaii's oil import amounts to over one-half of the total import of goods to Hawaii.

Third, the cost of oil will be increased from $22 per barrel to $30 a barrel early next year.

Fourth, the largest utility company in the State has been granted Public Utility Commission approval to increase cost of electricity by 9.3 percent in three increments in 6 months.

Fifth, the average Oahu residential electric consumer (using 700 kw per month) paid $40.39 in June 1979 as compared to $49.31 in June 1980, an increase of 22 percent.

I ask my colleagues to support the fair Roybal amendment.

The CHAIRMAN. The Chair recognizes the gentlewoman from Maine (Mrs. Snowe).

Mrs. SNOWE. Mr. Chairman, I rise in opposition to the amendment offered by my colleague from California, Representative Edward Roybal. Despite an overall increase of $200 million in the funding for the 1981 low-income energy assistance program, the Roybal amendment would deprive many northern tier States of the funds they so desperately need to combat the upcoming winter. Specifically, the passage of Mr. Roybal's amendment would provide $22.2 million less to New England for 1981, and $5.9 million less for my home State of Maine, a reduction we can ill afford.

As you know, the cruel winters of New England cause untold agony for the low-income and elderly citizens residing there. To reduce the amount of available Federal funds for energy assistance could spell disaster for these families. Inflation alone will have its effects on this program, the detrimental effects we all know so well. But to further reduce the funding received by the New England region to a level below that of last year is, in my mind, an indefensible action.

No one can discount or minimize the disastrous effects on the Southern States of the recent, lingering heat wave. We can only be thankful that such tragedies occur infrequently, and I am pleased that in this particular instance, Congress moved quickly to provide assistance to the affected States in a timely fashion. I must stress, however, that the poor and elderly citizens of the northern tier States face cold winters year after year, without respite. In this age of inflation and skyrocketing fuel costs, the survival of these citizens depends on an adequate fuel assistance program. There is no question that more money is needed this year for these States. I challenge anyone to make sense of this move to decrease energy assistance funding in those States which experience the worst weather on a regular basis and in which the most dramatic increases in fuel costs have occurred.

In closing, I urge my colleagues to insure an equitable and effective low-income energy assistance program for this Nation by opposing the amendment offered by Mr. Roybal. In conjunction with this, I urge my colleagues' continued support for energy conservation programs such as the Department of Energy's weatherization program, which in the long run will reduce the need for the fuel assistance program under consideration today. Any efforts we can make to promote energy conservation on a personal and national level will help to reduce our Nation's dependence on foreign sources of oil. We might also be able to halt the growing need for admittedly expensive, but desperately needed, low-income fuel assistance programs.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Ottinger).

Mr. OTTINGER. Mr. Chairman, in my district last winter there were actually people who had to make a terrible choice, many of them senior citizens, as to whether they were going to have to turn off the heat or be able to eat adequately. That was under last year's formula.

Under the formula Mr. Roybal would propose, New York would actually lose $23.6 million below what the State got last year. People should not be forced to make that kind of choice, so I hope the Roybal amendment will be rejected.

I would be happy to do whatever is needed to help the Southern States, but we simply must not deprive our senior citizens of adequate heat.

Mr. Chairman, when Senator Long authored the low-income energy assistance provisions under the windfall profit tax, the provisions made for the cold, high-energy cost States was unfair, actually cut below last year, despite great increases in energy costs in the interim.

Knowing that the Long formula would pose undue hardship on low-income residents, particularly the elderly who often find themselves choosing among the basic necessities during harsh winter weather, I, along with 31 of my colleagues from New York, asked the Subcommittee on Labor, Health, Education, and Welfare to restore funding to the levels established before the windfall profit tax.

My friends from Massachusetts, Mr. Conte and Mr. Early, both worked hard to see that these funding levels were restored by the subcommittee and the full committee.

We can no longer force our senior citizens to turn off the heat in order to buy food, or go hungry in order to stay warm. I urge my colleagues to maintain the funding levels approved by the Appropriations Committee.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Edgar).

Mr. EDGAR. Mr. Chairman, I think this debate marks a point in history when this Congress is going to be increasingly dealing with regional concerns. In light of the energy dilemmas that we have, a great deal more discussion than a 30-second time limit ought to be set aside for issues like formulas for low-income fuel assistance and other related energy issues that get States pitted against each other.

I would hope that we would defeat the Roybal amendment and support the committee position, particularly because all States receive an increase except Hawaii. I think that is significant for the total Nation.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. Early).

Mr. EARLY. Mr. Chairman, I rise in opposition to the Roybal amendment.

Mr. Chairman, the low-income energy assistance program is one of the programs Chairman Natcher mentioned at the outset of this debate in his discussion of the budget restraints. It is one of the programs in this bill most affected by the fiscal difficulties we face. Unfortunately, it was necessary for the subcommittee to recommend $400 million less than the amount recommended by the administration.

However, the committee bill does provide a $200 million increase over last year's funding level—$1.8 billion compared to $1.6 billion.

As Mr. Obey has indicated, under the formula in the committee bill, with one exception, no State would receive less money than it received in fiscal year 1980. Under the Roybal amendment, 15 States—States like Washington, Connecticut, Maine, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, the District of Columbia—would receive less than they had last year even though we have been able to provide an additional $200 million. And, at the same time, we would ask these States to provide assistance to many more households.

I hope that the Roybal amendment is defeated.

The CHAIRMAN. The Chair recognizes the gentleman from New Hampshire (Mr. D'Amours).

Mr. D'AMOURS. Mr. Chairman, I rise in very strong opposition to the Roybal amendment. Defending one's parochial interests is a part of the way this institution functions, I suppose, but let us not go so far that we are, going to give poor people in States like New Hampshire and the other Northeastern States less money in a projected colder winter than they had to heat themselves in last year's warmer winter. Not long ago, this body refused to give these people windfall tax moneys to insulate their homes and to make their furnaces more efficient.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. Glickman).

Mr. GLICKMAN. Mr. Chairman, I rise to express my strong support for the amendment offered by our colleague from California (Mr. Roybal). Quite frankly, the amendment raises a basic question of equity. It is one which quite clearly needs to be addressed based on our experience during this past summer with the devastating heat that has stricken so much of the Nation west of the Appalachians.

At present, this program is operating under a funding formula established as part of the windfall profit tax legislation. The formula is based on number of heating degree days. The bill we have before us alters that formula in such a fashion as to be even more favorable to

States in the Northeast where heating is the main problem.

In my view, neither of these formulas gives adequate consideration to a problem which became all too real earlier this summer: The need to provide assistance for covering cooling costs at times of extreme heat. When we were first considering the need for emergency energy assistance, in most areas of the country the question of assistance for cooling was considered to be largely a theoretical problem. I can tell you from firsthand experience, it is not only a theoretical problem. The largest city in my State of Kansas, Wichita, had over 40 days this summer when temperatures surpassed 100 degrees. And that was true throughout the midsection of the country. Hundreds and hundreds of people died as a result of the heat, all too many of them because they were afraid to turn on fans or air conditioners for fear that they would not be able to pay the bills.

My colleagues, I remind you that when we established this program we were responding to the need to save lives. We were concerned that people might not have heat. We also need to be concerned that people might not be able to survive blistering days in midsummer. The committee report urges States which have experienced heat to hold back some of their funds to meet that eventuality, I ask the committee and my colleagues what they expect from a State like mine where it is not unusual to have both long, cold winters and blistering summers?

I urge the adoption of the amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment which would alter the formula contained in the committee report for the low-income energy assistance program.

The committee has devised an equitable and rational formula. In contrast, the amendment would result in the loss of $100 million in these funds to the cold weather States, at the same time the program will be increased by $200 million. The committee's formula strikes a fair balance between the needs of senior citizens and low-income families in warm weather States and cold weather States.

Since the committee bill provides for a hold harmless provision, only one State will suffer a reduction in funds from last year. It would be unconscionable for this body to reduce the allocation to cold weather States who have experienced dramatic increases in heating expenses. Members of this body who come from the "land of the snow" would be hard pressed to explain to our constituents that we voted for a 12-percent increase in a program they have found to be indispensible, while allowing a change that would result in a reduction to their State of more than $11 million.

In my State, home heating costs have increased drastically. The cost of some fuel sources have more than doubled. The intent of this program was to provide heating assistance to low-income persons; the basic thrust of this program should be maintained.

I applaud the committee action to maintain the intent of the program, but they have also responded to the legitimate needs of senior citizens in warmer climates. This has been accomplished in two ways.

First, the committee has provided that no State with more than 500 degree days will receive less than it did last year. The committee has instituted a dual formula. States would be able to choose between a formula which targets money based on a heating expenditure or on total residential energy expenditures.

The second aspect of the program, which addresses the concerns of the warm States, is the block grant nature of the program. The Governor can decide which activities he feels are most critical in his State. Based on these decisions, a state plan is submitted to HHS for approval.

The committee report specifically states that programs to meet the cooling needs of seniors and low income families are eligible activities.

The committee has worked a laudable balance. It has maintained the original intent of this program and has responded fairly and sympathetically to the cooling need of citizens in warm weather States.

I urge my colleagues to reject this amendment and support the language of the bill as reported from the committee.

The CHAIRMAN. The Chair recognizes the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from California.

The changes made by the Appropriations Committee to the authorizing language of the low-income energy assistance program will result in an unfair distribution of funds under that program. It is my understanding that, under the new language, the poor and the elderly among my constitutents in Puerto Rico will be left out completely from the program. Mr. Chairman, if anybody still believed that energy assistance was the exclusive concern of cold-weather States, their view was swiftly dispelled by the tragic heat wave that affected the Southwest region of our country earlier this summer. The physical devastation and millions of dollars in economic losses because of the heat wave, pales when compared to the loss of human life. And who were the most affected? It was the poor and the elderly—those that could not afford even a fan, let alone air conditioning.

This unfortunate example, Mr. Chairman, shows the fallacy behind the present authorizing language in this legislation. If we are to have a low-income energy assistance program, let it be one that accounts for all the weather problems that may arise. The original intent of the program as proposed by the administration was to give assistance to the poor in our Nation to help them to defray the inflationary increases of home energy costs.

In the statement of findings and purposes on title III of the windfall profit tax bill, dealing with the low-income energy assistance, the Congress goes on record as finding that both home heating and cooling are necessary to avoid a threat to life, health, or safety. That statement of congressional intent should not be swept aside in a haphazard manner by the House.

The language in this legislation is not only unclear but also contradictory on its face. On page 76 of the report accompanying H.R. 7998, the committee states, and I quote: "no State shall receive fewer dollars than they receive under last year's programs," but the very next sentence reads that "no money is allocated to any State, territory, or Commonwealth in which the annual number of heating degree days in fewer than 500 as a historical average." In all fairness, how is this provision to be administered? On the one hand, we are specifying that no State shall receive less than the amount received last year and yet, on the other hand, we are saying that no money shall be allocated to a State that does not meet the heating degree days criteria.

Because of this conflict in the instructions we would be enacting regarding this program, I urge all my colleagues to support Congressman ROYBAL's amendment to use the language in the windfall profit tax law. In doing so, we would be insuring that all our citizens that need of the low-income assistance program will have it available to them. Let us not act hastily in turning our backs to those citizens of our Nation that may need it the most.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. WYATT).

Mr. WYATT. Mr. Chairman, as a Representative of Texas, I thought we were here today to talk about poor people. I would point out that in my congressional district the increase has been two and a half times since 1973. If we are going to talk about people I think we ought to talk about a fair formula. That is what I hope we would be here for today.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. WYATT. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I rise in support of the Roybal amendment. I yield to no one about my concern for the poor. The formula in the bill stinks; it is invidious; it discriminates against the people in equally adverse conditions. This is not a plea for sectional preference. Our plea is for national equity.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, the House has a choice. It can stick with the committee bill, which provides no reduction for any State and moderate increases for most; or, it can take the Roybal formula, which provides drastic cuts for 14 States to finance huge increases for others. The Roybal formula was based on a formula that was drafted when we had $3.1 billion available. We do not have that today. We have $1.8 billion, in addition to which, if we pass it, we lose the $500 cap per family, and we provide a minimum grant to every family of $120, which turns into a welfare payment. I do not think we ought to do that.

☐ 1520

Mr. CONTE. Mr. Chairman, I urge defeat of the Roybal amendment.

I explained this in the well of the House earlier in debate. It is a badly conceived amendment. As I said, it was unconscionable to even offer the amendment to take this money away from people who desperately need this money to buy fuel.

Last year we would not have had a program and we would not have had a bill if it had not been for the gentleman from Massachusetts, Mr. Joe Early, and me. Last year we should keep in mind that this House appropriated $250 million, and we went to conference and raised it to $1,600 million, and that was a temporary measure to help low-income people with their fuel cost and nothing else.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. Michel).

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maine.

Mr. EMERY. Mr. Chairman, I rise in opposition to the gentleman's amendment. Let us talk figures for a minute. Maine residents are disproportionately dependent on $1 a gallon heating oil as a source of winter warmth. Our winters are among the coldest in the entire country, and a frightening number of older people in the State have poverty level incomes. Maine utilized 100 percent of last year's $22 million energy assistance allocation and served 55,000 of the 75,000 eligible households. Individuals received a maximum of $350, the lowest maximum in New England.

If we strike the committee language and return to the windfall profits bill language as advocated by my colleague, Mr. Roybal, 140,000 Maine residents will become eligible for an energy assistance fund which is $5.8 million less than last year's. Obviously, we will be forced to reduce individual grant levels; $200 will not go far toward offsetting the personal liabilities associated with a $1,000 winter heating bill. We will simply not be serving the real needs of the Nation's poor and elderly if we elect to strike the Appropriation Committee's very responsible efforts to draft an equitable distribution formula.

Increased weatherization efforts in New England and elsewhere in the country can reduce the overall need for continued energy bill compensation. Unfortunately, this year the community action agencies in Maine expect to weatherize only 3,600 of the 55,000 households who received energy bill aid last year. Until we can straighten out the restrictive Department of Energy and Department of Labor regulations which prevent comprehensive insulation efforts, we have to face the fact that poor and elderly New England residents cannot afford necessary heating expenses. If we accept the Roybal amendment, these people lose. Elimination of the committee formula will simply place energy costs beyond the means of a large percentage of needy people.

Mr. MICHEL. Mr. Chairman, I want to make one brief point. This program came into being for one reason—the unconsionable increase in OPEC oil prices. Our reaction to it was an attempt to give some assistance to those sections of the country that relied so heavily on oil for heating purposes and were hit so badly.

The significance of the figures that the gentleman from Illinois (Mr. O'Brien) cited reflect the fact that in 1981 oil prices are going up another 20 percent for those who will need it while those who use electricity for their air-conditioning in the South and border States, is going up only 1½ percent. The Roybal amendment is the original Long amendment over in the other body. It was designed more as an extension of welfare assistance to the States rather than meet the specific problem of aiding the colder States with their fuel assistance problems.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Roybal).

Mr. ROYBAL. Mr. Chairman, I yield to no one in my concern for the poor. Anyone who believes that this amendment was written because of opposition to anyone who suffers from cold is very sadly mistaken.

This amendment was drafted because it is more equitable, fair to more States, than the language of the gentleman from Wisconsin (Mr. Obey). My amendment, for example, increases all States over last year except mine. The language of the gentleman from Wisconsin, reduces substantially funds for 22 States.

● Mr. DRINAN. Mr. Chairman, I rise in strong opposition to the Roybal amendment, which would allocate funds for the low-income energy assistance program under the formula devised in the windfall profit tax legislation.

I support the provisions of the Appropriations Committee not as the best possible, but as the best possible given the appropriation of only $1.8 billion for the energy assistance program—$400 million less than the amount requested by the administration and fully $1.3 billion less than the amount authorized in the windfall profit tax legislation.

In the next fiscal year, more households than ever—in every region of the country—will be eligible for and will genuinely need assistance in paying their utility bills. If we cannot spare more than $1.8 billion to help the poor and elderly, we must at least make sure that each State receives no less than it had received in the previous year. The present language of the Labor-HEW appropriations bill does this. The amendment does not.

The tragic consequences of the recent heat wave in the South have made clear the need for Federal assistance to help offset the cost of residential cooling. And the formula of the Appropriations Committee will provide to these States increased funding for this purpose.

Before the end of the year, poor and elderly in my State will once again begin to struggle to afford to warm their homes. And the present formula will provide slightly greater assistance to New England States, as well.

I urge my colleagues to approach the formula question as did the Appropriations Committee: How can we provide the fairest allocation of an inadequate amount, $1.8 billion, of low-income energy assistance funds? The answer is not to slash funds for some States and to thereby deprive thousands of needy households of the assistance upon which they have come to depend. The poor and elderly of Massachusetts cannot afford to lose almost $13 million. The poor and elderly of New England, which pay the highest utility rates in the country, cannot afford to lose nearly $33 million.

I urge my colleagues to reject this amendment.●

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. Natcher) to close debate.

Mr. NATCHER. Mr. Chairman, I ask for a vote on the amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Roybal).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GRAMM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 215, not voting 18, as follows:

[Roll No. 498]

AYES—199

Akaka
Alexander
Anderson, Calif.
Annunzio
Anthony
Applegate
Archer
Badham
Bafalis
Barnard
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Boggs
Bolling
Boner
Bouquard
Brademas
Breaux
Brinkley
Brooks
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Campbell
Carter
Chappell
Clausen
Clay
Coelho
Coleman
Collins, Tex.
Corman
Crane, Daniel
Crane, Philip
Danielson
Dannemeyer
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dixon
Dornan
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fithian
Flippo
Ford, Tenn.
Fowler
Frost
Fuqua
Gephardt
Gibbons
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grisham
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hawkins
Heftel
Hightower
Hillis
Hinson
Holland
Hopkins
Hubbard
Huckaby
Hutchinson
Hutto
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly

Kindness
Lagomarsino
Latta
Leath, Tex.
Lehman
Leland
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lujan
Lungren
McDonald
Mathis
Matsui
Mattox
Mazzoli
Mica
Miller, Calif.
Miller, Ohio
Mineta
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Natcher
Nelson
Nichols
Oakar
Panetta
Pashayan
Patterson
Paul
Pepper
Perkins
Pickle
Price
Quayle
Quillen
Rahall
Rhodes
Roberts
Rostenkowski
Rousselot
Roybal
Royer
Rudd
Russo
Santini
Sebelius
Seiberling
Sharp
Shelby
Shumway
Simon
Skelton
Snyder
Spence
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stokes
Stump
Synar
Tauzin
Taylor
Thomas
Udall
Van Deerlin
Vanik
Volkmer
Watkins
Waxman
White
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wyatt
Yates
Young, Fla.
Young, Mo.

NOES—215

Addabbo
Albosta
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Bauman
Beard, R.I.
Bedell
Beilenson
Bereuter
Biaggi
Bingham
Blanchard
Boland
Bonior
Bonker
Brodhead
Broomfield
Brown, Ohio
Broyhill
Butler
Byron
Carney
Carr
Cavanaugh
Cheney
Chisholm
Cleveland
Clinger
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Davis, Mich.
Dicks
Dingell
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Edgar
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Fenwick
Ferraro
Findley
Fish
Fisher
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Frenzel
Garcia
Gaydos
Giaimo
Gilman
Goodling
Grassley
Gray
Green
Guarini
Gudger
Hagedorn
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Hollenbeck
Holt
Horton
Howard
Hughes
Hyde
Jeffords
Johnson, Colo.
Jones, N.C.
Kastenmeier
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Leach, Iowa
Lee
Lent
Long, Md.
Lowry
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mavroules
Michel
Mikulski
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Neal
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Patten
Pease
Petri
Peyser
Porter
Preyer
Pritchard
Pursell
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Roth
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sensenbrenner
Shannon
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
St Germain
Stangeland
Stewart
Stockman
Stratton
Studds
Swift
Symms
Tauke
Traxler
Trible
Ullman
Vander Jagt
Vento
Walgren
Walker
Wampler
Weaver
Weiss
Whitehurst
Whitley
Williams, Mont.
Wirth
Wolff
Wolpe
Wydler
Wylie
Yatron
Zablocki
Zeferetti

NOT VOTING—18

Abdnor
Barnes
Bowen
Collins, Ill.
Conyers
Devine
Dodd
Holtzman
Ichord
Leach, La.
Lederer
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Thompson
Young, Alaska

☐ 1530

The Clerk announced the following pairs:

On this vote:

Mr. Murphy of Illinois for, with Mr. Lederer against.

Mr. Bowen for, with Mr. Murphy of New York against.

Mr. Leach of Louisiana for, with Mr. Abdnor against.

Mrs. Collins of Illinois for, with Mr. Devine against.

Mr. SATTERFIELD changed his vote from "aye" to "no."

Messrs. MILLER of California, WILLIAMS of Ohio, and STARK changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1540

Mr. CLAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise for the purpose of engaging in a colloquy with the distinguished chairman of the committee, the gentleman from Kentucky (Mr. NATCHER).

Mr. Chairman, last year this body approved an amendment that would have earmarked at least $5 million for title III offender programs. Although the amendment was not accorded final legislation, the conferees on this appropriations bill, in their report language, directed the Department of Labor to utilize a significant portion of CETA title III resources to fund projects for offenders.

In a colloquy on the floor between the distinguished gentleman from Kentucky and myself, I asked if "significant" meant at least 1 percent of title III funds. The distinguished chairman of the committee said at that time that the amendment was deleted. The earmarking of the $5 million in which the gentleman is interested was dropped, also.

And then we placed in the conference report this language and I quote:

> However, the conferees directed the Department to utilize a significant portion of CETA title III resources to fund projects for offenders.
>
> Now, as to one percent, I would say to the gentleman we would hope on our side, the conferees, at least the amount the gentleman had in mind, should be used for this purpose, at least that amount. I would say that on the record.

Mr. Chairman, I want to point out that last year DOL allocated only $2.7 million to the title III offender program.

I have not yet seen any written commitment from DOL regarding the level of funds they intend to allocate to this program in the upcoming fiscal year.

So, my question to the distinguished chairman, the gentleman from Kentucky is: Is it still the intention of this legislation to spend a significant amount of money on title III offender programs; and, if so, what does the gentleman determine to be a significant amount?

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from Kentucky.

Mr. NATCHER. I would like to say to my friend from Missouri that the committee has inquired of the Department to find out exactly how much is to be expended in the fiscal year 1980. The exact amount will be $4,900,000. It is the intention of our committee, and I say this to the gentleman on the record, that in the year 1981 we are asking them to spend at least $5 million.

As the gentleman well knows, this would be under CETA title II discretionary fund money. We are requesting at least $5 million.

I want to commend the gentleman on the part he has played as far as this expenditure and this request is concerned.

This is a good program. This is a program on which at least $5 million should be expended by the Department.

Mr. CLAY. I thank the gentleman.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. WALKER: Page 60, after line 19, insert the following new section:
>
> SEC. 512. No part of any appropriation contained in this Act shall be used in connection with the issuance, implementation, or enforcement of any rule, regulation, standard, guideline, recommendation, or order which includes any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex, and which requires any individual or entity to take any action with respect to (1) the hiring or promotion policies or practices of such individual or entity, or (2) the admissions policies or practices of such individual or entity.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this is an amendment that I offer on behalf of the gentleman from Georgia (Mr. LEVITAS) and myself.

This is an amendment to deal with an issue that this committee has dealt with on previous occasions, namely, the question of the use of quotas, discriminatory quotas, in our society; and this amendment is an antiquota amendment. It is an amendment which has been adopted overwhelmingly by the Committee of the Whole in 1977 and 1978. It was also adopted overwhelmingly in 1979, with similar language in the Department of Education Organization Act.

This amendment is in line with where the American people are on this particular issue. Recently a poll in Family Weekly showed 81 percent of over 135,000 households polled came out opposed to quota-based hiring.

Certainly all of us recognize that discrimination cannot and must not be tolerated. The affirmative action concept, when it is practiced in a nondiscriminatory fashion can effectively promote equal opportunity for all individuals. However, the use of quotas or other numerical requirements to further the progress of one individual or one group of individuals at the expense of others is entirely counterproductive to any effort to provide equal opportunities for all.

Quota systems are inherently discriminatory, and the majority of Americans appear to agree that the quota-based practices must cease. It is in that spirit that this amendment is offered.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I commend the gentleman from Pennsylvania for offering this amendment, and I am pleased to be associated with him in this endeavor.

Discrimination cannot be countenanced in any fashion, whether it is direct discrimination or reverse discrimination. There is a need for us to continue to pursue diligently the eradication of all forms of discrimination. Reasonable affirmative action programs, which do not provide for rigid quotas or numerical ratios, are one way in which this can be accomplished. But quotas and numerical ratios are by their very definition exclusionary and, therefore, discriminatory.

The purpose of this amendment would be to eliminate discrimination through the use of quotas and at the same time move forward with the eradication of all forms of discrimination.

I commend the gentleman for his efforts and urge adoption of the amendment.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

As I understand the amendment, this amendment in no way impacts on affirmative action plans that are required in terms of developing efforts to expand opportunities for minorities, women, and others. Is that correct?

Mr. WALKER. That is correct. This amendment simply says that you cannot use a firm numerical requirement as a part of those programs. You cannot use counterdiscrimination as a pattern in affirmative action efforts.

□ 1550

Mr. PANETTA. If the gentleman will yield further, this amendment is specifically directed to what the courts have called quotas and the use of quotas only. Is that correct?

Mr. WALKER. I would say to the gentleman that is precisely the case, that we are attempting to eliminate the use of quotas in hiring practices and in educational admission policies.

Mr. PANETTA. Mr. Chairman, I thank the gentleman.

Mr. NATCHER. Mr. Chairman, will the gentleman yield to me?

Mr. WALKER. I would be glad to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, I have had an opportunity to discuss the gentleman's amendment with him before he presented it. As the gentleman knows, last year in conference the amendment dropped out. The gentleman recalls that.

Mr. WALKER. Yes, I do.

Mr. NATCHER. Mr. Chairman, unless there are further Members that want to speak on this amendment, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The amendment was agreed to.

Mr. BIAGGI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish to engage the chairman in a colloquy pertaining to the community service employment for older Americans, what is also known as title V of the Older Americans Act. As an original cosponsor of the original 1978 Older Americans Act amendments and a member of the authorizing committee, I wish to point out to the chairman a discrepancy between the law and this legislation. Specifically, the 1978 amendments mandated that any moneys appropriated for this program above fiscal year 1978 levels were to be distributed under a formula whereby 55 percent of the funds would go to grants for States and the remaining 45 percent for the national grants for some eight national contractors.

However, H.R. 7988 in addition to providing a $10 million increase for the program specifies in report language that the entire $277 million provided for the program is to be distributed, 80 percent to national contractors and 20 percent to the States.

I wonder if the chairman could explain the background for the committee's position.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I would be delighted to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. To start with, as the gentleman knows, about 1977 or 1978 we had quite a dispute between the State agencies and the contractors. The State agencies, of course, are good at lobbying. They have a regular lobbying activity and the contractors do not have that kind of muscle. That is the reason the gentleman's committee as well as ours has been trying to protect the contractors.

What happened was that we found that in the case of the contractors in most States they had only one employee, sometimes, a half-time employee that was not an elderly person. All others were eligible recipients.

In the case of the State agency, many times it has been as much as 30 percent of their money is salaries and expenses for noneligible recipients, that is for staff and other kinds of expenses.

So the problem is that under the formula that is in the legislation, the increase that we have for fiscal year 1981 of $10 million over this year would provide contractors with only $198.745 million for fiscal year 1981, compared to $194.04 million for fiscal year 1980. I am talking about the contractors. That is only a 2.3-percent increase, but they are required to pay the minimum wage. The minimum wage goes up a lot more than that, so under the formula in the authorizing legislation they would have to reduce the number of people or else pay less than the minimum wage, which is not permitted.

So with a $277 million funding level, it is not possible to do what was apparently intended in the legislation. I believe that legislation, however, assumed there might be $450 million available in fiscal year 1981.

Mr. SMITH of Iowa. But since there is only $277 million available, the only way to avoid laying off some of the green thumb employees and retired teachers employees is to do it the way we did in the appropriations bill.

Mr. BIAGGI. We are really talking about the amount of moneys that are appropriated. That is the critical factor.

Mr. SMITH of Iowa. That is right. It comes about as a result of having only $277 million, which is $10 million more than the budget request.

Mr. SMITH of Iowa. But it is still a lot less than we could use in this kind of program.

Mr. BIAGGI. If the money is appropriated and would reach the levels the gentleman has indicated, then would the law apply?

Mr. SMITH of Iowa. It would be a completely different ball game if there were $450 million.

Mr. BIAGGI. I thank the gentleman very much.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of 5 medium sedans, $238,882,000. During the current fiscal year up to $10,500,000 in collection of Federally insured defaulted loans may be transferred to the Salaries and Expenses account for the payment of related collection activities; together with not to exceed $600,000 to be transferred and expended as authorized by section 201 (g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

The Clerk read as follows:

Amendment offered by Mr. KRAMER: On page 52, line 11, strike out "$158,047,000" and insert in lieu thereof "$154,047,000".

Mr. KRAMER. Mr. Chairman, the amendment I offer is one that would cut the recommended level of administrative expenses in the Department of Education by 5 percent. This is a very small cut; in fact, in terms of dollar amount we are talking about less than $12 million. When we talk about the entire fiscal year 1981 Education Department total appropriation, we are talking about less than 1 percent.

The reason for the amendment is to show the Department of Education that the will of Congress cannot be flouted, without some sanctions being imposed against the Department of Education for that process.

On July 23, the Department of Education informed Chairman Perkins, the chairman of the Committee on Education and Labor, that the Department intended to ignore the legislative veto exercised by Congress with respect to several regulations promulgated by the Department of Education which this Congress, both House and Senate, found inconsistent with statutes passed by the Congress.

The Department, nevertheless, insists on maintaining its position.

The gentleman from Georgia about 2 hours ago passed an amendment which I feel is helpful and which, indeed, prohibits the Department of Education from using any moneys appropriated by this bill to enforce regulations that have been vetoed by this body. My amendment, however, in my judgment, supplements and complements that of the gentleman from Georgia, because we must first and foremost, I think, remember one thing. If the Department of Education has said once that they will refuse to obey the will of this body, in other words, that they will refuse to change legislatively vetoed regulations, there is nothing that can stop them from flouting the amendment presented by the gentleman from Georgia as well.

What we are talking about is the integrity here of the legislative process. I think to cut in a very small and really nominal way the administrative expenses of the Department of Education will show them that we intend to assert our power over that Department of Government.

I think it is less than prudent on our part to simply willy-nilly give the Department of Education full funding in light of their refusal to obey the will of the Congress. I think to do so would be to compromise our power and put us in a very unenviable situation.

I think we must reinforce in the minds of not only the administration, but the Department of Education, that the power that Congress has to give also implies the power to take away. Clearly, neither the President nor his Cabinet officers have the power to pick and choose those laws of ours which they like, which they are going to enforce, and to disregard those laws of ours which they do not like and not enforce.

I think this issue goes well beyond the simple question of legislative veto. It goes to the issue of whether or not our laws that we pass in due fashion are going to be obeyed by the executive. I can think of no greater persuasion than to hit the Department of Education in a nominal, kind of friendly way, where it hurts most, in the pocketbook, because ultimately the real power that this body exercises is the power of the purse. If we refuse to sanction that conduct of the Department of Education, which has flouted the will of this body, I think we encourage that conduct to be repeated, not only in the Department of Education, but in other agencies as well.

The CHAIRMAN. The Chair understands that the gentleman had two amendments printed in the Record and only one was at the desk. It appears to be the gentleman is speaking to a different amendment than the one that was read. Could the gentleman clarify the amendment that he wishes to be under consideration at this time?

Mr. KRAMER. It is the one that comes first in the Record. It would be at page 48, I believe, Mr. Chairman.

The CHAIRMAN. That was not the one that was read.

Without objection, the amendment will be withdrawn and the Clerk will read the amendment that the gentleman intended to offer.

The Clerk read as follows:

Amendment offered by Mr. Kramer: Page 48, line 6, strike out $238.882,000" and insert in lieu thereof "$226,937,900".

The CHAIRMAN. The gentleman will resume.

Mr. KRAMER. I thank the Chair.

Mr. Chairman, does that give me an additional 5 minutes?

The CHAIRMAN. The gentleman is recognized for 5 minutes.

□ 1600

Mr. KRAMER. Mr. Chairman, to be specific, let us examine what the Department of Education has done in terms of our overturn of their regulations. They have added matching requirements in two of their programs. Those matching requirements were inconsistent with the statute. They intend to implement those matching requirements for 1980, nevertheless, and they have told us that they intend to do so.

There is also an entity called the Education Appeals Board which listens to audit appeals from State and local educational agencies. Under the terms of the statute, it was this body's intention that an expedited level of appeal be offered and that decisions be made quickly and, therefore, a 30-day appeal provision was put into the law which this body passed. The administration, the Department of Education, felt that this was not sufficient time and, rather than coming back to ask the Congress to revise that statute, or to consider some changes, they, on their own initiative, decided that they would not enforce the statute as we passed it but provide, at their discretion, the ability of the chairman of that Educational Appeals Board to simply waive the 30-day requirement and allow appeals to be lodged after that period of time.

In the sense of the great issues that confront this body, certainly these are not great issues. They are not issues dealing with the important issues of inflation, the important issues of taxation, over-regulation and national defense. But they are important in that they go to the heart of the direct challenge to this body's basic integrity and basic power.

The only way we can convince the Department of Education and other errant departments to follow the laws as we have prescribed them to be followed is to show them their funding is not guaranteed, that no matter what happens their funding is not sacrosanct and protected, but to show them that we are prepared to take those steps, even though modest in nature, to cut their budgets when they flout the will of this body.

Mr. Chairman, with that explanation I hope that this amendment will be adopted as a good and sufficient complement to the amendment offered by the gentleman from Georgia.

It does one additional thing. It ensures that the Department of Education will not again, nor any other governmental agency, flout the will of this body.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I agree with a good deal of what the proponent of the amendment has said. I would like to say at the outset he is a member of my committee and a very valuable contributing member of the committee and very conscientious Member of this House. I know his intention with respect to the amendment as he has described it is a good intention. I know he has been deeply concerned, as have other members of the committee, with what appeared to be impending confrontation between the new Department of Education and our committee.

Earlier this year we, by virtually unanimous action in the committee, and then here on the floor, turned down four sets of regulations. Shortly after that the Justice Department leaned on the new Secretary of Education and said, "Look, that Congress over there is beginning to get too frisky with this business of vetoing regulations, and they are crossing the constitutional line with respect to the separation of powers between the executive and legislative branch, and we want you, the new Office of Education, to be the cutting edge of our challenge to this assertion of authority by the legislative branch."

There are several things wrong with that, not the least of which is that education legislation has been subject to the review of regulations for longer than any other kind of legislation that we have been passing around here. The amendment that originally put that into permanent law, and the permanent law that has existed since the late 1960's, was constructed by our former colleague from Michigan, Mr. O'Hara. For years that amendment was not needed in the sense of being a real weapon because we worked with HEW and subsequently with the Office of Education in a rather harmonious way to have regulations reviewed by us with real consultation, and we felt that the legislative purposes intended by that provision of the law were being met through subsequent or through several administrations. As a matter of fact through now the third administration that has had to work with it.

I do not know what has motivated the Department of Justice to take this hard line stance, nor do I know as a lawyer why they would pick the worst possible set of circumstances to make their test. I can show them some other places where they probably could make a much stronger case than they could make with something that three successive administrations have acknowledged as proper and have agreed to go along with, starting with President Nixon, then President Ford, and then President Carter in the early part of this administration. So they have picked a very bad precedent-setting place to make their test.

But I suggest to the gentleman from Colorado that if he is looking for an agency to punish for trying to initiate this kind of a confrontation with the Congress it is not the Office of Education, it is the Justice Department that is not only pushing the Office of Education but pushing other groups, other parts of the executive branch in the same direction. They just happened to find this set of regulations handy and, as I suggest, I think they were not very wise tactically to pick them, particularly since in a bipartisan fashion, with the gentleman and I both on the same side, we had rejected the series of proposed regulations so thoroughly in both the committee and here on the floor.

I agree that we had a confrontation. I joined with the chairman, the gentleman from Kentucky (Mr. PERKINS) as did the ranking Members on the Republican side, in objecting to this proposed course of conduct by the new Department of Education. As a result of that, we believe that we are on the way toward working out the problems. We have not got it all worked out and that is why I supported the amendment of the gentleman from Georgia a little while ago.

I believe the amendment of the gentleman from Georgia does those things that the gentleman from Colorado (Mr. KRAMER) and I would like to have done and accomplishes them in full with no bad side affects. When one takes something for relief for something, one wants to be sure that while they are relieving one pain they do not create a new problem.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent Mr. FORD of Michigan was allowed to proceed for 3 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman, the unfortunate aspect of the amendment now pending before us is that it attempts with a shotgun to do what the gentleman from Georgia has already done with a rifle. He has put a bullet, silver tipped, if you will, through the heart of this effort over there to circumvent the clear intention of Congress and now we are being asked to fire with buckshot at the whole Department. The effect of the gentleman's amendment would be to cut $11 million plus, $11.944 million from administrative money. The theory of that is that you punish those bureaucrats over there and somehow that will make them behave better in the future.

My own experience indicates that will not be true, but I want to tell my colleagues that right now it is the wrong way to go at them. At the moment I have pending over there, with the collaboration of the minority members on my committee, requests for them to make some adjustments in their administrative staff, to give better attention to programs that have now been lumped together in new departments over there since the creation of the Department, and the excuse they are using is that the Appropriations Committee has cut back on their money for operations for their office staff and professionals, and they cannot do what we are asking them to do.

☐ 1610

My understanding is the bill before us already reflects a $5.299 million cut in the funds available for the operation of a new Office of Education.

To put another $12 million cut into the pot will not work in our favor. It will provide that Department with an excuse to drag their feet on things that we on the authorizing committee are pressing very hard for them to do. We are pressing for them to make changes, to make improvements in the administration of these programs so that we do, indeed, spend money in the way Congress intended for the programs and in the places and for the purposes that we intended them to be spent for.

While I cannot quarrel at all with the intent of the gentleman from Colorado, and I completely agree with all of the criticism the gentleman has leveled at the people over there for the attitude they have displayed toward our committee with regard to these regulations, I believe that at this point in the bill the adoption of the amendments by the gentleman from Georgia has rendered this amendment unnecessary and the amendment of the gentleman from Georgia takes care of the problem. I am satisfied with the Levitas amendment and I will pledge to the gentleman from Colorado that if it does not get it done I am one of the chairmen who will be calling for hearings and the gentleman will have his opportunity. As a matter of fact, we have some hearings scheduled by our full committee chairman next month with the Secretary and the Department of Justice to come in and explain that July letter which I received earlier in the day. I know the gentleman, I have seen the gentleman cross-examine witnesses before the committee and I know we will have a full opportunity to give them every opportunity to explain.

Mr. Chairman, I ask that we not accept this amendment at this time.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. PURSELL and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Michigan.

Mr. PURSELL. Mr. Chairman, I would like to support the gentleman from Michigan on his thesis on opposing this amendment. As I recall in the Department of Education we also asked the Department to reduce its staff. We think in the process, that is what is happening there. We have not monitored it that closely recently but in light of that congressional intent to hold the line on staffing, I think it is all the more important and that the gentleman's words have a great deal of merit, today.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Chairman, I appreciate the remarks of the gentleman but I would like to make a couple of comments.

Mr. Chairman, my figures indicate there is a small increase in the appropriation this year rather than a decrease, 0.5 percent.

I agree with the gentleman, that what the Department of Education has done has bad side effects but I think for us not to respond has worse side effects because if we allow them to flaunt the law once as they have done with the concurrent resolutions that we have had, there is nothing at all to keep them from flaunting the amendment that was incorporated by the gentleman from Georgia this morning.

Mr. NATCHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment offered by the distinguished gentleman from Colorado goes too far and it should be defeated. As pointed out by the gentleman from Michigan (Mr. FORD), a member of the Committee on Education and Labor in the House, when we marked this bill up, Mr. Chairman, for departmental management we reduced the amount $5,299,000. In addition to that we allowed no increase in travel and before we finished we agreed to reduce this departmental management category by 100 positions.

Mr. Chairman, that is enough reduction to make. This amendment ought to be defeated.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. NATCHER. I do yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would like to say, as one Member of this House who voted against the establishment of the new Department of Education is that I do not think it is wise to so greatly hamper that administration or that new agency that we cause some problems in administering the laws which they are charged with administering in an effective way.

As the chairman has pointed out, we have already reduced this appropriation substantially and I would urge defeat of the amendment.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as many Members of this body know, I have been not only concerned but, indeed, outraged by the arrogance of the administration in blatantly and repeatedly refusing to abide by laws duly passed by Congress and signed into law by Presidents of the United States. There is no question that Congress passed a law that provides for a legislative veto of regulations issued by the Department of Education and when the Congress operated in accordance with that law, the Attorney General, first, and then, in this instance, the Secretary of Education, said they were not going to abide by the law, that they were going to pick and choose those laws they want to obey.

So, no one who has been following the proceedings of this body in the last few years can doubt my outrage or doubt the offense that I have taken to this flagrant action. It is intolerable and cannot be left unchallenged.

However, I must respectfully disagree with the approach taken by the gentleman from Colorado (Mr. KRAMER) for whom I have great respect and who has been so supportive of efforts to curb the bureaucracy. I think by following the approach the gentleman suggests, we would be pursuing the wrong method. We might even be shooting at one target and hitting another. The blanket reduction of approximately $12 million that is contained in the gentleman's amendment could be applied by the Secretary in any number of different ways. It could well not be the Secretary or the Under Secretary or the Assistant Secretary or the persons responsible for writing those regulations who are penalized.

It could be that all of the high officials in the Department, who are responsible for this travesty, would continue to receive their salaries, but that some lower level innocent employees would be cut, or that some important contract services or other necessary expenses for making certain that the Department is administered as best it can be would be the ones who would have this reduction inflicted upon them.

I share the frustration and the anger that the gentleman from Colorado has, but, Mr. Chairman, I think my amendment, which this committee has previously adopted, really cuts right at the heart of the problem. By cutting off all funding for regulations which have been vetoed, it would make any person implementing those regulations personally liable for the expenditure of those funds. That is a very heavy sanction and threat to assure that those regulations will not be implemented.

I would hope, and, knowing the skill of the gentleman from Kentucky when it comes to conferring with the other body, I believe that we can feel confident that my amendment will be retained in conference and enacted into law and that will do the job. For that reason I think we are on target by the action we have already taken and I think by pursuing the proposal of the gentleman from Colorado we might miss the target and, therefore, I urge the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER).

The amendment was rejected.

AMENDMENT OFFERED BY MRS. BYRON

Mrs. BYRON. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $207,206,000: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for 10 or more violations: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of 10 or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the 6 months preceding such inspection: *Provided further,* That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to the Occupational Safety and Health Administration by any provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978.

The Clerk read as follows:

Amendment offered by Mrs. BYRON: At page 10, line 10, insert after "fishing:" the following new proviso:

"*Provided further,* That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. § 673), except—

"(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

"(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

"(3) to take any action authorized by such Act with respect to imminent dangers;

"(4) to take any action authorized by such Act with respect to health hazards;

"(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and take any action pursuant to such investigation authorized by such Act;

"(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act: *Provided further,* That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees".

Mrs. BYRON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

POINT OF ORDER

Mr. GAYDOS. Mr. Chairman, I make a point of order against this amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. GAYDOS. Mr. Chairman, I raise a point of order against this amendment for the reason that it is legislation on an appropriations bill. The amendment changes existing statutory law and, in effect, amends the Occupational Safety and Health Act of 1970 by exempting a specific class of employers from the integral provisions of the act. This amendment goes far beyond reducing or restricting the amount of money in the appropriation.

The language of this amendment would clearly impose on OSHA officials new additional duties not otherwise required by existing law. Look at all the additional determinations to be made by the Department of Labor. OSHA officials, under this amendment, would be required to make determinations on the exempt status of firms which are not required by existing law. In Deschler's Procedure, chapter 26, section 11.1, the Parliamentarian's note states that—

> When an amendment, while curtailing certain use of funds carried in the bill, explicitly places new duties on officers of the government or implicitly requires them to make investigations, compile evidence, or make judgments, and determinations not otherwise required of them by law, then it assumes the character of legislation and is subject to a point of order . . . the extra duties which may invalidate an amendment as being "legislation" are duties not now required by law. The fact that they may presently be in effect on a voluntary basis does not protect an amendment from a point of order under clause 2, Rule XXI.

Section 11.2 of that same chapter in Deschler's clearly states the grounds for ruling that the amendment before us is out of order. According to Deschler's:

> Where an amendment, in the guise of a limitation, imposes additional determinations and duties on an executive, it may be ruled out as legislation on a general appropriations bill in violation of clause 2, Rule XXI.

This amendment assumes the character of legislation because, although it is phrased as a restriction on administrative action, the amendment clearly requires OSHA officials to make inspections, complete evidence, and make judgments and determinations in a certain defined manner rather than simply limiting the availability or use of funds. This amendment serves to change existing law by adding to the basic statute conditions or requirements governing the scope of investigations and the assessment of penalties pursuant to these investigations. In other words, this amendment provides an affirmative direction to executive officials in situations where the statute provides these officials with the discretion in the exercise of their authority.

This amendment's wording has the character of legislation since it does not restrict executive action by a simple negative, but rather, it defines in detail the conditions or requirements to govern the actions of administrative officials.

According to Deschler's Procedure, chapter 26, section 11.26:

> While it is in order on a general appropriation to limit the availability of funds therein for part of an authorized purpose while appropriating the remainder of it, language which restricts not the funds but the discretionary authority of a federal official administering those funds may be ruled out as legislation.

This is a precedent to guide us. A point of order was raised against an amendment to the agriculture, environment, and consumer appropriations for fiscal 1975. In that situation, according to Deschler's Procedure, language in a paragraph of a—

> General appropriations bill containing funds for the Federal Trade Commission for the purpose of collecting line-of-business data from . . . "not to exceed 250 firms" . . . was conceded to directly interfere with the discretionary authority of the F.T.C.—a restriction on the scope of the investigation rather than a limitation on availability of funds—and was ruled out in violation of Rule XXI, Clause 2.

The amendment before us directly interferes with the discretionary authority of OSHA by limiting the scope of general schedule safety inspections to only those inspections or investigations meeting the substantive requirements of the amendment. This approach is tantamount to limiting safety inspections to a fixed number of firms.

Accordingly, this amendment does not qualify under rule XXI, clause 2, since it changes existing law and since it is not germane to the subject matter of the bill in that it goes far beyond limiting or reducing the availability of funds.

□ 1620

The CHAIRMAN. Does the gentlewoman from Maryland wish to be heard on the point of order?

Mrs. BYRON. Yes, I do, Mr. Chairman.

Mr. Chairman, I rise in opposition to the point of order. This amendment does not impose any additional duties upon the Secretary of Labor, and therefore is not legislation in an appropriation bill.

The amendment is divided into two parts. The first part restricts the expenditure of funds by OSHA to conduct routine safety inspections in businesses which have 10 or fewer employees, with good safety records. The second part is a series of exceptions to this limitation. In order to comply with the limitation regarding the size of the business and the safety records of the industry, no new duties are required of the Secretary. Section 24 of the Occupational Safety and Health Act already requires the Secretary to maintain occupational and safety health statistics. Section 1904-20 of title XXIX of the Code of Federal Regulations specifically includes the exact statistics that are utilized in the first part of my amendment.

None of the exceptions listed in the second part of the amendment impose any additional duties beyond what is already in the existing law.

Finally, Mr. Chairman, even if the administration of a limitation contained in my amendment would impose certain incidental but additional duties on the executive branch, that still would not destroy the character of the limitation under the procedure of chapter 25, section 10.4, 10.5, and 10.8.

The CHAIRMAN. Does the gentleman from Wisconsin wish to be heard on the point of order?

Mr. OBEY. Yes, I do, Mr. Chairman.

Mr. Chairman, I would just like to emphasize the point made by the gentleman from Pennsylvania, namely, that this amendment would require the Administrator to make a determination on the loss work day case rate for each business in each category before the routine inspections could proceed. I think that clearly establishes new burdensome duties.

Mr. GAYDOS. Mr. Chairman, I would like to be heard further on the point of order. I would like to point out to the Chair and call attention to lines 6, 7, and 8 in the suggested amendment in so far as standard industrial classification code is referred to and included in the amendment. It appears nowhere—I emphasize nowhere—in the legislation as it now exists. That is directing the Administrator or his agents to another area of activity, going to another code, another set of precedents in order to analyze, accumulate, use personnel to accumulate all types of statistics in that area that apply to that SIC classification code. I think that of itself is obvious that we are asking for additional duties on the administration.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

The Chair is prepared to rule.

The gentleman from Pennsylvania makes a point of order against the amendment offered by the gentlewoman from Maryland on the ground that it constitutes legislation on an appropriation bill. In reviewing the amendment, it would prohibit the use of funds in the bill to enforce standards or rules under the Occupational Safety and Health Act with respect to certain employers, except for enumerated functions and activities authorized under such Act. The amendment applies to employers with 10 or fewer employers whose business falls within a category having an injury work loss day rate less than the national average as indicated by statistics published by the Bureau of Labor pursuant to law. The amendment does not require individual findings of injury rates in each separate business, but only a determination as to the category into which the business falls.

The Chair has reviewed the set of statistics that is required by section 673 of the OSHA law, and finds that the determination as to what category that the business relates to and the relationship between the average rate for that category and the average rate for all business is very easily ascertainable and is now being undertaken under OSHA regulations.

□ 1630

Furthermore, the amendment does not require the compilation and publication of such statistics but refers to the most recent publication of the statistics already compiled pursuant to statute. The exemptions from the limitation refers only to those functions and authorities which are provided by law in title 29 of the United States Code.

No new duties or determination are hereby required, and the final proviso, while requiring findings as to the temporary status of a farm labor camp, is already in the bill and the amendment does not add legislation to that permitted to remain in the bill.

The gentleman from Pennsylvania (Mr. GAYDOS) has argued in essence that the amendment seeks to amend existing law by restricting executive discretion to perform certain activities under the Occupational Safety and Health Act. The Chair cannot agree with the assertion of the gentleman that the amendment requires OSHA to perform its authorized function in a certain manner.

The amendment restricts the use of funds to carry out part of the authorized activity while allowing but not requiring the agency to use funds in the bill to carry out other authorized activities. While an amendment to an appropriation bill may not directly curtail executive discretion delegated by law, it is in order to limit the use of funds for an activity or a portion thereof authorized by law if the limitation does not require new duties or impose new determinations.

The Chair overrules the point of order, and the gentlewoman from Maryland (Mrs. BYRON) is recognized for 5 minutes in support of her amendment.

Mrs. BYRON. Mr. Chairman, I would like to take this opportunity to briefly explain what my amendment would do and what it would not do. It would exempt small businesses in safe industries from routine OSHA safety inspections. It would not exempt any firms from compliance with OSHA health requirements. It provides for a number of exceptions that would permit continued OSHA jurisdiction even over the safety regulations which exist for those firms.

This amendment is similar to the Boren amendment to the Senate version of the multiemployer pension plan legislation. As you know, the House did not have an opportunity to vote on that provision when we considered that legislation on Monday. Language identical to the Boren amendment cannot be offered to this appropriations bill under the rules of the House, and it is my hope that should the House approve my amendment, it will be perfected in the Senate along the lines of the Boren amendment.

I think it is important to keep in mind the fact that this amendment is also similar to language that was approved by the House as part of the conference report to last year's Labor-HEW appropriations bill.

This amendment would relieve small businesses of the burden of routine OSHA safety inspections. Several weeks ago a constituent of mine—a small businessman, Mr. Edward Bauerlein—complained to me that he was visited by eight Government inspectors in 1 day. Of course not all of these inspectors were from OSHA. In fact they were from all three levels of government—Federal, State, and local. However, I think this does illustrate the need to reduce the burden of government regulatory activities on businesses, particularly small businesses. My amendment provides one opportunity to do just that.

In addition to lessening the burden on small businesses, my amendment would also have the effect of targeting OSHA's routine safety inspections to industries that have accident rates above the national average. This is a sensible practice that OSHA claims it is already doing. Since OSHA has the resources to inspect only 2 percent of the Nation's workplaces annually, it certainly is not in the interests of American workers to waste those resources inspecting firms which are in nonhazardous industries. In fiscal year 1979, 71 percent of OSHA's inspections resulted in no "serious" citations and 46 percent of the inspections found no hazards whatsoever. Clearly it makes sense to direct OSHA's inspections to industries which warrant the inspections the most. This will best serve the interests of the American workers and I believe such targeting practices should be required by Congress and not simply left to the administrative discretion of OSHA.

Finally, Mr. Chairman, I would like to emphasize that my amendment would allow OSHA to continue to inspect all businesses and take necessary action whenever its inspection is in response to a worker complaint, including a complaint of discrimination under the act. My amendment would only affect the routine OSHA inspections which are the most burdensome and least fruitful. Furthermore, the amendment applies only to safety inspections and not to health, and only to those businesses employing 10 or fewer employees. Furthermore, OSHA would still be able to inspect a small business in response to a worker complaint or under other circumstances mentioned in the exceptions.

In conclusion, my amendment is both responsive and responsible. It is responsive to the need to cut down on the extent to which government regulatory activities burden the private sector and add to inflation. It is also responsible to the legitimate interests of workers in a safe working environment.

Mr. GAYDOS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment because it changes existing law and in effect amends the Occupational Safety and Health Act of 1970 by exempting a specific class of employers from the integral provisions of this act. Under present law, the manner and scope of safety inspections are presently left to the discretion of administrative officials. This amendment is a classic example of legislating on an appropriations bill.

The language in this amendment is not contained in any bill before the House Committee on Education and Labor or the Senate Committee on Labor and Human Resources.

There are presently five bills dealing with OSHA and small business before the Subcommittee on Health and Safety, which I chair. The sponsors of these bills have not called for any hearings or actions on these bills. For my colleagues' information, during the 96th Congress the Subcommittee on Health and Safety has conducted 35 days of oversight hearings on OSHA.

I strongly oppose this amendment.

First, if this amendment is adopted, it would exempt from several important provisions of the act, 2.3 million establishments, 53 percent of the total presently covered by OSHA, and 7.7 million workers, 12 percent of the total covered by OSHA.

In effect, this amendment would result in a 44-percent increase in exempted establishments and a 48-percent increase in exempted workers over the number of exempted establishments and workers under the Schweiker rider to the Labor-HEW appropriations bill for fiscal 1980.

Second, it seems fundamental, that workers in small businesses are entitled to the same protection as workers in large enterprises. This amendment creates two classes of employees, one class entitled to the full protection of the law, and another class of substantially less than fully protected workers.

Third, this amendment creates a statutory exemption from the act, and its effect is to eliminate even the remote possibility of inspection with its powerful deterrent function and incentive toward compliance with safety standards.

Fourth, this amendment also contains a distinction between health and safety for the purposes of enforcement which is arbitrary and detrimental to an effective occupational safety and health program. Presidently, 12 percent of OSHA's programed safety inspections uncover health hazards that are subsequently investigated by industrial hygienists. For example, approximately 25 percent of OSHA's investigations of potential asbestos exposure were triggered by compliance officers in programed safety inspections. Furthermore, many workplace conditions present hazards both to the health and safety of workers; for example, excessive noise, vibrating machinery, work in confined spaces—the list is endless. Injuries causing severe bodily harm result in impaired health whether the cause is attributed to a health or safety hazard.

Fifth, if this amendment becomes law, it would provide a further disincentive to employment. Many small firms may discourage the hiring of an 11th employee or encourage the 11th employee's discharge in order to keep the workforce at 10 and gain the advantage of the exemption.

Sixth, this amendment is not needed. Under the act, the manner and scope of safety inspections are presently left to the discretion of administrative officials. Presently, OSHA has in effect an administrative targeting system which focuses on high-hazard industries. As a result, in fiscal year 1979, less than 0.5 percent of small businesses with 10 or fewer workers received a programed OSHA inspection. During fiscal 1979, OSHA conducted 286 general schedule or programed safety inspections which would have been prohibited under this amendment. During the course of these 286 general schedule inspections, 83 serious, willful, and repeat violations were cited.

During the past 3 years of the present administration, OSHA has made a major effort to develop programs and policies to help small business employers eliminate serious workplace hazards, such as:

First, free onsite consultation.

Second, new directions grant program for education and training.

Third, elimination of recordkeeping requirements for small businesses.

Fourth, paperwork reduction.

Fifth, lightening of penalties for small businesses.

Sixth, appointment at OSHA of a special assistant for small businesses.

Seventh, OSHA-Small Business Administration cooperative agreement.

Eighth, better information source (small business handbooks).

Ninth, deletion of unnecessary and redundant safety standards.

In conclusion, I urge my colleagues to defeat this amendment.

□ 1640

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I merely rise to compliment the gentleman on a very important observation, message, and position he has taken. I wholeheartedly agree with him. I wish to say that I realize that he represents an industrial district that is far different from the characteristics from the one I have the honor to represent, but the conditions he essentially pictures and situation he portrays to us is accurately reflected in what is happening in my district with the small owners. It is very important.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GAYDOS) has expired.

(By unanimous consent, Mr. GAYDOS was allowed to proceed for 3 additional minutes.)

Mr. GONZALEZ. The gentleman has stated about all I could say, and I just merely wish to emphasize the fact that I am in wholehearted agreement. His message is very clear. I hope his position is sustained and that we vote down this pending amendment.

Mr. GAYDOS. I want to thank my colleague for his statement and for his support.

I just want to emphasize that less than one-half of 1 percent of small businesses with 10 or fewer workers received a programed OSHA inspection last year. During fiscal year 1979, for instance, OSHA conducted 286 general, scheduled, or programed safety inspections which would have been prohibited under this amendment.

Let me say this to my colleagues in conclusion: I tried to be fair in discharging the responsibilities of that chairmanship.

I have made an attempt to keep all of my colleagues informed. I have held hearing after hearing. I have endeavored to urge OSHA and MSHA to interpret the acts reasonably.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I want to compliment the gentlewoman from Maryland for offering this amendment. As she explains, it is quite similar to the current law which is the result of an amendment to the appropriation bill 1 year ago for the current fiscal year.

I think it is interesting that, though there were the same sort of predictions of dire consequences a year ago when this amendment was offered and debated, that now, after almost a year's experience, it appears to be impossible for the opponents of the amendment to take the well and to give us facts and figures as to an increase in accidents in the workplaces that were exempted as a result of the passage of that law. In other words, the evidence just is not there.

The gentleman from Pennsylvania, in opposing the amendment, if I recall correctly, said that about half of the workplaces or 44 percent of the workplaces would be exempted under this.

The gentlewoman said that only about 2 percent of all of the workplaces could be visited in any one year by inspectors.

□ 1650

Well, that means that if half were exempted, then we would allow as many as 4 percent of the dangerous workplaces to be inspected under casual inspections as a result of the adoption of this amendment. In other words, more dangerous workplaces would have the services of inspectors, and we would have freed up the waste of inspectors in places that have proven records of safety.

It seems to me that if organized labor, that is making this one of the biggest fights of this Congress to oppose this sort of legislation, really had the safety and the welfare of the working men and women of this country at heart, they would want the Occupational Safety and Health Administration to concentrate their scarce manpower in those places that have proven to be unsafe, those places where the working men and women of this country are exposed to danger.

Now, the gentlewoman has made the point, but I will reiterate: Under this amendment certain things are not done. We do not stop the process of a complaint being made by a worker and, therefore, an inspection being held. So any time a worker in the workplace fears there is danger, that worker may make a complaint and an inspection, even under this amendment, will be held the same as it is today. It does not exempt from inspection for health purposes. This is a modest amendment to concentrate short manpower into those places where we need the inspections for the benefit of men and women in the workplace.

I urge that the amendment be adopted.

Mrs. BOUQUARD. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentlewoman from Tennessee.

Mrs. BOUQUARD. Mr. Chairman, I rise in support of the Byron amendment exempting small businesses from routine OSHA inspections.

There is not a Member that has not faced the repeated cries of his or her constituents to get the Government out of their lives; to reduce its size and insist that efficiency and effectiveness be priorities of each and every Government agency. The passage of this amendment gives us opportunity to assure this kind of responsiveness from the folks at OSHA. It requires that OSHA's limited resources be targeted at those industries prone to injury. Is this not the true intent of OSHA?

As of now, OSHA's effectiveness in protecting the health and safety of American employees is open to question. Depending on whose statistics you use and which side of the issue you wish to take, you can make a case that OSHA is either the guardian angel of employees or the nemesis of employers.

Those of us who represent the State of Tennessee have been afforded the opportunity to work with an aggressive, vocal group of business people who participated in the recent White House Conference on Small Business. I have heard their complaints about needless and unjustified safety inspections by OSHA personnel. I have listened to them reaffirm the fact that small businesses run the preponderance of safe workplaces.

So now we have a chance to remove one of the impediments to small business without removing the responsibility for providing a safe workplace. I would encourage each of you to support this effort.

Mr. ERLENBORN. Mr. Chairman, I hope the amendment will be adopted.

Mr. OBEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not think I will take the full 5 minutes. I must say that there is a great deal which the gentleman from Illinois has said with which I agree.

I think it is important for OSHA, and I think it is important for organized labor to recognize that if OSHA is to be effective, OSHA must concentrate its inspections in the most dangerous places which we can find. The problem with this amendment is that while it is intended to do that, I do not really believe that it accomplishes its purpose, because what it does is to say, as the Schweiker amendment said last year, that OSHA should determine which businesses fall into dangerous categories for inspection purposes by looking at the standard industrial classification codes.

The problem with that classification system is simply that one can be a businessman who happens to be in a subgroup of that classification which is a very safe business but because the overall category is somewhat higher than the national average in terms of injury rates or lost days, he will be required to be under the gun for inspection.

I would just suggest to this body that what this amendment does is to lock OSHA into its present practice of using the standard industrial classification codes in order to determine which is the safest and which is the least safe workplace in the country. I do not think we want to do that.

I do not find anybody in either business or labor who is satisfied at the present time with the method by which OSHA determines who is going to be inspected and who is not. There are a lot of reasons why they have had problems, not the least of which has been the type of training which a lot of OSHA inspectors have received.

The fact is, if we want OSHA to in the future more efficiently and effectively target the kinds of workplaces that ought to be inspected, then do not tie them into using the same classification system which they use today. You do that if you support this amendment.

I would suggest that you should look at the language in the report, because the committee took out language very similar to the language being offered by the gentlewoman, because we were concerned about the rigidity of the present OSHA inspection system, and we said instead this: The committee deletes the language directing OSHA to continue to use current methods of targeting inspections and directs the agency to develop and implement better methods of targeting inspections so as to prevent inspections of establishments with good worker health and safety records and concentrate inspections in workplaces where the most serious problems exist.

I would suggest to this body that what is a safe industry changes over time, and if we require people to inspect on the basis of this rigid classification service, we are going to have people inspecting on the basis of indexes which are years old and irrelevant to the new problems facing both workers and management.

I urge this body to vote down the amendment.

I yield back the balance of my time.

Mr. ASHBROOK. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the Byron amendment which closely parallels the Boren amendment which was added to the multiemployer ERISA bill, H.R. 3904. It passed the Senate 48 to 36 on July 29, 1980. But the House was prevented from voting on the amendment.

This amendment is essentially the same as language in last year's Labor-HEW appropriations bill. It is compatible with current policies of OSHA. Only safe workplaces would be exempt.

OSHA admits most general schedule inspections are directed toward high hazardous large industries specially and I quote DOL "less than one-half of 1 percent of the Nation's small businesses received an OSHA general schedule inspection." If that is the case what are the harmful effects of amendments—still allow for employee complaint inspections, health hazards.

Not an amendment to law, 1-year restriction on appropriations.

Safety and health of workers is important. However, administrative actions impose undue burdens, especially on small business. Amendment attempts to relieve small business from routine OSHA safety inspections, but with some certainty to small business as to who will be exempted. At the same time, the amendment protects workers to the degree necessary through the six exceptions listed.

Inspection of small business could be carried out after employee complaints, and to investigate health hazards or imminent dangers.

Last year the exemption for safe small business was based on the occupational illness and injury incidence rate. This amendment modifies that concept in favor of a formula based on lost workday case rates.

The illness and injury rate does not take into account whether any workdays were lost. The measure should be actual lost workdays and/or restricted work, the standard which OSHA uses. The current injury rate is 9 injuries per 100 workers, while the lost workday case rate is 4 worker injuries per 100 workers. Since it is current OSHA policy to target only businesses with a lost workday case rate of four or more, the amendment would bring into law current policy.

To help Members understand the Standard Industrial Classification Code language, it should be noted that an SIC category includes an entire industry, not individual businesses. Therefore, an industry could have a high hazardous rating but there could be businesses within that industry with safe records that would not qualify for the exemption.

This amendment is needed to provide continued relief to small business from the expansive rules and regulations of OSHA. It is necessary that it be considered in this appropriation process because of the reluctance of our Committee on Education and Labor to consider any improvements to the Occupational Safety and Health Act.

Mr. OBEY. Mr. Chairman, will the gentleman yield for a question?

Mr. ASHBROOK. I yield to the gentleman from Wisconsin.

Mr. OBEY. Is the gentleman happy with the present method by which OSHA determines where it ought to go? Does the gentleman think OSHA is doing such a great job he ought to lock them into doing what they have been doing in the past?

Mr. ASHBROOK. No; but that is why I am supporting the amendment of my colleague from Maryland. I understood the gentleman was using that as an argument in opposing the gentlewoman's amendment.

Mr. OBEY. The gentleman is asking that the committee require OSHA to use as its basis for determining where one goes, the index which they have been using in the past. I do not see how that reforms OSHA. I do see how it locks them into the present system.

Mr. ASHBROOK. I thought your argument was whether or not this amendment would exempt areas where there are no incidents of hazardous employment and high incidents of risk. Like it or not, OSHA uses that particular guideline. It has worked, and from that particular standard, I happen to think the amendment makes sense, because we are exempting areas where there are not proven incidents of hazardous employment.

Mr. OBEY. If the gentleman will continue to yield, if we intend to do that, we really do not, because those groupings have all kinds of subclassifications which can be much safer than the general grouping or, for instance, the other way around.

If the gentleman looks at building services, would the gentleman say window washing on a skyscraper, 30 stories up, is a safe job, even though it happens to belong to a safe classification called building services?

Mr. ASHBROOK. I would say it is hazardous employment but it does not have a high incidence of injury. There is a difference.

Mr. OBEY. I would suggest the gentleman switch jobs with a window washer 30 floors up and see whether he wants OSHA to cover him or not.

Mr. ASHBROOK. The other point that was made earlier by my friend from Pennsylvania, the last statistics from the Bureau of Labor Statistics in 1978 show that in establishments of 1 to 19 employees, 90.6 percent of them have no—n-o—incidence of injury or illness. We are not talking about the areas of high and hazardous occupation or high incidence of illness and injury in the Byron amendment.

The statistics, as you go up to 2,500 and over, 72.7 percent of them do have accidents.

So we are exempting the employment areas of under 10 the gentleman is talking about, on the record of the Department of Labor's own statistics, an area where 81 percent of them show no illness or injury.

Mr. OBEY. If the gentleman will continue to yield, by category, that may be certainly correct, but it is not necessarily true of individual employers within the categories.

I would also suggest that this House really has a fundamental problem in dealing with issues like this. I do not criticize in any way people who have offered amendments to this bill today for these purposes.

☐ 1700

But we are not equipped in this forum without benefit of hearings, without benefit of committee expertise, and Lord knows the Appropriations Committee is not the committee which is expert in this area. We are simply not equipped to be voting on all these language amendments which may sound good or sound bad, but which we really do not have the ability to judge in this forum.

I would urge the House in the interest of institutional responsibility to be very restrained in the kind of amendments that it both offers and adopts under these conditions.

Mr. ASHBROOK. Well, I would say to my friend, the gentleman from Wisconsin, that I agree with him 100 percent. I happen to think this is one of those amendments that falls into that area restrained and responsible.

To my friend, the gentleman from Kentucky, I say it is one of those amendments that does not need wide debate, because we have debated this before. The Byron amendment is almost the same as the Boren amendment which passed the Senate by a vote of 48 to 36.

We have debated it, in effect, on the ERISA bill. We have had it before us on a number of occasions, so this just did not come out of the blue somewhere. This is an amendment that we have had before us repeatedly. It is basically the one that 2 days ago we were talking about getting a separate vote on in connection with ERISA.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to take just a moment to rise in strong support of the amendment that is under debate, I would make a couple of observations.

The point is well taken that we continue to debate these types of issues on appropriations bills and there are other forums that might be better served to utilize for the purpose of debating these issues, but it is my observation in the short year and a half that I have been here that we never have the opportunity to debate these issues except in this forum.

The second point that I would like to make is this. I observe that inflation is a tremendous problem in this country. The small businesses of this Nation have been crying for relief from the Federal bureaucratic regulatory maze that we have imposed upon them.

I observe that this vote will be a simple way that we can express ourselves as to whether or not we wish to in a small way recognize that the heavy Federal hand of bureaucracy is not the best way to solve all the problems that we have in our local communities. The best way to solve these problems that my good friend from Pennsylvania has made good points on is to admit that these problems are best served by taking care of them on the State or local level. By us having this option now to provide for the exemption of the small businessman, it is a way in which we are going to have in just a moment to put our card in the box and press yes or no as to whether or not we are hearing the small businessman in his cry for relief from Federal regulations.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maryland (Mrs. BYRON).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GAYDOS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 225, noes 178, not voting 29, as follows:

[Roll No. 499]

AYES—225

Akaka
Albosta
Alexander
Andrews, N.C.
Andrews, N.Dak.
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Baldus
Barnard
Bauman
Beard, Tenn.
Bedell
Bennett
Bereuter
Bethune
Bonker
Bouquard
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Findley
Fisher
Foley
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gephardt
Gibbons
Gingrich
Glickman
Goldwater
Goodling
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
Lungren
McClory
McDonald
McEwen
McHugh
McKay
Madigan
Marlenee
Marriott
Martin
Mathis
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Neal
Nelson
Nichols
O'Brien
Panetta
Pashayan
Paul
Pickle
Porter
Preyer
Pritchard
Quayle
Quillen
Rhodes
Roberts
Robinson
Rose
Roth
Rousselot
Royer
Rudd
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stangeland
Steed
Stenholm
Stockman
Stratton
Stump
Tauke
Tauzin
Taylor
Thomas
Trible
Udall
Ullman
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wyatt
Wylie
Yatron
Young, Fla.

NOES—178

Addabbo
Ambro
Anderson, Calif.
Annunzio
Ashley
AuCoin
Bailey
Barnes
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Corman
Cotter
Courter
D'Amours
Danielson
Davis, Mich.
Dellums
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Garcia
Gaydos
Gilman
Ginn
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Hall, Ohio
Hawkins
Heckler
Hollenbeck
Horton
Howard
Hutchinson
Johnson, Calif.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCloskey
McCormack
McDade
McKinney
Maguire
Markey
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Mottl
Murphy, Pa.
Murtha
Musto
Natcher
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Perkins
Petri
Peyser
Price
Pursell
Rahall
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Solarz
St Germain
Stack
Stanton
Stark
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Williams, Mont.
Williams, Ohio
Wirth
Wolpe
Wydler
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—29

Abdnor
Anderson, Ill.
Beard, R.I.
Bowen
Conyers
Devine
Dodd
Fithian
Frost
Giaimo
Holtzman
Ichord
Kemp
Leach, La.
Lederer
Marks
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Pepper
Railsback
Staggers
Symms
Wilson, C. H.
Wolff
Wright
Young, Alaska

☐ 1720

The Clerk announced the following pairs:

On this vote:

Mr. Abdnor for, with Mr. Lederer against.

Mr. Devine for, with Mr. Pepper against.

Mr. Symms for, with Mr. Wolff against.

Mr. Young of Alaska for, with Mr. Conyers against.

Mrs. HECKLER and Messrs. GUARINI, BONER of Tennessee, and VOLKMER changed their votes from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, could the distinguished subcommittee chairman answer a question with regard to the use of the $6.8 million that is in the bill for fluoridation. I know this is a very controversial issue. What is the intent of the committee? It seems to me entirely appropriate if a community or a group wishes to have a referendum that they should perhaps be helped with the cost of that referendum, but it seems to me that it does not stop there.

Mr. Chairman, it is at the request of my constituents that I bring this to the floor. These are letters I have received on the subject. I think all of us feel it is proper, if there is a call for a referendum or if there is a request for information, that there should be money available to provide that information to the citizens who wish to have it. However, I hope the money will not be used by the Government to deliberately promote, advertise or advocate the use of fluoride in the general water supply.

Mr. NATCHER. Mr. Chairman, will the gentlewoman from New Jersey yield to me?

Mrs. FENWICK. I yield to the gentleman from Kentucky.

Mr. NATCHER. I would like to say to the distinguished gentlewoman from New Jersey, in this bill we have $6,813,000 for this program on fluoridation. With regard to the States, cities, and counties who have this program, it is up to those people to decide. We do not decide where the money is to be spent. It is a grant program. It is up to them to make the decision.

Mr. Chairman, I think the request of the gentlewoman is fair. The matter the gentlewoman points out with regard to this money is only fair.

Mr. Chairman, the Federal Government should have nothing to do with a community's decision to fluoridate.

Mrs. FENWICK. Mr. Chairman. I thank my colleague and I am immensely reassured. In other words, this money will go to the States. If it is used, it will be used in the States and localities according to decisions made there, and not here in Washington.

Mr. NATCHER. The gentlewoman is exactly correct.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio; Page 60, after line 19, add:

SEC. 513. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure: *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum.

Mr. NATCHER. Mr. Chairman, will the gentleman from Ohio yield to me?

Mr. MILLER of Ohio. I yield to the subcommittee chairman.

Mr. NATCHER. Mr. Chairman, I would suggest we place some time limitation upon consideration of this amendment. This is an amendment that has been discussed time after time in the House. I am wondering now, Mr. Chairman, if a unanimous-consent request of 15 minutes would be in order.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and any amendments thereto be concluded in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. CONTE. Mr. Chairman, **reserving the right to object.**

Does that include the time for the gentleman in the well?

Mr. NATCHER. Mr. Chairman, the gentleman in the well, as I recall, has been allocated 5 minutes. I know the gentleman from Massachusetts will want to speak on this. I believe when the gentleman from Massachusetts is recognized he should have 5 minutes. The gentleman from Wisconsin (Mr. OBEY) if he wants time I think he should have 5 minutes and, Mr. Chairman, I would like to have 2 minutes.

Mr. Chairman, I ask unanimous consent that the time for consideration of this amendment be so limited.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky that debate close in 17 minutes?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. MILLER) will be recognized for 5 minutes, the gentleman from Wisconsin (Mr. OBEY) will be recognized for 5 minutes, the gentleman from Massachusetts (Mr. CONTE) will be recognized for 5 minutes, and the gentleman from Kentucky will be recognized for 2 minutes.

The Chair recognizes the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, this is the first time that I can recall that we really have time fixed and know what we are going to do. I am not sure we know exactly how we are going to do it.

□ 1730

Members of the committee, this is the standard 2-percent amendment, and in this bill, which has a total of $84.5 billion, the mandatory parts total $51 billion and the nonmandatory parts $33 billion. The 2-percent reduction on the $33 billion nonmandatory portion is $666 million—an amount equal to only 15 percent of the increase over last year.

We would still have 85 percent of the $4.3 billion increase over last year. All we are asking for is a reduction equal to 15 percent of the amount of the increase.

We have had a national budget that has tripled in 10 years. In the 4 fiscal years, since 1977, when we had a budget of $402 billion, it has grown to a projected budget of $633 billion for fiscal year 1981. We find that we will have had an increase of $231 billion in these 4 years. All we are requesting is a cut equal to 15 percent of the increase over last year from this particular budget—85 percent would be left.

It is possible to do it. The people back home are looking for some reduction. This is the year of the balanced budget, and what are we doing? We are going to have a deficit of possibly $60 billion.

Now, I know Members are going to hear all kinds of screams. We have already heard the screams today. We have heard them loud and clear, that we cannot reduce. Well, we can reduce. It is possible because there is $33 billion worth of items in this bill that are nonmandatory. It is possible to reduce it just 2 percent. On the very important items we do not need to take them down at all. The amendment is prepared so that, again, the high-priority items need not be touched.

It would be foolish to reduce the high-priority health items in the bill such as cancer, heart and arthritis research, and I would be ashamed if my committee did that. Anyone who understands the language of the amendment knows that they can reduce the low-priority items and not touch the high-priority items. They have that latitude. They can choose the low-priority items for reduction and not cut the high-priority items 1 cent. The committee can make the reductions in conference like we must do in reconciliation under the Budget Act.

Mr. Chairman, I will not take the balance of the 5 minutes, but I would recommend an aye vote on the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. OBEY) for 5 minutes.

Mr. OBEY. Mr. Chairman, I know it is like attacking motherhood to suggest that there is something wrong with an across-the-board cut in an appropriation, but let me suggest to you that there is. I think the fundamental problem facing this House is that through the years we have lost too much respect for ourselves and our legislative ability to make decisions. I think we demean this House and we weaken the institutions within this House that make it able to function when we adopt clumsy amendments like this and totally ignore what has been developed each and every year in the committee system.

When I came to this House 12 years ago, there was an awareness on the part of almost every Member of the House that you could not write major pieces of legislation on the floor; that if there was not a built-in assumption that legislative sanity required that you give the committee the benefit of the doubt, you would have legislative chaos. I suggest to you that either the committee system means something, or it does not.

This committee has held months of hearings on this bill. I want to ask you a question: How many of you—how many of you wrote our subcommittee and said, "Hey, boys, I want more money for cancer. I want more money for arthritis. I want more money for muscular dystrophy. I want more money for impact aid. I want more money for handicapped education?"

How many of you had guts enough to write us on those amendments, and then are going to vote for an amendment which makes across-the-board reductions in all of those items?

Now, whenever somebody back home in my district says to me, "What's the matter with you, Obey? Can't you vote to cut out a lousy 2 percent from that bill?" my answer is that the rational way to legislate is to have the people who know the most about the program decide where that money is going to go, and then you argue the programs on the merits. We adopted a budget resolution in this House, and this bill is $6 million below that budget resolution for these items. Now, in my judgment that means that this committee has been extremely responsible.

When is the last time you can remember that you had the gentleman from

Illinois (Mr. Michel), in even unenthusiastic support for this Labor-HEW bill. He is not a big spender. He knows what the committee did. When we put together the increases that the subcommmittee wanted, we took a look at where we were and we said, "Fellows, you can't go this high. We are above the budget." So, one by one the members went round the table and they volunteered reductions in their own pet programs.

I do not think you want to cut cancer by $50 million. I do not think those of you who wrote us on impact aid want to cut impact aid by $40 million. I do not think you want to cut handicapped education by $55 million. I do not think you want to cut student aid by $167 million. I suggest to the Members that this committee is a tight bill. If you want to cut individual items, have the guts to propose what those reductions ought to be, but do not pretend that this is part of the legislative process. All it is is an attack on the committee system which makes this House less and less able each year to function intelligently.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Michigan.

Mr. PURSELL. Mr. Chairman, I would like to support the gentleman's comments. I think the House should also know that this bill, if we take out all entitlements, general fund appropriations by the subcommittee and the full committee, the increase over last year is only 5.1 percent. That is a really tight budget, and I have to compliment the committee and the subcommittee for its work.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. Conte) for 5 minutes.

Mr. CONTE. Mr. Chairman, we did not come here with a quickly conceived or padded budget. Since February, day in and day out throughout the spring we held important hearings on this bill. We carefully scrutinized the health, education, and human service programs that make up such a vital portion of this bill. We went through 6 months of hard work.

Then we sat down in committee and carved out a responsible, fiscally trim bill. After more than 11 dogged hours in subcommittee markup, we came out with a bill that was $33 million over the President's budget. So, as my fine chairman, the gentleman from Kentucky will tell you, we went back and all the subcommittee members agreed we would make more painful cuts in order to underscore our concern for fiscal responsibility at this economically difficult time.

We cut a little more from many programs that are dear to our hearts and vital to the well-being of this Nation's children, this Nation's poor, this Nation's schools, this Nation's medical community, this Nation's workers. We trimmed them all in order to report out a bill that would be under the budget level and that would show only a very modest increase over fiscal 1980.

This is such a bill. It is under the President's budget by $6 million, and it is less than 5.7 percent above the 1980 level for these same programs. It is obvious that at this level each of the agencies, and all the individual programs will have to tighten their money belts several notches in 1981. So, why take another 2 percent which will certainly cripple many vital service programs.

First of all, across-the-board cuts are not selective. They deny and reject all those weeks and months of careful scrutiny that the committee has put in to preparing this bill. This amendment does not respect the fact that the committee has done its job well and has directly expressed its will.

Where would we take this 2 percent anyway? Before you stand for a rollcall, I want you to know what you are doing if you vote for this cross-the-board cut.

We could cut a bit from community health centers, but they are already $21 million below the budget request, and nearly level funded with 1980. Do you really want to send a message to all Americans that you are cutting back even further on providing adequate and proper medical care to those in need?

We could take another 2 percent from family planning, but it is already nearly $11 million below the budget request and virtually level funded as of 1980. Further cuts there would result in more than 1 million pregnant teenagers each year having more than 400,000 abortions. Surely, that is a wise road to travel.

We could take another 2 percent from alcoholism treatment programs, but they are already 10 percent below 1980 and alcoholism in this country is on the rise. There are nearly 10 million Americans with serious alcohol problems. Should we cut those programs further and put more drunk drivers back on the road? Absolutely not.

We could take another 2 percent from basic educational opportunity grants, but they are already trimmed slightly below the original 1980 level. With college tuitions soaring past $7,000, $8,000, and $9,000, a 2-percent cut will only lead to the exclusion of low- and middle-income Americans from American colleges.

So, I ask you: Where are you going to take this 2-percent cut across-the-board? You have to be a magician. You have to be a magician, and there are no magicians in this House.

So once and for all, let us do the right thing. Let us stand up and say this committee has done a good job; they have worked hard, and let us defeat this amendment.

□ 1740

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. Natcher) for 2 minutes to close the debate.

Mr. NATCHER. Mr. Chairman, I want to join in the remarks made by my friend, the gentleman from Massachusetts, Mr. Silvio Conte, and my friend, the gentleman from Wisconsin, Mr. Dave Obey.

We worked hard on this bill. This bill is $5,600,000 under the budget.

Mr. Chairman, it is right easy to come in here and offer an amendment calling for a 2-percent or 5-percent reduction. This is the same bill, Mr. Chairman, that has been vetoed seven times since 1969. We put this bill under the budget.

The amendment offered by my friend, the gentleman from Ohio, Mr. Clarence Miller, could cut research on heart, lung, and blood diseases $28 million. That is what the gentleman from Ohio (Mr. Miller) wants. We do not want that.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. NATCHER. I do not yield to the gentleman.

Mr. Chairman, if the gentleman's amendment was adopted, he would cut research on arthritis, metabolism, and digestive diseases by as much as $18,500,000. We do not want that. If his amendment is adopted, research on diabetes could be reduced $7,600,000.

Mr. Chairman, further, if the gentleman's amendment was adopted, as far as family planning is concerned, it might be reduced $8,300,000.

Mr. MILLER of Ohio. Mr. Chairman, would the gentleman yield on that?

Mr. NATCHER. I do not yield at this time.

Mr. Chairman, the gentleman from Ohio (Mr. Miller) comes in every year offering this amendment. If we adopt it, as far as elementary and secondary education is concerned, I want him to go back to Ohio and tell his people that he wants to reduce aid to elementary and secondary education to the extent, Mr. Chairman, of $175,700,000. That is what he would do.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield on that?

Mr. NATCHER. I do not yield on that.

Mr. Chairman, as far as education for the handicapped is concerned, this amendment could cut up to $55,100,000. That is what my friend, the gentleman from Ohio, Mr. Clarence Miller, wants to tell the people of the State of Ohio.

Mr. Chairman, we do not want the other 49 States to join with him, and I ask that this amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Miller).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MILLER of Ohio. Mr. Chairman, I demanded a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred and eleven Members are present, a quorum.

The pending business is the demand of the gentleman from Ohio (Mr. Miller) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Public Telecommunications Financing Act of 1978, for the fiscal year 1983, $172,000,000: *Provided*, That these funds shall not be used to pay for receptions, parties, and similar forms of entertainment for government officials or employees: *Provided further*, That these funds shall not be available or used to aid or support any program or activity excluding from participation in, denying the benefits of, or discriminating against any person of the basis of race, color, national origin, religion, or sex.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 53, line 15, strike the period, insert a colon, and add the following: "*Provided further*, That none of the funds appropriated herein shall be used for grants to any public telecommunications entity, whether national, regional, or other system of public telecommunications which on or after October 1, 1980, as indicated in the audit report indicated by section 392(h) of Public Law 95–567, engages in the production or financing, directly or indirectly, of any magazine, journal, or other printed publication which accepts or receives, payment or credits for the placing of commercial advertising in such publication.".

Mr. BAUMAN. Mr. Chairman, I have discussed this amendment with the gentleman from Kentucky (Mr. NATCHER) and the gentleman from Illinois (Mr. MICHEL). I understand it has their acceptance.

The amendment goes simply to the appearance of a publication on the part of four public television stations of a new monthly magazine called Dial. The thing that concerns me most—and I have researched this to some extent—is that this magazine, which in its first publication goes to 650,000 recipients, is in fact being financed in part by taxpayers' funds. I do not believe the Federal Government should be in the commercial publishing business. Even greater is my concern about Federal control and funding of what purports to be a private publication. Such an arrangement raises serious first amendment questions.

Apparently, in the first publication of this magazine, the four stations which are part of the Public Broadcasting System are using their special tax-exempt nonprofit status and their preferential lower cost mailing rate to compete with the business of private publications. This amendment would simply say that public funds are not to go to any entity, either a quasi-governmental or governmental agency such as public broadcast stations, that publish a publication which seeks and obtains commercial advertising.

I would cite yesterday's Washington Star article in which it is pointed out that the first edition of this magazine took in $580,000 in private ad revenues. I certainly do not think that is the appropriate kind of thing to be done by a magazine published by Government agencies of any sort with taxpayers funds.

Mr. Chairman, the day has not yet come when the Federal Government or its agencies should be in open competition with private enterprise completely unauthorized by Congress or any other legal authority. This is especially so when a government-funded and created agency seeks to begin publishing what purports to be a news and entertainment magazine in four of our major cities including a large part of the U.S. citizenry.

This should be stopped now, and I urge the adoption of the amendment.

Mr. MICHEL. Mr. Chairman, if the gentleman will yield, I want to say that I made mention during the course of general debate of the particular problem I had with that proposal to publish the magazine called Dial.

I am particularly concerned about the solicitation of advertising for the publication. It comes very close to using Federal funds to give the public broadcasting stations an unfair competitive advantage over private commercial magazines.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman from Illinois (Mr. MICHEL).

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the chairman of the subcommittee.

Mr. NATCHER. Mr. Chairman, I would like for the committee to know that during the hearings on this bill the distinguished gentleman from Illinois (Mr. MICHEL) very carefully developed a number of matters pertaining to public broadcasting.

As far as the gentleman's amendment is concerned, we have no objection to it on this side of the aisle.

Mr. BAUMAN. Mr. Chairman, I thank the subcommittee chairman, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The amendment was agreed to.

Mr. WILLIAMS of Montana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time for the purpose of developing a dialog with the distinguished subcommittee chairman.

Mr. Chairman, the gentleman and I have discussed the difficulty, especially among low-income folks, of meeting the rising costs of fuel for home heating and transportation. As the gentleman knows, in the past, through his assistance and the assistance of his appropriations subcommittee, the Community Service Administration has been directly involved in helping to mitigate these costs through a program of alternative energy technologies and through energy education and training programs.

Does it remain the gentleman's understanding that the committee continues to support the promotion of these programs as necessary to meet the special needs of the poor, and does the committee encourage the appropriate expenditure to be continued to be made available through CSA, thus encouraging and continuing appropriate technology research and demonstration?

Mr. NATCHER. Mr. Chairman, will the gentleman yield to me?

Mr. WILLIAMS of Montana. I am pleased to yield to the gentleman.

Mr. NATCHER. Mr. Chairman, I would like to say to the distinguished gentleman from Montana (Mr. WILLIAMS) that I can state to the gentleman that it is our intention that the efforts which the Nation has begun toward appropriate technology research and demonstration should continue.

In addition, Mr. Chairman, I would like to say to the gentleman from Montana that the efforts thus far represent a demonstration of what can be done through the Community Services Administration to assist low-income people who are hardest hit by rising energy costs.

I want to thank the gentleman from Montana (Mr. WILLIAMS) for bringing this matter to the attention of the committee at this time.

Mr. WILLIAMS of Montana. Mr. Chairman, I thank the subcommittee chairman, and I yield back the balance of my time.

☐ 1750

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 51, after line 23, insert:

"SEC. 309. None of the funds appropriated by this Act shall be expended to enforce such part or parts of the regulations promulgated to carry out the provisions of title IX of the Education Amendments of 1972, Public Law 92–318, which have been found by three United States circuit courts of appeal to exceed the statutory authority under which they were promulgated, and by one United States circuit court of appeals not to exceed such authority, during any part of the fiscal year ending September 30, 1981, in which the conflict in these decisions shall not have been resolved in favor of the validity of the challenged part or parts of the regulations."

And renumber the remaining section accordingly.

Mr. ASHBROOK. Mr. Chairman, the Department of Education—and before them, HEW—has attempted to apply title IX regulations to the employment practices of entire school systems and universities, rather than to Federal programs in such systems.

For the record, at least 10 U.S. district courts and three U.S. circuit courts of appeal have held that this exceeds the scope of the statute. That is the issue here. HEW appealed to the U.S. Supreme Court, which refused to hear the appeal. But even after that, HEW continued to apply that interpretation and those regulations in all other courts of appeals jurisdictions where it has not been litigated.

Since that time, the Second Circuit Court of Appeals, on the other hand, has upheld the regulations, although a petition for a rehearing en banc is pending. So it is really hard to say at this point; that holding might be reversed. But there are inconsistent decisions.

My amendment would say that until these regulations are clearly held by the U.S. Supreme Court to be consistent with the law—which, I might add, seems to be doubtful, be that as it may—until they are found one way or another, they certainly should not be applied by the Department of Education against the overwhelming weight of judicial disapproval.

Mr. SIMON. Mr. Chairman, I move to strike the requisite number of words.

So that I understand—and I just heard this amendment briefly—are we talking about discrimination in employment here?

Mr. ASHBROOK. If the gentleman will yield, we are talking about title IX regulations which were promulgated, the so-called sex discrimination regulations.

Mr. SIMON. But specifically these court decisions that the gentleman is referring to, I think they are in the area of employment, is that correct, on title IX?

Mr. ASHBROOK. That is correct. All in the area of employment, that is correct.

Mr. SIMON. And if the gentleman's amendment carries, the gentleman would say to the Department that until the Supreme Court rules, they cannot do anything about cases where there would be blatant discrimination against women in the case of employment; is that correct?

Mr. ASHBROOK. No. That is covered under title VII. I am not trying to inhibit their efforts they may make on a case-by-case basis. I am concerned about the overreach of their regulations which seem to exceed statutory authority.

Mr. SIMON. Can the gentleman clarify what the impact of his amendment is, then?

Mr. ASHBROOK. Well, the title IX regulations were applied to entire universities. Ten district courts and three courts of appeals have said that they exceed the statutory authority of HEW. One court of appeals has said they do not. I happen to think the weight is in favor of the three that have said they exceed; but at least until the Supreme Court resolves this issue, we should not allow the bureaucracy, as it often does, to forum-shop. You know, to apply standards in areas where the courts say they are all right, to not follow courts in other areas. I would like to see a consistent decision here. Our universities would like a uniform rule. I think this makes a lot of sense, and I do not think the statutory authority is going to be protected until such time as the court decides one way or another as to who is right and who is wrong.

Mr. SIMON. Then if I understand the amendment offered by the gentleman correctly, it would say that title IX does not apply to universities until there is a Supreme Court decision; is that correct?

Mr. ASHBROOK. No, not at all. Just those regulations that were promulgated that have been held of doubtful constitutional validity.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from California.

Mr. PANETTA. The gentleman from Ohio does not intend to inhibit their ability to enforce the requirements of title IX?

Mr. ASHBROOK. Not at all. Only those that are in question.

Mr. PANETTA. What the gentleman is directing it at is the regulations that they have initiated. The gentleman is not intending that they cannot initiate new regulations to try to deal with this.

Mr. ASHBROOK. Absolutely not. Nor would I want to restrict the implementation of regulations if the Supreme Court in fact says, "You have not exceeded your authority." I happen to think they will say that. I have noted for the record that three courts of appeals districts have said they exceeded their statutory authority. What we are trying to do is to protect the integrity of the statutes and the regulations implemented under the statutes.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I want to be sure what we are doing here. As I understand it, what we are doing with this amendment, then, touches only those regulations which are under challenge in the court and have been already found by one or more courts to be contrary to the statute; is that correct?

Mr. ASHBROOK. That is fair to say. It is fair to say that the overwhelming weight of judicial decisions have been against them at this point.

Mrs. FENWICK. We hope they will not be. But I mean finally. But the rest of the regulations remain intact?

Mr. ASHBROOK. As far as this amendment is concerned, exactly.

Mrs. FENWICK. I thank the gentleman.

Mr. SIMON. I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES, DOMESTIC PROGRAMS

For expenses necessary for ACTION to carry out the provisions of the Domestic Volunteer Service Act of 1973, $158,047,000.

The Clerk read as follows:

Amendment offered by Mr. KRAMER: On page 52, line 11, strike out "$158,047,000" and insert in lieu thereof, "$154,047,000".

Mr. KRAMER. Mr. Chairman, this is a modest amendment. It does not seek to cut back existing program levels, but it holds off additional expansion of the ACTION Agency at this time. The bill allows $12½ million increase over last year's appropriation for the Agency—that is 8½ percent—and the previous year's funding was a 22.1-percent increase; thus, in 2 years a 30-percent increase for the ACTION Agency.

This $12½ million increase is broken down into $4 million for VISTA, $5½ million for Older Americans, and almost $3 million for program support.

What my amendment does is cut this $12½ million by $4 million. This represents only a 2½-percent reduction of the entire agency appropriation in this bill and less than one-half of 1 percent of the entire bill.

The reduction would be in these areas: It would allow a cost-of-living increase for VISTA volunteers, but it would eliminate a proposed $2 million expansion for the VISTA program. It would allow a modest increase in program support, but it would restrict an additional $2 million increase in program support which the agency had requested for additional staff in urban and energy initiatives.

Now, at a time of fiscal restraint, when other agencies are being required to tighten their belts, to absorb inflationary increases at last year's funding levels and to freeze new hires, I believe it is inappropriate for this particular agency to be exempt from that overall restraint and to continue to enjoy budget increases and program expansion.

I would point out to my colleagues that in this very same bill a similar agency, the Community Services Administration, is receiving an almost $2 million reduction in program support from last year's level.

I would further point out that ACTION has just recently benefitted from a $4 million supplemental appropriation, of which more than $2 million is being used for VISTA expansion and nearly $1 million is being used for program support activities.

If these fiscal facts alone are not sufficiently persuasive, I think it is important to look at what the agency in fact is going to do with these funds.

The agency's budget request to the Congress indicates that the proposed expansion of VISTA is to increase the agency's energy-related activities, including development of community-controlled alternative energy processes and systems—and get this—community greenhouses and gardens, solar water heaters, fuel cooperatives, and advocacy for energy equity.

In the first place, do we want ACTION to be using Federal funds to experiment with solar energy projects, or can this better be done by other agencies more experienced in these fields? Do we want the agency to duplicate other activities of agencies, such as the Community Services Administration, by allowing ACTION to use the energy situation to justify further program expansion? I would argue no.

☐ 1800

Second, when we associate advocacy activity with ACTION, it raises some questions about some of the Agency's past controversial activities, which have seen volunteers become involved in lots of prohibited activities.

Last year we had tremendous debates on the floor about lobbying activities, labor-organizing activities, the electioneering and campaigning activities of the agency. Indeed, one of the agency energy advocacy grants this year was given to the Citizen Labor Energy Coalition. This group makes no distinction between advocacy and lobbying. Their own literature talks about, brags about, legislative campaigns and lobbying activities they have been involved with in at least four separate legislatures.

For example:

> The Wisconsin C/LEC . . . has helped get a Lifeline Bill introduced into the Wisconsin State Legislature. . . .;
>
> The Michigan Energy Coalition, organized by C/LEC affiliates in Michigan, won passage in December in the state Senate of their Lifeline Bill;
>
> The Coalition (in Kentucky) is planning a legislative campaign. . . .;
>
> Coalition affiliates, led by Massachusetts Fair Share are engaged in a legislative campaign to abolish the fuel adjustment clause. . . .

One other troublesome point about this particular grant is the familiarity of the names of people associated with the coalition. For example, the executive director is none other than Heather Booth, whom we should remember as the head of the Midwest Academy, recipient of one of the most controversial ACTION grants which was found to use highly inflationary and inappropriate material in the training of VISTA volunteers, and which was also found by the agency's own auditors to have problems administering Federal funds. Other names on the board of directors include Michael Ansara, Massachusetts Fair Share—an ACTION grantee (this year $200,000); Bob Creamer, Illinois Public Action Council—an ACTION recipient; Joe Fish, Carolina Action—an ACTION recipient. It also includes Tom Hayden, head of the campaign for economic democracy.

In short, if this is the type of program which the agency is seeking VISTA expansion for, I think a better use could be found for those Federal funds.

Let me give this body another example in the few minutes remaining of another type of program which this VISTA expansion is going to fund, if we grant such an expansion: Recently, the district program director in Philadelphia disapproved a proposal submitted by an organization group called Tenants Action Group for a VISTA project. In his own report to the regional director, he said and I quote:

> The letterhead of the TAG suggests that this is not a responsible organization. The logo is that of a rioting mob. I believe the taxpayers of this country and members of Congress who appropriate federal funds would be appalled if the ACTION agency provided federal resources to an organization that depicts itself as a rioting mob.

He further noted that the group was strenuously opposed by the Homeowners Association, which accused them of "violence and hostility towards the private rental market," citing as example. "There have been instances of vicious and unwarranted public attacks on property owners. It would seem that their motive was to drive them into bankruptcy and the natural effect would also be generating the abandonment of the properties by these owner-investors." He further noted that the group was involved in extensive lobbying activity, did not have tax exempt status and would probably not qualify because of its lobbying activities. In spite of these very serious findings, the Regional Director and the VISTA Director overruled the District Program Director to fund the project, and there are now rumors that the District Program Director may find his job in jeopardy for interfering with the direction which his superiors want to take.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. KRAMER) has expired.

(By unanimous consent, Mr. KRAMER was allowed to proceed for 30 additional seconds.)

Mr. KRAMER. In conclusion then the organization is still involved in some of those activities that we tried to pass amendments on last year. This program expansion would accelerate those kinds of activities. We are not asking for any reduction in expenses at all. We are simply limiting the increases to this agency, an agency that would be given 30 percent increase over the last 2 years. We are asking for a very modest cutback in that otherwise 30 percent over 2 years.

Mr. NATCHER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Colorado (Mr. KRAMER).

Mr. Chairman, the total amount requested for ACTION was $169,154,000. After we had our hearings on the bill and marked it up, we reduced ACTION by $11,107,000. A further reduction in this program cannot be warranted at this time. We have reduced the budget for VISTA by $3,744,000. A further $2 million reduction would eliminate a very modest program increase that was approved by the committee.

Mr. Chairman, the committee bill provides an increase of less than 10 percent over the 1980 level, not 22 percent, as I believe the gentleman explained. It is less than a 10-percent increase.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Colorado.

Mr. KRAMER. The gentleman is correct. The 22-percent figure, and I would like to make that clear, was for 1980. The 1981 budget, my calculations indicate, is an 8½-percent increase. So when I talked about 30 percent, that was over 2 years.

Mr. NATCHER. The gentleman is right. There is less than a 10-percent increase.

Mr. Chairman, this amendment should be defeated. I ask for a vote on the amendment.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a barebones budget. We have cut this budget, as the good chairman said, $11.1 million, and we cut VISTA, Mr. Chairman; the President asked for 37.5. We cut it down to 33.8. We cut services learning; the President asked for $4 million, and we cut it down to $2.8 million. Foster Grandparents, a great program, a splendid program, has only a modest increase—not nearly enough to account for inflation and increased pay costs. It is a splendid program. The gentlewoman from New Jersey knows that.

Even the important senior companion program shows no growth. The President asked for 12.7. We gave him 12.7.

The citizen participation and voluntary demonstration program. The President asked for nearly $12 million, or $11.9. We cut that down to $3.4. That is an awful cut. I do not think we could take much more here. This is a barebones budget right down to the marrow.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Colorado.

Mr. KRAMER. I thank the gentleman for yielding.

With the success and fantastic oratory and great speeches I have heard from the gentleman, I am loath to even take him on here this afternoon, but I would suggest that what the gentleman is saying is correct; but the programs that this amendment zeros in on represents increases of rather substantial proportions when considered against the appropriations bill as a total, and even the agency appropriations aspect of the total appropriations, and I think that when the agency is out there using this money to promote organizations that show rioting mobs on their letterheads, they still have not learned their lesson. When we are cutting back $2 million on Community Services Administration, it seems to me a very inappropriate use of taxpayers' money to increase this agency still bent on doing their lobbying and prohibited activities, by $4 million.

Mr. CONTE. Let me say to the gentleman that I will be glad to work with him. I do not believe in wasteful programs either. I will be happy to work with the very able, I might say, young gentleman, who makes a great contribution to this House. I would welcome working with him to let us try to clean up the source of his concerns. But we cut down this program, and this amendment would reduce that and also make it impossible to provide the proper oversight for VISTA for the RSVP program, and for the urban volunteers.

Mr. KRAMER. If the gentleman will continue to yield, this does not cut any staff. It simply reduced what otherwise would be increases.

Mr. CONTE. The gentleman's amendment, as I read it, merely cuts $4 million out of ACTION. That would reduce ACTION staff, and it would reduce the oversight and evaluation of the agency's programs that I mentioned. Everybody in this House who has gone home, and they all have and worked with the Foster Grandparents program, know this is really an outstanding program.

Mr. KRAMER. I agree. We do not touch that program.

Mr. CONTE. The gentlewoman from New Jersey can vouch for that.

Mr. KRAMER. We do not touch that program. All we are aiming in on is rioting logos.

Mr. CONTE. Let us vote this amendment down. I will be glad to work with this gentleman.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. OTTINGER. I join my friend from Massachusetts in strong opposition to this amendment. I would like to address some of the problems the gentleman from Colorado raised.

The VISTA volunteers, in working with solar energy, are applying techniques for poor people, on which he supports me very strongly in the Committee on Science and Technology so far as developing that technology.

The Foster Grandparents program is not only an excellent program, but it suffers like everything else from inflation. The modest increase is needed so that the grandparents can in fact continue to participate.

I do hope that the committee will reject this amendment and will support the very excellent program.

Mr. CONTE. Mr. Chairman, I yield back the balance of my time and ask for a vote on the amendment.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I merely take this time to say my colleague did not have a chance to respond adequately to what this covers and what it does not. The gentleman was not trying to cut out any of those wonderful and splendid programs the gentlemen were talking about.

I would say to the gentleman from Massachusetts (Mr. CONTE), he does not want to cut those programs out. That is not Mr. KRAMER.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Colorado.

☐ 1810

Mr. KRAMER. Mr. Chairman, I thank the gentleman for yielding. I will not take but 30 seconds to clarify the record that I understand is being made here.

I could not agree more with some of the remarks that I have heard here about the Foster Grandparents and RSVP and things like that. They are good programs. I have been supportive of those in the past and I will continue to be supportive of them.

Mr. ROUSSELOT. But the gentleman does not touch those programs.

Mr. KRAMER. We do not touch those programs. This amendment simply reduces the amount of what otherwise would be increases over 1980 in 1981 in two areas. No. 1, it cuts back on VISTA expansion by $2 million. VISTA being the program that I alluded to where there are examples of the district director having his job in jeopardy because he dares to say that this VISTA project should not be involved in sponsoring an organization that has Rioting Mobs on their letterheads.

Mr. ROUSSELOT. And that is only $2 million.

Mr. KRAMER. And we have $2 million more.

Mr. ROUSSELOT. Two million dollars.

Mr. KRAMER. That is all. The other $2 million simply cuts back on what otherwise would be substantial increases in staffing in the ACTION headquarters office. It allows some increases, but it moderates the amount of those increases between 1980 and 1981 by $2 million. That is simply what the amendment does. It does not touch any of those other wonderful programs.

Mr. ROUSSELOT. So the gentleman is just trying to help out the committee to make a modest decrease. That certainly sounds reasonable.

Mr. MICHEL. Mr. Chairman, will the gentleman from California yield to me?

Mr. ROUSSELOT. Why of course, I yield. I do not want to get my colleague from Massachusetts upset.

Mr. MICHEL. Well, if the gentleman will yield to me, let me say that I want to commend the gentleman from Colorado for the action he has taken in the legislative committee in this area.

Now, we have had to take some pretty drastic measures over the last several years in our Appropriations Committee with respect to this agency. It has been badly administered and fraught with all kinds of problems which we do not need to detail here. The gentleman has picked up on what we did initially by oversight in our committee and addressed himself to those issues in the Legislative Committee. I applaud him for that.

Personally, I do not have a problem with the gentleman's amendment. In the supplemental, we gave them a $4 million increase. They went out and hired 25 additional people to expand the program; so there is some fat there.

Mr. ROUSSELOT. There is some fat?

Mr. MICHEL. There is good reason for our keeping the pressure on. I just want to commend the gentleman for his initiative.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Well, I kind of promised my colleague, the gentleman from Massachusetts, that I would yield to him.

Mr. JOHN L. BURTON. Well, I will get the gentleman some more time.

Mr. ROUSSELOT. Well, I do not want to take too much time. Well, yes, I will yield to my colleague.

Mr. JOHN L. BURTON. I wonder if the gentleman from Colorado could tell us what the substance was of the program that was rejected because of the logo.

I mean, God knows anybody would fund anything with an elephant or a donkey on it.

Does it deal with logos? Could the gentleman tell us what the substance of that program was? I mean, were they going to fund rioting mobs or were they going to stop mobs from rioting? There is a difference, does the gentleman not agree?

Mr. ROUSSELOT. I yield to the gentleman from Colorado.

Mr. KRAMER. The substance of the program was a tenants action group. Characterized by the district director, the purpose was basically to assault and make vicious attacks on all the landlords in that particular area.

Mr. JOHN L. BURTON. To physically assault them and commit crimes?

Mr. KRAMER. Well, the gentleman will have to talk to the district director about that.

Mr. JOHN L. BURTON. No; the gentleman is the one who is making the allegation.

Mr. KRAMER. Well, let me finish, and the ultimate objective in the opinion of the district director was to drive these landlords into bankruptcy.

Now, those are the words of the district director. The district director's opinion was overridden at the regional level by the regional director. This is the same old problem that we saw last year when we tried to bring forth and we had passed in this House four or five very productive amendments, most of which were taken out in the conference committee to try to rectify this situation.

The agency has obviously not learned its lesson yet. It is still bent on the same kind of action as before the legislation expired.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentleman from Massachusetts.

Mr. CONTE. Well, I was kind of hoping we would go to a vote here. I think the House is ready to defeat this amendment. The gentleman himself admitted that $2 million would come out from ACTION headquarters staff. So how are we going to supervise and oversee the actions of VISTA if we cut the staff by $2 million?

I hope we vote on this and strike it down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KRAMER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-seven Members are present, not a quorum. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 500]

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel. R. W.

Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1830

The CHAIRMAN. Three hundred and eighty-eight Members have answered to their names, a quorum is present and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Colorado (Mr. KRAMER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 240, not voting 30, as follows:

[Roll No. 501]

AYES—162

Anthony
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bethune
Bevill
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Derwinski
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fish
Flippo
Forsythe
Frenzel
Gingrich
Goodling
Gramm
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hightower
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Luken
Lungren
McDonald
McEwen
McKay
Marlenee
Marriott
Martin
Mathis
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
O'Brien
Pashayan
Paul
Petri
Porter
Quayle
Quillen
Rahall
Regula
Rhodes
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Tauke
Taylor
Thomas
Trible
Volkmer
Walker
Wampler
White
Whitehurst
Whitten
Wilson, Bob
Wyatt
Wydler
Wylie
Yatron
Young, Fla.

NOES—240

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Corman
Cotter
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Grassley
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Horton
Howard
Hughes
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCloskey
McCormack
McHugh
McKinney
Madigan
Maguire
Markey
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Murtha
Musto
Natcher
Neal
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Synar
Tauzin
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Watkins
Waxman
Weaver
Weiss
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wright
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—30

Abdnor
Anderson, Ill.
Applegate
Bowen
Byron
Conyers
D'Amours
Devine
Dodd
Giaimo
Holtzman
Ichord
Kemp
Leach, La.
Lederer
McDade
Marks
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Nichols
Railsback
Swift
Symms
Vander Jagt
Wilson, C. H.
Wilson, Tex.
Young, Alaska

□ 1840

The Clerk announced the following pairs:

On this vote:

Mr. Vander Jagt for, with Mr. Murphy of Illinois against.

Mr. Symms for, with Mr. Lederer against.

Mr. Young of Alaska for, with Mr. Conyers against.

Mr. Abdnor for, with Mr. Nedzi against.

Mr. Nichols for, with Mr. Myers of Pennsylvania against.

Mr. Devine for, with Mr. Moorhead of Pennsylvania against.

Mr. BREAUX, Mr. JONES of Tennessee, Mrs. BOUQUARD, and Mrs. FENWICK changed their votes from "aye" to "no."

Mr. FLIPPO changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $148,398,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work and the purchase of not to exceed sixty-six passenger motor vehicles for replacement only: *Provided*, That the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided further*, That the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations: *Provided further*, That any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirement, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate or surface limestone mine.

The Clerk read as follows:

Amendment offered by Mr. Rousselot: At page 13, line 5, strike the period and add the following: ", nor shall any funds appropriated under this paragraph be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Federal Mine Safety and Health Act of 1977 with respect to any person engaged in the surface mining of stone, clay, colloidal phosphate, sand or gravel."

Mr. ROUSSELOT. Mr. Chairman, I will be brief. The basic thrust of this amendment is to provide that OSHA have the basic responsibility of these four areas of surface mining: Stone, clay, phosphate, and sand and gravel.

Mr. Chairman, over the past year and a half, the Members of this body have heard a great deal about an agency called the Mine Safety and Health Administration (MSHA) and the act which it purports to administer, the Federal Mine Safety and Health Act Amendments of 1977.

We have all heard from our constituents about the MSHA inspectors swooping into small sand, gravel, clay and stone operations and citing them for so-called violations such as trash on the floor of the employees lunchroom, to malfunctioning windshield wipers on out-of-service vehicles in parts of the country where little or no rain falls—citations which must, by law, receive fines.

We have read and heard fine statements about the terrific job the agency is doing and how its now changing its ways—becoming more receptive.

I say that MSHA has not turned over a new leaf, the agency and its supporters are making inaccurate statements about its so-called "new look" that the situations brought to our attention by constituents with stone, sand, gravel, and clay operations have not been resolved. Conditions have not improved to any appreciable degree. What has been resolved, has been resolved through amendments to last year's appropriation bill.

Let us look at the record of the past year and a half.

We all know that 12 hearings have been held on this issue in the House. It appears that despite consistent, overwhelming testimony from all elements of the noncoal mining industry—these hearings are slated to continue ad infinitum with the committee showing no inclination to take action toward resolving the injustices found not just in the administration of the act—but in the act itself.

The first hearings on this issue were held March 20–21, 1979, for Members of the House to express their concerns. Thirty-five Members representing the minority and majority spoke on behalf of the need for change.

This was then followed with many days of hearings by concerned industry members and the labor interests—hearings which are still continuing.

The National Crushed Stone Association on June 25, spoke for the need for change. It represents an industry who's average size is 11 employees per operation.

On July 9, 1979, the National Sand and Gravel Association and National Industrial Sand Association, with an average of seven employees per site, spoke to the need for change in this act.

The Associated General Contractors, Pennsylvania Aggregates Association, North Carolina Aggregates Association, producers from Oklahoma and Pennsylvania, small independent clay and phosphate producers, lime producers, the National Association of Counties, and the National Clay Pipe Association all appeared before the subcommittee, and all stated that the MSHA act and the agency need change and are not applicable to these small operators who are located in every county in this country.

Even Lloyd McBride, president of the United Steelworkers testified that MSHA should change its procedures to include:

Citation-free technical advisory teams to assist operators with engineering recommendations during production cycles;

Regulatory inspections in which first-instance citations are issued upon discovery of violations during production cycles.[1]

This year the American Mining Congress testified with a detailed list of problems. The National Constructors Association has urged OSHA jurisdiction for their people when performing on-site construction activities. Yet the committee has indicated little if any desire to move on this issue.

The list of problems, inconsistencies and difficulties of MSHA continues. Two hundred and eighteen Members of this body have indicated support for a change in jurisdiction for these industries. The committee with jurisdiction has refused to move on this issue and, in fact, only one remaining hearing is planned.

This action would not change any provision of either OSHA or MSHA Act. By expanding this denial of funds from training to enforcement, section 4(b)(1) of the OSHA Act would come into play. This provision calls for OSHA to exercise control over any industry not being enforced under the aegis of another Federal law.

Finally, I would like to draw my colleagues attention to the December 26, 1979, press release from OSHA which indicates those small businesses with good safety records. These records are based on having a statistical injury/illness rate in 1977 of fewer than 7 per 100 full-time workers per year.

Nonmetallic, nonfuel minerals of which stone, sand and gravel are the vast majority, posted an injury/illness incidence rate of 5.1. Some of the other industries which did not have as good a record included:

Men's and boy's suits and coats	6.5
Newspapers	5.3
Leather gloves and mittens	6.4
Optical instruments and lenses	6.5
Watches, clocks and watchcases	5.5
Health services	6.9
Social Services	5.4

Certainly, there is always need in every industry and service to continually improve safety and health conditions. But the policeman approach of MSHA is not the answer. It appears methods of aggravation are the product—not constructive efforts to better safety.

This issue has been kicked around for over a year and half. To date the committee has shown no inclination to take the needed action.

I urge support for this amendment to move the stone, clay, sand and gravel industries from the heavy foot of MSHA to OSHA.

I urge the support of my colleagues. There have been over 21 hearings on this issue in the House, and yet we have not been able to have legislation to accomplish what this amendment does. I believe it should be accomplished, and I believe this is the way to do it.

I yield to my colleague Mr. Grassley, who I know has supported this concept.

Mr. GRASSLEY. I want to compliment the gentleman from California (Mr. Rousselot) for offering this amendment. Since limestone quarries and gravel pits have been included in MSHA, our owners and operators in Iowa have been harassed by Government inspectors in unbelievable numbers. They have tried to equate open quarry safety with coal mines. There is no comparisons.

Furthermore, if we proportionately had as many coal mine inspectors as quarry inspectors in my State we would have an army of them. It is probably the least cost-effective inspection done by the Federal Government.

I urge everybody to vote for this much needed amendment.

Mr. ROUSSELOT. I thank my colleague for his support. There is a question that needs to be answered:

The question is: Does the MSHA amendment create a void in Federal enforcement of safety and health standards over the surface mining of sand, gravel, stone, clay, and colloidal phosphate?

The answer: No. OSHA, under the Oc-

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[1] USW Testimony, October 23, 1979, p. 8.

cupational Safety and Health Act, has jurisdiction over these mines.

Let me give my colleagues the reasons:

First. OSHA by its terms applies to all employers engaged in a business affecting commerce, 29 U.S.C. § 652(5). Thus, OSHA legally covers mines which are also covered under the Mine Safety and Health Act of 1977.

Second. The drafters of OSHA realized that there was the potential problem of dual regulation. Thus they included in the act a deferral provision, 29 U.S.C. § 653(b)(1). It provides that where another Federal agency exercises its own statutory authority to prescribe or enforce occupational safety or health standards, then OSHA will not apply.

Third. The legislative history of OSHA shows that the key factor triggering deferral is the exercise of another agency's statutory authority. Mere existence of the authority is not sufficient to cause deferral. Thus the exercise of MSHA's statutory authority over mines has effectively deferred the exercise of OSHA's statutory authority over them.

Fourth. The appropriations limitation has the effect of not providing funding for fiscal year 1981 for the exercise of MSHA's statutory authority over the surface mines described in the pending amendment. Thus there will be no exercise of statutory authority by MSHA.

Fifth. The effect of this nonexercise under section 4(b)(1) of OSHA (29 U.S.C. 653(b)(1) thus triggers, by operation of existing law, the responsibility of OSHA to assume enforcement activity over the described surface mines.

I urge my colleagues to support this needed amendment.

Mr. GAYDOS. Mr. Chairman, I rise in opposition to the gentleman's amendment.

I just want to make a point to my colleagues, that historically there has been a distinction between usual occupations and mining as such. To state that the mining operations such as colloidal phosphate, surface clay, sand and gravel, and stone; to say that those are not mining operations is completely inaccurate. They are mines as such, always have been considered as mines.

In the last 100 years, under the court decisions, they have been identified as a mining operation. There has been a reason why distinctions have been made in the law between mining and the jurisdiction attaching thereto and OSHA. When you have a mine, you have a very dangerous operation. Proof of that very simple statement is that more than 50 percent of all the deaths and the injuries that occur in surface metal and nonmetallic mining occur in those four categories: Sand and gravel, surface clay, colloidal phosphate, and stone.

So, to say anything else, that it is not a dangerous operation, is a very inaccurate statement. There is a reason why, in the Mining Act, for instance, there are two required annual inspections of surface mines. Mining is inherently dangerous.

I ask my colleagues to keep that clear distinction in mind in turning down this amendment. This amendment should not be adopted. This amendment is not worth the paper it is written on. This amendment is unrealistic. I ask my colleagues to vote it down unanimously.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield briefly?

Mr. GAYDOS. I yield to the gentleman from California.

Mr. ROUSSELOT. Does my colleague know there are well over 210 Members in this House who are on a similar bill to what this amendment accomplishes? I made no such statement that there are not dangers involved, but that is what we created OSHA for. OSHA has overlapping jurisdiction which it has not exercised simply because MSHA has enforced its act.

I believe enforcement responsibility should be exercised by OSHA. As the gentleman knows, MSHA's standards are primarily directed to the risks and hazards of deep mining. Those unique risks and hazards simply do not exist in stone, sand, gravel operations. I hope my colleagues who cosponsored the legislation (H.R. 1603) will vote for the amendment.

Let me make an additional point on the issue of maximum safety to prevent fatalities.

By placing these operations under OSHA it is not by any means a foregone conclusion that fatalities will increase. Opponents of this amendment would have you believe that the safety standards of MSHA are uniquely tailored to provide maximum protection for stone, sand and gravel workers. I submit, however, that in reviewing the fatalities which occurred in this industry and the MHSA citations issued we have discovered that OSHA has identical standards and OSHA would be required to enforce these standards just as zealously as MSHA. Thus the transfer of enforcement to OSHA will not exact a lesser standard of care from the employers.

Mr. GAYDOS. I will respond and say that I did try to be as fair as I could. I held hearings during 1979 and 1980, and of course the question is raised, why no legislation as a result of those hearings? I have to be very frank in responding to my friend and say that when our colleagues came before the committee, and the other witnesses as well, it was clear that there are so many misconceptions floating around about MSHA, what it covers, what it does not cover, what the act requires, I could go down the litany, that the committee's job was to work with MSHA and endeavor to clarify these many misconceptions.

I have to respond finally to my friend and say that I have been fair. I have held hearings. I have asked my colleagues to come in and many did testify. I have done what I could do, and I must say that I am not in a position to recommend any type of legislation because of the difficulty I alluded to.

Mr. ROUSSELOT. Well, the gentleman does acknowledge, does he not, that OSHA has jurisdiction over these mines?

Mr. GAYDOS. Never. Let me respond for a point of clarification. OSHA jurisdiction never attached to the miners in this category. These mines were covered in 1966 by the Metal and Non-Metallic Act. There is no question about that. They were under the jurisdiction of the Department of Interior in 1977. They became subject to the jurisdiction of the Labor Department when MSHA was created as an agency separate from OSHA.

□ 1850

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not try to use all the time allotted, but I rise in strong opposition to this amendment.

I think that as we look at the number of workers that have been injured and killed in sand and gravel type of mines, obviously it motivates me to speak up for them and for others who are in danger of experiencing injury or death in a sand or gravel mine incident.

Earlier today this body passed an amendment exempting from OSHA inspection employees or OSHA-covered employers that have 10 or fewer employees from a random inspection if their injury rate was below the average. That particular amendment affected 53 percent of all employers and 12 percent of all employees who will not have an adequate OSHA safeguard, these employees will not have the review of their workplace so necessary to determine whether or not there are safety problems. Now this amendment is saying that we are going to remove the sand and gravel workplace from MSHA, a workplace that is really very, very dangerous in terms of injuries and death-related incidents, and we will not cover them in OSHA inspections because of the safety record. A lot of employees do not fit into these safety inspection classification because they end up dead; they end up buried in a sand pit or they end up buried in a gravel pit.

Those workers who need this protection are likely experiencing that particular circumstance. I think, that they deserve the best protection and the oversight possible from the Federal Government as they enjoy MSHA. Many States have opted for self regulation in OSHA.

But I do not think the Congress ought to turn its back on these workers who are experiencing the danger inherent in these mining environment workplaces and that is what this amendment effectively does. It turns its back on those few workers who need that minimal type of protection to insure that they do not experience a serious injury or death. That is what the amendment offered by the gentleman from California (Mr. ROUSSELOT) would accomplish by negating the coverage in MHSA and placing the workers in the watered down OSHA program, weakened specifically on this floor today.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I want to make a very significant point, if I may.

Everybody should understand that for over 10 years the miners have been subjected to MESA, in the Department of the Interior, and when we passed MSHA, that is, the Mining Safety and Health Act, they just took all the personnel and all the standards and just transferred them from the Department of the Interior over to the Department of Labor.

So this is not a new concept. This has

been in existence. The standards are there, and the trained personnel are there.

Mr. VENTO. Mr. Chairman, I commend the gentleman from Pennsylvania (Mr. Gaydos) for his remarks, and I think this amendment deserves a "no" vote.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. VENTO: I yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Chairman, I would point out to the gentleman from Minnesota (Mr. Vento) that first of all, under this amendment the workers are not left uncovered; they are still covered by OSHA.

Mr. VENTO. Mr. Chairman, I will take back my time.

The gentleman says they are still covered by OSHA, and we just passed an amendment which exempted from the OSHA inspections these particular sites, which, I tell the Members, are very dangerous. They cause a lot of problems in terms of injuries and deaths.

On an average basis, no. On an average basis, they do not cause that particular problem, but even though we have low numbers of injury, it only takes one injury before a death occurs. So even though the numbers might look good and they are exempt, I think they need to be covered; there needs to be inspection.

Mr. TAUKE. Mr. Chairman, if the gentleman will yield further, I suggest to the gentleman that the coverage received under MSHA by the people in the sand and gravel pits is not very adequate. The kind of training they receive is underground evacuation, for example, and this does not do a thing for sand and gravel pits in the State of Iowa. So we need the kind of coverage under MSHA which comes from OSHA in the sand and gravel pits.

Mr. VENTO. But, Mr. Chairman, that is the type of coverage that the House has proposed be removed in terms of inspection. The strategy here apparently is to weaken OSHA and remove the MSHA protection. That is the strategy that is being pursued, I think, and we ought to recognize it for what it is.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, there is no attempt to remove them from the general safety and health standards of OSHA, not at all. As a matter of fact, they had coverage before MSHA existed. So the gentleman's statement that it is an attempt to remove the coverage is not correct.

Mr. VENTO. Mr. Chairman, I will take back my time.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman is a true supporter of OSHA, then he knows OSHA has the capability to a greater degree to abide by the health and safety standards for these workers than does MSHA, because MSHA does not have the same requirements.

Mr. VENTO. Mr. Chairman, I hope that the points have been made clear in this limited time Mr. Chairman.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, before we hastily call for a vote and yell, "Vote, vote," let us understand something. Let us understand something from a businessman's standpoint.

I do not understand why we would take a set organization and then get into a whole transitional period when this organization has been working with sand and gravel over the years and now try to transfer it to OSHA.

I want the Members to understand something. We are not dealing with a bureaucracy here; we are dealing with the lives of young people who are killed.

On January 3, 1979, a gentleman from View, Tex., who was 22 years old, was crushed by a conveyor belt.

On January 24, 1979, a gentleman from Simi Valley, Calif., who was 43 years old, was pulled into a conveyor belt.

Then we find a gentleman from Mineral, Va., who was 51 years old, who fell into a crusher.

We are talking about people's lives here. This is the record in the sand and gravel industry: In 1974, 39 people were killed; in 1975, 21 were killed; in 1976, 24 were killed; in 1977, 26 were killed; in 1978, 25 were killed; and in 1979, 11 were killed.

The record shows that this organization has reduced fatalities. Before the Members yell, "Vote, vote, vote" on this amendment, I want to say that this is not a question of bureaucracy; it is a question of human lives. Sand and gravel people get equipment rolled on them, they drown in the quarry pools, and they get pulled into conveyors.

Mr. Chairman, we have an organization to oversee that worker's safety, and let us not give it up just because it is 7 o'clock at night.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, the gentleman from Pennsylvania (Mr. Gaydos) and the gentleman from California (Mr. Miller) have stated the facts most eloquently, as did our colleague, the gentleman from Minnesota (Mr. Vento).

The fact of the matter is that if this succeeds and this goes under OSHA, I would be amazed if they had one inspection in 5 years, as distinguished from the mandatory two inspections a year. And this is in the most dangerous occupation that one can think of, as the gentleman has just pointed out.

Mr. Chairman, this is a bad amendment.

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Chairman, I think our colleagues ought to remember the one important statistic. More deaths and injuries occur in surface mining operations in these four categories, that is, sand and gravel, hard rock, colloidal phosphates, and clay than in all other metal and nonmetallic mines.

Mr. MILLER of California. Mr. Chairman, if I may reclaim my time, I just want to tell the Members, in case they want to know, how this affects their districts.

These people who are killed come from South Bend; they come from Bath, Pa.; they come from Elberton, Ga.; they come from Petoskey, Mich.; they come from Red Oak, Ga.; they come from Columbus, Ga.; they come from Houston, Tex.; they come from Augusta, Iowa; and they come from Oxnard, Calif.

These are all young working people with families who are killed in this industry.

This is not just a question of voting to transfer jurisdiction; this is a question of fooling around with the lives of people who are out there working.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Rousselot).

The question was taken, and on a division (demanded by Mr. Rousselot) there were—ayes 66, noes 59.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hansen: At page 10, line 10, insert after "fishing:" the following new proviso: ": *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended for the acquisition by OSHA of warrants on an ex parte basis in advance of attempted entry of workplaces.".

□ 1900

Mr. NATCHER. Mr. Chairman, will the gentleman yield to me for 1 minute?

Mr. HANSEN. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, as I understand the parliamentary procedure at this point, this is the last amendment printed in the Record that will be considered. All other amendments that are submitted are to be voted upon but there will be no debate on the amendments since we fixed the time at 7 o'clock. Is that correct, Mr. Chairman?

The CHAIRMAN. The amendment offered by the gentleman from Idaho was not printed in the Record.

The gentleman from Idaho (Mr. Hansen) is recognized for 30 seconds.

Mr. HANSEN. Mr. Chairman, this amendment provides, very simply, that we hold OSHA inspections to the same procedures that the Congress authorized, to begin with, that no funds appropriated shall be obligated or expended for the acquisition by OSHA of warrants on an ex parte basis in advance of an attempted entry into workplaces. It is keeping faith with the employers who can volunteer and should volunteer their workplace for inspection before a warrant is issued.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. Hansen).

The question was taken; and on a division (demanded by Mr. Hansen) there were—ayes 22, noes 85.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

SEC. 103. No part of the funds appropriated under this title may be used to carry out any activities for or on behalf of any individual who is an alien in the United States in violation of the Immigration and Nationality Act or any other law of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: Page 14, after line 18, insert the following new section:

SEC. 104. None of the funds appropriated by the first three paragraphs of this title for emloyment and training administration program administration, employment and training assistance, and temporary employment assistance may be used to provide any assistance to any government of a nation other than the United States.

Mr. BUTLER. Mr. Chairman, I ask unanimous consent that I may have 30 seconds in which to explain the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

Mr. DAVIS of South Carolina. I object.

The CHAIRMAN. Objection is heard.

Mr. BUTLER. Mr. Chairman, I ask unanimous consent that I may have 15 seconds in which to explain the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BUTLER. Mr. Chairman, this amendment prohibits the use of CETA funds for manpower training programs in foreign countries. It is a practice which is now going on, as revealed by oversight hearings, and it should not be.

I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PANETTA: On page 51, after section 308, insert the following new section:

"SEC. 309. Nothing in this Act shall restrict the authority of the Secretary of Education to carry out the provisions of title VI of the Civil Rights Act of 1964."

And renumber the remaining sections accordingly.

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. OBEY. Mr. Chairman, reserving the right to object, I would be reluctant to having the amendment not read, unless the gentleman can explain it in very short order.

POINT OF ORDER

Mr. NATCHER. Mr. Chairman, as I recall now, in due deference to my friend, the gentleman from California, the time of 7 o'clock has been fixed, Mr. Chairman.

The CHAIRMAN. The point of order is well taken.

The Clerk will report the amendment.

Mr. PANETTA. Mr. Chairman, I ask unanimous consent that I be given 15 seconds in which to explain the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Chairman, I object to not reading the amendment.

Mr. PANETTA. Mr. Chairman, I withdraw my request.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk concluded the reading of the amendment.

Mr. BAUMAN. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. Does the gentleman renew his request for 15 seconds?

Mr. PANETTA. Mr. Chairman, I would renew my request to explain the amendment in 15 seconds.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from California (Mr. PANETTA) is recognized for 15 seconds.

Mr. PANETTA. Mr. Chairman, I have discussed this with both sides. I think they are agreeable to this. This basically implements the intent that most of the authors of the amendments have stated, that none of the amendments that have been adopted today in any way inhibit the enforcement of title VI.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Maryland (Mr. BAUMAN) insist on his point of order?

Mr. BAUMAN. Mr. Chairman, I make the point of order that it is legislation on an appropriation bill.

The CHAIRMAN. Does the gentleman from California (Mr. PANETTA) wish to be heard on the point of order?

Mr. PANETTA. Very briefly, Mr. Chairman.

I believe this is in line. As a proviso it does not in effect constitute legislation. It really would be a proviso with regard to the other amendments that were in fact adopted. I believe that it is parliamentarily acceptable.

The CHAIRMAN (Mr. FUQUA). The gentleman from Maryland (Mr. BAUMAN) makes a point of order on the amendment offered by the gentleman from California (Mr. PANETTA).

In reviewing the amendment, it appears that it is not in the form as submitted a restriction or a limitation on the expenditure of funds, or an exception therefrom, but rather does provide certain directions as the way in which the bill must be interpreted and, therefore, is legislation on an appropriation bill.

The Chair sustains the point of order.

Are there further amendments?

AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAWYER: Page 29, line 10, strike out the period and insert in lieu thereof the following: "; *Provided further*, That payments may not be made to people who live in institutions or other living arrangements where they are not vulnerable to energy cost increases."

Mr. SAWYER. Mr. Chairman, I ask unanimous consent to address the House for 10 seconds.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The gentleman from Michigan (Mr. SAWYER) is recognized for 10 seconds.

Mr. SAWYER. Mr. Chairman, this merely prohibits the debacle that occurred last time on a bill, when people in nursing homes, prisons, and everything, got the checks, and this makes sure that the money we send out goes to the people who need it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. SAWYER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I offer an amendment which has been printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. HANSEN: On page 9, line 13, strike out the figure "207,206,000" and insert the figure "181,520,000".

The CHAIRMAN. Was the gentleman's amendment printed in the RECORD?

Mr. HANSEN. It was, Mr. Chairman.

The CHAIRMAN. The gentleman from Idaho (Mr. HANSEN) is recognized for 5 minutes.

Mr. HANSEN. Mr. Chairman, I realize the hour is late. I will take about 1 minute.

I would like to say that my amendment would mean a savings of approximately $25 million to the American taxpayers, and at the same time force OSHA to become more efficient.

My proposal seeks to have the same effect as previous amendments to the fiscal year 1981 appropriations bill that was approved overwhelmingly by the House and Senate last year.

I would like to point out to all of my colleagues that this amendment is not meant to impose a hardship upon OSHA, but rather to force that agency to concentrate its resources in the areas of the most need and provide sufficient incentive for employers to obtain and maintain good safety records.

Mr. Chairman, I might say that the record is replete of OSHA going up and down the street, spending this time on inspections of a random nature, which even salesmen do not do any more, missionaries do not do, and OSHA is very out of date. They ought to be targeting the worst first, and they can do this if we cause them to have to take another look at their budget.

I urge the adoption of this amendment.

● Mr. SYMMS. Mr. Chairman, I rise in support of my colleague from Idaho Mr. HANSEN's amendment to the Labor/HEW appropriations bill to reduce the funding for the Occupational Safety and Health

Administration (OSHA) to the fiscal year 1980 level. This will bring OSHA's funding from the $207.2 million recommended by the committee down to $181.5 million, approximately a 12-percent reduction.

There are many reasons why we need to adopt this amendment. I know that all of us are extremely concerned about safety in the workplace, but I cannot see that OSHA has significantly curbed the number of injuries on the job despite the fact that Congress has spent over $1 billion for this agency over the years. In fact, since OSHA was created, the rate of serious work injuries has actually increased by 25 percent. It would seem that after 10 years of operation, this agency would have accomplished more in the way of decreasing deaths and injuries in the workplace.

I think that one of the main reasons OSHA has not been effective in lowering the number of fatalities and serious injuries in the workplace is that the agency has been spreading itself too thin by trying to conduct inspections of all businesses, including workplaces with good records of safety. And while OSHA has gone about its business of inspecting the premises of some of these small businesses who have good safety records, it has created a great deal of animosity and public controversy due to the actions of overzealous OSHA inspectors who harass and intimidate some of these small businessmen. I want to see that these types of unnecessary and counterproductive activities are eliminated. And the only way to halt these activities is to decrease the level of funds to OSHA so that they will have to concentrate their activities on the firms where there is a safety problem and stop bothering those businesses with good safety records.

I can well anticipate that some of the Members in this body are going to claim that this is some kind of attempt to gut the effectiveness of the agency and lessen our commitment to safety in the workplace. However, if we are truly concerned about worker safety, we should ask ourselves why OSHA has not been more effective, despite the fact that Congress increases its level of funding each year.

I say we should make OSHA more responsible and effective in the protection of the worker by forcing it to spend its time on inspecting those firms who have bad safety records where the health and safety of the workers are truly in jeopardy. I urge my colleagues to help bring about a better worker safety program by voting for the Hansen amendment. OSHA will then understand that it needs to retarget its operations and quit wasting time and money on areas where problems do not exist.

I thank the gentleman for providing me with this opportunity to speak in support of the Hansen amendment, and I wish to thank my colleague from Idaho (Mr. HANSEN) for all the fine work he is doing in this area to try and make OSHA a more responsible agency.●

Mr. NATCHER. Mr. Chairman, I rise in opposition to the amendment, and I yield at this time to the gentleman from Wisconsin (Mr. OBEY).

□ 1910

Mr. OBEY. Mr. Chairman, I would simply like to point out the fact that the increase to which the gentleman refers in the budget for OSHA is for two items. No. 1 is mandatory pay items and mandatory rent increases which we cannot do anything about.

No. 2, the increases which this Congress mandated OSHA to provide fine-free consultation service to small businesses who are asking for an opportunity to talk to OSHA about what they do to get in compliance without being subjected to fines if they are out of compliance.

So both of these are required by initiatives taken by the Congress itself. If this body wants businessmen to have to proceed without being able to consult with OSHA before they get hit with a fine, go ahead and vote for the Hansen amendment. If this body thinks it is a useful service to small business to provide some advice to them without fines being allowed, then vote against it.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I will be very brief because the hour is late.

I agree with the gentleman from Wisconsin. Just like everything else in this budget, this is a barebone budget. The administration had asked for $209,580,000. The committee cut that down to $207,206,000. We have been very, very diligent. We cut that budget down. I know the gentleman is not completely satisfied, but we did a good job. It is a barebone budget. And, I might add that if we expect OSHA to meet our mandates we must provide it with adequate funding to do so.

I hope the amendment is defeated.

Mr. NATCHER. Mr. Chairman, I ask for a vote on this amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. HANSEN).

The amendment was rejected.

Mr. NATCHER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FUQUA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7998) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1981, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 320, nays 83, not voting 29, as follows:

[Roll No. 502]

YEAS—320

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Burton, Phillip
Butler
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frost
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hall, Ohio
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutchinson
Hutto
Hyde
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lehman
Leland
Lent
Levitas
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts

Robinson
Rodino
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Shelby
Simon
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wirth
Wolff
Wolpe
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—83

Archer
Ashbrook
AuCoin
Badham
Barnard
Bauman
Bennett
Broyhill
Burgener
Burton, John
Campbell
Cheney
Cleveland
Collins, Tex.
Conable
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derwinski
Dickinson
Edwards, Okla.
English
Evans, Ind.
Fenwick
Fowler
Frenzel
Gephardt
Goldwater
Gradison
Gramm
Grisham
Hagedorn
Hall, Tex.
Hance
Hansen
Holt
Hughes
Ireland
Jeffries
Jenkins
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lewis
Livingston
Loeffler
Luken
Lungren
McDonald
Marlenee
Mathis
Mattox
Miller, Calif.
Miller, Ohio
Moorhead, Calif.
Mottl
Nelson
Pashayan
Paul
Ritter
Rousselot
Rudd
Satterfield
Sensenbrenner
Shumway
Shuster
Skelton
Solomon
Stenholm
Stockman
Stump
Taylor
Thomas
Walker
Weaver
Wyatt

NOT VOTING—29

Abdnor
Anderson, Ill.
Bowen
Byron
Carney
Carr
Conyers
Devine
Dodd
Giaimo
Holtzman
Ichord
Kemp
Leach, La.
Lederer
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Nichols
Railsback
Roe
Symms
Vander Jagt
Waxman
Wilson, C. H.
Wilson, Tex.
Young, Alaska

☐ 1920

The Clerk announced the following pairs:

Mr. Murphy of New York with Mr. Carney.

Mr. Nichols with Mr. Young of Alaska.

Mr. Lederer with Mr. Railsback.

Mr. Murphy of Illinois with Mr. Devine.

Mr. Moorhead of Pennsylvania with Mr. Abdnor.

Mr. Myers of Pennsylvania with Mr. Kemp.

Mr. Nedzi with Mr. Symms.

Mr. Dodd with Mr. Vander Jagt.

Mr. Bowen with Mr. Giaimo.

Mr. Roe with Mr. Charles H. Wilson of California.

Mr. Charles Wilson of Texas with Mr. Conyers.

Mr. Carr with Mr. Leach of Louisiana.

Mr. Ichord with Ms. Holtzman.

Mr. Waxman with Mrs. Byron.

Mr. DECKARD changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1930

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to insert in the RECORD at this point a detailed table showing the amounts in H.R. 7998, just passed, by each of the programs funded in the bill, together with appropriate comparisons.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The tables referred to follow:

H.R. 7998—FISCAL YEAR 1981 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

	Revised fiscal year 1980 comparable	Fiscal year 1981 budget	Fiscal year 1981 House bill	House bill compared to fiscal 1981 budget	House bill compared to fiscal year 1980 appropriation
SUMMARY					
Title I—Department of Labor:					
Federal funds	$13,184,334,000	$12,170,188,000	$11,892,977,000	−$277,211,000	−$1,291,357,000
Trust funds	(1,959,051,000)	(2,170,172,000)	(2,170,172,000)		(+211,121,000)
Unauthorized, not considered: Federal funds	(325,000,000)	(150,000,000)		(−150,000,000)	(−325,000,000)
Title II—Department of Health and Human Services:					
Federal funds	51,836,110,000	57,457,179,000	57,120,574,000	−336,605,000	+5,284,464,000
Trust funds	(3,324,855,000)	(3,592,424,000)	(3,562,340,000)	(−30,084,000)	(+237,485,000)
Unauthorized, not considered: Federal funds	(607,679,000)	(459,331,000)		(−459,331,000)	(−607,679,000)
Title III—Department of Education: Federal funds	14,069,768,855	13,515,953,000	14,137,984,000	+622,031,000	+68,215,145
Title IV—Related agencies:					
Federal funds	1,351,299,000	1,414,044,000	1,400,175,000	−13,869,000	+48,876,000
Trust funds	(39,730,000)	(36,750,000)	(36,750,000)		(−2,980,000)
Grand total, direct appropriations all titles:					
Federal funds	80,441,511,855	84,557,364,000	84,551,710,000	−5,654,000	+4,110,198,145
Trust funds	(5,323,636,000)	(5,779,346,000)	(5,769,262,000)	(−30,084,000)	(+445,626,000)
Unauthorized, not considered: Federal funds	(932,679,000)	(609,331,000)		(−609,331,000)	(−932,679,000)
TITLE I—DEPARTMENT OF LABOR					
EMPLOYMENT AND TRAINING ADMINISTRATION					
PROGRAM ADMINISTRATION					
Planning, evaluation and research	4,585,000	4,058,000	4,058,000		−537,000
Trust funds	(346,000)	(345,000)	(345,000)		(−1,000)
Comprehensive employment development	39,709,000	39,907,000	39,907,000		+198,000
Trust funds	(51,000)	(51,000)	(51,000)		
Apprenticeship services	14,497,000	14,111,000	14,111,000		−386,000
U.S. Employment Service	1,225,000	902,000	902,000		−323,000
Trust funds	(9,864,000)	(9,697,000)	(9,697,000)		(−167,000)
Veterans Employment Service: Trust funds	(7,251,000)	(7,202,000)	(7,202,000)		(−49,000)
Unemployment insurance service	161,000	162,000	162,000		+1,000
Trust funds	(9,286,000)	(9,234,000)	(9,234,000)		(−52,000)
Equal opportunity and special review	3,865,000	3,656,000	3,656,000		−209,000
Trust funds	(559,000)	(556,000)	(556,000)		(−3,000)
Executive direction and management	25,990,000	25,966,000	25,966,000		−24,000
Trust funds	(7,899,000	(8,130,000)	(8,130,000)		(+231,000)
Total, program adminstration	125,288,000	123,977,000	123,977,000		−1,311,000
Federal funds	90,032,000	88,762,000	88,762,000		−1,270,000
Trust funds	(35,256,000)	(35,215,000)	(35,215,000)		(−41,000)
EMPLOYMENT AND TRAINING ASSISTANCE					
General training and employment program (CETA, title II):					
Employment and training services (title II A, B, C)	2,054,000,000	2,117,000,000	2,117,000,000		+63,000,000
Public service employment (title II-D)	1,485,000,000	2,435,800,000	2,199,000,000	−236,800,000	+714,000,000
(Deferrals nonadd)	(−28,000,000)				(+28,000,000)
Subtotal, (title II)	2,539,000,000	4,552,800,000	4,316,000,000	−236,800,000	+777,000,000
Youth programs:					
Special programs (CETA, title IV):					
Youth employment and training programs	692,086,000				−692,086,000
Youth community conservation and improvement program	134,008,000				−134,008,000
Young adult conservation corps (title VIII)	250,254,000	123,872,000	136,000,000	+12,128,000	−114,254,000
(Deferral, nonadd)	(−13,760,000)				(+13,760,000)
Summer youth employment program (CETA, title IV)	608,567,000	839,008,000	839,008,000		+230,441,000
Job Corps (CETA, title IV)	427,700,000	560,683,000	560,683,000		+132,983,000
Subtotal, youth programs	2,112,615,000	1,523,563,000	1,535,691,000	+12,128,000	−576,924,000
National programs (CETA, title III)	528,678,000	330,572,000	305,072,000	−25,500,000	−223,606,000
Welfare reform projects (nonadd)	(175,000,000)				(−175,000,000)
Private sector programs (CETA, title VII) (unauthorized)	(325,000,000)	(150,000,000)	...	...	...

H.R. 7998—FISCAL YEAR 1981 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	Revised fiscal year 1980 comparable	Fiscal year 1981 budget	Fiscal year 1981 House bill	House bill compared to fiscal year 1981 budget	House bil compared to fiscal year 1980 appropriation
EMPLOYMENT AND TRAINING ASSISTANCE—Continued					
Total, employment and training resistance	$6, 180, 293, 000	$6, 406, 935, 000	$6, 156, 763, 000	−$250, 172, 000	−$23, 530, 000
Temporary Employment Assistance (CETA, title VI)	1, 627, 000, 000	1, 293, 000, 000	1, 293, 000, 000		−334, 000, 000
(Deferral, nonadd)	(−203, 000, 000)				(+203, 000, 000)
Subtotal, Comprehensive Employment and Training Act (CETA)	7, 807, 293, 000	7, 699, 935, 000	7, 449, 763, 000	−250, 172, 000	−357, 530, 000
Unauthorized, not considered	(325, 000, 000)	(150, 000, 000)	* * *	* * *	* * *
Community Services Employment for Older Americans	266, 900, 000	267, 100, 000	277, 100, 000	+10, 000, 000	+10, 200, 000
FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES					
Payments to former Federal personnel	518, 000, 000	611, 000, 000	611, 000, 000		+93, 000, 000
Trade adjustment assistance	381, 000, 000	413, 000, 000	413, 000, 000		+32, 000, 000
Unemployment assistance and payments under other Federal unemployment programs	51, 000, 000	236, 000, 000	236, 000, 000		+185, 000, 000
Total, FUBA	950, 000, 000	1, 260, 000, 000	1, 260, 000, 000		+310, 000, 000
GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES					
Unemployment insurance service	(832, 200, 000)	(965, 800, 000)	(965, 900, 000)		(+133, 600, 000)
Employment services:					
Federal funds	22, 300, 000	24, 500, 000	24, 500, 000		+2, 200, 000
Trust funds	(665, 990, 000)	(731, 000, 000)	(731, 000, 000)		(+65, 010, 000)
Subtotal, employment services	688, 290, 000	755, 500, 000	755, 500, 000		+67, 210, 000
Contingency fund	(423, 010, 000)	(435, 500, 000)	(435, 500, 000)		(+12, 490, 000)
Total, grants to States	1, 943, 500, 000	2, 156, 800, 000	2, 156, 800, 000		+213, 300, 000
Federal funds	22, 300, 000	24, 500, 000	24, 500, 000		+2, 200, 000
Trust funds	(1, 921, 200, 000)	(2, 132, 300, 000)	(2, 132, 300, 000)		(+211, 100, 000)
Advances to Unemployment Trust Fund and Other Funds	1, 741, 000, 000	670, 000, 000	660, 000, 000	−10, 000, 000	−1, 081, 000, 000
Advance appropriation for 1981	400, 000, 000				−400, 000, 000
Total, Employment and Trained Administration	13, 233, 981, 000	12, 177, 812, 000	11, 927, 640, 000	−250, 172, 000	−1, 306, 341, 000
Federal funds	11, 277, 525, 000	10, 010, 297, 000	9, 760, 125, 000	−250, 172, 000	−1, 517, 400, 000
Trust funds	(1, 956, 456, 000	(2, 167, 515, 000)	(2, 167, 515, 000)		(+211, 059, 000)
LABOR-MANAGEMENT SERVICES ADMINISTRATION					
SALARIES AND EXPENSES					
Labor-management relations policy and service	4, 029, 000	4, 526, 000	4, 526, 000		+497, 000
Labor-management standards enforcement	16, 648, 000	16, 777, 000	16, 777, 000		+129, 000
Veterans reemployment rights	2, 494, 000	2, 589, 000	2, 589, 000		+95, 000
Pension and welfare benefit programs	28, 827, 000	31, 773, 000	31, 773, 000		+2, 946, 000
Executive direction, management and support	4, 169, 000	4, 169, 000	4, 169, 000		+3, 000
Undistributed funds			−673, 000	−673, 000	−673, 000
Total, LMSA	56, 164, 000	59, 834, 000	59, 161, 000	−673, 000	+2, 997, 000
EMPLOYMENT STANDARDS ADMINISTRATION					
SALARIES AND EXPENSES					
Improving and protecting wages	64, 814, 000	64, 641, 000	64, 641, 000		+457, 000
Elimination of discrimination in employment	51, 646, 000	54, 037, 000	54, 037, 000		+2, 391, 000
Workers' compensation	36, 920, 000	41, 135, 000	41, 135, 000		+4, 215, 000
Trust funds	(352, 000)	(364, 000)	(364, 000)		(+12, 000)
Program development and administration	16, 055, 000	16, 499, 000	16, 499, 000		+444, 000
Undistributed Federal funds			−5, 255, 000	−5, 255, 000	−5, 255, 000
Total, salaries and expenses	169, 157, 000	176, 676, 000	171, 421, 000	−5, 255, 000	+2, 264, 000
Federal funds	168, 805, 000	176, 312, 000	171, 057, 000	−5, 255, 000	+2, 252, 000
Trust funds	(352, 000)	(364, 000)	(364, 000)		(+12, 000)
SPECIAL BENEFITS					
Federal employees compensation act benefits	279, 017, 000	400, 474, 000	400, 474, 000		+121, 457, 000
Longshore and harbor workers' benefits	3, 369, 000	3, 672, 000	3, 672, 000		+303, 000
Total, special benefits	282, 386, 000	404, 146, 000	404, 146, 000		+121, 760, 000
BLACK LUNG DISABILITY TRUST FUND					
Benefit payments	826, 419, 000	900, 731, 000	890, 731, 000	−10, 000, 000	+64, 312, 000
Employment Standards Administration, salaries and expenses	22, 227, 000	20, 970, 000	20, 970, 000		−1, 257, 000
Departmental Management, salaries and expenses	10, 677, 000	10, 543, 000	10, 543, 000		−134, 000
Total, Black Lung Disability Trust Fund	859, 323, 000	932, 244, 000	922, 244, 000	−10, 000, 000	+62, 921, 000
Treasury administrative costs (indefinite)	756, 000	756, 000	756, 000		
Total, Employment Standards Administration	1, 311, 622, 000	1, 513, 822, 000	1, 498, 567, 000	−15, 255, 000	+186, 945, 000
Federal funds	1, 311, 270, 000	1, 513, 458, 000	1, 498, 203, 000	−15, 255, 000	+186, 933, 000
Trust funds	(352, 000)	(364, 000)	(364, 000)		(+12, 000)
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION					
SALARIES AND EXPENSES					
Safety and health standards	6, 510, 000	8, 721, 000	8, 721, 000		+2, 211, 000
Enforcement:					
Federal enforcement	78, 048, 000	84, 245, 000	84, 245, 000		+6, 197, 000
State programs	42, 360, 000	43, 500, 000	43, 500, 000		+1, 140, 000
Technical support	13, 024, 000	16, 727, 000	16, 727, 000		+3, 703, 000
Compliance assistance	32, 176, 000	41, 689, 000	41, 689, 000		+9, 513, 000
Safety and health statistics	6, 906, 000	6, 973, 000	6, 973, 000		+67, 000
Executive direction and administration	7, 370, 000	7, 725, 000	7, 725, 000		+335, 000
Undistributed funds			−2, 374, 000	−2, 374, 000	−2, 374, 000
Total, OSHA	186, 394, 000	209, 580, 000	207, 206, 000	−2, 374, 000	+20, 812, 000
MINE SAFETY AND HEALTH ADMINISTRATION					
SALARIES AND EXPENSES					
Enforcement:					
Coal	58, 614, 000	61, 778, 000	61, 778, 000		+3, 164, 000
Metal/nonmetal	30, 165, 000	32, 079, 000	32, 079, 000		+1, 914, 000
Standards development	1, 909, 000	1, 659, 000	1, 659, 000		−250, 000
Assessments	6, 755, 000	6, 777, 000	6, 777, 000		+22, 000
National Mine Health and Safety Academy	6, 914, 000	5, 229, 000	5, 229, 000		−1, 685, 000

H.R. 7998—FISCAL YEAR 1981 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	Revised fiscal year 1980 comparable	Fiscal year 1981 budget	Fiscal year 1981 House bill	House bill compared to fiscal year 1981 budget	House bill compared to fiscal year 1980 appropriation
Education and training	$11,608,000	$11,770,000	$11,770,000		$+162,000
Technical support	18,545,000	22,961,000	22,961,000		+4,416,000
Program administration	9,055,000	11,927,000	11,927,000		+2,872,000
Undistributed funds			−5,782,000	$−5,782,000	−5,782,000
Total, Mine Safety and Health Administration	143,565,000	154,180,000	148,398,000	−5,782,000	+4,833,000
BUREAU OF LABOR STATISTICS					
SALARIES AND EXPENSES					
Labor force statistics	40,450,000	39,820,000	39,820,000		−630,000
Prices and cost of living	34,632,000	37,533,000	37,533,000		+2,901,000
Wages and industrial relations	13,221,000	13,032,000	13,032,000		−189,000
Productivity and technology	3,220,000	3,551,000	3,551,000		+331,000
Economic growth	798,000	762,000	762,000		−36,000
Executive direction and staff services	10,569,000	11,626,000	11,626,000		+1,057,000
Total, Bureau of Labor Statistics	102,890,000	106,324,000	106,324,000		+3,434,000
DEPARTMENTAL MANAGEMENT					
SALARIES AND EXPENSES					
Executive direction	9,473,000	10,012,000	10,012,000		+539,000
Legal services	29,785,000	32,424,000	32,424,000		+2,639,000
Trust funds	(207,000)	(212,000)	(212,000)		(+5,000)
International labor affairs	8,917,000	9,179,000	9,179,000		+262,000
Administration and management	15,313,000	15,893,000	15,893,000		+580,000
Adjudication	5,790,000	8,072,000	8,072,000		+2,282,000
Promoting employment of the handicapped	1,642,000	1,734,000	1,734,000		+92,000
Women's Bureau	3,237,000	3,837,000	3,837,000		+600,000
Inspector General	31,052,000	34,249,000	34,249,000		+3,197,000
Trust funds	(2,036,000)	(2,081,000)	(2,081,000)		(+45,000)
Minimum Wage Study Commission	1,247,000	1,045,000	1,045,000		−202,000
Undistributed Federal funds			−2,955,000	−2,955,000	−2,955,000
Total, salaries and expenses	108,699,000	118,738,000	115,783,000	−2,955,000	+7,084,000
Federal funds	106,456,000	116,445,000	113,490,000	−2,955,000	+7,034,000
Trust funds	(2,243,000)	(2,293,000)	(2,293,000)		(+50,000)
Special foreign currency program	70,000	70,000	70,000		
Total, departmental management	108,679,000	118,808,000	115,853,000	−2,955,000	+7,084,000
Federal funds	106,526,000	116,515,000	113,560,000	−2,955,000	+7,034,000
Trust funds	(2,243,000)	(2,293,000)	(2,293,000)		(+50,000)
Total, Labor Department	15,143,385,000	14,340,360,000	14,063,149,000	−277,211,000	−1,080,236,000
Federal funds	13,184,334,000	12,170,188,000	11,892,977,000	−277,211,000	−1,291,357,000
Trust funds	(1,959,051,000)	(2,170,172,000)	(2,170,172,000)		(+211,121,000)
Unauthorized, not considered	(325,000,000)	(150,000,000)	•••	•••	•••
TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES					
PUBLIC HEALTH SERVICE HEALTH SERVICES ADMINISTRATION					
HEALTH SERVICES					
Community health services:					
Community health centers:					
Primary health care centers	320,000,000	353,094,000	325,000,000	−28,094,000	+5,000,000
Research and demonstration center	10,000,000		7,000,000	+7,000,000	−3,000,000
Black lung services	4,500,000	4,500,000	4,500,000		
Subtotal	334,500,000	357,594,000	336,500,000	−21,094,000	+2,000,000
Home health services	5,000,000		4,000,000	+4,000,000	−1,000,000
Hypertension	20,000,000	20,000,000	20,000,000		
Maternal and child health:					
Grants to States	345,500,000	357,400,000	357,400,000		+11,900,000
Sudden infant death syndrome	2,802,000	2,802,000	2,802,000		
MCH research and training	30,843,000	24,043,000	30,000,000	+5,957,000	−843,000
Subtotal	379,145,000	384,245,000	390,202,000	+5,957,000	+11,057,000
Genetic services	14,567,000	14,945,000	16,445,000	+1,500,000	+1,878,000
Family planning	162,000,000	162,047,000	166,047,000	+4,000,000	+4,047,000
Migrant health	39,700,000	44,700,000	43,400,000	−1,300,000	+3,700,000
National Health Service Corps (unauthorized)	(74,075,000)	(87,232,000)	•••	•••	•••
Program support	33,874,000	38,709,000	36,000,000	−2,709,000	+2,126,000
Subtotal, community health services	988,786,000	1,022,240,000	1,012,594,000	−9,646,000	+23,808,000
Health care services and systems:					
Patient care and special health services:					
PHS hospitals and clinics	171,171,000	164,033,000	164,033,000		−7,138,000
Federal employee health	758,000	792,000	792,000		+34,000
Payments to Hawaii	1,800,000	1,800,000	1,800,000		
Subtotal	173,729,000	166,625,000	166,625,000		−7,104,000
Emergency medical services	32,125,000	21,100,000	30,000,000	+8,900,000	−2,125,000
Program support	10,039,000	10,021,000	10,021,000		−18,000
Subtotal, Health care services and systems	215,893,000	197,746,000	206,646,000	+8,900,000	−9,247,000
Refugee assistance	36,000,000				−36,000,000
Buildings and facilities	3,000,000	4,769,000	4,769,000		+1,769,000
Program management	7,674,000	7,778,000	7,778,000		+104,000
Total, Health Services	1,251,353,000	1,232,533,000	1,231,787,000	−746,000	−19,566,000
Unauthorized, not considered	(74,075,000)	(87,232,000)	•••	•••	•••
CENTER FOR DISEASE CONTROL					
PREVENTIVE HEALTH SERVICES					
Disease control:					
Basic preventive health programs:					
Health incentive grants	68,000,000		36,000,000	+36,000,000	−32,000,000
Risk reduction and health education	13,500,000	13,717,000	13,717,000		+217,000
Subtotal	81,500,000	13,717,000	49,717,000	+36,000,000	−31,783,000
Disease prevention program:					
Venereal diseases	47,255,000	47,637,000	47,637,000		+382,000
Immunization	30,148,000	30,422,000	30,422,000		+274,000
Fluoridation	6,762,000	6,813,000	6,813,000		+51,000
Subtotal	84,165,000	84,872,000	84,872,000		+707,000

H.R. 7998—FISCAL YEAR 1981 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	Revised fiscal year 1980 comparable	Fiscal year 1981 budget	Fiscal year 1981 House bill	House bill compared to fiscal year 1981 budget	House bill compared to fiscal year 1980 appropriation
TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES—Continued					
CENTER FOR DISEASE CONTROL—Continued					
PREVENTIVE HEALTH SERVICES—Continued					
Control of chronic conditions:					
Chronic diseases	$17,668,000	$19,284,000	$19,284,000		+$1,616,000
Environmental hazards:					
Urban rat control	14,522,000	13,538,000	13,538,000		−984,000
Leadbased paint poisoning prevention	11,790,000	10,805,000	10,805,000		−985,000
Other environmental hazards	3,703,000	5,223,000	5,223,000		+1,520,000
Subtotal, control of chronic conditions	47,683,000	48,850,000	48,850,000		+1,167,000
Subtotal, disease control	213,318,000	147,439,000	183,439,000	+$36,000,000	−29,909,000
Occupational safety and health:					
Research	61,485,000	62,383,000	62,383,000		+898,000
Training	13,850,000	14,252,000	14,252,000		+402,000
Program support	4,217,000	4,546,000	4,546,000		+329,000
Subtotal	79,552,000	81,181,000	81,181,000		+1,629,000
Epidemology services	27,019,000	29,153,000	29,153,000		+2,134,000
Technology development and application	24,874,000	26,823,000	26,823,000		+1,949,000
Buildings and facilities	11,436,000	4,951,000	4,951,000		−6,485,000
Program management	3,703,000	3,894,000	3,894,000		+191,000
Total, preventive health services	359,932,000	293,441,000	329,441,000	+36,000,000	−30,491,000
NATIONAL INSTITUTES OF HEALTH					
National Cancer Institute	999,254,000	965,105,000	1,001,330,000	+36,225,000	+2,076,000
National Heart, Lung, and Blood Institute	527,682,000	532,799,000	560,264,000	+27,465,000	+32,582,000
National Institute of Dental Reservch	68,368,000	69,951,000	71,206,000	+1,255,000	+2,838,000
National Institute of Arthritis, Metabolism, and Digestive Diseases	341,367,000	361,211,000	371,993,000	+10,782,000	+30,626,000
National Institute of Neurological and Communicative Disorders and Stroke	242,094,000	246,807,000	253,838,000	+7,031,000	+11,744,000
National Institute of Allergy and Infectious Diseases	215,487,000	226,412,000	232,355,000	+5,943,000	+16,868,000
National Institute of General Medical Sciences	312,478,000	328,139,000	335,676,000	+7,537,000	+23,198,000
National Institute of Child Health and Human Development	209,034,000	215,031,000	223,565,000	+8,534,000	+14,531,000
National Eye Institute	113,034,000	115,562,000	120,254,000	+4,692,000	+7,220,000
National Institute of Environmental Health Sciences	83,912,000	93,769,000	97,269,000	+3,500,000	+13,357,000
National Institute on Aging	70,000,000	74,317,000	76,091,000	+1,774,000	+6,091,000
Research Resources	169,199,000	173,878,000	184,439,000	+10,561,000	+15,240,000
John E. Fogarty International Center	8,989,000	9,138,000	9,138,000		+149,000
Subtotal	3,360,898,000	3,412,119,000	3,537,418,000	+125,299,000	+176,520,000
National Library of Medicine	44,000,000	44,389,000	44,730,000	+341,000	+730,000
Buildings and facilities	3,250,000	11,750,000	11,750,000		+8,500,000
Office of the Director	20,995,000	22,189,000	22,549,000	+360,000	+1,554,000
Total, National Institutes of Health	3,429,143,000	3,490,447,000	3,616,447,000	+126,000,000	+187,304,000
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION					
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH					
General mental health:					
Research	141,192,000	156,458,000	147,000,000	−9,458,000	+5,808,000
Unauthorized, not considered (rape program)	(4,058,000)	(5,718,000)	* * *	* * *	* * *
Training	90,354,000	90,354,000	93,854,000	+3,500,000	+3,500,000
Community programs:					
Mental health centers (continuations only)	235,411,000	257,294,000	253,000,000	−4,294,000	+17,589,000
Demonstrations	7,600,000	47,100,000	20,000,000	−27,100,000	+12,400,000
Unauthorized, not considered	(50,932,000)	(63,361,000)	* * *	* * *	* * *
Program support	34,943,000	38,061,000	37,000,000	−1,061,000	+2,057,000
Subtotal, general mental health	509,500,000	589,267,000	550,854,000	−38,413,000	+41,354,000
Unauthorized, not considered	(54,990,000)	(69,079,000)	* * *	* * *	* * *
Drug abuse:					
Research	46,000,000	50,192,000	46,000,000	−4,192,000	
Training	8,680,000	7,644,000	7,644,000		−1,036,000
Community programs:					
Project grants and contracts	161,000,000	161,000,000	161,000,000		
Grants to States	38,000,000		30,000,000	+30,000,000	−8,000,000
Program support	18,540,000	19,448,000	19,448,000		+908,000
Subtotal, drug abuse	272,220,000	238,284,000	264,092,000	+25,808,000	−8,128,000
Alcoholism:					
Research	22,251,000	25,141,000	22,251,000	−2,890,000	
Training	7,200,000	5,821,000	5,821,000		−1,379,000
Community programs:					
Project grants and contracts	78,706,000	108,308,000	73,000,000	−35,308,000	−5,706,000
Grants to States	54,800,000		50,000,000	+50,000,000	−4,800,000
Program support	10,167,000	10,841,000	10,167,000	−674,000	
Subtotal, alcoholism	173,124,000	150,111,000	161,239,000	+11,128,000	−11,885,000
Building and facilities		5,425,000	5,425,000		+5,425,000
Program management	9,814,000	10,867,000	10,867,000		+1,053,000
Total, Alcohol, drug abuse and mental health	964,658,000	993,954,000	992,477,000	−1,477,000	+27,819,000
Unauthorized, not considered	(54,990,000)	(69,079,000)	* * *	* * *	* * *
St. Elizabeths Hospital	89,084,000	94,273,000	94,273,000		+5,189,000
Construction and renovation (St. Elizabeths Hospital)		1,500,000	1,500,000		+1,500,000
Total, ADAMHA	1,053,742,000	1,089,727,000	1,088,250,000	−1,477,000	+34,508,000
HEALTH RESOURCES ADMINISTRATION					
HEALTH RESOURCES					
Health planning and resources development:					
Health planning:					
Local planning and implementation	124,717,000	86,717,000			
State planning and regulation	32,000,000	32,000,000			
Technical assistance	1,000,000	1,700,000			
Program support	9,622,00	9,685,000			
Subtotal, health planning	167,339,000	130,102,000	145,102,000	+15,000,000	−22,237,000
Health facility financing, compliance, and conversion:					
Health teaching facilities	5,300,000	4,300,000	4,300,000		−1,000,000
Program support	4,328,000	4,752,000	4,752,000		+424,000

H.R. 7998—FISCAL YEAR 1981 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	Revised fiscal year 1980 comparable	Fiscal year 1981 budget	Fiscal year 1981 House bill	House bill compared to fiscal year 1981 budget	House bill compared to fiscal year 1980 appropriation
TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES—Continued					
HEALTH RESOURCES ADMINISTRATION—Continued					
HEALTH RESOURCES—Continued					
Health professions education (unauthorized)	($478, 614, 000)	($303, 020, 000)	• • •	• • •	• • •
HRA program management	12, 898, 000	14, 302, 000	$14, 106, 000	−$196, 000	+$1, 208, 000
Total, health resources	189, 865, 000	153, 456, 000	168, 260, 000	+14, 804, 000	−21, 605, 000
Unauthorized, not considered	(478, 614, 000)	(303, 020, 000)	• • •	• • •	• • •
Payment of Sales Insufficiencies	2, 000, 000				−2, 000, 000
Medical Facilities Guarantee and Loan Fund	45, 000, 000				−45, 000, 000
Total, Health Resources Administration	236, 865, 000	153, 456, 000	168, 260, 000	$+14, 804, 000	−68, 605, 000
Unauthorized, not considered	(478, 614, 000)	(303, 020, 000)	• • •	• • •	• • •
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH					
SALARIES AND EXPENSES					
Program operations:					
Health statistics:					
National health surveys and analysis	25, 420, 000	28, 860, 000	28, 860, 000		+3, 440, 000
Cooperative health statistics	14, 578, 000	6, 658, 000	6, 658, 000		−7, 920, 000
Program support	3, 052, 000	3, 197, 000	3, 197, 000		+145, 000
Subtotal	43, 050, 000	38, 715, 000	38, 715, 000		−4, 335, 000
Health services research:					
Research	22, 449, 000	26, 779, 000	23, 177, 000	−3, 602, 000	+728, 000
Program support	7, 257, 000	7, 755, 000	7, 755, 000		+498, 000
Subtotal	29, 706, 000	34, 534, 000	30, 932, 000	−3, 602, 000	+1, 226, 000
Health care technology:					
Research	1, 990, 000	3, 420, 000	2, 670, 000	−750, 000	+680, 000
Program support	1, 260, 000	1, 330, 000	1, 330, 000		+70, 000
Subtotal	3, 250, 000	4, 750, 000	4, 000, 000	−750, 000	+750, 000
Program management	687, 000	732, 000	732, 000		+45, 000
Subtotal program operations	76, 693, 000	78, 731, 000	74, 379, 000	−4, 352, 000	−2, 314, 000
Health maintenance organizations:					
HMO development activities	43, 813, 000	50, 900, 000	43, 813, 000	−7, 087, 000	
Management training and technical assistance	1, 500, 000	1, 500, 000	1, 500, 000		
Program support	9, 067, 000	9, 977, 000	9, 977, 000		+910, 000
Subtotal, health maintenance organizations	54, 380, 000	62, 377, 000	55, 290, 000	−7, 087, 000	+910, 000
Special health initiatives:					
Adolescent health	7, 500, 000	8, 700, 000	10, 000, 000	+1, 300, 000	+2, 500, 000
Smoking and health	12, 500, 000	13, 042, 000	13, 042, 000		+542, 000
Health promotion	1, 652, 000	5, 278, 000	3, 278, 000	−2, 000, 000	+1, 626, 000
International health	700, 000	790, 000	790, 000		+90, 000
Physical fitness and sports	882, 000	942, 000	942, 000		+60, 000
Subtotal, special health initiatives	23, 234, 000	28, 752, 000	28, 052, 000	−700, 000	+4, 818, 000
Public Health Service management:					
Regional management	5, 262, 000	5, 406, 000	5, 406, 000		+144, 000
Program direction and support services	16, 334, 000	17, 500, 000	16, 839, 000	−661, 000	+505, 000
Subtotal, PHS management	21, 596, 000	22, 906, 000	22, 245, 000	−661, 000	+649, 000
Undistributed pay supplemental	1, 161, 000				−1, 161, 000
Total, salaries and expenses	177, 064, 000	192, 766, 000	179, 966, 000	−12, 800, 000	+2, 902,000
Scientific activities overseas	6, 520, 000				−6, 520, 000
Retirement pay and medical benefits for commissioned officers:					
Retirement payments	38, 632, 000	43, 117, 000	43, 117, 000		+4, 485, 000
Survivors benefits	1, 160, 000	1, 359, 000	1, 359, 000		+199, 000
Dependent's medical care	37, 133, 000	47, 482, 000	47, 482, 000		+10, 349, 000
Total, retirement pay and medical benefits	76, 925, 000	91, 958, 000	91, 958, 000		+15, 033, 000
Total, Assistant Secretary for Health	260, 509, 000	284, 724, 000	271, 924, 000	−12, 800, 000	+11, 415, 000
Total, Public Health Service	6, 591, 544, 000	6, 544, 328, 000	6, 706, 109, 000	+161, 781, 000	+114, 565, 000
Unauthorized, not considered	(607, 679, 000)	(459, 331, 000)	• • •	• • •	• • •
HEALTH CARE FINANCING ADMINISTRATION GRANTS TO STATES FOR MEDICAID					
Vendor payments	13, 787, 139, 000	15, 031, 015, 000	15, 031, 015, 000		+1, 243, 876, 000
State and local administration:					
General administrative expenses	726, 000, 000	809, 897, 000	809, 897, 000		+83, 897, 000
Provider certification	42, 000, 000	36, 140, 000	36, 140, 000		−5, 860, 000
Total, grants to States	14, 555, 139, 000	15, 877, 052, 000	15, 877, 052, 000		+1, 321, 913, 000
Appropriation available from subsequent year	3, 923, 000, 000	4, 280, 000, 000	4, 280, 000, 000		+357, 000, 000
Appropriation available in prior year	−4, 126, 071, 000	−3, 923, 000, 000	−3, 923, 000, 000		+203, 071, 000
Total adjusted appropriation including borrowing	14, 352, 068, 000	16, 234, 052, 000	16, 234, 052, 000		+1, 881, 984, 000
PAYMENTS TO HEALTH CARE TRUST FUNDS					
Military service credits	141, 000, 000	141, 000, 000	141, 000, 000		
Supplemental medical insurance	7, 097, 000, 000	8, 737, 000, 000	8, 737, 000, 000		+1, 640, 000, 000
Hospital insurance for uninsured	696, 906, 000	659, 000, 000	659, 000, 000		−37, 906, 000
PSRO hospital review activities:					
Medicaid, direct appropriations	33, 250, 000	52, 120, 000	40, 120, 000	−12, 000, 000	+6, 870, 000
Medicare, nonappropriated funds	(552, 516, 000)	(78, 180, 000)	(78, 180, 000)		(+25, 664, 000)
Subtotal, PSRO hospital review (nonadd)	(85, 766, 000)	(130, 300, 000)	(118, 300, 000)	(−12, 000, 000)	(+32, 534, 000)
Total, payment to trust funds	7, 968, 156, 000	9, 589, 120, 000	9, 577, 120, 000	−12, 000, 000	+1, 608, 964, 000

H.R. 7998—FISCAL YEAR 1981 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	Revised fiscal year 1980 comparable	Fiscal year 1981 budget	Fiscal year 1981 House bill	House bill compared to fiscal year 1981 budget	House bill compared to fiscal year 1980 appropriation
PROGRAM MANAGEMENT					
Professional standards review organizations:					
Hospital review (see previous account)	($85, 766, 000)	($130, 300, 000)	($118, 300, 000)	($−12, 000, 000)	($+32, 534, 000)
Nonhospital activities, appropriated funds:					
Federal funds	29, 050, 000	29, 372, 000	22, 372, 000	−7, 000, 000	−6, 678, 000
Trust funds	(29, 600, 000)	(32, 966, 000)	(32, 996, 000)		(+3, 396, 000)
Subtotal, appropriations	58, 650, 000	62, 368, 000	55, 368, 000	−7, 000, 000	−3, 282, 000
Total, PSRO budget	(144, 416, 000)	(192, 668, 000)	(173, 668, 000)	(−19, 000, 000)	(+29, 252, 000)
Research, demonstration and evaluation:					
Federal funds	30, 490, 000	31, 164, 000	30, 000, 000	−1, 164, 000	−490, 000
Trust funds	(16, 292, 000)	(21, 193, 000)	(20, 000, 000)	(−1, 193, 000)	(+3, 708, 000)
Subtotal, research and evaluation	46, 782, 000	52, 357, 000	50, 000, 000	−2, 357, 000	+3, 218, 000
Medicare contractors: Trust funds	(672, 380, 000)	704, 384, 000)	(694, 384, 000)	(−10, 000, 000)	(+22, 004, 000)
State certification:					
General program support, Federal funds	2, 000, 000	4, 500, 000	4, 500, 000		+2, 500, 000
Medicare certification, trust funds	(27, 645, 000)	(29, 760, 000)	(29, 760, 000)		(+2, 115, 000)
Federal administration:					
Federal funds	66, 587, 000	67, 962, 000	67, 000, 000	−962, 000	+413, 000
Trust funds	(102, 694, 000)	(110, 891, 000)	(108, 000, 000)	(−2, 891, 000)	(+5, 306, 000)
Subtotal, Federal administration	169, 281, 000	178, 853, 000	175, 000, 000	−3, 853, 000	+5, 719, 000
Total, program management:					
Federal funds	128, 127, 000	132, 998, 000	123, 872, 000	−9, 126, 000	−4, 255, 000
Trust funds	(848, 611, 000)	(899, 224, 000)	(885, 140, 000)	(−14, 084, 000)	(+36, 529, 000)
Total, HCFA appropriation request	22, 448, 351, 000	25, 956, 170, 000	25, 935, 044, 000	−21, 126, 000	+3, 486, 693, 000
SOCIAL SECURITY ADMINISTRATION					
Payment to social security trust funds	676, 933, 000	673, 225, 000	672, 225, 000	−1, 000, 000	−4, 708, 000
SPECIAL BENEFITS FOR DISABLED COAL MINERS					
Benefit payments	997, 549, 000	1, 088, 870, 000	1, 088, 870, 000		+91, 321, 000
Administration	7, 653, 000	8, 881, 000	8, 881, 000		+1, 228, 000
Total, black lung	1, 005, 202, 000	1, 097, 751, 000	1, 097, 751, 000		+92, 549, 000
Appropriation available from subsequent year	37, 451, 000				−37, 451, 000
Appropriation available in prior year		−37, 451, 000	−37, 451, 000		−37, 451, 000
Total adjusted appropriation including borrowing	1, 042, 653, 000	1, 060, 300, 000	1, 060, 300, 000		+17, 647, 000
SUPPLEMENTAL SECURITY INCOME					
Federal benefit payments	5, 567, 777, 000	6, 198, 423, 000	6, 198, 423, 000		+630, 646, 000
Hold harmless payments	45, 000, 000	45, 000, 000	45, 000, 000		
Beneficiary services	56, 158, 000	38, 200, 000	38, 200, 000		−17, 958, 000
Federal fiscal liability	39, 800, 000	4, 000, 000	4, 000, 000		−35, 800, 000
Administration	614, 701, 000	719, 494, 000	719, 494, 000		+104, 793, 000
Total, supplemental security income	6, 323, 436, 000	7, 005, 117, 000	7, 005, 117, 000		+681, 681, 000
Appropriation available from subsequent year	48, 423, 000				−48, 423, 000
Appropriation available in prior year		−48, 423, 000	−48, 423, 000		−48, 423, 000
Total adjusted appropriation including borrowing	6, 371, 859, 000	6, 956, 694, 000	6, 956, 694, 000		+584, 835, 000
ASSISTANCE PAYMENTS					
Maintenance assistance:					
AFDC benefit payments	5, 865, 532, 000	7, 273, 674, 000	7, 273, 674, 000		+1, 408, 142, 000
Adult categories	4, 474, 000	4, 446, 000	4, 446, 000		−28, 000
Emergency assistance	45, 568, 000	46, 200, 000	46, 200, 000		+632, 000
State and local administration and training	769, 852, 000	811, 500, 000	811, 500, 000		+41, 648, 000
Repatriation	1, 284, 000	1, 369, 000	1, 369, 000		+85, 000
Subtotal, maintenance assistance	6, 686, 710, 000	8, 137, 189, 000	8, 137, 189, 000		+1, 450, 479, 000
Child support enforcement:					
Collections	−308, 261, 000	−352, 000, 000	−352, 000, 000		−43, 739, 000
State and local administration	369, 261, 000	310, 000, 000	310, 000, 000		−59, 261, 000
Subtotal, child support enforcement	61, 000, 000	−42, 000, 000	−42, 000, 000		−103, 000, 000
Research and evaluation	3, 500, 000	3, 500, 000	3, 500, 000		
Administration:					
Maintenance assistance	30, 279, 000	31, 679, 000	31, 679, 000		+1, 400, 000
Child support enforcement	14, 721, 000	15, 321, 000	15, 321, 000		+600, 000
Subtotal, administration	45, 000, 000	47, 000, 000	47, 000, 000		+2, 000, 000
Total, assistance payments	6, 796, 210, 000	8, 145, 689, 000	8, 145, 689, 000		+1, 349, 479, 000
Appropriation available from subsequent year	2, 261, 553, 000	1, 913, 793, 000	1, 913, 793, 000		−347, 760, 000
Appropriation available in prior year	−1, 669, 436, 000	−2, 261, 553, 000	−2, 261, 553, 000		−592, 117, 000
Total, adjusted appropriation including borrowing	7, 388, 327, 000	7, 797, 929, 000	7, 797, 929, 000		+409, 602, 000
LOW INCOME ENERGY ASSISTANCE					
Payments to SSI recipients	400, 000, 000				−400, 000, 000
Energy crisis intervention: Transfer to Community Services Administration	400, 000, 000	100, 000, 000	20, 000, 000	−80, 000, 000	−380, 000, 000
Special energy allowance	796, 000, 000	2, 088, 667, 000	1, 776, 000, 000	−312, 667, 000	+980, 000, 000
State incentive payments		4, 833, 000		−4, 833, 000	
Grants to the territories		2, 500, 000		−2, 500, 000	
Federal administration	4, 000, 000	4, 000, 000	4, 000, 000		
Subtotal	1, 600, 000, 000	2, 200, 000, 000	1, 800, 000, 000	−400, 000, 000	+200, 000, 000

H.R. 7998—FISCAL YEAR 1981 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	Revised fiscal year 1980 comparable	Fiscal year 1981 budget	Fiscal year 1981 House bill	House bill compared to fiscal year 1981 budget	House bil compared to fiscal year 1980 appropriation
REFUGEE ASSISTANCE					
State administered programs	$340, 092, 000	$554, 030, 000			
Advance for 1981, new Cubans/Haitians	50, 000, 000				
Voluntary agency programs	20, 000, 000	24, 000, 000			
Educational assistance for children		44, 268, 000			
Applicants for asylum (Haitians)		12, 000, 000			
Cuban program phasedown	53, 308, 000	44, 800, 000			
Preventive health		7, 859, 000			
Federal administrative expense	3, 500, 000	6, 500, 000			
Undistributed funds	100, 000, 000		$690, 457, 000		
Total, refugee assistance	516, 900, 000	693, 457, 000	690, 457, 000	−$3, 000, 000	+$173, 557, 000
Advance for 1981, new Cubans/Haitians	50, 000, 000				
Limitation on administrative expenses	(2, 461, 700, 000)	(2, 660, 850, 000)	(2, 660, 850, 000)		(+199, 150, 000)
Limitation on research and statistics: Survey of income and program participation		(16, 000, 000)		(−16, 000, 000)	
Total, Social Security Administration, appropriations	17, 596, 672, 000	19, 381, 605, 000	18, 977, 605, 000	−404, 000, 000	+1, 380, 933, 000
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES					
Grants to States for social and child welfare services:					
Grants to States for social services	2, 691, 100, 000	2, 716, 100, 000	2, 716, 100, 000		+25, 000, 000
Child day care	222, 000, 000	200, 000, 000	200, 000, 000		−22, 000, 000
State and local training	95, 000, 000	130, 000, 000	75, 000, 000	−55, 000, 000	−20, 000, 000
Child welfare services	66, 150, 000	163, 550, 000	163, 550, 000		+97, 400, 000
Total, grants to States	3, 074, 250, 000	3, 209, 650, 000	3, 154, 650, 000	−55, 000, 000	+80, 400, 000
Appropriation available from subsequent year	680, 000, 000	715, 000, 000	715, 000, 000		+35, 000, 000
Appropriation available in prior year	−778, 136, 000	−680, 000, 000	−680, 000, 000		+98, 136, 000
Total adjusted appropriation included borrowing	2, 976, 114, 000	3, 244, 650, 000	3, 189, 650, 000	−55, 000, 000	+213, 536, 000
HUMAN DEVELOPMENT SERVICES					
Administration for children, youth, and families:					
Head Start	735, 000, 000	820, 000, 000	820, 000, 000		+85, 000, 000
Research, and demonstrations	14, 700, 000	12, 000, 000	12, 000, 000		−2, 700, 000
Child abuse	22, 928, 000	22, 928, 000	22, 928, 000		
Runaway youth	11, 000, 000	11, 000, 000	11, 000, 000		
Child welfare training	7, 575, 000	5, 600, 000	5, 600, 000		−1, 975, 000
Adoptions opportunities	5, 000, 000	5, 000, 000	5, 000, 000		
Subtotal	796, 203, 000	876, 528, 000	876, 528, 000		+80, 325, 000
Administration on Aging:					
State agency activities	22, 500, 000	22, 675, 000	22, 675, 000		+175, 000
Social services and centers	246, 970, 000	247, 000, 000	257, 000, 000	+10, 000, 000	+10, 030, 000
Grants to Indians	6, 000, 000	6, 000, 000	6, 000, 000		
Nutrition:					
Congregate meals	270, 000, 000	295, 000, 000	295, 000, 000		+25, 000, 000
Home-delivered meals	50, 000, 000	55, 000, 000	55, 000, 000		+5, 000, 000
Research, training, and special projects	54, 300, 000	45, 500, 000	45, 500, 000		−8, 800, 000
Federal Council on Aging	450, 000	581, 000	581, 000		+131, 000
National clearinghouse	2, 000, 000	2, 000, 000	2, 000, 000		
Subtotal	652, 220, 000	673, 756, 000	683, 756, 000	+10, 000, 000	+31, 536, 000
Developmental disabilities program:					
Basic grants and advocacy	50, 680, 000	50, 681, 000	50, 681, 000		+1, 000
Special projects	4, 757, 000	3, 500, 000	3, 500, 000		−1, 257, 000
University affiliated facilities	7, 000, 000	7, 000, 000	7, 000, 000		
Subtotal, developmental disabilities	62, 437, 000	61, 181, 000	61, 181, 000		−1, 256, 000
Administration for Public Services: Research	5, 000, 000	3, 750, 000	3, 750, 000		−1, 250, 000
Subtotal	5, 000, 000	3, 750, 000	3, 750, 000		−1, 250, 000
Native American programs	33, 800, 000	33, 800, 000	33, 800, 000		
White House Conference on Aging		3, 000, 000	3, 000, 000		+3, 000, 000
White House Conference on Children and Youth	3, 000, 000				−3, 000, 000
Program direction	61, 847, 000	67, 348, 000	63, 518, 000	−3, 830, 000	+1, 671, 000
Total, human development services	1, 614, 507, 000	1, 719, 363, 000	1, 725, 533, 000	+6, 170, 000	+111, 026, 000
WORK INCENTIVES					
Grants to States	351, 615, 000	372, 326, 000	352, 326, 000	−20, 000, 000	+711, 000
Program direction and evaluation	13, 385, 000	12, 674, 000	12, 674, 000		−711, 000
Total, work incentives	365, 000, 000	385, 000, 000	365, 000, 000	−20, 000, 000	
Total, Assistant Secretary for Human Development	4, 955, 621, 000	5, 349, 013, 000	5, 280, 013, 000	−68, 830, 000	+324, 562, 000
DEPARTMENTAL MANAGEMENT					
General departmental management:					
Federal funds	129, 557, 000	128, 737, 000	126, 468, 000	−2, 269, 000	−3, 089, 000
Trust funds	(8, 000, 000)	(8, 000, 000)	(8, 000, 000)		
Total, departmental management	137, 557, 000	136, 737, 000	134, 468, 000	−2, 269, 000	−3, 089, 000
Office of the Inspector General:					
Federal funds	66, 238, 000	53, 045, 000	53, 045, 000		−13, 193, 000
Trust funds	(4, 194, 000)	(6, 000, 000)	(6, 000, 000)		(+1, 806, 000)
Total, Inspector General	70, 432, 000	59, 045, 000	59, 045, 000		−11, 387, 000
Appropriation available from subsequent year	4, 500, 000	6, 000, 000	6, 000, 000		+1, 500, 000
Appropriation available in prior year		−4, 500, 000	−4, 500, 000		−4, 500, 000
Total adjusted appropriation including borrowing	70, 738, 000	54, 545, 000	54, 545, 000		−16, 193, 000

H.R. 7998—FISCAL YEAR 1981 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	Revised fiscal year 1980 comparable	Fiscal year 1981 budget	Fiscal year 1981 House bill	House bill compared to fiscal year 1981 budget	House bill compared to fiscal year 1980 appropriation
DEPARTMENTAL MANAGEMENT—Continued					
Office for Civil Rights:					
Federal funds	$19,627,000	$20,081,000	$17,920,000	−$2,161,000	−$1,707,000
Trust funds	(2,350,000)	(2,350,000)	(2,350,000)		
Total, Civil Rights	21,977,000	22,431,000	20,270,000	−2,161,000	−1,707,000
Policy research	24,000,000	22,700,000	22,700,000		−1,300,000
Total, departmental management:					
Federal funds	243,922,000	226,063,000	221,633,000	−4,430,000	−22,289,000
Trust funds	(14,544,000)	(16,350,000)	(16,350,000)		(+1,806,000)
Total, Department of Health and Human Services:					
Federal funds	51,836,110,000	57,457,179,000	57,120,574,000	−336,605,000	+5,284,464,000
Trust funds	(3,324,855,000)	(3,592,424,000)	(3,562,340,000)	(−30,084,000)	(+237,485,000)
Unauthorized, not considered	(607,679,000)	(459,331,000)	• • •	• • •	• • •
TITLE III—DEPARTMENT OF EDUCATION AND SPECIAL INSTITUTIONS					
ELEMENTARY AND SECONDARY EDUCATION					
Grants for disadvantaged, title I:					
Regular grants: Grants to local educational agencies	2,630,022,000	2,844,168,000	2,822,022,000	−22,146,000	+192,000,000
State agency programs:					
Migrants	245,000,000	266,112,000	288,000,000	+21,888,000	+43,000,000
Handicapped	145,000,000	156,761,000	165,000,000	+8,239,000	+20,000,000
Neglected and delinquent	35,571,000	37,750,000	37,750,000		+2,179,000
Subtotal	425,571,000	460,623,000	490,750,000	+30,127,000	+65,179,000
State administration	47,000,000	50,731,000	47,000,000	−3,731,000	
Evaluation and studies	13,000,000	14,250,000	10,000,000	−4,250,000	−3,000,000
Subtotal, regular grants	3,115,593,000	3,369,772,000	3,369,772,000		+254,179,000
Concentration grants	100,000,000	150,000,000	145,000,000	−5,000,000	+45,000,000
State incentive grants		17,000,000		−17,000,000	
Subtotal, grants for disadvantaged, title I	3,215,593,000	3,536,772,000	3,514,772,000	−22,000,000	+299,179,000
Support and innovation grants:					
Consolidated programs	197,400,000				−197,400,000
Improving educational practices		50,000,000	91,400,000	+41,400,000	+91,400,000
State agency management		46,000,000	51,000,000	+5,000,000	+51,000,000
Bilingual education:					
Grants to school districts	107,263,000	124,800,000	112,913,000	−11,887,000	+5,650,000
Training grants	30,325,000	37,075,000	32,075,000	−5,000,000	+1,750,000
Support services	20,775,000	20,125,000	20,375,000	+250,000	−400,000
Bilingual desegregation grants	8,600,000	10,000,000	9,600,000	−400,000	+1,000,000
Subtotal, bilingual education	166,963,000	192,000,000	174,963,000	−17,0370,00	+8,000,000
Territorial assistance:					
General aid to Virgin Islands	3,000,000		3,000,000	+3,000,000	
Teacher training	2,000,000		2,000,000	+2,000,000	
Indochina refugee assistance	12,000,000				−12,000,000
Ellender fellowships	1,000,000		1,000,000	+1,000,000	
Total, elementary and secondary education	3,597,956,000	3,824,772,000	3,838,135,000	+13,363,000	+240,179,000
SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS					
Maintenance and operations:					
Payments for "a" children	399,000,000	240,000,000	428,000,000	+188,000,000	+29,000,000
Payments for "b" children	277,000,000	6,000,000	224,000,000	+218,000,000	−53,000,000
Special provisions	14,000,000	13,000,000	13,000,000		−1,000,000
Payments to other Federal agencies	70,000,000	75,000,000	75,000,000		+5,000,000
Disaster assistance	32,000,000				−32,000,000
Subtotal	792,000,000	334,000,000	740,000,000	+406,000,000	
Construction	33,000,000	8,000,000	50,000,000	−30,000,000	−52,000,000
Total, school assistance	825,000,000	414,000,000	790,000,000	+376,000,000	−35,000,000
EQUAL EDUCATIONAL OPPORTUNITIES					
Emergency school aid:					
State apportioned funds:					
General grants to school districts	107,800,000	118,800,000	107,800,000	−11,000,000	
Nationally-competed funds:					
Special programs and projects	92,019,000	83,583,000	83,583,000		−8,436,000
Magnet schools, pairing and neutral site schools	36,302,000	30,000,000	30,000,000		−6,302,000
Grants to nonprofit organizations	5,000,000	10,000,000	7,500,000	−2,500,000	+2,500,000
Educational television and radio	6,450,000	6,450,000	6,450,000		
Subtotal, nationally conpeted funds	139,771,000	130,033,000	127,533,000	−2,500,000	−12,238,000
Evaluation	1,000,000	2,510,000	1,000,000	−1,510,000	
Subtotal, emergency school aid	248,571,000	251,343,000	236,333,000	−15,010,000	−12,238,000
Training and advisory services	45,675,000	54,700,000	45,675,000	−9,025,000	
Women's educational equity	10,000,000	20,000,000	10,000,000	−10,000,000	
Total, equal educational opportuniites	304,246,000	326,043,000	292,008,000	−34,035,000	−12,238,000
LIBRARIES AND LEARNING RESOURCES					
Public libraries:					
Services	62,500,000	62,500,000	62,500,000		
Interlibrary cooperation	5,000,000	12,000,000	12,000,000		+7,000,000
School libraries and instructional resources	171,000,000	171,000,000	171,000,000		
College library resources	4,988,000	4,988,000	4,988,000		
Training and demonstrations:					
Library career training	667,000	500,000	667,000	+167,000	
Library demonstrations	333,000	500,000	500,000		+167,000
Research libraries	6,000,000	7,000,000	6,000,000	−1,000,000	
Educational television programmimg	6,000,000	6,000,000	6,000,000		
Total, libraries and learning resources	256,488,000	264,488,000	263,655,000	−833,000	+7,167,000

H.R. 7998—FISCAL YEAR 1981 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	Revised fiscal year 1980 comparable	Fiscal year 1981 budget	Fiscal year 1981 House bill	House bill compared to fiscal year 1981 budget	House bill compared to fiscal year 1980 appropriation
EDUCATION FOR THE HANDICAPPED					
State assistance:					
State grant program	$874, 500, 000	$922, 000, 000	$922, 000, 000		+$47, 500, 000
Preschool incentive grants	25, 000, 000	25, 000, 000	25, 000, 000		
Deaf-blind centers	16, 000, 000	16, 000, 000	16, 000, 000		
Subtotal, State assistance	915, 500, 000	963, 000, 000	963, 000, 000		+47, 500, 000
Special population programs:					
Severely handicapped projects	5, 000, 000	5, 000, 000	5, 000, 000		
Early childhood education	20, 000, 000	20, 000, 000	20, 000, 000		
Regional, vocational, adult and postsecondary programs	2, 400, 000	4, 000, 000	4, 000, 000		+1, 600 000
Innovation and development	20, 000, 000	20, 000, 000	20, 000, 000		
Media and resource services:					
Media services and captioned films	19, 000, 000	19, 000, 000	19, 000, 000		
Regional resource centers	9, 750, 000	9, 750, 000	9, 750, 000		
Recruitment and information	1, 000, 000	1, 000, 000	1, 000, 000		
Subtotal, media and resources services	29, 750, 000	29, 750, 000	29, 750, 000		
Special education personnel development	55, 375, 000	58, 000, 000	58, 000, 000		+2, 625, 000
Special studies	1, 000, 000	2, 300, 000	2, 300, 000		+1, 300, 000
Total, education for the handicapped	1, 049, 025, 000	1, 102, 050, 000	1, 102, 050, 000		+53, 025, 000
REHABILITATION SERVICES AND HANDICAPPED RESEARCH					
Rehabilitation services:					
Basic State grants	817, 484, 000	854, 259, 000	854, 259, 000		+36, 775, 000
Innovation and expansion	11, 775, 000				−11, 775, 000
Service projects	28, 360, 855	28, 860, 000	32, 860, 000	+$4, 000, 000	+4, 499, 145
Independent living	15, 000, 000	18, 000, 000	18, 000, 000		+3, 000, 000
Training	28, 500, 000	25, 500, 000	25, 500, 000		−3, 000, 000
Subtotal	901, 119, 855	926, 619, 000	930, 619, 000	+4, 000, 000	+29, 499, 145
National Institute for Handicapped Research	31, 500, 000	35, 000, 000	35, 000, 000		+3, 500, 000
National Council on the Handicapped		256, 000	256, 000		+256, 000
Total, rehabilitation and handicapped research	932, 619, 855	961, 875, 000	965, 875, 000	+4, 000, 000	+33, 255, 145
VOCATIONAL AND ADULT EDUCATION					
Vocational education:					
State grants and innovative programs:					
Basic grants	562, 266, 000	474, 766, 000	562, 266, 000	+87, 500, 000	
Program improvement and supportive services	124, 817, 000	132, 218, 000	124, 817, 000	−7, 401, 000	
Programs of national significance	10, 000, 000	34, 794, 000	10, 000, 000	−24, 794, 000	
Subtotal	697, 083, 000	641, 778, 000	697, 083, 000	+55, 305, 000	
Special programs for the disadvantaged	20, 000, 000	20, 000, 000	20, 000, 000		
Consumer and homemaking education	43, 497, 000	43, 497, 000	43, 497, 000		
State advisory councils	6, 500, 000	6, 500, 000	6, 500, 000		
Bilingual vocational training	4, 800, 000	6, 000, 000	4, 800, 000	−1, 200, 000	
State planning	5, 000, 000	5, 000, 000	5, 000, 000		
Subtotal, vocational education	776, 880, 000	722, 775, 000	776, 880, 000	+54, 105, 000	
Adult education:					
Grants to States	100, 000, 000	120, 000, 000	120, 000, 000		+20, 000, 000
Demonstration, dissemination, and related activities		2, 000, 000		−2, 000, 000	
Indochina refugee program	2, 500, 000				−2, 500, 000
Cuban/Haitian refugees	17, 600, 000				−17, 600, 000
General immigrant program	2, 500, 000				−2, 500, 000
Subtotal, adult education	122, 600, 000	122, 000, 000	120, 000, 000	−2, 000, 000	−2, 600, 000
Career education incentive	15, 000, 000	10, 000, 000	15, 000, 000	+5, 000, 000	
Community schools	3, 138, 000	3, 138, 000	10, 000, 000	+6, 862, 000	+6, 862, 000
Consumers education	3, 617, 000	3, 617, 000	3, 617, 000		
Total, vocational and adult education	921, 235, 000	861, 530, 000	925, 497, 000	+63, 967, 000	+4, 262, 000
STUDENT FINANCIAL ASSISTANCE					
Basic opportunity grants	2, 122, 034, 000	2, 159, 000, 000	2, 159, 000, 000		+36, 966, 000
Supplemental opportunity grants	370, 000, 000	370, 000, 000	370, 000, 000		
Work study	550, 000, 000	550, 000, 000	550, 000, 000		
State student incentive grants	76, 750, 000	76, 750, 000	76, 750, 000		
Subtotal	3, 118, 784, 000	3, 155, 750, 000	3, 155, 750, 000		+36, 966, 000
Direct loans:					
Federal capital contributions	286, 000, 000		186, 000, 000	+186, 000, 000	−100, 000, 000
Teacher cancellations	14, 800, 000		14, 800, 000	+14, 800, 000	
Subtotal, direct loans	300, 800, 000		200, 800, 000	+200, 800, 000	−100, 000, 000
Total, student financial assistance	3, 419, 584, 000	3, 155, 750, 000	3, 356, 550, 000	+200, 800, 000	−63, 034, 000
STUDENT LOAN INSURANCE					
Guaranteed student loan program:					
Interest subsidies	1, 396, 094, 000	1, 134, 399, 000	1, 134, 399, 000		−261, 695, 000
Student loan insurance	213, 250, 000	256, 591, 000	256, 591, 000		+43, 341, 000
Total, student loan insurance	1, 609, 344, 000	1, 390, 990, 000	1, 390, 990, 000		−218, 354, 000
HIGHER AND CONTINUING EDUCATION					
Student services:					
Special programs for the disadvantaged	147, 500, 000	159, 500, 000	159, 500, 000		+12, 000, 000
Veterans cost of instruction	14, 380, 000	12, 039, 000	12, 039, 000		−2, 341, 000
Educational information centers	3, 000, 000		3, 000, 000		−3, 000, 000
Subtotal	164, 880, 000	171, 539, 000	171, 539, 000		+6, 659, 000

H.R. 7998—FISCAL YEAR 1981 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	Revised fiscal year 1980 comparable	Fiscal year 1981 budget	Fiscal year 1981 House bill	House bill compared to fiscal year 1981 budget	House bill compared to fiscal year 1980 appropriation
HIGHER AND CONTINUING EDUCATION—Continued					
Program development:					
Strengthening developing institutions	$110,000,000	$120,000,000	$120,000,000		+$10,000,000
Minority institutions science improvement	5,000,000	5,000,000	5,000,000		
Cooperative education	15,000,000	23,000,000	23,000,000		+8,000,000
International and foreign language studies:					
Centers, fellowships, and research	17,000,000	23,000,000	21,800,000	−$1,200,000	+4,800,000
Fellowships and research abroad	3,000,000	7,000,000	6,200,000	−800,000	+3,200,000
University community services and continuing education	9,000,000		9,000,000	+9,000,000	
State postsecondary education commissions	3,000,000		3,000,000	+3,000,000	
Subtotal, program development	162,000,000	178,000,000	188,000,000	+10,000,000	+26,000,000
Graduate support:					
Graduate/professional opportunities	8,850,000	13,000,000	11,000,000	−2,000,000	+2,150,000
Public service grants and fellowships	4,000,000		3,000,000	+3,000,000	−1,000,000
Mining fellowships	4,500,000		2,150,000	+2,150,000	−2,350,000
Subtotal, graduate support	17,350,000	13,000,000	16,150,000	+3,150,000	−1,200,000
Construction:					
Interest subsidy grants	29,000,000	26,000,000	26,000,000		−3,000,000
Architectural barriers removal	10,000,000				−10,000,000
Subtotal, construction	39,000,000	26,000,000	26,000,000		−13,000,000
Special endowments: National Academy of Peace and Conflict Resolution (ESEA sec. 1511)	500,000				−500,000
Law and education:					
Legal training for disadvantaged	1,000,000	1,000,000	1,000,000		
Law school clinical experience	4,000,000		4,000,000	+4,000,000	
Law-related education	1,000,000	1,000,000	1,000,000		
Subtotal, law and education	6,000,000	2,000,000	6,000,000	+4,000,000	
Undistributed reduction			−3,000,000	−3,000,000	−3,000,000
Total, higher and continuing education	389,730,000	390,539,000	407,689,000	+17,150,000	+17,959,000
Higher education facilities loan and insurance	2,189,000	1,656,000	1,656,000		−533,000
Loan authority			25,000,000	+25,000,000	+25,000,000
Total, higher education loan and insurance	2,189,000	1,656,000	26,656,000	+25,000,000	+25,467,000
College housing loans	12,117,000	14,271,000	14,271,000		+2,154,000
SCHOOL IMPROVEMENT					
Basic skills improvement	35,000,000	40,000,000	35,000,000	−5,000,000	
Followthrough	44,520,000	44,250,000	44,250,000		
Cuban/Haitian refugees	7,700,000				−7,700,000
Special emphases:					
National diffusion program	10,000,000	16,000,000	10,000,000	−6,000,000	
Biomedical sciences	3,000,000	3,000,000	3,000,000		
Gifted and talented	6,280,000	6,280,000	6,280,000		
Alcohol and drug abuse education	3,000,000	3,000,000	3,000,000		
Arts in education	3,500,000	3,500,000	3,500,000		
Metric education	1,840,000	1,840,000	1,840,000		
Ethnic heritage studies	3,000,000	3,000,000	3,000,000		
Special initiatives		5,000,000		−5,000,000	
Subtotal, special emphases	30,620,000	41,620,000	30,620,000	−11,000,000	
Communities and schools:					
Cities in schools	3,050,000	3,050,000	3,050,000		
PUSH for excellence	1,000,000	1,000,000	1,000,000		
Professional development:					
Teacher corps	30,000,000	37,500,000	30,000,000	−7,500,000	
Teacher centers	13,000,000	14,300,000	13,000,000	−1,300,000	
Administrators training		3,000,000		−3,000,000	
Precollege science teacher training	2,500,000	2,500,000	2,500,000		
Subtotal, professional development	45,500,000	57,300,000	45,500,000	+11,800,000	
Migrant education:					
High school equivalency program	6,160,000	6,345,000	6,345,000		+185,000
College assistance migrant program	1,173,000	1,208,000	1,208,000		+35,000
Total, school improvement	174,453,000	194,773,000	166,973,000	−27,800,000	−7,480,000
SPECIAL INSTITUTIONS					
American Printing House for the Blind	4,349,000	4,921,000	4,921,000		+572,000
National Technical Institite for the Deaf	17,349,000	20,305,000	20,305,000		+2,956,000
Gallaudet College:					
College programs	22,791,000	26,829,000	26,829,000		+4,038,000
Model Secondary School for the Deaf	9,681,000	10,565,000	10,565,000		+884,000
Kendall Demonstration Elementary School	5,139,000	5,780,000	5,780,000		+641,000
Construction	10,730,000	6,594,000	6,594 000		−4,136,000
Total	48,341,000	49,768,000	49,768,000		+1,427,000
Howard University:					
Academic program	89,787,000	101,637,000	101,637,000		+11,850,000
Howard University Hospital	22,106,000	22,106,000	22,106,000		
Construction	10,000,000	10,240,000	10,240,000		+240,000
Total	121,893,000	133,983,000	133,983,000		+12,090,000
OFFICE OF CIVIL RIGHTS					
SALARIES AND EXPENSES					
Office for civil rights	45,847,000	46,915,000	46,915,000		+1,068,000
Architectural and transportation barriers compliance board	1,626,000	2,300,000	2,300,000		+674,000
Total, Office of Civil Rights	47,473,000	49,215,000	49,215,000		+1,742,000

H.R. 7998—FISCAL YEAR 1981 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES—Continued

	Revised fiscal year 1980 comparable	Fiscal year 1981 budget	Fiscal year 1981 House bill	House bill compared to fiscal year 1981 budget	House bill compared to fiscal year 1980 appropriation
DEPARTMENTAL MANAGEMENT					
SALARIES AND EXPENSES					
Program administration	$230,542,000	$234,021,000	$233,630,000	−$391,000	+$3,088,000
Advisory committees	2,276,000	2,910,000	2,254,000	−656,000	−22,000
Planning and evaluation	2,998,000	6,250,000	+2,998,000	−3,252,000	
Analysis of 1980 census data		1,000,000		−1,000,000	
Total, departmental management, salaries and expenses	235,816,000	244,181,000	238,882,000	−5,299,000	+3,066,000
EDUCATIONAL STATISTICS					
National Center for Educational Statistics	9,947,000	11,793,000	9,947,000	−1,846,000	
RESEARCH AND RELATED ACTIVITIES					
National Institute of Education	74,114,000	79,050,000	74,114,000	−4,936,000	
Fund for the Improvement of Postsecondary Education	13,500,000	17,000,000	13,500,000	−3,500,000	
Total, research and related activities	87,614,000	96,050,000	87,614,000	−8,436,000	
EDUCATIONAL, RESEARCH, AND TRAINING ACTIVITIES OVERSEAS					
Research and demonstration	2,000,000	2,000,000	2,000,000		
Grants to American institutions	1,000,000	1,000,000	1,000,000		
Total, education, research and training	3,000,000	3,000,000	3,000,000		
Total, departmental management	336,377,000	355,024,000	339,443,000	−15,581,000	+3,066,000
Total, Department of Education	14,069,768,855	13,515,953,000	14,137,984,000	+622,031,000	+68,215,145
TITLE IV—RELATED AGENCIES					
Action (domestic programs):					
Volunteers in Service to America	32,850,000	41,876,000	36,850,000	−5,026,000	+4,000,000
VISTA	(29,800,000)	(37,544,000)	(33,800,000)	(−3,744,000)	(+4,000,000)
Service learning	(2,800,000)	(4,034,000)	(2,800,000)	(−1,234,000)	
Evaluation	(250,000)	(298,000)	(250,000)	(−48,000)	
Older Americans volunteer programs:					
Foster Grandparents program	46,900,000	46,900,000	48,400,000	+1,500,000	+1,500,000
Senior companion program	10,200,000	12,783,000	12,783,000		+2,583,000
Retired senior volunteer program	26,217,000	26,217,000	27,717,000	+1,500,000	+1,500,000
Subtotal, older volunteers	83,317,000	85,900,000	88,900,000	+3,000,000	+5,583,000
Citizen participation and volunteer demonstration programs	3,364,000	11,945,000	3,364,000	−8,581,000	
Program support	26,053,000	29,433,000	28,933,000	−500,000	+2,880,000
Total, ACTION	145,584,000	169,154,000	158,047,000	−11,107,000	+12,463,000
Community Services Administration:					
Community action operations:					
Community action agencies	381,800,000	394,300,000	394,300,000		+12,500,000
Senior opportunities and service	10,500,000	10,500,000	10,500,000		
State economic opportunity offices	7,500,000	3,750,000	3,750,000		−3,750,000
Community food and nutrition	27,000,000	26,000,000	26,000,000		−1,000,000
National youth sports program	6,000,000		6,000,000	+6,000,000	
Summer youth recreation	10,000,000				−10,000,000
Training and technical assistance	7,900,000	7,500,000	4,500,000	−3,000,000	−3,400,000
Subtotal, community action	450,700,000	442,050,000	445,050,000	+3,000,000	−5,650,000
Community economic development	44,500,000	48,500,000	48,500,000		+4,000,000
Demonstrations	9,600,000	6,600,000	3,600,000	−3,000,000	−6,000,000
Evaluation	1,000,000	1,000,000	1,000,000		
Program administration	41,500,000	40,650,000	39,650,000	−1,000,000	−1,850,000
Total, Community Services Administration	547,300,000	538,800,000	537,800,000	−1,000,000	−9,500,000
Corporation for Public Broadcasting:					
Fiscal year 1982 (advanced in fiscal year 1980)	172,000,000				−172,000,000
Fiscal year 1983 (current request)		172,000,000	172,000,000		+172,000,000
Total, Corporation for Public Broadcasting	172,000,000	172,000,000	172,000,000		
Federal Mediation and Conciliation Service	23,820,000	27,140,000	25,919,000	−1,221,000	+2,099,000
Federal Mine Safety and Health Review Commission	4,582,000	4,617,000	4,617,000		+35,000
National Commission on Libraries and Information Science	686,000	691,000	691,000		+5,000
National Labor Relations Board	112,617,000	116,635,000	116,635,000		−4,018,000
National Mediation Board	4,444,000	4,780,000	3,780,000		+336,000
Occupational Safety and Health Review Commission	7,450,000	7,860,000	7,860,000		+410,000
President's Commission on Ethical Problems in Medicine		2,041,000	1,500,000	−541,000	+1,500,000
Railroad Retirement Board:					
Payment to railroad trust funds	313,000,000	350,000,000	350,000,000		+37,000,000
Limitation on administration	(39,730,000)	(36,750,000)	(36,750,000)		(−2,980,000)
Milwaukee Railroad restructuring, administration	300,000				−300,000
Soldier's and Airmen's Home (trust fund appropriation): Operation and maintenance	19,516,000	20,326,000	20,326,000		+810,000
Total, related agencies	1,391,029,000	1,450,794,000	1,436,925,000	−13,869,000	+45,896,000
Federal funds	1,351,299,000	1,414,044,000	1,400,175,000	−13,869,000	+48,876,000
Trust funds	(39,730,000)	(36,750,000)	(36,750,000)		(−2,980,000)
SUMMARY					
Title I—Department of Labor:					
Federal funds	13,184,334,000	12,170,188,000	11,892,977,000	−277,211,000	−1,291,357,000
Trust funds	(1,959,051,000)	(2,170,172,000)	(2,170,172,000)		(+211,121,000)
Unauthorized, not considered: Federal funds	(325,000,000)	(150,000,000)		(−150,000,000)	(−325,000,000)
Title II—Department of Health and Human Services:					
Federal funds	51,836,110,000	57,457,179,000	57,120,574,000	−336,605,000	+5,284,464,000
Trust funds	(3,324,855,000)	(3,592,424,000)	(3,562,340,000)	(−30,084,000)	(+237,485,000)
Unauthorized, not considered: Federal funds	(607,679,000)	(459,331,000)		(−459,331,000)	(−607,679,000)
Title III—Department of Education: Federal funds	14,069,768,855	13,515,953,000	14,137,984,000	+622,031,000	+68,215,145
Title IV—Related agencies:					
Federal funds	1,351,299,000	1,414,044,000	1,400,175,000	−13,869,000	+48,876,000
Trust funds	(39,730,000)	(36,750,000)	(36,750,000)		(−2,980,000)
Grand total, direct appropriations all titles:					
Federal funds	80,441,511,855	84,557,364,000	84,551,710,000	−5,654,000	+4,110,198,145
Trust funds	(5,323,636,000)	(5,799,346,000)	(5,769,262,000)	(−30,084,000)	(+445,626,000)
Unauthorized, not considered: Federal funds	(932,679,000)	(609,331,000)		(−609,331,000)	(−932,679,000)

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter, along with tables and charts on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 85, COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 96-1261) on the resolution (H. Res. 772) providing for the consideration of the bill (H.R. 85) to provide a comprehensive system of liability and compensation for oilspill damage and removal costs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7020, HAZARDOUS WASTE CONTAINMENT ACT OF 1980

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 96-1262) on the resolution (H. Res. 773) providing for the consideration of the bill (H.R. 7020) to amend the Solid Waste Disposal Act to provide authorities to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment, to establish a hazardous waste response fund to be funded by a system of fees, to establish prohibitions and requirements concerning inactive hazardous waste sites, to provide for liability of persons responsible for releases of hazardous waste at such sites, and for other purposes, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF CONFEREES ON H.R. 1197, TONNAGE MEASUREMENT SIMPLIFICATION ACT

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1197) to simplify the tonnage measurement of certain vessels, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. PERKINS. Mr. Speaker, reserving the right to object, it is my understanding that the unanimous-consent request is to seek a conference with the Senate on H.R. 1197, a House-passed measure dealing with vessel tonnage, to which the Senate has added a nongermane amendment affecting the regulation of the Surface Mining Act. The House should indeed agree to go to conference with the Senate on this and should accept the Senate amendment dealing with surface mining regulation.

Mr. Speaker, I think that the Office of Surface Mining has gone way beyond the intent of Congress and imposed unnecessary and unreasonable burdens upon the operator. In fact, if the Office of Surface Mining is permitted to go unchallenged, coal mine production in eastern Kentucky will be strangled to death.

Last September 11, the Senate passed S. 1403. This has been bound up in committee in the House and embodies the text of the amendment the Senate has made to H.R. 1197, the vessel tonnage bill.

If I had been drafting this provision, I would have made it stronger in preventing bureaucratic nitpicking, which does nothing to protect the environment, but is destroying the coal industry.

I would hope that the House could accept this amendment promptly so that the Nation could get on with the task of producing domestically the energy we need to eliminate our dependency on foreign oil. We will never be able to solve this crisis if we continue to strangle the industry which is capable of producing the energy for our domestic needs.

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Ohio.

Mr. ASHLEY. Might I respond to the distinguished chairman by saying that he can be assured that the area of concern to him as he has described it will be a subject of intense consideration by the conferees. As a matter of fact, the Speaker has indicated that the conferees will be appointed representing not only the committee which I am acting chairman at the present time but, indeed, conferees from the Committee on Interior and Insular Affairs, all of this so that the matter that is not germane to the House bill can receive the kind of consideration the gentleman has indicated it should.

Mr. PERKINS. Mr. Speaker, I certainly will not object. It is my hope that nobody would object to this bill going to conference. It is much better for the bill to go to conference than go back to the Rules Committee.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. RAHALL. Mr. Speaker, reserving the right to object, I would ask the distinguished gentleman from Ohio the parliamentary situation. As I understand it, the merchant marine jurisdiction will be separated entirely from the Surface Mining Act that has amendments that have been tacked on by the other body?

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman.

Mr. ASHLEY. I would say to my friend from West Virginia he described the situation with his customary accuracy. That is precisely what is going to happen. The conferees from the Merchant Marine and Fisheries Committee, being inexpert in the matter relating to the nongermane Senate amendment, will not be charged with responsibiilty of making decisions in that matter. Rather, the appropriate committee of jurisdiction conferees from the appropriate committee of jurisdiction will have that responsibility.

Mr. RAHALL. All conferees on the surface mining amendments which were passed a second time by the Senate in order to attach it to this merchant marine bill, all of the conferees on that part of the legislation will be appointed by the House Interior and Insular Affairs Committee chairman?

Mr. ASHLEY. The gentleman is right.

Mr. RAHALL. Further reserving the right to object, Mr. Speaker, and I shall not object, I want to associate myself with the remarks made by the gentleman from Kentucky, Mr. PERKINS, in regard to the operation of the Office of Surface Mining. The distinguished chairman of the Committee on Interior and Insular Affairs, Mr. UDALL, has held oversight hearings on this legislation. He has followed through on his commitment to hold those hearings. We found during that oversight process many problems that have developed in the implementation and followthrough on what I thought was the congressional intent when the Congress originally passed this legislation in 1977.

A nearly unanimous critique of the Office of Surface Mining's performance to date by engineers, industry, States, the Department of Energy, and the Council of Economic Advisors concludes that the final rules add unnecessarily to costs of production and, in some instances, actually preclude more appropriate engineering practices.

Congressional Research Service concludes:

> Many of the regulations contained in the enforcement program are inconsistent with the spirit of the Surface Mining Act and some appear to be inconsistent with the actual language.

The National Governors Association criticizes OSM for frustrating State primacy and for making it virtually impossible to develop anything other than a "State-level clone" on OSM regulations because of impending deadlines and voluminous paperwork.

The Secretary of Energy, in his report to the President June 4, 1979, on increasing coal production and use, also concludes that OSM regulations may be setting a trend away from the act's intent. He recommends that:

> DOI's surface mining regulations and unsuitable criteria be applied in a way that facilitates increased coal production.

Third. Eliminate the requirement that State regulations be identical to those of OSM thus allowing the States to tailor their regulations to take into account the special needs and unique features of each State so long as those regulations conform to the strict standards of the act.

S. 1403 makes absolutely no substantive changes in the basic 1977 statute. All of the statutory environmental standards remain intact. And, very importantly, nothing in S. 1403 affects or diminishes the Secretary of the Interior's ultimate responsibility to review State program applications to determine whether State laws and regulations do in fact meet the requirements of the act. In other words, the Secretary continues to retain full authority as originally authorized by the statute to approve or disapprove State programs. If the State-proposed regulations are found lacking by the Secretary, he may and, in fact, must disapprove those regulations and reject the State program.

S. 1403, as reported, seeks to redress this abandonment.

The 1977 law finds that, and I quote:

> The primary governmental responsibility for developing, authorizing, issuing, and enforcing regulations for surface mining and reclamation operations subject to this act should rest with the States;

The Federal role is to, and I quote:

> Assist the States in developing and implementing a program to achieve the purposes of this act.

The Federal role was to assist—to assist the States and to take over a program when a State did not meet the requirements of the act—restructure the thinking of bureaucrats.

As the act is now being administered, the only way for a State to insure compliance would be to enact the Federal regulations as State law.

The original 1977 bills in both Houses of Congress did require that State law conform to Federal law and regulations. The Congress dropped this but the OSM is seeking to achieve the same end in its administration of the program.

The Senate passed nongermane amendments to the Surface Mining Act unambiguously reaffirms the intent of Congress with respect to the role of the States in surface mining regulation. The 1977 act specifically declares that "the primary responsibility for developing, authorizing, issuing, and enforcing surface mining regulations rests with the States."

As the act has been implemented, the role of the States has been diminished. That policy shift is not fair to States that have consistently supported the goals and purposes of the Surface Mining Act. It demonstrates a lack of realistic planning. It is not a sound basis for our coal policy.

Mr. Speaker, I shall not take further time of the House, and withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. MURPHY of Pennsylvania. Mr. Speaker, reserving the right to object, I would like to associate myself with the remarks of both the gentleman from Kentucky and the gentleman from West Virginia. Had we had the opportunity to have the microphone first I believe we would have called the bill up, confirmed the Senate amendment and accepted the bill as is.

However, the motion being what it is by the gentleman from Ohio, acting chairman of the committee, we must reluctantly join in hoping to expedite this very serious matter to us in the surface coal mining States to a conference committee. I do urge my chairman, the gentleman from Ohio, to expeditiously bring this matter to consideration in a conference so that we can properly handle this matter.

It was our intent a year ago or 2 years ago when we adopted the Surface Mining Act that any State that would conform with the law alone as we drafted it here in this Congress would immediately establish primacy. Thus far Pennsylvania, the State that that law was patterned after, has been denied primacy by the Office of Surface Mining.

☐ 1940

That is why I certainly hope that our chairman on this very important measure will expedite the procedure before the conference committee.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of Pennsylvania. I will yield to the gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding.

Let me state that the State of Kentucky in the last general assembly amended the Surface Mining Act and followed numerous suggestions that were suggested by the Department of the Interior in Washington. Now they have denied primacy in Kentucky. This is a serious situation, and I certainly hope that it will be resolved in the conference and the members of the conference committee will resolve this problem.

Mr. MURPHY of Pennsylvania. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio (Mr. ASHLEY)?

Mr. WAMPLER. Mr. Speaker, reserving the right to object—and I do not intend to object—I simply want to point out to the gentleman from Ohio (Mr. ASHLEY) and others that I concur fully in the remarks of the distinguished gentleman from Kentucky (Mr. PERKINS). As is known, I oppose the enactment of the 1977 Surface Mining Act because I believed then, and I think the record has since confirmed the fact, that this statute was too far reaching, that it did not allow flexibility among the differences in mining techniques in the several States, especially in my State of Virginia, where most of the surface mining occurs on steep slopes. As I understand it, the nongermane amendment that has been added in the Senate would give the States more flexibility in addressing the uniqueness of the reclamation procedures and practices.

I just hope that in the conference this amendment will be considered very carefully, because coal is the one hope we have to achieve self-sufficiency in energy in this country. It just seems to me that to permit the present Office of Surface Mining to operate the way they are in what I perceive to be an irresponsible way and contrary to the intent of Congress, that we could never hope to achieve the full potential of coal production. So I simply point this out and agree with what my other colleagues have said in having sublime faith and confidence in the gentleman from Ohio. I know he is going to do the best he can in the conference to see that those of us who want our industries to survive and be viable will be given every consideration.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio (Mr. ASHLEY)? The Chair hears none, and appoints the following conferees: Messrs. UDALL, BINGHAM, SEIBERLING, ECKHARDT, CARR, KOSTMAYER, MURPHY of Pennsylvania, RAHALL, VENTO, HOWARD, LUJAN, YOUNG of Alaska, SYMMS, MARRIOTT, and CHENEY, with respect to disagreement with matters contained in sections 4 and 5 of the Senate amendment and modifications committed to conference.

The Chair states further the Chair will appoint additional conferees on sections 1, 2, and 3 on tomorrow.

DEPARTMENT OF COMMERCE DEFERRAL OF $15.8 MILLION FOR INTERNATIONAL ENERGY EXPOSITION IN KNOXVILLE, TENN., AND REVISION TO PREVIOUSLY TRANSMITTED DEFERRAL FOR NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'S COASTAL ENERGY IMPACT FUND—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-363)

The SPEAKER pro tempore (Mr. FARY) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a new Department of Commerce deferral of $15.8 million in funds for the International Energy Exposition in Knoxville, Tennessee. In addition, I am reporting a revision to a previously transmitted deferral for the National Oceanic and Atmospheric Administration's Coastal energy impact fund increasing the amount deferred by $0.5 million.

The details of each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *August 27, 1980.*

JIM COMSTOCK, PUBLISHER OF THE FAMED WEST VIRGINIA HILLBILLY ADDRESSES ROTARY CLUB IN WASHINGTON, D.C.

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. RAHALL. Mr. Speaker, today, the Rotary Club of Washington, D.C. had the distinct pleasure of hearing Jim Comstock, the publisher of the famed West Virginia Hillbilly.

Following its birth in 1956, and its rebirth in 1959, the Hillbilly, continues to be, as Jim has stated himself, "A paper for people who can't read, edited by an editor who can't edit."

He is a good friend and a delightful person. I know the Rotary enjoyed hearing him.

I find it interesting that Jim would come to the Nation's Capital, after all the things he has said about those, like us, who represent the public's interest.

Jim once noted in the Hillbilly:

> At the dedication of a bridge the other day in Harrison County I got to thinking about the prayer that the man of God made, and received revelation, which I suppose is the best test for the efficacy of prayer. He prayed for the "Governor, the Members of Congress, and the members of the State legislature." I got to wondering why he chose those whom the ballot blest, instead of other members of society, teachers, lawyers, physicians, and of course, editors. The idea came like that dove flying into the kitchen, that politicians perhaps stand most in the need of prayer.

I welcome him to Washington, and am sure he will enjoy his stay.●

THE PROCESSING AND MANAGEMENT OF REFUGEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 60 minutes.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, as a Member of the House Committee on the Judiciary, and being from the State of Wisconsin, which contains one of the Cuban refugee camps, I have a special interest in the Cuban refugees and how the Federal Government has handled their entry into this country.

On August 8, Philip Kiko and Timothy Sheehy of my staff and I visited the Fort McCoy facility to become better acquainted with the resettlement procedures and operations of a refugee camp. This visit proved to be a real "eye opener" with regards to the lack of coordination, planning, and foresight by the Federal agencies that were, or are, involved at Fort McCoy.

I am taking the opportunity of this special order not to criticize the Refugee Act of 1980, which I opposed, or to criticize President Carter's handling of the Cuban refugee influx as I have done previously. Instead I am reporting my observations and making recommendations for a more efficient, coordinated approach toward the processing and management of refugees, both the Cubans we are accepting now and other groups that may come here in the future.

First, I will outline recommendations intended to improve the situation at Fort McCoy, which probably shares many of the same problems experienced at Fort Chaffee in Arkansas and Fort Indiantown Gap in Pennsylvania. Then, I will discuss in more detail the observations that led to these conclusions.

The recommendations I am submitting for consideration by Congress and the administration are as follows:

First. Better coordination and management of the processing and placement procedures by the Government agencies involved.

Second. Cutting the bureaucratic redtape in the placement of juveniles and transferring the successful youth program at Fort McCoy to Fort Chaffee, where the juveniles are to be transferred later this year.

Third. The establishment of a program of better cooperation between the Federal Government agencies at Fort McCoy and the law enforcement offices of the surrounding communities.

Fourth. An increase in the number of INS personnel, at the refugee compounds and the temporary deputization by Attorney General Benjamin Civiletti of sufficient numbers of State and local law enforcement officials to enable them to detain and return escapees from Fort McCoy.

Fifth. The establishment of mandatory education and culture assimilation programs for all age groups of refugees.

Sixth. The utilization of military transport aircraft, where practical and feasible, to transport refugees to their resettlement destinations.

Seventh. Full Federal reimbursement of State and local resettlement-associated costs, as provided by the Fascell-Lehman amendment to the fiscal year 1980 supplemental appropriations bill.

Eighth. Segregation of mentally retarded and mentally ill refugees from the criminal and homosexual element within the compounds.

Ninth. The establishment of better monitoring procedures for refugees placed with and in the custody of sponsors.

Tenth. The establishment of a permanent policy governing the transferral of refugees to Federal prisons, or other institutions in the case of those with special problems making them more difficult to resettle.

Eleventh. The development by the State Department or the INS of specific repatriation procedures for Cubans seeking to return to Cuba.

From day one, the administration's handling of the refugees at Fort McCoy was awkward and lacked direction. Since there were no specific guidelines for many situations, no one was sure who could or should do what, so we had a lot of bureaucratic wheelspinning.

First, the Federal Emergency Management Agency (FEMA) was given the responsibility for coordinating the various refugee programs at Fort McCoy. FEMA was established as a disaster relief agency to handle disasters created by floods, hurricanes, blizzards, and so forth. FEMA was not created to coordinate programs for 119,000 Cuban refugees unable to speak English, having limited knowledge of American customs, having a large percentage of criminals within their ranks, and unanimously needing to be resettled.

This mismatch was finally recognized and in July, coordination and management of the refugee compounds was taken over by the Department of State and the Department of Health and Human Services (HHS). Unfortunately, this stumbling about has fostered some of the problems now faced by the refugees at Fort McCoy.

For example, from conversations with Governor Dreyfus' office and Fort McCoy employees, I must conclude the internal government of the Cubans is out of control. The large number of criminal refugees at Fort McCoy, and the poor or complete lack of supervision there have created a situation in which the infrastructure of the refugee self-government appears to have been taken over by strong men and their gangs, like the Eagles and the Warhawks, vying for control of the remaining refugees in the camp.

I have also been informed there is a black market within the refugee compound for which these different groups are struggling for control. This black market, I am told, includes drugs, homosexual activity, prostitution, et cetera. Admittedly, part of the reason for the thugs taking control is these undesirables comprise a growing percentage of the refugee population at Fort McCoy that increases as the more desirable refugees are placed. However, it is still my opinion closer monitoring and stronger management of the situation by either FEMA, the State Department, or HHS could have prevented this from occurring.

Second, as for the handling of the Cuban juvenile population, bureaucratic redtape must be cut so certain types of unaccompanied juveniles can be resettled as soon as possible.

Two basic problems are cropping up in the resettlement of the 265 unaccompanied minors remaining at Fort McCoy of which only 60 to 80 have sponsors.

The first problem resolves around whether HHS or the State Department is responsible for a juvenile with a nonrelated guardian during the time the juvenile is in transit from Fort McCoy to the resettlement destination. The agencies involved do not agree on this point, and none of them are voluntarily assuming this responsibility.

The second, and more serious problem, is the question of agency responsibility for juveniles awaiting guardianship proceedings. Someone has to assume responsibility for the juvenile once he or she leaves the Fort McCoy compound, yet the States have been reluctant to assume this responsibility because of the costs they incur with no assurance of Federal reimbursement.

The "Catch 22" lies in the fact the Federal Government, on the other hand, will not transfer a juvenile to a State after a potential guardian has been identified as long as the juvenile has no official supervision. This problem could be resolved by having the appropriate Federal agency, whether it be HHS or the State Department, enter into agreements with the States providing for a guaranteed 100-percent reimbursement to the latter for any and all expenses they incur during this interim period if they take responsibility for the juvenile.

One of the most successful aspects of the Fort McCoy experience, I witnessed, was the dedication and commitment shown by the persons staffing the youth facility, headed by Mr. Noe Sanchez, director of the unaccompanied minor program. Mr. Sanchez and his staff have done an excellent job in providing the youth with English language and other educational programs, proper counseling, and a full range of recreational and athletic activities.

Presently, there are approximately 265 unaccompanied Cuban minors within the Fort McCoy compound, of which approximately 125 are segregated from the other refugees. I was told the reason for doing this is to prevent certain elements of the adult population from exploiting the juvenile population, such as the incidents of homosexual and heterosexual harassment of the youth which have been reported. In one instance, a sexually abused youth was smuggled out of the compound by camp officials and taken to a local judge so that he could be declared a ward of the State and thus not be forced to return to the camp.

☐ 1950

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding. I think it should be pointed out that the gentleman's statement is very important from the standpoint of all of us who have experienced the refugee centers in their areas. Fort Indiantown Gap is close to my district, and I think many of the points the gentleman makes are points which apply equally for Indiantown Gap and I am sure some of the other centers around the country as well. The points the gentleman is making with regard to some of the corrections that should be taken at Fort McCoy in his State would also apply to things which should be done at Fort Indiantown Gap in my State and I assume at the other bases.

Let me ask the gentleman, since he has talked something about the language difficulties: Is the gentleman aware of the problem where many of the INS personnel put into these camps did not have Spanish-speaking ability, and thereby we had units acting as police forces in these camps or who were the law enforcement officials of record not being able to communicate with the refugees, which has led to some of the turmoil? Does the gentleman have any recommendations in that regard in the recommendations overall which the gentleman is making?

Mr. SENSENBRENNER. That is correct. Many of the INS, medical and State Department personnel do not have Spanish-speaking capability. FEMA initially hired a large number of college and university students from the various universities in the State of Wisconsin to act as interpreters. I have heard stories that including overtime some of these interpreters were making as much as $800 to $1,000 per week. That all comes out of the taxpayers' hide. It certainly is one of my recommendations that people who do have responsibility for interviewing and processing Cuban refugees be bilingual so that they can speak to the Cubans in their own native tongue, thus eliminating the necessity of hiring all these high-priced interpreters.

Mr. WALKER. I thank the gentleman for that and I think, also, it needs to be pointed out that it was that lack of communication which I think failed to ferret out some of the problems we had at these camps. The administration time and time again assured us that we had no real problems with most of the refugees, that their initial intelligence reports and the initial work they had done were such that they did not believe the people we were dealing with were any problems. Now we find out that as most of the refugees who have families in this country have been moved out of the camps and the people left in the camps are really very much of a problem element, I think that the lack of Spanish-speaking personnel at the camps made it impossible to determine that until later. It also contributed to the fact that we failed to recognize there were professional terrorists within these camps. I have to attribute some of the troubles that have been taking place, some of the rioting, to professional terrorists who I assume Castro has sent in here, but, nevertheless, they were the ones, I think, who fomented a great deal of trouble we had, at least at Indiantown Gap.

Mr. SENSENBRENNER. The gentleman from Pennsylvania is absolutely correct. Most of the Cubans who did not have criminal records, who did have relatives in the United States, who were the more desirable refugees for resettlement purposes, have already been resettled. Those that are remaining at the three camps, Fort McCoy in Wisconsin, Fort Indiantown Gap in Pennsylvania and Fort Chaffee in Arkansas, are more of the hard core criminals and professional troublemakers as well as agitators that Castro may have sent in.

The problems I have outlined and which the gentleman from Pennsylvania has experienced in his State I believe are going to increase because there are fewer and fewer sponsors available for refugees that do have criminal backgrounds and consequently are less desirable to be sponsored.

Mr. WALKER. As I said earlier, I think the gentleman is making a very important statement. It certainly denotes the need for this administration and any future administration faced with the same problem to come up with a rationalized kind of policy rather than simply dumping large numbers of refugees into sites which, first, were probably not prepared to accept them and, second, where the facilities were totally inadequate and, third, where the policies were totally inadequate.

☐ 2000

There needs to be some kind of a rational policy from day one, when we announce that we are accepting a certain number of refugees, right on through the process. We certainly did not have it in this regard, and I think we are paying a terrible price for not having had a rational policy from the beginning.

I thank the gentleman for what he is doing.

Mr. SENSENBRENNER. I thank the gentleman from Pennsylvania for his remarks, and I wish to agree with all of what he has said.

When unaccompanied minors are transferred to Fort Chaffee as Fort McCoy is phased out, they should be segregated from the adult population. It would also be my recommendation that Mr. Sanchez be transferred to Fort Chaffee so he will be able to continue some of his more successful programs. It would be a shame if some of these programs were shelved, never again to see the light of day. Additionally, many of the minors look upon Mr. Sanchez as a father figure and trust him. Mr. Sanchez and that trust should be there for them at Fort Chaffee when they are uprooted again.

The third recommendation, regarding better cooperation between the law enforcement officials of communities surrounding the Fort McCoy compound and the Federal agencies, is an important one. Sheriff Ray Harris, of Monroe County, expressed concern over the volatile situation in his community created by the fears local residents have over the large number of "fence jumpers" and the markedly increased number of unsolved local burglaries—in which only the necessities of life, that is, food and drink were taken—they believe the fence jumpers are responsible. Sheriff Harris explained that the residents of Monroe County are arming themselves at an unprecedented rate and he is worried that innocent people, either Cubans or local residents, may be accidentally shot.

He cited an example where a person, who was not a refugee, was shot at while running across a field and he expressed the fear that similar incidents may occur.

There is also resentment among local residents over the property stolen or damaged by fence jumpers. The State Department officials at Fort McCoy should have been prepared from the beginning to work with area residents to ease tensions on this score and to help them seek compensation for their losses through official channels.

A community relations program by the Federal Government could, in my opinion, alleviate some of these fears and tensions among the residents of areas surrounding Fort McCoy and other refugee compounds.

The problem of cooperation between local law enforcement officers, INS officials, the military and U.S. marshals is crucial because of the lack of adequate INS personnel responsible for returning the escapees to Fort McCoy compound which leads to my fourth recommendation for more INS personnel there.

The majority of the refugees remaining at Fort McCoy have criminal records and need closer supervision than normal refugees. The insufficiency of the number of INS officers at the compound becomes more evident when considering it is their responsibility to handle disturbances, return fence jumpers, and patrol compound 800, where as many as 75 undesirable refugees with violent criminal backgrounds are detained while awaiting transfer to the Federal prisons in Fort Leavenworth or Atlanta. When I visited compound 800, the head INS officer, John Bailey, stated that on one occasion he was very happy that, by chance, the National Guard helped security by merely conducting maneuvers near the compound. Nevertheless, during one 3-day period, 14 refugees escaped from this compound and some are still at large.

Mr. Bailey also reported the staff problem is exacerbated in part by the employment contract that covers INS officers. Listing himself as an example, Mr. Bailey stated he actually is working without pay because the number of overtime hours he could work had been exceeded. Fortunately, out of personal commitment, Mr. Bailey continues to supervise compound 800.

This shortage of INS officers is compounded by the fact that only they have jurisdiction to return fence jumpers. Ambassador Victor Palmieri, President Carter's Coordinator for Refugee Affairs, in a meeting at my office in early July, informed me that State and local law enforcement officers would not have the authority to return refugees who escaped from Fort McCoy unless they were breaking a State or local law.

I was informed that when escaped refugees are discovered, State or local authorities are to inform the INS officers at Fort McCoy, who will then be dispatched to return the refugees to the camp. It is the opinion of Attorney General Bronson La Follette of Wisconsin that State and local law enforcement officers would be subject to false arrest and false imprisonment suits if they detain escaped refugees not violating State or local law.

In two letters to U.S. Attorney General Benjamin Civiletti, neither of which he ever responded to, I requested sufficient numbers of State and local law enforcement officers be temporarily deputized as U.S. marshals, to empower them to return refugees and to be ready for any disturbances like those happening at Fort Chaffee in Arkansas or Fort Indiantown Gap in Pennsylvania. The deputizations of local law enforcement officers would also free the already short supply of INS officers to handle internal security matters at Fort McCoy more effectively.

INS officers now utilized extensively to handle fence jumpers would be better utilized in guarding compound 800, the high risk area.

On the subject of fence jumpers, I would add there should be procedures to more closely monitor the number of fence jumpers. I am very doubtful all fence jumpers have been accounted for, based on my conversations with officials at Fort McCoy.

On a related matter, I have received reports that there has been animosity and a poor working relationship between the military personnel at Fort McCoy and the Federal, State, and local officials and employees involved in the camp's operation. I believe this ought to be investigated to determine how and why this has happened.

The fifth recommendation, there be mandatory education programs, is essential. A majority of the Cubans do not speak English and know little about our customs or practices. There have been no mandatory educational programs for either adults or the unaccompanied minors at Fort McCoy. This has serious consequences in that many of the refugees are resettling in such heavily Cuban areas as Miami. On Thursday, August 21, the Federal Government approved and began a $250,000 program to teach English as a second language, but this seems too little too late for all the refugees already resettled without the benefit of this training.

Many fear these Cuban refugees resettling in heavily concentrated Cuban neighborhoods may not learn the English language, and will not readily become assimilated into the U.S. culture. They will instead continue to operate within their own "barrio" subculture, which has suffered many economic and social problems. A mandatory education program could accelerate the process of assimilation.

As for my sixth recommendation, I believe military transport airplanes should be utilized for resettlement transfers where practical for budgetary and logistical reasons. Presently, when sponsors are found, the refugee is given a ticket on a commercial airline and given instructions on how to read his ticket, get through the airports, and arrive at his destination.

In reviewing the computer printout on the destinations of the resettled refugees, it became evident to me many refugees are resettling in Miami. It would seem to be cheaper and more efficient to use military transport planes when the refugees have common destinations. This method lessens the chances for refugees to become lost in an airport or to hijack an airplane if they wish to return to Cuba.

Regarding my seventh recommendation, the authorizing legislation for the amendment was contained in H.R. 6942, the International Security and Development Cooperation Act of 1980. However, it appears unlikely that the conference committee will report the bill out soon because of the controversial nature of many of the provisions. Legislation must be passed soon so States like Wisconsin can be reimbursed. Wisconsin is already paying more than its fair share for a problem that was and is the result of the Federal Government's policies and should be shared equally by all States.

The most depressing aspect of the tour was the facilities utilized for the mentally ill. It was nothing more than a caged-off area, staffed by highly qualified and dedicated, yet an insufficient number of, health professionals. I was shocked to learn mentally ill patients under treatment are not segregated from homosexuals and criminals among the population.

The presence of chronic mental health problems among the refugees is verified by the fact that during the month of July, 27 percent of all visits to the emergency room were for violent or self-destructive reasons. As implied in my eighth recommendation, these patients should not return to the compound with the other refugees, where they may be taken advantage of or where innocent refugees will become victims of the mentally ill. Additionally, the U.S. Government should establish a policy directed toward providing the institutional and psychological care needed for the refugees with mental problems. This long-term problem could be resolved immediately, not through the time-consuming passage of legislation.

Regarding my ninth recommendation for post-placement refugee followup, I believe there should be specific monitoring procedures to insure refugees are being properly cared for by their sponsors. The sponsors are under a moral obligation only, and I have heard scattered reports of some refugees being treated as slaves, prostitutes, or dependents for purposes of obtaining welfare benefits by the sponsor.

There should also be notification of local community and Government agencies of a refugee's placement within their jurisdictions, so they can assist in the follow up.

As for the tenth recommendation for policies governing placement of "difficult" refugees, I would like to share some statistics developed by Rachel M. Schwartz, a health researcher at Fort McCoy, who has made a report to the Alcohol, Drug Abuse and Mental Health Administration of the Public Health Service. These statistics graphically illustrate some of the types of people Castro released, in addition to raising some serious concerns about future U.S. policy toward the remaining refugees, who will be difficult to place.

It is my understanding INS has set up a computer databank of information on each refugee at Fort McCoy, including their resettlement destination, age, medical clearance, and sponsor, as well as information provided by the refugee in personal interviews by INS officials.

As of August 2, according to computer data, 75 percent of the 6,660 refugees still at Fort McCoy admitted they had been in jail for more than 2 weeks. Of this 75 percent, 33 percent had been imprisoned for crimes such as theft, murder, burglary, et cetera, 32 percent had been jailed for drug abuse, gambling, disorderly conduct, black market activities, antisocial behavior, et cetera, and 35 percent had been jailed for such crimes as being absent from the army, refusing to serve in the army, loitering, not going to work, or for political reasons.

While these figures are highly indicative of the magnitude of the criminal and security problems at Fort McCoy, a personal observation I made while there brings this point home even more vividly. While on my inspection tour, U.S. marshal Reggie Wilkinson showed me a closet full of over 900 homemade knives, pokers, machetes, and other weapons confiscated from refugees.

The presence of these weapons confirms the serious security problem that exists at Fort McCoy. Unfortunately, I must report that the security situation has deteriorated to the point where 450 additional military troops were called in just last night to supplement the 600 already there.

This data, which hopefully also is being compiled at Fort Indiantown Gap in Pennsylvania and Fort Chaffee in Arkansas, illustrates the future problem of placing undesirable refugees and the need for policies governing their placement—whether in homes, prisons, or other institutional settings appropriate to their special problems.

To aid in the formulation of a resettlement policy for these individuals, I shall request the State Department, the Department of Health and Human Services, and other appropriate agencies to provide a summary profile of the background of the Cuban refugees at the various camps. This should be useful in planning policies to deal with the remaining Cubans and for future refugee influxes.

As for my last recommendation, the startling number of airplane hijackings by Cubans seeking to return to Cuba clearly proves the need for permanent procedures for the repatriation of refugees seeking to return to their native lands. The lack of administration guidelines on these situations has forced us into a position of reacting to them on a piecemeal, inconsistent basis, and has prompted some disgruntled refugees to take matters in their own hands by hijacking airplanes.

In conclusion, I would hope the U.S. Government can learn from its mistakes. The mismanagement and lack of coordination must not be repeated in the future, if and when large numbers of refugees are allowed into the United States. I believe the recommendations I have made today will remedy those problems.

□ 2010

Mr. PETRI. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to my colleague, the gentleman from Wisconsin.

Mr. PETRI. Mr. Speaker, I wish to commend my colleague from Wisconsin, Congressman SENSENBRENNER, for his comprehensive list of detailed recommendations for improving the management of the Cuban refugee problem. As he has noted, it is particularly appropriate that he address these problems, as a Wisconsin member of the Judiciary Committee.

In a way, he is filling the leadership void being left by the chairperson of the Subcommittee on Immigration. Congressman HOLTZMAN, who is leaving the House. Despite passage of the Refugee Act earlier this year, there remain many serious issues of immigration and refugee policy that we simply must address. In fact, this whole area cries out for congressional leadership, and I am glad to see my colleague from Wisconsin providing that tonight.

I have previously stated to the House my belief that this year's special Cuban refugee problem stems initially from a gross failure of the Castro regime. Our overriding policy should be to focus attention on that fact, in this hemisphere and around the world. Our failures in supervising the boatlift and handling the Cubans after arrival detract from that effort.

As to the refugees themselves, aside from those we let Castro force upon us in order to embarrass us in return, most were voting with their feet and fleeing a failed regime. They should be treated not as permanent immigrants but as temporary political exiles, awaiting a change in government before returning eventually to their homeland. I have even suggested that if they wish to form a government in exile, we should look favorably upon it. If Fidel Castro wants to play games with us, I see no reason why we should not raise the costs to him where feasible.

Finally, it seems to me that this year's Cuban episode is just one more example of a serious double standard that afflicts our entire immigration and refugee policy. We have a strict policy standard for the Eastern Hemisphere and a loose policy or no policy at all for the Western Hemisphere. Eastern Hemisphere immigrants have quotas, health tests, screening procedures, sponsor requirements, and the like, while hordes of people from this hemisphere come in illegally or semilegally and are tolerated or even encouraged. The administration does not spend all the money appropriated for border surveillance and the Social Security Administration has not even done much of a job of preventing illegals from getting cards. The whole system breeds an unhealthy disrespect for the law.

Years ago we at least gave the equivalent of today's Mexican entrants a legal status through the Bracero program. This program was ended for various reasons, but that did not stop people from coming in; it just removed all controls and restraints. Surely our current policy of confusion and drift is far worse and cries out for reform.

Mr. SENSENBRENNER. Mr. Speaker, I would like to thank my colleague, the gentleman from Wisconsin (Mr. PETRI), for taking part in this special order. I recognize that he represents the part of Monroe County in which Fort McCoy is located.

I know that the people at the western edge of the gentleman's district are concerned about the problems because of the proximity of the Cubans to their own homes, and I look forward to working with him in coming up with legislation which will make sure that this unbelievable mess never happens again.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I am very appreciative for our colleague Mr. SENSENBRENNER for arranging time to review and discuss this very important national concern. I share with him the apprehension he has expressed over this continuing problem and feel that he has made some valuable recommendations toward implementing future policy. I hope that this administration will pay heed.

Mr. Speaker, I am most grateful for the opportunity to address my colleagues on the floor today on the problems associated with the administration's policies and procedures in handling those people who fled Cuba for the United States during the past few months and the particularly adverse impact they have had on Arkansas.

I think the only way a true picture of what has been happening can be presented is to review the entire sequence of events which has taken place over the past 4 months.

In April, as rumors began to circulate that Fort Chaffee might be used to process Cubans who had entered this country illegally, I was in touch on several occasions with administration officials to make known to them the opposition of the local community to any such action. I pointed out to these officials that Fort Chaffee had previously been used to process nearly 50,000 Vietnamese refugees and that the equitable thing to do would be to select a facility which had not previously been involved in any such operation. It should be noted at this point that the local people who lived in the vicinity of Fort Chaffee, as well as government officials at local through State level, had been very receptive and supportive of the Vietnamese refugees when they were being processed at that installation. However, the general feeling was that it was time "to share the wealth."

In early May President Carter announced that he had selected Fort Chaffee, which is in my congressional district, to serve as a processing center for those Cubans who were fleeing their native land. Since that time local citizens have been subjected to one after another glaring example of Government ineptitude, broken promises from the highest level, as well as arrogant disregard of the rights and wishes of the local populace.

On May 8, 1980, immediately following the announcement that President Carter had selected Fort Chaffee, I was in touch with him to identify specific concerns of the local people. These fell into the following areas: Employment impact, health, criminal records, economic impact, and internal security. At that time, I also expressed the belief that while the local people would do what they could to make this resettlement program work, massive Federal financial assistance and full Federal cooperation for the localities affected would be needed and I asked President Carter to make such help available immediately.

The first major disappointment came right at the beginning when the President designated FEMA—The Federal Emergency Management Agency—as the lead agency to coordinate the entire operation. This choice set the tone for what was to follow. FEMA is a new agency and is simply not staffed with sufficient people of a caliber or experience level which would permit them to run an operation of this size and complexity in an efficient manner. Based on my experience with the Vietnamese refugee operation, where the lead agency had been the Department of State, I made the same offer to FEMA officials as I had to State officials 5 years earlier: To arrange for them to be introduced to and meet with those local officials, businessmen, and civic leaders who could offer invaluable advice on how to involve the local community in the overall effort. Where State had accepted such offers eagerly and moved quickly to take advantage of them, FEMA never displayed the slightest inclination to do so. As a result the channels of communication were never opened by FEMA to the local community.

It also quickly became apparent that the administration had become bogged down as to what controls they had over these illegal aliens. This is best illustrated by the Posse Comitatus contretemps. Under the administration's interpretation of this century-old statute, Army personnel were deemed powerless to exercise any physical restraint against the Cubans. Needless to say, it did not take the Cubans very long to discover this and that they were able to leave the post practically at will. Just as obviously, the burden of restraining the Cubans then fell on the law enforcement departments of the small communities surrounding Fort Chaffee.

Starting on May 21, 1980, I directed inquiries to senior officials of the Department of Justice concerning the impasse over Federal control of the Cubans, particularly referring to the Posse Comittatus problems. One assistant attorney general advised that the Department of Justice only responded to such questions when they were submitted in writing. He did deign, however, to refer me to the Acting Commissioner of the Immigration and Naturalization Service who expressed disbelief that the jurisdictional problem outlined to him as existing at Fort Chaffee could actually exist.

□ 2020

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield at this point?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, on July 2, I posed this question in writing to Attorney General Civiletti, pointing out that we did not want a repeat happening at Fort McCoy of what happened at Fort Chaffee where the military were powerless to arrest or detain Cuban civilians and local law enforcement officers were powerless to arrest and detain illegal aliens who did not commit a violation of the State or local law. I received no response to that letter, not even acknowledgment of its receipt.

I sent a followup letter later during the month of July, and that still has not been responded to.

So as a result, local law enforcement agencies really do not have any power to do anything should they see a Cuban who has escaped from the compound running through the woods or walking down the road. They have to call up an INS official. It takes the INS official some time to get out. In the meantime, the Cuban has disappeared. So there has to be better cooperation. And I believe that the temporary deputization of local law enforcement officials as either border patrol agents or deputy U.S. marshals would help solve that glaring loophole in the law which the Cubans have taken advantage of in the gentleman's State as well as in mine.

Mr. HAMMERSCHMIDT. What the gentleman has just stated was a continuing pattern here, especially in the earlier days of Fort Chaffee.

The Acting Commissioner of the Immigration and Naturalization Service promised to check into this and be back in touch. Nothing further has been heard from him. The next contact was with an Associate Deputy Attorney General who, at least, was aware of the problem and willing to discuss it. However, it was his opinion that the post commander had all the authority he needed to control the Cubans and the Posse Comitatus issue was really not very important. In this conversation every attempt was made to make this senior official of the Department of Justice realize how seriously the local people were viewing the lack of control on the fort and the steps they were taking to protect their families from harm by those Cubans who were beginning to roam the countryside.

On May 22 a request was made to FEMA to transfer 30 U.S. marshals from Key West to Fort Chaffee in view of the Army's continued lack of authority.

On May 23 the U.S. marshal-in-charge at Fort Chaffee gave assurances he had sufficient personnel and they were doing "a good job."

On May 26 the first riot occurred at Fort Chaffee. With the Army still lacking authority to maintain law and order on the installation, it became necessary for the Governor to call out the National Guard to insure that the Cubans were kept on Fort Chaffee. From that point forward the guardsmen teamed with State police to patrol the perimeter of the base in an effort to insure the safety of the local residents.

On June 1 full scale rioting broke out at Fort Chaffee with resultant destruction of buildings and injuries to many people. At this point the Governor ordered in more guardsmen and State police. The Army, also, dramatically increased the number of soldiers it had on duty at the fort.

Only after these tragic events did the administration belatedly move to provide the Army with the necessary authority to keep the Cubans on the installation while they were being processed. Even this was not done easily or smoothly. I had flown to Fort Chaffee immediately after hearing of the riots on June 1 and toured the facility with city officials of Fort Smith. During this tour we were given assurances by a Presidential assistant that the Army now had been given the necessary authority to use reasonable force to restrain the Cubans. However, 5 minutes later in a conversation with the commanding general, whose office was about 100 feet from where the Presidential assistant was working, our group was told that he had not been given any new authority. Further investigation revealed that the new authority referred to was, in fact, just coming out of the typewriter in Washington.

Since the riots, literally thousands of my constituents have been in touch with me to express their indignation over happenings at Fort Chaffee and to demand that the Cubans be removed from there as quickly as possible. I might add that many media reports also carried assurances from President Carter that no more Cubans would be sent to Fort Chaffee.

Now, earlier this month, President Carter announced his decision—an incredible decision in my opinion—to send several thousand more Cubans to Fort Chaffee from the three other military facilities being used to process the illegal aliens. I would like to point out also that the people who will now be sent to Fort Chaffee are those who are in the hard-to-place category insofar as sponsorship is concerned.

In yet another attempt to make the administration aware of the concerns of the local people, I wrote to President Carter once again, even though I was not consulted on this further use of Chaffee nor, for that matter, even informed officially of that decision. My concerns were pretty well summed up by the concluding paragraph in my letter to the President:

> I recognize that your spokesman has given assurances that a fully coordinated security plan will be adopted prior to the arrival of more Cubans at Chaffee. That is fine. However, we have seen too many promises broken about future happenings at Chaffee. On behalf of the citizens of the Fort Smith area, I urge you to give your personal attention and commitment to insuring that the necessary security is provided at Fort Chaffee so that the local populace will have no cause for concern for their own safety or that of their family.

Unfortunately, as with all other contacts with the White House on this sensitive subject, a form reply has been the only response.

The last point I would like to mention is the matter of reimbursement to the State and local governments for costs incurred by them as a direct result of the Cubans being at Fort Chaffee. From my fist contact with the President on May 8, 1980, concerning this matter, I have stressed the fact that this is a national problem and must be met with national resources and that States and localities in which resettlement centers are located should not be expected to shoulder the financial burden associated therewith. In spite of this urging by me and the two Senators, and disregarding the turmoil already created in the lives of thousands of our citizens, FEMA continues to nitpick the bill submitted by the State of Arkansas which, for the period starting with the arrival of the Cubans at Fort Chaffee until June 16, 1980, covered the expenses incurred by the State police, the National Guard, two cities, two sheriff's departments and the Governor's office, amounted to a grand total of $213,850.51. At this point they are arguing over a matter of approximately $12,000 in an operation which has already cost many millions. Where, I ask, is the perspective of those who are in charge? Where do the rights of our citizens fit into the overall scheme of things?

It is truly sad to see an act of human misery of epic proportions such as the Cuban migration turned into a comedy of errors. Instead of being a showcase for the compassion and understanding of the American people, the administration through sheer ineptness, lack of leadership at all levels, and bureaucratic bungling has succeeded in presenting our adversaries with a propaganda field day while, at the same time, demeaning the very persons they were trying to help.

In closing, let me present one final concern. Anyone who has visited the various camps and watched the Cubans being processed or watched them arrive in Key West in their small boats, as I have, can not help but be aware of the human side of this problem. Also, as a Nation we have always prided ourselves on opening our doors to receive those who have been victims of political persecution and who require sanctuary.

However, it now appears as if this administration is departing from the long held policy of limiting refugee admissions primarily to former political prisoners and their families, and to cases involving family reunification. Now, the doors appear to be opening to admit economic refugees on the same basis as political refugees. I simply must question the ability of this country, or any country, to continue to accept an ever increasing number of refugees from nearly every corner of the Earth.

As a specific example of this, the current Cuban migration figure is slightly over 120,000; however, the total figure of those who have fled the Castro regime to resettle in the United States is rapidly approaching 1 million. In this connection, it must be kept in mind that for many years this country had a very orderly immigration policy which permitted a specified number of immigrants to enter each year. This policy worked very well for the country and allowed us to control those entering to a number which could best be assimilated into our society. In recent years that orderly process has been changing rapidly. Now, in addition to the 270,000 immigrants who are allowed to come to this country under our normal immigration laws, the Immigration and Nationality Act of 1980 tripled the number of refugees permitted to enter annually to a figure of 50,000. I might add that the approximately 120,000 Cubans who have entered this year did not come in under the vastly increased quota but rather by a unilateral action of President Carter. In my opinion, it is time to take a long, hard look at our admissions policy with a view of determining just how far this country can go in helping the unfortunates of every nation on Earth without seriously interfering with the rights and welfare of our own citizens.

□ 2030

Mr. SENSENBRENNER. I thank the gentleman from Arkansas for his very perceptive comments, particularly as they relate to the situation in his own State.

I would concur with the observation of the gentleman from Arkansas that our immigration and refugee policy is haphazard and uncoordinated. I would hope that the 97th Congress would address itself to revising our immigration and refugee quotas so that the situation which we have experienced in 1980 will never happen again.

For my part, I think that there should be an absolute number of foreigners set by Congress that cannot be exceeded unless Congress should decide to amend that number either upward or downward, and within that number, the President would be limited in the number of foreign immigrants, refugees, applicants for political asylum or however else these legal immigrants are labeled.

So I certainly do thank the gentleman from Arkansas for his comments. I hope that the country is listening to what we have to report.

● Mr. McCLORY. Mr. Speaker, on June 4 of this year I took a special order to discuss with some of my colleagues on the House floor the serious problems resulting from the influx of Cuban refugees to this country. I rise today to reiterate the point I stressed then: That the President must consult with members of the House and Senate Judiciary Committees, as specified in the new Refugee Act signed into law in March of this year, concerning admission and treatment of refugees to the United States.

Under the new Refugee Act, a total of 19,500 Cubans were authorized to be considered for refugee admission during fiscal year 1980. Depending which figures you read, somewhere between 120,000 and 130,000 Cubans, or more, have arrived on these shores since April. Only in the case of the first 3,500 did the President consult with the Congress as prescribed by law.

Mr. Speaker, we are all familiar with the seriousness of the situation in Florida—the lack of housing for these people, the strain on the educational system posed by these many thousands of non-English-speaking children and adults, outbreaks of criminal violence, and the soaring costs, of course, borne by the suffering American taxpayer, associated with these conditions. In the best of times, the American citizen would have cause for concern in this situation, and these clearly are not the best of times.

Mr. Speaker, I salute my colleague from Wisconsin (Mr. SENSENBRENNER) for bringing this critical subject again to the attention of the Members of the House and of the American public.

Mr. Speaker, the main objective of the Refugee Act was to create a flexible and systematic procedure for the admission of refugees into the United States. Title II of the Refugee Act sets forth such a procedure. It eliminated the former seventh preference "conditional entry" provision of the Immigration and Nationality Act's immigrant visa preference system, replacing it with new provisions for the regular admission of refugees, as well as for their admission in emergency situations.

Through fiscal year 1982, a "normal flow" of up to 50,000 refugees may enter the United States annually. A number in excess may be admitted if, after consultation with the House and Senate Judiciary Committees, the President determines that the excess is warranted by humanitarian concerns or is otherwise in the national interest. Beginning in fiscal year 1983, no normal flow number is designated, and the President establishes the appropriate total number after consultation with Congress.

The President also decides the allocation of refugee admissions among refugee groups annually, after consultation with Congress.

The Carter administration on April 15 announced that Cuban admissions for fiscal year 1980 would total 19,500.

Now the President may determine, after appropriate consultation with Congress, that an emergency refugee situation exists and admissions of refugees beyond those initially established for a given fiscal year are justified by "grave humanitarian concerns." He may fix a number of additional refugee admissions that may be allocated during the succeeding 12-month period or less among refugees of "special humanitarian concern."

President Carter used this emergency provision to allow the admission of 3,500 Cubans into the United States who were among the 10,000 who sought refuge in the Peruvian Embassy in Havana. Since this was before the 1980 totals were submitted to Congress, this number is included in the 19,500 admissions that will be made available for Cubans this year.

The procedure under which the President consults with Congress concerning refugee admissions is specifically prescribed by the Refugee Act. It includes discussions in person by Cabinet-level representatives of the President with members of the House and Senate Judiciary Committees. The President's representatives provide the committees with certain specific information, to be supplied at least 2 weeks in advance of the discussions.

The substance of the discussions regarding "excess" and emergency admissions must be printed in the CONGRESSIONAL RECORD, and was for fiscal year 1980 on April 21, 1980 (see CONGRESSIONAL RECORD: 8407–8420) and on June 10, 1980 (see CONGRESSIONAL RECORD: 13821–13833). A hearing must be held on proposed excess admissions and, if circumstances permit, on emergency admissions prior to the President's determination of the admissions number, unless public disclosure would jeopardize life or safety.

Mr. Speaker, in order not to consult with the Congress, the President has resorted to a technicality of dubious foundation, in my opinion, to accept the more than 100,000 Cubans who have come in in excess of the 3,500 on which he did consult the Congress. I believe the President's actions, however humanitarian his motives may be or claimed to be, are not within either the letter or the spirit of the new law, and the inconsistencies of his reaction to the Cuban refugee crisis have posed a problem of huge dimensions for the country. Cubans are now being held at various locations in the United States, including a military base not far from my district in the Midwest, where it has been reported that four out of five of the refugees being held in that camp have criminal records. The Cuban refugee problem has become a crisis in this and certain other localities and a burden for the whole U.S. citizenry, and it did not have to happen, at least in such proportions, had the new law been carried out as I believe it was intended to be enforced.

Mr. Speaker, I ask consent to have printed as a part of my remarks several stories in this week's news magazines about this subject and an editorial from the Waukegan, Ill., News-Sun about the Fort McCoy situation. Also, I am attaching a paper prepared by CRS analyst Barbara McClure on the subject of Federal assistance to State and local governments for expenses relating to Cuban-Haitian entrants under the Carter administration policy of giving parole status to Cubans who arrived in the United States during the period April 21 to June 19 and a similar status to a certain category of Haitians.

Mr. Speaker, I want to emphasize three points. The first, which I tried to get across in my special order on June 4, is that the President must consult with the Congress on the admission and treatment of refugees in compliance with the new Refugee Act. The language of the act is obligatory, not discretionary. We did not in passing the new Refugee Act hand to the President any carte blanche authority for the admission of refugees to the United States. It is not a question of the President's judgment, or the President's humanitarian feelings, or the President's wishes; the law clearly states that the President must consult with the Congress on the admission of refugees to this country.

Second, if there are deficiencies in the new law, that is something we need to look at in the Congress. If the new law provides a loophole through which hundreds of thousands of refugees can be dropped on our shores merely by being hauled in by the boatload, we need to do something about that.

Third, I want to state my position that all Cubans who wish to return to Cuba should be facilitated in their journey. I realize that talking is easier than doing on this last point, when the Castro regime refuses to take them back, but I feel something more can be done in that regard.

Four of Five McCoy Cubans Are Ex-Cons: Report

WASHINGTON.—Four out of every five Cuban refugees interned at Fort McCoy in Wisconsin had prison records while in Cuba and an abnormally high number of them suffer from mental illnesses, National Public Radio reported Friday.

The radio network said a study conducted by a psychiatrist and a health researcher showed that 4,000 of the 5,000 Cubans at the Wisconsin base admitted to having served prison terms of at least 15 days in Cuba and that two-thirds of them were convicted for criminal offenses. The others were considered political prisoners.

The NPR quoted State Department official Paul Lane as disputing the figures and saying the number of refugees with criminal records or a history of mental illness is closer to 15 to 20 percent.

The two researchers, psychiatrist Peter Kramer and researcher Rachel Schwartz, conducted the study for the Department of Health and Human Services, according to the radio report.

Cuban Hijackers—And Those Who Stay

Armed sky marshals began flying incognito aboard commercial jets again last week, behavioral profiles of potential hijackers were distributed to airline ground personnel and beefed-up security checks came into play at many of the nation's airports, especially in the South. The all-too-familiar state of siege that suddenly surrounded U.S. air travelers followed an unprecedented spree of skyjackings a fortnight ago—six planes diverted to Cuba in one week, three of them in a single day. All six successful plane heists, and several stymied attempts, were the work of recent Cuban refugees grown discontented with the United States and seeking a quick ride home.

The overwhelming majority of the 120,000 refugees from last spring's "Freedom Flotilla" would not dream of returning to Cuba, let alone stealing a plane to get there. But the renewed burst of air piracy did reflect a gnawing disillusionment in their ranks. Tantalized by tales of prosperity in the United States from relatives here who have visited the island, many of the new immigrants expected a world of silk shirts, Sassoons and Sonys. "They came here and woke up to reality," says Miguel Gonzalez Pando, director of Florida International University's Center for Latino Studies. Both work and housing have been hard to come by; a recent study of new refugees in Miami found that 73 percent had no permanent jobs and only 9 percent could pay for their own housing.

The latest spate of hijackings began when a Spanish-speaking man, toting a box he said was a bomb, commandeered an Air Florida flight between Miami and Key West and diverted it to Havana. His "bomb," it turned out, was simply a box of soap. Three days later, seven Cuban refugees threatening to ignite bottles of gasoline skyjacked another Air Florida flight en route from Key West to Miami. "It appears we may have the start of a new problem," said a Federal Aviation Administration official in Washington. He was right. In the next three days, National, Eastern, Republic and Delta planes were diverted to Cuba by hijackers brandishing gasoline bottles and, in one case, a "bomb" that was in fact a children's toy. In each case, the hijackers were arrested and all other passengers returned safely to the United States.

Stepped-up security thwarted two additional skyjack attempts last week, but the underlying problem of disillusioned refugees seems likely to remain. About 15,000 Cubans—the hardest to place—still languish in four camps around the country.

All the publicity about criminals, homosexuals, mental patients—and now potential hijackers among the Cubans—has had its effect on resettlement efforts. Some sponsors, impatient with supporting refugees who can't make it on their own, have abandoned them, and some immigrants have walked out on the jobs they finally did find. "The refugees sometimes expect huge-paying jobs," says the Rev. Jim Jamail of Catholic Charities in Houston. "If it's not exactly what they expected, they quit." Catholic Charities and other relief agencies have poured out hundreds of thousands of dollars to aid the Cubans, but most Federal and some state assistance has been withheld because the newcomers have not received official refugee status.

Disaffinity. The new refugees cannot always count on sympathy from Cubans who fled after Fidel Castro's revolution in 1959. The earlier refugees were largely middle class and professional; recent arrivals are often uneducated and unskilled. The disaffinity is sharp in Union City, N.J., a once-dying industrial town that was revived and transformed by the first Cuban wave, which now makes up 60 percent of the population. "I will never forget the feeling of disgust when I first greeted the new refugees," says one Union City Cuban. "It was the way they smelled, how dirty they were, how loud and crudely they spoke, and how many blacks there were."

Ironically, the homosexuals among the

new refugees have fared better because of support from the U.S. gay community. The Universal Fellowship of Metropolitan Community Churches, a gay religious organization, took the lead in resettling homosexual Cubans. Along with the Dade County Coalition for Human Rights, the MCC has obtained sponsors for 1,500 refugees and expects to find homes for 5,000 more. "We decided we had to look after our own," says the Rev. Robert Falls of San Francisco. "Who else would?"

For all the problems, most of the new Cuban immigrants remain optimistic. Eighty-five percent have been released from refugee camps and resettled, most are receiving some form of aid from relatives, relief agencies or the government, and many have found jobs that hold at least a promise of future self-sufficiency. One example is Nicolas Gonzalez, 60, whose picture on Newsweek's May 26 cover illustrated the Cuban influx. After months of searching, Gonzalez recently landed a construction job. His wife works in a clothing factory and they live in a one-bedroom apartment in Miami's Little Havana with four other refugees. "I had moments when I questioned why we were here," Gonzalez admits. "I can understand how the hijackers feel, but I don't feel sympathy. They should have patience." The irony is that the refugees most likely to succeed in this country are those who understand just how slow and difficult the process will be.

For Most Cubans, U.S. a Happy Haven

Four months after leaving Fidel Castro's Communist stronghold, some Cubans are finding the promise of a better life in the U.S. only an illusion. But thousands more are glad to be in America.

Dramatic evidence of discontent came in mid-August, when homesick Cubans hijacked six airliners and ordered them flown to Havana. Several other refugees attempted suicide by drinking shampoo or slashing their wrists.

Despite such well-publicized incidents, evidence showed that a large majority of the 119,534 Cubans who left their homeland in last spring's sea lift still prefer America. Officials asked the most frustrated Cubans—those still in resettlement camps—if they would rather be back in Cuba. Only 77 of 5,131 at Fort Chaffee, Ark., said yes. Barely a dozen of 4,977 at the Indiantown Gap, Pa., camp wanted to return.

While many of the homeless have become despondent, a resettlement director at Fort Chaffee said the overall mood was one of quiet resignation. "They believe that what they can have here is better than what they had in Cuba," the official explained.

Five of every 6 Cubans who came here in the spring have been settled, while some 18,000 remain in camps. Half the refugees are in South Florida, many working in restaurants, picking vegetables or cutting sugar cane.

"The vast majority are like the earlier influx of Cubans," said a State Department official. "They are perfectly willing to start with what they have and build up from there."

The hijackings and wrist slashings, officials said, were done mostly by Cubans who either expected too much or had been misfits for years.

The process of resettling refugees still in the camps is expected to remain slow, despite millions of dollars being spent by federal and state governments. Most of those left unplaced are single males between 19 and 40 with poor educations and no English. Many are homosexuals, and some came from Cuban prisons or asylums.

In many instances, Cubans who found sponsors soon lost them. Some Floridians who sponsored young exiles turned them back to the state as unmanageable and mentally unstable.

Nearly 700 Cubans found sleeping in Miami's streets now live aimlessly in tents under a highway overpass. One said he preferred jail in Cuba.

Why don't those who want to go back to Cuba simply leave? The State Department has asked Havana five times that homesick Cubans be allowed to return. The answer each time: No.

[From Time magazine, Sept. 1, 1980]

The Welcome Wears Thin: Homeless and Jobless, Many Cuban Refugees are Getting Restless

Still they come, although no longer are the arrivals welcomed to the U.S. with "open heart and open arms," in Jimmy Carter's memorable phrase of May. Even so, Cubans continue to set sail from their homeland and arrive on the shores of Florida. Some 185 disembarked at Key West on a single day last week.

Still they come, despite a dismaying fact: the passage of time has not helped the U.S. to absorb the 120,000 Cuban refugees who have poured in since April. The problem endures stubbornly, disrupting life in Miami and southern Florida in particular, posing special difficulties of assimilation that have baffled and enraged local, state and federal officials.

Jobless and homeless in a strange country, some of the disillusioned Cuban refugees not only talk of wanting to go back home, a few have been driven to desperate measures. Two weeks ago, Cubans seized six airliners, three on Aug. 16 alone, and forced the pilots to fly to Havana; the skyjackings set records for the most in one week and the most in a single day. Stern security measures, augmented by reports that Fidel Castro has thrown the successful skyjackers into Cuban jails, appeared to be taking effect, however: there were no new skyjackings last week.

If anything, the basic problem of handling the Cuban refugees was getting worse. In Indiantown Gap Military Reservation, Pa., one of four camps where Cubans are held until sponsors can be found to give them homes, 1,000 troopers of the 82nd Airborne Division stood guard over 4,000 Cubans last week to prevent a repetition of the Aug. 5 riot in which 16 camp officials and 42 Cubans were injured, one fatally. In Fort McCoy, Wis., homosexual attacks and knife fights have broken out among the 5,300 Cubans housed in the camp; many are refugees under 18 who face continued idleness in what they view as a prison unless good Samaritans can be found who will assume legal guardianship as foster parents.

Nowhere, however, do the tensions and torments equal those in southern Florida, especially Dade County and its central city, Miami. More than half the Cuban refugees have been encamped there, joined by the vast majority of 30,000 black Haitians fleeing extreme poverty and the political repression of Jean-Claude ("Baby Doc") Duvalier. Thus Dade County confronts a challenge distinctive in American history: absorbing about 100,000 new residents, roughly equal to the population of Roanoke, Va., who for the most part are poor, unskilled, and unversed in the language of their new country, and doing it in just four months.

Superficially, the Miami area might seem to be the best place for Cubans to settle. Some 500,000 Cubans began arriving there shortly after Castro took over Cuba in 1959, and today Hispanics constitute 38 percent of Dade County's 1.6 million population. The early arrivals managed to get along with the area's non-Latin whites (47 percent) and blacks (15 percent); indeed, the Cubans' energies helped to transform Miami from a stagnating tourist town into a vibrant trade and financial center. And the Cuban advance guard created a cosmopolitan atmosphere in which the new arrivals can feel culturally at home: in Miami's Little Havana, Spanish is the predominant language, and at almost every corner there is a stand selling the dark, strong café cubano.

But there are important differences between the old and new refugees. Besides the fact that the earlier arrivals drifted in over a period of 20 years, giving the community time to assimilate them, many were middle- or even upper-class Cubans who arrived with some money and marketable craft or professional skills, and they came in family groups. The new refugees are predominantly penniless workers. A disproportionate number are single young men who grew up under a Communist system and have no idea of what life in a capitalist democracy is like. Though the established Cubans have been generous with donations of food, clothing and money, and have taken refugees into their homes, many are as apprehensive as their Anglo and black neighbors about the newcomers. Says Insurance Executive Leslie Pantin: "The undesirables are hurting the Cuban image of respectability."

The greatest problem is that the sheer numbers of new refugees have simply overwhelmed community facilities. Says Metro Dade County Commissioner William Oliver: "We're at the crisis level now." Examples:

HOUSING

There is very little for the refugees: the vacancy rate in Dade County rental houses and apartments is a mere 1 percent, and the county has received no federal public housing money in 14 years. Though Washington claims that 85 percent of the Cuban boat people have been placed with sponsors, many are stacked in crowded matchbox dwellings in Little Havana with distant relatives who have agreed reluctantly to let them stay for a while. Some 750 Cubans live in Campamento del Rio (River Camp), a group of Army squad tents nestled under the elevated highway Interstate 95. People wash at spigots; laundry flutters from wire fences; young, bare-chested men wander morosely among the tents. An ominous new note: the residents of the tent city include not only refugees who have been unable to find a home but some who lived with sponsors for a while and then were turned out onto the streets because their benefactors decided they no longer wanted to keep them.

JOBS

By one estimate, five of every six new refugees have failed to find employment. Says Lucas Perez, 32, a welder who came to the U.S. a month ago: "I've gone through two pairs of shoes looking for work. There is none." Adds Hilda Lisa, 29, watching over two children in the tent city, while her husband looks for work as an electrician: "We had been dreaming of getting out of Cuba for years. And now we are here—no jobs, no housing, nothing to do."

CRIME

In the first six months of 1980, crimes of all kinds in Dade County rose more than 20 percent over the previous year, compared with a statewide increase in crime of less than 15 percent. In normally placid Miami Beach, rapes, homicides, robberies and burglaries have risen almost 30 percent. There have been assaults by new refugees on each other, on whites, on blacks, and attacks by local toughs on the new immigrants. But most of the increase in crime in Dade County seems to stem from attacks by new refugees on established Cuban residents.

SCHOOLS

"No school system in the history of American education has had to absorb such a sizable non-English-speaking group in such a short time," says Paul W. Bell, associate superintendent of Dade County schools. Some 13,000 new Cuban and Creole-speaking Haitian pupils—"a greater student population than in most school districts in the U.S.," as Bell notes—will begin classes in Dade County in September. The cost is staggering in a school district that had anticipated a $24 million deficit even without the influx of the new refugees.

WHITE FLIGHT

Though statistics do not exist, real estate agents agree that many white residents of Dade County are leaving for other parts of Florida, other areas of the South—anywhere. Dudley Hodges, 27, is planning to move to Palm Beach County, even though he will have to commute 65 miles one way to his job with the Hialeah fire department. His wife Christine fears that if they stay in Dade County the education of their two small children will suffer because of "the special attention given in the schools to those who don't speak English." Last week Jack Present quit his $30,000-a-year job as city manager of South Miami to accept a post as a job-safety supervisor for Boca Raton, though it pays $10,000 less. His explanation: "This refugee problem is out of hand, I don't feel safe on the streets here any more."

BACKLASH

Dade County's blacks fear that Cuban and Haitian refugees will crowd them out of jobs. That resentment helped touch off the riots that rocked Miami in May, killing 18 and causing $100 million worth of damage, although there were no documented attacks against the new Cuban refugees. Says Dade County Commissioner Oliver: "The refugee influx is intensifying pressures at the bottom of the ladder." But the blacks have plenty of company among whites. A group calling itself Citizens of Dade United is collecting signatures on a petition to repeal a 1973 law that made Dade a bilingual county and to deny public funding for "utilizing any other language than English, or promoting any culture other than that of the United States." Says Petition Leader Marion Plunske, a North Miami accountant: "Wouldn't it be nice to live in America? We're living in a foreign country. We're living in North Cuba."

Whatever they may think of the new refugees, Miamians—white, black and Hispanic—react with one emotion to mention of the word Washington: sheer fury. The Federal Government, they charge, has let them be swamped by a human tidal wave and has given them totally inadequate help to cope with it. Though Washington is committed to picking up the cost of housing and feeding the Cubans in the tent city, Dade County is still trying to collect $1.4 million that it spent to harbor refugees in the first days of the boatlift. Even Uncle Sam's own employees rage against their superiors. Three members of a State Department refugee task force in Miami quit three weeks ago in protest against what they considered Washington's indifference to the refugees. Task Force Director Paul C. Bell charged that he was "hitting my head against a stone wall" trying to get action to ease the Cubans' plight.

Paul Lane, a State Department spokesman in Washington, replies that help is now on the way. Indeed, last week the Government offered $6.8 million to community health centers in Miami and promised $10 million to Miami-area schools. Cynical residents of Dade County reply that they will believe it when they actually get the money.

More federal cash immediately certainly would help. But it would not cure the refugee problem; in both Miami and Washington, officials acknowledge that south Florida simply cannot take in any more refugees, if indeed, it has not already passed the limit it can accommodate.

Besides trying ineffectively to shut off the flow of refugees with a blockade, Washington asked Castro for the fifth time last week to discuss procedures for returning to Cuba in an orderly way any refugees who want to go back. At week's end Castro finally replied no. In any case, the number who want to return seems small. For example, some 70 Cubans in Miami's tent city have signed a petition asking to be allowed to go back, but seven times that many new refugees land at Key West each week.

The only long-range solution, says State Department Spokesman Lane, is to find sponsors for many of the Cubans in other areas—New Jersey, for example, which already has a large Cuban population, or California—where their numbers will not swamp communities. There is no time to lose. As boats continue to land anxious and penniless refugees on Florida's coast, the troubles are growing, day by day.

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 29, 1980.

From: Barbara McClure, Analyst in Social Legislation, Education and Public Welfare Division.

Subject: Federal Assistance for State and Local Governments for Expenses Relating to Cuban/Haitian Entrants.

On June 20, 1980, the Carter Administration announced that Cubans who had arrived in the United States during the period April 21–June 19, 1980, and all Haitians who were in INS proceedings as of June 19, would have their parole into the country renewed for a 6-month period as "Cuban/Haitian Entrants (Status Pending)." This is in response to your request for information concerning the availablity of Federal funding to State and local governments for expenses related to these Cubans and Haitians. The following describes currently authorized assistance, as well as pending legislation.

I. Currently Authorized Assistance:

A. AFDC/Medicaid/SSI. Under their 6-month extended parole, the Cubans and Haitians are eligible, if they otherwise qualify, for participation in the SSI, Medicaid and AFDC programs. Normal Federal/State matching rules are applicable. In the case of Florida, for the AFDC and Medicaid programs the Federal share is 58.94 percent, and the State share is 41.06 percent. The Supplemental Security Income payments would be nearly totally Federal because Florida does not have a State SSI supplement other than for persons in foster or nursing home care.

B. Comprehensive Employment and Training Act (CETA). As parolees with the right to work, the Cubans and Haitians are eligible for participation, if they otherwise qualify, in CETA training and employment programs. These programs are supported entirely by Federal funds. According to a spokesman in the Labor Department's regional office in Atlanta, approximately $1.7 million in extra CETA funds has been channeled to the South Florida area (South Florida Manpower Consortium serving Dade and Monroe Counties) to provide additional services in connection with both the Cuban/Haitian situation and the recent civil disturbances in Miami. These additional funds have been used mostly for summer jobs and public service employment programs.

C. Fiscal 1980 Supplemental Appropriations. Supplemental appropriations legislation for fiscal year 1980 was approved on July 8, 1980 (P.L. 96–304). Several amounts relating to assistance for the Cuban/Haitian entrants were appropriated, as follows:

1. $36 million to the Department of Health and Human Services (HHS) for health services related to the recent arrival of Cubans and Haitians. The Senate report accompanying the supplemental appropriations legislation (S. Rept. No. 96–829) indicates that $3 million of this amount is designated, as requested by the Administration, to increase services at community health centers in South Florida. According to a spokesman for the HHS budget office, this money will be expended for outright grants for new or expanded community health and mental health centers in areas with high concentrations of Cuban/Haitian entrants. According to the spokesman, the Public Health Service is now in the process of determining how this grant money will be allocated.

2. $17.6 million to the Department of Education for section 318 of the Adult Education Act ("Adult Education Program for Adult Immigrants") to fund projects to increase educational and occupational skills, and to provide guidance and counselling to the Cubans and Haitians. Section 318 authorizes a program of grants to and contracts with State and local education agencies or other public or private nonprofit agencies. According to a spokesman for the Department of Education budget office, the announcement of awards of these funds is expected within the next 2 weeks. It is anticipated that all funds will be disbursed by the end of October or mid-November of this year. However, section 318 requires that at least 50 percent of all funds appropriated under the section be used for contracts with private nonprofit agencies. The Department prefers that the entire $17.6 million be used for grants, with no contract money, and at this time is attempting to determine whether the 50 percent contract requirement can be avoided. If it cannot, only the 50 percent grant money will be available by mid-November, with the remaining 50 percent contract money being made available by the end of January 1981. The Department has until the end of fiscal 1981 to expend these funds.

3. $7.7 million to the Department of Education for title III, part A, section 303 of the Elementary and Secondary Education Act (Secretary's discretionary fund) to provide instructional programs for school-aged children among the Cuban/Haitian entrants. According to a Department spokesman, these funds will be awarded to selected local education agencies (LEA's) for English-language training, bilingual instruction, counselling services, and staff training. It has been estimated that this $7.7 million represents approximately $300 per Cuban/Haitian child (see Education Daily, July 23, 1980, p. 5). According to another Department spokesman, the Regulations concerning the award of these funds will be published within a matter of days. It is anticipated that the funds will be expended in late December 1930 or early January 1981, but they will be retroactive for expenses incurred back to September 1980. Amounts awarded will be based on the October 1980 head count. The $7.7 million remain available for expenditure by the Department of Education through the end of fiscal 1981.

4. $245 million to the Federal Emergency Management Agency (FEMA) to reimburse Federal agencies and State and local governments affected by the recent influx of Cubans into the U.S. Of this total, $5 million is earmarked for reimbursement to Florida State and local governments for their "extraordinary" expenses resulting from the Cuban influx. According to a spokesman for FEMA, the agency is currently negotiating with the Florida State and local governments concerning which of their expenses the Federal government will reimburse.

5. $100 million for "Funds Appropriated to the President for Special Migration and Refugee Assistance" to be used to reimburse State and local governments for the cost of cash and medical assistance and social services to the recently arrived aliens from Cuba and Haiti. Of the $100 million appropriated, $50 million is for FY 1981 and will not become available until October 1, 1980. Availability of funds is contingent on the enactment of legislation authorizing such reimbursements for persons classified as "Cuban/Haitian entrants" (see discussion of International Security and Development Cooperation Act, below).

The President also requested an additional $39 million in supplemental funds for the State Department's Emergency Refugee and Migration Assistance Fund, to be used to provide assistance to voluntary agencies for processing, transportation and resettlement of recent Cuban and Haitian arrivals. However, this $39 million was not appropriated because Congress failed to approve any funds for foreign assistance and related programs in the fiscal 1980 supplemental appropriations.

II. Pending Legislation:

A. International Security and Development Cooperation Act (H.R. 6942). On June 5, 1980, the House agreed to an amendment to this legislation, introduced by Representative Fascell of Florida, which would authorize an additional appropriation of $100 million for fiscal 1980 for the State Department's migration and refugee assistance account to be used for the resettlement of foreign nationals who have fled their country and with respect to whom no other resettlement assistance is authorized. The amendment also would earmark $100 million in FY81 funds for the same purpose. Representative Fascell noted that his amendment was meant to apply to the recent Cuban and Haitian entrants, and that the funds could be used to reimburse State and local government for expenses incurred as a result of these immigration waves. Under a Rules Committee waiver, $100 million was included in the FY80 supplemental appropriations for this purpose contingent on passage of the authorizing legislation (see above).

The Senate considered its version of the same legislation (S. 2714) on June 17, and adopted an amendment offered by Senator Richard Stone of Florida. This amendment would provide that the Cuban emigres be designated as refugees solely for the purpose of qualifying State and local governments for assistance under the Refugee Act. Senator Stone stated that this amendment was intended to express the sense of the Senate regarding the assistance question without actually adopting the language of the Fascell amendment, thus allowing for a compromise in conference committee. The measure is now in conference.

B. Education Amendments of 1980 (S. 1839). Federal impact aid to school districts with refugee children was approved by the Senate in an amendment to this bill offered by Senator Williams on June 23, 1980. The amendment would add a new title XVIII, "Refugee Children Impact Aid Program," to the Act of September 30, 1950 (P.L. 81-874), the Act authorizing payments for Federally impacted areas. Funds would be authorized for school districts receiving at least 20 refugee children in a school year, including those children who have been paroled into the United States, are applicants for asylum, or who have been granted asylum after November 1, 1979. Payments would be according to the formula already established for Federally impacted school districts under P.L. 81-874. A conference with the House on this measure is expected soon.

C. Assistance to Education Agencies for Services to Cuban and Haitian Refugee Children (H.R. 7425). On July 22, 1980, the House Subcommitte on Elementary, Secondary and Vocational Education approved for full Committee action H.R. 7425, as amended. In general, as reported by the Subcommittee, the legislation would provide Federal payments to local education agencies equal to the local share of average per pupil expenditures multiplied by the number of Cuban/Haitian children enrolled in the school district. For heavily impacted areas (i.e., those with at least 500 Cuban/Haitian children, or with a number of Cuban/Haitian children equal to at least 5 percent of the average daily school attendance figures), the bill would provide an additional $1,500 per Cuban/Haitian pupil in the first year, $1,000 in the second year, and $700 for the third year. The bill also would provide an extra $600 for every Cuban and Haitian adult enrolled in education programs, including English language classes, vocational education and vocational skill certification. It has been estimated that if fully funded the legislation would cost the Federal government approximately $67 million (see Education Daily, July 23, 1980, p. 6). The full House Education and Labor Committee has scheduled a July 29 markup.●

● Mr. GOODLING. Mr. Speaker, there are presently 4,000 Cuban refugees at Indiantown Gap. Rumor has it that they are supposed to be out by October 15. Governor Thornburgh wrote President Carter more than 2 weeks ago requesting a written commitment that these refugees will be out of Indiantown Gap by October 15, before the winter season. As yet, he has not received a response to his letter.

There have been several disturbances at the Gap. Shortly after one of those disturbances, one individual died. State police were not informed of the death until 2 weeks after it occurred. At first the death was considered a civil rights case, then it was treated as a murder. State police were not very pleased at having to investigate a murder 2 weeks after it happened. The situation is still unclear and confusing.

When the disturbances occurred, our Governor responded to a request by Harry Johnson, director of the Cuban-Haitian task force headquarters, and sent in four Pennsylvania National Guard battalions which, of course, had disrupted their summer training program. The National Guard battalions have since been relieved by the 86th Airborne Battalion, and it is still there. State police have had to provide extra patrol services to take care of so many situations, including runaways. A shakedown of the population is necessary regularly. So far 60 weapons have been found. The local district attorney has refused to take any more refugees into the county jail, because they do not have the facilities.

Therefore some of the refugees are placed in the Lewisburg Federal Penitentiary. Two hundred fifty unaccompanied minors were placed at Indiantown Gap. Some of these were handled by Catholic relief organizations, but the State did not have the room nor the organizations to deal with this problem. The most disgusting part of this whole operation is the fact that the administration welcomed all of these people to our country and then placed the burden on three or four States to handle the problem, without providing the necessary financial reimbursement.

All the administration has come up with is proposed legislation which, except for children, does not involve full financial reimbursement. The State of Pennsylvania did not bring about these problems and, therefore, should not be expected to provide the tax dollars to cope with them. The administration must recognize that this problem is a national one and needs direction, coordination and funding from the Federal Government. The fact that it is no longer in headlines throughout the country, does not mean that the Cuban refugees no longer exist. These people still exist and need more Federal help than ever. To date it has not been forthcoming. Hopefully the administration will seek the funds and reimburse the States before the financial burden becomes unbearable and hurtful to not only the refugees, but the States residents as well.●

● Mr. RAILSBACK. Mr. Speaker, I have had the opportunity to review my colleague, JIM SENSENBRENNER's, report on refugee conditions at Fort McCoy, Wis., and his recommendations for change in our refugee policy. I would like to commend him for a job well done.

The report is very valuable for those of us who have not had an opportunity to visit a refugee camp, for in it JIM shares with us his own first-hand observations of the refugees' conditions at Fort McCoy. His report brings to light certain problems there—from the increasing percentage of criminals present as other refugees are resettled, to the problems of caring for and resettling the unaccompanied juveniles, to the special problems of the mentally ill, as well as the shortage of INS officers at the camp. These problems are not unique to the Fort McCoy camp, and they strongly indicate the need for a better and more efficient approach to handling and caring for refugees who arrive in our country.

Fortunately in his report JIM did not consider his job done after he described the problems he had found at the camp, but he went on to make specific recommendations on how our refugee policy could be improved. I feel that we could profit by examining our response to this year's influx of refugees, and that we should draw up a better plan based on this experience to be better prepared to handle the arrival of any future refugees. JIM SENSENBRENNER's report and his recommendations should prove most useful in accomplishing this task. I would like to thank him for taking the time to personally evaluate the refugee situation, and to share his findings with his colleagues in the House.●

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

CONGRESSIONAL CHAOS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. TAUKE) is recognized for 5 minutes.

● Mr. TAUKE. Mr. Speaker, periodically Members from this side of the aisle have been calling attention to the reasons for ending the 26 consecutive years of Democratic control in Congress. We have attempted to point out to the American public that the failure of Democratic leadership and policies has eroded the confidence of our Nation in its government.

Our message has now been underscored by a Federal commission established by Congress in 1959.

The Advisory Commission on Intergovernmental Relations has begun issuing a series of reports which state that Congress—more than any other entity—has precipitated, in the Commission's words, "the crisis of confidence" in America.

The reports indicate that the "increasing dysfunctional" state of our Nation's Government results, in part, from the decline of influence of the national political parties. There is no question that the blame for the falloff of support for the party system rests with both Republicans and Democrats.

However, it seems clear to me that the largest share of the responsibility falls squarely upon the shoulders of the Democratic leadership in Congress which has failed to recognize, much less shape, the realities of 1980.

The commission report states that the perception that the Federal Government can control this Nation "despite 14 years of repeated failures, is one of the 'pervasive myths' of Washington." A myth, it seems clear, which has been perpetuated by the Democratic leadership.

The failure of leadership is underscored by the Advisory Commission when it states that Members of Congress are "so preoccupied with such narrow concerns as potholes, libraries, rat control and policemen's pensions that they had little time to deal with such major responsibilities as foreign affairs and the economy."

Let me add to that list what the leadership apparently believes is the highest priority facing this Congress—the reelection of its Members.

As the Advisory Commission points out, parochialism is one sure-fire way to win elections. The Democratic majority couples that with efforts to avoid controversial and pressing issues before the fall elections.

Mr. Speaker, I believe that the ploys of the Democratic leadership will be seen by the American public for what they are—an abdication of responsibility.

The electorate is intelligent. The American people will realize the abdication of responsibility which is so apparent in delaying action on the fiscal year 1981 budget. They will realize that the Democratic leadership is ducking votes on spending cuts until 2 full months after the mandated legal deadline for passage of the second budget resolution.

Election year sleight-of-hand is no substitute for action to curb current Government spending and limit future spending.

But even before the lameduck flap, Americans were aware of the congressional leadership's ineffectiveness.

A recent survey in Iowa's Second Congressional District found that the economy ranked as our Nation's most pressing problem. But close behind, in the No. 2 position, was a perceived lack of effective leadership by this Congress and the present administration.

As the Advisory Commission so aptly titled its report, we are facing "A Crisis of Confidence and Competence."

Mr. Speaker, last week the Republican freshman class unanimously endorsed a resolution I offered opposing the proposed lameduck session. We are presently seeking bipartisan support to halt the calling of this unnecessary post-election gathering, the first post-Presidential lameduck session since Harry Truman's upset victory in 1948.

We will not simply stand by and watch the leadership of Congress replace our great national symbol, the American bald eagle, with the lame duck.

I would like to share with my colleagues an article which appeared in the August 25 edition of the New York Times, which summarizes the Advisory Commission on Intergovernmental Relations report.

Chaos in Domestic Aid Programs Is Laid to Congress in U.S. Study

(By John Herbers)

Washington, August 24.—A Federal commission, ordered by Congress to conduct a thorough study of the state of American Government, has concluded that Congress itself is chiefly to blame for what it found to be an unmanageable, wasteful and unaccountable system of domestic aid programs.

The Advisory Commission on Intergovernmental Relations, created by Congress in 1959 to make seemingly innocuous studies in Federal-state relations, has come to the conclusion that the Federal system is simply out of control. It also found that the declining influence of political parties is contributing to the problem.

The panel has begun to publish its newest findings in a series of provocative reports and background papers that Congress commissioned in 1976 in response to rising public discontent with Government at all levels.

The 26-member commission is required by law to consist of six members of Congress, three officials from the Executive branch, four governors, four mayors, three state legislators, three elected county officials and three private citizens, each appointed for two-year terms. Former Mayor Abraham D. Beame of New York is the current chairman. The commission has a staff of about 37, headed by Wayne Anderson, the executive director.

A LACK OF UNDERSTANDING

"Neither public officials nor the general public comprehend fully the new complexities of domestic public policy, or adequately control—or even check—the myriad forces that have generated it," the commission said in its first printed volume, titled "A Crisis of Confidence and Competence."

Yet the language and conclusions in that volume are mild compared with some of its documents yet to be published. In some of those, the commission depicts the Federal Government as so overloaded with programs and issues that it cannot cope with need for reforms.

The myriad programs are so intertwined among the state, local and Federal Governments that no government can deal with them, according to the commission.

While all levels of government and the courts were found to have played roles in the failures of the last two decades, the commission singled out Congress as having had more to do with bringing about "the crisis of confidence" than any other entity.

"Our findings belie the notion that Congress acts as a great rubber stamp for Presidential, bureaucratic or interest group iniatives," the commission said. "In fact, in many instances the opposite would be far closer to the truth."

Congress was depicted as quick to take on minor new issues, but timid in drawing up such needed reforms as overhauling the welfare system. Members of Congress were found to be so preoccupied with such narrow concerns as potholes, libraries, rat control and policemen's pensions that they had little time to deal with such major responsibilities as foreign affairs and the economy.

STATES HEED CRITICISM

All this might have gone unnoticed—Congress has been ignoring the commission's advice for years—had not the group's findings and recommendations become the fulcrum for an incipient revolt by the states against the Federal Government.

The National Governors Association, with the support of the National Conference of State Legislatures, has formally called on the President and Congress to appoint a high-level commission next year to recommend reforms in the Federal system including the realignment of powers between the state and Federal Governments, through legislative or constitutional change.

That move, made at the governors' annual convention in Denver this month, was based on a similar recommendation that the commission made at a meeting in Washington earlier this summer.

The commission has suggested that reform could begin with a series of "trade-offs" that would give the Federal Government full responsibility in some areas while giving the states responsibility for other areas.

For example, the Federal Government could take over the full costs and responsibility for public welfare, including Medicaid, social services and food stamps. It would also assume responsibility for social insurance, including unemployment insurance, and housing programs.

The panel suggests that the states could then take over the responsibility for education, libraries, fire protection, police and correction, natural resources, hospitals and health services. While the commission maintains that there would be little difference in the costs that each would have to bear, it contends that the public would at least know who was responsible for what.

Many of the more than 500 grant programs could then be consolidated or phased out, according to the commission.

In documents supporting its recommendations for change, the commission said that much of the "increasingly dysfunctional" state of the Government stemmed from the decline in the influence of national political parties, which once served to keep "the bulk of domestic governmental issues and programs completely out of the Washington arena."

This situation, it said, leads to "a total confusion" in official role playing. "Presidents act almost as frequently in a mayoral or a gubernatorial role as a national Presidential one," the commission said, "and Congress plays municipal and county council almost as often as it acts as a national deliberative body. It has produced a situation where no level or set of officials is performing the functions it is best suited to perform."

PROBLEM IS DESCRIBED

The commission contends that Congress has refused to assume full responsibility for functions that should be purely national, such as income maintenance, health insurance and welfare. Nor has Congress been willing to relinquish matters that should be strictly local, such as urban parks, rural fire control and aquaculture, according to the commission.

"A rather fanciful form of federalism, then has emerged," it said. "Basic policies in most program areas appear to be made in Washington and their implementation achieved through decisions, orders, mandates, conditions, regulations and the lure of Federal loot for 12 million state and local civil servants."

"And, in the end, the fancy becomes caprice because the subnational governments, their elected officials and bureaucracies are capable of highly differentiated responses to all this—in terms of compliance, cooperation, participation and conflict," the commission said. "Equally fanciful is any notion that the Federal aid system as a whole protects the interests of the needy or equalizes levels of public services. Questions of equity are largely ignored in the scramble for benefits."

That the Federal Government is capable of controlling such a system, despite 14 years of repeated failures, is one of the "pervasive myths" of Washington, the commission said.

"Where does this leave the electorate?" the commission asked. "Frustrated, fearful, alienated and/or angry. The system has become highly incomprehensible even to those whose job it is to have an overall understanding of it."●

FARMER COOPERATIVES: THERE IS STRENGTH IN NUMBERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 5 minutes.

● Mr. GRASSLEY. Mr. Speaker, farmer cooperatives are a tremendously important factor in the continuing success of American agriculture, a system that consistently supplies U.S. citizens and the people of the world with an abundance of high quality, reasonably priced food and fiber. In a uniquely American fashion, members of farmer cooperatives democratically and voluntarily organize to help themselves, grouping together to market their commodities, purchase needed supplies, and secure credit. As the members help themselves, their increased production and efficiency also benefit the American consumer, the U.S. economy, and the hungry of the world.

Just how important farmer cooperatives are to the well-being of consumers across the Nation and worldwide can be illustrated by a few figures. It has long been recognized that the United States is the world's most efficient agriculture producer and is also the world's leading exporter of farm products. But it is not common knowledge that 99 percent of America's farms are family owned and operated, and that 4 out of 5 farm families belong to one or more of the 7,854 farmer cooperatives operating in the United States. The connection is undeniable. Many of the most efficient and productive farmers in the world, American farm families, find it in their best interest to be members of cooperatives. As consumers we enjoy the low prices and the plentiful supply of produce that are a result of these producers' profit maximizing decisions.

It is no surprise that the Iowa farmer, always a leader in efficiency and productivity, should also lead in the farmer cooperative figures. Iowa's cooperatives have some 373,385 members (with some people belonging to more than one organization). Iowa is also one of seven States in the Midwest who together account for 43 percent of cooperative membership nationwide. As a farmer myself, and a member of a farmer cooperative in New Hartford, I have always found co-op membership an invaluable aid to me in the operation of my farm.

What makes the cooperatives of such benefit to the farmer is their ability to combine the advantages of economies of scale with the equally important advantages of individual ownership and management. First, by associating together as consumers of the materials and services they need for production, members can buy as a group and assure themselves of a steady supply plus a lower price as they buy in larger quantities. Later, when they sell their commodities together, members create a larger bargaining base and hence have more power in the market. Farmer cooperatives allow the family farm to compete in an economy increasingly dominated by big business and big government.

Although the farmer may gain by joining a farmer cooperative, this does not mean the consumer loses. In fact, just the opposite occurs. Lower production costs to the farmers also mean lower prices for the consumer. The consumer, while seeing the price drop as a result of greater efficiency and competition, still finds the high-quality produce he has become accustomed to. Both producers and consumers, in the United States and abroad, benefit from the institution of farmer cooperatives.

Because I feel so strongly about the positive value of farmer cooperatives I firmly oppose any measure which would seek to weaken, penalize, or subject farmer cooperatives to any more government regulation than is absolutely necessary to protect the public health, safety, and environment. I particularly oppose any measures to weaken the Capper-Volstead Act of 1922, the landmark legislation which simply protects the right of farmers to join together in the cooperative marketing of their products. There are currently only three farmers in the Senate, and two are retiring. Naturally as a farmer myself I hope more farmers are elected to Congress. It is in the public interest to preserve that right, to preserve such beneficial institutions, and to preserve our successful agricultural system.

The strength of American agriculture depends in many ways on a strong underlying framework of individual initiative and efficient organization. Farmer cooperatives are built in this truly American spirit. Farmer cooperatives are built by individuals drawn together voluntarily in pursuit of profit, individuals not looking to the government but looking instead into their own communities for ideas and capital, individuals who strive for efficiency and productivity, and individuals who are willing to share their knowledge and expertise with their neighbors and the world. It is up to us as citizens to maintain a society where such individuals can be free to pursue such worthy goals.●

WE SHOULD REPEAL THE 1981–82 PAYROLL TAX INCREASES NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 15 minutes.

● Mr. REUSS. Mr. Speaker, I today introduce legislation, H.R. 8037 to eliminate the devastating impact of social security tax increases that, unless we act now, will go into effect next year, on January 1, 1981.

On January 1, 1981, America's workers and the Consumer Price Index will be in for a resounding slap in the face, unless we do something this session to stop it. If we do nothing, we are dealing a needless blow to the American economy, for it would be mid-1981 before relief could otherwise be obtained.

The culprits are the seemingly minor percentage increases in the social security tax withholding for employees, employers and self-employed persons, and a rise in the income base to which these taxes apply. Since 1971 the payroll tax rate has risen four times, from 5.2 percent to the current 6.13 percent for employees and employers. Next year the payroll tax will rise from 6.13 to 6.65 percent and again to 6.70 percent in each of the years 1982 through 1984. In addition, the wage base on which this tax applies will rise from $25,900 to $29,700 next January. When these tiny numbers get multiplied through the U.S. work force, the impact is a whopping $14.8 billion in new taxes in 1981, over $13 billion of which is attributable to the rate increase alone. In 1982, when the rate rises again, nearly $18.2 billion more in payroll taxes will come in than if the 1980 rates were held constant. In 1983, the taxes added by the new rates amount to $20.1 billion, and in 1984, $22.4 billion.

This means less money gets in the hands of hard-pressed American consumers already smarting from the sting of inflation, and the gloomy prospect of even more inflation as employers pass on their higher taxes in the form of price increases. This means a disincentive for labor-intensive employers to create jobs.

The title of H.R. 8037 explains its purpose: "to repeal the increases in social security taxes which are presently scheduled to go into effect in 1981 and 1982, with the social security trust funds fully protected, through appropriations in the general fund in the Treasury, against any income losses they might otherwise sustain as a result of such repeal."

The social security tax system, despite all its apparent virtues as a self-insurance scheme, is unfair in its application. Besides being a classically regressive tax, it also loads more of the burden on the poor in subtle ways. As Milton Friedman recently pointed out, the low-income laborer who begins work at age 17 pays into the system for as much as a decade before his wealthy counterpart completes college and graduate or professional school, and begins to earn a salary. And if our poor worker lives a shorter life than our wealthy worker, he will enjoy less of the fruits of the social security system as well. Under the guise of protecting everyone, we have created a system where too often the poor have become their rich brother's keeper.

The increases due in each of the next 2 years will only worsen this problem. The Social Security Subcommittee of the Ways and Means Committee recently held hearings on the dreary prospects we face when these massive tax increases take effect. One approach is to leave intact the tax increases, and instead rebate them to wage earners, companies, and self-employed persons either by an income tax credit or by a general income tax cut. A defect: Burdens and benefits do not match. Another approach is to take either the medicare or the disability programs, or both, out of the social security system altogether and fund them with general revenues rather than from their trust funds. A defect: They impose a very steep drain on general revenues.

There is a commonsense approach that offers advantages over both of these methods. H.R. 8037 simply undoes the payroll tax and base increases scheduled for next year and the following year. The bill does not address the longer term increases in the payroll tax scheduled for later in the 1980's. Future Congresses certainly will consider them as those years approach.

The trust funds will be made completely whole under my bill by the Secretary of the Treasury, who must see to it that the general fund of the Treasury replenishes the trust funds in amounts equal to the lost revenues from the repealed tax increases. We will be replacing funds from the regressive payroll tax with those raised from the progressive income tax, based upon ability to pay. No person receiving old age, survivor, disability or medicare assistance will be disadvantaged by this bill; it simply changes the sources, but not the amount, of the funds available to pay claims under the system.

This approach avoids the two-step formula which takes away on the one hand (by letting payroll taxes increase) and gives back on the other (by rebating a fixed percent of the payroll tax).

It also makes no judgment about whether the medicare or disability programs ought to be removed entirely from the social security payroll tax system, as other bills have proposed. It would simply replace a portion of the total social security fund revenues with money from the general fund. The amounts replaced (roughly $14.8 billion next year) are far less than the total tax revenues that estimates show will go to just the medicare fund next year (some $34.8 billion based on the administration's 1981 budget). Nor does the bill make inroads into the concept that social security as an insurance system, ought to pay for itself. The likely debate about the long-term prospects for the entire social security system should continue, and should be resolved in due course. H.R. 8037 is far less ambitious, yet far more urgent. It is a temporary measure to relieve what would otherwise be an intolerable dose of more regressive taxation and higher inflation that Americans will otherwise suffer in the next few years.

We must recognize the immediacy of the problems we face and act now to deal sensibly and fairly with them. There is only one truly must piece of 1980 tax legislation, and this is it.●

PERSONNEL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. GEPHARDT) is recognized for 5 minutes.

● Mr. GEPHARDT. Mr. Speaker, on rollcall No. 480, on August 22, my vote was recorded improperly. I was recorded as voting "nay" on final passage of H.R. 7262, the Housing and Community Development Act. My vote should have been record as "yea." ●

WESTERN RECLAMATION PROJECTS ARE OF GREAT BENEFIT TO FEDERAL GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. JOHNSON) is recognized for 5 minutes.

● Mr. JOHNSON of California. Mr. Speaker, a recent analysis has come to my attention which I believe warrants wider attention. The analysis describes some of the very real benefits of reclamation, of which we all need to be reminded. We must continue to be concerned about our water resources and their role in the future development of our country. The value of western reclamation projects to our national economy cannot be overemphasized and I am pleased to share the following remarks of Mr. Ronald C. Fisher, secretary-engineer of the Colorado River Water Conservation District with my colleagues:

PORK BARRELS, PAY BACK AND PERSPECTIVE

(By Roland C. Fisher)

Western Reclamation projects have already returned more money to the federal treasury than they have taken out.

From 1902 to the start of 1980, some $8.75 billion has been appropriated for Western Reclamation projects. In only 38 years of that timespan, 1940 to 1978, those projects generated $25.6 billion in federal tax revenues.

Reclamation in the arid and semi arid West was and is a concept of turning desert into fertile fields, of settling and developing the nation's largest and dryest region to the benefit of that nation.

Let's see if the concept worked; if the nation benefited. Figures, rather than the ignorance and emotion often used to malign the program, offer a precise method of assessment. The following is based on the latest available figures, in most cases 1978, from the Water & Power Resources Service and other aegncies. (Formerly Bureau of Reclamation).

In 1978, western reclamation projects were responsible for $13.5 billion of the nation's economic activity. The projects generated $8.5 billion of income for people, $1.7 billion in corporate profits, $1.1 billion in state and local taxes and $2.2 billion in federal taxes. Though the program has generated $25.6 billion in federal tax revenue in the 38-year period ending in 1978, that money is not a consideration in project repayment.

Of the $8.75 billion spent on completed projects or projects under construction, $1.7 billion has already been repaid. No other federal program directly repays the treasury in this manner. In all, 85 percent of the total will be repaid; half of that amount with interest. Some recreation, flood control and other features of benefit to the nation generally are not reimbursable by the water users.

That portion to be repaid without interest is from agriculture, which has traditionally received special consideration based upon its ability to pay. The special consideration through interest rate subsidy for agriculture is not unusual. It totaled $782 million in 1978 while interest rate subsidies on municipal bonds in the same year was almost seven times that amount or $5.4 billion.

The subsidy diminishes further when viewing agriculture's production. In 1978, reclamation projects delivered 24.4 million acre-feet of water (an acre-foot is 325,851 gallons) to irrigated agriculture. As a result, irrigated lands served by the reclamation projects delivered a gross crop value to the nation of $4.99 billion in 1978. An estimated $1 billion of that exported thus reducing the nation's balance of payments.

The 9.6 million acres on 151,500 farms irrigated by water from reclamation projects produced 54.3 million tons of food, fiber and forage—enough to meet the annual food requirements of 34.1 million people. Gross crop value from Colorado lands irrigated by federal projects totaled $272 million in 1978.

Lands watered by federal reclamation projects in the 17 Western states produced more than 50 percent of the nation's olives, grapes and apricots; more than 30 percent of the nation's cantaloupes, honeydew melons, lettuce, almonds, onions, tomatoes, lemons, limes and pears; and more than 20 percent of the nation's asparagus, carrots, peppers, apples, cherries and walnuts.

Indeed, from 1906 to 1978, the total gross crop value as a result of federal reclamation projects exceeded $63.5 billion.

An additional 1.6 million acre-feet of water was delivered to 16.6 million persons for municipal and industrial purposes. The water amounted to 45 percent of their average daily requirements and is repaid with interest.

The list goes on: In 1978 reclamation projects provided $333 million in flood control benefits and 69.9 million recreation visitor days. The 50 hydroelectric units in the program produced 40.6 billion kilowatt hours of clean, renewable, hydroelectric power—enough to meet the residential power needs of 14 million people, and enough to displace 73 million barrels of foreign oil.

In the process of constructing the various projects and as a part of the cost, 1.9 million acres of land was acquired—land that now stands as an asset of the people of the United States.●

WHY I SUPPORT PRESIDENT CARTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. SEIBERLING) is recognized for 5 minutes.

Mr. SEIBERLING. Mr. Speaker, one of the benefits that we are now enjoying from having the national political conventions over is that we can now sharpen our focus and look at the candidates and the issues with sharper perspective.

As we do that, I believe most will begin to see that there is only one choice in the Presidential election, and that is the reelection of President Carter and Vice President MONDALE.

The August 16 edition of the New Republic contains a very perceptive article by Mr. William Attwood, the former publisher of Newsday, who was also a speech writer for Adlai Stevenson and an Ambassador during the Kennedy and Johnson administrations. When I was a young lawyer starting out, I got to know him as one of the outstanding correspondents of the New York Herald Tribune.

Mr. Attwood in his article, which is entitled "Why I Support President Carter," concedes that there have been errors of judgment as well as form in the performance of President Carter. However, he points out that when we examine the record objectively and dispassionately, the Carter administration's record of achievement in these past 3½ years is an impressive one. He goes on to compare it with the record of some other recent Presidents, and I must say that he makes a compelling case, both as to foreign policy and domestic policy.

Many of President Carter's problems arose because of misperceptions that he and the people he brought with him from the State House in Georgia held before they arrived in Washington, particularly as to the stature of Congress and Members of Congress, and its role as a coequal branch of Government composed of many experienced, able and dedicated men and women.

After some initial flounderings, President Carter and his White House staff began to understand that while Congress, being composed of human beings, had its share of human imperfections, there are ways to work with the Congress and to use its expertise in promoting the Nation's welfare.

I think that the record shows that in terms of legislative achievement the last 4 years have shown some impressive results. The Carter administration not only has almost 4 years of on-the-job experience under its belt but has, since its first day, been able to point with pride to one of the most outstanding cabinets that any President has had in this century. President Carter, when he adopted the policy of "Why not the best," truly followed that policy in choosing the people whom he put in charge of the various departments and agencies of the Government.

We have benefited greatly from the advice and leadership of such outstanding members of the Cabinet as Cecil Andrus, Secretary of the Interior; Harold Brown, Secretary of Defense; the present Secretary of State, Edmund Muskie, and the former Secretary of State, Cyrus Vance; Patricia Harris, first as Secretary of Housing and Urban Development and now as Secretary of Health and Human Services; Douglas Costle, Administrator of EPA—I could go on and mention many more. Not only department heads but many of the second-, third-, and fourth-echelon executives are people of the highest caliber to be found anywhere in the United States.

Mr. Attwood in his article also points out that, in deciding how to vote in November, we must also take into account what Mr. Reagan, the person who proposes to replace Mr. Carter, would do if he becomes President. Attwood states, and I am going to read part of it, if you compare Mr. Carter's record with Ronald Reagan's positions,

> as pieced together from cue cards, one-liners, and the Republican platform. Reagan would turn the oil companies loose to drill anywhere, even in our national parks, so as to get us all back into big cars; he would either tell the Russians to go to hell or cut off all discourse with them; he would add billions of dollars to military expenditures and more overkill capacity to our bulging nuclear arsenal—thereby heating up the cold war abroad and inflation at home; he would shelve SALT II, blockade Cuba, bury ERA, cut taxes, and balance the budget. (How? With mirrors, says, John Anderson.)

We have only this week had a graphic demonstration of Reagan's ignorance, ineptitude, and indecision with respect to our critically important relation with China.

He would also, for starters, abolish the Department of Education, scuttle the Office of Consumer Affairs, and hobble or downgrade the Federal regulatory agencies.

Now, we can imagine how a President Reagan would work with the Congress. Mr. Reagan is pursuing the same illusion that an outsider who has had no experience in Washington can come here as President and all of a sudden master the intricacies of this huge Federal Government and the complex and dangerous field off international relations. Neither of them fit the antiquated, simplistic images that Mr. Reagan is so fond of conjuring up in his television performances.

As to the kinds of people Mr. Reagan would put in charge of the various departments of the Government, all you have to do is to look at the kinds of people that backed him financially in the primaries and are backing him now. He would put the foxes in charge of the people's chickens in many of the most critical areas of our Government.

So I submit for the benefit of my colleagues the entire article by Mr. Attwood. I must say with him, I support President Carter and I am delighted that my Democrat colleagues, as well as growing numbers of my constituents, are beginning to see clearly that there is no other choice.

Mr. Speaker, the article follows:

WHY I SUPPORT PRESIDENT CARTER

(By William Attwood)

It has been four months since *The New Republic* published Arthur Schlesinger's scathing attack on Jimmy Carter's stewardship of what he called "an administration in ruins" ("The Great Carter Mystery," *TNR*, April 12). Today the primary season is over, the Republicans have a candidate, and, barring unlikely insurrection at the Democratic convention, Schlesinger probably will be joining me and other unabashed liberals—sooner or later—in supporting the man "whose record of ineptitude stands unmatched since Warren G. Harding."

He may of course join Stewart Udall and others in backing John Anderson, but I suspect the Anderson alternative will not prove viable; nor do I see Schlesinger out ringing doorbells for Ed Clark, the Libertarian, or for Barry Commoner. And so it behooves us both, along with other liberals, to reexamine Carter's record more objectively and dispassionately.

Taking foreign policy first, there is no defending the slips of the tongue, errors of interpretation, and clumsy overreaction that have emanated from the White House in the past year, from the phony flap over the Soviet brigade in Cuba, to a hostage rescue mission that was too little, too late, and too impulsive, to the president's gratuitous remarks about Secretary Vance following the latter's justified and graceful resignation. Schlesinger was right to criticize the foul-up over our UN vote on Israeli settlements, the bungled decision to admit the shah to the US, and Carter's overheated response to the Soviet power play in Afghanistan—which a cynic might equate, at least in motivation, with our own intervention in the Dominican Republic in 1965. But to suggest, as he does, that Carter "helped bring about" the hostage and Afghan crises is, well, stretching it.

Domestically, the administration's record is spotty, but not as black as painted by Schlesinger in his April article. Inflation, the big issue that no one quite understands, is down from his figure of 18 percent to about 12, and the interest rate from 20 to 11. Unemployment, contrary to popular belief, is no higher at 78 percent than it was when Carter took office. Of course it is too high, in light of his campaign promises, but the auto industry and Congress are in part to blame—the former for gambling disastrously on big cars and the latter for balking at public service jobs. For the rest, Schlesinger seemed to fault Carter mostly for favoring voluntary wage-price guidelines, which don't work, over mandatory controls, which don't work either.

As well as being selective in its criticism, Schlesinger's indictment was unbalanced in that it omitted mention of either the redeeming aspects to Carter's blunders (the appointment of Muskie to replace Vance; and that of a skilled professional like Don McHenry to replace Andy Young, perceptive, outspoken, but miscast at the UN) or what Carter tried to accomplish with little help from a lethargic and occasionally even reactionary Congress.

Also, it's only fair to point out that the failures and shortcomings of this administration have for the most part resulted less from flawed judgment than from a preoccupation with election-year politics; Carter's weakness—common to many contemporary politicians who watch the polls the way network executives watch the Nielsens—has been to react to public opinion rather than to educate or influence it. He often seems unduly concerned with appeasing right-wingers, not realizing that it's all but impossible to outflank the Reaganites without coming out for child labor, apartheid, and the Great White Fleet.

This tendency to tailor policies to the polls is behind much of the bungling that Schlesinger excoriated: the Soviet brigade pseudo-crisis, triggered by fears that Senator Frank Church would use it first to shed his dovish image; letting the shah in, a move urged by Henry Kissinger, among others, whose support was needed to get the SALT II treaty ratified; portraying the Afghan action as the first skirmish of World War III—and therefore a reason for rallying around the president; or yielding to public impatience over the hostage crisis by mounting the aborted rescue mission—ill advised but certainly more justifiable than the Bay of Pigs debacle of 1961.

Nor did Schlesinger concede that the bulk of Carter's foreign and domestic policies have been, on the whole, commendable from a strictly liberal perspective. This is the administration that signed SALT II; signed and got the Panama Canal treaties ratified in the Senate; supported the British solution to Zimbabwe against the advice of the Republican establishment, ranging from Kissinger to Senator Jesse Helms; pressed for aid to post-Somoza Nicaragua; recognized, at long last, the Peoples Republic of China; established a continuing dialogue with Cuba through low-level diplomatic missions, carrying forward Jack Kennedy's 1963 initiative for normalizing relations; and brought about an accord between Israel and Egypt at Camp David that offers some hope for peace in the Near East.

As for security adviser Zbigniew Brzezinski, liberals who routinely condemn his seeming hawkishness overlook his predecessors—Kennedy's Bundy, Johnson's Rostow, Nixon's Kissinger—who were no less pedantic but a lot less aware of the poor and populous nation's called the third world.

But the bottom line on Carter's foreign policy is the simple truth, seldom acknowledged by our Cassandras, that the global view from Washington in 1980 remains a great deal brighter than it does from the parapets of the Kremlin—in whatever direction you look.

At home, Carter has been the first president to challenge the wasteful pork-barrel water and defense bills so dear to congressmen and has shown more concern for the environment than any president since Theodore Roosevelt: he already has preserved more than 100 million acres of Alaskan wilderness, pushed strip-mining legislation through Congress, and implemented the Clean Air and Water acts.

On the energy front, while the appointment of James Schlesinger was a mistake, imports of foreign oil have been cut 12 percent since last year; decontrol of oil prices, hardly a popular move, was certainly a factor in cutting consumption. A $2.8 billion Conservation and Solar Bank has been created with the aim of using solar power for 20 percent of our energy needs by 2000. Urban development funding has more than doubled; the Humphrey-Hawkins Full Employment Act passed; more funds made available to cities, to the needy, and to mass transit; the Job Corps doubled; and more women, blacks, and Hispanics have been named to senior management positions in the federal government than ever before.

This administration also has sought welfare reform legislation that would provide 400,000 public service jobs, an independent Office of Consumer Affairs, health insurance legislation, and additional urban and youth employment programs—all of which have been blocked by an all too often self-serving and unmanageable Congress.

What else? Carter has moved to free the federal judiciary from political patronage, reorganized the Civil Service to reward merit and promote efficiency, consistently supported the Equal Rights Amendment, and curbed the excesses of the CIA and the FBI.

In short, on most domestic issues, Carter should be getting high marks from liberals who bother to look at the whole record, especially if they compare it with Ronald Reagan's positions, as pieced together from cue cards, one-liners, and the Republican platform. Reagan would turn the oil companies loose to drill anywhere, even in our national parks, so as to get us all back into big cars; he would either tell the Russians to go to hell or cut off all discourse with them; he would add billions of dollars to military expenditures and more overkill capacity to our bulging nuclear arsenal—thereby heating up the cold war abroad and inflation at home; he would shelve SALT II, blockade Cuba, bury ERA, cut taxes, and balance the budget. (How? With mirrors, says John Anderson.)

Reagan's naive and therefore dangerous global view is that there is a Soviet conspiracy behind all of the problems and unrest in the world, when in fact most of what happens is due to circumstances and historical imperatives quite beyond the control of either Moscow or Washington.

Arthur Schlesinger knows this and knows that Reagan, in four years, could set back the cause of progressive government a half century by his Supreme Court appointments alone. Yet, like many liberals, he finds it hard to support the man who has the best chance of keeping Reagan out of the White House.

Why? It is hard to explain the almost masochistic mindset of so many liberals who take delight in every embarrassment inflicted on the president by his friends and family, from the overblown Bert Lance affair to Billy's Libyan antics—which at this writing have not tarnished the White House except by inference. I suspect the current attitude of many liberals is compounded in part by their sense of alienation from the Carter entourage, in part by the pleasure derived from seeing a preacher taking pratfalls, and in part by nostalgia for the confident clarion calls of the New Deal, the Fair Deal, the Great Society, and the New Frontier.

Carter's performance admittedly has not matched our expectations; but has any president's? Consider the New Frontier, on which both Schlesinger and I served. Distill the inspiring rhetoric out of those thousand days and what will they be remembered for? The Peace Corps, the Nuclear Test Ban Treaty, the Bay of Pigs, and the subsequent Cuban Missile Crisis. In short and in retrospect, the New Frontier was an insubstantial pageant faded—a pageant we now dimly associate with a graceful style, a quickened pulse, a premonition of great deeds and new beginnings, a sparkle of memories, a lump in the throat.

Of course a second Kennedy administration no doubt would have achieved much more. But maybe, just maybe, Carter's performance will improve in the next four years once he no longer needs to worry about reelection. Maybe he will shed the arrogance of insecurity and listen to a wider circle of advisers; maybe, now that he has been tempered by experience and by failure, he will seek out more people of Ed Muskie's caliber. The very least we can offer the president at this point is the benefit of the doubt.

There are certainly no maybes discernible in a Reagan presidency. If Schlesinger still thinks Carter has chosen "to reject the role of government" as conceived by Democrats since the New Deal, what does he expect of a Reagan administration that, for starters, would abolish the Department of Education, scuttle the Office of Consumer Affairs, and hobble or downgrade the federal regulatory agencies?

That's why it's time, high time, for Schlesinger and Ted Kennedy's partisans to join forces with the Carterites to beat back, one again, the crusaders of illusion and nostalgia. And a reconciliation shouldn't be all that difficult. Schlesinger and I, who worked on speeches together before and during the 1960 Democratic convention, know there was no great mutual affection between Jack Kennedy and Adlai Stevenson. But despite their differences in style, philosophy, and temperament, Stevenson criss-crossed the country that fall, making more than 75 speeches to his own loyal legions on Kennedy's behalf. Richard Nixon was the man they both wanted beaten, and together they succeeded; unlike Eugene McCarthy, who parked his gypsy caravan on the sidelines eight years later and watched Nixon edge out Hubert Humphrey. Stevenson, for all of his reservations about Kennedy, didn't play coy when the latter became the candidate.

This year, Schlesinger's bitterness about Carter, while pardonable in April, is inexplicable in August. Ted Kennedy's primary campaign wisecrack about Carter being Reagan's clone is as silly and tasteless today as when he said it. The differences between the parties and the candidates are clear enough, for all the grumbling on the left side of center. Indeed, Reagan's nomination may turn out not to be so much a catastrophe as a catalyst for liberals who can see straight. But there's no time to waste.

"Reelect Jimmy Carter?" wrote Schlesinger in April. "Someone must be kidding."

No, Arthur, I kid you not. There's no longer an alternative.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. JEFFRIES) to revise and extend their remarks and include extraneous matter:)

Mr. TAUKE, for 5 minutes, today.
Mr. KEMP, for 15 minutes, today.
Mr. RAILSBACK, for 5 minutes, today.
Mr. HAMMERSCHMIDT, for 1 hour, today.
Mrs. SNOWE, for 5 minutes, today.
Mr. GRASSLEY, for 5 minutes, today.

(The following Members (at the request of Mr. RATCHFORD) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. REUSS, for 15 minutes, today.
Mr. GEPHARDT, for 5 minutes, today.
Mr. JOHNSON of California, for 5 minutes, today.
Mr. SEIBERLING, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. HOLT, following the statement of Mr. COLEMAN during general debate on H.R. 7998 in the Committee of the Whole today.

Mr. GILMAN, to extend his remarks in the body of the RECORD during general debate on H.R. 7998.

(The following Members (at the request of Mr. JEFFRIES), and to include extraneous matter:)

Mrs. SNOWE.
Mr. SOLOMON.
Mr. SHUSTER.
Mr. GRASSLEY in three instances.
Mr. ARCHER.
Mr. DANIEL B. CRANE in two instances.
Mr. DOUGHERTY.
Mr. DERWINSKI.
Mr. KEMP in three instances.
Mr. ROTH.
Mr. WYDLER.
Mr. BROOMFIELD.
Mr. RHODES.
Mr. DORNAN in four instances.
Mr. PAUL.
Mr. HINSON.
Mr. PORTER.
Mr. MCCLOSKEY.

(The following Members (at the request of Mr. RATCHFORD), and to include extraneous matter:)

Mr. HAMILTON in three instances.
Mr. PEPPER in two instances.
Mr. STOKES in two instances.
Mr. CONYERS.
Mr. LUKEN.
Mr. WALGREN.
Mr. DODD.
Mr. COELHO.
Mr. GEPHARDT.
Mr. STUDDS.
Mr. MURTHA.
Mr. BEARD of Rhode Island.
Mr. PATTEN.
Mr. BONKER in two instances.
Mr. LONG of Maryland.
Mr. LAFALCE.
Mr. BRINKLEY.
Ms. MIKULSKI.
Mr. OBERSTAR.
Mr. WOLFF.
Mr. MCDONALD in five instances.
Mr. DRINAN in two instances.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2680. An act to improve the administration of the Historic Sites, Buildings and Antiquities Act of 1935 (49 Stat. 666).

ENROLLED BILLS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5168. An act to extend certain expiring provisions of law relating to personnel management of the Armed Forces, to provide a variable housing allowance for members of the uniformed services to reflect housing costs in different areas of the United States, to improve certain special and incentive pays for members of the uniformed services, and for other purposes;

H.R. 6974. An act to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, track combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes; and

H.R. 8010. An act to amend the Comprehensive Employment and Training Act to designate a Job Corps Center as the "Earle C. Clements Job Corps Center."

BILL PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on August 27, 1980, present to the President, for his approval, a bill of the House of the following title:

H.R. 507. An act to authorize Federal participation in stream rectification, Trinity River Division Central Valley project, California, and for other purposes.

ADJOURNMENT

Mr. SEIBERLING. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 42 minutes p.m.), the House adjourned until tomorrow, Thursday, August 28, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5166. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Agricultural Foreign Investment Disclosure Act of 1978 to clarify the definition of agricultural land and to provide for reports when previously reported land is no longer agricultural or is held by a person who is no longer a foreign person; to the Committee on Agriculture.

5167. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting notice of the proposed obligation of moneys from the Army and the Navy stock funds for war reserve stocks, pursuant to section 736 of Public Law 96–154; to the Committee on Appropriations.

5168. A letter from the Deputy Secretary of Defense, transmitting a report on the financial condition and operating results of working capital funds of the Department of Defense for fiscal year 1979, pursuant to 10 U.S.C. 2208; to the Committee on Armed Services.

5169. A letter from the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), transmitting a quarterly report as of June 30, 1980, on the Selected Reserve recruiting and retention incentive programs, pursuant to 10 U.S.C. 2134, 37 U.S.C. 308b, and 37 U.S.C. 308c; to the Committee on Armed Services.

5170. A letter from the Acting Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend title 10, United States Code, to extend eligibility for advanced training in the Senior Reserve Officers' Training Corps to certain persons who have no military training, and for other purposes; to the Committee on Armed Services.

5171. A letter from the Principal Deputy Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice that a decision has been made to convert the transient aircraft maintenance function to contractor performance at Grissom Air Force Base, Ind., pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

5172. A letter from the Secretary of Housing and Urban Development, transmitting the second annual report on the urban development action grant program, pursuant to section 113(a)(3) of the Housing and Community Development Act of 1974, as amended; to the Committee on Banking, Finance and Urban Affairs.

5173. A letter from the First Vice President and Vice Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction exceeding $60 million with T.N.H. Leasing A.G., pursuant to section 2(b) (3) (i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

5174. A letter from the First Vice President and Vice Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction exceeding $60 million with Commission Federal de Electricidad, Mexico, pursuant to section 2(b) (3) (i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

5175. A letter from the First Vice President and Vice Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction exceeding $60 million with Hylsa, S.A. (Mexico), pursuant to section 2(b) (3) (i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

5176. A letter from the First Vice President and Vice Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction exceeding $60 million with Transportes Aereos Portuguese (TAP), Lisbon, Portugal, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

5177. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the Corporation's annual report for calendar year 1979, pursuant to section 17(a) of the Federal Deposit Insurance Act; to the Committee on Banking, Finance and Urban Affairs.

5178. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on the furnishing of certain emergency defense services to Thailand; to the Committee on Foreign Affairs.

5179. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of an international agreement to which the American Institute in Taiwan is a party, pursuant to section 12(a) of Public Law 96–8; to the Committee on Foreign Affairs.

5180. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of the Republic of Korea for permission to transfer certain U.S.-origin defense equipment to the Governments of the Republic of Philippines and Brazil, pursuant to section 3(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5181. A letter from the Chairman, Advisory Council on Historic Preservation, transmitting a special report on a series of undertakings by the Veterans' Administration which would have an adverse effect on the Mountain Home Historic Complex, Johnson City, Tenn., pursuant to section 202(b) of Public Law 89–665; to the Committee on Interior and Insular Affairs.

5182. A letter from the Director, Office of Hearings and Appeals, Department of Energy, transmitting a report covering the third quarter of fiscal year 1979 on private grievances and redress, pursuant to section 21(c) of Public Law 93–275; to the Committee on Interstate and Foreign Commerce.

5183. A letter from the Secretary of Commerce, transmitting the fourth report on activities of the regional fishery management councils and the Department of Commerce concerning fishery management plans, regulations to implement such plans, and other activities in the conservation and management of fishery resources undertaken during 1979, pursuant to section 305(f) of the Fishery Conservation and Management Act of 1976; to the Committee on Merchant Marine and Fisheries.

5184. A letter from the Administrator of General Services, transmitting a prospectus proposing the acquisition of space by lease in Chicago, Ill.; to the Committee on Public Works and Transportation.

5185. A letter from the Administrator of General Services, transmitting a prospectus proposing the acquisition of space by lease in San Bernardino, Calif.; to the Committee on Public Works and Transportation.

5186. A letter from the Administrator of General Services, transmitting a prospectus proposing continued occupancy under a succeeding lease of space located at 1 Embarcadero Center, San Francisco, Calif.; to the Committee on Public Works and Transportation.

5187. A letter from the Administrator of General Services, transmitting a prospectus proposing continued occupancy under a succeeding lease of space located at 806 15th Street NW., Washington, D.C.; to the Committee on Public Works and Transportation.

5188. A letter from the Administrator of General Services, transmitting a prospectus proposing continued occupancy under a succeeding lease of space located at 1325 G Street NW., Washington, D.C.; to the Committee on Public Works and Transportation.

5189. A letter from the Administrator of General Services, transmitting a prospectus proposing continued occupancy under a succeeding lease of space located at 4228 Wisconsin Avenue, Washington, D.C.; to the Committee on Public Works and Transportation.

5190. A letter from the Administrator of General Services, transmitting a prospectus proposing continued occupancy under a succeeding lease of space located at 2211 Jefferson Davis Highway, Arlington, Va.; to the Committee on Public Works and Transportation.

5191. A letter from the U.S. Trade Representative, Executive Office of the President, transmitting a report covering the 6 months ended June 30, 1980, on reviews and hearings arising from complaints of unfair trade practices by foreign governments, pursuant to section 306 of the Trade Act of 1974, as amended; to the Committee on Ways and Means.

5192. A letter from the Comptroller General of the United States, transmitting a report on the Community Services Administration's internal financial controls (FGMSD-80-73, Aug. 22, 1980); jointly, to the Committees on Government Operations and Education and Labor.

5193. A letter from the Comptroller General of the United States, transmitting a report on the integration of special emphasis programs with the overall equal employment opportunity objectives of the Federal services (FPCD-80-55, Aug. 27, 1980); jointly, to the Committees on Government Operations and Post Office and Civil Service.

SUBSEQUENT ACTION ON A BILL SEQUENTIALLY REFERRED UNDER TIME LIMITATION

Under clause 5 of rule X the following action was taken by the Speaker:

[*Omitted from the Record of August 26, 1980*]

The Committee on the Judiciary consideration of the bill (H.R. 5615) to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources, extended for an additional period ending not later than September 3, 1980.

SUBSEQUENT ACTION ON A BILL SEQUENTIALLY REFERRED UNDER TIME LIMITATION

Under clause 5 of rule X the following action was taken by the Speaker:

[*Submitted August 27, 1980*]

The Committee on Interstate and Foreign Commerce consideration of the bill (H.R. 7418) to establish a research, development, and demonstration program for the disposal of radioactive wastes, extended for an additional period ending not later than September 3, 1980.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7418. A bill to establish a research, development, and demonstration program for the disposal of radioactive wastes; with amendments (Rept. No. 96-1156, pt. 2). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5769. A bill to reinstate and validate U.S. oil and gas leases Nos. OCS-P-0218 and OCS-P-0226; with amendment (Rept. No. 96-1260). Referred to the Committee of the Whole House.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 772. Resolution providing for the consideration of H.R. 85. A bill to provide a comprehensive system of liability and compensation for oilspill damage and removal costs, and for other purposes (Rept. No. 96-1261). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 773. Resolution providing for the consideration of H.R. 7020. A bill to amend the Solid Waste Disposal Act to provide authorities to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment, to establish a hazardous waste response fund to be funded by a system of fees, to establish prohibitions and requirements concerning inactive hazardous waste sites, to provide for liability of persons responsible for releases of hazardous waste at such sites, and for other purposes (Rept. No. 96-1262). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 8031. A bill to amend title 13, United States Code, to correct for undercounting in the 1980 census; to the Committee on Post Office and Civil Service.

By Mr. FITHIAN:

H.R. 8032. A bill to amend the Internal Revenue Code of 1954 to provide estate and gift tax equity for family enterprises, and for other purposes; to the Committee on Ways and Means.

By Mr. GRASSLEY:

H.R. 8033. A bill to amend the Internal Revenue Code of 1954 to provide estate and gift tax equity for family enterprises, and for other purposes; to the Committee on Ways and Means.

By Mr. LEACH of Iowa:

H.R. 8034. A bill to amend title 5, United States Code, to establish a ceiling on Federal contracts for personal services, to extend the ceiling on the number of Federal employees under the Civil Service Reform Act of 1978, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MONTGOMERY:

H.R. 8035. A bill to amend title 38, United States Code, to revise the provisions of such title relating to the construction and alteration of, and acquisition of land for, national cemeteries; to the Committee on Veterans' Affairs.

By Mr. PICKLE:

H.R. 8036. A bill to enhance tertiary oil recovery by amending the Internal Revenue Code relating to prepaid expenses in a tertiary oil project; to the Committee on Ways and Means.

By Mr. REUSS:

H.R. 8037. A bill to repeal the increases in social security taxes which are presently scheduled to go into effect in 1981 and 1982, with the social security trust funds fully protected, through appropriations from the general fund in the Treasury, against any revenue losses they might otherwise sustain as a result of such repeal; to the Committee on Ways and Means.

By Mr. RICHMOND:

H.R. 8038. A bill to amend the Internal Revenue Code of 1954 to allow a tax credit for certain contributions of literary, musical, or artistic compositions; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 8039. A bill to establish a commission to encourage, plan, develop, and coordinate the commemoration of the bicentennial of the Constitution; to the Committee on Post Office and Civil Service.

By Mr. SEIBERLING:

H.R. 8040. A bill to amend the Internal Revenue Code of 1954 to provide for the refunding of so much of a taxpayer's investment credit as exceeds his liability for income tax; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.R. 8041. A bill to change the name of Clarence Cannon Dam and Reservoir; to the Committee on Public Works and Transportation.

By Mr. DOWNEY:

H.R. 8042. A bill to amend section 542(c) of the Internal Revenue Code to include a one-bank holding company among the exceptions to the tax penalty, facilitating the transfer of a bank from one independent ownership to another; to the Committee on Ways and Means.

By Mr. GUARINI:

H.R. 8043. A bill to amend title 13 of the United States Code to provide for adjusted and accurate decennial censucs figures; to the Committee on Post Office and Civil Service.

By Mr. LONG of Maryland:

H.J. Res. 601. Joint resolution making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981; to the Committee on Appropriations.

By Mr. REUSS (for himself and Mr. Kastenmeier):

H.J. Res. 602. Joint resolution to designate the 16th day of March of each year, the anniversary of the birth date of James Madison, as "Freedom of Information Day"; to the Committee on Post Office and Civil Service.

By Mr. STUDDS:

H.J. Res. 603. Joint resolution proposing an amendment to the Constitution of the United States to limit to 18 the number of years Senators and Representatives may serve; to the Committee on the Judiciary.

By Mr. WAMPLER:

H.J. Res. 604. Joint resolution designating October 19, 1980 through October 25, 1980, as "Appalachian Coal Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. RHODES:

H. Con. Res. 422. Concurrent resolution to designate the week of September 28-October 4, 1980, as "National High School Activities Week"; to the Committee on Post Office and Civil Service.

By Mr. ZABLOCKI (for himself, Mr. Fascell, Ms. Oakar, Mr. Ritter, Mr. Wright, Mr. Brademas, Mr. Foley, Mr. Rostenkowski, Mr. Fountain, Mr. Rosenthal, Mr. Hamilton, Mr. Wolff, Mr. Pingham, Mr. Yatron, Mrs. Collins of Illinois, Mr. Solarz, Mr. Bonker, Mr. Ireland, Mr. Pease, Mr. Barnes, Mr. Gray, Mr. Hall of Ohio, Mr. Wolpe, Mr. Bowen, Mr. Fithian, Mr. Bedell, Mr. Broomfield, Mr. Derwinski, Mr. Findley, Mr. Buchanan, Mr. Winn, Mr. Gilman, Mr. Guyer, Mr. Lagomarsino, Mr. Goodling, Mr. Pritchard, Mrs. Fenwick, Mr. Quayle, Mr. Bailey, Mr. Gaydos, Mr. Annunzio, Mr. Fary, Ms. Mikulski, Mr. Kemp, Mr. Nedzi, Mr. Nowak, Mr. Minish, Mr. Murphy of Pennsylvania, Mr. Vanik, Mr. Brooks, Mr. Gibbons, Mr. Bob Wilson, Mr. Yates, Mr. Beilenson, Mr. Boland, Mr. Rangel, Mr. Cavanaugh, and Mr. Murtha):

H. Con. Res. 423. Concurrent resolution relating to the situation in Poland; to the Committee on Foreign Affairs.

By Mr. REGULA:

H. Con. Res. 424. Concurrent resolution expressing the sense of the Congress that the U.S. Constitution does not prohibit public schools from providing time for voluntary individual religious expression and prayer; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. OTTINGER:

H. Res. 774. Resolution providing that the President should continue certain measures which have been taken against the new regime in Bolivia until that regime takes certain corrective actions; to the Committee on Foreign Affairs.

By Mr. SCHULZE:

H. Res. 775. Resolution disapproving the President's recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to Romania; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HANLEY:

H.R. 8044. A bill for the relief of Rutherford K. Clarke and his wife, Ida T. Clarke; to the Committee on the Judiciary.

By Mr. LUJAN:

H.R. 8045. A bill to authorize and direct the Secretary of the Interior to reinstate oil and gas leases Idaho 016790, Idaho 016791, Idaho 016792, Idaho 016793, Idaho 016813 and Idaho 017371; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 365: Mr. Courter.

H.R. 2033: Mr. Hinson.

H.R. 3258: Mr. Erdahl.

H.R. 4897: Mr. Leach of Iowa.

H.R. 5813: Mr. Kramer.

H.R. 6171: Mrs. Spellman, Mr. Mavroules, Mr. Seiberling, and Mr. Ford of Michigan.

H.R. 6489: Mr. Martin.

H.R. 6866: Mr. Fithian and Mr. Mollohan.

H.R. 6867: Mr. Fithian and Mr. Mollohan.

H.R. 6978: Mr. Bereuter.

H.R. 7046: Mrs. Spellman.

H.R. 7254: Mr. Van Deerlin.

H.R. 7334: Mr. Guarini and Mr. Garcia.

H.R. 7461: Mr. Aspin, Mr. Mazzoli, Mr. Ireland, Mr. Pickle, Mr. Mattox Mr. Pashayan, Mr. Davis of Michigan, Mr. Winn, Mr. Collins of Texas, Mr. Walgren, Mr. Roe, Mr. Brodhead, Mr. Hance, Mr. Petri, Mr. Luken, and Mr. Murphy of Pennsylvania.

H.R. 7479: Mrs. Spellman.

H.R. 7563: Mr. Wolpe and Mr. Edwards of Alabama.

H.R. 7622: Mr. Carney.

H.R. 7663: Mr. Bailey.

H.R. 7745: Mr. Williams of Montana, Mr. Carter, and Mr. Walgren.

H.R. 7749: Mr. Coleman, Mr. Huckaby, Mr. Davis of Michigan, Mr. Wampler, and Mr. Myers of Indiana.

H.R. 7773: Mr. Huckaby, Mr. Thomas, Mr. Archer, Mr. Coelho, Mr. Patterson, and Mr. Pashayan.

H.R. 7794: Mr. Daschle.

H.R. 7811: Mr. Gradison and Mr. Heftel.

H.R. 7903: Mr. Winn.

H.R. 8027: Mr. Ashley, Mr. Kemp, and Mr. Stanton.

H.J. Res. 511: Mr. Brinkley, Mr. Zeferetti, and Mr. Mineta.

H.J. Res. 516: Mr. Dicks.

H.J. Res. 568: Mr. Akaka, Mr. Ambro, Mr. Anderson of Illinois, Mr. Annunzio, Mr. AuCoin, Mr. Bauman, Mr. Beilenson, Mr. Blanchard, Mrs. Boggs, Mr. Bonker, Mr. Bowen, Mr. Brademas, Mr. Broomfield, Mr. Buchanan, Mr. John L. Burton, Mr. Carney, Mr. Carr, Mrs. Chisholm, Mr. Corrada, Mr. Philip M. Crane, Mr. Daniel B. Crane, Mr. Coughlin, Mr. Philip M. Crane, Mr. Daniel B. Crane, Mr. Danielson, Mr. de la Garza, Mr. Deckard, Mr. Dellums, Mr. Dickinson, Mr. Dornan, Mr. Dougherty, Mr. Downey, Mr. Drinan, Mr. Fary, Mr. Fascell, Mrs. Fenwick, Mr. Findley, Mr. Fish, Mr. Fisher, Mr. Florio, Mr. Fuqua, Mr. Gaydos, Mr. Giaimo, Mr. Gibbons, Mr. Gilman, Mr. Gradison, Mr. Grassley, Mr. Guarini, Mr. Guyer, Mr. Hall of Ohio, Mr. Hammerschmidt, Mr. Hanley, Mr. Harkin, Mrs. Heckler, Mr. Hollenbeck, Mr. Hughes, Mr. Hyde, Mr. Johnson of California, Mr. Jones of North Carolina, Mr. Kastenmeier, Mr. Kemp, Mr. Kildee, Mr. Lagomarsino, Mr. Latta, Mr. Lehman, Mr. Lent, Mr. Levitas, Mr. Livingston, Mr. Lloyd, Mr. Long of Maryland, Mr. Lundine, Mr. Madigan, Mr. Marks, Mr. Matsui, Mr. Mazzoli, Mr. McClory, Mr. McDonald, Mr. McHugh, Mr. McKay. Mr. Mica. Ms. Mikulski, Mr. Minish, Mr. Moorhead of California, Mr. Mottl, Mr. Murphy of New York, Mr. Murphy of Illinois, Mr. Murtha, Mr. Neal, Mr. Nedzi, Mr. Nelson, Mr. Nolan, Mr. Patten, Mr. Pepper, Mr. Peyser, Mr. Price, Mr. Pursell, Mr. Rahall, Mr. Railsback, Mr. Rangel, Mr. Ratchford, Mr. Rhodes, Mr. Richmond. Mr. Rinaldo, Mr. Rodino, Mr. Rosenthal. Mr. Rudd, Mr. Russo, Mr. Scheuer, Mr. Sharp, Mr. Shuster, Mr. Simon, Mrs. Smith of Nebraska, Mr. Solomon, Mrs. Spellman Mr. St Germain, Mr. Staggers, Mr. Stanton, Mr. Stark, Mr. Stratton, Mr. Ullman, Mr. Van Deerlin, Mr. Walker, Mr. Wampler, Mr. Weiss, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Won Pat, Mr. Wright, Mr. Wydler, Mr. Wylie, Mr. Yates, Mr. Young of Florida, Mr. Zablocki, Mr. Solarz, Mr. Derwinski, Mr. Howard, Mr. Jeffords, Mr. Myers of Indiana, Mr. Hillis, Mr. Steed, Mr. D'Amours, Mr. Rousselot, Mrs. Snowe, Mr. McEwen, Mr. Clausen, Mr. Clay, and Mr. Gray.

H.J. Res. 594: Mr. Davis of Michigan.

H. Con. Res. 395: Mr. Tauke.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

416. By the SPEAKER: Petition of Legislature of Palau, Koror, Palau, Western Caroline Islands, relative to the Constitution of the Republic of Palau; to the Committee on Interior and Insular Affairs.

417. Also, petition of the Executive Committee, Small Tribes Organization of Western Washington, Sumner, Wash., relative to health care for non-federally recognized Indian tribes; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 85

By Mr. BREAUX:

—Strike out all after the enacting clause and in lieu of the parts proposed to be inserted insert the following:

That this Act may be cited as the "Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act".

TITLE I—OIL POLLUTION LIABILITY, COMPENSATION, AND FUND

DEFINITIONS

Sec. 101. For the purposes of this title, the term—

(a) "Secretary" means the Secretary of Transportation;

(b) "fund" means the fund established by title V of this Act;

(c) "person" means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity;

(d) "incident" means any occurrence or series of occurrences, involving one or more vessels, facilities, or any combination thereof, which causes, or poses an imminent threat of, oil pollution;

(e) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water;

(f) "public vessel" means a vessel which—

(1) is owned or chartered by demise, and operated by (A) the United States,

(B) a State or political subdivision thereof, or (C) a foreign government, and

(2) is not engaged in commercial service;

(g) "ship" means either of the following types of vessels carrying oil in bulk as cargo or in resdue:

(1) a self-propelled vessel, or

(2) a non-self-propelled vessel other than an inland oil barge;

(h) "inland oil barge" means a non-self-propelled vessel, carrying oil in bulk as cargo and certificated to operate only on the internal waters of the United States while operating in such waters;

(i) "facility" means a structure, or group of structures (including a mobile drilling rig when in the drilling mode), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil;

(j) "onshore facility" means any facility, (including, but not limited to, any motor vehicle or rolling stock) located in, on, or under any land within the United States;

(k) "offshore facility" means any facility located in, on, or under the navigable waters or, if the facility is subject to the jurisdiction of the United States, the high seas;

(l) "terminal" means a permanently situated facility, located within the territorial limits of the United States and not owned by an agency of the Federal Government, which receives oil in bulk directly from a vessel, offshore production facility, offshore port facility, onshore pipeline, or the pipeline constructed under the provisions of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.);

(m) "refinery" means a terminal that receives crude oil for the purpose of refinement;

(n) "oil pollution" means—

(1) the presence of oil, either in an unlawful quantity or which has been discharged at an unlawful rate—

(A) in or on the navigable waters or on land within the United States immediately adjacent thereto; or

(B) in or on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 USC 1606); or

(2) the presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

(A) when discharged in connection with activfties conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) or the Deepwater Port Act of 1974, as amended (33 U.S.C. et seq.);

(B) causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of, the United States; or

(C) when discharged from a ship that received oil at the terminal facilities of the pipeline constructed under the provisions of the Trans-Alaska Pipeline Authorization Act, as amended (43 U.S.C. 1651 et seq.), for transportation to a port in the United States, and was discharged from that ship prior to being brought ashore in such a port; or

(3) the presence of oil in or on the territorial sea, internal waters, or adjacent shoreline, of a foreign country, in a case where damages are recoverable by a foreign claimant under section 103(b)(5) of this title;

(o) "navigable waters" means the waters of the United States, including the territorial seas;

(p) "United States claimant" means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim;

(q) "foreign claimant" means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

(r) "United States" and "State" include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction;

(s) "oil" means petroleum, including crude oil or any fraction or residue therefrom;

(t) "cleanup costs" means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident;

(u) "barrel" means forty-two United States gallons at 60 degrees Fahrenheit;

(v) "claim" means a demand in writing for a sum certain;

(w) "discharge" means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

(x) "owner" means any person holding title to, or, in the absence of title, any other indicia of ownership of, a vessel or facility, but does not include a person who (either directly or through a trust or singly or in combination with others) holds title to or any indicia of ownership of a vessel or facility and without participating in the management or operation of such vessel or facility, leases or charters to any other person (with whom such person is not otherwise affiliated), or holds indicia of ownership primarily to protect his security interest in the vessel or facility;

(y) "affiliated" means a relationship in which a person owns (in whole or in part), is owned by (in whole or in part), or is under common control with, another person;

(z) "operator" means—

(1) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

(2) in the case of a facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner;

(aa) "natural resources" includes fish, wildlife, biota, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government;

(bb) "removal costs" means—

(1) costs incurred under subsection (c), (d), or (l) of section 311 of the Federal Water Pollution Control Act, as amended, section 5 of the Intervention on the High Seas Act, or subsection (b) of section 18 of the Deepwater Port Act of 1974 as amended; and

(2) cleanup costs, other than the costs described in clause (1);

(cc) "guarantor" means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

(dd) "internal waters of the United States" means those waters of the United States lying inside the base line from which the territorial sea is measured and those waters outside that base line which are a part of the Gulf Intracoastal Waterway.

FUND ESTABLISHMENT, ADMINISTRATION, AND FINANCING

SEC. 102. (a) There is in the Treasury of the United States a fund known as the Comprehensive Oil Pollution Liability Trust Fund established in title V of this Act.

(b) In addition to the processing and settlement of claims under section 107, the fund is immediately available to pay those removal costs defined in section 101(bb)(1) arising out of or directly resulting from an oil pollution incident. The Secretary may issue regulations designating the person or persons who may obligate available money in the fund for those purposes.

DAMAGES AND CLAIMANTS

SEC. 103. (a) Claims for damages for economic loss, incurred on or after the effective date of this section and arising out of or directly resulting from oil pollution, may be asserted for—

(1) removal costs;

(2) injury to, or destruction of, real or personal property;

(3) injury to, or destruction of, natural resources; and

(4) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources to the extent that such damages were sustained during the two-year period beginning on the date the claimant first suffered such loss.

(b) A claim authorized by subsection (a) may be asserted—

(1) under item 1, by any claimant: *Provided*, That the owner or operator of a vessel or facility involved in an incident may assert such a claim only if he can show that he is entitled to a defense to liability under section 104(e)(1) or 104(e)(2) or, if not entitled to such a defense to liability, that he is entitled to a limitation of liability under section 104: *Provided further*, That where he is not entitled to such a defense to liability but entitled to such a limitation of liability, the claim may be asserted only as to the removal costs incurred in excess of that limitation;

(2) under item 2, by any United States claimant, if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;

(3) under item 3, by the President, as trustee for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority, or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State: *Provided*, That compensation paid under this item may be used only for restoration of the damaged resources or for acquisition of equivalent resources;

(4) under item 4, by any United States claimant if the claimant derives at least 25 percent of his earnings from activities which utilize the property or natural resource;

(5) under items 2 through 4, by a foreign claimant to the same extent that a United States claimant may assert a claim if—

(A) the oil pollution occurred (1) in the navigable waters or (2) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;

(B) the claimant is not otherwise compensated for his loss;

(C) the oil was discharged from a facility or from a vessel located adjacent to or within the navigable waters or was discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) or the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501 et seq.); and

(D) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants: ***Provided, however***, That condition (C) shall not apply where the claim is asserted by a resident of Canada and where the oil pollution involves oil that has been transported through the pipeline constructed under the provisions of the Trans-Alaska Pipeline Authorization Act, as amended, has been loaded on a ship for transportation to a port in the United States, and is discharged from the ship prior to being brought ashore in that port; and

(6) under any item, by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection.

(c) If the Attorney General fails to act under clause (6) of subsection (b) within sixty days of the date on which the Secretary designates a source under section 106, any member of a group may, in accordance with rule 23 of the Federal Rules of Civil Procedure, maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to act shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

LIABILITY

SEC. 104. (a) Subject to the provisions of subsections (b), (c), (d), and (e), the owner and operator of a vessel other than a public vessel, or of a facility, that is the source of oil pollution, or poses a threat of oil pollution in circumstances that justify the incurrence of the type of costs described in section 101 (bb)(1) of this title, shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under section 103.

(b) Except when the incident is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator; or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or except when the owner or operator fails or refuses to report the incident or to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, the total of the liability under subsection (a) and any removal costs incurred by, or on behalf of, the owner or operator shall be limited to—

(1) in the case of a vessel other than a ship or other than an inland oil barge, $150 per gross ton;

(2) in the case of an inland oil barge, $150,000 or $150 per gross ton, whichever is greater;

(3) in the case of a ship $250,000 or $300 per gross ton (up to a maximum of $30,000,000), whichever is greater;

(4) in the case of a deepwater port subject to the Deepwater Port Act of 1974 (including the liability of the owner or operator of such deepwater port for a discharge from a ship moored at such port), $50,000,000;

(5) in the case of an offshore facility operated under authority of the Outer Continental Shelf Lands Act, as amended, the total of removal costs plus $50,000,000;

(6) in the case of a facility other than one described in clause (4) or (5), $50,000,000 or such lesser limit as is established under subsection (d).

The Secretary shall, from time to time, report to Congress on the desirability of adjusting the limitations of liability specified in this subsection.

(c) The Secretary may, by regulation, reduce the limitation of liability for facilities subject to clause (5) of subsection (b), to the total of all removal costs plus an amount not less than $35,000,000, if he determines that the limitation will have either a significant adverse impact on small business enterprises or a significant anticompetitive impact.

(d) The Secretary shall issue regulations establishing limits of liability, up to $50,000,000, for various classes of facilities other than those described in clauses (4) and (5) of subsection (b). These regulations shall take into account the size, type, location, oil storage and handling capacity, and other matters relating to the likelihood of incidents involving those classes. These limits shall, to the extent practicable, be comparable to the limits established under clause (3) of subsection (b), taking into account the relative potential threat of oil pollution, but in no case shall such a limitation be less than $2,000,000 for any tank motor vehicle operated on highways and transporting oil in bulk with a water capacity of more than 3,500 gallons.

(e) There shall be no liability under subsection (a)—

(1) to the extent that the incident is caused—

(A) by an act of war, hostilities, civil war, or insurrection; or

(B) by a natural phenomenon of an exceptional, inevitable, and irresistible character, which could not have been prevented or avoided by the exercise of due care or foresight;

(2) to the extent that the incident is caused by an act or omission of a person other than—

(A) the claimant,

(B) the owner or operator,

(C) an employee or agent of the claimant, the owner, or the operator, or

(D) one whose act or omission occurs in connection with a contractual relationship with the claimant, the owner, or the operator;

(3) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(4) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(f)(1) Except as provided in title V the fund shall be liable, without any limitation, for all damages which are compensable damages under title V of this Act, to the extent that the loss is not otherwise compensated.

(2) Except for the removal costs specified in clause (1) of section 101(bb), there shall be no liability under paragraph (1) hereof—

(A) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection;

(B) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(C) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(g)(1) In addition to the damages for which claims may be asserted under section 103, and without regard to the limitation of liability provided in section 104, the owner, operator, or guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim was presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or guarantor shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept that amount, inclusive. However, if the owner, operator, or guarantor shall offer to the claimant, within sixty days of the date upon which the claim was presented, or of the date upon which advertising was commenced pursuant to section 106, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

(2) The interest provided in paragraph (1) shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

(h) No indemnification, hold harmless, or similar agreement shall be effective to transfer from the owner or operator of a facility, to any other person, the liability imposed under subsection (a), other than as specified in this title: *Provided*, That this provision does not preclude an agreement whereby the holder of a leasehold interest or permit for the exploration of oil agrees to indemnify for, or hold harmless from, such liability, the owner or operator of a vessel or facility which is, by contract or other agreement, engaged in activity on behalf of the holder of the leasehold interest or permit.

(i) Nothing in this title shall bar a cause of action that an owner or operator, subject to liability under subsection (a), or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

(j) To the extent that it is in conflict with, or otherwise inconsistent with, any other law relating to liability or the limitation thereof, this section supersedes such other law, including section 4283(a) of the Revised Statutes, as amended (46 U.S.C. 183(a)).

FINANCIAL RESPONSIBILITY

Sec. 105. (a)(1) The owner or operator of each vessel (except a non-self-propelled barge that does not carry oil, as that term is defined in section 311(a)(1) of the Federal Water Pollution Control Act, as amended, or hazardous substances), over three hundred gross tons that uses an offshore or onshore facility or the navigable waters, shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability under this Act to which the owner or operator of such vessel would be exposed in a case where he would be entitled to limit his liability in accordance with section 104 of this title and subsection (g) of section 311 of the Federal Water Pollution Control Act, as amended. Financial responsibility may be established by any one, or any combination, of the following methods, acceptable to the President: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In cases where an owner or operator owns, operates, or charters more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

(2) The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any vessel, subject to this subsection, that does not have certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(3) The Secretary, in accordance with regulations issued by him, shall (A) deny entry to any port or place in the United States or navigable waters to, and (B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to this subsection that, upon request, does not produce certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(b)(1) The owner or operator of each offshore facility shall establish and maintain, in accordance with regulations issued by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of the facility would be exposed in a case where he would be entitled to limit his liability in accordance with section 104 of this title, or $50,000,000, whichever is less. These regulations shall take into account the size, type, location, arrangement and degree of consolidation of the structure, platform, well, or pipeline. The regulations shall also take into account the various groupings of multiple offshore facilities owned or operated by the same person or persons or under joint venture. In cases where the owner or operator owns, operates or leases more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such facilities.

(2) Where an offshore facility is owned or operated by more than one person, evidence of financial responsibility covering the facility may be established and maintained by any one of the owners or operators, or, in consolidated form, by or on behalf of two or more owners or operators. When evidence of financial responsibility is established in a consolidated form, the proportional share of each participant shall be shown. The evidence shall be accompanied by a statement authorizing the applicant to act for and in behalf of each participant in submitting and maintaining the evidence of financial responsibility.

(3) The owner or operator of each tank motor vehicle operated on highways and transporting oil in bulk, with a water capacity of more than 3,500 gallons shall establish and maintain, in accordance with regulations issued by the Secretary, evidence of financial responsibility in such amounts as the Secretary, by regulation, shall establish, but in no event less than $2,000,000.

(c) Any claim authorized by section 103(a) may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section. In defending such a claim, the guarantor may invoke all rights and defenses which would be available to the owner or operator under this title. He may also invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but he may not invoke any other defense that he might have been entitled to invoke in proceedings brought by the owner or operator against him.

DESIGNATION AND ADVERTISEMENT

Sec. 106. (a)(1) When the Secretary receives information of an incident that involves oil pollution, he shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner and operator of the source, and the guarantor, of that designation.

(2) When a source designated is a vessel or a facility, and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator, or guarantor, as required by regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not otherwise made in accordance with this paragraph, the Secretary shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which

claims may be presented to that owner, operator, or guarantor.

(b) In a case where—

(1) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of subsection (a).

(2) the source of the discharge was a public vessel, or

(3) the Secretary is unable to designate the source or sources of the discharge under paragraph (1) of subsection (a).

the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the fund.

(c) Advertisement under subsection (a) shall commence no later than fifteen days from the date of the designation made thereunder and continue for a period of no less than thirty days.

CLAIMS SETTLEMENT

Sec. 107. (a) Except as provided in subsection (b), all claims shall be presented to the owner, operator, or guarantor.

(b) Claims for compensable damages under title V of this Act shall be presented to the fund—

(1) where the Secretary has advertised or otherwise notified claimants in accordance with section 106(b), or

(2) where the owner or operator may recover under section 103(b)(1).

(c) In the case of a claim presented in accordance with subsection (a), and in which—

(1) the person to whom the claim is presented denies all liability for the claim, for any reason, or

(2) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (A) the claim was presented, or (B) advertising was commenced pursuant to section 106(a)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or, in the case of claims for compensable damages under title V, to present the claim to the fund; that election to be irrevocable and exclusive.

(d) In the case of a claim for compensable damages under title V presented in accordance with subsection (a), where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 104 or because the owner, operator, and guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the fund.

(e) In the case of a claim which has been presented to any person, under subsection (a), and which is being presented to the fund, under subsection (c) or (d), such person, at the request of the claimant, shall transmit the claim and supporting documents to the fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

(f) In the case of a claim presented to the fund, under subsection (b), (c), and (d), and in which the fund—

(1) denies all liability for the claim, for any reason, or

(2) does not settle the claim by payment to the claimant within sixty days of the date upon which (A) the claim was presented to the fund or (B) advertising was commenced under section 106(b), whichever is later,

the claimant may submit the dispute to the Secretary for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the fund under subsection (b) may elect to commence an action in court against the fund in lieu of submission of the dispute to the Secretary for decision; that election to be irrevocable and exclusive.

(g)(1) The Secretary shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the fund.

(2) Except as provided in paragraph (3), the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract for those facilities and services. Any contract made under this paragraph may be made without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made under this subsection. A payment in excess of $100,000 to a single claimant, or one aggregating in excess of $200,000 to multiple claimants shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

(3) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the fund.

(h) Without regard to subsection (b) of section 556 of title 5, United States Code, the Secretary is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Secretary under subsection (f). At least one member of each panel shall be qualified in the conduct of adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special Government employees, apply to panel members appointed from private life.

(i)(1) Upon receipt of a request for decision from a claimant, properly made, the Secretary shall refer the dispute to an administrative law judge, appointed under section 3105 of title 5, United States Code, or a panel appointed under subsection (h).

(2) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit, of the nearest circuit.

(3) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding under this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

(4) A hearing conducted under this subsection shall be conducted in the United States judicial district within which the damage complained of occurred, or, if the damage complained of occurred within two or more districts, in any of the affected districts, or, if the damage occurred outside any district, in the nearest district.

(5) The decision of the administrative law judge or panel under this subsection shall be the final order of the Secretary, except that the Secretary, in his discretion and in accordance with rules which he may issue, may review the decision upon his own initiative or upon exception of the claimant or the fund.

(6) Final orders of the Secretary made under this subsection shall be reviewable under section 702 of title 5, United States Code, in the district courts of the United States.

(j)(1) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the fund at the same time those pleadings are served upon the opposing parties.

(2) The fund may intervene in the action as a matter of right.

(3) In any action to which the fund is a party, if the owner, operator, or guarantor admits liability under this title, the fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

(4) If the fund receives from either the plaintiff or the defendant notice of such an action, the fund shall be bound by any judgment entered therein, whether or not the fund was a party to the action.

(5) If neither the plaintiff nor the defendant gives notice of such an action to the fund, the limitation of liability otherwise permitted by section 104 of this title is not available to the defendant, and the plaintiff shall not recover from the fund any sums not paid by the defendant.

(k) In any action brought against the fund, the plaintiff may join any owner, operator, or guarantor, and the fund may implead any person who is or may be liable to the fund.

(l) No claim may be presented, nor may an action be commenced for damages recoverable under this title, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, or against the fund, as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under section 103 (a), or within six years of the date of the incident which resulted in that loss, whichever is earlier.

SUBROGATION

Sec. 108. (a) Any person or governmental entity, including the fund, who compensates any claimant for an economic loss, compensable under section 103, shall be subrogated to all rights, claims, and causes of action which that claimant has under this title.

(b) Upon request of the Secretary, the Attorney General may commence an action, on behalf of the fund, for the compensation paid by the fund to any claimant under this title. Such an action may be commenced against any owner, operator, or guarantor, or against any other person or governmental entity, who is liable, under any law, to the compensated claimant or to the fund, for the damages for which the compensation was paid.

(c) In all claims or actions by the fund against any owner, operator, or guarantor, under subsections (a) and (b), the fund shall recover—

(1) for a claim presented to the fund (where there has been a denial of source designation) under section 107(b)(1), or (where there has been a denial of liability) under section 107(c)(1)—

(A) subject only to the limitation of liability to which the defendant is entitled under section 104(b), the amount the fund has paid to the claimant, without reduction;

(B) interest on that amount, at the rate calculated in accordance with section 104 (g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the fund shall offer to the claimant the amount finally paid by the fund to the claimant in satisfaction of the claim against the fund to the date upon which the claimant shall accept that offer, inclusive; and

(C) all costs incurred by the fund by reason of the claim, both of the claimant against the fund and the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

(2) for a claim presented to the fund under section 107(c)(2)—

(A) in which the amount the fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the fund has paid to the claimant;

(ii) interest, at the rate calculated in accordance with section 104(g)(2), for the period specified in clause (1) of this subsection; and

(iii) all costs incurred by the fund by reason of the claim of the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; or

(B) in which the amount the fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) the amount of the fund has paid to the claimant, without reduction;

(ii) interest, at the rate calculated in accordance with section 104(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this subclause: *Provided*, That if the defendant tendered the offer of the largest amount referred to in this subclause within sixty days of the date upon which the claim of the claimant was either presented to the defendant or advertising was commenced under section 106, the defendant shall not be liable for interest for that period; and

(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, under clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

(e) The fund is entitled to recover for all interest and costs specified in subsection (c) without regard to any limitation of liability to which the defendant may otherwise be entitled.

JURISDICTION AND VENUE

SEC. 109. (a) The United States district courts shall have exclusive original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district court wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For the purposes of this section, the fund shall reside in the District of Columbia.

PREEMPTION

SEC. 110. (a) Except as provided in this title—

(1) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for damages for an economic loss described in section 103(a), a claim for which may be asserted under this title, and

(2) no person may be required to contribute to any fund, the purpose of which is to compensate for a loss which is a compensable damage under title V, nor to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss.

(b) Nothing in subsection (a) shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and prepositioning of oil pollution cleanup and removal equipment.

(c) Nothing in subsection (a) shall prohibit an action by the fund, under any other provision of law, to recover compensation paid under this title.

PENALTIES

SEC. 111. (a) Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of section 105, the regulations issued thereunder, or with any denial or detention order shall be liable to the United States for a civil penalty, not to exceed $10,000 for each violation. The amount of the civil penalty shall be assessed by the President in connection with section 105(a)(1) and by the Secretary in connection with all other sections, by written notice. In determining the amount of such penalty, the appropriate Secretary shall take into acount the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) The Secretaries may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(c) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretaries may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

APPROPRIATIONS

SEC. 112. There are authorized to be appropriated for those fiscal years which begin on or after October 1, 1980 such sums as may be necessary to carry out the provisions of this title.

ANNUAL REPORT

SEC. 113. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress a report on the administration of this title during that fiscal year, and his recommendations for any legislative changes he finds necessary or appropriate to improve the management of, and the administration of the liability provisions of, this title.

TITLE II—EFFECTIVE DATES; SAVINGS PROVISION; CONFORMING AMENDMENTS

SEC. 201. (a) This section, section 101, section 112, section 203, and each provision of title I that authorizes the promulgation of regulations shall be effective on the date of enactment of this Act.

(b) All other provisions of title I, the regulations issued thereunder, and section 202 shall be effective on the one hundred and eightieth day after the date of enactment of this Act: *Provided*, That the penalty prescribed by section 111 for failure to comply with the requirements of section 105 or the regulations issued thereunder shall not be effective until the ninetieth day after issuance of those regulations or the two hundred and seventieth day after the date of enactment of this Act, whichever is earlier.

(c) Any regulation respecting financial responsibility, issued pursuant to any provision of law repealed by section 202 of this title, and in effect on the day immediately preceding the effective date of section 202 of this title shall remain in force until superseded by regulations issued under title I of this Act.

SEC. 202. (a) Subsection (b) of section 204 of the Trans-Alaska Pipeline Authorization Act (87 Stat. 586) is amended, in the first sentence, by inserting after "any area", the words "in the State of Alaska"; by inserting after "any activities", the words "related to the trans-Alaska oil pipeline", and by inserting at the end of the subsection a new sentence to read as follows: "This subsection shall not apply to removal costs resulting from oil pollution as that term is defined in section 101(n) of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act".

(b)(1) Subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act is repealed. The Trans-Alaska Pipeline Liability Fund is abolished. All assets of that fund, as of the effective date of this section, shall be transferred to the Comprehensive Oil Pollution Liability Trust Fund established by title V of this Act. The Comprehensive Oil Pollution Liability Trust Fund shall assume all liability incurred by the Trans-Alaska Pipeline Liability Fund under the terms of subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act, and shall assume all liability incurred by the officers or trustees in the execution of their duties involving the Trans-Alaska Pipeline Liability Fund, other than the liability of those officers or trustees for gross negligence or willful misconduct.

(2) The Secretary of the Interior shall certify to the Secretary of the Treasury the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the transfer of assets required under paragraph (1) is made.

(3) If an owner of oil (as that term is used in section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act) who prior to enactment of this Act paid fees to the operator of the pipeline for transfer to the Trans-Alaska Pipeline Liability Fund receives the benefit of an advance payment of taxes under section 541(d)(1)(A) of this Act, such owner of oil shall compute, based upon accepted accounting procedures, what the oil production tax and what the royalty paid to the State of Alaska would have been made had payments not been made to the Trans-Alaska Pipeline Liability Fund in the amount of fees waived. The difference between the amounts so computed and

amounts actually paid to the State of Alaska shall be paid by each such owner to the State of Alaska.

(c) Section 17 of the Intervention on the High Seas Act (88 Stat. 10) is amended to read as follows:

"SEC. 17. The fund established under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act is available to the Secretary for actions and activities, relating to oil pollution (as defined in section 101 of that Act), taken under section 5 of this Act. The revolving fund established under section 311(k) of the Federal Water Pollution Control Act, as amended, is available for actions and activities, relating to other pollution, taken under section 5 of this Act.".

(d) Section 311 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321) is further amended as follows:

(1) Subsection (a) is amended by replacing the period at the end of clause (17) with a semicolon and adding a new clause (18) to read as follows:

"(18) 'person in charge' means the individual immediately responsible for the operation of a vessel or facility.".

(2) Paragraph (5) of subsection (b) is amended in the last sentence, by inserting after the word "person", the words "or his employer".

(3) Clause A of paragraph (6) of subsection (b) is amended—

(A) in the first and second sentences, by striking the phrase "or person in charge" each time it appears and inserting in lieu thereof "person in charge, or employer of such person in charge,"; and

(B) in the third sentence, by striking "the owner or operator" and inserting in lieu thereof "whoever being".

(4) Clause B of paragraph (6) of subsection (b) is amended in the first and second sentences by striking the phrase "or person in charge" each time it appears and inserting in lieu thereof "person in charge, or employer of such person in charge,".

(5) Clause (H) of paragraph (2) of subsection (c) is amended by inserting after the words "of this section" the words "or the fund established under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act, as appropriate,".

(6) Subsection (d) is amended by striking the last sentence and inserting in lieu thereof "Any expense incurred under this subsection or under the Intervention on the High Seas Act (or the Convention as defined in section 2(3) thereof) shall be reimbursed from the fund established under subsection (k) of this section or the fund established under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act, as appropriate. Any expense incurred thereunder for which reimbursement may be had from the fund established under subsection (k) of this section shall be recoverable from the owner or operator of the vessel in accordance with this section.".

(7) Subsection (l) is amended by deleting the period at the end of the second sentence and by inserting in lieu thereof the words "respecting discharges or imminent discharges of oil (other than petroleum, crude oil, or any fraction or residue therefrom) and hazardous substances.". Such subsection (l) is further amended by striking out "subsections (c) and (i)" and inserting in lieu thereof "subsection (c)".

(8) Subsection (p)(1) is amended by inserting after "oil" each place it appears the following: "(other than petroleum, crude oil, or any fraction or residue therefrom)".

(9) Subsection (q) is repealed, and subsection (r) is redesignated as subsection (q).

(e) Section 404 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(u) Notwithstanding any other provision of this section, the Secretary shall make any determination with respect to those navigable waters to which the provisions of this section shall apply."

(f) The Deepwater Port Act of 1974 (88 Stat. 2126) is amended as follows:

(1) In section 4(c)(1), strike "section 18(l) of this Act;" and insert in lieu thereof "section 105 of the Comprehensive Oil and Hazardous Substances Pollution Liability Compensation Act;".

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), and (n) of section 18 are repealed.

(3) Clause (3) of subsection (c) of section 18 is amended by striking "Deepwater Port Liability Fund established pursuant to subsection (f) of this section." and inserting in lieu thereof "fund established under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act.".

(4) Subsection (k) of section 18 is amended to read as follows:

"(k) This section shall not be interpreted to preclude any State from imposing additional requirements, not inconsistent with the provisions of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act, for any discharge of oil from a deepwater port or a vessel within any safety zone.".

(5) Subsections (c), (k), and (m) of section 18 are redesignated (b), (c), and (d), respectively.

(g) Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95-372) is repealed. Any fees or moneys deposited in the Offshore Oil Pollution Compensation Fund established under section 302 of that title shall be deposited in the fund established by title V of this Act. The Comprehensive Oil Pollution Liability Trust Fund shall assume all liability incurred by the Offshore Oil Pollution Compensation Fund under title III of the Outer Continental Shelf Lands Act Amendments of 1978.

SEC. 203. No part of any moneys in the Comprehensive Oil Pollution Liability Trust Fund established by title V of this Act shall be obligated or otherwise expended for any of the administrative expenses of the Environmental Protection Agency.

SEC. 204. If any provision of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby.

TITLE III—HAZARDOUS SUBSTANCE LIABILITY, COMPENSATION, AND FUND

HAZARDOUS SUBSTANCE LIABILITY

SEC. 301. (a)(1) Subsection (a) of section 311 of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following:

"(19) 'supplier' means, with respect to subsection (k) of this section, any person who produces, manufactures, or imports any substance identified in paragraphs (2), (3), (4), or (5) of subsection (k) of this section at a place or for removal to a place other than the site of production, manufacture, or importation, or a site that adjoins the site of production, manufacture, or importation, or uses those feedstocks or elements and compounds himself at a place other than the site of production, manufacture, or importation or a site that adjoins the site of production, manufacture, or importation.

"(20) 'United States claimant' means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim;

"(21) 'foreign claimant' means any person residing in a foreign country, a government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

"(22) 'guarantor' means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

"(23) 'removal costs' means—

"(A) costs incurred under subsection (c), (d), or (l) of this section; and

"(B) cleanup costs, other than those described in clause (A);

"(24) 'cleanup costs' means costs of reasonable measures taken, after a discharge has occurred, to prevent, minimize, or mitigate pollution from that discharge;

"(25) 'affiliated' means a relationship in which a person owns (in whole or in part), is owned by (in whole or in part), or is under common control with, another person.".

(2) Paragraph (6) of subsection (a) of section 311 of the Federal Water Pollution Control Act is amended to read as follows:

"(6)(A) 'owner' means any person owning title to, or in the absence of title, any other indicia of ownership of, a vessel or facility, but does not include a person who (either directly or through a trust or singly or in combination with others) hold title to or any indicia of ownership of a vessel or facility and without participating in the management or operation of such vessel or facility, leases or charters to any other person (with whom such person is not otherwise affiliated), or holds indicia of ownership primarily to protect his security interests in the vessel or facility;

"(B) 'operator' means (i) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualling, and supplying of the vessel or (ii) in the case of a facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner;".

(b) Subsections (f), (g), (h), and (i) of section 311 of the Federal Water Pollution Control Act are amended to read as follows:

"(f)(1) Claims for damages for economic loss, incurred on or after the effective date of title III of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act and arising out of or directly resulting from the discharge of oil (other than petroleum, crude oil, or any fraction or residue therefrom), or hazardous substances, may be asserted for—

"(A) removal costs;

"(B) injury to, or destruction of, real or personal property;

"(C) injury to, or destruction of, natural resources; and

"(D) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources to the extent that such damages were sustained during the two-year period beginning on the date the claimant first suffered such loss

"(2) A claim authorized by paragraph (1) may be asserted—

"(A) under item (A) of paragraph (1), by any claimant: *Provided*, That the owner or operator of a vessel or facility involved in a discharge may assert such a claim only if he can show that he is entitled to a defense to liability under subsection (g)(5)(A) or (g)(5)(B) or, if not entitled to such a defense to liability, that he is entitled to a limitation of liability under subsection (g): *Provided further*, That where he is not entitled to such a defense to liability but entitled to such a limitation of liability, the claim may be asserted only as to the removal costs incurred in excess of that limitation;

"(B) under item (B) of paragraph (1), by any United States claimant, if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;

"(C) under item (C) of paragraph (1), by the President, as trustee for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority, or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State: *Provided*, That compensation paid under this item may be used only for restoration of the damaged resources or for acquisition of equivalent resources;

"(D) under item (D) of paragraph (1), by any United States claimant if the claimant derives at least 25 percent of his earnings from activities which utilize the property or natural resource;

"(E) under items (B) through (D) of paragraph (1), by a foreign claimant to the same extent that a United States claimant may assert a claim if—

"(i) the discharge occurred (I) in the navigable waters, or (II) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;

"(ii) the claimant is not otherwise compensated for his loss;

"(iii) the discharge was from a facility or from a vessel located adjacent to or within the navigable waters or was discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331, et seq.) or the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501, et seq.); and

"(iv) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants; and

"(F) under any item, by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection.

"(3) If the Attorney General fails to act under clause (F) of paragraph (2) within sixty days of the date on which the Secretary designates a source of discharge, any member of a group may, in accordance with rule 23 of the Federal Rules of Civil Procedure, maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to act shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

"(g) (1) Subject to the provisions of paragraphs (2) (3), (4), and (5), the owner and operator of a vessel other than a public vessel, or of a facility, that is the source of a discharge of oil (other than petroleum, crude oil, or any fraction or residue therefrom) or a hazardous substance, or poses a threat of such a discharge in circumstances that justify the incurrence of removal costs, shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under subsection (f).

"(2) Except when the discharge or threat of discharge is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator; or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or except when the owner or operator fails or refuses to report the discharge or to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, the total of the liability under paragraph (1) and any removal costs incurred by, or on behalf of, the owner or operator shall be limited to—

"(A) in the case of a vessel other than a ship or other than an inland oil barge, $150 per gross ton;

"(B) in the case of an inland oil barge, $150,000 or $150 per gross ton, whichever is greater;

"(C) in the case of a ship, $250,000 or $300 per gross ton (up to a maximum of $30,000,000), whichever is greater;

"(D) in the case of a deepwater port subject to the Deepwater Port Act of 1974 (including the liability of the owner or operator of such deepwater port for a discharge from a ship moored at such port), $50,000,000;

"(E) in the case of an offshore facility operated under authority of the Outer Continental Shelf Lands Act, as amended, the total of removal costs plus $50,000,000; or

"(F) in the case of a facility other than one described in clause (D) or (E) $50,000,000 or such lesser limit as is established under paragraph (4).

The Secretary shall, from time to time, report to Congress on the desirability of adjusting the limitations of liability specified in this paragraph.

"(3) The Secretary may, by regulation, reduce the limitation of liability for facilities subject to clause (E) of paragraph (2), to the total of all removal costs plus an amount not less than $35,000,000, if he determines that the limitation will have either a significant adverse impact on small business enterprises or a significant anticompetitive impact.

"(4) The Secretary shall issue regulations establishing limits of liability, up to $50,000,000, for various classes of facilities other than those described in clauses (D) and (E) of paragraph (2). These regulations shall take into account the size, type, location, storage and handling capacity, and other matters relating to the likelihood of discharges involving those classes. These limits shall, to the extent practicable, be comparable to the limits established under clause (C) of paragraph (2), taking into account the relative potential threat of pollution, but in no case shall such a limitation be less than $5,000,000 for any tank motor vehicle operated on highways transporting oil (other than petroleum, crude oil, or any fraction or residue therefrom) or a hazardous substance, in bulk, with a water capacity of more than 3,500 gallons.

"(5) There shall be no liability under paragraph (1)—

"(A) to the extent that the discharge is caused—

"(i) by an act of war, hostilities, civil war, or insurrection; or

"(ii) by a natural phenomenon of an exceptional, inevitable, and irresistible character, which could not have been prevented or avoided by the exercise of due care or foresight;

"(B) to the extent that the discharge or threat of discharge is caused by an act or omission of a person other than—

"(i) the claimant,

"(ii) the owner or operator,

"(iii) an employee or agent of the claimant, the owner, or the operator, or

"(iv) one whose act or omission occurs in connection with a contractual relationship with the claimant, the owner, or the operator;

"(C) as to a particular claimant, where the discharge or threat of discharge or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

"(D) as to a particular claimant, to the extent that the discharge or economic loss is caused by the negligence of that claimant.

"(h) (1) Except as provided in title V, the fund shall be liable, without any limitation, for all damages which are compensable damages under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act, to the extent that the loss is not otherwise compensated.

"(2) Except for removal costs (other than cleanup costs), there shall be no liability under paragraph (1) hereof—

"(A) where the discharge or threat of discharge is caused primarily by an act of war, hostilities, civil war, or insurrection;

"(B) as to a particular claimant, where the discharge or threat of discharge or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

"(C) as to a particular claimant, to the extent that the discharge or threat of discharge or economic loss is caused by the negligence of that claimant.

"(3) In addition to the damages for which claims may be asserted under subsection (f), and without regard to the limitation of liability provided in subsection (g), the owner, operator, or guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim was presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or guarantor shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept that amount, inclusive. However, if the owner, operator, or guarantor shall offer to the claimant, within sixty days of the date upon which the claim was presented, or of the date upon which a source of discharge is designated, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

"(4) The interest provided in paragraph (3) shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

"(i) (1) No indemnification, hold harmless, or similar agreement shal be effective to transfer from the owner or operator of a facility, to any other person, the liability imposed under subsection (g), other than as specified in this title: *Provided*, That this provision does not preclude an agreement whereby the holder of a leasehold interest or permit for the exploration of oil agrees to indemnify for, or hold harmless from, such liability, the owner or operator of a vessel or facility which is, by contract or other agreement, engaged in activity on behalf of the holder of the leasehold interest or permit.

"(2) Nothing in this title shall bar a cause of action that an owner or operator, subject to liability under subsection (g), or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

"(3) To the extent that it is in conflict with, or otherwise inconsistent with, any other law relating to liability or the limitation thereof, subsections (g), (h), and (i) supersede such other law, including section 4283(a) of the Revised Statutes, as amended (46 U.S.C. 183(a)).".

(c) Subsection (k) of section 311 of the Federal Water Pollution Control Act is amended to read as follows:

"(k) There is in the Treasury of the United States a fund known as the Hazardous Substance Pollution Liability Trust Fund established under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act.".

Sec. 302. (a) Subsection (o) of section 311 of the Federal Water Pollution Control Act is amended to read as follows:

"(o)(1) Except as provided in this title—

"(A) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for damages for an economic loss described in subsection (f)(1), a claim for which may be asserted under this title, and

"(B) no person may be required to contribute to any fund, the purpose of which is to compensate for a loss which is a compensable damage under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act, nor to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss.

"(2) Nothing in paragraph (1) shall preclude any State from imposing a tax or fee upon any person or any oil (other than petroleum, crude oil, or any fraction or residue therefrom), or hazardous substance in order to finance the purchase and prepositioning of any oil (other than petroleum, crude oil, or any fraction or residue therefrom), or hazardous substance, pollution cleanup and removal equipment.

"(3) Nothing in paragraph (1) shall prohibit an action by the fund, under any other provision of law, to recover compensation paid under this title.".

(b) Section 311 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsections:

"(r)(1) When the Administrator receives information of a discharge in violation of this section, he shall, where possible, designate the source or sources of the discharge and shall immediately notify the owner and operator of the source, and the guarantor, of that designation.

"(2) When a source designated is a vessel or a facility, and the owner, operator, or guarantor fails to inform the Administrator, within five days after receiving notification of the designation, or his denial of such designation, such owner, operator, or guarantor, as required by regulations promulgated by the Administrator, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not otherwise made in accordance with this paragraph, the Administrator shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to that owner, operator, or guarantor.

"(3) In a case where—

"(A) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of this subsection,

"(B) the source of the discharge was a public vessel, or

"(C) the Administrator is unable to designate the source or sources of the discharge under paragraph (1) of this subsection,

the Administrator shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the fund.

"(4) Advertisement under this subsection shall commence no later than fifteen days from the date of the designation made hereunder and continue for a period of no less than thirty days.

"(s)(1) Except as provided in paragraph (2), all claims shall be presented to the owner, operator, or guarantor.

"(2) Claims for damages which are compensable damages under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act shall be presented to the fund under subsection (k)—

"(A) where the Administrator has advertised or otherwise notified claimants in accordance with subsection (r), or

"(B) where the owner or operator may recover under subsection (f)(2)(A).

"(3) In the case of a claim presented in accordance with paragraph (1), and in which—

"(A) the person to whom the claim is presented denies all liability for the claim, for any reason, or

"(B) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (i) the claim was presented, or (ii) advertising was commenced pursuant to subsection (r)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or, in the case of damages which are compensable damages under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act, to present the claim to the fund under subsection (k); that election to be irrevocable and exclusive.

"(4) In the case of a claim for damages which are compensable damages under title V of the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act presented in accordance with paragraph (1), where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under subsection (g) or because the owner, operator, and guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the fund under subsection (k).

"(5) In the case of a claim which has been presented to any person, under paragraph (1), and which is being presented to the fund under subsection (k), under paragraph (3) or (4), such person, at the request of the claimant, shall transmit the claim and supporting documents to the fund. The Administrator may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

"(6) In the case of a claim presented to the fund under subsection (k), under paragraphs (2), (3), and (4), and in which the fund—

"(A) denies all liability for the claim, for any reason, or

"(B) does not settle the claim by payment to the claimant within sixty days of the date upon which (i) the claim was presented to the fund or (ii) advertising was commenced under subsection (r)(3), whichever is later,

the claimant may submit the dispute to the Administrator for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the fund under paragraph (2) may elect to commence an action in court against the fund in lieu of submission of the dispute to the Secretary for decision; that election to be irrevocable and exclusive.

"(7)(A) The Administrator shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the fund under subsection (k).

"(B) Except as provided in subparagraph (C), the Administrator shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract for those facilities and services. Any contract made under this subparagraph may be made without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Administrator that advertising is not reasonably practicable. The Administrator may make advance payments to a contractor for services and facilities, and the Administrator may advance to the contractor funds to be used for the payment of claims. The Administrator may review and audit claim payments made under this paragraph. A payment in excess of $100,000 to a single claimant, or one aggregating in excess of $200,000 to multiple claimants shall be first approved by the Administrator. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Administrator.

"(C) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Administrator may use Federal personnel to process claims against the fund.

"(8) Without regard to subsection (b) of section 556 of title 5, United States Code, the Administrator is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Administrator under paragraph (6). At least one member of each panel shall be qualified in the conduct of adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special Government employees, apply to panel members appointed from private life.

"(9)(A) Upon receipt of a request for decision from a claimant, properly made, the Administrator shall refer the dispute to an administrative law judge, appointed under section 3105 of title 5, United States Code, or a panel appointed under paragraph (8).

"(B) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit, of the nearest circuit.

"(C) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding under this paragraph, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Administrator. If a person fails or refuses to obey a subpena, the Administrator may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

"(D) A hearing conducted under this paragraph shall be conducted in the United States judicial district within which the damage complained of occurred, or, if the damage complained of occurred within two or more districts in any of the affected districts, or, if the damage occurred outside any district, in the nearest district.

"(E) The decision of the administrative law judge or panel under this paragraph shall be the final order of the Administrator, except that the Administrator, in his discretion and in accordance with rules which he may issue, may review the decision upon his own initiative or upon exception of the claimant or the fund under subsection (k).

"(F) Final orders of the Administrator made under this paragraph shall be reviewable under section 702 of title 5, United States Code, in the district courts of the United States.

"(10)(A) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the fund at the same time those pleadings are served upon the opposing parties.

"(B) The fund may intervene in the action as a matter of right.

"(C) In any action to which the fund is a party, if the owner, operator, or guarantor admits liability under this title, the fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

"(D) If the fund receives from either the plaintiff or the defendant notice of such an action, the fund shall be bound by any judgment entered therein, whether or not the fund was a party to the action.

"(E) If neither the plaintiff nor the defendant gives notice of such an action to the fund, the limitation of liability otherwise permitted by subsection (g) of this section is not available to the defendant, and the plaintiff shall not recover from the fund any sums not paid by the defendant.

"(11) In any action brought against the fund, the plaintiff may join any owner, operator, or guarantor, and the fund may implead any person who is or may be liable to the fund.

"(12) No claim may be presented, nor may an action be commenced for damages recoverable under this section, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, or against the fund under subsection (k), as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under subsection (f) of this section, or within six years of the date of the discharge which resulted in that loss, whichever is earlier.

"(t)(1) Any person or governmental entity, including the fund under subsection (k), who compensates any claimant for an economic loss, compensable under subsection (f), shall be subrogated to all rights, claims, and causes of action which that claimant has under this section.

"(2) Upon request of the Administrator, the Attorney General may commence an action, on behalf of the fund, for the compensation paid by the fund to any claimant under this section. Such an action may be commenced against any owner, operator, or guarantor, or against any other person or governmental entity, who is liable, under any law, to the compensated claimant or to the fund, for the damages for which the compensation was paid.

"(3) In all claims or actions by the fund against any owner, operator, or guarantor, under paragraphs (1) and (2), the fund shall recover—

"(A) for a claim presented to the fund (where there has been a denial of source designation) under subsection (s)(2)(A), or (where there has been a denial of liability) under subsection (s)(3)(A)—

"(i) subject only to the limitation of liability to which the defendant is entitled under subsection (g), the amount the fund has paid to the claimant, without reduction;

"(ii) interest on that amount, at the rate calculated in accordance with subsection (h)(4), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the fund shall offer to the claimant the amount finally paid by the fund to the claimant in satisfaction of the claim against the fund to the date upon which the claimant shall accept that offer, inclusive; and

"(iii) all costs incurred by the fund by reason of the claim, both of the claimant against the fund and the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

"(B) for a claim presented to the fund under subsection (s)(3)(B)—

"(i) in which the amount the fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(I) subject to dispute by the defendant as to any excess over the amount offered to the claimant in satisfaction of the claim the fund has paid to the claimant;

"(II) interest, at the rate calculated in accordance with subsection (h)(4), for the period specified in clause (A) of this paragraph; and

"(III) all costs incurred by the fund by reason of the claim of the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; or

"(ii) in which the amount the fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(I) the amount the fund has paid to the claimant, without reduction;

"(II) interest, at the rate calculated in accordance with subsection (h)(4), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this clause: *Provided*, That if the defendant tendered the offer of the largest amount referred to in this clause within sixty days of the date upon which the claim of the claimant was either presented to the defendant or advertising was commenced under subsection (r), the defendant shall not be liable for interest for that period; and

"(III) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

"(4) The fund under subsection (k) shall pay over to the claimant that portion of any interest the fund shall recover, under subparagraph (A) and clause (i) of subparagraph (B) of paragraph (3), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

"(5) The fund under subsection (k) is entitled to recover for all interest and costs specified in paragraph (3) without regard to any limitation of liability to which the defendant may otherwise be entitled.

"(u) No part of any moneys in the fund shall be obligated or otherwise expended for any of the administrative expenses of the Environmental Protection Agency.

"(v) The owner or operator of a tank motor vehicle operated on highways transporting oil (other than petroleum, crude oil, or any fraction or residue therefrom) or a hazardous substance, in bulk, with a water capacity in excess of 3,500 gallons shall establish and maintain in accordance with regulations issued by the President evidence of financial responsibility in such amounts as the President determines necessary but not less than $5,000,000.".

SEC. 303. Nothing in this Act or the amendments made by this Act shall be construed to authorize any officer or employee of the United States or any department, agency, or instrumentality of the United States to prohibit, control, or otherwise regulate the use of any groundwaters.

SEC. 304. This title and the amendments made by this title shall take effect one hundred and eighty days after the date of enactment of this Act.

TITLE IV

SEC. 401. (a) Notwithstanding any other provision of law, simultaneously with promulgation or repromulgation of any rule or regulation under authority of titles I through IV of this Act or of any amendment made by titles I through IV of this Act, the head of the department, agency, or instrumentality promulgating such rule or regulation shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subsection (b) of this section, the rule or regulation shall not become effective, if—

(1) within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by the   dealing with the matter of   which rule or regulation was transmitted to Congress on   .", the blank spaces therein being appropriately filled; or

(2) within sixty calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within thirty calendar days of continuous session of Congress after such transmittal.

(b) If, at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in subsection (a) of this section.

(c) For purposes of subsections (a) and (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of thirty, sixty, and ninety calendar days of continuous session of Congress.

(d) Congressional inaction on, or rejection of, a resolution of disapproval shall not be deemed an expression of approval of such rule or regulation.

TITLE V—ENVIRONMENTAL REVENUE ACT OF 1980

Sec. 501. Short Title; Amendment of 1954 Code.

(a) Short Title.—This title may be cited as the "Environmental Revenue Act of 1980".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Subtitle A—Imposition of Taxes

Sec. 511. Imposition of Taxes.

(a) General Rule.—Subtitle D (relating to miscellaneous excise taxes) is amended by inserting after chapter 37 the following new chapter:

"Chapter 38—ENVIRONMENTAL TAXES

"Subchapter A. Tax on petroleum.
"Subchapter B. Tax on certain chemicals.

"Subchapter A—Tax on Petroleum

"Sec. 4601. Imposition of tax.
"Sec. 4602. Definition and special rules.

"Sec. 4601 Imposition of Tax.

"(a) General Rule.—There is hereby imposed a tax of 1.3 cents a barrel on—

"(1) crude oil received at a United States refinery, and

"(2) petroleum products entered into the United States for consumption, use, or warehousing.

"(b) Tax on Certain Uses and Exportation.—

"(1) In general.—If—

"(A) any domestic crude oil is used in or exported from the United States, and

"(B) before such use or exportation, no tax was imposed on such crude oil under subsection (a),

then a tax of 1.3 cents a barrel is hereby imposed on such crude oil.

"(2) Exception for use on premises where produced.—Paragraph (1) shall not apply to any use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced.

"(c) Persons Liable for Tax.—

"(1) Crude oil received at refinery.—The tax imposed by subsection (a)(1) shall be paid by the operator of the United States refinery.

"(2) Imported petroleum products.—The tax imposed by subsection (a)(2) shall be paid by the person entering the product for consumption, use, or warehousing.

"(3) Tax on certain uses or exports.—The tax imposed by subsection (b) shall be paid by the person using or exporting the crude oil, as the case may be.

"(d) Termination.—The taxes imposed by this section shall not apply after September 30, 1985.

"Sec. 4662. Definitions and Special Rules.

"(a) Definitions.—For purposes of this subchapter—

"(1) Crude oil.—The term 'crude oil' includes crude oil condensates and natural gasoline.

"(2) Domestic crude oil.—The term 'domestic crude oil' means any crude produced from a well located in the United States

"(3) Petroleum product.—The term 'petroleum product' includes crude oil.

"(4) United states.—

"(A) In general.—The term 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(B) United states includes continental shelf areas.—The principles of section 638 shall apply for purposes of the term 'United States'.

"(C) United states includes foreign trade zones.—The term 'United States' includes any foreign trade zone of the United States.

"(5) United states refinery.—The term 'United States refinery' means any facility in the United States at which crude oil is refined.

"(6) Refineries which produce natural gasoline.—In the case of any United States refinery which produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at such refinery at the time so produced.

"(7) Premises.—The term 'premises' has the same meaning as when used for purposes of determining gross income from the property under section 613.

"(8) Barrel.—The term 'barrel' means 42 United States gallons.

"(9) Fractional part of barrel.—In the case of a fraction of a barrel, the tax imposed by section 4601 shall be the same fraction of the amount of such tax imposed on a whole barrel.

"(b) Only One Tax Imposed With Respect to Any Product.—No tax shall be imposed under section 4601 with respect to any petroleum product if the person who would be liable for such tax establishes that a prior tax has been imposed by such section with respect to such product.

"Subchapter B—Tax on Certain Chemicals

"Sec. 4651. Imposition of tax.
"Sec. 4652. Definitions and special rules.

"Sec. 4651. Imposition of Tax.

"(a) General Rule.—There is hereby imposed a tax on any taxable chemical sold by the manufacturer, producer, or importer thereof.

"(b) Amount of Tax.—The amount of the tax imposed by subsection (a) shall be—

"(1) $1.18 a ton in the case of specified petrochemical feedstocks, or

"(2) 31 cents a ton in the case of specified inorganic substances.

"(c) Termination.—The taxes imposed by this section shall not apply after September 30, 1985.

"Sec. 4652. Definitions and Special Rules.

"(a) Definitions.—For purposes of this subchapter—

"(1) Taxable chemical.—The term 'taxable chemical' means any substance—

"(A) which is a specified petrochemical feedstock or a specified inorganic substance, and

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

"(2) Specified petrochemical feedstock.—

"(A) In general.—The term 'specified petrochemical feedstock' means any of the following substances: ethylene; propylene; butylene; butadiene; butane; propane; benzene; toluene; xylene; naphthalene; methane; carbon black; ethane.

"(B) Special rule for certain substances.—Under regulations prescribed by the Secretary, any substance listed in subparagraph (A) for which a principal use is used as a fuel shall be treated as a specified petrochemical feedstock only if it is used otherwise than as a fuel (and, for purposes of section 4651(a), the person so using it shall be treated as the manufacturer thereof).

"(3) Specified inorganic substance.—The term 'specified inorganic substance' means any of the following substances:

"(A) arsenic, cadmium, chromium, lead, mercury, and the equivalent weight of the foregoing elements in arsenic trioxide, chromite, chromic acid, sodium dichromate, potasium dichromate, and lead oxide;

"(B) chlorine, hydrochloric acid, hydrofluoric acid, and the equivalent weight of bromine in methyl bromide and ethylene dibromide;

"(C) phosphoric acid, sulfuric acid, nitric acid, potasium hydroxide, and sodium hydroxide; and

"(D) ammonia and the equivalent weight of ammonia in ammonium nitrate.

"(4) United states.—The term 'United States' has the meaning given such term by section 4602(a)(4).

"(5) Importer.—The term 'importer' means the person entering the taxable chemical for consumption, use, or warehousing.

"(6) Ton.—The term 'ton' means 2,000 pounds. In the case of any taxable chemical which is a gas, the term 'ton' means the amount of such gas in cubic feet which is the equivalent of 2,000 pounds on a molecular weight basis.

"(7) Fractional part of ton.—In the case of a fraction of a ton, the tax imposed by section 4651 shall be the same fraction of the amount of such tax imposed on a whole ton.

"(b) Use by Manufacturer, Etc., Considered Sale.—If any person manufactures, produces, or imports a taxable chemical and uses such chemical, then he shall be liable for tax under section 4651 in the same manner as if such chemical were sold by him.

"(c) Refund or Credit for Certain Uses.—Under regulations prescribed by the Secretary, if—

"(1) a tax under section 4651 was paid with respect to any taxable chemical, and

"(2) such chemical was used by any person in the manufacture or production of any other substance the sale of which by such person would be taxable under such section,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by such section. The amount of any such credit or refund shall not exceed the amount of tax imposed by such section on the other substance so manufactured or produced.".

(b) Clerical Amendment.—The table of chapters for subtitle D is amended by inserting after the item relating to chapter 37 the following new item:

"Chapter 38—ENVIRONMENTAL TAXES.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 1980.

Subtitle B—Establishment of Trust Funds

Part I—Establishment of Trust Funds

Sec. 521. Establishment of Comprehensive Oil Pollution Liability Trust Fund.

(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the "Comprehensive Oil Pollution Liability Trust Fund" (hereinafter in this subtitle referred to as the "Oil Pollution Trust Fund"), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or as may be transferred to such Trust Fund under this Act.

(b) Transfer to Oil Pollution Trust Fund of Certain Amounts.—There are hereby appropriated to the Oil Pollution Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this subtitle referred to as the "Secretary") to be equivalent to—

(1) the amounts received in the Treasury under section 4601 of the Internal Revenue Code of 1954,

(2) the amounts recovered or collected on

behalf of the Oil Pollution Trust Fund under title I of this Act, and

(3) any penalties imposed under title I of this Act or under section 311 of the Federal Water Pollution Control Act (insofar as it relates to petroleum oils).

(c) Expenditures From Oil Pollution Trust Fund.—

(1) In general.—Amounts in the Oil Pollution Trust Fund shall be available only for purposes of paying claims for compensable damages which are recognizable under title I of this Act (as in effect on the date of the enactment of this Act).

(2) Claims include certain expenses.—For purposes of paragraph (1), the amounts payable out of the Oil Pollution Trust Fund shall include the costs incurred by the United States by reason of any claim referred to in paragraph (1) (including processing costs, investigating costs, court costs, and attorney fees).

Sec. 522. Establishment of Hazardous Substance Pollution Liability Trust Fund.

(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the "Hazardous Substance Pollution Liability Trust Fund" (hereinafter in this subtitle referred to as the "Hazardous Substance Trust Fund"), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or as may be transferred to such Trust Fund under this Act.

(b) Transfer to Hazardous Substance Trust Fund of Certain Amounts.—There are hereby appropriated to the Hazardous Substance Trust Fund amounts determined by the Secretary to be equivalent to—

(1) the amounts received in the Treasury under section 4611 of the Internal Revenue Code of 1954,

(2) the amounts recovered or collected on behalf of such Trust Fund under section 311 of the Federal Water Pollution Control Act, and

(3) any penalties imposed under section 311 of such Act (insofar as it relates to substances other than petroleum oils).

(c) Expenditures From Hazardous Substance Trust Fund.—

(1) In general.—Amounts in the Hazardous Substance Trust Fund shall be available only for purposes of paying claims for compensable damages which are recognizable under section 311 of the Federal Water Pollution Control Act (as in effect on the date of the enactment of this Act).

(2) Claims include certain expenses.—For purposes of paragraph (1), the amounts payable out of the Hazardous Substance Trust Fund shall include the costs incurred by the United States by reason of any claim referred to in paragraph (1) (including processing costs, investigating costs, court costs, and attorney fees).

Part II—General Provisions Applicable to Trust Funds

Sec. 531. Purposes for Which Trust Funds Are Available.

(a) Definition of Compensable Damages.—

(1) In general.—For purposes of this subtitle, the term "compensable damages" means damages asserted for—

(A) removal costs,

(B) injury to, or destruction of, real or personal property,

(C) injury to, or destruction of, natural resources, and

(D) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources, but—

(i) only if the person asserting the claim meets the income requirements of paragraph (2), and

(ii) only to the extent that the damages were sustained during the 2-year period beginning on the date the claimant first suffered such loss.

(2) Income requirements.—For purposes of paragraph (1), a person meets the income requirements of this paragraph if—

(A) for the taxable year which includes the day on which such person first suffered the loss described in paragraph (1)(D), or for the preceding taxable year, such person's gross income from activities which utilize the property or natural resources referred to in paragraph (1)(D), exceeds

(B) 25 percent of his total gross income from all sources for the taxable year (or preceding taxable year, as the case may be).

(b) Restriction on Interest Payable Out of Trust Funds.—No amount in any Trust Fund established by this subtitle may be used to pay interest on any claim for any period before the 46th day after the day on which such claim is finally determined.

(c) Certain Interfund Loans Permitted.—

(1) In general.—Amounts in any Trust Fund established by this subtitle (hereinafter in this subsection referred to as the "lending fund") may be loaned to the other Trust Fund established by this subititle if—

(A) the Secretary (after consultation with the appropriate Federal official) reasonably expects that the amount to be loaned will not be needed by the lending fund for the period of such loan,

(B) interest is payable on such loan at a rate comparable to the investment yield (as of the date of the loan) on interest-bearing obligations of the United States having maturities similar to that of such loan, and

(C) immediately after the making of such loan, the amount in the lending fund equals or exceeds $30,000,000.

(2) Appropriate federal official.—For purposes of paragraph (1), the appropriate Federal official is—

(A) the Secretary of Transportation in the case of the Oil Pollution Trust Fund, and

(B) the Administrator of the Environmental Protection Agency in the case of the Hazardous Substance Trust Fund.

(3) Amount in trust fund.—For purposes of this subsection and section 532(a), the amount in any Trust Fund shall be the sum of any cash in such Trust Fund and any public debt securities held by such Trust Fund.

Sec. 532. Limitation on Payment of Claims by Fund.

(a) General Rule.—No amount in any Trust Fund established by this subtitle shall be used to pay any claim (other than a claim for removal costs) to the extent that the payment of such claim would reduce the amount in such Fund to an amount less than $30,000,000.

(b) Order in Which Unpaid Claims Are To Be Paid.—If at any time any Trust Fund established by this subtitle is unable (by reason of subsection (a)) to pay all of the claims (other than for removal costs) payable out of such Trust Fund at such time, such claims shall, to the extent permitted under subsection (a), be paid in full in the order in which they were finally determined.

Sec. 533. Liability of United States Limited to Amount in Trust Fund.

(a) General Rule.—Any claim for damages filed against any Trust Fund established by this subtitle may be paid only out of such Trust Fund. Nothing in this Act (or in any amendment made by this Act) shall authorize the payment by the United States Government of any additional amount for damages with respect to any such claim out of any source other than a Trust Fund established by this subtitle.

(b) Borrowing From General Fund of Treasury.—

(1) Prohibition.—Except as provided in paragraph (2), nothing in this Act (or in any amendment made by this Act) shall be construed to authorize any Trust Fund established by this subtitle to borrow any money from the general fund of the Treasury.

(2) First year authority.—

(A) In general.—There are authorized to be appropriated to each Trust Fund established by this subtitle, as repayable advances, such sums as may be necessary to carry out the purposes of such Fund.

(B) Limitations.—

(i) The maximum aggregate amount which may be appropriated pursuant to subparagraph (A) to any Trust Fund may not exceed $75,000,000.

(ii) No advance may be made under this paragraph after September 30, 1981.

(C) Repayment of advances.—Advances made pursuant to this paragraph shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Trust Fund to which the advance was made. Such interest shall be at rates computed in the same manner be provided in section 534(b)(2) and shall be compounded annually.

Sec. 534. Administrative Provisions.

(a) Method of Transfer.—The amounts appropriated by section 521(b) or 522(b) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in such section. Proper adjustments shall be made in the amount subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(b) Management of Trust Funds.—

(1) Report.—The Secretary shall be the trustee of each Trust Fund established by this subtitle, and shall report to the Congress for each fiscal year ending on or after September 30, 1981, on the financial condition and the results of the operations of such Trust Fund during such fiscal year and on its expected condition and operations during the next 5 fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) Investment.—It shall be the duty of the Secretary to invest such portion of each Trust Fund established by this subtitle as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of the Trust Fund and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities, adjusted to the nearest one-eighth of 1 percent. The income on such investment shall be credited to and form a part of the Trust Fund.

Subtitle C—Coordination With Other Provisions of This Act

Sec. 541. Coordination With Other Provisions of This Act.

(a) General Rule.—Nothing in this Act (or in any amendment made by this Act) other than this title shall authorize—

(1) the establishment of any fund,

(2) the payment out of any Trust Fund created by this title,

(3) the levy or collection of any fee, or

(4) the imposition of any requirement with respect to the procedure applicable to rules and regulations prescribed under this title (or under any amendment made by this title).

(b) Reference to Fund.—To the extent not inconsistent with this title—

(1) any reference in titles I and II of this Act (or in any amendment made by either of

such titles) to a fund shall be deemed to be a reference to the Comprehensive Oil Pollution Liability Trust Fund established by this title, and

(2) any reference in title III of this Act (or in any amendment made by such title) to a fund shall be deemed to be a reference to the Hazardous Substance Pollution Liability Trust Fund established by this title.

(c) Certain Liabilities Arising Before October 1, 1980.—If any provision of this Act provides that the balance in any fund (hereinafter in this subsection referred to as the "transferor fund") is to be transferred to any Trust Fund established by this title (hereinafter in this subsection referred to as the "transferee fund"), any claim which arises before October 1, 1980 (to the extent such claim would have been payable out of the transferor fund), shall be payable out of the transferee fund notwithstanding any of the limitations imposed by subtitle B of this title.

(d) Adjustment in Tax for Balance in Trans-Alaska Pipeline Liability Fund.—

(1) In general.—If the Secretary of the Treasury (or his delegate) determines—

(A) that there is a TAP fund surplus, the amount of such surplus shall be treated as an advance payment of the tax imposed by section 4601 of the Internal Revenue Code of 1954 on crude oil first transported through the Trans-Alaska Pipeline after the date of such determination, or

(B) that there is a TAP fund deficit, the tax imposed by section 4601 on crude oil first transported through the Trans-Alaska Pipeline after the date of such determination shall be increased by 2 cents per barrel until such time as the total amount of such increased tax equals such deficit.

(2) Definitions.—For purposes of paragraph (1)—

(A) TAP fund surplus.—The term "TAP fund surplus" means the excess (if any) of—

(i) the total amount of the assets transferred from the Trans-Alaska Pipeline Liability Fund to the Comprehensive Oil Pollution Liability Trust Fund established by this title, over

(ii) the amount certified by the Secretary of the Interior as the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time of such transfer.

(B) TAP fund deficit.—The term "TAP fund deficit" means the excess (if any) of—

(i) the amount certified by the Secretary of the Interior as the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the assets of such fund are transferred to the Comprehensive Oil Pollution Liability Trust Fund established by this title, over

(ii) the total amount of the assets transferred from the Trans-Alaska Pipeline Liability Fund to the Comprehensive Oil Pollution Liability Trust Fund established by this title.

Subtitle D—Study

Sec. 551. Study.

(a) General Rule.—The Secretary of the Treasury (in consultation with the Secretary of Transportation, the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and the United States Trade Representative) shall conduct a study—

(1) on the feasibility of—

(A) taxes which are based on the frequency of hazardous substances pollution and the degree of harm to the environment which results from such pollution, and

(B) adjustments in the amount of taxes on different modes of transportation to reflect different risks of pollution,

(2) an exemption from the taxes imposed by section 4651 of the Internal Revenue Code of 1954 for feedstocks when used as a fuel, and

(3) on the impact of the taxes imposed by sections 4601 and 4651 of the Internal Revenue Code of 1954 on the Nation's balance of trade with other countries.

(b) Report.—Not later than January 1, 1985, the Secretary of the Treasury shall submit to the Congress a report on the results of the study conducted under subsection (a), together with such recommendations as he deems feasible.

H.R. 7020

By Mr. SOLOMON:

—Page 36, line 21, after "for" insert "(1)".

Page 36, line 24, before the period insert: ", or (2) in the case of fiscal years beginning after September 30, 1981, assistance under section 3012 for the construction of State or regional hazardous waste facilities. Not more than 25 percent of the amount credited to the Fund for any such fiscal year may be used for purposes of providing assistance under section 3012".

Page 50, after line 11, insert the following:

(c) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section at the end thereof:

"ASSISTANCE FOR STATE OR REGIONAL FACILITIES

"Sec. 3012. (a) Grant Authority.—After September 30, 1981, the Administrator is authorized to make grants to any State or interstate agency for the construction of publicly owned facilities for the neutralization, incineration, or recycling of hazardous waste. No amount of any such grant may be used for the construction of any secure landfill or other facility for the storage of hazardous waste for periods in excess of one year.

"(b) Federal Share.—The amount of any grant for any facility under this section shall not exceed 50 percent of the cost of such facility.

"(c) Limitations, Requirements, and Conditions.—(1) Each applicant for assistance under this section shall submit to the Administrator for his approval such plans, specification, and estimates for the proposed facility as the Administrator deems necessary.

"(2) Before making any grant under this section, the Administrator shall determine that—

"(A) the proposed facility will meet the requirements of this subtitle; and

"(B) the applicant for such grant has made provisions satisfactory to the Administrator for assuring payment of the non-Federal share of the costs of such facility and for assuring proper and efficient operation.

"(d) Allotment.—Grants under this section shall be allotted annually by the Administrator among the applicants in accordance with regulations promulgated by him. Such regulations shall provide for the annual allocation of grants among States and regions in proportion to the relative amounts of hazardous waste generated in each such State and region during an appropriate prior annual period.".

Page 50, after line 15, insert:

"Sec. 3012. Assistance for State or regional facilities.".

EXTENSIONS OF REMARKS

CHRYSLER AND AUTO TECHNOLOGY

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. WALGREN. Mr. Speaker, American auto technology is in a crucial state of transition. For a number of inescapable reasons we must change the size and design of new automobiles in order to deal with our energy shortage in an effective manner. Simply stated: "Necessity is the mother of invention." Such is the case for both the United States and the Chrysler Corp.

I would like to draw the attention of my colleagues to an article that recently appeared in Car & Driver magazine that describes the new Chrysler K car. I commend this article for reading because it shows the creativity our Nation needs for future automotive technology.

PLYMOUTH RELIANT SE

(By Don Sherman)

Will Chrysler survive? The whole country's been wondering, from Stasz's Bar and Grill in Hamtramck to the hallowed halls of Congress. Over the last six months, speculation has run rampant across the nation's newspaper headlines, with precious few affirmative answers. Lee A. Iacocca, Chrysler's chairman of the board and also the man who pulled off the most complex financial closing in history, insists the foundering giant must not be allowed to go down. Uncle Sam, through the federal loan-guarantee board, has reluctantly and half-heartedly agreed.

American car consumers don't seem to care one way or another. The lucky few with cash or credit for a new automobile are buying Japanese at unprecedented rates. The rest are having enough trouble just keeping the rent paid and gas in the old bus for the daily work commute. If there's one thing that could possibly shake buyers out of the doldrums and put Chrysler back into the black, it's brand, spanking new hardware. After all the rhetoric, the begging, pleading, and doomsday prognostications, any company lives or dies on the products it sells. In Chrysler's case, unsold New Yorkers, Cordovas, Ramchargers, and Aspens have been bleeding the very lifeblood from the corporation every day. Now, not a moment too soon, there's a chance for a vital transfusion, the K-car.

"K" is engineering lingo for the car that will become the Plymouth Reliant and the Dodge Aries the instant it touches down on showroom floors in three body styles—notchback two- and four-door sedans and a five-door wagon. Not only is the K-car the most "previewed" automobile in history—accurate photographs were dispensed months ago to the press, and every congressman was offered a prototype to test-drive—it also bears the weightiest responsibility of any product since the dawn of free enterprise. This car is the today and tomorrow of Chrysler, the very essence of the seventeenth largest corporation in the country.

Planners had little idea one design would be so crucial when they first set pen to paper four years ago. The Omni/Horizon line was almost ready for introduction at that time. Americans had just resumed their big-car buying habits after Energy Crisis I, encouraged by plentiful—albeit more expensive—fuel supplies. The K would replace the Aspen/Volaré, and, for the first time ever, Chrysler planners knew exactly what they wanted. The "blueprint" letter that set development in motion was seven pages long, whereas single-sheet descriptions had typically launched new Chrysler products in the past.

What they wanted was a downsized Aspen/Volaré with every bit of fresh technology Chrysler could afford. This wish jelled into a plan that has become the only accepted way to build a new sedan: a transverse front-wheel-drive powertrain; space-efficient, people-oriented bodywork; and maximum mpg through state-of-the-art emissions controls, small-displacement four-cylinder engines, lightweight engineering, and wind-tunnel aerodynamic tuning.

Four years is a long gestation period, and as the world turned topsy outside Chrysler's engineering center, product planners were tempted to bend the K-car blueprint here and there. The success of Malibous, Fairmonts, and later, X-cars suggested that perhaps a 99.6-inch wheelbase was too small; one faction was anxious for a stretch while there was still time. Likewise, V-6 engines became all the rage, and several planners wondered if the K-car's four-cylinder-only design might miss the ever oscillating market target.

The Ford gang as it turned out kept the K-car true to original concept. Harold K. Sperlich, Chrysler's new executive vice-president of engineering and product development in 1977, squeezed off one of those fabled hip shots in the face of conflicting market research. What he did was freeze the K-car small, as you see it here. It's history now, but the ayatollah proved Mr. Sperlich both right and prescient. By the time Iacocca came on board in 1979 (followed by another platoon of FoMoCo talent), the K was pretty much locked in place, needing only Washington-guaranteed cash to finance its way through development and into the marketplace.

World events as much as anything else made the K-car exactly what consumers and the Chrysler Corporation alike need right now. Preliminary fuel economy ratings run from 23 to 26 mpg. The four-cylinder is the engine of the times, as even V-6s are starting to seem "too big."And just as America feels ready and eager to get back to basic transportation, the K-car arrives as a very bread-and-butter sedan: no opera windows (or lights), no boudoir decor packages, no Continental kits, no two-tone paint jobs, and not even a hatchback to confuse the issue.

These are strictly mainstream, middle-of-the-market machines, so don't look for a Reliant RS or an Aries Rising just yet. Supposedly such iterations are on the drawing board—along with two-seaters, mini-trucks, and larger sedans using K-car components—but for now, the three basic body styles have been charged with the responsibility for 43 percent of Chrysler's 1981 business.

No small feat. The K-car does have a long bill of attributes that should help it blaze like a laser beam through Detroit's darkest hour. This is another of those genuinely small cars packed with an astonishingly roomy interior. SAE measurements (used by the EPA to categorize cars) spot the K-car just slightly smaller than an X-car in front, but a bit larger in both back-seat and truck roominess. Outside, the K rides on a five-inch-shorter wheelbase than the X-car, is six inches shorter overall, and is just a touch wider. Inside, Chrysler supplies seatbelts for five or six people (depending on whether the front seats are buckets or a bench), and the EPA has anointed this a "midsize" car (but just barely). After our preview rides at Chrysler's Chelsea proving grounds, we can add that a Reliant or Aries will carry four quite comfortably, with room for one or two more in a pinch. The trunk is a useful fifteen cubic feet because the spare tire lies flat and the fuel tank is tucked forward, under the rear seat.

The big-inside/little-outside trick was pulled off the usual way. Up front, there's a new 2.2-liter engine specifically designed for sidewinder duty. For Chrysler's first new powerplant in twenty years, the design seems a bit archaic: long of stroke, lacking a crossflow cylinder head, and stuck with a so-called "bath-tub, double-quench" combustion chamber. The good stuff does include an aluminum cylinder head (cast by Fiat), a belt-driven overhead camshaft jewel-like hydraulic valve-lash adjusters, and a sophisticated feedback carburetor wired to a three-way catalytic-converter emissions-control system. Weigh the good and the bad as you like, but every aspect of the design is at least justifiable. The long stroke produces the necessary displacement within a short overall engine length, a very important consideration in transverse layouts. The non-crossflow design locates both intake and exhaust systems to the back, where they package neatly over the transaxle (à la VW Rabbit). The early engines we tested were spunky for the job: reasonably smooth, competitive if not all-conquering in acceleration, and suprisingly thrifty with fuel if early EPA predictions are accurate. (See the performance printout and specifications that follow. We've held off bar graphs until we have production K-cars to compare with the competition.)

A Mitsubishi-made 2.6 Silent Shaft four-cylinder is the optional engine. It's available only with Chrysler's three-speed automatic transmission at the moment, so the combination is only a mite speedier than the four-speed 2.2 powertrain. The bigger engine is smoother and quieter, and both four- and five-speed boxes are under development for it. Right now, the little engine's four-speed shift linkage is what we'd call non-controversial: more direct-acting than an X-car's, not quite as positive as the new Ford Escort's.

The real surprise here is not under the hood, but rather under the fenders. The suspension hardware is similar to the Omni/Horizon's (some pieces are interchangeable), but the tuning came off like no Chrysler in the history of mankind. This one works. The damping is—dare we say—right up to European levels of firmness and rock-and-roll control. Understeer is well in check, and we measured a respectable 0.71 skidpad g on very skinny Goodyear Arriva tires. The steering actually feels attached to the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

wheels all the way through Chrysler's notorious power assist. Actually, we heartily recommend the power rack-and-pinion in the K-car, because it not only feels firm and road-related, but also speeds up the steering ratio by a significant 20 percent.

Our preview tests revealed two more interesting tidbits. The brakes do their share in stopping, but the tires don't. Seventy-to-zero braking distances were lengthy, at 227 feet, even though the system was quite sensitive to modulation and had excellent front-to-rear balance. Secondly, our coast-down procedure showed the K-car to be an easy roller, with a low 14.0-horsepower requirement at a steady 50 mph (compared with 13.5 hp in a Buick Skylark). Drag coefficients for the three body styles are mediocre: they vary from a low of 0.45 for the five-door wagon to a high of 0.51 for the two-door sedan.

Inside, you'll find much less confusion than in your average pre-K-car Dodge or Plymouth. The options make sense. You need pick from only two trim levels, cloth or vinyl upholstery, and bucket or bench front seats. Buy the Custom Dodge or Plymouth and you get some wood-grain, buy the SE trim for either and you get more, but not much. (A magnificent, all-black instrument-panel overlay was killed at the last minute.) There really is no stripper, per se. The ventilation is excellent, with or without air conditioning. Full carpeting is standard; all seat trim is livable. The SE interior is plush without decadence. Instrumentation is painfully basic, with a fuel gauge and an 85-mph speedometer backed up by the usual array of sorry-about-that-it's-already-busted lights, no matter how you litter the order sheet with check marks. The most glaring oversight: no backrest adjuster is offered on any K-car seat.

To sum it up, we're surprised and happy to say we're surprised and happy about the K-car. Chrysler's crisis team—veterans tired of the old way of doing things, lots of Ford recruits, and a do-or-die top management—has clearly put together a car that's bound to kick hell, here and there. This is the first made-in-America little car with a sense of purpose strict enough to appeal to devout import buyers. And all those households across the heartland that have been postponing their inevitable move to efficient transportation now have one fewer excuse for waiting. So if there is a Chrysler Corporation left to build K-cars, there should be plenty of buyers ready to take the dare in Mark Russell's finale.●

MANAGEMENT MINUS INVENTION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. LAFALCE. Mr. Speaker, the problem of declining productivity in this country is at long last receiving increasing attention from experts in economics and business management.

The attention from the latter group is particularly welcome, because managers of an individual enterprise can play a very important role in determining whether a given concern will be productive. That's the good news.

The bad news concerns the actual role and performance of American managers. Unfortunately, all too many managers and corporate executives are much more familiar with the ledger sheet and the stock market than with actual technical operation of their firms. This type of manager or corporate executive may be glamorous and appealing, but he or she may also be part of the reason for declining productivity in this country. Perhaps it is time for American companies to return to the practice of having managers from the production side of the company, rather than managers who jump from position to position or who come from the financial or legal sections of the company.

Professors William J. Abernathy and Robert H. Hayes from the Harvard Graduate School of Business Administration made an excellent case for that argument in an article in the August 20 edition of the New York Times, entitled "Management Minus Invention."

The article follows:

MANAGEMENT MINUS INVENTION

What is wrong with our economy and the competitive vitality of American business? The losses by United States auto companies, for example, are sobering not just because of their magnitude—more than $1.3 billion last quarter—or because General Motors reported its first loss since the Great Depression but because the situation in autos is just the tip of the iceberg.

The list of endangered industries, where foreign competition is fast taking business away from companies that once were dominant, is long and growing. Even in our vaunted electronics industry, many segments are crumbling. Computers and semiconductors are apparently still healthy, but the recent inroads that Japanese manufacturers have made into our semiconductor markets are ominous, and they have not really mounted a full-scale attack on computers yet.

A few decades ago, American management was renowned for its innovative competitiveness. What happened? The common reasons given—that foreign managers copied our methods and licensed our technology, that our Government meddled in business affairs and mismanaged economic policy, that there have been profound changes in the attitudes and work ethic of our work force and that foreign competitors have not "played fair"—are only part of the answer.

Probably even more significant is the fact that the climate of economic supremacy during the 1950's and 1960's fostered a new set of management attitudes and practices in the United States that have led us to downgrade our ability to compete technologically with other countries—that is, through superior products and superior manufacturing processes.

American companies increasingly turn to people with financial and legal backgrounds to fill their top positions. Today the percentage of chief executive officers of the 100 biggest corporations with these backgrounds is up 50 percent from its level of 30 years ago. As a result, correspondingly fewer have "hands-on" experience in the more competitively oriented functions such as marketing, production, engineering and research and development.

What kinds of philosophies and management practices has this new generation of managers swept in with it? These are just three of the bedrock principles so often espoused by this new breed of self-styled "professional managers":

The top corporate manager, first and foremost, must be a skilled strategist, able to cut through the complexities of messy problems while standing aloof from the details that are the lot of the line manager.

The primary job of the senior executive is to oversee the complex processes involved in managing a large organization: resource allocation, personnel assignment, compensation and control. Specific first-hand knowledge of an industry, of technology or of the competitive environment for specific products is less important.

Quickness and decisiveness are critical to success. As in managing a portfolio of stocks and bonds, the executive who can reposition his company's assets, getting into attractive businesses and out of "losers," who can orchestrate a takeover or a divestiture with equal aplomb, will be the most successful. Being identified as a corporate "raider," a "white knight" or a "gunslinger" in the financial press brings honor (and perhaps a higher stock price) to one's company.

As appealing as these ideas may sound, over the long term they can seriously degrade a company's ability to compete. A fallacy underlies them all: that there is no need to invent, build or develop anything yourself. They all assume that, given the capital and good financial management, anything of value can be bought and any problem can be sold. A sense of commitment—to one's workers, customers, suppliers, even one's fellow managers—is an impediment. If it doesn't work, do not try to fix it—get rid of it and buy something else "off the shelf."

Stated so blatantly, such a belief seems naive and callous. Yet it is an American characteristic, a heritage of a frontier movement: Take up new land and resources, use them up and move on. What this view fails to recognize, of course, is what our European and Japanese critics are now pointing out. When the frontier is gone, one must develop an environment that will nurture new technologies, open up new markets and develop more productive people.

Building dynamic, organically growing companies requires a different breed of manager. It requires not someone who views the petty world of products and processes with the Olympian detachment of the 40th floor, but a manager who knows his markets and technologies well enough that he can break the old rules through innovation; not an executive who is preoccupied with the process of management, but a manager who is immersed in the basic decisions that are essential to leading markets rather than simply reacting to them; not an executive who looks for "off-the-shelf" solutions to problems, but a management that is willing to sweat and bleed to make things happen.

If European and Japanese companies increasingly capture our markets, there is a growing suspicion that the new management philosophy, with its Olympian detachment and preoccupation with strategists, master strokes and organizational processes should bear a large share of the blame.●

NEW CITIZENS OF MARYLAND'S SECOND DISTRICT

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. LONG of Maryland. Mr. Speaker, it is with particular pleasure that I congratulate 28 residents of Maryland's Second Congressional District who have chosen to become American citizens, accepting all of the responsibilities that freedom and citizenship entail. I hope that my colleagues will join me in congratulating these new Americans and extending to them our wishes for a happy and prosperous future in the land we love.

They are Chang Park, Young Joo, Kil Joo, Benedicta Lizardo, Taiyin Wei, Shobha Bharadwaja, Basilios Bilis, Virbala Patel, Harshad Patel, Edward Shechter, Gerardo Bove, Desire Hadiwinoto, Premnath Bhatia, Moussa Dabbah, Carmel Wogan, Soon Task Yoo, Ja Yul Yoo, Myung Ja Yoo, Francis Guerrero, Jadwiga Frazier, Elizabeth Ciezkowski, Fei-Wen Chiao, Jacqueline Grieve, Annie Grieve, Souraya Khafagy, You Coberly, and Mr. and Mrs. Christopher Carter in behalf of Andrea and Bruce Carter.●

CONGRESSIONAL TENURE

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. STUDDS. Mr. Speaker, during our Nation's first century, few Congressmen chose to serve more than two terms. Rotation in office was expected and encouraged. This was at least partly to free our new Republic from the elitist, monarchial system that had hastened the American Revolution. The principle was based on the desirability of new faces—and the refreshing ideas that presumably accompany them—in the Congress.

The next hundred years, however, saw a shift away from the citizen-legislator, the Congressman drawn from private life for a temporary civic-minded stint in public service. Now we are more accustomed to the professional legislator, better known as the career politician. I believe this is an unhealthy trend which is partially responsible for rampant public cynicism toward our national leaders and for the reluctance of many able citizens to consider campaigning for public office.

Meanwhile, career legislators suffer from Potomac fever, an insidious affliction aggravated by the prospect of chronic, insulated tenure in Washington, the only treatment for which seems to be undergoing a biennial rite that often conflicts with the responsibilities of legislating.

Of course, longevity in office is not necessarily an evil. An experienced Congressman may well develop professional expertise and practical know-how and become a better legislator in the process. I am wary, however, of a disturbing trend toward a Congress of legal technocrats, driven as much by personal career ambition as by public interest. A Congressman, by virtue of the system permitting unlimited eligibility for reelection, is encouraged to settle in for a long tenure in office. Continued service is contingent on reelection, but that prospect is enhanced by incumbency and nurtured by longer incumbency. At some point, reelection—and the special interests which seem inevitably to hover over political campaigns—becomes a primary goal. Along the way, the public interest can barely help but suffer. As one proponent of limited congressional tenure observed, a lifetime legislator is no longer "of the people."

Congressmen, like persons in other occupations, learn more as they become more familiar with their positions. However, Congressmen have a unique mandate and responsibility based on the public trust. Service in the Congress now offers what many consider an attractive career. It thus becomes dangerously easy at some point for a lifetime Member to begin to consider public policy matters as direct functions of considerations of political expediency and personal comfort. That prospect is an anathema to the American political tradition.

For these reasons, I have introduced legislation that would limit a Member of Congress to a maximum of 18 years in office: a maximum of nine terms for a U.S. Representative, three terms for a U.S. Senator or a total of 18 years combined in the House and Senate. Many proponents of limited congressional tenure may consider 18 years too long a period of service to uphold the principle of rotation of office. I would tend to agree. I believe the proper limit lies somewhere between 12 and 18 years.

However, by proposing an 18 year limit, I hope to stimulate debate within the Congress and within the American electorate on this important question, and to present the Congress with legislation politically palatable enough to warrant serious consideration.

A limited legislative career would systematically encourage Congressmen to get down—and to stay attuned—to legislative business. It might also help restore some integrity to the ebbing public perception of our national leaders. As careerism in the Congress has increased, especially during the last 25 years, so has the momentum for the modifications I am suggesting. I urge my colleagues to consider these proposals carefully.●

SPIRIT OF HELSINKI VIGIL FOR 1980

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. LUKEN. Mr. Speaker, today I rise to participate in the Spirit of Helsinki Vigil for 1980. I am proud to be able to join with other Members of Congress in addressing the plight of individuals residing in a country they wish to leave but cannot because their government will not allow them to do so.

The story of Mark Kovner, my adopted Soviet prisoner of conscience, is a typical one but nonetheless poignant. Professor Kovner is married and has three children, two daughters, Masha and Galya, and one son, Leonid. Both his wife and he worked as physicists in Russia for more then 20 years until they tried to emigrate.

In January of 1977, the entire Kovner family decided to apply for an emigration permit. However, shortly after this decision was made, the professor was warned that unless he withdrew his name from the application, no family member would be free to leave. In April of that year, the family, without the professor, actually applied for permission to relocate to Israel.

Following application for the emigration permit, the professor was abruptly dismissed from his position as a scientist specializing in the physics of the magnetosphere and the physics of plasma. In July, Anna, Masha, Galya, and Leonid finally received the much longed for permission to leave Russia. Shortly thereafter, they left for Israel leaving their loved husband and father behind not knowing what was to happen to him next.

Professor Kovner did not give up hope, and in April of 1978 he applied for permission to join his family in Israel. In October of that year he finally received an answer. However this answer was more like a stunning blow. Not only was permission denied but denied until 1985 for security reasons. Of course, the professor could not believe this and tried to appeal this unfair decision. This attempt proved to be very unwise for he was brought before the KGB and told that although his work and documents that he handled were not secret, he could have been in contact with some people who knew secrets.

This maneuver has become typical of the U.S.S.R., and it has happened countless times. It is most unfair that families have been divided with only an uncertain hope for an eventual reunion. Mark Kovner and his family need our encouragement. By participating in this vigil, I can bring his case to the attention of those who will care.

The Soviet Union has proven to be quite reticent in honoring the Helsinki agreement. As long as people wishing to emigrate are subjected to official harassment, loss of jobs, and restriction of personal liberty, I will continue to speak out against this repression as I have in the past. The right to live in the country of one's choice is granted in the Declaration of Human Rights of the United Nations. The Soviet Union confirmed this right in the Helsinki agreement of 1975. This right is even specified in the Constitution of the U.S.S.R. It is our duty to remind the Soviet Government of its obligations to Mark Kovner and others who are restricted from rejoining their families and colleagues in Israel.●

U.S. AID IN THE MIDDLE EAST

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial on Arab views of American economic aid programs in the Middle East written by Mahmoud A. Wahba, a professor at the Graduate Center of the City University of New York, and the rebuttal to it prepared by Douglas J. Bennet, Jr., Administrator of the Agency for International Development.

The editorial by Mr. Wahba appeared in the New York Times of August 23, 1980, and Mr. Bennet's reply in the August 27, 1980, issue.

The editorial and reply follow:

ARABS FAULTING U.S. AID

(By Mahmoud A. Wahba)

United States aid programs may be undermining our objectives in the Middle East rather than helping us attain them, and it may take a Congressional inquiry to determine their value.

During a recent lecture tour in nine Arab countries, I discovered that although my subject was Arab-American joint ventures, people really wanted to talk about American aid programs in general and the United States Agency for International Development, also known as A.I.D., in particular.

The Congress, using an instrument of foreign policy allocates billion of dollars annually to many poor Arab countries such as Egypt, the Sudan, Jordan, Yemen and, lately, Oman. Despite this generosity, many Arabs, including some who are pro-American, are disappointed, unhappy, even distraught. In the Arab oil countries, agency programs are compared unfavorably to their own aid programs. They describe A.I.D. as inept, irrelevant and suspect in motives and methods. In the poor countries, there is sourness and complaints. One complaint concerns the lack of visible A.I.D. achievements. In Yemen, for example, people point to one road built by the Russians and another built by the Chinese; they are at a loss to point to anything American. They also refer to projects jointly completed with Saudi Arabia, Kuwait, the United Arab Emirates, and even some multinational corporations. A completed American project, on the other hand, is either a rarity or a well-kept secret.

Americans can do without some projects. For instance, America gave the Egyptians 200 buses for badly needed public transportation. These buses are a headache for Cairo. The unbearable pollution and noise is a daily reminder of A.I.D. folly.

A second, more-damaging complaint concerns A.I.D. beneficiaries. The Arabs deny that the program benefits them. They also deny that it is useful for American foreign policy. They charge that the agency itself, together with a specially favored group, is the real beneficiary. They feel that the system is designed to recirculate American money back to "lubricate" an ever-growing aid machine.

There are more than 200 A.I.D. employees in the embassy in Egypt in addition to about 400 serving the Egyptian desk in Washington. The overhead and administrative cost of the program is unknown to the Arabs and the American taxpayer. The agency has attracted a special-interest group acting on demand as consultants, resident experts, professionals, commodity dealers, exporters, and even university professors. Only American firms can bid for contracts. Many take advantage of this rule and act as brokers who subcontract projects for tidy sums without making any real contributions. Further, American employees receive about eight times the pay of Arabs holding the same jobs.

A third complaint is about the criteria for selecting projects and establishing priorities. These are described as haphazard and incoherent at best and full of corruption and favoritism at worst. Projects are designed for the rich and connected, not the poor and disadvantaged. It is said that most projects are no more than one feasibility study after another. Few of these studies are implemented and most are outdated before their publication.

The contrast between American and Chinese foreign aid was demonstrated to me in Yemen. The Americans were busy setting up shop by purchasing four-wheel-drive vehicles to travel the unpaved roads of the capital, Saana. They were erecting a wall around their complex and preparing guest lists for parties to establish the "proper connections." Meanwhile, the Chinese were a few feet away from the gate repairing the road with shovels and their bare hands.

A fourth complaint is about the agency's administrative procedures. It is said that the A.I.D. bureaucracy is worse than the Egyptian Government's. A project requires almost two years of groundwork to gain approval. An Egyptian Cabinet minister counted 117 steps and 28 meetings with layers after layers of American officials to negotiate a project, only to have it disapproved after 19 months. He said that the agency's attitude is that of a rich uncle who knows that all you want is a handout—and treats you accordingly.

Many American officials privately admit to these problems. Some defensively note that all aid programs, even those in the United States, have problems. They blame Arab governments for not establishing their own priorities and for inability to negotiate better aid agreements. Many Arab countries cannot absorb what is allocated to them because of poor management and implementation. Thus, they lose a good portion of their allocation every budget year. I was also reminded that the agency is subject to strict Congressional rulings and regulations. Therefore, Congress has to take the initiative to effect any real change.

The A.I.D. image in the Arab world is battered. Unless some action is taken by Congress and the Administration, the program may be dysfunctional both for the welfare of the Arab poor and the success of American foreign policy. As one favored consultant declared: "What the U.S.A.I.D. really needs is a feasibility study of itself."

A.I.D.'S SCARRED IMAGE IN THE ARAB WORLD IS UNDESERVED

To the Editor:

Mahmoud A. Wahba's Aug. 23 Op-Ed article "Arab's Faulting U.S. Aid" is wildly inaccurate in its particulars. He mentions a road built by the Russians and another built by the Chinese in Yemen, but somehow missed the main road from Sana to Taiz originally built by Americans. He is concerned about incomplete projects, but somehow missed the A.I.D.-financed Taiz water works, named for President Kennedy.

The main irrigation canal in the Jordan Valley was built by us. Had he traveled along the canal, Professor Wahba would have seen roads, schools, clinics and housing built with U.S. aid and benefitting Jordan's poor.

The 200 buses in Cairo were built to Egyptian specifications. They may be overworked and a little noisy, but the fact remains that each day a million Egyptians travel to work in A.I.D.-financed buses.

The U.S.-financed Suez cement plant will produce a million metric tons of cement starting next year, for houses and industry throughout Egypt. A.I.D.-financed gas turbine electric power plants are producing 300 megawatts of peak power in Egypt today. A.I.D. is helping install 50 new public water outlets in Cairo each month. (Would it help Mr. Wahba if the water came out red, white and blue?) He says A.I.D. has 400 people working on its Egypt desk in Washington. The actual number is seven.

I do not doubt that Professor Wahba found criticism of A.I.D. among Arabs he talked to and those criticisms need to be considered seriously. It needs to be understood, however, that there will always be some tensions between A.I.D. and host countries as long as we are doing our job. We do not simply turn on the spigot without feasibility studies and careful planning. We want to know what a project is going to cost, who will benefit from it and how to avoid as many pitfalls in implementation as possible. Our procurement procedures take time, but that is because we want to open competition as broadly as possible to American suppliers and minimize opportunities for corruption.

A Swiss-based Business International Group, in the report of its 1980 Roundtable with the Egyptian Government, put it this way: "U.S. A.I.D. is doing Egypt an invaluable service by introducing its methodology. . . . If U.S. A.I.D. has ruffled feathers, it has also contributed to the vital process of systematizing performance."

Professor Wahba finds A.I.D.'s image somewhat battered in the Arab world. Scars earned in the cause of sound administration I don't regret. I also note that we continue to receive requests for assistance regularly from poor countries in the Middle East.

The U.S. has made it clear that our interest is to help developing countries everywhere create self-sufficient, self-reliant economies which benefit the poor. We and host governments do make mistakes in the uncertain business of development, but the U.S. is trying, and we are making a contribution of which we can be very proud. Particularly in the Middle East, the stakes are too high, resources too scarce and time too short to give anything less than our best effort.—DOUGLAS J. BENNETT Jr., Administrator, Agency for International Development.●

THE 1980 LEGISLATIVE QUESTIONNAIRE RESULTS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. ARCHER. Mr. Speaker, as has been my custom every year that I have served in the Congress, I sent out a questionnaire to all of the residences in the Seventh Congressional District of Texas in order to obtain my constituents' opinions on important and timely national issues.

More than 33,500 people responded to this year's questionnaire and I would like at this time to share those results with my colleagues in the House. The results are also being sent to the President so that he may review this sampling of public opinion.

The questionnaire follows:

1980 CONGRESSIONAL QUESTIONNAIRE

1. Do you support the U.S. boycott of the summer Olympics in Moscow? 86 percent yes. 14 percent no.

2. Should the U.S. supply weapons to the Afghan people who are resisting Soviet occupation of their country? 83 percent yes. 17 percent no.

3. Do you approve of the way President Carter has handled the American hostage situation in Iran? 18 percent yes. 82 percent no.

4. Do you favor reimposition of selective service registration? 84 percent yes. 16 percent no.

5. If a selective service registration program is reimposed, should it include women? 61 percent yes. 39 percent no.

6. Do you support President Carter's proposed oil import fee which would raise the price of gasoline by at least 10¢ a gallon? 19 percent yes. 81 percent no.

7. Should there be restrictions on the number of refugees admitted to the U.S.? 89 percent yes. 11 percent no.

8. Would you favor eliminating Saturday mail deliveries to cut Postal Service costs? 60 percent yes. 40 percent no.

9. Would you favor mandatory wage and price controls? 21 percent yes. 79 percent no.

10. Would you favor imposing fixed prison sentences (without parole) on persons convicted of violent federal crimes? 90 percent yes. 10 percent no.

11. Should tariffs and import fees be used to give domestic companies price protection over imported products? 51 percent yes. 49 percent no.

12. How would you rate President Carter's overall handling of foreign affairs? 5 percent good. 22 percent fair. 73 percent poor.

13. In relation to other federal spending programs, what is your assessment of the current level of defense spending? 6 percent to high. 17 percent about right. 77 percent too low.

14. Which of the following best describes your feelings about an income tax reduction this year? 8 percent there should be no tax reduction this year. 74 percent only if there are offsetting federal spending reductions. 18 percent there should be a tax reduction even without spending reductions.

15. Under what circumstances should a Congressman accused of committing a crime be expelled from Congress by a majority vote of that body? 3 percent when first accused. 15 percent when indicted by a grand jury. 72 percent only if convicted. 10 percent none of the above. The voters in a Congressman's District should be the sole judge of his fitness to represent them.●

EULOGY TO AB HERMANN AND DON HERZBERG

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. PATTEN. Mr. Speaker, I am pleased to have seen two good friends of mine eulogized in the press in the past few days and particularly appreciate the comments of David S. Broder in today's Washington Post (Aug. 27, 1980).

Albert R. (Ab) Hermann and Donald G. Herzberg meant a great deal to Middlesex County, to the State of New Jersey, and to our country. I know we have lost two outstanding friends who helped mold Middlesex County's growth in the post-World War II era. Both were stars in their own ways.

It was in 1953 that the Republican National Committee loaned Ab to the State Republican Committee and he ran the gubernatorial campaign for Paul Troast. I was the campaign manager for Bob Meyner. I could see Ab Hermann's work at every turn. He kept us on our toes and was particularly effective at lining up ethnic groups. Truthfully, we could not match his handiwork.

Ab and I often exchanged thoughts during that campaign since we had our headquarters in the Robert Treat Hotel in Newark. We frequently stopped for a cup of coffee together.

To nobody's surprise, Ab had a winner—until October 7, when some unfavorable publicity broke that made the Troast campaign very difficult. Bob Meyner received a tremendous break, and went on to be the winner, which was never anticipated in June.

Ab's father, incidentially, was also a great friend. He was mayor of North Brunswick for 20 years. I always admired him because he was never very partisan when it came to supporting what was good for North Brunswick and the county as a whole.

Those who knew Ab Hermann loved him and admired him. I am glad to see he has received fine recognition for the work he did for almost 30 years with the Republican National Committee.

We learned to respect Don Herzberg real early, when he came into the Eagleton Institute. I like to feel that I was full of energy and thoughts in my younger days, so being associated with Don was a real pleasure.

His work to help municipalities, counties, and the State is still valid. He had to be given high ratings. He would take the newly elected officials and hold courses for them.

The Eagleton grads have spread across our Nation, taking with them the training they got at a fine graduate center of politics. Their efforts are felt throughout our political system. I know public officials who always look good. I happen to know it was because a pupil of Don Herzberg's was doing the research and writing.

The Eagleton Institute shines today in no small part because Don Herzberg was a top man in his knowledge of politics and in his knowledge of what good public policy should be at every level.

I know that Georgetown University benefited when Don Herzberg came to Washington. Don was not all theory, and brought to Washington one of the best backgrounds that I have ever seen.

Through his schools—New Jersey and Washington—he brought a lot of fellows along, took off their rough edges and taught them plenty about practical politics. He had an insight as to the problems of the day and how to handle them.

The growth of Rutgers University—our State university—has the fingerprints of Don Herzberg on it. He foresaw the population growth and the need to increase our educational facilities. I feel that along with Mason Gross, Don had as much influence as anyone with the State legislature to make our Rutgers University fit to grow and fit to be the great university that it is today.

I am indebted to Don Herzberg personally, because he taught me a great deal. I hope I put it to good use. I am indebted to Ab Hermann for the things he taught me about partisan politics and getting along as a political leader.

I, and those who knew or learned from them, will miss them both.●

ESTATE AND GIFT TAX REFORM

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. ROTH. Mr. Speaker, almost everyone in America suffers today from excessive taxation. However, in the area of estate and gift taxes, the situation has dramatically damaging effects on individual taxpayers and creates far-reaching negative economic impacts.

The entire estate and gift tax structure is heavily slanted against passing down family farms and small businesses. In my view, it is a tragic situation that family farms and small businesses cannot be passed from generation to generation because the estate taxes are too high.

Moreover, these taxes serve as a real disincentive to productivity and innovation because there is little desire to create and build a productive business if it cannot be passed down to one's heirs.

The purpose of estate and gift tax laws has always been redistribution of wealth, not revenue-raising. In the name of redistribution, we are not facing the social problem of small businesses and family farms that cannot be passed down and yet the tax only amounts to approximately 1 percent of Federal revenue.

I recently introduced legislation designed to correct certain inequities in the estate and gift tax laws. My legislation H.R. 7749 would amend the Internal Revenue Code to increase the unified credit against estate and gift tax and to increase the gift tax exclusion from $3,000 to $6,000.

I urge the support of my colleagues for this much needed legislative reform.●

HUMAN RIGHTS AND THE NATIONAL INTEREST

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. BONKER. Mr. Speaker, as the Presidential campaign rhetoric heats up, a lot of nonsense is being parroted concerning the President's human rights policy. As the President said in his eloquent address to the Democratic National Convention:

> The new Republican leaders oppose our human rights policy. They want to scrap it. They seem to think it is naive for America to stand up for freedom and democracy. Just what do they think we should stand up for?

Jerome J. Shestack, our Ambassador to the United Nations Human Rights Commission, has written an outstanding article on the United States human rights policy for the Op-Ed page of the Philadelphia Enquirer of July 29, 1980.

Mr. Shestack, who is also one of the foremost authorities on human rights questions, states:

> * * * In many places there has been an encouraging number of amnesties, release of prisoners, easing of restrictions and various other beneficial results. For those released, there can be no question of the benefit of human rights activism. Even for those who remain repressed, marshaling world opinion on their behalf gives them hope and comfort. That in itself is not a trifling benefit.

I commend his article to the attention of all of my distinguished colleagues.

The article follows:

PROGRESS IS MADE ON RIGHTS

Since the start of President Carter's administration, emphasis on international human rights has been a key element of United States foreign policy. Indeed, the President has called it the "soul" of our foreign policy.

Yet one increasingly hears a basic challenge to this policy: Does a human rights emphasis serve our national interest? I believe the answer is yes for a number of significant reasons.

One key reason is that emphasizing human rights is vital for America's continued relevance in world affairs. Human rights demands have become a central item on the global agenda with a response in expectations of people on every continent. As Zbigniew Brzezinski succinctly put it, human rights are "the genuine historical inevitability of our times."

The United States is regarded as having an immense potential to further individual freedom and the benefits that come from it.

A second reason arises from geopolitical concerns. There is an ideological competition for world leadership between Marxism and Western ideology. What does the West have to offer to counter Marxist promises and propaganda?

Armaments are viewed with suspicion. Enterpreneurism is often seen as exploitation, especially among developing nations. But human rights and individual dignity and development offer a vision which generates popular support among masses of people and support a valid claim for world leadership.

Pragmatically, such leadership serves our national interest, including the strengthening of beneficial international alliances and countering aggressive drives for influence by other powers.

A third benefit stems from the interrelationship between human rights and world peace. History teaches us that peace cannot be maintained in a world in which people, denied their individual rights, are impelled to rise up against their oppressors.

As we see in Afghanistan and Cambodia, human rights violations impair détente, causing tension and hostility between nations.

On the other hand, promoting a climate responsive to human rights values is likely to improve our national security and further peace.

Finally, but by no means the least consideration, is that this nation's own cohesion, commitment to its fundamental values and appreciation of its own liberties are strengthened by advancing human rights.

Human rights have long been a focus for shared purpose in the American tradition. Surely such a sense of shared purpose is in the national interest.

In the aggregate, these factors make a compelling case for inserting human rights in our foreign policy. Of course, other interests, such as national security, may sometimes override human rights concerns.

Still, President Carter has insisted that human rights concerns be in the forefront in determinations of foreign policy. And that is a significant advance over prior administrations.

Another question one often hears is whether the game is worth the candle. Is human rights emphasis productive? The answer must be a resounding yes.

It is true that repression remains rampant in the Soviet Union, Argentina, Czechoslovakia, Chile, Cuba, Iran, South Africa and many other places. Still, there is no doubt that there has been substantial progress which would not have taken place without the emphasis on human rights.

We have seen the fall of dictators, such as Amin in Uganda, Somoza in Nicaragua, and Bokassa in the Central African Empire. We have seen movement in Brazil, Ecuador and Peru away from military de facto regimes. We have seen an open electoral process in Portugal and the Dominican Republic. We have seen the return to civilian rule in Nigeria and Ghana.

Further, in many places there has been an encouraging number of amnesties, release of prisoners, easing of restrictions and various other beneficial results. For those released, there can be no question of the benefit of human rights activism. Even for those who remain repressed, marshaling world opinion on their behalf gives them hope and comfort. That in itself is not a trifling benefit.

The current outrages in Iran and Afghanistan should not detract our vision from the progress that has been made nor of the potential for further accomplishment. The cause of human rights is no sport for the short-winded. It is a slow, block-building process. President Carter's championing of human rights serves our national interest, gains respect for the United States and touches the yearnings and aspirations of people everywhere.●

TAXPAYERS FOOT THE BILLS

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, slavery is just around the corner for most Americans.

I refer to the fact that government on all levels presently takes about 47 percent of the average person's income. When that figure exceeds 50 percent, as it no doubt will in the near future, the American taxpayer will become a slave to government, working not for himself but for the bureaucrats.

To rectify this, I have cosponsored a variety of measures to reduce our taxes and to provide tax relief for those particularly hard hit by high taxes. But the bureaucrats cannot think of enough ways to turn the screws on taxpayers, as evidenced by the recent IRS regulation punishing those who rent to family members at the market rate.

Discriminatory tax treatment for foreign meetings is another area which needs reform. Richard J. Ferris, chairman and chief executive officer of United Airlines, makes the case well in the August 1980 issue of Mainliner, which it is my privilege to call to the attention of my colleagues.

The article follows:

WHOSE MONEY IS IT, ANYWAY?

The United States government sometimes shows a novel but dangerous attitude toward people's incomes. Sometimes the government acts as though all income belongs to the government, and that the government will decide how much it'll let us taxpayers keep and why.

It's as though we all work for the state, and the state will decide what each of us can have for ourselves. That seems backwards. I always thought we worked for ourselves, and we decided (through our elected representatives) how much the government can have and why.

One example of how the government tries to substitute its judgment of how taxpayers should spend their money for the taxpayers' own judgment is on the matter of attending conventions in foreign countries. Few taxpayers are directly affected by the government's tax penalties for attending foreign conventions, and relatively little tax revenue is at stake. But the precedent of the government's intruding into the details of private spending decisions is the real cause for concern.

Generally, taxpayers can deduct ordinary and necessary business expenses from their revenues in determining their federal income tax. But when it comes to attending foreign conventions, it's not enough that expenses be ordinary and necessary. Those expenses are subject to a whole list of detailed limitations and specifications. Among those limitations:

Expense deductions are limited for any individual to two meetings a year.

Expense deductions are limited to the per diem rate established for government employees, even though other travelers don't have access to the special rates available to government employees and may have legitimate expenses beyond just the meals and lodging that are the basis of the government allowance.

Now, nobody would argue that people should romp abroad on vacation disguised as conventions and then be allowed to deduct the cost of the holiday from their income tax. Any and all abuses should be stopped.

But abuses could be prevented simply by enforcing the law on foreign convention travel the same way the tax law is enforced for other types of business expense. Taxpayers should certainly be called on to show that all the business expenses deducted are just that—ordinary and necessary business expenses. That goes for travel to foreign conventions, travel to domestic conventions, office-decorating expenses, salaries—the whole gamut.

Businesspeople and other individuals go to meetings abroad expecting that the expenses incurred will be just as productive as other expenses—for salaries, equipment or anything else. Whether those travel expenses are wasteful or worthwhile is best left for the people who are spending their money to decide—not the government. After all, it's still those people's money—not the government's.

Besides, a good case can be made that the U.S. government should be encouraging—not discouraging—attendance at meetings abroad. Conventions in foreign countries are good places for American business to sell American goods. Export sales provide jobs for American workers and bolster our chronically unfavorable balance of payments. International competition is tough enough already, without putting artificial tax obstacles in the way of sales abroad.

Conventions and seminars in foreign countries are good places to obtain and exchange valuable information—scientific, medical, technical, educational, cultural and legal. The United States is no longer, if it ever was, the dominant source of progress in many fields. Access to professional symposia throughout the world is an important way for U.S. doctors, scientists, engineers and other professionals to stay on the leading edge of developments in their fields.

Meeting abroad with people from other countries helps build international understanding at a time when international understanding is more important than ever. Now is not the time for narrow, parochial restrictions on Americans' freedom to travel. Other countries don't discriminate against travel to the United States. But if we keep on discriminating against other countries, the potential for retaliation exists. That kind of retaliation would strain our international relations and further damage our balance of payments.

The U.S. government itself recognized the value of international travel when it signed the Helsinki Agreement. That agreement says countries should "encourage increased tourism on both an individual and group basis" and "facilitate the convening of meetings as well as travel by delegations, groups and individuals."

The Congress is now reconsidering discriminatory tax treatment for foreign meetings. There are encouraging signs that the Congress will act this year to remove at least some of the arbitrary restrictions on attending foreign conventions.●

H.R. 5192, REAUTHORIZATION OF THE HIGHER EDUCATION ACT—CONFERENCE REPORT

HON. JON HINSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. HINSON. Mr. Speaker, I support the conference report on H.R. 5192, the Higher Education Act reauthorization. After 2 years of hearings and debate, House and Senate conferees have produced a bill that deserves the same overwhelming support that H.R. 5192 received last November when it passed the House by a vote of 385 to 15. We need to commend the conferees on this excellent piece of legislation.

H.R. 5192 authorizes increases in grant assistance to help both middle income and needy students meet the constantly increasing costs of postsecondary education. It allows the students to choose private or public institutions and provides aid for developing institutions. There are important reforms in the loan program aimed at reducing default rates while extending the availability of loans on a continuing basis. Also, the bill establishes a parent loan program for those parents who wish to assist their children, but find themselves unable to do so.

As well as improvements in existing programs, H.R. 5192 provides legislative savings in the efforts of the Congress to balance the Federal budget and curb Federal spending. This legislation is supported by the entire higher education community, college presidents, faculty, students, and parents.

On behalf of the other members of the Committee on Education and Labor, I urge passage of the conference report on the Higher Education Act.●

VETERANS' ADMINISTRATION HEALTH CARE PERSONNEL ACT OF 1980

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. DASCHLE. Mr. Speaker, I was unable to participate and vote yesterday on the Veterans' Administration Health Care Personnel Act of 1980. Had I been present I would have voted "yes" to override the President's veto.

President Carter's action last Friday in vetoing this legislation was a grave disservice to America's veterans. Due to increasing competition, the VA has had continuing problems in retaining and recruiting quality medical staff for their medical system. In fact, the VA is already short 1,600 physicians and several thousand nurses.

This legislation would rectify this problem by raising special pay and instituting a scholarship program for doctors and nurses in exchange for service within the VA medical system.

President Carter in his message to the House stated that in addition to the bill being too expensive he preferred that funds be placed more directly on improving health care benefits and treatment for veterans. The fact of the matter is that the bill saves over $130 million on contracting costs for doctors alone over the lifetime of the program and $109 million will be saved by a better screening process designed to determine whether a nonservice-connected veteran's private health insurance is sufficient to meet the costs of his health care. Furthermore, I cannot think of a better way to provide quality care for veterans than to insure that the best doctors and nurses presently in the system are retained for the future.

I was delighted by the fact that the veto was overriden by such a large margin, 401 to 5. Passage of this legislation assures us that the VA will not be dominated by part-time physicians and that mediocrity will not be the standard of health personnel in the system. The House of Representatives and the Senate yesterday proved without a doubt that they are committed to the preservation of the VA medical system as it exists today and the promise that a veteran will be afforded the finest health care in the world.●

RESEARCH AND DEVELOPMENT: SOME POSITIVE INDICATORS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. BROWN of California. Mr. Speaker, a key element in any long-term economic development program is the role of research and development. As most Members know, the United States has suffered a decline in support for R. & D. over the last decade, while our economic competitors have continued to increase their share. A recent article from Business Week indicates that at least in some sectors of our economy this situation is being reversed.

While there is not time to elaborate on all the nuances in the recent statistics, there are some important points to highlight. First, R. & D. continues to be almost pitifully low in those areas where our economy is the weakest—the automobile industry, the steel industry, and the energy industry. Second, even though there is a real growth in R. & D. in all industry, there is no data on what is basic and what is applied research. In fact, there is very little agreement on even the definition of "research and development," which is a matter that grows in importance as we discuss ways to further encourage and subsidize R. & D. And, finally, in those areas where the United States is a world leader, R. & D. support continues to be strong and significant. All of these points are important for the Congress to consider as we review legislation to encourage innovation and productivity in the United States.

The article from the July 7, 1980, issue of Business Week, minus the extensive tables in that issue, follows:

BUSINESS WEEK'S R. & D. SCOREBOARD: 1979—MORE SPEED BEHIND R. & D. SPENDING

Industrial research and development expenditures continued to pull out of the doldrums in 1979. Spending by companies included this year in business week's annual R&D Scoreboard swung up strongly, to $23.8 billion, fully 18.9% over their 1978 levels and well above the inflation rate. That increase follows two years in which gains remained steady at about 16%.

"It's turning around and starting back up," says Roland W. Schmitt, vice-president of corporate R&D at General Electric Co., a company that raised its R&D outlays by nearly 23% in 1979. Indeed, a number of industrial categories substantially boosted their commitments to R&D in 1979. Aerospace, for example, led with a gain of 38.4% over 1978 and spent a total of $1.5 billion. The semiconductor industry posted gains of 33.2%, oil-service and supply spending forged ahead by 29.9%, and spending by instrument makers and fuel producers jumped by nearly 26%.

This year's Scoreboard surveys over 700 companies, compared with 683 last year, and includes those companies with sales of $35 million or more that spent at least $1 million or 1% of their annual sales on R&D. Expenditures as a percentage of sales have held remarkably constant: The 1.9% reported in the current all-industry composite has been unchanged for three years. Spending for R&D as a percentage of profits, however, has been declining steadily. In 1979 the companies listed on the Scoreboard devoted funds equivalent to 32.9% of profits to R&D, while in the preceding year the share was 34.4%. The companies included spent an average of $1,553 on R&D per employee, $182 more than in 1978.

The categories in the 1979 Scoreboard remain the same, but, as usual, some companies will be noticeably absent, and there are a number of new arrivals. Some companies on last year's survey may have cut their R&D spending to levels that no longer qualify them for inclusion. Others that should have been included may have been omitted because data, which are extracted from companies' 10-K forms filed with the Securities and Exchange Commission, were not available at deadline. And 20 companies that have been acquired—including Beech Aircraft, Eltra, Remington Arms, and Mostek—do not appear.

American Telephone & Telegraph Co., which ranked fourth in R&D spending last year, no longer appears in the top 10. In 1979, AT&T spent $362 million on R&D at its Bell Telephone Laboratories. The company's Western Electric Co. subsidiary contributed an additional $495 million to Bell Labs. But because that amount is reported separately, it is not included in the AT&T figure.

There are also significant additions to the survey. This year companies that provide computer and data processing services have been added to the "information processing—computers" category. These companies—including Applied Devices, Shared Medical Systems, System Development, and Tymshare—perform significant amounts of R&D in developing computer software. Otherwise, service industries are not counted.

Corporate R&D managers see the impressive gains in spending by many industries as a sign that top management is placing new emphasis on R&D. And they are encouraged that R&D expenditures ran well ahead of the 10 percent inflation rate in 1979 after slumping dangerously in the mid-1970s. In fact, some say that the driving force behind the increased spending is the fear that U.S. industry is losing its ability to innovate. "People in the R&D community have sounded all kinds of alarms," says William B. Truemmler, vice-president for technology at Hooker Chemicals & Plastics Corp. "And the system is responding."

The vigor in R&D is clearly illustrated by the aerospace industry. Not only did its total R&D commitment move ahead by nearly 40 percent, but the companies in that industry increased the share of their sales that they applied to R&D to 4.2 percent in 1979, compared with 3.7 percent the year before. And the amount they spent was equal to 102 percent of their 1979 profits.

Intensified foreign competition is a major influence spurring aerospace companies to step up R&D. The industry, and particularly Boeing Co., is scrambling to develop new models to compete with the European-built Airbus, which last year walked off with 30 percent of the orders for widebodied aircraft in the free world. As a result, Boeing boosted its R&D spending by a staggering 90 percent, spending an amount nearly equal to 104 percent of company profits.

The automobile industry, too, stepped up R&D in 1979 to meet foreign competition. With sales depressed to a mere 3.6 percent gain over 1978, the auto industry nonetheless increased its R&D spending by 16.6 percent, to $4.3 billion—or 124 percent of industry profits.

In high-technology industries such as information processing, electronics, and semiconductors, intense technological competition has traditionally been reflected in hefty R&D budgets. Not surprisingly, these categories racked up major gains in R&D in 1979. Information processing companies in the computer and office equipment businesses increased their R&D spending by 18.8 percent and 25.9 percent, respectively. Electronics companies stepped up R&D by 21.4 percent, and semiconductor manufacturers surged ahead by more than 30 percent. Two manufacturers of large computers—Cray Research Inc. and Amdahl Corp.—topped all companies in the survey for percentage of sales devoted to R&D and in dollars spent per employee.

A SHIFT TO BASIC RESEARCH

The fuel industry has one of the lowest ratios of sales to R&D—0.4%—but it, too, stepped up its R&D spending in 1979, adding 25.4% over the previous year. Most of that increase was devoted to aggressive programs underway at all the large companies to convert coal into gases, or, preferably, liquids. Some funds, too, were devoted to improved technology for finding oil and gas deposits, but these efforts were hampered by a shortage of qualified geologists and petroleum engineers—a problem that often bedevils rapid increases in R&D.

The oil-service industry boosted its outlays for energy-related R&D by 29.9%. These companies are working hard on improving drill bits; finding new ways to drill, such as down-hole motors; and developing ways to detect the presence of oil or gas even as a well is being drilled. Notable among these companies is Schlumberger, which spent $131 million for an increase of 45% over 1978.

Unlike those for the well-documented upturn in R&D spending, there are no numbers that track the share of corporate R&D budgets devoted to basic research. But there is a growing conviction among research directors that the dangerous movement toward short-term applied R&D projects may be reversing. "We are definitely devoting a higher percentage of our resources to the future" by doing fundamental research, says GE's Schmitt.

The food industry, for one, seems to be deepening its commitment to basic research. Concern over the effects of trace minerals, excess sodium, and fats in food is spurring food companies to divert research dollars into basic research on nutrition. "Clearly there is a fleshing out of our research in health and nutrition sciences," says Adolph S. Clausi, director of research at General Foods Corp. That company in 1979 increased its R&D budget, which at $70 million is the largest in the industry, by 20%, compared with 15% for the industry as a whole. Clausi estimates that basic research now accounts for 20% of the company's total R&D outlays, more than double the amount 10 years ago.

Even though research directors are elated at figures that seem to indicate that R&D spending is once more gaining in relation to the gross national product, they fear that other factors may seriously diminish the amount of actual work that can be accomplished. Samuel W. Tinsley, director of corporate technology at Union Carbide Corp., concedes that some increases are "pretty spectacular." But he points out that "some R&D costs go up faster than the GNP deflator—in some industries as high as 50%." In fact, some R&D managers believe that most of the 1979 increases can be accounted for by salary and equipment costs.

Government regulation takes a bite out of R&D budgets as well. A significant component of the cost of environmental and health regulation is the R&D required to figure out how to meet the regulation. "The technical basis of many regulations is nonexistent," says one research manager.

Estimates of the impact of regulation vary from industry to industry. In the chemical industry, research managers estimate that regulations account for 10% to 15% of R&D budgets. And such "defensive R&D" is also an important factor in the drug industry. "The largest component of the growth of our R&D budgets is toxicity testing," says Lewis H. Sarett, senior vice-president for science and technology at Merck & Co. Sarett explains that much of that testing "is work we would want to do anyway, but it wasn't possible without modern instrumentation."

SQUEEZING HARD

The requirement for more and more careful analysis in both the drug and other industries may well be a boon to the instrument makers. In fact, while drug companies included in the Scoreboard increased their R&D budgets by 15.7%, to $1.8 billion, in 1979, R&D budgets for instrument companies jumped by 25.9% to $500 million.

Whether current R&D spending trends will continue is clouded by the current recession. Managers point out that spending is likely to remain strong through 1980 and that the recession's impact will probably be felt in 1981 budgets, which are in preparation now. But another notes that during the past couple of months "R&D managers are squeezing hard" on their current budgets. "The momentum [in R&D spending] is strong enough to withstand a mild recession," says GE's Schmitt. "But if it is deep or long, every phase of business will have to be examined."●

MISCELLANEOUS OBSERVATIONS ON AMERICAN POLITICS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, August 27, 1980, into the Congressional Record:

MISCELLANEOUS OBSERVATIONS ON AMERICAN POLITICS

Now that the dust of the Republican and Democratic conventions has settled, this politician cannot resist making a few comments on American politics today.

It seems to me that the highest priority of a candidate for public office today is to give Americans hope. Never in my experience in public life have I seen the American people more concerned and less optimistic about the future of the country than they are at present. They genuinely need to believe that crises can be eased and problems solved. The politician's task—certainly not a simple one—is to lift Americans' confidence in the country and its institutions. To do this, the politician must not ignore the bad news, but encourage Americans to focus on the bright possibilities that the future holds. The dilemma for the politician is how to bring about this change of emphasis without worsening his already poor credibility. So, candidates in this election should be talking about the future, about where they want the country to go, and about what they think it ought to do to get there. Candidates must convey a sense of movement and purpose by telling Americans where we go from here and how we can reasonably expect to reach the destination we set for ourselves. Most politicians can list the nation's troubles; the better ones can suggest a few solutions; only the best ones can give the nation hope.

The most common thing I hear about the presidential campaign is an expression of dissatisfaction with all the candidates. No one would deny that the operation of government has been disappointing in recent years. Politicians can scarcely claim to have performed well. Presidents especially have had a rough time. In the past 20 years one was assassinated, another was destroyed by a war, yet another was forced to resign, and still another was beaten at the ballot box. The incumbent Chief Executive stands at the lowest point ever in the popularity polls. My own view is that the feeling of discontentment with political leaders may very well persist in American public life for some years to come. I doubt whether the election of one candidate or the other, of one party or the other, will eliminate the conditions that generate the feeling of discontentment.

The most mystifying performance of any politician in this eventful political year has been that of Senator Kennedy. I really do not understand why he continued in his quest for the Presidency after President Carter had won a majority of the delegates to the nominating convention. Perhaps Mr. Kennedy thought that anything could happen, that Mr. Carter's standing in the polls was so low that any adverse event—the Billy Carter caper, for example—could force the incumbent to withdraw. Mr. Kennedy has called on Democrats to put aside their differences and work together for victory in the fall, but even so his campaign has contributed to Mr. Carter's problems and certainly made it more difficult for Mr. Carter to win.

The polls have shown Governor Reagan running away with the election. In spite of the fact that Mr. Carter has edged up in the polls recently, some pundits are calling Mr. Reagan a "sure bet" for the White House in January. Democratic gloom and Republican glee are unmistakable. Mr. Reagan is in a formidable position, but it is much too early to make any hard and fast predictions. I find voters undecided, prepared to change their minds, and in no hurry to reach conclusions about the man they want to lead the country. Beyond a relatively small base of enthusiastic supporters, none of the candidates enjoys strong personal or ideological commitment. Moreover, American presidential campaigns are long, and many things can happen. My own guess is that when the votes are counted, it will be close.

I am always mildly amused by the intensity of party platform fights at the conventions. My own experience is that neither voters nor candidates pay much attention to the platforms. With rare exceptions, they simply do not change votes anymore, but they are important in that they may unify or divide a party. Mr. Carter's acceptance of several of Mr. Kennedy's platform planks probably helped to minimize divisions among Democrats.

A key question lies behind all the emotion of the Democrats' debate on an "open" convention: to what degree should the presidential nominating process be opened up to ordinary Americans who are largely outside politics and government? Since 1968 the reform movement has worked to take the process away from politicians and party leaders and put it into the hands of primary voters. This is a movement which I have favored. However, the process is still evolving. It is obvious to me that we have yet to answer several questions about it. Should we "bind" convention delegates so that they cannot deliberate? How should we assure that the wishes of primary voters are reflected in the balloting at conventions? Should we include more elected officials in the delegations? Should we rely so heavily on primaries and so little on forums where compromises are forged? What is the role of the convention in the presidential nominating process? Is it possible to devise a process which allows both convention delegates to deliberate and primary voters to participate?

Serious consideration of these questions will surely help us improve the way we select the nation's highest public official.●

GREATER MIAMI OPERA ASSOCIATION

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. PEPPER. Mr. Speaker, it was with great pleasure that I learned some time ago of the triumph accorded the Greater Miami Opera Association's production of the American premiere of Les Contes d'Hoffman in January 1980. The Metropolitan Dade County area holds a place of importance in many other meaningful areas, and it is with great pride that we are now witnessing the progress of the arts and the prospect of the Miami area assuming an ever greater role in this meaningful area. I would like to share with our colleagues and fellow citizens the success achieved through the hard work and talent of the members of the Greater Miami Opera Association under the able leadership of Robert Herman, general manager. I am pleased, therefore, to include in the RECORD the rave review from the New York Daily News of January 16, 1980, declaring that "great musical history has been made in Miami" and giving well-deserved national recognition to those talented, hard working, dedicated individuals who have made it all possible.

The article follows:

NEW "HOFFMANN" WARMS MIAMI; IT'S HEADED FOR MET IN '82

(By Bill Zakariasen)

MIAMI.—Original versions of operas have been in the spotlight the last few years. Just within the past few months Alban Berg's "Lulu" received its world and U.S. premieres with all three acts intact for the first time. On Monday, the Greater Miami Opera Association gave the American premiere of the original version of a considerably better-known work, Jacques Offenbach's "Les Contes d'Hoffmann (The Tales of Hoffmann)." The occasion was a triumph for the fast-growing company and certainly for the composer.

The background of this new version of an old favorite is fascinating. Offenbach, long the king of French operetta, had longed to write at least one great grand opera before his death, which by the late 1870s was fast approaching. "Hoffmann" was commissioned by the Opera-Comique, but this work was to be no mere lighthearted operetta with spoken dialogue. Complete seriousness was his intent, and he worked feverishly against death to complete his masterpiece before its 1881 premiere. But on Oct. 5, 1880, Offenbach died leaving what most people thought to be his thus-far completed sketches in the Comique library.

The "Hoffmann" premiere took place, but only after composer Ernest Guiraud filled in the gaps with some of his own music, added music from some of Offenbach's earlier works, and junked the Venetian scene as being too fragmentary for performance. Later revisions corrected the latter to a point, but a Comique fire in 1887 was thought to have destroyed anything else. But eight years ago over 1,000 pages of "Hoffmann" manuscript were discovered in the family home outside Paris. The new material filled in the missing portions, showed "Hoffmann" really to be a grand opera, and most importantly all of a piece, with a solid, firmly dramatic point of view throughout.

In this new version, the poet Hoffmann becomes a far stronger character, a man driven by his Muse to create. His Muse turns out to be alcohol most likely, since she appears from a wine keg at the beginning and transforms herself into Hoffmann's sidekick Nicklausse. The role of Nicklausse now becomes second only to his master in importance. The Venetian act with Giulietta is now played last as Offenbach intended, while the epilogue concludes with a majestic chorus (akin to the finale to "Faust") celebrating Hoffmann's artistic greatness.

All in all, this version of "Hoffmann" runs about a half-hour longer than the previous one, yet there are omissions of some familiar music—for instance, Nicklausse's "Parrot" song and Dapertutto's "Scintille diamant"—interpolated from other Offenbach works—and the Venetian Septet, written by Guiraud anyway. Some listeners will miss these pretty moments, but their replacements—two more lovely arias for Nicklausse, a first-act trio, a big gambling scene ensemble, the glorious new finale, and so may incidentals impossible to enumerate—more than make up for the loss.

Miami's production did full justice to this discovery. The sets by Gunther Schneider-Siemmsen (well-known at the Met for his definitive "Tannhaeuser") are massively convincing, and together with the expectedly probing direction by Nathaniel Merrill, this presentation is one I can't believe the Met could improve upon when it does its new "Hoffmann" in 1982.

De Almeida conducted, and very well indeed, while the cast was as superb as any you could find in the world today. Nicolai Gedda, the greatest Hoffmann of modern times, outdid even his own standard, his burnished silver tenor in the best condition I can recall. Ashley Putnam (a short-notice sub for the ailing Pilar Lorengar) was a touching, full-voiced Antonia, Ruth Welting an absolute doll as Olympia, Rosalind Elias a powerfully magnetic Giulietta, Judith Forst show-stealing Nicklausse/Muse, while Jose van Dam gave each of the four villains (Lindorf, Coppelius, Dr. Miracle, Dapertutto) striking individuality and cannonball vocalism. There indeed was not a weak member of the huge cast.

One left this miraculous evening agreeing completely with Gedda, who after the premiere insisted, "I can't imagine Hoffmann being done the old way ever, ever again." He's right—great musical history has been made in Miami, and there's now no turning back.●

DESPITE WHAT LEADERS SAY, AMERICA'S FUTURE WILL BE BRIGHTER

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. SOLOMON. Mr. Speaker, some of our leaders have been parading up and down the land saying that Americans will have to learn to lower their expectations for the future, that America's period of greatness has passed. But the vast majority of Americans reject this idea.

Just ask our young people. After all, they have the most at stake in working for an America just as strong and prosperous as the one we have enjoyed.

Timothy North, a high school student from Kinderhook, N.Y., expresses this strong faith in our country's future in a speech he entered in the Voice of Democracy contest sponsored by the Veterans of Foreign Wars. Tim's speech was judged the best of all entries in the VFW's third district in New York, the Columbia-Greene County Council. I offer it to my colleagues as a sincere, hopeful statement of what our country is all about:

MY ROLE IN AMERICA'S FUTURE

America is a young country. A country with a short history but one of which we can be very proud. From the time we sought our independence, we have been a diverse but united people. We are a young country of individuals united by our common goals. For what is a country but people?

Each person is an important part of our country. The better the people, the better the country.

Outside attempts to break our unity have met only with an increase determination to remain united. As for our destruction coming from within, we have mended a complete split in the Union, and the future looks bright.

We can see, if we look back into our history, that ever since America was first settled, a spirit of pride has filled its people. The first people to settle America had to be bold enough to cross the Atlantic, fight for land, defend themselves against hostile Natives, and supply themselves with food to survive. Those that could not; perished. In a sense, only the best lived to enjoy the freedom of their own land.

Later, in our history, we see the westward movement. The bold settlers of the wild west. Their struggle helped settle this area. Many died in the attempt, but they did not die in vain.

Still later, we see Americans fighting for justice and freedom all over the world. We have even weathered one of the worst depressions the world has ever seen.

Some people say we have lost that spirit. But that could not be farther from the truth. Less than a decade ago, the United States became the first Nation in the world to put mankind on the Moon.

The challenge of the future is to keep this feeling alive. To not only help ourselves, but the whole world improve.

This challenge is not something we can leave to the government or the United Nations or even to America as a whole, but, rather it is a challenge each and everyone of us must meet as individuals. For what are governments and nations without people? . . . nothing.

So, the responsibility lies with us. America's future lies in our hands. We shape the mold. Our parents shaped America for us and we will shape America for our children.

As one great president said, "Ask not what your country can do for you, but rather, ask what you can do for your country."

We must not make demands of our country without helping it. We cannot take, without giving. Each and every person's input is needed to keep the American spirit alive and well in the future.

No one said it would be easy. Countless thousands have given their lives so that we may continue to enjoy freedom.

No one is asking us to lay our lives on the line now. The country is at peace. However, we are forever indebted to these people. We are asked to do small things that do not seem anywhere as glorious as holding the flag in battle, but things that are just as important. We are asked to participate in government and to help select our leaders.

In my opinion, if you do nothing else in government but help select a leader by your vote, you have done a great service to both yourself and your country. Voting is a privilege and when you take advantage of it, it shows that you care.

As I have said, the challenge is our challenge. How I meet this challenge as an individual will help both myself, and America, now, and in the future. I feel I must take an active role in America's future. As a student, I will be part of that future. America is my country. I want it to have the best future possible.

America is a land where dreams come true. Thousands of immigrants came to this country believing that. They found that dreams came true only with strong perseverance, just as did the early and western settlers. However, this spirit helped to build a better nation.

My role is to keep this spirit alive. To take advantage of the great educational opportunities and do for my country what my country asks of me.

The road will not be easy, it has never been easy in the past. The harder the task the better America seems to get. I, as an American, must keep the great American spirit alive.

Have confidence in America. We will come through. We have in the past. But, it would not have been possible without all the people who have helped make this nation great. All the people who have fought in battle. All who have served leading this nation, from teacher to President. All the people that built America, and most of all, the American citizen; that person, who, through participation and caring, makes America, the United States of America.

The marvelous thing is that these people do not only exist in the past, but also in the present. It is our job to make sure that they exist in the future.

The future is in my hands and I am going to do everything in my power to make sure that America keeps this great spirit, that America remains a free, just Nation.

I have a dream, . . . do you?●

PLAIN TALK ABOUT THIS ELECTION YEAR

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. MURTHA. Mr. Speaker, recently, Ron Stephenson of WJAC-TV in Johnstown, Pa., gave an editorial comment which I believe does as good a job of summarizing the Billy Carter affair and the present issues facing this country as any remarks I have heard. I insert it into the CONGRESSIONAL RECORD for the information of the members:

EDITORIAL BY RON STEPHENSON

The following is a WJAC-TV editorial.

In a televised news conference last night, President Carter handled himself admirably in providing details of brother Billy's Libya connection. The President stated emphatically that the facts will "show that neither I . . . nor any member of my administration had violated any law or committed any impropriety." And hard line questioning by some of the Nation's most experienced news people failed to shake the President's composure or reveal any serious flaws in what the President said in his prepared statement. An initial sampling of reaction following the Presidential news conference shows a lot of sympathy among Americans for the President's family problems. Many Americans can relate directly to embarrassing family situations over which they have no control. And it is clear that the Billy-Libya affair has no resemblance to Watergate. Any effort by Republicans or dissident Democrats to make Billy Carter an issue in this year's Presidential campaign will be an effort to skirt the real issues. And those issues include a devastating recession that has brought segments of our economy to the brink of bankruptcy and beyond. The issues are runaway inflation . . . unemployment . . . the shattered American dream of home ownership . . . a military that does not have the capability to respond to the aggressive behavior of some world nations . . . the hostage crisis . . . and the decline of American prestige, even among our staunchest allies.

This is no time to have faith in election year promises that we can spend more for defense . . . for social programs . . . increase employment . . . cut inflation and also cut taxes. That's utopia . . . and there is no utopia on this planet. Genuine sacrifice by everyone . . . not just the other guy, is the key to turning this country around. We must have an abrupt reversal from the philosophy of "what's in it for me" . . . to a no exception policy of "what's best for America as a whole" or we'll never recover.

This has been a WJAC-TV editorial. Equal time is available for responsible opposing viewpoints and copies are available upon request.●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. DERWINSKI. Mr. Speaker, Mr. Tedis Zierins, a leading member of the Chicago Captive Nations Committee, recently directed my attention to the activities held in Park Ridge, Ill. During Captive Nations Week. I wish to insert a copy of the proclamation issued by the mayor of the city of Park Ridge, Hon. Martin J. Butler, on the occasion of Captive Nations Week, and an article which appeared in the Pioneer Press newspapers, which serve the Chicago suburban area, highlighting the week's events.

In addition, in view of the machinations and propaganda practices which the Soviet Union attached to the summer Olympic games, I wish to also include with my remarks an article which appeared in the Park Ridge (Ill.) Herald, reporting on the efforts by Illinois State representative Penny Pullen in directing attention to the imposed restrictions under which those countries held captive of communism must live. The Soviets attempted to hide this repression under the colorful spectacular of the Olympic games in order to enhance their global image. I would also like to insert a letter from 17 Latvian athletes which gives insight into their opinion of the Moscow Olympics. These reports follow:

CAPTIVE NATIONS WEEK PROCLAIMED BY MAYOR

Representatives of Park Ridge Latvian and Ukrainian communities visited city hall last week when Mayor Martin J. Butler proclaimed the third week of July as Captive Nations Week and urged citizens to support the desire of Communist enslaved nations to regain their freedom.

Since 1959 following the joint Resolution by the U.S. congress Captive Nations Week is observed annually.

The main event of Captive Nations Week observing in Chicagoland will be a Captive Nations Freedoms Race Olympic rally in the Richard Daley plaza, downtown Chicago at noon on Saturday, July 19.

Among the speakers will be state Rep. Penny Pullen of Park Ridge.

PROCLAMATION

Whereas, Captive Nations Week was inaugurated in 1959 by a joint resolution of the United States Congress; and

Whereas the cause of human rights remains a universal aspiration. Yet, in much of the world the struggle for freedom and independence continues; and

Whereas it is vital to the national security of the United States and other free nations that the desire for liberty on the part of the peoples of all conquered nations be kept alive; and

Whereas, each year Captive Nations Week has provided a fitting opportunity for the American people to show their concern for those whose governments do not permit the same freedoms taken for granted by so many of us;

Now, therefore, I, Martin J. Butlers, Mayor of the city of Park Ridge, do hereby proclaim the week of July 13 to 19, 1980, as "Captive Nations Week" and urge all citizens to support this annual observance of the desire of oppressed peoples to regain their freedom.

In witness whereof, I have hereunto set my hand and caused the seal of the city of Park Ridge to be affixed this 10th day of July, 1980.

[From the Park Ridge Herald, July 31, 1980]

REPRESENTATIVE PULLEN'S DISPLAY SHOWS TRUE OLYMPICS A RACE FOR FREEDOM

The Olympic display in State Rep. Pullen's (R-4th) office window at 22 Main St., Park Ridge, is unusual, but as she explains, the Olympics are also "very unusual."

"Never before have children, Christian and Jewish activists been banned from the Olympic city like the Soviets do it now," Rep. Pullen said.

"Never before have Olympics been held in a country, which during Olympics, is fighting to conquer another country like the Soviets are in Afghanistan. Never before have Olympic games taken place in an occupied country like the Olympic Yachting Regatta takes place in Tallin, the capital of occupied Estonia. The United States and many other countries do not recognize the Soviet Occupation of Estonia and its neighbors Latvia and Lithuania as legal," Rep. Pullen said.

"The pomp and glory seen in Moscow can not hide the true Moscow Olympics—five rings of barbed wire and pictures inside them tell us that the Communist style of Olympics is: a race for freedom every day. The mother and a child in a boat inside a barbed wire circle symbolizes not only thousands of boat people in Asia, but all those who by boats escaped from Baltic countries, Cuba and elsewhere. The picture in the other barbed wire circle shows that even the border guard races for freedom and jumps across the barbed wire fence to freedom," she explained.

"Race For Freedom started as soon as Communism came to power there, and continues every day," Rep. Pullen continued. "Every refugee from communism has participated in the communist style of Olympics—Race For Freedom. Every one of them has received an award—not a silver or gold medal, but something much better—freedom," she said.

[From the Park Ridge Herald, July 17, 1980]

ATHLETES SPEAK OUT

DEAR EDITOR: In these days when world attention is focused on the Olympic Games in Moscow, where they begin July 19, I hope you'll find space in your paper for the enclosed letter. It was written by 17 athletes in communist-ruled Latvia and tells their opinion on the Olympics and the world situation.

Thank you,

TEDIS ZIERINS.

We, 17 active and veteran sportists of Soviet-occupied Latvia, with great regret yet proud of our bretheren, sincerely greet the famous athletes who have refused to participate in the 1980 Olympics in Moscow.

How is it ever possible to combine the 40-year occupation of Latvia, Estonia and Lithuania, countless murders in Afghanistan, prosecution of dissidents who every day are exiled to inhumane slave labor camps in the far north or imprisoned in mental institutions with organizing such peaceful games? And what about the infiltration of Russians in Latvia in order to russificate the Latvians?

A proverb says that a sound body houses a sound mind. Where is the conscience, the sound mind of the athletes who with all their might force themselves to get an entry to the Moscow games? They are striving for an easy victory, knowing that many worldwide-acknowledged sportists, people with strong conscience, have declined to participate in Olympiad 80, denying themselves many gold, silver or bronze medals.

How will you, athletes of the free world, listen to the starting signal shot, if at the same moment in Afghanistan a shot will be fired to murder a student, a mother or senior citizen? They will collapse forever, they will never compete, run again. But you will be running, running to achieve a medal that will not honor, but shame you. We can only hope that, when returning to their homes, these athletes will not be welcomed with ovations or flowers.

Every child in our country knows that all our athletes are professionals, yet Lord Killian is not interested in this fact, nor cares about the situation in Afghanistan. Go ahead, stars, Moscow and other Olympic cities will be voided of freedom-loving and law-abiding people. Even young students will not bother you with their childish curiosity. The KGB and its henchmen will take care of everything. At your service will be the best chefs engaged throughout the Soviet Union. You will be wined and dined royally, yet for about two months now the shelves in grocery stores are empty to the public—every morsel is collected for the 1980 Olympics. Only, do not forget to observe the faces of people you will meet in the streets, especially, in occupied Estonia's capital, Tallin—there you will find endless contempt and regret for your foolishness.

THE 17 ATHLETES, RIGA.●

ECONOMIC STABILIZATION

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. GEPHARDT. Mr. Speaker, as we inch toward the question of when a tax bill should be considered or passed, let us remember that inflation is not an idle thief. John S. Atlee, who directs the Institute for Economic Analysis, feels as I do that there is only one sure way to stop the recession quickly and start a real recovery: An immediate small cut in personal income payroll deductions. H.R. 7046, the Social Security Payroll Credit Act of 1980, could be incorporated into the withholding system with little difficulty or time lapse. I offer this legislation and Mr. Atlee's remarks that appeared in the New York Times on August 25, 1980, for your consideration.

Mr. Atlee's remarks follow:

ECONOMIC STABILIZATION

WASHINGTON.—To slow inflation, President Carter and Congress spent months struggling to balance the fiscal 1981 "wish budget"—which begins this October—and Mr. Carter still opposes a tax cut this year. Meanwhile, the real-world budget—which neither Congress nor the President can control directly—is diving deep into the red because the long-planned "anti-inflation" recession is causing unemployment benefits to skyrocket and tax receipts to nosedive. Each 1 percent increase in unemployment increases the real-world deficit by $25 billion.

However, with the economy diving and no credible plan for recovery, consumers and businesses have reduced their borrowing so much that even the "recession deficits" have not prevented a steep decline in total borrowing. As a result, key money-market interest rates—the price of credit—plummeted from 18 percent in April to 8 percent in June, and speculative "hot money" scurried to the higher interest rates in Europe, depressing the dollar exchange rate.

Unfortunately, our money supply, which controls our overall economic growth, can increase only when somebody borrows the "new money" that the banking system creates. With too little borrowing the Federal Reserve could not prevent the sharp April-May decline in the money supply, from which the money supply has not yet recovered, without further depressing interest rates.

There is only one sure way to stop the recession quickly and start real recovery; an immediate small cut in personal income tax payroll deductions. This would have two effects: It would immediately increase consumers' disposable income, to offset the loss of purchasing power caused by the reduced consumer borrowing and increased unemployment. Even more important, it would immediately cause a policy-induced increase in Federal borrowing, to offset the recession-induced shortage of consumer and business borrowing, so that the Federal Reserve Board could rebuild the money stock now, before the recession further increases the uncontrollable, recession-induced, component of the Federal deficit.

Such a tax cut should be made automatically, by previously legislated machinery for formula-controlled stabilization tax adjustments of payroll withholding, independent of the regular budget. The adjustment formula should be designed to stabilize interest rates at the lowest level that would avoid a flow of "hot money" to Europe.

When interest rates fall below the formula "target" level—as they would today if the money stock were increased enough to stop the recession—the tax stabilization adjustment would call for a tax cut, to increase Federal borrowing. When excessive borrowing causes interests rates to rise above the target level, as in 1977 and early this year, the adjustment would call for a tax increase, to reduce Federal borrowing and keep rising interests rates from feeding an inflationary spiral.

Today, a $50 reduction in everyone's September tax withholding—causing $5 billion more Federal borrowing—would probably be enough to stop the recession. Would $50 be enough, yet not too much? With our present crude financial statistics, no one can know for sure—and no one can predict now what the economy will need next year. The beauty of the stabilization tax adjustment is its automatic flexibility. If the $50 September tax cut were too much, causing interest rates to rise even with adequate money growth, the adjustment would be partly reversed in October—automatically. Normally, these tax changes would be small but frequent—like the hardly noticeable steering-wheel adjustments one makes on an open road, or those by an airplane's automatic pilot.

Congress could demonstrate real fiscal responsibility before the election by cutting September income-tax withholding by $50 and setting up a joint Congress-Administration-Federal Reserve commission to work out precise formulas for the stabilization tax adjustment and appropriate money growth, with full hearings on these next February.

Controlling interest rates by these automatic adjustments would permit the Fed to manage our money supply solely according to the economy's actual need for money—by a systematic formula that everyone could understand and rely on. This would give consumers and businesses more confidence that the economy is really "under control," so they could plan further ahead with less reliance on government and less "risk premium" in their prices, profit margins and wages.

If this stabilization tax adjustment worked for us, other countries would follow. That would facilitate international coordination of economic policies.

Putting the stablization aspect of our economic policy on "automatic pilot" would let us give more attention to the "political" aspects of the budget and the economy and maybe even to longer-run problems.●

CARTER'S REINDUSTRIALIZATION IS A BAND-AID

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. SHUSTER. Mr. Speaker, Mr. Joseph Kraft has written an excellent article entitled "Carter's Industrial Band-Aid," which appeared in the August 26 issue of the Washington Post.

I commend it to my colleagues:

CARTER'S INDUSTRIAL BAND-AID

(By Joseph Kraft)

The more the wraps come off President Carter's plan for industrial renewal, the less it looks like what it was cracked up to be. Certainly it is not an industrial policy, still less a program for reindustrializing America.

Instead, there emerges a bundle of measures to deal with the recession. Since the recession is largely regional, the package adds up to a depressed-areas program.

Industrial policy—to use the term exactly, as one should, given the prevailing confusion and obfuscation—refers to a selective promotion of some industries over others by government. That approach, though practiced in Japan and Western Europe, was never a serious possibility for this country. Administration officials, led by Chairman Charles Schultze of the Council of Economic Advisers, believe that the private sector does a much better job than government in picking winners and losers. Papers prepared for Assistant Secretary of Commerce Jerry Jasinowski show that industrial policy has not even worked particularly well abroad. The French have not been able to promote a computer industry, nor the Germans a strong nuclear power industry. The Japanese have been successful in shipbuilding and steel, but only in a limited way for a limited time. Their greatest successes have come in industries the government did not particularly push.

Reindustrialization refers to measures affecting the whole economy that are designed to rebuild this country's strong competitive position in the world of developed nations. As argued in this column and elsewhere, it envisions tax policies, loan guarantees and other incentives to promote modernization of such basic industries as autos and steel and more rapid advancement of such new industries as data processing and genetic engineering.

In the process, the arthritic nodes that now may make the economy unresponsive to challenge would be reduced or eliminated. To qualify for incentives, management and labor would have to cease inflationary price and wage increases and eliminate wasteful practices. Government would be obliged to make hard trades between environmental quality and economic growth, instead of constantly going for progressively more stringent environmental standards.

Inside the administration, only a handful of officials—Jasinowski at Commerce and Assistant Secretary of Labor Arnold Packer—ever pushed for reindustrialization. Schultze and most of the other leading economists in government felt that the play of politics would inevitably cause this country to sustain losers rather than promote winners. To clinch their argument, the tight budgetary policy adopted in March ruled out any program that would cost more money. So a full-blown reindustrialization policy went by the boards.

What remains is a determination to enlist existing government programs in the cause of fighting the recession. The big new program deals with the energy problem. The windfall profits tax is going to skim billions off oil company revenues. Congress has authorized the use of that money to develop alternate sources of energy and to foster conservation. The administration's economic renewal program would direct that money to the areas most afflicted by the recession.

As it happens, the recession has been highly regional in its impact. Autos, steel, rubber and glass have been the industries most under pressure. They are concentrated in the industrial states of the Middle West—Michigan, Ohio, Illinois, Indiana and Pennsylvania. The basket cases are the older industrial towns.

Inevitably, under the new program, the president is going to be shoving money into Detroit, and Gary, and Youngstown, and Cleveland, and Buffalo.

For my own part, I am disposed to quarrel with the program. It is important to ease the recession. Help should be gotten to needy people in the urban ghettos. And more so, if the money curbs racial tension.

But nobody should be under any illusions as to what is now shaping up. It is a regional aid program, limited in scope and duration. It will not create millions of new jobs. It will not significantly improve this country's ability to compete with other industrial nations. It will not speed up growth or slow down inflation or—most important of all—open the way for faster growth with less inflation. It is an industrial Band-Aid, not the road to a glorious future.●

FAMILY ENTERPRISE ESTATE AND GIFT TAX EQUITY ACT

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. GRASSLEY. Mr. Speaker, I am introducing today the Family Enterprise Estate and Gift Tax Equity Act, a bill which has received extensive consideration in the Senate and deserves the immediate attention of the House. Senators BYRD, WALLOP, and NELSON are the sponsors in the other body and have done an excellent job in solving some of the major estate and gift tax problems of family owned small businesses and farms.

I have made one change in the Senate-introduced bill. S. 2967 provides for an increase from $3,000 to $6,000 for the annual gift exemption for an individual. My bill would increase the annual tax-free gift to $10,000. The Illinois Bar Association recommended this amount in their testimony before the Senate. While this is less than the $14,000 figure that would approximate the effect of inflation on the $3,000 since 1943, $10,000 is a fair compromise.

The other major features of the legislation are:

First. An increase from $175,000 to $500,000 in the amount of property that may pass free of Federal estate and gift taxes.

Second. A provision which exempts from estate and gift taxes all property inherited by or transferred to a spouse.

Third. A simplification of the so-called special-use valuation rule for farms and closely held businesses to take into consideration the problems of those who are disabled, receiving old-age benefits, elderly spouses, minors, and students.

The measure would provide estate tax relief to more than 95 percent of our Nation's family-owned farms and businesses, allowing them to continue their many contributions to the American economy, creating more jobs, advancing technology and innovation, and increasing productivity.

The following is a more indepth analysis provided by the Joint Committee on Taxation:

SEC. 2. CREDIT AGAINST ESTATE TAX

Description of current law

Current law provides for a unified credit for estate and gift tax purposes of $47,000. Only when the sum of estate and gift tax liabilities (determined without regard to this credit) exceeds $47,000, will estate or gift taxes be due. The effect of this credit is to permit transfers of property totaling $175,625, to go untaxed.

Changes the bill would make

The bill would increase the unified credit for estate and gift tax purposes to $155,800. This would permit transfers of property totaling $500,000 to go untaxed.

SEC. 3. UNLIMITED MARITAL DEDUCTION

Description of current law

For estate tax purposes a marital deduction is allowed for qualified interests in property passing to a surviving spouse. The amount of the marital deduction is limited to the greater of $250,000 or 50% of the adjusted gross estate.

A marital deduction is also allowed for gift tax purposes. For gift tax purposes the amount of the marital deduction is equal to (1) 100% of the first $100,000 of gifts; (2) zero for the second $100,000 of gifts; and (3) 50% of the gifts above $200,000.

Changes the bill would make

The bill would permit unlimited marital deductions for estate and gift tax purposes.

SEC. 4. INCREASE IN ANNUAL GIFT TAX EXCLUSION

Description of current law

A person can make gifts of up to $3,000 a year to another person without incurring any gift tax liability. The $3,000 maximum is a limitation with respect to a particular recipient from a particular donor. Therefore, a person can make 10 annual gifts of $3,000 each to 10 people each year (for an annual total of $30,000 of gifts) and still not incur any gift tax liability. Gifts are not eligible for the exclusion if they are for future interests in property.

Changes the bill would make

The bill increases the annual exclusion from $3,000 per year to $10,000 per year.

SEC. 5. CHANGES TO SECTION 2032A OF THE CODE RELATING TO THE VALUATION OF CERTAIN FARM AND OTHER REAL PROPERTY

General background

Current law generally requires that when a person dies, his property is valued at fair market value for purposes of the estate tax. The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of the relevant facts. In determining the price that land would change hands between a willing buyer and a willing seller it is assumed that the price would be based on the highest and best use to which that land could be put rather than its actual use at the time of the decedent's death.

In 1976 Congress added section 2032A to the Code, which provides an exception to this general rule of valuation. It provides that certain real property may be valued based on its actual use rather than its highest and best use. In order to qualify for this treatment the real property must be used for either farming or any other trade or business. In addition the farm or other trade or business must be closely held. In order to be entitled to elect this method of valuation, certain additional requirements must be met. These requirements relate to the portion of the estate which consists of this real property, the extent to which the decedent participated in the business prior to his death and the extent to which his heirs participate in the business after his death.

Specific issues addressed in the bill

1. PROPERTY ELIGIBLE FOR 2032A TREATMENT

Description of current law

Current law provides that in order for real property to be valued based on its use, the decedent (or a member of his family) must have materially participated in operation of the business in which the property was used. This material participation must have occurred in at least 5 out of 8 years immediately preceeding the decedent's death. In determining whether material participation exists the two principal factors used by the IRS are physical work and participation in management decisions.

Changes the bill would make

The bill would make two changes to their rules. First, for persons who at the time of their death were eligible to receive old age benefits under the Social Security Act, or were disabled so as to prevent them from participating in the business, the rules would be modified. For these people the 5 out of 8 year material participation test would be applied with reference to the 8 years immediately preceding the year in which they became eligible for old age benefits or in which they became disabled, rather than the year of their death. The second change concerns farm land used for the growing of trees. With respect to businesses in which this land is used the material participation test would be abandoned in favor of a 10 year active management test. This test would require that the decedent must have actively managed the business during the entire 10 year period prior to his death. The notion of active management refers to a degree of involvement in the business which is less than that required for material participation. It would require the making of management decisions of a business (other than the daily operating decisions).

2. DISPOSITIONS OF PROPERTY

Description of current law

Current law provides that property which is valued under section 2032A must be held by the heirs and used in the business for 15 years after the decedent's death. If this post-death requirement is not met by the heirs, the estate will be required to pay an additional tax.

Changes the bill would make

The bill would change the period after the decedent's death, during which the property must be held and used by the heirs in the business from 15 years to 10 years.

3. FAILURE TO CONTINUE TO USE FOR QUALIFIED USE

Description of current law

Current law provides that the real property which is valued under section 2032A must continue to be used in the farming or other business for 15 years after the decedent's death. This test is not met if at any time during the 15 year period the heirs do not use the real property in the business. The test is also not met if during the 15 year period there is an 8 year period within which the heirs have failed to materially participate in the business for at least 5 years. If this post-death material participation requirement is not satisfied by the heirs, the estate is required to pay an additional tax.

Changes the bill would make

The bill would provide an alternative to the material participation rules for certain heirs. The heirs eligible for this alternative are the decedent's spouse, children under the age of 21, children in school, any heir disabled so as to prevent them from conducting the business, or any heir (otherwise qualified) in the case of property used for the growing of trees. If an heir elects the alternative to the material participation rules, they will be required to actively manage the business for 10 years.

4. MAXIMUM REDUCTION IN VALUE OF ESTATE

Description of current law

Current law provides that the maximum amount by which the value of an estate can be decreased due to the application of section 2032A is $500,000.

Changes the bill would make

Under the bill there is no such limitation.

5. EXCHANGE OF PROPERTY IN A NONTAXABLE TRANSACTION

Description of current law

Under current law, if real property which was valued under section 2032A is sold or exchanged in an otherwise nontaxable transaction to nonfamily members within 15 years of the decedent's death, the estate will be liable for an additional tax. The nontaxable transactions which this applies to are exchanges of property used in a trade or business for other property used in a trade or business (sec. 1031), and the sale of a principal residence and the purchase of a new one. (sec. 1034). There is an exception in current law which provides that if the nontaxable transaction is an involuntary conversion (such as destruction, theft, condemnation, etc.) under section 1033, there will not be an additional tax to the estate if the property is replaced by other real property of at least equal value to be used for the same use. Under this exception, if the value of the replacement property is less than that of the original property, the estate is required to pay a portion of the additional tax. In order for this exception to apply, the estate must make an election.

Changes the bill would make

Under the bill, the disposition of assets under sections 1031 (exchanges of assets used in business activities) and 1034 (sale of a principal residence and purchase of a new one) will not result in an additional estate tax unless cash or assets not used in the business are received. The bill treats these dispositions in manner similar to the current treatment of involuntary conversions. Under the bill this treatment is not elective but mandatory. In addition the bill repeals the election provision for involuntary conversions, and makes it mandatory also.

6. NET SHARE RENTALS

Description of current law

Section 2032A provides for two methods of determining the value of farm land based on its actual use. The more objective of the two tests looks to the average gross cash rental for comparable land (less real property taxes), divided by the interest rate for all new Federal land bank loans. If no comparable land exists, or the executor elects, the second method is used. It is the more subjective method which takes into account a number of considerations.

Proposed Treasury regulations prohibited use of the objective method if the comparable land does not receive cash rentals but instead receives crop shares in lieu of cash.

Changes the bill would make

The bill permits the use of crop share payments in determining value, if there is no comparable land from which gross rentals can be determined. Net share rentals is defined as the value of produce grown on the land and received by the lesser as rent over the associated expenses incurred by the lesser. The bill also provides that in determining the average net share rental, reference shall first be made to data published by the Department of Agriculture, State agencies, or educational institutions. If this information is not available, the net share rentals shall be determined by reference to comparable land located in the locality of the farm.

SEC. 6. TREATMENT OF TRANSFERS MADE WITHIN THREE YEARS OF DECEDENT'S DEATH

Description of current law

If a gift is made within three years of the decedent's death, it is brought back into his estate at its fair market value as of the date of his death, rather than at its fair market value on the date the gift was made. The effect of this is to increase the estate's tax liability for appreciation occurring after the gift was made. An exception to this rule exists for gifts (other than life insurance policies) which are the subject of the $3,000 annual exclusion, which are not brought back into the estate at all.

Changes the bill would make

The bill provides that if property not owned by the decedent is brought back into his estate solely because it was the subject of a gift made within three years of his death, it will be valued on the date the gift was made, not the date of death. If however, a gift is brought back into his estate for other reasons (such as the decedent having a beneficial interest during his life) current law will remain the same and the property will be valued as of the date of death, rather than the date of the gift.

SEC. 7. ELECTION TO PAY GIFT TAX

Description of current law

Under current law, lifetime gift tax liability is first applied against the $47,000 unified credit. When the credit is exhaused, the donor begins to pay gift taxes.

Changes the bill would make

The bill would permit a donor to make an election to defer the credit and pay a gift tax before the credit is exhausted. A donor might make this election to settle any question as to the value of the gift at an early date.

SEC. 8. COORDINATION OF EXTENSIONS OF TIME FOR PAYMENTS OF ESTATE TAX WHERE THE ESTATE CONSISTS LARGELY OF AN INTEREST IN A CLOSELY HELD BUSINESS

Description of current law

Current law contains two major provisions which provide relief to estates which consist largely of an interest in a closely held business. Section 6166 permits an estate to defer the payment of the estate tax on a closely held business for 5 years and thereafter to pay the tax in 10 annual installments. In order to be permitted to elect the payment provisions of section 6166, more than 65% of the adjusted gross estate must consist of an interest in a closely-held business. There are special rules defining a closely-held business. In addition, the first $345,800 of tax liability deferred under section 6166 accrue interest at the rate of 4%.

Section 6166A permits estate taxes to be payed in 10 annual installments. It does not contain a 5 year total deferral as does section 6166 nor is the 4% interest rate provision applicable. In order to be entitled to elect treatment under section 6166A, the value of the closely-held business must exceed either 35% of the value of the gross estate or 50% of the value of the taxable estate. Section 6166A contains a definition of closely held business which differs from that contained in section 6166.

Another provision, section 303, permits an estate to treat property received for the redemption of stock as capital gain rather than dividend. An estate is not entitled to this treatment unless the value of the stock held by the estate (prior to the redemption) exceeds 50% of the adjusted gross estate.

Changes the bill would make

The bill simplifies these sections by eliminating duplicative provisions and making the requirements for eligibility consistent in each instance. Sections 6166 and 6166A are combined into section 6166. An estate will be eligible for treatment under section 6166 if the value of the interest in the closely held business exceeds either 35% of the value of the gross estate or 50% of the value of the taxable estate. Because the two sections are combined, there will be only 1 definition of closely-held business. The one which is used is the one most favorable to the estate. Four percent interest treatment will be available to the first $345,800 of taxes deferred. Any amounts deferred in excess of $345,800 will be eligible for the special interest provision described in section 9.

The bill makes the eligibility requirement for section 303 consistent with section 6166. To quality under section 303 the value of the stock must exceed either 35% of the gross estate or 50% of the taxable estate. The bill would also liberalize the rules relating to the ownership of stock in two or more corporations, in order to make them consistent with the rules in section 6166.●

NATIONAL HISPANIC HERITAGE WEEK

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. PEPPER. Mr. Speaker, I would like to bring to your attention the wording of an invitation I recently received from the White House, to attend the swearing-in ceremony of Richard Rios, who will be the new Director of the Community Services Administration under President Carter.

Note that Hispanic people had been in this hemisphere half a century before the pilgrims landed at Plymouth Rock, that my State of Florida was settled by Hispanic soldiers and citizens in the 16th and 17th centuries, long before the coming of the American forces.

Bernardo de Galvez, who is now the motif of an American stamp, aided revolutionary forces significantly, when he led an exodus of ships under deadly cannon fire from shore. Jose Marti, the father of Cuban democracy, lived here in the United States and helped carry the torch of freedom to his people. But, most importantly, Hispanics permeate the everyday life of our Nation, and contribute in every way to our culture and the great achievements of our country.

I am proud and pleased to have been a cosponsor of bills honoring Bernardo de Galvez and Jose Marti, among other outstanding Hispanic people, and to have been a supporter of National Hispanic Heritage Week, as I will continue to be. You will be interested in the following proclamation by the President.

The proclamation follows:

NATIONAL HISPANIC HERITAGE WEEK

(By the President of the United States of America)

A PROCLAMATION

Hispanic peoples have played a distinguished role in the history of our Nation. They founded settlements in Florida and Georgia half a century before the Pilgrims landed in Massachusetts, and were homesteading in New Mexico more than 150 years before the War of Independence. The names of scores of American cities and towns—such as Los Angeles, Albuquerque, San Antonio, and Saint Augustine—remind us that many of the explorers and settlers who opened our frontiers were of Hispanic origin.

The Hispanic community has given us generals, admirals, philosophers, statesmen, musicians, athletes, and Nobel Prize-winning scientists. Hispanic Americans have contributed gallantly to the defense of our Nation, and many have received the highest decoration our country can bestow—the Congressional Medal of Honor.

Outstanding Hispanic men and women add daily to our Nation's accomplishments in science, technology, the arts, and politics. And Hispanic citizens contribute daily to the quality of our lives. Hispanics exhibit an eminent pride in our American heritage, a passionate love of family, a profound devotion to religion, and an energetic commitment to hard work.

As we enter the 1980s it is fitting that we pause to recognize and celebrate our Hispanic heritage.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby proclaim the week beginning September 14, 1980, as National Hispanic Heritage Week. I call upon Federal, State, and local officials to observe this week with appropriate activities and to search out innovative ways for government to work in partnership with the Hispanic community. Hispanic immigrants were among the earliest and are now among the most recent to arrive in this haven of liberty and human rights, and I urge all Americans to reflect on the invaluable contribution they have made to the greatness, the diversity, and strength of this Nation.

In witness whereof, I have hereunto set my hand this thirty-first day of July in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.●

THE ALL-VOLUNTEER FORCE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. HAMILTON. Mr. Speaker, I recently sent a letter to constituents of mine who had expressed an interest in the combat readiness of the All-Volunteer Force. I insert the letter into the CONGRESSIONAL RECORD for the benefit and use of my colleagues:

Questions about the combat readiness of America's All Volunteer Force (AVF) have been in the news since 1977. The volatile situation in Iran and the Soviet invasion of Afghanistan, however, have focused public attention on those questions more closely than ever before. Is the AVF prepared to do its job, or has it slipped to the point where we can no longer count on it to defend America's interests abroad? The answer we give is of critical importance to our security as a nation. Conventional forces, speedily projected and strongly supported, may stop an aggressor or determine the outcome of a conflict almost anywhere in the world.

Several factors complicate any attempt to assess how prepared the AVF is. Yardsticks that might have been useful in the past are not of much value today because the terms, the tools, and the territories of battle have changed. Our principal adversary, the Soviet Union, has built up its military strength steadily over the past 15 years. The technology of the battlefield is far more sophisticated and destructive than it was just a few years ago. Unrest in the Persian Gulf, Central America, Africa, and Southeast Asia demands that the AVF have a reach extending beyond the tradition regions of American military action. To be a first-rate fighting organization, the AVF must be fully manned, technically trained, well-equipped, and highly mobile.

THE PROBLEMS

Many critics have charged that the AVF is not equal to the tasks it faces. The reasons for the charges are many. The critics cite shortages of manpower in both the active forces and the reserves, low levels of education among recruits, difficulties in retaining experienced commissioned and noncommissioned officers, shortages of equipment, facilities to produce war materiel, and transport, and shrinking numbers of young men and women from which the AVF will draw its future members. Even those who favor the AVF over a force of conscripts see these problems as serious. They are problems which deserve our immediate consideration.

The manpower shortage

From the point of view of the active forces, the manpower shortage has been making itself felt since mid-1976 in all services except the Air Force. From the fall of 1976 through the first few months of 1980, the Department of Defense as a whole has fallen about 3 percent short of its recruitment objectives; 1979 was the first year during which all services, including the Air Force, failed to hit their goals. The worst problem at present is in the Army's ground combat arms.

There are indications that a higher rate of unemployment caused by the recession and a lowering of standards for recruits (especially in the Army) have combined to stabilize the situation at least temporarily, but it is apparent that the trouble may continue. After all, the strength of the active forces has slipped from an authorized level of about 2.1 million in 1977 to just over 2 million today despite downward adjustments in recruitment objectives and a concerted effort to sign up more women. The latest statistics show that the Department of Defense is still short 24,000 soldiers even though it has trimmed its goals by approximately 41,000 over the past three years.

The manpower shortage is far more serious in the reserves. The Selected Reserve, a corps of units trained to fight alongside the active forces in the event of mobilization, now counts some 818,000 among its members, a number 24 percent below the full peacetime requirement. The Selected Reserve has been recovering slowly in 1979 and 1980 due to new educational benefits and enlistment incentives, but it has not been able to make up for the losses it experienced in the years after the Vietnam War.

The ranks of the Individual Ready Reserve are also low. This pool of personnel, consisting of former members of the active forces, is intended both to fill out existing units and to replace battlefield casualties while conscripts are being readied for service. Because tours of active duty tend to be longer than before, and because the active forces are smaller than they were at the height of the Vietnam War, the Individual Ready Reserve has declined significantly to just over 400,000 today, some 300,000 to 500,000 fewer than might be needed to wage a war. The Individual Ready Reserve has been growing very slowly for the past few years, but even with more management attention it will remain too small until 1985.

Without doubt, the manpower shortage is the main reason why many critics believe the AVF to be unready. Our active forces, the first line of defense in a military emergency, are not manned quite as fully as they should be. Our reserve forces, those that would perform key misisons of combat, support, and supply in an extended conflict, are manned at levels that simply would not permit them to do their job well.

The quality of recruits

Closely related to the manpower shortage is the lack of education among many young people who are being accepted into the AVF today. When fewer well-educated young people volunteer, standards are lowered and room is made for the less educated. The lack of education tends to make training more difficult, yet training is more important than ever as weapons and tactics become more complex.

The exact dimensions of the problem are not clear, but statistics on the education of recruits give some indication of them. In the active forces, the number of new recruits who have high school diplomas has been falling since 1978 in all services. For the Department of Defense as a whole in 1980, 58 of 100 new recruits have finished high school; the proportion was 77 of 100 in 1978. The 1980 figures are lowest in the Army: 43 percent, down from 74 percent in 1978. The Selected Reserve fares even worse when the measure of education is taken. For all services, the proportion of high school graduates among young men who are new enlistees is 41 of 100, a sharp decline from the era of the Vietnam War. In 1970, for example, the proportion was 95 of 100. The biggest problem is in the Army Reserve: 30 percent of new male recruits have finished high school, compared to 97 percent in 1970. Fortunately, these statistics on the Selected Reserve have shown modest improvement over the past year or two in most of the services.

The high school diploma, of course, is not the only measure of intelligence and potential performance, but it may be the best one available to the AVF. The reason is that the test to measure the mental ability of new recruits yields faulty results. The Department of Defense has revealed that the number of new enlistees in below-average mental categories has been substantially understated due to widespread cheating and technical defects in the tests themselves. It is possible that the AVF has been taking in up to six times as many of the lowest-quality recruits as previously thought. If so, 30 percent of those volunteering are of the lowest quality. In the Army, the figure is 46 percent. The figures for the AVF overall may be even higher because estimates are not available for previous years.

The retention of experienced personnel

In addition to problems of manpower and education, the AVF is running into another serious obstacle in its effort to defend America: the exodus of experienced commissioned and noncommissioned officers on a scale that is already forcing some cutbacks in normal operations. Especially hard hit are the Navy and the Marine Corps. The retention rate for career Navy personnel, for example, dropped from 92 percent of those eligible in 1973 to 62 percent in 1979. The Navy has 20,000 fewer petty officers than it needs as a result, a fact which demands longer and more frequent tours of duty at sea and makes it difficult for the Navy to man its ships so that they can put to sea on schedule. Comparable figures for the Marine Corps show a drop from 82 percent to 52 percent over the same six-year period. Such a rapid outflow of training, talent, and leadership can only have a negative effect on the men and women who do duty as America's "shock troops." Among all the services, only the Air Force continues to retain its career personnel at acceptable overall rates.

Linked to these low rates of retention are more specialized difficulties that plague all the services. For the foreseeable future, no service will be able to recruit and retain enough physicians. The Air Force, the Navy, and the Marine Corps have had trouble keeping their pilots. The Air Force cannot attract and hold sufficient numbers of engineers. Some consequences of these trends are the loading of too much responsibility onto the shoulders of the experienced people who remain and the assignment of less experienced people to jobs above their rank and training. In a self-perpetuating cycle, these very consequences make career service in the AVF less desirable than alternatives that may be available in civilian life.

Defense analysts point to several factors to explain the problem of retaining career and specialized personnel. One is the possibility of high-paying private employment, which, given the excellent skills of many members of the AVF, persists even when the economy is weak. Another is the dissatisfaction of commissioned and noncommissioned officers with the shortage and lower quality of recruits. Still others are the hardship that career service works on family life and the low esteem accorded the military profession by many Americans in the aftermath of the Vietnam War. By far and away the most important factor, however, is inadequate compensation. Pay caps and inflation have led to a serious erosion in the living standard of military families. Military pay has lagged from 7 percent to 19 percent behind comparable civilian pay since 1973. During the same period, average disposable military income has declined by 11 per cent to 22 per cent. Personnel stationed overseas have seen their finances battered further by the slide of the dollar in relation to many foreign currencies. Moonlighting and dependence on food stamps have become common features of military life. When high-paying, skilled jobs beckon in the private sector, career personnel cannot be blamed for taking them.

Problems of equipment, production, and transport

The AVF is primarily an organization of people, but its people must have the necessary tools if they are to do their job well. Modern warfare requires large quantities of equipment of all kinds, well-placed storage facilities, and the capacity to keep the equipment working. The requirements are great because equipment would be consumed rapidly following the outbreak of hostilities. Such concerns fall under the general heading "logistics".

There has recently been some improvement in the "logistical posture" of the AVF. The problems that remain, however, cannot be ignored. For example, none of the services has adequate pre-positioned stocks of ammunition. Attempts to remedy the situation are being hampered by a lack of storage facilities in forward areas. Petroleum products and the facilities needed to store them are also in short supply. The unstable oil market has pushed reserves even lower over the past year. War reserves in Europe, which include all manner of equipment, are not sufficiently large. It is questionable whether those reserves would carry the AVF through a major European conflict until new equipment could be shipped in. The capacity to maintain equipment is deficient. In the Army, there are too few maintenance units above division level. The Air Force and the Navy do not have enough spare parts for their tactical air wings. Finally, America's industrial preparedness, a factor so important in sustaining the AVF through a lengthy fight, is not up to par. Just one example is the existence of only two foundries in which the turrets of tanks can be cast.

Just as the AVF must be well-equipped, so it must be highly mobile. In future conflicts where its presence might be needed, the AVF will very likely not be able to choose its theater of operations. It will have to go where it is called with sufficient power to meet the challenge of any aggressor. Although military tacticians have always emphasized the virtues of mobility, the conditions of modern warfare make it more probable than ever that the field will be won by those who get there fastest with the greatest force.

The airlift forces of the AVF are formidable by any standard. The backbone of these forces consists of 304 military and 373 civilian aircraft which are available to transport troops, ordnance, and other necessities to distant locations without refueling en route. The problems of the airlift forces are a lack of pre-positioned equipment with which airlifted troops could link up and a limited ability to move cargo. These problems mean that the airlift forces could deliver only lightly supported units to a conflict far from our shores.

The sealift forces of the AVF, slower and more vulnerable to attack but capable of carrying far bigger cargoes, are equally formidable. The Department of Defense itself owns 25 ships and has 35 more under charter. The American merchant fleet has 248 vessels suitable for sealift operations, some 200 of which could be called up for duty at the present time. In addition to these, 149 ships from World War II could be activated to provide extra mobility. By next year, 19 of them will be in a high state of readiness. Like their airborne counterparts, however, the sealift forces face limitations. For example, it is not clear that they could supply the AVF adequately in the European or Korean theaters without assistance from the fleets of allied nations. Also, civilian building of ships with sealift potential is not moving fast enough.

The demographic question

In order to fill its ranks successfully, the AVF must attract recruits from the population of young men and women across the nation. Consequently, the size of this population has a direct bearing on the ability of the AVF to get the people it needs. Since women comprise less than 8 percent of the AVF at present, the demographic question is one concerning young men primarily. Will there be enough young men in the population to make the AVF work in the years to come?

Because the birth rate began to decline in the mid-1960's, the number of young men reaching the age of 18 every year is also declining. From approximately 2.1 million last year, the number will fall by 20 percent to 1.7 million in 1987. At that time, the AVF will be required to sign up 22 percent of all 18-year-old males instead of the 18 percent that must be signed up today. Most experts believe that such a percentage cannot be attained given current policies and practices of recruitment.

THE SOLUTIONS

It is apparent that the AVF is encountering some serious problems, but those problems do not necessarily imply, as some critics have alleged, that the AVF is totally unprepared to defend America from aggressors. Critics of the AVF should recall that when the Soviet Union invaded Afghanistan, the United States, in an effort both to deter further aggression and to protect vital sea lanes, assembled in a matter of weeks the most awesome armada ever to sail the Indian Ocean. Such an accomplishment is not possible for a nation whose armed services are totally unready, nor is it possible for a nation whose fighting forces are second-rate. It seems to me that the key issue can be stated in simple terms: how do we make the AVF as ready as it can be? It also seems to me that there are several steps for us to take.

Raising military pay

Better military pay is perhaps the best way for the AVF to bring its manpower up to full strength, attract more qualified recruits, and retain experienced personnel. Consequently, I support initiatives now underway to increase compensation for the men and women who defend our country. The most significant action to date was taken recently by House and Senate conferees who were meeting to resolve differences on the 1981 defense authorization bill. The conferees included an additional $1 billion for military compensation, enough to provide for an 11.7 percent hike in basic pay and subsistence and quarters allowance, effective October 1. They also included fifteen other provisions relating to pay and benefits, among them increases in enlistment and reenlistment bonuses for active and reserve personnel and increases in per diem allowances. The report submitted by the conferees will soon be sent to the House floor for final consideration. Appropriations committees will make the final decisions on funding.

Improving the quality of recruits

Higher pay for armed forces personnel will undoubtedly bring better recruits into all services in the future. The effect of legislation now pending in Congress may not be felt for some time, however, so House and Senate conferees have chosen to establish mandatory standards for recruiters in the interim. The 1981 defense authorization bill would allow all services to draw only 25 percent of their recruits from the lower mental category during 1981 and 1982. The allowable level would be reduced to 20 percent in 1983 and all years thereafter. In addition, the Army would be able to meet only 35 percent of its recruitment needs in 1981 by signing up young men and women without high school diplomas. Yet another provision of the bill would supply $75 million for a one-year pilot program of increased educational benefits. Such benefits might make military service more attractive to talented people who wish to further their education. As I see it, such restrictions and programs may be helpful temporarily. They will probably continue to be necessary until the quality of recruits improves of its own accord.

Preparing for mobilization

No nation can hope to engage in a full-scale war relying on volunteers alone. To be an effective deterrent, the AVF must be backed up by the nation's capacity to mobilize quickly and completely should war break out. With my support, Congress recently approved the President's standby draft registration proposal to ensure that we could move to the draft without delay in the event of an emergency. Young men born in 1960 and 1961 now have their names and addresses filed in a data bank of the Selective Service System. Eighteen-year-old men will be adding their names and addresses to the file continuously in the months ahead. Although estimates vary as to how much time registration will save in getting men to training camps, it is probably safe to say that we have gained several weeks by avoiding serious interruptions that could have occurred under a plan to register after mobilization. My own view is that registration increases the effectiveness of the AVF as a deterrent and gives us much less reason to reinstate the peacetime draft.

Keeping the forces ready for combat

Funds to keep the AVF ready for combat come from the operations and maintenance category of the defense budget. Greater funding for operations and maintenance may be the fastest way to improve combat readiness because the new money can be used to expand training programs and upgrade equipment in a relatively short period of time. Such funding has climbed dramatically in recent years, and it continues to rise rapidly. The Carter Administration has asked for the authority to spend more than $51 billion for operations and maintenance in 1981, an increase exceeding 35 percent in just two years. That amount would be roughly double the amount spent for operations and maintenance in the period immediately after the Vietnam War. Moreover, operations and maintenance is slated to receive the largest annual increase among all the categories of the defense budget. Congress will very likely approve, and probably add to, the operations and maintenance funding called for by the President. I would support such action.

Deploying the forces rapidly

President Carter has already initiated a program which will permit the AVF to deploy its men and material rapidly in response to emergencies outside Europe and Korea. The so-called "rapid deployment force" is not a new military unit, but rather a composite of existing units that will be specifically organized, trained, and equipped to move with great speed to areas of combat in distant regions. When the force is fully ready, it may consist of more than 100,000 soldiers supported by long-range cargo aircraft and newly-designed cargo ships. Also, it may be able to take advantage of equipment and munitions positioned beforehand in potential trouble spots around the world. Defense analysts calculate that the cost of establishing the force may surpass $10 billion over the next five years, with as much as $1.3 billion being committed to it next year. The ability to deploy rapidly is becoming central to our global defense posture.

Keeping the ranks full

Among possible responses to the long-term problem of demographics, several are receiving attention: recruitment may have to be conducted more aggressively; more women may have to be signed up; manpower may have to be used more efficiently; enlistees may have to be retained for longer periods of service; the age group targeted for recruitment may have to be broadened; the draft may have to be reinstated. Precisely how the problem of too few young men is to be solved will be a matter of intense debate over the next few years. The demographic question, of course, is providing impetus to those who want to reauthorize compulsory military service in peacetime.

I will continue to assess the combat readiness of the AVF in the weeks and months ahead, identifying problems and pushing very hard for workable solutions to them. As in the past, I intend to support every reasonable expenditure to guarantee that the AVF remains second to none among the world's armed services. In my opinion, the defense of the nation from all adversaries must be at the very top of the public agenda.

Please do not hesitate to contact me if you have questions or comments on military affairs. I will do my best to be helpful to you.

With best wishes, I am

Sincerely yours,

LEE H. HAMILTON,
Member of Congress.●

H.R. 7993

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. DODD. Mr. Speaker, today the House will consider H.R. 7998, the Labor-HHS-Education Appropriations bill for fiscal year 1981. Included in this legislation is a section on funding for this winter's low-income energy assistance program. It is imperative that the House oppose any amendments to alter the Appropriation Committee's formula for allocation of energy assistance.

The committee's formula insures that the States in greatest need of assistance receive adequate funds to offset increasing home energy costs and the probability of another cold winter. Expanded eligibility requirements will stretch fuel aid even further this winter, especially in Northeastern and Midwestern States where energy costs as much as 50 percent higher than in other parts of the Nation.

There has been a great deal of criticism of supposed regional bias in the distribution of fuel aid across the Nation. All regions in the country benefit from energy assistance, and warm weather States like Texas can attest to the need for this kind of aid in light of this summer's devastating heat wave. However, any energy assistance formula should take into account that of the 16 million households that use home heating oil, 12 million are in the Northeast and Midwest.

There is a need to distribute the $1.8 billion in energy aid equitably, and that will be accomplished if Congress supports the House Appropriations Committee formula that guarantees that every State will have the funds they need to combat rising energy prices that often cause families to make impossible choices.

The Department of Energy is predicting a 16-percent increase in energy costs over the next year and a 26-percent increase in the price of home heating oil. We must protect the neediest people in our Nation these kinds of cost increases that are beyond their control. Once again, I would urge my colleagues to support the committee bill and the committee formula.●

PROGRESSIVE LIBERALISM

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. CONYERS. Mr. Speaker, many Americans believe that the era of liberal politics has come to an end. Some regard the liberal agenda as out of step with the times. Others are skeptical of its record. My own view is quite the contrary. Liberal values are being tested today more than ever before. Yet it is difficult for me to understand how the Nation can possibly solve its most urgent problems without liberalism.

Our major domestic problems such as rebuilding the industrial economy, achieving full employment, revitalizing urban centers, addressing the needs of minority communities, broadening the base of political participation and creating a truly decent and just multiethnic society cannot possibly be solved without a liberal agenda.

The role of liberalism in the 1980's is the subject of a major analysis by Marcus Raskin that appeared in the May 17, 1980, issue of the Nation. A leading political and social theorist, Mr. Raskin was the founder of the Institute for Policy Studies in Washington and is the author of numerous works, including Being and Doing, the Federal Budget and Social Reconstruction, the Politics of National Security, and the Common Good—to be published next year. I urge my colleagues to read this article on "Progressive Liberalism" that follows.

PROGRESSIVE LIBERALISM FOR THE 1980'S

(By Marcus G. Raskin)

In a recent New York Times Magazine article, the distinguished historian Arthur Schlesinger Jr. correctly points out the importance of liberal thought and action to the development of a decent society in the United States. Schlesinger, however, merely offers a refurbished version of his old "Vital Center," claiming that the liberalism espoused during the cold war by Reinhold Niebuhr and reflected in the legislative programs of Lyndon Johnson can be updated and made popular in the 1980s.

It is my belief that liberalism will have to move to another level of theory and practice. This new liberalism is needed not only to accord with people's aspirations, their need for community, self-expression and economic independence but because it will have a better chance of bringing about a peaceful world. It can do this by renouncing the antipragmatic imperial discipline of geopolitics, which Schlesinger prefers over international law, and by formulating clear policies to deal with an economic system that is out of political and democratic control. The vital center is not the answer. For the right has become the center. And it has no interest in including liberals in it unless they genuflect to those very standards that have left American society in its present grievous condition.

In general terms, liberalism represents the fundamental constitutional purpose of this society: the pursuit of happiness and the establishment of justice for all. And contrary to fashionable belief, it can emerge victorious in the fierce struggle that will be waged in the 1980s between liberalism and conservatism. Nevertheless, a liberal victory will not be easy, for in a time of fear, conservatism sells stability and solidity (the traditional values), even though the contents of its ideological package are fraudulently labeled.

In our time, conservative thought and practice is shot through with antihumanist ideas and beliefs. One recurrent theme is an enthusiasm for discipline and a kind of social repression that forces a cap on people's feelings and thwarts their strivings to expand their sense of personhood. Despite their espousal of liberty in the marketplace and their protests against "bureaucracy" and government, conservatives fear social and political liberty. They believe that there has been too much freedom, spontaneity, permissiveness and new social thinking in the United States. According to them, what the American people need most is a good authoritarian spanking like former Vice President Spiro Agnew used to prescribe.

The mean-spiritedness of conservative American politics has now permeated numerous sectors of the population. Perplexed by inflation and unemployment, but unable to control the corporate system, these people choose to vent their rage on government. They see inefficiency, corruption and futile wars as the fruits of their taxes. The right has learned how to manipulate the frightened, the penurious and the hopeless, as the defeats of Senators Dick Clark in Iowa and Thomas McIntyre in New Hampshire have shown. Whether the issue is the Panama Canal Treaty, abortion, welfare "cheats" or arms limitations agreements, the right has learned how to mold social resentment into conservative vendettas, orchestrated by computerized mailing lists and directed against the modest, humane advances made over the last generation.

As political scientist Alan Wolfe has said, "There is a systematic campaign to reverse the 1960s, to roll back, one by one, every single gain made by progressive and minority groups of that period and to re-establish the status quo ante of 1952 in the United States. Some do not even seem satisfied with this, preferring a more golden age like 1927. Rip Van Winkle woke up to find himself in the future. In the aftermath of Vietnam and Watergate, America is waking up to find itself in the past."

We must ask, how did this happen?

ESTABLISHMENT LIBERALISM

The twentieth century has seen two modes of American liberalism—establishment liberalism and progressive liberalism. To no small degree, the differences between them are most clearly drawn in their views on the economy and the cold war.

From the New Deal onward, virtually all liberals assumed that strong Presidential leadership would serve as a counter-weight to the rich and powerful. Establishment liberalism saw the President as a powerful champion of the people who would do battle with the privileged. The President would embody positive historical forces moving toward social equality and personal freedom within a system of Big Business capitalism. This arrangement was to be predicated upon a "deal." The President's style of liberalism, buttressed by a strong government, would act as the guarantor of the capitalist principle of socializing risk and privatizing gain. In exchange, the business classes, whom Franklin Delano Roosevelt called the "economic royalists," would accept a certain amount of taming through regulation. From the New Deal to the Lockheed Corporation bailout, the government was to serve as the nursing home of capitalism, administering to it lifesaving transfusions from the taxpayer.

This form of liberalism fostered a "partnership" theory of government in which government helped business thrive. People were encouraged to spend and borrow. Government was expected to prime the pump of consumerism. Liberals believed that the way to keep the domestic peace was "to throw money at problems." To pay for these programs, establishment liberals invented deficit financing and accepted a regressive tax structure. Liberals curried support for social welfare legislation in Congress, justifying it not as a matter of people's rights but as a way of keeping people loyal to the "system." The social welfare programs of the 1930s and the antipoverty programs of the 1960s were all promoted in Congress as the way to stop "the unruly classes" from burning down the cities. These Congressional liberals held that more of anything was better, so long as the economic pie kept growing. Borrowing against the future, unbalanced budgets and increasing the national debt were to be seen as positive goods. But by the late 1970s, even the supposedly liberal managers of large corporations made clear to unions and the government that the uneasy partnership between capital and labor was ending. Competition from abroad and the apparent acquiescence of the American public has revived the old-time religion of laissez-faire. According to the conservatives, the market system should be left to work its will, unchecked, as it did in the United States up until the 1930s, as it is doing now in Chile, Brazil and the poor urban areas of the United States: favoring the rich, expanding unemployment and depending upon military force to keep order.

The geopolitical bias of conventional liberalism set off an arms race that has grown to disastrous proportions, encouraged the development of sovereign oligopolistic corporations which the public is exhorted to trust as though they had a "corporate soul," and to endless geometric borrowing that increases the debt structure and generates inflation. The nostrums purveyed by the vital centrists are a human and political disaster. They have increased poverty, class stratification and reliance on an authoritarian police state to keep the poor and the wretched in their place while stifling protests about their plight. The politics of the neoconservatives, ranging from apostate liberals like Nathan Glazer to old-line conservatives like Barry Goldwater, are in the ascendant for the time being in both political parties. The difference between the two parties resembles the difference between Pepsi-Cola and Coca-Cola. The Republican Party may be called the Pepsi Party, since it was Nixon who got Pepsi into the Soviet Union; the Democrats are, perforce, the Coca-Cola Party because Carter paved the way for Coke's entrance into China. The establishment liberalism espoused by an Ed Koch is barely distinguishable from the brand vended by a Pat Moynihan or a Jack Kemp. Conventional liberalism, as exemplified by these men, has lost sight of equity and human needs.

PROGRESSIVE LIBERALISM

But there is another strand of modern liberalism which has been free of historical ties to Big Business capitalism. This is progressive liberalism, and it is liberalisms most vibrant form, suffused with the restless energy of Americans in pursuit of justice and happiness. It always stood for a dual-sector economy of cooperatives, public enterprise and small businesses. It also propounded a noninterventionist and independent foreign policy. Its proponents applauded President Roosevelt when he asked how civilization could be based on reason when it solved human conflict through war and militarism. But they deplored Roosevelt's decision to restore economic pre-eminence to the great banks and corporations during World War II. Progressive liberalism's philosophical roots are in the pragmatism of John Dewey, the politics of Robert LaFollette Sr. and the legal thought of William O. Douglas. It echoes the cry for economic justice that is heard in the works of Eugene Debs, Upton Sinclair, Walter Weyl, Charles Beard, Jane Addams and John L. Lewis, all of whom believed that workers should exercise control over their places of work, and evinced a deep suspicion toward unaccountable wealth privately held, unaccountable government and politicians who led their people into war or on imperial adventures.

Progressive liberalism, as a coherent program and vision, was washed out by the 1940s. By 1949, the left and humanist liberals, those who did not support the cold war or had doubts about the course of capitalism, were blacklisted and thrown out of virtually every institution of American life from the government to the film industry, journalism, unions and universities. And in the early 1950s, establishment liberals such as Hubert Humphrey began championing the national-security state, large defense budgets, covert operations abroad and anti-civil-liberties legislation at home.

After the demise of the New Deal, the failure to organize a national party of the left that challenged successfully the two-party cold-war and Big Business assumptions but was not naively pro-Soviet Union drove political activists to involve themselves in causes and single-issue groups. By the end of the 1950s, those who were not working in government or involved in electoral politics organized around civil rights, consumer rights, student rights, opposition to war and, later, women's rights, gay rights and protection of the environment. They sought answers to their problems in terms of their own immediate needs, interests and particular issues. But throughout the 1960s and 1970s there remained a gnawing perception that single-issue politics was self-defeating. Martin Luther King Jr., who understood the problems of those trapped in the single-issue ghetto, moved his constituencies beyond civil rights into the struggle for economic rights for the poor and working people and into the antiwar movement.

UP AGAINST THE SYSTEM

Then, the Vietnam War touched off a resurgence of progressive liberalism that challenged the objectives of U.S. foreign, military and economic policies. A variety of social movements were united in the belief that institutions also had to be analyzed and transformed where they were faulty. For the first time since the Depression of the 1930s, liberals and activists sought to define and describe the nature of "The System." A younger generation, for whom McCarthyism held no terrors, followed another McCarthy against the war in Indochina.

The antiwar movement was limited in its purpose but slowly broadened its base and began to win over the liberals who supported the cold war and the policies of the great corporations. Each of the Kennedy brothers, for example, began as a conventional liberal dedicated to the national-security state and went on to embrace the tenets of progressive liberalism. Liberals from Americans for Democratic Action who had once favored the Truman guns-and-butter prosperity—indeed, helped develop that policy with Leon Keyserling and Robert Nathan—were, by the early 1970s, questioning this dogma. On the other hand, some cold-war liberals, such as Daniel Patrick Moynihan, moved logically toward conservatism. Many of these new converts were, like Moynihan, one generation removed from the slums and had begun their political odyssey as New Deal liberals. They were proud of their personal upward mobility but they feared the growing demands by women and minorities to enter the labor market on terms of full equality rather than as wards. They became conservatives because they feared—and still do—that they would lose their tenuously held positions on the economic and social ladder.

The social movements that shook the American consciousness from the late 1950s to the 1970s turned the Democratic Party into a battleground of conflicting definitions of liberalism. The emergence of George McGovern in 1972 seemed to unite the various factions that had been immersed in their separate issues, but this union proved premature. McGovern never found a way to talk effectively to labor union members or their leaders. And many of his followers were unable to find common ground with the labor movement on economic issues. While there was respect for labor among the various causes and public-interest groups, neither side had worked out a comprehensive agenda for dealing with the economic and social ills of American life. Nor did either labor or the left adequately gauge the strength of the right, comprehend the rapid decline of the American cities, or adequately understand how much their respective constituencies needed the others. Senator McGovern instead felt impelled to seek support from Wall Street and took an advertisement in The Wall Street Journal praising American Big Business and seemingly pledging his fealty to it.

The defeat of McGovern, a man who early on sensed correctly the innate corruption of Richard Nixon and his men, and his unwillingness to keep hold of the reins of the Democratic Party after his defeat, allowed the Democratic Party to choose a transitional figure as its candidate for President in 1976. In his successful drive for the Presidency, Jimmy Carter indiscriminately raided the ideological refrigerator while serving up the rhetoric of progressive liberalism. He called for substantial cuts in the defense budget and brought the 1976 Democratic convention to its feet when he said in his nominating speech that if this economic system could not bring full employment we had better develop a system that could. He sang "We Shall Overcome," praised populism, called for an end to foolish privilege among the Beverly Hills rich and played baseball with Ralph Nader. He appealed as well to a longing for roots and a yearning for the plain and unostentatious.

But while the packaging was populist and liberal, once he was in power, Carter's programs took a distinctly conservative turn, and now his Coca-Cola politics faces serious challenges from all sides. As Carter seeks to win new constituencies and friends by following conservative economic policies, liberals of all kinds have begun the slow and painstaking task of forming an alliance that would last beyond any single election.

TOWARD A NEW LIBERALISM

In October 1978, Douglas Fraser, president of the United Auto Workers, brought more than 100 labor unions and public-interest groups together in Detroit to talk about an alliance between labor and left-of-center groups. As each separate interest group voiced its needs, priorities and complaints, all those present experienced a growing awareness that so long as each cause and each union remained separate unto itself, it was isolated and lacking in purpose and momentum. They realized that their objectives were actually interdependent. Equal rights meant little without full employment. Full employment meant little if it was to be based on an unnecessary war economy that took the lion's share of the basic resources and talents of the society and fueled inflation. More schools meant nothing if children were harmed by how and what they were taught. What was needed, in short, was a comprehensive program for liberalism in the 1980s.

To formulate such a program, it is first necessary to define the values upon which it is founded. These values must say to the former liberals who have joined the conservative ranks that they should return to their roots, and convince conservatives that the values they now espouse do not conserve civilization but rather hasten its demise.

A special effort should be made to reach the middle class. Those who are fearful of losing their hard-won status should be told that they have been hoodwinked. They must abandon the illusions that have been foisted on them. Prominent among these illusions is the one that says that the American middle class is an independent class. On the contrary, it is a debtor class. Historically, the middle class was defined in terms of ownership of capital, its control over real property. Its status was derived from ownership of property or from a skill and a productive capacity that made a person independent. But in our day most of the people who think of themselves as middle class are salaried and are chronically in debt for consumer goods. Being a debtor class, without capital, they are vulnerable to the whims of creditors and the ups and downs of the economic system. The only way to break free from this dependency is for the middle class to champion values and programs that aim for the common good, which, I might add, does not mean "the vital center."

A CORE OF VALUES

Progressive liberalism seeks a "core of values" that will inform the daily choices made by government, institutions that operate in the public sector, and economic units that affect people's daily lives. These values are fairness, security, cooperation, dignity and participation. They are interrelated.

In a democracy, fairness means stringent limits on personal wealth and the abolition of poverty. Otherwise, political equality and citizenship are myths. If our laws and regulations in the political and economic sphere do not reflect this purpose, there will be increasing class stratification, malaise, decay, mean-spiritedness and inequity in the society. Without a clearly defined standard of fairness—translated into a progressive participatory tax structure, common ownership of natural resources and common tasks—people will not be citizens of one nation and there will be many "other Americas."

Economic security is crucial. It is achieved by formulating governmental and voluntary policies that encourage people to live productive lives freed of the whip of economic necessity. In part, this is accomplished through the adoption of a national-security system and a foreign policy that do not court war, or prepare for war—whether genocidal or limited—and call it peace. In people's daily lives it means the guarantee of creative work at all occupational levels. People should be encouraged to be inventive in their jobs and to engage in the kind of work that contributes to the good of the community as well as the worker. This is achieved by encouraging public-sector investment and democracy in the workplace.

Security cannot be created without cooperation. Cooperation rather than competition and selfishness is the fundament of America's future—a bonding system that rejects the extraordinary class privilege of a Rockefeller or the infantile selfishness preached by Ayn Rand. Cooperation means being responsible for one another as teacher and student, consumer and worker. It means developing technologies that foster participatory democracy in the economic and political system. It is grounded in a sense of individual dignity which sets limits to both governmental and corporate intervention in people's lives. There are rights of personhood which we expect from one another and from government in our social, economic and political intercourse. These rights—freedom of speech, assembly, association, among others—differentiate us from the beasts. Our laws must create the necessary conditions for dignity and respect—one to another, old and young, between the sexes and races, between the stronger and weaker. Finally, we know that these values cannot be accomplished without participation—the people judging and deciding through the political, productive and consuming process. It is the people who must have the sovereign power to assert these values in the political and economic spheres.

The progressive liberal political program starts with the spirit of cooperative responsibility for our own society and the realization that American well-being includes sharing its abundance and technical skill with the world. It means living as one nation among many, without threatening others or interrupting their own social processes. It means an end to the profound disparity between the rich and poor, domestically and internationally.

The objectives of progressive liberalism are easily understood: everyone is entitled to work; individual accumulation is secondary to the development of the common heritage and common wealth; citizenship must now extend to the workplace; we must reconsider and transform our defense policies and international purposes so as to achieve a truly secure society at home.●

APPEAL FOR HUMAN RIGHTS OF VIACHESLAV ROYAK

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. DOUGHERTY. Mr. Speaker, the inhumane treatment and continual harassment of Viacheslav Royak, a Jewish citizen of the U.S.S.R., is a matter of grave concern to me and to all those who support the cause of human rights in the world.

"Slava" Royak, a mathematician, his wife Irana, his two daughters, and Irana's father and aunt were refused the right to emigrate to Israel in July 1977, 7 months after their initial application. Refused on the grounds of "secrecy," Slava's only "crime" seems to be his Jewish heritage. At work he has been threatened and abused, has been denied his premiums of pay, and, under official encouragement, his whole section has turned against him.

In addition, Slava Royak suffers from diabetes. Not only has he been forced to work the night shift from which diabetics are normally excused, but the Soviet Government often substitutes or completely withholds Slava's insulin. This is an intolerable example of disregard for humanity and life.

Mr. Speaker, 31 of my colleagues have joined me in sending the following letter to Chairman Brezhnev of the Soviet Union urging that the exit visa of Viacheslav Royak and his family be approved on humanitarian grounds:

Chairman LEONID BREZHNEV,
Presidium of the Supreme Soviets of the U.S.S.R., Moscow RSFSR, U.S.S.R.

DEAR MR. PRESIDENT: As members of the United States House of Representatives, we are writing to express our distress over the treatment of Viacheslav Royak, whose family has been refused exit visas to Israel.

Viacheslav's basic human rights have been denied in many ways. Besides the denial of his right to emigrate, he has been harassed and abused at work because of his religion.

As a diabetic, Royak's health has also been endangered by the authorities. He has been repeatedly denied his insulin and often given substitutes. He has been forced to work the late night shift which has further deteriorated his condition.

We appeal to you on humanitarian grounds to approve the exit visa of Viacheslav Royak and his family. He has committed no apparent crime in his quest to join his relatives in Israel. In light of his failing health and his rights to join his relatives we urge you to reconsider his application for emigration. You have pledged your support of the Helsinki Accords, which includes the rights denied to the Royaks. This is also an appeal to the leaders of the Soviet Government to abide by the human rights provisions to which you have agreed.

Sincerely,

Charles F. Dougherty, Berkley Bedell, William J. Hughes, Robert T. Matsui, Howard Wolpe, James L. Oberstar, David E. Bonior, Bill Frenzel, Bill Archer, Allen E. Ertel, Robert J. Lagomarsino, John H. Rousselot, Marjorie S. Holt, Sidney R. Yates, William Lehman, Andrew Maguire, Pete Stark, Don Albosta, William M. Brodhead, Norman F. Lent, Robert A. Roe, Hamilton Fish, Jr., Jack F. Kemp, Michael D. Barnes, Mickey Leland, John Edward Porter, Robert W. Edgar, Bill Nichols, Daniel E. Lungren, Vic Fazio, Richard L. Ottinger, and Dale E. Kildee, *Members of Congress.*●

STANISLAUS RIVER AND THE NEW MELONES PROJECT

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. COELHO. Mr. Speaker, as you and many of our colleagues may be aware, hearings on Federal wild and scenic river designation proposals for the Stanislaus River in California and other rivers in this Nation were conducted earlier this week by Chairman PHILLIP BURTON and his Subcommittee on National Parks and Insular Affairs.

Much light was shed on the issue of whether the Stanislaus River should be declared wild and scenic, therefore precluding the filling, and full and intended use of, the New Melones Dam.

I strongly oppose any effort to incorporate the Stanislaus River into the Federal wild and scenic rivers system. To deny the general public the multiple benefits of its $341 million investment—which has already been made—is the height of folly and irresponsibility, and to do so under the guise of environmentalism and preservation of a wild river is sheer duplicity. The Stanislaus is not a wild river. It has been tamed for power generation for decades, and the New Melones project is the 13th project to be constructed on that river.

In my testimony before Chairman BURTON's subcommittee, I noted that even the press, while faithfully chronicling every attempt to kill the New Melones project on its front pages, has handed down the judgment on its editorial pages that it is time to fill the dam. Mr. Speaker, this is true not only of the press in my district, but of the press in San Francisco, Los Angeles, and Sacramento. Time after time, the press has objectively evaluated the issue and urged that the dam be filled for the benefit of the general public, while opposing wild and scenic designation for the Stanislaus which would benefit only a single special-interest group.

I insert into the RECORD a two-part commentary by Managing Editor A. Ray Nish, Jr., of the Modesto Bee. It is an excellent summary of the issue and it notes many of the most important factors my colleagues should be aware of regarding this issue.

The commentary follows:

BACK TO CONGRESS

How is it possible for a small special-interest group—a dozen or so commercial rafting companies—to hold the New Melones Dam and Powerhouse hostage, denying the public the multiple benefits the $351 million project was built to provide?

The "how" in this instance is the same as it always is in the case of special interests prevailing—influence over inside, highly-placed individuals carrying out their mission within the institutions, outside the reach of voters.

The "why" of the continual delays in the filling of New Melones with water—for flood control, irrigation storage, generating electricity, water quality control, recreation—has become rather obvious. The longer the delay, the more business the rafters can develop on a nine-mile stretch of Stanislaus River white water. Had the heavy storm waters of the past winter and spring runoff been stored behind New Melones—completed in 1978—some of the rapids would have been inundated. Most of that water has been lost, contributing to the heavy spring flooding of the delta as it ran out to sea.

After 36 years of planning, public debate and decisions geared to the public's interest, after numerous court decisions and appeals, after the state's voters put the question to rest six years ago, the special-interest group is about to make an end run around the public's will. The group's influence has moved an out-of-the-region congressman to try and sneak through Congress the wild and scenic river designation of that Stanislaus nine-mile stretch which California voters rejected in 1974.

On Capitol Hill, Rep. Phil Burton of San Francisco is credited with having the muscle and methodology for getting his way. He will open an umbrella any day now as Congress edges toward adjournment to campaign for re-election. By parliamentary sleight of hand and drawing upon the support of congressman from other regions and states, he will shake out some goodies and collect the votes needed to pass his omnibus bill.

Fortunately, Reps. Tony Coelho and Norman Shumway are awaiting this move with their own strategy to block the theft of the Stanislaus, and Rep. Harold T. "Bizz" Johnson has blown the whistle on some Interior Department insiders who have been carrying the banner for the dam opponents.

Additionally, since Jimmy Carter has stated he would sign the rivers bill, a group of state legislators and others from this region have reminded the president that California voters already have rejected the proposal in Burton's bill. On the heels of Carter's win against convention delegates trying to shed the mandate of their states' voters, the valley legislators—State Sen. John Garamendi and Assemblymen John Thurman and Norman Waters—put the question to the president: "Should the voters' will always be controlling, or just when convenient?" They asked him to veto any bill which would put the Stanislaus in the wild and scenic rivers system.

Johnson's demand that Interior Secretary Cecil Andrus direct his department's task force to correct its recent New Melones report to Congress focuses on the devious ways of the projects opponents. The report, for distribution to congressmen as background to the legislation, fails to make clear that the dam *already* has been built and fails to inventory its multiple benefits and note the environmental enhancements that have been incorporated into the project. Thus, Johnson points out, the report is inaccurate and useless to congressmen who are unfamiliar with the project and who will be voting on whether Congress shall undo what it has done, starting in 1944.

It is, as Sen. Alan Cranston said in the district last week, time to get on with the management of New Melones services. Noting the California voters' decision of 1974 and the upholding of U.S. District Judge E. Dan Price's June 20 ruling to allow the reservoir's filling to its 2.4 million acre-foot capacity by the Ninth U.S. Circuit Court, Cranston said the water service area should be established immediately so contracts can be signed.

For a project that has been 26 years in development from authorization to completion, further delays might not seem unreasonable to some. However, the opponents' next step is calculated to permanently prevent New Melones from being used as intended. To ignore the multiple benefits, the many environmental pluses of the project and the state voters will in the matter and give exclusivity to the rafters' exploitation of the river would be an unforgivable act by Congress.

WHEN WILL IT END?

After more than three decades of New Melones watching, we feel the Stanislaus River project has been more thoroughly analyzed, debated and revised than any other public project in this region. During that time, one can identify three major phases of public scrutiny which led to public dialogue, public input and improvements to the finished project.

The first came in the late '50s and was the most critical: Should New Melones, authorized by Congress as a flood control and irrigation storage dam in 1944, be built by local or federal agencies? Should it be a small dam or a large one? Public hearings drew healthy debates, with input from valley irrigation districts and government bodies, and proved the merits of the larger multiple-purpose dam over a smaller single-purpose structure. The issue raged several years, ending with President Kennedy's authorization of the multi-purpose New Melones Project in 1962. A smaller dam, in order to provide flood control, would have to be drawn down in volume each year to accommodate anticipated runoffs, eliminating the storage-for-irrigation benefit.

The next came in 1972 with sound environmental questions about upstream losses and downstream quality control needs. Army Engineers Col. James Donovan, in charge of the project's construction, wisely delayed the contract bidding proceedings to permit public input and thorough review of the dam's implications on the Stanislaus and the delta. Working with environmentalists, former Rep. John McFall and Donovan incorporated into the project many enhancements, notably a string of river park sites, access points and water quality measures. This challenge by the environmentalists proved responsible and constructive. Downstream parks now are coming into use and proving attractive to recreationists.

The third major public decision on New Melones came in November 1974, when Friends of the River—a group supported by raft companies, boaters, conservationists, students and others—placed Proposition 17 on the general election ballot. It proposed that the nine-mile section of the Stanislaus be designated wild and scenic and that no flood control structure be built or operated in a manner that would diminish the use of that stretch of the river. The state's voters rejected the proposal by a margin of 315,547 votes; 46 of the state's 58 counties defeated the measure, including densely-populated San Diego, Orange and Los Angeles Counties, from which the rafters drew heavily for their trade.

Thus, over a 20-year period, New Melones has survived penetrating scrutiny and continuing upgrading that has made it a stronger multiple-benefit project.

Now, the commercial rafters are strong oarsmen. Their influence in state and federal resource agencies has been only too evident. One can understand their blind zealousness in the matter.

It would be unconscionable of Congress, however, to seriously consider Rep. Phil Burton's wild and scenic rivers designation bill as long as it contains the Stanislaus River amendment—rejected by California voters in 1974—and especially as long as this country has an energy supply problem, considering the fact that the idle New Melones Powerhouse has a potential electricity production capacity that would save 827,000 barrels of oil a year.

Clearly, U.S. District Judge E. Dean Price's ruling prevails and should be implemented—as Interior Secretary Cecil Andrus has indicated he intends to do, although it is too late this year to benefit from last season's heavy runoffs. The basin's definition should be expedited—water needs hearings were held as long as 20 years ago—and delivery contracts signed. The generators should be fed enough water for full contract testing so they may be turned to power generation. All this can go forward while archaeological field crews complete their essential work.

How long will the public—and Congress—tolerate the tampering of its will by special-interest motivation?

When will it all end?●

HHS REVISED REGULATIONS

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, the much anticipated Department of Health and Human Services revised regulations, "Medicare and Medicaid Programs; Conditions of Participation: Hospitals," as published in the June 20 issue of the Federal Register contain a new rule that could seriously lessen the quality of health care in America. This new rule permits technicians and licensed practical nurses to circulate in the operating room.

Mr. Speaker, this new regulation is yet another example of the lessening of quality that inevitably results when Federal bureaucrats make decisions that should more properly be made by health care professionals who are committed to providing the best health care possible.

I commend two excellent articles to my colleagues that effectively present the case against this new rule: the first is from the Association of Operating Room Nurses Journal of August 1980; the second is an excellent letter to the editor from Lilia Peters, president of the East Central Illinois Chapter of the Association of Operating Room Nurses, that appeared in the Champaign, Ill., News Gazette of July 18.

HHS Publishes Regs To Permit Technicians To Circulate in the OR

It finally happened. The Department of Health and Human Services (HHS) has published the Medicare regulation that would permit technicians and licensed practical (vocational) nurses to circulate in the operating room. It is part of the total revised regulations, "Medicare and Medicaid Programs Conditions of Participation; Hospitals," published June 20 in the Federal Register.

The comment period ends Aug. 19. Although we had anticipated a 90-day period, a 60-day period was specified. This apparently reflects a trend in the government to shorter comment periods.

The regulation itself doesn't contain any surprises. As published in the Federal Register, it states:

Registered nurses, licensed practical (vocational) nurses, and surgical technologist circulators who are educated and trained in surgical (operating room) technology may be permitted to perform circulating duties if so specified in the medical staff bylaws. The circulator must have demonstrated supervisory capability and the knowledge and skills needed to ensure continuity of care and maintenance of a safe and therapeutic environment for the patient. In all cases a registered nurse must be immediately available in the operating suite to respond to emergencies.

The regulations also specify that the operating room service must be supervised by a registered nurse with training, experience, and competence in management of surgical services. This elaborates on the current wording and is supported by AORN.

The term surgical technologist circulator is new, it is defined in the regulations as an individual who:

(1) has successfully completed an educational program for surgical technologist (operating room technicians) that is accredited by the Committee on Allied Health, Education, and Accreditation (CAHEA) of the AMA in cooperation with the Joint Review Committeee on Education for Operating Room Technicians, Inc.; and (2) is certified by the Association of Surgical Technologists.

There are currently 75 accredited surgical technologist programs and about 20,000 certified surgical technologists. One does not have to attend an accredited program to take the examination.

Reflecting the controversy the regulation to circulate has generated the introduction to the regulations note that "a great deal of comment has been received on this proposal . . ." AORN members as well as others have been inundating Washington with letters since the change was first proposed in 1977.

The introduction also cites reasons for revising the Medicare regulations. "Changes in methods of health care delivery, the need to control the increasing cost of hospital care, and the Department's commitment to simplifying HEW regulations are the principal reasons for the proposed revisions." It mentions specifically that existing regulations are unnecessarily restrictive, especially for small, rural hospitals. It also notes that the regulations "recognize training and experience in lieu of purely academic credentialing.

Fact Sheet: Medicare Proposed Rule on Circulators

Text: Registered nurses, licensed practical (vocational) nurses, and surgical technologist circulators who are educated and trained in surgical (operating room) technology may be permitted to perform circulating duties if so specified in the medical staff bylaws. The circulator must have demonstrated supervisory capability and the knowledge and skills needed to ensure continuity of care and maintenance of a safe and therapeutic environment for the patient. In all cases a registered nurse must be immediately available in the operating suite to respond to emergencies.

Citation: HSO-16-P, paragraph 482.41(a)(4) is part of the regulations for hospitals participating in Medicare. Refer to this in your letter.

Who would be covered? In effect, this applies to hospitals certified as Medicare/Medicaid providers who are not accredited by the Joint Commission on Accreditation of Hospitals (JCAH) or the American Osteopathic Association (AOA). There are about 1,400 to 1,500 out of about 6,900 hospitals participating in Medicare/Medicaid. The government accepts JCAH and AOA accreditation in lieu of federal standards.

Whom to write: Address letters to Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17082, Baltimore, Md. 21235.

When to write: During the public comment period, which ends Aug. 19. Comments must be received on or before that date.

Suggestions for letters: Stress facts and avoid generalizations.

Include the date and your name and address.

Include your job title and hospital.

Type your letter.

Be positive—avoid threats and inflammatory language.

Do not send form letters, petitions, or post cards.

Stress facts: Explain how RNs in your hosptial perform nursing functions beyond what LPNs, LVNs and technicians are prepared to perform. Explain how RNs as circulators are cost effective. Explain how RNs in your hospital are involved in preoperative assessments and postoperative evaluations. Explain that patients in small, geographically isolated hospitals are entitled to the same quality of care as patients in larger hospitals.

Patricia Patterson.

In response to the publication of the regulations. AORN immediately sent a letter notifying each member. AORN supports the present wording of the regulation specifying that technicians are not permitted to circulate but may serve as "scrub nurses" under the supervision of a registered professional nurse. AORN has contacted selected Congressmen and notified other health care organizations of the regulations. It is preparing an extensive statement to submit during the comment period.

The battle against the proposed change has been going on for three years. The Health Care Financing Administration, part of the U.S. Department of Health and Human Services (formerly U.S. Department of Health, Education, and Welfare), initially notified AORN and other organizations of its intent to change the regulation in 1977. A meeting in November 1977 in Washington was attended by representatives of AORN, the American Nurses' Association (ANA), the Association of Operating Room Technicians (now Association of Surgical Technologists), practical nursing organizations, the American Medical Association, the American Society of Anesthesiologists, the American College of Surgeons, and the American Hospital Association.

At this meeting, both technicians and licensed practical nurses claimed they currently filed the role of circulator. AORN contended the appropriate role of the technician or practical nurse was to scrub and assist in circulating duties under the direct supervision of the registered nurse. It objected to the wording—"a registered nurse who is readily available to respond in emergencies." AORN asked that the wording be eliminated or changed to state the necessity for the physical presence of an RN in a specific operating room.

In its arguments, HEW contended that small rural hospitals had difficulty staffing the OR with nurses, and the proposed changes were designed "to allow a hospital greater flexibility in the utilization of its staff, equipment, and facilities." The change also reflected a general trend, encouraged by the government, to substitute performance and experience for educational credentials.

A major contention was: What was current practice? Who was really circulating? Of the three hospitals HEW cited as examples of technicians circulating, two denied the practice. In an effort to find the answer, the Health Care Financing Administration (HCFA), in March 1980, sent a survey to all hospitals in the country asking about circulating personnel. AORN alerted hospital administrators and supervisors to the survey in late June, HCFA officials reported a 96% return on the survey and said the final results should be available in mid-July. The questionnaire sent to the hospital asking whether operating room technicians and licensed practical (vocational) nurses were circulating routinely, in emergencies, or in relief situations. It also asked whether hospitals would use technicians and LPNs to circulate if the regulations were changed.

One of the questions constantly raised is whether the Medicare/Medicaid regulations apply to all hospitals or only those hospitals certified under this program rather than the Joint Commission on Accreditation of Hospitals (JCAH). HCFA official Irene Gibson recently elaborated on this. She explained that the federal regulations apply to all hospitals that apply for Medicare. However, the JCAH or the state can choose to promulgate higher standards. Many state licensing regulations require an RN as circulator, and the new JCAH nursing service standards state that the circulator must be an RN but that the "technician may assist in circulating duties under the direct supervision of a qualified registered nurse."

While waiting for publication of the regulations, AORN has communicated with many health care organizations and received official support from the ANA, the American College of Surgeons, and numerous specialty nursing organizations. At its recent convention, the ANA passed a resolution which appears in this issue, endorsing the operating room nurse as circulator. Through its Washington office and state nurses associations, ANA is actively supporting AORN's campaign against the change. The Federation of Specialty Nursing Organizations and ANA sent a Mailgram supporting AORN's position to the U.S. Department of Health and Human Services during its June meeting.

If you haven't written yet, there is still time to comment before Aug. 19. There is no question that the number of responses counts. Despite its survey on circulating, HHS has specifically asked for comments and information on current practices in assignment of licensed practical nurses and technologists to circulating duties and the impact on health and safety of patients. Do you know of incidents where the absence of an RN has had a negative effect on the safety of a patient? How often does this happen? Use facts and figures if you have them.

An important part of the rationale for the technician to circulate is cost savings. It is cited as such in the regulations. In your hospital how are registered nurses cost effective? Do preoperative assessments mean cost savings in planning of supplies and use of equipment? Do nursing care plans mean that care is directed toward specific identified problems? Many OR suites are going to an all-RN staff. What is the rationale, and what data supported this change?

How is quality affected? The introduction to the regulations states that the revisions are intended to hold down costs while maintaining an acceptable level of patient care. What does "acceptable" mean? AORN's philosophy is directed toward quality patient care. What will be the impact of "acceptable" care? Will it jeopardize the health and safety of the patient?

AORN defines circulating as one function of the preoperative role—a role that includes nursing during the preoperative and postoperative phases as well as the intraoperative phase. The role, which is based on the nursing process, includes assessment and evaluation as well as implementation. It goes beyond the functions of circulating. AORN believes a technician does not have the educational background and skills to perform the nursing functions of the preoperative role.

It is not too late to write: Address your comments to Administrator, HHS, Health Care Financing Administration, PO Box 17082, Baltimore, Md. 21235.

In your communication, refer to HSQ-16-P. The reference to the surgical circulator regulation is 482.41 (a) (4). In addition you might want to write to your congressmen in the House of Representatives and Senate. You can write to your senators at the Senate Office Building, Washington, DC 20510, and to your representative at the House Office Building, Washington, DC 20515.

Consumer response is also important. Many chapters had activities planned to inform the public and consumers of the possible impact of the surgical circulator regulation on quality patient care.

Don't expect to see the final regulations published as soon as the comment period is over. Depending on the debate and the nature of the comments, there may or may not be a hearing. Pressure on Congress, which is concerned about how regulations reflect legislation may be a factor. Before final publication, the regulations will again be revised, then travel through the bureaucratic maze—a process that may take months or longer.

But now is the time to make sure your voice is heard in Washington. Operating room nursing is your specialty practice. Protect it now.

ELINOR S SCHRADER,
Editor.

NURSES OPPOSE PROPOSAL

To the Editor: The East Central Illinois Chapter of the Association of Operating Room Nurses is protesting the proposed Medicare-Medicaid regulation that would permit lesser-trained personnel to perform a nursing function for patients having surgery.

This change would lower the quality of care of every surgical patient across the country, according to the Association of Operating Room Nurses, a national professional association representing more than 29,000 nurses.

The regulation published in the Federal Register would permit technicians and licensed practical (vocational) nurses to circulate in the operating room. Traditionally and legally, circulating in surgery is a nursing function. The registered nurse who circulates plans nursing care for the patient in the operating room. During surgery the circulating nurse is responsible for the patient's safety. For patients having surgery under local anesthesia, the circulating nurse monitors such vital functions as the heart, blood pressure, respiration and temperature.

This letter is not to downgrade operating room technicians, they are doing a good job and are needed in the OR. AORN's position is that technicians who are trained to perform technical functions in the OR, such as passing instruments to the surgeons, do not have a broad educational preparation to make nursing decisions and judgments.

The American Nurses' Association, the Federation of Specialty Nursing Organizations, and Individual Specialty Nursing Organization have backed the operating room nurses in their campaign to stop the change in the Medicare-Medicaid regulations. During the 60-day comment period, which ends August 19 nurses across the the U.S. are going to write or send a telegram to the Dept. of Health and Human Services protesting the change, to their respective senators and representatives to have their views known. I urge all nurses, former patients, and health care consumers for support.

Send comments before August 19, to: Administrator, Health Care Financing Administration, Department of Health & Human Services, P.O. Box 17080, Baltimore, MD 21235.

LILIA PETERS,
President, East Central Illinois AORN.●

FUNDING FOR CPB

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Ms. MIKULSKI. Mr. Speaker, this House is about to vote funding for the Corporation for Public Broadcasting. I wish to express my very strong concern for some of the politics advocated by CPB.

For example, this September four of the largest CPB-supported stations will begin issuing a monthly magazine which proclaims to potential advertisers that public television viewers are "the better half—better educated, higher income, more influential."

I find this announcement shocking in an institution which relies on tax dollars, the bulk of which have been collected from less well educated, lower-income taxpayers.

As a member of the communications subcommittee in 1977-78, I was assured by representatives of PBS and CPB that public television was aware of the need to broaden its viewing audience. I was skeptical then and I am even more skeptical now. There is an inherent conflict between public television's mandate to broaden its viewing audience and the commitment to advertisers to deliver the "better half."

This is just one of the serious questions raised by the decision by these CPB stations to use their nonprofit status to compete directly with general interest privately owned magazines. There is serious danger of mingling public funds; of using taxpayer-subsidized institutions to compete with taxpaying businesses.

I urge my colleagues to consider this matter very seriously.●

REORGANIZATION OF OFFICE OF HUMAN DEVELOPMENT

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. GRASSLEY. Mr. Speaker, today in debate on the LHEW bill I raised the point of the illegal reorganization of the Office of Human Development of HHS by Secretary Harris. My remarks referred to a legal opinion by the Congressional Research Service. I would like to make that opinion available to all.

The opinion follows:

To: House Select Committee on Aging.
Attention: Charles Edwards.
From: American Law Division.
Subject: Authority of the Secretary of the Department of Health and Human Services to Approve the Transfer of Functions From the Commissioner On Aging.

I. INTRODUCTION

This memorandum is in response to your request for a legal analysis of the authority of the Secretary of the Department of Health and Human Services to approve the transfer of certain functions of the Commissioner on Aging to an office in the Department which does not report to the Commissioner. The functions in question are "financial management responsibilities," and for purpose of this memorandum we will assume that they are non-policymaking duties. However, even under this assumption, we conclude that the Secretary is precluded from approving such a transfer by Section 201 of the Older Americans Act, 42 U.S.C. § 3011.

As most recently amended, Section 201(a) of the Older Americans Act provides:

There is established in the Office of the Secretary an Administration on Aging (hereinafter in this chapter referred to as the "Administration") which shall be headed by a Commissioner on Aging (hereinafter in this chapter referred to as the "Commissioner"). Except for subchapter V of this chapter the Administration shall be the principal agency for carrying out this chapter. In the performance of his functions, the Commissioner shall be directly responsible to the Office of the Secretary. *The Secretary shall not approve any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner.* (Italics added).

Thus, on its face, this statutory provision appears to be a clear and unambiguous prohibition against the Secretary's approving the delegation of any functions, policymaking or non-policymaking, from the Commissioner to any other officer not directly responsible to the Commissioner.

The Department of Health and Human Services asserts, on the other hand, that the legislative history of a similar prohibition against the delegation of functions from the Commissioner of Rehabilitation Services[1] indicates that the prohibition was not intended to extend to routine administrative services and that therefore such functions may also be delegated from the Commissioner on Aging. In particular the Department refers to Senate Report No. 93-1297, 93rd Cong. 2d Sess. (1974), which states at page 32:

"* * * (T)he clarified language with respect to delegation of functions of H.R. 14225 and this identical original bill does not prohibit the centralized administration of certain routine administrative services by the Department of Health, Education, and Welfare in support of RSA functions and programs in the categories of budget formulation, grant administration, financial administration, and personnel administration. However, it is intended that the RSA Commissioner be responsible for all policy decisions in these four areas and that this policymaking responsibility not be delegated beyond persons directly responsible to him, both at headquarters and at regional offices * * *."

II. ANALYSIS

While the legislative history behind the use of a certain phrase in one statutory provision may provide some insight as to the intent of Congress when that, or a very similar phrase, is used in another statute, one must still establish that the statutory language itself is ambiguous before resort to any legislative history is justified, *United Air Lines, Inc.* v. *McMann*, 434 U.S. 192 (1977). And if legislative history is relied upon, it cannot be used to override the literal meaning of the statutory language, unless such a literal reading would lead to an absurd result or would thwart the obvious purpose of the statute. This point may be illustrated by the recent opinion of the United States Court of Appeals for the District of Columbia Circuit in the case of *National Small Shipments Traffic Conference, Inc.* v. *Civil Aeronautics Board*, No. 78-2163 (Feb. 11, 1980), where the court explains at page 16 of the slip opinion:

"A court interpreting a statute is bound by the 'literal or usual meaning of its words' unless this would lead to '"absurd results * * * or would thwart the obvious purpose of the statute" * * *.' * * * This case does not present an instance in which a literal interpretation of the language leads to an absurd result or conflicts with the obvious purpose of the Act * * *. 'We find no mandate in logic or in case law for reliance on legislative history to reach a result contrary to the plain meaning of a statute, particularly where that plain meaning is in no way unreasonable.'"

In the present case Section 201 of the Older Americans Act appears to be a clear and unambiguous prohibition against the approval, by the Secretary, of *any* of the functions of the Commissioner on Aging, and such a prohibition does not appear to be contrary to the purposes of the Act, which as will be explained in the next section of this paper, includes the establishment of a centralized and highly visible "Administration on Aging." Thus, it appears that resort to legislative history is not appropriate for purposes of interpreting Section 201, and that this Section should be given its plain and clear meaning, which is to prohibit Secretarial approval of any delegation of functions from the Commissioner. But even if resort is made to the legislative history of Section 201 of the Older Americans Act, that history also appears to support this conclusion.

III. LEGISLATIVE HISTORY OF SECTION 201

As noted, Section 201 of the Older Americans Act presently prohibits Secretarial approval of delegations from the Commissioner. However, prior to 1974 such delegations were permitted, if the Secretary first notified Congress and consulted with the appropriate Senate and House Committees. The Senate report associated with the 1974 legislation (Public Law 93-351), explains that the additional restriction upon Secretarial authority to approve delegations from the commissioner was in response to administration plans to transfer certain authorities to regional offices not directly responsible to the Commissioner. As stated at page 8 of the report:[2]

"DELEGATION OF COMMISSIONER'S FUNCTIONS

"Sec. 201(a) of the Older Americans Act assigns responsibility for carrying out the Act to the Administration on Aging, which is headed by the Commissioner on Aging. The Secretary of the Department of Health, Education, and Welfare is authorized to permit the delegation of the Commissioner's functions to officials not directly responsible to the Commissioner so long as the Secretary submits a plan for such delegation to Congress. The delegation becomes effective following sixty days of continuous session after submission of the plan to Congress. The committee amendment to H.R. 11105 repeals the Secretary's authority with respect to such delegation and has the effect of requiring that the functions of the Commissioner be carried out only by him or by officials directly responsible to him.

"For some time the Secretary has been seeking to implement a plan for delegating certain responsibilities for aging programs from the Commissioner on Aging—to whom they are assigned by law—to the HEW Regional Directors in the ten Federal regions. A plan for such a delegation was submitted to Congress on November 5, 1973, but was subsequently revoked by the Secretary, apparently because Congress adjourned prior to expiration of the statutorily-required sixty-day notice period. Thereafter, on March 26, 1974, another plan for delegation from the Commissioner to the Regional Directors was submitted to Congress by the Secretary. If this delegation should be in effect when this bill is enacted, the committee amendment would require the Commissioner to modify the delegation so that none of his functions are delegated except to officers directly responsible to him."

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[1] The prohibition may be found at 29 U.S.C. § 702(a), which states: "* * * The functions of the Commissioner of Rehabilitation Services shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner * * *." This provision was added in the 93rd Congress by Public Law 93-516.

[2] S. Rep. No. 93-932, 93rd Cong. 2d Sess. (1974).

* * * * *

"By affirming the status of the Commissioner as the official responsible for carrying out programs authorized by the Act, and by seeking to enhance the status of the Administration on Aging with HEW, the Congress intended to remedy the fragmentation and lack of centralized purpose that was the case prior to 1973. It was expected that out of this would emerge a national policy for coordinating the delivery of services to the elderly, with responsibility for implementation of this policy to be clearly lodged in an official answerable to Congress.

The proposed delegation to HEW Regional Directors runs directly contrary to these goals of the 1973 legislation. It would again fragment responsibility. Rather than one national policy, we would surely find ten regional policies. And instead of one official clearly answerable to Congress for administration of programs under the Act, there will be a host of officials making decisions who are ultimately not directly responsible to the Commissioner, regardless of all the guidelines and policies he may attempt to impose on them."

* * * * *

During the debate on the floor of the Senate, this proposed restriction upon the powers of the Secretary was opposed by Senator Beall who argued in favor of the Administration's planned delegations: [3]

"I would like to make several * * * points as to why I believe Commissioner Flemming's approach to administering the older Americans program should be given a chance to operate before the Congress intervenes:

"First: The delegated authority "will be exercised pursuant to policies, regulations, and guidelines, promulgated by the Commissioner and subject to post-audit by him."

* * * * *

Later in the debate, Senator Beall commented further: [4]

* * * (*W)e are not talking about delegating authority for making policy. The policymaking decisions and authority for establishing regulations will always remain with the Commissioner here in Washington.* What we are talking about is the flexibility that the Commissioner should have in delegating the administrative responsibility to people at the regional level who are constantly in contact with the Governors of the various states and the mayors of the various cities where these programs are placed. (Italics added)

Senator Beall's characterization of the Administration's planned delegation is directly supported by a letter from the Secretary of H.E.W. to the President of the Senate which was printed, at Senator Beall's request, in the Congressional Record.[5] Thus, one may conclude that the 1974 reorganization plan did not delegate policymaking responsibilities, but only attempted to delegate the authority to act within certain policy guidelines established by the Commissioner, and subject to his post-audit review. Yet Congress felt so strongly in 1974 that this proposed delegation was contrary to the purposes of the Older Americans Act that not only was the plan rejected, but the authority of the Secretary to approve additional plans was eliminated.

Based on this legislative history, it appears that the Congressional intent behind the 1974 amendments to the Older Americans Act was to foreclose all delegations of authority from the Commissioner on Aging to officers who do not report directly to the Commissioner, whether or not these delegations include policymaking responsibilities. This legislative history, being directly associated with the Older Americans Act, would override a contrary legislative history as to the meaning to be given a similar statutory provision in the Rehabilitation Act, at least with regard to the functions of the Commissioner on Aging.

In addition to these arguments, it should be noted that the basic concept of a limitation on the authority of the Secretary to delegate functions from the Commissioner on Aging does not stem from the 1974 amendments to the Older Americans Act, but instead may be traced back to Public Law 93-29, which provided that such delegations had to be first submitted to the Congress at least 60 legislative days prior to their effective date. The legislative history of Public Law 93-29 indicates that its provisions may in turn be traced back to H.R. 15657 which was passed by both Houses of Congress during the 2d Session of the 92nd congress, but which was pocket vetoed by the President.[6] The operative language used in present law, i.e. "The Secretary shall not approve any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner," may be found in Public Law 93-29, and a similar clause was contained in H.R. 15657,[7] with these latter two provisions also containing qualifying language permitting an exception to this prohibition if Congress is given prior notification. The legislative history associated with these two provisions contains no indication that they were to be limited to policymaking functions or that an exception was to be granted for administrative duties.[8]

The legislative history noted by the Department in support of their position that non-policymaking functions may be delegated away from the Commissioner, on the other hand, is based on committee reports issued during the 2d session of the 93rd Congress.[9] Therefore, it appears that congressional consideration and use of the phrase in question limiting the authority of the Secretary to approve a delegation of functions from the Commissioner *antedates* the legislative history cited by the Department. Under these circumstances, it would not appear that the documents cited by the Department may be used as evidence as to the intent of Congress when it passed the language in question in the 2d session of the 92nd Congress, or enacted it into law in the 1st session of the 93rd Congress.

IV. CONCLUSION

Under Section 201 of the Older Amercians Act, the Secretary of the Department of Health and Human Services may not approve the delegation of any functions of the Commissioner on Aging. The Department citing legislative history associated with the Rehabilitation Act amendments of 1974, argues that this limitation does not apply to certain routine administrative non-policymaking functions. However, under well established rules of statutory construction, the legislative history of an enactment is not considered unless the statutory language is ambiguous. The statutory language in this case appears to be clear and unambiguous, and therefore resort to the legislative history does not appear to be justified in this particular instance. Moreover, even if the legislative history of the 1974 amendments to the Older Americans Act is consulted, it does not support the Administration's view. On the contrary, it indicates that the 1974 restrictions were enacted in response to an Administration proposal to delegate certain non-policymaking functions from the Commissioner. Furthermore, this legislative history establishes that the legally operative language in question was not added in 1974, but rather was enacted in the 1st session of the 93rd Congress, and that this legislation incorporated provisions of a bill which passed both Houses of Congress during the 2nd session of the 92nd Congress, but which was pocket vetoed. Therefore, the provision in question antedates the legislative history cited by the Department, and thus this legislative history would not appear to be an accurate indication of Congressional intent with regard to the Older Americans Act. Based on the above factors, we conclude that the limitation contained in Section 201 of the Older Americans Act should be applied to both policymaking and non-policymaking functions of the Commissioner.

RAYMOND NATTER,
Legislative Attorney.●

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[3] 120 *Cong. Rec.* 20002 (1974).

[4] *Id.* at 20003.

[5] *Id.* at 20001.

[6] 118 *Cong. Rec.* 37204 (1972).

[7] The clause in H.R. 15657 stated: "The Commissioner shall not delegate any of his functions to any other officer who is not directly responsible to him . . ."

[8] *See, e.g. H.R. Rep.* No. 92-1203, 92nd Cong. 2d Sess. (1972), which states at page 5: "* * * H.R. 15657 adds language * * * providing that the Commissioner on Aging would be directly responsible to the Secretary and would not be able to delegate *any of his functions* to any other officer who is not directly responsible to him * * * (Italics added).

[9] The Department appears to be relying primarily on Senate Reports 93-1297 and 93-1270, both issued during the 2d session of the 93rd Congress.

MARYKNOLL PRIESTS ARRESTED IN BOLIVIA

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. OTTINGER. Mr. Speaker, I rise today out of serious concern for two Americans who have been arrested in Bolivia. Father John C. Moynihan and Father William Coy are associated with the Maryknoll Mission in Ossining, N.Y. They were detained by Bolivian authorities 2 weeks ago, and are now in the residence of the papal nuncio. If they exit the residence, they fear further intimidation by Bolivian authorities.

Father Moynihan and Father Coy are dedicated to improving the lot of the poor. They have lived in poverty stricken areas in order to help alleviate the most degrading and miserable conditions. They are truly ambassadors of good will, and their only crime was a commitment to humanity and a dedication to decency. Perhaps this devotion is a crime to the repressive authorities in Bolivia. However, to the rest of the free world, this type of commitment is a gift. Clearly the arrest of these men is the result of the violent obliteration of democracy since the July 17 coup.

The new Bolivian regime has embarked on a cruel course involving continuous violations of human rights. Since the coup, the military has made mass arrests and executed political, labor, and religious leaders. According to the Committee in Defense of Democracy, which was formed in La Paz by a variety of political parties, church, and labor organizations to see the Bolivian elections through to a legitimate conclusion, radio stations have been attacked and destroyed, newspapers have been closed down, and entire towns have been attacked by the military. Journalists, both foreign and local, have been detained and mistreated.

In response to these tragic and dangerous developments, and in behalf of Fathers Coy and Moynihan, I am introducing a resolution which would resolve that the President maintain the current severance of military assistance, the curtailment of economic assistance, and refrain from return to normal diplomatic relations with Bolivia, until all American citizens in Bolivia have been offered safe release, a proper assessment has been made of reported Bolivian involvement in drug trafficking, and until human rights and democratic processes have been restored in Bolivia.

I believe that this is an important response to the volatile situation in Bolivia. It is a first step in encouraging Bolivia to return to the road toward respect for human rights and democracy, a road that was tragically sidestepped by the coup on July 17.

I include the text of the bill for the benefit of my colleagues and would welcome cosponsors.

H. RES. —

Resolution providing that the President should continue certain measures which have been taken against the new regime in Bolivia until that regime takes certain corrective actions

Whereas the military regime headed by General Luis Garcia Meza has reportedly interrupted Bolivia's progress toward democracy and constitutional government by forcefully overthrowing a civilian interim government on July 17, 1980;

Whereas the new Bolivian regime has reportedly engaged in mass arrests, torture, repression of civil rights, executions, censorship, religious harassment, and widespread violence inflicted upon the people of Bolivia;

Whereas the Bolivian regime has arrested without charges two American priests from the Maryknoll Mission in Ossining, New York, Father William J. Coy and Father John C. Moynihan, and although these men have been released to the papal nuncio, they fear further harassment if they leave the nuncio's residence;

Whereas the Bolivian regime has reportedly detained and harassed journalists from other countries, including correspondents from the United States;

Whereas the Bolivian regime has reportedly threatened by implication United States citizens in Bolivia;

Whereas the United States Department of State has already taken significant steps against the regime in Bolivia, including terminating military assistance and severely curtailing economic assistance to Bolivia and reducing the official United States presence in La Paz, the capital of Bolivia;

Whereas the United Nations International Labor Organization has asked the Bolivian regime for permission to investigate alleged violations of trade union rights;

Whereas the Bolivian regime is reported to have significant connections with well-established drug traffickers; and

Whereas Amnesty International has estimated that at least 1,000 arrests have been made in Bolivia since July 17, 1980, and has requested that the new Bolivian regime compile and release without delay a list of those persons imprisoned or killed since the regime assumed power on that date: Now, therefore, be it

Resolved, That the President should not reestablish at a normal level an official United States presence in Bolivia, and the President should not furnish any military or economic assistance to Bolivia which has been terminated since the new Bolivian regime assumed power on July 17, 1980, unless the President determines that—

(1) civil and other human rights have been restored to the people of Bolivia;

(2) the Bolivian regime has released all United States citizens in its custody who have been detained for political reasons, and has promised that no reprisals will be taken against such citizens;

(3) the Bolivian regime has restored the democratic process in Bolivia; and

(4) the reported involvement of the new Bolivian regime in international drug conspiracies has been properly assessed.●

GOVERNMENT, HEAL THYSELF

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. PAUL. Mr. Speaker, we certainly should know from the experience of Britain, Canada, and other countries that government-financed and government-controlled health care is costly and leads eventually to the rationing of health care and the loss of individual freedom of choice.

The Republican platform of 1980 cites the American health care system as an example of how Americans have taken care of their own needs with private institutions. It states opposition to socialized medicine and rejected the creation of a national health service and all proposals for compulsory national health insurance.

The Democratic platform of 1980 calls for a comprehensive, universal national health insurance plan. The services which it states should be included read like a laundry list for the ministry of health.

It is important that we learn the lessons of other countries before it is too late. We must avoid a national health care system with all of its problems.

I would like to call the attention of my colleagues to an excellent article on government intrusion in the health care field: "Government, Heal Thyself," by Donald J. Senese which appeared in the July 1980 issue of The Freeman.

GOVERNMENT, HEAL THYSELF

A belief is growing among supporters of free market economics: "There is nothing wrong with the American system of medical care that more governmental intervention could not make worse." As we examine governmental intervention in the health care field, we discover it has inflated health care costs to the patient and has failed to deliver a better medical product. If the advocates of more governmental control have their way, a program such as hospital cost containment or a program of nationalized health insurance (socialized medicine) will skyrocket health care costs, increase bureaucratic regulations, turn medical care into a "public utility" to be dispensed by government, and reduce the quality of health care.

The U.S. government uses the dollars of taxpayers to provide health care to the elderly (Medicare), to aid states via grants to provide aid for the poor (Medicaid), and to subsidize hospital construction (e.g., Hill-Burton). The federal government also operate hospitals to provide care to veterans, merchant seamen, military personnel, and American Indians.[1]

Advocates of government regulation in the health care field maintain that health care is a "unique good" and that the principles of the free market, especially the law of supply and demand, do not apply to it. Since it is "unique," only those wise and all-knowing government bureaucrats are qualified to plan and allocate health resources. These officials demean the free market and promise, through more governmental intervention, better health care services at lower costs. The performance, however, never meets the promises. As governmental regulations increase, a poor medical product is delivered at greater and greater costs to the patient, either directly through higher premiums or indirectly through higher taxes.

The health care field is not immune to the laws of the marketplace. Experience has shown that more governmental intervention leads only to chaos and confusion.

COST CONTAINMENT

The major effort of the current national administration to deal with rising health care costs was by placing government-mandated price restraints on the nation's hospitals. While outwardly rejecting controls for other sectors of the economy, the federal government imposes on one industry its "inflation control" program. Citing hospital costs as rising faster than the Consumer Price Index, these advocates of expanded centralized control would set an amount for cost increases before mandatory federal controls would go into effect.

The proposed solution, by ignoring certain economic facts in the health field, would create more problems than it would solve.

It is a fallacy to compare the hospital cost increases with the rate of increase of the Consumer Price Index. The comparison ignores two important factors in the health care field: (1) the provision of services to a growing population and (2) the growth in "service intensive" costs including capital investment in diagnostic and remedial equipment. The great advances in medical services in the United States such as kidney transplants, cardiac surgery, and coronary care and burn treatment units have come about because the incentive has been available to develop and produce new medical technology. Better and more effective treatment increases the cost of specialized care; such a climate of freedom to develop new medicines and better machines for health care prevents stagnation in the health care field and brings about greater advances for mankind.

The United States devotes about nine percent of its Gross National Product to health care, a percentage similar to that of other countries like Germany, Sweden, and the Netherlands.[2] Despite the claims of some politicians that the poor in the United States do not receive adequate health care, Dr. Harry Schwartz of the research depart-

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Footnote at end of article.

ment of the Department of Surgery at the Columbia University College of Physicians and Surgeons has documented that the poor in the U.S. get on the average at least as much medical care from physicians in hospitals as do those in higher income groups.[3]

REGULATORY MEASURES

Restrictions on costs in patient care and on development of new health care equipment can lead to a rationing of health care. This rationing will place the best interest of free people secondary to the cost policies of government bureaucrats.

Even in the hospitals where waste and inefficiencies exist, government-mandated controls will only have a limited effect because relative cost cuts will look impressive on the surface. It will be the efficient and cost-conscious hospitals which will be forced to cut costs to meet governmental guidelines—and the area for the quickest cost cutting will be in the area of serving patients.

A large measure of the health cost increases comes not from deficiencies in the free market but as a direct result of governmental controls. Personnel costs occupy a significant part of a hospital's budget, and government-mandated increases in the minimum wage have significantly increased costs in the hospital industry. Increasing governmental regulations through Medicare and Medicaid have placed additional costs on hospitals through an abundance of new regulations. A two-year study by the Hospital Association of New York State revealed that government regulation was a major factor in increasing health costs. This study, focusing on hospitals in the State of New York, estimated that twenty-five percent of hospital costs were attributable to meeting government regulatory requirements at an annual cost of one hundred fifteen million man hours or over one billion dollars per year! The report noted that each of four hospital departments (administration, personnel, social services, and utilization review) devote over fifty percent of their costs to complying with government-ordered regulations.[4]

ADDITIONAL GOVERNMENT CONTROLS

A careful examination of the health care industry shows a myriad of government controls which hamper the operation of the free market in medical care—and drive up costs for the consumers.

The federal government adopted the certificate-of-need program as a control mechanism to prevent hospitals from putting resources into "excessive investment" in health care facilities. The passage of Public Law 93-641 in 1974 required states to establish certificate-of-need programs in order to qualify for federal subsidies for health planning and other federal grant programs. What has been the result of this government cost control program? The program did not reduce the total dollars for hospital investment but merely changed the direction from investing in hospital beds to investments in more sophisticated medical equipment. In addition, the certificate-of-need program failed to reduce substantially the rise in hospital costs per capita and to bring about any significant savings in health care costs.[5]

Government intervention in the medical market place brings decisions by government bureaucrats rather than medical experts. These government bureaucrats have added non-health criteria before even granting the certificates-of-need. In the District of Columbia, a private nonprofit hospital received approval for a renovation and modernization project only on the condition it would change the sexual and racial composition of its governing body. In New Jersey, an attempt was made to coerce a certificate-of-need applicant to allow an outside organization to select members of its governing body. In Colorado, a hospital was told its certificate-of-need would be granted only if the applicant reduced its number of obstetric and pediatric beds.[6] All of these examples, as well as others, show that the certificate-of-need program has been used by government bureaucrats to do certain things which are unrelated to the original purposes of the program. These bureaucrats practice political medicine by imposing arbitrary and unfair requirements on those hospitals which seek renovation, modernization, or additional facilities.

PROFESSIONAL STANDARDS REVIEW

Another government-promoted cost containment proposal led to the adoption of the Professional Standards Review Organization (PSRO) as part of Public Law 92-603 in 1972. The promoters of this reform sought to reduce unnecessary medical procedures while minimizing the length of stay in hospitals; they sought to encourage the use of outpatient and extended care facilities. The omnipotent government regulators aimed to accomplish this objective through a detailed review procedure in implementing the PSRO. However, studies by the institute of Medicine and medical procedure experts concluded that PSROs had not appreciably reduced costs or brought about a significant improvement in the quality of care. In fact, the limited amount of savings appeared insufficient to cover the cost of the review process.[7] Even government promoted tax incentives to employers to encourage individuals to buy health insurance policies have had the effect of promoting the buying of packages of health insurance without any careful analysis of needs or costs since the program is government subsidized.

During the very time a major effort was underway to promote the adoption of a hospital cost containment program, another branch of the Health, Education and Welfare complex issued preliminary regulations for a new government regulatory measure—SHUR (System for Hospital Uniform Reporting) program. This totally new government-mandated method of keeping hospital records would have greatly increased administrative costs for all hospitals.

The other attempts to interfere with the free market in health care to contain costs have all been failures resulting in more regulations, additional costs, and a threat to the quality of medical care. It is assured that any hospital cost containment program will bring the same failure. One Congressman, Representative David E. Satterfield III of Virginia, predicted the failure of such a measure to his colleagues during debate on the bill on the floor of the U.S. House of Representatives.

It is not a bill which would contain hospital costs. It is a hospital revenue control bill, and the real growth in hospital revenues is not due to inflation. The only savings [this bill] could achieve would be through reduction in the amount and quality of hospital care made available to the American people.[8]

THE INTERVENTION RECORD

Those advocates of increased government power over the health field prefer to ignore the lack of accomplishment and the new problems such intervention brings.

Voluntary efforts by the hospital industry succeeded in limiting the increases in health costs—a decrease from 15.6 per cent in 1977 to 13 per cent in 1978 and 13.4 per cent in 1979. Yet, the hospitals operated by the federal government experienced in 1977 a cost increase of between 19 and 22 per cent.

The federal government has a poor record in estimating and controlling costs even in programs it directly controls The Department of Health, Education and Welfare estimated that the cost for Medicare hospitalization for the first year would be less than one billion dollars. The actual cost was three billion four hundred million dollars—more than three times the original estimated cost. The tenth year cost estimate was $1.7 billion but actually was $12.6 billion, or seven times the original estimate. The cost for Medicaid in 1977 was $17.1 billion or more than sixteen times the original estimate.[9] Viewing the Fiscal Year 1981 budget, the estimated outlays for Medicare are $37.3 billion and $15.9 billion for Medicaid.[10]

The evidence of experience with centralized medical systems such as those of Canada and Great Britain should be a lesson for Americans. While eliminating the price barrier by a government controlled system, the government has caused the following long-term results: a net reduction of resources channeled to health care, an increase in the maldistribution of doctors, no new doctors produced, and no new hospitals built or even financed.[11] The lessons are clear that further intervention will increase not decrease, health care problems J. Enoch Powell, who served the British government as Minister of Health for three years, has pointed out that under a government controlled medical system where demand is unlimited and where medical care is "free," there has to be a method to squeeze demand to equal supply:

In brutal simplicity, it has to be rationed; and to understand the methods of rationing is also essential for understanding Medicine and Politics. The task is not made easier by the political convention that the existence of any rationing at all must be strenuously denied. The public are encouraged to believe that rationing in medical care is immoral and repugnant. Consequently when they, and the medical profession too, come face to face in practice with the various forms of rationing to which the National Health Service must resort, the usual result is bewilderment, frustration and irritation.[12]

He noted that the people desiring medical care are put on the waiting list. If they are on long enough, they will die, usually from some cause other than that for which they joined the line. Or, they "frequently get bored or better, and vanish."[13]

CONCLUSION

Government attempts to intervene further in the health field will erode the quality of medical care and will substitute bureaucratic decisions which should be made by health experts in the market place. Cost containment will result in "price control," leading to a rationing of health care. Considering the past record of governmental intervention in the health (and other) fields, the results will be negative and individual choice will be narrowed as the power of government is expanded in the decision-making process. Controls will not curb inflation or bring beneficial results to the U.S. economy; the prospect of failure is the same even if they are only applied to the hospital industry.

Emphasis needs to be placed on expanding the opportunity for competition in the health care field, not expanding government controls. The free market solution is to increase competition through such initiatives as certification of health providers rather than occupational licensure, repeal of fair practice laws, more advertising of services, and greater use (and direct reimbursement) of health professionals (e.g., nurse practitioners) and emphasis on preventive care and the individual's responsibility to maintain his or her own health.[14] When government administrators come forth with a complex set of interventionist measures to "solve" the government-created health care crisis, advocates of freedom need to resist and give these government planners the admonition: "Government, heal thyself."

FOOTNOTES

[1] H. E. Frech III and Paul B. Ginsburg, *Public Insurance in Private Medical Markets: Some Problems of National Health Insurance*, Washington, D.C.: American Enterprise Institute for Public Policy Research, 1975, p. 1.

[2] Jack A. Meyer, *Health Care Cost Increases*, Washington, D.C.: American Enterprise Institute for Public Policy Research, 1979, p. 9.

[3] "The Health Care Myth," *Indianapolis News* (editorial), March 2, 1980.

[4] John D. Lofton, Jr., "How Government Inflates Your Health Costs," *Conservative Digest* (February, 1979), p. 39.

[5] David S. Salkever and Thomas W. Bice, *Hospital Certificate-of-Need Controls: Impact on Investment Costs and Use*, Washington, D.C.: American Enterprise Institute for Public Policy Research, 1979, pp. 4, 75.

[6] Representative David E. Satterfield III, *Congressional Record*, July 19, 1979, H6235-H6236.

[7] "A Policy Analysis of Hospital Cost Containment Programs," Center for Health Services and Policy Research, Northwestern University, Evanston, Illinois, 1978, p. 7.

[8] Representative David E. Satterfield III, *Congressional Record*, November 15, 1979, H10821.

[9] "Nationalized Catastrophic Health Insurance is a Trap," Association of American Physicians and Surgeons, Inc., p. 12.

[10] *The United States Budget in Brief, Fiscal Year 1981*, Washington, D.C.: Government Printing Office 1980, p. 48.

[11] Cotton M. Lindsay and Arthur Seldon, "More Evidence on Britain and Canada," in Cotton M. Lindsay (editor), *New Directions in Public Health: A Prescription for the 1980's*, San Francisco, California: Institute for Contemporary Studies, 1980, Third Edition, p. 76.

[12] J. Enoch Powell, *Medicine and Politics: 1975 and After*, London, England: Pittman Medical Publishing Ltd., 1976, pp. 37-38.

[13] *Ibid.*, p. 39.

[14] Rita Ricardo Campbell, "Your Health and the Government," in Peter Duignan and Alvin Rabushka, *The United States in the 1980's*, Stanford, California: Hoover Institution, 1980, pp. 300-337.

ARGUMENTS AGAINST SOCIALIZED MEDICINE

It is a mistake for the government to consider the problems of the sick apart from those of society as a whole. . . . The broader problem is, in a moral sense, one of promoting respect for the individual and the furtherance of initiative and self-providence; in an economic sense, one of increasing production for the benefit of *all* citizens; and in a political sense, one of removing government as a battlefield for special favor and substituting cohesion and solidarity for division and disintegration.—Darryl W. Johnson, Jr.●

THE TRAGEDY OF CYSTIC FIBROSIS

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. BRINKLEY. Mr. Speaker, I have the honor to share with you and my colleagues one of the most moving letters I have received in my 14 years in Congress. It comes from a family which has lost a loving child to the ravages of disease—but it speaks for untold numbers of families that even now experience this same pain.

Mr. Speaker, sometimes the quality and the faith of our constituents makes us feel inadequate to fully represent their needs. This is one of those times for me.

May we read and reread this eloquent letter and may it make a difference in our lives and the quality of our work. In that way, young Ricky and other children like him will not have died in vain.

The letter follows:

WARNER ROBINS, GA.,
August 25, 1980.

Congressman JACK BRINKLEY,
Rayburn House Office Building,
Washington, D.C.

DEAR MR. BRINKLEY: I just wanted to let you know that Ricky passed away, July 28. He had been in the hospital for 2 months. He was very brave and never complained or cried. He went to sleep in my arms and woke up in the arms of Jesus who made him whole. The letters and gifts you sent him made him feel very important. He told everyone you called him. He even took your letters to school for show and tell. He was only 8 years old.

Please continue to help pass all bills before Congress to help with Cystic Fibrosis. This is a disease that kills children. People do not realize how serious it is. The emotional strain is bad enough, but the financial strain makes it even worse. The 2 months Ricky was sick was very expensive. We're fortunate enough to have good hospitalization. A lot of C.F. parents do not. My husband and I still had to pay for parking, 3 meals, and television. It got very expensive. We need your help with the bills that come through Congress. Please continue helping us. Every 5 hours a child is born with C.F. Every 8 hours, one dies.

Thank you again for the time you took to keep in touch. Ricky was proud to call you his friend and we are too.

Love in Christ,

LARRY, SANDRA, AND
STACEY THRASH.●

FREE BAILEY AND WHITE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. DORNAN. Mr. Speaker, two Americans are currently serving 24-year sentences in Communist Cuba.

On May 26, 1979, Mr. Melvin Lee Bailey and Mr. Thomas White flew over Cuba and dropped literature in defense of the Gospel. For this incident, they were arrested and kept in solitary confinement for several months before they were even charged with a crime. They were then brought before a magistrate and summarily sentenced without the semblance of due process of law.

Bailey and White are proponents of Christianity, not of any political system. They did not advocate the overthrow of the Castro government, and their continued apprehension is an affront to their universally recognized freedom of expression and religious liberty. I submit their joint letter, written last November, for the RECORD.

JOINT COMMUNIQUÉ—MELVIN BAILEY, WALTER WHITE, HAVANA, CUBA

[Note.—Melvin Lee Bailey and Walter Thomas White are two Americans who are serving a 24-year prison sentence at Combinado Del Este Prison, Havana, Cuba for distributing Christian literature. They are from Newport News, VA. and Glendale, CA., respectively.]

On the evening of May 26 at 7:45 p.m. Piper Cherokee, N5580J left Nassau Bahamas enroute for Montego Bay, Jamaica. The instrument flight plan had been registered in advance with Cuba for crossing. Nassau control turned us over to Miami Center who left us talking with Havana Center. We entered the established air corridor, the "Maya" crossing in constant communcation with and permission from Cuban authorities. I, Thomas White, began dumping Christian Literature out of the rear door as pilot, Melvin Bailey, flew the plane. Thousands of laminated tracts poured out of the plane and caught in a strong crosswind, floated down over several Cuban townships.

The theme of the tract was life after death. It proclaimed that neither Marxism nor capitalism offered the eternal hope that Jesus Christ offers. It did not advocate military, political or economic change. It did speak of the change that love, hope and sacrifice of Jesus could bring to the soul. Just as the gospel presentation was adapted differently to Jews, Romans and Greeks, so we introduced it especially to Marxists. The Cuban Constitution guarantees freedom of religion—Cuban reality guarantees oppression.

All literature was dropped over the corridor and we exited exactly at the southern radio beacon check point, on course for Jamaica. Over international waters, we entered a storm. Our navigation aids then functioned poorly. Jamaica had no radar. Montego Bay flashed the runway lights but we could not see them. We ran short of fuel and headed for some coastal lights to our left. Mel put out a mayday distress call as we made four passes over a coastal highway, the engine quitting three times on dry tanks. (We learned later that the U.S. Coast Guard heard the message.) About one a.m. on May 27 we landed hitting a waiting dump truck whose driver refused to get out of the way. The plane was totally destroyed but no one was even scratched. We were in Manzanillo, Cuba.

Some literature was found hanging on the tail so we were flown to Havana the same day. Handcuffed upon arrival we were taken to solitary confinement at the headquarters of G-2, the Cuban intellingence apparatus called "Internal Security". This organization makes sure that every person in Cuba is idealogically "secure". We had separate cells for three months, no trial, no lawyer, no communication, light bulb 24 hours a day, roaches, heat and a big solid steel door which would occasionally be struck. We were accused of being C.I.A.

My interrogation was lengthy. I was threatened to be beaten with a baseball bat and also had my food taken away at times. A few months before the flight, I had stomach surgery for cancer; now I was told my face was turning yellow (I had no mirror). I was told my family thinks I am dead and constantly had the names of my children mentioned to me. "Our religion is three times stronger than yours," they said. They flew into a rage when finding a cross made from two mop strings in my room and said "the United States will pay thousands for this". I felt sorry for them because they didn't realize that the blood of Jesus, shed for them, is priceless. They refused to believe that many Christians supported my employers—Jesus to the communist world.

But maintained that the C.I.A. controlled all religious missions like ours. The idea that love and compassion motivated us to make this trip was totally foreign to them, as they were immersed in their philosophy of Marxist hatred.

After two weeks of this light interrogation, in mid-June I had a black hood tied over my head, my arms handcuffed behind me and about midnight was taken outside, and thrown in a car. I was driven to another prison (actually the same building) with two men mashing me to the floor with their feet. Entering a different door, I was made to crawl, squat and jump, splashing in a wet cold hall. I was thrown into a totally dark cell with a large vent above the door, one-third open, blowing cold air into the room. The next week I got little sleep kicking the bed to stay warm, with no covers. I crawled, always with the hood, to a new interrogation room. When I told my same interrogator, Captain Antonio Santos, that I was praying for him, he nervously began wearing sunglasses so I could not see his eyes. He finally called in his muscle-man the major, who had me taken to a much colder cell, still wanting a C.I.A. confession.

This room was intensely cold with a fully open vent blowing my hair and clothes. I pulled my sleeveless, thin overalls over my head but with no underclothes it was useless. I couldn't bear to sit on the floor or touch the wall and had no bed or chair. I was in this blackness a few days and nights, sinking to the floor when my legs quit. I tried to stay warm by singing everything from "Jesus Loves Me" to "A Mighty Fortress." My body did not warm but my spirit surely did! The major stood outside saying "think-Thomas-think." I just kept singing, swinging my "sword." I was taken out twice, shown a blanket and put back in without it for a longer time. My voice gave out; the air kept pouring in. I was filthy, unshaven skinny and exhausted. I asked God to let me die. He thankfully had other plans.

The C.I.A. accusations were dropped. I answered questions about books, and films and what countries our christian missions were in—all public knowledge. I was back in the less cold room for a week, which now seemed warm. By comparing literature they learned that I had made another legal crossing over a different corridor, December of 1978, and a successful boat trip off their coast (international waters) dumping literature while a school teacher in 1973, satisfied that I am no super-spy or big organizer they moved me back to the third floor after another ridiculous "trip" in their car.

Mel had been suffering in his small cell from the heat with a skin infection and a rash. Mel is from the temperate zone and not used to the tropics. We both had dysentery. His interrogations concerned Vietnam, racial prejudice, politics and economics. After another week of questioning, I saw Mel on the night of July 3 as we arrived in separate cars to a television studio in Havana. He said my skin was deathly pale and my eyes were dark and sunk deep into my head. (I still had not seen a mirror). I was supposed to talk to their reporters or get 20 years in prison. Mel was told his future depended on what he said.

The "reporters" were stooges sitting in the studio. We were going to be taped and filmed concerning religious freedom in Cuba, never having seen a church or talked to a citizen. The questions were written previously by my interrogators. The answers had been rehearsed many times, so there was no free exchange. The U.S. was once criticized as having a plastic society, well, those who believe, they ought to compare it with a communist canned society. Plastic is a luxury.

Questions were asked over and over until two o'clock in the morning. I answered as diplomatically as possible, remembering threats of ice water baths, cancer, and 20 years in prison. We were given tea with lots of sugar to keep us going. Still they were not satisfied with our answers and stopped the interivew.

On Sunday, July 8, we had a two-hour tour of the churches of Havana, courtesy of the security police rarely leaving our separate automobiles. Their religious freedom trip was poorly planned if planned at all. The first church was an enormous Catholic cathedral near the ocean in West Havana. There were iron bars welded across the windows, entrance, and sidewalk with no gate. A side gate had been opened after we passed it and turned around. "It must not be time for the mass" Captain Santos said with a straight face, then angrily spoke to the perplexed driver. Mels police in his car said the church was open. Then the cars went back down the road to the "right" church. There were six or seven people inside and a policeman standing across the street watching the people go in. I had lost my glasses in the plane crash—the captain refused to give me more. "Wow, the church is full!" he said excitedly. Mel confirmed later that the church was nearly empty. We saw two more Catholic churches with about 20 people in each. One was a historical monument open for tourists who were taking pictures.

We went to see a Baptist church. "There are 56 Baptist churches in Havana," Captain Santos said earlier. He probably obtained this figure from the Russians—his bosses. Russians also claim 56 Baptist churches in Moscow. The captain cannot even lie creatively. We passed many prominent buildings on corners with chained gates. All had stained glass windows, large entrance ways and vaulted roofs—churches? The Baptist church sign had fallen off except for the missionary name of W. Carey on it. Again, we were not allowed out of our cars. I saw only two people in the building. Mel saw three. There was a stairway built in the middle of the former sanctuary. During the "service" a woman entered the building with some sacks and walked upstairs. It was an apartment house! The special tour was indeed poorly planned. The captain was so embarrassed he smiled awkwardly and said "It's big enough to be an apartment house". Mel later said the same.

The cars were lost several times. The Adventist church was closed naturally, as their services are held on Saturday. But, steel plates were welded over the doors and windows. A large lock was placed through the only opening on the door. I am thankful for Mels extra sharp pilots' eyes. I could see few of these finer details with no glasses. We were told there were many Pentecostal churches all over Havana, but never saw one even though they promised to show us one.

On July 9, back in the television studio, we admitted to having seen some churches but tried to be as non-committal as possible. I tried to interject various statements of faith but was cut short by the director. The major said if I mentioned Jesus again they would put my head under ice; I did and he did not. Melvin said that he felt that God had sent him on this trip. This made them mad. I felt at times as if I was in a vise. I had read for years of such pressure on christians in communist countries but experiencing them was something new.

We finally met with U.S. officials in August but were allowed to say very little. The last of August we left solitary and were moved to a new "Show Prison", Combinado del este, near Havana, and put in an international wing with over 20 other Americans. Many older, ugly prisons, such as La Cabaña, are still in use, full. Here in Combinado we encounter prisoners like Captain Bill Dawson and crew, Austin Householder and Douglas Miklos, who had their shrimp boat confiscated (piracy) in international waters, headed south. Robert Bennet and Walter Clark's plane accidentally grazed Cuban airspace after an equipment malfunction and were forced down by two migs. At present date we have heard that 12 new American arrivals are under interrogation including 4 women. We have also met Cuban pastors, such as Nobel Alexander, and christians of all denominations here.

We went to trial on October 25 after five months of interrogation and imprisonment. Our lady lawyer whom we never met, walked over to captain Santos and straightened his coat, saluting him affectionately. She asked us four questions: "How old are you? Are you married? Do you have children? What is your occupation?" That was our entire defense. Then the prosecutor and G-Z captain Santos had the next hour or so. The five judges relaxed; two of them actually dozed—incredible. This was not a comedy. It was real. A real joke.

I explained to the prosecutor that the issue was not political but spiritual, one of life after death. (I speak Spanish). He made jokes about Angels and Saints and tried to interrupt my answers. He finally launched into a tirade about Vietnam, Chile, and the C.I.A.

Mel was a helicopter test pilot in vietnam—a former captain, U.S. Army—and served also in Korea. He was questioned and lashed at for his experiences of ten years ago! He mentioned again that he felt that God had sent him on this trip. He received sarcastic, patronizing smiles. Captain Santos called him a fanatic. The entire time a guard with an AKM assault rifle stood behind us.

The prosecutor originally asked for a 12 year sentence, but we received 24 years each. There is no Cuban law against the dissemination of literature. To make such a law would show the world what a restrictive system communism is. Rather, there is a broad, moral-sounding "social defense code" which, like an octopus, attaches itself to any desirable thing passing by. I was sentenced for having been "dedicated to penetrating Cuban territory since 1973" (a lie). Mel was sentenced for his part in this trip and for serving in Vietnam over ten years ago (actually mentioned in his court documents).

We consider ourselves prisoners of war—a heart war which has lasted 2,000 years since the birth of Christ. The U.S. State Department has refused thus far to ask for us, stating that we are not political prisoners, but classify us and all Americans here as counter revolutionaries simply because Cuba classifies us that way. Thus, the United States is allowing Cuba to shape American foreign policy. "Counter revolutionaries" are not political? None of us here quite understand this type of political thought.

We are here with rats, flies, roaches, power failures, and water problems. I have had no more cancer tests. I am satisfied that I did my part in injecting spiritual medicine into a demonic, cancerous body; one that can cover itself with a beautiful religious skin for tourists and religious delegations; one which takes religious pills publically, hiding them under its tongue, then spits them out; one which has thousands of children taken from their religious parents and placed in schools called "pupilo potestades".

This flight and our experience is ripping the cosmetic mask from "humanitarian" Cuba and revealing the gaunt skull of spiritual, moral, and physical starvation. I pray that the medicine we had to abnormally inject, will heal as well as nourish.

Victory in Jesus. Luke 12:2-3.

WALTER THOMAS WHITE.
MELVIN L. BAILEY.●

STEALTH PLANE: A SECRET THAT'S BEEN OUT SINCE 1976

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. McDONALD. Mr. Speaker, there has been a great deal of interest stirred up in the recent announcement of the Department of Defense on the so-called new weapon—the stealth plane. However, as the Christian Science Monitor pointed out on August 25, 1980, this is not a really new weapon and work on it began under President Carter's predecessor. The best thing that can be said is that for the sake of America, at least it is one major weapon system that has not been cancelled or delayed by the Carter administration. It would appear to be a highly suspicious announcement at this time and the circumstantial evidence exists to show that the leaks were all from the Carter administration designed to play politics and show the President as a strong advocate of national defense.

The item from the Christian Science Monitor follows:

"STEALTH" PLANE: A SECRET THAT'S BEEN OUT SINCE 1976

(By Stephen Webbe)

WASHINGTON.—The Carter administration's disclosure that it has developed aircraft capable of streaking unobserved through Soviet air defenses was as politically motivated as it was unwise, claims Ronald Reagan's senior defense adviser, William Van Cleave.

"I think it essentially compromises whatever prospects of success the program might have," Dr. Van Cleave declares.

In confirming Aug. 22 that supersecret "Stealth" aircraft have developed a near-invulnerability to existing air-defense systems, Defense Secretary Harold Brown blamed regrettable press and television leaks for the need to make the announcement now.

"I think it is a fair question as to who started those leaks in the first place," retorts Van Cleave, director of the defense and strategic studies program at the University of Southern California.

"Stealth" rumors have been rife in Washington for the last few weeks. The authoritative magazine Aviation Week & Space Technology referred to the "advanced technology Stealth bomber" in its Aug. 11 issue, and Armed Forces Journal reported Aug. 22 that the United States has been test-flying several versions of "virtually invisible new aircraft for over two years," a story that CBS had earlier picked up on its evening news.

Calling it "a major technological advance," the defense secretary claimed that so-called "Stealth" technology now enables the US to build manned and unmanned aircraft that cannot be intercepted by existing air defense systems. "We have demonstrated to our satisfaction that the technology works" he added.

The secretary declined to comment on reports that three of the new aircraft have crashed.

According to Armed Forces Journal, the Stealth aircraft are virtually invulnerable to air defense radar and infrared, electronic, and acoustical detection. While only fighters have been tested so far (supposedly at Nellis Air Force Base, Nev.) a strategic bomber is being designed, the magazine added.

Dr. Van Cleave contends that the administration has revealed the Stealth program now to counter criticism of President Carter's "poor defense record" and specifically his cancellation of the B-1 bomber.

In his view, a bomber "that might emerge from this technology is still a decade off," and he brands the defense secretary's announcement of the Stealth technology "highly premature," asserting that its effectiveness "has yet to be demonstrated." He notes, moreover, that the project was launched under the Ford administration and observes: "President Ford certainly didn't divulge it."

It would be hard to overestimate the military utility of aircraft that are virtually undetectable to radar.

Ever since Britain used a rudimentary form of the technology to great effect during the Battle of Britain, radar has posed an increasingly serious threat to attacking aircraft.

"Subsequent to World War II, defensive missiles—both ground-launched and air-launched—were . . . married with radar fire-control systems," explains William Perry, undersecretary of defense for research and engineering. "This substantially increased the effectiveness of air-defense systems."

Currently, US aircraft rely on a combination of electronic countermeasures and low flying—through so-called "ground clutter," where radar cannot distinguish between them and other signals.

But the Soviet Air Defense Command poses a formidable challenge to assaulting aircraft.

With 10,000 surface-to-air missiles and 2,600 interceptor aircraft, it represents the largest air-defense system in the world. Its effectiveness was demonstrated in 1960 when a SA-1 missile shot down Francis Gary Powers' U-2 spy plane at a height of 65,000 feet.

According to Dr. Perry, a chief architect of the Stealth program, the Soviet Union continues to place heavy emphasis on air-defense missiles to offset US advantages in air power.

"They have built thousands of surface-to-air missile systems. They employ radars with high power and monopulse tracking circuits, which are very difficult to jam. And in the last few years they have developed air-to-air missiles guided by 'lookdown' radars, which are capable of tracking aircraft flying in 'ground clutter,'" Perry says.

Hence, Stealth technology—which, says Perry, does not involve "a single technical approach, but rather a complex synthesis of many." More he will not reveal.

According to Armed Forces Journal, the deception techniques involve the special shaping or contouring of aircraft; the use of nonmetallic materials that give a weak or undetectable radar return; infrared shielding of engine exhausts; special paints to absorb, deflect, and shroud radar signals; and electronic countermeasures to generate false returns.

While unwilling to discuss any of the techniques that render Stealth aircraft all but undetectable. Perry notes that "this technology—theoretically, at least—could be applied to any military vehicle which can be attacked by radar-directed fire."

Both Brown and Perry insist that the Stealth program was shrouded in the deepest secrecy until they revealed it Aug. 22. Perry even maintains that its very existence was classified information.

In fact, that existence was far from secret. On July 23, 1976, readers of Aerospace Daily were informed that Clarence L. (Kelly) Johnson, "the nation's premier aircraft designer" and architect of the U-2 and SR-71 spy planes, was building "a new 12,000-pound, one-man Stealth aircraft" at the Lockheed plant in Burbank, Calif.

The magazine claimed that the $90 million program, sponsored by the Defense Advanced Research Projects Agency, was designed "to reduce aircraft visibility—optical, acoustic, and radar signatures—through new technology."

Lockheed spokesman Dave Crowther declined to comment when asked whether the company is involved in the Stealth program. Johnson, a stickler for secrecy in such matters, has so far not commented on the disclosure of the program.

Whether or not the Soviets have begun devising countermeasures to combat the ghost-like Stealth machines is uncertain. If they were subscribing to Aerospace Daily four years ago, they may have a head start. At the least, Brown's announcement may not have overly surprised them.●

NATIONAL HIGH SCHOOL ACTIVITIES WEEK

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. RHODES. Mr. Speaker, I am today introducing a resolution to establish National High School Activities Week in cosponsorship with my colleague in the other body, the senior Senator from Kansas, Mr. Dole. The resolution designates the week of September 28 to October 4 to recognize the importance of extra-curricular activities to the young people of this Nation. It is backed by the National Association of High School Associations.

The high school years are challenging for our young men and women. We hear much today about their problems, and the unfortunate path that some take to solve them in a self-destructive manner. A good program of activities has many advantages. It gives students an opportunity to work cooperatively together, in a common interest. It provides an introduction in many cases into community activities and a recognition of the importance of participation in civic affairs. By exercising their talents, they develop a sense of identity and confidence in themselves as individuals. They develop skills, take up new interests, and learn more about the communities in which they live.

The week also recognizes the key role played by teachers, coaches, and directors of youth activities. I urge my colleagues to support this resolution, which pays due recognition to an important part of the students' lives as they pass through the formative years of earliest adulthood.●

"MEDI-GAP" POLICIES

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. BONKER. Mr. Speaker, the figures surrounding the sale of supplemental insurance—also known as medi-gap policies—are sickening. Old people, living on fixed incomes, seek to prevent becoming a financial burden on their families if taken ill by purchasing insurance policies to supplement medicare coverage. The rub is that even these supplemental policies leave huge gaps. It is not unusual to find a senior with 7 or 8 of these policies—and I have heard of several instances where an old person had 13 or more policies. Yet if one policy pays off, the others will not. Senior citizens spend $4 billion each year on supplemental insurance and most of that is worthless.

The greatest misunderstanding comes in what costs are actually paid for by the private insurance. For example, the physician's bill for a given service is $100. Medicare's "reasonable fee" for that service may be $60. One misunderstanding comes at this point—medicare does not pay the $60, but rather pays 80 percent of that $60 or $48. Now enters the second area of misunderstanding. While it would be logical to assume that the supplemental insurance would pay the remaining $52, such is not the case. Supplemental insurance only covers the remaining 20 percent of the bill up to the medicare reasonable fee—in this case $12. The senior citizen is still responsible for the $40 that medicare would not cover in the first place.

There are other aspects to insurance coverage for senior citizens that you should be wary of. Many supplemental policies offer nursing home coverage. Yet in the fine print, the insured discovers that it is only good where medicare would cover the services. Current regulations surrounding medicare reimbursement for nursing home care are so stringent that less than 3 percent—the figure is actually closer to 2 percent—of medicare dollars go toward nursing home care reimbursement. Some policies state that they cover "custodial" or "extended" care. Yet, these catch phrases were written out of the law in 1972 and regulations were redesigned to cover "skilled" or "intermediate care" facilities. Therefore, if you see those words, you can be sure the policy will not cover the claims.

There is some good news on the horizon, however. In a recent conference committee, the House position prevailed and passage was secured for provisions which will regulate mail-order sale of these supplemental insurance policies. Provisions include voluntary certification of policies by insurance companies and stiff penalties for salesmen who purport to be representatives of medicare or any other Federal agency. It is a beginning.

I commend to the attention of my colleagues a letter from a constituent which articulately spells out some of the myriad problems encountered with medi-gap policies:

VANCOUVER, WASH.,
August 21, 1980.

Hon. DON BONKER,
U.S. Congressman,
Longworth Building 1531,
Washington, D.C.

DEAR CONGRESSMAN BONKER: Recently we had the sad experience of coming face-to-face with the inadequacies and not lived-up-to promises of private insurances. Part of this I am certain to due to inability to understand and not being contantly reminded of the contents of the policies from time to time.

My father-in-law, William A. Fleming (Sr.) who is 92 years old has been place in a nursing home. This after suffering small strokes rendering him unable to care for and live by himself. He has been hospitalized twice, once from a fall while living alone; and once after being placed in Woodland Convalescent Home, Woodland, WA, where he suffered a cracked pelvic bone.

Earlier (1978 I believe) my father-in-law subscribed to two additional private insurances which supposedly were to "supplement" Medicare. Now we find when Medicare (as described in their terminology "skilled") terminates that coverage, the insurances also cease, while we believed the policies to carry beyond Medicare. This places my husband and I in a serious financial position if we must pay any remaining balance due. This we are not able to do. My father-in-law's small retirement (Soc. Sec. and Clark Co. Retirement totals just over $400.00) barely covers a third of the cost of the Convalescent Home. Of course, we too would need to pay the soon due premiums on the above-mentioned private policies.

I applied to Washington State Department of Social and Health Services for aid in this matter. My father-in-law's application was denied based on the strength of the Counselor's interpretation of the private policies coverage beyond Medicare. We have been notified by the Convalescent Home that as of August 9 he is no longer covered by Medicare and I again have applied to DSHS for aid but time is important and their waiting list is long; therefore, if the claim is accepted it will be long after payment to the Convalescent Home is due. If the claim is denied, we are in deep financial trouble.

Also the insurance forms are extremely superfluous, wordy and require doctor's signatures, yet when I ask their insurance sections to have the doctor sign I am informed emphatically doctors do not need to sign, the insurance companies know the codes used in the billings.

When the representative of these insurance companies present their sales "pitch" to encourage a buyer, they promise the world and state how simple the forms are to complete, and how quickly claims are processed for payment (old people are gullible, you know) and what a disappointment when the need arrives and all these "good" promises dwindle. Recently, I had audience with one of the companies' representatives and he was less than courteous and had a "I'm sorry but that's the way it is" attitude.

The Woodland Nursing Home Administrator furnished me the information you have worked diligently in this very area and suggested I write you. Perhaps since I have written the companies to cancel the policies, thereby hoping DSHS will give us assistance, the impact will be lessened and is now "after the fact" but felt my letter may enforce your endeavors in this matter.

I have enclosed letters (copies) I have written the insurance cancelling the policies and my reasons.

Thanks for your time. Hopefully, somewhere down the line help for the aged will be simpler. At this point I feel private insurances should not be allowed to write supplemental insurance to Medicare unless the language were simple enough for anyone to understand and thoroughly comprehend. Much grief, time and financial burden would be alleviated.

Sincerely,

MARJORIE G. FLEMING.●

HAPPY BIRTHDAY, MOTHER TERESA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. DORNAN. Mr. Speaker, today marks the 70th birthday of a living saint.

> Worse than leprosy or cancer, there is another, even more awful disease of our time—being unwanted.

With these words, Mother Teresa humbly accepted the Nobel Peace Prize.

Composing an introduction to the piece which follows about this remarkable woman was a most difficult task. How does one describe in words total love—this total selfless giving to the destitute and dying?

> A body comes in, eaten by worms. I know when I touch it that I am touching the body of Christ. Otherwise, nothing could make me do it.

I know my colleagues will be happy to join with me in wishing Mother Teresa a very happy 70th birthday. We are indeed grateful to God for this ambassador of peace undoubtedly sent to witness to the kind of love He has for each of us—even amidst the violence, cruelty, suffering, and poverty of spirit in our modern society.

God bless you, Mother Teresa.

THE MAKING OF A SAINT

(By Curtis Bill Pepper)

Pope Paul VI ended his 1964 visit to India by giving his car—a white Lincoln convertible with read seats—to a nun who normally wears a 50-cent sari and sandals. He did it while speaking to a vast crowd at the Bombay airport.

"Before we leave dear India," he said, "we wish to give our white car to Mother Teresa, Superior General of the Missionaries of Charity, to assist her in her universal mission of love."

Mother Teresa was not on hand to pick up her $5,500 gift. She was, instead, on the outskirts of town, bent over a dying man—an act older than Christianity and a demonstration of why Paul had given her his car, rather than leave it with the Cardinal Archbishop of Bombay, who owns a bathtub once used by the Maharajah of Kashmir.

The dying man was old, with arms like broken sticks and a face that was a dark pool, motionless except for the eyes that every so often opened, as if to ask how much time was left. He came from the north, and the nun spoke to him in Bengali, soft words of comfort and love, calling him by his name, which was Onil. He had been found in a roadside ditch. No hospital would take him. No one in the city of four million, with 3,000 officially designated slum areas, had the time to hold this hand while he died. There were too many.

So Mother Teresa had brought the old man to her home for dying destitutes. At that moment, after 14 years, she and her company of sisters had picked up over 21,000 dying from the streets and trash dumps of India.

Such a giant labor had left its mark on the woman holding the old man. The lifting of untold tons of human beings had bent her body beyond its 54 years. She had cheated against nature, too, denying herself rest, sleeping in the baggage racks of third-class trains as she shuttled about India establishing homes to help the sick and the poor. The pain of thousands had cut into her gaunt face, white as the mountain stones in Yugoslavia where she had once played as a girl.

"How do you feel now, Onil?" she asked.

It was not good. Sometimes, they got them in time. Half of those they brought in were returned to whatever life awaited them. But starvation had pushed this old man beyond the point of return. No food or medicine could save him. Clinically, he was almost dead, though he managed to speak:

"I lived like an animal and . . . now I'm dying like a human being . . . why?"

It was to widen such an embrace that Paul left behind his car. And then, a year ago, he asked the embrace to be extended to include his diocese. In a private note, he invited Mother Teresa to open one of her homes in Rome to minister to the poor: shanty dwellers ringing the city, families huddled under arches of Roman aqueducts, prostitutes walking the streets. To help out, he sent along a check for $10,000. No one could recall a modern Pope taking such action. Rome was packed with 22,000 nuns from 1,200 orders—many of them dedicated to helping the poor. Quite clearly, Paul felt the woman in India had something special.

At least one million people agreed with the Pope. In India, Mother Teresa already was a white angel in a sari who worked miracles. The drama was endless. To her Calcutta Nirmal Hriday, the home for dying destitutes, they brought a man with half his body consumed by cancer—one more hospital reject in what the late Prime Minister Jawaharlal Nehru had called "the nightmare city," where two million Pakistani refugees had moved in on top of four million Indians, and 30,000 sacred cows wandered the streets.

The stench of the cancer was so strong that other patients protested. A male attendant, cleaning worms from the untended flesh, was seized with a fit of retching. The sisters were thus forced to move the dying man into another room. Mother Teresa undertook to clean him herself and at first met curses and taunts.

"How can you stand my stench?" he asked.

"It's nothing compared to the pain you must feel," she replied.

After a bit, the man said: "You are not people here. People do not behave like you."

Later, dying, he said: "Glory be to you."

"No," said Teresa. "Glory be to you who are suffering with Christ."

This was the key to her life, the link that ran from man to God. Teresa explained it recently in Calcutta: "We see Christ under two forms. We see Him on the altar, as bread, and we see Him in the slums, as the broken bodies of forgotten people. A body comes in, eaten by worms. I know when I touch it that I am touching the body of Christ. Otherwise, nothing could make me do it."

Teresa said she also served those she could not save: "What makes death terrible is that we are made to face a future alone. Worse than leprosy or cancer, there is another, even more awful disease of our time—being unwanted."

She recalled a phone call in New Delhi, saying there was a woman in a trash bin.

"When we arrived, we could hear her crying beneath the rubbish. She was covered with sores, her hair matted with filth. She continued to cry. She cried all the way to the home—even after we had washed her and put her to bed. Finally she said, 'I'm not crying because I am dying. It's something else. It's because my son did it.'"

Standing inside the Calcutta refuge for the dying, Mother Teresa spoke of God as though He were somebody you met on the street. Above all, He could be relied on to come through in a pinch. Once, in 1962, a sister had phoned from the center at Agra, saying she urgently needed 50,000 rupees for a children's home.

"Sorry, Sister, but we can't do it," Teresa had answered. "We don't have the money."

After that, the phone had rung again. This time, it was a newspaper office. Mother Teresa had been given the Magsaysay Award by the Philippine Government. It included money.

How much? "About 50,000 rupees, Mother."

"I guess God wants a children's home in Agra," Teresa had muttered before hanging up.

Teresa has been listening to what God wanted since she was Agnes Gonxha Bojaxhiu, born August 27, 1910, daughter of an Albanian grocer living in Skoplje, Yugoslavia. "When I was 12," she says, "I got a call. It is a private matter. It was not a vision. I've never had a vision."

Two years later, some Jesuits, returning from India, described the work of the Loretto nuns in Calcutta. This gave Agnes a concrete goal, and at 17, she reached India as Postulant Sister Teresa. Her novitiate began May 24, 1928. Nine years later, she took final vows and began to teach at the Loretto Convent High School in Calcutta. Soon, she found herself peering out beyond the red-brick walls of her cloistered world, toward the city's slums. "I knew where I belonged," she remembers, "but I didn't know how to get there.'"

Her instructions came in a second call, on the train to the Loretto retreat house at Darjeeling. "The message was quite clear: I was to leave the convent and help the poor, while living among them. It was an order."

That night, September 10, 1946—now celebrated within the order as the Day of Inspiration—Teresa hardly slept. Upon returning to Calcutta, she hurried to ask support from her archbishop—and was rebuffed. Undaunted, she waited patiently for over a year and then wrote to the head of her order, Mother Gertrude, in Rathfarnham, Ireland.

"She told me I could go. They would miss me, but if I was called by God in this way, I should go. I wept, for she understood."

Gertrude's letter, with one from Teresa, was sent to Rome. It produced quick results. Pius XII gave Teresa the right to go into the world—yet remain with vows as a nun under obedience to Calcutta's archbishop. The order, dated April 12,1948, reached her August 7. She exchanged her Loretto habit for a white sari with a blue border and a small cross at the shoulder.

To learn medicine, she took three months' training at Patna with the Medical Missionary Sisters. By Christmas, she was back in Calcutta, exploring the slums of Tiljala and Motijhil. Three days later, with permission to open her first slum school, she found 23 children waiting for her in an open field. The next day, she found 41.

"We used the ground as a blackboard," she recalls, "but before anything else, I gave a few of them lessons in personal hygiene—with a good dunk in a tank!"

Michael Gomes, a government employee, gave Teresa a room on the top floor of his family home. Here, she wrote the rules for her future company—to be called Missionaries of Charity. The first candidate to climb the stairs of the Gomes home was a pretty, dark-skinned Bengali girl in a bright sari. She was Shubashini Das, 19, a former student of Teresa's. Teresa explained that anyone joining her would need four qualities: health of body and mind, ability to learn, abundant common sense and, most essential, a cheerful disposition. She told the girl to think it over.

Shubashini returned on St. Joseph's Day, discarding her bright sari for a simple white one like Teresa's and taking Teresa's Christian name, Agnes. Others quickly followed.

Since then, the order has grown to 350 sisters with 59 centers in Calcutta, plus 70 more in 20 other cities of India. Abroad, there are homes in Ceylon, Tanzania, Venezuela and Rome. Aided by lay co-workers, the sisters teach 5,400 children in 44 schools, treat 404,000 patients in 134 dispensaries, medicate 21,900 leprosy cases in 51 mobile clinics, and comfort over 2,000 in 12 homes for dying destitutes. This immense network is supported by doners in India and Mother Teresa committees in the U.S. and Europe. Schoolchildren in England send bread; those in Denmark, milk; and in West Germany, vitamins.

The nuns lead a hard life. Up at 4:40, they go all day, with only 30 minutes' rest, until 9:00 at night. Thursday is devoted mainly to reading. Except on rare occasions, there is no radio, cinema or television. The food is basic, eaten from a single enamel plate owned by each sister, without soft drinks or alcohol. Treats are handled as something precious. The Venezuelan house, for example, sent one pack of orange Life Savers for each of the 20 communities in India, which Teresa herself dutifully delivered during a recent tour.

It is not easy to join: Five years and nine months of school and hard work precede final vows. There have been few dropouts. Recruits have come mostly from India, with some 30 from Europe. Two from the U.S. returned—one because of illness, the other for personal reasons.

"Other companies," says Teresa, "have begun by helping the poor. Then, gradually, they service the rich-poor, and finally, the rich. For that reason, we accept no gifts, not even refreshments from those we visit. If we had electric fans, we'd soon find it hard to work without them. Our life of poverty is as necessary as the work itself."

This does not mean that poverty is the desired condition of man, and Teresa believes, with the Vatican Council, in spacing births to fit the pocketbook. But birth control is not the whole answer—not even in India, where 55,000 babies are born each day, adding 13 million every year to the nation's river of sorrow. Teresa does not approve, for example, of the government's sterilization program—even of leporosy patients, though they generally infect their children.

"If you take children away from them, what do they have? Who is going to smile at them, and help them get better by little bits?

"Those we find in the street are Christ in a distressing disguise. Our mission is to help

Chirst—not destroy the multiplicity of his presence."

So believes, and lives, Mother Teresa. Many ask if she is indeed a saint. Thousands say yes. Church authorities, traditionally cautious in discussing possible saints—living or dead—have been silent. Yet even in the Church, those who have known Teresa quickly admit to her uniqueness.

Pope Paul's tribute was to call her to Rome. Last August, Teresa visited the slum area called Borgata Latina, beyond the Porta S. Giovanni, where over 3,000 people live in shacks beneath the ruins of old Roman aqueducts. She left behind five sisters to begin work.

Saint now or saint-to-be, Mother Teresa is a woman with that kind of total faith that has given others like her the strength to raise armies, to humble kings—and to generate in people a wonder and warmth many believe to be a love for God.●

MILITARY PERSONNEL AND COMPENSATION AMENDMENTS OF 1980

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. DASCHLE. Mr. Speaker, I was unable to be present for rollcall vote No. 490, the conference report on H.R. 5168, the Military Personnel and Compensation Amendments of 1980. Had I been present I would have voted "yes" on this report.

H.R. 5168, also known as the Nunn/Warner bill, addresses many of the manpower problems currently plaguing our Armed Forces. The greatest problem has been in retaining highly trained pilots in all branches of the service and midcareer petty officers in the Navy. This legislation addresses these specific problems by providing a 25-percent increase in flight pay for pilots and authorizing significant increases in sea pay for midcareer petty officers.

Another problem has been the high cost of certain areas where military personnel are stationed. H.R. 5168 addresses this problem by authorizing a variable housing allowance which will pay the full difference between the average cost of housing in a particular area and 115 percent of the person's basic allowance for quarters. This provision will especially help those personnel in the Washington, D.C., San Diego, and New York City areas.

The general subsistence allowance was also increased by 10 percent and the ceiling on the amount of reimbursement paid a person ordered to move will be eliminated as well.

All of the areas I have just mentioned have been a source of genuine concern and needed to be addressed. Overall, I believe the Congress has authorized an important and meaningful bill which will address the critical problem of retaining the highly trained personnel that have been most prone to leave the military due to the inequities which exist today.●

HUMAN RIGHTS FOR POLAND

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. McDONALD. Mr. Speaker, much attention has been focused on the subject of human rights around the world. Unfortunately, most of the attention has been given to friendly nations and not the Communist nations. If there ever was a time when the West and all free nations should be united in their efforts to support the present striving for human rights in Poland, it is now. It is high time that the United States take a strong and unequivocal stand in this regard. For too long our human rights policy has tended to focus only on small nations who are unable to oppose us. We should now draw the line and make certain that the Communist world understands there will be severe consequences if the flickering lights of freedom are now snuffed in Poland. To this end, 104 Members of the House of Representatives today dispatched the following letter to President Carter suggesting he take such a strong stand. The letter follows as well as the signatures of those who have signed to date. Additional signatures are being sought which will be forwarded to the White House at a later date.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 27, 1980.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR PRESIDENT CARTER: On October 6, 1976, during your debate with then President Ford, you emphasized your sympathy and that of most Americans with the plight of the Polish people under the domination of communism and Soviet troops. Now is the time to prove that this was not just campaign rhetoric by responding positively to their present strivings for greater freedom in the light of the massive strikes. One news account said that considerably more than 100,000 workers are involved.

Among the basic human rights they are seeking are freedom of speech, freedom of worship, freedom to organize trade unions or associations, freedom to assemble peacefully and freedom of movement. No freedom-loving person in America could disagree with the hopes and aspirations of the people of Poland. Their courage in resisting and rebelling against the tyranny of communism cannot be questioned. Already several Polish dissident leaders have been arrested by the dread secret police in connection with the strike and their fate is unknown. I am further informed that the workers have 21 basic demands and that these include the evacuation of the Soviet troops presently stationed in Poland.

In compliance with your Administration's well-known policy of demanding "human rights" for all people, there is no doubt that a public expression of your personal support for the Polish workers would have considerable influence. Let us urge you to use your high office at this crucial time in history to encourage the people of Poland in their struggle for basic human rights. Also, there is little doubt that your insistence that the Soviets begin abiding by the Helsinki Accords would carry great weight since it is common knowledge that Poland's government is nothing but a Soviet puppet regime.

It would be most appropriate for the President of the United States to use his considerable influence and prestige to encourage publicly the Polish people to throw off their chains and to warn their Communist masters not to interfere or face severe economic and political sanctions such as withdrawal of official recognition of the Soviet regime and the ending of all credits and trade agreements with the Soviets and the puppet government of Poland.

As the world's last bastion of freedom, we cannot afford to allow the situation in Poland to become another Hungary of 1956.

Sincerely,

Bob Stump, Carroll Hubbard, Charles Stenholm, Marvin Leath, Glenn English, Richard H. Ichord, Lamar Gudger, Larry P. McDonald, Richard Shelby, G. V. Montgomery, David Satterfield, Kent Hance, Jerry Huckaby, Dan Daniel, Steven Symms, Robert E. Bauman, Philip M. Crane, Marjorie S. Holt, Doug Barnard, Jr., Robert J. Lagomarsino, Sam B. Hall, John M. Ashbrook, William E. Dannemeyer, Benjamin A. Gilman, James H. Collins, Floyd Spence, Donald J. Mitchell, Richard Kelly, Robert K. Dornan, Eldon Rudd, George M. O'Brien, W. Henson Moore, Bo Ginn, Jack Hightower, William Carney, Tim Lee Carter, Dan Marriott, Robert S. Walker, Henry J. Hyde, Tom Hagedorn, Paul S. Trible, W. G. Hefner, George Hansen, Robert W. Daniel, Jr., Gene Snyder, Thomas N. Kindness, Gerald B. H. Solomon, Bill Nichols, Robert E. Badham, Jerry Lewis, Bill Royer, Carlos J. Moorhead, G. William Whitehurst, James H. Quillen, Elwood Hillis, Bob Wilson, Daniel B. Crane, Ken L. Holland, Jim Jeffries, Daniel E. Lungren, William S. Broomfield, Samuel L. Devine, Edward J. Derwinski, Robin L. Beard, Samuel S. Stratton, Ron Paul, William L. Dickinson, Trent Lott, Walter B. Jones, John J. Duncan, Norman D. Shumway, John T. Myers, Larry Winn, Jr., Carl D. Pursell, Millicent Fenwick, Jack Edwards, James A. Courter, J. Kenneth Robinson, Lester L. Wolff, Norman F. Lent, Gary A. Lee, Tennyson Guyer, Carroll A. Campbell, Jr., Newt Gingrich, Clair W. Burgener, L. A. Bafalis, Delbert L. Latta, Mickey Edwards, Bob Livingston, Marilyn Lloyd Bouquard, John H. Rousselot, Mary Rose Oakar, John B. Breaux, Gene Taylor, Ken Kramer, William M. Thomas, Charles F. Dougherty, James G. Martin, Mendel J. Davis, Phil Gramm, Earl D. Hutto, Joe Wyatt, Jr., Bill Chappell, Jr., and Jack F. Kemp.

This is a continuing letter for which additional signatures are being sought, and these will be forwarded at a later date.●

THE GOVERNOR OF WEST VIRGINIA PROCLAIMS SUNDAY, SEPTEMBER 14, 1980, AS CONGRESSMAN HARLEY O. STAGGERS DAY IN WEST VIRGINIA

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. DRINAN. Mr. Speaker, it is characteristic of the modesty of our beloved colleague, Congressman STAGGERS, that he made no announcement of the beautiful tribute paid to him by the people of the State of West Virginia as noted in the attached proclamation.

It is gratifying but not surprising that Gov. John D. Rockefeller of West Virginia proclaimed Sunday, September 14, 1980, as HARLEY O. STAGGERS Day in West Virginia.

The Governor urged all West Virginians to join together in Keyser, the hometown of Congressman STAGGERS, on September 14 to celebrate his many years of service to our party, our State, and our Nation.

Congressman STAGGERS will be missed by everyone in the House. We stand in admiration and appreciation of his 32 years of service to the Congress of the United States and to the people of the State of West Virginia.

The Governor's proclamation, dated August 23, 1980, is reprinted here in its entirety:

STATE OF WEST VIRGINIA, EXECUTIVE DEPARTMENT, CHARLESTON

A PROCLAMATION BY GOV. JOHN D. ROCKEFELLER

Whereas, for 32 years, the people of the State of West Virginia have been honored by the outstanding public service of a son of Mineral County, Congressman Harley O. Staggers; and

Whereas, since his election as a member of the United States House of Representatives in 1948, Harley O. Staggers has served with distinction as congressman from the Second Congressional District; and

Whereas, Congressman Staggers' warmth, graciousness and beliefs in public service and his devotion to the United States of America have been the trademark of his long and distinguished service; and

Whereas, Congressman Harley O. Staggers has been on the cutting edge of legislation pioneering new frontiers in energy development, coal use, the broadcasting industry and other aspects of interstate and foreign commerce; and

Whereas, as chairman of the Interstate and Foreign Commerce Committee, he has brought honor to his party and his state; and

Whereas, the people of West Virginia regret his decision to retire, but wish him a politically active retirement.

Now, therefore, I, John D. Rockefeller IV, Governor of the State of West Virginia, do hereby proclaim Sunday, September 14, 1980, as Harley O. Staggers Day in West Virginia and urge all West Virginians to join together in Keyser, the hometown of Congressman Staggers, on that day to celebrate his many years of service to our party, our state and our nation.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State to be affixed.●

REINSTATE OIL AND GAS LEASES

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. LUJAN. Mr. Speaker, I am introducing a bill to reinstate oil and gas leases in Idaho so that the commitments made by my good friend, Harold Runnels, will be honored.

Congressman Runnels had promised Supron Energy Corp. that he would introduce this bill on their behalf. The corporation lost its leases, not because it did not fulfill its obligations under them, but because of Government bungling. Supron was caught between the requirements of the U.S. Geological Survey application for permit to drill—which to be approved would require a road to the drilling site, and the Forest Service's RARE II intensive study, under which the Forest Service effectively banned the building of the needed road. By the time the Forest Service indicated that a road could be built, it was too late to have an APD approved and the leases expired.

I would hope that the Interior Committee will have time to look at this issue and that reinstatement of these leases will be permitted.

Thank you.●

CAPITAL INVESTMENT TAX INCENTIVE ACT OF 1980

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. PORTER. Mr. Speaker, I have introduced the Capital Investment Tax Incentive Act of 1980, H.R. 7994, to create a major incentive for increased investment by reducing from 40 percent to 30 percent the amount of net capital gain included in individual incomes and by reducing the alternative capital gains tax rate for corporations from 28 percent to 21 percent.

This is the same proposal introduced by Mr. CRANSTON, S. 2923, in the Senate. I offer this bill so that the Ways and Means Committee will have before it the appropriate legislation in the event the Senate acts on S. 2923, but I see no reason why the House cannot move forward independently and indeed, I urge the committee to do so with all deliberate speed.

Past economic history suggests a clear correlation between the capital gains tax rate and the available level of investment capital. In 1969, the Congress levied a punitive tax upon American business by increasing the capital gains tax rate from 25 percent to 49 percent. A more ill-advised action cannot be imagined. The result was inevitable—venture capital virtually dried up in our country.

The Congress eventually awakened to its error—if not to the error of its ways—and passed the Steiger-Hansen Investment Incentive Act of 1978. Steiger-Hansen reduced the capital gains tax rate to the present level of 28 percent. An editorial that appeared in the July 30, 1979 edition of the Wall Street Journal described the positive reaction of the economy to the passage of the 1978 act. I am including a copy of that editorial in my remarks so that the Members of this body may realize that the private sector will react positively when the Congress fashions wise economic incentive measures. Those have been so few and far between in recent years that perhaps the Members sometimes forget.

The economy today, of course, is caught in the dual throes of inflation and recession—a vicious circle of rising prices and declining levels of industrial output. As of the end of June the Consumer Price Index had risen 14.3 percent over the past year. Yet the gross national product decreased 9.1 percent in the second quarter of 1980 and industrial production declined 2.4 percent in June.

Insofar as investment and productivity is concerned, the rate of growth in real business spending for plant and equipment grew 10.5 percent in 1978. Yet, that rate declined dramatically to a level of only 1.7 percent from the fourth quarter of 1978 to the fourth quarter of 1979. Growth in labor productivity has also been stunted. The 1980 Economic Report of the President indicated that from 1973 to 1978 the actual rate of growth in output per man hour in the private sector was only 0.8 percent, a figure that contrasts sharply with the 2.5 percent growth in output from 1948 to 1955.

Under these conditions, I am convinced that a long-term, investment-oriented tax reduction is an important part of a series of supply-side tax measures that are desperately needed to turn the corner on the very serious economic problems that our country faces. A higher rate of capital formation will improve labor productivity. Increased productivity will enhance the opportunities for growth in real incomes and will lower the rate of inflation. Why does it take so long for the Congress to realize this? Why does it take so long for the Congress to act?

Mr. Speaker, I ask unanimous consent that the text of the bill along with the newspaper editorial mentioned previously be printed in the RECORD.

SNAPPING BACK

Anyone who might be wondering about the effects of last year's reduction in capital gains tax rates would do well to look at the venture capital revival that has since occurred. We particularly urge a look by those who argued then—and still do in some cases—that you can't improve capital formation by lightening the tax burden on it.

Venture capital is money raised by entrepreneurs whose only assets are their new ideas. Even if they turn out to be successful, investors must expect their capital to be locked up for 5 or 6 years. A decade ago venture capital was thriving. But along came the Tax Reform Act of 1969 which together with its subsequent revisions raised the maximum tax on capital gains from 25 percent to 49 percent, reduced the write-off of capital losses by 50 percent, and sharply curtailed the deduction of interest expense on borrowed funds used to make an investment. All in all, the rewards for success were cut in half, and the penalties for failure were doubled.

The effect on venture capital was devastating. The ability of small companies to raise equity capital by public stock issues declined drastically, and by 1973 small company issues had practically ceased. In 1977 when the maximum tax on capital gains hit 49 percent equity capital from all sources dried up.

The tax reformers who sold this bad bill of goods to the Congress said the purpose of it was "to make the rich pay taxes." Congress expected to score some easy political points, not to dry up important wellsprings of economic progress. New small companies account for a disproportionate amount of new products and technologies, and they contribute substantially to the growth of the economy as a result of their own rapid growth and the productivity gains that they introduce into the economy.

By 1978 Congress realized what it had done, and Rep. Bill Steiger found majority support in both houses for his proposal to reduce the capital gains tax. In November the rate was reduced to 28 percent.

The response from venture capital was instantaneous and began in May before the law was passed when Senator Hansen rounded up 60 Senate cosponsors of the Steiger bill. By the end of the year venture capital raised by firms specializing in the activity rose eleven-fold over the previous year. In 1979 venture capital is back where it was 10 years ago.

The snapback is easy to understand. In 1969 Congress began adding to the costs of failure on risky new ventures, while reducing the rewards of success. With risk taxed at the same rate as corporate salaries, fewer people left comfortable employment to go off on their own with the ideas they couldn't sell to their employers. Those still willing could find few financial backers. In 1978 Congress restored incentives for assuming risk, and people began assuming risk once more.

There is evidence that lowering the capital gains tax rate had wider ripple effects. The Dow Jones Industrial average rose 130 points from March to August last year as it became evident that there were enough votes in Congress to cut the capital gains rate. The market has since lost some of that exuberance but still is well above March 1978 despite rampant inflation and a recession threat.

Equally impressive, in light of recession fears, is the fact that corporate expenditures for new plant and equipment and for research and development are once again showing signs of life after a long period of stagnation. Shareholders can once again look with favor on managers plowing back earnings rather than paying them out in dividends.

These signs that the economy would like to get back on it's growth track are encouraging challenges to the gloomy predictions that the growth era is over. They indicate that the economy responds to incentives, and is not in the clutches of some inexorable process of decline. More encouragement of its inclinations to grow would no doubt produce further benefits.

We have in mind cutting tax rates on personal income in order to lower the high marginal rates on real income that a decade of inflation has brought about, altering taxes on interest and dividend income in ways to lessen the tax bias against saving and passing something like the Jones-Conable Capital Cost Recovery Act so that businesses can recover their investment capital before inflation eats up their depreciation allowances. A little good tax law and the economy as a whole will snap back as rapidly as venture capital.

H.R. —

A bill to amend the Internal Revenue Code of 1954 to reduce the rate of tax on capital gains for individuals and corporations

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.

This Act may be cited as the "Capital Investment Tax Incentive Act of 1980".

Sec. 2. Reduction from 40 percent to 30 percent in amount of net capital gain included in income of individuals.

(a) In General.—Subsection (a) of section 1202 of the Internal Revenue Code of 1954 (relating to deduction for capital gains) is amended by striking out "60 percent" and inserting in lieu thereof "70 percent".

(b) Technical Amendment.—Subparagraph (B) of section 170(e)(1) of such Code (relating to charitable deduction for contributions of capital gain property) is amended by striking out "40 percent" and inserting in lieu thereof "30 percent".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979.

Sec. 3. Reduction of alternative capital gain tax rate for corporations from 28 percent to 21 percent.

(a) In General.—Paragraph (2) of section 1201(a) of the Internal Revenue Code of 1954 (relating to alternative tax on corporations) is amended by striking out "28 percent" and inserting in lieu thereof "21 percent".

(b) Technical Amendments.—

(1) Subparagraph (B) of section 170(e)(1) of such Code (relating to charitable deduction for contributions of capital gain property) is amended by striking out "28/46" and inserting in lieu thereof "21/46".

(2) Clause (iv) of section 593(b)(2)(E) of such Code (relating to addition to reserves for bad debts) is amended by striking out "18/46" each place it appears and inserting in lieu thereof "25/46".

(3) Clause (iii) of section 852(b)(3)(D) of such Code (relating to treatment by shareholders of undistributed capital gain) is amended by striking out "72 percent" and insert in lieu thereof "79 percent".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979.●

CONGRESSIONAL BUILDING CONTRACT UNDERCUTS LABOR MOVEMENT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. OBERSTAR. Mr. Speaker, I rise to offer a sad Labor Day speech. It is a report on the use of funds here at the Capitol in a manner detrimental to the collective bargaining process.

The right of American workers to bargain for a fair wage was hard won. It has meant the difference between exploitation and equality for millions of Americans.

Congress, as a purchaser of goods and services, should not interfere in the collective bargaining process as recognized by both Federal and State laws. Unfortunately, and inadvertently, a rather substantial amount of funds approved for the new Senate building is being used in such a way as to alter the balance between management and labor at Alpana Aluminum Products, Inc., in my home State of Minnesota.

Alpana is a subcontractor in two phases of construction of the new Hart Senate Office Building. It is supplying 561 window units in the construction of the superstructure under contract to Baltimore Contractors. The value of that subcontract is approximately $1.4 million. Delivery of window units has already begun.

Alpana has also been listed as a subcontractor on the recently awarded contract to Charles Tompkins. The value of that subcontract for interior window work is approximately $2.3 million.

Since November 1979, 32 Alpana workers have been on strike. Since that time, the company has been using nonunion labor on the contract for the Senate building.

Alpana workers voted in June 1978, to affiliate with the International Association of Machinists, long known as one of the most progressive labor organizations in the United States.

In November 1979, just prior to the expiration of a 1-year contract, the union offered a 10-day extension to facilitate continued, good faith negotiations. Management rejected that offer, and the strike was on.

Strikebreakers are now manufacturing windows to be used in the construction of the new Senate office building. It is an affront to the memory of the late Senator Hart, a strong advocate of labor rights throughout his public career.

With Labor Day coming up next Monday, I thought my colleagues would want to know of this development.●

SENATOR STEWART'S FRIENDS AT THE FEDERAL ELECTION COMMISSION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. DORNAN. Mr. Speaker, in the other discrepancies I have inserted into the Congressional Record, I have concentrated on the west coast aspect of the Peck/Peck/Dennis/Stewart/FEC scandal.

I now enclose for the benefit of citizens and colleagues in the State where Bear Bryant lives, Alabama—the southern connection of the FEC's efforts to "turn the other cheek" in an effort not to discover wrongdoing.

Of course, all of the questions which I asked of the west coast recipient of illegal laundered corporate money, also apply here.

Following is additional evidence on the FEC's noninvestigation:

DONALD STEWART CAMPAIGN CLEARED OF ANY WRONGDOING BY THE FEC WITHOUT EVEN A SUPERFICIAL INVESTIGATION

According to an October 8, 1979 Montgomery Advertiser editorial, Donald Stewart was cleared by the FEC of any wrongdoing. Yet, FEC regulations require candidates to report the receipt of contributions which appear to be suspicious in nature—sections 11 CFR 103.3(b)(1); 11 CFR 103.3(b)(2). And yet, 10 of the 22 $1,000 contributions STEWART received from Dennis are listed as coming from the same address, "Drawer S, Sumiton"—a very small Alabama town.

Now, my colleagues, have any of you ever received 10 maximum donations of $1,000 cashiers checks from persons you never solicited—all listed at the same post office box from a tiny town? "Once upon a time there was this tooth fairy."

Plus the addresses and occupations of some of the contributors had been changed on two occasions on the FEC disclosure forms. In addition, the FEC had denied matching funds to Presidential candidate Lyndon LaRouche, for accepting a total of 8 cashiers checks in sequential runs of 2-4-2, and 12 money orders in runs of 3-3-2-4—all of these under $50. Where is the equity in the treatment of these two campaigns, especially when Senator STEWART admits to receiving at least 23 $1,000 cashier checks, sequentially numbered?

DENNIS MAY HAVE VIOLATED THE MAXIMUM LIMITATION ON TICKET PURCHASE DONATIONS AND SENATOR STEWART MAY HAVE VIOLATED THE FEC LAW BY RECEIVING MORE THAN $1,000 FROM AN INDIVIDUAL FOR A SINGLE ELECTION, BUT THE FEC NEVER BROUGHT THIS UP

According to an article which appeared in the Montgomery Advertiser, by Peggy Roberson on June 20, 1980, Dennis apparently bought six $500 a plate tickets to STEWART's fundraiser where he met Gregory Peck in October 1978. The FEC has never raised the issue of this possible violation of 11 CFR 110.1(a)(1) and 2 U.S.C. 441(a)(1)(A) which limits the amount an individual can spend on behalf of a candidate to $1,000 per election.

One of the six tickets was for bank manager, Wayne Moore, Dennis' father-in-law, who was already a maximum "phantom" donor to Senator STEWART and about to become, within days, a maximum "phantom" donor to Peck the younger.

DISCREPANCY: DONALD STEWART CLEARED WITHOUT INVESTIGATION; NO XEROX EVIDENCE IN MUR 970 OF ALLEGED CHECK USED TO RETURN ILLEGAL MONEY TO DENNIS; FEC DOES NOT INVESTIGATE POSSIBILITY STEWART KNOWINGLY ACCEPTED DONATIONS

The FEC's General Counsel's Report of 5-31-79 finds "reason to believe" that James Dennis violated 2 U.S.C. 441(f). This code section prohibits giving and knowingly accepting donations made in the names of another. The report does not mention that Friends of Donald Stewart may have violated this section. The FEC suspected Dennis of giving the funds, but did not investigate the logical possibility that the illegal donations were knowingly received. How can a regulatory agency be confronted with an obvious possible violation of law and assume innocence without evidence? This FEC omission is inconsistent with evidence forwarded to the Commission by the Federal District Attorney for the Northern District of Alabama on April 20, 1979, denied to Congressman DORNAN after an FOI request. Recall that Senator STEWART of Alabama has a great deal to say as to who will fill the role of Federal prosecutor.

The FEC's General Counsel's report of 8-9-79, stated the Commission finds James Dennis violated 2 U.S.C. 441(f) and 2 U.S.C. 441(b). Both code sections state it is illegal to give and knowingly receive donations prohibited by the sections: 441(f) concerns donations made in the name of another, and 441(b) deals with corporate contributions. The report concludes that Dennis gave the illegal donations to the campaigns of DONALD STEWART and Carey Peck. It makes no mention of whether the money was or was not knowingly received. Why did the Commission investigate the donor only, and not the donees?

The FEC's General Counsel's report of August 9, 1979 states, as if they had proof, that STEWART repaid the illegal donations to James Dennis on May 11, 1979. Same M.O. with young Peck. However, there is no copy of a check from STEWART to Dennis in the FEC files. Congressman DORNAN in a witnessed conversation, had FEC Commissioner Thomas Harris tell him that the normal procedure would be to have a copy of the check, that was used to return the money, in the file. There is no physical evidence in either STEWART's or Peck's files to confirm that they actually refunded the money. Where are the original cancelled checks from Peck and STEWART to Dennis? Where is the investigation? Has the FBI subpenaed these checks? A bank vice-president from First National Bank of Birmingham said all checks from his bank were subpenaed in mid-1979.

STEWART'S IN-HOUSE INVESTIGATION OF POSSIBLE DENNIS CONTRIBUTIONS HAS FLAWS: STEWART CLAIMS TO HAVE RETURNED $22,000 TO DENNIS AFTER HEARING FROM TWO PHANTOM CONTRIBUTORS

On April 12, 1979, Senator STEWART asked his brother, James Stewart, to send a registered letter to each person on his list of contributors who had been identified as possibly not "actually" having made a contribution—see Birmingham Post Herald, August 9, 1979.

At this point, how did STEWART know to whom he should send the letters? Did he send registered letters to all of his thousand dollar donors, over a hundred? Didn't STEWART know where to begin, that is because of the names on the cashiers checks or because of the names initially supplied by Dennis for STEWART's campaign in connection with the possible cash contributions? How many letters were sent out? Where were they sent? The article continues, "The registered letters, which included a copy of the canceled check or money order bearing the recipient's name, asked the recipient if he or she made the contribution. Both said they did not make the contributions. The Senator then asked his campaign committee to contact Dennis to confirm the list. STEWART said his campaign committee has now complied with all Federal election requirements and is preparing to return the money to Dennis." Why all the haste to return the money when only 2 of 22 contributors had informed him the money did not come from them? Why did not STEWART wait until he had received confirmation from more than 2 of the 22 before deciding to return the money? Could it be that the quick return was prompted by the newspaper exposure of money which the Stewart campaign knew or should have had reason to know was illegal because of the sequential nature of the cashiers' checks or because cash was possibly given, as reported to the FEC by Mr. Brooks, the U.S. attorney for the northern district of Alabama?

I repeat, on April 12, 1979, STEWART asked his brother to send registered letters to those suspected of not being real donors. Again, I ask, how did STEWART and his brother know which people to contact? If the donations were that easy to identify as being illegal in April/May of 1979, why were they not investigated by STEWART in 1978 when he first received the donations? Why were they not reported to the FEC prior to May 1979 as FEC law requires the reporting of suspicious donations within 10 days to the FEC—see ii CFR 103.3(b)(1); 11 CFR 103.3(b)(2).

On May 15, Friends of Donald Stewart sent a letter to the FEC stating that the STEWART campaign had returned the money to Dennis on May 11, 1980. Why should he give $22,000 a man—Dennis—when he had not received verification that those 20 other people had not really contributed? Certainly this is a different standard from that which he used in first accepting the money. Did he hear from the rest of the people on May 10? Not likely.

Dennis had wired the names of 22 "contributors" to the FEC on May 8, 1980.

On May 11, 1979, STEWART claimed that he took out a signature note loan from the First National Bank of Anniston—his home town bank—and "donated" the money to Friends of Donald Stewart to cover the alleged $22,000 return to James Dennis. Yet, I recall that STEWART's FEC file for that period—the same as Peck's by the way—did not list the bank as the source of the loan until an April 25, 1980 hand-delivered letter from Friends of Donald Stewart was given to Ms. Mary Jo Mesner of the Reports Analysis Division, FEC in Washington, D.C. Senator STEWART's lawyer friend, Jack Vardeman warned James Dennis on April 24 or 25 that Congressman DORNAN might be coming down to his prison to see him. "Don't talk to the Congressman," Vardeman warned, "he has no power." Gregory Peck wrote to Dennis on April 24: "I hear Congressman DORNAN may be coming to see you." Congressman DORNAN saw Dennis April 30, 1980.●

HERMAN PHLEGER, LAWYER FOR THE UNITED STATES

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. McCLOSKEY. Mr. Speaker, on September 5, one of the Nation's most distinguished active lawyers will celebrate his 90th birthday. Herman Phleger's services to the Nation, as Legal Adviser to the State Department in the Eisenhower administration, are well known. His leadership of one of California's finest law firms, Brobeck, Phleger & Harrison, is also well known.

But Herman Phleger's lifetime has included a whole series of services to country, State, community, and family which places him in the very front rank of Californians, living and deceased.

So that the record of his lifetime be a part of our permanent recorded history, I insert in the RECORD today a brief summary prepared by his son, Atherton, a distinguished attorney in his own right.

HERMAN PHLEGER

Herman Phleger was born in Sacramento, California, on September 5, 1890, the son of Charles W. Phleger and Mary McCrory Phleger.

His father died when he was two years old, leaving his mother with four children to support, which she did by teaching in the Sacramento grammar schools. All four children graduated from the University of California at Berkeley.

Phleger graduated from the University of California in the class of 1912. At the University he was active in student affairs and played on the rugby team.

He entered Boalt Hall, the University of California Law School, when a senior and attended it for two years. At the end of the second year he transferred to Harvard Law School and completed his third year of law school in 1914. As Harvard did not grant law degrees to students who attended for only one year, he has never received a law degree.

He received an LL.D. from Mills College in 1938 and an LL.D. from the University of California in 1957. He was University of California Alumnus of the Year 1958, received the Boalt Hall Citation Award in 1964 and was a Regent Professor at Berkeley in 1970.

In 1914 he commenced the practice of law in San Francisco, joining the law firm of Morrison, Dunne and Brobeck.

In 1917 Phleger enlisted in the United States Navy, attended Officers Training School, graduating as an Ensign. He served on the destroyer BEALE, based at Queenstown, Ireland, escorting troop transports coming from America through the submarine zone to Europe.

At the end of the war he returned to San Francisco to practice law with Morrison, Dunne & Brobeck. In 1925, he formed with Maurice Harrison and William Brobeck the law firm of Brobeck, Phleger & Harrison. In 1927 Mr. Brobeck died.

Phleger's practice has included representation of shipping, agricultural, industrial, banks and oil companies. Brobeck, Phleger & Harrison now is composed of over 50 partners and over 90 associates, with offices in San Francisco, Los Angeles and Palo Alto.

Phleger served as a trustee of Mills College from 1927 until 1939. In 1939 he became a trustee of Stanford University, and continues to serve as a trustee emeritus. He is a former trustee of Children's Hospital, San Francisco, and is a trustee of the Wm. G. Irwin Charity Foundation.

In 1945 Phleger was appointed Associate Director of the Legal Division of the U.S. Military Government of Germany. He participated in the organization of the Military Government of Germany, including drafting of the new laws governing post-war Germany, and participation in the Frankfurt Conference and the Nurenberg Trials.

In 1953 Phleger was appointed by President Eisenhower as Legal Adviser to the United States Department of State, and served from 1953 until 1957 under John Foster Dulles as Secretary of State. He attended various international conferences as a member of the United States delegation, including the Tenth Inter-American Conference at Caracas, Venezuela, the Indochina Conference in 1954, the Manila Conference in 1954 (the creation of SEATO) and the Geneva Summit Conference in 1955.

In 1956 he participated actively in negotiations arising from the Suez Crisis.

In 1957 he participated in the Bermuda Conference.

During his term as Legal Adviser, one of the important matters that arose was the so-called Bricker Amendment. He actively participated on behalf of the State Department in urging its defeat. The Amendment would have restricted the treaty-making power of the President.

In 1957 Phleger resigned from the State Department and returned to active private practice with Brobeck, Phleger & Harrison. He became counsel to the firm in 1977.

In 1957 he was appointed as a representative of the United States to the permanent Court of Arbitration of the Hague Convention and served to 1975.

In 1958 he was appointed as a representative of the United States to the Thirteenth General Assembly of the United Nations.

In 1959 he was appointed as the United States representative to the Antarctica Conference, and was elected Chairman of the Conference with the rank of Ambassador. The treaty drafted by the Conference and accepted by the participating nations prohibits the use of the Antarctica for military purposes, bans atomic use, permits inspections and restricts territorial claims. The Treaty, of which he is most proud, has served as a model for subsequent agreements relating to outer space and the law of the sea and sea bed.

In 1962 he participated in the European-American Assembly on Outer Space held in Brighton, England.

In 1962 he was appointed by President John F. Kennedy as a member of the Clay Committee to Strengthen The Security of the Free World.

Also in 1962 he was appointed by President Kennedy a member of the Arms Control and Disarmament Advisory Committee, upon which he served until 1968. The Committee met at least once a month for two days in Washington during the entire period, and advised the President and the Secretary of State on Arms Control and Disarmament matters.

In 1966 he was appointed by the President of the American Bar Association to the Commission on Electoral College Reform.

Phleger lives in Woodside, California, with his wife, Mary Elena Phleger. Next year they will celebrate their 60th wedding anniversary. They have three children, thirteen grandchildren, and two great grandchildren. On September 5, 1980 he will celebrate his 90th birthday.

CURRICULUM VITAE, HERMAN PHLEGER

Born Sacremento, California, September 5, 1890.

University of California, Berkeley, B.S. 1912, LL.D. 1957

Mills College, LL.D. 1938

Alumnus of the Year, University of California, 1958

Regent Professor, University of California, Berkeley, 1965

Boalt Hall Alumni Association Annual Citation Award, 1964

The Berkeley Citation, University of California, 1970

Legal Education: University of California, Berkeley, and Harvard Law School.

Lieutenant (J.G.) U.S. Navy, 1917-1918.

Associate Director Legal Division, U.S. Military Government of Germany, 1945

President Pacific-Union Club, 1952-1953

The Legal Adviser, Department of State, 1953-1957

U.S. Member Permanent Court of Arbitration under the Hague Treaties, 1957-1963, 1969-1975

U.S. Representative, 13th General Assembly United Nations, 1958

Chairman of Antarctica Conference and U.S. Representative with Rank of Ambassador, 1959

Member U.S. Arms Control and Disarmament Advisory Committee, 1962-1970. Appointed by President Kennedy and Johnson.

Member U.S. Delegations:

Tenth Interamerican Conference, Caracas, 1954.

Indo-China and Korean Conferences, 1954

Seato Conference, Manila, 1954

Summit Conference and Foreign Ministers Conference, Geneva, 1955.

Suez Conferences, London, 1956

Bermuda Conference, 1957.

Trustee: Stanford University, 1945-1965, Emeritus 1965. Mills College, 1927-1939. Irwin Charity Foundation, San Francisco. Roth Charity Foundation, San Francisco. President, Board of Trustees, Children's Hospital San Francisco, 1930-1950.

Member: Council on Foreign Relations. Links Club (N.Y.). Metropolitan Club (Washington, D.C.). Pacific-Union Club (President 1953). Bohemian Club. Burlingame Country Club.

1963—Committee to Strengthen The Free World (Clay Committee). Appointed by President Kennedy to prepare 1963 Program for Foreign Aid.

1965—Regents Professor, University of California, Department of Political Science.

1966—Member American Bar Association Commission on Electoral College Reform.

Partner: Brobeck, Phleger & Harrison, San Francisco, 1926-1976; Counsel 1977.

Member American Bar Association (Fellow); American Society of International Law, International Law Association.

Office: One Market Plaza, Spear Street Tower, San Francisco, California 94105

Residence Mountain Meadow, Woodside, California

Sometime Corporate Directorships:
Wells Fargo Bank—Wells Fargo & Co. (American Trust Company).
Fibreboard Corporation (Pabco Products).
Union Oil Company of California.
United States Petroleum Company.
The California-Oregon Power Company.
Matson Navigation Company.
Oceanic Steamship Company.
Moore Dry Dock Company (Moore Shipbuilding Company).
Cypress Lawn Cemetery Association.
The Newhall Land and Farming Company.
White Investment Company.
Gladding, McBean & Company.
Las Posas Orchard Company.
Crocker Hotel Company.
Tillman & Bendel Inc.
Parkside Realty Company.
Dumbarton Bridge Company.
California-Arizona Bridge Company.
Italian Swiss Colony.
Holly Sugar Company.
Moore Investment Company.
Moore Securities Company.
Empire Company (Roy N. Bishop).
Green Investment Company (C. E. Green).●

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR 1981

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. DASCHLE. Mr. Speaker, I was unable to be present for rollcall vote No. 489, the conference report on H.R. 6974, the Department of Defense Authorization Act for 1981. Had I been present I would have voted yes on this report.

I wholeheartedly endorse this report. World events in the past year have forced a reevaluation of our national security needs and capabilities. The Soviet Union has again shown its willingness to use military force in its premeditated and brutal invasion of Afghanistan. To this effect, the inherent militaristic and imperialistic nature of the Soviet Union must be recognized and responded to. I believe that the Congress has formulated in this legislation a substantive response by authorizing the largest real peacetime defense budget in recent years. This action will signal the Soviets that they will pay a price for their actions in Afghanistan and elsewhere.

I especially approve of this budget because it focuses on many of the less glamorous items that nonetheless could greatly hinder our ability to field a strong army. These items include such essentials as spare parts and modification funds to make existing weapons systems last longer. Furthermore, a most necessary 11.7-percent pay increase was approved as well as additional education benefits. Enlistment and reenlistment bonuses round out a series of benefits designed to retain those personnel already in service.

This legislation also looks to the future by including funds for the rapid deployment force, and money for the development of a new multirole manned bomber to replace the venerable B-52's which have served us so well. This is a most necessary provision as many of the B-52's now in service are older than the pilots who fly them.

Procurement costs in this legislation totaled $37.9 billion which includes $16.6 billion for aircraft and helicopters, $8.4 billion for warships, and $2.3 billion for tanks and other armored vehicles. Research and development funds total $16.9 billion.

Recently, President Carter ordered the Department of Defense to commence a study regarding the possibility of reducing the current Navy shipbuilding plan. I question the wisdom of even considering such a proposal when there is strong evidence for the need for additional warships to patrol the Indian Ocean and when there is a growing Soviet worldwide naval presence. In my opinion the conferees decision to add a nuclear submarine and two guided missile frigates over the administration's request was most justifiable and appropriate.

I was also pleased that the conference report chastised our NATO allies for not meeting the 3-percent annual increase in defense spending which was a goal established recently by all NATO countries. I feel that this is a minimum obligation to be expected from our allies in the defense of Western Europe.

A DOD ceiling of 986,000 civilian employees was also reached which should allow more money to go into procurement items instead of salaries.

One provision of this bill does concern me, however, and that is the authorization of $1.6 billion for the MX missile and multiple protective basing system. I am not at all convinced of the efficacy of building this massive complex in the deserts of Nevada and Utah. My own feeling is that further studies need to be made in the area of submarine launched missiles, such as the shallow underwater missile concept (SUM). The cost of this or a similar proposal would be far less and would be much less vulnerable to enemy attack. I plan to soon followup on this concept by introducing legislation to authorize further studies in this area.●

THE MAKING OF A SAINT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. DRINAN. Mr. Speaker, today marks the 70th birthday of Mother Teresa of Calcutta. This extraordinarily dedicated woman has spent over 30 years ministering to the need of the poor, sick, and dying of India.

The unending devotion displayed by Mother Teresa serves as an inspiration to all the world. Her efforts were recognized most recently when she was awarded the 1979 Nobel Peace Prize. Her accomplishments and those of the Order of the Missionaries of Charity, which she founded in 1950, are widespread and far reaching. The order has grown to include 1,800 nuns and 120,000 coworkers in over 158 branches throughout the world. The facilities include medical centers for the treatment of over 53,000 lepers in Asia and Africa, food distribution centers, and schools for destitute children as well as her famed homes for dying destitutes.

Mr. Speaker, on the occasion of the birthday of this remarkable woman, I commend to the attention of my colleagues the following article from the March 4, 1969, edition of Look magazine entitled "The Making of a Saint." Unfortunately, in the 11 years since the publication of this article, conditions have not changed substantially for the poor. Luckily, Mother Teresa has not changed either:

THE MAKING OF A SAINT—TERESA OF INDIA, A WHITE ANGEL IN A SARI, LIVES FOR THE UNWANTED POOR

(By Curtis Bill Pepper)

Pope Paul VI ended his 1964 visit to India by giving his car—a white Lincoln convertible with red seats—to a nun who normally wears a 50-cent sari and sandals. He did it while speaking to a vast crowd at the Bombay airport.

"Before we leave dear India," he said "we wish to give our white car to Mother Teresa, Superior General of the Missionaries of Charity, to assist her in her universal mission of love."

Mother Teresa was not on hand to pick up her $5,500 gift. She was, instead, on the outskirts of town, bent over a dying man—an act older than Christianity and a demonstration of why Paul had given her his car, rather than leave it with the Cardinal Archbishop of Bombay, who owns a bathtub once used by the Maharajah of Kashmir.

The dying man was old, with arms like broken sticks and a face that was a dark pool, motionless except for the eyes that every so often opened, as if to ask how much time was left. He came from the north, and the nun spoke to him in Bangali, soft words of comfort and love, calling him by his name, which was Onil. He had been found in a roadside ditch. No hospital would take him. No one in the city of four million, with 3,000 officially designated slum areas, had the time to hold his hand while he died. There were too many.

So Mother Teresa had brought the old man to her home for dying destitutes. At that moment, after 14 years, she and her company of sisters had picked up over 21,000 dying from the streets and trash dumps of India.

Such a giant labor had left its mark on the woman holding the old man. The lifting of untold tons of human beings had bent her body beyond its 54 years. She had cheated against nature, too, denying herself rest, sleeping in the baggage racks of third-class trains as she shuttled about India establishing homes to help the sick and the poor. The pain of thousands had cut into her gaunt face, white as the mountain stones in Yugoslavia where she had once played as a girl.

"How do you feel now, Onil?" she asked.

It was not good. Sometimes, they got

them in time. Half of those they brought in were returned to whatever life awaited them. But starvation had pushed this old man beyond the point of return. No food or medicine could save him. Clinically, he was almost dead, though he managed to speak:

"I lived like an animal and . . . now I'm dying like a human being . . . . why?"

It was to widen such an embrace that Paul left behind his car. And then, a year ago, he asked the embrace to be extended to include his diocese. In a private note, he invited Mother Teresa to open one of her homes in Rome to minister to the poor; shanty dwellers ringing the city, families huddled under arches of Roman aqueducts, prostitutes walking the streets. To help out, he sent along a check for $10,000. No one could recall a modern Pope taking such action. Rome was packed with 22,000 nuns from 1,200 orders—many of them dedicated to helping the poor. Quite clearly, Paul felt the woman in India had something special.

At least one million people agreed with the Pope. In India, Mother Teresa already was a white angel in a sari who worked miracles. The drama was endless. To her Calcutta *Narmal Hriday*, the home for dying destitutes, they brought a man with half his body consumed by cancer—one more hospital reject in what the late Prime Minister Jawaharlal Nehru had called "the nightmare city," where two million Pakistani refugees had moved in on top of four million Indians, and 20,000 sacred cows wandered the streets.

The stench of the cancer was so strong that other patients protested. A male attendant, cleaning worms from the untended flesh, was seized with a fit of retching. The sisters were thus forced to move the dying man into another room. Mother Teresa undertook to clean him herself and at first met curses and taunts.

"How can you stand my stench?" he asked.

"It's nothing compared to the pain you must feel," she replied.

After a bit, the man said: "You are not people here. People do not behave like you."

Later, dying, he said: "Glory be to you."

"No," said Teresa. "Glory be to you who are suffering with Christ."

This was the key to her life, the link that ran from man to God. Teresa explained it recently in Calcutta: "We see Christ under two forms. We see Him on the altar, as bread, and we see Him in the slums, as the broken bodies of forgotten people. A body comes in, eaten by worms. I know when I touch it that I am touching the body of Christ. Otherwise, nothing could make me do it."

Teresa said she also served those she could not save: "What makes death terrible is that we are made to face a future alone. Worse than leprosy or cancer, there is another, even more awful disease of our time—being unwanted."

She recalled a phone call in New Delhi, saying there was a woman in a trash bin.

"When we arrived, we could hear her crying beneath the rubbish. She was covered with sores, her hair matted with filth. She continued to cry. She cried all the way to the home—even after we had washed her and put her to bed. Finally she said, 'I'm not crying because I am dying. It's something else. It's because my son did it.' "

Standing inside the Calcutta refuge for the dying, Mother Teresa spoke of God as though He were somebody you met on the street. Above all, He could be relied on to come through in a pinch. Once, in 1962, a sister had phoned from the center at Agra, saying she urgently needed 50,000 rupees for a children's home.

"Sorry, sister, but we can't do it," Teresa had answered. "We don't have the money."

After that, the phone had rung again. This time, it was a newspaper office. Mother Teresa had been given the Magsaysay Award by the Philippine Government. It included money.

How much? "About 50,000 rupees, Mother."

"I guess God wants a children's home in Agra," Teresa had muttered before hanging up.

Teresa has been listening to what God wanted since she was Agnes Gonxha Bojaxhiu, born August 27, 1910, daughter of an Albanian grocer living in Skoplje, Yugoslavia. "When I was 12," she says, "I got a call. It is a private matter. It was not a vision. I've never had a vision."

Two years later, some Jesuits, returning from India, described the work of the Loretto nuns in Calcutta. This gave Agnes a concrete goal, and, at 17, she reached India as Postulant Sister Teresa. Her novitiate began May 24, 1928. Nine years later, she took final vows and began to teach at the Loretto Convent High School in Calcutta. Soon, she found herself peering out beyond the red-brick walls of her cloistered world, toward the city's slums. "I knew where I belonged," she remembers, "but I didn't know how to get there."

Her instructions came in a second call, on the train to the Loretto retreat house at Darjeeling. "The message was quite clear: I was to leave the convent and help the poor, while living among them. It was an order."

That night, September 10, 1946—now celebrated within the order as the Day of Inspiration—Teresa hardly slept. Upon returning to Calcutta, she hurried to ask support from her archbishop—and was rebuffed. Undaunted, she waited patiently for over a year and then wrote to the head of her order, Mother Gertrude, in Rathfarnham, Ireland.

"She told me I could go. They would miss me, but if I was called by God in this way, I should go. I wept, for she understood."

Gertrude's letter, with one from Teresa, was sent to Rome. It produced quick results. Pius XII gave Teresa the right to go into the world—yet remain with vows as a nun under obedience to Calcutta's archbishop. The order, dated April 12, 1948, reached her August 7. She exchanged her Loretto habit for a white sari with a blue border and a small cross at the shoulder.

To learn medicine, she took three months' training at Patna with the Medical Missionary Sisters. By Christmas, she was back in Calcutta, exploring the slums of Tiljala and Motijhil. Three days later, with permission to open her first slum school, she found 23 children waiting for her in an open field. The next day, she found 41.

"We used the ground as a blackboard," she recalls, "but before anything else, I gave a few of them lessons in personal hygiene—with a good dunk in a tank!"

Michael Gomes, a government employee, gave Teresa a room on the top floor of his family home. Here, she wrote the rules for her future company—to be called Missionaries of Charity. The first candidate to climb the stairs of the Gomes home was a pretty, dark-skinned Bengali girl in a bright sari. She was Shubashini Das, 19, a former student of Teresa's. Teresa explained that anyone joining her would need four qualities: health of body and mind, ability to learn, abundant common sense and, most essential, a cheerful disposition. She told the girl to think it over.

Shubashini returned on St. Joseph's Day, discarding her bright sari for a simple white one like Teresa's and taking Teresa's Christian name, Agnes. Others quickly followed.

Since then, the order has grown to 350 sisters with 59 centers in Calcutta, plus 70 more in 20 other cities of India. Abroad, there are homes in Ceylon, Tanzania, Venezuela and Rome. Aided by lay co-workers, the sisters teach 5,400 children in 44 schools, treat 404,000 patients in 134 dispensaries, medicate 21,900 leprosy cases in 51 mobile clinics, and comfort over 2,000 in 12 homes for dying destitutes. This immense network is supported by donors in India and Mother Teresa committees in the U.S. and Europe. Schoolchildren in England send bread; those in Denmark, milk; and in West Germany, vitamins.

The nuns led a hard life. Up at 4:30, they go all day, with only 30 minutes' rest, until 9:00 at night. Thursday is devoted mainly to reading. Except on rare occasions, there is no radio, cinema or television. The food is basic, eaten from a single enamel plate owned by each sister, without soft drinks or alcohol. Treats are handled as something precious. The Venezuelan house, for example, sent *one pack* of orange Life Savers for each of the 20 communities in India, which Teresa herself dutifully delivered during a recent tour.

It is not easy to join: Five years and nine months of school and hard work precede final vows. There have been few dropouts. Recruits have come mostly from India, with some 30 from Europe. Two from the U.S. returned—one because of illness, the other for personal reasons.

"Other companies," says Teresa, "have begun by helping the poor. Then, gradually, they service the rich-poor, and finally, the rich. For that reason, we accept no gifts, not even refreshments from those we visit. If we had electric fans, we'd soon find it hard to work without them. Our life of poverty is as necessary as the work itself."

This does not mean that poverty is the desired condition of man, and Teresa believes, with the Vatican Council, in spacing births to fit the pocketbook. But birth control is not the whole answer—not even in India, where 55,000 babies are born each day, adding 13 million every year to the nation's river of sorrow. Teresa does not approve, for example, of the government's sterilization program—even of leprosy patients, though they generally infect their children.

"If you take children away from them, what do they have? Who is going to smile at them, and help them get better by little bits?

"Those we find in the street are Christ in a distressing disguise. Our mission is to help Christ—not destroy the multiplicity of his presence."

So believes, and lives, Mother Teresa. Many ask if she is indeed a saint. Thousands say yes. Church authorities, traditionally cautious in discussing possible saints—living or dead—have been silent. Yet even in the Church, those who have known Teresa quickly admit to her uniqueness.

Pope Paul's tribute was to call her to Rome. Last August, Teresa visited the slum area called Borgata Latina, beyond the Porta S. Giovanni, where over 3,000 people live in shacks beneath the ruins of old Roman aqueducts. She left behind five sisters to begin work.

Saint now or saint-to-be, Mother Teresa is a woman with that kind of total faith that has given others like her the strength to raise armies, to humble kings—and to generate in people a wonder and warmth many believe to be a love for God.●

MORE ON THE FEDERAL ELECTION COMMISSION'S NONINVESTIGATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 27, 1980

● Mr. DORNAN. Mr. Speaker, this Congress is appropriating over $9 million to pay for the operation of the Federal Election Commission. For this sum, one would expect that the FEC would be willing to ask tough questions and use their subpena power, especially to resolve this Peck/Peck/Dennis/Stewart scandal.

Please read for yourself the additional discrepancies which follow. I will ask my colleagues to join with me when I offer a number of amendments next year to attempt to resolve inequities such as these which linger without correction by the FEC. We need a stronger not a weaker FEC. We need even broader disclosure requirements. Less limitation on supporters, more disclosure, and more enforcement to stop the scofflaws.

PECK CLAIMS TO RETURN MONEY THROUGH DENNIS' ATTORNEY: ATTORNEY SALTER VEHEMENTLY DENIES EVER CAME TO LOS ANGELES

According to a January 10, 1980, Evening Outlook article by Will Thorne, the funds—Dennis' illegal contributions to young Peck—were returned through his own attorney—Radcliffe—to Dennis' attorney after the two lawyers worked out a formula under which the $13,000 would be reapportioned among the original donors. Peck already knew the money was dirty. Peck said there had been no attempt at that time to ascertain from Dennis whether the money was illegal. Dennis laughed at this assertion in front of FBI witness.

However, Salter—Dennis' attorney—in a witnessed phone conversation with Congressman DORNAN emphatically denied having anything to do with return of the money. "No, I had nothing to do with it". This was also confirmed by James Dennis to a Dornan aide on July 17, 1980 by telephone. Terry Pullen, Peck's campaign manager, disputes this by stating that Salter flew to California in order to get the $13,000. This statement was made to Dornan campaign manager Arnold Steinberg in person in June of 1980 and confirmed by phone a few days later.

ALTHOUGH MONEY WAS GIVEN TO PECK BY DENNIS IN THE NAMES OF OTHERS, PECK WORKED OUT A FORMULA FOR APPORTIONING REFUND AMONG THE PHANTOM DONORS

Why would Peck and his attorney, if they suspected the money had all originally come from Dennis—which is why it was illegal in the first place—ask that the $13,000 be apportioned out among the 13 phantom donors? If they felt there were 13 true donors, then there would be no reason to return the money. Or, did they know or suspect from the beginning that Dennis had given the $13,000? For example, did the "Peck insiders" speak by phone with Dennis, as he claims, immediately after the coast-to-coast TV broadcast of Dennis the "bagman" on ABC's "20-20" television program?

PECK CLAIMS HE FIRST BECAME SUSPICIOUS ABOUT THE MONEY THROUGH A NEWS CLIPPINGS SERVICE HIS FATHER MAINTAINS

The Pecks first discovered the accusations against Dennis in both the fraud case and the charge of illegal contributions through a clipping service the elder Peck maintains. We ask:

What is the name of the clipping service?

How long after an article appears does the service refer it to Peck?

Carey Peck claims that the money had been returned after he and his father discovered Dennis had been indicted—Santa Monica Evening Outlook, January 10, 1980. Yet, according to the Peck's FEC forms for the period April 1, 1979 through June 30, 1979 signed by treasurer Mike Gordon—Stanley Caiden had left unhappy in November—on June 6, 1979, it is claimed that $13,000 was returned to James Dennis on June 13, 1979.

However, the first public mention of James Dennis' indictment outside of a courtroom came in the Birmingham papers on July 7, 1979. The indictments came down on July 6, 1979. Even as of this month, August 1980, the Peck people do not have their stories straight.

There was no mention of Carey Peck or Gregory Peck in the articles until late May. Presumably, Gregory Peck's clipping service only concerns itself with the name Peck. How would the articles regarding Dennis' indictment or information pertaining to it come to Carey Peck's attention? That is, would the clipping service be sending anything to do with the Dennis matter? No, obviously. Not until now perhaps.

In any case, there is an obvious discrepancy in the two dates Carey Peck selects for the date on which he claims to have returned the money.

Dennis still insists to this day that he spoke with the Peck people about this in March 1979. In front of FBI and Justice people, Dennis told Congressman DORNAN that: "I told them I would not involve Carey or his father. I said I would be a good soldier."

WHILE SENATOR STEWART CLAIMS TO HAVE CONDUCTED AN IN-HOUSE INVESTIGATION BEFORE RETURNING THE ILLEGAL MONEY, NO SUCH INVESTIGATION WAS EVER MADE BY PECK

Unlike the Stewart campaign which claimed to have sent registered letters with copies of the cashiers checks to certain suspect individuals, we simply find that Carey Peck, in his own words, said he had immediately obtained a personal bank loan of $9,000—a $13,000 loan as reported in Jack Anderson's column—in order to pay back the funds—see January 10 Evening Outlook article by Will Thorne. If Peck did not suspect or know the money was illegal, why all the haste to return it?

In any case, on Mr. Peck's FEC form for the period April 1, 1979 to June 30, 1979, we find that Mr. Peck listed himself as the source of the loan money—not a bank. In the space on the FEC form where it states, "nature of obligation—detail of debt" all that anyone will find on Mr. Peck's form is "advance from campaign expenditure—from personal funds." So either Mr. Peck was lying to the above newspaper reporters or he was and still is lying to the FEC. All House Members I know would report a bank loan on their FEC forms. Why does the FEC let Mr. Peck, Jr., off the hook in this matter? I am told that the Jack Anderson columns were included in the FEC press clips and were passed around the FEC building. Certainly someone at the FEC saw the Anderson column citing the Peck loan. And certainly that same someone knows that Mr. Peck has never reported this loan as required by FEC regulations. Perhaps the FEC Democratic partisans do not want to lose the fundraising service of Gregory Peck.

I urge my colleagues, members of the press, or any interested citizen to walk over to room 1036 of the Longworth Building, or to the FEC building and look up Mr. Peck's forms and FEC file MUR-970, to investigate this aspect as I have done.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, August 28, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 3

10:00 a.m.

Energy and Natural Resources

Parks, Recreation, and Renewable Resources Subcommittee

To hold hearings on S. 1857 and H.R. 5048, bills designating certain areas for addition to the Manassas National Battlefield Park in Virginia; and H.R. 7217, to provide for certain provisions relative to units of the national park system in Hawaii.

3110 Dirksen Building

2:00 p.m.

Judiciary

Subcommittee, closed business meeting, to discuss matters relating to its investigation of individuals representing the interests of foreign governments.

457 Russell Building

4:00 p.m.

Rules and Administration

Business meeting, to resume consideration of S. 2, providing for a review of Government programs every 10 years.

301 Russell Building

SEPTEMBER 4

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on the Federal regulatory reform policy of the Administrative Law Judge system, focusing on its operation within the agencies and departments under the Committee's jurisdiction.

235 Russell Building

Governmental Affairs

Intergovernmental Relations Subcommittee

To hold hearings on S. 2691, proposed State and Local Government Cost Estimate Act.

3302 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To hold hearings on S. 2717, to facilitate and encourage the production of oil from tarsand and other hydrocarbon deposits.

3110 Dirksen Building

Judiciary

Subcommittee, to resume hearings on matters relating to its investigation of individuals representing the interests of foreign governments.

318 Russell Building

SEPTEMBER 5

8:00 a.m.

Labor and Human Resources

To resume hearings on the nomination of John C. Truesdale, of Maryland, to be a member of the National Labor Relations Board.

4232 Dirksen Building

9:00 a.m.

Judiciary

To hold hearings on S. 2216, improving the intelligence system of the United States and providing protection of certain national security information.

2228 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To continue hearings on the Federal regulatory reform policy of the Administrative Law Judge system, focusing on its operation within the agencies and departments under the Committee's jurisdiction.

235 Russell Building

10:00 a.m.

Judiciary

Subcommittee, to continue hearings on matters relating to its investigation of individuals representing the interests of foreign governments.

318 Russell Building

SEPTEMBER 8

10:00 a.m.

Energy and Natural Resources

Parks, Recreation, and Renewable Resources Subcommittee

To hold hearings on H.R. 7105, to establish a national hostel system to encourage the development of hostels by State and local government agencies, and private, nonprofit groups; and S. 2263, to provide for the establishment of the Women's Rights National Historic Park in New York.

3110 Dirksen Building

SEPTEMBER 9

9:00 a.m.

Finance

International Trade Subcommittee

To hold hearings on S. 2721, to permit the granting of most-favored-nation treatment to products of a country which have not expropriated U.S. citizens' property without compensation therefor; on a proposed amendment, to provide for action regarding claims of U.S. citizens against the Government of Czechoslovakia, thereto, and on miscellaneous tariff bills.

2221 Dirksen Building

9:30 a.m.

Environmental and Public Works

Transportation Subcommittee

To resume hearings on S. 2913, authorizing funds through fiscal year 1983 for the Federal Aid Highway Program.

4200 Dirksen Building

Judiciary

Business meeting, to consider pending legislation and nominations.

2228 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To hold hearings on S. 2858, to allow the Department of the Interior to lease additional lands for the purpose of oil shale mining.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

Business meeting, to mark up title II, providing financial assistance to meet basic and employment skills needs of secondary school youth of S. 2385, proposed Youth Act.

4232 Dirksen Building

SEPTEMBER 10

9:00 a.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on H.R. 6883, to revise certain provisions relating to the tax treatment of installment sales of realty and incidental sales of personal property.

2221 Dirksen Building

9:30 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of Education For All Handicapped Children Act (Public Law 94-142).

4232 Dirksen Building

10:00 a.m.

Rules and Administration

To hold hearings on S. 16 and 964, providing for changes in the Presidential primary system, and S. J. Res. 189, establishing a Commission on Presidential Nominations.

301 Russell Building.

SEPTEMBER 11

10:00 a.m.

Finance

To hold hearings on provisions of sec. 5, to establish in the Treasury of the United States a Hazardous Substance Response Fund, of S. 1480, proposed Environmental Emergency Response Act.

2221 Dirksen Building

SEPTEMBER 12

10:00 a.m.

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

Business meeting, to resume markup of title II, providing financial assistance to meet basic and employment skills needs of secondary school youth of S. 2385, proposed Youth Act.

4232 Dirksen Building

SEPTEMBER 16

10:00 a.m.

Labor and Human Resources

To hold oversight hearings on the implementation of certain compensation programs for longshoremen.

4232 Dirksen Building

SEPTEMBER 23

10:00 a.m.

Labor and Human Resources

To hold hearings on S. 2979, to maintain and extend to 1986 the cost-of-living increases for pre- and post-retirement, and to increase the tax that employers are required to pay into the fund on behalf of active workers of the railroad industry.

4232 Dirksen Building

SEPTEMBER 24

10:00 a.m.

*Labor and Human Resources

To hold oversight hearings on the implementation of the home energy assistance program.

4232 Dirksen Building

CANCELLATIONS

SEPTEMBER 11

9:00 a.m.
Special on Aging
To hold hearing to examine proposals for possible changes to the social security system.
5110 Dirksen Building

SEPTEMBER 17

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 1608, 1609, and 2400, bills providing certain assistance to employees who suffer employment loss due to closings and relocations of business concerns.
4232 Dirksen Building

SEPTEMBER 18

10:00 a.m.
Labor and Human Resources
To continue hearings on S. 1608, 1609, and 2400, bills providing certain assistance to employees who suffer employment loss due to closings and relocations of business concerns.
4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, August 28, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We praise You, O God, for the ways You have shown Your love to humankind. From generation to generation Your word has been a light and a beacon to guide people in the way of faith and truth and life. Help us to remember Your mighty acts done for our deliverance and redemption and may we eagerly look to You as the Lord and giver of life. Bless our Nation with Your providence, and minister to the people with Your forgiveness. Grant to those who are burdened by any problem or concern the healing balm of Your presence. Be with us and remain with us always, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 1781. An act to amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes;

H.R. 7072. An act to amend sections 5702 and 5704 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowances of Government employees on official travel, and for other purposes; and

H. Con. Res. 410. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 2680.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 1967. An act to modify the boundary of the White River National Forest in the State of Colorado.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5410. An act to amend title 5, United States Code, to require any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employee's spouse to notify (or take all reasonable steps to notify) the spouse of that election.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1391. An act to amend section 9 of the National Climate Program Act to extend the authorization for appropriations for fiscal years 1981, 1982, and 1983;

S. 1953. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Louis L'Amour;

S. 2483. An act to amend title 28 of the United States Code to request the Chief Justice of the United States to give an annual address to the Congress on the state of the judiciary; and

S. 2566. An act to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes.

SOCIAL SECURITY: THE REAL OPTIONS

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, during this past week, I have described in a series of 1-minute speeches the dimensions and nature of our social security problems. These problems are real and serious, but we need not feel helpless if we are willing to look sensibly at the long-term options for stabilizing the system. Without getting into the details, these solutions fall into three main categories. They all involve some biting of the bullet. None are as painful in the long run, or as damaging to Government, as doing nothing. Some combination of these options should be considered, sooner rather than later.

First, we can suppress the growth of those benefits which are not strictly retirement related and thus are better financed from the General Treasury than by a payroll tax. Government cannot be all things to all people, and neither can an important part of the Government like the Social Security Administration. We all know there are welfare-related items currently included in social security benefits;

Second, a related option would adjust the payroll tax, giving a larger portion of it to social security and assigning such nonactuarial programs as medicare to the General Treasury. While this is no substitute for disciplining the future growth of benefits, it would take pressure off the most burdensome tax on labor we have and greatly improve the social security revenue balance; and

Third, we could give additional incentives for working beyond age 65, rather than forcing people to retire then by the economic penalties implicit in our present system. There are lots of ways of doing this other than raising the retirement age, and these incentives need not put additional demands on the system. They carry a big actuarial wallop, and seem appropriate to increasing longevity and a declining work force.

Mr. Speaker, we had better get at this important work. Old people and young people alike are losing confidence in this central element in our personal retirement plans, inflation is aggravating matters, and our responsibility as patternsetters is clear.

LAMEDUCK CYNICISM

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, yesterday you banned poor little Donald Democrat, our symbolic rubber lame duck from the floor because you said he cast ridicule on this body. Mr. Speaker, I would respectfully suggest that a rubber lame duck, symbolizing Democrat plans for a lameduck session can neither add nor detract from the ridicule that the majority party heaps upon this House when it refuses to deal with the important issues facing America before the election because they care more about getting reelected than about doing the job for which they were elected. The law requires that the Nation's budget be completed "not later than September 15 of each year" and by ignoring the law of the land, the majority party is giving the back of its hand to the American people. So if there is ridicule of this body, it is caused by the cynical, politics as usual, approach of the majority party. The majority leader paid a great compliment to the minority yesterday when he said that the minority was somehow responsible for the need for a lameduck session. If we have that kind of power with just one-third of the membership just think how effective we could be if we were the majority. If the majority cannot govern with a two-thirds majority it is time for a change.

MORE PROMISES FROM THE PRESIDENT

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, as I understand it, the President is going to announce, for the third or fourth time, today, his master plan for the economic salvation of the country.

I cannot wait to see it.

The press has informed us that while the public is being left with the impression our economic woes are over, the Congress, which must enact the program, will not see it until after the elections.

This has been the hallmark of the Carter administration. Some politicians make promises and then do something else. President Carter makes promises and does nothing. Those words he spoke to the Urban League are still ringing in my ears. He promised, and I quote, "millions and millions and millions of people back to work in new * * * exciting * * * and stimulating jobs," which will "restore growth, reduce unemployment without re-igniting the fires of inflation." His words. Incredible words are deceitful words.

President Carter will reap a bountiful political harvest from this 3-week long media binge which started with the Urban League. He knows how to make promises. We do not yet know, however, if he knows how to keep them. He has never tried.

RESOLUTION OF INQUIRY CONCERNING PENTAGON LEAKS

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, today I will introduce a resolution of inquiry directing President Carter to provide the Congress with all pertinent information concerning the Pentagon leaks on the so-called stealth aircraft. Secretary of Defense Harold Brown claimed on August 22 in a news conference, at which he confirmed the existence of this new technology, that the press conference was necessary because of the leaks.

Yesterday in testimony before the House Armed Services Subcommittee on Investigations it became apparent that the administration may have orchestrated the leaks they are now using to justify the further dissemination of this information.

If these allegations are true and the Secretary of Defense and other high-ranking Pentagon officials are purposely releasing this information, it is a total outrage. I hope the resolution of inquiry will get to the bottom of this.

PENTAGON LEAKS OF INVISIBLE BOMBERS

(Mr. BEARD of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEARD of Tennessee. Mr. Speaker, for those of my colleagues who may not already be aware, the Investigations Subcommittee of the Armed Services Committee has begun its examination of what I think could prove to be a major political scandal.

You all know by now about those so-called invisible bombers that the Department of Defense says they were forced to disclose because of some "unfortunate" leaks.

You also know that those leaks could not have come at a more opportune time for a President in the heat of a campaign who has treated our national defense as though it were a stepchild.

You should also know that yesterday's testimony given to a committee by Ben Schemmer indicates what I suspected all along. There is a definite possibility that the administration leaked the story and then called its own press conference to confirm the leaks.

I have asked that Secretary of Defense Harold Brown and several of his top aides be called to testify under oath next week to deny—if they can—their part in all of this—an irresponsible compromise of one of our most sensitive national defense secrets.

To play such a heavyhanded political game with this Nation's premier defense secrets is unthinkable. If this investigation leads to positive identification of the parties responsible for these leaks, I will demand criminal prosecution.

□ 1010

CONSIDERATION OF BUDGET

(Mr. KRAMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KRAMER. Mr. Speaker, yesterday, the House was in session 10¾ hours, and once again we failed to take up the budget. I would remind the leadership that it has now been 28 days since it indicated a lameduck session would be necessary this year. It is hard to imagine what legislation is so pressing as to delay consideration of the second budget resolution. Yet, we have seen no apparent attempt to rearrange the schedule to permit a vote on the budget prior to the election. Mr. Speaker, some of us have offered to work past the October 4 adjournment date, and right up to the election, if that is what it takes. The American people are paying us more than $60,000 a year to make the tough decisions that are needed to get this country back on the right track. The 1981 budget represents the blueprint of what we intend to do about inflation, taxes, defense spending, and unemployment. Surely, the public has a right to know how we vote on the budget before, not after, election day. When we get back from the Labor Day recess, let us not waste any more time; let us get going on next year's budget.

AMERICAN FOREIGN POLICY ON SUMMER VACATION

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, tomorrow will be the 300th day of captivity for 52 Americans in Tehran. Primary season is over, and with it have gone the prayerful litanies and strategically timed announcements of what used to be called "the hostage crisis." Are we to believe that the Carter administration thinks that this disgrace becomes less critical the longer it drags on?

Half the world depends on the strength of this Nation for its security. What are our allies to think as they watch us playing dead on Iran? Is American foreign policy on summer vacation?

Mr. Speaker, it only takes 295 days after the moment of conception for a child to be born. That is a miracle. I wonder how it can be that it takes more time for the United States of America to secure the release of 52 of its citizens from a small country in the midst of near civil war, and bring them back home where they belong.

NO NEED FOR A LAMEDUCK SESSION

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, I think that the debate over whether or not we will submit to a lameduck session this November demands something more than a consideration of whether or not it would be politically expedient. Let us consider whether or not it would be truly in keeping with the precepts of representative government.

When the issue was debated at length in 1932, in the context of the adoption of the 20th amendment to the Constitution, Representative Gifford of Massachusetts concluded, in pointed and very thoughtful terms, that such a lameduck session is patently undemocratic.

Almost a half century ago on this very floor, that man reasoned:

> Looking into the matter from my own standpoint, I would prefer not to come back here and legislate after having been defeated, because I suppose that I would have to continue my former frame of mind and sometimes vote directly against the exact wishes of my constituents as expressed in the election of my opponent.

If the same dose of intellectual honesty were applied here as it was in 1932, there would be no question that for the sake of representative government we must disallow the prospect of a lameduck session.

VETO OVERRIDE SETS NEW RECORD

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO Mr. Speaker, it is my distinct privilege to announce that the House set a new record earlier this week, in conjunction with the President.

By voting 401 to 5 to override the President's veto of the VA Health Care Amendments of 1980, the House smashed a 72-year record for the least number of votes in support of a Presidential veto of a public bill. It was in 1908, according to the Library of Congress, that the House voted 204 to 5 to override President Teddy Roosevelt's veto of the Raney River Dam bill. Then as now, the override came at the hands of a House in the control of the President's own party. Maybe that is why he later quit the party.

This is a record that has stood for some 2,000-odd vetoes. Congratulations, Mr. President.

LET US START WORK ON THE BUDGET NOW

(Mr. ROYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROYER. Mr. Speaker, the session is drawing rapidly to a close and this Congress has yet to begin work on a second concurrent budget resolution which, according to the Budget Act, is to be completed by September 15. I am appalled by our obvious delay. Our country is economically floundering but no policy exists which deals with our current problems. We need to debate fiscal and budget policies if we are ever going to make the long-term structural changes that need to be made. By putting off the budget debate we put off making the spending and tax decisions that have to be made to make the American economy healthy again. I am also appalled because it seems to me that this delay is occurring in order to avoid admitting that the fiscal year 1980 budget is now $60 billion in deficit and the budget that we allegedly balanced for fiscal year 1981 is actually $30 billion out of balance. We do not need a lameduck session—we need to begin work on the budget now. Let us take up the budget, make the hard budgetary choices and play it straight with the American people.

THE PRESIDENT'S UNUSUAL PROGRAM

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, today at 2 p.m. the President will announce his new economic package. He seems to make one several times a year.

Part of that message is said to include a large tax cut for 1981. If this is true, it appears that President Carter, having surrendered to Senator KENNEDY on big spending in the Democratic platform, is now surrendering to Governor Reagan on the subject of tax cuts.

We all well recall the President said Senator KENNEDY was very dangerous, and that the tax cut suggested by Governor Reagan was inflationary—maybe it is immoral and fattening, too. Somehow, Senator KENNEDY'S spending programs became less dangerous and Governor Reagan's tax cut became less inflationary.

That is a very unusual kind of program, even in a very unusual election year.

Mr. RITTER. Mr. Speaker, I am pleased that a majority of the Members of this body has been sufficiently impressed by the events taking place in Poland that they have become cosponsors to my resolution calling for a peaceful conclusion to the conflict between the Polish workers and their Government, without external intervention.

I am also pleased to note there have been some compromises made by the Polish Government in negotiation with the strikers and that, in principle, many of the strikers' requests have been met. It seems as though the expansion of the strike will be curtailed for several days as the situation evolves further and as the nation's food needs are met.

Mr. Speaker, everyone should be pleased that this extraordinary situation has continued thus far without violence or force applied by the Polish Government or foreign intervention. It is evident thus far that the principles embodied in the Helsinki accords are possible to achieve and that problems can be resolved peacefully, with mutual benefit to all.

Mr. Speaker, we in this Congress who signed my resolution of nonintervention in Poland are watchful and will continue to review and take account of the events unfolding in Poland.

☐ 1020

MR. CARTER AND MR. MUGABE

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, I am willing to withhold judgment on the government of the new African nation of Zimbabwe, but there has to be a line drawn somewhere. The comments made yesterday by President Carter about the leadership of this new nation are appalling to me.

This morning's Washington Post quotes President Carter, at an elaborately arranged ceremony last night in the White House, as saying that the principles and ideals expounded by Mugabe were "very similar, perhaps even identical" to those of this country.

Mr. Mugabe is a Communist, a self-professed Marxist, and has made no doubt about that, though in recent months he has toned down his claim to that title.

The President also quipped that he had asked Mugabe to come to the White House "to observe closely the techniques you have used in your successful political effort" as he himself gears for an uphill struggle in the forthcoming Presidential race.

Mr. Mugabe's tactics were the slaughter of innocent thousands of whites and blacks, including missionaries and the appointment to his Cabinet of his ally, Joshua Nkomo, a man who boasted that he shot down an unarmed civilian airliner, killing many people.

Any President of the United States ought to be very careful in what he says. If Jimmy Carter believes this trash, there is a serious question about his judgment or his fitness to serve in office.

WHO'S A COMMUNIST?

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, I believe that if Thomas Jefferson, Thomas Paine, George Washington, and some of the others were alive today, there would be some gentlemen, not my good, intelligent friend from Maryland, but some other gentlemen who would call them Communists because they were revolutionaries at that time; because they believed in overthrowing governments by force and violence if the government did not represent them. And, I believe that any tactics that can help win an election, Ronald Reagan will use.

THE O'NEILL-DORNAN DEBATE

(Mr. DORNAN asked and ws given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, you are my political hero, and I mean this sincerely because we are both right-handed Irish-Americans, and by blood I should be able to match your unabashed political partisanship and dedication. However you are on a plateau; whereas I am on the way up. So, let us talk turkey about the mysterious "stealth" bomber. You were the leader in this body killing for at least 4 years the magnificent B-1 bomber built in my district. It cost us over 8,000 jobs in my beach cities, most of them hard-working, middle-class, blue-collar Democrats. You must remember that large, white, sleek model of the B-1 "Peacemaker" that I placed here on the desk. You said it was "oh so beautiful," you will recall. Then, you shot it down.

It was 1978, George Washington's birthday. Remember that irony.

Well, Mr. Speaker, you told me yourself you were coming out to my district to campaign for "Gregory" Peck. You recall that I politely corrected you, that you meant "Carey," and you chuckled and smiled warmly when I said, "No, really, Mr. Speaker, you were right the first time. The draw is big Gregory." Remember?

Well, let us, you and me, have a formal debate in my great beach cities aerospace district. I will get you a town hall and an audience of a thousand people—I can guarantee that—a thousand folks for you and me to debate the B-1 bomber versus the so-called stealth bomber which comes to us either by courtesy of the tooth fairy or by a god awful deliberate breach of national security. A frightening leak, as Members on both sides of the aisle have forcefully pointed out this morning.

I look forward to your exciting September 12 district visit, Mr. Speaker, and I promise you I will even have some lovely ladies to greet you singing lustily from the hit broadway show and film "Sweet Charity," "Hey, Big Spender."

The SPEAKER. The gentleman seems upset.

PERMITTING ENLISTMENT IN U.S. ARMED FORCES OF NORTHERN MARIANA ISLANDS CITIZENS

Mr. WHITE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4627) to permit citizens of the Northern Mariana Islands to enlist in the Armed Forces of the United States before becoming citizens of the United States upon the establishment of the Commonwealth of the Northern Mariana Islands, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, strike out all after line 2 over to and including line 6 on page 2 and insert:

That notwithstanding the provisions of section 3253 and 8253 of title 10, United States Code, and in accordance with a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (approved on March 24, 1976, by Public Law 94–241), a citizen of the Northern Mariana Islands who indicates in writing to a commissioned officer of the Armed Forces of the United States of America an intent to become a citizen, and not a national, of the United States upon full implementation of such Covenant, and who is otherwise qualified for military service under applicable laws and regulations, may enlist in the Armed Forces of the United States of America.

Amend the title so as to read: "An Act to authorize the enlistment of citizens of the Northern Mariana Islands in the Armed Forces of the United States of America."

Mr. WHITE (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mrs. HOLT. Mr. Speaker, reserving the right to object, and I shall not object, I would like to yield to the gentleman from Texas for an explanation.

Mr. WHITE. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, H.R. 4627 would permit citizens of the Northern Mariana Islands to enlist in the Armed Forces prior to the time the Commonwealth of the Northern Mariana Islands is established and they have the option of becoming citizens.

The Senate amendment simply requires citizens of the Northern Mariana Islands who seek enlistment to declare their intention to become citizens of the United States at the time the trusteeship terminates.

Mrs. HOLT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIPS

Mr. WHITE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5766) to amend title 10, United States Code, to authorize additional Reserve Officers' Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with House amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause, and insert:

That (a) section 2107(a) of title 10, United States Code, relating to financial assistance for specially selected members of the Reserve Officers' Training Corps, is amended by striking out the period at the end of the first sentence and all of the second sentence and inserting in lieu thereof a comma and the following: "except that the age of any such member who has served on active duty in the armed forces may exceed such age limitation on such date by a period equal to the period such member served on active duty, but only if such member will be under 29 years of age on such date.".

(b) Section 2107 of such title is further amended—

(1) by inserting "and" at the end of clause (4) of subsection (b);

(2) by striking out clauses (5) and (6) of subsection (b) and inserting in lieu thereof the following:

"(5) agree in writing that, at the discretion of the Secretary of the military department concerned, he will either—

"(A) (i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be, and that, if he is commissioned as a regular officer and his regular commission is terminated before the sixth anniversary of his date of rank, he will accept an appointment, if offered, in the reserve component of that armed force and not resign before that anniversary; and

"(ii) serve on active duty for four or more years; or

"(B) (i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be; and

"(ii) serve in a reserve component of that armed force until the eighth anniversary of the receipt of such appointment, unless otherwise extended by subsection (d) of section 2108 of this title, under such terms and conditions as shall be prescribed by the Secretary of the military department, concerned

The performance of service under clause (5) (B) may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed."; and

(3) by striking out "6,500" the first place it appears in subsection (h) and inserting in lieu thereof "12,000".

(c) (1) Chapter 103 of such title, relating to Senior Reserve Officers' Training Corps, is amended by inserting after section 2107 the following new section:

"§ 2107a. Financial assistance program for specially selected members: military junior colleges

"(a) (1) The Secretary of the Army may appoint as a cadet in the Army Reserve or Army National Guard of the United States any eligible member of the program who is a student at a military junior college and who will be under 25 years of age on June 30 of the calendar year in which he is eligible under this section for appointment as a second lieutenant in the Army, except that the age of any such member who has served on active duty in the armed forces may exceed such age limitation on such date by a period equal to the period such member served on active duty, but only if such member will be under 29 years of age on such date.

"(2) To be considered a military junior college for the purposes of this section, a school must be a civilian postsecondary educational institution essentially military in nature that does not confer baccalaureate degrees and that meets such other requirements as the Secretary of the Army may prescribe.

"(b) To be eligible for appointment as a cadet under this section, a member of the program must—

"(1) be a citizen of the United States;

"(2) be specially selected for the financial assistance program under this section under procedures prescribed by the Secretary of the Army;

"(3) enlist in a reserve component of the Army for the period prescribed by the Secretary of the Army;

"(4) contract, with the consent of his parent or guardian if he is a minor, with the Secretary of the Army to serve for the period required by the program;

"(5) agree in writing that he will accept an appointment, if offered, as a commissioned officer in the Army Reserve or the Army National Guard of the United States; and

"(6) agree in writing that he will serve in such reserve component for not less than eight years.

Performance of duty under an agreement under this subsection shall be under such terms and conditions as the Secretary of the Army may prescribe and may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed.

"(c) The Secretary of the Army shall provide for the payment of all expenses of the Department of the Army in administering the financial assistance program under this section, including the cost of tuition, fees, books, and laboratory expenses which are incurred by members of the program appointed as cadets under this section while such members are students at a military junior college.

"(d) Upon satisfactorily completing the academic and military requirements of the program, a cadet may be appointed as a reserve officer in the Army in the grade of second lieutenant, even though he is under 21 years of age.

"(e) the date of rank of officers appointed under this section in May or June of any year is the date of graduation of cadets from the United States Military Academy in that year. The Secretary of the Army shall establish the date of rank of all other officers appointed under this section.

"(f) A cadet who does not complete the course of instruction, or who completes the course but declines to accept a commission when offered, may be ordered to active duty by the Secretary of the Army to serve in his enlisted grade for such period of time as the Secretary prescribes but not for more than four years.

"(g) In computing length of service for any purpose, an officer appointed under this section may not be credited with service as a cadet or with concurrent enlisted service.

"(h) (1) The Secretary of the Army shall appoint not less than 10 cadets under this section each year at each military junior college at which there are not less than 10 members of the program eligible under subsection (b) for such an appointment. At any military college at which in any year there are fewer than 10 such members, the Secretary shall appoint each such member as a cadet under this section.

"(2) If the level of participation in the program at any military junior college meets criteria for such participation established by the Secretary of the Army by regulation, the Secretary shall appoint additional cadets under this section from among members of the program at such military junior college who are eligible under subsection (b) for such an appointment.

"(i) Cadets appointed under this section are in addition to the number appointed under section 2107 of this title.".

(2) The table of sections at the beginning of chapter 103 of such title is amended by inserting after the item relating to section 2107 the following new item:

"2107a. Financial assistance program for specially selected members: military junior colleges.".

(d) Section 2108(d) of such title, relating to advanced training after receiving a baccalaureate degree or completing preprofessional studies, is amended by striking out the second sentence and inserting in lieu thereof the following: "If a member of the program has been accepted for resident graduate or professional study, the Secretary of the military department concerned may delay the commencement of that member's obligated period of active duty, and any obligated period of active duty for training or other service in an active or inactive status in a reserve component, until the member has completed that study. If a cadet appointed under section 2107a of this title has been accepted for a course of study at an accredited civilian educational institution authorized to grant baccalaureate degrees, the Secretary of the Army may delay the beginning of that member's obligated period of service in a reserve component until the member has completed such course of study.".

(e) The amendments made by this section shall take effect on October 1, 1980.

SEC. 2. (a) Chapter 101 of title 10, United States Code, relating to training, is amended by adding at the end of such chapter the following new section:

"§ 2005. Advanced education assistance: active duty agreement; reimbursement requirements

"(a) The Secretary of an armed force may require, as a condition to the Secretary providing advanced education assistance to any person, that such person enter into a written agreement with the Secretary concerned under the terms of which such person shall agree—

"(1) to complete the educational requirements specified in the agreement and to serve on active duty for a period specified in the agreement;

"(2) that if such person fails to complete the education requirements specified in the agreement, such person will serve on active duty for a period specified in the agreement,

"(3) that if such person, voluntarily or because of misconduct, fails to complete the period of active duty specified in the agreement, such person will reimburse the United States in an amount that bears the same ratio to the total cost of advanced education provided such person as the unserved portion of active duty bears to the total period of active duty such person agreed to serve; and

"(4) to such other terms and conditions as the Secretary concerned may prescribe to protect the interest of the United States.

"(b) The Secretary concerned shall determine the period of active duty to be served by any person for advanced education assistance to be provided such person by an armed force, except that if the period of active duty required to be served is specified under another provision of law with respect to the advanced education assistance to be provided, the period specified in the agreement referred to in subsection (a) shall be the same as the period specified in such other provision of law.

"(c) Subject to the provisions of subsection (d) of this section, the obligation to reimburse the United States under an agreement described in subsection (a) of this section is, for all purposes a debt owing the United States.

"(d) A discharge in bankruptcy under title 11 shall not release a person from an obligation to reimburse the United States required under the terms of an agreement described in subsection (a) of this section if the final decree of the discharge in bankruptcy was issued within a period of five years after the last day of a period which such person had agreed to serve on active duty. This subsection applies to a discharge in bankruptcy in any proceeding which begins after September 30, 1978.

"(e) In this section—

"(1) 'Advanced education' means education or training above the secondary school level but does not include technical training provided to a member of the armed forces to qualify such member to perform a specified military function, to workshops, or to short-term training programs.

"(2) 'Assistance' means the direct provision of any course of advanced education by an armed force, reimbursement by an armed force for any course of advanced education provided by another department or agency of the Federal Government, or the payment, in whole or in part, by an armed force for any course of advanced education provided by any public or private educational institution or other entity.

"(3) 'Cost of advanced education' means those costs which are, under regulations prescribed by the Secretary concerned, directly attributable to the education of the person to whom a course of advanced education is provided, including the cost of tuition and other fees (or, if none is charged, an amount determined by the Secretary concerned to be a reasonable charge for the education provided), the cost of books, supplies, transportation, and miscellaneous expenses, and the cost of room and board, but such term does not include pay or allowances under title 37 or a stipend under section 2121 of this title.".

(b) The table of sections at the beginning of chapter 101 of such title is amended by adding at the end thereof the following new item:

"2005. Advanced education assistance: active duty agreement; reimbursement requirements.".

SEC. 3. Effective only for the period beginning October 1, 1980, and ending September 30, 1981, section 7572(b) of title 10, United States Code, relating to accommodations in place of quarters for members on sea duty, is amended to read as follows:

"(b) Under such regulations as the Secretary prescribes, any member of the uniformed services on sea duty who is deprived of quarters on board ship because of repairs or because of other conditions that make the member's quarters uninhabitable, may be reimbursed for expenses incurred in obtaining quarters, in an amount not more than the basic allowance for quarters of a member of the same grade without dependents, if it is impracticable to furnish accommodations under subsection (a). A member entitled to receipt of basic allowance for quarters may not be reimbursed for expenses under this subsection when deprived of quarters aboard ship at a location at which the member can reside with such member's dependents. The total amount of such reimbursements for fiscal year 1981 may not exceed $9,000,000.".

SEC. 4. Section 3(a) of the Act of August 10, 1956 (33 U.S.C. 857a(a)), relating to the applicability of certain laws to the National Oceanic and Atomspheric Administration, is amended by adding at the end thereof the following new paragraph:

"(13) Section 7572(b), Quarters: accommodations in place of for members on sea duty.".

SEC. 5. (a) Sections 3686(2) and 8686(2) of title 10, United States Code, relating to service credit for service as members of the Army and Air Force National Guard, are each amended by striking out "sections 316 and 503–505 of title 32" and inserting in lieu thereof "sections 316 and 502 through 505 of title 32".

(b) The amendments made by subsection (a) shall apply with respect to full-time training or other full-time duty performed under section 502 of title 32, United States Code, on and after the date of the enactment of this Act.

SEC. 6. The second sentence of section 672(a) of title 10, United States Code, relating to authority to order members of the Standby Reserve to active duty, is amended to read as follows: "However a member on an inactive status list or in a retired status may not be ordered to active duty under this subsection unless the Secretary concerned, with the approval of the Secretary of Defense in the case of the Secretary of a military department, determines that there are not enough qualified Reserves in an active status or in the inactive National Guard in the required category who are readily available.".

SEC. 7. (a) Section 4818 of the Revised Statutes of the United States (24 U.S.C. 44), relating to funds for the support of the Soldiers' and Airmen's Home, is amended by inserting "or under authority of section 815 of title 10, United States Code" after "courts-martial".

(b) The amendment made by subsection (a) shall become effective on October 1, 1981.

Amend the title so as to read: "An Act to authorize additional Reserve Officers' Training Corps scholarships for the Army, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, to authorize the Secretary of an armed force to require an individual furnished post-secondary education by an armed force to reimburse the United States for the cost of such education in the event such individual fails to comply with such individual's active duty obligation, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for certain purposes, and for other purposes.".

The Clerk read the House amendments to the Senate amendments, as follows:

Page 8, line 3, strike out "Secretary of an armed force" and insert in lieu thereof "Secretary concerned".

Page 10, lines 6, 7, and 10, strike out "an armed force" and insert in lieu thereof "the Secretary concerned".

Page 10, line 12, strike out the period and insert in lieu thereof ", but such term does not include the payment for any course of advanced education which is paid for under chapter 106 or 107 of this title.".

Page 12, line 4, strike out "(13)" and insert in lieu thereof "(14)".

In lieu of the Senate amendment to the title of the bill, amend the title so as to read: "An Act to authorize additional Reserve Officers' Training Corps scholarships for the Army, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, to authorize the Secretary concerned to require an individual furnished post-secondary education by an Armed Force to reimburse the United States for the cost of such education in the event such individual fails to comply with such individual's active-duty obligation, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for certain purposes, and for other purposes.".

Mr. WHITE (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the amendments be dispensed with, and that they be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mrs. HOLT. Mr. Speaker, reserving the right to object, I yield to the gentleman from Texas for an explanation.

Mr. WHITE. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, H.R. 5766 deals with providing additional scholarships to the Army Reserve Officers' Training Corps (ROTC) program and providing scholarships to military junior colleges.

The Senate amended the House bill by increasing the age limit for eligibility for ROTC scholarships and providing a system for reimbursing the Government for such scholarships if an individual does not complete the program.

The Senate also attached four additional provisions to H.R. 5766. The first is an administration proposal to provide quarters allowances to Navy personnel on sea duty whose ship is in overhaul when no other quarters are available. The second provision would permit all fines imposed as a result of nonjudicial forfeitures under the Uniform Code of Military Justice to be applied to the support of the Soldiers' and Airmen's Home. The House passed a similar provision in the 94th Congress.

The final two provisions added by the Senate relate to crediting certain full-time training duty for members of the National Guard as active duty for training in the Federal service and deleting the requirement that the Director of Selective Service screen members of the Standby Reserve before they can be called to active duty. Mr. Speaker, both of these provisions have been passed by the House as separate pieces of legislation.

The House amendments are technical in nature.

I thank the gentlelady for yielding.

□ 1030

Mrs. HOLT. Mr. Speaker, I thank the gentleman from Texas (Mr. WHITE), and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 390, ANTITRUST PROCEDURAL IMPROVEMENTS ACT OF 1980

Mr. MAZZOLI. Mr. Speaker, I call up the conference report on the Senate bill (S. 390) to expedite and reduce the cost of antitrust litigation, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 20, 1980.)

The SPEAKER. The gentleman from Kentucky (Mr. MAZZOLI) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MCCLORY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 390, the Antitrust Procedural Improvements Act of 1980, is a bill to expedite and reduce the cost of antitrust litigation.

S. 390 is the product of recommendations made by the President's National Commission for the Review of Antitrust Laws and Procedures.

S. 390 was the subject of careful study by the Committee on the Judiciary and its Subcommittee on Monopolies and Commercial Law.

The Monopolies Subcommittee held 3 days of hearings on the legislation, receiving favorable testimony from the administration, judges, academics, members of the private bar, business, and industry.

The subcommittee and the committee amended the legislation reflecting recommendations of several witnesses to strike a better balance between the need to expedite and reduce the cost of complex antitrust litigation, and the need to fully protect the rights of the litigants.

The first provision of S. 390 amends the Antitrust Civil Process Act with respect to the application of civil investigative demands (CID's). This provision clarifies the authority of the Department of Justice's Antitrust Division to use CID's to obtain the summaries, analyses or other studies compiled from documents and materials produced in response to discovery orders issued in connection with another legal action.

The CID amendments provide adequate protections for the parties in the initial litigation, including extending the confidentiality protection of the act to the party from whom the discovered documents were originally obtained. Moreover, since both parties in the other action are formal recipients of a CID, each may seek a protective order against the Government to prevent its making a subsequent disclosure of this information to others.

The CID amendments will promote the efficient use of public resources by eliminating the need for costly and time-consuming discovery efforts by the Antitrust Division that duplicate discovery procedures already completed by a litigant.

The House and Senate versions of this provision were substantially identical. The lone significant disagreement centered on the definition of the term "product of discovery." The Senate bill said the discovery had to have taken place "in any litigation," whereas the House bill said "in any judicial or administrative litigation."

In an effort to clarify this language the managers agreed to the substitute language "in any judicial litigation or any administrative litigation of an adversarial nature."

The managers intend that the term "any administrative litigation of an adversarial nature" should apply only to those administrative proceedings that are adversarial in nature and format, and in which the agency or other party obtained the product of discovery by agency or civil discovery process that allowed the discovered party to raise objections and be heard on such objections.

It is not the House managers' intention that this term include rulemaking or licensing proceedings unless the parties against whom discovery orders issued were accorded formal procedural safeguards, such as the right to object and be heard on the objection.

Thus, "administrative litigation of an adversarial nature" does not cover information gathering programs or purely investigatory proceedings in which information is obtained by the United States or any governmental agency pursuant to laws of regulations providing for the filing or forms or reports.

The second provision pertains to sanctions against attorneys for dilatoriness and delay in connection with antitrust litigation.

The House took no position on the issue, while the Senate amended the existing law, 28 U.S.C. 1927 to charge excess costs, expenses and attorney fees to an attorney who intentionally engaged in conduct primarily for the purpose of delaying the litigation. Current law requires the attorney conduct, if sanctionable, to be solely for the purpose of delay and sanctions include only costs.

The managers of both Houses agreed that attorney sanctions complemented the other parts of S. 390 and helped provide a comprehensive approach to deterring unnecessary delays in antitrust litigation.

The managers on the part of the House were firm in their resolve to maintain the tough standard of current law so that the legislation in no way would dampen the legitimate zeal of an attorney in representing his client.

Under the agreement of managers, an attorney may be required to pay costs, as well as expenses and attorney's fees reasonably incurred on account of such attorney's dilatory conduct. But, the standard is that in current law, not the less-severe standard the Senate had agreed to originally.

The managers on the part of both the House and the Senate strongly agreed that judges who utilize section 1927 sanctions must make every effort to safeguard the rights of an attorney who may be held in violation of that section. In so doing, it is imperative that the court afford the attorney all appropriate protections of due process available under the law.

The third provision is prejudgment interest, a mechanism which provides a significant disincentive for parties to engage in litigation tactics which unduly delay the disposition of antitrust litigation.

This legislation amends sections 4, 4A, and 4C of the Clayton Act to authorize the award of prejudgment interest, under certain circumstances.

A court may award simple interest on a successful claimant's actual damages computed from the date of service of the complaint, setting forth the antitrust claim, to the date judgment is entered or any shorter period included therein.

The court can award prejudgment interest only if it makes a finding that the award is just under the circumstances.

In determining what is just under the circumstances the court must consider whether the parties to the litigation: Acted intentionally or in bad faith to delay the proceedings; or, whether either party violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior; or, whether either party engaged in conduct primarily for the purpose of delaying or increasing the cost of the litigation.

In single damage actions brought by the United States—Clayton Act, section 4A—the court may also consider whether a prejudgment interest award would be necessary to adequately compensate the United States for the injury it sustained by reason of the antitrust violation.

The courts are limited to only these factors in determining whether to award prejudgment interest.

This provision of the Antitrust Procedural Improvements Act is prospective. Here the managers on the part of the Senate acceded to the House position.

The fourth issue is that of collateral estoppel.

S. 390 amends section 5(A) of the Clayton Act, which grants prima facie effect in subsequent civil proceedings to judgments obtained by the United States under the antitrust laws, by providing that the express use of "prima facie" in section 5(A) shall not be construed to preclude the application of the common law doctrine of conclusive collateral estoppel.

S. 390 does not create a special rule for antitrust law. Rather, this clarifying amendment to the antitrust laws will allow the courts to apply the equitable doctrine of collateral estoppel, just as it does in all other litigation, to eliminate the wasteful retrying of an issue and to reduce the cost of complex antitrust litigation to the courts and the parties.

During the Judiciary Committee's consideration of this legislation, there was concern over the breadth of the coverage of the collateral estoppel provision.

While there was little opposition to the application of collateral estoppel to judgments rendered by a court, there was concern over granting collateral estoppel effect to administrative and other agency findings which could give rise to claims for relief under the antitrust laws. This use of collateral estoppel was prohibited in the House version of S. 390.

The managers on the part of the House indicated during the conference that the primary concern of the House lay with the Federal Trade Commission and pointed out that Senate language could be construed to permit the application of collateral estoppel to FTC administrative findings.

Accordingly, the managers of both Houses agreed to the House provision on administrative findings, but limited its scope to the Federal Trade Commission acting under the antitrust laws or under section 5 of the FTC act.

The managers then agreed to a Senate provision which allows Government judgments to be given prima facie effect where they, for some reason, are denied full collateral estoppel effect.

This provision is prospective. As such, S. 390 does not affect pending private suits. It leaves existing law as it is. The collateral estoppel effect, if any, of Government judgments obtained prior to enactment of this act is to be determined according to the principles of law prior to enactment.

The fifth issue before the conference pertained to the amendments to section 7 of the Clayton Act which permits the Department of Justice and private parties to challenge anticompetitive mergers involving business entities or persons engaged in any activity in interstate commerce.

The Senate bill retained current law—the House bill amended current law to cover mergers "affecting" interstate commerce not just those of entities "in" interstate commerce.

Many of the witnesses, including the American Bar Association, who appeared before the Subcommittee on Monopolies and Commercial Law favored the "affecting" commerce amendment. In light of that strong support, especially that of the ABA, the managers agreed to adopt the House language.

Ladies and gentlemen, we can all agree that antitrust litigation tends to be very complex, yet complexity should not be an excuse for unnecessary delays and wasteful expenditures of time, effort and money.

S. 390 endeavors to provide significant disincentives for delay and eliminate unnecessary and duplicative work by private litigants, the Government and their attorneys. The bill is based on the recommendations of the President's National Commission for the Review of Antitrust Laws and Procedures. S. 390 accurately reflects a careful balance protecting the interests of both private litigants and the Government.

The Antitrust Procedural Improvements Act of 1980 has the support of representatives of the private and public sector, including the Department of Justice, the ABA and the Chamber of Commerce. On August 18, 1980, the Senate considered and unanimously passed the conference report on S. 390.

I urge my colleagues to support the conference report and pass S. 390.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I want to commend the members of the conference committee, particularly the House Members, who sustained the House position on virtually every issue. As a matter of fact, on this conference the House won.

S. 390 contains six different antitrust bills, five of which have been acted on by the House. With respect to those five, the House version prevailed on virtually every significant issue. With respect to the sixth bill, the other body came more than half way in fashioning a compromise. And as a result of our successful efforts, former opponents of the legislation, such as the Chamber of Commerce and the National Association of Manufacturers, have withdrawn their opposition.

This legislation is largely the result of recommendations made by the National Commission for the Review of Antitrust Laws and Procedures, on which I was privileged to serve. This legislation, happily, should quiet those skeptics who feel that National Commissions only produce reports but never results.

The Members will recall that the House bills contained in the present package make clear the authority of the Justice Department to issue CID's for products of discovery and grant the Department authority to hire consultants to review CID materials. The bills also authorize the award of prejudgment interest in certain circumstances, extend the jurisdiction of section 7 of the Clayton Act to conform with that of the Sherman Act, and make clear that the prima facie evidence provision in section 5(a) of the Clayton Act will not preclude the application of collateral estoppel where appropriate. The sixth provision enacted by the Senate, but not considered in this body, amends current statutory law—section 1927 of title 28—regarding sanctions for attorney delay. Unlike the other five provisions, this provision is not limited to antitrust matters.

The most controversial issue committed to conference concerned the basis for awarding prejudgment interest. The House approach was to view such awards as a penalty for, and a disincentive to, dilatory conduct. The Senate approach was broader. It viewed such awards as compensating plaintiffs for the loss of the use of the money the plaintiff would have had absent the violation. This is a distinction with a difference. For I would assume that whereas prejudgment interest awards would have been the rule under the Senate version, they will be the exception under the House version, which was the version agreed to in conference.

Sharing the spotlight as a major issue in conference was the issue of collateral estoppel. While both bodies had agreed that the doctrine of collateral estoppel should be permitted application notwithstanding the prima facie evidence provision of current law, the House version imposed two conditions on the statutory authorization for collateral estoppel: First, that the effect of the amendment be prospective only and, second, that the courts not give collateral estoppel effect to findings of the Federal Trade Commission in antitrust-related matters. In conference, the first House condition was accepted without change and the second condition was accepted with only minor language changes and no change in substance. It may appear to some that since the conferees deleted a provision excepting collateral estoppel application from administrative findings under the antitrust laws, the House made a serious concession. Not so.

The only administrative agency that makes findings under the antitrust laws is the Federal Trade Commission. While other agencies apply the principles of competition in performing their function, they do so under their own mandate and not under "the antitrust laws" as such, which is a narrowly defined term embracing only the Sherman and Clayton Acts. Since the Federal Trade Commission is expressly included under the prohibition in the bill, the change made in conference may look like a compromise of substance whereas, in fact, the House position was fully vindicated.

The issue that gave the House conferees the most difficulty was the Senate provision imposing personal liability on counsel who delay litigation. Since the House had not acted on this issue, the conferees were required to use their own judgment. In my opinion, our compromise is a good one.

The House conferees were unable to accept the Senate provision, as passed, for several reasons. First, it would have lowered the standard of dilatory conduct necessary to make out a violation and would have done so to such an extent that, in our opinion, the legitimate zeal of attorneys representing their clients would have been chilled. Second, it would have precluded the imposition of sanctions on attorneys—even those who violate the current provision—before the conclusion of the trial. Since some cases may take years to reach that stage—and many never do, the deterrent effect of the provision would have been largely nullified. Third, it would have absolved attorneys from all misconduct occurring before the receipt of a warning from the court. This would have, somewhat ironically, licensed the reprehensible conduct we are seeking to deter.

Our compromise, fortunately, contains none of these defects. Instead, we chose not to alter the standard of conduct required by present law. What we did change was the extent of liability to be imposed on attorneys who engage in clearly dilatory tactics. Our view is that when an attorney engages in delay for the sake of delay in order to wear down the opposition, such conduct is not only unethical but, in effect, tortuous. It thus should subject the attorney to personal liability. The extent of this liability cannot, in justice, be limited merely to filing fees and other nominal court costs as it is today. But it should extend to out-of-pocket costs that the opposition had to incur for legal fees and witness expenses because of the attorney's misconduct. This is what our compromise does—this is all it does, and I believe that it should be accepted by this body.

Mr. Speaker, as a result of our efforts, we have fashioned antitrust legislation that both serves the public interest and enjoys broad support from all sides of the issues. I urge adoption of the report.

□ 1040

Mr. Speaker, I reserve the balance of my time.

Mr. MAZZOLI. Mr. Speaker, I yield myself 1 minute simply to commend my colleague on the committee, the gentleman from Illinois (Mr. McCLORY), for his hard work and cooperation on this bill.

I would also like to commend staff on both sides of the aisle for their excellent work in the preparation of the materials needed by the Members in the course of the consideration of this legislation at subcommittee, full committee, on the floor and for the conference committee. We were well briefed and well prepared. I think the gentleman will agree that we were substantially aided in carrying the House position by the excellent work of our staff. I would like to commend them publicly.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

EDUCATION AMENDMENTS OF 1980

Mr. FORD of Michigan. Mr. Speaker, I call up the conference report on the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes.

The SPEAKER pro tempore (Mr. DAN DANIEL). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 25, 1980.)

The SPEAKER pro tempore. The gentleman from Michigan (Mr. FORD) will be recognized for 30 minutes, and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on reauthorization of the Higher Education Act which we now bring before the House, in my opinion, reflects the finest spirit of accommodation, conciliation and a true bipartisan cooperation among the Members of this body and between the Members of this body and the other body in putting together the conference report that we bring to you.

Mr. Speaker, I would like particularly to express my appreciation to the gentleman from Alabama (Mr. BUCHANAN), the ranking minority member on our committee, for his very hard work and for the amount of time that he has spent working with me, as chairman, in close and full partnership in the development of this legislation, as well as in shepherding it through the committee, the House and the conference committee.

Also, Mr. Speaker, I would like to extend a special thanks to the chairman of our full Committee on Education and Labor, Mr. CARL PERKINS of Kentucky, who once again lived up to his reputation as one of the greatest friends to education in the history of this House. I do not think that anyone who has had the opportunity, as I have had for the past 16 years, to observe the efforts of CARL PERKINS would doubt for 1 minute the validity of the suggestion that no person has given as many years and as much of his life to developing education legislation than CARL PERKINS. No person in the history of this body has a record that parallels that of CARL PERKINS, and we on the committee were very cognizant of his presence throughout the entire development of the legislation and the value of his prestige in moving legislation of this importance.

The gentleman from Ohio (Mr. ASHBROOK), the ranking minority member on the full Committee on Education and Labor, was also a very constructive and active participant in the development of this legislation. We are particularly grateful on the majority side for his constant cooperation.

I take pride, Mr. Speaker, in the fact that this bill is a product of an open process of hearings and consultations that included all Members with an interest in postsecondary education, as well as a complete cross section of the education community. This bill reflects a consensus which enjoys the support of the entire higher education community, students, parents, college presidents and faculty members. And I might say, that I doubt that any other piece of legislation has ever come from our committee with as much direct input from student groups.

□ 1050

No single interest group that appeared before our committee during the 2 years of developing this legislation appeared more often and with respect to more individual parts of the legislation than did the representatives of students who were and are in our colleges and universities across the country. They deserve our recognition for the very responsible way in which they have worked with our committee in informing us on a first hand basis with respect to the real impact of these programs on the people most directly affected by them.

Mr. Speaker, this bill reflects in many ways extraordinary individual effort by members of the committee who had a special concern and for that reason developed a special expertise and made special contributions.

The gentleman from Connecticut (Mr. RATCHFORD) is clearly that person most responsible, among all of us, for the development of the new title I of this legislation, which expands upon a number of ideas that have been around for some time, to make these programs more efficient and more effective in serving nontraditional students.

The gentleman from New York (Mr. BIAGGI), who has made a study of nontraditional students and the student data bank and has championed the supplemental education opportunity grant program for a long time, was primarily responsible for the improvements made in this part of the legislation.

The gentleman from Ohio (Mr. ASHBROOK) asked us to go to Ohio for hearings where we discovered the special problem of married students and the way in which they were treated for the purpose of receiving grants. This hearing led to an important change that will affect all married students in every institution in the country.

The gentleman from Iowa (Mr. TAUKE) is responsible in large part for the changes we have made in the administration of title III program and for the development of the supplemental educational opportunity grant trigger.

The gentleman from Illinois (Mr. SIMON), who is an expert, I might say, on the subject of international education and has succeeded our colleague, the gentleman from Indiana (Mr. BRADEMAS) in responsibility for keeping the National Institute of Education alive and kicking in Washington, contributed a great deal more than all of the rest of us in the field of international education.

I might say also that the ranking member of the committee the gentleman from New Jersey (Mr. THOMPSON), was very cooperative during the consideration of this legislation. Of course, the years of his experience show themselves in many years of the legislation, and I am sure that everyone in New Jersey is aware of the numerous provisions of the act which have special application to the institutions located in that State.

The gentleman from New York (Mr. WEISS) worked very hard on improvement of programs for schools of education and particularly with the idea of linking work study with educational goals.

The gentleman from New York (Mr. PEYSER) made great contributions with respect to title III administration, and it should be noted that one of the areas that we think is most important in the adoption of this legislation is the correction of problems that have been brought to our attention through a great deal of publicity in recent years with respect to administration of title III. We think that this legislation will put problems behind us.

The gentleman from Vermont (Mr. JEFFORDS) collaborated in the title I drafting and gave a perspective to the bill that might not otherwise be there, in that the gentleman from Vermont had us go to Vermont for hearings and demonstrated the need for changes to put emphasis on outreach to rural citizens of America.

He worked with the gentleman from Connecticut (Mr. RATCHFORD) in developing title I so that it reflected the interests of those States with large urban areas, while preserving and enhancing the activities that are directed toward rural populations.

The gentleman from Wisconsin (Mr. PETRI), a new member of the committee, has been particularly helpful in streamlining and modernizing the loan programs.

Mr. Speaker, during the consideration of this legislation, we lost an old and dear friend to all of us who participated in fashioning it when the chief staff member of the full committee, Bill Gaul, who has worked on higher education longer than anyone else on our staff, was taken by death during the time that we were in conference with this bill. The Members will see the unusual, but certainly fitting tribute to Mr. Gaul entered by the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS) in the statement of the managers accompanying this conference report.

Mr. Speaker, all of us are deeply grateful to the staff, both majority and minority, and note that development of this legislation is an outstanding example of staff people who are not only competent, but capable of working past partisan considerations to develop legislation that ultimately had the approval of all of the majority and minority members on the committee. The staff, particularly Tom Wolanin, Pat Rissler, Bill Clohan, and Jenny Vance, are very largely responsible for it.

Mr. Speaker, H.R. 5192 authorizes balanced increases in grant assistance to help needy and middle-income students meet the increased costs of college at all types of institutions—private and public, 2-year and 4-year, small colleges and research universities. It extends eligibility to unserved part-time students, and establishes fellowship opportunities for graduate and professional school. It makes important reforms in the loan programs aimed at reducing default rates. While extending the availability of need-based loans, the bill establishes a loan program for parents who are hard pressed in assisting their child to attend college. It strengthens authorities for support of such priorities as continuing education, developing institutions, libraries, international studies, and urban universities.

I would like to stress that this is a fiscally responsible bill. The increased grant maximums and loan limits do not even keep pace with the inflation in educational costs that have occurred since the last reauthorization in 1976. When compared to the bill passed by the House, this conference report reduces the authorizations by a total of nearly $11 billion or about $2 billion for each year authorized.

I would like to describe in more detail the provisions of the conference agreement.

Part A of title I establishes a new Commission on National Development in Postsecondary Education. The function of the Commission shall be to review National, State, and institutional policies to examine the effectiveness of Federal financial assistance to students and institutions in conjunction with State and institutional aid policies: to consider the research capacity of institutions and the relationship between institutions and the public and private sector in promoting research; and to examine the resources of institutions and the effect of demographic changes which will impact on their ability to meet social and economic needs. At the initiative of the gentleman from New York (Mr. BIAGGI) the Commission will also conduct a study of the special needs of nontraditional and adult students in postsecondary education.

Part B of title I is renamed "Education Outreach programs." It combines the authorization for comprehensive State planning from section 1203, the authority for education information centers from title IV, the current title I (community service and continuing education), and some essential elements of title VI (financial assistance for the improvement of undergraduate instruction) and title X (establishment and expansion of community colleges).

The planning, information services and continuing education (including rural community education) activities are all focused on outreach to adults who have not been adequately served by postsecondary education.

Ninety percent of the funds are allocated to the States on an equal per State basis and on the basis of their adult population. The bill establishes a general allocation of the funds among the types of State activities authorized while leaving substantial flexibility for each State to set its own priorities. Each State is guaranteed a minimum of $187,500.

Ten percent of the funds are reserved for the Secretary to support projects and activities to expand access to education particularly for underserved adults.

The following authorization levels are established:

Fiscal year 1981, $20 million.
Fiscal year 1982, $40 million.
Fiscal year 1983, $60 million.
Fiscal year 1984, $80 million.
Fiscal year 1985, $100 million.

Title I substantially embodies and is built on H.R. 4531, the Lifelong Learning Act of 1979, introduced by Mr. RATCHFORD with 14 cosponsors. Title I also incorporates the longstanding interest of Mr. BIAGGI of New York in student data banks as embodied in H.R. 3513. A significant contribution to the title, particularly with respect to state planning, was drawn from H.R. 5051 which was introduced by Mr. JEFFORDS of Vermont with the cosponsorship of Mr. RATCHFORD.

Title II, college and research library assistance and library training and research, has been reorganized, by eliminating the supplemental grant, which has never been funded, and by transferring the special purpose grant program from part A into a more comprehensive part B. Assistance under part A will come in the form of resource development grants up to a maximum of $10,000, increased from the current $5,000, to institutions of higher education, combinations of institutions, branch campuses, or public and private nonprofit library institutions serving higher education.

The maintenance of effort provisions have been strengthened, permitting only very unusual circumstances to qualify institutions for waivers.

The funding for an expanded part B,

library training research and development, would be divided between three functions on a one-third, one-third, one-third basis, reflecting the addition of special purpose grants to part B from part A.

No major changes have been made in the substance of part C, strengthening research library resources, except the addition of a provision prohibiting recipients of part C grants from receiving grants under either parts A or B.

The conference substitute authorizes the following amounts:

Part A: $10 million/fiscal year 1981, $30 million/fiscal year 1982, $30 million/fiscal year 1983, $30 million/fiscal year 1984, $35 million/fiscal year 1985.

Part B: $10 million/fiscal year 1981, $30 million/fiscal year 1982, $30 million/fiscal year 1983, $30 million/fiscal year 1984, $35 million/fiscal year 1985.

Part C: $10 million/fiscal year 1981, $15 million/fiscal year 1982, $15 million/fiscal year 1983, $15 million/fiscal year 1984, $15 million/fiscal year 1985.

An important change in the college library programs in Title II is the addition of a new part D, a study of the feasibility and advisability of establishing a national periodicals system. The authorization for this study is $750,000 for fiscal years 1981 and 1982 and such sums for fiscal years 1983 through 1985, to be funded only if parts A, B and C are funded at the fiscal year 1979 appropriations level.

The conference substitute creates a title III program which contains three parts. Part A, strengthening institutions, is derived from the provisions of the House bill. Part B, aid to institutions with special needs, contains provisions that were in part A of the Senate amendment. Fifty percent of the appropriation will go to each of these parts. Under both parts, the purposes of the program are clarified to focus on strengthening institutions which enroll large numbers of disadvantaged students, lack resources, and are taking steps to improve their chances for survival.

Under part B of the conference substitute, the institutions that historically have served substantial numbers of black students shall be assured that their sector will receive not less than 50 percent of the amount that the sector received in fiscal year 1979 under the current title III program. Community colleges are guaranteed a floor of 24 percent of the assistance under part A and 30 percent of the assistance under part B.

The conference substitute incorporates the provisions of the House bill pertaining to challenge grants to institutions eligible for assistance under part A or part B. An institution receiving a challenge grant will match Federal funds on a 50-50 basis. The institutional match must be new money and can be raised from alumni giving, foundation grants, increased State appropriations, et cetera.

The conference substitute modifies the provisions of the House bill establishing an application review process and a committee on review to provide only for an application review process.

The conference substitute authorizes the following amounts for Parts A and B: $160 million/fiscal year 1981, $185 million/fiscal year 1982, $210 million/fiscal year 1983, $245 million/fiscal year 1984, $280 million/fiscal year 1985.

The substitute provides the following authorizations for the challenge grant program: $25 million/fiscal year 1982, $35 million/fiscal year 1983, $45 million/fiscal year 1984, $50 million/fiscal year 1985.

TITLE IV, STUDENT ASSISTANCE

BASIC GRANTS

The basic grant is renamed the Pell grant in recognition of the contribution of the chairman of the Senate Subcommittee on Education, Arts, and Humanities, and the maximum award is increased. In addition, the limitation in the program that a student's basic grant may not exceed 50 percent of their cost of attendance is modified. The maximum grant amount is increased in steps from the current level of $1,800 to $2,600 in fiscal year 1985 and the percentage of cost limitation is also increased from the current level of 50 to 70 percent when the maximum grant reaches $2,600.

In the case of less than full funding, students whose eligibility for a basic grant is within $200 of the maximum grant will be paid the full amount of their grant first, then grants will be reduced according to a statutory schedule which gives the most protection to the lowest income students. The minimum basic grant award at less than full funding is increased from $50 to $200.

Students will be eligible for a grant during the period required to complete their first baccalaureate course of study. Current law provides for 4 years of full-time support.

The thresholds in current law requiring funding for the college work study, supplemental educational opportunity grant and national direct student loan programs are retained. The level of the college work study threshold is revised from $500 million to $550 million, and the SEOG threshold increases from $370 million to $480 million in step with increases in the maximum grant and percentage of cost limitation. A new threshold is established for the State student incentive grant program at $76.75 million—the current appropriation.

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT

The definition of student eligibility is simplified so that the program serves students with "need." The requirement that SEOG awards be matched at the campus with other forms of assistance is eliminated. Students are provided with the same eligibility as basic grants toward completion of their undergraduate studies.

The maximum yearly award is increased from $1,500 to $2,000. The $4,000 cumulative maximum in current law is repealed.

The conference substitute authorizes initial year appropriations of $400 million for fiscal years 1981 through 1985 and authorizes appropriations of such sums as may be necessary for continuing year SEOG awards for fiscal years 1981 through 1985.

The formula for the allocation of SEOG funds among the States is modified to be based on 'undergraduates" rather than "persons" since the program only serves undergraduates and not graduate students who are included in the term "persons."

The conference substitute determines institutional need for supplemental grant funds by subtracting from 75 percent of the total student expenses the sum of family and student contributions, Pell grants, SSIG assistance and 25 percent of grants and awards made by the institution from its own resources. The substitute further provides a declining institutional hold harmless related to increased availability of appropriations for the program.

For the purposes of determining each institution's need for SEOG funds, I believe that the conferees intend that SSIG funds be counted in each institution's SEOG application in a manner that reflects total State grants (the Federal SSIG contribution plus total State matching contribution) received for students at that institution. I have been advised that certain States, such as Missouri, maintain separate accounting procedures for distribution of Federal SSIG funds and State funds. Where this procedure is used, and given the manner in which the SEOG formula determines institutional need, certain institutions could be unfairly penalized. Thus, I think it important to emphasize that for the purpose of determining SEOG need, SSIG funds allotted to a State and the State contribution shall be considered proportionately utilized in each State student grant.

Institutions will be permitted to use up to 10 percent of their SEOG funds to make awards to less-than-half-time students.

With respect to the relationship between the basic educational opportunity grant, the supplemental educational opportunity grant and the State student incentive grant, a Federal policy objective is set of meeting 75 percent of a student's cost of education through a combination of family contribution and grant aid.

In sum, the SEOG program is simplified to make it a flexible source of campus-based grant assistance available to meet the diverse needs of students.

STATE STUDENT INCENTIVE GRANT PROGRAM

The distinction between authorizations for initial year and continuing year awards is removed and authorizations are provided as follows: fiscal year 1981, $100 million; fiscal year 1982, $100 million; fiscal year 1983, $150 million; fiscal year 1984, $200 million; fiscal year 1985, $250 million.

The maximum award to a student is increased from $1,500 to $2,000. Current law is clarified to permit State grant programs which serve less than half time students or graduate students to qualify. The requirement that eligible State programs serve students in all nonprofit institutions is modified to exempt State statutory restrictions enacted prior to October 1, 1978. The bonus allotment for States with State guarantee agencies is repealed.

TRIO PROGRAMS

The authorization is increased to $400 million in fiscal year 1981 and at such sums authorization is provided for subsequent years. The staff development authority is clarified to provide for greater involvement by professionals in the field. The unfunded service learning center authority is repealed. The Secretary is required to consider the prior experience of applicants in making TRIO awards.

The talent search program is focused as a community-based program serving youth. The services to be provided to clients are enumerated and include tutorial services. Two-thirds of those served must be both low income (150 percent of poverty) and first generation in college (neither parent completed a baccalaureate degree).

The Upward Bound program is focused on junior and senior high school youth and the services to be provided are enumerated. Two-thirds of those served must be low income and first generation in college, and one-third can be either low income or first generation.

The special services for disadvantaged students program is focused on those enrolled in postsecondary education and the services to be provided are enumerated. Two-thirds of those served must be low income and first generation in college or handicapped, and one-third of those served can be either low income, first generation, or handicapped.

The educational opportunity centers are focused as a community-based program serving adults. Two-thirds of those served must be low income and first generation. The services to be provided are specified and language is included to prevent duplication between talent search and educational opportunity centers.

Statutory authority is provided for the special programs for students whose families are engaged in migrant and seasonal farm work. The authorization for this program is $9.6 million in fiscal year 1981, $12 million in fiscal year 1982, $14 million in fiscal year 1983, $16 million in fiscal year 1984, and $18 million in fiscal year 1985.

ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

Current law is retained unchanged.

VETERANS COST OF INSTRUCTION PROGRAM

The program is modified to provide greater encouragement for institutions to serve handicapped and disabled veterans. Consortia arrangements among institutions serving veterans and coordination among programs serving veterans are also further encouraged.

GUARANTEED STUDENT LOANS

Seven days of hearings by the subcommittee were devoted to this program. These deliberations identified five major areas of concern: The need to enhance the ability of parents to obtain the liquidity to pay their reasonable share of the costs of educating their children, the lack of capital availability in some areas of the Nation, the need to provide a mechanism for the consolidation of multiple student loans, the need to provide for extended and income sensitive repayment terms for borrowers with a large student loan debt and the problem of further curbing loan defaults. These concerns and suggested solutions were brought before the subcommittee by Mr. Smith of Iowa, Mr. Maguire of New Jersey, and Mrs. Fenwick of New Jersey among others.

The first of these concerns is addressed by the creation of a parent loan program. Under the parent loan program, parents could borrow up to $3,000 per year and $15,000 total for any one student. Parents would begin repaying a loan at the earliest of the following dates: 4 years after disbursement of the loan; the student completes his or her studies; the student ceases to be enrolled at least half time; and a date set by the parent and the lender.

Parents who begin repaying on an installment basis within 60 days or less would pay 8-percent interest. Parents who begin repaying after 60 days would pay 11 percent. Thus, there is an incentive for parents to begin repayment within 60 days.

In all other respects, the parent loan would be identical to the current guaranteed student loan program.

The Student Loan Marketing Association (Sallie Mae) is given the authority to make loans directly to students and parents in areas where there is a severe shortage of student loan capital. In addition, State guarantee agencies may act as lenders of last resort using funds borrowed from Sallie Mae.

If a student or parent borrower has loans from more than one lender or under NDSL, GSL or another Federal student loan program the aggregate amount of which exceeds $5,000, Sallie Mae could make a single consolidation loan to the borrower. If the total indebtedness of a student or a parent exceeds $7,500, Sallie Mae could make a new loan to the borrower with graduated or income-sensitive repayment terms of up to 20 years' length. Sallie Mae is mandated to disseminate information on its consolidation and extended repayment loan options.

Incentives are also provided for State guarantee agencies to provide lender referral services to borrowers.

With respect to curbing defaults; making loans available to parents, providing for loan consolidation and providing for extended and income-sensitive repayment should effectively prevent defaults. In addition, a system is established for the Secretary to share information on defaulted loans with credit bureaus. Provision is also made for student borrowers to request lenders to report to credit bureaus their positive record of student loan repayment. The Department of Education is instructed to share information on student names and addresses with State guarantee agencies to facilitate the collection of defaulted loans. Lenders under the program are also required to provide thorough and accurate loan information to student borrowers.

Sallie Mae's dependency on Federal capital is reduced by prohibiting the Secretary of the Treasury from requiring that Sallie Mae raise funds through the Federal financing bank and by removing the guarantee of the full faith and credit of the United States in 1984. To complement these changes, Sallie Mae's ability to raise private capital is enhanced by permitting it to deal in debt obligations comparable to those offered by other secondary markets, to raise funds through the sale of nonvoting common stock and by removing the specification in the law of the par value of Sallie Mae's stock.

Finally, Sallie Mae's ability to effectively perform as a secondary market for student loans is enhanced by permitting Sallie Mae to advance to a lender up to 100 percent of the face value of a student loan in warehousing and in broadening the types of securities that Sallie Mae can accept in providing warehouse advances. Under current law, Sallie Mae can deal with lenders with assets of less than $50 million even if the lenders discriminate against borrowers on the basis of their banking relationship with the lender. This $50 million limit is increased to $75 million.

The annual loan limit for independent undergraduate students is increased from $2,500 to $3,000. The aggregate loan maximums for students are modified as follows:

	Current law	H.R. 5192
Dependent undergraduate	$7,500	$12,500
Independent undergraduate	7,500	15,000
Graduate student	15,000	25,000

The Secretary is given the authority to waive the aggregate maximum for graduate students enrolled in unusually expensive programs of professional studies.

The interest rate for new borrowers is increased from 7 to 8 percent, and the grace period before repayment begins is shortened from 9 to 12 months to 6 months for new borrowers.

Limitations are placed on the payment of the special allowance for loan funds raised through the issuance of tax-exempt bonds to prevent abuses in this practice.

The allocation of administrative allowances among specified purposes by State guarantee agencies is removed and the definition of allowable administrative expenses is clarified.

COLLEGE WORK STUDY

Authorization for the program is provided as follows: fiscal year 1981, $670 million, fiscal year 1982, $720 million, fiscal year 1983, $760 million, fiscal year 1984, $800 million, fiscal year 1985, $830 million.

Students employed under this program are required to be paid the minimum wage. Institutions are permitted to carry forward and carry backward up to 10 percent of their college work study funds. The job location and development program is expanded by permitting institutions to use up to $25,000 for this purpose rather than $15,000 in current law.

Institutions are permitted to use up to 10 percent of their work-study funds for less than half-time students and are encouraged, at the suggestion of Mr. Weiss of New York, to provide employment that complements the educational program of a student. Institutions are also permitted to use part of their administrative allowance to establish community service learning programs.

NATIONAL DIRECT STUDENT LOAN PROGRAM

Authorization for new capital contributions is provided as follows: fiscal year 1981, $400 million, fiscal year 1982, $400 million, fiscal year 1983, $475 million, fiscal year 1984, $550 million, fiscal year 1985, $625 million.

The aggregate loan limits are modified as follows:

	Current law	H.R. 5192
First 2 years as an undergraduate	$2,500	$3,000
Undergraduate total	5,000	6,000
Undergraduate and graduate total	15,000	12,000

The interest rate for new loans is increased from 3 to 4 percent.

For both the national direct student loan program and the guaranteed student loan program four new circumstances under which borrowers can defer repayment of their loans are defined: First, periods of up to 3 years for temporary total disability (at the suggestion of the gentleman from New York (Mr. Bingham); second, service in the Commissioned Corps of the Public Health Service (at the suggestion of the gentleman from West Virginia (Mr. Staggers); third, service as a full-time volunteer with a nonprofit agency that engages in activities like the Peace Corps or VISTA; and fourth, internships required to begin professional practice.

Efforts to curb defaults will be enhanced by a system for the exchange of information on defaulted loans between the Secretary and credit bureaus and by providing for the sharing of names and addresses of defaulters with lenders. The conference substitute also requires the Secretary to attempt to collect defaulted loans for 4 years after they are assigned and requires institutions to provide thorough and accurate loan information to students.

The definition of handicapped students for purposes of teacher loan cancellation is conformed to the definition used in the Education of the Handicapped Act, at the initiative of the gentleman from Maryland (Mr. Bauman.) The law is clarified with regard to the treatment of loan cancellations as income.

The conference substitute also provides an alternative financing mechanism through borrowing by the Secretary to meet the student loan capital needs of institutions of higher education through a procedure by which existing campus revolving funds revert to the Federal Government.

GENERAL PROVISIONS—TITLE IV

INSTITUTIONAL ELIGIBILITY

Institutions are required to provide students and prospective students with information on their academic programs, costs, student financial aid programs, tuition refund policy, special services for the handicapped, accreditation status and standards of satisfactory progress.

NEEDS ANALYSIS

The development of a single system of needs analysis for eligibility for student assistance is mandated. Participation by the higher education community in the development of an annual schedule of expected family contributions is required, and congressional review of the schedule is provided for.

An assessment rate of 14 percent on discretionary income is specified for adjusted gross family incomes less than $25,000.

The criteria to be used in formulating the expected family contribution schedule are specified for all of title IV rather than just for the basic grant program. The criteria in current law applicable to the basic grant program are retained with the following exceptions and modifications:

Reasonable child care expenses are included in the student's budget;

All individuals are provided with an asset reserve of not less than $10,000. All equity in the family's principal place of residence is excluded from consideration as an asset at the initiative of Mr. Drinan of Massachusetts. An additional asset reserve of not less than $50,000 is provided to those with farm or business assets;

The assessment rate on the income of independent students with dependents will be the same as the rate for the families of dependent students;

In calculating student cost of attendance separate commuter budgets are provided for students who live with their parents and those who do not;

Simplified data requirements from institutions by eliminating the requirement that "actual" cost of attendance be provided for every student;

Permits the calculation of student budgets on the basis of the costs of study abroad where such study is included in a formal program at the institution;

Requires that a married student will be considered independent and be permitted to use current year income information; and

Expenses for the special services or equipment needed by handicapped students are included in the student's budget.

SINGLE FORM

Requires that student eligibility for title IV programs be established through a single form without cost to the student or the student's family. Also requires that the processing of such application be decentralized to the maximum extent practicable.

The Secretary is also authorized to develop a system of preeligibility assistance to provide students with early notice of their potential eligibility for financial aid.

ADMINISTRATIVE ALLOWANCE

Provides institutions with an administrative allowance of $10 per each basic grant recipient and $10 per each holder of a guaranteed student loan. In addition, provides that from the campus-based programs each institution shall receive an administrative allowance equal to 5 percent of the amount of campus-based funds up to $2.75 million, 4 percent of the amount of campus-based funds greater than $2.75 million but less than $5.5 million, and 3 percent of the amount of campus-based funds in excess of $5.5 million. The ceiling on the amount of administrative allowance an institution can receive is removed, and institutions are required to use their administrative allowance solely for the purpose of administering the student financial aid programs.

CRIMINAL AND CIVIL PENALTIES

The criminal penalties for fraud which in current law apply only to the guaranteed student loan program are applied to all of the title IV programs. Institutions may be suspended or terminated from the program or civil penalties levied for substantial misrepresentation of educational programs, financial changes or the employability of graduates.

STUDENT FINANCIAL ASSISTANCE TRAINING PROGRAM

The program is modified to provide for training services through contracts with the Secretary for those involved in student financial assistance programs.

A National Commission on Student Assistance is established to undertake a 2-year study of issues such as more effective means to curb defaults, capital availability, the most appropriate mix of gift aid and self help, the status of financial aid for graduate students, the appropriate level of public subsidy of student loans and the impact of student assistance on student career choices and educational prices. In addition, special 1-year studies of the following topics will be made: Insurance premiums charged to students, the method of determining the special allowance, the academic progress standards required for student eligibility for financial assistance and the recapture of interest subsidies paid on behalf of student borrowers by the Federal Government.

The President, the Speaker and the President pro tempore of the Senate each appoint one-third of the 12 members. It was evident in the hearings that a great many questions concerning student assistance generally cannot be answered and that radical changes in the current student loan programs cannot therefore be justified at this time. The Commission is created to provide answers to these questions so that Congress and the President will be better informed in future deliberations on these programs. An authorization of $10 million is provided.

TITLE V. TEACHER TRAINING PROGRAMS

The limitation on the salaries for teacher interns in the Teacher Corps programs is deleted. Cooperation between local educational agencies and inteacher center program is encouraged.

More emphasis is placed on updating teachers in the use of technology, telecommunications and testing. The pool of eligible grantees for teacher centers is expanded with the inclusion of educational service agencies.

Direction is given to the Secretary to make at least one grant award for teacher centers in each State.

Grants to schools of education for upgrading their faculty and curriculum to meet current needs are authorized.

The conference substitute establishes an Office of Education Professional Development in the Department of Education to review professional development operations and to coordinate their activities among the various Federal education programs.

The conference substitute authorizes the following amounts for the Teacher Corps program: $45 million, fiscal year 1981; $55 million, fiscal year 1982; $65 million, fiscal year 1983; $75 million, fiscal year 1984; $85 million, fiscal year 1985.

The conference substitute provides for the following authorizations for teacher training programs: $20 million, fiscal year 1981; $30 million, fiscal year 1982; $40 million, fiscal year 1983; $50 million, fiscal year 1984; $55 million, fiscal year 1985.

The conference substitute authorizes a new program of training for elementary and secondary school teachers to teach handicapped children in areas where there is a shortage of such teachers. This training program is in the nature of fellowships to individual teachers who must within 5 years after completion of training teach for at least 2 years in a special education program or repay the stipend awarded to the individual.

The authorization levels for this new program are: $2 million, fiscal year 1981; $3 million, fiscal year 1982; $5 million, fiscal years 1983–85.

Title VI of the current law is replaced by a new title VI, foreign studies and language development. The new title VI incorporates title VI of the National Defense Education Act, language and area studies, some provisions from the International Education Act as well as the recommendations of the President's Commission on Foreign Language and International Studies. Mr. SIMON of Illinois, who served as a member of the President's Commission, provided the leadership for the development of this title.

The conference substitute provides the following authorizations: $45 million, fiscal year 1981; $55 million, fiscal year 1982; $70 million, fiscal year 1983; $80 million, fiscal year 1984; $85 million, fiscal year 1985.

The conference substitute authorizes a new part B of title VI, business and international education programs. This new part establishes a dollar for dollar matching grant program to postsecondary institutions which have entered into agreements with business enterprises, trade organizations or consortia of such organizations to establish or expand curricula to serve the international needs of the American business community.

There is authorized an annual appropriation of $7,500,000 for fiscal year 1981 through 1985 for the purposes of this new part.

TITLE VII. CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

The title is simplified but retains the current State allocation formula. New authority to support improvement of research facilities including libraries and for compliance with section 504 is provided.

Assistance for facilities in areas experiencing unusual increases in enrollments or requiring the detection or removal of asbestos hazards is also authorized. Part D, assistance in major disaster areas, is repealed. The interest rate for academic facilities loans is increased from 3 to 4 percent.

The conference substitute provides the following authorizations for part A, State grant program for the construction, reconstruction and renovation of academic facilities: $140 million, fiscal year 1981; $140 million, fiscal year 1982; $145 million, fiscal year 1983; $150 million, fiscal year 1984; $155 million, fiscal year 1985.

The substitute provides an authorization of $80 million per year for part B, institutional grants for construction, reconstruction and renovation of graduate academic facilities.

The substitute authorizes $110 million per year for part C, loans for construction, reconstruction and renovation of academic facilities.

TITLE VIII. COOPERATIVE EDUCATION

The conference substitute authorizes $30 million for fiscal years 1981 through 1985 for the basic program. The maximum grant to a single institution is increased from $175,000 to $325,000, and the maximum grant to each member of a consortium is increased from $120,000 to $250,000. Different approaches to cooperative education are encouraged by permitting programs to include alternate or "parallel" periods of work and study.

An authorization of $5 million for each of the fiscal years 1981 through 1985 is provided for grants and contracts for training and research.

TITLE IX. GRADUATE PROGRAMS

The title is updated by striking references to the "expansion" of graduate programs. Part A, grant to institutions of higher education, is extended through fiscal year 1985 at its current authorization level of $50 million.

Parts B, C, and D of current law are revised by the conference substitute to provide a program of campus based grant awards to graduate and professional students based on financial need. The maximum award to a student is $4,500 per year for 3 years.

The substitute also provides for the maintenance of the level of awards (including institutional allowances) for the public service, mining and graduate and professional opportunity fellowship programs. The substitute authorizes $60 million for fiscal year 1981 and for fiscal year 1982 and such sums as may be necessary for fiscal year 1983 through 1985 for this new part B.

The conference substitute also provides a new part C, national graduate fellowships. This part would provide 450 portable competitive fellowships each year in the arts, humanities, and social sciences. Selection of these fellowships would be based on merit, with the stipend awarded being related to the recipient's financial need. The national graduate fellows program fellowship board would be created to select the areas in which the fellowships are to be awarded and to appoint panels for the selection of recipients.

The conference substitute extends the program of assistance for training in the legal profession as a new part D of title IX with the following authorizations: $5 million, fiscal year 1981; $5 million, fiscal year 1982; $7.5 million, fiscal year 1983; $7.5 million, fiscal year 1984; $10 million, fiscal year 1985.

The conference substitute continues the authority for the law school clinical experience program as part E in title IX (deleting such authority from title XI). The following authorizations are provided: $5 million, fiscal year 1981; $8 million, fiscal year 1982; $8 million, fiscal year 1983; $9 million, fiscal year 1984; $10 million, fiscal year 1985.

TITLE X

The vacated parts of this title are replaced by transferring the authority for the Fund for the Improvement of Postsecondary Education from the General Education Provisions Act. The Board of the Fund is given a statutory base. The following authorizations are provided: $20 million, fiscal year 1981; $30 million, fiscal year 1982; $40 million, fiscal year 1983; $50 million, fiscal year 1984; $50 million, fiscal year 1985.

Part C of title X creating the bureau of occupational and adult education and the community college unit is retained in current law.

NEW TITLE XI. THE URBAN GRANT UNIVERSITY PROGRAM

This title is designed to provide assistance to urban educational institutions in developing, in conjunction with local officials, responses to needs and problems of the urban area. It builds on the idea that the urban university and the urban area in which it is located have a natural affiliation and that the institution can provide research and services to help address urban problems.

Under this program, grants will be awarded on a competitive basis to institutions to provide applied research and service projects for their cities. The application must indicate the degree to which the local government is involved with planning and is committed to a financial contribution to the project. The Federal share is limited to 90 percent of the project cost.

As defined in this title, an urban area is an SMSA with a 500,000 or more population (the State may designate an area in States where there is no such SMSA). An urban university is one which is located in an urban area, draws a substantial portion of its students from said area; has the capacity to provide the services authorized, and offers a sufficient range of graduate or professional programs to sustain its offerings of services. A consortium can qualify for this program as long as one member meets all the qualifications.

I would like to stress one point all the supporters of title XI have made at one time or another, and which I believe the Department of Education must take very much to heart. Title XI is a simple concept, and one which requires a bare minimum of Federal intervention. Under the terms of title XI, the cities are to decide what their problems are, and the universities are to decide how they can contribute to meeting those problems. The Secretary of Education has broad discretion in deciding whether or not a given city-university linkage is well developed enough to justify approval of an application under title XI, but those of us who have worked on urban grant for over 3 years now do not look upon the provisions of the act as providing the Secretary with a lot of blank spaces crying out to be filled with detailed regulatory prescription.

The conference report authorizes the appropriation of up to $15 million for fiscal year 1981 under this title. This is not a large amount, but it is enough to get the program underway and to fund some projects, perhaps of a demonstration nature, during the initial program year.

There are, Mr. Speaker, some urban universities which have already developed the kind of ties with their cities and counties which title XI calls for. I hope the distinguished members of the Appropriations Committees will give careful consideration to the appropriation of some funds for title XI so that a few, carefully chosen projects can get under way in fiscal year 1981. The regulation writing and application process should be completed very soon, and there is no good reason why, given some funding for fiscal year 1981, we cannot embark on the implementation of the Urban Grant Act in the immediate future. Urban grant, it seems to me, is in close harmony with the times. It does not call for massive expenditures; it does not involve major Federal intervention in local decisionmaking, and it is intended to bring the resources of the city and the resources of the urban university together in order to make the most effective and economical use of both.

The authorization levels are: fiscal year 1981, $15 million; fiscal year 1982, $25 million; fiscal year 1983, $40 million; fiscal year 1984, $50 million; fiscal year 1985, $65 million.

I introduced this legislation in the last Congress with 57 cosponsors. Five days of hearings were held on the bill in 1978. The legislation was reintroduced in this as H.R. 3181, which simplified and clarified it on the basis of what was learned through the hearings. H.R. 3181 has 72 cosponsors.

TITLE XII. GENERAL PROVISIONS

The provision for State agreements are modified to simplify the mechanism through which States provide assurances to the Federal Government for their participation in programs authorized under the Higher Education Act.

The States are given more flexibility in establishing a structure through which to perform federally required planning under the Higher Education Act, but broad participation continues to be assured.

The conference substitute authorizes the Secretary to make such modifications of any program under the act as she deems necessary in order to adapt such programs to the needs of the territories, and requires the Secretary within 18 months after the time of enactment to conduct an analysis of the unique educational needs of the territories.

The conference substitute also authorizes $2 million for each fiscal year through 1985 to support the cost of postsecondary education programs in Guam for nonresident students from other Pacific territories.

The conference substitute establishes a National Advisory Committee on Accreditation and Institutional Eligibility to advise the Secretary.

NEW TITLE XIII. WOMEN'S WORKSITE DEVELOPMENT PROGRAM

The conference substitute authorizes a program to encourage and to support the efforts of all forms of postsecondary institutions to serve women in their workplaces with the collaboration of labor unions and employers. An authorization of $7.5 million is provided for each fiscal year 1981 through 1985.

TITLE XIV. MISCELLANEOUS PROVISIONS

The conference substitute amends the contingent extension provision of the General Election Provisions Act to authorize the contingent extension of any forward-funded program for 2 fiscal years.

The conference substitute amends the General Education Provisions Act to authorize the Congress to disapprove Department of Education regulations in whole or in part.

The conference substitute authorizes appropriations to the Secretary of Education for fiscal year 1981 of $2.5 million for the college science teacher program, and $5 million for the minority institution science program.

The conference substitute extends the life of the Commission on the Review of the Federal Impact Aid Program until September 30, 1981.

The conference substitute amends the General Education Provisions Act to provide that no regulation affecting any institution of higher education in the United States shall become effective unless the agency promulgating such regulation publishes in the Federal Register an educational impact assessment statement which shall identify what information specified by the regulation is available from another authority of the United States.

The conference substitute authorizes the Secretary to make a 1-year study of programs authorized by the Elementary and Secondary Education Act, the Vocational Education Act and the Education of the Handicapped Act in order to analyze if there are unnecessary duplications, conflicts and reporting requirements in these programs, while at the same time insuring the delivery of educational services and the ability of the Federal Government to monitor and evaluate the programs' effectiveness in serving the desired target populations.

The conference substitute adds, as a priority for research by the National Institute of Education, special problems of the nontraditional student. The authorization for the Institute is extended at the following levels: $125 million, fiscal year 1981; $145 million, fiscal year 1982; $165 million, fiscal year 1983; $190 million, fiscal year 1984; $215 million, fiscal year 1985.

The conference substitute establishes and advisory council to evaluate the needs of Native Hawaiians and the effectiveness of existing State and federally assisted educational programs in meeting such needs. A total of $500,000 is authorized for the period of fiscal years 1981 through 1983.

The conference substitute authorizes a 1-year provision amending the impact aid laws to provide special assistance to local school districts facing influxes of Cuban, Haitian, and Indochinese refugee children.

The conference substitute extends the authorization of appropriations for construction at Navajo Community College for 1 year and changes the authorization to an amount based on the actual cost of operation and maintenance of the institution.

The conference substitute makes the College of Micronesia a land-grant college.

The conference substitute authorizes an appropriation of $750,000 per year to be matched by funds from private sources for the Robert A. Taft Institute.

The conference substitute authorizes $6 million for fiscal year 1981 for a grant to establish the General Daniel James Memorial Health Education Center to be located in the Tuskegee Institute in Tuskegee, Ala.

The conference substitute authorizes $750,000 for fiscal year 1981 to establish the William Levi Dawson Chair of Public Affairs at Fisk University at Nashville, Tenn.

Mr. Speaker, sitting to my left is the most senior member of this committee who has contributed more to higher education legislation since the adoption of the act in 1965 than any other individual, and who was probably the most active member of the conference.

The name of the gentleman from Indiana (Mr. JOHN BRADEMAS) is synonymous with higher education legislation in this House.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I rise to express my appreciation to our colleague, the gentleman from Michigan, the Honorable WILLIAM D. FORD, for his gracious remarks and to voice my strong support for the conference report on H.R. 5192, the Education Amendments of 1980.

Mr. Speaker, allow me both as one who has served on the House subcommittee with jurisdiction over higher education for nearly 22 years and as a member of the conference committee on the legislation now under consideration, warmly to commend the distinguished chairman of the Subcommittee on Postsecondary Education, BILL FORD, on his outstanding leadership on this important legislation.

BILL FORD is a legislator's legislator. He does his homework and understands his subcommittee and committee and knows how to work effectively with both majority and minority members in the House as well as in the other body.

So I want to congratulate him on the splendid job he has done on this legislation as well as to salute the other members of the subcommittee, both Democrats and Republicans. They have worked hard and cooperated effectively in bringing this legislation to the floor.

In particular, Mr. Speaker, I should like to acknowledge the valuable contributions of several distinguished members of the conference committee, the chairman of the Education and Labor Committee, the gentleman from Kentucky (Mr. PERKINS); the ranking minority member of the committee, Mr. ASHBROOK; and the ranking minority member of the subcommittee, the gentleman from Alabama (Mr. BUCHANAN).

Mr. Speaker, I should also cite Members of the other body for their contributions, in particular, the chairman of the Subcommittee on Education, Arts, and the Humanities, the distinguished senior Senator from Rhode Island (Mr. PELL), and the distinguished senior Senator from New York (Mr. JAVITS).

I want also, Mr. Speaker, to echo the tribute paid by Chairman FORD to William Gaul, who served as a principal staff assistant on the Committee on Education and Labor for so many years and whose own contributions to the shaping of Federal higher education policy will endure for many more years. All of us who knew and worked with Bill Gaul mourn his passing even as we are grateful for his life.

Mr. Speaker, this important measure, the conference report on H.R. 5192, seeks to advance the goal of achieving equal educational opportunity through continuing and strengthening our programs of Federal financial assistance to students.

The passage of this legislation will reaffirm the commitment of the Federal Government to help students attend colleges and universities throughout the United States whether those institutions are public or private.

Mr. Speaker, I believe the House and Senate conferees have worked out a fair compromise and that it is embodied in the conference report we are today considering. The measure on which we shall shortly act represents a genuine bipartisan effort in which Members of the House can take pride.

I shall not, Mr. Speaker, attempt to discuss all aspects of the conference report but I want to mention certain sections of the bill which, in my judgment, deserve particular attetnion.

I think it important to note, Mr. Speaker, that the conference report contains several new provisions to assist college students who need assistance.

First, under the conference report, the maximum basic educational opportunity grant that a student can receive would be increased step-by-step from the current figure of $1,800 to $2,600 by fiscal 1985. Moreover, that portion of a student's costs which the grant would cover would rise from half to 70 percent.

Second, the conference report would make basic grants available to students for the full time required to complete their undergraduate studies instead of, as in present law, limiting the availability of the grants to four academic years.

Third, the conference report would increase the supplemental educational opportunity grant, for students with extraordinary financial need, from $1,500 to $2,000.

These several changes, Mr. Speaker, obviously continue our policy of providing assistance to students primarily on the basiis of financial need. There are other provisions in the bill which preserve our commitment to recognizing not only the needs of poor students but of middle-income students and their families for some help.

The maximum guaranteed student loan available to independent students regardless of their income would, under the conference report, be raised from $2,500 to $3,000.

To enable parents more easily to contribute to the education of their children in college, the conference report establishes a new parent loan program permitting parents to borrow up to $3,000.

Further help is offered to families, regardless of income, by excluding the principal residence of a family from consideration as an asset in determining the resources a student's family has available to pay college costs.

Mr. Speaker, these provisions and others in the conference report aimed at expanding the several Federal student assistance programs will help low- and middle-income students meet the increased costs of college at all types of institutions—private and public, 2 year and 4 year, small colleges and large research universities.

I am especially gratified, Mr. Speaker, that the House conferees insisted on rejecting provisions in the Senate bill which would have seriously reduced the ability of many students to borrow funds for college. Members of the conference committee refused to accept Senate provisions that would have required students, after leaving college, to repay the interest they incurred while in college.

The conference committee also rejected a Senate provision that would have raised the interest rate on guaranteed student loans from 7 to 9 percent and reached a compromise on this matter. In addition, the conference rejected a Senate proposal to shorten from 9 to 4 months the grace period before repayment of loans must begin.

Let me mention as well, Mr. Speaker, that the conference agreement also contains provisions for the following purposes: To strengthen college libraries, assist institutions with high percentages of low-income students, simplify procedures for student-aid applications, expand programs in international education, provide fellowships to train teachers of handicapped children and continue support for educational research conducted by the National Institute of Education.

Mr. Speaker, as author of the original legislation that authorized the National Institute of Education, I was of course pleased to see the conference agree to continue the work of this significant institution.

I am gratified as well to see our distinguished colleague from Illinois, the Honorable PAUL SIMON, chairman of the Select Education Subcommittee, provide leadership in another area of long-standing interest to me, international education, and Mr. SIMON's influence is demonstrated by provisions contained in the conference report.

To reiterate, Mr. Speaker, this legislation has strong bipartisan support. The conference report deserves the approval of this body and I urge its adoption.

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Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I, too, want to join the gentleman from Indiana (Mr. BRADEMAS) in complimenting the gentleman from Michigan (Mr. BILL FORD) for his leadership in bringing forth this monumental piece of education legislation. It was through his leadership and his ability and the amount of hours he has put in, he and the ranking Republican member, the gentleman from Alabama (Mr. BUCHANAN) and all the members of the committee that we are able to vote on this piece of legislation.

Mr. Speaker, I would like to ask a few questions of the gentleman from Michigan (Mr. FORD).

The gentleman will remember that at the request of the Speaker and myself, the gentleman's committee made a special provision under title VII for construction, reconstruction, and renovation of academic facilities for graduate libraries. I am delighted to see that the House and Senate conferees have agreed to these provisions.

Your committee recognized our request specifically in its report to the House. This provision was brought to the gentleman's attention because there are a few institutions who have not been able to add new library facilities for over 35 or 40 years because of financial restraints. Many institutions have constructed new library facilities under the provisions of this law. Is the gentleman aware of that?

Mr. FORD of Michigan. Yes. I understand that there is one such instance at Boston College.

Mr. CONTE. Well, that is right. This prestigious institution now has some funds available, but needs assistance under title VII.

In view of the need for funds for graduate facilities, two priorities, which are: Graduate facilities with unclosed loans, and research libraries as reported by the Senate and House conferees, prompted our Appropriations Committee, under the great leadership of the gentleman from Kentucky (Mr. NATCHER) to release $25 million from amounts available in the higher education loan fund for graduate facilities. The committee also provided authority to the Secretary of Education to provide funds in excess of campus loan limits to meet special and critical needs within these priorities.

Mr. FORD of Michigan. Mr. Speaker, I am delighted to say to the gentleman from Massachusetts that the committee took note, not only of the gentleman's request, but of the long and hard work of the gentleman from Massachusetts and his consistent efforts on behalf of appropriations for the legislation that comes from our committee and deemed it wise to follow the gentleman's counsel. If the gentleman sees the committee report, he will note that we specifically referred to the purposes the gentleman has just outlined. We are very pleased to note that the 1981 appropriations bill coming from the gentleman's committee takes into account the report language from our committee and we expect that these projects will, in fact, come into being very quickly and the gentleman from Massachusetts and the Speaker are to be complimented for bringing this to our attention.

I think the gentleman should recognize that it is a very strong compliment to the gentleman from Massachusetts, as well as to the Speaker, that when this was raised by my amendment on the gentleman's behalf in the committee, there was not a single dissenting vote.

Mr. CONTE. Mr. Speaker, I want to thank the gentleman from Michigan (Mr. Ford) very much. He is a good man and the gentleman's district is lucky to have him.

Mr. PERKINS. Mr. Speaker, will the gentleman yield to me?

Mr. FORD of Michigan. I yield to the distinguished gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, we are bringing before the House today a landmark conference report on the continuation and revision of the Federal higher education laws. This bill, if adopted, will afford millions and millions of American citizens in the years ahead an opportunity they might not otherwise have to pursue a postsecondary education.

This conference report is the product of the efforts of many Members of Congress; but I would particularly like to acknowledge the diligent leadership of the chairman, Bill Ford, of the Subcommittee on Postsecondary Education and of its ranking minority member, Congressman John Buchanan.

These gentlemen, along with their dedicated staffs, have invested 2 years of work in producing one of the most balanced and forward-looking pieces of legislation we have ever had in the area of postsecondary education.

Since all the members of the Subcommittee on Postsecondary Education worked so hard on this bill, it is only appropriate that we acknowledge their accomplishments at this time. In addition to Bill Ford and John Buchanan, the following Members served with great distinction on that subcommittee: John Brademas, Frank Thompson, Jr., Mario Biaggi, Paul Simon, Peter Peyser, Joseph Gaydos, Austin Murphy, Ted Weiss, William Ratchford, James Jeffords, Mickey Edwards, Thomas Tauke, Thomas Petri, and John Ashbrook.

I am very pleased that the Senate-House conference committee was able to reach agreement on all of the difficult issues facing us during the course of our long hours of deliberation. But during these sessions, Mr. Speaker, I was constantly aware of, and saddened by, the absence of our longstanding counsel for higher education—Bill Gaul.

Bill worked for the committee for well over 17 years and developed extraordinary expertise in a wide number of areas—most particularly in the area of postsecondary education. I missed him dearly during our conference proceedings, and I know many of my fellow conferees felt likewise. As a tribute to him and his unique ability, the statement of the managers in this conference report contains a dedication to his fine work over the years and to his memory.

Because I know that Bill Ford and John Buchanan will describe in great detail the many provisions of this conference report, I would like to only briefly touch on the highlights.

GRANTS

The keystone of Federal aid in the area of higher education involves the provisions of Federal student financial aid and the most essential ingredient of that assistance is the basic educational opportunity grant program.

I am very pleased to report to the House that the conference report before us today extends these grants through fiscal year 1985, and increases the grant limits over that period of time in order to provide for a more equitable payment to meet the rapidly increasing costs of higher education.

Beginning in fiscal year 1980, basic grants will be available to pay to the neediest student 50 percent of their costs of education, with a maximum grant of $1,900. This grant will increase by fiscal year 1985 to a maximum of 70 percent of the cost of education, with the dollar limit of $2,600.

These grants have very appropriately been renamed the "Pell Grants" by this conference report. The Senator from Rhode Island was the initiator of this concept back in 1972, and his steadfast support of these grants over the years has insured their being the most essential ingredient today in Federal student aid. Consequently, the conference committee readily adopted a provision renaming these grants in his honor as a tribute to his leadership over the years.

In addition to the strengthening of the "Pell Grants," the conference report also extends and increases the supplemental educational opportunity grants, and the assistance which is available under the TRIO programs for the disadvantaged. These programs are of vital importance to the poor of this country in their efforts to achieve a college education.

LOANS

The conference report also extends through fiscal year 1985 the second major ingredient of Federal student aid—namely, the Federal student loan programs. Both the guaranteed student loan program and the national direct student loan program are also extensively revised in order to more appropriately meet the needs of students seeking a higher education in today's world.

The guaranteed student loan program is modified by increasing the amounts which students can borrow, thereby acknowledging the rapidly increasing costs of a higher education. In addition, the interest rate for the guaranteed student loan program is increased from 7 to 8 percent.

I, as well as many other conferees, fought a long hard battle against increasing this interest rate on guaranteed loans. We lost out because the Senate was insistent on a higher interest rate. We were fortunate, however, in resisting demands to go to a 9 percent interest rate, as advocated by the Senate. Instead, we compromised at the 8-percent level which is in the report.

I myself believe that a root cause of today's economic problems in the country is the unconscionably high level of interest being charged for use of money. I strongly feel that until we make money available at more reasonable rates of interest, our economy will never recover from its present difficulties.

Consequently, I had a great deal of difficulty in accepting this higher interest rate, especially in light of the fact that we will be discouraging citizens from pursuing further education because they will have to pay more money for this training.

This seems to me to be just the opposite of what we should be doing if we want our country to grow and to prosper. However, regrettably, the essence of a conference committee is compromise and in order to secure agreement on this bill, we had to accept this somewhat higher interest rate.

I am pleased though that the conference committee rejected the so-called Metzenbaum amendment from the bill. This Senate amendment would have imposed a needs test for students borrowing from the guaranteed student loan program, and it would have required certain students to repay the interest which had been deferred on their loans while they attended school.

While many conferees felt attracted to the principles espoused by the amendment, prior experience with a needs test in 1972 has shown us that the introduction of such a device would serve to destroy the guaranteed student loan program. As it is, a delicate balance exists in trying to maintain certain Federal standards while also trying to encourage banks to make these loans which are sometimes inconvenient and cumbersome to them. A complexity such as a needs test would have destroyed that balance and severely hampered the program.

Similarly, the imposition of a requirement for the payback of interest deferred while attending school would have brought undue complexity to the program and would have further discouraged banks and students from participating.

Instead of adopting this amendment, a study has been ordered to be completed within 1 year on ways in which the principles of the Metzenbaum amendment could be implemented without these deleterious effects.

As regards the national student loan program, the conference committee faced a situation concerning interest rates in that program similar to the problems faced with the guaranteed student loan program. The national direct loan program has been extended by the conference through 1985. However, the Senate sought to increase the interest rate for this program all the way up to 7 percent from the current 3 percent. We had to fight hard in order to retain a reasonable compromise, and I am very pleased to report that the interest rate for this program was increased only moderately to 4 percent.

I myself would have preferred to remain at 3 percent for the reasons I mentioned earlier. But given the fact that the Senate's bill had a 7-percent interest rate and that the Senate conferees were pushing hard for cost savings, I feel that we were fortunate in securing a 4-percent interest rate for this program.

In my opinion, the national direct student loan program is one of the finest investments which the Federal Government has ever made in the area of education. The availability of these loans has enabled thousands and thousands of citizens over the years to attend institutions of higher education, and I am gratified that the conference report extends this program essentially unchanged.

The only major modification made by the conference report was the adoption of an optional funding technique which was proposed by the Senate. This technique would permit the Secretary of Education to issue bonds in order to raise revenue to provide the same amount of loan capital on college campuses as is presently being provided through the institution's revolving funds and through annual Federal capital contributions.

The Senate had originally proposed that this alternative financing be made mandatory and that the entire national direct student loan program be operated by a new Federal association which would operate apart from the Department of Education. The conference rejected both the creation of the association and the mandatory nature of this revenue bond funding.

However, again in the spirit of compromise and in order to reach an accord, we did accept the idea of this type of funding as an alternative funding device available to the Secretary of Education.

I myself would hope that the situation would never arise where the Secretary of Education would feel the need to turn to this alternative funding technique. The program has served us well over the years as it is presently constituted, and I would hope that we would not jeopardize the benefits of the program through experimenting with this untried revenue raising procedure.

I am also pleased to report that the conference agreement continues the cancellation provisions for these Federal loan programs. These cancellation provisions only cost the Federal Government about $14 million annually, but they provide the incentive for many hundreds of students to enter the teaching profession in disadvantaged areas and in the education of the handicapped.

MISCELLANEOUS

In general, the conference report extends all of the other expiring Federal programs aiding higher education through fiscal year 1985. I am particularly pleased by the extension of the college library programs. Those programs have provided much needed assistance to institutions that are financially strapped in trying to bring adequate library resources to their campuses.

I am also happy to report that the cooperative education program has been extended and that its present focus remains unchanged. The Senate had sought to permit the Federal Administrators to shift funds in that program toward large demonstration programs at major universities. The adoption of that amendment would have been very harmful to small institutions which rely on these Federal grants for their basic cooperative programs. I am pleased that the conference report retains that approach.

Lastly, I would like to note that the conference report substantially reduces authorizations for these higher education programs from those contained in the House-passed version of H.R. 5192. As a general principle, the conference report reduces the House figures, by taking 60 percent of the difference between the two bodies. As an example of the real savings in authorization levels which have been accomplished by this action, the conference report reduced college library programs (title II) authorizations from $140 million in fiscal year 1981 to $30 million. Subsequent year authorizations reflect similar reductions for these programs. I myself do not agree with these reductions for the library programs, but the House conferees had to take this action because of the Senate's insistence.

Annual Teacher Corps authorizations amounted to $100 million in the House-passed bill; in the conference report that figure is reduced to $45 million for fiscal year 1981, rising to $85 million in fiscal year 1985.

Lastly, $300 million was recommended annually by the House-passed bill for grants for the construction and renovation of undergraduate higher education facilities. The conference report reduced that figure to $140 million for fiscal year 1981, going up to $155 million for fiscal year 1985.

CONCLUSION

In summary, Mr. Speaker, I believe we are bringing before the House a well-balanced piece of legislation which will permit the Federal Government to assist millions of our citizens during the first half of this decade to attend institutions of higher education.

The results of this education will certainly be of benefit to all of us, and I believe that the investment of these tax dollars contained in this bill will be returned to our country's benefit many times over, not only in terms of earned taxes returned to the U.S. Treasury, but also and more importantly, in terms of potential creativity and imagination which will be the result of the increased academic endeavor and education benefits made available to our citizens who, without the help and assistance contained in the program of this legislation, would not be able to attend college at all.

Mr. Speaker, I believe this conference report can be supported by every Member of this body.

H.R. 5192—EDUCATION AMENDMENTS OF 1980: CONFERENCE AGREEMENT

Title/item	Fiscal year— 1981	1982	1983	1984	1985
I. Education outreach:					
A. Commission of National Development in Postsecondary Education	[1] $3, 000, 000				
B. State planning and continuing education	20, 000, 000	$40, 000, 000	$60, 000, 000	$80, 000, 000	$100, 000, 050
II. College libraries:					
A. College library resources	10, 000, 000	30, 000, 000	30, 000, 000	30, 000, 000	35, 000, 000
B. Library training, research, and development	10, 000, 000	30, 000, 000	30, 000, 000	30, 000, 000	35, 000, 000
C. Strengthening research library resources	10, 000, 000	15, 000, 000	15, 000, 000	15, 000, 000	15, 000, 000
D. National periodical system	750, 000	750, 000	Such sums	Such sums	Such sums
III. Institutional aid:					
(Both part A, Strengthening Institutions; and part B, Aid to Institutions with Special Needs)	160, 000, 000	185, 000, 000	210, 000, 000	245, 000, 000	280, 000, 000
C. Challenge grants		25, 000, 000	35, 000, 000	45, 000, 000	50, 000, 000
IV. Student aid:					
Basid educational opportunity grants	Such sums	Such sums	Such sums	Such sums	Such sums
Supplemental educational opportunity grants:					
Initial year	400, 000, 000	400, 000, 000	400, 000, 000	400, 000, 000	400, 000, 000
Continuing year	Such sums	Such sums	Such sums	Such sums	Such sums
State student incentive grants (initial and continuing grants)	100, 000, 000	100, 000, 000	150, 000, 000	200, 000, 000	250, 000, 000
College work-study program	670, 000, 000	720, 000, 000	760, 000, 000	800, 000, 000	830, 000, 000
National direct loan program	400, 000, 000	400, 000, 000	475, 000, 000	550, 000, 000	625, 000, 000
Student Aid Commission	10, 000, 000				
TRIO (special services for disadvantaged)	400, 000, 000	Such sums	Such sums	Such sums	Such sums
Migrant students	9, 600, 000	12, 000, 000	14, 000, 000	16, 000, 000	18, 000, 000
V. Teacher training programs:					
A. Teachers Corp	45, 000, 000	70, 000, 000	75, 000, 000	80, 000, 000	85, 000, 000
B. Teacher training	20, 000, 000	50, 000, 000	55, 000, 000	55, 000, 000	55, 000, 000
C. Teachers of handicapped	2, 000, 000	3, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000

H.R. 5192—EDUCATION AMENDMENTS OF 1980: CONFERENCE AGREEMENT

Title/Item	Fiscal year—				
	1981	1982	1983	1984	1980
VI. International education:					
A. International and foreign language studies	45,000,000	55,000,000	70,000,000	80,000,000	85,000,000
B. Business and international education program	7,500,000	7,500,000	7,500,000	7,500,000	7,500,000
Sec. 605 (amendment to part N, ESEA III, International Understanding)	5,250,000	6,750,000	8,250,000	9,000,000	9,000,000
VII. Construction, reconstruction, and renovation of academic facilities:					
A. Grants for undergraduate facilities	140,000,000	140,000,000	145,000,000	150,000,000	155,000,000
B. Grants for graduate facilities	80,000,000	80,000,000	80,000,000	80,000,000	80,000,000
C. Loans for academic facilities	110,000,000	110,000,000	110,000,000	110,000,000	110,000,000
VIII. Cooperative education:					
Sec. 802—Grants	30,000,000	30,000,000	30,000,000	30,000,000	30,000,000
Sec. 803—Research and demonstration	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000
IX. Graduate programs:					
A. Grants to institutions	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000
B. Graduate fellowships	60,000,000	60,000,000	Such sums	Such sums	Such sums
C. National graduate fellows program	Such sums	Such sums	Such sums	Such sums	Such sums
D. Training in legal profession	5,000,000	5,000,000	7,500,000	7,500,000	10,000,000
E. Law school clinical experience	5,000,000	8,000,000	8,000,000	9,000,000	10,000,000
X. Fund for improvement of postsecondary education	20,000,000	45,000,000	45,000,000	50,000,000	50,000,000
XI. Urban grant university program	15,000,000	40,000,000	50,000,000	55,000,000	65,000,000
XII. General provisions: Territorial grant assistance	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000
XIII. Women's worksite development demonstration program	7,500,000	7,500,000	7,500,000	7,500,000	7,500,000
XIV. Part B, National Institute of Education	125,000,000	145,000,000	165,000,000	190,000,000	215,000,000
Part H(1) Robert A. Taft Institute	750,000	750,000	750,000	750,000	750,000
Part A, General Education Provisions	2,500,000				
Science education minority science education	5,000,000				
Part H(3) William L. Dawson Chair of Public Affairs	750,000				
Part D, Native Hawaiian Education Study	500,000				
Part H(2), General Daniel James Memorial Health Education Centcr	6,000,000				
Part F, Navajo Community College program	Such sums	Such sums	Such sums	Such sums	Such sums
Part E, Refugee Children Impact Aid	Such sums	Such sums	Such sums	Such sums	Such sums
Total	2,998,100,000	2,878,250,000	3,105,000,000	3,394,250,000	3,674,750,000
Grand total			$16,050,350,000		

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[1] Available through Dec. 31, 1983.

Mr. Speaker, I would like to ask the distinguished chairman of the subcommittee, the gentleman from Michigan (Mr. Ford), a couple of questions.

I would like to correct an error which was made in the statement of the managers. This error concerns the effective date for a provision reducing the special allowance in the guaranteed student loan program.

Section 420 of the conference report amends section 438 of the Higher Education Act in order to modify the special allowance. However, the effective date for this modification in the conference report states that it "shall not apply to loans which were made or insured prior to October 1, 1980."

The statement of the managers in item 94 states this effective date differently. If I may quote from the statement of the managers.

> The House recedes with an amendment that the revised special allowance shall apply only to loans made or purchased from proceeds of tax exempt bonds issued after October 1, 1980.

For the sake of legislative history, I would like to make clear that the provision in the conference report controls and that the description in the statement of the managers is incorrect. The description in the statement of the managers should say that this modification of the special allowance shall not apply to loans which were made or insured prior to October 1, 1980.

If I might, I would like to ask the floor manager of this conference report who is the chairman of the Subcommittee on Postsecondary Education whether he agrees with this interpretation.

Mr. FORD. I agree with Chairman Perkins' description of the facts. The statement of the managers is not correct, and the conference report controls.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

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Mr. Speaker, I rise in support of the conference report to H.R. 5192, Education Amendments of 1980. This conference report represents the interests and concerns of House Members as reflected in their overwhelming passage on November 7, 1979 of H.R. 5192 by a 385 to 15 vote in spite of the opposition to the bill by the administration.

We come before you with a conference report that has been trimmed in the size of its authorization to meet the concerns of the administration and the other body, but one that comprises a substantial new commitment to post-secondary education and to student assistance programs. We come before you today with a conference report that has the administration's support. I hope their support does not cost us too many votes.

Before relating the contents of the conference report, I would like to take this opportunity to compliment the chairman of the Education and Labor Committee, Mr. Perkins, the ranking Republican on the committee, Mr. Ashbrook, and other conferees for their outstanding work during this conference. In particular, I would like to commend the distinguished chairman of the Subcommittee on Post-secondary Education, Mr. Ford, for his outstanding leadership during the past 2 years in reauthorizing the Higher Education Act. The excellent conference report before us today can be largely attributed to Mr. Ford's thorough preparation and knowledgeable guidance throughout the reauthorization process. From the time almost 2 years ago when he urged the postsecondary community to make recommendations to him in writing until the last signature was placed on the conference report, his leadership has been an example that other legislators ought to emulate.

Mr. Speaker, I would say that Bill Ford has stood as tall as a man can stand and has done as much as one man can do to make certain that in this country we make the most of our most precious resources, our human resources, to make certain that every American who desires a postsecondary education shall have that education, and to make sure that every family that has the dream, the great American dream of sending a child to college, shall have that dream fulfilled.

I will say to every person involved in education in the United States that when Bill Ford enters the room they ought to stand up and cheer. Mr. Ford has done a magnificent job of leadership. We started out with no bill. We started out with letters he wrote to all of the interested groups seeking their counsel on what was right about existing programs and what needed to be changed. Then the staff compiled the responses and we held hearings based on those responses. Bill Ford then caused panels to be formed to talk about the differences and to iron out the problems. We saw throughout the process statesmanship on the part of many individuals and entities in the postsecondary education community as they themselves helped to resolve the problems and work out a consensus and bipartisan bill.

Last November, this body gave a mandate to the House conferees to stand firm on the positions taken by the House regarding Federal postsecondary education programs. I firmly believe that the report presented to the House today represents the best interests of the members of the House of Representatives and reflects those concerns expressed during the debate on the Higher Education Act here in the House. Despite the overwhelming support of H.R. 5192 last fall, some members were concerned that the cost of the reauthorized programs was too great. Since last November budgetary concerns have come to the floor in Congress and pressure has been increasingly placed on reducing the costs of Federal programs. The Senate bill reflected these increased budgetary concerns and the conference report moves in the direction of the Senate bill. Almost without exception, the final authorization levels for the programs in this bill are closer to the lower Senate figures, thus lowering the yearly authorized costs by over $1 billion per year when compared to the House reported bill.

In spite of these reductions from the House bill, I can confidently say that this conference report expands the student assistance programs tremendously and, as in 1978 with the Middle-Income Student Assistance Act, heralds a new era for Federal support of access and choice in postsecondary education. We have kept our commitment made with the passage of MISAA to the middle-income taxpayer, and, most importantly, insured that the low-income student will be provided sufficient financial support to allow him or her to make the best of their mind and abilities. I am firmly convinced that an investment in the future of our young people is the single best investment for insuring that America will remain strong in the decades ahead.

As in current law, over 90 percent of the authorized program moneys are in the student financial assistance title (title IV). The conferees feel that the best way to provide educational opportunity to postsecondary students is to provide them the financial means to select the types of programs and institutions that will best supply their educational needs. One of the most difficult issues during the past 2 years was how to resolve the debate between the independent and the public sector regarding the basic educational opportunity grant program (BEOG). In an effort to increase the percentage of costs that could be covered by a BEOG, we made sure that in increasing that percentage the independent institutions would be protected by increasing our support of those programs that particularly are beneficial to students attending independent institutions.

At this point I would like to commend the various postsecondary education interest groups for the manner in which they dealt with the issue of the BEOG "half-cost" compromise. At the urging of the distinguished chairman from Michigan (Mr. Ford) the various interest groups worked cooperatively in drafting a compromise that was fair to all sectors of postsecondary education. Without this cooperation, our job would have been more difficult and the cleavages left by large scale disagreements in the grant area would be disastrous for support of Federal student aid programs in the coming years.

The conferees agreed to a half-cost compromise which set the fiscal year 1981 maximum BEOG at $1,900 covering 50 percent of a student's cost, with a minimum SEOG funding level of $400 million. By 1985, we authorize a maximum BEOG of $2,600 covering 70 percent of costs with a $480 million SEOG. The issue of how to deal with the thresholds for the BEOG program was a difficult one. The compromise finally struck would allow a basic grant to be funded up to $1,800 in fiscal year 1981 before SEOG funding of $400 million is mandated. The SEOG thresholds are then increased in proportion to the increases in future years of the BEOG maximum.

The most difficult issue to deal with in conference was the structure and financing of the national direct student loan program. The Senate sought to establish a totally new, off-budget national Direct Student Loan Association which would centralize the basic loan program and shift the loan volume from the current private sector to a Government-run program. The House last year very carefully studied this proposal and rejected it overwhelmingly. We wanted to retain the current NDSL program which requires direct appropriations and decentralization at the capital level, and at the same time emphasize the use of private capital in the guaranteed student loan program, GSL. The compromise presented today in the conference report is as follows:

The national direct student loans, NDSL, program is reauthorized to operate essentially as under current law. The interest rate is raised from 3 to 4 percent, and the option is added for the Secretary of Education to finance loans under the NDSL program through borrowings from the Federal Financing Bank as well as appropriations from the Congress and loan repayments. Centralization of NDSL program operations could occur at some point in the future, but only if sufficient loan capital is available from Federal sources to completely replace the total loan capital available from all the NDSL revolving funds.

The guaranteed student loan (GSL) program also is reauthorized to operate essentially as under current law. The interest rate is maintained at 7 percent for new borrowers. The provisions placed in the Senate version of the bill by Senator Howard Metzenbaum, which would add interest accrued during the in-school period to the repayment burden of many student borrowers, are not included in the conference report.

A new parent loan program is authorized to be established, with an interest rate of 8 percent for parents who choose to begin repayment within 60 days after origination of the loans, and 11 percent for those who choose to defer repayment.

Although the bulk of the Federal support of postsecondary education is through student assistance, the conference report reflects significant changes in many of the other institutional assistance programs. The educational Outreach (title I) program reflects the objective of both Houses in coordinating those programs of postsecondary planning, education information, and continuing education into one title so that we can maximize the Federal effort in insuring that all persons who want to attend college have the opportunity to do so.

Title II of the bill, the college and research library assistance and library training and research programs, reflects the conferees desire to expand support for college library programs while at the same time recognizing the potential for economies of scale in some type of centralized lending program. The conference document authorizes a study of the feasibility and advisability of establishing a national periodical system and, if found feasible and advisable, authorizes the preparation of a design for such a program.

Continued assistance to institutions of higher education is provided through title III. Conferees agreed to creating two parts to this institutional aid title which further focuses assistance to those institutions with special needs. Inclusion of the challenge grant program under title III promises to provide incentives to institutions to match Federal dollars with public or private funds to further strengthen their self-sufficiency.

Title V, teacher corp and teacher training programs, reflects the desire of both bodies to coordinate the existing teacher training programs that are scattered throughout the Federal bureaucracy.

The conference report section relating to title VI, international education programs, includes a Senate provision to encourage and support the education of business leaders in the cultural and language characteristics of foreign countries. The addition of this vital new program will hopefully assist the United States to be more competitive in the world market for goods and services. As a member of the Foreign Affairs Committee, I am convinced that our understanding of the world economy and our balance-of-payments status can be much improved by programs such as this. Title VII, construction, reconstruction and renovation of academic facilities and title VIII, cooperative education, are not drastically changed from the current law or the House-passed position.

The conference on title IX, graduate programs, provided a unique opportunity to establish a better program than was in either the House or the Senate bill. The conference substitute provides for a program of campus-based grant awards to graduate and professional students based on financial need. The substitute also provides for the maintenance of the level of awards (including institutional allowances) for the current public service, mining, and graduate and professional opportunity fellowship programs. I feel very strongly that this new program of graduate assistance and the coordination provided by consolidating some of the existing programs is a great step forward in Federal support of the vitally needed graduate programs in this country.

The creation of a new title XI, the urban grant university program is, in my opinion, a significant step toward beginning to bring universities and local governments into cooperative efforts to solve problems that plague our urban centers. The urban grant university program was a provision found in both the House and Senate proposals, in a form that showed very little difference. The absence of controversy in this program, I believe, is an indication of the overwhelming support for the establishment of this new and vitally needed program.

As ranking minority member on the Subcommittee on Postsecondary Education, I traveled to several cities across the country in addition to hearings here in Washington, observing and listening to witnesses describe the need for a program that would provide incentive for universities and local governments to join hands and minds in attempting to alleviate the problems which plague the cities today. I am convinced that there is an underutilized reservoir of skills, talents, and knowledge in our urban universities that must be applied.

The Secretary of Education is authorized to make grants to urban universities to pay the Federal share of the costs for carrying out projects consistent with the purposes of title XI. Applications for such assistance must show that the local agency or agencies of general government within whose jurisdiction fall the needs to be addressed have been afforded a reasonable opportunitiy to review and comment upon the proposed projects. The Secretary is also required to achieve broad and equitable geographical distribution throughout the Nation. In the event that there is no urban area in a State with a standard metropolitan statistical area (SMSA) having a population of 500,000, the Secretary may designate an urban area for the purposes of this title. Authorization for each of the fiscal years 1981 through 1985 are $15 million/$25 million/$42 million/$50 million/$65 million.

The general provisions of the conference report reflect the desire of both the House and Senate to provide maximum flexibility to the States in doing their postsecondary planning. The conference document deletes the requirement for the establishment of a 1202 planning commission and instead provides that existing commissions, agencies, or other entities doing postsecondary planning in a State can be used to satisfy the requirements of postsecondary planning established by the Higher Education Act. At the same time, the conference report insures the representation of all interested parties, including students and representatives of institutions of higher education in the planning process.

One of the Senate provisions adopted by the conferees was the authorization of $600 million for fiscal year 1981 for a grant to establish the General Daniel James Memorial Health Education Center to be located in Tuskegee Institute in Tuskegee, Ala. As a representative from the State of Alabama and as an admirer of Chappy James, I am extremely pleased that the conferees decided to include this very important tribute to an outstanding American.

I am pleased that the House accepted the Senate proposal to establish a new title XIII which would provide for women's worksite demonstration programs. Authorized at the modest level of $7.5 million for each of the fiscal years title XIII would provide grants to institutions of higher education, either by themselves, or in contract with nonprofit community-based organizations, employers, and labor organizations to identify the most effective means to inform women of relevant postsecondary education opportunities.

Women make up 52 percent of the population, yet as a group, hold a much less significant percent of the meaningful jobs in this country. Title XIII provides a needed avenue whereby women will be able to learn more of employment and postsecondary education options available to them to enhance their productivity and fulfillment in life.

In closing, I would like to again urge my colleagues to pass this conference report overwhelmingly, and hopefully unanimously, to indicate to the Nation Congress deep support for the young people of this country. This bill represents a giant step forward in insuring educational opportunity and expanding the horizons of young people for years to come.

Mr. Speaker, I now yield such time as he may consume to a distinguished member of our committee, the Honorable John Ashbrook of Ohio.

Mr. ASHBROOK. Mr. Speaker, I rise in support of the conference report to H.R. 5192 and strongly urge its adoption. I believe that the report presented to the House today is one which can be supported by Republicans and Democrats, conservatives and liberals, and those concerned with protecting the various interests of both public and independent postsecondary education.

The spirit and consensus on the part of the conferees, in particular the unanimity with which the House conferees held their position, reflects, in large part, the outstanding leadership of the chairman of the Postsecondary Education Subcommittee, the gentleman from Michigan (Mr. Ford). Through his efforts and that of Chairman Perkins and the ranking Republican of the subcommittee, the gentleman from Alabama (Mr. Buchanan), the document before us today is an outstanding example of consensus, conciliation, and compromise. The spirit of the conference and the desire to insure the protection of the best interests of those who are the ultimate consumers of education, the students, is laudable.

As in any conference, each side had to give a little bit on the positions taken by the respective congressional bodies. Several general observations can be made though about the final decisions made on the provisions in this agreement. First, the strong commitment made to middle-income families in the Middle-Income Student Assistance Act of 1978 was solidified in H.R. 5192. As the tax-paying group which is unfortunately overlooked in many of our Federal programs, the middle income group bears the heaviest burden both in terms of taxes paid and tuition paid from their own resources. The Education Amendments of 1980 continues the BEOG grant to the middle-income student and retains the important provision that allows a subsidized guaranteed student loan for any individual, no matter what his or her family income.

The second general observation that can be made is that the conference report reflects the desire of both the House and Senate to consolidate existing programs which need to be better coordinated and eliminate those programs which are no longer necessary. Title I, the education outreach title, reflects the desire of the conferees to place in one title education information, comprehensive planning, and continuing education outreach. The combination of these activities in one title will undoubtedly foster a more effective Outreach program and ultimately result in more students attending postsecondary classes.

The third general observation to be made is that the Federal Government's involvement in the activities of the State and the postsecondary education institutions has been minimized in this bill. For example, no longer will the Higher Education Act require that a specific postsecondary planning commission be established to do comprehensive planning in a State. Existing commissions or other entities would be sufficient to meet the requirements of this bill. The conferees were also very specific about the prohibition against the Federal Government being involved in the tuition refund policies of the institution. In an affirmation of self-regulation, the conferees applauded the efforts of the higher education associations in establishing their own tuition refund policy guidelines and a subsequent acceptance of those guidelines by the Department of Education.

A fourth observation that can be made about H.R. 5192 is that it simplifies the maze of Federal bureaucracy and paperwork that a student must go through in order to obtain Federal financial assistance. The requirement to have a single comment form and a single needs analysis will ease the burden of a student in applying for Federal aid. Study after study has shown that barriers to postsecondary education are primarily financial, but that many students are frustrated by the process of obtaining financial aid or if they do not know of the existence of the aid in the first place. This bill would greatly enhance the probability of receiving student aid in order to pay for one's education.

The final general observation I would make about the bill before us today is that it properly balances the interests of both the independent and the public sector of postsecondary education. With declining enrollments projected for the coming decade, it is essential that we insure the viability of the independent sector so that our national postsecondary education resource is fully diversified.

I want to take this opportunity to thank the chairman of the Postsecondary Education Subcommittee, Mr. Ford, for holding a hearing in my State of Ohio regarding the issue of the problems of private colleges. As many of you may know, Ohio has a valuable resource in its many small, independent colleges and, as is true throughout the country, they are concerned with what the future may hold for them during a period of declining enrollments. The current concerns expressed at that hearing, I believe, are provided for in the conference report we consider here today.

One of the most difficult issues with which the conference dealt was the increase in the basic grant maximum, the increase in the percentage of costs which could be covered by a basic grant and the thresholds which are tied to the basic grant appropriations to insure adequate funding of other programs such as the supplemental grant program, college work study program, and the national direct student loan program. By tieing the increases in the threshold for the supplemental educational opportunity grant program with the increases in the percentage of costs covered by a BEOG and the increases in the BEOG maximum, I believe that the compromise protects the independent sector of higher education. As a strong believer in fiscal constraint, I hope it is with some credibility I inform the members of the Appropriations Committee that the reason for tieing funding of the BEOG program with funding of the SEOG program is not to leverage increased appropriations in both programs. The purpose is to insure that the mix of Federal education assistance properly supports all sectors of education and provides a balance between work, loans, and grants.

The most controversial issue in the entire conference was whether to accept the Senate's new off-budget National Direct Student Loan Association. The centralization of the NDSL program in Washington was rejected by the conferees, and most of the current loan delivery and collection procedures now in current law were retained. The compromise agreement did provide that borrowing through revenue bonds instead of direct appropriations could be used for financing NDSLs if sufficient loan capital were made available through the borrowing. Interest rates in both the NDSL and the GSL program were increased to reflect the higher borrowing rates for commercial loans. The NDSL rate was increased from 3 percent to 4 percent and the GSL rate was increased from 7 percent to 8 percent. A new parent loan program was established and the interest rate was set at 11 percent except for those borrowers who began repayment within 60 days after making the loan.

As I noted earlier, the in-school interest subsidy which was established for borrowers from all income backgrounds in the Middle-Income Student Assistance Act was retained in H.R. 5192. The notorious Metzenbaum amendment to require repayment of the in-school interest subsidy was deleted by conferees, in spite of its strong support by members of the Senate Budget Committee because it was almost impossible to administer and would have been a retrenchment on the part of Congress from the position they took in 1978.

Members of Congress must realize that support for programs such as the Higher Education Act programs is only as strong as the base of its recipients. My colleague from Michigan (Mr. FORD) properly notes that the strong support for tuition tax credits is reflected by the number of its recipients and that an adoption of the Metzenbaum amendment would raise to new heights a cry for enactment of a postsecondary education tuition tax credit bill.

If I were to note one disappointment in the conference report before us today, it would be that it does not include a Senate provision that would require the Secretary of Education to make a comprehensive study of programs authorized by the Elementary and Secondary Education Act, the Vocational Educational Act and the Education of the Handicapped Act in order to analyze if there are any duplications, conflicts, and unnecessary reporting requirements contained in those laws or regulations. This provision would have authorized the Secretary to enter into agreement with not less than 4 and no more than 10 States for the conduct of study projects. Unfortunately the conferees decided to only retain a minor study of the issue of duplication in education programs. As the author of H.R. 7882, the Education Improvement Act of 1980, I believe that it is necessary to immediately review all educational programs and where they are duplicated or unnecessary they should be changed or eliminated. We took a step in that direction with H.R. 5192. I hope that we will continue to look at those programs and that with the reauthorization of the Elementary and Secondary Education Act several years from now we will consolidate many of those existing programs.

To my cost-conscious colleagues on the Republican side of the aisle, you should be aware that the conference report before us today costs approximately $1 billion less per year than H.R. 5192 as passed last year by a vote of 385 to 15. Where there were differences in the authorizations between the House and Senate bills, the lower authorization figure was adopted.

In summary, I urge my colleagues to support me and the conferees in passing the conference report to H.R. 5192. It is a document that I am proud to be a part of, and I believe your support of it will be justified in the coming years.

Mr. BUCHANAN. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I think before we go any further in acknowledging the work that was done and the contribution made by so many different Members of Congress in arriving at this conference document, I would have to say a personal and special word of commendation for the committee staff on both sides of the aisle. Both the majority and minority staff have done excellent work on this bill. Their names may not appear as cosponsors, but I would say the excellence of their work is literally reflected on every page of this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. I thank the gentleman for yielding. I can only echo the remarks made by my colleague in commending the chairman of the subcommittee.

I also want to commend the ranking member of the subcommittee because I know the joint work that the two individuals did at the subcommittee level which made it so much easier for all of us to come forward with a bill which reflects the needs of higher education. I must say that the tremendous work that went on in the committee, led by the chairman of the full committee and our ranking member, as well as the two individuals I named, wherein literally we brought back a position very, very close to the House position, and I think an excellent job was done in that respect. This bill is a bipartisan effort which received overwhelming support when it passed the House on November 7, 1979. The bill not only expands higher education opportunities for all students, but reduces bureaucratic redtape.

I also would like to join in commending the staff for their tremendous work. I have worked with many staff members, but I do not think I have ever seen any staff work as hard as the staff on both the minority and majority side. Their efforts, especially during the interim period in coming up with compromises and working out alternative language helped to make it possible to resolve some of the problems we faced.

One of our goals as we developed this legislation was to assist in the achievement of equal educational opportunity. We sought this goal by trying to reach a balance of support between all types of institutions of postsecondary education: urban rural; community colleges and 4-year degree-granting institutions; historically black institutions and developing institutions; and public and private colleges and universities. Balance was also sought through our efforts to provide access to all types of students: nontraditional, adult learners, the displaced homemaker, or the veterans, and the traditional high school graduate straight from school; full- and part-time students; minorities and disadvantaged; and dependent and independent students. I believe that with the compromises made during the conference on H.R. 5192, the Higher Education Amendments of 1980, the House did not compromise its basic goals, and that we did in fact remain firm in our goal of equal educational opportunity.

As a conferee, I was particularly concerned about the programs available to institutions in small and rural States, and about the access opportunities for students in such States. Critical to this concern is the ability to improve access for adults and nontraditional students whose educational needs have been inadequately served for reasons such as rural isolation. Under title I, continuing postsecondary education program and planning, it was necessary to assure that each State would receive sufficient funding to meet the needs of this population. Under this bill each State will receive a minimum of $187,500 so that at least a basic program can be provided.

It is particularly important in small States that adequate funding be available for the administration and coordination of these programs. I would like to clarify a portion of the report, regarding title I funding, so that the intent is clearly understood by all, including those staff in the Department of Education. On page H 7752 of the conference report the following language appears:

> Each state shall receive an allotment of funds available appropriations based 60 percent on relative state adult population and 40 percent on an equal basis, except that no state shall receive less than $187,500 in any fiscal year.

It was also my understanding, and I would like to check this out with the chairman, that in the event an appropriation is not sufficient to provide the minimum of $187,500 for each State, that each State's allocation would be reduced on a pro rata basis and not switched back to the formula, as happened recently. This switch created havoc throughout the program. I wonder if this intent was also the understanding of the chairman of the subcommittee?

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman.

Mr. FORD of Michigan. I believe the gentleman states very accurately my understanding of what the conference agreed to.

Mr. JEFFORDS. I hope that understanding will be reflected, and I will try to see that it is included by the Senate. I hope the problem of reduced appropriations never has to be faced but if it is that it will not have to be resolved as it was before—with the passage of emergency legislation.

I thank the chairman for this clarification.

Additionally, I was able to have included language that allows 5 percent of the sums available or $40,000, whichever is greater for the direct operation by the State of continuing education programs. It is essential to differentiate between those moneys competed for under these provisions and those moneys retained at the State level for program operation. This differentiation is necessary so that, for example in a State such as Vermont, the university, which houses the administrative offices for the continuing education programs over the State, would not be precluded from competing for funds through a different program in the university. In conference we were able to effect these requirements so that programs in rural States would not be penalized, and could operate to meet the needs of those students whose needs had been previously unserved.

Also critical to small States was the linkage between the BEOG and the SEOG and other campus-based assistance programs. BEOG's in excess of $1,800 may not be paid unless SEOG, work study, NDSL and SSIG programs are appropriated at specified levels. This balance expands the possible institutions a student may attend and does not restrict access to only low-cost institutions that may not provide programs or desired career training. A decreasing hold harmless for SEOG programs also protects these programs from the vagaries of "fair share" formulas developed by the Department of Education, which would have, over the long run, severely limited this program in small and rural States. I am concerned that this commitment to small States be maintained, and I will carefully review the regulations developed in this area.

I also find it encouraging to note that the bill contains provision under title V, that teacher center grants be made on a equitable geographic basis, and that under title XI, States that do not have a standard metropolitan statistical area can still qualify for the urban university grant program by designation of the Secretary. Each of these reflects a consideration of the special needs in rural States.

H.R. 5192 has the support of the entire higher education community and the administration. It received resounding support in the House and in the Senate. The conference provisions have resulted in a bill which reflects the priorities of the House, and strikes the balance for which we all worked so diligently. I strongly urge my colleagues to support this conference report in a manner similar to the support they gave to the bill as it passed the House in November.

Mr. BUCHANAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. Pursell).

Mr. PURSELL. Mr. Speaker, I want briefly to compliment the Higher Education Subcommittee, both the majority and minority ranking members and leaders, Mr. Ford especially for his leadership in the last 2 years and in the Senate, Senator Pell, Senator Javits, and other Members. I think it was an excellent legislative support for our university and community colleges, postsecondary education programs throughout the United States.

I represent probably the largest student body in the Nation, about 86,000 students. I think with the community colleges and the universities, both public and private, this bill in the next 5 years in terms of its approximately $35 billion, will go a long way in giving every American person, young person and older person who aspires to a postsecondary education.

☐ 1120

I would like to ask a question of the gentleman from Michigan (Mr. Ford). Before I do so I want to say that the preservation of academic freedom, I think, has been consistent throughout the thinking of all the members of the subcommittee. My question is pragmatic at this time, in point of the authorization bill and the Appropriations Subcommittee upon which I serve, dealing with Labor-HEW. What is the timetable now in terms of funding. The administration is now in agreement with Congress with regard to student funding, the various programs for scholarships, student tuition, work study, NDSL, the disadvantaged, basic opportunity grants—where does the gentleman see this in terms of funding this forthcoming 2 fiscal years 1980–81, 1981–82?

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Actually, this bill could be funded with supplementals in fiscal year 1981 but in reality we expect the bulk of the change in the bill will be funded in fiscal year 1982. We gave up earlier this year on being able to precede the appropriations process. We wanted to avoid the confusion that would happen if we would inject a change in the current school year so, as a matter of fact, people attending school this year will be attending on the basis of the provisions of the Middle-Income Student Assistance Act as we extended that last year for 1 year.

Mr. PURSELL. So the gentleman suggests we will have an orderly transition this year through a continuing resolution and supplemental to finish this fiscal year in 1981, but the full comprehensive changes and improvements that the subcommittee has made will be translated in the budget of the President in the 1982 budget year.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. PURSELL. Yes.

Mr. FORD of Michigan. A continuing resolution will not be necessary, because in August of 1979 we passed Public Law 96–49, which extended all the existing programs in this package for 1 additional year to keep us from being in a position of causing confusion in the event that we took as long as we have to reach this point. The appropriations process can go forward with the existing programs as they were modified by the Middle-Income Student Assistance Act through fiscal year 1981 without the need for a continuing resolution; and, in fact, supplemental appropriations would be appropriate. We may be coming to you to ask for those, particularly since yesterday we were not at all happy to see the cuts in the NDSL requests that our committee had made, but I am sure that, as has been the case in the past, the gentleman from Michigan and the other members of his committee will be sympathetic to our plea for a supplemental later in the year.

Mr. PURSELL. Mr. Speaker, I would like to thank the committee for its outstanding work. I fully support this conference report.

Mr. BUCHANAN. Mr. Speaker, I ask unanimous consent that the gentleman from New York (Mr. Peyser) be permitted to speak out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, what is so important that we have to hear this out of order?

Mr. PEYSER. Mr. Speaker, if the gentleman will yield to me, this is a special statement we are making concerning the 300th day of captivity and an arrangement that has been made to deliver copies of the Congressional Record to the hostages.

Mr. ROUSSELOT. Does the gentleman refer to the hostages in Iran?

Mr. PEYSER. The gentleman is correct. Arrangements have been made to deliver copies of this Record to the hostages in Iran.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama (Mr. Buchanan)?

There was no objection.

THE 300TH DAY OF CAPTIVITY FOR AMERICAN HOSTAGES IN IRAN

Mr. PEYSER. Mr. Speaker, tomorrow, August 29, 1980, marks the 300th day of captivity for fellow Americans in Iran. It has been said by some that we are downplaying this tragedy and the public is putting it out of its thoughts.

Mr. Speaker, nothing could be further from the truth. Certainly, among all of us in the House of Representatives, our thoughts and prayers continually go out to those 52 Americans still held hostage.

Mr. Speaker, I am now going to read for the Record the names of all those known to be held hostage at this time:

Thomas L. Ahern, William Belk, Robert Blucker, David Cooke, Donald T. Cortez, John Cross, William Daugherty, Lt. Cmdr. Bob Engleman, William Gallegos, Bruce German, John Graves, Joseph Hall, Joseph M. Hall.

Kevin Hermening, Donald Hohman, Lee Holland, Michael Howland, Charles Jones, Malcolm Kalb, Moorhead Kennedy, Jr., William F. Keough, Steven W. Kirtley, Katherine Koob, Frederick Lee Kupke, Stephen Laaterback, Bruce L. Laingen, Gary Lee, Paul E. Lewis.

John W. Limbert, Jimmy Lopez, Richard Metrinko, Jerry J. Miele, Michael Moeller, Bert Moore, Richard Morefield, Paul M. Needham, John D. Nickel, Robert Ode, Richard Owen, Jerry Plotkin.

David Roeder, Barry Rosen, Harry Rosen, Frank B. Schaeffer, Rodney Sickman, Joseph Subic, Elizabeth Ann Swift, Victor Tomseth, Phillips R. Ward, Westley Williams.

Mr. Speaker, I know if there were one message that all of us in the House of Representatives could send at this time, we would like these brave men and women to know that we here in Congress have not given up hope nor determination that they will soon be free and will be returned safely to their families and to their country.

Mr. Speaker, I have arranged for 52 copies of today's Congressional Record to be delivered to our Embassy in Iran so that each hostage might receive a copy so that they know they are certainly not forgotten by any of the Members of this House and that the whole country joins us in this wish for their freedom and safe return as soon as possible.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I will be happy to yield to my friend from Alabama.

Mr. BUCHANAN. Mr. Speaker, I commend the gentleman for this effort and would like to say it is well the Nation be regularly reminded of those courageous persons who not only represented us in Iran and who have suffered so long and so much for their country there, but there are others like them all over the world who serve in places of difficulty and danger as civilians, as employees of the Department of State and related agencies, who day by day do a service to our country that is worthy of commendation. I know all of them share the sentiments the gentleman has expressed for their colleagues in Iran.

Mr. PEYSER. I thank the gentleman for requesting this time.

Mr. BUCHANAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Biaggi).

Mr. BIAGGI. I thank the gentleman for yielding.

Mr. Speaker, and fellow colleagues, I rise in full and enthusiastic support of this conference report before us on H.R. 5192, a bill to reauthorize programs under the Higher Education Act for an additional 5 years, as well as other miscellaneous provisions. As a member of the conference committee which considered this legislation, as well as an original cosponsor of the bill, I am proud to say that I feel that we have constructed this important piece of legislation so that it is sensitive to the ever-changing needs of our postsecondary student body and institutions, as well as to the need to be cost-minded. In conference, the cost of this bill was reduced by approximately $1 billion, a total savings of over $5 billion from what this body approved last November.

I would like to pay tribute to the chairman of our Education and Labor Committee, Mr. Perkins, and thank him for the cooperation he has shown us since we began consideration of this bill in September of 1978. His concern for and commitment to these programs has always been of the highest magnitude.

Most importantly, I want to express my deep admiration for the fine work which our subcommittee chairman, Bill Ford, has done in steering this complex piece of legislation through the House and through the conference. I know of no greater friend of students and institutions of higher education than Bill Ford. He has always been an advocate for their interests, in financial aid for middle-income students, for urban universities, for libraries, and for our disadvantaged, nontraditional student population. In these areas, and many more, we owe a debt of gratitude to Bill Ford for his ability to meld these interests together to produce a fine bill which I am proud to have my name upon. From the beginning to the end of this process, he has received nothing but high praise from everyone involved in this bill, our colleagues from both sides of the aisle as well as the entire educational community.

Hearings on this bill began on March 20, 1979, and testimony was received from all segments of the higher education community. A total of 33 hearings were held, including six field hearings, including one which I chaired in New York on the problems of the adult, nontraditional student. Our findings at that hearing formed the basis of many important legislative initiatives we took in H.R. 5192 which help to further eliminate barriers which these adults face in obtaining a postsecondary education. In all, we had 244 witnesses appear before our committee representing a broad array of concerned individuals, institutions and organizations. For the record, I wish to also note that of these 244 witnesses, 27 of them were students who are the direct beneficiaries of many of these programs.

As New York's ranking member of the House Education and Labor Committee, I wish to note my particular contributions to this bill which I feel will be of special benefit to New York students and the schools they attend:

A compromise proposal in conference which assured that the distribution of supplemental grant funds would not penalize States which make a larger than average effort in providing aid to students through both State and institutional means;

I authored an amendment to provide for a study of the remaining barriers which adults face in seeking a postsecondary education which will be of great importance to us in the next reauthorization;

I included a provision in title I, entitled "Educational Outreach programs" to emphasize the needs of displaced homemakers in programs operated under this title;

A provision tying increases in appropriations for our supplemental grant programs to increases in funding for basic grants to assure balanced growth between these two programs and so that students who rely upon the supplemental grant program will not be penalized in their grant awards due to moneys available;

The incorporation of my bill, H.R. 3513 into title I which provides for the creation and maintenance of student financial aid data banks which will be instrumental in providing this kind of information to students through fast, efficient and effective means;

An acknowledgment by the conferees that the College for Human Services, which has a campus in New York City, is eligible for funds under title III, "Institutional Aid," even though it does not meet the eligibility criteria for developing institutions but does meet the intent of this title in its activities.

In sum, this bill, H.R. 5192, provides for balanced growth and development of our higher education programs. It is particularly sensitive to our audit, nontraditional student population which most often attends school on a part-time or less than halftime basis. We have included a provision that institutions may use up to 10 percent of their SEOG moneys for less-than-half time students as well as to provide SSIG awards to graduate and less than halftimers. It is my sincere hope that we can address this issue even further in the next set of amendments to this legislation.

Most importantly in this bill, we have not faltered on our commitment to our middle-income students established in the 1978 amendments. Since that time, we have been able to proudly point to the fact that some form of Federal financial aid is available to any eligible student who wishes to apply for it, regardless of income. We have maintained that provision in this legisation in our guaranteed loan program, raising the interest rate from 7 to 8 percent for new borrowers, and establishing a parent loan program which allows for parents to also take out these same loans in order to assist their children in paying for their college education. In addition, the total amount of money that can be borrowed under this program for undergraduates has been raised to $12,500 and repayment schedules have been expanded in order to further reduce the default rate.

In conclusion, this bill offers an equitable approach in extending these programs for an additional 5 years. We not only have balanced increases in our grant programs to help both low- and middle-income students at both public and private institutions, but have also expanded our loan and fellowship programs so that more students will be able to take advantage of these opportunities. I should not fail to mention the other important provisions of the bill which assist libraries, research universities, urban universities, international education, and language training as well as institutions which need aid in helping them get off the ground.

We have also included extensive language, authored by myself, and my colleagues Mr. MILLER of California and our distinguished majority whip, Mr. BRADEMAS, on the provisions extending the National Institute of Education. We included this specific language for several reasons. One reason was that we did not have the House bill in conference because the House did not have time to consider the bill before we went to conference. In the House bill I authored several provisions which would have expanded the activities of NIE to include greater and diverse numbers of individuals and organizations. These provisions also required NIE to provide data to Congress each year on the grant awards made by the Institute each year. The second reason for this extensive report language is that we truly feel that NIE, as the centerpiece of educational research in the new Department of Education should take appropriate steps to assure that its mission is consistent with the intent of Congress and its research activities will be of benefit to as many in the educational community as possible. With those two points in mind, I hope that we can look forward to close cooperation with NIE in the future so that our goals will always be directed toward similar ends.

Seldom in this body has anyone on our committee seen the kind of cooperation that has been a part of our deliberations on this bill. It is strongly supported by all segments of the higher education community as well as both the majority and the minority members of the Education and Labor Committee. I am proud to have been a part of this achievement. This conference report deserves the unqualified support of this body and I urge my colleagues to join me in approving this measure.

[From the Christian Science Monitor, Aug. 26, 1980]

OLDER, MINORITY STUDENTS WILL HELP FILL COLLEGE CLASSROOMS OF THE '80S

(By Paul Van Slambrouck)

HOUSTON.—Will the halls of higher education in the United States echo with fewer footsteps in the 1980s?

The number of 18-year-olds begins falling this year, and that has been expected to trigger substantial declines sometime this decade in enrollment at the nation's colleges and universities.

However, early indications are that enrollments for the 1980–81 school year may equal or exceed 1979–80. And a recent study by the American Council on Education, a nonprofit association, takes exception with the widely held view that enrollments will inevitably decrease sharply for the decade as a whole.

The study outlines a number of strategies for increasing the enrollment of adult men and women, minorities, low-income youths, and foreign students. An influx of these students, it claims, could "easily" result in only a nominal decrease or even a small increase in the total US student population in the 1980s. These new students would offset the projected enrollment decline among the traditional 18-to-24-year-old population, the study asserts.

It is a controversial conclusion. Fred Crossland of the Ford Foundation reflects the counterview when he says expecting stable enrollments is "hoping for the best, but not planning for what is most likely."

Mr. Crossland forecasts a 15 to 18 percent decline in the college student population from the early 1980s to the early 1990s, and asserts that higher enrollment of nontraditional, older students can at best offset one-third of the decline in 18-year-olds.

For its part, the National Institute of Independent Colleges and Universities projects a steep 15 to 26 percent drop in enrollments nationally this decade.

For the 1980–81 school year, however, there is little dispute that the enrollment picture looks bright. A major contributor is the national economic recession, which is expected to result in more students from the ranks of the unemployed.

"Education is always countercyclical. When people are out of jobs, they see school as a way to upgrade their skills," says Judith Spich, a research economist with the American Council on Education. She notes that during the 1973–75 economic downturn enrollment at community colleges jumped 10 percent.

Regardless of the state of the economy, older students already are signing up for college classes in increasing numbers. A report published last month by the National Institute of Independent Colleges and Universities shows that between 1969 and 1979 the number of graduate, professional, nondegree, and part-time students increased 41 percent at private colleges and universities in the U.S. That compares with an 11 percent rise in undergraduate enrollment at those institutions.

While projections for enrollment this fall vary, many foresee an increase. The Department of Education's National Center for Education Statistics is forecasting 11.6 million undergraduate and graduate students this year, compared with 11.5 million last year.

A national survey conducted in June by the Chronicle of Higher Education found that applications for admission to freshman classes at colleges and universities were higher at four out of five institutions. "If actual enrollment this fall follows the trends indicated in applications and deposits received, the total number of students on American campuses could reach another record high," a summary of the survey states.

The long-term enrollment picture is likely to be one of contrast between various regions of the country, say experts on enrollment patterns. Dr. Virginia Fadil, executive director of the National Institute of Independent Colleges and Universities, expects enrollment declines to be most pronounced in the Northeast and Midwest, where, in her view, there are an excess number of colleges compared to the population.

In the West and Southwest, however, she sees potential growth in enrollment as schools profit from the continuing migration of people to those areas.

□ 1130

Mr. FORD of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Speaker, I too hail what appears to be the final step in this House of this landmark higher education legislation. I especially applaud the efforts and results of the House conferees because, as a result of their diligence, they have kept student loan interest rates low. They have preserved access to the student loan process to the middle-income student. They have prevented the initiation of interest charged from the day of entering into an institution and kept it to a point where it now will be assessed from the time the student graduates from the institution. Finally, they have opened up this system to the parents of middle-income students.

As a person actively involved in title I, I would applaud the passage of the Lifelong Learning Act because it provides new access to institutions of higher education for the nontraditional student—to the factory worker, to the housewife returning to school after raising a family, to the person pursuing a career change in midlife, to the retiree going to school after working for a lifetime. In every respect, Mr. Speaker, I think the result of the adoption of this conference report will be to improve the quality of life in all institutions of higher education.

I applaud the result, and as a member of the conference committee, I am very proud to have participated in the process.

Mr. FORD of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, adding any words of praise to our colleague from Michigan for what he has done is like carrying coals to Newcastle, but let me simply add that there is a really significant contribution to higher education here that he, in large measure, is responsible for. In my years of legislative work in the State Legislature of Illinois and here in Congress, I have never worked with a finer legislative craftsman than BILL FORD. I want to commend my colleagues on the other side also on this.

Let me add one significant aspect, that is in the area of international education. For the first time, we are not simply letting universities at whim go out and say, "We are going to have an African studies program or an Asian studies program."

But, we call for a coordinated look by all the agencies of Government; the Department of Defense, the State Department and others.

Let me give the Members an illustration of the need. I read just the day before yesterday that in the area of studies of Albania we have not had a student of Albania—either the language or the country—in the United States since 1972, when we had one student. Now, maybe Albania will never be a security area of great significance for this Nation, or an area of great economic consequence, but it might be, and we should fill vacuums like this. For the first time now we will have a coordinated program and ask, "What really are the needs of this country and how can the higher education community contribute to those needs?"

Again, I commend my colleagues on both sides of the aisle for, I think, a very solid product.

Mr. FORD of Michigan. Mr. Speaker, I yield such time as I have remaining to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I appreciate the gentleman yielding to me.

Mr. Speaker, because of the constraints of time, I am going to make a fuller statement under the general leave provisions. I simply want to take this occasion to commend the distinguished chairman of the Postsecondary Education Subcommittee, the gentleman from Michigan (Mr. FORD), and the ranking minority member, the gentleman from Alabama (Mr. BUCHANAN), for the tremendous work they did, especially within the context of the very negative attitudes which have recently prevailed in this House. We have indeed seen some very, very grim days. Sometimes, we in this House seem to forget what our reponsibilities are.

This piece of legislation, with overwhelming support coming from both sides of the aisle, demonstrates that this House and the other body are capable of doing tremendous work for all the people of this country. I am proud to have been able to play a part in that effort.

Mr. Speaker, I support the conference report on the Higher Education Act.

The reauthorization of the Higher Education Act builds upon existing, successful education programs and expands the various financial aid plans. The changes that have been made in the grant, loan, and work-study programs insure access for a student regardless of his or her income, to almost any university, college, or community college. A new parent loan program will be made available to those parents who encounter difficulty in meeting the expensive burden of tuition. And while at the same time preserving the loan programs, important changes have been made to reduce defaults, and make repayment easier and income sensitive.

Pursuing an education will be made easier for the new type of population currently entering college, the so-called nontraditional student who may be older, independent, and have family responsibilities. Eligibility for the financial aid programs will no longer be restricted to 4 years but guaranteed for the completion of a degree. For those who wish to attend part time, or even less than half time, eligibility for many of the financial aid programs will be newly provided. In determining for financial aid purposes the cost of an education, child care expenses will be deducted, a married student will be considered as independent, and able to use current year income information.

As a member of the Subcommittee on Postsecondary Education, and the conference committee, I was pleased to play an active role in the passage of this legislation, and adoption of a number of provisions I authored. One, a new program of grants to some of the 1,150 schools of education across the country, will facilitate their modernization of faculty and curriculum. This will enable these schools to develop joint programs with other local colleges, promote efficient planning, and redirect schools to train personnel for service in areas of shortages, including training of the handicapped, and work in conjunction with employment programs such as CETA, the Comprehensive Employment and Training Act.

The conferees also agreed to adopt an amendment which I offered to enable college work-study recipients to be placed in positions which complement their education program, or vocational goals. The New York City Urban Corps provided for the committee an outstanding example of the potential of the work-study program to enhance the education of the eligible student.

The House already demonstrated its overwhelming support for the bill last November when it passed by a vote of 357 to 15. This legislation has emerged intact from the conference committee. I want to applaud Mr. FORD and his staff for their remarkable efforts on behalf of all students and their families. As a member of the subcommittee, and conference committee, I am pleased to have participated in the reauthorization of what I consider to be an exemplary piece of legislation.

Mr. FORD of Michigan. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FORD of Michigan. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 373, nays 16, not voting 43, as follows:

[Roll No. 503]

YEAS—373

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Applegate
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Carter
Cavanaugh
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—16

Archer
Bauman
Collins, Tex.
Conable
Crane, Daniel
Crane, Philip
Dannemeyer
Fenwick
Hansen
Holt
Kelly
McDonald
McEwen
Paul
Rousselot
Stump

NOT VOTING—43

Abdnor
Anthony
AuCoin
Bowen
Carney
Chappell
Conyers
Devine
Dodd

Donnelly
Dougherty
Hanley
Hawkins
Hinson
Holland
Holtzman
Ichord
Leach, La.
Lederer
McHugh
Mathis
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nichols
Oberstar
Obey
Pashayan
Quayle
Railsback
Roe
Roth
Shannon
St Germain
Steed
Stockman
Symms
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wright
Young, Alaska

☐ 1150

The Clerk announced the following pairs:

Mr. Anthony with Mr. Abdnor.
Mr. Nichols with Mr. Pashayan.
Mr. Murphy of New York with Mr. Quayle.
Mr. Chappell with Mr. Young of Alaska.
Mr. Roe with Mr. Williams of Ohio.
Mr. Wright with Mr. Symms.
Mr. Obey with Mr. Hinson.
Mr. Hanley with Mr. Devine.
Mr. Hawkins with Mr. Carney.
Mr. AuCoin with Mr. Railsback.
Mr. Bowen with Mr. Moorhead of Pennsylvania.
Mr. Mathis with Mr. Stockman.
Mr. McHugh with Mr. Dougherty.
Mr. Murphy of Illinois with Mr. Holland.
Mr. Myers of Pennsylvania with Mr. Leach of Louisiana.
Mr. St Germain with Mr. Steed.
Mr. Lederer with Mr. Charles H. Wilson of California.
Mr. Dodd with Ms. Holtzman.
Mr. Shannon with Mr. Ichord.
Mr. Conyers with Mr. Donnelly.
Mr. Oberstar with Mr. Charles Wilson of Texas.

Mr. DANNEMEYER and Mr. ARCHER changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 5192, just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REPORT ON A BILL MAKING APPROPRIATIONS FOR THE GOVERNMENT OF THE DISTRICT OF COLUMBIA

Mr. DIXON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1981, and for other purposes.

Mr. PURSELL reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3904, MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1979

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes, with Senate and House amendments thereto, disagree to the Senate amendments to the House amendment to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. ERLENBORN. Mr. Speaker, reserving the right to object, I yield to the gentleman from New Jersey (Mr. THOMPSON) for the purpose of explaining to the House the situation now facing the House relative to this multiemployer insurance bill, H.R. 3904, and the intentions of the gentleman relative to this request for a conference.

Mr. THOMPSON. I thank my colleague and friend, the gentleman from Illinois, for yielding.

Mr. Speaker, I greatly regret the necessity for this action. As my colleagues know I have done everything possible to expedite this legislation. Apparently certain Members of the other body have not taken seriously the statements made by Members of this body.

We are in disagreement with the Senate on two issues and two issues only. It is on these issues alone that we are requesting a conference.

The first issue is the special exemption for the Hawaii Health Care Act. Last week I informed my distinguished colleagues from the Hawaii delegation, and on at least two occasions have publicly explained that, notwithstanding my sympathy for their problem, I was obliged to firmly oppose the special Hawaii exemption. It has been necessary to do so to preserve the coalition of business support for this bill that enabled us to save the legislation from the antilabor amendments that threatened to kill it. I promised my colleagues a hearing on the issue at the earliest possible date.

Our colleagues in the other body apparently mistook my expressions of sympathy. Be that as it may, the other body has restored the special exemption. On this matter I have committed myself to going to conference and preserving the House position.

The other issue on which we are seeking a conference is the unemployment compensation offset. Regrettably the other body chose to reject our provision to protect social security benefits and have restored the Senate provision. I believe one of our distinguished colleagues from the Committee of Jurisdiction, the Ways and Means Committee, will speak to that.

Mr. Speaker, I expect the conference to be brief. I will reiterate the Hawaii exemption and the unemployment compensation offset are the only issues for conference.

I urge my colleagues support for this request.

☐ 1200

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, let me ask my colleague, is it the gentleman's belief that if this unanimous-consent request is granted that the conference may be concluded as early as next week and this very important legislation may be sent to the President for signature possibly before we adjorn at the end of next week?

Mr. THOMPSON. It is indeed my belief and my fervent hope that that be the case.

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, I have said all along that this legislation was extremely necessary. I had hoped that it could have been enacted before now.

The situation presently is that the other body has recessed. They are not in session today and will not be until next week. We could not conclude our legislative consideration of this bill until next week, no matter what procedure we followed.

I am in agreement with the gentleman to limit the issues to just those two that he enumerated and to have this legislation disposed of most expeditiously, that it would be best to agree to this unanimous-consent request.

Therefore, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey (Mr. THOMPSON)?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, if I may inquire from the distinguished subcommittee chairman, I would inquire of the perimeters of the second point in dispute between the House and Senate versions.

The original House version contained no language on unemployment compensation. The Senate bill returned with the so-called Chafee amendment. The gentleman's amendment, which was accepted under a rule here, then modified the Chafee amendment, after which the Senate again passed the original Chafee amendment.

Now when we go into conference, are the conference boundaries going to be no law and the Chafee amendment, or are they going to be the nongermane unemployment compensation feature of the Thompson amendment and the Chafee amendment?

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, I wonder if the gentleman would be kind enough to yield to the gentleman from California (Mr. CORMAN), a member of the committee responsible for this section of the act.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from California (Mr. CORMAN).

Mr. CORMAN. I thank the gentleman for yielding.

It is my understanding that the House and Senate go to conference on the most recent action of each of the two bodies and would be the most recent action of the House, the most recent action of the Senate, and therefore be the Chafee amendment and the House-passed provision dealing with pension offsetting the unemployment compensation bill.

It is further my understanding, and I would ask on the gentleman's reservation, if that is the total sum of the differences that the Committee on Ways and Means will be dealing with?

Mr. THOMPSON. If the gentleman will yield, the answer is in the affirmative, yes, that is the total difference.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, the House original bill included no unemployment compensation. And the extra provision, which I am now informed will be the House position, was adopted under a rule in which there was no debate on this subject. I think, only under the flimsiest of rationale can it be considered the House position, at least on this bill.

Mr. THOMPSON. If the gentleman will yield further, the Committee on Ways and Means, in another piece of legislation, had addressed itself to this subject. Otherwise, the gentleman's statement is correct.

Mr. FRENZEL. Yes, and I tried to be careful in my statement to say that on this bill, the original House position was as I stated it. It is true that the committee has taken another position on another bill. It is also true the House took a different position on the existing law, which was passed rather recently.

Mr. Speaker, because I do not think the House has had an appropriate time to consider the original position versus the later position versus the Senate amendment, it is my intention to object to the unanimous-consent request. And I do object.

The SPEAKER pro tempore. Objection is heard.

MOTION OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Speaker, I think we all know this is one of the most important pieces of legislation that has confronted the House of Representatives in many, many years.

Thousands of insurance plans throughout the Nation are in the balance. Hundreds of thousands of employees are losing out on their pension system, and in view of the gentleman's objection, I do want to state that the House Committee on Education and Labor has laid the foundation to make a motion.

Mr. Speaker, pursuant to the provisions of clause 1, rule XX, and by direction of the Committee on Education and Labor, I move to take from the Speaker's table the bill, H.R. 3904, with the Senate and House amendments thereto, disagree to the Senate amendments to the House amendment to the Senate amendment and request a conference with the Senate thereon.

● Mr. FORD of Michigan. Mr. Speaker, multiemployer pension plans are a vitally important mechanism for providing retirement income to millions of American workers, and the legislation before us today, which will protect and strengthen those plans, therefore deserves the support of every Member of Congress.

But this legislation is of particular importance to workers covered by pension plans in what have come to be called declining industries. For in certain industries, whether because of competition from foreign imports, massive automation, or drastically reduced consumer demand, the employment base—and therefore the contribution base—has declined to the point that serious financial difficulties have arisen for the multiemployer pension plans the workers are counting on for retirement security.

Once the employment base in an industry has begun to shrink, a snowball effect develops: Contributing employers can see that their contributions will have to increase to meet unfunded liabilities that grow at an accelerating pace. To avoid these growing liabilities the employers withdraw from the plan or go out of business and reorganize, leaving an even smaller contribution base to support the plan and making further withdrawals inevitable.

The current law encourages such a snowballing of employer withdrawals by making an employers' liability proportional to the length of time it sticks with a plan. If it withdraws more than 5 years before plan termination, an employer has no liability whatsoever.

I have followed with concern the problems of a multiemployer plan in my own district that has suffered because of the decline of the American auto industry and the migration of businesses to the Sun Belt. While this plan is well run and has no unfunded liabilities, its future has been jeopardized by the threat of employer withdrawals. Throughout my participation in the development of the legislation before us today I have worked to see that this bill strengthens the viability of plans such as the autoworkers' plans in my district—particularly by removing any incentives for employer withdrawals.

H.R. 3904 accomplishes this goal by holding each contributing employer accountable for the totality of unfunded liabilities attributable to it. Moreover, by giving plans added flexibility when their contribution base drops below the number of retirees, the bill lessens the burdens of maintaining a plan in a declining industry.

I am proud to have worked with the gentleman from New Jersey (Mr. THOMPSON) on this urgently needed legislation, and I know that the entire multiemployer pension community, both labor and management, are grateful for his untiring and capable leadership.●

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. PERKINS moves to take from the Speaker's table the bill H.R. 3904, with the Senate and House amendments thereto, disagree to the Senate amendments to the House amendment to the Senate amendment and request a conference with the Senate thereon.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. PERKINS) is recognized for 1 hour.

Mr. PERKINS. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 384, nays 1, not voting 47, as follows:

[Roll No. 504]

YEAS—384

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan

Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Carter
Cavanaugh
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar

Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer

Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Ottinger
Panetta
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—1

Frenzel

NOT VOTING—47

Abdnor
Anthony
AuCoin
Beard, Tenn.
Bowen
Breaux
Carney
Chappell
Chisholm
Clay
Conyers
Davis, S.C.
Devine
Dodd
Donnelly
Hanley
Hinson
Holland
Holtzman
Ichord
Leach, La.
Lederer
McHugh
Mathis
Montgomery
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nichols
Oberstar
Obey
Pashayan
Railsback
Roe
Roth
Satterfield
Shannon
Sharp
Stanton
Steed
Symms
Vander Jagt
Wilson, C. H.
Wilson, Tex.
Wright
Young, Alaska

□ 1220

The Clerk announced the following pairs:

Mr. Chappell with Mr. Hinson.

Mr. Anthony with Mr. Pashayan.

Mr. Satterfield with Mr. Railsback.

Mr. Wright with Mr. Leach of Louisiana.

Mr. Murphy of New York with Mr. Vander Jagt.

Mr. Montgomery with Mr. Symms.

Mr. Breaux with Mr. Stanton.

Mr. Steed with Mr. Abdnor.

Mr. McHugh with Mr. Beard of Tennessee.

Mr. Murphy of Illinois with Mr. Carney.

Mr. Moorhead of Pennsylvania with Mr. Devine.

Mr. Nichols with Mr. Holland.

Mr. Oberstar with Ms. Holtzman.

Mr. Dodd with Mr. Young of Alaska.

Mr. Bowen with Mr. Conyers.

Mr. AuCoin with Mr. Davis of South Carolina.

Mr. Myers of Pennsylvania with Mr. Donnelly.

Mr. Lederer with Mr. Clay.

Mr. Mathis with Mrs. Chisholm.

Mr. Roe with Mr. Ichord.

Mr. Shannon with Mr. Charles H. Wilson of California.

Mr. Charles Wilson of Texas with Mr. Obey.

Mr. Hanley with Mr. Sharp.

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. PERKINS, THOMPSON, BRADEMAS, CLAY, ASHBROOK, and ERLENBORN, on the Senate amendments designated Nos. 2 and 3, and modifications committed to conference; and

Messrs. ULLMAN, CORMAN, RANGEL, BRODHEAD, CONABLE, and FRENZEL, on the Senate amendment designated No. 1, and modifications committed to conference.

There was no objection.

PERMISSION ON CALL OF PRIVATE CALENDAR ON THURSDAY, SEPTEMBER 4, 1980

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it shall be in order to call the Private Calendar on Thursday, September 4, 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 985, CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the conferees may have until midnight tonight to file Consolidated Farm and Rural Development Act amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 1125, FEDERAL CROP INSURANCE ACT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the conferees may have until midnight tonight to file a conference report on the Senate bill (S. 1125) the Federal Crop Insurance Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7765, PROVIDING FOR RECONCILIATION OF FIRST CONCURRENT RESOLUTION ON THE BUDGET

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Report No. 96–1264) on the resolution (H. Res. 776) providing for the consideration of the bill (H.R. 7765) to provide for reconciliation pursuant to section 3 of the first concurrent resolution on the budget for the fiscal year 1981, which was referred to the House Calendar and ordered to be printed.

HEALTH RESEARCH ACT OF 1980

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 765 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 765

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7036) to amend the Public Health Service Act to revise and extend the authorities under that Act relating to national research institutes, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, each section of said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. At the conclusion of the consideration of bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the Committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 7036, the House shall proceed, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, to the consideration of the bill (S. 988), and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 7036 as passed by the House.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resoltuion 765 provides for the consideration of H.R. 7036, the Health Research Act of 1980. This is an open rule with 1 hour of general debate to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Interstate and Foreign Commerce. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purposes of amendment under the 5-minute rule, and each section of said substitute shall be considered as having been read.

The rule waives points of order against said substitute for failure to comply with the provisions of clause 5 of rule XXI which prohibits appropriations in a legislative bill. The waiver is needed because section 474 of the substitute provides that the Secretary of the Department of Health and Human Services may accept conditional gifts for the National Institutes of Health, authority which constitutes an appropriation.

The resolution also waives section 402a of the Budget Act, which requires that new budget authority for a fiscal year be reported by May 15 preceding the beginning of such fiscal year, against consideration of H.R. 7036 and S. 988.

Finally, the rule provides one motion to recommit with or without instructions.

After the passage of H.R. 7036, the House shall proceed to the consideration of the bill, S. 988, and it shall be in order in the House to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 7036 as passed by the House.

H.R. 7036 amends the Public Health Service Act to revise and extend the authorities under that act relating to the National Research Institutes. The bill establishes the National Institutes of Health as an agency of the Public Health Service and establishes the 11 existing National Research Institutes in law. For the first time, all of the National Research Institutes would be subject to an authorization of appropriations.

H.R. 7036 provides authorizations for the National Institutes of Health, which is the principal medical research arm of the Federal Government, of $4.076 billion for the fiscal years 1981, 1982, and 1983.

Mr. Speaker, NIH's accomplishments in biomedical research are recognized throughout the world and have contributed greatly to improving the quality of life and health of our American people. I am sure my colleagues will carefully consider this legislation which provides authorities for needed medical research. I urge the adoption of House Resolution 765 so that we may proceed to the consideration of this important legislation.

☐ 1230

Mr. Speaker, I yield for purposes of debate only to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, this rule could almost be described as routine. It contains two waivers of the Budget Act, and also, a waiver of the rule prohibiting appropriations on legislation. But unfortunately, there is nothing unusual about this procedure.

If anything, these waivers may be less objectionable than usual because they are essentially technical waivers.

The first waiver is of the Budget Act requirement that authorization bills be reported by May 15 before the fiscal year they become effective. The waiver is necessary because the bill includes certain indirect authorizations which could take effect this fiscal year and therefore, the bill should have been reported by May 15, 1979, which it was not. However, the Committee on Interstate and Foreign Commerce has agreed to offer an amendment making the effective date of the bill October 1, 1980, and this would cure the Budget Act problem.

The same Budget Act waiver is necessary to allow consideration of the Senate bill, after passage of the House bill. It is necessary to consider the Senate bill in order to insert the House-passed language in the Senate bill number, and thus, expedite going to conference.

Finally, the rule waives points of order because there is technically an appropriation included in this legislative bill. The problem arises because the bill allows certain donations to be used without going through the appropriations process, and technically, this constitutes an appropriation.

Mr. Speaker, other than the waivers this rule includes no notable provisions. It provides 1 hour of general debate for the consideration of H.R. 7036, the Health Research Act of 1980. There are no special restrictions on amendments included in the rule.

Mr. Speaker, the bill made in order by this rule eliminates the permanent authorization which has covered most of activities under NIH, and replaces it with specific 3-year authorizations for all NIH activities.

Looking at the amount of the authorizations, you would never guess that this is a time of austerity. The proposed authorization level for fiscal year 1981 is 23.7 percent higher than the appropriation for fiscal year 1980. The average annual increases in spending proposed for the fiscal years 1981 through 1983 comes to 19.2 percent.

Mr. Speaker, I have no requests for time and reserve the remainder of my time.

Mr. DERRICK. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 342, nays 28, not voting 62, as follows:

[Roll No. 505]

YEAS—342

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Carter
Cavanaugh
Chisholm
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Latta
Leach, Iowa
Lee
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCormack
McDade
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Mottl
Murphy, Pa.
Murtha
Musto

Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quayle
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Rose
Rosenthal
Rostenkowski
Roybal
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wirth
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zeferetti

NAYS—28

Bauman
Bereuter
Burgener
Clausen
Collins, Tex.
Crane, Daniel
Crane, Philip
Dornan
Hansen
Holt
Jeffries
Kindness
Lagomarsino
Lewis
Lungren
McDonald
Moorhead, Calif.
O'Brien
Paul
Petri
Quillen
Rousselot
Sebelius
Shumway
Shuster
Stump
Thomas
Winn

NOT VOTING—62

Abdnor
Andrews, N.C.
Anthony
AuCoin
Beard, Tenn.
Bowen
Carney
Chappell
Cheney
Clay
Conyers
Daniel, Dan
Daschle
Davis, S.C.
Devine
Dingell
Dixon
Dodd
Donnelly
Ford, Mich.
Fuqua
Hanley
Harsha
Hinson
Holland
Holtzman
Ichord
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
McCloskey
McEwen
McHugh
Mathis
Mikulski
Montgomery
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nichols
Oberstar
Obey
Pashayan
Pritchard
Railsback
Roe
Roth
Royer
Satterfield
Shannon
Stanton
Symms
Wilson, C. H.
Wilson, Tex.
Wolff
Wright
Wydler
Young, Alaska
Zablocki

☐ 1240

The Clerk announced the following pairs:

Mr. Lederer with Mr. Harsha.

Mr. Murphy of New York with Mr. Pashayan.

Mr. Chappell with Mr. Pritchard.

Mr. Nichols with Mr. Carney.

Mr. Wolff with Mr. Cheney.

Mr. Zablocki with Mr. Hinson.

Mr. Anthony with Mr. McEwen.

Mr. Hanley with Mr. Symms.

Mr. Montgomery with Mr. Wydler.

Mr. Murphy of Illinois with Mr. Beard of Tennessee.

Mr. Fuqua with Mr. Abdnor.

Mr. Dodd with Mr. Roth.

Mr. Dingell with Mr. Royer.

Mr. Dan Daniel with Mr. Satterfield.

Mr. Bowen with Mr. Charles Wilson of California.

Mr. AuCoin with Mr. Young of Alaska.

Mr. McHugh with Mr. Donnelly.

Mr. Myers of Pennsylvania with Mr. Devine.

Mr. Roe with Mr. Davis of South Carolina.

Mr. Wright with Mr. Andrews of North Carolina.

Mr. Mathis with Mr. Holland.

Mr. Dixon with Ms. Holtzman.

Mr. Conyers with Mr. Ichord.

Mr. Clay with Mr. Leach of Louisiana.

Mr. Daschle with Mr. Leath of Texas.

Mr. Ford of Michigan with Mr. Leland.

Mr. Lehman with Mr. McCloskey.

Mr. Charles Wilson of Texas with Ms. Mikulski.

Mr. Shannon with Mr. Stanton.

Mr. Obey with Mr. Railsback.

Mr. Oberstar with Mr. Moorhead of Pennsylvania.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1240

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7036) to amend the Public Health Service Act to revise and extend the authorities under that act relating to national research institutes, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7036, with Mr. WEISS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

The gentleman from California (Mr. WAXMAN) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am asking the House to consider today H.R. 7036, the Health Research Act of 1980.

I am especially pleased to present this bill because it is a forceful statement of support for our Nation's biomedical research programs. I want to thank the members of the Interstate and Foreign Commerce Committee, and particularly Chairman STAGGERS and Dr. CARTER, for their extensive contributions to the development of this legislation.

H.R. 7036 is supported by the administration as well as many scientific and health groups. It was reported from the Subcommittee on Health and the Environment by a unanimous voice vote and from the Committee on Interstate and Foreign Commerce by a vote of 23 to 1.

As chairman of the Subcommittee on Health, I am firmly committed to an effective effort to prevent and cure cancer, heart disease, arthritis, diabetes, and all the many other diseases that afflict the American people. The National Institutes of Health are in the forefront of our commitment to this endeavor. The NIH is our Nation's finest biomedical research institution.

H.R. 7036 has four major features:

First, the bill extends the authorizations for the National Cancer Institute, the National Heart, Lung, and Blood Institute, as well as a number of the programs in the National Institute of Arthritis, Metabolism and Digestive Diseases. These programs all have authorizations which expire at the end of this fiscal year. This bill is, most fundamentally, a reauthorization bill.

Second, the bill mandates that NIH undertake more intensive efforts in the areas of arthritis, diabetes, and digestive diseases. These painful, chronic diseases afflict millions of our citizens. It is now time for our Nation's research effort to make greater progress in improving the lives of the many Americans suffering from these conditions.

Third, the bill makes a number of important changes to promote the more effective, efficient management of the National Institutes of Health. In particular, the National Research Service awards, NRSA, program is amended to encourage more young physicians to consider careers in biomedical research and research in the social sciences is exempted from review by local institutional review boards.

Fourth, the statutory authority for the National Institutes of Health is revised to set in law for the first time the NIH, its 11 individual institutes, and the institutes' advisory councils.

The provisions of H.R. 7036 were extensively debated and carefully designed by the Subcommittee on Health. The bill is the product of an in-depth 6-month review of the operation and statutory authority of the Federal biomedical research programs; 4 days of hearings and 5 days of markup sessions were devoted to the development of the bill. The markup of the bill was delayed three times to allow all interested individuals additional time to present their views to committee members. Due to the extent of these deliberations, the bill report was not filed by the committee until May 16, the last day allowed by the Budget Act.

This point should be emphasized. The committee deliberations on the renewal of the NIH authorities began with oversight hearings in November and continued until the last possible day.

During this long period of consideration, committee members and staff met with dozens of interested organizations and individuals. The bill was substantially revised by the subcommittee and additional amendments were adopted by the full committee at the specific request of various interest groups, including the Association of American Medical Colleges, and the administration.

A major issue during the deliberations was the provision of authorizations for the nine Institutes which do not now have authorizations. After careful review the committee favored providing authorizations for these Institutes for three reasons:

First, the two largest Institutes of NIH—the National Cancer Institute and the National Heart, Lung and Blood Institute—have authorizations since 1972 and 1973 respectively. Under authorizations these two Institutes, which together comprise 45 percent of the budget of NIH, have performed exceptionally well. Over this period both of these Institutes have grown more rapidly than the nine smaller institutes which have not had authorizations. This natural experiment on the impact of authorizations on NIH research programs clearly shows that authorizations can be beneficial.

Second, the setting of authorizations for NIH is consistent with the usual approach to the review of general revenue programs by the committees of the House. The research programs managed by the Departments of Defense and Energy and the National Science Foundation all have annual authorizations. The setting of authorizations for expenditures—including expenditures for scientific research—is the current practice in the House.

Third, review of all of the programs in NIH will provide needed balance. Today, almost 50 percent of the expenditures of NIH are under authorizations while the other half are not. This situation leads inevitably to an imbalance in the review of the research activity by the committee. The cancer and heart/lung programs are reviewed every 3 years as part of the reauthorization process, while activities in other important areas such as neurology, infectious diseases, aging, and others are neglected. With almost $2 billion in expenditures these programs warrant greater attention.

In providing authorizations, however, the committee was sensitive to the concerns of the biomedical community. Two amendments were adopted to provide the additional safeguards sought by health researchers.

An amendment offered by Mr. PREYER allows for authorizations to be provided for an additional year automatically if program extensions are unavoidably delayed in 1983;

An amendment offered by Dr. CARTER provides an overall authorization of $100 million to assure that unexpected breakthroughs in research will not be impeded by limited authorization levels.

With these two amendments, authorizations for all of the Institute of Health will serve to protect and enhance the important work of the nine smaller Institutes. These authorizations will encourage adequate support for the full spectrum of biomedical research.

Mr. Chairman, support of the committee reported bill is important to the conquest of cancer, arthritis, diabetes, and the other serious diseases facing the American people. The 11 Research Institutes which constitute the National Institutes of Health are our Nation's finest Biomedical Research Institution. An effective biomedical research program will lead to a healthier more productive population. H.R. 7036 provides the statutory framework necessary to maintain a strong, accountable health research program.

I now yield to my distinguished colleague from Kentucky, Dr. CARTER. In addition to being the author of the key provision regarding breakthroughs in research, Dr. CARTER is the principal sponsor of sections of the bill encouraging greater efforts to understand and cure arthritis, diabetes, and digestive diseases. As always, Dr. CARTER's views have helped shape the bill from beginning to end.

Mr. CARTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am firmly convinced that biomedical research is tremendously important to the future health and well-being of the citizens of this country and of the people of the world. There is no doubt in my mind that the directions and priorities set by the Congress for ongoing and future federally supported research, particularly in the area of prevention, can significantly alter the nature of disease as we know it today. This is why I have strongly supported our biomedical research efforts in the past and will continue to do so in the future.

I believe that H.R. 7036 should be seen as a strong expression of continued support for biomedical research by the Congress. First, and most importantly, the bill follows the regular legislative process by providing authorizations for each of the Institutes at NIH. In this way, we have assured that a proper framework has been established for oversight of our Federal biomedical research effort. This is especially important in fulfilling our responsibility to set general biomedical research priorities and policies, and to insure that those priorities are reflected in the actual operation of the Research Institutes.

However, the committee has recognized that specific authorizations must provide flexibility in order to respond to possible research breakthroughs. For this reason—the committee agreed to an amendment which I offered to provide authority for appropriations for research breakthroughs where the specific authorizations for the National Research Institutes are insufficient to that end. In a further effort to insure flexibility and continuity in the operation of the Research Institutes, H.R. 7036 also provides for continued funding for NIH if Congress does not reauthorize research programs in a timely fashion. I believe that these two amendments should allay the fears of those who are concerned about flexibility and continuity in regard to our biomedical research programs.

In my view H.R. 7036 is a good bill and one which is worthy of support. I can assure you that in drafting this legislation we gave careful consideration to the concerns expressed by the biomedical research community and by the public. Moreover, as in the case of the amendments to the authorization section, several amendments were adopted to deal specifically with those concerns.

I am committed to strong support of biomedical research, a commitment I know I share with many others.

Mr. Chairman, in crafting this bill it has been my pleasure to have worked with the distinguished chairman of the full committee, who is responsible for many of the amendments in the legislation affecting the National Institutes of Health; really, I think it should bear his name. I want to commend the chairman for his valuable contribution.

Mr. Chairman, I want to thank the distinguished chairman of the subcommittee for his kindness and cooperation, and for his leadership over the years. I want to thank the staff, which has been so helpful.

Mr. Chairman, if we go back through this legislation, we find that it started in 1937 with legislation establishing the National Cancer Institute, and since that time it has been improved and has grown until now, there are 11 National Institutes of Health.

I see one of the proponents of the National Institutes on Aging here, one of the Institutes included in the legislation before us today; the gentleman who was most effective in getting this done is the gentleman from Florida, the Honorable CLAUDE PEPPER. I want certainly to commend him for his work and for his assistance over the years.

Mr. Chairman, sometimes we look at the funds that we spend, and we wonder what good they are doing. If we look at, for instance, in cancer, in leukemia, we will find that in cases of acute lymphocytic leukemia, just a few years ago the mortality was 100 percent. Now, at least 50 percent of the youngsters with the disease are going into remission. We owe some of the physicians in this country a great deal of credit for this.

☐ 1300

One of them is Dr. Emil Frei of Harvard, and he is now a physician with the Farber Institute. Sidney Farber was a renowned cancer specialist over the years. Another physician prominent in the cancer field is Dr. Emil Freirich. It is an unusual thing that these two men, Emil Frei and Emil Freirich, were in the same class at Harvard, and both of them are well known and tremendously dedicated oncologists.

Mr. Chairman, I would like also to remind the Members of Dr. Holland of Mt. Sinai, who has been so helpful in this area also.

Just this morning we received a report that one of the cancers, acute myelogenous leukemia, which has been resistant to treatment, now is being treated successfully on an experimental basis. These cases are going into remission under treatment approximately 40 percent of the time, and soon they may well be cured.

I want to commend the appointment of Dr. Vincent DeVita as Director of the National Cancer Institute. Few people know that his son, although he did not suffer from cancer, suffered from an incurable disease, aplastic anemia, in which his body could not fight off any type of infection, and he had to live in a laminar flow unit for years and years, where the air always flows outward and the inside must be kept absolutely sterile.

Mr. Chairman, I would say that if we ever had a man who has the right to be dedicated, it is a man who has had a family member under such treatment and suffering such a condition over such a long period of time. I know that Dr. DeVita will be a dedicated man.

With such men, I am sure, Mr. Chairman, that we can go forward. There will be breakthroughs in this area.

Mr. Chairman, we have also accomplished a great deal in diabetes. At the present time there is under production a battery-powered pump to inject insulin gradually as the body requires it. I am thankful for that. This instrument is not universally available at this time, but it will be within the near future.

Not only that, but we are transplanting the islet cells of Langerhans which produce insulin from one animal to another. We trust that in the future we will be able to transfer these cells from one human to another and in this way rid our people of this dread disease, diabetes, which is one of the greatest causes of blindness that we have.

What has the Heart, Lung, and Blood Institute done? In heart disease, heart attacks have declined 26 percent since 1968, and this is the leading cause of death in the United States. I think that is money well spent.

Deaths from stroke have declined over 38 percent since 1968, and so I commend, too, the people who are engaged in examining and treating people for hypertension.

Mr. Chairman, I strongly support this legislation, and I urge its passage.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I am happy to yield to the gentleman from Iowa.

Mr. LEACH of Iowa. Mr. Chairman, it is difficult in general to oppose the principle of periodic authorizations for any area of Federal spending. But I am deeply concerned with the implications of periodic authorizations in the field of medical research where the time frame of projects often exceeds the tenure of Members of Congress.

Specifically, H.R. 7036 breaks with long standing tradition by eliminating the general research authority of section 301 of the Public Health Service Act under which most of the health institutes now operate. For the past 35 years, under this arrangement of broad policy oversight, remarkable progress has been made in the understanding, treatment, and prevention of disease.

The Health Research Act of 1980 would radically change the basic arrangements undergirding this record of progress. Removing the current flexible authority, H.R. 7036 would place all of the institutes on a triennial authorization cycle, with specific expenditure ceilings.

Frequent reauthorizations carry with them the danger of politicizing what has been to date a noncontroversial, broadly supported program characterized by institutionalism rather than politics. The problem with periodic authorizations is reflected vividly in the amendments to be offered today on this bill.

Three of the four published amendments are concerned with highly specific research causes. Undoubtedly, each of these amendments addresses a most serious and worthy problem, but I am concerned that frequent reauthorization in the future will carry, not 3, but 30 or more such directives, in some cases regardless of scientific ability to address the problem and in all cases jeopardizing research priorities which today are largely set by scientists not politicians. There is already sufficient opportunity for Congress to oversee and direct biomedical research in this country without adding a new layer of opportunity for well intended but possibly mischievous political input.

Mr. Chairman, this bill is opposed by four former assistant Secretaries for Health, serving since 1965. It is opposed by the four living previous Directors of NIH, serving since 1955. It is opposed by the American Association of Medical Colleges, the Association of Professors of Medicine, the Joint Health Policy Committee of the Association of American Universities, the National Association of State Universities and Land Grant Colleges, and numerous individual professions in the field.

Finally, let me stress that congressional policy is effected by people as well as institutional arrangements.

As much as I respect the gentleman from California and the gentleman from Kentucky and their enlightened views on the need for responsible medical research, I fear that sometime in the future less enlightened people may take their places on this key subcommittee, in which case the great research institutions of America may be forced to come on bended knee to Congress instead of in the current spirit of cooperation and progress.

I would urge my colleagues to vote against this bill. But if it prevails it would be my hope that members of the House-Senate conference committee will resolve differences between the bills by preserving, not destroying, the general research authority of section 301 of the Public Health Service Act.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to point out to my colleague, the gentleman from Iowa (Mr. LEACH), that he is misinformed about the support for this legislation. We have sent out to our colleagues a letter which indicates the Surgeon General, Dr. Richmond, as well as the Director of the National Institutes of Health, Dr. Fredrickson, support the legislation.

There was some concern about the review of contract provisions and the intramural review that goes on in NIH. They now support the legislation.

There are some who disagree with the idea of authorizations. The gentleman raised the question of political interference. I believe the gentleman referred to actions he might not approve of by our colleagues in an appropriation bill as opposed to an authorization bill. I do not believe there are distortions. I think we have a responsibility, in spending the taxpayers' money, to oversee what is being done with that money.

Here we have a very sensitive area, because we do not want to substitute our opinions and judgments for those which are basically scientific judgments.

I have only asked the gentleman from Kentucky (Mr. CARTER) to yield on this point because it has been, I think, a very much misunderstood aspect of legislation. But this is the time for the gentleman from Kentucky to yield to those who might wish to speak on the bill. We have some Members on our side also who want to speak.

Mr. Chairman, I wanted to point that out, and perhaps later in the discussion of the legislation other questions might also be answered.

Mr. CARTER. Mr. Chairman, I thank the distinguished subcommittee chairman for his comments, and in reclaiming my time I would say that, on the idea of the politics of health, over the years the men in this House and the women in this House have seen my actions, and I do not believe they can say that on any occasion the word "politics" has ever entered my mind. I resent the implication of anyone saying that.

I will ask my good friend, the gentleman from Iowa (Mr. LEACH), on which committee he serves.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield. I yield for an answer.

On what committee does the gentleman serve?

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Mr. LEACH of Iowa. Mr. Chairman, I serve on two committees, the Post Office and Civil Service Committee and the Banking Committee.

Mr. CARTER. All right, sir. On the gentleman's Banking Committee, my good friend, do you not authorize funds? Is that not right?

Mr. LEACH of Iowa. Yes; we do, sir.

Mr. CARTER. And on Post Office and Civil Service, do you not authorize funds?

Mr. LEACH of Iowa. Yes; we do, sir.

Mr. CARTER. Then the Appropriations Committee appropriates funds, does it not?

Mr. LEACH of Iowa. Yes; it does, sir.

Mr. CARTER. The gentleman has the two-tier system, of which he is complaining of us.

Mr. LEACH of Iowa. Yes, sir.

Mr. CARTER. Do you politicize yours? We are not going to politicize ours. We are very much interested in this legislation. We think it is good, and we think we should have the same oversight which the gentleman exercises himself on the Committee on Banking and Currency and also on the Committee on Post Office and Civil Service.

Mr. LEACH of Iowa. Will the gentleman yield for a clarification?

Mr. CARTER. I yield to the gentleman.

Mr. LEACH of Iowa. I will be very brief in responding. The politics I am concerned with is the politics of too much heart and not too little. All of us have our favorite cause. This basic legislation adds a second layer of political input.

Mr. CARTER. I will reclaim my time and say that it has no more second layer than yours.

Mr. LEACH of Iowa. That is correct.

Mr. CARTER. Really, my friend, the pot should not call the kettle black. How can the gentleman say something to me when he does the same thing himself?

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I am most pleased to yield to my good friend, the gentleman from Texas.

Mr. GRAMM. I would like to say that if Members of the House represent medical schools, as I do—and I represent two—they have all gotten these fiery telegrams saying, "Don't set up a procedure that sunsets health research."

First, it is very misleading. We are not sunsetting health research. We have provisions in this bill that stand in stark contrast with other legislation, where funds are automatically authorized if we do not act.

But at its very root here is the sheer arrogance of the National Institutes of Health to say, "We should not have to be authorized by the Congress. What we are doing is above the legislative process."

I certainly reject that. The Committee on Health and the Environment rejected it, and I think time is long overdue that we ask, "What are we getting for our health dollar?" I think we are getting a lot. I think it is high yield. But I want to look at it, I want to authorize it, I want to subject them to the test of fiscal responsibility and good yield on the dollar, like everybody else.

I associate myself with the remarks of the gentleman from Kentucky.

Mr. CARTER. I thank the distinguished gentleman for his remarks.

I see here in this august body one of my good friends, the distinguished Speaker, who recently, at the conventions held in Madison Square Garden, referred to those on this side as being right-wingers and possibly related to far-right groups, my good friend of years, that courtly, white-haired gentleman. You know, he got me down here. Since I have been here I have always tried to vote for what was right and what would benefit the people. I do wish my good friend would not be so hard on his friends on this side of the aisle.

I yield to my good friend, the gentleman from Illinois (Mr. O'Brien), and I will ask: How are things on the Ponderosa?

Mr. O'BRIEN. I thank my good friend for yielding. I speak not on behalf of any societies or associations or groups of physicians other than those who practice in the 17th District of Illinois, and for the deans of Loyola University and the University of Illinois Medical Schools. They have serious reservations about this bill and question whether in the long pull, it is in the best interest of biomedical research. I guess the area that most troubles me some is this: There will be something in the nature of 10 to 12 separate authorizations for the several National Institutes of Health. If we face the problem that occurs frequently, where the authorization committees are in dispute, and if spirited competition develops among the Institutes, we may find ourselves appropriating for the National Institutes of Health through the unsatisfactory means of continuing resolutions and based on previous noncurrent levels of funding.

My notion is that if we do anything well, we do it in the health area, and I am concerned that we are damaging something of very high quality by a bill designed to produce extremely questionable results.

Mr. CARTER. I thank the distinguished gentleman for his comments, and I will say that we have support for legislation from Dr. Frederickson, the Director of the National Institutes of Health, and also from the Surgeon General Dr. Richmond, and I am pleased to tell the Members that.

Mr. Chairman, I reserve the balance of my time.

Mr. WAXMAN. Mr. Chairman, two of our colleagues are retiring this year, and much of the great work of the National Institutes of Health, and so many other of our health programs, are due to their efforts. The first is Dr. Tim Lee Carter. The other is the very distinguished chairman of the Interstate and Foreign Commerce Committee, the gentleman from West Virginia (Mr. Staggers). They have fought over the years for a strong and effective NIH program to conquer disease. I now yield to him such time as he may wish to consume.

Mr. STAGGERS. Mr. Chairman, I am pleased to speak this afternoon in support of H.R. 736, the Health Research Act of 1980.

I have long supported our Nation's biomedical research programs and the National Institutes of Health. This bill advances these research programs. It provides the basis for a renewed effort to conquer cancer, prevent heart disease and detect and cure all the other many disorders which afflict people in the United States and around the world.

H.R. 7036 is the product of more than 6 months work by the Committee on Interstate and Foreign Commerce and its Subcommittee on Health and the Environment. During this period, the many provisions of the bill were thoroughly reviewed by committee members. Innumerable meetings were held with individuals from interested organizations. This bill was extensively revised by the subcommittee and further amendments were adopted by the full committee.

As a result of the extensive deliberations, and the amendments which were adopted, the bill is broadly supported by committee members. It was reported from subcommittee on a unanimous voice vote and by the Commerce Committee on a vote of 23 to 1.

The bill merits the support of every Member of the House. It provides a strong foundation for our biomedical research programs in the eighties.

In particular, I would point out that the provisions of the bill establishing each of the nine smaller institutes in statute insures that the Congress will pay greater attention to these programs in future years. I am especially pleased that there will be additional interest in and support for the National Eye Institute. Just 2 years ago I had surgery for cataracts, and I am keenly aware of the contributions which can result from research into diseases of the eye.

Again, Mr. Chariman, I am pleased to speak in favor of H.R. 7036. It is the product of careful deliberations in the committee. It is strongly supported by committee members. It will provide for an effective, efficient biomedical research program in the years to come.

The chairman of the subcommittee, and all its members should be congratulated for bringing this bill to the floor; it is a very much needed bill. Mr. Waxman has done a good job all through the time that he has been chairman. I would also like to congratulate the staff on the work they are doing. Finally, I would especially like to congratulate the gentleman from Kentucky. I have served with him from the time he has been on our committee, from the time he has been here, and I have never seen him once be influenced by politics where the health of the people of America is concerned. His actions have always been for their betterment. He has been a gentleman with integrity. And no one, Dr. John Cooper or anyone else, could ever point to him and say he has ever put politics ahead of the good of the people. He has always, in my opinion, stood for what was good for America, whether it was in health, or whatever came before our committee. I would attest to that.

I will say this: I am the author of the first bill on heart, cancer, and stroke. Those Institutes have been authorized since 1973, and they have grown far more than the other Institutes have. So now why are opponents objecting to authorizations for the other ones? Let us provide specific authorizations, and then we can get adequate appropriations for them, and maybe they will grow a little bit. So far as heart, cancer, and stroke is concerned, as the gentleman from Kentucky (Mr. Carter) has said, research in those areas has certainly reduced the incidence of death. Let us put more money into the other Institutes through the authorization process. We will not be playing politics. We will be working to solve the health-care problems that face the American people. I can say honestly that we have tried, and I know that the gentleman from California (Mr. Waxman) and all of the other members of the committee have tried, to do what is right for this country. That is our job to do it here. We have tried to do that with this bill. I think we have had interference from the outside. I think it should be resented and resented deeply. And I do resent it.

This is an important bill. It means so much to America. It needs to be passed now. Let us get on with our job and pass the bill. And let us do it in the next few minutes.

Mr. WAXMAN. Mr. Chairman, I now yield 2 minutes to a very distinguished member of our subcommittee, the gentleman from North Carolina (Mr. Preyer) who has made a great contribution to this legislation with his amendment to allow authorizations for a fourth year if necessary. This amendment goes a long way toward alleviating the concerns that have been raised about the authorizations provided by this bill.

Mr. PREYER. Mr. Chairman, I rise in support of this legislation. I do want to call attention of the Members to the concern in the scientific community over some provisions of the bill. The committee made a real effort to address these concerns, and I think we have addressed them successfully. I hope and believe that the scientific community will find, as the bill works, that we have answered them successfully. But as the bill goes through conference, as it is administered by HHS, and as we conduct congressional oversight, I think it is important that we keep in mind these concerns of the scientific community to insure that the NIH remains the greatest biomedical research institute in the world.

Mr. Chairman, while I am supporting this bill to authorize funds for the National Institutes of Health, I do want to caution my colleagues about the concern which the scientific community has regarding the far reaching proposal which changes the way biomedical research has been administered by the National Institutes of Health.

In addition to extending the expiring authorities for the National Cancer Institute and the National Heart, Lung, and Blood Institute through 1983, the bill removes the permanent statutory authority under which the other nine Institutes have operated and replaces it with a 3-year time limiting authorization with specific appropriation ceilings. Four former Assistant Secretaries for Health have stated in a letter to the editor of the Washington Post in the August 25 edition that "We are convinced that a long-term Federal commitment to research is by far and away best served by permanent authority of the type contained in section 301 of the Public Health Service Act."

They are concerned about the impact that short-term authorities will have on the progress of biomedical research, which has been phenomenal in this country. Opponents in the scientific community also are convinced about the appropriations ceiling and the effect such a cap will have on any unexpected breakthroughs in research.

In committee we were successful in providing some protection against these concerns through amendments I offered which will provide for an automatic authorization extension for an additional year should the extension of the programs be delayed unavoidably in 1983. Another amendment provided for an overall authorization of $100 million to assure that unexpected breakthroughs would be allowed to go forward.

I think the committee has made a real effort to address these objections, and I cannot support efforts to eliminate these authorizing provisions for the National Institutes which currently make their treatment unique from all other aspects of Government. However, there are other aspects of the bill which do concern the scientific community and in view of the importance of biomedical research and of NIH, I think we shall carefully consider the impact such provisions may have on the future and progress of biomedical research. These include the provisions calling for advisory council discretionary authority to review any contract, regardless of cost, and to mandate such a review of contracts over $500,000. Councils will also be required to approve grants over $50,000. Serious questions are raised about the capability involved in these kinds of reviews and whether or not there is sufficient time for the councils to provide the kind of review that should be required. The reporting requirements in the bill may be overly burdensome and thus tend to take away from the basic research activity. The provision which establishes NIH in law and assigns duties and powers to the Secretary of DHHS, the Director of NIH, and the Directors and Advisory Councils of the various institutes are also new and are of particular concern to the scientific community. This would curtail the authority and managerial flexibility of the NIH Director and opponents feel that the NIH has functioned effectively without this explicit delineation of authorities and powers.

Over the past 50 years in which the Federal Government has been involved in the effort to eliminate disease from our midst we have seen phenomenal progress and success. It is my hope that the concerns of our scientific community which contributes so much to this effort of eradicating disease will be sufficiently addressed as we proceed to a Conference with the Senate on finalizing this important Health Research legislation. The National Institutes of Health have been synonymous with the progress of medical development in the world and I am certain the Secretary of DHHS is aware of the strong feeling of the scientific community on this important issue. It is my hope that proper attention can be given to these concerns within the Department as well, and that they be carefully monitored through congressional oversight, to ensure that the NIH remain the 'shining city on the hill" for all biomedical research.

Mr. WAXMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. Gephardt).

Mr. GEPHARDT. Mr. Chairman, the Health Research Act, H.R. 7036, would make comprehensive changes in the authority of the National Institutes of Health. I am fully confident that the Interstate and Foreign Commerce Committee, in recommending these changes, is well-intentioned, that the committee's objective is to strengthen NIH. A number of experts in the field, however, have expressed concern to me that some provisions of the bill may frustrate rather than achieve that goal.

During its 50-year history, NIH has amassed an outstanding record. I am sure all of my colleagues are aware of the breakthroughs and progress that have been made in finding the causes and cures for many diseases with the help of the Institutes. With such a record, questions have been raised with respect to the wisdom of substantial changes in the authority for NIH. Would they improve the agency or merely tamper with it? In particular, a number of academic groups and representatives of medical schools have alleged the limited authorizations would undermine the quality of biomedical research sponsored by NIH, encouraging short-term result-oriented projects rather than those which pursue the fundamental causes of disease but take longer to produce results.

Furthermore, they believe frequent reauthorizations will make biomedical research policy susceptible to politics and special interests. With the whole program coming before the Congress every 3 years, will priorities be set according to the strength of an individual lobby or the health and medical needs of the Nation?

Certainly, the increased oversight and greater budget control these provisions are designed to achieve are desirable objectives and ones I have strongly supported in the past. Nevertheless, it would be unfortunate if they could be brought about only at the expense of advancements in medical research.

After careful consideration, I have concluded that inadequate safeguards have been built into the legislation to protect NIH from overpoliticization. In addition, to make sure the reauthorization process would be meaningful and not meddlesome, I believe it is necessary to establish criteria for evaluating the accomplishments of the various Institutes so that reasoned, objective decisions can be made with respect to reauthorization at the end of the 3-year period.

I am hopeful that conference with the Senate on legislation to authorize the National Institutes of Health will result in modifications leading to stronger protection of the agency against special interest influences and assurance of continued superior biomedical research.

Mr. WAXMAN. Mr. Chairman, I now yield 3 minutes to a very distinguished Member of the House who has been long concerned with biomedical research, the chairman of the Aging Committee, the gentleman from Florida (Mr. Pepper), to speak on this bill.

Mr. PEPPER. I thank the able chairman and my friend for his kindness in yielding to me.

Mr. Chairman, other than the Nation's honor and its security, nothing is more important to the people of our country than health and nothing is more important to the health of the people of this country than the 11 Institutes in the National Institutes of Health, the preservation and continuity of which are involved in this bill that is before the House today.

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I hope I am not being indelicate by saying that I personally have reason to be very grateful for the existence of these Institutes, not only because I was the principal author of five of the Institutes in the other body and coauthor of another one, the Cancer Institute, but because in 1976 I had a heart operation, the insertion of a synthetic aortic valve and a bypass of an artery that I am sure saved and prolonged my life

The techniques that made possible that operation were developed by the National Heart Institute. How many more in America today are living, grateful for the National Heart Institute and for what it has made possible in their lives. A comparable compendium could be made about the achievements of the other Institutes in the National Institutes of Health.

So this is one of the greatest institutions we have, an institution dedicated to the betterment of health and the prolongation of happy lives for the people of this country.

I especially want to commend the distinguished chairman of the full committee, the gentleman from West Virginia, Mr. HARLEY STAGGERS, for he has been a dedicated chairman of the Committee on Interstate and Foreign Commerce, one of the great committees of this House. His inspiration, his dedication to the cause of the health of the people has immeasurably contributed to a greater and a better America. How fortunate we are to have as the chairman of this subcommittee and the ranking member of the subcommittee respectively, the gentleman from California (Mr. WAXMAN), and the gentleman from Kentucky, Dr. TIM LEE CARTER. No two Members in this body have served with greater distinction and dedication to their people, the people of America, than these two gentlemen.

This is not only a legislative matter, this is a matter of heart because they know what it means to America to prolong these institutions.

The CHAIRMAN. The time of the gentleman from Florida (Mr. PEPPER) has expired.

Mr. WAXMAN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Florida.

Mr. PEPPER. I want to ask just a few questions and give an opportunity to the distinguished chairman of the subcommittee to answer those questions, because there is some concern, as was said by the distinguished gentleman from North Carolina, among some of the people in the country that for the first time we are authorizing or permitting the authorization by this committee and by the Congress of the funds that may be appropriated for all of the Institutes except Heart and Cancer, which have had authorizations for some time. That is what is disturbing.

As you know, Mr. Chairman, there is great concern in the biomedical research community over several aspects of the time-limited authorization for NIH in the bill.

First, many research projects are, of necessity, lengthy, and 3-year authorizations could jeopardize the stability of these projects, leaving researchers unsure of continued support or discouraging the undertaking of lengthy projects.

Can the gentleman respond on that?

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from California.

Mr. WAXMAN. That is an important aspect of biomedical research that we are talking about, a commitment that will give continuity to research projects over a number of years in order to achieve the success with those projects and in order to keep the commitment of the researcher to engage in those projects.

I think it is important to us to fully support biomedical research with that understanding. Authorizations for research in this area are similar to the authorizations and appropriations for the National Science Foundation and for research done in the area of defense. I do not think those research activities have been hindered in any way.

I expect this would also be the case for the NIH researchers, that we would keep that continuity for the research.

Mr. PEPPER. I thank the able chairman.

Second, some fear that the bill would encourage shortsighted mandates to explore applied uses of research at the expense of basic research, which can have ramifications for understanding many diseases.

The CHAIRMAN. The time of the gentleman from Florida (Mr. PEPPER) has again expired.

Mr. WAXMAN. Mr. Chairman, I yield 5 additional minutes to the gentleman from Florida.

Mr. PEPPER. How would the gentleman prevent this?

Mr. WAXMAN. I believe it is the responsibility of Congress to continue our commitment to biomedical research, particularly basic biomedical research. I believe that decisions regarding the kind of research and how it ought to be conducted are decisions to be made by scientists, not those in political office.

Our responsibility, as I see it, is only in establishing the overall priorities for using the taxpayers' money. In establishing those priorities, basic biomedical research should be continued both intramurally and extramurally by the National Institutes of Health.

Mr. PEPPER. I thank the able gentleman.

Third, I have been concerned that the authorization process, establishing ceilings for the Institutes, could restrict appropriations needed to pursue a scientific breakthrough. The gentleman's bill authorizes $100 million in discretionary funds to be used by the NIH Director should this happen. How would this work? Would it not mean considerable jockeying among the various institutes for this relatively small amount of money? What other steps would be available for making additional funds available should a promising breakthrough come about, for example, in cancer research?

Mr. WAXMAN. In the area of authorizations, I would expect the Policy Committee to give generous support, by way of authorizations, for each of the Institutes to indicate the relative priority we want placed on each. Insofar as there may be an area of research that shows great promise, that may well even lead to a breakthrough, we have authorized the Committee on Appropriations to appropriate an additional $100 million over and above the amount of money authorized for the Institutes. Should that not be sufficient, we in Congress would want to move immediately to take up whatever action may be necessary to continue to promote the research.

I think we have given a great deal of protection so that we can meet any situation that may arise that is not foreseen during that authorization period.

Mr. PEPPER. I thank the gentleman. All of the Institutes, except Cancer and Heart, Lung and Blood, have been authorized under the broad, permanent authority included in section 301 of the Public Health Service Act.

In the past, appropriations have been made without the necessity of an authorization, and the chairman of the distinguished Subcommittee on Labor Appropriations, the gentleman from Kentucky (Mr. NATCHER), and his subcommittee have done a very fine job in that area. When section 301 is so flexible and has worked so well, why is it desirable to bring the other nine Institutes under a limited 3-year authorization?

Mr. WAXMAN. I think it is desirable to authorize all of the Institutes for the same reasons we now have the Cancer Institute and the Heart, Lung and Blood Institute under authorizations. Those two alone constitute almost half of the total budget of NIH. When the Policy Committee, that is looking into how we are going to spend our taxpayers' money on medicaid and medicare and spiraling health costs, deals with the policy questions of health, it seems to me that we have to be concerned about preventing disease, doing research so that we can conquer these diseases, prevent them and control them.

In that way I think the Policy Committee, in authorizing funding for biomedical research, will be of help to the subcommittee of the gentleman from Kentucky (Mr. NATCHER), which has handled this area so well in the appropriations. We will help them by establishing levels of funding which will encourage them to be as generous as possible for needed biomedical research.

I thank the gentleman for these questions, because they allow clarification.

Mr. Chairman, I appreciate the concern about the provision of authorizations. Again, I would point out that the two largest Institutes—the Cancer, and Heart/Lung Institutes—have had authorizations for almost a decade. In addition, of course, almost all of the other Federal research programs—those sponsored by the Department of Defense and Energy and the National Science Foundation also have authorizations. The National Science Foundations programs, in patricular, have single year authorization bills.

This bill, by providing a 3-year authorizations is thus, not unusual. It is the typical congressional process with respect to all programs even research programs.

I appreciate your interest in these programs. I know how much you have done over the years to build NIH into the Institution that it is today. Your accomplishments are enormous.

This bill, and the current work of the subcommittee, builds on your foundation. I, and I am sure the other subcommittee members, would not like to see harm come to our Nation's biomedical efforts. This bill provides the foundation for strengthening of these efforts in the decade to come.

Mr. PEPPER. As one who was deeply involved with establishing some five of the Institutes of Health, I share the concern expressed by many that this time-limited authorization process could make the NIH subject to the vagaries of changing political situations. I have proposed an approach which might alleviate some of these concerns—namely, that you maintain the 3-year authorizations included in H.R. 7036 at the levels you propose, and add, for each Institute, that such sums as may be necessary be authorized for the subsequent 7 fiscal years. This would carry us through the decade sure in the knowledge that the Institutes would indeed exist. It would give assurances to the biomedical research community that the Institutes would have stability. Moreover, at the time you would ordinarily reauthorize the Institutes under the current provisions of your bill, you could attach specific authorization levels for these out years. I have not offered this as a floor amendment but wish to express my hope that you will consider such an alternative in the course of conference with the Senate.

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Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. I thank the chairman for yielding.

Mr. Chairman, this is an important bill to reorganize and rationalize our Nation's health research efforts. I join with the chairman, the distinguished ranking minority member, the gentleman from Texas (Mr. GRAMM) who spoke a moment ago in believing that the National Institutes of Health could stand some more vigorous oversight and perform better if subjected to the authorization process.

Mr. Chairman, the Health Research Act of 1980 represents a landmark, cooperative effort on behalf of many members of the House Health and the Environment Subcommittee to reorganize and rationalize our Nation's health research efforts. There can be no doubt that health research is a very proper province for the wise expenditure of Government funds. But, as was made abundantly clear in our subcommittee's hearing sessions, the National Institutes of Health could stand some more vigorous oversight and perform better if subjected to the congressional authorization process. For understanding this issue and for dealing with it so effectively, I commend the efforts of Chairman WAXMAN, our dear colleague Dr. TIM LEE CARTER, and the work of their staffs. They have fashioned an excellent bill.

I am particularly pleased that the legislation retains some of the language which I added to the Public Health Service Act through the Biomedical Research Amendments of 1978. These amendments brought some much needed focus on the environmental causes of cancer to NCI's research. I would like to take some of the committee's time to discuss the need for NCI—and in fact all of our Nation's consumer protection agencies—to devote thought and action to environmental carcinogenisis.

Cancer is the only major cause of death that has continued to rise since 1900. It is now second only to heart disease as a cause of death and is responsible for the loss of 400,000 lives each year.

One of the most important cancer-related discoveries over the past few years is that perhaps 60 to 90 percent of all cancers may be induced by agents in the environment. The Environmental Protection Agency recently listed 43,000 chemicals in its inventory of chemicals subject to the Toxic Substances Control Act. About 500 new chemicals or compounds are introduced each year. Cancer affects all ages, all sexes, and is an expression of each individual's past exposures to carcinogens in air, water, food, drugs, other consumer products and the workplace.

Some progress in governmental policy is being made. The national toxicology program recently released a two-volume report which focuses on 26 human carcinogens to which Americans are exposed on a daily basis. This "First Annual Report on Carcinogens," which was mandated by one of my amendments, compiles an updated report on these carcinogenic substances, the nature of their human exposures, the toxicity of the agents, the degree to which they act synergistically, and other important data. The entire Department of Health and Human Services is to be congratulated for its efforts on the report.

But more must be done.

We must recognize that although we have spent billions on cancer research that the incidence of this disease still is on the upswing. The annual costs of cancer are about $30 billion, but the human cost can never be quantified and this is why our task in curing and preventing cancer is so urgent. That is why Congress must be very wary of arguments about "safe thresholds" or "acceptable exposures" to substances known to be carcinogenic. In the wise words of the Toxic Substances Control Committee:

> Methods do not now exist for determining a safe threshold level of exposures to carcinogens. Uncertainties in the dose response relationship between specific exposures and cancer risk, unknown factors that influence individual susceptibility to cancer, and unpredictable interactions among cancer-causing agents prevent determination of safe levels for human exposure to a carcinogen. Any exposure, however small, is regarded as an addition to the total carcinogenic risk.

Ideological cost-benefit analyses are no substitute for effective research and cancer prevention. By retaining the language pertaining to environmental carcinogenisis, the Health Research Act of 1980, will continue to direct our cancer research efforts in a balanced direction that will truly benefit the citizens of our Nation.

Again, my thanks to Chairman WAXMAN and to Dr. CARTER—a true gentleman who has always written legislation as if people mattered.

● Mr. RAILSBACK. Mr. Chairman, I have grave reservations about H.R. 7036, the Health Research Act of 1980. Basically, the bill authorizes appropriations of funds for the 11 research institutes of the National Institutes of Health (NIH) and makes technical amendments to the Public Health Service Act of 1944. I am concerned about provisions subjecting biomedical research to a short-term authorization and placing a cap on research funds. I feel Members of the House should seriously reflect on the effects of such a change in policy before voting to pass the bill.

Now, 9 of the 11 institutes are under permanent authority rendered in section 301 of the Public Health Service Act of 1944. The exceptions are the National Cancer Institute and the National Heart, Lung, and Blood Institute. Authorizations are only needed for these institutes as well as for programs relating to diabetes, arthritis, and digestive diseases within the National Institute of Arthritis, Metabolism, and Digestive Diseases. However, the Subcommittee on Health and the Environment determined that all 11 institutes should be reauthorized periodically and not have access to fund appropriation under section 301, arguing that inequities and inconsistencies in funding and administration exist, 2 institutes—the National Institute of Allergy and Infectious Diseases and the National Institute of Environmental Health Sciences—have no statutory authority, and Congress—which represents taxpayers—must periodically review NIH programs.

While I cannot argue that the system is perfectly efficient, I do know that NIH scientists and scientists funded by NIH grants have made tremendous advances in the field of biomedical research. Secretary of Health and Human Services Patricia Roberts Harris, although now supporting the committee bill, sent a letter to the chairman of the Interstate and Foreign Commerce Committee, Representative Harley O. Staggers, on March 14, 1980, which stated in an attached critique that—

> While the organization of title IV [of the Public Health Service Act] may be confusing, there is no compelling need for a revision at this time.

It goes on to point out:

> It may seem peculiar that, while nine of the eleven research institutes are specified in statute, NIH as a whole has no explicit statutory foundation. It has been established within the Public Health Service under existing administrative authorities. As such, NIH has experienced and, in fact, has flourished to become the leading research institute of its kind in the world.

In the same critique, the Department stated that it "must strongly oppose any prohibition against the use of any other authority, particularly section 301, to authorize appropriations for the research programs of NIH * * * Authorizations with specific dollar limits would limit the flexibility to provide amounts thought best for biomedical research."

In other words, until recently the administration opposed section 410(c)(1) of the bill which subjects biomedical research to the authorization process by not allowing appropriations under section 301 of the Public Health Service Act, and it also opposed setting specific dollar limits to NIH research institutes. One major reason for my concern and for the administration's earlier opposition is the fact that reauthorization bills are not always passed on schedule. In an example cited in the critique, the Department pointed out that funds for the national research service awards, a program for which section 301 funds are already prohibited, were delayed during the 95th Congress because the reauthorization bill was not passed on time and serious problems resulted.

In regard to congressional oversight, I would like to point out that the Appropriations Subcommittee on Labor, Health and Human Services, and Education must approve any appropriations for NIH and therefore, thoroughly studies NIH programs each year. I feel Congress already has adequate oversight opportunities in the appropriations process.

Finally, I understand that, although the Senate bill originally authorized all NIH Institutes on a short-term basis, committee members reconsidered and changed the provision before reporting it to the Senate. So, on June 29, the Senate passed its counterpart to H.R. 7036 with provisions retaining the permanent authority for the Institutes that have it and restoring the same authority to the National Cancer Institute and the National Heart, Lung and Blood Institute.

In conclusion, I have reservations about changing NIH's permanent authorization of funds to a short-term authorization, thereby restricting each research institute by time and spending ceilings. U.S. biomedical facilities are the best in the world, and I think everyone agrees that great advances have been made at NIH and through NIH research grants, contracts, and other support to universities, foundations, and private institutions. Because of the recognized need for Federal support, Congress mandated permanent authority for NIH in the Public Service Act, and I would recommend that all Members seriously consider the implications of changing that policy before voting.●

● Mr. FRENZEL. Mr. Chairman, biomedical research offers perhaps the greatest hope for discovering new ways to prevent disease, to reduce the enormous human suffering and economic losses from illness, and to improve the quality of life and health of the American people. Thus, the bill before us today, the Health Research Act of 1980 (H.R. 7036) offers hope for the future, through the continuation of the National Institutes of Health, which has supported biomedical research programs since its humble beginnings in 1887.

From a one-room Laboratory of Hygiene in 1887, the National Institutes of Health has evolved into one of the world's largest biomedical research centers. Today, NIH consists of 11 major national research institutes: the National Cancer Institute; National Heart, Lung, and Blood Institute; National Institute of Dental Research; National Institute of Arthritis, Metabolism and Digestive Diseases; National Institute of Neurological and Communicative Disorders and Stroke; National Institute of Allergy and Infectious Diseases; National Institute of General Medical Sciences; National Institute of Child Health and Human Development, National Eye Institute; National Institute of Environmental Health Sciences; and the National Institute on Aging. These 11 research institutes are our Nation's finest biomedical research institutions.

NIH currently accounts for 85 percent of all health research expenditures by the Department of Health and Human Services and 68 percent of federally-sponsored health research spending. In the past decade, the NIH budget has increased from less than $1 billion in 1970, to a budget of $3.4 billion in 1980.

The bill before us continues the financial support for biomedical research through a proposed authorization but, at a level that is 23.7 percent higher than for fiscal year 1980, and the average increase in spending proposed for the fiscal years 1981–83 comes to 19.2 percent. By contrast, the annual increase in spending by NIH for fiscal years 1979 and 1980 averaged 13.1 percent. Specifically, the bill authorizes some $13.982 billion over 3 years as follows: $4.076 billion for fiscal year 1981, $4.606 billion for fiscal year 1982, and $5.300 billion for fiscal year 1983. Finally, the bill allows a 15 percent automatic increase in fiscal year 1984, unless Congress authorizes a different amount in reauthorizing legislation.

Those large increases only mean that Congress cannot bring the appropriation reality up to the authorization asperations. I would prefer that the authorizing committee had been more priority conscious.

As a matter of fact, the body yesterday passed the 1981 appropriation that this bill authorizes. The appropriation bill reduced the increase we will authorize today by about one half. So much for our commitment.

In spite of Congress failure to balance the fiscal year 1981 budget, and considering that even the most worthwhile programs—as worthy as those included in this bill—are slated for severe budget cuts, I would have been happier to support a reasonable increase for vitally needed biomedical research.

I, too, place a very high priority on finding a cure for cancer, heart disease, kidney disease, arthritis, and other dreadful diseases that are responsible for so much human suffering and severe economic losses. However, I also place a very high priority on the losses and suffering that relate to double-digit inflation that Congress has forced upon the American people.

I will vote for this authorization, but again I do so with regret. We and our constituents know that Congress cannot achieve the spending levels in this bill. On some utopian date in the future, authorizing committees may want to set their own priorities, rather than passing dreams and allowing the Appropriations Committee to set the financial priorities.●

● Mr. BARNES. Mr. Chairman, over the last 35 years the National Institutes of Health has made extraordinary contributions to both the level of scientific knowledge, and to the treatment and prevention of diseases which affect the lives of millions of Americans. With the NIH's leadership, American researchers have emerged as the undisputed leaders in the world medical and scientific community.

The Health Research Act of 1980 would authorize almost $14 billion for the NIH over the next 3 years. I am supporting this particular bill, which embodies a new approach of specific congressional authorizations for NIH activities, with some reservations. I am aware of the concerns voiced by many in the biomedical research community that Congress should not take any action which might decrease the emphasis on basic scientific research. There is a real and legitimate role for congressional oversight of all Federal programs, but Congress should not intrude unnecessarily in scientific research or impede the creativity which leads to major breakthroughs.

Nevertheless, I am supporting H.R. 7036, because it provides vital funding increases for health research programs and provides a vehicle which allows the House to move to a conference with the Senate. I am hopeful that the conferees will produce a good compromise approach which will have one major goal—the improved future health of the American people.●

● Mr. BUCHANAN. Mr. Chairman, I rise in opposition to this bill. I am particularly concerned with changes proposed in this bill for section 301 affecting biomedical research. I represent Birmingham, Ala., which is proud to have an excellent biomedical research center at the University of Alabama in Birmingham. I have been contacted by many of the doctors and professors at this institute who, with their substantial expertise in the field of biomedical research, are very much opposed to changes in section 301.

This legislation will replace the permanent program authorities of nine NIH Institutes with short-term authorizations and ceilings for their appropriations.

Biomedical research requires continuous efforts by a wide variety of professionals as they seek new cures for diseases. Many of my constituents fear that the proposed changes in H.R. 7036 demonstrate a weakened commitment of Congress in supporting biomedical research and will politicize, and thus delay, action on future research projects.

I am a proponent of congressional oversight and would not be in favor of exempting an agency from such oversight. It is my understanding that the congressional committees with responsibility in the area of NIH hold various oversight hearings on the research being done and in addition the Appropriation Committee investigates the overall NIH goals.

Biomedical research has contributed, and will continue to contribute, to the health and welfare of the American people. I would certainly hate to see this progress impeded by unnecessary congressional interference.●

● Mr. CORRADA. Mr. Chairman, I rise

in support of H.R. 7036, the Health Research Act of 1980, cornerstone of the Nation's biomedical research program. I also support the amendment by Congressman YOUNG which would provide for increased attention to Reye's syndrome by the National Institutes of Health, and the amendment by Congressman HOPKINS which directs the National Institute of Arthritis, Metabolism, and Digestive Diseases to conduct a study of the safety and effectiveness of dimethyl sulfoxide and of its use by patients with arthritis.

Even if we agree with the statement that we Americans are healthier today than we ever have been, we are nonetheless in the dark when it comes to the cause, treatment, and cure of many life-threatening diseases. It was not until recently that the possible wonders of interferon were exposed to the public light. Now, scientists can even alter the genetic makeup of a cell to program it for certain tasks. The Federal Government has to undertake an even more active role in biomedical research to make possible more discoveries such as these. Therefore, the statutory authority of the Federal biomedical research programs should be strengthened.

In my district, Puerto Rico, the National Institutes of Health plays an important role in providing research grants for numerous programs at the medical science campus of the University of Puerto Rico. As a result of its location, this school has provided fertile ground for various research programs [illegible] by NIH such as the Caribbean Primate Research Center, the cancer center, the heart disease program, and the Latin American Center for Sexually Transmitted Diseases, to name only a few.

The cancer center provides investigation and treatment facilities including the physiological effect of the disease, environmental diagnosis, and therapeutic and basic cancer research program. The center keeps a list of all cancer patients in the island which makes it easier for scientists to contact patients for research.

Among the major projects in this area are therapeutic treatment, cancer vaccine studies, and education programs. The center is affiliated with the national radiotherapy and southeastern chemotherapy cancer groups.

The heart disease program sponsored by the Lung and Heart Institute developed a special project by which data on 10,000 adults in Puerto Rico was gathered and a followup on their eating habits, physical characteristics, and so forth, were studied for 10 years or until their death. The data has been computerized and the results will be available within the next 3 or 4 years. It is estimated that the data collected will bring about interesting discoveries relating to heart disease.

The Caribbean Primate Research Center provides a unique program where the genealogy of the primates is traced and a study is made of the different social groups they have formed. These animals were brought to the island in the early fifties. They have aged in a controlled environment thus posing a tremendous potential for the study of the aging process. The center has three sites and is a very important program with a lot of potential for research.

Mr. Chairman, as you and my other colleagues can appreciate, the programs presently under the sponsorship of the NIH in Puerto Rico provide the means necessary for serious, scientific, and useful biomedical research not only for us, but for the whole Nation as well.

I have only mentioned three of the various other research programs now in effect in Puerto Rico. We should not overlook the importance of these programs. I am confident Puerto Rico will be considered in the near future as one of the most important centers for biomedical research in the Caribbean and the southeast part of the Nation.●

Mr. WAXMAN. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. CARTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment, and each section of said substitute shall be considered as having been read.

The Clerk will designate section 1.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The bill reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Health Research Act of 1980".

SEC. 2. Title IV of the Public Health Service Act is amended to read as follows:

"TITLE IV—NATIONAL RESEARCH INSTITUTES

"PART A—NATIONAL INSTITUTES OF HEALTH

"ORGANIZATION OF NIH

"SEC. 401. (a) The National Institutes of Health is an agency of the Service. The following national research institutes are agencies of the National Institutes of Health:

"(1) The National Cancer Institute.

"(2) The National Heart, Lung, and Blood Institute.

"(3) The National Institute of Arthritis, Metabolism, and Digestive Diseases.

"(4) The National Institute on Aging.

"(5) The National Institute of Allergy and Infectious Diseases.

"(6) The National Institute of Child Health and Human Development.

"(7) The National Institute of Dental Research.

"(8) The National Eye Institute.

"(9) The National Institute of Neurological and Communicative Disorders and Stroke.

"(10) The National Institute of General Medical Sciences.

"(11) The National Institute of Environmental Health Sciences.

"(12) Each national research institute established by the Secretary under subsection (b).

"(b) (1) The Secretary may establish in the National Institutes of Health one or more additional national research institutes to conduct and support research, training, health information, and related programs relating to any particular disease or groups of diseases or any other aspect of human health when the Secretary determines that an additional institute is necessary to carry out such activities.

"(2) Any institute established under paragraph (1) may be abolished and its functions transferred elsewhere in the National Institutes of Health upon a finding by the Secretary that a separate institute is no longer required for such purposes.

"(3) In lieu of the establishment under paragraph (1) of an additional institute with respect to any disease, diseases, or other aspect of human health the Secretary may expand the functions of any national research institute so as to include functions with respect to such disease, diseases, or other aspect of human health, and the Secretary may terminate such expansion and transfer the functions given such institute elsewhere in the National Institutes of Health upon a finding by the Secretary that such expansion is no longer necessary. In the case of any such expansion of an existing institute, the Secretary may change the title of the institute so as to reflect its new functions.

"(c) For purposes of this title, the term 'national research institute' means a national research institute referred to in subsection (a).

"APPOINTMENT AND AUTHORITY OF DIRECTOR OF NIH

"SEC. 402. (a) The National Institutes of Health shall be headed by the Director of the National Institutes of Health (hereinafter in this title referred to as the 'Director of NIH') who shall be appointed by the President by and with the advice and consent of the Senate. The Director of NIH shall perform functions as provided under subsection (b) and as the Secretary may otherwise prescribe.

"(b) The Secretary, and the Director of NIH pursuant to such delegation as the Secretary may prescribe—

"(1) shall be responsible for the overall direction of the National Institutes of Health and for the establishment and implementation of general policies respecting the management and operation of programs and activities within the National Institutes of Health;

"(2) shall coordinate and oversee the operation of the national research institutes and other administrative entities within the National Institutes of Health;

"(3) for the national research institutes and other administrative entities within the National Institutes of Health—

"(A) may—

"(i) after consultation with the National Institutes of Health Advisory Board, acquire and construct, and

"(ii) improve, repair, operate, and maintain,

laboratories, other research facilities, other facilities, equipment, and other real or personal property (including patents), and

"(B) may acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for use for a period not to exceed ten years;

"(4) may secure resources for research conducted by or through the National Institutes of Health;

"(5) may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, establish such technical and scientific peer review groups as are needed to carry out the requirements of this title and appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service on such groups;

"(6) shall assure that research at the National Institutes of Health is subject to review in accordance with section 472;

"(7) may secure for the National Institutes of Health consultation services and advice on persons from the United States or abroad;

"(8) may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(9) may, for purposes of study, admit and treat at facilities of the National Institutes of Health individuals not otherwise eligible for such treatment;

"(10) may accept voluntary and uncompensated services; and

"(11) may perform such other administrative functions as the Secretary determines are needed to carry out effectively this title.

The Secretary may make available to individuals and entities, for biomedical and behavioral research, substances and living organisms. Such substances and organisms shall be made available under such terms and conditions (including payment for them) as the Secretary determines appropriate.

"(c)(1) The Secretary, after consultation with the National Institutes of Health Advisory Board, may obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of service) the services of not more than two hundred experts or consultants, with scientific or other professional qualifications, for the National Institutes of Health.

"(2)(A) Except as provided in subparagraph (B), experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed, in accordance with title 5, United States Code, for their travel and other expenses associated with their assignment.

"(B) Expenses specified in subparagraph (A) shall not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1) unless the expert or consultant has agreed in writing to complete the entire period of the assignment or one year of the assignment, whichever is shorter, unless separated or reassigned for reasons which are beyond the control of the expert or consultant and which are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for such expenses is recoverable from the expert or consultant as a debt due the United States.

"(d) There shall be in the National Institutes of Health an Assistant Director to whom the Director of NIH shall delegate the function of promoting the prevention, education, and health information programs of the national research institutes and coordinating such programs between the institutes and between the institutes and other public and private entities.

"NATIONAL INSTITUTES OF HEALTH ADVISORY BOARD

"SEC. 403. (a) The Secretary shall appoint a National Institutes of Health Advisory Board (hereinafter in this section referred to as the 'Advisory Board'). The Advisory Board shall advise, consult with, and make recommendations to the Secretary and the Director of NIH with respect to the functions under section 402 and with respect to the policies to be followed in the exercise of such functions.

"(b)(1) The Advisory Board shall consist of—

"(A) twelve members appointed by the Secretary from among the leading representatives of the health and scientific disciplines;

"(B) five members appointed by the Secretary from leaders in each of the fields of public policy, law, health policy, economics, and management and one member appointed by the Secretary from the general public; and

"(C) such nonvoting, ex officio members as the Secretary may designate to assist the Advisory Board in carrying out its functions.

Not less than four of the appointed members of the Advisory Board shall be experts in public health or the behavioral or social sciences.

"(2) Members of the Advisory Board who are officers or employees of the United States shall not receive any compensation for service on the Advisory Board. The other members of the Advisory Board shall receive, for each day they are engaged in the performance of the functions of the Advisory Board, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime.

"(c) The term of office of an appointed member of the Advisory Board is four years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and of the members first appointed to the Advisory Board—

"(1) five members shall be appointed for a term of three years,

"(2) five members shall be appointed for a term of two years, and

"(3) three members shall be appointed for a term of one year.

as designated by the Secretary at the time of appointment. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of four years may not be reappointed to the Advisory Board before two years from the date of the expiration of such term of office. If a vacancy occurs in the Advisory Board, the Secretary shall make an appointment to fill the vacancy not later than ninety days from the date the vacancy occurred.

"(d) The chairman of the Advisory Board shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of NIH to be the chairman of the Advisory Board. The term of office of the chairman shall be two years.

"(e) The Advisory Board shall meet at the call of the chairman or upon the request of the Director of NIH, but at least four times in each fiscal year. The Advisory Board may hold such hearings, take such testimony, and sit and act at such times and places as the Advisory Board deems advisable to carry out its functions.

"(f) The Director of NIH shall designate a member of the staff of the National Institutes of Health to serve as the executive secretary of the Advisory Board. The Director of NIH shall make available to the Advisory Board such staff assistants, information, and other assistance as it may require to carry out its functions. The Director of NIH shall provide orientation and training for new members of the Advisory Board to provide them with such information and training as may be appropriate for their effective participation in the functions of the Advisory Board.

"(g) In carrying out its functions the Advisory Board may appoint subcommittees, convene workshops and conferences, and collect data.

"(h) The Advisory Board shall prepare, for inclusion in the annual report under section 404, an annual report respecting the activities of the Advisory Board and including its recommendations respecting the program policies of the Secretary and the Director of NIH.

"ANNUAL REPORT

"SEC. 404. The Secretary shall transmit to the President and to the Congress an annual report which shall be prepared by the Director of NIH and which shall consist of—

"(1) a description of the activities carried out through the National Institutes of Health and the policies respecting the programs of the National Institutes of Health, a five-year plan for such activities and policies, and such recommendations respecting such policies as the Secretary deems appropriate;

"(2) without revision, the annual report of the National Institutes of Health Advisory Board; and

"(3) the annual reports of the Directors of each of the national research institutes and, without revision, the annual report of the advisory council for each such institute.

Each report shall be submitted not later than November 30 of each year and shall relate to the fiscal year ending on the preceding September 30.

"PART B—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

"APPOINTMENT AND AUTHORITY OF THE DIRECTORS OF THE NATIONAL RESEARCH INSTITUTES

"SEC. 407. (a) The Director of the National Cancer Institute shall be appointed by the President, and the Directors of the other national research institutes shall be appointed by the Secretary.

"(b)(1) With respect to the human disease or disorder or other aspect of human health for which the institutes were established, the Secretary, acting through the Director of each national research institute—

"(A) shall encourage and support research, investigations, experiments, demonstrations, and studies in the health sciences related to—

"(i) the maintenance of health,

"(ii) the detection, diagnosis, treatment, and prevention of human diseases and other disorders,

"(iii) the rehabilitation of individuals with human diseases, disorders, and disabilities, and

"(iv) the expansion of knowledge of the processes underlying human diseases, disorders, and disabilities, the processes underlying the normal and pathological functioning of the body and its organ systems, and the processes underlying the interactions between the human organism and the environment;

"(B) may, subject to the review prescribed under section 472 and advisory council review prescribed by section 408(a)(3)(A)(i), conduct the research, investigations, experiments, demonstrations, and studies referred to in subparagraph (A);

"(C) may conduct and support research training for which fellowship support may not be provided under section 461;

"(D) shall develop, implement, and support demonstrations and programs for the application of the results of the activities of the institute to clinical practice and disease prevention activities;

"(E) shall develop, conduct, and support public and professional education and information programs;

"(F) shall secure, develop and maintain, distribute, and support the development and maintenance of resources needed for research;

"(G) may make available the facilities of the institutes to appropriate entities and individuals engaged in research activities and cooperate with assist Federal and State agencies charged with protecting the public health;

"(H) may accept unconditional gifts made to the institutes for their activities, and, in the case of gifts of a value in excess of $50,000, establish suitable memorials to the donor;

"(I) may secure for the institutes consultation services and advice of persons from the United States or abroad;

"(J) may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(K) may accept voluntary and uncompensated services; and

"(L) may perform such other functions as the Secretary determines are needed to carry out effectively the purposes of the institutes.

The indemnification provisions of section 2354, title 10, United States Code, shall apply with respect to contracts entered into under this subsection and section 402(b).

"(2) Support for an activity or program under this subsection may be provided through grants, contracts, and cooperative agreements. The Secretary, through the Director of each national research institute—

"(A) may approve any contract for resources for research conducted at or through the institute, except that if the total cost of the contract to be approved exceeds $500,000 the contract may be approved only after the advisory council to the institute has recommended approval of the contract;

"(B) may approve other contracts under paragraph (1) for research or training, except that—

"(i) if the total cost of the contract to be approved does not exceed $500,000, the contract may be approved only after appropriate technical and scientific review in accordance with section 472, and

"(ii) if the total cost of the contract to be approved exceeds $500,000, the contract may be approved only after appropriate technical and scientific review in accordance with section 472 and recommendation for approval by the advisory council to the institute; and

"(C) may approve grants, and cooperative agreements under paragraph (1) for research or training, except that—

"(i) if the direct cost of the grant, or cooperative agreement to be approved does not exceed $50,000, such grant or cooperative agreement may be approved only after appropriate technical and scientific review in accordance with section 472, and

"(ii) if the direct cost of the grant, or cooperative agreement to be approved exceeds $50,000, such grant or cooperative agreement may be approved only after appropriate technical and scientific review in accordance with section 472 and recommendation for approval by the advisory council to the institute.

"(c) In carrying out subsection (b), each Director of a national research institute shall—

"(1) coordinate the activities of the institute with similar programs of other public and private entities; and

"(2) cooperate with the Directors of other national research institutes in the development and support of multidisciplinary research and research that involves more than one institute.

"ADVISORY COUNCILS

"SEC. 408. (a)(1) Except as provided in subsection (i), the Secretary shall appoint an advisory council for each national research institute which (A) shall advise, assist, consult with, and make recommendations to the Secretary and the Director of the institute on matters related to the activities carried out through the institute and the policies respecting such activities, and (B) shall carry out special functions prescribed by part C.

"(2) Each advisory council for a national research institute shall recommend to the Secretary acceptance, in accordance with section 501, of conditional gifts for study, investigation, or research respecting the disease, diseases, or other aspect of human health with respect to which the institute was established, for the acquisition of grounds, or for the construction, equipping, or maintenance of facilities for the institute.

"(3) Each advisory council for a national research institute—

"(A)(i) shall (I) on the basis of the materials provided under section 472(d)(2) respecting research conducted at the institute, make recommendations to the Director of the institute respecting such research, and (II) periodically review the program of research which is being carried out at the institute and make recommendations to the Director respecting the program, (ii) shall review contracts and applications for grants and cooperative agreements for research or training and for which advisory council approval is required under section 407(b)(2) and recommend for approval applications for projects which show promise of making valuable contributions to human knowledge, (iii) shall review contracts proposed to be entered into for resources for research and for which advisory council approval is required under section 407(b)(2) and recommend for approval contracts that will effectively meet the needs of the institute, (iv) may review any grant, contract, or cooperative agreement proposed to be made or entered into and (v) may review the activities carried out under contracts and cooperative agreements referred to in clauses (ii) and (iii);

"(B) may collect information as to studies which are being carried on in the United States or any other country as to such disease, diseases, or other aspect of human health by correspondence or by personal investigation of such studies, and with the approval of the Director of the institute make available such information through appropriate publications for the benefit of public and private health entities and health profession personnel and scientists and for the information of the general public;

"(C) shall advise the Secretary and the Director of the institute respecting the portion of the funds appropriated for the institute which should be obligated for grants, contracts, and cooperative agreements; and

"(D) may appoint subcommittees and convene workshops and conferences.

"(4) Any advisory council established by the Secretary for a national research institute established under section 401(b) may be terminated by the Secretary when the new institute which occasioned such new advisory council is terminated.

"(b)(1) Each advisory council shall consist of nonvoting, ex officio members and eighteen members appointed by the Secretary. The ex officio members of an advisory council shall consist of the Secretary, the Director of NIH, the Director of the national research institute for which the council is established, the Chief Medical Officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, or the designees of such persons and such additional officers or employees of the United States as the Secretary deems necessary for the advisory council to effectively carry out its functions. The members of an advisory council who are not ex officio members shall be appointed as follows:

"(A) Twelve members shall be appointed from among the leading representatives of the health and scientific disciplines relevant to the activities of the institute for which the advisory council is established.

"(B) Five members appointed by the Secretary from leaders in each of the fields of public policy, law, health policy, economics, and management and one member appointed by the Secretary from the general public.

Of the members appointed to each advisory council, not less than four shall be experts in public health or the behavioral or social sciences.

"(2) Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of an advisory council shall receive, for each day they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime.

"(c) The term of office of an appointed member of an advisory council is four years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such a manner as to stagger the terms of the members. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of four years may not be reappointed to an advisory council before two years from the date of expiration of such term of office. If a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within ninety days from the date the vacancy occurs.

"(d) The chairman of an advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the institute for which the advisory council is established to be the chairman of the advisory council. The term of office of the chairman shall be two years.

"(e) The advisory council shall meet at the call of the chairman or upon the request of the Director of the national research institute for which it was established, but at least three times each fiscal year. The advisory council may hold such hearings, take such testimony, and sit and act at such times and places as the advisory council deems advisable to carry out its functions.

"(f) The Director of the national research institute for which an advisory council is established shall designate a member of the staff of the institute to serve as the executive secretary of the advisory council. The Director of such institute shall make available to the advisory council such staff assistants, information, and other assistance as it may require to carry out its functions. The Director of such institute shall provide orientation and training for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.

"(g) This section does not terminate the membership of any advisory council to a national research institute which was in existence on the date of the enactment of the Health Research Act of 1980. After such date—

"(1) the Secretary shall make appointments to each such advisory council in such a manner as to bring about as soon as practicable the composition prescribed by this section,

"(2) each advisory council shall organize itself in accordance with this section and exercise the functions prescribed by this section, and

"(3) the Director of each national research institute shall perform for such advisory council the functions prescribed by this section.

"(h) Each advisory council shall prepare for inclusion in the annual report made under section 404 an annual report (1) respecting the activities of the advisory council in the fiscal year respecting which the report is prepared (2) commenting on the progress of the national research institute for which it was established in meeting its objectives, and (3) making recommendations respecting the future directions and program and policy emphasis of the institute.

"(i)(1) This section applies to the National Cancer Advisory Board, the advisory council for the National Cancer Institute, except that (A) appointments to such Board shall be made by the President, (B) of the members appointed to the Board not less than five members shall be individuals knowledgeable in environmental carcinogenesis (including carcinogenesis involving occupational and dietary factors), (C) the chairman of the Board shall be selected by the President from the appointed members and shall serve as chairman for a term of two years, (D) the ex officio members of the Board shall be the Secretary, the Director of the Office of Science and Technology Policy, the Director of NIH, the chief medical officer of the Veterans' Administration, the Director of the National Institute for Occupational Safety and Health, the Director of the National Institute of Environmental Health Sciences, the Secretary of Labor, the Commissioner of the Food and Drug Administration, the Administrator of the Environmental Protection Agency, the Chairman of the Consumer Product Safety Commission or the designees for such persons, and a medical officer designated by the Secretary of Defense, and (E) the Board shall meet at least four times each fiscal year.

"(2) This section applies to the advisory council to the National Heart, Lung and Blood Institute, except that the advisory council shall meet at least four times each fiscal year.

"ANNUAL REPORT

"SEC. 409. The Director of each national research institute shall prepare for inclusion in the annual report made under section 404 an annual report which shall consist of—

"(1) a description of the activities and program policies of the Director of the institute in the fiscal year respecting which the report is prepared; and

"(2) a five-year plan for such activities and policies and such recommendations as the Director of the institute deems appropriate.

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 410. (a) The following amounts are authorized to be appropriated for the national research institutes:

"(1) (A) For the National Cancer Institute (other than its programs under sections 413 and 415), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1972, $500,000,000 for the fiscal year ending June 30, 1973, $600,000,000 for the fiscal year ending June 30 1974, $750,000,000 for the fiscal year ending June 30, 1975, $830,000,000 for the fiscal year ending June 30, 1976, $985,000,000 for the fiscal year ending September 30, 1977, $923,590,000 for the fiscal year ending September 30 1978, $924,500,000 for the fiscal year ending September 30, 1979, $927,000,000 for the fiscal year ending September 30, 1980, $1,074,000000 for the fiscal year ending September 30, 1981, $1,220,000,000 for the fiscal year ending September 30, 1982, and $1,376,000,000 for the fiscal year ending September 30 1983.

"(B) There are authorized to be appropriated for the programs under section 413 $20,000,000 for the fiscal year ending June 30, 1972, $30,000,000 for the fiscal year ending June 30, 1973, $40,000,000 for the fiscal year ending June 30 1974, $53,500,000 for the fiscal year ending June 30, 1975, $68,500,000 for the fiscal year ending June 30, 1976, $88,500,000 for the fiscal year ending September 30, 1977, $84,560,000 for the fiscal year ending September 30, 1978, $90,500,000 for the fiscal year ending September 30, 1979, $103,000,000 for the fiscal year ending September 30, 1980, $80,500,000 for the fiscal year ending September 30, 1981, $91,500,000 for the fiscal year ending September 30, 1982, and $103,000,000 for the fiscal year ending September 30, 1983.

"(C) There are authorized to be appropriated for section 415, $90,000,000 for the fiscal year ending September 30, 1981, $108,000,000 for the fiscal year ending September 30, 1982, and $130,000,000 for the fiscal year ending September 30, 1983.

"(2) (A) For the National Heart, Lung, and Blood Institute (other than its programs under section 422) there are authorized to be appropriated $375,000,000 for the fiscal year ending June 30, 1973, $425,000,000 for the fiscal year ending June 30, 1974, $475,000,000 for the fiscal year ending June 30, 1975, $339,000,000 for fiscal year 1976, $373,000,000 for the fiscal year ending September 30, 1977, $426,320,000 for the fiscal year ending September 30, 1978, $470,000,000 for the fiscal year ending September 30, 1979, $515,000,000 for the fiscal year ending September 30, 1980, $570,700,000 for the fiscal year ending September 30, 1981, $648,320,000 for the fiscal year ending September 30, 1982, and $731,300,000 for the fiscal year ending September 30, 1983. Of the sums appropriated under this subsection for any fiscal year, not less than 15 per centum of such sums shall be reserved for programs respecting diseases of the lung and not less than 15 per centum of such sums shall be reserved for programs respecting blood diseases and blood resources.

"(B) There are authorized to be appropriated for the programs under section 422, $25,000,000 for the fiscal year ending June 30, 1973, $35,000,000 for the fiscal year ending June 30, 1974, $45,000,000 for the fiscal year ending June 30, 1975, $10,000,000 for fiscal year 1976, $30,000,000 for the fiscal year ending September 30, 1977, $30,000,000 for the fiscal year ending September 30, 1978, $40,000,000 for the fiscal year ending September 30, 1979, $45,000,000 for the fiscal year ending September 30, 1980, $45,000,000 for the fiscal year ending September 30, 1981, $45,000,000 for the fiscal year ending September 30, 1982, and $50,000,000 for the fiscal year ending September 30, 1983.

"(3) (A) For the National Institute of Arthritis, Metabolism, and Digestive Diseases (other than activities of or relating to the Institute for which appropriations are authorized under subparagraph (B)), there are authorized to be appropriated $393,798,000 for the fiscal year ending September 30, 1981, $447,355,000 for the fiscal year ending September 30, 1982, and $504,616,000 for the fiscal year ending September 30, 1983.

"(B) (i) For each of the advisory boards under section 435 there are authorized to be appropriated $300,000 for the fiscal year ending September 30, 1981, $300,000 for the fiscal year ending September 30, 1982, and $300,000 for the fiscal year ending September 30, 1983.

"(ii) (I) For grants for arthritis demonstration projects under section 436(a) there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1978, $4,000,000 for the fiscal year ending September 30, 1979, and $5,000,000 for the fiscal year ending September 30, 1980, and for each of the next three fiscal years.

"(II) For the arthritis data system under section 436(c) there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1978, $1,250,000 for the fiscal year ending September 30, 1979, and $1,500,000 for the fiscal year ending September 30, 1980, and for each of the next three fiscal years.

"(iii) For multipurpose arthritis centers under section 437 there are authorized to be appropriated $11,000,000 for the fiscal year ending June 30, 1976, $20,000,000 for the fiscal year ending June 30, 1977, $18,700,000 for the fiscal year ending September 30, 1978, $19,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, $14,000,000 for the fiscal year ending September 30, 1981, $17,000,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983.

"(iv) For diabetes research and training centers and the diabetes data system under section 438 there are authorized to be appropriated $8,000,000 for the fiscal year ending June 30, 1975, $12,000,000 for the fiscal year ending June 30, 1976, $20,000,000 for the fiscal year ending June 30, 1977, $12,000,000 for the fiscal year ending September 30, 1978, $20,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, $14,000,000 for the fiscal year ending September 30, 1981, $17,000,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983.

"(4) For the National Institute on Aging, there are authorized to be appropriated $80,780,000 for the fiscal year ending September 30, 1981, $91,766,000 for the fiscal year ending September 30, 1982, and $103,512,000 for the fiscal year ending September 30, 1983.

"(5) For the National Institute of Allergy and Infectious Diseases, there are authorized to be appropriated $248,574,000 for the fiscal year ending September 30, 1981, $282,380,000 for the fiscal year ending September 30, 1982, and $318,525,000 for the fiscal year ending September 30, 1983.

"(6) For the National Institute of Child Health and Human Development, there are authorized to be appropriated $241,164,000 for the fiscal year ending September 30, 1981, $273,962,000 for the fiscal year ending September 30, 1982, and $309,029,000 for the fiscal year ending September 30, 1983.

"(7) For the National Institute of Dental Research, there are authorized to be appropriated $78,839,000 for the fiscal year ending September 30, 1981, $89,561,000 for the fiscal year ending September 30, 1982, and $101,025,000 for the fiscal year ending September 30, 1983.

"(8) For the National Eye Institute, there are authorized to be appropriated $163,000,000 for the fiscal year ending September 30, 1981, $180,000,000 for the fiscal year ending September 30, 1982, and $200,000,000 for the fiscal year ending September 30, 1983.

"(9) For the National Institute of Neurological and Communicative Disorders and Stroke, there are authorized to be appropriated $279,268,000 for the fiscal year ending September 30, 1981, $317,248,000 for the fiscal year ending September 30, 1982, and $357,856,000 for the fiscal year ending September 30, 1983.

"(10) For the National Institute of General Medical Sciences, there are authorized to be appropriated $360,600,000 for the fiscal year ending September 30, 1981, $409,642,000 for the fiscal year ending September 30, 1982, and $462,076,000 for the fiscal year ending Septemper 30, 1983.

"(11) For the National Institute of Environmental Health Sciences, there are authorized to be appropriated $96,834,000 for the fiscal year ending September 30, 1981, $110,003,000 for the fiscal year ending September 30, 1982, and $124,083,000 for the fiscal year ending September 30, 1983.

"(b) For each national research institute and for each activity for which there is an appropriation authorization for the fiscal year ending September 30, 1983, under subsection (a) there is authorized to be appropriated for the fiscal year ending September 30, 1984, the amount authorized to be appropriated for the preceding fiscal year plus 15 per centum of such amount unless Congress by law authorizes a different amount.

"(c) (1) No funds appropriated under section 301(a) may be used for any activity undertaken by or through a national research institute listed in paragraphs (1) through (11) of section 401(a).

"(2) No funds appropriated under subsection (a) may be used for National Research Service Awards under section 461.

"(d) (1) If the authorization of appropriations under subsection (a) for a national research institute is not sufficient to enable the institute to accelerate research in an area of special promise or to pursue a breakthrough in research, the Director of NIH may, upon request, allocate, from funds appropriated under paragraph (2), to the institute such funds as may be necessary to accelerate such research or to pursue such a breakthrough.

"(2) There is authorized to be appropriated for the period ending September 30, 1983, to the Director of NIH to carry out paragraph (1) $100,000,000 to remain available for obligation in such period. The Director of NIH may not request an appropriation under this paragraph unless the request has been approved by the National Institutes of Health Advisory Board.

"(3) The Director of NIH shall report annually to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a description of the activities for which funds were provided under paragraph (1) and the amount provided for each such activity.

"PART C—SPECIFIC PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

"Subpart 1—National Cancer Institute

"PURPOSE OF INSTITUTE

"SEC. 411. The general purpose of the National Cancer Institute (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and related programs with respect to the cause, diagnosis, prevention, and treatment of cancer.

"NATIONAL CANCER PROGRAM

"SEC. 412. The National Cancer Program shall consist of (1) an expanded, intensified, and coordinated cancer research program encompassing the research programs conducted and supported by the Institute and the related research programs of the other national research institutes and including an expanded and intensified research program for the prevention of cancer caused by occupational or environmental exposure to carcinogens, and (2) the other programs and activities of the Institute.

"CANCER CONTROL PROGRAMS

"SEC. 413. The Director of the Institute shall establish and support demonstration, education, and other programs for the detection, diagnosis, prevention, and treatment of cancer and for rehabilitation and counseling respecting cancer. Programs established and supported under this section shall include—

"(1) locally initiated education and demonstration programs (and regional networks of such programs) to transmit research results and to disseminate information respecting the detection, diagnosis, prevention, and treatment of cancer and rehabilitation and counseling respecting cancer to physicians and other health professionals who provide care to individuals who have cancer;

"(2) the demonstration of and the education of health professionals in—

"(A) effective methods for the prevention and early detection of cancer and the identification of individuals with a high risk of developing cancer, and

"(B) improved methods of patient referral to appropriate centers for early diagnosis and treatment of cancer; and

"(3) the demonstration of new methods for the dissemination of information to the general public concerning the prevention, early detection, diagnosis, and treatment and control of cancer and information concerning unapproved and ineffective methods, drugs, and devices for the diagnosis, prevention, treatment, and control of cancer.

"SPECIAL AUTHORITIES OF THE SECRETARY AND THE DIRECTOR

"SEC. 414. (a) The Secretary, acting through the Director of the Institute, shall establish an information and education center to collect, identify, analyze, and disseminate on a timely basis, through publications and other appropriate means, to cancer patients and their families, physicians and other health professionals, and the general public, information on cancer research, diagnosis, prevention, and treatment (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer). The Director of the Institute may take such action as may be necessary to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Institute and other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

"(b) The Director of the Institute in carrying out the National Cancer Program—

"(1) may establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for cancer research and set standards of safety and care for persons using such materials;

"(2) may, with the approval of the advisory council for the Institute, support (A) research in the cancer field outside the United States by highly qualified foreign nationals which research can be expected to inure to the benefit of the American people, (B) collaborative research involving American and foreign participants, and (C) the training of American scientists abroad and foreign scientists in the United States;

"(3) may, with the approval of the advisory council for the Institute, support appropriate programs of education (including continuing education) and training;

"(4) may encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research;

"(5) may obtain (with the approval of the Institute's advisory council and in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred and fifty-one experts or consultants who have scientific or professional qualifications;

"(6) (A) may—

"(i) with the approval of the Institute's advisory council, acquire and construct, and

"(ii) improve, repair, operate, and maintain, such laboratories, other research facilities, equipment, and other real or personal property (including patents) as the Director deems necessary;

"(B) may make grants for new construction or renovation of facilities; and

"(C) may acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years;

"(7) may, with the approval of the Institute's advisory council, appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions;

"(8) may, subject to section 407(b)(2), enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution; and

"(9) (A) shall prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate (including an estimate of the number and type of personnel needs for the Institute) for the National Cancer Program, after reasonable opportunity for comment (but without change) by the Secretary, the Director of NIH, and the Institute's advisory council; and (B) may receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the Institute.

"NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS

"SEC. 415. The Director of the Institute, under policies established by the Director of NIH and after consultation with the Institute's advisory council, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers for basic and clinical research into, training in, and demonstration of advanced diagnostic, prevention, and treatment methods for cancer. Federal payments under this subsection in support of such cooperative agreements may be used for (1) construction (notwithstanding any limitation under section 473), (2) staffing and other basic operating costs, including such patient care costs as are required for research, (3) training, including training for allied health professionals, continuing education for health professionals and allied health professions personnel, and information programs for the pubic respecting cancer, and (4) demonstration purposes. As used in this section, the term 'construction' does not include the acquisition of land, and the term 'training' does not include research training for which fellowship support may be provided under section 461. Support of a center under this section may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"PRESIDENT'S CANCER PANEL

"SEC. 416. (a)(1) The President's Cancer Panel (hereinafter in this section referred to as the 'Panel') shall be composed of three persons appointed by the President, who by virtue of their training, experience, and background are exceptionally qualified to appraise the National Cancer Program.

"(2)(A) Members of the Panel shall be appointed for three-year terms, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member who has been appointed for a term of three years may not be reappointed to the Panel before two years from the date of the expiration of such term of office. If a vacancy occurs in the Panel, the President shall make an appointment to fill the vacancy not later than ninety days from the date the vacancy occurred.

"(B) The resident shall designate one of the members to serve as the chairman of the Panel for a term of one year.

"(C) Members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel.

"(3) The Panel shall meet at the call of the chairman, but not less often than four times a year. A transcript shall be kept of the proceedings of each meeting of the Panel, and the chairman shall make such transcript available to the public.

"(b) The Panel shall monitor the development and execution of the activities of the National Cancer Program, and shall report directly to the President. Any delays or blockages in rapid execution of the Program shall immediately be brought to the attention of the President. The Panel shall submit to the President periodic progress reports on the Program and shall submit to the President, the Secretary, and the Congress an annual evaluation of the efficacy of the Program and suggestions for improvements, and shall submit such other reports as the President shall direct.

"Subpart 2—National Heart, Lung, and Blood Institute

"PURPOSE OF THE INSTITUTE

"SEC. 421. The general purpose of the National Heart, Lung, and Blood Institute (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and other programs with respect to heart, blood vessel, lung, and blood diseases and with respect to the use of blood and blood products and the management of blood resources.

"HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASE PREVENTION AND CONTROL PROGRAMS

"SEC. 422. The Director of the Institute, under policies established by the Director of NIH and after consultation with the advisory council for the Institute, shall establish programs as necessary for cooperation with other Federal health agencies, State, local, and regional public health agencies, and nonprofit private health agencies in the diagnosis, prevention, and treatment (including the provision of emergency medical services) of heart, blood vessel, lung, and blood diseases, appropriately emphasizing the prevention, diagnosis, and treatment of such diseases of children.

"INFORMATION AND EDUCATION CENTER

"SEC. 423. The Secretary, acting through the Director of the Institute, shall establish an information and education center to collect, identify, analyze, and disseminate on a timely basis, through publications and other appropriate means, to patients, families of patients, physicians and other health professionals, and the general public, information on research, prevention, diagnosis, and treatment of heart, blood vessel, lung, and blood diseases, the maintenance of health to reduce the incidence of such diseases, and on the use of blood and blood products and the management of blood resources. In carrying out this section the Secretary shall place special emphasis upon—

"(1) the dissemination of information regarding diet and nutrition, environmental pollutants, exercise, stress, hypertension, cigarette smoking, weight control, and other factors affecting the prevention of arteriosclerosis and other cardiovascular diseases and of pulmonary and blood diseases, and

"(2) programs designed to encourage children to adopt healthful habits respecting the risk factors related to the prevention of such diseases.

"NATIONAL HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASES AND BLOOD RESOURCES PROGRAM

"SEC. 424. (a) The National Heart, Blood Vessel, Lung, and Blood Diseases and Blood Resources Program (hereinafter in this subpart referred to as the 'Program') may provide for—

"(1) investigation into the epidemiology, etiology, and prevention of all forms and aspects of heart, blood vessel, lung, and blood diseases, including investigations into the social, environmental, behavioral, nutritional, biological, and genetic determinants and influences involved in the epidemiology, etiology, and prevention of such diseases;

"(2) studies and research into the basic biological processes and mechanisms involved in the underlying normal and abnormal heart, blood vessel, lung, and blood phenomena;

"(3) research into the development, trial, and evaluation of techniques, drugs, and devices (including computers) used in, and approaches to, the diagnosis, treatment (including the provision of emergency medical services), and prevention of heart, blood vessel, lung, and blood diseases and the rehabilitation of patients suffering from such diseases;

"(4) establishment of programs that will focus and apply scientific and technological efforts involving biological, physical, and engineering sciences to all facets of heart, blood vessel, lung, and blood diseases with emphasis on refinement, development, and evaluation of technological devices that will assist, replace, or monitor vital organs and improve instrumentation for detection, diagnosis, and treatment of those diseases;

"(5) establishment of programs for the conduct and direction of field studies, large-scale testing and evaluation, and demonstration of preventive, diagnostic, therapeutic, and rehabilitative approaches to, and emergency medical services for, such diseases;

"(6) studies and research into blood diseases and blood, and into the use of blood for clinical purposes and all aspects of the management of its resources in this country, including the collection, preservation, fractionation, and distribution of it and its products;

"(7) the education (including continuing education) and training of scientists, clinical investigators, and educators, in fields and specialties (including computer sciences) requisite to the conduct of clinical programs respecting heart, blood vessel, lung, and blood diseases and blood resources;

"(8) public and professional education relating to all aspects of such diseases, including the prevention of such diseases, and the use of blood and blood products and the management of blood resources;

"(9) establishment of programs for study and research into heart, blood vessel, lung, and blood diseases of children (including cystic fibrosis, hyaline membrane, and hemolytic and hemophilic diseases) and for the development and demonstration of diagnostic, treatment, and preventive approaches to these diseases; and

"(10) establishment of programs for study, research, development, demonstrations and evaluation of emergency medical services for people who become critically ill in connection with heart, blood vessel, lung, or blood diseases.

The Program shall be coordinated with other national research institutes to the extent that they have responsibilities respecting such diseases and shall give special emphasis to the continued development in the Institute of programs related to the causes of stroke and to effective coordination of such programs with related stroke programs in the National Institute of Neurological and Communicative Disorders and Stroke. The Director of the Institute, with the advice of the advisory council to the Institute, shall revise annually the plan for the Program and shall carry out the Program in accordance with such plan.

"(b) In carrying out the Program, the Director of the Institute, under policies established by the Director of NIH—

"(1) may, after approval of the advisory council to the Institute, obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred experts or consultants who have scientific or professional qualifications;

"(2)(A) may—

"(i) after approval of the advisory council to the Institute, acquire and construct, and

"(ii) improve, repair, operate, alter, renovate and maintain,

heart, blood vessel, lung, and blood disease and blood resource laboratory, research, training, and other facilities, equipment, and such other real or personal property (including patents) as the Director deems necessary; and

"(B) may acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years;

"(3) subject to section 407(b)(2), may enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of the Director's functions, with any public agency, or with any person, firm, association, corporation, or educational institutions; and

"(4) may make grants to public and nonprofit private entities to assist in meeting the cost of the care of patients in hospitals, clinics, and related facilities who are participating in research projects.

"(c) There shall be in the Institute an assistant director to coordinate and promote the prevention, education, and health information programs of the Institute who shall be appointed by the Director of the Institute.

"NATIONAL RESEARCH AND DEMONSTRATION CENTERS FOR HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASES AND BLOOD RESOURCES

"SEC. 425. (a)(1) The Director of the Institute may provide, in accordance with subsection (b), for the development of—

"(A) ten centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for heart and blood vessel diseases;

"(B) ten centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for lung diseases (including bronchitis, emphysema, asthma, cystic fibrosis, and other lung diseases of children); and

"(C) ten centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for blood diseases and research into blood, in the use of blood products and in the management of blood resources.

"(2) The centers developed under paragraph (1) shall, in addition to being utilized for research, training, and demonstrations, be utilized for the following prevention programs for cardiovascular, pulmonary, and blood diseases:

"(A) Programs to develop improved methods of detecting individuals with a high risk of developing cardiovascular, pulmonary, and blood diseases.

"(B) Programs to develop improved methods of intervention against those factors which cause individuals to have a high risk of developing such diseases.

"(C) Programs to develop health professions and allied health professions personnel highly skilled in the prevention of such diseases.

"(D) Programs to develop improved methods of providing emergency medical services for persons with such diseases.

"(E) Programs of continuing education for health and allied health professionals in the diagnosis, prevention, and treatment of such diseases and the maintenance of health to reduce the incidence of such diseases and information programs for the public respecting the prevention and early diagnosis and treatment of such diseases and the maintenance of health.

"(3) The research, training, and demonstration activities carried out through any such center may relate to any one or more of the diseases referred to in paragraph (1) of this subsection.

"(b) The Director of the Institute, under policies established by the Director of NIH and after consultation with the advisory council to the Institute, may enter into cooperative agreements with public or nonprofit private agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers for basic or clinical research into, training in, and demonstration of, the management of blood resources and advanced diagnostic, prevention, and treatment methods for heart, blood vessel, lung, or blood diseases. Funds paid to centers under cooperative agreements under this subsection may be used for—

"(1) construction (notwithstanding any limitation under section 473),

"(2) staffing and other basic operating costs, including such patient care costs as are required for research,

"(3) training, including training for allied health professions personnel, and

"(4) demonstration purposes.

Support of a center under this subsection may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"(c) As used in ths section, the term 'construction' does not include the acquisition of land; and the term 'training' does not include research training for which fellowship support may be provided under section 461.

"INTERAGENCY TECHNICAL COMMITTEE

"SEC. 426. (a) The Secretary shall establish an Interagency Technical Committee on Heart, Blood Vessel, Lung and Blood Diseases and Blood Resources which shall be responsible for coordinating those aspects of all Federal health programs and activities relating to heart, blood vessel, lung, and blood diseases and to blood resources to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

"(b) The Director of the Institute shall serve as chairman of the Committee and the Committee shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities relevant to the functions of the Committee, as determined by the Secretary.

"Subpart 3—National Institute of Arthritis, Metabolism, and Digestive Diseases

"PURPOSE OF THE INSTITUTE

"SEC. 431. The general purpose of the National Institute of Arthritis, Metabolism, and Digestive Diseases (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and related programs with respect to arthritis and related musculoskeletal diseases, diabetes mellitus and endocrine and metabolic diseases, digestive diseases, and kidney, urologic, and hematologic diseases.

"INFORMATION AND EDUCATION CENTERS

"SEC. 432. The Secretary, acting through the Director of the Institute, shall establish—

"(1) an information and education center for arthritis and related musculoskeletal diseases,

"(2) an information and education center for diabetes mellitus and endocrine and metabolic diseases, and

"(3) an information and education center for digestive diseases,

to identify, collect, analyze, and disseminate information respecting the diseases and to serve as a national educational resource for patients with such diseases and their families, physicians, and other health professionals.

"ASSOCIATE DIRECTORS FOR ARTHRITIS, DIABETES, DIGESTIVE DISEASES, AND KIDNEY, UROLOGIC, AND HEMATOLOGIC DISEASES

"SEC. 433. In the Institute there shall be an Associate Director for Arthritis and Related Musculoskeletal Diseases, an Associate Director for Diabetes, Endocrinology, and Metabolic Diseases, an Associate Director for Digestive Diseases, and an Associate Director for Kidney, Urologic, and Hematologic Diseases who, under the supervision of the Director, shall be responsible for—

"(1) the coordination of the programs of the Institute respecting arthritis and related musculoskeletal diseases, diabetes mellitus and endocrine and metabolic diseases, digestive diseases, and kidney, urologic, and hematologic diseases, respectively; and

"(2) monitoring and reviewing expenditures and activities of the other national research institutes related to such diseases and the identification of research opportunities in Federal activities related to such diseases and recommendation of means to take advantage of such opportunities.

"INTERAGENCY COORDINATING COMMITTEES

"SEC. 434. (a) For the purpose of—

"(1) better coordination of the research activities of all the national research institutes relating to arthritis and related musculoskeletal diseases, diabetes mellitus and endocrine and metabolic diseases, and digestive diseases; and

"(2) coordinating those aspects of all Federal health programs and activities relating to such diseases to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities,

the Director of NIH shall establish an Arthritis Interagency Coordinating Committee, a Diabetes Mellitus Interagency Coordinating Committee, and a Digestive Diseases Interagency Coordinating Committee (hereinafter in this section individually referred to as a 'Committee').

"(b) Each Committee shall be composed of the Directors (or their designees) of each of the national research institutes and divisions involved in research involving the diseases with respect to which the Committee is established and shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities relevant to such diseases, as determined by the Secretary. Each Committee shall be chaired by the Director of NIH (or his designee). Each Committee shall meet at the call of the chairman, but not less often than four times a year.

"(c) Each Committee shall prepare an annual report for the Secretary and the Director of NIH detailing the work of the Committee in the fiscal year for which the report was prepared in carrying out the coordinating activities described in paragraphs (1) and (2) of subsection (a). Such report shall be submitted not later than the sixtieth day after the end of each fiscal year.

"ADVISORY BOARDS

"SEC. 435. (a) The Secretary shall establish in the Institute the National Arthritis Advisory Board, the National Diabetes Advisory Board, and the National Digestive Diseases Advisory Board (hereinafter in this section individually referred to as an 'Advisory Board').

"(b) Each Advisory Board shall be composed of eighteen appointed members and nonvoting, ex-officio members as follows:

"(1) The Secretary shall appoint—

"(A) twelve members from individuals who are scientists, physicians, and other health professionals, who are not officers or employees of the United States, and who represent the specialities and disciplines relevant to the diseases with respect to which the Advisory Board is established; and

"(B) six members from the general public who are knowledgeable with respect to such diseases.

Of the appointed members at least five shall by virtue of training or experience be knowledgeable in health education, nursing, data systems, public information, or community program development.

"(2) The following shall be ex-officio members of each Advisory Board: the Director of NIH or his designee, the Director of the Institute or his designee, the Associate Director of the Institute appointed under section 433 for the diseases for which the Advisory Board is established, and such other officers and employees of the United States as the Secretary deems necessary for the Advisory Board to carry out its functions.

"(c) Members of an Advisory Board who are officers or employees of the Federal Government shall serve as members of the Advisory Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board.

"(d) The term of office of an appointed member of an Advisory Board is three years, except that no term of office may extend beyond the expiration of the Advisory Board. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office. If a vacancy occurs in an Advisory Board, the Secretary shall make an appointment to fill the vacancy not later than ninety days from the date the vacancy occurred.

"(e) The members of each Advisory Board shall select a chairman from among the appointed members.

"(f) The Secretary shall, after consultation with and consideration of the recommendations of an Advisory Board, provide the Advisory Board with—

"(1) such support staff, and

"(2) such administrative support services and facilities, such information, and such services of consultants,

as the Secretary determines are necessary for the Advisory Board to carry out its functions.

"(g) Each Advisory Board shall meet at the call of the chairman or upon request of the Director of the Institute, but not less often than four times a year.

"(h) Each Advisory Board shall—

"(1) review and evaluate the implementation of the plan (referred to in section 439) respecting the diseases with respect to which the Advisory Board was established;

"(2) for the purpose of assuring the most effective use and organization of resources respecting such diseases, advise and make recommendations to the Secretary, the Director of NIH, the Director of the Institute, and the head of other appropriate Federal agencies for the implementation and revision of such plan; and

"(3) maintain liaison with other advisory bodies related to Federal agencies involved in the implementation of such plan, the Coordinating Committee for such diseases, and with key non-Federal entities involved in activities affecting the control of such diseases.

"(i) In carrying out its functions the Advisory Board may establish subcommittees, convene workshops and conferences, and collect data.

"(j) Each Advisory Board shall submit to the Secretary and to the Congress an annual report—

"(1) which describes the Advisory Board's activities in the fiscal year for which the report is made;

"(2) which describes and evaluates the progress made in such year in research, treatment, education, and training with respect to the diseases with respect to which the Advisory Board was established;

"(3) which summarizes and analyzes expenditures made by the Federal Government for activities respecting such diseases in the fiscal year for which the report is made; and

"(4) which contains the Advisory Board's recommendations (if any) for changes in the plan referred to in subsection (h)(1).

"(k) Each Advisory Board shall expire on September 30, 1983.

"(l) The National Arthritis Advisory Board and the National Diabetes Advisory Board in existence on the date of the enactment of the Health Research Act of 1980 shall terminate not later than ninety days after such date. The Secretary shall make appointments to the Advisory Boards established under subsection (a) before the expiration of such days.

"ARTHRITIS DEMONSTRATION PROJECTS AND DATA SYSTEM

"Sec. 436. (a) The Secretary may make grants to public and other nonprofit entities to establish and support projects for the development and demonstration of methods for arthritis screening and detection and for referral for treatment, and for dissemination of information on these methods to the health and allied health professions. Activities under such projects shall be coordinated with (1) Federal, State, local, and regional health agencies, (2) centers assisted under section 437, and (3) the data system established under subsection (c).

"(b) Projects under this section shall include—

"(1) programs which emphasize the development and demonstration of new and improved methods of screening and early detection, referral for treatment, and diagnosis of individuals with a risk of developing arthritis, asymptomatic arthritis, or symptomatic arthritis;

"(2) programs which emphasize the development and demonstration of new and improved methods for patient referral from local hospitals and physicians to appropriate centers for early diagnosis and treatment;

"(3) programs which emphasize the development and demonstration of new and improved means of standardizing patient data and recordkeeping;

"(4) programs which emphasize the development and demonstration of new and improved methods of dissemination of knowledge about the projects and methods referred to in the preceding paragraphs of this subsection to health and allied health professionals;

"(5) programs which emphasize the development and demonstration of new and improved methods for the dissemination to the general public of information—

"(A) on the importance of early detection of arthritis, of seeking prompt treatment, and of following an appropriate regimen; and

"(B) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive treatment, and control methods for arthritis and unapproved and ineffective drugs and devices for arthritis; and

"(6) projects for the investigation into the epidemiology of all forms and aspects of arthritis, including investigations into the social, environmental, behavioral, nutritional, and genetic determinants and influences involved in the epidemiology of arthritis.

"(c)(1) The Director shall establish the arthritis data system for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with asymptomatic and symptomatic types of arthritis, including, where possible, data involving general populations for the purpose of detection of individuals with a risk of developing arthritis.

"(2) The Director shall provide for the standardization of patient data and recordkeeping for the collection, storage, analysis, retrieval, and dissemination of such data in cooperation with projects under this section and centers assisted under section 437, and other persons engaged in arthritis programs.

"MULTIPURPOSE ARTHRITIS CENTERS

"Sec. 437. (a) The Director of the Institute may, after consultation with the advisory council to the Institute and consistent with the arthritis plan developed pursuant to the National Arthritis Act of 1974, provide for the development, modernization, and operation (including staffing and other operating costs such as the costs of patient care required for research) of new and existing centers for arthritis research, screening, detention, diagnosis, prevention, control, and treatment, for education related to arthritis, and for rehabilitation of individuals who suffer from arthritis. For purposes of this section, the term 'modernization' means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence.

"(b) Each center assisted under this section shall—

"(1)(A) use the facilities of a single institution or a consortium of cooperating institutions, and (B) meet such qualifications as may be prescribed by the Secretary; and

"(2) conduct—

"(A) basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of arthritis and complications resulting from arthritis, including research into implantable biomaterials and biomechanical and other orthopedic procedures and in the development of other diagnostic and treatment methods;

"(B) training programs for physicians and other health and allied health professionals in current methods of diagnosis, screening and early detection, prevention, control, and treatment of arthritis, and in research in arthritis;

"(C) information and continuing education programs for physicians and other health and allied health professionals who provide care for patients with arthritis; and

"(D) programs for the dissemination to the general public of information—

"(i) on the importance of early detection of arthritis, of seeking prompt treatment, and of following an appropriate regimen; and

"(ii) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods and unapproved and ineffective drugs and devices.

A center may use funds provided under subsection (a) to provide stipends for nurses and allied health professionals enrolled in training programs described in paragraph (2)(B).

"(c) Each center assisted under this section may conduct programs to—

"(1) develop new and improved methods of screening and early detection, referral, and diagnosis of individuals with a risk of developing arthritis, asymptomatic arthritis, or symptomatic arthritis,

"(2) disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping, and

"(3) develop community consultative services to facilitate the referral of patients to centers for treatment.

"(d) The Director shall, insofar as practicable, provide for an equitable geographical distribution of centers assisted under this section. The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of children affected by arthritis.

"(e) The Director shall evaluate on an annual basis the activities of centers receiving support under this section and shall report to the appropriate committees of Congress the results of his evaluations on or before November 30 of each year.

"(f) Support of a center under this section may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"DIABETES RESEARCH AND TRAINING CENTERS; DIABETES DATA SYSTEM

"Sec. 438. (a) Consistent with applicable recommendations of the National Commission on Diabetes, the Director of the Institute shall provide for the development, or substantial expansion of centers for research and training in diabetes mellitus and endocrine and metabolic disorders. Each center developed or expanded under this section shall (1) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Secretary; and (2) conduct (A) research in the diagnosis and treatment of diabetes mellitus and endocrine and metabolic diseases and the complications resulting from such diseases, (B) training programs for physicians and allied health personnel in current methods of diagnosis and treatment of such diseases and complications, and in research in diabetes, and (C) information programs for physicians and allied health personnel who provide primary care for patients with such diseases or complications. Insofar as practicable, centers developed or expanded under this section shall be located geographically on the basis of population density throughout the United States and in environments with proven research capabilities. A center may use funds provided under this subsection to provide stipends for nurses and allied health professionals enrolled in training programs described in clause (B).

"(b) Support of a center under this section may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"(c) The Director shall evaluate on an annual basis the activities of centers developed or expanded under this section and shall report to the Congress, on or before November 30 of each year, the results of his evaluation.

"(d) The Director shall establish the diabetes data system for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with diabetes, including, where possible, data involving general populations for the purpose of detection of individuals with a risk of developing diabetes.

"ANNUAL REPORT

"Sec. 439. The Director of the Institute shall prepare for inclusion in the annual report made under section 404 a description of the Institute's activities—

"(1) under the current Arthritis Plan under the National Arthritis Act of 1974,

"(2) under the current diabetes plan under the National Diabetes Mellitus Research and Education Act, and

"(3) under the current digestive diseases plan formulated under the Arthritis, Diabetes, and Digestive Diseases Amendments of 1976.

"Subpart 4—National Institute on Aging

"PURPOSE OF THE INSTITUTE

"SEC. 441. The general purpose of the National Institute on Aging (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of biomedical, social, and behavioral research, training, health information, and related programs with respect to the aging process and the diseases and other special problems and needs of the aged.

"SPECIAL FUNCTIONS OF THE SECRETARY

"SEC. 442. (a) In carrying out the training responsibilities under this Act or any other Act for health and allied health professions personnel, the Secretary shall take appropriate steps to insure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged.

"(b) The Secretary shall, through the Director of the Institute, conduct scientific studies to measure the impact on the biological, medical, and psychological aspects of aging of programs and activities assisted or conducted by the Department of Health and Human Services.

"(c) The Director of the Institute shall carry out public information and education programs to disseminate as widely as possible the findings of Institute-sponsored and other relevant aging research and studies and other information about the process of aging which may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older.

"Subpart 5—National Institute of Allergy and Infectious Diseases

"PURPOSE OF THE INSTITUTE

"SEC. 443. The general purpose of the National Institute of Allergy and Infectious diseases is the conduct and support of research, training, health information, and related programs with respect to allergic and immunologic diseases and disorders and infectious diseases.

"Subpart 6—National Institute of Child Health and Human Development

"PURPOSE OF THE INSTITUTE

"SEC. 445. The general purpose of the National Institute of Child Health and Human Development (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and related programs with respect to maternal health, child health, human growth and development, including prenatal development, population research, and special health problems and requirements of mothers and children.

"SUDDEN INFANT DEATH SYNDROME

"SEC. 446. The Secretary shall, through the Director of the Institute, conduct and support research which specifically relates to sudden infant death syndrome.

"Subpart 7—National Institute of Dental Research

"PURPOSE OF INSTITUTE

"SEC. 447. The general purpose of the National Institute of Dental Research is the conduct and support of research, training, health information, and related programs with respect to the cause, prevention, and methods of diagnosis and treatment of dental diseases and conditions.

"Subpart A—National Eye Institute

"PURPOSE OF INSTITUTE

"SEC. 448. The general purpose of the National Eye Institute (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and related programs with respect to blinding eye disease, visual disorders, mechanisms of visual function, preservation of sight, and the special health problems and requirements of the blind. The Secretary may, through the Director of the Institute and without regard to section 742, carry out a program of grants for public and private nonprofit vision research facilities.

"Subpart 9—National Institute of Neurological and Communicative Disorders and Stroke

"PURPOSE OF THE INSTITUTE

"SEC. 450. The general purpose of the National Institute of Neurological and Communicative Disorders and Stroke is the conduct and support of research, training, health information, and related programs with respect to neurological disease and disorders, stroke, and disorders of human communication.

"Subpart 10—National Institute of General Medical Sciences

"PURPOSE OF THE INSTITUTE

"SEC. 451. The general purpose of the National Institute of General Medical Services is the conduct and support of research, training, and, as appropriate, health information and related programs with respect to general or basic medical sciences and related natural or behavioral sciences which have significance for two or more other national research institutes or are outside the general area of responsibility of any other national research institute.

"Subpart 11—National Institute of Environmental Health Sciences

"PURPOSE OF THE INSTITUTE

"SEC. 452. The general purpose of the National Institute of Environmental Health Sciences is the conduct and support of research, training, health information, and related programs with respect to factors in the environment that affect human health, directly or indirectly.

"PART D—NATIONAL INSTITUTE OF MENTAL HEALTH

"ESTABLISHMENT OF INSTITUTE

"SEC. 455. (a) There is established the National Institute of Mental Health (hereinafter in this part referred to as the 'Institute') to administer the programs and authorities of the Secretary with respect to mental health. The Secretary, acting through the Institute, shall, in carrying out the purposes of sections 301 and 303 of this Act and the purposes of the Community Mental Health Centers Act (other than part C of that Act) with respect to mental illness, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of mental illness and for the rehabilitation of the mentally ill. The Secretary shall carry out through the Institute the administrative, financial management, policy development, and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

"(b)(1) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

"(2) The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities to be carried out through the Institute.

"(c) The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines.

"PART E—AWARDS AND TRAINING

"NATIONAL RESEARCH SERVICE AWARDS

"SEC. 461. (a)(1) The Secretary shall—

"(A) provide National Research Service Awards for—

"(i) biomedical and behavioral research at the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration or under programs administered by the Division of Nursing of the Health Resources Administration, in matters relating to the cause, diagnosis, prevention, and treatment of the diseases or other health problems to which the activities of the national research institutes and Administration or Division of Nursing are directed.

"(ii) training at the National Institutes of Health and at the Administrations of individuals to undertake such research,

"(iii) biomedical and behavioral research at public and nonprofit private institutions (including a research center assisted under part C of this title),

"(iv) research at the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology,

"(v) training at such Centers to undertake such research,

"(vi) research on the matters set forth in section 304(a)(2) at public institutions and at nonprofit private institutions, and

"(vii) pre- and post-doctoral training at such public and private institutions of individuals to undertake biomedical and behavioral research and the research described in clause (vi), and

"(B) make grants to public and nonprofit private institutions (including a research center assisted under part C of this title) to enable such institutions to make to individuals selected by them National Research Service Awards for research (and training to undertake biomedical and behavioral research and the research described in subparagraph (A)(vi)) in the matters described in subparagraph (A)(i).

A reference in this subsection to the National Institutes of Health or the Alcohol, Drug Abuse, and Mental Health Administration shall be considered to include the institutes, divisions, and bureaus included in the Institutes or under the Administration, as the case may be.

"(2) National Research Service Awards may not be used to support residencies.

"(3) National Research Service Awards may be made for research or research training in only those subject areas for which, as determined under section 463, there is a need for personnel.

"(b)(1) No National Research Service Award may be made by the Secretary to any individual unless—

"(A) the individual has submitted to the Secretary an application therefor and the Secretary has approved the application;

"(B) the individual provides, in such form and manner as the Secretary shall by regulation prescribe, assurances satisfactory to the Secretary that the individual will meet the service requirement of subsection (c)(1); and

"(C) in the case of a National Research Service Award for a purpose described in subsection (a)(1)(A)(iii), (a)(1)(A)(vi), or (a)(1)(A)(vii), the individual has been sponsored (in such manner as the Secretary may by regulation require) by the institution at which the research or training under the award will be conducted.

An application for an award shall be in such form, submitted in such manner, and contain such information, as the Secretary may by regulation prescribe.

"(2) The making of grants under subsection (a)(1)(B) for National Research Service Awards shall be subject to review and approval by the appropriate advisory councils within the Department of Health and Human Services (A) whose activities relate to the research or training under the awards, or (B) for the entity at which such research or training will be conducted.

"(3) No grant may be made under subsection (a)(1)(B) unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary may by regulation prescribe. Subject to the provisions of this section other than paragraph (1) of this subsection, National Research Service Awards made under a grant under subsection (a)(1)(B) shall be made in accordance with such regulations as the Secretary shall prescribe.

"(4) The period of any National Research Service Award made to any individual under subsection (a) may not exceed—

"(A) five years in the aggregate for predoctoral training, and

"(B) three years in the aggregate for postdoctoral training,

unless the Secretary for good cause shown waives the application of such limit to such individual.

"(5) National Research Service Awards shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances), adjusted periodically to reflect increases in the cost of living, for the recipients of the awards as the Secretary may deem necessary. A National Research Service Award made to an individual for research or research training at a non-Federal public or non-profit private institution shall also provide for payments to be made to the institution for the cost of support services (including the cost of faculty salaries, supplies, equipment, general research support, and related items) provided such individual by such institution. The amount of any such payments to any institution shall be determined by the Secretary and shall bear a direct relationship to the reasonable costs of the institution for establishing and maintaining the quality of its biomedical and behavioral research and training programs.

"(c)(1)(A) Each individual who receives a National Research Service Award shall, in accordance with paragraph (2), engage in—

"(i) health research or teaching or any combination thereof which is in accordance with usual patterns of academic employment,

"(ii) if authorized under subparagraph (B), serve as a member of the National Health Service Corps or serve in his specialty, or

"(iii) if authorized under subparagraph (C), serve in a health-related activity approved under that subparagraph,

for a period computed in accordance with paragraph (2).

"(B) Any individual who received a National Research Service Award and who is a physician, dentist, nurse, or other individual trained to provide health care directly to individual patients may, upon application to the Secretary, be authorized by the Secretary to—

"(i) serve as a member of the National Health Service Corps, or

"(ii) provide services in his specialty for a medically underserved population (as defined in section 1302(7)),

in lieu of engaging in health research or teaching if the Secretary determines that there are no suitable health research or teaching positions available to such individual.

"(C) Where appropriate the Secretary may, upon application, authorize a recipient of a National Research Service Award, who is not trained to provide health care directly to individual patients, to engage in a health-related activity in lieu of engaging in health research or teaching if the Secretary determines that there are no suitable health research or teaching positions available to such individual.

"(2)(A) The requirement of paragraph (1) applies to an individual if the cumulative period of the award or awards received by the individual exceeds twelve months. Such requirement shall be complied with by any individual to whom it applies within such reasonable period of time, after the completion of such individual's award, as the Secretary shall by regulation prescribe.

"(B) The Secretary shall (i) by regulation prescribe (I) the type of research and teaching which an individual may engage in to comply with such requirement, and (II) such other requirements respecting such research and teaching and alternative service authorized under paragraphs (1)(B) and (1)(C) as he deems necessary; and (ii) to the extent feasible, provide that the members of the National Health Service Corps who are serving in the Corps to meet the requirement of paragraph (1) shall be assigned to patient care and to positions which utilize the clinical training and experience of the members.

"(C) The period of service required by paragraph (1) is computed as follows: For each month in excess of twelve for which an individual holds a National Research Service Award, such individual shall—

"(i) for one month engage in health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment, or, if so authorized, serve as a member of the National Health Service Corps, or

"(ii) if authorized under paragraph (1)(B) or (1)(C), serve for one month in the individual's specialty or engage in a health-related activity.

"(3)(A) If any individual to whom the requirement of paragraph (1) is applicable fails, within the period prescribed by paragraph (2)(A), to comply with such requirements, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula—

$$A=\Phi\left(\frac{t-s}{t}\right)$$

in which 'A' is the amount the United States is entitled to recover; 'Φ' is the sum of the total amount paid under one or more National Research Service Awards to such individual; 't' is the total number of months in such individual's service obligation; and 's' is the number of months of such obligation served by him in accordance with paragraphs (1) and (2) of this subsection.

"(B) Any amount which the United States is entitled to recover under subparagraph (A) shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under subparagraph (A) on account of any National Research Service Award is paid, there shall accrue to the United States interest on such amount at a rate fixed by the Secretary after taking into consideration private consumer rates of interest prevailing on the date the United States becomes entitled to such amount.

"(4)(A) Any obligation of any individual under paragraph (3) shall be canceled upon the death of such individual.

"(B) The Secretary shall by regulation provide for the waiver or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve substantial hardship to such individual or would be against equity and good conscience.

"(d) There are authorized to be appropriated to make payments under National Research Service Awards and under grants for such awards $207,947,000 for the fiscal year ending June 30, 1975, $165,000,000 for fiscal year 1976, $185,000,000 for the fiscal year ending September 30, 1977, $161,390,000 for the fiscal year ending September 30, 1978, $197,500,000 for the fiscal year ending September 30, 1979, $210,000,000 for the fiscal year ending September 30, 1980, $222,500,000 for the fiscal year ending September 30, 1981, $232,991,000 for the fiscal year ending September 30, 1982, and $262,814,000 for the fiscal year ending September 30, 1983. Of the sums appropriated under this subsection, not less than 15 per centum shall be made available for payments under National Research Service Awards provided by the Secretary under subsection (a)(1)(A) and not less than 50 per centum shall be made available for grants under subsection (a)(1)(B) for National Research Service Awards. In any fiscal year not more than 4 per centum of the amount obligated to be expended under this section may be obligated for National Research Service Awards for periods of three months or less.

"VISITING SCIENTIST AWARDS

"SEC. 462. (a) The Secretary may make awards (referred to as 'Visiting Scientist Awards') to outstanding scientists who agree to serve as visiting scientists at institutions of postsecondary education which have significant enrollments of disadvantaged students. Visiting Scientist Awards shall be made by the Secretary to enable the faculty and students of such institutions to draw upon the special talents of scientists from other institutions for the purpose of receiving guidance, advice, and instruction with regard to research, teaching, and curriculum development in the biomedical and behavioral sciences and such other aspects of these sciences as the Secretary shall deem appropriate.

"(b) The amount of each Visiting Scientist Award shall include such sum as shall be commensurate with the salary or remuneration which the individual receiving the award would have been entitled to receive from the institution with which the individual has, or had, a permanent or immediately prior affiliation. Eligibility for and terms of Visiting Scientist Awards shall be determined in accordance with regulations the Secretary shall prescribe.

"STUDIES RESPECTING BIOMEDICAL AND BEHAVIORAL RESEARCH PERSONNEL

"SEC. 463. (a) The Secretary shall, in accordance with subsection (b), arrange for the conduct of a continuing study to—

"(1) establish (A) the Nation's overall need for biomedical and behavioral research personnel, (B) the subject areas in which such personnel are needed and the number of such personnel needed in each such area, and (C) the kinds and extent of training which should be provided such personnel;

"(2) assess (A) current training programs available for the training of biomedical and behavioral research personnel which are conducted under this Act, at or through national research institutes under the National Institutes of Health and institutes under the Alcohol, Drug Abuse, and Mental Health Administration, and (B) other current training programs available for the training of such personnel;

"(3) identify the kinds of research positions available to and held by individuals completing such programs;

"(4) determine, to the extent feasible, whether the programs referred to in clause (B) of paragraph (2) would be adequate to meet the needs established under paragraph (1) if the programs referred to in clause (A) of paragraph (2) were terminated; and

"(5) determine what modifications in the programs referred to in paragraph (2) are required to meet the needs established under paragraph (1).

"(b)(1) The Secretary shall request the National Academy of Sciences to conduct the study required by subsection (a) under an arrangement under which the actual expenses incurred by such Academy in conducting such study will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with such Academy for the conduct of such study.

"(2) If the National Academy of Sciences is unwilling to conduct such study under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such study and prepare and submit the reports thereon as provided in subsection (c).

"(3) The National Academy of Sciences or other group or association conducting the study required by subsection (a) shall conduct such study in consultation with the Director of NIH.

"(c) A report on the results of such study shall be submitted by the Secretary to the Committee on Interstate and Foreign Commerce of the House of Representatives and Committee on Labor and Human Resources of the Senate at least once every two years.

"PART F—GENERAL PROVISIONS

"INSTITUTIONAL REVIEW BOARDS; ETHICS GUIDANCE PROGRAM

"SEC. 471. (a) The Secretary shall by regulation require that each entity which applies for a grant or contract under this Act for any project or program which involves the conduct of biomedical or behavioral research involving human subjects submit in or with its application for such grant or contract assurances satisfactory to the Secretary that it has established (in accordance with regulations which the Secretary shall prescribe) a board (to be known as an 'Institutional Review Board') to review biomedical and behavioral research—

"(1) which is conducted at or sponsored by such entity,

"(2) which involves human subjects, and

"(3) which is supported by Federal financial assistance,

to protect the rights of the human subjects of such research. This subsection does not apply to research which, as determined under regulations of the Secretary, does not involve risk to human subjects.

"(b) The Secretary shall establish a program within the Department under which requests for clarification and guidance with respect to ethical issues raised in connection with biomedical or behavioral research involving human subjects are responded to promptly and appropriately.

"PEER REVIEW

"SEC. 472. (a) The Secretary, after consultation with the Director of NIH, and where appropriate, the Directors of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, and the head of the Division of Nursing of the Health Resources Administration (or the successor to either such entity), shall by regulation require appropriate technical and scientific peer review of—

"(1) applications made for grants and cooperative agreements under this Act for biomedical and behavioral research (including research under programs of such Division of Nursing); and

"(2) biomedical and behavioral research and development contracts to be administered through the National Institutes of Health, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, or the Division of Nursing of the Health Resources Administration (or the successor to any such entity).

"(b) Regulations promulgated under subsection (a) shall require that the review of grants, contracts, and cooperative agreements required by the regulations be conducted—

"(1) in a manner consistent with the system for scientific peer review applicable on the date of the enactment of the Health Research Act of 1980 to grants under this Act for biomedical and behavioral research, and

"(2) to the extent practical, by peer review groups performing such review on or before such date.

"(c) The members of any peer review group established under such regulations shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of the group and not more than one-fourth of the members of any peer review group established under such regulations shall be officers or employees of the United States.

"(d) The Director of NIH shall establish procedures for periodic, technical and scientific peer review of research at the National Institutes of Health. Such procedures shall require that—

"(1) the reviewing entity be provided a written description of the research to be reviewed; and

"(2) the reviewing entity provide the advisory council of the national research institute involved with such description and the results of the review by the entity.

"USE OF APPROPRIATIONS UNDER THIS TITLE

"SEC. 473. Appropriations to carry out the purposes of this title shall be available for the acquisition of land or the erection of buildings only if so specified. Such appropriations, unless otherwise expressly provided, may be expended in the District of Columbia for personal services, stenographic recording and translating services; by contract if deemed necessary, without regard to section 3709 of the Revised Statutes; travel expenses (including the expenses of attendance at meetings when specifically authorized by the Secretary); rental, supplies and equipment, purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings; purchase, operation, and maintenance of passenger motor vehicles; printing and binding (in addition to that otherwise provided by law); and for all other necessary expenses in carrying out the provisions of this title.

"SEC. 474. The Secretary may, in accordance with section 501, accept conditional gifts for the National Institutes of Health or a national research institute or for the acquisition of grounds or for the erection, equipment, or maintenance of facilities for the National Institutes of Health or a national research institute. Donations of $50,000 or over for the National Institutes of Health or a national research institute for carrying out the purposes of this title may be acknowledged by the establishment within the National Institutes of Health or institute of suitable memorials to the donors.".

SEC. 3. (a) The National Advisory Health Council established under section 217 of the Health Service Act is terminated.

(b) Section 217(a) of such Act is amended—

(1) in the first sentence—

(A) by striking out "National Advisory Health Council, the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Dental Research Council" and inserting in lieu thereof "National Advisory Mental Health Council and the National Advisory Council on Alcohol Abuse and Alcoholism"; and

(B) by striking out "by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare" and inserting in lieu thereof "by the Secretary";

(2) in the second sentence—

(A) by striking out "in the case of the National Advisory Health Council, are skilled in the sciences related to health, and";

(B) by striking out "the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, the National Advisory Heart Council, and the National Advisory Dental Research Council" and inserting in lieu thereof "the National Advisory Mental Health Council and the National Advisory Council on Alcohol Abuse and Alcoholism"; and

(C) by striking out ", alcohol abuse and alcoholism, and dental diseases and conditions" and inserting in lieu thereof "and alcohol abuse and alcoholism"; and

(3) by striking out the third sentence.

(c) Subsection (b) of section 217 of such Act is repealed and subsections (c) through (g) are redesignated as subsections (b) through (f), respectively.

(d) Section 222(c) of the Public Health Service Act is amended to read as follows:

"(c) Upon appointment of any such council or committee, the Secretary may delegate to such council or committee such advisory functions relating to grants-in-aid for research or training projects or programs, in the areas or fields with which such council or committee is concerned, as the Secretary determines to be appropriate.".

(e) Section 301(a) of such Act is amended—

(1) in paragraph (3), by striking out "as are recommended" through "for such fiscal year" and inserting in lieu thereof "as are recommended by the advisory council to the entity of the Department supporting such projects or, in the case of mental health projects, by the National Advisory Mental Health Council; and make, upon recommendation of the advisory council to the entity of the Department involved or the National Advisory Mental Health Council, grants-in-aid to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research";

(2) in paragraph (8), by striking out "recommendations of the National Advisory Health Council" through "such additional means" and inserting in lieu thereof "recommendations of the advisory councils to the entities of the Department involved or, with respect to mental health, the National Advisory Mental Health Council, such additional means", and

(3) by adding at the end of the section the following: "The Secretary may not carry out this subsection through a national research institute listed in paragraphs (1) through (11) of section 401(a).".

SEC. 4. The Comptroller General shall evaluate the National Research Service Awards program under section 461 of the Public Health Service Act to determine the effect of the program on the number of physicians who enter the various medical specialties. The Comptroller General shall report the results of such evaluation to the Congress not later than January 1, 1983.

SEC. 5. Section 327(j) is amended (1) by striking out "or (4)" in paragraph (5) and inserting in lieu thereof "(4), or (5)", (2) by redesignating paragraph (5) as paragraph (6), and (3) by adding after paragraph (4) the following new paragraph:

"(5) For the purpose of grants under subsection (a) for preventive health service programs for tuberculosis there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1981, $17,000,000 for the fiscal year ending September 30, 1982, and $19,000,000 for the fiscal year ending September 30, 1983.".

SEC. 6. The Comptroller General of the United States shall study—

(1) the performance of review functions by advisory councils to the national research institutes under section 408(a)(3)(A) of the Public Health Service Act; and

(2) the performance of review under section 472(d) of the Public Health Service Act of research at the national research institutes.

The Comptroller General shall, not later than January 1, 1983, complete the study under this section and report the results of it to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

AMENDMENTS OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc, considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The amendments are as follows:

Amendments offered by Mr. WAXMAN: Page 92, strike out lines 2 and 3 and insert in lieu thereof the following: "and subsections (c), (d), (e), and (g) are redesignated as subsections (b), (c), (d), and (e) respectively.".

Page 94, insert after line 18 the following:

SEC. 7. This Act and the amendments made by this Act do not authorize appropriations for the fiscal year ending September 30, 1980.

Mr. WAXMAN. Mr. Chairman, the two amendments that I have at the desk are technical amendments. One is required by the Budget Act. The provisions of the bill were never intended to take effect until October 1, 1980.

The other amendment is a clarification. It is a renumbering.

I ask that these amendments be approved.

Mr. CARTER. Mr. Chairman, I rise in support of the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. WAXMAN).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. WALGREN

Mr. WALGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALGREN: Page 71, insert after the period in line 12 the following: "Of the sums appropriated for any fiscal year under section 410 for research by the Institute, not less than $16,000,000 shall be obligated for basic and clinical research in the area of regeneration of the spinal cord.".

Mr. WALGREN. Mr. Chairman, I understand the gentleman from Florida (Mr. YOUNG) has a plane to catch and I do not want to interfere with that.

I will be very brief ultimately, but if the gentleman needs to go forward, I would withdraw the amendment.

Mr. Chairman, I withdraw the amendment at this point, and subsequent to the presentation of the gentleman from Florida (Mr. YOUNG), I would like to be recognized.

The CHAIRMAN. The amendment offered by the gentleman from Pennsylvania (Mr. WALGREN) is withdrawn.

AMENDMENT OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Chairman, I offer an amendment, and I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The amendment is as follows:

Amendment offered by Mr. YOUNG of Florida: Page 71, insert after line 12 the following new section:

"REYE'S SYNDROME PROGRAMS

"SEC. 451. (a) The Secretary shall establish, through the National Institute of Neurological and Communicative Disorders and Stroke, the Reye's Syndrome Coordinating Committee (hereinafter referred to in this section as the 'Committee').

"(b)(1) The Committee shall be composed of—

"(A) the Director of the National Institute of Neurological and Communicative Disorders and Stroke;

"(B) the Director of the National Institute of Allergy and Infectious Diseases;

"(C) the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases;

"(D) the Director of the National Institute of Child Health and Human Development;

"(E) the Director of the National Institute of General Medical Sciences;

"(F) the Director of the National Heart, Lung and Blood Institute; and

"(G) the Director of the Center for Disease Control.

"(2) The Director of the National Institute of Neurological and Communicative Disorders and Stroke shall serve as Chairman.

"(3)(A) The Secretary, acting through the Committee, shall make grants to and enter into contracts with public and nonprofit private entities to establish two comprehensive Reye's syndrome diagnostic and treatment centers. Each center shall be located in a single institution.

"(B) A center established under this paragraph shall—

"(i) conduct basic and clinical research relating to the causes, diagnosis, early detection, and treatment of Reye's syndrome;

"(ii) develop new and improved treatments for the detection, diagnosis, and treatment of Reye's syndrome;

"(iii) provide training programs for physicians relating to the early diagnosis, control, and treatment of Reye's syndrome;

"(iv) develop professional education programs and information for physicians relating to the treatment of Reye's syndrome, and disseminate such information;

"(v) develop and disseminate public information relating to Reye's syndrome;

"(vi) disseminate within the scientific and medical communities the results of the research and training conducted under this paragraph; and

"(vii) develop standardized methods of recordkeeping of patient data.

"(C) In considering applications for grants and contracts to establish Reye's syndrome diagnostic and treatment centers under this paragraph, the Committee shall consider among other factors—

"(i) the geographic distribution of reported Reye's cases;

"(ii) the work in progress in Reye's syndrome or similar childhood diseases;

"(iii) the number of persons to be served by the program; and

"(iv) the extent to which rapid and effective use will be made by such centers of funds under such grants and contracts.

"(D) No grant or contract may be made under this paragraph unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(E) The Secretary shall prescribe regulations for the operation of the Committee, and the centers shall report to the Committee from time to time as required by such regulations.

"(F) Grants under this paragraph shall be for no more than three years, except that the Secretary, acting through the Committee, may extend for two additional years the period for grants if he determines, upon review of the activities under the grants by the Committee and consideration of recommendations made by the Committee, that such extension is appropriate.

"(4)(A) The Secretary, acting through the Committee, shall make grants to and enter into contracts with public agencies, nonprofit private entities, and individuals, not associated with the centers established under paragraph (3), to conduct research relating to the diagnosis, control, and treatment of Reye's syndrome. Such grants and contracts shall be for no more than three years.

"(5) The Secretary shall, not later than April 1, 1984, submit a report prepared by the Committee and approved by the Director of the National Institute of Neurological and Communicative Disorders and Stroke, to Congress. Such report shall account for the activities, accomplishments, and progress of the centers and research grants provided by this section, and shall recommend such further action relating to Reye's syndrome as the Committee determines appropriate.

"(6) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(7)(A) For each center established under paragraph (3), there are authorized to be appropriated $750,000 for the fiscal year ending September 30, 1981, $750,000 for the fiscal year ending September 30, 1982, and $750,000 for the fiscal year ending September 30, 1983.

"(B) There are authorized to be appropriated for grants and contracts under paragraph (4), $500,000 for the fiscal year ending September 30, 1981, $500,000 for the fiscal year ending September 30, 1982, and $500,000 for the fiscal year ending September 30, 1983.

Page 71, line 16, strike out "451" and insert in lieu thereof "453".

Page 72, line 4, strike out "452" and insert in lieu thereof "454".

Mr. YOUNG of Florida. Mr. Chairman, I appreciate very much the gentleman from Pennsylvania accommodating me in this matter. I will be very brief.

I offer this amendment in behalf of myself and our distinguished colleague, the gentlewoman from New York (Mrs. FERRARO). This amendment seeks to create a coordinating committee within the National Institutes of Health. It does not create any more bureaucracy. Rather it deals with research relative to Reye's syndrome. Reye's syndrome is a vicious disease that attacks children without warning and in too many cases causes death within hours.

We seek to authorize the appropriation of about $1 million a year more than they are now spending, which is about $1 million, for the purpose of beginning some coordinated research on Reye's syndrome.

The report on the Labor-HEW appropriations bill that we passed yesterday spoke very strongly to the need for a coordinated effort in attempting to find the cause and hopefully a cure to this mysterious disease.

This amendment requests a total appropriation of $6 million over the next 3 years, $1,500,000 for the operation of two Reye's syndrome diagnostic and treatment centers for each fiscal year, and $500,000 for research grants for each fiscal year.

My amendment would provide for the establishment of a Reye's Syndrome Coordinating Committee to make grants to and enter into contracts with public and nonprofit private entities for a 3-year project to establish two comprehensive Reye's syndrome diagnostic and treatment centers.

The centers would serve four basic functions in helping doctors diagnose and treat Reye's syndrome patients. Those functions include: First, conducting basic and clinical research; second, developing new and improved treatments; third, providing physician training programs; and fourth, information services with respect to the detection, diagnosis, and treatment of the disease.

This amendment would also authorize the Reye's Syndrome Coordinating Committee to provide financial assistance to public agencies, nonprofit private entities, and individuals not associated with the centers, to conduct research on Reye's syndrome.

Reye's syndrome is a mysterious condition which follows outbreaks of influenza or other viral diseases, usually affecting children between the ages of 1 and 18 years of age. However, cases have been reported on young adults up to 22 years of age.

No cure or immunizations exist today for Reye's syndrome.

The mortality rate for Reye's syndrome is between 20 to 40 percent. Many children who do survive, however, can suffer severe brain damage, resulting in either a loss of IQ or serious brain malfunctions.

Patients with the best survival and recovery rate, are children who have received prompt and proper medical attention.

The key lies in the diagnosis of the disease. If more doctors were trained to immediately recognize the symptoms and diagnose the disease, which can often be mistaken for influenza complications, more patients would survive.

If the patient survives, the quality of medical care received determines the degree of brain damage that can result in the patient.

Since Reye's syndrome is not among those diseases which must be reported, statistics on its prevalence are difficult to obtain. However, some States, including Florida, have now required that Reye's syndrome cases be reported to the Center for Disease Control in Atlanta, Ga.

The Center for Diseases Control's preliminary figures on known Reye's syndrome deaths during the 1979–80 influenza season total 66 out of 400 reported cases in the Nation.

Reye's syndrome is the second most frequent cause of brain damage related deaths in individuals less than 19 years of age in the United States.

In all honesty, since so little is known about the disease, I really believe that there should be a first step in combating Reye's syndrome, and I believe my amendment is a good start.

I have discussed this at length with the chairman of the subcommittee and the ranking minority member and other members.

Mr. Chairman, I would like to yield at this point to the cosponsor of the amendment, the gentlewoman from New York (Ms. FERRARO).

Ms. FERRARO. Mr. Chairman, I thank the gentleman for yielding. I want to congratulate the gentleman on his leadership in sponsoring this amendment.

Mr. Chairman, I rise in strong support of the amendment. I want to congratulate the gentleman from Florida on his leadership in sponsoring this amendment. As a sponsor of legislation identical to Mr. YOUNG's, I wholeheartedly support incorporation of this amendment into H.R. 7036.

Reye's syndrome is a little-known and lesser understood disease which affects children ages 1 to 18 years. The disease, which often follows viral infections like influenza, chicken pox, or German measles, continues to puzzle the medical profession. Its causes and cures are unknown. Nonetheless, it can be successfully managed if the patient is under the care of a pediatrician, neurologist, neurosurgeon, and anesthesiologist familiar with the disease. Sadly, all too often Reye's is fatal because neither the parents nor the family doctor are aware of the disease and its symptoms.

In 1977, 337 suspected cases of Reye's were reported to the Center for Disease Control. Of those cases where CDC knew the outcome, 49 percent of the patients recovered completely, 12 percent suffered residual neurological damage, and 39 percent died.

The neurological damage, caused by the swelling of the brain, varies from slight IQ alterations to serious brain dysfunctions. The problem of this little known disease was brought to my attention by constituents of mine whose 17-year-old daughter died from Reye's 2 years ago. They have founded a chapter of the National Reye's Syndrome Foundation and are working diligently to educate parents of children who might be afflicted by Reye's. As the mother of three teenage children, I am grateful to them for enlightening me. In supporting this amendment, I hope that we can further the educational process and continue to bring Reye's under control.

Adoption of this amendment will mark a major step forward in this fight. Two diagnostic and research centers would be established to conduct research, train physicians, and develop professional education and public information programs. Each center would be funded at $750,000 a year for fiscal years 1981 through 1983. To assist in the research effort being made by physicians at private facilities, another $500,000 a year would be authorized for research activities not associated with the two centers. All these programs would be administered and coordinated by the Reye's Syndrome Coordination Committee within the National Institute of Health.

I want to stress one aspect of this amendment that I think is particularly important. Obviously there is a need for expanded research in the diagnostic and treatment areas. But perhaps as important in this case is the effort to inform parents of the dangers of Reye's. The disease usually strikes very quickly, and early recognition by parents can be critical in getting the intense, specialized professional care required to control the disease.

In recent months, public service ads on television have alerted many Americans to the dangers of this childhood killer. But more must be done. I am very pleased that one of the functions of the centers established by this amendment will be to develop and disseminate information on Reye's to the public. By alerting parents as well as medical professionals to this disease, we can take major strides towards eliminating the danger it poses.

Mr. Chairman, this amendment would cost a mere $2 million a year to combat a disease that robs us of our most priceless possession—our children. In these times of tight budgets, it is hard to imagine a better way to spend that money. Just 3 years ago, one out of every three children who came down with Reye's died. Today, that figure is down to 1 out of 10. I am hopeful that this amendment, once enacted into law, will eliminate these senseless and tragic deaths entirely. I urge all my colleagues to join me in supporting the gentleman from Florida in this most worthwhile effort.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the chairman.

Mr. WAXMAN. Mr. Chairman, I want the gentlewoman to know that what she has said is an excellent reason why I do not oppose this amendment.

I would like to have the House consider this measure before the author has to leave.

I want to express my appreciation for the support of the gentleman for the work being done at NIH and to encourage them to continue their research on this serious disease.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman very much for his comment.

I yield to the distinguished gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I support the distinguished gentleman's amendment.

Mr. YOUNG of Florida. Mr. Chairman, I thank those who have taken part in this debate and for the support that has been offered for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. YOUNG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WALGREN

Mr. WALGREN. Mr. Chairman, I offer an amendment, and I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The amendment is as follows:

> Amendment offered by Mr. WALGREN: Page 71, insert after the period in line 12 the following: "Of the sums appropriated for any fiscal year under section 410 for research by the Institute, not less than $16,000,000 shall be obligated for basic and clinical research in the area of regeneration of the spinal cord.".

Mr. WALGREN. Mr. Chairman, I will not take the 5 minutes; but subsequent to the markup of this bill in the House Health Subcommittee, the subcommittee held hearings on the status of spinal cord injury research. This amendment comes out of a consensus that I believe grew out of those hearings. I ask the House to support this amendment which would increase the level of research in spinal cord regeneration to $16 million per year. These funds would be used to train new investigative researchers and to fund research proposals that have been previously unfunded because of the lack of adequate funds within the NINCDS, which is the National Institute for Neurological Communicative Disorders and Stroke.

This amendment calls attention to a disability which, by its catastrophic nature, devastates thousands of families every year.

At present, injury to the spinal cord invariably results in permanent paralysis. It is most commonly known as a broken neck resulting in quadriplegia where paralysis affects all four limbs or as a broken back resulting in paraplegia where paralysis affects both legs.

Over 300,000 people suffer from spinal cord injury in the United States. Twenty thousand more are injured each year, losing all sensation or ability to move below the level of their injury, primarily young people 16 to 35 years old, confined to wheelchairs for the rest of their lives.

Each of us has many constituents who are victims of this crippling condition. It results from car accidents, sports related injuries, like football, diving and skiing, wounds of violence like gunshots, as well as mundane accidents, like falling from a ladder or step. None of us is immune. At least 2 of our 434 colleagues have members of their immediate families with broken necks.

Personal and financial loss from spinal cord injury is immeasurable. If you set all personal suffering aside, NIH has testified to our subcommittee that the costs to the Federal taxpayer exceed $2.5 billion per year. This includes medical benefits, rehabilitation costs and social security payments. This $2.5 billion every year is at least doubled by private sector costs. Thus we are speaking of a disability that leads to a loss approaching $7 billion every year.

Where there is real hope, any reasonable person would invest in research to make this expenditure unnecessary.

Until recently, spinal cord injury was a permanent sentence of paralysis. Now there is hope within the medical community that nerve regeneration is possible. Researchers now indicate that major breakthroughs in nerve regeneration are close; not tomorrow, but within the foreseeable future.

It is that hope, small but real, that I ask us to make a reality by committing an additional $8 million per year. This amendment neither adds funds to the bill, nor takes money away from other programs. We ask to designate within the existing NINCDS budget under the bill the expenditure of at least $16 million a year.

I urge the House to act positively to relieve the suffering of spinal cord injury.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. WALGREN. I would be happy to yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to thank the gentleman for yielding and to point out to our colleagues the extensive work the gentleman from Pennsylvania has done in bringing to the attention of the committee the exciting possibilities we now see in the area of spinal cord regeneration.

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The amendment the gentleman is offering is not an additional authorization of funds. It dedicates $16 million to research on regeneration, a modest amount which will not substantially reduce support for other areas of research.

I want to tell the gentleman I fully support the amendment he is now offering. I join him in urging our colleagues to adopt it.

Mr. WALGREN. I thank the gentleman for his support.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. WALGREN. I am happy to yield to the gentleman.

Mr. WHITTEN. I wish to thank the gentleman for offering this amendment and I rise in support of the amendment.

Some years ago I was in Russia and at the airport there was a picture of a dog with a leg having been severed. They presented the story of having successfully replaced it. That was when we knew of nothing like that in this country. We, of course, doubted the accuracy of this story considering how the Russians sometimes exaggerate their accomplishments.

I think when we see the victims of this spinal destruction we certainly owe it to them to pursue any type of progress made in this area. When I saw this picture in Russia years ago about replacing severed limbs, it took our doctors time to catch up with the technique. We should not be afraid of where the expertise is developed but we should get busy and refine the technique. There are many miraculous things that have occurred in the last number of years in the way of transplants, putting back amputations and things of that sort, and I encourage this progress. This amendment goes in the right direction and we should have started this effort a long time ago.

Mr. WALGREN. I thank the gentleman.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. WALGREN. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I rise in support of the amendment offered by Mr. WALGREN.

I have had a close and personal experience with the tragedy of spinal cord injury. I was the parent of a total quadriplegic. This was the result of a tragic senseless accident.

I can testify to the frustration and anger that is felt after an accident like this. In addition, the high costs of rehabilitation is enough to financially ruin most families. The Federal Government already has a financial stake in reducing the devastating effects of spinal cord injury. The No. 1 investment is paying for medical bills through medicaid. No. 2 is paying for rehabilitation. No. 3 is the cost of the loss of not one but three or four members of society, the injured party, the kids, the parents.

I believe that the investment contained in this amendment is inconsequential to the amount of suffering and the cost of rehabilitation and maintenance that results from spinal cord injury.

Congress should not be content to resign our Nation's thousands of quadriplegics to their wheelchairs. I urge your support of the Walgren amendment. It is like a pinhole of light seeping into a dark well at the bottom of which are the helpless, disabled victims of spinal injuries. Into this well we are pouring dollars for support. Let us put in dollars that add hope—support Walgren which will save dollars and hopefully disabled bodies.

Mr. WALGREN. I thank the gentleman for his support.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. WALGREN. I am happy to yield to the gentleman from New York.

Mr. RICHMOND. Mr. Chairman, I rise in support of the Walgren amendment which will give the National Institute of Neurological Communicable Disorders and Stroke an additional $16 million for spinal cord regeneration research.

At least 10,000 Americans become wheelchair-bound each year. This not only causes immeasurable financial and emotional hardship to the victim and his or her family, but it also creates an enormous drain on the Federal Treasury, through subsidies for health care and rehabilitation services.

Other countries have made a concentrated effort to research ways to aid in spinal cord regeneration. This country, sadly, lags far behind in research in this area. It is ironic that the United States, which boasts of its medical superiority to the rest of the world—a country where people come to seek the most advanced medical treatment—is so ineffective in an area of such crucial importance to so many thousands of our fellow Americans.

The Walgren amendment is an essential first effort to bridge this gap in medical services for the victims of spinal cord injuries.

Recent studies have confirmed that massive injections of steroids into the spinal column immediately following an injury have successfully halted permanent nerve damage. For example: last year in Washington, D.C., a man injured in an automobile accident was paralyzed from the neck down by a spinal cord injury. Thanks to quick-thinking physicians using this new technique, the man's motor functions were restored and he was able to resume his life as before.

The Department of Defense is working on a similar chemical treatment for spinal cord injuries, but it, too, requires injections immediately following an injury. Because the success of these procedures depends on the immediate treatment of an injury, they may be effective for only 1 out of 100 spinal cord injuries, but they are a promising start.

The other area that these appropriations will affect is the field of research for chronic spinal cord injuries. The people who are paralyzed as a result of injuries that occurred 5 or 10 years ago are in desperate need of new medical procedures that will free them from their wheelchairs. The steroid treatments will be too late to be of help to them. However, there are several new methods for chronic spinal cord injuries in the developmental stages at New York University, George town University, and other research centers around the country—but, without additional funding, these methods will remain in the developmental stages.

The appropriations for spinal cord research provided by the Walgren amendment may lead to new breakthroughs that will benefit the many thousands of people afflicted by spinal cord injuries.

I strongly urge support of the Walgren amendment.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent Mr. WALGREN was allowed to proceed for 3 additional minutes.)

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. WALGREN. I am happy to yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I would like to urge my colleagues to support the amendment offered by my good friend and colleague from Pennsylvania (Mr. WALGREN).

My congressional district is fortunate to have 1 of the 17 spinal cord injury rehabilitation centers. I have had the opportunity to visit the center at Santa Clara Valley Medical Center in San Jose and to witness the fine program they have established there. But the fact remains that even with rehabilitation the struggle these people face throughout the rest of their lives is overwhelming.

While the rehabilitation work must continue, we also need to direct emphasis to regenerative research on the spinal cord. We have provided funds to programs which seek to enable the spinal cord injured to live with their handicap. We also need to direct funds to a cure.

It is important to point out that this amendment does not increase the authorization level. It merely specifies that regeneration research on the spinal cord be allocated $16 million of the available funds.

Mr. Chairman, I hope my colleagues will agree that this priority should be given and will support this amendment.

Mr. RATCHFORD. Mr. Chairman, will the gentleman yield?

Mr. WALGREN. I yield to the gentleman.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. WALGREN. I am happy to yield to the gentleman.

Mr. FRENZEL. I thank the gentleman for yielding. I thank the gentleman for bringing this amendment to the House. I think it is an important one and I hope it will be supported.

Mr. WALGREN. I thank the gentleman for his support.

● Mr. BRINKLEY. Mr. Chairman, I rise in support of the amendment offered by our distinguished colleague from Pennsylvania (Mr. WALGREN) who has spearheaded the drive for spinal cord regeneration funding. Recent progress in the splicing of severed nerve endings offers great promise, and, as a cosponsor of H.R. 4358, I firmly believe that further research into spinal cord regeneration is absolutely vital.

Today, more than 250,000 Americans suffer spinal cord injuries, with a new injury occurring every 40 minutes. This year alone will see 15,000–20,000 new cases, and over 90 percent of the victims will be under 35 years of age. Every week hundreds of healthy, able-bodied Americans are severely maimed and often permanently paralyzed from tragic car wrecks and accidental falls across this country. I know the personal torment with which they must be faced.

The extreme handicaps endured by paralysis victims demand new treatment programs to ease their pain. I have been heartened to see, firsthand, the exciting programs now being offered to the spinal cord injured at Warm Springs Hospital, in my district. We have now before us, through passage of this amendment, the opportunity to fund crucial spinal cord regeneration research which may enable the lame to walk and to run as freely as each of us in this Chamber can today.

Dr. Donald Tower, Director of the National Institute of Neurological and Communicative Disorders and Strokes, said recently, on the promises of regeneration, "The view that there is no hope of restoring the nerve pathways—the view you would have heard from virtually every scientist not long ago—is no longer held."

Mr. Chairman, let us provide today the research funds that may dramatically decrease the number of victims forced to live a life of dependency, forever confined to Stryker frames and wheelchairs. In good conscience, we can do no less.●

● Mr. MURTHA. Mr. Chairman, I want to congratulate Congressman WALGREN and Chairman WAXMAN for the work they have done on this amendment concerning regeneration research on the spinal cord. I was very pleased to join as a cosponsor of Congressman WALGREN's original bill.

A couple weeks ago, Mr. Chairman, we had a terrible flood in the area of Bradys Bend, Pa. As I toured the area, I met a young man named Carl Stimac. Carl was a student at East Brady High School and a football player. In a game against Karns City High School on October 21, 1978, Carl received an injury that severed his spinal cord, leaving him permanently paralyzed. As difficult as it is for his family during regular times, on the night of the flood as the water rose in the family's basement and entered the kitchen, they had to carry Carl to the second floor and hope the rising water would subside. Finally, it did, but not before they had to use battery radios to keep his resuscitator going. Once the water cleared, they found it had moved the special van used for transporting him at least a quarter of a mile down the stream, and he later told one of my staff, that someone even stole the CB unit out of the van.

I greatly admire the effort by Carl to overcome his difficulties. And we also need to recognize the tremendous courage and dedication of his family.

But I am sure that this story—or a similar one—can be repeated by thousands of families across America whose families have unfortunately had someone incur a serious spinal cord injury. That is why this amendment today is so important—vital, in fact, to get the Nation moving toward finding ways to help these individuals recover.

I strongly support this amendment and urge its adoption.●

Mr. MARRIOTT. Mr. Chairman, I rise in support of the amendment of my distinguished colleague from Pennsylvania.

The total number of people in this country who have suffered spinal cord injuries is conservatively estimated at 200,000. It may well be closer to the estimate of 500,000 offered by the gentleman from Pennsylvania.

The annual national cost of care for persons with spinal cord injury is estimated by the Paralyzed Veterans of America to be in the neighborhood of $3 billion.

To the individual with the injury, the cost is just as great. The PVA estimates that a quadriplegic—a person paralyzed from the neck down—will incur lifetime medical costs of approximately $700,000 to $1 million. Let me emphasize the point that we are talking about the medical costs to a single individual.

To the individual paralyzed from the waist down, a paraplegic, lifetime medical costs are about $250,000 to $500,000.

To these costs must be added the cost of the potential permanent unemployment of the individual: There is an additional cost to the Gross National Product, the loss of personal income taxes, the expense to the Government of disability insurance payments, and additional expenses for other Government programs.

Next to these figures, the $16 million called for by the amendment of my friend from Pennsylvania is a small figure indeed.

I would like to suggest, however, that the cost to society of spinal cord injury is not the only reason to fund additional research in this area. A second equally important reason is that there is a promise of success. In other words, it will be a wise investment of taxpayers' dollars.

Dr. Franklin D. Collins, assistant professor of anatomy at the University of Utah Medical Center, told me—

> This is a very promising area of research. We are beraking ground toward answering questions which may well hold the key to ultimate success in spinal cord regeneration.

In Dr. Collins' words, it has become "almost routine" to restore severed limbs and to restore the functions in parts of the peripheral nervous system. He notes that for some reason, the nerves in the spine and brain, the central nervous system, do not work that way. Dr. Collins says finding the answer to why they do not work that way may hold the key to laying the foundation for an artificial process that will help them regenerate. As one writer put it, "The machinery seems to be there."

In the July 18, 1980, issue of Science magazine, the following observation was made about those attending a conference on spinal cord regeneration:

> The participants came away pleasantly surprised by the news that the potential for regeneration of the neurons of the mammalian central nervous system is greater than they had thought.

That was in 1970, 10 years ago, and we have come a long way since then.

Just last year Dr. Donald Tower, head of the National Institute of Neurological and Communicative Disorders and Stroke, noted—

> The view that there is no hope of restoring the nerve pathways—the view you would have heard from virtually every scientist not long ago—is no longer held.

Research is our only hope for comprehending the complexities of the central nervous system and for putting back together the lives interrupted by spinal cord injury. In very recent years technological advances have made improved and more promising research possible.

In short, the cost of funding spinal cord regeneration research in the amount proposed in this amendment is far from too high. In fact, if anything, given the cost both to society and to the individuals concerned, it may not be high enough.

Second, there is reason to hope the research will bear tangible, measurable fruit.

For these two very important reasons, as well as those stated so eloquently by the gentleman from Pennsylvania, I urge my colleagues to support this amendment.

● Mr. SANTINI. Mr. Chairman, I rise in support of my distinguished colleague, Mr. Walgren's, amendment to H.R. 7036, the Health Research Act.

As the parent of a child born with spinal bifida, I have a personal knowledge of the tragedy caused by spinal defects.

Millions of Americans have spinal cords defects as a result of accident or birth. There is no better way to express our commitment to assisting these individuals than to authorize funds for research on spinal cord regeneration. I can think of no better commitment of government resources than to give someone the ability to walk again.

I am very proud of the efforts of a Nevada-based organization to further research into this area. "Help them walk again" has been instrumental in the search for a method of helping current and future victims of spinal injury. This organization was organized by JoAnne Toadvine of Las Vegas, who has devoted endless energy and personal commitment to this cause. This young organization has brought together some of the world's leading experts on spinal regeneration for international conferences. They have done a great deal to heighten the public's awareness of the tragedy of spinal injury. We all owe a debt of gratitude to Ms. Toadvine and all of the dedicated volunteers in help them walk again.

Mr. Walgren's amendment is an important first step toward achieving this medical breakthrough for which help them walk again has been working with such great enthusiasm. Spinal regeneration is presently only a scientific hope and aspiration. Let us begin to make this dream a reality by passage of this amendment. Thank you.●

● Mr. GOLDWATER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania. The importance of the amendment's cause cannot be underestimated. I would like, at this time, to share with my colleagues a few frightening statistics:

Every 40 minutes, someone will suffer a spinal cord injury; 300,000 spinal cord injured victims are estimated to live in the United States today, with over 10,000 new cases annually; and the cost to the American taxpayer to sustain SCI victims is over $6½ million per day.

Mr. Chairman, spinal cord injuries are a terribly debilitating handicap. The gentleman from Pennsylvania's amendment would require the National Institute of Neurological and Communicative Disorders and Stroke to set aside $16 million of its annual appropriations to study spinal cord regeneration.

I support this amendment. In southern California, a research project has been proposed which would evaluate the relation between sleep disorders and spinal cord injuries. Several of my colleagues and myself have been working hard to support funding for such research in an effort to one day find a cure for spinal cord injuries. This amendment would take one more step in that direction, and deserves the support of this House.●

● Mr. HARRIS. Mr. Chairman, I appreciate the opportunity to speak on behalf of the Walgren amendment, which authorizes $16 million for fiscal year 1981 to finance spinal cord regeneration research.

Mr. Chairman, a day does not pass, a newspaper is not published without an article describing a sporting accident which ends a fine athletic career or a devastating automobile accident which often cuts down a man, woman, or child in the prime of life. If the injury affects the spinal cord, the result usually is some type of paralysis. Although advanced technology allows the spinal cord victim to meet most of the demands of daily living, the human suffering is immeasurable. There is always the threat of deterioration of either physiological, sociological, or the psychological state—and the fear of this is constant. The human cost shows up in the high number of suicides that are reported of paraplegic victims.

Nevertheless, we are not here today to focus on the morbid. Those same newspapers which chronicle the multitudes of stories of spinal injuries are now beginning, with increasing frequency, to report the new discoveries of the possibility of nerve regeneration in spinal cord injury. Scientific papers on the subject have increased from only a few in 1970 to over 500 last year. Experts in the field are excited about new possibilities in finding cures. They, along with those who are suffering from paralysis are looking up to us for the funds necessary for research. The right step has been taken in establishing the interagency task force on spinal cord injury. Now we must act. When we consider the human cost as well as the economic loss to our paraplegics, commonsense as well as compassion demands that Congress support this funding.●

Mr. WALGREN. I would simply urge the support of this amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Walgren).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Collins of Texas: Page 25, line 20, strike out "$1,074,000,000" and insert in lieu thereof "$1,051,600,000".

Page 25, line 21, strike out "$1,220,000,000" and insert in lieu thereof "$1,189,100,000".

Page 25, line 22, strike out "$1,376,000,000" and insert in lieu thereof "$1,345,600,000".

Page 27, line 5, strike out "$570,700,000" and insert in lieu thereof "$551,700,000".

Page 27, line 6, strike out "$648,320,000" and insert in lieu thereof "$630,000,000".

Page 27, line 8, strike out "$731,300,000" and insert in lieu thereof "$713,600,000".

Page 28, line 8, strike out "$393,798,000" and insert in lieu thereof "$350,600,000".

Page 28, line 9, strike out "$447,355,000" and insert in lieu thereof "$395,200,000".

Page 28, line 11, strike out "$504,616,000" and insert in lieu thereof "$446,500,000".

Page 30, line 8, strike out "$80,780,000" and insert in lieu thereof "$79,200,000".

Page 30, line 9, strike out "$91,766,000" and insert in lieu thereof "$89,600,000".

Page 30, line 11, strike out "$103,512,000" and insert in lieu thereof "$101,400,000".

Page 30, line 15, strike out "$248,574,000" and insert in lieu thereof "$243,700,000".

Page 30, line 16, strike out "$282,380,000" and insert in lieu thereof "$275,700,000".

Page 30, line 17, strike out "$318,525,000" and insert in lieu thereof "$312,100,000".

Page 30, line 21, strike out "$241,164,000" and insert in lieu thereof "$236,400,000".

Page 30, line 22, strike out "$273,962,000" and insert in lieu thereof "$267,400,000".

Page 30, line 23, strike out "$309,029,000" and insert in lieu thereof "$302,700,000".

Page 31, line 3, strike out "$78,839,000" and insert in lieu thereof "$77,300,000."

Page 31, line 4 strike out "$89,561,000" and insert in lieu thereof, "$87,400,000".

Page 31, line 5, strike out "$101,025,000" and insert in lieu thereof "$98,900,000".

Page 31, line 8, strike out "$163,000,000" and insert in lieu thereof "$127,800,000".

Page 31, line 9, strike out "$180,000,000" and insert in lieu thereof "$144,600,000".

Page 31, line 11, strike out "$200,000,000" and insert in lieu thereof "$163,600,000".

Page 31, line 15, strike out "$279,268,000" and insert in lieu thereof "$273,800,000".

Page 31, line 16, strike out "$317,248,000" and insert in lieu thereof "$309,900,000".

Page 31, line 18, strike out "357,856,000" and insert in lieu thereof "$350,600,000".

Page 31, line 22, strike out "$360,600,000" and insert in lieu thereof "$353,500,000".

Page 31, line 23, strike out "$409,642,000" and insert in lieu thereof "$399,900,000".

Page 31, line 24, strike out "$462,076,000" and insert in lieu thereof "$452,400,000".

Page 32, line 3, strike out "$96,834,000" and insert in lieu thereof "$94,900,000".

Page 32, line 4, strike out "$110,003,000" and insert in lieu thereof "$107,400,000".

Page 32, line 5, strike out "$124,083,000" and insert in lieu thereof "$121,500,000".

Mr. COLLINS of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to to the request of the gentleman from Texas.

There was no objection.

Mr. COLLINS of Texas. Mr. Chairman, I have a very lengthy amendment. Basically there has been a change in this amendment situation since yesterday, but I wanted to tell my colleagues what was involved when our committee made our authorization in this bill. My amendment would simply authorize an increase in the 1980 appropriation of 13 percent rather than 21 percent, which is what we authorize for 1981 in the bill that we have before us. The 13-percent figure is based on the fact that President Carter next year anticipated 13-percent inflation, and also was based on the fact that 13 percent is about what we have been maintaining in the normal appropriations of this type.

But what happened is this, and it is discouraging that we do it in our legislative process: We took up yesterday the appropriation bill before we got to this authorization bill. In other words, the House has already appropriated the money, and today we come in here and talk about authorizing it.

Yesterday was quite an appropriation. Most of the Members probably did not realize how much money we appropriated because we handled the bill so fast. But we appropriated in this one appropriation bill, we appropriated $274,398,000,000. We passed through $274 billion, and it was only later that I learned from my distinguished friend from Kentucky (Mr. CARTER) that this section had been part of it. Yesterday we had a most lengthy appropriation. I want to say this about the $274 billion appropriation because I commend them for the way they handled it. They came through with less of an appropriation on this section than we had authorized. In other words, in our authorization we were talking about increasing 21 percent, but in their overall appropriation they only had increased it by 11 percent.

Basically we are talking in this bill about a very, very serious issue. We are talking about legislating a 3-year authorization. What does it mean to have a 3-year authorization when we do not even pay any attention to the first year, and we go ahead and authorize and appropriate? It is just a mumbo-jumbo system.

The second thing we are talking about is health. The way to cover health by authorization is just the way the distinguished gentleman from Pennsylvania (Mr. WALGREN) did when he brought out this spinal cord issue and everyone here saw the value of it. They have the opportunity to discuss research and developments which is what authorizations are all about. It is to have a consensus viewpoint. But for Congress, for Congress, a bunch of laymen, to try and define what should be the medical research of the country, is just beyond my comprehension.

What we are doing in this authorization bill is going at it the wrong way. To prove how we go at it in the wrong way, we started out by asking for a 21-percent increase when Appropriations had not asked for that much themselves. Now when we talk about health, let us remember Congress is a very generous group. Our appropriations are most generous, our authorizations are always generous.

Today health makes up 50 percent, 50 percent of the budget of this country.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman.

Mr. STAGGERS. I appreciate what the gentleman is saying. I know he is very sincere. Does the gentleman know that during the Second World War, when we faced that crisis in the security of this Nation, every item that the military needed had to come before an authorizing committee for an authorization before it went to the Appropriations Committee. If we do not do that here in peacetime, if we do not take the time for such an important step, I think it would be a great mistake.

Mr. COLLINS of Texas. I would tell the chairman that I was over in France at the time that they were using that procedure. We won the war. Now let us help Congress maintain a sound peace.

Mr. STAGGERS. I was in the Pacific. I was injured in the Pacific. So I was a part of the war. I know that the military had to come every year to get an authorization and an appropriation. I think if we can do that in the time of war, then we can take the time to do that in a time of peace.

Mr. COLLINS of Texas. Of course in time of peace we have a different budget situation. At the time of the war most of the money was going for immediate war commitments.

□ 1350

Now while we are spending so much on health, I would rather the doctors determine how we spend it on health instead of having technical medical decisions being made by Congressmen sitting here in the House.

Mr. Chairman, I yield back the remainder of my time.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I rise in strong opposition to this amendment which would reduce the amount of money that we are going to authorize for the work being done at the National Institutes of Health. The authorizations included in this bill indicate our commitment to biomedical research. It is at a higher level, as it turns out, for 1981 than the Committee on Appropriations has appropriated, but that is not unusual. Often the authorization committees authorize sums in excess of what the Committee on Appropriations is willing to spend. This is understandable because the Committee on Appropriations has the authorizations as their maximum ceiling. I think we ought to keep the committee authorization levels as an indication of our clear commitment to fight these dreaded diseases. We are talking about cancer, heart, lung and eye diseases. Let us keep our support clear and strong for that work that is being done.

I would hope that the Members would join me in opposing this amendment.

Mr. DANNEMEYER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, in a perfect world, there would be little reason to object to anything in this bill. Everyone is for health research and all of us acknowledge the tremendous contribution the National Institutes of Health have made over the years in terms of medical research breakthroughs. But, sad to say, this is not a perfect world; 1980 is not a year in which we, as a nation, can financially afford anything and everything our governmental heart desires. Rather, 1980 has been a year when the weakness of our financial position has been all too evident; its susceptibility to inflationary spurts all too obvious. Moreover, succeeding years could be even worse if we do not correct the one thing that has been most responsible for 1980 having been a year of high inflation, high interest rates, higher unemployment, and recession. And, that one thing is excess Federal spending, authorized and then appropriated by the Congress.

The bill we have before us today is essentially a trade-off. In exchange for being subjected to the authorization as well as the appropriation process, the 11 National Institutes of Health are authorized even bigger increases in spending then they have enjoyed in recent years. Specifically, the authorization level called for in H.R. 7036 is 28.2 percent higher, for fiscal 1981, than the level of appropriations provided the Institutes in 1980. Then, for fiscal 1982, another 13-percent increase is contemplated, followed by a 12.9-percent increase in 1983.

While I am not sure how we can expect to reduce inflation by increasing spending to compensate for it, there is a certain degree of logic in the 13-percent and the 12.9-percent increases for fiscal 1982 and 1983. It is the 28.2-percent increase in fiscal 1981 that seems out of line, especially in view of the fact that appropriations for NIH only increased 9.3 percent in fiscal year 1980 and 15.5 percent the year before that.

Since the increase in spending by NIH increased 13.12 percent these last 2 years, the amendment I am supporting today would simply continue that trend. Rather than authorization increases of 28.2, 13, and 12.9 percent, it would provide that authorizations under section 410 of this bill would increase by 13.12 percent each of the next 3 fiscal years. Adoption of this amendment would result in a savings of $503 million over the 3-year period; $147.1 million the first year, $174.2 million the second year, and $182.6 million the third.

For past experience, I know the counter-argument will be—it is only half a billion—a mere drop in the bucket compared to total Federal spending—and the money is going for a cause near and dear to the hearts of all Americans—good health. But drops in the bucket add up. Just last week similar arguments were offered in support of a mental health bill that will triple authorization levels by fiscal year 1984. Next week, or the week after, it will be a health manpower bill calling for an authorization increase of 19.2 percent in fiscal 1981. And then it will be medicare and medicaid reform bills that will add almost a billion dollars to spending by 1985. Where do we draw the line? When do we start worrying about the financial health of the American taxpayer? And why is there no recognition of the fact that worry over how to raise a family in the face of rising taxes and inflation can, and does, cause both physical and mental health problems for a great many people. In fact, worry and strain are a major contributory factor to ill health in this country.

I could go on, but rather than do so, just let me add one final thought; the quicker we put the Nation's financial house in order, the more money will be available for health research—if not from public sources then from private ones. After all, everyone benefits from a healthy economy, including the foundations that, along with NIH, have done so much to promote health research. What we are arguing here is not the end result, but the means of obtaining it, and I think this amendment offers a better way with less risk for all concerned. I urge its adoption.

Mr. CARTER. Mr. Chairman, I move to strike the last word. What I say on this will be extremely brief.

I strongly oppose the amendment offered by the distinguished gentleman from Texas (Mr. Collins). I believe the health of our country is much more important than the small authorization diminutions that the sponsors of this amendment recommend. Actually, we authorized more to give their appropriations more flexibility in case they need more funds for breakthroughs or to pursue possible promising research results. I would hate to oppose money which would help us to find the cause or the cure for cancer.

Some years ago we had appropriation legislation for HEW vetoed, and it was brought up here and overridden. At that time the statement was made that 1 in every 4 had the possibility of having cancer. Within that year, before the year was out, the Vice President's wife had cancer and the President's wife had cancer. You remember that. As it happens, fortunately, both of them are well as far as we know today.

We want to continue to improve our methods of treatment. We want to find the cause of these diseases, and we cannot do it without assistance. We cannot do it by cutting back. We have got to regard the poor and the sick and to do something for them, as I see it.

I strongly oppose the amendment, and I move the previous question.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Collins).

The question was taken; and on a division (demanded by Mr. Rousselot), there were—ayes 4, noes 15.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. MOFFETT

Mr. MOFFETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moffett: Page 53, line 8, strike out "and"; insert "and" at the end of line 10; and insert after that line the following:

"(4) an information and education center for kidney, urologic, and hematologic diseases,".

Page 54, begining in line 17, strike out "and digestive diseases" and insert in lieu thereof "digestive diseases, and kidney, urologic and hematologic diseases".

Page 55, line 3, strike out "and" and in line 4 insert after "Committee" a coma and the following: "and a Kidney, Urologic, and Hematologic Diseases Interagency Coordinating Committee".

Mr. MOFFETT (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

☐ 1400

Mr. MOFFETT. Mr Chairman, I will not take a great deal of time with this amendment. It is fairly straightforward.

Before yielding to the chairman of the subcommittee, as I understand we spent $790 million on kidney dialysis last year and in about 20 percent of the cases, if we had early detection of the symptoms we could have avoided a great deal of expenditure.

This simply says that those information dissemination systems that the distinguished gentleman from Kentucky was speaking about earlier with regard to heart, lung, and blood and with regard to diabetes should also be instituted for kidney disease. Kidney disease affects more than 52,000 persons nationally and costs the Feds $791 million last year through the renal dialysis program. Twenty percent of patients on dialysis are there primarily because of high blood pressure problems which, had they been detected earlier, could have been treated and the need for dialysis averted. An education center for kidney diseases could publicize some of the symptoms of kidney disease and prevent perhaps millions of dollars of expenditures for treatment of the disease. As things are now, little is known about the disease or how to spot it, yet when it hits, it is brutal.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

The amendment would focus greater attention on research on kidney disease. It is a conforming amendment to committee amendments on arthritis and diabetes.

Mr. Chairman, we do not object to the amendment.

Mr. MOFFETT. Mr. Chairman, I thank the gentleman for his support.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, we support the amendment.

Mr. MOFFETT. Mr. Chairman, I thank the gentleman from Kentucky and I salute him on his service on the Committee on Interstate and Foreign Commerce.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. Moffett).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HOPKINS

Mr. HOPKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hopkins: Page 62, insert after line 20 the following:

"(d) The Secretary, acting through the Institute, shall conduct a clinical investigation of the safety and efficacy of dimethylsulfoxide as a drug to be used by persons with arthritis. The Secretary shall report to Congress not later than one year after the date of the enactment of this subsection the results of the investigation conducted under this subsection.

Mr. HOPKINS. Mr. Chairman, I am pleased to have the opportunity to offer an amendment of such significance to the health of older Americans, but I cannot take all the credit here. I am indebted to several of my colleagues, and I want the record to reflect that without their tireless efforts, we would not have this chance. The Select Committee on Aging first brought DMSO to national attention, and I want to thank the chairman of the committee, as well as the gentlewoman from Ohio, Mary Rose Oakar, and the gentleman from Illinois, Marty Russo, who serve with me on the committee. Another one of our colleagues, the gentleman from Oregon, Bob Duncan, has supplied his support and encouragement. The efforts of these individuals should be noted by senior citizens all over this country.

Mr. Chairman, 31 million Americans of all ages suffer from the crippling disease known as arthritis. One in every seven Americans is a victim of arthritis, and someone new is added to this list every 33 seconds. While there is no known cure for arthritis, there are certainly no shortages of quack remedies and fake cures for arthritis sufferers.

There is, however, an inexpensive chemical compound which appears to offer significant relief from the nagging aches and pains which accompany this chronic disease. My amendment simply directs the National Institute of Arthritis to conduct a clinical study of this promising remedy, known as dimethylsulfoxide, or DMSO. The purpose of the study is to determine the safety and effectiveness of DMSO in helping to relieve some of the pain and suffering experienced by these 31 million Americans every day.

DMSO is not a new drug: It is not a rare drug: And it is not an expensive drug. DMSO costs about $4 a quart to produce and it is a byproduct of the manufacture of paper. The medicinal possibilities of DMSO first came to light in the United States in the early 1960's when it was discovered that DMSO is rapidly absorbed into the skin. Since that time it has been approved for human use in a dozen other countries. But in the United States DMSO is approved for only one rather rare bladder disease in humans, and for veterinary use.

Doctors have testified before the House Select Committee on Aging that DMSO significantly reduces pain, inflammation, and swelling, and helps promote healing in soft tissue injuries. Professional athletes have indicated that use of DMSO is widespread among their ranks. Yet for the average American suffering from arthritis, the drug is officially off limits, because the Food and Drug Administration is adamant in its refusal to approve DMSO and persistent in its attempts to discredit DMSO proponents.

Nor are future prospects very bright that DMSO will ever be available except in bootleg form. Again, DMSO is not rare and it is not expensive. But few firms are willing to devote their private resources to the testing and development of a substance commonly found in nature, cheap to produce, and in all probability not patentable. The income potential is simply not there to meet their investment criteria. Thus, there are no tests presently being conducted to determine the value of DMSO for use by patients with arthritis.

Mr. Chairman, I am not a doctor or a scientist, nor do I claim to be an expert. But I do know when it is time to turn a problem over to the experts for their study and analysis and at this time we need a study of DMSO.

The situation at present is that thousands of Americans are going abroad, primarily to Mexico, to obtain DMSO treatments at outrageous prices. Thousands more are treating themselves at home with DMSO that they obtain from their veterinarians in a concentration designed for horses, not humans; or DMSO that they obtain from their hardware store, where it is sold as an industrial solvent; or DMSO they obtain through the mails from Oregon or Florida, where it is legal, but again at prices a 100 times what it costs to produce, and with no guarantees as to quality.

Efforts on the part of the administration to discourage the use of DMSO by the public must, in my opinion, be combined with vigorous efforts to pursue research into its safety and effectiveness. Public demand and scientific doubts where DMSO is concerned will only be put to rest through efforts to establish the truth.

It is time for an objective, unbiased study to determine once and for all whether or not DMSO is the ray of hope 31 million arthritis suffers in this country are praying for. It is time to put to rest the false claims and false hope. For these reasons I ask my colleagues to vote for my amendment to direct the National Institute of Arthritis to conduct a clinical study of DMSO for use by patients with arthritis.

The research dollar will seldom be as wisely spent, nor will the potential rewards be as significant. By taking this step, we may be able to place a low-cost and effective pain reliever in the hands of millions who will otherwise continue to experience chronic pain.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

There have been many reports pro and con on the DMSO drug. I think it is important that the claims of both the proponents and opponents of the drug be scientifically examined.

Mr. Chairman, I have no objection to this amendment here today.

Mr. PEPPER. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I yield to the gentleman from Florida.

Mr. PEPPER. Mr. Chairman, I am pleased to support Congressman LARRY HOPKINS, an able member of the House Select Committee on Aging, concerning his amendment to H.R. 7036, the Health Research Act of 1980, to call upon the National Institute on Arthritis to undertake tests on the effectiveness of DMSO.

Dimethylsulfoxide (DMSO) is a liquid byproduct derived from the manufacture of paper. Its medicinal possibilities were first brought to attention in America in the early 1960's.

DMSO can reach the bloodstream within seconds when applied to the skin. It is commonly given in ointments to be used topically or sometimes by injection.

There is little doubt but that DMSO is effective in reducing pain caused by arthritis, that it is effective in helping to reduce swelling and promote healing in soft tissue injuries. It may have value in healing skin ulcers such as those produced by the disease, scleroderma. It may be useful in helping to promote healing in first- and second-degree burns, in limiting damage of spinal cord injuries, and in relieving intracranial pressure caused by head injuries. It is an open question as to whether it helps arthritics: It does relieve pain but no one knows whether it reduces the inflammation which is the underlying cause of the pain. In addition to its other properties, DMSO heightens the effect of other drugs and may be useful acting as a carrier of other substances through its absorption qualities through the skin.

The House Select Committee on Aging conducted an investigation and hearings which helped confirm the effectiveness of DMSO as an analgesic. Former team physicians with pro sports teams testified in generous terms about the drug's ability to help reduce swelling and promote healing of soft tissue injuries. In addition, literally thousands of letters and testimonials have been received by the committee since its March 24, 1980, hearings. Responses to committee questionnaires to veterinarians and rheumatologists also supplied a good deal of support for the use of the drug. Medical researchers testified about its potential in stroke victims, and in patients with scleroderma and intracranial pressure.

Witnesses at the committee's hearing, including representatives of the Food and Drug Administration, testified that DMSO is a relatively safe drug; garlicky breath and some minor skin irritations are the most common side effects; although a few people may be hypersensitive to the drug and may suffer allergic responses.

The FDA has approved the drug for use in animals for some time, and in 1978, approved its use in humans for treatment of a bladder condition known as interstitial cystitis. It should be noted that before the FDA can approve the use of a drug in man, they must reach the determination: First, that it is safe; and second, that it is effective. The safety question has not been in doubt, at least not since 1978.

In order to clear up any confusion, a recent statement by the FDA warns against the unsupervised use of DMSO. Many people have been buying industrial grade DMSO which may contain impurities. The combination of DMSO with impurities may cause harm. Since DMSO is a carrier which penetrates the skin, there is a danger that other drugs mixed with it may enter the bloodstream. It should be understood that DMSO is not a patent medicine; it must be prescribed and used under the direction of a physician.

The obvious question is: What is holding up FDA approval for the use of DMSO in humans for conditions other than cystitis? The answer is that the FDA must have objective double blind scientific studies which prove effectiveness. The problem is that the FDA does not initiate tests. The FDA must wait for major drug companies to come forward and ask to test a product for certain uses. Since DMSO is an agent commonly found in nature, and produced easily and inexpensively, it is not thought to be patentable. Drug companies ask why they should spend millions to get FDA approval when there is no assurance that they will have the exclusive right to market the drug if it is approved. Because of its status, DMSO has been included in a category of so-called orphan drugs.

Mr. Chairman, there is a significant amount of anecdotal evidence that DMSO may be helpful to older Americans and particularly to the 31 million U.S. citizens—most of them elderly—who suffer from the pain of arthritis. DMSO has been approved for use in about a dozen foreign countries. Two States, Oregon and Florida, have passed their own laws legalizing the use of DMSO by physicians. Physicians can not lose their licenses for prescribing DMSO in those States. Since DMSO has such a great potential for good and so few side effects associated with its use, I believe it is incumbent on Government to test the drug and to report to the American public on its value at the earliest possible date.

The bill I introduced with Congressman HOPKINS, H.R. 7023, which now has more than 100 cosponsors, and which is the substance of this amendment, would call upon the National Institute on Arthritis to undertake testing on the value of DMSO in arthritis and report back to the Congress within a year. The National Institute is certainly a highly respected organization whose results would gain immediate acceptance. We need the kind of professional judgment that they can bring to this issue and we need it fast. As I noted, there seems to be little doubt but that DMSO relieves the pain of arthritis. There also seems to be no doubt but that it relieves swelling associated with the disease. The remaining question is: Does it relieve the inflammation which is the underlying cause of the disease? Veterinarians are convinced that it does so. Rheumatologists see the potential and have suggested the kind of tests that our amendment would make possible.

Mr. Chairman, I hope the amendment will be adopted. I believe there will be tremendous benefit to the American people if it is enacted. I would like to commend Congressman HOPKINS for his work in this area as well as Mike Wallace and CBS "60 Minutes" who helped bring the matter to the attention of the public.

Mrs. HECKLER. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I will be delighted to yield to the gentlewoman from Massachusetts.

Mrs. HECKLER. Mr. Chairman, I rise in support of the Hopkins amendment to the Health Research Act, H.R. 7306.

It is unfair to millions of Americans who are in daily pain from arthritis to keep DMSO (dimethylsulfoxide) in limbo. The drug offers hope for relief from the anguishing pain of a crippling illness that strikes both young and old. Certainly DMSO should be tested. Substantial evidence indicates it will meet the standards of the medical profession. After these necessary hurdles, DMSO should be marketed.

An estimated 31 million Americans have arthritis: 5 million of them are disabled. Arthritis causes more prolonged pain to more Americans than any other disease. Since DMSO has the potential to relieve a great deal of that suffering, it could provide one more tool in the arsenal of pain relief.

This amendment directs that a clinical investigation of the safety and efficacy of DMSO as drug for arthritis sufferers be conducted through the National Institute of Arthritis, Metabolism and Digestive Diseases and that the Secretary of Health and Human Services report to the Congress no later than 1 year after the date of enactment the results of the investigation.

I believe the drug will be a standard form of relief for arthritis in the future. It has proven its potential. This amendment provides the vital first step of required testing. Let us take that step to make giant strides for millions of arthritis sufferers.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I do yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, first I want to express my support for this legislation, H.R. 7036 and commend Chairman STAGGERS, Mr. WAXMAN, Mr. CARTER and the members of the Subcommittee on Health and the Environment for their work. I take this time to rise in support of Mr. HOPKINS' amendment to fund a study of the drug dimethylsulfoxide. Persons who have successfully used DMSO or worked with it maintain that it has some very beneficial properties. According to their reports, it can stop pain; aid in the healing of soft tissue injuries, such as bruises; and because it is quickly absorbed into the bloodstream, carry with it other drugs.

Because of the attention DMSO has received through the CBS television program "60 Minutes" and a hearing by the Select Committee on Aging, there is now widespread knowledge in our country about the existence of this drug. The hopes of millions of people suffering from musculo-skeletal diseases have been elevated. Indeed, I have heard from some 80 people in my own State of Arkansas, ranging from aged arthritis victims to a little 3-year-old girl suffering from myositis ossificans—a terrible condition which causes her muscles to become calcified. Some of these people have the means to travel to States or countries where they can get the drug and believe that it is helpful to them; others who are not so well off desperately want this drug to be accessible in the hope that it may alleviate their pain.

I am sure that some of my colleagues who are unfamiliar with the history of DMSO testing are questioning the need for an NIH study of the drug when a mechanism for the testing of drugs exists under the auspices of the FDA. The experience with DMSO illustrates a weakness in our drug certification system; because the agency does not initiate new drug studies but must wait for researchers to conduct them, the public is sometimes unnecessarily deprived of remedies and treatments which are badly needed. At the time of our hearing by the Aging Committee, the FDA had reached a real logjam in trying to certify DMSO for use by arthritis patients because all studies to date had not been of sufficient quality to offer definitive evidence and because no pharmaceutical companies or research organizations had applied to conduct new studies. A study by the National Institute of Arthritis would break this logjam and give us some quick and definitive answers about the potential of this drug.

It is wrong for persons suffering from chronic pain to be tantalized by the possibility that a substance which may bring them relief exists but is out of their reach. A well-controlled and responsible study on the drug by the National Institute of Arthritis could once and for all substantiate the claims about it or put persistent theories about it to rest.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I will be delighted to yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I assume this amendment is offered out of a sense of the gentleman's frustrations at the delay in getting protocols approved by the Food and Drug Administration. Is that correct?

Mr. HOPKINS. That is correct.

Mr. DUNCAN of Oregon. I share that same frustration that the gentleman feels. I have been working on this since about 1963. In the course of that 17-year period, FDA has approved this drug for use on a single disease, interstitial cystitis.

Now, Mr. Chairman, when they have approved it that means they have found it to be safe. They have also found it to be efficacious for this particular purpose. Once they found it safe for the interstitial cystitis it seems to me you are over that obstacle as to whether or not the drug has any substantial adverse impact on the patient, and it does not. It has been used as widely, I think, as almost any other drug in its particular stage of development and the only really substantial adverse impact that you find is the odor and sometimes a slight tingling of the skin.

While in the Senate hearings recently there were some suggestions made of ocular changes, those have never been verified in human beings. My colleague from Ohio (Ms. OAKAR) will introduce into the RECORD at the appropriate point a complete rebuttal from Dr. Scherbel of the Cleveland Clinic.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. DUNCAN of Oregon and by unanimous consent, Mr. HOPKINS was allowed to proceed for 2 additional minutes.)

Mr. DUNCAN of Oregon. The gentleman's amendment, as far as I can tell, does not take away from the Food and Drug Administration the ultimate responsibility for determining safety and efficacy with respect to arthritis. Am I correct on that?

Mr. HOPKINS. The gentleman is correct.

Mr. DUNCAN of Oregon. I appreciate your answer. I do not believe that the Congress is the proper body to make decisions of a technical nature with respect to drugs and drug use. What we are hoping to do, and what the gentleman hopes to do, and I join in the gentleman's hope, is that a test devised by this Institute on the 2 questions of safety and efficacy, the vital questions that FDA must decide, will be very persuasive to the Food and Drug Administration and, in any event, by close cooperation in developing the test, between the Institute and FDA, a test may be devised that FDA will be willing to accept. Thus far, they have not accepted any.

I share the gentleman's frustrations, I congratulate him on his efforts. I hope his efforts are successful and that FDA will note that if the Congress can do this with arthritis they will also be able, willing, and anxious to do it with burns and bursitis and tendonitis and all of the other ailments in which there has been demonstrated some degree of hope for people suffering from an otherwise incurable disease.

Mr. HOPKINS. I appreciate the gentleman's remarks. I certainly want to note the contribution the gentleman has made over the years, bringing this along to where it is today.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Chairman, I rise in support of the amendment. The drug dimethylsulfoxide (DMSO) has been used industrially as a solvent since the 1940's. Currently, it is also used for the treatment of a chronic bladder disorder. In addition, a good deal of evidence has been gathered by health professionals which suggests that DMSO might have further use as an effective treatment for pain and swelling of diseases of the connective tissue, such as arthritis. This discovery has given new hope to those members of our society who suffer from arthritis and, since many of these people are elderly, I have taken a great deal of interest in the drug in my capacity as ranking minority member of the Select Committee on Aging.

In March of this year, the committee held hearings on DMSO. In those hearings, a number of qualified medical professionals testified as to the efficacy of the drug. The consensus was that, while the evidence is not conclusive, there is a substantial body of evidence to suggest that DMSO is effective in the treatment of arthritis. However, further testing is needed before the drug can meet the efficacy standards of the Food and Drug Administration. As you are aware, this involves a long and costly process wherein a drug company is required to obtain an investigational new drug application and conduct a number of tests on the drug under application. In order for a drug company to undertake such an enterprise, it obviously must be able to assure itself of a reasonable return on its investment. In the case of DMSO, it would appear that this is not possible since the molecule is in wide use and not considered patentable. Thus, progress has been slow and millions of Americans who suffer from arthritis have been denied what might prove to be an effective treatment.

Mr. Chairman, I feel that the study required by the amendment of the gentleman from Kentucky is fully justified.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I will be delighted to yield to the gentlewoman, a member of the Select Committee on Aging.

Ms. OAKAR. Mr. Chairman, this disease affects millions of Americans with arthritis, bursitis, and so forth. This is a nontoxic drug. We have had countless doctors say it works.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Ms. OAKAR and by unanimous consent, Mr. HOPKINS was allowed to proceed for 5 additional minutes.)

Ms. OAKAR. Will the gentleman continue to yield?

Mr. HOPKINS. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Dr. Scherbel, who is head of rheumatology at the internationally known Cleveland Clinic in my city, has done the tests that FDA wants. The problem is that they are absolute obstructionists. I hate to be cynical about the FDA because we like to think it is an objective asset of our Government However, I have come to the conclusion—I do not say this lightly, believe me—I think they are absolutely biased when it comes to this drug, I think that they have people who they have put on these research committees and they have not done the research. The people who have done the research who are Harvard Medical School graduates, heads of departments of internationally known hospitals, are the ones who can show the cases, and have tried to bend over backward to meet this criteria. Yet the FDA will not approve this drug for common ordinary diseases like arthritis.

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I have to say that I personally have come to the conclusion that the FDA may be unduly influenced by the very, very powerful drug lobbies around here who produce drugs such as aspirin and cortisone, which commonly is used—and sometimes effectively—to treat arthritis. They do not want to see an inexpensive drug that is nontoxic, that cannot hurt one at all, take the place of these more expensive drugs.

I want to quote at this point from a letter by Dr. Scherbel to the FDA Commissioner, who testified at the Kennedy hearing, and I have to say I was somewhat disappointed in the manner in which that was conducted, but nevertheless he says:

> CLEVELAND CLINIC,
> *Cleveland, Ohio, August 7, 1980.*
>
> Dr. JERE GOYAN,
> *Commissioner, Food and Drug Administration, Rockville, Md.*
>
> DEAR DR. GOYAN: I am deeply concerned about the recent testimony that was presented by FDA officials at the Kennedy hearing last week regarding ocular toxicity resulting from the administration of DMSO. This is truly a gross misrepresentation of the facts. Several nationally known opthalmologists studied these patients and concluded that DMSO was not responsible for the cataracts. This information was sent to FDA before the Kennedy hearing.
>
> Those few patients, who are considered by FDA to have cataracts resulting from DMSO administration, actually had myopic changes or cataracts prior to the administration of the drug. All patients were in the age group where cataracts are likely to occur. All patients had serious connective tissue disease and were treated with corticosteroids before and during DMSO administration. Some patients had inflammatory eye lesions as a complication of their connective tissue disease. It is well known that cataracts may appear in this situation.
>
> As a result of the distorted testimony presented by FDA, DMSO is now receiving unwarranted, adverse publicity through the news media. This matter appears to me to be of such serious nature that I am requesting you to issue a statement of clarification. Another alternative would be to schedule an open hearing on the DMSO controversy at your earliest convenience. I would appreciate hearing from you as soon as possible.
>
> Sincerely yours,
> ARTHUR L. SCHERBEL, M.D.

Dr. Scherbel implies that the FDA has misrepresented the results of his research at a recent Kennedy hearing on DMSO. There are many other doctors who feel that the FDA is biased about this drug. The FDA has repeatedly withheld approval of this drug "for lack of sufficient data." Yet they do not question the harmful side effects of aspirin or cortisone. Mr. Chairman, DMSO could help millions of Americans with arthritis, bursitis, and scleroderma. It is a nontoxic, inexpensive drug which has one side effect—it produces a garlicy breath odor. I think the American people ought to know that the FDA is not serving their interests. It is a shame that we have to go to another objective group to do this kind of research when they, the FDA, are shirking their duties.

So, I want to commend the gentleman and certainly support this unfortunate but necessary amendment.

Mr. HOPKINS. I thank the gentlewoman.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I will be delighted to yield.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding. I congratulate him on his amendment, and I do hope that it is universally supported.

I know it is getting redundant at this time, but I have to underscore the words of the gentleman from Oregon and the gentlewoman from Ohio—except that I do not share the conclusion of the gentlewoman from Ohio as to why the FDA does its work so poorly

There would be no need for this kind of an amendment if the FDA were an effective, efficient agency of the U.S. Government. Instead, they have totally failed their responsibilities, and denied millions of Americans a potential cure when all the facts would indicate that there is no harm from the use of this drug.

The FDA, I think, in its counterproductive and clumsy way, is about to reach the pinnacles of ineptitude previously achieved only by the FTC and the EPA. It is rapidly becoming the most counterproductive agency of the Federal Government.

I congratulate the gentleman from Kentucky, and I think the time is not far when the Members of this body are going to have to rise up and strike down some of these agencies which cannot do the people's work in a more effective manner.

I do not think there is any way the conduct of FDA can be justified in this particular instance, in the nitrite instance, and even in the saccharin instance. They have a repeated history of blunders which I believe are going to jeopardize the very existence of the agency of the future.

Mr. Chairman, I thank the gentleman for yielding.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, some 10 years ago I was on the Commerce Committee. At that time, I attempted to get some kind of definite statement from the FDA regarding this DMSO drug. I was not successful then. For some 10 years at least they have ducked this issue. At least, the amendment the gentleman is offering is for a time certain, and making them do something of a definitive nature.

It is time we do it. None of us are saying that it has got to be the drug. We do not know that, but this vacillating has got to stop.

I thank the gentleman for yielding.

Mr. HOPKINS. Mr. Chairman, I thank the gentleman for his remarks, and I thank the many other colleagues who have spoken. I think it is just time for the FDA quit dragging its feet. They have done it for over 15 years. This amendment is straightforward. It gives them 1 year.

● Mr. MINISH. Mr. Chairman, I would like to compliment the gentleman from Kentucky on his amendment to the Health Research Act, which would initiate an immediate clinical investigation of the efficacy of dimethylsulfoxide, or DMSO, in treating arthritis and other painful diseases.

There has been a great deal of publicity lately some of it exaggerated or sensationalized, about DMSO. The hearings conducted by Select Committee on Aging earlier this year revealed that the medical community is somewhat divided in its opinion of this drug. Unfortunately, many people who are in real pain have had their hopes of relief raised by reports of this "wonder drug" only to be frustrated by its unavalaibility. The Government appears in their eyes to be keeping a drug they desperately want off the market for reasons of bureaucratic redtape.

Even if this perception may not be entirely accurate, we here have the responsibility to these many afflicted people to get the information we need to make an informed decision about DMSO. There is a vast body of medical literature about this subject, compiled over the years, yet no definitive conclusions have been reached. A 1-year study with a mandated reporting deadline can give us the information we need now; otherwise, the uncoordinated research efforts could drag on inconclusively for years. Although concentrating on applications of DMSO to arthritis, this research may turn up information useful in relieving other conditions as well.

I have heard from my constituents who feel that this drug could free them from lives of daily suffering. When their Government is keeping DMSO off the market, we owe it to them to change this policy or tell them why we can not. This amendment will allow us to do just that. Thank you.●

● Mr. RATCHFORD. Mr. Chairman, I rise today to lend my support to the amendment to House Resolution 7036, which would direct the National Institute of Arthritis, Metabolism and Digestive Diseases to conduct a study of the safety and effectiveness of DMSO—dimethyl sulfoxide, for use by patients with arthritis.

Over 32 million citizens, including 20 million older Americans, suffer from arthritis. Presently the most frequently prescribed pain reliever for the treatment of this disease is aspirin. Arthritis sufferers have long sought a more effective treatment, and many health authorities believe that DMSO is that treatment.

Dimethyl sulfoxide—DMSO, is a low-cost, easily produced byproduct from the manufacture of paper, which can be rapidly absorbed into the bloodstream when applied to the skin. Advocates of DMSO have said it is a new "miracle drug," equal in importance to penicillin or aspirin; opponents argue that it is unproven and ineffective.

Doctors, researchers and DMSO-users who appeared before the House Select Committee on Aging, and the Senate Committee on Labor and Human Resources, described DMSO's effectiveness in reducing the pain, inflammation and stiffness associated with arthritis, bursitis, tendonitis and scleroderma. Despite these claims, there have been no ongoing studies to establish the possible effectiveness of DMSO, in the long term treatment of arthritic diseases. The Food and Drug Administration refuses approval of DMSO, because it has insufficient scientific data.

This situation is unacceptable to the millions of Americans, who suffer from arthritis, and the thousands who go abroad each year for DMSO treatments or pay exorbitant prices for DMSO here in the United States. However, within the United States the drug is already available legally in Oregon and Florida.

What is necessary is an objective evaluation so that the value of DMSO for use by arthritis sufferers can be established conclusively. This amendment, sponsored by Congressman Claude Pepper and Larry Hopkins, would require the National Institute on Arthritis to conduct appropriate tests and report back to Congress within a year. The cost involved in conducting such a study would be a fraction of the national research commitment, while the proportional benefits are enormous.

When this proposal was introduced as House Resolution 7023, more than 100 Members of the House cosponsored it. By funding this study we will learn definitely about the benefits of DMSO and we may be able to provide a low-cost, effective relief to the millions of Americans who now suffer from chronic pain due to arthritis.●

● Mr. RUSSO. Mr. Chairman, I would like to take this opportunity to speak in support of Mr. Hopkins' amendment that would mandate the National Institute of Arthritis, Metabolism, and Digestive Disease to undertake clinical studies of the effectiveness of the drug dimethyl sulfoxide (DMSO) for use by patients suffering from the pain and discomfort of arthritis.

All of us know people who are suffering from aching joints caused by arthritis, rheumatism, and bursitis. These friends and constituents deserve relief so they can be free to live normal productive lives. There are some 20 million Americans who are in this position, yet there is a drug that may be readily available today, and no drug company is willing to test it—DMSO.

The situation is further complicated by the Food and Drug Administration's inability to sanction the marketing of a drug unless it has been proven safe and effective. The FDA cannot do this unless a pharmaceutical company is willing to do the testing. Unfortunately, to date, no drug company is willing to undertake the clinical studies because production of DMSO would produce little or no profit.

This situation is particularly unfortunate because all available data indicates that DMSO can relieve and cure arthritis and related ailments from between 70 to 90 percent of the time, and, yet, the side effects are minimal—only garlicky breath and some minor skin irritations.

As I see it, this dilemma between the needs of those ailing from arthritis and related diseases and the FDA and the pharmaceutical companies must be resolved. However, we must be cautious and not market DMSO before the necessary research is completed to determine if the drug is both safe and effective. It is for these reasons that I stand in support of Mr. Hopkins' amendment. I strongly believe the National Institute of Arthritis, Metabolism, and Digestive Diseases should begin research on DMSO, immediately. Let us now act so that research on DMSO can go forth, and maybe someday soon many of those 20 million Americans suffering from arthritis can be relieved of the nagging pain. I ask my colleagues to support the Hopkins amendment to the Health Research Act.●

● Mr. BONKER. Mr. Chairman, for the past 18 years I have been hearing about DMSO. While I was a staff aid on the Senate Special Committee on Aging in the early 1960's hearings and investigations were being conducted. Now in the 1980's we on the House Select Committee on Aging and Senator Kennedy are still holding hearings. The time for action is now. Further delay is unconscionable.

In the intervening 20 years, tens of thousands of people have lived with the aches and pain of arthritis, bursitis, and a variety of other ailments. And that suffering may have been unnecessary.

Definitive studies on the safety and efficacy of DMSO must be undertaken at once. Where there is a possibility, a probability, that pain can be relieved or lessened—we must follow up all the leads.

I have received several hundred letters on this subject—all of them requesting congressional action on DMSO. The writers are not just arthritis sufferers and senior citizens. In my State there is a Downs' syndrome child who—according to her mother, her teacher, her neighbors, and her doctor—has been helped enormously by DMSO treatments. Not only have some of the physical characteristics associated with Downs' syndrome abated, but her mental acuity and functioning have improved as well; scleroderma—a little known disease which results in ulcerated fingers and toes may also be responsive to DMSO. A staff member of mine addressed a conference in Seattle where one of the participants mentioned a critically ill mother. When it was clear that she was suffering from scleroderma my staff person said:

> If you had said "scleroderma" to me a week ago, it would have meant nothing. But last week the Aging Committee held hearings on an experimental drug, DMSO, that has been used with some success—maybe it could help your mother.

DMSO is a story of foot dragging by the FDA, of overzealous—at times—sales techniques by its proponents. It is a story of claims and refutations. But above all it is a story of people. We can do no less than support this amendment to insure that properly controlled and executed tests are carried out to establish the safety and efficacy of DMSO. As a cosponsor of H.R. 7023, I wholeheartedly urge passage of Mr. Hopkins' amendment.●

● Mr. CARTER. Mr. Chairman, I believe it extremely important in regard to this amendment that we have the benefit of the views of FDA Commissioner Goyan. Therefore I am inserting in the Record at this point a press release regarding DMSO.

Food and Drugs Commissioner Jere E. Goyan today expressed concern about the widespread use of DMSO (dimethyl sulfoxide) for the treatment of arthritis and similar conditions.

Many people started treating themselves with DMSO following recent television reports about the drug.

Human use of DMSO is approved by FDA only for the treatment of a painful bladder condition called chronic interstitial cystitis. There is no generally accepted evidence the drug is either safe or effective in treating arthritis and bursitis.

Dr. Goyan said:

> People are taking a risk whenever they use a substance of unknown quality and effect on the basis of a TV show.
>
> FDA is eager for researchers to test DMSO to see whether it is safe and effective for conditions besides interstitial cystitis. We are working with the company marketing DMSO as a human drug to see that studies capable of yielding meaningful results are carried out.
>
> In the meantime, it's risky business to drink, inject or apply to the skin any substance not intended for that purpose.

Clarifying its own position on DMSO, the Arthritis Foundation recently said it "did not and does not 'endorse' DMSO for arthritis. What we do endorse is the idea that it might have limited usefulness as a pain reliever, and we are urging that the necessary testing of this possibility be carried out and an appropriate application be made to the FDA for approval for such limited use."

Since DMSO, a byproduct of the papermaking industry, is available as an industrial solvent, and also is approved for use in horses and dogs, people can readily obtain it. People apparently are using both types of DMSO to treat themselves. They are ingesting it as well as applying it to their skin; in some instances, it is being injected directly into the body.

Dr. Goyan said such use is risky for a number of reasons:

The industrial grade DMSO is not of the quality used for drug treatment of humans and is not made under conditions that are necessary for the production of human drugs.

The safety of DMSO in high concentrations and large amounts has not been established. Animal studies suggest that DMSO can affect the eyes and could cause loss of visual acuity or eye damage. Other side effects associated with its use include nausea, headache, and skin rash.

Since DMSO is a "carrier" chemical, it could also deliver harmful substances into the bloodstream if they are present in impure DMSO or are on the skin.

DMSO treatments are being offered in many facilities that were created solely to administer DMSO. It is sold through the mails and in stores as well. FDA is investigating to determine the scope of the problem and will take appropriate regulatory action if needed.

DMSO has been used industrially since the 1940's. Tests of DMSO as a human drug began in the mid 1960's and the drug has been tested for a number of purposes. An evaluation of DMSO in 1972 by the National Academy of Sciences concluded that it lacked scientific evidence of effectiveness for the treatment of any disease. NAS said further study was necessary.

In 1978, following the submission of studies, FDA approved it for treatment of interstitial cystitis. The agency is currently evaluating data on the use of DMSO in treating scleroderma, a crippling disorder involving the hands and other tissues in the body.

The Arthritis Foundation has said that DMSO does not appear to be the "wonder drug" it once promised to be. Dr. Goyan agreed, pointing out that the drug has been tested for a plethora of disease conditions, including mental retardation, retinitis pigmentosa, and genital herpes. Most of these studies, however, have been discontinued because of failure to prove effectiveness. Other conditions for which it is currently being tested include joint and spinal cord injuries.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. HOPKINS).

The amendment was agreed to.

Mr. ALBOSTA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in 1973 the fire retardant polybrominated biphenyl (PBB) was inadvertently mixed into livestock feed in Michigan. This contamination affected thousands of farm animals, resulting in their death or destruction.

Unfortunately, until the source of the contamination was determined, substantial amounts of PBB contaminated the meat and milk produced in those farms hit by PBB. The bloodstream of the people in Michigan, particularly in my area of Michigan and where farmers consume their own products, was infiltrated by this toxic chemical.

When I was in the Michigan Legislature, I served as chairman of a special committee that investigated the PBB incident in Michigan. I came away from those deliberations a very concerned man—concerned that the people I represented were not being protected from a hazardous situation they had no control over. It is with this concern that I came to the U.S. Congress in 1979. And, it is with this concern that I seek the chairman's clarification in this matter.

A study is currently being undertaken in the National Institute of Environmental Health Sciences into the effects of PBB on the human system. The results of this study, which are due within the year, will confirm my own thoughts as to the dangers of PBB. I have one problem with the study being undertaken, however. The current analysis includes people from all over the State of Michigan. Such a sample heavily favors those individuals who do not live on or near a farm that was contaminated by PBB. This suggests that such weighting would downplay the severity of the health ailments associated with PBB contamination. I would thus like to see a study of the people in two particular counties in Michigan that have been hit the hardest by this chemical. Comparing those two counties with two others in different areas of the Nation would provide a more accurate guide to the problems brought on by PBB.

Another study that I feel is vital would be of the environmental impact of PBB. Such a study, which I plan to request, would look into the toxicity level of PBB and the effect such contamination has on the land. In addition, the proper method of disposal and methods of clean-up of the chemical would be examined by the NIEHS under such a study.

I would like to ask the chairman of the subcommittee whether it would be in the spirit of the legislation before us today to authorize the two studies I referred to in my statement?

I would like to ask the chairman of the subcommittee whether it would be in the spirit of the legislation before us today to authorize the two studies I referred to in my statement?

Mr. WAXMAN. Mr. Chairman, I appreciate Mr. ALBOSTA's concern for the safety and well-being of the people in his congressional district and the State of Michigan. In my opinion as chairman of the subcommittee with jurisdiction over that agency I believe that the studies on the health effects of PBB which you mention in your statement would be well within the scope of authority of the National Institute of Environmental Health Sciences.

Mr. ALBOSTA. I thank the gentleman.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN: Page 94, insert after line 18 the following:

SEC. 7. (a) Whenever in this section (other than in subsections (k) and (l)(1)) an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

(b) The second sentence of section 1501 (b)(1) (42 U.S.C. 300k–1(b)(1)) is amended by striking out "in" and inserting in lieu thereof "including those in".

(c) Section 1513(g)(2) (42 U.S.C. 300l–2 (g)(2)) is amended by striking out "three years" and inserting in lieu thereof "five years".

(d) Section 1516(d)(3) (42 U.S.C. 300l–5(d)(3)) is amended (1) by inserting after "of subsection (c)(1)" the following: "(but without regard to the dollar limit prescribed by subparagraph (A)(ii))", and (2) by inserting before ", to the extent" the following: "no such agency shall receive a grant in excess of $3,750,000 and".

(e) The first sentence of section 1524(c)(6) (42 U.S.C. 300m–3(c)(6)) is amended by striking out "section 409" and inserting in lieu thereof "section 409 or 410".

(f) Section 1527(b)(3)(B) (42 U.S.C. 300m–6(b)(3)(B)) is amended (1) by striking out "that (i)" and inserting in lieu thereof "that", (2) by striking out ", which intends to acquire the controlling interest or which intends to use the facility is" and inserting in lieu thereof "which intends to acquire the controlling interest in or use the facility is (i)", (3) by striking out "and (ii)" and inserting in lieu thereof "and", and (4) by striking out "or the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (1)" and inserting in lieu thereof ", or (ii) a health care facility which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (B) of paragraph (1) and with respect to its patients meets the requirements of clause (iv) of such subparagraph".

(g) The last sentence of section 1531(3) (42 U.S.C. 300n(3)) is amended (1) by striking out "An individual" and inserting in lieu thereof "Notwithstanding subparagraph (B), an individual", and (2) by striking out "an entity" and inserting in lieu thereof "one or more entities".

(h) Section 1531(5) (42 U.S.C. 300n(5)) is amended by striking out "maintained or developed by the Department of Commerce and".

(i) Section 1531(6) (42 U.S.C. 300n(6)) is amended by adding at the end the following: "The term 'capital expenditure' does not include an expenditure made by or on behalf of a health care facility for health research at the facility if the obligation of the expenditure or the operating costs of the research will not affect the charges of the facility for the provision of medical or other health services, if the research will not involve the provision of such services to patients of any health care facility, and if the person making the expenditure files a notice with the State agency of the State in which the facility is located describing the nature of the research and providing assurances satisfactory to the State agency that the expenditure or operating costs will not affect such charges and the research does not involve the provision of medical or other health services to patients of any health care facility. A notice required by the preceding sentence respecting an expenditure shall be made in writing and filed with the appropriate State agency at least thirty days before any contractual arrangement is entered into to make the expenditure.".

(j) Section 1532(b)(12)(D) (42 U.S.C. 300n–1(b)(12)(D) is amended by striking out "administratively".

(k) Section 124(c) of Public Law 96–79 (93 Stat. 627) is amended to read as follows:

"(c)(1) section 1524(b)(1)(C) is amended by striking out 'one-third' and inserting in lieu thereof 'one-half'.

"(2) Section 1524(b)(1)(D) is amended (A) by striking out 'two' and inserting in lieu thereof 'one', and (B) by striking out 'an ex officio' and inserting in lieu thereof 'a nonvoting, ex officio'.".

(l)(1) Section 129(b)(2)(A) of Public Law 96–79 (93 Stat. 630) is amended by striking out "Health Planning and Resources Development Amendments of 1979" and inserting in lieu thereof "Health Planning Technical Amendments of 1980".

(2) Section 1521(d)(1)(B)(i) (42 U.S.C. 300m(d)(1)(B)(i)) is amended by striking out "Health Planning and Resources Development Amendments of 1979" and inserting in lieu thereof "Health Planning Technical Amendments of 1980".

(m) Section 338(a) (42 U.S.C. 254k(a)) is amended (1) by striking out "and" after "1979;", and (2) by adding before the period a semicolon and the following: "and $94,000,000 for the fiscal year ending September 30, 1981".

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Chairman, my colleagues, this amendment is the text of the bill, H.R. 7911, which passed the House on Monday on the Suspension Calendar without objection by any Member. By including this bill as an amendment to the pending matter, we can expedite its passage by the Congress.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I strongly support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DAN DANIEL) having assumed the chair, Mr. WEISS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7036) to amend the Public Health Service Act to revise and extend the authorities under that act relating to national research institutes, and for other purposes, pursuant to House Resolution 765, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. COLLINS of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 292, nays 48, not voting 92, as follows:

[Roll No. 506]

YEAS—292

Akaka
Albosta
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.Dak.
Annunzio
Archer
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boggs
Bolling
Bonior
Bonker
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Cheney
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Conable
Conte
Corcoran
Corman
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Dornan
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fascell
Fazio
Ferraro
Findley
Fisher
Fithian
Florio
Ford, Tenn.
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Lee
Lehman
Leland
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moore
Moorhead, Calif.
Murphy, Pa.
Musto
Myers, Ind.
Neal
Nedzi
Nelson
Nolan
Oakar
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Porter
Preyer
Price
Pritchard
Quayle
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Rodino
Rose
Rosenthal
Roybal
Royer
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shelby
Simon
Skelton
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
Stack
Staggers
Stangeland
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yatron
Zablocki

NAYS—48

Andrews, N.C.
Ashbrook
Badham
Bauman
Beard, Tenn.
Buchanan
Burgener
Campbell
Collins, Tex.
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Edwards, Ala.
Fenwick
Forsythe
Fountain
Hansen
Holt
Jeffries
Kazen
Kelly
Leach, Iowa
Levitas
Lott
McDonald
Michel
Montgomery
Natcher
O'Brien
Paul
Petri
Pickle
Pursell
Quillen
Roberts
Robinson
Rousselot
Rudd
Sabo
Schulze
Sensenbrenner
Shumway
Shuster
Solomon
Stenholm
Stump
Taylor

NOT VOTING—92

Abdnor
Addabbo
Alexander
Anthony
Applegate
Ashley
AuCoin
Barnard
Blanchard
Boland
Boner
Bouquard
Bowen
Brademas
Breaux
Brooks
Brown, Ohio
Butler
Carney
Chappell
Cleveland
Collins, Ill.
Conyers
Cotter
Davis, S.C.
Devine
Dodd
Donnelly
Downey
Early
Edgar
Emery
Evans, Ind.
Fary
Fish
Flippo
Foley
Ford, Mich.
Gephardt
Giaimo
Gibbons
Hanley
Harsha
Hinson
Holland
Hollenbeck
Holtzman
Ichord
Leach, La.
Leath, Tex.
Lederer
Long, La.
Lundine
McHugh
Mathis
Mavroules
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Nichols
Nowak
Oberstar
Obey
Panetta
Pashayan
Peyser
Railsback
Roe
Rostenkowski
Roth
Russo
Shannon
Smith, Iowa
St Germain
Stanton
Symms
Vanik
Whitehurst
Whitley
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

□ 1430

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Railsback.
Mr. Zeferetti with Mr. Stanton.

Mr. Hanley with Mr. Young of Florida.

Mr. McHugh with Mr. Symms.

Mr. Cotter with Mr. Abdnor.

Mr. Boland with Mr. Cleveland.

Mr. Barnard with Mr. Harsha.

Mr. Brademas with Mr. Winn.

Mr. Breaux with Mr. Butler.

Mr. Murphy of New York with Mr. Whitehurst.

Mr. Nichols with Mr. Emery.

Mr. Mottl with Mr. Hollenbeck.

Mr. Russo with Mr. Young of Alaska.

Mr. St Germain with Mr. Brown of Ohio.

Mr. Wright with Mr. Carney.

Mr. Obey with Mr. Roth.

Mr. Panetta with Mr. Pashayan.

Mr. Mathis with Mr. Hinson.

Mr. Lederer with Mr. Fish.

Mr. Giaimo with Mr. Devine.

Mr. Dodd wtih Mr. Bowen.

Mrs. Bouquard with Mr. Myers of Pennsylvania.

Mr. Murtha with Mr. Vanik.

Mr. Whitley with Mr. Charles H. Wilson of California.

Mr. Yates with Mr. Nowak.

Mr. Young of Missouri with Mr. Moorhead of Pennsylvania.

Mr. Mollohan with Mr. Edgar.

Mr. Flippo with Mr. Leach of Louisiana.

Mr. Fary with Mr. Evans of Indiana.

Mr. Downey with Mr. Donnelly.

Mr. Foley with Mr. Shannon.

Mr. Ford of Michigan with Mr. Lundine.

Mr. AuCoin with Mr. Boner of Tennessee.

Mr. Anthony with Mr. Applegate.

Mr. Alexander with Mr. Ashley.

Mr. Brooks with Mr. Blanchard.

Mr. Murphy of Illinois with Mr. Peyser.

Mr. Roe with Mrs. Collins of Illinois.

Mr. Chappell with Mr. Conyers.

Mr. Davis of South Carolina with Mr. Smith of Iowa.

Mr. Ichord with Mr. Gephardt.

Mr. Long of Louisiana with Ms. Holtzman.

Mr. Mavroules with Mr. Leath of Texas.

Mr. Gibbons with Mr. Holland.

Mr. Rostenkowski with Mr. Oberstar.

Mr. PETRI changed his vote from "yea" to "nay."

Mr. COURTER changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 765, the Committee on Interstate and Foreign Commerce is discharged from the further consideration of the Senate bill (S. 988) entitled the "Health Sciences Promotion Act of 1980."

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Waxman moves to strike out all after the enacting clause of the Senate bill, S. 988, and to insert in lieu thereof the provisions of the bill, H.R. 7036, as passed, as follows:

That this Act may be cited as the "Health Research Act of 1980".

Sec. 2. Title IV of the Public Health Service Act is amended to read as follows:

"TITLE IV—NATIONAL RESEARCH INSTITUTES

"Part A—National Institutes of Health

"ORGANIZATION OF NIH

"Sec. 401. (a) The National Institutes of Health is an agency of the Service. The following national research institutes are agencies of the National Institutes of Health:

"(1) The National Cancer Institute.

"(2) The National Heart, Lung, and Blood Institute.

"(3) The National Institute of Arthritis, Metabolism, and Digestive Diseases.

"(4) The National Institute on Aging.

"(5) The National Institute of Allergy and Infectious Diseases.

"(6) The National Institute of Child Health and Human Development.

"(7) The National Institute of Dental Research.

"(8) The National Eye Institute.

"(9) The National Institute of Neurological and Communicative Disorders and Stroke.

"(10) The National Institute of General Medical Sciences.

"(11) The National Institute of Environmental Health Sciences.

"(12) Each national research institute established by the Secretary under subsection (b).

"(b)(1) The Secretary may establish in the National Institutes of Health one or more additional national research institutes to conduct and support research, training, health information, and related programs relating to any particular disease or groups of diseases or any other aspect of human health when the Secretary determines that an additional institute is necessary to carry out such activities.

"(2) Any institute established under paragraph (1) may be abolished and its functions transferred elsewhere in the National Institutes of Health upon a finding by the Secretary that a separate institute is no longer required for such purposes.

"(3) In lieu of the establishment under paragraph (1) of an additional institute with respect to any disease, diseases, or other aspect of human health the Secretary may expand the functions of any national research institute so as to include functions with respect to such disease, diseases, or other aspect of human health, and the Secretary may terminate such expansion and transfer the functions given such institute elsewhere in the National Institutes of Health upon a finding by the Secretary that such expansion is no longer necessary. In the case of any such expansion of an existing institute, the Secretary may change the title of the institute so as to reflect its new functions.

"(c) For purposes of this title, the term 'national research institute' means a national research institute referred to in subsection (a).

"APPOINTMENT AND AUTHORITY OF DIRECTORS OF NIH

"Sec. 402. (a) The National Institutes of Health shall be headed by the Director of the National Institutes of Health (hereinafter in this title referred to as the 'Director of NIH') who shall be appointed by the President by and with the advice and consent of the Senate. The Director of NIH shall perform functions as provided under subsection (b) and as the Secretary may otherwise prescribe.

"(b) The Secretary, and the Director of NIH pursuant to such delegation as the Secretary may prescribe—

"(1) shall be responsible for the overall direction of the National Institutes of Health and for the establishment and implementation of general policies respecting the management and operation of programs and activities within the National Institutes of Health;

"(2) shall coordinate and oversee the operation of the national research institutes and other administrative entities within the National Institutes of Health;

"(3) for the national research institutes and other administrative entities within the National Institutes of Health—

"(A) may—

"(i) after consultation with the National Institutes of Health Advisory Board, acquire and construct, and

"(ii) improve, repair, operate, and maintain,

laboratories, other research facilities, other facilities, equipment, and other real or personal property (including patents), and

"(B) may acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adajacent to the District of Columbia for use for a period not to exceed ten years;

"(4) may secure resources for research conducted by or through the National Institutes of Health;

"(5) may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, establish such technical and scientific peer review groups as are needed to carry out the requirements of this title and appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service on such groups;

"(6) shall assure that research at the National Institute of Health is subject to review in accordance with section 472;

"(7) may secure for the National Institutes of Health consultation services and advice of persons from the United States or abroad;

"(8) may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(9) may, for purposes of study, admit and treat at facilities of the National Institutes of Health individuals not otherwise eligible for such treatment;

"(10) may accept voluntary and uncompensated services; and

"(11) may perform such other administrative functions as the Secretary determines are needed to carry out effectively this title.

The Secretary may make available to individuals and entities, for biomedical and behavioral research, substances and living organisms. Such substances and organisms shall be made available under such terms and conditions (including payment for them) as the Secretary determines appropriate.

"(c)(1) The Secretary, after consultation with the National Institutes of Health Advisory Board, may obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of service) the services of not more than two hundred experts or consultants, with scientific or other professional qualifications, for the National Institutes of Health.

"(2)(A) Except as provided in subparagraph (B), experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed, in accordance with title 5, United States Code, for their travel and other expenses associated with their assignment.

"(B) Expenses specified in subparagraph (A) shall not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1) unless the expert or consultant has agreed in writing to complete the entire period of the assignment or one year of the assignment, whichever is shorter, unless separated or reassigned for reasons which are beyond the control of the expert or consultant and which are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for such expenses is recoverable from the expert or consultant as a debt due the United States.

"(d) There shall be in the National Institutes of Health an Assistant Director to whom the Director of NIH shall delegate the function of promoting the prevention, education, and health information programs of the national research institutes and coordinating such programs between the institutes and between the institutes and other public and private entities.

"NATIONAL INSTITUTES OF HEALTH ADVISORY BOARD

"SEC. 403. (a) The Secretary shall appoint a National Institutes of Health Advisory Board (hereinafter in this section referred to as the 'Advisory Board'). The Advisory Board shall advise, consult with, and make recommendations to the Secretary and the Director of NIH with respect to the functions under section 402 and with respect to the policies to be followed in the exercise of such functions.

"(b)(1) The Advisory Board shall consist of—

"(A) twelve members appointed by the Secretary from among the leading representatives of the health and scientific disciplines;

"(B) five members appointed by the Secretary from leaders in each of the fields of public policy, law, health policy, economics, and management and one member appointed by the Secretary from the general public; and

"(C) such nonvoting, ex officio members as the Secretary may designate to assist the Advisory Board in carrying out its functions.

Not less than four of the appointed members of the Advisory Board shall be experts in public health or the behavioral or social sciences.

"(2) Members of the Advisory Board who are officers or employees of the United States shall not receive any compensation for service on the Advisory Board. The other members of the Advisory Board shall receive, for each day they are engaged in the performance of the functions of the Advisory Board, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime.

"(c) The term of office of an appointed member of the Advisory Board is four years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and of the members first appointed to the Advisory Board—

"(1) five members shall be appointed for a term of three years,

"(2) five members shall be appointed for a term of two years, and

"(3) three members shall be appointed for a term of one year,

as designated by the Secretary at the time of appointment. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of four years may not be reappointed to the Advisory Board before two years from the date of the expiration of such term of office. If a vacancy occurs in the Advisory Board, the Secretary shall make an appointment to fill the vacancy not later than ninety days from the date the vacancy occurred.

"(d) The chairman of the Advisory Board shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of NIH to be the chairman of the Advisory Board. The term of office of the chairman shall be two years.

"(e) The Advisory Board shall meet at the call of the chairman or upon the request of the Director of NIH, but at least four times in each fiscal year. The Advisory Board may hold such hearings, take such testimony, and sit and act at such times and places as the Advisory Board deems advisable to carry out its functions.

"(f) The Director of NIH shall designate a member of the staff of the National Institutes of Health to serve as the executive secretary of the Advisory Board. The Director of NIH shall make available to the Advisory Board such staff assistants, information, and other assistance as it may require to carry out its functions. The Director of NIH shall provide orientation and training for new members of the Advisory Board to provide them with such information and training as may be appropriate for their effective participation in the functions of the Advisory Board.

"(g) In carrying out its functions the Advisory Board may appoint subcommittees, convene workshops and conferences, and collect data.

"(h) The Advisory Board shall prepare, for inclusion in the annual report under section 404, an annual report respecting the activities of the Advisory Board and including its recommendations respecting the program policies of the Secretary and the Director of NIH.

"ANNUAL REPORT

"SEC. 404. The Secretary shall transmit to the President and to the Congress an annual report which shall be prepared by the Director of NIH and which shall consist of—

"(1) a description of the activities carried out through the National Institutes of Health and the policies respecting the programs of the National Institutes of Health, a five-year plan for such activities and policies, and such recommendations respecting such policies as the Secretary deems appropriate;

"(2) without revision, the annual report of the National Institutes of Health Advisory Board; and

"(3) the annual reports of the Directors of each of the national research institutes and, without revision, the annual report of the advisory council for each such institute.

Each report shall be submitted not later than November 30 of each year and shall relate to the fiscal year ending on the preceding September 30.

"Part B—General Provisions Respecting National Research Institutes

"APPOINTMENT AND AUTHORITY OF THE DIRECTORS OF THE NATIONAL RESEARCH INSTITUTES

"SEC. 407. (a) The Director of the National Cancer Institute shall be appointed by the President, and the Directors of the other national research institutes shall be appointed by the Secretary.

"(b)(1) With respect to the human disease or disorder or other aspect of human health for which the institutes were established, the Secretary, acting through the Director of each national research institute—

"(A) shall encourage and support research, investtigations, experiments, demonstrations, and studies in the health sciences related to—

"(i) the maintenance of health,

"(ii) the detection, diagnosis, treatment, and prevention of human diseases and other disorders,

"(iii) the rehabilitation of individuals with human diseases, disorders, and disabilities, and

"(iv) the expansion of knowledge of the processes underlying human diseases, disorders, and disabilities, the processes underlying the normal and pathological functioning of the body and its organ systems, and the processes underlying the interactions between the human organism and the environment;

"(B) may, subject to the review prescribed under section 472 and advisory council review prescribed by section 408(a)(3)(A)(i), conduct the research, investigations, experiments, demonstrations, and studies referred to in subparagraph (A);

"(C) may conduct and support research training for which fellowship support may not be provided under section 461;

"(D) shall develop, implement, and support demonstrations and programs for the application of the results of the activities of the institute to clinical practice and disease prevention activities;

"(E) shall develop, conduct, and support public and professional education and information programs;

"(F) shall secure, develop and maintain, distribute, and support the development and maintenance of resources needed for research;

"(G) may make available the facilities of the institutes to appropriate entities and individuals engaged in research activities and cooperate with and assist Federal and State agencies charged with protecting the public health;

"(H) may accept unconditional gifts made to the institutes for their activities, and, in the case of gifts of a value in excess of $50,000, establish suitable memorials to the donor;

"(I) may secure for the institutes consultation services and advice of persons from the United States or abroad;

"(J) may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(K) may accept voluntary and uncompensated services; and

"(L) may perform such other functions as the Secretary determines are needed to carry out effectively the purposes of the institutes.

The indemnification provisions of section 2354, title 10, United States Code, shall apply with respect to contracts entered into under subsection and section 402(b).

"(2) Support for an activity or program under this subsection may be provided through grants, contracts, and cooperative agreements. The Secretary, through the Director of each national research institute—

"(A) may approve any contract for resources for research conducted at or through the institute, except that if the total cost of the contract to be approved exceeds $500,000 the contract may be approved only after the advisory council to the institute has recommended approval of th contract;

"(B) may approve other contracts under paragraph (1) for research or training, except that—

"(i) if the total cost of the contract to be approved does not exceed $500,000, the contract may be approved only after appropriate technical and scientific review in accordance with section 472, and

"(ii) if the total cost of the contract to be approved exceeds $500,000, the contract may be approved only after appropriate technical and scientific review in accordance with section 472 and recommendation for approval by the advisory council to the institute; and

"(C) may approve grants, and cooperative agreements under paragraph (1) for research or training except that—

"(i) if the direct cost of the grant, or cooperative agreement to be approved does not exceed $50,000, such grant or cooperative agreement may be approved only after appropriate technical and scientific review in accordance with section 472, and "(ii) if the direct cost of the grant, or cooperative agreement to be approved exceeds $50,000, such grant or cooperative agreement may be approved only after appropriate technical and scientific review in accordance with section 472 and recommendation for approval by the advisory council to the institute.

"(c) In carrying out subsection (b), each Director of a national research institution shall—

"(1) coordinate the activities of the institute with similar programs of other public and private entities; and

"(2) cooperate with the Directors of other national research institutes in the development and support of multidisciplinary research and research that involves more than one institute.

"ADVISORY COUNCILS

"Sec. 408. (a)(1) Except as provided in subsection (i), the Secretary shall appoint an advisory council for each national research institute which (A) shall advise, assist, consult with, and make recommendations to the Secretary and the Director of the institute on matters related to the activities carried out through the institute and the policies respecting such activities, and (B) shall carry out special functions prescribed by part C.

"(2) Each advisory council for a national research institute shall recommend to the Secretary acceptance, in accordance with section 501, of conditional gifts for study, investigation, or research respecting the disease, diseases, or other aspect of human health with respect to which the institute was established, for the acquisition of grounds, or for the construction, equipping, or maintenance of facilities for the institute.

"(3) Each advisory council for a national research institute—

"(A)(i) shall (I) on the basis of the materials provided under section 472(d)(2) respecting research conducted at the institute, make recommendations to the Director of the institute respecting such research, and (II) periodically review the program of research which is being carried out at the institute and make recommendations to the Director respecting the program, (ii) shall review contracts and applications for grants and cooperative agreements for research or training and for which advisory council approval is required under section 407(b)(2) and recommend for approval applications for projects which show promise of making valuable contributions to human knowledge, (iii) shall review contracts proposed to be entered into for resources for research and for which advisory council approval is required under section 407(b)(2) and recommend for approval contracts that will effectively meet the needs of the institute, (iv) may review any grant, contract, or cooperative agreement proposed to be made or entered into and (v) may review the activities carried out under contracts and cooperative agreements referred to in clauses (ii) and (iii);

"(B) may collect information as to studies which are being carried on in the United States or any other country as to such disease, diseases, or other aspect of human health by correspondence or by personal investigation of such studies, and with the approval of the Director of the institute make available such information through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public;

"(C) shall advise the Secretary and the Director of the institute respecting the portion of the funds appropriated for the institute which should be obligated for grants, contracts, and cooperative agreements; and

"(D) may appoint subcommittees and convene workshops and conferences.

"(4) Any advisory council established by the Secretary for a national research institute established under section 401(b) may be terminated by the Secretary when the new institute which occasioned such new advisory council is terminated.

"(b)(1) Each advisory council shall consist of nonvoting, ex officio members and eighteen members appointed by the Secretary. The ex officio members of an advisory council shall consist of the Secretary, the Director of NIH, the Director of the national research institute for which the council is established, the Chief Medical Officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, or the designees of such persons and such additional officers or employees of the United States as the Secretary deems necessary for the advisory council to effectively carry out its functions. The members of an advisory council who are not ex officio members shall be appointed as follows:

"(A) Twelve members shall be appointed from among the leading representatives of the health and scientific disciplines relevant to the activities of the institute for which the advisory council is established.

"(B) Five members appointed by the Secretary from leaders in each of the fields of public policy, law, health policy, economics, and management and one member appointed by the Secretary from the general public.

Of the members appointed to each advisory council, not less than four shall be experts in public health or the behavioral or social sciences.

"(2) Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of an advisory council shall receive, for each day they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime.

"(c) The term of office of an appointed member of an advisory council is four years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such a manner as to stagger the terms of the members. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of four years may not be reappointed to an advisory council before two years from the date of expiration of such term of office. If a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within ninety days from the date the vacancy occurs.

"(d) The chairman of an advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the institute for which the advisory council is established to be the chairman of the advisory council. The term of office of the chairman shall be two years.

"(e) The advisory council shall meet at the call of the chairman or upon the request of the Director of the national research institute for which it was established, but at least three times each fiscal year. The advisory council may hold such hearings, take such testimony, and sit and act at such times and places as the advisory council deems advisable to carry out its functions.

"(f) The Director of the national research institute for which an advisory council is established shall designate a member of the staff of the institute to serve as the executive secretary of the advisory council. The Director of such institute shall make available to the advisory council such staff assistants, information, and other assistance as it may require to carry out its functions. The Director of such institute shall provide orientation and training for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.

"(g) This section does not terminate the membership of any advisory council to a national research institute which was in existence on the date of the enactment of the Health Research Act of 1980. After such date—

"(1) the Secretary shall make appointments to each such advisory council in such a manner as to bring about as soon as practicable the composition prescribed by this section,

"(2) each advisory council shall organize itself in accordance with this section and exercise the functions prescribed by this section, and

"(3) the Director of each national research institute shall perform for such advisory council the functions prescribed by this section.

"(h) Each advisory council shall prepare for inclusion in the annual report made under section 404 an annual report (1) respecting the activities of the advisory council in the fiscal year respecting which the report is prepared, (2) commenting on the progress of the national research institute for which it was established in meeting its objectives, and (3) making recommendations respecting the future directions and program and policy emphasis of the institute.

"(i)(1) This section applies to the National Cancer Advisory Board, the advisory council for the National Cancer Institute, except that (A) appointments to such Board shall be made by the President, (B) of the members appointed to the Board not less than five members shall be individuals knowledgeable in environmental carcinogenesis (including carcinogenesis involving occupational and dietary factors), (C) the chairman of the Board shall be selected by the President from the appointed members and shall serve as chairman for a term of two years, (D) the ex officio members of the Board shall be the Secretary, the Director of the Office of Science and Technology Policy, the Director of NIH, the chief medical officer of the Veterans' Administration, the Director of the National Institute for Occupational Safety and Health, the Director of the National Institute of Environmental Health Sciences, the Secretary of Labor, the Commissioner of the Food and Drug Administration, the Administrator of the Environmental Protection Agency, the Chairman of the Consumer Product Safety Commission or the designees of such persons, and a medical officer designated by the Secretary of Defense, and (E) the Board shall meet at least four times each fiscal year.

"(2) This section applies to the advisory council to the National Heart, Lung and Blood Institute, except that the advisory council shall meet at least four times each fiscal year.

"ANNUAL REPORT

"Sec. 409. The Director of each national research institute shall prepare for inclusion in the annual report made under section 404 an annual report which shall consist of—

"(1) a description of the activities and program policies of the Director of the Institute in the fiscal year respecting which the report is prepared; and

"(2) a five-year plan for such activities and policies and such recommendations as the Director of the institute deems appropriate.

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 410. (a) The following amounts are authorized to be appropriated for the national research institutes:

"(1) (A) For the National Cancer Institute (other than its programs under sections 413 and 415), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1972, $500,000,000 for the fiscal year ending June 30, 1973, $600,000,000 for the fiscal year ending June 30, 1974, $750,000,000 for the fiscal year ending June 30, 1975, $830,000,000 for the fiscal year ending June 30, 1976, $985,000,000 for the fiscal year ending September 30, 1977, $923,590,000 for the fiscal year ending September 30, 1978, $924,500,000 for the fiscal year ending September 30, 1979, $927,000,000 for the fiscal year ending September 30, 1980, $1,074,000,000 for the fiscal year ending September 30, 1981, $1,220,000,000 for the fiscal year ending September 30, 1982, and $1,376,000,000 for the fiscal year ending September 30, 1983.

"(B) There are authorized to be appropriated for the programs under section 413, $20,000,000 for the fiscal year ending June 30, 1972, $30,000,000 for the fiscal year ending June 30, 1973, $40,000,000 for the fiscal year ending June 30, 1974, $53,500,000 for the fiscal year ending June 30, 1975, $68,500,000 for the fiscal year ending June 30, 1976, $88,500,000 for the fiscal year ending September 30, 1977, $84,560,000 for the fiscal year ending September 30, 1978, $90,500,000 for the fiscal year ending September 30, 1979, $103,000,000 for the fiscal year ending September 30, 1980, $80,500,000 for the fiscal year ending September 30, 1981, $91,500,000 for the fiscal year ending September 30, 1982, and $103,000,000 for the fiscal year ending September 30, 1983.

"(C) There are authorized to be appropriated for section 415, $90,000,000 for the fiscal year ending September 30, 1981, $108,000,000 for the fiscal year ending September 30, 1982, and $130,000,000 for the fiscal year ending September 30, 1983.

"(2) (A) For the National Heart, Lung, and Blood Institute (other than its programs under section 422) there are authorized to be appropriated $375,000,000 for the fiscal year ending June 30, 1973, $425,000,000 for the fiscal year ending June 30, 1974, $475,000,000 for the fiscal year ending June 30, 1975, $339,000,000 for fiscal year 1976, $373,000,000 for the fiscal year ending September 30, 1977, $426,320,000 for the fiscal year ending September 30, 1978, $470,000,000 for the fiscal year ending September 30, 1979, $515,000,000 for the fiscal year ending September 30, 1980, $570,700,000 for the fiscal year ending September 30, 1981, $648,320,000 for the fiscal year ending September 30, 1982, and $731,300,000 for the fiscal year ending September 30, 1983. Of the sums appropriated under this subsection for any fiscal year, not less than 15 per centum of such sums shall be reserved for programs respecting diseases of the lung and not less than 15 per centum of such sums shall be reserved for programs respecting blood diseases and blood resources.

"(B) There are authorized to be appropriated for the programs under section 422, $25,000,000 for the fiscal year ending June 30, 1973, $35.000,000 for the fiscal year ending June 30, 1974, $45,000,000 for the fiscal year ending June 30, 1975, $10,000,000 for fiscal year 1976, $30,000,000 for the fiscal year ending September 30, 1977, $30,000,000 for the fiscal year ending September 30, 1978, $40,000,000 for the fiscal year ending September 30, 1979, $45,000,000 for the fiscal year ending September 30, 1980, $45,000,000 for the fiscal year ending September 30, 1981, $45,000,000 for the fiscal year ending September 30, 1982, and $50,000,000 for the fiscal year ending September 30, 1983.

"(3) (A) For the National Institute of Arthritis, Metabolism, and Digestive Diseases (other than activities of or relating to the Institute for which appropriations are authorized under subparagraph (B)), there are authorized to be appropriated $393,798,000 for the fiscal year ending September 30, 1981, $447,355,000 for the fiscal year ending September 30, 1982, and $504,616,000 for the fiscal year ending September 30, 1983.

"(B) (i) For each of the advisory boards under section 435 there are authorized to be appropriated $300,000 for the fiscal year ending September 30, 1981, $300,000 for the fiscal year ending September 30, 1982, and $300,000 for the fiscal year ending September 30, 1983.

"(ii) (I) For grants for arthritis demonstration projects under section 436(a) there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1978, $4,000,000 for the fiscal year ending September 30, 1979, and $5,000,000 for the fiscal year ending September 30, 1980, and for each of the next three fiscal years.

"(II) For the arthritis data system under section 436(c) there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1978, $1,250,000 for the fiscal year ending September 30, 1979, and $1,500,000 for the fiscal year ending September 30, 1980, and for each of the next three fiscal years.

"(iii) For multipurpose arthritis centers under section 437 there are authorized to be appropriated $11,000,000 for the fiscal year ending June 30, 1976, $20,000,000 for the fiscal year ending June 30, 1977, $18,700,000 for the fiscal year ending September 30, 1978, $19,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, $14,000,000 for the fiscal year ending September 30, 1981, $17,000,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983.

"(iv) For diabetes research and training centers and the diabetes data system under section 438 there are authorized to be appropriated $8,000,000 for the fiscal year ending June 30, 1975, $12,000,000 for the fiscal year ending June 30, 1976, $20,000,000 for the fiscal year ending June 30, 1977, $12,000,000 for the fiscal year ending September 30, 1978, $20,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, $14,000,000 for the fiscal year ending September 30, 1981, $17,000,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983.

"(4) For the National Institute on Aging, there are authorized to be appropriated $80,780,000 for the fiscal year ending September 30, 1981, $91,766,000 for the fiscal year ending September 30, 1982, and $103,512,000 for the fiscal year ending September 30, 1983.

"(5) For the National Institute of Allergy and Infectious Diseases, there are authorized to be appropriated $248,574,000 for the fiscal year ending September 30, 1981, $282,380,000 for the fiscal year ending September 30, 1982, and $318,525,000 for the fiscal year ending September 30, 1983.

"(6) For the National Institute of Child Health and Human Development, there are authorized to be appropriated $241,164,000 for the fiscal year ending September 30, 1981, $273,962,000 for the fiscal year ending September 30, 1982, and $309,029,000 for the fiscal year ending September 30, 1983.

"(7) For the National Institute of Dental Research, there are authorized to be appropriated $78,839,000 for the fiscal year ending September 30, 1981, $89,561,000 for the fiscal year ending September 30, 1982, and $101,025,000 for the fiscal year ending September 30, 1983.

"(8) For the National Eye Institute. there are authorized to be appropriated $163,000,000 for the fiscal year ending September 30, 1981, $180,000,000 for the fiscal year ending September 30, 1982, and $200,000,000 for the fiscal year ending September 3, 1983.

"(9) For the National Institute of Neurological and Communicative Disorders and Stroke, there are authorized to be appropriated $279,268,000 for the fiscal year ending September 30, 1981, $317,248,000 for the fiscal year ending September 30, 1982, and $357,856,000 for the fiscal year ending September 30, 1983.

"(10) For the National Institute of General Medical Sciences, there are authorized to be appropriated $360,600,000 for the fiscal year ending September 30, 1981, $409,642,000 for the fiscal year ending September 30, 1982, and $462,076,000 for the fiscal year ending September 30, 1983.

"(11) For the National Institute of Environmental Health Sciences, there are authorized to be appropriated $96,834,000 for the fiscal year ending September 30, 1981, $110,003,000 for the fiscal year ending September 30, 1982, and $124,083,000 for the fiscal year ending September 30, 1983.

"(b) For each national research institute and for each activity for which there is an appropriation authorization for the fiscal year ending September 30, 1983, under subsection (a) there is authorized to be appropriated for the fiscal year ending September 30, 1984, the amount authorized to be appropriated for the preceding fiscal year plus 15 per centum of such amount unless Congress by law authorizes a different amount.

"(c) (1) No funds appropriated under section 301(a) may be used for any activity undertaken by or through a national research institute listed in paragraphs (1) through (11) of section 401(a).

"(2) No funds appropriated under subsection (a) may be used for National Research Service Awards under section 461.

"(d) (1) If the authorization of appropriations under subsection (a) for a national research institute is not sufficient to enable the institute to accelerate research in an area of special promise or to pursue a breakthrough in research, the Director of NIH may, upon request, allocate, from funds appropriated under paragraph (2), to the institute such funds as may be necessary to accelerate such research or to pursue such a breakthrough.

"(2) There is authorized to be appropriated for the period ending September 30, 1983, to the Director of NIH to carry out paragraph (1) $100,000,000 to remain available for obligation in such period. The Director of NIH may not request an appropriation under this paragraph unless the request has been approved by the National Institutes of Health Advisory Board.

"(3) The Director of NIH shall report annually to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a description of the activities for which funds were provided under paragraph (1) and the amount provided for each such activity.

"PART C—SPECIFIC PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

"Subpart 1—National Cancer Institute

"PURPOSE OF INSTITUTE

"SEC. 411. The general purpose of the National Cancer Institute (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and related programs with respect to the cause, diagnosis, prevention, and treatment of cancer.

"NATIONAL CANCER PROGRAM

"SEC. 412. The National Cancer Program shall consist of (1) an expanded, intensified, and coordinated cancer research program encompassing the research programs conducted and supported by the Institute and the related research programs of the other national research institutes and including an expanded and intensified research program for the prevention of cancer caused by occupational or environmental exposure to carcinogens, and (2) the other programs and activities of the Institute.

"CANCER CONTROL PROGRAMS

"Sec. 413. The Director of the Institute shall establish and support, demonstration, education, and other programs for the detection, diagnosis, prevention, and treatment of cancer and for rehabilitation and counseling respecting cancer. Programs established and supported under this section shall include—

"(1) locally initiated education and demonstration programs (and regional networks of such programs) to transmit research results and to disseminate information respecting the detection, diagnosis, prevention, and treatment of cancer and rehabilitation and counseling respecting cancer to physicians and other health professionals who provide care to individuals who have cancer;

"(2) the demonstration of and the education of health professionals in—

"(A) effective methods for the prevention and early detection of cancer and the identification of individuals with a high risk of developing cancer, and

"(B) improved methods of patient referral to appropriate centers for early diagnosis and treatment of cancer; and

"(3) the demonstration of new methods for the dissemination of information to the general public concerning the prevention, early detection, diagnosis, and treatment and control of cancer and information concerning unapproved and ineffective methods, drugs, and devices for the diagnosis, prevention, treatment, and control of cancer.

"SPECIAL AUTHORITIES OF THE SECRETARY AND THE DIRECTOR

"Sec. 414. (a) The Secretary, acting through the Director of the Institute, shall establish an information and education center to collect, identify, analyze, and disseminate on a timely basis, through publications and other appropriate means, to cancer patients and their families, physicians and other health professionals, and the general public, information on cancer research, diagnosis, prevention, and treatment (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer). The Director of the Institute may take such action as may be necessary to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Institute and other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

"(b) The Director of the Institute in carrying out the National Cancer Program—

"(1) may establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for cancer research and set standards of safety and care for persons using such materials;

"(2) may, with the approval of the advisory council for the Institute, support (A) research in the cancer field outside the United States by highly qualified foreign nationals which research can be expected to inure to the benefit of the American people, (B) collaborative research involving American and foreign participants, and (C) the training of American scientists abroad and foreign scientists in the United States:

"(3) may, with the approval of the advisory council for the Institute, support appropriate programs of education (including continuing education) and training;

"(4) may encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research;

"(5) may obtain (with the approval of the Institute's advisory council and in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred and fifty-one experts or consultants who have scientific or professional qualifications;

"(6) (A) may—

"(i) with the approval of the Institute's advisory council, acquire and construct, and

"(ii) improve, repair, operate, and maintain, such laboratories, other research facilities, equipment, and other real or personal property (including patents) as the Director deems necessary;

"(B) may make grants for new construction or renovation of facilities; and

"(C) may acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years;

"(7) may, with the approval of the Institute's advisory council, appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions;

"(8) may, subject to section 407(b)(2), enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution; and

"(9) (A) shall prepare and submit, directly to the President for review and transmitted to Congress, an annual budget estimate (including an estimate of the number and type of personnel needs for the Institute) for the National Cancer Program, after reasonable opportunity for comment (but without change) by the Secretary, the Director of NIH, and the Institute's advisory council; and (B) may receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the Institute.

"NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS

"Sec. 415. The Director of the Institute, under policies established by the Director of NIH and after consultation with the Institute's advisory council, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers for basic and clinical research into, training in, and demonstration of advanced diagnostic, prevention, and treatment methods for cancer. Federal payments under this subsection in support of such cooperative agreements may be used for (1) construction (notwithstanding any limitation under section 473), (2) staffing and other basic operating costs, including such patient care costs as are required for research, (3) training, including training for allied health professionals, continuing education for health professionals and allied health professions personnel, and information programs for the public respecting cancer, and (4) demonstration purposes. As used in this section, the term 'construction' does not include the acquisition of land, and the term 'training' does not include research training for which fellowship support may be provided under section 461. Support of a center under this section may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"PRESIDENT'S CANCER PANEL

"Sec. 416. (a)(1) The President's Cancer Panel (hereinafter in this section referred to as the 'Panel') shall be composed of three persons appointed by the President, who by virtue of their training, experience, and background are exceptionally qualified to appraise the National Cancer Program.

"(2) (A) Members of the Panel shall be appointed for three-year terms, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member who has been appointed for a term of three years may not be reappointed to the Panel before two years from the date of the expiration of such term of office. If a vacancy occurs in the Panel, the President shall make an appointment to fill the vacancy not later than ninety days from the date the vacancy occurred.

"(B) The President shall designate one of the members to serve as the chairman of the Panel for a term of one year.

"(C) Members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel.

"(3) The Panel shall meet at the call of the chairman, but not less often than four times a year. A transcript shall be kept of the proceedings of each meeting of the Panel, and the chairman shall make such transcript available to the public.

"(b) The Panel shall monitor the development and execution of the activities of the National Cancer Program, and shall report directly to the President. Any delays or blockages in rapid execution of the Program shall immediately be brought to the attention of the President. The Panel shall submit to the President periodic progress reports on the Program and shall submit to the President, the Secretary, and the Congress an annual evaluation of the efficacy of the Program and suggestions for improvements, and shall submit such other reports as the President shall direct.

"Subpart 2—National Heart, Lung, and Blood Institute

"PURPOSE OF THE INSTITUTE

"Sec. 421. The general purpose of the National Heart, Lung, and Blood Institute (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and other programs with respect to heart, blood vessel, lung, and blood diseases and with respect to the use of blood and blood products and the management of blood resources.

"HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASE PREVENTION AND CONTROL PROGRAMS

"Sec. 422. The Director of the Institute, under policies established by the Director of NIH and after consultation with the advisory council for the Institute, shall establish programs as necessary for cooperation with other Federal health agencies, State, local, and regional public health agencies, and nonprofit private health agencies in the diagnosis, prevention, and treatment (including the provision of emergency medical services) of heart, blood vessel, lung, and blood diseases, appropriately emphasizing the prevention, diagnosis, and treatment of such diseases of children.

"INFORMATION AND EDUCATION CENTER

"Sec. 423. The Secretary, acting through the Director of the Institute, shall establish an information and education center to collect, identify, analyze, and disseminate on a timely basis, through publications and other appropriate means, to patients, families of patients, physicians and other health professionals, and the general public, information on research, prevention, diagnosis, and treatment of heart, blood vessel, lung, and blood diseases, the maintenance of health to reduce the incidence of such diseases, and on the use of blood and blood products and the management of blood resources. In carrying out this section the Secretary shall place special emphasis upon—

"(1) the dissemination of information regarding diet and nutrition, environmental pollutants, exercise, stress, hypertension, cigarette smoking, weight control, and other factors affecting the prevention of arteriosclerosis and other cardiovascular diseases and of pulmonary and blood diseases, and

"(2) programs designed to encourage children to adopt healthful habits respecting the risk factors related to the prevention of such diseases.

"NATIONAL HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASES AND BLOOD RESOURCES PROGRAM

"SEC. 424. (a) The National Heart, Blood Vessel, Lung, and Blood Diseases and Blood Resources Program (hereinafter in this subpart referred to as the 'Program') may provide for—

"(1) investigation into the epidemiology, etiology, and prevention of all forms and aspects of heart, blood vessel, lung, and blood diseases, including investigations into the social, environmental, behavioral, nutritional, biological, and genetic determinants and influences involved in the epidemiology, etiology, and prevention of such diseases;

"(2) studies and research into the basic biological processes and mechanisms involved in the underlying normal and abnormal heart, blood vessel, lung, and blood phenomena;

"(3) research into the development, trial, and evaluation of techniques, drugs, and devices (including computers) used in, and approaches to, the diagnosis, treatment (including the provision of emergency medical services), and prevention of heart, blood vessel, lung, and blood diseases and the rehabilitation of patients suffering from such diseases;

"(4) establishment of programs that will focus and apply scientific and technological efforts involving biological, physical, and engineering sciences to all facets of heart, blood vessel, lung and blood diseases with emphasis on refinement, development, and evaluation of technological devices that will assist, replace, or monitor vital organs and improve instrumentation for detection, diagnosis, and treatment of those diseases;

"(5) establishment of programs for the conduct and direction of field studies, large-scale testing and evaluation, and demonstration of preventive, diagnostic, therapeutic, and rehabilitative approaches to, and emergency medical services for, such diseases;

"(6) studies and research into blood diseases and blood, and into the use of blood for clinical purposes and all aspects of the management of its resources in this country, including the collection, preservation, fractionation, and distribution of it and its products;

"(7) the education (including continuing education) and training of scientists, clinical investigators, and educators, in fields and specialties (including computer sciences) requisite to the conduct of clinical programs respecting heart, blood vessel, lung, and blood diseases and blood resources;

"(8) public and professional education relating to all aspects of such diseases, including the prevention of such diseases, and the use of blood and blood products and the management of blood resources;

"(9) establishment of programs for study and research into heart, blood vessel, lung, and blood diseases of children (including cystic fibrosis, hyaline membrane, and hemolytic and hemophilic diseases) and for the development and demonstration of diagnostic, treatment, and preventive approaches to these diseases; and

"(10) establishment of programs for study, research, development, demonstrations and evaluation of emergency medical services for people who become critically ill in connection with heart, blood vessel, lung, or blood diseases.

The Program shall be coordinated with other national research institutes to the extent that they have responsibilities respecting such diseases and shall give special emphasis to the continued development in the Institute of programs related to the causes of stroke and to effective coordination of such programs with related stroke programs in the National Institute of Neurological and Communicative Disorders and Stroke. The Director of the Institute, with the advice of the advisory council to the Institute, shall revise annually the plan for the Program and shall carry out the Program in accordance with such plan.

"(b) In carrying out the Program, the Director of the Institute, under policies established by the Director of NIH—

"(1) may, after approval of the advisory council to the Institute, obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred experts or consultants who have scientific or professional qualifications;

"(2)(A) may—

"(i) after approval of the advisory council to the Institute, acquire and construct, and

"(ii) improve, repair, operate, alter, renovate, and maintain,

heart, blood vessel, lung, and blood disease and blood resource laboratory, research, training, and other facilities, equipment, and such other real or personal property (including patents) as the Director deems necessary; and

"(B) may acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years;

"(3) subject to section 407(b)(2), may enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of the Director's functions, with any public agency, or with any person, firm, association, corporation, or educational institutions; and

"(4) may make grants to public and nonprofit private entities to assist in meeting the cost of the care of patients in hospitals, clinics, and related facilities who are participating in research projects.

"(c) There shall be in the Institute an assistant director to coordinate and promote the prevention, education, and health information programs of the Institute who shall be appointed by the Director of the Institute.

"NATIONAL RESEARCH AND DEMONSTRATION CENTERS FOR HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASES AND BLOOD RESOURCES

"SEC. 425. (a)(1) The Director of the Institute may provide, in accordance with subsection (b), for the development of—

"(A) ten centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for heart and blood vessel diseases;

"(B) ten centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for lung diseases (including bronchitis, emphysema, asthma, cystic fibrosis, and other lung diseases of children); and

"(C) ten centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for blood diseases and research into blood, in the use of blood products and in the management of blood resources.

"(2) The centers developed under paragraph (1) shall, in addition to being utilized for research, training, and demonstrations, be utilized for the following prevention programs for cardiovascular, pulmonary, and blood diseases:

"(A) Programs to develop improved methods of detecting individuals with a high risk of developing cardiovascular, pulmonary, and blood diseases.

"(B) Programs to develop improved methods of intervention against those factors which cause individuals to have a high risk of developing such diseases.

"(C) Programs to develop health professions and allied health professions personnel highly skilled in the prevention of such diseases.

"(D) Programs to develop improved methods of providing emergency medical services for persons with such diseases.

"(E) Programs of continuing education for health and allied health professionals in the diagnosis, prevention, and treatment of such diseases and the maintenance of health to reduce the incidence of such diseases and information programs for the public respecting the prevention and early diagnosis and treatment of such diseases and the maintenance of health.

"(3) The research, training, and demonstration activities carried out through any such center may relate to any one or more of the diseases referred to in paragraph (1) of this subsection.

"(b) The director of the Institute, under policies established by the Director of NIH and after consultation with the advisory council to the Institute, may enter into cooperative agreements with public or nonprofit private agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers for basic or clinical research into, training in, and demonstration of, the management of blood resources and advanced diagnostic, prevention, and treatment methods for heart, blood vessel, lung or blood diseases. Funds paid to centers under cooperative agreements under this subsection may be used for—

"(1) construction (notwithstanding any limitation under section 473),

"(2) staffing and other basic operating costs, including such patient care costs as are required for research,

"(3) training, including training for allied health professions personnel, and

"(4) demonstration purposes.

Support of a center under this subsection may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"(c) As used in this section, the term

'construction' does not include the acquisition of land; and the term 'training' does not include research training for which fellowship support may be provided under section 461.

"INTERAGENCY TECHNICAL COMMITTEE

"SEC. 426. (a) The Secretary shall establish an Interagency Technical Committee on Heart, Blood Vessel, Lung and Blood Diseases and Blood Resources which shall be responsible for coordinating those aspects of all Federal health programs and activities relating to heart, blood vessel, lung, and blood diseases and to blood resources to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

"(b) The Director of the Institute shall serve as chairman of the Committee and the Committee shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities relevant to the functions of the Committee, as determined by the Secretary.

"Subpart 3—National Institute of Arthritis, Metabolism, and Digestive Diseases

"PURPOSE OF THE INSTITUTE

"SEC. 431. The general purpose of the National Institute of Arthritis, Metabolism, and Digestive Diseases (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and related programs with respect to arthritis and related musculoskeletal diseases, diabetes mellitus and endocrine and metabolic diseases, digestive diseases, and kidney, urologic, and hematologic diseases.

"INFORMATION AND EDUCATION CENTERS

"SEC. 432. The Secretary, acting through the Director of the Institute, shall establish—

"(1) an information and education center for arthritis and related musculoskeletal diseases,

"(2) an information and education center for diabetes mellitus and endocrine and metabolic diseases,

"(3) an information and education center for digestive diseases, and

"(4) an information and education center for kidney, urologic, and hematologic diseases,

to identify, collect, analyze, and disseminate information respecting the diseases and to serve as a national educational resource for patients with such diseases and their families, physicians, and other health professionals.

"ASSOCIATE DIRECTORS FOR ARTHRITIS, DIABETES, DIGESTIVE DISEASES, AND KIDNEY, UROLOGIC, AND HEMATOLOGIC DISEASES

"SEC. 433. In the Institute there shall be an Associate Director for Arthritis and Related Musculoskeletal Diseases, an Associate Director for Diabetes, Endocrinology, and Metabolic Diseases, an Associate Director for Digestive Diseases, and an Associate Director for Kidney, Urologic, and Hematologic Diseases who, under the supervision of the Director shall be responsible for—

"(1) the coordination of the programs of the Institute respecting arthritis and related musculoskeletal disease, diabetes mellitus and endocrine and metabolic diseases, digestive diseases, and kidney, urologic, and hematologic diseases, respectively; and

"(2) monitoring and reviewing expenditures and activities of the other national research institutes related to such diseases and the identification of research opportunities in Federal activities related to such diseases and recommendation of means to take advantage of such opportunities.

"INTERAGENCY COORDINATING COMMITTEES

"SEC. 434. (a) For the purpose of—

"(1) better coordination of the research activities of all the national research institutes relating to arthritis and related musculoskeletal diseases, diabetes mellitus and endocrine and metabolic diseases, digestive diseases, and kidney, urologic, and hematologic diseases; and

"(2) coordinating those aspects of all Federal health programs and activities relating to such diseases to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities,

the Director of NIH shall establish an Arthritis Interagency Coordinating Committee, a Diabetes Mellitus Interagency Coordinating Committee, a Digestive Diseases Interagency Coordinating Committee, and a Kidney, Urologic, and Hematologic Diseases Interagency Coordinating Committee (hereinafter in this section individually referred to as a 'Committee').

"(b) Each Committee shall be composed of the Directors (or their designees) of each of the national research institutes and divisions involved in research involving the diseases with respect to which the Committee is established and shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities relevant to such diseases, as determined by the Secretary. Each Committee shall be chaired by the Director of NIH (or his designee). Each Committee shall meet at the call of the chairman, but not less often than four times a year.

"(c) Each Committee shall prepare an annual report for the Secretary and the Director of NIH detailing the work of the Committee in the fiscal year for which the report was prepared in carrying out the coordinating activities described in paragraphs (1) and (2) of subsection (a). Such report shall be submitted not later than the sixtieth day after the end of each fiscal year.

"ADVISORY BOARDS

"SEC. 435. (a) The Secretary shall establish in the Institute the National Arthritis Advisory Board, the National Diabetes Advisory Board, and the National Digestive Diseases Advisory Board (hereinafter in this section individually referred to as an 'Advisory Board').

"(b) Each Advisory Board shall be composed of eighteen appointed members and nonvoting, ex-officio members as follows:

"(1) The Secretary shall appoint—

"(A) twelve members from individuals who are scientists, physicians, and other health professionals, who are not officers or employees of the United States, and who represent the specialties and disciplines relevant to the diseases with respect to which the Advisory Board is established; and

"(B) six members from the general public who are knowledgeable with respect to such diseases.

Of the appointed members at least five shall by virtue of training or experience be knowledgeable in health education, nursing, data systems, public information, or community program development.

"(2) The following shall be ex-officio members of each Advisory Board: the Director of NIH or his designee, the Director of the Institute or his designee, the Associate Director of the Institute appointed under section 433 for the diseases for which the Advisory Board is established, and such other officers and employees of the United States as the Secretary deems necessary for the Advisory Board to carry out its functions.

"(c) Members of an Advisory Board who are officers or employees of the Federal Government shall serve as members of the Advisory Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board.

"(d) The term of office of an appointed member of an Advisory Board is three years, except that no term of office may extend beyond the expiration of the Advisory Board. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office. If a vacancy occurs in an Advisory Board, the Secretary shall make an appointment to fill the vacancy not later than ninety days from the date the vacancy occurred.

"(e) The members of each Advisory Board shall select a chairman from among the appointed members.

"(f) The Secretary shall, after consultation with and consideration of the recommendations of an Advisory Board, provide the Advisory Board with—

"(1) such support staff, and

"(2) such administrative support services and facilities, such information, and such services of consultants,

as the Secretary determines are necessary for the Advisory Board to carry out its functions.

"(g) Each Advisory Board shall meet at the call of the chairman or upon request of the Director of the Institute, but not less often than four times a year.

"(h) Each Advisory Board shall—

"(1) review and evaluate the implementation of the plan (referred to in section 439) respecting the diseases with respect to which the Advisory Board was established;

"(2) for the purpose of assuring the most effective use and organization of resources respecting such diseases, advise and make recommendations to the Secretary, the Director of NIH, the Director of the Institute, and the head of other appropriate Federal agencies for the implementation and revision of such plan; and

"(3) maintain liaison with other advisory bodies related to Federal agencies involved in the implementation of such plan, the Coordinating Committee for such diseases, and with key non-Federal entities involved in activities affecting the control of such diseases.

"(i) In carrying out its functions the Advisory Board may establish subcommittees, convene workshops and conferences, and collect data.

"(j) Each Advisory Board shall submit to the Secretary and to the Congress an annual report—

"(1) which describes the Advisory Board's activities in the fiscal year for which the report is made;

"(2) which describes and evaluates the progress made in such year in research, treatment, education, and training with respect to the diseases with respect to which the Advisory Board was established;

"(3) which summarizes and analyzes expenditures made by the Federal Government for activities respecting such diseases in the fiscal year for which the report is made; and

"(4) which contains the Advisory Board's recommendations (if any) for changes in the plan referred to in subsection (h)(1).

"(k) Each Advisory Board shall expire on September 30, 1983.

"(l) The National Arthritis Advisory Board and the National Diabetes Advisory Board in existence on the debate of the enactment of the Health Research Act of 1980 shall terminate not later than ninety days after such date. The Secretary shall make appointments to the Advisory Boards established under subsection (a) before the expiration of such days.

"ARTHRITIS DEMONSTRATION PROJECTS AND DATA SYSTEM

"Sec. 436. (a) The Secretary may make grants to public and other nonprofit entities to establish and support projects for the development and demonstration of methods for arthritis screening and detection and for referral for treatment, and for dissemination of information on these methods to the health and allied health professions. Activities under such projects shall be cordinated with (1) Federal, State, local, and regional health agencies, (2) centers assisted under section 437, and (3) the data system established under subsection (c).

"(b) Projects under this section shall include—

"(1) programs which emphasize the development and demonstration of new and improved methods of screening and early detection, referal for treatment, and diagnosis of individuals with a risk of developing arthritis, asymptomatic arthritis, or symptomatic arthritis;

"(2) programs which emphasize the development and demonstration of new and improved methods for patient referral from local hospitals and physicians to appropriate centers for early diagnosis and treatment;

"(3) programs which emphasize the development and demonstration of new and improved means of standardizing patient data and recordkeeping;

"(4) programs which emphasize the development and demonstration of new and improved methods of dissemination of knowledge about the projects and methods referred to in the preceding paragraphs of this subsection to health and allied health professionals;

"(5) programs which emphasize the development and demonstration of new and improved methods for the dissemination to the general public of information—

"(A) on the importance of early detection of arthritis, of seeking prompt treatment, and of following an appropriate regimen; and

"(B) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive treatment, and control methods for arthritis and unapproved and ineffective drugs and devices for arthritis; and

"(6) projects for the investigation into the epidemiology of all forms and aspects of arthritis, including investigations into the social, environmental, behavioral, nutritional, and genetic determinants and influences involved in the epidemiology of arthritis.

"(c)(1) The Director shall establish the arthritis data system for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with asymptomatic and symptomatic types of arthritis, including, where possible, data involving general populations for the purpose of detection of individuals with a risk of developing arthritis.

"(2) The Director shall provide for the standardization of patient data and recordkeeping for the collection, storage, analysis, retrieval, and dissemination of such data in cooperation with projects under this section and centers assisted under section 437, and other persons engaged in arthritis programs.

"(d) The Secretary, acting through the Institute, shall conduct a clinical investigation of the safety and efficacy of dimethylsulfoxide as a drug to be used by persons with arthritis. The Secretary shall report to Congress not later than one year after the date of the enactment of this subsection the results of the investigation conducted under this subsection.

"MULTIPURPOSE ARTHRITIS CENTERS

"Sec. 437. (a) The Director of the Institute may, after consultation with the advisory council to the Institute and consistent with the arthritis plan developed pursuant to the National Arthritis Act of 1974, provide for the development, modernization, and operation (including staffing and other operating costs such as the costs of patient care required for research) of new and existing centers for arthritis research, screening, detection, diagnosis, prevention, control, and treatment, for education related to arthritis, and for rehabilitation of individuals who suffer from arthritis. For purposes of this section, the term 'modernization' means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence.

"(b) Each center assisted under this section shall—

"(1)(A) use the facilities of a single institution or a consortium of cooperating institutions, and (B) meet such qualifications as may be prescribed by the Secretary; and

"(2) conduct—

"(A) basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of arthritis and complications resulting from arthritis, including research into implantable biomaterials and biomechanical and other orthopedic procedures and in the development of other diagnostic and treatment methods;

"(B) training programs for physicians and other health and allied health professionals in current methods of diagnosis, screening and early detection, prevention, control, and treatment of arthritis, and in research in arthritis;

"(C) information and continuing education programs for physicians and other health and allied health professionals who provide care for patients with arthritis; and

"(D) programs for the dissemination to the general public of information—

"(i) on the importance of early detection of arthritis, of seeking prompt treatment, and of following an appropriate regimen; and

"(ii) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods and unapproved and ineffective drugs and devices.

A center may use funds provided under subsection (a) to provide stipends for nurses and allied health professionals enrolled in training programs described in paragraph (2)(B).

"(c) Each center assisted under this section may conduct programs to—

"(1) develop new and improved methods of screening and early detection, referral, and diagnosis of individuals with a risk of developing arthritis, asymptomatic arthritis, or symptomatic arthritis,

"(2) disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping, and

"(3) develop community consultative services to facilitate the referral of patients to centers for treatment.

"(d) The Director shall, insofar as practicable, provide for an equitable geographical distribution of centers assisted under this section. The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of children affected by arthritis.

"(e) The Director shall evaluate on an annual basis the activities of centers receiving support under this section and shall report to the appropriate committees of Congress the results of his evaluations on or before November 30 of each year.

"(f) Support of a center under this section may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"DIABETES RESEARCH AND TRAINING CENTERS; DIABETES DATA SYSTEM

"Sec. 438. (a) Consistent with applicable recommendations of the National Commission on Diabetes, the Director of the Institute shall provide for the development, or substantial expansion of centers for research and training in diabetes mellitus and endocrine and metabolic disorders. Each center developed or expanded under this section shall (1) utilize the facilities of a single institution, or be formed from a consortium of cooperating institution, meeting such research and training qualifications as may be prescribed by the Secretary; and (2) conduct (A) research in the diagnosis and treatment of diabetes mellitus and endocrine and metabolic diseases and the complications resulting from such diseases, (B) training programs for physicians and allied health personnel in current methods of diagnosis and treatment of such diseases and complications, and in research in diabetes, and (C) information programs for physicians and allied health personnel who provide primary care for patients with such diseases or complications. Insofar as practicable, centers developed or expanded under this section shall be located geographically on the basis of population density throughout the United States and in environments with proven research capabilities. A center may use funds provided under this subsection to provide stipends for nurses and allied health professionals enrolled in training programs described in clause (B).

"(b) Support of a center under this section may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"(c) The Director shall evaluate on an annual basis the activities of centers developed or expanded under this section and shall report to the Congress, on or before November 30 of each year, the results of his evaluation.

"(d) The Director shall establish the diabetes data system for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with diabetes, including, where possible, data involving general populations for the purpose of detection of individuals with a risk of developing diabetes.

"ANNUAL REPORT

"Sec. 439. The Director of the Institute shall prepare for inclusion in the annual report made under section 404 a description of the Institute's activities—

"(1) under the current Arthritis Plan under the National Arthritis Act of 1974,

"(2) under the current diabetes plan under the National Diabetes Mellitus Research and Education Act, and

"(3) under the current digestive diseases plan formulated under the Arthritis, Diabetes, and Digestive Diseases Amendments of 1976.

"Subpart 4—National Institute on Aging

"PURPOSE OF THE INSTITUTE

"Sec. 441. The general purpose of the National Institute on Aging (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of biomedical, social, and behavioral research, training, health information, and related programs with respect to the aging process and the diseases and other special problems and needs of the aged.

"SPECIAL FUNCTIONS OF THE SECRETARY

"SEC. 442. (a) In carrying out the training responsibilities under this Act or any other Act for health and allied health professions personnel, the Secretary shall take appropriate steps to insure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged.

"(b) The Secretary shall, through the Director of the Institute, conduct scientific studies to measure the impact on the biological, medical, and psychological aspects of aging of programs and activities assisted or conducted by the Department of Health and Human Services.

"(c) The Director of the Institute shall carry out public information and education programs designed to disseminate as widely as possible the findings of Institute-sponsored and other relevant aging research and studies and other information about the process of aging which may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older.

"Subpart 5—National Institute of Allergy and Infectious Diseases

"PURPOSE OF THE INSTITUTE

"SEC. 443. The general purpose of the National Institute of Allergy and Infectious Diseases is the conduct and support of research, training, health information, and related programs with respect to allergic and immunologic diseases and disorders and infectious diseases.

"Subpart 6—National Institute of Child Health and Human Development

"PURPOSE OF THE INSTITUTE

"SEC. 445. The general purpose of the National Institute of Child Health and Human Development (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and related programs with respect to maternal health, child health, human growth and development, including prenatal development, population research, and special health problems and requirements of mothers and children.

"SUDDEN INFANT DEATH SYNDROME

"SEC. 446. The Secretary shall, through the Director of the Institute, conduct and support research which specifically relates to sudden infant death syndrome.

"Subpart 7—National Institute of Dental Research

"PURPOSE OF INSTITUTE

"SEC. 447. The general purpose of the National Institute of Dental Research is the conduct and support of research, training, health information, and related programs with respect to the cause, prevention, and methods of diagnosis and treatment of dental diseases and conditions.

"Subpart 8—National Eye Institute

"PURPOSE OF INSTITUTE

"SEC. 448. The general purpose of the National Eye Institute (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and related programs with respect to blinding eye diseases, visual disorders, mechanisms of visual function, preservation of sight, and the special health problems and requirements of the blind. The Secretary may, through the Director of the Institute and without regard to section 472, carry out a program of grants for public and private nonprofit vision research facilities.

"Subpart 9—National Institute of Neurological and Communicative Disorders and Stroke

"PURPOSE OF THE INSTITUTE

"SEC. 450. The general purpose of the National Institute of Neurological and Communicative Disorders and Stroke is the conduct and support of research, training, health information, and related programs with respect to neurological disease and disorders, stroke, and disorders of human communication. Of the sums appropriated for any fiscal year under section 410 for research by the Institute, not less than $16,000,000 shall be obligated for basic and clinical research in the area of regeneration of the spinal cord.

"REYE'S SYNDROME PROGRAMS

"SEC. 451. (a) The Secretary shall establish, through the National Institute of Neurological and Communicative Disorders and Stroke, the Reye's Syndrome Coordinating Committee (hereinafter referred to in this section as the 'Committee').

"(b)(1) The Committee shall be composed of—

"(A) the Director of the National Institute of Neurological and Communicative Disorders and Stroke;

"(B) the Director of the National Institute of Allergy and Infectious Diseases;

"(C) the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases;

"(D) the Director of the National Institute of Child Health and Human Development;

"(E) the Director of the National Institute of General Medical Sciences;

"(F) the Director of the National Heart, Lung and Blood Institute; and

"(G) the Director of the Center for Disease Control.

"(2) The Director of the National Institute of Neurological and Communicative Disorders and Stroke shall serve as Chairman.

"(3)(A) The Secretary, acting through the Committee, shall make grants to and enter into contracts with public and nonprofit private entities to establish two comprehensive Reye's syndrome diagnostic and treatment centers. Each center shall be located in a single institution.

"(B) A center established under this paragraph shall—

"(i) conduct basic and clinical research relating to the causes, diagnosis, early detection, and treatment of Reye's syndrome;

"(ii) develop new and improved treatments for the detection, diagnosis, and treatment of Reye's syndrome;

"(iii) provide training programs for physicians relating to the early diagnosis, control, and treatment of Reye's syndrome;

"(iv) develop professional education programs and information for physicians relating to the treatment of Reye's syndrome, and disseminate such information;

"(v) develop and disseminate public information relating to Reye's syndrome;

"(vi) disseminate within the scientific and medical communities the results of the research and training conducted under this paragraph; and

"(vii) develop standardized methods of recordkeeping of patient data.

"(C) In considering applications for grants and contracts to establish Reye's syndrome diagnostic and treatment centers under this paragraph, the Committee shall consider among other factors—

"(i) the geographic distribution of reported Reye's cases;

"(ii) the work in progress in Reye's syndrome or similar childhood diseases;

"(iii) the number of persons to be served by the program; and

"(iv) the extent to which rapid and effective use will be made by such centers of funds under such grants and contracts.

"(D) No grant or contract may be made under this paragraph unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(E) The Secretary shall prescribe regulations for the operation of the Committee, and the centers shall report to the Committee from time to time as required by such regulations.

"(F) Grants under this paragraph shall be for no more than three years, except that the Secretary, acting through the Committee, may extend for two additional years the period for grants if he determines, upon review of the activities under the grants by the Committee and consideration of recommendations made by the Committee, that such extenison is appropriate.

"(4)(A) The Secretary, acting through the Committee, shall make grants to and enter into contracts with public agencies, nonprofit private entities, and individuals, not associated with the centers established under paragraph (3), to conduct research relating to the diagnosis, control, and treatment, of Reye's syndrome. Such grants and contracts shall be for no more than three years.

"(5) The Secretary shall, not later than April 1, 1984, submit a report prepared by the Committee and approved by the Director of the National Institute of Neurological and Communicative Disorders and Stroke, to Congress. Such report shall account for the activities, accomplishments, and progress of the centers and research grants provided by this section, and shall recommend such further action relating to Reye's syndrome as the Committee determines appropriate.

"(6) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(7)(A) For each center established under paragraph (3), there are authorized to be appropriated $750,000 for the fiscal year ending September 30, 1981, $750,000 for the fiscal year ending September 30, 1982, and $750,000 for the fiscal year ending September 30, 1983.

"(B) There are authorized to be appropriated for grants and contracts under paragraph (4), $500,000 for the fiscal year ending September 30, 1981, $500,000 for the fiscal year ending September 30, 1982, and $500,000 for the fiscal year ending September 30, 1983.

"Subpart 10—National Institute of General Medical Sciences

"PURPOSE OF THE INSTITUTE

"SEC. 453. The general purpose of the National Institute of General Medical Sciences is the conduct and support of research, training, and, as appropriate, health information and related programs with respect to general or basic medical sciences and related natural or behavioral sciences which have significance for two or more other national research institutes or are outside the general area of responsibility of any other national research institute.

"Subpart 11—National Institute of Environmental Health Sciences

"PURPOSE OF THE INSTITUTE

"SEC. 454. The general purpose of the National Institute of Environmental Health Sciences is the conduct and support of research, training, health information, and related programs with respect to factors in the environment that affect human health, directly or indirectly.

"Part D—National Institute of Mental Health

"ESTABLISHMENT OF INSTITUTE

"Sec. 455. (a) There is established the National Institute of Mental Health (hereinafter in this part referred to as the 'Institute') to administer the programs and authorities of the Secretary with respect to mental health. The Secretary acting through the Institute, shall, in carrying out the purposes of sections 301 and 303 of this Act and the purposes of the Community Mental Health Centers Act (other than part C of that Act) with respect to mental illness, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of mental illness and for the rehabilitation of the mentally ill. The Secretary shall carry out through the Institute the administrative, financial management, policy development, and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

"(b)(1) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

"(2) The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities to be carried out through the Institute.

"(c) The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines.

"Part E—Awards and Training

"NATIONAL RESEARCH SERVICE AWARDS

"Sec. 461. (a)(1) The Secretary shall—

"(A) provide National Research Service Awards for—

"(i) biomedical and behavioral research at the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration or under programs administered by the Division of Nursing of the Health Resources Administration, in matters relating to the cause, diagnosis, prevention, and treatment of the diseases or other health problems to which the activities of the national research institutes and Administration or Division of Nursing are directed,

"(ii) training at the National Institutes of Health and at the Administrations of individuals to undertake such research,

"(iii) biomedical and behavioral research at public and nonprofit private institutions (including a research center assisted under part C of this title),

"(iv) research at the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology,

"(v) training at such Centers to undertake such research,

"(vi) research on the matters set forth in section 304(a)(2) at public institutions and at nonprofit private institutions, and

"(vii) pre- and post-doctoral training at such public and private institutions of individuals to undertake biomedical and behavioral research and the research described in clause (vi), and

"(B) make grants to public and nonprofit private institutions (including a research center assisted under part C of this title) to enable such institutions to make to individuals selected by them National Research Service Awards for research (and training to undertake biomedical and behavioral research and the research described in subparagraph (A) (vi)) in the matters described in subparagraph (A)(i).

A reference in this subsection to the National Institutes of Health or the Alcohol, Drug Abuse, and Mental Health Administration shall be considered to include the institutes, divisions, and bureaus included in the Institutes or under the Administration, as the case may be.

"(2) National Research Service Awards may not be used to support, residences.

(3) National Research Service Awards may be made for research or research training in only those subject areas for which, as determined under section 463, there is a need for personnel.

"(b)(1) No National Research Service Award may be made by the Secretary to any individual unless—

"(A) the individual has submitted to the Secretary an application therefor and the Secretary has approved the application;

"(B) the individual provides, in such form and manner as the Secretary shall by regulation prescribe, assurances satisfactory to the Secretary that the individual will meet the service requirement of subsection (c)(1); and

"(C) in the case of a National Research Service Award for a purpose described in subsection (a)(1)(A)(iii),(a)(1)(A)(vi), or (a)(1)(A)(vii), the individual has been sponsored (in such manner as the Secretary may by regulation require) by the institution at which the research or training under the award will be conducted.

An application for an award shall be in such form, submitted in such manner, and contain such information, as the Secretary may by regulation prescribe.

"(2) The making of grants under subsection (a)(1)(B) for National Research Service Awards shall be subject to review and approval by the appropriate advisory councils within the Department of Health and Human Services (A) whose activities relate to the research or training under the awards, or (B) for the entity at which such research or training will be conducted.

"(3) No grant may be made under subsection (a)(1)(B) unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information. as the Secretary may by regulation prescribe. Subject to the provisions of this section other than paragraph (1) of this subsection, National Research Service Awards made under a grant under subsection (a)(1)(B) shall be made in accordance with such regulations as the Secretary shall prescribe.

"(4) The period of any National Research Service Award made to any individual under subsection (a) may not exceed—

"(A) five years in the aggregate for predoctoral training, and

"(B) three years in the aggregate for postdoctoral training,

unless the Secretary for good cause shown waives the application of such limit to such individual.

"(5) National Research Service Awards shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances), adjusted periodically to reflect increases in the cost of living, for the recipients of the awards as the Secretary may deem necessary. A National Research Service Award made to an individual for research or research training at a non-Federal public or nonprofit private institution shall also provide for payments to be made to the institution for the cost of support services (including the cost of faculty salaries, supplies, equipment, general research support, and related items) provided such individual by such institution. The amount of any such payments to any institution shall be determined by the Secretary and shall bear a direct relationship to the reasonable costs of the institution for establishing and maintaining the quality of its biomedical and behavioral research and training programs.

"(c)(1)(A) Each individual who receives a National Research Service Award shall, in accordance with paragraph (2), engage in—

"(i) health research or teaching or any combination thereof which is in accordance with usual patterns of academic employment,

"(ii) if authorized under subparagraph (B), serve as a member of the National Health Service Corps or serve in his specialty, or

"(iii) if authorized under subparagraph (C), serve in a health-related activity approved under that subparagraph,

for a period computed in accordance with paragraph (2).

"(B) Any individual who received a National Research Service Award and who is a physician, dentist, nurse, or other individual trained to provide health care directly to individual patients may, upon application to the Secretary, be authorized by the Secretary to—

"(i) serve as a member of the National Health Service Corps, or

"(ii) provide services in his specialty for a medically underserved population (as defined in section 1302(7)),

in lieu of engaging in health research or teaching if the Secretary determines that there are no suitable health research or teaching positions available to such individual.

"(C) Where appropriate the Secretary may, upon application, authorize a recipient of a National Research Service Award, who is not trained to provide health care directly to individual patients, to engage in a health-related activity in lieu of engaging in health research or teaching if the Secretary determines that there are no suitable health research or teaching positions available to such individual.

"(2)(A) The requirement of paragraph (1) applies to an individual if the cumulative period of the award or awards received by the individual exceeds twelve months. Such requirement shall be complied with by any individual to whom it applies within such reasonable period of time, after the completion of such individual's award, as the Secretary shall by regulation prescribe.

"(B) The Secretary shall (i) by regulation prescribe (I) the type of research and teaching which an individual may engage in to comply with such requirement, and (II) such other requirements respecting such research and teaching and alternative service authorized under paragraphs (1)(B) and (1)(C) as he deems necessary; and (ii) to the extent feasible, provide that the members of the National Health Service Corps who are serving in the Corps to meet the requirement of paragraph (1) shall be assigned to patient care and to positions which utilize the clinical training and experience of the members.

"(C) The period of service required by paragraph (1) is computed as follows: For each month in excess of twelve for which an individual holds a National Research Service Award, such individual shall—

"(i) for one month engage in health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment, or, if so authorized, serve as a member of the National Health Service Corps, or

"(ii) if authorized under paragraph (1)(B) or (1)(C), serve for one month in the individual's specialty or engage in a health-related activity.

"(3)(A) If any individual to whom the requirement of paragraph (1) is applicable fails, within the period prescribed by paragraph (2)(A), to comply with such requirements, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula—

$$A=\Phi\left(\frac{t-s}{t}\right)$$

in which 'A' is the amount the United States is entitled to recover; 'Φ' is the sum of the total amount paid under one or more National Research Service Awards to such individual; 't' is the total number of months in such individual's service obligation; and 's' is the number of months of such obligation served by him in accordance with paragraphs (1) and (2) of this subsection.

"(B) Any amount which the United States is entitled to recover under subparagraph (A) shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under subparagraph (A) on account of any National Research Service Award is paid, there shall accrue to the United States interest on such amount at a rate fixed by the Secretary after taking into consideration private consumer rates of interest prevailing on the date the United States becomes entitled to such amount.

"(4) (A) Any obligation of any individual under paragraph (3) shall be canceled upon the death of such individual.

"(B) The Secretary shall by regulation provide for the waiver or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve substantial hardship to such individual or would be against equity and good conscience.

"(d) There are authorized to be appropriated to make payments under National Research Service Awards and under grants for such awards $207,947,000 for the fiscal year ending June 30, 1975, $165,000,000 for fiscal year 1976, $185,000,000 for the fiscal year ending September 30, 1977, $161,390,000 for the fiscal year ending September 30, 1978, $197,500,000 for the fiscal year ending September 30, 1979, $210,000,000 for the fiscal year ending September 30, 1980, $222,500,000 for the fiscal year ending September 30, 1981, $232,991,000 for the fiscal year ending September 30, 1982, and $262,814,000 for the fiscal year ending September 30, 1983. Of the sums appropriated under this subsection, not less than 15 per centum shall be made available for payments under National Research Service Awards provided by the Secretary under subsection (a) (1) (A) and not less than 50 per centum shall be made available for grants under subsection (a) (1) (B) for National Research Service Awards. In any fiscal year not more than 4 per centum of the amount obligated to be expended under this section may be obligated for National Research Service Awards for periods of three months or less.

"VISITING SCIENTIST AWARDS

"SEC. 462. (a) The Secretary may make awards (referred to as 'Visiting Scientist Awards') to outstanding scientists who agree to serve as visiting scientists at institutions of postsecondary education which have significant enrollments of disadvantaged students. Visiting Scientist Awards shall be made by the Secretary to enable the faculty and students of such institutions to draw upon the special talents of scientists from other institutions for the purpose of receiving guidance, advice, and instruction with regard to research, teaching, and curriculum development in the biomedical and behavioral sciences and such other aspects of these sciences as the Secretary shall deem appropriate.

"(b) The amount of each Visiting Scientist Award shall include such sum as shall be commensurate with the salary or remuneration which the individual receiving the award would have been entitled to receive from the institution with which the individual has, or had, a permanent or immediately prior affiliation. Eligibility for and terms of Visiting Scientist Awards shall be determined in accordance with regulations the Secretary shall prescribe.

"STUDIES RESPECTING BIOMEDICAL AND BEHAVIORAL RESEARCH PERSONNEL

"SEC. 463. (a) The Secretary shall, in accordance with subsection (b), arrange for the conduct of a continuing study to—

"(1) establish (A) the Nation's overall need for biomedical and behavioral research personnel, (B) the subject areas in which such personnel are needed and the number of such personnel needed in each such area, and (C) the kinds and extent of training which should be provided such personnel;

"(2) assess (A) current training programs available for the training of biomedical and behavioral research personnel which are conducted under this Act, at or through national research institutes under the National Institutes of Health and institutes under the Alcohol, Drug Abuse, and Mental Health Administration, and (B) other current training programs available for the training of such personnel;

"(3) identify the kinds of research positions available to and held by individuals completing such programs;

"(4) determine, to the extent feasible, whether the programs referred to in clause (B) of paragraph (2) would be adequate to meet the needs established under paragraph (1) if the programs referred to in clause (A) of paragraph (2) were terminated; and

"(5) determine what modifications in the programs referred to in paragraph (2) are required to meet the needs established under paragraph (1).

"(b) (1) The Secretary shall request the National Academy of Sciences to conduct the study required by subsection (a) under an arrangement under which the actual expenses incurred by such Academy in conducting such study will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with such Academy for the conduct of such study.

"(2) If the National Academy of Sciences is unwilling to conduct such study under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such study and prepare and submit the reports thereon as provided in subsection (c).

"(3) The National Academy of Sciences or other group or association conducting the study required by subsection (a) shall conduct such study in consultation with the Director of NIH.

"(c) A report on the results of such study shall be submitted by the Secretary to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate at least once every two years.

"PART F—GENERAL PROVISIONS

"INSTITUTIONAL REVIEW BOARDS; ETHICS GUIDANCE PROGRAM

"SEC. 471. (a) The Secretary shall by regulation require that each entity which applies for a grant or contract under this Act for any project or program which involves the conduct of biomedical or behavioral research involving human subjects submit in or with its application for such grant or contract assurances satisfactory to the Secretary that it has established (in accordance with regulations which the Secretary shall prescribe) a board (to be known as an 'Institutional Review Board') to review biomedical and behavioral research—

"(1) which is conducted at or sponsored by such entity,

"(2) which involves human subjects, and

"(3) which is supported by Federal financial assistance,

to protect the rights of the human subjects of such research. This subsection does not apply to research which, as determined under regulations of the Secretary, does not involve risk to human subjects.

"(b) The Secretary shall establish a program within the Department under which requests for clarification and guidance with respect to ethical issues raised in connection with biomedical or behavioral research involving human subjects are responded to promptly and appropriately.

"PEER REVIEW

"SEC. 472. (a) The Secretary, after consultation with the Director of NIH, and where appropriate, the Directors of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and and the head of the Division of Nursing of the Health Resources Administration (or the successor to either such entity), shall by regulation require appropriate technical and scientific peer review of—

"(1) applications made for grants and cooperative agreements under this Act for biomedical and behavioral research (including research under programs of such Division of Nursing); and

"(2) biomedical and behavioral research and development contracts to be administered through the National Institutes of Health, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, or the Division of Nursing of the Health Resources Administration (or the successor to any such entity).

"(b) Regulations promulgated under subsection (a) shall require that the review of grants, contracts, and cooperative agreements required by the regulations be conducted—

"(1) in a manner consistent with the system for scientific peer review applicable on the date of the enactment of the Health Research Act of 1980 to grants under this Act for biomedical and behavioral research, and

"(2) to the extent practical, by peer review groups performing such review on or before such date.

"(c) The members of any peer review group established under such regulations shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of the group and not more than one-fourth of the members of any peer review group established under such regulations shall be officers or employees of the United States.

"(d) The Director of NIH shall establish procedures for periodic, technical and scientific peer review of research at the National Institutes of Health. Such procedures shall require that—

"(1) the reviewing entity be provided a written description of the research to be reviewed; and

"(2) the reviewing entity provide the advisory council of the national research institute involved with such description and the results of the review by the entity.

"USE OF APPROPRIATIONS UNDER THIS TITLE

"SEC. 473. Appropriations to carry out the purposes of this title shall be available for the acquisition of land or the erection of buildings only if so specified. Such appropriations, unless otherwise expressly provided, may be expended in the District of Columbia for personal services, stenographic recording and translating services; by contract if deemed necessary, without regard to section 3709 of the Revised Statutes; travel expenses (including the expenses of attendance at meetings when specifically authorized by the Secretary); rental, supplies and equipment, purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings; purchase, operation, and maintenance of passenger motor vehicles; printing and binding (in addition to that otherwise provided by law); and for all other necessary expenses in carrying out the provisions of this title.

"GIFTS

"SEC. 474. The Secretary may, in accordance with section 501, accept conditional gifts for the National Institutes of Health or a national research institute or for the acquisition of grounds or for the erection, equipment, or maintenance of facilities for the National Institutes of Health or a national research institute. Donations of $50,000 or over for the National Institutes of Health or a national research institute for carrying out the purposes of this title may be acknowledged by the establishment within the National Institutes of Health or institute of suitable memorials to the donors.".

SEC. 3. (a) The National Advisory Health Council established under section 217 of the Public Health Service Act is terminated.

(b) Section 217(a) of such Act is amended—

(1) in the first sentence—

(A) by striking out "National Advisory Health Council, the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Dental Research Council" and inserting in lieu thereof "National Advisory Mental Health Council and the National Advisory Council on Alcohol Abuse and Alcoholism"; and

(B) by striking out "by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare" and inserting in lieu thereof "by the Secretary";

(2) in the second sentence—

(A) by striking out "in the case of the National Advisory Health Council, are skilled in the sciences related to health, and";

(B) by striking out "the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, the National Advisory Heart Council, and the National Advisory Dental Research Council" and inserting in lieu thereof "the National Advisory Mental Health Council and the National Advisory Council on Alcohol Abuse and Alcoholism"; and

(C) by striking out ", alcohol abuse and alcoholism, and dental diseases and conditions" and inserting in lieu thereof "and alcohol abuse and alcoholism"; and

(3) by striking out the third sentence.

(c) Subsection (b) of section 217 of such Act is repealed and subsections (c), (d), (e), and (g) are redesignated as subsections (b), (c), (d), and (e), respectively.

(d) Section 222(c) of the Public Health Service Act is amended to read as follows:

"(c) Upon appointment of any such council or committee, the Secretary may delegate to such council or committee such advisory functions relating to grants-in-aid for research or training projects or programs, in the areas or fields with which such council or committee is concerned, as the Secretary determines to be appropriate.".

(e) Section 301(a) of such Act is amended—

(1) in paragraph (3), by striking out "as are recommended" through "for such fiscal year" and inserting in lieu thereof "as are recommended by the advisory council to the entity of the Department supporting such projects or, in the case of mental health projects, by the National Advisory Mental Health Council; and make, upon recommendation of the advisory council to the entity of the Department involved or the National Advisory Mental Health Council, grants-in-aid to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research";

(2) in paragraph (8), by striking out "recommendations of the National Advisory Health Council" through "such additional means" and inserting in lieu thereof "recommendations of the advisory councils to the entities of the Department involved or, with respect to mental health, the National Advisory Mental Health Council, such additional means", and

(3) by adding at the end of the section the following: "The Secretary may not carry out this subsection through a national research institute listed in paragraphs (1) through (11) of section 401(a).".

SEC. 4. The Comptroller General shall evaluate the National Research Service Awards program under section 461 of the Public Health Service Act to determine the effect of the program on the number of physicians who enter the various medical specialities. The Comptroller General shall report the results of such evaluation to the Congress not later than January 1, 1983.

SEC. 5. Section 317(j) is amended (1) by striking out "or 4" in paragraph (5) and inserting in lieu thereof "(4), or (5)", (2) by redesignating paragraph (5) as paragraph (6), and (3) by adding after paragraph (4) the following new paragraph:

"(5) For the purpose of grants under subsection (a) for preventive health service programs for tuberculosis there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1981, $17,000,000 for the fiscal year ending September 30, 1982, and $19,000,000 for the fiscal year ending September 30, 1983.".

SEC. 6. The Comptroller General of the United States shall study—

(1) the performance of review functions by advisory councils to the national research institutes under section 408(a)(3)(A) of the Public Health Service Act; and

(2) the performance of review under section 472(d) of the Public Health Service Act of research at the national research institutes.

The Comptroller General shall, not later than January 1, 1983, complete the study under this section and report the results of it to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

SEC. 7. (a) Whenever in this section (other than in subsections (k) and (l)(1)) an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

(b) The second sentence of section 1501 (b)(1) (42 U.S.C. 300k-1(b)(1)) is amended by striking out "in" and inserting in lieu thereof "including those in".

(c) Section 1513(g)(2) (42 U.S.C. 3001-2 (g)(2)) is amended by striking out "three years" and inserting in lieu thereof "five years".

(d) Section 1516(d)(3) (42 U.S.C. 3001-5 (d)(3)) is amended (1) by inserting after "of subsection (c)(1)" the following: "(but without regard to the dollar limit prescribed by subparagraph (A)(ii))", and (2) by inserting before ", to the extent" the following: "no such agency shall receive a grant in excess of $3,750,000 and".

(e) The first sentence of section 1524(c) (6) (42 U.S.C. 300m-3(c)(6)) is amended by striking out "section 409" and inserting in lieu thereof "section 409 or 410".

(f) Section 1527(b)(3)(B) (42 U.S.C. 300m-6(b)(3)(B)) is amended (1) by striking out "that (i)" and inserting in lieu thereof "that", (2) by striking out ", which intends to acquire the controlling interest or which intends to use the facility is" and inserting in lieu thereof "which intends to acquire the controlling interest in or use the facility is (i)", (3) by striking out "and (ii)" and inserting in lieu thereof "and", and (4) by striking out "or the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (1)" and inserting in lieu thereof ", or (ii) a health care facility which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (B) of paragraph (1) and with respect to its patients meets the requirements of clause (iv) of such subparagraph".

(g) The last sentence of section 1531(3) (42 U.S.C. 300n(3)) is amended (1) by striking out "An individual" and inserting in lieu thereof "Notwithstanding subparagraph (B), an individual", and (2) by striking out "an entity" and inserting in lieu thereof "one or more entities".

(h) Section 1531(5) (42 U.S.C. 300n(5)) is amended by striking out "maintained or developed by the Department of Commerce and".

(i) Section 1531(6) (42 U.S.C. 300n(6)) is amended by adding at the end the following: "The term 'capital expenditure' does not include an expenditure made by or on behalf of a health care facility for health research at the facility if the obligation of the expenditure or the operating costs of the research will not affect the charges of the facility for the provision of medical or other health services, if the research will not involve the provision of such services to patients of any health care facility, and if the person making the expenditure files a notice with the State agency of the State in which the facility is located describing the nature of the research and providing assurances satisfactory to the State agency that the expenditure or operating costs will not affect such charges and the research does not involve the provision of medical or other health services to patients of any health care facility. A notice required by the preceding sentence respecting an expenditure shall be made in writing and filed with the appropriate State agency at least thirty days before any contractual arrangement is entered into to make the expenditure.".

(j) Section 1532(b)(12)(D) (42 U.S.C. 300n-1(b)(12)(D)) is amended by striking out "administratively".

(k) Section 124(c) of Public Law 96-79 (93 Stat. 627) is amended to read as follows:

"(c)(1) Section 1524(b)(1)(C) is amended by striking out 'one-third' and inserting in lieu thereof 'one-half'.

"(2) Section 1524(b)(1)(D) is amended (A) by striking out 'two' and inserting in lieu thereof 'one', and (B) by striking out 'an ex officio' and inserting in lieu thereof 'a nonvoting, ex officio'.".

(l)(1) Section 129(b)(2)(A) of Public Law 96-79 (93 Stat. 630) is amended by striking out "Health Planning and Resources Development Amendments of 1979" and inserting in lieu thereof "Health Planning Technical Amendments of 1980".

(2) Section 1521(d)(1)(B)(i) (42 U.S.C. 300m(d)(1)(B)(i)) is amended by striking out "Health Planning and Resources Development Amendments of 1979" and inserting in lieu thereof "Health Planning Technical Amendments of 1980".

(m) Section 338(a) (42 U.S.C. 254k(a)) is amended (1) by striking out "and" after "1979;", and (2) by adding before the period a semicolon and the following: "and $94,000,000 for the fiscal year ending September 30, 1981".

SEC. 8. This Act and the amendments made by this Act do not authorize appropriations for the fiscal year ending September 30, 1980.

The motion was agreed to.

The Senate bill was ordered to be read

a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Public Health Service Act to revise and extend the authorities under that act relating to national research institutes, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 7036) was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill, H.R. 7036, just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO HAVE UNTIL 4 P.M., THURSDAY, SEPTEMBER 4, 1980, TO FILE MINORITY OR ADDITIONAL VIEWS ON H.R. 7418, NUCLEAR WASTE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1980

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until 4 p.m., Thursday, September 4, 1980, to file minority or additional views to be printed as a separate part of the report, on the bill (H.R. 7418) to establish a research, development, and demonstration program for the disposal of radioactive wastes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR PERMANENT SELECT COMMITTEE ON INTELLIGENCE TO FILE REPORT ON HOUSE RESOLUTION 745

Mr. ROBINSON. Mr. Speaker, on behalf of the gentleman from Massachusetts (Mr. BOLAND) and myself, I ask unanimous consent that the Permanent Select Committee on Intelligence have until midnight tonight to file a report on House Resolution 745.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the gentleman from California (Mr. MINETA), the distinguished acting majority leader, as to the program for the balance of the week and next week.

Mr. MINETA. If the distinguished minority leader will yield, on Monday, September 1, and Tuesday, September 2, the Labor Day recess, the House will not be in session.

On Wednesday, September 3, the House will meet at noon and will first take up the District of Columbia appropriations bill for fiscal year 1981.

Following that, the House will consider H.R. 7201, health professions educational assistance and nurse training amendments, an open rule, with 1 hour of general debate.

On Thursday, September 4, and Friday, September 5, the House will meet at 10 a.m., and will take up the Private Calendar.

Following that, the House will consider House Resolution 745, resolution of inquiry directed to the President of the United States; then we will take up H.R. 7765, the omnibus budget reconciliation bill.

Then we will take up H.R. 7765, the omnibus budget reconciliation bill.

If time remains, we will then complete consideration of H.R. 7235, Rail Act of 1980;

H.R. 6790, Foreign Service Act of 1980, an open rule, with 1 hour of general debate;

H.R. 6721, Airport and Airway Improvement Act of 1980, a modified rule, with 2½ hours of general debate;

H.R. 7265, DOE authorizations of defense programs, an open rule, with 1 hour of general debate, the rule already having been adopted;

Complete consideration of H.R. 7115, National Science Foundation authorization, fiscal year 1981; and

H.R. 7244, increase U.S. quota in International Monetary Fund, an open rule, with 1 hour of general debate.

The House will adjourn by 3 p.m. on Friday, and adjournment times on Wednesday and Thursday will be announced.

Conference reports may be brought up at any time, and any further program will be announced later.

Mr. RHODES. I thank the gentleman.

AUTHORIZING THE CLERK TO RECEIVE MESSAGES FROM SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED, NOTWITHSTANDING ADJOURNMENT

Mr. MINETA. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, September 3, 1980, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS, AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. MINETA. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, September 3, 1980, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

☐ 1440

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

There was no objection.

APPOINTMENT OF CONFEREES ON SECTIONS 1, 2, AND 3 OF SENATE AMENDMENT TO H.R. 1197, TONNAGE MEASUREMENT SIMPLIFICATION ACT

The SPEAKER pro tempore. Without objection, the Chair appoints as conferees, solely on sections 1, 2, and 3 of the Senate amendment to H.R. 1197, to simplify the tonnage measurement of certain vessels, and modifications committed to conference, the following Members: Messrs. ASHLEY, MURPHY of New York, DINGELL, BIAGGI, DE LA GARZA, MCCLOSKEY, SNYDER, and LENT.

There was no objection.

DEATH OF GOV. JAMES B. LONGLEY

(Mrs. SNOWE asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SNOWE. Mr. Speaker, I rise today in order to bring to the attention of my colleagues the sad news of the recent death of former Gov. James B. Longley of Maine.

I would like to take this occasion to share with the other Members of the House some thoughts about the late Governor, and to place in the record the eulogy written for Governor Longley by his former administrative assistant, and close friend, Jim McGregor.

This eulogy praising Governor Longley is most appropriate since it was with true sadness and regret that we learned of his death last week.

Governor Longley will be remembered as one of Maine's most outstanding public servants. He will be remembered not only for what he did but for what he stood for as well. He will be remembered for his dedication to service, for his commitment to principle, and for his pursuit for those causes in which he so deeply believed.

As a Governor, Jim Longley placed principle ahead of politics. For those of us who served in the Maine Legislature during his tenure as Maine's chief executive, we can look with admiration and respect to the energy and dedication he brought to the office. Never once did he duck a tough issue. Never once did he pass the buck when he was faced with a difficult decision.

His accomplishments as Governor will surely be recorded in history as extraordinary. When others in such tough times may have thrown in the towel, Jim Longley stood up and fought with remarkable success for fiscal restraint, for government that was closer to the people, and for a government that tried to allow for new hope and opportunity for all people from all walks of life.

But Jim Longley will be remembered not merely for his accomplishments as Governor. He will be remembered as a truly fine and decent man, a man willing to lend a helping hand to a person in need, a man committed above all else to doing what he believed was right, and a man of total devotion to his family.

Jim Longley will be missed. We owe him our gratitude for making Maine a better place to live.

Mr. McGregor's eulogy follows:

Eulogy for an Uncommon Man, Gov. James B. Longley 1924–80

Jim Longley was a good man.

Ordinarily, that would be a sufficient eulogy for any individual. However, something more begs to be said about the former Maine governor.

Most of us are common men and although our passing might be mourned by family and a circle of close friends, our absence from the Earth usually won't leave a permanent scar. Although we might not like to admit it, any gaps we might leave behind will heal almost as quickly as the raw earth that will cover our graves. But, the death of an uncommon man leaves voids in society that will never be completely filled.

A few uncommon men are born each generation and they generally achieve success and greatness. That is because they possess qualities that would have made them leaders, no matter what time in history they appeared. Whether it be by fate or design, they come among us to lead, to establish standards for a quality of life, and to preserve and perpetuate the dignity of mankind.

Jim Longley was such a man.

Most Maine people and, indeed, many throughout the country know the Jim Longley story— the guy who defied the odds and won, no matter if it was a journey from rags to success in business or the taking of a 200-to-one shot in a governor's race and winning. Whether it was in high school, college, business or politics he was the leader; never the follower. He led the parade. He dared to be great. He prevailed against all odds.

He was, in a sense, a rare combination of Don Quixote and Sir Thomas More. Like the idealistic Don, he dreamed the impossible dream; but unlike literature's great crusader, Jim Longley left his path strewn with deeds. Yet, his visions were that of Don Quixote and, like that often perplexing Sir Thomas, he was moralistic to an exacting fault.

Jim Longley was driven to perform; to totally utilize the talents and gifts with which he had been anointed.

As a result, he planted far more flowers than he picked.

He wiped away more tears than he caused.

He had an innate sense for fairness and justice, and he practiced what he preached in that regard.

A final tally shows that he gave to the world far more than he took during his years upon this Earth. It is a far better place because he passed through.

Jim Longley obtained success, fame, and the respect and admiration of a nation of people because he was an uncommon man. He possessed uncommon intelligence, uncommon insights, uncommon drive, and uncommon ambitions. As a result, he was not always a patient man, and he was often demanding of people whom he felt were not performing to the best of their abilities. But, these traits were his working tools and they sometimes temporarily concealed from public view the compassion, caring and understanding which marked the real Jim Longley.

He was as tough as nails when it came to getting a job done. He gave 150 percent to every task, whether it was chairing a local United Way drive, building his business into one of the country's best, becoming Maine's first independent governor, or doing in political office what he told the people he would do.

Yet, he was an old softie when it came to people with problems. As governor, he didn't waste a lot of time on programs for people who had the ability to fend for themselves. Instead, he reserved his compassion, and many state dollars, for retarded children and adults at Pineland Center. He made more trips to Thomaston Prison than any governor ever had. He became personally involved in the lives of families who wrote or called the governor's office with a problem. He didn't take the easy out and buck them to an aide.

In his lifetime, he probably set a record for visiting the most people in hospitals and for attending the most funerals. He picked up hitchhikers, bought bus tickets for stranded wanderers, paid college tuitions for underprivileged youths, coached a hockey team for an orphanage, and bailed friends and strangers alike out of personal and financial crises.

I've considered myself very lucky because I had the opportunity to work closely for five years with Jim Longley . . . in his gubernatorial campaign and as his administrative assistant while he served as governor. I consider myself even more fortunate to have been his friend. I had the chance to stand in a very tall shadow.

Be that as it may, being a friend of and caring for an uncommon man is not purely a blessing. It also carries with it a curse.

The uncommon man will never be forgotten and the lives of those left behind will never be quite the same again. For the family members and friends who loved Jim Longley, the mourning will never completely end, no matter how many years pass. Time simply will not heal the wounds. Every day there will be a remembrance; hearts will feel heavy and ache a little; and an occasional tear will fall.

That is the curse of caring for an uncommon man.

The mark Jim Longley left on the government of Maine during the four years he served as governor will be a permanent and positive one. He utilized every minute he served to the fullest. He established benchmarks for performance, for service and for excellence.

He removed the appointment of judges from the partisan political process by establishing a system of making the judicial appointments on the basis of character and legal ability.

When Jim Longley assumed office in January of 1975, he was confronted with predictions by some political leaders that the state would need to raise 50-to-100 million dollars in additional taxes to keep pace with inflation and to accommodate the ever-increasing demands upon government for services. However, the independent from Lewiston had visited the mills, the factories and the small businesses throughout the state and he entered office with the knowledge that the working men and women of Maine were already having a difficult time surviving and that they could not shoulder a greater tax burden. By combining his unique talents as a businessman with his personal philosophy of fiscal conservatism and liberal humanitarianism he was able to not only hold the line on state budgets, but also to write new political history by giving the people tax rebates. He had the political courage to say no to programs that benefitted the bureaucracy more than they did the people and he had the compassion to increase government funding in areas where there was true need.

In the areas of industrial and economic development, Jim Longley became perhaps the most active and successful salesman this state has ever seen. He personally called on businesses and industries throughout the nation, telling them of the beauty of Maine and her people and the work ethic of the citizens here. His track record in this area has been well recorded. Literally thousands of new jobs were created because of his personal involvement and dedication.

These were tangible accomplishments, but the intangible gifts Jim Longley left may be even more important. At a time in American history when people in America were losing faith in government, he demonstrated that honesty and true public service could still exist. He demonstrated that the average citizen can still have an impact on government. He proved, for an entire nation to see, that one man can make a difference.

Jim Longley did not serve at an easy time. Indeed, the state not only was experiencing its biggest financial problems ever, but it was also beset by major social and economic conditions. The novice governor was confronted on an almost daily basis for four years with problems dealing with the Maine Indian Land Claims, the right-to-treatment suit at Pineland Center, the proposed closing of Loring Air Force Base, and unrest in our prisons. During Jim Longley's term, he fought to retain Loring Air Force Base, the Pineland right-to-treatment suit was settled out of court, the Indian land claims were modified where the people of Maine would not be required to pay a harsh penalty, and potentially explosive situations at the prisons were cooled time and time again because of the governor's personal intervention.

History will no doubt reflect that the State of Maine was very fortunate to have a man with Jim Longley's leadership capabilities at the helm during a time when Maine lost her innocence and moved into the mainstream of 20th century problems and issues.

Jim Longley can be remembered for many things. Indeed, his contributions to his community, his state and its government, and to business could fill many pages. However, I think he would want to be remembered, not for his successes or his accomplishments as governor, but for the simple fact that while in office he tried every single day to be exactly what he told the people of Maine he would be. Staying on that course was an obsession with him during the four years he served as governor. The fact that he accomplished that objective constituted his proudest and fondest memory after he left office.

But, the uncommon nature of Jim Longley may, in the final analysis, be best evidenced in the way he died. After he knew that his bout with cancer had been unsuccessful and after he had done everything he could to use his own illness to help doctors treat others, he accepted his own mortality with grace and dignity.

He wasted little time saying "why me" and immediately set about to put his affairs in order and to provide strength and encouragement to those who were crushed by his misfortune.

He played with the cards dealt him and complained not that someone else had received a better hand. "No matter what happens," he said over and over again in the final months, "I have been one lucky guy."

The world, the nation, and particularly the State of Maine, are better places to live because Jim Longley passed through; so are the individuals whose lives he touched, no matter how brief the encounter. The positive impact that having known him will have on our lives will far outweigh the curse we will suffer for having loved and cared for an uncommon man.

Since Jim Longley could have been a man for any time, Shakespeare could well have penned an appropriate epitaph when he wrote . . . in the final scene from Hamlet.

"Now cracks a noble heart. Good night, sweet
prince,
And flights of angels sing thee to thy
rest!"

THE SOCIAL SECURITY SOLUTION

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GEPHARDT. Mr. Speaker, some have argued in recent days against offsetting social security taxes through a refundable income tax credit. It is alleged that a proposal like this would postpone a confrontation with the really tough social security problems because it would take pressure off the Congress to remedy the same. It is implied, furthermore, that the social security system will suffer directly from passage of such legislation.

The truth is that H.R. 7046 in no way weakens the social security trust funds. Scheduled payroll taxes for the next 2 years will remain in effect. Revenue to the trust funds is unaffected by a credit against income taxes that takes payroll taxes into account.

Further, the truth is that H.R. 7046, if enacted, will heighten the pressure on the Social Security Subcommittee, on which I proudly serve, to confront the problems we all recognize do exist. If we fail to address the social security tax level we will continue to fail to address the underlying problems in social security which must be solved for the sake of generations to come.

The truth is, as explained in my extended remarks, that H.R. 7046 will stimulate employment, reduce inflation, counter the recession and hasten social security reform.

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 27, 1980.

DEAR COLLEAGUE: Whether you are a Republican, a Democrat, or an independent, we all agree that the economy is in trouble and that we should do something about it. Inflation, recession, and unemployment haunt every legislative decision we make. What we disagree on is the solution.

Most people believe a tax cut should be part of the solution, but there is disagreement as to when a tax bill should be considered or passed. My purpose in writing is not to argue that question, but to concentrate on the merits of a Social Security tax credit as opposed to a general individual income tax cut.

In my opinion, our goal in terms of tax policy should be to take small but long range steps that will address inflation, the recession, and unemployment, preferably at one and the same time. In other words, a tax cut that would be non-inflationary, reduce unemployment, yet stimulate productivity as a key to ending the recession, would be the optimum. Can we agree on such a plan? I think we can.

I would offer to you the Social Security Payroll Credit Act of 1980. H.R. 7046 would provide employers, employees, and the self-employed with a refundable credit against income taxes equal to 10% of their payroll taxes. If enacted and made effective January 1, 1981, it would cost the Treasury approximately $10.4 billion in FY 1981.

WHY SOCIAL SECURITY TAXES?

You may ask why I focus on payroll taxes. One of my subcommittee assignments on Ways and Means includes Social Security. I participated in the 1977 debates that resulted in the payroll tax increases that we felt, and I still believe, are necessary to restore fiscal soundness to the Social Security trust funds. Long-term reform of the Social Security System is on our Subcommittee's agenda for the 97th Congress, but the payroll tax increases will still take place as scheduled. On January 1, 1981, payroll taxes will increase to 6.65 percent on employers and employees up to $29,700.

Yet, unlike local real property taxes or State income taxes, payroll taxes are not taken into account when figuring one's Federal income tax. I believe a universal tax system like the Federal income tax should take into account each taxpayer's total burden. This is true especially when taxes are increasing dramatically as they are. Federal income and Social Security taxes yielded an effective tax rate of 10.2 percent in 1964 for a typical family of four—in 1981, that rate will have risen to 17.8 percent.

In 1981, Social Security taxes for individuals will rise $6,936. A tax credit slightly over 8 percent would compensate for this. At 10 percent, the bill arguably looks back to the increases borne over the last three years that went unnoticed by Congress in the opinion of most taxpayers despite the tax cuts enacted in the Revenue Act of 1978. The concept in H.R. 7046, at whatever percentage, offers us a flexible opportunity to tell our taxpayers that we recognize the burden they bear and are doing something about it. This, in turn, will heighten the need to deal with the really tough Social Security problems next year.

WHY NOT THE SENATE FINANCE COMMITTEE APPROACH?

The Senate Finance Committee has taken one approach. For $11.1 billion in FY 1981, they have recommended increasing the personal exemption, the standard deduction (zero bracket amount), and the earned income credit; a new deduction to redress the marriage penalty in part; and tax rate reductions for all income categories. Admittedly, the Finance Committee feels that this package takes into account inflation and increases in the payroll tax. But I challenge you to explain to your constituents how a change in the "zero bracket amount" or the "earned income credit" balances out payroll tax increases. Does a tax cut of $1.468 billion for taxpayers making over $200,000 make sense to the unemployed? Does increasing the deficit by $20 billion in this manner hope to be anything but inflationary? Will $300 million for working couples increase their productivity? I think not.

WHY NOT THE BEST?

In this season of political alternatives, one might also ask, is the Social Security Payroll Credit Act the best tax cut available? I doubt seriously that we could ever agree on what is the best approach in this regard. A comparison of the allocation of revenues under a payroll credit to general rate cuts attached hereto is evidence enough for me as to the better approach. I submit that H.R. 7046 offers the following other advantages over what the Senate Finance Committee has produced:

H.R. 7046 STIMULATES EMPLOYMENT

Unemployment rose from 7.0% to 7.7% between April and May and is expected to rise to 8.5% by the end of 1960. This makes the employment-stimulation features of H.R. 7046 especially attractive. On the average it takes $40,000 in capital for the creation of each new job. H.R. 7046 lowers labor costs directly and thus could lead to the creation of as many as 250,000 jobs. CBO estimates it would reduce the unemployment rate by .2%.

Moreover, the payroll tax credit would have an especially favorable impact upon the service sector of our economy in which a high proportion of minorities and women are employed. A payroll tax credit will create jobs among those who have the most tenuous hold on employment and who are particularly hard hit by the recession.

H.R. 7046 REDUCES INFLATION

Because the payroll tax credit reduces the cost of labor, it will result in lower costs of goods and services. CBO estimates that the proposal would lower the Consumer Price Index by as much as .3% because employers will use the credit to hold back commodity price increases. CBO also estimates that real GNP would be almost $8 billion higher in FY 1982. A payroll tax credit is more than merely non-inflationary—it will have a positive impact on the inflation rate.

H.R. 7046 COUNTERS THE RECESSION

Because it will increase purchasing power, create more job opportunities, and lower the rate of unemployment, reduce labor costs and thus lower the cost of goods and services, and increase real GNP, this proposal is a particularly effective step towards easing the current recession.

Coupled with proposals for increased depreciation to favor the capital intensive sector of our economy, I believe the Social Security Payroll Credit Act provides the solution we are looking for. This tax credit complements those proposals because its benefits flow more to labor-intensive businesses, such as the service sector, which contribute the bulk of our GNP.

Yet a payroll tax credit also encourages investment in capital and training throughout the economy. By reducing labor costs and adding to business cash flow, the proposal would provide internally generated funds for investment. At a time when high interest rates discourage borrowing, this credit would have a positive impact on increasing productivity.

CONCLUSION

I am not the only person who endorses the payroll tax credit approach. The following endorsements speak for themselves:

"There is an easy alternative: Simply grant a refundable credit against income taxes for a specified percentage of payroll taxes paid. Congressman Gephardt, for example, has introduced a bill pegging the cut at 20 percent for both employers and employees. This would do the trick."

(Walter W. Heller, Regents' Professor Economics, University of Minnesota, August 2, 1979.)

"Social Security tax reductions work through a number of channels . . . While on balance the effects of payroll tax reductions work more slowly than income tax reductions, the effects are thought to be somewhat larger and last longer . . . The biggest attraction of Social Security tax reductions is that the reduced business costs tend to offset the effects of higher output on prices, giving a temporary assist to the tradeoff between unemployment and inflation."

(Board of Governors of the Federal Reserve System, Division of Research and Statistics, October 15, 1979.)

"Legislation has been introduced—H.R. 7046 by Representative Gephardt and S. 2920 by Senator Bradley—that would provide a refundable tax credit equal to 10 percent of the Social Security contributions of employees, employers and the self-employed . . . This type of tax cut would more than offset the scheduled increase for most wage earners, while not affecting the financial stability of the Social Security Trust Fund. Such a tax cut would meet the standards of fairness, targeted relief to those who need it and help in the fight against recession—standards we believe should be applied to every tax cut proposal."

(Lane Kirkland, President, AFL-CIO, July 30, 1980.)

The Social Security Payroll Credit Act of 1980, H.R. 7046, is no panacea to all our economic problems. But of all the proposals that have been offered in the last few weeks, it is the one which is best calculated to offer immediate benefits to individuals, provide a needed stimulus to business, encourage employment and counter the recession, and yet not be inflationary. Thus, I believe this proposal offers the most responsible way to keep faith with the American people. For that reason alone, it merits the support of Members on both sides of the aisle.

Yours very truly,

RICHARD A. GEPHARDT.

DISTRIBUTION OF INDIVIDUAL TAX CUT BY INCOME CLASS

[1979 income levels, in millions of dollars]

Income class	Tax increases under current law: Social security	Inflation minus interest exclusion	Total	Tax reduction proposal including capital gains reduction	10 percent social security payroll credit
Under $5	286	176	462	270	349.7
$5 to $10	636	1,252	1,888	1,985	793.0
$10 to $15	852	1,196	2,048	2,237	1,066.2
$15 to $20	1,009	1,327	2,336	2,501	1,262.7
$20 to $30	1,946	2,615	4,561	4,857	2,366.6
$30 to $50	1,664	2,504	4,168	4,466	1,552.7
$50 to $100	446	1,435	1,881	2,073	360.7
$100 to $200	77	403	480	666	60.2
Over $200	20	135	155	1,468	15.7
Total	6,936	11,043	17,979	20,523	7,827.5

Joint Committee on Taxation, Aug. 22, 1980.

EXTENDING THE PROHIBITION ON ARBITRARY IRS AUDITS OF INDEPENDENT CONTRACTORS

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PANETTA. Mr. Speaker, I am today introducing legislation to extend the ban on reclassification of independent contractors by the Internal Revenue Service as employees for tax purposes. My bill would extend the ban that was written into both the Revenue Act of 1978 and Public Law 96-167 until January 1, 1983. If we do not act, the ban will run out at the end of the year.

This entire program was precipitated, as my colleagues will remember, by the sudden decision by the IRS in the early 1970's to begin reclassifying independent contractors as employees.

There are crucial differences in tax status between employees and independent contractors. When an individual is classified as an employee, the employer is required to act as a collecting agent for the Federal Government, withholding and remitting to the Treasury both income taxes and the employees' share of social security taxes, while also paying unemployment taxes and the employer's share of social security taxes. If an individual is classified as an independent contractor, though, he is responsible for paying his own income tax and self-employment taxes.

In years past, the determination of independent contractor status was made under the common law test. This system worked smoothly and fairly, providing certainty to all parties involved.

Unfortunately, in the early 1970's the IRS arbitrarily decided to begin reclassifying as employees workers who previously had met the common law test for independent contractor status. This policy ran contrary not only to previous court decisions but also to published revenue rulings and private IRS letter rulings and tax audits of the very businesses whose independent contractors were being reclassified. Obviously, this was an extremely unfair and irrational situation. These reclassifications were retroactive, and they presented many companies with huge back tax assessments.

In addition, they removed the certainty upon which companies making use of independent contractors had relied in the past. Of course, the redesignations also hurt the individuals involved, since they suddenly lost their status as independent contractors and became subject to the strictures of employee status.

In 1976, reacting to what they saw as an obvious injustice, both Houses of Congress backed a statement in the conference report on the Tax Reform Act of 1976 which urged the IRS "not to apply any changed position or any newly stated position which is inconsistent with a prior general audit position in this general subject area to past, as opposed to future taxable years" until the completion of a study by the staff of the Joint Committee on Taxation. The IRS, though, ignored this judgment and continued to initiate audits and to assess businesses with taxes resulting from these reclassifications.

By reclassifying independent contractors in over 14 industries, the IRS was in effect reversing 50 years of past audit practices. Real estate brokers, insurance agents, direct sellers, beauticians, service station operators, loggers, and others were being asked to pay these back taxes on hundreds of individuals who had historically considered themselves independent contractors. It was clear that a legislative remedy had to be found.

In response to this need, I introduced, as did Congressman GEPHARDT and Senator DOLE, legislation to call an immediate halt to audits inconsistent with practices in effect as of January 1976. This legislation drew a great deal of support in the Congress, and the Revenue Act of 1978 included a provision prohibiting the IRS from applying any new or changed position with respect to an individual's tax status for employment tax purposes if the position was inconsistent with pre-1976 practices. This legislation also terminated any tax liabilities for taxpayers who had a reasonable basis for treating workers other than as employees. In December of last year, Congress extended the prohibition on IRS actions in this area until January 1, 1981. That date, needless to say, is approaching rapidly.

My bill would extend the ban on IRS activity for 2 years. Since it is clear that Congress needs a sufficient amount of time to consider this issue, a ban of this length is absolutely necessary. It will permit the 97th Congress to act rationally, without the need for yet another year-end rush to enact a 1-year extension, as happened last year and could happen this year.

I am a supporter of H.R. 3245, introduced by Congressman GEPHARDT, which would establish firm criteria to be met by independent contractors in order to qualify for the tax status which has made sense for them for so many years. Regardless of the final determination made by Congress on that legislation, though, it is important that we act now to stop any improper audit actions by the IRS. Congress, not the bureaucracy, must make tax law in this area.

Following is the text of my bill:

A bill to extend for an additional 2 years certain provisions relating to controversies involving whether individuals are employees for purposes of the employment taxes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 530 of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before 1981) is amended—

(1) by striking out "January 1, 1981" in paragraphs (1)(A) and (3) and inserting in lieu thereof "January 1, 1983",

(2) by striking out "1981" in the subsection heading and inserting in lieu thereof "1983", and

(3) by striking out "1979 and 1980" in the heading for paragraph (3) and inserting in lieu thereof "POST-1978".

(b) Subsection (b) of section 530 of the Revenue Act of 1978 (relating to prohibition against regulations and rulings on employment status) is amended by striking out "January 1, 1981" and inserting in lieu thereof "January 1, 1983".

LAMEDUCK SESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. RHODES) is recognized for 60 minutes.

Mr. RHODES. Mr. Speaker, the proposal by the majority to hold a lameduck session in November is tacit admission that they have become legislatively musclebound, and unable to do the public's work. I am reminded of the words of the great Winston Churchill, who in similar circumstances described the fumbling opposition this way:

> They are decided only to be undecided, resolved only to be irresolute, adamant for drift, solid for fluidity, and all-powerful for impotence.

During the course of our history, lameduck sessions previously have been held only under extraordinary circumstances, events of national emergency and great demand for congressional action. This proposal simply represents the majority throwing down its tools, walking away from the job, admitting it has frittered away its time, and has failed the American people in responsibility.

It is not difficult to fathom the rationale behind calling a convocation of limping ducks into session after the election. The majority simply wants to duck having to vote on tough issues before the election. The majority has dilly dallied around, failed to establish or follow any priorities, and now finds itself with a long list of so-called must legislation that there is strong doubt is really necessary.

The 96th Congress has not distinguished itself either in quality or adequacy of its legislative output. It has compiled a record of copious procrastination, which has resulted in a legislative logjam. The plain fact is that the majority is trying to dodge establishing a record on key issues prior to facing the electorate. Rather than running on its record, it is running away from having a record, simply by ducking the issues.

The American people, in good faith, elected the Congress to do a job. Now the majority claims that it simply cannot finish its work load before its chosen adjournment date. It would seem to me to be more logical to stay here on the job, to take care of legislation that is important, to fulfill our obligation to the public, assumed when we were elected to the Congress.

By keeping at it until mid-October, much of the legislative backup could be cleared away. I do not know just what the majority believes the political advantage will be to spend more time at home explaining why Congress cannot perform, rather than keeping on the job long enough to do the work. We Republicans certainly are willing to remain at our posts, to meet often and long, to finish the session with important legislation considered and dealt with. We certainly intend to let the American people know that the self-declared deadline for a legislative cutoff is an arbitrary, and we believe irresponsible, choice made solely by the majority on the basis of political expediency.

The Congress changed the date of the beginning of the fiscal year so that it would have sufficient time to consider appropriations. Yet we find many of them unresolved as we go into the final month of this fiscal year. Consideration under the pressure of an adjournment deadline is not conducive to good legislation. But, again, perhaps that is by design, aimed at getting through dubious funding that would be weeded out under more careful consideration.

There is a great moral question concerning the appropriateness of a lameduck session, after the people have made their choice at the polls. There is the possibility, and I believe with the political machinations already exercised by the majority, the probability, that unwise legislation concerning appointive powers and spending measures could be railroaded through with the votes of those the public has rejected for service in the Congress. Particularly is this a possibility if Mr. Reagan is elected President.

As I travel around this Nation, I find a great deal of popular displeasure with the Congress, which indicates to me that there may well be sizable changes in the political alinement in November. It would be a travesty on responsibility for a lameduck session to enact legislation unwanted by the people.

I see nothing on the crisis horizon that would justify a lameduck session. One has not been held in a Presidential year since 1948, when it became necessary to swear in Members and extend the life of the Hoover Reform Commission. By any measure of national need, this proposed session represents a capricious decision by the majority to avoid its responsibility. There simply is no justification for failing to stick to it and get the job done before going home to campaign.

For the past 25 straight years we have had one-party rule of the Congress. The majority apparently has become so accustomed to running the show that they new feel they can ignore the public interest with impunity, work when and however they wish, and let the public's business go by the boards. I do not believe the American people are in the mood to be politically manipulated this year. I am certain that they will see through this grandstand play, that they will object to the sham, and will not buy the story that Congress is just so busy doing so much that it cannot get it done in 9 months. They will realize that this proposed postelection session has been arranged at the convenience of a callous majority, at the inconvenience of the national interest.

It is a sad culmination of a quarter of a century of gathering arrogance, and illustrates graphically the deterioration of Government when one party stays too long in the saddle. The majority may make its choice—and the public then will make theirs. I am betting that a late November session will be populated by a greater number of lameducks than the then former majority anticipates.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I would like to agree with the gentleman's remarks. My leader, as usual, has told it the way it is. It is a copout.

I have been turning over in my mind some of the things that should be done before this Congress goes to its accounting with the people. It is pretty apparent that they are the reasons more than anything else for the lameduck sessions, such things as the second budget resolution, such things as the more controversial appropriations, many of which will apparently not be completed by the time of our recess for the election period.

It is pretty obvious that the leadership wishes to avoid having to account for these votes to the American people and that that is the primary reason for the lameduck session, rather than a limitation on the time which is available to us precluding accomplishment of these various controversial measures.

I do think that if our democracy is to work properly, the people have a right to judge how their representatives are voting on the most controversial matters, usually the last things to come up at the time of election, rather than 2 years and a few months later, which is the effect if we put these controversial matters over.

I deeply regret that we are not performing our function and having our accounting with the American people in the way we should.

I personally think that a substantial part of this is a failure of leadership at the Presidential level. In the 16 years I have been in Congress I have concluded that our system does depend heavily on Presidential leadership. Many people seeing the disarray of the 96th Congress say to me, "Well, I suppose you're smacking your lips and rubbing your hands as a minority Member because the President, the administration, and the Democratic leaders of the Congress are failing to meet their obligations in such a notorious way."

But quite frankly, it has been my experience that this is not a satisfactory environment in which to work, that as a minority Member, I would much rather respond to policy than to dwell in the swamps of nonpolicy.

I would much rather react and on occasion follow good leadership than I would find myself trying to create some sort of positive leadership as a minority Member myself.

I deeply regret that the President has not projected his leadership, his concept of government and his obligation to generate policy into the Congress so that we can have the kind of response here that will give us a sense of accomplishment and permit the citizens branch here to follow the expertise that a good executive branch should be capable of in the type of system we have. So I blame him as much as I blame our own majority leaders here in the Congress.

I hope that we will find the public being aware of this, despite the failure to complete our legislative accounting before the election.

Mr. RHODES. Well, I thank the gentleman from New York. I could not agree with him more. I think he would agree also, however, that it would certainly be a more salutory situation if, indeed, the leadership of the majority of this party could face up to the fact that there is not a lot of leadership or a lot of stimulus from the executive branch, and in spite of that lack of leadership to rise to the occasion and to enact a legislative program on time which is required for the benefit of the country, instead of actually just saying, "Well, you know, there is nothing we can do about it. Therefore, let us do not do anything that might cause the voters to be any madder than they now are."

Mr. CONABLE. Well, that is a good point.

Mr. Speaker, it seems to me that in most situations of this sort where we have coequal branches of Government where there is a failure of leadership on one level, strong people come forward on another level and fill the vacuum. That has not happened in this Congress. We have wallowed. We have not had a strong policy line generated anywhere. The result is that it is an abysmal record of accomplishment in the 96th Congress, one that I think should, as the gentleman has stated, declare to the American people the bankruptcy of the current majority party leadership.

Mr. RHODES. Mr. Speaker, I would like to yield to the gentleman on my right.

Mr. CARR. Mr. Speaker, I would like to thank the distinguished minority leader for yielding and congratulate him on his efforts to shut Congress down before the election. All of us would like nothing better than to have little or nothing to do for the months of November and December, as has been the congressional tradition all these years.

I know that my taxpayers will aspire to his leadership in trying to figure out a way that you can get paid for 2 months without having to work for it.

Mr. RHODES. I think the gentleman has completely misunderstood the thrust of the minority leader's statement. What I was trying to do is to get the gentleman and his Democratic colleagues to work until the 18th of October instead of knocking off on the 4th of October, so that we can get the job done.

I do not see any reason why we should come back after the election with a lot of lameducks. We did away with lameduck sessions when the 20th amendment was adopted. I am sure the gentleman is too young to remember that, but I remember it very well, with my silver hair and hoary age.

Mr. CARR. Well, if the gentleman would yield further, I would be glad particularly in recognition to his giving me token opposition this year to work right up until election eve. I just would like to be there so I can cast my own vote for myself; but I would like nothing better than to do nothing and have a great old time and a vacation for the months of November and December. If that is the gentleman's will, I think most of my voters would aspire to the gentleman's leadership.

Mr. RHODES. I am pleased to have the gentleman's support.

Mr. Speaker, I yield to the distinguished minority whip, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I appreciate the distinguished minority leader yielding and I want to commend him for his leadership here in pointing out the sham that is being perpetrated upon members of the minority particularly, and the gentleman from New York who preceded me with pointing out those specific measures which should be enacted before a formal adjournment of this Congress and particularly before the election, but which will be delayed until afterward for obvious reasons.

I guess, Mr. Speaker, if I would make a contribution to this effort here, that it would be in this frame of reference.

When I retire from this body, I hope to take back to Peoria with me a few personal mementos of my years here and the friendship of the colleagues with whom I have served.

I will not take my desk or my equipment, my stationery or the carpet on the floor. They do not belong to me. They belong to the people. When I retire, they will be passed along to someone else. They will be passed along with a card that will give the Member who replaces me the right to vote on behalf of the people. The vote is not mine any more than are the desks and the chairs and the lamps.

When my successor is elected, under whatever circumstance, I will be the lameduck, and I sincerely hope that whenever that time comes I am not called back here to Washington to cast a vote that is, in theory no longer mine. I will come back, all right, and occupy the office and use the desk and the stationery. But I do not want to have to use the vote. The desks are a dime a dozen, piled high in warehouses all over this town. The vote, that is a different matter. It is a precious, rare and honored treasure that people of this Nation allow 1 of every 450,000 to use as they see fit. When they take it away it is for good reason. When it is relinquished, it is relinquished for good. As far as I am concerned we all have a moral obligation to respect the ownership of that vote. We have no right to rush back here like a herd of carnival goers on the last day of the fair and throw it around as though it was just another ring to be tossed at the milk bottles.

Rump sessions or lameduck sessions are a part of our history. That is true. But that part of our history has been written, sealed and put on the library shelves. Modern communication and transportation have eliminated the need for them. Lameduck sessions have their place in times of emergency. That is also true. But in times of emergency in this country, many laws, many traditions and many otherwise legitimate practices are put aside, but never lightly or without good reason.

This is not the 19th century, nor is it a time of national emergency. This is a time when the Congress of this land has neither the gumption, nor the will, nor the decency to do the people's work in the prescribed amount of time. This is a time when the Congress has to cower under the shadow of a national election and run and hide behind the protective cover of the days and weeks after the election. Only then can this Congress work its will without fear of being punished for working against the public will.

It is an embarrassment. The people know the calling of a lameduck session does not suggest that we in this House are working so hard and long that there just is not enough time. It does suggest that we, in a great democracy, are too weak to legislate in the light of day. It suggests that the Congress intends to openly repudiate the decisions the voters will make November 4.

A lameduck session is lame politics, it is lame government, and it is a lame attempt at deceit.

I am not new at this game. I have been around a long time and I know the reasons behind the calling of the session. However, you do not have to be a veteran of the House to understand what is going on. You know what is going on if you have been hanging around this floor for the past 2 years waiting and waiting and waiting for the leadership to call up the important bills, the budget bills, the appropriation bills, the reconciliation bills, and authorization bills. Delay has been the tactic. Confusion has been the strategy and subterfuge the ultimate goal. The leadership, as we know here, is caught in a time warp. They are stuck with a bushel full of bills, a pouch full of promises and a yellowed parchment full of principles straight out of one decade while the American people are living in another. The leadership has to catch up with the country, hope the country digresses back a decade or two, or do their legislating after the election, but before a whole new set of lawmakers from the 1980's enter. And those new Members will be here. That is what is going on. I just hope the American people do not buy it. If they do, they will pay later, and they will pay dearly.

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I appreciate the gentleman taking the initiative to point up to the American people what we are confronted with, and they are, too.

Mr. RHODES. I thank the gentleman from Illinois.

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. RHODFS. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Speaker, I would like to commend our distinguished leader for calling this special order. I concur fully in everything that has been said. I think it is totally out of order for us to have a lameduck session just because we do not have the courage to vote on tough economic issues now.

One of the reasons for wanting to postpone this voting is the foreign aid bill. I am on the Subcommittee on Foreign Operations of the Committee on Appropriations, and 7 weeks ago this bill was brought out for $8.6 billion of foreign giveaways. The folks who are promoting this realize that now the Congress would not vote this level of expenditure, so they want to wait until after the election when the White House thinks it can drum up support for this huge foreign aid program.

I think the people at home expect us to stay here and tend to business and complete our business before the election.

Mr. RHODES. Do I understand the gentlewoman correctly that the foreign aid appropriation bill has been voted out of the subcommittee and is ready for full committee consideration?

Mrs. SMITH of Nebraska. It has been voted out of the full Appropriations Committee for 7 weeks.

Mr. RHODES. And is ready for floor action?

Mrs. SMITH of Nebraska. And is ready for the floor, but we cannot get it up on the floor.

Mr. RHODES. It is not scheduled. Does that not possibly or probably mean after the election, after the voters can no longer be indignant at the majority for bringing this inflated bill up that they might even bring a more inflated bill in?

Mrs. SMITH of Nebraska. Yes, indeed. The fact is that the President is asking us for an even more inflated bill and I think we can lay this right at the door of the White House, this promotion for not voting on foreign aid.

In addition, we have not voted yet on the 1980 foreign aid bill.

Mr. RHODES. This is truly a reason why, then, a majority in this Congress does not want to complete its work. The voters would probably be rather angry at this time at them if they voted for such an inflated bill.

Mrs. SMITH of Nebraska. The voters in my district certainly would be mighty angry, and I think we have this sentiment all across the country. I thank the gentleman for yielding.

Mr. RHODES. Now we are making more sense. We are beginning to understand why and what the motivations are for this rather ludicrous situation.

Mrs. SMITH of Nebraska. Mr. Speaker, I must join my distinguished colleagues to oppose the leadership's stated intent to hold a postelection session of Congress this year.

Everybody knows that this lameduck session would be the leadership's ploy to avoid voting on the tough economic issues while the voters' eyes are upon them, while they can still be held accountable to the people.

Instead, the White House and its allies here on Capitol Hill want to put off consideration of big spending, controversial measures until after the polls close on Tuesday, November 4. Then, they can vote on them quietly, corraling votes for such incredible waste as the misbegotten programs of the foreign aid bill that seem to do little to help the world's poorest of the poor and gain us nothing but increased hostility of the very people and governments we are trying to assist.

As a member of the House Appropriations Subcommittee on Foreign Operations, I wish to inform my colleagues of the contents of the foreign aid appropriations bill for this year, H.R. 7854. This bill would commit $8.6 billion more to foreign aid at a time when Americans are seriously questioning this level of expenditure. With this substantial an increase, one can well understand the majority's desire to keep bills such as this "under wraps" until November 5.

Mr. Speaker, I think we ought to stay on the job in Washington and attend to the public's business until we complete work on all essential legislation. I plan to work actively for extending this session of Congress as far beyond the scheduled adjournment date of October 4 as is necessary.

I refuse to support any proposal that we stop working and go home to campaign. It is conceivable that as many as 20 percent of the Members participating in a lameduck session this year would no longer be representing the views of their constituents either because of retirement or election defeats.

The principle involved is bad. Historically, lameduck sessions have produced little of value and sometimes actions were in fact harmful to the national interest.

White House allies, the big spenders who lead the Congress, want a session after the election in the mistaken belief that they can ignore the broad and deep change of sentiment among the American people that is calling for a return to financial sanity in Government taxation, spending, borrowing, and regulating.

Mr. Speaker, the majority leadership in this Congress supposedly controls the House and Senate by large margins, nearly 2 to 1, in fact.

Yet, to turn again to the foreign aid bill as an example, this legislation cleared my Appropriations Committee long ago. After all this time, the bill still is not scheduled for action, and there is no sign that it will be.

The leadership knows that if put to a vote now, the foreign aid bill—and much other vital legislation—would be defeated because the Congress would be facing the demands of our Nation's voters.

By delaying these controversial votes until after the election, White House supporters plan to corral enough no longer representative votes to approve vast new funding totals, even though this would controvert the views of the people. This amounts to disenfranchisement.

This, all by itself, is reason enough to oppose any lameduck session this year. The American people must be told that they are in danger of being disenfranchised by the stalling tactics of the White House allies in the Congress.

Our people must be told that the leadership still clings to tired, big-spending programs that no longer have enough vitality to attract popular support.

Less than 3 months ago, these big spenders were telling the American people that they, like economy-minded Members of the Congress as I am, now believed in a balanced budget. For proof, they proudly pointed to the first concurrent budget resolution for fiscal year 1981 that called for a revenue surplus of $200 million.

They pointed to this, even though they knew it was a sham. That resolution, raising the tax burden on the American people by more than $90 billion, was balanced on paper only. It was balanced because it relied on economic assumptions that were blatantly unrealistic.

And now, the President has just abandoned that in favor of still another budget projection for fiscal 1981 in which tax cuts and a huge new deficit are to be accepted.

Mr. Speaker, no wonder the leadership is so anxious to get out of town as soon as they can. But I submit this is an abdication of responsibility to the betrayed and abused taxpayers of this Nation.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the distinguished minority leader for yielding. I want to offer a few thoughts in addition to what he has said.

I, too, would want to adjourn and get out of town as fast as I could if I were TIP O'NEILL, the Speaker of the House, because I know that he is confronted by not only the problem of avoiding votes on issues so his band can be reelected, but he now apparently has mutiny in the ranks.

Mr. Speaker, I would ask unanimous consent to include extraneous matter at this point in my remarks.

The SPEAKER pro tempore (Mr. HANCE). Is there objection to the request of the gentleman from Maryland?

There was no objection.

LETTER TO AN UNNAMED BUT COURAGEOUS DEMOCRATIC MEMBER OF THE HOUSE

DEAR ———: I was extremely disappointed to note that you voted against a motion to uphold the ruling of the Chair last week.

It is elementary to our procedural control of the House that the chair be supported by members of our party. That is basic to a parliamentary body. In other countries if such a vote were lost, the government would fall.

You should know that from 1937 to 1968, there were no recorded votes on the Chair's rulings. From 1968 until 1979, there were four votes. Now we have seen three roll call votes in seven weeks!

Members of the Steering and Policy Committee and the Whip's Organization have discussed these developments, some of them calling for disciplinary measures and meetings. I believe, however, that our best course is to call the above facts to the Members' attention.

I fully understand the pressures that are brought to bear by single-issue groups on such occasions, but I believe members have to be ready to support the orderly process when a member seeks to confuse procedure with issue.

I trust you will take all these facts into consideration in the future. We must work together to enact a legislative program.

Sincerely,

THOMAS P. O'NEILL, JR.,
The Speaker.

Mr. BAUMAN. The extraneous matter

I am including is a letter that went to a number of Members of the majority party dated August 25, 1980, from the Speaker in which they are threatened, in effect, because they have not been going along with the Speaker and the majority leadership's wishes. I do not blame them. They, too, want to be reelected, and to follow the course laid down by the majority leadership is, we understand, the course of disaster.

So discipline is one reason to get out of town in a hurry and not to have to be here before the elections, and that allows the nervous Democrats not to have to vote on issues such as the budget and taxes.

But I would suggest one additional reason, and that has been revealed to us only within the last hour. The President of the United States, in an unprecedented and historic move, has submitted his third budget of the year. He had one in January with a deficit. Then he submitted one in February that was supposedly balanced. Today he has announced a whole new package of supposed tax cuts, and a $40 billion deficit. My colleagues will remember a few weeks ago he said Ronald Reagan's proposed tax cuts were poison. If that were so, now President Carter is gulping down an even larger amount of poison. He was for a balanced budget earlier this year and now he has abandoned that.

Here is what the dispatch from the wire service says about these new proposals the President has just laid before the country.

> Most of the tax and spending initiatives will not be formally proposed as legislation until after the November 4th election, Administration sources said.

So, in the lameduck session, the motto will be "Trust me." My colleagues remember that old phrase, "Trust me," from the 1976 campaign. So the President promises to do all of these things, but he will submit them later. Much later. So not only is the majority avoiding the duties they should be addressing here, not only are they not voting on issues they should be finishing up before the election, now we have a whole list of promises that James Earl Carter of Plains, Ga. is going to make in the campaign. Then when we come back after the election, folks, you can believe it, we will be voting on them.

I think the gentleman from Arizona has raised an important issue, one we will hear a lot about in this House in the next few weeks as the lameduck session draws near.

Mr. RHODES. The gentleman from Maryland (Mr. BAUMAN) has brought up a very important point. The first budget, as he says, was not balanced. The second budget was jiggered around a bit and it apparently had a fairly precarious balance with the assumptions made, many of which proved to be erroneous. Now we have a third one.

I wonder if the gentleman would agree with me that the track record of this administration for consistency is such that it is really impossible to tell what they really are for and what they are against. The only thing I am really sure of is that Jimmy Carter is for his own reelection and against his own defeat. If the gentleman can tell me anything else that he is sure the President is for or against, I would like to yield to him for that purpose.

Mr. BAUMAN. I would say you can believe that statement. Trust me.

Mr. LEACH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. My Republican colleagues have noted a number of things that Congress should do before the election but there is one thing above all else it should not do after the election, and that is change the election laws of the United States.

Right now the election laws are such that if by chance the electoral college does not determine the winner in the Presidential election, the next Congress will vote on the next President of the United States.

However, in that event a lameduck session meets, the possibility exists that the Democratic majority will exert muscle to change the law to allow this Congress, rather than the next one, to determine the next President. If that were to occur, the very legitimacy of our Government would be jeopardized. The greatest electoral sham ever propagated upon the American people would occur. And with regard to the previous conversations about the one principle the White House stands for—winning elections—it is clear that this principle is well understood by the majority party of this Congress as well.

I am personally convinced that there is a strong likelihood that Governor Reagan will achieve an absolute majority in electoral college, but in the event no candidate does, we should be prepared to demand that the next Congress determine the next President and not allow any sort of electoral shenanigans to occur in the lameduck session proposed by the majority party. It would be tragic to produce a President not sanctioned directly or even indirectly by the American people.

Mr. RHODES. The gentleman has made a very important point. The way the law of the country now is, in the event that a Presidential election were to be not decided by votes in the electoral college, it would be decided by a vote in the House of Representatives, which would be elected in the same election as the Presidential election occurred. What the gentleman is saying is that with a lameduck session there is a possibility that a party which had gone down in defeat could change the law to try to allow the outgoing, the lameduck Congress to select the next President of the United States. Is that what the gentleman is saying?

Mr. LEACH of Iowa. That is correct. I would certainly hate to see a lameduck Congress cause the creation of a lameduck administration.

Mr. RHODES. I think that is something the people of the country should be well aware of and if, as I feel is certain, the majority of them prefer Governor Reagan to be elected President of the United States, they should also vote for Republican Members of the House so they can cinch that election in the event that the unhoped for event occurs and the election should go to the House.

Mr. LEACH of Iowa. I thank the minority leader.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

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Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding. First, I would like to congratulate the gentleman for bringing this special order. I would have to say in passing, however, I am very sorry to see that we do not have the press corps more in evidence here, because it strikes me as somewhat ironic that if we were discussing a constitutional amendment dealing with the right of the people to be represented, this place would be overflowing, and you would have the press, I think, on the edge of their seats to see exactly what we were going to do.

Yet in 1932 when this body finally decided that we were going to adopt a new amendment to the Constitution, the 20th amendment to the Constitution, to establish those times at which the President would take office and the Congress would take office, the major reason they went through that whole process was to eliminate the possibility of lameduck sessions.

You can read through the RECORD and see speaker after speaker after speaker talk about the tremendous problem we had with the lameduck sessions which were occurring up to that time, and there was debate on both sides of the aisle about that. In that particular year 1932 the Senate decided not to debate it since they had already dealt with it five times before, and instead they put a report in the RECORD to stand for the debate. I would like to cite just one thing from that report to show what the Congress had in mind at that time when they adopted the 20th amendment to the Constitution, which was later ratified by the States. I quote from that report of the Senate:

> The only direct opportunity that the citizens of the country have to express their ideas and their wishes in regard to national legislation is the expression of their will through the election of their representatives at the general election in November. During the campaign that precedes this election the great questions demand attention at the hands of the new Congress are discussed at length before the people and throughout the country, and it is only fair to presume that the Members of Congress chosen at that election fairly represent the ideas of a majority of the people of the country as to what legislation is desirable. In a Government "by the people" the wishes of a majority should be crystallized into legislation as soon as possible after these wishes have been made known. These mandates should be obeyed within a reasonable time.

So it is evident what they were trying to eliminate, and that is the possibility of a lameduck session. I think that is what we have been presented with here—

that very great possibility. We are not in an emergency situation. We have had the ability to deal with the second concurrent budget resolution for weeks; yet we have not even attempted to do it. There is talk of certain Members' wanting to make sure that certain pieces of legislation are not brought on the floor until after election so they will not have to deal with those issues when they face the electorate in November. Nobody is being fooled here. I think we know exactly what is going on.

It just seems in terms of representative government that we ought to try at least to follow the spirit of the Constitution, even though we do not violate the letter of the Constitution by having a lameduck session, and proceed honestly far more in keeping with what representative government suggests and what our constituents obviously want. So I thank the gentleman for presenting this.

Again, I must lament the fact that this does not appear to be an issue that is stirring the hearts and minds of the American press, but if there is anything that seems to me they ought to be more concerned about, and the American people ought to be more concerned about, it is with trying to adjust the institutions of government in such a way that we deny the rights of the people of this country to be represented in a timely fashion, and that message has to be brought forward.

I thank the gentleman for doing that.

Mr. RHODES. I thank the gentleman from California.

Mr. Speaker, I now yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. I appreciate our minority leader taking this time today to discuss this issue which I am sure, as my previous colleagues have mentioned, will probably not receive a great deal of attention, and that is, why are we having a lameduck session? It should receive more attention.

Many people are asking here in the House, why has the Democrat-controlled Congress decided to "duck" the major problems facing the American taxpayers today? Why do they seek to postpone the major issues until after the November election?

I can tell you why. They are a flock of "dead ducks"—avoiding votes on major controversial issues before November 4—just to insure their own reelection. If this is the case, Mr. Speaker, then this is obviously a "lame" excuse for a Congress to meet.

The Demo-ducks have 2 full months before the November election. One full month before the October 4 recess target date. September's floor schedule should be filled with debate and votes on reconciliation, appropriations, the budget, and above all—tax cuts. But no. Instead the Demo-ducks just quack about balancing the budget and flap their wings about fiscal restraint. They are just sitting on their nests without taking any action.

Is this flighty? I should say so.

The Democrats are side-stepping Republican attempts to create a wise-owl Congress, that not only gives a hoot about, but acts on legislation to benefit the hard-working American taxpayers. Republican actions are consistently blocked by the Democrats' attempt to hatch an inflated golden egg. While what they want is a golden egg, what we get is bound to be a goose egg. Protected by the security of a new 2-year term, they will have the opportunity to create even greater burdens for the American taxpayers.

Rather than soaring like an American eagle, the Demo-ducks are waddling through this next month like dead ducks only to "quack" down on the American taxpayer's pocketbooks as soon as they get reelected.

If this is the case, Mr. Speaker, I say the Congress and the American people are in the soup—duck soup.

I thank the gentleman for taking this time, because I think it is appropriate that we try to address this issue to the House and have more of our colleagues aware that we know what they are up to.

Mr. RHODES. I thank the gentleman from California for his contribution. This gentleman from California (Mr. ROUSSELOT) as well as the gentleman from California (Mr. LUNGREN) mentioned the fact that there appears to be an amazing vacancy in the press gallery. I think probably the press was possibly not well informed of our intention today. It is my hope, however, that as time goes by and as other Members, as I am sure they will, express themselves on the absolute futility, fraudulent futility, if you will, of an attempt to have a lameduck session rather than do our work, that the press corps will realize that this is an important issue. I am sure that their not being here is not the result of their disinterest. I am sure that they will become interested in this issue.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I also thank the gentleman for taking this time to point out the legislative failure that the lameduck session represents. It struck me as I sat here a few minutes ago and heard the gentleman from the other side of the aisle, who is somewhat in opposition to the gentleman's point about the lameduck session, perhaps unwittingly let the cat out of the bag as to what is really going on here. He mentioned the fact that if we go ahead and complete our work, what we would end up with would be a 2-month vacation. It is my understanding from most of the Members that I know on this side of the aisle that they do not consider that time vacation time.

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They would go back to their constituency and listen to the opinions of their constituents, building for the next session of Congress. That is as it always has been.

A couple of years ago, I wrote a book, a history of the Congress as seen from the perspective of one congressional seat. That time was always considered very valuable to Members of Congress. The time they spent back in their districts learning firsthand from the people because they were living among the people. The time over the years has drawn steadily closer and closer together and we only have a few weeks of that time any more.

Mr. Speaker, I think most of us work very hard in our districts during that time. We go back there to find out what the American people are thinking so that the new session of Congress can really reflect that thinking.

What it seems to me that the other side of the aisle is talking about is going home only to campaign. The only thing they want to do is to go back to their districts and be there in time to take their political case to their constituents. They do not really want to listen to the issues because I think they are afraid of what they hear. They want to come back to Washington, hold this lameduck session that we all know will be a legislative disaster and they will ignore once again the wishes of the American people as we move toward the 97th Congress.

Mr. Speaker, I think the gentleman has made a very valuable contribution here by allowing a number of us to point out this failure and I thank the gentleman for yielding to me.

Mr. RHODES. I yield to the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. Mr. Speaker, my compliments to the distinguished Representative from Arizona for taking the lead in pointing out how flawed is the notion of a lameduck session.

Mr. Speaker, I would only add this: As I travel my district, it seems to me that the Congress as a body has not only lost the affection of the people but, indeed, the respect. I hardly see how we can bring that back by not facing up to the issues as they appear now before we go to the polls. I think if we cast votes that we can go back and defend, that is one thing. People may not agree with them. But if we duck those votes: the foreign aid bill, the rules for the possibility of an election in the House, then I think all we can say is that we must be ashamed of ourselves. We have no real excuse for it and I think our image simply descends further in the eyes of the public.

Mr. Speaker, I thank the gentleman.

Mr. RHODES. I thank the gentleman from Illinois. I now yield to the distinguished gentleman from Arkansas, the chairman of our freshman class, the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Speaker, I think it is important that we continue this educational process. This sort of process is inch by inch. It does not dawn on the media that we are into something vitally important here until we lay out enough facts and enough evidence so that they will begin to see the importance of the lameduck session.

Mr. Speaker, I see it in a little larger sense perhaps than has been discussed here this afternoon. That is in this perspective: The lameduck session is just further evidence to me that there is something inherently wrong with the Congress. The people know that. Public opinion polls have the approval rating of Congress down somewhere in the low teens. The people can sense something is wrong with the institution. I do not think they really think the individual Members who serve here are corrupt because public opinion polls show the public thinks very highly of their particular Congressman but they think lowly of the institution.

It, therefore, occurs to me that a sort of institutional corruption has occurred which has absolutely nothing to do with the quality of the individual to serve in the body.

I, as the gentleman in the well, have spent a lot of time thinking about that because, as the gentleman mentions I am a new Member here and I have a sort of fresh way of looking at things, I hope.

Having read the gentleman's book called "The Futile System," it occurs to me that perhaps the problem here is that one faction, one party, one group of people has controlled this place for 25 consecutive years. That is not good. That is not healthy. Everyone knows it is not good to leave your sheriff in place in the county for 15 or 20 years. It is good to change him from time to time. The same rule applies to State legislators, the same rule applies to Governors; however, here in this institution one political faction has held control for 25 consecutive years.

As Lord Acton says, power corrupts and absolute power corrupts absolutely. That was the point the gentleman made in his book. It is time for a change. Sweep out all of the committee chairmen who have been in place now for 25 consecutive years. Sweep out those committee staffers who grow in number each year and who perpetuate the mindset that grips this place and makes it so difficult for a new idea, a fresh idea, to give life.

I think the important point here today is to tie this lameduck session to that overall proposition. Let us make the point to the people that the lameduck session that we are about to have this year is just further evidence that those people who held control here for so long cannot govern and that they will not govern.

Mr. Speaker, I thank the gentleman for yielding.

Mr. RHODES. I thank the gentleman from Arkansas. The gentleman is absolutely right. The lameduck session is just the latest symptom of a malady which can best be described as one party in power too long. I am satisfied that the American people are getting the idea.

I now yield to the gentleman from Ohio, the ranking member of the very important Committee on the Budget (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I thank the gentleman very much for yielding. I want to commend the gentleman for taking this time to point up the need for this Congress to stay here and do its job.

I can think of no better reason for the Congress to stay here and do its job than the proposal just put forth by the President, today, for tax cuts. Here is something that involves $27.6 billion according to his figures, and very hurriedly put together.

I think the Congress should stay here and examine it. The President says he wants something done about that after the election, to affect taxpayers in 1981.

I have had an opportunity very quickly to go through some of the main features of this piece of legislation he says we should consider after the election, and I think the American people ought to study it now and this Congress ought to study it now and consider it now and then lay it aside and do something about the real problem.

Speaking of a quick fix, there is no quick fix, here. He wants to put the solution off until 1981.

I think something has to be done. We have a problem now. All you have to do is go out into northwestern Ohio, for example, and visit some of my counties where you have 16-percent unemployment and in the entire State of Ohio you have unemployment at more than 10 percent. The President says put that off until 1981? Hogwash. We have got a problem now, brought on by his economic policies and we ought to do something about it. We ought to have this Congress study this in depth.

Mr. Speaker, I think the American worker should know something about his proposal. On our side of the aisle we have talked about delaying that increase and the tax on social security. It is going to take effect January 1.

Lo and behold in this proposal just put forth by the President he wants to give them a tax credit of 8 percent. Now, when would that be effective? That would be effective on their income tax return that they would file on April 15, 1982. So it means that the American worker would pay those higher social security taxes all through 1981 without any relief by this administration.

I do not know where the President dreamed up that idea but the American working man is not going to buy it and certainly this Congress would not buy it. We ought to be doing something about that now.

Furthermore, I think we ought to be doing something about tax relief to the person who has been paying the taxes. Lo and behold, I find nothing here where the President is going to take care of that great bulk of Americans who are paying income taxes. No rate reduction.

Can you imagine a tax bill not giving those taxpayers who are saddled with this high inflation plus recession, not giving any tax relief in a tax bill? I cannot.

Speaking about unemployment, you know, as we look at his proposal, all the President wants to do is repeat what they did during the Great Depression days: throw money at the problem.

All you have to do is take a look at the unemployment figures during the Great Depression years and you will find them in double-digit numbers, as high as 25 percent and they never even got down to 19 percent before World War II came on.

The record shows that the only thing that brought this unemployment rate down then was World War II. So what is he proposing? To throw money at this problem. It has been proven through the Great Depression years that it just does not work and we do not want to make the mistake of repeating what he is proposing now, the failure during that Great Depression period.

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Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, when I first came to Congress I served on a committee to which about 300 bills were introduced in my first session, and of that 300, about 5 were passed. Each one of those had in its title the word, "emergency." What the committee was doing, of course, was using the word "emergency" to cover up its own unbusinesslike operations as it passed bills which were overdue.

That is what we are looking at for this lameduck session. We have declared an emergency long before the emergency exists. Our majority leadership has said that because of the emergencies of the situation, we must have another session after the election.

I think most Members of this Congress would agree that if the Congress wanted to get down to business, it could easily conclude all the necessary business before election. A lameduck session can only be justified in the case of genuine emergency. But when you decide 3 months beforehand that you are going to have an emergency, the public and the Members have a right to be suspicious.

Their suspicions are that the majority in the Congress, and the Speaker, are afraid to deal with the problems that need to be dealt with; that they are afraid to be recorded on the problems that the public wants to see some answers to, and the questions on which the public want to see the responses of its elected representatives.

I share that suspicion. It seems to me that the emergency here for the lameduck session is simply a little attack of fear and cowardice.

Now, it has been my experience in my rather short political career that in this game one can run, but one cannot hide. My guess is that in attempting to duck the issues, to not be recorded, or to avoid being recorded on matters of budget and tax cut, the majority of this Congress will get themselves in far deeper trouble than if they had the willingness to stand up and be recorded.

I thank the minority leader for taking the time for this special order. I think it is an important issue, and I think it tells the people of the United States something about the difference between the two parties. The lameduck session bespeaks the lack of vigor and enthusiasm and initiative of a party that has been in power for a number of decades and has grown stale, grown flabby, and grown afraid of its own responsibility.

I hope that in the place of that obsolete party we are able to put a new and vigorous political party in power for the coming biennium.

Mr. RHODES. I thank the gentleman from Minnesota. I wonder if the gentleman from Minnesota would agree with me that if the Democratic majority gets by with this ploy—and that is all it is—that we will probably every election year see that the second session of the Congress really does not amount to very much. It will be putting off votes every year, because why face up to a vote which may be difficult at the polls if you do not have to? It will be having lameduck sessions.

It is sort of like a brandnew security blanket that somebody dreamed up for beleaguered Democratic Members running for reelection.

Mr. FRENZEL. The gentleman points out a probable additional distasteful result of this session. We have seen how the leadership here reacts. When it could not control its own committees, it went for proxy voting; it modified the quorum requirement; it went to more gag rules; it increased the number of suspensions.

It did whatever enabled it to pass its program with the least amount of debate, with the least amount of amendment, with the least amount of public exposure. It has adopted any procedure that made its operations more convenient.

The precedents now are so heavy that one must conclude in this case that the minority leader is right. There is no question in my mind that once the cripple begins to use this crutch, the crutch will become standard procedure, too.

Mr. GRASSLEY. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the next Senator from the great State of Iowa.

Mr. GRASSLEY. Mr. Speaker, I thank the gentleman very much for yielding to me, our distinguished floor leader, the gentleman from Arizona.

I say first of all that the effort for a lameduck session is because of poor management of time. When we had time during the spring, when we were not having an election facing us, we hardly met on a Friday during the first 4 months of this year. It seems to me that with the problems we even then were facing, maybe it would have been a better use of our time then to be here working than to be taking long 3-day weekends, and in some instances, 4-day weekends.

But more importantly, I see the effort for a lameduck session as a last-ditch effort of the majority hanging on, grasping for success of their philosophy, trying to get that philosophy carried out in some legislation where next year they will not have the majorities to accomplish it with. It is a last-ditch effort to get that philosophy into law.

That philosophy the majority party is not realizing, I am sure, that it is now not the philosophy of a majority of grassroots people in this country. It has been reflected now for the last 2 years in referendums around the country, in elections for the Congress, and just generally.

In party platforms, even of their own platform, it seems to me to be a little bit of a reflection of that, not to the great extent that our party platform, which has always been consistently for sound Government, but it is a last-ditch effort by the majority to hopefully, after the election is over, maybe pass some of that legislation that they cannot get passed now because of poor management of time, and afterward because the majorities will not be there.

But, as sincere as they might be in their efforts to promote their political philosophy of big government and high taxes and budget deficits, there is only one way that changes are successfully made in this society of ours when one party believes, as sincerely as they do, that their bankrupt philosophy is still good for the country.

The only change that can be made is at the ballot box, and it will be made, and there will be changes for the better made as a result of it when we get to the next Congress of the United States. But, in the meantime, it surely is an effort to hold on, grasping for the last breath of success, which breath is not going to come. Death will come to that political philosophy, at least as it has been dominant in the last two decades in this country.

Mr. RHODES. I thank the gentleman from Iowa.

Does the gentleman from North Carolina desire me to yield to him?

Mr. MARTIN. I certainly do, I say to the distinguished minority leader, after first thanking him for his leadership in focusing the attention of the Congress this evening as we get toward the scheduled first adjournment of this session of the 96th Congress.

On the wires just this afternoon there are reports of yet another reason why a lameduck session is being fashioned for us, and that is to enable the Congress to duck another issue; that being the issue of a tax cut which many of us here in the Congress have proposed. The minority leader, with the distinguished gentleman from New York, Mr. Conable, who spoke a little earlier, the ranking minority member of the Ways and Means Committee, have introduced rather straightforward legislation to offset the tax increases that are already scheduled to go into effect next year, to reduce that and to provide some relief, spelled t-a-x-c-u-t.

Yet, that is another issue that this Democratic leadership wants to duck, and put it off with the appearance of putting it off to a lameduck session so that they will not have to vote for it before the election. Then, after the election, when the heat is off, when the pressure is off, they will not have to vote for it then, either.

I am referring to news accounts—I have a news summary here which I have just examined—a statement by the President of the United States in which he proposes in a rather curious reformation of his own commitment against tax cuts, in which he comes out with a proposal for a wide series of kinds of tax cuts along the lines in addressing some of the needs that we have addressed and have dealt with in previous proposals.

It is interesting that as one goes down this, it includes faster depreciation writeoff for business investments. That is in the Senate Finance Committee bill as well as in the gentleman's bill; tax incentives for research and development; improved tax treatment for Americans working abroad; tax incentives for export trading companies; a 10-percent tax credit for businesses investing in areas of high unemployment, an initiative which has received considerable support on our side of the aisle and in our party platform.

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I refer also to special deductions for families with two wage earners, a deduction designed to offset the present "marriage penalty" that keeps forcing people into higher tax brackets.

These and other proposals which are contained in legislation which the Senate Finance Committee has already brought out of committee and which stand ready to be acted on are proposals our committee can take a look at, although it has been refused an opportunity to do that thus far.

So I suggest that maybe this is another reason for a lameduck session, to allow a pretense of being able to duck this kind of proposal and duck the more straightforward proposals which the gentleman from Arizona (Mr. Rhodes) and the gentleman from New York (Mr. Conable) have already introduced and which a lot of us have cosponsored.

I would suggest that it is rather pitiful leadership for the President, who has heretofore said he is going to veto any tax bill passed by the Congress, to then come out with the proposal which is essentially the bill that the Senate Finance Committee has already structured and which has already been endorsed by Governor Reagan, and claim it as his own initiative. That is a lame excuse for leadership, it seems to me.

He does provide a couple of additional features. There are additional Government programs. There is additional authority for loan guarantees such as the one we recently saw in the situation of Chrysler Corp., which suggests that in the future it is going to develop to the point where if anyone wants to get a loan, a company will not be able to get credit unless the Government has guaranteed its credit in the form of some kind of loan credit guarantee.

But the greatest incongruity of the whole thing is where the President stated:

> Now—in the heat of an election year—is not the time to seek votes with ill-considered tax cuts.

Does that apply to his own proposal? Is he labeling that as being an "ill-considered tax cut?" Is he suggesting that in the heat of an election year he is trying to seek votes with such an "ill-considered tax cut," or is he suggesting that this measure which he is proposing or this tax cut proposal that has already been drafted and endorsed by Gov. Ronald Reagan is not an "ill-considered tax cut" but a proper answer?

If it is not an ill-considered tax cut, why not vote on it in this election year and put the heat on Members of Congress and get it enacted?

If he does not accept a preelection bill, even his own, does that mean he is inviting us to take a tax cut measure up in the lameduck session when there is no remaining public pressure to get it enacted?

Mr. RHODES. Mr. Speaker, I think the gentleman from North Carolina (Mr. Martin) has made several important points. One of them is, of course, that the President and, I suppose later, the Democratic Members of Congress will seek to take the credit for a tax cut without really cutting taxes. They will not cut taxes before the election; they merely promise one, and then in the lameduck session, I would almost bet—in fact, I would bet—that they would find some reason then not to cut taxes.

Why? Because they do not believe in cutting taxes. They believe in having more and more money and more and more purchasing power from the people, from the private sector, channeled into the public sector where they have more control over it. They have had this philosophy for years and years, and I have not seen any convincing evidence that the leopard has changed his spots.

Mr. MARTIN. Mr. Speaker, the irony of it is that even if we do enact one or the other of these proposals on the order of a $30 billion tax cut, taxes will actually go up for the American workers next year, not down. They will go up because that will not be nearly enough to offset the tax increases that have already been enacted by this Congress last year, not considering the bracket creep effect, which is the result of inflation, putting people into higher and higher tax brackets.

Mr. RHODES. Mr. Speaker, the total, I believe, is $93 billion more that the people will pay next year because of the actions of this administration and this Congress.

Mr. MARTIN. Mr. Speaker, there is $70 billion that is already in effect, and there is another $23 billion or $24 billion they have asked for that I do not think they are going to get.

● Mr. FORSYTHE. Mr. Speaker, the announcement by the Democrat leadership regarding the likelihood of a post-election lameduck session is a feeble attempt to protect Democrat members from voting on tough issues before the November 4 election.

The Democrat leadership, which claims that a lameduck session is necessary because of the huge amount of legislative business, is the same group which granted itself 3- and 4-day work weeks throughout this Congress, and now plans a 5-day Labor Day recess. The chief reason for the postelection session is not the amount of legislative business, but rather the nature of that business.

Just 3 months ago, Democrats were telling the American people that they now believed in a balanced Federal budget. For proof, they proudly pointed to the first concurrent budget resolution for fiscal year 1981 which called for a revenue surplus of $200 million. They pointed to this resolution, which raised the tax burden on the American people by over $90 million, relying on economic assumptions which were clearly unrealistic. The Democrats are fearful that a vote on the second budget resolution, revealing their sham of a balanced budget, will cost them votes. It is these same Democrats who will go home this Labor Day weekend and explain to voters how they have tried to tackle the tough issues of the 96th Congress.

The talk of a postelection session by the Democrat leadership is an ignominious attempt to duck those issues which may prove unpopular back home. As Members of Congress we cannot afford to shy away from our fiscal and legislative responsibilities. I urge my colleagues to vote to remain in session through October and face up to those responsibilities without fear of recrimination.●

● Mr. SHUSTER. Mr. Speaker, last Tuesday the House Republican Policy Committee unanimously adopted a policy statement in opposition to the lameduck session of Congress proposed by the Democrat leadership. The majority party is using the lameduck session to duck the controversial issues remaining on the legislative calendar—issues such as the budget resolution, foreign aid, and other liberal, big spending bills. The American people have the right to know how their Representative would vote on these issues before the election when they can still exert their influence at the ballot box. I am including the full text of the Policy Committee statement so that my colleagues might better understand the ramifications of a lameduck session:

REPUBLICAN POLICY COMMITTEE OPPOSES LAMEDUCK SESSION

The House Republican Policy Committee strongly opposes the "lame duck" session of Congress proposed by the Democrat House Leadership. Such a Session, held after the national elections of November 4, would be fraught with the danger of having legislation being passed precipitously and by those who do not represent either the will or the philosophy of the American voting public.

To date, 38 Members of the House will not be returning to the House for the 97th Congress because of retirement or primary defeats. It is conceivable that as many as 20% of the Members participating in a "lame duck" session will no longer be representing the views of their constituents. This takes on added significance in light of the fact that many controversial issues are decided by far fewer votes.

This reason alone, the failure to reflect the choice of so many voters after November 4, would be reason enough to oppose a lame duck session and bring the issue before the American people for judgment.

But there is more.

The American people must be told that they are being disenfranchised today by the stalling tactics of the Democrat House Leadership. That Leadership still clings to tired liberal big spending programs that no longer have enough vitality to attract popular support. For example, the Foreign Aid Appropriation Bill, H.R. 7854, was reported out of Committee on July 29 but has not and most likely will not be scheduled for floor action before November 4. The bill commits $8.6 billion to foreign aid at a time when Americans are seriously questioning this level of expenditure. If put to a test before the election, these programs would be defeated because the Congress would be more accurately reflecting the will of the people. By delaying until after the election, the House Leadership plans to corral enough votes to enact these programs, despite the fact that they controvert the views of the electorate. Thus, by denying voters the right to exert their influence on legislation prior to November 4, the House Leadership is effectively disenfranchising them.

But there is more.

The American people must also be told that they are being governed by a Congress run so ineptly as to require a lame duck session. After 25 continuous years of being the majority Party and controlling this Congress with a 2–1 majority, the Democrats have shown themselves to be incapable of running the government. Democrat Leadership asserts that a lame duck session is necessary because of the press of legislative business. Yet, during the past 18 months it has used it preponderant majority to delay and prevent priority legislation from coming to the Floor of the House for final disposition and has allowed a congestion of legislation to develop.

But there is more.

The American people must also be told that the real reason for a lame duck session may be more cynical, more maleficent, then mere ineptitude. The American people must decide whether the Democrat Majority is avoiding being forced to vote on controversial issues before election day to insure their own re-election.

Less than 3 months ago, the Democrats were telling the American people that they, like Republicans, now believed in a balanced budget. For proof, they proudly pointed to the First Concurrent Budget Resolution for Fiscal Year 1981 which called for a revenue surplus of $200 million. They pointed to this budget resolution even though they knew it was a sham. That resolution, raising the tax burden on the American people by over $90 billion, was balanced on paper only. It was balanced because it relied on economic assumptions which were blatantly unrealistic.

And now, when facts have shown these assumptions to be false, the chickens are coming home to roost—only the Democrat Leadership wants to turn those chickens into "ducks."

Before election, they want to "duck" the fact that their profligate spending will once again result in a deficit budget.

Before election, they want to "duck" the fact that their budget priorities do not include a national defense superior to all.

Before election, they want to "duck" the issue that their fiscal policy is to "Tax, tax, tax" and to "Spend, spend, spend."

These are the facts. The American people will pass judgment on November 4 whether the Democrat majority has forsaken its duty to govern responsibly. They will decide whether in future Congresses, Democrats will again be able to replace the American Eagle with a Lame Duck.●

● Mrs. HOLT. Mr. Speaker, I find it very distressing that the majority party proposes to postpone major legislative decisions until after the November elections and then hold a lameduck session.

This means that many Members who lost their reelection bids will be voting on policy issues that will have a major impact on the Nation in the years ahead.

I have no doubt that most of these lameduck Members will belong to the Speaker's party, but that is beside the point. The point is that lameduck voting on major policy questions is a violation of the concept of representative government.

The Constitution wisely provides for 2-year terms for House Members so that their feet will always be held near the fire of the next election. This is representative government. And this is what the majority party in this House is trying to avoid.

It is afraid to face many tough issues before the elections, and it hopes the public will forget for the next 2½ months how it handled those issues in the past.

The majority party's decision to postpone consideration of the second budget resolution until after the elections is the classic example. The majority does not want to face the consequences of its actions.

It does not want to revise the 1980 budget to show the true deficit of $61 billion, and it wants to avoid adopting a 1981 budget with a deficit of $30 billion after all those promises about a balanced budget.

The majority party does not want to face a preelection budget battle in which the minority would offer an amendment to reduce the deficit and cut taxes.

That is what we on the minority side have been doing for years, and I believe our position represents the will of the people. The people are paying a heavy price in inflation and taxes for the policies pursued by the majority in this Congress, and we on the minority side are telling the story in this election year.●

● Mr. RITTER. Mr. Speaker, I rise in strong opposition to a lameduck session.

The lameduck session is clearly an attempt to "duck" the powerful issue of the Federal budget and other controversial legislation. By not voting on the key spending proposals before us until after the election, the Congress is going against the will of the people we are here to represent.

We are elected to represent our constituents; to vote openly for the benefit of our constituents and for the country. Avoiding the hard choices out in front of the electorate when a $630 billion budget is a stake is an attempt to avoid telling the voters where Congress stands in the fight on inflation. The majority in the House has already had 18 months of stalling tactics on key inflation-fighting legislation. They should not be handed 3 more months. Particularly, the Congress should not be hiding from the fight on inflation at election time, we should be leading it.

The American people are tired of campaign promises to fight inflation that go up in smoke after the first Tuesday in November. They are tired of being ignored by their elected officials when they plead for commonsense financial management of this Nation. I am hearing loud and clear from my district that Congress must do something now to help the American public through these inflationary times. This election year is no joke, but a lameduck session is. Do not think it will not be an issue to the voters. They will decide whether they want a Congress that has the courage to vote responsibly in the interest of all Americans, or one that takes the easy way out. Thank you.

They know the difference between a lameduck and a "turkey." ●

● Mr. GILMAN. Mr. Speaker, I rise in support of the remarks of our distinguished minority leader, the gentleman from Arizona (Mr. RHODES), who is calling to the attention of the House and the Nation today the dangers of a lameduck session.

Mr. Speaker, we fully expect that on the first Tuesday in November, we will have a new President, and I am not without hope that the House and Senate will be organized by our side of the aisle. That being the case, I feel that we ought to wrap up the session as soon as possible, permitting the majority party to run on its record.

We should encourage the American people to review the full record of this Congress—not just some promises about what is hoped to be accomplished—before deciding whether or not a change in congressional leadership and the congressional majority is in order.

Mr. Speaker, along with many of my concerned colleagues, I am willing to stay in Washington as long as is necessary to finish the work of the House. Let us get on with the people's business.●

● Mr. HYDE. Mr. Speaker, Webster's Dictionary defines "lameduck" as "one that falls behind the achievement."

That definition aptly describes the failures of this Democratic controlled Congress, and emphasizes their inability to govern, an inability which the American voters are certain to recognize November 4.

The majority party in this great body has total power—a 2 to 1 majority, overwhelming control of committees and subcommittees, and burgeoning staff—everything needed to lead our Nation through these difficult times.

Leadership carries with it responsibility. The decision to defer the tough legislative decisions until after the November 4 elections is not leadership—it is a pathetic abandonment of even the pretense of leadership.

If we Republicans in Congress are unable to prevent the Democrat's lameduck session, our only alternative is to forcefully remind the American people of the failures of the Democrat dominated 96th Congress to effectively represent them.

In a column in the July 7, 1978, edition of the Chicago Tribune, our distinguished Speaker suggested that the Democratic Party deserved the "continued support" of the American people in the 1978 election, stating "2 years ago we promised that people would be working, and today they are." I remind my colleagues that the unemployment rate according to today's newspapers is 8.3 percent.

In his column, the Speaker praised the Democratic Congress for pulling "the economy out of recession and stimulating a strong recovery." His very next words should haunt the Democratic Party: "The record speaks for itself."

The Republicans in Congress and Republican candidates throughout the country intend to remind the Democrats of their record—rising unemployment, rampaging inflation, declining productivity—to mention only a few.

The proud symbol of the party of Jackson, Wilson, and F.D.R. used be the donkey. Now it is a frazzled lameduck.●

● Mr. SHUMWAY. Mr. Speaker, I am delighted to have this opportunity to express my opposition to the proposed lameduck session and, in light of the fact that the issue has been aired at length in recent days, I shall attempt not to reiterate the obvious. Instead, I would like to express my own perception of our responsibilities as elected representatives of the people.

Each week, I submit a column to my district newspapers, and last week's offering pointed out the evils of the lameduck session. I pointed out that asking the voters to gamble on postelection effectiveness is like asking them to sign a blank check. The lameduck session could easily make a travesty of the legislative process, and could result in unsavory legislation which denies the best interests of the people. The voters and taxpayers deserve far better.

Proponents of the lameduck session are fond of pointing out that we have a "contract" with the people which does not end until noon in January 3, 1981. However, in their righteous assertions, they fail to mention that we also have an obligation to be accountable to those who have placed us in office, and that such accountability is most certainly due and payable before the November election, not after. We cannot seriously expect the American public to consider us fine fellows if efforts are condoned which seek only to play down the true state of the budget. Can the majority leadership truly believe that our citizens will accept their attempt to conceal their failure?

Lameduck sessions invite the full participation of those who have been rejected by the voters, and the dictionary informs us that "lameduck" is described as "falling behind in achievement." This Congress is already far enough behind in achievement. If the leadership accepts its responsibility to portray itself with accuracy to the American people before the election, my personal belief is that there would be a great number of majority party ducks in need of assistance after the November election.●

● Mr. PORTER. Mr. Speaker, the history of our Republic has been one of constant striving to improve the democratic process, to extend the franchise, to democratize our institutions, and, in general, to make Government more responsive to the people. The high points of that history—what our people will look back upon—are those when Government has put partisanship aside and embraced the very highest of our ideals and principles.

So few are going to remember a hundred years from now that the Congress, under the control of the majority party, chose to abdicate its responsibilities to the people, to violate its own law and avoid coming to grips with the real problems of the day—the excesses of Government spending that have stoked the fires of inflation so strongly and led to the loss of jobs and the business malaise we are now experiencing.

Few, Mr. Speaker, will remember that the Congress, under that majority leadership, failed to address the second budget resolution and the need for reconciliation because of the dark political portends of another huge deficit and the real need to come to grips with Federal expenditures right before an election.

The gutlessness of the lameduck session the majority party proposes is not much different than the lack of political courage that has characterized their leadership in the Congress for the past 26 years—spend now, pay later.

But perhaps, just perhaps, this may be the final point at which the American people fully recognize what has been happening, the final point of determining where the majority party has taken our country—the point at which the American people say enough is enough, new leadership and new ideas and new forthrightness are needed if this country is to survive as strong and free, as the world's bastion of liberty with the strength and will and courage to protect it.

Perhaps this postelection session, which violates every concept of democracy and representative government, will be the wake, the final laying to rest, of a national leadership grown old and stale and bankrupt of ideas. And perhaps it will mark the birth of a new leadership, willing to face the hard choices and turn America to a future of hope and fulfillment for all our people.●

● Mr. QUAYLE. Mr. Speaker, the Democratic Party has controlled the leadership and management of the Congress for more than 25 years. Today, the people of Indiana, and citizens across the country, are deeply concerned and affected by double-digit inflation, runaway Federal spending, overregulation, and high taxes. They have been waiting patiently for the Carter administration and the Democratic-controlled Congress to deliver on a balanced budget, less inflation, and less taxes.

Now we are 8 months into the 2d session of this 96th Congress and we are advised by the Democratic leadership that the final business of the Congress will have to wait until after the election. We are put on notice that a lameduck session is scheduled to begin November 12 for the purpose of dealing with the budget resolution and possible tax reduction.

The President today is delivering his fifth economic plan of 1980, and there probably will be a sixth and seventh before November 4.

Mr. Speaker, there is not a business or large corporation in the country that would stand for the kind of inefficiency and mismanagement that the country has experienced as a result of too many years of Democratic control of Congress. It is time for new leadership and new management in Congress if we are to address the real concerns and problems of the American people.●

● Mrs. SNOWE. Mr. Speaker, I would like to join my colleagues in expressing opposition to the prospects of a lameduck session of this Congress, the first such session since 1948.

It would be irresponsible and callous to postpone action on a number of major issues—the budget, fair housing, rail deregulation, and Alaska lands among others—until after the election. The American people certainly have a right to know how we stand on such issues before they vote in November, and it is our responsibility as a legislative body to act on such issues in a timely manner.

According to the Budget Act of 1974, Congress is supposed to complete action on the budget by September 25. This lameduck session would delay such action. With a balanced budget now a pipedream, with a budget deficit of $30 to $40 billion now a reality, it is no wonder some Members might prefer to postpone a vote on such an issue until after the election. Such may be wise politics, but it is certainly poor policy for our Nation.

As the majority party sets the schedule for the House, I would urge them to reconsider their "manana mind set" and get to work today to address the important issues that await our consideration. The American people deserve no less.●

● Mr. ROBINSON. Mr. Speaker, I rise to express my concern about the unfortunate consequences that are likely to flow from holding a postelection, lameduck session. Philosophically, it is poor public policy for those who have been defeated in an election to continue to make policy decisions on behalf of voters who have just repudiated their positions.

That is why lameduck sessions, since adoption of the 20th amendment to the Constitution, have become a rarity. If we hold such a session this year, it will be only the third in the House of Representatives in the last 26 years, and only the seventh of the House since 1933.

It can be deduced that a major reason we are faced with a lameduck session this year is due to the present uncomfortable political climate, in which too few are willing to stand up and be counted on difficult budget, defense, and spending decisions.

However, it is a deplorable abdication of responsibility to postpone key votes on measures that we all know are destined to play a large role in shaping the Nation's economy in the coming year, including crucial inflation and income tax rates. Moreover, the next fiscal year starts on this October 1. Government planners need to know what their budgets will be relatively soon, in order to make maximum effective use of Federal funds during 1981.

Mr. Speaker, I very much regret the prospect of a lameduck session. I believe it will give the big spenders in Congress the clear upper hand, even though the American people are demanding less Government and lower taxes.

I see no reason why we can not wind up essential business if we remain in session for a period beyond the October 4 target date for adjournment announced by the leadership, and I urge that this alternative be accepted.●

● Mr. LAGOMARSINO. Mr. Speaker, I agree with our minority leader and I would like to commend the gentleman on his special order on the proposed lameduck session.

A potentially serious—some might say ominous—situation is developing in Congress as the Nation heads into the Labor Day weekend. For the first time in over 30 years, House leaders are talking about coming back into session following the Presidential elections. If this "rump" or lameduck session materializes, it could pose serious threats to the soundness of the Nation.

Labor Day is the traditional kickoff for election campaigns, and with 435 seats in the House and 33 seats in the Senate at stake, many Members are anxious to get home and start active campaigning. The problem is, they have not finished their work.

Congress has not yet, for example, adopted a final national budget for the fiscal year which starts October 1—a scant month away. It has yet to send the President any of the 13 appropriations bills needed for funding Government operations. And, despite much rhetoric and posturing, it has yet to decide whether a tax cut will be forthcoming this session.

Citing the need to complete action on at least the first two items, the House leadership has advised Members they probably will be called back into session after the elections, the first such postelection session since 1948.

Such a session would be fraught with dangers, not the least of which involves defeated officeholders making important policy decisions—or attempting to feather their own nests. To date, 38 Members of the House will not be returning next year, due to retirements or primary election defeats. Given potential general election defeats, it's possible as much as 20 percent of the House would fall into the lame duck category at a postelection session.

It is precisely to forestall such after-the-fact legislating that the 20th amendment to the Constitution was adopted in 1933, moving the commencement of the Presidential term up from March to January, and setting January 3 as the date for beginning of new congressional terms.

Why would the House leadership want to flaunt this tradition? The most obvious reasons is the extreme reluctance of Members to cast unpopular votes just before an election. Only last June, the President and the Democratic majority in Congress were congratulating themselves on having put together a balanced budget for next year. The balance quickly tipped however, and it now appears we face a deficit of at least $30 billion next year. The final budget vote will acknowledge that failure.

Similarly, the President and House leaders have said they will consider the possibility of a tax cut * * * but only after the election, when of course the pressure would be off.

But the most disturbing purpose behind a postelection session may be the least obvious—the possibility that the Presidential election may be thrown into the House of Representatives. Under the Constitution, if no candidate gets a majority of the electoral votes, the newly elected House decides the winner. But the leadership may use the rump session as an opportunity to stack the deck in terms of the House rules and procedures before the new House is sworn in.

At the least, a lameduck session would be an opportunity to lay roadblocks in the path of a newly elected President, to ratify new court and other appointments, and generally make mischief.

There is no real reason why Congress cannot finish its work before November; the law clearly stipulates that the budget shall be adopted by September 15. But the leadership has scheduled the House to be in session on only 20 of the 67 days remaining before the election. It is hard to avoid the conclusion the House leadership is either dragging its feet or is incompetent.

The Democrats have controlled Congress for the last 25 consecutive years, and it appears they have become reluctant to relinquish their grasp. But they should take care. A lameduck Congress is like a loose cannon in a storm; capable of smashing everything on deck—and maybe sinking a ship.●

The SPEAKER pro tempore. The time of the gentleman from Arizona (Mr. RHODES) has expired.

GENERAL LEAVE

Mr. RHODES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include therein extraneous material, on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

FEDERAL COURT RULES THAT A SUBSTANTIAL PORTION OF UNION DUES ARE UNRELATED TO COLLECTIVE BARGAINING ACTIVITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. DICKINSON) is recognized for 5 minutes.

● Mr. DICKINSON. Mr. Speaker, last week, in a landmark decision—unreported in Washington newspapers, as far as I know—under the National Labor Relations Act, a Federal court special master in Baltimore, Md., found that four-fifths of compulsory fees paid by nonunion telephone employees to the Communications Workers of America had been spent illegally for political action and other noncollective bargaining activities.

Court Master Wilson K. Barnes, a former State court of appeals judge, was appointed by U.S. District Judge C. Stanley Blair—now deceased—after Judge Blair's determination last year in Beck against CWA that the spending of compulsory union fees—paid under an agency shop arrangement by nonunion telephone employees—must be limited to collective bargaining, contract administration, and grievance adjustments.

On August 18, the special master reported his findings that 81 percent of the nonunion employees' compulsory fees had been spent illegally by CWA officials and should be refunded to the plaintiff employees. He also recommended that a permanent injunction restrain the union from collecting future compulsory fees in excess of its costs of collective bargaining.

Now, for perhaps the first time, the record of a Federal district court will reflect, in great detail, how employees' compulsory union fees have been spent, in utter disregard of their individual preferences and constitutional rights, to finance the political and ideological activities of a major, militantly politicized labor union.

Mr. Speaker, as we approach Labor Day, 1980, that date set aside on which we honor America's working men and women, I think we ought to use this opportunity to publicize this flagrant misuse of hard-earned money extracted from our working force. Organized labor has served—and continues to serve—a vital function in our society and has made valuable contributions to the development of our great Nation. However, greedy and ruthless labor bosses have somehow lost sight of many of labor's goals and they have significantly contributed to producing America's goods out of world markets.

I would like to use this occasion to urge support for legislation I have introduced, H.R. 6637—cosponsored by over 50 of my House colleagues—to eliminate the use of union dues—and, I might add, corporation money as well—for political purposes.

I commend those 20 telephone company employees and the National Right to Work Foundation who brought the legal action under Beck against CWA. Their action emphasizes the abuses that have been taking place in the union movement.

I also insert at this point in the RECORD an article from the August 21, 1980, Baltimore Sun which reported on this action:

> NONUNION DUES LIMITS SUPPORTED—COURT MASTER SAYS FEE MAY ONLY BE USED FOR BARGAINING COSTS
>
> (By James A. Rousmaniere, Jr.)
>
> WASHINGTON.—The court-appointed special master in a Baltimore labor case has recommended against requiring nonunion members to finance union activities away from the bargaining table.
>
> At issue are "agency fees" which are the equivalent of union dues. These payments to unions are sometimes required of nonunion members on the theory that they, too, benefit from contract bargaining.
>
> The case involves a suit brought by the National Right to Work Foundation. It is being watched by unions nationally for its potential impact not only on the fees, but perhaps on union membership as well.
>
> The recommendation came in court papers filed this week by Wilson K. Barnes, a former state Court of Appeals judge. It deals with fees paid to the Communications Workers of America by employees at the Chesapeake & Potomac Telephone Company.
>
> Mr. Barnes said these nonunion workers are entitled to an 81 percent reduction in the fees they are legally compelled to pay because their contribution should only cover basic union functions of contract bargaining, administration and grievance arbitration.
>
> The master's recommendation, prepared for U.S. District Judge James R. Miller, Jr., who is considering the case, could encourage thousands of regular union members to resign from unions so they could qualify for the considerably lower fee payments, labor officials fear.
>
> The master was appointed to help the judge arrive at a better understanding of union costs and how they relate to collective bargaining. Both sides now have 30 days from the filing of the report to reply to the master's report, after which the judge will make a final decision.
>
> This court battle over union finances is at a well-advanced stage, and developments in it are bound to affect the outcome of at least 30 other similar challenges in other courts.
>
> The National Right-to-Work Foundation is the legal arm of a well-financed organization whose ultimate goal is to win passage of "right-to-work" laws that let employees choose whether or not to join unions.
>
> Only 20 states, not including Maryland, have such "right-to-work" laws on the books. In Maryland, under most circumstances where unions gain representation rights, workers pay dues to the union. If they choose not to join, the workers pay agency fees generally equal to the dues paid by regular union members.
>
> Most labor organizations have taken on much wider charters in the last couple of decades, however, in the form of political work, community services, more sophisticated organizing practices, international exchanges and, most visibly, lobbying in government.
>
> The foundation is charging that those functions are extraneous and that people who don't join unions shouldn't have to pay for them.
>
> Others, such as Willard Wirtz, secretary of labor under Presidents John F. Kennedy and Lyndon B. Johnson, argue otherwise. Testifying on the union's side in the Baltimore case, Mr. Wirtz contended that these additional activities are "germane" to collective bargaining in that they "strengthen the hand" of unions when they sit down to bargain for contracts.
>
> Mr. Barnes, however, drafted a much narrower definition of basic union bargaining functions, saying that nonunion workers can be forced to pay "agency fees" only if the activity they finance "directly relates to and is reasonably necessary for the proper effectuation of . . . collective bargaining, contract administration and grievance adjustment."
>
> "For example," he wrote, "the [union's lawyers] earnestly contend that their charitable contributions not only, in themselves, advance the public interest, but create a favorable climate of public sympathy and support when collective bargaining time arrives and particularly when there is a strike.
>
> "This result, while superficially plausible, has not been established by clear and convincing evidence," he added, saying that "charitable contributions do not directly relate to, and are not reasonably necessary. . . for the proper effectuation of collective bargaining, contract administration and grievance adjustment."
>
> Mr. Barnes went on to recommend that nonunion C. & P. workers not be forced to pay fees that finance charitable contributions or which, in the union's 1978 fiscal year, helped raise the more than $21 million devoted to political activities, lobbying work, public relations, foreign studies, AFL–CIO dues and some strike funds.
>
> The sum for these activities in the 1978 test year amounted to 81 percent of all spending by the union.
>
> Mr. Barnes's recommendation would include refunds totaling nearly $6,500 for the 18 C. & P. workers who brought the suit.
>
> Matthew A. Kane, the union's lawyer in the case, refused to comment on the finding. CWA leaders could not be reached for comment.
>
> The Right-to-Work Foundation's lawyers were clearly pleased with the Barnes report to the court. Hugh Reilly, the chief foundation attorney on the case, was disgruntled only by the fact that Mr. Barnes kept union conventions as a "permissible" expense to be charged to nonunion workers.

WHAT DOES PRESIDENT CARTER HAVE AGAINST THE U.S. ECONOMY?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 30 minutes.

● Mr. KEMP. Mr. Speaker, the political rhetoric of the administration is depreciating almost as quickly as the U.S. dollar. I am referring, of course, to the mostly ridiculous economic package President Carter unveiled this afternoon.

Earlier this year, President Carter said:

> I can guarantee you that we will have a balanced budget in the 1981 fiscal year beginning October 1.

He denounced the longstanding proposals of the Republican Party to restore incentives for both individuals and businesses through across-the-board cuts in marginal income tax rates and accelerated depreciation.

He repeated:

> I will not consider any reduction in taxes

until I am convinced that the 1981 budget will be balanced.

Last month, however, the administration was forced to admit in its mid-year economic report that its own economic policy of slowing down the economy had made it impossible to balance the budget. Because of rising unemployment and dropping productivity, revenues are dropping and expenditures automatically climbing, widening the deficit by about $27 billion for each 1 percentage point rise in the unemployment rate.

President Carter's official position is that Congress is not competent to consider tax-rate reduction in an election year—although he is, apparently. Congress has held hearings, considered and debated the issue of tax-rate reduction for the past 4 years, but President Carter does not believe there has been enough time to study the issue.

This makes one wonder why President Carter found it necessary this afternoon to announce a thrown-together melange of rebates, subsidies and spending programs. President Carter has put together precisely the sort of demand-stimulus program against which the Joint Economic Committee warned last week in a bipartisan report. Parts of the President's plan, like the income tax credit against payroll taxes, were considered and rejected by the Senate Finance Committee, with the overwhelming agreement of both Democrats and Republicans. Instead, the Finance Committee supported across-the-board tax-rate reduction for individuals, reductions in the capital gains tax rate, accelerated depreciation for businesses and other measures to increase economic incentives for higher employment, productivity and growth.

Let us face it: Being a latecomer to tax-cutting and the idea of incentives, President Carter has gotten it all wrong. With the exception of a watered-down plan for accelerated depreciation, which is inferior to both the "10-5-3" plan or the measure approved by the Finance Committee, none of the tax and spending measures will favorably affect economic incentives at all.

Table I, Mr. Speaker, lists the tax provisions which the President says he will get around to proposing sometime next year. Among the tax cuts for business, only the 40-percent reduction in the asset depreciation range, and the reduction of the number of classes of assets to 30, will remove any of the existing disincentives. But the Finance Committee plan is only one-sixth as complicated as the administration plan, and the 10-5-3 proposal only one-tenth as complicated. These two plans also do more to reduce the overtaxation of profits caused by inflation and our outdated Tax Code.

The two refundable tax credits are sops to Senator KENNEDY. They are nothing but Federal subsidies to companies which are not turning a profit. Such an approach can only reduce, not improve, industrial productivity.

Proposed tax cuts for individuals include: a partial removal of the marriage tax penalty, a partial exemption of income earned by Americans abroad—but only in certain parts of the world—and an increase in the earned income tax credit. While these may be argued on the grounds of equity—and I support a complete removal of the marriage tax and complete exemption from taxation of foreign income earned abroad—these proposals do nothing, unfortunately, to increase incentives for individuals to work, to save, to invest, or to begin new enterprises.

Likewise, President Carter is resubmitting what amounts to his ill-fated $50 rebate of 3 years ago, only adjusted for inflation. His plan would provide a credit against income taxes equal to 8 percent of payroll tax liability. As I understand it, both the credit for individuals and for businesses would be made at least partially refundable, which would turn it into a spending program.

But the worst feature of this plan is that it does not affect the marginal tax rates which determine incentives. Neither the marginal income tax rate nor the marginal payroll tax rate are affected. This tax rebate is not even half as large as the tax increases on personal income which will take place under current law. And the rebate is not even permanent.

Turning to the spending programs, President Carter is including already-enacted programs in his grab bag of economic nostrums. He lists $744 million in spending to extend unemployment benefits from 39 to 52 weeks; but this extension is already on the books—and would not have been triggered except for the recession which Mr. Carter's economic policies have brought about. In his speech this afternoon, the President also made a great deal of the synthetic fuels subsidies which have already been approved. That pork barrel was described as public investment. It would be more accurate to describe that destructive program as massive disinvestment. What President Carter calls a "vast new synthetic fuels industry" really portends a vast new assault by the Department of Energy on the capacity of our country to produce energy cheaply and efficiently.

Of the rest, only the proposed spending on Federal research and development and job retraining has even the remotest connection with improving productivity. And as I have pointed out many times on the floor of this House, Federal R. & D. policies are killing innovation in this country by centralizing control over venture capital and driving individual intrepreneurs out of competition with captured nonprofits and established firms.

In short, Mr. Speaker, four-fifths of the President's program is either irrelevant to the problem of productivity, about which the President wrung his hands today, or else already on the books.

President Carter has succeeded only in making himself ridiculous: First, by criticizing longstanding Republican support of thoughtful initiatives to restore incentives through tax-rate reduction; and then by throwing together this half-baked and decidedly inferior program of his own.

The only thing to be said for President Carter's program is that even he says that it should not be enacted this year. It should not be enacted next year, either.

What Congress ought to do is build on the Senate Finance Committee's work, and enact a phased, across-the-board reduction in marginal income tax rates, beginning with 10 percent next year, together with accelerated depreciation of business assets. Further necessary reforms in taxation restoring a sound dollar, reforming Federal regulation, and restraining Federal spending will have to await a Republican administration, apparently. Only such a program, not President Carter's latest spending, subsidy and rebate scheme, will improve productivity and start our country toward full employment without inflation.

TABLE I.—*President Carter's economic proposals*

[Billions of current dollars]

Tax cuts:	*Calendar 1981*
(1) Refundable investment tax credit (30 percent of unused credits for items placed in service after Dec. 31, 1980)	$2.4
(2) Targeted investment tax credit (Additional 10 percent, refundable, for industries in distressed areas, EDA-determined case by case)	0.2
(3) Five-year amortization of business start-up costs	0.1
(4) Depreciation reform (40 percent reduction in ADR, 30 classes of assets)	6.3
(5) Increase in the number of Subchapter S participants to 25	0.0
(6) Marriage penalty amelioration (10 percent income tax credit for lesser earning spouse up to first $30,000)	4.7
(7) Exemption of foreign income (100 percent of first $25,000 and 60 percent of next $60,000 for those designated as living in hardship areas: e.g., Mideast but not Europe)	0.2
(8) Expand earned income tax credit (Increase from 10 percent to 12 percent of first $5,000; phaseout raised from $10,000 to $11,000 maximum)	0.9
(9) Income tax credit against payroll taxes (8 percent of payroll tax liability, 1981 and 1982 only)	12.8
Total	27.6
Spending increases:	*Fiscal 1981*
(1) Research and development	0.600
(2) Rail rehabilitation	0.200
(3) Highway rehabilitation and mass transit	0.600
(4) Weatherization of homes and buildings	0.975
(5) Anti-recession aid	1.000
(6) Job retraining	0.660
(7) Extension of unemployment benefits (from 39 to 52 weeks)	0.744
Total spending	4.779
Total spending and tax cuts	32.4●

AMERICAN FARMERS HAVE GOTTEN A RAW DEAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 30 minutes.

Mr. BAUMAN. Mr. Speaker, I take this time today to call to the attention of my colleagues the serious plight of the

American farm community. As a Member of Congress who has the honor to represent a large number of farmers and many thousands of people who depend on farms, either directly or indirectly, for their livelihood, I must share with you the serious economic problems that exist in my district in Maryland and all over the Nation.

In July farm prices received by farmers for products rose by 5.2 percent, the largest single monthly gain in 6½ years. Sounds good, does it not? But wait. Even with that dramatic 1 month gain, farm prices are only at a level where they were a year ago, while farm costs have gone up 12 percent. It does not take an expert in math to figure out that, at this rate, most American farmers will be out of business in short order.

Some projections I have seen indicate there may be a further increase in farm prices in the next 4 months that could produce an overall increase in net farm income during 1980 of about $18 billion. But even if that happens, and we cannot be sure it will, that is a full 45 percent drop in net farm from the $33 billion earned in 1979. These are in fact, the lowest farm prices in the last 40 years. And in 1940 we were still in the midst of the Great Depression.

WORST FARM PRICES SINCE GREAT DEPRESSION

One thing that seems to escape the politicians that run Jimmy Carter's Department of Agriculture, is the lesson of history. The 1929 stock market crash was preceded by historic lows in farm prices during most of the 1920's. Despite pleas from farmers for action, then as now, nothing was done.

Farm income has fallen greatly before, in the early 1970's and the 1930's. But under Jimmy Carter, farmers have had the steepest and fastest drop in any single year since the 55-percent collapse that occurred in 1921.

Mr. Speaker, what all this adds up to is that American farmers may work all year in 1980 for no net profit at all. If that happens it will be the first time in the 70 years of U.S. Department of Agriculture recordkeeping that farm profits have been a big fat zero.

To make matters worse, the situation of farm credit is at the crisis point. Earlier this year when farmers had to go to their banks for financing for their planting, interest rates were around 20 percent, another record high. Federal farm credit institutions tried to take up the demand, but badly needed revisions in farm credit laws were held up in the Democratic Congress and as of today they have still to be passed. Not since the Great Depression have farmers been less able to service their credit obligations and the result may well be wholesale farm bankruptcy.

Consider still further the individual farmer's economic situation. Farmers' debt to income ratio is also the highest since the Great Depression and their liquidity ratio is lower than it has ever been. While this indicates the need for more short term borrowing, most commercial banks are already over extended on farm loans. Thus since 1970 farm credit extensions have increased more than 400 percent while other private sector borrowing has only gone up 150 percent.

CARTER FARM EMBARGO

One major contributing factor to this enormous slide in farm prices and income was the Carter embargo on farm exports imposed last January. While the President said he was imposing the embargo as punishment for the Soviet invasion of Afghanistan, there is every evidence that the Soviets have suffered very little if at all. But immediately upon the imposition of the embargo farm prices for such products as corn and soy beans fell by huge amounts. At the same time the President announced commodity purchases of farm products which added easily $2 billion to taxpayers costs. And other exporters escaped the farm embargo.

All this from a President who promised during his 1976 campaign that he intended to "end embargoes once and for all."

Mr. Speaker, in spite of the fact that many of us have been warning about the farm problem for some time, little has been done by this Democratic Congress or President Carter to respond to this serious problem.

In early 1978 I addressed this House on this same topic and I would like to call attention to some of my comments at that time because my words still apply today.

Here is what I said then:

> Congress cannot ignore these clear signs that many in our agricultural economy are on the verge of financial collapse. There is not a man, woman, or child in this country who would not be seriously affected if such a collapse should occur sending shock waves throughout the rest of the economy. We in the Congress must provide some immediate and lasting relief for the farming community.
>
> Compare congressional reaction when other sections of our economy faced similar difficulties. When the aerospace industry was in trouble, there were those in Congress who rushed in to rescue it with Federal funds. When New York City spent itself into bankruptcy there was a deafening chorus by those who wanted the U.S. Treasury to finance the bail-out. Virtually any major group in this country would receive a generous helping hand from Uncle Sam if they were faced with this sort of crisis. No one group has done more for this country or its economy than the farmer.
>
> It has been the farmer and his exports that have kept this country afloat in the international markets. We have heard recently that the dollar has slipped to its lowest level in history in the international money exchange. The international economic situation is serious and it deserves our attention. But it would be much much worse if it had not been for the farmers' exports that balanced our international payments. Their exports kept the value of the dollar stable and allowed others to buy foreign products cheaply and improve their standards of living. Other domestic industrial and manufacturing groups dropped from an effective international competition when their labor agreements and executive salaries priced their products out of the marketplace abroad. Their wages and salaries increased and their dollar was secure because the farmer was productive and could export his product where they sometimes could not. I do not believe it would be an overstatement, in fact, to say that the rest of the country and the rest of our people have been riding high on the hog at the expense of the farmer and his family.
>
> The time has come, though, when the farmer can no longer endure the burden he has been forced to carry. The price of his equipment has gone up, the price of his fertilizer has gone up, the price of everything he must use to grow the food we eat has gone up. He can no longer make a living. Other segments of our economy have not been as productive as he has been; others have been able to control the supply better than he has been. Still others have raised the price of what they produced and sold to him. Inflation has hurt everyone, but it is the American farmer who is now faced with bankruptcy. We must do everything we can to help.

And, I might add, this still describes the situation today, only it has gotten much worse.

FARMERS WANT A CHANGE

Mr. Speaker, I believe that the Federal Congress and the Government have an obligation to adopt policies which will promote American agriculture rather than inhibit it. That can be done by unleashing the great productivity of the farmer and getting Government off his collective back. The American farmer, by nature, wants to produce and sell his product. He does not want unnecessary regulations, subsidy, and a Federal dole.

I have consistently supported legislation that would allow farmers to produce and keep Government out of the marketplace. I have advocated flexible parity legislation which rewards reduced acreage with higher supports in an effort to guarantee full parity in the marketplace.

Whoever the next President may be, he must recognize and act on the farm problem before it is too late. President Carter and this Congress have not done so and show no intention of doing so.

American farmers, just as most Americans, I believe, are ready for a change and it cannot come too soon.

GREEN RAISES UNANSWERED QUESTIONS ON BILLY CARTER MATTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 10 minutes.

Mr. GREEN. Mr. Speaker, as one of the principal sponsors of the resolution of inquiry regarding the Billy Carter matter and as one of the Members of the House who has read through the materials supplied us—other than those furnished the Select Committee on Intelligence—I would like to express my thoughts on where the House should go from here.

I believe that the materials submitted, through omission and commission, call for further investigation by the Judiciary and Foreign Affairs Committees.

First. Included in the material was a Department of Justice letter to Senator BAYH making it clear that Justice was not providing documents relating to several pending cases. Justice appears also to have omitted these documents from the material provided to the House.

I do not wish to compromise any Department of Justice investigation, so I will mention only one of those cases, as its existence has been reported in the media, a grand jury investigation being conducted in the southern district of

New York. According to press reports, Billy Carter testified before that grand jury this week. In fairness to Mr. Carter, it was also reported that he was not a target of the investigation.

The Justice Department has offered to meet with Senator BAYH and Senator THURMOND to discuss the documents withheld. I believe that Justice should extend that same offer to the chairmen and ranking minority members of the Foreign Affairs and Judiciary Committees and that the offer should be accepted. All veils should be lifted.

Second. I am concerned about the proprietary and the professional zeal of the Justice Department handling of the Billy Carter case. On June 11, 1980, Billy Carter met with representatives of the Justice Department. After he was given a Miranda warning, he was asked if he had received anything of value from Libya other than two all-expense paid trips to Libya, four gold bracelets, a silver mounted saddle, a silver serving tray, and a scimitar. He said that he had not. This was not true. He had received $220,000, ostensibly as a loan. That fact was already known to the Justice Department. At that point the Justice Department could have sought to develop a case under title 18 United States Code, section 1001, which provides in part that—

> Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully . . . makes any false, fictitious or fraudulent statements or representations . . . shall be fined not more than $10,000 or imprisoned not more than five years or both.

Nevertheless, as far as one can tell from the materials supplied to us, this course was not even considered.

I think we ought to know why Justice suffered such a lack of prosecutorial zeal, and urge the Judiciary Committee to pursue the matter.

Third. I am concerned about the role of the Counsel to the President, not only because he met with Billy Carter, but also because he suggested Mr. Carter retain counsel and then specified which lawyers be contacted. I question the appropriateness of any lawyer in the executive branch recommending specific counsel to a person under investigation by Justice.

We need to come to an understanding of the proper role of the Counsel to the President when dealing with a member of a President's personal or official family, as it is almost inevitable that investigations will touch such persons in the future no matter who holds office. I suggest the Judiciary Committee address this role.

Fourth. Much of the material that was supplied to us raises serious questions as to whether there are major leaks in our system of controls on exports of military equipment. Not all of the material in question relates to Billy Carter, but I urge the Foreign Affairs Committee to investigate whether there are serious problems with regard to this system of controls.

Fifth. President Carter's choice of his brother as an emissary to the Libyans shortly after Iran seized the hostages also raises some serious questions. Ostensibly the Libyan Government at that time was interested in expanding its relationship with the U.S. Government. The President apparently was aware of this. Thus, it seems that someone from our State Department would have been a more logical and proper choice than Billy Carter for contact with Libya. I believe the Foreign Affairs Committee should explore the circumstances surrounding this unusual conduct of our foreign policy.

Sixth. Finally this whole incident raises concerns going far beyond Billy Carter. If Libya was willing to spend this kind of money on Billy Carter, then how much is Colonel Qaddafi spending in toto to influence American political and governmental processes? And what about other Arab countries and their petrodollars? These are serious questions indeed, and I strongly urge the Foreign Affairs Committee to pursue them and report to this body and to the American people about who is paying whom to twist U.S. foreign policy.

□ 1550

TEXAS MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, August is really a Texas month, from the standpoint of the preeminent Texans who have served on the national governmental level, who were born in the month of August. Yesterday we commemorated the birth date of a great Texan, President Lyndon Johnson; and earlier in this month of August, on the 6th, some of us recalled and commemorated in a great spirit of reverence and evoked the memory of another equally great Texan, the Honorable Wright Patman, who served at the time of his death as the Member from that particular district, Congressional District No. 1 from Texas, a district that he had served for many, many years. He had had a tremendously distinguished record as chairman of the then-called Banking and Currency Committee.

I wish to dwell for a few minutes only on these two great personalities, because I believe that as time passes and the years go by, those of us who had the great honor and privilege of not only knowing both of these great leaders, but having worked with them and having watched them over the course of the years, their actions and their role as public men in such a preeminent way, begin to get a more rational perspective of what their service has really meant to the country.

President Johnson, very much like every President we have had since Franklin Roosevelt, experienced the very tough situation encountered with respect to the national press or the media. He had high points and, of course, very low points and very vicious periods of time. But I do not think there was anything particularly singular about that because I think almost every President from the time of Franklin Roosevelt and particularly his era has had that as a modern-day ingredient in this great formula that operates in the case of the Presidential branch of the Government in its modern-day, 20th century role.

I still believe that Franklin Roosevelt had perhaps the most eloquent and the most accurate description of what a 20th century President really must afford, in the light of the role and the machine of the Presidency in this century. He said that he visualized the Presidency as that role of leadership in which the great army of the Amercian people would be summoned forth and led in a common attack on the common problems affecting Americans. But he said that that leadership was really in the 20th century more and more turning out to be more than the individual power or the personality or the inherent ability of the President, the President's ability to attract first-class minds and men and women of ability, surround himself with them, orchestrate them and marshal them into this great attack on the common problems confronting the American people.

I think that is very true. I think that if we were to use as an index for the net results of the leadership on the part of our Presidents in the 20th century, it would be that one factor, the ability to attract and surround himself with first-rate minds. The worst enemy of a first rater is a second rater. If we will look at the type of minds and personalities that Franklin Roosevelt was able to surround himself with, and then his ability to orchestrate them and work them in unison, and his tremendous leadership which successfully led this country through great thickets of the depression and the great hazards of war, global war, and successfully, and when we follow through and we recall President Kennedy and his unique ability in that respect, I think that by all indications the one thing that President Kennedy has not been criticized for was the nature, the stature and the composition of the men with whom he surrounded himself, the men and women, the Cabinet, the subcabinet level. In fact, two of his Cabinet Members were really reflections of a bipartisan effort. His Secretary of Defense McNamara was identified as a Republican, and his first Secretary of the Treasury, Mr. Dillon, was definitely a Republican. But he was able to attract them. They were able to come and serve the Presidency. So that when Mr. Johnson became President, he realized that, and contrary to some hard advice that was given to him by intimates, he refused immediately to discard the Kennedy Cabinet, including President John Kennedy's own brother, who was Attorney General.

I might say, by way of parenthesis, that there is a personal involvement here. At the time of the assumption of office by President Kennedy and Vice President Johnson, I was in the State Senate of Texas, and I had campaigned in 11 States in behalf of the Kennedy-Johnson ticket. And one day, after the election and before the swearing-in, I read in the newspapers, in my local press, that the President-elect had intended and was intending to appoint his brother Robert as Attorney General. I thought that was repugnant to good administration. It was antagonistic to what I felt was a wise decision.

So I sent a telegram to President Kennedy and his brother as well, Robert Kennedy, at Hyannisport, because I had had a fairly close relationship with the then-Senator ever since he had been a Member of the House in 1951. I felt that I could in good faith communicate my worry, my concern. I felt that there were several reasons why it would not be good policy for the President to appoint his brother as Attorney General. I explained some of those in this telegram I sent.

Well, I was criticized by some of the local Democratic leaders. In fact, I was accused of being the only critic of that notion other than Republicans who began to react adversely to the idea that the President-elect would appoint his brother.

I felt and feel to this day that it was probably one of the most singular errors of any magnitude, in my opinion, to this day, that President Kennedy made. I will not go into the reasons because that is beside the point today. What I do want to say is that I never thought at the time I sent the telegram that I would be serving in the House of Representatives about a year and a month later. And it was not until a year and a month later when I came up that I finally had an acknowledgment of that telegram from President Kennedy, and then he did it in a very humorous way. But I never did hear from Robert Kennedy, and I am afraid that he never quite felt very happy with me because of my original opposition to the thought that the President should appoint his own brother as Attorney General.

□ 1600

Lyndon Johnson would never have considered such a thing, not because of any moral implications of superiority, but because his way of working was strictly from one of the most efficient managerial methods that I have ever seen any man in business or in Government employ. I think that history will note that President Johnson was the best administrator, as President, that we have had in the 20th century. There was no such thing as confusion among his advisers or among his Cabinet. There was no such thing as one member of his Cabinet saying one thing in what would appear or was indeed in fact contradiction to official administration policy. There was no such thing as the President in a press conference, unlike his successor, telling this press conference that he had sent an education bill to the Congress weeks before and that the Congress had not acted on it, when, in fact, he had never sent such a bill to the Congress and had to be corrected by his own secretary at that time.

Lyndon Johnson could never have been faulted with that because Lyndon Johnson was one of the most prepared men to serve in the administrative capacity which the Presidency to date, from the domestic standpoint, really, really consists of in this 20th-century period in our national development.

Lyndon Johnson had several—one in particular—departments created during his Presidency, the Department of Housing and Urban Development, and I think that his first appointee as Secretary of that was very symbolic of the efficiency with which Lyndon Johnson selected the first-rate, the first minds of ability that were available and that he could attract to serve under him.

I believe that, like Lyndon Johnson, Wright Patman of Texas evoked as high level and high caliber of Texas representation, Texas skill, Texas managerial know-how and accountability above all. Wright Patman, it would be inconceivable for us today, to think would be anything but radically speaking out and protesting the conditions of the financial markets, the heavy concentration of credit resources in fewer and fewer hands in our country. He would be on top of the real issue that confronts us domestically on economic matters. He had to fight almost in an impossible manner during the time that he was chairman of the Committee on Banking.

Soon after my emergence of service into the House of Representatives, Patman became chairman. Immediately, what he did and what he performed as chairman of the Committee on Banking during that period of time, which lasted approximately from the years 1963 to about 1975, are written in the record. I do not have to establish them. I do not have to give him some praise in an exaggerated manner, because the record is there.

What I am saying is we should keep perennially in mind and evoke perennially the memory of such men and the into the House of Representatives, Patman and Lyndon Johnson for the great American leadership that they have given us, one in both the legislative, national legislative, as well as the national executive branch of the Government and the other in the preeminent ability as a legislator transcending the purely local connotations of this representation and reaching out to the great extent of national representation as chairman of the committee.

Mr. MILLER of Ohio. Mr. Speaker, I ask unanimous consent to address the House for 2 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. MILLER of Ohio. Mr. Speaker, the International Court of Justice has ruled unanimously that Iran must release the hostages and declared the inviolability of diplomatic envoys a fundamental basis of relations between nations. Also, the United Nations has called unanimously for the release of the hostages.

Over 50 American hostages are still held prisoners in Iran in peril of their lives and suffering greatly. This imprisonment is illegal and inhuman. Our diplomatic personnel are even threatened with a trial.

This is the first time in modern diplomatic history a nation has illegally seized and imprisoned diplomatic personnel of another country. The conventions and treaty which bind the United States and Iran to peaceful settlement of disputes and which Iran has flagrantly violated are: The 1961 Vienna Convention on Diplomatic Relations, the 1963 Vienna Convention on Consular Relations, the New York Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, and the 1955 Treaty of Amity, Economic Relations and Consular Rights.

The terms of these international agreements and the principles of international law are clear. We call upon the Iranian Parliament and Ayatollah Khomeini to release the hostages. We continue to hold Iranian authorities responsible for the welfare and safety of our people.

THE 41ST ANNIVERSARY OF THE INVASION OF POLAND COMMEMORATED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, September 1, 1939, was a day of infamy, for it was on this day 41 years ago that the military forces of the Nazis invaded Poland and set off a series of events that led to World War II.

Poland was the victim in September 1939; the sacrificial lamb; because it was the sacrifice of Poland that led the free nations of Europe to make that final decision to stop Hitler from the conquest of the entire continent.

Within a very short time, the Nazi war machine destroyed the nation of Poland. The heroic, courageous, patriotic Polish people fought desperately to turn back the mighty enemy, but the power of Hitler's army was too much for the Poles.

When victory became certain for the Nazis, the Soviet Union decided to seize a share of the war booty and on September 17 sent the Red army across the Polish frontier, annexed huge areas of Poland into the Soviet Union, and joined in the final destruction of the Polish state.

It is, of course, one of the tragedies of history that the victim too must pay the price of the enemy's miscalculations. For Poland and her people endured the worst of World War II only to find that a new enemy had taken control of the country's destiny once liberation from the Nazis became a reality. The Communists quickly grabbed for power as the Nazi forces retreated, and ever since the people of Poland have been subjected to this brutal and all-consuming tyranny.

A cruel fate had befallen the Polish people, and once effective opposition was crushed, the Communist regime leaders set out to create in Poland a Communist state modeled after the one in the Soviet Union.

Political freedom was narrowly limited by the Communist Party, and freedom of religion no longer existed. The economic sector, particularly industry, was organized along inefficient and repressive party lines, and in the cultural realm, Communist control was total. No longer could the Polish artist, the playwright, the composer create his art freely as his inner soul demanded.

It was only through subsequent bloodshed, struggle, and faith in their religious heritage that the Polish people through the years were able to win a few concessions from the Communist dictatorship. In 1956 and in 1970, they struggled for their human rights, and now again, in 1980, the Polish people are proving to the world that they fervently wish to live in freedom and independence without interference from foreign nations, particularly the Soviet Union.

I was honored to join with my good friend and colleague, the Honorable Clement J. Zablocki, chairman of the House Foreign Affairs Committee, in cosponsoring House Concurrent Resolution 423, urging the leaders of the Polish Government as well as the Polish people to resolve the issues raised by the striking workers through peaceful means, and also urging all signatories of the Final Act of the Conference on Security and Cooperation in Europe, which include the Soviet Union, to respect the inviolability of the Polish frontier and the principle of nonintervention in the internal affairs of Poland.

The text of this resolution follows:

H. Con. Res. 423

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits the signatories to respect human rights and fundamental freedoms including economic rights;

Whereas Principles I and III of the Final Act guarantee that every state has the right to judicial equality, to territorial integrity, and to freedom and political independence; that each has the right to choose and develop its own political, social, economic and cultural systems; and that the frontiers of each state are inviolable, regardless of the political, social, economic or cultural systems chosen by that state;

Whereas Principle VI commits all participating states to abjure from military action, use of force, and coercion in order that peace, security and cooperation in Europe may be assured;

Whereas the signatory countries have pledged themselves to "fulfill in good faith their obligations under international law";

Whereas the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights guarantee to all the rights of freedom of thought, conscience, religion, opinion and expression;

Whereas the Universal Declaration of Human Rights provides that "Everyone has the right to form and to join trade unions for the protection of his interests";

Whereas Poland signed the Final Act of the Conference on Security and Cooperation in Europe, is morally bound by the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights;

Whereas many thousands of Polish workers have peacefully organized themselves and have asked the Polish Government to negotiate in good faith with them;

Whereas the Polish Government has detained a number of its own citizens who have actively supported the workers in the exercise of their rights: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress:

(1) urges the Polish Government and people to resolve the issues raised by the workers through peaceful means and in accordance with the Principles of the Final Act of the Conference on Security and Cooperation in Europe, as well as other international agreements to which Poland is a party;

(2) requests the Polish Government immediately to release persons unjustly imprisoned during the recent worker unrest for their efforts to exercise their rights as guaranteed by the Universal Declaration of Human Rights, the International Convenant on Civil and Political Rights and the Final Act of the Conference on Security and Cooperation in Europe; and

(3) calls upon all signatories to observe the Declaration on Principles Guiding Relations between Participating States, particularly those relating to sovereign equality, inviolability of frontiers, and non-intervention in internal affairs.

Sec. 2. The Clerk of the House of Representatives shall transmit copies of this resolution to the President, the Secretary of State, and the Polish Ambassador to the United States.

In this anniversary of the beginning of World War II, our hearts go out to the Polish people. Their lives have been too full of tragedy, misery, and suffering. These fearless, hardworking, courageous people deserve a far better fate than what has befallen them since September 1, 1939. It is our hope that one day they shall have better times, and that they will be a part of the whole European community of nations enjoying fully the fruits of democracy and freedom.

As we again commemorate these sad events in the House of Representatives, I am proud to join the Polish Americans in the 11th District of Illinois, whom I am honored to represent, in Chicago, and all over this Nation in their hopes and prayers for the reentry of Poland in the community of free nations. Freedom-loving people the world over are watching and the Communists must never be allowed to forget this or to ignore the yearning for liberty and human rights in the hearts of the Polish peoples.●

SECRETARY OF EDUCATION SUGGESTS MORE COOPERATION BETWEEN BUSINESS AND EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. Brademas) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, last month, in a speech before the National Alliance of Business, the distinguished Secretary of Education, the Honorable Shirley M. Hufstedler, discussed some of the problems facing education in the United States and made a number of suggestions for greater cooperation between business leaders and educators that would benefit both as well as the schools and the students themselves.

I commend Secretary Hufstedler for her innovative approach and include the text of her speech of July 17, 19[illegible], in the Record.

Remarks by Hon. Shirley M. Hufstedler, Secretary of Education, to the National Alliance of Business

For many years leaders in education and business thought they had little in common. Today we know that, although we are in different boats, we are sailing the same choppy seas of economic, social and demographic change.

Actually, my being here with you is something of a role reversal. Rather than a secretary looking for work, I am a secretary looking for workers. My objective today is to pique your interest in the future of American education in a difficult time and to set you to thinking about what you can do to help.

I realize that in doing this, I am, to a certain extent preaching to the choir. Your very presence here this afternoon, and your individual records of involvement in NAB, and CETA, and private industry councils sets you apart as businessmen-and-women able to recognize the needs and the problems of our larger society and willing to do something about them. But while many of your companies are already actively at work in education, some are not. And every one of you has friends, associates and contacts who could be doing much more to help than they are. So, just as the Bible reminds us that the Lord "sendeth the rain on the just and on the unjust," I am going to solicit help from the involved and the not-yet-involved alike—one never knows whence the first sale of the day will come.

WHY GET INVOLVED?

Let's begin with the first and most obvious questions: Why should any of you—why should business people in general—get involved with education in America today? The answer is that you should get involved either because you are needed or because it is in your own self-interest to do so. Pick whichever reason appeals to the innermost you. Both are absolutely on target. There is a difference between doing good and doing well.

For the altruism in each of us, the simple fact is that the nation's school systems are reeling under a series of demographic and financial blows. During the late '60s, with the passing of the "baby boom," the number of young people in our population began to fall for the first time in history. As the demographic contraction moved inexorably through the educational system, it brought financial woes, teacher unrest and school closures at every level. Fewer children also meant fewer parents and grandparents among the voting and taxpaying public. Recession and inflation hit the schools hard and further weakened public support—as did uproars over such issues as integration, Vietnam, and declining standards.

Today the schools are caught in a difficult squeeze. While the absolute number of students continues to decline, the per capita cost of educating each one continues to rise. This means larger budgets for what is commonly seen as less service. It is not too surprising, therefore, that schools and teachers have come under heavy fire from the rest of the society in recent years. Every day brings new stories on television and in the press about a long list of familiar educational ills: from vandalism to declining test scores, from busing to teacher burn-out.

SCHOOL POPULATION CHANGES

This negative view of education, though common, is limned in exceedingly broad strokes; and, like all such renderings, it misses important details and subtleties. The over-all decline in the number of students for example, obscures dramatic growth in a number of key areas. Far from falling, the number of poor and disadvantaged youngsters is rising rapidly. The same is true for children who speak little or no English, and for those who suffer from physical, mental and emotional handicaps. Aside from growth, the common denominator of all of these groups of students is that their education requires greater than average expenditures of time, money and material.

In addition to their changing demography, schools must try to cope with such systemic problems as rapid technological change, reshaping of the family unit, the gender revolution, and television's dominance of the young. And, while coping, they must simultaneously perform a myriad of new social functions that were once the responsibility of other institutions. Immunization, driver training, dental care, job training, education in parenting—all of these worthy activities and many more are now performed at school rather than exclusively at home, at church, or at work.

None of us would suggest that these things are unimportant. Yet it cannot be denied that the cumulative result is both expensive and substantially different from the schools that most of us knew as youngsters. And because a progressively smaller proportion of the adult population has children in school, the general public's awareness of such problems is not high.

WHAT'S IN IT FOR YOU?

So much for altruism. The schools need help; you are in the position to offer that help. That alone would be reason enough to get involved. But let us now consider the question of self-interest or, in more colorful terms, what's in it for you? I can answer that in two words: Your future.

I do not mean only that the destiny of the Nation depends ultimately upon the quality of its public schools. That is true; but the stake of business people in education is much more direct, much more immediate. It touches everything you do, beginning with employees. I am fond of teasing people whose job it is to project the number and the quality of people who will be available for entry level jobs in the next 5 to 10 years. I remind them that they have one of the easiest jobs in America if they will only do it right. Rather than develop elaborate statistical models, they can simply walk down the street to any junior high school and interview the students. These are the same individuals who will be answering our want-ads in the next five to 10 years—if they can read them.

BETTER NOW THAN LATER

The caliber of work, the productivity level of each of your enterprises depends in a most direct way upon the skills and the education that these young people will bring to your personnel offices. It is easier and more effective to spend time and money now to make sure that they are well-prepared, than it will be to retrain them in 1990.

Your personnel needs, of course, will go beyond entry level workers. Technology is at the heart of profitability in today's business. The future prosperity of your enterprises will depend on the quality of research and development that you are able to sustain in the years ahead. And that in turn will depend directly upon the long-term viability of our colleges and research universities.

Let me just round off the topic of personnel by pointing out that tomorrow's middle management positions will also be filled by young people in school today. And even those of you who plan to purloin—uh, recruit—them from other firms will still be dealing with schools. Every young up-and-comer you try to lure to that plant in Gibbville is going to ask some pointed questions about the Gibbville schools he-or-she agrees to relocate.

None of this is new, of course. Every person in this room understands the need for a supply of well-educated labor. What may be new is the realization that the American educational system which we have always been accustomed to think of as the best in the world, and which has always operated with little or no direct input on the part of business, is now showing signs of serious difficulty. It is rather like the situation that prevailed with oil in 1974. We all understood that we were dependent, but it had never occurred to us that our supply might really be interrupted.

IMPLICATIONS ARE BROAD

Of course, the implications of a weakened educational system go far beyond personnel. They extend to markets both at home and abroad. It is self-evident that a better educated, more productive work-force is going to make more money and spend more money in the marketplace. Beyond that, however, many important aspects of local, national and international markets are intimately related to educational issues.

To take but one example, Hispanics will very probably pass Blacks to become the largest single minority group in America over the next 5 to 10 years. There is a widespread tendency to think of this as a change that is taking place somewhere else; but in reality, it is occurring all over the country. Few of you would be surprised, for instance, to learn that in my hometown of Los Angeles the school population is well over one-third Hispanic. I wonder how many of you realize, however, that the same statement can be made about John Filer's hometown of Hartford, Conn.?

The implications are obvious both for the marketplace and for the schoolhouse. Media buyers are going to have to start learning about Spanish language radio and television—not just in Los Angeles either. And every person in this room is going to have a much bigger stake in bilingual education than he or she might once have thought.

If you want to retain your markets both at home and abroad, your companies are going to have to learn to communicate in Spanish to sell your products. And that, of course, will involve having many people in your employ who are bilingual.

The ability of schools to cope with complicated questions of bilingualism will be high on the list of business concerns in the '80s and '90s.

LANGUAGE PROBLEMS

The same kinds of considerations arise with overseas markets. There was a time when American businesses operated at home and abroad with relatively little concern about foreign competition—back around the time of the penny postcard. Today, however, American firms have to struggle for important business abroad. And quite often they begin that competition a linguistic half-step behind. It is a rare Japanese or German or French young person who cannot speak at least two languages. By contrast, we are reaching the unhappy position of considering it a triumph when the average American student has a good command of English.

There is no way to be certain how much, if any, international business we lose by virtue of poor language capabilities. What is certain is that we will lose more tomorrow than we do today. The trend toward internationalization grows more pronounced with every passing year. If we do not adapt, it is only a matter of time before we put ourselves at a serious competitive disadvantage.

I could go on in this vein all afternoon; but I trust the point is made. Neither schools nor corporations can afford to continue the business as usual pattern in which the private sector lives exclusively in its own world and educators live in theirs. That is no longer possible amid the changing economic, demographic, and social conditions at home and abroad. In today's world, we have to understand that we need each other; and we have to understand how we can help each other.

KEY AREAS FOR SUPPORT

In that spirit, I would like to suggest some key areas in which a business partnership support for education could be particularly helpful.

First there is the broad stage of public opinion on which national attitudes are formed and social agendas set. On that level, it is extremely important that leaders in the private sector become advocates for the educational system.

Now, an advocate is not an apologist. There is nothing to be gained by turning a blind eye to the very real problems and shortcomings of our schools. Still, the need for advocacy is very real. In their weakened state, our schools stand vulnerable to sweeping, unreasonable attacks from many directions. Too often the fundamental importance of the educational system is forgotten in the heat of the moment. Education needs the support of respected, dispassionate leaders from every walk of life. No one is better able to give that kind of support than you in the private sector.

A second way in which business can and should be a major force is through cooperative efforts with Federal, state and local governments to strengthen schools at every level. The preeminent opportunity before us now is the President's Youth Act of 1980. I can think of no group in the country better situated to understand and appreciate the need for this program than NAB. Throughout its 10 year existence, this organization has done outstanding work on the problems of structural unemployment. You know better than anyone else that much of the severe unemployment among our youth stems from a failure to equip disadvantaged youngsters with basic literacy and computation skills—and failure to teach them anything at all about how to get and keep good jobs.

LOCAL CONDITIONS, NEEDS

By now most of you probably also know something about the Youth Act and how it proposes to attack the problem. Every participating junior and senior high school in the country will be responsible for designing its own plan to upgrade the academic and work-related skills of its students in light of local conditions and local needs. And every one of those schools will be required to have the advice and partnership of private businesses.

The basic premise is that collaboration with the private sector will enable the schools to do a better job of imparting the skills that local employers need. It is apparent to anyone who has read the Youth Act that its success or failure will depend almost entirely on a spirit of leadership and cooperation in the nation's business community.

I wish to announce today that I have formed a Department of Education Task Force on Youth Programs to be headed by Bob Schwartz under the direction of Deputy Under Secretary Mike Bakalis. Mike is a former chief state school officer for the state of Illinois and Bob is a former high school teacher, principal and education adviser to the Mayor of Boston. One of the chief responsibilities of this task force is to explore possible models for successful implementation at the school level—including methods for encouraging maximum cooperation between schools and businesses.

If good collaboration exists only on paper, then the Youth Act will simply be an expensive monument to our inability to pull together to face national problems. If, on the other hand, the collaboration is to be real, then the time to begin planning is now. Hopefully, the bill will soon be passed by Congress; but even if passage should be delayed, it is essential that both schools and businesses begin thinking now about how to make it work.

SPECIAL ROLE

There is a special role here for NAB as an organization and for each of you as members. You have channels for spreading the word about how and why to participate in this effort that are simply not available to the government, not available to the education system. I would hope that the Youth Act could find a place on the agendas of every business conference and every trade association meeting as well as in the pages of every trade publication and in-house publication throughout the country.

The final arena in which I hope that business people everywhere will be active is that of direct interaction with the nation's schools. Leave government out entirely. Match up your own resources and needs with those of universities, colleges, junior and senior high schools, and let your imaginations take you where they will. They will take you to some exciting places.

I hope you won't limit your involvements with colleges and universities, for example, to making contributions to general funds or donating new buildings in honor of corporate founders. These are worthy projects, certain to find eager recipients if that is your company's mood. But much more significant, I think, for the long term future of education in this country will be the willingness of businesses to enter into creative joint ventures with colleges and universities.

TEMPORARY PERSONNEL EXCHANGES

Consider the possibilities of just one arrangement: temporary personnel exchanges. Well-qualified college faculty members could gain some practical experience on the job while bringing some fresh thinking to your operations. Meanwhile, your own employees could do research, teach, or simply expand their skills on campus. Both faculty and executives would return to their jobs refreshed from contact with new people and new ideas. Just that kind of program is being tried with great success by innovative companies right now. And it is having the beneficial side effect of loosening up rigid tenure structures that tend to close out new ideas and new faculty on campus during times of retrenchment.

The same potential for creative cooperation exists on the secondary level. Again, it is not simply a matter of adopting a high school or junior high. I would urge you to do that, too; it's going to be more important than ever under the Youth Act. But there are other ways in which business can and should make available its expertise, its resources and its experiences in key areas.

JOINT VENTURES

For example, one of the greater strengths of American business is managerial skill—a commodity often in short supply among urban school districts. Around the country people are beginning to experiment with programs in which corporations donate the services of talented executives to assist school districts with some of the enormous complex management issues that they face on a daily basis.

One of the benefits of these kinds of joint ventures is the simple act of breaking out of those separate worlds that I talked about a little earlier.

I'm well aware that a major obstacle to cooperation between business and education is the general perception that educators are unsympathetic, not to say hostile, to business and its objectives. In part, this may be a residue of the Vietnam years. In part, it is simply a lack of familiarity. But another factor that I would urge each of you to consider is that no one reacts well to unremitting criticism. Too often, those in the schools, particularly the public schools, see private sector leaders as sources of very little support but lots of criticism—sometimes bordering on disdain. Under those conditions, it would be surprising if some barriers of defensiveness and distrust did not exist.

Educators have much to learn about the techniques and the capabilities of management in private industry—and about the skills and the simple humanity of the people involved. Those in the business community will find that they, too, have a good deal to learn about the talent dedication of educators, about the intractable problems that they face—and, again, about the skills and the humanity of the people involved.

As one who has been fortunate enough to move in both worlds, I am eager for the kinds of exchanges that will get the learning process underway; and eager, too, for the Department of Education to set an example. I hope, for instance, that NAB members will consider detailing to the Department some managerial and executive talent. We have many technical problems that could benefit from your considerable expertise. We could even use some assistance in areas that particularly concern and frustrate the private sector: such as Federal regulations, and over use of consultants in government work. Both are difficult problems that look somewhat different from inside than out.

SUCCESS IS UNSUNG

I would also hope that the Department of Education can lead the way not only in helping educators communicate their needs to business, but in giving business people the chance to make their case to those involved in education. After all, one of the things that education and business have in common is that our success stories are sure bets for the back page of the newspaper while our failures never miss the headlines or the evening news.

No one signs up for a cause or an institution that cannot demonstrate some successes and communicate a vision of where it's going and why it's going there—a vision, by the way, that goes beyond economics to encompass a moral and ethical view of the world. Education and business could do much to enable one another to communicate our successes and our visions to the American people.

There is a good deal of talk today about the fact that Americans are confronted with a more difficult world than we have been accustomed to: a world in which there are questions about our military capabilities, about our economic superiority, about the viability of our social and political institutions. It is a time for a national reexamination of assumptions, and I firmly believe that we will emerge from it a stronger and more prosperous country.

If we are to do so, however, we will have to make the kind of investment in our basic institutions that will allow us to reindustrialize, to regroup and attack the national problem of productivity, to move forward on every front. In my mind the single great prerequisite for success in all of these endeavors is a reinvigorated educational system. No one has more to gain by that than you in the business community and no one has greater potential to make it happen.

May I repeat that we need each other, we have it within our power to help each other, we have only to begin.●

YOUTH UNEMPLOYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, I was proud to vote for the Youth Act of 1980 which the House passed on Tuesday and I urge the Senate to act expeditiously on this important legislation. The bill addresses a most serious problem besetting our country at this time—the staggering rate of youth unemployment.

For the past 10 years the number of youngsters unable to find jobs has increased considerably. In many cities, like Newark and East Orange located in my congressional district, over 35 percent of young men and women are unemployed—and the rate is even higher among blacks and other minorities.

In fact, the job outlook in many cities has been so bad for so long that youngsters have grown up with no hope of ever finding jobs. Consequently, the hope for America's future has given way to a feeling of desperation which pervades all phases of our society. Without the prospect of finding a job, youngsters turn to lives dominated by drugs and crime—while families and neighborhoods disintegrate.

An important step in solving the problems of our cities and turning around the decline in our national economy is to put Americans back to work. That is what the bill sets out to do.

The Youth Act takes the initiative to reverse the trend of rising unemployment among our youngsters by making a national commitment to train young people for permanent jobs in private business.

By revising and consolidating CETA programs for disadvantaged youths, the bill provides a broad range of employment and training opportunities to those areas most in need.

I urge the Senate to resist all weakening amendments and approve this most important bill, so that we can begin building a better future for the youth of America.●

AMERICAN WINE LABELING EQUITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I am introducing legislation today to prohibit the Treasury Department from implementing wine ingredient labeling regulations until the Bureau of Alcohol, Tobacco and Firearms develops a plan to insure that foreign wine producers selling their product in the United States comply with the same standards and procedures required of American winemakers.

The history of wine ingredient labeling is a long and troublesome one to many Members from wine producing regions of the country. On a number of occasions over the past 2 years, I have organized meetings between the Secretary of the Treasury and members of the California congressional delegation to discuss our concerns about various wine labeling schemes that we believed to be unnecessary and excessively burdensome. After some 10 years of struggling with this problem, the Bureau of Alcohol, Tobacco and Firearms on Friday, June 13, 1980, published final regulations requiring American winemakers to implement a so-called voluntary ingredient labeling plan by 1983. Unfortunately, these regulations are seriously flawed.

While the Department of Treasury insists that ingredient labeling is to be implemented to provide consumers with accurate information about the content of wine, the regulations are wholly inadequate with regard to foreign imported wine. If we are to be true to the purpose of these regulations, we must insure that foreign wine producers comply with the same standards and procedures that American winemakers are subject to. It is doubly important that we do this to avoid placing our own Nation's wine industry at a serious competitive disadvantage in the marketplace in comparison to foreign winemakers.

The present regulations ask only that foreign wine producers obtain a certificate from their own government confirming that they have complied with the labeling regulations. There is no mechanism presently built into the regulations to validate these certificates and to insure that foreign wine producers are keeping the same records and conducting the same tests that will be required of American winemakers.

My legislation would prevent the implementation of these regulations until such time as a system is developed that will insure that labeling will not result in placing American winemakers at a disadvantage. It will further insure that all wine sold in the United States will carry a label that conforms to the same standards and procedures.

I urge your careful consideration and support of this important measure.

Mr. Speaker, I insert the text of my legislation:

AMERICAN WINE LABELING EQUITY ACT

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds that—

(1) the wine ingredient labeling regulations promulgated by the Bureau of Alcohol, Tobacco, and Firearms pursuant to the Federal Alcohol Administration Act and published in the Federal Register of June 13, 1980, as a portion of T.D. ATF–66, places substantial burdens on American producers of wine.

(2) such regulations place a lesser burden on foreign producers of wine because—

(A) such regulations permit foreign producers to establish the accuracy of the ingredient listings by a certification from a foreign governmental official, and

(B) such regulations do not contain adequate provisions to ensure that the certifications are accurate, and

(3) the greater burden placed on American producers of wine could result in a severe competitive disadvantage.

(b) The wine ingredient labeling regulations shall not take effect earlier than 180 days after the day on which such regulations are amended—

(1) to require foreign producers of wine imported into the United States to keep the same records, and otherwise comply with such regulations, in the same manner as American producers, and

(2) to provide procedures (in addition to any certification process) to ensure full compliance with such regulations by foreign producers.

(c) When used pursuant to the wine ingredient labeling regulations, the words "ingredient" or "ingredients" and the words "content" and "contents" may be used interchangeably.

(d) For purposes of this section, the term "wine ingredient labeling regulations" means the regulations which were prescribed by the Bureau of Alcohol, Tobacco, and Firearms pursuant to the Federal Alcohol Administration Act and published in the Federal Register of June 13, 1980, as a portion of T.D. AFT–66, to the extent that such regulations relate to the labeling and advertising of wine.●

JOHN GABRIEL RECOGNIZED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

● Mr. DANIELSON. Mr. Speaker, I rise on this occasion to bring to the attention of my colleagues to a man who has devoted much of his life and his money to aid his fellow citizen—John A. Gabriel, of Montebello, Calif.

On September 27, 1980, a testimonial dinner will be held in John Gabriel's honor, the proceeds of which will go to help finance the city of Hope, well known health and medical center in southern California.

John Gabriel is truly a self-made man and is now one of the most respected and prominent residents of my congressional district. Born of immigrant Armenian parents, he started himself in the paper and cardboard recycling business long before it became either a popular or a profitable venture. Later he became a manufacturer of other products and also entered into the fields of banking and finance. Through hard work and great wisdom, he has been successful in all of those lines of endeavor.

The city of Hope testimonial dinner is only one of the many awards that have been tendered to John Gabriel. His service to the community in civic, charitable, and business organizations is well known.

John Gabriel was born in East Los Angeles area and has spent his entire 63 years in and near that location. He is president and chairman of the board of the Garfield Bank, Gabriel Enterprises, Gabriel Container Corp., and a number of other local corporations.

He is a member of the board of directors of the Beverly Community Hospital Association and was, 2 years ago, selected as Man of the Year by the Beverly Hospital Foundation.

I want to congratulate John Gabriel on this occasion, and commend the city of Hope for recognizing him in this fashion. I know that John, as well as his wife Agnes and all of the members of his family must be very proud.●

RADIO JAMMING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

● Mr. DERWINSKI. Mr. Speaker, I wish to direct the special attention of the Members to the issue of the Soviet Union's jamming foreign broadcasts of the crisis that is delevoping in Poland. This jamming of broadcasts beamed to its territory from abroad was not a spur-of-the-moment decision on the part of top Soviet leaders but must have been planned for several months, at least.

The measure was probably contemplated some time ago as a Soviet reaction to the world reaction to its invasion of Afghanistan. It was possibly held up, however, until the Moscow Olympics were over and the foreign visitors had gone home. It is now known, moreover, that the Soviets made their earlier decision to jam foreign broadcasts to coincide with the Warsaw Pact invasion of Czechoslovakia in 1968, 3 to 4 months before the event.

Radio jamming is extremely expensive. An estimate of costs for the Soviet jamming of Radio Free Europe/Radio Liberty (RFE/RL) is roughly $300 million a year, three times the cost to the United States of the broadcasting effort itself. A large increase in jamming, now including the Voice of America (VOA), the British Broadcasting Corp. (BBC), the Deutsche Belle foreign broadcasts to the Soviet Union, means large additional costs in electric power, radio equipment, and the diversion of engineers and technicians from other work—a "brain drain" if you will.

It takes a long time to marshal the resources and coordinate the jamming effort. Jamming shortwave signals must be on the same wavelengths, of course, as the broadcasts being interfered with. Inasmuch as the incoming programs are beamed on several frequencies, there is a good deal of coordination required on the part of the jamming effort, all of which takes considerable planning.

Local ground wave jamming is also expensive and of limited range with only a local effect. Ground waves, mere noise, have a range of 5 to 10 miles, thus requiring many small stations near the target areas. Airwave jamming, on the other hand, affects more listeners and is more common. The jammer signal is broadcast on the shortwave band from approximately the same distance from the audience as the transmitters broadcasting the offensive programs—England, Spain, and Germany, for example. These foreign stations, and thus the Soviet jamming transmitters are 1,200 to 2,000 miles from the intended audience groups. The Soviets must back off, as it were, between 1,000 and 2,000 miles to beam their jamming signals, which are incidentally largely music, from Radio Mayak in Eastern Russia.

Nonetheless, some of the foreign transmitters are very powerful—Deutsche Belle, for example, uses 500-Kw transmitters, broadcasting programs on several frequencies. The Soviet engineers must match the power of these signals, more or less, come on the air at the same time, and be on the correct frequency, all of which takes planning and preparation.

Solzhenitsyn has spoken of the irony wherein cities are considered the center of culture. In Russia, he has pointed out, foreign broadcasts are often so jammed they cannot be heard in the cities. If you want to hear their message, you often must leave the cities for the countryside. Muffled signals from abroad in the "muffled zone."

Additional information to ponder is that the Soviets are now jamming all eight languages in which VOA is broadcasting to the U.S.S.R. Nonetheless, about 50 percent of our programs are getting through. To counter this jamming, VOA has added three high frequencies, two of which are now getting through.

It is obvious that the massive support that the Polish people are giving the workers' strike constitutes complete repudiation of the Communist government. It is also apparent that the thirst for freedom behind the Iron Curtain remains strong and unquenchable.

JOHN W. McCORMACK DIRECTS A MESSAGE TO YOUNG AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. CAVANAUGH) is recognized for 5 minutes.

● Mr. CAVANAUGH. Mr. Speaker, throughout the history of this Congress there have been few who have served the people here possessed of the quiet courage and moral strength of Speaker John W. McCormack. Speaker McCormack has been a leader and an inspiration to others because his entire life has been an example of how a human spirit committed to honesty and decency can serve and even triumph over the most severe challenges and the most extreme difficulties which life presents.

Speaker McCormack is still teaching us all but most especially he is directing his message to young Americans. He has always cared most for those who would come after him and in a recent article entitled, "With All Thy Might," published in the Boston Globe he presents a powerful lesson on faith and tenacity. Our Nation has been blessed to have John W. McCormack spend the time he has among us. The article is as follows:

"With All Thy Might": Remember This Whenever You Feel Like Quitting

(By John W. McCormack, former Speaker of the U.S. House of Representatives)

The young student sat slumped before me, saying he was ready to give up. Struggling through law school, he was lamenting the long hours of study, the gloomy state of the economy and the difficulties of getting ahead in our overcrowded profession.

"What's the use?" he sighed. "It doesn't pay to knock yourself out for anything anymore."

I leaned back in my swivel chair and studied him for a moment. "I know how you feel, son," I said. "Sixty-six years ago I was in the same boat. Times haven't changed that much."

And then I told him a story. I told him how at age 22 I was preparing for the Massachusetts bar exam. Only difference was I couldn't afford law school. In those days, a would-be attorney could gain his education by "reading law." This meant studying legal tomes for years, hoping to assimilate enough knowledge to pass the rigorous, day-long examination.

I had been an errand boy in the law office of William T. Way, a prominent Boston attorney. A Protestant aristocrat, he gave me, an Irish Catholic lad, the opportunity to study in his law library between errands. I devoured those books.

I had had only eight years of schooling because my father died when I was 13, leaving my mother and my two younger brothers and me alone in South Boston. Those were hard times, too. We used to search the icy tidal flats of the harbor for pieces of coal that had fallen from barges.

Then, just three months before I took the bar exam, my mother died. It was terribly difficult going on without her counsel.

On the night before the exam, I was cramming. Many others taking the test with me, I knew, would have degrees from Harvard and Yale.

It was long after midnight in our little flat as I sat buried in books. It was quiet and lonely in the room. A strong wind off the harbor rattled the loose windowpanes and flickered the oil lamp. The room grew cold as the embers died in the cast-iron stove.

Resting my eyes for a moment, I remembered my mother's soft voice and sweet smile, and my heart ached for her. I thought of her constant advice to us. "I will pray for you and you must pray, but there is something else you must do. As the Good Book says: 'Whatsoever thy hand findeth to do, do it with thy might. . . .' (Ecclesiastes 9:10) So whatever you do, lads, don't be satisfied with doing just enough. There's always something extra you can give. Jesus called it 'going the extra mile.' It can make all the difference."

The old shelf clock chimed 4:00 a.m. And now the words in the heavy law book swam before my eyes. Fatigue had drained me. My body argued that I had studied long enough, and I looked longingly across the icy room toward my warm bed. I was about to close the book—it was the last volume and I had almost finished it—when those words ". . . with all thy might, Johnny" echoed in my memory.

Shaking myself awake, I focused my eyes on the lamp-lit pages and forced myself to complete the last chapter. As I read, I came to a section that I hadn't really studied before. It explained a certain legal item called a Bill of Particulars, pointed out that it was little used today and explained why. It didn't seem to be of much use, but I read it to the end. Then I fell into bed exhausted, feeling that I had done my work with all my might.

The next morning I walked downtown to the building where the examination was to be held. It was bitter and blustering outside. Other Bostonians stepped along briskly. They all seemed full of confidence, but I felt just the opposite. Inside the building, handed the thick sheaf of examination papers, I felt certain I would fail.

I sat down at the desk, conscious of other aspirants settling to work. I glanced out the window into a gray sky and said a quick prayer. Then I turned to the first page of the examination.

I could hardly believe what I saw.

The first question read: What is a Bill of Particulars? Why is it not now in general use? In a burst of confidence, I dipped the pen into the inkwell before me and began writing furiously.

I didn't know all the answers. But I knew enough of them to earn the right to practice law in the Commonwealth of Massachusetts.

That's the story I told the young law student, and that's the message I'd like to pass along to all young men and women today. The old adage about success being 99 percent perspiration and one percent inspiration is right. And you'll find the source of both—the inspiration, and the gumption for the perspiration—in the Bible.

Faith and working "with all your might" still count in this country. Don't let the cynics tell you otherwise.●

PRODUCTION OF SPECIAL NUCLEAR MATERIAL

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, in the August 27 Washington Post, Evans and Novak report on plans for production of special nuclear material for our nuclear weapons program. This is an important subject for those charged with national security responsibilities.

The authors properly quote the House Armed Services Committee report on the Department of Energy's national security authorization bill for fiscal year 1981. In this report we expressed concern about the adequacy of plans for adding special nuclear material production capacity. We called for the completion of design studies and the selection of a reactor type for the next production reactor in fiscal year 1981. This schedule must be followed to permit the timely reactors.

I have not had access to the internal White House communications referred to in the article, although according to the authors, developments they report on efforts to restrict production capacity are disturbing.

You can be sure that the House Armed Services Committee will closely monitor developments in this national security area.

I am including the article at this point in the Record for the benefit of all my colleagues:

[From the Washington Post, Aug. 27, 1980]

(By Rowland Evans and Robert Novak)

The Other Face of Carter's Defense Policy

While publicly taking a tough election-campaign stance on defense, President Carter has privately ordered a delay in one of the most sensitive areas of national policy: an overdue increase in the production of nuclear explosives for warheads to power America's expanding arsenal.

In response to Ronald Reagan's tough rhetoric, the president has given maximum publicity to the new "Stealth" aircraft and the new nuclear targeting policy to show progress against Soviet power. The delay over expanding nuclear fuel production suggests procrastination in hopes that the Soviet threat will somehow ease. That raises questions about how much the Carter team's view of the Kremlin really has changed.

This other face of the administration's defense policy also points to an election-year political dilemma. The delay in nuclear explosives production betrays a fear that expanded production would antagonize the anti-nuclear and environmental lobbies. But the delay itself generates fear about the reaction of defense-oriented congressmen.

That second fear was reflected in a "top secret" directive on Aug. 7 signed by Zbigniew Brzezinski, Carter's national security adviser. The tip-off was this instruction: "All responses to press inquiries about special nuclear materials should be low-key and . . . limited."

Brzezinski's memorandum went to the secretaries of state and defense, the CIA director and the Joint Chiefs of Staff. It informed them that "a formal . . . decision" to expand nuclear fuel production will be "deferred" until an international conference on nuclear proliferation in Geneva has ended. That will not be for weeks.

The decision to delay means the détentists have won the backstage debate between them and the defense community, a debate waged in Congress and within the administration. Their victory means in essence that there is a high probability of running out of nuclear explosives for the new weapons systems. The administration is authorizing rifles but not the bullets they can fire.

The "bullets" necessary were spelled out last spring in a classified document written by the Joint Chiefs of Staff for Secretary of Defense Harold Brown, setting production targets for new weapons-grade materials. These targets were required by Carter's recent decisions to build the MX mobile missile and the Trident II submarine-launched missile and—most important—to put warheads on new nuclear weapons for Europe to compete with existing Soviet systems.

"Carter has approved these new systems with much fanfare," one defense expert told us, "but the delay in new production of weapons-grade fuel does not give the Joint Chiefs a Chinaman's chance in hell to put warheads on them."

In its report on the authorization bill for the production of warhead fuels last May, the House Armed Services Committee said that Carter was planning major new nuclear weapons for which there would be no explosives. "Is there a commitment to a nuclear weapons program?" the committee asked.

Pentagon officials have tried to argue this case in congressional testimony short of publicly breaking with the White House. On

June 18, James P. Wade, Brown's assistant for atomic energy, testified cautiously that "additional resources" are needed.

Congress has been unsuccessfully pressing Carter for several years to gear nuclear plants in Hanford and Richland, Wash., for production of modern, weapons-grade nuclear fuel. But when, after months of procrastination, Carter finally took the lead in modernizing NATO nuclear weapons and ordered full-speed on the MX and Trident missiles, defense-oriented congressmen believed the impasse was broken.

Brzezinski's directive makes clear they were wrong. It revealed that a July 24 session of the Presidential Review Committee formally decided to defer new production facilities.

The directive went on to warn that "responses to press inquiries . . . should be low-key and limited to the following points": present production is "adequate for the near term"; "long-term requirements are under review but are difficult to predict"; if higher production is needed, "appropriate programs will be requested.

In yet another gesture to politics, the directive orders that all responses to congressional inquiries "should be cleared" by the Defense and Energy departments, the NSC and the Office of Management and Budget. Having put the development of "Stealth" on the network news, Jimmy Carter wants to keep his other defense face shrouded from public view.●

FACTUAL INFORMATION CONCERNING THE NAVY F/A-18 AIRCRAFT PROGRAM

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, on June 12, 1980, the gentleman from Minnesota (Mr. Vento) addressed the House for 1 minute on the subject of the survivability of the Navy's F/A-18 aircraft. He also inserted in the Congressional Record (page 14544) a proposed letter to me dated June 11, 1980. I understand that the gentleman from Minnesota (Mr. Vento) also issued a press release on the same day that was printed in the Washington Post, along with excerpts from the proposed letter. On June 27, 1980, I received an identical letter from the gentleman from Minnesota (Mr. Vento) and 14 other Members of the House.

The letter expresses a concern for a strong national defense, and I congratulate the signers for their concern and welcome their support of defense authorizations and appropriations in the future. The letter also expresses a desire to insure that the military services have available modern and effective equipment. I join in that desire. The letter also states that a strong national defense is not "guaranteed" by an uncritical large expenditure of Federal funds. I agree with that statement, but I would also add that in this day and time the only way that we can guarantee a strong national defense is by large expenditures of Federal funds. The letter also states that the Members have become aware of serious questions about the Navy's F/A-18 aircraft after the passage of the Department of Defense Authorization Act by the House on May 21, 1980.

As a basis for this concern, the letter cited a February 1980 report of the General Accounting Office, based on work done by the GAO in 1979.

Based on the GAO report and an 'independent investigation," the letter from Congressman Vento and the other 14 Members of the House recites a litany of allegations concerning the F/A-18 aircraft program. The letter also alleges that "the F/A-18 has alluded congressional scrutiny."

I view the allegations contained in the letter as very serious, and I asked the Secretary of the Navy, the Honorable Edward Hidalgo, to provide the Committee on Armed Services with information concerning these allegations. In order to provide the Members of the House with a balanced view of this situation, I am requesting unanimous consent to insert in the Record at this time a copy of the letter to me from the gentleman from Minnesota (Mr. Vento) and 14 other Members of the House, a copy of my letter to the Secretary of the Navy, and a copy of the response of the Secretary of the Navy to Mr. Vento's allegations dated August 19, 1980, along with a listing of the briefings and hearings provide to the Members of Congress and staffs on the F/A-18 program since January of 1980.

As a result of personal investigations by Members and the staff of the House Committee on Armed Services into the allegations made by Mr. Vento and others, appears that:

The cost increases in the F/A-18 program are primarily the result of compounded rates of inflation which could not be predicted at the time that development estimates were made;

Those technical problems that the testing program was designed to discover are being satisfactorily corrected;

The testing program is recovering its momentum and should be completed very close to its scheduled date of completion;

The F/A-18 should meet virtually all of its combat requirements;

There is no new information or problems involving the F/A-18 which requires additional hearings on that program during this session of Congress;

The Congress has been fully and currently informed with respect to the FA/18 program as evidenced by 18 separate hearings and briefings on that program since February 5, 1980, not including a flight in the aircraft by Congressman Jim Lloyd and other visits by Members and staff to F/A-18 production facilities.

I hope that the following factual information will provide a basis for a reasonable evaluation of the F/A-18 program:

House of Representatives,
Washington, D.C., June 25, 1980.

Hon. Melvin Price,
Chairman, House Armed Services Committee,
Washington, D.C.

Dear Mr. Chairman: We are writing to you because of our concerns for a strong national defense. An integral factor in maintaining a strong defense is the adequacy of the equipment available to our forces. It is our responsibility to insure that the military has available modern and effective equipment. A modern military does require a significant investment of funds, but a strong national defense is not guaranteed by an uncritical large expenditure of federal funds. Obviously, any equipment that we procure must reflect the latest technological advances, as well as meet its specifications and cost limitations. If a program fails those criteria, it must be reassessed. Such a reassessment may result in a continued commitment to that project, modifications of the proposal or the development of alternatives. Regardless of the decision, we can expect an end product that is more effective and fiscally sound than if we allow a faulty, unmodified program to continue.

In the House-passed Department of Defense Authorization, $1.78 billion was authorized for the development of the F/A-18. Since consideration of this bill, we have become aware of serious questions about the efficacy of the aircraft, which demands Congressional review. This information gathered through the February, 1980, GAO Report, "F/A-18 Naval Strike Fighters: Its Effectiveness Is Uncertain" and independent investigation includes:

Information that cost overruns on the program are approaching $11 billion;

That the F/A-18, intended as an aircraft carrier fighter, cannot at present land on a carrier;

That the plane does not have the range to fill U.S. Navy needs for fighter and attack missions;

That flight tests and evaluations are 40 percent behind schedule;

That the Defense Systems Acquisitions Review Committee (DSARC III), the final production decision which was due this spring, has been delayed for two years;

That a complete computer analysis (war gaming) in the last few weeks by the staff of the Chief of Naval Operations (CNO) has cast new doubts on the ability of the F/A-18 to meet many mission needs;

That the Office of Management and Budget (OMB) has recently commissioned a restudy of the F/A-18 program because of cost explosion as well as technical and scheduling problems.

This information raises enough questions to justify the immediate attention of all Members of Congress. Both GAO and OMB have raised concerns about the program. Top Navy and Defense officials are aware of the problems. Yet thus far, the F/A-18 has eluded Congressional scrutiny.

It is our hope that your Committee will hold public hearings on the issue of the F/A-18. Before we commit more funds to this project, hard questions, such as the following, must be answered:

What are the cost overruns on the F/A-18? Is it true that the program cost growth in the last 15 months is about twice the total overruns for all Navy shipbuilding in the 10-year period from 1970-79?

Is the F/A-18 now prohibited from carrier landings because the landing gear collapses under the stress of such landings? What will redesign of the landing gear mean in time and cost?

How serious is the wing flutter problem during flight? Is it true that current aircraft are subject to a flight restriction of 400 knots and 3.5 g? What will redesign of a whole new wing mean in time and cost?

Was the acceleration specification reduced? Is it true that the plane is about 30 percent below even the reduced specifications?

Does the F/A-18 meet the specification range for fighter and attack missions? Does the minimal fighter range depend on non-use of the afterburner? Has this specification already been reduced and will it be reduced again?

Is the F/A-18 about 1,600 pounds overweight? Is the Navy trying to change the specifications for dry weight and take-off gross weight to match the current overweight levels?

Is it true that the F/A-18 is 40 percent behind the test schedule in flight hours?

Will the correction of major structural deficiencies ultimately mean total redesign of the aircraft?

In addition, we understand that on April 8, 1980, the F/A-18 Project Manager briefed the Chief of Naval Operations on the full scope and implications of problems with the F/A-18 program. A transcript of his report, as well as the complete results of the more recent war gaming by the CNO's staff, is essential for our consideration of this project.

As we stated earlier, hearings on this issue can only enhance our national defense. Congressional review can either reaffirm our commitment to the F/A-18; lead to needed modifications; or to the development of more effective alternatives.

We urge that the Committee hold public hearings into this matter as soon as possible.

Sincerely yours,

Bruce F. Vento, Fortney H. (Pete) Stark, Edwin B. Forsythe, Andrew Maguire, Berkley Bedell, Richard Nolan, Anthony C. Beilenson, Ted Weiss, Parren J. Mitchell, Paul Simon, James Weaver, David E. Bonior, John F. Seiberling, Thomas J. Downey, Elizabeth Holtzman, Members of Congress.

JULY 1, 1980.

Hon. EDWARD HIDALGO,
Secretary of the Navy, Department of the Navy, Washington, D.C.

DEAR MR. SECRETARY: I am enclosing a copy of a letter dated June 25, 1980 from Congressman Bruce F. Vento and other Members of the House of Representatives concerning the F/A-18 aircraft. Since the letter contains serious allegations concerning the effectiveness of the F/A-18, I am requesting that each of the allegations be commented on in the order contained in the letter. With respect to the allegation that "the F/A-18 has eluded Congressional scrutiny," I would appreciate your providing information on the numbers of briefings and hearings involving the F/A-18 aircraft that have been conducted before Congressional staffs and committees since January of 1980.

Your attention to this important matter will be most helpful to the Committee on Armed Services.

Sincerely,

MELVIN PRICE,
Chairman.

OFFICE OF THE SECRETARY,
Washington, D.C., August 19, 1980.

Hon. MELVIN PRICE,
Chairman, Committee on Armed Services,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of July 1, 1980, concerning the effectiveness of the F/A-18. I am enclosing a detailed list of briefings and hearings that we have presented on the program, as well as specific comments on each of Congressman Vento's allegations. The list indicates that the F-18 has, in fact, received close Congressional scrutiny.

I share Congressman Vento's concern for a strong national defense and concur that the adequacy of military equipment is vital to that end. Problems in the F/A-18 development program are being continuously monitored and solutions are being evaluated at all levels of DoD. As the development of this most important weapons system progresses over the next year and a half, it will continue to receive my personal attention.

We are ready to provide any additional assistance that you may require in this matter.

Warm regards,
Sincerely,

EDWARD HIDALGO,
Secretary of the Navy.

F/A-18 BRIEFINGS AND HEARINGS

Congressional briefings and testimony have been provided to members and staffs since January 1980 as follows:

2-5-80: SASC. Program testimony.

2-21-80: George Mohrmann, LA to Rep. Ichord (D-Mo) (Chairman of R&D Subcommittee, HASC). Program status prior to FY 81 R&D hearings.

2-20-80: HAC Defense Subcommittee. Program testimony.

2-22-80: George Foster, Staff, SASC. Costs, support, technical problems, radar, BIT.

3-13-80: SASC TACAIR Subcommittee. Current technical concerns.

3-26-80: Charles Murphy, Staff Rep. Edwards (R-A1), HAC, F/A-18 All Weather Capability.

3-27-80: SAC Defense Subcommittee. ANP hearing.

3-28-80: Bob Seraphin, Staff, HAC. Program status.

4-7-80: Sen. Goldwater. Program status.

4-16-80: HAC Defense Subcommittee. Program status/costs.

4-21-80: Sen. Cannon. Current program issues and status.

5-16-80: Charles Murphy, Staff, Rep. Edwards (R-Al), HAC. Cost increases reflected in Dec. 79 SAR.

6-3/4-80: HAC. Tactical aircraft, air-to-air missiles.

6-20-80: Adam Klein, Staff, HASC. Current program issues and status.

6-24-80: Charles Murphy, Staff Rep. Edwards (R-Al), HAC. Current program issues and status.

6-25-80: HAC.

6-26-80: HASC, Chairman Ichord, Congressman Lloyd, Mr. Battista, et al. Current program issues and status.

7-1-80: HAC. APN hearings.

F/A-18 DEVELOPMENTAL STATUS

1. Serious questions about the efficacy of the F/A-18 have recently been raised in a letter from Congressman Vento to other members of Congress. The following comments are relevant to the information in that letter attributed to a GAO Report and an independent investigation.

a. Cost overruns on the program are approaching $11 billion.

The F/A-18 FY-80 procurement estimate for the 1366 aircraft program was $21.8771 billion. The FY-81 estimate for the same program is $26.935 billion. Cost increase in the program over one year was $5.0579 billion. Of that increase, $3.8959 billion, approximately ¾ of the total, was due to escalation. The FY-82 procurement estimate for the total program will contain additional growth. The magnitude of the additional growth is not fully defined but is expected to be above $3 billion. The economic variables affecting the size of this growth include the increasing costs of material and labor, but the most significant factor is compound inflation (or program cost escalation) on the aircraft procured out to the 1990s. As an example, an aircraft that is procured in 1990 versus 1982, with a 10% yearly inflation factor, will cost 2.4 times as much. New pricing estimates are being developed at this time as a part of the POM process.

Projected F/A-18 cost through 1990 has increased substantially since the initial projections were made more than five years ago. Over the 15-year span of the program, inflation alone is projected to add 220% to the F/A-18 cost. This seriously affects the F/A-18 program image in the eye of the Congress and the public. The term "cost overrun" is most misleading in this context as it implies to many that the program is in jeopardy due to government mismanagement or contractor misfeasance. No one, including the Defense Department or the Congress, anticipated in 1975 the inflation rates that the nation is experiencing today. The impact of heightened inflation projections are compounded to a greater extent on the F/A-18 program because the F/A-18 program is longer lived (into the 1990s). The most recent fully developed program cost estimates were briefed to the House Appropriations Committee staff as late as May 1980.

b. That the F/A-18, intended as an aircraft carrier fighter, cannot at present land on a carrier.

Last fall, the F/A-18 underwent very successful sea trials. The demonstrated flight characteristics for carrier operations were exceptional. Following the sea trials, the F/A-18 experienced a shrink link lug failure in its starboard landing gear. To prevent reoccurrence of this incident in other F/A-18 aircraft, the air pressure in the main landing gear struts was lowered and those aircraft were prohibited from further carrier landings. Subsequently, a design refinement to the landing gear has been implemented. The first pilot production aircraft recently delivered is fully capable of all aspects of carrier operations, as will be all forthcoming aircraft.

c. The plane does not have the range to fill U.S. Navy needs for fighter and attack missions.

The range specification for the F/A-18, established in the mid-1970's, reflected the dual fighter/light attack mission requirement. The range specification for the fighter configuration of the F/A-18 is greater than the range of the fighter aircraft it will replace (the F-4); the range specification for the attack configuration is less than the A-7, and although the aircraft has not been tested in the attack configuration at this time, current projections are that the aircraft will exceed the attack range specification. Fighter configuration range, as measured in the early part of the flight test program, was below specification due to higher than expected drag. Aerodynamic drag has now been reduced, and the aircraft is fully expected to meet or exceed fighter range requirements. Information concerning the combat radius of the F/A-18 has been provided to Congress on numerous occasions.

d. That flight tests and evaluations are 40 percent behind schedule.

Total flight hours now stand at more than 1550; this is about 10 percent behind the flight hour schedule established in November 1978. Based on the accomplishments of test aircraft, the test program is more realistically about 4-6 months behind schedule when consideration is given to task accomplishments as well as test time. Part of the delay is due to late delivery of the airplane (2-3 months) and part is due to difficulties in start-up.

e. The Defense Systems Acquisition Review Committee (DSARC III), the final production decision which was due this spring, has been delayed two years.

Since DSARC II, conducted in December 1975, the F/A-18 review schedule has included provisions for conducting the DSARC III review in three phases. The following depicts the plan established following DSARC II and the current plan.

Previous Plan:
November 80, DSARC IIIB.
January 82, DSARC IIIC.
Current Plan:
September 80, DSARC III (fighter).
February 82, DSARC III (attack).

It is anticipated that the final DSARC III will be conducted after the OPEVAL is completed, estimated to be in April/May 1982.

f. A complete computer analysis (wargaming) in the last few weeks by the staff of the Chief of Naval Operations (CNO) has cast new doubt on the ability of the F/A-18 to meet many mission needs.

The complete computer analysis referred to is unknown. Therefore, a more specific answer to the above questions is not forwarded at this time, but will be forthcoming if additional identification is provided.

There are a number of other ongoing studies of many Navy mission areas. Each of these normally identify some deficiencies with systems and programs. As an example, the Maritime Air Superiority Study will identify a deficiency in the F/A-18, which does not have the Phoenix missile capability, in a mission scenario where any missile inferior to Phoenix will not meet the threat. The F/A-18, like all other systems, will not accomplish all conceivable missions. It will, however, contribute significantly more combat capability to more Navy and Marine missions than any aircraft in the inventory.

g. The Office of Management and Budget (OMB) has recently commissioned a restudy of the F/A-18 program because of cost explosion, as well as technical and scheduling problems.

Although aware of this study, Navy has not participated in it, nor are we aware of any results at this time. OMB traditionally reviews major programs as they develop to completion as part of their continuing analysis of national security.

2. The following comments are addressed to the specific "hard questions" asked in Congressman Vento's letter.

a. What are the cost overruns on the F/A-18? Is it true that the program cost growth in the last 15 months is about twice the total overruns for all Navy shipbuilding in the 10-year period from 1970-79?

The term cost overrun implies past performance; the F/A-18 cost increases are associated with projected future procurements out to 1990. For example, the major portion of the projected increases between the FY 80 and FY 81 budget is inflation (program cost escalation) in the amount of $3.9 billion with an additional $1.2 billion associated with actual program costs. New pricing estimates are being developed at this time as a part of the POM process.

There are three line items in the shipbuilding appropriation which fund the completion of prior year programs. These are called escalation, cost growth and claims. Over the period FY-70 to FY-79, a total of approximately $3.6 billion was appropriated to SCN for cost growth and claims which is roughly comparable to the $1.2 billion F/A-18 program cost increase. During the same period the SCN account also received approximately $1.9 billion for escalation.

It should be noted that there is no comparability between inflation (escalation) related figures. The F/A-18 numbers cover the entire production period through completion of delivery in FY 1994. The SCN funds cover the period from FY 1970 through delivery in FY 1982. Accordingly, the F/A-18 figures contain more years of compounded inflation (program cost escalation).

b. Is the F/A-18 now prohibited from carrier landings because the landing gear collapses under the stress of such landings? What will redesign of the landing gear mean in time and cost?

No. Limiting the F/A-10 to field landings for the short period of time that the aircraft was restricted from carrier landings cost nothing in terms of time as no carrier operations were scheduled. Monetary costs to the program were small as design refinements were handled within the normal full scale development structure. The F/A-18 is fully capable of carrier operations at this time.

c. How serious is the wing flutter problem during flight? Is it true that current aircraft are subject to a flight restriction of 400 knots and 3.5 g? What will redesign of a whole new wing mean in time and cost?

The F/A-18 is not experiencing wing flutter problems in flight. Earlier in the flight test program, flutter performance was good but less than optimally desired. That performance was improved by moving the Sidewinder missile five inches forward in its mounting on the wing tip. This modification was made to enhance already acceptable flutter performance.

The aircraft has performed to 6.5G's and nearly Mach 1.8. Its "flight envelope" is being continually expanded beyond these points as a normal part of the flight development program. The aircraft has achieved 50 degrees angle of attack in a stable flight condition, and has exhibited no engine problems throughout the flight envelope.

The wing is not being redesigned. There have been some modifications incorporated to correct problems encountered during flight test. Several layers of graphite composite material are being added to the outer wing panel for increased stiffness to improve the aircraft's roll rate. Modifications have been made to the leading edge flaps and ailerons to improve the aircraft's performance. Additional point papers discussing aileron sizing and other efforts to improve roll rate have been provided to Congress. This work is covered, both in terms of time and cost, under the existing F/A-18 contract and does not constitute redesign of the wing.

d. Was the acceleration specification reduced? Is it true that the plane is about 30 percent below even the reduced specification?

The Navy's threshold requirement for acceleration remains unchanged. A degradation in acceleration was exhibited on early test flights. Recently the aircraft has been modified to reduce aerodynamic drag and test flights with a modified aircraft have demonstrated an improvement in the acceleration above Mach 1.2. The Navy is continuing to investigate this area. Further improvement is available by increasing engine performance, but keeping engine performance at its current level is perceived at this time as crucial in maintaining the high engine reliability and maintainability characteristics we are attaining. Should any change to the acceleration specification be made, it will only affect aircraft performance in the high supersonic region. From an operational standpoint, the most critical need for superior acceleration performance is in the transonic range. The F/A-18 acceleration is superior to that of any chase aircraft available to either the contractor or the Navy (F-4, F-14, F-15) from any subsonic airspeed to speeds slightly above Mach 1.2.

e. Does the F/A-18 meet the specification range for fighter and attack mission? Does the minimal fighter range depend on nonuse of the afterburner? Has this specification already been reduced and will it be reduced again?

As discussed previously, the F/A-18 is expected to meet the fighter and attack ranges of 400 and 550 miles. The fighter specification range profile does include use of the afterburner. The fighter and attack ranges of 400 and 550 miles were established in the "Operational Requirement" dated 28 August 1974 and have not changed.

Range specifications were changed for Lot 3 production to require fuel for divert from a carrier to a shore airfield and to allow credit for range attained during operationally required descents.

f. Is the F/A-18 about 1,600 pounds overweight? Is the Navy trying to change the specification for dry weight and take off gross weight to match the current overweight levels?

The F/A-18 is approximately 1,600 pounds above the anticipated design weight. This was reported to Congress in 1978. Nearly half the weight increase was due to conscious, hard, tough decisions to attain new standards of reliability and maintainability in tactical aircraft.

The weight of the F/A-18 could be reduced, but only at great expense in terms of both money and reliability. The Navy will recommend at the next DSARC that the weight threshold be increased. It should be noted, however, that the payload for both the fighter and attack versions is the same as originally specified.

g. Is it true that the F/A-18 is 40 percent behind the test schedule in flight hours?

Total flight hours, which now stand at more than 1550, are about 10 percent behind the flight hour schedule established 19 months ago (see para 1.d.).

h. Will the correction of major structural deficiencies ultimately mean total redesign of the aircraft?

To test the structural integrity of the F/A-18, three full scale test articles are being used. The static load test model has been subjected to sustained loads in excess of 11 g's, which is in excess of the aircraft's specified "g" limit (7.5 g). The drop test model is used to test the structural integrity of the aircraft under high sink rate (high g-load) conditions. The fatigue test model subjects the aircraft to the dynamic loads encountered in flight. In this test, the imposed loads simulate all parts of the flight envelope and exceed the flight envelope out to 9 g's. Some structural problems have occurred during fatigue testing. The most significant problem has been a crack in the bulkhead of the fatigue test airframe. The cause of the crack was quickly determined, the bulkhead modified accordingly, and reinstalled in the fatigue-test airframe. Since then, the fatigue-test airframe has been subjected to forces equalling one-third of an F/A-18 flying lifetime. During this testing, cracks of a minor nature were discovered and fixes incorporated.

i. On April 8, 1980, the F/A Project Manager briefed the DNSARC in preparation for a DSARC Review on 18 April 1980. The issues covered at that review were flight test status, fatigue test status, program costs, and threshold changes. All have been summarized and, in some cases, updated in this paper. ●

THE ARMS RACE IN SPACE

(Mr. BROWN of California asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. BROWN of California. Mr. Speaker, in recent months, I have become increasingly alarmed with the trend toward the militarization of space, and the implications this has for world peace. From time to time I have placed significant news articles in the Congressional Record for review by my colleagues and to generate greater public discussion. Recently I have seen a larger number of articles on this subject, in a wider variety of publications, which at least demonstrates the widespread concern about this issue. Clearly this is the time, before it is too late, for the arms race in space to be curtailed and the peaceful uses of space to be promoted.

The cover story on the September issue of Inquiry magazine, which I will insert in the Record at the conclusion of these remarks, is an excellent description of the trends in the U.S. space program and the nature of the space arms race between the United States and the Soviet Union. Another point clearly made by the author, David Ritchie, is the implication to world peace if we fail to develop an effective treaty to limit the emerging space war.

Mr. Speaker, I sincerely believe that

the effective use of military surveillance satellite systems are our best peacekeeping tool. Destruction of these space base systems would inevitably be the prelude to a global nuclear war. The expansion of these systems in both scope and access by all people would be an important step toward global stability. A new outer space treaty, protecting these surveillance systems, must be a priority matter for our Government and all governments sincerely interested in a stable world peace.

Mr. Speaker, I urge my colleagues to review the following article:

[From Inquiry Magazine, Sept. 1, 1980]

Laser-Rattling in Outer Space

(By David Ritchie)

While Americans watch Luke Skywalker battle Darth Vader in the latest installment of Star Wars, the American and Soviet armed forces are preparing to wage real wars in space, possibly by the end of this decade.

The Carter administration, which came to Washington pledging a cutback in military spending and a "pacification" of the military buildup in space, has done a quick about-face and given its blessing to putting a costly new arms race into orbit. Plans for fantastic new spaceborne weapons systems are well on their way to becoming reality, and if the Department of Defense has its way the skies may soon be patrolled by orbiting "warships" armed with weapons out of a George Lucas movie. The cost of this military escalation in space will be astronomical, and no one can tell when—or how—it will end.

If this sounds like alarmist rhetoric, then consider the following:

The Soviet Union has been testing "hunter-killer" satellites for almost a decade and is said to be capable of knocking U.S. military and communications satellites out of the sky by ramming them or by setting off explosions nearby that riddle the satellites with shrapnel. Russian antisatellite (ASAT) weapons are thought to have scored more than a dozen "kills" on targets in orbit, though that number may be exaggerated. The latest Soviet test of a killer satellite took place in April. It was unsuccessful, but it gave DOD reason to worry; the test was an attempt to knock out a target within the first orbit of the attack spacecraft. "A Soviet antisatellite attack conducted within one earth revolution," said Aviation Week and Space Technology of the test, "would allow little time for the U.S. to recognize one of its spacecraft was in danger." To avoid getting caught by surprise, the United States has identified "threat windows"—times when our satellites might be in danger from Soviet ASAT systems.

DOD spent some $73 million last year to develop ASAT weapons comparable to those possessed by the Russians, and the Pentagon plans to spend close to half a billion dollars more on ASAT technology in the next few years. Aviation Weekly reports that $80.5 million is being spent in 1980 alone on a versatile ASAT weapons system that would knock out enemy satellites with a small homing missile. The planned ASAT device would be boosted into space by a two-stage rocket launched from an F-15 fighter plane flying twenty miles above the earth, and would use heat sensors to "sniff out" a target before destroying it.

The Soviets are thought to be making impressive progress in developing ASAT laser weapons. Several years ago there was a report, denied by the Pentagon, that the Russians had used a powerful laser to "blind" two U.S. satellites over Siberia. Not to be outdone, the Pentagon has so far spent more than a billion dollars on laser weapons that might be used against enemy missiles and satellites.

DOD plans to put a huge laser weapon in orbit in the next few years. This project, code-named Talon Gold, is a scaled-down version of Darth Vader's Death Star; it would use high-energy lasers to destroy enemy satellites and ICBMs. The Pentagon believes a multimegawatt laser could be put into orbit by 1983 and installed on a "D-sat," or "dedicated defense satellite" that would orbit above and at the same rate as the earth. The laser would employ a mirror ten to thirteen feet in diameter to focus on target, and its beam would burn through the hull of an ICBM, destabilize it, and make the rocket either explode or disintegrate.

The Pentagon seems rather fond of laser weapons, and several besides Talon Gold are in the planning stages. One weapon proposed in 1975 uses an orbiting array of mirrors to reflect a laser beam fired from the ground—the lasers might be mounted on aircraft in flight or on mountain peaks—and to direct the beam toward hostile space vehicles. Cost: $105 billion. DOD plans a laser test on one of the early space shuttle missions, scheduled to begin either late this year or in 1981. If early experiments prove promising, then laser-weapon platforms may be built in space by 1985.

Senate hawks, notably Malcom Wallop (R-Wyo.), have been agitating for a crash space-laser development program with a projected budget of $240 million—four times the amount requested by the Carter administration, which has been approved by Congress for this purpose next year. Wallop estimates it would take $2 billion to put one laser unit in orbit. A network of twenty-four such platforms has been proposed to cover the entire globe with laser power.

Department spokesmen have indicated that the DOD is thinking of setting up a whole new branch of the armed services—in effect a "Space Force"—to handle combat operations in outer space. The air force already has its own Space Division to coordinate all its activities in, and related to, outer space.

The air force set up a manned space flight support group at the Johnson Space Center in Texas in 1979, and some observers believe this group may be the first step toward development of a man-in-space capability for DOD. The department has wanted such a capability for years. The air force planned a military space station called the Manned Orbiting Laboratory (MOL) in the sixties, but had to abandon the project in 1969 because of budget constraints.

DOD, however, may get its orbiting laboratory yet. Similar to the MOL is the European Space Agency's Spacelab, an orbiting scientific laboratory designed to be carried aloft in the cavernous cargo bay of the NASA space shuttle. The Defense Department has understandably taken an interest in Spacelab because it would be a superb spy satellite. Spacelab could carry large cameras for spotting activity both in space and on the ground, and astronauts on board could give a whole new dimension to satellite reconnaissance by adding their "eyeball" observations to those of Spacelab's cameras—an invaluable combination because the eye sometimes sees things the best camera misses. (It's hard to believe, but some of the Gemini astronauts were actually able to see smoke coming from the chimneys of individual houses.)

The Pentagon now has a new Space Defense Operations Center in Colorado Springs, Colorado, to keep track of all major U.S. space systems and any threats to them. The facility is located at the North American Air Defense Command (NORAD) nerve center under Cheyenne Mountain and for the first time provides a single site at which the U.S. military can monitor the status of all spacecraft connected with the Nation's defenses.

The Center is in the process of being tied in with all U.S. military satellites and also to civilian space systems, like weather and communications satellites, that might be targets for Russian ASAT weapons. Computers at Cheyenne Mountain receive data from all NORAD radar sensors (including one radar installation in North Dakota that can spot something the size of a cigarette lighter in low orbit) and can keep track of 8000 space vehicles at a time. These computers can also simultaneously follow some fifty "high-interest" targets—large satellites reentering the atmosphere, for example—whose positions have to be precisely known. The Space Defense Operations Center is scheduled to be upgraded in the next few years to handle operation of the new fighter-launched ASAT missile and will serve as the command point for any American antisatellite missions.

Among the objects tracked by NORAD are the twenty-ton Soviet Salyut space stations. These are launched at a rate of one per year and are roughly comparable to our Skylab missions. Some Salyuts are manned, others unmanned. And although the Salyuts are nominally part of a peaceful space project, there is every reason to think they have a military role. Salyut 2, an unmanned station launched in April 1973, transmitted signals back to earth on a frequency normally reserved for Soviet spy satellites. Salyut 3 went up in June 1974 and almost certainly had military capability: It carried a groundward-pointing camera far more powerful than needed for nonmilitary photography, and the mission was the object of a general news blackout that suggests a possible military purpose. A similar news blackout surrounded Salyut 5, in sharp contrast to the publicity photos and films released about Salyuts 1 and 4. Soviet silence as to certain Salyut flights has led Western observers to conclude that about half the Salyut missions are for the benefit of the Russian armed forces.

The Soviets have their own military "space city" at Plesetsk, in the northwestern part of the country. Most of the Soviets' military space missions originate here rather than from the older Tyuratam (also known as Baikonur) cosmodrome in Kazakhstan near the Aral Sea. With at least four major launch complexes Plesetsk is one of the world's biggest space facilities. It is served by its own airfield and highway system, and by the Moscow-Arkhangelsk railway. Plesetsk is also one of the world's busiest spaceports: In 1973, satellite launches from Plesetsk averaged one every four and a half days.

Although the Soviet government refuses to admit the existence of Plesetsk, the rest of the world has known about Russia's military space base for almost fifteen years. In 1966, amateur radio enthusiasts in Britain calculated the orbital paths of newly launched Soviet satellites from their telemetry signals, and followed the orbits back to a launch site somewhere in the northwestern USSR. The Soviets denied the existence of any launch facility in that area, but were caught in their lie a few years later, when the giant base appeared on photos taken by a U.S. civilian LANDSAT satellite launched in 1973. The satellite shots showed a large military airfield and scores of rocket launch pads. Rather than call attention to its military space center, the USSR let the discovery of Plesetsk pass without official comment.

America's military space program has had its budget doubled since 1976, while in recent years the civilian space agency, NASA, has seen its funding steadily whittled down by inflation and reduced appropriations. Funding for the U.S. military space program is now roughly equivalent—$4.1 billion for the 1980 fiscal year—to America's civilian space effort.

All Soviet space activities are ultimately under military control, and the same may soon be true of America's space program. NASA is so deeply involved in Defense Department business that a 1978 Library of Congress study seriously discussed a plan to let the Pentagon take over NASA's launching activities altogether. NASA's independence of the military is under attack from other quarters as well. An Army War College study, made public recently under the Freedom of Information Act, referred to the U.S. government's separate civilian and military space programs as "expensive . . . luxuries" that the nation cannot afford much longer. That study called for an "integrated civil/military space technology program," thus suggesting that DOD all but swallow up the civilian space effort.

Though the armed forces' move into outer space seems to have happened almost overnight, it has been underway for two decades. America took the first step toward the military use of outer space by sending up its SAMOS (an acronym for Satellite Missile Observation System) spy satellites beginning in 1960. Designed to track Soviet ICBM deployment, SAMOS represented a quantum leap forward in photo reconnaissance.

From an altitude of a hundred miles, undisturbed by picture-blurring influences such as engine vibration, SAMOS took photos clearer than any then available from aircraft cameras. In 1962 SAMOS gave President Kennedy early warning of the Soviets' attempt to station missiles in Cuba.

After SAMOS the military use of satellites increased steadily on both sides of the Iron Curtain. About half the payloads sent into orbit by U.S. rockets since 1960 have been reconnaissance satellites, and three-fourths of all U.S. and Soviet satellites have been military in purpose.

There is now a bewildering variety of military satellites circling the Earth. These include photo reconnaissance satellites, like the air force's tank car—sized Big Bird, which take pictures of targets on the ground below and return the photos to Earth in a special reentry capsule that is plucked out in midair by "lasso"-equipped aircraft. There are electronic "ferret" satellites that monitor communications on the ground below and can eavesdrop on phone conversations between Soviet army commanders in the field. There are heat-sensing satellites that detect the telltale hot exhausts of missiles being launched. And there are communications satellites handling some 70 percent of U.S. military electronic communications with armed forces overseas.

These satellites have already been used by American troops in Vietnam. Syncom II and III satellites relayed high-priority communications between Southeast Asia and the United States. Later a more advanced system of eighteen communications satellites carried data and pictures from Vietnam to America almost instantaneously. Military weather satellites also played an important role in Vietnam, keeping watch over target areas before and during bombing missions.

Today the U.S. armed forces rely more heavily than ever before on satellites. The Defense Meteorological Satellite Program collects information about weather conditions. The NAVSTAR Global Positioning System, a satellite navigation system now being deployed, will allow precise positioning of aircraft in flight, ships at sea, and even soldiers on the ground. The Air Force Satellite Communications System carries messages to and from our armed forces all over the world. The Satellite Data System handles communications from one polar region to another and helps the air force track satellites.

General Alton D. Slay, commander of the Air Force Systems Command, underscored the importance of satellites to the U.S. military in a speech in Washington last year. "The Defense Satellite Communications System is the key element for worldwide long-haul communications," he said. "For the future, I see no diminishment of the utility of space for communications and data relay. I see only expansion."

Expanding our military satellite systems may do us little good, however, if the Soviets can knock them down at will. Pentagon officials are worried that if the Soviets could destroy American satellites at the outset of some future armed conflict, American armed forces would have a serious or even fatal disadvantage, since the Pentagon appears to have phased out many of the cable links that had also been kept available previously to provide a backup system for satellite communications. The Russians, by contrast, are thought to have kept both kinds of communications systems, cable and satellite, for added security. This is one reason why Russian ASAT capability worries the Pentagon, and why the United States is trying to match Moscow's space warpower within this decade.

The key to America's plans for war in space is the NASA space shuttle, the stubby-winged spaceship that is supposed to become the workhorse of the U.S. space program in the 1980s. The shuttle, about the size of a DC–9 airliner, is supposed to make its first voyage late this year or early the next. It will ride into space on strap-on rockets and then glide to earth at the conclusion of its mission. It can be relaunched—perhaps as many as a hundred times. DOD has a wide variety of jobs planned for the shuttle, as Defense Secretary Harold Brown told the Senate Committee, on Commerce, Science, and Transportation on February 7.

"Over the next five years, our dependence on the shuttle to support our space systems will become critical," Brown said. "Space systems are increasingly more important for support of our military forces in areas such as communications, navigation, early warning, surveillance, and weather forecasting." Brown added that the shuttle was expected to provide "the benefits of reduced launch costs, increased reliability, increased weight and volume of our payloads, and perhaps most important of all, increased flexibility."

In other words, DOD expects the shuttle will allow the Pentagon to send up more and bigger military hardware for less money per pound than ever before, and that it will make practical many military operations that were previously difficult or impossible.

DOD payloads will be among the first the shuttle will carry. On its first ten flights, the shuttle is scheduled to deploy air force DSCS–3 military communications satellites and DOD weather satellites, orbit a giant High Altitude Large Optics camera to spy on the Soviets, and test laser weapons. The shuttle will also be used to test the Inertial Upper Stage, a booster rocket that could be released from the shuttle to carry satellites into higher orbits where they would be safe from Russia's low-orbiting killer satellites. Indeed, the Pentagon is thinking of hiding "dark" or "silent" satellites in extremely high orbits, where they would be difficult to detect, and switching them on if other military satellites in lower orbits were destroyed.

Clearly, the shuttle will be busy with DOD projects. And just to make sure the Defense Department has all the shuttles it wants, the Pentagon has been pushing for a greatly expanded shuttle fleet. Defense Secretary Brown told a Senate committee recently that DOD may require more shuttle missions, and hence more shuttles, in the 1990s, and the department seems confident of getting what it wants: Earlier this year, Air Force Secretary Hans Mark said he expected the currently planned fleet of four shuttles to be increased to seven. Meanwhile, the next generation of space shuttles, armed space "battleships" that would take off and land using conventional runways, is on Pentagon drawing boards.

The shuttle's ever-expanding military role puts NASA in an uncomfortable position. Every new military mission slated for the shuttle increases the chance the space agency will be gobbled up by DOD. And NASA's close relationship with DOD makes it increasingly difficult for NASA to protect the image it wishes to project as a peaceful civilian agency. So NASA, to defend that image, and probably also to keep Defense at bay by encouraging public and congressional support for a civilian space program, has been waging a publicity campaign to sell Americans on the nonmilitary uses of the shuttle.

This "salesmanship," as Science magazine called it in an article about NASA's problems, scarcely ever mentions that the shuttle is working for DOD. In one widely distributed NASA publication concerning the shuttle, the only mention of the shuttle's military purposes is a single reference to "national security" near the end of the book.

NASA's public relations campaign has won over the media, which have nothing but praise for the "peaceful" shuttle. Writers and television commentators, always interested in a spectacular space story, see in the shuttle something of the old Apollo glamour and gush about the "new age in space" that the shuttle will supposedly inaugurate. Ordinarily hardheaded reporters go starry-eyed with visions of the shuttle turning out fantastic new products in the airless, zero-gravity environment of space, or building hotels in orbit to serve an interplanetary tourist trade

Most magazine and newspaper articles about the shuttle are little more than rewrites of NASA promotional literature, and NASA is further assured of friendly coverage by the fact that many articles about the shuttle are written by present and former NASA employees. After all, who knows more about the space shuttle? As a result, the public tends to see only one side of the space shuttle project: its nonmilitary role.

The Soviets, however, are less easily fooled. They have recognized the military potential of the space shuttle since its inception, and last year expressed their concern about the shuttle's possible role in warfare.

The Russians accused the United States of planning to use the shuttle in ASAT activities. That suspicion is understandable. The shuttle is equipped with sophisticated radar for rendezvous with other spacecraft, as well as a manipulator arm that could be used to pluck Soviet satellites out of the sky and destroy them, or even bring them back to earth in the shuttle's cargo bay. The shuttle itself might hold some impressive ASAT weapons, including missiles or high-energy lasers.

The Defense Department denies it is actually planning to use the shuttle against Soviet satellites, but there is no doubt in anyone's mind that the shuttle could be used for that purpose, if DOD ever saw the need.

That prospect led the Russians to demand a halt to the American shuttle project as a step toward the Carter administration's announced goal of curbing ASAT weapons deployment in space. An administration spokesman called the Russian request "totally unacceptable" and added, "We would never agree to terminate the shuttle or even to slow it down." Three weeks later, Representative Ron Paul (R-Tex.) underscored that message to Moscow in a short speech on the House floor. "The space shuttle has tremendous defense applications, which is why the Communists want to get rid of it," Paul said. He urged the government to expand the shuttle project for military purposes, and had ominous words for the civilian space effort: "NASA's future, I believe, must lie in defense-related capabilities."

The Soviets are working on their own space shutle, a miniature cousin of ours. A U.S. spy satellite caught a glimpse of the Russian shuttle during a glide test several years ago, and pictures published in the West show a delta-winged craft with a blunt nose and a chopped-off tail. The Soviet shuttle has a much smaller payload capacity than ours and has a wingspan of only twenty-six feet, compared to seventy-six feet for the NASA shuttle.

Russia's space shuttle appears to be based on a twenty-year-old U.S. Air Force design, the X-20A "Dyna-Soar"—short for "Dynamic Soaring"—a glider that would have ridden into space at at least five times the speed of sound, atop a liquid-fuel rocket, and then flown back to earth under a pilot's control. Dyna-Soar was abandoned in the early 1960s while the United States was concentrating on reaching the moon instead. It was originally planned to resupply space stations, and the Soviets may plan to use their shuttle as a supply vehicle for their quasimilitary Salyut spaceships.

DOD seems unworried about the Soviet shuttle effort. Defense Secretary Brown has said the Russian shuttle may be a decade behind ours in development. The Pentagon is considerably more worried about setbacks in the American shuttle project; NASA shuttle has been plagued with serious problems that have repeatedly delayed the shuttle's initial flight. A balky engine has given engineers headaches. Solid fuel in the two rocket boosters has sagged out of shape and kept the boosters from being assembled. And the heat-resistant ceramic tiles that cover the shuttle's hull, insulation for reentry, have shown a distressing tendency to fall off. (The Johnson Space Center has given Martin Marietta Aerospace a $2.1 million contract to design and put together a repair kit that astronauts could use to patch up the shuttle if too many tiles came off during an ascent.)

Problems like these have forced the shuttle over budget as well as behind schedule. NASA now expects the shuttle will cost 20 percent more (about $1 billion in 1971 dollars) to get off the ground than previously estimated. The agency was given a $185 million increase in its 1979 budget to help with the shuttle. The following year NASA asked for and received $220 million more for the shuttle, plus a stern lecture from Congress about delays on the project. NASA is expected to get some $285 million more in bailout money for the shuttle in fiscal 1981.

President Carter seemed unconcerned about the shuttle's troubles until last November, when the Pentagon briefed him on the military importance of the shuttle. Carter at once spoke up in support of the project and asked Congress to approve NASA's request for more money. No decision illustrates more clearly the Carter administration's policy of pushing space-war projects while taking only a lukewarm interest in any civilian space program.

Where will this emphasis on military space projects lead? One person who should know is Paul Warnke, former head of the Arms Control and Disarmament Agency and leader of the American delegation to the SALT II negotiations at Helsinki in 1978. In discussions with the Soviets, Warnke brought up the prospects for war in space and later commented: "There is no doubt in my mind that we could have war in space within a decade unless we devise a treaty that will stop it."

No such treaty exists, nor is one likely to take shape in the present atmosphere of confrontation between the United States and the Soviet Union. The 1967 Outer Space Treaty, commonly thought to prohibit deployment of weapons systems in outer space, is hardly comprehensive. The treaty does forbid placement of weapons on other celestial bodies (the moon, asteroids, and so forth) and bans weapons of mass destruction—city-busting bombs and the like—from being put into earth orbit. But since an ASAT weapon would be aimed at only a few small targets and, in any case, has nothing like the destructive power of a nuclear bomb, it can be argued that the 1967 treaty permits the unchecked spread of ASAT systems into space. And while other international agreements oppose the building of antimissile systems, loopholes in those agreements may allow the deployment of virtually any kind of weapons in space.

The consequences could be tragic. As the amount of military hardware in outer space grows, so does the possibility of a military conflict. At first the prospect of unmanned satellites darting through space and firing lasers at one another seems unthreatening and perhaps even a bit on the spectacular side; after all, no one would be hurt—at worst some expensive hardware would be turned into junk.

But remember: Both sides now depend almost exclusively on their satellites for communications and surveillance of the enemy. The loser in an outer space gunfight will not be able to tell what's going on at the enemy's ICBM sites on earth. Under these circumstances, a preemptive nuclear strike will become not only plausible but even desirable to some minds in Moscow and Washington.

So outer space is legally wide open to nearly all military uses. The result is that we face a new, dangerous, and staggeringly expensive arms race that may make the $50 billion spent so far on military space projects seem like small change.●

CONFERENCE REPORT ON S. 1125

Mr. FOLEY submitted the following conference report and statement on the bill (S. 1125) to improve and expand the Federal crop insurance program, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 96-1272)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1125) to improve and expand the Federal crop insurance program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Federal Crop Insurance Act of 1980".

TITLE I—FEDERAL CROP INSURANCE PROGRAM

CAPITAL STOCK

SEC. 101. (a) Effective October 1, 1980, section 504(a) of the Federal Crop Insurance Act is amended by striking out "$200,000,000" and inserting in lieu thereof "$500,000,000".

(b) Section 504 of the Federal Crop Insurance Act is amended by adding after subsection (c) a new subsection (d) as follows:

"(d) Within thirty days after the date of enactment of the Federal Crop Insurance Act of 1980, the Secretary of the Treasury shall cancel, without consideration, receipts for payments for or on account of the stock of the Federal Crop Insurance Corporation outstanding on such date of enactment and such receipts shall cease to be liabilities of the Corporation.".

BOARD OF DIRECTORS: MEMBERSHIP AND COMPENSATION

SEC. 102. (a) Section 505(a) of the Federal Crop Insurance Act is amended by—

(1) amending the second sentence to read as follows: "The Board shall consist of the manager of the Corporation, the Under Secretary or Assistant Secretary of Agriculture responsible for the Federal crop insurance program, the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture, one person experienced in the crop insurance business who is not otherwise employed by the Federal Government, and three active farmers who are not otherwise employed by the Federal Government."; and

(2) adding at the end thereof a new sentence as follows: "The Secretary, in appointing the three active farmers who are not otherwise employed by the Federal Government, shall ensure that such members are policyholders and are from different geographic areas of the United States, in order that diverse agricultural interests in the United States are at all times represented on the Board.".

(b) Section 505(b) of the Federal Crop Insurance Act is amended by striking out "three" wherever that word appears therein and inserting in lieu thereof "four".

(c) The second sentence of section 505 (c) of the Federal Crop Insurance Act is amended to read as follows: "The Directors of the Corporation who are not employed by the Federal Government shall be paid such compensation for their services as Directors as the Secretary of Agriculture shall determine, but such compensation shall not exceed the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5 of the United States Code when actually employed, and actual necessary traveling and subsistence expenses, or a per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of title 5 of the United States Code for persons in Government service employed intermittently, when on the business of the Corporation away from their homes or regular places of business.".

GENERAL POWERS FOR THE CORPORATION

SEC. 103. Section 506 of the Federal Crop Insurance Act is amended by—

(1) in subsection (c), striking out "make contracts and";

(2) amending subsection (d) to read as follows:

"(d) subject to the provisions of section 508(c), may sue and be sued in its corporate name, but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property. The district courts of the United States, including the district courts of the District of Columbia and of any territory or possession, shall have exclusive original jurisdiction, without regard to the amount in controversy, of all suits brought by or against the Corporation. The Corporation may intervene in any court in any suit, action, or proceeding in which it has an interest. Any suit against the Corporation shall be brought in the District of Columbia, or in the district wherein the plaintiff resides or is engaged in business;";

(3) in subsection (f), striking out "free"; and

(4) at the end of subsection (j), striking out the period and inserting in lieu thereof "; and", and adding at the end of section 506 a new subsection (k) as follows:

"(k) may enter into and carry out contracts or agreements necessary in the conduct of its business, as determined by the Board, State and local laws or rules shall not apply to contracts or agreements of the Corporation or the parties thereto to the extent that such contracts or agreements provide that such laws or rules shall not apply, or to the extent that such laws or rules are inconsistent with such contracts or agreements.".

USE OF PRIVATE INSURANCE COMPANIES AND OTHER FEDERAL AGENCIES

SEC. 104. Section 507 of the Federal Crop Insurance Act is amended by—

(1) amending subsection (c) to read as follows:

"(c) In the administration of this title, the Board shall, to the maximum extent possible, (1) establish or use committees or associations of producers and make payments to them to cover the administrative and program expenses, as determined by the Board, incurred by them in cooperating in carrying out this title, (2) contract with private insurance companies and reimburse such companies for the administrative and program expenses, as determined by the Board, incurred by them, under terms and provisions and rates of compensation consistent with those generally prevailing in the insurance industry and (3) encourage the sale of Federal crop insurance through licensed private insurance agents and brokers and give the insured the right to renew such insurance for successive terms through such agents and brokers, in which case the agent or broker shall be reasonably compensated from premiums paid by the insured for such sales and renewals recognizing the function of the agent or broker to provide continuing services while the insurance is in effect: *Provided,* That such compensation shall not be included in computations establishing premium rates. The Board shall provide such agents and brokers with indemnification, including costs and reasonable attorney fees, from the Corporation for errors or omissions on the part of the Corporation or its contractors for which the agent or broker is sued or held liable, except to the extent the agent or broker has caused the error or omission."; and

(2) adding a new subsection (f) as follows:

"(f) The Board should use, to the maximum extent possible, the resources, data, boards, and the committees of (1) the Soil Conservation Service, in assisting the Board in the classification of land as to risk and production capability and in the development of acceptable conservation practices; (2) the Forest Service, in assisting the Board in the development of a timber insurance plan; (3) the Agricultural Stabilization and Conservation Service, in assisting the Board in the determination of individual producer yields and in serving as a local contact point for farmers where the Board deems necessary; and (4) other Federal agencies in any way the Board deems necessary in carrying out this title.".

FEDERAL CROP INSURANCE EXPANSION AND EXTENT OF COVERAGE

SEC. 105. Effective with respect to the 1981 and subsequent crops, subsection (a) of section 508 of the Federal Crop Insurance Act is amended by—

(1) striking out all that follows the subsection designation down through the end of the sixth sentence, which begins, "Reinsurance for private insurance companies . . .", and inserting in lieu thereof the following: "If sufficient actuarial data are available, as determined by the Board, to insure producers of agricultural commodities grown in the United States under any plan or plans of insurance determined by the Board to be adapted to the agricultural commodity involved. Such insurance shall be against loss of the insured commodity due to unavoidable causes, including drought, flood, hail, wind, frost, winterkill, lightning, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease, and such other unavoidable causes as may be determined by the Board. Except in the case of tobacco, insurance shall not extend beyond the period the insured commodity is in the field. For the purpose of the foregoing sentence, in the case of aquacultural species, the term 'field' means the environment in which the commodity is produced.";

(2) striking out the seventh sentence, which begins, "Any insurance offered against loss in yield . . .", and inserting in lieu thereof the following: "Any insurance offered against loss in yield shall make available to producers protection against loss in yield that covers 75 per centum of the recorded or appraised average yield of the commodity on the insured farm for a representative period (subject to such adjustments as the Board may prescribe to the end that the average yields fixed for farms in the same area, which are subject to the same conditions, may be fair and just). In addition, the Corporation shall make available to producers lesser levels of yield coverage, including a level of coverage at 50 per centum of the recorded or appraised average yield, as adjusted. The Corporation shall not make available to producers any level of coverage in excess of 75 per centum of the recorded or appraised average yield, as adjusted. One of the price elections offered shall approximate (but be not less than 90 per centum of) the projected market price for the commodity involved, as determined by the Board."; and

(3) striking out the ninth sentence, which begins "Counties selected by the Board . . .".

HAIL AND FIRE INSURANCE CREDIT, PREMIUM SUBSIDY, REINSURANCE, AND SPECIFIC RISK PROTECTION

SEC. 106. Effective with respect to the 1981 and subsequent crops, section 508 of the Federal Crop Insurance Act is amended by—

(1) amending subsection (b) to read as follows:

"(b) (1) To fix adequate premiums for insurance at such rates as the Board deems actuarially sufficient to cover claims for losses on such insurance and to establish as expeditiously as possible a reasonable reserve against unforeseen losses.

"(2) The producer may elect to have deleted from the Corporation's policy of insurance the coverage against losses caused by hail and fire and to obtain coverage therefor from other than a Federal insurer. Upon notice in writing of such election to the Corporation and submission of evidence of such substitute coverage on the commodities insured by the Corporation in a dollar amount not less than that provided by the Corporation's policy of insurance, the producer's premium, as calculated by the Corporation, shall be reduced by an amount equal to 40 per centum of the prevailing average county hail and fire insurance premium charged by other than Federal insurers for the dollar amount of the coverage provided by the Corporation's policy of insurance, as determined by the Corporation: *Provided,* That the producer's premium shall not be reduced by less than 15 per centum nor more than 30 per centum: *Provided further,* That, notwithstanding the preceding provisions of this sentence, the producer's premium shall not be reduced by an amount that exceeds the premium for the substitute coverage of a dollar amount equal to that provided by the Corporation's policy of insurance. Any premium reduction in excess of the amount of premium that the Corporation determines would have been necessary for the Corporation to charge in order to cover indemnities actually paid by other than Federal insurers for hail and fire coverage deleted from the Corporation's policy of insurance shall be regarded as premium paid by the Corporation.

"(3) For the purpose of encouraging the broadest possible participation in the insurance program, 30 per centum of each producer's premium (reduced, where applicable, for hail and fire exclusion, or State or State agency subsidy), as calculated by the Corporation on any coverage under the Corporation's policy of insurance up to a maximum of 65 per centum of the recorded or appraised average yield, as adjusted, shall be paid by the Corporation.

"(4) The producer's premium, or share thereof, shall be collected at such time or times, and shall be secured in such manner, as the Board may determine.

"(5) The Board may enter into agreements with any State or agency of a State under which such State or agency may pay to the Corporation additional premium subsidy to further reduce the portion of the premium paid by farmers in such State.

"(6) With respect to any crop insurance covering the 1981 crop of wheat, feed grains, upland cotton, or rice, a producer shall not be eligible for a partial payment of the premium by the Corporation under paragraph (3) of this subsection for such commodity if the producer elects to make the acreage of the commodity eligible for payments under the disaster payment provisions for wheat, feed grains, upland cotton, and rice of the Agricultural Act of 1949 (as amended effective for the 1981 crops): *Provided further,* That a producer who is not eligible for a partial payment of premium by the Corporation under this subsection because of the producer's election to make the acreage of the commodity involved eligible for disaster payments in 1981 shall remain eligible to purchase Federal crop insurance on the 1981 acreage of the commodity at the full cost of the premium.";

(2) amending subsection (c) to read as follows:

"(c) To adjust and pay claims for losses under rules prescribed by the Board. In the event that any claim for indemnity under the provisions of this title is denied by the Corporation, an action on such claim may be brought against the Corporation in the United States district court for the district in which the insured farm is located: *Provided,* That no suit on such claim may be allowed under this section unless it shall have been brought within one year after the date when notice of denial of the claim is mailed to and received by the claimant.";

(3) striking out subsection (d), and redesignating subsection (e) as subsection (d); and

(4) striking out subsection (f) and adding new subsections (e), (f), (g) and (h) as follows:

"(e) And directed, notwithstanding any other provision of this title, to provide reinsurance, to the maximum extent practicable, upon such terms and conditions as the Board may determine to be consistent with subsections (a) and (b) of this section and sound reinsurance principles, to insurers including private insurance companies or pools of such companies, reinsurers of such companies, or State or local governmental entities, including any political subdivisions thereof, that insure producers of any agricultural commodity under a plan or plans acceptable to the Corporation. A test program of such reinsurance shall be made available, to the maximum extent possible, to begin not later than with the 1982 crops. In order to provide equity among producers purchasing crop insurance, whenever the Corporation provides reinsurance under this subsection to any such insurers, the Corporation shall pay a portion of each producer's premium for such insurance so reinsured. Each such payment shall cover the same per centum of the premium, and be subject to the same restrictions regarding payments of premiums for crop insurance on commodities, as provided in subsection (b) of this section for Federal partial payments of Federal crop insurance premiums. The Corporation shall also pay operating and administrative costs to insurers of policies on which the Corporation provides reinsurance to the same extent that such costs are covered by the Corporation on the Corporation's policies of insurance. Insurers of policies on which reinsurance is provided shall make use of licensed private insurance agents and brokers on the same basis as provided for policies of the Corporation under section 507(c)(3) of this title, except that the provisions for compensating agents and brokers from premiums paid by the insured shall not apply.

"(f) To provide insurance or reinsurance for production of agricultural commodities in the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands in the same manner as provided in this section for production of agricultural commodities in the United States.

"(g) To offer specific risk protection programs including, but not limited to, prevented planting, wildlife depredation, tree damage and disease, and insect infestation programs under such terms and conditions as the Board may determine: *Provided*, That no program may be undertaken if insurance for the specific risk involved is generally available from private companies.

"(h) To include appreciation (including interest charges) as an insurable cost of production in calculating premiums and indemnities in connection with insurance on yields of timber and forests.".

RESEARCH, SURVEYS, AND PILOT PROGRAMS

SEC. 107. (a) Section 506(h) of the Federal Crop Insurance Act is amended to read as follows:

"(h) shall assemble data for the purpose of establishing sound actuarial bases for insurance on agricultural commodities;".

(b) Section 508 of the Federal Crop Insurance Act is amended by adding a new subsection (i) as follows:

"(i) To conduct research, surveys, pilot programs, and investigations relating to crop insurance and agriculture-related risks and losses including, but not limited to, insurance on losses involving reduced forage on rangeland caused by drought and by insect infestation, livestock poisoning and disease, destruction of bees due to the use of pesticides, and other unique problems of special risk related to, but not limited to, fruits, nuts, vegetables, aquacultural species, forest industry needs (including appreciation), and other agricultural products as determined by the Board: *Provided*, That no such programs may be undertaken if insurance protection against such risks is generally available from private companies. Beginning in the 1981 crop year and ending after the 1985 crop year, the Corporation shall also conduct a pilot program of individual risk underwriting of crop insurance in not less than twenty-five counties. Under this pilot program, to the extent that appropriate yield data are available, the Corporation shall make available to producers in such counties crop insurance under this title based on personalized rates and with guarantees determined from the producer's actual yield history. After the completion of any pilot program under this subsection, the Corporation shall evaluate the pilot program and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report of the operations of the pilot program, including its evaluation of the pilot program and its recommendations with respect to implementing the program on a national basis.".

DELETION OF AUTHORITY FOR ADVISORY COMMITTEES

SEC. 108. Section 515 of the Federal Crop Insurance Act is repealed.

APPROPRIATIONS FOR OPERATING AND ADMINISTRATIVE EXPENSES

SEC. 109. Effective October 1, 1980, section 516(a) of the Federal Crop Insurance Act is amended to read as follows:

"SEC. 516. (a) There are hereby authorized to be appropriated such sums as may be necessary to cover the operating and administrative costs of the Corporation, including agents' and brokers' commissions, interest on Treasury notes and other obligations, partial premium payments by the Corporation, and the direct cost of loss adjusters for crop inspections and loss adjustments, which shall be allotted to the Corporation in such amounts and at such time or times as the Secretary of Agriculture may determine. Expenses in connection with agents' and brokers' commissions, interest on Treasury notes and other obligations, partial premium payments by the Corporation, and the direct cost of loss adjusters for crop inspections and loss adjustments may be paid from premium income and other Corporation funds, and any such payments may be restored by appropriations in subsequent years. The Corporation may not employ more than two hundred additional permanent full-time employees, in excess of the number of full-time employees employed by the Corporation on the effective date of the Federal Crop Insurance Act of 1980, to implement the provisions of this title, except in the case of, and only during, emergencies.".

EMERGENCY FUNDING IN CASE OF INSUFFICIENCY

SEC. 110. Effective October 1, 1980, section 516 of the Federal Crop Insurance Act is amended by adding new subsections (c) and (d) as follows:

"(c)(1) If at any time the moneys available to the Federal Crop Insurance Corporation are insufficient to enable the Corporation to discharge its responsibility of indemnifying producers for losses under this title, the Corporation may, upon majority vote of its Board of Directors, request the Secretary of Agriculture to use the funds of the Commodity Credit Corporation to make timely payment of indemnities to producers. Upon receiving such a request, the Secretary of Agriculture may use the funds of the Commodity Credit Corporation to meet obligations to indemnity producers for losses under this title. The Secretary's authority to use the funds of the Commodity Credit Corporation for the purposes of this subsection shall expire one year after the date on which the authority is first used.

"(2) The authority to make commitments under this subsection, in excess of funds available to the Commodity Credit Corporation under section 4 of the Commodity Credit Corporation Charter Act and the Act of October 11, 1978 (92 Stat. 1073), shall be effective for any fiscal year only to the extent provided by appropriation Acts.

"(d) Except as provided in subsection (c), if at any time the moneys available to the Federal Crop Insurance Corporation are insufficient to enable the Corporation to discharge its responsibility of indemnifying producers for losses under this title, the Corporation may issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Corporation from moneys available from premiums or the issuance of capital stock under section 504 of this title. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by the Secretary of the Treasury under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. The borrowing authority provided for in this subsection may be exercised by the Corporation only to such extent or in such amounts as are provided in appropriation Acts.".

AGRICULTURAL COMMODITY

SEC. 111. Section 518 of the Federal Crop Insurance Act is amended to read as follows:

"SEC. 518. 'Agricultural commodity', as used in this title, means wheat, cotton, flax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugar cane, tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, potatoes, timber and forests, nursery crops, citrus, and other fruits and vegetables, nuts, tame hay, native grass, aquacultural species (including, but not limited to, any species of finfish, mollusk, crustacean, or other aquatic invertbrate, amphibian, reptile, or aquatic plant propagated or reared in a controlled or selected environment), or any other agricultural commodity, excluding livestock and stored grain, determined by the Board under subsection (a) or (i) of section 508 of this title, or any one or more of such commodities, as the context may indicate.".

EFFECTIVE DATE

SEC. 112. Except as otherwise provided in this Act, the provisions of this Act amending the Federal Crop Insurance Act shall become effective on the date of enactment of this Act.

TITLE II—DISASTER PAYMENTS

PREVENTED PLANTING DISASTER AND FARM DISASTER PAYMENTS FOR 1981 CROPS

SEC. 201. (a) Section 101(h)(4) of the Agricultural Act of 1949, as added effective for the 1978 through 1981 crops of rice, is amended by—

(1) in subparagraph (B), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of rice," and inserting in lieu thereof "Except as otherwise provided in subparagraph (D) of this paragraph, effective with respect to the 1978 through 1981 crops of rice,";

(2) in subparagraph (C), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of rice," and inserting in lieu thereof "Except as otherwise provided in subparagraph (D) of this paragraph, effective with respect to the 1978 through 1981 crops of rice,"; and

(3) redesignating subparagraph (D) as subparagraph (E) and inserting immediately after subparagraph (C) a new subparagraph (D) as follows:

"(D) With respect to the 1981 crop of rice, cooperators on a farm shall not be eligible for disaster payments under this paragraph if the cooperators elect to cover the rice acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act.".

(b) Section 103(f)(5) of the Agricultural Act of 1949, as added effective for the 1978 through 1981 crops of upland cotton, is amended by—

(1) in subparagraph (A), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of upland cotton," and inserting in lieu thereof "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1979 through 1981 crops of upland cotton,";

(2) in subparagraph (B), striking out "Effective only with respect to the 1978, 1979,

and 1980 crops of upland cotton," and inserting in lieu thereof "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of upland cotton,"; and

(3) adding at the end thereof a new subparagraph (C) as follows:

"(C) With respect to the 1981 crop of upland cotton, producers on a farm shall not be eligible for disaster payments under this paragraph if the producers elect to cover the upland cotton acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act.".

(c) Section 105A(b)(2) of the Agricultural Act of 1949, as added effective for the 1977 through 1981 crops of feed grains, is amended by—

(1) in subparagraph (A), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of feed grains," and inserting in lieu thereof "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of feed grains,";

(2) in subparagraph (B), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of feed grains," and inserting in lieu thereof "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of feed grains,"; and

(3) redesignating subparagraph (C) as subparagraph (D) and inserting immediately after subparagraph (B) a new subparagraph (C) as follows:

"(C) With respect to the 1981 crop of feed grains, producers on a farm shall not be eligible for disaster payments under this paragraph if the producers elect to cover the feed grain acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act.".

(d) Section 107(A)(b)(2) of the Agricultural Act of 1949, as added effective for the 1977 through 1981 crops of wheat, is amended by—

(1) in subparagraph (A), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of wheat," and inserting in lieu thereof "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of wheat,";

(2) in subparagraph (B), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of wheat," and inserting in lieu thereof "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of wheat,"; and

(3) redesignating subparagraph (C) as subparagraph (D) and inserting immediately after subparagraph (B) a new subparagraph (C), as follows:

"(C) With respect to the 1981 crop of wheat, producers on a farm shall not be eligible for disaster payments under this paragraph if the producers elect to cover the wheat acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3), or 508(e) of the Federal Crop Insurance Act.".

NOTICE TO PRODUCERS OF RIGHT TO ELECT SUBSIDIZED CROP INSURANCE OR DISASTER PAYMENTS ON THE 1981 CROPS

SEC. 202. The Secretary of Agriculture, after consultation with the Board of Directors of the Federal Crop Insurance Corporation, shall, at least sixty days prior to the beginning of the planting of the 1981 crops of wheat, feed grains, upland cotton, and rice, or thirty days after the date of enactment of this Act, whichever is the later, notify producers of those commodities of their right to elect, with respect to the 1981 crop, between (1) declaring the farm acreage of the respective commodity eligible for disaster payments under the Agricultural Act of 1949, or (2) covering such farm acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act. Such notice shall include a statement of the percent of crop insurance premium that will be paid by the Corporation.

And the House agree to the same.

THOMAS S. FOLEY,
ED JONES,
TOM HARKIN,
JERRY HUCKABY,
DAN GLICKMAN,
GEORGE E. BROWN, Jr.,
FRED RICHMOND,
ALVIN BALDUS,
LEON E. PANETTA,
THOMAS A. DASCHLE,
BILL WAMPLER,
EDWARD MADIGAN,
JAMES M. JEFFORDS,
RON MARLENEE,
Managers on the Part of the House.

HERMAN A. TALMADGE,
GEORGE MCGOVERN,
WALTER D. HUDDLESTON,
DICK STONE,
EDWARD ZORINSKY,
JESSE HELMS,
DICK LUGAR,
THAD COCHRAN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1125) to improve and expand the Federal crop insurance program, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report. The differences between the Senate bill and the House amendment and the substitute agreed to in the conference are noted in the following outline, except for conforming, clarifying, and technical changes:

(1) MEMBERSHIP ON THE BOARD OF DIRECTORS OF THE FEDERAL CROP INSURANCE CORPORATION

Both the *Senate* bill and the *House* amendment increase the membership of the Board of Directors (hereinafter referred to as the "Board") of the Federal Crop Insurance Corporation (hereinafter referred to as the "Corporation") from five to seven persons.

(a) The *Senate* bill provides that the Board will be composed of—

(i) three persons from the Department of Agriculture—the manager of the Corporation, the Under Secretary or Assistant Secretary of Agriculture responsible for the Federal crop insurance program, and the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture;

(ii) a person (not a Federal Government employee) who is experienced in the crop insurance business; and

(iii) three farmers who are not Federal Government employees.

The *House* amendment provides that the Board will be composed of—

(i) three persons from the Department of Agriculture—the manager of the Corporation and two employees of the Department (the *House* amendment does not specify their positions in the Department);

(ii) two persons (not Federal Government employees) who are experienced in the crop insurance business; and

(iii) two farmers who are not Federal Government employees.

The *conference substitute* adopts the *Senate* provision.

(b) The *House* amendment requires that the farmer members be active farmers and policyholders.

The *Senate* bill contains no comparable provision.

The *conference substitute* adopts the *House* provision.

(2) SUITS BY OR AGAINST THE FEDERAL CROP INSURANCE CORPORATION

(a) The *Senate* bill deletes a provision in existing law generally authorizing suits by or against the Corporation in any State court having general jurisdiction. It also provides that any suit against the Corporation in the Federal courts must be brought in the District of Columbia or the district in which the plaintiff resides or is engaged in business.

The *House* amendment contains no comparable provision.

The *conference substitute* adopts the *Senate* provision.

(b) The *Senate* bill deletes a provision in existing law specifically authorizing persons to bring actions against the Corporation to recover indemnity claims denied by the Corporation in any State court of general jurisdiction sitting in the district or county in which the insured's farm is located, thereby limiting jurisdiction over such actions to the United States district court for the district in which the insured farm is located.

The *House* amendment contains no comparable provision.

The *conference substitute* adopts the *Senate* provision.

(3) AUTHORITY OF THE FEDERAL CROP INSURANCE CORPORATION TO ENTER INTO CONTRACTS AND AGREEMENTS

The *House* amendment provides that State and local laws or rules will not apply to contracts or agreements of the Corporation or the parties thereto to the extent that the contracts or agreements so provide or to the extent that State and local laws are inconsistent with such contracts or agreements.

The *Senate* bill contains no comparable provision.

The *conference substitute* adopts the *House* provision.

(4) USE OF PRIVATE INSURANCE COMPANIES AND AGENTS

(a) The *Senate* bill provides that, in administering the Federal Crop Insurance Act, the Board *may*—

(i) establish or use committees or associations of producers; and

(ii) contract with private insurance companies.

The *House* amendment provides that, in administering the Act, the Board *shall*, to the maximum extent possible—

(i) establish or use committees or associations of producers;

(ii) contract with private insurance companies; and

(iii) encourage the sale of Federal crop insurance through licensed private insurance agents and brokers, and give the insured the right to renew the insurance for successive terms through such agents and brokers.

The *conference substitute* adopts the *House* provision. The *conferees* intend that the authority to contract with private insurance companies not be used to make any one insurance company the exclusive selling or servicing agent or underwriter for Federal crop insurance.

(b) The *Senate* bill provides that the Board may make payments to private insurance companies with which it has contracted to cover their administrative and program expenses.

The *House* amendment provides that the Board shall, to the maximum extent possible, reimburse private insurance companies for administrative and program expenses incurred by them under terms and provisions and rates of compensation consistent with those generally prevailing in the industry.

The *conference substitute* adopts the *House* provision.

(c) The *House* amendment provides that the Board shall, to the maximum extent possible, provide agents and brokers reasonable compensation for sales and renewals of Federal crop insurance, recognizing their function to provide continuing service while the insurance is in effect.

The *Senate* bill contains no comparable provision.

The *conference substitute* adopts the *House* provision with a modification clarifying that compensation for agents and brokers will be made from premiums paid by farmers for crop insurance coverage, but that agent and broker compensation will not be included in computing premium rates.

(d) The *House* amendment requires the Board to provide agents and brokers indemnification (including costs and reasonable attorney fees) for errors or omissions by the Corporation or its contractors for which the agent or broker is held liable, except to the extent the agent or broker caused the error or omission.

The *Senate* bill contains no comparable provision.

The *conference substitute* adopts the *House* provision.

(5) USE OF RESOURCES

The *House* amendment encourages the Board to use the resources of (1) the Soil Conservation Service in assisting in land classification of risk and production capability and in developing acceptable conservation practices; (2) the Forest Service in assisting in the development of a timber insurance plan; (3) the Agricultural Stabilization and Conservation Service in assisting in the determination of individual producer yields and in serving as a local contact point for farmers; and (4) other Federal agencies in any way the Board deems necessary.

The *Senate* bill contains no comparable provision.

The *conference substitute* adopts the *House* provision. It is the intent of the *conferees* that this provision not be used as authority for requiring the adoption of conservation measures developed by the Soil Conservation Service or other governmental agencies as a condition for obtaining Federal crop insurance coverage or receiving indemnities for losses. However, the *conferees* understand that, under existing law, losses due to the failure of a farmer to follow established good farming practices are not covered by Federal crop insurance and that the Corporation now considers, and will continue to consider the conservation measures present on a farm in determining the risk to be covered and the premium to be charged for the farm.

(6) EXPANSION OF THE FEDERAL CROP INSURANCE PROGRAM

(a) The *Senate* bill deletes, effective with respect to the *1980* and subsequent crops, the limitations in existing law on the number of commodities and counties that may be covered by the Federal crop insurance program and the limitation on the number of counties in which reinsurance of private insurance companies may be offered.

The *House* amendment deletes the same provisions effective with respect to the *1981* and subsequent crops.

The *conference substitute* adopts the *House* provision.

(b) The *House* amendment provides that insurance covering aquacultural species will be exempt from the requirement that Federal crop insurance not extend beyond the period that the insured commodity is in the field.

The *Senate* bill contains no comparable provision.

The *conference substitute* adopts the *House* provision by clarifying that, with respect to aquacultural species, the phrase "in the field" means in the environment in which the aquacultural species is produced.

(7) EXTENT OF FEDERAL CROP INSURANCE COVERAGE

(a) The *Senate* bill requires that any Federal crop insurance protecting against loss in yield must make available to producers (i) coverage for 75 percent of the recorded or appraised average yield for the farm on the commodity insured and, (ii) in addition, lesser levels of yield coverage.

The *House* amendment requires that a minimum of three levels of yield coverage be provided: 50 percent, 65 percent, and 75 percent of the recorded or appraised average yield; and in addition, the *House* amendment requires the Corporation to offer other levels of yield coverage (not in excess of 75 percent of average yield) to be selected by the producer.

The *conference substitute* adopts the *Senate* provision with a modification requiring the Corporation to offer coverage for 50 percent of average yield as one of the lesser levels of yield coverage (and making it clear that the Corporation could not offer coverage in excess of 75 percent of average yield).

(b) Both the *Senate* bill and *House* amendment retain existing law, which requires that yield coverage be based on the producer's yield for a representative period, subject to such adjustments as the Board may prescribe to the end that the average yields fixed for farms in the same area, which are subject to the same conditions, may be fair and just.

The *House* amendment, however, adds a requirement that yield coverage also be offered based on the actual five-year production history for the farm, if available, and if not, on the average for the county in which the farm is located.

The *Senate* bill contains no comparable provision.

The *conference substitute* deletes the *House* provision.

(c) The *Senate* bill requires that Federal crop insurance make available coverage (per unit of production) equal to the highest of—

(i) the applicable target price for the commodity involved, if any;

(ii) the applicable loan rate for the commodity involved, if any; or

(iii) the projected market price for the commodity involved.

The Corporation would also be required to make available to producers lesser price selections per unit of production.

The *House* amendment requires that one of the price elections offered must approximate (but be not less than 90 percent of) the projected market price for the commodity involved.

The *conference substitute* adopts the *House* provision.

(d) The *Senate* bill provides that Federal crop insurance will not cover losses due to failure of the producer to reseed to the same crop *or an approved substitute crop* where it is customary to reseed.

The *House* amendment retains existing law under which the exclusion of coverage is limited to losses due to failure of the producer to reseed to the same crop.

The *conference substitute* deletes the *Senate* provision.

(8) FEDERAL CROP INSURANCE PREMIUMS

(a) The *House* amendment provides that producers may elect to have deleted from Federal crop insurance policies coverage against hail and fire risks and obtain equivalent hail and fire coverage from a private insurer; and that, for any producer who makes such election, the Federal crop insurance premium will be reduced by 25 percent, but not to exceed the premium for the substitute coverage.

The *Senate* bill contains no comparable provision.

The *conference substitute* adopts the *House* provision with a modification relating to the determination of the amount of the premium reduction.

Under the modification, the Federal crop insurance premium for a farmer who elects to obtain hail and fire coverage from a nonfederal insurer (including a State operated program) would be reduced by an amount equal to 40 percent of the prevailing average county insurance premium charged by nonfederal insurers for full coverage hail and fire insurance that provides the same amount of protection as would have been provided under the Federal crop insurance policy. However, a farmer's premium could not be reduced by less than 15 percent, nor more than 30 percent, of the full cost of Federal crop insurance coverage. In no event could the premium be reduced by an amount that exceeds the premium charged by the nonfederal insurer for comparable coverage. Any premium reduction in excess of the portion of the premium that the Corporation determines would have been necessary for the Corporation to charge in order to cover indemnities actually paid by nonfederal insurers for hail and fire coverage deleted from the Corporation's policy of insurance would be regarded as a premium paid by the Corporation.

(b) The *Senate* bill provides that the Corporation must provide a subsidy (of not less than 20 percent nor more than 40 percent, as determined by the Board) of each producer's premium, the amount of the subsidy to be applied uniformly among producers regardless of the percent of average production covered or price selection chosen.

The *House* amendment provides for a subsidy of 30 percent of each producer's premium on that portion of each policy insuring up to a maximum of 65 percent of yield.

The *conference substitute* adopts the *House* provision.

(c) Both the *Senate* bill and *House* amendment provide that any producer of 1981 crop wheat, feed grains, upland cotton, or rice shall not be eligible to receive a premium subsidy from the Corporation if he elects to make his acreage eligible for disaster payments under the Agricultural Act of 1949.

The *Senate* bill provides that any such producer who elects to make his acreage eligible for disaster payments may purchase Federal crop insurance for the commodity at the full cost of the premium.

The *House* amendment contains no comparable provision.

The *conference substitute* adopts the *Senate* provision.

(d) The *House* amendment provides that States and State agencies may provide additional premium subsidies to reduce further the cost of insurance to farmers.

The *Senate* bill contains no comparable provision.

The *conference substitute* adopts the *House* provision.

(e) The *House* amendment provides that operators of small farms may receive an additional or graduated premium subsidy. Eligibility for classification as a small farm would be based on the maximum potential exposure of the Corporation on all commodities eligible for insurance at a limit determined by the Board.

The *Senate* bill contains no comparable provision.

The *conference substitute* deletes the *House* provision.

(9) PAYMENT AND ADJUSTMENT OF CROP INSURANCE CLAIMS

The *Senate* bill changes existing law under which indemnity claims may be paid either in cash or in the commodity by deleting authority for indemnity claims to be paid in the commodity. The *Senate* bill also deletes authority in existing law for determining the indemnity on the same price basis at which the premium is calculated.

The *House* amendment contains no comparable provision.

The *conference substitute* adopts the *Senate* provision.

(10) DELETION OF THE AUTHORITY OF THE FEDERAL CROP INSURANCE CORPORATION TO PURCHASE AGRICULTURAL COMMODITIES

The *Senate* bill deletes from existing law a provision that authorizes the Corporation to purchase, handle, store, insure, provide storage facilities for, and sell agricultural commodities.

The *House* amendment contains no comparable provision.

The *conference substitute* adopts the *Senate* provision.

(11) REINSURANCE

(a) The *Senate* bill authorizes the Corporation to reinsure private insurance companies and government entities that provide crop insurance to farmers under contracts acceptable to the Corporation.

The *House* amendment directs the Corporation to provide such reinsurance, to the maximum extent practicable, to private insurance companies, reinsurers of such companies, and State or local government entities.

The *conference substitute* adopts the *House* provision.

(b) The *House* amendment requires the Corporation to make available a test program of reinsurance, to the maximum extent possible, to begin not later than with the 1982 crops.

The *Senate* bill contains no comparable provision.

The *conference substitute* adopts the *House* provision.

(c) The *House* amendment requires the Corporation to pay operating and administrative costs to insurers of policies that are reinsured to the same extent that such costs are covered by the Corporation's policies of insurance.

The *Senate* bill contains no comparable provision.

The *conference substitute* adopts the *House* provision.

(d) The *House* amendment requires insurers of policies on which reinsurance is provided to make use of licensed private agents and brokers on the same basis as provided for the crop insurance policies of the Corporation.

The *Senate* bill contains no comparable provision.

The *conference substitute* adopts the *House* provision.

(12) TRUST TERRITORY OF THE PACIFIC ISLANDS

The *House* amendment authorizes the Corporation to provide crop insurance or reinsurance of agricultural commodities in the Trust Territory of the Pacific Islands in the same manner as for producers in the United States.

The *Senate* bill contains no comparable provision.

The *conference substitute* adopts the *House* provision.

(13) INSURANCE ON TIMBER AND FORESTS

The *Senate* bill provides that appreciation (including interest charges) may be included as an insurable cost of production in calculating premiums and indemnities for insurance on yields of timber and forests.

The *House* amendment contains no comparable provision.

The *conference substitute* adopts the *Senate* provision.

(14) PROGRAM FUNDING

(a) Effective October 1, 1980, the *Senate* bill deletes the provision in existing law limiting annual appropriations for the Corporation's expenses to $12 million, and, in lieu thereof, generally authorizes appropriations to cover the Corporation's operating and administrative expenses.

Effective on enactment of the bill, the *House* amendment also deletes the $12 million limitation and generally authorizes appropriations to cover the Corporation's operating and administrative expenses, but specifically includes, as an expense item to be covered by such appropriations, interest on Treasury notes and other obligations.

The *conference substitute* adopts the *House* provision with a modification making it effective October 1, 1980.

(b) The *Senate* bill provides that expenses in connection with agents' commissions and the direct costs of loss adjusters may be paid from insurance premium funds, which payments may later be restored to the Corporation by appropriations.

The *House* amendment provides that such expenses may be paid from premium income and other Corporation funds, and in addition, provides that expenses in connection with the purchase, transportation, handling, or sale of agricultural commodities, interest on Treasury notes and other obligations, and Federal premium payments may be paid from premium income and other Corporation funds. Payments for any such expenses may be restored by appropriations in subsequent years.

The *conference substitute* adopts the *House* provision with a modification deleting the authority for such payment of expenses in connection with the purchase, transportation, handling, or sale of agricultural commodities. The *conference substitute* deletes authority under existing law for the Corporation to purchase, transport, handle, and sell agricultural commodities (see item 10).

(15) LIMITATION ON ADDITIONAL FEDERAL CROP INSURANCE CORPORATION EMPLOYEES

The *House* amendment limits the number of additional permanent full-time personnel that the Corporation may hire to implement the bill (except in the case of emergencies) to not more than 200 personnel in addition to those employed by the Corporation on the effective date of the bill.

The *Senate* bill contains no comparable provision.

The *conference substitute* adopts the *House* provision.

(16) BORROWING AUTHORITY

The *Senate* bill authorizes the Secretary of Agriculture to use funds of the Commodity Credit Corporation to indemnify producers for losses, and otherwise in discharging the responsibilities of the Federal Crop Insurance Corporation whenever the Federal Crop Insurance Corporation's funds are insufficient to cover other program expenses. The *Senate* bill provides that the authority of the Secretary to make commitments of Commodity Credit Corporation funds under the bill in excess of the $20 billion now available to the Commodity Credit Corporation to carry out its functions will be effective only to the extent provided by appropriation Acts.

The *House* amendment provides that, if Federal Crop Insurance Corporation funds are insufficient to discharge its responsibilities for indemnifying producers for losses, the Corporation must borrow from, and issue notes or other obligations to, the Secretary of the Treasury. The obligations will bear interest at rates not less than the cost of money to the Government (for obligations of comparable maturity) during the month preceding their date of issuance. The obligations would be redeemed with money available from premium funds or the issuance of capital stock of the Corporation. The *House* amendment provides that the authority of the Federal Crop Insurance Corporation to borrow from the Treasury may be exercised only to the extent provided for in appropriation Acts.

The *conference substitute* adopts both the *Senate* and *House* provisions with modifications.

Under the modification of the *Senate* provision, the Secretary of Agriculture could use the funds of the Commodity Credit Corporation only to meet obligations of the Federal Crop Insurance Corporation to indemnify producers for losses and only after the Federal Crop Insurance Corporation has, by a majority vote of its Board, requested the use of such funds to make timely payment of indemnities to producers. The authority of the Secretary to use Commodity Credit Corporation funds would expire one year after the date on which the authority is first used.

Under the modification of the *House* provision, the Federal Crop Insurance Corporation would be authorized, but not required, to borrow from, and issue notes and other obligations to, the Secretary of the Treasury as necessary to meet its obligations to indemnify producers for losses.

(17) SUNSET PROVISION

The *House* amendment provides that, effective October 1, 1983, appropriations and borrowings from the Treasury for the Federal crop insurance progam may not exceed such amounts as may be authorized by law after the date of enactment of the bill.

The *Senate* bill contains no comparable provision.

The *conference substitute* deletes the *House* provision.

(18) PILOT PROGRAMS

(a) The *Senate* bill requires the Corporation to conduct a pilot program of individual risk underwriting of crop insurance in at least 25 counties during the period beginning with the 1981 crops and ending with the 1985 crops. Crop insurance under the pilot program will be based on personalized rates and actual yield history, to the extent that appropriate yield data are available.

The *House* amendment authorizes the Corporation to conduct research surveys, pilot programs, and investigations relating to crop insurance and agriculture-related risks and losses, including insurance on losses from reduced forage on rangeland resulting from drought and insect infestation, livestock poisoning and disease, destruction of bees from pesticides, and other unique problems of special risk related to fruits, nuts, vegetables, aquacultural species, forest industry needs (including appreciation), and other agricultural products. Such programs could be undertaken only if insurance protection against such risks is not generally available from private companies.

The *conference substitute* adopts both the *Senate* and *House* provisions.

(b) The *Senate* bill provides that, upon completion of the pilot program of individual risk underwriting, the Corporation must submit to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture a report on the pilot program and make recommendations on implementing a program of individual risk underwriting on a national basis.

The *House* amendment requires the Corporation to report annually to Congress the results of each pilot program and prohibits the Corporation from expanding beyond a pilot program without approval of the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry.

The *conference substitute* adopts the *Senate* provision and makes it applicable to all pilot programs authorized under the bill.

(19) DEFINITION OF AGRICULTURAL COMMODITY

The *House* amendment changes the definition of "agricultural commodity" to exclude livestock and stored grain and to add to those commodities specifically included by name in the definition the following: tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, nursery crops, nuts, native grass, and aquacultural species.

The *Senate* bill contains no comparable provision.

The *conference substitute* adopts the *House* provision.

(20) NOTIFICATION TO PRODUCERS OF THE 1981 CROP OF THEIR RIGHT TO ELECT BETWEEN DISASTER PAYMENTS OR SUBSIDIZED CROP INSURANCE

The *Senate* bill requires the Secretary of Agriculture, after consultation with the Board, to notify producers of wheat, feed grains, upland cotton, and rice, at least sixty days prior to the beginning of the 1981 crop year, of their right to elect, with respect to the 1981 crop, between declaring their acreage of the commodity eligible for disaster payments under the Agricultural Act of 1949 or covering their acreage with crop insurance part of the premium for which is paid by the Corporation. The notice must state the percent of premium to be paid by the Corporation.

The *House* amendment contains no comparable provision.

The *conference substitute* adopts the *Senate* provision with a modification requiring that notification be given at least sixty days prior to the beginning of the planting of the 1981 crops of the respective commodities or thirty days after the enactment of the bill, whichever is later.

(21) SPECIAL DISASTER PROGRAM

The *Senate* bill authorizes a special disaster payment program for the 1979 crops for producers of wheat, feed grains, upland cotton, and rice. The Secretary of Agriculture would be required to make a special disaster payment under the program if the Secretary determined that, as a result of drought, flood, or other natural disaster, or other condition (including inadequate fuel) beyond the control of the producers on a farm (or, in the case of rice, persons involved in producing rice on a farm), the producers on a farm (1) were prevented from planting any portion of the acreage intended for the commodity to the commodity (or, in the case of rice, any portion of the acreage allotments of producers on the farm or the farm acreage allotment to rice) and (2) planted another nonconserving crop on such acreage.

Under the provisions of the *Senate* bill, each such special disaster payment would be in an amount calculated by multiplying—

(a) the number of acres so affected (but, in the case of wheat, feed grains, and upland cotton, not to exceed the acreage planted to the commodity for harvest in the 1978 crop year, including any acreage that the producers were prevented from planting to the commodity or other nonconserving crops in lieu of the commodity because of drought, flood, or other natural disaster, or other condition beyond their control), by

(b) 75 percent of the yield established for the farm under the price support program, by

(c) 15 percent of the target price for the commodity for the 1979 crop year.

The *House* amendment contains no comparable provision.

The *conference substitute* deletes the *Senate* provision.

Jerry Huckaby,
Dan Glickman,
George E. Brown, Jr.,
Fred Richmond,
Alivn Baldus,
Leon E. Panetta,
Thomas A. Daschle,
Bill Wampler,
Edward Madigan,
James M. Jeffords,
Ron Marlenee,
Managers on the Part of the House.

Herman E. Talmadge,
George McGovern,
Walter D. Huddleston,
Dick Stone,
Edward Zorinky,
Jesse Helms,
Dick Lugar,
Thad Cochran,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Anthony (at the request of Mr. Wright), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Clinger) to revise and extend their remarks and include extraneous material:)

Mr. Dickinson, for 5 minutes, today.
Mr. Kemp, for 30 minutes, today.
Mr. Bauman, for 30 minutes, today.
Mr. Green, for 10 minutes, today.
Mr. Porter, for 10 minutes, today.
Mrs. Snowe, for 5 minutes, today.

(The following Member (at the request of Mr. Green) to revise and extend his remarks and include extraneous material:)

Mr. Derwinski, for 5 minutes, today.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks, and include extraneous material:)

Mr. Gonzalez, for 30 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Brademas, for 5 minutes, today.
Mr. Rodino, for 5 minutes, today.
Mr. Panetta, for 5 minutes, today.
Mr. LaFalce, for 10 minutes, today.
Mr. Danielson, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Lundine, prior to the vote on the conference report on H.R. 5192, Education Amendments of 1980.

Mr. Ratchford, to revise and extend following the amendment to be offered by Mr. Pepper and the gentleman from Kentucky on DMSO.

Mr. Santini, immediately preceding the vote on the Walgren amendment to H.R. 7036.

Mr. Brown of California, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,179.

(The following Members (at the request of Mr. Clinger) and to include extraneous matter:)

Mr. Duncan of Tennessee.
Mr. Green.
Mr. Coughlin in two instances.
Mr. Broyhill.
Mr. Derwinski.
Mr. Royer.
Mr. Dougherty.
Mr. Michel.
Mr. Forsythe.
Mr. Shuster.
Mr. Gilman in two instances.
Mr. Bereuter.
Mr. Evans of Delaware.
Mr. Kemp in two instances.
Mr. Porter.
Mr. Beard of Tennessee.
Mr. Wydler.
Mr. Dornan in three instances.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Dodd.
Mr. Stokes.
Mr. Wolff.
Mr. Mazzoli in two instances.
Mr. Dingell.
Mr. Brademas in five instances.
Mr. Ottinger.
Mr. Benjamin in two instances.
Mr. Fazio.
Mr. Musto.
Mr. Santini in two instances.
Mr. Rahall.
Mr. Gibbons.
Mr. Bonker.
Mr. Boland.
Mr. Ford of Michigan.
Mr. Minish.
Mrs. Chisholm in two instances.
Mr. Guarini.
Mr. Cavanaugh in three instances.
Mr. Danielson.
Mr. Fuqua in six instances.
Mr. Nowak.
Mr. Luken.
Mr. Chappell in three instances.
Mr. Swift.
Mr. Hawkins.
Mr. Duncan of Oregon in four instances.
Mr. Fisher.
Mr. Mavroules.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1391. An act to amend section 9 of the National Climate Program Act to extend the authorization for appropriations for fiscal years 1981, 1982, and 1983; to the Committee on Science and Technology;

S. 1953. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Louis L'Amour; to the Committee on Banking, Finance and Urban Affairs;

S. 2483. An act to amend title 28 of the United States Code to request the Chief Justice of the United States to give an annual address to the Congress on the state of the judiciary; to the Committee on the Judiciary and the Committee on Rules; and

S. 2566. An act to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes; to the Committees on Armed Services and Government Operations.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 390. An act to expedite and reduce the cost of antitrust litigation, and for other purposes.

ENROLLED BILLS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1781. An act to amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes;

H.R. 1967. An act to modify the boundary of the White River National Forest in the State of Colorado; and

H.R. 7072. An act to amend sections 5702 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowances of Government employees on official travel, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on August 27, 1980, present to the President, for his approval, bills of the House of the following title:

H.R. 5168. An act to extend certain expiring provisions of law relating to personnel management of the Armed Forces, to provide a variable housing allowance for members of the uniformed services to reflect housing costs in different areas of the United States, to improve certain special and incentive pays for members of the uniformed services, and for other purposes;

H.R. 5892. An act to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies, and for other purposes; and

H.R. 6974. An act to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, track combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

ADJOURNMENT TO WEDNESDAY, SEPTEMBER 3, 1980

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of Senate Concurrent Resolution 118 of the 96th Congress, the House stands adjourned until 12 o'clock meridian, Wednesday, September 3, 1980.

Thereupon (at 4 o'clock and 8 minutes p.m.), pursuant to Senate Concurrent Resolution 118, the House adjourned until Wednesday, September 3, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5194. A letter from the President of the United States, transmitting proposed amendment to the request for appropriations for fiscal year 1981 for the District of Columbia (H. Doc. No. 96–364); to the Committee on Appropriations and ordered to be printed.

5195. A letter from the Acting Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice that a decision has been made to convert the protective coating maintenance function to contractor performance at Sheppard Air Force Base, Tex., pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

5196. A letter from the Assistant Secretary of State for International Organization Affairs, transmitting various United Nations Joint Inspection Unit reports, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

5197. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b (a); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LONG of Maryland: Committee on Appropriations. House Joint Resolution 601. Joint resolution making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981 (Rept. No. 96–1263). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 776. Resolution providing for the consideration of H.R. 7765. A bill to provide for reconciliation pursuant to section 3 of the First Concurrent Resolution on the Budget for the fiscal year 1981 (Rept. No. 96–1264). Referred to the House Calendar.

Mr. BROOKS: Committee on Government Operations. H.R. 6686. A bill to discontinue or amend certain requirements for agency reports to Congress; with amendment (Rept. No. 96–1268). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Permanent Select Committee on Intelligence. Report in the Matter of Billy Carter (Rept. No. 96–1269). Referred to the House Calendar.

Mr. HARRIS: Committee on the Judiciary. H.R. 2170. A bill to provide for the reimbursement of legal expenses incurred by the city of Fairfax with respect to a 1971 entry and search by employees of the Federal Government (Rept. No. 96–1270). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIXON: Committe on Appropriations. H.R. 8061. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96–1271). Referred to the Comimttee of the Whole House on the State of the Union.

Mr. FOLEY: Committee of Conference. Conference report on S. 1125 (Report No. 96–1272). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DANIELSON: Committee on the Judiciary. S. 1578. A bill for the relief of Dr. Halla Brown; with amendment (Rept. No. 96–1265). Referred to the Committee of the Whole House.

Mr. DANIELSON: Committee on the Judiciary. H.R. 4033. A bill for the relief of the Jefferson County Mental Health Center, Inc., and of certain current and former employees thereof; with amendment (Rept. No. 96–1266). Referred to the Committee of the Whole House.

Mr. HARRIS: Committee on the Judiciary. H.R. 5063. A bill for the relief of James R. Thornwell; with amendments (Rept. No. 96–1267). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

Mr. PANETTA:

H.R. 8046. A bill to extend for an additional 2 years certain provisions relating to controversies involving whether individuals are employees for purposes of the employment taxes; to the Committee on Ways and Means.

By Mrs. CHISHOLM (for herself, Mr. Fauntroy, Mr. Leland, Mrs. Collins of Illinois, Mr. Walker, Mr. Wolff, Mr. Rosenthal, and Mr. Brown of California):

H.R. 8047. A bill to provide for adjustment to refugee admission status of certain Cuban and Haitian nationals presently in the United States; to the Committee on the Judiciary.

By Mr. DERRICK:

H.R. 8048. A bill to provide that topsoil declared to be surplus property in connection with the construction of a dam by the United States may be donated to local governments, local public agencies, and private, nonprofit organizations; to the Committee on Government Operations.

By Mr. DRINAN:

H.R. 8049. A bill to amend title 18 of the United States Code to provide penalties for threats against certain persons protected by the U.S. Secret Service; to the Committee on the Judiciary.

By Mr. DUNCAN of Tennessee:

H.R. 8050. A bill to provide for demonstration projects whereby medicare patients receiving chemotherapy or radiation therapy may be housed and boarded in setting other than inpatient hospital facilities; to the Committee on Ways and Means.

By Mr. FOLEY:

H.R. 8051. A bill to amend the Internal Revenue Code of 1954 to provide a reduction of individual income tax rates for 1981, 1982, and 1983; to the Committee on Ways and Means.

By Mr. JOHNSON of California:

H.R. 8052. A bill to prohibit the alteration or removal of batch identification numbers which are required to be placed on goods sold in interstate commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. MATTOX (for himself, Mr. Eckhardt, Mr. Charles Wilson of Texas, Mr. Brooks, Mr. Wyatt, Mr. White, Mr. Stenholm, and Mr. Frost):

H.R. 8053. A bill to provide general assistance and special impact aid to local educational agencies for the provision of educational services to undocumented alien children to whom State or local educational agencies are required, by order of any Federal court, to provide educational services or who are permitted under any such order to receive the benefits of State funds available for educational purposes; to the Committee on Education and Labor.

By Mr. PANETTA (for himself, Mr. Johnson of California, Mr. Mineta, Mr. Coelho, and Mr. Fazio):

H.R. 8054. A bill to provide that certain regulations relating to ingredient labeling and advertising of wine shall not take effect unless they are amended to insure compliance by foreign producers; to the Committee on Ways and Means.

By Mr. PICKLE:

H.R. 8055. A bill to amend the Fair Labor Standards Act of 1938 to raise the dollar volume test coverage of employees of enterprises engaged in commerce or the production of goods for commerce to $750,000; to the Committee on Education and Labor.

By Mr. ROSENTHAL:

H.R. 8056. A bill to amend title 13, United States Code, to correct for undercounting in the 1980 census; to the Committee on Post Office and Civil Service.

By Mr. SEIBERLING:

H.R. 8057. A bill to require aircraft manufacturers to remedy design and manufacturing defects in civil aircraft, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. STARK (for himself, Mr. Corman, and Mr. Rousselot):

H.R. 8058. A bill to amend the Internal Revenue Code of 1954 with respect to the limitation on the acceleration of the accrual of taxes; to the Committee on Ways and Means.

By Mr. TAUKE:

H.R. 8059. A bill to amend the Internal Revenue Code of 1954 to provide that the maximum reduction in valuation under the special estate tax valuation for certain farm, small business etc., real property shall be increased to $1 million and to provide an inflation adjustment for such amount; to the Committee on Ways and Means.

By Mr. DIXON:

H.R. 8061. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1981, and for other purposes.

By Mr. FINDLEY:

H. Con. Res. 425. Concurrent resolution expressing the sense of the Congress that the Secretary of State should revoke the visas of aliens arrested for certain violent or illegal activities, and that the Attorney General should order the deportation of such aliens; to the Committee on the Judiciary.

By Mr. MINISH:

H. Con. Res. 426. Concurrent resolution expressing the sense of the Congress with respect to the prompt deportation or removal from the United States of aliens who have engaged in unlawful or disorderly activities in the United States; to the Committee on the Judiciary.

By Mr. WINN:

H. Con. Res. 427. Concurrent resolution expressing the sense of Congress in opposition to excessive violence in sports; to the Committee on Interstate and Foreign Commerce.

By Mr. COURTER (for himself, Mr. Burgener, Mr. Hopkins, Mr. Bereuter, Mr. Jeffries, Mr. Collins of Texas, Mr. Dannemeyer, Mr. Rousselot, Mr. Derwinski, and Mrs. Holt):

H. Res. 777. Resolution requesting the President to furnish certain information to the House of Representatives concerning the disclosure of classified information relating to the new so-called "Stealth" technology for military aircraft; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. RITTER presented a bill (H.R. 8060) for the relief of Victoria Moge, Hind Moge, Merwan Moge, and Manale Moge, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 377: Mr. Porter.

H.R. 466: Mrs. Bouquard.

H.R. 5225: Mr. Gilman.

H.R. 5496: Mr. Howard, Mr. Mineta, Mr. Bauman, Mr. Gore, and Mr. Studds.

H.R. 6171: Mr. Harkin and Mr. Vento.

H.R. 6981: Mr. Downey and Mr. Shumway.

H.R. 7505: Mr. Luken.

H.R. 7773: Mr. Lloyd and Mr. Panetta.

H.R. 7813: Mr. Lott, Mr. Bevill, Mr. Ginn, Mr. Andrews of North Carolina, Mr. Hubbard, Mr. Hall of Texas, Mr. Jenrette, Mr. Jeffries, and Mr. Whittaker.

H.R. 7860: Mr. Edwards of Oklahoma, Mr. Grisham, Mr. Burgener, Mr. Whittaker, Mr. Royer, Mr. Symms, and Mr. Courter.

H.R. 7885: Mr. Coelho, Mr. Ford of Michigan, Mr. Pepper, Mr. Nolan, Mr. Ottinger, Mr. Frost, and Mr. Seiberling.

H.R. 7898: Mr. Murphy of Pennsylvania and Mr. Robert W. Daniel, Jr.

H.J. Res. 502: Mr. Guarini, Mr. Bonior of Michigan, Mr. Zablocki, Mr. Corrada, Mr. Sebelius, Mr. Hollenbeck, Mr. Johnson of California, Mr. Mazzoli, Mr. Green, Mrs. Chisholm, Mr. Royer, Mr. Fary, Mr. Perkins, and Mr. Wolff.

H.J. Res. 511: Mr. Atkinson, Mr. Pashayan, and Mr. Bevill.

H. Con. Res. 405: Mr. Hutto, Mr. Benjamin, Mr. Whitehurst, Mr. Flippo, Mr. Lee, Mr. Whittaker, Mr. Bereuter, Mr. Hightower, Mr. Derwinski, Mr. Rousselot, Mr. Roe, Mrs. Spellman, Mr. Collins of Texas, Mrs. Smith of Nebraska, and Mr. Rose.

H. Con. Res. 411: Mr. Fish, Mr. Robinson, Mr. Boland, Mr. Petri, Mr. Murphy of Pennsylvania, Mr. Forsythe, Mr. Patten, Mr. Charles Wilson of Texas, Mr. Scheuer, Mr. Conte, Mr. Dougherty, Mr. Drinan, Mr. Winn, Mr. Williams of Montana, Mr. Horton, Mr. McDade, Mr. Weaver, Mr. Chappell, Mr. Cleveland, Mr. Erdahl, Mr. Baldus, Mr. Studds, Mr. Ertel, Mr. Albosta, Mr. Oberstar, Mr. Moffett, Mr. Davis of Michigan, Mr. Jenkins, and Mr. McEwen.

H. Con. Res. 412: Mr. Andrews of North Carolina, Mr. Bedell, Mr. Bereuter, Mr. Bethune, Mr. Broyhill, Mr. Campbell, Mr. Corrada, Mr. Derwinski, Mr. Duncan of Tennessee, Mr. Edwards of Oklahoma, Mrs. Fenwick, Mr. Forsythe, Mr. Horton, Mr. Hutto, Mr. Green, Mr. Ireland, Mr. Jeffords, Mr. Kramer, Mr. Lagomarsino, Mr. Leach of Iowa, Mr. Lee, Mr. Lott, Mr. McCormack, Mr. McDade, Mr. McDonald, Mr. Marlenee, Mr. Mitchell of Maryland, Mr. Murphy of Illinois, Mr. Ottinger, Mr. Panetta, Mr. Porter, Mr. Railsback, Mr. Ratchford, Mr. Roe, Mr. Sawyer, Mr. Stangeland, Mr. Vander Jagt, Mr. Walker, Mr. Whitehurst, and Mr. Winn.

H. Res. 729: Mr. Badham, Mr. Edwards of Oklahoma, Mr. Robert W. Daniel, Jr., and Mr. Won Pat.

H. Res. 736: Mr. Harkin, Mr. Gilman, and Mr. Simon.

PETITIONS, ETC.

Under clause 1 of rule XXII,

418. The SPEAKER presented a petition of Steven Louis Washington, Washington, D.C., relative to redress of grievances, which was referred to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6721

By Mr. YOUNG of Missouri:

—Page 73, lines 16 and 17, strike out "Administrator of the Federal Aviation Administration" and insert in lieu thereof "Secretary".

Page 73, line 18, strike out "(subject to the requirements of section 5(h) of this Act)."

Page 73, line 21, strike out "Administrator" and insert in lieu thereof "Secretary".

Page 73, line 25, strike out "Administrator" and insert in lieu thereof "Secretary".

Page 74, line 23, strike out "Administrator" and insert in lieu thereof "Secretary".

H.R. 6777

By Mr. HINSON:

—On the second page, after line 14, insert the following new section:

Sec. 2. Section 3(b) of the Council on Wage and Price Stability Act is amended—

(1) by striking out "(1)" and inserting in lieu thereof "(A)";

(2) by striking out "(2)" and inserting in lieu thereof "(B)";

(3) by inserting "(1)" after "(b)"; and

(4) by adding at the end thereof the following new paragraph:

"(2) As a precondition for any person to impose a price increase, no officer or employee of the United States may require any person to submit, before such price increase takes effect, a notification of such price increase."

EXTENSIONS OF REMARKS

CUBAN AND HAITIAN REFUGEES

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mrs. CHISHOLM. Mr. Speaker, on June 20, 1980, after weeks of uncertainty and delay, the administration announced its intended policy regarding Cuban and Haitian refugees. A legislative package was sent to Congress in early August. Many knowledgeable observers agree, however, that the administration's proposal does not adequately address the issues presented, and that it is therefore necessary to propose an alternative approach.

I am also concerned with indications that the administration's proposal will be rejected by the relevant congressional committees, and that the currently untenable situation will continue indefinitely. I believe that the desperate needs of the Cuban and Haitians refugee populations, and the fiscal and social needs of State and local communities impacted by these refugees, must be immediately and fully resolved.

To this end, I am convinced that the national interest will best be served if, as expeditiously as possible, Congress enacts legislation authorizing the granting of political refugee status to up to 120,000 Cubans who entered the United States after April 21 and date of enactment, and up to 30,000 Haitian boat people who entered the United States in Florida after January of 1972 and date of enactment. Today I am introducing legislation which would provide that these persons are political refugees within the meaning of the Refugee Act of 1980, and are thereby eligible for rights and benefits accorded the Indochinese, Soviet Jews, and other refugees. The legislation would also provide for Federal assistance to States and localities pursuant to the provisions of the 1980 Refugee Act.

Problems mount day by day as the status of the Cubans and Haitians remains unresolved. I, therefore, which to stress my hope that this legislative initiative can be considered and enacted prior to congressional adjournment on October 4, 1980.

PRINCIPLES WHICH SHOULD GOVERN U.S. REFUGEE POLICY AND THE RESOLUTION OF THE CUBAN/HAITIAN REFUGEE PHENOMENA

I believe that appropriate resolution of the Haitian/Cuban refugee situation should be guided by the following principles:

First, U.S. refugee policy must be consistent, based upon objective fact and free of racial or ideological bias.

Second, the Refugee Act of 1980 expresses the will of Congress regarding equitable principles, benefit eligibility, and Federal fiscal responsibility for the cost of refugee resettlement. If the integrity of the act is to be upheld, Cubans and Haitians must be brought within its terms.

Third, refugee policy is set by the Federal Government and the financing of refugee policy and resettlement assistance is a Federal responsibility. States and localities extraordinarily impacted by resettlement of significant numbers of refugees should be relieved, to the greatest extent possible, of social and financial burdens associated with refugee resettlement. Therefore, consistent with past policies and practices and the Refugee Act of 1980, for the first 3 years of their residence Cuban and Haitian refugees should be fully eligible for Federal benefit programs with 100 percent Federal financing of these programs.

Fourth, the Federal Government should reimburse at a 100-percent rate costs incurred by States and localities arising prior to passage of the proposed legislation from the presence of Cuban and Haitian refugees in their communities.

SUMMARY OF JUSTIFICATIONS FOR LEGISLATION TO GRANT REFUGEE STATUS TO HAITIANS AND CUBANS

The United States has admitted millions of refugees in the last 20 years. The vast majority of these persons have fled Communist dominated regimes, and are not persons of color.

In enacting the Refugee Act of 1980, Congress recognized this country's humanitarian responsibilities to provide refuge to persons who have a well-founded fear of persecution if returned to their homeland. Congress also explicitly established that U.S. refugee policy must be free of racial, ideological, and geographic bias. The Refugee Act further recognizes that refugees are particularly in need of resettlement assistance, and that full refugee access to social services is necessary to accelerate assimilation and self-sufficiency and minimize long-term social and fiscal costs. The act also establishes that refugee policy is a Federal responsibility and that the costs of resettlement and social services for refugees should be borne 100 percent by the Federal Government during the first 3 years of a refugee's residence in the United States.

As described below, the record establishes that Cubans and Haitians are true political refugees within the meaning of the Refugee Act. The proposed legislation is necessary to preserve the integrity of this newly enacted legislation and preserve the confidence of States and localities that Federal refugee policy will not impose undue burdens upon them. Honestly classifying Cubans and Haitians as refugees is also in the national interest in order to distinguish legitimate policy for refugees from U.S. policy for aliens who, on the basis of objective facts, do not fall within the 1980 act's definition of refugees. In this regard, Cubans and Haitians who arrive in the future should also be presumptively classified as refugees.

Over the past 20 years, the United States has granted political refugee status to over 800,000 Cubans who have fled their homeland. Many of these refugees have settled in south Florida. They have enjoyed full access to virtually all Federal benefit programs. The Federal Government has assumed virtually full responsibility for financing these programs and other resettlement services. As a result, Cuban refugees have been able quickly to become active members of our society. They have made significant contributions to the social and economic revitalization of Miami and other communities. Increases in local taxes or cutbacks in services available to citizens were avoided which would have been inevitable absent full Federal financing of resettlement and other essential service needs. And, by granting refugee status to the Cubans the United States demonstrated its commitment to providing sanctuary to those fleeing oppression.

The administration, however, has announced a proposed policy which rejects the positive accomplishments of 20 years of Cuban refugee policy. No justification is offered and no reasons are given to explain why 800,000 Cubans have been admitted as refugees, but suddenly the most recent arrivals are to be denied refugee status. Further, virtually all affected parties agree that the administration's proposal portends human, social, and fiscal disaster for these newly arrived Cuban refugees and the communities into which they resettle.

In contrast to the success of a 20-year policy of granting refugee status to Cubans, the tragedy of south Florida's Haitian refugees represents a shameful experience. As is eloquently described by U.S. District Judge James Lawrence King in a 180-page opinion issued on July 2, 1980, in Haitian Refugee Center versus Civiletti, the Haitians and south Florida have suffered greatly as a result of the Federal Government's intentional racial and national origin discrimination. Moreover, after considering evidence from both the Haitians and the State Department regarding political conditions in Haiti, Judge King made findings of

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

fact which established beyond doubt that the Haitians are true political refugees. As his opinion states:

> This case has forced the court to confront a profound set of questions: Why have so many taken such great risks? What do they flee? Why do they fear to return?
>
> In reaching its conclusion the court has listened to a wealth of . . . testimony. Much of the evidence is both shocking and brutal, populated by the ghosts of individual Haitians—including those who have been returned from the United States—who have been beaten, tortured and left to die in Haitian prisons.
>
> Returnees, particularly those who claim to asylum abroad, will be greeted with great suspicion upon their arrival. Given the Haitian legal system that status means they face a substantial danger. Many will go to prison, their sole offense having been an attempt to gain asylum. In prison many will be beaten, perhaps even tortured and some will die as a result. Even those who are not imprisoned will not be entirely free. They will undergo harassment and live with a continuing threat of a midnight visit from the Macoutes.

Mr. Speaker, in summary, an objective assessment of political conditions in Cuba and Haiti establishes the likelihood that Cubans and Haitians would suffer severe persecution if returned to their homeland. They are political refugees. Consistency and commitment to the fundamental principles that U.S. refugee policy must be free of racial and ideological bias requires that the Haitians and Cubans be granted refugee status.

The proposed legislation would accomplish this objective. It would not, however, prevent the United States from expelling common criminals or other undesirables who may seek to remain in the United States. Section 207(c)(3) of the Refugee Act of 1980 provides that refugee status may be denied persons excludable from the United States by reason of criminal conduct, security risks and other characteristics which pose a danger to society. Under the proposed legislation, Cubans and Haitians in the prescribed class would be presumptively eligible for refugee status. However, they would have to apply and would be subject to screening to determine if they are ineligible pursuant to section 207(a)(3). Those found excludable would be subject to expulsion.

ELIGIBILITY AND FEDERAL FINANCING OF RESETTLEMENT AND SOCIAL SERVICES PROGRAMS

The proposed legislation provides that those Cubans and Haitians granted refugee status shall be refugees for all purposes pursuant to the Refugee Act of 1980. Thus, like Indochinese, Soviet Jews, and other refugees, these Cubans and Haitians would be eligible for the full range of benefits the 1980 act authorizes for refugees. An intent will be stated that these programs would be 100 percent financed by the Federal Government. In this regard, the proposed policy is fully consistent with past and current refugee programs.

The legislation is also intended to reimburse, at a 100-percent level, costs incurred by States and localities prior to the granting of refugee status.

The foregoing benefit and fiscal package for Cuban and Haitian refugees is a critical component of the proposed legislation. As past policies and the Refugee Act recognize, refugees have extraordinary service needs which must be met to facilitate resettlement and accelerate self-sufficiency. Thus, in contrast to the administration's program for Cubans and Haitians, refugees enjoy eligibility for virtually all Federal programs. Experience indicates that meeting service needs early and fully best insures avoidance of acculturation problems and long-term social and fiscal costs. Further, 100 percent Federal funding of service expenses minimizes the potential and unfair impact of refugee resettlement costs on local taxpayers. Costs are spread over all taxpayers, not simply those residing in the limited number of communities where resettlement is concentrated. Full Federal funding also best insures that refugee resettlement does not result in cutbacks in local programs available to citizens, and thereby tends to alleviate potential tension between refugee and domestic communities.●

HANDICAPPED SENIOR CITIZEN REFUSES WELFARE

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. CHAPPELL. Mr. Speaker, in a time when many Americans appear to have lost the will to fend for themselves and the faith necessary to sustain that will, an outstanding black American and senior citizen is an inspiration to us all. James R. Robinson, 84, of Tallahassee, Fla., works a full 5-day week. That is perhaps not so remarkable except that Mr. Robinson, besides being 84 years old, had both legs amputated 15 years ago because of diabetes and his work is one of the hardest physical labors there is—chipping and cleaning bricks.

I would like to direct my colleagues' attention to this superb article by Tom Hillstrom of United Press International which was in the August 18, 1980, issue of the Florida Times-Union. It is an excellent story both for the example that Mr. Robinson sets for all of us and because of his eloquent philosophy which all of us should heed:

> I work because it is right to work. That's what the Bible says. As long as you feel like work, then work. That way you stay off the welfare checks. Give welfare to the people who need it.

James Robinson is a shining example of humanity and I insert the newspaper article recounting this story of encouragement and hope in the body of the RECORD to be shared with our colleagues and fellow citizens, and to give well-deserved recognition to this great American:

> LEGLESS, HE WORKS A FIVE DAY WEEK, ASKS NO HANDOUTS
>
> TALLAHASSEE.—James R. Robinson sits on a pile of rubble at the base of the state's new 22-story Capitol eight hours a day, five days a week, the sun beating down on his nearly hairless head and the dust of the rubble pile coating his thick, graying moustache like snowflakes.
>
> Occasionally, he takes a respite from the sun by maneuvering into an adjacent lean-to fashioned of stacked bricks and corrugated metal. The rubble makes movement difficult. Sometimes it's a struggle, especially when his hand slips from a brick and he lurches to the side.
>
> But he props himself up again and keeps trying with the determination that comes to a person who's been without legs for 15 years—he's not sure of the year that he lost them.
>
> Nearby, in the $45 million skyscraper Capitol, the state's power brokers talk of complex governmental problems. To the rear of the Capitol's sweeping plazas and fountains, Robinson also talks about these problems and proposes solutions inspired by 84 years of life and thorough familiarity with the Bible.
>
> "The whole world is depending upon the government and the government is going down the drain-hole," he declares with authority.
>
> His hands are in uninterrupted motion, the left reaching for an ancient brick in the pile on one side, the right chipping the mortar away with 10, 15, sometimes 20 strokes of a small pickax and the left then flipping the newly cleansed brick onto a stack in front of him.
>
> Four of the fingers on Robinson's left hand are bandaged, the result of blows from the pickax miscalculated despite his 40 years of experience in using one.
>
> "I work because it's right to work," he tells a visitor. "That's what the Bible says. As long as you feel like work, then work. That way you stay off the welfare checks. Give welfare to the people who need it."
>
> The bricks come from dismantled sections of the state's old Capitol, which stands behind the new structure and is undergoing renovation for use as a museum. Once stripped of their clinging mortar, the bricks are returned to use inside the 135-year-old domed structure. Robinson is paid two cents for each brick he chips clean.
>
> "I worked like hell yesterday and made $15. You've got to clean a whole hundred to get $2," he says, frowning.
>
> Robinson lost his legs above the knees from the effects of diabetes. Eight years ago he suffered another loss with the death of his wife. But one son and two daughters remain close to him in Tallahassee.
>
> "Everytime God looks at you, you ask him for a favor and when he does you a favor, you walk off from him," Robinson says, citing an appropriate passage from the Bible.
>
> Robinson has the neck of a bull and the broad shoulders of someone who has worked hard at farming and construction most of his life. He receives Social Security from his earlier labors and supplements it with savings and his earnings at the brick pile.
>
> "Welfare is for disabled persons, I don't need no damn welfare. I could be home sitting around, waiting for a check, but we're going to have to cut that off for them that can work," he continues.
>
> "The taxpayers are getting tired of giving their money away to do-nothings sitting around on their ——. Work awhile and rest awhile. That's my philosophy."

A brick splits in half from the force of the pickax. Robinson tosses the two chunks behind him. When his pay is calculated, they won't be counted.

A fellow worker, Nathaniel Green, lights up a cigarette.

Robinson looks at him disapprovingly. "I don't drink and I don't smoke. All that beer kills you. And the caffeine in coffee is poison. God don't kill you; you kill your own self. You drink and those Milwaukee companies get plenty and you get nothing. Look how long you've got to work for a can of beer."

Robinson's wheelchair is parked next to the lean-to. The wheels wobble. The chair's lower carriage is reinforced with baling wire. The rubber of its tires is worn and muddied. Strips of old carpeting have been stretched to replace the long-shredded canvas seat and backing.

"The state sent a girl out here to tell me to rest one day but I didn't pay her no listen," he says, smiling. "And a man from Jacksonville said he'd buy me a new wheelchair but I never heard from him. A lady told me to go buy one and send her the bill but I don't have time to go shopping. Maybe someday I'll find a way to get one."

A roar comes from inside the old Capitol as another wall of bricks is sent tumbling.

"I was born a Democrat and I'll vote for Carter," he says. "Inflation's not his fault. Inflation was predicted in the Bible and that Republican setup is nothing more than sweet talk."

Robinson raises a battered jug-like picnic cooler to his lips and takes a sip of water. His brown hands are caked with white mortar dust so he runs his forearm across his month.

"God takes care of me," he says, looking the visitor directly in the eyes. "If you ask him, he'll take care of you."●

THOUGHTS OF OWEN STANLEY

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. SWIFT. Mr. Speaker, while back home recently I had a chance to meet with a long-time constituent of mine, Mr. Owen Stanley, of Edmonds, Wash. Mr. Stanley, now in the twilight of his years, has had a long and active history on behalf of senior citizens throughout his native Snohomish County. For example, he has long been a champion of low-cost housing for seniors. Now, sadly, Mr. Stanley is seriously ill. But Owen is using these days to collect his thoughts. He recently shared some of them with me. I would like to share them with my colleagues.

Let we of all phases and modes of living show concern for the dignity and integrity of our fellow men. No longer can we or should we rely on each faction seeking their special laws or special maneuvers to seek economic assistance without clarification of its enhancing the "General Welfare".

Only in the Senior Citizens do all people have potential of eventual participation in programs designed for Senior Citizens. No other program or faction of society encompasses the entirety of citizens in their waning years, from the sage to the less fortunate. They do not ask to be assuaged or placated. They do rightly ask for conditions to stimulate their ability to stand tall with head high, with dignity unimpaired.

What we need is a people united in an endeavor to perceive Right and Justice. What we need are representatives of the people to take time to meditate and conceive a means of affecting strong action to alleviate our bounding from extreme to extreme. A representative body dedicated to the preservation of individual freedom; rights and above all responsibilities. We need a government with foresight to adjust social justice to modern technology.

We have heard the cry of free enterprise for years, yet when enterprise fails in foresight to avoid financial ruin then our government guarantees loans to assist them. Thus enterprise is free to succeed but not free to fail. A one way street.

On the other hand government uses financial maneuvering to combat inflation, causing financial distress to millions of workers and families. Does the government guarantee their prosperity?

How long before freedom's back breaks under such discrepancy.●

RAIL ACT OF 1980

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. DINGELL. Mr. Speaker, in the interest of providing you with the most factual and up-to-date information regarding the level of opposition to various provisions of H.R. 7235, the Rail Act of 1980, I urge that the following letter I received be seriously considered.

The letter articulates why the surcharge and cancellation of rates provision of H.R. 7235, even as amended by the proposed Lee amendment, would be disastrous for small railroads, their shippers, ports, and receivers of goods throughout the United States. To the 60 short lines and small rail carriers who endorsed the letter, 10 of which are members of the Board of Directors of the American Short Line Railroad Association, even a Lee amendment version of section 301 of the bill spells certain disaster.

I hope that my colleagues will not be misled by blanket endorsement of H.R. 7235. Cogent arguments have been presented, backed by solid support, that substantial changes must be made to provisions of the Rail Act of 1980 in order to make it acceptable to all parties concerned—particularly smaller railroads and shippers who stand to be hurt the most if the bill is adopted in its present form.

Smathers, Symington and Herlong,
Attorneys and Counsellors at Law,
Washington, D.C., August 22, 1980.

Hon. John Dingell,
U.S. House of Representatives,
2221 RHOB, Washington, D.C.

Dear Congressman Dingell: As you are aware from the urgent pleas of the many small railroads in Michigan, the surcharge and cancellation of joint rates provision of the Rail Deregulation Bill, Section 301 of H.R. 7235, even as amended by the proposed "Lee Amendment" presents the utmost danger for small railroads, their shippers, ports and receivers of goods throughout the United States.

Perhaps most revealing is the fact that the Chairman of the Subcommittee actually wrote to the Chairman of Conrail expressing the fear that the surcharge and cancellation powers would be abused by the large railroads. Unfortunately, Mr. Florio's response to that fear is a mere annual reporting requirement by the ICC to the Congress. Small railroads and small shippers could be forced out of business between the time a surcharge is imposed and the time that the Congress receives, reads and acts upon a report from the ICC.

The small railroads strongly object to the surcharge and cancellation power because it can be used in an extremely discriminatory fashion against them. While the alleged ceiling on a surcharge is 110 percent of variable costs and while cancellation of a joint rate can be nullified by giving the cancelling carrier 110 percent of its variable costs, in point of fact the economic leverage provided by Section 301 can be enormous.

Surcharges can be imposed on certain rates and withheld on competing rates even though the latter could be below 110 percent of variable costs. The dominant railroads could do this in order to favor certain shippers or certain areas of the country where in the long run they will make more money either through creating a monopoly or because they will be able to reduce their costs through increased traffic. Shippers, small railroads, ports and the communities in which they are located will suffer drastically. The minor increases in revenues to the large railroads will be greatly overshadowed by the costs to the state and federal governments in supporting these communities.

As you are aware there are endless examples of the methods by which large railroads can injure the smaller railroads using these powers. We would be most happy to describe them should you so request. An attempt to include them in this letter would make it unduly lengthy.

Attached is a list of railroads which are opposed to Section 301 even as it is proposed to be changed by the "Lee Amendment." You will note that the list includes nine members of the Board of Directors of the American Short Line Association which, when it stood alone without the support of the thousands of shippers and many ports now opposing Section 301, adopted the Lee Amendment. In addition we have been advised directly by at least ten other railroads located throughout the country that they oppose Section 301 as amended by Mr. Lee; that they are contacting their Congressional representatives to urge them to support Eckhardt's substitute; but that for very understandable reasons do not wish to be included in the attached list.

In closing, we wish to thank you for previous efforts on behalf of the small railroads on this issue and urge you to continue this most important effort.

Very truly yours,

George A. Smathers.

Attachment.

Small Railroads Which Support Elimination of Surcharge and Cancellation Provision, Section 301

Green Bay & Western Railroad Co.,[1] Wisconsin; Ahnapee & Western Railway Co., Wisconsin; McCloud River Railroad, California; Hartford & Slocomb Railroad Co., California; Apalachia Northern Railroad Co., Florida; New York Dock Railway, New York; Hillsdale County Railway Co., Inc.,

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[1] Members of the Board of Directors of the American Short Line Railroad Association.

Michigan; Lenawee County Railroad, Michigan; Florida East Coast Railway Co., Florida; Chippewa River Railroad Co., Wisconsin; Ann Arbor Railroad System, Michigan; Minneapolis, Northfield & Southern Railway, Michigan; Brooklyn Eastern District Terminal Railroad, New York; Brillion and Forest Junction Railroad Co., Wisconsin; Chicago, Madison & Northern Railroad Co., Wisconsin; Nicolet, Badger & Northern Railroad, Wisconsin; Railroad Task Force Northeast Region, Inc., Pennsylvania; Little Rock & Western Railroad, Arkansas; Michigan Northern Railway Co., Michigan; Massachusetts Central Railroad Co., Massachusetts; North Louisiana & Gulf Railroad Co., Louisiana; Prairie Trunk Railway, Illinois; East Camden & Highland Railroad Co., Arkansas; Stockton Terminal & Eastern Railroad,[1] California; Roscoe, Snyder & Pacific Railway Co., Texas; Tulsa-Sapulpa Union Railway Co., Oklahoma; Transkentucky Transportation Railroad, Inc., Illinois; Toledo, Peoria & Western Railroad, Inc., Illinois; Canton Railroad Co.,[1] Maryland; La Salle & Bureau County Railroad, Illinois; Gettysburg Railroad Co., Pennsylvania; Mercersburg Railroad Co., Pennsylvania; Texas Central Railroad Co., Texas; Madison Railroad, Indiana; New Hope & Ivyland Railroad Co., Pennsylvania; Louisiana Midland Railway, Louisiana; Lamoille Valley Railroad, Vermont; the Vermont Railway, Inc., Vermont; Wisconsin & Southern Railroad, Wisconsin; Denver & Rio Grande Western Railroad,[1] Colorado and Utah; Green Mountain Railroad Corp., Vermont; Bath & Hammondsport Railroad Co., New York; Kansas City Southern Railway Co., Missouri; Port of Tillamook Bay Railroad, Oregon; Soo Line Railroad Co., Minnesota; South Buffalo Railway Co.,[1] New York; Longview, Portland & Northern Railroad, Oregon and Washington; Georgetown Railroad Co.,[1] Texas; Salt Lake, Garfield & Western Railway,[1] Utah; and Yancey Railroad Co., North Carolina.●

LITTLE LEAGUE CHAMPS

HON. RAPHAEL MUSTO

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. MUSTO. Mr. Speaker, I would like to direct our colleagues' attention to a champion ball team from Berwick, Pa., that has competed with the best and has deservedly earned its fine reputation. It is the Sam Balliet All-Star Senior Division Little League, winners of the district 13 and section 3 playoffs and eastern regional State champions.

The Sam Balliet all-star team went on to represent the Eastern United States in the world series at Gary, Ind. They finished in fourth place against teams from Taiwan, Western Europe, Canada, Venezuela, Western United States, Southern United States, and Central United States.

All who participated in this achievement is deserving of recognition, starting with the team members, Dave Gotchall, Carl Pruitt, Wade Prueitt, Keith Seeley, Keith Warner, Rich Bodwalk, Andy Thomas, Mike Dalberto, Dave Kishbach, Doug Collins, Todd Robbins, Scott Karchner, Chet Kempenski, and Al Steward. They were coached by Dave Kishbauch and managed by Chuck Robbins. Mr. Arthur Welch is president of the little league of Berwick and Mr. George Seeley is chairman; and the program is sponsored by the Berwick Athletic Booster Association.●

THE DEFECTIVE AIRCRAFT REMEDY ACT

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. SEIBERLING. Mr. Speaker, existing consumer laws provide reasonable redress for defective consumer products. If nothing else, they guarantee consumers a public forum for the resolution of conflicts with product manufacturers when questions of repairing or replacing defective merchandise arise.

However, for the owners of nonmilitary aircraft, there is little opportunity for such redress without resorting to lengthy and expensive litigation. A constituent of mine has forcefully brought to my attention the problems he has faced as the owner of a small aircraft. Aircraft owners must meet rigid safety requirements as administered by the Federal Aviation Administration, or else lose their airworthiness certification. Therefore, they face considerable expense in complying with routine airworthiness directives issued by the FAA. Privately owned aircraft are frequently covered by warranties for as little as 6 months from the date of purchase. Thus, it is very difficult for aircraft owners to recover even part of the cost of effecting repairs required by a Federal agency, even when those repairs may be necessitated by a manufacturer's design or manufacturing defects.

With this in mind, I am today introducing legislation designed to help nonmilitary aircraft owners recover some of the expenses incurred in complying with airworthiness directives in cases where the safety problem is the result of design or manufacturing defects. My bill, the Defective Aircraft Remedy Act, requires the Secretary of Transportation to determine whether an unsafe condition resulting in the issuance of an airworthiness directive is the result of a design or manufacturing defect. If so, my bill requires the manufacturer either to repair the defective part without charge to the owner within a period of time specified by the Secretary, or to reimburse aircraft owners who have had the repairs made at their own expense for the cost of the parts used in the repair. The bill requires owners who choose to make the repairs on their own to notify the manufacturer that they have done so not more than 30 days after receiving notification that a defect exists, and requires the manufacturer to reimburse owners—who have done their own repairs—within 90 days after receiving notice from the owner that repairs have been completed, or within 90 days after a final determination has been made that a safety problem is design or manufacturing defect related. The bill specifically excludes labor charges as a reimbursable expense, and limits a manufacturer's liability for reimbursement to 1 year from the finding that a defect exists.

The Defective Aircraft Remedy Act also requires aircraft manufacturers who have knowledge of a safety defect to notify the aircraft owner and the factory, provides for full public hearings on questions of defect, and sets penalties for failing to notify the Secretary of a design or manufacturing defect, or for failing to comply with the repair or reimbursement provisions at $1,000 per incident—to a maximum of $800,000. The bill also gives the Secretary the authority to reduce or eliminate the penalty, and requires the Secretary take into consideration such factors as the gravity of the violation and the size of the business when determining the size of the penalty, in order to help insure that small companies are not unduly penalized.

I believe that my bill will help provide aircraft owners with a reasonable means of redress when they are forced to make repairs because of design or manufacturing defects. Let me note that I do not consider this bill to be a finished product. I am introducing it now in the hope that interested individuals can give me their views and help in such redrafting as may be necessary to improve the bill. I welcome any comments my colleagues or other interested parties may have.●

GREEN PRAISES MANHATTAN RSVP

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. GREEN. Mr. Speaker, as a member of the Select Committee on Aging, and as one with a congressional district population of 23 percent senior citizens, I would like to take this opportunity to pay tribute to the retired senior volunteer program (RSVP) in Manhattan. Participation in this program will be honored at a ceremony on September 5, 1980.

The national program of RSVP is sponsored by ACTION on the Federal level and is supported locally by the Community Service Society. These volunteers, who are 60 years and older, contribute their time and energy in an effort to better their communities. Many schools, hospitals, and senior citizen centers benefit from the valuable service that these dedicated volunteers provide. Volunteerism plays an important function in today's society, and I thank RSVP for responding to and fulfilling the needs of the people of Manhattan.●

TRIBUTE TO MRS. GEORGE M. "LIB" TROTTER

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. DUNCAN. Mr. Speaker, in the next few days, on September 8, 1980, to be exact, a large number of people in my hometown of Knoxville, Tenn., will gather to honor one of our community's most outstanding civil leaders. Unfortunately, the business of the Congress will prevent me from being present for the occasion, which is sponsored by the Citizen's Honor Committee. However, I would like to share with my colleagues a brief summary of the outstanding public service of Mrs. George M. "Lib" Trotter.

Mrs. Trotter has become known throughout the Southeast as a person always ready to help young people. She began volunteer work with the March of Dimes 20 years ago, and 14 years ago helped organize Knoxville's first March of Dimes Telerama. This highly-successful fundraising program has led the Nation for 3 of the last 4 years.

It was more than 20 years ago when Lib Trotter began working with Brownie and Girl Scout troops. In 1964, she began volunteer service with the Knoxville Teen Board. In 1966, she became chairman of the Teen Board of Knoxville Presentation Dance. Her service continues today as an adviser to the Teen Board.

Mrs. Trotter has also served as cochairman of the Medical Auxiliary Fashion Drama, a fundraising activity by the auxiliary of the Knoxville Academy of Medicine to benefit their nursing scholarship fund. She is also a member of numerous other philanthropic and charitable organizations, including Women's Guild of the Knoxville Symphony Society; Women's Circle of the First United Methodist Church; Alpha Omicron Pi Alumni; Dulin Art Gallery; United Daughters of the Confederacy; Daughters of the American Revolution, James White Chapter; the Blount Mansion Association; and the YWCA.

It would be hard for me to sum up the value of Mrs. Trotter to Knoxville and east Tennessee. If there is a person who has a greater love of her fellow man than she has, then I surely have not met that person. She is the kind of lady this city, State, and country could ill-afford to do without.

I ask my colleagues to join with me in extending our congratulations to Mrs. Trotter for her years of service and dedication to so many worthwhile causes and organizations. It is impossible to say how many lives have benefited from Mrs. Trotter's love and unselfishness and her special devotion to young people.●

THE MILITARY MANPOWER PROBLEM

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. DOUGHERTY. Mr. Speaker, the following letter to the editor of the Washington Star was written by Gunnery Sgt. Thomas G. Poulk, U.S. Marine Corps. Sergeant Poulk has aptly described some of the major causes of the manpower problem facing our military today and I share his letter with my colleagues:

THE DANGER LIES WITHIN US?

To the Editor:

If one believes the recent newspaper articles and news broadcasts about the draft and registration of 19- to 20-year-old men, one would think that the majority of the youth of America do not desire to serve in the armed forces of the United States. It is really saddening that this fact is true and that the young people feel that serving their country is beneath them, infringes upon their civil rights, hinders them in accomplishing future aspirations and is the first step towards another world war.

I would like to address these self-centered children of American democracy for they hold the destiny of this nation, and the entire free world, in their hands, whether they like it or not.

There are many problems with America's all-volunteer armed forces, ranging from low pay to shortages of equipment. We, the career service men and women, recognize these problems and try to cope with them so that we may accomplish our primary mission—to support and defend the Constitution and the people of the United States.

However, there is one major problem that the military establishment cannot deal with and that is the "I don't give a damn" attitude of the American people, especially young Americans, when it comes to national defense.

If the youth of America will not defend their country, who will? What is really appalling is how older Americans tolerate and at times even encourage the anti-draft attitude. The manpower problem facing our military today is the end result of the lack of concern, the misplaced values and the poor attitudes of the American people.

The problem of providing young Americans for military service goes beyond recruiting; finding qualified men and women to fill our ranks is just as important as the number of people in uniform. It is a shame that we are being forced to accept men and women who are so illiterate that the military has had to spend millions of dollars rewriting training manuals in the form of comic books and lowering the reading level of others so that these recruits can understand them. This can be done with some of the manuals but not all. How do you turn a technical manual on the jet engines, radar sets, satellite communication equipment or nuclear missiles into comic books? What a way to train an army!

The American military establishment is running very short of another important ingredient—experience. A lot of our experienced men and women are leaving the military after 10 to 15 years of service. Two of the most important reasons for this are low pay and the attitude of the American people. Many of us ask ourselves why we are in the military, working long hours, leaving our families and being paid just enough to put hamburger on the table while we lay our lives on the line for a people who are not willing to serve or defend themselves.

If today's youth is only concerned with themselves and are not willing to guarantee their own future, then why should we concern ourselves, make these sacrifices; why shouldn't we get out there and get some of those good-paying jobs and live the easy life, too? A hell of a lot of us are.

What the American military establishment needs is young, strong, well-educated men and women, dedicated to duty, honor and country. Without these good people, the American armed forces have no future, and neither have the American people.

As President Lincoln said in 1838: "If danger ever reaches us, it must spring up from amongst us. It cannot come from abroad. If destruction be our lot, we must, ourselves, be its author and finisher. As a nation of free men, we must live through all time or die by suicide."

The manpower crisis in our military establishment is at hand. The cause is simple: neglect, complacent attitudes, social ills, misplaced values and a lack of concern by the American people for their own future and security. The American people are allowing history to repeat itself for the third time in this century, and no one really seems to care, least of all our own youth.

The only thing your Army, Navy, Air Force and Marine Corps cannot do is protect the American people from themselves.

THOMAS G. POULK,
Gunnery Sergeant, U.S.M.C.

ARLINGTON, VA.●

THE CAPITOL—AN INSIDE LOOK

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. MURPHY of Pennsylvania. Mr. Speaker, a newspaper article written by an inspiring young journalist and former intern in my office presents an interesting view of our Government and its legislative process from an intern's perspective. Therefore, I submit this excellent article into the CONGRESSIONAL RECORD so that it may be shared by all.

THE CAPITAL—AN INSIDE LOOK

(By Doug Bell)

Power. Few get it, fewer can keep it and nearly everybody wants it.

Washington, D.C. is a city where the men who wield it to go about the daily task of governing the United States.

It is a city of startling beauty and horrifying ugliness. It is a city of enormous wealth and desperate poverty. It is a city where boundless power and hopeless impotence live side by side.

It is a city of contradictions.

But the common denominator in this city of contradictions is power. It is almost a part of the atmosphere, an ever-present force which touches the lives of the people who call this city home.

My four-week stay in Washington, D.C., as an intern in Congressman Austin J. Murphy's office was an eye-opening experience. It was a chance to see from the inside how the United States government really operates, a chance to learn what no political science course could ever teach.

The U.S. government has traditionally been described with terms like legislature, executive, administrator and committee. But abstract terms tend to remove the human element from a government "of the people, by the people and for the people." Jargon and abstractions have made us forget that government not only governs the people, but is, itself, composed of people.

And the people who live and work in this city are not so very different from those you might find anywhere else. But the world in which they live is a very unstable one. It is a world where jobs and lives can be only as secure as the next election, where fear and doubt coexist with the city's contradictions.

Perhaps the first thing noticed by any congressional intern is the hundreds of other interns on Capitol Hill. They are literally everywhere, in almost every office and agency.

And if you ask an intern why he has come to Washington, the answers you receive will be as different as the interns themselves. Some come for the experience, others to "make connections," still others want the feather in their cap—another entry for the all-important résumé. For many interns, their stay on the Hill is just a short stopover on the road to law school.

But the reasons which bring an intern to Washington are less important than the experience received when they get there. The life of an intern is filled with opening mail, answering it, chasing down information and generally doing whatever needs done.

Yet somewhere in this workday routine that every intern eventually falls into, an understanding of how our government really works slowly filters through. It is an understanding which can bring immense satisfaction—or intense frustration.

Ours is a government which can get things done quickly . . . or slowly . . . or not at all. It is a government of incremental change and compromise. Non-compromising interests rarely last long, or at least they don't get much accomplished.

After spending five days attending a bill mark-up session in the Committee of Interior and Insular Affairs, I came to the conclusion that the making of law is not unlike the buying and selling of used cars—the seller always asks for more than the car is worth; the buyer always offers less than he is willing to pay. And a lot of bickering goes on before the two come together.

A whole lot of bickering.

The bill in question was a revision of land reclamation laws, which affect irrigated lands in the West. At the outset it was evident that the committee was sharply divided on the issue. Several committee members were in favor of amendments that would impose acreage limitations and residency requirements on land irrigated by Federal water projects—measures which would protect the small family farmer.

Other members of the committee insisted that "the days of 40 acres and a mule" are over, and that large, corporate farms are a solution to the world's and the Nation's food shortages. At one point in the debate, the opposing sides became so enraged that they couldn't even agree on what time to break for lunch. Committee Chairman Morris Udall settled the issue and eased the tension by saying, with a hint of a smile, that the committee would break for lunch when he was good and ready.

The result of five days of furious debate, dazzling oratory and red-faced rebuttals was, or course, a compromise. And throughout the markup Udall kept reminding the committee that the bill they finally approved should have enough flexibility to give the committee a strong bargaining position when they went into conference committee with the Senate.

The compromising had just begun.

Washington's many contradictions are probably more evident to the intern than anyone else. On the House floor, millions of dollars are spoken of and allocated the way most of us talk about loose change. But on a quick trip to 14th Street to pick up a passport, you can see a half dozen old men literally living in the streets, their worldy possessions packed into easily-carried garbage bags.

But the ironies of this city do not end there. In a city where the past is preserved and the future carefully planned for, it is strange and somehow very sad that the present is hardly ever mentioned. Sometimes it seems as though today has been lost somewhere between the memories of yesterday and the plans for tomorrow.

Yet the most interesting thing about living and working in the nation's capital is the people. If the United States is a melting pot, then its capital is even more so. Nowhere else can you find such a diverse group of individuals as those assembled in Washington, D.C.

The interns are a reflection of this diversity. They come from all over the country, bringing their ideas and beliefs and hopes and dreams, still young enough and idealistic enough to believe they can turn the world upside down and set things right again.

Some interns are paid and others are volunteers, but all come away with a different view of the United States Government than they had upon arrival. Many interns secretly—or openly—hope to return to the Hill someday as Congressmen.

For some interns, frustration is the result of being so close to the policy-making process and yet so far from making the actual decisions. One discouraged intern described the experience as being "like a hungry lion with a piece of red meat hanging outside the cage."

Not all the interesting people in Washington work for the government, though. One of the most fascinating individuals I met in the city was an artist named Agnes, who had worked on the Hill for 20 years before quitting and making her hobby, painting, her career.

An afternoon in Agnes' gallery, located across the street from the Eastern Market, could be a memorable experience. People of all ages from all over the country and the city would wander in and out, browsing at the paintings and taking a short rest.

One day near the end of my stay I was talking with a local photographer who had come by to ask Agnes if she knew of a small studio that was for rent. After discovering that I was a congressional intern, he proceeded to ask me several questions about the job—what kind of work did I do, what were the hours, who I worked for.

And then he asked another question. It was a simple query, straight forward and direct—so much so, in fact, that I wondered why I had never heard anyone ask it before. I decided, with some regret, that it was the kind of question you could only hear in Agnes' gallery on a Sunday afternoon.

"Do you believe in what you're doing?" he asked.

And it was possibly the most enjoyable moment of my congressional internship when I was able to answer "Yes" without hesitation.●

TRICENTENNIAL CELEBRATION OF MANHASSET

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. WOLFF. Mr. Speaker, it is indeed with great personal pride that I bring to the attention of this Congress and our Nation the tricentennial celebration of Manhasset, a community that I have represented for 16 years.

The tricentennial celebration of Manhasset stands for more than the celebration of a community's longevity. It reflects the remarkable achievement of 300 years of excellence and commitment to its neighborhoods, town, county, and State. Manhasset has consistently demonstrated that the concept of "community" is not an antiquated phrase but can be, in fact, the backbone of the great standards of our Nation. Since Manhasset's beginnings in 1680, this community has grown and developed from its beginnings as a settlement in the new world to great leadership in the world today.

Throughout my tenure in the Congress, Mr. Speaker, I have held among my highest priorities the preservation of our neighborhoods, families, and spirit of community participation. Manhasset's tricentennial observance demonstrates these values, how important they have been in our history and how essential they are to our Nation's future.●

FATHER CARL M. REINERT

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. CAVANAUGH. Mr. Speaker, it is not often that the death of a single person affects an institution, a society, or a city as deeply as the August 13 death of Father Carl M. Reinert has moved Creighton University, the Jesuit Community, and the city of Omaha, Nebr. Father Reinert has touched the lives of many students, businessmen, and fellow clergy across the Nation in his different capacities as an educator, a fundraiser, and most importantly a Jesuit priest.

In his 30 years of service to Creighton University he is credited with adding 12 new buildings to the campus and raising some $200 million for the university's development. Father Reinert entered the priesthood, as did two of his three brothers, out of a deep sense of dedication and zeal for enriching the lives of students through the teachings of Christ. Father Reinert was loved by all who knew him and will be missed by many. In his honor I would like to include this tribute to Father Carl M. Reinert which appeared recently in the Catholic Voice newspaper of the Archdiocese of Omaha.

The tribute follows:

FATHER REINERT'S DEATH ENDS ERA

He had been dying for almost a year. Maybe that's why his death didn't seem like the sudden, shocking end of an epoch—it would have been had he been taken away while still in his vigorous prime.

Death for Father Carl M. Reinert was a release and a blessing. It came after long months during which this once poised, strong, dynamic leader suffered in body and spirit as an invalid without hope of recovery.

But on the rainy summer Saturday morning that his remains were buried, the throng of his mourners overflowed St. John's Church on the campus of the university which had been his life—right up to the day last September when recurrent chest pains sent him into surgery. For most of the throng, it would be hard, after an association of 30 years, to think of Creighton University without its Father Reinert.

That association began in 1950 when the 37-year-old priest was looking forward to another year as principal of Campion High School in Prairie du Chien, WI. As he himself told it, when he received a B'nai B'rith Americanism citation in 1962, "I might have spent my days in this work, or in the college classroom—both honorable and appealing occupations. But my superiors challenged me to embrace a broader scope."

That was putting it mildly. Creighton University in 1950 was in serious trouble.

Not only was enrollment down after a temporary resurgence following World War II. It faced a financial crisis. There was talk of closing at least one of its professional schools.

There hadn't been a new building in decades. Facilities were inadequate in many areas. Alumni still resented the recent decision not to resurrect intercollegiate football.

Worse yet, few seemed to recognize the full plight of the institution. A fund drive had fallen on its face—primarily because people couldn't believe that the university endowed by the wealthy Creighton family really needed money, some say.

When Carl Reinert received his new assignment at age 37—making him the youngest of Creighton's presidents—he wisely spent those first weeks and months learning as much as he could about the university. He had one distinct advantage—he knew Creighton and Omaha from his years (1938-41) as a Creighton Prep teacher, and he had friends here who could help him size up the situation.

The rest is history. He saw the university's plight, spoke about it frankly and credibly, won the enthusiastic support of influential business and community leaders, and led an effort which saw Creighton develop and grow into a strong independent urban university.

He was gracious, enthusiastic and positive. He was also confident, decisive and articulate. Sometimes his confidence led to action beyond the perimeters suggested by better informed advisers, and sometimes his decisions seemed heedless of the experience and wisdom of subordinates. Sometimes he drove his staff to distraction by telling too much too soon about the university's hopes and plans.

More often than not, this was a result of his enthusiasm and his love for the institution whose nurturing had become his life's work.

He was most widely hailed as a successful fund-raiser, sometimes deprecatingly. He made many key contacts personally, but he was also peerless in recruiting talent—both in his full-time staff and among the thousands of volunteers who carried out Creighton's major campaigns.

The first drive in 1955, led by Omaha advertising executive Morris Jacobs, raised more than $2 million. That became the first phase in an expansion program that was to reach the $14 million mark in the next few years.

In 1962 when, in a sense, he traded jobs with the late Father Henry Linn, Father Reinert guided a five-year $24 million program. By 1970 he was in the midst of a 10-year "Centennial Thrust" campaign that was to bring in more than $117 million.

Before 1956, the campus had seen little physical change for more than a quarter-century. After 1956 the sight and sound of construction were continuous.

Yet Carl Reinert was more than a dollars-and-bricks man. He was always approachable and accessible. He was constantly in contact with students and alumni—counseling, encouraging, and even interceding when asked to.

He also was recognized as a community leader. The list of his awards and citations more than proves that.

Through all this activity, he insisted that he was, above all, a priest.

Though he had grown up in Boulder, his parents had sent him and his four brothers to the Jesuit high school in Denver because of their belief in the importance of Catholic education. And it was at Regis High School that Carl Reinert at age 18 made his decision to become a priest.

He entered the Jesuit seminary in Florrisant, MO in 1931, continued his studies at St. Mary's College in Kansas, then spent the traditional three years as a scholastic (Jesuit high school teacher) before his ordination in 1944. For almost 36 years of his active priesthood he began each day by celebrating Mass—halted only when his crippled body became a prison for his soul.●

WILLIAM E. BURKE

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. FAZIO. Mr. Speaker, on August 31, 1980, William Edmund Burke retires as the fire chief for Yuba City, Calif. I would like to take this opportunity to commend this distinguished citizen for his outstanding service to the community.

Born on November 2, 1923, in Roswell, N. Mex., Chief Burke served his country in the U.S. Air Force from 1942 to 1945. In 1946 he began his career as a firefighter in Lynwood, Calif. and subsequently was promoted to the position of engineer captain, respectively. He also served as president of the Lynwood Firemen's Association and president of the Lynwood City Employees' Association. In 1957 Chief Burke joined the Downey Fire Department, again serving as president of both the Downey's Firemen's Association and the Downey Employees' Association.

In September of 1964 Yuba City was most fortunate to have Chief Burke accept the position of fire chief. In this capacity, Chief Burke worked to update department rules and regulations, develop and finalize new ordinances and enforcement procedures, and to improve fire protection equipment and fire prevention programs. Under the chief's leadership the Yuba City North Substation was dedicated on March 31, 1980.

The chief's professional capabilities were enhanced by his active participation in organizations such as the California State Board of Fire Services, the California State Firemen's Association, the National Safety Council, the California College Fire Advisory Board, the California Fire Chiefs' Association, the International Fire Chief's Association, the California Conference of Arson Investigators, and the California State Fire Educators.

Married to Marjorie and the father of William, Michael, Pamela, and Janet, Chief Burke found time in his daily life not only for his family and career but also to help better the lives of those around him. This includes such activities as serving as chairman of the American Red Cross, CPR chairman of the Yuba-Sutter-Colusa Heart Association, a director of the Midland District Boy Scout Council, a director of the Arroyo Grande Girl Scout Council, public education chairman of the American Cancer Society, and a director of the Rotary Club. He has also been involved with the March of Dimes, United Way, Muscular Dystrophy Association, YMCA, and the Lions Club.

Chief William Burke deserves to be honored by the community he has served so well for 16 years. He has been a competent leader of the fire department and his fine work reflects his dedication to the public. He has made unselfish personal contributions of his time to improve the lives of those in the community. I commend Chief Burke as an outstanding citizen and superb public servant.●

ASSURING ACCESS TO STRATEGIC MATERIALS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. BROOMFIELD. Mr. Speaker, assuring access to foreign energy and raw materials requires the harmonization of economic policy with our defense and foreign policy. In particular, a strong defense is vital not only to our physical security but also our economic well-being. In this regard, I commend to my colleagues the following article which appeared in the August 21, 1980, edition of the Washington Star:

THE STRATEGIC MATERIALS GAP

(By Daniel James)

Mention American dependence on shaky or hostile foreign sources for essential raw materials and most people think oil. But other strategic materials may turn out to be more important to our defense effort and ultimate national wellbeing.

Consider. The U.S. Bureau of Mines lists four minerals of prime concern in the manufacture of such weapons as fighter jets, tanks and other armaments. These are chromium, manganese, platinum and cobalt, all of which come from central and southern Africa.

The United States imports 98 percent of its manganese, 92 percent of its chromium and 91 percent of its platinum besides nearly all of its cobalt from Gabon, Zaire, Zimbabwe and South Africa. Manganese is essential to making steel. Platinum is a necessary catalyst in the automotive, electronic and petroleum industries. Jet engines require cobalt. Chromium is vital to aerospace weapons.

The United States is also over-dependent on foreign sources for less exotic but equally significant materials. Take bauxite, the basis for aluminum, which is, in turn, the basis for many defense and non-defense manufacturing needs in this country. Ninety-three percent of our supply comes from abroad, much of it from the conspicuously unstable and dubiously friendly country of Jamaica.

There is also rubber, which goes into the making of tank treads and aircraft tires as well as ordinary radials, for which synthetic substitutes are unsuitable. The United States, which does not grow rubber, is forced to import all its supplies. And these come from, of all places, Southeast Asia, whose rubber production was denied to America when the Japanese occupied the region in World War II. Forty years later, the United States has gone back to total dependence on the same unreliable source.

Happily, we are exploring the possibilities of producing a natural rubber substitute from a natural plant, guayule, in this country. But research has scarcely begun, and even if guayule proves feasible, it will take four or five more years to produce commercially.

Meanwhile, the Soviet Union is as independent of foreign sources of strategic materials as the United States is dependent on them. It needs to import only six of the 93 substances defined by the Strategic and Critical Materials Stockpiling Act of 1979 as critical. Soviet imports run no higher than 50 percent and that maximum applies to only two materials.

The most serious Soviet lack is of bauxite, of which it imports only one-third of its needs. In a conventional war, the Soviets would be virtually self-sufficient in strategic materials.

The Stockpiling Act, an update of a measure dating back to World War II, sets stockpiling goals for the 93 materials it has designated as strategic or critical. Under the act, the quantities to be stockpiled should be "sufficient to sustain the United States for a period of not less than three years in the event of a national emergency."

So far, though, only 50 materials have reached stockpiling goals. The remaining 43 fall short by as much as 100 percent. Among those lacking are cobalt, bauxite, platinum, cobalt and rubber.

The dangers are obvious. When are U.S. leaders going to start taking them seriously?●

INCREASE CONGRESSIONAL OVERSIGHT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. MAZZOLI. Mr. Speaker, in his state of the Union address to the 96th Congress, and in many public statements since, President Carter has strongly endorsed the passage of legislation to provide a major overhaul of the Federal regulatory process.

However, the actions of the administration raise questions in my mind about how fervent, indeed, is its commitment to regulatory reform.

The House Judiciary Subcommittee on Administrative Law spent many long hours in hearings and markups on all the pending versions of regulatory reform bills—including the administration's. All viewpoints were given careful and thoughtful attention before a bill was reported to the full House Judiciary Committee.

The full committee has already held several markup sessions on this important bill. While the product of all this labor is not perfect it is, on balance, an excellent piece of legislation. It does not deserve the fate it seems to have been consigned: to be allowed to slip under the murky waters of the 96th Congress without a ripple.

Daily, I hear complaints from residents and business people of the Third Congressional District that they are driven to distraction by the flood of bureaucratic rules and redtape. They are pleading for relief.

Mr. Speaker, passage of legislation to increase congressional oversight of—and public participation in—the regulatory process should no longer be delayed.●

CONGRESSMAN FLOYD FITHIAN CARRIES THE MESSAGE OF GASOHOL

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. BRADEMAS. Mr. Speaker, no Member of the House of Representatives has been more articulate or effective in urging the use of gasohol as an alternative to petroleum than our distinguished colleague from Indiana, Hon. Floyd Fithian.

I insert at this point in the Record the text of a most thoughtful editorial from the August 22, 1980, issue of the LaPorte (Ind.) Herald-Argus, published in the district I have the honor to represent, concerning Congressman Fithian's leadership in this respect.

The editorial, "Carrying the Message," follows:

CARRYING THE MESSAGE

Second District Congressman Floyd Fithian, D-Lafayette, a prime pusher of gasohol as one means of stretching petroleum-based motor fuels, at least got the message on gasohol to a congressional committee during recent hearings on the Purdue University campus.

Fithian has been concerned that Congress and the federal Department of Energy (DOE) are among the hardest people to convince that gasohol can indeed contribute to the petroleum conservation, and that it is feasible economically. The most difficult to convince, of course, are leaders in the petroleum industry—with the notable exception of Texaco.

During recent House Government Operations subcommittee hearings arranged by Fithian on the Purdue campus, several of the university's most authoritative gasohol researchers assured subcommittee members that use of corn in fuel production would not significantly reduce world food supplies, and that Purdue's tests of biomass conversion processes definitely shows they develop more energy than they consume.

The most important point made at Purdue was that current technology permits use of agricultural starch and sugar to be developed into fuel while still leaving its protein products for the farm feed lots where a lot of the American corn crop is used.

At Purdue they pointed out that maybe in the long run it will not be corn anyhow but the "biomass" process that can best manufacture alcohol to stretch gasoline. Gasohol is about one-tenth alcohol and the rest is unleaded gasoline.

Biomass is a catch-all term for vegetation that can be converted to energy through fermentation, or possibly distillation. This vegetation may include cornstalks, wood chips and straw—essentially residuals. It is more difficult to ferment these materials than starch from corn kernels, but Purdue is one place where researchers are coming up with solutions to this sort of conversion.

We hope that the congressmen who have witnessed the immense possibilities for biomass development such as using feedlot wastes that we previously never dreamed were reusable can take this message back to Washington and convince political decisionmakers there that gasohol can become a viable source of energy.●

FEDERAL GOVERNMENT SPENDING

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. GRASSLEY. Mr. Speaker, at this time I would like to bring to the attention of my colleagues and readers of the Congressional Record a matter that in its own right needs no introduction. I am referring, of course, to Federal governmental spending.

I sincerely feel that it is time to take action. It is time to account for the billions of taxpayers dollars that, during the course of every year, are so recklessly spent on projects and programs of a questionable nature. It is no secret that excessive Federal spending has, in turn, led to an astronomical national deficit as well as a double digit inflation rate. Public awareness of the irresponsibly large amount of dollars spent each year by the Federal Government and agencies is on the upswing.

Fiscal sanity can be returned to the Federal Government by the overall realization that its spending cannot exceed its revenues. Much like the American taxpayer the Federal Government must be responsible in its spending ways. We cannot continue to spend more than we take in. It must also initiate its own "belt tightening" to maintain fiscal stability.

In light of this fact, I would like to share with my colleagues now, a resolution of special significance. Authored by Iowa City attorney, John T. Nolan, the resolution was adopted as part of the platform by Republicans of Johnson County, Iowa, and Iowa's First Congressional District. The resolution proposes to heighten voter awareness of the big spender problem by focusing on the diametrically opposite calendar dates of the April deadline for filing income tax returns and the November general elections. It is felt that the voter, still ripe from filing his returns, would give more thought to the candidate and his spending proposals when voting. The resolution text follows:

Be it resolved that the deadline for filing State and Federal income tax returns be moved to the Monday first preceding the general election Tuesday, and corresponding off-year dates.

The intended purpose of the Resolution is to achieve the heightening of voter awareness as to fiscal responsibility, and to provide artillery for candidates who are so inclined.●

REAGAN AND BUSH SPEAK OUT ON ASIA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. GILMAN. Mr. Speaker, at a time when the Soviet Union is increasingly flexing its muscles throughout the world, our relationships with our friends and allies around the globe continues to gain importance. The recent report by Ambassador Bush of his mission to the Far East stressed the vital role that Japan plays as a pillar of our Asian policy, both militarily and economically. At the same time he noted that United States-China relations have developed far beyond trade and cultural ties as we share mutual concerns about the pace and scale of the Soviet military buildup.

Upon the return of Ambassador George Bush from his special mission to Japan and China, Gov. Ronald Reagan commented upon the importance of our role in Asia and in the Pacific area and the findings of Ambassador Bush's trip. In a series of high level meetings with the distinguished leaders of Japan and China, Ambassador Bush had an opportunity to hear their views firsthand and to discuss their recommendations concerning our future foreign policy.

Governor Reagan pointed out that the leaders of both China and Japan acknowledged to Ambassador Bush that the United States must be a strong and vigorous defender of the peace and they favor the bolstering of our defenses and alliances. In particular, he found the Japanese leaders unanimous in their view that the United States must be a strong, reliable and leading partner.

To overcome past inconsistencies and to avoid vacillation in our Far Eastern policies, Governor Reagan and Ambassador Bush, in their recent statement in Los Angeles, have outlined a strong, vigorous role for our Nation in Asia.

Mr. Speaker, in order to share their views with my colleagues, I ask that a full copy of the Reagan-Bush statement on Far Eastern policy be inserted at this point in the RECORD:

STATEMENT BY RONALD REAGAN

Ten days ago George Bush and I met with you here in Los Angeles on the occasion of his departure for Japan and China, a trip he undertook at my request. As we stressed at the time, the purpose of the trip was to provide for a candid exchange of views with leaders in both countries on a wide range of international topics of mutual interest. Ambassador Bush returned last evening, and has reported his findings in detail.

We are both very pleased with the results of his extensive discussions. In a series of meetings with distinguished leaders in Japan, including Prime Minister Suzuki, Former Prime Ministers Fukuda, Kishi and Miki, Foreign Minister Itoh and Minister of International Trade and Industry Tanaka, he had the opportunity to hear their views and recommendations concerning the future of U.S.-Japanese relations.

Our Republican Party Platform stresses that Japan will remain a pillar of our policy for Asia, and a Reagan-Bush Administration will work hard to insure that U.S.-Japanese relations are maintained in excellent condition, based on close consultation and mutual understanding.

Japan's role in the process of insuring peace in Asia is a crucial one, and we must reinforce our ties with this close ally. Japan is our second most important trading partner, and we are her first. We have close ties in other fields, too. A most important example is the U.S.-Japan Mutual Security Treaty which recently marked its twentieth anniversary.

Understanding the Japanese perspective is important for the success of American policy. As Ambassador Bush will tell you in detail, he found Japanese leaders unanimous in their view that the United States must be a strong, reliable, leading partner.

I appreciate receiving their views, and I am grateful to them for the courtesies extended to Ambassador Bush. I would also like to express my appreciation to, and regard for, U.S. Ambassador Mike Mansfield, who also extended many courtesies.

Of equal importance was Ambassador Bush's trip to China, where he held a series of high-level meetings. As I said on August 16, "we have an obvious interest in developing our relationship with China, an interest that goes beyond trade and cultural ties. It is an interest that is fundamental to a Reagan-Bush Administration."

The meetings in Beijing provided for extensive exchanges of views. George has reported to me in great detail the points of similarity and agreement, as well as those of dissimilarity and disagreement. Since the objective of the trip was to have just such an exchange without necessarily reaching agreement, I believe that the objective was reached.

We now have received an updated, firsthand of China's views, and the Chinese leaders have heard our point of view.

While in Beijing, Ambassador Bush and Richard Allen met at length with Vice Premier Deng Xiaoping, Foreign Minister Huang Hua, as well as with other top foreign policy experts and military leaders. I appreciate the courtesies which the Chinese leaders extended to our party, and I also wish to thank U.S. Ambassador Leonard Woodcock for his kind assistance.

We now maintain full and friendly diplomatic relations with China. This relationship began only a few years ago, and it is one which we should develop and strengthen in the years ahead. It is a delicate relationship, and the Reagan-Bush Administration will handle it with care and respect, with due regard for our own vital interests in the world generally, and in the Pacific region specifically.

China and the United States have a common interest in maintaining peace so that our nations can grow and prosper. Our two-way trade has now reached approximately $3.5 billion annually, and China's program of modernization depends in a major way on Western and U.S. technology.

Along with many other nations, we and China share a deep concern about the pace and scale of the Soviet military buildup. Chinese leaders agree with Japanese leaders that the United States must be a strong and vigorous defender of the peace, and they specifically favor us bolstering our defenses and our alliances.

It is quite clear that we do not see eye to eye on Taiwan. Thus, this is an appropriate time for me to state our position on this subject.

I'm sure that the Chinese leaders would place no value on our relations with them if they thought we would break commitments to them if a stronger power were to demand it. Based on my long-standing conviction that America can provide leadership and command respect only if it keeps its commitments to its friends, large and small, a Reagan-Bush Administration would observe these five principles in dealing with the China situation.

GUIDING PRINCIPLES FOR THE FAR EAST

First, U.S.-Chinese relations are important to American as well as Chinese interests. Our partnership should be global and strategic. In seeking improved relations with the People's Republic of China, I would extend the hand of friendship to all Chinese. In continuing our relations, which date from the historic opening created by President Nixon, I would continue the process of expanding trade, scientific and cultural ties.

Second, I pledge to work for peace, stability and the economic growth of the Western Pacific area in cooperation with Japan, the People's Republic of China, the Republic of Korea and Taiwan.

Third, I will cooperate and consult with all countries of the area in a mutual effort to stand firm against aggression or search for hegemony which threaten the peace and stability of the area.

Fourth, I intend that United States relations with Taiwan will develop in accordance with the law of our land, the Taiwan Relations Act. This legislation is the product of our democratic process, and is designed to remedy the defects of the totally inadequate legislation proposed by Jimmy Carter.

By accepting China's three conditions for "normalization," Jimmy Carter made concessions that Presidents Nixon and Ford had steadfastly refused to make. I was and am critical of his decision because I believe he made concessions that were not necessary and not in our national interest. I felt that a condition of normalization—by itself a sound policy choice—should have been the retention of a liaison office on Taiwan of equivalent status to the one which we had earlier established in Beijing. With a persistent and principled negotiating position, I believe that normalization could ultimately have been achieved on this basis. But that is behind us now. My present concern is to safeguard the interests of the United States and to enforce the law of the land.

It was the timely action of the Congress, reflecting the strong support of the American people for Taiwan, that forced the changes in the inadequate bill which Mr. Carter proposed. Clearly, the Congress was unwilling to buy the Carter plan, which it believed would have jeopardized Taiwan's security.

This Act, designed by the Congress to provide adequate safeguards for Taiwan's security and well being, also provides the official basis for our relations with our long-time friend and ally. It declares our official policy to be one of maintaining peace and promoting extensive, close, and friendly relations between the United States and the seventeen million people on Taiwan as well as the one billion people on the China mainland. It specifies that our official policy considers any effort to determine the future of Taiwan by other than peaceful means a threat to peace and of "grave concern" to the United States.

And, most important, it spells out our policy of providing defensive weapons to Taiwan and mandates the United States to maintain the means to "resist any resort to force or other forms or coercion" which threaten the security or the social or economic system of Taiwan. This Act further spells out, in great detail, how the President of the United States, our highest elected official, shall conduct relations with Taiwan, leaving to his discretion the specific methods of achieving policy objectives.

The Act further details how our official personnel (including diplomats) are to administer United States relations with Taiwan through the American Institute in Taiwan. It specified that for that purpose they are to resign for the term of their duty in Taiwan and then be reinstated to their former agencies of the U.S. government with no loss of status, seniority or pension rights.

The intent of the Congress is crystal clear. Our official relations with Taiwan will be funded by Congress with public monies, the expenditure of which will be audited by the Comptroller General of the United States; and Congressional oversight will be performed by two standing Committees of the Congress.

You might ask what I would do differently. I would not pretend, as Carter does, that the relationship we now have with Taiwan, enacted by our Congress, is not official.

I am satisfied that this Act provides an official and adequate basis for safeguarding our relationship with Taiwan, and I pledge to enforce it. But I will eliminate petty practices of the Carter Administration which are inappropriate and demeaning to our Chinese friends on Taiwan. For example, it is absurd and not required by the Act that our representatives are not permitted to meet with Taiwanese officials in their offices and ours. I will treat all Chinese officials with fairness and dignity.

I would not impose restrictions which are not required by the Taiwan Relations Act and which contravene its spirit and purpose. Here are other examples of how Carter has gone out of his way to humiliate our friends on Taiwan:

Taiwanese officials are ignored at senior levels of the U.S. government.

The Taiwan Relations Act specifically requires that the Taiwanese be permitted to keep the same number of offices in this country that they had before. Previously, Taiwan had 14 such offices. Today there are but nine.

Taiwanese military officers are no longer permitted to train in the United States or to attend service academies.

Recently the Carter Administration attempted to ban all imports from Taiwan labeled "Made in the Republic of China," but was forced to rescind the order after opposition began to mount in the Congress.

The Carter Administration unilaterally imposed a one-year moratorium on arms supplies even though the Act specifies that Taiwan shall be provided with arms of a defense character.

The Carter Administration abrogated the Civil Aviation Agreement with Taiwan, which had been in effect since 1947, in response to demands from the People's Republic of China.

I recognize that the People's Republic of China is not pleased with the Taiwan Relations Act which the United States Congress insisted on as the official basis for our relations with Taiwan. This was made abundantly clear to Mr. Bush, and, I'm told, is clear to the Carter Administration. But it *is* the law of our land.

Fifth, as President I will not accept the interferences of any foreign power in the process of protecting American interests and carrying out the laws of our land. To do otherwise would be a dereliction of my duty as President.

It is my conclusion that the strict observance of these five principles will be in the best interests of the United States, the People's Republic of China and the people on Taiwan.

The specific implementation of these duties will have to await the results of the election in November, but in deciding what to do I will take into account the views of the People's Republic of China as well as Taiwan. It will be my firm intention to preserve the interests of the United States, and as President I will choose the methods by which this shall best be accomplished.●

ANNIVERSARY OF THE MOLOTOV-RIBBENTROP PACT OF 1939

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. DODD. Mr. Speaker, in America, freedom is the basis of our democracy and the essential principle of our Constitution. But freedom is only a distant memory and a future hope for the people of Lithuania.

August 23, 1980, marked the 41st anniversary of the Molotov-Ribbentrop Pact which meant the end of 20 years of independence for Estonia, Latvia, and Lithuania. In 1919, V. I. Lenin recognized the separation between Estonia, Latvia, and Lithuania and the Soviet Empire. And in 1923 this independence was written into law through peace treaties between Russia and these Baltic States. However, World War II soon changed this situation.

On August 23, 1939, the German Reich and the Soviet Union concluded a secret peace pact that divided Eastern Europe into separate spheres of influence. The essence of the pact was that the countries of Finland, Estonia, and Latvia were to come under the guidance of the Soviet Union, while the nation of Lithuania was to be controlled by the German Reich. In September of 1939, a formal treaty was announced that placed Lithuania under Soviet control as well. The treaty was known as the Molotov-Ribbentrop Pact.

On August 14, 1941, President Franklin Delano Roosevelt worked with Prime Minister Winston Churchill to produce the Atlantic Charter. Point 2 of this charter declared that both the United States and Great Britain would "not consent to any territorial changes which are not in agreement with the freely expressed wishes of the nations involved." Point 3 stated that the signatory nations would "respect the right of all nations to choose for themselves that form of government under which they want to live * * * and strive to reestablish the sovereign rights and self-rule of those nations which were deprived of these by means of force." The U.S.S.R. signed the charter on September 24, 1941, despite the fact that the Soviets had already annexed several Baltic nations as part of the Molotov-Ribbentrop Pact.

Soviet occupation in Lithuania has served to stifle the cultural, political, and religious heritage of a once free nation. The Lithuanian people may speak their own language, but they are still Soviet citizens. The Lithuanian people may have their own 1,000-year history, but they are still governed by the laws of Moscow. The Lithuanian people may have their own official interests abroad, but these interests are still handled by Soviet Embassies and Soviet consulates. The Lithuanian people have not been free for over 40 years.

But despite Lithuania's loss of independence, the Lithuanian people have never lost their national identity. Josephine Dauzvardis is a grandmother. On the wall behind her desk hangs the traditional emblem of the nation of Lithuania. Mrs. Dauzvardis is the Consul General for the Lithuanian Republic. For her and for so many other Lithuanian Americans, the struggle for freedom continues. In her own words: "We live in hope. We work in hope. One day Lithuania might be free again."

August 23 marked the anniversary of a pact which must be condemned by all nations which believe that justice, liberty, freedom, and equality are rights that should be shared by all people. The world must never forget the continuing struggle for independence by all oppressed nations.●

SHORTCOMINGS OF THE PRESIDENT'S NEW ECONOMIC PROGRAM

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. HAWKINS. Mr. Speaker, the President's new economic program deserves credit for recognizing that his existing policies and programs are not working. But the new policies are of peripheral significance in magnitude and nature, compared with the failed policies now in existence, and in addition are substantially misdirected, based upon experience and current analysis.

The President's new program, in essence, would attempt nothing by way of legislation until the next Congress. This is based upon the fashionable new idea that it is too late to do much about the current recession, but that we should not start long-range preparation for a qualitatively improved recovery that will stick. True, what the administration has done this far has been too shortsighted. But a long-range proposal to maintain good health cannot attempt to avoid and jump over the current illness. The President remains unfortunately committed to policies which in his own words will result in 8 percent or more unemployment by 1981, and this is consistent only with use of plant capacity not much better than 70 percent and an annual deficiency in total national production between $200 and $300 billion. This degree of neglect of human misery and economic forfeitures today cannot be assuaged by promises of how healthy we are going to be much later on. These promises are no more convincing than when the President asked the American people to overlook the mistakes in policies to date and what they are doing to us and instead to gaze ahead to the bright future which he claims for his policies in the sweet by-and-by.

There is nothing in the President's new program which swerves 1 inch from the continued commitment, both through budget policy and monetary policy, to defer economic recovery and prolong recession in the name of fighting inflation. This so-called tradeoff policy has been a disastrous failure whenever tried during the past quarter century, and especially in more recent years. For more than 1 year now, this has been recognized in almost unanimous reports of the Joint Economic Committee, and even to the extent not recognized, the facts are there. The reduction of consumer price inflation during recent months from 13 to 10 percent is at best an ambiguous undulation, and in any event 10-percent inflation in recent months is worse than 13-percent inflation earlier, because one is piled on top of the other and comes to more than 23 percent compounded. The President's still-maintained claim that it will take until 1988 to get inflation down to 3 percent is a sad admission that genuine programs to reduce inflation have not been undertaken, and that policies which have chronically augmented inflation are still the name of the game plan. That this is true is evidenced by administration approval or at least acquiescence in the renewed rise in the prime rate and in home mortgage interest rates.

Coming to the content of the President's new program itself, as already indicated it is a mere bagatelle compared with the need to correct existing policies whose misdirection is at the heart of the matter. But the new program is also misdirected in the economic reason which fundamentally underlies it. Considering what the Nation needs most and most immediately, it is not so much tax reduction and concessions as investment or spending for job creation, the latter being by common consent much more economical and efficient per dollar spent. And the nature of the proposed tax reduction, providing enormously more help to investors than to consumers, is discredited by a great deal of recent experience. This imbalance is aggravated greatly, because an even equal number of spendable dollars provided for investors and consumers would help investors six times as much on a percentage increment basis, because consumer spending is about six times as large in dollars as nonresidential fixed investment.

Moreover, investment by big companies is not held back by absence of funds, which they can obtain more easily than others, but by their conclusion that market demand on the part of consumers and Government is insufficient to justify more investment. Technically, productivity is still advancing rapidly, and the serious slowdown in actual productivity growth is the result of high plant disuse and underutilization of employed workers. The remedy for this is more business volume through sales, not excessive tax bonanzas to the wrong people. Coining a newfangled term like "supply management" solves nothing. We need to create a proper balance between supply and demand, and when there are 8 million unemployed representing a very slack economy the first approach is massively to reduce unemployment.

Recent experience confirms the view that the excessive emphasis upon the wrong method of stimulating investment in the President's program is not new, but tried and failed. Repeatedly it has been tried, and never has it worked. To take but one example which is typical, the 1971 tax cuts allocated almost three times as many dollars to investment as to consumption, and by the time this took much effect we were well on the way to the most severe recession to date. Tax concessions to investors are indeed necessary, but they should be selectively pinpointed, as when they were successful in the past, to help important shortage areas where the industries involved really need more working funds, and should be accompanied by meaningful quid pro quos that the concessions will be used for more investment. The President's proposals for the stimulation of investment are substantially helter-skelter, designed for where they will have dramatic appeal, and hardly related at all to a comprehensive and consistent program for real and sustained economic recovery toward a full economy. Chrysler may or may not have needed help from the Government, but it is dangerous to apply that principle, on a random basis, to more and more situations.

Observing the Humphrey-Hawkins Act, which is still being flagrantly ignored, would do more good within a year than the President's new program could do within a decade, and without the minuses as well as the pluses in the President's new program.●

HAPPY BIRTHDAY, U.S.A.

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. MAVROULES. Mr. Speaker, ringing the bells to extol the pride of the American people and the American tradition is an appropriate tribute on the Fourth of July and every other day of the year. Accept with qualified apologies, therefore, my late submission of this expression of patriotism from a constituent of mine, Maurice Goldsmith, of Swampscott, Mass.

HAPPY BIRTHDAY U.S.A. ON JULY 4TH

On July 4th, 1980, America will celebrate 204 years of independence. A simultaneous ringing of the bells on July 4th will herald America's march into the third century.

July 4th affords each one of us precious time to think about our nation's beginning, and the meaning of our American traditions, the historic importance of Massachusetts and its historic towns and cities.

On July 4th, 1776, liberty was proclaimed by the tolling of the Liberty Bell in Philadelphia's Independence Hall. On July 4th, 1980, Americans will pause and listen to the message from the bells all over the U.S.A. The bells will peal out a reminder of our freedoms, how hard they were won, and how easily they can be lost.

The July 4th story starts with those memorable words, "When in the course of human events . . . We hold these truths to be self evident, that all men are created . . . and endowed by their Creator . . . that governments are formed by the will of the governed."

On this July 4th we should rediscover and reread the rest of this great American historical document.

We might find greater inspiration and something more meaningful about Independence Day and our American heritage and tradition. July 4th is a sacred day in world history and the most important day in the U.S.A. In 1776 a determined group of citizens affixed their names to a document that eventually changed the shape of the world.

On this July 4th let each one of us rededicate and rekindle a devotion to the principles and ideals upon which our great nation was founded. To love America is our right and privilege. To make America better is the responsibility of us all. God Bless America. Happy Birthday U.S.A.●

SPEECH TO DEMOCRATIC STATE CONVENTION

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. FORD of Michigan. Mr. Speaker, on August 23 and 24, I had the unique honor of chairing the 1980 Michigan Democratic State Convention, at Cobo Hall in Detroit.

One of the highlights of the convention was a stirring and hard-hitting speech by Michigan's senior Senator, Hon. DONALD W. RIEGLE, JR.

The message in Senator RIEGLE'S speech, and his summary of our Nation's challenges, were so incisive, and so meaningful, I thought they deserved a wider audience.

For that reason Mr. Speaker, I insert in the RECORD at this point the text of Senator RIEGLE'S truly outstanding speech before the Michigan Democratic State Convention:

SPEECH TO DEMOCRATIC STATE CONVENTION, DETROIT, MICH.

Let me ask you to remain seated and join me in a moment of silent prayer.

Dear God we ask you today to be with us and give us strength and wisdom as we reason and work together. We ask you to inspire our judgment and give us the courage to do the things we believe are right.

We ask also, Lord, that you guide and strengthen our brothers and sisters in Poland as they struggle for freedom and their rights as workers and individuals. Their courage is an inspiration to all the world.

Lord, we ask you to be with and strengthen our brothers and sisters in all the captive nations. Let our deliberations here always be aimed at bringing the freedoms we enjoy to all the people of the world. Amen.

We gather here at a moment of great pain and difficulty for our people.

With our party platform—our candidates—and our personal commitment of effort to serve the people—we are here for the purpose of responding to the needs of the people with a vision of the future. A vision of the possibilities of change for the better.

A vision of a better life for all our citizens.

It is a vision of justice, decency and a driving commitment to the fullest possible development of every man, woman, and child in America.

It is a vision that means to reach into the most remote corner of the Jeffries Housing Project to the most frail and troubled youngster there—and to say that that child is our child—is America's child—and is and will always be the child of this Democratic party.

And that vision reaches equally to the black child, the white child, the Hispanic child, the Indian Child—and all others across our land.

That human family bond of love and concern and commitment is the history of the Democratic party stretching from Jefferson to Jackson, and continuing forward through Roosevelt, Truman, Kennedy, Johnson and is found today in the stewardship of Jimmy Carter and Fritz Mondale.

It is a mightly wave of human energy and effort stretching across two centuries that has rebuilt both the foundation and the face of our nation.

In every critical fight—Civil Rights, Workers Rights, Senior Citizens Rights, Educational Rights, Health Rights, Womens Rights.

It has been this Democratic Party—our party—that has fought to remove the barriers and inequities and bring the promise of freedom, dignity and opportunity to all our people.

That is the lifting dream of our party—and we meet here today to re-affirm it—and apply it to the challenges that now, in 1980 are our responsibility to deal with.

A few weeks ago, the Republican Party held its national convention in this great city.

They wrote a platform—and selected a Presidential candidate that does not understand the needs of our people—and would cause Abraham Lincoln to hang his head with dismay and a heavy heart.

The Republican alternative in 1980 is not relevant to this nation's urgent problems and opportunities.

The Republican alternative in 1980 is perhaps best summed up by its cruel and misguided decision to walk away from the fight for equal rights for women—and it should hang its head in shame.

Sending a reactionary retired movie actor from Hollywood into our Nation's highest office would be a travesty of common sense—and bring new dangers to our country.

Just within this last week we have heard Ronald Reagan tell us that the Vietnam War was good for America. Any misguided person who believes that must never be given the power to send our nation into another Vietnam.

We need instead a Presidency that is wise enough and strong enough to both protect our strategic interests and avoid a foreign war.

And we have one.

We need, instead, a Presidency that will turn to the urgent task of confronting the economic war now occurring in this city—and in every community across our entire state.

And we have one that must do more—and will do more—and we have a role to play in making that happen—

We need jobs—and industrial revitalization. We need action to reduce the invasion of Japanese cars and trucks—we need expanded Trade Adjustment Assistance—and new efforts to retrain displaced workers. We need emergency help for our people.

Only one party in America understands this need—and is committed to action—and it is our Democratic Party.

Tomorrow, in Washington, Senator Kennedy and President Carter will meet together in The White House to begin work on an economic recovery program for America. This is what we have been fighting for—this is what we need.

The hard truth is that enough has not yet been done—and we must continue to press the fight for greater action within our party and our elected leadership.

But we must never confuse that valid fight for greater efforts and new priorities within our party—with the deadly dangers posed to all we believe in by the possibility of a Ronald Reagan presidency.

Whatever reservations any of us may have—we must understand the Reagan danger for what it is—and join together in the greatest election effort we have ever made. Everything we believe in is at stake—and I am here to ask you to respond accordingly.

I hope that no person within the reach of these words would allow the proper debates within our party to divert us from the immediate task that now faces us.

We must begin the hard work of electing our entire Democratic ticket—and that must begin with an all-out personal commitment to re-elect President Jimmy Carter—and Vice President Fritz Mondale—and we must start here and now.

It is their jobs and ours to keep Ronald Reagan and his reactionary camp-followers out of The White House.

We must re-elect all our Democractic incumbents in Congress: John Dingell, Bill Ford, Jim Blanchard, Dave Bonier, Dave Kildee, John Conyers, Bill Brodhead, Bob Traxler, Don Albosta, Bob Carr, Howard Wolpe. And we have other vital races to win.

We need George Crockett and Dennis Hertel sent to Congress.

We must give our Congressional challengers—Dan Dorrity, Kathleen O'Rielly, Dale Spick, Wayne Daniels, and Jerry Furst, the support they need to win.

We must work hard to elect our Democratic State Legislative candidates—who will draw the new political boundary lines for the next decade.

We must elect all the State Board and Supreme Court candidates we nominate today.

We must support and elect our local Democratic candidates at the city, county and township level.

We need a united effort for all Democrats—I am pledged to that effort—and I am asking for your pledge today.

In 1968—our party went throught a great struggle before we nominated Hubert Humphrey for President.

Because our party did not unite to elect that great man—we have had instead long years of difficulty and national damage.

We could have spared ourselves Watergate—if we had elected Hubert Humphrey when we had the chance.

The President we elect on November 4th—will soon be naming 3 or 4 people to lifetime appointments to the Supreme Court of our land.

Those Supreme Court justices—will likely serve until the year 2000 and beyond.

Can you imagine what would happen if Ronald Reagan were to be President and make those appointments?

Can you imagine what would happen on the great civil rights questions?

What would be the outcome of the struggles of women and minority persons to receive equity and equal justice under the law?

What would happen on the labor issues—and to the working men and women across our land?

Every person in this room today has the power to affect those decisions.

With the Nazi party and the Klu Klux Klan on the march again—here within our own state.

We must understand our duty and we must do it.

Our Democratic Party is not perfect—nor are those of us who make it up. Our great party is the sum total of our dreams and ideals—and yearnings for our country—and for the future. We are the party of the people—of all the people.

And my friends, there is no other.

So our task is clear. We must leave here—united as one—to fight with all our strength to carry Michigan for the Carter ticket and every other Democrat on the Ballot.

With God's help—and our best effort—we shall achieve that goal.

Thank you.●

RIGHTS OF LANGUAGE MINORITY CHILDREN THREATENED

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mrs. CHISHOLM. Mr. Speaker, in adopting an amendment to the Labor-HEW appropriations bill yesterday which will effectively prohibit the Department of Education from requiring bilingual education, the House did a great disservice to the language minority children of this Nation. In the Lau versus Nichols decision, the U.S. Supreme Court mandated that language minority children had a right to an equitable education. Lau found that non-English-speaking students were being denied equal educational opportunities when educated in English-only classrooms. The major debate which surrounds bilingual education is whether children should be taught in their native language. The proposed guidelines by the Department of Education specify that bilingual education must be provided to children who have limited proficiency in English and greater proficiency in their native language. If a child is found to be more proficient in his native language, the new rules would mandate that he be offered bilingual education in required subjects as well as instruction to improve his English. The Department of Education has not overstepped its bounds and created a new Federal interventionist policy rather the Department is only continuing a policy which has existed for 10 years. Since 1970 the Federal Government has interpreted discrimination on the basis of national origin to include students with limited English proficiency. The House action yesterday ignores both the litigative and administrative history of the Lau regulations and violates the intent of title VI of the Civil Rights Act of 1964 which prohibits discrimination in federally funded programs on the basis of race, color, or national origin.

The House amendment, in effect, throws into complete disarray the hundreds of agreements entered into during the past 5 years between the Federal Government and school districts. The Department's efforts to provide clear guidance for protecting the rights of language minority children have been stymied before any public comment could be offered on the proposed rules. The Congress cannot continue to disallow regulations promulgated by Federal agencies before the public has an opportunity to give their views on these regulations. It should not be our job to determine the characteristics of a regulation, otherwise there would be no need for a public comment period.

I would hope that our companion body, the Senate, will act to remove this obstacle to educational equality for all our children. Let the public comment period determine the final rules for bilingual education.●

INTELLIGENCE COMMITTEE REPORT ON THE BILLY CARTER CASE

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. BOLAND. Mr. Speaker, in the interests of providing the House with the report of the Permanent Select Committee on Intelligence dealing with the Billy Carter case, I ask permission that the report be printed at this point in the RECORD:

REPORT IN THE MATTER OF BILLY CARTER

(In relation to the matter requested in H. Res. 745)

The Permanent Select Committee on Intelligence has examined classified material touching on the relationship between the Government of Libya and Billy Carter and his affairs. The Committee received material of this nature from the White House, the Department of State, the Department of Justice, the Federal Bureau of Investigation and the entire intelligence community. The materials examined by the Committee date from February, 1978, until early August, 1980.

The Committee conducted a thorough review of all the classified material provided to it. The Committee decided to issue an unclassified report which responds to the questions raised by H. Res. 745, as reported by the Committees on the Judiciary and Foreign Affairs.

The Committee wishes to note at the outset that its report reflects examination of only the classified material dealing with Billy Carter and his affairs. Further, the body of the Committee's report does not draw conclusions or make judgments. It simply describes the substance of the classified material provided to the Committee in a way that protects sensitive intelligence sources and methods and ongoing government investigations.

This report does not represent an investigation of Billy Carter or his affairs. The Committee's endeavors were directed at securing and reviewing the classified material in the possession of the government concerning Billy Carter and his affairs. However, the Committee examination of the classified material provided to it raises a number of unresolved issues in the Billy Carter case. The committee is concerned that these matters receive attention and will communicate its concern by secure channels to appropriate investigatory bodies in the executive and legislative branches.

REPORT

(Numeric indicators refer to the questions in H. Res. 745.)

No classified material provided to the Committee responds to questions (1), (5), (9), (10), (11) or (13).

(2) Classified material provided to the Committee indicates that a White House staff member was kept routinely apprised by the State Department of developments relating to Billy Carter and that, after having been apprised of the paucity of information of a negative nature, this staff member advised an official of the State Department to follow routine procedures in responding to the Justice Department's request for all documents relating to Billy Carter's activities in Libya and U.S. aircraft sales to that country.

(3) and (6) Classified material provided to the Committee indicates that the White House made clear to the State Department, prior to Billy Carter's second (September, 1979) visit to Libya, that the visit was to be viewed as entirely private and that assistance was to be provided to Billy Carter only as appropriate for a private visitor, so as to maintain a low profile for the trip.

(4) Classified material available to the Committee indicates that Dr. Brzezinski learned in March, 1980 of Billy Carter's effort to secure an increased oil allocation for Charter Oil from Libya. This is the same information which Dr. Brzezinski has publicly stated that he summarized to the President.

(7) Classified material provided to the Committee indicates that throughout 1979 the White House and foreign policy officials were very aware of the unfavorable publicity from Billy Carter's first trip to Libya. Further, State Department officials were aware that the White House, in March, 1979, objected to senior level diplomats visiting Libya because of fears that such visits might be attributed by the press to Billy Carter's influence and that Libya might interpret any change in U.S.-Libyan relations to Billy Carter rather than the Libyans' own actions and conduct.

The classified material also reflects the belief of State Department officials that in March and April, 1979, the White House was concerned that the sale of Boeing 747s to Libya would be misinterpreted as the product of Billy Carter's influence; and the belief of Commerce Department officials that officials in the State Department believed that the White House might force cancellation of the sale for this reason.

Finally, the classified material reflects White House concern in July, 1979, when it was learned that Billy Carter would travel again to Libya.

(8) Classified material provided to the Committee from the Justice Department's file on Billy Carter's activities confirms contacts between Billy Carter and his representative, Randy Coleman, and the Libyan Government concerning oil allocations for the Charter Oil Company.

Classified material also indicates Billy Carter's receipt of sums of money from the Libyan Government but there are conflicts on the amounts involved. This classified material also suggests that some of Billy Carter's activities may have been undertaken on behalf of the Government of Libya.

(12) Classified material provided to the Committee indicates that meetings occurred involving the President and Dr. Brzezinski with a representative of the Libyan Government after Billy Carter helped arrange a meeting between the President and the head of the Libyan diplomatic mission in connection with the hostages in Iran, but this material makes no mention of Billy Carter.

CONCLUSION

The Permanent Select Committee on Intelligence believes that the Executive Branch's provision of classified material to the Committee has complied substantially with the requests of H.Res. 745 in this regard. Inasmuch as the material has been provided in several successive increments, however, the Committee recognizes the possibility that additional classified material may develop which may require the careful examination of the Committee.

The Committee also recognizes that the Department of Justice is continuing some elements of its investigation of certain activities of Billy Carter, including an internal inquiry into how the matter was handled within the Department. In addition, the Committee notes that a special subcommittee of the Senate is inquiring into the matter of Billy Carter. As the Committee has identified a number of unresolved issues in this case, it encourages their resolution within the parameters of these ongoing investigations.●

AN AMERICAN HERO

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. FUQUA. Mr. Speaker, a legitimate American hero died August 19 in Tallahassee and I would like to commend his life and accomplishments to my colleagues today as exemplary of the courage and love for his fellow man that marked so much of the leadership of the civil rights movement in the South in the 1950's and 1960's.

The Reverend C. K. Steele, pastor of the Bethel Baptist Church of Tallahassee, was a peaceful man thrust by fate into the crucible of conflicting social passions as his black friends, neighbors, and parishoners justly sought the rights of citizenship guaranteed by the Constitution to all Americans.

As a southerner who lived through that period, I am intimately familiar with the inflammatory temper of the times.

Any individual willing to assume leadership in the face of the organized hostility of those who would deny others those rights by virtually any means—lawful or unlawful—deserves the description of hero even more than soldiers who face an armed and dangerous enemy across a bloody battlefield.

For weapons, all that C. K. Steele had at his command were laws often ignored by the white majority, compassion for his fellow human beings, reason, good will toward others, and the righteousness of a just cause.

That he persevered and succeeded in bringing social justice to his city is a tribute not only to him but to the cause for which he so valiantly fought.

The measure of his success can be judged by the significance with which his community—black and white—viewed his passing.

His death was noted in the lead article on the front page of the Tallahassee Democrat, his hometown newspaper, the city council of Tallahassee declared an official memorial day for Reverend Steele, and the Governor of Florida ordered flags flown at half mast in tribute.

The Tallahassee Democrat article I am offering for reprint in this Record, captures some of the feeling of the times in which Reverend Steele lived, as well as noting some of the changes his life has brought:

Cancer Claims Steele

(By LaNedra Carroll)

The Rev. Charles Kenzie "C. K." Steele, the man who since the 1950s led Tallahassee's march toward civil rights, is dead.

Cited at a recent testimonial as "a man who fought for the good, for the poor, for the powerless and the forgotten," the pastor of Bethel Baptist Church died at his home at 7:15 Tuesday morning after a long illness. He was 66.

"There is no need to add laurels to make him larger in death than he was in life," said the Rev. Herbert Alexander, a close friend and neighbor. "He was a great man. As long as he lived, he gave himself up to a greater vindication of humanity."

City officials have set Sunday aside as a memorial day for Steele. The flags in front of the Capitol will fly at half-mast Monday in Steele's honor, Gov. Bob Graham said.

Steele's life was a mixture of preaching for justice and fighting for changes.

Born Feb. 17, 1914, in Bluefield, W. Va., Steele was the son of a railroad worker-turned-miner. By the time he was 15 he was preaching.

In 1938 he went to the big city—Atlanta—to attend Morehouse College. It was his first trip far from home.

In the following years he preached in Toccoa and Augusta, Ga., and Montgomery, Ala.

Then, at age 38, he came to Tallahassee.

He began preaching at Bethel Baptist Church, and for several years life in Florida's capital was relatively calm for the minister.

That calm was not to last.

It began with a bus boycott in 1956, at a time when black passengers were supposed to ride in the back of the bus.

Two black students refused to give up their seats to a white woman. They were arrested.

Steele and his followers boycotted the bus system, bringing it to a halt. Former Gov. LeRoy Collins said he had to order the temporary halt, to forestall violence at some bus stops.

"He was strong in his convictions as steel . . . ," Collins said of Steele. "(The boycott) hurt black people more that it did white people, in the sense that they needed that service more than white people did. But it showed the people of this community that they were very determined to right this wrong."

Steele was harassed by the Ku Klux Klan, snubbed by civic leaders and arrested several times. Later, he would refer to the bus boycott as the single most important event in shaping civil-rights activities in Tallahassee.

It was just the beginning. Steele was involved in other non-violent sit-ins, marches and boycotts as he and other civil-rights activists labored to achieve integration in the city's restaurants, theaters, airport and schools.

His focus was not just local. He marched side-by-side with such national luminaries as the late Dr. Martin Luther King Jr. and Ralph Abernathy in Montgomery, Selma and St. Augustine. In 1957 Steele helped King and others found the Southern Christian Leadership Conference, of which he was a vice president.

He carried the fight for equality through the '60s and '70s. The methods were different but the message was the same. In later years, he turned his attention to economic discrimination against blacks and other people.

"They have developed a more subtle way of depriving black people of their rights," he said in an interview with The Democrat two years ago, "but there will be a new group of leaders that will be able to cope with that, a group of leaders as sophisticated and subtle, yet as courageous in conflict, as in times past."

In that earlier interview, he acknowledged the progress that had been made in the struggle for civil rights. He also acknowledged, with a touch of regret, that the "surge for freedom" had its ups and downs.

"I know I have done a little something for Tallahassee over the years," Steele said then. "I've really tried to do my best to bring the Kingdom of God to the citizens of this community—both black and white—but it's not been an easy task."

It was three years ago that doctors discovered he had cancer of the bone marrow. They gave him only 22 hours to live.

Steele defied their predictions.

"Death didn't interest him that much," said one of his sons, C. K. Steele Jr. "He was not afraid of dying."

Steele remained optimistic. In the earlier interview, he looked ahead.

"Ten, 15 or 20 years from now," he said, "we'll be better able to cope with the situation than ever before. We won't have reached Utopia, but we'll be further along than we were.

"I'd like to see a day when we can bring black people and poor people together in a strong organization determined to obtain for all people an equal share of justice and equality."

Survivors include the Rev. Steele's wife, Lois Brock Steele; five sons, C. K. Steele, Jr. of New York City; the Rev. Henry Marion Steele of Orlando; and Clifford, Darryl and Derek Steele of Tallahassee; a daughter, Rochelle Steele Davis of Tallahassee; and his mother, Lydia Steele of Maybeury, W. Va.●

FEDERAL FIREARMS REFORM ACT

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. LUKEN. Mr. Speaker, I would like to express my strong support for H.R. 5225, the Federal Firearms Reform Act, and urge the Judiciary Committee's Subcommittee on Crime to act swiftly so that the House can have an opportunity to pass this much needed reform.

This legislation, introduced back in September 1979, would change the focus of Federal firearms law enforcement by providing for the development of a law enforcement strategy to replace the existing extensive bureaucratic regulation. It will remove from present gun control statutes provisions which have proven to be practically useless in combating crime or which have resulted in harassment of law-abiding gun owners. Nothing in this bill will aid criminals; nothing in this bill will impede law enforcement.

It is time that Congress put an end to the continued attacks by the Bureau of Alcohol, Tobacco, and Firearms upon peaceful citizens exercising their right to bear arms. This legislation will state explicitly Congress intent that the constitutional rights of law-abiding citizens to keep and bear arms shall not be violated by a Federal agency overstepping its authority in the name of law enforcement. We must put an end to BATF attempts at overregulation and fight crime by enforcing existing criminal codes and improving our often inefficient judicial system, not by badgering law-abiding citizens.●

FIVE-POINT PRODUCTIVITY PLAN

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. BEREUTER. Mr. Speaker, for many months now, American economists have issued reports which chronicle the decline of the American economy. After such a seemingly endless stream of bad reports, we have almost become dulled to the critical nature of the sickness which pervades this Nation's economic system. We must not allow ourselves to be lulled into acceptance of this monster of inflation. We should be shocked by the intractable nature of such high inflation rates.

Furthermore, we should be appalled by the accompanying high unemployment that curses the American work force. Over 8 million people were out of work in June. That is more than the combined populations of Nebraska, Kansas, Iowa, South Dakota, and North Dakota. Experts predict that unemployment will climb even higher by the end of this year.

Such high unemployment represents a disgusting waste of precious human resources. Individual industriousness and productivity have been the backbone of this Nation. To allow so many people to become demoralized by unemployment is a disgrace and a national shame.

As recently as 1972, the U.S. standard of living was the highest in the world. Now is has slipped fifth. No one knows how much further it may fall.

No other information should be needed to prove the gravity of our Nation's economic decline. No other information should be needed to convince anyone that strong, effective policies must be adopted immediately in order to wrest this country from the grip of inflation, recession, and economic decline.

NATIONAL PRODUCTIVITY PROGRAM

For too long, our Nation's economic policies have resembled a patchwork quilt. First come actions to cure inflation, which bring on a recession and higher unemployment. Then, the Government acts to alleviate unemployment; those actions typically reactivate inflation. The endless cycle continues. To break it, the United States must adopt a bold, new strategy, designed to attack the core of our economic problems rather that address merely the symptoms.

In the past, there has been no cohesive, forward-looking, long-term economic policy—only short term, ad hoc, expedient actions that did not work. The problems are too great—their root too deep—to respond now to quick fix solutions.

Now is the time to set forth on an economic recovery plan, the heart of which is a national productivity program.

NEED FOR ENHANCED PRODUCTIVITY

Productivity is defined as the amount of output per unit of input. Reversal of the current decline in the growth of productivity is crucial to the economic recovery effort because of the inextricable relationship between productivity and the price level.

The relationship works in this manner. For example, labor productivity—that is the amount of output per unit of labor input—affects labor costs. These labor costs weigh heavily in the determination of total production costs and, therefore, in establishment of the final selling price. If increases in employee compensation outstrip the growth in labor productivity, inflation occurs. As a result, declining productivity helps breed inflation.

Due to this relationship, increased productivity growth represents one of the most potent remedies for fighting inflation and unemployment. Recent studies indicate that a 1-percent increase in productivity growth will produce more than a 1-percent reduction in the inflation rate. In contrast, experts estimate that 1 million people must be unemployed for at least 2 years in order to obtain a 1-percent reduction in the inflation rate. Furthermore, other studies demonstrate that industries with the highest growth in productivity also possess the highest growth in employment. Obviously, enhanced productivity will be the key to economic recovery.

An effective national productivity program must consist of five basic components. The program must:

One, promote investment in capital equipment and human resources and encourage savings;

Two, decrease the tax burden upon workers and businesses;

Three, encourage exportation of American goods and services;

Four, eliminate unnecessary or counterproductive regulations imposed upon the business community; and

Five, promote research in, and development of, new technological advances.

STEP 1. PROMOTE INVESTMENT AND SAVING

The key element of the national productivity effort will be the promotion capital investment for the purpose of rebuilding and expanding America's industrial base.

In recent years, the U.S. capital investment record has been dismal. During 1947-73, business investment grew at an annual rate of 3.9 percent. Over the subsequent 6-year period, that rate dropped to 1.4 percent annually. Currently, only 10 percent of our gross national product is devoted to investment purposes. By comparison, the booming economies of West Germany and Japan boast investment rates of 15 and 20 percent of GNP respectively.

To reverse the investment decline, Federal policies must be adopted which will remove impediments to investment or which will establish investment incentives, particularly incentives for investment in capital investment; therefore, this must be a focal point for Government policies.

Federal policies, however, must concentrate upon assisting the small business sector of the economy because the greatest potential for growth and employment still rests in that sector. Businesses with 20 or less employees created 66 percent of all new jobs during a recent 7-year period, 1969-76; those with less than 500 employees accounted for 87 percent of all new jobs added during the same period. Clearly, the best hope for producing a positive, immediate impact upon the economy comes through an early concentration of Federal actions upon the small business sector.

Capital investment: The existing, complex system of depreciation for plants and equipment retards investment because inflation undermines the ability of companies to recapture their investment dollars. An effective incentive to capital investment, therefore, would be enactment of a simplified, accelerated depreciation system. Small businesses, in particular, would benefit from simplified, accelerated depreciation because, unlike large corporations, they typically finance plant expansion and equipment purchases with their own profits—not through the sale of bonds or the issuance of stock.

Corporate income tax: Delegates to the White House Conference on Small Business recently designated as their top legislative priority the further graduation of the corporate income tax, particularly at the lowest income levels. Inflation now reduces the real value of profits; yet, the tax rates remain the same. As a result, businesses retain less money to finance investment activities. This adverse development must be corrected; therefore, the corporate income tax rates must be revised in order to increase the retained earnings available for reinvestment by the small business sector.

Tax credits for job creation: Not only must America strengthen its investment in capital equipment and buildings, it must enlarge its investment in human capital. Millions of Americans now stand unemployed and idle, their talents and energies wasted by the nationwide unemployment problem. This distressing situation must be corrected.

By 1990, the labor force in America will reach 120 million people. That represents a 28-percent growth between 1975 and 1990, a labor force growth which will lead the industrial world. Productive jobs must be found for these individuals as they enter the labor market.

An expanded program of tax credits for job creation must be developed and implemented in order to encourage businesses in all parts of the country to draw these individuals into the productive stream of society.

Job training: Finally, a new program of education and vocational training must be adopted in order to assist individuals thrown out of work by economic factors beyond their control.

To people out of work, their solace is an unemployment check and a sometimes faint hope that this period in unemployment limbo will end before their unemployment compensation terminates. America must take positive steps to remove workers from this state of dependency and anxiety.

Countercyclical job training programs, such as those used successfully in Europe, attempt to retrain unemployed workers for new positions. Experiments with these programs must be tried here as well, in order to counter the growing problem of long-term unemployment which undermines our Nation's economic health and to counter the hopelessness and despair which attacks the jobless.

Fundamental changes in America's educational system and vocational training programs must be devised as well for the long-term benefit of our economy.

Illiterate or untrained individuals encounter almost insurmountable obstacles in attempting to penetrate the job market. To allow thousands of individuals annually to leave school even though they cannot read beyond a third-grade level, if at all, has been one of this Nation's gravest mistakes. Our educational system fails us unless it provides each individual with sufficient basic skills to enable that individual to function effectively in American society. America's sophisticated economy cannot flourish without the educated, trained workers necessary to operate its machines and perform its agricultural, commercial, industrial, and service activities.

Savings: Massive amounts of money will be needed to finance this investment and rebuilding effort. The best way to finance this buildup will be through savings. Other forms of financing, such as the issuance of bonds or the sale of stock, serve only to fuel the fires of inflation. Furthermore, if more money is available to finance industrial expansion through savings, the cost of funds will be lower, thereby reducing ultimate production costs and sales prices.

The level of personal savings within this Nation recently plunged to a dangerous level of 3.4 percent of disposal income. Japan's citizens, however, save 20 percent of their comparable income. West Germans save approximately 14 percent of disposable income.

To encourage individuals to save, Congress must reduce the marginal tax rate upon individual savings. Greater exemptions must be allowed for income earned on savings activities. The recently enacted $200 exclusion from taxation for interest income—$400 in the case of a joint return—is a step in the right direction. Much more needs to be done.

STEP 2. REDUCE THE TAX BURDEN UPON BUSINESSES AND INDIVIDUALS

In the 12-month period between October 1, 1980, and October 1, 1981, the Federal Government will increase the tax burden upon Americans by $85 billion. This increase will be attributable either to new taxes—for example, the new windfall profits tax on crude oil sales will account for $18 billion of the increase—or to higher tax rates—for example, the scheduled social security tax increases will cause $10 billion of the total increase. In addition, the failure of the tax system to adjust for artificially higher incomes—which result when individuals try to keep pace with inflation—will cause $13 billion of this unwarranted tax increase.

Federal spending restraint: In the 2-year period between October 1, 1979, and October 1, 1981, Federal Government expenditures will have grown by at least $120 billion. This intolerable trend must be halted. The Federal Government must control its destructive spending urges. Congress must stop routinely authorizing deficit spending. No longer can the American taxpayers be expected to shoulder the burden of spending levels which rise by the tens of billions of dollars annually. As long as the individual wage earner or businessowner takes home less real income for each additional hour worked, incentives to improve productivity will be worthless.

One promising ingredient in the battle against rising Federal spending would be passage of House Joint Resolution 395. This resolution would limit the annual growth of Government spending to an amount equal to the growth of the Nation's economy.

Indexation of income tax rates: Furthermore, income tax rates must be adjusted annually to reflect the impact of inflation upon the value of a worker's dollar.

STEP 3. INCREASE EXPORTS

Efforts to intensify America's exporting efforts will be another signficant element of the national economic recovery program. The exorbitant cost of foreign oil—over $80 billion during the current year—has been a principal cause of the inflation gripping our Nation. An improved exporting performance will help balance this trade problem. Moreover, it will assist in the fight against domestic unemployment. Experts estimate that each $1 billion of exports means 40,000 domestic jobs; therefore, export programs must be intensified.

In 1960, America accounted for 18 percent of the world's exports. In 1970, that share dropped to 15.4 percent. Since 1970, the United States has lost its place as the No. 1 exporter of manufactured goods: West Germany has now displaced us. Japan's surge in foreign sales threatens to push the United States further down into third place. Only 7.5 percent of our gross national product is exported; this compares unfavorably with rates in other countries. For example, the Netherlands exports 38.3 percent of its gross national product. Our export percentage is now the lowest of all industrial nations. Obviously, America's international position has eroded. Unless immediate actions are taken, this slide may be irreversible. One of America's top economic priorities must be to establish the cooperative effort between Government and the private sector which will be necessary to make our Nation once again the world's foremost exporter.

Current export activity is now dangerously concentrated in a few companies. Just 2,000 companies provide more than 80 percent of all U.S. exports. More than 50 percent of the products exported are produced by approximately 100 companies. Only 25,000 of approximately 250,000 U.S. manufacturers export, although the Department of Commerce estimates that almost double that number could profitably engage in foreign sales ventures.

The expense of initially penetrating foreign markets, the lack of information about foreign sales potential, and some U.S. laws have acted to hamper export efforts. To improve our export potential, the Federal Government must take several steps.

Export trading companies: First, Congress must pass pending legislation which would allow the establishment of export trading companies. Lack of expertise in foreign marketing and insufficient financing to support export efforts now hinder many potential exporters, particularly small companies. The establishment of export trading companies, used successfully in Japan and Europe, would enable a number of sellers to pool their resources in order to obtain the marketing, transportation, and other services necessary to enter foreign markets. Passage of this legislation would also remove current antitrust barriers to the formation of these companies.

Corrupt Practices Act: Second, Congress must pass legislation designed to clarify the vagueness of the Foreign Corrupt Practices Act. America's attempt to inject morality into international business activities may be laudable, but the vagueness of current legislation curtails or unduly delays trading activities, thereby discouraging export efforts unnecessarily.

Funding of export promotion activities: Our Nation's leaders must make export promotion a national priority. The funds necessary to finance key Federal export promotion activities—for example the loan programs of the Export-Import Bank and the trade assistance programs of the Small Business Administration and the Department of Commerce—must be forthcoming.

The U.S. Department of Commerce received only $30.5 million during the current fiscal year to finance its export development programs. Only 150 domestic officers assist in export promotion. Japan, by contrast, appropriates $48 million annually and employs almost 600 people in its export related programs, even though their export trade volume is slightly more than half of the U.S. volume.

Money should also be appropriated to fund fully the Worldwide Information and Trade System, a computer information system designed to supply export related information to American businesses.

Establishment of priorities for Government assistance: Federal resources should be concentrated upon those products that possess the greatest possible export potential, not upon a haphazard group of products unlikely to be attractive to foreign purchasers.

Agricultural products, machinery, and high technology products are our chief exports—one-third of America's agricultural acreage produces products which are exported, a fact which demonstrates the importance of this segment of the economy to our export situation. Alternative energy sources, coal, machine tools, and food possess great potential in foreign markets. Efforts to target assistance to those products must be commenced immediately.

Removing foreign trade barriers: Finally, the Federal Government must be relentless in assuring American exporters that foreign doors to American products will be open. In particular, nontariff barriers now in place in Japan and France must be removed.

STEP 4. STREAMLINING THE GOVERNMENT'S REGULATORY PROCESSES

The decade of the 1970's saw an unprecedented rise in Government regulation of all segments of society, as America sought to achieve a number of desirable goals, including the goals of clean air, clean water, and a safe workplace.

Few people disagreed with the desirability of these goals. Yet, the Government's efforts to achieve these goals through regulation have been plagued by confusion, duplication, excessive delay, uncertainty, rigidity in application, and expense far beyond the expectations of any individual.

Cost-benefit tests: Congress must take positive steps to coordinate, streamline, and simplify the current regulatory system. Most importantly, cost efficiency must become a primary consideration in the development process. Regulations now impose tremendous costs upon individuals and businesses, yet, no one knows whether these costs are justified by the resulting benefits.

Remedial legislation must include special consideration for the impact of regulations upon small businesses. Compliance costs for small businesses are 7 to 10 times greater than those of larger enterprises.

Flexibility in achieving regulatory goals: Government agencies must no longer be allowed to mandate the methods by which businesses must comply with certain objectives. Performance standards, rather than rigid and overly specific regulations, must be adopted whenever possible. Businesses may then be able to select the most cost-effective way to meet the goals set by the agency.

STEP 5. RESEARCH AND DEVELOPMENT

America's preeminence as the world's leading industrial power can be attributed in large part to the inventiveness of her citizenry. Technological innovations accounted for 45 percent of the U.S. economic growth between 1929 and 1969. These advances generate improvements in productivity and enable us to maintain a high standard of living despite shortages in natural and human resources.

The recent downward slide in this segment of economic activity is apparent as well. Industrial research activities grew only 8 percent over the last 11 years. Overall expenditures for research and development once—1964—accounted for 2.1 percent of the gross national product. In 1978, that percentage fell to 1.6 percent.

Current economic conditions within this country, in particular inflation, have undermined industry's ability to devote the necessary financial and capital resources to research. Modifications of Federal tax policy, as well as a reduction in the rate of inflation and in the resources required to meet regulatory demands, could help counteract the disincentives and obstacles to research now imbedded within our economy.

Tax free innovation funds: Congress should enact legislation to allow companies to establish research and development funds similar in operation to an independent retirement account. Contributions to the fund and the earnings on it would be untaxed as long as the money remained within the fund. This system would help companies accumulate the amounts of money typically needed to finance research activities.

Targeting of assistance to small businesses: Special emphasis should be placed upon assisting small businesses in their research efforts. Businesses employing less than 1,000 employees accounted for one-half of the technological innovations developed in this country during the 1953-73 period. Efforts to direct a greater share of Federal research dollars to the small business sector, therefore, should be intensified.

PRIVATE ACTION NEEDED AS WELL

The Nation's productivity problems, however, will not be solved by Government action alone. Each and every worker and business within this Nation must undertake a productivity improvement program as well.

Japanese companies, unaided by the Government, have improved their productivity tremendously through individual effort. One key component of that individual effort has been the establishment of productivity circles, employee-employer discussion groups which meet regularly to identify and implement ways to improve efficiency and productivity. America's Lockheed Corp. estimates that it saved $3 million during a recent 4-year period by establishing a similar program. Businesses throughout the Nation should explore the value of adopting their own productivity circle program.

SUMMARY

Only a national effort—joining Government, business, and labor in a cooperative effort—can help cure our Nation's economic ills. Each and every citizen must do his or her part to promote the economic recovery which is essential to the future of this Nation. Hope—realistic hope—for a better future must be restored in the minds and hearts of every American. Jobs must be made available for each able-bodied person who wants to work.

A national economic recovery program will require short-term sacrifices. The benefits from this effort—reduced inflation, increased employment, economic stability, a higher standard of living, and improved public morale—will truly make the short-term sacrifices worthwhile.●

PRESIDENT'S REINVESTMENT STRATEGY WELCOME ON LABOR DAY

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. BENJAMIN. Mr. Speaker, I commend and congratulate the President on his thoughtful and innovative program and strategy announced today, which will certainly serve as a first step in the long process of reindustrializing America and the reinvigorating of our economy.

The conceptual aspects of the program allow further input and refinement by all Americans and their Congress. The program is not inflationary—not a quick fix—not an economic stimulus—not an election lure—but a bona fide blueprint for the improvement of America in the 1980's.

While there might be some who criticize for political gain—I am most hopeful that most Americans will join to offer constructive comments to improve our economic climate, social system, and lifestyle—the door has been opened for the intellectual and pragmatical support and shaping by all of us.

During a preview of the strategy, the executive committee of the Steel Caucus was promised that a steel sector policy would be developed and annexed within a month to the President's proposed "Investment Strategy for the 1980's."

Assistant Domestic Adviser Bert Carp told steel area legislators that they would be consulted and counseled in the development of a steel policy, some of which may be considered as a part of the general business and industrial investment strategy announced by the President today while other parts will be developed specifically for the steel industry and its workers.

While the investment strategy, calculated to employ a million more Americans by 1982, offers business and industry 56 percent of the proposed tax relief for 1981 and 60 percent for 1982, its initial centerpiece is the formation of an industrial revitalization board composed of labor, business and public representatives (not government) who will advise the Nation on productivity, targeted developments and consider the formation of an industrial revitalization authority to make direct investments in promising enterprises but not to prop up failing businesses. The specific policies for auto and steel may be referred to the board authority for implementation.

The business and industry tax features include a constant rate depreciation schedule which is expected to increase cash flow for modernization. The President favored a modification of the Benson proposal (constant rate depreciation) over the Jones-Conable plan (10-5-3) because of its focused advantages to important industrial sectors of the economy over general real estate investment and its not slicing into government revenue heavily.

It also includes a 30 percent refundable aspect of the 10 percent investment tax credit as well as an additional 10 percent investment tax credit for distressed areas which would be certified by the Commerce Department and limited to $1 billion. The depressed area credit will probably be applicable to most steel manufacturing areas.

On the spending side, the President proposed adding $5 billion of loan guarantees to the economic development programs. The program agency may be the Economic Development Agency which has an added $1.5 billion in the coming year, but whose authorizing legislation is still pending in conference, or the new revitalization authority.

The President also proposed an additional $300 million for job training, $1 billion for weatherization programs and $600 million for research and development.

The President's program supported Members of Congress working to cut off State level general revenue which will be replaced with countercyclical assistance to distressed State and local governments. This proposal is one of two to become effective immediately.

For individuals, the President included an 8-percent credit to offset scheduled 1981 social security tax increases which would be refundable to State and local governments as well as a liberalization of the earned income tax credit for low-paid wage earners.

Individual tax cuts also include mitigation of the marriage tax penalty which discriminates against families in which the husband and wife are wage earners.

The other program proposed for immediate enactment is a 13-week Federal extension of unemployment insurance triggered by local and State unemployment rates. This would extend benefits to 52 weeks in some instances.

The Carter tax program is expected to cost $27 billion in calendar year 1981 and $37 billion in calendar year 1982. However, most of the program (except for the countercyclical assistance and unemployment insurance extension) offered in the President's white paper (allowing for further input and refinement) is not scheduled until 1981 and will dent the fiscal year budget by $7 billion compared to the $40 billion and growing cost of tax measures being considered by the Senate Finance Committee and $25-$35 billion cost of the Reagan-Kemp-Roth tax proposal.

In essence, the strategy announced by the President today provides a framework within which the Steel Caucus may team with the administration to form and implement a long term steel sector policy which will assure the continuation of our U.S. steel manufacturing centers, guarantee the employment of steelworkers and assure the Nation that its defense will be maintained by a viable steel industry.

I am most hopeful that the Congress will work to adopt the program, specifically the tax proposals, this year for operation in 1981. While there certainly is the possibility of damage by politically motivated opposition, it is necessary that we advise business and industry of the rules as early as possible. Consequently, I urge that the program be moved and adopted before the conclusion of the 96th Congress—probably during the postelection session.

In conclusion, the President's program brightens this Labor Day period, offers new direction to the country and invokes a well-balanced approach to the future development of our economy. I urge support for the President's program and hail him for his foresight, courage, and commitment—to America and its economic strength.●

A TESTIMONIAL TO REV. AUSTIN R. COOPER, SR.

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. STOKES. Mr. Speaker, it is with a great sense of pride and admiration that I take this opportunity to note the 10th anniversary Celebration and Appreciation Day service for one of my good friends in Cleveland, Ohio—Rev. Austin Rellins Cooper, Sr. On Sunday, September 14, 1980, the Saint Andrew's Episcopal Church of which Father Cooper is the rector and the entire Cleveland community will honor him for 10 years of unfaltering service. I join them in this testimonial to a dynamic human being.

Mr. Speaker, Reverend Cooper has had a profound impact on the lives of the churchgoers in Clevaland as well as the nonchurchgoers; the rich as well as the poor; and whites as well as blacks. Through his active involvement with many diverse groups, he has emerged as a shepherd of some of the most important social, civil rights, and religious gains of the people in the great city of Cleveland.

Mr. Speaker, Rev. Cooper's philosophy about the responsibilities of the community to the less fortunate is deeply routed in his background. Born in Miami, Fla., to parents native of the Bahama Islands, Reverend Cooper was reared in what he often terms as a "separate and unequal" educational system in Coconut Grove, Fla. Many of us are familiar with this area as a result of the recent Miami riots. But, the racism he experienced in Florida has only made him cling to his principles and in turn made him a beacon of hope for the hopeless in Cleveland.

Father Cooper completed public school in Florida and went on to matriculate at St. Augustine's College. He received his master of divinity degree from the Seabury-Western Theological Seminary in Illinois. Reverend Cooper was ordained on May 13, 1961, as an Episcopal priest in Coconut Grove, Fla.

His work experiences with the Episcopal Church include positions throughout the country. He brought to St. Andrew's Episcopal Church in Cleveland 10 years of service and has in turn served that particular church for 10 years.

Additionally, Reverend Cooper has been an ardent worker in the community and has been duly recognized by many groups for his service. Included in these citations are the "Man of the Year" award from the Alpha Phi Alpha Fraternity and a citation by the Greater Cleveland Interchurch Council and the Call and Post Newspaper from community service. Additionally, he was listed in the 1976-77 edition of "Notable Americans" and was the Episcopal delegate to the National Council of Churches Conference on Racism in Cleveland in 1980.

As one of Cleveland's most distinguished residents, Reverend Cooper is a living sermon to many people. Through his daily activities he continues to teach that violence and the abuse of power are not the keys to exemplary living but rather respect and commitment to just principles are more important.

Mr. Speaker, I have observed how well the message of Reverend Cooper has been delivered to his congregation and to the people in the community. But perhaps nowhere is it more pronounced that in the words of his son, Austin Cooper II, who worked in my office this summer. I would like to quote Austin at this time:

> So often I have heard him say that I have an obligation to carry on the work of those who went before us. My father has taught me always to be least concerned about people liking me and to be more concerned about people respecting me.

Mr. Speaker, Reverend Cooper has indeed carried on the work of those who went before him. He, in turn, has received the respect of the entire community and probably most important the respect of his son.

Therefore, I would like my colleagues to pause and salute Rev. Austin Cooper, Sr., and not only on his anniversary celebration but also on the work he is doing in the community.●

JIM MATTOX STATEMENT ON ALIEN EDUCATION IMPACT AID ACT OF 1980

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. MATTOX. Mr. Speaker, I have today introduced a bill, the Alien Education Impact Aid Act of 1980, that would provide financial relief to school districts that are ordered by Federal courts to admit undocumented alien children as students.

On July 21, 1980, the U.S. District Court for the Southern District of Texas issued a decision requiring Texas school districts to admit undocumented alien children. The court's order has been stayed by the Fifth Circuit Court of Appeals.

Under our Constitution, States have no power to influence the flow of people across international borders. Immigration is a national responsibility. But the Federal Government has, in effect, failed to enforce its own immigration laws. This Federal inaction has resulted in the presence of large numbers of undocumented aliens in our country.

If we are realistic, we must admit that the children of undocumented aliens are likely to be here for a long time. It is only prudent that they be provided with an education. To ignore their educational needs would be to invite social problems in the future. But since these children are here as a result of national policy decisions—or, perhaps more precisely, as a result of the Federal Government's inability or unwillingness to enforce its own immigration policy—it seems only fair that the entire Nation, and not just specific school districts, share in the costs of educating these children.

Any program designed to assist school districts in educating undocumented alien children must recognize two facets of the problem. First, the undocumented alien population is likely to be unevenly distributed across the country and within a State. This means that some school districts are going to have major demands placed on their resources, while other school districts are going to have little or no pressure placed on their resources. Second, undocumented alien children are likely to have special educational needs, such as a need for special English language instruction. My bill takes into account these two aspects of the problem.

One title would provide aid to districts based on the number of undocumented alien children enrolled in a district's elementary and secondary schools. This title would authorize $450 per eligible child.

A second title is designed to assist those districts that experience a particularly heavy increase in their student population due to the court ordered admission of undocumented alien children. Any district in which the number of undocumented alien children equals 500 or 5 percent of the student enrollment, whichever is less, would be eligible for aid under this title. Funds provided under this title would be used to provide supplementary educational services. This title provides greater amounts for the first and second years of an eligible child's attendance than for the third year of his attendance. It authorizes $750 per eligible child for the first year of attendance, $500 per eligible child for the second year and $350 per eligible child for the third year.

This legislation addresses a problem that arose because of Federal inaction. Federal assistance in remedying that problem is surely warranted.●

GEORGE WILL'S ARTICLE

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. EVANS of Delaware. Mr. Speaker, George Will's article deserves the attention of Members of this body and the American people:

NO HITS, NO RUNS—BUT ERRORS?

(By George F. Will)

The George Brett Trophy, for terrific batting by a presidential candidate in August, will not be awarded.

Ronald Reagan, who knows that Jimmy Carter's campaign consists almost entirely of charges that he is bellicose, antiquated and flip, managed in one week to praise American involvement in the Vietnam War, voice skepticism about the theory of evolution and use China to dramatize a ticklish problem of diplomatic recognition: would he—could he—should he—establish normalized relations with his running mate?

Reagan said, correctly, that our cause in Vietnam was noble. But that subject, like the subject of evolution, is large enough to deserve more than brief, off-the-cuff ventilation.

Our cause was the defense of a small ally from aggression: it was an attempt to prevent the horrors that have, in fact, followed our failure. Reagan understands that large events cast their shadows forward, and that reassertion of American strength depends, in part, on Americans' rejecting the shame they have been told to feel about Vietnam, an undertaking that actually was, in the words of Eugene Rostow, "legally, morally and strategically . . . identical with the Korean War."

Regarding Taiwan, Reagan's explication was careless, but his instinct is sound, which is more than can be said for the president. Reagan understands that Carter has acted as though Peking was doing us a favor by accepting normalized relations, a favor for which we should pay much and ask nothing. Such relations are at least as important to Peking as they are to us, so Peking can jolly well pay the price of tolerating decent relations between the United States and an old ally. Instead, Carter allowed Peking to dictate terms that made the United States party to a range of niggling humiliations of Taiwan.

Regarding Vietnam and Taiwan, Reagan has a better case to make than he has taken care to make. Regarding both, he has at least been more concerned with honor than politics. The reverse is true of Carter's campaign.

Many Americans, schooled in cynicism by Carter's manipulation and exploitation of the Iran tragedy and other foreign and defense matters for political gain, expect "October surprises"—foreign policy adventures timed to influence the election. Certainly Carter's August surprises were remarkably reckless.

His revised nuclear targeting strategy surprised Republicans: it plagiarizes page 55 of the Republican platform and concedes Reagan's point about the vulnerability of our land-based deterrent. It surprised the secretary of state, who would have liked an opportunity to shove his oar into the policymaking process. It surprised the Russians, who know Carter is not taking the procurement and other measures necessary to make this new "policy" more than a campaign maneuver.

Carter surprised the American Legion (and anyone else who knows the record he is struggling to obscure) when he said that "instead" of building the B1 bomber, he decided to "accelerate" development of air-launched cruise missiles. The truth is that after he killed the B1, he continued to retard the air-launched cruise missile program, and has delayed it at least two years.

Now the administration has leaked and wildly misrepresented information about some of the most closely kept defense secrets since the Manhattan Project. (For security reasons, some civilians working on the "invisible" aircraft technologies have had to agree to allow the government to tap their phones.) Actually, these new programs, some of which may enable aircraft to "absorb" or otherwise defeat radar detection, are not new. Carter did not start them, and their fruits are not imminent. But considerations of truth and national security must bow to the demands of the Carter campaign.

The useful life of any weapon is a function of the enemy's speed in devising countermeasures. In its desperation to blur its record by advertising hypothetical weapons, the administration may have shortened the useful life of any weapons utilizing the so-called "Stealth" technologies.

Had Carter not killed the B1, there would now be operational squadrons of B1s. Because he killed it, the United States can have nothing comparable until the 1990s. The administration may have contrived to give the impression that it has plans to utilize "Stealth" technologies for an aircraft that will fill the gap of vulnerability created by its B1 decision. It does not.

Still, Harold Brown, the compliant secretary of defense, says, preposterously, that "Stealth" technologies (for hypothetical aircraft that do not exist, cannot exist in this decade and probably will never exist if Carter is reelected) "alters"—Brown uses the present tense, for Pete's sake—"alters the military balance." It is exquisitely right that the Carter administration, which has killed or delayed every strategic program it inherited, and has initiated none, now brags about invisible aircraft.●

U.S. LEADERSHIP IN THE WORLD TODAY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. DORNAN. Mr. Speaker, I have run across this excellent composition written by a young constituent of mine, Kenneth Petersen, 17, of Santa Monica, Calif. Ken won first prize for this work in the local Kiwanis Club essay contest in April of this year. The theme: "What Kind of Leadership Role Should the United States Play in the Turmoil of the World Today?" I urge all of my colleagues to take time to read this well-written essay:

WHAT KIND OF LEADERSHIP ROLE SHOULD THE UNITED STATES PLAY IN THE TURMOIL OF THE WORLD TODAY?

During the past decade, the military might of the United States has been hampered by a wide variety of events and public apathy concerning the maintenance of our national defenses. Congressional budget cuts along with the dishonor that accompanied the outcome of the Vietnam conflict have helped to create a weakened United States along with a pervasive foreign attitude that as a nation, we have once again reverted to the "Paper Tiger" state. Recent militaristic and political moves by foreign nations have only served to strengthen the premise that the United States of today is more bluster than brawn. The leadership role that the United States must assume in the current unstable climate must be a combination of military strength, economic stability, and diplomatic integrity.

The United States military forces must be equal to or stronger than those of any other nation if we are to achieve credibility as a world power. The weaponry in our arsenal has become extremely sophisticated and promises to become even more so in the future. This advanced equipment requires capable, intelligent, and well-trained personnel to operate it. At the present time, however, the Armed Forces are sorely lacking in trained personnel. Unfortunately, the quality of today's all volunteer services does not meet this challenge. Either the paid benefits of today's forces must be improved dramatically, or we must turn to a universal military service to rectify the personnel crisis that exists. If this level of man and machine can be obtained, our Armed Forces will provide us not only with the necessary military strength to meet any situation but also serve as a deterrent toward any agressive actions on the part of foreign powers.

America must also hold a position of economic leadership in the world. To do this, the United States must develop a consistent economic policy toward other nations. For example, we must pioneer the search for alternate forms of energy, thus alleviating the dilemma of being dependent on foreign oil. We must also share our advanced technology with those in the world who agree politically with our positions and not with those who could be viewed as formidable opponents in future conflicts. Stabilizing our currency at home and abroad would also contribute to our overall economic power. This process, however, must be started at home. Until our economic problems have been solved at home, the world as a whole, can never look to us for leadership.

Another aspect of the leadership role that the United States must play is in the area of international diplomacy. It is obvious that at the present time, our Nation lacks a definitive foreign policy. We must develop such a policy and adhere to it in order to gain respect and confidence in the eyes of the world. Such events as the recognition of Red China over Taiwan and our support of the various dictatorships around the world cause the world to wonder if we are really in favor of democracy. Other foreign nations are looking to us for some measure of consistency in our foreign policy.

The United States position in dealing with the problems plaguing the world today must be a blend of strength, integrity, and dependability. We must recognize that as a leading super power, we must be looked upon as a nation that can and will back up its words, treaties, and policies. We must help to maintain peace while at the same time remain powerful. The first step in achieving these goals, however, must come through the development of strong leadership at home.●

SAY SOMETHING GOOD ABOUT AMERICA

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. HUGHES. Mr. Speaker, the word "patriotism," too long out of vogue, is enjoying a much needed renaissance in our country.

Recently, one of my constitutents, Dr. Andrea Lippi of Somers Point, N.J., gave me a copy of his poem, "Say Something Good About America."

The thoughts expressed in Dr. Lippi's verse are good advice for all of us. Now is the time to reflect upon the good things in our country that we all take for granted.

The text of Dr. Lippi's poem follows:

SAY SOMETHING GOOD ABOUT AMERICA

Say something good about America,
  Praise her every day.
Say something good about America,
  For 'tis here we work and pray.
Say something good about America,
  The land we love so true.
Say something good about America.
  America I love you.●

IMPROVEMENTS IN MILITARY PAY AND BENEFITS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. FISHER. Mr. Speaker, I would like to express my strong support for provisions in two conference reports approved by the House which make much-needed improvements in pay and benefits for military personnel. The Defense Department authorization for 1981 includes an 11.7-percent pay increase for active duty personnel, higher reenlistment bonuses, increases in per diem travel allowances, and new procedures for retired pay computation and adjustment. The military personnel and compensation amendments increases flight pay by 25 percent; advances the implementation date of new sea pay rates and raises them by 15 percent; removes the limit on the travel allowances for personnel being transferred to a new duty station, and authorizes a variable allowance to provide the difference between the average cost of off-base housing in high cost areas and 115 percent of the basic allowance for quarters. Both bills contain other provisions but these are the major improvements in pay and benefits.

I believe that the reduction in the share of the Federal budget going to defense spending in the years since the end of the Vietnam war has gone far enough and now needs to be reversed. The first priority that I would assign to increased defense spending should go to pay and benefits for military personnel. These increases are necessary to retain trained people already in the military and to attract qualified people in the future. No matter how sophisticated the weapons systems and other hardware the military is provided with, the defense of this country cannot be carried out without thousands of dedicated, hard-working, well-trained men and women to operate them. When I know that many enlisted personnel are working for pay that is below the minimum wage and that many military families are eligible for food stamps, then I know that the pay system is shamefully inadequate. The provisions in the bills which Congress has now approved will demonstrate a commitment to improving the compensation system for military personnel. These provisions give an across-the-board increase to all personnel immediately and special increases to those performing certain specialized functions. In a very important step, the legislation takes note of the high housing costs faced by personnel in areas like the Washington metropolitan region by providing a variable housing allowance. Together these steps should ease the financial burden for Armed Forces personnel in these inflationary times.

I was pleased to support and vote for these bills.●

LABOR, HHS, AND EDUCATION APPROPRIATIONS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. VENTO. Mr. Speaker, the following two Washington Post editorials were published on August 27, 1980. In light of this body's action yesterday during the consideration of the Labor, HHS, and Education appropriation, these editorials are especially relevant.

Mr. Cooper accurately describes how the Supreme Court's recent benzene decision takes away from workers an important political victory and places unintentioned obstacles to OSHA's enforcement of occupational safety laws. Mr. Wolfe's editorial shows that some companies have withheld or failed to gather data that proves a need for stronger worker safety standards; yet these same companies oppose the stronger standards on the grounds that no evidence exists to prove a stronger standard is needed.

Yesterday's vote to "pull the reins in on OSHA" is a part of an attempt to cripple one of the most important functions this Government can provide. It is a sad day for the American worker when his and her elected representatives refuse to provide needed enforcement powers and funds to an agency chartered to insure job safety.

[From the Washington Post, Aug. 27, 1980]

WHAT THE COURT DECIDED

(By Richard M. Cooper)

Only the Supreme Court could have done it so stylishly.

In its most important toxic substances decision to date, the court recently overturned a new standard developed by OSHA to reduce workers' exposure to benzene, a human carcinogen. The case offers a fascinating view of the interactions of the Supreme Court, Congress and a regulatory agency. And it presents in sharp focus a conflict between the court's duty to carry out the express intent of Congress and its duty to decide in favor of sensible public policy.

The decision did what the four dissenters said it did: it took away from the labor movement a political victory it had won when the Occupational Safety and Health Act was enacted in 1970. The statute directed OSHA, when regulating a toxic substance in the work place, to set an exposure standard that would ensure, to the extent feasible, "that no employee will suffer material impairment of health" even if he is exposed to the substance during his entire working life. Strong language. OSHA was trying to carry it out.

But four justices held that OSHA erred by failing to make a specific finding that exposure to benzene under the previous standard presented a "significant risk." The term "significant risk" did not appear in the statute. In a magisterial feat of magic, the plurality found the requirement in a definitional provision.

There is something undeniably odd about that definitional section, however. It defines the term "occupational safety and health standard" as one that is "reasonably necessary or appropriate to provide safe . . . places of employment." The new benzene standard can't be reasonably necessary, the plurality reasoned, unless the current level of benzene permitted is unsafe, and it can't be unsafe unless it presents a significant risk. Ergo, before changing the standards, OSHA must find that benzene at current permitted levels presents a significant risk. OSHA, of course, did not make such a finding because nothing in the statute appeared to require it. Definitions don't ordinarily contain guidelines that modify the substantive provisions of a statute. There is no reason to think Congress intended to set up two different substantive standards (one of feasibility and one of significant risk) in two different provisions of the law.

The plurality noted that "the validity of an agency's determination must be judged on the basis of the agency's stated reasons for making that determination," and it expressly refrained from holding that the record in the benzene case would not support the new standard. Rather, the plurality overturned the new standard because it rejected OSHA's rationale for it, which was based on what the plurality held was an erroneous interpretation of the statute.

OSHA's position was extreme indeed, even though it had support in the words of the statute. OSHA argued that it had a statutory duty to eliminate the cancer risk presented by benzene in the work place, subject to only one constraint; that it not put the regulated industries out of business. That was the position the plurality rejected.

If you disregard the language of the statute, there is much to be said for the plurality's position, and it should not set back the cause of health protection in the work place. Under OSHA's view, an industry had to be forced to the brink of disaster, if necessary, to reduce the perhaps negligible risk from a single toxic substance; the industry would then have few or no resources left to reduce the risks from other toxic substances. Even if OSHA's reading of the statute were correct, it couldn't work overtime. Eventually OSHA would have had to alter its course.

The plurality's requirement of a funding of "significant risk" should not present serious problems—even where data are sketchy. The plurality did not dispute the principle used by all the health regulatory agencies that any exposure to a carcinogen presents some risk. It merely held that under the Occupational Safety and Health Act only significant risks are to be regulated by standards. Even in the heartland of cancer protection—world of the Delaney Clause—the U.S. Circuit Court of Appeals, in an opinion by the late Judge Harold Leventhal, recently reached an analogous conclusion about an important class of food additives.

The plurality made it clear that OSHA should decide in the first instance what is a "significant" risk and that the criteria for that judgment do not have to be quantitative and do not have to be based on scientific certainty. OSHA can rely on scientifically reputable opinion and conservative assumptions, and need not await evidence of actual human disease. Even the new benzene standard may be sustainable if the record supports a finding of "significant risk" under the plurality's broad view of that concept, an issue the court left open. The court also left for another day the question of whether OSHA must weigh the health benefits from a standard against the costs of complying with it.

Sometimes a loss is liberating. There is a limit to the amount of resources even our society will devote to protection of health and safety. OSHA has been freed from a policy that over time might have driven it to require vast misallocations of those limited resources. The result may well be more effective health regulations in the work place.

Whether it was appropriate for the court to have distorted the statute as it did is a question that will attract jurisprudential controversy for years to come. It was a bold step even for a Supreme Court.

WHAT THE COURT DIDN'T KNOW

(By Sidney M. Wolfe)

Last month 35,000 workers exposed to benzene—a chemical known to cause leukemia at higher doses—were told by the Supreme Court that the government (OSHA) had not provided enough evidence of significant risks to their health to justify reducing their exposure to benzene from the current standard of 10 parts per million down to 1 ppm. The Supreme Court decision was the result of a petrochemical industry lawsuit against OSHA to block the standard.

What OSHA and the Supreme Court did not know—because the industry had withheld important new evidence from the government—was that workers at Dow Chemical Co. exposed to less than 10 parts per million had been found by the company's own scientists to have a significant increase in damaged chromosomes.

The results of the study on workers in Freeport, Tex., by Dow genetic toxicologist Dr. Dante Picciano had been written up by June 1977 and sent to three outside Dow consultants who generally agreed with the findings. One consultant, Dr. Marvin Legator, director of environmental toxicology and epidemiology at the University of Texas Medical School at Galveston, has said that "because of the serious implications for worker health, there is no question that the study should have been immediately sent to the government." By July, Picciano's supervisor, Dr. D. J. Kilian, had sent the study to Dow's biomedical research director, Dr. Benjamin Holder, in Midland, Mich., with a memo that stated that the study "identifies an unsuspected occupational health hazard" and recommended forwarding the results to the government.

But in August 1977, when Dow testified at OSHA's benzene standard-setting hearings, the witnesses, including Dow Texas medical director, Dr. John Venable, who had reviewed the study in June, failed to mention anything about chromosomal damage at exposures below 10 ppm and concluded that the old standard "will continue to protect our employees against any ill effects from benzene exposure."

Not until March 1, 1978, after OSHA had published the final benzene standard and it was too late for inclusion of new data in the administative record or the subsequent court reviews, did Dr. Holder finally send the study to the Environmental Protection Agency, stating that Dow had found a "statistically significant increase in [chromosomal] aberrations" in 52 workers whose average benzene exposure the company said was between 2 and 10 parts per million. Twenty-three percent of these workers had chromosomal abnormalities in comparison with only 2.3 percent in comparable Dow workers not exposed to benzene. In other words, chromosomal abnormalities occurred 10 times more commonly in those workers exposed to less than 10 parts per million of benzene, the current "safe" standard that Dow had said would "protect against any ill effects."

Dow has told the government the reason it "delayed" sending in the study was because it did not know what amount of benzene the affected workers had been exposed to, but the average levels it later reported to EPA in March 1978 were the same as those listed in Picciano's report of June 1977.

It is admittedly unclear how many workers with damaged chromosomes will get cancer or will have children with birth defects or mutations. But no worker, given an informed choice, would opt for damaged chromosomes instead of healthy ones, especially with the mounting evidence of increased rates of cancer in people with certain kinds of chromosomal abnormalities.

Given that critical evidence was withheld from OSHA, it is difficult to blame the agency for not doing a better job of quantifying risks under 10 ppm. But now that OSHA has the industry data it should have had much earlier, its director, Dr. Eula Bingham, has said the government will reinitiate the process of lowering the standard to one part per million in order to protect 35,000 workers from being harmed by benzene.

The example of benzene shows the conflicting roles industry plays in occupational regulation. Chemical companies have failed to gather or have withheld from OSHA evidence that would strengthen the case for a lower work place standard. Yet when the standard is finalized, industry usually has sued OSHA to block its implementation, arguing that there is inadequate evidence of risk. Ironically, while all this is occurring, industry continues to attack OSHA for not adequately protecting workers. Industry thus has both the ability to cripple the collection and prompt dissemination of important health data and the seemingly unlimited tax-deductible financial resources to sue OSHA to stop every standard.

As long as this death grip continues, industry will be able to make its allegation that OSHA is not adequately protecting workers a self-fulfilling prophecy.●

TUMOR RESEARCH

HON. GUNN McKAY

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. McKAY. Mr. Speaker, I rise to suggest to the committee that they support at a higher rate the large animal tumor research. It has been reduced from somewhere in the neighborhood of $300,000 to $150,000 in this present budget. That is damaging to a very vital research need for the following reasons.

Research in this field has reached its most critical phase. There are some who feel the only research you should have is with rats and mice when in fact we are getting much greater results in many cases from the large animal research than we are in that other respect. It has been demonstrated that immunotherapy increases cancer cures in large animals whose biochemistry in this regard most resembles that of human beings. We do not yet know why this reaction occurs.

The answer to that question will provide the breakthrough we need to apply the therapy to humans and to apply it to a variety of tumor types.

Therapy is presently being used in limited instances with human beings. The success rate is fair and looks very favorable even in so-called hopeless cases, which are the only kind in which the therapy is presently applied. If this is allowed to phase out, it will be years before the level of understanding can lead to the point of breakthrough with the success that is being experienced at the present time in this program.

This program must be funded at least at the $150,000 level this year and that will only maintain part of what is needed. It is my understanding that because of the language in the report it is the total intent of the committee to send a message to the National Institute that they should continue the program and not close it out.

I have discussed this with the chairman of the committee, Mr. NATCHER, for sometime and he has assured me that it is his and the committee's intent that that be so.

I thank the chairman for his support in this most vital research fight against cancer.●

A FRESH LOOK AT ENERGY STUDIES

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. WYDLER. Mr. Speaker, last fall several major energy studies were released, and there was considerable attention given to all three by the Congress and other interested parties in Washington. At that time, I wrote an entry in the RECORD critiquing the study on energy future and, I wrote a dear colleague letter on the study "Energy in America's Future—The Choices Before Us". At that time, I lamented the fact that the energy future study became the subject of faddish praise rather than solid evaluation. This spring, Paul L. Joskow of Harvard University and MIT reviewed the two studies I mentioned and "Energy: the Next Twenty Years", a Ford Foundation study. Professor Joskow's reviews were published in the spring 1980 edition of "The Bell Journal of Economics" and he deserves considerable praise for a solid analysis of all three studies. I thought it would be useful for my colleagues to read summaries of Professor Joskow's critiques in the context of my own perspective on two of these studies which appeared in the RECORD last fall.

On September 12, 1979, I noted in the RECORD:

> There has been much attention given in the past few weeks to a recent publication of the Harvard Business School entitled, "Energy Future" edited by Robert Stobaugh and Daniel Yergin. I think it is important to highlight the shortcomings of the book since it has become extremely faddish to praise it at the other end of Pennsylvania Avenue. I believe that it should be recognized that the authors have clearly taken a position of strong advocacy for soft technology. Their energy approach is focused on conservation, particularly institutional aspects in the near term, and distributed solar systems in the long term.
>
> The position is taken that "external costs" of coal, i.e., the environmental penalties, and of nuclear (societal costs) in terms of health and safety concerns are much too great to encourage these options in the near-term to lessen our dependency on foreign oil. This position is not taken on firm ground by measuring the comparative risks of these technologies but rather from a visceral "feel" on the part of the authors that such costs tangible and intangible are simply too great. It seems to me that the thrust of the National Energy Policy and its implementation can hardly be based on such tenuous grounds as is the case for this study. * * *
>
> It seems to me that a much more quantitative study of energy technologies addressing all aspects of concern about various options e.g., from mining to disposal, would have been much more constructive. Also, a more objective approach without such demonstrated a priori bias would enhance the probability of acceptance by different camps leading to a genuine consensus on a reasonable energy strategy. I believe that Resources for the Future has completed such a study called "Energy in America's Future—The Choices Before Us" and I intend to comment on this document in the near future.

On October 11, 1979, I wrote the following dear colleague letter to all Members of the House, on the study entitled "Energy in America's Future—The Choices Before Us":

> Last month, Resources for the Future produced "Energy in America's Future—The Choices Before Us," an objective perspective on energy issues firmly grounded on a factual basis for deciding energy policy. I found it particularly useful to have a document which strives to be a consensus paper rather than engaging in polemics toward the hard or soft technology advocates.

The following points struck me as particularly useful:

> —A balanced effort is required to achieve U.S. energy self-sufficiency.
>
> —Significant conservation can be achieved but we must increase energy supply unless we are to accept a considerably lower standard of living.
>
> —A broad set of alternatives to our dependence on imports is necessary.
>
> —Nuclear power can make major contributions to electricity supply provided we can assure the public of its safety. (I believe this is chiefly a problem of perception.)
>
> Development of synthetic fuels will require environmental compromises but we can avoid serious environmental degradation.

I believe that there are certain conclusions of the study which I cannot support but, all in all, it is a realistic and constructive perspective on energy issues and policy and I strongly recommend it to all my colleagues.

The Joskow evaluation of the Harvard energy study, "Energy Futures" follows:

> The book suffers generally from the lack of a clear and consistent analytical framework for effectively evaluating the ways in which all of the components of the energy supply and demand system can most effectively and efficiently play a role in adapting the U.S. economy to increasingly expensive and insecure foreign oil. The analysis that is presented is too often based on selective citations from secondary sources or, even

> worse, no analysis at all, quotations taken out of context, the burning of straw men, and the general tendency to be very pessimistic about the things the authors do not like (coal, nuclear, the free market, etc.), while being very optimistic about the things they do like (conservation and solar). In some cases political and institutional difficulties are taken as reasons for not counting on particular energy sources, while in other cases political and institutional barriers are viewed as being targets to be eliminated. Economic analysis and consideration of the tradeoffs among alternatives is at best casual.
>
> The critical chapters on conservation and solar energy, which play such an important role in yielding the ultimate conclusions of the book, are especially disappointing in these dimensions. For example, in the chapter on conservation we find the following statement: "A number of analyses suggest substantial energy—over 20 percent of total industry use—could be saved in the United States through cogeneration investments that are economically sound." The problem is that most studies of cogeneration in industry apply to industrial uses of process steam only, and industrial process steam accounts for only about 35 percent of total industrial energy use. Even very optimistic assumptions about cogeneration penetration yield a reduction in total industrial energy utilization of less than 10 percent; and considerably less if we rely on some of the less optimistic studies. (For a more thoughtful analysis of cogeneration opportunities see Energy in America's Future, Chapter 6.)
>
> Along with the quotation on page 182 cited above about overall conservation opportunities, perhaps the most widely cited statement in the entire book is made in the concluding section of the conservation chapter: ". . . in 1973, the same U.S. living standard could theoretically have been delivered with 40 percent less energy. These savings, in BTU's are almost as much as all the oil—not just imported oil—used that year" (p. 177). But what is this statement based on? One single study by Ross and Williams is cited as support for this conclusion. This study says nothing about living standards, nothing about timing, and nothing about costs. Rather, it is based on a hypothetical assessment of the maximum theoretical energy savings that could conceivably be achieved by doing such things as implementing cogeneration for half of direct heat applications in industry, reducing heat losses from buildings by 50 percent through better insulation, improved windows and reduced infiltration, using organic waste in urban refuse for fuel, installing heat pumps, and improving automobile efficiency by 150 percent over 1973 levels. Energy Future adopts these numbers uncritically and without independent analysis.
>
> This kind of casual analysis represents the basic problem with the conservation chapter. The potential for improved energy efficiency is real, and energy efficiency is already improving. There may be good reasons to encourage additional conservation by correcting economic and institutional imperfections. But the qualitative opportunities for conservation are not really at issue here: the issue is what quantitative contribution conservation can economically make. This chapter draws very strong quantitative conclusions from selective citations of the most optimistic studies, misuse of existing studies, or no analysis. The general quantitative conclusion this chapter leads to is simply not sustained by any new analysis produced by the authors.
>
> The chapter on solar energy has similar problems. We are led to believe that perhaps 20 percent of the nation's energy can be economically supplied by solar energy by the year 2000 if various economic and institutional barriers are overcome. As with most discussions of solar energy, solar energy is viewed as including everything from direct thermal applications to hydroelectric power and wood. There is essentially nothing new in this chapter. It is basically an uncritical discussion of the most optimistic assessments for the potential for the various sources of solar power. The chapter concludes that it is technically and economically feasible to produce 10 million barrels per day oil equivalent by the year 2000 (including 3 million barrels per day of wood and forest waste). Simultaneously, the chapter argues that substantial government subsidies and institutional changes involving the utility industry and the "system" for producing the various solar supplies will be required to stimulate this level of production. The source of the 10 million barrel per day figure is not documented and the costs of the proposed subsidy program are not presented. No effort is made to evaluate critically the various studies cited, and where costs do seem to be very high, the author of this chapter is happy to assume that there are very good prospects that they will be reduced substantially.
>
> It is interesting to compare the solar energy chapter with the chapters on coal and nuclear power. The chapter on coal recognizes that coal is abundant and in many cases quite economical to utilize. It emphasizes the barriers to rapid expansion of coal utilization associated with transportation, labor problems, management problems, environmental controversies, utility financing problems, etc., but never considers the possibility that these are barriers to which public policy might direct its attention and try to resolve. These barriers are taken as given, and it is pessimistically assumed that they cannot be rapidly overcome. The authors will accept all the coal that the system will provide, but they believe that the rate of growth will be modest in the medium term and they implicitly assume that nothing can be or should be done to speed it up. Similarly, proponents of nuclear energy are roundly criticized for making a heavy commitment to an untried technology with unknown costs and for ignoring the full "system" (read waste disposal) associated with nuclear energy. Failure to consider the entire coal "system" also forms an important part of the critique of those "experts" who have been bullish on coal.

Whereas, on "Energy in the Next Twenty Years" Professor Joskow noted:

> Unlike Energy Future, the Ford study does not try to argue that there are simple, costless solutions to our energy problems that can be achieved without any adverse effects on the environment. It does not try to give the impression that the problems associated with oil and natural gas price decontrol, nuclear energy, coal, etc., can be completely avoided by relying on conservation and solar energy. Rather, it gives a sober and detailed assessment of all important aspects of energy supply and demand (including conservation and solar energy) and argues that with appropriate public policies, the U.S. economy can adapt to higher energy costs and dependence on insecure foreign supplies of petroleum far more quickly and efficiently than would be the case if prevailing public policies were continued. The "balanced program" that cloaks Energy Future's brief for conservation and solar energy is a reality in the Ford study.

And finally, his comments on "Energy in America's Future" are very much in concert with my own.

> "Energy in America's Future" is a thoughtful, comprehensive assessment of U.S. energy supply opportunities and consumption scenarios. It covers much the same ground as the Harvard and Ford studies do; however, the mode of analysis and the general policy conclusions are more similar to those of the Ford study. Although there is considerable overlap between the Ford study and the RFF study, the RFF study has a number of strengths that make it, at the very least, an essential complement to the other. As a general matter, I found the theoretical and conceptual analysis in the Ford study to be superior in terms of presentation and originality. However, the empirical analysis in the RFF study is more comprehensive and much better documented than in either of the other two studies. It is a useful and even an essential "source" document. In what follows, I shall direct my attention to the special strengths of the RFF study and to the differences between it and the two other books discussed above.
>
> The RFF study places primary emphasis on the economic characteristics of alternative supply opportunities and the consumption decisions that residential, commercial, and industrial consumers can make and tries to identify barriers that lead to undesirable (primarily uneconomic) supply and demand decisions. When important barriers are identified, an effort is made to suggest alternative public policies for overcoming them. The RFF study uses sound analytical and empirical techniques to identify problems and to propose solutions. As with the Ford study, it does not offer the hope that we can solve our energy problems costlessly and without political controversy by turning almost entirely to conservation and solar energy. The general perspective is that there are various economical supply opportunities that must all be drawn on to contribute to future energy requirements as well as many opportunities to use energy economically and more efficiently. The key is to get the whole system working properly.●

THE 1980 CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. DERWINSKI. Mr. Speaker, the 1980 Captive Nations Week has passed, but the purpose of Public Law 86-90, continues to be realized as Americans raise their voices against Soviet imperialism and its long record of conquest of nations. As in previous observances, the recent one emphasized not only the past record of Moscow's exploitation of nations, but also the strategic importance of the captive nations for the future of our national security and that of the free world.

As examples of the support in the United States for those over 1 billion peoples held captive of communism, I insert several news accounts which report on the importance of Captive Nations Week. The first is an article in the Manchester, N.H., Union-Leader, which is followed by an article by Bui Anh Tuan of the New York News-

World. The Cincinnati, Ohio Enquirer reported on the formation of the Joint Committee of Soviet Occupied Nations in the city of Cincinnati.

The articles follow:

[From the Manchester, N.H., Union-Leader, July 19, 1980]

CAPTIVE NATIONS WEEK

(By Jim Finnegan)

Inasmuch as Ronald Reagan speaks with great sincerity when he expresses his desire to spread freedom throughout the world, whereas others might be accused of indulging in inflated campaign oratory, it is to be hoped that one of the former California governor's first acts, if he attains the presidency, will be to reinstitute the fine tradition initiated by another Republican President, Dwight David Eisenhower, and—in pursuance of Public Law 86-90 enacted by Congress and signed into law in 1959—issue a meaningful proclamation of Captive Nations Week, the third week in July.

On the other hand, if the proclamation is to be of the weasel-worded variety, out of fear of offending the Communist imperialists, it would be better if the Captive Nations Week commemoration in 1981 not be signaled from the Reagan White House at all.

Although the original proclamation requested future presidents of the United States "to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world," President Carter's proclamation in 1978, for example, didn't even refer to the captive nations other than in the designation of the occasion, let alone to those responsible for their captivity!

In our view, the original proclamation issued by President Eisenhower, with appropriate changes designed to modernize it without diminishing its impact on all freedom-loving people in the world, would be difficult to improve upon. We publish that original Captive Nations Week proclamation below.

PUBLIC LAW 86-90

ESTABLISHING CAPTIVE NATIONS WEEK

Whereas the greatness of the United States is in large part attributable to its having been able, through the democratic process, to achieve a harmonious national unity of its people, even though they stem from the most diverse of racial, religious and ethnic backgrounds; and

Whereas this harmonious unification of the diverse elements of our free society has led the people of the United States to possess a warm understanding and sympathy for the aspirations of peoples everywhere and to recognize the natural interdependency of the peoples and nations of the world; and

Whereas the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of understanding between the people of the United States and other peoples; and

Whereas since 1918 the imperialistic and aggressive policies of Russian communism have resulted in the creation of a vast empire which poses a dire threat to the security of the United States and of all the free peoples of the world; and

Whereas the imperialistic policies of Communist Russia have led through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, and others; and

Whereas these submerged nations look to the United States, as the citadel of human freedom, for leadership in bringing about their liberation and independence and in restoring to them the enjoyment of their Christian, Jewish, Moslem, Buddhist, or other religious freedoms, and of their individual liberties; and

Whereas it is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive; and

Whereas the desire for liberty and independence by the overwhelming majority of the people of these submerged nations constitutes a powerful deterrent to war and one of the best hopes for a just and lasting peace; and

Whereas it is fitting that we clearly manifest to such people through an appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that the President of the United States is authorized and requested to issue a proclamation designating the third week in July 1959 as "Captive Nations Week" and inviting the people of the United States to observe such week with appropriate ceremonies and activities. The President is further authorized and requested to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world.

[From News-World, New York, N.Y., July 13, 1980]

CAPTIVE NATIONS WEEK: TIME FOR RECOMMITMENT

(By Bui Anh Tuan)

Once again, Captive Nations Week (CNW)—July 13-19—is upon us.

Twenty-one years ago, by unanimous vote, Congress established the third week of July as CNW in an effort to focus world attention on the real imperialistic nature of the Soviet Union, and to emphasize continued, unwavering U.S. commitment to the principle of universal freedom and unalienable human rights. Since then and through 10 Congresses, not only presidents but governors, mayors and state legislatures have issued CNW proclamations.

The annual ritual has not changed. Because of election year pressures and the Soviet invasion of Afghanistan, there is less equivocality and even more resolve. It appears, however, that this strong display of vocal support is not able to dispel lingering doubts and concern. Instead of hope—the glimmering hope kindled by President Dwight Eisenhower's 1959 CNW proclamation, pointing a finger at the Kremlin as "the tyrant"—CNW is being observed with mixed feelings throughout the land.

Proclamations have been issued for the simple reason that this was required by law. Public Law 86-90 clearly states that the president is "requested" to issue a CNW proclamation each year "until such time as freedom and independence shall have been achieved for all the captive nations of the world."

Thus, it is not difficult to understand why for three years in a row President Carter's CNW proclamations included no reference to communist imperialism or to the Soviet Union as the only remaining colonial power which enslaves hundreds of millions of people. In 1977, adding insult to injury, Carter almost failed to issue a proclamation.

CARTER NOT ALONE

Nevertheless, it is not fair to shift all the blame on Carter. Declarations by President Johnson and Nixon were nothing more than administrative formality. President Ford once went as far as to recognize Soviet rule over Eastern Europe as an irreversible fact of history. As secretary of state, Henry Kissinger had equated the Captive Nations law with "cold war relic."

All these aberrations have turned CNW into one of the most celebrated anachronisms in modern times: On the one hand, our luminaries have complied with the law, but on the other, they have tried their best to stray as far as possible from its lofty spirit. The need to do what the other party has not done or to make a hit with an influential constituency has given rise to such abnormalities as detente, the East-West bridge building concept and the attempt to ridicule our "inconsiderate fear of communism."

Furthermore, the CNW law was conceived at a time when the plight of Eastern and Central European countries especially non-Russian peoples within the U.S.S.R., was still the dominant element. Ethnic prevalence has inevitably led to a geographical tendency—which fortunately, has shown signs of receding—to lump Czarist Russian imperialism together with present-day Soviet communist expansionism. This selectiveness, although justified, is not compatible with world realities, and more importantly, with the advent of the Russian-inspired human rights movement behind the Iron Curtain with such prestigious mentors as Andrei Sakharov.

Communist imperialism is no longer exclusively Caucasian, let alone Russian. It is also yellow. And black. Jesus Christ did not hail from the Vatican, capital of world Catholicism. In India, the home of Buddha, Buddhism has become a minority religion. Thus, the best way to commemorate CNW is to make a distinction between Soviet imperialism and Russia.

More significant than geographical coloration is the saddening fact that proclamations and celebrations alone could not turn the tide in the battle against communism. In 1959, there were 22 captive nations. Now, there are 30 of them. It is irrelevant, even cynical, to proclaim support for captive peoples and at the same time to sell them and their still-free friends down the river. Because of budget curbs, Radio-Free Europe, Radio Liberty and VOA have cut down programs intended for captive listeners in the Soviet Union and Asia. But the same budget curbs have not prevented communist dictators from Moscow to Managua from receiving U.S. taxpayer money.

WHO'S NEXT?

In 1960, after Cuba many asked, who's next? The same question was raised in 1975. Now, we have Afghanistan, Taraki, Amin and Karmal are a strong reminder that communism will stop at nothing in its effort to enslave the world.

Alarmed, Americans have resigned to believing that a militarily vigorous America may work miracles. Yet, Soviet troops were not in Havana when Castro took power. Castro's master was in Moscow, but his real allies and friends were in the United States.

Thus, the best way to commemorate CNW this week is to zero in on those Americans who continue to weaken our security and intelligence; who help communism with U.S. money and technology; and who use "human rights" as a pretext to throw our allies to the wolves.

[From the Enquirer, Cincinnati, Ohio, July 22, 1980]

Captive Nations Don't Want To Be Called Russian

(By Ben L. Kaufman)

Don't call Andrew Zaplatynsky, Ignas Dudrys or Lew Melnyk "Russian."

Their homelands are unwilling republics in the USSR and they are not Russians and never will be.

They are the survivors of Russian occupation and the descendants of survivors.

They are Ukrainians and Lithuanians, and their cause with Estonians and Latvians is national and cultural survival under Soviet oppression and American insensitivity.

"We have an identity problem," Andrew Zaplatynsky, secretary of the new Joint Committee of Soviet Occupied Nations, said Monday. "People lump us all together as 'Russian.'"

Organized this year, the joint committee includes the Estonian Association of Cincinnati, the Latvian Group of Cincinnati, the Greater Cincinnati Lithuanian Council and the Ukrainian Society of Greater Cincinnati.

"Anyone who identifies himself or herself as a member of a national group is welcome," Zaplatynsky said.

Their "captive nations" cause and cultures are being celebrated this week in a display at the downtown public library.

The goal is public education about resistance to Russian "cultural genocide" and repression of Baltic and Ukrainian nationalism.

That they often are considered Russians is a victory for Soviet propaganda which strives to equate every national group within the USSR with Russia, although most are not, Zaplatynsky said.

As a result, "We have the same problem that the Jews face, survival as a cultural, national group. They are faced with possible extinction; we are faced with possible extinction."

But anytime Westerners distinguish between Russians and others under Soviet control, "the Soviets frown on it and we're very happy with it . . ."

Eight nations, including the Ukraine, came under Soviet domination in 1920; the Baltic States went under in 1940 and the problem is as fresh as Afghanistan.

But nationalism survives despite the carrot-and-stick of Soviet promises and repression.

This is clear from continued unrest behind the Iron Curtain and underground literature and stories of dissidents in the library display.

Ignas Dudrys, chairman of the joint committee, said the display seeks to acquaint Cincinnatians with what the Russians are doing "You have to do something about it if you acknowledge a problem."

Nationalists still hope for freedom from Russian rule, and today they concentrate on keeping "heat and pressure" on the Russians for abridgments of the Soviet Constitution, United Nation's Charter and Helsinki human rights agreements.

"We have no illusions that there will be a popular uprising next year," Zaplatynsky said.

And while trying to avoid the image of Cold War, right-wing crazies, he said, the nationalists want Western democracies to be more "vigilant about the aims and goals of the Soviet Union."

The Allies are in "grave peril," Zaplatynsky said, citing recent Soviet moves and President Carter's admission that "misunderstandings" led him to underestimate Russian aggressiveness.

There is a "direct connection" between occupying the Ukraine in 1920 and modern moves into Afghanistan, Zaplatynsky said. That it took 60 years is no proof that Russian policies have changed.

On the positive side, Zaplatynsky said the new Cincinnati joint committee is "novel" because most captive-nation groups elsewhere pursue their goals without close cooperation.

"We have really enjoyed working together," he said. "We find that we learn a lot from each other. We have already achieved so much more in a few months than I could ever have imagined."

The committee distinguishes between such nations as Poland and Hungary, where national identity survives under Communist rule, and the three Baltic States and the Ukraine where Kremlin leaders are in direct control and pursuing "cultural genocide" or "Russification."

Nations absorbed into the USSR by the Russians "have to fight for the right to national identity," Melnyk, head of the Ukrainian Society, explained.

Zaplatynsky said the joint committee's approach probably will not be "protest marches and flag-waving . . . By temperament, we're not inclined to sensationalism."

Another restraint is fear.

Threatened retribution against family members in the USSR often forces them to repress their "seething resentment" against the Russians, he said.

And in nationalist groups larger than Cincinnati's, Zaplatynsky said, there always is the fear of informers. "Something I am suspicious of is the super-super patriot." He said there may be 400 members of the four groups in the new joint committee.

A DEADLY GAME OF POLITICS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. MICHEL. Mr. Speaker, the Carter administration has apparently decided to throw caution to the wind and engage in one of the most deadly games ever played in election year politics. It is a desperate attempt to win the political prize at the risk of giving away the national security in the process.

President Carter has forced into his lineup of surrogate speakers, to defend his indefensible record, a group of individuals who have no business on the campaign trail.

Among them, Secretary of State Muskie, Ambassador to the People's Republic of China Woodstock, Secretary of Defense Brown, and National Security Adviser Brzezinski.

Apparently, President Carter does not distinguish between partisan politics and the functions of Government. To him they are one and the same, even when our national security and our foreign alliances are on the line. To him government exists to serve his political ends, when for centuries we have always insisted that politics should serve the ends of government.

This is not a matter of Cabinet officers defending the record of their administration. This is a matter of Cabinet officers going full tilt into the fray, citing rumor as fact, distorting figures and using the respectability of Government, or what's left of it, as an expendable tool of the reelection campaign, however, and whenever it serves political purposes.

A vivid example of this gross abuse of power was provided recently in a newspaper article written by someone who knows what he is talking about, former Defense Secretary Melvin Laird.

Former Secretary Laird understood the sensitivity of his office and knew better than to play fast and loose with defense matters, for the sake of political gain. His comments appeared in the August 17 issue of the Washington Post and I insert the article "Defense Secretaries Shouldn't Play Politics," at this point in the Record:

Defense Secretaries Shouldn't Play Politics

Four years ago, as a candidate, Jimmy Carter lambasted Republican defense planning and urged massive cuts in expenditures for the armed forces. He said multi-billion-dollar cuts were desirable, particularly in the personnel area. He was wrong then, and there's much wrong and misleading about current Democratic proclamation on defense issues.

With November approaching, the Carter administration has become increasingly strident in its criticism of the defense programs of the Nixon and Ford administrations. To hear the president, Zbigniew Brzezinski and Secretary of Defense Harold Brown tell it, their Republican predecessors let the defense budget fall sharply between 1969 and 1976, while the Carter administration, it is argued, has increased it substantially.

These partisan remarks allege that the Republicans were responsible for the present sorry state of our defenses, and were it not for Jimmy Carter and his national security team, things would be even worse. As Secretary Brown told it on the "Today" show in early July, defense spending fell by more than 35 percent during those years of Republican stewardship, while during the first four years of the Carter administration it rose 10 percent and will increase by more than 25 percent during a second Carter administration.

Brown's politically oriented assessment is distorted and cannot be substantiated by the facts. Moreover, by insisting that the secretary of defense become involved in campaign rhetoric, the administration risks politicizing an office that throughout its 35 years of existence has essentially remained above the political fray.

When I served at the Pentagon, I took the position that the secretary of defense should stay out of partisan politics, but always had the public responsibility of setting the record straight on defense issues.

As a private citizen, I still believe that is the correct procedure. Here, then, are the facts:

From FY71 through FY78, the Republicans submitted budgets to the Democratically-controlled Congress that increased defense budget authority from $71 billion to $115 billion, an increase of 62 percent. Measured in today's inflated dollars, however, that represents a decline from $140.5 billion in FY71 to $131.8 billion in FY78, a drop of 6 percent, not the 35 percent claimed by Brown. He ignores the fact that when Republicans took over the executive responsibilities of government in 1969, 37 percent of the defense budget was consumed by expenditures for an unpopular war in Southeast Asia. In today's dollars, that war was costing almost $70 billion a decade ago. The real decline in what is called the baseline budget is substantially less because $14.7 billion of the FY71 budget, or 20 percent, was spent on the war in Vietnam and bringing about the termination of U.S. involvement.

In today's dollars, the FY71 baseline budget was actually $118.6 billion; this is $20.6 billion or 17 percent less in real terms than President Ford's last proposal to Congress. During the FY71 to FY78 period, it must be noted, Congress cut more than $40 billion from the defense requests of Republican administrations, primarily in the investment area. For example, Nixon and Ford requested authority to build 171 ships, but Congress voted funds for only 130. Were it not for those Democratic reductions, eight years of Republican leadership in the White House would have led to real growth of almost 2 percent per year.

On the other side of the defense coin, Brown's claims about real increases in this administration are inflated. If one compares Carter's request for FY81 with the amount he requested three years ago, when he set out to slash defense spending, the real growth is about $5 billion, or 3 percent, not 10 percent. In contrast to its previous behavior, Congress has been urging the president to spend more for defense to correct deficiencies that have occurred during the past three years, notably with regard to attracting and retaining outstanding young men and women for military service.

If it has not been for Carter's veto of the FY79 authorization bill and his lobbying efforts against proposed increases in the defense budget, the real growth might have been closer to the 10 percent that Secretary Brown proclaims. Finally, of course, the international situation that has existed since Carter took office is much less favorable than that which existed during the Republican years. Those years saw more restraint by the Soviets.

In my view, the really unfortunate aspect of this unseemly episode in Department of Defense history is that Secretary Brown has chosen to become or has been pressured into becoming involved on the political battlefront. It is one thing for a president running for reelection to play games with defense numbers. It is quite another thing for a secretary of defense, who knows better, to lend the essential non-partisan quality of his office to political distortions.

If defense continues to be an issue in the 1980 campaign, as I believe it will, the secretary of defense, I hope, will heed the advice of Winston Churchill, which the secretary quoted in his most recent report to Congress: "You cannot ask us to take sides against arithmetic. You cannot ask us to take sides against the obvious facts of the situation."●

TRIBUTE TO DR. WAYNE McCALL

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. CHAPPELL. Mr. Speaker, I rise today in tribute to a dear friend, Dr. Wayne McCall, of Ocala, Fla. Wayne was a dedicated and intensely patriotic American, a strong supporter of youth athletics, and a devoted and energetic public servant. His recent death was a shock to his family and friends and all who knew him.

As the State representative of district 32 in Florida, Wayne McCall was a fiscal conservative and a man who truly cared about his constituents and their needs. Dedicated and responsive, Wayne always urged his constituents who had a problem to pick up the phone and call him rather than send letters. A quiet-spoken man, Wayne truly listened when people spoke and in his careful and kind way gave assistance.

On the political side, he was a strong supporter of the two-party system and would annually sponsor a fundraiser at his lake camp in the Ocala National Forest to benefit local Democratic candidates.

A family man and community booster, Wayne had seven sons who all participated in high school sports programs. He, himself, presided over the local booster club to raise funds for youth athletics.

A dentist, Wayne was a member of the dental society. He also served as a director on the National Governor's Board of College and Universities and served long and with distinction as a member of the board of regents.

All of us who knew Wayne—those of us who worked with him over the years, and the people of the 32d district who were recipients of his calm and responsive service—will sorely miss him. We have lost a great friend and the community of Ocala has lost an outstanding public servant. On behalf of the Fourth Congressional District, and all who knew him, I offer our expression of deep sorrow and sympathy to Dr. McCall's family.

He was my dear friend. I shall sorely miss his wise and devoted counsel. In remembrance, I have caused to be flown over the Capitol a flag in his honor.●

THE CARTER ADMINISTRATION RESORTS TO THE POLITICS OF HYSTERIA, AND THE FACTS BEHIND GOVERNOR REAGAN'S APPEAL TO LABOR

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. KEMP. Mr. Speaker, in this, the week before Labor Day, the Carter administration has launched a vitriolic campaign against his Repulican challenger, Gov. Ronald Reagan; that is, deliberately distorting the Governor's labor positions in an attempt to frighten voters away from the Republican ticket. The President's pollsters have apparently decided that President Carter's dismal labor record cannot stand on its own, so any administration campaign rhetoric must be concentrated on smearing the Republican candidate with lies and emotional diatribes.

Mr. Speaker, the American people are too smart for that. This election year, they are not looking for the best muckraking candidate. They are looking for a leader with the issues to bring them out of this deepening recession with hope and opportunity for the future.

The administration's strategy was brought to my attention by a speech that Vice President Walter Mondale gave before the New York State AFL-CIO. In that speech, according to the Buffalo Evening News, the Vice President stated that "Reagan favors busting up the American trade-union movement." In the same speech, the Vice President accused Governor Reagan of wanting to trash the social security system, "union security," and the Occupational Safety and Health Act. Mr. Mondale continued to accuse the Republican Party of hating the working men and women of America, and offered as a Carter defense the contention that "his administration has put more persons to work in 4 years than any administration in history."

Let us examine the facts.

In the first place, Ronald Reagan was elected president of his union, the Screen Actors Guild, six times, where he led its first strike. As far as I know, Ronald Reagan is the first union president ever to be a candidate for President of the United States. As one who knows what it is like to bargain from labor's side of the negotiating table, Governor Reagan strongly supports the collective bargaining system free from Government intervention. Claims to the contrary by would-be detractors are obviously attempts to distort the facts.

And let us look at the employment picture that Vice President Mondale so virtuously described. When President Carter took office in January 1977, the unemployment rate stood at 7.3 percent. There were 6,958,000 Americans unemployed at that time. Now, as of July 1980, the latest figures available, the unemployment rate stands at 7.8 percent, with 8,207,000 Americans unemployed—almost 1¼ million more unemployed working men and women in the work force than when he took office.

And where did most of this unemployment come from? From layoffs in the most heavily unionized industries in the country—the auto, steel, rubber, and maritime industries. Hundreds of thousands of workers have been laid off here—workers who have little hope that their factories will reopen in the near future. Surely Carter cannot claim that this has made him a friend of labor.

Or take the President's Council on Wage and Price Stability. This is an agency created by President Carter that believes labor's wages should be frozen at 7 to 8½ percent while the Democrat-led Government devalues their paychecks by 13 to 15 percent. The administration that supports these policies cannot believe in rendering a fair wage for an honest day's work. That administration is no friend of labor.

Let us take a look at some of Vice President Mondale's other claims.

The so called radical statement of Governor Reagan regarding social security on January 31 of this year was:

> The Social Security System must be reformed to guarantee that those depending on Social Security, and those looking forward to its protection in the years ahead, will continue to receive their payments, and that their payments will keep pace with the cost of living * * * such reform cannot come from increasing the already exorbitant taxes paid by workers to finance the system * * * the final answer, however, must be fiscally sound on a long-range basis.

Do you hear a attack on the social security system here? Not at all; Ronald Reagan's strategy for economic growth will save social security.

As to OSHA, Governor Reagan clearly is not calling for the dismantling of the Agency. He strongly feels that the way OSHA has been run has resulted in harassment and nitpicking to the detriment of real workplace safety. That this is true is obvious when one reads statistics verifying the increase in industrial accidents in this country since OSHA was enacted. As President, Governor Reagan would refocus on the real objectives of the OSHA Act rather than permit a perpetuation of the badgering and abuses which have been so counterproductive to its intent in recent years.

The bottom line is Governor Reagan's concern for the working men and women of America. The Democrats are now divided as to whether they want to stand for low unemployment and high inflation—Ted Kennedy—or low inflation with high unemployment—President Carter. Governor Reagan recognizes that surely the experience of the past decade is that such choices are unnecessary.

The combination of inflation and progressive tax rates has continuously widened the gap between what an employer pays and what a worker takes home. Inflation and the outdated tax code automatically raise the tax on profits, and at the same time this combination pushes the worker into higher tax brackets. Across-the-board tax rate reduction, such as Governor Reagan has proposed for both individuals and businesses, can increase the aftertax incentives for both workers and businessmen by narrowing the Government's wedge between them.

Governor Reagan plans to bring labor and capital together with a sound monetary policy. President Carter's whole inflation program has been based on the premise that inflation is caused by workers and businessmen, by consumers and producers. The wage guidelines explicitly blame inflation on workers' wage demands, just as 2 years ago, the administration blamed inflation on business profits. But Governor Reagan believes that inflation can only be caused by the Government.

Inflation is a decline in the value of the currency produced by Government. It is caused by a combination of too much money and too little production. The answer, therefore, is not to blame workers and businesses for inflation, or to slap on wage and price controls as a solution. The answer to inflation is to print less money and to restore incentives for higher employment and production.

The administration cannot match this vision for the 1980's, because President Carter says he will not change his basic economic policies. This time, it is President Carter who has triggered a recession, and Governor Reagan who offers a plan for prosperity.

It is time for American labor and the American people to recognize that they share a growing consensus of values with Governor Reagan about family, community, and country. It was because of Ronald Reagan that the Republican Party adopted a platform which states:

> We reaffirm our commitment to the fundamental principle of fairness in labor relations, including the legal right of unions to organize workers and to represent them through collective bargaining consistent with state laws and free from unnecessary government involvement.

It was because of Ronald Reagan's leadership that the 1980 Republican platform's section on "Fairness to the Worker" begins:

> The Republican Party is committed to full employment without inflation. We will seek to provide more jobs, increase the standard of living, and ensure equitable treatment on the job for all American workers by stimulating economic growth.

This year the working men and women of America will have a real choice—a choice between a President who has brought this Nation to its knees and abandoned his commitment to labor, and a candidate who knows what it is like to run a union, and to fight for the rights of workers. Governor Reagan offers a clear opportunity for the working people of America to choose jobs over unemployment, prosperity over recession, and hope over despair.

It is a choice over America's future. And the facts bear out that in this election, the true friend of labor is Gov. Ronald Reagan.●

THE ECONOMIC LIBERALS: IRONIES OF MANDATORY CONTROLS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. PORTER. Mr. Speaker, many of the economic liberals have proposed mandatory wage and price controls as the solution for our inflationary woes.

There are many ironies in their taking this stance.

First, these economic liberals are those who pride themselves in the protection of individual liberties—the rights of the individual vis-a-vis the State—as I do. But here they are, saying that the individual choices of working men and women to seek higher wages and of individual business people to ask higher prices—in each case made necessary as a response to the inflationary flames fanned by the failure for so long a time for Congress to act with even a small measure of fiscal responsibility—ought to be denied. This anomaly of commitment to some individual rights and not to others by those who call themselves liberal is nothing new, but it is always fascinating.

Second, there is great irony in the fact that these economic liberals, who have consistently put themselves forward as deep thinkers on economic questions, have chosen to champion the ham-handed approach of mandatory controls. It evidences not economic intellectualism, but a total surrender of policy—a bankruptcy of innovative thinking—that most liberals normally would not admit to. Perhaps we have reached that point. Perhaps nothing else is, in fact, left to do. But it is interesting that the economic liberals are the first to give up and admit that their cupboard of ideas is absolutely bare.

Third, many of these economic liberals have prided themselves on being students of history. Yet few Americans would dispute that the history of the mandatory controls that the liberals propose is one of failure—that they don't work but merely create black markets and excessive and costly bureaucracies and when they are lifted, as after World War II and in the Nixon administration—the most recent examples—prices shoot up even higher than they would have without the controls. It is ironic that these students of history ignore history.

The final irony, however, is the most profound. It is the irony that the real culprit in the raging inflation that we are now experiencing is not the wage earner trying to keep up with rising costs by asking higher pay, nor is it the businessman adjusting his prices to reflect higher costs, both of whom mandatory controls are aimed to restrain. Rather, the culprit is the actions of these same economic liberals in the Congress, voting more and more

Federal spending year after year, spending far beyond available revenues, until after almost 26 years of this fiscal recklessness the average American family faces a double-digit inflationary tax on top of all the other taxes they pay. Those who have caused the problem—though they don't even seem to recognize their own complicity—now say they have the solution—mandatory wage and price controls—a bankrupt, end-of-the-line policy from those who pride themselves on their intellectual approaches, a policy that denies individual liberties from those who pride themselves on protecting them, a policy that history shows has always been a failure from those who call themselves historians. And those who promote it are the very ones who created the problem it seeks to solve in the first place through their unending spending and fiscal irresponsibility. What ironies.●

QUESTIONNAIRE

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. BROYHILL. Mr. Speaker, each year, I actively solicit the views of my constituents by sending out a questionnaire to every household in the 10th Congressional District of North Carolina. The response this year has been good: Approximately 13,500 persons have shared their opinions with me, and the responses are still trickling in.

The answers to the specific questions have been helpful to me, but even more enlightening have been the comments which many have taken the time to write on the bottom of the form or in separate letters. Of particular interest to me were the respondents who wanted to know my position on each of the questions.

The most one-sided response came on the question of whether or not social security benefits should be taxed. Ninety-five percent oppose this unwise proposal. This is consistent with my belief, and as many of my colleagues are aware, I have cosponsored legislation to keep the proposal to tax social security benefits from being enacted. Hopefully, the issue is dead for this session.

Two changes in our Constitution were opposed by a majority of my constituents. The idea of limiting the Presidency to one 6-year term instead of two 4-year terms was opposed by 60 percent, with 38 percent in favor of the change and 2 percent undecided. With respect to the number of terms for a Member of Congress, 46 percent wanted to limit the service of congressional officeholders and 51 percent opposed this change in the Constitution. Frankly, I feel that we need more discussion of this issue. I am concerned that we are getting away from the traditional concept of citizen representation and moving toward full-time, professional representation. I am sure this is the proper direction and perhaps a change in the Constitution would be the only way to correct this.

On two environmental issues, my constituents overwhelmingly endorsed the further development of nuclear powerplants and the easing of Government regulations so that we could insure a greater use of coal to meet our energy needs. The use of nuclear power received a 68-percent approval, while a wider use of coal garnered an overwhelming 77-percent support. Personally, I favor continued use of nuclear power with a concurrent strong emphasis on safety. I agree with my constituents and support the greater use of coal to meet both current and future energy need.

The creation of a national health insurance program to help pay the costs associated with catastrophic illnesses only was opposed by 58 percent and supported by 39 percent of my constituents. I oppose and will continue to oppose the administration's comprehensive, mandatory national health insurance proposal because of its extremely high price tag and resultant burden to the taxpayers. However, I am a cosponsor of the Medical Expense Protection Act (MEPA), an alternative proposal to provide help for families severely affected by the costs associated with catastrophic illness; I term MEPA an alternative because, contrary to previous national health insurance proposals, MEPA makes maximum reliance upon utilizing the private sector for insurance protection, with a minimum of burden upon the Federal Treasury.

The subject of Saturday mail delivery has been of increasing concern to the Congress and the American people. Fifty-four percent of my constituents supported termination of 6-day mail service, while 43 percent were in favor of continuing present service. This was somewhat of a surprise to me, as most of the mail I have received has been in opposition to ending Saturday mail service.

While many respondents shared thought-provoking comments about the economy with me, only 38 percent favor strict Federal controls on wages and prices. I agree with the 59 percent who feel this approach would be ineffective. Past experience with Government wage and price controls has more than pointed out this fact.

The President's proposal to implement a costly gasoline rationing plan in the event of shortage received the strong opposition of 81 percent of my constituents. I voted in this body to disapprove the President's plan. As we all know, it has been adopted despite my objections and I am hopeful it will never be necessary to implement the plan.

Probably the response which was the most interesting to me, and the response which indicated no consensus opinion, was to the question of military service. Nearly half of those who answered my poll favor keeping the All-Voluntary Army, but improving benefits and conditions—20 percent—or requiring 1 or 2 years of public service as an alternative, 23 percent. Twenty-five percent feel the draft should now be restored, and 18 percent of that number support the draft of men only. It is interesting to note that 15 percent agree with the current system of registering males, while another 12 percent feel women should be included. The remaining 5 percent indicated they see no reason to change the current All-Voluntary Military.

These opinions will be of great assistance to me as I continue my work as a legislator, and I commend the results to my colleagues for their consideration:

QUESTIONS

1. Should Congress set up a national health insurance program to help pay for catastrophic illnesses only? The President is advocating a comprehensive national health insurance program to be paid for by government and business. Supporters of the catastrophic approach say this is the only additional area of health care in which government should become involved because of the tremendous hardships which hit a small number of American families. Opponents say we cannot afford even this modest proposal, and that it is just a step toward a national plan to cover everyone for all medical expenses.

2. Should there be a limit placed on the number of terms a Member of Congress can serve? Supporters of this constitutional amendment say it would result in a more responsive, more honest Congress composed of people willing to take unpopular, but necessary actions. Opponents say the present system has worked well, an increasing number are retiring voluntarily every two years, and voters should be able to re-elect their Congressman as long as they desire to do so.

3. Should the United States continue to move forward with the development of nuclear power plants? Proponents say we have no alternative now because of the time it will take to develop alternative sources of energy and that the dangers have been greatly exaggerated. Opponents feel the possible dangers of nuclear power outweigh the energy needs, and that its continued use will slow the drive to develop alternatives.

4. Should the U.S. ease environmental restrictions so that coal could assume a larger role in meeting our energy needs? Supporters cite the large reserves of coal we have in this country and indicate it is the only alternative source which is readily available now. Opponents cite the damage to the landscape and the resulting air pollution. They also see any easing of restrictions as a step backward in the drive to clean up the environment.

5. Should Saturday mail be ended? Proponents of a balanced federal budget advocate reducing or eliminating the federal subsidy going to the Postal System, with the system deciding how to implement the reduction. Those who support ending Saturday mail say it is no longer necessary in modern day society and would save approximately $588 million dollars during the first full year. Some opponents feel it could be ended for businesses, but not for homes, while still others feel it would not really save money

because the same amount of mail would need to be processed.

6. Should strict Federal controls be placed on wages and prices? Inflation under President Carter has passed the 18 percent rate, nearly four times as high as the last year of President Ford's administration. Proponents say wage and price controls is the only way to halt inflation. Opponents argue the new bureaucracy to enforce the controls will be ineffective, exemptions will be granted, and controls have not worked in the past.

7. Should the President be limited to one six-year term instead of two four-year terms? Proponents say the change would enable the President to make difficult decisions without being concerned about re-election and that it would bring new ideas, new people, and new solutions to problems every six years. Opponents claim the present system has worked well and the people have the right to reward a good President with a second term in office.

8. Should the President put into effect a gasoline rationing system? Supporters argue this is the fairest way to distribute gasoline to the masses of people and that it is more equitable than having the price continue upward. Opponents claim such a system would require an expensive new bureaucracy, would be unfair to those who must use cars in their work, and would create a black market.

9. Should social security benefits for those who have retired or those who are on disability be taxed? Supporters see this as a way of raising more money for the social security system, and they argue that the benefits are the same as income and should be taxed as such. Those opposed to such a drastic change in policy cite such reasons as the relatively small amount of money which the people are receiving, along with the taxes which have already been paid by the recipients during their working years.

10. Should our military structure be changed? A growing number of people are expressing concern about the United States' ability to defend itself, should the occasion ever arise. Which of the following is your position?

A. Keep the all-volunteer military, essentially as it is now.

B. Keep the all-volunteer military, but improve the pay, fringe benefits, and conditions in an effort to attract and retain better personnel.

C. Standby registration, but not drafting, of all 18-year-old males and females.

D. Standby registration, but not drafting, of all 18-year-old males only.

E. Drafting of all 18-year-old males and females.

F. Drafting of all 18-year-old males only.

G. Require all 18-year-old males and females to give one or two years of public service, either in the military or non-military sector.

RESPONSES

	Yes	Percent	No	Percent	No response	Percent
No. 1	5,215	39	7,713	58	467	3
No. 2	6,112	46	6,888	51	267	3
No. 3	9,339	68	3,763	28	467	4
No. 4	10,160	77	2,701	21	396	2
No. 5	7,399	54	6,033	43	311	3
No. 6	5,580	38	8,458	59	475	3
No. 7	4,967	38	7,975	60	350	2
No. 8	2,232	17	10,733	81	394	2
No. 9	553	4	12,337	95	155	1
No. 10:						
A	848	5				
B	3,103	20				
C	1,928	12				
D	2,217	15				
E	1,154	7				
F	2,709	18				
G	3,563	23				

A SALUTE TO FATHER VICTOR R. YANITELLI, S.J., AN URBAN LEADER, AN EDUCATOR, AND A MAN OF GOD

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. GUARINI. Mr. Speaker, the city of Jersey City and, indeed, the entire State of New Jersey has lost the vital services of a great servant of God and man, the Reverend Victor R. Yanitelli, S.J.

Father Yanitelli served for 17 years in Jersey City, leaving a legacy of outstanding accomplishments. I wish to share a litany of his great work, which has been gathered with the assistance of Ray Martignoni, a mutual friend, who has served St. Peter's College for many years.

Father Vic, as he is affectionately known, understands the instrument of good that a Jesuit college can be in an old urban community and the force and energy that our young people could contribute in rebuilding a proud city. His venture beyond the college campus gave a new vitality, a new hope, and a new beginning to the many yearning for leadership.

With his departure, an era has ended in New Jersey.

The Reverend Victor R. Yanitelli, S.J., priest, educator, and community leader, left Jersey City 2 weeks ago to become pastor of St. Ignatius Loyola Church in Manhattan after 16 years as a dynamic force for good in New Jersey.

In 1963, Father Yanitelli came to St. Peter's as director of student personnel services and 2 years later became president of the Jesuit school.

He served as president for 12 years, stepping down in 1978 to become chancellor and engage in fund raising.

Father Yanitelli led St. Peter's through its period of greatest transition and growth. It was a time that saw St. Peter's double its student enrollment, complete a $13 million expansion of its physical plant, and develop an active involvement in the community which nearly resulted in Father Yanitelli's resigning as the school's president in 1971 to run for mayor of Jersey City.

When Father Yanitelli arrived in Jersey City, St. Peter's board of trustees had just rejected a proposal to relocate the college in suburban Monmouth County and were looking for a suitable new president who could direct the course of the school's reaffirmed urban commitment.

In 1965 they turned the job over to Father Yanitelli, and time has proven it was a match made in heaven.

In rather short order, the Jesuit priest showed he was indeed the logical choice to make St. Peter's really part of the city.

Through his encouragement, St. Peter's soon became one of the first colleges in the Nation to offer a major in urban studies, a program that aims the intellectual resources of the college's students and faculty at finding solutions to the unique problems of the cities.

Father Yanitelli also played a large hand in the formation of the institution's project 25, an academic outreach to inner-city students who show great promise, but otherwise would be denied admission to college because of academic deficiencies.

Under Father Yanitelli's leadership, St. Peter's also took an active part in the formation of the Hudson County Community College, a college without walls. The college offers postsecondary education to Hudson residents at a considerable savings to the county and its students by utilizing facilities of St. Peter's, Jersey City State College and Stevens Institute of Technology.

A look at St. Peter's urban commitment reveals that it is an extension of Father Yanitelli's own personal involvement in the community.

He has served 1½ terms as a commissioner of the New York-New Jersey Port Authority; was chairman of the Governor's Advisory Council on Project Upward Bound; and was a board member of the New Jersey State Scholarship Commission, the Youth Consultation Services of Jersey City, Christ Hospital, the Jersey City Boy's Club, the National Advisory Board for Veterans Affairs, and the Garden State National Bank.

Previously the priest had made significant contributions to the community as president of the Jersey City Board of Education, as chairman of the Hudson County narcotics rehabilitation program, the Jersey City chapter of the American Red Cross and as a member of the Hudson County Planning Board, the National Advisory Council on Economic Opportunity, the Jersey City Medical Center, the Jersey City Chamber of Commerce, the New Jersey Symphony Orchestra, and the National Conference of Christians and Jews.

Besides leading the college's external thrust in the community, Father Yanitelli also has exerted strong internal leadership at St. Peter's during his years as president.

As St. Peter's student body expanded in the 1960's, he realized the school would need to expand its physical facilities to meet the needs of its undergraduates.

With St. Peter's entering its second century, the priest helped launch a multi-million-dollar development campaign that enabled the college to build a new library-student center, academic building, and to renovate its science facilities.

A final jewel was added to his crown 4 years ago when the college completed construction of its recreational life center, which was named in Father Yanitelli's honor. ●

At the same time Father Yanitelli was helping to expand the college's facilities, he saw to it that St. Peter's improved its curriculum, added new academic departments, and increased student services.

And St. Peter's took another major step in education during his presidency several years ago by opening up a new campus in Englewood Cliffs, where nontraditional students are returning to the classroom after years away from formal education.

However, serving as president has not always been a bed of roses during Father Yanitelli's dozen years in that post.

In 1969, as student unrest swept the Nation's campuses, St. Peter's was rocked by a student strike which resulted in the arrest of some 41 student sit-ins and divided St. Peter's students, faculty, and alumni into political factions.

Among the more enduring memories of St. Peter's strike is a news photo taken of Father Yanitelli while he was trying to talk out differences with a strike leader marching on a picket line.

The photo, which appeared in newspapers throughout the country, symbolized the unique qualities that enabled Father Yanitelli to lead St. Peter's through the storm and reunite the college.

Those qualities include his remarkable humaneness and accessibility to others, which have helped Father Yanitelli to shatter all of the stereotypes of college presidents as distant and unapproachable.

His openness has been a trademark of his leadership in the community.

The Jesuit has retained the sensitivity to students that he developed as director of student personnel services. He has employed an open door policy with students who have continually arrived at his doorstep seeking advice and support.

Father Yanitelli, who is personally offended at the thought of a capable student being forced to drop out of college for financial reasons, has been known to award scholarships to scores of students over the years. And at times his generosity has caused the school's financial officers concern that one day he might give the college away.

Those human qualities are sure to remain a part of "Father Vic" as he enters a new phase of his vocation.

Father Yanitelli will be missed by the community at large and by the thousands of individuals whose lives he has touched.

The Jersey Journal, in an editorial that appeared shortly after the announcement that Father Yanitelli would be leaving Jersey City, capsulizes what he is and what he has meant to his college and his city.

It reads:

The Rev. Victor J. Yanitelli, S.J., is leaving Jersey City after 17 years and he will be missed.

He leaves more than a recreation center bearing his name. His contribution to St. Peter's College and to Jersey City will continue to benefit both in the years to come.

He came within a couple of hearbeats of being mayor of Jersey City and who knows what he might have accomplished in that office with his warmth, sincerity, considerable intelligence and his invaluable gift of inspiring the confidence and cooperation of others?

Honesty rubs off from Father Vic. When you think and talk about him you find yourself being more honest with him—and yourself—than you normally are. That makes it easier to say Father Vic had a lot of friends and there also are many who are not exactly friendly toward him.

Many, for example, considered him "a black vote" on the Jersey City Board of Education. Others say he has not been outspoken enough as a Port Authority commissioner. Think about it and you realize the first criticism means he helped minorities and the second, that he is a diplomat.

Nobody, however, has successfully questioned his motives or his conduct in public and community activity.

Losing Father Vic is like losing one of our natural resources.

He will be a difficult man to replace.

I am certain that my colleagues will agree that Father Yanitelli was a "doer" as well as a dreamer. His vision indeed has provided the opportunity for young and old and black and white and the rich and the poor he has touched to help to make a better life for all.

May God bless Father Vic and keep him for many years to come.

I urge him to:

HOLD FAST YOUR DREAMS

Hold fast your dreams!
Within your heart
Keep one still, secret spot
Where dreams may go,
And, sheltered so,
May thrive and grow
Where doubt and fear are not.
O keep a place apart,
Within your heart,
For little dreams to go! ●

DESIRE TO BEAT THE SHARPLY RISING CAPITAL COST OF NEW MACHINERY

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. NOWAK. Mr. Speaker, as chairman of the Small Business Subcommittee on Access to Equity Capital and Business Opportunities, I have made several recommendations to the 96th Congress on easing the capital formation burdens on small business. One of these recommendations is passage of H.R. 6171, the Used Machinery Investment Credit Adjustment Act of 1979.

The bill increases the amount of used equipment eligible for the investment tax credit from $100,000 to $200,000. The Congressional Research Service has indicated that the revenue loss for this proposal is $100 million in 1980, and nominally increases to $146 million by 1984. Currently, there are 81 cosponsors of H.R. 6171.

In substantiation of how used machinery can be both productive and cost effective for a business, and because of its importance to the American people, I am inserting in the RECORD an article entitled: "The Big Boom in Rebuilding" from the June 1980 issue of Dun's Review.

The article follows:

THE BIG BOOM IN REBUILDING

(By Lynn Adkins)

Ohio University Professor Charles Overby calls it "the invisible industry." Herbert Jamic, vice president of ARA Services, Inc., says it is a good potential money-maker for his company, and Daniel Baudouin, who heads the diaper service division of New Jersey-based Blessings Corp., says it is a terrific cost-saver.

What these people have in mind is the considerable saving in money, energy, raw materials, and, in some instances, time by rebuilding and remanufacturing old equipment and vehicles rather than buying new ones.

Of course, the rebuilding of locomotives and airplanes has been commonplace for years, but the phenomenon is spreading to other industries as well. Although there are no figures to indicate the extent of the practice, more and more companies, pressed by inflation and high interest rates, are joining the trend. And with the recession now squeezing profits still further, industry will be doing even more rebuilding over the next couple of years.

Jamic, whose company rebuilds its own vending machines as well as the step vans that deliver the coffee, candies and soda to those machines, cites the benefits to ARA.

"We have about 3,000 step vans, so it has become very economical for us to bring them in and rebuild them. Last year, we saved $1 million by rebuilding." Jamic notes that a new step van costs about $11,000 and that the old vans can be rebuilt for about $6,000. "That is a saving of $5,000 on each of the some 200 vans rebuilt last year. It reduced our capital investment and that saving either falls to the bottom line or gives us an opportunity to invest in something else."

In fact, ARA's van rebuilding, which began in 1978, has proved so successful that the company is now redoing step vans for other firms and is considering rebuilding truck cabs in the future. And Baudouin, who embarked on a program a little over a year ago to have Blessings' laundry equipment rebuilt, explains that "previously we could replace that equipment with new stuff, but we just can't afford to do that today."

NOT JUST MAINTENANCE

Rebuilding, it must be emphasized, is not just a stepped-up program of sophisticated maintenance or repairing. In rebuilding any machine or vehicle, it is completely stripped down so that all the parts can be examined and replaced if necessary. And a rebuilt piece of equipment can last as long—or longer—than a new one. Says Jamic: "The life-cycle of a rebuilt vending machine is as long as the original. And that's the whole purpose of the program." Concurs President Earl Ramsey of All State Manufacturing Co.: "When we rebuild a vending machine, it should last eight years, about the same as a new one."

The rebuilding idea is taking hold at such a pace that it is likely to continue even after the recession is over, according to many experts. Comments Robert Nesbit Jr., general parts and service manager at L. B. Smith Co., a distributor and rebuilder of heavy construction equipment: "This trend will continue ad infinitum because the cost of equipment has just gotten out of hand." At 30%-to-40% of the cost of a new piece of equipment, Nesbit says, a rebuilt crane or loader "is a real bargain."

Still another example is that of a milling machine—a common piece of equipment in almost any manufacturing facility—that can be rebuilt for about 50% of the price of a new machine. With new millers now running over $100,000, the savings can be considerable, because it is not uncommon to find a dozen such machines in a medium-sized plant.

There are, however, advantages to rebuilding beyond cost. Baudouin says his company will have about 25 washing and drying machines rebuilt this year at about 50% of the cost of new machines which would run between $45,000 and $50,000 each. And those rebuilt machines will sport a new warranty. Moreover, says Baudouin. "The tax laws allow us to recapitalize remanufactured equipment. We can depreciate it according to our schedule, which on machinery is ten years."

Some companies are buying rebuilt equipment not so much for the cost saving, but because it is more readily available than new machines. Faced with a huge backlog, the machine tool companies are averaging two years or more on delivery of new equipment. A rebuilt machine tool, on the other hand, can be delivered in half that time. Kent Mathias, vice president of Cincinnati Milacron, Inc., one of the largest machine tool manufacturers in the country, says his company's rebuilding business is doing very well. "When a manufacturer gets a contract to produce parts, he has to start making those parts quickly. He wants to get the quickest delivery [on a machine tool] he can." Mathias attributes his company's brisk rebuilding business to the delivery problem rather than the lower cost.

SKILLED LABOR SHORTAGE

Vice President Robert Trecker of machine tool manufacturer Cross and Trecker Co. notes: "If I had more skilled people [to rebuild machine tools], I could do a lot more work. Our biggest restraint is the amount of skilled labor we can come by."

Professor Overby, who studied the ins and outs of rebuilding while at the Congressional Office of Technology Assessment, points out that beyond the considerable time and money saving to an individual company, advantages accrue to society in general through rebuilding. "If a product is remanufactured and reused . . . less materials and energy may be needed, less waste will need to be disposed of, less pollution will be created and the life-cycle of product ownership and use may well be reduced for the consumer," he maintains.

With the average American consuming 115 pounds of raw materials every day, excluding food, re-using just a small portion of those materials could prove a positive step toward solving some of the nation's pollution problems, points out Overby. "If all automobile passenger tires in the U.S.A. in 1973 had been recapped once, solid waste in terms of tire discards would have been halved," Overby contends.

If a company is considering rebuilding, it is important to buy high-quality equipment in the first place, Jamic points out; that's why he buys top quality aluminum-body vans from Grumman. They cost about $1,000 more than the steel body vans, but, says Jamic, "the steel vans were so corroded, we had to scrap the entire vehicle."

PROFIT POTENTIAL

Other companies rebuild equipment as profit-making operations, although the number of firms that do so is not large. Some original equipment manufacturers such as International Harvester Co. and Cincinnati Milacron offer rebuild services to their customers. But much of the rebuilding of heavy equipment is done by dealers, not manufacturers. As a heavy equipment distributor, L. B. Smith will rebuild cranes, loaders and the like for its customers. In fact, Smith is currently rebuilding for about $75,000 a mammoth industrial crane that would sell for between $250,000 and $300,000 new. "Rebuilding is a very valuable business for us," says Nesbit. "It is large dollar service work and we jump at the chance to do that kind of job."

One of the oldest industries involved in rebuilding is the truck and automobile after-market. Bruce Plaxton, Editor of Renews Magazine, which covers the after-market, believes "the automotive rebuilt engine market is just going to explode over the next few years." Plaxton explains that although Americans are switching from the big 8-cylinder engines to 4-cylinders, "the consumer is maintaining his car as if he were still driving a vehicle with a bigger engine, and those smaller engines are blowing up right and left as a result."

The fleets of trucks that retail, service and delivery companies must maintain are also big users of expensive rebuilt replacement parts such as engines and transmissions. Plaxton notes: "As recently as six years ago, most of the large commercial fleets were holding on to their vehicles somewhere in the neighborhood of three-to-four years, but a good number of those fleets now are five, six, sometimes seven years old." That's because the cost of buying new trucks has gone up exorbitantly in the past few years. "Fleet owners have to cut corners somewhere, so they are very heavily into rebuilding," he points out. "Every indication is that they are going to do more in the future."

Another aspect of the rebuilding boom are those companies that rebuild their own products and then sell—or more often lease—them out again to new customers. International Business Machines, Xerox and Minnesota Mining and Manufacturing have extensive facilities for rebuilding some of their products. Xerox started a rebuilding program in 1976 and today has five Centralized Refurbishing Centers scattered around the country to handle the company's copiers and one in Rochester, N.Y., that re-does telecopiers. "A customer doesn't know whether a piece of equipment on lease is brand new off the production line or whether it has been out at six different locations," says one Xerox executive. If Xerox sells a rebuilt machine, it of course informs the customer that it is not a brand new item.

Minnesota Mining and Manufacturing Co. also rebuilds leased office equipment such as copiers, telecopiers and microfilm machines. The ten-year-old program "has been quite a success and we have had a real savings in materials and parts," maintains Vice President Carl A. Kuhrmeyer. Most of the candidates for remanufacturing are sent to one of the company's three refurbishing centers, although some products do go back to the factory that made them. Kuhrmeyer notes that a plaque is placed on reconditioned products so the customer knows just what he is getting, because "we think that's important."

IBM has had a reconditioning program for more than twenty years. Most of the refurbished products had been leased, but the company will redo an owner's product on request. Unlike Xerox, which has separate refurbishing facilities, IBM sends its products to the plant that originally manufactured them. Highly sophisticated computer systems, which are comprised of components from a couple of plants, will spend refurbishing time in each of those plants.

With all of rebuilding's advantages, it is surprising that more companies are not engaged in it. A major reason is that Americans—consumers and businessmen alike—are enamored with styling and want the latest technology on most machines they use, according to Overby. But All State's Earl Ramsey contends that this should be no problem: "Not only do we rebuild, but we add new features to old vending machines. An old coffee machine that uses the fresh brew method for making coffee will come to us and we will remanufacture that machine to utilize freeze dried coffee. The machine gets a new front and it looks brand new."

ANOTHER DRAWBACK

A second drawback to rebuilding a machine is that often a company cannot afford to operate with reduced capacity while the machine is being rebuilt. But Blessings' Baudouin has found a way around the problem. "We have entered into a program with the Talley Laundry Machinery Co. whereby we will take some equipment out of one plant, and ship it to them for remanufacture. We then send that piece into another plant, which sends Talley a piece to be rebuilt. We just keep that cycle going." Baudouin had to buy a couple of rebuilt pieces of equipment to get his program started, but he says that the small added expense has already been recouped.

But perhaps the greatest resistance to rebuilding is that many manufacturers do not wish to have the cheaper rebuilt equipment compete with their newer, more expensive items. "Rebuilding may be a more efficient use of resources and energy," says Overby. "But it flies in the face of the glue that has held our society together. The driving engine of this society has been growth, and anytime you start looking at ideas that suggest less growth in the rate of consumption, it has ripple effects all over."

That may be true. But the businessmen who have opted for rebuilding surely agree with Blessings' Baudouin: "It just makes a lot of sense if you can save some money and have the equipment perform as if it were new."●

COMMUNITY SERVICES ADMINISTRATION TAXPAYER RIP-OFF

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. FORSYTHE. Mr. Speaker, I would like to draw the attention of my colleagues to an abortion of a class action suit involving the Community Services Administration, which was revealed in an August 20, 1980, Wall Street Journal article. The article exposes a new wrinkle in how Federal Government agencies often deliberately misuse funds and circumvent the authority of the Congress to establish programs.

The continuation of this type of activity by CSA, or any other Government agency, diverts funds from useful programs and perpetuates unproductive ones, as well as placing an added burden on the already overburdened taxpayer. It's no wonder that our citizens are mistrustful and skeptical of their Government.

The article follows:

A SWEETHEART OF A LAWSUIT?

(By Heather Stuart Richardson)

Elsie Simer is one of nine plaintiffs who recently won an $18 million settlement by suing the federal government's Community Services Administration. The 73-year-old resident of Melrose Park, Ill., received her $250 check in late July.

So did Hilda Beller, 61, who with her 81-year-old mother survives on an income of less than $200 a month in Breinigsville, Pa. The $250 checks also went to Arlene Whitehouse, a blind octogenarian who lives alone in Maine; Arthur Boucher, 70, another home-bound Maine resident; Hilda Spinney, 58; Rose and Robert Henderson of Lancaster, Pa., who struggle to support their family of five on about $600 a month; Debra Jones of Manheim, Pa., and the Gray Panthers, a private advocacy group for the elderly.

The nine plaintiffs whose names appear on the class-action complaint in Simer v. Olivarez collected a total of about $2,000. They are not likely to ask what happened to the rest of the $18 million, however. Of the six reached for comment, three professed no knowledge of the lawsuit and only one said he had been consulted in advance about the settlement.

In any case, the big winners in the settlement weren't the class of complainants who supposedly were doing the suing. Much of the rest of the $17,998,000 appears to have been divvied up among: government agencies (even the agency being sued was able to add four more bureaucrats to its rolls as a result); quasi-public community action groups with a good deal of political clout, and the so-called public interest lawyers of the type who launched the suit in the first place.

Indeed, a close look at Simer v. Olivarez suggests that it was one sweetheart of a lawsuit for nearly everybody except the complainants—and the taxpayer.

FILING A COMPLAINT

Various public interest law firms filed the complaint in federal district court in Chicago in September 1979 against the Community Services Administration, the successor agency to the Office of Economic Opportunity, which, you may remember, was the cornerstone of Lyndon Johnson's War on Poverty. The complaint alleged that the nine plaintiffs "and all others similarly situated" had been deprived of CSA energy crisis assistance payments because of arbitrary requirements. In particular, the suit said, $18 million of the $200 million appropriated for fiscal 1979 to help poor people cope with soaring energy prices had gone unspent. A provision that such unspent funds would have to be returned to the Treasury violated the Administrative Procedure Act and due process laws, the suit contended.

It was no accident, however, that a termination date for spending the $200 million had been inserted in the legislation for the program. The Office of Management and Budget insisted on the inclusion to make certain that the program would confine itself to winter emergencies. Also, CSA hadn't had much luck with two previous "energy crisis" programs. An investigative report by a congressional subcommittee considered it as having "achieved questionable results, beset by inadequate management practices, and leaving a sense of expectancy and dependency among the poor. . . ."

A specific appropriations bill for further energy crisis payments might not have survived this skeptical climate. Instead, the $200 million was wrapped in with the broad continuing resolution Congress passed in order to keep the CSA from folding. The subcommittee condemned this act as "presumptuous" because Congress had passed both previous programs with considerable reservation and specifically as one-shot affairs. Furthermore, in bypassing the normal route, CSA had "eliminated Congress' discretionary decision-making authority."

The OMB, in approving the CSA request, had stipulated that the $200 million couldn't be spent after June 30. When that date rolled around, $18 million remained unobligated and apparently doomed to be returned to the Treasury. Yet a previous lawsuit in a similar case against CSA had prevented that from occurring; a group of public interest law firms figured the trick could be repeated.

Of the claimants named in the suit who could be reached for comment, those who were aware of the suit at all insisted that they had been steered into the lawsuit by public interest law firms. The firms all receive grants of between $285,000 and $850,000 from the Legal Services Corp., an independent agency established by Congress, plus additional support from what used to be the Health, Education and Welfare Department.

Preliminary hearings led to a pre-trial settlement between CSA and the plaintiffs. The plaintiffs would each receive an amount equal to the maximum allowable under the energy crisis payment program, or $250, yet no attempt was made to identify "all others similarly situated"—the poor on whose behalf the class action was instituted.

CSA rationalizes this deliberate oversight by insisting that reopening the program for such a trifling amount would have caused no end of administrative headaches. In addition, since Congress had already allocated vast amounts for a similar 1980 program, CSA sought a settlement which would "have impact," according to Richard Saul, Chief of Energy Programs at the CSA.

In other words, CSA sought a settlement which would allow it to use the funds to finance pet projects which otherwise might have been terminated because of opposition or a lack of interest in Congress.

How will the $18 million (less $2,000) be spent? As outlined in the legal settlement, $4 million will go to a hypothermia program run by former CSA grantees to alert people to the dangers of freezing to death; over $2 million will be spent to subsidize solar power programs; and roughly $8 million will go to public advocacy and legal services. The remaining $4 million, originally intended for emergency energy conservation kits, will probably end up in the advocacy kits as well.

Here are some of the particulars of the distribution:

$150,000 will keep the Small Farm Energy Project, a CSA grantee, alive for an additional two years, despite a report by Rural Development Inc., an independent research and consulting firm, that was partly laudatory but also conceded that "the level of major energy innovation is less than what would be necessary to have a significant impact on energy use and income level on cooperating farms."

$1 million will be awarded to consulting firms and 15 Community Action Agencies, essentially to produce reports to inform us that energy is expensive.

$4 million will go to 23 of the CSA's Associations of Community Action Agencies that were due to be terminated. About $2 million of that sum will flow through to the existing legal service network for various contracts. The associations, such as Energy Alliance, act as consumer advocates, working for such things as utility rates, customer service regulation and challenges to utility projections of capacity needs.

The National Consumer Law Center will receive $1.8 million directly plus another $500,000 to distribute to Community Action Agencies, legal service organizations and consumer utility advocacy groups. The $700,000 grant the National Consumer Law Center received in 1979 from CSA was to have been its last; CSA didn't anticipate adequate appropriations to keep the NCLC going. Now it has $900,000 a year for the next two years.

$200,000 for the Associations of Community Action Agencies and Community Action Projects for "training and technical assistance in organizing and coalition building" under the auspices of the Citizens Labor Energy Coalition. These civic-minded experts concocted Big Oil Day last October and more recently participated in Big Business Day.

Finally, to administer the settlement, CSA created four new positions in its own offices, positions which Congress most probably would never have authorized.

MOOT INTENTIONS?

Thus CSA and the public advocacy and legal services groups may have hit upon a marvelous recipe to render Congress's intentions moot and feather their own nests: Leave money unspent, be sued and settle as thou and they can best profit.

"I can prove everything but intention," say Peter Metzger, who runs an internal think tank for the Public Service Co. of Colorado. "You have this friendly lawsuit where all these publicly funded legal services groups rush to court and distribute funds among the litigants."

Assuming CSA could have won the case, fiscal responsibility would seem to demand that it do so and return the $18 million to a government already under attack for excessive spending. And if, as CSA's lawyers assert, the judge gave them reason to believe they would lose the case, then shouldn't the funds have at least been used for the purpose for which they were intended—to alleviate the burden of rising fuel prices on the poor—instead of propping up pet priorities of a floundering agency?●

THE FEC, THE LAW, AND THE FACTS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. DORNAN. Mr. Speaker, the following three discrepancies in the Peck/Peck/Dennis/Stewart scandal further illustrate the gap that exists between the Federal Election Commission's duty to investigate possible violations of the law as clearly revealed by their own records and the manner in which the FEC deals with such possible wrongdoing.

The questions raised by the facts below are questions that I have brought before Federal officials without receiving satisfactory answers. I am inserting these discrepancies into the RECORD in the hope that some light may be shed where certain Government officials have refused investigation.

The following material is presented for your consideration.

CAREY PECK DOES NOT REPORT SOURCE OF HIS BANK LOAN USED TO REPAY DENNIS, WHICH VIOLATES FEC LAW

Carey Peck claims he took out a bank loan to repay Dennis the $13,000. When he learned of Dennis' legal problems, Peck said he took a personal bank loan and returned the money—see Daily Breeze, Torrance, Calif., January 29, 1980, article by Rich Connell. Peck said he had immediately obtained a personal loan of $9,000(?) in order to pay back the funds—see Evening Outlook, Santa Monica, Calif., January 10, 1980, article by Will Thorne. On his father's advice, Carey Peck borrowed $13,000 from a local bank and returned the money Dennis had given him—see June 21, 1980, Jack Anderson column.

Carey Peck, who does not appear to be working, finds $4,000 from somewhere and claims to add this to a $9,000 loan from a bank. Or, Carey borrowed $13,000 if the Jack Anderson article is correct. On Daddy's advice instead of his own mature judgment.

Yet, on his FEC schedule C form for the period April 1, 1979, through June 30, 1979, Peck lists himself as the sole source of a $13,000 loan to the Carey Peck for Congress Committee for "advance for campaign expenditures from personal funds."

FEC regulations then in force did allow a candidate to make a loan made in accordance with applicable banking laws and regulations, and in the ordinary course of business—11 CFR 100.4(b)(13) provided that each endorser or guarantor is reported—11 CFR 104.

However, FEC regulation 11 CFR 104.2(b)(5)(i)(B)(ii)(A) requires that any loan to a candidate or a committee during the reporting period made for over $100 must be fully reported as to its source. Carey Peck has misrepresented to the FEC his loan regarding repaying Dennis the illegal money. Senator DONALD STEWART, until April of this year, 1980, also failed to list the real source of the $22,000 he gave to his campaign in order to cover the $22,000 check he claims he gave to James Dennis.

Furthermore, Carey Peck may have violated 11 CFR 110.0(a)(1) which prohibits any person from contributing or loaning a candidate more than $1,000 per election—primary, general. Carey Peck made his loan at the City National Bank of Beverly Hills, according to Bram Goldsmith who manages 25 branches of the City National Bank, and who had a personnal conversation with Congressman DORNAN on May 16, 1980.

In part, the conversation went approximately as follows:

DORNAN. You mean that you would loan an unemployed congressional candidate $13,000 on his own signature without any collateral or cosigners?

GOLDSMITH. Well, Congressman, Gregory Peck didn't cosign the loans (plural).

DORNAN. So you gave a 28-yr.-old lad, unemployed for over a year and a half, loans without any collateral? Is that intelligent or proper banking practice?

GOLDSMITH. Congressman, I said * * * Gregory Peck * * * didn't cosign the loans. (Given in a tone which implied that somebody had).

DORNAN. I'm sorry, I'm a little slow today. I see, you mean the Gervertz's (Carey Peck's in-laws) or someone else co-signed. Thanks, Bram.

GOLDSMITH. You're welcome, Bob.

FEC law—title 2, United States Code section 434(b)(3)(E), states that all loans must be reported with the identity of any endorser or guarantor of such loan, the date, and the amount of the value of such loan.

PECK CLAIMS A RETURN OF THE ILLEGAL $13,000 TO DENNIS, YET FEC DOES NOT ASK FOR ANY EVIDENCE OF THIS RETURN TO THIS VERY DAY, IN SPITE OF NATIONAL PRESS STORIES OF FELONY "U-TURNING" OF ILLEGAL FUNDS; FELON WHO CLEARED PECK AND STEWART "UNCLEARS" THEM BEFORE FEDERAL GRAND JURY

Fred Eiland, spokesman for the FEC in Washington, said that Peck's campaign apparently received the money not knowing it was donated illegally. They took the money in good faith and once they found out it was bad, they returned it—see Daily Breeze, January 29, 1980, by Rich Connell. How the hell would he know?

As to why Mr. Eiland should become a major apologist for Mr. Peck is still very unclear. For instance, there is no evidence in the FEC files—MUR 970—of the front and/or back of a canceled check from Peck to Dennis. And, Commissioner Thomas Harris of the FEC told Congressman DORNAN and Bob Marshall, a staff aide, in a personal meeting at the FEC that he was surprised to learn that no check was in the file, as it was normal FEC practice to obtain such evidence for the files. "We always have this," he exclaimed to Congressman DORNAN. Peck has never sent the FEC a copy of that check, cashed in Los Angeles, nor has the FEC asked for a copy. The only evidence of a return of the funds is a letter—in August—from Dennis' attorney, Steve Salter, claiming that Peck had returned the money and the unsubstantiated claim by Peck on his FEC form.

Also, Fred Eiland told Congressman DORNAN in a phone conservation on February 7, 1979, that the FEC called Peck to alert him about the illegal money. Commissioner Tiernan denied this by phone shortly thereafter on the same day. Then, later that same day, Eiland said, "Congressman, I misspoke."

FEC CLAIMS MUR 970 CANNOT BE REOPENED, YET FEC LAW STATES "UNLESS CONCILIATION AGREEMENT IS VIOLATED"

On June 6, 1980, Charles Steele said in a meeting with Congressman DORNAN and a Dornan aide that the MUR 970 was closed and would not be reopened—he said this with a deeply pained look on his face. At several points in the long meeting, Mr. Steele was literally speechless.

However, title 2, United States Code, section 437(g)(a)(4)(A)(i) states:

> A conciliation agreement, unless violated, is a complete bar to any further action by the Commission, including the bringing of a civil proceeding under Paragraph (6)(a).

James Dennis has not yet paid the fine—not a penny—levied by the FEC and the FEC has filed civil suit to collect the money, in May of 1980 after heavy Dornan criticism. This would seem to indicate that the conciliation agreement has in fact been violated, and therefore MUR 970 need not be closed, unless, of course, someone wants to continue a probable coverup of violations and omissions by the FEC and others, including Federal officials in Alabama.●

RECOGNITION OF HON. MORRIS K. UDALL AS OUTSTANDING LEGISLATOR

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. SANTINI. Mr. Speaker, our distinguished colleague, the Honorable MORRIS K. UDALL of Arizona, has just been recognized by a bipartisan group of Government professionals as the outstanding legislator of the 96th Congress, 2d session. Mo UDALL received this Outstanding Legislator Award at ceremonies held last night in Washington, D.C., from the Congressional Fellowship Association, an organization of professional men and women who have served Congress in varied staff capacities, under auspices of the congressional fellowship program of the American Political Science Association.

Mr. Speaker, I want to share with my House colleagues the accolades for Mo UDALL that were publicly given last night. Mr. Len Parkinson, speaking for the Congressional Fellowship Association, said:

> Congressman UDALL is that rare public person who has earned the respect and admiration of his peers on both sides of the aisle, on both sides of Capitol Hill. His leadership is an unusual blend of compassion and kindness and principle that commands attention even from his most ardent critics. Mr. UDALL has become a leading spokesman in the Congress on matters concerning energy and the environment. But we do not honor him so much for his outstanding work in both of those fields as we do for his selflessness in working to see that whatever is done in Congress is done in the best interests of his Nation. He is a patriot in the very best sense of the word.

Mr. Speaker, those sentiments are well deserved and well earned by Mo UDALL. And they are widely shared. Members privileged as I have been to serve with Mo UDALL on the Committee on Interior and Insular Affairs, of which Mo is chairman, can all attest to his even-handed manner in conducting legislative deliberations, and to his quick wit and warm sense of humor in defusing the tension that can rise during spirited debate over legislative differences among committee members. Mo Udall proves the adage that laughter is the best medicine.

I am glad to endorse the Congressional Fellowship Association's selection of Mo Udall as outstanding legislator. The congressional fellowship program, whose alumni constitute the association, has a distinguished 27-year record of service to the Congress, through its selection of promising political scientists, journalists, civil servants, and other professionals, for hands on education into the legislative process by working as congressional aides for 9-month terms. Following their staff assignments, congressional fellows typically return to their careers with Federal agencies, universities, and the media. Some join permanent professional staffs of Senators and Members of the House of Representatives, and of House and Senate committee staffs. A few continue in political life, and become officeholders in their own right. It is noteworthy that two former congressional fellows are currently serving in Congress: the Honorable Richard B. Cheney of Wyoming, and the Honorable Arlen Erdahl of Minnesota.

Mr. Speaker, being named the year's outstanding legislator by such a diverse cross section of past and present congressional fellows is a fitting honor for our distinguished colleague Morris K. Udall.●

HOOSIERS AID CARIBBEAN HURRICANE VICTIMS

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. BRADEMAS. Mr. Speaker, the devastation left by natural disaster makes news, briefly commands our interest, and is soon forgotten. The challenge of rebuilding the homes and the livelihoods of disaster victims lasts much longer, though, and is often left to a few. That is why I call attention today, with pride, to the dedication of a group of people from northern Indiana who have given their time to help the hurricane victims on the Caribbean island nation of Dominica.

A year ago, after a hurricane had destroyed much of the island, the United Methodist Committee on Relief sent work teams to help Dominicans rebuild their country. The group of volunteers from northern Indiana answered the call for help under the leadership of Dr. Harold Neel, the former pastor of the United Methodist Church of Mishawaka, Ind., and his wife, Betty. Commitment like this often goes unnoticed. Yet all those who joined the team to work in Dominica have shown us the true meaning of brotherhood among nations. Their endeavor deserves our highest commendation.

At this point, Mr. Speaker, I insert in the Record a recent article from the South Bend Tribune by Lewis Mundell, who worked with the Dominican hurricane victims, describing the mission of these dedicated people from Indiana.

Hoosier Work Team Helps Hurricane-Devastated Island of Dominica

MICHIANA POINT OF VIEW

The Island of Dominica, an autonomous country in the Leeward Islands, Eastern Caribbean, of the West Indies, was devastated by Hurricane David at the end of August, 1979. Out of a population of about 72,000, more than 80 percent of the population lost most of their livelihood. Roseau, the capital city, was 85 percent damaged by the 50 mile-an-hour winds which blew steadily for six hours and left a great number of homes without a roof.

UMCOR, United Methodist Committee on Relief, made an appeal for a series of "work teams" to come to the island to help families put their houses back into liveable condition (some are still living in tents). About three-fourths are without electricty, have little running water and practically no internal telephone and telegraph service. The water was contaminated and had to be boiled before it was fit for drinking purposes and for brushing our teeth. Extreme caution was exercised to guard against illness and injury while working on roofs. Help is also needed to repair and restore the Methodist and other churches badly damaged by the storm. The Anglican church was completely destroyed. Building materials (such as lumber, corrugated steel roofing and nails of all sizes, etc.) are in very short supply.

The medical situation is equally disastrous. Dr. Michael Watson, our medical consultant, was told by the chief medical officer, Dr. McIntyre, that there are only eight doctors in the country and seven of them live in Roseau. The hospital was badly damaged, and one wing needed for psychiatric service is still without a roof. Food is no problem. Large quantitites of food have been given by United States, Canada and Venezuela also helped with food and materials.

Sponsored by the Elkhart District, Northern Indiana Conference, the work team program is open to persons who are not afraid to "rough it," while being involved in helping other persons in need. The teams at the same time learn to know the wonderful people of another culture.

Dr. Harold and Betty Neel of Elkhart (the former pastor of the First United Methodist Church of Mishawaka) were the leaders of the work group that left Elkhart March 14, 1980. Other members of the group were Lew Mundell (retired pharmacist) of South Bend-Mishawaka; Mrs. Sarah Spreuer, Shipshewana; Mr. and Mrs. David Munson, Munster, Ind.; Mr. and Mrs. Thomas Harris, Corydon, Ind.; Mrs. Ester Baily, Goshen, Ind.; Raymond Rose, Wawaka, Ind.; Joe Evans, formerly of Mishawaka, now of Indianapolis: Mrs. Irene Fox, Elkhart; and Rev. Earl Sharp, Elkhart. Each of these participants in the work group has experienced a most enriching encounter with those in need.

I am most grateful for the opportunity of being a part of this work group, where one could serve those in need and demonstrate our caring by Christian love and labor.

This is not just a story about a man and his church, but an appeal to understand the need for individuals to become involved in missions, physically, financially and spiritually. Love and labor support one another, combining means and ends and blending aspects of our being and our doing. This is a time in which we as persons and as a nation can demonstrate to the world that we do care and are ready to help, without political and military implications.

The prime minister of Dominica, Oliver Seraphinn, said in speaking about hardcore poverty and the economic relations between the United States and the Caribbean. "The deep deprivation being experienced by our people in respect of the most basic necessities of life—food, clothing, housing, education and medical care—heightened by our proximity and constant exposure to North American living standards, forced us to place a major attack on Caribbean poverty." The Caribbean is a natural disaster-prone region. Hurricanes, volcanoes, cyclones, floods, landslides, earthquakes—you name it, they get it.

This work group of which I was a part did much in securing materials for other groups to follow. They also were able to set up a necessary tool and material center in order that their groups could more effectively proceed with rehabilitation. I am sure that other churches and groups are also involved in mission work, which we should recognize and encourage through the media. It is necessary that these efforts be co-ordinated through a central committee available to all churches and benevolent organizations to carry out more effectively work missions where they are needed most. The people of Dominica are warm, friendly and most grateful for the work we accomplished and will work with other groups. They need leadership, hope, understanding and material.

I am reminded of those young people in church youth groups and their adult chaperones who sacrifice a part of their summer vacations to serve in the Appalachian region. Their lives have been enriched by serving the needy through their compassionate work. Many of us can follow their example by giving of our time and love. When we give for the benefit of income tax deduction, we have lost the real purpose of our giving. We have become too materialistic.

I am relating my story to encourage those who can and should support amply the missions of their churches to reach more in their hour of need. Contributions to church missionary programs reach directly the areas in need and are not wasted in administrative costs.●

UNITED NATIONS IN ACTION TO PREVENT NEW AGRICULTURAL DISASTER

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. BONKER. Mr. Speaker, during this period of growing congressional concern about the effectiveness of the United Nations and its affiliated organizations, it is refreshing to read the article I wish to submit for the Record regarding the coordinated efforts of several U.N. agencies to combat a potentially devastating locust problem in Africa. As Thomas Land points out in today's New York Times editorial, "In Africa, Locusts Again," the U.N. Food and Agriculture Organization and the U.N. development program have already taken steps to help drought-ridden countries in central and west Africa avert a major agricultural disaster.

This is but one example, Mr. Speaker, of the positive work performed by these international organizations, and I commend the article to my colleagues.

IN AFRICA, LOCUSTS AGAIN

(By Thomas Land)

A new locust emergency is looming in West Africa, at a time when food shortages are spreading across the continent.

The United Nations' global information and early-warning system on food and agriculture records the presence of yet unspecified numbers of swarms, presenting a grave threat to agricultural areas in northeastern Nigeria, northern Cameroon, northwestern Chad and possibly Niger, the Central African Republic and the Sudan. In the United Nations' view: "Provided that national and regional campaigns are carried out immediately and successfully, there should be a very substantial reduction in the African migratory locust populations and in the threat of serious crop damage in the area. Such action would in turn reduce the threat of a major plague."

During the last plague of the migratory locust, between 1928 and 1941, most African countries south of the Sahara were invaded by swarms. The insect feeds predominantly on grasses, wild and cultivated. Specialists of the United Nations Food and Agriculture Organization reckon that in the present emergency "major control efforts will be required to prevent the eruption of a major plague."

Aircraft, pesticides, communications and spraying equipment and trained staff are urgently being dispatched from many parts of the world to the affected areas, where the control operations are coordinated by the International African Migratory Locust Organization. More than $600,000 has been released already by the F.A.O. and the United Nations Development Program to meet the immediate expenses of the program, and a lot more may well be required before the emergency is over.

At stake is the harvest on a continent already suffering the effects of severe drought as well as war. Edouard Saouma, the F.A.O. Director General, has said: "We are on the verge of simultaneous human disaster in many countries of an unprecedented character, with all the terrible implications of the consequences of inaction."

The first signs of the locust emergency were apparent as early as 1979 when swarms of the migratory locust breeding in the Lake Chad basin moved southwest and reached eastern Nigeria and the Adamawa Massif in Cameroon. By last April, some swarms reached Benue and the Cross River States in Nigeria, about 625 miles away from the outbreak area. Being so far south, they encountered favorable breeding conditions and went through two generations in rapid succession.

Because of difficulties of ground access and restrictions of helicopter surveys, specialists failed to assess the total extent of the infestation area. Control operations were limited and hopelessly inadequate in terms of the developing emergency. By June, a new generation of adult insects appeared and started to breed, eventually moving further afield. Breeding has also commenced in the Baga area of northeastern Borno State in the Lake Chad basin.

Specialists at the world's foremost scientific-research institutions concerned with locusts have now been asked by F.A.O. to stand by ready to be called into the crisis area at a short notice. Nigeria, Cameroon and Chad are about to mount national control campaigns under a hastily organized regional plan of action supported by several international organizations. But such an operation is easier to run than to organize.

"Since other agricultural problems loom larger when recessions of the locust plague occur, it is easy for even the best-constituted control system to go rusty or to break down, especially in poor countries with small resources," explains the United Nations journal World Health. "Experienced operatives are recalled to attend to other tasks, vehicles and planes equipped for spraying deteriorate and are not replaced, stocks of expensive pesticide like dieldrin and malathion (the most effective locust killers) run down and, most important, the need for perpetual vigilance is sometimes forgotten."

Until recently, most of the specialist world's attention was focused on the desert locust, which less than two years ago threatened an immense area comprising 50 countries from the West Coast of Africa to the Himalayas. But the current emergency is potentially as serious as the last; and the populations of many countries that may be affected are totally unprepared for a new agricultural disaster.

Mr. Saouma of the F.A.O. says: "In addition to the famine in Uganda, prolonged drought continues in several Sahelian countries, Djibouti and southern Ethiopia. In southern Africa, Angola, Botswana, Malawi, Mozambique, Zambia and Zimbabwe have also suffered severe drought. Kenya and Tanzania, which were self-sufficient in recent years, now face shortages. Somalia faces the double crippling burden of delayed and erratic rains and the largest concentration of refugees in the world."●

ISRAEL'S NOBLE RECORD ON JERUSALEM

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. OTTINGER. Mr. Speaker, I am distressed about the U.S. abstention on the U.N. Security Council vote to censure Israel for its designation of Jerusalem as the united capital of Israel. The U.N. has been effectively manipulated by the Arab bloc, and it is time for the administration to stop appeasing the Arabs by acceding to their tactics in the U.N.

Not only most Arab nations, but virtually the entire international community has used the U.N. as a stage for its attack on Israel's Jerusalem resolution. Throughout the barrage of hostile statements and belligerent actions, few have thought to look at the record.

The facts are that only Israel has kept Jerusalem open to all worshipers. Only Israel has protected holy shrines of all religions. Similarly, only Israel has made true efforts to improve the economic lot of the Palestinian people, including absorbing them into the labor force and insuring their passage from the West Bank to the Gaza Strip. This is an impressive record which deserves attention.

The United States should be speaking out strongly to focus the world's attention on Israel's fine record in Jerusalem. We should not be silent about this record. President Carter ran on a platform committing the United States to recognize Jerusalem's historic position as capital of Israel and calling upon the United States to move its Embassy to Jerusalem. He should keep that commitment.

I believe that Rabbi Stanley Rabinowitz eloquently described the historic position of Jerusalem in his letter to the New York Times of August 24. I commend this letter to my colleagues' attention:

PEACE IN JERUSALEM DISTURBS THE U.N.

To the EDITOR:

The rehearsal of the history of Jerusalem (news story Aug. 1) suffers from the defect of its virtues: while concise and balanced, it ignores the important element of population data.

Ever since 1844, Jerusalem has been the one city in the Holy Land which has consistently had a Jewish majority in the population except for the heavy-handed Jordanian rule (1948-67). According to the 1844 Encyclopedia Britannica, of the 15,000 people living in Jerusalem, 3,390 were Christains, 5,530 were Moslems and 7,120 were Jews.

Jerusalem has yielded to many conquerors each of whom restructured both the architecture and the infrastructure of the city in its own image. Each conqueror exiled the vanquished and denied them rights of entrance to the walled city. Thus did Jordan treat the native Jewish inhabitants in 1947 when Jews were in the majority.

For the first time since the Roman period, Jerusalem is now open to all cultures, all faiths and all peoples, something that was not even true when the British were in charge.

During the 19 years of Jordan's control of Jerusalem, the Jews were promised certain visitation rights under the armistice agreement. These rights were denied them and the world was silent. If Jerusalem were returned to Arab or Moslem control, and if the access of the Jew to the Western Wall were to be denied, I doubt very much whether any government would lift a finger to secure or protect those rights.

There is peace in Jerusalem today embracing all its citizens regardless of faith. Apparently, peace disturbs the tranquility of the United Nations.

(Rabbi) STANLEY RABINOWITZ.

WASHINGTON, *August 8, 1980.*●

APPROPRIATION FOR INTERNATIONAL EDUCATION PROGRAMS

HON. LEON PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. PANETTA. Mr. Speaker, I rise to strike the requisite number of words.

Mr. Speaker, as a former member of the President's Commission on Foreign Language and International Studies, I want to take this opportunity to commend the distinguished chairman of the Labor-HEW Subcommittee for his leadership in preparing an appropriation for international education programs which truly is a vast improvement over the previous year The report of the President's Commission delineated an alarming national deficiency in international studies and foreign language capability precisely at a time when our demands in these fields have increased. It is very important that the Congress provides sufficient support for international education programs which are vital to the Nation's future well-being.

Since the Commission filed its report in November of 1979, I have been working closely with Representatives SIMON and FENWICK, who were also members of the Commission, in trying to heighten the awareness of the Congress and the American people in the area of foreign languages and international studies. Together we have formed an international education group of House Members who are interested in cooperating to make improvements in Federal programs in this field. The international education group now has 35 Members, with a number of Senate offices keeping in close contact with our efforts.

The bill before the House today contains $21.8 million for foreign language training and area studies programs. It also contains $6.2 million for the Mutual Educational and Cultural Exchange Act programs—Fulbright-Hays. This level of funding is an improvement and a good step forward. I am particularly pleased that the committee's report highlights the need to extend assistance to undergraduate and precollegiate international programs. This reflects a high degree of support for the concept of providing assistance to contibute to the international awareness, cultural understanding, and foreign language capabilities of Americans—not only to produce experts in these fields. The thousands of students who have benefited from these programs have been able to contribute a broadened international understanding in their capacities as teachers, community and business leaders, local officials, lawyers, and responsible citizens. The committee report makes this point explicitly, and I want to emphasize that the United States has a severe need for experts in these fields, but that it also has an interest in supporting international education programs that can help Americans of diverse backgrounds and professions better understand the world in which we live.

Again, my sincere appreciation to the Appropriations Committee for supporting these programs and for emphasizing the undergraduate language and area centers and the undergraduate international studies programs. I look forward to working together with the committee in future years in support of these needed programs.●

TRIBUTE TO JEROME CHAPMAN

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. GONZALEZ. Mr. Speaker, as commissioner of the Texas Department of Human Resources, Mr. Chapman has been responsible for all facets of the department; maintaining the department's relation with significant external agencies and groups which have influence and interest regarding the department's activities; administering a department of 12,500 employees; managing a department budget of $1.6 billion for fiscal year 1981; and organize extensive coordination with agencies on welfare programs, since 60 percent of the departments finances are federally funded.

Mr. Chapman who is nationally recognized for his knowledge of welfare programs became commissioner of the Texas Department of Human Resources in 1977, upon the retirement of Mr. Raymond W. Vowell.

He lead the first title XIX—medicaid—task force which designed the program of medical assistance in Texas. It is now considered one of the best administered medicaid programs in the Nation, and its provisions have been used as models for other States. Mr. Chapman also helped implement title XX—social services—program in Texas, benefiting the elderly, disabled, families and children.

His major accomplishment in 1976 was the leadership in compiling an entire new set of minimum standards as mandated by the Child Care Licensing Act of 1975. As a result, standards were developed protecting the safety and well being of children in the care of other than their parents or guardians.

Over the years, Chapman has been up through the ranks of the department of public welfare, serving in many capacities. In the process he gained the vast amount of program knowledge that has caused him to be sought out by the Department of Health, Education, and Welfare, for service on many advisory and policy committees at the national level.

Jerome Chapman has been with the Texas Department of Human Resources since 1950, and after 30 years of dedicated service, will retire this year. He has had assignments in every part of the State with varying responsibilities including those of caseworker, supervisor, regional director, adoption consultant, director of licensing, and assistant director of child welfare division.

He is a past president of the Texas Public Employees Association, has twice been a board member and presently is an officer of the American Public Welfare Association. He has been active in the Child Welfare League of America, Texas United Community Services, and various other professional organizations. He was appointed chairman of the council on early childhood development for Texas which generated the establishment of the council of early childhood development in the office of the Governor.

As a result of his extensive knowledge of State and national public assistance plans, Chapman in his executive capacity, has devoted much of his time to review of the department programs that combined reach the lives of one of every six Texans annually. Many of the programs were substantially shaped by his recommendations.

Although born in Kansas, Chapman calls Beeville, Tex., his hometown.●

MARY J. HEAD—NATIONAL BUSINESS AND CIVIC LEADER

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. PICKLE. Mr. Speaker, the city of Austin, Tex., is blessed with many capable leaders. In recent years, the number of elected women officials has gained national attention. But several other women are quite involved in other business and civic pursuits.

One of these outstanding leaders is Mary J. Head, who serves on the boards of several corporations. She began her career when President Nixon appointed her to the Board of Amtrak in 1974.

Sun magazine, published by the Sun Corp., on whose board Mrs. Head also serves, recently did a profile on this hard-working woman. Mrs. Head embodies the very spirit of equal economic and social opportunities for women in all facets of life. Her example can be useful for other women with dreams and ambitions, so I am glad to submit this article on Mary Head:

MARY J. HEAD—ONE OF THE BEST DIRECTORS I'VE EVER SEEN

(By Bob Finucane)

Ben Head looked at Mary and grinned. "You'll be okay," he teased. "After all, Austin does have an airport."

This moment in the lives of Mr. and Mrs. Ben T. Head, then of Newport News, Va., ticked away about two years ago, on the heels of Ben's announcement he'd been offered a bank presidency in Austin, Texas.

Ben's velvet needle was not without its point: Airports are Mary Head's support system. Without them, she's a Wyeth without canvas, a muzzled Streisand.

Today, Mary is flying in and out of Austin more frequently than Lyndon B. Johnson did when he was shuttling between the White House and his ranch, 60 miles west of the Texas capital.

Mrs. Head waits for baggage and taxis in dozens of cities but she waits more often in Chicago, Washington, Kansas City and Philadelphia, headquarters towns for six corporations she serves as a director—and only woman director.

"She's one of the best directors I've ever seen," says Ralph S. Saul, chairman and president of INA Corporation. Mr. Saul is a director of Sun Company, Inc., to whose board Mrs. Head was elected early this year.

"Forget man . . . woman . . . that sort of thing," Ralph Saul suggests firmly. "She is one of the best directors I've ever seen, period."

Mrs. Head assumed her first directorship in 1974 when she was named by President Nixon to the board of Amtrak (National Railroad Passenger Corp.) and for four years served as its vice chairman. She is a director, also, of Household Finance Corporation, Butler Manufacturing Company, CertainTeed Corporation and the American Hospital Supply Corporation.

"Her business judgment is uncanny," says Mr. Saul of the 50-year-old mother of three who possesses neither corporate experience nor college diploma.

"I haven't entirely abandoned the idea of going back for my degree," she confesses.

If she takes that step, and enrolls at Mary Baldwin College in Staunton, Va., she'd be the first trustee/student in that institution's history. (She serves also on the board of visitors of the University of Pittsburgh Graduate School of Business.)

Mrs. Head spent one year at Wellesley College and one at the University of Oklahoma before becoming, at 19, the June bride of Ben Head, 29, a practicing attorney in Oklahoma City.

"I knew on our first date I would marry him. I told him his blue eyes did it, but wasn't it nice that he turned out to be trustworthy, loyal, kind, obedient, thrifty, brave and all those Boy Scout things?"

Mrs. Head spent the better part of the next two decades raising her family (one daughter, two sons) and allowing herself to be happily caught up in the social, cultural, religious and civic swirl of Oklahoma City.

There was hardly a charitable cause in the state capital that didn't catch her attention. Proof that her interest was not of the hit-and-run variety is provided by the record: Titles such as president, chairman, administrator, etc., are all there.

Her reputation as a motivator and achiever gradually spread statewide, then beyond, so none of her friends were surprised, in 1968, when she was named to the Citizens Advisory Committee on Transportation Quality, in Washington, D.C.

"It was a body representing the consumer viewpoint on transportation," Mrs. Head explains. The savvy she exhibited with this group resulted in her later appointment to the quasi-official Urban Transportation Advisory Council to the Secretary of Transportation.

Exposure to transportation problems and people, and her empathy for them, was responsible for her surprise appointment as a director, in 1974, to the board of Amtrak, on which she has served for six years.

If pressed to name the honors which have most pleased her, Mrs. Head would probably list her induction into the Oklahoma Hall of Fame, on which occasion she was presented by old friend U.S. Supreme Court Justice Byron R. White; her inclusion by Business Week several years ago among the "100 Top Corporate Women" in the U.S.; her address before the annual judicial conference of the Tenth Circuit Court, at Estes Park, Colo., the first woman ever invited to speak before that group, and a similar breakthrough before the Oklahoma City Economic Club.

Does this uncommon woman find herself tentative in dealing with male board members?

"That's not my nature," Mrs. Head says. "And, as a matter of fact, they're most gracious, helpful and not patronizing in any manner. I'm deeply indebted to them."

Mary Head rates 19 lines in Who's Who in America (Oscar-winning costume designer Edith Head gets only 12).

"My husband is my biggest supporter, my unofficial public relations man," Mary claims. "Sometimes I'm asked by young women, 'How do you do what you do?' and my stock answer is, 'Have a husband like mine.' "

Mr. Head is a retired colonel who served in the India-Burma Theatre during World War II. He switched from law to banking "because it looked like more fun" and was president of an Oklahoma City bank before taking a similar position in Newport News.

The Head family works out of, and in, an eight-room contemporary house whose glass walls make the swimming pool area a ninth. Son Eric, 20, is a freshman at the University of Texas, 10 minutes away. Daughter Marcy, 28, is probation training administrator at the Federal Judicial Center in Washington, D.C. Son Paul, 26, is married and in the banking business back in Oklahoma City.

In contrast to her community whirl as a young wife and mother, Mrs. Head projects a low profile in Austin. "I'm out of town so much I couldn't make a meaningful contribution," she explains.

When the local Rotary Club asked her to speak on any Tuesday of her choosing, she discovered her first open Tuesday was six months away.

For a woman who moves easily and often through executives suites, Mrs. Head keeps herself remarkably free of corporate gingerbread. She has no office and no secretary, handles her own correspondence, writes her own speeches and schedules her business trips from a corner of a spare bedroom.

When Eric's at school, there's just Mary and Ben—the way it all started 30 years ago. And they're this kind of folks:

The year after they were married, Ben was named "Oklahoma City's Outstanding Young Man." Mary knows he won the honor for his civic contributions; Ben figures he won it for winning her.●

FEDERAL COAL LEASING

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. RAHALL. Mr. Speaker, I have just received a copy of the General Accounting Office's report entitled: "A Shortfall in Leasing Coal From Federal Lands: What Effect on National Energy Goals?"

What this report states, in short, is that the Interior Department's attempt to implement the new Federal coal leasing program is a sham, loaded with insufficient data, bad planning, and downright incompetence.

Our efforts for energy independence have been likened to a "war" by many, and I agree with such an assessment. But if it is indeed a war, the Department of the Interior seems to be fighting it with popguns and peashooters.

GAO stated that the problems involve, "Not leasing enough coal, not selecting the best coal areas of lease, and not having the needed coal data."

The report goes on to point out, "Unless these problems are corrected early, Federal lands may not contribute significantly—as they could—to meet the Nation's need for more coal in years to come."

GAO recommends that assumptions be reviewed in establishing leasing targets, that more realistic time frames be followed,

That a margin of error for geological surveys be included, better planning, and the development of long-range plans.

In response, the Interior raised more questions, and the Energy Department, and I quote the report, "provided no substantial comments."

Mr. Speaker, our energy future is in the hands of agencies that are not carrying out the public will. I suggest that it may be time to oversee, not only the Federal leasing program, but the agencies in charge of the program as well.●

THE GIBBONS WORK AND SAVINGS INCENTIVE PLAN FOR 1981, H.R. 7870, 7871, 7872, AND 7935

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. GIBBONS. Mr. Speaker, in July of this year I announced my $35 billion tax cut plan for 1981 that is designed to strengthen our economy while providing needed and deserved tax relief for all individuals and businesses.

Provisions of the Gibbons plan include:

Increasing individual retirement savings incentives by substantially increasing the amount which can be contributed to individual retirement plans, by making these available to all workers, whether or not they are in a pension plan, and by permitting nonworking or low-earner spouses to have their own IRA's of an equal amount.

New incentives to encourage more low income workers to set up retirement accounts and to increase the availability of retirement savings at these lower income levels.

Elimination of the "marriage penalty" by allowing married workers the option of filing as if each were single.

Liberalization of the tax relief provisions directed at low-income families and an increase in the Earned Income Credit to offset the scheduled 1981 increase in social security payroll taxes for these families. Currently low-earner families receiving some public assistance benefits find themselves hit with marginal rates of 50 percent or more as soon as they begin paid employment. "The high marginal rates now imposed on such workers encourages welfare, not work."

Relief for Americans working overseas who can now be faced with tax bills from two nations, as well as extraordinary complexity in determining their potential U.S. tax liability.

Modification of business depreciation rules to allow a quicker write-off of capital assets and to reduce business taxes by up to $10 billion.

Mr. Speaker, today I am making available more detailed explanations of the four bills I have introduced to implement this plan. Most importantly, H.R. 7870 would expand the incentives for individual retirement savings by providing a 50-percent tax credit for all workers and their spouses on contributions to IRA's of up to $3,000. This proposal is the centerpiece of my plan for stimulating greater long-term savings by Americans which in turn will increase the capital available to U.S. businesses and industries, laying the foundation for a strong economic recovery. The bill will be amended further in the near future to also allow the credit for voluntary employee contributions to their employers' plans, thereby strengthening private pension plans as well.

As for the other elements of my plan, H.R. 7871 would liberalize the earned income tax credit; H.R. 7872 would reduce taxes on Americans working abroad; and H.R. 7935 would eliminate the marriage penalty by allowing optional separate filing. These measures are necessary in terms of the tax relief they will provide and overdue on the basis of tax equity.

I urge your support of the Gibbons plan, in whole or in part.

SECTION-BY-SECTION ANALYSIS OF H.R. 7870 RELATING TO EXPANDED INCENTIVES FOR INDIVIDUAL RETIREMENT SAVINGS

Section 1.—Short Title: "IRA Work and Savings Incentive Act of 1980."

Section 2.—Allowance of Credit: This section provides a tax credit to replace the present law IRA deductions, which are based on a contribution limit of the lesser of $1,500 or 15 percent of compensation.

Subsections (a) and (b) of the new Section 44F allow any individual to contribute up to $3,000 of compensation to an IRA and receive a 50 percent nonrefundable tax credit on such contribution, for a maximum credit of $1,500.

Other rules added by Section 2 of the bill to Section 44F are as follows:

No credit is allowed for contributions to an IRA for any taxable year ending after an individual has attained age 59½. (Persons who have attained 59½ are still permitted to make tax deductible contributions to an IRA, up to the new $3,000 limit.) Section 44F(b)(3).

In the case of a simplified employee pension, the employee is allowed the credit for employer contributions to the SEP, but only to the extent of the employee's contribution limit as reduced by all other contributions made by or on behalf of the employee to an individual retirement plan. Section 44F(b)(4).

No credit is permitted for any rollover contribution to an IRA. Section 44F(b)(5).

The current spousal IRA rules are repealed and instead, each spouse may contribute up to $3,000 to a separate, independent IRA. The 50 percent credit is then allowed separately for each individual for contributions made to an IRA. Nonworking or low-earner individuals are permitted to make such IRA contributions based on the greater of their own or their spouse's compensation. Section 44F(c)(3).

Present law rules are retained which permit an individual to establish and make contributions to an IRA for a year up to the time for filing the individual's tax return for the year, including extensions. Section 44F(c)(4).

Present rules concerning excess contributions are retained; however, the phrasing of these rules is changed to reflect the new 50 percent nonrefundable credit available for certain IRA contributions. Section 44F(c)(5).

In order to maintain the present level of penalties for premature IRA distributions while reflecting the change in the level of tax subsidy to be provided IRA contributions, Section 2(b) of the bill also modifies the current rules on the taxability of premature distributions. If any portion of a distribution made prior to age 59½ is attributable to contributions for which the 50 percent credit was received, then such portion is not includible in gross income but is taxed at a special 50 percent rate to recapture the credit received. The portion of a distribution attributable to deductible contributions is includible in gross income, as per present law. In addition, the present 10 percent penalty tax is retained for all premature distributions, whether of creditable or deductible contributions.

Section 3.—Increase in Deduction for Plans for Self-Employed: This section increases the maximum deduction allowed for employer contributions to a qualified plan on behalf of self-employed individuals, i.e., for contributions to "Keogh" or "H.R. 10" plans. The maximum deductible amount is increased from $7,500 to $10,000. This section also provides an identical increase in the amount that may be excluded from gross income by a shareholder-employee in the case of a contribution by a Subchapter S corporation to a qualified plan on behalf of such shareholder-employee.

Section 4.—Revision of Section 219: This section increases from $1,500 to $3,000 the maximum annual deduction for contributions to an IRA. The IRA deduction is retained for those individuals who do not qualify for the 50 percent credit, namely, IRA owners who have attained age 59½ before the close of the taxable year. As under present law, contributions to an IRA are no longer deductible by the IRA owner starting with the taxable year in which age 70½ is attained.

This section also repeals the eligibility restrictions under present law. Thus, active participants in qualified plans, government plans and Section 403(b) tax-sheltered annuities are permitted to contribute to an IRA, up to the increased contribution limit of $3,000.

In the case of a simplified employee pension, this section increases the maximum deduction for employer contributions to $10,000. In addition the employee is allowed to contribute an additional $3,000 to the same or a different IRA and obtain the 50 percent credit with respect to the contribution if the employee is under age 59½, or a deduction if age 59½ or over. If the employee does not himself contribute the full $3,000, employer contributions in an amount equal to the unused balance are eligible for the 50 percent tax credit in the case of an employee under age 59½.

Section 5.—Technical and Conforming Amendments: This section makes a series of technical and conforming amendments necessary to accomplish the described purposes of the preceding sections.

Section 6.—Effective dates are established for taxable years beginning after December 31, 1980.

SUBSECTION-BY-SUBSECTION ANALYSIS OF H.R. 7871 TO LIBERALIZE THE EARNED INCOME CREDIT

Section 1(a) would increase the credit rate of the Earned Income Credit (EIC) from the present level of 10 percent of the first $5,000 of earned income to 11 percent. The maximum credit would be thus increased from $500 to $550.

Section 1(b) would delay the phaseout of the credit until either AGI or earned income exceeds $8,000, instead of the $6,000 level provided under present law. In addition, this sub-section would provide for a slower rate of phaseout of the EIC—7.86 percent instead of the present 12.5 percent rate of phaseout. As a result, the EIC would not be entirely phased out until AGI or earned income reached $15,000, rather than $10,000 as provided by present law.

Section 1(c) would provide that in determining eligibility and benefits under federal assistance programs such as AFDC, SSI and foodstamps, the earned income credit received by a potential beneficiary is to be disregarded. This change would reinstate the rule in effect prior to the Revenue Act of 1978.

Section 1(d) sets forth several technical and conforming changes necessary to effectuate the purposes of the preceding subsections, e.g., the advance payment of the EIC provided by present law would be calculated based upon the new EIC rates.

Section 1(e) provides that the changes made by H.R. 7871 in the computation of the EIC would be effective for taxable years beginning after December 31, 1980; the reinstatement of the disregard and the change in the advance payment would be effective for EIC payments or compensation paid after December 31, 1980.

SUBSECTION-BY-SUBSECTION ANALYSIS OF H.R. 7872 RELATING TO THE TAXATION OF AMERICANS WORKING ABROAD

Section 1(a) would amend Section 911(a) of the Internal Revenue Code so as to return to the law in effect prior to the passage of the Foreign Earned Income Act of 1978. Thus, this subsection reinstates both the "bona fide resident" test and the "17 out of 18 months" test to determine eligibility for the earned income exclusion as computed under Section 911(c).

Section 1(b) would amend Section 911(c) to provide that if either of the tests set forth in Section 911(a) is satisfied, the amount eligible for exclusion is computed on a daily basis at the annual rate of $75,000.

Section 1(c) would amend Section 911(c) to add the requirement that in order to be eligible for any exclusion, the earned income may not be received in foreign countries outside the foreign country or countries where the income was earned, if one of the purposes of the receipt in another country or countries is the avoidance of any tax imposed by the foreign country in which the income is earned.

Section 1(d) would repeal Section 913 (deductions for certain living expenses of living abroad).

Section 1(e) sets forth several technical amendments to the Internal Revenue Code the most significant of which amends Section 1034(k) (rollover of gains on the sale of a principal residence) to provide that the time periods would be suspended if the taxpayer has a tax home abroad after the sale of the old residence. However, the suspension is not permanent and would end after four years after the date of sale.

Section 1(f) sets forth several clerical amendments to the Internal Revenue Code.

Section 1(g) sets forth the effective date of H.R. 7872 as taxable years beginning after December 31, 1980.

SECTION-BY-SECTION ANALYSIS OF H.R. 7935 RELATING TO ELIMINATION OF THE MARRIAGE PENALTY

Section 1.—Short Title: "Marriage Penalty Relief Act of 1980."

Section 2.—Combined Return: Adds a new section to the I.R.C., Section 6013A, which provides married individuals with the additional option of filing a combined return where each spouse determines his/her own individual taxable income to which the unmarried tax rates apply. A married couple, filing under the provisions of the Act, would file one combined tax return. (Of course present Code provisions allowing married individuals to elect to file a joint return under Section 6013 and the tax rates imposed by Section 1 for married couples filing a joint return and for married individuals filing a separate return are retained.)

Treatment of Income: The new section 6013A(b) defines how income is to be attributed to each spouse for purposes of determining each one's gross income:

(1) personal service income, such as wage, salary, self-employment, pension, or annuity income, is allocated to the spouse actually rendering the personal service.

(2) income from property, such as rents, interest, dividends, and so forth, is allocated between the spouses according to their respective ownership interests in the underlying asset.

Treatment of Deductions: The new Section 6013A(c) describes the allocation of deductions between spouses for purposes of determining the taxable income of each, as follows:

Section 62 deductions, which are "above-the-line" subtractions to arrive at adjusted gross income, are generally allocated to the spouse having the income to which the deductions relate. Such deductions include trade and business deductions, certain employee expenses, the deduction for long term capital gains, and property-related deductions. Exceptions are provided for: Retirement savings where the deduction is allowed to the spouse for whose benefit the savings are maintained, and alimony where the deduction is allowed to the spouse who is liable for the alimony payments.

Personal exemption deductions, including additional exemptions for having reached the age of 65 or for being blind, are allowed to each spouse as applicable on a separate return.

All other deductions, including exemptions for dependents and itemized deductions, are to be calculated as under present law, aggregated, and then allocated to each spouse in the same proportion as that spouse's adjusted gross income bears to the couple's combined adjusted gross income.

This subsection also provides that each spouse shall apply the unmarried zero bracket amount of $2,300 to his/her share of itemized deductions for purposes of calculating excess itemized deductions and taxable income. Such an approach allows one spouse with more than $2,300 in itemized deductions to get the benefit of itemizing, at the same time that the other spouse with less than $2,300 in itemized deductions can get the benefit of the zero bracket amount.

Treatment of Credits: Section 6013A(d) provides that eligibility for and calculation of credit amounts shall be determined as under present law for married couples and applied against the couple's combined tax liability.

Other Provisions: Section 6013A(e) provides that present law rules applicable to married couples filing joint returns under Section 6013 apply to this Act, unless otherwise stated. Important rules of 6013 include rules on the eligibility for filing such returns and joint and several liability with respect to the taxes imposed. Section 6013A(f) provides that the Secretary shall prescribe regulations necessary for proper implementation of this Act.

Section 3.—Conforming amendments are specified.

Section 4.—Effective Date: Taxable years beginning after December 31, 1980.●

TRAGEDY IN BOULDER CITY

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. SANTINI. Mr. Speaker, recently, a constituent of mine sent me a series of articles by Paul Fisher which were printed in the Boulder City News, Boulder City, Nev. I was especially touched by this particular article. I can only hope that we, as Congressmen, can learn the important message included here, without experiencing the great tragedy that Mr. Fisher has had to go through.

My beautiful little twenty-six-year-old daughter, Caroleen, is legally dead. Doctor Hammargren told me last night that the Angiogram showed no blood circulation to the brain. She is still on the respirator and life support systems and will remain on them until they can salvage those vital organs that may help sustain the life of some other man or woman.

Her mind is gone from her body but I like to think that she will live on in the hearts and minds of those of us who knew and loved her. She has seemed very close to me since that accident, helping me write these important words. Words that I've known I should have been writing for a long time.

Life is for the living and true to my promise to her I shall try not to be sad but instead rededicate my efforts to help make this a better and happier world.

Our poor country is facing tremendous problems of inflation, unemployment and defense while our Government is bogged down in confusion with internal conflicts and a lack of any consistent plausible program for solving those problems.

It is election time but few of us believe that the election offers much hope for any great improvement.

Is the task of governing ourselves beyond our ability? Have we no alternative but a continued deterioration of the strength, the security and the happiness of our People?

My answer is: We can solve our problems. There is always a simple, best answer to any problem even the most difficult. First, we need Faith in God. Faith in Nature, and then faith in ourselves along with a dedication to seek honestly and accurately the best answers possible based on our past experiences. This is the scientific technique. The technique that has brought us such tremendous progress in the physical sciences. Progress and knowledge that is growing so fast that it is estimated that over fifty percent of all of our knowledge in physics, chemistry, and electronics has been discovered within the last fifty years even though Mankind has been seeking knowledge in these fields for tens of thousands of years.

This astounding progress is due to one thing: the Scientific Technique. It proves the ability of the human mind to solve problems.

Some thirty years ago, it occurred to me that if we understood the scientific technique well enough; we could apply it to any problem including our social problems: The problems of inflation, unemployment, defense, government, ethics, philosophy, religion, and Survival.

When we discover how to do this, we will usher in a new Renaissance, a new scientific age, a better and happier tomorrow that will help guarantee the future survival of that which is best and happiest.

And so in the weeks ahead I will explore with you the mysteries of the scientific technique and I will show you how you may apply it to almost any problem that troubles you. I will also show you how together we can apply it to the confusing problems confronting our Government and our People.

We will build a plan to restore our Country. We will build it carefully, piece by piece on a foundation of facts acquired by accurate observation of what our experiences teach us. It will be constructed like a mathematical equation and together we will find some answers upon which we can agree to end the baffling confusions which trouble us now.

So stay with me. We are on a grand and glorious adventure.

Next week, I shall tell you what the scientific technique really is, how it works, and how we can apply it to any and all problems.

See you next week. Same time—same place.

PAUL FISHER.●

REGULATORY REFORM MUST BE REVIVED

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. MAZZOLI. Mr. Speaker, in his state of the Union address to the 96th Congress, and in many public statements since, President Carter has strongly endorsed the passage of legislation to provide a major overhaul of the Federal regulatory process.

However, the actions of the administration raise questions in my mind about how fervent, indeed, is its commitment to regulatory reform.

The House Judiciary Subcommittee on Administrative Law spent many long hours in hearings and markups on all the pending versions of regulatory reform bills—including the administration's. All viewpoints were given careful and thoughtful attention before a bill was reported to the full House Judiciary Committee.

The full committee has already held several markup sessions on this important bill. While the product of all this labor is not perfect, it is, on balance, an excellent piece of legislation. It does not deserve the fate it seems to have been consigned: To be allowed to slip under the murky waters of the 96th Congress without a ripple.

Daily, I hear complaints from residents and business people of the Third Congressional District that they are driven to distraction by the floor of bureaucratic rules and redtape. They are pleading for relief.

Mr. Speaker, passage of legislation to increase congressional oversight of—and public participation in—the regulatory process should no longer be delayed.●

RIGHT ON RED

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 28, 1980

● Mr. BEARD of Tennessee. Mr. Speaker, last week I introduced H.R. 8000, which would require States to allow right turn on red (RTOR) after stopping at at least 70 per centum of stoplights in the State.

I would like to call the following article which appeared in the American Transportation Builder, to the attention of my colleagues. This article points out that RTOR will result in substantial fuel savings. Also, it refutes the argument that RTOR will result in more accidents; studies have proved that this is simply not true. There is no significant increase in the number of accidents after RTOR measures are implemented.

I commend this informative article to my colleagues' attention; and, I urge these legislators to demonstrate their support for RTOR by cosponsoring H.R. 8000.

The article follows:

RIGHT TURN ON RED—AFTER STOP

Since the 1974 Energy crunch, the demand for energy efficient policies have increased throughout the country. One such saving idea is Right Turn on Red (RTOR). Practiced in California since 1937, the eastern half of the United States was slow in passing this ruling. The majority of states have legislated the permissive rule which allows Right Turn On Red at intersections where the movement is not prohibited by signing, and all 50 states have adopted some form of RTOR. The District of Columbia finally granted RTOR in December 1979, but not without its limitations. Over 80% of all of the intersections in DC have signs posted that do not allow RTOR. The city cites the opposition based on its rank as 5th in the Nation for pedestrian fatalities.

Those doubters in DC and elsewhere against RTOR claim that it jeopardizes safety for the few pennies of fuel saved. But statistics are not in their favor! Based on a study done by the Highway and Transportation Research Council of the Commonwealth of Virginia, entitled "The Impact of General Permissive Right and Left Turn on Red Legislation in Virginia" by Martin Parker, Jr. Research Engineer, states "RTOR has had a significant impact on improving traffic flow at intersections and in saving motorists time and fuel. Accidents and pedestrian problems with RTOR appears to be minor, with the benefits of the legislation far outweighing any disadvantages. Because there are few signalized intersections of one-way streets in Virginia, LTOR has not had the statewide impact of RTOR. However, in the cities of Newport News and Richmond, which contain 85% of the LTOR approaches, LTOR appears to be working as well as RTOR.

"With the new legislation, RTOR maneuvers are permitted at 84% of the signalized intersection approaches. While there was a trend for localities to remove some prohibitive NO TURN ON RED signs during 1977, there still is considerable variation and inconsistencies in the manner in which RTOR is implemented.

"Since the general permissive rule has been in effect, there has been a significant increase in the number of motorists failing to come to a full stop before turning on red. The public should be reminded that stopping before turning on red is a safety measure and is required by law.

"The study data clearly indicate that the vast majority of Virginians, including the state's law enforcement officials and traffic engineers, strongly favor the new general permissive turn on red legislation."

In another study done by Hugh McGee, (now with Wagner-McGee Associates, Inc.) for the FHWA, U.S. Department of Transportation, he explains the types of accidents that could occur due to RTOR.

"Several distinct types of accidents appear to be associated with RTOR. Illustrated in Figure 1 are four prominent types of RTOR conflicts: rear end, opposing left turn, cross street, and pedestrian.

"The most common RTOR accident type occurs when an RTOR vehicle collides with a vehicle moving on green on the cross street. Sixty-five percent of the reported RTOR accidents in the studies could be categorized under this type, which usually occurs when a RTOR motorist either fails to see the approaching vehicle or perceives a wider gap than is required to make a safe maneuver. These accidents are usually caused by driver error, although limited sight distance can be a contributing factor.

"Another frequent type of RTOR accident involves an RTOR vehicle colliding with a vehicle making a left turn from the opposite approach on a left-turn phase. Of all RTOR accidents, 18 percent were of this type. In this situation, an RTOR-motorist looking to his or her left for oncoming cross-street traffic may not be aware of a conflict with left-turning vehicles moving on a separate phase. This conflict can be more serious if there is only one lane to turn into. Where there are multiple departure lanes, the turning vehicles can avoid collision. The accident forms, however, indicated that these types of accidents occurred with multiple lanes as well as with single departure lanes. Prohibiting RTOR at all locations with a left-turn phase should preclude these accident types from occurring. However, because of the randomness and infrequency of these accidents, it would not be practical to prohibit the movement at all such locations.

"The third type of RTOR accident is the rear end. These occur when a vehicle in the process of making an RTOR stops abruptly and is hit in the rear by the following vehicle. This type of accident accounted for 5 percent of all identified RTOR accidents. Because these typically result from driver error, there does not appear to be any way to eliminate them.

"The fourth major type of accident is an RTOR vehicle hitting a pedestrian crossing the intersection. As shown in Table 1, the percentage varied widely from 0 to 33 percent. In most cases, the pedestrian was hit while crossing on green in the crosswalk immediately in front of the turning vehicle. However, in a few instances a pedestrian was hit while crossing on a red signal (which is illegal in most states) in the crosswalk on the lane the vehicle is turning into.

"In addition to these four major types of RTOR accidents, there were two others that were very infrequent.

"1. Two RTOR vehicles sideswipe. Sometimes two vehicles collided while making an RTOR simultaneously when there were double right turn lanes, or when one of the vehicles used the shoulder.

"2. The RTOR vehicle induces an accident. In two cases the RTOR vehicle, although not involved in the accident, created a situation that resulted in an accident. Once the cross-street vehicle collided with another cross-street vehicle to avoid hitting the RTOR vehicle. In another case (which happened in Ohio and was brought to our attention), the RTOR vehicle apparently induced a following vehicle to cross the intersection on red resulting in an accident with a cross-street vehicle coming from the opposite direction. This latter accident resulted in a fatality, the only one during the whole course of study.

"From the results of our accident analysis and those reported by others, it appears that RTOR accidents are very infrequent. Shown in Table 1 are the overall RTOR accident statistics for 13 different locations using data developed in this study and reported by other researchers. The percentage of RTOR accidents (all types) to all accidents occurring at the specified number of signalized intersections for the generally permissive rule range from a low of 0.4 in San Francisco to a high of 3.0 for the 78 intersections in Chicago."

As demonstrated from these results, the record of accidents caused because of RTOR is insignificant, but what about the energy savings?

In the 1979 Annual Report by the Department of Energy, the planned 1980 State energy savings for RTOR measures 4.07 trillion BTUs. The reported 1979 State energy savings estimates for RTOR measures 4.66 trillion BTUs. Obviously, the fuel savings is surpassing the target amount!

It appears from the reports studied, RTOR is fuel efficient and is not a threat to safety. Areas like the District of Columbia will hopefully change their attitude about RTOR, as the need for fuel, and the statistical evidence proves RTOR is accomplishing its task!

TABLE 1—RTOR ACCIDENTS AT SEVERAL LOCATIONS

RTOR rule and location	Study year	Signalized intersection	Intersection accidents	RTOR accidents		Pedestrian accidents	RTOR pedestrian accidents		
				Number	Percentage		Number	Percentage of pedestrian accidents	Percentage of RTOR accidents
Generally permissive:									
Los Angeles	1973–74	3,235	41,316	287	0.70	1,487	54	3.6	18.8
Denver	1974	1,059	7,431	50	0.70	125	0	0	0
Dallas	1973–74	1,000	(1)	(1)	(1)	18	0	0	0
Chicago	1974	78	694	21	3.0	24	6	25.0	28.6
San Francisco	1953–55	75	3,328	12	0.4	14	4	29.0	33.0
Portland	(1)	(1)	52,677	253	0.5	(1)	20	(1)	7.9
Jacksonville	(1)	405	1,756	13	0.7	(1)	2	(1)	15.4
Dade County	(1)	29	700	9	1.3	(1)	0	0	0
Omaha	1971–72	26	497	11	2.2	(1)	0	0	0
Salt Lake City	(1)	24	600	8	1.3	(1)	0	0	0
Sign permissive:									
Chicago	1973	95	936	27	2.9	57	5	8.8	18.5
Columbus	1973	12	415	11	2.7	(1)	0	0	0
Virginia	1973	29	478	16	3.3	1	0	0	0

[1] Unknown.

SENATE—*Wednesday, September 3, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. DAVID L. BOREN, a Senator from the State of Oklahoma.

PRAYER

The Reverend T. Mark Dove, pastor, Epworth United Methodist Church, Columbus, Ohio, offered the following prayer:

O Thou whom we experience as profound mystery in our lives, who plants within our spirits a deep sense of care about tomorrow, and gives us the freedom to use our brief span in whatever ways we deem responsible, we thank You for the times You have given us, the struggles that are ours, and for the mysterious inflow of strength that comes at the very times when we are most tempted to give up.

We confess to You that with all of our training and understanding, we cannot predict the future with any certainty, but we experience ourselves called to risk in creating the unknown future with our decisions and our lives. Grant us the grace to live out that responsibility in such a way that justice will roll down like life-giving waters to those in our world who have been in the desert of poverty and despair. May our decisions this day be ones that enhance the opportunities of local men and women to control their own destinies.

We pray this in the name of the one who came that we might all have life and have it in abundance. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 3, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID L. BOREN, a Senator from the State of Oklahoma, to perform the duties of the Chair.

WARREN B. MAGNUSON,
President pro tempore.

Mr. BOREN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader, the Senator from West Virginia, is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE PRESIDENT'S ECONOMIC PACKAGE

Mr. ROBERT C. BYRD. Mr. President, on August 28 President Carter announced the details of his plan for revitalizing the American economy.

The plan is broad in scope and long term in nature. It also addresses some of the short-term dislocations of the recession through modest, targeted initiatives on the spending side.

For example, the plan provides for a 13-week extension of unemployment insurance benefits for the long-term unemployed. This initiative will help those who have experienced an extended layoff, such as those in the auto and steel industries.

The President has asked the Congress to move forward with this reasonable extension, and it is my hope that we will enact it prior to the October 4 recess.

The package also includes targeted spending aimed at critical national priorities, such as energy conservation, coal exports, and scientific and technological development.

Like the spending side of the package, the recommended tax reductions are targeted to the areas of greatest need. The emphasis in the tax proposals is on investment in America's productive future, and offsetting the burden of increased taxation on moderate and lower income Americans.

It is not an across-the-board, blunderbuss, inflationary, election-year tax cut. It is moderately sized, and designed to lay the foundation for growth without inflation in the 1980's.

The package combines spending and tax proposals in addressing the economic problems of distressed regions and communities. It provides targeted investment tax credits for troubled areas, industrial development assistance through the EDA and a new industrial development authority, partially refundable investment tax credits for new and ailing companies, countercyclical revenue sharing for local government, and a pilot program to relocate and retrain workers receiving trade adjustment assistance.

These fiscally prudent tax and spending initiatives recognize obvious economic facts of life: All industries and regions have not been similarly impacted by the recession, and future economic prosperity and independence are not equally assured for all Americans.

I am particularly pleased by the inclusion of the Economic Revitalization Board and the Industrial Development Authority in the package. Cooperation and participation among labor, business, Government, and the public in charting our economic future is an approach which promises to overcome some of the stalemates and logjams which could hinder our competition in world markets in the 1980's. A publicly owned industrial development authority can serve as a vehicle for improving America's industrial infrastructure and revitalizing certain sagging sectors and regions.

Large challenges confront the Board in devising a cooperative and participatory economic strategy. The pitfalls are numerous. But failure to form a consensus through real cooperation and public participation will doom this Nation to economic stagnation, protectionism, and dangerous political backlash.

It will not be easy to marshal the country's resources in a coordinated fashion, and at the same time diffuse economic power more broadly. But this is the economic imperative of the 1980's. This imperative can be realized only through full and meaningful dialog among labor, business, Government, and consumers. A national economic consensus can be realized only if Americans from all walks of life participate equally in the decisionmaking, the benefits, and the sacrifices of the Nation's economic growth.

I hope that the Economic Revitalization Board will work closely with the Congress in formulating the blueprint for an economic strategy and the Industrial Development Authority.

Consultation with Congress should prove particularly helpful in the Board's development of initiatives requiring legislation, such as the Industrial Development Authority.

For fiscal year 1981, the program would cost about $10 billion. In calendar year 1981, the budgetary impact would approximate $30 billlion. This is not a politically motivated election year bonanza. It is not an attempt to pump up aggregate demand by spending or taxcutting our way out of the recession. It is a program to stimulate a more productive supply of goods and services, while targeting help to those most in need.

The President is to be commended for understanding the need to continue along the path of fiscal restraint. He recognizes that rapidly rising interest rates threaten the economy's natural recovery. Treasury bill rates have jumped from about 7 percent 2 months ago to well over 10 percent. The prime rate has started back up. Corporate debt issues were almost nonexistent last week. This is an ominous trend to which those en-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

trusted with leadership must respond responsibly.

Largely because of concern over interest rates, the President has recommended deferral of consideration of a tax bill until next year. While congressional will on the timing of a tax cut is mixed, it does appear as though enactment of a tax cut by Congress before the election is unlikely.

At this critical juncture in the economic recovery, we must continue to signal the financial community that our fiscal strategy will be consistent with the monetary policy set by the Federal Reserve System.

During an election season, Simple-Simon solutions to difficult economic problems are prevalent. However, the President and the Congress will continue on the responsible course.

ORDER OF BUSINESS

Mr. PROXMIRE. Mr. President, will the Senator yield 2 minutes?

Mr. ROBERT C. BYRD. Yes.

THE NECESSITY FOR THE INTERNATIONAL TREATY PROHIBITING GENOCIDE

Mr. PROXMIRE. Mr. President, conflict, and its companion, violence, have been present throughout civilization. There is not a single reason for conflict, but as many reasons as there are people. I will note three broad categories of conflict-causing differences.

First, there are religious differences: conflicting religious beliefs have historically been responsible for many of the bloodiest and most prolonged occurrences of violence. Second, there are economic disparities: people have always been divided on the basis of possessions, education and financial freedom. Third, there are ethnic and cultural distinctions: the characteristics and habits of the various groups are obvious and, therefore, frequently act as barriers or threats to those unfamiliar with them.

It is the hope of many that with the spread of education and commerce, differences among people will lessen and compassion and understanding will increase. Nevertheless, differences will continue to exist. Therefore, we must take action to prevent actions which violate humanity's common values. This can be accomplished through ratification of the Genocide Convention.

The Genocide Convention recognizes the differences among groups and is based upon the belief that dissimilarities are to be preserved rather than extinguished, respected rather than feared. This international treaty is aimed at protecting the unique traits and customs of everyone, from individuals who cannot tolerate them.

The treaty defines genocide as an international crime. However, the treaty is expressly ineffective until the nation signing it enacts implementing legislation. Thus, following ratification by this Senate, each Member of the Congress will have an opportunity to examine the proposed changes in the penal code and add whatever is deemed necessary.

The treaty was drafted under the direction of the United Nations, approved by the General Assembly, and endorsed by 86 nations. It is troublesome that this country has failed to support an endeavor to end the annihilation of human beings. The Genocide Convention deserves our immediate attention.

I earnestly hope that as soon as we possibly can that we ratify the Genocide Convention.

Mr. President, I thank my good friend, the majority leader.

ORDER OF BUSINESS

Mr. RIEGLE. Mr. President, will the Senator yield briefly for a unanimous-consent request?

Mr. ROBERT C. BYRD. Yes.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader, the Senator from Tennessee, is recognized.

THE SENATE SHOULD PASS A TAX RELIEF BILL THIS YEAR

Mr. BAKER. Mr. President, I listened with great interest to the remarks of the majority leader. I have not had an opportunity to consider them carefully and in detail, so I will reserve making any further remarks until later.

There is one point, though, that did draw my attention and on which I would like to elaborate. The statement, as I understood it, was that it seemed highly unlikely that the Congress would pass, before the election, a tax cut. I expect that assessment is probably true.

I think it is unlikely, based on newspaper accounts and the sketchy conversations I have had with Members of the other body, including the minority leadership on the other side, that the House of Representatives will consider and accept, or go to conference with and pass, a tax cut bill and present it to the President before the election. But even notwithstanding that, I would still hope—indeed, I would urge—that the Senate pass such a tax cut before we go out, before October 4. Our own Finance Committee has reported a bill that I think has much merit. Every aspect of that bill, of course, I do not agree with, but I think, on balance, it is an extraordinarily good job.

As I have done previously, I now reiterate my congratulations to the distinguished chairman of that committee, Senator LONG, the ranking Republican, Senator DOLE, and the members of the committee for a job well done.

I think, Mr. President, it would be an initiative worthy of the Senate's effort and time if we went ahead—notwithstanding the unlikely prospect of full passage and enactment into law before the election—and passed some sort of tax relief bill in the Senate this year.

Mr. President, I have no further need for my time. I see that my friend from Utah, Senator HATCH, who has a special order, is on the floor. If the majority leader has no need for the remainder of my time under the standing order, I will ask unanimous consent that any time that I have remaining may be added to the special order time heretofore allocated to the Senator from Utah.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I thank the minority leader for offering the time. I have no need for it.

Do I have any time remaining?

The ACTING PRESIDENT pro tempore. The Senator has 2 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my 2 minutes may also be added, if the minority leader wishes.

Mr. BAKER. Mr. President, I thank the majority leader very much.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR HATCH

The ACTING PRESIDENT pro tempore. The Senator from Utah (Mr. HATCH) is recognized under the previous order.

SENATE JOINT RESOLUTION 200—AFFIRMATIVE ACTION VERSUS EQUAL PROTECTION: THE LEBANONIZATION OF AMERICA

Mr. HATCH. Mr. President, I thank my colleagues, the distinguished majority and minority leaders for their consideration.

Mr. President, Milton says somewhere that:

> Peace hath her victories
> No less renowned than war.

But she also has her defeats. One was inflicted by the Supreme Court on July 2. In a 6 to 3 decision, the Court upheld in the case of Fullilove against Klutznick (Docket No. 78–1007) the constitutionality of the "minority business enterprise" provision of the Public Works Employment Act of 1977, which set aside 10 percent of Federal funds granted for local public works to be spent with businesses owned by a variety of selected minority groups.

Such is the reverent silence that has greeted Fullilove that I almost hesitate to disturb it to point out that this disgraceful decision is a shattering blow for tyranny, discrimination and arbitrary government. It is aimed directly at the principles of equal protection and impartial justice upon which any open society must be based.

Essentially, the Supreme Court appears to be reinstituting the power of the Government to distinguish between citizens on the basis of race, ethnicity and so on. The only proviso is that these distinctions must be approved by the leaders of the minority groups benefiting from them, and acquiesced in by the apathetic leaders of the majority of Americans at whose expense they are enacted.

In 1964, the U.S. Congress passed the Civil Rights Act (Public Law 88–352; 78 Stat. 241), which was widely and explicitly held to end Government, public accommodations, and workplace discrimination. No sooner was it law, however, than the Federal bureaucracy began to insist upon an alternative system of discrimination in favor of what it calls, in a significant departure from the egalitarian language of the American Revolution, the "protected classes." Indeed, it is now clear that there are no limits to the bureaucracy's imperial ambition, and that it intends to impose "affirmative action"—quotas—upon every area of American life. This will effectively replace the processes of freedom in our society with a pervasive politicization, to which all factions must apply for their subsistence. The United States will become a second Lebanon, with perquisites apportioned between contending ethnic and religious groups according to minute calculation of relative political power, a system not only repugnant in principle, but fatally inflexible and unjust.

One of the themes brought out by any study of the affirmative action issue is the extent to which the ideal of an open society, a liberal society in the 19th century sense, has simply vanished from the minds of many of our permanent government of civil servants. It has failed to take root in many of the current generation of academics and students. And it is just not understood by much of our press and many of our politicians. I will expand upon this theme later, but at this juncture I would merely ask my colleagues to ponder deeply the following item, from the editorial page of the July 15 Wall Street Journal. I should also add parenthetically here that the critics of affirmative action span the political spectrum, and that I do not necessarily endorse all the views I shall be quoting, although I believe that each makes a valuable contribution.

Mr. President, I ask unanimous consent that the article published in the Wall Street Journal on July 15, 1980, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 15, 1980]

THE PERIL OF IRONY

Some things seem doomed to be taken seriously even when intended as a joke. Add to that list a satirical idea for an equal opportunity lawsuit dreamed up by University of Chicago constitutional law expert Philip Kurland and floated at a luncheon meeting. He predicted that an affirmative action suit would be brought to invalidate the nomination and election processes in the current presidential contest on the ground that minority members have been under-represented. Word got out around the campus and the lawsuit idea began to attract supporters, forcing Mr. Kurland to remind everyone that the Equal Employment Opportunity Commission has not yet been given jurisriction over presidential elections.

Mr. HATCH. Ridiculous of course. And yet hardly more improbable than the reemergence of the quota system, despite specific prohibition by the letter of the 1964 Civil Rights Act, its spirit as expressed in the colloquy in Congress at the time, and substantial legal precedent. Part of the reason affirmative action is such an important issue is that it represents not only a fundamental departure from American political ideals, but also a decisive break with the Anglo-American tradition of government under law, and its replacement by judicial legislation and bureaucratic fiat.

Why has the spread of affirmative action been received in such a deafening silence by America's public classes? To some extent, no doubt, because the Supreme Court by remarkable coincidence has three times in 3 years announced its successive capitulations—*Regents of the University of California* v. *Bakke* 438 U.S. 265 (1978); *Steelworkers* v. *Weber* 443 U.S. 193 (1978); and *Fullilove*—on the day Congress began a summer recess, although all were argued months before. Partly because affirmative action only marginally affects press and politicians, Congress having thoughtfully exempted itself from all civil rights laws; and everyone being terrified of accusations of racism. Federal bureaucrats have been operating in an atmosphere rather similar to that associated with the bands of smugglers roving the lawless England of the 18th century, whose passage through a village, according to Kipling, caused mothers to warn their children:

> Watch the wall, my darlings
> While the gentlemen go by!

And the silence exists perhaps also because affirmative action is typical of modern politics in that its partisans are organized and militant, while its opponents—I should more properly say victims—although vastly more numerous, are leaderless, intimidated, and ill-informed.

But I believe the basic reason for our relative quiescence on this issue is more subtle. I think there are many in this Chamber, and in the country at large, who have still not realized that affirmative action has nothing to do with the allowed cause of civil rights. It is not a matter of making a more perfect union by extending the benefits of quality before the law to all. It is exactly and precisely the contrary. It is a radical departure, as I have said, from the spirit and the genius of the American Constitution, because it denies that all are entitled to the equal protection of the laws, and instead says that what you get depends upon who you are. It is a return to the medieval notion of government by status.

There have been some honorable exceptions to this conspiracy of silence. One of the most perceptive and courageous students of affirmative action has been columnist George F. Will. His comments on the Fullilove decision appeared in the Washington Post of July 10, 1980.

Mr. President, I ask unanimous consent that the article by Mr. George F. Will entitled "Justice Blind-Sided" be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JUSTICE BLIND-SIDED

(By George F. Will)

The Supreme Court has closed for the summer, so the Constitution is safe until October. But before the brethren departed, they damaged it considerably by affirming, 6 to 3, the constitutionality of the first law by which Congress created a legislative classification for entitlement to benefits based solely on race.

Speaking for the majority, Chief Justice Burger said "appropriate deference" to Congress requires acceptance of the law reserving 10 percent of certain public words funds for contracting firms controlled by members of six government-preferred minorities ("Negroes, Spanish-speaking, Orientals, Indians, Eskimos, Aleuts"). This, even if the firms are not the lowest bidders and fail to satisfy other criteria that non-minority competitors must satisfy.

Burger says the constitutional power to provide for the "general welfare" gives Congress "latitude" to allocate special rights to certain racial or ethnic groups. This, in spite of the 14th Amendment's guarantee of "equal protection of the laws" for all persons. And in spite of the constituting doctrine of all open societies, on which the 14th Amendment rests—the doctrine that rights belong to persons, not races.

Burger recognizes that discrimination on behalf of the preferred minorities will injure some competitors who are entirely innocent of wrongdoing. Astonishingly, he says, complacently and wrongly, that this is an "incidental consequence of the program, not part of its objective." But injuring some of the competitive firms is not "incidental"; it is the essence of a program designed to give privileges to uncompetitive firms.

Justice Stewart, dissenting, noted that only twice before has the court found constitutional a government program imposing injury on the basis of race. That was during World War II, in the infamous Japanese-American curfew and exclusion cases. But when Stewart upholds forced busing, which involves assigning children to schools on the basis of race, he helps diminish resistance to official actions based on race.

Justice Powell sided with the majority, in spite of the fact that in his *Bakke* opinion he said: "It is far too late to argue that the guarantee of equal protection to all persons permits the recognition of special wards entitled to a degree of protection greater than that accorded others." Now Powell seems to say that to be constitutional, a "race-conscious" program must at least be "temporary," so it "will not last longer than the discriminatory effects it is designed to eliminate." But Congress can renew such programs, thereby renewing its call on the court's "appropriate deference." There hardly can be criteria for determining when all ethnic groups have received recompense for all injuries inflicted by history on their ancestors.

By creating privileges based on race, the government reinforces—even teaches—the noxious habit of thinking of people as mere parts of classes. And as Justice Stevens asks in dissent. "What percentage of Oriental blood or what degree of Spanish-speaking skill is required for membership in the preferred class?" Now the government must devise its version of the Nazi laws that defined who is a Jew. Stewart says, "Our statute books will once again have to contain laws that reflect the odious practice of delineating the qualities that make one person a Negro and make another white."

This "slapdash" law (Stevens' description) is unlike, say, the Voting Rights Act. It is not designed to remove barriers to free competition. It is designed to curtail free competition. As Stevens says, "A comparable approach in the electoral context would support a rule requiring that at least 10 percent of the candidates elected to the legislature be members of specified racial minorities."

Powell says, incongruously, "The time cannot come too soon when no governmental decision will be based upon immutable characteristics of pigmentation or origin." But by joining the majority, he said: now would be too soon.

Eighty-four years ago, in a noble dissent against a ruling that segregation was constitutional, Justice John Marshall Harlan insisted that "our Constitution is color-blind." It wasn't then; it isn't now; and because of what the court has done, it may never be.

To the civil rights movement—when there was a civil rights movement; before it became just another movement maneuvering for economic redistribution—Harlan was a hero.

Burger concluded his opinion with a bromide from Justice Brandeis: "To stay experimentation in things social and economic is a grave responsibility." But the law the court has condoned just puts a different, "progressive" spin on the familiar evil of conditioning government favors on the basis of race. The chief justice bears grave responsibility for rationalizing, as Congress did not bother to do, congressional "experimentation" with racism.

Mr. HATCH. Another eloquent column on the decision was written by James J. Kilpatrick. It appeared in the July 22 Washington Star.

Mr. President, I ask unanimous consent that the article by Mr. James J. Kilpatrick entitled "The Inequality Doctrine" be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE INEQUALITY DOCTRINE

(By James J. Kilpatrick)

If nominations are in order for the worst Supreme Court decision of the term, let me propose *Fullilove vs. Klutznick,* decided on July 2. This was the case in which the court held that when it comes to equal access to federal contracts, some are more equal than others.

One of the oldest and most cherished doctrines of our constitutional law is that constitutional rights are individual rights. Another doctrine, not so old but just as precious, is that the Constitution is color-blind. The Fifth Amendment says that "no person" shall be treated unjustly, and the Fourteenth Amendment prohibits discrimination—implicitly, racial discrimination—against "any person."

But with its decision in *Fullilove,* a majority of the court cast these old doctrines to the four winds. The effect is to rule that some persons may be treated unjustly, that some persons may be excluded from federal programs solely because of the color of their skins.

We are talking, of course, of white persons.

These are the facts: Through the Public Works Employment Act of 1977, Congress appropriated $4 billion for projects across the country. The law contained this express provision: "Except to the extent that the Secretary of Commerce determines otherwise, no grant shall be made under this Act for any local public works project unless the applicant gives satisfactory assurance to the Secretary that at least 10 percentum of the amount of each grant shall be expended for minority business enterprises."

The act went on to define acceptable minority group members as "Negroes, Spanish-speaking, Orientals, Indians, Eskimos and Aleuts."

The effect of this racially discriminatory provision was absolutely to bar non-minority contractors from even bidding upon $400 million in federal contracts. The provision precisely echoes the anti-Catholic notices that once were posted in parts of New England: No Irish need apply. The law is a racist law.

But, ah, said the court, the provision is benignly racist. It is remedially racist. It is temporarily and experimentally racist. Nothing in the Constitution prohibits Congress from enacting racially discriminatory laws if the laws are intended to assist minorities who have been socially or economically disadvantaged in the past.

And, besides, $400 million really isn't much. Barring non-minority contractors from this paltry sum is only "an incidental consequence" of the program. The burden imposed upon the barred contractors is "relatively light." And after all, the 1977 appropriation is limited in its scope.

Incredibly, these specious contentions were accepted by such ordinarily sound justices as Burger and Powell. Three members of the court—Stewart, Rehnquist and Stevens—emphatically dissented. Stevens said bluntly that the $400 million set-aside "creates monopoly privileges for a class of investors defined solely by racial characteristics." And he warned that the court was creating a precedent for racial quotas that will come back to haunt the law.

Stewart had the last word: "The equal protection standard of the Constitution has one clear and central meaning—it absolutely prohibits invidious discrimination by government . . . Racial discrimination is by definition invidious discrimination. The rule cannot be any different when the persons injured by a racially biased law are not members of a racial minority. The guarantee of equal protection is universal in its application."

In Stewart's view, the majority had abandoned a long line of decisions attempting to get away from racial classification. Now, the majority had placed an imprimatur "on the creation once again by government of privileges based on birth." Statutes will have to be drawn to define such terms as "Negro" and "Spanish-speaking." The result will be to foster notions of "racial entitlement"—a system of rewards and apportionments geared to racial criteria.

Thirteen times in his opinion for the court, Burger remarked upon the "limited" or "narrow" scope of the 1977 act. But in upholding this unjust and evil law, he opened broad doors to a return of discrimination by race. Sound law would slam them shut.

Mr. HATCH. As usual in affirmative action cases, Mr. President, there is great confusion in the wake of Fullilove as to what exactly the Supreme Court has said. There was no single majority opinion. Instead, there was an opinion by Chief Justice Burger, joined by Justices White and Powell, a separate concurring opinion by Justice Powell, and a separate concurring opinion by Justice Marshall, joined in by Justice Brennan and Justice Blackmun. All held that there was no constitutional impediment to the set-aside program, with the Marshall group further asserting that when such race-conscious programs benefit traditionally "stigmatized" groups, they should not even "be subjected to conventional 'strict scrutiny'—scrutiny that is strict in theory, but fatal in fact."

Justices Stewart and Rehnquist dissented on constitutional grounds. I believe their basic point is unanswerable:

> The Equal Protection clause of the Constitution has one clear and central meaning—it absolutely prohibits invidious discrimination by government . . . the rule cannot be any different when the persons injured by a racially-biased law are not members of a racial minority.

I ask unanimous consent that this dissent be reproduced in the RECORD at this point.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

[Supreme Court of the United States,
No. 78–1007]

DISSENT

H. Earl Fullilove et al., Petitioners, vs. Philip M. Klutznick, Secretary of Commerce of the United States, et al.

On Writ of Certiorari to the United States Court of Appeals for the Second Circuit, July 2, 1980.

Mr. JUSTICE STEWART, with whom Mr. JUSTICE REHNQUIST joins, dissenting.

"Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. . . . The law regards man as man, and takes no account of his surroundings or of his color. . . ." Those words were written by a Member of this Court 84 years ago. *Plessy* v. *Ferguson,* 163 U.S. 537, 559 (Harlan, J., dissenting). His colleagues disagreed with him, and held that a statute that required the separation of people on the basis of their race was constitutionally valid because it was a "reasonable" exercise of legislative power and had been "enacted in good faith for the promotion [of] the public good. . . ." *Id.,* at 550. Today, the Court upholds a statute that accords a preference to citizens who are "Negroes, Spanish-speaking, Orientals, Indians, Eskimos, and Aleuts," for much the same reason that *Plessy* v. *Ferguson* was wrong, and I respectfully dissent.

s.

The equal protection standard of the Constitution has one clear and central meaning—it absolutely prohibits invidious discrimination by government. That standard must be met by every State under the Equal Protection Clause of the Fourteenth Amendment. *Loving* v. *Virginia,* 388 U.S. 1, 10; *Hill* v. *Texas,* 316 U.S. 400; *Strauder* v. *West Virginia,* 100 U.S. 303, 307–308; *Slaughter-House Cases,* 16 Wall. 36, 71–72. And that standard must be met by the United States itself under the Due Process Clause of the Fifth Amendment. *Washington* v. *Davis,* 426 U.S. 229, 239; *Bolling* v. *Sharpe,* 347 U.S. 497.[1] Under our Constitution, any official action that treats a person differently on account of his race or ethnic origin is inherently suspect and presumptively invalid. *McLaughlin* v. *Florida,* 379 U.S. 184, 192; *Bolling* v. *Sharpe, supra,* at 499; *Korematsu* v. *United States,* 323 U.S. 214, 216.[2]

The hostility of the Constitution to racial classifictaions by government has been manifested in many cases decided by this Court. See, *e.g., Loving* v. *Virginia, supra; McLaughlin* v. *Florida, supra; Brown* v. *Board of Education,* 347 U.S. 483; *Missouri ex rel. Gaines* v. *Canada,* 305 U.S. 337. And our cases have made clear that the Constitution is wholly neutral in forbidding such racial discrimination, whatever the race may be of those who are its victims. In *Anderson* v. *Martin,* 375 U.S. 399, for instance, the Court dealt with a state law that required that the race of each candidate for election to public office be designated on the nomination papers and ballots. Although the law applied equally to candidates of whatever race, the Court held that it nonetheless violated the constitutional standard of equal protection. "We see *no relevance,*" the Court said, "in the State's pointing up the race of the candidate as bearing upon his qualifications for office." *Id.,* at 403 (emphasis added). Similarly, in *Loving* v. *Virginia, supra,* and *McLaughlin* v. *Florida, supra,* the Court held that statutes outlawing miscegenation and interracial cohabitation were constitutionally invalid, even though the laws penalized all violators equally. The laws were unconstitutional for the simple reason that they penalized individuals solely because of their race, whatever their race might be. See also *Goss* v. *Board of Education,* 373 U.S. 683; *Buchanan* v. *Warley,* 245 U.S. 60.[3]

This history contains one clear lesson. Under our Constitution, the government may never act to the detriment of a person solely because of that person's race.[4] The color of a person's skin and the country of his origin are immutable facts that bear no relation to ability, disadvantage, moral culpability, or any other characteristics of constitutionally permissible interest to government. "Dis-

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Footnotes at end of article.

tinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality." *Hirabayashi* v. *United States*, 320 U.S. 81, 100, quoted in *Loving* v. *Virginia, supra*, 388 U.S., at 11.[5] In short, racial discrimination is by definition invidious discrimination.

The rule cannot be any different when the persons injured by a racially biased law are not members of a racial minority. The guarantee of equal protection is "universal in [its] application, to all persons . . . without regard to any differences of race, of color, or of nationality." *Yick Wo* v. *Hopkins*, 118 U.S. 356, 369. See *In re Griffiths*, 413 U.S. 717; *Hernandez* v. *Texas*, 347 U.S. 475; *Truax* v. *Raich*, 239 U.S. 33, 39–43; *Strauder* v. *West Virginia, supra*, 100 U. S., at 308. The command of the equal protection guarantee is simple but unequivocal: In the words of the Fourteenth Amendment, "No State shall . . . deny to *any* person . . . the equal protection of the law." Nothing in this language singles out some "persons" for more "equal" treatment than others. Rather, as the Court made clear in *Shelley* v. *Kraemer*, 334 U. S. 1, 22, the benefits afforded by the Equal Protection Clause "are, by its terms, guaranteed to the individual. [They] are personal rights." From the perspective of a person detrimentally affected by a racially discriminatory law, the arbitrariness and unfairness is entirely the same, whatever his skin color and whatever the law's purpose, be it purportedly "for the promotion of the public good" or otherwise.

No one disputes the self-evident proposition that Congress has broad discretion under its Spending Power to disburse the revenues of the United States as it deems best and to set conditions on the receipt of the funds disbursed. No one disputes that Congress has the authority under the Commerce Clause to regulate contracting practices on federally funded public works projects, or that it enjoys broad powers under § 5 of the Fourteenth Amendment "to enforce by appropriate legislation" the provisions of that Amendment. But these self-evident truisms do not begin to answer the question before us in this case. For in the exercise of its powers, Congress must obey the Constitution just as the legislatures of all the States must obey the Constitution in the exercise of their powers. If a law is unconstitutional, it is no less unconstitutional just because it is a product of the Congress of the United States.

B

On its face, the minority business enterprise (MBE) provision at issue in this case denies the equal protection of the law. The Public Works Employment Act of 1977 directs that all project construction shall be performed by those private contractors who submit the lowest competitive bids and who meet established criteria of responsibility. 42 U. S. C. § 6705(e)(1) (1976 ed. Supp. I). One class of contracting firms—defined solely according to the racial and ethnic attributes of their owners—is, however, excepted from the full rigor of these requirements with respect to a percentage of each federal grant. The statute, on its face and in effect, thus bars a class to which the petitioners belong from having the opportunity to receive a government benefit, and bars the members of that class solely on the basis of their race or ethnic background. This is precisely the kind of law that the guarantee of equal protection forbids.

The Court's attempt to characterize the law as a proper remedial measure to counteract the effects of past or present racial discrimination is remarkably unconvincing. The Legislative Branch of government is not a court of equity. It has neither the dispassionate objectivity nor the flexibility that are needed to mold a race-conscious remedy around the single objective of eliminating the effects of past or present discrimination.[6]

But even assuming that Congress has the power, under § 5 of the Fourteenth Amendment or some other constitutional provision, to remedy previous illegal racial discrimination, there is no evidence that Congress has in the past engaged in racial discrimination in its disbursement of federal contracting funds. The MBE provision thus pushes the limits of any such justification far beyond the equal protection standard of the Constitution. Certainly, nothing in the Constitution gives Congress any greater authority to impose detriments on the basis of race than is afforded the Judicial Branch.[7] And a judicial decree that imposes burdens on the basis of race can be upheld only where its sole purpose is to eradicate the actual effects of illegal race discrimination. See *Pasadena City Board of Education* v. *Spangler*, 427 U.S. 424.

The provision at issue here does not satisfy this condition. Its legislative history suggests that it had at least two other objectives in addition to that of counteracting the effects of past or present racial discrimination in the public works construction industry.[8] One such purpose appears to have been to assure to minority contractors a certain percentage of federally funded public works contracts.[9] But, since the guarantee of equal protection immunizes from capricious governmental treatment "persons"—not "races," it can never countenance laws that seek racial balance as a goal in and of itself. "Preferring members of any one group for no reason other than race or ethnic origin is discrimination for its own sake. This the Constitution forbids." *Regents of the University of California* v. *Bakke*, 438 U.S. 265, 307 (opinion of Powell, J.). Second, there are indications that the MBE provision may have been enacted to compensate for the effects of social, educational, and economic "disadvantage." [10] No race, however, has a monopoly on social, educational, or economic disadvantage,[11] and any law that indulges in such a presumption clearly violates the constitutional guarantee of equal protection. Since the MBE provision was in whole or in part designed to effectuate objectives other than the elimination of the effects of racial discrimination, it cannot stand as a remedy that comports with the strictures of equal protection, even if it otherwise could.[12]

The Fourteenth Amendment was adopted to ensure that every person must be treated equally by each State regardless of the color of his skin. The Amendment promised to carry to its necessary conclusion a fundamental principle upon which this Nation had been founded—that the law would honor no preference based on lineage.[13] Tragically, the promise of 1868 was not immediately fulfilled, and decades passed before the States and the Federal Government were finally directed to eliminate detrimental classifications based on race. Today, the Court derails this achievement and places its imprimatur on the creation once again by government of privileges based on birth.

The Court, moreover, takes this drastic step without, in my opinion, seriously considering the ramifications of its decision. Laws that operate on the basis of race require definitions of race. Because of the Court's decision today, our statute books will once again have to contain laws that reflect the odious practice of delineating the qualities that make one person a Negro and make another white.[14] Moreover, racial discrimination, even "good faith" racial discrimination, is inevitably a two-edged sword. "[P]referential programs may only reinforce common stereotypes holding that certain groups are unable to achieve success without special protection based on a factor having no relationship to individual worth." *University of California Regents* v. *Bakke, supra*, 438 U.S. at 298 (opinion of Powell, J.). Most importantly, by making race a relevant criterion once again in its own affairs, the Government implicitly teaches the public that the apportionment of rewards and penalties can legitimately be made according to race—rather than according to merit or ability—and that people can, and perhaps should, view themselves and others in terms of their racial characteristics. Notions of "racial entitlement" will be fostered, and private discrimination will necessarily be encouraged.[15] See *Hughes* v. *Superior Court*, 339 U.S. 460, 463–464; T. Eastland & W. Bennett, Counting by Race 139—170 (1979); Van Alstyne, Rites of Passage: Race, the Supreme Court, and the Constitution, 46 U. Chi. L. Rev. 775 (1979).

There are those who think that we need a new Constitution, and their views may someday prevail. But under the Constitution we have, one practice in which government may never engage is the practice of racism—not even "temporarily" and not even as an "experiment."

For these reasons, I would reverse the judgment of the Court of Appeals.

FOOTNOTES

[1] "Equal protection analysis in the Fifth Amendment area is the same as that under the Fourteenth Amendment." *Buckley* v. *Valeo*, 424 U.S. 1, 93.

[2] By contrast, nothing in the Constitution prohibits a private person from discriminating on the basis of race in his personal or business affairs. See *Steelworkers* v. *Weber*, 443 U.S. 193. The Fourteenth Amendment limits only the actions of the States; the Fifth Amendment limits only the actions of the National Government.

[3] *University of California Regents* v. *Bakke*, 438 U.S. 265, and *United Jewish Organizations* v. *Carey*, 430 U.S. 144, do not suggest a different rule. The Court in *Bakke* invalidated the racially preferential admissions program that had deprived Bakke of equal access to a place in the medical school of a state university. In *United Jewish Organizations* v. *Carey*, a state legislature had apportioned certain voting districts with an awareness of their racial comopsition. Since the plaintiffs there had "failed to show that either the purpose or the effect of discriminating against them on the basis of their race," no constitutional violation had occurred. 430 U.S., at 179–180 (concurring opinion). No person in that case was deprived of his electoral franchise.

More than 35 years ago, during the Second World War, this Court did find constitutional a governmental program imposing injury on the basis of race. See *Korematsu* v. *United States*, 323 U.S. 214; *Hirabayashi* v. *United States*, 320 U.S. 81. Significantly, those cases were decided not only in time of war, but in an era before the Court had held that the Due Process Clause of the Fifth Amendment imposes the same equal protection standard upon the Federal Government that the Fourteenth Amendment imposes upon the States. See *Bolling* v. *Sharpe*, 347 U.S. 497.

[4] A court of equity may, of course, take race into account in devising a remedial decree to undo a violation of a law prohibiting discrimination on the basis of race. See *Teamsters* v. *United States*, 431 U.S. 324; *Franks* v. *Bowman Transportation Co.*, 424 U.S. 747; *Swann* v. *Charlotte-Mecklenberg Board of Education*, 402 U.S. 1, 18–32. But such a judicial decree, following litigation in which a violation of law has been determined, is wholly different from generalized legislation that awards benefits and imposes detriments dependent upon the race of the recipients. See text in Part B, *infra*.

[5] As Mr. Justice Murphy wrote in dissenting from the Court's opinion and judgment in *Korematsu* v. *United States*, 323 U.S. 214, 242:

"Racial discrimination in any form and in any degree has no justifiable part whatever in our democratic way of life. It is unattractive in any setting but it is utterly revolting among a free people who have embraced the principles set forth in the Constitution of the United States."

See also *Defunis* v. *Odegaard*, 416 U.S. 312, 331–344 (Douglas, J., dissenting); A. Bickel, The Morality of Consent 132–133 (1975).

[6] See n. 4, *supra*. In *McDaniel* v. *Barresi*, 402 U.S. 39, the Court approved a county's voluntary race-conscious redrafting of its public school pupil assignment system in order to eliminate the effects of past unconstitutional racial segregation of the pupils. But no pupil was deprived of a public school education as a result.

[7] Section 2 of the Thirteenth Amendment gives Congress the authority to "enforce" the provisions of § 1 of the same Amendment, and § 5 of the Fourteenth Amendment provides that, "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article." Neither section grants to Congress the authority to require the States to flout their obligation under § 1 of the Fourteenth Amendment to afford "the equal protection of the laws" or the power to enact legislation that itself violates the equal protection component of the Fifth Amendment.

[8] The legislative history of the MBE provision itself contains not one mention of racial discrimination or the need to provide a mechanism to correct the effects of such discrimination. From the context of the Act, however, it is reasonable to infer that the program was enacted, at least in part, to remedy perceived past and present racial discrimination. In 1977, Congress knew that many minority business enterprises had historically suffered racial discrimination in the economy as a whole and in the construction industry in particular. See H.R. Rep. No. 94–1791, pp. 182–183 (1977); H.R. Rep. No. 94–468, pp. 1–2 (1975); To Amend and Extend the Local Public Works Capital Development and Investment Act: Hearings before the Subcommittee on Economic Development of the House Committee on Public Works and Transportation, 95th Cong., 1st Sess., 939 (1977) (statement of Rep. Conyers). Some of this discrimination may well, in fact, have violated one or more of the state and federal antidiscrimination laws.

[9] See 123 Cong. Rec. 5325 (Feb. 24, 1977) (Rep. Mitchell) ("all [the MBE provision] attempts to do is to provide that those who are in minority businesses get a *fair share of the action* from this public works legislation") (emphasis supplied). Moreover, sponsors of the legislation repeatedly referred to the low participation rate of minority businesses in federal procurement programs. See 123 Cong. Rec. 5329 (Feb. 24, 1977) (Rep. Biaggi): 123 Cong. Rec. 5325–26 (Feb. 24, 1977) (Rep. Mitchell); 123 Cong. Rec. 5097–98 (Feb. 23, 1977) (Rep. Mitchell); 123 Cong. Rec. 7157 (Mar. 10, 1977) (Sen. Brooke).

[10] See 123 Cong. Rec. 5329 (Feb. 24, 1977) (Rep. Conyers) ("minority contractors and businessmen who are trying to enter in on the bidding process . . . get the 'works' almost every time. The bidding process is one whose intricacies defy the imaginations of most of us here.") That the elimination of "disadvantage" is one of the program's objectives is an inference that finds support in the agency's own interpretation of the statute. See U.S. Department of Commerce, Economic Development Administration, EDA Minority Business Enterprise Technical Bulletin (Additional Assistance and Information Available to Grantees and Their Contractors In Meeting The 10% MBE Requirement) 9–10 (Oct. 11, 1977) (Technical Bulletin) ("a [minority] subcontractor's price should not be considered unreasonable if he is merely trying to cover his costs because the price results from *disadvantage* which affects the MBE's costs of doing business *or* results from *discrimination*" (emphasis added)).

[11] For instance, in 1978, 83.4% of persons over the age of 25 who had not completed high school were "white," see U.S. Dept. of Commerce Bureau of the Census, Statistical Abstract of the United States 145 (1979), and in 1977, 79.0% of households with annual income of less than $5,000 were "white," see *id.*, at 458.

[12] Moreover, even a properly based judicial decree will be struck down if the scope of the remedy it provides is not carefully tailored to fit the nature and extent of the violation. See Dayton Board of Education v. Brinkman, 433 U. S. 406, 419–420; Milliken v. Bradley, 418 U. S. 717. Here, assuming that the MBE provision was intended solely as a remedy for past and present racial discrimination, it sweeps far too broadly. It directs every state and local government covered by the program to set aside 10% of its grant for minority business enterprises. Waivers from that requirement are permitted, but only where insufficient numbers of minority businesses capable of doing the work at nonexorbitant prices are located in the relevant contracting area. No waiver is provided for any governmental entity that can prove a history free of racial discrimination. Nor is any exemption permitted for nonminority contractors that are able to demonstrate that they have not engaged in racially discriminatory behavior. Finally, the statute makes no attempt to direct the aid it provides solely toward those minority contracting firms that arguably still suffer from the effects of past or present discrimination.

These are not the characteristics of a racially conscious remedial decree that is closely tailored to the evil to be corrected. In today's society, it constitutes far too gross an oversimplification to assume that every single Negro, Spanish-speaking citizen, Oriental, Indian, Eskimo, and Aleut potentially interested in construction contracting currently suffers from the effects of past or present racial discrimination. Since the MBE set-aside must be viewed as resting upon such an assumption, it necessarily paints with too broad a brush. Except to make whole the identified victims of racial discrimination, the guarantee of equal protection prohibits the government from taking detrimental action against innocent people on the basis of the sins of others of their own race.

[13] The Framers of our Constitution lived at a time when the Old World still operated in the shadow of ancient feudal traditions. As products of the Age of Enlightenment, they set out to establish a society that recognized no distinctions among white men on account of their birth. See U.S. Constitution, Art. I, § 9, cl. 8 ("No Title of Nobility shall be granted by the United States"). The words Thomas Jefferson wrote in 1776 in the Declaration of Independence, however, contained the seeds of a far broader principle: "We hold these Truths to be self-evident, that all Men are created equal. . . ."

[14] See Technical Bulletin, *supra*, at 1. Cf., Ga. Code Ann. § 53–312 (1937), Tex. Penal Code Art. 493 (1948).

[15] "Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example." *Olmstead* v. *United States*, 277 U.S. 438, 485 (Brandeis, J., dissenting).

Mr. HATCH. Mr. President, Justice Stevens' dissent is also interesting. He did not directly address the issue of whether a race-conscious statute is inherently unconstitutional. Instead, he criticized the numerous logical inconsistencies in the theory underlying the set-aside program. In particular, he objected to the idea that such programs were justified as a form of societal reparations to the black community, in words that may haunt us for the rest of the century:

> If [American] history can justify such a random distribution of benefits on racial lines as that embodied in this statutory scheme, it will serve not merely as a basis for remedial legislation, but rather as a permanent source of justification for special privileges. For if there is no duty to attempt either to measure the recovery by the wrong or to distribute that recovery within the injured class in an evenhanded way, our history will adequately support a legislative preference for almost any ethnic, religious, or racial group with the political strength to negotiate "a piece of the action" for its members.

Justice Stevens dissented from the Fullilove decision because he concluded that the set-aside provision was insufficiently "narrowly tailored" to justify its obvious conflict with Congress fifth amendment duty to govern impartially.

We elected officials may find Justice Stevens' scathing comments about the inadequate scrutiny the measure received on its journey through Congress inappropriate. We may feel that the constitutionality of an act should be decided by looking at its language and that of the Constitution, not by second-guessing what we ourselves said at the time. But we must admit that his survey of the legislative history demonstrates beyond dispute, despite the contention of the Court majority, that the set-aside provision was not regarded by Congress as specifically remedial, or even temporary. It had nothing to do with repairing the effects of the Federal Government's discrimination in contract letting. There is no evidence whatever that the Federal Government ever discriminated in this way. The question just was not at issue at all in the debate. Congress saw set-asides as just another pork barrel, but this time on racial lines.

Mr. President, I ask unanimous consent that Mr. Justice Stevens' dissenting opinion be printed in the RECORD at this point. This concerns the Fullilove dissent.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

SUPREME COURT OF THE UNITED STATES
(No. 78–1007)

H. Earl Fullilove et al., Petitioners, *v.* Philip M. Klutznick, Secretary of Commerce of the United States, et al.

On Writ of Certiorari to the United States Court of Appeals for the Second Circuit.

[July 2, 1980]

Mr. JUSTICE STEVENS, dissenting.

The 10% set-aside contained in the Public Works Employment Act of 1977, 91 Stat. 116 ("the Act") creates monopoly privileges in a $400,000,000 market for a class of investors defined solely by racial characteristics. The direct beneficiaries of these monopoly privileges are the relatively small number of persons within the racial classification who represent the entrepreneurial subclass—those who have, or can borrow, working capital.

History teaches us that the costs associated with a sovereign's grant of exclusive privileges often encompass more than the high prices and shoddy workmanship that are familiar hand maidens of monopoly; they engender animosity and discontent as well. The economic consequences of using noble birth as a basis for classification in 18th century France, though disastrous, were nothing as compared with the terror that was engendered in the name of "egalite" and "fraternite." Grants of privilege on the basis of characteristics acquired at birth are far from an unmixed blessing.

Our historic aversion to titles of nobility[1] is only one aspect of our commitment to the proposition that the sovereign has a fundamental duty to govern impartially.[2] When

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Footnotes at end of article.

government accords different treatment to different persons, there must be a reason for the difference.[3] Because racial characteristics so seldom provide a relevant basis for disparate treatment,[4] and because classifications based on race are potentially so harmful to the entire body politic,[5] it is especially important that the reasons for any such classification be clearly identified and unquestionably legitimate.

The statutory definition of the preferred class includes "citizens of the United States who are Negroes, Spanish-speaking, Orientals, Indians, Eskimos, and Aleuts." All aliens and all nonmembers of the racial class are excluded. No economic, social, geographical or historical criteria are relevant for exclusion or inclusion. There is not one word in the remainder of the Act or in the legislative history that explains why any Congressman or Senator favored this particular definition over any other or that identifies the common characteristics that every member of the preferred class was believed to share.[6] Nor does the Act or its history explain why 10 percent of the total appropriation was the proper amount to set aside for investors in each of the six racial subclasses.[7]

Four different, though somewhat interrelated, justifications for the racial classification in this Act have been advanced: first, that the 10 percent set aside is a form of reparation for past injuries to the entire membership of the class; second, that it is an appropriate remedy for past discrimination against minority business enterprises that have been denied access to public contracts; third, that the members of the favored class have a special entitlement to "a piece of the action" when government is distributing benefits; and, fourth, that the program is an appropriate method of fostering greater minority participation in a competitive economy. Each of these asserted justifications merits separate scrutiny.

I

Racial characteristics may serve to define a group of persons who have suffered a special wrong and who, therefore, are entitled to special reparations. Congress has recognized, for example, that the United States has treated some Indian tribes unjustly and has created procedures for allowing members of the injured classes to obtain classwide relief. See, *e.g., Delaware Tribal Business Committee* v. *Weeks,* 430 U.S. 73. But as I have formerly suggested, if Congress is to authorize a recovery for a class of similarly situated victims of a past wrong, it has an obligation to distribute that recovery among the members of the injured class in an evenhanded way. See *id.*, at 97–98 (Stevens, J., dissenting). Moreover, in such a case the amount of the award should bear some rational relationship to the extent of the harm it is intended to cure.

In his eloquent separate opinion in *University of California Regents* v. *Bakke,* 438 U.S. 265, 387, Mr. Justice Marshall recounted the tragic class-based discrimination against Negroes that is an indelible part of America's history. I assume that the wrong committed against the Negro class is both so serious and so pervasive that it would constitutionally justify an appropriate classwide recovery measured by a sum certain for every member of the injured class. Whether our resources are adequate to support a fair remedy of that character is a policy question I have neither the authority nor the wisdom to address. But that serious classwide wrong cannot in itself justify the particular classification Congress has made in this Act. Racial classifications are simply too pernicious to permit any but the most exact connection between justification and classification. Quite obviously, the history of discrimination against black citizens in America cannot justify a grant of privileges to Eskimos or Indians.

Even if we assume that each of the six racial subclasses has suffered its own special injury at some time in our history, surely it does not necessarily follow that each of those subclasses suffered harm of identical magnitude. Although "the Negro was dragged to this country in chains to be sold in slavery," *Bakke,* opinion of Marshall J., *supra,* 438 U.S. at 387, the "Spanish-speaking" subclass came voluntarily, frequently without invitation, and the Indians, the Eskimos and the Aleuts had an opportunity to exploit America's resources before most American citizens arrived. There is no reason to assume, and nothing in the legislative history suggests, much less demonstrates, that each of these subclasses is equally entitled to reparations from the United States Government.[8]

At best, the statutory preference is a somewhat perverse form of reparation for the members of the injured classes. For those who are the most disadvantaged within each class are the least likely to receive any benefit from the special privilege even though they are the persons most likely still to be suffering the consequences of the past wrong.[9] A random distribution to a favored few is a poor form of compensation for an injury shared by many.

My principal objection to the reparation justification for this legislation, however, cuts more deeply than my concern about its inequitable character. We can never either erase or ignore the history that Mr. Justice Marshall has recounted. But if that history can justify such a random distribution of benefits on racial lines as that embodied in this statutory scheme, it will serve not merely as a basis for remedial legislation, but rather as a permanent source of justification for grants of special privileges. For if there is no duty to attempt either to measure the recovery by the wrong or to distribute that recovery within the injured class in an evenhanded way, our history will adequately support a legislative preference for almost any ethnic, religious, or racial group with the political strength to negotiate "a piece of the action" for its members.

Although I do not dispute the validity of the assumption that each of the subclasses identified in the Act has suffered a severe wrong at some time in the past, I cannot accept this slapdash statute as a legitimate method of providing classwide relief.

II

The Act may also be viewed as a much narrower remedial measure—one designed to grant relief to the specific minority business enterprises that have been denied access to public contracts by discriminatory practices.

The legislative history of the Act does not tell us when, or how often, any minority business enterprise was denied such access. Nevertheless, it is reasonable to infer that the number of such incidents has been relatively small in recent years. For, as noted by the Solicitor General, in the last 20 years Congress has enacted numerous statutes designed to eliminate discrimination and its effects from federally funded programs.[10] Title VI of the Civil Rights Act of 1964 unequivocally and comprehensively prohibits discrimination on the basis of race in any program or activity receiving federal financial assistance. In view of the scarcity of litigated claims on behalf of minority business enterprises during this period, and the lack of any contrary evidence in the legislative record, it is appropriate to presume that the law has generally been obeyed.

Assuming, however, that some firms have been denied public business for racial reasons, the instant statutory remedy is nevertheless demonstrably much broader than is necessary to right any such past wrong. For the statute grants the special preference to a class that includes (1) those minority owned firms that have successfully obtained business in the past on a free competitive basis and undoubtedly are capable of doing so in the future as well; (2) firms that have never attempted to obtain any public business in the past; (3) firms that were initially formed after the Act was passed, including those that may have been organized simply to take advantage of its provisions: [11] (4) firms that have tried to obtain public business but were unsuccessful for reasons that are unrelated to the racial characteristics of their stockholders; and (5) those firms that have been victimized by racial discrimination.

Since there is no reason to believe that any of the firms in the first four categories had been wrongfully excluded from the market for public contracts, the statutory preference for those firms cannot be justified as a remedial measure. And since a judicial remedy was already available for the firms in the fifth category,[12] it seems inappropriate to regard the preference as a remedy designed to redress any specific wrongs.[13] In any event, since it is highly unlikely that the composition of the fifth category is at all representative of the entire class of firms to which the statute grants a valuable preference, it is ill-fitting to characterize this as a "narrowly tailored" remedial measure.[14]

III

The legislative history of the Act discloses that there is a group of legislators in Congress identified as the "Black Caucus" and that members of that group argued that if the Federal Government was going to provide $4,000,000,000 of new public contract business, their constituents were entitled to "a piece of the action."

It is neither unusual nor reprehensible for Congressmen to promote the authorization of public construction in their districts. The flow of capital and employment into a district inevitably has both direct and indirect consequences that are beneficial. As Mr. Justice Brennan noted in *Elrod* v. *Burns,* 427 U.S. 347, however, the award of such contracts may become a form of political patronage that is dispensed by the party in power.[15] Although the practice of awarding such contracts to political allies may be as much a part of our history as the employment practices condemned in *Elrod,* it would surely be unconstitutional for the legislature to specify that all, or a certain portion, of the contracts authorized by a specific statute must be given to businesses controlled by members of one political party or another. That would be true even if the legislative majority was convinced that a grossly disproportionate share had been awarded to members of the opposite party in previous years.

In the short run our political processes might benefit from legislation that enhanced the ability of representatives of minority groups to disseminate patronage to their political backers. But in the long run any rule that authorized the award of public business on a racial basis would be just as objectionable as one that awarded such business on a purely partisan basis.

The legislators' interest in providing their constituents with favored access to benefits distributed by the Federal Government is, in my opinion, a plainly impermissible justification for this racial classification.

IV

The interest in facilitating and encouraging the participation by minority business enterprises in the economy is unquestionably legitimate. Any barrier to such entry and growth—whether grounded in the law or in irrational prejudice—should be vigorously and thoroughly removed. Equality of economic and investment opportunity is a goal of no less importance than equality of employment opportunity. This statute, however, is not designed to remove any barriers to entry. Nor does its sparse legislative history detail any insuperable or even significant obstacles to entry into the competitive market.

Three difficulties encountered by minority business enterprises in seeking govern-

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mental business on a competitive basis are identified in the legislative history. There were references to (1) unfamiliarity with bidding procedures followed by procurement officers, (2) difficulties in obtaining financing and (3) past discrimination in the construction industry.

The first concern is no doubt a real problem for all businesses seeking access to the public contract market for the first time. It justifies a thorough review of bidding practices to make sure that they are intelligible and accessible to all. It by no means justifies an assumption that minority business enterprises are any less able to prepare and submit bids in proper form than are any other businessmen. Consequently, that concern does not justify a statutory classification on racial grounds.

The second concern would justify legislation prohibiting private discrimination in lending practices or authorizing special public financing for firms that have been or are unable to borrow money for reasons unrelated to their credit rating. It would not be an adequate justification for a requirement that a fixed percentage of all loans made by national banks be made to Eskimos or Orientals regardless of their ability to repay the loans. Nor, it seems to me, does it provide a sufficient justification for granting a preference to a broad class that includes, at one extreme, firms that have no credit problem[16] and at the other extreme, firms whose unsatisfactory credit rating will prevent them from taking advantage of the statutory preference even though they are otherwise qualified to do the work. At best, the preference for minority business enterprises is a crude and inadequate response to the evils that flow from discriminatory lending practices.

The question whether the history of past discrimination has created barriers that can only be overcome by an unusual measure of this kind is more difficult to evaluate. In analyzing this question. I think it is essential to draw a distinction between obstacles placed in the path of minority business enterprises by others and characteristics of those firms that may impair their ability to compete.

It is unfortunately but unquestionably true that irrational racial prejudice persists today and continues to obstruct minority participation in a variety of economic pursuits, presumably including the construction industry. But there are two reasons why this legislation will not eliminate, or even tend to eliminate, such prejudice. First, prejudice is less likely to be a significant factor in the public sector of the economy than in the private sector because both federal and state laws have prohibited discrimination in the award of public contracts for many years. Second, and of greater importance, an absolute preference that is unrelated to a minority firm's ability to perform a contract inevitably will engender resentment on the part of competitors excluded from the market for a purely racial reason and skepticism on the part of customers and suppliers aware of the statutory classification. It thus seems clear to me that this Act cannot be defended as an appropriate method of reducing racial prejudice.

The argument that our history of discrimination has left the entire membership of each of the six racial classes identified in the Act less able to compete in a free market than others is more easily stated than proved. The reduction in prejudice that has occurred during the last generation has accomplished much less than was anticipated; it nevertheless remains true that increased opportunities have produced an ever increasing number of demonstrations that members of disadvantaged races are entirely capable not merely of competing on an equal basis, but also of excelling in the most demanding professions. But, even though it is not the actual predicate for this legislation, a statute of this kind inevitably is perceived by many as resting on an assumption that those who are granted this special preference are less qualified in some respect that is identified purely by their race.[17] Because that perception—especially when fostered by the Congress of the United States—can only exacerbate rather than reduce racial prejudice, it will delay the time when race will become a truly irrelevant, or at least insignificant, factor. Unless Congress clearly articulates the need and basis for a racial classification, and also tailors the classification to its justification, the Court should not uphold this kind of statute.

This Act has a character that is fundamentally different from a carefully drafted remedial measure like the Voting Rights Act of 1965. A consideration of some of the dramatic differences between these two legislative responses to racial injustice reveals not merely a difference in legislative craftsmanship but a difference of constitutional significance. Whereas the enactment of the Voting Rights Act was preceded by exhaustive hearings and debates concerning discriminatory denial of access to the electoral process, and became effective in specific States only after specific findings were made, this statute authorizes an automatic nationwide preference for all members of a diverse racial class regardless of their possible interest in the particular geographic areas where the public contracts are to be performed. Just why a wealthy Negro or Spanish-speaking investor should have a preferred status in bidding on a construction contract in Alaska—or a citizen of Eskimo ancestry should have a preference in Miami or Detroit—is difficult to understand in light of either the asserted remedial character of the set-aside or the more basic purposes of the public works legislation.

The Voting Rights Act addressed the problem of denial of access to the electoral process. By outlawing specific practices, such as poll taxes and special tests, the statute removed old barriers to equal access; by requiring preclearance of changes in voting practices in covered States, it precluded the erection of new barriers. The Act before us today does not outlaw any existing barriers to access to the economic market and does nothing to prevent the erection of new barriers. On the contrary, it adopts the fundamentally different approach of creating a new set of barriers of its own.

A comparable approach in the electoral context would support a rule requiring that at least 10 percent of the candidates elected to the legislature be members of specified racial minorities. Surely that would be an effective way of ensuring black citizens the representation that has long been their due. Quite obviously, however, such a measure would merely create the kind of inequality that an impartial sovereign cannot tolerate. Yet that is precisely the kind of "remedy" that this Act authorizes. In both political and economic contexts, we have a legitimate interest in seeing that those who were disadvantaged in the past may succeed in the future. But neither an election nor a market can be equally accessible to all if race provides a basis for placing a special value on votes or dollars.

The ultimate goal must be to eliminate entirely from governmental decisionmaking such irrelevant factors as a human being's race. The removal of barriers to access to political and economic processes serves that goal.[18] But the creation of new barriers can only frustrate true progress. For as Mr. Justice Powell[19] and Mr. Justice Douglas[20] have perceptively observed, such protective barriers reinforce habitual ways of thinking in terms of classes instead of individuals. Preferences based on characteristics acquired at birth foster intolerance and antagonism against the entire membership of the favored classes.[21] For this reason, I am firmly convinced that this "temporary measure" will disserve the goal of equal opportunity.

V

A judge's opinion that a statute reflects a profoundly unwise policy determination is an insufficient reason for concluding that it is unconstitutional. Congress has broad power to spend money to provide for the "general Welfare of the United States," to "regulate Commerce among the several States," to enforce the Civil War Amendments, and to discriminate between aliens and citizens. See *Hampton* v. *Mow Sun Wong,* 426 U.S. 88, 101–102, n. 21.[22] But the exercise of these broad powers is subject to the constraints imposed by the Due Process Clause of the Fifth Amendment. That Clause has both substantive and procedural components; it performs the office of both the Due Process and Equal Protection Clauses of the Fourteenth Amendment in requiring that the federal sovereign act impartially.

Unlike Mr. Justice Stewart and Mr. Justice Rehnquist, however, I am not convinced that the Clause contains an absolute prohibition against any statutory classification based on race. I am nonetheless persuaded that it does impose a special obligation to scrutinize any governmental decisionmaking process that draws nationwide distinctions between citizens on the basis of their race and incidentally also discriminates against noncitizens in the preferred racial classes.[23] For just as procedural safeguards are necessary to guarantee impartial decisionmaking in the judicial process, so can they play a vital part in preserving the impartial character of the legislative process.[24]

In both its substantive and procedural aspects this Act is markedly different from the normal product of the legislative decisionmaking process. The very fact that Congress for the first time in the Nation's history has created a broad legislative classification for entitlement to benefits based solely on racial characteristics identifies a dramatic difference between this Act and the thousands of statutes that preceded it. This dramatic point of departure is not even mentioned in the statement of purpose of the Act or in the reports of either the House or the Senate Committee that processed the legislation,[25] and was not the subject of any testimony or inquiry in any legislative hearing on the bill that was enacted. It is true that there was a brief discussion on the floor of the House as well as in the Senate on two different days, but only a handful of legislators spoke and there was virtually no debate. This kind of perfunctory consideration of an unprecedented policy decision of profound constitutional importance to the Nation is comparable to the accidental malfunction of the legislative process that led to what I regarded as a totally unjustified discrimination in *Delaware Tribal Business Committee v. Weeks, supra,* 430 U. S., at 97.

Although it is traditional for judges to accord the same presumption of regularity to the legislative process no matter how obvious it may be that a busy Congress has acted precipitately, I see no reason why the character of their procedures may not be considered relevant to the decision whether the legislative product has caused a deprivation of liberty or property without due process of law.[26] Whenever Congress creates a classification that would be subject to strict scrutiny under the Equal Protection Clause of the Fourteenth Amendment if it had been fashioned by a state legislature, it seems to me that judicial review should include a consideration of the procedural character of the decisionmaking process.[27] A holding that the classification was not adequately preceded by a consideration of less drastic alternatives or adequately explained by a statement of legislative purpose would

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Footnotes at end of article.

be far less intrusive than a final determination that the substance of the decision is not "narrowly tailored to the achievement of that goal." [28] Cf. The Chief Justice's opinion, *ante*, at 28; Mr. Justice Marshall's opinion concurring in the judgment, *ante*, at 5. If the general language of the Due Process Clause of the Fifth Amendment authorizes this Court to review acts of Congress of the Fourteenth Amendment—a clause that cannot be found in the Fifth Amendment—there can be no separation of powers objection to a more tentative holding of unconstitutionality based on a failure to follow procedures that guarantee the kind of deliberation that a fundamental constitutional issue of this kind obviously merits.[29]

In all events, rather than take the substantive position expressed in Mr. Justice Stewart's dissenting opinion, I would hold this statute unconstitutional on a narrower ground. It cannot fairly be characterized as a "narrowly tailored" racial classification because it simply raises too many serious questions that Congress failed to answer or even to address in a responsible way.[30] The risk that habitual attitudes toward classes of persons, rather than analysis of the relevant characteristics of the class, will serve as a basis for a legislative classification is present when benefits are distributed as well as when burdens are imposed. In the past, traditional attitudes too often provided the only explanation for discrimination against women, aliens, illegitimates, and black citizens. Today there is a danger that awareness of past injustice will lead to automatic acceptance of new classifications that are not in fact justified by attributes characteristic of the class as a whole.

When Congress creates a special preference, or a special disability, for a class of persons, it should identify the characteristic that justifies the special treatment.[31] When the classification is defined in racial terms, I believe that such particular identification is imperative.

In this case, only two conceivable bases for differentiating the preferred classes from society as a whole have occurred to me: (1) that they were the victims of unfair treatment in the past and (2) that they are less able to compete in the future. Although the first of these factors would justify an appropriate remedy for past wrongs, for reasons that I have already stated, this statute is not such a remedial measure. The second factor is simply not true. Nothing in the record of this case, the legislative history of the Act, or experience that we may notice judicially provides any support for such a proposition. It is up to Congress to demonstrate that its unique statutory preference is justified by a relevant characteristic that is shared by the members of the preferred class. In my opinion, because it has failed to make that demonstration, it has also failed to discharge its duty to govern impartially embodied in the Fifth Amendment to the United States Constitution.

I respectfully dissent.

FOOTNOTES

[1] "Such pure discrimination is most certainly not a 'legitimate purpose' for our Federal Government, which should be especially sensitive to discrimination on grounds of birth. 'Discrimination between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality.' *Hirabayashi* v. *United States*, 320 U.S. 81, 100. From its inception, the Federal Government has been directed to treat all its citizens as having been 'created equal' in the eyes of the law. The Declaration of Independence states:

"'We hold these truths to be self-evident, that all men are created equal, that they are endowed by the Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.'

"And the rationale behind the prohibition against the grant of any title of nobility by the United States, see U.S. Const., Art. I, § 9, cl. 8, equally would prohibit the United States from attaching any badge of ignobility to a citizen at birth" *Mathews* v. *Lucas*, 427 U.S. 495, 520–521, n. 3 (Stevens, J., dissenting).

[2] "The federal sovereign, like the States, must govern impartially The concept of equal justice under law is served by the Fifth Amendment's guarantee of due process, as well as by the Equal Protection Clause of the Fourteenth Amendment." *Hampton* v. *Mow Sun Wong*, 426 U.S. 88, 100.

See also *Harris* v. *McRae*,—— U.S. ——, —— (Stevens, J., dissenting); *Craig* v. *Boren*, 429 U.S. 190, 211 (Stevens, J., concurring).

[3] "As a matter of principle and in view of my attitude toward the equal protection clause, I do not think differences of treatment under law should be approved on classification because of differences unrelated to the legislative purposes. The equal protection clause ceases to assure either equality or protection if it is avoided by any conceivable difference that can be pointed out between those bound and those left free. This Court has often announced the principle that the differentiation must have an appropriate relation to the object of the legislation or ordinance." *Railway Express* v. *New York*, 336 U.S. 106, 115 (Jackson, J., concurring).

[4] "Habit, rather than analysis, makes it seem acceptable and natural to distinguish between male and female, alien and citizens, legitimate and illegitimate; for too much of our history there was the same inertia in distinguishing between black and white. But that sort of stereotyped reaction may have no rational relationship—other than pure prejudicial discrimination—to the stated purpose for which the classification is being made." *Mathews* v. *Lucas*, *supra*, 427 U.S., at 520–521 (Stevens, J., dissenting) (footnote omitted).

[5] Indeed, the very attempt to define with precision a beneficiary's qualifying racial characteristics is repugnant to our constitutional ideals. The so-called guidelines developed by the Economic Development Administration, see the appendix to the opinion of The Chief Justice, ¶ 3, *ante*, at 43, are so general as to be fairly innocuous; as a consequence they are too vague to be useful. For example, it is unclear whether the firm described in n. 16, *infra*, would be eligible for the 10% set-aside. If the National Government is to make a serious effort to define racial classes by criteria that can be administered objectively, it must study precedents such as the First Regulation to the Reichs Citizenship Law of November 14, 1935, translated in 4 Nazi Conspiracy and Aggression 1417–PS, pp. 8–9 (1946):

"On the basis of Article 3, Reichs Citizenship Law, of 15 Sept. 1935 (RGBl. I, page 146) the following is ordered:

* * * * *

"ARTICLE 5

"1. A Jew is anyone who descended from at least three grandparents who were racially full Jews. Article 2, par. 2, second sentence will apply.

"2. A Jew is also one who descended from two full Jewish parents, if: (a) he belonged to the Jewish religious community at the time this law was issued, or who joined the community later; (b) he was married to a Jewish person, at the time the law was issued, or married one subsequently; (c) he is the offspring from a marriage with a Jew, in the sense of Section 1, which was contracted after the Law for the protection of German blood and German honor become effective (RGBl. I, page 1146 of 15 Sept. 1935); (d) he is the offspring of an extramarital relationship, with a Jew, according to Section 1, and will be born out of wedlock after July 31, 1936."

[6] In 1968, almost 10 years before the Act was passed, the Small Business Administration had developed a program to assist small business concerns owned or controlled by "socially or economically disadvantaged persons." The Agency's description of persons eligible for such assistance stated that such "persons include, but are not limited to, black Americans, American Indians, Spanish-Americans, oriental Americans, Eskimos and Aleuts. . . ." See opinion of The Chief Justice, *ante*, at 12. This may be the source of the definition of the class at issue in this case. See also *id.*, at 36, n. 73. But the SBA's class of socially or economically disadvantaged persons neither included all persons in the racial class nor excluded all nonmembers of the racial class. Race was used as no more than a factor in identifying the class of the disadvantaged. The difference between the statutory quota involved in this case and the SBA's 1968 description of those whose businesses were to be assisted under § 8(a) of the Small Business Act is thus at least as great as the difference between the University of California's racial quota and the Harvard admissions system that Mr. Justice Powell regarded as critical in *University of California* v. *Bakke*, 438 U.S. 265, 315–318.

[7] It was noted that the value of the federal contracts awarded to minority business firms in prior years had amounted to less than 1 percent of the total; since the statutory set aside of 10 percent may be satisfied by subcontracts to minority business enterprises, it is possible that compliance with the statute would not change the 1 percent figure.

The legislative history also revealed that minority business enterprises represented about 3 or 4% of all eligible firms; the history does not indicate, however, whether the 10% figure was intended to provide the existing firms with three times as much business as they could expect to receive on a random basis or to encourage members of the class to acquire or form new firms. An EDA guideline arguably implies that new investments made in order to take advantage of the 10% set aside would not be considered "bona fide." See appendix to the opinion of The Chief Justice, *ante*, at 41.

The 10% figure bears no special relationship to the relative size of the entire racial class, to any of the six subclasses, or to the population of the subclasses in the areas where they primarily reside. The Aleuts and the Eskimos, for example, respectively represent less than 1% and 7% of the population of Alaska, see The New Columbia Encyclopedia (Columbia University Press 1975), pp. 47, 59, 891, while Spanish-speaking or Negro citizens represent a majority or almost a majority in a large number of urban areas.

[8] Ironically, the Aleuts appear to have been ruthlessly exploited at some point in their history by Russian fur traders. See The New Columbia Encyclopedia, p. 59.

[9] For a similar reason, the discrimination against males condemned in *Califano* v. *Goldfarb*, 430 U.S. 199, could not be justified as a remedy for past discrimination against females. That case involved a statutory provision which relieved widows from the obligation of providing dependency on their deceased spouses in order to obtain benefits, but did not similarly relieve widowers:

"The widows who benefit from the disparate treatment are those who were sufficiently successful in the job market to become nondependent on their husbands. Such a widow is the least likely to need special benefits. The widow most in need is the one who is 'suddenly forced into a job market with which she is unfamiliar, and in which, because of her former economic dependency, she will have fewer skills to offer.' [*Kahn* v. *Shevin*, 416 U.S. 351,] 354. To accept the *Kahn* justification we must presume that

Congress deliberately gave a special benefit to those females least likely to have been victims of the historic discrimination discussed in *Kahn*." 430 U.S., at 221 (Stevens, J., concurring in the judgment).

[10] "The statute with the most comprehensive coverage is Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*; which broadly prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance. Since the passage of the Title VI, many other specific federal grant statutes have contained similar prohibitions against discrimination in particular funded activities. See, *e.g.*, State and Local Fiscal Assistance Amendments of 1976, 31 U.S.C. 1242: Energy Conservation and Production Act, 42 U.S.C. 6870; Housing and Community Development Act of 1974, 42 U.S.C. 5309; Comprehensive Employment and Training Act of 1973, 29 U.S.C. 991." Brief for Respondent 21, n. 7.

[11] Although the plain language of the statute appears to include such firms, as I have already noted *supra*, at 4–5, n. 7, the EDA guidelines may consider such newly formed firms ineligible for the statutory set-aside.

[12] See *University of California Regents* v. *Bakke, supra*, 438 U.S., at 418–421 (opinion of Stevens, J.). See also § 207(d) of the Local Public Works Capital Development and Investment Act of 1976, 90 Stat. 999, 1007–1008.

[13] I recognize that the EDA has issued a technical bulletin, relied on heavily by The Chief Justice, *ante*, at 17–20, which distinguishes between higher bids quoted by minority subcontractors which are attributable to the effects of disadvantage or discrimination and those which are not. That is, according to the bulletin, if it is determined that a subcontractor's uncompetitive high price is not attributable to the effects of discrimination, a contractor may be entitled to relief from the 10% set-aside requirement. But even assuming that the technical bulletin accurately reflects Congress' intent in enacting the set-aside, it is not easy to envision how one could realistically demonstrate with any degree of precision, if at all, the extent to which a bid has been inflated by the effects of disadvantage or past discrimination. Consequently, while The Chief Justice describes the set-aside as a remedial measure, it plainly operates as a flat quota.

[14] See The Chief Justice's opinion, *ante*, at 28.

[15] "Non-officeholders may be the beneficiaries of lucrative government contracts for highway construction, buildings, and supplies." 427 U.S., at 353.

[16] An example of such a firm was disclosed in the record of a recent case involving a claimed preference for a firm controlled by Indian shareholders:

"Based on the facts that were developed in the District Court, . . . the Indian community in general does not benefit from the [Bureau of Indian Affairs'] interpretation of [the Buy Indian Act].

"The facts that were developed in the District Court show that the beneficiaries of this interpretation were the owners of Indian Nations Construction Company. The president of the company is a one-fourth degree Indian who is an administrative law judge for the Department of Health, Education, and Welfare by occupation. The vice president of that company was a one-quarter blood Choctaw who is a self-employed rancher and who states his net worth at just under a half million dollars. The treasurer and general manager of that corporation is a non-Indian and he states his net worth at $1.3 million." Tr. of Oral Arg. in *Andrus* v. *Glover Construction Co.*, O. T. 1979, No. 79–84, pp. 26–27.

[17] See *United Jewish Organizations* v. *Carey*, 430 U. S. 144, 173–174 (Brennan, J., concurring in part): "[E]ven preferential treatment may act to stigmatize its recipient groups, for although intended to correct systematic or institutional inequities, such a policy may imply to some the recipients' inferiority and especial need for protection."

[18] The Equal Protection Clause commands the elimination of racial barriers, not their creation in order to satisfy our theory as to how society ought to be organized." *DeFunis* v. *Odegaard*, 416 U. S. 312, 342 (Douglas, J., dissenting).

[19] See *University of California Regents* v. *Bakke, supra*, 438 U. S., at 298 (opinion of Powell, J.).

[20] *DeFunis* v. *Odegaard, supra*, 416 U.S., at 343 (Douglas, J., dissenting).

[21] In his *Bakke* opinion, *supra*, Mr. Justice Powell stated:

"It is far too late to argue that the guarantee of equal protection to *all* persons permits the recognition of special wards entitled to a degree of protection greater than that accorded others." 438 U. S., at 295.

In support of that proposition he quoted Professor Bickel's comment on the self-contradiction of that argument:

"The lesson of the great decisions of the Supreme Court and the lesson of contemporary history have been the same for at least a generation: discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong, and destructive of democratic society." *Ibid.*, n. 35.

[22] This preferential set-aside specifically discriminates in favor of citizens of the United States. See p. 4, *supra*.

[23] "When the Federal Government asserts an overriding national interest as justification for a discriminatory rule which would violate the Equal Protection Clause if adopted by a State, due process requires that there be a legitimate basis for presuming that the rule was actually intended to serve that interest." *Hampton* v. *Mow Sun Wong*, *supra*, 426 U. S., at 103.

* * * * *

"It is perfectly clear that neither the Congress nor the President has ever *required* the Civil Service Commission to adopt the citizenship requirement as a condition of eligibility for employment in the federal civil service. On the other hand, in view of the fact that the policy has been in effect since the Commission was created in 1883, it is fair to infer that both the Legislature and the Executive have been aware of the policy and have acquiesced in it. In order to decide whether such acquiescence should give the Commission rule the same support as an express statutory or Presidential command, it is appropriate to review the extent to which the policy has been given consideration by Congress or the President, and the nature of the authority specifically delegated to the Commission." *Id.*, at 105.

[24] See Linde, Due Process of Lawmaking, 55 Neb. L. Rev. 197, 255 (1976) (hereinafter Linde):

"For the last few years have reawakened our appreciation of the primacy of process over product in a free society, the knowledge that no ends can be better than the means of their achievement. 'The highest morality is almost always the morality of process.' Professor Bickel wrote about Watergate a few months before his untimely death. If this republic is remembered in the distant history of law, it is likely to be for its enduring adherence to legitimate institutions and processes, not for its perfection of unique principles of justice and certainly not for the rationality of its laws. This recognition now may well take our attention beyond the processes of adjudication and of executive government to a new concern with the due process of lawmaking." (Footnote omitted.)

[25] The only reference to any minority business enterprises in the Senate Report was a suggestion that Indians had been receiving *too great a share* of the public contracts. The Report stated:

"Some concern was expressed that Indians—with exceptionally high structural unemployment levels—were awarded projects at a per capita value far in excess of non-Indian communities." S. Rep. No. 95–38, 95th Cong., 1st Sess., p. 3 (1977).

The Court quotes three paragraphs from a lengthy report issued by the House Committee on small business in 1977, *ante*, at 13, implying that the contents of that report were considered by Congress when it enacted the 10% minority set aside. But that report was not mentioned by anyone during the very brief discussion of the set-aside amendment. When one considers the vast quantity of written material turned out by the dozens of congressional committees and subcommittees these days, it is unrealistic to assume that a significant number of legislators read, or even were aware of, that report. Even if they did, the report does not contain an explanation of this 10% set-aside for six racial subclasses.

Indeed, the broad racial classification in this Act is totally unexplained. Although the legislative history discussed by The Chief Justice and by Mr. Justice Powell, explains why Negro citizens are included within the preferred class, there is no absolutely discussion of why Spanish-speaking, Orientals, Indians, Eskimos, and Aleuts were also included. See n. 6, *supra*.

[26] "It is not a new thought that 'to guarantee the democratic legitimacy of political decisions by establishing essential rules for the political process' is the central function of judicial review, as Dean Restow and Professor Strong, among others, have argued." Linde, *supra*, 55 Neb. L. Rev., at 251.

[27] See Sandalow, Judicial Protection of Minorities, 27 Mich. L. Rev. 1162, 1188 (1977): "[I]f governmental action trenches upon values that may reasonably be regarded as fundamental, that action should be the product of a deliberate and broadly based political judgment. The stronger the argument that governmental action does encroach upon such values, the greater the need to assure that it is the product of a process that is entitled to speak for the society. Legislation that has failed to engage the attention of Congress, like the decisions of subordinate governmental institutions, does not meet that test, for it is likely to be the product of partial political pressures that are not broadly reflective of the society as a whole."

[28] "Fear of legislative resentment at judicial interference is not borne out by experience where procedural review exists, any more than it was after the Supreme Court told Congress that it had used faulty procedure in unseating Representative Adam Clayton Powell. It is far more cause for resentment to invalidate the substance of a policy that the politically accountable branches and their constituents support than to invalidate a lawmaking procedure that can be repeated correctly, yet we take substantive judicial review for granted. Strikingly, the reverse view of propriety prevails in a number of nations where courts have never been empowered to set aside policies legitimately enacted into law but do have power to test the process of legitimate enactment." Linde, *supra*, 55 Neb. L. Rev., at 243 (footnotes omitted).

[29] The conclusion to The Chief Justice's opinion states:

"Any preference based on racial or ethnic criteria must necessarily receive a *most searching examination* to make sure that it does not conflict with constitutional guarantees." *Ante*, at 39 (emphasis added).

I agree with this statement but it seems to me that due process requires that the "most searching examination" be conducted in the first instance by Congress rather than by a federal court.

[30] For example, why were these six racial classifications, and no others, included in the preferred class? Why are aliens excluded from the preference although they are not

otherwise ineligible for public contracts? What percentage of Oriental blood or what degree of Spanish-speaking skill is required for membership in the preferred class? How does the legacy of slavery and the history of discrimination against the descendants of its victims support a preference for Spanish-speaking citizens who may be directly competing with black citizens in some overpopulated communities? Why is a preference given only to owners of business enterprises and why is that preference unaccompanied by any requirement concerning the employment of disadvantaged persons? Is the preference limited to a subclass of persons who can prove that they are subject to a special disability caused by past discrimination, as the Court's opinion indicates? Or is every member of the racial class entitled to a preference as the statutory language seems plainly to indicate? Are businesses formed just to take advantage of the preference eligible?

[31] "Of course, a general rule may not define the benefitted class by reference to a distinction which irrationally differentiates between identically situated persons. Differences in race, religion, or political affiliation could not rationally justify a difference in eligibility for social security benefits, for such differences are totally irrelevant to the question whether one person is economically dependent on another. But a distinction between married persons and unmarried persons is of a different character." *Califano* v. *Jobst*, 434 U.S. 47, 53.

"If there is no group characteristic that explains the discrimination, one can only conclude that it is without any justification that has not already been rejected by the Court." *Foley* v. *Connelie*, 435 U.S. 291, 311–312 (STEVENS, J., dissenting).

Mr. HATCH. Mr. President, Fullilove represents the first instance in which the Supreme Court upheld the constitutionality of a statute that established explicit racial quotas. Astonishingly, Justices Marshall, Brennan, and Blackmun, in their concurring opinion, claimed that the set-aside did not "establish a quota in the invidious sense of a ceiling." This position is indefensible. The set-aside manifestly did fix a ceiling for the white majority. They can only bid on 90 percent of the available contracts. The rest are to be let as a guaranteed minimum only to a class of people whose sole distinguishing characteristic is their race. This class can also bid on the remaining 90 percent. Quotas are a zero-sum game. And the white majority loses.

Justices Marshall, Brennan, and Blackmun also attempted to draw distinctions between racial classifications that "stigmatize" and those which do not. There is a grim humor in this argument. It could fairly be described as "Son of Separate but Equal." Essentially, it is a hypocritical attempt by vice, in the shape of discrimination, to pay tribute to virtue, in the form of equal protection. A moment's thought exposes its utter worthlessness. It is an entirely arbitrary distinction, without any basis in the Constitution.

And who is to say when racial distinctions "stigmatize"? Clearly, Alan Bakke and Brian Weber felt "stigmatized," and they were in fact deprived of some substantial benefit because of their race, although neither apparently inspired the sympathy of Justices Marshall, Blackmun, and Brennan. In one sense, there must always be some element of "stigma" in ascribing to individuals the supposed characteristics of their racial group. Indeed, the fact that blacks, Aleuts, and so on are placed by the Government in a special and privileged position cannot fail to "stigmatize" them, in the eyes of many, as being otherwise incapable of competing successfully in American society.

Justice Blackmun is quoted by Justice Marshall to the effect that "in order to get beyond racism, we must first take race into account." Apart from its fundamental absurdity—do we tolerate theft by the robbed in order to "get beyond" crime?—this policy raises more problems than it solves. Who decides at what point racial consciousness is no longer necessary? Who decides which groups benefit, and who allocates the spoils between them? Who indeed decides who is a member of such groups, and how? As we have seen, Justice Stevens raised this point, and kindly reproduced a statute from the Third Reich as a possible guide. I shall return to this point later.

An excellent summary of the issues at stake in Fullilove was published in January by James H. Wentzel of the National Legal Center for the Public Interest. It also discusses the earlier affirmative action cases, Weber and Bakke. The original introduction by Prof. Sidney Hook put the matter in a nutshell:

> The point of view expressed by Mr. Wentzel does not derive from a narrow or partisan political concern. It is a philosophy of free men and women in a free society in whose light the deliberations and decisions of our Courts and legislative bodies should be judged.

I ask unanimous consent that the article by Mr. Wentzel be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COUNTDOWN 1984: FEDERAL GOVERNMENT "MINORITY" GROUP PREFERENCE IN SMALL BUSINESS AND PUBLIC WORKS PROGRAMS

(By James H. Wentzel)

The comments and observations of Mr. Justice Rehnquist in his *Weber*[1] opinion regarding the early arrival of "1984" are also particularly applicable and appropriate with respect to recent Congressional enactments concerning governmental assistance for "preferred minorities." For despite the deeply-rooted and traditional dedication in this country to the proposition that the equal protection principles of the Constitution are personal and individual in nature,[2] Congress has of late enacted several statutes which have made a mockery of this dedication by mandating government preferential treatment and benefits to certain minority groups, to the exclusion of all other persons in the nation, who, ironically, are also members of minority groups themselves. And this has been done with little or no adequate legislative history to: (1) justify the particular need for the legislation; (2) demonstrate why certain minority groups should be given preferred status over all other such groups; or (3) explain how these enactments can be reconciled with the equal protection principles of the Constitution[3] and Section 601 of Title VI of the Civil Rights Act of 1964.[4]

Indeed, the plain and simple language of Section 601, together with the legislative history of the Act,[5] would seem to make it abundantly clear that the purpose of the legislation was to eliminate, once and for all, *any* discrimination on the basis of race, color, or national origin with respect to all federally financed programs or benefits. To be certain, Mr. Justice Stevens (joined by Mr. Chief Justice Burger, Mr. Justice Stewart, and Mr. Justice Rehnquist) in his opinion in the *Bakke* case, was quite definite in this interpretation of Section 601:

> In short, nothing in the legislative history justifies the conclusion that the broad language of § 601 should not be given its natural meaning. We are dealing with a distinct statutory prohibition, enacted at a particular time with particular concerns in mind; neither its language nor any prior interpretation suggests that its place in the Civil Rights Act, won after long debate, is simply that of a constitutional appendage. In unmistakable terms the Act prohibits the exclusion of individuals from federally funded programs because of their race. As succinctly phrased during the Senate debate, under Title VI it is not "permissible to say 'yes' to one person; but to say 'no' to another person, only because of the color of his skin." 438 U.S. 265, 418 (1978).

Yet despite this, Congress, by enacting the Small Business Act Section 8(a) program[6] and the Minority Business Enterprise ten percent set aside provision of the Public Works Employment Act of 1977,[7] has dramatically discarded the fundamental concept traditionally paramount in this country of equal opportunity based on individual merit and excellence in favor of arbitrary government schemes of group preference for certain racial and ethnic minorities which cannot be administered in a fair or rational manner.

While these two enactments are the more prominent examples of this type of legislation, there are other such statutes, but they give added significance to this review only because government benefits have been bestowed to "minorities" rather than individuals, and because of the seemingly cavalier manner in which the term "minority" has been recently employed by the Congress.[8]

I.

The Small Business Act Section 8(a) Program:

As originally enacted by Congress, Section 8(a) of the Small Business Act[9] contained no references to socially or economically disadvantaged individuals or groups, nor was there any language with respect to contracting with minority-owned or operated small business enterprises. In 1967, however, the Small Business Administration used the general grant of authority in Section 8(a) to initiate a "test program," offering government contracts on a non-competitive basis to companies which agreed to locate in or near "ghetto areas" and to hire the unemployed and underemployed. This program was not successful and was soon phased out.

Then in 1969, by Executive Order 11458 (superseded by E.O. 11625, October 13, 1971) and administrative regulations, a program for minority business enterprise was established in the executive branch of the federal government. On December 5, 1969, this new program direction was announced by President Nixon:

"Minority business enterprise is a major concern of this Administration. For that reason, on March 5, 1969, I established by Executive Order the Office of Minority Business Enterprise in the Department of Commerce to coordinate the efforts and resources of federal departments and agencies and private enterprise in this field."

"One of the most important ways to promote the effort is to develop a program which will increase the involvement of minority group contractors in the multi-billion dollar federal procurement program. The Office of Minority Business Enterprise, the Small Business Administration, and the Federal Task Force on Procurement . . . are working closely with members of my staff to develop such a program."

Footnotes at end of article.

In response to these initiatives, the Small Business Administration used the Section 8(a) authority to set aside a certain portion of federal procurement contracts, exempt them from normal competitive procedures, and award these contracts to certain minority small business firms. These contracts were ostensibly reserved for socially and economically disadvantaged businesses, but in reality the program was purposely directed almost exclusively at specific minority groups.

The conversion of the original Section 8(a) program into an instrument for aiding certain racial groups was apparently based on two assumptions, neither of which was ever explicitly spelled out: (1) that certain racial or ethnic groups suffered from social and economic disadvantage in a way that all other groups did not, and (2) that there was a positive correlation between this disadvantage and the failure of members of such groups to become successsful small business entrepreneurs. Yet a third assumption seems to have been widely, if for the most part silently entertained, namely, that some parity should exist between the percentage of successful small business concerns owned or operated by certain minority groups and the respective percentage of such minorities within the nation's population. Because of these assumptions, the Section 8(a) program has operated for the past decade as a device under which certain racial or ethnic small business concerns are accorded favored treatment in securing federal contracts. As of December 31, 1977, the profile of participating firms in the Section 8(a) program by the ethnicity of the owners was as follows:

Ownership by race/ethnic origin [10]

Racial Category	Number of Concerns	Percent by Racial Category
Black	974	65.7
Puerto Rican	24	1.6
American Indian	82	5.5
Spanish American	256	17.3
Asian	91	6.1
Eskimo and Aleut	3	.2
Undetermined	2	.2
Other (including white)	50	3.4
Total	1,482	100.0

Based on this record, the Section 8(a) program has the undeniable appearance of a racial or ethnic quota program, albeit one operating under the racially neutral guise of "social and economic disadvantage."

The development of the 8(a) program along these lines seems to have occasioned some discussion concerning its propriety and legality both at the Small Business Administration and among the agency's overseers in Congress. In a Report presented to Administrator Weaver by the Section 8(a) Review Board in January, 1978, for example, reference was made to *"the legal problems* inherent in a program focus on minorities, rather than on socially or economically disadvantaged persons . . ." (p. 17, emphasis added). It was further stated on page 33 of this report:

"The eligibility question dominated discussion with the Board seeking to suggest improvements, as had several bodies before them. *There were conflicting viewpoints on whether 8(a) is, or should be a minority program, with the constitutional aspect of this question forming part of the discussion.*" (Emphasis added.)

Then in 1978, in an apparent effort to provide a more adequate statutory base for the Section 8(a) program, Congress enacted Pub. L. 95–507, which in effect simply ratified past SBA practice while only indirectly addressing the legal and constitutional problems raised by that practice. For example, with respect to eligibility under the Section 8(a) program, Pub. L. 95–507 states in relevant part:

"(4) For purposes of this section, the term 'socially and economically disadvantaged small business concern' means any small business concern—

(A) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(B) whose management and daily business operations are controlled by one or more of such individuals.

(5) Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

(6) Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities the Administration shall consider, but not be limited to, the assets and net worth of such socially disadvantaged individual."

According to the Conference Committee Report (Report No. 95–1714), this final language regarding eligibility represented a compromise between the Senate and the House of Representatives. The House-passed bill had created a rebuttable presumption that Black Americans and Hispanic Americans were to be considered "socially and economically disadvantaged" unless the Small Business Administration, on the basis of substantial evidence, could establish that an individual applicant had not experienced business impediments as the result of being a member of these groups. The operative House-passed language on eligibility follows:

"(4) For purposes of this section, the term 'socially and economically disadvantaged small business concern' means any small business concern—

"(A) which is at least 51 per centum owned by a member or members of socially and economically disadvantaged groups or by a socially and economically disadvantaged individual or individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by a socially and economically disadvantaged group member or members or by a socially and economically disadvantaged individual or individuals; and

"(B) whose management and daily business operations are controlled by such person or persons.

"(5) *The Administration shall presume that socially and economically disadvantaged groups and group members include, but are not limited to Black Americans and Hispanic Americans.* The presumption established in the preceding sentence may be rebutted with respect to any individual if the Administration finds, on the basis of substantial evidence, that such individual has not experienced impediments to establishing, maintaining, or expanding a small business concern as a result of being a member of a group presumed by this paragraph to be socially and economically disadvantaged." [11] (Emphasis added.)

What the Conferees did, in effect, was to adopt the House provisions with an amendment. The amendment dropped the rebuttable presumption regarding Black Ameri- tuted a general definition of social disad- to retain the special preferment for Black, vantage, but one contrived in such a way as cans and Hispanic Americans and substi- Hispanic—and now suddenly—Native Americans.[12] The relevant language of Pub. L. 95–507 follows:

"(e)(1) with respect to the Administration's business development programs the Congress finds—

"(A) that the opportunity for full participation in our free enterprise system by socially and economically disadvantaged persons is essential if we are to obtain social and economic equality for such persons and improve the functioning of our national economy;

(B) that many such persons are socially disadvantaged because of their identification as members of certain groups that have suffered the effects of discriminatory practices or similar invidious circumstances over which they have no control;

(C) that such groups include, but are not limited to, Black Americans, Hispanic Americans, Native Americans, and other minorities."

By "finding" that these three groups are socially disadvantaged Congress has, in effect, retained the questionable presumption in the legislation while at the same time neatly side-stepping the burden of demonstrating what kinds of particular disadvantages members of these groups have suffered that members of other groups have not. Congress, then, is trying to have it both ways. On the one hand, the operative criteria for eligibility purport to be racially neutral, that is, based on social and economic disadvantage. On the other hand, three racial or ethnic groups are singled out for preferential treatment by the government. It will perhaps be argued that the statute confers no special preferment because eligibility is not "limited to" members of the three specified groups. But if the program is supposed to operate on racially neutral grounds, one cannot imagine why three and only three racial or ethnic groups are relieved of the burden of having to demonstrate their "social and economic disadvantage."

Thus, what the Small Business Administration failed to do, the Congress failed to remedy as well. The Section 8(a) minority enterprise program is now codified, but it suffers under the burden of the same question which has haunted the program from the outset; namely, how to implement a program designed to benefit certain racial or ethnic groups without explicitly finding that these particular minority groups are in fact more socially and economically disadvantaged then other such groups. Indeed, one searches in vain the legislative history to Pub. L. 95–507 for any empirical data from which such a conclusion can be drawn. Further, we are not aware of any evidence developed by the Congress which attempts to correlate a general and undefined social and economic disadvantage with particular disabilities in the small business field.

It is apparent from the history of the Section 8(a) program that membership in certain minority groups confers a demonstrable advantage in obtaining benefits under the program. But both the Small Business Administration and the Congress have pulled up short of explicitly stating what is so obviously implicit. Both seek to perpetuate the 8(a) program under the guise of racial neutrality while at the same time preserving the program as an insulated enclave for the primary benefit of certain minority groups only. Congress and the Small Business Administration cannot continue to have it both ways, and should not underestimate the difficulty of trying to maintain the 8(a) program as currently structured.

Recent Developments:

Prior to codification by Congress, both Asians and Hasidic Jews had participated in the SBA 8(a) program. Congress, however, in enacting Pub. L. 95–507, did not specially "select" and designate these two groups as presumptively socially disadvantaged. Consequently, both minority groups have had to

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Footnotes at end of article.

petition the Small Business Administration and attempt to "prove" their social disadvantage.

Until recently, the SBA had pending before it a petition on behalf of so-designated Asian Pacific Americans for certification of this group as a socially disadvantaged minority group for the purpose of eligibility under the 8(a) program.[13] Also pending before the agency is a like petition on behalf of the Hasidim. After inviting public comment on the Asian Pacific American petition, this group was certified by the SBA to participate in the 8(a) program. The Hasidic Jews, however, have not been granted certification, and indeed, the matter has not even been accorded the benefit of public discussion. What is particularly disturbing about this situation is that neither Congress nor the Small Business Administration has ever established intelligible or neutral standards by which social disadvantage may be determined. One finds it difficult to imagine, then, any rational basis to exclude from eligibility members of *any* minority group claiming such disadvantage. Yet the Hasidic group has not been certified for the 8(a) program benefits, and further, has not been given any adequate justification for this bureaucratic determination.

The evidence set forth in petitioners' (Japanese American Citizens League *et al.*) initial letter demonstrating the social and economic disadvantage of their group is neither more nor less convincing than evidence presented in the past regarding the three minority groups whom Congress has designated presumptively socially disadvantaged under Pub. L. 95-507. In their May, 1979 letter, they argue the following:

"A partial list of discriminatory legislation against Asian Pacific Americans is exemplified by the following examples:

1. In 1865, Chinese American children are denied the right to education in the California public schools.

2. In 1879, the California State Constitution prohibits employment of Chinese Americans by any private corporation or governmental agency.

3. In 1882, 1907, and 1930, Chinese, Japanese, and Filipinos respectively are excluded from immigration to the United States.

4. In 1913, Chinese and Japanese are prohibited from owning land.

5. In 1942, 110,000 Japanese Americans are sent to concentration camps in the United States depriving them of their jobs, their businesses, and their homes, based solely on race and without due process of law.

"Based on a study issued by the United States Department of Commerce using data from a special census of minority-owned businesses in the United States, the low status of Asian Pacific American enterprises can be seen from the following:

1. Asian American businesses are predominantly sole proprietorship without paid employees and have low annual receipts. Nearly fifty-two (52) percent of the Asian American proprietorships had less than $5,000 in gross annual receipts. Nearly ninety-five (95) percent had less than $25,000 annual gross receipts.

2. Asian American firms are only meagerly involved in the wholesaling, manufacturing, and construction industries. Of about 1,700 firms in manufacturing, fifty-eight (58) percent were of sole proprietorship, were without paid employees, and had annual gross receipts averaging only $15,000; these mostly are labor-intensive firms engaging in food manufacturing and the garment industry." Implicit in this argument, of course, is the very assumption which has been implicit in the argument for preferred status in the 8(a) program for Black, Hispanic, and Native Americans, namely, that a series of de jure or de facto discriminations in the past accounts for a present disability to successfully compete as small business entrepreneurs. This is done on the basis of dubious statistical arguments which cite the want of proportional representation for such groups among certain types of successful small businesses, the silent assumption being that one would expect to find such proportional representation without the past racial discrimination. That assumption, so far as we are aware, has never been documented or demonstrated.

Indeed, there are many areas of social and economic activity where the want of proportional minority group representation is the order of the day—whether it be book publishing, athletics, membership in symphony orchestras, or in the American Society of Nuclear Physicists, to name just a few of the many examples—but it is clear neither (1) that this is necessarily a socially undesirable situation, nor (2) if it is, whether it results from past racial discrimination or from a more complex variety of social and cultural causes, including such a variant and unpredictable factor as individual freedom of choice.

But a failure of Asian Pacific Americans to demonstrate a nexus between past discrimination and present disadvantage in small business would not be unique. No such nexus has to our knowledge ever been demonstrated, either by Congress or the Small Business Administration, for any other racial or ethnic minority group. Yet the fact that Asian Pacific Americans, Hasidic Jews, and presumably all other minority groups, should now have to establish this correlation, when the other statutorily specified minority groups did not, further evinces how terribly unjust in principle and unworkable in practice the 8(a) program is.[14]

If perchance Hasidic Jews are not granted this preferential status, it is incumbent upon the Small Business Administration to demonstrate, in a way that it has thus far failed to do, what kind of disabilities or disadvantages afflict Black, Hispanic, Native—and now suddenly—Asian Pacific Americans that do not also afflict the Hasidim. In that case, perhaps the Small Business Administration will be able to remedy what we think is the central defect in the 8(a) program, namely, the lack of any systematic or detailed empirical data which show that some minority groups are now more socially and economically disadvantaged than other groups. Such may be the case, but we have thus far been deprived of its demonstration.[15] By the same token, since Asian Pacific Americans have been granted this preferential treatment, we think a similar presumption could and should be made in favor of a large number of other minority groups who have been discriminated against in some manner in the past.

Preferably, however, we believe that the 8(a) program should be administered in a way that it has not been in the past, that is, on a racially and ethnically neutral basis. Indeed, it is highly doubtful whether the program can withstand legal and constitutional challenge on any other basis. The presumption in favor of certain groups now contained in the legislation and regulations is irrational, arbitrary, and capricious. And we do not believe that this inherent arbitrariness can be remedied by admitting only certain "specially selected" new groups into the preferred class.

II.

The Minority Business Enterprise Ten Percent Set Aside Program:

Section 103(f)(2) of the Public Works Employment Act of 1977 (42 U.S.C. 6705(f)(2)) suddenly appeared on the floor of both the House and the Senate as an amendment to the Act, and was adopted with very limited discussion.[16] There was no Congressional committee consideration of the provision and, therefore, there could have been little appreciation of just how unworkable in practice, dubious in law, and unjust in principle the program would be.

Section 103(f)(2) provides that "no grant shall be made under this chapter for any local public works project unless the applicant gives satisfactory assurance to the Secretary that at least 10 per centum of the amount of each grant shall be expended for minority business enterprises." Minority business enterprise is defined as "a business at least 50 per centum of which is owned by minority group members or, in the case of a publicly owned business, at least 51 per centum of the stock of which is owned by minority group members." The statute then defines minority group members in racial, geographical, and linguistic terms: "citizens of the United States who are Negroes, Spanish-speaking, Orientals, Indians, Eskimos, and Aleuts."

The effect of this so-called Minority Business Enterprise (MBE) provision is to mandate that when prime contractors are selected through the normal competitive bidding procedures for local public work projects, the grantee (state or local government) must require that each bid include a commitment to set aside at least 10 percent of the contract funds for business concerns owned by the specially designated minority group members; this to the exclusion of all other minority groups. Thus, minority group members who are Negroes, Spanish-speaking, Orientals, Indians, Eskimos, and Aleuts are given preferential treatment by the government to the detriment of all other minority group members.[17] With this in mind, the Section 103(f)(2) MBE program has the unmistakable and undeniable appearance of a racial quota program benefiting certain minority groups to the exclusion and detriment of all others and, indeed, it is intended as such by its sponsors in the Congress.

Yet the MBE provision *on its face* offers no rational basis for the distinctions it imposes; it is *on its face* uncertain of the criteria to be used in determining business enterprise eligibility for its set aside preferments. The statute purports to employ two, perhaps three, different kinds of criteria for determining eligibility—one ostensibly based on race, or skin color and geography; one ostensibly based on language. But neither criterion can be rationally employed to achieve the apparent purpose of the statute. One thing is clear, however; neither the legislative history of the statute nor the regulations are of any assistance in this regard.

This entire MBE set aside program (and the 8(a) program) rests on a feckless and ultimately futile effort to divide the American citizen body into two classes, one silently assumed to be the "majority," the other denominated by the term "minority." The "minority" class is then in turn divided into two major subclasses, one obviously being a preferred group, the other—for want of a better term—not-so-preferred. But both attempts at classification are equally arbitrary. What these attempted classifications ignore, of course, is that the United States is almost wholly a nation of minority groups. Few such groups have ever been welcomed to our shores with open arms, and virtually all have suffered at one time or another severe social and economic disadvantage. Yet these other minorities (Jews, Italians, Armenians, Mormons, Turks, Portuguese, Irish, Arabs, Poles—to name just a few), which are excluded from participation in this set aside program, seem to have made it into the mainstream of the private enterprise system without any government paternalism and largess, and quite often in the face of open hostility. If Congress now believes that special adverse circumstances afflict some groups but not others, it should say so; but it should demonstrate this in such a manner as to convince or persuade the public, and especially members of other "minority" groups, that it is not engaged in an act of invidious reverse discrimination. This demonstration, so far

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as we are aware, has never been made with respect to this legislation.

Racial Criteria:

The apparent purpose of the racial categories of the statute is to exclude all citizens who are members of groups normally thought of as "white" (except, of course, unless they speak Spanish), because the only racial groups specified by the statute as being eligible are those characterized by "non-white" skin color; that is, Negroes, Orientals, Indians, Eskimos, and Aleuts. But how is membership in one of these preferred groups to be determined? Self characterization and determination? Surely that would defeat the purpose of the statute. Determination by government bureaucracy? But what criterion would the agency employ to make the relevant judgment? Visual inspection? The number of parents, grandparents and great-grandparents considered to be members of the eligible group could also be inspected, but, if so, how many, and would their race be properly identified? One cannot help but wonder what the next step would be. There are many possibilities. A black person could be deemed to be anyone with "one-eighth or more of African or Negro blood" or even any "ascertainable" amount of Negro blood, although an American Indian was not considered a colored person in the State of Virginia if he had only one-sixteenth or less of American Indian blood.[18]

Indeed, what is meant by the term "Indian?" Does this mean American Indians only are eligible? Are all citizens of groups denominated by ethnographers or anthropologists as Indian to be considered? What about American citizens from India or who have ancestors from India, Pakistan, or Bangladesh? Further, what is an Oriental? Does this category include American citizens from India (assuming they are not already included under the term "Indian")? Are Indonesians and Filipinos eligible? How far "East" does one have to go in order to be considered eligible? Does the statute mean that all citizens of Hawaii and Alaska (other than those who are purely "white" and do not speak Spanish) can qualify? These are, of course, only a few of the many questions the mere asking of which shows how simplistic and foolish it is to classify Americans by minority group affiliation.

But as the great value of being a member of an officially preferred minority group becomes manifest, various factual questions will surely arise as to whether a particular citizen can or cannot rightly claim such a status. Indeed, this is precisely one of the reasons why some of the questions above are raised at all.

Perhaps, for the immediate future though, the bureaucrats who administer this program will be content with merely asking the race of the contractors without going into fractional parts of their ancestry. But as such programs eventually expand (as indeed they are expanding), there will be much desire on the part of many individuals to be recognized as "specially selected" minority group members and receive the government benefits flowing from such a determination. The decision-makers, at that point, will no doubt find it necessary to adopt more stringent and meaningful tests to determine just who is a member of which minority group.[19] Under the program's eligibility criteria, they have no other choice. Ironically, then, the program would devolve into a demeaning mess of racial verifications and indignities, denigrating to all concerned, and certainly the sort of degrading bureaucratic process that our government should surely avoid. But unless the present direction of these programs is halted now, we may find ourselves as a nation further embedded in the ugly morass remarked by Professor Nathan Glazer:

"There are already cases of individuals who redefine themselves in this country for some benefit—the part American Indian who becomes an Indian for some public purpose, the person with a Spanish-surnamed mother who now finds it advantageous to change his or her name; conceivably the black who has passed as white and who may reclaim black status for an educational or employment benefit. We have not yet reached the degraded condition of the Nuremberg laws, but undoubtedly we will have to create a new law of personal ethnic and racial status to define just who is eligible for these benefits, to replace the laws we have banned to determine who should be subject to discrimination."[20]

To classify citizens into bureaucratically convenient categories of "majority" and "minority" and then to single out some "minorities" for some special government preference, are inherently arbitrary actions at once mischievous and unenforceable. To further demonstrate this, one need only look to the SBA Section 8(a) legislation and compare it to the MBE ten percent set aside provision.

The minority groups statutorily denominated for preferred treatment under the 8(a) program are Black Americans, Hispanic Americans, and Native Americans, while Negroes, Spanish-speaking, Orientals, Indians, Eskimos, and Aleuts are specially singled out under the MBE set aside program.

What is so obviously and blatantly arbitrary, capricious, and irrational here is that "Orientals" (Asian Americans?) have not been specially selected by Congress for the 8(a) set aside preferments, but have been specifically included under the MBE program. This notwithstanding the fact that the two programs are extremely similar in approach, apparently intended to reach the same objectives, and were enacted by the same Congress.

The adoption by the 95th Congress of these two minority business programs was apparently based on the two assumptions referred to earlier in this discussion: (1) that certain racial or ethnic groups suffered from social and economic disadvantages in a way that all other groups did not, and (2) that there was a positive correlation between this disadvantage and the failure of members of such groups to successfully compete in certain business settings. But a search of the legislative history of these two enactments reveals no adequate empirical data from which such a conclusion can be drawn. Indeed, we are not aware of any evidence developed by the Congress which attempts to correlate a general and undefined social and economic disadvantage regarding the designated minority groups with particular disabilities in the specific business areas. For if such evidence did exist, it could most certainly then be demonstrated why there is some rational purpose to treat "Orientals" as disadvantaged and therefore deserving of the MBE program benefits, but not as such with respect to the 8(a) legislation. Apparently, "Orientals" are to be considered as part of the "majority" or perhaps the "not-so-preferred minority" with respect to the 8(a) legislation but as part of the preferred "minority" as to the MBE program. But why this is so can only be explained by the inherent irrationality and arbitrariness of the categories involved, and also by the capriciousness in their selection by the Congress.

Language Criteria:

As an alternative basis for eligibility in the MBE set aside program, the statute refers in one instance to "Spanish-speaking." But what rational basis is there for limiting eligibility to those citizens who speak the Spanish tongue? Is there really any social or economic disadvantage one assumes by speaking Spanish rather than by speaking any other language? Does Congress really intend that such a conclusion be drawn? But Congress has never demonstrated otherwise. So what is it about speaking Spanish then that these citizens should be treated preferentially by their government? Further, is there a difference between this category and the category employed by the Section 8(a) program, that is: "Hispanic Americans?" Indeed, what do these labels mean?[21] Anyone with a Spanish surname? Anyone raised or residing in a Spanish-speaking household? Anyone descended from Iberian Peninsula or South American ancestors? How many such ancestors does one have to have, and in what time period, in order to qualify? It is often pointed out, for example, that the majority of Hispanics or Spanish-speaking are "white." Does that not therefore make most members of this group members of the "majority?" If not, how then is one to tell whether he or she is a member of a "minority" at all? A recently published article by a critic of preferential treatment based on minority group designation discusses some of these very points:

"Puerto Ricans, Spaniards, Argentinians, and Mexicans are all 'Spanish surnamed.' It is hard to see what else they have in common, or why they should receive different treatment than Portuguese, Brazilians, or Arabs. And it is not obvious that various white 'ethnics' suffered less from discrimination than females did. Yet they are not preferentially admitted, or hired, by affirmative action. These remedies, then, are not only counterproductive and unjust most of the time, but also arbitrarily selective. Perhaps this is a minor defect compared to those already mentioned: if an idea is bad, arbitrary application does not make it much worse. Nonetheless, the inherent capriciousness of the scheme and the unavoidable arbitrariness in execution are psychologically repulsive."[22]

The distinctions that the MBE provision seeks to employ are not only arbitrary and irrational as demonstrated by the discussion above, but it may in fact be impossible to draw any statute on racial grounds without dangerously involving the government in discriminatory labeling of the sort it should surely avoid.

The differences among members of so-called "minority" groups are in fact as great as, if not greater than, the differences between so-called "minorities" and the so-called "majority".[23] What is happening here (and presumably with respect to the Section 8(a) program) is the conversion of a rough or colloquial distinction between "white" and "non-white" into a rigid statutory classification which cannot be intelligently or nondiscriminatorily implemented.

But even if it were possible to draft a statute that could satisfy the "equal protection" scrutiny that must be employed in this area, this statute cannot and does not suffice. It is *exclusory* in its definitional terms, but fails to provide either on its face or in its legislative history any rational guidance for determining eligibility. The ostensible purpose for including some groups, while excluding others, is to redress past racial discrimination and to bring victims of this past discrimination into the economic mainstream.[24] But that is not the way in which the MBE provision operates, because it *automatically* excludes from eligibility any citizen *not* a member of one of the specified groups even though the individual (1) may in fact have been the victim of racial or ethnic discrimination, or indeed may now be such a victim; and (2) may not as a consequence of such discrimination be in the economic mainstream of our society.

Thus, it will not be adequate, in order to save this legislation, to demonstrate that its purpose is benign; its purpose is benign only with respect to members of the specifically "selected" groups; it is most emphatically invidious with respect to any citizen not a member of one of the preferred groups. And this is so notwithstanding the fact that such a person may have suffered identical or worse harm than that suffered by a member of one of the preferred groups.[25]

Footnotes at end of article.

For such minority groups as Negroes, Spanish-speaking, Orientals, Indians, Eskimos, and Aleuts (assuming that each of these categories has rational meaning), certainly the right to be free from discrimination in a government-administered program is now a fixed, settled, immutable fact of legal life in this country. That is as it should be. But just as it is not permissible to try to solve social or economic problems by some method that will discriminate *against* these minorities, just as it is deemed disreputable even to suggest such a course of action, so the same principle should govern with respect to "solutions" for society's ills that discriminate against all others in this country who themselves are members of "minority" groups. But this is exactly one of the basic problems with the MBE program—the notion, namely, that discrimination which obviously cannot be visited on Negroes, Spanish-speaking, Orientals, Indians, Eskimos, and Aleuts can, with complete impunity, be inflicted upon members of other racial or ethnic groups.

Recent developments:

The MBE ten percent set aside provision is currently under legal attack, there being a split in the decisions of the lower federal courts.[26] The Supreme Court is presently considering the substantive issues raised by this legislation by reviewing the below referenced *Fullilove* case.[27]

Fullilove, and other plaintiffs from the construction industry, argue that the government required quota for certain minority groups inevitably means unconstitutional discrimination against all other minority group members, depriving the excluded group members of equal protection of the laws. Also at issue in the case is whether Title IV of the Civil Rights Act prohibits racial and ethnic discrimination against all persons in the country with respect to federally funded programs.

The issues presented in the *Fullilove* case are very similar to those issues involved in the *Bakke* case, the leading Supreme Court decision regarding the use of racial quotas where federal funding is also involved. In that case, Allan Bakke, who is white, and whose Medical College Admissions Test scores averaged at approximately the 90th percentile, was excluded from admission to the University of California at Davis medical school under its two-track admissions policy, while Asians, Chicanos and Blacks, whose test scores averaged at the 30th percentile, were admitted. After being refused admission twice, Bakke brought suit to compel his acceptance to the University under the Equal Protection Clause of the Constitution and Section 601 of the Title VI of the Civil Rights Act of 1964.

Mr. Justice Stevens, joined by The Chief Justice, Mr. Justice Stewart, and Mr. Justice Rehnquist, stated that it was not necessary to reach the equal protection issues in the case since Section 601 of the Civil Rights Act plainly and explicitly states that no person shall be subjected to racial discrimination under any federally funded programs, and a review of the legislative history of the Act left no doubt that Congress *intended* just that. Thus, the Stevens group held that the University's special admissions policy violated Section 601 by excluding Bakke from the school because of his race, and therefore, ordered him admitted to the University.

Justices Brennan, White, Marshall and Blackmun, on the other hand, passed over the explicit language of Section 601 and concluded that the *purpose* of the Civil Rights Act was to remedy disadvantages cast on minorities by past societal racial prejudices and that therefore Congress, in enacting Section 601, really did not *intend* to prohibit all use of race in federally assisted programs. They also concluded that Title VI goes no further in preventing the use of race than the equal protection principles of the Constitution, and that although the use of racial classifications call for strict judicial scrutiny, the University's benign purpose in employing racial quotas in its admissions policy—that is, to overcome the substantial, chronic minority group underrepresentation in the medical profession—was sufficiently important, and therefore, constitutional. Based on this rationale, then, the Brennan group would have denied Bakke admission to the Davis medical school.

Mr. Justice Powell, writing only for himself, concluded that Title VI proscribes only what is violative of the Constitution. He also states that racial and ethnic classifications of any sort are inherently suspect and call for the most exacting judicial scrutiny, and while the goal of achieving a diverse student consideration of race in admissions determinations under some circumstances, the University's special admissions quota system, which foreclosed consideration of individuals like Bakke, was unnecessary to the achievement of this goal, and therefore, unconstitutional. Thus, Justice Powell, while concluding that race may be a consideration in certain circumstances, joined with the Stevens group in ordering Bakke's admission to the University.

What is particularly disquieting about this decision, however, is that four Justices (the Brennan group) have now definitely concluded that group rights, and more specifically certain minority group rights, are now paramount to those rights of innocent individuals. This notion conflicts most dramatically, of course, with the traditional and jealously-guarded concepts that our Constitutional rights are personal in nature and that the Constitution is protective of individuals against unequal and unreasonable government action. Apparently the Brennan group is now prepared to discard these principles and the fundamental proposition in this country of equal opportunity based on personal excellence and merit in favor of a broad societal discrimination—reparations formulation with respect to certain minority groups only. As is discussed above, this notion bodes ill indeed for the country's future.

With this in mind, it is now necessary to address the Court's recent decision in the *Weber* case.[28] Very briefly, the case involves a racial quota plan in the allotment of on-the-job training opportunities, instituted by a management-union agreement. The plan provides in pertinent part that in filling apprentice and craft jobs "at a minimum not less than one minority employee will enter for every non-minority employee entering" and until the percentage of blacks in craft jobs equals the percentage of blacks in the local work force, approximately 39 percent at the facility employing Weber. Seniority at the plant was the basis upon which employees seeking admission to on-the-job training vacancies were ranked. Pursuant to the plan, however, two seniority lists were to be employed; one for whites and one for blacks.

Brian Weber, who is white, had approximately five years seniority at the plant but was refused admission to three different training programs, notwithstanding the fact that non-white employees having less seniority than Weber, were being admitted. Brian Weber brought suit against the company and the union alleging racial discrimination in violation of Title VII of the Civil Rights Act.[29]

The Chief Justice and Mr. Justice Rehnquist, writing separate opinions, again argued as in *Bakke* that the language of the operative sections of Title VII is extremely clear and unambiguous in prohibiting racial discrimination in employment, and the uncontradicted legislative history of the Act further demonstrates that the Congress intended that all *racial* discrimination be proscribed. Justices Powell and Stevens took no part in the consideration or decision of the case.

The Brennan group, also as in *Bakke*, again bypass the explicit language of the legislation and the overwhelming legislative history of the Act reflecting the intent of Congress to prohibit all racial discrimination in employment, and conclude that since the *purpose* of Title VII was to assist the Negro in opening opportunities in occupations which had been traditionally closed to them, Congress could not have really *intended* to prohibit all race conscious affirmative action efforts, and since this plan "does not unnecessarily trammel the interests of the white employees," it is permissible under Title VII.

Again here, as in *Bakke*, the *purpose* of Congress in enacting the Civil Rights Act is given precedence over the actual *intent* of Congress by the Brennan group, thereby judicially amending the statute, as The Chief Justice states, "to do precisely what both its sponsors and its opponents agreed the statute was *not* intended to do." (47 L.W. 4857). Indeed, the majority opinion is devoted almost entirely to their societal discrimination—reparations theory and why Title VII does *not* prohibit this employment related racial quota plan. Brian Weber is mentioned only briefly, almost as if his plight does not exist.

But the most disturbing aspect of the *Weber* case, however, is that Mr. Justice Stewart has now joined the Brennan group in the view that minority group rights are now in certain situations more important than those of the individual, who ironically, is the victim of racial discrimination. To be certain, the *Weber* decision is extremely narrow in its inquiry. The case involves a racial quota plan voluntarily adopted by private parties. It does not involve "state action" and therefore the equal protection principles of the Constitution. Further, the Brennan opinion acknowledges that Weber's argument is not without force, and Mr. Justice Blackmun seems to have reservations in joining the majority decision. Yet the fact remains that five Justices have now embraced the societal discrimination—reparations concept in displacing traditionally important individual rights, albeit in a very narrow decision where the equal protection principles of the Constitution were not in issue.

But what do the *Bakke* and *Weber* decisions foreshadow with respect to the *Fullilove* case? In all probability, Section 601 of the Civil Rights Act will not be dispositive in *Fullilove* since the case involves Congressional legislation enacted after Section 601 and the two statutes directly conflict with one another. Ultimately, then, the equal protection issues of the case must be addressed. The Court must either reject or validate the societal discrimination—reparations concept with respect to certain minority groups only. It must decide whether the racial classifications employed in the MBE set aside provision can withstand the strict judicial scrutiny that is required by the Constitution. As stated above, it is our opinion that the statute *on its face* offers no rational basis for the distinctions it imposes; it is *on its face* uncertain of the criteria to be used in determining business enterprise eligibility for its set aside preferments. Whether the Court applies the "compelling state interest" test, the "rational basis" test, or some hybrid judicial scrutiny test, none of these could be satisfied by the irrational and capricious quota program envisioned by the ten percent set aside provision. The statute is exclusory in its definitional terms, but fails to provide either on its face or in the legislative history any rational guidance for determining eligibility. It automatically excludes from eligibility any citizen not a member of one of the specified groups even though the individual (1) may in fact have been the victim of racial or ethnic discrimination, or indeed may now be such a victim; and (2) may not as a consequence of such discrimi-

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Footnotes at end of article.

nation be in the economic mainstream of our society.

In conclusion, emphasis must be given to what we believe to be the heart of the problem with respect to both the 8(a) program and the MBE ten percent set aside program; government preferential treatment based on minority group status focuses on a person's group identification rather than on the individual, his unique talents and his inalienable rights. Few legislative measures have been so inimical to our nation's traditional dedication to individual merit and competition as these two enactments and the notion they implicitly incorporate; that is, the right of certain selected "minority" groups to a proportional share of *anything* be it government contracts or any other benefits. These programs, then, only further add to the Balkanization of our society.

Ironically, the programs perpetuate the very evil the effects of which they were designed to eliminate, namely, the institutionalization of racial stereotypes and the encouragement of the prejudice that some minorities lack the ability to succeed without preferential treatment. This would not be the first time that a governmental policy designed for a particular purpose actually achieved the opposite result from the one intended, but that will be the unhappy fate of these programs unless their present direction is soon halted. The government imposition of these racial and ethnic quotas should be resisted by all citizens. Until we learn to look at human beings as individuals, we will never have any hope of eradicating discrimination for all Americans as truly envisioned by the Civil Rights Act.

The Supreme Court now has the opportunity with the *Fullilove* case to bring a halt to this insanity before we are committed as a nation to an endless carrousel of government adjusted and loosely readjusted "minority" definitions, with the inevitably ensuing arbitrary group selections and rejections with respect to federally funded benefits. If the Court upholds the *Fullilove* decision, it will be validating the inherent irrationality and capriciousness of these programs, and in effect, will be telling all future Bakkes, Webers, and Fulliloves that all citizens are equal but some citizens are more equal than others.

FOOTNOTES

[1] *United Steelworkers of America* v. *Weber*, ——— U.S. ———, 47 Law Week 4851, 4858 (June 27, 1979). The references in his opinion, of course, are to George Orwell's book, *Nineteen Eighty-Four* (1949).

[2] Throughout his opinion in the *Bakke* case, Mr. Justice Powell is most insistent in this view: "The guarantees of the Fourteenth Amendment extend to all persons. Its language is explicit: 'No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.' It is settled beyond question that the 'rights created by the first section of the Fourteenth Amendment are by its terms, guaranteed to the individual. The rights established are personal rights.' (Citations omitted.) The guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color. If both are not accorded the same protection, then it is not equal." *Regents of the University of California* v. *Bakke*, 438 U.S. 265, 289 (1978).

[3] Although the Equal Protection Clause appears only in the Fourteenth Amendment, which applies to the states, the Supreme Court has held that the equal protection principles of the Fourteenth Amendment are embodied in the Due Process Clause of the Fifth Amendment. *Buckley v. Valeo*, 424 U.S. 1, 93 (1976) (per curiam), citing *Weinberger v. Wiesenfeld*, 420 U.S. 636, 638n. 2 (1975).

[4] Section 601 provides: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. 2000d.

[5] The legislative history is replete with statements such as Senator Hubert Humphrey's (Senate floor manager of the Act) comment that the purpose of the legislation was to insure that Americans are treated as Americans, "not as fat ones, short ones, tall ones, brown ones, green ones, yellow ones, or white ones, but as Americans." 110 Cong. Rec. 5866 (1964).

[6] 15 U.S.C. 637(a), as amended by Pub. L. 95–507 (1978).

[7] 42 U.S.C. 6705(f) (2); Pub. L. 95–28 (1977).

[8] For example, 49 U.S.C. 1657a provides for the establishment of a Minority Resource Center within the Department of Transportation. One of the functions of the Center is to "design and conduct programs to encourage, promote, and assist minority entrepreneurs and businesses to secure contracts, subcontracts, and projects related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the Nation's railroads." Although the meaning of "minority" is not defined, under Section 1657a(e) it is stated that the term "minority" includes women.

Also, Section 7 of the National Science Foundation Authorization Act of 1977, permits the funding for development of Minority Centers for Graduate Education in Science and Engineering. The Act requires that these Centers:

"(A) have substantial minority student enrollment;

"(B) are geographically located near minority population centers;

"(C) demonstrate a commitment to encouraging and assisting minority students, researchers, and faculty;

"(F) will serve as a regional resource in science and engineering for the minority community which the Center is designed to serve; and

"(G) will develop joint educational programs with nearby undergraduate institutions of higher education which have a substantial minority student enrollment." 42 U.S.C. 1873.

But here, as in the first example, the term "minority" is not defined. So how, then, is one to determine whether a particular individual is a "minority" group member or not:

[9] See 15 U.S.C. 637(a) (1958).

[10] Report and Recommendations on the Section 8(a) Program for A. Vernon Weaver, Administrator, SBA, submitted by the 8(a) Review Board, January 31, 1978, p. 23.

[11] The House Committee on Small Business recognized that adequate data regarding this approach had not been developed but recommended passage anyway: "The committee fully realizes that the eligibility criteria created pursuant to paragraphs (5) and (6) constitute an untried approach for program eligibility. Therefore, while we believe such an approach reasonable, we lack sufficient empirical data to fully assess the equity of its results." Report No. 95–949, p. 10.

[12] It should be pointed out here that although "Asians" had been participating in the 8(a) program prior to enactment of Pub. L. 95–507 (see chart on page 5), this group was not included as a "preferred minority" under the legislation. There is, of course, no explanation for this to be found anywhere in the legislative history, and it merely demonstrates once again the capriciousness of the selection process regarding minority group eligibility in these programs.

[13] See May 22, 1979 letter to William Clement, Associate Administrator of the SBA, from the Japanese American Citizens League, Organization of Chinese Americans, and Pacific/Asian Coalition.

[14] This immediately brings to mind that immortal parody of Socialist egalitarianism in Orwell's *Animal Farm:* "All animals are equal but some animals are more equal than others."

[15] With respect to the Asian Pacific American certification, the Small Business Administration simply states: "The data and information which was received by SBA was duly evaluated and is hereby found to be sufficient." *Federal Register*, Vol. 44, No. 141, July 20, 1979, p. 42832.

[16] *Congressional Record*, Daily Ed., 95th Cong. 1st Ses., p. H1436 (Feb. 24, 1977); *Congression Record*, Daily Ed., 95th Cong. 1st Ses., p. S3909 (March 10, 1977).

[17] Section 207 of the Public Works Employment Act provides in pertinent part:

"(a) (1) No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under this subchapter." 42 U.S.C. 6727(a) (1).

The internal inconsistency in the Public Works Employment Act between the MBE set aside provision in Section 103 and the nondiscrimination Section 207 makes it impossible in certain cases for a general contractor to comply with both provisions. A prime contractor who rejects a competitive bid from a nonminority subcontractor in favor of a higher bid from a minority owned enterprise which may not be qualified violates Section 207 with respect to the nonminority business. If the general contractor accepts the bid of the non-minority business, he is prevented from participation in the local public works project. Thus, the contractor must violate one federal statute in order to enjoy the benefits of another.

[18] *Loving v. Virginia*, 388 U.S. 1, 5 n. 4 (1967); *McLaughlin v. Florida*, 379 U.S. 184 n. 6 (1964). These cases provide excellent examples of how ludicrous it is for government to concern itself with determining whether a certain individual should be considered as a member of a particular racial group.

[19] Professor Thomas Sowell, employing Census Bureau surveys, has recently determinted that "about half of the American population cannot identify their ethnicity at all, presumably because of intermixtures over the generations." This leads one to wonder then how the government is able to make these identifications. Thomas Sowell, "Myths about Minorities," *Commentary*, Vol. 68, No. 2 (August, 1979), p. 33.

[20] N. Glazer, *Affirmative Discrimination* (1975), p. 200.

[21] At a hearing on H.R. 567, a predecessor bill to Pub. L. 95–507, Congressman Henry Gonzalez was also perplexed about these classifications:

Mr. GONZALEZ. I was thinking of H.R. 567. Anyway, you get into this definition. I happen to come from a particular social stratum particularly defined as minority or ethnic, but one of our problems is identification. There is no consensus as to what we ought to call ourselves.

In my part of the country it is Mexican American or Chicano, but my colleague, Mr. Badillo, would take exception to that because he is of Puerto Rican descent; so then the question is, shall it be as the word is used in H.R. 567, Spanish speaking, which won't cover because the majority of the Spanish surnamed don't speak Spanish any longer, so the question is definition there. That poses a problem for some of us here. (Hearings before the Subcommittee on Minority Enterprise and General Oversight of the Committee on Small Business, House of Representatives, 95th Cong. 1st Ses. (H.R. 567, H.R. 4960, and H.R. 2379), p. 26.)

[22] E Van den Haag, "Reverse Discrimination: A Brief Against It." *National Review*, April 29, 1977. p. 495.

[23] For an excellent study regarding the social, cultural, and economic differences

within various ethnic "minorities" in the country, see Thomas Sowell, ed., *American Ethnic Groups* (The Urban Institute, 1978).

[24] It should be noted here that the United States Commission on Civil Rights in its Report on "Minorities and Women as Government Contractors" (1975) made no mention of discrimination against minority businesses as one of the "Ten Problems Encountered in Marketing for Federal Contracts:" Yet this particular business setting, traditionally governed by the nonracial bidding standard of the best quality product or service for the least amount of money, has been seized upon by Congress as a means to remedy a "perceived" social problem.

[25] In fact, Section 110 of the Public Works Employment Act (42 U.S.C. 6709) prohibits sex discrimination with respect to these projects, yet non-minority female entrepreneurs are barred from participation in the MBE ten percent set aside program, even though they may be both (1) socially and economically disadvantaged and (2) suffering the effects of some discrimination in the construction industry. Due to the racial focus of the Act, a particular minority contractor who is economically viable would be favored over an equally qualified disadvantaged non-minority female or male contractor in desperate need of work.

[26] See, for example, *Fullilove* v. *Kreps*, 584 F. 2d 600 (2d Cir. 1978) (constitutional); *Ohio Contractors Association* v. *Economic Development Administration*, 580 F. 2d 213 (6th Cir. 1978) (constitutional); *Montana Contractors' Association* v. *Secretary of Commerce*, 460 F. Supp. 1174 (D. Mont. 1978) (unconstitutional); *Associated General Contractors* v. *Secretary of Commerce*, 459 F. Supp. 766 (C. D. Cal. 1978) (unconstitutional).

[27] *Fullilove* v. *Kreps*, No. 78–1007.

[28] *United Steelworkers of America* v. *Weber*, 47 Law Week 4851 (June 27, 1979).

[29] Section 703(a), 42 U.S.C. § 2000e–2(a), provides: "(a) It shall be an unlawful employment practice for an employer—(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin." Section 703(d), 42 U.S.C. § 2000e-2(d), provides: "It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training."

THE SLIPPERY SLOPE

Mr. HATCH. Mr. President, the second section of my remarks this morning is entitled, "The Slippery Slope."

I want now to recapitulate the process by which we arrived at the Fullilove disaster. After the 1964 Civil Rights Act, the bureaucracy began its attack on equal protection and the free society. The Supreme Court was not forced to confront the situation until 1974, in the case of *DeFunis* v. *Odegaard*, 416 U.S. 312 (1974). DeFunis was a Sephardic Jew who had been denied a place in the University of Washington Law School, although minority applicants with considerably worse records were accepted. By 1974, DeFunis was about to graduate, and the Court seized the opportunity to declare the case moot. The late Justice William O. Douglas dissented. He felt an effort had to be made to establish the merits of the issue, and his opinion shows graphically the dilemma in which the older liberals found themselves, eager to support minorities and yet unable, in conscience, to abandon a lifetime's striving toward a color-blind Government. Douglas was prepared to consider various methods of insuring that minority group members were competing on an equal footing. But beyond that, he concluded:

> The State, however, may not proceed by racial classification to force strict population equivalencies for every group in every occupation, overriding individual preferences. The Equal Protection Clause commands the elimination of racial barriers, not their creation in order to satisfy our theory as to how society ought to be organized.

I ask unanimous consent that Justice Douglas' dissent be printed in the RECORD at this point.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

MR. JUSTICE DOUGLAS, DISSENTING

I agree with Mr. Justice Brennan that this case is not moot, and because of the significance of the issues raised I think it is important to reach the merits.

I

The University of Washington Law School received 1,601 applications for admission to its first-year class beginning in September 1971. There were spaces available for only about 150 students, but in order to enroll this number the school eventually offered admission to 275 applicants. All applicants were put into two groups, one of which was considered under the minority admissions program. Thirty-seven of those offered admission had indicated on an optional question on their application that their "dominant" ethnic origin was either Black, Chicano, American Indian, or Filipino, the four groups included in the minority admissions program. Answers to this optional question were apparently the sole basis upon which eligibility for the program was determined. Eighteen of these 37 actually enrolled in the Law School.

In general, the admissions process proceeded as follows: An index called the Predicted First Year Average (Average) was calculated for each applicant on the basis of a formula combining the applicant's score on the Law School Admission Test (LSAT) and his grades in his last two years in college.[1] On the basis of its experience with previous years' applications, the admissions committee, consisting of faculty, administration, and students, concluded that the most outstanding applicants were those with averages above 77; the highest average of any applicant was 81. Applicants with averages above 77 were considered as their applications arrived by random distribution of their files to the members of the committee who would read them and report their recommendations back to the committee. As a result of the first three committee meetings in February, March, and April 1971, 78 applicants from this group were admitted, although virtually no other applicants were offered admission this early.[2] By the final conclusion of the admissions process in August 1971, 147 applicants with averages above 77 had been admitted, including all applicants with averages above 78, and 93 of 105 applicants with averages between 77 and 78.

Also beginning early in the admissions process was the culling out of applicants with averages below 74.5. These were reviewed by the Chairman of the Admissions Committee, who had the authority to reject them summarily without further consideration by the rest of the Committee. A small number of these applications were saved by the Chairman for committee consideration on the basis of information in the file indicating greater promise than suggested by the Average. Finally during the early months the Committee accumulated the applications of those with averages between 74.5 and 77 to be considered at a later time when most of the applications had been received and thus could be compared with one another. Since DeFunis' average was 76.23, he was in this middle group.

Beginning in their May meeting the Committee considered this middle group of applicants, whose folders had been randomly distributed to Committee members for their recommendations to the Committee. Also considered at this time were remaining applicants with averages below 74.5 who had not been summarily rejected, and some of those with averages above 77 who had not been summarily admitted, but instead held for further consideration. Each Committee member would consider the applications competitively, following rough guidelines as to the proportion who could be offered admission. After the Committee had extended offers of admission to somewhat over 200 applicants, a waiting list was constructed in the same fashion, and was divided into four groups ranked by the Committee's assessment of their applications. DeFunis was on this waiting list, but was ranked in the lowest quarter. He was ultimately told in August 1971 that there would be no room for him.

Applicants who had indicated on their application forms that they were either Black, Chicano, American Indian, or Filipino were treated differently in several respects. Whatever their averages, none were given to the Committee Chairman for consideration of summary rejection, nor were they distributed randomly among committee members for consideration along with the other applications. Instead, all applications of Black students were assigned separately to two particular Committee members: a first-year Black law student on the Committee, and a professor on the Committee who had worked the previous summer in a special program for disadvantaged college students considering application to Law School.[3] Applications from among the other three minority groups were assigned to an assistant dean who was on the Committee. The minority applications, while considered competitively with one another, were never directly compared to the remaining applications, either by the subcommittee or by the full Committee. As in the admissions process generally, the Committee sought to find "within the minority category, those persons who we thought had the highest probability of succeeding in Law School."[4]

In reviewing the minority applications, the Committee attached less weight to the Average "in making a total judgmental evaluation as to the relative ability of the particular applicant to succeed in law school." 82 Wash. 2d 11, 21, 507 P. 2d 1169, 1175. In its publicly distributed Guide to Applicants, the Committee explained that "[a]n applicant's racial or ethnic background was considered as one factor in our general attempt to convert formal credentials into realistic predictions."[5]

Thirty-seven minority applicants were admitted under this procedure. Of these, 36 had Averages below DeFunis' 76.23, and 30 had averages below 74.5, and thus would ordinarily have been summarily rejected by the Chairman. There were also 48 nonminority applicants admitted who had Averages below DeFunis. Twenty-three of these were returning veterans, see n. 2, *supra*, and 25 others presumably admitted because of other

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Footnotes at end of article.

factors in their application making them attractive candidates despite their relatively low averages.

It is reasonable to conclude from the above facts that while other factors were considered by the Committee, and were on occasion crucial, the Average was for most applicants a heavily weighted factor, and was at the extremes virtually dispositive.[6] A different balance was apparently struck, however, with regard to the minority applicants. Indeed, at oral argument, the Law School advised us that were the minority applicants considered under the same procedure as was generally used, none of those who eventually enrolled at the Law School would have been admitted.

The educational policy choices confronting a university admissions committee are not ordinarily a subject for judicial oversight; clearly it is not for us but for the law school to decide which tests to employ, how heavily to weigh recommendations from professors or undergraduate grades, and what level of achievements on the chosen criteria are sufficient to demonstrate that the candidate is qualified for admission. What places this case in a special category is the fact that the school did not choose one set of criteria but two, and then determined which to apply to a given applicant on the basis of his race. The Committee adopted this policy in order to achieve "a reasonable representation" of minority groups in the Law School. 82 Wash. 2d, at 20, 507 P. 2d, at 1175. Although it may be perceived to be cultural or racial biases in the LSAT or in the candidates' undergraduate records, the record in this case is devoid of any evidence of such bias, and the school has not sought to justify its procedures on this basis.

Although testifying that "[w]e do not have a quota . . ." the Law School dean explained that "[w]e want a reasonable representation. We will go down to reach it if we can," without "taking people who are unqualified in an absolute sense. . . ." (Statement of Facts 420.) By "unqualified in an absolute sense" the dean meant candidates who "have no reasonable probable likelihood of having a chance of succeeding in the study of law. . . ." (*Ibid.*) But the dean conceded that in "reaching," the school does take "some minority students who at least, viewed as a group, have a less such likelihood than the majority student group taken as a whole." (*Id.*, at 423.)

"Q. Of those who have made application to go to the law school, I am saying you are not taking the best qualified?

"A. In total?

"Q. In total.

"A. In using that definition, yes." (*Id.*, at 423–424.)

It thus appears that by the Committee's own assessment, it admitted minority students who, by the tests given, seemed less qualified than some white students who were not accepted, in order to achieve a "reasonable representation." In this regard it may be pointed out that for the year 1969–1970—the year before the class to which DeFunis was seeking admission—the Law School reported an enrollment of eight Black students out of a total of 356.[7] (Defendants' Ex. 7.) That percentage, approximately 2.2 %, compares to a percentage of Blacks in the population of Washington of approximately 2.1%.[8]

II

There was a time when law schools could follow the advice of Wigmore, who believed that "the way to find out whether a boy has the makings of a competent lawyer is to see what he can do in a first year of law studies." Wigmore, Juristic Psychopoyemetrology—Or, How to Find Out Whether a Boy Has the Makings of a Lawyer, 24 Ill. L. Rev. 454, 463–464 (1929). In those days there were enough spaces to admit every applicant who met minimal credentials, and they all could be given the opportunity to prove themselves at law school. But by the 1920's many law schools found that they could not admit all minimally qualified applicants, and some selection process began.[9]

The pressure to use some kind of admissions test mounted, and a number of schools instituted them. One early precursor to the modern day LSAT was the Ferson-Stoddard Law Aptitude examination. Wigmore conducted his own study of that test with 50 student volunteers, and concluded that it "had no substantial practical value." *Id.*, at 463. But his conclusions were not accepted, and the harried law schools still sought some kind of admissions test which would simplify the process of judging applicants, and in 1948 the LSAT was born. It has been with us ever since.[10]

The test purports to predict how successful the applicant will be in his first year of law school, and consists of a few hours' worth of multiple-choice questions. But the answers the student can give to a multiple-choice question are limited by the creativity and intelligence of the test-maker; the student with a better or more original understanding of the problem than the test-maker may realize that none of the alternative answers are any good, but there is no way for him to demonstrate his understanding. "It is obvious from the nature of the tests that they do not give the candidate a significant opportunity to express himself. If he is subtle in his choice of answers it will go against him; and yet there is no other way for him to show any individuality. If he is strong-minded, nonconformist, unusual, original, or creative—as so many of the truly important people are—he must stifle his impulses and conform as best he can to the norms that the multiple-choice testers set up in their unimaginative, scientific way. The more profoundly gifted the candidate is, the more his resentment will rise against the mental strait jacket into which the testers would force his mind." B. Hoffmann, The Tyranny of Testing 91–92 (1962).

Those who make the tests and the law schools which use them point, of course, to the high correlations between the test scores and the grades at law school the first year. *E. g.*, Winterbottom, Comments on "A Study of the Criteria for Legal Education and Admission to the Bar," An Article by Dr. Thomas M. Goolsby, Jr., 21 J. Legal Ed. 75 (1968). Certainly the tests do seem to do better than chance. But they do not have the value that their deceptively precise scoring system suggests. The proponents' own data show that, for example, most of those scoring in the bottom 20 percent on the test do better than that in law school—indeed six of every 100 of them will be in the *top* 20 percent of their law school class. *Id.*, at 79. And no one knows how many of those who were not admitted because of their test scores would in fact have done well were they given the chance. There are many relevant factors, such as motivation, cultural backgrounds of specific minorities that the test cannot measure, and they inevitably must impair its value as a predictor.[11] Of course, the law school that admits only those with the highest test scores finds that on the average they do much better, and thus the test is a convenient tool for the admissions committee. The price is paid by the able student who for unknown reasons did not achieve that high score—perhaps even the minority with a different cultural background. Some tests, at least in the past, have been aimed at eliminating Jews.

The school can safely conclude that the applicant with a score of 750 should be admitted before one with a score of 500. The problem is that in many cases the choice will be between 643 and 602 or 574 and 528. The numbers create an illusion of difference tending to overwhelm other factors. "The wiser testers are well aware of the defects of the multiple-choice format and the danger of placing reliance on any one method of assessment to the exclusion of all others. What is distressing is how little their caveats have impressed the people who succumb to the propaganda of the testmakers and use these tests mechanically as though they were a valid substitute for judgment." Hoffmann, *supra*, at 215.

Of course, the tests are not the only thing considered; here they were combined with the prelaw grades to produce a new number called the Average. The grades have their own problems; one school's A is another school's C. And even to the extent that this formula predicts law school grades, its value is limited. The law student with lower grades may in the long pull of a legal career surpass those at the top of the class. "[L]aw school admissions criteria have operated within a hermetically sealed system; it is now beginning to leak. The traditional combination of LSAT and GPA [undergraduate grade point average] may have provided acceptable predictors of likely performance in law school in the past. . . . [But] [t]here is no clear evidence that the LSAT and GPA provide particularly good evaluators of the intrinsic or enriched ability of an individual to perform as a law student or lawyer in a functioning society undergoing change. Nor is there any clear evidence that grades and other evaluators of law school performance, and the bar examination, are particularly good predicators of competence or success as a lawyer." Rosen, Equalizing Access to Legal Education: Special Programs for Law Students Who Are Not Admissible by Traditional Criteria, 1970 U. Tol. L. Rev. 321, 332–333.

But, by whatever techniques, the law school must make choices. Neither party has challenged the validity of the Average employed here as an admissions tool, and therefore consideration of its possible deficiencies is not presented as an issue. The Law School presented no evidence to show that adjustments in the process employed were used in order validly to compare applicants of different races; instead it chose to avoid making such comparisons. Finally, although the Committee did consider other information in the files of all applicants, the Law School has made no effort to show that it was because of these additional factors that it admitted minority applicants who would otherwise have been rejected. To the contrary, the school appears to have conceded that by its own assessment—taking all factors into account—it admitted minority applicants who would have been rejected had they been white. We have no choice but to evaluate the Law School's case as it has been made.

III

The Equal Protection Clause did not enact a requirement that Law Schools employ as the sole criterion for admissions a formula based upon the LSAT and undergraduate grades, nor does it prohibit law schools from evaluating an applicant's prior achievements in light of the barriers that he had to overcome. A Black applicant who pulled himself out of the ghetto into a junior college may thereby demonstrate a level of motivation, perseverance and ability that would lead a fairminded admissions committee to conclude that he shows more promise for law study than the son of a rich alumnus who achieved better grades at Harvard. That applicant would not be offered admission because he is Black, but because as an individual he has shown he has the potential, while the Harvard man may have taken less advantage of the vastly superior opportunities offered him. Because of the weight of the prior handicaps, that Black applicant may not realize his full potential in the first year of law school, or even in the full three years,

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but in the long pull of a legal career his achievements may far outstrip those of his classmates whose earlier records appeared superior by conventional criteria. There is currently no test available to the Admissions Committee that can predict such possibilities with assurance, but the Committee may nevertheless seek to gauge it as best it can, and weigh this factor in its decisions. Such a policy would not be limited to Blacks, or Chicanos or Filipinos, or American Indians, although undoubtedly groups such as these may in practice be the principal beneficiaries of it. But a poor Appalachian white, or a second generation Chinese in San Francisco, or some other American whose lineage is so diverse as to defy ethnic labels, may demonstrate similar potential and thus be accorded favorable consideration by the committee.

The difference between such a policy and the one presented by this case is that the Committee would be making decisions on the basis of individual attributes, rather than according a preference solely on the basis of race. To be sure, the racial preference here was not absolute—the Committee did not admit all applicants from the four favored groups. But it did accord all such applicants a preference by applying, to an extent not precisely ascertainable from the record, different standards by which to judge their applications, with the result that the Committee admitted minority applicants who, in the school's own judgment, were less promising than other applicants who were rejected.

Furthermore, it is apparent that because the Admissions Committee compared minority applicants only with one another, it was necessary to reserve some proportion of the class for them, even if at the outset a precise number of places were not set aside.[12] That proportion, apparently 15% to 20%, was chosen because the school determined it to be "reasonable,"[13] although no explanation is provided as to how that number rather than some other was found appropriate. Without becoming embroiled in a semantic debate over whether this practice constitutes a "quota," it is clear that, given the limitation on the total number of applicants who could be accepted, this policy did reduce the total number of places for which DeFunis could compete—solely on account of his race. Thus, as the Washington Supreme Court concluded, whatever label one wishes to apply to it, "the minority admissions policy is certainly not benign with respect to nonminority students who are displaced by it." 82 Wash. 2d, at 32, 507 P. 2d, at 1182. A finding that the state school employed a racial classification in selecting its students subjects it to the strictest scrutiny under the Equal Protection Clause.

The consideration of race as a measure of an applicant's qualification normally introduces a capricious and irrelevant factor working an invidious discrimination, ***Anderson* v. *Martin***, 375 U. S. 399, 402; ***Loving* v. *Virginia***, 388 U. S. 1, 10; ***Harper* v. *Virginia Board of Elections***, 383 U. S. 663, 668. Once race is a starting point educators and courts are immediately embroiled in competing claims of different racial and ethnic groups that would make difficult, manageable standards consistent with the Equal Protection Clause. "The clear and central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious racial discrimination in the States." *Loving, supra*, at 10. The Law School's admissions policy cannot be reconciled with that purpose, unless cultural standards of a diverse rather than a homogeneous society are taken into account. The reason is that professional persons, particularly lawyers, are not selected for life in a computerized society. The Indian who walks to the beat of Chief Seattle of the Muckleshoot Tribe in Washington[14] has a different culture from examiners at law schools.

The key to the problem is the consideration of each application *in a racially neutral way*. Since LSAT reflects questions touching on cultural backgrounds, the Admissions Committee acted properly in my view in setting minority applications apart for separate processing. These minorities have cultural backgrounds that are vastly different from the dominant Caucasian. Many Eskimos, American Indians, Filipinos, Chicanos, Asian Indians, Burmese, and Africans come from such disparate backgrounds that a test sensitively tuned for most applicants would be wide of the mark for many minorities.

The melting pot is not designed to homogenize people, making them uniform in consistency. The melting pot as I understand it is a figure of speech that depicts the wide diversities tolerated by the First Amendment under one flag. See 2 S. Morison & H. Commagger, The Growth of the American Republic, c. VIII (4th ed. 1950). Minorities in our midst who are to serve actively in our public affairs should be chosen on talent and character alone, not on cultural orientation or leanings.

I do know, coming as I do from Indian country in Washington, that many of the young Indians know little about Adam Smith or Karl Marx but are deeply imbued with the spirit and philosophy of Chief Robert B. Jim of the Yakimas, Chief Seattle of the Muckleshoots, and Chief Joseph of the Nez Perce which offer competitive attitudes towards life, fellow man, and nature.[15]

I do not know the extent to which Blacks in this country are imbued with ideas of African Socialism.[16] Leopold Senghor and Sekou Toure, most articulate of African leaders, have held that modern African political philosophy is not oriented either to Marxism or to capitalism.[17] How far the reintroduction into educational curricula of ancient African art and history has reached the minds of young Afro-Americans I do not know. But at least as respects Indians, Blacks, and Chicanos—as well as those from Asian cultures—I think a separate classification of these applicants is warranted, lest race be a subtle force in eliminating minority members because of cultural differences.

Insofar as LSAT tests reflect the dimensions and orientation of the Organization Man they do a disservice to minorities. I personally know that admissions tests were once used to eliminate Jews. How many other minorities they aim at I do not know. My reaction is that the presence of an LSAT test is sufficient warrant for a school to put racial minorities into a separate class in order better to probe their capacities and potentials.

The merits of the present controversy cannot in my view be resolved on this record. A trial would involve the disclosure of hidden prejudices, if any, against certain minorities and the manner in which substitute measurements of one's talents and character were employed in the conventional tests. I could agree with the majority of the Washington Supreme Court only if, on the record, it could be said that the Law School's selection was racially neutral. The case, in my view, should be remanded for a new trial to consider, *inter alia*, whether the established LSAT tests should be eliminated so far as racial minorities are concerned.

This does not mean that a separate LSAT test must be designed for minority racial groups, although that might be a possibility. The reason for the separate treatment of minorities as a class is to make more certain that racial factors do not militate *against an applicant or on his behalf*.[18]

There is no constitutional right for any race to be preferred. The years of slavery did more than retard the progress of Blacks. Even a greater wrong was done the whites by creating arrogance instead of humility and by encouraging the growth of the fiction of a superior race. There is no superior person by constitutional standards. A De Funis who is white is entitled to no advantage by reason of that fact; nor is he subject to any disability, no matter what his race or color. Whatever his race, he had a constitutional right to have his application considered on its individual merits in a racially neutral manner.

The slate is not entirely clean. First, we have held that *pro rata* representation of the races is not required either on juries, see *Cassell* v. *Texas*, 339 U.S. 282, 286–287, or in public schools, *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1, 24. Moreover, in *Hughes* v. *Superior Court*, 339 U.S. 460, we reviewed the contempt convictions of pickets who sought by their demonstration to force an employer to prefer Negroes to whites in his hiring of clerks, in order to ensure that 50% of the employees were Negro. In finding that California could constitutionally enjoin the picketing there involved we quoted from the opinion of the California Supreme Court, which noted that the pickets would " 'make the right to work for Lucky dependent not on fitness for the work nor on an equal right of all, regardless of race, to compete in an open market, but, rather, on membership in a particular race. If petitioners were upheld in their demand then other races, white, yellow, brown and red, would have equal rights to demand discriminatory hiring on a racial basis.' " *Id.*, at 463–464. We then noted that

> "[t]o deny to California the right to ban picketing in the circumstances of this case would mean that there could be no prohibition of the pressure of picketing to secure proportional employment on ancestral grounds of Hungarians in Cleveland, of Poles in Buffalo, of Germans in Milwaukee, of Portuguese in New Bedford, of Mexicans in San Antonio, of the numerous minority groups in New York, and so on through the whole gamut of racial and religious concentrations in various cities." *Id.*, at 464.

The reservation of a proportion of the law school class for members of selected minority groups is fraught with similar dangers, for one must immediately determine which groups are to receive such favored treatment and which are to be excluded, the proportions of the class that are to be allocated to each, and even the criteria by which to determine whether an individual is a member of a favored group. There is no assurance that a common agreement can be reached, and first the schools, and then the courts, will be buffeted with the competing claims. The University of Washington included Filipinos, but excluded Chinese and Japanese; another school may limit its program to Blacks, or to Blacks and Chicanos. Once the Court sanctioned racial preferences such as these, it could not then wash its hands of the matter, leaving it entirely in the discretion of the school, for then we would have effectively overruled *Sweatt* v. *Painter*, 339 U.S. 629, and allowed imposition of a "zero" allocation.[19] But what standard is the Court to apply when a rejected applicant of Japanese ancestry brings suit to require the University of Washington to extend the same privileges to his group? The Committee might conclude that the population of Washington is now 2% Japanese, and that Japanese also constitute 2% of the Bar, but that had they not been handicapped by a history of discrimination, Japanese would now constitute 5% of the Bar, or 20%. Or, alternatively, the Court could attempt to assess how grievously each group has suffered from discrimination, and allocate proportions accordingly; if that were the standard the current University of Washington policy would almost surely fall, for there is no Western State which can

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claim that it has always treated Japanese and Chinese in a fair and evenhanded manner. See, *e. g., Yick Wo* v. *Hopkins*, 118 U.S. 356; *Terrace* v. *Thompson*, 263 U.S. 197; *Oyama* v. *California*, 332 U.S. 633. This Court has not sustained a racial classification since the wartime cases of *Korematsu* v. *United States*, 323 U.S. 214 (1944), and *Hirabayashi* v. *United States*, 320 U.S. 81 (1943), involving curfews and relocations imposed upon Japanese-Americans.[20]

Nor obviously will the problem be solved if next year the Law School included only Japanese and Chinese, for then Norwegians and Swedes, Poles and Italians, Puerto Ricans and Hungarians, and all other groups which form this diverse Nation would have just complaints.

The key to the problem is consideration of such applications *in a racially neutral way.* Abolition of the LSAT would be a start. The invention of substitute tests might be made to get a measure of an applicant's cultural background, perception, ability to analyze, and his or her relation to groups. They are highly subjective, but unlike the LSAT they are not concealed, but in the open. A law school is not bound by any legal principle to admit students by mechanical criteria which are insensitive to the potential of such an applicant which may be realized in a more hospitable environment. It will be necessary under such an approach to put more effort into assessing each individual than is required when LSAT scores and undergraduate grades dominate the selection process. Interviews with the applicant and others who know him is a time-honored test. Some schools currently run summer programs in which potential students who likely would be bypassed under conventional admissions criteria are given the opportunity to try their hand at law courses,[21] and certainly their performance in such programs could be weighed heavily. There is, moreover, no bar to considering an individual's prior achievements in light of the racial discrimination that barred his way, as a factor in attempting to assess his true potential for a successful legal career. Nor is there any bar to considering on an individual basis, rather than according to racial classifications, the likelihood that a particular candidate will more likely employ his legal skills to service communities that are not now adequately represented than will competing candidates. Not every student benefited by such an expanded admissions program would fall into one of the four racial groups involved here, but it is no drawback that other deserving applicants will also get an opportunity they would otherwise have been denied. Certainly such a program would substantially fulfill the Law School's interest in giving a more diverse group access to the legal profession. Such a program might be less convenient administratively than simply sorting students by race, but we have never held administrative convenience to justify racial discrimination.

The argument is that a "compelling" state interest can easily justify the racial discrimination that is practiced here. To many, "compelling" would give members of one race even more than *pro rata* representation. The public payrolls might then be deluged say with Chicanos because they are as a group the poorest of the poor and need work more than others, leaving desperately poor individual blacks and whites without employment. By the same token large quotas of blacks or browns could be added to the Bar, waiving examinations required of other groups, so that it would be better racially balanced.[22]

The State, however, may not proceed by racial classification to force strict population equivalencies for every group in every occupation, overriding preferences. The Equal Protection Clause commands the elimination of racial barriers, not their creation in order to satisfy our theory as to how society ought to be organized. The purpose of the University of Washington cannot be to produce Black lawyers for Blacks, Polish lawyers for Poles, Jewish lawyers for Jews, Irish lawyers for Irish. It should be to produce good lawyers for Americans and not to place First Amendment barriers against anyone.[23] That is the point at the heart of all our school desegregation cases, from *Brown* v. *Board of Education*, 347 U.S. 483, through *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1. A segregated admissions process creates suggestions of stigma and caste no less than a segregated classroom, and in the end it may produce that result despite its contrary intentions. One other assumption must be clearly disapproved, that Blacks or Browns cannot make it on their individual merit. That is a stamp of inferiority that a State is not permitted to place on any lawyer.

If discrimination based on race is constitutionally permissible when those who hold the reins can come up with "compelling" reasons to justify it, then constitutional guarantees acquire an accordionlike quality. Speech is closely brigaded with action when it triggers a fight, *Chaplinsky* v. *New Hampshire*, 315 U.S. 568, as shouting "fire" in a crowded theater triggers a riot. It may well be that racial strains, racial susceptibility to certain diseases, racial sensitiveness to environmental conditions that other races do not experience, may in an extreme situation justify differences in racial treatment that no fairminded person would call "invidious" discrimination. Mental ability is not in that category. All races can compete fairly at all professional levels. So far as race is concerned, any state-sponsored preference to one race over another in that competition is in my view "invidious" and violative of the Equal Protection Clause.

The problem tendered by this case is important and crucial to the operation of our constitutional system; and educators must be given leeway. It may well be that a whole congeries of applicants in the marginal group defy known methods of selection. Conceivably, an admissions committee might conclude that a selection by lot of, say, the last 20 seats is the only fair solution. Courts are not educators; their expertise is limited; and our task ends with the inquiry whether, judged by the main purpose of the Equal Protection Clause—the protection against racial discrimination[24]—there has been an "invidious" discrimination.

We would have a different case if the suit were one to displace the applicant who was chosen in lieu of DeFunis. What the record would show concerning his potentials would have to be considered and weighed. The educational decision, provided proper guidelines were used, would reflect an expertise that courts should honor. The problem is not tendered here because the physical facilities were apparently adequate to take DeFunis in addition to the others. My view is only that I cannot say by the tests used and applied he was invidiously discriminated against because of his race.

I cannot conclude that the admissions procedure of the Law School of the University of Washington that excluded DeFunis is violative of the Equal Protection Clause of the Fourteenth Amendment. The judgment of the Washington Supreme Court should be vacated and the case remanded for a new trial.

FOOTNOTES

[1] The grades are calculated on a conventional 4.0 scale, and the LSAT is scored on a scale ranging from 200 to 800. A Writing Test given on the same day as the LSAT and administered with it is also included in the formula; it is scored on a scale of 20 to 80. The Admissions Committee combines these scores into the Average by calculating the sum of 51.3, 3.4751 × the grade-point average, .0159 × LSAT score, and .0456 × the Writing Test score. App. 24. For a brief discussion of the use of the LSAT in combination with undergraduate grades to predict law school success, see Winterbottom, Comments on "A Study of the Criteria for Legal Education and Admission to the Bar," An Article by Dr. Thomas M. Goolsby, Jr., 21 J. Legal Ed. 75 (1968).

[2] The only other substantial group admitted at this point were 19 "military" applicants. These were students who had previously been admitted to the school but who had either been unable to come, or forced to leave during their tenure, because of the draft. They were given preferential treatment upon reapplication after completing their military obligation. Since neither party has raised any issue concerning this group of applicants, the remaining consideration of the admissions procedure will not discuss them. Four minority applicants were also admitted at this time, although none apparently had scores above 77. App. 31. Their admission was presumably pursuant to the procedure for minority applicants described below.

[3] This was a Council on Legal Education Opportunities program, federally funded by the Office of Economic Opportunity and sponsored by the American Bar Association, the Association of American Law Schools, the National Bar Association, and the Law School Admissions Council.

[4] Testimony of the Chairman of the Admissions Committee, Statement of Facts 353.

[5] The Guide to Applicants explained:

"We gauged the potential for outstanding performance in law school not only from the existence of high test scores and grade point averages, but also from careful analysis of recommendations, the quality of work in difficult analytical seminars, courses, and writing programs, the academic standards of the school attended by the applicant, the applicant's graduate work (if any), and the nature of the applicant's employment (if any), since graduation.

"An applicant's ability to make significant contributions to law school classes and the community at large was assessed from such factors as his extracurricular and community activities, employment, and general background.

"We gave no preference to, but did not discriminate against, either Washington residents or women in making our determinations. An applicant's racial or ethnic background was considered as one factor in our general attempt to convert formal credentials into realistic predictions." 82 Wash. 2d 11, 18–19, 507 P. 2d 1169, 1174.

[6] The respondents provided the following table in response to an interrogatory during the proceedings in the state court:

Predicted First Year Averages	Number of Applications Received	Number Accepted
81	1	1
80	2	2
79	11	11
78	42	42
77	105	93
76	169	53
75	210	22

App. 34.

[7] Although there is apparently no evidence in point in the record, respondents suggest that at least some of these eight students were also admitted on a preferential basis. Brief for Respondents 40 n. 27.

[8] United States Bureau of the Census, Census of Population: 1970, General Population Characteristics, Washington, Final Report PC (1)—B49, Table 18.

[9] For a history of gradual acceptance among law schools of standardized tests as

an admission tool, see Ramsey, Law School Admissions: Science, Art, or Hunch?, 12 J. Legal Ed. 503 (1960).

[10] For a survey of the use of the LSAT by American law schools as of 1965, see Lunneborg & Radford, the LSAT: A Survey of Actual Practice, 18 J. Legal Ed. 313 (1966).

[11] Rock, Motivation, Moderators, and Test Bias, 1970 U. Tol. L. Rev. 527, 535.

[12] At the outset the Committee may have chosen only a range, with the precise number to be determined later in the process as the total number of minority applicants, and some tentative assessment of their quality, could be determined. This appears to be the current articulated policy, see Appendix § 6, and we are advised by the respondents that § 6 "represents a more formal statement of the policy which was in effect in 1971 . . . but does not represent any change in policy." Letter to the Court dated March 19, 1974, p. 1. The fact that the Committee did not set a precise number in advance is obviously irrelevant to the legal analysis. Nor does it matter that there is some minimal level of achievement below which the Committee would not reach in order to achieve its stated goal as to the proportion of the class reserved for minority groups, so long as the Committee was willing, in order to achieve that goal, to admit minority applicants who, in the Committee's own judgment, were less qualified than other rejected applicants and who would not otherwise have been admitted.

[13] See n. 12, *supra*, and Appendix § 6.

[14] Uncommon Controversy, Report Prepared for American Friends Service Committee 29–30 (1970).

[15] See C. Fee, Chief Joseph, The Biography of a Great Indian (1936).

[16] See F. Brockway, African Socialism (1963); African Socialism (W. Friedland & C. Rosberg ed. 1964).

[17] See L. Senghor, On African Socialism (M. Cook ed. 1964).

[18] We are not faced here with a situation where barriers are overtly or covertly put in the path of members of one racial group which are not required by others. There was also no showing that the purpose of the school's policy was to eliminate arbitrary and irrelevant barriers to entry by certain racial groups into the legal profession groups. *Griggs* v. *Duke Power Co.*, 401 U.S. 424. In *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1, 16, we stated that as a matter of educational policy school authorities could, within their broad discretion, specify that each school within its district have a prescribed ratio of Negro to white students reflecting the proportion for the district as a whole, in order to disestablish a dual school system. But there is a crucial difference between the policy suggested in *Swann* and that under consideration here: the *Swann* policy would impinge on no person's constitutional rights, because no one would be excluded from a public school and no one has a right to attend a segregated public school.

[19] *Sweatt* held that a State could not justify denying a black admission to its regular law school by creating a new law school for blacks. We held that the new law school did not meet the requirements of "equality" set forth in *Plessy* v. *Ferguson*, 163 U.S. 537.

The student, we said, was entitled to "legal education equivalent to that offered by the State to students of other races. Such education is not available to him in a separate law school as offered by the State." 339 U.S. 629, 635.

[20] Those cases involved an exercise of the war power, a great leveler of other rights. Our Navy was sunk at Pearl Harbor and no one knew where the Japanese fleet was. We were advised on oral argument that if the Japanese landed troops on our west coast nothing could stop them west of the Rockies. The military judgment was that, to aid in the prospective defense of the west coast, the enclaves of Americans of Japanese ancestry should be moved inland, lest the invaders by donning civilian clothes would wreak even more serious havoc on our western ports. The decisions were extreme and went to the verge of wartime power; and they have been severely criticized. It is, however, easy in retrospect to denounce what was done, as there actually was no attempted Japanese invasion of our country. While our Joint Chiefs of Staff were worrying about Japanese soldiers landing on the west coast, they actually were landing in Burma and at Kota Bharu in Malaya. But those making plans for defense of the Nation had no such knowledge and were planning for the worst. Moreover, the day we decided *Korematsu* we also decided *Ex parte Endo*, 323 U.S. 283, holding that while evacuation of the Americans of Japanese ancestry was allowable under extreme war conditions, their detention after evacuation was not. We said:

"A citizen who is concededly loyal presents no problem of espionage or sabotage. Loyalty is a matter of the heart and mind, not of race, creed, or color. He who is loyal is by definition not a spy or a saboteur. When the power to detain is derived from the power to protect the war effort against espionage and sabotage, detention which has no relationship to that objective is unauthorized." *Id.*, at 302.

[21] See n. 3, *supra*.

[22] In *Johnson* v. *Committee on Examinations*, 407 U.S. 915, we denied certiorari in a case presenting a similar issue. There the petitioner claimed that the bar examiners reconsidered the papers submitted by failing minority applicants whose scores were close to the cutoff point, with the result that some minority applicants were admitted to the Bar although they initially had examination scores lower than those of white applicants who failed.

As the Arizona Supreme Court denied Johnson admission summarily, in an original proceeding, there were no judicial findings either sustaining or rejecting his factual claims of racial bias, putting the case in an awkward posture for review here. Johnson subsequently brought a civil rights action in Federal District Court, seeking both damages and injunctive relief. The District Court dismissed the action and the Court of Appeals affirmed, holding that the lower federal courts did not have jurisdiction to review the decisions of the Arizona Supreme Court on admissions to the state bar. Johnson then sought review here and we denied his motion for leave to file a petition for mandamus, prohibition and/or certiorari on February 19, 1974. *Johnson* v. *Wilmer*, 415 U.S. 911. Thus in the entire history of the case no court had ever actually sustained Johnson's factual contentions concerning racial bias in the bar examiners' procedures. *DeFunis* thus appears to be the first case here squarely presenting the problem.

[23] Underlying all cultural background tests are potential ideological issues that have plagued bar associations and the courts. *In re Summers*, 325 U.S. 561, involved the denial of the practice of law to a man who could not conscientiously bear arms. The vote against him was five to four. *Konigsberg* v. *State Bar*, 353 U.S. 252, followed, after remand, by *Konigsberg* v. *State Bar*, 366 U.S. 36, resulted in barring one from admission to a state bar because of his refusal to answer questions concerning Communist Party membership. He, too, was excluded five to four. The petitioner in *Schware* v. *Board of Bar Examiners*, 353 U.S. 232, was, however, admitted to practice even though he had about 10 years earlier been a member of the Communist Party. But in *In re Anastaplo*, 366 U.S. 82, a five-to-four decision, barred a man from admission to a state bar not because he invoked the Fifth Amendment when asked about membership in the Communist Party, but because he asserted that the First Amendment protected him from that inquiry. *Baird* v. *State Bar of Arizona*, 401 U.S. 1, held by a divided vote that a person could not be kept out of the state bar for refusing to answer whether he had even been a member of the Communist Party; and see *In re Stolar*, 401 U.S. 23.

[24] See *Slaughter House Cases*, 16 Wall. 36, 81.

Mr. HATCH. Mr. President, an intriguing account of the Court's decision in DeFunis was given in Bob Woodward and Scott Armstrong's book "The Brethren": Inside the Supreme Court. According to the authors, the Court treated the affirmative action issue as a policy matter rather than a constitutional question. They decided that a dose of affirmative action would be good for the country, and adopted the easiest expedient to achieve this goal without having to face the moral issue or public protest. Needless to say, this is an entirely illegitimate way for a court of law to behave. But, in fairness, it should be noted that great controversy has surrounded the accuracy of some of the book's observations.

Although a little improbable in places, "The Brethren" is significant in itself in that it exemplifies the reluctance of the media and public people generally to think about affirmative action. The only criticism that the authors have toward quotas is that they might eventually result in restoring discrimination against minorities. Additionally, of course, "The Brethren" illustrates the failure to understand elementary principles of a free society that I mentioned earlier.

I ask unanimous consent that one page from "The Brethren" be printed in the RECORD at this point.

There being no objection, the page was ordered to be printed in the RECORD, as follows:

> At the opening of the term, the press focused attention on the likelihood that the Burger Court might at last leave its imprint on the important race questions of the day. In mid-term the Court heard argument in their first reverse discrimination case (*DeFunis* v. *Odegaard*) which challenged the affirmative action programs designed to give minorities certain advantages. A white applicant to law school had been denied admission while blacks with lower test scores and grades had been admitted. Under the affirmative action program, a certain number of slots had been set aside for minority applicants. Since the applicant was white, he had no shot at them; he had been singled out because he was white, and that, he claimed, was racial discrimination.
>
> At first, all nine Justices leaned toward holding that such fixed racial quotas were unconstitutional. Marshall considered special quotas an insult to minorities, but at the same time he knew better than anyone the difficulties posed by the remaining barriers for minorities in schools and in employment. Affirmative action programs—most of them only a few years old—would all be at stake. On the other hand, to uphold the fixed quota for minorities might create an unfortunate precedent which could be used eventually to exclude minorities.
>
> At conference, several of the Justices indicated that they would not mind avoiding the issue by saying the case was moot; the law student had subsequently been admitted to the law school. The Court would have sev-

eral more years before another reverse discrimination case worked its way up through the courts. In the meantime, affirmative action programs could continue to bring about more educational and employment equality. Stewart offered to write a *per curiam* declaring the case moot. Burger, Blackmun, Powell and Rehnquist agreed finally, but not before Douglas had first circulated an opinion ruling out affirmative action, withdrew it the next day, and then substituted a draft saying that race could be taken into account in selecting candidates.

Even the liberals breathed a sigh of relief that the case was gone. But there was another racial issue they could not avoid—busing.

Mr. HATCH. Mr. President, in 1978, the Court split badly over the similar case of the admission of Alan Bakke to the Medical School of the University of California at Davis. Rigid numerical quotas were declared illegal, and Bakke was admitted to the school by a vote of 5 to 4. But the vote was 5 to 4 the other way on the issue of whether universities receiving Federal aid could take any notice of race at all, *Regents of the University of California* v. *Bakke* 438 U.S. 265.

One year later, the Court voted 5 to 2 not to overturn a quota plan developed under Federal pressure by the United Steelworkers Union and Kaiser Aluminum Co. that had resulted in a white employee, Brian Weber, being refused entry to a craft training program in favor of blacks with less seniority, *Steelworkers* v. *Weber* 443 U.S. 193. This case ended any doubts as to the extremes to which the quota-supporters on the Court were prepared to go. They rejected the express wording of a statute, the Civil Rights Act of 1964, and they ignored the clear intent of Congress as expressed in its legislative considerations. The Court, in upholding the Kaiser plan, observed that it did not involve any "unnecessary trammeling" of the interests of white employees—just necessary trammeling, no doubt.

In neither Bakke nor Weber did the majority—plurality in Bakke—approach the Constitutional issues. Bakke was decided under title VI of the Civil Rights Act, relating to the obligations of institutions receiving Federal assistance; Weber under title VII of the same act which deals with discrimination by private employers. Apart from this, there is little difference between the two titles.

Not the least distressing aspect of the shameful saga of affirmative action litigation is that it is impossible to avoid the suspicion of class justice in the Supreme Court's differing treatment of Bakke and Weber. Not many Supreme Court Justices' sons want craft jobs in Louisiana refineries, but medical schools are something else.

The labor union's attitude, of course, is beneath contempt. Clearly, the approval of their political peer group in Washington was more important to the union leaders than defending their members' interests. With workers betrayed in this way, we need look no further for an explanation of the current relative decline or organized labor in America's economy and its political life.

Writing just after the Weber decision, Nicholas Capaldi, Professor of Philosophy at Queens College in New York, analyzed these developments from the perspective of the bureaucracy. His article appeared in the Spring 1980 issue of Policy Review magazine.

I ask unanimous consent that that article, "Twisting The Law," by Nicholas Capaldi, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TWISTING THE LAW

(By Nicholas Capaldi [1])

The moral that many would have us draw from the incident at Watergate is that government power can be abused, especially by unprincipled individuals. But there is another kind of abuse of government power: an abuse practiced by a group, not an individual, and based upon high principles.[2] Nowhere is such abuse more in evidence than in the development and application of the policy of affirmative action. We begin with two titles of the Civil Rights Act of 1964, known as Title VI and Title VII. Title VI prohibits discrimination in public accommodations and in federally assisted programs. This includes federally assisted education programs. Title VII prohibits discrimination by employers or unions, whether private or public.

In the most unequivocal fashion, the sponsors of the measure in the Senate made clear that this act was designed to foster equal opportunity, not preference and not racial balance. Listen to the words of Senator Hubert H. Humphrey: "Title VII does not require an employer to achieve any sort of racial balance in his work force by giving preferential treatment to any individual or group."[3] Senator Harrison A. Williams reaffirmed this when he said: [Title VII] "specifically prohibit(s) the Attorney General or any agency of the government, from requiring employment to be on the basis of racial or religious quotas. Under (this provision) an employer with only white employees could continue to have only the best qualified persons even if they were all white."[4]

In the ensuing debate, the floor managers in the Senate, Senators Joseph Clark and Clifford Case, both stated that:

"It must be emphasized that discrimination is prohibited as to any individual. . . . The question in each case is whether that individual was discriminated against." Further, in response to the charge that the bill would ultimately require quotas, Senator Clark replied that: "Quotas are themselves discriminatory."[5] Two provisions were added to spell this out:

703(h) . . . it shall not be unlawful employment practice . . . for an employer to give and act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex or national origin. . . .

703(j) Nothing contained in this title shall be interpreted to require any employer . . . to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number of percentage of persons of any race, color, religion, sex, or national origin employed by any employer. . . .

Once a law is passed, it is the responsibility of the executive branch of government to see to its faithful execution. As the power of the federal government has grown, a vast bureaucracy has been established to aid in the administration of the laws. In addition to the potential conflict between a specific piece of legislation and the Constitution, there are two other kinds of conflict. The President may have his own understanding of the legislation in opposition to the Congressional understanding, and the bureaucracy may have its own understanding of the legislation in opposition to either the Congress or even to the President.

The President's interpretation of the law and his directives to the bureaucracy are found in so-called executive orders. In response to the Civil Rights Act of 1964, President Lyndon Johnson issued Executive Order No. 11246 in 1965, stressing the need for "affirmative action"[6] with regard to minorities. But the executive policy of affirmative action was not defined by the President; it was left to the bureaucracy. In May of 1968 the Department of Labor defined affirmative action in Order No. 4.

"A necessary prerequisite to the development of a satisfactory affirmative action program is the identification and analysis of problem areas inherent in minority employment and an evaluation of opportunities for utilization of minority group personnel. The contractor's program shall provide in detail for specific steps to guarantee equal employment opportunity keyed to the problems and needs of members of minority groups, including, when there are deficiencies, the development of specific goals and time-tables for the prompt achievement of full and equal employment opportunity. Each contractor shall include in his affirmative action compliance program a table of job classifications. . . . The evaluation of utilization of minority group personnel shall include . . . an analysis of minority group representation in all categories.[7]

Additional guidelines were issued on February 5, 1970. Affirmative action was further defined as "a set of specific and result-oriented procedures to which a contractor commits himself to apply every good faith." Finally, the guidelines issued on December 4, 1971 spelled out the ultimate logic of the concept. It all turned on the key term "underutilization."[8]

"Underutilization" is defined as having fewer minorities or women in a particular job classification than would reasonably be expected by their availability. . . .

In short, anything less than a racially balanced workforce would bring down the wrath of the government.

What needs to be emphasized here is that affirmative action originated in the executive branch of government, not the legislative branch; that affirmative action as formulated by the Department of Labor and enforced by HEW and EEOC (Equal Employment Opportunity Commission) is a direct violation of the legislative intent of the Civil Rights Act of 1964; that underutilization, goals, timetables, and quotas are not solutions to legislatively formulated problems but bureaucratic policies for which a problem must be fabricated. Affrmative action is a solution in search of a problem.

HOW THE BUREAUCRACY SEES ITSELF

From time to time various units of the federal bureaucracy concerned with administering the Civil Rights Act of 1964 issue statements in an attempt to explain their position. One such document was issued by the U.S. Commission on Civil Rights.[9] Its introduction begins with the statement of a problem. The problem, it seems, is the existence of a *gap* between blacks and whites, a gap reflected in statistics about income, income trends, and the proportional representation of blacks to whites in positions of high status.[10]

Why is this gap a problem? It is a prob-

Footnotes at end of article.

lem for two reasons. First, it violates an operative ideal of our society. The ideal is supposed to be for a classless society in which no invidious comparisons could be made or found statistically. The second reason is that the gap is the effect of past injustice. It is presumed that it is coincidentally the case that the ideal reflects what would naturally have been the case in the absence of injustice.

The aspiration of the American people is for a "colorblind" society, one that neither knows nor tolerates classes among citizens [Justice Harlan's dissent in the *Plessy vs. Ferguson* case of 1896]. . . . the test of affirmative action programs is whether they are well calculated to achieve these objectives . . . we believe that affirmative action . . . including those where numerically based remedies have been employed, meets this fundamental standard. . . . affirmative action programs will help us to reach the day when our society is truly colorblind and nonsexist because all people will have an equal opportunity to develop their full potential and to share in the effort and the rewards that such development brings.[11]

Given the foregoing definition of the problem, we can see why the solution of affirmative action was adopted. Affirmative action is "any measure, beyond simple termination of a discriminatory practice. adopted to correct or compensate for past or present discrimination or to prevent discrimination from recurring in the future."[12] The solution will be considered a success when it will have placed "eligible minority members in the position which the minority would have enjoyed if it had not been the victim of discrimination."[13]

EEOC is telling us that whoever wills the end wills the means. The end is to terminate discrimination. But discrimination, says EEOC, cannot be terminated unless its effects are also terminated. One goal has here been substituted for another. Congress did not order the termination of the effects of discrimination: it outlawed discrimination *per se*. If anyone still doubts this, then listen to the words of Representative Celler, Chairman of the House Judiciary Committee and the congressman responsible for introducing the legislation:

It is likewise not true that the Equal Employment Opportunity Commission would have power to rectify existing "racial or religious imbalance" in employment by requiring the hiring of certain people without regard to their qualifications simply because they are of a given race or religion. Only actual discrimination could be stopped.[14]

Finally, nowhere does anyone specify how there can be an objective, non-ideological determination even of what the effects of discrimination were and are.

THE BUREAUCRATIC IMPERATIVE

How is EEOC going to justify its seeming distortion of the act of Congress? It will do so by appealing to the acts of the judicial branch of government. According to EEOC, what we are witnessing is "the evolution of equal employment law."[15] Now evolution by itself simply means change through time. But for EEOC the development is in a special direction, and that is what makes it teleological.[16] "What was not fully apparent in 1964 was the magnitude of the effort that would be required to create genuine equality of opportunity and the specific measures needed to accomplish the task."[17] I take it that equal opportunity is "genuine" when it achieves the ideal: racial balance, statistical parity, or realignment.[18] Finally, it appears to be EEOC's notion that law evolves in the courts and in the bureaucracy.

EEOC cites three main cases to support its interpretation. The first is the so-called "Philadelphia Plan." The construction trades in Philadelphia were all-white, largely the result of father-son practices in the union. The Department of Labor, in 1969, ordered an end to that practice and instituted goals and timetables for minority recruitment. This was the first major application of Order No. 4. The Contractors Association of Eastern Pennsylvania challenged Order No. 4 on the grounds that Title VII bans discrimination, and the goals and timetables of Order No. 4 are discriminatory quotas. In the federal court, the Third Circuit Court of Appeals, the Secretary of Labor was upheld. Moreover, Judge John Gibbons seemed to endorse the notion of realignment.

Clearly, the Philadelphia Plan is color-conscious . . . [in order to reject it we] would have to attribute to Congress the intention to freeze the status quo and to foreclose remedial action [to] overcome existing evils.[19]

The U.S. Supreme Court refused to hear an appeal. EEOC cites this case and others from the federal courts to establish that "goals and timetables [have] been repeatedly upheld by the courts."[20]

The Third Circuit Court handed down its decision in 1971. The other two cases were also in 1971. This explains the force of the 1971 guidelines and the use of the concept of underutilization. In the case of *Swann* v. *Charlotte-Mechlenburg Board of Education*, the U.S. Supreme Court concluded that local communities could voluntarily (that is, on their own initiative) assign students by race for educational purposes even where no prior *de jure* segregation existed. EEOC concluded from this that the Supreme Court was upholding realignment.

The Supreme Court has given broad scope to the States in taking voluntary action to promote equality, even when the action is race conscious and is not explicitly designed to remedy a constitutional wrong.[21]

The watershed case in EEOC's tale of the evolution of equal employment law is supposed to be the 1971 case of *Griggs* v. *Duke Power Company* wherein the U.S. Supreme Court interpreted Title VII as forbidding the use of an aptitude test and the requirement of the North Carolina power company that employees have a high school diploma even if there was no intent to use these as discriminatory. Minorities failed the test disproportionately, presumably because of previous educational deprivation. EEOC interprets this decision not only as endorsing its hypothesis of discriminatory effects but as endorsement of realignment. It is in their eyes an endorsement of realignment because the Supreme Court is allegedly rejecting any practice with adverse impact on minorities.

There is one important qualification in the decision, and it is one admitted by EEOC. The Supreme Court does not bar tests or other criteria if those tests and criteria are demonstrably and directly related to job performance. Fair enough. But behind this seemingly major concession are two ploys:

Ploy I: Are we talking about minimum standard performance or about best possible performance? If the former, almost everyone can have almost any job. Other government regulations make it impossible or impractical to dismiss or pressure the less or least able employees.

Ploy II: Any definition of a performance which has adverse impact can be attacked as discriminatory.

These two ploys explain why, from EEOC's point of view, the key test of discrimination is no longer intent to discriminate but an adverse impact. This is what is known as institutional discrimination, or covert discrimination. This concept also provides the missing link to past overt discrimination, since institutional discrimination is alleged to reflect the cumulative effects of past overt discrimination.

For EEOC these cases accomplish the following: First, affirmative action can deal with alleged covert discrimination; second, affirmative action need not confine itself to individuals but can deal with groups; third, affirmative action can seek to engineer realignment. These points are buttressed by an appeal to the Justice Department which has declared:

"The consequences of discrimination are too complex to dissect case-by-case . . . and a [school or employer] dealing with imponderables of this sort ought not to be confined to the choice of either ignoring the problem or attempting the Sisyphean task of discerning its importance on an individula basis."[22]

We have now completed our survey of how the bureaucracy has taken Titles VI and VII—as well as executive orders on affirmative action and the actions of various courts and other bureaucratic agencies—and interpreted and implemented them solely from within the perspective of liberal social engineering. What are we to make of it? I want to argue, and I shall show in the next section, that this is a complete distortion of the law as well as the U.S. Constitution. For the moment I would characterize the operations of the bureaucracy as akin to a group of lawyers who have commandeered fire engines and rushed to a number of buildings. These buildings have been selected because an ethereal smoke is coming out of each. (I say ethereal because not everyone can see the smoke and the alarms have not sounded.) The lawyers then proceed to pour kerosene onto the buildings. When asked why, they respond that "where there's smoke there must be fire." When asked why the use of kerosene, we are told that it is the best they can do for they have no water.

THE ROLE OF THE JUDICIARY

Since *Marbury v. Madison,* the U.S. Supreme Court has claimed the power of judicial review: the power to determine whether laws are consistent with Constitution. This power is exercised with self-imposed restraints. *First,* the court operates with the assumption that the legislature did not "intend" to violate the Constitution. Hence, the burden of proof must rest with the party that sues. The court prefers not to rule on issues of constitutionality if any statute can be interpreted in a manner that will save appearances. *Second,* in order to avoid frivolous suits and constant disruption, the suing party must have a direct and substantial interest in the matter at stake, *Third,* in the name of the separation of powers, the court recognizes that some questions are political and therefore non-justiciable.

If the Court decides to review a case from a lower court it issues a writ of *certiorari*. The petition to grant such a writ must have the support of at least four Justices. In failing to issue a writ, the Court does not routinely provide an explanation. To provide an explanation would in effect be to rule on every case. If the Court fails to issue a writ of *certiorari*, that does not signify that the Court approves of the decision of the lower court. The ruling of the lower court, let us say a federal court, remains effective but only within the geographical limits of that circuit court. It is not national law. It is even possible that the majority of the Supreme Court may consider a lower court ruling in error and still not issue a writ. That is why the law of the land and the dictates of the U.S. Constitution may be determined only by looking to the actual and specific decisions of the U.S. Supreme Court, and not in what it refuses to decide.

We are now in a position to clarify EEOC's systematic distortion of judical action. The key is the definition of affirmative action as underutilization (as determined by statistical survey) and the introduction of goals and timetables to overcome the discrimination implicity measured in the under-utilization. These concepts emerged in 1971. It was in 1971 that the Supreme Court refused to

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Footnotes at end of article.

overrule the decision of the Third Circuit Court in the Philadelphia Plan. EEOC took the denial of a writ of *certiorari* as establishing that court's decision in a specific case as law extending to all cases. Not only is this extension unwarranted in general, but the denial of *certiorari* is specifically claimed by EEOC as endorsing the policy "to grant preferential treatment simply because of racial imbalances that exist in the work force."[23] The statement by EEOC moves back and forth about cases and persistently uses the expression "the courts" almost indiscriminately for federal courts and the Supreme Court. But no decision by the federal courts is the same as a decision by the Supreme Court.

The next distorted case was the Swann decision of 1971. EEOC took the Supreme Court as making realignment the law of the land. On the contrary, if we read the dictum of Chief Justice Warren Burger we encounter the specific rejection of such a concept:

". . . a prescribed ratio of Negro to white students reflecting the proportion for the district as a whole. To do this as an educational policy is within the broad discretionary powers of school authorities; absent a finding of constitutional violation, however, that would not be within the authority of a federal court.[24]

There is a difference between what is permissible voluntarily and what the courts can order in the absence of specific proof of discrimination. Reading this back into the Philadelphia Plan we note that previous discrimination was a factor. Reading this forward to DeFunis and Bakke, we note that such assignments as the Court allows exclude no individual but merely concern assignment to a specific school. DeFunis and Bakke involved exclusions.

The other 1971 case used by EEOC to establish realignment was Griggs. In fact, rather than endorse realignment, the Supreme Court went out of its way to disclaim it and, in addition, to uphold the merit principle.

"Congress did not intend . . . to guarantee a job to every person regardless of qualifications . . . [Title VII] does not command that any person be hired simply because he was formerly the subject of discrimination, or because he is a member of a minority group. Discriminatory preference for any group, minority or majority, is precisely and only what Congress has proscribed. . . . Congress has not commanded that the less qualified be preferred over the better qualified simply because of minority origins. Far from disparaging job qualifications as such, Congress has made such qualifications the controlling factor, so that race, religion, nationality, and sex become irrelevant."[25]

The most that EEOC could validly infer from Griggs was that employers would have to validate or justify any job requirements. Having to tread lightly, EEOC resorted to pressuring employers to institute voluntary goals and timetables. This raised the question of the constitutionality of self-imposed quota systems.

THE QUOTA SYSTEM: DEFUNIS

I use the expression *quota* system in this context because any employer who had validated criteria would not need any specific numerical target. We should recall that we are discussing cases where there is no history or evidence of previous deliberate discrimination.

The first challenge to this voluntarily imposed quota system came in university admissions, not in the job market. Marco DeFunis had been denied admission to the University of Washington Law School, which had a separate admissions procedure and different evaluation criteria for minority applicants. DeFunis raised the constitutional issue by appealing to the Fourteenth Amendment (not Title VI or VII) and claimed that he had been denied equal protection of the laws. A lower court upheld Mr. DeFunis, and the judge, Lloyd Shorett, instructed the University of Washington Law School to admit him. The University did so but appealed the case to the Washington Supreme Court. The latter court reversed the lower court decision. The case was then appealed to the U.S. Supreme Court, although Mr. DeFunis continued to attend the law school. Oral argument was held before the Court on February 26, 1974, but in late April a majority of the Court declared the case moot. That is, it decided not to decide. The reason is simple enough: Since the Court had assurance that Mr. DeFunis would be graduating from the law school, the Court could claim that there was no longer a party with a direct and substantial interest.

Many interested parties were disappointed by the failure of the Court to decide the issue involved. Many tried to make much of the failure to decide, just as others tried to capitalize on the fact that four justices (Justices Douglas, Marshall, White and Brennan) dissented on mooting the case. The latter wished the Court to arrive at some decision. So what did the decision not to decide mean?

Let us confine ourselves to what is purely objective. First, Mr. DeFunis had successfully challenged the University of Washington Law School. Second, one should reasonably infer that mooting was as technically based as it appeared to be. One of the mooters, Justice Blackmun, later voted for realignment in Bakke. Among the dissenters to mooting, Justice Douglas was opposed to realignment. In retrospect from the Bakke case, we can see that three of the mooters (Justices Stewart, Rehnquist, and Burger) would consistently maintain that the issues involved could be resolved without even appealing the U.S. Constitution but by reference to the laws themselves. Third, EEOC had originally issued a brief in support of the University of Washington and against Mr. DeFunis, but Solicitor General Robert Bork (under President Nixon) had requested the Court not to accept the brief. The Court complied.

EEOC could take small comfort in the DeFunis result. Its response consisted of two points: first to cloud the issue, and second to insist that special minority admittees were qualified. This represents an attempt to salvage some vestige of realignment by obscuring the difference between minimally qualified and best qualified. This is in line with the ploys developed in *Griggs*.

"While courts have differed in their view of the constitutionality of affirmative action programs, none has found reason to dispute the representation of the professional schools that the minority students admitted were qualified.[26]

Under the circumstances EEOC is forced to adopt a more defensive posture, arguing that affirmative action is overcoming past discrimination and that such discrimination is inferable from the statistics. Increasing use must be made of statistics because, with the passage of time and the objective working of the Civil Rights Act of 1964, overt cases of discrimination are harder and harder to find. That is why EEOC keeps referring to the Justice Department statement:

". . . it would be an extraordinarily difficult task to require professional schools to substitute for their present programs a case-by-case examination of the impact of discrimination on each minority applicant."[27]

No doubt universities will be heartened by the solicitous concern shown for them by EEOC. But the crux of the matter is that the Justice Department is just another government bureaucracy and not the Supreme Court. The Justice Department neither makes the law nor determines it. We may also question whether the task is difficult and "Sisyphean"—or is it just impossible to make the case? In order to make the case, one would have to prove that statistical underachievement is a direct casual result of previously segregated schools, etc. This is a hypothesis and not a fact. And the one thing that advocates of realignment want to avoid is an open challenge to their hypotheses or even to have them exposed as hypotheses.

The other obvious difficulty that EEOC faces is the explicit mention in Titles VI and VII of individuals and not groups. It is their endeavor to overcome this obstacle that leads to the greatest distortion. Repeatedly EEOC makes use of the 1977 case *International Brotherhood of Teamsters* v. *United States* to claim that the Supreme Court accepts the statistical argument as proof of discrimination. When we examine the actual case record we find, yes, that statistics are allowed, but the qualifications on the statistics are never mentioned by EEOC. Let us note them:

"The Government bolstered its statistical evidence with the testimony of individuals who recounted over 40 specific instances of discrimination . . . individuals who testified about their personal experiences with the company brought the cold numbers convincingly to life. . . . We caution only that statistics . . . like any other kind of evidence . . . may be rebutted. In short, their usefulness depends upon all the surrounding facts and circumstances" . . . statistical evidence was not offered or used to support an erroneous theory that Title VII requires an employer's work force to be racially balanced. . . . 703(j) makes clear that Title VII imposes no requirement that a work force mirror the general population. . . .

". . . figures for the general population might not accurately reflect the pool of qualified job applicants. . . ."[28]

In the part of its judgment that EEOC *fails* to quote, the U.S. Supreme Court has made clear that Title VII will *not* justify realignment. If this were not enough, we may cite an instance where EEOC does quote the exact words of the Court and then offers an interpretation of the words which is consistent with EEOC's own cherished support of realignment—but a ludicrous distortion of the Court's own view.

First the Court: ". . . absent explanation, it is *ordinarily* to be expected that nondiscriminatory hiring practices will in time result in a work force more or less representative of the racial and ethnic composition of the population in the community from which employees are hired. (Italics mine.)"

Then, EEOC: ". . . the most appropriate guide may be found in the Supreme Court's suggestion that absent discrimination, it is to be expected that work forces will be 'more or less representative of the population in the community from which employees are hired." (Italics mine.)

Then, EEOC: ". . . the most appropriate guide may be found in the Supreme Court's suggestion that absent discrimination, it is to be expected that work forces will be 'more or less representative of the population in the community from which employees are hired." (Italics mine.)[29]

Not only is there a very strong difference between "to be expected" and "ordinarily to be expected (for the latter implies all sorts of qualification), but the Court spoke of what might be in the absence of explanation, not in the absence of discrimination. There surely are all kinds of possible explanations for the lack of statistical parity. There are in fact many alternative hypo-

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Footnotes at end of article.

theses, perhaps some with more plausibility than the covert oppression one.

THE SUPREME COURT ON BAKKE

In a case very similar to DeFunis, Alan Bakke sued the Medical School of the University of California at Davis on the grounds that his rejection was an instance of reverse discrimination. Davis had set aside 16 seats out of each class of 100 specifically for minorities. Bakke argued that this violated Title VI of the 1964 Civil Rights Act. He did not raise the constitutional issue but merely referred to specific statutes.

In July 1978, the Supreme Court ruled 5-4 in Mr. Bakke's favor. By the narrowest of margins, the Supreme Court had ruled in no uncertain terms that the Civil Rights Act of 1964 did not condone the interpretation of affirmative action given by EEOC, HEW, and various other government bureaucracies.

Some of the details of the ruling are worth noting. Although a majority ruled in Mr. Bakke's favor, not all members of the majority did so with the same explanation. Four of the justices (Justices Burger, Stewart, Rehnquist and Stevens) ruled on the narrow grounds that Section 601 of the Civil Rights Act of 1964 prohibits reverse discrimination. In their eyes, the statutory grounds were unusually clear. In effect, this bears out what we have so far said about Titles VI and VII. For these men, the mere technicalities of the law are totally at odds with the liberal reading.

The fifth justice who supported Mr. Bakke, Lewis Powell, went even further and decided that the Medical School of the University of California at Davis had violated Mr. Bakke's rights under the Fourteenth Amendment and had thereby denied him the equal protection of the laws.

Justice Powell then joined the dissenting minority (Justices Marshall, White, Blackmun, and Brennan) and formed a second but different majority ruling that a university could continue to take race into account in admissions decisions, even at the graduate level. This decision reversed the California Supreme Court, which had upheld Bakke but had forbidden the university to use its discretion on admissions.

Perhaps the most remarkable thing to emerge from this split was the attempt of the liberal elements in the media to present Justice Powell's moves as a compromise and to minimize the extent to which the Court's decision undercut affirmative action. Even a cursory reading of the opinions will show how untenable such a feat of legal engineering is.

The basic facts are:

(1) Justice Powell's support of Mr. Bakke was more sweeping than that the other justices because he anchored his support in the Constitution.

(2) Justice Powell's reasons for the second decision (taking race into account) is totally at odds with the reasons given by the "minority four" and provides no support whatsoever for a liberal reading.

(3) A careful reading of his decision will reveal that it is both a point-by-point rebuttal of the Brennan interpretation (for the "minority four") and an uncompromising and explicit rejection of realignment.

To begin, Justice Powell reiterated that the law and previous Supreme Court decisions were directed toward overt instances of oppression: ". . . we have never approved preferential classifications in the absence of proven constitutional or statutory violations. . . ." Moreover, the overt instances of discrimination can only be against individuals. "We have never approved a classification that aids persons perceived as members of relatively victimized groups at the expense of other innocent individuals. . ."

Justice Powell then goes on to reject the hypothesis of covert oppression as unsubstantiated. Here he makes clear his differences with the "minority four" in words that come close to accusing them of distorting the constitution.

". . . I disagree with much that is said in their opinion.

"They would require as a justification for a program such as petitioner's, only two findings: (i) that there has been some form of discrimination against the preferred minority groups 'by society at large' . . . and (ii) that "there is reason to believe" that the disparate impact sought to be rectified by the program is the 'product' of such discrimination. . . .

"The breadth of this hypothesis is unprecedented in our constitutional system. The first step is easily taken. . . . The second step, however, involves a speculative leap: but for this discrimination by society at large, Bakke 'would have failed to qualify for admission' because Negro applicants . . . would have made better scores. Not one word in the record supports this conclusion."

On the basis of the foregoing, Justice Powell concludes that anything like realignment is constitutionally unacceptable.

". . . the plurality offers no standards for courts to use in applying such a presumption of causation to other racial or ethnic classifications. . . .

"There is no principled basis for deciding which groups would merit 'heightened judicial solicitude' and which would not. . . . This kind of variable sociological and political analysis necessary to produce such rankings simply does not lie within the judicial competence even if they otherwise were politically feasible and socially desirable."

Finally, Justice Powell stresses that we must not sacrifice principle to expediency. To drive home this point in the most dramatic fashion, he quotes back in ironic fashion the very words of Archibald Cox (of Watergate fame) and the attorney for the anti-Bakke camp:

"In expounding the Constitution, the Court's role is to discern 'principles sufficiently absolute to give them roots throughout the community and continuity over significant periods of time, and to lift them above the level of the pragmatic political judgments of a particular time and place.' "

One other element in his position is worth stressing: the meaning of the Court's decision for the bureaucracy. The University of California at Davis Medical School did not carefully formulate its quotas but rather uncritically accepted them from HEW and EEOC, and the latter are acting unconstitutionally in formulating such quotas.

". . . isolated segments of our vast governmental structures are not competent to make those decisions at least in the absence of legislative mandates and legislatively determined criteria."

In words reminiscent of the old Anglo-Saxon legal principle that people are innocent until proven guilty, Justice Powell dwells on the meaning of EEOC's favorite phrase, "good faith":

"In short, good faith would be presumed in the absence of a showing to the contrary in the manner permitted by our cases."[30]

BUREAUCRATIC REACTION

And what is the bureaucratic reaction to this stunning defeat?

U.S. Attorney General Griffin Bell: "This is the first time the Supreme Court has upheld affirmative action, and it has done it in about as strong a way as possible."[31]

HEW Secretary, Joseph Califano: ". . . strongly supports this nation's continuing effort to live up to its historic promise—to bring minorities and other disadvantaged groups into the mainstream of American Society through admissions policies that recognize the importance of diverse, integrated educational institutions."[32]

EEOC head Eleanor Holmes Norton: "My reading of the decision is that we are not compelled to do anything differently from the way we've done things in the past, and we are not going to."[33] The following was reported in the Los Angeles Times:

"Mrs. Norton said the EEOC had found 'several indications' in the opinion by Justice Lewis Powell 'that we may continue to set numerical targets' for the hiring of women and members of minorities. . . . 'virtually everything we do falls under the rubric of congressionally authorized actions,' which Justice Powell's opinion appeared to uphold."[34]

The Bakke decision represents a temporary setback for those liberals who seek realignment. One vote would have completely changed the course of America. The "minority four" of Justices Brennan, White, Blackmum, and Marshall explicitly accepted the concept of realignment. When one recalls, that Justices Burger, Powell, Rehnquist, and Stevens were appointed by Presidents Nixon and Ford, all since 1969, it is easy to imagine that had Hubert Humphrey won election in 1968, the Court would have had a completely different complexion. There is yet hope for the future. After all, *Brown* v. *Board of Education* in 1954 reversed *Plessy* v. *Ferguson* (1896). A future court may reverse Bakke.[35] In the meantime, at the bureaucracies it is business as usual.

The amount of behind the scenes political pressure that was exerted on members of the Supreme Court in order to salvage some symbolic vestige of affirmative action in the Weber case came close to exceeding the traditional norms of propriety. Some would say that the pressure *did* exceed the bounds and was a kind of affront to the dignity of the Court. Some hint of this outrage is gained by reading Rehnquist's eloquent dissent, a dissent in direct line with the famous dissents of the Holmes & Brandeis tradition. It establishes beyond the shadow of a reasonable doubt that Justice Brennan and his concurring brothers have not a legal leg to stand on. Justice Rehnquist rightly ridiculed the pretext that Title VII does not require preference but permits it; and then went on to denounce this verbiage as more appropriate to Orwell's description of *1984* than to a Supreme Court decision.

How then do we explain or understand the decision? Justices Powell and Stevens withdrew from the case, and Justice Potter Stewart joined the "minority four." The wording of the decision was careful enough to avoid compromising Justice Stewart's position on Bakke. The Weber case did not deal with new jobs; the agreement was temporary; there was no commitment to maintaining racial balance; and no decision on defining what is permissible affirmative action. The original 5–4 split in the Court has resurfaced in the 1980 decision that faculty at private universities are not employees, but part of management. Finally, it occurs to me that Justice Burger is correct in suggesting that this issue could be best handled by the legislature, but enough has been said here to indicate why that will not happen.

What is important about Brian Weber is that he is a tragic, if ironic, casualty of problems indigenous to unionism. Under pressure from their own liberal attorneys, the union accepted the arrangement. As is typical of most unions, it operates with seniority, not merit, and enshrines the principle that the least productive worker is the common denominator. Under these circumstances it is difficult to make the case that it really matters who gets to this force, and too many academicians value peer review enough to blow the whistle on affirmative action. It is regrettable that blue-collar workers have no spokesman for the dignity of their skills.

FOOTNOTES

[1] This paper was written during my tenure as a national fellow of the Hoover Institution at Stanford University. I owe special thanks

to Sidney Hook, Jack Bunzel, Paul Seabury, and Miro Todorovich.

[2] Namely, the belief that oppressed peoples are victims of circumstances beyond their control, and this dictates that government must intervene to liberate them.

[3] Humphrey (110 *Cong. Rec.* 12723).

[4] Williams (*ibid.*, 1433).

[5] Clark and Case (*ibid.*, 7213, 7218).

[6] The very first use of the phrase "affirmative action" goes back to the Labor Relations Act of 1935. It required employers who had engaged in anti-union acts of intimidation to notify employees that those acts were illegal and discontinued. The first relevant executive order, No. 8802, was issued in 1941 by F. D. Roosevelt, ordering an end to discrimination in defense industries. In 1961, President Kennedy issued executive order No. 10925, prohibiting job discrimination among contractors doing business with the Federal Government. In that order he used the expression "affirmative steps" to direct contractors to actively recruit and encourage minority participation.

[7] Order No. 4 (Title 41, *C.F.R.*, 60–1.40).

[8] Underutilization (41, *C.F.R.*, 60–2.11).

[9] U.S. Commission on Civil Rights, *Statement on Affirmative Action*, Oct. 1977. Clearinghouse Publication S4. This document reflects the consensus among several departments, most notably EEOC and the Office for Civil Rights, U.S. Department of Health, Education, and Welfare.

[10] *Ibid.*, pp. 1–2.

[11] *Ibid.*, p. 12.

[12] *Ibid.*, p. 2.

[13] *Ibid.*, pp. 7–8. This is a quote from *Rios* v. *Steamfitters Local 608*, 501 F.2d at 631–32.

[14] Celler (110 *Cong. Rec.* 1518).

Two subsequent attempts were made in Congress to clip the wings of bureaucratic abuse. In 1976, the House passed an amendment to an education bill which specifically prohibited the HEW secretary from requiring "the imposition of quotas, goals, or any other numerical requirements on the student admission practice of an institution of higher education . . . receiving Federal funds." The Senate balked but went along with a compromise measure specifically addressed to the benign torture of holding up money.

In 1977, the House tried an even stronger provision but the Senate rejected it altogether. Congress has two houses, one of which (The House) is opposed to realignment, and one of which (The Senate) condones it. It is no coincidence that the more democratically representative House is opposed, while the less democratically representative Senate is in favor or at least not opposed. The moral of this story is that it is easier to make a law than it is either to unmake it or prevent its abuse. (123 *Cong. Rec.*, 6106).

[15] *Statement on Affirmative Action*, p. 2.

[16] In the first chapter of *Affirmative Discrimination*, Nathan Glazer discusses the problem of liberal disagreement over the "direction" of legislative history.

[17] *Statement on Affirmative Action*, p. 1.

[18] Thomas Hobbes introduced the idea that life is a race. This is the origin of liberal teleology. President Johnson's "Shackled Runner" speech (1965) expressed the notion that social engineering can restore each runner to the place he would have had, absent external constraint. This is what is meant by *realignment*. When running for the presidency in 1968 Humphrey also came out for "equal results" and "taking race into account."

[19] Quoted from Times, (July 10, 1978), p. 25.

[20] *Statement on Affirmative Action*, p. 6.

[21] *Ibid.*, p. 11.

[22] *Ibid.*, p. 5.

[23] *Ibid.*, p. 6.

[24] Burger, *Swann* 402 U.S. 1 (1971), p. 16.

[25] *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971).

[26] *Statement on Affirmative Action*, p. 8.

[27] *Ibid.*, p. 10.

[28] *International Brotherhood of Teamsters* v. *United States*, 97 S.Ct. 1843, 1856–57 (1977).

[29] *Statement on Affirmative Action*, pp. 2, 8.

[30] Powell, *New York Law Journal*, Thursday, June 19, 1978, pp. 21–26.

[31] *Time, op. cit.*, p. 23.

[32] *Ibid.*

[33] *Ibid.*, p. 24.

[34] *Los Angeles Times*, July 6, 1978.

[35] The Weber case does not constitute a reversal of Bakke. It does not in any way permit EEOC to impose quotas and it does not legitimate realignment. Technically, the case concerns the voluntary self-imposition of quotas by private business and unions.

Having said that much, I must agree with Justice Rehnquist's opinion that even that voluntary policy is inconsistent with Title VII.

Mr. HATCH. Mr. President, Prof. William Van Alstyne, professor of law at Duke University, recently published in the University of Chicago Law Review (vol. 46, p. 775) a commentary on the Supreme Court's long history of vacillation on racial issues. He described its progress through two "rites of passage," first condoning and then subsequently condemning race-conscious legislation. Now, he said, again writing before the Fullilove decision, it is apparently beginning a third transition, to a race consciousness benefiting powerful minorities. Professor Van Alstyne is a lawyer of the first distinction who was once an attorney concerned with civil rights in the Justice Department. He has been involved with the American Civil Liberties Union for many years, and has served on its national board of directors. His testimony that current affirmative action activity is an inversion of the philosophy of the civil rights movement is thus doubly valuable.

I ask unanimous consent that his article, "Rites of Passage," be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RITES OF PASSAGE: RACE, THE SUPREME COURT, AND THE CONSTITUTION

(By William Van Alstyne†)

From 1619[1] to 1979, the regulation and allocation of rights according to race has been among the most troubling uses of government in the United States. Entrenched in the Constitution of 1787[2] and sustained by the Supreme Court in 1857,[3] the original uses of race proved to be nationally intolerable and were overthrown by the Civil War. The enormous alterations resulting from that War were partly memorialized in three amendments to the Constitution, between 1866 and 1870. These effectively overrode the still extant provisions from the "accommodations" of 1787. They also provided the new text, which, from that time to this time, has fixed the ground of controversy respecting regulation by race. They are, of course, the thirteenth, fourteenth, and fifteenth amendments.

The first of these amendments prohibits all forms of involuntary servitude and allows Congress an ample power to police that ban through federal law.[4] The fourteenth amendment is far more lengthy than the thirteenth, but in its most essential parts it establishes a constitutional definition of citizenship and forbids the states to abridge the incidents of national citizenship. It also forbids the states to deny equal protection to any person or to deprive any person of life, liberty, or property "without due process of law," and it vests in Congress an ample power to enforce these protections.[5] The last—the fifteenth amendment—is more limited: it more explicitly protects the right to vote from abridgement "on account of race, color, or previous condition of servitude," again concluding with a section vesting in Congress ample power to vindicate that protection.[6] The extent to which these three amendments enacted a color-blind restriction on the recurring temptation of government to regulate or allocate by race, however, was a question plainly not settled between 1866 and 1870. It remains unsettled even now.

At one level, the sheer stamina of the question, despite the passage of a century's opportunity for its resolution, is not surprising. The texts of these amendments are sufficiently unspecific that, even in the aggregate, with their obvious connections with one another and with the Civil War, they compel no single answer. Similarly, the welter of accompanying legislative history is amenable to more than one reasonable perspective. That people should disagree, and that mutually earnest scholars do disagree, is, therefore, rather to be expected even at this very late date.[7] The materials of enlightened constitutional interpretation permit us, I think, to treat the Constitution as repudiating the propriety of regulating people by race or allocating among people by race, but they do not compel that conclusion. It is oddly a matter of what we might wish to make of it. It has always been this way.

What is less explicable, at least to nonlawyers, is that after a century of periodic judicial review there is still no formal resolution of the question. And this seems very odd. Laws regulating on the basis of race were in existence before the Civil War amendments were adopted; many were judicially examined in litigation prompted by the passage of these amendments. Other laws regulating on the basis of race were enacted after ratification of all three amendments, and still others are tenaciously put forward today; many of these have similarly been tested in the Supreme Court.[8] One would surely suppose that, for judicial purposes at least, so old and so obvious an issue would long ago have been settled to provide us with some steady impression of the extent to which government may regulate or allocate by race. But it is not so.

Rather, the Supreme Court has itself gone through two quite distinct rites of passage. Now—in the "minority contractors" case,[9] before the Court this fall—it is considering still another. And what many had misled themselves into supposing had been the clear, best resolution of this matter during the last generation, is on the edge of turning over once again.

In the past, the consequences of admitting race-based laws as a proper constitutional foundation for regulating and allocating have been overwhelmingly dismal. Race-based laws have so generally tended to yield by-products and side effects so vastly more divisive and wretched than the benefits that were supposed to be forthcoming, moreover, that a Court originally not predisposed to veto racial experiments subsequently reversed itself—despite the popular anger and resentment that were certain to follow. Now, however, having virtually captured the public morality after twenty-five years of leadership on this question, the Supreme Court is being importuned to let loose of it once again.

On the confident assurance that there are still important uses for race-based laws in the more perfect ordering of this society, the Court is invited into yet another rite of passage. The suggestion, which is not new but

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which was always a feature of even the oldest race-based laws, is that it is not the regulating or allocating by race that is wrong or too risky per se; it is, rather, who is thus regulated, what is thus allocated, what motivates the arrangement, and what time frame should be followed.

My own view of the matter is that the Court is being asked to permit not racial rectification (in reviving the licitness of race as an explicit device of government) but racial repetition.[10] I think it likely, moreover, that if the Court yields once again to the Lorelei, racism, racial spoils systems, racial competition, and racial odium will be fixtures of government in the United States even into the twenty-first century. My reasons for feeling this way are not original. Generally, moreover, they are not shared by the majority of constitutional law professors who have written on this subject.[11] Even so, the sense of anxiety that what is now adrift before the Supreme Court deserves some added thought before it passes into history provides the occasion for these notes.

I. EARLIER RITES OF PASSAGE

> "The lesson of the great decisions of the Supreme Court and the lesson of contemporary history have been the same for at least a generation: discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong, and destructive of democratic society."
>
> ALEXANDER M. BICKEL.[12]

This has been the lesson of "the great decisions" and of contemporary history. It is not the "holding" of a particular case; it is, as Alexander Bickel said, the lesson of the great decisions, a lesson it required nearly eighty years of temporizing for the Supreme Court itself to absorb.

A. The original interpretation

The first passage for the Court came with the immediate adjudication of race-related cases on the heels of the Civil War amendments. With the exception of a few notable cases striking down the most egregious race regulations,[13] the Supreme Court adopted a wholly tolerant and deferential rendering of all three amendments, imputing to them only the most modest consequences.[14] Federal statutes flatly forbidding racial discrimination by commercial enterprises were held to be excessive, as acts of an unwarranted colorblind zeal. The thirteenth amendment would not sustain them, because mere commercial refusals to deal with people on racial grounds were regarded by the Court as too far removed from involuntary servitude. The fourteenth amendment provided no basis for such legislation, moreover, because that amendment reached only the government's own denials of equal protection, not those of private, commercial parties. The fifteenth amendment was not useful, of course, as it dealt solely with voting. The cases so disposing of this matter, decided by the Supreme Court in 1883, were ironically entitled *The Civil Rights Cases*.[15]

When regulation by race was the government's own, rather than the practice of private parties, the Court's decisions were nearly as tolerant of legislative discretion as they had been of commercial discrimination in *The Civil Rights Cases*. Allocation by race was not per se forbidden by the Constitution, the Court held, as the consideration of race might be thought by many reasonable persons as sometimes germane to a variety of important social concerns. Thus, the question was not whether political bodies regulated on the basis of race; it was the different question whether the particular regulation by race was constitutionally "reasonable."

The Court's view—that the laws would be sustained if "reasonable"—genuflected to the wisdom of legislative bodies to sort out good from bad uses of race; the Court quite readily acquiesced in disclaimers that the fourteenth amendment meant no across-the-board foreclosure of such experiments. Regulation by race was not condemnable or censurable as such; only unfair, one-sided, or unevenhanded race regulation or allocation was forbidden. If individuals could be equally protected, albeit racially regulated, then nothing in the command or ethos of the fourteenth amendment was deemed to deny the use of racial classification to the body of American politics.

This view of the matter steadily developed between 1873 and the twilight of the 19th century. It was cemented in 1896 in the "separate-but-equal" decision of *Plessy* v. *Ferguson*.[16] The decision upheld a state law requiring separate passenger cars for white and for black riders:[17] neither was worse off than the other in the quality of accommodations to be furnished to each; neither was more or less protected than the other (rather, each was equally protected) by the racial regulation a legislative body deemed reasonable in the public interest.

There was but one dissent that took a less measured view and would have imposed upon the fourteenth amendment a more categorical imperative. Less flexible than others on the Supreme Court at the time, Justice Harlan was prepared to read into the Civil War amendments what was, to be sure, neither explicitly provided by their terms nor compelled by their compromised legislative history. Proceeding from a more basic premise than that either of these considerations necessarily controlled the matter, Harlan put his finger on the lessons of his own contemporary history. Prior to the Civil War amendments, race was the basis on which status had been determined, worth assigned, entitlements settled, and legal rights measured. It had been iniquitous from the very beginning, and it subsequently proved to be a disaster for the entire country. He believed the enactment of the Civil War amendments should therefore be construed by the Court as altogether disallowing it. Government could not determine worth, assign entitlements, or measure legal rights by race *at all:*

> The law regards man as man, and takes *no* account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved. . . .
>
> . . . The destinies of the two races, in this country, are indissolubly linked together, and the interests of both require that the common government of all shall not permit the seeds of race hate to be planted under the sanction of law. . . .
>
> The sure guarantee of the peace and security of each race is the clear, distinct, unconditional recognition by our governments, National and State, of every right that inheres in civil freedom, and of the equality before the law of all citizens of the United States *without regard* to race.[18]

The point of emphasis here is fundamental. It is not that when race is used, all persons identified to each race must be as well regarded as all persons identified to some other race.[19] The thing condemned is not that members of each race must be "equally" protected under laws distinguishing them by their race, nor that they are assigned entitlements unequally on the basis of race. The thing condemned, rather, is the assignment of entitlements by race. It is the impropriety of the *basis* of assignment, not the modicum thus assigned, that constitutes the government's offense:

> These notable additions to the fundamental law [the thirteenth, fourteenth, and fifteenth amendments] were welcomed by the friends of liberty throughout the world. *They removed the race line from our governmental systems.*[20]

The Harlan opinion passed into history at the time, an artifact of mere dissent, discredited by the dominant view that the fourteenth amendment had not withdrawn from legislative bodies a political license to regulate by race. The outcome of the case was taken quite seriously, moreover, as legislatures enacted an ever-enlarging sprawl of race-based laws.[21] Indeed, a half-century later, the dominant legislative response to *Brown* v. *Board of Education*[22] was one of fury, precisely on this account. For however the Court might phrase the apologetics of that decision,[23] the message as it appeared from the outside was that what was not previously understood to be unconstitutional was now accused of being unconstitutional after all: the use of race to allocate—albeit equally—those facilities deemed most appropriate for persons of that race.

B. The second rite of passage

In the swift consecutive series of per curiam decisions issued by the Supreme Court during the two years following *Brown*, the Court made no further use whatever—indeed, it made no inquiry—as to whether the particular race regulation disadvantaged some more than others. Neither did it ask whether the law stigmatized some more than others, or whether the law was enacted by whites and opposed by blacks, enacted by consent of some of each and opposed by many of each, or whatever.[24] Rather, that line of per curiam decisions appeared more completely to enact Harlan's view that the Civil War amendments altogether "removed the race line from our governmental systems."

Between 1955 and 1976, moreover, virtually every other race-related decision by the Supreme Court appeared to convey this same message. To the reasonably discerning, this appeared true even in instances involving highly controversial judicial decrees that paired racially identifiable schools, redrafted attendance lines, or mandated busing. In each instance, the fulcrum of judicial leverage was an *existing governmental* race line, which the particular judicial order sought to remove.[25] The object was thus to dis-establish particular, existing uses of race, not to establish new ones. Indeed, decrees that would subsequently presume to require race-conscious decisions for any other purpose, for example, to maintain "proportions" or "balances" by race designation, were swiftly reversed.[26]

This second rite of passage was accompanied by consistent developments in the 1960s in the Supreme Court and then, encouragingly, in Congress and the Executive Branch as well. For the Court's part, long dormant Reconstruction statutes were revived and given a reinvigorated and uniformly race-blind application. An early Act of Congress had provided that all citizens shall have "the same" right as white citizens to acquire and to hold real and personal property.[27] It was applied to disallow race-based refusals to deal in real estate, even in the private sector.[28] A Related Reconstruction Act provided that all persons shall have the same right as white citizens to make contracts.[29] It was similarly read to disallow race-based refusals to contract.[30] In 1976, when a commercial employer treated an employee worse than another because of his race (this time the less favored employee was white and the more favored black), the Court held to the same view: "[T]he Act was meant, by its broad terms, to proscribe discrimination in the making or enforcement of contracts against, or in favor of, *any race*."[31]

Similarly, in adopting the omnibus Civil Rights Act of 1964, Congress appeared to regard the matter likewise: the race line was to be removed altogether. Title VI of that Act, applicable to all programs receiving federal financial assistance, states: "*No* person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under

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any program or activity receiving Federal financial assistance."[32] And Title VII, applicable to all large scale employers, provides:

> It shall be an unlawful employment practice for an employer—
>
> (1) to fail or refuse to hire or to discharge *any* individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin . . .[33]

Addressing the meaning of this provision in 1971, in the first case to come before it for review, the Court, in a unanimous opinion by Chief Justice Burger, said that "[d]iscriminatory preference for *any* group, minority or majority, is precisely and only what Congress has proscribed."[34]

Conformably, the Executive Branch of the national government appeared to understand matters in the same fashion. For in cutting and revising an Executive Order that regulated enterprises doing business with the federal government, the President framed the Order itself precisely and exclusively in terms of strict nondiscrimination. Federal contractors were advised to review their practices to determine whether, if even by neglect, racial discrimination figured in their businesses; if it did, the contractors would have to take affirmative action—to *eliminate* that racial discrimination and to insure that *no* racial favoritism was built into their operations. Thus, the revised Executive Order required the insertion of the following provision in most government contracts:

> The contractor will not discriminate against *any* employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment *without regard to their race*, color, religion, sex or national origin.[35]

In light of these several developments, it should have come as no surprise that in 1974, in the first case that came before the Supreme Court involving race lines deliberately drawn to place a racial disadvantage on white applicants—drawn out of fear that if no such disadvantage was imposed upon them, then fewer non-white individuals might be admitted than the faculty of a state university preferred to have—the one Justice of the Supreme Court who addressed the merits of the case said this:

> A DeFunis who is white is entitled to no advantage by reason of that fact; nor is he subject to any disability, no matter what his race or color. . . .
>
> * * * * *
>
> . . . The Equal Protection Clause commands the elimination of racial barriers, not their creation in order to satisfy our theory as to how society ought to be organized. . . .
>
> . . . So far as race is concerned, *any* state-sponsored preference to one race over another . . . is in my view "invidious" and violative of the Equal Protection Clause.[36]

Justice Douglas then directly addressed the law school's contention that the race-preferential admission of some students would be a salutary way of producing a larger complement of such racially identifiable professionals more likely to practice in racially identifiable communities; he rejected the propriety of the very idea underlying that contention: "The purpose of the University of Washington cannot be to produce black lawyers for blacks, Polish lawyers for Poles, Jewish lawyers for Jews, Irish lawyers for Irish. . . . That is the point at the heart of all our school desegregation cases."[37] And neither was Justice Douglas persuaded that the deliberate selection of students by race, to produce a given cohort of racially identified students known to have been admitted with less excellent qualifications than the balance of the students, was by any means the gesture of generosity it purported to be. A segregated admissions process that seeks certain minimum proportions of racial cohorts, he said, "creates suggestions of stigma and caste no less than a segregated classroom, and in the end it may produce that result despite its contrary intentions."[38]

The refusal to permit rationing of opportunity according to the fortuity of racial proportion was not a novelty invented by Justice Douglas. In 1949, the Supreme Court had reviewed a case arising in California where public policy had already forbidden racial discrimination in private employment.[39] A racial group nonetheless brought economic pressure to bear upon an employer to disregard that policy and to hire employees "not on fitness for the work nor on an equal right of all, regardless of race, to compete in an open market, but, rather, on membership in a particular race."[40] The state supreme court granted an injunction to forbid picketing meant to induce racial hiring in proportion to the racial identification of customers. The court had observed: "If petitioners were upheld in their demand then other races, white, yellow, brown and red, would have equal rights to demand discriminatory hiring on a racial basis."[41] But the state supreme court said "it was just such a situation—an arbitrary discrimination upon the basis of race and color alone, rather than a choice based solely upon individual qualification for the work to be done—which we condemned"[42] in disallowing racial discrimination by employers in the first place. The Supreme Court unanimously affirmed the state court decision.[43]

Even when the sole use of race by government was to suggest that race is at least an important political datum—the government itself not presuming to say of what kind of significance—the Supreme Court disallowed the mere encouragement to be "race conscious." A case that expresses that view as well as any other case was *Anderson* v. *Martin*,[44] decided succinctly and unanimously in 1964.[45] The case involved a state statute that facilitated voter information respecting the racial identification of each candidate for local public office—by designating each candidate's race on each ballot accurately and truthfully. Voters who might think that datum germane (as a white person to vote white, a black to vote black, a white to vote black, a black to vote white—as each might see a different, but steadfast significance in the idea) could hardly be kept from using it even in the absence of such specific ballot information. As the ballot designation by state law was nonetheless thought objectionable, it could not have been because any candidate was exempt from it, since all were equally subject to it. It must have been, rather, that each was being *individually* disadvantaged insofar as the state thought it appropriate to encourage voters to attribute at least *some* significance to every candidate's race—and that the morality of the Civil War amendments was opposed to the very idea of such encouragement. And this, indeed, was the foundation of the decision in *Anderson* v. *Martin:* not that a black candidate in particular might be victimized insofar as the state's "truth in candidacy" statute would gratuitously stimulate white bloc votes, but that the state could not thus encourage such racial disadvantaging of *anyone*, white or black.

> [B]y placing a racial label on a candidate at the most crucial stage in the electoral process—the instant before the vote is cast—the State furnishes a vehicle by which racial prejudice may be so aroused as to operate against one group because of race and for another. This is true because by directing the citizen's attention to the single consideration of race or color, the State indicates that a candidate's race or color is an important—perhaps paramount—consideration in the citizen's choice, which may decisively influence the citizen to cast his ballot along racial lines. Hence in a State or voting district where Negroes predominate, that race is likely to be favored by a racial designation on the ballot, while in those communities where other races are in the majority, they may be preferred. The vice lies not in the resulting injury but in the placing of the power of the State behind a racial classification that induces racial prejudice at the polls.
>
> . . . We see *no relevance* in the State's pointing up the race of the candidate as bearing upon his qualification for office.[46]

Race has "no relevance"? That could not have been the Court's literal understanding, as the Court knew that vast numbers of people regarded the race of political candidates as being not merely "relevant" but conclusive. Rather, its meaning was that race has "no proper relevance" for the state. The connection with the original Harlan dissent in *Plessy* v. *Ferguson* seems self-evident: "[T]he Constitution of the United States," he had declared, "does not, I think, permit *any* public authority to *know* the race of those entitled to be protected in the enjoyment [of civil rights, common to all citizens]."[47] The state may neither use race in its own business nor may it encourage others to take it into account. Both are equally divisive and equally wrong.

Following almost at once on *Anderson v. Martin*, moreover, the Supreme Court had cemented its judgment that the fourteenth amendment foreclosed government from encouraging—much less compelling—individuals to treat some better than they treated others because of their race. It did so in *Reitman* v. *Mulkey*.[48] In that case, the court struck down a provision in a state constitution establishing the absolute right of each property owner to sell or lease his property as he might personally, "in his own absolute discretion,"[49] choose. As thus enshrined in the California constitution, the personal right to consider the race of others was equally as available to a developer preferentially selling or leasing to blacks as to a developer preferentially selling or leasing to whites. It was equally available as well to one desiring to use race to develop and to maintain an integrated racial balance in a given group of apartments. It was also available to black owners who wished not to deal with whites at all but who were resolved to reserve disposition of their property for persons of other races whom they might think to be more deserving—as it was available for every other imaginable permutation of racial dealing. But the strict indifference of the state constitutional privilege—its perfect governmental "neutrality" toward all racially predisposed private landowners—failed to save it under the fourteenth amendment. Rather, the California and United States Supreme Courts both held it to be a constitutional wrong for a state to encourage persons to act on racial grounds at all:

> The right to discriminate is now one of the basic policies of the State. The California Supreme Court believes that the section [of the state constitution guaranteeing that right] will significantly encourage and involve the State in private discriminations. We have been presented with no persuasive considerations indicating that these judgments should be overturned.[50]

In this twenty-year pattern of development, from 1954 to 1974, the Supreme Court's unambiguous "lesson" thus seemed to be that race was indeed constitutionally withdrawn from the incorrigible temptations of governmental use. The commitment was sufficiently strong, moreover, that the Court departed from its usual practice and struck

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Footnotes at end of article.

down even surreptitious attempts by government to regulate or to allocate by race—though of course only when it was within the capacity of the judiciary to detect the matter.[51] The resolve to do so, despite the obvious difficulties, was a very old one. Even prior to *Plessy* v. *Ferguson*, furtive efforts by government to employ race impermissibly had been overturned by the Supreme Court.[52] The Court had readily recognized that any "irrebuttable presumption" of legislative good faith in these matters would be a disaster: the proclivity for race favoritism is so persistent that, unless the Court examined outside evidence that that proclivity did in fact account for the government's actions, the government would be encouraged to pursue its racial preferences in simple disguise. Thus, the Civil War amendments were held to nullify "sophisticated as well as simple-minded modes of discrimination."[53] As a consequence, if the metes and bounds of a municipal boundary were modified to enact the legislature's racial preferences, they would not stand.[54] And if ostensibly appropriate government employment standards could be shown to have been adopted because their application across-the-board would screen out larger numbers of racially identifiable persons than the law-makers desired to have from that race in their work force, the employment standard would be expunged.[55]

Thus the lesson of the great decisions is, as Bickel said, not merely that regulation and allocation by race are wrong. Rather, the message is commendably even stronger. Laws that divide and index people to measure their civil rights by race are unconstitutional. Laws that encourage others to do so are similarly invalid. And laws attempting to advance either policy even in disguise will likewise be struck down whenever it is within the capacity of conscientious courts to see beneath their cellophane wrappers.[56]

II. OF TELEOLOGY AND DEONTOLOGY IN CONSTITUTIONAL LAW: FLIMFLAMMING THE SUPREME COURT

> "Now this is to be unlearned and we are told that this is not a matter of fundamental principle but only a matter of whose ox is gored. Those for whom racial equality was demanded are to be more equal than others. Having found support in the Constitution for equality, they now claim support for inequality under the same Constitution."
>
> Alexander M. Bickel.[57]

> "If discrimination based on race is constitutionally permissible when those who hold the reins can come up with "compelling" reasons to justify it, then constitutional guarantees acquire an accordionlike quality."
>
> Justice William O. Douglas.[58]

> "It seems trite but necessary to say that . . . our Constitution was designed to avoid these ends by avoiding these beginnings."
>
> Justice Robert H. Jackson.[59]

At the time of *Plessy* v. *Ferguson*, the question before the Supreme Court in school segregation cases was whether state statutes requiring racially separate schools were constitutionally impermissible. For Justice Harlan, as we have seen, the question was easily answered. He insisted that the Civil War amendment had removed the race line as a basis of governmental action, and as the arrangement at issue—segregation—indubitably rested on the race line, it *was* constitutionally condemned. For the other Justices, however, as we have also seen, the question was by no means as readily answered. They did not suppose that the Civil War amendments had removed the race line as a predicate for governmental regulation or allocation; they asked, rather, whether the particular use of the race line was "reasonable." And, as we know, they concluded that it was.

Others, troubled by the frequency with which race lines were used deleteriously, have thought that the proper perspective is somewhere in between.[60] They could construe the Civil War amendments as evincing at least a rebuttable constitutional skepticism about the use of racial classifications. Thus, it has been suggested that the appropriate judicial attitude is one similar to that assumed with respect to prior restraints on speech:[61] laws utilizing the race line should be subject to a rebuttable presumption of unconstitutionality and nothing less than a compelling, or at least a very substantial, articulated public purpose should suffice to sustain them.[62] Despite Alexander Bickel's own notions respecting the lesson of the "great decisions," most who work with this subject think that, in fact, this is a more accurate description of the Supreme Court's current position.[63]

Suppose, however, we were to assume that this very formulation had itself been established and popularized prior to the date of *Plessy* v. *Ferguson*.[64] In that event, given the formulation of the question presented above, what would the Court's decision have been in our hypothetical *Plessy* v. *Ferguson* school case? Two approaches are possible. The first would interpret the Civil War amendments as requiring that laws using race lines not only be well connected to substantial (or even "compelling") public purposes, but that such purposes themselves be "articulated" on the face of the law in question.[65] Unless the legislature providing for racially separate schools declared such a purpose, then, the law must, a fortiori, be held invalid. But if, on the other hand, an articulated purpose is not required, then we are not yet in a position to determine whether the law using a race line overcomes the rebuttable presumption of unconstitutionality. Assuming that such a law must indeed be well connected to some very substantial public purpose, albeit the purpose need not be stated on the face of the law, it remains to be seen whether those called upon to explain the law will carry their burden of justification in court. If, but only if, the particular race line can be shown by them to be well connected with a very substantial public purpose is it to be sustained.

Under either view—that the law must on its face articulate the compelling public good it serves, or that those with the burden of justifying it must demonstrate its well-fitted connection with such an imperative public good—we may suspect that we already know the outcome of *Plessy* v. *Ferguson:* namely, that the law will most certainly be held invalid. But this conclusion may be incorrect; we must have supposed that no compelling public good *can* be well connected with such a law. Alternatively, we must have supposed that even if such a public purpose could (as an exercise in theory or imagination) be so connected, nevertheless it was not *in fact* connected with *that* law. Neither is necessarily correct. To act categorically on such suppositions is not to abide by the constitutional standard hypothetically formulated and popularized. Rather, it is to act on a flat, per se rule, albeit of a rather limited kind, that "no law requiring racially separate schools is constitutional." But this, of course, our more sensitive, less dogmatic, and more judicious standard of constitutional review forbids—although, in fact, it is exactly what the Supreme Court did in virtually all of the post-*Brown* per curiam decisions invalidating "separate-but-equal" laws. Our commitment to the flexible standard requires that we consider the matter further.

If the standard required that a very substantial public purpose appear on the face of the law itself, we concluded in the first instance that this law would have failed because the statute in question contained no such recitation. Yet, if that standard of judicial review were already well established and popularized at the time, we may expect that legislatures, advised of it, would explicitly state their purpose. Suppose, then, that this had been done. Is the law now constitutional, or is it unconstitutional? The question cannot be answered, of course, until we turn to see what the legislature said.

Suppose, then, that the statute had required racially separated schools and had further provided that this requirement was enacted "in order to perpetuate white supremacy and to degrade black people"—the purpose many declare was, in fact, at the root of all such laws.[66] In that event, of course the law will fail. Indeed, the Justices in the majority in *Plessy* v. *Ferguson* declared that had such a purpose been established in that case, that law too would have failed: "every exercise of the police power must be reasonable, and extend only to such laws as are enacted in good faith for the promotion for the public good, *and not for the annoyance or oppression* of a particular class."[67] And they rejected the attack on the law in question as being insufficient because it rested on "the *assumption* that the enforced separation of the two races stamps the colored race with a badge of inferiority," rather than in proof that such a stigma was intended.[68]

But given the established and popularized constitutional "standard" such legislation must meet—a well-connected substantial public good articulated on the face of the law—it is unrealistic to suppose that the legislature enacting this law would have so declared itself, regardless of its actual motives. At least it is safe to suppose that no other legislature, observing the fate of this legislature's bill, would repeat the original error. Suppose, then, the face of the law articulated the very different purpose that fully equal but racially separated schools were to be established "in order to assure a historically disadvantaged racial minority an equal opportunity to develop educational curricula and programs more responsive to their needs, free from domination in schools in which their children might otherwise be overwhelmed by a racial majority." The "public good" is surely impressive, the expression of social contrition is moving, and the linkage between the compelling purpose of this law and the means chosen to advance it seems suitably tight. Is the law now to be upheld? Presumably it is, unless one suspects that the recitation is a fraud—that the recitation is for the benefit of anchoring its constitutionality, while the law is actually meant to perpetuate white supremacy.

One may suppose that if there is fraud here, it will easily be penetrated. But that assumption is remarkably cavalier. The Supreme Court has utilized "purpose" as one prop in its "test" in its administration of the religious establishment clause of the first amendment[69]—and since the inauguration of that test virtually *no* law has been held invalid for failure to meet the "purpose" part of the Court's own chosen test.[70] Even when few have doubted that the legislation in question was the product of sectarian self-interest, which the reigning "test" declares to be an improper purpose under the first amendment, recitations emphasizing other effects—"permitted" effects—have been taken as virtually conclusive in meeting the ostensible constitutional command that such laws have secular objectives as well as primary nonreligious effects. There is no reason to expect a different result here.

In the previous section of this article, we noted that under the constitutional standard that seems to have emerged during the past quarter century,[71] a law will not be sustained under any of the following three circumstances:

(a) if it overtly utilizes race as an index for determining civil rights;

(b) if it expressly encourages others to do so; or

Footnotes at end of article.

(c) if it tends to produce either of these effects and if the expectation of that tendency can be shown to account for the law's enactment even when the law, on its face, says nothing whatever about race.

This judicial resolve to remove the race line from our public life has been the most credible and admirable position for the Court steadfastly to maintain, so far as we are under a Constitution and so far as that Constitution is what the judges say it is. But under the more flexible "test"—which allows allocation by race when certain criteria are met—to strike down a statute it is not enough to show that the law itself explicitly treats the rights of one person differently from those of any other by making race itself a sufficient reason for that difference. Rather, one must also "decide," even in every case arising in each of the above categories two additional matters:

(1) what kinds of public purposes are sufficiently compelling to justify explicitly treating some people less well than others on racial grounds; and

(2) who is to say (and on what basis) that a law, which on its face is nominally very well connected with a sufficient public purpose so as to make its purposive racial discrimination "justifiable" under (1), was indeed enacted solely to promote that objective *rather than to enact some baser interest with which it is equally well connected?*

This is not, I think, a constitutional standard at all. It is, rather, a sieve—a sieve that encourages renewed race-based laws, racial discrimination, racial competition, racial spoils systems, and mere judicial sport. It is *Plessy* v. *Ferguson* all over again, in new and modish dress. In the revised *Plessy* case we have just been considering—facially rationalizing racially segregated schools for contrite, moral, and "minority-favoring" purposes—we have not yet noticed anything about the geographic, demographic, or political context in which the law appeared. Are such considerations germane, or are they to be ignored? Most plainly they must be treated as highly germane,[72] for otherwise our "test" becomes a farce and some atrocious uses of of the race line will be sustained by our courts—as I suppose we would agree would be the case if the school segregation statute, with its pious accompanying recitation, were the product of an all-white southern state legislature *circa* 1900. But as a different possibility, suppose that the law were not one from a state legislature at all, but rather one promulgated by a city Board of Education—in a predominantly black school district with a majority of the school board members themselves black? Is this, too, to make some difference? What difference shall it be?[73]

If it could be shown that the purpose was not as declared, but was rather to "degrade" black people, the statute must fall. Suppose, however, that it was a product of some of *each* purpose, so that some members of the state legislature supported it in fact and in good faith on the very grounds recited in the law, while others were pleased to go along because they simply wanted to separate black children from white children. Or, suppose that the "purpose" was nothing more sublime than the preoccupation of each legislator to retain his own elected position by voting for *whatever* measure seems most pleasing to the largest or most influential bloc of his constituents, some of whom, both black and white, favor this law (albeit not necessarily for identical reasons), some of whom oppose it (albeit for differing reasons as well).

All of these questions will recur, of course, even if it is not constitutionally required that the "substantial" or "compelling" public interest allegedly served by such race-line laws be recited on the face of the laws themselves. Indeed, assuming no such additional requirement, we may expect such recitations to appear anyway, insofar as they may be regarded by the Court as prima facie evidence of the law's actual purpose.[74] All this, and much more, awaits the Supreme Court once it leaves the lesson of the "great decisions" of the past twenty years and, indeed, the lesson not just of "contemporary" history, but of our whole history.

I have used in this particular exercise of flimflamming the Supreme Court variations on *Plessy* v. *Ferguson*. It is not necessary, however, to be so wholly hypothetical. An actual example was well provided last year in *Regents of the University of California* v. *Bakke*.[75] The Regents' Supreme Court brief treated the case as though the use of race itself to establish separate and unequal admission standards at the Davis medical school were really not the issue. Rather, the issue was better to be seen as a revised, updated version of *Plessy* v. *Ferguson:* that it is not the use of race as a means of assigning students to different schools that is at issue, but the reason for making such assignments. Thus, the question as set forth in the Regents' brief in *Bakke* was framed in the following self-congratulating and self-validating fashion:

> When only a small fraction of thousands of applicants can be admitted, does the Equal Protection Clause forbid a state university professional school from voluntarily seeking to counteract effects of generations of pervasive discrimination against discrete and insular minorities by establishing a limited special admissions program that increases opportunities for well-qualified members of such racial and ethnic minorities?[76]

There was no impropriety in this framing of the question given the fact that even long after *Plessy* and notwithstanding *Brown*, dicta in Supreme Court decisions continued to encourage racial discrimination by government—that which might overcome a merely rebuttable presumption of unconstitutionality by being well connected with "compelling" public purposes.[77] Indeed, the joint opinion by Justice Brennan (writing for himself and for Justices White, Marshall and Blackmun) fulfilled those dicta in its treatment of the *Bakke* case itself.

After acknowledging that the effect of the equal protection clause is at least to reverse the usual presumption of constitutionality in instances where government presumed to regulate or to allocate by race, that joint opinion then went forward to explain how such actions might nonetheless be sustained. First, "an important and articulated purpose for its use must be shown."[78] "In addition," the opinion continued, "any statute *must* be stricken that stigmatizes any group *or that singles out those least well represented in the political process to bear the brunt of a benign program.*"[79] If both of these "standards" are met—as they were met according to these four Justices in *Bakke*—then even separate and unequal ways of treating people by race are wholly constitutional. Given this kind of invitation to "accentuate the positive" benefits of racial discrimination, the Regents' attorneys would have been professionally derelict not to have rushed right in.

Yet there are obvious difficulties with the revised proposed "test." If a 16% additional[80] racial set-aside can be provided because it "counteracts" effects of "discrimination" by increasing "opportunities" for "well-qualified members of such racial and ethnic minorities," there is no reason to think that the good to be accomplished is less impressive or that the connection with the plan would be less snug though the additional set-aside were 20%, 50%, 60%, or whatever; neither should it make any difference whether it were keyed to California population statistics, local population statistics, national population statistics, or world population statistics. If the ends are sufficient and the means well connected, moreover, surely it ought make no difference that the plan was adopted by a predominantly black city council—approving a self-favoring race-based additional set-aside for municipal employees—rather than adopted by a predominantly white medical faculty at a state university.[81] Insofar as the racial complexion of the government unit is seen as furnishing some probative evidence as to the "real" purpose of the plan, surely it would be objected that it is the worst sort of racism to suppose that a plan inaugurated by a predominantly black elected body is more suspect than an identical plan inaugurated by a predominantly white one. Indeed, as we have already seen, there is no reason in any case to suppose that whatever the "recited" purpose of the plan may be, that such purpose bears any necessary correspondence at all to the dominant political factors actually accounting for its adoption. The *Bakke* case is itself quite sufficient to display all of these difficulties, with no need to do much more than to notice the facts and match them against the "requirements" of the joint opinion's test pursuant to which separate and unequal standards are constitutionally approved for persons identified by race.

The plan involved in the *Bakke* case was approved by a predominantly white faculty. The "brunt" of the plan was borne by individuals like Allan Bakke—white applicants with reasonably good application portfolios, but not among the very best portfolios. White applicants with the very best portfolios would of course be unaffected by the plan, as the faculty perfectly well knew.[82] Were persons in Allan Bakke's position thus well represented in "the political process" that singled them out to bear the brunt of the program? Four Justices evidently believed they were, as their opinion says that that kind of representation *must* be present in order for such a plan to be upheld, even when the plan otherwise meets their proposed constitutional standards. But on what conceivable basis could such an assumption be made? Just because Bakke was white—as were the majority of the medical school faculty? But the majority of the medical school faculty were themselves *not* likely to have been "representatives" of the Allan Bakkes, that is, reasonably good, *but not among the best* medical school applicants. If we should assume anything about that faculty—as the four Justices acted wholly upon unexamined assumptions of political and sociological stereotypes—we might more safety assume that the faculty "represented" not persons in Bakke's position at all but only outstanding students persons who do especially well in academic life, who do equally well in medical school, and thus are sufficiently outstanding to have been granted academic appointments in à great university. We might also assume that their concerns are not likely to place them in natural empathy with an Allan Bakke in any other sense either—that their interest, in a highly civil rights sensitive university campus and atmosphere, is to be counted as being "racially sensitive" people.

Given these very troubling facts, those who bore the brunt of the Davis program were not only not *well* represented in the political process that singled them out for its burdens—they were, rather, among "those least well represented." Yet this, the opinion of the four Justices declared, would be sufficient reason, entirely by itself, to regard the plan as constitutionally defective. Still, they failed to do so.

The plain point of all this will not, one trusts, be mistaken as an attack on the Davis medical school faculty. The point, rather, is that even as applied by those members of the Court most beguiled by the Lorelei of "right" racial uses by government, their own

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Footnotes at end of article.

proposed standards of judicial supervision are not applied [83] and, in any serious fashion, are manifestly incapable of any useful applications. These "standards" will, rather, quickly reduce themselves to empty recitations that serve only to put the Supreme Court's own endorsement on new racial systems—many of which will doubtless be the spoils systems of pure racial politics—inviting persons again to "think racially," to "vote racially," and to band together in racial blocs as much from necessity as from any choice of their own.

In brief, this is the "accordionlike quality" of a Constitution construed to permit racial discrimination "when those who hold the reins can come up with 'compelling' reasons to justify it," anticipated and rejected by Justice Douglas.[84] Most certainly there is no feasible way of forestalling such consequences under the porous "standard" now beckoning the Supreme Court to its third rite of passage. Rather, as Justice Jackson declared in another context, "[i]t seems trite but necessary to say that . . . our Constitution was designed to avoid these ends by avoiding these beginnings." [85] And the only secure way to do that is to abide by the "lesson of the great decisions of the Supreme Court and the lesson of contemporary history . . . discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong, and destructive of democratic society." [86]

III. THE NEXT TERM OF COURT

When Alexander Bickel expressed his point, insisting on what he described as the lesson of the great decisions, it was a most uncharacteristic utterance. To be sure, Bickel had clerked on the Court during *Brown* v. *Board of Education* and had published an extremely compelling article in defense of that decision.[87] Yet, Alexander Bickel was far better known as a scholarly exponent of judicial restraint, an advocate of judicial conservatism. Not for him were there many "fundamental" truths that the Supreme Court should apply. Rather, "balancing" was the usual best course for the Court, and the Court ought not lightly overturn the action of a legislature.[88]

As this was so, a fair question is raised about Bickel's seeming inflexibility in the particular instance of explicitly racial laws. Quite plainly he did not think that to get "beyond" racism, it is useful or helpful first to undertake a new generation of racially discriminatory laws.[89] But apparently others believe that it is, and surely their beliefs are entitled to *some* weight. When their view is reflected in an act of government, moreover, ought it not be counted heavily in some "balance," deferred to unless manifestly irrational—or unless, though rational, somehow simply not relevant to the constitutionality of the practice? There is no obvious accounting for the exceptional rigor of Bickel's commitment to a firm, unwavering, single constitutional standard on this subject. There is, however, an obvious practical reason why the usual virtues of judicial conservatism could be extremely ill-served by anything other than a very consistent, very firm position that leaves nothing to further misunderstanding.

We have had three hundred years of national experience to notice that *whenever* race has been an admissible criterion of governmental action, its licitness left people in public office without shelter against the organized efforts of those who would demand that they have a duty to act on that licitness: that they carry the alleged "merits" of race into appropriate legislation. We are also not without example of the inevitable necessity, the instant such regulation or allocation by race has been understood to be acceptable to the Supreme Court, for the Court ultimately to have to decide several other things as well. Among the more obvious issues, as additional groups, people, agencies, and parties are inevitably drawn in, are these: *which* races, *how much* to each race, *by what test* is each of us to be assigned "our" race? When these things were proper—as they were before *Brown* v. *Board of Education*—it was enough to be the government-designated member of a given "race" by being one-eighth of that "race." That, as the Supreme Court itself will recall, was the manner of imputing "race" to Mr. Plessy for the *Plessy* v. *Ferguson* experiments in racial designation and racial allocation.[90] The odiousness of these issues will be no less should the Court now reopen this governmental license than it was some years ago.

Should the government be upheld in its first unqualified efforts to revive its powers of regulation and allocation by race, in *Fullilove v. Kreps*,[91] before the Court for its consideration this fall, moreover, we may expect to be afflicted with this way of life for the balance of the century. Most certainly, once the Court admits the government's basic practice, it will be without any defensible ground to halt that practice or to roll it back within our own lifetime. Neither can it, I think, find any way whatever to police the inevitable cynicism and race politics explicit in our common future once the basic issue is decided, as evidently it shall be within a year.

By a very casually adopted amendment added to a bill, "Congress" has provided for a 10% strictly racial set-aside for certain kinds of federal contracts, exempting firms with appropriate racial "certification" from competing with other firms, and guaranteeing the certified firms that they need only compete among themselves for this share of the national business. The constitutional wisdom of sustaining this statute has been discussed almost entirely at an abstract level of compensatory jurisprudence. It has virtually left out of account entirely the more pedestrian realities. Once these inevitable realities are considered, it may not be in our common interest to urge the Supreme Court once more to pontiusly pilot its ways through proposed heaps of federal, state, and local racial spoils systems, conferring the noblesse oblige of racial shares on the wretchedly shaky foundations of racial politics—deferring to "good faith" efforts, differing as they will (and as they already do) as to how big a share (10%, 20%, 50%), what groups to qualify for *their* "share" (blacks, Hispanics, women, Indians, Orientals, Aleuts), who comes within each group (all Hispanics or merely those from certain places, all blacks, or merely those from families of less than $15,000 annual income). There is not the slightest disrespect in confronting these matters in these terms, moreover, as they are the government's own way of confronting them, *its* ways of governing. I find it very difficult to accept that serious students of constitutional laws and of American history would truly desire the Supreme Court to approve these structures of government. I think Bickel understood all of this perfectly well and that that may be why, on this subject, for once he went to fundamentals and to absolutes.

The *Washington Post* of May 22, 1979, carries the following earnest report on the manner in which these matters run even now:

> A highly unusual and controversial proposal under consideration by a city agency would eliminate a large number of local ethnic groups from eligibility for lucrative minority contracts with the District of Columbia government.
>
> The proposal, by the staff of the Minority Business Opportunity Commission, would eliminate from minority status all Hispanics born in Europe and South and Central America, leaving only those Hispanics born in Mexico or Puerto Rico eligible for the contracts.
>
> The proposal also would eliminate from minority status persons born in Vietnam, India, China, Korea and Africa.
>
> Four major local Hispanic-owned companies have won a total of more than $20 million worth of the city's minority contracts in the last year. This represents 40 percent of the entire minority share of the local market.
>
> The recommendation requires the approval of the commission and Mayor Marion Barry. One commission member, Peter Taylor, said he supports the change.
>
> "Lots of people here are coming in with bags of money from Vietnam and other places and buying up corporations," Taylor said. "They are . . . killing the little guy."
>
> A commission staff member said the proposed shift in guidelines is part of an effort by the commission to increase the number of city contracts going to blacks and "disadvantaged minorities."
>
> "We just want to make sure that [blacks] who were supposed to benefit get their fair share," the staff member said.
>
> A staff member who helped draft the proposed guidelines said individual companies owned by minority applicants will be considered on their merits " '[*sic*] whether or not the [company] was historically disadvantaged in the United States" before a final decision on certification is made.
>
> The proposed change is not without precedent in federal minority programs. Congress recently dropped Asian Americans from the federal Small Business Administration program for minority contracting.
>
> "Oh, my God," one influential Hispanic leader with ties to the Barry administration said when informed of the staff proposal. "If Marion agrees to do something like that, then it's really going to be a political war between Hispanics and blacks, and that would be terrible."
>
> Carlos Rosario, acting director of the Office of Latino Affairs for the District, said he was not familiar with the proposal. But, he said, "I don't see why if they have Spanish heritage why they should lose their [eligibility for minority contracts]. If they are born minorities, they should have the same breaks as others."
>
> "I've been working in the District of Columbia for 20 years," said Jose Rodrigues, who was born in Argentina and is co-owner of a major Hispanic company that does minority business with the District. "To be Rodrigues or black is the same thing. If there is [a minority program] in this country for blacks, it should be for Spanish people."
>
> Rodrigues and his brother Francisco own Fort Myer Construction Corp, in Arlington, which he said does more than $3 million in minority business with the city. He said his business also does another $1.5 million in the regular competitive market.
>
> Angel Roubin, who was born in Spain, said: "It appears to me that if the city takes that position, they are trying to discriminate against other minorities [*sic*]."
>
> In support of the proposed change, Col. Milton Carey, president of Associated Minority Contractors of America, a District-based national organization representing primarily black contractors, said: "There are Spanish who have culturally lived as white persons all their lives and in recent years found it profitable to consider themselves [*sic*] minority to take advantage of business in the minority community.
>
> "They are bringing in superior resources to bear so they are more competitive in the sheltered market."
>
> The key question, Carey said, is, "Have you been culturally disadvantaged in the United States. Have you been forced to live in a cultural bag? If the answer is yes, I say welcome."
>
> The original guidelines are spelled out in a 1976 D.C. law that entitles local minorities to 25 percent of the city's contracting dollars.

Footnotes at end of article.

The law stipulates that minorities must be certified as such by the commission. Once certified, minorities only compete with minority firms when bidding on District contracts.

Commission staff members said the proposed changes in guidelines followed complaints by black contractors that many of those who were originally certified by the commission came from aristocratic classes of foreign countries.

Another staff member said, "We were being besieged by applicants from all over the world and we had to do something about it".[92]

The fecundity of administrative regulation and of invidious choices, once race itself is reintroduced as an additional index of governmental action, are all present here in microcosm. The concrete example is the use of racially separate and racially unequal standards in the award of government contracts. It might just as well be racially separate and racially unequal employment standards, racially separate and racially unequal educational admissions standards, racially separate and racially unequal voting rights, tax credits or some other: each contingent on race, racial authenticity to be ascertained and certified by government, with entirely earnest sorts of good faith controversy as to what one counts.

And so what, in all good faith, shall we say about these matters? Should it indeed be enough that one was born (distinguishably) into a "minority" race, or must one's race also have been "historically disadvantaged" as well? Is it insufficient that one be born of that race, however, unless people of that race were historically disadvantaged "in the United States" rather than merely in other places? If one qualifies by these standards, is he nonetheless to be disqualified from the reserved advantage of additional, racially designated shares if he is "Asian-American," Vietnamese, Indian, Chinese, or Korean? Must one not merely be a certifiable member of one of the remaining "races," but also be born in the United States itself (so that being born in Africa, being born in Latin America, or being born in Spain will not count)? Yet, though not born in the United States, if one is "Hispanic" and is also born either in Mexico or in Puerto Rico (but not otherwise), may one compete not only with "Anglos" but, aside from one's business derived from that competition, have access to a special racial setaside? In each instance, moreover, is the "appropriate" test of a company the determination of ownership of a majority of voting shares of the stock, or is it rather something else or something in addition (suppose the company is 51% "black" owned, yet the executives and majority of the employees are "white")? The necessity to make and to police fine distinctions is clear enough. The necessary consequences of encouraging racial competition and racial resentments are all quite manifest ("Oh, my God, . . . if [the mayor] agrees to . . . that, then it's really going to be a political war between Hispanics and blacks").

CONCLUSION

Nearly all who have urged the Supreme Court to readmit the legitimacy of race as an explicit basis of governmental regulation or allocation have done so with some reserve, some measure of diffidence, hedged about that, in any event, it should only be for a time.[93] But no means whatever have been forthcoming from this permissive jurisprudence to enable the Court, once it unlearns its own lesson of history, to avoid the resulting dilemma: either to attempt thereafter to superintend the products of the new learning with the considerable risk of being overwhelmed by the need to make distinctions so numerous and so rank as to find itself discredited, or to pronounce a benediction on the presumed rectitude of executive or administrative bodies, and the presumed superior capacity of legislative bodies to determine these matters, and retire from the field for another generation.

It has been very tritely observed that the Constitution is a "living" document. The observation is nearly always offered as a prelude for urging the Supreme Court to manipulate or disregard some rather unequivocal part of that document. In this instance, however, there is nothing in the Constitution that licenses the national government to establish racial shares, to legitimate measuring the worth of people by their race, or to tender entitlements by race. Keeping faith with the lesson of the great decisions of the Supreme Court during the past three decades, moreover, requires no new, manipulative use of any provision whatever. Quite the opposite is true: the novelty is in the explication of arguments to relicense governmental discrimination. The basic question before the Court is whether the Constitution shall again be "adjusted" to accommodate a new generation of racial spoils.

There is, even as the District of Columbia program illustrates, very little agreement in measuring racial eligibility for those spoils. There being no serious prospect for such agreement, and the Constitution itself providing no articulate basis for the Court simply to "declare" the proper eligibility, the natural expectation is that racial eligibility will simply be the product of racial competition in the political process.[94] Incentives to make out cases of racial "mine" and "thine" are thus supplied, and doctrine is to be arranged in a fashion most calculated to stimulate race politics.

Ironically, the basic suggestion to relicense racial discrimination by government is put forward not despite its intrinsic tendency to set race against race, but as a good, benign, and thoughtful way to get beyond racism. But "getting beyond" racism in this fashion, we have reason to believe, is as little likely to succeed as the now discredited idea that in order to "get beyond" organized government, it is first indispensable to organize a virtual dictatorship that, once it extirpates the evils that made organized government necessary, will itself just naturally wither away. We have not seen governments wither by the paradox of assigning them even greater power. We shall not now see racism disappear by employing its own ways of classifying people and of measuring their rights.

Rather, one gets beyond racism by getting beyond it now: by a complete, resolute, and credible commitment *never* to tolerate in one's own life—or in the life or practices of one's government—the differential treatment of other human beings by race. Indeed, that is the great lesson for government itself to teach: in all we do in life, whatever we do in life, to treat any person less well than another or to favor any more than another for being black or white or brown or red, is wrong. Let that be our fundamental law and we shall have a Constitution universally worth expounding.

FOOTNOTES

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[1] 1619 is a late, inaccurate date, symbolically selected more because it marks the original landing of slaves at Jamestown, Virginia, than because it marks the first uses of race in America.

[2] The framers carefully avoided using terms such as "slavery" and "race." Nonetheless, several provisions in the original Constitution manifestly grant recognition to the legal existence of slavery. *E.g.*, U.S. Const. art. I, § 2, cl. 3 (defining state populations, for purposes of apportionment of Representatives and direct taxes, as the sum of "the whole number of free Persons" and "excluding Indians not taxed, three-fifths of all other Persons"); *id.* § 9, cl. 1 (forbidding Congress to prohibit "Importation of such Persons" as states choose to admit before 1808); *id.* art IV, § 2, cl. 3 (forbidding state law from altering the status of any escaping "Person held to Service or Labour" in another state, and requiring delivery of such persons on demand); *id.* art. V (forbidding amendment, before 1808, of the Senate representation formula or the importation-of-persons clause).

[3] Dred Scott v. Sandford, 60 U.S. (19 How.) 393 (1857).

[4] Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

U.S. Const. amend XIII.

[5] Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Id. amend. XIV.

[6] Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Id. amend. XV.

[7] *See, e.g.*, R. Berger, Government by Judiciary (1977); 2 W. Crosskey, Politics and the Constitution in the History of the United States 1083–1118 (1953); H. Flack, The Adoption of the Fourteenth Amendment (1908); W. Gillette, The Right To Vote (1965); R. Harris, The Quest for Equality (1960); J. James, The Framing of the Fourteenth Amendment (1956); J. Mathews, Legislative and Judicial History of the Fifteenth Amendment (1909); H. Meyer, The History and Meaning of the Fourteenth Amendment (1977); J. TenBroek, Equal Under Law (1965) (orginally published as The Antislavery Origins of the Fourteenth Amendment (1951)); Avins, *The Equal "Protection" of the Laws: The Original Understanding*, 12 N.Y.L.F. 385 (1966); Bickel, *The Original Understanding and the Segregation Decision*, 69 Harv. L. Rev. 1 (1955); Frank & Munro, *The Original Understanding of "Equal Protection of the Laws,"* 50 Colum. L. Rev. 31 (1950); Graham, *The Early Anti-Slavery Backgrounds of the Fourteenth Amendment*, 1950 Wis. L. Rev. 479; Graham, *Our "Declaratory" Fourteenth Amendment*, 7 Stan. L. Rev. 3 (1954); Van Alstyne, *The Fourteenth Amendment, The "Right" to Vote, and the Understanding of the Thirty-Ninth Congress*, 1965 Sup. Ct. Rev. 33.

[8] For Supreme Court cases considering laws regulating by race in the generation after the Civil War, see, for example, Plessy v. Ferguson, 163 U.S. 537 (1896); Pace v. Alabama, 106 U.S. 583 (1883); Strauder v. West Virginia, 100 U.S. 303 (1880). For a modern example of a law dictating race-based allocation, see Fullilove v. Kreps, 584 F.2d 600 (2d Cir. 1978), *cert. granted*, 99 S. Ct. 2403 (1979).

[9] Fullilove v. Kreps, 584 F.2d 600 (2d Cir. 1978), *cert. granted*, 99 S. Ct. 2403 (1979). It

involves an equal protection challenge to section 103(f)(2) of the Public Works Employment Act of 1977, 42 U.S.C. § 6705(f)(2) (Supp. I 1977). This casually added provision—that is, added and hardly discussed on the floor of the House, and not even considered in committee debates—provides that at least 10% of federal public works grants under the Act be expended for "minority business enterprises." Such enterprises are defined as businesses owned principally by "Negroes, Spanish-speaking, Oriental, Indians, Eskimos, and Aleut." For further discussion of this type of plan, see text at note 91 *infra*.

The constitutional question should not be influenced by the Court's recent decision (mis) construing Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e–17 (1976), as not prohibiting a one-for-one minority quota for admissions to an on-the-job training program. United Steelworkers v. Weber, 99 S. Ct. 2721 (1979). Indeed, Justice Brennan declared for the Court: "We emphasize at the outset the narrowness of our inquiry. . . . [T]his case does not present an alleged violation of the Equal Protection Clause of the Constitution. . . . The only question before us is the narrow statutory issue. . . ." 99 S. Ct. at 2726.

Weber will, however, revive and challenge the four-one-four division of the Court in its review of a 16% racial minority minimum set-aside program at a state university medical school, under racially separate and unequal standards of admissions. Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265 (1978). There, four Justices (Brennan, White, Marshall & Blackman) found the plan compatible with the fourteenth amendment; four (Burger, Stewart, Rehnquist & Stevens) declined to reach the question, finding the plan prohibited by 42 U.S.C. § 2000d (1976); the ninth Justice (Powell) concluded that the particular plan was not compatible with the fourteenth amendment. For discussions of the uncertainties arising from this case, see *A Symposium:* Regents of the University of California v. Bakke, 67 Calif. L. Rev. 1 (1979); Tribe, *Perspectives* on Bakke: *Equal Protection, Procedural Fairness, or Structural Justice?* 92 Harv. L. Rev. 864 (1979); Van Alstyne, *A Preliminary Report on the* Bakke *Case*, 64 A.A.U.P. Bull. 286 (1978); *Controversy: More on the* Bakke *Decision*, 65 Academe 49 (1979).

[10] The point in using the term racial "repetition" is to stress that once the use of race becomes legitimate again, we shall repeat all of the problems that divided us before: solidarity collapses, consensus with respect to the impropriety of measuring by race dissolves, race becomes important once more, and all are diminished by the experience.

[11] The body of literature in this area is extensive. *See, e.g.*, B. Bittker, The Case for Black Reparations (1973); R. Dworkin, *Reverse Discrimination*, in Taking Rights Seriously 223 (1977); T. Eastland & W. Bennett, Counting by Race (1979); N. Glazer, Affirmative Discrimination (1975); Reverse Discrimination (B. Gross ed. 1977); R. O'Neil, Discriminating Against Discrimination (1975); Baldwin & Nagan, Board of Regents v. Bakke: *The All-American Dilemma Revisited*, 30 U. Fla. L. Rev. 843 (1978); Bell, Bakke, *Minority Admissions, and the Usual Price of Racial Remedies*, 67 Calif. L. Rev. 3 (1979); Blasi, Bakke *as Precedent: Does Mr. Justice Powell Have a Theory?*, 67 Calif. L. Rev. 21 (1979); Brest, *The Supreme Court, 1975 Term—Foreword: In Defense of the Antidiscrimination Principle*, 90 Harv. L. Rev. 1, 16–22 (1976); Dixon, Bakke: *A Constitutional Analysis*, 67 Calif. L. Rev. 69 (1979); Ely, *The Constitutionality of Reverse Racial Discrimination*, 41 U. Chi. L. Rev. 723 (1974); Fiss, *Groups and the Equal Protection Clause*, 5 Philosophy & Pub. Aff. 107 (1976); Greenawalt, *Judicial Scrutiny of "Benign" Racial Preference in Law School Admissions*, 75 Colum. L. Rev. 559 (1975); Greenawalt, *The Unresolved Problems of Reverse Discrimination*, 67 Calif. L. Rev. 87 (1979); Hastie, *Affirmative Action in Vindicating Civil Rights*, 1975 U. Ill. L.F. 502; Kaplan, *Equal Justice in an Unequal World: Equality for the Negro—The Problem of Special Treatment*, 61 Nw. U.L. Rev. 363 (1966); Karst, *The Supreme Court, 1976 Term—Forword: Equal Citizenship Under the Fourteenth Amendment*, 91 Harv. L. Rev. 1 (1977); Karst & Horowitz, *Affirmative Action and Equal Protection*, 60 Va. L. Rev. 955 (1974); Morris, *Equal Protection, Affirmative Action and Racial Preferences in Law Admissions:* DeFunis 1. Odegaard, 49 Wash. L. Rev. 1 (1973); Nagel, *Equal Treatment and Compensatory Discrimination*, 2 Philosophy & Pub. Aff. 348 (1973); O'Neil, Bakke *in Balance: Some Preliminary Thoughts*, 66 Calif. L. Rev. 143 (1979); O'Neil, *Preferential Admissions: Equalizing the Access of Minority Groups to Higher Education*, 80 Yale L.J. 699 (1971); O'Neil, *Racial Preference and Higher Education: The Larger Context*, 60 Va. L. Rev. 925 (1974); Posner, *The* Bakke *Case and the Future of "Affirmative Action"*, 67 Calif. L. Rev. 171 (1979); Posner, *The* DeFunis *Case and the Constitutionality of Preferential Treatment of Racial Minorities*, 1974 Sup. Ct. Rev. 1; Ravenell, DeFunis *and* Bakke . . . *The Voice Not Heard*, 21 How. L.J. 128 (1978); Sandalow, *Racial Preference in Higher Education: Political Responsibility and the Judicial Role*, 42 U. Chi. L. Rev. 653 (1975); Sedler, *Racial Preference, Reality and the Constitution:* Bakke v. Regents of the University of California, 17 Santa Clara L. Rev. 329 (1977); Seeburger, *A Heuristic Argument Against Preferential Admissions*, 39 U. Pitt. L. Rev. 285 (1977); Tribe, *supra* note 9.

[12] A. Bickel, The Morality of Consent 133 (1975).

[13] *E.g.*, Strauder v. West Virginia, 100 U.S. 303 (1880) (exclusion of Negroes from juries unconstitutional). *Cf.* Virginia v. Rives, 100 U.S. 313, 319 (1880) ("denial of [equal protection] rights, or an inability to enforce them, resulting from the Constitution or laws of the State" allows removal of case from state to federal court) (dictum); *Ex parte* Virginia, 100 U.S. 339 (1880) (denying writ of habeas corpus to judge who was under indictment and in custody for excluding blacks from juries).

[14] *E.g.*, The Slaughter-House Cases, 83 U.S. (16 Wall.) 36 (1873) (fourteenth amendment privileges and immunities clause reduced to a constitutional redundance).

[15] 109 U.S. 3 (1883). *See also* United States v. Harris, 106 U.S. 629 (1883) (section 5 of the fourteenth amendment, creating enforcement powers of Congress, very narrowly construed); United States v. Cruikshank, 92 U.S. 642 (1876) (same).

[16] 163 U.S. 537 (1896).

[17] In Louisville, N.O. & T. Ry. v. Mississippi, 133 U.S. 587 (1890), a similar statute survived an attack under the commerce clause, U.S. Const. art I, § 8, cl. 3; the Court made no reference to the equal protection clause. The *Plessy* majority relied in part on a pre-Civil War Massachusetts school segregation case, litigated under a portion of the Massachusetts Constitution bearing some resemblance to the fourteenth amendment's equal protection clause. Roberts v. City of Boston, 59 Mass. (5 Cash.) 198 (Mass. 1850).

[18] Plessy v. Ferguson, 163 U.S. 537, 559–60 (1896) (Harlan, J., dissenting) (emphasis added). Harlan had similarly dissented in The Civil Rights Cases, 109 U.S. 3, 24–62 (1883) (Harlan, J., dissenting). *See also* Berea College v. Kentucky, 211 U.S. 45, 67–69 (1908) (Harlan, J., dissenting). *But see* Cumming v. Richmond County Bd. of Educ., 175 U.S. 528 (1899) (Harlan, J.). *See generally* Westin, *John Marshall Harlan and the Constitutional Rights of Negroes: The Transformation of a Southerner*, 66 Yale L. J. 637 (1957).

[19] *See* O'Fallon, *Adjudication and Contested Concepts: The Case of Equal Protection*, 54 N.Y.U.L. Rev. 19, 34–38 (1979).

[20] Plessy v. Ferguson, 163 U.S. at 555 (1896) (Harlan, J., dissenting) (emphasis added).

[21] *See generally* C. Woodward, The Strange Career of Jim Crow (3d ed. 1974). *See also* Westin, *supra* note 18, at 706 & n. 13.

[22] 347 U.S. 483 (1954).

[23] *See* D. Bell, Race, Racism and American Law 452 (1973); Wechsler, *Toward Neutral Principles of Constitutional Law*, 73 Harv. L. Rev. 1, 31–33 (1959).

[24] The particular case overruling *Plessy* (sub silentio) was itself without an explanatory opinion, Gayle v. Browder, 352 U.S. 903 (1956), *aff'g per curiam* 142 F. Supp. 707 (M. D. Ala. 1956). One district court interpreted certain dicta in *Brown* as not disallowing per se governmentally-directed, racially separated schools, Stell v. Savannah Chatham County Bd. of Educ., 220 F. Supp. 667, 677–78 (S.D. Ga. 1963), but was speedily rebuffed on appeal, 33 F.2d 55, 61 (5th Cir.), *cert. denied*, 379 U.S. 933 (1964). Alternative interpretations of *Brown* are, of course, numerous. For but one listing, see H. Horowitz & K. Karst, Law, Lawyers and Social Change 203 (1969). For additional post-Brown decisions summarily dispatching other segregation laws, see, for example, State Athletic Comm'n v. Dorsey, 359 U.S. 533 (1959), *aff'g per curiam* 168 F. Supp. 149 (E. D. La. 1958) (athletic contests); Holmes v. City of Atlanta, 350 U.S. 879 (1955), *vacating per curiam*, 223 F. 2d 93 (5th Cir. 1955) (municipal golf courses); Mayor of Baltimore City v. Dawson, 350 877 (1955), *aff'g per curiam* 220 F.2d 386 (4th Cir. 1955) (public beaches and bathhouses); cases cited in W. Lockhart, Y. Kamisar, & J. Choper, Cases and Materials on Constitutional Rights and Liberties 840 nn. a&b (3d ed. 1970).

[25] *See, e.g.*, Swann v. Charlotte-Mecklenburg Bd. of Educ., 402 U.S. 1 (1971). *See also* Dayton Bd. of Educ. v. Brinkman, 99 S. Ct. 2971 (1979); Columbus Bd. of Educ. v. Penick, 99 S. Ct. 2941 (1979).

[26] *E.g.*, Pasadena City Bd. of Educ. v. Spangler, 427 U.S. 424 (1976). *See also* Dayton Bd. of Educ. v. Brinkman, 433 U.S. 406 (1977); Milliken v. Bradley, 418 U.S. 717 (1974); Keyes v. School Dist. No. 1, 413 U.S. 189 (1973).

[27] Act of Apr. 9, 1866, ch. 31, § 1, 14 Stat. 27 (current version at 42 U.S.C. § 1982 (1976)).

[28] Jones v. Alfred H. Mayer Co., 392 U.S. 409 (1968).

[29] Act of May 31, 1870, ch. 114, § 16, 16 Stat. 144 (current version at 42 U.S.C. § 1981 (1976)).

[30] Runyon v. McCrary, 427 U.S. 160 (1976); Johnson v. Railway Express Agency, 421 U.S. 454, 459–60 (1975) (dictum).

[31] McDonald v. Santa Fe Trail Transp. Co., 427 U.S. 273, 295 (1976) (emphasis added). *But cf. id.* at 821 n.8 ("Santa Fe disclaims that the actions challenged here were any part of an affirmative action program . . . and we emphasize that we do not consider here the permissibility of such a program, whether judicially required or otherwise prompted.").

[32] Title VI of the Civil Rights Act of 1964, § 2000d (1976) (emphasis added). Compare the several differing interpretations provided in Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265 (1978).

[33] Title VII of the Civil Rights Act of 1964, § 703(a)(1), 42 U.S.C. § 2000e–2(a)(1) (1976) (emphasis added). This, of course, is simply what Congress said. *Compare* United Steelworkers v. Weber, 99 S. Ct. 2721, 2724–30 (1979) (Brennan, J.) *with id.* at 2734–35 (Burger, C.J., dissenting) *and id.* at 2736–53 (Rehnquist, J., dissenting).

[34] Griggs v. Duke Power Co., 401 U.S. 424, 431 (1971) (emphasis added). And reiterat-

ing that view in 1976, the Court declared: "We . . . hold today that Title VII prohibits racial discrimination against the white petitioners in this case upon the *same* standards as would be applicable were they Negroes. . . ." McDonald v. Santa Fe Trail Transp. Co., 427 U.S. 273, 280 (1976) (emphasis added). *But see* United Steelworkers v. Weber, 99 S. Ct. 2721 (1979).

[35] Exec. Order No. 11246, § 202, 3 C.F.R. 339, 340–41 (1964–1965 Compilation), *as amended by* Exec. Order No. 11375, 3 C.F.R. 684, 685–86 (1966–1970 Compilation), *reprinted in* 42 U.S.C. § 2000e, at 1232, 1233 (1976) (emphasis added). This, too, is simply what the President said. *Compare id. with* 42 Op. Att'y Gen. 405 (1969).

[36] DeFunis v. Odegaard, 416 U.S. 312, 337, 342, 343–44 (1974) (Douglas J., dissenting) (emphasis added).

[37] *Id.* at 342–43 (Douglas, J., dissenting).

[38] *Id.* at 343 (Douglas, J., dissenting). *See also* Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265, 298 (1978) (Powell J.): "[P]referential programs may only reinforce common stereotypes holding that certain groups are unable to achieve success without special protection based on a factor having no relationship to individual worth."

Not all race-specific "preferential" government-utilized plans involve separate and *lower* standards of selection. Some (as illustrated by the Bakke case itself) plainly do. And these plans unquestionably impose a racial stigma on those who benefit by them, for reasons that cannot be avoided by the beneficiaries. This may be a cost that others would regard as utterly trivial when weighed against the benefits and overall good of such arrangements. Others may also say that this is a matter they do not wish to judge—that whether there is a stigmatizing effect and whether it renders such a plan undesirable is emphatically not for them to say. Such persons might feel that it is, rather, a matter to be determined by those eligible for the plan—and that these persons will show, by their participation, that they overwhelmingly regard the very material benefits, with whatever stigma may attach, to be vastly superior to the status quo ante. But the stigma is spread to others identified only by race, who are helpless to avoid it. Indeed, it will have been the government itself that fastened the stigma upon them, a new badge of implied inferiority, assigned as an incident of governmental noblesse oblige.

Explicit in state, local, or federal plans using separate and lower standards by race is a statement by government that certain persons identified by race are in fact being placed in positions they may be presumed not likely to hold but for their race (because they are presumed to be unable to meet standards the government itself otherwise requires to be met). The message from government is written very large when these plans proliferate: a double (and softer) standard for admission, a double (and softer) standard for hiring, a double (and softer) standard for promotion, a double (and softer) standard for competitive bidding, and so on. Without question, this is a systematic racial tagging by government—a communication to others that the race of the individual they deal with bespeaks a race-related probability, created solely by the government itself, of lesser qualifications than others holding equivalent positions.

With respect to some such persons, the supposition will be true, *according to the government's own usual standards of "qualifications."* With respect to others of the same race, the proposition will be false; but others dealing with them will not know it is false unless "affirmative action" beneficiaries are specially to be labelled as such—surely an unthinkable practice—and will, *solely because of the government's own practice,* be encouraged to subject them to a racial stereotype. In brief, the government's entrenched practices impose a label of inferior excellence that the government itself declares to be true of some persons; simultaneously, the government fastens a racial stereotype on all other persons of the same race holding similar positions, irrespective of their actual excellence. Whether this is unconstitutional remains to be seen. That it is not "stigmatizing" seems implausible.

[39] Hughes v. Superior Court, 389 U.S. 460 (1950). The earlier California case establishing the policy of nondiscrimination was James v. Marinship Corp., 25 Cal. 2d 721, 155 P.2d 329 (1944), recently extended and applied in Gay Law Students Ass'n v. Pacific Tel. & Tel. Co., 00 Cal. 3d 000, 595 P.2d 592, 606–09; 156 Cal. Rptr. 14, 28–31 (1979).

[40] Hughes v. Superior Court, 32 Cal.2d 850, 856, 198 F.2d 885, 889 (1948), *aff'd,* 339 U.S. 460 (1950).

[41] *Id.*

[42] *Id.*

[43] Hughes v. Superior Court, 339 U.S. 460 (1950).

[44] 375 U.S. 399 (1964).

[45] *Compare id.* with United Jewish Orgs. v. Carey, 430 U.S. 144 (1977) (redistricting to favor Hispanics held permissible).

[46] 375 U.S. at 402–03 (emphasis added).

[47] Plessy v. Ferguson, 163 U.S. 537, 554 (1896) (Harlan, J., dissenting) (emphasis added).

[48] 387 U.S. 369 (1967).

[49] Cal. Const. art. I, § 26 (adopted 1964, repealed 1974).

[50] 387 U.S. at 381.

[51] The awkwardness of this judicial superintendence is plainly very great. *See* Ely, *Legislative and Administrative Motivation in Constitutional Law,* 79 Yale L.J. 1205 (1970). The ascertainability of racial purpose in legislative proceedings is much more elusive than in adjudicative proceedings. An employer or administrative agent may be closely examined in court with some realistic hope of determining whether a decision that has on its face nothing to do with race was made because it was expected (and desired) to produce differential effects by race. But members of Congress are shielded by the speech and debate clause, U.S. Const. art. I, § 6 cl. 1, from any such examination, and ordinarily it is impractical to attempt to secure confrontation in court of other legislators. For the most recent case illustrating the protective scope of the clause, see United States v. Helstoski, 99 S. Ct. 2432 (1979). Indeed, for one brief moment the Court appeared to despair of permitting evidence to be admitted for the purpose of establishing that a legislative decision, nonracial on its face, was nonetheless taken precisely because it would produce racially differential effects. *See* Palmer v. Thompson, 403 U.S. 217, 224–26 (1971). *See also* United States v. O'Brien, 391 U.S. 367, 382–86 (1968).

[52] *E.g.,* Yick Wo v. Hopkins, 118 U.S. 356 (1886).

[53] *E.g.,* Lane v. Wilson, 307 U.S. 268, 275 (1939).

[54] Gomillion v. Lightfoot, 364 U.S. 339 (1960).

[55] Washington v. Davis, 426 U.S. 229, 239–44 (1976). *Cf.* Village of Arlington Heights v. Metropolitan Hous. Dev. Corp., 429 U.S. 252, 264–68 (1977) (zoning for the purpose of discriminating against blacks forbidden).

[56] The phrase is derived from the uncharacteristically aggressive dissent by Justice Frankfurter in United States v. Kahriger, 345 U.S. 22, 38 (1953) (Frankfurter, J., dissenting).

[57] A. BICKEL, *supra* note 12, at 133.

[58] DeFunis v. Odegaard, 416 U.S. 312, 343 (1974) (Douglas, J., dissenting).

[59] West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624, 641 (1943). While *Barnette* was a freedom of expression case, the principle enunciated by Justice Jackson seems applicable in this context as well. *See id.* at 638:

> The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. . . . [T]hey depend on the outcome of no elections.

[60] There is, however, very considerable disagreement respecting the proper perspective on "in between." *See* authorities cited in note 11 *supra.*

[61] *E.g.,* Bantam Books, Inc. v. Sullivan, 372 U.S. 58, 70 (1963) ("Any system of prior restraints of expression comes to this Court bearing a heavy presumption against its constitutional validity."). The utility of the comparison is reviewed in O'Fallon, *supra* note 19, at 44–46.

[62] *See* authorities cited in note 11 *supra.* The "test" dates from Korematsu v. United States, 323 U.S. 214, 216 (1944). It is full of irony. The Court, having erected this "protective" test, proceeded to apply it to the facts of the case and concluded that it was satisfied; in other words, the government met its burden of extraordinary justification. It turned out, however, that the government was pathetically mistaken in what it did. *See* E. ROSTOW, *The Japanese American Cases—A Disaster,* in THE SOVEREIGN PREROGATIVE 193 (1962). *Korematsu* is significant additionally: it is the last case to sustain an explicit governmental race regulation as applied to the facts. It is now thirty-five years later and the "test" has not appreciated in value by the passage of time.

[63] *See* authorities cited in note 11 *supra. See also* Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265, 269–320 (1978) (Powell, J.); *id.* at 324–79 (Brennan, White, Marshall & Blackmun, JJ., concurring in the judgment in part and dissenting in part); Posner, *The Bakke Case and the Future of "Affirmative Action,"* *supra* note 11, at 173–74.

[64] The discussion in this section is a more developed statement of views touched on in Van Alstyne, *supra* note 8, at 292–94, and *Controversy: More on the Bakke Decision,* *supra* note 9, at 57–59.

[65] It is not quite clear from some suggesting this test whether the suitably justifying purpose(s) must be "articulated" on the face of the law, or whether a subsequent, credible "articulation" in court will do; for the moment, it is evidently the latter. *See, e.g.,* Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265, 361–62 (1978) (Brennan, White, Marshall & Blackmun, JJ., concurring in the judgment in part and dissenting in part); Hampton v. Mow Sun Wong, 426 U.S. 88, 103 (1976) ("When the Federal Government asserts an overriding national interest as justification for a discriminatory rule which would violate the Equal Protection Clause if adopted by a State, due process requires that there be a legitimate basis for presuming that the rule was actually intended to serve that interest.") *See also* Califano v. Goldfarb, 430 U.S. 199, 223 n.9 (1977) (Stevens, J., concurring in judgment); Craig v. Boren, 429 U.S. 190, 199 n.7 (1976). For a discussion of why this should influence the standard of judicial review, see Christie, *A Model of Judicial Review of Legislation,* 48 S. CAL. L. REV. 1306 (1975).

[66] *E.g.,* Black, *The Lawfulness of the Segregation Decisions,* 69 YALE L.J. 421 (1960).

[67] Plessy v. Ferguson, 163 U.S. 537, 550 (1896) (emphasis added).

[68] *Id.* at 551 (emphasis added). *See also* Black, *supra* note 66; Cahn, *Jurisprudence, 1955 Annual Survey of American Law,* 31 N.Y.U.L., REV. 182 (1966); *Cahn Jurisprudence, 1954 Annual Survey of American Law,* 30 N.Y.U.L. REV. 150, 153–54, 157–68 (1955); Pollak, *Racial Discrimination and Judicial Integrity: A Reply to Professor Wechsler,* 108 U. PA. L. REV. 1, 24–31 (1959).

[69] U.S. CONST. amend. I. The "test" was enunciated in School Dist. v. Schempp, 374 U.S. 203, 222 (1963) ("[W]hat are the purpose and primary effect of the enactment? If *either* is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution.") (emphasis added). For an illustrative "application," see Board of Educ. v. Allen, 392 U.S. 236 (1968). *See also id.* at 254–66 (Douglas J., dissenting); Note, *Sectarian Books, the Supreme Court and the Establishment Clause.* 79 YALE L.J. 111 (1969). Note also how the "purpose" part of the test was not applied in Lemon v. Kurtzman, 403 U.S. 602 (1971), and how mere legislative declaration of "purpose" effectively insulated statutes from meaningful review as to this part of the test in Wolman v. Walter, 433 U.S. 229 (1977); Roemer v. Board of Pub. Works, 426 U.S. 736 (1976); Committee for Pub. Educ. and Religious Liberty v. Nyquist, 413 U.S. 756 (1973); Tilton v. Richardson, 403 U.S. 672 (1971). *See generally* P. KURLAND, RELIGION AND THE LAW OF CHURCH AND STATE AND THE SUPREME COURT (1962).

[70] *See* discussion and cases cited in note 69 *supra.*

[71] *See* text and notes at notes 24–56 *supra.*

[72] *Cf.* Ely, *supra* note 11, at 723 (arguing that majority discrimination against itself is per se legitimate). *But see* Posner, *The* DeFunis *Case and the Constitutionality of Preferential Treatment of Racial Minorities, supra* note 11, at 19–26.

[73] For one view, see Bell, *Waiting on the Promise of* Brown, 39 LAW & CONTEMP. PROB. 341, 360–63 (1975).

[74] Exactly as did happen once this type of test was publicized for the first amendment's establishment clause. *See* cases cited in note 69 *supra.*

[75] 438 U.S. 265 (1978).

[76] Brief for Petitioner at 2. Four members of the Court (Burger, Stewart, Rehnquist & Stevens) found it unnecessary to consider this question. It was plain to them that the use of racially separate and unequal admissions standards was forbidden by Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (1976); they therefore applied Title VI as forbidding *any* kind of racial discrimination and voted to affirm the California Supreme Court, which had held for Bakke on constitutional grounds. 438 U.S. at 408–21 (Stevens, J., joined by Burger, C.J., and Stewart and Rehnquist, JJ., concurring in the judgment in part and dissenting in part). Insofar as granting relief to Bakke was concerned, their votes were joined by that of Justice Powell. *Id.* at 271 (Powell, J.).

[77] For a discussion of how the presumption of unconstitutionality works in the analogous first amendment context, see text at note 61 *supra.*

[78] 438 U.S. at 361 (Brennan, White, Marshall & Blackmun, JJ., concurring in the judgment in part and dissenting in part).

[79] *Id.* (emphasis added). As to whether the Davis plan may have imposed such a stigma, see note 38 *supra.*

[80] Fourteen percent of the total regular admittees for the two years in which Bakke was rejected were of the minority groups favored *additionally* by the 16 percent racial set aside. See 438 U.S. at 276 n.6 (Powell, J.).

[81] *See also* Craig v. Alabama State Univ., 451 F. Supp. 1207 (M.D. Ala. 1978); Detroit Police Officers Ass'n v. Young, 446 F. Supp. 979 (E.D. Mich, 1978); Ely, *supra* note 11. *But see* text at note 72 *supra.*

[82] Insofar as the faculty withdrew 16 seats from the original freshman class total of 100 (reducing the number of openings to be filled by the regular admissions process to 84 and restricting eligibility for the 16 seats exclusively to disadvantaged nonwhites), the faculty certainly understood that applicants who would otherwise have been admitted pursuant to the regular admissions process but who would now be displaced would be white applicants with good—but not the best—portfolios. The "best" white applicants would be unaffected, as they would still be among the 84 best applicants within the regular admission process.

[83] For a recent case extending *Bakke's* rationale to sustain discriminatory race and sex standards in the hiring, promotion, transfer, training, and work assignments of public employees, see Minnick v. California Dept. of Corrections, 000 Cal. App. 3d 000, 157 Cal. Rptr. 260 (1979).

[84] DeFunis v. Odegaard, 416 U.S. 312, 343 (1974) (Douglas, J., dissenting).

[85] West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624, 641 (1943).

[86] A. BICKEL, *supra* note 12, at 133.

[87] Bickel, *supra* note 7.

[88] *See, e.g.,* A. BICKEL, THE SUPREME COURT AND THE IDEA OF PROGRESS (1970); A. BICKEL, THE LEAST DANGEROUS BRANCH (1962); Bickel, *The Supreme Court, 1960 Term—Foreword: The Passive Virtues,* 75 HARV. L. REV. 40 (1961).

[89] For the contrary view, see Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265, 407 (1978) (Blackmun, J., opinion of).

[90] Plessy was deemed to be "colored" (in the words of the state statute) for purposes of assigning him to a given car, although he was "of seven eighths Caucasian and one eighth African blood; . . . [and] the mixture of colored blood was not discernible in him . . . ." 163 U.S. at 538. The majority of the Court, once accepting the constitutionality of using the race line as a permissible way for legislatures to regulate and allocate, also recognized the sorts of decisions implicit in that determination: "The power to assign to a particular coach obviously implies the power to determine to which race the passenger belongs, as well as the power to determine who, under the laws of the particular State, is to be deemed a white, and who a colored person." *Id.* at 549. *See also* Posner, *The* DeFunis *Case and the Constitutionality of Preferential Treatment of Racial Minorities, supra* note 11, at 12-14.

[91] 584 F.2d 600 (2d Cir. 1978), *cert. granted,* 99 S. Ct. 2403 (1979), briefly described in note 9 *supra.*

[92] Thompson, *City Agency Weighs Restricting Some Ethnics' Minority Status,* Wash. Post, May 22, 1979, § A, at 1, col. 1 (insertions in original).

[93] *E.g.,* Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265, 403 (1978) (Blackmun, J., opinion of).

[94] *See* note 90 *supra.* See also the conclusions reached on the same subject in B. BITTKER, *supra* note 11, at 104.

Mr. HATCH. Mr. President, as usual, Weber was not extensively debated after it was handed down in mid-1979. What serious comment there was, however, focused on the decision's atrocious law. As George F. Will wrote, with his customary restraint, in his July 1 Washington Post column:

> The pertinent question is not whether this is a "conservative" court or a "liberal" court, but whether this is, properly speaking, a court at all.

I ask unanimous consent that Mr. Will's article, "Civil Rights, Turned Inside Out," be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CIVIL RIGHTS, TURNED INSIDE OUT

(By George F. Will)

The Supreme Court's 5-to-2 decision in the Weber case completes the process of turning the civil-rights impulse inside out, and standing the 1964 Civil Rights Act on its head. The decision affirms, resoundingly, the right to discriminate racially.

Under federal pressure, Brian F. Weber's union and Kaiser Aluminum and Chemical Corp. designed a reverse discrimination plan to eliminate "racial imbalances" in Kaiser's craft work force. The plan reserved for blacks 50 percent of the places in certain training programs. Blacks with less seniority received preference over Weber, who charged that this violated Title VII of the 1964 act, which says:

"It shall be an unlawful employment practice for an employer . . . to discriminate against any individual . . . because of such individual's race . . . to limit or classify his employees . . . in any way which would . . . adversely affect (any individual) . . . because of . . . race. . . ."

Having won in two lower courts, Weber lost in the Supreme Court, where the majority argued, incredibly, that a literal reading of Title VII must be inappropriate because it conflicts with what the majority insists is the "spirit" of the act. And because Title VII says it shall not be construed to "require" reverse discrimination, the majority says, against an ocean of contrary evidence, that Congress must have meant to "permit" such discrimination.

Justice Rehnquist's dissent, with Chief Justice Burger concurring, relentlessly demonstrates that the majority does violence to the court's previous construction of, and the unambiguous legislative history of, Title VII.

In 1971, in its first construction, the court held that "discriminatory preference, for any group, minority or majority, is precisely and only what Congress has proscribed." In 1978, in its most recent construction, the court said: "It is clear beyond cavil that the obligation imposed by Title VII is to provide an equal opportunity for each applicant regardless of race, without regard to whether members of the applicant's race are already proportionately represented in the work force."

Rehnquist demonstrates that what the court previously called Title VII's "uncontradicted legislative history" is unambiguous, and contradicts the majority's bizarre contention that Congress intended to "permit" reverse discrimination.

Rep. Emanuel Celler (D-N.Y.), who introduced the 1964 act in the House, said it would "prevent . . . employers from discriminating against or in favor of workers because of race." In 89 days of Senate debate, supporters of the act took pains to refute all other interpretations.

Sen. Hubert Humphrey (D-Minn.), the prime mover, said Title VII forbids actions "based on race." It "provides that race shall not be a basis for making personnel decisions." It "would prohibit preferential treatment for any particular group."

Sen. Thomas H. Kuchel (R-Calif.), said: "Employers and labor organizations could not discriminate in favor of or against a person because of his race . . . The bill . . . is color-blind."

Sens. Joseph S. Clark (D-Pa.) and Clifford P. Case (R-N.J.), floor managers for Title VII: ". . . any deliberate attempt to maintain a racial balance, whatever such balance may be, would involve a violation of Title VII because maintaining such a balance would require an employer to hire or to refuse . . . to hire on the basis of race."

Sen. Harrison A. Williams (D-N.J.): "Both forms of discrimination are prohibited by Title VII. . . ."

Sen. Leverett Saltonstall (R-Mass.): Title VII "provides no preferential treatment for any group of citizens. In fact, it specifically prohibits such treatment." And so on.

Reverse discrimination may be the most direct way of building a black middle class. A black middle class is devoutly to be desired. Nevertheless, it should be promoted lawfully.

Perhaps the court majority has expressed what Congress should have intended in the 1964 act; or what Congress somehow "really" intended but for some reason gave no evidence of intending; or what Congress would intend were it to pass the 1964 act in 1979. But Justice Rehnquist's dissent is unanswerable on what is, or should be, the central point: What does the language of the act and the record of the debate show that Congress actually intended.

Neither the words of the statute, nor words said about it, sustain the majority's social preferences. So the majority baldly asserts that the "spirit" of the act permits what the letter of the act forbids.

The majority opinion is reasoned, but there is precious little judicial reasoning in it. There is reasoning about social justice and how best to achieve it, there is the reasoning of well-intentioned legislators. But the reasoning is not discernibly grounded in a judicial responsibility.

The Weber decision suggests that the pertinent question is not whether this is a "conservative" or "liberal" court, but whether this is, properly speaking, a court at all.

Mr. HATCH. A more extended legal review of Weber, Mr. President, under the harsh but merited title of "The Weber Case: Double Talk and Double Standards" appeared in the September/October 1979 issue of Regulation magazine. The author was Prof. Bernard D. Meltzer, of the University of Chicago Law School. "* * * the Court's argument is so weak," writes Professor Meltzer, "that it is embarrassing to subject it to conventional legal analysis."

I ask unanimous consent that Professor Meltzer's article on the Weber case be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE WEBER CASE: DOUBLE TALK AND DOUBLE STANDARDS

(By Bernard D. Meltzer)

In its opinion in *United Steelworkers of America and Kaiser Aluminum & Chemical Corporation* v. *Weber*, the Supreme Court, dividing five to two, ruled that Title VII of the Civil Rights Act of 1964 permitted employers and unions in the private sector to adopt collectively bargained affirmative action plans for the purpose of eliminating manifest racial imbalances in traditionally segregated job categories. The majority declined to define the limits of such ostensibly voluntary quotas, or to deal with court-ordered quotas as a remedy for proven violations of the act, or to consider the effect of Executive Order 11246 (covering government contractors). Nevertheless, the opinion has been extravagantly hailed as an unqualified endorsement of "affirmative action" in employment. To appraise that assessment, it is necessary to examine the opinion and its background in some detail.

THE FACTS AND THE ISSUES

Kaiser opened its plant in Gramercy, Louisiana, in 1958. By the 1970s, blacks constituted approximately 39 percent of the labor force in the Gramercy area, but less than 15 percent of the plant's work force and less than 2 percent of its craft workers. Kaiser had hired only craftsmen (carpenters, electricians, and machinists, and so on) with five years industrial experience—experience rarely possessed by blacks, who had previously been excluded from craft unions. As a result, Kaiser's efforts to recruit trained black craftsmen—although apparently bona fide—had been largely ineffective.

In 1974, Kaiser addressed that recruitment problem in its collective bargaining agreement with the United Steelworkers of America. That agreement provided for a new in-plant craft training program at Gramercy (as well as at Kaiser's other aluminum and container plants). At least one black was to be admitted to the training program for every white until the percentage of black craft workers equalled the percentage of blacks in the Gramercy work force, or 39 percent (a goal that the company estimated would be reached in thirty years). Black and white applicants were to be chosen on the basis of their relative plant seniority within their racial group. Since the plant employed more whites than blacks and since whites had, on the whole, more seniority, the separate racial seniority lines appeared to discriminate against whites.

Kaiser, a contractor with the federal government, gave three reasons for adopting this program: (1) pressure from federal contract compliance officers, (2) fear of litigation by blacks, and (3) a belief that such programs advanced national policy.

In 1974, Brian Weber, a white man, was turned down for three skilled training programs at Gramercy even though he had more seniority than two successful black candidates. He then brought a class action challenging the 50 percent minority admission quota under Title VII. He won in the federal district court, which enjoined the use of race as a criterion for admission to the program, and in the Court of Appeals for the Fifth Circuit, with Judge Wisdom dissenting. That court emphasized and sustained the district court's finding that Kaiser had not been guilty of any past discrimination at its Gramercy plant. The case then came to the Supreme Court.

On the surface, *Weber* presented the question of how "equality" had been defined by Congress in the 1964 Civil Rights Act. But not far below the surface were larger and more contentious issues. Did intervening conditions, including the Supreme Court's own decisions, warrant a change in the mandate or the policy of Congress? If so, was it proper for the Court, rather than Congress, to make that change?

Justice William Brennan, who wrote the Court's opinion, purported to deal only with the narrow issue of construction. Chief Justice Warren Burger and Justice William H. Rehnquist (who wrote the principal dissent) objected that, under the guise of construction, the Court was rewriting the mandate of Congress. When basic clashes of values lie behind constructional problems, such protests are as familiar as "Kill the umpire." Nevertheless, in *Weber*, the protest has extraordinary power. Indeed, the Court's argument is so weak that it is embarrassing to subject it to conventional legal analysis. But such analysis is a necessary first step in an effort to understand the limitations and implications of the Court's decision.

THE OPINION OF THE COURT

Title VII outlaws all employment discrimination against an individual on grounds of race. Thus, the statute's central provision makes it unlawful for an employer—"to fail or refuse to hire or to discharge *any individual*, or otherwise to discriminate against *any individual* with respect to his compensation, terms, conditions, or privileges of employment, because of *such individual's race*, color, religion, sex, or national origin." [Emphasis added].

Another provision dealing specifically with on-the-job training programs also barred employers or unions from discriminating against any "individual because of his race. . . ." In the light of those provisions, the Court's opinion virtually conceded that Weber's position was supported by a literal interpretation of the Civil Rights Act. But it rejected such an interpretation as incompatible with the spirit of the act and the intention of its makers. Brennan supported this position with these reasons: Congress's primary purpose had been to open to blacks jobs from which they had traditionally been barred. *Weber's* proposed interpretation was unacceptable because it would prohibit effective steps by private firms to accomplish that purpose. Quoting from the late Senator Hubert Humphrey, the justice observed that it would "be ironic indeed if a law triggered by a nation's concern over centuries of injustice and intended to improve the lot of those who had been 'excluded from the American dream for so long' were also to be the first blanket prohibition of all voluntary private, race-conscious efforts to abolish old patterns of racial segregation and hierarchy."

Brennan found a central justification for his position in section 703(j) of the act, which provides that nothing in Title VII shall be interpreted to *require* any employer to grant any preferential treatment to any individual or to any group because of a racial (sexual, et cetera) imbalance in an employer's work force. He urged that Congress's use of "require" rather than the phrase "require or permit" shows that Congress "did not mean to prohibit all race-conscious affirmative action to redress racial imbalance." Such a blanket prohibition would, he continued, ignore the fact that section 703(j) had been prompted by the concern about excessive federal regulation expressed by some legislators.

Brennan explicitly declined to go beyond the case before the Court and to delineate the scope and limits of the governing principle. Nor did his listing of those aspects of the Kaiser-USWA plan that in combination made for its legality do much to dissipate the murkiness inherent in the Court's avowedly ad hoc approach. We will look at that list below and suggest that the Court has not yet explicitly endorsed all "affirmative action" preferences even for blacks, and has ostensibly reserved for the future decisions on preferences for women, Hispanics, and other groups.

In the Court's opinion, only a brief footnote was devoted to the troublesome case of *The University of California* v. *Bakke* (1978), which had held that Title VI of the Civil Rights Act outlaws the adoption of explicit racial quotas in federally funded medical schools. Brennan dismissed that case principally on the ground that Title VI and Title VII shed no light upon one another since the former had been enacted pursuant to congressional power to condition federal expenditures and the latter pursuant to the commerce power.

This suggestion—that a different constitutional basis for the two titles implies different substantive standards for each of them—is not supported by any functional consideration. Furthermore, it ignores the fact that both titles incorporated a broad antidiscrimination principle. It is odd indeed to learn from the Court's parimonious footnote that these two titles of the Civil Rights Act should be severed from each other, even though they had been integrally connected by the approach of all the justices in *Bakke* as well as by common language, purpose, and history. This oddity calls to mind the remark of Thomas Reed Powell (a distinguished law teacher at the Harvard Law School when Brennan was a student there) that a legal mind is one that can think about one subject while refusing to think about another subject inextricably tied to the first.

THE DISSENTS

The core of Rehnquist's dissent is reflected in his charge that "[t]he Court eludes clear statutory language, 'uncontradicted legislative history' . . ., and uniform precedent in concluding that employers are, after all, permitted to consider race in making employment decisions." In his lengthy opinion he relentlessly documents each criticism he leveled against the majority. The power of his opinion is, in part, the power of repetition—especially the repetition of excerpt after excerpt from the legislative debates—all to the effect that under the act employers were not to be permitted (or required) to discriminate in favor of blacks or whites, that racial quotas, voluntary or involuntary, were to be forbidden. A summary cannot, accordingly, convey the force of this argument.

The power of Rehnquist's opinion came also from his clean craftsmanship in disposing of the Court's argument that the use of "required" in section 703(j) implied that some "voluntary" racial preferences were to be allowed. Rehnquist's response went like this: Section 703(j) had been designed to satisfy the bill's critics, who had urged that the act would be interpreted by courts and official agencies to require employers with racially unbalanced work forces to grant preferential treatment to minorities. There had been at that time no need to deal with truly voluntary, in addition to officially required, quotas. For the language of Title VII, as proponents and opponents of the bill both understood, plainly banned voluntary quotas. Indeed, never once during the eighty-three days of Senate debate did a speaker suggest that the bill would permit employers to adopt voluntary preferences in favor of blacks.

It was ironic, first to label Kaiser's plan as "voluntary," when it had actually been induced by pressure from federal agencies charged with enforcing Executive Order 11246 against government contractors, and then to uphold that plan by invoking section 703(j), which had been designed as protection against employers' being forced into quota systems by government pressures. Rehnquist added the final blow by pointing to the express provision in Title VII permitting firms on or near an Indian reservation to grant publicly announced preferences to Indians living close by. He urged that had Congress wished to permit such preferences for blacks it would have used similar language.

Rehnquist's persuasive textual and historical analysis, moreover, wholly compatible with the statute's primary purpose, as defined by Brennan—to help blacks get jobs. That end was, however, to be advanced by a particular means, by incorporating into law the equal opportunity for employment that had for so long been denied to blacks. It was clear in 1964, as it still is today, that ensuring such opportunity would help blacks enter the economic mainstream. But it was also clear that legal protection of equal opportunity for blacks could not have been enacted if whites had not expressly been accorded the same protection as blacks.

Furthermore, the broad sweep of the antidiscrimination principle had deep moral as well as political roots; equal opportunity for individuals and the irrelevance of their membership in particular racial groups—black or white—had been a classic but unrealized goal of American society. To be sure, equal opportunity, without concern for unequal conditions, could be an idle ritual. But the attack on unequal conditions was not to be based on race or to involve selective employment discrimination against "innocent whites." Instead, that attack was to be based on need or disadvantage—a criterion that cut across racial lines and that was both better measure of inequality of condition and less troublesome, morally and politically, than race.

Chief Justice Burger joined in Rehnquist's dissent, but disagreed with him on the ultimate policy question. Rehnquist had expressed distaste for racial quotas. Burger, however, endorsed as a citizen the end sought by the majority—legalization of action such as Kaiser's. His endorsement of the Court's end (without discussing the policy issues) underscored his disapproval of the Court's means, which, he suggested, were an intellectually dishonest assumption of legislative powers.

POST-1964 DEVELOPMENTS

None of the three opinions we have touched on covered in any detail developments—judicial and executive—following the passage of the 1964 act that had generated pressures on private employers to adopt employment practices of questionable legality. Justice Harry Blackmun, in his concurring opinion in *Weber*, emphasized those pressures. Although acknowledging his "misgivings" as to whether the pertinent legislative history supported the Court's result, Blackmun found that result supported by "additional considerations, practical and equitable only partially perceived, if perceived at all, by the 88th Congress."

Presumably those considerations were related to a series of judicial decisions under Title VII and executive decisions under Executive Order 11246 (covering government contractors) that purported to require color blindness in employment decisions while exerting great pressure on employers to achieve in their work force statistical proportionality for blacks, women, and other "protected" groups. Thus, the Supreme Court in *Griggs* v. *Duke Power Co.* (1971) had barred the use of professionally developed tests—even in good faith—if they had a disproportionately adverse impact on blacks, unless the employer proved "business necessity." The Court also deferred to and legitimated the stringent guidelines of the Equal Employment Opportunity Commission (EEOC) for validating tests in which blacks as a group do relatively badly. The resulting burdens of validation involved such expense and difficulties that they undercut the statutory proviso designed to preserve professionally developed tests used in good faith. These impediments to employers' relying on "objective" criteria complemented rules whereby proof of statistical imbalances in a work force could alone lead to back-pay liability to large classes of employees as well as to reputational injury to those found guilty of "discrimination."

The "moral" of all this was clear to employers: There was safety in numbers or in some kinds of numbers—that is, numbers tending to show statistical parity for blacks would not only reduce the risk of charges of or liability for statistical imbalances, but would also be helpful should an individual employee charge particularized and intentional discrimination by the employer.

While these pressures for race-conscious hiring were emerging, the Supreme Court continued to proclaim the color-free theme of Title VII. Indeed, in *Griggs* itself, the Court had announced that the statute outlawed all racial criteria and that it prescribed all "discriminatory preference for any group, minority or majority." Thus the Court purported to bar an employer from using race-conscious or quota hiring in order to avoid the statistical imbalances that might well be the road to costly litigation and liability.

A similar ambivalence regarding equal opportunity and equal outcomes for groups developed under Executive Order 11246. That order required government contractors to commit themselves both to "affirmative action" and to a comprehensive nondiscrimination obligation. But the administration of the order emphasized results. Equality of opportunity insofar as it meant race-free decisions was superseded by, or measured by, equality of outcome. An employer's performance and compliance were measured by the representation of minorities in his work force and in the population—or some population—or in some labor market. Compliance agencies pressed contractors for goals and timetables or "commitments" even without any showing of past or present discrimination. Despite the pressure for racially oriented decisions exerted by these ill-defined extra-statutory requirements, the regulations contained the usual contrapuntal disclaimer that the use of goals and timetables "is not intended to discriminate against any applicant or employee because of race, color, religion, sex or national origin."

These developments, despite their ambivalence, generated expectancies of, and constituencies for, continued "reverse discrimination." Furthermore, some disinterested observers supported such programs on the ground that individual blacks had suffered because of their race and that, accordingly, they should be helped by compensatory programs that were racially oriented. Still others dismissed any legal or moral problems involved on the "practical" ground that, in the real world, curtailment or dismantling of the policy of selective discrimination would threaten social peace.

BLACKMUN'S OPINION

In *Weber*, Blackmun scarcely mentioned such broad issues (some of which were discussed in *Bakke*). He emphasized the plight of business subject to contradictory commands from the government, stating:

> The broad prohibition against discrimination places the employer and the union on . . . a high tight rope without a net between them. If Title VII is read literally, on the one hand, they face liability for past discrimination against blacks, and, on the other, they face liability to whites for voluntary preferences adopted to mitigate the effects of prior discrimination against blacks.

Stressing that alleged dilemma, the government in *Weber* argued that employers and unions "who had committed arguable violations of Title VII" should be free to make "reasonable responses" without fear of liability to whites. Blackmun favored that approach, which would have focused on the employment practices of a particular firm. Nevertheless, he joined in the Court's opinion because in the end he found that employers would have substantially the same leeway with respect to racial preference under both approaches. Moreover, he perceived "strong considerations of equity" supporting the majority's approach of permitting preferential treatment designed to remedy the effects of societal discrimination. Indeed, adding insult to injury, he protested that Mr. Weber seemed "unfair" in challenging Kaiser's efforts to rectify historic discrimination—even though the Court had upheld a similar protest in *Bakke*.

In any event, the "arguable violation" approach favored by Blackmun and the government suffers from fundamental and manifest difficulties. It is needed only if Title VII in general bars all employment discrimination—in favor of or against blacks. But if the statute is read in that way, it is not apparent why arguable discrimination against members of one group should justify actual and undeniable discrimination against members of another group. All of Blackmun's subsidiary arguments beg that question and seek to convert a broad antidiscrimination principle into a question of whose ox is gored (to use Alexander Bickel's phrase). This is not to deny that under Title VII—among other regulatory contexts—employers have been faced with the risk of being damned if they do (engage in reverse discrimination) and damned if they do not. Such dilemmas are, of course, undesirable. Nevertheless, in resolving them in the Title VII context, the critical point is that that statute was designed to regulate employers and to protect employees. And if a choice must be made between a quieter life (or government contracts) for employers and the abrogation of statutory protection for some classes of employees, nothing in the statute suggests that the employees' interests should be sacrificed.

Finally, the employer's alleged dilemma is often a false one—because future affirmative action cannot wipe out liability for past violations. To be sure, affirmative action may divert attention from, and thereby avoid remedies for, past discrimination, but only at the expense of adequate relief for indentifiable victims of such discrimination. Indeed, Blackmun seems to endorse voluntary quotas in part because they fuzz things up in this way. Assume for example that, after the Civil Rights Act became effective, an employer engaged in discrimination against two black employees. In order to bolster his legal position the employer grants preferences to two other blacks, who were not directly affected by the employer's wrong. The equity of such results is elusive—and when, as in *Weber*, the employer has not even been found guilty of actual discrimination, the equitable support for racial preferences surely does not grow stronger.

Such indifference regarding a link between the victims and beneficiaries of particular wrongs and remedies contrasts sharply with the sensitivity to such relationships reflected in opinions of the Supreme Court or of individual justices in cases such as *Franks* v. *Bowman Transportation Company* (1975) or *Bakke* (1978). Those cases suggest, moreover, that substantial constitutional questions arise from a statute that permits an employer to grant voluntary preferences to blacks but prohibits such preferences to whites. The majority of the Court was wholly silent about these interrelated equitable and constitutional questions.

ADDITIONAL CONSIDERATIONS, PRACTICAL AND EQUITABLE

It is now useful to look more closely at Blackmun's general claim that "additional considerations, practical and equitable, only partially perceived, if perceived at all by the 88th Congress" support the Court's conclusion. It is worthy of emphasis that these unperceived considerations are not developments external to the structure of regulation; on the contrary they consist of the judicial decisions and executive practices that have generated great pressures for statistical parities and racial quotas, despite the resultant tensions with the statutory language and history. Blackmun's statement thus involves a reversal of roles, a painful failure to recognize whose perceptions—the judiciary's or the Congress's—should be respected in nonconstitutional cases. For Blackmun is implying that Congress failed to perceive that the judiciary and the executive would undercut the political and ethical bargain reflected in Title VII, and also failed to perceive that the judiciary, along with the executive, would generate pressures on employers to ignore the statute and to discriminate against members of some groups (including white males) in order to get protection against charges of discrimination against members of other groups (including blacks and females). Nevertheless, Blackmun finds that it is not the Court's inadequate perceptions but those of the Congress that now require a drastic and explicit narrowing of the antidiscrimination principle written into the statute. This change is necessary not to protect the original policy of the statute but rather to protect those whom it regulates from the conflicting pressures of contradictory policies that have been shaped by the courts, the EEOC, and the Office of Federal Contract Compliance (OFCC)—bodies that are supposed to implement the constitutional mandates of Congress.

The Court had another obvious alternative, namely, to seek to respect the language and history of the statute and to make clear that if doing so placed an innocent employer in an intolerable situation the Court would reexamine and, if need be, revise earlier decisions. For the change made by *Weber* is plainly not a response to a minor hitch, unforeseen by Congress, of the kind that often emerges as a statute is administered. On the contrary, that change goes to the roots of the bargain reached in the Eighty-eighth Congress and to the roots of our tradition. *Weber* is another important step in the transformation of the classic and widely supported liberal ideal of equal opportunity for individuals into a new program of equal outcomes for groups that is more divisive than the older ideal and fundamentally inconsistent with it.

AFFIRMATIVE ACTION AND THE COURT'S ROLE

It is not possible here to review the arguments over the relationship of these competing concepts of "equality" to equity and order. What merits emphasis here is that the resolution of such questions by the Court under the guise of statutory construction strains its institutional competence. Thus the Court's opinion does not even notice some questions relevant to a disinterested and informed choice between those two concepts. And one need not romanticize the process of legislative investigation or legislative decision to recognize that litigation is as illsuited for informing the Court regarding the pertinent questions as the Court is for resolving them. It may be useful to mention some of the pertinent questions neglected by the Court.

Is official pressure for affirmative action a substantial factor in the location of plants away from the centers of black population, with a view to avoiding pressure for the quota hiring required to redress statistical imbalance? As a consequence, are the most disadvantaged blacks being hurt by regulation designed to help them? Will the shift from equal opportunity for individuals to equal outcomes for groups undermine the consensus that was, at last, achieved in 1964? Will those all too ready to exploit the grievances of innocent whites in order to promote bigotry now be able to march under a respectable banner—equal opportunity for all? Will the fallout from *Weber* further polarize our work forces and our communities? Will it obstruct important job training across racial lines—the spontaneous on-the-job instruction of one worker by another? Will the blacklash create further obstacles to legislative action necessary for programs designed to help all the disadvantaged, black and white? Will quota hiring result in significant inefficiencies, thereby retarding economic growth, to the particular disadvantage of minorities? Could a shift from individual to group "rights" be stabilized anywhere short of a transformation in the basic values of our society and in our political, legal, and economic institutions—short of a completely "quotified" society?

These illustrative questions are legislative and—in the best sense of the word—political. There is no indication that the Court even considered them. On the other hand, in answering the question presented by *Weber* without appropriate regard for Congress's mandate, the Court risks its future capacity to meet a deeply felt need for trustworthy neutrals. Finally, when the justices stray into the politicial thicket, it is more likely that the Court will fail a classic test for a Supreme Court opinion, that it give reasoned explanations transcending the case being decided.

Weber fails that test. Although it affects almost the entire work force, it fails to provide coherent guidance to government officials and private lawyers who must give day-by-day advice and to judges who must deal with a flood of litigation. The Court, as we have seen, emphasized that it was deciding only the case before it. This ostensible strategy of postponement adds still another ironic twist to a decision preceded by arguments that something had to be done to alleviate the uncertainties resulting from discordant regulations.

THE REACH OF THE COURT'S OPINION

The narrowness of the opinion may, however, be more apparent than real. The distinctive elements of *Weber* that the Court stressed are in the main so unrelated to the opinion's basic argument and basic purpose that if the Court persists in its fundamental position those elements are unlikely to have any importance. Moreover, those elements are in general so ill-defined by the Court that they provide no clear basis for a limiting rule.

First, *Weber* validated quotas only with respect to "traditionally segregated job categories"—in the private sector. Since the Court did not spell out those categories, there are many unanswered questions. Do jobs remain traditionally segregated and, if so, for how long after black representation has markedly increased? Does the Court's emphasis mean that quotas may not be established for relatively new job categories, such as computer programmers, if such categories have not involved any identifiable exclusion in the past but presently involve a racial imbalance? Does "traditionally segregated" mean anything more than current racial imbalance? How are the job categories to be defined for these purposes? If, for example, the relevant rubric were "white collar jobs," computer programmers might easily fit into areas of traditional segregation; and, contrariwise, if computer programmers were a separate category that had been free from segregation. Finally, is "traditional segregation" to be determined on a national, regional, or local basis?

Apart from the confusion inherent in the "traditionally segregated job category" test, the more important question is whether that test is compatible with the Court's basic reasoning. If, as *Weber* indicates, Title VII permitted some voluntary quotas in order to avoid overregulation, it is difficult to see why their legality should depend on their being directed at "traditionally segregated categories." From the standpoint of a black job applicant who has not been the direct victim of discrimination, it is not of primary importance whether there was job segregation in the past. Furthermore, whether a racial imbalance exists in a traditionally segregated occupation or in a new occupation free from prior discrimination would appear to be irrelevant to what the Court posits to be the overriding purpose of the statute—putting blacks into the economic mainstream. Indeed, measures directed at that purpose may be especially significant in areas where jobs are being created by new technologies.

A similar point arises from the potential limitation of the Court's approach to the private sector, since employment has recently been growing faster in the public sector than in the private. Conceivably that limitation might be explained on the grounds that racial quotas in the public sector would involve the government directly in racial discrimination and thus raise troublesome constitutional questions. But the Court's interpretation of Title VII as permitting "voluntary" preferences for some races attributes to the Congress the same kind of discrimination on grounds of race.

Another apparent potential limitation on the employer's freedom to adopt "voluntary" preferences may be implicit in the Court's repeated statements that the Kaiser quota had resulted from collective bargaining. It is, however, difficult to find any basis for giving legal significance to that fact. Furthermore, to do so would run counter to *Alexander* v. *Gardner Denver* (1974) where the Supreme Court observed that Title VII protected individual rights against collective bargaining and the power of the majority. Finally, collective bargaining covers less than 25 percent of the work force. If the Court's approach is sound, it would be bizarre to confine it to such a small fraction of the economy.

The Court also noticed (1) that the Kaiser plan did not absolutely bar the admission of whites and (2) that the plan was a temporary one, operating only until blacks in craft jobs at Kaiser reflected the ratio of blacks in the local work force. Again, it is difficult to fit those factors into the Court's basic argument.

Although whites were not disqualified from Kaiser's training program, the places allotted to blacks—50 percent—exceeded their ratio in the local labor force. Even if one accepted the dubious and unhealthy premise that, without discrimination, employment in different plants would reflect ethnic proportionality, the Kaiser plan called for "overrepresentation" of blacks in the training program. Plainly, then, the plan was presented not as a prophylactic against future discrimination by Kaiser, but as a catch-up remedy for past discrimination by society. If such a "voluntary" remedy is favored or tolerated as a way of getting blacks into the economic mainstream, why should the law limit an employer who wishes to help blacks catch up even more quickly by barring whites altogether until a given statistical goal is reached? Similarly, if an employer can lawfully give blacks a quota higher than their ratio in the local labor force—without any consideration of relative skills—why should an employer who has achieved statistical parity in his own plant be barred from continuing his preference as a means of compensating for still unremedied "societal discrimination" elsewhere? Since the Court does not require guilt on the part of the employer as a condition of his granting racial preferences temporarily, the Court is allowing him to remedy societal discrimination. Why should his privilege end when he has achieved statistical parity but the rest of society has not?

The Court's emphasis upon the legislative history's focus on blacks and their economic plight may imply another limitation on voluntary quotas: that is, they may not be lawfully applied to white women, Hispanics, and members of other "protected groups." To be sure, the Court's emphasis on voluntarism and on traditionally segregated job categories, as well as Blackmun's emphasis on safety nets for employers, could be invoked to validate "voluntary" preferences designed to redress "underrepresentation" of such groups. Within the framework of *Weber*, one would expect that result. But such preferences could be "distinguished" on the basis of other themes in the Court's opinion.

Even if preferences to other groups are permitted, there will be a cluster of additional complexities arising from charges that blacks are being excessively preferred at the expense of Hispanics, women, or Vietnamese refugees—or from charges that run the other way. It is understandable that the Court, in its *Weber* opinion, did not attempt to illuminate those difficulties.

Only one more uncertainty can be mentioned here. What kind of an affirmative action plan will protect an employer in a *Weber* situation? Does the plan have to be in writing? How detailed and systematic must it be in order to distinguish lawful "reverse discrimination" under such a plan from ad hoc preferences for blacks previously forbidden by the Court? Finally, if the OFCC should openly order an employer to adopt specified affirmative preferences for blacks, would such a plan, because it was "involuntary," be beyond the protection of *Weber?*

CERTAINTY THROUGH UNCERTAINTIES—THE EEOC GUIDELINES

The uncertainties mentioned above might limit the use of "voluntary" preferences. But they will also in many instances protect employers who act in accordance with EEOC guidelines or affirmative action programs under the executive order. For Title VII seeks to insulate against damages liability firms that in good faith have conformed to and relied on any written interpretation by the EEOC. And under the EEOC's guidelines issued shortly before the Supreme Court's decision in *Weber* and embodying the government's position urged in that case, an employer is protected against damages liability if he engages in reasonable affirmative action in order to redress statistical disparities or to carry out an affirmative action plan pursuant to the executive order covering government contractors.

Given the looseness of the Court's rationale for "reverse discrimination," reliance on almost any official guideline sanctioning such discrimination would appear to be in good faith. Hence, the Court has not only rewritten Title VII but—as to damage actions—has by its temporizing facilitated further incursions on that act by the combined operations of the OFCC and the EEOC. Thus, the OFCC's pressures may propel employers into adopting "voluntary" quotas (for women as well as blacks) pursuant to affirmative action programs "suggested" by officials who have chosen to read the *Weber* opinion as a blanket endorsement of affirmative action (as that term is understood by agencies better known for their zeal for "results" than for their commitment to equal opportunity or their disinterested interpretation of Supreme Court opinions). *Weber* is thus likely to encourage "antidiscrimination" agencies to step up their pressures for discriminatory quotas. And *Weber* is likely to lead to the validation of many of those quotas. As to others, the guidelines—at least in damage actions—will tend to protect employers. Thus the Court, the EEOC, and the OFCC (despite doubts as to the constitutionality of the powers asserted by the OFCC) will interact to protect employers who are pressed into quotas on the ground, among others, that quotas are the voluntary result of self-study. The irony—noticed by Rehnquist—of labeling such quotas voluntary will increase if the club of the procurement power is wielded more vigorously. If it is wielded with more candor, or even less circumspection, the Court may, of course, reexamine its concept of voluntariness.

In *Weber*, only Blackmun suggested that intervening judicial and execution action made the issue before the Court more complex than what was the original meaning of Title VII of the 1964 act. Nevertheless, his answer, like the Court's, failed in my view to respect the clear mandate of Title VII and contravened what James Madison called the fundamental principle of our Constitution—separation of powers. That view will, of course, be challenged by those who see the Court as free to substitute its values and perceptions for those of Congress, especially when the Court goes their way. But even those more concerned with results than rationale are, I believe, likely to agree that *Weber* lacks the clarity, the candor, the coherence, and the convincing power that are appropriate for the work product of the Supreme Court of the United States. Those qualities are, indeed, usually the first casualties of judicial forays into the legislative thicket.

Mr. HATCH. Mr. President, the broader issues underlying Weber had already been extensively surveyed in the June 1979 issue of Commentary magazine, which has developed a remarkable record of courageous publication on this and many other taboo subjects.

The writer was Prof. Carl Cohen, professor of philosophy at the University of Michigan in Ann Arbor, former member of the American Civil Liberties Union and the author of such widely noted books as "Democracy" and "Civil Disobedience." Professor Cohen presciently devoted sections of his article to preemptive strikes on the argument that the "voluntary" and "benign" nature of the discrimination practiced against Brian Weber somehow exempted it from the force of the law. This of course was the very argument upon which the Supreme Court nevertheless shamelessly relied.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Why Race Preference Is Illegal and Immoral," by Carl Cohen, published in commentary, July 1979.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHY RACIAL PREFERENCE IS ILLEGAL AND IMMORAL

(By Carl Cohen)

The role of race in assuring social justice is again squarely before the Supreme Court in a case whose full and revealing name is: *Kaiser Aluminum & Chemical Corporation and United Steelworkers of America, AFL-CIO* v. *Brian F. Weber, individually and on behalf of all other persons similarly situated.*

Weber, a white unskilled steelworker, is Bakke's analogue. The Steelworkers Union and Kaiser Aluminum are not the only forces against him. The United Auto Workers and the United Mine Workers, the National Education Association, the Coalition of Black Trade Unionists, and assorted other unions are against him. The American Civil Liberties Union is against him. Even the United States government is formally aligned against him. On Weber's side is the Anti-Defamation League of B'nai B'rith (with some associated non-Jewish ethnic groups) and, according to repeated surveys, an overwhelming majority of the American population, including a majority of the black population.

But the issues at stake here, touching the most fundamental rights of individual persons, are not to be decided by counting noses. The chief things going for Weber are the Fourteenth Amendment of the U.S. Constitution, the Civil Rights Act of 1964 as amended, and sound moral principles. Thrice is he armed who hath his quarrel just.

Weber has thus far been victorious, both in the Federal District Court, and in the Federal Court of Appeals (5th Circuit, New Orleans). His formidable opponents find it difficult to overcome the plain words of the law applied straightforwardly to the established facts of his case. The law (Title VII of the Civil Rights Act, Sec. 703) forbids flatly all discrimination in employment because of race.* Beyond any possible doubt

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*Subsection (a) of Sec. 703 reads:

"It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privilege of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit segregate, or classify his em-

(as we shall see) Weber was discriminated against by his employer, and classified by his employer, and had his status as an employee adversely affected because of his race. That the employment practice through which this was done is a violation of this federal law is an ineluctable conclusion of any rational mind.

Is it not remarkable, then, that unions, industry, and government should now join in the effort to persuade the Supreme Court to evade this conclusion? Weber's opponents are neither foolish nor evil. They seek, somehow, to surmount the barriers to racially discriminatory treatment in order to achieve objectives they think good. Reflection upon this case will oblige the Supreme Court—and all citizens who would reach thoughtful judgment on these issues—to reconsider those objectives, and to appraise the means by which they have been pursued.

The *Bakke* case, and the *DeFunis* case before it, dealt with racially discriminatory practices in professional-school admissions—a matter for which the middle classes have, rightly, a tender concern. *Weber* deals with racial discrimination in blue-collar employment. The injury done Brian Weber was at least as great as that done Allan Bakke, and the class Weber formally represents is very much larger, if less articulate, than that directly affected by racially preferential school admissions. It is disturbing, therefore, that the voices raised in behalf of Weber's rights, and the rights of literally millions of individual citizens in like circumstances, are so painfully few. Silence now from quarters that were outspoken in opposition to racial preference in higher education may lead some to infer that self-interest, more than justice, was what motivated that earlier concern.

In both spheres—school admissions and industrial employment—the same issues arise: in the allocation of scarce goods, may one's race count in one's favor? If ever, when? In *Bakke* a racially preferential admission system at the University of California Medical School at Davis was struck down, but attention to race in the admissions process was there held permissible within certain very narrow limits: to advance the diversity of an entering class, or to remedy the condition of specific persons who had been discriminated against by the school using the racial instrument. *Weber* is in many important respects different. Here the factor of diversity does not enter; here matters pertaining to intellectual qualifications are replaced by matters pertaining to seniority. Here the stakes are greater and the underlying moral issues are presented more cleanly.

I

This is what happened. Kaiser (Kaiser Aluminum & Chemical Corporation) and the union (United Steelworkers of America, AFL–CIO) sought to increase the number of minority workers in the skilled crafts at Kaiser's Grammercy, Louisiana, plant. To this end, in a 1974 collective-bargaining agreement, they changed the system whereby employees would enter on-the-job training for craft positions. Prior craft experience was eliminated as a requirement, and entrance ratios, by race, were established for acceptance in the job-training program. For each white worker admitted one minority worker would be admitted, until the percentage of minority craft workers in the Grammercy plant roughly approximated the percentage of the minority population in the surrounding area, then about 40 per cent. Dual seniority lists were established, one black and one white, and each two vacancies filled with the persons at the top of the two racially distinct lists.

It was an inevitable result of this system that some employees would be favored because of their race, and some would be injured because of theirs. Brian Weber was refused admission to the job-training program although his seniority was higher than some employees from the other racial list who were admitted. Weber sued on his own behalf and on behalf of all non-minority employees who applied for on-the-job training at the Grammercy plant after that labor agreement was signed. A racially preferential scheme for allocating on-the-job training opportunities, he argues, is a clear violation of the Federal Civil Rights Act.

One portion of Title VII of that Act deals explicitly with on-the-job training programs. That portion (subsection (d) of Sec. 703) reads as follows:

"It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, *including on-the-job training programs*, to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training [42 U.S. Codes 2000e–2(d) (1970); emphasis added]."

Was it prescience that caused the Congress to formulate this ban with language so precisely and indubitably covering the case at hand? Not at all. Title VII had as its purpose the elimination of all ethnic favoritism in employment; there had been, at the time of its adoption, plenty of experience of the ways in which racial prejudice can be given effect—one of the commonest being in job-training programs. In that form as in all forms, said the Congress in effect, racial discrimination in employment is no longer permissible.

How can Kaiser and the union (and the U.S. Department of Justice) reasonably argue that such a scheme is indeed lawful or fair? They contend that the law, properly interpreted, does not forbid this variety of racial preference, which they think justified by our history of discrimination. They contend that if the pursuit of pressing social objectives now imposes incidental costs on individuals, Weber and his like are the right persons to bear those costs. They contend that they were ordered by the U.S. government, to introduce racial preference of precisely this kind. And they contend that Weber wasn't really injured by this program at all. I examine these arguments in turn.

II

"Kaiser and the union [the first argument begins] reached an agreement that was fully in accord with the spirit of Title VII. Theirs was a voluntary effort to bring a greater number of minority workers into the skilled crafts. Congress never intended to forbid such voluntary efforts. If now the product of such agreements, reached through collective bargaining, is struck down, the cause of racial justice will have been dealt a devastating blow.

"We must [this argument continues] permit management and labor to join, as in this case, to correct a racially unbalanced situation flowing from the historical and social realities of American life. Blacks have been discriminated against, cruelly and consistently, by industry and by unions. Now an effort is being made to give redress. It is an ironic inversion of the Civil Rights Act to use that Act to forbid the only instruments that may effectively achieve its own intended result.

"It is true [the argument proceeds] that Title VII specifies that preferential treatment of racial minorities is not required [Section 703 (j)]. But this is not to say it is forbidden. When its aim is precisely that of the Act itself, it must not be forbidden. Weber relies upon the narrowest construction of the words and misses—inadvertently or deliberately—the remedial spirit of the law and of the Kaiser program here in question."

The main pillar of Weber's opposition comes to this: "If the Court agrees that racial quotas such as this one are discriminatory, we will be kept from doing what many of us think it is necessary to do, and do quickly, in the interests of long-term justice. Let it be understood, therefore [the argument concludes], that this quota, although it does of course distinguish by race, and does, admittedly, give favor by race, does not 'discriminate' by race in the bad sense that the law condemns. When we come to realize that some plans for racial balance, while they may have adverse effects upon some white workers, are nevertheless justified by pressing societal needs, we will also see what interpretation of the law is required by justice."

To put the argument plainly is to see both its earnestness and its frailty. The requirements of the Civil Rights Act, which in turn were intended to give concrete meaning to the constitutional demand that no citizen be denied the equal protection of the laws, were aimed at bringing to a final halt all formal discrimination on the basis of race—and color, religion, sex, and national origin. It certainly was not intended, and it obviously was not formulated, to forbid only such racial discrimination as employers and unions thought objectionable, while permitting any racially discriminatory schemes that employers and unions might by agreement find worthy or convenient. What the employer and the union happen to prefer, whether their motives be honorable or crass has absolutely no weight, says the law in effect, against the *right* of each individual citizen to be dealt with, in matters pertaining to employment, without regard to race, religion, or national origin.

III

"But that cannot be the correct interpretation of the law," answer Kaiser and the union in chorus, "because the Supreme Court has several times, in the years since, recognized the lawfulness and wisdom of racially preferential employment schemes. Indeed, our federal courts have *ordered* the imposition of such racial preference in some cases! So it is clearly false that *all* racial preference has been forbidden. If that is so, then it is not obviously true that *this* scheme for racial preference has been forbidden."

This rejoinder brings us to the core, legal and moral, of the controversy in *Weber*. What kind of attention to race does the Civil Rights Act (and, indirectly, the Constitution) permit? And what should it permit? In the *Bakke* case, this question was complicated by the entry of First Amendment considerations pertaining to the robust exchange of ideas in the classroom; the holding in *Bakke* was tangled by the fact that Justice Powell's pivotal opinion, although condemning racial favoritism, permits attention to race to advance diversity among an entering school class. Here, in *Weber*, such First Amendment considerations are totally absent. What, if anything, remains to justify race-conscious employment practices?

There is a clear and honorable answer to this question, given forcefully by federal courts at every level. Title VII of the Civil Rights Act forbids all deliberate discrimination by race, save only in cases where racial classification is absolutely essential give redress to *identifiable persons* injured by racial discrimination *and where the injury done them was done by the same party upon whom the numerical program is imposed*. One purpose only may justify numerical schemes using racial categories: the *making whole* of those to whom redress for racial injury is specifically owed, by those who owe it.

For example: the known victims of racial discrimination by a trucking company have

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ployees or applicants for employment in any way which would deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin" 42 U.S. Codes 2000e–2(a) (1970).

been held entitled, as a remedy, to a place in the seniority lists of that company that would have been theirs if they had not been so victimized. To put them now in as good a place as they would have been in but for the discriminatory employment practice from which they can be shown to have suffered, it may be necessary to attend to race. Only in that way can the victims be made whole; they would otherwise remain subordinate to persons who, had it not been for racial discrimination in that company, would now be their subordinates. (See *Franks* v. *Bowman Transportation Co.* 424 U.S. 747 [1976]. In such cases, the racially oriented remedy cannot be refused on the ground that the effect on other employees is adverse because, although the employees who suffer from the imposition of the plan are very possibly innocent themselves, they have clearly benefited, in seniority, from the specific discriminatory practice for which remedy is being given. Race-conscious remedies for the victims of illegal discrimination are lawful, consistent with Title VII, only in such circumstances.

Weber and Kaiser Aluminum are in no such circumstances. Upon examining the facts, the Federal District Court found that Kaiser had not been guilty of any discriminatory hiring or promotion at its Grammercy plant. Kaiser's industrial-relations superintendent at that plant testified that, prior to 1974, Kaiser had vigorously sought trained black craftsmen from the general community. Advertising in periodicals and newspapers that were published primarily for black subscribers, Kaiser found it very difficult to attract black craftsmen. The evidence established two key facts:

1. Kaiser had a serious, operational, no-discrimination hiring policy at its Grammercy plant from the day of that plant's opening in 1958.

2. Not one of the black employees who were offered on-the-job training opportunities over more senior white employees (pursuant to the 1974 Labor Agreement) had been subject to any prior employment discrimination by Kaiser.

From these facts it is an inescapable conclusion that the quota system at Kaiser's Grammercy plant was not an instrument for the specific redress of persons injured by racial discrimination there; it was unabashed racial preference aimed at numerical proportions having nothing to do with past conduct in that plant. Such preference Title VII outlaws. The distinction, between impermissible racial preference and permissible remedy for past discrimination, is put eloquently by the Circuit Court of Appeals in affirming Weber's rights:

"If employees who have been arbitrarily favored are deprived of benefits capriciously conferred on them in order that those who were arbitrarily deprived may receive what they should, in fairness, have had to begin with, no law is violated. This is so even if both the class whose rights are restored and the class required to"move over" are defined by race—if the original arbitrariness was defined in that manner. And the reason is that no one is being favored or disfavored, advantaged or injured, under these circumstances *because* of race; rather, those who have been unjustly deprived receive their due and those who have been arbitrarily favored surrender some the the largesse capriciously conferred on them. That these consequences end by race is a mere incident of the fact that they began that way.[1]

But those who were favored by race at Weber's expense were admittedly not the victims of such original arbitrariness. The Circuit Court's support of Weber is therefore categorical: [U]nless a preference is enacted to restore employees to their rightful places within a particular employment scheme it is strictly forbidden by Title VII" (p. 225).

IV

Since it is clear that the beneficiaries of this racial program were not victims of Kaiser's previous discrimination, and equally clear that the use of dual seniority lists is an explicit effort to favor blacks over whites, the defenders of this program are compelled to resort to a different justification—past "societal discrimination."

"We cannot deny [say the defenders in effect] that the two-list system deliberately favors one race over another. But we do deny that favoring this race at this time in this country is unfair. We contend that, in view of the historical discrimination against blacks (and other minorities), the racially preferential device now before us is entirely justifiable. It is justifiable not only because blacks have been so long oppressed, but because, as a corollary, whites have been unfairly *advantaged* by a race prejudice. The white employees of Kaiser who are passed over by this plan may indeed be innocent of any racial discrimination themselves, but they have been and are the beneficiaries of racial discrimination by others. This is the heart of our justification. Favor to blacks now is just because of the favor whites have enjoyed until now."

This is the principled argument by which many without selfish interests in these programs are persuaded that they are fair. One might have expected that the American Civil Liberties Union, for example, to spring to the defense of the rights of an almost defenseless individual. Instead it joins the forces against Weber because the ACLU has convinced itself that his rights have not really been infringed on, even though he suffers from deliberate disadvantage because of race. How can that be?

"Racial preference in employment is justified [the argument proceeds] when it is a response to the morally legitimate demand that the *lingering effects* of past racial discrimination be remedied. The lingering effects of historical oppression include the continuing losses of decent employment, together with the money and status that it brings. But the same historical race prejudice that has systematically blocked minorities from access to decent jobs has conferred an involuntary benefit upon whites because, while the number of desirable jobs remains roughly constant, the elimination of competition by minority workers results in the availability of desirable jobs for whites in generous disproportion to their numbers. This benefit is conferred even upon those whites who may, in fact, deplore the prejudice from which they gain. Yet they did gain. Now, with racial quotas favoring blacks, they lose. Their present loss is morally justified by their earlier gain. The primary target of racially preferential programs should be those guilty of past unlawful discrimination, of course. But where those guilty parties simply cannot be identified or are no longer available to make restitution, a secondary but legitimate target is the unjust enrichment attributable to that racial discrimination. Quota plans, like the one devised by Kaiser and the union, seek to redistribute that unjust enrichment. Seen in this light, their fairness—the moral rightness of racial preference for societal rebalancing—cannot be denied." So reasons the ACLU explicitly, and many other honest citizens implicitly, in giving pained approval to race quotas.

The argument fails utterly upon inspection. It relies upon a premise that is clearly and admittedly false in the *Weber* case and like cases. And were all its premises true, they could still not justify the racial preference here in question.

Consider the premises first. The adverse impact on Weber is held justifiable by his unjust enrichment resulting from the bad conduct of others. But if Weber were in any way the beneficiary of past discrimination, he certainly was not unjustly enriched by employment discrimination in the Grammercy plant. In that plant, it is agreed by advocates of the quota and by the courts, there had been no refusal to hire or promote blacks or other minorities, no racial discrimination from which Weber benefited. But the injustice done to Weber is manifested in the loss of entitlements he earned by ten years of work *in that plant*—not in the Kaiser Corporation or in the workforce at large. His entitlements in this matter cannot have been acquired as the result of the historical misconduct of others. Long before Weber came to work at that plant, blacks and whites received equal employment treatment there—so the claim that simply by virtue of his having the seniority that he did in the Grammercy plant Weber was enjoying an unjust enrichment is simply false. That false premise cannot justify "redistribution." The Circuit Court put the matter crisply: "Whatever other effects societal discrimination may have, it has had—by the specific finding of the court below—*no effect* on the seniority of any party here. It is therefore inappropriate to meddle with any party's seniority or with any perquisites attendant upon it, since none has obtained any unfair seniority advantage at the expense of any other" (p. 226).

But suppose *arguendo* (what is not true) that Weber had been unfairly enriched by past racial discrimination. What would follow? The enrichment thus identified might then be a target for redistribution. Among whom? To take from Weber and give to another because Weber got his seniority "unjustly" could conceivably be justified (if ever) *only* if those to whom the redistribution were made were the same persons from whom the spoils had been taken in the first instance. The appealing argument by which so many are persuaded makes the faulty supposition that, if *X* has gained fortuitously but undeservedly from some unidentifiable *Y*, we are morally justified in taking from him and giving to a wholly different Z who suffered no loss to *X*'s benefit, but who happens to be of the same *race* as that injured but unidentifiable *Y*. Buried in this reasoning process is the mistaken premise that the distribution of goods or opportunities is rightly made by racial categories. Z, the person now given preference over *X* because of race, has a right to get from him (this premise supposes) because Z is black, and blacks have been so long oppressed. But rights do not and cannot inhere in skin-color groups. Individuals have rights, not races. It is true, of course, that many persons have been cruelly deprived of rights simply because of their blackness. Whatever the remedy all such persons deserve, it is deserved by those injured and because of their injury; nothing is deserved because of the color of one's skin. This is the philosophical nub of the *Weber* case.

V

So long-lasting and self-perpetuating have been the damages done to many blacks and others by discrimination that some corrective steps must be undertaken. The moral anxiety created by this need for affirmative action accounts, in part, for the willingness of some to tolerate outright racial quotas. In the passion to make social restitution, sensitive and otherwise fair-minded people have gotten the moral claims of living persons badly confused. The head of the Office of Federal Contract Compliance (by whom, as we shall see, Kaiser was threatened) epitomizes this confusion: "Society is trying to correct an age-old problem, and Weber is a victim of that process. There is nothing I can say to him. This is something that has to happen. The question is whether you give priority to a group that's been systematically deprived of opportunity while Brian Weber's parents and grandparents were not discriminated against. If someone has to bear the sins of the fathers, surely it has to be their children" (New York *Times Magazine*, February 25, 1979).

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[1] 653 F. 2d 216, 225 (1977); page references below refer to this decision. The Supreme Court has agreed. In a case arising from a plan devised to give remedy to school employees within a perviously discriminatory system, the Supreme Court declined review of a decision that, in view of the source and nature of that earlier injury, a minority worker may there be entitled to preferential treatment "not because he is black, but because, and only to the extent that, he has been discriminated against" *Chance* v. *Board of Examiners*, 534 F. 2d 993, 999 (1976); cert. denied 431 U.S. 965 (1977).

But deliberately visiting the sins of the fathers upon their innocent sons and grandsons, to the special advantage of persons not connected with the original sinning, is conduct neither lawful nor morally right. To suppose that both the beneficiaries of redress and those who are made to carry its burden are properly identified by race is, to be plain, racism. It is ethical racism because supposed with good will. It is simplistic because, on this view, race by itself—without consideration of the nature or degrees of past injuries, present advantages, or future pains—is sufficient to trigger the preferential device. The mistaken view in question is therefore properly entitled *simplistic ethical racism*.

Injuries are suffered in fact, claims made and burdens carried, by individual persons. Civil society is constituted to protect the rights of individuals, the sacrifice of fundamental individual rights cannot be justified by the desire to advance the well-being of any ethnic group. Precisely such justification is precluded by the Fourteenth Amendment of our Constitution, whose words—no state "shall deny to any person within its jurisdiction the equal protection of the laws"—express no mere legalism but a philosophical principle of the deepest importance. Explicating that clause, in a now famous passage, the Supreme Court wrote: "The rights created by the first section of the Fourteenth Amendment are, by its terms, guaranteed to the individual. The rights established are personal rights. . . . Equal protection of the laws is not advanced through indiscriminate imposition of inequalities (*Shelly* v. *Kraemer* 334 U.S. 1, 22 [1948]).

The nature and degree of the injury done to many Americans because they were black or brown or yellow varies greatly from case to case. Some such injuries may justify compensatory advantage now to those injured. But the calculation of who is due what from whom is a very sticky business; compensatory instruments are likely to compound injustice unless the individual circumstances of all involved—those who were originally hurt, those who benefit now, and those who will bear the cost—are carefully considered. Whatever compensatory advantage may be given—in employment or elsewhere—it must be given to all and only those who have suffered like injury, without regard to their race. What we may not do, constitutionally or morally, is announce in effect: "No matter that you, *X*, were innocent and gained no advantage; you are white and therefore lose points. No matter whether you, *Z*, were damaged or not; you are black and therefore gain points." If the moral ground for compensatory affirmative action is the redress of injury, the uninjured have no claim to it, and all those individuals of whatever ethnic group who have suffered the injury in question have an equal claim to it.

Racially based numerical instruments have this grave and unavoidable defect: they cannot make the morally crucial distinctions between the blameworthy and the blameless, between the deserving and the undeserving. As compensatory devices they are under-inclusive in failing to remedy the same damage when it has been done to persons of the nonfavored races; they are over-inclusive in benefiting some in the favored categories who are without claims, often at substantial cost to innocent persons. Except in those cases where the discriminatory policy of the employer is established, and the identity of injured applicants or employees determinable, racial preference in employment is intolerably blunt, incapable of respecting the rights of individuals.

VI

This unsuitability of the racial means to the compensatory end partly explains the queasiness of language with which the advocates of "numerical instruments" defend their schemes. Although they believe their aims are good, there is yet widespread shame among them that they resort to racial preference to advance them. Hence the use of euphemisms like "disadvantaged" in identifying the beneficiaries of racial programs, when what is really meant is "black" or "minority." Not all minorities are disadvantaged, and not all those disadvantaged are minorities, obviously. But it is tempting to hide the racial character of a program which, if exposed, would be legally and morally intolerable.[2]

"Affirmative action"—a phrase that now pervades our language—has commonly been used in the same duplicitous way. Affirmative steps to eliminate racially discriminatory practices rightly win the assent of all. Affirmative efforts to recruit fairly (whether for on-the-job training programs or for professional schools), affirmative inquiry to determine whether testing is job-related and to insure that evaluation of performance is not racially infected—in such forms affirmative action is of unquestionable merit. But when, in the name of affirmative action for racial equality, the deliberately unequal treatment of the races is introduced, we suffer a national epidemic of double-speak. Employment advertisements everywhere exhibit this duplicity with an almost ritualized motto: "An equal opportunity affirmative action employer." The very term "affirmative action" has lost its honor and has become, for most, a euphemism for racial preference.

The unsavory character of their means is recognized by the advocates of racial instruments; that recognition is revealed by an inclination to be covert in conduct and to equivocate in language. Unsavoriness is tolerated here, however, even by organizations whose normal pride it is to expose immoral expedience in the body politic. Nothing is more indicative of the true spirit of a community than the character of the instruments it permits, and of those it precludes, in advancing public policy. Police surveillance to root out spies, the suppression of speech (radical or conservative) to protect the peace—all such instruments are rejected in a decent society. Civil libertarians wisely insist that we forswear instruments that invade the rights of individuals, even when forswearing proves inconvenient. The use of such instruments is precluded, forbidden not just to evil people but to all people. Preference by race is one of these forbidden instruments. The very high priority given to this exclusionary principle, and its applicability to all including the state itself, marks it as *constitutional* in the most profound sense.

Efforts to cut constitutional corners—however well-intentioned—corrupt a civil society. The means we use penetrate the ends we achieve; when the instrument is unjust, the outcome will be infected by that injustice. This lesson even civil libertarians have always to be relearning.

VII

The inconsistency between racially preferential means and the end of honestly equal treatment is exquisitely exhibited in one aspect of the *Weber* case upon which Kaiser and the union place much emphasis. "We are caught [say they] in a monstrous double bind. What will you have us do? Desegregate, you say. Integrate your workforce; show us that you mean to undo, affirmatively, the wrongs earlier done. We do it, making serious efforts to increase the number of minorities in craft jobs through advertisement, recruitment, encouragement. We get some results, but they are not dramatic. Then you—the nation speaking through your regulatory agencies—tell us that what we have done is not enough. You threaten us! Of course we take action in response to your threat—and having done so, we are threatened at law on the other side! Such inconsistency is unbearable. You, the body politic, must speak with one tongue!"

What is that first threat of which Kaiser complains? It came from the Office of Federal Contract Compliance whose regulations mandate "affirmative action" by all government contractors. The withdrawal of all federal contracts was the price Kaiser might have had to pay if, to avoid being found in "noncompliance," racial preference for minorities had not been introduced. Whence does the OFCC get the authority to make such threats? From an order of the President of the United States, say they, Executive Order 11246. This order requires federal contractors to take affirmative action to prevent low employment of women and minorities in their workforces, on the assumption that most disproportionately low employment is the result of discrimination. Since the racial instrument agreed upon was a direct response to federal authority exercised under that valid order, it is outrageous now, say Kaiser and the union, to attack us for violation of the Civil Rights Act.

This response to official inconsistency cannot help but evoke some sympathy. But as a defense of racial quotas it is worthless. The argument fails on two levels. First, Executive Order 11246 does not require and cannot justify racial quotas in cases like this one, in which the conduct of the employer has not been unlawfully discriminatory. The Order says nothing about numerical ratios. Indeed, its plain words *forbid* all racial preference. The relevant passage of that Order reads: "The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin" (30 Fed. Reg. 12319 [1965]).

Some numerical plans to protect employment for minorities have been upheld by the courts as valid executive actions—but they have been so upheld as responses to specifically identified violations by those upon whom the remedy was imposed. The so-called Philadelphia Plan was held permissible under Title VII, but that holding was explicitly tied to prior exclusionary practices by the six trade unions controlling the workforce in the construction industry in Philadelphia. Whatever tools the Office of Federal Contract Compliance may think itself entitled to employ, it has no authority in law, and certainly none in morals, to press for a racial quota in cases where, as here, those getting preference under the scheme had not been injured by that employer, and those injured by the scheme had not benefited from any misconduct of that employer.

The argument fails at a second level as well. If Executive Order 11246 be interpreted so as to authorize the OFCC to require racial quotas in cases like this one, the Executive Order itself is plainly unlawful, an illegitimate exercise of administrative authority in conflict with federal statute. The Civil Rights Act specifically prohibits racial classification in admission to on-the-job training programs (Sect. 703(d); cited above, p. 41). The quota plan devised by Kaiser and the union is, as we have seen, patently in violation of this section. When the law and an executive order clash, there can be no doubt of the outcome. Writes the Circuit Court: "If Executive Order 11246 mandates a racial quota for admision to on-the-job training by Kaiser, *in the absence of any prior hiring or promotion discrimination,* the executive order must fall before this direct congressional prohibition" (p. 227).

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[2] In the original trial of the *Bakke* case, the University of California defended the racial quotas at the Davis medical school as being for all "disadvantaged" students. When the court noted that not a single disadvantaged person who was not of an ethnic minority had been admitted in all the years of that program's operation, the university in effect conceded the misdescription. Not a pretty business.

Only by resolutely enforcing the rights of citizens can the insolence of office be restrained. Individual workers, without power or money, need to be protected against civil servants who take it upon themselves to threaten in order to be able to report numerical ratios they think desirable, claiming only to be following the orders of their superiors.

VIII

Defenses of racial preference—by efforts to reinterpret the law, by confused arguments based on "social discrimination," by claim of executive order—all collapse. It is important to see why they *should* collapse. The defenders, conscious of their own righteous pursuit of racial justice, little doubt that the tools they wish to employ would have the good consequences they hope for. To question the merit of those tools is for them almost a betrayal of the oppressed in whose behalf they claim to battle. In their eyes the conflict is only over whether they are to be permitted to do a good deed—i.e., give preference to racial minorities—not whether it is a good deed, or whether its consequences will be good.

Decency of motivation, however, does not insure the goodness of the immediate object, or the goodness of its consequences. Racial justice is an aim that all share; it is distorted when transformed into formulas for ethnic proportionality in work forces and professions based (as in this case) upon ethnic populations in the surrounding area. What accounts for this transformation? Motives honorable in their general statement are blended with a vision of cultural homogeneity that is profoundly unhealthy. The objectives then sought in making that blend operational often prove inconsistent with the original aim. It is this inchoate vision of homogeneity—made concrete in numerical proportions—that lies behind racial instruments like the one at issue in *Weber*. Federal Appellate Courts have not been oblivious to the evils that ensue:

"There are good reasons why the use of racial criteria should be strictly scrutinized and given legal sanction only where a compelling need for remedial action can be shown. . . . Government recognition and sanction of racial classifications may be inherently divisive, reinforcing prejudices, confirming perceived differences between the races, and weakening the government's educative role on behalf of equality and neutrality. It may also have unexpected results, such as the development of indicia for placing individuals into different racial categories. Once racial classifications are imbedded in the law, their purpose may become perverted: a benign preference under certain conditions may shade into malignant preference at other times. Moreover, a racial preference for members of one minority might result in discrimination against another minority, a higher proportion of whose members had previously enjoyed access to a certain opportunity [*Associated General Contractors of Massachusetts Inc.* v. *Altshuler* 490 F. 2d 9,17–18 (1973)]."

In this spirit three Federal Circuit Courts have repeatedly refused to approve racial quotas in the absence of proved past discriminatory practice dictating that specific remedy.

Racial classifications have insidious long-term results: anger and envy flowing from rewards or penalties based on race; solidification of racial barriers and the encouragement of racial separatism; inappropriate entry of race into unrelated intellectual or economic matters; the indirect support of condescension and invidious judgments among ethnic groups—in sum, the promotion of all the conditions that produce racial *dis*harmony and racial *dis*integration. What Kaiser and the union defend is very far from an innocuous good deed. It is a plan having very damaging conseqeunces to very many people.

Some of the damage, direct and substantial, is done to those, like Weber and Bakke, who bear the immediately resulting burden. "Society" does not pay; the "white majority" does not pay; individual citizens pay. The penalty to them is great and undeserved. One notable feature of the *Bakke* decision, almost entirely overlooked by commentators and the press, is the fact that all nine Supreme Court Justices there agreed that, as a result of the quota system used by the medical school at Davis, Allan Bakke was done a constitutional injury—that is, an injury he should not have to suffer unless it can be well justified. Even the four Justices who thought the injury could be justified took the hurt done to him very seriously. One of those four (that is, one of the group who did *not* side with Bakke), Justice Blackmun, refers to the injury done to Bakke as an "ugly" one. The other five Justices struck down that racially preferential program; Powell among them condemns the damage such programs do. The Washington Supreme Court, too, in deciding against Marco DeFunis in an analogous case, did not deny that he had been seriously hurt, and candidly rejected the claim that such quotas are "benign." A program giving special favor to racial minorities, say they, "is certainly not benign with respect to nonminority students replaced by it" (*DeFunis* v. *Odegaard* 507 P 2d 1182). *Reverse discrimination* is not an invention or a hypothesis yet to be confirmed; it is a sociological and legal fact.

IX

The reality of the evils flowing from racial instruments introduces one of the most intriguing aspects of the *Weber* case. A dispute arises betewen the District and the Circuit Court beneath which lies a momentous philosophical issue. Numerical remedies based on race do damage, the two courts agree; they further agree that this is a case in which the imposition of such a numerical remedy cannot be justified because there has been, in fact, no previous unlawful discrimination by the employer here. However, in those cases in which such remedy might prove justifiable (previous discriminatory practice in that setting being alleged), the following question arises: may that numerical instrument of redress be devised and executed on the authority of the employer and union acting jointly? Or is a racial quota permissible as remedy only on the express authority of the judiciary? The District Court not only found the remedy unjustifiable, but held in addition that such painful remedies would in no case be in the province of unions and management to impose. The Circuit Court, agreeing on the first point, did not agree on the second. Voluntary remedial action (said they) is preferable to court action; therefore, to insist upon judicial imposition of remedies would interfere unduly with reasonable private amelioration. The underlying issue here is the locus of authority in resolving questions of justice. Which court is the wiser?

In permitting numerical remedies to be imposed (if at all) only by the judiciary, the District Court, I submit, is deeply right. The reasons for this are several and complicated.

First, the question of whether the circumstances are such as to justify the imposition of a numerical remedy (a question that must be answered affirmatively if any such remedy is to be lawful) is precisely the kind of question that cannot be answered fairly by employers and unions acting in their joint interests. Individuals will bear the burden; if the case were of a kind to justify the imposition of that burden on Weber and his like, past discrimination by that employer in that context must be proved or admitted. No employer is likely to make that admission. To do so would invite a host of very expensive lawsuits in behalf of those injured. Employers will therefore enter such agreements only with the understanding that no past discrimination has been proved or admitted. That very understanding (however arguable it may be) on which an employer might be willing to enter an agreement with a union to give racial preference to minorities is precisely the understanding which, if reflecting the facts truly, shows that racial preference unjustly injurious and unlawful.

This peculiar feature of "voluntary" racial instruments is admitted—even emphasized, ironically—by the UAW, the NEA, and other assorted unions. If (they argue) voluntary racial preference is permissible only when the employer's past conduct would be found in violation of Title VII, there will be no voluntary race-conscious action. For, as they agree: "[I]t is usually difficult to predict whether or not [previous] discrimination would be found" (associated unions, brief *amici*, p. 13). Indeed! For this reason precisely it is a question of such a kind that no answer to it reached as part of a labor-management agreement could be trusted.

The aggregated unions continue: "Moreover, the employer would, by taking voluntary action, put itself in a no-win situation in a suit such as this. Either its past conduct will be determined to be unlawful, thereby inviting litigation by discriminatees, or the remedial action will be found unlawful, and liability to white employees will exist" (*ibid.*). Just so! But the authors of this candid statement apparently do not see where their argument leads. They would like the courts to conclude that, since the present standard (that "voluntary" racial quotas suppose the same finding of unlawful discrimination which alone might justify court-imposed remedies) effectively precludes "voluntary" quotas altogether, we should permit the introduction of a new standard, one that would allow "voluntary" quotas under some factual circumstances that—as they admit—would not justify a court in imposing them! What could serve as such a standard? The lone dissenting judge of the Circuit Court, pursuing the same line, is driven to propose an astounding answer: A "voluntary" quota plan should be upheld, he suggests, if it is "a *reasonable remedy for an arguable violation* of Title VII" (p. 230, emphasis added).

This standard is neither feasible in practice, nor morally acceptable if it were. As a practical matter, such notions as "reasonable remedy" and "arguable violation" have virtually no objective content. Only the courts could resolve, on a case-by-case basis, disputed claims about "arguable violations" and about the reasonableness of remedy. Endless litigation could not be avoided—but it is the elimination of time-consuming litigation that is alleged to be the great merit of "voluntary" racial instruments. The increase in court involvement that would result undercuts any proposed justification of "voluntary" quotas on grounds of efficiency.

More important than its inefficiency, however, is the fact that the proposed standard (that a voluntary quota plan should be upheld if it is "a reasonable remedy for an arguable violation of Title VII") is morally unacceptable. Just remedies presuppose some determinable wrongs for which they give redress and by which they are justified. It is confusion of mind to propose a *remedy* for an *arguable* violation, one cannot put right what might prove on more judicious examination to have been no wrong at all.

All "voluntary" quotas (i.e., those introduced without court imposition) presuppose reliance upon some standard that must encounter essentially the same problem. The philosophical dimensions of the dispute between the two courts here emerge. The Circuit Court's position exhibits irremediable moral defect: by permitting racially preferential programs without the backing of judicial authority, it permits the delegation of questions of justice to private hands that are neither equipped, nor disposed, nor authorized to resolve them fairly.

To resolve a matter of individual right the bargaining process between labor and management is almost the worst imaginable tool. The impartial determination of facts without regard to interest, and the honest application of principles without regard to advantage, are essential in adjudicating questions of right—but the elimination of regard for self-interest and advantage is precisely what is impossible at the bargaining table.

Even if the needed impartiality were possible there, it would be inappropriate, uncommon, and surely could not be relied upon. Union and management bargainers are duty-bound to press for the advantage of the units they represent. The process is designed to deal with issues of pay and working conditions, not with the protection of individual rights. Justice entails giving to each his due—whether or not he or others can negotiate for it successfully.

Most important, the authority to resolve questions of justice cannot lie in a labor-management bargain. Individual rights *may not*—as a matter of law or morals—be bargained away. As a matter of constitutional principle, the Supreme Court has spoken definitively on this issue. A union, they agree, may waive some of its rights of *collective* activity, such as the right to strike, in a bargaining agreement made with the aim of economic advantage for its members. The Court continues:

"Title VII, on the other hand, stands on plainly different ground: *it concerns not majoritarian processes, but an individual's right to equal employment opportunities.* Title VII's strictures are absolute and represent a congressional command that *each* employee be free from discriminatory practices. Of necessity, *the rights conferred can form no part of the collective bargaining process* since waiver of these rights would defeat the paramount congressional purpose behind Title VII. In these circumstances, an employee's rights under Title VII are not susceptible of prospective waiver (*Alexander* v. *Gardner-Denver Co.* 415 U.S. 36, 51–52 (1974), emphasis added."

Contracts reached through collective bargaining may, of course, introduce different terms of employment for different groups of employees in the light of the relevant conditions of those groups. Race, however, is never relevant in that sense. Because racial discrimination invariably touches the non-bargainable rights of all individuals adversely affected, race itself has been identified as an inappropriate criterion for the classification of employees.[3]

In sum: the courts have repeatedly held that, in compromising with an employer, a union may not take race into account. Programs like the one at issue in *Weber* explicitly take race into account. The conclusion of this syllogism is inescapable.

The unions take another tack. "You fail to note (they rejoin in effect) that this is a *voluntary* program. Weber and his fellows may be said to have relinquished their rights in this matter because, when the plan was devised, they were adequately represented by their union. The union has a duty to represent all of its members; its bargainers are selected democratically; and since white workers constitute a majority of the bargaining unit, the union process may be relied upon to reach no agreement that will violate the rights of individual white members."

It is hard to take this argument seriously. Union process is often genuinely democratic; negotiators for unions generally do seek to represent the interests of all the members of the bargaining unit. But the most sympathetic review of union process could not rationally conclude that the fairness of unions to their members over the long term has been such as to justify the delegation, to bargainers, of matters of fundamental individual right. The current flow of complaints about reverse discrimination in employment contracts in itself provides substantial evidence that the bargaining process, notwithstanding its general fairness, cannot be depended upon in this sphere. "Voluntary" is an appealing word. But its use here suggests what is not true—that those who were injured by the racial instruments devised in the contract did themselves volunteer to carry the burden. To call Weber's sacrifice "voluntary" is most inappropriate.

This defense of "voluntary" racial instruments (even if unions were invariably sensitive to matters of individual right) avoids the key question of legitimate authority. At stake here are the rights of individuals to the most fundamental of democratic conditions—equal treatment under the law—and moreover, their rights to that equal treatment as it bears upon the most suspect of all categorical distinctions, race. Even legislators, it may be argued, however powerful their assembly, honorable their election, and dutiful their conduct, may not take from individual citizens certain fundamental rights. With the noblest of intentions, it is not within their authority to pursue public policy at the cost of compromising the individual citizen's right not to be discriminated against because of his race or religion. Philosophers will differ about the grounds of legislative authority, but few will seriously deny that upon such authority there must be some hard limits. Unequal treatment because of race is as clear an example as there is of the violation of those limits.

If the principle here expressed were somehow mistaken, if it were sometimes just, in the cause of racial redress, to sacrifice the rights of some blameless non-beneficiaries to advantage others who had not been injured, even so it would at least be certain that no such decision could be properly made by any save the legislature of highest authority, subject to the review of the court of highest jurisdiction. The notion that, to encourage "voluntary affirmative-action plans," we may bypass the body politic, investing unions and management with the authority to bargain with fundamental human rights, makes the prospect of a reversal in the *Weber* case very distressing. Not substantive entitlements alone are at issue here, but also the procedural rights of working people to have questions of justice decided by legislatures and courts.

x

Weber and *Bakke* are closely analogous in this procedural regard. Weber's right to equal treatment was infringed on by a union-management agreement, Bakke's by a medical-school admissions committee. Legitimate authority was exceeded in both cases. When it was asked, in *Bakke,* for what purposes a university might consider race in admissions, Justice Powell replied, in his decisive opinion, that it may be considered for the sake of student diversity (to support the exchange of ideas in accord with First Amendment concerns), or, conceivably, as redress for the specific victims of specific injustices. "Societal discrimination" as a ground for racial preference he explicitly considered and rejected. Powell wrote:

"We [i.e., the Supreme Court] have never approved a classification that aids persons perceived as members of relatively victimized groups at the expense of other innocent individuals, in the absence of judicial, legislative, or administrative findings of constitutional or statutory violations [references omitted]. After such findings have been made, the governmental interest in preferring members of the injured groups at the expense of others is substantial, since the legal rights of the victims must be vindicated. In such a case the extent of the injury and the consequent remedy will have been judicially, legislatively, or administratively defined. Also, the remedial action usually remains subject to continuing oversight to assure that it will work the least harm possible to other innocent persons competing for the benefit. Without such findings of constitutional or statutory violations it cannot be said that the government has any greater interest in helping one individual than in refraining from harming another. Thus the government has no compelling justification for inflicting such harm [*University of California Regents* v. *Bakke* 57 L. Ed 2d 750, 782–83 (1978)]."

But findings of constitutional or statutory violations it is not the business of private bodies—unions, or managements, or medical-school committees—to make. Powell continued:

"Petitioner [the Regents of the University] does not purport to have made, *and is in no position to make,* such findings. . . . [Even] isolated segments of our vast governmental structures are not competent to make those decisions, at least in the absence of legislative mandates and legislatively determined criteria [references omitted]. Before relying upon these sorts of findings in establishing a racial classification, a governmental body must have the authority and capability to establish, in the record, that the classification is responsive to identified discrimination (p. 783; emphasis added)."

Powell's point is that a medical-school admissions committee (even though indirectly an agent of the state) is entirely without the requisite authority. Kaiser and the union have a far weaker claim to the needed authority than did they. An admissions committee is not competent to make the findings that might justify racial preference, granted. But if the admissions committee had sought to present such findings of identified discrimination at the Davis medical school (discrimination that, in fact, the university specifically denies), they might conceivably contend that as one agent of one arm of one element of the state, it was within their province to do so—and thus might conceivably seek to justify their racial program as remedy. That claim must fail, the mission of the medical school and all its subsidiary elements being educative, not judicial. Any analogous claim made by Kaiser and the union—that they are authorized to make findings of "societal discrimination" that will justify inflicting harm on Weber and other blameless parties—is totally without warrant.

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[3] The Supreme Court has written: "[T]he statutory power to represent a craft and to make contracts as to wages, hours, and working conditions does not include the authority to make among members of the craft discriminations not based on such relevant differences. Here the discriminations based on race alone are obviously irrelevant and invidious. Congress planly did not undertake to authorize the bargaining representative to make such discriminations" *Steele* v. *Louisville & Nashville R.R. Co.,* 323 U.S. 192, 203 (1944).

XI

In the absence of any showing or admission of previous illegal discrimination at the Grammercy plant, every defense of racially preferential remedy must prove unsatisfactory. Sensitive to this point, the American Civil Liberties Union argues at length that the factual circumstances of this case have been misunderstood, that Kaiser Aluminum *did* discriminate against minorities. The pattern of employment by Kaiser at other plants in earlier years is reviewed, and much is made of the racially disproportionate impact, at the Grammercy plant, of a "purportedly neutral criterion." Using the percentage of the minority population in the surrounding parishes of Louisiana as benchmark,[4] the argument concludes that Kaiser's workforce at the Grammercy plant in skilled-craft positions was "severely under-representative." Putting aside the question of how "representativeness" might rationally be established, or, if it had been established, what bearing that would have upon the lawfulness of Kaiser's previous conduct, it is important to note that the entire thrust of this argument is misdirected. The *Weber* case presents an appeal to our highest court on a matter of fundamental principle. That principle must be argued on the basis of a factual record properly established at trial in a responsible Federal District Court. Appellate Courts, and the Supreme Court, face the question of principle *given that record*. Even the District Court could analyze only the facts brought before it by the parties. Kaiser testified to its non-discriminatory practices at the Grammercy plant from its opening, and of its efforts to recruit black craftsmen from the general community. They would not and could not report otherwise. If (as some now claim) the record should have shown hidden unlawful conduct by Kaiser, such findings could only have entered the record at the trial level. At this point the issue is, supposing the record complete and accurate, whether, *without* such previous violations established, this racial quota is permissible.

To contend that the facts of the matter *could* be viewed differently is to blind oneself to the essence of the controversy. Had the courts found, after examining all testimony, that Kaiser had previously discriminated against minorities in its Grammercy plant, the issue now to be decided here would not even have arisen.[5]

XII

All arguments thus far explored incorporate the realization that individuals are indeed injured when disadvantaged solely because of their race. Brian Weber did not get the job-training opportunity he was entitled to. Most ordinary people, and most judges, have no difficulty in seeing that. So zealous are some of the advocates of racial preference, however, that they claim not to see it. Weber was never really hurt, say they. He has a legitimate complaint only if he was discriminated against unfairly. But he wasn't discriminated against at all! Hence he has no case.

Puzzling though this claim appears on its face, it is honestly defended, in two ways. First, it is argued, Weber has lost nothing more than seniority entitlements. But seniority systems may be altered by labor-management agreement, and in any event, seniority rights are not vested in the individual employee but in the collective-bargaining unit. Therefore, when a voluntary quota plan results in Weber's getting less than he expected in view of his greater seniority, he loses nothing that belonged to him in the first place. The injury done to him (it is contended) is apparent, not real.

This argument is twice faulty. It underplays the importance of individual seniority entitlements in the industrial context; and it does not face up to the discriminatory nature of the seniority deprivation in this case.

In allocating scarce opportunities and goods in the industrial world, seniority is critically important. For very many workers a host of matters—job security, opportunities for advanced training, vacation and retirement benefits—depend chiefly upon the number of years of service they have given. Nothing remains to them after years of service but their seniority claims. To deny that harm is done to an unskilled worker on an hourly wage when he is deprived of entitlements flowing normally from ten years' seniority shows gross moral insensitivity. Seniority does not insure qualification for positions demanding special talents, of course; but where qualifications are roughly equal, or not distinguishable, seniority above all other considerations will be relied upon in the interests of fairness.

Seniority entitlements are tied to individuals, not just to the bargaining unit. In matters of job assignment, transfer, layoff and recall, and job training, opportunities must be distributed among competing employees. Competitive-status seniority is therefore of great moral as well as practical importance, and directly affects individuals more importantly than it does the bargaining collective. Non-competitive benefits also—pensions, sick leave, paid vacations—are commonly determined in part by length of service and therefore must be tied to individuals. Seniority, the Supreme Court writes, "has become of overriding importance, and one of its major functions is to determine who gets or who keeps an available job" (*Humphrey* v. *Moore* 375 U.S. 335, 346–47 [1964]). The "who" in this passage refers to individual persons, not to groups.

Seniority systems are bargainable, true. It does not follow, however, that all seniority rights are bargainable. It is essential not to confuse the *system* of seniority with individual *entitlements* under a given system in force. Once a seniority system has become a reality in rule and practice, a worker's rights and expectations under that system are his and very precious to him. It is callous to minimize the injury done when such rights are not respected.

When the ground of that disrespect is race, the injury is particularly offensive. Entitlements in themselves minor (which an opportunity for on-the-job training is not) become matters of grave concern when manipulated for racial reasons. Where one must sit on a bus or go to the toilet understandably becomes a source of rage and an issue of constitutional proportions when the determination is made by race. Protests over segregated lunch counters had as their target not the culinary opportunities denied, but the immoral character of the ground of their denial. Even if Weber's seniority expectations be thought trivial the racial ground of the unequal treatment he received is very far from trivial.

Some who understand very clearly why Allan Bakke was injured when excluded from medical school in a racially discriminatory way fail to see that the injury done by Brian Weber is equally unjust. Applicants to a competitive program, they appreciate, have a right to evaluation on some set of relevant criteria—past performance, intellectual promise, character, or whatever—and if deserving on the basis of those criteria, ought not be deprived of place because of race. But if the performance qualifications of all applicants are roughly equal (as were those of Weber and the minority workers chosen in his place), where, they ask, is the injustice?

The injustice lies in the deprivation, on improper grounds, of what one is otherwise entitled to. The basis for the entitlement will be different in different contexts. Scarce places in medical or law schools are rightly allocated to persons best exhibiting the characteristics that have been determined relevant to the studies or profession to be pursued. Scarce on-the-job training opportunities are rightly allocated to those having certain seniority entitlements. The bases of Weber's and Bakke's claims to that of which they were deprived are very different; but both were wrongly denied what they would have received if the scarce available goods had been distributed in accord with established criteria in a morally just way. Both were the plain victims of racial discrimination, losing out because of the color of their skin.

Persons concerned about such injustice when done in the academic world ought seriously to consider the wisdom of remaining silent when essentially the same injustice (although with respect to different entitlements) is done in the industrial world. If preference by race should be found, in the *Weber* case, to justify the deprivation of what is fairly earned by a laborer, the security of what is fairly earned by anyone in any sphere is similarly threatened.

XIII

If the damage to Weber cannot reasonably be minimized, can it be wholly denied? This is the second line of defense to which Kaiser and the union fall back in the effort to show that Weber was not discriminated against at all. Weber's rights were not infringed on, they say, because he never had any seniority rights to job training here. The argument goes like this: "Where admission to a training program is properly a function of seniority, and seniority, like Weber's, is untainted by the employer's previous discrimination, he would be damaged if race were allowed to supervene. But Weber errs in thinking that seniority gives him any claim under *this* quota program, which was initiated in 1974, by Kaiser and the union, specifically to increase minority representation in the craft employments. New rights were then created, Kaiser and the union agreeing to use seniority only for the distribution of available slots *within* the two racial lists, black and white. If, in the new plan, they had agreed to use the lottery method—two separate lotteries, one for whites and one for blacks—it would be obvious that seniority was not the real issue here. They could have done just that. Weber's claim that he was deprived of seniority rights is a red herring, because the mode of selecting from each racial pool is irrelevant. So the Kaiser plan, as the dissenting judge wrote, 'stands or falls on its separation of workers into two racial pools for assignment to job training' (p. 235)."

This argument is a compound of perceptivity and blindness. Seniority was the system deliberately adopted by Kaiser and the

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[4] ACLU and Society of American Law Teachers, brief *amici*, p. 11. The inappropriateness of such figures in estimating fairness with respect to employment in the skilled crafts is so obvious, and has been so often remarked, that one is embarrassed for the ACLU to find such an argument here pursued. See Thomas Sowell, "Are Quotas Good for Blacks?," COMMENTARY, June 1978.

[5] Might an appellate court not reverse an inferior court because of its mistaken interpretation of the facts as appearing in the record? Only in those rare circumstances in which the treatment of the facts by the inferior court was "clearly erroneous." That claim would be untenable in this case.

Union—but they did not make that choice at random. Years of past work in the very plant where those training opportunities were to arise was thought the fairest consideration in allocating scarce places to otherwise equally qualified workers. Seniority was adopted as a relevant and rational principle. To create two seniority lists, black and white, and then choose the top person from each list, even if he has less seniority than the fourth or twentieth person on the other list, is to override the seniority principle with race. If the basis chosen for the fair distribution of scarce opportunities had not been seniority, but (say) a lottery, then the just application of the lottery principle would require that *it* not be overridden by race. It is therefore perceptive to note that the real issue here goes beyond seniority—that the plan fails simply because it separates the workers into two *racial* pools—every such separation being necessarily invidious. Any system used to distribute opportunities among the members of each racial pool, even if of itself fair, must be distorted by that antecedent racial classification. Whatever besides seniority might prove just as a ground for the distribution of goods, skin color isn't it.

Is it correct to say, then, that Weber had no seniority rights here at all? No. When it is agreed by union and employer that, for allocating these job-training opportunities, length of service is the appropriate basis, employees acquire entitlements on that basis. The injustice of racial favoritism manifests itself, in this case, in the deprivation of those entitlements. Were a worker's entitlements based on some other features of his circumstances—his experience or his performance on a competitive examination—then the injustice of racial favoritism might be manifested in the deprivation of entitlements flowing from those. Weber has a right to non-discriminatory treatment. To contend that he never had any rights in this matter because the respect in which he was discriminated against isn't the only respect in which he might have been discriminated against is a last-ditch effort to obscure the wrong that was done him.

XIV

The villian of the piece—here, in *Bakke*, wherever it raises its head—is preference by race. The *Weber* case provides an opportunity to reaffirm the moral and constitutional commitment to govern ourselves without preference to any by reason of color, or religion, or national origin. If we undermine that commitment—even though it be in an honest effort to do good—we will reap the whirlwind.

Mr. HATCH. Mr. President, in the September 1979 issue of Commentary magazine, Professor Cohen inspected the majority's decision with understandable distaste. Since he had already exploded their rationale in his previous article, he now devoted himself to proving beyond doubt that Congress had specifically prohibited the practices that the Supreme Court had now endorsed. His conclusion is a challenge to us all, one which I believe will ultimately be taken up; although after what price must first be paid by the American body politic it is at this moment chilling to contemplate:

> It may be that by egregiously misreporting the intent of Congress, and then boldly expressing their own willingness to sacrifice the interests of one race to advance the interests of another, the majority in Weber has taken one of those provocative steps that will lead eventually to more emphatic legislative insistence upon the equal protection of the laws.

Mr. President, I ask unanimous consent that the article entitled "Justice Debased: The Weber Decision," by Carl Cohen be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JUSTICE DEBASED: THE WEBER DECISION

(By Carl Cohen)

A racial quota in the allotment of on-the-job training opportunities among competing employees, instituted by management-union agreement, was held lawful by the Supreme Court in the recent case of *Steelworkers* v. *Weber*.* This was an important decision, and a very bad one. Its badness lies not only in the substantive result, upholding preference in employment by race, but also in the reasons given by the Court in defending that result, and in the abuse of judicial discretion manifested.

The precise question decided was this: does Title VII of the Civil Rights Act of 1964 forbid employers and unions in the private sector from adopting racially preferential employment programs like the one adopted by Kaiser Aluminum and the steelworkers union? The answer was no. The evaluation of that answer requires a brief description of the quota plan approved, and a brief review of the statute in question.

The plan, adopted as part of a collective-bargaining agreement between Kaiser Aluminum & Chemical Corporation and the United Steelworkers of America, provides that, in filling apprentice and craft jobs, "at a minimum not less than one minority employee will enter for every non-minority employee entering" until the percentage of blacks in craft jobs equals the percentage of blacks in the local work force—about 39 per cent at the Grammercy, Louisiana, plant where Brian Weber works. Seniority in the plant was the criterion on which employees competing for admission to on-the-job training vacancies were ranked. But two seniority lists were maintained pursuant to this agreement, one for whites and one for blacks; vacancies were filled alternately from the top of the two lists. Weber, a white employee with about five years' seniority in that plant at that time, was refused admission to three different training programs—although, because of the quota plan in force, some non-white employees having less seniority than Weber were admitted. Believing that he had been displaced only because he was white, Weber brought suit against Kaiser and the union, in behalf of himself and all white employees at that plant similarly situated. His target was the racial preference in that job-training scheme.

The law in question, Title VII of the Civil Rights Act of 1964, reads in pertinent part as follows:

> It shall be an unlawful employment practice for an employer—
>
> (1) to fail or refuse to hire or discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
>
> (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

It seems hardly possible to deny that this statute does plainly prohibit racially preferential programs of the kind described above. Thus, as one would expect, Weber won his case in the Federal District Court, and won again, on appeal, in the Federal Circuit Court.

That result has now been reversed by the Supreme Court. The opinion of the five-member majority, delivered by Justice Brennan, is devoted almost entirely to an explanation of why, in their view, Title VII does not prohibit the plan in question. This explanation cries out for response. Response is given in two dissenting opinions, one by Chief Justice Burger which is crisp and condemnatory, a second by Justice Rehnquist which is scathing and detailed. Justice Rhenquist's tightly woven, thirty-seven page treatise, to which I will be referring, utterly demolishes the majority position. Its cogency is acknowledged by the majority itself.

On what grounds does the majority reach its result? The *intent* of Congress, say they, in enacting Title VII, was not to forbid racial preference having the wholesome purpose this program did. The key to the problem, says the majority, is not the "literal" meaning of the statute, but its "spirit." If, by studying the history of the Act, one can discover the purposes of Congress in its adoption, and if this plan advances those purposes, the plan will be, if not "within the letter of the statute," yet still "within its spirit," "within the intentions of its makers." Now the aims of Congress in passing this legislation can be readily discovered. In a nutshell, Congress aimed to counteract black unemployment, to protect and promote the opportunities of blacks to get decent jobs. In legislative debate Senators Humphrey, Clark, and others contended that without such a bill, discrimination against blacks would become a source of social unrest and intolerable injustice. The majority's defense of their interpretation of Title VII rests principally upon the fact that the proponents of the bill repeatedly insisted upon the importance of jobs for minority groups. That having been the goal, they continue, it cannot have been the case that Congress intended to prohibit private parties "from taking effective steps to accomplish the goal that Congress designed Title VII to achieve" (Brennan, p. 8).

The argument of the majority, in effect, is this: "We know the purpose of Congress; we know the purpose of this plan; they are fully consonant. It must be, therefore, that Congress did not intend to forbid this plan. If the literal language of Congress says otherwise, we must interpret that language to mean what it did not say, while saying what it did not mean."

What Congress really did intend with this statute is a matter about which I shall have much to say. Before turning to that historical question, however, I want to say something about the logic of the majority's argument. The majority blunders seriously by confusing *purpose* with *intent*. That the purpose of Congress was to promote employment opportunities for blacks is beyond doubt. It certainly does not follow that any special scheme having that purpose was intended to be permitted. Different persons, or different pieces of legislation, may share the same aim yet differ greatly in what are believed the wise or the just steps properly taken to achieve that aim. This simple but important point is what underlies the common homily: "The end doesn't justify the means." The aphorism is imperfect, of course; ends do serve to justify means. But the moral point of the aphorism is sound: ends, even very good ones, don't justify *any* means that may be thought effective in achieving them. That ends are shared is no proof that there will be agreement on the justice or the desirability of particular instruments or programs for their attainment.

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* Decided June 27, 1979. Actually three cases were decided together: *United Steelworkers of America, AFL-CIO*, v. *Brian F. Weber et al.* (No. 78-432); *Kaiser Aluminum & Chemical Corporation* v. *Brian F. Weber et al.* (No. 78-435); and *United States et al.* v. *Brian F. Weber et al.* (No. 78-436). There are four opinions in all: that of the majority written by Justice Brennan; a concurring opinion of Justice Blackmun; a dissent by Justice Burger; and a second dissent by Justice Rehnquist with which Justice Burger joins. Because these opinions have not yet received their formal pagination, my references below will be to the printed sheets issued by the Court, identifying only the author and page number of that author's opinion.

Consider this hypothetical example, also in the sphere of legislative action. Suppose funds were appropriated to explore alternative sources of energy, one of the major purposes of the appropriation being, in the minds of most members of Congress, to reduce dependence on foreign oil. By adopting some measures clearly having that objective Congress would not warrant the inference that every measure having the same tendency had thereby been permitted. Suppose the expenditure of the funds appropriated for the exploration of alternative energy sources, although having the larger aim of energy independence, were also restricted by the provision that these funds were not to be spent on the development of nuclear energy. It would not then have been rational to conclude that a plan to spend the funds on the development of nuclear energy was "within the intentions" of the legislature because (as Justice Brennan says of the racial quota in *Weber*) "the purposes of the plan mirror those of the statute" (Brennan, p. 12). To find out whether Congress intended to advance its larger purposes in that way we would have had to read the enacted statute. If they were to have said: "It shall be unlawful to expend any of these funds on the development of nuclear energy," we might or might not have thought them wise in that restriction. But it does not take great profundity to distinguish between their *purpose* in legislating and their *intent* in that law—between what they would have hoped to accomplish and what they would actually have proposed to do.

In seeking to advance employment opportunities for blacks in 1964, Congress adopted legislation forbidding *all* racial discrimination in employment. To argue, as the majority does, that they cannot have intended to forbid all discrimination because some racial discrimination might also serve their larger purposes, does not do credit to a high appellate court.

What opens the question of congressional intent? Under what circumstances is it appropriate for any court to inquire into the intent of a legislature in enacting the legislation being applied? When the applicability of the language of the statute is unclear, or its wording is ambiguous, that inquiry may be very much in order. Such circumstances commonly arise. New conditions, unforeseen by the legislature at the time of a law's enactment, may create issues of interpretation that cannot be resolved by its language alone. A court may then be obliged to construe what the legislative intent might most reasonably have been in order to determine fairly the bearing of the statutory language upon the new conditions. Sometimes, in a different vein, legislation may be formulated in deliberately ambiguous language for assorted political reasons. Courts may later be obliged to apply that language to cases treated equivocally in the statute, having then to construe some reasonable legislative intent to guide them.

Nothing like either of these circumstances arises in the present case. The language of Title VII, as Chief Justice Burger observes, exhibits "no lack of clarity, no ambiguity" (Burger, p. 2). The Kaiser quota plan, as all agree, discriminates against individual white employees seeking admission to on-the-job training programs simply because they are white. That, under the very plain language of the statute, is "an unlawful employment practice."

Could it be, perhaps, that the operative meaning of the language of the statute is unclear because it has been sometimes construed by the Court, in past instances, to prohibit discrimination against blacks, but not discrimination against whites? No, that was put out of the question by this Supreme Court in 1976, explicitly interpreting this Title of this statute. White employees who were dismissed after being charged with misappropriating company property brought suit under Title VII because black employees, similarly charged, had not been dismissed. This Supreme Court then concluded, from the "uncontradicted legislative history," that "Title VII prohibits racial discrimination against the white petitioners in this case upon the same standards as would be applicable were they Negroes . . ." (*McDonald* v. *Santa Fe Trail Transportation Co.*, 427 U.S. 273, at 280).

So there is no doubt that Title VII does—or did—apply equally to all races. That is what the Supreme Court has repeatedly affirmed. Title VII, they earlier insisted, "prohibits *all* racial discrimination in employment, without exception for any group of particular employees" (*ibid.*, p. 283; emphasis in original). A few years earlier, in a landmark interpretation of Title VII, the Supreme Court had agreed unanimously on a definitive account of the legislative intent of Title VII: "The objective of Congress in the enactment of Title VII is plain from the language of the statute. It was to achieve equality of employment opportunity. . . . Discriminatory preference for any group, minority or majority, is precisely and only what Congress has proscribed" (*Griggs* v. *Duke Power Co.*, 401 U.S. 424, at 429 and 431 [1971]). And just one year before *Weber* the very same point was hammered home by the same Court in the context of employment ratios. "It is clear beyond cavil that the obligation imposed by Title VII is to provide an equal opportunity for *each* applicant regardless of race, without regard to whether members of the applicant's race are already proportionately represented in the work force" (*Furnco Construction Corp.* v. *Waters*, 438 U.S. 567 [1978]; emphasis in original).

There is no vestige, no trace of ambiguity or unclarity, either in the language of the statute or in the interpretation repeatedly given to that language, respecting the question whether Title VII protects whites as well as non-whites. There is, therefore, no justification for entering the question of legislative intent. Justice Rehnquist, understandably infuriated, calls attention to the Court's oft-repeated principle applied in another case just as *Weber* was being decided: "Our duty is to construe rather than rewrite legislation" (Rehnquist, p. 3).

Beyond opening the question of legislative intent where that is not proper, and beyond the muddling of congressional intent with congressional purpose, the majority has given an unbelievably obtuse reading of that legislative intent. Though it is not appropriate in this case even to ask whether Congress intended to permit some racial discrimination with Title VII, the task of answering that factual, historical question is exceedingly easy. The lengthy debates in the House and the Senate are open to us in the *Congressional Record;* majority and minority committee reports of the House on the proposed bill are also open to us; a lengthy, scholarly study of the legislative history of precisely this Title of this Act is available to us.[1] There can be no genuine doubt—in the mind of one who has examined these materials—about the intent of the Congress in choosing the language they did choose. Democrats and Republicans *both*, conservatives and liberals *both*, insisted repeatedly and at great length, illustrating their explanations with detailed examples, that H.R. 7152 (which eventually became the Civil Rights Act of 1964) would forbid *all* racial preference for *any* race.

In the House of Representatives the bill was amended by the Committee on the Judiciary to include Title VII because no compulsory provisions to deal with private discrimination in employment had been included in its original form. It was added, the committee noted, "to eliminate . . . discrimination in employment based on race, color, religion, or national origin" (*H.R. Reports*, No. 914, p. 26). That title was further amended on the floor of the House to include a Section, 703(a), which specifically addressed the prohibition against discrimination (already formulated in 703(a) quoted above) to on-the-job training Section (d) of 703 reads as follows:

"It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, *including on-the-job training programs*, to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training" [42 U.S. Codes 2000e-2(d); emphasis added]

Included with the Report of the Judiciary Committee were the lengthy "Additional Views on H.R. 7152" of a group of its advocates, Representative McCulloch and others, which incorporated a passage referred to by Vaas as fairly stating the consensus of the civil-rights proponents as they guided the bill toward adoption. This represenative passage includes these sentences:

Internal affairs of employers and labor organizations must not be interfered with [under Title VII] except to the limited extent that correction is required in discrimination practices. Its [the Equal Opportunity Employment Commission's] primary task is to make certain that the channels of employment are open to persons regardless of their race and that jobs in companies or membership in unions are strictly filled on the basis of qualification [*H.R. Reports*, No. 914, pt. 2, p. 29; Vaas, p. 437].

The major objection faced by Title VII in the House (and again later in the Senate) was the claim that under it racial proportionality in employment might subsequently be required by some federal agency, acting under color of that law. This fear was epitomized in the Minority Report which suggested, as one serious concern, that an employer, under Title VII, *"may be forced to hire according to race,* to 'racially balance' those who work for him in *every job classification* or be in violation of Federal law" (*H.R. Reports,* No. 914, p. 69; emphasis in original). That fear had to be allayed; proponents of the bill strenuously and repeatedly reassured their colleagues, that no such racial balancing was contemplated, and that none would be required or even permitted under this Title.

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[1] The congressional debates appear in Volume 110 of the *Congressional Record* of 1964, extending intermittently over exactly thirteen thousand pages (p. 1,511 to p. 14,511) of ten massive tomes. The House reports appear in *House of Representatives Reports*, No. 914, 88th Congress, First Session, 1963. With the majority and minority reports are printed additional views of particular members of the committee, and views of groups of Representatives, on the bill being reported. The Senate having decided to take up the bill directly, it was not submitted to committee there, hence there are no Senate reports beyond the actual Senate debate, which was very long. The study referred to, used both by Justice Rehnquist and myself, is by Francis J. Vaas, "Title VII: Legislative History," in Volume 7 of the *Boston College Industrial and Commercial Law Review*, pp. 431–58. Vaas records the tortuous path of the Civil Rights Act through Congress with meticulous attention to detail, and makes this striking comment: "Seldom has similar legislation been debated with greater consciousness of the need for 'legislative history,' or with greater care in the making thereof, to guide the courts in interpreting and applying the law" (p. 444).

Representative Celler, one of the sponsors of the bill and chairman of the Committee on the Judiciary, at the opening gun of the debate in the House, made the intent of the language of 703 (a) unmistakable. The fear that it would require or permit hiring or promotion on the basis of race resulted, he said, from a description of the bill that was "entirely wrong." He continued:

> Even . . . the court could not order that any preference be given to any particular race, religion or other group, but would be limited to ordering an end to discrimination. The statement that a Federal inspector could order the employment and promotion only of members of a specific racial or religious group is therefore patently erroneous . . . .
>
> The Bill would do no more than prevent a union, as it would prevent employers, from discriminating against or in favor of workers because of their race, religion, or national origin.
>
> It is likewise not true that the Equal Employment Opportunity Commission [established by Title VII] would have power to rectify existing "racial or religious imbalance" in employment by requiring the hiring of certain people without regard to their qualifications simply because they are of a given race or religion. Only actual discrimination could be stopped [110 *Cong. Rec.* p. 1518].

This theme was echoed repeatedly in the course of the debate in the House of Representatives. Representative Lindsay of New York, among others, took up the defense of Title VII:

> This legislation . . . does not, as has been suggested heretofore both on and off the floor, force acceptance of people in schools, jobs, housing, or public accommodations because they are Negro. It does not impose quotas or any special privileges of seniority or acceptance. There is nothing whatever in the bill about racial balance. . . . What the bill does do is prohibit discrimination because of race . . . [110 *Cong. Rec.,* p. 1540].

With that clear understanding the bill passed the House, 290 to 130, on February 10, 1964.

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In the Senate, the expression of legislative intent was voluminous and unequivocal. Again the fear of opponents was that some federal inspector might one day impose racial balance under color of this law. Again—and again and again and again—the defenders of the bill replied with reassurance, insisting vehemently that such fears were totally unfounded. The key term, "discrimination," appearing in Sections 703(a) and 703(d) and elsewhere in the bill, was examined minutely on the Senate floor. Could it be taken to mean (the critics asked) only numerical imbalance? Answer: definitely not. Could it have been, for the framers of the legislation, a technical term, whose hidden meaning was "discrimination against blacks" but not "discrimination against whites"? No, definitely not. Senator Humphrey put that suggestion permanently to rest: "[T]he meaning of racial or religious discrimination is perfectly clear. . . . [I]t means a distinction in treatment given to different individuals because of their different race, religion, or national origin" (110 *Cong. Rec.,* p. 5423). The only freedom of employers that the bill limits, he emphasized, is the freedom to take action based on race, religion, sex, or national origin.

When the Senate took up the substance of the Act directly, after deciding not to submit it to committee, it again became essential for the bill's advocates to answer the complaint that the bill would lead to racial preference. Not so, they insisted. Senator Humphrey again:

> That bugaboo has been brought up a dozen times; but it is nonexistent. In fact, the very opposite is true. Title VII prohibits discrimination. In effect, is says that race, religion, and national origin are not to be used as the basis for hiring and firing. Title VII is designed to encourage hiring on the basis of ability and qualifications, not race or religion.

In the same speech Senator Humphrey gives a series of examples that ". . . makes clear what is implicit throughout the whole title; namely, that employers may hire and fire, promote and refuse to promote for any reason, good or bad, provided only that individuals may not be discriminated against because of race, religion, sex, or national origin." He repeats himself so that even the deaf may hear: "The truth is that this title forbids discriminating against anyone on account of race. This is the simple and complete truth about Title VII" (110 *Cong. Rec.,* p. 6549). Humphrey was majority whip and the floor leader for the Civil Rights Act in the Senate. In his support rose Senator after Senator to give the same explanatory assurances about the intent of the legislation.

Senator Kuchel, the minority whip, emphasized that the seniority rights of workers already employed would not be affected by Title VII. He said:

> Employers and labor organizations could not discriminate in favor or against a person because of his race, his religion, or his national origin. In such matters, the Constitution, and the bill now before us drawn to conform to the Constitution, is color-blind [110 *Cong. Rec.,* p. 6564].

Senators Clark and Case were floor captains in the Senate for Title VII specifically. To them fell the task of explaining that Title, what it meant and did not mean, what it permitted and what it prohibited. Their chief task was to refute the charge that Title VII would result in preference for racial minorities. In a memorandum prepared for the Senate they expressed the intent of Title VII unequivocally:

> [A]ny deliberate attempt to maintain a racial balance, whatever such a balance may be, would involve a violation of Title VII because maintaining such a balance would require an employer to hire or to refuse to hire on the basis of race. It must be emphasized that discrimination is prohibited as to any individual [110 *Cong. Rec.,* p. 7213].

A different memorandum, prepared by the U.S. Department of Justice at Senator Clark's request, also makes the point that there is no need to fear employers' being required to maintain racial balance:

> No employer is required to maintain any ratio of Negroes to whites, Jews to Gentiles, Italians to English, or women to men. The same is true of labor organizations. On the contrary, any deliberate attempt to maintain a given balance would almost certainly run afoul of Title VII because it would involve a failure or refusal to hire some individual because of his race, color, religion, sex, or national origin. What Title VII seeks to accomplish, what the civil rights bill seeks to accomplish is equal treatment for all [110 *Cong. Rec.,* p. 7207].

Senators Smathers and Sparkman, granting that the bill did not require the use of hiring quotas, put the attack against Title VII more subtly. Under it, they suggested, employers might be *coerced,* by federal agencies, into giving preference by race. Would that not be permitted under this law? The answer, this time from Senator Williams was an emphatic negative. Opponents, he replies, persist in opposing a provision which is not only not contained in the bill, but is *specifically excluded* from it. Those opposed to H.R. 7152 should realize that to hire a Negro solely because he is a Negro is racial discrimination, just as much as a "white only" employment policy. *Both forms of discrimination are prohibited by title VII of this bill.* The language of that title simply states that race is not a qualification for employment. . . . [A]ll men are to have an equal opportunity to be considered for a particular job. Some people charge that H.R. 7152 favors the Negro, at the expense of the white majority. But how can the language of equality favor one race or one religion over another? Equality can have only one meaning, and that meaning is self-evident to reasonable men. Those who say the equality means favoritism do violence to commonsense [1110 *Cong. Rec.,* p. 8921; emphasis added].

Still the fear that racially preferential hiring would somehow be encouraged or permitted under Title VII would not down. Once again the floor leader, Humphrey, took up the battle:

> The title [Title VII] does not provide that an preferential treatment in employment shall be given to Negroes or to any other persons or groups. It does not provide that any quota system may be established to maintain racial balance in employment. *In fact, the title would prohibit preferential treatment for any particular group,* and any person, whether or not a member of any minority group, would be permitted to file a complaint of discriminatory employment practices [110 *Cong. Rec.,* p. 11848; emphasis added].

How could the majority of the Supreme Court, in *Weber,* escape the force of this parade of unequivocal accounts marching across the printed record of the process of its adoption? Could they contend, perhaps, that although racial preference was indeed prohibited, that prohibition did not bear upon efforts to overcome the effects of *past* discrimination upon the seniority rights of employees? At one point, conceding that it was the intent of the Senate to forbid the maintenance of racial balance, the majority grasps at a straw: the Kaiser quota plan was not introduced to maintain racial balance, they contend, but to "eliminate a manifest racial imbalance" (Brennan, p. 11 and p. 13). Can the net of clear congressional intent be thus eluded, by making the distinction between "maintaining" racial balance and "eliminating' racial imbalance, holding that Title VII forbids the former but not the latter?

Not a chance. Explicating Title VII, its most thorough congressional students, Senators Clark and Case, wrote in their joint memorandum:

> Title VII would have no effect on established seniority rights. *Its effect is prospective and not retrospective.* Thus, for example, if a business has been discriminating in the past and as a result has an all-white working force, when the title comes into effect the employer's obligation would be simply to fill future vacancies on a nondiscriminatory basis. He would not be obliged—*or indeed, permitted*—to fire whites in order to hire Negroes, or *to perfer Negroes for future vacancies,* or, *once Negroes are hired, to give them special seniority rights at the expense of the white workers hired earlier* [110 *Cong. Rec.,* p. 7213; emphasis added].

The Justice Department had earlier drawn the same conclusion: Title VII could not be used to alter seniority entitlements because of discrimination in employment before its adoption:

> Title VII would have no effect on seniority rights existing at the time it takes effect. . . . This would be true even in the case where owing to discrimination prior to the effective

> date of the title, white workers had more seniority than Negroes . . . [A]ssuming that seniority rights were built up over a period of time during which Negroes were not hired, these rights would not be set aside by the taking effect of Title VII. Employers and labor organizations would simply be under a duty not to discriminate against Negroes because of their race [110 *Cong. Rec.*, p. 7207].

The distinction between "maintaining" and "achieving" racial balance was, manifestly, ever part of the understanding of the legislature that adopted Title VII.

That distinction, moreover, would have been and is specious from the point of view both of advocates and critics of racial preference. If, after the achievement of racial balance through racial preference, craft jobs again were to become predominantly white, the advocates of racial preference would certainly not be content. Convinced that such imbalance is in itself wrong, they would, understandably, then insist that if racial preference be permitted for the achievement of racial balance, it must be permitted for its reachievement. The claim that such instruments are only "temporary" is a fiction. It will be of little consequence to its advocates that the majority in *Weber* leaned on a tenuous distinction which it will be in their interest to ignore. And the opponents of racial preference—including the 88th Congress of 1964—may rightly insist that if preference by race is in principle wrong, it is no less wrong in the one case than in the other. Indeed, both the Justice Department and the floor captains for Title VII in the Senate very carefully pointed out that maintaining racial balance would be forbidden *"because* it would involve a failure or refusal to hire some individual because of his race . . ." (see above, p. 47; emphasis added). The reference in these arguments is to the actual words of Section 703(a) cited on page 43 above. Adverse effects upon an employee or applicant because of race would result whether the goal had been the maintenance of racial balance or the achieving of it.

The argument that the Congress intended Title VII to permit racial preference in achieving racial balance, but forbade it for maintaining racial balance, and that therefore once proportionality is achieved all such preference will cease, is unworthy of the Supreme Court; it is a stop designed to placate critics with unreliable assurances that the instrument approved will be only "temporary." In fact ethnic preference, once ensconced, is likely to be nearly impossible to eradicate. To mitigate its unfairness more and different ethnic preferences will be introduced—as already they are being introduced.

Those who condemn racial favoritism condemn it both for achieving and for maintaining racial balance; those who support racial favoritism will not object to its use in either role. That distinction cannot serve to render plausible the majority's interpretation of congressional intent in enacting Title VII of the Civil Rights Act.

9

As debate over the Civil Rights Act continued in the Senate it became evident that the bill would have to be amended to make absolutely clear the fact that it could not later serve as the justification, by any federal agency, of the imposition of racial preference. Only thus might the repeated objections of its most implacable opponents be successfully met. A bipartisan coalition, made up of Senators Dirksen, Mansfield, Humphrey, and Kuchel, cooperating with leaders in the House of Representatives, devised the "Dirksen-Mansfield" amendment, ultimately adopted. Among the changes thus introduced was a clarifying addition, Section 703 (j), very specifically addressing the critics' fears of imposed racial balancing. This section provides that nothing in the entire Title shall be interpreted to require the giving of preferential treatment to any individual because of race. It reads:

> Nothing contained in this subchapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this subchapter to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified by any employment agency or labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area or in the available work force in any community, State, section, or other area [42 U.S.C. 2000e—2(j)].

Now, in an ironic and extraordinary turn, the Supreme Court majority in *Weber* uses the language of this section to infer (relying upon what Justice Burger calls a "negative pregnant") that since it bars the requirement of racial preference, but does not specifically prohibit racial preference, it must have been the intention of Congress not to prohibit it! The majority writes:

> The section does *not* state that "nothing in Title VII shall be interpreted to *permit*" voluntary affirmative efforts to correct racial imbalances. The natural inference is that Congress chose not to forbid all voluntary race-conscious affirmative action [Brennan, p. 10; emphasis in original].

This inference is either disingenuous or obtuse. The objection this added section was designed specifically to meet was that racial preference would somehow be required. No one thought it would or could be introduced voluntarily because "voluntary" racial preference precisely had been forbidden by the plain language of the earlier key section, 703 (a), cited above on page 43. Debate in the Senate went on for almost three full months. Never in that entire period was it argued, *by either side,* that employers could, of their own accord, give preference by race. Both proponents and opponents made perfectly clear their understanding that voluntary racial preference by employers, for blacks or for whites, was entirely precluded by the flat and unambiguous wording of those earlier passages, forbidding *any* employment practice that would 'discriminate against any individual" because of that individual's race. To add that prohibition yet again, in 703(j), would have been entirely redundant—and more importantly, it might have diluted the intended force of that particular passage, aimed narrowly at the objection that racial preference would otherwise someday be imposed by government.

That it was so aimed is made exquisitely clear by the difference in the phrasing of 703(j) from that of the earlier, central sections of the Title. The earlier sections, prohibiting racial discrimination in employment universally, are directed specifically at the employer, and therefore begin: "It shall be an unlawful employment practice for an employer. . . ." Section 703(j) is directed specifically *at possible federal enforcement agencies,* commissions, or courts, and therefore begins with language indicating that kind of target: "Nothing contained in this subchapter shall be interpreted. . . ." Now to infer, from the fact that this section does not repeat the prohibition already several times explicit in earlier sections, that it was the intention of Congress not to prohibit racial preference, is a transparently unsound defense of so grave a decision.[2]

Arguments relying false premises, even when valid in form, are not sound.

Lest there be any doubt, however, about the intent of the Congress *after* the addition of 703(j), we can return to the debate itself. Senator Saltonstall, defending the Dirksen-Mansfield amendment including 703(j), says of it, very plainly: "The legislation before us today provides no preferential treatment for any group of citizens. In fact, it specifically prohibits such treatment" (110 *Cong. Rec.*, p. 12691).

And yet again, in defending the amended bill against Senator Ervin's criticism that it "would make the members of a particular race special favorites of the laws," Senator Clark answers: "The bill does not make anyone higher than anyone else. It establishes no quotas." Employers, labor unions, employment agencies, remain free, Clark points out, to use normal judgment in their business activity—but:

> All this is subject to one qualification, and that qualification is to state: "In your activity as an employer, as a labor union, as an employment agency, you must not discriminate because of the color of a man's skin. . . ." That is all this provision does. . . . It merely says, "When you deal in interstate commerce, you must not discriminate on the basis of race. . . ."

In the event this be somehow misunderstood, he repeats himself in that speech:

> All it [Title VII] does is to say that no American, individual, labor union, or corporation, has the right to deny any other American the very basic civil right of equal job opportunity [110 *Cong. Rec.*, pp. 13079–80].

Senator Cooper, anxious to make the force of what was soon to become law unmistakably clear, also responds to Senator Ervin's concerns, saying:

> As I understand Title VII, an employer could employ the usual standards which any employer uses in employing—in dismissing, in promoting, or in assigning those who work for him. There would be only one limitation: he could not discriminate, he could not deny a person a job, or dismiss a person from a job, or promote on the sole ground of his color, or his religion, other factors being equal [110 *Cong. Rec.*, p. 13078].[3]

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[2] The argument called a "negative pregnant" is technically described as one having the form *modus tollens:* if p entails q, and q is false, then p must be false. The form is valid, of course—but in this application of it the argument (in either of two possible reconstructions of it) is built upon a false premise.

Version A: "If Congress had intended to forbid all racial preference they would have said that explicitly. They did not say that explicitly. Hence they did not intend that." In this version the second premise is plainly false; the congressional ban against racial preference in Section 703(a) is prefectly explicit.

Version B: "If Congress had intended to forbid all racial preference they would have expressed that intention explicitly in Section 703(j). They did not express that intention there. Hence they did not have that intention." In this version the second premise is true but the first is false. There was no need for Congress to repeat, in Section 703(j), the ban it had already made explicit earlier, and there was good reason not to do so.

[3] That Congress intended its prohibition of racial preference expressed in 703(a) to be general, to ban preference for minorities as well as for the white majority, is strongly confirmed by the striking fact that in the case in which they did wish to make an exception, permitting one very special kind of

But how, one asks, can the majority not have been fully aware of all this? They must have seen the draft of Justice Rehnquist's dissent, which makes the same points vividly. Did they, perhaps, find other evidence within the record of the debates in Congress, evidence that has here been left unmentioned, which might somehow permit a reading of congressional intent to permit racial preference? No, no evidence has been suppressed here. Like Vaas and Justice Rehnquist, upon whose guidance I have relied, I have scoured the pages of the *Congressional Record*; like them I have registered only a fraction of the evidence against the majority's interpretation. If, in all those papers, there were evidence that *any* Senator or Congressman had the intent that the majority ascribes to the whole Congress, we may be certain it would have been dug up and registered within the majority opinion. No such evidence appears there. Here again we may indeed rely upon a negative pregnant. In this majority opinion, in which every quotation from the congressional debates is presented that might contribute, even with arguments far-fetched or unsound, to an excessively strained interpretation of congressional intent, the absence of any passages that actually express that intent is very revealing.[4]

The plainest proof that the members of the majority in *Weber* cannot have been in ignorance of the actual intent of Congress, and after searching could find no evidence of contrary intent, is given by Justice Marshall himself. In a 1976 opinion, writing for the Court, he presents a careful analysis of the intent of Congress in Title VII. He quotes Representative Celler, saying Title VII was intended to "cover white men and white women and all Americans" (110 *Cong. Rec.*, p. 2578). He cites Senator Humphrey, Senator Clark, Senator Case, and Senator Williams in passages like those quoted above. Justice Marshall concludes that "Its [Title VII's] terms are not limited to discrimination against members of any particular race." He then substantiates this judgment by extended reference to the interpretation of Title VII given by the Equal Employment Opportunity Commission:

> The EEOC, whose interpretations are entitled to great deference, . . . *has consistently interpreted Title VII to proscribe racial discrimination in private employment against whites on the same terms as racial discrimination against non-whites*, holding that to proceed otherwise would "constitute a derogation of the Commission's Congressional mandate to eliminate all practices which operate to disadvantage the employment opportunities of any group protected by Title VII, including Caucasians.

Justice Marshall explains, representing the Court, that the history of legislative intent in adopting Title VII is "*uncontradicted*" (*McDonald* v. *Santa Fe Trail Transportation Co.*, 427 U.S. 273, at 278–80, 283; emphasis added).

Members of the House and Senate are quoted by the majority, to be sure. But the quotations serve to establish matters only tenuously related to the central point at issue. Repeated citations from the debates are given to establish that it was the larger purpose of Congress, in tackling this legislation, to promote employment opportunities for blacks. That, as we have seen, is not at issue, and does not speak to the question of what prohibitions were intended. Several citations are given to show, correctly, that one major concern in the Senate when introducing Section 703(j), which precludes the requirement of racial preference by the enforcers, was to reduce the likelihood of federal interference with private business. That was an aim of many Senators; but showing that does not prove, or even tend to confirm the thesis, that Title VII as a whole was designed to permit non-governmental racial preference.

One other citation by the majority deserves attention. To give credence to the claim that the distinction between private racial favoritism and federally required racial favoritism was before the congressional mind, the majority quotes from the House Committee report favoring the original bill. The passage says that "the enactment of Federal legislation dealing with the most troublesome problems [of social discrimination] will create an atmosphere conducive to voluntary or local resolution of other forms of discrimination." The majority fastens on this sentence, even adds emphasis to the final phrase, suggesting that it proves that a voluntary racial quota in employment is one of those "other forms" for which the Civil Rights Act had created the atmosphere (Brennan, p. 8).

Fallacious would be the gentlest way to describe this argument—in view of the failure, not likely to be accidental, to quote the lines immediately following the cited passage. An explanation is given there of the distinction between "the most serious types of discrimination" and those other varieties for which voluntary attention might be encouraged. The serious types, types this House report there suggests *will* be dealt with by this bill, specifically include voting, public accommodation, *and employment*. The omitted passage reads:

> It is, however, possible and necessary for the Congress to enact legislation which prohibits and provides the means of terminating the most serious types of discrimination. This H.R. 7152, as amended, would achieve in a number of related areas. . . . It would prohibit discrimination in employment [*H. R. Reports*, No. 914, p. 18].

The forms of discrimination it was hoped might yield to voluntary action were those *other* than discrimination in employment, voting, and the like. Indeed, employment discrimination is mentioned repeatedly in the report as being of the most serious kind, the kind for whose prevention this legislation was specifically designed.

There is not a shred of evidence in this passage that the report actually envisaged voluntary racial *preference* of any kind, or that would have suggested to the House that such preference—especially in employment—was permissible under this Act.

11

One hates to flog a dead horse. But this horse came to life in an extraordinary opinion of a Supreme Court majority—so I report, finally, the understanding of the Civil Rights Act of 1964 as that understanding was registered in the final hours of debate on the Senate floor—after which it was returned to the House and approved as amended. The legislative decision was at hand. The advocates of the bill, now under cloture, had to give their final defenses and interpretations. On the point at issue here under their remarks were unmistakably clear.

Senator Muskie:

> It has been said that the bill discriminates in favor of the Negro at the expense of the rest of us. It seeks to do nothing more than to lift the Negro from the status of inequality to one of equality of treatment [110 *Cong. Rec.*, p. 14328].

> The bill does not accord to any citizen advantage or preference—it does not fix quotas of employment or school population—it does not force personal association. What it does is to prohibit public officials and those who invite the public generally to patronize their business or to apply for employment, to utilize the offensive, humiliating, and cruel practice of discrimination on the basis of race. In short, the bill does not accord special consideration; it establishes equality [110 *Cong. Rec.*, p. 14484].

Very self-consciously, aware that it was making history, the Senate passed the amended Civil Rights Act on June 19, 1964, by 73 to 27, every member voting. The struggle in that body, as Vaas describes it, had been "titanic and protracted." The meaning and force of every line, every phrase in the bill had been intensely scrutinized and explained with scrupulous care. The legislators knew precisely what they were prohibiting with this legislation, and we know exactly what they understood themselves to be doing because they took care, very deliberately, to put their explanatory accounts on record.

No impartial judge, properly attentive to the abundant evidence that establishes dispositively the true intent of Congress, could honestly conclude that its intent was to permit private racial preference in employment. Yet that is what the majority has concluded, in a decision that is, taken all in all, simply shocking.

Are there no redeeming features of the majority's decision? Yes, there are several—all respects in which the impact of the decision is explicitly limited. "We emphasize at the outset," writes the majority, "the narrowness of our inquiry" (Brennan, p. 4).

Although the impact of the decision will prove very substantial, it is, indeed, narrow in a technical sense. Its narrowness is a consequence of the explicit intention of the majority to decide the case entirely as one of statutory interpretation. What the majority decided about the Kaiser quota plan, it will be recalled, is no more than that Title VII of the Civil Rights Act does not forbid it. Restricting themselves to an interpretation of the statute was possible for the majority because, they said, "this case does not present an alleged violation of the Equal Protection Clause of the Constitution." It does not, they explain, because the racially preferential quota in question was entirely within "the private sector." The plan did not involve "state action" [*ibid*].

This view of the Kaiser plan is at once reasonable and ironic. It is ironic because although this racial quota surfaced only in a labor-management agreement, it had been introduced there as a result of threats of contract cancellation by a federal enforcement agency. Threats why? Because Kaiser's

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preference in one very special setting, they identified that exceptional case and delimited it narrowly in Section 703(i), with carefully chosen words: "Nothing contained in [Title VII] shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which preferential treatment is given to any individual because he is an Indian living on or near a reservation."

From the specific inclusion of that one exception it is manifest that only by such specific language did Congress intend exceptions to be justified. No other such exceptions appear. Here is a negative pregnant—a valid *modus tollens* argument—worthy of respect: "Where Congress intended an exception to the general ban on racial preference it identified the excepted case explicitly. It identified no exception for private employers or unions save that regarding Indians on or near a reservation. Hence it intended no exception but this one." In this case the premises are all true and the argument is sound.

[4] Again the valid argument is in the form of *modus tollens*, and again its premises are true: "If Congress had intended to permit private racial preference in employment there would have been clear expression of that intention by at least some defenders of the Act in the course of lengthy debate. No such expressions appear. Hence Congress cannot be supposed to have had that intent." There is nothing wrong with *modus tollens*; its effectiveness in argument, however, depends upon the truth of the premises relied upon.

work force was not racially balanced. In the language of the Office of Federal Contract Compliance, minorities were being "underutilized" by Kaiser. By devising job-training racial quotas in submission to that threat, Kaiser and the union showed how well-grounded were the fears of those who had wished to preclude not only the federal requirement of racial preference, but the federal coercion of it. The addition of Section 703(j) sought to guard against the first of these dangers. Now its very language is used to realize the second, accomplishing indirectly what that language was designed to prevent directly.

In a historical aside that would be amusing if it did not reflect upon the highest court in the land, Justice Rehnquist cites a remark by Senator Sparkman in projecting the uses to which Title VII may one day be put: "Certainly the suggestion will be made to a small business that may have a small government contract . . . that if it does not carry out the suggestion that has been made to the company by an inspector, its government contract will not be renewed" (110 Congressional Record, p. 8618).

Yet the Court's distinction between state action and private action remains reasonable. However pernicious racial discrimination may be, it is right to distinguish between immoral acts done by private parties (even when arguably coerced) and the same acts done directly by a representative government. To accept that distinction is not to suggest that the majority is correct in holding this private racism lawful. Under any plausible reading of the Civil Rights Act, it is not. But not all private nastiness is public business, and we are wise to agree that, where state action is clearly involved in racial preference, the problem rises to a different and higher level of gravity.

Because the majority puts substantial emphasis on the distinction, introducing it at several points in its opinion, it is reasonable to conclude not only that the majority opinion does not cover public employers, but that public employers—government agencies, public universities, etc.—cannot rely in any way upon the permission here being given to a private employer.

Private employers also, as a matter of morality, might reasonably refrain from engaging in practices believed to be forbidden to public employers. There is an odious quality in conduct narrowly held lawful but which, if pursued by government, would create at least a serious question of constitutional right. Sooner or later the fundamental question will arise again in a context obliging a full-blooded constitutional response by the full Court. When that happens we may hope for a wiser result.

What is the likelihood of an eventual constitutional reversal of *Weber?* No one can say with confidence. The present Court is deeply divided on this cluster of issues. *Weber* was decided by a vote of 5 to 2. Justice Stevens, author of the opinion in support of Allan Bakke in that analgous case, excused himself because he had once served as an attorney for Kaiser. Justice Powell was kept from presence at the oral argument by illness, and also took no part in *Weber*. In any later constitutional resolution in which Justices Stevens and Powell participate it is exceedingly likely that both would find racial preference of every kind unacceptable. Powell has vigorously expressed his condemnation of racial preference, rejecting any "two-class" theory of the Equal Protection Clause. Justices Marshall and Brennan, the most vigorous defenders of racial preference on the present Court, are not in good health. When this matter is faced afresh, in the context of the Fourteenth Amendment's demand that no state "deny to any person under its jurisdiction the equal protection of the laws," the complexion of the Court may well have changed.

The majority opinion is narrow in the further sense that it gives almost no guidance to those who might wish to expand racial preference. No principles of acceptability for racial preference are advanced. The majority explicitly refrains from defining in detail "the line of demarcation between permissible and impermissible affirmative-action plans." It holds only that this plan, which gives preference to blacks over whites for job-training opportunities but not for employment itself, "falls on the permissible side of the line" (Brennan, p. 12). Any racially preferential program, therefore, that goes in any way beyond this one might immediately lose the support of one or more of the five members of the majority, thus failing on subsequent test. What is learned in *Weber* is that the Supreme Court now holds this precise plan not to be forbidden by Title VII of the Civil Rights Act of 1964—no more than that.

13

Finally, there will be political repercussions from *Weber*, partly because they have been invited by the Court, and partly because the decision of the Court is very likely to provoke them.

Political response is invited by the fact that the majority opinion hangs entirely on its interpretation of the intent of Congress. It remains open to Congress to register its true intent so clearly that even this majority could not fail to perceive it. Justice Blackmun, exhibiting troubled reluctance in his concurring opinion, and reiterating his hopes for an early end to racial preference he had himself (in his *Bakke* opinion) called "ugly," concludes his opinion with an explicit invitation to the Congress: "And if the Court has misperceived the political will, it has the assurance that because the question is statutory Congress may set a different course if it so chooses" (Blackmun, p. 8).

That the intent of Congress to forbid all racial preference in employment already appears in the unambiguous words of Title VII, Section 703(a), quoted above (p. 43) is indisputable. Yet it is possible that formal congressional reemphasis of its intent would cause the Court to desist in its efforts to rewrite the legislation to its taste. Congressional efforts to accomplish just this objective are likely to be undertaken, but the success of any such legislative shoring-up of Title VII is doubtful.

There is a provocative aspect of the majority opinion in *Weber*, however, that may actually drive the Congress to underscore its earlier demand for equal treatment of the races. This is a feature of the decision which, upon reflection, appears even more insensitive than the misreading of congressional intent. I refer to the callousness, manifest in the majority opinion, toward the interests of ordinary working-class people. Allan Bakke was ordered admitted to the medical school at Davis; blatant racial discrimination against him was not tolerated. Brian Weber, a working man without skills or influence, and without the organized support of the intellectuals, can be left to bear the burden, even though his rights may be infringed upon. The majority is explicit on this point. To advance the racial balancing they think good it may be necessary, they say, to "*trammel the interests of the white employees*" (Brennan, p. 12; emphasis added).

Five members of the Supreme Court may find this a comfortable position in which to rest; most elected legislators will not. It may be that by egregiously misreporting the intent of Congress, and then boldly expressing their own willingness to sacrifice the interests of one race to advance the interests of another, the majority in *Weber* has taken those provocative steps that will lead eventually to more emphatic legislative insistence upon the equal protection of the laws.

Mr. HATCH. Mr. President, a number of the articles I have presented here make allusion to the brilliance of Justice Rehnquist's dissent in the Weber decision. This is, indeed, the only aspect of the decision that history will regard as adding in any way to the luster of the Court. Rehnquist's opinion is unanswerable, and I recommend it earnestly to my colleagues.

Mr. President, I ask unanimous consent that Mr. Justice Rehnquist's decision be printed in the Record at this point.

There being no objection, the decision was ordered to be printed in the Record, as follows:

REHNQUIST, J., DISSENTING

Mr. Justice Rehnquist, with whom The Chief Justice joins, dissenting.

In a very real sense, the Court's opinion is ahead of its time: it could more appropriately have been handed down five years from now, in 1984, a year coinciding with the title of a book from which the Court's opinion borrows, perhaps subconsciously, at least one idea. Orwell describes in his book a governmental official of Oceania, one of the three great world powers, denouncing the current enemy, Eurasia, to an assembled crowd:

"It was almost impossible to listen to him without being first convinced and then maddened. . . . The speech had been proceeding for perhaps twenty minutes when a messenger hurried onto the platform and a scrap of paper was slipped into the speaker's hand. He unrolled and read it without pausing in his speech. Nothing altered in his voice or manner, or in the content of what he was saying, but suddenly the names were different. Without words said, a wave of understanding rippled through the crowd. Oceania was at war with Eastasia! . . . The banners and posters with which the square was decorated were all wrong! . . .

"[T]he speaker had switched from one line to the other actually in mid-sentence, not only without a pause, but without even breaking the syntax." G. Orwell, Nineteen Eighty-Four 181–182 (1949).

Today's decision represents an equally dramatic and equally unremarked switch in this Court's interpretation of Title VII.

The operative sections of Title VII prohibit racial discrimination in employment *simpliciter*. Taken in its normal meaning, and as understood by all Members of Congress who spoke to the issue during the legislative debates, see *infra*, at 231–251, this language prohibits a covered employer from considering race when making an employment decision, whether the race be black or white. Several years ago, however, a United States District Court held that "the dismissal of white employees charged with misappropriating company property while not dismissing a similarly charged Negro employee does not raise a claim upon which Title VII relief may be granted." *McDonald* v. *Santa Fe Trail Transp. Co.*, 427 U.S. 273, 278 (1976). This Court unanimously reversed, concluding from the "uncontradicted legislative history" that "Title VII prohibits racial discrimination against the white petitioners in this case upon the same standards as would be applicable were they Negroes . . . ." *Id.*, at 280.

We have never wavered in our understanding that Title VII "prohibits *all* racial discrimination in employment, without exception for any group of particular employees." *Id.*, at 283 (emphasis in original). In *Griggs* v. *Duke Power Co.*, 401 U.S. 424, 431 (1971), our first occasion to interpret Title VII, a unanimous Court observed that "[d]iscriminatory preference, for any group, minority or majority, is precisely and only what Congress has proscribed." And in our most recent discussion of the issue, we uttered words seemingly dispositive of this case: "It is clear beyond cavil that the obligation imposed by Title VII is to provide an equal opportunity for *each* applicant regardless of race, without regard to whether members of the applicant's race are already proportionately represented in the work force." *Furnco Construction Corp.* v. *Waters*, 438 U.S. 567, 579 (1978) (emphasis in original).[1]

Today, however, the Court behaves much like the Orwellian speaker earlier described, as if it had been handed a note indicating that Title VII would lead to a result unacceptable to the Court if interpreted here as it was in our prior decisions. Accordingly, without even a break in syntax, the Court rejects "a literal construction of § 703(a)" in favor of newly discovered "legislative history," which leads it to a conclusion directly contrary to that compelled by the "uncontradicted legislative history" unearthed in *McDonald* and our other prior decisions. Now we are told that the legislative history of Title VII shows that employers are free to discriminate on the basis of race: an employer may, in the Court's words, "trammel the interests of the white employees" in favor of black employees in order to eliminate "racial imbalance." *Ante*, at 208. Our earlier interpretations of Title VII, like the banners and posters decorating the square in Oceania, were all wrong.

As if this were not enough to make a reasonable observer question this Court's adherence to the oft-stated principle that our duty is to construe rather than rewrite legislation, *United States* v. *Rutherford*, 442 U.S. 544, 555 (1979), the Court also seizes upon § 703(j) of Title VII as an independent, or at least partially independent, basis for its holding. Totally ignoring the wording of that section, which is obviously addressed to those charged with the responsibility of interpreting the law rather than those who are subject to its proscriptions, and totally ignoring the months of legislative debates preceding the section's introduction and passage, which demonstrate clearly that it was enacted to prevent precisely what occurred in this case, the Court infers from § 703(j) that "Congress chose not to forbid all voluntary race-conscious affirmative action." *Ante*, at 206.

Thus, by a *tour de force* reminiscent not of jurists such as Hale, Holmes, and Hughes, but of escape artists such as Houdini, the Court eludes clear statutory language, "uncontradicted" legislative history, and uniform precedent in concluding that employers are, after all, permitted to consider race in making employment decisions. It may be that one or more of the principal sponsors of Title VII would have preferred to see a provision allowing preferential treatment of minorities written into the bill. Such a provision, however, would have to have been expressly or impliedly excepted from Title VII's explicit prohibition on all racial discrimination in employment. There is no such exception in the Act. And a reading of the legislative debates concerning Title VII, in which proponents and opponents alike uniformly denounced discrimination in favor of, as well as discrimination against, Negroes, demonstrates clearly that any legislator harboring an unspoken desire for such a provision could not possibly have succeeded in enacting it into law.

Kaiser opened its Gramercy, La., plant in 1958. Because the Gramercy facility had no apprenticeship or in-plant craft taking program, Kaiser hired as craftworkers only persons with prior craft experience. Despite Kaiser's efforts to locate and hire trained black craftsmen, few were available in the Gramercy area, and as a consequence, Kaiser's craft positions were manned almost exclusively by whites. In February 1974, under pressure from the Office of Federal Contract Compliance to increase minority representation in craft positions at its various plants,[2] and hoping to deter the filing of employment discrimination claims by minorities, Kaiser entered into a collective-bargaining agreement with the United Steelworkers of America (Steelworkers) which created a new on-the-job craft training program at 15 Kaiser facilities, including the Gramercy plant. The agreement required that no less than one minority applicant be admitted to the training program for every nonminority applicant until the percentage of blacks in craft positions equaled the percentage of blacks in the local work force.[3] Eligibility for the craft training programs was to be determined on the basis of plant seniority, with black and white applicants to be selected on the basis of their relative seniority within their racial group.

Brian Weber is white. He was hired at Kaiser's Gramercy plant in 1968. In April 1974, Kaiser announced that it was offering a total of nine positions in three on-the-job training programs for skilled craft jobs. Weber applied for all three programs, but was not selected. The successful candidates—five black and four white applicants—were chosen in accordance with the 50 percent minority admission quota mandated under the 1974 collective-bargaining agreement. Two of the successful black applicants had less seniority than Weber.[4] Weber brought the instant class action[5] in the United States District Court for the Eastern District of Louisiana, alleging that use of the 50 percent minority admission quota to fill vacancies in Kaiser's craft training programs violated Title VII's prohibition on racial discrimination in employment. The District Court and the Court of Appeals for the Fifth Circuit agreed, enjoining further use of race as a criterion in admitting applicants to the craft training programs.[6]

II

Where Congress to act today specifically to prohibit the type of racial discrimination suffered by Weber, it would be hard pressed to draft language better tailored to the task than that found in § 703(d) of Title VII:

"It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training." 78 Stat. 256, 42 U.S.C. § 2000e–2(d).

Equally suited to the task would be § 703 (a)(2), which makes it unlawful for an employer to classify his employees "in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin." 78 Stat. 255, 42 U.S.C. § 2000e–2(a)(2).[7]

Entirely consistent with these two express prohibitions is the language of § 703(j) of Title VII, which provides that the Act is not to be interpreted "to require any employer . . . to grant preferential treatment to any individual or to any group because of the race . . . of such individual or group" to correct a racial imbalance in the employer's work force. 42 U.S.C. § 2000e–2(j).[8] Seizing on the word "require," the Court infers that Congress must have intended to "permit" this type of racial discrimination. Not only is this reading of § 703(j) outlandish in the light of the flat prohibitions of §§ 703 (a) and (d), but, as explained in Part III, it is totally belied by the Act's legislative history.

Quite simply, Kaiser's racially discriminatory admission quota is flatly prohibited by the plain language of Title VII. This normally dispositive fact,[9] however, gives the Court only momentary pause. An "interpretation" of the statute upholding Weber's claim would, according to the Court, " 'bring about an end completely at variance with the purpose of the statute.' " *Ante*, at 202, quoting *United States* v. *Public Utilities Comm'n*, 345 U.S. 295, 315 (1953). To support this conclusion, the Court calls upon the "spirit" of the Act, which it divines from passages in Title VII's legislative history indicating that enactment of the statute was prompted by Congress' desire " 'to open employment opportunities for Negroes in occupations which [had] been traditionally closed to them.' " *Ante*, at 203, quoting 110 Cong. Rec. 6548 (1964) (remarks of Sen. Humphrey).[10] But the legislative history invoked by the Court to avoid the plain language of §§ 703 (a) and (d) simply misses the point. To be sure, the reality of employment discrimination against Negroes provided the primary impetus for passage of Title VII. But this fact by no means supports the proposition that Congress intended to leave employers free to discriminate against white persons.[11] In most cases, "[l]egislative history . . . is more vague than the statute we are called upon to interpret." *United States* v. *Public Utilities Comm'n, supra*, at 320 (Jackson, J., concurring). Here, however, the legislative history of Title VII is as clear as the language of §§ 703 (a) and (d), and it irrefutably demonstrates that Congress meant precisely what it said in §§ 703 (a) and (d)—that *no* racial discrimination in employment is permissible under Title VII, not even preferential treatment of minorities to correct racial imbalance.

III

In undertaking to review the legislative history of Title VII, I am mindful that the topic hardly makes for light reading, but I am also fearful that nothing short of a thorough examination of the congressional debates will fully expose the magnitude of the Court's misinterpretation of Congress' intent.

A

Introduced on the floor of the House of Representatives on June 20, 1963, the bill—H.R. 7152—that ultimately became the Civil Rights Act of 1964 contained no compulsory provisions directed at private discrimination in employment. The bill was promptly referred to the Committee on the Judiciary, where it was amended to include Title VII. With two exceptions, the bill reported by the House Judiciary Committee contained §§ 703 (a) and (d) as they were ultimately enacted. Amendments subsequently adopted on the House floor added § 703's prohibition against sex discrimination and § 703(d)'s coverage of "on-the-job training."

After noting that "[t]he purpose of [Title VII] is to eliminate . . . discrimination in employment based on race, color, religion, or national origin," the Judiciary Committee's Report simply paraphrased the provisions of Title VII without elaboration. H.R. Rep., pt. 1, p. 26. In a separate Minority Report, however, opponents of the measure on the Committee advanced a line of attack which was reiterated throughout the debates in both the House and Senate and which ultimately led to passage of § 703(j). Noting that the word "discrimination" was nowhere defined in H.R. 7152, the Minority Report charged that the absence from Title VII of any reference to "racial balance" was a "public relations" ruse and that "the administration intends to rely upon its own construction of 'discrimination' as including the lack of racial balance. . . ." H.R. Rep., pt. 1, pp. 67–68. To demonstrate how the bill would operate in practice, the Minority Report posited a number of hypothetical employment situations, concluding in each example that the employer *"may be forced to hire according to race*, to 'racially balance' those who work for him *in every job classification* or be in violation of Federal law." *Id.*, at 69 (emphasis in original).[12]

Footnotes at end of article.

When H.R. 7152 reached the House floor, the opening speech in support of its passage was delivered by Representative Celler, Chairman of the House Judiciary Committee and the Congressman responsible for introducing the legislation. A portion of that speech responded to criticism "seriously misrepresent[ing] what the bill would do and grossly distort[ing] its effects":

"[T]he charge has been made that the Equal Employment Opportunity Commission to be established by title VII of the bill would have the power to prevent a business from employing and promoting the people it wished, and that a 'Federal inspector' could then order the hiring and promotion only of employees of certain races or religious groups. This description of the bill is entirely wrong. . . .

* * * * *

"Even [a] court could not order that any preference be given to any particular race, religion or other group, but would be limited to ordering an end of discrimination. The statement that a Federal inspector could order the employment and promotion only of members of a specific racial or religious group is therefore patently erroneous.

". . . The Bill would do no more than prevent . . . employers from discriminating against or in favor of workers because of their race, religion, or national origin.

"It is likewise not true that the Equal Employment Opportunity Commission would have power to rectify existing 'racial or religious imbalance' in employment by requiring the hiring of certain people without regard to their qualifications simply because they are of a given race or religion. Only actual discrimination could be stopped." 110 CONGRESSIONAL RECORD 1518 (1964) (emphasis added).

Representative Celler's construction of Title VII was repeated by several other supporters during the House debate.[13]

Thus, the battle lines were drawn early in the legislative struggle over Title VII, with opponents of the measure charging that agencies of the Federal Government such as the Equal Employment Opportunity Commission (EEOC), by interpreting the word "discrimination" to mean the existence of "racial imbalance," would "require" employers to grant preferential treatment to minorities, and supporters responding that the EEOC would be granted no such power and that, indeed, Title VII prohibits discrimination "in favor of workers because of their race." Supporters of H.R. 7152 in the House ultimately prevailed by a vote of 290 to 130,[14] and the measure was sent to the Senate to begin what became the longest debate in that body's history.

B

The Senate debate was broken into three phases: the debate on sending the bill to Committee, the general debate on the bill prior to invocation of cloture, and the debate following cloture.

1

When debate on the motion to refer the bill to Committee opened, opponents of Title VII in the Senate immediately echoed the fears expressed by their counterparts in the House, as is demonstrated by the following colloquy between Senators Hill and Ervin:

"Mr. ERVIN. I invite attention to . . . Section [703(a)]. . . .

* * * * *

"I ask the Senator from Alabama if the Commission could not tell an employer that he had too few employees, that he had limited his employment, and enter an order, under [Section 703(a)], requiring him to hire more persons, not because the employer thought he needed more persons, but because the Commission wanted to compel him to employ persons of a particular race.

"Mr. HILL. The Senator is correct. That power is written into the bill. The employer could be forced to hire additional persons. . . ." 110 CONGRESSIONAL RECORD 4764 (1964).[15]

Senator Humphrey, perhaps the primary moving force behind H.R. 7152 in the Senate, was the first to state the proponents' understanding of Title VII. Responding to a political advertisement charging that federal agencies were at liberty to interpret the word "discrimination" in Title VII to require racial balance, Senator Humphrey stated: "[T]he meaning of racial or religious discrimination is perfectly clear. . . . [I]t means a distinction in treatment given to different individuals because of their different race, religion, or national orgin." *Id.*, at 5423.[16] Stressing that Title VII "does not limit the employer's freedom to hire, fire, promote or demote for any reasons—or no reasons—so long as his action is not based on race," Senator Humphrey further stated that "nothing in the bill would permit any official or court to require any employer or labor union to give preferential treatment to any minority group." *Ibid.*[17]

After 17 days of debate, the Senate voted to take up the bill directly, without referring it to a committee. *Id.*, at 6455. Consequently, there is no Committee Report in the Senate.

2

Formal debate on the merits of H.R. 7152 began on March 30, 1964. Supporters of the bill in the Senate had made elaborate preparations for this second round. Senator Humphrey, the majority whip, and Senator Kuchel, the minority whip, were selected as the bipartisan floor managers on the entire civil rights bill. Responsibility for explaining and defending each important title of the bill was placed on bipartisan "captains." Senators Clark and Case were selected as the bipartisan captains responsible for Title VII. Vaas, Title VII: Legislative History, 7 B. C. Ind. & Com. L. Rev. 431, 444–445 (1966) (hereinafter Title VII: Legislative History).

In the opening speech of the formal Senate debate on the bill, Senator Humphrey addressed the main concern of Title VII's opponents, advising that not only does Title VII not require use of racial quotas, *it does not permit* their use. "The truth," stated the floor leader of the bill, "is that this title forbids discriminating against anyone on account of race. This is the simple and complete truth about title VII." 110 Cong. Rec. 6549 (1964). Senator Humphrey continued:

"Contrary to the allegations of some opponents of this title, there is nothing in it that will give any power to the Commission or to any court to require hiring, firing, or promotion of employees in order to meet a racial 'quota' or to achieve a certain racial balance.

"That bugaboo has been brought up a dozen times; but it is nonexistent. In fact, *the very opposite is true. Title VII prohibits discrimination.* In effect, it says that race, religion and national origin are not to be used as the basis for hiring and firing. Title VII is designed to encourage hiring on the basis of ability and qualifications, not race or religion." *Ibid.* (emphasis added).

At the close of his speech, Senator Humphrey returned briefly to the subject of employment quotas: "It is claimed that the bill would require racial quotas for all hiring, when in fact it provides that race shall not be a basis for making personnel decisions." *Id.*, at 6553.

Senator Kuchel delivered the second major speech in support of H.R. 7152. In addressing the concerns of the opposition, he observed that "[n]othing could be further from the truth" than the charge that "Federal inspectors" would be empowered under Title VII to dictate racial balance and preferential advancement of minorities. *Id.*, at 6563. Senator Kuchel emphasized that seniority rights would in no way be affected by Title VII: "Employers and labor organizations could not discriminate *in favor of or against* a person because of his race, his religion, or his national origin. In such matters . . . the bill now before us . . . is color-blind." *Id.*, at 6564 (emphasis added).

A few days later the Senate's attention focused exclusively on Title VII, as Senators Clark and Case rose to discuss the title of H.R. 7152 on which they shared floor "captain" responsibilities. In an interpretative memorandum submitted jointly to the Senate, Senators Clark and Case took pains to refute the opposition's charge that Title VII would result in preferential treatment of minorities. Their words were clear and unequivocal:

"There is no requirement in title VII that an employer maintain a racial balance in his work force. On the contrary, any deliberate attempt to maintain a racial balance, whatever such a balance may be, would involve a violation of title VII because maintaining such a balance would require an employer to hire or to refuse to hire on the basis of race. It must be emphasized that discrimination is prohibited as to any individual." *Id.*, at 7213.[18]

Of particular relevance to the instant case were their observations regarding seniority rights. As if directing their comments at Brian Weber, the Senators said:

"Title VII would have no effect on established seniority rights. Its effect is prospective and not retrospective. Thus, for example, if a business has been discriminating in the past and as a result has an all-white working force, when the title comes into effect the employer's obligation would be simply to fill future vacancies on a nondiscriminatory basis. He would not be obliged—*or indeed permitted*—to fire whites in order to hire Negroes, *or to prefer Negroes for future vacancies, or, once Negroes are hired, to give them special seniority rights at the expense of the white workers hired earlier.*" *Ibid.* (emphasis added).[19]

Thus, with virtual clairvoyance the Senate's leading supporters of Title VII anticipated precisely the circumstances of this case and advised their colleagues that the type of minority preference employed by Kaiser would violate Title VII's ban on racial discrimination. To further accentuate the point, Senator Clark introduced another memorandum dealing with common criticisms of the bill, including the charge that racial quotas would be imposed under Title VII. The answer was simple and to the point: "Quotas are themselves discriminatory." *Id.*, at 7218.

Despite these clear statements from the bill's leading and most knowledgeable proponents, the fears of the opponents were not put to rest. Senator Robertson reiterated the view that "discrimination" could be interpreted by a federal "bureaucrat" to require hiring quotas. *Id.*, at 7418–7420.[20] Senators Smathers and Sparkman, while conceding that Title VII does not in so many words require the use of hiring quotas, repeated the opposition's view that employers would be coerced to grant preferential hiring treatment to minorities by agencies of the Federal Government.[21] Senator Williams was quick to respond:

"Those opposed to H.R. 7152 should realize that to hire a Negro solely because he is a Negro is racial discrimination, just as much as a 'white only' employment policy. Both forms of discrimination are prohibited by title VII of this bill. The language of that title simply states that race is not a qualification for employment. . . . Some people charge that H.R. 7152 favors the Negro, at the expense of the white majority. But how can the language of equality favor one race or one religion over another? Equality can have only one meaning, and that meaning is self-evident to reasonable men. Those who

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say that equality means favoritism do violence to common sense." *Id.*, at 8921.

Senator Williams concluded his remarks by noting that Title VII's only purpose is "the elimination of racial and religious discrimination in employment." *Ibid.*[22] On May 25, Senator Humphrey again took the floor to defend the bill against "the well-financed drive by certain opponents to confuse and mislead the American people." *Id.*, at 11846. Turning once again to the issue of preferential treatment, Senator Humphrey remained faithful to the view that he had repeatedly expressed:

"The title does not provide that any preferential treatment in employment shall be given to Negroes or to any other persons or groups. It does not provide that any quota systems may be established to maintain racial balance in employment. In fact, *the title would prohibit preferential treatment for any particular group*, and any person, whether or not a member of any minority group, would be permitted to file a complaint of discriminatory employment practices." *Id.*, at 11848 (emphasis added).

While the debate in the Senate raged, a bipartisan coalition under the leadership of Senators Dirksen, Mansfield, Humphrey, and Kuchel was working with House leaders and representatives of the Johnson administration on a number of amendments to H.R. 7152 designed to enhance its prospects of passage. The so-called "Dirksen-Mansfield" amendment was introduced on May 26 by Senator Dirksen as a substitute for the entire House-passed bill. The substitute bill, which ultimately became law, left unchanged the basic prohibitory language of §§ 703 (a) and (d), as well as the remedial provisions in § 706(g). It added, however, several provisions defining and clarifying the scope of Title VII's substantive prohibitions. One of those clarifying amendments, § 703 (j), was specifically directed at the opposition's concerns regarding racial balancing and preferential treatment of minorities, providing in pertinent part: "Nothing contained in [Title VII] shall be interpreted to require any employer . . . to grant preferential treatment to any individual or to any group because of the race . . . of such individual or group on account of" a racial imbalance in the employer's work force. 42 U.S.C. § 2000e-2(j); quoted in full in n. 8, *supra*.

The Court draws from the language of § 703(j) primary support for its conclusion that Title VII's blanket prohibition on racial discrimination in employment does not prohibit preferential treatment of blacks to correct racial imbalance. Alleging that opponents of Title VII had argued (1) that the Act would be interpreted to require employers with racially imbalanced work forces to grant preferential treatment to minorities and (2) that "employers with racially imbalanced work forces would grant preferential treatment to racial minorities, even if not required to do so by the Act," *ante*, at 205, the Court concludes that § 703(j) is responsive only to the opponents' first objection and that Congress therefore must have intended to permit voluntary, private discrimination against whites in order to correct racial imbalance.

Contrary to the Court's analysis, the language of § 703(j) is precisely tailored to the objection voiced time and again by Title VII's opponents. Not once during the 83 days of debate in the Senate did a speaker, proponent or opponent, suggest that the bill would allow employers *voluntarily* to prefer racial minorities over white persons.[23] In light of Title VII's flat prohibition on discrimination "against any individual . . . because of such individual's race," § 703(a), 42 U.S.C. § 2000e-2(a), such a contention would have been, in any event, too preposterous to warrant response. Indeed, speakers on both sides of the issue, as the legislative history makes clear, recognized that Title VII would tolerate no *voluntary* racial preference, whether in favor of blacks or whites. The complaint consistently voiced by the opponents was that Title VII, particularly the word "discrimination," would be *interpreted* by federal agencies such as the EEOC to *require* the correction of racial imbalance through the granting of preferential treatment to minorities. Verbal assurances that Title VII would not require—indeed, would not permit—preferential treatment of blacks having failed, supporters of H.R. 7152 responded by proposing an amendment carefully worded to meet, and put to rest, the opposition's charge. Indeed, unlike §§ 703(a) and (d), which are by their terms directed at entities—*e. g.*, employers, labor unions—whose actions are restricted by Title VII's prohibitions, the language of § 703(j) is specifically directed at entities—federal agencies and courts—charged with the responsibility of interpreting Title VII's provisions.[24]

In light of the background and purpose of § 703(j), the irony of invoking the section to justify the result in this case is obvious. The Court's frequent references to the "voluntary" nature of Kaiser's racially discriminatory admission quota bear no relationship to the facts of this case. Kaiser and the Steelworkers acted under pressure from an agency of the Federal Government, the Office of Federal Contract Compliance, which found that minorities were being "underutilized" at Kaiser's plants. See n. 2, *supra*. That is, Kaiser's work force was racially imbalanced. Bowing to that pressure, Kaiser instituted an admissions quota preferring blacks over whites, thus confirming that the fears of Title VII's opponents were well founded. Today, § 703(j), adopted to allay those fears, is invoked by the Court to uphold imposition of a racial quota under the very circumstances that the section was intended to prevent.[25]

Section 703(j) apparently calmed the fears of most of the opponents; after its introduction, complaints concerning racial balance and preferential treatment died down considerably.[26] Proponents of the bill, however, continued to reassure the opposition that its concerns were unfounded. In a lengthy defense of the entire civil rights bill, Senator Muskie emphasized that the opposition's "torrent of words . . . cannot obscure this basic, simple truth: Every American citizen has the right to equal treatment—not favored treatment, not complete individual equality—just equal treatment." 110 Cong. Rec. 12614 (1964). With particular reference to Title VII, Senator Muskie noted that the measure "seeks to afford to all Americans equal opportunity in employment without discrimination. Not equal pay. Not 'racial balance.' Only equal opportunity." *Id.*, at 12617.[27]

Senator Saltonstall, Chairman of the Republican Conference of Senators participating in the drafting of the Dirksen-Mansfield amendment, spoke at length on the substitute bill. He advised the Senate that the Dirksen-Mansfield substitute, which included § 703(j), "provides no preferential treatment for any group of citizens. In *fact, it specifically prohibits such treatment*." 110 Cong. Rec. 12691 (1964) (emphasis added).[28]

On June 9, Senator Ervin offered an amendment that would entirely delete Title VII from the bill. In answer to Senator Ervin's contention that Title VII "would make the members of a particular race special favorites of the laws," *id.*, at 13079, Senator Clark retorted:

"The bill does not make anyone higher than anyone else. It establishes no quotas. It leaves an employer free to select whomever he wishes to employ . . .

"All this is subject to one qualification, and that qualification, is to state: 'In your activity as an employer . . . you must not discriminate because of the color of a man's skin . . .'

"That is all this provision does . . .

"It merely says, 'When you deal in interstate commerce, you must not discriminate on the basis of race . . .' " *Id.*, at 13080.

The Ervin amendment was defeated, and the Senate turned its attention to an amendment proposed by Senator Cotton to limit application of Title VII to employers of at least 100 employees. During the course of the Senate's deliberations on the amendment, Senator Cotton had a revealing discussion with Senator Curtis, also an opponent of Title VII. Both men expressed dismay that Title VII would prohibit preferential hiring of "members of a minority race in order to enhance their opportunity":

"Mr. Curtis. Is it not the opinion of the Senator that any individuals who provide jobs for a class of people who have perhaps not had sufficient opportunity for jobs should be commended rather than outlawed?

"Mr. Cotton. Indeed it is." *Id.*, at 13086.[29]

Thus, in the only exchange on the Senate floor raising the possibility that an employer might wish to reserve jobs for minorities in order to assist them in overcoming their employment disadvantage, both speakers concluded that Title VII prohibits such, in the words of the Court, "voluntary, private, race-conscious efforts to abolish traditional patterns of racial segregation and hierarchy." *Ante*, at 204. Immediately after this discussion, both Senator Dirksen and Senator Humphrey took the floor in defense of the 25-employee limit contained in the Dirksen-Mansfield substitute bill, and neither Senator disputed the conclusions of Senators Cotton and Curtis. The Cotton amendment was defeated.

3

On June 10, the Senate, for the second time in its history, imposed cloture on its members. The limited debate that followed centered on proposed amendments to the Dirksen-Mansfield substitute. Of some 24 proposed amendments, only 5 were adopted.

As the civil rights bill approached its final vote, several supporters rose to urge its passage. Senator Muskie adverted briefly to the issue of preferential treatment: "It has been said that the bill discriminates in favor of the Negro at the expense of the rest of us. It seeks to do nothing more than to lift the Negro from the status of inequality to one of *equality* of treatment." 110 Cong. Rec. 14328 (1964) (emphasis added). Senator Moss, in a speech delivered on the day that the civil rights bill was finally passed, had this to say about quotas:

"The bill does not accord to any citizen advantage or preference—it does not fix quotas of employment or school population—it does not force personal association. What it does is to prohibit public officials and those who invite the public generally to patronize their businesses or to apply for employment, to utilize the offensive, humiliating, and cruel practice of discrimination on the basis of race. In short, the bill does not accord special consideration; it establishes *equality*." *Id.*, at 14484 (emphasis added).

Later that day, June 19, the issue was put to a vote, and the Dirksen-Mansfield substitute bill was passed.

C

The Act's return engagement in the House was brief. The House Committee on Rules reported the Senate version without amendments on June 30, 1964. By a vote of 289 to 126, the House adopted H. Res. 789, thus agreeing to the Senate's amendments of H.R. 7152.[30] Later that same day, July 2, the President signed the bill and the Civil Rights Act of 1964 became law.

IV

Reading the language of Title VII, as the Court purports to do, "against the background of [its] legislative history . . . and the historical context from which the Act arose," *ante*, at 201, one is led inescapably to the conclusion that Congress fully under-

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Footnotes at end of article.

stood what it was saying and meant precisely what it said. Opponents of the civil rights bill did not argue that employers would be permitted under Title VII voluntarily to grant preferential treatment to minorities to correct racial imbalance. The plain language of the statute too clearly prohibited such racial discrimination to admit of any doubt. They argued, tirelessly, that Title VII would be interpreted by federal agencies and their agents to require unwilling employers to racially balance their work forces by granting preferential treatment to minorities. Supporters of H.R. 7152 responded, equally tirelessly, that the Act would not be so interpreted because not only does it not require preferential treatment of minorities, it does not *permit* preferential treatment of any race for any reason. It cannot be doubted that the proponents of Title VII understood the meaning of their words, for "[s]eldom has similar legislation been debated with greater consciousness of the need for 'legislative history,' or with greater care in the making thereof, to guide the courts in interpreting and applying the law." Title VII: Legislative History, at 444.

To put an end to the dispute, supporters of the civil rights bill drafted and introduced § 703(j). Specifically addressed to the opposition's charge, § 703(j) simply enjoins federal agencies and courts from interpreting Title VII to require an employer to prefer certain racial groups to correct imbalances in his work force. The section says nothing about voluntary preferential treatment of minorities because such racial discrimination is plainly proscribed by §§ 703 (a) and (d). Indeed, had Congress intended to except voluntary, race-conscious preferential treatment from the blanket prohibition of racial discrimination in §§ 703(a) and (d), it surely could have drafted language better suited to the task than § 703(j). It knew how. Section 703(i) provides:

"Nothing contained in [Title VII] shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation." 78 Stat. 257, 42 U.S.C. § 2000e–2(i).

V

Our task in this case, like any other case involving the construction of a statute, is to give effect to the intent of Congress. To divine that intent, we traditionally look first to the words of the statute and, if they are unclear, then to the statute's legislative history. Finding the desired result hopelessly foreclosed by these conventional sources, the Court turns to a third source—the "spirit" of the Act. But close examination of what the Court proffers as the spirit of the Act reveals it as the spirit animating the present majority, not the 88th Congress. For if the spirit of the Act eludes the cold words of the statute itself, it rings out with unmistakable clarity in the words of the elected representatives who made the Act law. It is *equality*. Senator Dirksen, I think, captured that spirit in a speech delivered on the floor of the Senate just moments before the bill was passed:

". . . [T]oday we come to grips finally with a bill that advances the enjoyment of living; but, more than that, it advances the equality of opportunity.

"I do not emphasize the word 'equality' standing by itself. It means equality of opportunity in the field of education. It means equality of opportunity in the field of employment. It means equality of opportunity in the field of participation in the affairs of government. . . .

"That is it.

"Equality of opportunity, if we are going to talk about conscience, is the mass conscience of mankind that speaks in every generation, and it will continue to speak long after we are dead and gone." 110 CONGRESSIONAL RECORD 14510 (1964).

There is perhaps no device more destructive to the notion of equality than the *numerous clausus*—the quota. Whether described as "benign discrimination" or "affirmative action," the racial quota is nonetheless a creator of castes, a two-edged sword that must demean one in order to prefer another. In passing Title VII, Congress outlawed *all* racial discrimination, recognizing that no discrimination based on race is benign, that no action disadvantaging a person because of his color is affirmative. With today's holding, the Court introduces into Title VII a tolerance for the very evil that the law was intended to eradicate, without offering even a clue as to what the limits on that tolerance may be. We are told simply that Kaiser's racially discriminatory admission quota "falls on the permissible side of the line." *Ante*, at 208. By going not merely *beyond*, but directly *against* Title VII's language and legislative history, the Court has sown the wind. Later courts will face the impossible task of reaping the whirlwind.

FOOTNOTES

[1] Our statements in *Griggs* and *Furnco Construction*, patently inconsistent with today's holding, are not even mentioned, much less distinguished, by the Court.

[2] The Office of Federal Contract Compliance (AFCC), subsequently renamed the Office of Federal Contract Compliance Programs (OFCCP), is an arm of the Department of Labor responsible for ensuring compliance by Government contractors with the equal employment opportunity requirements established by Exec. Order No. 11246, 3 CFR 339 (1964–1965 Comp.), as amended by Exec. Order No. 11375, 3 CFR 684 (1966–1970 Comp.), and by Exec. Order No. 12086, 43 Fed. Reg. 46501 (1978).

Executive Order 11246, as amended, requires all applicants for federal contracts to refrain from employment discrimination and to "take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin." § 202(1), 3 CFR 685 (1966–1970 Comp.), note following 42 U.S.C. § 2000e. The Executive Order empowers the Secretary of Labor to issue rules and regulations necessary and appropriate to achieve its purpose. He, in turn, has delegated most enforcement duties to the OFCC. See 41 CFR § 60–20.1 *et seq.*, § 60–2.24 (1978).

The affirmative action program mandated by 41 CFR § 60–2 (Revised Order No. 4) for nonconstruction contractors requires a "utilization" study to determine minority representation in the work force. Goals for hiring and promotion must be set to overcome any "underutilization" found to exist.

The OFCC employs the "power of the purse" to coerce acceptance of its affirmative action plans. Indeed, in this case, "the district court found that the 1974 collective bargaining agreement reflect less of a desire on Kaiser's part to train black craft workers than a self-interest in satisfying the OFCC in order to retain lucrative government contracts." 563 F.2d 216, 226 (CA5 1977).

[3] The pertinent portions of the collective-bargaining agreement provide: "It is further agreed that the Joint Committee will specifically review the minority representation in the existing Trade, Craft and Assigned Maintenance classifications, in the plants set forth below, and, where necessary, establish certain goals and time tables in order to achieve a desired minority ratio:

"[Gramercy Works listed, among others]

"As apprentice and craft jobs are to be filled, the contractual selection criteria shall be applied in reaching such goals; at a minimum, not less than one minority employee will enter for every non-minority employee entering until the goal is reached unless at a particular time there are insufficient available qualified minority candidates. . . .

"The term 'minority' as used herein shall be as defined in EEOC Reporting Requirements." 415 F. Supp. 761, 763 (ED La. 1976).

The "Joint Committee" subsequently entered into a "Memorandum of Understanding" establishing a goal of 39 percent as the percentage of blacks that must be represented in each "craft family" at Kaiser's Gramercy plant. *Id.*, at 764. The goal of 39 percent minority representation was based on the percentage of minority workers available in the Gramercy area.

Contrary to the Court's assertion, it is not at all clear that Kaiser's admission quota is a "temporary measure . . . not intended to maintain racial balance." *Ante*, at 208. Dennis E. English, industrial relations superintendent at the Gramercy plant, testified at trial:

"Once the goal is reached of 39 percent, or whatever the figure will be down the road, I think it's subject to change, once the goal is reached in each of the craft families, at that time, we will then revert to a ratio of what that percentage is, if it remains at 39 percent and we attain 39 percent someday, we will then continue placing trainees in the program at that percentage. The idea, again, being to have a minority representation in the plant that is equal to that representation in the community work force population." App. 69.

[4] In addition to the April programs, the company offered three more training programs in 1974 with a total of four positions available. Two white and two black employees were selected for the programs, which were for "Air Conditioning Repairman" (one position), "Carpenter-Painter" (two positions), and "Insulator" (one position). Weber sought to bid for the insulator trainee position, but he was not selected because that job was reserved for the most senior qualified black employee. *Id.*, at 46.

[5] The class was defined to include the following employees:

"All persons employed by Kaiser Aluminum & Chemical Corporation at its Gramercy, Louisiana, works who are members of the United Steelworkers of America, AFL–CIO Local 5702, who are not members of a minority group, and who have applied for or were eligible to apply for on-the-job training programs since February 1, 1974." 415 F. Supp., at 763.

[6] In upholding the District Court's injunction, the Court of Appeals affirmed the District Court's finding that Kaiser had not been guilty of any past discriminatory hiring or promotion at its Gramercy plant. The court thus concluded that this finding removed the instant case from this Court's line of "remedy" decisions authorizing fictional seniority in order to place proved victims of discrimination in as good a position as they would have enjoyed absent the discriminatory hiring practices. See *Franks* v. *Bowman Transp. Co.*, 424 U.S. 747 (1976). "In the absence of prior discrimination," the Court of Appeals observed, "a racial quota loses its character as an equitable *remedy* and must be banned as an unlawful racial *preference* prohibited by Title VII, §§ 703 (a) and (d). Title VII outlaws preferences for any group, minority or majority, if based on race or other impermissible classifications, but it does not outlaw preferences favoring victims of discrimination." 563 F. 2d, at 224 (emphasis in original). Nor was the Court of Appeals moved by the claim that Kaiser's discriminatory admission quota is justified to correct a lack of training of Negroes due to past societal discrimination: "Whatever other effects societal discrimination may have, it has had—by the specific finding of the court below—*no effect* on the seniority of any party here." *Id.*, at 226 (emphasis in original). Finally, the Court of Appeals rejected the argument that Kaiser's admission quota does not violate Title VII

because it is sanctioned, indeed compelled, by Exec. Order 11246 and regulations issued by the OFCC mandating affirmative action by all Government contractors. See n. 2, *supra*. Citing *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579 (1952), the court concluded that "[i]f Executive Order 11246 mandates a racial quota for admission to on-the-job training by Kaiser, *in the absence of any prior hiring or promotion discrimination*, the Executive Order must fall before this direct congressional prohibition [of § 703 (d)]." 563 F. 2d, at 227 (emphasis in original).

Judge Wisdom, in dissent, argued that "[i]f an affirmative action plan, adopted in a collective bargaining agreement, is a reasonable remedy for an *arguable* violation of Title VII, it should be upheld." *Id.*, at 230. The United States, in its brief before this Court and Mr. Justice Blackmun, *ante*, p. 209, largely adopt Judge Wisdom's theory, which apparently rests on the conclusion that an employer is free to correct *arguable* discrimination against his black employees by adopting measures that he *knows* will discriminate against his white employees.

[7] Section 703(a)(1) provides the third express prohibition in Title VII of Kaiser's discriminatory admission quota:

"It shall be an unlawful employment practice for an employer—

"(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin. . . ." 78 Stat. 255, 42 U.S.C. § 2000e–2(a)(1).

[8] The full text of § 703(j), 78 Stat. 257, 42 U.S.C. § 2000e–2(j), provides as follows:

"(j) . . . Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area."

[9] "If the words are plain, they give meaning to the act, and it is neither the duty nor the privilege of the courts to enter speculative fields in search of a different meaning.

". . . [W]hen words are free from doubt they must be taken as the final expression of the legislative intent, and are not to be added to or subcontracted from by considerations drawn . . . from any extraneous source." *Caminetti* v. *United States*, 242 U.S. 470, 490 (1917).

[10] In holding that Title VII cannot be interpreted to prohibit use of Kaiser's racially discriminatory admission quota, the Court reasons that it would be "ironic" if a law inspired by the history of racial discrimination in employment against blacks forbade employers from voluntarily discriminating against whites in favor of blacks. I see no irony in a law that prohibits *all* voluntary racial discrimination, even discrimination directed at whites in favor of blacks. The evil inherent in discrimination against Negroes is that it is based on an immutable characteristic, utterly irrelevant to employment decisions. The characteristic becomes no less immutable and irrelevant, and discrimination based thereon becomes no less evil, simply because the person excluded is a member of one race rather than another. Far from ironic, I find a prohibition on all preferential treatment based on race as elementary and fundamental as the principle that "two wrongs do not make a right."

[11] The only shred of legislative history cited by the Court in support of the proposition that "Congress did not intend wholly to prohibit private and voluntary affirmative action efforts," *ante*, at 203, is the following excerpt from the Judiciary Committee Report accompanying the civil rights bill reported to the House:

"No bill can or should lay claim to eliminating all of the causes and consequences of racial and other types of discrimination against minorities. There is reason to believe, however, that national leadership provided by the enactment of Federal legislation dealing with the most troublesome problems *will create an atmosphere conducive to voluntary or local resolution of other forms of discrimination*." H.R. Rep. No. 914, 88th Cong., 1st Sess., pt. 1, p. 18 (1963) (hereinafter H.R. Rep.), quoted *ante*, at 203–204.

The Court seizes on the italicized language to support its conclusion that Congress did not intend to prohibit voluntary imposition of racially discriminatory employment quotas. The Court, however, stops too short in its reading of the House Report. The words immediately following the material excerpted by the Court are as follows:

"It is, however, possible and necessary for the Congress to enact legislation which prohibits and provides the means of terminating *the most serious types of discrimination*. This H.R. 7152, as amended, would achieve in a number of related areas. It would reduce discriminatory obstacles to the exercise of the right to vote and provide means of expediting the vindication of that right. It would make it possible to remove the daily affront and humiliation involved in discriminatory denials of access to facilities ostensibly open to the general public. It would guarantee that there will be no discrimination upon recipients of Federal financial assistance. It would prohibit discrimination in employment, and provide means to expedite termination of discrimination in public education. It would open additional avenues to deal with redress of denials of equal protection of the laws on account of race, color, religion, or national origin by State or local authorities." H.R. Rep., pt. 1, p. 18 (emphasis added).

When thus read in context, the meaning of the italicized language in the Court's excerpt of the House Report becomes clear. By dealing with "the most serious types of discrimination," such as discrimination in voting, public accommodations, employment, etc., H.R. 7152 would hopefully inspire "voluntary or local resolution of other forms of discrimination," that is, forms other than discrimination in voting, public accommodations, employment, etc.

One can also infer from the House Report that the Judiciary Committee hoped that federal legislation would inspire voluntary elimination of discrimination against minority groups other than those protected under the bill, perhaps the aged and handicapped to name just two. In any event, the House Report does not support the Court's proposition that Congress, by banning racial discrimination in employment, intended to permit racial discrimination in employment.

Thus, examination of the House Judiciary Committee's report reveals that the Court's interpretation of Title VII, far from being compelled by the Act's legislative history, is utterly without support in that legislative history. Indeed as demonstrated in Part III, *infra*, the Court's interpretation of Title VII is totally refuted by the Act's legislative history.

[12] One example had particular relevance to the instant case:

"Under the power granted in this bill, if a carpenters' hiring hall, say, had 20 men awaiting call, the first 10 in seniority being white carpenters, the union could be forced to pass them over in favor of carpenters beneath them in senority but of the stipulated race. And if the union roster did not contain the names of the carpenters of the race needed to 'racially balance' the job, the union agent must, then, go into the street and recruit members of the stipulated race in sufficient number to comply with Federal orders, else his local could be held in violation of Federal law." H. R. Rep., pt. 1, p. 71.

From this and other examples, the Minority Report concluded: "That this is, in fact, a not too subtle system of racism-in-reverse cannot be successfully denied." *Id.*, at 73.

Obviously responding to the Minority Report's charge that Federal agencies, particularly the Equal Employment Opportunity Commission would equate "discrimination" with "racial imbalance," the Republican sponsors of the bill on the Judiciary Committee stated in a separate Report:

"It must also be stressed that the Commission must confine its activities to correcting abuse, not promoting equality with mathematical certainty. In this regard, nothing in the title permits a person to demand employment. . . . Internal affairs of employers and labor organizations must not be interfered with except to the limited extent that correction is required in discrimination practices. Its primary task is to make certain that the channels of employment are open to persons regardless of their race and that jobs in companies or membership in unions are strictly filled on the basis of qualification." *Id.*, pt. 2, 29.

The Republican supporters of the bill concluded their remarks on Title VII by declaring that "[a]ll vestiges of inequality based solely on race must be removed. . . ." *Id.*, pt. 2 p. 30

[13] Representative Lindsay had this to say:

"This legislation . . . does not, as has been suggested heretofore both on and off the floor, force acceptance of people in . . . jobs . . . because they are Negro. It does not impose quotas or any special privileges of seniority or acceptance. There is nothing whatever in this bill about racial balance as appears so frequently in the minority report of the Committee.

"What the bill does do is prohibit discrimination because of race . . . ." 110 Congressional Record 1540 (1964).

Representative Minish added: "Under title VII; employment will be on the basis of merit, not of race. This means that no quota system will be set up, no one will be forced to hire incompetent help because of race or religion, and no one will be given a vested right to demand employment for a certain job." *Id.*, at 1600. Representative Goodell, answering the charge that Title VII would be interpreted "to requir[e] a racial balance," *id.*, at 2557, responded: "There is nothing here as a matter of legislative history that would require racial balancing. . . . We are not talking about a union having to balance its membership or an employer having to balance the number of employees. There is no quota involved. It is a matter of an individual's rights having been violated, charges having been brought, investigation carried out and conciliation having been attempted and then proof in court that there was discrimination and denial of rights on the basis of race or color." *Id.*, at 2558. After H.R. 7152 had been passed and sent to the Senate, Republican supporters of the bill in the House prepared an interpretative memorandum making clear that "title VII *does not permit* the ordering of racial quotas in businesses or unions and does not permit interferences with seniority rights of employees or union members." *Id.*, at 6566 (emphasis added).

[14] Eleven Members did not vote.

[15] Continuing with their exchange, Senators Hill and Ervin broached the subject of racial balance:

"Mr. Ervin. So if the Commissioner . . . should be joined by another member of the Commission in the finding that the employer had too high a percentage, in the Commission's judgment, of persons of the Caucasian race working in his business, they could make the employer either hire, in addition to his present employees, an extra number of Negro employees, or compel him to fire employees of the Caucasian race in order to make a place for Negro employees?

"Mr. Hill. The Senator is correct, although the employer might not need the additional employees, and although they might bring his business into bankruptcy." 110 Cong. Rec. 4764 (1964).

This view was reiterated by Senator Robertson: "It is contemplated by this title that the percentage of colored and white population in a community shall be in similar percentages in every business establishment that employs over 25 persons. Thus, if there were 10,000 colored persons in a city and 15,000 whites, an employer wih 25 employees would, in order to overcome racial imbalance, be required to have 10 colored personnel and 15 white. And if by chance that employer had 20 colored employees, he would have to fire 10 of them in order to rectify the situation. Of course, this works the other way around where whites would be fired." *Id.*, at 5092.

Senator Humphrey interrupted Senator Robertson's discussion, responding: "The bill does not require that at all. If it did, I would vote against it. . . . There is no percentage quota." *Ibid.*

[16] This view was reiterated two days later in the "Bipartisan Civil Rights Newsletter" distributed to the Senate on March 19 by supporters of H.R. 7152:

"3. Defining discrimination: Critics of the civil rights bill have charged that the word 'discrimination' is left undefined in the bill and therefore the door is open for interpretation of this term according to whim or caprice.' . . .

"There is no sound basis for uncertainty about the meaning of discrimination in the context of the civil rights bill. It means a distinction in treatment given to different individuals because of their different race, religion, or national origin." *Id.*, at 7477.

[17] Earlier in the debate, Senator Humphrey had introduced a newspaper article quoting the answers of a Justice Department "expert" to the "10 most commonly expressed objections to [Title VII]." Insofar as is pertinent here, the article stated:

"Objection: The law would empower Federal 'inspectors' to require employers to hire by race. White people would be fired to make room for Negroes. Seniority rights would be destroyed. . . .

"Reply: The bill requires no such thing. The five-member Equal Employment Opportunity Commission that would be created would have no powers to order anything. . . .

". . . The bill would not authorize anyone to order hiring or firing to achieve racial or religious balance. An employer will remain wholly free to hire on the basis of his needs and of the job candidate's qualifications. What is prohibited is the refusal to hire someone because of his race or religion. Similarly, the law will have no effect on union seniority rights." *Id.*, at 5094.

[18] In obvious reference to the charge that the word "discrimination" in Title VII would be interpreted by federal agencies to mean the absence of racial balance, the interpretative memorandum stated:

"[Section 703] prohibits discrimination in employment because of race, color, religion, sex, or national origin. It has been suggested that the concept of discrimination is vague. In fact it is clear and simple and has no hidden meanings. To discriminate is to make a distinction, to make a difference in treatment *or favor*, and those distinctions or differences in treatment *or favor* which are prohibited by [Section 703] are those which are based on any five of the forbidden criteria: race, color, religion, sex, and national origin." *Id.*, at 7213 (emphasis added).

Earlier in his speech, Senator Clark introduced a memorandum prepared at his request by the Justice Department with the purpose of responding to criticisms of Title VII leveled by opponents of the measure, particularly Senator Hill. With regard to racial balance, the Justice Department stated:

"Finally, it has been asserted that title VII would impose a requirement for 'racial balance.' This is incorrect. There is no provision . . . in title VII . . . that requires or authorizes any Federal agency or Federal court to require preferential treatment for any individual or any group for the purpose of achieving racial balance. . . . No employer is required to maintain any ratio of Negroes to whites. . . . On the contrary, any deliberate attempt to maintain a given balance would almost certainly run afoul of title VII because it would involve a failure or refusal to hire some individual because of his race, color, religion, sex, or national origin. What title VII seeks to accomplish, what the civil rights bill seeks to accomplish is equal treatment for all." *Id.*, at 7207.

[19] A Justice Department memorandum earlier introduced by Senator Clark, see n. 18, *supra*, expressed the same view regarding Title VII's impact on seniority rights of employees:

"Title VII would have no effect on seniority rights existing at the time it takes effect. . . . This would be true even in the case where owing to discrimination prior to the effective date of the title, white workers had more seniority than Negroes. . . . [A]ssuming that seniority rights were built up over a period of time during which Negroes were not hired, these rights would not be set aside by the taking effect of title VII. Employers and labor organizations would simply be under a duty not to discriminate against Negroes because of their race." 110 Cong. Rec. 7207 (1964).

The interpretation of Title VI contained in the memoranda introduced by Senator Clark totally refutes the Court's implied suggestion that Title VII would prohibit an employer from discriminating on the basis of race in order to *maintain* a racial balance in his work force, but would permit him to do so in order to *achieve* racial balance. See *ante*, at 208, and n. 7.

The maintain-achieve distinction is analytically indefensible in any event. Apparently, the Court is saying that an employer is free to *achieve* a racially balanced work force by discriminating against whites, but that once he has reached his goal, he is no longer free to discriminate in order to maintain that racial balance. In other words, once Kaiser reaches its goal of 39% minority representation in craft positions at the Gramercy plant, it can no longer consider race in admitting employees into its on-the-job training program, even if the programs become as "all-white" as they were in April 1974.

Obviously, the Court is driven to this illogical position by the glaring statement, quoted in text, of Senators Clark and Case that "any deliberate attempt to *maintain* a racial balance . . . would involve a violation of title VII because *maintaining* such a balance would require an employer to hire or to refuse to hire on the basis of race." 110 Cong. Rec. 7213 (1964) (emphasis added). Achieving a certain racial balance, however, no less than maintaining such a balance, would require an employer to hire or to refuse to hire on the basis of race. Further, the Court's own conclusion that Title VII's legislative history, coupled with the wording of § 703(j), evinces a congressional intent to leave employers free to employ "private, voluntary, race-conscious affirmative action plans," *ante*, at 208, is inconsistent with its maintain-achieve distinction. If Congress' primary purpose in enacting Title VII was to open employment opportunities previously closed to Negroes, it would seem to make little difference whether the employer opening those opportunities was achieving or maintaining a certain racial balance in his work force. Likewise, if § 703(j) evinces Congress' intent to permit inspection of race-conscious affirmative action plans, it would seem to make little difference whether the plan was adopted to achieve or maintain the desired racial balance.

[20] Senator Robertson's observations prompted Senator Humphrey to make the following offer: "If the Senator can find in title VII . . . any language which provides that an employer will have to hire on the basis of percentage or quota related to color . . . I will start eating the pages one after another, because it is not in there." 110 Congressional Record 7420 (1964).

[21] Referring to the EEOC, Senator Smathers argued that Title VII "would make possible the creation of a Federal bureaucrary which would, in the final analysis, cause a man to hire someone whom he did not want to hire, not on the basis of ability, but on the basis of religion, color, or creed. . . ." *Id.*, at 8500. Senator Sparksman's comments were to the same effect. See n. 23, *infra*. Several other opponents of Title VII expressed similar views. See 110 Cong. Rec. 9034–9035 (1964) (remarks of Sens. Stennis and Tower); *Id.*, at 9943–9944 (remarks of Sens. Long and Talmadge); *id.*, at 10513 (remarks of Sen. Robertson).

[22] Several other proponents of H.R. 7152 commented briefly on Title VII, observing that it did not authorize the imposition of quotas to correct racial imbalance. See *id.*, at 9113 (remarks of Sen. Keating); *id.*, at 9831–9832 (remarks of Sen. Allott); *id.*, at 10520 (remarks of Sen. Carlson); *id.*, at 11768 (remarks of Sen. McGovern).

[23] The Court cites the remarks of Senator Sparkman in support of its suggestion that opponents had argued that employers would take it upon themselves to balance their work forces by granting preferential treatment to racial minorities. In fact, Senator Sparkman's comments accurately reflected the opposition's "party line." He argued that while the language of Title VII does not expressly require imposition of racial quotas (no one, of course, had ever argued to the contrary), the law would be applied by federal agencies in such a way that "some kind of quota system will be used." *Id.*, at 8619. Senator Sparkman's view is reflected in the following exchange with Senator Stennis:

"Mr. Sparkman. At any rate, when the Government agent came to interview an employer who had 100 persons in his employ, the first question would be, 'How many Negroes are you employing?' Suppose the population of that area was 20 percent Negro. Immediately the agent would say, 'You should have at least 20 Negroes in your employ, and they should be distributed among your supervisory personnel and in all the other categories'; and the agent would *insist* that that be done immediately.

"Mr. Stennis.

"The Senator from Alabama has made very clear his point about employment on the quota basis. Would not the same basis be applied to promotions?

"Mr. Sparkman. Certainly it would. As I have said, when the Federal agents came to check on the situation in a small business which had 100 employees, and when the agents said to the employer, 'You must hire 20 Negroes, and some of them must be employed in supervisory capacities,' and so forth, and so on, the agent would also say, 'And you must promote the Negroes, too, in order to distribute them evenly among the various ranks of your employees.'" *Id.*, at 8618 (emphasis added).

Later in his remarks, Senator Sparkman stated: "Certainly the suggestion will be made to a small business that may have a small Government contract . . . that if it does not carry out the suggestion that has been made to the company by an inspector, its Government contract will not be renewed." *Ibid.* Except for the size of the business, Senator Sparkman has seen his prophecy fulfilled in this case.

[24] Compare § 703 (a), 42 U.S.C. § 2000e–2 (a) ("It shall be an unlawful employment practice for an employer . . ."), with § 703 (j), 42 U. S. C. § 2000e–2 (j) ("Nothing contained in this subchapter shall be interpreted . . .").

[25] In support of its reading of § 703(j), the Court argues that "a prohibition against all voluntary, race-conscious, affirmative action efforts would disserve" the important policy, expressed in the House Report on H.R. 7152, that Title VII leave "management prerogatives, and union freedoms . . . undisturbed to the greatest extent possible." H.R. Rep., pt. 2, p. 29, quoted *ante*, at 206. The Court thus concludes that "Congress did not intend to limit traditional business freedom to such a degree as to prohibit all voluntary, race-conscious affirmative action." *Ante*, at 207.

The sentences in the House Report immediately following the statement quoted by the Court, however, belie the Court's conclusion:

"Internal affairs of employers and labor organizations must not be interferred with *except to the limited extent that correction is required in discrimination practices.* Its primary task is to make certain that the channels of employment are open to persons *regardless of their race* and that jobs in companies or membership in unions are strictly filled on the basis of qualification." H.R. Rep., pt. 2, p. 29 (emphasis added).

Thus, the House Report invoked by the Court is perfectly consistent with the countless observations elsewhere in Title VII's voluminous legislative history that employers are free to make employment decisions without governmental interference, so long as those decisions are made *without regard to race*. The whole purpose of Title VII was to deprive employers of their "traditional business freedom" to discriminate on the basis of race. In this case, the "channels of employment" at Kaiser were hardly "open" to Brian Weber.

[26] Some of the opponents still were not satisfied. For example, Senator Ervin of North Carolina continued to maintain that Title VII "would give the Federal Government the power to go into any business or industry in the United States . . . and tell the operator of that business whom he had to hire." 110 CONGRESSIONAL RECORD 13077 (1964). Senators Russell and Byrd remained of the view that pressures exerted by federal agencies would compel employers "to give priority definitely and almost completely, in most instances, to the members of the minority group." *Id.*, at 13150 (remarks of Sen. Russell).

[27] Senator Muskie also addressed the charge that federal agencies would equate "discrimination," as that word is used in Title VII, with "racial balance":

". . . [S]ome of the opposition to this title has been based upon its alleged vagueness [and] its failure to define just what is meant by discrimination . . . I submit that, on either count, the opposition is not well taken. Discrimination in this bill means just what it means anywhere: a distinction in treatment given to different individuals because of their race . . . [a]nd, as a practical matter, we all know what constitutes racial discrimination." *Id.*, at 12617.

Senator Muskie then reviewed the various provisions of § 703, concluding that they "provide a clear and definitive indication of the type of practice which this title seeks to eliminate. Any serious doubts concerning [Title VII's] application would, it seems to me, stem at least partially from the predisposition of the person expressing such doubt." 110 CONGRESSIONAL RECORD 12618 (1964).

[28] The Court states that congressional comments regarding § 703(j) "were all to the effect that employers would not be *required* to institute preferential quotas to avoid Title VII liability." *Ante*, at 207 n. 7 (emphasis in original). Senator Saltonstall's statement that Title VII of the Dirksen-Mansfield substitute, which contained § 703(j), "specifically prohibits" preferential treatment for any racial group disproves the Court's observation. Further, in a major statement explaining the purpose of the Dirksen-Mansfield substitute amendments, Senator Humphrey said of § 703(j): "This subsection does not represent any change in the substance of the title. It does state clearly and accurately what we have maintained all along about the bill's intent and meaning." 110 Cong. Rec. 12723 (1964). What Senator Humphrey had "maintained all along about the bill's intent and meaning," was that it neither required *nor permitted* imposition of preferential quotas to eliminate racial imbalances.

[29] The complete exchange between Senators Cotton and Curtis, insofar as is pertinent here, is as follows:

Mr. COTTON. . . .

"I would assume that anyone who will administer the laws in future years will not discriminate between the races. If I were a Negro, and by dint of education, training, and hard work I had amassed enough property as a Negro so that I had a business of my own—and there are many of them in this country—and I felt that, having made a success of it myself, I wanted to help people of my own race to step up as I had stepped up, I think I should have the right to do so. I think I should have the right to employ Negroes in my own establishment and put out a helping hand to them if I so desired. I do not believe that anyone in Washington should be permitted to come in and say, 'You cannot employ all Negroes. You must have somes Poles. You must have some Yankees.' . . .

"Mr. CURTIS. . . .

"The Senator made reference to the fact that a member of a minority race might become an employer and should have a right to employ members of his race in order to give them opportunity. Would not the same thing follow, that a member of a majority race might wish to employ almost entirely, or entirely, members of a minority race in order to enhance their opportunity? And is it not true that under title VII as written, that would constitute discrimination?

"Mr. COTTON. It certainly would, if someone complained about it and felt that he had been deprived of a job, and that it had been given to a member of a minority race because of his race and not because of some other reason." *Id.*, at 13086.

This colloquy refutes the Court's statement that "[t]here was no suggestion after the adoption of § 703 (j) that wholly voluntary, race-conscious, affirmative action efforts would in themselves constitute a violation of Title VII." *Ante*, at 207 n. 7.

[30] Only three Congressmen spoke to the issue of racial quotas during the House's debate on the Senate amendments. Representative Lindsay stated: "[W]e wish to emphasize also that this bill does not require quotas, racial balance, or any of the other things that the opponents have been saying about it." 110 Cong. Rec. 15876 (1964). Representative McCulloch echoed this understanding, remarking that "[t]he bill does not permit the Federal Government to require an employer or union to hire or accept for membership a quota of persons from any particular minority group." *Id.*, at 15893. The remarks of Representative MacGregor, quoted by the Court, *ante*, at 207–208, n. 7, are singularly unhelpful. He merely noted that by adding § 703(j) to Title VII of the House bill, "[t]he Senate . . . spelled out the [the House's] intentions more specifically." 110 CONGRESSIONAL RECORD 15893 (1964).

Mr. HATCH. Mr. President, Chief Justice Burger joined in Justice Rehnquist's dissent in Weber, and added a pithy dissent of his own. In it, he stressed the damage that the majority was doing to the principle of the separation of powers. It is a telling comment on the closemindedness on this issue prevailing among our public classes that the Chief Justice's parenthetical comment that he personally favored race-conscious methods was one of the few aspects of the Weber case to attract attention, although he also said they were incompatible with current law.

Mr. President, I ask unanimous consent that Chief Justice Burger's dissent in Weber be printed in the RECORD at this point.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

MR. CHIEF JUSTICE BURGER, DISSENTING

The Court reaches a result I would be inclined to vote for were I a Member of Congress considering a proposed amendment of Title VII. I cannot join the Court's judgment, however, because it is contrary to the explicit language of the statute and arrived at by means wholly incompatible with long-established principles of separation of powers. Under the guise of statutory "construction," the Court effectively rewrites Title VII to achieve what it regards as a desirable result. It "amends" the statute to do precisely what both its sponsors and its opponents agreed the statute was *not* intended to do.

When Congress enacted Title VII after long study and searching debate, it produced a statute of extraordinary clarity, which speaks directly to the issue we consider in this case In § 703 (d) Congress provided:

"It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training." 42 U.S.C. § 2000e–2(d).

Often we have difficulty interpreting statutes either because of imprecise drafting or because legislative compromises have produced genuine ambiguities. But here there is no lack of clarity, no ambiguity. The quota embodied in the collective-bargaining agreement between Kaiser and the Steelworkers unquestionably discriminates on the basis of race against individual employees seeking admission to on-the-job training programs. And, under the plain language of § 703(d), that is "an *unlawful* employment practice."

Oddly, the Court seizes upon the very clarity of the statute almost as a justification for evading the unavoidable impact of its language. The Court blandly tells us that Congress could not really have meant what it said, for a "literal construction" would defeat the "purpose" of the statute—at least the congressional "purpose" as five Justices divine it today. But how are judges supposed to ascertain the *purpose* of a statute except through the words Congress used and the legislative history of the statute's evolution? One need not even resort to the legislative history to recognize what is apparent from the face of Title VII—that it is specious to suggest that § 703(j) contains a negative pregnant that permits employers to do what §§ 703 (a) and (d) unambiguously and unequivocally *forbid* employers from doing. Moreover, as MR. JUSTICE REHNQUIST'S opinion—which I join—conclusively demonstrates, the legislative history makes equally clear that the supporters and opponents of Title VII reached an agreement about the statute's intended effect. That agreement, expressed so clearly in the language of the statute that no one should doubt its meaning, forecloses the reading which the Court gives the statute today.

Arguably, Congress may not have gone far enough in correcting the effects of past discrimination when it enacted Title VII. The gross discrimination against minorities to which the Court adverts—particularly against Negroes in the building trades and craft unions—is one of the dark chapters in the otherwise great history of the American labor movement. And, I do not question the importance of encouraging voluntary compliance with the purposes and policies of Title VII. But that statute was conceived and enacted to make discrimination against *any* individual illegal, and I fail to see how "voluntary compliance" with the no-discrimination principle that is the heart and soul of Title VII as currently written will be achieved by permitting employers to discriminate against some individuals to give preferential treatment to others.

Until today, I had thought the Court was of the unanimous view that "[d]iscriminatory preference for any group, minority or majority, is precisely and only what Congress has proscribed" in Title VII. *Griggs* v. *Duke Power Co.*, 401 U.S. 424, 431 (1971). Had Congress intended otherwise, it very easily could have drafted language allowing what the Court permits today. Far from doing so, Congress expressly *prohibited* in §§ 703(a) and (d) the very discrimination against Brian Weber which the Court today approves. If "affirmative action" programs such as the one presented in this case are to be permitted, it is for Congress, not this Court, to so direct.

It is often observed that hard cases make bad law. I suspect there is some truth to that adage, for the "hard" cases always tempt judges to exceed the limits of their authority, as the Court does today by totally rewriting a crucial part of Title VII to reach a "desirable" result. Cardozo no doubt had this type of case in mind when he wrote:

"The judge, even when he is free, is still not wholly free. He is not to innovate at pleasure. He is not a knight-errant, roaming at will in pursuit of his own ideal of beauty or of goodness. He is to draw his inspiration from consecrated principles. He is not to yield to spasmodic sentiment, to vague and unregulated benevolence. He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated to 'the primordial necessity of order in the social life.' Wide enough in all conscience is the field of discretion that remains." The Nature of the Judicial Process 141 (1921).

What Cardozo tells us is beware the "good result," achieved by judicially unauthorized or intellectually dishonest means on the appealing notion that the desirable ends justify the improper judicial means. For there is always the danger that the seeds of precedent sown by good men for the best of motives will yield a rich harvest of unprincipled acts of others also aiming at "good ends."

Mr. HATCH. Mr. President, the reversal by the Weber majority of the intention of Congress as expressed in the Civil Rights Act was so total and flagrant that it could not have been prevented by writing the legislation more forcefully. The legislation could not be written more forcefully than it had been in 1964. This was the point I myself attempted to make, with some wryness, when I subsequently reintroduced the Civil Rights Act of 1964 with the amendment "we mean it this time," and further words to that effect, as noted by William A. Rusher, publisher of National Review, in his column of August 10. I can forgive Mr. Rusher his passing swipe at my grammar in his seventh paragraph because of the eloquence of his conclusion—preceded, however, by a regrettable cynicism about our willingness as lawmakers to face problems:

> The court long ago arrogated to itself the last word in interpreting the Constitution, which is probably necessary, and assumed therewith the right to invalidate acts of Congress insofar as the conflict with provisions of the Constitution. But the court has never heretofore presumed to disregard so blatantly the plain words of a duly enacted statute whose constitutionality is not even challenged. Congress ought to tell it, in no uncertain terms, to back off.

Mr. President, I ask unanimous consent to have printed in the RECORD "Curbing the Court," by William A. Rusher; Universal Press Syndicate; August 10, 1979.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CURBING THE COURT

NEW YORK.—The Supreme Court's 5-to-2 decision in the Weber case, sanctioning "affirmative action" to include a black employee in a company training program in preference to a white with more seniority, is already becoming a classic.

Section 703(d) of the Civil Rights Act of 1964 squarely prohibits such a preference: "It shall be an unlawful employment practice for any employer . . . to discriminate against any individual because of race . . . in any program established to provide apprenticeship or other training." The so-called "legislative history" of the act, including the solemn assertions of some of the most liberal members of Congress at the time, make it clear that its sponsors firmly intended to prohibit not only discrimination against blacks, but "reverse discrimination" favoring blacks over whites, and believed they had succeeded.

They hadn't reckoned with the Supreme Court. Justice Brennan, speaking for a narrow but sufficient majority, chose to disregard the plain words of the law, let alone its legislative history, and to construe instead its "spirit." The Civil Rights Act was, after all, primarily intended to help blacks who were being discriminated against. It would be "ironic," he argued, if a law "triggered by a nation's concern over centuries of racial injustice" should be interpreted as prohibiting "all race-conscious affirmative action" rather than simply pro-white action.

Pro-black action, therefore, was OK, despite the law's language. Rarely, if ever, has the Supreme Court done such violence to a statute's plain intent.

Mulling over the concurring opinion of Justice Blackmun, however, Sen. Orrin Hatch, R-Utah, saw a sentence that seemed to offer Congress a way out: ". . . if the court has misperceived the political will, it has the assurance that because the question is statutory Congress may set a different course if it so chooses." In other words, Blackmun was offering to withdraw his crucial vote from the five-man court majority if Congress would reaffirm its intention to ban all preferences based on race.

Accordingly, Hatch has introduced a bill to add to Section 703(a) of the Civil Rights Act, which bars all job discriminations based on race, the words "and we mean it this time." Then, just in case the Supreme Court chooses to disregard even this exasperated exclamation, in favor of some inferred "spirit" of the act as a whole, Hatch's bill would add to Section 703(e) a further sentence, as follows: "The language of this subsection is designed to accurately and faithfully reflect the spirit in which Congress acts in approving it."

The good senator's agitation over the court's decision is no doubt responsible for the split infinitive in that last sentence, but his meaning ought to be clear to Justice Brennan—nay, even to Justice Thurgood Marshall.

Is Congress likely to pass the Hatch amendments? There is probably still a majority in Congress opposed to "reverse discrimination," but that is not quite the same thing as saying Congress will vote to renew its statutory commitment against it. The Supreme Court, by the Weber decision, has visibly transferred from Congress to itself the onus of permitting affirmative action. That puts congressmen in the happy position of being able to assure foes of affirmative action that "we did our best," while appeasing its supporters by not passing any clarifying legislation on the subject. As the recent failure of a constitutional amendment against forced busing to win even a bare majority in the House ought to remind us, strong public support for a measure does not ensure that it will prevail against the pressures that a determined minority can bring to bear.

Still, it would be a healthy thing if Congress administered a stinging slap to the court majority, along the lines proposed by Hatch. The court long ago arrogated to itself the last word in interpreting the Constitution, which is probably necessary, and assumed therewith the right to invalidate acts of Congress insofar as they conflict with provisions of the Constitution. But the court has never heretofore presumed to disregard so blatantly the plain words of a duly enacted statute whose constitutionality is not even challenged. Congress ought to tell it, in no uncertain terms, to back off.

Mr. HATCH. Mr. President, the stain from the Weber decision is now spreading through our judicial system. One of the earliest signs of it occurred in California, where the California Supreme Court reversed the lower court and held that the Civil Service Commission of Sacramento County could institute a quota program, *Price* v. *Civil Service Commission of Sacramento County*, 21 FEP 1512, 1527 (California Supreme Court, 1980).

Justice Mosk's dissent to this case was particularly instructive. First, he attacked the majority's attempt to reconcile its position with the 1964 Civil Rights Act in scathing terms, particularly given its ruling just 3 years in Bakke, which was essentially upheld by the U.S. Supreme Court. He then proceeds to show that the California Supreme Court's ruling is not even compatible with the U.S. Supreme Court's Weber decision, and to point out other conceptual problems with affirmative action, for example the invidious necessity to have some official method of determining who is eligible for which privileges.

Mr. President, I ask unanimous consent to have printed in the RECORD the dissent in Price.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

DISSENTING OPINION

MOSK, Justice:—I dissent.

The wry observation of Justice Rehnquist in his dissent in Steelworkers v. Weber (1979) 443 U.S. 193, —, 20 FEP Cases, 1, 12,* applies to this case: "In a very real sense, the Court's opinion is ahead of its time; it could more appropriately have been handed down five years from now, in 1984, a year coinciding with the title of a book from which the Court's opinion borrows, perhaps subconsciously, at least one idea." That one idea is "doublethink," the tortured abuse of words and phrases so that their meaning and effect become inverted.[1] Thus here the majority purport to *eliminate* discrimination by means of *creating* discrimination; they construe *equality* of all persons regardless of race to mean *preference* for persons of some races over others; and a hiring program which *compels* compliance by a reluctant district attorney is described as *voluntary*. George Orwell is nodding complacently in his grave, as he wins vindication even before 1984 for his dire apprehensions about the misdirection of society.

Further adopting doublethink, the majority attempt to apply a semantic salve to their approval of the long-discredited racial quota. They seem to believe the leopard's spots can be changed by calling them stripes, that a quota is somehow less a quota if it bears the label of a "racial hiring ratio" or a "race-conscious hiring program." But the spots are still evident. "Quota" is an abbreviated version of the Latin "*quota pars*," meaning how great a part, or the share or proportion assigned to each member of a total body. One for two, as provided in the Civil Service Commission order involved herein, is purely and simply a racial quota.

Because of the emotion that often beclouds reason when the subject of race is involved, perhaps a disclaimer is appropriate at the outset of this dissent. No member of this court need apologize for his record in opposing racial and sexual discrimination. Over the years we have forthrightly condemned unfair and discriminatory treatment of all persons, regardless of racial or sexual origin, whether that bias was manifest in racial restrictive housing covenants, prohibition of miscegenous marriages, judicial proceedings, employment opportunity or school segregation. We have consistently viewed sympathetically every effort to promote the American dream of equality of rights, duties and opportunity.

That does not mean, however, that we must give carte blanche approval to every proposal, however undemocratic, made in the name of purportedly improving race relations. As Samuel Taylor Coleridge wrote a century and a half ago: "Every reform, however necessary, will by [some zealots] be carried to an excess, that itself will need reforming."

Respondents, now with the imprimatur of the majority, rely on a syllogism. Equality of opportunity is the goal of our society; affirmative action is a desirable method of enabling those who have been victims of prior discrimination to compete on a basis of equality; therefore in the name of affirmative action we must employ the discredited quota system, which is per se unequal and discriminatory, to achieve the goal. I agree with the major premise of the syllogism, and with the minor premise if all proponents can subscribe to one definition of affirmative action.[2] The syllogistic conclusion—calling for a resurrection of a racial quota—is no more acceptable now than it was when the concerted opposition of intellectuals caused its demise several decades ago.

Those who recall the *numerus clausus* of many prestigious American universities before and after the turn of the century have an uneasy feeling of *deja vu*. Now, however, the virus is spreading beyond the field of education into employment and public service. Those who propose to recast our nation into a representative society, in which ability is secondary to race and sex, are making progress. The progress is attributable to political and social pressures by aggressive exponents of the new racism, and to apathy by those who still adhere to the traditional American ethic of achievement on the basis of merit.[3]

It was not many decades ago that racial and religious quotas—the *numerous clausus*—governed admissions to a great number of universities, particularly in their professional colleges. An enlightened attitude, prodded by aggressive activity by persons devoted to promotion of democracy, ultimately prevailed: educational institutions became convinced that quotas are essentially undemocratic and unjust. Now the trend, particularly in employment, is being reversed under new demands created by a combination of guilt feelings for the sins of ancestors and overzealousness by those who insist upon reconstructing a merit society into a representative society.

As Professor Alexander Bickel pointed out in The Morality of Consent (1975), pages 132–133: "A quota is a two-edged device: for every one it includes it cuts someone else out. . . . If the Constitution prohibits exclusion of blacks and other minorities on racial grounds, it cannot permit the exclusion of whites on similar grounds for it must be the exclusion on racial grounds which offends the Constitution, and not the particular skin color of the person excluded.

"The lesson of the great decisions of the Supreme Court and the lesson of contemporary history have been the same for at least a generation: discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong, and destructive of democratic society. Now this is to be unlearned and we are told that this is not a matter of fundamental principle but only a matter of whose ox is gored. Those for whom racial equality was demanded are to be more equal than others. Having found support in the Constitution for equality, they now claim support for inequality under the same Constitution. Yet a racial quota derogates the human dignity and individuality of all to whom it is applied; it is invidious in principle as well as in practice. Moreover, it can as easily be turned against those it purports to help. The history of the racial quota is a history of subjugation. not beneficence. Its evil lies not in its name but in its effect. A quota is a divider of society, a creator of castes, and it is all the worse for its racial base, especially in a society desperately striving for an equality that will make race irrelevant."

But, argue exponents of the new race-consciousness, their scheme is different. They now propose to use the quota to include, not exclude, racial groups. The answer is obvious: for every person quota-ed in, another is quota-ed out. There is no way in which a numerical quota can be benign. If it favors one, it necessarily rejects another.

In the case at hand, the Civil Service Commission ordered the racial quota to remain in effect until "the percentage of minorities in the classes of Attorney I and Attorney II in the District Attorney's office is 8%." [4] Why the figure should be 8 percent, and not 4 percent, 16 percent, or 32 percent is not revealed. What is evident, however, is that merit is not the goal, but racial representation in a specific percentage probably related somewhat to that existing in either the community population or the work force.

The requirement of proportionality is inspired by an anachronistic vision of an ideal society, one pervaded by ethnic identification. In that society toward which we are being propelled, the numerical proportionality of races is the principal measure for distribution of society's benefits—not merit, not objective qualification, not competitive achievement.

The foregoing is not a fanciful observation. It can be read into the commission's order and also into Justice Brennan's separate opinion in University of California Regents v. Bakke (1978) 438 U.S. 265, 17 FEP Cases 1000, in which he wrote: ". . . States also may adopt race-conscious programs designed to overcome substantial, chronic minority underrepresentation where there is reason to believe that the evil addressed is a product of past racial discrimination." (Id., p. 366, 17 FEP Cases p. 1039.) In other words, race-conscious—read: discriminatory—programs are valid so long as "the evil addressed" is the result of racial discrimination; but "the evil" is used not to describe racial discrimination but "minority underrepresentation." It is minority underrepresentation that is considered evil per se. Implicit in this premise to which the Civil Service Commission, and now the majority of this court subscribe, is that it is not racial discrimination per se that is objectionable, but the fact that the social structure fails to conform to their concept of model representative employment practices.

This court should not approve the imposition of a racially representative utopia on the people of any political subdivision. As Justice Douglas insisted in his dissent in DeFunis v. Odegaard (1974) 416 U.S. 312, 342, such a concept runs counter to the very theory of equal protection: "The State, however, may not proceed by racial classification to force strict population equivalencies for every group in every occupation, overriding individual preferences. The Equal Protection Clause commands the elimination of racial barriers, not their creation in order to satisfy our theory as to how society ought to be organized."

It is now clear that undergirding much of the rhetoric supporting racial quotas, and preferential treatment in general, is a view of justice that demands not that the state treat its citizens without reference to their race, but that it rearrange and index them precisely on the basis of their race. The objective is not equal treatment but equal representation.

The majority here rely primarily on two recent Supreme Court cases: Bakke and Weber. Neither lends them any comfort; indeed, both support the conclusion of the trial court.

In our decision in Bakke this court manifested specific disapproval of racial quotas. (Bakke v. Regents of University of California (1976) 18 Cal.3d 34, 62.) We declared that no program "in history has been so thoroughly discredited in contemporary times as the use of racial percentages." The doctrine of stare decisis should dictate adherence to that elementary truth a bare three years after it was declared. Previous opinions, particularly when approved in substance by the United States Supreme Court, remain binding, even though, to use the words of Justice Marshall, "the composition of this Court has radically changed." (Lloyd v. Tanner (1972) 407 U.S. 551, 584 (Marshall, J., dis.).)

Since they cannot rely on a single prior decision of this court, the majority devote many pages of analysis in a futile effort to

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Footnotes at end of article.

avoid the reality of the United States Supreme Court decision in Bakke. It can be argued that conclusions about individual justices' opinions lie in the eye of the beholder. But no matter how disingenuous the majority here become, they cannot escape the one undeniable result: the *Davis medical school 84–16 admission quota plan was declared invalid* and Allan Bakke, a white male who alleged racial discrimination because of the quota, was ordered admitted to the school.

If there be any doubt, here are the key holdings of Justice Powell in his lead opinion for himself and for Chief Justice Burger, Justices Stewart, Rehnquist and Stevens: "In summary, *it is evident that the Davis special admissions program involves the use of an explicit racial classification never before countenanced by this Court.* It tells applicants who are not Negro, Asian, or Chicano that they are totally excluded from a specific percentage of the seats in an entering class. . . . *The fatal flaw in [the Davis] preferential program is its disregard of individual rights as guaranteed by the Fourteenth Amendment.*" (438 U.S. at pp. 319–320, 17 FEP Cases at p. 1022; italics added.) Therefore, held the Supreme Court (at p. 320, 17 FEP Cases at p. 1022), "that portion of the California court's judgment holding [the Davis] special admissions program invalid under the Fourteenth Amendment must be affirmed." [5]

Among the strange arguments advanced to justify racial quotas is criticism of Justice Powell's opinion in Bakke declaring that equal protection "cannot mean one thing when applied to one individual and something else when applied to a person of another color. If both are not accorded the same protection, then it is not equal." (Id. at pp. 289–290, 17 FEP Cases at pp. 1010–1011.) One would have thought that principle to be unexceptionable, but do not underestimate the guile of the prolific apologists for modern racism.

The Powell passage is "quotable" but "ill-considered," writes Kenneth W. Simons in *Philosophical Perspectives on Affirmative Action* (1979) 77 Mich.L.Rev. 513, 518–519. "Courts may treat the discriminations differently . . . blacks, but not whites, fall under it." In other words, equal protection depends upon skin pigmentation! I cite this as an illustration of the excesses and the obscurantism which permeate the drive to restructure ours into a wholly representative society. The majority fall into the same error: paradoxically they perpetuate elitism in order to preserve egalitarianism.

Parenthetically, I note that in his Bakke opinion and appendix Justice Powell referred with approval to the admissions policies of Harvard University. The history of Harvard on racial quotas is instructive. In 1922, then President Lowell made a public statement, declaring that racial quotas were under consideration, words that were ominous in the xenophobic post-World War I milieu. A Committee of Thirteen was appointed by the Overseers in 1922 and ultimately submitted a report firmly rejecting the notion of racial quotas. The faculty adopted the report, and it has remained university policy to this day. (See Dean Rosovsky, *From Periphery to Center*, Harv. Magazine (Nov.-Dec. 1979) p. 81 ff.)

Consistent with the views of Harvard on quotas, the court in Bakke not only did not approve, but specifically invalidated the 84–16 quota system used at Davis. Thus reliance on Bakke is clearly counterproductive to the majority. Next they lean heavily but with equal futility on Weber, a case in which five justices did uphold a racial classification program at the plant of the Kaiser Aluminum & Chemical Corporation, a private employer, which had entered into an employment contract with the United Steelworkers of America, a union representing the private employees. (Justices Powell and Stevens, who had been in the Bakke majority, did not participate in Weber.)

Weber, as stressed repeatedly by its majority, is factually inapposite to a compulsory program involuntarily imposed on and by a public agency. Justice Brennan, writing the lead opinion in which Justices Stewart, White, Marshall and Blackmun joined, declared over and over that the Kaiser plan "does not involve state action" and therefore he emphasized "the narrowness" of the inquiry (id., p. —, 20 FEP Cases p. 4). Indeed, on almost every page of his opinion, Justice Brennan spoke redundantly of the parties "voluntarily agreeing" (id., p. —, 20 FEP Cases p. 4), Congress "did not intend wholly to prohibit private and voluntary" efforts (id., p. —, 20 FEP Cases p. 6), Congress did not intend to prohibit acts by "the private sector" (id., p. —, 20 FEP Cases p. 6), there is no absolute prohibition against "all private, voluntary" action (id., p. —, 20 FEP Cases p. 6), there is no "legislative prohibition of all voluntary, private" efforts (id., p. —, 20 FEP Cases p. 6), legislators "resisted federal regulation of private business" (id., p. —, 20 FEP Cases p. 6), "Congress did not intend to limit traditional business freedom to such a degree as to prohibit all voluntary" action (id., p. —, 20 FEP Cases p. 7), Title VII "does not condemn all private, voluntary" plans (id., p. —, 20 FEP Cases p. 7), Title VII permits discretion for plans adopted in "the private sector voluntarily" (id., p. —, 20 FEP Cases p. 7).

If there is any other manner of expression by which the Supreme Court could have made it more clear in Weber that it approved the plan because it was *voluntary*, not involuntary as here, and in *private industry*, not in the public realm as here, it escapes me as it apparently eluded Justice Brennan. I am confident, in view of the obvious significance of its repeated and emphasized qualifications, that the Supreme Court would have reached a contrary result if racial preferences had been imposed *involuntarily* by a *public agency* and affected *public employment*.

In short, just as there is no California authority there is no persuasive rationale in United States Supreme Court cases supporting compulsory imposition of racial quotas in public employment.

Finally, the majority read Title VII of the federal Civil Rights Act as if it were designed to protect minorities only. This view offends the thoughtful opinion of Justice Marshall for a unanimous court in McDonald v. Santa Fe Trail Transp. Co. (1976) 427 U.S. 273, 12 FEP Cases 1577. He reviewed the congressional history of Title VII and concluded it "was intended to 'cover white men and white women and all Americans'" and it created an "'obligation not to discriminate against whites'" (id., p. 280, 12 FEP Cases at p. 1580). A quota system that excludes whites from one out of three appointments to public employment solely on the basis of their race is manifestly discriminatory.

It is significant that in his Weber opinion Justice Brennan did not quarrel with McDonald. Indeed, he declared that an argument based on McDonald was "not without force" but he found it not to be controlling because the Kaiser plan in Weber was "voluntarily adopted by private parties." (Weber, at p. ——, 20 FEP Cases at p. 5) Once again the implication is clear that if a compulsory program for public employment was involved, McDonald would control.

Griggs v. Duke Power Co. (1971) 401 U.S. 424, 530–431, 3 FEP Cases 175, 177, another unanimous decision, clearly holds Title VII "does not command that any person be hired simply because he was formerly the subject of discrimination, or because he is a member of a minority group. Discriminatory preference for any group, minority or majority, is precisely and only what Congress has proscribed. What is required by Congress is the removal of artificial, arbitrary, and unnecessary barriers to employment when the barriers operate invidiously to discriminate on the basis of racial or other impermissible classification."

Under compulsion of Weber I would be required to agree with the majority that a voluntary program in private enterprise would not offend Title VII.[6] But that is not this case—I repeat: this is a *compulsory* program in *public* employment, an employment paid by the taxpayers of all races and both sexes. The majority nevertheless indulge in a travesty of retroactive myth to bend the history of Title VII, and its unequivocal language, to serve the very purpose the act was intended to prohibit. Justice Rehnquist reminds us of the congressional history in his devastating dissent in Weber. Senators Humphrey, Dirksen, Kuchel, Clark and Case, ardent proponents of the Civil Rights Act, assured their colleagues over and over that racial quotas were not contemplated and were unacceptable. To assert otherwise is flagrant history revisionism.

One illustration will suffice. On March 30, 1964, Senator Hubert H. Humphrey led the debate in the Senate on the Civil Rights Act. He analyzed the measure, section by section, in order to persuade the Senate to adopt the proposal, which had both bipartisan support and opposition. When Senator Humphrey came to Title VII, he reassured the Congress as follows:

"Contrary to the allegations of some opponents of this title, *there is nothing in it that will give any power to the Commission or to any court to require hiring, firing, or promotion of employees in order to meet a racial 'quota' or to achieve a certain racial balance.* [¶] That bugaboo has been brought up a dozen times; but it is nonexistent. In fact, the very opposite is true. Title VII prohibits discrimination. In effect, it says that race, religion and national origin are not to be used as the basis for hiring and firing. Title VII is designed to encourage hiring on the basis of ability and qualifications, not race or religion. [¶] In Title VII we seek to prevent discriminatory hiring practices. We seek to give people an opportunity to be hired on the basis of merit . . ." (Italics added.)

Dr. John H. Bunzel, former President of San Jose State University, has concluded that "When the Civil Rights Act of 1964 was passed, Congress reflected the general normative consensus that Americans wanted not only to eliminate discrimination but to make employment opportunity independent of race, colour, religion, sex or national origins. The law intended to 'bring Americans together', not to separate them into categories. It was a sentiment expressed by individuals and groups from every walk of life who participated in the legislative process that gave political sanction *not* to racially preferential treatment, or special privileges for some, or the concept of statistical parity among groups, but to the *elimination of discrimination* against anyone." Bunzel, *Affirmative Action, Negative Results,* Encounter (Nov. 1979) 43, 51.)

The Supreme Court majority in Weber avoided the congressional history by drawing a distinction between *requiring* quotas and *permitting* quotas. The former is prohibited, the latter tolerable.

Accepting that rationale at face value, I would hold that the Civil Service Commission's quota must fall. There can be no question that its formula is compulsory, the District Attorney being compelled to adhere to it in all hiring. And obviously, the emphasis placed in Weber on private industry cannot be related to public employment which by law must be governed by merit selection.

Footnotes at end of article.

(See, County Charter, art. XVI, § 71 F, subds. (a)–(c).) The majority try in vain to find authorization for racial quotas in country charter Sections 61 and 71–F, subdivision (f). But the sections, recited in footnote 7 of the majority opinion, pointedly prohibit discrimination on the basis of race, color, creed, sex, national origin or political affiliation. Some exception is provided for "economically, socially, physicially or mentally deprived persons" *of all races.* The Civil Service order in this case does not involve any of such persons, only the prohibited categories of race and sex.

While I need not discuss the merits of the commission's program, or of rule 7.10 upon which it is based, I cannot resist observing that the scheme is hopelessly flawed and that it is unlikely to serve the purpose for which it is purportedly devised.

Rule 7.10 provides that minority personnel hall be appointed in a number "necessary to attain a fair approximation of minority representation in the classification consistent with the population mix in the County of Sacramento." Minorities are defined as "Blacks, Indians, Mexican-Americans, Spanish-Americans, Orientals, other non-Whites and women." Whoever drafted that definition obviously lacked knowledge of modern demography, for women, ever since World War II, have been a majority in our society, not a minority.

Under the rule, however, the district attorney could appoint one white female for every two white males and he would satisfy the commission. But would he satisfy the Blacks, Indians, Mexican-Americans, Spanish-Americans, Orientals or other non-Whites? I doubt it. The result would be what historians call the Law of Unintended Consequences. See, e.g., White, In Search of History (Warner Books ed 1979) p. 304.

Therein lies one of the numerous vices in compelling such artificial devices as racial quotas in employment. Inevitably one minority group will not be placated by the selection of a member of another group. Even if it were possible for representation to be predicated on population, a qualified Samoan or Eskimo would have no chance of employment because the numbers of his race in our state population total is infinitesimal.

There are innumerable other imponderables that emerge in the race-typing business. I suggest only a cursory sample. What percentage of blood makes one a Black or an Indian—75 percent, 50 percent, 25 percent? Does the term Indian apply to native Americans or to natives of India? The Spanish-American category would include a person from Argentina, but not one from Brazil because the latter would be a Portuguese-American. How long is a person deemed to be a Mexican-American before he loses the hyphenation—for one generation after his parents crossed the border, for two generations, forever? Why are only racial minorities enumerated and not religious minorities, when it is a fact of history that religious discrimination has been a pervasive element in American life from early colonial days?[7]

These defects are not endemic to the Sacramento program alone, they are the inevitable by-product of injection of race as an employment qualification. Thus they, or similar fatal flaws, would appear in any employment scheme that emphasized race, or group characteristics, rather than individual merit.[8]

The district attorney pointed out that he had practical difficulty in recruiting minorities because most of those who were well qualified preferred to accept appointment from the public defender or other governmental agencies. This problem of selecting qualified persons for professional employment was mirrored in comments about the judiciary by then Attorney General Griffin Bell in an address to the American Law Institute on May 18, 1'79 (63 Judicature at p. 118): "The influx of women and minorities into the bar is still a recent phenomenon, and there is not yet a large pool of women and minority lawyers of sufficient maturity and experience . . . Thus, the process is fraught with tension. . . ." As to this tension, the President of the United States on Law Day, 1979, declared firmly that "Basing present discrimination on past discrimination is obviously not right." (47 LW 2726.)

In October 1977, the United States Commission on Civil Rights issued a formal statement on affirmative action. In it the commission urged removal of "institutional obstacles to *equal* employment opportunity" (italics added), and while it encouraged achievement goals, it time and again warned against fixed racial quotas. (See U.S. Com. on Civil Rights, Toward an Understanding of Bakke (1979), p. 183.) Its conclusion was, that although we are far from achieving our goal, the "aspiration of the American people is for a 'colorblind' society, one that 'neither knows nor tolerates classes among citizens'." Again in its November 1979 bulletin (Civil Rights Update) the commission reported that the Department of Health and Social Services has issued guidelines on college admission policies "without violating the ban on strict racial or ethnic quotas in the U.S. Supreme Court's Bakke decision." Thus it is clear that the federal agency directly concerned with eliminating discrimination understands, as a matter of administrative interpretation, that racial quotas are forbidden.

A few apologists for racial quotas are becoming somewhat restive at the excesses such programs spawn. Professor Bernhardt, while analyzing and approving Weber in 65 A.B.A.J. 1321, concludes by warning that "Allowing choice based on race admittedly is a dangerous step, and future developments should be watched to prevent affirmative action programs from becoming a new tyranny." We are, indeed, on the pathway to that new tyranny.

Justice Black once declared, "Great nations, like great men, should keep their word." (F.P.C. v. Tuscarara Ind. Nat. (1960) 362 U.S. 99, 142.) Our nation gave its word over and over again: it promised in every document of more than two centuries of history that all persons shall be treated *equally.* However it is rationalized, a preference to any group constitutes inherent inequality. Moreover preferences, for any purposes, are anathema to the very process of democracy. As Justice Murphy wrote, "We of this nation are one people undivided in ability or freedom by differences in race, color or creed." (Akins v. Texas (1945) 325 U.S. 398, 410.)

At the dawn of a new decade, this court has a rare opportunity to offer a ringing declaration in support of racial equality. Unfortunately the majority elect to approve a preferential and undemocratic program of expediency; the result is likely to convert the 1980's to a decade of disillusionment, an era in which "racism, racial spoils systems, racial competition, and racial odium will be fixtures of government in the United States even into the twenty-first century." (Van Alstyne, supra, 46 U.Chi. L.Rev. at p. 778.) We must, in the words of Justice Jackson, "avoid these ends by avoiding these beginnings." (West Virginia State Bd. of Educ. v. Barnette (1943) 319 U.S. 624, 641.)

In addition to all else, the revival of racial quotas tragically denigrates the eloquent words of the first Justice Harlan, dissenting in Plessy v. Ferguson (1896) 163 U.S. 537, words that have served as an inspiration to civil rights advocates for more than eight decades: "Our Constitution is colorblind and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. . . . It is, therefore, to be regretted that this high tribunal, the final expositor of the fundamental law of the land, has reached the conclusion that it is competent for a State to regulate the enjoyment by citizens of their civil rights solely upon the basis of race."

Racism will never disappear by employing devices of classifying people and of thus measuring their rights. Rather, wrote Professor Van Alstyne, "one gets beyond racism by getting beyond it now: by a complete, resolute, and credible commitment *never* to tolerate in one's own life—or in the life or practices of one's government—the differential treatment of other human beings by race. Indeed, that is the great lesson for government itself to teach: in all we do in life, whatever we do in life, to treat any person less well than another or to favor any more than another for being black or white or brown or red, is wrong. Let that be our fundamental law and we shall have a Constitution universally worth expounding." (46 U.Chi.L.Rev. at pp. 809–810.)

There is no United States Supreme Court case upholding racial quotas in public employment. There is no California case upholding racial quotas in any employment. The majority opinion is wholly unsupported by precedent and worse, it is regressive in concept. Therefore, I agree with the Court of Appeal that the judgment of the trial court should be affirmed.

Clark and Richardson, Justices, concur.

FOOTNOTES

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*Advance Report Citation: 47 LW 4851, 4858.

[1] In the "doublethink" and "Newspeak" of Orwell's 1984 a key word is "blackwhite." It means a "loyal willingness to say that black is white," but in addition: "the ability to believe that black is white, and more, to know that black is white, and to forget that one has ever believed the contrary." (Orwell, 1984 (1949) p. 175).

[2] If the affirmative action means preparation and training for the underprivileged so that they may have the skills to compete on a basis of equality, then it is an essential program. But if affirmative action is interpreted as justifying preferences in the actual competition for society's benefits, then it is undemocratic and violative of the *equal* protection clauses of the federal and state Constitutions.

[3] The aggressive proponents of the new racism are actually a small segment of the nation's population. Only 11 percent of the people favor preferential treatment; even among non-whites, only 30 percent favor preferences over selection on ability. (Lipset & Schneider, *The Bakke Case: How Would it be Decided at the Bar of Public Opinion* (1978) 1 Public Opinion 38.

[4] This may give an impression of being a mere temporary expedient. But the French, with a cynicism born of experience, have an appropriate saying: *"rien ne dure comme le provisoire"* (nothing lasts like the provisional).

[5] The only portion of our Bakke judgment reversed was that which prohibited all consideration of race. The high court would permit an admissions program "involving the competitive consideration of race and ethnic origin." (438 U.S. at 320, 17 FEP Cases at 1022.)

[6] Racial quotas in private industry have never been approved by this court. Indeed, we specifically disapproved such hiring practices in Hughes v. Superior Court (1948) 32 Cal.2d 850, 856, 1 FEP Cases 1, 26 LRRM 2072.

[7] For a discussion of other insoluble dilemmas in assigning benefits; to which races, how much to each race, which test of race is to be used, see Van Alstyne, *Rites of Passage* (1979) 46 U.Chi.L.Rev. 775, 804–808.

▪ Verification of confusing and false ethnic claims for purposes of teacher assignment plagued the Los Angeles Unified School District in 1976 and 1977. To avoid being included in a compulsory program involving transfer to a distant school, some white teachers were declaring themselves black, some black teachers insisted they were white, others were asserting they were of American Indian origin.

The district thereupon created an Ethnic Designation Committee which promulgated a precise series of proof requirements to establish the ethnicity of teachers. The criteria employed by the district to determine the ethnic makeup of individual teachers included: verification of racial or ethnic ancestry to the grandparents' generation; birth certificates of the individual and his parents and grandparents; affidavits by a school administrator and a clergyman attesting to the teacher's racial identity. (See Los Angeles Unified School District, Memorandum No. 10, Feb. 2, 1977.)

This tracing of blood lines back to grandparents by a public agency bore remarkable similarity to the Nuremberg Laws of Nazi Germany, a fact that did not escape the attention of some civil rights groups in Los Angeles. After a public protest, on May 18, 1977, the district announced it would no longer implement Memorandum No. 10.

It will be recalled that the racial identification policies of Nazi Germany began with the civil service.

Mr. HATCH. Mr. President, studying the Bakke decision now, nearly 2 years later, is like trying to trace the contours of a battlefield largely obscured by the debris of subsequent engagements. The issues have been substantially dealt with in the discussions I have already entered into the Record. However, a particularly incisive summary of them appeared at the time in Inquiry magazine. The author was Dr. Judy Wubnig, a native of Washington D.C., who is now professor of philosophy at the University of Waterloo in Ontario, Canada.

Mr. President, I ask unanimous consent to have "A Minority of One," by Judy Wubnig, printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Minority of One

(By Judy Wubnig)

The Allan Bakke case should never have come up at all. The fact that it did indicates how far the United States has strayed from the principle of equality before the law since President Richard Nixon introduced the use of racial quotas by the government in 1969. It is crystal clear, as Justice John Paul Stevens says in his opinion, that the University of California violated Title VI, Section 601, of the Civil Rights Act of 1964: "No person in the United States shall, on ground of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." It is crystal clear that the university violated the Fourteenth Amendment to the U.S. Constitution: "No state . . . shall deny to any person within its jurisdiction the equal protection of the laws." And it is crystal clear that it also violated the precedents of court decisions, including those involving Authurine Lucy and the University of Alabama in 1955, Hamilton Holmes and Charlayne Hunter and the University of Georgia in 1961, and James Meredith and the University of Mississippi in 1962.

Yet it was only by a tenuous 5–4 margin that the Court decided the medical school of the University of California at Davis could not deny Allan Bakke admission because his skin is light and his last name not Spanish. Only four justices (Stevens, Warren Burger, William Rehnquist, and Potter Stewart) were willing to commit themselves to the position that the law can only take into account the actual deeds of individuals and not accidents of birth. Five justices (Lewis Powell, Harry Blackmun, William Brennan, Thurgood Marshall, and Byron White) held that universities may take race into consideration in admitting students.

How did the five justices manage to deny the obvious, that the law can take no cognizance of race? How did four of them manage to find it constitutional for a public university to deny someone admission because of his race and national origin? To deny the obvious requires confused thinking, and the opinions of these justices are indeed inaccurate, muddled, and self-contradictory.

The four justices who dissented from the Court's decision to uphold Bakke's suit were mired in a fundamental inconsistency. Along with Powell, they agreed that racial discrimination in admissions to public universities can be either constitutional or unconstitutional, sometimes right and sometimes wrong. The justices of course oppose discrimination against blacks. Yet the four agreed that the way to eliminate racial discrimination is to discriminate against people because of their race. Wrote Blackmun: "In order to get beyond racism, we must first take account of race."

This fundamental inconsistency led the dissenters into self-contradictions and blinded them to the meaning of their own words. Blackmun says, "We cannot—we dare not—let the Equal Protection Clause perpetrate racial supremacy." But, as we saw in the South in the days of Jim Crow, the legal superiority of one race over another is a sufficient condition for its racial supremacy. Blackmun's ringing words are in direct contradiction to what he intends them to support: the legal superiority—and thus racial supremacy—of Asian-Americans, American Indians, blacks, and people with Spanish surnames over whites without Spanish surnames.

Brennan says that we cannot let colorblindness become myopia "which masks the reality that many 'created equal' have been treated within our own lifetimes as inferior both by law and by their fellow citizens." He himself suffers so from logical myopia that he does not see that he is supporting precisely such treatment for whites by arguing for their legal inferiority under the Constitution. He asserts that whites as a class do not have any of the "traditional indicia of suspectness; the class is not saddled with such disabilities, or subjected to such a history of purposeful unequal treatment" which must be "compensated" for. Yet this very fact, according to him, constitutes the argument for saddling whites with precisely such disabilities and for subjecting them to unequal treatment.

Some of the justices discussions of legal precedents and of the Fourteenth Amendment could have come out of a satire by George Orwell. In order to uphold racial discrimination against Allan Bakke, Thurgood Marshall is driven to deny everything he fought for as a lawyer for the NAACP, even his own great victory in the 1954 school desegregation case, *Brown* v. *Board of Education*. He appeals to the precedents of all the old decisions made by the courts in support of racial discrimination against blacks, and he rejects all those of the past 40 to 50 years which overthrew those decisions:

". . . during most of the past 200 years, the Constitution as interpreted by this court did not prohibit the most ingenious and pervasive forms of discrimination against the Negro. Now when a State acts to remedy the effects of that legacy of discrimination, I cannot believe that this same Constitution acts as a barrier."

So, for Thurgood Marshall such decisions as those in the Dred Scott case, the late nineteenth-century civil rights cases, and *Plessy* v. *Ferguson* are authoritative. It would logically follow from his argument that racial discrimination against blacks, perhaps even slavery itself, is constitutional.

As in Orwell's *Animal Farm*, the dissenting justices find that the Fourteenth Amendment, when it commands equal protection, is really permitting unequal protection of the laws. Marshall argues that blacks should be legally superior, since it is difficult for him "to accept that Negroes cannot be afforded greater protection under the Fourteenth Amendment where it is necesary to remedy the effects of past discrimination." Blackmun argues that because the Fourteenth Amendment was passed to protect blacks from being denied equal protection—that is, to guarantee them protection equal to that of every American—the Fourteenth Amendment was passed in order to guarantee them *unequal* protection—that is, legal superiority. The old white supremacists at least paid vice's tribute to virtue by *saying* that the facilities segregated by law were equal; they never *said* that whites were *legally* superior to blacks.

The dissenters argue that Allan Bakke, who was subjected to racial discrimination, was not a victim of such discrimination, and that the students who were given preferential treatment because of their race or national origin were actually victims of racial discrimination. For this reason, the dissenters maintain that the racially preferred students deserve compensation. Brennan says that relief for societal discrimination ". . . does not require as predicate proof that recipients of preferential advancement have been individually discriminated against; it is enough that each recipient is within a general class of persons likely to have been the victim of discrimination."

The flaws in this position are threefold: it denies what it affirms, it assumes a dubious causal relationship, and it presupposes the value of a spoils system.

If racial discrimination in the past was unjust, then it is now unjust against Allan Bakke. If it is not unjust now to discriminate against Allan Bakke, then racial discrimination in the past was not unjust. Brennan's inconsistent "compensation" principle can only lead to racial discrimination forever. If Allan Bakke is now discriminated against, then he, and, according to the argument, his descendants, and other whites without Spanish surnames will have a "legacy of past discrimination." They will then have to be compensated by discrimination against Asian-Americans, Indians, blacks, and people with Spanish surnames; and so on ad infinitum.

Such discrimination, however, is no compensation for an injustice. It is individuals who suffer injustice and individuals who commit it. Only the victims of an injustice can be compensated for it, and only the perpetrator can do it. It would be no compensation to Allan Bakke if Davis medical school or any other school were to discriminate against Asian-Americans, Indians, blacks, or people with Spanish surnames. His only compensation is the one the Court awarded him—the order to Davis to cease discriminating against him and admit him.

The dissenters reject the "predicate proof" that Allan Bakke was discriminated against. Instead, they accept the probability that the students admitted under the special programs were victims of discrimination, since they belonged to groups whose members were likely to have been discriminated against. First, they argue, Bakke only experienced "benign" discrimination, because there was no intention to "insult" or "demean" whites as a class. But what is most insulting about racial discrimination is the deed, not the intent of the doer. James Meredith was insulted when the University of Mississippi refused him admission because of his race. In just the same way, Allan Bakke was insulted when the Davis medical school refused him admission because of his race.

Secondly, the dissenters claim that the reason the students admitted under Davis's special program did not have as good a record as Bakke was that they were victims of "a legacy of past discrimination." But no causal relationship between such a "legacy" and lack of ability and accomplishment exists. Most Americans share an analogous history, yet many are admitted into medical schools on their merits.

Practically all Americans are descendants of people persecuted for religious, political, or racial reasons, of indentured servants, serfs, slaves, or convicts. Bakke's Norwegian immigrant ancestors may have had experiences like those described in O. E. Rolvaag's *Giants in the Earth*. Moreover, many who actually experienced discrimination or slavery itself have demonstrated their great abilities, from the great Stoic philosopher Epictetus, who was a slave, to Alexander Solzhenitsyn, a victim of the Gulag Archipelago, to those who, the dissenters imply, could not have succeeded by merit alone—American blacks like Frederick Douglass, Booker T. Washington, George Washington Carver, all born in slavery, and W. E. B. DuBois, Mary Bethune, Paul Robeson, and Thurgood Marshall. Davis medical school itself, in the years 1971–1974, let in members of "disadvantaged" groups on their own merit, through the regular procedures: 41 Asian-Americans, 1 black, and 6 with Spanish surnames.

Statistics cannot demonstrate the consequences of a "legacy of past discrimination" unless it is known what the statistics would be without past discrimination. It cannot be assumed that the percentage of people with certain abilities and interests is the same in each subgroup of the population. As is well known, the percentage of members of one particular minority group who are admitted to universities and graduate schools on their own merits is much greater than their percentage in the population. Nonetheless, for over 1000 years this group, the Jews, has been subject not only to discrimination and segregation, but to persecution and massacre. Davis's own statistics reveal that of the 252 students admitted through the regular program from 1971–1974, 41 or about 16 percent were Asian-Americans, even though Asian-Americans constitute much less than 16 percent of the population of the United States or of California. (This did not hinder the Japanese-American Citizens League from opposing Bakke and demanding preferential treatment, such being the lure of favoritism.)

At any rate, the only way to find out what any subgroup of the population would have done in the absence of discrimination is to stop discriminating and see what happens then. But this means judging individuals on their own merits.

Even if the reason for the inferior qualifications of students admitted under the special program at Davis was the "legacy of past discrimination," or "societal discrimination," or anything else, it does not follow that they should have been admitted over those better qualified. What might have been is not, and even if, under other circumstances, they would have had greater promise of becoming good doctors, they do not have that promise now.

Let us assume, as Davis medical school did, that on the average these students showed much smaller promise of becoming good doctors than Allan Bakke did. This means that with all the determination and hard work in the world many of these students will not become very good doctors but probably mediocre or poor ones. (Professor Bernard Davis of the Harvard Medical School reported on the poor performance of students admitted through Harvard's "special program" in the *New England Journal of Medicine* in 1976.) The value of a person's actual abilities and accomplishments is independent of the causes of those abilities and accomplishments. Davis medical school and the dissenting justices grant this by conceding that the students admitted through the special programs were less qualified than Allan Bakke; they go on to argue that this is the very reason they admit them over people like Bakke.

But this is the very reason *not* to admit them. Davis and the dissenting justices turn everything topsy-turvy by maintaining that applicants should be let in because they are *not* very promising. They see admission to medical school and getting jobs as doctors as part of a spoils system, where favoritism, not merit, rules. Marshall argues that programs like that at Davis are necessary because there should be more black doctors. What we need, however, is not doctors of any particular complexion or national origin or sex, but good doctors, the best available.

Five justices argue that a university can properly take the race of an applicant into account in admissions because of the need for diversity. Powell compares taking race into account with taking geography into account, as Harvard does; Blackmun says that universities "have given conceded preferences up to a point to those possessed of athletic skills, to the children of alumni, to the affluent who may dispose of their largesse on the institutions, and to those having connections with celebrities, the famous, and the powerful."

They forget, however, that Harvard is a private university not supported by the taxpayers except in special grants and aid to students. The University of California, on the other hand, is a public institution supported by the taxpayers of California. The only geographical preference it can give is to residents of California, and if it were openly to give preferences for the traits Blackmun mentions, there would be strong objection. Moreover, it is not a violation of the Civil Rights Act of 1964 for Harvard to take into account geography, athletic skill, wealth, or connections in admitting students, but it is a violation of that law for any institution using federal funds to discriminate on grounds of race. In addition, although it is not a violation of the Fourteenth Amendment for any state university to take athletic skills or many other traits into account, it is a violation for it to deny any citizen equal protection of the laws by taking race into account.

Powell cites Harvard's admissions policy as a model for considering race as a "factor" without using such rigid quotas as Davis did. As other justices point out, this is a distinction without a difference. It leaves entirely open how much race should count and which race should count for how much. Logically, it would allow the University of Alabama to give preferential treatment to whites, as it did in the past in pursuit of what it saw as a "substantial state interest."

But apart from the legal issues, ought race to be taken into account even by a private university like Harvard? As an ethical matter, the answer must be "no." As in any other field—learning physics, cooking, repairing cars—the test of a person's ability to learn medicine is his demonstration of that ability. Neither his name nor his complexion nor the shape of his nose nor his ancestry nor a myriad of other characteristics is relevant.

The Bakke decision indicates only one thing clearly—that the future is very uncertain for the American ideal of equality under law, the principle that "all men are created equal." That idea, first developed by the ancient Greeks, led to the abolition of slavery in Europe and later in America. It is embodied in the Fourteenth Amendment. That five justices of the Supreme Court were forced to maintain such self-contradictory and confused positions shows both its continuing power and the current threat to it.

The future consequences of the Bakke decision cannot be predicted. Who, after all, could have predicted that after George Wallace was compelled to allow blacks into the University of Alabama any public university in the United States would deny anyone admission because of his race? Who would have predicted government enforced hiring and promotion by race or national origin or sex when Title VI of the Civil Rights Act of 1964 forbids it? But it is possible to foresee the likely consequences of following the two opposing principles of inequality before the law or of equality before the law.

The first way leads to catastrophe. Laws are a means of regulating actions, and if the same actions are treated differently by reference to race or ancestry or sex or other accidents of birth, we have a situation characteristic of a caste society, like feudal Europe or the old South, where persons are imprisoned by the accidents of their birth. Such a caste system is already developing in the United States, with the future of many people at the mercy of government employees who decide whether or not they belong to favored groups. Congress also has been legislating favored castes; the Public Works Employment Act of 1977 stipulates that 10 percent must be paid to subcontracting companies owned or controlled by blacks, Spanish-speaking people, Orientals, Indians, Eskimos, or Aleuts. Already the juggernaut of a caste system is overriding contracts between employers and the labor unions, as the recent Supreme Court decision in the AT&T case shows.

Thus we are beginning to become, not a society of different individuals, but a collection of quarreling tribes, fighting for preferential treatment at the hands of the government. As the fighting worsens, there will be diminished incentive to do one's best, and we will all, individually and collectively, suffer thereby.

Other unpleasant consequences are possible. Those like the Reverend Jesse Jackson who argue for racial inequality before the law are destroying the shield that protects blacks along with all other Americans. If race can legally be taken into account, then the siren calls of white supremacists may not fall on deaf ears.

The other way is that of the American ideal. It is the only rational ideal, for only equality before the law can give us the rule of law, and, with it, freedom. Moreover, if merit is the standard of judgment, each of us will have the incentive to do his best. Everyone, regardless of ancestry or sex, has a profound interest in promoting economic well-being and a higher degree of civilization through individual excellence. We are all members of the human race, the race which Justices Powell, Blackmun, Brennan, Marshall, and White ignore. Each one of us, like Allan Bakke, is a minority of one, the only minority that the Constitution recognizes and the only one that law can rationally recognize.

Mr. HATCH. Mr. President, Dr. Wubnig has also published a formal philosophical defense of the merit criterion of employment against the various political attacks upon it from affirmative action supporters. It appeared in the September–October 1976 issue of the Humanist magazine. The ideal of rewarding merit, which in turn is to be determined through the processes of freedom, has of course been virtually unique to the European and American civilizations that have in the last 300 years effectively created the modern world as we know it. Although the United States may have represented a more or less imperfect expression of that ideal, the ideal of rewarding merit has never been abandoned, and distinguishes us in the vast sweep of human history.

Affirmative action is steadily eliminating that ideal from our national life.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "The Merit Criterion of Employment: An Examination of Some Current Arguments Against Its Use," by Judy Wubnig; the Humanist, September–October 1976.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MERIT CRITERION OF EMPLOYMENT: AN EXAMINATION OF SOME CURRENT ARGUMENTS AGAINST ITS USE

(By Judy Wubnig)

What are the proper criteria for employing people? Until recently, it was taken for granted that the only proper criterion was the ability to do a particular job. For example, it would have been assumed that the criterion for employing someone as an engineer was his ability as an engineer.

Practice that did not conform to this ideal was continually criticized. Such practices as denying blacks jobs because of their race were criticized by reference to this ideal, that is, these practices were criticized because a person's race is not a criterion of his ability to do a job. As a result of such criticism, legislation such as the U.S. Civil Rights Act of 1964 was passed to prohibit some of the practices that did not conform to this ideal, such as using criteria of race or sex for employment.

In recent years, however, in the course of apparently criticizing practices that did not conform to this ideal, such practices have been advocated. There has been a plethora of arguments to justify appointments on the basis of race, ethnic group, and sex. I propose here to examine several of these arguments: the compensation argument, the quota argument, and the biased-judgment argument.

THE COMPENSATION ARGUMENT

The compensation argument is that members of a given racial, ethnic, or sexual group X should be given preference in employment because members of group X in the past were denied such employment in the past because of their membership in group X. This is supposed to be compensation to members of group X for the past wrongs done to members of group X in denying them employment because of this membership. For example, the argument is that if in the past qualified women were not employed as engineers solely because they were women, therefore, now, in compensation, qualified women should be hired as engineers because they are women.

This argument suffers from several related defects. It is based on a confused notion of compensation; it implies an endless retributive feud principle; and it is inconsistent.

(*a*) *Compensation:* I can compensate someone, for example, Bill J., if I have done him some wrong and can make up that wrong. Suppose, for example, that I dislike redheads, and I have refused to employ Bill J. to tune my piano because he is a redhead. One can then argue that I have denied him employment for a bad reason and so have treated him unfairly (and have thereby lost the services of a piano tuner!). In this case, I could compensate Bill J. for this unfair treatment by hiring him, or perhaps by some other means.

The wrong to be compensated for is the wrong done to the individual wronged. Bill J. receives no compensation if I hire another redhead, Tom S., and Tom S. cannot receive compensation for the wrong done Bill J., because the wrong was not done to him; that is, Tom S. was not denied employment because of his red hair.

The current compensation arguments, however, make this elementary mistake. It is argued, for example, that blacks should be hired *because* they are blacks, in compensation for past unfair, racially discriminatory practices. But John P., a black, who suffered from such practices in the past, is in no way compensated by the present hiring of Paul R., also a black. And Paul R. deserves no compensation now, since he was not previously wronged by being denied employment because of his race.

(*b*) *Infinite Retributive Redress:* The compensation argument depends on the assumption that one does wrong to someone else if one refuses to employ a person because of his membership in some particular racial, ethnic, or sexual group. Hiring Paul R. now, because he is black, rather than hiring nonblack S because he is not black, is doing wrong to nonblack S, according to this assumption. So, according to the compensation argument, he or other nonblacks deserve compensation. Thus, in compensation, members of this group should be hired because they are nonblacks. This, in turn, will wrong blacks, who will then deserve compensation, and so on ad infinitum. Thus, the attempted compensation will not right wrongs but will continue the wrongdoing forever.

(*c*) *Inconsistency:* The compensation argument is inconsistent. It assumes both that it is wrong to hire people because of their membership in a given racial, ethnic, or sexual group and that it is right to do so. Employing members of group X now, because of such membership, in preference to members of group non-X, is to do precisely what is condemned. Using the word *positive* or *affirmative*, as in "positive (racial, ethnic, or sexual) discrimination" or "affirmative action," changes the fact not one iota. The condemned past policy could just as well have been termed *positive discrimination* or *affirmative action*, and the discriminatory policy presently advocated is just as "negative" against members of group X.

If policies of hiring people according to racial, ethnic, or sexual criteria were bad in the past, they are bad now. If they are not bad now, they were not bad in the past.

In summary: the compensation argument is confused about who gets compensated for what. It entails an infinite redress of wrongdoing and subsequent compensation. And it contradicts the principle of proper employment practices, whose violation is supposed to be compensated for.

THE PERCENTAGE-QUOTA ARGUMENT

The percentage-quota argument is that a quota of *K* percent of any given kind of job should be given to members of a given racial, ethnic, or sexual group *X* because members of group *X* makes up *K* percent of the total population. If everyone were treated fairly, according to this argument, then the percentage of people in any subgroup of employed, such as engineers or mathematicians, would be the same as in the population as a whole. For example, approximately 50 percent of the population are women. Therefore, if people were treated fairly, according to the argument, 50 percent of engineers and mathematicians would be women. The percentage argument is that if 50 percent of engineers and mathematicians are not women, it must be made to be the case by hiring on the basis of sex, so that 50 percent of engineers and mathematicians are women.

This argument assumes that what would have been is known, that theories of what would have been are a sounder basis for practice than knowledge of what is, and that it is fairer to treat people according to what they might have been rather than according to what they are.

(*a*) *What would have been:* The percentage argument assumes that fair employment policies are those that allow for the hiring of individuals according to their merits. The argument is that, if in the past all individuals had been hired according to their merits, then the percentages of people of different racial, ethnic, and sexual groups in any particular kind of employment would be the same as in the population as a whole. This is not, however, self-evident. There may be differences in interest, talent, education, and training in population subgroups, so that hiring by merit will not result in such percentages. For any or all of these reasons the percentage of mathematicians or engineers, for example, from a given racial, ethnic, or sexual subgroup may differ from the percentage of the population composed of members of that subgroup.

If this assumption were correct, of course, then the predicted percentages would occur within whatever span of time would be necessary for a policy of hiring by merit to take effect. But then, in order to get these percentages, it would not be necessary to hire according to percentages but only according to merit. Since the percentage argument advocates a policy that is intended to rectify policies of not hiring according to merit, it actually assumes that people should be hired only on the basis of their merit.

The percentage argument, however, often involves a different approach. It is that present hiring by merit is not adequate, because in some racial, ethnic, or sexual group *X*, whose members make up K percent of the total population, the number of people with the ability for a particular kind of employment is less than *K* percent of the total number of those with this ability. The reason for this, it is argued, is that the members of such group *X* did not have educational opportunities equal to those of members of other racial, ethnic, or sexual groups. The percentage argument then is that, since members of group X did not have educational opportunities equal to those of members of other groups, they were treated unfairly. Therefore, they should not suffer the consequences of their poorer education; that is, they should not be denied employment in jobs for which they are not the best qualified. They should be hired to make up *K* percent of those in a particular kind of employment even though they are not the best qualified.

Let us first examine the assumption that, if everyone had the same educational opportunities, the percentage of members of particular racial, ethnic, or sexual subgroups in any particular kind of employment would have been what it is in the population as a whole—that is, the percentage of individuals in any such subgroup with interest in and talent for, say, basketball, piano, engineering, or mathematics is the same as the percentage of individuals in the total population with such interests and talents. How can this assumption be justified? No one has yet seriously proposed that all talents are evenly distributed. For example, no one would argue that the talent for playing basketball is so distributed, since clearly tall men are better basketball players than short women and tallness and maleness are not distributed in each racial, ethnic, and sexual subgroup of the population in the same way.

Whatever method could be used to find out about the distribution of interest in and talent for a particular kind of activity would require examining individuals, individual by individual. That is, the evidence of distributions of characteristics in a given population depends on the evidence about individuals of that population. Evidence of distributions derived from evidence of distributions in random samples of the population still ultimately depends on evidence about individuals, namely, the individuals in the random samples. The evidence about the interests and talents of individuals is thus stronger and more certain than the evidence about distributions of these interest and talents in the population and population subgroups to which these individuals belong, since the latter evidence is dependent on the former. It follows, then, that the policy of hiring people according to the percentage assumption is more dubious than that of hiring people according to their individual merits, since the evidence for the percentage assumption is weaker and more dubious than that about the individual merits of people.

The percentage argument, in other words, begs the question. Its validity depends on the assumption that people can be evaluated individually. To argue that the results of judging people individually must be wrong because these results do not conform to the hypothesized percentages is to reject the only possible basis for knowing these percentages. Thus the percentage argument refutes itself, for the only reason to accept the view that, for example, 50 percent of mathematicians should be women because 50 percent of those with the greatest interest in and talent for mathematics are women is that it has been discovered, by examining individuals, that 50 percent of those with the greatest interest in and talent for mathematics are women. It could be discovered only by examining individuals. The percentage argument thus presupposes that the most accurate way to judge individuals is to judge each individually.

(b) *If the hypothesized percentages would have been:* Suppose, by hypothesis, that with proper education and training, 50 percent of the best-qualified mathematicians would have been women. The percentage argument is that 50 percent of mathematicians should now be women, even if they are not, due to lack of training, 50 percent of the best qualified. But the hypothesis does not imply this conclusion—what would have been is not. A person without mathematical training is not qualified to be a mathematician, even though he would have been one had he had the necessary education. To take another example: suppose John G. would have been a great pianist, drawing record audiences, if he had learned to play the piano. However, he did not study the piano, and so he is not now a great pianist; he will not draw record audiences to his attempts to play the piano, nor will "would have been" arguments persuade potential audiences differently.

In summary: The percentage argument depends on the very ability to judge individuals on their own merits whose use it rejects. It advocates hiring people without regard for their qualifications and solely because of their membership in some racial, ethnic, or sexual group X, because these individuals would have been qualified, given different education. But the argument itself depends on the assumption that there are qualifications that these individuals would have had, given different education. And the justification of the percentage assumption must ultimately depend on the ability to judge the qualifications of individuals, the kind of judgment the percentage argument rejects.

THE BIASED-JUDGMENT ARGUMENT

It has been argued that evaluating individuals on the basis of merit, without regard to their racial, ethnic, or sexual characteristics, is impossible because only members of any such group X are capable of evaluating other members of group X and because present criteria of evaluation are biased in favor of members of group non-X. Therefore, members of group X must be chosen in order to hire other members of group X, and members of group X must be hired in order to compensate for the bias of present criteria for evaluating merit.

(*a*) *Who evaluates?* The argument that only members of racial, ethnic, or sexual group X should evaluate other members of group X is that only they can understand members of group X, by which is meant that only they can understand the thinking of members of group X. How can the policy based on this argument be implemented and how can the argument itself be justified?

The problem if implementing the policy of having members of group X evaluate other members of group X for potential employment arises only in the case when the employer is a member of group non-X. But, in precisely this case, in order to implement the policy, members of group X would have to be chosen (whether hired or not makes no difference to the argument) by members of group non-X do the hiring of members of group X. This, however, involves either an infinite redress or that members of group non-X choose members of group X according to some criteria of evaluation, which do not include the criterion of membership in group X. If the original argument is valid, that members of group non-X cannot evaluate members of group X, then members of group X cannot evaluate members of group non-X, and thus the policy cannot be implemented. On the other hand, if the policy can be implemented by members of group non-X choosing members of group X to implement it, then the original argument on which the policy is based is not valid, that is, it must be possible for members of group non-X to evaluate members of group X.

The validity of this argument cannot depend on being argued by a member of group X (or anyone else). That this person thinks the argument is valid is not evidence of its validity. If a person's thinking that an argument is valid makes it valid, then anyone else's thinking that the argument is not valid would make it invalid as well. For example, my belief that this argument is invalid, which I am now expressing here, would, according to this subjectivist criterion, be a sufficient refutation of the argument.

The validity of the argument thus does not depend on the argument's being believed to be valid. If the validity of the argument can be recognized by anyone, then all people have the same ability to think about and evaluate arguments. In other words, if members of both group X and group non-X are to recognize the argument as valid, members of group X must be able to evaluate the thinking of members of group non-X and members of group non-X must be able to evaluate the thinking of group X, namely, the thinking that is the argument itself. But, if this is so, then the argument refutes itself; its validity entails its own denial.

The very effort to persuade someone of the validity of the argument presupposes that it is invalid. If members of group X try to persuade members of group non-X of the validity of the argument, they are presupposing that members of group non-X can evaluate the reasoning of members of group X, that is, the argument that members of group X are offering. In the very act of using the argument, members of group X would show that they themselves do not believe it.

On the other hand, how could members of group non-X demonstrate to themselves that the argument is valid? They cannot do so by failing to evaluate the thinking of members of group X, since, in order to recognize that they have so failed, they would have to recognize the correct evaluation—that is, they would have to evaluate the thinking of members of group X correctly.

One might argue that one can indeed recognize one's own inability to evaluate the argument of another without presupposing that he has correctly evaluated it. For example, I might admit that I cannot evaluate Einstein's general theory of relativity without presupposing that I have indeed evaluated it correctly. This situation is not, however, that which is involved in the argument that members of given racial, ethnic, or sexual groups cannot evaluate the thinking of members of other racial, ethnic, or sexual groups. If I cannot evaluate the general theory of relativity, it is because my knowledge of physics is not adequate or my powers of reasoning are not powerful enough. The difficulties lie in the theory itself, the evidence presented and the reasoning used. They do not lie in the fact that I am not a German Jewish male.

On the contrary, the argument we are examining denies that knowledge of the relevant material and ability to reason are adequate to evaluate thinking. It asserts that, for example, only female mathematicians can evaluate the mathematical abilities of other female mathematicians. If male mathematicians try to evaluate the abilities of female mathematicians, according to this argument, they will only admit to their inability to do so because of an admitted lack of mathematical knowledge; they will, indeed, think that they can evaluate any mathematicians, including female ones, on the basis of their mathematical knowledge. But in order to prove to themselves that they can evaluate female mathematicians, they must in some way be able to recognize the correct evaluations of female mathematicians, which is only to say that they must be able to evaluate female mathematicians correctly.

The argument, therefore, that only members of group X can evaluate other members of group X, because only they can understand the thinking of members of group X, is self-refuting. If the validity of arguments depends on that being believed to be valid, then my not believing the argument to be valid is a refutation of it. If its validity is such that everyone can and ought to recognize it, then everyone has the ability to evaluate some of the thinking of others, namely, the argument itself. The barriers to evaluating the thinking of others are not that one is unable to understand and evaluate the thinking of those different from oneself, for example, of those in racial, ethnic, or sexual subgroups other than one's own; the barriers are lack of knowledge or inadequate reasoning ability.

(*b*) *The bias of present criteria of evaluation of merit:* The argument is that present criteria for evaluating merit are biased in favor of members or racial, ethnic, or sexual group non-X. Therefore, in order to correct this bias, members of group X should be hired because they are members of group X.

It is possible that present criteria for evaluating the abilities of individuals for particular jobs are unsound and racially, ethnically, or sexually biased. This must, however, be established, not merely presupposed. The percentage argument will not establish this, as previously argued. And it cannot be argued that the criteria must be biased in favor of members of group non-X because members of group non-X set them. One would first have to prove that the criteria are biased in order to argue that those who set them are biased, not vice versa.

In order to establish that the criteria are biased, then, one would have to demonstrate that according to the criteria the best-qualified people are sometimes passed over in favor of less qualified people in employment. Such a demonstration, however, would require criteria for evaluating the merits of individuals in order to establish that certain individuals are better qualified than others. This attempt to demonstrate that present criteria are biased would then actually establish what the sounder, unbiased criteria are. Far from supporting the argument that members of racial, ethnic, or sexual group X should be hired because of their membership in group X, because the present criteria for evaluating merit are biased against group X, the demonstration of such bias would establish that it is possible to evaluate individuals properly on the basis of merit, by establishing how it is possible.

One might still try to defend the biased-criteria argument by arguing that all criteria must be biased, that hiring on the basis of merit alone is intrinsically impossible. But one could not demonstrate this without demonstrating the actual bias of criteria, and this can only be done by using the yardstick of the merit criterion. And if one were to deny that there is such a thing as individual merit, then one could not argue that any criteria are biased. It could not, therefore, be argued that present criteria of merit used in employment are biased and should thus be discarded. The biased-criteria argument then is a self-refuting one; it assumes what it denies, that one should hire a person because he is the best qualified for the job, not because he is a member of any particular racial, ethnic, or sexual group.

CONCLUSION

The arguments here examined for employing people because of their membership in some racial, ethnic, or sexual group—the compensation argument, the percentage-quota argument, and the biased-judgment argument—all deny the very principle they assume. They assume that people should be employed because of their individual qualifications, but they deny that the criterion of individual merit should be used in employment.

But the initial principle is, I believe, the only sound one. A person should be employed for a particular job because he is the best-qualified applicant. The only criterion for this is the ability to do the job. The best qualified person for a job is the person who can do it best. The best person for a job as a mathematician is the best mathematician; the best person for a job as a carpenter is the best carpenter; and the best person for a job as a pianist is the one who plays the piano best.

Mr. HATCH. Mr. President, the same issue of Inquiry magazine carried a discussion of Bakke by Prof. Thomas Sowell, who teaches economics at the University of California at Los Angeles. Professor Sowell is one of this country's leading black academics.

He has done some of the most valuable work on affirmative action, and I will be referring to it later. He is the author of a number of books, among which I particularly recommend "Black Education: Myths and Tragedies," his remarkable partly autobiographical account of the difficulties confronting blacks in American society today. It contains a particularly eloquent denunciation of the damage done to blacks by social engineering in the name of progress, and the pressure on blacks to fit into patronizable packages.

The first part of Professor Sowell's article deals with the erroneous empirical assumptions that lie behind affirmative action. The second part is an unusual analysis of the Supreme Court's decision, which has however turned out to be entirely accurate in its pessimism.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by T. Sowell entitled "Affirmative Action and Pious Fraud," August 21, 1978, Inquiry.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AFFIRMATIVE ACTION AND PIOUS FRAUD

(By Thomas Sowell)

From start to finish, "affirmative action" has been the most incorrigible kind of fraud—namely, fraud for a "noble" purpose. If the Bakke decision turns out to be the beginning of the end for quotas, it is perhaps fitting that it, too, has more than its share of disingenuousness. Since Bakke has been argued for and against as part of the whole controversy over affirmative action, it may be useful at this point to consider some of the basic premises or assertions associated with that policy, for most of which there is no evidence and all of which are, in fact false:

Minorities have improved their economic positions relative to whites since the government imposed quotas ("goals") on employers.

After quotas ("goals") were imposed, women have risen to greater representation in the professions than in generations past.

Minorities and women favor preferential hiring and college admissions.

Black-white differences in income are due to different employer treatment of similar individuals.

While European immigrant minorities were eventually able to achieve incomes and occupations comparable to the general population, nonwhite minorities cannot do so.

Let us take these claims in order.

The early thrust of the civil rights movement and equal-opportunity policy was that hiring and other decisions were to be made *without regard* to race, color, creed, or national origin. Even affirmative action in its early phrase referred to special efforts to bring previously excluded groups into the pool of applicants, after which the actual decisions on college admission or hiring were to be made on the basis of individual qualifications. Only slowly—and, indeed, stealthily—did this metamorphose into numerical "goals and timetables." In December 1971, these "goals and timetables" became mandatory for government contractors and subcontractors.

The 1960s equal-opportunity phase of these developments can be separated from the post-1971 "results-oriented" quotas. The earlier period saw the first substantial increase in black incomes relative to white incomes. Black income as a percentage of white income reached its peak in 1970. It has never been that high again, throughout the whole era of quotas, massive bureaucratic intervention, and bitter social divisiveness. For a program that puts so much emphasis on results, affirmative action has few results to show for all its sound and fury.

A well-known cigarette ad says to women: "You've come a long way, baby." Everybody from Gloria Steinem to the Equal Employment Opportunity Commission is lined up to take the credit. But, without being picky about it, it might be worthwhile to first find out if there is any credit to take. Have women in fact come a long way? And in what direction? It is amazing how many basic questions never get asked.

The proportion of people in various high-status occupations who were female reached its peak in the 1930s and declined over most of the next three decades. For example, the percentage of law degrees that went to women was twice as high in the mid-1930s as it was in the late 1950s. The same is true of doctoral degrees in chemistry, astronomy, and the biological sciences. The decline was even greater in mathematics and economics. For doctoral degrees in general, women's share fell from about 17 percent to about 10 percent. Parallel with this was a decline in female representation on college and university faculties (including colleges run by women). The percentage of females among those listed in *Who's Who* was more than twice as high in the 1902 edition as it was in the 1958 edition. For the economy as a whole, female income as a percentage of male income declined over a 20-year period from 1949 to 1969.

For those conditioned to look for evil intentions, or at least ideological explanations, for everything that goes wrong, it will come as a great disappointment to find that all of this is highly correlated with demographic trends. As educated women began marrying earlier and having more children, their representation in high-status positions declined. When these demographic trends began to reverse in the 1960s, women's representation in high-level positions began to rise—though still not yet back to the 1930s levels in some fields. The affirmative action quotas of the 1970s had as little to do with the trends as did male chauvinism.

The effect of marriage and child-bearing on women's careers is also apparent in comparisons by marital status at a given time. As of 1971, single women in their thirties who had worked continuously since high school earned slightly more than single men in their thirties who had worked continuously since high school. The substantial differences in income between men and women which are found in gross comparisons are largely differences between married women and all other persons. Some statistical studies conceal this fact by including as "single" those women who are widowed, divorced, or separated. Obviously a woman who reenters the labor force in her thirties or forties, after having been a housewife for many years, is unlikely to earn as much as a man of the same age who was there all the time. It is so easy to ignore simple realities in the quest for sources of moral outrage, political crusades, and—if successful—bureaucratic empires.

When the knight in shining armor rescued the damsel in distress, the two usually ended up living happily ever after. But when affirmative action programs try to come on like knights in shining armor, the damsels tell them to beat it. So do minorities.

The Gallup poll in 1977 found that 64 percent of nonwhites opposed preferential hiring or college admissions (even when the alternative was "ability as measured by tests"). Eighty percent of women were also opposed. Indeed, no matter how the Gallup people split up the population—by race, sex, region, income, or education—they could not find a single group that was in favor of affirmative action. No wonder proponents of affirmative action try to achieve their goals (and timetables) through nonelected officials in politically insulated institutions like administrative agencies and the federal courts. Put it to a vote and the whole game would be over.

Of course, we know that the "leaders" of minorities and women are gung-ho for quotas and the like. But the media determine who is perceived as a leader, and people with urgent demands to make are better material for the tube than people who say, "Oh, cut the crap." Leaders have their own vested interests, different from those of the people in whose name they confidently speak. From this point of view, affirmative action and similar crusades can be seen as a sort of activists' full employment act.

The civil rights movement is a classic example of the tendency of organizations to pursue their mandated goals right on past the urgent and the optional to the questionable and the counterproductive. At one time it was all the NAACP could do to try to keep redneck sheriffs and the KKK (sometimes the same people) from terrorizing blacks. Once they had made some headway on that, they could give more attention to fighting Jim Crow laws. After shooting down segregation, it was on to school busing and then the fight against capital punishment (including trying to represent white murderers who didn't want to be represented). One NAACP lawyer candidly observed that the "golden days" of civil rights battles were over and that intellectual tools "had been developed which now threatened to collect dust," when he and his legal colleagues decided to lead the anti-capital punishment crusade.

It is especially necessary to distinguish sharply between the institutional interests of organizations and the interests of those in whose name these organizations choose to speak, when considering changes in black-white differences in income and the implications of those changes.

At one time—and not too long ago—it mattered little what skills, attributes, or education a black job applicant had or did not have. In many places, he could just forget it. Changes in public attitudes, and then equal-opportunity laws, made personal attributes matter. How much do they matter now? Gross black-white differences in income will not tell you, partly because older blacks who began their careers under heavier handicaps cannot make it all up at this late date. But among younger generation blacks and whites, by the late 1960s individuals with similar home backgrounds and the same education had the same income—regardless of race. Gross black-white differences had not disappeared, but the reasons for the remaining differences between young whites and blacks were factors at work before they ever set foot in an employer's office.

This was a landmark, indicating not only the progress blacks had made, but also what was most urgently needed for the future. There was now much more to be gained by hitting the books than by hitting the streets. However, organizations have their own skills and their own inertia, and civil rights organizations are geared up to fight discriminatory treatment, not reading (or nonreading) problems.

Easy phrases like "majority" and "minority" obscure the important fact that there is no single American ethnic group that comes close to being a majority. Half of the American population cannot identify their ethnicity at all, presumably because of intermixture. The largest identifiable group are people of British ancestry—just 15 percent of the population.

Sometimes all the people of European ancestry are lumped together as "whites" (or even "Anglos"—which must come as some surprise to those of Celtic, Semitic, Slavic, and other backgrounds). The theory is that only the various white groups have risen from poverty to income levels around or above the national average. Like so many other statements about race and ethnicity, it is a short step from theory to "well-known fact"—the distance in between being filled with repeated assertions. In reality, Chinese- and Japanese-Americans have higher incomes than most white ethnic groups—the Irish, the Italians, or the Poles for example—and blacks of West Indian origin or ancestry earn more than 90 percent of the average income of whites. The point is not that race doesn't matter. It is that visible genetic differences do not spell doom to economic advancement, or even parity, however plausible or ideologically satisfying it may be to say so.

Those who hoped that the *Bakke* decision would point some way out of the legal morass of affirmative action were doomed to disappointment. The case was not declared moot like *De Funis*, but four concurring justices came close to declaring it moot for everybody except Bakke and the officials at the Davis medical school. They declared that the case was neither a class action suit nor a constitutional precedent. It required some fancy legal footwork to reach that conclusion, and the ominous question is why they went through such maneuvers.

Justice Powell's official opinion for the Court was a meticulous and majestic survey of the issues raised by affirmative action. But it was just one man's opinion. The four concurring justices (Burger, Rehnquist, Stevens, and Stewart) concurred only in letting Bakke in and ordering the medical school to change its admissions program. They explicitly repudiated any support for anything else Powell had said. The four dissenting justices (Marshall, Brennan, White, and Blackmun) disagreed with the judgment but concurred in part of the decision repudiated by the concurring justices. In short, there was a different 5–4 majority for different sections of the opinion. It couldn't be closer than that.

The Bakke case is less of a precedent than it might be, not only because of its paper-thin majority, but because it is clear that the four concurring justices did not want it to be a precedent. They insisted on deciding it on the basis of Title VI of the Civil Rights Act, rather than under the Constitution. Title VI provided no explicit basis for Bakke to file a lawsuit, so the concurring justices created a basis by creative and imaginative interpretation. They claimed that this exegesis was necessary because the Congress that enacted the law was so preoccupied with direct discrimination that it never really considered the possibilities of "reverse discrimination." Actually, the 88th Congress, which wrote the Civil Rights Act, debated "reverse discrimination" and its ramifications repeatedly and at length. Why the fictitious history? Certainly the learned justices knew better. If they didn't, the dissenting opinion of Justice White told them better in no uncertain terms.

What the concurring opinions under the Civil Rights Act (instead of the Constitution) achieve is to keep the Court's options open to decide future affirmative action cases as it sees fit, unhindered by a constitutional precedent. The Court paid a high price, in candor and credibility, in order to keep that option. The ominous implication is that it intends to continue judicial policy-making instead of constitutional interpretation. It thereby raises to the Supreme Court level the tactics employed by administrative agencies in affirmative action (and other) cases. Rather than setting forth the law in advance, the justices say in effect, "Do what you want, and then we will tell you whether it is O.K."

A government of laws and not of men was supposed to mean something more than this. And the Supreme Court was supposed to mean something more than nine more politicians in Washington.

Mr. HATCH. Mr. President, I will leave the last word on Bakke to George F. Will, whose relentless stalking of this issue has been one of the outstanding, although least praised, aspects of his brilliant journalistic career. Will's point in his column following the Bakke decision that "reverse discrimination is a betrayal, not a fulfillment of American values," has also been established in some of the other items I have quoted here. But I especially wish to direct the attention of my colleagues to his insight into America's future under affirmative action:

If that policy succeeds, the United States will be less a nation than an angry menagerie of factions scrambling for preference in the government's allocation of entitlements.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Reverse Discrimination," by George F. Will, Newsweek, July 10, 1978.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REVERSE DISCRIMINATION

(By George F. Will)

You cannot spill a drop of American blood without spilling the blood of the whole world," Herman Melville wrote in 1849. ". . . Our blood is as the flood of the Amazon, made up of a thousand noble currents all pouring into one. We are not a nation, so much as a world." But government policy has been, increasingly, to divide the majestic national river into little racial and ethnic creeks. If that policy suceeds, the United States will be less a nation than an angry menagerie of factions scrambling for preference in the government's allocation of entitlements.

That policy was endorsed by the Administration's brief against Allan Bakke, a brief which urged that the nation should cultivate "race consciousness." The brief did not suggest how the government will decide, someday, that persons who have been "victims," personally or through "their forebears," have been "restored"—a strange choice of verb—"to the position they would have occupied" but for discrimination. The Bakke decision pleases the Administration.

Bakke won because a medical school, with no record of discrimination to rectify, adopted a numerical quota for certain minorities, and admitted some who were dramatically less qualified than he was. The Bakke decision has made little law. Therefore, most existing policies will continue, so the law can be riddled with racial considerations. With regard to higher education, the decision suggests broad tolerance for reverse-discrimination policies that are less raw than that which excluded Bakke. And Justice Powell's opinion for the Court can be read plausibly as somewhat permissive regarding considerations of race and ancestry in the allocation of other government benefits generally.

"SUSPECT" DISTINCTIONS

The opinion says racial and ethnic distinctions are "suspect" and require "exacting judicial examination." But when state distribution of benefits "hinges" on race or ethnicity, the racial and ethnic classifications are acceptable if they are "necessary" to promote a "substantial" state interest, such as diversity in enrollments. Four Justices even assert the constitutionality of programs like the one that excluded Bakke, programs that do not just use "minority status as a positive factor," but that "set aside a predetermined number of places" for minorities. These Justices say, not groundlessly: "For purposes of constitutional adjudication, there is no difference between the two approaches."

Powell says that the "equal protection" clause precludes "recognition of special wards entitled to a degree of protection greater than that accorded others"; he rejects a "two-class theory" of equal protection. But then he says there can be compelling state interests served by constitutional forms of discrimination which disadvantage whites for the benefit of preferred minorities. This necessarily means distinguishing two classes of citizens.

Powell says there is a distinction of constitutional dimension between an "explicit racial classification" that "totally" excludes members of some groups from full participation in a program, and "properly devised" racial considerations that are "flexible" in treating race or ancestry as a "plus." But this can be a distinction without a significant difference. For most professional schools, the pool of qualified minority applicants is shallow. Schools that dip too deeply will produce striking disparities between the test scores and academic records of minorities and whites they accept. At some point such disparities must be *prima facie* evidence of a quota, whether it is acknowledged or surreptitious.

STATISTICAL PARITY

The Bakke decision does not necessarily mean the Court will say that reverse discrimination in employment and awarding contracts is "necessary" to a "substantial" state interest. But the Court may not seriously impede the bureaucratic drive to transform the core concept of American justice from "equal opportunity for individuals" to "statistical parity for government-approved groups." There is, indeed, a substantial state interest in broadening membership in the middle class, and especially in professions. But the Fourteenth Amendment guarantees equal protection to "persons," and any reverse discrimination grants special entitlements to preferred groups. Nevertheless, the Bakke decision will leave unscathed an array of programs by which the government encourages or compels public and private institutions to consider ethnic quantities more, and individual qualities less, when conferring benefits.

In 1954, the Court seemed on the way to saying what Congress subsequently seemed to say in the 1964 Civil Rights Act: race is an inherently unacceptable basis for state action. But now, in the Bakke case, the Court has refused to find that principle in the 1964 act, and the Court rejected that principle in cases before Bakke. For example, it held that states can tailor redistricting plans racially to create or preserve legislative districts that enhance the electoral power of preferred minorities (in the particular case, blacks and Puerto Ricans). The plan in question diluted the electoral strength of Hassidic Jews who do not enjoy government preference.

WARDS OF THE STATE

Reverse discrimination began as a means of ameliorating the condition of blacks, but it was quickly claimed as a "right" by groups defined by race, ancestry or sex. It is demanded in spite of the fact that it devalues the achievements of its beneficiaries and stigmatizes them as wards of the state, unable to compete. This taint is not disguised by tactical euphemisms, such as saying that employers must "differentially validate" employment tests when they are required to set lower passing scores for preferred minorities than for whites. Whether called "affirmative action" or (as in the 1976 Democratic platform) "compensatory opportunity," reverse discrimination, and the quest for statistical parity for "under-represented" groups, involve what Prof. Ben L. Martin calls the "sensory" theóry of representation: "only personal qualities crude enough to be obvious to sense perception, such as skin color, language, or sex, are acceptable bases of representation." Martin explains reverse discrimination in terms of "the foot-race analogy":

"In a fair race, none is disadvantaged at the starting line. But if all begin with equal advantage, then all should finish together, because contemporary liberalism leaves virtually no personal quality—not character, personality, motivation, self-discipline, or any other personal trait—as the responsibility of the individual."

The premise behind reverse discrimination is this: an unfair start can be inferred from an unequal outcome. The traditional American premise is this: the equal status of citizenship is the basis on which a structure of inequality *should* be built by a population in which talents are neither equally distributed nor equally rewarded. Reverse discrimination is a betrayal, not a fulfillment, of American values.

III. AN ANGRY MENAGERIE?

Mr. HATCH. Mr. President, since 1976, as I have shown, we have slithered a long way down the slope from a free, self-regulating society to George Will's "angry menagerie," complete with a bureaucratic lion-tamer armed with a whip. In this section, I propose to examine what lies ahead.

Many of the developments which, after Fullilove, we may expect to flourish arrogantly throughout society, were already present in academe in 1978, when Dr. Joseph Adelson, professor of psychology at the University of Michigan and codirector of its Psychological Clinic wrote "Living with Quotas," which appeared in the May 1978 edition of the indefatigable Commentary magazine. Dr. Adelson's article is a particular favorite of mine. It is written with great grace, clarity, and sensitivity. When it was published, it was still possible to hope that quotas would "fade away to be remembered only as one of the many unpleasant episodes of the seventies." The Supreme Court, by its vacillation in Bakke and subsequent capitulation to interest groups, has ended this hope—but only for the moment. I will return to this point in my final section.

Another feature of Professor Adelson's paper that deserves praise is his courage and frankness in tackling the considerable deterioration in standards caused by the more brutal quota schemes. This is both more obvious and more alarming in so-called "hard" disciplines, like medicine, than in the "soft" ones like literature or politics (we may dispute that classification). Dr. Adelson's answer to his own question "Are The Students Qualified?" is masterly, and should be read with care. As to the courage this required, the story he relays of the assault on Dr. Bernard Davis of Harvard Medical School following his innocent comments on the subject would have deterred many people, including, I am afraid, most elected officials.

The final feature of Dr. Adelson's article I wish to note here is his point that affirmative action although ineffective, is a product—

> Of the characteristic mind-set of the New Class of foundation executives, university presidents, bureaucrats and publicists who simply cannot bring themselves to understand that good things happen without benefit of their intervention. One would never suspect, in reading the reams of anti-Bakke writing, that minorities—and especially blacks—have during the last generation accomplished, partly through the vagaries of history and partly through their own exertions, an amazing series of transformations: from agrarian to urban, from poverty to the beginnings of economic stability, from dispossession to modernity.

Being naturally meaner and more suspicious than Professor Adelson, I personally would suspect that the New Class to which he refers has no intention of believing in any such explanation that might significantly hinder their imperial ambitions. This class conflict between taxpayers on the one hand and tax-consumers and administrators on the other explains much of current American politics.

Mr. President, I ask unanimous consent to have printed in the Record an article entitled "Living with Quotas," by Joseph Adelson, Commentary, May 1978.

There being no objection, the material was ordered to be printed in the Record, as follows:

Living with Quotas

(By Joseph Adelson)

Several months ago, former President Gerald Ford spoke to a political-science class at my university. During the question period that followed he was asked for his views on the Bakke case, and replied that he was opposed to "arbitrary numerical quotas." Thereupon the class broke into what the local newspaper termed "vociferous applause."

A few days later I was interviewed by a young journalist who thought the story might be worth pursuing. He had himself been so disbelieving of the original press account that he had sought out and listened to the tape made during the former President's appearance. Sure enough, he told me, the applause had been enthusiastic, so much so that he would describe it as turbulent. He was dumbfounded. Is that what the students really felt? At Michigan—of all places—the founding campus of SDS? What did it mean? Was I as surprised as he was? I told him I would not have expected the students to have made public their private feelings, but was not at all surprised by the direction and intensity of those feelings; that most students in my experience have come to despise "affirmative action" because of the double standards it imposed, and which victimized them; furthermore, that most of the faculty I knew were equally scornful because of the duplicities these programs have come to involve; and that to my certain knowledge many in the administration hoped, in private, that the Court would hold for Bakke and thus rescue them from their own cant. And *that*, I said, was the story he ought to write.

He ought to reflect upon his own surprise, and recognize that the press had made almost no effort to discover whether racial-preference programs—after nearly a decade in place—had in fact fulfilled their promises, and what faculty and students now thought about them. Why such indifference to reality? What was at work, I suggested, was a strong wish not to know, to sustain a state of self-deception.

At this my interviewer became noticeably morose. He told me he felt very ambivalent about the problem. He had himself been in graduate school several years earlier, had been disturbed by the poor quality of minority students then enrolled; on the other hand, he could see no alternative except to admit many such students in the hope that some of them would make it. So he could not bring himself to write that story. Perhaps someone else could; perhaps I could. And with that we returned to the story he wanted to write, a "changing mood of the campus" piece.

Note the key term in this anecdote is *doubleness*. The journalist describes himself as ambivalent (of mixed or double feelings). The students resent the double standard, and the faculty feel themselves forced into duplicity (double dealing). The administration is troubled by its hyprocrisy (double facedness). These and other dualities dominate the history of affirmative action and in a sense fittingly, since these programs have from the beginning been haunted by an unacknowledged ambiguity or doubleness of purpose—whether to expand opportunity, or to compensate for prior injustice. The major means chosen has been a double-track system of admissions. Unable to confess to these contradictions, those in charge of racial-preference programs find themselves using deceptive or ambiguous language—that is, of mixed or double meaning: most commonly, the word "goal" when "quota" is meant, or, as will be evident later, the word "qualified" when in fact "marginal" or "unqualified" is correct. To sustain these deceptions, or to keep them hidden, other dualities come into play: the world is divided between insiders and outsiders, those who are and are not privy to secret information; or a schism develops between public and private discourse, the first tending toward blandness and boosterism, the second toward rumor and innuendo. The ultimate effect is a corruption both of language and conduct.

Does that seem overstated? Yet consider that in a milieu like the university, where one is customarily buried in statistics, it is generally difficult to obtain accurate information on the comparative credentials of majority and minority students, or on the relative attrition rates of the two groups, or on the costs—many of them hidden—that these programs entail. Since any good news is an immediate stimulus for publicity and self-congratulation, one tenth to assume, in most cases correctly, that no news is bad news. The subordinating of information to policy is something we have become accustomed to in other domains of public life, but it takes some getting used to at the university, and it has had a troubling effect on the way its members regard themselves and relate to each other.

An example: last summer a professor I know was called by a law firm and asked whether he could obtain some data on his university's medical school's admissions policies. The firm was preparing an amicus brief for the then-forthcoming Bakke hearing before the Supreme Court, and wanted to argue that objective credentials—test scores, grade point—were in fact valid predictors of achievement in medical school. Though it was generally held by expert sources that this was so, they had been unable to find enough published evidence, despite a thorough search of the literature, and were now fairly sure it was being suppressed. Perhaps as an insider he could obtain data pertaining to his own medical school. The professor thought he could; he remembered that an old friend of his had connections there and would no doubt have the information. He called upon the friend who first asked him, suspiciously, which side he was on, then told him, bitterly, that he did not think the data would be released, and that one ought to expect to get the runaround from the medical school. Not that one could trust the figures in any case, since the admissions dean was known to put the best face on things. There were only two sure ways to get the data—to threaten to sue if it were not released, but since that would take time, a more expedient means would be to find a Deep Throat, someone at the medical school who had access to the information and would be willing to steal it!

Finding both these alternatives too troubling to contemplate, the professor thereupon arranged an informal, off-the-record interview with the admissions dean, representing himself as sympathetic but concerned, and thus inducing the dean to unburden himself. The dean depicted himself as a beleaguered man, caught between the university administration, which kept urging him to keep the minority numbers up, and the medical-school faculty, which kept wanting him to keep the standards up. The trouble was that the administration was not being realistic about what level of intellectual quality was required to complete medical school these days. He had some serious questions about many of the minority students he was admitting, perhaps as many as half. Some of them he knew would not be able to make it through, and he felt sorry for what would happen to them. But he was even more worried about those who would just manage to get through and were, as he saw it, doomed to a career of marginal competence. Medicine became every day more technical, more demanding; and he doubted that they could keep up. It was not a matter of race. During the 50's the medical schools had so few really good applicants that they accepted and pushed through many white students of low quality. And what had happened to them? The dean was convinced that this was the group now giving medicine its rotten public image, through malpractice suits and Medicaid ripoffs. And at that point, he launched into what the professor later characterized as "lurid medical detail."

It is tempting to linger over those details, since stories of incompetence—real, imagined, or prospective—form a familiar genre of academic gossip; yet in doing so we would ignore what may be far more significant—the skewed relationships among colleagues which this anecdote reveals: false assumptions, misunderstood motives, an atmosphere of mistrust and paranoia which comes to infect everyone involved. It is the ambience of a novel of intrigue—Eric Ambler, let us say. The professor, an innocent, embarks upon what seems to be a simple enough errand of discovery, and is quickly drawn into the suspicions of the milieu. A friend, hitherto open, at first mistrusts him, then, assured of his loyalty, warns him to expect thwarting and deceit, and hence feels it legitimate to deceive in return. (The friend, it will later turn out, is deceived in another sense, in that he misunderstands the dean's public statements, thinking they reflect his actual sentiments, which turns out not to be quite the case.)

The professor, in hopes of evoking honesty from the dean, engages in some deceit of his own, simulating a sympathy he does not really feel. The dean reveals himself to be a deeply divided person, seeing himself compelled to offer entirely different messages to different audiences, telling the university administration one thing: "'We're doing the best we can"; the medical-school faculty another: "Do the best you can, and I'll try to limit the damages"; the outside world still another: "Standards are not going down, you can count on that"; and apparently sympathetic insiders yet another: *"Caveat emptor."*

What are we to make of the admissions dean? We may think of him as a divided, indeed fragmented soul, but it is unlikely that he would agree. Though he sees himself as subjected to contradictory pressures, he probably does not recognize the degree of inner division he must maintain. Nor would he accept our judgment that such extraordinary differences between public and private disclosure amount to a form of fraud; he would be offended, or hurt, by that charge, since it does not take into account his sincere belief in racial equality. One is led ultimately to the idea that everyone is right—the dean is indeed divided, and to be so eases the practice of duplicity, itself in the service of an undeniable good.

In this sense, the dean's contradictions, internal and external, are no different from those experienced by anyone who must serve the inherently divided, confused, ambivalent aims of a racial quota system—they are merely more visible, more dramatic, because of the peculiarly salient position he occupies. What strikes me as more important is that similar divisions, similar deceptions have now become commonplace, almost a habit of mind, so taken for granted as to escape notice. Another example: we are now at a faculty dinner party and one of the guests, looking like the cat who swallowed the canary, announces that he has managed to secure from the dean of his college a "slot," that is, permission to appoint an assistant professor—a rare opportunity given the privations we share. He is head of the search committee and is overwhelmed by the range and depth of talent available. There are several hundred applicants, and at least fifty seem good enough to warrant a closer look. The problem the committee will have is narrowing that number down to the handful who will be invited to visit—no simple task since a number of them—all younger than thirty— already have substantial bibliographies and burgeoning national reputations.

At this point another guest asks him whether there were any minority candidates, and if so what did they look like. He is startled by the question, then recovers, and says something like: "Oh yes, there was I believe—uh—one—and she was—oh— somewhere well below the midpoint." As he tells us this his face breaks into an astonishing sequence of expressions—first a slight closing of the eyes, almost a wink; then a sardonic half-smile; then the sudden assumption of the most solemn gravity. It is over in a moment, so quickly that no one else there, I suspect, caught that quick sequence, and I imagine I would not have seen it myself had I not at that time been pondering whether to write this essay. The final phase of that sequence—the solemn expression of sincerity—will be seen again, and more than once, certainly when he informs the departmental meeting of the committee's search for a candidate, of its success, and of the *earnest efforts* to find suitable minority candidates. It may also be seen in a later colloquy with the dean, wherein those efforts are again described, and in that conversation several persons will be present—my friend addressing the dean, the dean nodding gravely, my friend half-winking, half-smiling, to signal his detachment from and acceptance of the ritual, and the dean winking back.

In that exchange they are signaling their submission to the improbabilities and absurdities of academic hiring in the era of affirmative action: the improbability that there is an undiscovered abundance of minority talent, that diligent search will uncover it, that bureaucratic monitoring (carried out by failed or mediocre academics) is necessary to insure the diligence of that search, because—*credo quia absurdum*—the modern university, that most liberal of American institutions, and beyond that devoted fanatically to the celebration of achievement, is nevertheless so steeped in racial bigotry that it cannot be trusted to recognize and overcome it independently.

In my view, it is the university's failure to resist that last, malicious idea, the idea of its bigotry, which is a major source of its current loss of dignity and self-respect.* But to return now to the professor and the dean, we may observe that the interchange between them, marked by acquiescence and inner disavowal, by a seeming acceptance of the forms and an aloof contempt for them; involves an internalization of dissent and thus its inhibition. Dissent is kept "inside," either inside the self, or inside the dialogue (as in the hinting and winking among "insiders") or within the "system," whatever that may be at the moment—the committee, the department, the college.

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* What is worse, the university masochistically subsidizes its own defamation, in its sponsorship of affirmative-action *apparatchiks* whose sole métier is the propagation of witless charges of racism and the like. Here is one of our own, addressing the multitudes: "There is no way a white male professor will bring a minority person into his clan." Here is another: "The old-boy network has always worked . . . there is really no affirmative-action program." All this, mind you, at a university which submits—meekly, obsequiously—to the most outrageous demands made upon it in the name of affirmative action. We still await the day when the leadership of a major university defends itself or its faculty against such derogation. The failure to do so both reflects and contributes to the university's loss of self-confidence.

By keeping potential dissent confined to the family, one also keeps the secrets which occasion and sustain that dissent, in this case the illusions and falsehoods which have gathered around university quota systems. I have over time become convinced that this is not merely the effect of keeping dissent inside, but its unconscious intention. One is permitted to take a critical position about affirmative action as long as this is done on the grounds of high principle; but one produces consternation and panic through a descent to mere information. Several months ago I mentioned to a colleague of mine that I had collected some data which suggested the essential futility of our own well-regarded efforts in affirmative action, and that I was planning to bring these dolorous findings to the attention of our faculty. My friend looked at me in genuine horror and urged me not to do it, saying that many of our colleagues become agitated when confronted with unpleasant facts about our quota system.

I decided not to do it, no doubt prudently; but if you think my colleague's alarm overdone, consider the truly curious case of Dr Bernard Davis of the Harvard Medical School. To remind you: Dr. Davis is a distinguished medical scientist who was one day overcome by an aberrancy of candor. It led him to write an editorial for the *New England Journal of Medicine*, in which he worried about a possible erosion of standards due to affirmative action. Having read the editorial a dozen times, I can attest that there is nothing in the least provocative about it, that it is cautious and sober to a fault. But it was Dr. Davis's error to cite a specific example, involving the waiving of requirements for a minority student, and it was that concreteness, one may imagine, that led the press to pick up the story. From that moment on, all of Dr. Davis's scrupulosity of tone was of no avail, since he had "gone public" (however fortuitously) and had offered a datum. He was thereupon the object of demonstrations, denunciations and a motion of censure brought against him by the more thuggish elements of the Harvard medical faculty, many of them no doubt Life Members of the ACLU.[1]

The gravamen of the charge directed against Dr. Davis is not merely that his concerns found their way into the press, but that once made known they tended to mislead the public, who would mistake the part for the whole, and would be led to distrust all minority medical students and physicians because of statements—either true or false in substance—which apply only to some. It is certainly true that the public is uneasy about possible minority incompetence; and it is also true that the compenent—such as my own current group of minority students—are thereby unfairly burdened. But the distrust felt by the public is due not to the breaking of the silence, but to the silence itself. The unvarying diet of sanctimony and false reassurances purveyed by our educational leaders has in the end produced an almost complete synicism, not only in the university, but in the public at large. Those youngsters applauding Gerald Ford have parents and friends and neighbors living in the real world, and the word gets out that the official pieties are not to be believed. What *is* believed is hard to say: it seems to be the usual mixture of truths and exaggerations and some falsehoods; but on balance—and it grieves me to say so—the uninformed gossip of the public is far closer to the truth than all the press releases issued by all the law- and medical-school deans in all America.

II

I spoke earlier about the illusions and falsehoods which have gathered around the topic of affirmative action. The vast outpouring of writing prompted by the Bakke hearing has made these more evident than before, in that the arguments offered for reverse discrimination have involved the reiteration of certain ideas about the quota systems—how they work, whom they work for, and what their long-range effects have been. We find that in particular three central statements recur: (1) that whatever one may feel about the moral worth of these programs, they enjoy the merit of success; (2) that those being helped are the disadvantaged; and (3) that those favored are fully qualified for the programs they enter and fall short only in modest and easily remedied ways. I want to take up these assumptions and show that each of them is open to serious question, that the realities are far more complex.

1. *Are quotas successful?* In the course of arguing with any proponent of racial preference systems, one is likely to find, sooner or later, that the trump card offered is the argument from results. Triumphantly: "Whether you like it or not, the fact is that it *works*!" Or beseechingly: "I don't see what else ye can do—it's the *only* thing that will work." Here is Father Hesburgh of Notre Dame, in a letter commending an article by McGeorge Bundy, telling us that the "embryonic effort of a decade has multiplied by a factor of ten or more the number of minority students now preparing nationwide to be doctors or lawyers." That is an inflated figure, as such figures often are, but let it stand. Let us accept that there has been a substantial rise in the number of minority students enrolled—from 2 to 3 per cent before affirmative action to about 9 per cent today.

That is indeed an impressive increase, if we can bring ourselves to believe it—that is, to believe not merely the numbers but also what they are meant to imply: that the increase in those preparing will translate into an equivalent increase in those being graduated; that those graduated are fully competent; that the rise is due to quotas themselves; and that nothing else will work.

Note first that these figures almost always tell us the proportions admitted or enrolled, and rarely the percentages who are graduated. We know how many are in the pipeline, but not how many emerge, and it is no longer quite the secret it once was that there is often a considerable gap between those numbers.

To take an example close to home: my own training program in clinical psychology adopted in the early years an ambitious one-third minority quota, and in order to meet it admitted students recklessly. The attrition rate has been extremely high: of those admitted in those early years, at most one in five will achieve the doctorate (compared with two-thirds of those admitted regularly). We brandish one statistic, the large percentage of minority students admitted and enrolled, and conceal, even from ourselves, the fairly complete failure to carry students through the doctorate. Nor do we comment on the cruel loss of time and self-esteem suffered by the students involved; all of them would have succeeded elsewhere, but were misplaced in our program, drawn there only to satisfy political demands and our own moral vanity. Somewhat similar patterns have been reported for many law schools where, at least in the past, the proportion of minority students graduating is substantially lower than those enrolling, and the percentage of those who pass the state bar exams is lower still, at times shockingly low.

Yet I would not want to lean heavily on these or other examples. To do so is only to add to the general mindlessness, wherein statistics when available are torn out of context, or otherwise used to dissemble and deceive. In particular one must take skeptically the news that things are going swimmingly at Harvard Law and Stanford Medical and MIT Economics and the like. Elite schools and programs, once they put their minds to it, can command the best of everything, and their successes in minority training tell us nothing at all about what is happening elsewhere. This country's educational institutions are so diverse, and so variously organized, that it is nearly impossible to discern what any given set of figures actually means. I know of two nearby law schools: one is elite, admits selectively, and fails hardly anyone. Another is non-elite, admits more generously, yet fails a large percentage. There is no easy way one can compare their statistics of "success" or aggregate them; nor do national statistics tell us much unless we have some sense of what levels of competence those figures represent. The only thing we can say with confidence is that the statistics of "success" bandied about are inflated to an unknown degree.

What is even more troubling than the inflation is the tacit assumption that all improvements in minority enrollment are due only to the quota programs. We have here the characteristic mindset of the New Class of foundation executives, university presidents, bureaucrats, and publicists who simply cannot bring themselves to understand that good things can happen without the benefit of their intervention. One would never suspect, in reading the reams of anti-Bakke writing, that minorities—and especially blacks—have during the last generation accomplished, partly through the vagaries of history and partly through their own exertions, an amazing series of transformations: from agrarian to urban, from poverty to the beginnings of economic stability, from dispossession to modernity.

One would never imagine that these profound demographic changes may account for the largest part of the increased representation of minority students in higher education. None of this is evident in Father Hesburgh's letter, which asserts that "for only ten years now have we provided a modicum of equal educational opportunity . . ." etc., etc. That is *de haut en bas*, the voice of the good Father tending a mute and faithful flock, or of the foundation chief dispensing largesse to those he deems worthy. It simply does not correspond to the realities of an energetic and clamorous democratic culture, in which *we* do not provide for *them*, but in which all of us strive, compete, negotiate, accommodate, succeed, fail, rise and fall and rise again.

2. *Do quotas help the disadvantaged?* One afternoon several years ago, while serving on our admissions committee, I came across the applications of two young women. One was an ambassador's daughter who had been educated in private secondary schools, and was attending a most prestigious Ivy League university. The other might have stepped out of a Harriet Arnow novel. She had been born in Appalachia, the daughter of a poor farmer. The farm failed, the family moved north, her father died, the family survived on welfare and odd jobs, she married young, bore a child, was divorced, began attending a municipal university and ultimately was graduated with an excellent record. With respect to objective measurements—test scores and the like—these two young women were more or less evenly matched. It was the ambassador's daughter who, being black, was offered an invitation (which she did not ultimately accept, having a surfeit to choose from); the welfare child, being white, was not admitted, did not come close.

This anecdote has been chosen to illustrate as succinctly as possible the moral problems inherent in any system which provides privileges by race alone, and which will not recognize other bases of disadvantage. Either one must argue that race is the only stigmatizing American condition, an argument sometimes made but not commonly accepted; or else one must assume that race and class are essentially identical, which is simply not the case. And it is least likely to be the case at the higher reaches of higher education, given the strong association between social class and scholastic competence, an association which seems to be universal. This past year our admissions committee decided to give some attention to the socioeconomic status of all plausible candidates. What we found was startling; of the five minority "finalists," three were attending elite private colleges, and two were at selective state universities. Only one had received scholarship help. Three of the five came from affluent—not merely comfortable—families, and one of these gave every evidence of being rich. The committee member who interviewed most of them reported back to our faculty, somewhat ruefully, that their average family income was considerably higher than that enjoyed by the faculty itself.

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[1] There is an excellent account of the Davis incident, by J. W. Foster, in the *New Republic*, July 17, 1976.

The luck of the draw that year may have given us an unusually well-to-do group—I suspect it did—but the fact remains that during the last few years almost all of the minority students in our program have appeared to be of middle-class background, to judge by dress, speech, and quality of sensibility. They are talented and likable and interesting; they are well-schooled; they will succeed in getting their degrees. But it is pointless to pretend that they are disadvantaged, or that their presence introduces any diversity to our program except in the most superficial fashion. Nor does one find them all that interested, as a group, in specifically minority problems (nor do I think they ought to be), especially after they have been admitted to graduate training, and can relax and discover what really interests them.

The interaction between class and race is an issue which has yet to be addressed seriously by most commentators on affirmative action, not to mention its bureaucrats. Any intelligent analysis of the issue will have to begin by recognizing the aforementioned relationship between being middle class and being competent scholastically. Hence a policy of preferential admissions which favors the disadvantaged—of any race or ethnic group—will involve a high rate of failure; conversely, any attempt to choose minority students likely to succeed means a preference for the middle class among them. What has happened, I think, is that the strong departments and schools—such as my own—having viewed the wreckage of their earlier efforts to favor the economically deprived, have now decided to recruit those more likely to succeed, which in practice means middle-class minority students. Hence a program which began as an effort to remedy disadvantaged has become increasingly a program which most helps those minority youngsters who least need help.

3. *Are the students qualified?* I have kept for last the most difficult question of all, the meaning and use of the term "qualified." The question is so difficult emotionally that only a genuinely self-confident minority scholar, like Thomas Sowell, can deal with it in a straightforward way. It is also difficult conceptually, since the term is intrinsically a matter of context—when we use the word we ordinarily specify when and how and for what purposes and compared to whom. Given these sources of ambiguity, it makes one uneasy to observe the shrillness with which the idea is advanced that minority students chosen for professional training are "entirely qualified." A few nights ago I watched a television debate on the Bakke case in which an old warhorse of the old liberalism insisted that the minority students chosen ahead of Bakke were *qualified*—he stressed the word, almost shouted it. What made him think so, he was asked. Well, the doctors who chose them thought so, otherwise they would not have been chosen. And having uttered that tautology, he broke into a smile of seraphic self-satisfaction.

What lies behind all this blustering, all this shrillness, is an intention to rewrite the common understanding of what it means to possess adequate academic qualifications. A subsidiary intention is to depict academics as rigid, hard-hearted pedants who for the sake of a few measly points on this or that meaningless test refuse to offer a helping hand to deserving minority students. Yet the differences are not trivial. Were they trivial there would be no issue, since it is hard to imagine many teachers or students becoming indignant or concerned about the difference between an A− or a B+ level of achievement, or between a Graduate Record Examination score of 650 as against 600. The differences we worry about are large and at times enormous, so much so as to raise issues which go beyond the issue of fairness to the larger question of whether the public is being responsibly served. It is rather ironic to note that the more sophisticated moral arguments in favor of reverse discrimination have emphasized "the common good," yet it is precisely that common good which a feckless reliance upon quotas is liable to injure.

One of the unexpected byproducts of the Bakke case is that it liberated data on medical-school admissions held closely or concealed. These findings are especially important in that they refer to the medical school Bakke sued—the University of California at Davis, a run-of-the-mill institution—rather than to Harvard or Johns Hopkins and the like, which can choose from among the very best minority applicants. The findings from the Davis medical school may in that sense be more representative, and what they tell us is simply distressing. Students admitted under a quota to the school had an undergraduate grade-point average in the B− to C range. You will not grasp what these figures say without being aware of the current level of grade inflation at American universities. For example, the typical student at my university graduates with a B+ average, and a good (though not brilliant) one will graduate with an A−. The minority students admitted to the Davis medical school were at the very bottom of the grade distribution; in an era of honest grading, most of them would have been at the D level or below. A friend of mine, deeply sympathetic to affirmative action, looked over the table of grades and test scores I provided for him, groaned, and said, "My Lord. If that's who they let in, whom do they keep out?"

These are painful matters to read and to write about, yet anyone confronting the Davis medical statistics for the first time, as I myself did a few weeks ago, and can construe from his own experience what they mean, will likely find himself overcome with dismay. It is deplorable that these data have received almost no attention in the press; that the university presidents and deans who have access to this information keep silent; that students so marginal are encouraged to enter medical training; and that as a consequence the able minority student inevitably comes under suspicion.

When quota programs in higher education first went into effect, thoughtful critics warned that the logic of the situation would ultimately compel an extension of quota-mindedness into all other areas of public life, and not merely by infection and example. They reasoned that marginal students, once recruited and enrolled, would tend to be passed through educational programs—at least in many cases—and then be unable to compete equally in an open market for talent. Hence new systems of preferment would be established and sustained. That is just what has happened. The emerging solution, which we see in faculty hiring and elsewhere, is to set aside, tactily, certain positions as "minority" slots. Thus we reach the final and most wretched duality of all—a two-tier system of categories, involving on the one hand "real jobs" for which serious candidates compete seriously, and on the other, "minority jobs" which are set aside as a sop either to conscience or, more often these days, to the demands of the government bureaucracies. The corrupt means chosen to achieve the virtuous aim of integration ends in imposing, for the first time, segregated statuses within the university.

At this writing, the ultimate fate of racial preference systems remains unclear, pending the Court's decision on Bakke. Most lawyers I speak to believe the Court will rule as narrowly as possible, and if it does we can expect the struggle to continue, even to intensify, and to be fought via legislation and popular initiative. On the other hand, the Court may hold for Bakke on broad constitutional grounds, and the quota issue will fade away, to be remembered only as one of the many unpleasant episodes of the 70's. Yet even so we would be left with the most disturbing questions about how social policy is made in this country.

The rapid conversion of "affirmative action" to bureaucratically mandated quotas has taken place despite specific congressional intentions to the contrary, despite its overwhelming rejection in public-opinion polls, despite the solemn disavowals of President Carter both before and after his election, and despite a body of legal doctrine presumably removing race as an acceptable criterion for preferment. None of this has made the slightest difference. Congress is paralyzed. The President, characteristically, waffles and then yields. Some of our most prominent legal theorists promptly discover that, on second thought, a little racial discrimination is just what the country needs, as long as it is understood to be for our own good, and carried out by high-minded folk. Those folk turn out to be revenants from the Great Society—McGeorge Bundy, Joseph Califano, and the like—who seem bent on repeating all of the errors of that era, who are still unable to grasp that sheer energy and mere good will do not in themselves accomplish wise policy, and that authoritarian means, however, well meant, will not achieve democratic ends. A thwarted and resentful public seems to understand this perfectly; it is only our leadership which cannot.

Mr. HATCH. Mr. President, the efficacy of quotas was a subject addressed by Prof. Thomas Sowell in a pamphlet entitled "Affirmative Action Reconsidered: Was it Necessary in Academia?" published by the American Enterprise Institute in 1975. Professor Sowell's work remains a model of incisive thinking about some of the factors other than discrimination that are actually responsible for the numbers of blacks, women or any distinct social group to be found in occupational categories relative to their numbers in the general population. An interesting aspect of this work is Professor Sowell's demonstration that women were much more, and more prominently, involved in the labor force in the 1930's, and that their numbers reduced in response to demographic and cultural changes.

Mr. President, I ask unanimous consent to have printed in the Record an article entitled "Affirmative Action Reconsidered," by T. Sowell; AEI 1975.

There being no objection, the material was ordered to be printed in the Record, as follows:

Affirmative Action Reconsidered: Was It Necessary in Academia?

(By Thomas Sowell)

INTRODUCTION

Labels and images have become central in the controversies surrounding affirmative action. To some people, affirmative action means making equal opportunity concrete, while to others it means reverse discrimination. To some people, affirmative action is only a partial compensation for monumental wrongs, while to others it just means replacing competent whites with incompetent blacks. The reality of affirmative action is much more complex than the labels and images, both in concept and in practice.

To make these intricate and emotionally charged issues manageable, it is necessary (1) to distinguish the basic concepts and legal rationale of affirmative action from the many specific laws, regulations, and practices that have developed under the affirmative action label, (2) to measure in some general terms the magnitude of the problem that affirmative action programs were intended to solve or ameliorate, (3) to consider the actual results achieved and the general trends set in motion by these programs, and finally (4) to weigh the implications of affirmative action policies for those directly affected and for society in general.

This study draws upon the large general literature on race and sex differentials in employment, pay, and promotion prospects. In addition, it presents some original data specifically focused on academic employment, pay, and promotion. For many occupations, the fact that some of the factors determing individual qualifications for jobs are intangible makes it difficult to determine how much of the observed difference in end results is due to discriminatory treatment and how much to differences in the relevant capabilities. For the academic profession, however, many of the job qualifications that are either conceptually or statistically elusive in other occupations are spelled out—most bluntly in the "publish or perish" rule. For example, the possession or nonpossession of a Ph.D. is crucial to an academic career, and the quality of the department at which the Ph.D. was earned is of major importance at the outset of a career and exerts a continuing influence for years thereafter*. Comprehensive data available from the American Council on Education cover both the degree level of academic individuals and the respective disciplines' own rankings of the various university departments which issue those degrees, as well as the publication records and academic salaries of individuals by race and sex. In addition, the National Academy of Sciences has made available data collected by the National Science Foundation on holders of doctoral degrees (Ph.D.s, M.D.s, and other doctorates) in various fields by race and sex. In short, the academic profession offers a unique combination of known job requirements and salary data with which to determine to what extent group differences in pay represent group differences in job requirements rather than employer discrimination.

I. THE CONCEPT

Among the many distinctions that need to be made is the crucial distinction between the *general principle* of affirmative action and the specific actions taken by the courts and administrative agencies. The general principle behind affirmative action is that a court order to "cease and desist" from some harmful activity may not be sufficient to undo the harm already done or even to prevent additional harm as the result of a pattern of events set in motion by the previous illegal activity. This general principle of affirmative action goes back much further than the civil rights legislation of the 1960s and extends well beyond questions involving ethnic minorities or women. In 1935, the Wagner Act prescribed "affirmative action" as well as "cease-and-desist" remedies against employers whose anti-union activities had violated the law.[1] Thus, in the landmark *Jones & Laughlin Steel* case which established the constitutionality of the act, the National Labor Relations Board ordered the company not only to stop discriminating against employees who were union members, but also to post notices to that effect in conspicuous places and to reinstate unlawfully discharged workers with back pay.[2] Had the company merely been ordered to cease and desist from economic (and physical) retaliation against union members, the *future* effect of its *past* intimidation would have continued to inhibit the free-choice elections guaranteed by the National Labor Relations Act.

Racial discrimination is another obvious area where merely to "cease and desist" is not enough. If a firm has engaged in racial discrimination for years and has an all-white work force as a result, then simply to stop explicit discrimination will mean little as long as the firm continues to hire its current employees' friends and relatives through word-of-mouth referral. (Many firms hire in just this way, regardless of their racial policies.) Clearly the area of racial discrimination is one in which positive or affirmative steps *of some kind* seem reasonable—which is not to say that the particular policies actually followed make sense.

Many different policies have gone under the general label of affirmative action, and many different institutions—courts, executive agencies, and even private organizations—have been involved in formulating or interpreting the meaning of the label. The conflicting tendencies and pressures of these various institutions have shifted the meaning of affirmative action and produced inconsistent concepts as well. There is no way to determine the meaning of "affirmative action." All that can be done is to examine the particulars—the concepts, the intentions, and the actual effects.

In a society where people come from a wide variety of backgrounds and where some backgrounds have been severely limited by past discrimination, the very definition of equality of opportunity is elusive. For example, a seniority system in a company which previously refused to hire minority individuals means that present and future discrimination occur because of past discrimination. In 1969, the court of appeals struck down such a system on grounds of its current discriminatory effect.[3] In another 1969 case, the Supreme Court struck down a mental test for voters in a community with a long history of providing segregated and inferior education for Negroes.[4] Again the rationale was that the test represented present discrimination, considering the community's past behavior. This case touches the crucial question of what to do when the effects of past discrimination are reflected in current individual capabilities. Is equal opportunity itself discriminatory under such circumstances? If so, is anything more than equality of treatment justifiable under the Fourteenth Amendment and corollary statutes and court rulings? As important as the question of whether a legal basis exists for any compensatory or preferential treatment is the question of who should bear the inevitable costs of giving some citizens more than equal treatment. A question may also be raised as to whether compensatory or preferential treatment really serves the long-run interests of the supposed beneficiaries.

The legislative history of the Civil Rights Act of 1964 shows that many of these concerns and dilemmas were present from the outset. Senator Hubert Humphrey (Democrat, Minnesota), in helping to steer this legislation through Congress, attempted to meet criticism by pointing out that the act "does not require an employer to achieve any kind of racial balance in his work force by giving any kind of preferential treatment to any individual or group."[5] He said that there must be "an intention to discriminate" before an employer can be considered in violation of the law and that the "express requirement of intent" was meant to prevent "inadvertent or accidental" conditions from leading to "court orders."[6] Senator Joseph Clark (Democrat, Pennsylvania), another supporter, made it clear that the burden of proof was to be on the Equal Employment Opportunity Commission (EEOC) to "prove by a preponderance" that a "discharge or other personnel action was because of race"; Senator Clark added categorically: "Quotas are themselves discriminatory."[7]

Congress also faced the question of what to do about groups whose historic disadvantages left them in a difficult position when competing on tests with members of the general population. Senator John Tower (Republican, Texas) cited, as an example of what he was opposed to, a case in Illinois where a state agency had forced a company to abandon an ability test which was considered "unfair to 'culturally deprived and disadvantaged groups.' "[8] Senator Clifford Case (Republican, New Jersey) replied that "no member of the Senate disagrees" with Tower on this point, and Senator Humphrey affirmed that ability tests "are legal unless used for the purpose of discrimination."[9] Humphrey rejected Tower's proposed explicit amendment on this point because he considered it "redundant": "These tests are legal. They do not need to be legalized a second time."[10] Senator Case characterized the Illinois state agency's actions as an "abuse"[11] and insisted that the Civil Rights Act did not embody "anything like" the principle of the Illinois case.[12] Humphrey brushed aside the Illinois case as "the tentative action of one man," which he was sure the Illinois commission as a whole would "never" accept.[13]

Despite the clear intent of both the supporters and opponents of the 1964 Civil Rights Act, the actual administration of the law has led precisely in the direction which its sponsors considered impossible. The burden of proof has been put on the employer whose work force does not reflect the racial or sex proportions deemed appropriate by the federal agencies administering the law. The chairman of the Equal Employment Opportunity Commission has demanded of employer witnesses at public hearings what has been "the action taken to hire more minority people."[14] The commission's position is that "any discussion of equal employment opportunity programs is meaningful only when it includes consideration of their results—or lack of results—in terms of actual numbers of jobs for minorities and women. . . ."[15] Numbers and percentages are repeatedly invoked to show "discrimination"[16]—without any reference to individual cases or individual qualifications and with percentages below EEOC's expectations being characterized as "exclusions" or "underutilization." The notion of qualified applicants has been expanded to mean "qualified people to train"[17]—that is, people lacking the requirements of the job whom the employer would have to train at his own expense. Contrary to the congressional debates, the burden of proof has been put on the employer to show the validity of the tests used,[18] and the notion of "tests" has been expanded to include job criteria in general, whether embodied in

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*Theodore Caplow and Reece J. McGee, *The Academic Marketplace* (New York: Basic Books, Inc., 1961), p. 225; David G. Brown, *The Mobile Professors* (Washington, D.C.: American Council on Education, 1967), p. 97.

Footnotes at end of chapter.

a test or not.[19] As for employer intentions, a poster prepared by the EEOC itself includes among ten true-false questions the statement, "An employer only disobeys the Equal Employment Opportunity laws when it is acting intentionally or with ill motive"[20]—and the answer to that question is *false*. Despite Senator Humphrey's assurances about "express requirement of intent," legal action can be taken on the basis of "inadvertent or accidental" conditions.

The EEOC is only one of many federal agencies administering the Civil Rights Act in general or the affirmative action programs in particular. There are overlapping jurisdictions of the Department of Labor, the Department of Health, Education and Welfare, the Department of Justice, the EEOC, and the federal courts.[21] There are also regional offices of all these agencies which vary significantly in their respective practices.[22] Moreover, when one federal agency approves—or requires—a given course of action, following such an approved course of action in no way protects the employer from being used by another federal agency or by private individuals because of those very actions.[23] Indeed, federal agencies have sued one another under this act.[24] In short, the meaning of the act is not clear even to those intimately involved in its administration.

The courts have not gone as far as the administrative agencies in forcing numerical "goals and timetables" on employers. Numerical specifications have typically been invoked by courts only where there has been demonstrable discrimination by the particular employer in question—not simply where there are "wrong" racial proportions. In this specific context, numerical goals are "a starting point in the process of shaping a remedy" for "past discriminatory hiring practices" by the employer to whom the court order applies.[25] In the landmark case of *Griggs* v. *Duke Power Company*, the Supreme Court included the company's past record of racial discrimination as a reason why the company could not use tests which (1) eliminated more black job applicants than white job applicants and (2) had no demonstrated relationship to actual job performance.[26] In general, the courts have rejected the notion that "any person be hired simply because he was formerly the subject of discrimination, or because he is a member of a minority group. . . ."[27]

Legal remedies under the Civil Rights Act and related executive orders of the President range from cease-and-desist orders through individual reinstatement and group preferential hiring to the cutting off all federal contracts to the offending employer. The latter is a virtual sentence of death to any leading research university, whether public or "private," for they are all dependent upon federal money to maintain their competitive standing and will sustain a massive loss of top faculty without it.

FOOTNOTES

[1] Section 10(c) of the National Labor Relations Act of 1935.

[2] Harry A. Millis and Emily Clark Brown, *From the Wagner Act to Taft-Hartley* (Chicago: University of Chicago Press, 1950), p. 97.

[3] Local 189, United Papermakers and Paperworkers, AFL-CIO vs. United States, 416 F.2d 980 (1969).

[4] Gaston County vs. United States, 395 U.S. 285 (1969).

[5] U.S. Equal Employment Opportunity Commission, *Legislative History of Titles VII and XI of Civil Rights Act of 1964* (Washington, D.C.): U.S. Government Printing Office, n.d.), p. 3005. Hereafter referred to as *Legislative History*.

[6] Ibid., p. 3006.

[7] Ibid., p. 3015.

[8] Ibid, p. 3134.

[9] Ibid., p. 3160.

[10] Ibid.

[11] Ibid., p. 3131.

[12] Ibid., p. 3161.

[13] Ibid., p. 3131.

[14] *Hearings before the United States Equal Employment Opportunity Commission on Discrimination in White Collar Employment.* Hearings held in New York, New York, January 15–18, 1968 (Washington, D.C.: U.S. Government Printing Office, n.d.), p. 110. Hereinafter cited as *EEOC Hearings, New York, 1969.*

[15] *Hearings before the Equal Employment Opportunity Commission on Utilization of Minority and Women Workers in Certain Major Industries.* Hearings held in Los Angeles, California, March 12–14, 1969. Hereinafter cited as *EEOC Hearings, Los Angeles, 1969.*

[16] *EEOC Hearings, New York, 1969,* pp. 1, 4–13, 161, 169, 444.

[17] Ibid., p. 303.

[18] "Employment Discrimination and Title VII of the Civil Rights Act of 1964," *Harvard Law Review,* March 1971, pp. 1132–1139.

[19] Richard A. Lester, *Antibias Regulation of Universities* [New York: McGraw-Hill Company, 1974], p. 126n.

[20] G.P.O. 870–933.

[21] Lester, *Antibias Regulation,* pp 3–4.

[22] Ibid., pp. 89–91.

[23] Ibid., pp. 90, 117.

[24] Francis Ward, "U.S. Agencies Clash in Rights Lawsuit," *Los Angeles Times,* April 27, 1975, Part IV, p. 1 ff.

[25] Carter vs. Gallagher, 452 F.2d 315 [1971], as reported in 452 *Federal Reporter,* 2d series, p. 331.

[26] 401 U.S. 424 [1971].

[27] Ibid., pp. 430, 431.

II. THE PROBLEM

There is little real question that if one goes back a number of years one finds a pervasive pattern of discrimination against minorities in academic employment. This applies not only to blacks and other minorities regarded as "disadvantaged," but also to Jews, who were effectively excluded from many leading university faculties before World War II.[1] The situation of women is somewhat more complicated and so will be deferred for the moment. However, the question that is relevant to affirmative action programs for both minorities and women is, what was the situation at the onset of such programs and how has the situation changed since?

While colleges and universities were subject to the general provisions of the Civil Rights Act of 1964 and to subsequent executive orders authorizing cancellation of federal contracts for noncompliance,[2] the *numerical proportions* approach dates from the Labor Department's 1968 regulations as applied to academic institutions by the Department of Health, Education and Welfare.[3] More detailed requirements—including the requirement of a written affirmative action program by each institution—were added in Revised Order No. 4 of 1971,[4] which contains the crucial requirement that to be "acceptable" an institution's "affirmative action program must include an analysis of areas within which the contractor is deficient in the utilization of minority groups and women" and must establish "goals and timetables" for increasing such "utilization" so as to remedy these "deficiencies."[5]

For purposes of establishing a chronology, 1971 may be taken as the beginning of the application of numerical goals and timetables to the academic world. The question thus becomes, what were the conditions in academic employment, pay, and promotions as of that date? For minorities in general, and blacks in particular as the largest minority *virtually nothing* was known about academic employment conditions at that point. Assumptions and impressions abounded, but the first national statistical study of the salaries of black academics is that published in 1974 by Professor Kent G. Mommsen of the University of Utah.[6] In short, affirmative action programs had been going full blast for years before anyone knew the dimensions of the problem to be solved. Professor Mommsen's data for the academic year 1969–70 show a grand total of $62 per year salary difference between black Ph.D.s and white Ph.Ds.[7] An earlier study by Professor David Rafky found that only 8 percent of black academics in white institutions regarded themselves as having personally experienced discrimination in their careers.[8]

These data may seem to be sharply at variance with data showing numerical "underutilization" of minorities in the white academic world, and it is these latter data which HEW and other supporters of affirmative action rely upon. There are some rather simple and straightforward reasons why the percentage of blacks (or minorities in general) in the academic world (or at white institutions) is smaller than their percentage in the general population:

(1) Only a very small proportion of blacks meet the standard requirements of a Ph.D. for an academic career. Less than 1 percent of the doctorates earned in the United States are received by blacks and, despite many special minority programs and much publicity, less than 2 percent of graduate students are black.[9] Various surveys and estimates show less than 4,000 black Ph.D.s in the United States.[10] This is less than two black Ph.D.s for every American college or university—regardless of what goals and timetables may be set.

(2) Most black academics teach at black colleges and black universities,[11] and so do not show up in the predominantly white institutions where affirmative action data are collected. Nor are these black academics eager to leave and join white faculties elsewhere: the average salary increase required to induce black academics to move was over $6,000 a year in 1970.[12] The crucial element of individual choice is left out of the affirmative action syllogism that goes from numerical "underrepresentation" to "exclusion." One study (by strong supporters of affirmative action) showed that some black academics refuse even to go for an interview at institutions that do not have a black community nearby.[13]

(3) The career characteristics of most black academics do not match the career characteristics of white (or black) faculty at the leading research universities that are the focus of affirmative action pressures. This is particularly true of the two key requirements at research universities—the Ph.D. and research publications. A survey of the faculty at black private colleges and universities found that only 25 percent had a doctorate and only 4 percent had ever published in a scholarly journal.[14] None of this is surprising, given the history of blacks in the United States. Nor should it be surprising that academics with those characteristics prefer to remain at teaching institutions rather than move to research universities.

None of this disproves the existence of discrimination in the academic world. It merely indicates that numerical underrepresentation is not automatically equivalent to discrimination. More fundamentally, it makes discrimination an empirical question—not something to be established intellectually by sheer force of preconception or to be established administratively by simply putting a never-ending burden of proof (or disproof) on institutions. For both minorities and women, a distinction must be made between saying that there is discrimination in general and establishing the particular *locus* of that discrimination. Even the most casual

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Footnotes at end of chapter.

acquaintance with American history is sufficient to establish the existence of discrimination against blacks. The question is whether the statistical end results so emphasized by HEW are *caused* by the institutions at which the statistics were gathered.

The extent to which the patterns of minorities can be generalized to women is also ultimately an empirical question. In some specific and important respects, academic women are quite different from minority academics:

(1) Women have not risen to their present proportions among college and university faculty from lower proportions in earlier eras, despite a tendency towards such fictitious parallelism in the literature.[15] Women constituted more than 30 percent of all faculty members in 1930, and the proportion declined over the next thirty years to about 20 percent in 1960. Women reached a peak of nearly 40 percent of all academic personnel (faculty and administrators) in 1879, with fluctuations, generally downward, since then.[16] Similar declines have occurred in the representation of women in other high-level professions over a similar span, both in the United States and in Europe.[17] It is not merely that much of the assumed history of women is wrong but, more important, that the *reason* for current female disadvantages in employment, pay, and promotion are misunderstood as a result. The declining proportions of female academics occurred over a period of rising rates of marriage among academic women,[18] and a period or rising birth rates among white women in general.[19] In short, there is at least prima facie evidence that domestic responsibilities have had a major impact on the academic careers of women over time—which raises the question whether domestic responsibilities should not be investigated further as a factor in current female career differences from males, rather than going directly from numerical "underrepresentation" to "exclusion" and "discrimination."

(2) Women have administered and staffed academically top-rated colleges for more than a century.[20] in contrast to the black colleges which have never had top-rated students or faculty.[21] Although women's colleges such as Bryn Mawr, Smith, and Vassar have been teaching institutions rather than research universities, their students have been quite similar academically to those in the research universities and their faculty typically has had training similar to that of the faculties of research institutions. In fact, in some instances, these women's colleges have been part of research universities (Radcliffe, Barnard, Pembroke, and so on). In short academic women have had both higher academic standing than minorities and readier access to faculty positions at research universities. Information barriers in particular have been far less important in the case of women than in the minority case, and word-of-mouth methods of communication among prestige institutions have included women for a longer time.

The point here is not to minimize women's problems but to point out that they are in some ways distinct from the problems of minorities. In other ways, of course, they are similar. For example, women academics also do not publish as much as academics in general,[22] and women academics do not have a Ph.D. as often as other academics.[23] But in the crucial area of salary, not only do women academics average less than men, [24] but also female Ph.D.s average significantly less than male Ph.D.s.[25] In short, women in academia face a different, though overlapping, set of problems from those faced by minorities in academia.

In addition to questions about the HEW "solution" for minorities, there may be additional questions about the simple extension of the minority solution to women by Executive Order No. 11375.

It must be emphasized that all the statistics cited thus far are for the academic world *prior* to affirmative action. They are intended to give a picture of the dimensions and nature of the problem that existed so as to provide a basis for judging the necessity of what was done under affirmative action programs. Now the results of those programs can also be considered.

FOOTNOTES

[1] Michael R. Winston, "Through the Back Door: Academic Racism and the Negro Scholar in Historical Perspective," *Daedalus*, vol. 100, no. 3 (Summer 1971), p. 695.

[2] Lester, *Antibias Regulation*, pp. 3–4.

[3] Ibid., pp. 62–63.

[4] Ibid., p. 76.

[5] Ibid.

[6] Kent G. Mommsen, "Black Doctorates in American Higher Education: A Cohort Analysis," *Journal of Social and Behavioral Science*, Spring 1974.

[7] Ibid., pp. 104, 107.

[8] David Rafky, "The Black Academic in the Marketplace," *Change*, vol. 3, no. 6 (October 1971) p. 65. A sharp distinction must be made between personal experience of discrimination and general opinions that discrimination exists. Both minorities and women report very little personal experience of discrimination and at the same time a widespread impression that discrimination is pervasive. See "Discrimination: A Cautionary Note," *Law and Liberty*, vol. 1, no. 3, p. 11. Similar inconsistencies are found in opinion surveys of the general population. See Ben J. Wattenberg, *The Real America* (Garden City: Doubleday & Co., Inc., 1974), pp. 196, 198.

[9] Kent G. Mommsen, "Black Ph.D.'s in the Academic Marketplace," *Journal of Higher Education*, vol. 45, no. 4 (April 1974), p. 253.

[10] Ibid., p. 256.

[11] Ibid., p. 258.

[12] Ibid., p. 262.

[13] William Moore, Jr. and Lonnie H. Wagstaff, *Black Educators in White Colleges* (San Francisco: Jossey-Bass Publishers, 1970), pp. 64–65.

[14] Daniel C. Thompson, *Private Black Colleges at the Crossroads* (Westport, Conn.: Greenwood Press, Inc., 1973), p. 155. See also Moore and Wagstaff, *Black Educators in White Colleges*, pp. 142–143.

[15] For example, the "remarkable record of women's progress through the professional ranks of a hitherto rigid academic system." *Change*, vol. 7, no. 4 (May 1975), back cover.

[16] Jessie Bernard, *Academic Women* (University Park: Pennsylvania State University Press, 1964), p. 39.

[17] John B. Parrish, "Professional Womanpower as a National Resource." *Quarterly Review of Economics and Business*, Spring 1961, pp. 58–59.

[18] Bernard, *Academic Women*, p. 206.

[19] Ibid., p. 74.

[20] Ibid., pp. 2–3, 31–32, 38n–39n.

[21] Christopher Jencks and David Riesman, "The American Negro College," *Harvard Educational Review*, vol. 37, no. 1 (Winter 1967), pp. 3–60; Thomas Sowell, *Black Education: Myths and Tragedies* (New York: David McKay Co., 1972), pp. 255–259.

[22] Lester, *Antibias Regulation*, p. 47.

[23] Ibid., p. 42.

[24] Juanita Kreps, *Sex in the Marketplace* (Baltimore: Johns Hopkins Press, 1971), p. 52.

[25] Rita James et al., "The Woman Ph.D., A Recent Profile," *Social Problems*, vol. 15, no. 2 (Fall 1967). pp. 227–228.

III. THE RESULTS

The academic employment situation has been described in terms of rough global comparisons—black-white or male-female. Finer breakdowns are necessary in order for us to determine the effects of many variables which differ between the groups whose economic conditions are being compared. Some of these intergroup differences have already been mentioned—educational differences and differences in publications, for example—but there are others as well. If discrimination is to mean unequal treatment of equal individuals, then comparisons must be made between individuals who are similar with respect to the variables which generally determine employment, pay, and promotion. Only insofar as we succeed in specifying all these variables can we confidently refer to the remaining economic difference as "discrimination." One of the perverse aspects of this residual method of measuring discrimination is that the more determining variable that are overlooked or ignored, the more discrimination there seems to be. Since no study can specify all relevant variables, the residual pay differences between minority and female academics, on the one hand, and white males, on the other, must be understood as the upper limit of an estimate of discriminatory differences.

For both sets of comparisons, the data sources are the American Council on Education (ACE) and the National Academy of Science (NAS). The ACE data are based a sample of 60,028 academicians surveyed in 1969 and a sample of 50,034 academicians surveyed in 1972. The NAS data are from (1) a National Science Foundation survey conducted in 1973, based on a stratified sample of 59,086 doctorates in the social and natural sciences and engineering[1] and (2) a longitudinal compilation by NAS of biennial surveys of the same target population by the National Science Foundation during 1960–70.

Minorities

Existing studies of black faculty members show many ways in which their job-related characteristics differ from those of faculty members in general. All these differences tend to have a negative impact on employment, pay, and promotion for academics in general:

(1) A smaller proportion of black faculty than of white faculty holds a doctoral degree.[2]

(2) The distribution of black doctoral fields of specialization is biased towards the lower-paying fields—particularly education (roughly one-third of all black doctorates) and the social sciences (one-fourth)—with very few (about 10 percent) of the doctorates in the natural sciences.[3]

(3) The bulk of black faculty is located in the South[4]—a lower-paying region for academics in general,[5] as well as for others.

(4) Blacks complete their Ph.D.s at a later age than whites[6]—a reflection of both financial and educational disadvantages—and academics in general who complete their Ph.D.s at a later age tend to be less "productive" in research publications.

(5) Black academics, both at black colleges and at white institutions, publish much less than white academics.[7] Among the factors associated with this are much higher teaching loads and late completion of the Ph.D.

(6) Black academics are less mobile than white academics—and less mobile academics tend to earn lower salaries. Forty percent of the black professors in the Mommsen study had not moved at all, despite an average of three or four job offers per year,[8] and the median pay increase which they considered necessary to make them move was a $6,134 per year raise.[9] By contrast, among faculty in general, "the academic career is marked by high mobility,"[10] and "professors expect to switch schools several times, at least, during their careers."[11]

Footnotes at end of chapter.

(7) Women constitute a higher proportion (20 percent) of black doctorates than of doctorates in general (13 percent)[12]—and women earn less than men among both blacks and whites.

With all these downward biases, it is worth noting once again that the academic salaries of white doctorates averaged only $62 per year more than those of black doctorates in 1970. On a field-by-field basis, black doctorates were generally earning more than white doctorates in the same area of specialization and receiving more job offers per year[13]—all this before the affirmative action program under Revised Order No. 4 in 1971. In other words, the effect of the straightforward antidiscrimination laws of the 1960s and of the general drive toward racial integration had created a premium for qualified black academics, even before HEW's goals and timetables. Moreover, the improvements that have occurred since then need not be due to HEW pressures but may be thought of as a continuation of trends already evident before affirmative action programs began.

The data from the American Council on Education permit a standardization for degree level, degree quality, field of specialization, and number of articles published, so that the salaries of blacks, whites, and Orientals who are comparable in these respects may be compared. Table 1 omits field of specialization to give a general view of race and salary in the academic world as a whole. Degree rankings in the table are based on surveys conducted by the ACE to determine the relative rankings of Ph.D.-granting departments in twenty-nine disciplines, as ranked by members of those respective disciplines. (I have collapsed the two departmental rankings, "distinguished" and "strong," into one category in order to maintain a large sample size.) Articles published were selected as a proxy for publication in general, avoiding the problem of trying to convert books, monographs, conference papers, and articles into some equivalent.

My results for 1973 [Table 1] are generally not very different from those of Professor Mommsen for 1970: white faculty earned slightly more than black faculty in general ($16,677 versus $16,037). But when degree level and degree quality are held constant, blacks earned more than white with doctorates of whatever ranking, while whites had an edge of less than $100 per year among academics without a doctorate. The overall salary advantage of whites over blacks—$640 per year—is a result of a different distribution of the races among degree levels and degree qualities, as well as a different distribution among publication categories. For example, 11 percent of the white faculty members in the ACE samples had Ph.D.s from departments ranked either "distinguished" or "strong" by their respective professions, while only 4 percent of the black faculty came from such departments. Only 18 percent of the black academics in this sample had a doctorate at all, compared to 38 percent of the white academics. Thirty-one percent of the white faculty had published five or more articles while only 12 percent of the black faculty had done so. Blacks who had published at all had higher salaries than whites with the same number of publications.

Orientals present a somewhat different picture. Only those Orientals with "distinguished" and "strong" Ph.D.s received slightly higher salaries than their white counterparts ($18,235 versus $17,991), and even this difference was not uniform across publications categories. Among the lower-ranked doctorates, both white and blacks earned more than Orientals, and among those with less than a doctorate, considerably more. The overall salary average of Orientals was only slightly below that of blacks, but solely because Orientals were far more concentrated in the higher degree levels and higher degree qualities. Less than half of the Oriental faculty members lacked the Ph.D. and more than 40 percent of all Oriental faculty had published five or more articles. In short, just as group differentials do not imply discrimination, so an absence of such differentials does not imply an absence of discrimination. Orientals receive less than either blacks or whites with the same qualifications, and only the fact that the Orientals have generally better qualifications than either of the other two groups conceals this.

When field-by-field comparisons are made, very similar patterns emerge. In the social sciences, blacks have higher salaries than whites or Orientals, and especially so among holders of Ph.D.s from "distinguished" and "strong" departments (Table 2). In the natural sciences (Table 3) and the humanities (Table 4), whites lead, with blacks second in the humanities and Orientals second in the natural sciences. A comparison of overall sample size from one table to another reveals very different distributions of these racial groups among academic fields: 37 percent of all black faculty members were in the social sciences, 23 percent were in the humanities, and only 16 percent were in the natural sciences. By contrast, 44 percent of the Orientals were in the natural sciences, 28 percent in the social sciences, and only 16 percent in the humanities. Whites were distributed more or less midway between blacks and Orientals: 30 percent in the social sciences, 24 percent in the humanities, and 25 percent in the natural sciences. Again, the net effect of these distributions is to exaggerate the overall salary differences between blacks and whites and to understate salary differences between Orientals and whites.

Footnotes at end of chapter.

TABLE 1.—MEAN ANNUAL SALARIES OF FULL-TIME FACULTY, 1972–73

Race and articles published	Degree quality									
	Total		"Distinguished" and "strong" Ph. D.'s		Lower-ranked Ph. D.'s		Unranked doctorates		Less than Ph. D.	
	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size
Whites	$16,677	359,828	$17,991	39,603	$17,414	51,490	$18,179	44,224	$15,981	224,510
5 or more	19,969	111,160	20,073	22,741	19,334	28,014	20,008	24,886	20,376	35,519
1 to 4 articles	15,702	101,132	15,486	11,700	15,252	15,820	16,153	12,457	15,767	61,156
No articles	14,780	142,869	14,013	4,653	14,507	6,948	14,977	6,348	14,814	124,920
No response	17,488	4,667	18,918	509	18,323	709	18,285	534	16,889	2,915
Blacks	16,037	9,273	20,399	352	19,014	550	20,499	730	15,195	7,640
5 or more	22,583	1,115	21,211	181	21,877	293	28,783	249	19,797	391
1 to 4 articles	16,430	2,348	19,124	100	16,139	158	17,165	279	16,194	1,812
No articles	14,586	5,559	16,557	54	15,188	93	13,853	173	14,580	5,240
No response	15,403	251	31,000	18	14,000	6	20,896	29	13,244	197
Orientals	15,419	4,678	18,235	740	17,035	1,248	16,724	785	12,727	1,905
5 or more	17,190	2,029	17,485	467	18,158	740	18,035	503	13,182	319
1 to 4 articles	15,082	948	21,084	220	14,869	224	14,539	155	11,674	348
No articles	13,200	1,651	13,091	46	15,813	276	13,899	120	12,538	1,209
No response	23,176	50	13,000	7	15,909	7	19,131	7	28,679	28

Source: American Council on Education

TABLE 2—MEAN ANNUAL SALARIES OF FULL-TIME FACULTY IN THE SOCIAL SCIENCES, 1972–73

Race and articles published	Degree quality									
	Total		"Distinguished" and "strong" Ph. D.'s		Lower-ranked Ph. D.'s		Unranked doctorates		Less than Ph. D.	
	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size
Whites	$16,872	108,733	$18,369	17,307	$17,192	16,680	$18,132	10,417	$16,182	64,329
5 or more	19,924	30,623	20,753	9,563	19,161	7,939	20,105	4,295	19,623	8,827
1 to 4 articles	16,117	34,213	15,618	5,339	15,620	5,930	17,508	3,362	16,165	19,582
No articles	15,263	42,216	14,413	2,141	14,618	2,579	15,770	2,626	15,325	34,870
No response	17,040	1,681	19,728	264	18,583	232	16,832	135	16,050	1,050
Blacks	17,527	3,373	20,451	186	20,344	222	20,487	326	16,718	2,639
5 or more	24,088	381	21,370	109	22,676	128	31,434	97	19,240	48
1 to 4 articles	15,162	977	19,688	66	17,919	54	18,176	103	14,154	754
No articles	17,793	1,914	15,813	11	16,232	40	13,324	121	18,152	1,742
No response	10,540	100					30,000	5	9,509	95
Orientals	15,089	1,313	18,844	203	16,449	324	13,338	70	13,581	717
5 or more	15,653	350	18,204	101	18,700	95	16,216	7	11,931	148
1 to 4 articles	17,042	253	22,897	69	14,836	96	12,445	22	15,649	67
No articles	14,115	710	12,317	33	16,004	134	13,351	41	13,793	502
No response										

Source: American Council on Education.

TABLE 3—MEAN ANNUAL SALARIES OF FULL-TIME FACULTY IN THE NATURAL SCIENCES, 1972–73

	Degree quality									
	Total		"Distinguished" and "strong" Ph. D.'s		Lower-ranked Ph. D.'s		Unranked doctorates		Less than Ph. D.	
Race and articles published	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size
Whites	$17,225	91,411	$18,377	12,457	$18,130	25,282	$18,361	12,575	$15,972	41,098
5 or more	19,469	43,243	19,535	8,946	19,527	16,746	19,339	9,228	19,426	8,324
1 to 4 articles	15,735	22,667	15,442	2,863	15,259	6,446	15,342	2,739	16,203	10,619
No articles	14,618	24,571	14,268	487	15,206	1,774	16,030	427	14,551	21,882
No response	18,090	929	18,646	160	19,069	316	19,651	181	15,589	272
Blacks	15,176	1,474	20,436	78	17,950	243	18,383	167	13,535	986
5 or more	20,640	366	20,837	51	20,445	136	24,069	57	19,180	122
1 to 4 articles	14,562	410	18,023	16	14,560	76	16,444	70	13,817	248
No articles	12,051	639	22,000	11	15,672	25	13,779	41	11,572	562
No response	19,365	60			14,000	6			20,000	53
Orientals	16,797	2,035	18,145	490	17,709	754	17,132	441	12,520	349
5 or more	17,852	1,320	17,276	342	18,301	588	18,135	319	15,646	71
1 to 4 articles	16,417	415	20,672	137	15,793	101	14,568	84	12,498	93
No articles	12,466	281	15,000	4	15,344	61	13,311	31	11,333	186
No response	15,902	19	13,000	7	15,000	4	19,131	7		

Source: American Council on Education.

TABLE 4.—MEAN ANNUAL SALARIES OF FULL-TIME FACULTY IN THE HUMANITIES, 1972–73

	Degree quality									
	Total		"Distinguished" and "strong" Ph. D.'s		Lower-ranked Ph. D.'s		Unranked doctorates		Less than Ph. D.	
Race and articles published	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size	Salary	Population size
Whites	$15,572	85,904	$16,832	9,765	$15,659	9,084	$15,925	8,810	$15,293	58,242
5 or more	18,425	17,001	19,707	4,165	18,399	2,954	18,414	3,681	17,584	6,204
1 to 4 articles	15,419	23,923	15,315	3,490	14,573	3,381	14,776	3,048	15,789	14,009
No articles	14,497	43,751	13,530	2,025	13,920	2,594	13,059	1,943	14,667	37,140
No response	17,313	1,228	16,911	85	16,227	154	16,173	99	17,666	895
Blacks	15,034	2,177	20,259	89	16,743	74	17,650	99	14,590	1,910
5 or more	16,221	135	22,296	21	21,513	19	21,507	15	12,658	88
1 to 4 articles	21,354	604	18,000	18	16,972	28	16,172	61	22,348	498
No articles	11,869	1,347	14,955	32	13,201	27			11,764	1,289
No response	18,175	91	31,000	18			19,000	24	13,161	43
Orientals	13,005	757	16,561	47	14,860	146	16,003	90	11,509	479
5 or more	14,629	199	17,443	24	14,922	33	17,544	63	11,294	73
1 to 4 articles	10,317	239	16,110	14	11,557	27	11,738	15	9,579	183
No articles	13,000	306	15,000	9	15,487	82	13,000	12	11,753	209
No response	39,032	12			17,000	3			47,393	

Source: American Council on Education.

The National Academy of Sciences data confirm some of these patterns and reveal some new ones. NAS data for full-time doctoral scientists and engineers (academic and nonacademic) show blacks earning slightly more than whites, with Orientals last—and a spread of only $1,500 per year over all three groups (Table 5). Publications data are not available for this survey but age was tabulated as a proxy for experience. Degree quality was again available, and again Orientals with given credentials quality had lower salaries than either blacks or whites in the same categories. In all three groups, salary rises with age, but the *relative* positions of blacks and whites are *reversed* in the oldest and youngest age brackets. Young black doctorates—under thirty-five—earn more than their white counterparts in either degree quality category, but older blacks—over fifty—earn *less* than their white counterparts in either degree quality category. These results hold up when the sample is broken down into natural sciences and social sciences. It is also consistent with a larger study by Professor Finis Welch of UCLA which showed a much higher rate of return to education for younger blacks than for older blacks—both absolutely and relative to their white counterparts.[14] Two important factors are involved here: (1) the older blacks were educated in an era when their public school education was inferior not only by various quality measures but also in sheer quantity (black schools had fewer days than white schools in their respective school years),[15] and this poorer preparation could not help affecting later capability, and (2) the level of job discrimination was also greater when the older blacks began their careers, and this too could not help affecting the later course of those careers, making it difficult for these blacks to exploit new opportunities as readily as the younger blacks just beginning their careers. A further implication of all this is that global comparisons of blacks and whites capture many existing effects of past discrimination, while an age-cohort breakdown of the same data permits a better look at the current results of current policies and the trends to expect in the future.

Footnotes at end of article.

TABLE 5.—MEDIAN ANNUAL SALARIES OF FULL-TIME SCIENTISTS AND ENGINEERS, BY RACIAL GROUP AND DEGREE QUALITY, 1973

	Degree quality					
	Total		"Distinguished" and "strong" Ph. D.'s		Other	
Race and age group	Salary	Sample size	Salary	Sample size	Salary	Sample size
Whites	$20,988	28,048	$22,146	8,589	$20,275	19,459
Under 35 yr.	17,228	6,615	17,879	1,827	16,933	4,788
35 to 49	21,757	14,024	22,480	4,167	21,342	9,857
50 plus	25,357	7,409	26,333	2,595	24,704	4,814
Blacks	21,445	261	23,268	54	20,597	207
Under 35 yr.	18,660	44	20,476	4	18,396	40
35 to 49	21,256	149	22,998	26	20,668	123
50 plus	23,460	68	24,307	24	22,770	44
Orientals	20,005	1,087	20,222	330	19,862	757
Under 35 yr.	16,230	210	18,162	60	15,364	150
35 to 49	20,613	676	20,378	206	20,761	470
50 plus	23,261	201	22,429	64	23,660	137

Source: 1973 Survey of Doctoral Scientists and Engineers, National Research Council, National Academy of Sciences.

In summary, the salary differentials among these three racial or ethnic groups are small, both in the academic world and among holders of the doctorate in the social or natural sciences (academic and nonacademic). With such variables as credentials, publications, and experience held constant, blacks equalled or surpassed whites in 1973—but they also equalled or surpassed whites with fields held constant in 1970. Without these variables held constant, the overall black-white differential was $62 per year in 1970 and $640 in 1973. Given that these are different samples, it is perhaps best to say that there were negligible overall differences among black and white academics in both years—that affirmative action has achieved nothing discernible in this regard. But if an arithmetic conclusion is insisted upon, then it must be said that there has been a negative effect of affirmative action as far as black-white differences are concerned.

Women

The classic study Academic Women by Jessie Bernard described women as "overrepresented in college teaching." This was based on the fact that women were only 10 percent of the Ph.D's but constituted more than 20 percent of college and university facilities.[16] This was written in 1964—before affirmative action. Unlike HEW's crude "underutilization" measures, this study (by an academic woman) considered not only the number of women with the usual degree requirements but also "the large number of educated women—30.6 percent of those with five years or more of college—who are not in the labor force."[17] Withdrawal from the labor force is only one of many career characteristics which have a negative effect on the employment, pay, and promotion of academic women. Some others are:

(1) Female academics hold a doctorate less frequently than male academics—20 percent as against 40 percent in 1972–73.[18]

(2) Female academics publish only about half as many articles and books per person as do male academics,[19] and females are especially underrepresented among frequent publishers.[20]

(3) Academic women are educated disproportionately in lower-paying fields of specialization, such as the humanities,[21] and they prefer teaching over research more so than academic men, not only in attitude surveys,[22] but also in their allocation of time[23] and in the kinds of institutions at which they work[24]—which are the low-paying teaching institutions more so than the top research universities with high salaries.

(4) Academic women more frequently subordinate their careers to their spouses' careers, or to the general well-being of their families, than do academic men. This takes many forms, including quitting jobs they like because their husbands take jobs elsewhere,[25] interrupting their careers for domestic reasons,[26] withdrawing from the labor force (25 percent of women Ph.D.s),[27] doing a disproportionate share of household and social chores compared to their husbands in the same occupations,[28] and a general attitude reported by women themselves of putting their homes and families ahead of their careers much more often than do male academics.[29] All this goes to the heart of the question of the actual source of sex differentiation—whether it is the home or the work place, and therefore whether "equal treatment" as required by the Constitution and envisioned in the Civil Rights Act would eliminate or ensure unequal results by sex.

None of these factors disproves the existence of sex discrimination; but they do mean that attempts to measure sex discrimination must be unusually careful in specifying the relevant variables which must be equal before remaining inequalities can be considered "discrimination." Unfortunately, such care is not evident in HEW pronouncements or in much of the literature supporting affirmative action. Even the comprehensive studies by Helen S. Astin and Alan E. Bayer make the fatal mistake of holding marital status constant in comparing male-female career differences.[30] But marriage has opposite effects on the careers of male and female academics, advancing the man professionally and retarding the woman's progress. Not only do the men and women themselves say so,[31] but the Astin-Bayer data (and other data) also show it.[32] Therefore to treat as "discrimination" all residual differences for men and woman of the "same" characteristics—including marriage—is completely invalid and misleading.

Marriage is a dominant—and negative—influence on academic women's careers. A study of academics who had received their Ph.D's many years earlier showed that 69 percent of the total—mostly men—had achieved the rank of full professor, as had 76 percent of the single women but only 56 percent of the married women.[33] In short, many of the statistical differences between the broad categories "men" and "women" are to a large extent simply differences between married women and all other persons. It is an open question how much of the residual disadvantages of single academic women is based upon employer fears of their becoming married academic women and acquiring the problems of that status. One indication of the difficulty of successfully combining academic careers with the demands of being a wife and mother is that academic women are married much less frequently than either academic men or Ph.D's in nonacademic fields,[34] are divorced more frequently,[35] and have fewer children than other female Ph.D's.[36]

Much of the literature on women in the labor market denies that "all" women, "most" women, or the "typical" woman represent special problems of attrition, absenteeism and other characteristics reflecting the special demands of home on women. For example, the "typical woman economist" has not given up her job to move because of her husband's move, but 30 percent of the women economists do, while only 5 percent of male economists accommodate their wives in this way.[37] Similarly, while *most* female Ph.D.s in economics have not interrupted their careers, 24 percent had interrupted their careers prior to receiving the degree (compared to 2 percent of the men) and "another 20 percent" afterwards (compared to 1 percent of the men).[38] These are clearly substantial percentages of women and several-fold differentials between men and women.

The literature on women workers in general makes much of the fact that *most* women "work to support themselves or others," not just for incidental money.[39] However, this does not alter the facts (1) that women's labor force participation rates are substantially lower than men's[40] and (2) that married women's labor force participation declines as their husbands' incomes rise.[41] This is also true of academic women.[42]

In considering global male-female differences in career results, the question is not whether "most" women have certain negative career characteristics but whether a significant percentage do and whether that percentage is substantially different from that of men. Moreover, it is not merely the individual negative characteristics that matter but their cumulative effects on male-female differentials in employment, pay, and promotion. Nor can these differences in career characteristics be dismissed as subjective employer perceptions or aversions.[43] They represent in many cases *choices* made outside the work place which negatively affect women's career prospects. As one woman researcher in this area has observed: "One way of insuring that the academic husband's status will be higher than his academic wife's is to allow the husband's job opportunities to determine where the family lives."[44] But regardless of the wisdom or justice of such a situation, *it is not employer discrimination*, even though it may lead to statistical male-female differences between persons of equal ability.

One of the fertile sources of confusion in this area is the thoughtless extension of the "minority" paradigm to women. It makes sense to compare blacks and whites of the same educational levels because education has the same positive effect on black incomes and white incomes, though not necessarily to the same extent. It does not make sense to compare men and women of the same marital status because marital status has opposite effects on the careers of men and women. Minorities have serious problems of cultural disadvantages, so that faculty members from such groups tend to have lower socioeconomic status and lower mental test scores than their white counterparts,[45] and black colleges and universities have never been comparable to the best white colleges and universities,[46] whereas female academics come from higher socioeconomic levels than male academics,[47] female Ph.D.s have higher IQs than male Ph.D's in field after field,[48] and the best women's colleges have had status and student SAT levels comparable to those of the best male or coeducational institutions. Women have been part of the cultural, informational, and social network for generations, while blacks and even Jews have been largely excluded until the past generation. While minorities have been slowly rising in professional, technical, and other high-level positions over the past 100 years, women have declined in many such areas over the same period, even in colleges institutionally operated by women,[49] so that employer discrimination can hardly explain either the trend or the current level of "utilization" of women. Marriage and childbearing trends over time are highly correlated with trends of women's participation in high-level occupations, as well as being correlated with intra-group differences among women at a given time. In short, women are not another "minority," either statistically or culturally.

When male-female comparisons are broken down by marital status and other variables reflecting women's domestic responsibilities, some remarkable results appear. Although women in the economy as a whole earn less than half as much annually as men,[50] with this ratio *declining* from 1949 to 1969,[51] the sex differentials narrow to the vanishing point—and in some cases are even reversed—when successive corrections are made for

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Footnotes at end of chapter.

marital status, full-time as against part-time employment, and continuous years of work. For example, in 1971 women's median annual earnings were only 40 percent of those of men, but when the comparison was restricted to year-around, full-time workers, the figure rose to 60 percent, and when the comparison was between single women and single men in the same age brackets (thirty to forty-four) with continuous work experience, "single women who had worked every year since leaving school earned slightly more than single men." [52] These are government data for the economy as a whole.

The severe negative effect of marriage on the careers of women is not a peculiarity of the academic world. Other nationwide data on sex differences show single women's incomes ranging from 93 percent of single men's income at ages twenty-five to thirty-four to 106 percent in ages fifty-five to sixty-four [53]—that is, after the danger of marriage and children are substantially past. For women already married, the percentages are both lower and decline with age—ranging from 55 percent of married men's incomes at ages twenty-five to thirty-seven to only 34 percent at ages fifty-five to sixty-four.[54] Apparently early damage to a woman's career is not completely recouped—at least not relative to men who have been moving up occupationally as they age while their wives' careers were interrupted by domestic responsibilities. In the early years of career development, single women's labor force participation rates are rising sharply, while those of married women are declining sharply.[55] Again, the data suggest that what are called "sex differences" are largely differences between married women and all others, and that the origin of these differences is in the division of responsibilities in the family rather than employer discrimination in the work place. The increasing proportion of married women in the work force over time [56] has been a major factor in the decline of the earnings of women relative to men.

Academic women show similar patterns. For example, the institutional employment of married women is "determined to a large extent" by the location of their husbands' jobs,[57] and this contributes to a lower institutional level for academic females than for male Ph.D.s. Academic women apparently find it harder than other women of similar education to combine marriage and a career. One study of "biological scientists receiving their degrees during the same time period" found only 32 percent of such academic women married compared to 50 percent of their non-academic counterparts, even though initially virtually identical percentages were married before receiving their Ph.D.[58] A more general survey of women holding doctorates found only 45 percent to be married and living with their husbands.[59] Although there were more married than single women among women doctorates in general,[60] in the academic world there were more single than married female doctorates.[61] Moreover, female academics had divorce rates several times higher than male academics.[62] Another study of college teachers found 83 percent of the men but only 46 percent of the women to be married.[63] Women in other high-level, high-pressure jobs requiring continuous full-time work show similarly low proportions married.[64]

Childbearing is also negatively associated with career prospects. Among Radcliffe Ph.D.s, those working full time had the fewest children, those working part time next, those working intermittently next, and those not working at all had the most children.[65] Various surveys show that "female Ph.D.s who are married are twice as likely to be childless as women in the same age group in the general population" and even when they do have children, to have fewer of them.[66] The husband's prospects also have a negative effect on women doctorates' careers: a woman married to a "highly educated man with a substantial income was less likely to work" or, if she did, was more likely to take a part-time job.[67] This parallels a negative correlation between married women's labor force participation and their husbands' incomes in the general economy.[68]

In research output, "the woman doctorate who is married and has children was less likely than the single woman doctorate or a childless married woman doctorate to have many scientific and scholarly articles to her credit." [69] It is not surprising that the married woman doctorate "tended to make a lower salary than the single woman, even if she was working full time." [70] Unfortunately studies of academic women have not simultaneously controlled for marital status, full-time continuous employment, publications, and degree level and quality.

The National Academy of Sciences data permit comparisons of the salaries of male and female doctorates who worked full time both in 1960 and in 1973 and who responded to all the biennial surveys of the National Science Foundation from 1960 through 1973 (see Table 6). This gives an approximation of full-time continuous employment, but does not show whether the respondent was employed full time in each of the years during which a survey was made or whether the respondent worked at all in the non-survey years. These data show female salaries at 83 percent of male salaries in 1970 (before affirmative action) and 84 percent in 1973 (after affirmative action)—a smaller proportion than in other data which controlled for other variables such as publications and degree quality. It also indicates no discernible effect of affirmative action programs.

TABLE 6.—MALE-FEMALE SALARY RELATIONSHIPS (1970 AND 1973) AMONG FULL-TIME DOCTORATES INCLUDED IN ALL 1960–73 NSF SURVEYS

Fields	Average annual salary	
	1970	1973
Natural sciences:		
Men	$20, 646	$24, 854
Women	$17, 061	$20, 718
Ratio of women/men	0. 83	0. 83
Social sciences:		
Men	$21, 442	$26, 537
Women	$17, 171	$21, 027
Ratio of women/men	0. 80	0. 80
Total:[1]		
Men	$20, 508	$24, 851
Women	$17, 073	$20, 910
Ratio of women/men	0. 83	0. 84

[1] Includes miscellaneous fields as well as the natural sciences and the social sciences.

Source: National Academy of Sciences.

A 1968 study of full-time academic doctorates found women's salaries ranging from 89 percent to 99 percent of men's salaries in the same field, with similar length of employment, and in broadly similar institutions (colleges versus universities).[71] These higher percentages—as compared with the results in Table 6—suggest that the distribution of women by institutional type and ranking and by years of employment explains a significant part of the male-female salary differences among academics. Moreover, since women academics with Ph.D.s in this 1968 study earned 92.2 percent of the income of men academics with Ph.D.s (even without controlling for publications), these figures indicate how small the sex differential was for even roughly similar individuals before affirmative action.

Even more revealing patterns appear in our tabulations of ACE data by marital status (Table 7). In 1969, academic women who never married earned slightly more than academic men who never married. This was true at top-rated institutions and at other institutions, for academics with publications and for academics without publications. The male salary advantage exists solely among married academics and among those who used to be married ("other" includes widowed, divorced, et cetera). The male advantage is greatest among those married and with dependent children. Being married with children is obviously the greatest inhibitor of a woman's career prospects and the greatest incentive to a man's. The salaries of women who never married were 104 percent of the salaries of their male counterparts at the top-rated institutions and 101 percent at other institutions. For women who were married but had no dependent children, the percentages fell to 88 and 84 percent, respectively. For married women with dependent children, the percentages fell still further, to 69 and 70 percent. For women and men without publications and in nonranked—essentially nonresearch—institutions, the "never married" women earned 145 percent of the "never married" men's incomes—confirming a general impression that women prefer teaching institutions, and therefore a higher proportion of top-quality women than of top-quality men end up at such places by choice. It also suggests that employers are not unwilling to recognize such quality differentials with salary differentials in favor of women.

TABLE 7.—ACADEMIC-YEAR SALARIES BY SEX AND MARITAL STATUS, 1968–69

Sex and marital status	Total				With publications				Without publications			
	Top institutions		Other institutions		Top institutions		Other institutions		Top institutions		Other institutions	
	Salary	Number	Salary	Number	Salary	Number	Salary	Number	Salary	Number	Salary	Numbe
MEN												
Total	$13, 704	26, 493	$13, 245	307, 323	$13, 697	26, 033	$13, 230	301, 251	$14, 075	459	$13, 965	6, 071
Presently married	13, 562	23, 623	13, 175	280, 637	13, 549	23, 209	13, 159	275, 248	14, 323	413	13, 969	5, 389
With dependent children	14, 180	15, 996	13, 636	200, 570	14, 179	15, 728	13, 623	196, 640	14, 242	267	14, 273	3, 929
Without dependent children	12, 266	7, 627	12, 018	80, 069	12, 223	7, 481	11, 997	78, 607	14, 472	145	13, 150	1, 459
Never married	11, 070	142	10, 525	3, 737	11, 070	142	10, 569	3, 629	0	0	9, 027	107
Other	15, 065	2, 727	14, 548	22, 947	15, 120	2, 681	14, 540	22, 373	11, 838	45	14, 856	573
WOMEN												
Total	11, 030	4, 166	10, 359	75, 044	11, 003	4, 062	10, 345	73, 155	12, 094	103	10, 889	1, 888
Presently married	10, 264	2, 839	10, 021	60, 484	10, 213	2, 753	10, 012	59, 016	11, 875	86	10, 403	1, 467
With dependent children	9, 727	1, 255	9, 645	17, 246	9, 626	1, 207	9, 640	16, 734	12, 255	48	9, 809	511
Without dependent children	10, 690	1, 583	10, 171	43, 238	10, 672	1, 545	10, 159	42, 282	11, 394	37	10, 721	956
Never married	11, 523	404	10, 566	5, 174	11, 363	399	10, 455	4, 954	22, 499	5	13, 075	219
Other	13, 176	921	12, 419	9, 384	13, 236	909	12, 427	9, 184	8, 633	11	12, 045	200

Note: Data cover all races and all disciplines.

Source: American Council on Education.

Footnotes at end of chapter.

In the literature on sex differentials and in the pronouncements of governmental agencies administering affirmative action programs, sinister and even conspiratorial theories have been advanced to explain very ordinary and readily understandable social phenomena: (1) academic individuals who are neither aiding nor aided by a spouse make very similar incomes, whether they are male or female, (2) academic individuals who are aided by a spouse (married males) make more than unaided individuals, and (3) academic individuals who aid a spouse (married females) make less for themselves than do the other categories of people. The social mores which lead women to sacrifice their careers for their husbands' careers may be questioned (as should the high personal price exacted from academic career women, as reflected in their lower marriage and higher divorce rates). But social mores are not the same as employer discrimination. The fact that single academic women earn slightly higher salaries than single academic men suggests that employer discrimination by sex is not responsible for male-female income differences among academics. Moreover, even as regards social mores, it must be noted that academic women report themselves satisfied with their lives a higher percentage of the time than do academic men[72]—a phenomenon which some explain by saying that women do not put all their emotional eggs in one basket as often as men,[73] and which others explain by treating high research creativity as a somewhat pathological and compensatory activity of the personally unfulfilled.[74] The point here is that the evidence is not all one way, nor the logic overwhelming, even as regards apparently inequitable social mores. On the basic policy issue of employer discrimination, such evidence as there is lends no support to this as an explanation of male-female career differences, and the slight but persistent advantage of single females over single males undermines the pervasive preconception that employers favor men when other things are equal.

FOOTNOTES

[1] National Academy of Sciences, *Doctoral Scientists and Engineers in the United States: 1973 Profile* (Washington, D.C.: National Academy of Sciences, 1974), p. 30.

[2] Lester, *Antibias Regulation*, p. 50.

[3] Mommsen, "Black Doctorates," pp. 103–104.

[4] Mommsen, "Black Ph.D.s," p. 258.

[5] David G. Brown, *The Market for College Teachers* (Chapel Hill: University of North Carolina Press, 1965), p. 83.

[6] Lester, *Antibias Regulation*, p. 49.

[7] Thompson, *Private Black Colleges at the Crossroads*, p. 155.

[8] Mommsen, "Black Ph.D.s," pp. 258–259.

[9] Ibid., p. 262.

[10] Caplow and McGee, *Academic Marketplace*, p. 41.

[11] Brown, *The Mobile Professors*, p. 26.

[12] Lester, *Antibias Regulation*, p. 48.

[13] Mommsen, "Black Ph.D.s," pp. 262, 259.

[14] Finis Welch, "Black-White Differences in Returns to Schooling," *American Economic Review*, vol. 63, no. 5 (December 1973), pp. 893–907.

[15] Ibid., p. 894.

[16] Bernard, *Academic Women*, p. 52.

[17] Lester, *Antibias Regulation*, p. 42.

[18] Alan E. Bayer, *Teaching Faculty in Academe: 1972–73* (Washington, D.C.: American Council on Education, 1973), p. 15.

[19] Frank Clemente, "Early Career Determinants of Research Productivity," *American Journal of Sociology*, vol. 79, no. 2 (September 1973), p. 414; Lester, *Antibias Regulation*, p. 47. See also Brown, *Mobile Professors*, p. 78, and Bernard, *Academic Women*, p. 148.

[20] Brown, *Mobile Professors*, pp. 76–78. See also Lester *Antibias Regulation*, p. 42.

[21] Bernard, *Academic Women*, p. 180; Brown, *Mobile Professors*, p. 81; Helen S. Astin and Alan E. Bayer, "Sex Discrimination in Academe," *Educational Record*, Spring 1972, p. 103; Helen S. Astin, *The Woman Doctorate in America* (New York: Russell Sage Foundation, 1970), pp. 20–21.

[22] Bernard, *Academic Women*, pp. 151–152.

[23] Astin, *The Woman Doctorate*, p. 73; Lester, *Antibias Regulation*, p. 42.

[24] Brown, *Mobile Professors*, pp. 79–80.

[25] Barbara B. Reagan, "Two Supply Curves for Economists? Implications of Mobility and Career Attachment of Women," *American Economic Review*, vol. 65, no. 2 (May 1975), pp. 102, 103. See also Astin, *The Woman Doctorate*, p. 102.

[26] Reagan, "Two Supply Curves," p. 104.

[27] Brown, *Mobile Professors*, p. 78.

[28] Bernard, *Academic Women*, p. 221; Lester, *Antibias Regulation*, p. 39.

[29] Reagan, "Two Supply Curves," p. 103. See also Bernard, *Academic Women*, pp. 151–152, 181–182; Astin, *The Woman Doctorate*, pp. 91–92.

[30] "The regression weights of the predictor variables that emerged in the analysis of the men's sample were applied to the data for the women's sample to assess the predicted outcome when the criteria for men were used. . . . To award women the same salary as men of similar rank, background, achievements and work settings . . . would require a compensatory average *raise* of more than $1,000. . . ." Astin and Bayer, "Sex Discrimination in Academe," p. 115.

[31] Bernard, *Academic Women*, p. 217.

[32] Astin and Bayer, "Sex Discrimination in Academe," p. 111; Lester, *Antibias Regulation*, pp. 36–37.

[33] Helen S. Astin, "Career Profiles of Women Doctorates," *Academic Women on the Move*, ed. Alice S. Rossi and Ann Calderwood (New York: Russell Sage Foundation, 1973), p. 153. 103.

[34] Lester, *Antibias Regulation*, p. 41.

[35] Bernard, *Academic Women*, pp. 113, 206.

[36] *Ibid.*, p. 216.

[37] Reagan, "Two Supply Curves," pp. 101–103.

[38] *Ibid.*, p. 104.

[39] U.S. Department of Labor, *Underutilization of Women Workers* (Washington, D.C.: U.S. Government Printing Office, n.d.), p. 1.

[40] William G. Bowen and T. Aldrich Finegan, *The Economics of Labor Force Participation* (Princeton: Princeton University Press, 1969), pp. 41, 101, 243.

[41] Ibid., p. 132.

[42] Astin, *The Woman Doctorate*, p. 60.

[43] Jerolyn R. Lyle and Jane L. Ross, *Women in Industry* (Lexington, Mass.: D. C. Heath and Co., 1973), p. 13; Reagan, "Two Supply Curves," p. 104.

[44] Quoted in Reagan, "Two Supply Curves," p. 102.

[45] Horace Mann Bond, *A Study of the Factors Involved in the Identification and Encouragement of Unusual Academic Talent among Underprivileged Populations* (U.S. Department of Health, Education, and Welfare, Project no. 5–0859, Contract no. SAE 8028, January 1967), p. 117.

[46] Sowell, *Black Education*, pp. 255–259; Jencks and Riesman, "The American Negro College."

[47] Bernard, *Academic Women*, pp. xx, 77–78; Alan E. Bayer, *College and University Faculty: A Statistical Description* (Washington, D.C.: American Council on Education, June 1970), p. 12; Astin, *The Woman Doctorate*, pp. 23, 25.

[48] Bernard, *Academic Women*, p. 84.

[49] Ibid., pp. 39–44.

[50] James Gwartney and Richard Stroup, "Measurement of Employment Discrimination According to Sex," *Southern Economic Journal*, vol. 39, no. 4 (April 1973), pp. 575–576; and "The Economic Role of Women," in the *Economic Report of the President*, 1973 Washington, D.C.: U.S. Government Printing Office, 1973), p. 103.

[51] Gwartney and Stroup, "Employment Discrimination," p. 583.

[52] "The Economic Role of Women," p. 105.

[53] Gwartney and Stroup, "Employment Discrimination," p. 582.

[54] Ibid.

[55] Kreps, *Sex in the Marketplace*, p. 32.

[56] Ibid., pp. 4, 19.

[57] Bernard, *Academic Women*, p. 88.

[58] Ibid., p. 113.

[59] Astin, *The Woman Doctorate*, p. 27.

[60] Ibid.

[61] Ibid., p. 71.

[62] Bernard, *Academic Women*, p. 216.

[63] Ibid., p. 313.

[64] Ibid., pp. 313–324.

[65] Ibid., p. 241.

[66] Lester, *Antibias Regulation*, p. 38.

[67] Astin, *The Woman Doctorate*, p. 60.

[68] Bowen and Finegan, *Labor Force Participation*, p. 132.

[69] Astin, *The Woman Doctorate*, p. 82.

[70] Ibid., p. 90.

[71] Bayer and Astin, "Sex Differences in Academic Rank and Salary among Science Doctorates in Teaching," *Journal of Human Resources*, vol. 3, no. 2 (Spring 1968), p. 196. "Science" in the title includes the social sciences.

[72] Bernard, *Academic Women*, p. 182.

[73] Ibid., p. 152.

[74] Ibid., p. 156.

IV. THE IMPLICATIONS

The academic profession has been chosen as an area in which to study the necessity and effectiveness of affirmative action programs, primarily because it is an area in which crucial career characteristics can be quantified and have been researched extensively over the years. The questions are: (1) What are the implications of affirmative action in the academic world? (2) To what extent is the academic world unique—or, to what extent are these research findings applicable to the economy at large? (3) Both for the academic world and for the economy at large, what alternative policies offer a better prospect of achieving the general goal of equal opportunity which provides much of the driving force behind the particular policies and practices summarized as affirmative action?

Academia

The central assumption of affirmative action programs is that "underrepresentation" of minorities or women represents employer "exclusion" rather than different career characteristics of groups or different choices by the individuals themselves. In the academic world, major intergroup differences have been found in degree levels, publications, and fields of specialization—all these differences being to the disadvantage of minorities and women. For minorities, holding such variables constant reduces, eliminates, or even reverses salary differentials as compared to white academics. Even without holding such variables constant, the pay differentials between minorities and other academics were less than $100 per year before affirmative action and less than $1,000 afterwards—indicating that both the necessity for such programs and the effectiveness of them are open to serious question. For women, holding the same variables constant does not eliminate salary differentials, but holding full-time employment constant comes close to doing so, and for those women without marital responsibilities, sex differentials disappear. Together with much other data, this suggests that marital status in general and an unequal division of domestic responsibility in particular explain both differential trends over time and the differences at a given time between male and female academics.

The term "career characteristics" has been used here, not simply to avoid the emotionally loaded word "qualified," but because it seems more accurate and germane. Given the enormous range of American colleges and universities, virtually anyone with graduate training is "qualified" to teach somewhere, while only a small fraction of the Ph.D.s are "qualified" to teach at the very top institutions. The question of qualifications therefore amounts to a question of whether a particular individual matches a particular institution, rather than whether he or she belongs in the profession. An institution is not excluding a "qualified" applicant because it hires someone else whose career characteristics fit its institutional needs, even though those not hired have career characteristics which make them valuable to other kinds of institutions. Research universiites—a major focus of affirmative action programs—offer a specialized environment which many academics do not want, as well as one for which many do not have the appropriate set of career characteristics. It is as unnecessary to denigrate either individuals or groups as it is to denounce as "irrelevant" the characteristics which research universities seek for their special purposes.

The crucial element of individual choice is routinely ignored in analyses and charges growing out of statistical distributions of people. Women choose to emphasize teaching over research, and this has implications for their degree levels (a Ph.D. is not as essential, the kind of institutions they prefer, and the lifestyle it permits—including part-time and intermittent careers that mesh with domestic life. Black faculty prefer being where they are to such an extent that it would take more than a $6,000 raise to move them, according to a survey of several hundred black academics.

One of the peculiarities of the academic market is its fragmentation or balkanization.[1] A particular department typically hires people trained at a relatively small number of other departments. This is due to the high cost of specific knowledge about specific individuals as they emerge from graduate school. At that point, the individual usually has no publications or teaching experience, and the only indications of his intellectual potential are the estimates of professors who taught him or directed his thesis research—and the value of those estimates depends crucially upon the reliability of those professors, which in turn means it depends on how well members of the employing department know members of the department where the applicant was trained.

The top departments in many field typically hire from other top departments in the same fields. This has led to charges of an "old boy network" among the top departments which excludes outsiders in general and minorities and women in particular. But despite loose talk about "recruitment procedures that tend exclusively to reach white males,"[2] the fact is that (1) most black Ph.D.s were trained in a very few *highly rated,* predominantly white departments[3] and (2) a slightly higher proportion of female doctorates than of male doctorates received their Ph.D.s from the top twelve universities.[4] In short, whatever the merits or demerits of the "old boy network," as high a percentage of minority and female Ph.D.s as of white male Ph.D.s are inside its orbit.

Affirmative action practices ignore both choice and career characteristics by the simple process of putting the burden of proof on academic institutions to explain why their percentages of minority and female faculty do not match the kinds of proportions preconceived by governmental authorities. Career characteristics are accepted as mitigating factors only when job criteria have been "validated"—which is virtually impossible. The statistical "validation" process, as developed for written tests in education, involves prediction for a very short span of time on a very limited number of variables, such as grades and graduation. To extend the "validation" concept to the whole hiring process for complex professions with many dimensions is to demand mathematical certainty in areas where good judgment is the most that can be expected. In such circumstances, where "validation" amounts to convincing government officials, it means convincing people whose own career variables—appropriations, staff, and power—depend upon not believing those attempting to convince them. General findings of reasonable hiring decisions would be a general sentence of death for the agency itself. More basically, this situation replaces the principle of prescriptive laws with ex post administrative determination of what should have happened combined with never-ending burdens of proof as to why it did not.

A mitigating factor (in the opinion of some) is that the ultimate sanction of contract cancellation is not actually invoked. But this means that the real penalty is having to repeatedly devote substantial institutional resources to producing the pounds of paper which constitute an affirmative action report—and this penalty falls equally on the just and on the unjust. Even aside from the disturbing moral implications of this, it means that the effectiveness of the penalty is reduced when a discriminating employer has little to gain by becoming a non-discriminating employer, in a society where the career characteristics of the target population ensure that he will never be able to fill affirmative action quotas anyway. There is truth in the bitter comments from both sides of the affirmative action controversy that (1) colleges and universities are under unremitting and unreasonable pressures and that (2) virtually nothing is actually being accomplished for minorities and women. An even weightier consideration is that the appearance of massive benefits being conferred on minorities and women undermines the very real achievements of minorities and women themselves, often made at great personal sacrifice—achievements whose general recognition would be a very healthy influence on society at large.

There are a number of ways in which affirmative action programs hurt the academic world without benefiting minorities or women:

(1) The sheer volume of resources required to gather and process data, formulate policies, make huge reports (typically weighing several pounds), and conduct interminable communications with a variety of federal officials is a large, direct, and unavoidable cost to the institution—whether or not it is guilty of anything, and whether or not any legal sanction is ever imposed.

(2) The whole academic hiring process is changed by outside pressures, so as to generate much more paperwork as evidence of "good faith" hiring efforts and in general to become slower, more laborious, more costly, and less certain—even where the individual eventually hired is a white male, as is in fact typically the case. It is not that it costs more to hire minorities or women, but that it becomes more costly to hire anyone.

(3) Faculty decision making on hiring, pay, and promotion is increasingly being superseded by administrative determination, in response to affirmative action pressures on academic institutions. The historic informal balance of power is being shifted away from those with specific expertise in their fields to those who feel outside pressures to generate either acceptable numbers or acceptable procedures, excuses, or promises. The bitterness and demoralization generated by this undermining of traditional faculty autonomy occurs whether or not any minority or female faculty members are eventually hired.

(4) The "up-or-out" promotion and tenure policies of top research universities have meant in the past essentially a "no-fault" termination of untenured faculty members, who typically go on to have successful careers at other institutions. Now the threat of "discrimination" charges based on nothing more than statistics forces an accumulation of evidence as potential "justification"—with both financial and morale costs to individuals and institutions.

In short, many—if not most—of the costs of affirmative action imposed by the government on academic institutions do not represent gains by minorities or women, but simply burdens and losses sustained by the whole academic community.

What is most lacking in the arguments for affirmative action programs is a detailed specification of who is expected to benefit, in what manner, with what likelihood, and at what risk of negative effects on net balance. The potential beneficiaries in the academic world might be existing minority or female academics, and the specific benefits might be financial or psychic, through working at more prestigious institutions. Of course, the possibility of financial or psychic loss should also be considered, but seldom is. Perhaps future minority or female academics might be expected to receive financial or psychic benefits—or to lose in either or both respects. Or perhaps minorities and females as groups are expected to benefit financially or psychically from any increase in the numbers or standings of the members of these groups or in the academic world—and again, this prospect of the reverse has to be considered. Some have argued that minorities or female students benefit from seeing "role models" or that white male students benefit equally from seeing minorities or women successful in spite of stereotypes. Let us briefly examine each of these possibilities, its likelihood, and the likelihood of the opposite.

First minority or female faculty as potential beneficiaries. Our data show no reason to single out these well-paid professionals as a "disadvantaged" group, either absolutely or relative to white males with the same career characteristics. But assume that we wish to do so anyway. The data show no evidence of any significant group-wide advance in pay after affirmative action. What of prestige? Most black faculty apparently think so little of it as to be unwilling to leave their present jobs—overwhelmingly at black institutions—without very large financial compensation for the move. Female academics have a long history of giving a low rating to academic prestige as a source of career satisfaction.[5] In short, the benefits expected to be conferred by affirmative action have not in fact been conferred, nor is there much evidence that they were much desired by the supposed beneficiaries. Perhaps future minority and female academics will be different—but they will enter an academic world where attitudes toward them will have been shaped by present policies on minorities and women, which means facing the resentment, doubts, and presumptions of incompetence spawned by the bitter controversy surrounding this basically ineffective program.

Second, as for general image upgrading for the benefit of the group as a whole or of society, this can hardly be expected in such an atmosphere. Indeed, the emphasis on the government's conferring a benefit on minorities and women amounts almost to a moratorium on recognition of achievements by such groups, for their achievements tend to be subsumed under the notion of conferred benefits. Certainly there is no clear-cut way to separate the two in practice. How can this upgrade images or improve intergroup relations? No small part of the very real benefits of working in a top research university consists of the voluntary cooperation and mutual interest of academic colleagues. Already there have been bitter complaints by minority faculty concerning their reception by colleagues,[6] indicating how little can be expected from merely shoe-horning someone into a given setting under government auspices.

Footnotes at end of chapter.

What is particularly ominous is that the affirmative action pressures are occurring during a period of severe academic retrenchment under financial stress. Many thousands of well-qualified people of many descriptions were bound to have their legitimate career expectations bitterly disappointed, whether there was affirmative action or not. Affirmative action, however unsuccessful at really improving the positions of minorities and women, gives these disappointed academics and would-be academics a convenient focus or scapegoat for their frustrations.

The Economy

To what extent can the patterns found in the academic profession be generalized to the larger society? That question can be answered only after applying a similar approach to the economy as a whole—that is, going beyond the global-black-and-white or male-female comparisons to comparisons of segments carefully matched for the relevant variables. For women, such matching eliminates sex differentials among continuously employed single individuals.[7] Among blacks, college-educated men had achieved starting salary equality by 1970,[8] with "virtually all of the improvements in relative income" occurring "after passage of the 1964 Civil Rights Acts"[9] but before affirmative action quotas under Revised Order No. 4 in 1971. For black male workers as a whole, firms with government contracts showed a larger increase in the earnings of black workers relative to the earnings of whites than firms without government contracts, but this difference "accounts for only about 6% of the overall change in the relative position of black workers."[10] In short, it was antidiscrimination or equal opportunity laws, not goals or quotas, that made the difference. Another way of looking at this is that blacks achieved when given equal opportunity, and were not passive beneficiaries of conferred gains.

While only segments of minority and female populations have achieved income equality with their white male counterparts, the differences between these segments and other segments of the same populations give clues as to the *causes* of the remaining inequalities. For example, as noted above, marital status is as crucial a variable among women in general as it is among academic women in particular. Among married women, labor force participation declines as the husband's income rises, both in the general economy and in the academic world.[11] Children have a negative effect on work participation for women in general as well as for academic women.[12] As for trends over time, there has been a generally declining trend in the proportion of women in various high-status occupations since around 1930, coinciding with earlier marriages and the baby boom,[13] but this trend began to reverse—*before* affirmative action. For example, the proportion of "professional and technical workers" who were female was 39.0 in 1950, 38.4 in 1960, and 39.9 in 1970.[14] The proportion of "college presidents, professors and instructors" who are female was 31.9 percent in 1930, falling to a low of 24.2 percent in 1960, and rising slightly to 28.2 percent in 1970.[15]

Among blacks, income parity has been achieved not only by college-educated men (and slightly more than parity achieved by college-educated black women)[16] but also by young (under thirty-five) intact husband-wife families outside the South.[17] For the latter, this parity was achieved in 1971, but this could hardly have been a result of goals and timetables formulated in *December* 1971 and implemented the following year. Another way of looking at the still substantial black-white income inequalities is that these inequalities exist among older blacks, blacks in the South, in "broken" families, and among the less educated. There remains a substantial agenda for further progress, but the record shows that the progress that has already occurred was the result of anti-discrimination or equal-opportunity pressures which allowed blacks to achieve sharply rising income relative to the income of whites in a few years, after decades of stagnation in the same relative position.[18] The ratio of black family income to white family income reached a peak in 1970—before affirmative action—and has *declined* slightly in 1971 and 1972.[19] It is unnecessary to blame affirmative action for the decline. It is enough that there is no evidence that goals and timetables produced any further advance, but only cast doubt on, and caused interracial bitterness over, what blacks had already achieved themselves without quotas.

Policy

The long and virtually complete exclusion of outstanding black scholars from all of the leading universities in the United States until the past generation[20] suggests that market forces alone were not enough to open up opportunities in this nonprofit sector. Indeed, economic principles would suggest that nonprofit sectors in general are less likely than other sectors to reduce discrimination in response to economic forces alone[21]—and this includes government, both local[22] and national.[23] The question is not whether there is a legitimate role for government to play in reducing discrimination, but how government should carry out its responsibilities. Affirmative action came along *after* a series of antidiscrimination laws and a change of public opinion. It must be judged against that background, not against a background of uninhibited discrimination in earlier eras, as its proponents like to judge it.

The crucial issue of principle is whether the focus of governmental efforts shall be statistical categories or individual rights. The crucial, practical issue is who shall bear the burden of proof—the government or those subject to its power?

Categories and statistics are a bottomless pit of complications and uncertainties. For example, an economics department with a job opening is not looking for an "economist," or even for a "qualified" economist; it is looking for an international trade specialist with an econometrics background or a labor economist familiar with manpower programs, et cetera. Statistics on how many "qualified" minority or female "economists" in general are "available" are meaningless. Neither minorities nor women are randomly distributed by field or within fields. Female economists, for example, are not distributed the same way as male economists among specialties.[24] Even to define the relevant pools for purposes of realistic goals and timetables is impossible, even if all the statistics on the profession are at one's fingertips and competely up to date—as they never are. No department can predict in which sub-specialty its vacancies are going to occur, for that involves predicting which particular members of its own department will choose to leave—and in an era of retrenchment, vacancies have more effect on hiring than does the creation of new positions.

Statistical "laws" apply to large numbers of random events. But universities do not hire large numbers of random academic employees; departments each hire small numbers of specialists within their respective fields. To establish numerical goals and timetables for such small-sample unpredictable events is to go beyond statistics to sweeping preconceptions. Nowhere can one observe the random distribution of human beings implicitly assumed by affirmative action programs. Mountains of research show that different groups of people distribute themselves in different patterns, even in voluntary activities wholly within their control, such as choice of card games or television programs, not to mention such well-researched areas as voting, dating, child-rearing practices, et cetera.

The American system of justice puts the burden of proof on the accuser, but this principle has been reversed in practice by agencies administering affirmative action programs. Those subject to their power must prove that failure to achieve the kinds of employment proportions preconceived by the agency is innocent in general, and in particular colleges and universities must "validate" their job criteria—even if the government administrators could never do the same for their own jobs. No proof—or even hard evidence—was necessary for the agencies to demonstrate that the academic situation involved individual discrimination rather than statistical patterns reflecting general social conditions outside the institution. Any policy which is to claim respect as a prescriptive law must put the burden of proof back on the government, where it belongs.

A change from categorical statistical presumptions to evidence on individual cases requires a knowledge of academic norms and practices going well beyond the expertise of nonacademic government officials. The lack of such knowledge by those administering "guidelines" for higher education has been a bitter complaint among academics.[25] Certainly it is revealing when J. Stanley Pottinger can refer to the university "personnel officer" as hiring agent,[26] when faculty hiring is in fact done by individual departments, with the candidates having little or no contact with "university" officials before being hired. In any event, if professional judgments are to be subject to review in cases where discrimination is charged, that review requires at least equally qualified professionals as judges. Since academic disciplines have their own respective professional organizations—the American Economic Association, the American Sociological Association, et cetera—these organizations could readily supply panels of experts to review the reasonableness of the decisions made in disputed cases. If academic freedom and faculty self-governance are to be maintained, such a review must determine whether the original hiring decision fell within the reasonable range, not substitute the choice of the panel for the choice of the department.

The great problem with individual case-by-case adjudication is the backlog that can be generated—to the detriment of all and perhaps fatally so for the effectiveness of the program. There are some countervailing factors in the case of judgments by a panel of experts. First of all, the panel can quickly dismiss frivolous claims—especially where the claim must be based on demonstrable evidence of superiority of the candidate rejected over the candidate actually hired. Second, to go before such a panel risks public confirmation of the opposite by leading scholars in one's field. Finally, the mere fact that such a program is based on professional criteria rather than nebulous presumptions must have an inhibiting effect on claims without substance.

Remedies for demonstrable discrimination must hit those responsible, not be diffused over a sprawling entity such as a large research university. A history department which discriminates against minorities or women is unlikely to be deterred by the medical school's possible loss of a government contract. But there is nothing to prevent the government from levying a stiff fine on the specific department or other academic unit that made a discriminatory hiring decision—and taking that fine out of that department's or unit's budget for salary and research, without interruption of contracts and the often vital work being produced elsewhere in the university. Indeed, such a fine is a more credible threat, for the government and the public would often lose heavily if some university contracts were cancelled. Contract

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Footnotes at end of chapter.

cancellation is like a nuclear weapon that is too powerful to use in any but the most extreme cases and so loses much of its apparent effectiveness. Fines are a more conventional deterrent and can be invoked whenever the occasion calls for them.

Between the original concept of affirmative action and the goals and timetables actually imposed lies an ill-conceived mixture of unsupported assumptions and burdensome requirements which remain ineffective because of their indiscriminate nature—their failure to distinguish discriminators from nondiscriminators, or to give anyone an incentive to change from one of these categories to the other. Inescapable burdens do not cause change but only bitterness. That bitterness not only has been directed against those administering affirmative action programs, but has inevitably affected the perception and reception of minorities and women in the academic world—and beyond.

FOOTNOTES

[1] Brown, *Mobile Professors*, Chapter 4.

[2] J. Stanley Pottinger, "The Drive Toward Equality," *Change*, vol. 4, no. 8 (October 1972), p. 24.

[3] At the Ph.D. level blacks tend to receive their degrees from large, prestigious, predominantly white institutions of higher learning outside the South Mommsen, "Black Ph.D.s," 256. Fifty percent of all black Ph.D.s come from just ten institutions (p. 257). By comparison, for academics in general, "the ten top-producing universities granted 35.8 percent of the doctorates. . . ." Brown, *Mobile Professors*, p. 45.

[4] Bernard, *Academic Women*, p. 87.

[5] Brown, *Mobile Professors*, pp. 79–80.

[6] Moore and Wagstaff, *Black Educators in White Colleges*, pp. 26, 131, 198–199; Richard L. Garcia, "Affirmative Action Hiring," *Journal of Higher Education*, vol. 14, no. 4 (April 1974), pp. 268–272.

[7] "The Economic Role of Women," p. 105.

[8] R. B. Freeman, "Labor Market Discrimination: Analysis, Findings, and Problems," *Frontiers of Quantitative Economics*, ed. M. D. Intrilligator, and D. A. Kendrick (Amsterdam: North Holland Publishing Company, 1974), vol. 2, p. 508.

[9] Ibid., pp. 508–509.

[10] Orley Ashenfelter, "Comments," *Frontiers of Quantitative Economics*, vol. 2, p. 558.

[11] "The Economic Role of Women," p. 96; Bowen and Finegan, *Labor Force Participation*, p. 132; Astin, *The Woman Doctorate*, pp. 60, 61.

[12] Bowen and Finegan, *Labor Force Participation*, pp. 96–105; "The Economic Role of Women," pp. 93–95; Bernard, *Academic Women*, pp. 220–222.

[13] Bernard, *Academic Women*, pp. 62, 74, 215.

[14] "The Economic Role of Women," p. 155.

[15] Ibid., p. 101.

[16] Freeman, "Labor Market Discrimination," p. 506.

[17] Wattenberg, *The Real America*, p. 128.

[18] Freeman, "Labor Market Discrimination," pp. 504, 506.

[19] Wattenberg, *The Real America*, p. 125.

[20] Winston, "Through the Back Door."

[21] Armen A. Alchian and Reuben A. Kessel, "Competition, Monopoly, and the Pursuit of Money," in *Aspects of Labor Economics*, A Report of the National Bureau of Economic Research (Princeton: Princeton University Press, 1962), pp. 157–175; Thomas Sowell, *Race and Economics* (New York: David McKay Co., 1975), pp. 166-169.

[22] Freeman, "Labor Market Discrimination," pp. 549-555.

[23] Sowell, *Race and Economics*, Chapter 7.

[24] Myra H. Strober, "Women Economists: Career Aspirations, Education, and Training," *American Economic Review*, vol. 65, no. 2 (May 1975), p. 96.

[25] Lester, *Antibias Regulation*, pp. 103-107.

[26] Pottinger, "The Drive Toward Equality," p. 28. The same characterization was repeated by Mr. Pottinger at a conference of the Federal Bar Assocaition in September 1974.

Mr. HATCH. Mr. President, the two inserts I have just placed in the RECORD show clearly that if we are affirmatively acted into the angry menagerie George F. Will predicts, we can expect moral deterioration, inefficiency and little additional impact on the problems the policy was allegedly imposed to solve. Any such policy aiming at numerical quotas will immediately become a game played by businessmen and bureaucrats to achieve a satisfactory nominal result that fulfills the letter of the law. It will be neither edifying nor effective.

The overall economic impact of quotas, however, is an aspect that has received little attention. In the spring 1980 issue of Policy Review magazine, I attempted an estimate of their cost to the U.S. economy. I concluded that in the late 1970's, the direct cash outlay caused by State-mandated quota programs was somewhere around $5 to $7.5 billion a year—not quite the same size as the food stamps program, and probably growing equally fast. But affirmative action also has an indirect cost probably several times greater than that, because of opportunity costs, disruption in methods of working, productivity loss, and so on. Affirmative action is not simply a redistributive program. It is a redistributive program which actively retards society's ability to produce anything to redistribute.

Mr. President, I ask unanimous consent to have printed in the RECORD an article written by the Senator from Utah entitled "Loading the Economy," published in Policy Review, spring 1980.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LOADING THE ECONOMY

(By ORRIN HATCH)

"It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training."—Paragraph 703(d) of Title VII of the 1964 Civil Rights Act.

The spread of affirmative action since the passage of the Civil Rights Act of 1964 has been an event without precedent in American history. With astonishing speed, federal and state agencies have asserted the right to impose racial quotas on virtually every area of American life. Even a tiny academic institution like Hillsdale College in Michigan, with a faultless tradition of social progressivism and an established policy of refusing federal monies, is menaced on the ingenious grounds that, since some of its students get veterans' benefits, it is in receipt of federal funds.[1] All of this is in flagrant breach of the letter and the spirit of the Civil Rights Act, as specifically established in congressional debate at the time of its passage The legalistic casuistry indulged in by the liberal plurality on the Supreme Court in order to give at least limited endorsement of affirmative action in the *Weber* case has not unreasonably been described as "the most horrendous decision in U.S. Supreme Court history since the Dred Scott case"[2] (by Professor Sidney Hook), as a violation of the separation of powers (by Chief Justice Burger) and as "Orwellian" (by Justice Rehnquist)[3]. More significant still, affirmative action is a reversion to a society of status from the ideal of a society of free contract, equal protection and individual freedom which inspired the framers of the Civil Rights Act and ultimately of the American Republic itself.

Footnotes at end of article.

The legality, or otherwise, of affirmative action will keep lawyers employed for many years. Cultural historians (and possibly psychologists) will make reputations explaining the reluctance of press and politicians to oppose its development, or really to notice that it was going on at all. However, since affirmative action is indeed going on, without benefit of law or legislators, a more immediate concern ought to be what its practical effect is likely to be. Typically, this turns out to be the least studied aspect of all.

Some economists have done work on the effects of affirmative action upon the relevant "protected class."[4] This has generally been pessimistic. Such evidence as is available suggests that the programs fail, either because of aboslute lack of candidates, or extensive changes and other factors in the economy, or high attrition rates. Intuitively, we might suppose the effect would be similar to tariffs, inducing a local and relative prosperity at the expense of overall welfare. This prosperity would probably be less in absolute terms than might have been the case if the economic system had been permitted to work freely. But a recent survey by the Library of Congress was unable to discover anything substantial from academe on its overall or macroeconomic impact. In fact, the major empirical study was done as part of a survey of all government regulation by public accountants Arthur Andersen & Co. for the Business Roundtable,[5] and the most helpful theoretical discussion of regulation was published by an arm of the American Management Association.[6] As far as I can tell, all recent Ph.D. theses on the subject have concentrated on its sociological or educational aspects, or on the effect on the "protected class." Considering how large affirmative action looms on the campus (see below), this is a distinct case of the dog that didn't bark in the night. It can only darken the suspicions of those already depressed by such news items as the plans of Ohio State University officials to buy their own airliner, because enough of them make lobbying trips to Washington to fill three flights a week.[7] However, given this absence of academic interest, perhaps a U.S. Senator might at least growl in the direction of affirmative action's economic impact, and the questions such a study would raise.

QUOTAS BUST

Because most people would rather not think about affirmative action, there is considerable confusion about what it means, not unrelated to the frantic logic-chopping indulged in by its proponents when under pressure. For my present purposes, I want to emphasize that affirmative action means quotas or it means nothing. It means discrimination on the basis of race and sex. It does not mean remedial education, special programs for the disadvantaged, or any of the other methods by which we could, and to some extent do, help minorities. It has nothing to do with equal opportunity, although its chief enforcement agency is misleadingly called the Equal Employment Opportunity Commission (EEOC). Affirmative action is about equality of results, statistically measured. Its proponents have made great efforts of casuistry to distinguish between quotas and "goals," "targets," "timetables," and so on. All such distinctions dissolve in practice, particularly when the enforcers are feeling confident about the balance of power on the Supreme Court.[8]

One example makes this point irrefutable. In 1973, American Telephone & Telegraph signed a consent decree including substantial affirmative action programs. This pioneer in the employment of women had been backed up against a wall by the EEOC solely because the paucity of women in its higher reaches was regarded as *prima facie* evidence of discrimination. A.T. & T. didn't agree, but it didn't want to take on the federal government in a long court battle either, so it tried to compromise. The targets it tried to meet were of a volume and complexity to delight a bureaucrat's heart. In 1975, the federal government announced A.T. & T. wasn't doing well enough, and made it sign a "supplemental order."

The sternness of the government's approach to the supplemental order convinced A.T. & T. that it was dealing not with goals, as it had previously assumed, but with quotas (a proposition some government people involved do not concede). Says Don Liebers [the A.T. & T. executive concerned]: "The order made it rather clear that the name of the game was achieving targets."

After that, A.T. & T. became a superachiever. . . .[9] Anyone temporarily confused by the affirmative action lobby's shell game should ask himself: Am I supposed to take notice of race, sex, etc.? Or not? He will find the answer (yes, on our terms) nowhere appears in the Civil Rights Act. It is the economic impact of this answer that is the subject of this article.

HOW THE MARKET ERODES DISCRIMINATION

The concept of a free market is valuable not simply as a description of reality, but as an analytical tool. It helps us put discrimination in context. In a system where all actors are free to pursue their own interests, there is an inexorable tendency for everyone to receive the marginal value of his labor. In other words, you will ultimately be paid approximately what your work is worth. The free market undermines all distinctions that are not based on this economic reality. If you belong to some unpopular group, employers may begin paying you less than average, as a matter of tradition. But precisely because they will make more money off you than off more popular but expensive groups, you will come into demand, and your wages will be bid up. Ultimately, you will be paid the average, or even more than that if you happen to be more efficient. The only way this can be prevented is if the state legislates unequal wages or bans you from certain occupations, as has happened in South Africa. Private employers cannot effectively do it, because their attempts at collusion are undermined by market forces just as their attempts to form cartels collapse, unless supported by public policy, tariffs or some other constraint on freedom. *Discrimination is costly.* That is why the South African business community is generally critical of *apartheid*.

Two qualifications must be made, however. First, there is no reason why your marginal value should be the same as that of anyone else. Even apart from any question of innate aptitude, different cultures have different attitudes to work and leisure. If you regularly spend the summer living on a beach in Yucatan, your earning capacity will be outpaced by your brother who works and goes to night school all year round, although you might be happier. Secondly, even when your marginal value is the same, it may take time to get paid it. Traditions do not dissolve overnight, although experience in America indicates that where money is concerned, they erode remarkably quickly.

In fact, the American experience is that relying on the market system has been enormously successful in integrating diverse groups, often historically hostile to each other. Groups frequently subjected to majority disapproval, such as Jews and Asians, have nevertheless emerged with incomes significantly above the average. The cash nexus is a nobile thing. You don't have to like the man who mends your shoes, but you and he can exchange goods and services to your mutual advantage. The pursuit of material gain has so remorselessly worn down all social distinctions that, for example, the position of women in American life had already been revolutionized, seen in a longer perspective, before the EEOC sprang forth.

The point of the 1964 Civil Rights Act was merely to hurry this process along, particularly in the area of race, by forbidding certain types of public discrimination. The philosophy behind it was that, once entry to the market was freed of artificial constraints like institutionalized discrimination, it would solve this problem as it had all others.

If you leave people alone, they will tend to employ those who do the best job, and the overall production of wealth will be maximized. But if you don't leave people alone, they cannot do this, and inefficiencies will develop. Wealth will not be maximized. This is exactly the effect of affirmative action.

THE INDEPENDENT IMMIGRANT

Even Massachusetts Institute of Technology Nobel laureate Paul Samuelson, father of the famous textbook, missed this point in commenting on the Bakke decision. Professor Samuelson compared the arrival of blacks on the labor market with the arrival of immigrants in the nineteenth century. Immigration was opposed by "charter-member Yankees," he said, because they were afraid of losing their jobs. But in fact

> . . . the economic system . . . is *not* a zero-sum game . . . When a country gains new manpower from the excess of births over deaths or from immigration and increased female participation, its same land and complement of capita assets can produce a larger pie . . . Neither the "poor whites" nor other groups in the community have to fear particularly that out of *their* economic hides will have to come any advance achieved by black Americans, native Indian Americans, Americans of Mexican descent or other minority groups.[10]

This is wrong, even on its own terms, as a defense of affirmative action. "Poor whites" had excellent reasons to fear that they would be undercut in the short run. In the long run, as Professor Samuelson might normally argue, echoing Lord Keynes, we are all dead—although overall welfare will indeed expand. But more important, the U.S. absorbed the great wave of immigration at the end of the last century because the immigrants were employed in the sectors of the economy that needed them—often concentrated at first in the least desirable areas. Under affirmative action, however, the newcomers would be inserted into each area of activity in proportion to their overall numbers, and not because of their skills or because they represent a more efficient use of resources. (This is literally what is happening with the Spanish-surnamed protected class, whose numbers are currently increasing through substantial legal and illegal immigration.) In these circumstances, we cannot be sure that "new manpower" would produce a "larger pie." It might, as we shall see, produce a smaller pie as well as denying some people jobs they might otherwise have occupied. It would be more acurate to look at affirmative action as a tax, whereby resources are transferred directly to the protected classes. But it is a peculiarly debilitating tax, because it interferes with the productive enterprise's ability to take decisions by reducing its internal efficiency. Most taxes are a burden to be shouldered. This one is also an enfeebling drug.

INEFFICIENCY IN TRIPLICATE

The true nature of affirmative action can be seen in one of the rare reports from the front line, which appeared in the *Washington Star*, albeit in the the Business & Finance section:

"Dante DiGaetano's business is so small that he has no office and no secretary—just one carpenter and two laborers.

"But the Labor Department has ordered him to take a series of 43 continuing administrative actions which could occupy a sizable office force because, under a recent government contract, 5% of the four laborers working for him and his subcontractors were not women."

As usual, Mr. DiGaetano had signed a conciliation agreement rather than abandon his contract or fight the government in court.

"As a result of signing the order, DiGaetano has been ordered to maintain a written equal opportunity policy, appoint an EEO officer with a written job description, include EEO policy in company manuals, maintain records of encouragement of minority and female employees to seek promotion and keep a record of annual reviews by those employees for promotional opportunities.

"He must also keep a current listing of recruitment sources for minority and female craft workers, copies of letters to employment opportunities, files of all responses to these letters and records of contracts with minority and women's community organizations, recruitment sources, schools and training organizations.

"Further, DiGaetano must have copies of newsletters and annual reports that include EEO policy, copies of letters to unions and training programs requesting assistance in meeting EEO duties, copies of letters sent at least every six months to all recruiting sources stating EEO policy and copies of advertising with EEO statements.

"In addition, the conciliation agreement stipulates that he must maintain records that parties and picnics have been posted and are open to all employees, have separate toilets and changing facilities for male and female employees and provide documentation that all foremen maintain a working environment free of harassment.

"On top of this, DiGaetano must submit a monthly 'employment utilization report,' a quarterly report on minority and female applicants, job offers, new hires, terminations and layoffs and a report stating the date upon which each of the other 42 requirements was met."[11]

My colleague, Senator Richard S. Schweiker of Pennsylvania, complained to Labor Secretary F. Ray Marshall about this situation. Mr. Marshall replied that Mr. DiGaetano had only himself to blame. He hadn't submitted his "monthly Employment Utilization Reports, Form CC257." Mr. Marshall added that although this case was unusual, it was too difficult on administrative grounds for his agents to take note of the size of their victims.

A society which allows this sort of harassment is, in an important sense, no longer free. Beyond that, it is not even efficient. Obviously, the heightened threshold of fixed costs is going to exclude smaller contractors from such fields. But the impact on the major contractors is perhaps worse. They survive, but waste much of their assets on bookkeeping, and other compliance activities. Additionally, they are no longer dedicated to the pursuit of profit, with its continuous, systematic pressure against waste and error. This is partly because they are now staffed by people who, by definition, are not the ones who would have been selected had the principle of merit been applied. Also, the whole ethos of the organization has been altered, from commerce to politics. We are witnessing a cultural con-

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Footnotes at end of article.

quest of the corporate sector by the bureaucracy. And for future developments, we need look no further than the bail-out last fall by Congress of the Chrysler Corporation. Congress here chose to support a failing corporation, and thus perpetuate a concomitant misallocation of resources throughout the economic system, in large part because the bureaucracy felt that the corporation had complied with its regulations and was a "good corporate citizen." One frequently-used argument was that Chrysler was a major employer of minorities. Thus we are intervening to foster inefficiency, and intervening yet further when its consequences become unavoidable. It looks ominously like what the Victorians called the Primrose Path.

AN ECONOMIC IMPACT STATEMENT

Measuring the economic impact of affirmative action regulations is easier than that of (say) the Environmental Protection Agency's activities because they are clearly a form of consumption. The EPA is often justified on the grounds that its regulations merely bring home to the economic decision-maker the "social costs," or "externalities," that the price system fails to detect. These include the cost to the community of washing the soot from factories out of its hair and so on. The concept is debatable, but it does not concern us here. The EEOC has sometimes been credited with opening up new pools of labor that corporations somehow contrived to ignore, and occasionally with hastening the breakdown of traditional barriers to labor mobility. But in the context of the market's endless search for efficiency, these anomalies would have been eliminated anyway, leaving only the question of whether they were worth the expenditure compelled by law. Affirmative action is a net cost to the economy. On the whole, its advocates have defended their policies in terms of social injustice. And this is a more reasonable position. No one, after all, expects the state to profit from the money it expends on looking after the aged.

Measuring the costs of regulation is not an easy task. In the case of Dante DiGaetano, for example, it is possible to quantify the incremental expenditures he is now forced to make—hiring an EEO officer, secretaries, posting letters, and so on. It is more difficult to assess the changes in his way of working—including the time he himself must divert from other activities. And the true dynamic effects—the opportunity cost of all this expense and effort, the diminution of competition, inefficiencies due to the employment and promotion of marginal labor and the consequent demoralization of good workers—can only be a matter of conjecture, although they are clearly the most important of all. No measurement can be made, for example, of the cost to the entire economy of a decision not to terminate a bad worker because he or she belongs to some category required to satisfy government inspectors, a near-universal phenomenon in contemporary America. It is safe to say, however, that the dynamic effects of affirmative action are some considerable multiple of the static costs.[12]

UNEARNED INCREMENTS

The Arthur Andersen study resolved this problem by counting only such incremental costs as could be exhaustively documented. Under this minimal definition, the 48 companies which were examined proved to have spent some $217 million to comply with EEO regulations in 1977. The greater proportion of these, some 96%, were operating and administrative costs which recur annually. The companies noted that the full impact of treating the handicapped as a "protected class" had not yet been felt in 1977.[13]

Since these 48 companies represent only 5% of the U.S. workforce, excluding military, government and agricultural employees, it would be logical to conclude that costs across the entire sector are $217 million ×20=$4.34 billion. Any shortfall resulting from the crudeness of this measure is amply compensated by the fact that it does not include the effect of state and local government demands, or specialized federal activities such as the fair housing laws.

The figure is also not inconsistent with the estimate made by Robert DeFina of the Center for the Study of American Business at Washington University in St. Louis that compliance costs are approximately 20 times the cost of the regulatory agency concerned.[14] In 1979, the federal government estimated it spent $135.5 million overseeing "private sector equal opportunities" and a further $15.2 million in partial administration of the fair housing laws, suggesting a total compliance cost of at least $3 billion. Estimated expenditures for 1981 are some $210 million, for which compliance costs could be $4.2 billion.

The federal government's estimate of its 1979 expenditures on overseeing and complying with its own equal opportunity regulations was $170.4 million, with an additional $39.7 million for military equal opportunity. The figures for 1981 are expected to be $194.9 million and $42.9 million.[15]

This is substantially less than the estimate of affirmative action costs that the Congressional Research Service arrived at in 1976 by polling selected government agencies—$367 million.[16] These, of course, by now would be substantially higher. The reason for the discrepancy probably lies in accounting definitions, with the government now taking a far more restrictive view than did the individual agencies. An arithmetical exercise performed on the military budget, for example, appears to imply that the 5,000 persons, who have graduated from something called the Defense Equal Opportunity Management Institute in the last eight years, are serving their country at a cost, in salaries and support expenditures, averaging something less than $8,000 a year. Patriotism, clearly, is not dead. In fact, given the military's remarkably low estimate of its 1980–1981 increase in expenditure on Equal Opportunity—a mere $1,200,000—we can assume that civilian control at least over military statistics is pretty healthy, too.

The costs of affirmative action to state and local governments remain an unexplored continent. In 1976, the Congressional Research Service's intrepid analyst attempted to estimate the costs of federally-mandated programs in this area by asking selected states directly. Unsurprisingly, the results were rudimentary, but they suggested nationwide 1976 costs of approximately $185 million. This is a tribute to the impact of the Bureau of Intergovernmental Personnel programs, which produced this formidable effect for an outlay of only $325,000. No information is available on the cost to the states of their own regulations.

There seems to have been no estimate of the costs to colleges and universities since the American Council on Education published one in October 1975 for six selected institutions.[17] It said the cost was $1.800,000. Extrapolating across the 250 colleges and universities that, according to HEW, had affirmative action programs in April of 1975, the Congressional Research Service concluded that the total 1974–5 cost had been $75 million. In 1979, the federal government estimated that it had spent $14.8 million on "equal educational opportunity," which includes oversight of employment policies. Interestingly, this sum will rise to an estimated $40.7 million in 1981.

This still leaves areas of the economy unassessed. Perhaps the most notable is that of primary and secondary education, where random inquiries suggest affirmative action is at least as much a priority as in the federal bureaucracy. Still, what we have is enough for a consciously-low estimate:

[In billions]

Private sector—Arthur Andersen/ Hatch, 1977	$4.3
Federal govt.—Actual 1979	.35
State and Local govt.—CRS estimate, 1976	.18
Universities, Colleges—CRS/ACE estimate 1974	.08

Considering the partial and dated nature of these figures, the fact that inflation in the four years of President Carter's Administration seems likely to average nine percent a year and the dramatic proliferation of programs of affirmative action in recent years, its incremental cost must be clearly in excess of $5 billion—perhaps as much as $7.5 billion.

It is essential to remember at this point that $5–7.5 billion is only the tip of the iceberg. It is just the incremental cost of compliance—what Dante DiGaetano pays to satisfy his official tormentors. The full economic cost is the better use Mr. DiGaetano could have put his time and money to, the demoralizing effects on his workers and himself, the chances that workers hired under the new regime may not be as productive, the loss of wealth represented by the exclusion of skilled workers, the possibility that he may give up in disgust and apply for a job in the Department of Labor, and so on. This will be many times higher, if inherently less quantifiable.

Affirmative action is yet another wedge driven between the American worker and the fruits of his labor. The most obvious wedge is that proportion of the fruits commandeered in the shape of direct and indirect taxes. Affirmative action certainly contributes to this because of the expensive oversight apparatus that accompanies it. But a less obvious wedge is the inefficiency it induces in the productive base. This means that an hour of work yields less fruit. Instead it is spent getting wrong numbers on the telephone system, and hunting for lost mail. Where the worker faces a high marginal tax rate, quite small changes in return can make him decide to go fishing instead. This is exactly what is happening to the American economy.

Since 1973 particularly, there has been a drop in American productivity growth that cannot be explained in terms of the changing combination of capital and labor input.[18] In real terms, national income per person employed in the first half of 1979 was below that of 1973. The most obvious culprit is the distortion and misallocation effect caused by complying with federal regulations. Affirmative action is only a small part of this—Murray Weidenbaum estimates that total incremental cost of oversight and compliance in 1979 was some $102.7 billion.[19] But since it has such a personal impact on the labor force, its dynamic economic impact is probably out of proportion. One can work happily designing a pollution filter, but not if passed over for a promotion on the grounds of race. In any event, affirmative action is a symbol and a symptom of the regulatory socialism which, sprouting with the New Deal, has grown like a kudu vine until our institutions and their classical liberal inspiration are on the point of vanishing from sight.[20]

Perhaps the best way to look at affirmative action is to regard it as a "rent-seeking" activity, of the sort described by Gordon Tullock.[21] Rent-seeking is the process by which individuals and groups attempt to get society at large to pay them a subvention. Professor Tullock has demonstrated that most societies in history have been organized in this way. Government officials and their clients exact

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Footnotes at end of article.

income in the form of salaries, bribes and the proceeds of government-sponsored concessions and monopolies. Everyone else invests time and money in evading them—"rent avoidance." Professor Tullock gives an example of an entrepreneur in a developing country who knew nothing of the production process in his factory because his time was best spent negotiating with, and paying off, various functionaries. Without (as yet) the venality, the same process is, according to him, under way here. It is significant that Du Pont Corporation has recently found it desirable to appoint as chief executive a lawyer specializing in government negotiations and public relations instead of a chemical engineer. Some of his time will probably be spent negotiating with EEOC officials about the amount of income to be redirected from Du Pont workers and stockholders to whatever groups are politically important enough to be designated "protected classes." The actual making and selling of chemicals somehow gets shuffled lower and lower in his In tray. From an economic standpoint, it would be better to pay the $5 billion out in undisguised grants.

FOOTNOTES

[1] "H.E.W.-ing at Hillsdale," *Regulation*, Jan./Feb. 1979. The case is currently under appeal.

[2] *Measure*, Sept./Oct. 1979, p. 1.

[3] Justices Burger and Rehnquist's dissents to *Weber*, both of unusual ferocity.

[4] Andrea H. Beller, "The Economics of Enforcement of an Antidiscrimination Law: Title VII of the Civil Rights Act of 1964," *Journal of Law and Economics*, Vol. 21, Oct. 1978; and the work of Thomas Sowell of UCLA.

[5] *Cost of Government Regulation*, "Study for the Business Roundtable: A Study of the Direct Incremental Costs Incurred by 48 Companies in Complying with the Regulation of 6 Federal Agencies in 1977," Arthur Andersen & Co., March 1979.

[6] Murry L. Weidenbaum, *The Future of Business Regulation: Private Action and Public Demand* (New York: American Management Assoc., 1979). Professor Weidenbaum, admittedly, is Director of the Center for the Study of American Business of Washington University in St. Louis.

[7] *Toledo Blade*, Feb. 16, 1980. Ohio State University receives some $63 million in federal aid each year.

[8] Which is pretty confident. Joseph L. Rauh, Jr., in "The Supreme Court: A Body Politic," *The Washington Post*, March 5, 1980, comments on the term " 'Equal protection of the laws.' . . . The issues of . . . preference of blacks in jobs . . . are hardly resolved by reference to those five little words, and the Justices quite naturally apply their own ideologies."

[9] Carol J. Loomis, "A.T.&T. in the Throes of 'Equal Employment,' " *Fortune*, Jan. 15, 1979.

[10] Paul A. Samuelson, "Economics of Discrimination," *Newsweek*, July 10, 1978.

[11] *Washington Star*, Feb. 21, 1980.

[12] This three-fold division follows Weidenbaum, *op. cit.*, pp. 11–33. Arthur Andersen combined the second and third category as follows:

Incremental costs, (measured in study). Costs of secondary effects not measured in study, Loss of productivity; Investment-disincentive; International competitiveness; Lost opportunity; Construction delays; Inflation; Resource misallocation; Shortage of supplies.

[13] *Cost of Government Regulation*, Arthur Andersen & Co., March 1979.

[14] Robert DeFina, *Public and Private Expenditures for Federal Regulation of Business*, Working Paper No. 22 (St. Louis: Washington University Center for the Study of American Business, 1977). Also, Weidenbaum, *op. cit.*, pp. 21–22.

[15] *Special Analysis: Budget of the United States Government, Fiscal Year 1918* (Washington, D.C.: Office of Management and the Budget).

[16] "Costs of Affirmative Action In Employment," Congressional Research Service, Library of Congress, April 1976.

[17] "The Cost of Implementing the Federally Mandated Social Programs at Colleges and Universities," *American Council on Education*, June 1976.

[18] Denison, "Explanation of Declining Productivity Growth," *Survey of Current Business*, August 1979.

[19] Weidenbam, p. 22.

[20] Theodore Lowi, *The End of Liberalism* (New York: W. W. Norton, 1969).

[21] Gordon Tullock, "Rent Seeking," Working Paper No. CE 78-2-8; and "The Backward Society: Static Efficiency, Rent Seeking and the Rule of Law," Working Paper No. CE 78–7–1, Center for the Study of Public Choice, Virginia Polytechnic Institute.

Mr. HATCH. Mr. President, a more recent story from the Nation's Capital illustrates further the costs of affirmative action, in this case to a city government that is embroiled in a serious financial crisis.

Mr. President, I ask unanimous consent to have printed in the Record an article published in the Washington Star, April 18, entitled "Minority Contracts Cost More."

There being no objection, the article was ordered to be printed in the Record, as follows:

MINORITY CONTRACTS COST MORE

(By Laura Murray)

District officials yesterday told the House D.C. Appropriations subcommittee that the city pays anywhere from 5 to 20 percent more on its contracts with minority businesses than it does on those with other firms.

The issue surfaced when Rep. Julian C. Dixon, D-Calif., who chairs the subcommittee, asked why a contract to provide meals to the D.C. schools cost more than it could have at a time when the District is financially strapped.

Kenneth E. Quinlan, an acting assistant director of the D.C. Department of General Services, said that that particular contract had been put on the "sheltered market," meaning only certified minority firms could bid for it.

And most minority firms simply cannot do business as cheaply as large, majority businesses which have more experience and easier access to credit, Quinlan said.

Recognizing the problems minority firms face, the city is willing to pay them more for goods and services than it might pay a majority firm, Quinlan said. "It's a bootstrap to minority contractors," he said. Quinlan said the city might pay a minority firm 5 to 12 percent over the prevailing majority market price.

Under D.C. Law 195, at least 25 cents of each dollar a city agency spends for contracted goods and services must go to a minority firm. Mayor Marion Barry Jr. has promised to vigorously enforce that law, and has said that the 25 percent minority-contract market should be considered a floor, not a ceiling.

Mr. HATCH. Mr. President, another Washington story provides a clear indication of the sort of society we are becoming. It is interesting to speculate what the Star's headline would have been if the selective offer of mortgages had been made to whites only.

Mr. President, I ask unanimous consent to have printed in the Record an article published in the Washington Star, June 11, 1980, entitled "Details of Minority Mortgage Offer Released by Montgomery Officials."

There being no objection, the article was ordered to be printed in the Record, as follows:

DETAILS OF MINORITY MORTGAGE OFFER RELEASED BY MONTGOMERY OFFICIALS

(By Philip Shandler)

Montgomery County housing officials yesterday released the contents of a brochure designed to help minority families apply for low-interest mortgage loans later this month.

The brochures, which were handed out this week, included not only details on how to apply for the mortgages but advance notice of what houses would be available under the program. That information was not to be made available to the public until this weekend.

On Monday and early yesterday, officials of the county's Housing Opportunities Commission and the group distributing the pamphlet—the Fund for an Open Society (OPEN)—refused to release the brochure when asked by a Washington Star reporter.

Employees of OPEN said commission officials had told them to hand out the brochure only to eligible minority families.

Late yesterday, however, Bernard Tetrault, the HOC executive director, directed that the booklet be given to The Star.

Joyce Siegel, spokesman for HOC, acknowledged later that some HOC officials had told OPEN not to respond to requests for the pamphlet.

"We were trying to have affirmative marketing, and they thought that releasing the brochure generally would work against that," she said.

Siegel insisted that the lower-level officials made the decision not to release the brochure on their own, and it was not a policy of the commission.

The "affirmative marketing" consists of mailing about 10,000 copies of the brochure to black, Hispanic and Oriental groups and churches. HOC is paying the Fund for an Open Society $10,000 to do the mailings and handle queries.

The commission decided to prepare the brochure for minority families because few of them took advantage of the bargain mortgages when they were first offered last year, officials said.

"We found that many just hadn't gotten the information last year," Siegel said. She noted only 120 of the 1,300 HOC mortgages offered last year went to minorities.

But Siegel emphasized that while the advance information would help the minorities look at the participating developments, and gather information needed to make a down payment, no one could buy a unit until June 17, when the developments originally were to have been publicly identified by HOC.

The pamphlet advises those interested in the bargain housing to "apply as soon as possible after June 17. All designated homes under this program may be sold within a few weeks."

The booklet tells readers to ask sales agents at the listed developments which homes are in the program, be prepared to provide certain information and a check or money order for $1,000 and appeal to OPEN if they are turned down and feel they are qualified.

HOC is selling nearly $29 million in bonds to raise money with which to provide about 460 mortgages at below-market interest rates.

Depending upon what interest selected underwriters offer to buyers of the bonds, HOC expects to charge mortgage interest of about 9.5 percent—well below the interest on home loans offered by private lenders and the federal government.

Individuals with incomes of up to $20,800, couples making no more than $23,800 and families of four whose income is not above $30,100 will be eligible. The houses will be priced from $45.600 to $65.000.

Most of the planned 460 units will be town houses, but some will be detached houses.

Mr. HATCH. Mr. President, a further report from the front lines appeared recently on the editorial page of the Wall Street Journal. This report is particularly significant because it makes plain the erosion of the rule of law that is being brought about by affirmative action, and the other forms of Government regulation of society that have been growing exponentially in the last few years.

In effect, private citizens are wholly at the mercy of the bureaucracy. Few have the resources to challenge it in the courts. And as for those who can, it is no secret that there is a pervasive belief among businessmen that Government agencies bear grudges, and punish those who resist them or their fellow-agencies by whatever means come to hand. Hence the affirmative action bureaucrats have been able to move light years from what the Wall Street Journal points out is ostensibly at issue: "Whether everyone who might want to work at Firestone's Orange plant and might be qualified to do so is being treated fairly."

Effectively, the bureaucracy has become judge, jury, and executioner—and legislator as well. This is no longer a Government of laws, but of men, faceless ones at that.

Mr. President, I ask unanimous consent to have printed in the Record an article entitled "Stilling the Voice of Firestone"; Wall Street Journal, July 22, 1980.

There being no objection, the article was ordered to be printed in the Record, as follows:

STILLING THE VOICE OF FIRESTONE

Secretary of Labor Ray Marshall, a former college professor, offered the Firestone Tire & Rubber Co. a little lesson last week in modern government. The lesson: Business corporations should obey the orders of federal bureaucrats, even orders that are beyond human comprehension.

For failing to heed that lesson in connection with an affirmative action dispute involving a small Texas plant, Firestone was told by Mr. Marshall that it could no longer have federal contracts. The potential cost to Firestone if the order survives a court test is $40 million annually.

Secretary Marshall based his decision on Executive Order 11246, which prohibits race and sex discrimination by government contractors. But no actual discrimination by Firestone has been proved or even alleged. Of the 650 employees at its Orange, Texas plant, some 25% are women or members of "minority" groups. The problem, it seems, is that Firestone, the largest firm ever found in violation of the order, had the audacity to challenge an affirmative action rule put forth by the Labor Department's Office of Federal Contract Compliance Programs (OFCCP).

For years, a company wishing to do federal business has had to perform a "labor availability" study broken down into minorities and women. If it didn't employ a roughly proportional number of these workers, it had to establish goals for meeting the OFCCP requirements. The standard had been that a company could lose its federal contracts if it underutilized the available work force below a "reasonably expected" level. But the OFCCP later decided that this standard wasn't good enough and that from now on, a company must hire minorities and women at a precise ratio to the proportionate supply available. Among the gobbledygook in the new formula was something about "half-a-person" underutilization, which really does get things down to a fairly fine point.

Now this is all pretty silly when you stop to think about it. Orange, Texas (population 25,600), is not exactly Barracks A of the 3rd Marine regiment. While it may not be beyond the capability of some bureaucrat's imagination to design a means of counting all the blacks, Chicanos, Eskimos, Aleuts, or whatever in the available work force there on some given day, we wouldn't want to stake much on the exactitude of such an exercise. All this is aside from the fact that the bureaucrats have taken the inch of line the courts have given them for setting absolute racial quotas and stretched it a mile.

Firestone claimed that the new rule is capricious, since it is widely acknowledged the make-up of an availability pool is nearly impossible. More importantly, it argued that bureaucrats had deprived government contractors of any semblance of due process by unilaterally announcing the new standard.

In May an administrative law judge in the Labor Department agreed with Firestone, ruling that the change in standards was too significant to be adopted without at least the cursory public criticism to which agency proclamations are subject. The OFCCP, acting more as a legislative body than as mere interpreters, "substitutes for the flexible concept of reasonable expectation in the light of availabilities a compulsory mathematical formula for calculating underutilization," ruled the judge.

But for Secretary Marshall the lure of catching his biggest fish yet in the tangled web of affirmative action was too great, and he overruled his law judge. The OFCCP had not either promulgated a legislative rule, he ruled; it had only "interpreted" one. No more contracts for Firestone.

To give some idea of what Firestone was up against in trying to satisfy the dictates of OFCCP we have reprinted nearby the findings of fact in the case by the overruled administrative law judge. It will be noted that the company was not only coping with OFCCP but a "compliance officer" from a division of what is now the Department of Energy—one of the most rule-happy bureaucracies in the world. And its efforts were being aided by interpretation from yet another government department, HEW. The company was submitting compliance plans and being told that none of them met the standards set by the bureaucrats' intricate formulas for classifying and enumerating specimens of human flesh.

Firestone has taken its case to court in an attempt to have a federal judge overrule the Secretary of Labor's overruling of his own administrative law judge. The lawyers will wade through all that business about CFRs and AACPs some more, drawing their pay from taxpayers and consumers to split hairs about how many angels can dance on the head of a pin.

When all is said and done there still will be no honest solution to what supposedly is at issue: whether everyone who might want to work at Firestone's Orange plant and might be qualified to do so is being treated fairly. Quota rule-making has come a long way since the courts opened the door—toward total absurdity.

Mr. HATCH. Mr. President, I ask unanimous consent to have printed in the Record, an article entitled "Accordance With 41 CFR 60–2.23(A), But . . .".

There being no objection, the article was ordered to be printed in the Record, as follows:

". . . ACCORDANCE WITH 41 CFR 60–2.23(A), BUT . . ."

(The following is an excerpt from the "findings of fact" by U.S. Department of Labor Administrative Law Judge Robert J. Feldman in the case of *United States Department of Labor, Office of Federal Contract Compliance Programs vs. Firestone Tire & Rubber Co., Inc.* We reprint it here to give some idea of the sequence of events which led to a ruling by Secretary of Labor Ray Marshall last week barring Firestone from doing business with the government, on the ground that it had not fulfilled federal affirmative action requirements properly. An editorial discussing the Firestone case appears nearby.—Editor)

10. In 1977, ERDA conducted an on-site compliance review of defendant's Orange facility.

11. In the course of the on-site review and following discussions with the ERDA compliance officer, defendant submitted three separate written Affirmative Action plans: the original plan for the period from April 1, 1977 to March 31, 1978; the first revised plan for the period from January 1, 1978 to December 31, 1978, and the second revised plan for the period from January 1, 1978 to December 31, 1978.

12. In its first revised plan and second revised plan, defendant declared underutilization and set goals for those job groups in which minorities or females were underutilized at the five percent level of statistical significance.

13. Defendant's first revised plan and second revised plan contained a utilization analysis for all job groups, regardless of the number of incumbents in each.

14. Defendant's original and first revised plans did not include a utilization analysis and goals or timetables for organizational units, but its second revised plan included, at the request of the ERDA compliance officer, a utilization analysis and goals and timetables for organizational units regardless of the number of incumbents.

15. Defendant's second revised plan contained an analysis of all ten items required to be considered in identifying possible problem areas by organizational unit in accordance with 41 CFR 60–2.23(a), but identified none of the 19 items listed in subdivision (b) of that Section as requiring special corrective action.

16. In its first or second revised AAP, defendant did not specify what action-oriented steps it would take to attempt to correct underutilization of a person or more which it had identified in job groups, or to attempt to implement the goals that had been established for job groups or organizational units, or to attempt to eliminate any underutilization in organizational units.

17. On May 15, 1978 (more than two months after defendant had submitted its second revised AAP), plaintiff's Director of OFCCP denied a request by defendant for determination of substantial issues regarding the requirements of applicable regulation (41 CFR 2.11(b) and 2.12), enclosing with his denial letter a copy of Technical Guidance Memo No. 1, as well as a copy of a 1974 letter to the Undersecretary of HEW stating that underutilization occurs whenever there is a numerical disparity between availability and utilization.

18. On August 15, 1978, plaintiff issued a notice to show cause why enforcement proceeding should not be instituted for alleged deficiencies in the Affirmative Action Program for the Orange facility.

19. Among the Deficiency Findings attached to the notice to show cause was the statement that the second revised AAP does not acceptably identify minority or female

underutilization as is required by 41 CFR 60–2.11 (b), listing some examples of job groups where underutilization was not specifically identified and goals not established. The recommended corrective action was in pertinent part as follows:

"1. Firestone should identify minority and female underutilization as is required by 41 CFR 60–2.11 (b). The AACP must specifically state that underutilization exists for every job group where the percentage of the protected classes employed in that job group is less than the availability of them in such job group. This is accomplished by multiplying the number of incumbents in a job group by the percent of availability which was established by the required 8-factors analysis found in 41 CFR 60–2.11 (b) (1) & (2.)

20. None of the AAPs developed or maintained by defendant for 1978 at its Orange facility declared underutilization in accordance with the above formula.

Mr. HATCH. Mr. President, the bureaucracy replied in the form of a letter to the editor of the Wall Street Journal from Assistant Secretary Donald Elisburg of the Department of Labor. It was published on July 31.

Connoisseurs will note that the arrogance of the Department of Labor has now reached the point where they airily dismiss any suggestion that they should have to prove "actual discrimination" before they slap on the manacles. Mr. Elisburg's letter also marks the final abandonment by the bureaucracy of the pretense that there is any distinction between affirmative action and pure quotas. As he makes clear, affirmative action has evolved to the point where statistical discrepancies between actual and desired minority populations need not be large to justify government intervention. Any difference, however insignificant, is sufficient to trigger mandatory quota programs, even though, as we have seen, the assumptions this implies about population statistics are primitive to the point of crudity. Nor is this surprising. Once the element of discriminatory intent has been abandoned, who is to say what is a permissible and an impermissible statistical discrepancy?

Assistant Secretary Elisburg's final reference to a traditional saying among lawyers is particularly worth savoring. It is, after all, the Department of Labor that has neither the law nor the facts on its side. But instead of "pounding the table," it is pounding the head of an innocent part.

Mr. President, I ask unanimous consent to have printed in the Record a letter to the editor by Donald Elisburg, published in the Wall Street Journal of July 31, 1980.

There being no objection, the letter was ordered to be printed in the Record, as follows:

FIRESTONE'S OBLIGATION TO REACH OUT

WASHINGTON.—In light of the Journal's extensive editorial comment on the Firestone debarment ("Stilling the Voice of Firestone," July 22), I thought it would be useful to clearly set out the issue. The question is: "When must a federal contractor begin outreach efforts to find qualified minorities and women to fill jobs in the contractor's facility?"

The Labor Department's long-held position is that this outreach obligation begins when the percentage of minorities and women employed in a job make up is less than their availability in the labor force. Firestone's position was, in effect, that this obligation should begin only when the disparity between the availability of these groups in the labor force and their employment by Firestone was so great that a statistical case could be made that Firestone was engaging in actual discrimination.

We believe that it is well within the authority of the federal government to require outreach by federal contractors to find qualified minorities and women before the contractor's employment situation is so bad that actual discrimination could be demonstrated merely through the use of statistics. Indeed, thousands of federal contractors are engaging in these outreach activities without substantial cost or difficulty, but having the beneficial effect of providing job opportunities for many people who would not otherwise have them.

There is an old saying among lawyers that when the law is on your side you argue the law; when the facts are on your side you argue the facts; when you have neither the law nor the facts, you pound the table. I am confident that the judicial process will ultimately determine who has been arguing law and facts in this case, and who has been pounding the table.

Donald Elisburg,
Assistant Secretary,
Department of Labor.

Mr. HATCH. Mr. President, another recent item from the May-June issue of Regulation magazine, published by the American Enterprise Institute, illustrates the illusionary nature of the supposed distinction between affirmative action "goals" and racial and sexual quotas.

Mr. President, I ask unanimous consent to have printed in the Record an excerpt from Regulation magazine, May-June 1980.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

EXCERPT

Goals+Sanctions=Quotas. For those who are in any confusion about the difference in coercive effect between lawful affirmative-action goals and unlawful affirmative-action quotas, the Justice Department's notion should be apparent from Attorney General Benjamin R. Civiletti's April 9 address at Howard University:

"When I became Attorney General, in August of 1979, a survey of the top positions in the Department of Justice showed 14 women, 16 Hispanics, 41 blacks, 3 native Americans, and one Asian American in those positions. I have made it clear since I took the job that I intend to double those figures before I leave, given some reasonable time. To accomplish that, I have taken a number of specific steps. I have instructed each component of the Department to develop by May 15, goals and time tables for increasing the number of minority, women and handicapped employees in each category of employee within the component.

"Senior Executives Service members . . . will be evaluated on their success in meeting their component's goals, and continued employment, promotion and raises depend on these evaluations."

Presumably the matter has been made just as clear to all employees, and prospective employees, of the Department of Justice.

Mr. HATCH. Mr. President, the affirmative action revolution in our system of Government has proceeded without real comment from press or politicians even when it casts an unmistakable shadow on the first amendment to the Constitution. This shadow was described by Bruce Alan Johnson in a "Point of View" column published by the U.S. Industrial Council in Nashville, Tenn. Mr. Johnson is international services assistant of the American Radio Relay League.

Mr. President, I ask unanimous consent to have printed in the Record an article entitled "Pressures on Electronic Journalism," by Bruce Alan Johnson.

There being no objection, the article was ordered to be printed in the Record, as follows:

PRESSURES ON ELECTRONIC JOURNALISM

(By Bruce Alan Johnson)

"Minorities don't want special favors!" exclaimed the accomplished black UCLA economist Thomas Sowell recently on Milton Friedman's "Free to Choose" television series. He added that he had never met a black who favored so-called "Affirmative Action" programs inculcated by the federal government in an effort to reapportion America's labor force through unfair legislation.

Now the Federal Communications Commission has announced that radio stations must immediately meet tighter minority hiring requirements, or face automatic review of their entire operations when the time comes to renew their public licenses. (The only radio and television stations to be exempted are those having five or fewer employees.)

An article in the Feb. 14 Wall Street Journal reports that the new guidelines ". . . call for stations with staffs of 11 to 50 people to have a percentage of minority and female workers on their staffs that is at least half the percentage of them in the local work force." As usual, there are grand generalizations around which painful and time-consuming "interpretations" are bound to arise, as stations begin to test this vague formula against both the available work force in the local area and the station's own specific needs. (There are several stations in Fargo, North Dakota, for example. But how many minority and women candidates are there in Fargo who are qualified for a job in broadcasting?)

Capitol Hill has recently been focusing a good deal of attention on the FCC, as criticism of this federal bureaucracy continues to draw fire from both the executive and legislative branches in Washington (not to mention the private sector!). It is long overdue. With the present re-writing of the 1934 Communications Act by Congress, even more attention is finally being paid to the sound arguments for freeing the broadcast industry altogether from federal regulation.

In a time when the information industry itself is growing like topsy the world over, this latest move by the FCC should be publicized loudly and widely as a further encroachment into the rights of free Americans to hire the best qualified employees regardless of race, color, religion, or creed. It's time, in other words, to stand up for free communications unfettered by a federal agency claiming to play a watchdog role in an industry already being strangled by ever-increasing federal controls.

Mr. HATCH. Mr. President, and there are many other examples. It is bad enough to watch this fantastic army of regulators and their seige engines creaking off to do battle with the U.S. Constitution and economy, while remembering that it has not one shred of legal justification. It is even worse to realize that the fundamental tenet of its strategy—that discrimination is the root of all imbalance—is wrong. We simply do not know all the reasons why society takes the form it does. Professor Sowell has already delineated some of the complications. More subtle ones may well exist.

A powerful statement of this sort of complication appeared in a recent *Washingtonian* magazine. The writer was James Webb, minority counsel to the House Veterans' Affairs Committee, and author of "Fields of Fire," one of the best war novels to come out of Vietnam.

Webb takes the position that there are fundamental differences between men and women that account for the universal division of labor in all cultures that assigns war to men. This is not a popular view. And many readers must have been distressed by the harshness with which Webb states his position, as well as the enthusiasm he displays for hazing in military academies.

I do not recommend his article in order to endorse his views, but merely to ask: What if he is right? What if there are these fundamental differences, and women simply cannot be integrated directly into the military without weakening it fatally? Normally, we could allow the question to be decided by practical experience. But affirmative action does not allow such experience. It claims it already has the answer. It asserts there are no such differences. And just as significant as Webb's statement of the case for the opposition on military affirmative action is his account of the ruthless way in which the discipline of the services is being used to suppress all honest professional opinion about this politically fashionable gamble. This is a perversion of what civilian control of the military is supposed to mean. It is an ominous comment on the state of our Armed Forces.

Mr. President, I ask unanimous consent to have printed in the Record an article entitled "Women Can't Fight," by James Webb, published in the Washingtonian, November 1979.

There being no objection, the article was ordered to be printed in the Record, as follows:

Women Can't Fight

(By James Webb)

We would go months without bathing, except when we could stand naked among each other next to a village well or in a stream or in the muddy water of a bomb crater. It was nothing to begin walking at midnight, laden with packs and weapons and ammunition and supplies, seventy pounds or more of gear, and still be walking when the sun broke over mud-slick paddies that had sucked our boots all night. We carried our own gear and when we took casualties we carried the weapons of those who had been hit.

When we stopped moving we started digging, furiously throwing out the heavy soil until we had made chest-deep fighting holes. When we needed to make a call of nature we squatted off a trail or straddled a slit trench that had been dug between fighting holes, always by necessity in public view. We slept in makeshift hooches made out of ponchos, or simply wrapped up in a poncho, sometimes so exhausted that we did not feel the rain fall on our own faces. Most of us caught hookworm, dysentery, malaria, or yaws, and some of us had all of them.

We became vicious and aggressive and debased, and reveled in it, because combat is all of those things and we were surviving. I once woke up in the middle of the night to the sounds of one of my machinegunners stabbing an already-dead enemy soldier, emptying his fear and frustrations into the corpse's chest. I watched another of my men, a wholesome Midwest boy, yank the trousers off a dead woman while under fire, just to see if he really remembered what it looked like.

We killed and bled and suffered and died in a way that Washington society, which seems to view service in the combat arms as something akin to a commute to the Pentagon, will never comprehend. And our mission, once all the rhetoric was stripped away, was organized mayhem, with emphasis on both words. For it is organization and leadership, as well as the interdependence sometimes called camaraderie, that sustain a person through such a scarring experience as fighting a war.

This is the only country in the world where women are being pushed toward the battlefield. The United States also has one of the most alarming rates of male-to-female violence in the world: Rapes increased by 230 percent from 1967 to 1977, and the much-publicized wife-beating problem cuts across socioeconomic lines.

These are not separate issues, either politically or philosophically. They are visible peaks in what has become a vast bog. They are telling us something about the price we are paying, in folly on the one hand and in tragedy on the other, for the realignment of sexual roles.

Lest I be understood too quickly, I should say that I believe most of what has happened over the past decade in the name of sexual equality has been good. It is good to see women doctors and lawyers and executives. I can visualize a woman President. If I were British, I would have supported Margaret Thatcher. But no benefit to anyone can come from women serving in combat.

The function of combat is not merely to perpetrate violence, but to perpetrate violence on command, instantaneously, reflexively. The function of the service academies is to prepare men for leadership positions where they may someday exercise that command. All of the other accomplishments that Naval Academy or West Point or Air Force Academy graduates may claim in government or business or diplomacy are incidental to that clearly defined combat mission.

American taxpayers dip into their pockets to pay $100,000 for every Naval Academy graduate. They are buying combat leaders, men with a sense of country who have developed such intangibles as force, clarity of thought, command presence, and the ability to lead by example, who have lived under stress for four years and are capable of functioning under intense pressure. When war comes and the troops move out, our citizens can assume that the academies have provided a nucleus of combat leaders who can carry this country on their backs.

Other officer programs are capable of producing combat leaders, but the academies have traditionally guaranteed it, made it their reason for existence. Forty percent of West Point's class of 1943 died in World War II, and ten percent of the class of 1966 died in Vietnam. The POW camps of North Vietnam were packed with Air Force and Naval Academy graduates. The six midshipmen in my Naval Academy class of 1968 who served as liaisons between the Marine Corps and the Brigade of Midshipmen later suffered nine Purple Hearts in Vietnam, and one man killed in action. As Douglas MacArthur said in his "Long Gray Line" speech to the West Point graduating class of 1962, "Your mission remains fixed, determined, inviolable—it is to win our wars. Everything else in your professional career is but corollary to this vital dedication. All other public purposes . . . will find others for their accomplishment; but you are the ones who are trained to fight, yours is the profession of arms."

So it had been at the military academies since they were established—West Point in 1802, the Naval Academy at Annapolis in 1845, the Air Force Academy in 1954—and so it would have continued to be had not Public Law 94–106, passed in 1975, decreed that women be brought into the this quintessentially male world.

There is a place for women in our military, but not in combat. And their presence at institutions dedicated to the preparation of men for combat command is poisoning that preparation. By attempting to sexually sterilize the Naval Academy environment in the name of equality, this country has sterilized the whole process of combat leadership training, and our military forces are doomed to suffer the consequences.

Civilian political control over the military is a good principle, but too many people, especially those involved in the political process, have lost their understanding of what that principle means. The classic example of a military force beyond control of its country's political system occurred during World War II in the Japanese Imperial Army, which took over Manchuria on its own initiative, and informed the Japanese government after it had done so. The Japanese military machine was exercising its own judgment, not that of its nation. In attempting to avoid this extreme, the United States is dangerously near falling into the World War II German pratfall; a military system so paralyzed in every detail by the political process that it ceases to be able to control even its internal policies.

Civilian arrogance permeates our government, and during my two years on Capitol Hill was particularly strong on the staffs of the "consistent dissenters" of the Armed Services Committee. It was bad enough when the Vietnam war was being fought from Washington, D.C. It was worse when McNamara and his whiz kids began social experimentation by instituting "Project 100,000," whereupon 100,000 borderline intellects were dumped into the military, and the military was then faulted for having failed to make them good soldiers (Harvard and Yale at that time having decided to sit out the war, and Johnson choosing to go after the mental rejects rather than the draft-deferred leaders of tomorrow). But it has become absolutely intolerable during the 1970s. The military has become a politician's toy, a way to accommodate interest groups without losing political support in the home district, a test tube for social experimentation.

Nowhere is this more of a problem than in the area of women's political issues. Equal-opportunity specialists, women's rights advocates, and certain members of Congress have prided themselves on the number of areas of the military they have "opened up" to women. The Carter administration has come out in favor of "allowing" women to go into combat. These advocates march under the banner of equal opportunity.

Equal opportunity for what? They should first understand that they would not be "opening up" the combat arms for those few women who might now want to serve in them, but rather would be forcing American womanhood into those areas, en masse, should a future mobilization occur.

The United States is the only country of any size on earth where the prospect of women serving in combat is being seriously considered. Even Israel, which continually operates under near-total mobilization requirements, does not subject its women to combat or combat-related duty. Although some 55 percent of Israeli women—as opposed to 95 percent of the men—serve in the Israeli Defense Forces, the women have administrative and technical jobs that require little or no training. Their military function is to free the men to fight. According to a recent article by Cecile Landrum, a U.S. Air Force manpower analyst, Israeli women conscripts train for three and a half weeks, with only a minimal amount of that time dedicated to the handling of weapons. Israel has terminated flight training for women, reversing an earlier policy. When three Israeli women soldiers were killed during the 1973 Yom Kippur war, the nation went into shock. As Congressman Sonny Montgomery noted after a visit to Israeli military units, "When they go into combat, the women move to the rear."

Why? Because men fight better. We can try to intellectualize that reality away, and layer it with debates on role conditioning versus natural traits, but it manifests itself in so many ways that it becomes foolish to deny it. When the layerings of centuries of societal development are stripped away, a basic human truth remains: Man must be more aggressive in order to perpetuate the human race. Women don't rape men, and it has nothing to do, obviously, with socially induced differences. As Eleanor Maccoby and Carol Jacklin observe in *The Psychology of Sex Differences*, man's greater aggressiveness "is one of the best established, and most pervasive, of all psychological sex differences."

Man is more naturally violent than woman. Four times as many men are involved in homicides as women. You might not pick this up in K Street law offices or in the halls of Congress, but once you enter the areas of this country where more typical Americans dwell, the areas that provide the men who make up our combat units, it becomes obvious. Inside the truck stops and in the honky-tonks, down on the street and in the coal towns, American men are tough and violent. When they are lured or drafted from their homes and put through the dehumanization of boot camp, then thrown into an operating combat unit, they don't get any nicer, either. And I have never met a woman, including the dozens of female midshipmen I encountered during my recent semester as a professor at the Naval Academy, whom I would trust to provide those men with combat leadership.

Furthermore, men fight better without women around. Men treat women differently than they do men, and vice versa. Part of this is induced by society (for example, the tendency to want to help women who are, more often than not, physically weaker), and part is innate (the desire to pair off and have sexual relations). These tendencies can be controlled in an eight-hour workday, but cannot be suppressed in a 24-hour, seven-days-a-week combat situation. Introducing women into combat units would greatly confuse an already confusing environment, and would lessen the aggressive tendencies of the units, as many aggressions would be directed inward, toward sex, rather than outward, toward violence. A close look at what has happened at the Naval Academy itself during the three years women have attended that institution is testimony to this.

What are the advantages to us, as a society, of having women in combat units? I don't know of any. Some say that coming manpower shortages might mandate it, but this country has never come close to full mobilization, and we are nowhere near that now. During World War II, 16 millilon men wore the uniform. Today, the active-duty strength of the US military is only 2 million people, out of a much larger group of eligible citizens. Furthermore, bringing women into the military does not mandate bringing them into combat.

Some say men and women have a duty to share our country's burdens equally, that it is sex discrimination to require only men to fight. But history has shown the wisdom of this distinction, and the Israelis, who must do more than merely intellectualize about such possibilities, demonstrate its currency. Equal does not mean the same. Any logical proposition—sexual equality—can be carried to a ridiculous extreme—women should fight alongside men.

If Congress had considered these realities when it debated whether to open the service academies to women, and approached this as a national defense rather than a women's issue, it may have voted differently.

Two thirds of the House of Representatives voted for the measure, which appeared as a rider to the 1975 Defense Appropriations Bill. Those who argued in favor of the proposal dismissed the notion of women in combat, and instead maintained that the issue was mere sexual equality. Congressman Samuel Stratton of New York, who proposed the amendment, downplayed the prospect of women in combat billets, claiming it was irrelevant: "It's just a simple matter of equality. . . . All we need is to establish the basic legislative policy that we wish to remove sex discrimination when it comes to admissions to the service academies." Stratton's key statistic in establishing that the academies did not "train officers exclusively for combat" was that "only" 90 percent of current Academy graduates had served in a combat assignment.

That is a fascinating statistic to have been used on Stratton's side of the debate. The key point is not that "only" 90 percent of the Academy graduates to that time had served in a combat assignment, but that 100 percent had been equipped to do so, physically, mentally, and emotionally. By way of analogy, I would estimate that something less than 90 percent of my classmates in law school went out and practiced law, but that did not detract from the training they received, and I don't see many law schools deciding to add theology or journalism to their curriculum to accommodate the others.

So how do you teach combat leadership? You don't do it with a textbook; you do it by creating a stress environment. My academic education at the Naval Academy always took a backseat to my military education. During our first year, I and my classmates were regularly tested and abused inside Bancroft Hall, our living spaces. We were pushed deep inside ourselves for that entire year, punished physically and mentally, stressed to the point that virtually every one of us completely broke down at least once. And when we finished our first year, we carried out the same form of abuse on other entering classes. That was the plebe system. It was harsh and cruel. It was designed to produce a man who would be able to be an effective leader in combat, to endure prisoner-of-war camps, to fight this country's wars with skill and tenacity. And it is all but gone. They still call it Plebe Year at the Naval Academy. Freshmen still have to memorize certain facts called "plebe rates" and still have to call the upperclass "sir." But there it ends. Now you cannot physically punish a plebe. You cannot unduly harass a plebe. God forbid that you should use abusive language to a plebe. Plebes do not "brace up" in the mess hall or in the corridors of Bancroft Hall. It is now a punishment, limited to fifteen minutes maximum, to require plebes to do what they once did as a basic activity for a year: stand at attention.

"I like women at the Academy," one of my classmates who is still on active duty told me recently. "They've brought a measure of . . . refinement to the place."

If there was one thing that was irrelevant to my preparation for combat it was refinement, and if there was one thing that helped my combat preparation it was plebe year. I broke down plebe year. We all did. I went around to an upperclassman once with three M–1 rifles and held them in front of me—all 33 pounds—until it was physically impossible to do so. Then I held two, straight in front of me, straining until my arms hit my knees. Then one. Then seven books. Then six, five, four, three, two, one. Then a pencil. Then a toothpick, as the upperclassman gathered his friends and they surrounded me, talking about the irrelevance of pain as the toothpick hit my knees, demanding answers to questions, imploring me to resign and go home. The next night, after physically running me to exhaustion, he and three others took turns beating me with a cricket bat, telling me they would stop if I admitted it hurt. Finally they broke the bat on my ass. I returned to my room and stuck my head inside my laundry bag and cried for fifteen minutes, standing in the closet so my roommates wouldn't see me. I hated the upperclass and I hated the Academy. But I had reached a place deep inside myself, and when I got up at 5:30 the next morning and began preparing to enter that man's room yet another time, I knew something about myself that I could never have learned in any other way.

That may seem a sadistic and barbaric way to learn self-truths, and I would not suggest a reinstatement of plebe year to that extreme, but I will say this: When I watched 51 of my men become casualties over seven weeks in Vietnam, and when I sat down next to number 51 and cried like a baby, I'd been there before. It was a lot easier to pick up and keep going, and by then I was not merely Jim Webb, plebe trying to survive a morning of a malicious upperclassman; I was a Marine platoon commander.

I don't see anything at the Naval Academy anymore that can take a person deep inside himself. I see refinement. I see an overemphasis on academics at the expense of leadership. Harvard and Georgetown and a plethora of other institutions can turn out technicians and intellectuals en masse; only the service academies have been able to turn out combat leaders en masse, and they have stopped doing so.

The implements are there, as they always have been. Midshipmen and cadets remain stronger and more aggressive than their male counterparts at civilian schools. A few days of exposure to Academy routine will convince any skeptic of this. Midshipmen and cadets love contact sports; nearly every mid and cadet is an athlete. They play the traditional sports and they eagerly play others such as rugby, boxing, karate, lacrosse, and fieldball. They drive fast cars, usually sports cars. They play hard. They drink hard. They are physical, often comically abusive among each other. They are not trying to prove their manhood; they are celebrating their masculinity. They are competitive, often vulgar, and tough, and every citizen who may someday send a friend or relative into war should rejoice that these future professionals develop and retain such qualities, because combat is competitive, vulgar, and tough, and they will be leading men in combat.

The men are essentially the same; it is the institution that has changed. It has changed primarily because of female midshipmen, for the same reasons women would adulterate the performance of combat units themselves. Externally looking in, the system has been objectified and neutered to the point it can no longer develop or measure leadership. Internally, sexual attractions and simple differences in treatment based on sex have created resentments and taken away much of the institution's sense of mission.

Not long ago, Richard Gabriel and Paul Savage, two former Army officers, wrote the book *Crisis in Command*, examining the deterioration of Army leadership following World War II. The book had many flaws, but nonetheless struck at the jugular vein: that the American military attempted to employ corporate management techniques in essentially military situations, and as a result was predestined to have many of the leadership problems that became manifest in Vietnam, regardless of the political difficulties of the war. Management is not leadership.

Management can be approached as an academic discipline; one can be taught to analyze data, to weigh alternatives, and to make a decision. Leadership is something else. It is a subjective chemistry filled with human variables. It takes more than the ability to analyze data to make a leader, one must be able to motivate those who are being led, to reach their emotions through command presence, force, and example. It is much easier to educate a manager than to develop a leader.

Rather than react to this crucial distinction, the academies seem bent on perpetuating the crisis. On the one hand, plebe year has been eviscerated. As an example of how far stress indoctrination has deteriorated, one first-classman I spoke to was reprimanded by his company commander during the first week of academic year, traditionally the most rigorous week of the entire year for plebes, because he had "upset" a female plebe. After having corrected her table manners numerous times with no success, the upperclassman ordered her to eat with oversize utensils at the next meal, a ridiculously mild sanction. The woman returned to her room and wept in anticipation of her embarrassment at the coming meal, and her roommate then went to the company commander and protested such maltreatment. The upperclassman was told to stop harassing her. If this series of events had occurred in an all-male Academy, both plebes would have been disciplined, rather than the upperclassman.

On the other hand, leadership evaluations have become sterilized, thrown over to tangible measurements that "protect" women from possible bias. Until women came to the Naval Academy, midshipmen wrote "peer evaluations" on their classmates. This was an important measurement of leadership ability, one that our leadership instructors claimed was the most accurate measurement of leadership attributes in a closed environment such as the Academy. This anonymous and accurate evaluation process erected a buffer against the officers selecting out their favorites from above and pushing them for "stripes," or high leadership positions. It never to my knowledge boomeranged against minorities—a black man was brigade commander in the class of 1970. But Academy officials feared it would harm women.

The upshot has been that a lack of peer evaluations has favored women, made the leadership selection process capable of penetration by officer staff, and caused a heavier reliance on tangibles such as academics rather than the intangibilities of true leadership. Male midshipmen universally complain that a female with good grades and a modicum of professionalism will be "groomed" for stripes by the officers.

If academics were the test of leadership, Albert Einstein, who couldn't even work a yo-yo, would have been a general, and George Catlett Marshall, who graduated last in his class academicaly at VMI, but first in leadership, would have been a clerk. Yet this is the direction leadership evaluations have taken at the Academy. Academics are objective and tangible. Traditional leadership measurements are subjective, capable of discrimination, and thus not to be trusted.

The whole world awaits an outcome that will show whether women can compete for leadership positions with men in the traditionally grueling Academy routine. This year, as women become seniors for the first time, the whole world will see women in high "striper" positions, possibly even that of brigade commander. What the whole world may not know is that women did not attain these positions in the same way that men historically have, and that not one midshipman out of hundreds I talked to, either male or female, actually believes that women wil ever be accepted as comrades, in the traditional sense, by the men.

Women will not be leading men inside the brigade this year. They will be managing, buttressed by the officers who hurried them along. And the morale of the brigade will demonstrate this distinction far better than this article ever could.

From the inside looking out, all the problems I mentioned as probabilities if women were introduced into combat units have already surfaced at the Naval Academy. Men and women are different, they treat each other differently, and the ramifications of this different treatment permeate every aspect of the brigade. It is one thing to sexually sterilize a work environment during an eight-hour day. It is quite another to do so in a closed environment where males and females engage in forced interaction on a 24-hour basis, seven days a week.

Captain Jack Darby, the recently departed commandant of midshipmen, frequently mentioned that there had been only three cases of sexual fraternization in the three years women had been midshipmen. While there have been only three major conduct offenses of this sort, it is no secret that sex is commonplace in Bancroft Hall. The Hall, which houses 4,000 males and 300 females, is a horny woman's dream. Virtually every female midshipman who dates is seeing either a male midshipman or a recent graduate. Of the 25 women who have left the class of 1980 since induction day, 20 are married to former midshipmen. While this is a natural human phenomenon, it gets in the way of military indoctrination, and creates a very real resentment among males due to the evolution of a double standard of discipline. Furthermore, it is scarring many women in ways they may not comprehend for years.

Courage comes in many forms. And today at the Naval Academy, courage sometimes means simply stating your opinion, when it varies from prescribed policy.

The 55 women of the class of 1980, the first class with women, assumed striper positions last July. Journalists have descended on Annapolis from all over the world to cover this historic first. Their stories have had all the subtlety of a 1950 "Men of Annapolis" television show. A reporter spends one day at the Academy and watches a real, live woman firstclassman brace up a real, live male plebe, then returns to the typewriter and proclaims that the sytem is working.

Female midshipmen are interviewed like movie stars. I would not be surprised if Liz Belzer, who commanded the plebe summer program for half of its duration, has given two dozen interviews this year. But if a male midshipman, during an infrequent interview states a personal opinion about women that varies from official policy, his Naval Academy education could be on the line.

The *Washington Post* ran a front-page feature story last July that lionized one female midshipman, showing a picture of her bracing up a plebe. Late in the article, the reporter quoted two male midshipmen who had mentioned, while drinking in a bar, that they thought the presence of women at the Academy was debilitating, and that the women midshipmen were not of particularly good officer potential.

The two men were severely reprimanded for stating their beliefs. Both were invited to resign from the Academy, and one man did leave the summer detail program. I ate dinner in the mess hall that night with a plebe summer squad. As I watched the so-called indoctrination on the mess-hall tables, several first-classmen stopped to speak of their disgust both for the article and for the treatment their classmates had received. None would speak for attribution, however. The system had scared them silent.

I do not understand such censorship. It is as if one statement of dissent left unrepudiated might beget a tidal wave of agreement. From my conversations, I would estimate that easily two thirds of the males in the brigade, with political philosophies that run the entire gamut, believe women should not be at the Academy. Why should they not be allowed to say so, and to say so without fear of retribution? A citizen does not give up his First Amendment right to free speech when he puts on a military uniform, with small exceptions. And the presence of women at the Naval Academy hardly constitutes an exception.

"I'm in a continual state of anxiety about this." Brad Taisey is muscular and lean, a former enlisted Marine who has done exceptionally well at the Academy. Taisey talks tough. He is intense and direct, the kind of man I would want commanding one of my platoons if I were to take a company into combat again. "I've been enlisted. I know what a good leader can do for a unit, and I know what a bad leader can do to it. There isn't a woman here who's a military leader. Most of the midshipmen around here have only seen the Academy. They can only guess. I know. But what can I do about it? And look what it's done to this place. The word came down not to shout at the plebes anymore. Treat them with courtesy, they said. Yeah. You ask the enemy to do that in the next war, too."

Taisey served as Liz Belzer's subcommander on the plebe detail last summer. When he was initially assigned the position, he attempted to resign from the detail, which is a voluntary program. Taisey claimed that Belzer's appointment was political, and said that he wanted no part of it. His resignation was rejected.

"It was a token staff, from the word go. Belzer was the token woman, I was the token ex-enlisted Marine, we had a token ex-enlisted sailor, a token black, and a token high school product. That's just the way it is now."

Taisey and Belzer argued frequently over the summer about women at the Academy. When the detail was over, Belzer marked Taisey deficient in a number of areas, giving him two Ds on his leadership evaluation. Taisey, who had an exemplary two-year enlisted career, and is currently ranked first out of thirty midshipmen inside his own company, is amazed. "I'm going to frame the evaluation. She wrote that I would have scored higher if I could have gotten along better with women. Can you imagine what would have happened if things had been reversed, and I had written a chit like that on her for not being able to get along with men?"

Taisey is representative of, if perhaps more outspoken than, the majority of the men I talked to at the Academy. In fact, the men from the class of 1980 might have a theme song, I heard the quote so often: "I'd much rather have been in the last class with balls than the first class with women."

Taisey's objections are capsulized simply enough. "I used to look at officers who were Academy graduates and say, 'That man has been through hell. He's earned the right to lead me.' It's not true anymore. The whole place has been pulled down to the level of the women, and the most important area is grades."

Don Burlingham is not as intense as Taisey. "I want to say this just right," he began as we talked. He is a cautious man, who like Taisey has done extremely well at the Academy. He chooses his words carefully, and made clear his support of many of the goals of the women's movement. "It just doesn't work here, that's all. I could see it from the first few weeks of plebe summer. All summer we were lectured about the high standards we were expected to meet. Our squad leaders talked about honor, performance, and accountability. Then before you knew it, they were going after the women plebes, sneaking some of them away on weekends. How can you indoctrinate the women when you're breaking regulations to date them? And how can you talk about integrity and accountability when you're doing those sorts of things? The attitude I've seen and practiced is turn the other cheek and bide my time until I can get back into the real military."

Burlingham is aware of the many inequities that relate to a double-standard discipline. "A male and female were convicted of the same honor offense at the same time. The man was thrown out. The woman was put on probation. That sort of thing has happened several times. It's almost impossible for a woman to be thrown out of here.

"The problem," notes Burlingham, "is that it's affected attitudes, and it will eventually affect our whole military. I'm not resentful of the women; I'm worried about the country."

So is Jeff Bush. A former enlisted Marine like Taisey, Bush spent time as a corporal with the elite First Reconnaissance battalion, and plans to return to the Corps upon graduation. But much of the Academy routine rolls off Bush's back. "I don't get too excited about much around here anymore. The place has lost a lot of its spark for me."

One thing Bush does get excited about, however, is the way he perceives women being forced down the brigade's throat. "When I first heard women were going to come, I didn't care that much. I was curious, if anything. I was a little worried that they might not get a chance to prove themselves. But it's been the other way around. The Academy has used a lot of pressure to establish women as stripers. Women are groomed from plebe year. The scary thing is that it's creating a presumption that women can command troops. I'm not kidding—there isn't a woman here who could have handled the platoon I was in when I was enlisted. The whole thing has become like a fairy tale. And it's the operating military that's in for the biggest hurt."

Jeff McFadden, a wide-shouldered, broken-nosed Irishman who served as the deputy brigade commander for the recently graduated class of 1979, sees it from a different perspective altogether. McFadden, who is currently at Nuclear Power school preparing to become a submariner, spent the greater part of his senior year as a prestigious Trident scholar, studying the notions of chivalry and the military officer. He is an encyclopedia of information on what makes combat units function, on good leadership and bad leadership, and especially on the special chemistry of camaraderie, the bonding agent of men under arms. And McFadden, like many of his classmates in '79 who watched the Naval Academy change with the addition of women, believes the institution is dying, and with it a part of our culture as a whole.

"Historically," notes McFadden, "the academies and a few other areas of the military—Marine Corps boot camp, airborne training—have provided a ritualistic rite of passage into manhood. It was one small area of our society that was totally male. Women now have a full range of choice, from the totally female—motherhood—to what was once the totally male—the academies, for example. Males in the society feel stripped, symbolically and actually. I wonder if that doesn't tie into the increase in rapes over the past decade. Rape is a crime of revenge, not passion. In any event, the real question isn't the women. The real question is this: Where in this country can someone go to find out if he is a man? And where can someone who knows he is a man go to celebrate his masculinity? Is that important on a societal level? I think it is."

What of the women themselves? There are now about 300 female midshipmen at the Naval Academy, surrounded by some 4,000 males. The women wear men's clothes, with slight variations. They live in a closed, pressurized environment where they are outnumbered almost fifteen to one by men, 24 hours a day. They are emerging into womanhood almost alone, in an isolation that resembles a tour of duty on a desert island. They study a man's profession, learn the deeds of men, accept men as role models. They seem spirited but confused, tolerated but never accepted. They are for the most part delightful women, trusting and ambitious and capable in many ways, and I admire them, more for who they are than for what they are doing. As for what they are doing, it would be unfair not to mention that no other group of women in this country has ever undergone such a prolonged regimen, however watered down. But I cannot escape a feeling that even the women are losing, that someday they will come to believe they lost more than they gained inside those walls.

It is a delicate balance for any Academy graduate, looking back on those four years and measuring what he received in return for pouring every last hot ounce of his youth into Annapolis. But part of the price, until now, has never been sexual identity.

I have a recurring vision when I watch these women on the Academy grounds in their sterile uniforms, making their way into adulthood inside a harsh, isolated man's world. I see them ten or twenty years from now, finally deciding that they did indeed lose something, something more intangible than mere feminity, which many of them yet retain. Perhaps it is something as simple as having had to find their womanhood inside a world of men, studying men's deeds, learning a man's profession, suffering taunts from men who feel they are invading a totally masculine world.

"I have never before had so few friends," wrote one woman, a high-school beauty queen, in a lengthy paper written last year for an Academy psychology class." Nor have I ever before had to prove my worthiness as a human being so many times. . . . Being a woman midshipman has made me doubt my usefulness, not only to the service, but to society as well. . . . I am tired of being different."

Another woman, tall and reserved, commented that men she does not know frequently come up to her and tell her, "You don't belong here, did you know that? Why don't you leave?"

"I tell them, 'That's tough. I'm here.' " In her next breath she speaks of wanting to wear the same hat that the males wear. "I'm a midship*man*, not a midshipwoman. I am the same. I'm tired of sticking out."

Many women appear to be having problems with their sexuality. Part of it comes from male scrutiny: What kind of a woman would seek out the Academy routine? Another part comes from the daily environment, which cannot help but create self-doubts and uncertainties. Part of it comes from what is left of the plebe system, which is designed to unsettle a person's self-image, and has the potential of cutting deeper into women, who are traditionally not verbally abused by males in our society.

It is easy to say these women are pioneers who are breaking barriers, moving along the fabeled cutting edge of social change, and perhaps they are, and I hope that sustains them. But there is a cost, and they, along with society and the men, are paying the price.

During the 1975 congressional debate on the amendment that allowed women to attend the service academies, one congressman offered a substitute amendment that would have required the Secretary of Defense to conduct a study on establishing a separate academy purely for women. Under this plan, one academy could train women to be commissioned in all of the services, much as Britain's Sandhurst does for men. The substitute amendment failed on the "yeas and nays," without a recorded vote. Perhaps, given the years of experimenting with the ideas that prevailed on that day, it is time Congress reconsidered, and mandated the Secretary to undertake his study.

The female midshipmen I interviewed unanimously resisted this possibility, claiming that it would not prepare them for leadership positions over men. My reaction is twofold: First, the present situation is not preparing anyone adequately for leadership positions over men in the combat arms, and second, all-male schools, such as the academies used to be, did not seem to hamper leadership preparations for those other areas in which men and women serve together.

What are the other alternatives? We could stop allowing women to attend the academies at all. ROTC scholarships and OCS appointments would remain available to women, as would career opportunities short of combat roles.

Or, if it is the consensus of Congress that the service academies no longer perform their historic function of preparing men to lead in combat, but are now primarily mere academic institutions, it would be logical and cost-effective to close them down. If the taxpayers, now spending $100,000 for each Academy graduate, want simply to buy a brain with military training, they can purchase that combination through an expanded ROTC program at a fraction of the cost. I don't recommend this alternative, but then, I view the academies quite differently than two thirds of the Congress did in 1975.

Command interest is growing in the operating military with respect to women problems. The commandant of the Marine Corps, General Robert H. Barrow, is reportedly deeply disturbed over the effect of sexual mixing in Marine Corps training programs. For instance, all the symptoms that are manifest at the Naval Academy also exist in the Officers Basic School at Quantico: the loss of camaraderie, the trivialization of combat preparation, the reduction of physical standards, and the elimination of peer evaluations in leadership markings. Barrow is said to believe this directly affects the evaluation of future combat officers, and thus the ability of the combat arms to perform.

Barrow should know. He is the only combat veteran of World War II, Korea, and Vietnam now serving on the Joint Chiefs of Staff. He is one of the most decorated Marines in history, a campaigner who led guerrilla troops in central China, a rifle company during the Chosin Reservoir breakout in Korea, and an infantry regiment in Vietnam, where he was known as one of the few "fighting colonels."

I told this to a woman friend of mine, a law school classmate who is now an attorney in Washington and with whom I frequently discuss sexual roles. She was unimpressed with Barrow's credentials.

She wanted to know what he knew about women.

Mr. HATCH. Mr. President, all discussions of the power of the affirmative action lobby have to be placed in the context of the astonishing popular resistance to the idea of quotas, which extends even to a majority of the members of the "protected classes." This of course makes the bureaucratic achievement all the more remarkable.

The latest manifestation of this broad disapproval of quotas appeared in a report by Victoria Sackett, an editor of Public Opinion magazine, on the results of a poll by Sindlinger & Co., commissioned by the Heritage Foundation and published in the spring of 1980 issue of Policy Review magazine. Ms. Sackett made the telling observation that this opposition to affirmative action exists despite a growth of general racial tolerance in the population, and a desire to see the disadvantaged aided. "There is a definite cutoff point in support aimed at insuring equal opportunities for minorities and women," she says. "It appears where compensatory efforts cross swords with basic American values."

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled, "Ignoring the People," by V. Sackett; Policy Review, spring 1980.

There being no objection, the article was ordered to be printed in the RECORD as follows:

IGNORING THE PEOPLE

(By Victoria Sackett)

Affirmative action can be viewed, in many important ways, as an issue not concerned with race. Public attitudes toward specific programs aimed at correcting historical policies of discrimination differ widely from attitudes toward minorities in general. The public is much more inclined to acknowledge the general need for corrective action than it is to approve specific proposals which claim to remedy past injustices. There is a definite cutoff point in support for policies aimed at ensuring equal opportunities for minorities and women. It appears where compensatory efforts cross swords with basic American values. Belief in individualism, an antipathy to preferential treatement and devotion to the principle of achievement through merit rather than ascriptive privilege prove to be stronger influences on public opinion than dedication to affirmative action programs.

One of the most comprehensive analyses of attitudes toward discrimination and affirmative action was compiled by Seymour Martin Lipset and William Schneider in 1978. They looked at nearly one hundred public opinion polls which covered every aspect of the issue from 1935 to 1977. Recently, *Policy Review* commissioned its own survey, conducted by Sindlinger and Company, which attempted to probe some of these same questions. A single poll, of course, cannot be exhaustive. Nonetheless, the *Policy Review* survey seems to confirm Messrs. Lipset and Schneider's earlier findings. People approve the idea of eliminating discrimination through laws. They balk at the notion of preferential treatment.

The *Policy Review* survey does not assess general attitudes toward minorities. However, the Gallup Organization in 1978 provided a comprehensive collection of surveys which serve to update earlier findings. The Gallup surveys showed a steadily increasing liberalization of attitudes on the part of the public, even in some of the most volatile areas of race relations. From 1958 to 1978, willingness to vote for a black for president doubled.

Question: There's always much discussion about the qualifications of presidential candidates—their education, age, race, religion and the like. If your party nominated a generally well-qualified man for president and he happened to be a Negro, would you vote for him? (Question wording varied slightly over the years.)

[In percent]

	Yes	No	No opinion
958	38	53	9
1963	47	45	8
1965	59	34	7
1967	54	40	6
1969	67	23	10
1971	70	23	7
1978	77	18	5
1			

Source: Surveys by the Gallup Organization, latest that of July 21–24, 1978.

The increasing acceptance of a proposed black for president was accompanied by a commensurate growth in acceptance of the idea of a woman or a Jew for president, adding strength to the notion that tolerance was on the increase for all minorities.

Question: Between now and the time of the conventions in 1980 there will be more discussion about the qualifications of presidential candidates—their education, age, religions, race, and the like. If your party nominated a woman for president, would you vote for her if she were qualified for the job? . . . If your party nominated a generally well-qualified man for president and he happened to be a (Negro/Jew), would you vote for him? (Question wording varies somewhat over the years.)

[In percent]

	1937	1949	1955	1958	1961	1963	1965	1967	1969	1971	1975	1978
Woman for President:												
Yes	32	50	54	55		57		59	58	69	76	80
No	68	50	46	45		43		41	42	31	24	20
Black for President:												
Yes				42	55	51	63	57	74	75		81
No				58	45	49	37	43	26	25		19
Jew for President:												
Yes				69	75	82	84	86	91			87
No				31	25	18	16	14	9			13

Source: Surveys by the Gallup Organization, latest that of July 21–24, 1978 In Public Opinion, December/January 1980.

Over the same period, there had been a dramatic increase in tolerance expressed by whites toward blacks as neighbors—even when the question was weighted to elicit more negative responses by asking whether people would move if blacks came to live in the neighborhod in great numbers.

Question: If blacks came to live next door, would you move? (Among whites.)

[In percent]

	Yes definitely/ yes might	No
1963	45	55
1965	35	65
1978	16	84

Would you move if blacks came to live in great numbers in your neighborhood? (Among whites.)

[In percent]

	Yes definitely/ yes might	No
1963	78	22
1965	69	31
1978	45	55

Source: Surveys by the Gallup Organization, latest that of July 7-10, 1978.

Even on the sensitive issue of intermarriage between races, tolerance had grown. Approval among adults of marriages between whites and blacks from 1968 to 1978 increased from 20 percent to 36 percent. A majority still objected to intermarriage, but the "disapprove" response declined from 72 percent in 1968 to 54 percent in 1978.

Louis Harris and Associates conducted their own surveys between October and November of 1978. In the interim between the Gallup and Harris surveys, and following the Lipset/Schneider analysis, the Supreme Court had decided the Bakke case. On June 28, 1978, the Supreme Court ruled in favor of Allan Bakke who had charged reverse discrimination in his efforts to enroll in the University of California medical school at Davis. The Supreme Court ruled that a university could not reserve a set number of places for minority applicants, thus denying white applicants the chance to be accepted for those slots, irrespective of their qualifications. At the same time, the Court stated that it was permissible for schools to include race along with other factors in deciding which applicants to admit.

The decision itself does not appear to have had a negative effect on overall white attitudes toward minorities, as the Harris surveys revealed. The Harris surveys sampled whites separately from blacks, never presenting a response for the mixed population. In 1976, a Harris survey showed 12 percent of white respondents favoring "separation of the races" when presented with the question "Generally speaking, do you favor full racial integration, integration in some areas of life, or separation of the races?" Twenty-eight percent supported "full racial integration" and 48 percent opted for "integration in some areas of life." The 1978 Harris survey showed 35 percent wanting "full racial integration," 42 percent favoring "integration in some areas" and 16 percent favoring "separation of the races." The largest increase appeared in the desire for full integration, though there was also a slight upturn in the number preferring the more absolutist "separation of the races" alternative.

Among blacks, 66 percent wanted "full racial integration" in 1978, another 22 percent wanted integration in "some areas" and only 7 percent favored a "separation of the races." The Harris survey confirmed the Gallup 1978 survey concerning interracial dating and marriage. Though there was a large degree of white negativity toward such practices, there was also a steady easing of attitudes evident since the 1963 survey. Also, to quote from the Harris survey analysis "The biggest shifts downward in white aversion arise if 'a black family moves in next door to you' (24 points down), 'a close friend or relative marries a black' (24 points down), 'your child brings a black child home for supper' (22 points down), and 'a black tries on the same suit of clothes (or dress) before you do in a clothing store' (18 points down)."

Messrs. Lipset and Schneider found that "there can be no doubt that a large majority of white Americans have come to accept the proposition that discrimination in hiring is wrong and that government should guarantee operation of the competitive merit or achievement principle by outlawing such discrimination. But every major national study shows that a sizable majority of Americans are also opposed to remedying the effects of past discrimination by giving any special consideration in hiring or school admissions."

It is this broad conclusion that the *Policy Review* survey confirms, whilst deepening our knowledge of public attitudes on this complex question. The Sindlinger summary of these findings interestingly states that this poll was "the most difficult survey ever undertaken by Sindlinger in recent years." Questions were pretested and pollsters received "high proportions of no opinions on questions where the response should have been clear-cut, and low proportions of no opinion when higher ratios were in order." As a result the questions underwent "numerous revisions." A special problem was presented by the topic, namely race relations, since on this "attitudes simply cannot be broken down by hard core pro- or anti-camps. There has to be room for variations." In all, the format of questions went through nine revisions.

Consequently, in the first group of questions, namely Questions 1(a) to 1(e), the Sindlinger poll provided a general introductory statement:

"In recent years, many people, including the U.S. Government, have endeavored to improve the social and economic status of minority groups such as Blacks or Hispanic-Americans—as well as women. Some of these activities on racial and sexual discrimination have become very controversial with some people—while other people have paid no attention or have not expressed themselves. I am going to read you some various positions being taken on the subject of minority or racial and sexual discrimination. As I read each position—will you please tell me your degree of agreement or disagreement. That is, where you agree—is your disagreement strong or mild? Conversely, when you disagree—is your disagreement strong or mild?"

The questions which followed were intended to be variations upon the general theme introduced in this statement and to offer respondents the choice of policies ranging from reliance on voluntary action to government enforcement of affirmative action quotas. The first question was worded as follows: "First is the position that government should take no action—instead we should rely on the people as citizens, business firms and universities to get rid of racial and sex discrimination on a voluntary basis. How do you agree or disagree on this?" The responses were distributed as follows:

[In percent]

Agree:	
Strong	32
Mild	22
Disagree:	
Strong	19
Mild	28
Total agree	53
Total disagree	46
No opinion	6

Source: Survey by Sindlinger and Company, Inc., conducted for *Policy Review* January 17–30, 1980.

The question itself reveals some problems. First of all, it is an extremely long and complicated question to be read over the telephone, requiring a rather sophisticated retentive capacity on the part of the respondents. Its complexity, reflecting the fact that affirmative action is a complex issue, makes it rather difficult to gauge with precision what elements in it elicited the response. For instance, does the figure of 53 percent overall support for leaving the private sector to solve discrimination voluntarily reflect a widespread American belief that voluntary action is in general superior to government compulsion? And would the respondents continue to support voluntary action to the same degree if over a period it failed to reduce significantly racial and sexual discrimination?

We can get some indication of the answers by examining the breakdown of opinion into strong and mild agreement or disagreement. As the Sindlinger summary puts it, only 31.5 percent strongly agreed with the position of no government action, representing the "hard core of people who are firmly opposed to government intervention in matters of bias." On the other side of the argument, less than a fifth of respondents were strongly in favor of government action. About half the respondents, however, were composed of those who either mildly agreed or disagreed with a proposition. Sindlinger argues that the data show this combined group holding not dissimilar views—which are that a proper combination of government and private sector activity is required to eliminate racial and sexual bias. This interpretation receives some confirmation, as we shall see, from the replies to Question 1 (b).

Accuracy in polling demands utter simplicity in question wording. Each question must be a controlled laboratory experiment, filtering out complicating influences like language inferences and multiple ideas. Question 1(b) provides a good example of reliable questioning. Its only drawback is the possibility that some people would not be able to remember accurately the long introductory statement read before the first question.

Question 1(b): Second is the position that there should be laws to prevent all discrimination of any kind on the basis of race or sex throughout the nation. What is your position on this?

[In percent]

Agree:	
Strong	48
Mild	30
Disagree:	
Strong	15
Mild	6
Total agree	77
Total disagree	22
No opinion	0.8

Slightly more than three-quarters expressed approval of the notion that there should be legal prohibitions against discrimination on the basis of race nationwide. Approximately two-thirds of that approval was in the area of "strong agreement." It is clear that some people who, in reply to Question 1(a), expressed support for voluntary action in preference to government enforcement to eliminate discrimination have crossed the floor in response to Question 1(b) and now favor anti-discrimination legislation. Strictly speaking, these two views are inconsistent. If we take this apparent contradiction in conjunction with the Sindlinger interpretation of Question 1(a) above, however, a possible interpretation emerges that a considerable majority of Americans, approximately 70 to 80 percent, favor the elimination of discrimination by voluntary action if possible, but by legal prohibition if necessary. But, as we will see, such strong favor of outlawing discrimination by no means constitutes a mandate in favor of affirmative programs as they have been anacted so far.

The *Policy Review* survey reveals a marked objection to the lowering of standards in employment and school admissions in order to benefit minorities and women. It also shows a decisive opposiiton to the establishment of government-mandated quotas in these areas. Here we begin to see the conflict between American values and affirmative action.

Question 1(c): Third is the position that business firms, colleges and universities, and law and medical schools—as well as other institutions of learning—should have lower entry, hiring and promotion standards—especially for minority groups and women—who apply for entrance. What is your agreement or disagreement on this?

[In percent]

Agree:	
Strong	7
Mild	11
Disagree:	
Strong	65
Mild	16
Total agree	18
Total disagree	81
No opinion	2

Question 1(d): Fourth is the position that government should pass laws to compel all business firms and schools, colleges and universities to reserve a fixed percentage of entries—jobs—and management positions for minority groups and for women applicants. What is the degree of your opinion on this?

[In percent]

Agree:	
Strong	12
Mild	18
Disagree:	
Strong	51
Mild	20
Total agree	29
Total disagree	70
No opinion	1

For the purposes of comparison, we might refer here to an earlier Gallup question from 1977. It substantiates the hypothesis that Americans are reluctant to endorse a policy of preferential treatment.

Question: Some people say that to make up for past discrimination, women and members of minority groups should be given preferential treatment in getting jobs and places in college. Others say that ability, as determined by test scores, should be the main consideration. Which point of view comes closest to how you feel about this matter?

[In percent]

	Favor preferential treatment	Favor selection on ability	No opinion
Nationwide	11	81	8
By sex:			
Men	10	82	8
Women	12	80	8
By race:			
Whites	9	84	7
Nonwhites	30	55	15

Source: Survey by the Gallup Organization, Oct 21–24, 1977.

It is interesting and significant that nonwhites as well as whites reject preferential treatment in favor of selection on ability. Though it should be noted that preferential treatment and ability are not strictly mutually exclusive, as could be inferred from the question, the results leave no doubt that the public as a whole favors selection on merit rather than through special consideration. Nonwhites, by a smaller but still significant margin, agree with that configuration. Moreover, when presented with Question 1(e) in the Sindlinger poll, the respondents distinguished between "catch-up" educational programs and what they clearly regarded as unfair preferential treatment. Three-quarters favored government catch-up programs in order to compensate groups which had suffered discrimination in the past. This compensation option evoked relatively little objection, especially when opposed to the results of later questions on straight preferential treatment.

Question 1(e): Finally, there is the position that there should be special government sponsored job training and educational "catch-up" programs reviewed for minority groups which have suffered from past discrimination.

[In percent]

Agree:	
Mild	34
Strong	40
Disagree:	
Mild	9
Strong	16
Total agree	74
Total disagree	25
No opinion	*

*Less than 1 percent.

The picture of what the public wants in the way of government anti-discrimination programs that emerges from Questions 1(a) to 1(e) is very interesting. It appears that public opinion makes fine distinctions in the matter. Widespread support for anti-bias laws and government-sponsored "catch-up" educational programs is coupled with strong opposition to lowering of standards and quota systems to accommodate minorities. Four out of five people opposed the lowering of standards for the hiring of people by business and for admissions to higher education institutions and *two out of three were strongly opposed*. Seven out of ten people opposed a quota system for jobs and higher education admissions *with about half of all respondents expressing strong opposition*. In order to assist minority groups they regard as disadvantaged and suffering from the effects of past discrimination, Americans are prepared to diverge from stricter nondiscrimination—but only to the extent of providing special educational or training programs.

This impression is confirmed when the *Policy Review* survey turns to public knowledge of, and attitudes towards, existing affirmative action programs. Briefly, people objected to *de facto* reverse discrimination, that is, government programs which rebounded to the benefit of a lesser-qualified minority or female applicant at the expense of better-qualified non-minority applicants.

Question 2(a): Under some recent U.S. Government programs—which were designed to help minority groups in jobs management positions and for higher education—it has happened that a minority person or a female applicant has been hired, promoted or admitted to an educational program like law school—with lower qualifications than non-minority applicants who were excluded. Are you aware of this?

Seventy-seven percent of respondents were aware that reverse discrimination had occurred. Twenty-three percent were not aware of it.

Question 2(b): To get your response to this question—I am going to give you four choices. Let me read each one before you reply.

One—It is fair—2 percent.

Two—It is unfair—19 percent.

Three—It is unfair but it is necessary to make up for the victims of past racial and sexual discrimination—17 percent.

Four—It is unfair and the wrong way to make up for past unfairness—62 percent.

These are surprisingly conclusive figures. Only 2 percent regard such programs as simply "fair." A full 81 percent felt that it is "unfair" in some sense to allow the less able minority or female applicant an advantage over the better qualified. Only 19 percent of respondents expressed any support for the idea of remedying the ills wrought by past discrimination if it meant sacrificing the idea of advancement by merit. And 62 percent of respondents condemned such affirmative action programs as both unfair and inexpedient.

Not only do people think that programs resulting in preferential treatment for minorities are unfair and the wrong approach, however, they also believe that such programs could actually harm rather than help attitudes toward minorities. When asked whether such situations reflected badly on all minority groups, or were likely to stir up resentments, nearly three-fourths of the respondents answered in the affirmative.

Question 3: With the situation developing where minority groups have received especially favorable treatment—do you regard such programs as likely to stir up resentment against the minorities. That is, does this have a bad reflection on all minority groups?

[In percent]

Yes	73
No	23
Don't know	4

The Sindlinger summary added the interesting comment that monitoring of the interviews had shown, in addition to the overall 3 to 1 margin, that many members of minority groups had expressed the belief that resentment would be a by-product of especially favorable treatment. Moreover, there is no difference of opinion between women who are among the beneficiaries of special treatment programs, and men on this matter. Yet, despite such an overwhelming margin of agreement on the resentment question, still more people professed that *their own attitudes* had not been affected. When reminded that government programs had sometimes resulted in less-qualified minorities and women being admitted into professions and schools, overwhelming numbers nevertheless say that minority or female doctors/lawyers are worth as much as others and they would not elect to avoid dealing with them, even if the avoidance could be accomplished without offense.

Question 4(a): This is our last question on minority and sexual discrimination: As we said—under recent government programs—minority applicants have sometimes been admitted to places of higher learning with lower standards than other applicants—and also a fixed number of college entrances and promotions have sometimes been reserved for minorities. For these questions—answer as yes or no or maybe . . . Has this affected your own attitude toward minority and women doctors and lawyers?

[In percent]

Yes	20
No	76
Maybe	4

Question 4(b): Do you think the qualifications of a black lawyer or woman doctor are likely to be worth as much as those of other doctors and lawyers?

[In percent]

Yes	67
No	17
Maybe	11
Don't know	6

Question 4(c): If you could do so without offense, would you, yourself, avoid dealing with a black doctor or a woman lawyer?

[In percent]

Yes	11
No	84
Maybe	5
Don't know	*

*Equals less than 1 percent.

Again, these are remarkable findings. Despite their disapproval of apparent quotas and lower standards for minority admissions to professional school, three out of four Americans claim that their attitudes to minority and women doctors and lawyers have not been affected by these programs. Nearly seven out of eight respondents say that they would not avoid dealing with a black doctor or a woman lawyer.

Does the same favorable attitude extend to the professions themselves? When people were asked whether quota programs would damage the professions either in fact or in the eyes of the public, the majorities exonerating the professions from harm were slightly reduced but still substantial.

Question 4(d): Do you think that these programs will damage the legal and medical professions as a whole?

[In percent]

Yes	24
No	63
Maybe	10
Don't know	3

Question 4(e): Do you think that these programs will damage the reputations of the professions in the eyes of the public?

[In percent]

Yes	25
No	59
Maybe	13
Don't know	3

Perhaps there is no great significance in this comparatively small statistical difference. If we allow ourselves some speculative interpretation of Questions 3 and 4, however, we might guess that the majority of Americans will oppose affirmative action programs provided that they can do so without themselves expressing anything that seems like racial or sexist bias. Thus, more people are ready to criticize such programs as harmful to the professions than are willing to express doubts about the minority and women doctors and lawyers.

This brings us back to our starting point—namely, that affirmative action can be viewed as a subject not concerned with race. This gains considerable support from the *Policy Review* survey. Another important finding, which confirms the arguments of Messrs. Lipset and Schneider, is that there is substantial majority support for "catch-up" educational and training programs—in sharp contrast to the overwhelming rejection of quotas or preferential treatment through lowered standards. What is less clear from the survey is the exact degree to which the public objects to government programs as such and to what extent its opposition is to the *principle* of preferential treatment. But this becomes immaterial when we see how strong people oppose any guarantee of result other than simply opportunity.

So the government can find little encouragement in public opinion to embark on further activity which seems to conflict or interfere with meritocratic values. The results of the *Policy Review* survey confirm a public willingness to provide minorities with a starting point on the inside lane, but a belief that ultimately the race must go to the swift.

Mr. HATCH. Mr. President, no government can systematically ignore the values and experience of its people and expect to retain its authority. If established political leaders do not speak to the peoples' concerns, new ones emerge who do. Affirmative action poses a threat to the social compact upon which American political stability is based. It has been a characteristic of politicians in developed countries in this century to take for granted the precious gift of public order, although they need only look to the postcolonial world to see how rare it really is.

I will not attempt to dispel this complacency here. But for a glimpse of some of the other inhabitants of our angry menagerie, we should read and reflect upon the following analysis of the resurgence of the Ku Klux Klan, taken from the Washington Post of November 13, 1979. I am sure that no one here has much sympathy for the Klan or its activities. But a case can be made that the Klan, as much as the Miami rioters, is trying to "tell us something."

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "The New Klan," Washington Post, November 13, 1979.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE "NEW" KLAN: BACKLASH TO BLACK PROGRESS

(By Bill Curry)

LINCOLNTON, N.C.—They are almost stereotypes of the South's redneck good ol' boys:

Harold Dean Flowers, 32, living beside a railroad track, laboring at a J. P. Stevens cotton mill and taking home $141 a week to support a wife, four children and a $65 monthly payment on a 1970 Olds, with a "Right to Bear Arms" license plate.

Lawrence Gene Morgan, 27, a manufacturing company employee, single and living on $150 a week and making $100-a-month payments on his 1976 Ford van, the one police said they found filled with guns, ammunition, chains, staves and eggs after a fatal shootout in Greensboro Nov. 3.

Both men, and five others from this furniture-and-textile town of 6,000 were arrested that day and charged with murder. They—like a growing number of Southern whites—have affiliated, themselves with a newly energized Ku Klux Klan.

Not the Klan, but a seemingly unlimited number of klan groups are growing on a backlash among blue-collar and working poor whites to the advances made by blacks in recent years.

They have seen school busing, affirmative action give jobs to blacks instead of whites and blacks organize to support blacks charged with major crimes—Joan Little the Wilmington 10, Tommy Lee Hines.

Drawn by anticommunist and antiblack rhetoric, they are turning in small but nevertheless increasing numbers, to the Ku Klux Klan.

"The niggers got all the rights. We feel the effects of affirmative action." said a Decatur, Ala., city worker who declined to identify herself or her job and who spoke hours after the mayor praised his administration's progress in increasing black hiring last June.

"The black people have organizations," said Joe Grady, former Grand Dragon of the Federated Knights of the Ku Klux Klan in North Carolina. "The Klan is the only group helping the poor and working class white man."

"We got taken in by a lot of talk about the threat of communism and all that," said Karen Clinton, wife of Michael Eugene Clinton, one of the seven Lincolnton men charged in the killings of five Communist Workers Party members in Greensboro. "They put a lot of stuff in our heads. We joined. We didn't know what we were getting into."

Billy Joe Franklin, a 33-year-old unemployed furniture worker, joined too. So did other Lincolnton residents during a Klan organizing drive here last month.

All told, Klan membership nationwide is estimated at 10,000—up from 8,000 in March 1978, according to a new study by B'nai B'rith's Anti-Defamation League. Sympathizers, the ADL said, number 100,000—up from 30,000.

While noting that the resurging Klan still poses no threat to American society, the ADL observed an increased willingness among Klan members to use violence.

The Justice Department's community relations service has reported that in the year ended Sept. 30 it mediated 44 local racial disputes involving the Ku Klux Klan, a small number but up from eight the year before.

The new Klan—more public, more political, more active than its night-riding predecessors—is a Klan that marches through downtown Dallas as easily as it burns crosses in deserted fields.

It is a Klan that brandishes firearms, ostensibly for "defense," during marches. And with blacks and others more willing to challenge them openly, the risks of violent confrontation grow.

"Our very existence is threatened," said Gorrell Pierce, the articulate grand dragon and effective spokesman of the Federated Knights of the Ku Klux Klan, one of three major Klan organizations based in the South.

"Everything we believe in, we see government shaking the South apart—in the ground and in our pocketbook. People are becoming frightened of strong central government. We don't have the right of segregation anymore. We have no control—and if we don't like [government action] they send bayonets to enforce it.

"Part of the problem, there's not enough jobs to go around. But strong central government is telling us we must hire a black, a woman, a Vietnamese before a qualified white man gets it."

Pierce, 27, farms 28 acres of land owned by his family for more than 200 years. A wood-burning stove heats the house that his great grandfather built; he, his brother, two sisters and their mother and a nephew live there, in Belews Creek, north of Winston-Salem.

The cash crop is tobacco, and he feels threatened by government antismoking drives. He feels threatened by a federal government that dictates policies down to the schoolrooms of Forsyth County, N.C. He feels threatened by communism. And because he feels the major political parties offer candidates of personalities, not of issues and convictions, he has turned to the Klan.

It is not antiblack, he said, although he acknowledged many members are. The Klan is against race-mixing, and he detests racially integrated television coming into his home.

The Klan, Pierce said, is anticommunist and "we are the only enemies there are to communists. We are not killing in the streets. We are educating Americans to the communist threat."

Pierce disassociated himself from the violence in Greensboro, which had been preceded by a July 8 confrontation between the same communist group and his klansmen. Gunplay had been averted with strict discipline of the klansmen, he said.

A spokesman for the communists, Paul Bermanzohn, later singled out Pierce and former Grand Dragon Grady in laying down a challenge: "We invite these cowards to come out from under their rocks on Nov. 3."

It was not Grady and Pierce who crawled out, however, police say, but the men from Lincolnton, a few Nazis from Winston-Salem and several others. And Bermanzohn's five comrades were killed; he was seriously injured.

"Lot of communism's bad," said Kay Flowers, 30, while her husband sat in jail on murder and conspiracy charges. A roach crawled across the bare wood floor of the Flowers' brick home on Railroad Street here. "Everybody has concerns."

Mr. HATCH. Mr. President, I would not, needless to say, wish to assert that the students of Harvard are moved by the same unenlightened passions as North Carolina textile workers. So I will merely add without further comment the following report from the Washington Post of May 10, 1980. The full import of this piece is difficult to ascertain, because it is written in the hypercautious style most newspapers now adopt when covering race relations. But the first paragraphs are telling enough.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Harvard Study Finds Backlash Over Blacks," Washington Post, May 10, 1980.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HARVARD STUDY FINDS BACKLASH OVER BLACKS

(By Stacy Jolna)

CAMBRIDGE, MASS., May 9.—Harvard University's affirmative action admissions program, commended by the Supreme Court in its 1978 Bakke decision on reverse discrimination, contributes to racial tension by casting doubt on the academic abilities of minorities, a two-year study says.

"These doubts represent a particularly serious problem in race relations at Harvard because they challenge the very right of minorities to be at Harvard and to be full members of the Harvard community," the report, released Thursday, says.

A comprehensive survey of 1,300 undergraduates here shows that 62 percent of the blacks interviewed said minority applicants at Harvard have not received enough consideration, while 86 percent of white students said blacks have gotten enough or too much special attention.

"It points out the limits and negative side effects of affirmative action," said Dean of Students Archie C. Epps III. "But these views are a legacy of the '60s admission policies when we admitted as many minorities as possible including 'risk' students."

"We're into a conservative swing of the pendulum and the country feels it's heard enough about affirmative action for minorities, that enough has been done and whites are getting hurt by it," said Adela Cepeda, a senior who participated in the committee that drafted the report.

"But minorities still have the least amount of education and the most amount of poverty," she said.

Interracial dating has occurred among 70 to 80 percent of minority students, while 41 percent of white students have dated persons of other races, the survey says. And interracial interaction among students in various campus settings has increased substantially, though blacks still tend to cluster together at campus dining hall tables.

"The preconceived stereotypes in discussions of campus race relations break down when you really study the problem," Epps said. "All whites are not racists and all blacks are not separatists."

The innovative study group began after a racial flareup over the February 1977 edition of the satirical Harvard Lampoon, renowned for its biding parodies.

The issue featured on its cover a black child shining the shoes of old John Harvard and it published an article considered particularly objectionable on a disease the magazine called "negrosis," as well as an arsenal of barbs aimed at blacks and black stereotypes.

Mr. HATCH. Mr. President, I do not insert these articles certainly to condone these developments—either in North Carolina or at Harvard—but simply to demonstrate the social disunities to which affirmative action has great potential to contribute.

The extent to which affirmative action leads to what can only be described as a less perfect union was neatly captured in an article in the March 15 issue of the National Journal. It detailed the plans of the Census Bureau, under pressure from the White House, to ask respondents for details of their ethnic background. An official is quoted as saying:

You can put a dollar sign in front of the numbers generated on ethnic minorities . . . because of the aid those numbers will enable them to demand.

All elected officials should read this article with foreboding.

Mr. President, I ask unanimous consent to have printed in the Record an article entitled "Hyphenated Politics," by Timothy Clark; National Journal, March 15, 1980.

There being no objection, the article was ordered to be printed in the Record, as follows:

Hyphenated Politics

(By Timothy B. Clark)

When Vincent Pasquale Barabba was growing up in Chicago 40 years ago, his father, a first-generation immigrant from Italy, made it a point not to speak Italian in his home. "He was afraid we might grow up with an accent," Barabba recalled.

Times have changed, and today Barabba finds himself overseeing a decennial census designed to elicit information on Americans' ethnic backgrounds. Far from hiring their heritage in the nation's melting pot, Italian, Hispanic, Polish, Ukrainian and other groups have insisted successfully that the U.S. government help them find out how many they are and how they are doing in today's society.

It is a troubling development. Years ago, when Theodore Roosevelt deplored "hyphenated" Americans, he had a good point. So pronounced is the trend to hyphenation these days that the motto emblazoned on the Great Seal of the United States. *E Pluribus Unum,* one from many, might just as well read *Ex Uno Pluris,* many from one.

The movement is evident in the government, with more and more programs aimed at blacks. Hispanics, Asian Americans, women and other groups clamoring for special attention. It is a trend that has been encouraged by the Carter Administration. Last month, the White House established an Office of Ethnic Affairs, headed by an Italian politician from New York who works in the East Wing, alongside men whose jobs are to deal with blacks. Hispanics and Jews, and a woman dealing with women. In January, the Carter-Mondale campaign appointed a New York City attorney of Chinese extraction as deputy campaign chairman for Asian American affairs.

Perhaps one can dismiss these appointments as harmless election-year steps to enhance the President's standing with racial and ethnic groups. But the census, in which 86 million households and more than 200 million people will participate next month, is quite another matter.

For the first time in the census's history, all respondents this year will be required to list their race in one of 15 categories: white, black or Negro, Japanese, Chinese, Filipino, Korean, Vietnamese, Indian (American), Asian Indian, Hawaiian, Guamanian, Samoan, Eskimo, Aleut or other. The census instruction booklet asks individuals to choose "the category with which the person most closely identifies."

This question (No. 4) appears on both the short form and the long form, which will go to 20 per cent of the 86 million households. The long form includes another question (No. 11) on ethnicity: "What is this person's ancestry?" It offers these examples: "Afro-American, English, French, German, Honduran, Hungarian, Irish, Italian, Jamaican, Korean, Lebanese, Mexican, Nigerian, Polish, Ukrainian, Venezulean, etc."

"Print the ancestry group with which the person *identifies,*" the instructions say. "Persons who are of more than one origin and who cannot identify with a single group should print their multiple ancestry (for example, German-Irish). . . . A religious group should not be reported as a person's ancestry."

You may have noticed that the examples do not include Spain, Cuba or Puerto Rico. That's because, again for the first time, there is a question (No. 7) asking: "Is this person of Spanish Hispanic descent?" This question is on the form because Hispanic groups two years ago persuaded Congress to require that it be asked. In turn, other ethnic groups demanded their own questions, and eventually the White House gave them questions 4 and 11.

The White House decision was not an easy one. In trial runs for the census, fully one-third of the respondents did not answer question 11, and even when the Census Bureau sent enumerators to follow up, the failure was 13 per cent.

In August 1978, James T. McIntyre Jr., director of the Office of Management and Budget (OMB), sent Vice President Walter F. Mondale a memo warning that such a low response rate "would severely threaten the credibility of any ethnic data collected " He attached a memo from deputy associate OMB director Stanley E. Morris arguing against the ancestry question "because of the over-all cost of the census (close to $1 billion), the need to minimize unnecessary expenses of follow-up for nonresponses and the importance of accurate counts."

Morris made a stronger case against the ancestry question in a memo to McIntyre on Jan. 23, 1979. "The proposed approach discourages the public from identifying themselves as Americans," he wrote. "The answers are entirely subjective and not subject to verification. The anticipated results have been labeled 'meaningless and misleading' by the House Select Committee on Population staff. There is no federal program need for these data. The question is proposed basically because of special-interest group support for some kind of item on family background."

Morris concluded reluctantly that higher OMB officials thought that "the strong interest of the Vice President's office and others in having the question on the census is sufficient reason for conceding on this issue " noting that "if deleted, this question could create an uproar from interest groups [that] think they can use this question in securing federal funds, resolution of affirmative action complaints, etc."

Barabba offered a more pointed comment on the motivation of the ethnic interest groups. "You can put a dollar sign in front of the numbers" generated on ethnic minorities, he said, because of the federal aid those numbers will enable them to demand.

The census includes other inquiries so difficult that some Members of Congress have predicted their constituents will not respond, and GOP presidential candidate Ronald Reagan has said it was his "instinct" to answer only questions about how many people live in the house. Question 12, for example, asks homeowners to list their utility and fuel costs; it had a 40 per cent nonresponse rate in dress rehearsals.

But this and other nosy questions that probably will generate unreliable data are not as disturbing as the questions requiring people to search their family trees. Would it be fundamentally un-American to allow one to report to the government, on question 11, that one is an American?

Mr. HATCH. Mr. President, one of the difficulties with "hyphenated politics" that is rarely addressed by its proponents is determining who is eligible for participation in each program. Once, of course, it becomes relevant as a matter of public policy whether or not an individual is a Negro or an Oriental or Jewish or an Aleut, there must be established some mechanism for making these determinations. As with most other repetitive determinations of this kind that must be made by government, there will likely have to be special bureaucracies, rules and regulations, and opportunities for judicial review.

I am in the process of preparing legislation that would amend the Public Works Development Act by establishing a "Racial Classification Review Board" to determine which individuals fall within the statutory descriptions used by that act, such as "Negro," and "Indian" and "Aleut." No doubt affirmative action proponents will be able to learn from the South African experience in developing proper procedures for classifying people by race to insure that the law is not enforced in an arbitrary or capricious manner.

At this point in the Record, I ask unanimous consent to have printed three items: one, a dissenting option in a recent Connecticut Circuit Court case, *International Brotherhood of Electrical Workers* v. *City of Hartford,* 22 FEP 1973 (1980), discussing the implications of race-conscious policies; two, a column from the Washington Post describing the present "eyeball" system of race classification used by the Federal Government; and three, another column from the Washington Post inquiring "Who's the Minority in the District?" I would also refer my colleagues to the price case placed earlier in the Record, 21 FEP 1512, 1531 fn.

There being no objection, the material was ordered to be printed in the Record, as follows:

Dissenting Opinion

Van Graafeiland, Circuit Judge (dissenting):—In January 1977, the Mafco Electric Co. of West Hartford, Connecticut, laid off two of its employees. It discharged them, not because they were incompetent or derelict in their duties, but because they were white males. Had they been Spanish-Americans just immigrated from Cuba, Blacks recently arrived from Alabama, or white heiresses working for kicks, they would have continued to draw their paychecks. However, they were white males and so they lost their jobs. They were discharged in order that Mafco could comply with an "anti-discrimination" ordinance enacted by the City of Hartford.

Although official 1980 census figures have not yet been established, it is estimated that approximately 50 percent of Hartford's population are non-white and that at least 50 percent are women. This means that approximately 25 percent are white males. The Hartford City Fathers have decided nonetheless that, insofar as the City is concerned, the non-whites and women are the minority group and the white males are the majority group. They enacted an ordinance to ensure "equal employment opportunity" on city projects for the 75 percent of Hartford's citizens making up the "minority" group and to establish "reasonable minimum percentage goals" in the construction industry for that group. Although 15 percent was set as the basic minimum level for "minority" employment, the actual percentage goals are to be determined by the City Manager, using, among other criteria, the size of the qualified "minority" labor force in the Hartford Labor Market Area. Moreover, the adequacy of the goals so established is to be reviewed annually. As this Court proceeds to put its stamp of approval upon this program, it is appropriate, I think, that we pause briefly to take a look at where we are and where we are going.

A LOOK AT HISTORY

We conclude, as we must, that affirmative action programs of this sort can no longer be justified as "deferred recompense for past injustices." There can have been no injustices against racial minority members who appeared on the scene no earlier than yesterday or against women whose interest in construction work is not of vintage character. Now, our support assertedly is based upon the desirability of bringing about what the majority describe as the "moral equality of the races." It is not too early—perhaps it is too late—to consider what is meant by "moral equality of the races" and to ask ourselves where the United States women fit into this "moral equality" picture. A look at history may furnish a helpful perspective.

In 1920, Hungary enacted a law known as Law XXV, 1920, which provided among other things that the student bodies in the universities should be proportioned by race so that the percentages corresponded with the racial percentages in the country as a whole. In effect, this law gave Magyar students priority over Jews in admission to universities. In 1941, Bulgaria enacted a Law for the Defense of the Nation (*Zakon za zashtitata na natsiiata*, ZZN) which limited the number of Jews in both schools and the outside economic world. Article 25 of the Statute, which limited the number of Jews in various occupations, empowered the Cabinet to decide on the distribution of occupations in the country's professions and trades. In 1887, a law was enacted in Russia limiting the number of Jews in various middle and higher schools to between two and fifteen percent. In pre-Nazi Germany, Jews were permitted to attend universities and practice certain professions only in proportion to their numbers in the population.

These European laws are well-recognized example of *numerus clausus* legislation. Translated freely as "limited numbers", *numerus clausus* describes a situation once prevalent in several European countries in which Jewish participation in schools and occupations was limited by numbers of percentages or by relating Jewish participation to that of other races. It now appears that in cities such as Hartford the white male is about to inherit the role of the European Jew. As a number of Bulgarian Jews self-employed in commerce, credit, and insurance dropped from 4,465 in 1926 to 761 in 1942, so will the number of white males employed in the Hartford construction industry drop if the *numerus clausus* of Hartford's affirmative action program continues in effect.

Moreover, with the adoption of affirmative action plans such as that of the City of Hartford, the day is not far off when *numerus clausus* will be applied not simply to white males but to all races, and to sexes as well Combining Blacks, Puerto Ricans, Spanish-Americans, Orientals, American Indians, and women into one "minority group" gives substantial statistical support to those who favor affirmative action for minorities. No prescience is needed, however, to predict that the homogeneity of this minority group will not long endure. Blacks will not sit idly by should all affirmative action jobs be given to white women. Spanish-Americans will not remain passive if a disproportionate number of jobs is given to Blacks. They will each demand recognition for their own race as a separate minority group, and the inevitable result will be a *numerous clausus* for all groups. An employer will need a computer to unscramble the conflicting quota demands of race and sex groupings and a lawyer at his right hand to defend him against error.

IMMIGRATION QUTOAS

Men of good will will look back with distaste upon the battle over immigration quotas that raged in Congress during the early 1920's. Those quotas, like affirmative action quotas, were concerned with racial balance. Immigration quotas were established to preserve racial balance in the country as a whole, affirmative action quotas are intended to create it in specific areas or occupations. The first immigration quota law, enacted in 1921, limited the number of any immigrating nationality to 3 percent of foreign-born persons of that nationality who lived in the United States in 1910. Prior to the expiration of this law in 1924, Congress set about enacting successor legislation, and a dispute arose as to whether the 1890 census rather than the census of either 1910 or 1920 should be used as a basis for the new 2 percent quota. The Congressmen who wanted to restrict immigration from southern and eastern Europe favored the 1890 census because most immigrants from those areas arrived at a later date. Those who favored immigration from southern and eastern Europe argued for the 1910 or 1920 census. The debate in Congress was acrimonious. Moreover, regardless of the facial arguments used, the fundamental issue was whether the quota of one nationality or another should be favored. It was a dark chapter in our country's history but a chapter that will surely be rewritten if the use of *numerus clausus* or racial quotas in affirmative action programs is not restricted.

Following the enactment of ZZN, Bulgarian Jews received an occupational allotment of 21 doctors, 20 lawyers and 7 dentists. When the day comes that similar allotments are made in this country, those who dream of an integrated society, free of racial controversy and animosity, will long since have had their dreams shattered. My brothers appear to take comfort in the fact that the present Hartford quota is only 15 percent. Apparently they believe that the "minority" which holds political power in Hartford will be content with that figure. However, that "minority" cannot help but know that, if a 15 percent quota is legal, so also is a 30 percent, a 50 percent, or a 75 percent quota. See United Steelworkers v. Weber, 443 U.S. 193, 208–09, 20 FEP Cases 1 (1979). Conceptually, there is no distinction in the figures. The only giant step has now been taken and judicially approved. From 15 percent to 75 percent is simply the continuance of a process already under way, and there is no logical stopping place in between.

The arguments against *numerus clausus* are not answered by saying that the framers of racial quota legislation are well-intentioned. The Inquisition itself was not evilly motivated. "If a religious, moral, or political purpose may exculpate illegal behavior, one might commit bigamy to avoid eternal damnation; steal from the rich to give alms to the poor; burn and destroy, not merely public records or perhaps buildings but even public servants as well, to implement a Utopian design." United States v. Cullen, 454 F.2d 386, 392 (7th Cir. 1971) (footnote omitted). It is by well-intentioned processes such as this, rather than by revolution, that individual rights and freedoms in a democracy are most likely to be lost.

U.S. MUST REVISE RACE, ETHNICITY KEY

(By Mike Causey)

Programs to attract more minorities into federal jobs will force the government to drop or sharply revise the complex system it now uses to identify and label—by race and "ethnicity"—each of its 2.6 million workers.

Administration officials are committed to making the federal establishment "more representative" of the nation's race and ethnic mix. Hispanics are the only ethnic group counted.

Efforts to find more minority job candidates are being spurred by changing federal recruiting efforts, new programs making it easier to bring "underrepresented" minorities into government, and boosting recruiting in Hispanic areas, through Spanish-language ads.

Minorities now make about 23 percent of the federal work force. Most are in the lower and middle pay grades.

The current program Uncle Sam uses to collect race and ethnic data on civil servants has produced a system that is controversial and has brought protests from organized groups of Jews, Italian-Americans and Polish-Americans who are not counted as minorities.

Developing new guidelines, borrowing old definitions and mixing them has created some interesting situations. Although persons of Spanish-descent or with Spanish surnames are considered an ethnic group, the government (using old HEW guidelines for another program) does not recognize persons of Portuguese or Brazilian descent as ethnics.

Individuals from the "Indian-subcontinent," that is, Indians and Pakistanis, now considered "white", may be put under the category of "Asian or Pacific Islanders" like Japanese, Chinese, Koreans, Samoans, etc.

Under existing guidelines that may have to be junked, the government asks many new job applicants to fill out separate "confidential" self-designation forms. They list race and whether the persons considers himself or herself as Hispanic or non-Hispanic.

Regular federal workers are racial-"eyeball" system. Supervisors, observe employees and report, using special forms, what they think is the employees' race, and ethnic background.

Data on race and ethnicity is used for a variety of purposes. One is to determine the percentage of minorities by agency, geographic location, job, grade and pay.

President Carter's new civil service reform act contains a provision—authored largely by Rep. Robert Garcia (D–N.Y.)—that requires agencies to make special efforts to recruit minorities that are "underrepresented" by occupation, location or in overall agency employment totals. Various methods are to be used to determine what the representative number or percentage will be.

The method of determining employe race and ethnicity may have to be changed because one of Carter's reorganizations shifted responsibility for setting those guidelines from one agency—the Office of Management and Budget—to another, the Commerce Department.

The government will be expected to use Commerce's guidelines. They list five racial groups—"American Indian or Alaskan Native; Asian or Pacific Islander; Black; White and Other." In addition, Commerce has two categories of "ethnicity". Hispanic and non-Hispanic.

Current guidelines, under which most of the 2.6 million federal workers have been identified are: "Employes in Guam or Hawaii; Negro; Spanish-surnamed; American Indian; Oriental; Aleut employment in Alaska; Eskimo employment in Alaska; none of these; non-Hispanic in Puerto Rico."

In an attempt at "linkage" between the two different classification systems, the Office of Personnel Management—the agency that manages civil service matters for the president—has developed the following links:

The category of "Oriental" may be revised to exclude persons of "Hispanic ethnicity." Experts say this will affect persons of Filipino extraction. The "Negro" category will be revised to exclude black Hispanics. The complex guidelines also say that "h and i" ("h is 'none of these' while i is 'non-Hispanic' in Puerto Rico") will be listed under the "white" category "minus those who marked Hispanic ethnicity."

When the changes are made, officials hope to get a complete accurate picture of the race and ethnic makeup of the government. That data will be used to determine new recruiting efforts to attract more minorities.

Who's the Minority In the District?

(By Wilcomb E. Washburn)

When should affirmative action in favor of a minority cease?

Glen DeRonde, who won a reverse discrimination case in January, has asked the California State Supreme Court whether the University of California's admission preference for some racial groups will "no longer be mandated when and if Caucasians become minorities within the state of California?" DeRonde's petition raises the question of whether the definition of a minority changes when the majority becomes the minority in a particular geographical unit

Demographers predict, for instance, that Los Angeles will soon have a Hispanic majority. Will minority preference rules be shifted to favor whites when they become a minority there—or in any city or state or in the nation at large? Or will the preference cease only when the minority proportion in designated institutions, professions or occupational levels equals or exceeds their proportion in the total population?

The District of Columbia provides a potential laboratory for consideration of these questions. D.C. affirmative action plans are presently applied in favor of blacks and Hispanics, although whites (as well as Hispanics) now constitute the minority population of the District. Although the District Council on March 26, 1979, rejected a motion to eliminate racial designations before the names of candidates for appointment to the District's boards and commissions and indicated its expectations that the D.C. Human Rights Commission would keep track of such designations for affirmative action purposes, it is still impossible to determine the exact racial composition of the D.C. government. The prevailing impression is that blacks are overrepresented even in terms of their majority status within the District.

Could black preference within the District be successfully challenged by members of the white minority? Will the courts rule that blacks will continue to remain the preferred minority in the District so long as they remain a minority within the Washington metropolitan region or in the nation as a whole? Or will the measure be one of proportional representation in particular levels of the bureaucracy or the professions? If affirmative action in favor of preferred minorities is reversed, does the reversal mean reversion to a color-blind system or to one in which positive preference is given to the newly defined preferred minorities? Court rulings have left undefined the temporal and spatial limitations of affirmative action.

On May 28, Iris Kern, the only fulltime white professor in the seven-member department of social welfare at the University of the District of Columbia, won a default judgment against the university in the U.S. District Court on the grounds that she had been passed over for promotion and pay increases because she is white. Although the Kern case did not come to grips directly with the temporal and spatial aspects of affirmative action, one can expect an increasing number of court cases that will deal with these aspects.

The Supreme Court sidestepped the *DeFunis* case in the 1960s on the ground that DeFunis succeeded nevertheless in obtaining the education he had claimed was denied him because of the application of unequal standards to different races in the admissions procedure he challenged. When the Supreme Court finally ruled on the *Bakke* case in 1978 and on the *Weber* case in 1979, it set legal standards for affirmative action programs, but offered ambiguous interpretations of the moral and ethical aspects of racial preference. Affirmative action programs have not quickly solved the problems they were meant to eliminate and have in some cases exacerbated racial tensions.

Since preferential treatment in a democracy is fraught with popular emotion and political hazard, as well as with logical inconsistencies, the answer to be given by the courts in future cases will not be easy, but must be quick. Further delay in defining the temporal and geographical dimensions of racially defined programs of preference can only lead to more divisiveness and bitterness.

Mr. HATCH. Mr. President, another of the problems with "hyphenated politics" is that there are always several categories into which most people can be grouped, not always compatibly. A good example of this occurred in 1972 at the Democratic Presidential Convention. The organizers went to considerable trouble to achieve racial and sexual balance, only to discover they had massive overrepresentation of the small but noisy portion of the American people who have advanced degrees.

It is more than likely, to take another case, that current affirmative action in governments and businesses will reach its targets and still leave the Nation's Roman Catholics significantly underrepresented in top jobs, until this is pointed out; and even after further affirmative action, we would probably find that Irish rather than Eastern European Catholics might well predominate.

There are even more thorny problems. What is the right proportion of handicapped native Americans? Logically, the whole business is a mare's nest. On current form, this means the bureaucracy is approaching it with relish.

In reality, such disputes will not be decided according to logic, and much less according to justice, the Supreme Court having rendered that a contingent commodity. They will be settled according to political power. We will indeed be living in an "angry menagerie of factions scrambling for preference." In the melee, most of our values will be trampled underfoot.

Consider the case of the selection of a president for the University of California at Los Angeles as told by John Bunzel, former president of San Jose State University, senior research fellow at the Hoover Institution at Stanford University, and a leading student of affirmative action. The values that went underfoot at UCLA were the ideal of merit selection, and any pretense that a university should be other than a political toy.

Mr. President, I ask unanimous consent to have printed in the Record an article entitled "Politics and Picking a College President," by J. H. Bunzel; the Chronicle of Higher Education, October 22, 1979.

There being no objection, the article was ordered to be printed in the Record, as follows:

Politics and Pressure in Picking a College President

(By John H. Bunzel)

Last May, the trustees of the 19 California state universities and colleges met to select a new president for the Los Angeles campus. It turned out to be one of the most bitter and divisive meetings in the system's history.

The controversy centered around two of the three finalists presented to the board: James M. Rosser, a black educator and vice-chancellor of New Jersey's department of higher education, and Julian Nava, a Mexican-American and member of the Los Angeles board of education. Gov. Jerry Brown and Assembly Speaker Leo McCarthy, both *ex officio* trustees, participated in the meeting.

It was no secret that Governor Brown and Speaker McCarthy wanted the trustees to pick Mr. Nava and had supported him long before they arrived at the meeting in May. (Certain trustees had also phoned other members of the board in an attempt to get them to commit themselves—before the meeting—to vote for Mr. Nava.) Further, in the Mexican-American community in Los Angeles the appointment of Mr. Nava "was expected." As one of its leaders put it, "The appointment was assured since the necessary votes were promised."

Many of the trustees, including some of the governor's own appointees, were deeply offended by his undisguised attempts to put political considerations ahead of the traditional academic and merit criteria by which the board normally evaluates presidential candidates. The governor was attacked severly for having made up his mind to support Mr. Nava before the selection process was completed or he had had a chance to meet the other candidates and make a comparative judgment about their respective qualifications. One Brown-appointed trustee, not hiding her anger, told the governor she had not come to the meeting simply to endorse his prior commitments or to ratify a decision that had been pre-determined. Her sense of outrage was shared by other board members who had a different perception of their role as trustees.

Finally, in a written ballot, the trustees chose Mr. Rosser to head Cal State Los Angeles by an 8-to-7 vote. The governor tried to block the appointment by a series of parliamentary maneuvers, but failed.

Mexican-American leaders in Los Angeles immediately denounced the board's rejection of Mr. Nava. One called it "another humiliation for the Hispanic people" and "a symbolic blow to a community that continues to wait for promises not kept." A senior at Los Angeles State (and first cousin of Mr. Nava) wrote in the campus newspaper that "the appointment of Dr. Rosser, a Black . . . is an insult to Hispanics. The 1980's will testify against Dr. Rosser's appointment as Hispanic growth continues to overwhelm whites and Blacks in elementary schools as well as in the general population." The issue, she said, "is not whether Dr. Rosser is more qualified than Dr. Nava but rather the issue is that the board of trustees chose to be indifferent to the pressing need of Hispanic representation at the presidency level of California State University at Los Angeles."

State Senator Joseph B. Montoya (D-Los Angeles) spoke of "my own sense of betrayal" because of "commitments" to Hispanics which had not been kept. He said that members of the Sacramento based six-member Chicano caucus had been led to believe the appointment of Mr. Nava had been "sewed up" prior to the trustees' meeting. "Instead, they went and picked someone from the boonies in New Jersey to head a school in one of the most diverse cultural cities of the United States, which doesn't make sense." He called for the firing of the chancellor and said that unless the trustees reconsidered their vote or gave Mr. Nava an equivalent position, he would make a specific request for reductions in the budget of the state university system.

Several conclusions emerge from this extraordinary series of events.

First, the "political meddling" of Governor Brown (the words are those of the outgoing board chairman) and the willingness of some trustees to go along and "play the game" seriously compromise the board's autonomy and authority. The governor left no doubt in anyone's mind that his time and energies were directed not primarily to the interest of Los Angeles State but to the fixed purpose of serving a particular political constituency. A responsible and truly independent board will see its major role as one of protecting the university and everything it stands for from external group pressures and the intrusion of politics. The principal requirement is that the men and women who are trustees must themselves be independent.

Second, one of the costs of politicizing the board is the far-reaching cynicism that has polluted the climate of affirmative action. There are already signs of disingenuousness and, perhaps even more disquieting, self-deception. A veritable waterfall of words giving a false appearance of simple frankness insists that racial identity is only one factor taken into account in the trustee appointment of a president, when it is evident that such qualities as substantial and successful administrative ability and performance may be given less weight than race or ethnicity.

For example, it is one thing to say that the trustees want and must continue to seek a more cosmopolitan and diverse membership on the campuses. However, to argue that they should have picked a Chicano for president because "Hispanics comprise 16 per cent of the student body" (15 per cent are Asian-Americans and 14 per cent are blacks) or because they are the "fastest-growing minority in Los Angeles County" is to suggest that the selection of a university president should be an ethnic rather than an administrative appointment.

One wants to believe (and there is good reason to do so) that Mr. Rosser was chosen not because of his color but because he was judged the best person. (However, a measure of the bad temper and cynicism that grew out of the acrimonious meeting is the private comment of one trustee that if Mr. Rosser had been white, he would not have been picked.) The ability and resolve of the board to resist powerful political pressures and thereby preserve the integrity of the selection process will be tested again in December, when a new president is to be appointed at Fresno State.

As part of the required procedures of affirmative action, an advertisement has appeared in *The Chronicle of Higher Education*, inviting applications from around the country. But interested candidates should also know that there is more than a hint and a lot of open talk (eliciting the usual denials) of a "hidden agenda," which, one trustee has said, is "not that hidden." Some trustees are ready to vote for Mr. Nava in January; others have again been approached and asked to do the same. Put simply, some of the same pressures are already at work to make certain that this time he gets the job.

All of this is a terrible disservice to Mr. Nava. Furthermore, the pre-determination of those who want Mr. Nava to be made president of Fresno State—months before it is even possible to judge who, among the more than 100 candidates, is the most highly qualified—is completely standardless. It would seem that for some of the trustees the commitment to affirmative action has produced their finding that Mr. Nava is the "best-qualified candidate" rather than a finding of "best-qualified" based on a judgment free from favor or prejudice toward anyone, triggering affirmative action.

It comes to this: If Mr. Nava is truly the best-qualified person, he deserves to be appointed. But if he is not, are there reasons and ways to appoint him anyway?

The question and its ramifications go far beyond any one individual or appointment. Last winter an affirmative-action review committee recommended some revisions of present trustee policy. The term "merit," a central principle in the present policy, has been dropped. The statement that "quotas and preferential hiring are not in accordance with national, state, or trustee policy" has been eliminated. The present policy explicitly commands that "those judged to be the best-qualified" should be selected, retained, and advanced on the basis of "ability, knowledge, and achievement without regard to race, color, religion, sex, or national origin." In the review committee's draft, these carefully considered words have been deleted. Instead of 'best-qualified," it proposes, "among the top candidates."

These suggested changes are not cosmetic. They would permit and encourage qualified (but not necessarily the best-qualified) members of certain preferred groups to be picked if they are simply "among" the final three or four candidates. Further, the committee's proposal would make it easier for a white male, even if he happened to be the best-qualified of all, to be passed over so that what are often called "real" affirmative-action results can be achieved.

It is unlikely that all of these recommendations will be accepted or that the trustees will depart from their unambiguous commitment to hire the best-qualified person. But as one top administrator observed, "The trustees don't have to make any formal policy changes. All they have to do when they get in executive session is place politics above meritocratic criteria, appoint whoever gets the most votes, and then simply announce publicly that the one they picked was the best-qualified."

Too cynical? Perhaps. It is worth noting, however, that some 500 faculty members at Fresno State, disturbed by the politically infected trustee meeting of last May, felt it necessary in August to take the unprecedented action of sending the board a resolution (passed overwhelmingly) stating that "political influence is looked upon with disdain" and calling for "merit only" to be considered in the appointment of Fresno's next president. The message to the trustees is clear: don't pick the best-qualified black or white or Mexican-American, but the best-qualified man or woman—period.

The question is whether "merit only" is now hostage to new and presumably more important imperatives. If so, affirmative action in practice will no longer mean an equality of actual opportunities for every individual and the selection of the best-qualified person in every instance.

Mr. HATCH. Mr. President, Dr. Bunzel's article drew an immediate response, which I find instructive in a number of ways. It is obvious, to begin with, that substantial numbers of individuals have now developed a direct class interest in affirmative action, either as beneficiaries, consultants, or administrators. And they react angrily to any criticism of it. The extremely bitter and personal nature of these responses should be noted.

The defensive rationale this class has evolved is at once striking and appalling. It consists in large part of a rejection of the concept of merit selection altogether, either as a logically possible ideal or as a fact in American history. Since all candidates, according to this theory, are indistinguishable, the selection can be made on the basis of politics, and the selectors can tell themselves that things have always worked that way. What students are being taught about the reason immigrants came here, or even about the American Revolution itself, can only be a matter for alarmed speculation. As for skepticism about merit itself, my own surmise is that it reflects affirmative action's origins in Government and university bureaucracies, institutions where output is not easily measured.

Another feature of the defensive rationale for affirmative action is an unsubtle disbelief in the ideal of impartiality. Once more, this means that proponents of this rationale can perpetrate any affirmative act they choose, since there is no higher standard against which to measure themselves or their actions. This raises deeper questions, however. Western civilization itself is intrinsically involved with the ideal of impartiality, for example, in the administration of justice and in the scientific method. Clearly there are many that would in the long run be affected if affirmative action prevails.

Along with the letters in the November 26 issue of the Chronicle of Higher Education, I include Dr. Bunzel's conclusive rebuttal from the January 14 issue.

Mr. President, I ask unanimous consent to have printed in the Record from the Chronicle of Higher Education, November 26, "Letters and Bunzel Rebuttal," January 14, 1980.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Letters—Picking a College President: Politics, Pressure, Affirmative Action

To The Editor:

John Bunzel in his Point of View, "Politics and Pressure in Picking a College President" (Oct. 22) raises a number of issues which, if left unchallenged, will lead the naive reader to conclude that the trustees of the California State University and Colleges have stumbled upon an innovative method of selecting a college president. . . .

"Merit only" has never been the sole criterion considered for selecting a college president. . . .

Mr. Bunzel refuses to see that this country has had affirmative action and preferential treatment for white males since its founding, so to claim that the now-called-for affirmative action for minorities and women is an attack on the meritocratic principle is totally irresponsible. Affirmative action, as it was practiced for white males, never meant "an equality of actual opportunities for *every* individual and the selection of the best-qualified person in every instance." Nor is that the meaning of affirmative action today. To claim that an institution will hire only the "best qualified" is patently false, if not an act of the greatest self-deception.

First, in no way can an average state college, or even a recognized elite institution, always hire the "best qualified." If that were the case, then all institutions would be "the best." And secondly, how is one able to determine who the *best* qualified is without stating clearly and precisely the objective criteria the applicants will be measured against? Those who always cryout for only the "best qualified" to be hired, when pushed for answers regarding by what objective criteria and processes the "best qualified" is to be determined, offer no clues.

The California State University and Colleges' Affirmative Action Policy Review Committee, which Mr. Bunzel has taken to task for recommending that the words "the best qualified" be deleted in favor of the words "among the top candidates," was merely attempting to approach the whole problem of personnel selection from a more realistic perspective.

As a member of that review committee, I recall that the discussion over this particular item centered around the combined experiences of all members of the committee who as a group have served on dozens of search committees. Each member expressed the idea that it is truly the rare situation that one applicant clearly stands out as the single "best-qualified" candidate. Most often after a thorough evaluation, a search committee arrives at a point where there is a group of candidates who could fall into a category of "top candidates," or, if you prefer, a group of "best qualified."

In those situations, then, the university should be free to offer the position to that candidate who would help the university reach an affirmative-action goal if, through the required utilization analysis, ethnic or sexual underrepresentation has been identified. There is nothing sinister about this approach and it is well within the Equal Employment Opportunity Commission's guidelines for voluntary affirmative action.

The continued attacks on affirmative action by academic critics serve no practical purposes than to fan the flames of racial divisiveness.—Stephen A. Faustina, Affirmative Action Coordinator, San Jose State University, San Jose, Calif.

To the Editor:

John Bunzel criticizes Gov. Jerry Brown for putting "political considerations" over "traditional academic criteria" in the appointment of a college president in the California State system recently. I cannot refrain from noticing that such is not exactly a novelty in public higher education, even in California before Jerry Brown. Too often the use of the traditional academic criteria for high-level appointments has served to divert public attention from the politics actually at work.

Mr. Bunzel is a case in point. He was at San Francisco State University when appointed president of San Jose State University in 1970. The giddy making and unmaking of presidents in 1968-69 was overtly political. Mr. Bunzel was one of those made. Had he been even more abundantly endowed with academic merit than he was, in Ronald Reagan's California and Glenn Dumke's state system of the day, he would never have become a college president had he not been politically "right" in two senses of that term.

Education is inevitably political. There are high roads and low roads in the politics of education, and doubtless many levels in between, but the difference is not illuminated by expressing it as the mutual exclusion of the political and the academic. The latter has been too long the basis of deception.—Jordan M. Churchill, Durham, N.C.

To the Editor:

I recently served on an academic search committee to fill the vacancy in the position of president of a large, diverse state university.

After many meetings the committee drew up a profile of the ideal candidate for the position. The clearly "best-qualified" candidate for our institution, all agreed, was the Unicorn. This animal is often symbolic of chastity and purity, is capable of being tamed by a virgin, and is usually successful in evading capture. Imagine the wisdom, strength, and cunning of the beast! Since our campus is short on virgins we felt the Unicorn would never be co-opted by any political group but would serve all with a mythical devotion to fairness.

We later discovered that no Unicorns had applied for the job. . . .

The point to the tale is that there is no such thing as the "best-qualified" candidate for the job. The best that a search committee can do is to develop a short list of qualified candidates and to use affirmative action to insure that minorities and women are considered without bias. The fact that a white male is appointed should be no more proof that he is the "best-qualified" candidate than the selection of a minority-group member or woman should bring forth suspicions of political influence.—Arlene Chatt, Principal, Hay Associates, Management Consultants, Los Angeles.

To the Editor:

Politics in picking a college president is an evil which should be lambasted, but instead of concentrating on that topic John Bunzel slides off his target and gives a gratuitous slap to affirmative action. His only justification for this shift of emphasis is that a black was picked over a Mexican-American. He also mentions a "private comment of one trustee" to the effect that if the successful candidate had not been black he would not have been chosen. By this last comment, Mr. Bunzel implies that better-qualified white candidates were passed over, but he gives no indication that such candidates were even available. This is followed by a long rant about hiring the "best-qualified" candidate. . . .

The problem is politics—not affirmative action. Mr. Bunzel is a political scientist and understands that well enough. He should also know that candidates who have been selected to be college presidents in the past were not always the "best qualified," and affirmative action had nothing to do with that.

Furthermore, Bunzel should learn the difference between equal opportunity and affirmative action before writing essays on the subject. The latter attempts to correct the inequities of the past. Some of the ways that affirmative action attempts to do that is by setting goals and timetables and by reviewing qualification requirements. The aim is to select minorities and women to serve in positions where they have previously been denied.—R. Dean Galloway, Library Director, California State College, Stanislaus, Cal.

Bunzel Responds: "Best Qualified"

To the Editor:

The four letters appearing in the November 26 issue of *The Chronicle* in response to my essay on "Politics and Pressure in Picking a College President" deserve a brief comment.

Arlene Chatt states flatly that "there is no such thing as the 'best qualified' candidate for the job." Besides being an absurd statement, her flat declaration will come as a surprise to many people (department heads, deans, president, trustees) who spend a lot of their time trying to find the best qualified person to fill important positions. After all, that is one reason why first-rank institutions are first-rank and why others constantly strive to raise their standards.

R. Dean Galloway, a college library director, writes that "college presidents in the past were not always the 'best qualified.'" He surely is right. His point may even apply to a library director here and there. It is frequently said that academic hiring often violates merit criteria—hence why get upset about affirmative-action hiring? The most honest answer is to acknowledge that the charge is sometimes true, but to insist that failure to act always according to a defensible principle does not discredit the principle. Instead of abandoning it, we should concentrate our efforts on making it more consistently honored.

Stephen A. Faustina, who is the affirmative-action coordinator at San Jose State University, says that "it is truly the rare situation that one applicant clearly stands out as the single 'best qualified' candidate" and that the idea that "an institution will hire only the 'best qualified' is patently false."

I disagree—and so did he not too many years ago. In my capacity as president of San Jose State, I hired him—and, as I told him at the time, I did so on the basis of merit, not on the basis of sex or because he was black (another leading candidate was a qualified woman), and because, out of more than 100 applicants for the job and, ultimately, from those who were the finalists, he was the best qualified candidate. This was not only my judgment but the opinion of others who had interviewed him and with whom I consulted.

Mr. Faustina said he was pleased to hear that and wanted me to know that the "best qualified" standard was the correct one for a university to uphold and that his efforts in behalf of affirmative action would strengthen, not compromise, that standard. So much for a conveniently short memory.

But Mr. Faustina has another lapse, this time of logic. He implies that it is hardly meaningful to speak of the "best qualified" person, but then goes on to say that a "group of candidates" can be found that is indeed "best qualified." If a group can be "best qualified," then certainly the concept is intelligible for individuals as well, even granting that its application may be more difficult in the latter case than in the former. Failure to grasp this is evidence of intellectual incoherence.

Jordan M. Churchill writes that I was made a college president because I was "politically right," by which he means acceptable to "Ronald Reagan's California. . . ." But I also had to be acceptable to the Board of Trustees, which at that time was a wild mixture of Democrats and liberals appointed by former Governor "Pat" Brown and a small but growing number of Republicans and conservatives appointed by Governor Reagan. That I was selected unanimously suggests to me that my politics—I had long been an active Democrat—had nothing to do with getting Reagan's vote. I've always suspected the appointment of me by the board was more desperate than political.

Education, of course, cannot be completely divorced from politics. Only a fool would pretend otherwise. My quarrel is with those who, in the name of affirmative action, are trying to make us believe that the merit principle is somehow only a minor conceit on the part of those who still feel it is worth defending, and that hiring the "best qualified" candidate for a faculty or administrative position should be subordinated to a politics of race and sex. That is bad politics. It leads to cynicism, demeans the academic process, and smacks of the worst kind of condescension.—John H. Bunzel, Senior Research Fellow, Hoover Institution, Stanford, Cal.

Mr. HATCH. Mr. President, similar tendencies can also be observed in the replies to questioners at a round table held as long ago as May 28, 1975, by the American Enterprise Institute. At this symposium, moderated by Prof. Ralph K. Winter of Yale Law School, affirmative action was broadly supported by Prof. Owen Fiss, also of Yale Law School, Vera Glaser, syndicated columnist for Knight newspapers, and William Raspberry, the Washington Post columnist. Prof. Richard Posner of the University of Chicago Law School and Prof. Paul Seabury of the University of California at Berkeley's political science department were more critical.

There is a certain grim amusement to be gained from the self-righteous indignation of the affirmative action supporters at the very suggestion that the bureaucracy would attempt some of the atrocities with which we have subsequently become familiar. (See particularly the response to Professor Winter's penultimate intervention.) Just plain grim, however, is the eagerness of questioners to spur the Government ever deeper into private lives. The purely political motivation behind this drive was naively revealed by Ms. Glaser:

> Unless we can continue the upward movement of minorities, unless we can open it up—which means that some people are necessarily going to lose out, because we get a more competitive situation, with more women, more blacks, more other minorities—we are not going to have a change in the fabric of the leadership, of the leaders of thought and the political leaders of the country.

Combined with their typical suspicion of the merit criterion, dark view of our history and quick asperity, the proponents of affirmative action represent a formidable force seeking to put politics in command of American life.

Mr. President, I ask unanimous consent to have printed in the Record an article entitled "Affirmative Action: The Answer To Discrimination?" AEI Roundtable, May 1975, pp. 26–40 (audience questions).

There being no objection, the article was ordered to be printed in the Record, as follows:

AFFIRMATIVE ACTION: THE ANSWER TO DISCRIMINATION?

Professor Winter. Thank you, members of the panel. Although we have in no way exhausted the subject, we will now turn to questions from the audience.

Lucy Sells (University of California at Berkeley). I am a graduate student, doing research in sex and ethnic differences in educational achievement.

First, in what way does affirmative action, as it is currently being practiced and operated, address the problem of early filtering out of women and minorities from the availability pool of qualified Ph.D. candidates; that is, what happens in high school, and undergraduate school, and graduate school that keeps women and minorities out of the Ph.D. pool of qualified applicants for recruitment? Second, given the declining job markets and no foreseeable increase in enrollments at institutions of higher education over the next five or ten years, how can we seriously talk about affirmative hiring when there are no slots for hiring?

Professor Posner. That filtering really worries me. I hope you're not suggesting that we should go back into the grade schools and start defiltration activities, designed to increase the number of X in Ph.D. programs.

Ms. Sells. That's precisely what I'm saying.

Professor Posner. That's what I thought. There must be a limit to our wish to press government intervention in private lives, in the name of affirmative action.

Ms. Sells. I'm not talking about government intervention in private lives. I'm talking about an educational process that raises people's awareness to what some refer to as institutionalized racism and sexism.

Professor Posner. Is it the role of government to operate a propaganda ministry that will try to make people change their views on bringing up their girls, or whatever the issue is?

Ms. Sells. It's one of the most constructive things that government could be doing.

Professor Posner. Well, I must say, I'm horrified at proposals for bringing government into the business of shaping people's opinions. It's unconstitutional anyway.

Mr. Raspberry. One of the things that helps to shape the kind of earlier choices that Ms. Sells was talking about is the opportunity enjoyed by those who have gone through the training process and are finding it possible to move into the employment market and make reasonable progress there.

What I'm saying is that one of the advantages of the affirmative action program is that it says to despised minorities and discriminated-against minorities that, yes, it's worthwhile doing the hard work of training, beginning in grade school and continuing through high school and undergraduate school; that there is some payoff at the end. I think that, in itself, sends a message back down the line.

Professor Fiss. I think the harder problem is not the intervention by government at the earlier stages and the removal of the obstacles that exist, but your second question—what affirmative action means in either a stable or contracting economy.

Most of the proponents of affirmative action in its toughest sense—that is, preferential treatment for minorities or for women—have always operated on the assumption that openings would exist at the entry level to allow this preference to come into play as you choose among a pool of twenty-five people. Or, you're in a department, and you want to get promoted to a supervisor's position which is now vacant.

The harder question is the one in which there is an incumbent in the position. I think it would be very difficult to push the affirmative action concept to take care of that problem. It would be difficult politically; I think it would be difficult legally, given the legislative history of some of the operative laws. Some legislators spoke specifically to the problem of bumping. They said, whatever else you do with the antidiscrimination laws, you're not going to bump incumbent employees.

Mr. Raspberry. If you've got twelve people and ten chairs, there's no way to work out a fair seating plan. That's essentially what it comes to.

Professor Fiss. No, but Ms. Sells's problem is different. There are ten chairs, and ten people sitting in them, and the question is, now that there are five people here who do not have jobs, and two are black, do you get one of those ten people out of a chair to give it to one who's waiting? That's the tough question.

Mr. Raspberry. Yes. I think it may be a tough theoretical question. It's so tough, as a matter of fact, that it becomes easy. It's simply politically unpalatable, and morally repugnant as well.

Ms. Glaser. And it's not envisioned under affirmative action as we are defining it now.

Professor Fiss. I appreciate what you're saying, but I suspect that in 1964 some people said the same thing about affirmative action in the sense that it's being used in now. Looking at it today, such bumping seems like an impossible option that will never come into being. But in 1984?

Professor Seabury. That's a good year.

Professor Winter. The difficulty is not, as Mr. Raspberry suggests, theoretical. In fact, in theory, there is no reason at all why affirmative action programs shouldn't call for kicking people out of jobs to put other people in. It's totally practical, it's totally political, and the political complexion can change very quickly—every day.

David Ruffin (Equal Opportunity Subcommittee of the House Education and Labor Committee). So far, we've been talking about affirmative action and equal employment opportunity in terms of giving minorities and women jobs.

But I think there's another question involved—that is, having minorities and women actually participate in the operation and direction of the government, social institutions, and the economy of the country. They perform in servile positions in our institutions, instead of being in managerial positions and policy-making positions. At this point, minorities are often servants and cannon fodder. I was wondering if you could address that problem.

Mr. Raspberry. I mentioned at the beginning of the show that institutions tend to reproduce themselves. I think one of the goals of affirmative action programs is to change institutions almost on a one-time basis. There is a lot of argument about how to do this, but I think what one wants to do is to build an institution that one would be content to see reproduce itself over and over and over again.

Obviously, you can't do this by introducing affirmative action at the entry level only, unless you take great care to see that fairness, that affirmative action, in fact, permeates the institution. This kind of change in an institution need happen only once, really, because then that institution tends to continue to produce that kind of situation.

Ms. Glaser. May I speak to that also? It is quite true that minorities and women have been boxed into the lower-paying jobs, generally, and we can see some upward movement. But unless we can continue it, unless we can open up—which means that some people are necessarily going to lose out, because we get a more competitive situation, with more women, more blacks, more other minorities—we are not going to have a change in the fabric of the leadership, of the leaders of thought and the political leaders of the country. I believe such a change is needed. Under some of the arrangements that I have heard discussed here, the blacks, minorities, and women would not have access, or would not even be considered, and so, therefore, their access would be quite limited—

Professor Posner. Well, I certainly don't accept that characterization of what I've been saying. I'm not proposing to deny access to anybody.

Ms. Glaser. Well, you say you're not, but—

Professor Posner. I don't believe in denying access to people on racial grounds; quite the contrary.

Ms. Glaser. What about sex grounds?

Professor Posner. Or on grounds of sex.

Ms. Glaser. I'm glad we have that clear.

Professor Posner. Well, it seems to me it's a debasement of the debating process to suggest that if a person does not support affirmative action, therefore he supports discrimination. Can't you distinguish between them?

Ms. Glaser. I certainly don't distinguish it from what you're saying. You do not support affirmative action. Can you make some better suggestion for eliminating discrimination?

Professor Posner. There are many laws forbidding discrimination, in all areas of life—public accommodations, employment, many others. These laws are enforced by a variety of public and private means. So long as there is vigorous enforcement, I assume that these laws will be effective in eliminating discrimination, in all areas of life—public accommodations.

Ms. Glaser. But, Professor Posner, there is no "vigorous enforcement." The Civil Rights Commission, over and over again has monitored the agencies of this government and has shown that, under many administrations, both Republican and Democratic, they were not enforcing the laws designed to protect individuals.

Professor Posner. I do not think that is true today.

Ms. Glaser. I think that is true today.

The Civil Rights Commission very recently made another report indicating that. To assume that, because we have a law, it will be vigorously enforced is being extremely naive.

Professor POSNER. But you were the one who mentioned the thousands of legal complaints against discrimination.

Ms. GLASER. I said that there were thousands of complaints.

Professor POSNER. That implies enforcement activity. Many of those complaints take the form of federal court actions against universities, or unions, or what have you, and these actions——

Ms. GLASER. These complaints have not all reached the stage of court action.

Mr. RASPBERRY. May I suggest that the difficulty in the enforcement of antidiscrimination laws is, really, in any particular case, proving discrimination. That is to say, you've got twenty-five applicants for a job; four or five are black; six of them, women; the remainder, white males; and a white male is chosen. It is extremely difficult in every specific case to demonstrate that the hiring of that white male was a result of racial or sexual discrimination.

What is a little accessible is a pattern over time. If, in every case where an institution has twenty-five applicants, including minorities and women, it continues to hire only white males, then one raises some questions. The pattern, over time, suggest that the problem is precisely the difference between enforcing antidiscrimination laws and working through an affirmative action kind of plan—which is to say, if, over a long period of time, you keep hiring white males for whatever reasons, the weight falls on you to show that you are not discriminating against the remainder of that pool.

Professor WINTER. Mr. Raspberry, does that really follow? I mean, Mr. Seabury made a point in an article that, if one takes statistics in a pattern over time and looks at what groups are not hired, one would have to conclude that the University of California at Berkeley discriminates more against Republicans than it does against either blacks or women. Now, that follows as much from the statistics as does the conclusion of discrimination that you find.

Mr. RASPBERRY. I think it does not. What I said is that if, over a time, the pattern persists, the burden should reasonably fall on the employer to demontrate that he is not discriminating against those groups who are not selected. I'm not saying that the pattern proves discrimination against them. I'm saying it shifts the burden of proof, and it ought to shift the burden.

Professor SEABURY. Okay. Could I interject something from the world—the real world of Berkeley that I live in? [Laughter.]

Professor WINTER. Which is the unreal world for the rest of us.

Professor SEABURY. Berkeley is the mother of all things, as you know. It is possible, actually, to have procedures which demonstrate fairness. I say that because those procedures are in use at the University of California today. For example, our department is making one appointment this year of a young assistant professor. It will take two weeks of the time of the deputy of our department and one secretary to submit the proof on that one case to satisfy the Berkeley campus arrangements for affirmative action. In each personnel case, you have to prove in a document to the administration of the University of California not only that this fellow is very, very qualified, but that his qualities are wholly better than those of the other people you have considered. I have no idea what the total cost in energy is to the University of California. But I would roughly estimate that this administration's affirmative action in a time of tremendous scarcity of resources is probably consuming about 15 percent of Berkeley's operating expenses.

Now, I think one ought to begin to be aware of the gigantic problem of cost when this whole thing becomes bureaucratized, when all personnel matters must be dealt with as scrupulously as that.

Professor FISS. But depending on how much you value eliminating discrimination, it might be worth the price. You can't make your case just by pointing to the fact that it's a costly process.

Professor WINTER. Could we end this discrimination against members of the audience, and return to them for questions? I have no doubt that we'll resume this argument.

ROBERT MALSON (Senate Judiciary Subcommittee on Constitutional Rights). Professor Posner stated earlier that the basic question, if I can paraphrase him, was, does a person's race or sex entitle him or her to a better job? A few minutes later Mr. Raspberry asked, if I may paraphrase him, is it a fair criterion for the Sociology Department of the University of California at Berkeley, for example, to decide whether or not a potential professor in that department will fit in? Professor Fiss said later that if we find in retrospect that a certain group has been discriminated against, then it might not be at all inappropriate to grant a member of that group preferential treatment. Professor Posner then said that it doesn't follow necessarily that one who is opposed to discrimination is necessarily in favor of affirmative action. I've gone around the circle and missed the two in the middle, but not by much, I think.

I would suggest to Professor Posner the opposite—that it does mean affirmative action is the answer. Remedial action, as most of us who have had any experience in this field will tell you, is probably the worst solution to discrimination that could possibly exist. Professor Seabury talks about the costs involved, the time that it would take a secretary and a staff member of his department to present one case for one individual for remedial action following a charge of discrimination. It seems to me that unless we have an affirmative action program that is effective, we are not going to rid the country of discrimination, whether it be in employment or education or higher education.

I'm just not sure exactly whether the theme of this round table really makes sense. As I recall, it went something like, is affirmative action an answer to discrimination? Then we start talking about preferential treatment for minorities and women as an affirmative step, when it seems that what we really need to be talking about is, are we really serious about ending the preferential treatment of white males? Because, as I see it, if we are serious, the burden is upon all of us to determine whether or not white males occupy the position that they do because of their qualifications. If they do, then they should stay. If they don't, I see no problem whatsoever to making sure that the greater pool is adequately represented.

And if "Alice in Wonderland" were to be rewritten, I think the main chapter would be "Dancing the Line between Goals and Quotas." I don't think that makes any difference at all.

Professor Posner. But there is an intermediate position. It is possible that some white people owe their jobs to discrimination and that many do not. Affirmative action requires institutions that themselves have not discriminated to attempt to attain a more racially mixed composition. And that's a very radical remedy.

You see the problem here is no different from the problem you have in any other area of law. How big a price, in terms of radical remedies, are you willing to pay for the most effective enforcement of law? If you are concerned about antitrust violations—price fixing and the like—you may debate the question whether we should break up all the large companies in the United States into little companies to make it more difficult for them to engage in antitrust violations, which are costly to prosecute. It's the same issue here. As with enforcement of most laws, it is costly to prosecute discrimination cases and to prove discrimination. The question is whether discrimination is so prevalent and so intractable to conventional legal remedies that we should engage in fundamental surgery on our social, political, and economic system.

It is striking to me how often people like Miss Sells and one of the other questioners, who favor affirmative action, leap very quickly to remedies of extraordinary severity, such as a government information department to propagate views about child upbringing. These affirmative action programs are very radical responses to a problem which I think, first, significantly diminishing, and, second, amenable to the vigorous enforcement of the abundant conventional civil and criminal remedies that we now have, with large monetary rewards for the successful enforcers.

Ms. GLASER. Well, Professor Posner, radical is in the eye of the beholder. I think that there are some people who regard it as rather radical, given the distribution of our population, that the leadership positions and the economic and political power of this country are concentrated in one group, the white males. To them, that situation is perhaps as radical as an affirmative action program is to you.

Most of these things respond, as you pointed out earlier, to political pressures. And we are going to see political pressures building up on these things unless we take affirmative action. And I think "affirmative action" is a very good descriptive phrase for what we are trying to do here.

Professor SEABURY. I would like to inject a couple of points here, because in any matter of social policy there are side effects and there are costs, so that one is really juggling values against each other. Thus, a total focus upon one often leads to very costly results, sometimes results that are quite unexpected.

If one shifts the issue here from the universities to, say, a baseball team, it seems to me that the team manager has a very high incentive to hire the best baseball players he can get. The test here is winning, and it is very easy to see who wins, because at the end somebody wins in the World Series. You know, that's harder to do when you are choosing between people from Harvard and people from Berkeley, but still, one of the basic things that we are concerned about is excellent education, and that means really hunting for the best people for the best jobs.

One may say that that principle ought not to apply in the universities and colleges of lesser stature, although I think that's a very patronizing view to take of the matter. The question of excellence should apply in all sectors and it should be answered on the basis of the innate qualifications of the people being considered in exactly the same way that a baseball team operates.

Mr. RASPBERRY. The difficulty with that is that it presupposes that it's possible to rate a dozen applicants for a single job as one rates the batting averages from .347 down to .314. As a matter of fact, it is simply not possible in every instance to rate applicants for most jobs in that manner.

Athletic teams are a very, very special case. One runs the 100-yard dash in a fixed and measurable time, one competes against others in very accurately measurable kinds of ways. But the twelve applicants for a job as professor of English, for instance, may include a couple of really excellent prospects; in which case the other ten go by the boards, and you are choosing between those two. They may include a couple of idiots, in which case you are talking about the remaining ten, because the idiots go by the board. But if that pool of a dozen people happens to include neither truly excellent prospects nor idiots, you are talking about twelve people who fit the criteria that you have set up, who meet your qualifications; and there are lots of ways then to choose among them.

Professor Winter. Would you let HEW say that they have to pick the 5 percent superstars and there has to be a lottery for all the rest of the hierarchy?

Mr. Raspberry. What I am saying is simply that once you understand that in nearly every real-world case we are talking about choosing among qualified people, there are a lot of things that can be brought into play. A lottery is one reasonable way of doing it. Another is to use that opportunity to do some other things that you might consider right for the society to do—correct racial imbalance, for instance.

Professor Posner. I think you are wrong in suggesting that people are so interchangeable. Incidentally, I think you are wrong about baseball.

Professor Winter. You are absolutely wrong about baseball. It's highly discriminatory.

Professor Posner. You cannot express a baseball player's skills arithmetically, because there are many factors in addition to one particular index, like the batting average or slugging average or fielding average, which go to make a successful baseball player. And I think it's true in virtually all human activities.

Our problem is in the universities. We don't know that much about building a house or running a factory, so we assume the people who do that are interchangeable cogs. But I think the truth is that in most activities you don't have an easily differentiable genius category, plus idiots, and then the fungible intermediates. You have a large range of skills, and what you try to do is get the very best people.

Your reference to competition is an important one, because one of the reasons that bigotry has diminished in this country is that competition between firms, or between academic departments, puts a premium on hiring the most able person and penalizes the institution which indulges its racial or religious preferences. And that is one reason why we shouldn't think that, without massive government action, we are condemned to a constant level of serious discrimination. Competition erodes it, just the way it eroded the color bar in baseball: the teams could not afford to exclude qualified people. The same is true of an English department, which would be foolish to pass up a qualified minority person who would give it a competitive edge over other English departments.

Someone in the audience and some members of the panel have the notion that this country is pervaded, permeated by bigotry, as if the most important thing about the United States was that there was discrimination.

Mr. Raspberry. Do you consider it unfortunate that there was massive government intervention in precisely this area—let's date it back to 1964, the 1964 Civil Rights Act, and the civil rights acts following that? Do you consider that the government intervention—which unquestionably accelerated the process that you say is going apace now—was unfortunate?

Professor Posner. No, I think many of the civil rights acts were very much in the right direction——

Mr. Raspberry. But we don't need any more?

Professor Posner. (Continuing) and especially the Voting Rights Act. I do not think that once you embark on a program of government regulation, you are somehow committed to follow that path, regardless of cost and regardless of the likely benefits from continuing it.

The fact of the matter is that there has been an enormous diminution in discrimination in this country, a diminution registered in the very sharp economic gains of minority groups in the last fifteen years. And it seems to me that there is momentum in that process, and that the need for government action, especially the disruptive restructuring of institutions to bring about racial and sexual balance, has reached the point of diminishing returns.

Professor Fiss. But I think the question that was put to you, Dick, which you really haven't responded to, is this: If you believe that the competitive process is the one to correct the position of the minorities, why have a fair employment law at all?

Professor Posner. The competitive process works very slowly.

Ms. Glaser. And also you must remember that many people do not get an even start in that competitive process. A number of groups will start from way behind.

Professor Posner. No one starts even. I mean, you are born with some intellectual, health, characterological appearance, and coordination endowment, which obviously influences how you are going to do in society.

Ms. Glaser. Do you think the blacks started even in the competitive process that you want to rely on?

Professor Posner. Today I think they do start even.

Professor Winter. Mrs. Glaser, let me ask you something. There really is an enormous amount of evidence about what has gone on in the universities. I'll read you one example, a letter which was received by a person who was a candidate for a faculty position:

"I'm sorry to report that although our department saw you as top candidate, we will not be able to make you an offer for our new position.

"Our university is an affirmative action employer and the department must attempt to fill the new position with an individual from a recognized oppressed minority group. Although the department initially viewed your ancestry as satisfying the requirements of affirmative action, consultation with our institutional advisors on the affirmative action program indicated to us that your ancestry does not qualify you as an oppressed minority.

"I wish you the best of luck in your future."

Now, is that fair?

Ms. Glaser. I think it's a ridiculous question.

Mr. Raspberry. That's plain stupid. And I think that it's unfortunate that that gets introduced into a serious discussion of affirmative action.

Professor Winter. But that's what's going on.

Mr. Raspberry. Then that's not only stupid, it's quite illegal, and plainly so.

Ms. Glaser. It is plainly illegal. Nobody in the government is forcing universities or any other units to hire unqualified people. If they do that is illegal, and I can only wonder why they are doing these illegal things.

Professor Seabury. If I could raise a factual question which is rather intriguing. I wish we had an HEW person here who could answer it. There have been many, many cases like that described here. I would like to know whether HEW has made any effort to investigate specific cases of that sort. I have heard not a word of this. It seems to me that if HEW is going to do a balanced job on the question of discrimination, it's about time they began to think about doing something about the Pandora's box that they have opened.

Mr. Raspberry. I have heard that one letter so many times that, really, I find it offensive to hear it again.

Professor Winter. Well, there are other letters. But, anyway, I think we should leave this with Mr. Seabury's attack on someone who is not here. (Laughter.)

Thank you members of the panel, and thank you very much, ladies and gentlemen, for joining us this evening.

Mr. HATCH. Mr. President, the true nature of life in the menagerie can be predicted from the ordeal of Dr. Bernard D. Davis at Harvard, mentioned above. As told by J. W. Foster in the July 17, 1976 New Republic, Dr. Davis' story has classic elements with which we will all become familiar if affirmative action continues unchecked.

First, there is the ludicrous disparity between the offense—Dr. Davis' discreet, entirely reasonable editorial comment—and the punishment: Instant hysteria, which makes it plain that the subject Dr. Davis raised is simply and absolutely taboo. So much for free inquiry and the search for truth. Second, the fact that Davis himself, evidently a liberal of the purest stripe, instinctively and reflexively apologized, and seemed totally incapable of defending himself. Third, the craven flight of his fellow-liberals on the faculty in the face of this obvious attack upon academic freedom and elementary liberties, a familiar story to anyone who remembers the history of the 1960's, or for that matter of the Weimer Republic.

You do not need to be a physician to recognize these symptoms. They are those of an exhausted liberalism, that once believed in freedom, but now is falling half in love with the politicized certitudes of an easeful authoritarian—I should perhaps say totalitarian—demise.

Mr. President, I ask unanimous consent to have printed in the Record articles entitled "Sounding Board" New England Journal of Medicine July 29, 1980; and "Race and Truth at Harvard," by J. W. Foster, May 13, 1976.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Sounding Boards: Academic Standards in Medical Schools

Since the consumer is particularly blind in purchasing medical care, and his vital interests are often at stake, those who are in a position to screen for aptitude and competence in medicine have a grave moral responsibility. In accepting this responsibility medical faculties have always taken into account qualities of character and motivation as well as scientific ability and knowledge. In addition, in recent years we have finally begun also to take into account long ignored social needs. But no one of these sets of qualifications can compensate for a gross deficiency in another. In particular, as the practice of medicine broadens its scientific base, it increasingly requires a reasonable level of competence in science, at least as long as the M.D. degree leads to an unlimited license to make life-and-death judgments. In this connection preclinical courses serve not only to provide a scientific background for practice but also to screen students for the ability to reason scientifically.

This screening has become more difficult in recent years. A variety of considerations have led medical schools to engage in innovations in admissions, curriculum, grading and criteria for promotion. Some faculties, no longer confident of their ability to maintain adequate minimal standards, have set an external standard by requiring candidates for the diploma to have passed Parts I and II of the National Board Examinations. But for schools that have aimed at leadership this minimal national standard is an extraordinarily low one. Moreover, it has been further lowered in recent years: National Board grades are normalized for each year's population, and so the absolute norm for passing is necessarily lowered by any nationwide increase in admission of students with substandard academic qualifications.

It would be a rare person today who would question the value of stretching the criteria for admission, and of trying to make up for earlier educational disadvantages, to help disadvantaged groups. But how far faculties should also stretch the criteria for passing students is another matter. If a board licensing airline pilots allowed extraneous considerations to interfere with objectivity it would be considered criminal. The temptation to award medical diplomas on a charitable basis raises the same question, even though the consequences of fatal error in the two professions are not equally visible and dramatic.

Many faculty members have wondered whether the stretching of standards in their schools in recent years has not exceeded what is reasonable. The problem is illustrated by a distinguished school that recently waived its National Board requirement and awarded a diploma to a student who had been unable to pass Part I in five tries. The award of this degree was virtually inevitable, after five years of investment by the school and the student. But we must look at the erosion of internal standards, and the postponement of decision, that allowed this situation to develop.

Medical faculties can derive deep satisfaction from their success in recruiting and helping many able students from groups that were formerly excluded. But it has also become apparent that patience and sympathy cannot overcome the inability of some students to handle the material. It is cruel to admit students who have a very low probability of measuring up to reasonable standards. It is even crueler to abandon those standards and allow the trusting patients to pay for our irresponsibility.

Considerations of tact, and guilt over our history of enormous racial injustice, have made it difficult to face the problem. But there are dangers in a policy that fails to evaluate the results of our recent experiments objectively. If the public is given a romanticized view we can expect demands for the extension of quotas, rather than demands for strengthening the quality of the product. Thus, recent statements by Senator Edward M. Kennedy (*New York Times* letters to the Editor, March 21 and 31), calling attention to the unequal supply of medical students from different socioeconomic groups, could well be the first step toward quotas for admission from these groups.

It seems time for medical faculties to ask whether we have been properly balancing our obligation to promote social justice with our primary obligation to protect the public interest, in an area in which the public cannot protect itself.

BERNARD D. DAVIS, M.D.

RACE AND TRUTH AT HARVARD

(By J. W. Foster)

The pickets outside his office carried signs calling him a fascist and a racist. Later in the morning a crowd of 400 people gathered in the quadrangle to hear denunciations. One group, charging him with "blatant misuse of genetic theory," demanded that he be fired as director of the Center for Human Genetics. Another said he had made "an unfounded attack on all poor people." Still another noted that racism was not new at Harvard and demanded that he be prohibited from grading "students whom he already considers to be inferior." The authorities did not cringe from attack.

The Association of American Medical Colleges said he had "done a profound disservice . . . to the profession of medicine"; the National Medical Association said his "innuendoes are evidence of the inhumanity of some humans . . ." His colleague Professor Richard Lewinton said of him, "He thinks blacks are mentally inferior and incompetent"; Professor Leon Eisenberg said, he "has made an assault on all black physicians that nothing can undo"; the dean of the Harvard Medical School called his actions "irresponsible"; an assistant to Harvard's President Derek Bok described his remarks as "the return of Agnewism," "a defamation and a smear." The Boston Globe editorialized that he had "introduced a racial note to the controversy in a way that was certain to inflame prejudices."

The object of the assault was Dr. Bernard D. Davis, professor of bacterial physiology at the Harvard Medical School, a man known to his students as an exacting, old-fashioned scientist. He had organized antiwar demonstrations in the 1960s. He had been the first department chairman in the history of Harvard to preside over the appointment of a black man to tenure. In the May 13 issue of the New England Journal of Medicine, Davis had written a guest editorial in which he questioned the lowering of medical school passing standards, implying that they had been lowered in part "to take into account long ignored social needs." He cited the example of an unidentified medical school that had waived its requirement that students pass the standard national licensing examinations and had then awarded a diploma to a student who had been unable to pass part one of the national boards in five tries. He did not mention the words "black" or "minority." The tone was balanced. "It seems time," he said, "for medical faculties to ask whether we have been properly balancing our obligation to promote social justice with our primary obligation to protect the public interest, in an area in which the public can not protect itself."

The Times kicked off the fight in a headline that screamed, "Professor Contends Medical Schools' Standards Have Dropped Because of Rise in Minority Students." Within 48 hours organizers had called out the pickets and had drafted the broadsides. That the student was black and that the medical school was Harvard soon emerged. That Davis had coincidentally been straying into an explosive area of inquiry—the links among race, heredity and intelligence—was clearly one of the reasons for the attack. But his main sin was to make a public statement that could be used to malign black physicians. The technique of deliberate, gentle equivocation and suggestion had backfired; it laid Davis open to the charge that he had made snide innuendoes motivated by concealed racism.

The attack on Davis was not an exercise in paranoia. Without meaning to do so, he really had hurt blacks. After the Times and the Globe trumpeted his editorial, The Washington Post used the occasion for front-page articles, "Blacks Lag on MD Tests," "Low Standards Alleged," "Howard [University] Failures High." The Wall Street Journal in its long-headed way deplored "the price to be paid for attempting, by an artificial and discriminatory process, to correct deficiencies of the social order." On the day after the Times story, five consecutive patients refused to be examined by one black medical student.

Phil Pittman, who organized the medical school demonstration, is a stocky, quiet black man from Mississippi. His words come rapid and low, those of a doctor practiced in emergency. "The things Davis said will be used again and again on all of us—even on the ones who do well. Even on the ones who do better than white students. We had to nail that idea—that we weren't as good—and nail it hard, because it's wrong. He [Davis] has come between us and our patients." No one can talk to someone like Pittman and fail to value the pride in hard-won success or the anger at seeing that success tainted by hints of incompetence.

At the same time, no one can doubt that the issues Davis raised ought to be raised. How far racial balance should intrude on testable merit and what effect such policies have on those favored and those disfavored are questions that educators must discuss.

But the questions, as the Davis case shows, may not be discussed. Davis could not have avoided the attacks by being either more specific or more general. If he had named the failing student, the outrage would have been more intense. If he had described the HMS admissions procedure as one in which a separate, minority staffed subcommittee passed on all minority applications with a "target goal" of 20 percent of the class, as one which resulted last year in the admission of five minority students with MCAT scores in the mid-400s (out of a possible score of 800), the outrage would still have been complete.

Nor could Davis save himself by recanting. Soon after the controversy began, Davis apologized for the inferences drawn from his editorial, for the suspicion cast on successful minority students, for the implication of his colleagues, for the naming of Harvard by others, for the lay publication of a scholarly comment. None of these apologies could help him. Robert Ebert, dean of the Medical School, recently set down for Faculty Council vote the matter of Davis' dismissal as director of the Center for Human Genetics.

Without fault on either side both Davis and those attacking him had stumbled on a tragedy. As in all tragedies there was pain—Davis' reputation will never completely recover; nor will those of scores of black doctors from Harvard—and there was the making of the tragedy by people who were not hurt by it.

Something important happened to the civil rights movement on its way to success. Quietly at first, and then with increasingly righteous volume, white liberals began to step off the bus. Part of what made them leave was esthetic: the martyred struggle was now in the control of regular bureaucrats. Nobody wrote folk songs about the Equal Employment Opportunity Commission. But something else, a dilemma, had been there all along, disguised beneath the exquisite simplicity of the notion that black people should become free at last from their ancient, vicious burden. The dilemma was this: did the movement seek specifically to improve the condition of a few ethnically defined groups? Or did it seek to make race irrelevant, unknown to the law?

In the early days of the civil rights struggle there had been no need to resolve these questions, because in either case the course of action was clear: outlaw the legal, overt discrimination against minorities. But once that had been done, there was the problem of how to enforce the law, and there the conflict appeared. Some said that the proper course was to attack intentional discrimination against individuals, so that official America would be forced to be color blind; they argued that to favor some minority group member because of his race was to discriminate against the unfavored because of *their* face, and that was precisely what the Constitution and the civil rights laws prohibited. Those who opposed them said that the color-blind approach led to treating unequals equally, which was itself an inequality; they argued that intentions were irrelevant, and that the surest and fastest way to achieve equality was to require racial balance in jobs and education. They argued, in short, for what has come to be known as reverse discrimination.

And at least in the civil rights agencies, they have won. In June 1971, an HEW team examined racial proportions in the Brown University faculty. They noticed that there were no blacks teaching in the Department of Religious Studies and demanded an explanation. When told that a working knowledge of Hebrew or Greek and Latin were prerequisites to the fields in which the department concentrated, and that there were no black candidates with such knowledge, the HEW officials insisted, "Then end these old-fashioned programs that require irrelevant languages. And start up programs on relevant things which minority group students can study without learning languages."

In February 1972, the chairman of the Sociology Department of Florida State University wrote to a job applicant, ". . . all unfilled positions in the University must be filled by blacks or females. Since I have no information regarding your racial identification, it will only be possible to consider you for a position in the event that you are black."

Those who believe in the color-blind interpretation of the Constitution and the civil rights laws see such incidents as horror stories, and they point to the fact that neither the Fourteenth Amendment, which guarantees to all citizens the equal protection of the laws, nor the civil rights laws, which prohibit discrimination on the basis of race, say anything about racial balance. In fact, they argue, such policies are expressly prohibited by Title VII of the Civil Rights Act of 1964, which is the statutory basis for federal supervision of employment practices:

"Nothing contained in this title shall be interpreted to require any employer . . . to grant preferential treatment to any individual or to any group because of the race, color, religion, sex or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex or national origin employed by an employer."

But others point out that the color-blind interpretation is simpleminded: where a school system or an employer has been discriminating against minorities, the discrimination can only be ended by ordering that the school or job category be racially balanced. And that remedy can only be accomplished by identifying the races of those involved. On the other hand those who oppose reverse discrimination claim that finding discrimination initially has now become so easy—essentially, a prima facie case is established once a simple imbalance is shown—that the remedy applies to almost every employer and school system, whether racist or not. Moreover federal agencies that are supposed to enforce "affirmative action" among federal contractors (that includes most universities and large business firms) apply these "remedial" measures without any initial showing of discrimination, as do universities in their own voluntary efforts to achieve racial balance.

The conflict between these two principles—that the law should be color blind and that the law should favor minorities as minorities—was never focused more sharply than in the case of De Funis v. Odegaard, which tested reverse discrimination in education. The University of Washington Law School denied admission to Marco De Funis, a Sephardic Jew, even though it admitted minority students with lower grades and test scores. The law school maintained separate admissions procedures for minority students in the systematic effort to increase their numbers.

After his rejection De Funis sued on the ground that he had been discriminated against by reason of his race, and carried his suit to the U.S. Supreme Court. No sooner had the matter been set down for hearing than the controversy began. The broader implications were immediately obvious; everyone seemed to have an opinion on the case, and they were not limited to those with an interest in law schools: among those filing friend-of-the-court briefs on behalf of the law school were the NAACP, the Association of American Law Schools, and Harvard; opposing the law school and supporting De Funis were the AFL–CIO, the Anti-Defamation League and B'nai B'rith, the American Jewish Congress, and Polish and Italian fraternal societies. In the end, the Supreme Court declined to rule on the merits of the case, since De Funis (whose admission had been ordered by a lower court) would graduate whatever its ruling. But the unsettling aspect was the unfamiliar alliances and conflicts caused by the case. Labor sided with the employers, and the venerable alliance between blacks and Jews seemed to be breaking up.

Only an issue of profound importance could stand American politics so dramatically on its head, and important it is—important economically because policies of reverse discrimination affect millions of workers and students, and important morally because such policies raise acutely difficult questions. The questions can not be decided easily, by merely referring to the "plain meaning" of statute or Constitution; they require an exacting analysis of fact and value. But that analysis places liberals in a painful dilemma, as the Davis case illustrates. Exposing the facts of minority achievement reinforces racism; ignoring those facts compounds the unfairness. One way to escape the dilemma is not only to ignore the facts but simply to deny that reverse discrimination exists at all.

The practices of the Harvard Law School are an apt example of this method and are typical of many universities. Moreover, the law school prides itself as a place where controversy can be resolved in the free marketplace of ideas. And it has a DeFunis-type suit on its hands, having rejected a 38-year-old white applicant named Kenneth Krohn. Krohn graduated from MIT with honors and from Harvard, where he received a Ph.D. in applied mathematics. On the Law School Admission Test he scored a perfect 800. In his early years he jointly devised the Krohn-Rhodes theorem, which is a mainstay of modern algebraic theory in computer science. As one Harvard professor put it, "Had Krohn been black, the dean of the law school and the president of the university would have been at his door begging him to sign up the day the application was received."

Krohn must prove that allegation and many others before he can win his suit, but one of the hardest things he must prove is that Harvard Law School *has* an affirmative action program. In its application materials the law school asks no race question. It allows that such non-measurable qualities as "energy, ambition, sound judgment and high ideals" may help a candidate, and declares, "Harvard Law School has long been committed to a policy against discrimination based on sex, race, color, creed or national origin." A West Coast law professor, who supports the effort to achieve racial balance, says of the declaration, "It's just wrong; that's a lie."

Harvard Law School fails to ask a race question, not because race is immaterial, but because it wants outsiders to believe it is immaterial. A supplementary part to the application invites candidates to state "qualities not otherwise revealed by the application." Minority applicants generally understand those code words and state their race. The director of admissions, Dean Patricia Lydon, explains what happens when the racial representation is ambiguous: "Usually the applicant or one of the people writing his or her recommendations states the applicant's race. If we still are unsure, we call up the college where the applicant was an undergraduate." If they were to call up the applicant himself, he might ask just why Harvard cares about his race.

But while law school officials admit that they find out the race of applicants, they emphasize that this trait is only one of many background factors to be subjectively considered. Dean Lydon explains this informal, minor preference: "Someone on the committee may note on an application something like, 'He's come a long way,' and that may help a little, but by no precise amount. We have a high percentage of intellectual superstars, but we also want diversity and in some cases diversity includes some kind of disadvantage, whether it be economic, cultural, racial, or some combination thereof, and we look for a variety of achievement from musicians to football players to politicians to scientists."

Alan Dershowitz, a professor at the Law School who defended the lawyers in the Chicago Seven case, and Sen. Gravel in the Pentagon Papers case, responds to Lydon's statement by saying, "That is just not an accurate statement of the policy of any major American university, including Harvard Law School. There is no question that they discriminate on the basis of race and race alone. Not all blacks are poor and not all whites are rich. Not all blacks come from the ghetto or return to it after their education. Where individuals have overcome individual hardship, they should be favored, but what offends me deeply is the shorthand we use, which is race. They're afraid to talk about standards because—Shhh!—someone might be listening. The hypocrisy is incredible. It's just a matter of simple cowardice."

Albert Sacks, dean of the Law School, agrees with Lydon's characterization of the policy. He adds, "We definitely do not have a two-track system."

On a wall in the admissions office, there are six signs below each of which applications are stacked. The signs read, To Committee, Admit, Deny, Hold, Women and Minority Applications. There are no signs for football players or musicians. Being lawyers, the members of the admissions committee are too clever to follow the medical school practice of having minority applications read by specially designated minority faculty members. Instead, whoever reads such an application stretches the standard of admission. Sometimes the stretch is considerable: in the past few years several applicants have been admitted with LSAT scores below 500.

The committee also uses different procedures to handle minority applications. When the applications of white students come into the office, the staff summarily rejects those that fall clearly below the standards of admission. They rarely do this in the case of minority applications. Some minority applicants are accepted in the rolling admissions process. The applications of the others are saved until the end of the admissions season, when the committee looks at the racial proportions of the incoming class. No one talks about a precise quota, but all the members of the committee know that minorities have constituted 12 to 14 percent of past classes. Conducting their discussion in terms of how far down the list to go, they accept enough minority applicants to reach the commonly understood target.

Those who believe that minority students as a class are unqualified or that many of them perform worse than others in law school are plainly wrong. But that kind of racism can be encouraged by a quota policy, as Professor Thomas Sowell, a black economist, has recognized in his book Black Education: Myths and Tragedies:

"[T]he actual harm done by quotas is far greater than having a few incompetent people here and there—and the harm that will actually be done will be harm primarily

> to the black population. What all the arguments and campaigns for quotas are really saying, loud and clear, is that black people just don't have it, and that they will have to be given something in order to have something. The devastating impact of this message on black people—particularly black young people—will outweigh any few extra jobs that may result from this strategy. Those black people who are already competent, and who could be instrumental in producing more competence among this rising generation, will be completely undermined, as black becomes synonymous—in the minds of black and white alike—with incompetence, and black achievement becomes synonymous with charity or payoffs."
>
> The quota policy may be patronizing. But occasionally, as at Harvard Law School, it is something worse. It is a lying policy.
>
> IV: WHAT, THEN, IS TO BE DONE?

Mr. HATCH. Mr. President, what, then, is to be done? In order to answer Lenin's famous question, it is necessary to assess the current situation carefully. It could properly be described as hopeless but not fatal. It is hopeless in the sense that the courts and the bureaucracy are making it clear they will respect neither law nor common public morality in their zeal to enshrine factional privilege in the shape of quotas. It is not yet fatal, however, because this drive will require ever more extreme methods in the face of mounting legal and administrative difficulties, besides placing its proponents in fundamental opposition to the political tradition of America and the values of the great bulk of the American people of all races. To the extent that any partisan group identifies itself with this narrow, divisive power grab, their opponents can look forward to a generation of encouraging election results. But there will also be a serious strain upon the entire political system, and profound injustice to individuals and to groups.

This grand overview of the affirmative action war, however, does not appear to console the brilliant group of intellectuals who first called attention to the dangers of reverse discrimination, and who are now shocked by the Supreme Court's treachery in the early battles. Perhaps this is because being in other respects good liberals, they are unused to the bitter defensive campaigns that every American conservative has grown to know and love.

For example, Dr. Nathan Glazer, professor of sociology at Harvard University and author of the seminal work "Affirmative Discrimination" (1976), recently proposed "A Viable Compromise on Minority Admissions" (Washington University Law Quarterly, winter 1979). This consisted essentially of Justice Powell's fudge in the Bakke decision: No quotas, but some "notice" of race. Professor Glazer said, accurately, that this would not please any constitutional lawyer, who would be inclined to think that either the Constitution forbids discrimination or that it does not. He justified his compromise on the grounds that, with the Supreme Court in its present mood, further affirmative action cases might be lost even more damagingly—they have been, but nothing could avert this.

Professor Glazer added:

> We might all consider with some trepidation what the reaction of blacks . . . would have been to the kind of decision that would have permitted no account of race, and would have taken us back to the understanding of nondiscrimination that was embodied in the Civil Rights Act of 1964.

This is, of course, not unlike blackmail, and an invitation for other groups to "react" in ways that inspire "trepidation" and "compromise."

Professor Glazer also pointed to a number of advantages of flexibility in considering the principle of race conscious policy. These are such refinements as the ability to lend a helping hand to minority individuals as they emerge from the ghetto or barrio, the ability to allow ethnic community activities to continue, and also to keep the Government at arm's length from private institutions like colleges. But this argument is really directed against attempting to legislate in such a delicate area at all. However, the legislation is already in place. And anyway, the proponents of affirmative action have already shown that there is no chance of "holding the line against quotas" as Professor Glazer hoped, while allowing "notice" of race. The option does not exist. The war must be fought to a finish.

It is a significant comment on the standard of judicial and political honesty regarding affirmative action that few observers believe the Supreme Court's repeated assurances about the temporary and remedial nature of the "race conscious" programs it has approved. There is some reason for this skepticism. As the Elisberg letter quoted above shows, the concept of "remediality" as an element of affirmative action has increasingly been abandoned, even as a matter of lip service. Justice Stevens pointed out, in his dissent to the Fullilove decision, that Congress never thought of set-asides as a remedial measure, but simply as a response to political pressure. There was no attempt, in Stevens' words quoted above:

> To measure the recovery by the wrong or to distribute that recovery within the injured class in an evenhanded way.

If the Supreme Court is to regard the set-aside provision as being justified under the "remedial" theory, Stevens said:

> It can hardly object to a legislative preference for almost any ethnic, religious, or racial group with the political strength to negotiate "a piece of the action" for its members.

Moreover, the definition of temporary may turn out to be equally perverse. How are we to know when affirmative action is no longer required? In recent years, civil rights enforcers have ceased to concern themselves with cases of deliberate discrimination—where there was actual intent. Instead, they have focused on so-called discriminatory effect or disparate impact, the idea that the presence of discrepancies between a specific situation and the makeup of the surrounding population indicates subtler and more sophisticated forms of discrimination. Obviously if this reasoning is accepted, nothing short of complete statistical equality will suffice to demonstrate that affirmative action is no longer needed. This, of course, was the ominous implication of Assistant Secretary of Labor Elisberg's letter. In an absurd echo of Mao's permanent revolution, the Federal bureaucracy may well be proposing a system of permanent "temporary" quotas. And no one can say that the Supreme Court will not acquiesce.

But no one can say that it will, either. The fact is that the legal possibility does exist that the whole apparatus of quotas could be overthrown as quickly as it has been thrown up. All it would need is for a conscientious Court to resolve reasonably the myriad questions arising from the decisions it has already made.

Was Kaiser's action in Weber truly "voluntary" (in anything other than the Orwelkan sense), being compelled, in fact, by bureaucratic threats? What about affirmative action plans that, unlike in Weber and Bakke, actually do "unnecessarily trammel upon the interests of white employees," 443 U.S. 193, 208? What if the Congress enacts statutory amendments of titles VI and VII? What—to use another of Justice Brennan's phrases—is meant by a "traditional pattern" of discrimination, 443 U.S. 193, 201? What is a "temporary" affirmative action measure?

The only certainty that has been bequeathed to us by the Court as a result of its affirmative action decisions is uncertainty. The issue will remain the subject of massive litigation and controversy in the years ahead. It is impossible to predict how such litigation will fare. One reason for pessimism is that nearly a third of Federal judges have been appointed by President Carter under the Omnibus Judgeship Act of 1978. The President had promised that his appointments would be distinguished by unusual adherence to the principles of merit selection. But he subsequently told a suitable audience that—

> If I didn't have to get Senate confirmation of appointees, I could just tell you flatly that 12% of all my judicial appointments would be blacks, 3% would be Spanish-speaking, 40% would be women, and so forth. (Congressional Quarterly Weekly Reports, March 3, 1979, p. 190.)

It was this second promise that President Carter elected to try to keep, with the result that much of our judiciary is itself the product of affirmative action.

Nevertheless, the underlying point remains. Affirmative action is vulnerable, particularly if a new, hostile administration were to withdraw the Executive orders, like Executive Order No. 11246 (September 28, 1965) upon which much of the bureaucracy's authority depends.

The pendulum of race politics in America swings over periods of decades. But it is a pendulum and it always returns toward the national ideal of a truly free society. It was a generation from Reconstruction in the 1860's to the Jim Crow laws of the 1890's. It was another 60 years before Congress finally wrote official color blindness into the law; the bureaucracy has distorted that in 16 more years into something approaching an inverted Jim Crow. It will take time to exhaust the momentum of this swing, and get the pendulum moving back to the center again. Nevertheless, eventually it will happen.

Throughout this statement, I have unhesitatingly referred to the Supreme Court's affirmative action decisions as errors. It is important to realize that the ex cathedra pronouncements of the Supreme Court are not infallible. My colleague from New York, Senator Moynihan, addressed this issue in a recent issue of Public Interest magazine. His excellent article was entitled "What Do You Do When the Supreme Court Is Wrong?" The answer: First, debate; second, litigate; and third, legislate. I consider it to be a fine statement of the situation, although I differ with it in certain respects such as on its observations on the school prayer issue. I also think constitutional amendments have sometimes provided the solution to Supreme Court errors, a point I address below. In the first extract, Senator Moynihan begins by referring to Justice Blackmun's dissent in Gannett against DePasquale (1979), which appeared to limit the media's access to the courts.

Mr. President, I ask unanimous consent to have printed in the Record at this point an article written by the Senator from New York (Mr. Moynihan), entitled "What Do You Do When the Supreme Court Is Wrong?" published by the Public Interest, in the fall of 1979, parts II and V.

There being no objection, the article was ordered to be printed in the Record, as follows:

WHAT DO YOU DO WHEN THE SUPREME COURT IS WRONG?

(By Daniel Patrick Moynihan)

II

It is difficult to avoid the judgment that Justice Blackmun was right and the majority of the Supreme Court was wrong. If so, the question arises: What to do?

This is a question for which we have no clear answer and little theory. The Court is not supposed to be wrong. Even *The Federalist*, much given to emphasizing the frailty of human judgment does not adequately treat this possibility. To be sure, the doctrine of judicial supremacy—of the Supreme Court's power to void acts of Congress by declaring them unconstitutional—is not explicit in the Constitution and was not generally assumed to be implicit until Chief Justice John Marshall established it in *Marbury v. Madison*. But Hamilton, who believed in it, and in *Federalist* paper Number 78 made a strong argument for it, had to deal with the charge that "the errors and usurpations of the Supreme Court of the United States will be uncontrollable and remediless." In Number 81, he suggests several reasons why this charge, upon examination, is "made up altogether of false reasoning upon misconceived fact," but all but one of his points are actually further arguments for the necessity and rationality of judicial supremacy. The sole check upon supremacy suggested by Hamilton, other than that of appeals to superior courts, is the power of Congress to impeach individual judges:

"This is alone a complete security. There never can be a danger that the judges, by a series of deliberate usurpations of the authority of the legislature, would hazard the united resentment of the body intrusted with it, while this body was possessed of the means of punishing their presumption, by degrading them from their stations."

No other corrective is suggested. Rather, the argument is made with particular force that the judiciary is inherently and uniquely possessed of the necessary wisdom and disinterest to weigh the actions of the legislature and the executive on constitutional scales. But if the Court were wrong, what—short of impeaching its members—would be the remedy? *The Federalist* does not say.

It happens, however, that we have a considerable practical experience of just this situation. For long periods of American history the Supreme Court has been wrong about one or another of the principal constitutional issues of the day. It has been wrong in the specific sense that there later came a time when the Court reversed itself, and either directly or implicitly stated that it *had* been wrong.[1] Nor has this been without consequence. Charles Evans Hughes, in his 1928 volume, *The Supreme Court of the United States*, could refer to the Court's having suffered from a succession of "self-inflicted wounds."

Thus from the last decade of the nineteenth century into the fourth decade of the twentieth century the Supreme Court repeatedly declared that the due process clauses forbade labor legislation. Under the Fourteenth Amendment, it was held, for example, that the state of New York could not require that bakers work no more than 10 hours a day (*Lochner v. New York*, 1905). Under the Fifth Amendment, a District of Columbia Minimum Wage Act was held invalid (*Adkins v. Children's Hospital*, 1923).[2]

This was solemn nonsense, as Holmes pointed out in his acid comment in *Lochner* that "the 14th Amendment does not enact Mr. Herbert Spencer's *Social Statics*."[3] But the solemn nonsense persisted, thwarting for almost half a century the major social movement of the time. Then, as suddenly as it had begun, it stopped. Writing somewhat later, Mr. Justice Douglas declared in *Williamson v. Lee Optical Co.* (1955).

"The day is gone when this Court uses the Due Process Clause of the Fourteenth Amendment to strike down state laws, regulatory of business and industrial conditions, because they may be unwise, improvident, or out of harmony with a particular school of thought."

Or, as Mr. Justice Black put it in 1963 in *Ferguson* v. *Skrupa:*

"The doctrine that prevailed in *Lochner, Coppage, Adkins, Burns*, and like cases—that due process authorizes courts to hold laws unconstitutional when they believe the legislature has acted unwisely—has long since been discarded."

Of these episodes in American history, the most notorious was the *Dred Scott* decision of 1857 which held the Missouri Compromise to be unconstitutional, a matter in which the Court was, again, plainly wrong. The most pernicious was *Plessy* v. *Ferguson* (1896), which held that the Fourteenth Amendment permitted separate but equal public facilities segregated by race, a doctrine that persisted until *Brown* v. *Board of Education* (1954).

Apart from the *Dred Scott* decision which was, in effect, overturned by the Thirteenth Amendment, the essential fact in all these cases is, however, that the time came when the Court discovered its error and reversed itself.[4] This may appear much too optimistic, but there it is for those to refute who will. The question I would address is how these reversals have come about. It is a process not now described in political or juridical science. As a beginning contribution I would offer a simple hierarchy of response which in one or another combination has commonly led the Court to change its position in those instances in which it has been wrong. In ascending order: Debate, Litigate, Legislate.

(In theory the ultimate recourse of those who feel the Constitution has been misread is an amendment settling the issue. But this has *never* happened. It has never proved necessary. Apart from the evolving idea of Federalism that needed to correct *Chisholm*, the exceptional circumstances that followed *Dred Scott*, and the changed circumstances that caused a graduated income tax to appear more reasonable in 1913 than in 1787, sooner or later the Justices have rectified their mistakes. That is not the least ground for the loving fealty we owe the Court.)

As a "case history" I will first present in some detail the history of the issue of state aid to nonpublic schools. I will argue that the Supreme Court was wrong in its interpretation of the Establishment Clause in its decision *Everson v. Board of Education* (1947), but that after a generation the conditions are developing in which it may (will?) now reverse itself. That time is a considerable element in this process will be of small consolation to those now most distressed by the decision in *Gannett v. DePasquale*, but this also appears to be the general experience.

1. *Debate*. This is the first and in every way crucial response. When the Court is wrong there must be those who will say so. Often as not this will be a dissenting member of the Court itself. But to be effective the question must become a political issue of the day. In his grand study, *The Least Dangerous Branch*, Alexander M. Bickel described Lincoln's response to *Dred Scott:*

The principle that the Court proclaimed

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[1] Strictly speaking, the Court could have been right the first time and wrong the second. Walter Berns contends, properly, that the standards against which we measure a decision in order to say whether the Court was wrong must be the Constitution itself, not what the Court says about it. Still, experience is the life of constitutional law also, and I would hold that where the Court has reversed itself it has almost always done so to correct an observable error.

[2] In *Erie R.R. Co. v. Tompkins* (1937) the Court reversed *Swift v. Tyson*, acknowledging that they were abandoning a doctrine widely applied " . . . throughout nearly a century. But the unconstitutionality of the course pursued has now been made clear and compels us to do so."

[3] Holmes' suggestion appears to be misleading. The Court was not trying to enact anyone's social theories but its own. In James Q. Wilson's phrase, the Court had an idea as to what a "good economy" would be, and it was against this standard that statutes were measured. A considerable body of labor legislation and business regulation was in fact upheld by the "Laissez-Faire Court." My point is simply that there was precious little constitutional warrant for any of this.

[4] To be sure, the Sixteenth Amendment, permitting a progressive federal income tax, had the effect of reversing the Supreme Court's five-to-four decision in *Pollock* v. *Farmers' Loan and Trust Company* (1895), which had struck down such a tax. But many commentators feel that in this instance the Court was accurately interpreting Article I, Section 9 of the Constitution, and that changing circumstances in fact called for a constitutional amendment. The contrary view, expressed by some members of Congress during debate on the Sixteenth Amendment, is that the Court *was* wrong but had recognized this and was already diluting the effect of the *Pollock* decision and that the proposed amendment was therefore superfluous.

The Eleventh Amendment, ratified in 1795, which denied the Supreme Court original jurisdiction in law suits brought by citizens against individual states, responded to the Court's decision in *Chisholm* v. *Georgia* (1793) that it had such jurisdiction. But this could reasonably be described as part of the completing of the Federal structure embodied in the Constitution itself.

was that slavery was not only legal in states which had it but was constitutionally guaranteed in unorganized territories as well. In the debates with Stephen A. Douglas in 1858, Lincoln said that he was against this decision, that he thought it wrong, that he feared its consequences, that he deemed it altogether deplorable. Douglas, on the other hand, without admitting that he necessarily thought the decision right, dwelt heavily on the argument that "whoever resists the final decision of the highest judicial tribunal aims a deadly blow at our whole republican system of government." "I yield obedience," Douglas said, "to the decisions of that Court—to the final determination of the highest judicial tribunal known to our Constitution." To this Lincoln countered by deriding the notion that a decision of the Supreme Court is a "Thus saith the Lord." The Court he said, can be wrong. There is nothing sacred about the Court's decisions. Men may properly differ with them.

As the initial decisions regarding state and church involved Catholic schools, the first arguments in opposition to *Everson* and its progeny came, generally, from Catholics. This made for difficulties (as the press, perhaps, will now find), it being easy for others to dismiss or ignore arguments that are necessarily self-interested. It may be Catholics were deficient in the skills and the access needed to mount a debate of this sort; it may also be that an element of prejudice worked against them. Surely there are episodes in this generation-long history that raise this latter question. Consider the instances in which Mr. Justice Douglas supported his opinions in *Tilton v. Richardson* (1971) and *Lemon v. Kurtzman* (1971) with references to a book, *Roman Catholicism* by Loraine Boettner, published in Philadelphia in 1962. This volume has been characterized by Douglas Laycock of the University of Chicago Law School as an "elaborate hate tract." Mr. Boettner's views on Catholicism generally may be summarized in the following brief quote:

"Our American Freedoms are being threatened today by two totalitarian systems, communism and Roman Catholicism. And of the two in our country Romanism is growing faster than is communism and is the more dangerous since it covers its real nature with a cloak of religion."

That particular passage is not cited by Mr. Justice Douglas, but here is one he quotes in footnote 20 of his concurring opinion in *Lemon v. Kurtzman:*

"In the parochial schools Roman Catholic indoctrination is included in every subject. History, literature, geography, civics, and science are given a Roman Catholic slant. The whole education of the child is filled with propaganda. That, of course, is the very purpose of such schools, the very reason for going to all of the work and expense of maintaining a dual school system. Their purpose is not so much to educate, but to indoctrinate and train, *not to teach scripture truths and Americanism*, but to make loyal Roman Catholics. The children are regimented, and are told what to wear, what to do, and what to think." (Emphasis added.)

Ponder Mr. Boettner's charge that Catholic schools do not teach "scripture truths."

As it happens, a number of Catholic laymen and clergy pondered just that and at the time tried to draw attention to the peculiarity of such a tract being cited as a reference work in an opinion of a Supreme Court Justice. Had Douglas in some similar connection cited the Protocols of the Elders of Zion, or a Kommunication from the Grand Kleagle of the Ku Klux Klan, there would have been some notice taken. But there was no response whatever to these citations. There is a climate of presumption, and it must be worked against. (Thus, on April 3, 1979, reporting that the Supreme Court would hear a challenge to yet another state statute providing bits of aid to parochial schools, a New York law providing expenses for state-required testing, *The New York Times* noted that "The Federal Constitution specifically forbids state aid to parochial schools. . . . ") The dynamic of scholarship, which is both truth-seeking and competitive, at length responds to this kind of imbalance. Already the time is at hand when law clerks will have learned as law students that the *Everson* decision is disputed. In time there will be judges who learned it as students also. Just as importantly, Presidents may come to office committed to change. Roosevelt made no secret of his desire to appoint to the Court Justices who would not block New Deal legislation on the basis of a flawed reading of the Fourteenth Amendment. It would be unthinkable today for a Justice to be appointed who held to the *Plessy* doctrine.

The same may come to be true of *Everson*. This is a constitutional check on the Court: Justices are appointed by the President. Already both major parties have endorsed aid to nonpublic schools. It is becoming a familiar position for Presidential candidates since Senator George S. McGovern endorsed tuition tax credits in his 1972 campaign. It remains for a President to come to office either committed to the proposition as a matter of justice, or able, as a matter of politics, to balance the claims of the nonpublic schools with the fears of the public schools that they will lose whatever the other system gains.

Opinion polls indicate that the great majority of American people believe that educational pluralism is a principle deserving of active governmental support. And it is well to bear in mind Robert G. McCloskey's observation, in his magisterial study, *The American Supreme Court* (1960), that "the Supreme Court has seldom, if ever, flatly and for very long resisted a really unmistakable wave of public sentiment. It has worked with the premise that constitutional law, like politics itself, is a science of the possible."

Debate on the *Gannett* decision began immediately, and soon became almost formal. The Associated Press, for example, distributed to its news staff a prepared statement to be read aloud to a judge who has announced the closing of a courtroom. The statement, described by Louis D. Boccardi, executive editor and vice president of the Associated Press as "concise and legalistic," objects to any closed proceedings, sets forth the reasons why, and asks for time for further argument before a decision is made. This would appear to be a model reaction, if the validity of the Debate, Litigate, Legislate model is assumed.

2. *Litigate.* The exemplar of litigation as a tactic for bringing the Court back to the Constitution is the prolonged but in the end triumphant effort of the National Association for the Advancement of Colored People to reverse the *Plessy* decision. This is more difficult with *Everson*, for the effect of that ruling is that things don't happen rather than do, and it is not easy to challenge a nonexistent regime. Still, experience argues that those who feel aggrieved need to take initiatives. A former United States Attorney, now teaching law, asks his class in constitutional law to explain why the United States government is *obligated* to provide financial aid to church- or synagogue-related schools. The answer, evidently, lies in the Free Exercise Clause of the First Amendment: an interesting thought, and worth a lawsuit. Harry J. Hogan, retired counsel to the House Subcommittee on Elementary, Secondary, and Vocational Education, has pointed to the potential inherent in the growing practice of teaching "values" in public schools. "The fascinating possibility is that as soon as public schools and universities are required to teach values, then church-related schools and universities will be able to demand equal access to state and federal tax funds."

The risk of litigation is that it divides. In the end no schools may receive support for ethics courses. But, as no other process, it educates the courts.

3. *Legislate.* Legislation is the most direct and open way for the Congress and President to advise the Court of their reading of the Constitution, views which have equal standing under the Constitution, albeit they do not have equal effect. This issue arose directly in the Lincoln-Douglas debates. Lincoln said: "If I were in Congress and a vote should come up on a question whether slavery should be prohibited in a new territory, in spite of the *Dred Scott* decision, I would vote that it should." Douglas was scornful, saying, "if you elect him to the Senate he will introduce a bill to re-enact the law which the Court pronounced unconstitutional. . . . I never heard before of an appeal being taken from the Supreme Court. . . ." Lincoln replied that Douglas "would have the citizen conform his vote to that decision; the member of Congress, his; the President, his use of the veto power. He would make it a rule of political action for the people and all the departments of the government. I would not." Commenting on this exchange, Bickel allows that while deference to the Court is surely in order from the other branches this cannot be absolute:

"The functions cannot and need not be rigidly compartmentalized. The Court often provokes consideration of the most intricate issues of principle by the other branches, engaging them in dialogues and "responsive readings"; and there are times also when the conversation starts at the other end and is perhaps less polite. Our government consists of discrete institutions, but the effectiveness of the whole depends on their involvement with one another, on their intimacy, even if it often is the sweaty intimacy of creatures locked in combat."

That Congress can abuse its power, should cause no surprise. Indeed it has. Reacting to the Supreme Court decision in *Engel* v. *Vitale* (1962) which forbade school prayer, the Senate on April 5, 1979 and again on April 9 by margins of 47 to 37 and 51 to 40, respectively, voted to deny the Supreme Court appellate jurisdiction in such cases. This can be done under Article III, Section 2, at least with respect to cases in federal court. (It is contended that the power was intended as Congress's restraint on the Court, corresponding to the President's power of appointment.) But in this case the power was surely misused. Publicly prescribed prayer, voluntary or not, is precisely what "an establishment of religion" is all about and that is what the First Amendment forbids. (In the course of the debate, one Senator rose "to speak as a Christian" about what he called the "secular humanism that abounds in our children's schools today." He did not like this and thought "we Christians" should do something about it. One is reminded, from time to time, that this is a Protestant country.)

For all this, legislation is unequaled as a means to influence the Court. Labor legislation was finally accepted by the Court only because state legislatures kept passing bills. Even the venerable Charles Evans Hughes at last was converted. Writing for the Court in *West Coast Hotel Co.* v. *Parrish* (1937) he derided the "freedom of contract" argument: "What is this freedom? The Constitution does not speak of freedom of contract. It speaks of liberty and prohibits the deprivation of liberty without due process of law."

Similarly, the Congress through legislation has commenced the undoing of the *Everson* decision. First, in the Elementary and Secondary Education Act of 1965, provision was made for the compensatory services in schools with high proportions of "deprived" children, of which denominational schools have a more than sufficient share. (In New York City, nuns initially had to teach the children to operate the television sets thus provided, as they themselves were forbidden to touch them. But even such silliness makes its impact.)

Similarly, the Higher Education Act of 1965 provided federal funds for "strengthening developing institutions." These were understood to be, in the main, black colleges in the South. But federal administrators, in the manner of bureaucracies, found that denominational colleges in the North often met the criteria and they were given grants accordingly. Half the private colleges and universities in the nation have religious affiliations, and most seem to take part in the now considerably complex system of federal aid to higher education. Mild tensions persist. It was reported that at the First National Congress on Church-Related Colleges and Universities, held at Notre Dame in the summer of 1979, there were complaints of "federal officials who question whether theology should be taught in classrooms built with federally guaranteed loans." But this is the point. Federal officials are now merely nervous about support for activities which, if one were to read *Everson* and nothing more, it would be assumed are altogether forbidden. What is happening, of course, is that American practice is coming in line with that of the other English-speaking democracies where government support is provided to any *bona fide* educational activity, and the communal peace, on this score at least, is maintained.

Consider the Higher Education Facilities Act of 1963. In this law, Congress provided funds to build buildings on college campuses. In the course of events, Sacred Heart College (and several other church-affiliated campuses) in Connecticut received such funds. The familiar law suit followed. But the Court in *Tilton v. Richardson* (1971) held that this aid was constitutional on grounds that "There is substance to the contention that college students are less impressionable and less susceptible to religious indoctrination." Now there is, of course, no susbtance whatever to this. It can only be a matter of time, albeit this could be another generation, before five Justices agree that what is constitutional for 19-year-olds is constitutional for 18-year-olds, whereupon the legal issue will be behind us. The Weis dissent is surely a harbinger of this.

There will remain the issue of public policy. *Should* 18-year-olds receive assistance? That is a different question altogether. It has never been satisfactorily resolved, mostly because opponents have always succeeded in interposing the constitutional question. But it is not a constitutional question.

Legislation is not always to be advised. The press, for example, will want to be cautious indeed before deciding that it wishes Congress to make a law respecting its freedom. On the other hand, it may find it useful for Congress to make laws protecting the Sixth Amendment right of the public to be present at trials. To those who say the Court has decreed that no such right exists, there is Lincoln's retort that a Supreme Court decision is not a "Thus saith the Lord."

Has this analysis any predictive power? The *Gannett* case will provide a test. As with most cases in which the Supreme Court would seem to be wrong, debate began promptly and it may be forecast that a good deal of litigation will follow. In the manner of *Everson*, one decision will lead to another: clarifying, adjusting, half-apologizing. Legislation will be contemplated: most likely dealing with the public's right to access to the courts, rather than that of the press as such. In the end the Court either will reverse itself, or set forth rules for the closure of courts so narrow and restricted in their application that the controversy will go away. It may be hoped that it does not require a generation for this to come about.

Mr. HATCH. Mr. President, unlike Senator MOYNIHAN, I believe that it is certainly not without precedent for a decision of the Supreme Court to have been met with a response by the people and their legislatures in the form of an amendment to the Constitution.

The action by the Court in accepting jurisdiction of a suit against a State by a citizen of another State, *Chisholm* v. *Georgia*, 2 U.S. 419 (1793) led to the adoption of the 11th amendment in 1798 prohibiting the exercise of such Federal judicial power.

The Dred Scott case, *Scott* v. *Sanford*, 60 U.S. 393 (1857), which limited the rights of U.S. citizenship of negro persons, was set aside in section 1 of the 14th amendment in 1868.

The 16th amendment, establishing the right of Congress to impose income taxes, was ratified in 1913 as a direct consequence of an earlier decision by the Supreme Court which had ruled unconstitutional an attempt by Congress to tax incomes, *Pollock* v. *Farmer's Loan & Trust*, 157 U.S. 429 (1895).

Finally, the 26th amendment to the Constitution, establishing the 18-year-old vote, was ratified in 1971 after the Court had ruled that the Voting Rights Act of 1965 was unconstitutional insofar as it had purported to lower the voting age qualification in State and local elections, as well as Federal elections, *Oregon* v. *Mitchell*, 400 U.S. 112 (1970).

It is also worth noting that the present effort to secure an antiabortion amendment to the Constitution has resulted directly from a Supreme Court decision, *Roe* v. *Wade*, 410 U.S. 113 (1973). Also the proposed equal rights amendment is at least an indirect result of the Court's refusal to read the 14th amendment as broadly as some would have liked in the area of women's rights, for example *Frontiero* v. *Richardson*, 411 U.S. 667 (1973) (opinion of Justices Powell, Blackmun, and Chief Justice Burger). Other serious efforts to amend the Constitution followed Supreme Court decisions in the area of child labor laws, *Hammer* v. *Dagenhart*, 247 U.S. 251 (1918) (proposed amendment ratified by 28 States); and legislative apportionment, *Baker* v. *Carr*, 369 U.S. 186 (1962) (proposed amendment narrowly defeated in the U.S. Senate).

It seems to me that we can all agree upon the aim of restoring to the Civil Rights Act its original purpose: to ban discrimination. Of course, legislation is a crude and inefficient method of resolving such problems. In this context, it is worth pondering the remarks of William F. Bucklev on the Weber decision. Buckley is the only commentator I have seen to remember the sincere constitutional questions raised by honorable people in 1964, and to point out that flexibility in the area had some wholly beneficial effects, whose difficulty of achievement under an antidiscrimination statute Professor Glazer, for example, was lamenting.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point an article by William F. Buckley, entitled "The Language of Title VII," published in the Washington Star on Friday, July 6, 1979.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE LANGUAGE OF TITLE VII

(By William F. Buckley, Jr.)

The Weber decision of the Supreme Court is classic in its confrontation between sociological engineering and law. The majority of the court, looking at the text of a law written only 15 years ago, rewrote the law to say that which it would like it to mean.

The dissenters (Burger and Rehnquist) reminded their brethren in tones of desperation of something called the separation of powers. Let us go back to 1964.

In 1964, the Great Civil Rights Act was passed, Title VII of which forbade any private employer from racial discrimination in handing out jobs.

Now that act was opposed by a minority, most prominently by Sen. Goldwater. His opposition was strictly constitutional. Just as the American Civil Liberty Union cannot be accused of endorsing Nazism when it defends the rights of the lunatic fringe in Skokie, Ill., Goldwater could not conscionably be criticized as a racist for maintaining the Constitution does not vest in Congress the right to tell employers they may not discriminate—on any grounds—though in fact Goldwater *was* thus criticized by the polemical opportunists.

Now the court has held that in saying employers cannot discriminate on account of race, what Congress really meant to say was that employers cannot discriminate on account of blackness. But if that is what they meant to say, the dissenters asked, why didn't they say it?

Rehnquist appealed to the meaning of language to the structure of thought.

"Were Congress to act today specifically to prohibit the type of racial discrimination suffered by Weber, it would be hard-pressed to draft language better tailored to the task than that found in Section 703(*d*) of Title VII." Rehnquist proceeded to quote the language of the statute, which is about as ambiguous as "John hit the baseball."

Ah, said the majority, to be sure. But don't you see, the whole purpose of the Civil Rights Act was to help the Negro population. And you can't do this without affirmative action, even though that means discriminating against people on account of—race.

Not all the civil rights folks were overjoyed by the decision. The black lobbies, of course, were; as also the AFL–CIO, which was the defendant in the case, Weber having sued alleging his seniority under the union rules entitled him to preference in hiring.

But Leonard Walentynowicz, an attorney for the Polish-American Congress, was quoted, "Our position has always been that we believe in affirmative action, but we believe it should be available to all minorities, not certain select groups."

An interesting point. Did your father flee Poland where he was persecuted? Did you grow up in a Polish ghetto, struggling to learn the English language? Come to the front of the line.

The Anti-Defamation League's Justin Finger expressed concern, as well he might, that the court may have given (in The New York Times' paraphrase) "a sweeping endorsement of racial quotas." If we get a sweeping endorsement of representative racial quotas, we will have nothing less than active-anti-Semitism, since the manifest intellectual qualifications of the Jewish minority result in such anomalies as registration in the better colleges at eight or 10 times the Jewish representation in the population the triumph of meritocracy.

The strain arises at two levels. The first is this last decision, wherein the court picks up a law designed to forbid racial discrimination and turns it around so as to permit racial discrimination. The second strain arises from the dilemma posed by the original act.

There are those (I am one) who in fact believe in discreet affirmative action, as noblesse oblige rather than as constitutional duty. But in order to practice affirmative action, it is necessary to discriminate racially. And that—until the Weber case—was supposed to be unlawful.

Chief Justice Burger began his dissent by saying: "The Court reaches a result I would be inclined to vote for were I a member of Congress considering a proposed amendment of Title VII. I cannot join the court's judgment, however, because it is contrary to the explicit language of the statute and arrived at by means wholly incompatible with long-established principles of separation of powers."

What the chief justice didn't say, but which our creeping immersion in the quagmire of racial quotas is teaching us, is that the original act was misbegotten. Goldwater was right.

Mr. HATCH. Mr. President, whatever the merits of Buckley's observations on the original Civil Rights Act, I still hope that we can "hold the line," as Professor Glazer puts it, against quotas, and restore the colorblind ideals of that measure. I still believe that this policy is the best and the only truly workable policy for governing our heterogeneous society. Nothing flowing from the 1964 act implies the adoption of affirmative action policies that have been justified in its name. It is the failure to appreciate this fundamental point that has misled so many honorable citizens who are sincerely and dedicated to equal opportunity and equal treatment for all groups.

The great unacknowledged truth that overhangs contemporary politics is that affirmative action is a two-edged sword. If the principle of equal protection is foolishly cast aside, then the welfare of the minority ironically becomes totally dependent upon the majority. There is no longer any overriding principle of equal treatment upon which the security of the minority can rest. The share of the pie that will be enjoyed by the minority is then ultimately whatever the majority is prepared to grant.

This may not be as much as the present uncritical climate seems to suggest. Once the principle of equal protection is abandoned, there will be nothing in theory to prevent a lengthy period of dialectical conflict out of which new and emerging forms of unequal stability will develop. It is a process that can do nothing but work to the ultimate harm of minority groups who, in a democratic society, have no resort to anything other than the rule of law and the traditions of a society.

I will end this section with an eloquent statement of disgust with the current situation by Midge Decter, from the summer 1980 issue of Policy Review. Ms. Decter has emerged as one of our most incisive and far-sighted social critics. She and her husband Norman Podhoretz, editor of Commentary, have already had an influence on the intellectual climate of this country that has insured them not merely a footnote but a paragraph in any history of our times. As I have said, I do not agree with Ms. Decter's pessimism as to what can be done about affirmative action, although I do think that the struggle will be long, bitter, and costly. However, since she has been writing about the issue for several years only to see elected officials burying their heads in the sand with more desperation than when she started out, her cynicism is not surprising. Ms. Decter's conclusion shall be my own:

> Difficult to weigh and measure with precision as these results may be, they are already being given unhappy expression among us. If nothing intervenes to break the grip of this policy—and it is hard to see what will—they will be given countless more, and even unhappier ones, in the years to come.

Mr. President, I ask unanimous consent to have printed in the Record an article entitled "Benign Victimization," by Midge Decter, published in Policy Review; summer 1980.

There being no objection, the article was ordered to be printed in the Record, as follows:

BENIGN VICTIMIZATION

(By Midge Decter)

Despite the fact that the policy known euphemistically as "affirmative action" is held in disfavor by an overriding majority of the American people, it seems safe to say that racial and sexual quotas are solidly established in our midst and will remain so for the foreseeable future. Indeed, nothing less than a serious social upheaval or major constitutional crisis—certainly no mere change of administrations or shift in the balance of congressional power—is apt to dislodge them. For public disapproval of the kind that can be expressed at the ballot box has not only proven to be no hindrance to the policy, it has in some sense provided reinforcement to the very process of its institutionalization. Affirmative action after all has a double agenda. First, there is the open agenda, the securing of places in society—preeminently in schools and jobs—for the members of particular groups claiming to have been intentionally and unjustly excluded in the past. And second, there is the somewhat more hidden one, which is to remove a certain order of social decision from the political arena and give it over to such agencies as the courts and bureaucracies where it can be kept securely out of public reach. Thus the widespread opposition to affirmative action has been held in the first instance to be itself prime evidence for both the justice and the necessity of the policy; and in the second instance has provided a spur to the policymakers to take matters ever more firmly into their own hands. Such a vicious circle will not easily be broken.

We can expect, therefore, to be living with quotas for some time—even though their most dedicated proponents hasten on every possible occasion to assure us that they are only a temporary expedient, a means of giving the provably disadvantaged that first indispensable leg up, after which reparation will have been made and justice achieved. By the time that golden age will have descended upon us, it is unlikely that any policy in a policy-ridden age will have done more than affirmative action to unsettle the series of delicate balances—between democracy and republic, individuals and pluralities, private rights and public necessities—it was once the unique political talent of this society to have struck.

Much has already been observed (as, for example, only recently in these pages) about the harmful impact of quotas on such instruments for maintaining the balances I have referred to as the schools and universities, the political parties, the agencies of government, and the economy. Moreover, that quotas are themselves indisputably unjust—not a means for doing away with the arbitrary exclusions of the past but merely a new form of arbitrary exclusion enforced against a new and different set of victims—has been frequently and forcefully pointed out (albeit as far as the courts are concerned, to no avail). It is on this point, as we have seen, that public opinion has drawn the firmest line: "unfair" is the characterization of quotas for which pollsters have found the highest level of assent. One issue, however (and it may be the most important issue of all) has so far not been paid the attention it deserves. That is the question of the impact of quotas on those who are their intended beneficiaries. How does preferential treatment affect those who are, in actuality or even only potentially, its recipients? Beyond this, how does it affect the feelings of others toward them? And finally, how does it affect the attitude of everyone toward the society he is living in?

There is, to be sure, good reason why this issue has been scanted. It resides in a realm difficult to get at directly, and in which the most important hypotheses are impossible to "prove." Attitudes are not opinions. Whereas opinions are held, and can be offered with varying degrees of forthrightness by the holder, attitudes are more often than not betrayed—sometimes in very roundabout fashion and usually over a considerable passage of time. In addition, they do not, or let us say should not, openly enter into the construction of legal briefs, which has been the major forum of public argument about affirmative action. Yet the attitudinal, or psychic, or spiritual effect of this policy, both on individuals and on the nation as a whole, will undoubtedly prove to be the most lasting and by far the most destructive.

THE BENEFICIARY GROUPS

The two main groups at whose behest quotas have been instituted and on whose behalf they have been administered are, of course, blacks and women. True, their ranks have been swelled by American Indians and that mysterious entity, "Spanish Surname," but these latter groups have imposed themselves primarily through an extension of logic (as other ethnic groups are lately and on the whole feebly attempting to do). It seems highly unlikely that they would have devised such a measure, or could have succeeded at having it implemented, in their own right.

Now, leaving aside the whole question of the respective merits of the claims of blacks and women to recompense for past injustice, the two are entirely dissimilar groups. Their linkage under the common heading of disadvantaged minorities is, literally, an incongruous one. Blacks have had a shared history; women as such have not. Blacks have had a shared cultural and political experience; women as such have not. In fact, women can hardly be said to be a "group" at all, as that term is generally understood. For historical reasons that remain to be properly explicated, however, the "causes" of women and blacks came to be treated as one and dealt with in a single fashion. In examining the issue of attitude, we are consequently bound to find the two groups, with certain inevitable and interesting variations, in an ever more similar condition.

It would be impossible, as I have said, to test an idea about that condition with any degree of scientific authority, but a good deal of so-called soft evidence is all around us. And what this evidence points to is that recipients of preferential treatment tend to suffer from a serious, and no doubt in many cases permanent and irrecoverable, decline in self-respect. The advantages gained in this fashion appear to be bringing little sense of either private or public satisfaction but only more strident assertions of grievances yet to be redressed. If a certain number of places are secured in this industry or that university, a large number is stormily demanded. For an outsider to remark upon any improvement in the situation of the aggrieved is for him to call down upon his head heated accusations of heartlessness and bigotry.

This otherwise anomalous behavior on the part of the beneficiaries of preferential treatment is often laid to the phenomenon known as the revolution of rising expectations. That is, we are told that more jobs and special opportunities lead to greater rather than lessened unrest among the affected minorities, because they provide a glimpse precisely of what full justice might look like and thus feed an ever more impatient desire to attain it. But this explanation is less than satisfactory, because what needs to be accounted for are not only the demands themselves but the increasingly sullen, surly, and bitter tone in which they are proffered. The tone is one not of people impatient for more but rather of people who have discovered that their sought-for special privileges, being unearned and therefore feeling unmerited, are doing them, spiritually speaking, no good.

So it is, for example, that large numbers of women who have been carried into the academy have devoted their teaching and research to the field of Women's Studies, which is to say, to the perpetuation of the anger and hostility responsible for their being there. So it is that large numbers of blacks who have been—almost, as it were, forcibly—hurled up the professional ladder have elected to make a profession of being black. So it is that in both cases individual as well as collective endeavor is frequently conducted with the kind of routine incivility that comes with the lack of a sense of self-worth. It is an open secret in this country, alluded to only in whispers but commonly recognized all the same, that students admitted to colleges and professional schools by virtue of helping to fulfill a racial or sexual quota tend quickly to feel defeated there. Even the qualified, insofar as they know themselves to have won a competition through the added benefits of a special allowance, sooner or later undergo crises which are crises of self-doubt. Nor for those employed can the nervousness and low expectations of employers, the all-too-evident and unavoidable response to a situation in which they have hired as they have in order to fend off lawsuits, union actions, and the like, contribute much to self-regard.

How could all this be otherwise? At the heart of affirmative action, no matter how the policy is defined—whether as specific numerical quotas or only as desirable goals—lies the simple proposition that the individuals being hired or admitted or promoted would not in their own individual right be so. In terms of at least one of the central areas of their lives, in other words, they are not looked at or seen as individuals at all. In short, no matter how passionately affirmative action is sought and defended by its client groups, its underlying proposition is one that in the end must breed a painful resentment.

A LEGACY OF RESENTMENT

But if self-doubt and resentment are the irresistible consequence of quotas for the beneficiaries, what can we imagine about the emotions of the rest of the people among whom they work and live? Polls, particularly the Sindlinger Poll undertaken for Policy Review (for which see the Spring 1980 issue), offer persuasive evidence that the opposition to affirmative action so widely found in the American public is not race- or sex-related. Plainly, people are against preferential treatment not because they are against blacks or women. Eighty-four percent of the people surveyed, to take an extremely significant example, answered No to the question of whether they would avoid dealing with black doctors or women lawyers. Their opposition is not to the groups but to the principle. But to repeat, opinions are not attitudes. In the daylight world where people actively and willfully make up their minds, Americans have undergone a massive diminution of racial prejudice. In the dark night of the soul, however, affirmative action itself is creating a new wave of racism and sexism. The new wave of racism and sexism differs from the earlier sort in that it is based not on fear, hatred, or guilt but on contempt. There is, of course, also a good deal of the kind of rage always engendered by the spectacle of unearned advantage, though in this case rage of this kind seems to be confined largely to the particular groups who are made to feel the immediate pinch on their own flesh—better qualified students who lose out in the competition with less qualified, white male academics, ethnics whose own minority status has been left out of consideration, and so on. On the whole, though, the more telling, and far more consequential, response is an involuntary, almost instinctive, inclination to patronize. Whatever people think about the justice or injustice of making special allowances for blacks and women, what they feel is that the objects of these allowances are somehow inferior.

Frequently, to be sure, this feeling is accurate. Affirmative action is not simply, and not even mainly, a legal or administrative arrangement; it is a frame of mind—a frame of mind best characterized by the term "double standard." If someone must be included on whatever list in order to fulfill a quota or for the sake of appearances, a lowering of expectations and standards follows naturally. Such a lowering of standards extends far beyond jobs and school admissions. It seeps into the whole fabric of the culture. Accordingly, we have seen works written by blacks and women being praised all out of proportion to their merits, if any. We have seen public honors being bestowed for trivial if not laughable achievements. Perhaps more meaningful has been the application of a double standard to the public conduct of these groups: everything from lapses of taste to violations of the norms of decency to outright criminality has, under the sway of the general atmosphere of affirmative action been condoned on the grounds that those who do such things are entitled by a history of inferiority to do no better. Just as the beneficiaries of affirmative action officially approve of the policy but necessarily feel demeaned by it, so the public at large may officially claim to feel no prejudice but cannot remain unaffected by the notion of group inferiority that is inherent in—indeed, that is the very determinant of—the double-standard system.

Eighty-four percent of the people polled may believe that in principle they would experience no inclination to avoid, say, black doctors; in practice they are likely as time goes on to assume that in the absence of powerful evidence to the contrary, any black doctor is underqualified. Before long, the irony will have escaped no one: by means of a policy intended to short-cut past discriminatory practice the American populace will have become subject to a kind of prejudice which, if more subtle, is also by the same token infinitely more difficult to overcome. This prejudice, moreover, will be no unforeseen accident. Affirmative action is in its very inception based on a racist (and, in its subsequent application to women, a sexist) idea, which is that blacks, or women, given the removal of all barriers to opportunity, could not ever fairly compete. The rhetoric of the policy's supporters focuses not, as might be supposed, on equality but on incapacity. And in this rhetoric lurks the real underlying truth of attitude.

EQUAL OPPORTUNITY OVERTHROWN

Finally, there is the problem of what affirmative action does to the attitude of everyone—those who benefit from it and those who do not—about the nature of the society in which he lives. The assault on the old idea that in America equality means equal opportunity has an impact on attitudes far wider than merely those toward race and sex. The message being daily hammered home by the arguments for a system of preferential treatment is, to put it bluntly, that society is a racket. There are no such things as standards of performance. Standards are a shibboleth; look how easily—with a stroke of the bureaucratic pen—they can be dispensed with. There is no such thing as achievement. Achievement is whatever the authorities in charge decree it to be. Above all, there is no such thing as justice. Justice is whatever happens to be dispensed by courts of law—malleable to current social conditions and fashioned to the humors of political and social convenience. To live in accordance with the belief that standards or achievements or justice have a reality that is to some extent objectively measurable, that they matter, and that they are worthy of aspiration is to be a sucker. All of these, too, are ideas difficult to resist in the dark night of the soul, no matter how earnestly or piously denied in the course of daylight inquiry.

A society cannot long remain vigorous and productive when so massive a cynicism about its principal beliefs is permitted to spread through the underground consciousness. A complaint frequently heard these days is that nothing works as efficiently as it used to, from telephones, banks, industrial products, all the way down to postage stamps. This is a serious charge against the United States, whose vitality is characteristically expressed in efficiency. No one has yet attempted—possibly no one has dared—to estimate the contribution of affirmative action to this decline. There is the direct contribution, in the form of the lowering of the standards of competence for employment in all sorts of areas. And there is the far more important indirect contribution made by the growing cynicism I have described: even those who are competent find it less and less compelling to take pride in what they do.

Here, then, we have the unmeasured, and in some sense unmeasurable, results of affirmative action. Blacks and women (and some few others) are learning in a new way to regard themselves of lesser account and being encouraged to hold themselves not accountable. Their fellow citizens are willy-nilly adopting a double standard toward them and being encouraged to pervert the sense of fair play into a virulent new strain of racism and sexism. The society as a whole is being undermined with respect to belief in the terms of its past achievements.

Difficult to weigh and measure with precision as these results may be, they are already being given unhappy expression in countless ways among us. If nothing intervenes to break the grip of this policy—and it is hard to see what will—they will be given countless more, and even unhappier ones, in years to come.

V. CONCLUSION: RETURNING THE PENDULUM

Mr. HATCH. Mr. President, my purpose in making this statement has not been merely to establish that affirmative action is wrong. It has also been to establish that it is unworkable and, quite likely, counterproductive. It will collapse in chaos and confusion. It is incumbent upon us as legislators and as citizens to insure that the least possible damage is done, and that the strain which it will inevitably impose upon the American body politic does the least possible permanent harm. The pendulum must return, however long it takes to do so.

It will be recalled that Senator MOYNIHAN's prescription for healing injuries done by the Supreme Court was, first, debate; second, litigate; third, legislate. Thus far, there has been extensive debate, although primarily in the executive branch of the Federal Government. A new organization, the Equal Protection Foundation, with which I am associated, has been established to further outside debate. There has also been litigation, in the judicial branch of the National Government. I believe that it is long overdue for the legislative branch—Congress—to inject itself into the debate over affirmative action, by actually legislating. It is a commentary, of sorts, on our times that the concept of affirmative action has been initiated, developed, and institutionalized completely outside the lawmaking branch of the Government. The popular will on this issue (as already illustrated by Ms. Victoria Sackett's article) has been largely irrelevant on these matters.

EQUAL PROTECTION, CONSTITUTIONAL AMENDMENT

At this time, I am introducing an amendment to the Constitution—the "Equal Protection" amendment—that would address the issue of affirmative action. While I am always reluctant to offer amendments to the organic law of our land, I am convinced that there is no idea with any present currency that has more potential for undermining the foundations of our free society than does the idea of affirmative action.

It is unfortunate that I should have to introduce this resolution when there is an existing constitutional provision—the 14th amendment—that clearly states the principle in which I believe. Simply stated, it is that all persons within our Nation are entitled to the "equal protection" of the laws. There is little doubt in my mind, however, that the original intent and the clear meaning of this provision have been totally obliterated by our courts and by the bureaucracy in recent years. The Herculean task of transforming language guaranteeing equal protection into language tolerating laws which make distinctions among people on the basis of race has largely been achieved as a result of the Bakke, Weber, and Fullilove cases.

Let me briefly describe the provisions of the "equal protection" amendment. All are fully consistent with traditional notions of the equal protection clause of the 14th amendment and, I believe, with the views of the great majority of the American people of all races.

Section 1 of the proposed amendment establishes the basic principle that neither Congress nor the States are to make or enforce any laws which "make distinctions" on account of race, color, or national origin. It would insure that public policy in this country is pursued on a color-blind basis. This provision would clearly render unconstitutional laws such as the Public Works Employment Act of 1977 (Public Law 95–28, 91 Stat. 116) which established a 10-percent minority quota for Federal public works contracts. This law was upheld recently by the Supreme Court in *Fullilove* v. *Klutznick* (Docket 78–1007).

Section 2 would address the problem dealt with by the Court in the earlier case of *United Steelworkers* v. *Weber* (443 U.S. 193). In that decision, the Court purported to interpret title VII of the Civil Rights Act which made it an unlawful employment practice for an employer to hire, discharge, or otherwise discriminate against an individual because of race, color, or national origin. Through judicial sleight-of-hand, this was transformed into language excepting the adoption of preferential hiring programs for racial minorities if adopted "voluntarily" by employers.

What section 2 would clarify is that all laws adopted by the Congress or the States which prohibit racial discrimination by private employers shall not be construed to permit the establishment or maintenance by these employers, however "voluntary", of any program that "makes distinctions" on account of race, color, or national origin. Once Congress has chosen to limit the freedom of private individuals to make employment decisions on account of race, I do not see the propriety in allowing courts to carve out exceptions with respect to employment decisions for certain races. Nor does the concept of permitting "voluntary" programs of preferential hiring have any justification when we are dealing with laws that are expressly directed at limiting voluntarily adopted employment practices.

Section 3 of the amendment emphasizes that "goals, quotas, timetables, ratios, or numerical objectives" all fall within the scope of proscribed practices to the extent that they draw "distinctions" on account of race, color, or national origin. Such practices could neither be adopted voluntarily by the Federal Government or the States, nor imposed upon private individuals or enterprises. They would not be permitted to be adopted voluntarily by persons within the scope of laws that otherwise prohibit discrimination on account of race.

Section 4 would prohibit the adoption of laws which made illegal, actions that have a disparate "effect" on racial groups, where such actions were not adopted with an intent or purpose or motivation to discriminate. This is a policy in accord with the Supreme Court's interpretation of the equal protection clause of the Constitution in such recent cases as *Washington* v. *Davis*, 426 U.S. 229 (1976); *Arlington Heights* v. *Metropolitan Housing Development Corporation*, 429 U.S. 252 (1977); and *City of Mobile* v. *Bolden*, (Docket No. 77–1844). As the Court noted in the Washington case, "a law neutral on its face and serving ends otherwise within the power of Government to pursue is not invalid under the equal protection clause simply because it may affect a greater proportion of one race than another", 426 U.S. 229, 242.

The need for this provision arises because the Court in the context of title VII has suggested that proof of discriminatory intent is not required, *Griggs* v. *Duke Power*, 401 U.S. 424 (1971), while lower Federal Courts have suggested in the context of title VIII that mere discriminatory "effects" may suffice to establish a violation, *Arlington Heights* v. *Metropolitan Housing Authority*, 558 F. 2d 1283 (7th cir. 1977); *Resident Advisory Board* v. *Rizzo*, 564 F. 2d 126 (3rd Cir. 1977;) *Contra Boyd* v. *Lefrak Organization*, 509 F. 2d 1110 (2d Cir. 1975); *Skillken* v. *City of Toledo*, 528 F. 2d 867 (6th Cir. 1975). It is the development of the so-called "effects" test, more than anything else in the area of civil rights law, that has transformed our legitimate antidiscrimination statutes into social engineering tools for HEW, HUD, the EEOC, and other Federal agencies.

Section 5 of the amendment clarifies that the proscriptions contained in it are not to be circumvented through the adoption of policies which do not make express distinctions on account of race, but which are intended to result in such distinctions. Whether or not such an intent exists is, of course, a question that surrounds an action. As with the concept of international discrimination required by section 5, intent for purposes of section 6 may be proved through resort to circumstantial evidence; there need be no overt expressions of prejudice or bigotry.

Thus, section 4 establishes that the basic standard for determining civil rights violations is an intent standard, not an effects standard. Section 5 establishes that this standard need not be satisfied by express statements or by express statutory language.

Section 6—the final substantive section of the amendment—would prohibit judicially imposed affirmative orders or decrees, that is, all that "make distinctions" on account of race, except where necessary to remedy the effects of earlier policies or actions that had been adopted in violation of this amendment. Such a remedy, however, would have to be directed toward persons who have themselves been the objects of such violation, not toward entire classes of persons.

Section 7 would invest authority within Congress and the States to enforce the amendment through appropriate legislation. This is similar to the standard enforcement clause for recent amendments to the Constitution.

Mr. President, I have found that this is an area in which it is extremely difficult to draft a thorough, yet succinct constitutional amendment. In part, I believe that this is attributable to the judiciary's and the bureaucracy's penchant for circumventing the plain language of other constitutional and statutory enactments. I have little doubt that improvements can be worked in the language of this provision. I would hope that there might be this opportunity during the next Congress. Whether or not this is the case, I can assure my colleagues that this is an issue that will not go away quietly.

Nothing, in my opinion, has more potential for becoming an explosive domestic issue during the next decade.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 200

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States:

"Article

"Section 1. Neither the United States nor any State shall make or enforce any law which makes distinctions on account of race, color, or national origin.

"Sec. 2. All laws of the United States or any State which prohibit discrimination on account of race, color, or national origin by private individuals or enterprises shall not be construed to permit the establishment or maintenance by such private individuals or enterprises of any program or policy that makes distinctions on account of race, color, or national origin.

"Sec. 3. Neither the United States nor any State shall establish or maintain, or require or permit any private individual or enterprise within the scope of section 2 to establish or maintain, goals, quotas, timetables, ratios, or numerical objectives which make distinctions on account of race, color, or national origin.

"Sec. 4. Neither the United States nor any State shall make any law which prohibits any person in the absence of intent to discriminate on account of race, color, or national origin, to take actions, otherwise lawful, which have a disproportionate impact or effect upon individuals on the basis of race, color, or national origin.

"Sec. 5. All limitations in this article upon laws, regulations, orders, programs, or actions which make distinctions on account of race, color, or national origin shall encompass laws, regulations, orders, programs, or actions which either make express distinctions on account of such race, color, or national origin or which are intended to result in distinctions on such account.

"Sec. 6. No order or decree shall be issued by any court of the United States or of any State that makes distinctions on account of race, color, or national origin (except to the extent that such order or decree is necessary to remedy the enforcement of a law by the United States or any State, or the establishment or maintenance of a program or policy by a private individual or enterprise, that is in violation of this article).

"Sec. 7. The Congress and the States shall have power to enforce this article by appropriate legislation".

Mr. HATCH. Mr. President, it is common when criticizing "progressive" schemes of reform to pay tribute to the good intentions of their framers, no matter how foolish their plans may be, or how unscrupulous their attacks upon oneself. This is part of our modern political culture, where loudly-proclaimed beneficial intentions toward the multitude are held to justify any number of atrocities inflicted upon the individual.

I am going to depart from that tradition here. I believe affirmative action is an assault upon America, conceived in lies and fostered with an irresponsibility so extreme as to verge upon the malign. If the Government officials and politicians who presided over its genesis had injected heroin into the bloodstream of the Nation, they could not have done more potential damage to our children and our children's children. We cannot look upon their work with equanimity; nor should we. It may take years, even decades, to redress this wrong. But the time to start is now.

EXPORT TRADING COMPANIES, TRADE ASSOCIATIONS, AND TRADE SERVICES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business (S. 2718), which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2718) to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. Proxmire) is recognized to call up amendment No. 2276, on which there shall be a 1-hour limitation, to be equally divided and controlled by the Senator from Wisconsin (Mr. Proxmire) and the Senator from Illinois (Mr. Stevenson), to be followed by an up-or-down vote thereon.

The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, in view of the fact that Senator Stevenson is not here, I suggest the absence of a quorum, and I ask unanimous consent that the time not be taken out of either side until Senator Stevenson arrives, at which time I will ask that the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time?

Mr. HEINZ. Mr. President, I ask unanimous consent to proceed for not to exceed 1 minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I want to call my colleagues' attention to an editorial in last Saturday's Chicago Sun Times. That editorial, I think, makes one of the strongest cases that can be made for the Export Trading Company Act of 1980. After acknowledging the risks which Senator Proxmire correctly pointed out of breaching the traditional separation of banking and commerce, it goes on the argument that these are risks well worth the gamble, because our trade deficits—and their attendant costs to our economy—are an economic problem which we must begin to address immediately. As I have argued elsewhere, if we try to live in a risk-free society we may also be creating the conditions for an opportunity-free society.

Mr. President, I ask unanimous consent to have that editorial printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Pass This Trade Bill

The Senate this week, in a rush to recess for Labor Day, left untouched a bill by Sen. Adlai E. Stevenson (D-Ill.) to create export trading companies and new trade associations. Too bad. The bill can help the country escape the trade doldrums and expand U.S. exports.

Every day of delay hurts. Literally thousands of American products and services would be highly competitive abroad. Yet too many small and medium-sized companies lack the expertise and the funds they need to develop new markets overseas.

As a result, America's share of world exports is dropping. While exports account for nearly 23 percent of West Germany's gross national product, they make up less than 8 percent of this country's. That's shocking.

And it needn't be that way.

The trading companies Stevenson wants would be "export middlemen," or agencies to help smaller producers through the maze of regulations and unfamiliar conditions any new exporter faces. The idea isn't new. U.S. competitors in Europe, Japan, Hong Kong and Korea have used such companies for years.

The simple fact is that another maze—with too-tight banking rules and antitrust uncertainties—has discouraged the formation of trading companies here. Stevenson would lower some of the barriers and offer tax and financing incentives to create the companies.

And the bill wisely includes safeguards against abuses. For example, regulators could examine and supervise a bank's participation in a trading company and set conditions on its operation. Also, bank participation in trading companies would be limited.

So what's the problem? Sen. William Proxmire (D-Wis.) fears bank involvement in trading companies will warp their credit judgment. He wants stricter provisions, so strict that some experts say Proxmire's standards would prove impossible to meet.

The choice, then, is this: We can be so afraid to try something new that U.S. exports remain bottled up. Or the country can gamble on Stevenson's bill, with its safeguards.

That bill would benefit farmers and service companies as well as manufacturers. It would help cut trade imbalances. It would help create jobs. It would promote more competition and thereby help fight inflation.

That makes the bill worth the gamble. The Senate should bet on it when recess is over.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be taken out of both sides equally.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 15 minutes, and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EXPORT TRADING COMPANIES, TRADE ASSOCIATIONS, AND TRADE SERVICES

Mr. ROBERT C. BYRD. Mr. President, what is the business before the Senate?

The ACTING PRESIDENT pro tempore. The clerk will state the pending business.

The assistant legislative clerk read as follows:

A bill (S. 2718) to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that the time not be charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Levin). Without objection, it is so ordered.

AMENDMENT NO. 2276

(Purpose: To encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally)

Mr. PROXMIRE. Mr. President, pursuant to the order previously entered, I call up printed amendment No. 2276 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. Proxmire), for himself, Mr. Tower, Mr. Kennedy, and Mr. Metzenbaum, proposes an amendment numbered 2276.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike lines 19 to 25 on page 9; strike pages 10 through 15; and strike lines 1 through 9 on page 16; and insert in lieu thereof the following:

"(b) Notwithstanding any prohibition, restriction, limitation, condition or requirement of any other law, a banking organization, subject to the limitations of subsection (c) and the procedures of this subsection, may invest directly and indirectly in the aggregate, up to 5 per centum of it consolidated capital and surplus (25 per centum in the case of an Edge Corporation or Agreement Corporation not engaged in banking) in the voting stock or other evidence of ownership of one or more export trading companies. A banking organization may—

"(1) invest directly or indirectly up to an aggregate amount of $10,000,000 in one or more export trading companies without the prior approval of the appropriate Federal banking agency;

"(2) invest directly or indirectly in excess of an aggregate amount of $10,000,000 in one or more export trading companies only with the prior approval of the appropriate Federal banking agency. Any banking organization which makes an investment under authority of (1) above shall promptly notify the appropriate Federal banking agency of such investment and shall file reports on such investment as such agency may require.

"(c) The following limitations apply to export trading companies whose shares are held by one or more banking organizations and to the banking organizations holding such shares—

"(1) except as provided in subsection (d), no banking organization may acquire 20 per centum or more of the voting stock or otherwise control an export trading company;

"(2) except as provided in subsection (d), no banking organization may acquire voting stock of an export trading company if such acquisition would result in 50 per centum or more of the voting stock of the export trading company being owned by banking organizations;

"(3) neither an export trading company nor a banking organization that owns its shares shall make any representation that the export trading company and the banking organization are affiliated. For this purpose, the name of such export trading company shall not be similar in any respect to that of a banking organization that owns its shares;

"(4) the total historical cost of the direct and indirect investments by a banking organization in an export trading company combined with extensions of credit by the banking organization and its direct and indirect subsidiaries shall not exceed 10 per centum of the banking organization's capital and surplus;

"(5) a banking organization that owns any voting stock of an export trading company shall divest such stock if the export trading company takes a position in commodities or commodities contracts other than as may be necessary in the course of its export business;

"(6) no banking organization holding voting stock or other evidences of ownership of any export trading company may extend credit or cause any affiliate to extend credit to any export trading company or to customers of such company on terms more favorable than those afforded similar borrowers in similar circumstances, and such extension of credit shall not involve more than the normal risk of repayment or present other unfavorable features.

"(d) (1) With the prior approval of the Board of Governors a bank holding company may acquire 20 per centum or more or otherwise control an export trading company.

"(2) With the prior approval of the Board of Governors, a bank holding company may acquire voting stock of an export trading company if such acquisition would result in 50 per centum or more of the voting stock of the export trading company being owned by banking organizations.

"(3) The Board of Governors shall not approve an application under this subsection unless it determines on the basis of the record that—

"(1) the export trading company will limit its activities to exporting or facilitating the exportation of specific goods or services which would not be exported to any significant extent without the involvement of an export trading company;

"(ii) investment by a bank holding company in excess of the limitations in subsection (c) is clearly necessary in order for the export trading company to export or facilitate the export of goods or services;

"(iii) the export trading company will limit its activities to a level consistent with the need for minimizing the financial risk of the investing bank holding company and maintaining a separation between banking and commerce, as determined by the Board.

"(4) The Board, upon receiving an application under this subsection, shall provide a copy to the appropriate Federal banking agency of the subsidiary banks of the bank holding company and shall request the comments of that agency.

"(e) (1) In the case of every application under this section, the appropriate Federal banking agency shall take into consideration the financial and managerial resources, competitive situation, and future prospects of the banking organization and export trading company concerned, and the benefits of the proposal to United States business, industrial, and agricultural concerns, and to improving the competitiveness of United States exports in world markets. The appropriate Federal banking agency may not approve any investment for which an application has been filed under this section unless it finds that there are significant export benefits and that such benefits clearly outweigh in the public interest any adverse financial, managerial, competitive, or other banking factors associated with the particular investment. Any disapproval order issued under this section must contain a statement of the reasons for disapproval.

"(2) In approving any application submitted under this section the appropriate Federal banking agency may impose such conditions which in the circumstances of the application it may deem necessary (A) to limit a banking organization's financial exposure to an export trading company, or (B) to prevent possible conflicts of interest or unsafe or unsound banking practices.

"(3) In determining whether to impose any condition under the preceding paragraph (2), or in imposing such condition, the appropriate Federal banking agency must give due consideration to the size of the banking organization and export trading company involved, the degree of investment and other support to be provided by the banking organization to the export trading company and the identity and financial strength of any other investors in the export trading company. The appropriate Federal banking agency shall not impose any conditions which unnecessarily disadvantage, restrict or limit export trading companies in competing in world markets or in achieving the purposes of section 102 of this Act.".

On page 17, line 19 "(e) (1)" should be changed to "(f) (1)" and on page 18, line 12 "(f) (1)" should be changed to "(g) (1)".

Mr. PROXMIRE. Mr. President, this is the so-called Federal Reserve amendment recommended by the Federal Reserve Board, and it is an amendment that they feel very strongly about because of the profound effect that this bill can have on banking.

For more than 100 years banking and commerce have been separated and I think that has served the country extremely well. There is no question that we damage effective competition when one competitor is owned by a bank and the other competitor is not, particularly in times of credit stringency.

For that reason we feel that the bill as proposed by Senator Stevenson, in substance, is good and constructive and can be very effective, but we wish to see a little more protection against having a willy-nilly ownership by banks of firms that are in commerce.

What the amendment does is not to prohibit banks from owning trading companies but simply requires that the Federal Reserve have an opportunity to act and make a decision for or against the trading company being owned by a bank and to do so on the basis of this criteria: is it necessary and would it significantly improve exports if the bank did own the trading company? If the Federal Reserve decides that these standards would not be satisfied, the Federal Reserve could then say no. But in any case a bank could hold a 20 percent minority position in the trading company.

Mr. President, this legislation is titled the Export Trading Company Act of 1980. While Congress has enacted various truth-in-advertising, truth-in-labeling and truth-in-lending statutes, it has never seen fit to enact a Truth-In-Short-Title Act. If such a law were on the books it would not be possible to clothe the wolf in sheeps clothing.

Under the Truth-In-Short-Title Act, this legislation would be required to be titled the "Mega Bank-Big Business Cartel Act of 1980." That is exactly what this bill is. But it seeks to clothe itself in the mantel of exports. Potentially, this legislation will curtail exports, not increase them. A handful of large money center banks are behind this legislation. They have teamed up with big business exporters who want to fix prices and allocate markets worldwide. I have no doubt that the mega-banks and big business will increase their profits when they raise their prices. But history teaches us that higher prices and bigger profits often result in lesser sales. This will mean less exporting—and more importing by these trading companies. And it derogates the world free-market economy that we work so hard to strive for.

Mr. President, I must say I am delighted to see the editorial that appeared yesterday, not in some liberal antibusiness publication but in the No. 1 probusiness publication in the country, the Wall Street Journal. It is headed "Export Gimmickry." This is what the editorial says:

EXPORT GIMMICKRY

> If you want to know what's wrong with the way Washington policymakers and many American businessmen think about export promotion, take a look at a bill the Senate is scheduled to vote on tomorrow.
>
> The bill is the Export Trading Company and Trading Association Act of 1980, sponsored by Sen. Adlai Stevenson of Illinois. It would permit banks to take limited equity positions in U.S. export trading firms. And it would broaden the antitrust exemptions, currently available under the Webb-Pomerene Act of 1918, for American firms that fix export prices, allocate foreign market shares or otherwise cooperate in joint selling operations overseas. In particular, the new bill would extend the antitrust exemptions to service as well as merchandise industries, and it would set up a certification procedure to assure exporters against antitrust prosecution if they operate within the scope of the law.
>
> At best the Stevenson bill is mere gimmickry. It is being marketed under the false pretense that it will help encourage the development of American trading companies comparable to Mitsubishi, Mitsui, C. Itoh and the other companies that have been so effective in selling Japanese wares around the world. Since Japanese banks often have ownership positions in their country's trading companies, the Stevenson bill's proponents argue that investments by American banks will help this country develop similar institutions. And since Japan and most Western European countries exempt exporting from domestic antitrust laws, the bill's advocates argue that American trading firms need a similar dispensation.
>
> All of which is so much hokum.

As I say, this is the Wall Street Journal, a newspaper whose editorial position has been quite critical of restraint by our antitrust laws in some cases. But in this case even the Wall Street Journal sees that it is hokum. They go on to say:

> The success of Japanese trading companies lies not in their ownership structures or their antitrust freedoms, but in their detailed knowledge of production sources and market opportunities around the world, as well as their logistical skills in carrying through complicated international transactions. Nothing stops American firms from offering similar services, and indeed many already do. And there are hundreds of foreign sales agents, manufacturers' representatives and so on to serve the export needs of American industrialists.
>
> But the Stevenson bill does pose some dangers. By endorsing and expanding the principle of export cartels, it undermines the U.S. commitment to an open international trading system. How can we complain about OPEC or Third World cartels if we encourage our sulphur or carbon black producers to form their own export cartels?
>
> The Stevenson bill has been endorsed by some 60 Senators, the Carter administration, the National Association of Manufacturers, the U.S. Chamber of Commerce and many other business organizations. The attention of policymakers would be better directed at silly impediments to exports, such as the double taxation of U.S. citizens abroad. The attention of businessmen would be better directed to learning about foreign markets and selling there.

Higher prices, profits and economic power. That, Mr. President is why this legislation seeks to give administrative enforcement of the antitrust laws to the Commerce Department. Imagine that—enforcement over laws affecting competition to the Government agency whose job it is to cater to big business. That is also why there are no threshold standards in this legislation requiring the regulatory agencies to make positive findings relating to exports before they could approve an application under the bill.

Let us call a spade a spade. This bill is primarily designed to put the big American banks in the same position as their big British cousins. Helping exports is secondary to insuring the power of big banks in domestic as well as international markets.

Mr. President, the Federal Reserve and the Federal Deposit Insurance Corporation—the two agencies responsible for the safety and soundness of our financial system—oppose this legislation as it presently stands. The Independent Bankers Association—representing over half the banks in this country (predominantly the smaller banks)—testified in opposition to the legislation as it stands.

I will not oppose any reasonable effort truly aimed at increasing exports. I believe this legislation can be made workable by the adoption of the Proxmire-Federal Reserve amendment. It is offered in the spirit of compromise—to meet the concerns of those responsible agencies of Government and private enterprise who oppose the bill.

Mr. President, this amendment was drafted by the Federal Reserve and forwarded to me by Chairman Volcker.

First, let me say as clearly as I possibly can that I do not oppose the formation of export trading companies and bank participation in their ownership or even their control provided we go about it in a rational way. I think the bill, as drafted, presents too high a risk of undermining sound public policies that have been in effect for generations requiring a separation between banking and commerce in our economy. I do believe that the Federal Reserve amendment manages those risks in an acceptable way. I agree that we should make a greater effort to export—so I would take some risk; but like the Federal Reserve, I think we should do so prudently.

Let me describe the Proxmire-Federal Reserve amendment. The amendment would generally permit banks and bank holding companies to own up to a 20 percent noncontrolling interest in an export trading company. In special circumstances, the amendment would permit bank holding companies to control or own up to 100 percent of an export trading company upon prior approval of the Federal Reserve upon showing in an application that the export trading company's activities will be limited to goods or services which would not be exported without the involvement of the export trading company and that the bank holding company make a showing that it contributes to the export need by controlling the export trading company.

Mr. President, these are reasonable requirements. The power to control our export trading company—a company which will be permitted to engage in trading commodities and all manner of manufactured goods for its own account and marketing such goods—is a significant break of our historical policy of separating banking from commerce. Control carries with it a commitment to the enterprise which far exceeds the equity investment. Control also carries with it the ability to exert pressure in the marketplace against competitors of companies which do business with this export trading company.

It is altogether fitting, therefore, to reasonably scrutinize control situations.

The Chairman of the Federal Deposit Insurance Corporation said on the question of control:

> Advocates of bank investment in export trading companies point to the expertise in foreign trade the banks could bring to such companies. We are not convinced that banks—other than a few money center or major regional banks—have any particular expertise in foreign markets". The Chairman goes on to say our particular concern with. this portion of the bill is that it would allow banks to acquire control of export trading

> companies. If a bank's investment in a company is limited to a 20 percent share, and the bank does not manage the company's operations, there would be substantially less likelihood that a bank would feel legal business or moral obligations to divert substantial resources to the trading company should it encounter serious financial difficulties.

The Chairman of the Federal Reserve has stated that:

> It continues to be my view that banking organizations should not generally be permitted to control export trading companies in view of the implicit commitments of bank resources, the increased financial risk that accompany control and the need to maintain the line between banking and commerce.

Governor Wallich of the Federal Reserve who is, as we all know, not only a distinguished Governor of the Federal Reserve, but an eminent economist, recognized worldwide, a former top professor at Yale University, and a man who, I recall, has testified before the Joint Economic Committee as one of the top economists we could get in areas of this kind, and who has served on the Federal Reserve Board now for a number of years, who is a seasoned expert in this area, and who has been more active in the area of international finance than any Governor I know, said this:

> Extension of the investment powers of banking institutions to include companies that buy and sell goods and services for their own account would go far beyond existing financial facilities. Such an extension would raise basic questions regarding the traditional separation of banking and commerce. This tradition, which stands in sharp contrast to the practice in some countries abroad, helps ensure that banks will remain impartial arbiters of credit and contribute to a healthy competitive environment in the commercial sector.

Now let us match the standards for control in the Proxmire-Federal Reserve amendment—against what the authors of the bill seek to accomplish. The finding in the bill state that tens of thousands of American companies produce exportable goods or services but do not engage in exporting; that exporting requires skills for which smaller producers cannot realize economies of scale; that export trading companies in which banks participate can provide these skills; and that bank participation is necessary to reach the significant potential of U.S. exporters.

Mr. President, let us take the bill's findings at face value. All I ask—all that the Federal Reserve asks, all that the Federal Deposit Insurance Corporation asks, all that the small bankers of this Nation ask—is that before a banking organization be permitted to control an export trading company that it file an application which shows how it will achieve the stated purposes of the legislation, first that its activities will actually enhance markets not now served and second, that the bank actually contribute expertise to enhancing export markets not now served.

Mr. President, the Proxmire-Federal Reserve amendment is a reasonable amendment. The fact that the opposition to it is so fierce shows to me that something else is at stake. Let us not kid ourselves. We all know what it is. The big banks do not want any standards. They do not want to have to show how they will enhance exports.

What they will do is skim the cream and use these trading companies to compete unfairly for banking business.

Mr. President, the Proxmire-Federal Reserve amendment will surely result in a more competitive export industry than would result from the bill as drafted. We can all be sure that if this bill goes through as drafted, the banks will dominate the export trading company market. This will discourage new entry and diversification. On the other hand, if bank participation is limited to situations where they can provide a legitimate marketing expertise, they are not likely to be dominant, competition is likely to be enhanced, and exports increased.

Finally, the Proxmire-Federal Reserve amendment will permit only bank holding companies to control export trading companies. Without this amendment three separate banking agencies will administer the statute. The pressure toward permissive regulation will be uncontrollable. Chairman Burns said:

> The present regulatory system fosters competition-in-laxity. Even viewed in the most favorable light, the present system is conducive to subtle competition among regulatory authorities, sometimes to relax constraints, sometimes to delay corrective measures. I need not explain to bankers the well-understood fact that regulatory agencies are sometimes played-off against one another.

Mr. President, that is exactly what will happen if this bill is not amended. Three bank regulators to be played off one against the other by the banks. I hope the Senate will not inflict this wound on the public interest. We are here about to give substantial new powers to the banking community. I hope we shall have the wisdom to see to it that it is administered rationally.

By limiting control situations to bank holding companies we also pay due deference to our Nation's dual banking system. The Bank Holding Company Act does not prevent a State from exercising its inherent powers. In contrast, the bill as now drafted permits national banks to control export trading companies even if a State specifically prohibited State chartered banks from controlling export trading companies. Since this legislation breaches a 100-year separation between banking and commerce, I believe we should give the States an opportunity to be heard on this important issue if they want to be heard.

The Proxmire-Federal Reserve amendment allows everything that the sponsors of the bill say they want without the great risk of harm we have in the existing bill.

Mr. President, I reserve the remainder of my time and yield the floor.

Mr. STEVENSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Mr. President, the only countries which enjoy high levels of growth and employment without unacceptable levels of inflation are those which compete and compete successfully in a newly competitive world. They go all out to produce efficiently, market aggressively, and pay the oil bill. Those nations do not include the United States.

The United States is losing its share of world markets. Its exports are not growing as rapidly as are the exports of other industrial countries.

Our current account has been in deficit for most of the past decade. Its improvement recently is owing to a recession at home, higher growth rates abroad, that is to say, and that will change as the recession becomes worldwide and decreases demand in foreign countries for U.S. products.

The current account deficit which has been cited in this debate has shown some improvement in recent years, largely as a result of a return on foreign investments, investments made by the United States abroad. Those investments, Mr. President, while they are reflected in the current account balance, are not reflected in increased employment for American workers.

There is a large question, in my mind, at least, as to whether the United States should expect to live off of its investment earnings forever. Those earnings reflect the former strength, not the current weakness, of the American economy. The competitiveness of the United States, which once made possible both exports and direct investment abroad, is now declining.

Much has also been said in this debate about the importance of productivity, the efficient production of goods and services. I agree entirely that it is essential that the United States improve the efficiency with which it does produce goods and services. But it is essential that we do both; that is to say, produce goods that are competitive in the world and then market them aggressively in the world. The marketing in itself, including this measure which will facilitate the creation of American trading companies, will enhance our productivity. Productivity is a factor of economic growth. Recession is not good for productivity. Our experience proves that.

It is growth and associated investments in R. & D. and in plant which, more than anything else, enhance productivity, and it is the markets of the world which offer us the chance for that economic growth.

Mr. President, the distinguished Senator from Wisconsin has proposed an amendment which is addressed to his concerns about the participation of banks in trading companies. It is to that amendment that I want to address most of my comments.

First, it should be made clear that participation by banks is already carefully circumscribed by this bill. U.S. banks could not invest more than $10 million or acquire a controlling interest in a trading company without prior regulatory agency approval. No bank would be permitted to invest more than 5 percent of its capital and surplus in the stock of a trading company. The aggregate amount of loans and investments by a bank in a trading company would be limited to 10 percent of the

Bank's capital funds, and no group of banks could acquire more than 50 percent of a trading company, of its equity, without the prior approval of the appropriate regulatory agency.

This legislation establishes numerous other restrictions on bank participation. The name of the trading company cannot be similar in any respect to that of the banking investor.

When we last met, numerous amendments adopted by the Senate to further restrict participation of banks. The trading companies in which they do participate, for example, would clearly be prohibited from engaging in nontrading activities. These restrictions are numerous and they have been carefully developed, in cooperation with the regulatory agencies, in order to facilitate the creation of the trading companies without impairing or running any risk of impairing the condition of the banks.

We have to oppose this amendment because it effectively prevents banks from having a controlling interest in trading companies. Without those controlling interest banks will be discouraged from participating. And without the bank's participation, you will not have many trading companies.

What is more important, the position of the banks themselves is in danger, as the Comptroller of the Currency has recognized, by this amendment. First of all, it confines participation by banks through controlling interests in trading companies to bank holding companies. That means that only the largest banks, those with holding companies, can participate in trading companies through controlling interests in the trading companies. It discriminates against the small banks.

By confining participation to the bank holding companies, it also transfers all control over such participation to one regulatory agency; that is to say, the Federal Reserve Board. That is the agency which is least enthusiastic about bank participation in the trading companies. So it cuts out altogether the small banks and then cuts in exclusively the one agency which is most negative toward the participation by banks in trading companies.

The participation of the banks, the importance of it, is recognized in other countries and it is probably even more important in the United States, because this country, unlike others, lacks the institutions with the worldwide experience in trade with which to launch and manage successfully these companies.

The American banks have extensive national and international networks comprised of branches, subsidiaries, affiliates, representative officers, and correspondent relationships.

These networks can provide the marketing and other services abroad. They can also extend into every community and reach every business, including the small- and medium-sized firms, in the United States.

The banks can provide a wide range of export-related financing as well as ancillary services through these networks. They can assist in the identification of foreign markets. They can provide advice with respect to foreign exchange, trade documentation, transportation and warehousing, and they can do so in a way that is unique in the United States.

They can provide export trading companies and exporters the financing necessary for export transactions.

This measure also gives some symmetry to the regulatory structure for bank participation in trading companies. Foreign banks are involved in export trading companies which provide a convenient single source service for exporters abroad and facilitate exports to the United States. This measure would permit U.S. banks to participate in trading companies and provide such services for exports from the United States.

U.S. banks can participate through their foreign branches in foreign trading companies and in trade between foreign countries, but they cannot now facilitate trade from the United States.

So the participation of banks is critical, and they should not be forced into minority positions. That was the problem with the real estate investment trusts. That is where the risk arises.

The Comptroller recognizes that it is preferable from the standpoint of bank soundness and the protection of depositors to permit banks to have controlling interests and be able to control and manage their investments, instead of putting them to the risk and mercy of others.

Many banks will not participate on any other basis because they want to be prudent.

Ironically, Mr. President, this amendment would discourage the creation of trading companies by discouraging the participation of banks, and would increase the risk to banks by forcing them into minority positions in trading companies.

It has been said that this breaks with tradition. We break with tradition with some regularity. We ought to break with the past more often in order to compete more effectively with nations more pragmatic than we are. We have permitted banks to have controlling interests in Edge Act corporations. We permit them to have controlling interests in small business investment companies. Now with the competitiveness of the United States at the top of our economic agenda, I suggest we ought to permit them to participate through controlling interest in trading companies.

Ultimately, the condition of the banks depends upon the condition of the economy. It depends upon the condition of the bank depositors and their borrowers. Inflation is not healthy for banks. Recession is not healthy for banks. Neither is the combination of both.

This bill is aimed at both. It is the beginning of a structural response to the underlying causes of economic weakness in this highly competitive, very interdependent and unstable world.

If this bill is approved without debilitating amendments, it will strengthen the banks. It will do so by helping to strengthen the entire economy. It will do that while safeguarding adequately against any improvident investments by banks in trading companies.

I remind my colleagues that no such controlling interest in trading companies can, under this bill as it now stands, be acquired by banks without the approval of the appropriate regulatory agency. If there is any risk, then, under this bill, with strict standards to follow, the regulatory agencies would turn down the applications of the banks.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, how much time remains to the Senator from Illinois?

The PRESIDING OFFICER. Fourteen minutes remain.

Mr. HEINZ. Will the Senator from Illinois yield me 10 minutes?

Mr. STEVENSON. Mr. President, I am happy to yield 10 minutes to the Senator.

Mr. HEINZ. Mr. President, I rise to join my colleague, Senator STEVENSON, in opposition to this amendment. I remain very deeply concerned about our Nation's export performance. While some have indicated that looking at the period 1972 through 1979 our performance has been good, the fact is that if you choose 1972 as your base year, it shows American exports in an extremely favorable but fundamentally inaccurate light. After 1972 the growth of U.S. exports trailed that of both Germany and Japan. In the 1975–79 period, U.S. export growth averaged 14 percent per year while Japan's exports grew 16.6 percent annually, and Germany's rose at 17.5 percent.

The point of that, Mr. President, is if U.S. exports had grown as fast as Germany's since 1975, our exports last year would have been $23.5 billion higher than they actually were, and that would have been an amount nearly enough to offset the entire 1979 trade deficit which, as my colleagues will recollect, rivaled our budget deficit.

Apart from lagging export growth, however, a major concern regarding U.S. exports has been the declining U.S. share of world markets. Since 1972, the U.S. share of world exports declined from 15.6 percent to 14 percent, while the share of manufactures exports has fallen from 18.4 percent to 17.4 percent. Thus, while export growth has been rapid, we have lost ground compared to other exporters.

Although the trade shares of Germany and Japan have also fallen, with the exception of Germany's manufactured shares, their declines since 1972 were not as great as ours. Moreover, their share declines coincided with a general appreciation of their currencies while the U.S. decline occurred despite a very significant depreciation of the dollar.

Had the U.S. share of world trade been maintained at the 1972 level, last year's exports would have been more than $20 billion greater than the actual figure reported.

Mr. President, I cite these statistics to emphasize once again that our trade position is not nearly good enough. It does not measure up to the needs of an international economic power with the many responsibilities we have assumed worldwide. It does not permit our economy or our currency to show the strength needed, a strength that is essential if we are ever to achieve stable price levels once again in this country. Unless we are able to pay our way in the world, earning our way through exports to pay for what we import, we will continue to see our dollar erode, our international position decline, and our influence, such as it is, be further reduced and the world a lesser place for that.

Mr. President, as I said earlier, I oppose this amendment, as indeed, I expect most Members of the Senate will oppose it.

Although I cannot speak to its intent, I can speak in some detail about its effect. If adopted it would destroy this bill and with it everything we are trying to accomplish with the trading company concept.

This amendment does not represent the modest compromise which the distinguished chairman of the Banking Committee, the Senator from Wisconsin (Mr. PROXMIRE) has suggested. In fact, such a compromise has already been made—in the Banking Committee between the bill introduced by Senator STEVENSON and myself, S. 2379, and the views of the Federal Reserve Board. At that time, we added a number of additional protections the Fed had suggested, such as the prohibition on commodities speculation, the explicit ban on preferential loans, the dollar limit—in addition to the percentage limits—on bank investment without approval, and the requirement that the trading company avoid identification with a bank, by maintaining a different name, for example.

In addition to those protections, we further compromised with the Federal Reserve Board on the floor last week by adding an amendment that limits trading company activities to activities related to international trade, and which further prohibits them from involvement in the securities business or manufacturing or agricultural production if the trading company has a bank investment.

In fact, we compromised with the Fed on all but one of its proposals—the prohibition on a bank obtaining a controlling interest in a trading company. On that point we could not give in, just as we cannot now give in to an amendment that effectively does the same thing.

I go into this detail, Mr. President, to make clear that the sponsors of this bill have tried their best to accommodate the concerns of the Chairman of the Federal Reserve Board, and that we have done so with respect to all but one point. To suggest that the pending amendment is a compromise is to ignore this history. The compromise is already made and included in the bill. The Senator from Wisconsin, in fact, is talking about surrender, not compromise.

Now, Mr. President, let me examine the amendment before us in greater detail to explain why it will kill this bill. The amendment actually differs from the bill in only two significant respects. The rest of it contains protections that are already a part of the bill, as I noted above.

First, the amendment limits the right to even apply for a controlling interest in a trading company to bank holding companies. This means banks would not even be able to apply for control, which will be a serious limitation on the activities of the 10,000 smaller banks which are not now in holding companies. Ironically, this limitation would particularly discriminate against small- and medium-sized banks outside large commercial centers—the very institutions whose involvement is so critical if we are to involve small- and medium-sized businesses in exporting. It is this involvement of new firms, small firms, in the export business that is the central purpose of this bill. Adoption of the amendment would knock out the very people we are most trying to reach.

The second difference is the set of standards the amendment provides would have to be met before the Fed could approve an application to take control of a trading company, standards which, in my judgment, could not be met under almost any circumstances.

The amendment is apparently intended to permit control in a particular case Chairman Volcker referred to in his letters of July 23 and August 5 to Senator STEVENSON:

> The situation where a trading company with bank control is needed for a particular large and sophisticated project which would probably not be undertaken without bank involvement. This is a legitimate purpose for a trading company, though certainly not the only one.

But the restrictions in this amendment go far beyond Chairman Volcker's intent and would hardly even permit the establishment of such a single-purpose trading company.

Before the Fed could approve an application, the applicant would have to spell out precisely what goods or services it proposed to export; demonstrate that those goods or services would not be exported to any significant extent without a trading company, and prove that they would be unlikely to be exported without bank control of a trading company.

In my judgment, these findings, which must be clear and on the basis of the record, are practically impossible to make, and the result will be either no applications for control or no approvals.

The proponents of this amendment, Mr. President, seem to be under the impression that exporting is an easy, high-profit business, and that banks are clamoring to get into it. Unfortunately, that is not the case. If it were, we would probably have no need for this legislation. In the real world, however, it is a complicated, often marginal, business that banks, with their usual caution, are hesitant to get involved in. The whole point of this legislation is to create a climate where banks and smaller businesses will be willing to get into exporting. We are trying to tip the balance in favor of export trade, not add on even more restrictions and redtape than exist now, as the proposed amendment would do.

In trying to tip the balance, however, we are hardly creating an unacceptable risk for banks. In addition to the points I detailed earlier, the bill already contains statutory limits of 5 percent of a bank's capital that could be invested in a trading company and 10 percent that could be invested or loaned to a trading company.

In addition, any investment over $10 million or resulting in bank control must be specifically approved on a case-by-case basis by the appropriate bank regulatory agency; the Federal Reserve Board, the Federal Deposit Insurance Corporation, or the Comptroller of the Currency. In granting such approval, the agency further has the discretion to impose additional restrictions, such as a leverage ratio, to minimize any perceived risk even further.

It seems to me, Mr. President, that the bill fully protects our banking system and any specific banks that choose to involve themselves in trading companies. To add the additional restrictions imposed by this amendment would destroy the bill's basic objective—increasing exports through the creation of trading companies. Admittedly, this is a new idea, but anyone who studies the bill carefully will see that the concerns that have been expressed about it are completely unfounded. We are not creating zaibatsu.

We are not building cartels. Neither are we providing opportunities for concentration of capital in a few banks. What we are doing is opening a door so that bank resources can be tapped in a controlled and measured way to contribute to exporting. This is a modest objective and by no means all that needs to be done to enhance this Nation's export competitiveness. Our broader policy goals are contained in S. 2773, the National Export Policy Act, of which the trading companies legislation is one important part.

Another part of that bill, improved tax treatment for Americans working abroad, has already been approved by the Finance Committee and is a part of the tax bill recently reported. Still other parts have had hearings but as yet no action. S. 2718 by itself is not the entire picture, but it is the first piece of it to come before the Senate. It is important that we act decisively on this measure to make clear to all concerned the Congress commitment to a strong export policy.

Mr. President, I shall not debate at any greater length the amendment of the Senator from Wisconsin. Senator STEVENSON, I think, has done that quite eloquently. The only point I emphasize here, Mr. President, is that that banking organizations have two resources that are absolutely essential to the establishment of an export trading company.

First, banks, through their U.S. offices, are able to reach large numbers of small- and medium-sized companies who are not now exporting but who may manufacture exportable products. Through their foreign branches and correspondent relationships, banking organizations are in an excellent position to identify potential foreign markets and customers. The finance component of an export transaction is often its most crucial element. Bank participation will expand an ETC's capability to provide its customers with realistic financing options and one-stop service. And where small- and medium-sized companies are involved, there has to be effective one-stop service.

If an export trading company has the ability either to finance or arrange financing of the transaction, it does take the largest possible step toward permitting such company to offer the one-stop service that is so desirable. Thus, a bank owner, Mr. President, can provide necessary expertise, necessary resources, and make for a much more effective approach to exports.

For these and other reasons, Mr. President, I am strongly opposed to the Proxmire amendment. I feel that it would have the effect, along with the Metzenbaum amendment, of gutting the bill, leaving our export competitors laughing at our inability to move ahead.

Some people seem to think that the only countries in the world that permit banks to have some kind of ownership in their trading companies are the Japanese. That, in fact, is simply not correct. The Hong Kong & Shanghai Banking Corp., which owns a rather large American bank now, the Marine Midland Corp., owns a 33-percent controlling interest in Hutchinson-Whampoa Ltd. The Midland Bank of England, not to be confused with the Marine Midland Bank—although the Midland Bank is now actively looking to acquire a very substantial interest in the Crocker Bank of California, as I recollect—owns at least three trading companies, or controlling interests in three trading companies.

Barclay's Bank International, scarcely a Japanese bank, owns 24.5 percent of Tozer, Kernsley, and Millbourn. The French company, Credite Lvonnaise, owns 30 percent of Essor PME, and Banco do Brasil owns 100 percent of Beke Co., a trading company.

So we see a pattern worldwide. It is a pattern of the pooling of resources, including financial resources, and it is a pattern of success and a pattern that we as a Nation, that must live by our success in international trade, ignore at our peril.

For all these reasons, Mr. President, I urge my colleagues to reject the Proxmire amendment.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. STEVENSON. Mr. President, I yield 4 minutes to the distinguished Senator from Massachusetts.

Mr. TSONGAS. I thank the Senator from Illinois.

Mr. President, since the Senator from Pennsylvania just gave my speech, I do not think I need the 4 minutes. He was so inclusive in his remarks, expressing each point remarkably well.

Mr. President, I am opposed to the Proxmire amendment. The Senator from Wisconsin knows full well the implication of his amendment. The restrictions and requirements applicants would face under this amendment would by and large preclude most banks from participating in export trading companies. When we consider our Nation's urgent need to improve its world trading position, we can ill afford to forgo the opportunities for increased trade that ETC's promise.

The United States once fancied itself an independent economic entity. OPEC, however, removed that illusion. No one need be reminded that over $90 billion will be paid to OPEC countries for oil this year. Oil price increases alone added over $16 billion to the deficit last year—the seventh deficit year of that decade. Furthermore, with gasoline prices now beginning to reflect the world's limited supply of oil, U.S. car manufacturers are losing out dramatically to foreign producers of fuel-efficient cars—particularly the Japanese. Thus, the dollar flows for oil and auto imports are at record levels.

In addition, we must recognize that Japan is not the only Asian country that competes effectively with the United States. The economies of South East Asia—including Taiwan, South Korea, Hong Kong, Singapore, and Malaysia—are all coming of age. Consider the following statistics. From 1970 to 1978, the United States recorded a modest 10 percent annual rise in national income, of which 6.6 percent was due to inflation. During that same period, Taiwan recorded annual increases of exports to the United States of a staggering 34 percent.

Such outflows of funds command our attention. We can take either of two directions. We can retrench, attempting to forestall any further intrusions into our economy by imposing high tariffs and import quotas. Or, we can embrace our new role as a world trader in a world economic community, and take steps to improve our competitive position. I believe the latter is the only real choice. We are, like it or not, an integrated part of the world economic community. We must accept this role and begin to insure that U.S. business does not compete abroad at a disadvantage.

We must maintain and expand export markets throughout the world economic community—and export trading companies can play a vital role. With their international offices and their familiarity and concern with U.S. producers, U.S. banks promise export market access to thousands of small and medium sized firms.

This is not abstract theory. We are trying to learn from our more experienced trading partners. We have found that many large trading companies are owned by banks in Europe:

Hong Kong and Shanghai Banking Corp., owns 33 percent controlling interest in Hutchinson Whampoa Ltd.

Midland Bank Ltd. owns controlling interests in three trading companies.

Barclay's Bank International owns 24.5 percent of Tozer, Kernsley and Millbourn. And the list goes on.

Senator PROXMIRE's amendment states that applicants be granted controls only—

> If the applicant made a showing that such control was clearly necessary in order for the export trading company to export or facilitate the exportation of goods and services.

How can anyone expect a bank to be able to "clearly demonstrate" that without control such export activity would have been impossible? Export activity may be determined by Government regulators to be economically feasible without a bank's control of the ETC. Nonetheless, this economically feasible alternative may be unattractive to the banks.

I understand the concern of the Senator from Wisconsin regarding safeness and soundness of banks. But I am convinced that the agreement reached by the committee provides ample protection against these concerns.

While the legislation permits banks to acquire a controlling interest, banking participation is carefully limited.

Investment in ETC's is limited to 5 percent of the bank's capital and surplus.

Total bank exposure of both investments and loans is limited to 10 percent of capital and surplus.

Bank regulatory agencies must approve controlling investments of ETC voting stock, even if the interest is less than $10 million.

Bank regulatory agencies must approve acquisitions by consortia of banks for more than 50 percent of an ETC, even if individual bank investments are not equivalent to a controlling interest.

The name of an ETC may not be similar to that of a bank investor.

A bank must terminate its ownership of an ETC if the ETC takes speculative positions in commodities.

A bank is barred from making preferential loans to an ETC that it controls. This insures the availability of bank credit to competitors.

In addition, the banking regulatory agencies are given numerous powers and authorities regarding bank involvement in ETC's. These include power to deny applications where export benefits are outweighed by adverse banking factors, and conditions that limit financial exposure, possible conflicts of interest, and unsound banking practices.

With this litany of safeguards, carefully crafted over months of negotiations, we have gone as far as possible without threatening the goal of this legislation.

Mr. President, I have the deepest respect for my colleague from Wisconsin. I know he offered this amendment in good faith. But I believe its adoption would be a grievous error.

Mr. President, I only add one thought. And that is that I recognize that the amendment before us has a certain appeal. Having served on the Banking Committee, I am familiar with the chairman's efforts to safeguard both the consumer and the banking system from excesses. I think that record is well acknowledged.

The question before us today is really a question of risk.

In particular, given our situation internationally, given the need to compete, the need to export and to keep a sound dollar, can we afford to reject procedures, policies and practices that potentially can make us competitors in world trade markets? I think not. I believe that, for many small companies that America needs as exporters, this bill is necessary. Moreover, if we take out the potential for the banks to participate meaningfully, they will not participate at all. Once we have done that, we can write off the bill in its entirety. There are a host of companies that need the expertise that this bill promises. We therefore must reject the Proxmire amendment.

One final point: There was some discussion before the break as to the position of small business on this bill. Let me emphasize that the National Small Business Association has endorsed the bill. That is consistent with what I have been told by the many small businesses which have export potential in Massachusetts.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield myself such time as I may require and I shall take very few minutes.

In the first place, Mr. President, I think we all ought to recognize that it is desirable for us to increase exports, and I think this bill does and Senator STEVENSON and Senator HEINZ deserve great credit for presenting the bill. Without their persistence, the bill would not be before us. I think it is good that it is, it is a good bill, though I think it can be improved a whole lot by the amendment I offer.

Nevertheless, we should not lose sight of the fact that this country is not in an export-import imbalance. The fact is that our balance on current account will be in surplus this year.

What is the current account? What the current account does is take our merchandise balance—the balance between exports and imports—and correct it for the effect of the investment we receive from abroad and the investment we pay out to foreigners. If we include that, which is all the payments made, we have a balance. We have a balance. We cannot do much better than that. We have a surplus, as a matter of fact. If we run too big a surplus, of course, then we create an unfortunate situation.

The Chase Manhattan Bank pointed this out very well in a newsletter only a few days ago, saying that those who say we have a disgrace on our hands because of the loss of exports on our part, because we have not exported enough, overlook the fact that the real figure that counts is the current account balance that takes in all of the payments—including our foreign aid, including our investment income, including our exports, our imports, and so forth—and on that, we are in surplus.

Mr. President, let me also point out that the fact is, as I said the other day, that since 1972, exports in this country have increased more rapidly than they have in Germany, more rapidly than they have in Japan, have increased twice as rapidly as our gross national product. We can do better. World trade is increasing and that is a fine thing for peace in the world and for the higher standards of living here and abroad. But, Mr. President, we should not, because of our feeling of crisis, forget about our antitrust laws.

We certainly should not forget about the traditional posture we have taken with respect to our banks, not having our banks get into commerce and compete unfairly with those competitors who do not have a bank owning them and, therefore, do not have access to credit.

Mr. President, let me conclude by pointing out what the Federal Reserve amendment which I am offering here would do.

It would permit banks to own, and bank holding companies to own, up to 20 percent noncontrolling interest in an export trading company. In addition to that, the amendment would permit bank holding companies to control or own up to 100 percent of an export trading company upon prior approval of the Federal Reserve, upon showing in an application that the export trading company's activities will be limited to goods and services which would not be exported without involvement of an export trading company.

What we are saying is "go ahead," but let the Federal Reserve, which has the greater expertise in this area, they know the banks, and I think we all acknowledge their competence to make an objective judgment in this respect, they are very interested in a healthy international financial system, let them decide whether ownership control by a bank or an export trading company is necessary to increase exports.

If it is, they say "yes." If it is not, they would deny it.

It seems to me this provides the strength that the bill would provide for our exports, help permit our exports, but would do so in a prudent way.

If the managers of the bill are ready to yield back their time, I am ready to yield back my time.

Mr. STEVENSON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. PROXMIRE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Wisconsin.

So the amendment (No. 2276) was rejected.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending order is for the Senator from Ohio (Mr. METZENBAUM) to call up an amendment.

Mr. DANFORTH. Mr. President, it is my understanding that the Senator from Ohio does not intend to call up his amendment. However, I am not certain that is the case.

Mr. PROXMIRE. If the Senator will yield, that is my understanding. I discussed it with the staff of the Senator from Ohio and understand he will not call up his amendment.

Mr. DANFORTH. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, it is my understanding that Senator METZENBAUM does not intend to call up his amendment, which is directed to the antitrust title of this bill. I was prepared to debate the amendment with him. Of course, now, there is no amendment to debate.

I think the case against the Metzenbaum amendment is very well made by a letter from the Secretary of Commerce, Mr. Klutznick, dated August 26, 1980, together with an excerpt from a memorandum from Secretary Klutznick to Members of the Senate.

Mr. President, because this matter might come up in the House, I ask unanimous consent that the letter from Secretary Klutznick, together with the memorandum, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF COMMERCE,
Washington, D.C., August 26, 1980.

Hon. JOHN C. DANFORTH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DANFORTH: I want to convey my strong opposition to the Proxmire-Kennedy-Metzenbaum amendments. The Administration has consistently supported both Titles I and II of S. 2718 and opposes the proposed amendments which could severely undermine both major portions of this bill and the underlying objective of enhancing U.S. exports.

The amendment directed at bank participation could effectively discourage a number of banks from attempting to become involved in export trading companies. I consider such bank participation an important element in the successful development of export trading companies in the United States. I believe there are strong reasons why banks should be given the option to control and manage those export trading companies which they might join. S. 2718's carefully constructed safeguards provide the necessary flexibility for the Federal supervisory agencies to control investments by banking organizations in export trading companies. Additional statutory restrictions are not needed.

The changes in the Webb-Pomerene antitrust portions of the bill are not at all necessary for the effective enforcement of our antitrust principles and would undermine the balance carefully worked out in S. 2718. The Justice Department maintains a major role in the revised certification process, and has the ability to take necessary further action against any proposals or activities it deems improper.

I urge your strong support for S. 2718 as carefully developed by Senators Stevenson, Danforth and Heinz and your opposition to these or any other crippling amendments.

Sincerely,

PHILIP W. KLUTZNICK,
Secretary of Commerce.

EXCERPT FROM MEMORANDUM FROM SECRETARY OF COMMERCE KLUTZNICK TO MEMBERS OF SENATE

II. Antitrust (Senators Proxmire, Kennedy, Church, and Metzenbaum):

The Administration *strongly supports* the antitrust provisions of S. 2718. The procedures have been carefully drafted to balance the needs of both export development and protection against restraint of trade. The Department of Justice is in full agreement with the certification system provided in S. 2718 (with certain technical amendments that are to be proposed on the Senate Floor). See attached copy of the Attorney General's letter of June 23.

The Administration *opposes* the proposed amendment.

The fundamental purpose of creating an

antitrust certification procedure is to encourage exports by assuring businesses that certain joint export activities will not give rise to antitrust liability. The certification process involves determination of a specified need for joint export activities, as well as whether substantial anticompetitive results in the U.S. would arise from these activities. As with most other antitrust exemptions, it is most appropriate to place basic authority for such determinations with an agency whose expertise lies in the area for which the exemption is created—in this case the export development expertise of the Commerce Department. The law enforcement orientation of the Justice Department and the Federal Trade Commission makes their most appropriate role one of consultation and advice, rather than the co-administrator's role proposed in the amendment. As a matter of administrative practice, the amendment unwisely derogates from the responsibility and effectiveness of all three agencies by making not one of them finally responsible for administration of the law.

As a practical matter, giving those charged with vigorous enforcement of the antitrust laws a simple veto over applications for the export exemption certificate would discourage plans for export associations and trading companies.

Rightly or wrongly, many businesses would conclude that the expense and time of an application were not worth the possibility of a simple veto by agencies with understandable skepticism towards any antitrust exemptions.

S. 2718 nevertheless insures against anticompetitive results within the United States both through its prescription of rigorous standards against which the Secretary of Commerce must judge application and the opportunity for decertification actions by Justice and the FTC in appropriate instances.

The problem created is enhanced because the only remedy for the veto of a certificate by Justice would be a costly court action. This would severely deter the small and medium companies that are the intended beneficiaries of this law from challenging any arbitrary or capricious decisions.

Mr. HEINZ. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, my colleague from Missouri has stated some of his interests and concerns regarding the amendment that the Senator from Ohio (Mr. Metzenbaum) might offer.

I have some background to the whole issue involved with S. 2718 regarding the antitrust portions that I would like to add briefly.

Mr. President, I appreciate the statement from the Senator from Wisconsin (Mr. Proxmire) that Senator Metzenbaum will not offer his amendment. It is my feeling that were the Senate to adopt the amendment of the Senator from Ohio, it would be a serious mistake and would do great damage to the bill.

Mr. President, this title of the bill is the product of extensive and prolonged negotiations between Senator Danforth and the Justice Department. Those negotiations have lasted more than a year and are detailed in a letter the Senator from Missouri sent me shortly before the Banking Committee marked up S. 2718 last May. I ask unanimous consent that the text of that letter with the accompanying correspondence be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Finance,
Washington, D.C., May 9, 1980.

Hon. John Heinz,
U.S Senate,
Washington, D.C.

Dear John: A year ago, along with other cosponsors, we introduced S. 864, the "Export Trade Association Act." The legislation proposed amendments to the 1918 Webb-Pomerene Act which were intended to encourage more American firms to market their goods and services abroad and enable them to compete more aggressively with their foreign counterparts. Because the Webb-Pomerene Act provides an exemption from the intitrust laws for joint exporting activities and S. 864 proposes substantial amendments to that Act, I have attempted to work with the Antitrust Division of the Department of Justice in structuring those amendments.

The reason for this letter is to outline for you the extensive negotiations and agreements reached between myself and the Antitrust Division at the Justice Department. I have set forth below the Department of Justice's testimony on S. 864 given by Mr. Ky P. Ewing, Deputy Assistant Attorney General, Antitrust Division. The testimony was given during hearings on September 17 and 18, 1979. Mr. Ewing, in summarizing his prepared remarks, commented on five aspects of S. 864:

"First, the Department of Justice would favor the imposition of a needs test in the Webb Act. Second, we would not object to the specific addition of services to the Act's coverage. Third, while in general the Justice Department has historically been concerned when promotion and regulatory functions are combined in one entity, we don't object to a transferring of the Webb-Pomerene licensing action away from an antitrust enforcement agency provided such is coupled with a needs test and with opportunity for the Department of Justice and FTC to take part in the development of the administrative regulations to be promulgated by the Secretary of Commerce. We note that Senator Danforth's bill seems to provide a start in the right direction on that.

"Fourth, we note that S. 864. . . . would require that a restraint of U.S. domestic trade be substantial before the exemption would disappear. The purpose of this proposal, as we understand it, is to bring the Act into what we conceive to be the current state of antitrust laws interpreted by the courts. Thus we have no objection to this clarification of the legal standard even though it is perhaps redundant.

"Fifth, the Department of Justice is opposed to those portions of (S. 864) that would provide for exemption revocation proceedings to be managed by the Commerce Department and which would completely oust the Justice Department from Sherman Act enforcement during that proceeding.

"In short, we oppose the creation by (S. 864) of a novel adjudicative procedure which would add a new regulatory layer where, in our view, the legal standards to be applied are already well known and adequate remedies at law are available under the Sherman and Federal Trade Commission Acts."

(Testimony of Mr. Ewing, pp. 137–138, Hearing Record.)

Mr. Ewing's testimony specifically addresses the Antitrust Division's concerns with S. 864, as introduced. Of the five points mentioned, three of them—the addition of services to the coverage of the Webb Act, the shift of the regulatory oversight responsibility from the Federal Trade Commission to the Commerce Department, and the codification of judicial precedent into the substantive standards of the bill—were not objected to by the Antitrust Division. As to the remaining two concerns, they have been resolved after lengthy discussions and meetings between my staff and the staff at the Antitrust Division. I will explain.

After the hearings last September, my staff met with the representatives of the business community and attorneys from the Antitrust Division to draft amendments to S. 864 addressed to the concerns raised by each group during those hearings. As a result of these discussions held over a period of four months, I introduced an amendment to S. 864, Amendment #1674. Subsequent to the amendment's introduction, my staff continued to meet with officials of the Antitrust Division in order to obtain their support for the bill.

On March 17 and 18 of this year, hearings were held on Amendment #1674. These hearings were followed on April 3 with testimony from the Administration on its support for for S. 864 as amended. Immediately prior to these hearings, Mr. Kermit Almstedt from my staff, met on a number of occasions with Mr. Ewing and staff attorneys from the Antitrust Division. At these meetings Mr. Almstedt was informed that Amendment #1674 resolved most of their remaining objections with two principal exceptions. First, a needs test was still not incorporated into Amendment #1674. Secondly, the definition of "export trade activities" as proposed in the amendments was thought to be too broad if applied to trading companies (as opposed to Webb-Pomerene associations).

Prior to the April third testimony of Secretary Klutznick on behalf of the Administration, Mr. Almstedt and Mr. Ewing, with staff from the Antitrust Division, met both in person and over the phone to resolve what we were told at that time to be the only remaining obstacles to the Antitrust Division supporting S. 864. The result of these discussions was that an agreement was reached. Mr. Almstedt was informed by Mr. Ewing that Assistant Attorney General Litvack (head of the Antitrust Division) had accepted the agreement reached between them, and in turn Mr. Ewing was informed that I also accepted the agreement.

You can imagine my surprise, then, when Secretary Klutznick of the Commerce Department testified before this Committee on April 3 and indicated that the Antitrust Division had a new concern. The problem related to the question of whether the Justice Department was to play a consultation role or a participatory role during the certification process carried out by the Department of Commerce. During questioning, Mr. Klutznick admitted that the Department of Justice had changed its mind at the eleventh hour, notwithtsanding the fact that this issue had never before been raised by the Antitrust Division.

It now appears, based on the attached copy of correspondence between Assistant Attorney General Litvack and Under Secretary for International Trade Bob Herzstein, that the seemingly simple issue of "consultation" v. "participation" has expanded to five areas of disagreement.

It has been my position all along that in proposing amendments to the Webb-Pomerene Act—amendments which would expand upon that law's antitrust exemption for export trade activities—that the cosponsors of the legislation should work closely with those in the Administration whose responsibility it is to enforce the antitrust laws, specifically the Antitrust Division of the Department of Justice. I directed my staff to do that and we did so in good faith. We reached an agreement. Title II to the committee print is the agreed upon language between the Antitrust Division and my office. I would hope that the Banking Committee would act upon that agreement and pass it out.

Thank you for your consideration.

Sincerely,

JOHN C. DANFORTH.

Enclosure.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., April 29, 1980.
Hon. ROBERT E. HERZSTEIN,
Under Secretary for International Trade, Department of Commerce, Washington, D.C.

DEAR BOB: Attached is suggested language for inclusion in pending export trade association legislation (the Danforth bill) to define the role of the Attorney General and the Federal Trade Commission in connection with the certification of export trade associations by the Secretary of Commerce. The language would be incorporated in new section 4(b)(1) of the Act, which appears on pp. 9–10 of the attached working draft of the bill. (This draft also reflects many other changes previously discussed with Senator Danforth's staff.) For your convenience, we have reconstructed the key subsection in a clean draft. Additional changes in various other sections of the bill are also required to conform those sections to the scheme of section 4(b)(1), and to delay the antitrust exemption for 30 days if the Attorney General or the FTC disagrees with the certification. These changes, also reflected on the attached working draft, appear on page 6 (line 21); page 7 (between lines 5 and 6 and line 24); page 10 (line 11); page 11 (line 7); page 12 (line 11, lines 15–19 and the last sentence of the language to be inserted on line 22); page 14 (line 5); and page 15 (lines 14–18 and 21–25).

We have also set forth changes in new section 2(a) of the Act (pp. 5–6 of the working draft), in line with our earlier discussions.

Sincerely yours,

SANFORD M. LITVACK,
Assistant Attorney General,
Antitrust Division.

Attachment.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., May 1, 1980.
Mr. SANFORD M. LITVACK,
Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, D.C.

DEAR SANDY: We have made several changes to the language for the export trade association legislation that you sent over yesterday. Our modifications are fully consistent with agreements reached during discussions between Secretary Klutznick, Ambassador Askew, and the Attorney General.

(1) FTC involvement. We have no problems with the FTC playing a role similar to that contemplated for the Justice Department. However, we do not feel that the Department of Commerce should have to deal with two separate enforcement agencies in any particular case. As in all other antitrust matters your preclearance procedures with the FTC could ensure that only one agency pursued a particular certification matter. We would like this point enunciated in the legislation so that we will not be required to wait the full forty-five day period for comments from the non-involved agency. We are receptive to your suggestions on how this point should be made clear.

(2) Thirty-day notice before filing an action for invalidation. You have proposed deleting the requirement on page 12 of the draft bill that the Attorney General or Commission provide a thirty-day notice to an association before bringing an action to invalidate the certification. Your suggested change goes beyond what is necessary to express our recent agreements and makes a harmful change in the basic Danforth Bill format. The thirty-day notice requirement is inappropriate for the immediate post-certification challenge provided for in our proposed procedure, because the period for challenge is only thirty days. However, the thirty-day notice requirement remains appropriate in other cases. We propose to amend the sentence as follows:

"Except in the case of an action brought during the period provided for in section 2 (b) (2), the Attorney General or Commission shall notify any association, or applicable member . . ."

(3) Preliminary relief. We see no need for the sentence you have added on page 12 specifying that the court may grant a temporary restraining order. Nothing in the bill detracts from your opportunity to seek preliminary relief under normal judicial standards. There should not be any language suggesting that preliminary relief has special application to these cases. If you insist on including a statement on preliminary relief, we propose the following:

"Normal judicial standards shall apply to any request for preliminary relief during the pendency of such an action."

(4) Simultaneous filings with Justice and FTC. On pages 7, 11, 14, and 15 of the draft bill you propose to require that all applications and reports be filed with the Justice Department and the FTC simultaneously with their filing at the Department of Commerce. You also seek to change the provision on confidential information. These are new proposals not previously requested or discussed. We cannot insert them into the decision-making process at this late stage. Furthermore, requiring joint filings undermines the very nature of the agreement between our two agencies on the certification procedure. The Commerce Department will operate the certification procedure with the advice of the antitrust enforcement agencies. But the Commerce Department will be playing a distinct and important role in encouraging and assisting businesses to understand the opportunities available to trade associations and, where appropriate, to form such associations. Requiring simultaneous filings with the antitrust enforcement agencies will significantly affect the public perception of the procedure and will lead the public erroneously to conclude that the certification process is jointly operated. We will, of course, provide the appropriate enforcement agency with copies of the application in ample time for consideration and comment. These and other details can surely be worked out in a cooperative fashion between us once the process is in operation.

(5) Standards for eligibility. You propose to change the standards in sections 2(a)(2) and 2(a)(3) of the bill. You mentioned this issue to me the day before the subcommittee hearing. At that time I replied that we would consider such a change. However, I did not then know that the present language had been agreed upon in lengthy discussions between your staff and that of Senator Danforth. I understand that such changes would be unacceptable to the Senator. I was also unaware that the Antitrust Division had testified on this very language on September 18, 1979, in a hearing before this same International Finance Subcommittee. At that time, Mr. Ewing commented on the standards for certification:

". . . we note both S. 864 and S. 1449 would require that a restraint of U.S. domestic trade be substantial before the exemption would disappear. The purpose of this proposal, as we understand it, is to bring the act into what we conceive to be the current state of antitrust laws interpreted by the courts. Thus we have no objection to this clarification of the legal standard even though it's perhaps redundant."

Finally, I would point out that if circumstances do eventually result in a "substantial lessening of competition," even if there was no such effect initially, you would be free to seek decertification. Accordingly, we cannot accept these proposed changes.

Secretary Klutznick, Ambassador Askew, and the Attorney General have agreed upon a reasonable and desirable Administration position on the certification process. With mark-up of the bill fast approaching, we simply cannot afford to have new issues raised, particularly on proposed language that has been under consideration for six months or more. The positions enunciated in this letter are fully consistent with the agreement of the three Cabinet officers, and we feel it is necessary to advance them as the Administration position without further delay.

Sincerely,

ROBERT E. HERZSTEIN,
Under Secretary for International Trade.

Mr. HEINZ. Mr. President, this correspondence, Mr. President, reveals not only the details of the discussions between Senator DANFORTH and the Justice Department but also provides some insight into the difficulty of obtaining the agreement with the administration that was finally reached shortly before the bill was reported.

The result of those negotiations was a compromise which involved a number of changes in S. 864, which was Senator DANFORTH's original proposal. The Banking Committee adopted the compromise. The administration supports the compromise, as is evidenced by a letter every Senator has received from Secretary Klutznick and Ambassador Askew. In addition, on June 23 the Attorney General, Mr. Civiletti, wrote a detailed letter to the chairman of the House Foreign Affairs Committee expressing concern about several changes the House counterpart bill had made in the carefully constructed compromise and expressing his support for the antitrust provisions of S. 2718, the bill before us now. The Attorney General concluded his letter as follows:

> I ask that you and the Committee on Foreign Affairs accept S. 2718 as the model for your consideration of the important export trading legislation now before you.

As with any compromise, Mr. President, both sides gave some ground and both sides probably believe the result is less than perfect from their respective points of view. It does not surprise me if some people in the Antitrust Division of the Justice Department would like to do this a different way. I have no doubts either that Senator DANFORTH would like to do it a different way as well. The point is, Mr. President, we have a compromise, arrived at in good faith, and it is the responsibility of the managers of the bill to defend this compromise, since any substantive change in it would cause the administration to withdraw its support and thereby probably kill the bill.

As is the case with the previous amendment, however, this one, if offered and adopted, would also kill the bill—both practically by destroying our hard-won compromise, and substantively by creating a certification system that will never produce any certifications.

Senator DANFORTH has explained the substantive problems in some detail. Let me simply point out that once again we have a "killer" amendment in terms of its effect. I am pleased that the Senator from Ohio has decided not to offer the amendment, but I did want to make clear on the record the reasons why I would have opposed it had it been offered.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the part of the order for the Metzenbaum amendment be vitiated.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Michigan.

Mr. HEINZ. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HEINZ. If the Senator from Ohio does not call up his amendment at this time, does his right to call it up continue to exist or does he lose his right?

The PRESIDING OFFICER. The right to call up his amendment has been vitiated by unanimous consent.

Mr. HEINZ. I thank the Chair.

UP AMENDMENT NO. 1543

(Purpose: To assist export expansion)

Mr. RIEGLE. Mr. President, I call up my amendment, which is pending.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) proposes an unprinted amendment numbered 1543.

Mr. RIEGLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, between lines 12 and 13, insert the following:

SEC. 108. (a) The Secretary is authorized to make grants to subsidize the employment of export managers by small business manufacturing firms which have not previously been exporters in substantial amounts. The amount of such a grant may not exceed the lesser of (1) 50 per centum of the salary and other expenses related to the employment of a full-time export manager for a period of one year, or (2) $40,000.

(b) To be eligible under this section, each firm must submit to the Secretary an application which—

(1) demonstrates that the firm has not derived more than an average of 5 per centum of its sales volume (in monetary terms) from exports during the 5 most recent years and does not currently employ an export manager;

(2) demonstrates that the firm is a small business manufacturing firm, as defined by the Secretary after consulting with the Administrator of the Small Business Administration;

(3) describes the qualifications of a person proposed to be hired as the firm's export manager on a full-time basis for a period of at least one year, and describes the terms and conditions of that person's employment by the firm and the amount of the grant applied for to subsidize the costs of that employment; and

(4) describes the products and services considered by the firm to be suitable for export and the general outlines of the export program to be undertaken under the direction of the export manager.

(c) In selecting firms to receive grants under this section, the Secretary shall consider the desirability of determining the feasibility of this approach to export promotion in each of the regions of the Department of Commerce and in relation to a variety of products and services which, in the opinion of the Secretary, have export potential.

(d) There are authorized to be appropriated to the Secretary not to exceed $2,000,000 for each of the fiscal years 1981, 1982, and 1983, to carry out the program established by this section.

(e) The Secretary shall develop a plan to evaluate the cost-effectiveness of the program of export promotion established by this section and its effectiveness as compared with other export promotion programs, including the amount of export sales generated by small businesses assisted under this section. For the purpose of the evaluation the Secretary is authorized to require any firm receiving assistance under this section to furnish such information as is deemed appropriate to complete the required evaluation. The Secretary shall make recommendations concerning continuation or expansion of the program and improvements in the program structure. Such evaluation and recommendations shall be submitted to the Congress prior to October 1, 1982.

Mr. RIEGLE. Mr. President, this amendment, which I understand is acceptable to the bill's floor leaders on both sides of the aisle, will establish a pilot program of grants to small business manufacturing firms to help them absorb the first year costs of hiring a full-time export manager. Firms which are new to exporting and do not already have an export manager will be eligible to compete for grants of 50 percent of the export manager's salary and expenses or a maximum of $40,000. By new to exporting I mean that the firm has not previously exported more than 5 percent of its sales volume. The program will be funded at a level which will support 50 to 100 such grants each year for 3 years at a cost of $2 million per year.

The thought is that this would be a 3-year pilot program to enable small companies that have high potential for export, want to get in that business, to be able to hire a professional export manager. The grant would cover half the cost. Before the end of the 3-year period of time, the Commerce Department would review the results of grants made under this program to see whether they had really had the effect of substantially increasing the export business of those firms which were successful in this competition.

The program would be administered by the Secretary of Commerce, who would be required to report on the cost effectiveness of this approach at the end of the second year of the operation of the program.

Mr. President, we are living in a new international economic environment and we are not adjusting to it. The OECD estimates that the U.S. balance of trade deficit will reach $37 billion in 1980. We are not expanding our exports fast enough to pay for the increased imports brought about in part by oil price rises and in part by the greater economic strength and competitiveness of many of our trading partners. We simply cannot delay getting started on a much more aggressive effort at export expansion.

A major opportunity for export expansion lies in the 18,000 small businesses the Department of Commerce estimates could be exporting but are not. These firms are not selling abroad despite the fact that their products are competitive because it is difficult for smaller firms to gain the information and expertise and, generally, take the risks necessary to get started at exporting.

This amendment will enable us to test an approach which the Dutch Government is already using to promote exports by small firms. I believe it is an extremely promising approach because it is a front-end, one-time subsidy and because it is a direct attack on the problem.

A front-end subsidy is appropriate in this case because most of the impediments to small business exporting need one-time, front-end solutions. Once a firm has developed information about overseas markets, learned how to deal with such processes as international shipping and customs valuations, adapted to the unfamiliar business practices of foreign countries, and completed its first major export transaction, most of the barriers which kept that firm away from international trade will be down.

A direct subsidy is appropriate because it is likely to get results. A firm which accepts an export-manager grant will have made a commitment amounting to half the manager's salary and expenses for 1 year. It will have someone right there in the firm whose job it is to aggressively seek export business and whose job continuation depends on that particular firm's success. I think that firm is highly likely to begin to export.

There are other promising approaches to small business export promotion besides export-manager grants. Facilitating the establishment and operation of export trading companies is an important approach and one that has my enthusiastic backing. We should also be experimenting with intensive technical assistance programs for small business exporters. We need to test and carefully evaluate all these approaches to find out which are most effective for different types of potential exporters. We simply do not have the luxury of waiting while our balance of trade gets worse each year.

Mr. President, I hope that we can discuss this amendment and accept it at this time.

Mr. STEVENSON. Mr. President, the Senator from Michigan has been very active in the effort to develop an export policy for the United States. He has given a great deal of careful thought and attention to the subject, including this amendment; and I gather that there has been some successful experience in other countries with a program such as he proposes for this country.

We have not held hearings on this proposal; but before we get to conference, there should be an opportunity to do so—at least in the other body. Because it sounds like a sensible proposal and there will be that opportunity to give it further thought before we next consider it, presumably in conference with the other body, I am willing to accept it and take it to conference.

I yield to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I accept

amendment on the same basis as does Senator STEVENSON.

The PRESIDING OFFICER. Is all time yielded back?

Mr. RIEGLE. Mr. President, before doing so, I should like to add one other comment, and that is that there has been experience abroad in this regard. This approach is designed to enable high potential small business firms that could move into the export business to have the opportunity to do so.

I yield back the remainder of my time.

Mr. STEVENSON. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BAUCUS). All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP No. 1543) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. I thank the chairman and the ranking minority member for their support and leadership on this issue.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2286

(Purpose: To strike the separate Economic Development Administration and Small Business Administration authorization for export trading company financing)

Mr. HELMS. Mr. President, I call up amendment No. 2286 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 2286.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 2, strike out "(a)".

On page 19, strike out lines 13 through 18.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. TSONGAS. Mr. President, I wish to make a parliamentary inquiry as to this amendment. Does the Senator prefer that I do it now or after he speaks?

Mr. HELMS. Whatever the Senator's pleasure may be. I have a short statement. If he wishes to do it after I make my statement, that will be fine, or if he prefers to do it now, that will be fine.

Mr. TSONGAS. Go ahead.

Mr. HELMS. I thank the Senator.

Mr. President, this amendment trims the authorization in this bill relating to assistance given to export trading companies by the Small Business Administration and the Economic Development Administration.

As Senators know, this bill authorizes $20 million per year for 5 years.

Mr. President, this amendment would cut this authorization for three reasons, all of which are valid in the judgment of the Senator from North Carolina.

First. The bill already contains a specific directive to EDA and SBA to "give special weight to export-related benefits, including opening new markets for U.S. goods and services abroad and encouraging the involvement of small- or medium-size businesses or agricultural concerns in the export market."

Mr. President, this amendment does not—I repeat—does not affect this provision.

Second. The Economic Development Administration and the Small Business Administration together have authority to expend approximately $6.4 billion in loans and administration next year.

I wonder if anyone will seriously contend that somewhere in that vast sum, $6.4 billion, there cannot be found sufficient funds to assist export trading companies?

Third. There is reasonable doubt as to whether EDA and SBA assistance will be needed or wanted by the new trading companies. Let us, parenthetically, remember that this bill is going to enable concentrations of American capital to compete with Mitsbishi and the like. If such competition can be mounted it will be by the private sector, and not through federally subsidized loans with their red-tape, strings, and time delays.

Mr. President, the logical question that my amendment raises is this: "Well, if Congress is not going to give $20 million more to EDA and SBA, where are you going to cut within those agencies' programs to make room for new export trading company loans?"

In other words, I am sure some Senators may raise the question, Whose ox are you going to gore?

The answer is this:

In the allocation of capital I have never known any government official to be a perfect judge. All the agencies can do is weigh the variables before them and act within the guidelines that restrict their action. In this case, it is my contention that SBA and EDA should follow the directive by Congress to give consideration to export trading company loans just as they would give consideration to a large number of other kinds of loans. They are, of course, also guided by the Appropriations Committee, by the Office of Management and Budget, and by the regulations within the given agency.

So, Mr. President, if I may use that old cliche of "the bottom line," the bottom line is this: Somewhere within that enormous $6.4 billion authorized for export trading companies if—and there are a few million dollars lying around somewhere that could be used for export trading companies if—and this is the big "if,"—the trading companies can come up with meritorious applications.

One final point concerning the use of congressional directives to make available Federal funding for export trading companies, and that point is this:

In the very next section of the bill, the Export-Import Bank is directed to set up a guarantee program for the new companies but makes no specific authorization to increase Export-Import loan guarantee authority.

Mr. PROXMIRE. Mr. President, will the Senator yield briefly?

Mr. HELMS. I am delighted to yield to my friend.

Mr. PROXMIRE. Mr. President, I commend the distinguished Senator from North Carolina. He is on exactly the right track. We should be very conscious of spending more of the public's money, particularly in a situation as that where the case is so weak. As the Senator from North Carolina I understand pointed out, the present budget is adequate and the SBA and EDA have very large sums. They do not need an additional $20 million a year for 5 years or a total of $100 million.

Furthermore, as he also argued, and I think this is absolutely right, the capital should come from the private sector.

Mr. HELMS. That is right.

Mr. PROXMIRE. They can then make a judgment based on whether or not they believe that this is a viable competitive company that can effectively sell abroad.

I wish to tell the Senator something that may surprise, shock, and even disappoint him. I do not know but I think he is fighting shoulder to shoulder with the administration on this, and it is refreshing to see HELMS and Carter fighting together, on the same side I should say, because on this point the administration did oppose the EDA provision. I think that wherever we get the support, we should be grateful for it. But I am delighted to support my good friend from North Carolina who I think is on the right track here and is offering an amendment that will save the taxpayers $100 million, and God bless him.

Mr. HELMS. I thank the Senator for his comments. He is right on track. I might say to him it is a pleasure to stand with any President when that President is right, and in this case President Carter is right.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, may I address the manager for time? May I inquire, is there any time remaining on the bill?

The PRESIDING OFFICER. On the amendment there are 15 minutes remaining to the Senator from Illinois and 8 minutes remaining to the Senator from North Carolina.

Mr. STEVENSON. Mr. President, there is no time remaining on the bill.

The PRESIDING OFFICER. There is no time remaining on the bill.

Mr. STEVENSON. Mr. President, I am happy to yield 2 minutes to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator very much.

I do not want to discuss the pending amendment at this time, but I do want to say a few words, Mr. President, on the bill itself.

This is an important bill, Mr. President. It impresses me very much. It is not just another quick-fix or an effort to stick a band-aid on top of a problem. This is an innovation and a new approach designed to stimulate and increase our exports. If it is handled correctly, as I see it, it will fill a void which confronts us with reference to world trade, world competition, and our exports and imports.

We frequently hear debates on tax bills and on various other problems in this Chamber. There is an outstanding deficiency sometimes, as I see it, in that we do not always give full consideration to our imports and exports and to our balance of trade and balance of payments. This bill is an effort to correct the deficiencies in these areas.

In addition, we have not given the small and medium sized businesses and industries—and often they are highly competitive—the incentives and assistance they need to export their products efficiently and effectively. We have not given them enough inducement; we have not given them enough opportunity and encouragement within our trade policies.

It seems to me that this bill is a fine start, and I commend the Senators who worked on this bill, including, of course, the Senator from Illinois, and the Senator from Pennsylvania who has also been active. I hope that this legislation will be a first step toward solving our export and international trade problems.

As one who has to deal over and over with our military problems and the things that go to make them up, I see a light of hope here. Amendments may be required. It will require efficient and aggressive administration. But I believe it is a step in the right direction, and I think we should pass the bill and then follow it up with other action which may be necessary.

I again thank the Senator from Illinois.

Mr. STEVENSON. Mr. President, I thank the distinguished Senator from Mississippi for those kind and wise words.

Returning now to the Helms amendment, the bill, I remind my friends, is an authorization. The $20 million for EDA and SBA will still have to be appropriated.

I am a little reluctant to rely on a regular authorization for EDA because there is no such authorization. The Senator will remember it has been hung up in conference for a long time now, and there is no assurance that there is going to be a regular authorization for EDA. In any event, the final amount will require action in the usual course by the appropriations committees. The appropriations that would be authorized by the bill would support only loans and guarantees, not grants, and since the export trading companies are expected to be profitable, the loans will be repaid. So there is no likelihood, in fact I do not think there is any possibility, of any out-of-pocket expenditure by the taxpayers on behalf of the trading companies.

On the contrary, since the trading companies are going to represent all American industry and agriculture, small businesses, middle-sized businesses as well as large-sized businesses, in all the markets of the world, there is a strong probability that the effect of the legislation is going to be to increase revenues, not decrease revenues. That is the purpose of the bill, to strengthen American industry and, indirectly, to strengthen the Government with increased revenues.

This provision is in here to help these companies get off the ground. It is not intended to be a permanent authorization. It is intended to authorize appropriations for the startup costs of trading companies. These are new to the United States, and because they are new they could anticipate, we can anticipate, some difficulty in getting these companies off the ground and running. That is the reason for the EDA and the SBA support. It is to get them started.

Once started, they will not need any continuing support. If they do not need it during the startup period, the financing by these agencies, of course, would not have to be made available to the infant trading companies. Over the long run, this should mean more profit for American industry and agriculture, a stronger balance of trade, and also more revenues for the Federal Government.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. STEVENSON. I do yield to my friend from Pennsylvania.

Mr. HEINZ. Mr. President, I rise in opposition to the amendment, and I want to say to my good friend and colleague from North Carolina that this provision is in this bill for good reasons, some of which have been described by our colleague from Illinois, Senator STEVENSON.

The first intention, of course, is to insure that the $20 million does not come out of somebody else's pet project or important project in his area, something that is ongoing, and vitally needed for economic development.

An even more compelling reason, perhaps, is that, as you undoubtedly have heard people who are both for and against this legislation state, this is very far-reaching legislation. We are trying to do something that is new, at least for this country. It is something that many other countries, Mr. President, have been doing for quite some time.

The fact is though that the bureaucracies at EDA and SBA simply are not at all familiar with what we hope will come to be known as effective trading companies, and it is just human nature that such bureaucracies and bureaucrats, in the absence of any specific set-aside of funds, would be far, far too likely to ignore the needs of these new entities.

Indeed, the record of SBA's helping out firms that create the largest proportion of jobs in this country is very poor indeed.

It was about a year ago that Senator RANDOLPH and I engaged in a colloquy on some EDA legislation, and it was apparent to all of us that EDA shuns much more than they should smaller, perhaps riskier, but certainly when it comes to creating jobs, more productive, firms than they should. EDA—and even SBA—tend to want to make safe bets, and a safe bet, Mr. President, is a bet that minimizes your losses and minimizes your returns.

Well, we have had more than enough of minimal returns, whether it be to our taxpayers, to our exporters, or to the influence and respect of this country. So I believe that the specific authorization we have in this legislation regarding SBA and EDA is good. It is important, it is necessary, and I would add that I have just been informed that the administration happens to share this view and they, too, are opposed to the amendment now before us.

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina has 8 minutes remaining.

Mr. HELMS. Mr. President, I am delighted to yield such time as the Senator may require, just so I have 2 or 3 minutes remaining and provided I will not be cut off.

Mr. HEINZ. Mr. President, I think the Senator from Illinois can yield to the Senator from Massachusetts.

Mr. HELMS. Mr. President, I do not want to detain the able Senator from Massachusetts from seeking the floor, so I will not seek recognition at this time.

Mr. STEVENSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Mr. President, I yield 2 minutes to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, if I might inquire of the Chair, the time agreement that we are operating under allows for an amendment by the Senator from North Carolina as to funding the EDA, is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. TSONGAS. And the amendment before us goes beyond EDA and also includes SBA, is that not also correct?

The PRESIDING OFFICER. The Senator is also correct.

Mr. TSONGAS. Mr. President, the issue has been raised in discussions prior to this discussion that a point of order may or may not lie. Just to make the record clear, I am not going to raise the point of order for two reasons: One, even though I believe it would be sustained, I understand that there is some question as to intent of the amendment and the discussion that took place on the floor. Second, I am confident that the arguments against the amendment are strong enough that a motion to table will succeed.

For that reason, and also out of courtesy to the Senator from North Carolina, I will not pursue the point of order.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I say to my friend from Massachusetts that I am not aware of the wording of any time agreement in terms of the specific definition of my amendment. I am sure the majority leader, in entering a request for the time agreement, did not mean to exclude the reference to the EDA. But I thank the Senator from Massachusetts for his courtesy.

Mr. President, as I listened to the distinguished managers of the bill, Mr. Stevenson and Mr. Heinz, it seemed to me that they could very well be arguing in favor of my amendment.

But the point is this: When are we going to stop this business of throwing money at problems? It is just like having a big dart board and we throw a dart and if it hits on $20 million, fine, and if it hits on $200 million fine, or whatever sum the dart might hit.

I go back to my original point that there is plenty of money for these two agencies to trim here and trim there and then do the job that this Congress wants done. There is no necessity for adding $20 million a year.

As a matter of fact, in the committee's own report, on page 12, it has this to say:

> The Small Business Administration, according to President Carter's Export Policy statement of September 26, 1978 was to provide up to $100 million in assistance to small businesses getting started in exporting.

Well, there it is, Mr. President. Why do we have to tack on 20 more million of the taxpayers' dollars just to make something look good? I think the taxpayer is getting tired of this fiddle that we play up here, tired of seeing whatever arithmetic the bureaucracy says it needs is what it gets.

And, of course, the people who are paying the tab are the taxpayers. I believe that if a poll were taken around the country, taxpayers would be shown to understand what the Senator from North Carolina is getting at.

Let it not be interpreted that this amendment is against building our exports. That is not the point. The point is throwing more money when there is enough there to do the job.

What Congress needs to do is to perform more oversight and say to the Small Business Administration, the EDA, and all the rest of them: "You get this job done."

As the Senator from Wisconsin will agree, there is plenty of money in that $6,400,000,000 designated for these two agencies to do the job that Congress wants done and which needs to be done.

Let not the line be drawn or pretended to be drawn between those who favor increased exports and those who do not. The question here is: Are we going to continue to throw darts at that dart board and come up with $20 million again just by chance? And that is all it is.

Senators can vote against this amendment, if they wish. But I am saying that $6,400,000,000 is enough for these two agencies.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I ask for the yeas and nays.

Mr. HEINZ. Mr. President, I think we are all prepared to vote.

The PRESIDING OFFICER. The Senator from North Carolina has requested the yeas and nays.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HEINZ. Mr. President, has all time been yielded back?

The PRESIDING OFFICER. Not yet.

Mr. STEVENSON. Mr. President, I yield back the remainder of my time.

Mr. HELMS. Mr. President, I yield back the remainder of my time.

Mr. HEINZ. Mr. President, I move to table the Helms amendment.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from New Hampshire (Mr. Durkin), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Kentucky (Mr. Huddleston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), the Senator from New York (Mr. Moynihan), the Senator from Tennessee (Mr. Sasser), and the Senator from Alabama (Mr. Stewart) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) would vote "yea."

Mr. BAKER. I announce that the Senator from Mississippi (Mr. Cochran), the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. Javits), the Senator from Maryland (Mr. Mathias), the Senator from Idaho (Mr. McClure), the Senator from Delaware (Mr. Roth), and the Senator from Alaska (Mr. Stevens) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 64, nays 13, as follows:

[Rollcall Vote No. 385 Leg.]

YEAS—64

Baucus
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Cranston
Danforth
Dole
Domenici
Durenberger
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heinz
Hollings
Humphrey
Inouye
Jackson
Johnston
Laxalt
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Schmitt
Schweiker
Simpson
Stennis
Stevenson
Stone
Talmadge
Thurmond
Tower
Tsongas
Weicker
Williams
Young
Zorinsky

NAYS—13

Armstrong
Baker
Byrd,
  Harry F., Jr.
DeConcini
Heflin
Helms
Jepsen
Kassebaum
Lugar
Proxmire
Stafford
Wallop
Warner

NOT VOTING—23

Bayh
Biden
Church
Cochran
Culver
Durkin
Eagleton
Goldwater
Gravel
Huddleston
Javits
Kennedy
Long
Magnuson
Mathias
McClure
McGovern
Morgan
Moynihan
Roth
Sasser
Stevens
Stewart

So the motion to lay on the table Mr. Helms' amendment (No. 2286) was agreed to.

Mr. STEVENSON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENSON. Mr. President, I ask unanimous consent that I may have 30 seconds on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, this bill will not by itself restore U.S. competitiveness in a newly competitive world. But it could be a milestone. It signifies a recognition by the Senate that the United States must break with the past if it is to compete in the future. It could lead to the creation of American trading companies which represent American business, large and small, worldwide, spotting the market opportunities, meeting the price competition, absorbing exchange rate fluctuations, putting the package transactions together, handling the export details—day in and day out. Only history will tell how much this bill does. If the House and President approve, the final test will be up to American business and agriculture.

Mr. President, I thank all my colleagues in this endeavor for their heroic efforts over a long period of time. This effort began about 3 years ago. In particular, I thank and commend Senator Heinz and Senator Danforth for their very skillful and persistent efforts throughout to bring this bill to its present position.

I add my thanks to the staff and all the others who have assisted.

I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

THE IMPORTANCE OF EXPORT TRADING COMPANIES TO OUR TRADE PROMOTION EFFORTS

● Mr. CRANSTON. Mr. President, the Senate will take a small but important step in our continuing fight against the national trade deficit when we vote today on final passage of S. 2718, the Export Trading Companies Act.

While I continue to have some reservations about the extent of bank participation in export trading companies permitted by this legislation, I support this bill, as amended, and welcome its passage by the Senate.

In combating our continuing trade deficit, the United States has many weapons. We have our unsurpassed technological capabilities, our abundant natural resources and our well-trained and hard-working labor force. But if we are to make great progress in the effort to balance our trade and promote American exports, I believe it is also important for us to bring American ingenuity and organizational creativity to bear on this task. To increase trade efficiency and to penetrate foreign markets with small- and medium-size business exports, we need to encourage trade associations and export trading companies to organize and enter the marketplace.

The bill we are acting on today will do this. It will clear away some of the redtape and regulatory underbrush which has inhibited the development in the United States of such trade associations, which have long been successful in such countries as Japan and South Korea. This bill will simplify procedures for establishment of such trading groups and will promote their development by establishing pilot funding programs through the Small Business Administration and the Export-Import Bank.

The Department of Commerce has estimated that nearly 20,000 American agricultural producers and manufacturers produce goods and services which are readily marketable abroad. These products could be highly competitive in foreign markets, but the inexperience and small size of many American firms has to date prevented the export of these goods and services on any significant scale. Regulatory uncertainties have served as a deterrent against formation of trading companies capable of absorbing the front end costs and the risks involved in foreign trade.

Mr. President, I am confident that the measure the Senate is adopting today will help to improve this situation markedly by facilitating the introduction of superior American goods and services into the world marketplace through the establishment of export trading companies.●

● Mr. BENTSEN. Mr. President, when the Senate began its debate last week on the export trading company bill, the senior Senator from Wisconsin expressed certain reservations about this legislation.

Addressing the general problem of trade, Senator PROXMIRE made three basic points. He stated that declining productivity is the root cause of our trade problems. He produced figures suggesting that our exports over the past 8 years have increased more rapidly than those of Japan and Germany. And finally he pointed out that, despite huge and persistent balance of trade deficits, our transactions with the rest of the world are roughly in balance on a long-term current accounts basis. After making these observations the Senator expressed strong reservations about the need for new export incentives, particularly when they involve changes in traditional ways of doing things.

When he identifies lagging productivity as fundamental to our diminishing competitiveness in world markets, my friend from Wisconsin is right on the mark. Improve productivity in America, lower unit cost of production, increase output per man-hour, and American products will inevitably become more competitive throughout the world. Our exports will increase.

Senator PROXMIRE and I share the view that policies to increase rates of productivity are absolutely indispensable both for our domestic economy and for our performance in international trade. On this issue we are in complete accord. I also acknowledge that, despite the many merits of S. 2718, it will not do much to increase productivity in our economy.

However, Mr. President, in addressing our problems with trade, it does not necessarily follow that we should look only to the core issue of productivity. There are things that we can and should be doing now to enable our exporters to meet the terms of competition in world markets.

Productivity is a long-term problem; it will take time to turn it around. But while we undertake this effort—and I know the Senator from Wisconsin will be one of those leading it—we can also take immediate steps to improve our trade performance and eliminate unilateral disadvantages faced by American business. We can, for instance, strengthen our ability to export by passing the Export Trading Company Act.

And we can take a careful look at statistics such as the St. Louis Federal Reserve figures cited in support of the thesis that we do not need to eliminate export disincentives.

According to the figures used by the Senator from Wisconsin, U.S. exports increased at an annual rate of 20.5 percent during the period 1972–79, or more than the increase for Germany and Japan.

One need only turn to page 2 of the St. Louis Fed's August 7 report on international economic conditions to appreciate that this export success was purchased at the price of a devalued dollar. Any nation, Mr. President, can increase exports if it is prepared to devalue its currency. During the period cited the effective exchange rate of the U.S. dollar decreased from 103 to 93.2, for an effective devaluation of 10.5 percent. During the same period the effective exchange rate of the German mark increased by more than 50 percent, while the Japanese yen also increased in value, although far less than the mark. A cheapening of one's own currency is a short-term treatment of symptoms and a long-term cop out.

One could also cite and document figures that present a less rosy view of U.S. export performance in recent years:

The U.S. share of total industrial country exports has declined from 25.2 percent in 1960 to 18.3 percent in 1979. Our share of manufactured exports has declined from 22.8 percent to 15.5 percent in the same period.

In 1975 we had a $7.7 billion deficit in our trade in manufactured goods with Japan. That deficit increased yearly and reached $19.6 billion in 1979.

During the period 1976–79, our exports to Japan increased by a factor of three, from $2 to $6 billion. Our imports from Japan, however, increased by a factor of almost five, from $5.6 to $25.6 billion.

We are losing ground in the vital high technology sector, an area that will be critical to our competitiveness in the eighties. In 1962 our share of high technology exports to developing countries was 46 percent; it was down to 31 percent in 1970, and down again to 25 percent in 1977. For the same 3 benchmark years the Japanese increased their share of the market from 6 to 13 to 22 percent.

A decade ago only 14 percent of our manufactured imports came from LDCs. Today the figure has almost doubled to 26 percent. I cannot think of a clearer warning signal that we are going to face stronger trade competition in the future from countries like Brazil, Korea, Mexico, and Taiwan.

So, Mr. President, particularly in rapidly growing markets like east Asia, and in important sectors like high technology, there is good reason to be uneasy about our future competitiveness in world markets.

The current accounts ledger actually confirms the existence of these problems. In making the case for satisfactory U.S. export growth in the 1972–79 period, the Senator from Wisconsin maintains that our accumulated deficit on current accounts was about $3 billion, or some $377 million a year. His figures are correct.

However, he could have used the same figures to make an entirely different—and more alarming—case. He could have pointed out that, during the period 1972–76 the United States enjoyed a current accounts surplus that averaged about $5.22 billion a year. For the period 1977 to the present we have run a current accounts deficit that averages over $10 billion per year. Mr. President, if there is a trend in our current accounts figures, there it is. A $15 billion turnaround from comfortable surplus to substantial deficit. We can no longer rely on a current accounts surplus to rescue us from vast and consistent merchandise trade deficits. We can no longer talk about an historical deficit of minor proportions;

we are staring down the barrel of a 4-year deficit that could well total $40 billion.

No one, Mr. President, would pretend that the export trading company legislation pending before the Senate is going to "solve" our very real and very important problems of competitiveness in international markets. Senator PROXMIRE is correct when he says that the real key to improving our trade outlook is increased productivity and efficiency in our domestic economy.

But legislation like S. 2718 can and will help American exporters market American products overseas while we deal with the root causes of the problem. It will give the American exporting community access to the sort of efficient, effective trading companies that have long served the interests of our competitors in world trade.

Mr. President, we can no longer afford to turn our backs on this type of important legislation simply because it breaks new ground. When it comes to important issues like trade, I think we must be prepared to learn from the success of nations like Japan. I believe we have got to be ready to try some new ideas, because the old ones are not working very well.

As one Senator interested in both domestic economic policy and a strategy that will enable America to compete for international markets in the eighties, I am a strong advocate of S. 2718 and urge my colleagues to vote in favor of this important legislation.●

● Mr. BAUCUS. Mr. President, I want to take this opportunity to express my strong support for S. 2718, the Trading Export Company Act, which we are considering today.

I believe this measure is important as a symbol, and for the things that it seeks to accomplish. Its symbolic importance lies in the fact that it is the first major piece of recent legislation tied to our new efforts to improve our export competitiveness. Much more legislation is waiting to be considered. It will take much time before we have gone through it all. But here we have an item which actually has emerged after substantial debate, many hearings, and a recommendation from the Banking Committee. I believe we should act as soon as possible to demonstrate the importance we attach to our exports.

The bill should pass without any amendments limiting the banking or antitrust titles. I fully recognize and share the concern regarding the possibly difficult position in which banks might be placed should they become owners of export companies. Nonetheless, the arguments are convincing that the bill does provide safeguards to assure that any potential for trouble is greatly limited, and that there have been precedents where similar problems have been adequately handled.

At heart, however, I believe there is one overriding importance here: we must be prepared to experiment with new ways of handling our export programs even if they challenge our past way of doing things. That is what progress is, and that is how we will become more competitive in the world. We have to be very careful, but we also must be willing to try new methods.

Regarding the antitrust exemptions, I think that this legislation adequately protects our laws and will serve to make it easier for companies to compete in worldwide markets. Once again the issue is the same: are we ready to make some minor adjustments in past practices, knowing that there might be a risk, but knowing also that we must change to adapt in this situation?

My feeling is that we must be prepared to take such risks and try new methods. Not to do so means stagnation and loss of our competitiveness.

For this reason, I endorse this legislation. I hope enough Senators will think similarly to assure its passage.●

● Mr. ROTH. Mr. President, I strongly urge my colleagues to support S. 2718, the Export Trading Company Act of 1980 and the Export Trade Association Act of 1980, as amended by Senator STEVENSON and Senator DANFORTH. If approved, this bill would contribute importantly to an improved U.S. export performance by providing for the extension of more efficient export services to U.S. producers and suppliers. At a time when our trade imbalance is growing larger with each passing day and our businesses are finding it increasingly difficult to compete in the international marketplace, we should concentrate our efforts on passing measures that promote exports and remove unnecessary impediments to selling overseas.

Mr. President, I have spoken in numerous fora and on many occasions on the importance of increasing our competitiveness and hence our exports. We can accomplish this objective by improving our productivity, the quality of our goods and the reliability of our supply. Many of our domestic firms are willing to undertake that commitment; but they need our help. They need new laws that will promote or facilitate international sales. They need changes in laws that hinder exports. S. 2718 would achieve both these goals.

Title I of the trading companies bill is the export promotion title. Its most important provisions direct the Commerce Department's Economic Development Administration and Small Business Administration to provide special consideration of trading company loan applications. This title also directs the Export-Import Bank to provide loan guarantees to export trading companies, and allows U.S. banks to make limited investments in those entities. These provisions, as well as those authorizing appropriations, should encourage and concretely support the formation of trading companies that will, in turn, help our small- and medium-sized firms to sell in the world market.

Title II of the bill provides a mechanism for certification and antitrust clearance through the Department of Commerce. Such a provision, while maintaining the integrity of our domestic antitrust objectives, would allow trading companies to do international business, certain of being within the bounds of law. Such certainty can only add to our exporters' international strength and reliability.

I would like to applaud my colleague, Senator STEVENSON, for spearheading this most important effort to promote the establishment of trading companies. We must get behind him to pass this bill in the Senate and to insure that the House acts quickly to approve this legislation, as well.

Mr. President, I believe it is crucial that we enact S. 2718 into law as it now stands. Our small- and medium-sized firms, in particular, need the marketing, financing and other export services that these intermediaries can provide. With this kind of assistance, our producers will be able to compete more effectively in an international marketplace that is becoming increasingly difficult to conquer.●

Mr. ROBERT C. BYRD. Mr. President, I support legislation to create export trading companies capable of promoting the sale of American goods and services abroad. The bill before us today has been the subject of extensive hearings and discussion. It is a creative approach to the export imperative facing this Nation.

As with all innovation, this legislation is not without controversy. By permitting banks to invest in export trading companies, the bill breaks with a long-held American tradition that banks should not be directly involved, as owners, in the commerce of goods and services. As repositories of the public's savings, banks have always been regulated so as to make them risk averters. Additionally, because of their control of massive amounts of capital, concern over the impact on competition has caused us to prevent banks from entering the business of concern.

I raise these considerations because I hope that as this bill winds its way through the legislative process, every reasonable effort will be made to insure that bank safety and competition are properly protected.

S. 2718 addresses these issues in a constructive fashion. Nevertheless, there may be additional protections which, while not eliminating the concept of bank participation, could insure that this break with our traditional banking policies will not be regretted in the future.

There are many imperatives to increased exports. Our continuous merchandise trade deficit, largely due to increased oil prices, has resulted in considerable instability for the dollar in recent years. In 1979 our trade deficit was almost $25 billion.

World trade encourages international interdependence and peace. Exports provide a larger market for our factories, mines, and service sectors, thus permitting them to operate at full capacity, and more productivity.

American companies, largely because of the enormous markets which they enjoy in the United States, historically have not been as aggressive in promoting foreign sales as have their foreign competitors. Export trading companies could provide the means to market countless goods and services produced by

American companies which are either too small, or not equipped to develop foreign markets for their own products.

During a recent meeting with the West Virginia Chamber of Commerce, chamber members offered an example of the relevance of trading companies to my State. West Virginia has many small coal operators. The people who run these small mines know a great deal about mining, and some of them are experts in the domestic coal market, but few are experienced in international coal markets or in the intricacies of selling abroad.

One might envision the evolution of export trading companies which specialize in the marketing of American coal in Europe, thus permitting the small operator to concentrate on what he does best—mining coal.

Clearly, American coal can already be marketed by third parties, such as commodity dealers. This bill simply creates another legal vehicle for arranging and financing this activity.

Special note should be taken of Senator ADLAI STEVENSON's work on this bill. As he approaches the end of his service, rather than resting on the laurels of two successful terms as a U.S. Senator, ADLAI has become more involved than ever in the issues of U.S. economic development. His work on the International Finance Subcommittee of the Banking Committee, and the Science, Technology and Space Subcommittee of the Commerce Committee have made him a widely respected authority in the areas of worldwide economic competition and national policies to promote economic growth.

Senator STEVENSON has consistently argued the need for an industrial policy, long before it became fashionable to do so. His contributions to the work of the Democratic Task Force on Economic Policy have been salutory, providing the broad themes for the work of the task force subcommittees.

From deliberations involving ethics, to Senate reorganization, to economic policy, ADLAI STEVENSON will be remembered as a man of broad and clear vision. I shall miss his intellect. I shall not miss his friendship, because I shall continue to be his friend, and he will continue to be mine. But I certainly will miss seeing my friend often. I know that his public life is far from over, and I join all my colleagues in wishing him a future full of challenge and satisfaction.

The **PRESIDING OFFICER**. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The **PRESIDING OFFICER**. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. STEWART), and the Senator from Washington, (Mr. MAGNUSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), and the Senator from New York (Mr. MOYNIHAN), would each vote "yea."

Mr. BAKER. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. McCLURE), the Senator from Delaware (Mr. ROTH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The **PRESIDING OFFICER** (Mr. BRADLEY). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 77, nays 0, as follows:

[Rollcall Vote No. 386 Leg.]

YEAS—77

Armstrong
Baker
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mitchell
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—23

Bayh
Biden
Church
Cochran
Culver
Durkin
Eagleton
Goldwater
Gravel
Huddleston
Javits
Kennedy
Long
Magnuson
Mathias
McClure
McGovern
Morgan
Moynihan
Roth
Sasser
Stevens
Stewart

So the bill (S. 2718) was passed as follows:

S. 2718

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EXPORT TRADING COMPANIES

SHORT TITLE

SEC. 101. This title may be cited as the "Export Trading Company Act of 1980".

FINDINGS

SEC. 102. (a) The Congress finds and declares that—

(1) tens of thousands of American companies produce exportable goods or services but do not engage in exporting;

(2) although the United States is the world's leading agricultural exporting nation, many farm products are not marketed as widely and effectively abroad as they could be through producer-owned export trading companies;

(3) exporting requires extensive specialized knowledge and skills and entails additional, unfamiliar risks which present costs for which smaller producers cannot realize economies of scale;

(4) export trade intermediaries, such as trading companies, can achieve economies of scale and acquire expertise enabling them to export goods and services profitably, at low per unit cost to producers;

(5) the United States lacks well-developed export trade intermediaries to package export trade services at reasonable prices (exporting services are fragmented into a multitude of separate functions; companies attempting to offer comprehensive export trade services lack financial leverage to reach a significant portion of potential United States exporters);

(6) State and local government activities which initiate, facilitate, or expand export of products and services are an important and irreplaceable source for expansion of total United States exports, as well as for experimentation in the development of innovative export programs keyed to local, State, and regional economic needs;

(7) the development of export trading companies in the United States has been hampered by insular business attitudes and by Government regulations; and

(8) if United States export trading companies are to be successful in promoting United States exports and in competing with foreign trading companies, they must be able to draw on the resources, expertise, and knowledge of the United States banking system, both in the United States and abroad.

(b) The purpose of this Act is to increase United States exports of products and services, particularly by small, medium-size and minority concerns, by encouraging more efficient provision of export trade services to American producers and suppliers.

DEFINITIONS

SEC. 103. (a) As used in this Act—

(1) the term "export trade" means trade or commerce in goods in the United States or services produced in the United States produced, and exported, or in the course of being exported, from the United States to any foreign nation;

(2) the term "goods produced in the United States" means tangible property manufactured, produced, grown, or extracted in the United States, the cost of the imported raw materials and components thereof shall not exceed 50 per centum of the sales price;

(3) the term "services produced in the United States" includes, but is not limited to accounting, amusement, architectural, automatic data processing, business, communications, construction franchising and licensing, consulting, engineering, financial, insurance.

legal, management, repair, tourism, training, and transportation services, not less than 50 per centum of the sales or billings of which is provided by United States citizens or is otherwise attributable to the United States;

(4) the term "export trade services" includes, but is not limited to, consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance, transportation, including trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, and financing, when provided in order to facilitate the export of goods or services produced in the United States;

(5) the term "export trading company" means a company, whether operated for profit or as a nonprofit organization, which does business under the laws of the United States or any State and which is organized and operated principally for the purposes of—

(A) exporting goods and services produced in the United States; and

(B) facilitating the exportation of goods and services produced in the United States by unaffiliated persons by providing one or more export trade services;

(6) the term "United States" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(7) the term "Secretary" means the Secretary of Commerce; and

(8) the term "company" means any corporation, partnership, association, or similar organization, whether operated for profit or as a nonprofit organization.

(b) The Secretary is authorized, by regulation, to further define such terms consistent with this section.

FUNCTIONS OF THE SECRETARY OF COMMERCE

SEC. 104. The Secretary shall promote and encourage the formation and operation of export trading companies by providing information and advice to interested persons and by facilitating contact between producers of exportable goods and services and firms offering export trade services.

OWNERSHIP OF EXPORT TRADING COMPANIES BY BANKS, BANK HOLDING COMPANIES, AND INTERNATIONAL BANKING CORPORATIONS

SEC. 105. (a) For the purpose of this section—

(1) the term "banking organization" means any State bank, national bank, Federal savings bank, bankers' bank, bank holding company, Edge Act Corporation, or Agreement Corporation;

(2) the term "State bank" means any bank which is incorporated under the laws of any State, any territory of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands, or any bank (except a national bank) which is operating under the Code of Law for the District of Columbia (hereinafter referred to as a "District bank");

(3) the term "State member bank" means any State bank, including a bankers' bank, which is a member of the Federal Reserve System;

(4) the term "State nonmember insured bank" means any State bank, including a bankers' bank, which is not a member of the Federal Reserve System, but the deposits of which are insured by the Federal Deposit Insurance Corporation;

(5) the term "bankers bank" means any bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks (except to the extent State law requires directors' qualifying shares) and if such bank is engaged exclusively in providing banking services for other banks and their officers, directors, or employees;

(6) the term "bank holding company" has the same meaning as in the Bank Holding Company Act of 1956;

(7) the term "Edge Act Corporation" means a corporation organized under section 25(a) of the Federal Reserve Act;

(8) the term "Agreement Corporation" means a corporation operating subject to section 25 of the Federal Reserve Act;

(9) the term "appropriate Federal banking agency" means—

(A) the Comptroller of the Currency with respect to a national bank or any District bank;

(B) the Board of Governors of the Federal Reserve System with respect to a State member bank, bank holding company, Edge Act Corporation, or Agreement Corporation;

(C) the Federal Deposit Insurance Corporation with respect to a State nonmember insured bank except a District bank; and

(D) the Federal Home Loan Bank Board with respect to a Federal savings bank.

In any situation where the banking organization holding or making an investment in an export trading company is a subsidiary of another banking organization which is subject to the jurisdiction of another agency, and some form of agency approval or notification is required, such approval or notification need only be obtained from or made to, as the case may be, the appropriate Federal banking agency for the banking organization making or holding the investment in the export trading company;

(10) the term "capital and surplus" means paid in and unimpaired capital and surplus, and includes undivided profits;

(11) an "affiliate" of a banking organization or export trading company is a person who controls, is controlled by, or is under common control with such banking organization or export trading company;

(12) the terms "control" and "subsidiary" shall have the same meanings assigned to those terms in section 2 of the Bank Holding Company Act of 1956, and the terms "controlled" and "controlling" shall be construed consistently with the term "control" as defined in section 2 of the Bank Holding Company Act of 1956; and

(13) for the purposes of this section, the term "export trading company" means a company which does business under the laws of the United States or any State and which is exclusively engaged in activities related to international trade, whether operated for profit or as a nonprofit organization: *Provided, however*, That any such company must also either meet the definition of export trading company in section 103(a) (5) of this Act, or be organized and operated principally for the purpose of providing export trade services, as defined in section 103(a) (4) of this Act: *Provided, further*, That nothing in this Act shall be construed to permit any such company, for purposes of this section, (A) to engage in the business of underwriting, selling, or distributing securities, or (B) to engage in manufacturing or agricultural production activities.

(b) (1) Notwithstanding any prohibition, restriction, limitation, condition, or requirement of any law applicable only to banking organizations, a banking organization, subject to the limitations of subsection (c) and the procedures of this subsection, may invest directly and indirectly in the aggregate, up to 5 per centum of its consolidated capital and surplus (25 per centum in the case of an Edge Act Corporation or Agreement Corporation not engaged in banking) in the voting stock or other evidences of ownership of one or more export trading companies. A banking organization may—

(A) invest up to an aggregate amount of $10,000,000 in one or more export trading companies without the prior approval of the appropriate Federal banking agency, if such investment does not cause an export trading company to become a subsidiary of the investing banking organization; and

(B) make investments in excess of an aggregate amount of $10,000,000 in one or more export trading companies, or make any investment or take any other action which causes an export trading company to become a subsidiary of the investing banking organization of which will cause more than 50 per centum of the voting stock of an export trading company to be owned or controlled by banking organizations, only with the prior approval of the appropriate Federal banking agency.

Any banking organization which makes an investment under authority of clause (A) of the preceding sentence shall promptly notify the appropriate Federal banking agency of such investment and shall file such reports on such investment as such agency may require. If, after receipt of any such notification, the appropriate Federal banking agency determines, after notice and opportunity for hearing, that the export trading company is a subsidiary of the investing banking organization, it shall have authority to disapprove the investment or impose conditions on such investment under authority of subsection (d). In furtherance of such authority, the appropriate Federal banking agency may require divestiture of any voting stock or other evidences of ownership previously acquired, and may impose conditions necessary for the termination of any controlling relationship.

(2) If a banking organization proposes to make any investment or engage in any activity included within the following two subparagraphs, it must give the appropriate Federal banking agency ninety days prior written notice before it makes such investment or engages in such activity:

(A) any additional investment in an export trading company subsidiary; or

(B) the engagement by any export trading company subsidiary in any line of activity, including specifically the taking of title to goods, wares, merchandise, or commodities, if such activity was not disclosed in any prior application for approval.

During the notification period provided under this paragraph, the appropriate Federal banking agency may, by written notice, disapprove the proposed investment or activity or impose conditions on such investment or activity under authority of subsection (d). An additional investment or activity covered by this paragraph may be made or engaged in, as the case may be, prior to the expiration of the notification period if the appropriate Federal banking agency issues written notice of its intent not to disapprove.

(3) In the event of the failure of the appropriate Federal banking agency to act on any application for approval under paragraph (1) (B) of this subsection within a period of one hundred and twenty days, which period begins on the date the application has been accepted for processing by the appropriate Federal banking agency, the application shall be deemed to have been granted. In the event of the failure of the appropriate Federal banking agency either to disapprove or to impose conditions on any investment or activity subject to the prior notification requirements of paragraph (2) of this subsection within the sixty-day period provided therein, such period beginning on the date the notification has been received by the appropriate Federal banking agency, such investment or activity may be made or engaged in, as the case may be, any time after the expiration of such period.

(c) The following limitations apply to export trading companies and the investments in such companies by banking organizations:

(1) The name of any export trading company shall not be similar in any respect to that of a banking organization that owns any of its voting stock or other evidences of ownership.

(2) The total historical cost of the direct and indirect investments by a banking organization in an export trading company combined with extensions of credit by the banking organization and its direct and indirect subsidiaries to such export trading company shall not exceed 10 per centum of the banking organization's capital and surplus.

(3) A banking organization that owns any voting stock or other evidences of ownership of an export trading company shall terminate its ownership of such stock if the export trading company takes positions in commodities or commodities contracts, in securities, or in foreign exchange, other than as may be necessary in the course of its business operations.

(4) No banking organization holding voting stock or other evidences of ownership of any export trading company may extend credit or cause any affiliate to extend credit to any export trading company or to customers of such company on terms more favorable than those afforded similar borrowers in similar circumstances, and such extension of credit shall not involve more than the normal risk of repayment or present other unfavorable features.

(d)(1) In the case of every application under subsection (b)(1)(B) of this section, the appropriate Federal banking agency shall take into consideration the financial and managerial resources, competitive situation, and future prospects of the banking organization and export trading company concerned, and the benefits of the proposal to United States business, industrial, and agricultural concerns (with special emphasis on small, medium-size and minority concerns), and to improving United States competitiveness in world markets. The appropriate Federal banking agency may not approve any investment for which an application has been filed under subsection (b)(1)(B) if it finds that the export benefits of such proposal are outweighed in the public interest by any adverse financial, managerial, competitive, or other banking factors associated with the particular investment. Any disapproval order issued under this section must contain a statement of the reasons for disapproval.

(2) In approving any application submitted under subsection (b)(1)(B), the appropriate Federal banking agency may impose such conditions which, under the circumstances of such case, it may deem necessary (A) to limit a banking organization's financial exposure to an export trading company, or (B) to prevent possible conflicts of interest or unsafe or unsound banking practices. With respect to the taking of title to goods, wares, merchandise, or commodities by any export trading company subsidiary of a banking organization, the appropriate Federal banking agencies may, by order, regulation, or guidelines, establish standards designed to ensure against any unsafe or unsound practices that could adversely affect a controlling banking organization investor. In particular, the appropriate Federal banking agencies may establish inventory-to-capital ratios, based on the capital of the export trading company subsidiary, for those circumstances in which the export trading company subsidiary may bear a market risk on inventory held.

(3) In determining whether to impose any condition under the preceding paragraph (2), or in imposing such condition, the appropriate Federal banking agency must give due consideration to the size of the banking organization and export trading company involved, the degree of investment and other support to be provided by the banking organization to the export trading company, and the identity, character, and financial strength of any other investors in the export trading company. The appropriate Federal banking agency shall not impose any conditions or set standards for the taking of title which unnecessarily disadvantage, restrict or limit export trading companies in competing in world markets or in achieving the purposes of section 102 of this Act. In particular, in setting standards for the taking of title under the preceding paragraph (2), the appropriate Federal banking agencies shall give special weight to the need to take title in certain kinds of trade transactions, such as international barter transactions.

(4) Notwithstanding any other provision of this Act, the appropriate Federal banking agency may, whenever it has reasonable cause to believe that the ownership or control of any investment in an export trading company constitutes a serious risk to the financial safety, soundness, or stability of the banking organization and is inconsistent with sound banking principles or with the purposes of this Act or with the Financial Institutions Supervisory Act of 1966, order the banking organization, after due notice and opportunity for hearing, to terminate (within one hundred and twenty days or such longer period as the Board may direct in unusual circumstances) its investment in the export trading company.

(5) On or before two years after enactment of this Act, the appropriate Federal banking agencies shall jointly report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives their recommendations with respect to the implementation of this section, their recommendations on any changes in United States law to facilitate the financing of United States exports, especially by small, medium-sized and minority business concerns, and their recommendations on the effects of ownership of United States banks by foreign banking organizations affiliated with trading companies doing business in the United States.

(e)(1) Any party aggrieved by an order of an appropriate Federal banking agency under this section may obtain a review of such order in the United States court of appeals within any circuit wherein such organization has its principal place of business, or in the court of appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The appropriate Federal banking agency shall promptly certify and file in such court the record upon which the order was based. The court shall set aside any order found to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege or immunity; or, (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; or (D) without observance of procedure required by law. Except for violations of subsection (b)(3) of this section, the court shall remand for further consideration by the appropriate Federal banking agency any order set aside solely for procedural errors and may remand for further consideration by the appropriate Federal banking agency any order set aside for substantive errors. Upon remand, the appropriate Federal banking agency shall have no more than sixty days from date of issuance of the court's order to cure any procedural error or reconsider its prior order. If the agency fails to act within this period, the application or other matter subject to review shall be deemed to have been granted as a matter of law.

(f)(1) The appropriate Federal banking agencies are authorized and empowered to issue such rules, regulations, and orders, to require such reports, to delegate such functions, and to conduct such examinations of subsidiary export trading companies, as each of them may deem necessary in order to perform their respective duties and functions under this section and to administer and carry out the provisions and purposes of this section and prevent evasions thereof.

(2) In addition to any powers, remedies, or sanctions otherwise provided by law, compliance with the requirements imposed under this section may be enforced under section 8 of the Federal Deposit Insurance Act by any appropriate Federal banking agency defined in that Act.

(g) Nothing in this legislation shall be construed to permit a State chartered bank to invest in an export trading company unless the State chartered bank is specifically permitted to do so by State law.

INITIAL INVESTMENTS AND OPERATING EXPENSES

SEC. 106. (a) The Economic Development Administration and the Small Business Administration are directed, in their consideration of applications by export trading companies for loans and guarantees, and operating grants to nonprofit organizations, including applications to make new investments related to the export of goods or services produced in the United States and to meet operating expenses, to give special weight to export-related benefits, including opening new markets for United States goods and services abroad and encouraging the involvement of small, medium-size and minority businesses or agricultural concerns in the export market.

(b) There are authorized to be appropriated as necessary to meet the purposes of this section, $20,000,000 for each fiscal year, 1981, 1982, 1983, 1984, and 1985. Amounts appropriated pursuant to the authority of this subsection shall be in addition to amounts appropriated under the authority of other Acts.

GUARANTEES FOR EXPORT ACCOUNTS RECEIVABLE AND INVENTORY

SEC. 107. The Export-Import Bank of the United States is authorized and directed to establish a program to provide guarantees for loans extended by financial institutions or other private creditors to export trading companies as defined in section 103(5) of this Act, or to other exporters, when such loans are secured by export accounts receivable or inventories of exportable goods, and when in the judgment of the Board of Directors—

(1) the private credit market is not providing adequate financing to enable otherwise creditworthy export trading companies or exporters to consummate export transactions; and

(2) such guarantees would facilitate expansion of exports which would not otherwise occur.

The Board of Directors shall attempt to insure that a major share of any loan guarantees ultimately serves to promote exports from small, medium-size and minority businesses or agricultural concerns. Guarantees provided under the authority of this section shall be subject to limitations contained in annual appropriations Acts.

EXPORT MANAGEMENT EXPANSION ASSISTANCE

SEC. 108. (a) The Secretary is authorized to make grants to subsidize the employment of export managers by small business manufacturing firms which have not previously been exporters in substantial amounts. The amount of such a grant may not exceed the lesser of (1) 50 per centum of the salary and other expenses related to the employment of a full-time export manager for a period of one year, or (2) $40,000.

(b) To be eligible under this section, each firm must submit to the Secretary an application which—

(1) demonstrates that the firm has not derived more than an average of 5 per centum of its sales volume (in monetary terms) from exports during the five most recent years and does not currently employ an export manager;

(2) demonstrates that the firm is a small business manufacturing firm, as defined by the Secretary after consulting with the Administrator of the Small Business Administration;

(3) describes the qualifications of a person proposed to be hired as the firm's export manager on a full-time basis for a period of at least one year, and describes the terms and conditions of that person's employment by the firm and the amount of the grant applied for to subsidize the costs of that employment; and

(4) describes the products and services considered by the firm to be suitable for export and the general outlines of the export program to be undertaken under the direction of the manager.

(c) In selecting firms to receive grants under this section, the Secretary shall consider the desirability of determining the feasibility of this approach to export promotion in each of the regions of the Department of Commerce and in relation to a variety of products and services which, in the opinion of the Secretary, have export potential.

(d) There are authorized to be appropriated to the Secretary not to exceed $2,000,000 for each of the fiscal years 1981, 1982, and 1983, to carry out the program established by this section

(e) The Secretary shall develop a plan to evaluate the cost-effectiveness of the program of export promotion established by this section and its effectiveness as compared with other export promotion programs, including the amount of export sales generated by small businesses assisted under this section. For the purpose of the evaluation the Secretary is authorized to require any firm receiving assistance under this section to furnish such information as is deemed appropriate to complete the required evaluation. The Secretary shall make recommendations concerning continuation or expansion of the program and improvements in the program structure. Such evaluation and recommendations shall be submitted to the Congress prior to October 1, 1982.

TITLE II—EXPORT TRADE ASSOCIATIONS

SHORT TITLE

SEC. 201. This title may be cited as the "Export Trade Association Act of 1980".

FINDINGS; DECLARATION OF PURPOSE

SEC. 202. (a) FINDINGS.—The Congress finds and declares that—

(1) the exports of the American economy are responsible for creating and maintaining one out of every nine manufacturing jobs in the United States and for generating one out of every $7 of total United States goods produced;

(2) exports will play an even larger role in the United States economy in the future in the face of severe competition from foreign government-owned and subsidized commercial entities;

(3) between 1968 and 1977 the United States share of total world exports fell from 19 per centum to 13 per centum;

(4) trade deficits contribute to the decline of the dollar on international currency markets, fueling inflation at home;

(5) service-related industries are vital to the well-being of the American economy inasmuch as they create jobs for seven out of every ten Americans, provide 65 per centum of the Nation's gross national product, and represent a small but rapidly rising percentage of United States international trade;

(6) small and medium-sized firms are prime beneficiaries of joint exporting, through pooling of technical expertise, help in achieving economies of scale, and assistance in competing effectively in foreign markets; and

(7) the Department of Commerce has as one of its responsibilities the development and promotion of United States exports.

(b) PURPOSE.—It is the purpose of this Act to encourage American exports by establishing an office within the Department of Commerce to encourage and promote the formation of export trade associations through the Webb-Pomerene Act, by making the provisions of that Act explicitly applicable to the exportation of services, and by transferring the responsibility for administering that Act from the Federal Trade Commission to the Secretary of Commerce.

DEFINITIONS

SEC. 203. The Webb-Pomerene Act (15 U.S.C. 61–66) is amended by striking out the first section (15 U.S.C. 61) and inserting in lieu thereof the following:

"SECTION 1. DEFINITIONS.

"As used in this Act—

"(1) EXPORT TRADE.—The term 'export trade' means trade or commerce in goods, wares, merchandise, or services exported, or in the course of being exported from the United States or any territory thereof to any foreign nation.

"(2) SERVICE.—The term 'service' means intangible economic output, including, but not limited to—

"(A) business, repair, and amusement services;

"(B) management, legal, engineering, architectural, and other professional services; and

"(C) financial, insurance, transportation, and communication services.

"(3) EXPORT TRADE ACTIVITIES.—The term 'export trade activities' means activities or agreements in the course of expert trade.

"(4) METHODS OF OPERATION.—The term 'methods of operation' means the methods by which an association or export trading company conducts or proposes to conduct export trade.

"(5) TRADE WITHIN THE UNITED STATES.—The term 'trade within the United States' whenever used in this Act means trade or commerce among the several States or in any territory of the United States, or in the District of Columbia, or between any such territory and another, or between any such territory or territories and any State or States or the District of Columbia, or between the District of Columbia and any State or States.

"(6) ASSOCIATION.—The term 'association' means any combination, by contract or other arrangement, of persons who are citizens of the United States, partnerships which are created under and exist pursuant to the laws of any State or of the United States, or corporations whether operated for profit or organized as nonprofit corporations, which are created under and exist pursuant to the laws of any State or of the United States.

"(7) EXPORT TRADING COMPANY.—The term 'export trading company' means an export trading company as defined in section 103(5) of the Export Trading Company Act of 1980.

"(8) ANTITRUST LAWS.—The term 'antitrust laws' means the antitrust laws defined in the first section of the Clayton Act (15 U.S.C. 12), sections 5 and 6 of the Federal Trade Commission Act (15 U.S.C. 45, 46), and any State antitrust or unfair competition law.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

"(10) ATTORNEY GENERAL.—The term 'Attorney General' means the Attorney General of the United States.

"(11) COMMISSION.—The term 'Commission' means the Federal Trade Commission.".

ANTITRUST EXEMPTION

SEC. 204. The Webb-Pomerene Act (15 U.S.C. 61–66) is amended by striking out section 2 (15 U.S.C. 62) and inserting in lieu thereof the following:

"SEC. 2. EXEMPTION FROM ANTITRUST LAWS.

"(a) ELIGIBILITY.—The export trade, export trade activities, and methods of operation of any association, entered into for the sole purpose of engaging in export trade, and engaged in or proposed to be engaged in such export trade, and the export trade, export trade activities and methods of operation of any export trading company, that—

"(1) serve to preserve or promote export trade;

"(2) result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of such association or export trading company;

"(3) do not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by such association or export trading company;

"(4) do not constitute unfair methods of competition against competitors engaged in the export trade of goods, wares, merchandise, or services of the class exported by such association or export trading company;

"(5) do not include any act which results, or may reasonably be expected to result, in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the association or export trading company or its members; and

"(6) do not constitute trade or commerce in the licensing of patents, technology, trademarks, or knowhow, except as incidental to the sale of the goods, wares, merchandise, or services exported by the association or export trading company or its members shall, when certified according to the procedures set forth in this Act, be eligible for the exemption provided in subsection (b).

"(b) EXEMPTION.—An association or an export trading company and its members are exempt from the operation of the antitrust laws with respect to their export trade, export trade activities and methods of operation that are specified in a certificate issued according to the procedures set forth in this Act, carried out in conformity with the provisions, terms, and conditions prescribed in such certificate and engaged in during the period in which such certificate is in effect. The subsequent revocation or invalidation in whole or in part of such certificate shall not render an association or its members or an export trading company or its members, liable under the antitrust laws for such export trade, export trade activities, or methods of operation engaged in during such period.

"(c) DISAGREEMENT OF ATTORNEY GENERAL OR COMMISSION.—Whenever, pursuant to section 4(b)(1) of this Act, the Attorney General or Commission has formally advised the Secretary of disagreement with his determination to issue a proposed certificate, and the Secretary has nonetheless issued such proposed certificate or an amended certificate, the exemption provided by this section shall not be effective until thirty days after the issuance of such certificate.".

AMENDMENT OF SECTION 3

SEC. 205. (a) CONFORMING CHANGES IN STYLE.—The Webb-Pomerene Act (15 U.S.C. 61–66) is amended—

(1) by inserting immediately before section 3 (15 U.S.C. 63) the following:

"SEC. 3. OWNERSHIP INTEREST IN OTHER TRADE ASSOCIATIONS PERMITTED.",

(2) by striking out "SEC. 3. That nothing" in section 3 and inserting in lieu thereof "Nothing".

ADMINISTRATION: ENFORCEMENT: REPORTS

SEC. 206. (a) IN GENERAL.—The Webb-Pomerene Act (15 U.S.C. 61–66) is amended by striking out sections 4 and 5 (15 U.S.C. 64 and 65) and inserting in lieu thereof the following sections:

"SEC. 4. CERTIFICATION.

"(a) PROCEDURE FOR APPLICATION.—Any association or export trading company seeking certification under this Act shall file with the Secretary a written application for certification setting forth the following:

"(1) The name of the association or export trading company.

"(2) The location of all of the offices or places of business of the association or export trading company in the United States and abroad.

"(3) The names and addresses of all of the officers, stockholders, and members of the association or export trading company.

"(4) A copy of the certificate or articles of incorporation and bylaws, if the association or export trading company is a corporation; or a copy of the articles, partnership, joint venture, or other agreement or contract under which the association or export trading company conducts or proposes to conduct its export trade activities or contract of association, if the association or export trading company is unincorporated.

"(5) A description of the goods, wares, merchandise, or services which the association or export trading company or their members export or propose to export.

"(6) A description of the domestic and international conditions, circumstances, and factors which show that the association or export trading company and its activities will serve a specified need in promoting the export trade of the described goods, wares, merchandise, or services.

"(7) The export trade activities in which the association or export trading company intends to engage and the methods by which the association or export trading company conducts or proposes to conduct export trade in the described goods, wares, merchandise, or services, including, but not limited to, any agreements to sell exclusively to or through the association or export trading company, any agreements with foreign persons who may act as joint selling agents, any agreements to acquire a foreign selling agent, any agreements for pooling tangible or intangible property or resources, or any territorial, price-maintenance, membership, or other restrictions to be imposed upon members of the association or export trading company.

"(8) The names of all countries where export trade in the described goods, wares, merchandise, or services is conducted or proposed to be conducted by or through the association or export trading company.

"(9) Any other information which the Secretary may request concerning the organization, operation, management, or finances of the association or export trading company; the relation of the association or export trading company to other associations, corporations, partnerships, and individuals; and competition or potential competition, and effects of the association or export trading company thereon. The Secretary may request such information as part of an initial application or as a necessary supplement thereto. The Secretary may not request information under this paragraph which is not reasonably available to the person making application or which is not necessary for certification of the prospective association or export trading company.

"(b) ISSUANCE OF CERTIFICATE.—

"(1) NINETY-DAY PERIOD. The Secretary shall issue a certificate to an association or export trading company within ninety days after receiving the application for certification or necessary supplement thereto if the Secretary, after consultation with the Attorney General and Commission, determines that the association and, its export trade, export trade activities and methods of operation, or export trading company, and its export trade, export trade activities and methods of operation meet the requirements of section 2 of this Act and will serve a specified need in promoting the export trade of the goods, wares, merchandise, or services described in the application for certification. The certificate shall specify the permissible export trade, export trade activities and methods of operation of the association or export trading company and shall include any terms and conditions the Secretary deems necessary to comply with the requirements of section 2 of this Act. The Secretary shall deliver to the Attorney General and the Commission a copy of any certificate that he proposes to issue. The Attorney General or Commission may, within fifteen days thereafter, give written notice to the Secretary of an intent to offer advice on the determination. The Attorney General or Commission may, after giving such written notice and within forty-five days of the time the Secretary has delivered a copy of a proposed certificate, formally advise the Secretary and the petitioning association or export trading company of disagreement with the Secretary's determination. The Secretary shall not issue any certificate prior to the expiration of such forty-five day period unless he has (A) received no notice of intent to offer advice by the Attorney General or the Commission within fifteen days after delivering a copy of a proposed certificate, or (B) received any noticed formal advice of disagreement or written confirmation that no formal disagreement will be transmitted from the Attorney General and the Commission. After the forty-five day period or, if no notice of intent to offer advice has been given, after the fifteen-day period, the Secretary shall either issue the proposed certificate, issue an amended certificate, or deny the application. Upon agreement of the applicant, the Secretary may delay taking action for not more than thirty additional days after the forty-five day period. Before offering advice on a proposed certification, the Attorney General and Commission shall consult in an effort to avoid, wherever possible, having both agencies offer advice on any application.

"(2) EXPEDITED CERTIFICATION.—In those instances where the temporary nature of the export trade activities, deadlines for bidding on contracts or filling orders, or any other circumstances beyond the control of the association or export trading company which have a significant impact on its export trade, make the 90-day period for application approval described in paragraph (1) of this subsection, or an amended application approval as provided in subsection (c) of this section, impractical for the association or export trading company seeking certification, such association or export trading company may request and may receive expedited action on its application for certification.

"(3) AUTOMATIC CERTIFICATION FOR EXISTING ASSOCIATIONS.—Any association registered with the Federal Trade Commission under this Act as of April 3, 1980, may file with the Secretary an application for automatic certification of any export trade, export trade activities, and methods of operation in which it was engaged prior to enactment of the Export Trade Association Act of 1980. Any such application must be filed within 180 days after the date of enactment of such Act and shall be acted upon by the Secretary in accordance with the procedures provided by this section. The Secretary shall issue to the association a certificate specifying the permissible export trade, export trade activities, and methods of operation that he determines are shown by the application (including any necessary supplement thereto), on its face, to be eligible for certification under this Act, and including any terms and conditions the Secretary deems necessary to comply with the requirements of section 2(a) of this Act, unless the Secretary possesses information clearly indicating that the requirements of section 2(a) are not met.

"(3) APPEAL OF DETERMINATION.—If the Secretary determines not to issue a certificate to an association or export trading company which has submitted an application or an amended application for certification, then he shall—

"(A) notify the association or export trading company of his determination and the reasons for his determination, and

"(B) upon request made by the association or export trading company afford it an opportunity for a hearing with respect to that determination in accordance with section 557 of title 5, United States Code.

"(c) MATERIAL CHANGES IN CIRCUMSTANCES; AMENDMENT OF CERTIFICATE.—Whenever there is a material change in the membership, export trade, export trade activities, or methods of operation, of an association or export trading company then it shall report such change to the Secretary and may apply to the Secretary for an amendment of its certificate. Any application for an amendment to a certificate shall set forth the requested amendment of the certificate and the reasons for the requested amendment. Any request for the amendment of a certificate shall be treated in the same manner as an original application for a certificate. If the request is filed within thrity days after a material change which requires the amendment, and if the requested amendment is approved, then there shall be no interruption in the period for which the certificate is in effect.

"(d) AMENDMENT OR REVOCATION OF CERTIFICATE BY SECRETARY.—After notifying the association or export trading company involved and after an opportunity for hearing pursuant to section 554 of title 5, United States Code, the Secretary, on his own initiative—

"(1) may require that the organization or operation of the association or export trading company be modified to correspond with its certification, or

"(2) shall, upon a determination that the export trade, export trade activities or methods of operation of the association or export trading company no longer meet the requirements of section 2 of this Act, revoke the certificate or make such amendments as may be necessary to satisfy the requirements of such section.

"(e) ACTION FOR INVALIDATION OF CERTIFICATE BY ATTORNEY GENERAL OR COMMISSION.—

"(1) The Attorney General or the Commission may bring an action against an association or export trading company or its members to invalidate, in whole or in part, its certificate on the grounds that the export trade, export trade activities or methods of operation of the association or export trading company fail or have failed to meet the requirements of section 2 of this Act. Except in the case of an action brought during the period before an antitrust exemption becomes effective, as provided for in section 2(c), Attorney General or Commission shall notify any association or export trading company or member thereof, against which it intends to bring an action for invalidation thirty days in advance, as to its intent to file an action under this subsection. The district court shall consider any issues presented in any such action de novo and if it finds that the requirements of section 2 are not met, it shall issue an order declaring the certificate invalid or any other order necessary to effectuate the purposes of this Act and the requirements of section 2.

"(2) Any action brought under this subsection shall be considered an action described in section 1337 of title 28, United States Code. Pending any such action which was brought during the period any exemption is held in abeyance pursuant to section 2(c) of this Act, the court may make such temporary restraining order or prohibition as shall be deemed just in the premises.

"(3) No person other than the Attorney General or Commission shall have standing to bring an action against an association or export trading company or their respective members for failure of the association or export trading company or their respective export trade, export trade activities or methods of operation to meet the eligibility requirements of section 2 of this Act.

"(f) Compliance With Other Laws.—Each association and each export trading company and any subsidiary thereof shall comply with United States export control laws pertaining to the export or transshipment of any good on the Commodity Control List to controlled countries. Such laws shall be complied with before actual shipment.

"Sec. 5. Guidelines.

"(a) Initial Proposed Guidelines.—Within ninety days after the enactment of the Export Trade Association Act of 1980, the Secretary, after consultation with the Attorney General, and the Commission shall publish proposed guidelines for purposes of determining whether export trade, export trade activities and methods of operation of an association or export trading company will meet the requirements of section 2 of this Act.

"(b) Public Comment Period.—Following publication of the proposed guidelines, and any proposed revision of guidelines, interested parties shall have thirty days to comment on the proposed guidelines. The Secretary shall review the comments and, after consultation with the Attorney General, and Commission, publish final guidelines within thirty days after the last day on which comments may be made under the preceding sentence.

"(c) Periodic Revision.—After publication of the final guidelines, the Secretary shall periodically review the guidelines and, after consultation with the Attorney General, and the Commission, propose revisions as needed.

"(d) Application of Administrative Procedure Act.—The promulgation of guidelines under this section shall not be considered rulemaking for purposes of subchapter II of chapter 5 of title 5, United States Code, and section 553 of such title shall not apply to their promulgation.

"Sec. 6. Annual Reports.

"Every certified association or export trading company shall submit to the Secretary an annual report, in such form and at such time as he may require, which report updates where necessary the information described by section 4(a) of this Act.

"Sec. 7. Office of Export Trade in Department of Commerce.

"The Secretary shall establish within the Department of Commerce an office to promote and encourage to the greatest extent feasible the formation of export trade associations and export trading companies through the use of provisions of this Act in a manner consistent with this Act. The Office of Export Trade in the Department of Commerce shall report to the congressional committees of appropriate jurisdiction on an annual basis, all East-West trade transactions requiring validated licenses, and any other relevant information on the role of U.S. export trading companies or subsidiaries thereof in the East-West trade.

"Sec. 8. Temporary Antitrust Exemption for Existing Associations.

"(a) Eligibility.—To be eligible for the antitrust exemption provided by this section, an association must have been registered with the Federal Trade Commission under this Act on April 3, 1980.

"(b) Duration.—The antitrust exemption provided by this section shall extend only to the existence of an eligible association, and to agreements made and acts done by such association, prior to one hundred and eighty days after the date of enactment of the Export Trade Association Act of 1980, or, in the event that an eligible association files an application for certification pursuant to section 4 of this Act during such one hundred and eighty days, prior to the Secretary's determination on such application becoming final.

"(c) Exemption.—Subject to the limitations in subsections (a) and (b), nothing contained in sections 1 to 7 of the Sherman Act shall be construed as declaring to be illegal an association entered into for the sole purpose of engaging in export trade and actually engaged solely in such export trade, or an agreement made or act done in the course of export trade by such association, provided such association, agreement, or act is not in restraint of trade within the United States, and is not in restraint of the export trade of any domestic competitor of such association: *Provided*, That such association does not, either in the United States or elsewhere, enter into any agreement, understanding, or conspiracy, or do any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United State or otherwise restrains trade therein.

"Sec. 9. Confidentiality of Application and Annual Report Information.

"(a) General Rule.—Portions of applications made under section 4, including amendments to such applications, and annual reports made under section 6 that contain trade secrets or confidential business or financial information, the disclosure of which would harm the competitive position of the person submitting such information shall be confidential, and, except as authorized by this section, no officer or employee, or former officer or employee, of the United States shall disclose any such confidential information, obtained by him in any manner in connection with his service as such an officer or employee.

"(b) Disclosure to Attorney General or Commission.—Whenever the Secretary believes that an applicant may be eligible for a certificate, or has issued a certificate to an association or export trading company, he shall promptly make available all materials filed by the applicant, association or export trading company, including applications and supplements thereto, reports of material changes, applications for amendments and annual reports, and information derived therefrom, to the Attorney General or Commission, or any employee or officer thereof, for official use in connection with an investigation or judicial or administrative proceeding under this Act or the antitrust laws to which the United States or the Commission is or may be a party. Such information may only be disclosed by the Secretary upon a prior certification that the information will be maintained in confidence and will only be used for such official law enforcement purposes.

"Sec. 10. Modification of Association to Comply With United States Obligations.

"At such time as the United States undertakes binding international obligations by treaty or statute, to the extent that the operations of any export trade association or export trading company, certified under this Act, are inconsistent with such international obligations, the Secretary may require the association or export trading company to modify its respective operations, and in so doing afford the association or export trading company a reasonable opportunity to comply therewith, so as to be consistent with such international obligations.

"Sec. 11. Regulations.

"The Secretary, after consultation with the Attorney General and the Commission, shall promulgate such rules and regulations as may be necessary to carry out the purposes of this Act.

"Sec. 12. Task Force Study.

"Seven years after the date of enactment of the Export Trade Association Act of 1980, the President shall appoint, by and with the advice and consent of the Senate, a task force to examine the effect of the operation of this Act on domestic competition and on United States international trade and to recommend either continuation, revision, or termination of the Webb-Pomerene Act. The task force shall have one year to conduct its study and to make its recommendations to the President.".

(b) Redesignation of Section 6.—The Act is amended—

(1) by striking out "Sec. 6." in section 6 (15 U.S.C. 66), and

(2) by inserting immediately before such section the following:

"Sec. 13. Short Title.".

TITLE III—SENATE FUNDING

Sec. 301. In the fiscal year beginning October 1, 1980, the aggregate amount of funds made available to the Senate shall not exceed 90 per centum of the aggregate amount of the funds made available for such purposes for the fiscal year beginning on October 1, 1979.

Mr. STEVENSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISABLED VETERANS REHABILITATION ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, what is the next order of business?

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1188, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1188) to improve and modernize the vocational rehabilitation program provided service-disabled veterans under chapter 31 of title 38, United States Code, and for other purposes.

DEPARTMENT OF THE TREASURY INTERNATIONAL AFFAIRS AUTHORIZATIONS, 1981

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending bill be temporarily laid aside and that the Senate proceed to the consideration of Calendar No. 816.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2514) to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal years 1981 and 1982, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike all after the enacting clause and insert the following:

That section 10(d) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(d)) is amended—

(1) by inserting after the word "provided" the words "to employees of the Department of State"; and

(2) by inserting before the period at the end thereof the following: ", and by section 5924(4)(B) of title 5, United States Code".

SEC. 2. (a) Section 5(a) of the Act of November 8, 1978 (92 Stat. 3092) is amended—

(1) by striking out "and" after "1979" and inserting in lieu thereof a comma;

(2) by inserting "and $23,671,100 for fiscal year 1981," after "1980,"; and

(3) by inserting before the comma after "representation expenses" the following: "and for payments under an agreement with the Asian Development Bank for a salary equalization program for United States nationals employed by the Bank who are subject to United States income taxes".

(b) Subsection (b) of such section is amended by inserting "and for fiscal year 1981 not to exceed $1,100,000," after "$800,000".

Mr. STEVENSON. Mr. President, this bill, S. 2514, provides an authorization for fiscal 1981 to meet the necessary administrative expenses of the Treasury Department and to make technical corrections in the statutes which authorize the Treasury's international activities. Annual authorization of these personnel expenses for its international activities is required by law. Such expenses formerly were paid from the Exchange Stabilization Fund, but Congress discontinued that practice 2 years ago.

This is the second annual authorization of appropriations to meet the personnel and related expenses associated with Treasury's international functions. The authorization request for fiscal 1981 is $24,271,000. That is about 8 percent more than was authorized for fiscal 1980. It is less than the rate of inflation, and the amount reflects a number of cost reductions achieved by the Treasury Department in the conduct of its international responsibilities.

I know of no opposition to the bill. In order to afford the Senator from Pennsylvania (Mr. HEINZ) an opportunity to be heard on this measure, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1544

(Purpose: To encourage the initiation of negotiations on steel export financing)

Mr. HEINZ. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1544.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add a new section, as follows:

SEC. 4(a), The Congress finds that—

(1) there is an accelerating trend among nations to construct new, government-owned or sponsored steelmaking capacity;

(2) such trend leads to economically unjustifiable excess capacity which will inevitably force those governments to dump their surplus production on world markets;

(3) the principal industrialized nations of the world are contributing to this problem through their government-subsidized financing of the construction of this excessive steel producing capacity;

(4) such financing is provided on far more generous terms than are available to domestic industry for its own capital investment needs;

(5) neither the Multilateral Trade Negotiations nor the International Arrangement on Export Credit provide any meaningful restraints on predatory financing practices; and

(6) to continue such financing without adequate restraints is self-defeating to the interests of the United States and other industrialized nations.

(b) Therefore, the United States shall promptly initiate, through its representative to the Organization for Economic Cooperation and Development Steel Committee, discussions leading to a multilateral agreement halting predatory government-subsidized export credits for steel plants and equipment.

(c) The Secretary of the Treasury shall report to the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs on the progress of this initiative six months after the date of enactment of this Act.

Mr. HEINZ. Mr. President, the amendment I offer today is based on Senate Concurrent Resolution 38 which I introduced almost a year ago, on September 20, 1979. The Banking Committee held hearings on the resolution in Pittsburgh last November 19.

Senate Concurrent Resolution 38, which I introduced along with 11 other Senators, calls on the administration to promptly initiate, in the Organization for Economic Cooperation and Development Steel Committee, discussions leading to a multilateral agreement halting predatory, Government-subsidized export credits for steel plants and equipment. I have been told not to expect too much from this effort, because multilateral negotiations often take on the characteristics of elephants making love: All the transactions are at a high level; a lot of dust is created; and it is years before the results are apparent.

Although negotiations of this sort are sometimes made light of, the problem is a deadly serious one. Intelligent analysis of and response to this issue may well determine whether the Nation has adequate economic growth and meaningful jobs for our growing work force in the 1980's. The industrialized nations must know that continued cutthroat credit competition benefits no nation in the long run. The inevitable result will be to create excess steel producing capacity, which in turn will lead to the dumping of steel on the American market by Europeans, Japanese, the developing world, and possibly all three.

What my colleagues and I are calling for in Senate Concurrent Resolution 38, and in this amendment, is a sort of MTN agreement on credit competition. If new steelmaking capacity needs to be built in the developing world, let it be financed at fair and free market rates. I have always believed that free trade should be just that—free and open. Predatory, cutrate financing makes a mockery of open competition. But more importantly, for the Third World it distorts economic planning and decisionmaking. Our Western allies and our friends in the Third World must be convinced of that stark reality.

Negotiations on a general export credit agreement last spring made some small progress on an increase in rates and left hope for broader agreement later this year on a new more flexible rate scheme.

Nevertheless, with recession growing both here and in Europe there is good reason for skepticism that agreement will even be reached, as some nations will find it increasingly difficult to resist the temptation to increase their exports at any cost to maintain employment.

Indeed, there are many in Congress who believe that a unilateral U.S. withdrawal from the current credit competition is the proper course to take. I am decidedly not one of that group. In fact, along with a number of my Senate colleagues, notably the Senator from Utah (Mr. GARN) I campaigned long and hard to increase funding for the direct credit authorization of the Export-Import Bank from $4.1 billion to $6 billion for fiscal year 1980. We did that precisely because we believe that this is a multilateral problem for the industrial powers to deal with. Unilateral withdrawal from competition would merely leave the field open to our competitors to garner construction contracts through unlimited and unfair Government-backed credit offers.

That is also why I am sponsoring S. 2339 and S. 2340, two bills to expand the Ex-Im Bank's authority to match its foreign competition. All of these efforts are an essential part of the effort to keep American exports of goods and services competitive on world markets and to put the United States in a position of strength from which to renew comprehensive efforts to negotiate restraints on subsidized export credit financing. If that can be accomplished within the steel committee of the OECD as a start, I am confident that, while less new steel capacity is likely to be built in the developing world, U.S. construction companies would be more likely to win the contracts to construct that new capacity. An end to predatory financing in this area is thus likely to be beneficial not only to the long-term viability of our domestic steel industry but also to the more immediate interests of our giant industrial construction companies, as well as a significant help in our efforts for a more comprehensive agreement on predatory financing practices.

Mr. President, this is a modest amendment designed to encourage greater assertiveness within the OECD steel committee on the part of the administration, and in doing so to restate our opposition to predatory financing practices.

For that reason, modest as this amendment may be, I feel it is important and necessary, and I hope my colleagues will join in supporting it.

Mr. STEVENSON. Mr. President, this amendment makes no recommendation or requirement for any unilateral cessation of exports or export credits by the United States. It urges negotiations to restrain predatory subsidized export credits, and Senator HEINZ has recognized that the success of such negotiations requires the United States to be armed with authority for credit. It must negotiate from strength.

So I support his amendment. Its objective is sound and so are the methods for achieving the objective which he contemplates.

I urge my colleagues to approve it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (UP No. 1544) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill (S. 2514) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2514

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10(d) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(d)) is amended—

(1) by inserting after the word "provided" the words "to employees of the Department of State"; and

(2) by inserting before the period at the end thereof the following: ", and by section 5924(4)(B) of title 5, United States Code".

SEC. 2. (a) Section 5(a) of the Act of November 8, 1978 (92 Stat. 3092) is amended—

(1) by striking out "and" after "1979" and inserting in lieu thereof a comma;

(2) by inserting "and $23,671,000 for fiscal year 1981," after "1980,"; and

(3) by inserting before the comma after "representation expenses" the following: "and for payments under an agreement with the Asian Development Bank for a salary equalization program for United States nationals employed by the Bank who are subject to United States income taxes."

(b) Subsection (b) of such section is amended by inserting "and for fiscal year 1981 not to exceed $1,100,000," after "$800,000."

SEC. 3. (a) The Congress finds that—

(1) there is an accelerating trend among nations to construct new, government-owned or sponsored steelmaking capacity;

(2) such trend leads to economically unjustifiable excess capacity which will inevitably force those governments to dump their surplus production on world markets;

(3) the principal industrialized nations of the world are contributing to this problem through their government-subsidized financing of the construction of this excessive steel producing capacity;

(4) such financing is provided on far more generous terms than are available to domestic industry for its own capital investment needs;

(5) neither the Multilateral Trade Negotiations nor the International Arrangement on Export Credit provide any meaningful restraints on predatory financing practices; and

(6) to continue such financing without adequate restraints is self-defeating to the interests of the United States and other industrialized nations.

(b) Therefore, the United States shall promptly initiate, through its representative to the Organization for Economic Cooperation and Development Steel Committee, discussions leading to a multilateral agreement halting predatory government-subsidized export credits for steel plants and equipment.

(c) The Secretary of the Treasury shall report to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs on the progress of this initiative six months after the date of enactment of this Act.

The title was amended so as to read:

A bill to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal year 1981, and for other purposes.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 981 and 1000.

Mr. BAKER. Mr. President, reserving the right to object, I must tell the majority leader that both of these items had been cleared as late as the moment he made the request. I am now advised that the first of these two items, Calendar Order No. 981, has just been removed from our Consent Calendar. I should appreciate it if the majority leader would postpone consideration of that item until a later time so we can ascertain the status.

Mr. ROBERT C. BYRD. Very well, Mr. President, I withdraw my request.

MADELINE R. MILLER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1000.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 509), to pay a gratuity to Madeline R. Miller, was considered and agreed to, as follows:

Resolved, that the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Madeline R. Miller, widow of Donald S. Miller, an employee of the Senate at the time of his death, a sum equal to nine months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

CALENDAR ITEMS INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that both Calendar Orders Nos. 331 and 659 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENFORCEMENT OF DRUG IMPORTATION LAWS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2538.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 3, 6, and 7 to the bill (H.R. 2538) entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes."

Resolved, That the House agree to the amendment of the Senate numbered 1 to the aforesaid bill with the following amendment:

In lieu of the matter proposed by said amendment, insert: knowingly or intentionally

Resolved, That the House agree to the amendment of the Senate numbered 2 to the aforesaid bill with the following amendment:

In lieu of the matter proposed by said amendment, insert: knowingly or intentionally

Resolved, That the House agree to the amendment of the Senate numbered 4 to the aforesaid bill with the following amendment:

In lieu of the matter proposed to be inserted after line 12 on page 2 of the House engrossed bill, insert after line 11 on page 3 of the House engrossed bill, the following:

(*h*) *This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.*

Resolved, That the House agree to the amendment of the Senate numbered 5 to the aforesaid bill with the following amendment:

In lieu of the matter proposed by said amendment, insert: *or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of his duties,*

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I ask unanimous consent that the Senate concur in the House amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. There is one 15-minute order for the senior Senator from Wisconsin to be recognized.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, has a meeting time been set for tomorrow?

The PRESIDING OFFICER. The Chair advises the majority leader that no time has been set for meeting on tomorrow.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR RECESS TO 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10:30 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—EXECUTIVE P, 96TH CONGRESS, SECOND SESSION

Mr. ROBERT C. BYRD. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the treaty with the Cook Islands on Friendship and Delimitation of the Maritime Boundary (Executive P, 96th Congress, second session), transmitted to the Senate on September 2, 1980, by the President of the United States; and ask that the treaty be considered as having been read the first time, that it be referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate, the Treaty between the United States of America and the Cook Islands of Friendship and Delimitation of the Maritime Boundary between the United States of America and the Cook Islands. Also transmitted for the information of the Senate is the report of the Department of State with respect to the Convention.

This treaty is necessary to delimit the continental shelf and overlapping claims of jurisdiction resulting from the establishment of a 200 nautical mile fishery conservation zone off the coasts of American Samoa in accordance with the Fishery Conservation and Management Act of 1976, and the establishment of a 200 nautical mile zone by the Cook Islands.

In this connection, the status of four islands has also been resolved.

The treaty satisfies the interest of the people of the Cook Island that their claim to sovereignty over these four islands, inhabited by citizens of the Cook Islands and represented in the legislative and administrative branches of the Cook Island Government, will not be encumbered by a conflicting and largely unsupported claim by the United States. The treaty meets the United States interest in securing a maritime boundary in accordance with equitable principles. If furthers United States foreign policy interests in the area by establishing a basis for friendly relations with the Cook Islands and by furthering our interest in a peaceful, secure, and stable South Pacific.

I am transmitting for the information of the Senate a diplomatic note from the Government of New Zealand confirming that the Cook Islands has the competence to enter into this treaty and that New Zealand has no objection to its doing so and a separate exchange of letters between the United States and the Cook Islands, signed on June 11, 1980, setting forth the understanding of each side that United States flag fishing vessels and foreign vessels supplying the canneries in American Samoa will not be barred on a discriminatory basis from seeking licenses to fish in the Cook Islands' 200 mile zone.

I recommend that the Senate give early consideration to the treaty and give its advice and consent to ratification.

JIMMY CARTER.

THE WHITE HOUSE, *September 2. 1980.*

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, or the benefit of the distinguished minority leader, there will be no further business transacted today; none has been cleared for today.

The Senate completed its business on the legislation earlier today than had been anticipated. It may be that before the day is out the Senate might appoint conferees on the ERISA legislation.

So, for the benefit of the minority leader, other than that, that is the only transaction of business I know about for the remainder of today.

That being the case, and the hour still being early, I will take advantage of the opportunity to make my 21st statement on the U.S. Senate, and if anything arises that would require the attention of the distinguished minority leader, I will assure him that I will get in touch with him so he can come to the floor.

Mr. BAKER. I thank the majority leader.

I have a feeling that I have been disinvited to listen in person to this 21st presentation. But I am sure that is based on my previous representation on this floor that, when the majority leader finishes wtih his dissertation on the history of the Senate and the institution of Government, it is my firm intention to ask the Senate to order its printing as a Government document.

When that time comes, as I trust it will, I am certain I will read it with great interest, and I am sure every Member of the Senate will feel similarly inclined, as will scholars throughout the country.

In all sincerity, I wish to say that not only the diligence of the majority leader, but the quality of the presentation, has been extraordinary. I wish to thank him for the effort he has put into it.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. President, there will be no more rollcall votes today.

Mr. President, I say to the distinguished minority leader, that not for a moment was I disinviting his presence on the floor. I simply wanted to state for the record that there would not be any transaction of business without his being informed in advance of it. I just did not want to impose on his time. I know how busy Senators are in their offices, in the handling of constituents' mail, meeting with constituents, and so forth.

I merely wanted to make it possible for the distinguished minority leader, if he so chose, not to have to stay around the floor thinking that business might be transacted.

Mr. BAKER. Mr. President, I thank the majority leader.

I understood as much, and it is characteristically considerate of him to make that further statement.

Mr. ROBERT C. BYRD. I thank my friend.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 1 hour, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from New Jersey (Mr. WILLIAMS).

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I thank the majority leader.

JOYCE DANNEN MILLER: FIRST WOMAN ELECTED TO AFL–CIO EXECUTIVE COUNCIL

Mr. WILLIAMS. Mr. President, I invite the attention of my colleagues to a recent and most notable achievement. Ms. Joyce Dannen Miller, a fellow New Jerseyan, has been elected to the Executive Council of the American Federation of Labor and Congress of Industrial Organizations.

Ms. Miller's qualifications speak for themselves, and it is easy to see why she was selected for this important post. As the first woman ever to be elected to the executive council, Ms. Miller will certainly be the focus of some special attention in the weeks and months ahead. But I am confident that her work and, of course, her commitment, will bear up under scrutiny, and I look forward to the contributions Ms. Miller will surely make to the AFL–CIO and to the labor movement as a whole.

I ask unanimous consent that the New York Times article of August 22, 1980, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BELIEVER IN EQUALITY, ABILITY, SORORITY— JOYCE DANNEN MILLER

(By Damon Stetson)

Joyce Dannen Miller, who yesterday became the first woman to be elected to the Executive Council of the American Federation of Labor and Congress of Industrial Organizations, has been a champion of affirmative action in unions and in the workplace. But at the same time she has emphasized that ability to do the job should be the only criterion for employment and promotion.

She has long supported and strived for the organization of women who work, contending that union activity will help women achieve equal rights, "There is no greater road to equality than to be covered by a union contract," she has said.

She had no inkling that she had been elected to council membership, she said yesterday, until she received a call from Thomas R. Donahue, secretary-treasurer of the A.F.L.–C.I.O. She was vacationing near Aspen, Colo., but quickly flew to Chicago, where the council has been meeting.

A WONDERFUL MOVE

"I feel absolutely wonderful, not just for myself personally but for working women and union women," she said. "I think it's a wonderful move."

Mrs. Miller is also president of the Coalition of Labor Union Women, a nationwide organization of some 12,000 members that supports increased participation of women in politics and unions. She has been closely identified with the drive for approval of the proposed equal rights amendment, broadened child-care facilities, national health insurance and full employment.

A tall, dark-haired woman with a friendly manner, Mrs. Miller is described by some who have worked with her as assertive, "pretty gutsy" and "efficient but not officious." Associates emphasize that she is well liked and has worked harmoniously within the Amalgamated Clothing and Textile Workers Union, which she serves as a vice president and director of social services. Friends say that she is an excellent administrator, even though she travels much of the time and is away from her office in Union Square here and her home in Guttenberg, N.J.

A NATIVE OF CHICAGO

Mrs. Miller was born in Chicago on June 19, 1928. She attended the University of Chicago and received a bachelor's degree in 1950 and a master's in 1951. While a student she worked on an assembly line making gumballs for penny vending machines, then took a job as wrapper at Marshall Field & Company before enrolling as an intern at a summer camp of the United Automobile Workers.

Of her early experience, she once said, "I came to the labor movement with stars in my eyes. I saw it as vehicle for social change, and I've never changed my mind."

She worked in a variety of union, consumer and teaching jobs after marrying Jay Miller and while bringing up three children, Joshua, Adam and Rebecca. The problems of taking care of her children, especially after she was divorced in the mid-1960's, intensified her interest in improving child-care programs for working mothers.

HELPED SET UP A ROLLS-ROYCE

Her jobs with Amalgamated before it merged with the Textile Workers Union of America in 1976 included a stint as education director for the Pittsburgh Joint Board and as director of education and social services for the Chicago Joint Board. A day-care center that she helped set up in Chicago was characterized in a Government report as "the Rolls-Royce of day care."

As Amalgamated's social services director, she has been concerned with developing day-care centers, helping workers with alcoholism problems, assisting retirees and coordinating retiree centers throughout the country.

Lane Kirkland, the federation's president, said he thought the election of Mrs. Miller was "a good thing" and that he hoped women and blacks would become presidents of international unions and eligible for the council.

As for Mrs. Miller, she said at a news conference that she would be a spokesman for all workers, particularly women. "The appointment of a woman to the council at this point is just an example of the trade union movement responding to the needs" of women, she said. Then she hurried off to her first council meeting, saying, "I don't want to be late."

NUCLEAR POWER: WHO'S RIGHT?

Mr. HELMS. Mr. President, I have a friend in North Carolina—a longtime friend—who strongly favors nuclear power. When I identify him as a senior vice president of Duke Power Co., some may suggest that he is biased in his convictions about nuclear power.

That is true, Mr. President. John is biased. So am I. But so are the loud voices today who condemn nuclear power. So the question is not one of bias—every human being who is intelligent and well-informed is of necessity biased on various issues.

I am not offended when anybody disagrees with me on any issue. Neither is John Hicks. The question is: What are the facts, and who is right, and who is wrong?

Back in July, John Hicks addressed the Southeast Presbyterian Synod when it met at Clinton, S.C. Last week, a friend of mine, Jim Barnhardt of Charlotte, sent me a copy of the speech by John Hicks. As I read the text over the weekend, I was struck by the fact that John Hicks is so very much like his distinguished father, Ernest Hicks, who served many years in the North Carolina General Assembly.

But all of that is beside the point. The point, Mr. President, is that I hope many Senators and others will take the time to read the remarks of John Hicks at Clinton. Then, I hope, they will ask themselves: Who is right, and who is wrong, in the dispute over nuclear power? I believe John Hicks is right.

Mr. President, I ask unanimous consent that the text of the address by Mr. Hicks be printed in the RECORD.

There being no objection, the text of the address was ordered to be printed in the RECORD, as follows:

THE ROLE OF THE CHURCH IN ENERGY CONSERVATION

(By John D. Hicks)

It would be an honor for anyone to address so distinguished a body as the Synod of the Southeast. As a fellow Presbyterian from the Synod of North Carolina, I am especially pleased to be with you.

You may be interested to know that Duke Power Company's Chief Executive Officer and our President and our Executive Vice President, all three, are Presbyterian elders. As a matter of fact, five of the seven members of our Executive Committee, which is responsible for the management of our company, are elders in the Presbyterian Church. The other two are leaders in their Methodist and Episcopal Churches.

The general public, I fear, has a totally misguided view of public utilities They look upon these giant corporations as cold and inhuman, seeking to wring the last dollar out of the beleaguered customer and caring for the environment only to the degree forced by government. That simply is not so. My associates, as I believe is the case with most who operate the energy institutions of this nation, are honorable Christian men who are doing their best to be good stewards of the resources at their command, to bring ample, reliable energy to their customers at the lowest possible cost and at the same time protecting as best we can the environment of the area we serve—which leads me to our subject "The Role of the Church in Energy Conservation."

Until recently, conservation was not fully appreciated as an energy solution. Prior to 1969 electric utilities were a declining cost industry. Each new plant cost less per kilowattt of capacity and used fuel more efficiently than those already on the line. So each new plant brought lower costs to the rate payer. My own company had six major rate reductions during the 1960's. There seemed no reason to conserve in those days.

But the decade of the 70's brought a dramatic change. Utilities were finally caught up in this inflation spiral and no amount of engineering genius could improve efficiency—as it had in all years before—to match that inflation. The resulting rapid rise in energy costs has forced us as a nation to take a whole new look at energy supply.

We now do everything possible to avoid building new plants, for each at a higher cost means escalating bills to the consumer. We have instituted various load management techniques and are experimenting with others.

Our industrial customers are highly receptive to our suggestions for conservation. They can measure and see the result in the bottom line. We have, however, not been able to persuade residential customers to conserve to the degree we would like.

We need to reduce our peak loads—that is, shift some usage away from the period when use now is the greatest. Doing this will mean that we will not have to build the high cost plant to meet an otherwise sharp spike in our load curve.

We have, with some success, instituted a special rate for those residential customers who insulate their homes to very high standards.

We are, on a voluntary basis, offering time-of-day rates, charging less for energy in off peak hours. So far there have been relatively few takers.

We, also, are experimenting with two systems that will allow us by radio or electric signal to interrupt the two highest residential uses of electricity—the water heater and the air conditioner. For allowing us to do this on peak, the customer is rewarded financially.

If energy prices continue to escalate and if we do not achieve really meaningful conservation, I predict that we will see the day when these techniques will be made mandatory for all consumers across the nation. To some degree this will be social engineering, as it will restructure life styles. This should be of concern to us.

Yes, we must conserve energy. But conservation has two aspects—using energy most efficiently, that is not wasting it, and on the other hand conserving our resources by producing it most efficiently. It is this latter that I spend the rest of my alloted time, addressing.

We must continue to do indepth research on all forms of alternative energy, and both the federal government and the private sector are doing so to a far greater degree than the public is aware. My own industry through the Electric Power Research Institute has, in the past 7 years, spent $775 million on research into solar, geothermal, oil recovery from shale, synthetic fuels and others. The Institute will continue to spend over $250 million annually on such research. As churchmen and women we should encourage and support these efforts.

But all of the studies I have seen, and I have reviewed many, indicate that these new sources, no matter how hard we press forward with research and development, can contribute little to our energy supply for the rest of this century. By the year 2000, even with good conservation, annual electricity production must increase by about two and one-half times, according to Dr. Chauncey Starr who heads the Electric Power Research Institute.

Since by law we are forcing utilities to cease burning oil and natural gas, this greatly expanded electric load can be met from only two sources—coal and nuclear.

The United States must play a leadership role in solving the problem of world hunger and upgrading the living standards of emerging nations. We cannot do this without an adequate energy supply. I think that we, as a church, should squarely and publicly recognize the role that coal and nuclear power must play in our immediate future and urge our elected officials to get on with assisting, rather than delaying, badly needed development.

All of us want to protect the environment. I am sure that you, as did I, applauded the awakening of our nation to our pollution problems and the early efforts to clean up our air and water. But as seems the nature the things, government has gone too far. Laws have been passed and air regulations written which can literally double the cost of producing electricity from coal and in many cases can prohibit it altogether.

As a specific example of perfectly ridiculous government regulation resulting in a tremendous waste of resources, I give you Duke Power's Catawba Nuclear Station located on our Lake Wylie in York County, South Carolina. All engineering and environmental studies by us and South Carolina officials concluded that no damage would be done to fish, the lake or the atmosphere by using the 13,000 acre like for condenser cooling water. And yet over our and the State of South Carolina's vehement objection, the Federal Environmental Protection Agency demanded that we put giant cooling towers on this plant. In order to get a permit to contruct, we had to knuckle under. These cooling towers, providing absolutely no benefit to the public, will over the life of the plant cost our customers an additional incredable $430 million in present dollars.

So much of the regulation we face today is to no public good and at great public cost. Once we are able to meet the standards of air and water quality that fully protect human, animal, fish and plant life, that is enough. We do society great harm when, at staggering cost, we go forward to attempt to make our air and water pristine pure. As a church, I think we should urge our government to make and adhere to careful cost/benefit studies of all regulations relating to environmental protection.

Let us turn to nuclear. The National Council of Churches and some church denominations have come out opposing nuclear power. They have done so out of a concern over plutonium and its possible weapons application across the world. If you approach nuclear power this way, I suppose we all might conclude the same.

Not as a utility executive, but as a Christian, I approach it from an entirely different angle, and I get a quite different answer. I approach the subject by first looking at world population and world hunger. Then I move to a consideration of food production and its relationship to energy availability.

One man tilling the soil with his own labor can raise enough food to feed his family with a small surplus to barter. The solution in times past for such cultures was to have more children to work.

One man with a beast can feed his family, the beast and two and a half more families.

But one man with a tractor can feed his family, pay for and operate the tractor and feed 40 more families.

There are today some 4 billion people on this earth. It is estimated that one-fourth to one-third of them are hungry. And I have heard an estimate that approximately 30 million die each year from starvation- or malnutrition-related deaths. If that is not serious enough, think of the year 2050, by which time according to the National Academy of Sciences world population will more than double to 9.2 billion.

In a recent very excellent address, Jay Van Andel, Chief Executive Officer of the Amway Corporation, reported a very remarkable statistic. Only three percent of the earth's surface is farmed. If just this land now cultivated were brought up to the standards of efficiency already achieved by American farmers, it is estimated the world could feed fifteen times its present population.

Another observation of Mr. Van Andel's I found quite significant. He noted that with 4 million farmers in American, we produce all we need for 220 million Americans and have a huge surplus to export. In socialist Russia, not 4 million but 34 million farmers cannot produce enough for their own needs, and the Russians import millions of bushels of wheat to keep their people from starving.

A seemingly unrelated fact I now report to you, but to me all this will tie together. We have got to be the most caring, most generous nation in all of history. Can you believe that since World War II, the United States has given away to other nations, in non-military aid, over $137.5 billion—and 60% of this, or $82.4 billion, in the past 17 years.

I cannot say what all this says to you, but I can tell you what it says to me as a Christian. It says we are a great nation, with the best system of government in the world, made up of basically good and caring people. It also says that if we are to do what I believe God has called upon us to do—that is make a valiant effort to improve the conditions of mankind—we must produce the tractors and have the where-withal to operate them.

This will require vast quantities of energy. Oil must be saved to operate the tractors and to manufacture the huge supply of fertilizer that will be needed. The energy to run the countless factories that will produce the components for the tractors must come from electricity and that electricity must come from coal and nuclear fuel.

While we are working on the long range goal of solving world hunger, we cannot forget our own. Last May, I heard an interesting speech by Peter Bommarito, International President of the United Rubber, Cork, Linoleum and Plastic Workers Union—who by the way is a strong advocate of nuclear power. He sees nuclear power as vital, not only to the future of his union, but the nation. Mr. Bommarito said that in the next ten years, our civilian labor force will increase by more than 15 percent, expanding from 103 million to 120 million workers. To properly house our people, we will need to increase the number of housing units by more than 25 percent, from 77 million to 97 million.

And hear this quote from Peter Bommarito:

"All of this will require an increase in available energy—it cannot be accomplished with a no growth economy. And let there be no mistake. If we do not have jobs for those 17 million additional men and women who will be entering the job market—if we do not have adequate housing at prices they can afford for the additional young families who will be needing their own homes—we surely will be sowing the seeds of social unrest."

In a recent speech, George Cunningham, Assistant Secretary of the U.S. Department of Energy, stressed the need for drastically increasing our coal and nuclear power capability during the rest of this century. He said he believed that we could meet the ambitious schedule he laid out, but I detected a note of uneasiness in his speech.

There is another aspect of energy in the United States that has distressed me greatly these past few years. We developed nuclear energy and yet the rest of the world has overtaken and passed us in its use. This is because we have not been making efficient use of our time and our resources—have not conserved them, if you will.

Let's look at how we have squandered time. Today with components manufactured in the United States, the Japanese are bringing a nuclear generating station on line in six years. In the United States, it now takes fifteen years to get the same plant in operation. Much of the time difference is due to the ponderous licensing proceedings of our Nuclear Regulatory Commission. In May 1974, my company applied to the NRC for a construction permit for our Perkins Nuclear Station. Now, six years later, we still do not have the permit.

And hear this—we have to date printed and submitted to the NRC over 90,000 pounds of documents in connection with this license application. That's 45 tons of paper! If we are concerned over meeting our energy needs for the rest of this century, I think we should, as a church, insist that our government officials act more efficiently and more expeditiously.

Turning to another serious concern of mine, we are in this country missing two great opportunities to enhance our supply of energy. These are the reprocessing of spent nuclear fuel and the development of the breeder reactor.

When fuel rods are used in a conventional reactor, only a small part of the energy they contain can be utilized. If reprocessed, this fuel can be used again and again. But, by government edict, we have no reprocessing plants for commercial nuclear fuel in the United States. Why? Because in reprocessing the resulting fuel has in it not only uranium but the dreaded plutonium. And we fear that such plutonium might fall into the wrong hands and become weapons. The thought is that if we don't make it, others intent on doing evil in this world can't get it. This is simply not living in the real world, because other nations—England, France, Germany, Russia, and Belgium are and have been reprocessing nuclear fuel, and Japan soon will be, all with, I feel sure, far less security precautions than our safety-conscious nation would demand.

Reprocessing has another valuable feature. Today, we have to store the entire highly radioactive spent fuel assemblies as waste. Reprocessing of these assemblies reduces the residual waste to about three percent of its original volume, resulting in a far more manageable waste problem. The virtually completed fuel reprocessing plant at Barnwell, S.C. stands idle, as we turn our backs on this important source of energy.

But there is yet a greater source of energy that we have dragged our feet in developing. This is the breeder reactor, which I mentioned a moment ago.

The breeder reactor is a truly remarkable technology. As a by-product of generating electric power, the breeder will transform useless Uranium 238, which is placed in the reactor, into fuel, useful itself in reactors for generating power. The breeder actually generates more new fuel than it burns up. The breeder would be a tremendously valuable source of energy to a nation which faces potentially severe shortages in the years ahead. Let me tell you how valuable.

When uranium is mined, you get an ore that is a mixture of mostly useless Uranium 238, and a small amount of the useful Uranium 235. To become useful as reactor fuel the Uranium 235 must be enriched to three percent of the end mixture, which means separating out substantial amounts of Uranium 238.

Here is a photograph of a large number of metal tanks resulting from the uranium enrichment process. These tanks contain the useless Uranium 238. They are being held for the day when we do have breeder reactors to convert this material into useful fuel. You can't see the picture well, I know, but you can hear and I think be startled by the legend attached to it. Let me read it to you.

"Project Management Corporation is the nonprofit corporation organized in 1972 to conduct scientific research and to manage the design, construction and test operation of a Liquid Metal Fast Breeder Reactor Demonstration Plant at Oak Ridge, Tennessee. Officials at PMC estimate that if used in breeder reactors, the material held in these tanks in Paducah, Kentucky, and in similar tanks at Portsmouth, Ohio and Oak Ridge, Tennessee, could yield electricity worth some $20 trillion. The energy contained in the tanks, they say, is equivalent to a 700-year supply of coal or a 400-year supply of oil at 1975 U.S. consumption rates which is equivalent to two times U.S. coal reserves or five times Arab oil reserves."

Isn't that truly amazing?

The first electricity ever generated by splitting the atom was done by a breeder reactor, and it was done in the United States. On December 20, 1951, this took place at the Arco, Idaho Testing Grounds, and in 1955, the town of Arco was actually lighted with breeder reactor power.

Ironically, although we developed this technology, other nations have breeders in commercial operation, and we are a long way from having even a demonstration breeder.

France and Russia have full scale breeders generating power for their people. Japan has a commercial breeder near completition. West Germany and England have demonstration breeders. And France has announced plans to manufacture and market breeders to other nations. If we proceeded at break neck speed in breeder development, we could not in 10 years be where France is today.

You ask, why don't we have breeder reactors? Well, I left out one important fact as I have told you the breeder story. You see, the new fuel which the breeder creates out of U-238 is the feared plutonium. Our breeder program is caught up in the controversy over preventing the spread of plutonium around the world. But this is ridiculous, because as I have indicated, other nations are moving right ahead, and we are merely denying ourselves a vast source of new energy.

As church men and women, what should we do about reprocessing of nuclear fuel and breeder reactors? What I have done is engage in much study on these matters, verify the information I have given you and let the Senators and Representatives in North and South Carolina where we serve know these facts. I also tell everyone I can what I have learned.

Now, of course, there are risks in the things we have discussed. But there are risks in every aspect of life. The Nuclear Regulatory Commission, in a comprehensive safety analysis study concluded that the probability of a catastrophe taking 100 lives would occur by airplane crash once every 2 years, by fire every 2 years, by tornado every 5 years, by hurricane every 5 years, by earthquake every 20 years, but from 100 nuclear power plants, only once every 100,000 years.

The nuclear industry has, by far, the safest record of any industry in history. No one has been killed or injured from radiation in over 400 operating years of free world nuclear plants. I am thoroughly prepared to accept what scientists consider the very slight risk in order to have this essential source of energy available to us and to the world.

I have a summer place on Lake Wylie near Charlotte. It is directly across the lake about a mile from the Catawba Nuclear Station now under construction. After this plant is operable, I, my wife and children, and some day, grandchildren, will summer on the lake and swim in its waters without the slightest fear. I can do so because I have faith in our President, Presbyterian Elder Bill Lee, and the many others who were responsible for its design and construction and faith in those who will be operating it.

Yes, there are risks in all phases of a growing, industrial society. So it is comparative risks that we as Christians should consider, weighing the benefit to mankind of any device or technology against the risk associated with it. You may be interested to learn that the American Medical Association adopted on June 21, 1978, a study from its Council on Scientific Affairs which concluded, and I quote:

"A coal-fired power plant each year results in about 400 times more deaths than does an equivalent nuclear-powered generating station."

And yet, my friends, I have heard no one suggest that we cease building coal fired plants and shut down those which are operating. But we hear such suggestions with respect to nuclear from many quarters.

An interesting contrast to the safety record of nuclear power is that of coal-fired steam boilers. In 1838 alone, 500 Americans were killed by steam boiler explosions. It is frightening to contemplate what society would be like today if steam boilers had been eliminated as an energy source because they were dangerous back then.

Picture this scene, there is a mob—pickets carrying banners and placards of protest. They decry the company's reckless disregard for human safety. The media carry inflammatory reports of the protest and of the danger. Investors panic, the company's stock plummets and the New York Stock Exchange suspends trading in the company's stock. Sounds like a recent anti-nuclear protest, doesn't it? But it wasn't. The year was 1879—101 years ago—and the scene was Philadelphia. The company was Wannamaker's store which had just anounced that it would replace gas lights in its store with electric lights. And everyone knew that electric shock could be deadly. Today, a hundred years later electricity, although it kills hundreds every year is not only totally accepted as a risk, but is considered absolutely essential to life as we know it. Think where the world would be today, had electricity been banned because many feared it in 1879.

To sum up, what should be the role of the church in energy conservation? We as individuals should try to conserve all we can, although there may be inconvenience and even sacrifice in this.

We should inform ourselves on the many energy issues and carefully weigh the benefits and risks of each. Having reached conclusions satisfactory to ourselves, we should make a special effort to inform others in order to narrow the gap between the perceived risks and the real risks associated with any energy source. We should not hesitate to take a strong public position and let our elected officials (who, after all is said and done, control the energy future of this nation)—let them know our feelings. And we should pray that they make the right decisions. Unless they do, we will not have the homes and jobs for the emerging work force that Peter Bommarito spoke of. Unless they do, we will never build the tractors and produce the feed, seed and fertilizer necessary to feed the hungry millions of the world.

Oh yes, one more thing you can do to conserve energy. You can take a lesson from my church. We, at Covenant, have by careful management reduced our electric consumation by 30 percent since we started to work on it.

It has indeed been a pleasure to be with you.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE RECESS

Under authority of the order of August 26, 1980, the Secretary of the Senate, on August 28 and August 29, 1980, received messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on August 28 and August 29, 1980, are printed at the end of the Senate proceedings.)

TREATY

Under authority of the order of August 26, 1980, the Secretary of the Senate, on September 2, 1980, received a message from the President of the United States submitting a treaty.

FEDERAL PAY COMPARABILITY ALTERNATIVE PLAN—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 235

Under authority of the order of August 26, 1980, the Secretary of the Senate, on August 29, 1980, received the following message from the President of the United States, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

An adjustment in Federal white collar pay is required on October 1 under the Pay Comparability Act of 1970.

As specified in that Act, my Pay Agent and the statutory Advisory Committee on Federal Pay have made their report to me on comparability findings for the next fiscal year.

Current law provides that the annual increase for the military be the same as the average of the civilian increase. The Department of Defense Authorization Act, 1981, which has passed both Houses of Congress provides for a larger military pay adjustment this year. The larger increases proposed under that Act will supersede the increases military personnel otherwise would receive under the Alternative Plan.

A decision on pay comparability for Federal civilian employees necessarily must be made in the broader context of the present economic situation in this country. Inflation is a continuing threat to the economy, and consequently we still have anti-inflationary pay standards for all pay increases, public or private. For the past two years, I have looked to those standards in determining the Federal pay adjustment just as I expected other employers to do in formulating increases for their workers. I have continued that approach for this year's Federal increase.

The Pay Act gives me authority to propose an alternative adjustment to full comparability if deemed appropriate in light of economic conditions. Under that authority, I have decided upon an alternative pay plan consisting of an across-the-board 9.1 percent increase, and a partial exemption from the full effect of that limitation for the lowest paid civilian employees. That increase is fully within the range of the current national pay standards.

A President must balance economic considerations against the fact that Federal employees face the same kinds of problems with inflation as other citizens. In so doing, I have concluded that the dedication of these loyal public servants deserves no less relief than we would allow for other workers.

For those reasons, I urge the Congress to support the Alternative Plan submitted with this message.

JIMMY CARTER.

THE WHITE HOUSE, *August 29, 1980.*

REPORT OF THE COMMODITY CREDIT CORPORATION—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 236

Under authority of the order of August 26, 1980, the Secretary of the Senate, on September 2, 1980, received the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the provisions of Section 13, Public Law 806, 80th Congress, I transmit herewith for the information of the Congress the report of the Commodity Credit Corporation for the fiscal year ended September 30, 1979.

JIMMY CARTER.

THE WHITE HOUSE, *September 2, 1980.*

MESSAGES FROM THE HOUSE RECEIVED DURING THE RECESS

Under authority of the order of August 26, 1980, the Secretary of the Senate, on August 28, 1980, received a message from the House of Representatives, which reported that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 390) to expedite and reduce the cost of antitrust litigation, and for other purposes.

The message also reported that the House agrees to the amendments of the Senate to the bill (H.R. 4627) to permit citizens of the Northern Mariana Islands to enlist in the Armed Forces of the United States before becoming citizens of the United States upon the establishment of the Commonwealth of the Northern Mariana Islands.

The message further reported that the House agrees to the amendments of the mittee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes.

The message also reported that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 1442. An act to authorize the documentation of the vessel, Sara, as a vessel of the United States with coastwise privileges.

ENROLLED BILLS SIGNED

The message further reported that the Speaker has signed the following enrolled bills:

S. 390. An act to expedite and reduce the cost of antitrust litigation, and for other purposes;

S. 2680. An act to improve the administration of the Historic Sites, Buildings and Antiquities Act of 1935 (49 Stat. 666);

H.R. 1781. An act to amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes;

H.R. 1967. An act to modify the boundary of the White River National Forest in the State of Colorado;

H.R. 7072. An act to amend section 5702 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowance of Government employees on official travel, and for other purposes; and

H.R. 8010. An act to amend the Comprehensive Employment and Training Act to designate a Job Corps Center as the "Earle C. Clements Job Corps Center".

The enrolled bills were subsequently signed by the majority leader, by unanimous consent.

Under authority of the order of August 26, 1980, the Secretary of the Senate, on August 29, 1980, received a message from the House of Representatives, which reported that the House disagrees to the amendment of the Senate to the bill (H.R. 1197) to simplify the tonnage measurement of certain vessels; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; that Mr. ASHLEY, Mr. MURPHY of New York, Mr. DINGELL, Mr. BIAGGI, Mr. DE LA GARZA, Mr. MCCLOSKEY, Mr. SNYDER, and Mr. LENT were appointed as managers of the conference on the part of the House on sections 1, 2, and 3 of the amendment of the Senate and modifications committed to conference; and Mr. UDALL, Mr. BINGHAM, Mr. SEIBERLING, Mr. ECKHARDT, Mr. CARR, Mr. KOSTMAYER, Mr. MURPHY of Pennsylvania, Mr. RAHALL, Mr. VENTO, Mr. HOWARD, Mr. LUJAN, Mr. YOUNG of Alaska, Mr. SYMMS, Mr. MARRIOTT, and Mr. CHENEY were appointed as managers of the conference on the part of the House on sections 4 and 5 of the amendment of the Senate and modifications committed to conference.

The message also announced that the House disagrees to the amendments of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; that Mr. ULLMAN, Mr. CORMAN, Mr. RANGEL, Mr. BRODHEAD, Mr. CONABLE, and Mr. FRENZEL were appointed as managers of the conference on the part of the House on the amendment of the Senate numbered 1 to the amendment of the House to the amendment of the Senate and modifications committed to conference; and Mr. PERKINS, Mr. THOMPSON, Mr. BRADEMAS, Mr. CLAY, Mr. ASHBROOK and Mr. ERLENBORN were appointed as managers of the conference on the part of the House on the amendments of the Senate numbered 2 and 3 to the amendment of the House to the amendment of the Senate and modifications committed to conference.

The message further announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 3351. An act to amend chapter 55 of title 10, United States Code, to authorize dependents of members of the uniformed services serving on active duty to use CHAMPUS inpatient cost-sharing rates for certain surgery performed on an outpatient basis; and

H.R. 7998. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

MESSAGE FROM THE HOUSE

At 2:18 p.m. a message from the House of Representatives, delivered by Mr.

Gregory, one of its reading clerks, announced that the House has passed the bill (S. 988) entitled the "Health Sciences Promotion Act of 1980," with amendments in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 5766) to amend title 10, United States Code, to authorize additional Reserve Officers' Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6711. An act to extend the authorization of youth training and employment programs and improve such programs, to authorize intensive and remedial education programs for youth, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 3351. An act to amend chapter 55 of title 10, United States Code, to authorize dependents of members of the uniformed services serving on active duty to use CHAMPUS inpatient cost-sharing rates for certain surgery performed on an outpatient basis; to the Committee on Armed Services.

H.R. 6711. An act to extend the authorization of youth training and employment programs and improve such programs, to authorize intensive and remedial education programs for youth, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 7998. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1981, and for other purposes; to the Committee on Appropriations.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on August 28, 1980, he had presented to the President of the United States the following enrolled bill:

S. 2680. An act to improve the administration of the Historic Sites, Buildings and Antiquities Act of 1935 (49 Stat. 666).

The Secretary of the Senate also reported that on September 2, 1980, he had presented to the President of the United States the following enrolled bill:

S. 390. An act to expedite and reduce the cost of antitrust litigation, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4514. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller), reporting, pursuant to law, the intention to obligate $8.7 million in the Army Stock Fund and $23.3 million in the Navy Stock Fund for war reserve stocks; to the Committee on Appropriations.

EC-4515. A communication from the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting, pursuant to law, a report concerningg the Selected Reserve recruiting and retention incentives authorized by public law; to the Committee on Armed Services.

EC-4516. A communication from the Principal Deputy Assistant Secretary of the Air Force (Research, Development, and Logistics), reporting, pursuant to law, that a study has been conducted with respect to converting the transient aircraft maintenance function at Grissom Air Force Base, Indiana, and a decision has been made that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC-4517. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes continued occupancy under a succeeding lease for space located at 4228 Wisconsin Avenue, Washington, D.C.; to the Committee on Environment and Public Works.

EC-4518. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes continued occupancy under a succeeding lease of space located at 1325 G Street, N.W., Washington, D.C.; to the Committee on Environment and Public Works.

EC-4519. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes continued occupancy under a succeeding lease of space located at 2211 Jefferson Davis Highway, Arlington, Virginia; to the Committee on Environment and Public Works.

EC-4520. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes the acquisition of space by lease in San Bernardino, California; to the Committee on Environment and Public Works.

EC-4521. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes the acquisition by lease of 77,200 occupiable square feet of space in Chicago, Illinois; to the Committee on Environment and Public Works.

EC-4522. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes continued occupancy under a succeeding lease of space located at 806 15th Street, N.W., Washington, D.C.; to the Committee on Environment and Public Works.

EC-4523. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes continued occupancy under a succeeding lease of space located at One Embarcadero Center, San Francisco, California; to the Committee on Environment and Public Works.

EC-4524. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, an agreement between the American Institute in Taiwan and the Coordination Council for North American Affair relating to exports of color television receivers, with annexes, signed at Taipei on June 28, 1980, and entered into force on June 28, 1980; to the Committee on Foreign Relations.

EC-4525. A communication from the Secretary, Council of the District of Columbia, transmitting, pursuant to law, a copy of Council Resolution 3,500, entitled "Transfer of Jurisdiction over Lots 820 and 832 in Square 562 Resolution of 1980," adopted by the Council on July 29, 1980; to the Committee on Governmental Affairs.

EC-4526. A communication from the Assistant Secretary for Administration, Department of Commerce, transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES SUBMITTED DURING THE RECESS

Under authority of the order of August 26, 1980, the following reports of committees were submitted on August 27, 1980:

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Con. Res. 119. Concurrent resolution revising the Congressional Budget for the United States Government for the fiscal years 1981, 1982, and 1983 (together with additional and minority views) (Rept. No. 96-921).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Rules and Administration, with an amendment:

H.R. 6702. An act to amend section 603 of title 18, United States Code, with respect to certain political contributions (Rept. No. 96-922).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Barbara S. Thomas, of New York, to be a Member of the Securities and Exchange Commission.

(The above nomination from the Committee on Banking, Housing, and Urban Affairs was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEINZ:

S. 3077. A bill to amend the Internal Revenue Code of 1954 to provide that, whenever the United States International Trade Commission unanimously recommends action in an import relief case, the President shall take the action recommended; to the Committee on Finance.

By Mr. HATFIELD:

S. 3078. A bill to provide for the setting aside in special trust lands and interests within the Winema National Forest to Edison Chiloquin and for the transfer of moneys otherwise available to Mr. Chiloquin from the Klamath Indian Settlement to the Secretary of Agriculture for the acquisition of replacement lands or interests; to the Committee on Energy and Natural Resources.

By Mr. TALMADGE:

S. 3079. A bill to exempt noncommercial educational broadcast stations from certain provisions of the Communications Act of 1934 with respect to access time for candidates for Federal elective office; to the Committee on Commerce, Science, and Transportation.

By Mr. HARRY F. BYRD, JR.:

S. 3080. A bill to amend the Internal Revenue Code of 1954 to provide for the annual imposition and payment of the gift tax; to the Committee on Finance.

By Mr. HATCH:

S.J. Res. 200. Joint resolution proposing an amendment to the Constitution of the United States relating to affirmative action; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEINZ:

S. 3077. A bill to amend the Internal Revenue Code of 1954 to provide that, whenever the U.S. International Trade Commission unanimously recommends action in an import relief case, the President shall take the action recommended; to the Committee on Finance.

IMPORT RELIEF ACTIONS

● Mr. HEINZ. Mr. President, last year when Congress wrote the legislation implementing the multilateral trade negotiations' results, we attempted to restructure our trade laws in a way that would insure prompt, fair, and equitable treatment for domestic manufacturers with grievances against foreign producers or governments. We wanted to provide a clear, well-defined procedure and timetable for investigating and resolving allegations made. We wanted petitioners to be clearly aware of their rights at every step of the process. We wanted cases resolved strictly on their merits and not on the basis of extraneous political considerations. And we wanted to make sure that if the petitioner was awarded relief, he in fact got in a timely and effective manner.

At the same time we made these procedural changes, we also clarified the intent of our laws by providing an injury test in certain cases where it was not previously required. As a result we assigned an even more prominent role to the International Trade Commission, the agency given responsibility for determining whether or not injury has occurred. This determination is essential, since no relief will be provided if there is no injury.

One area that remains a problem in terms of the above objectives, and which we did not change last year, is the safeguard section of the law, sections 201–203 of the Trade Act of 1974. This section of law is intended to deal with problems of rising imports. No allegation of subsidy or dumping is made. Petitioner must simply prove he is injured by imports. Relief is limited to no more than 5 years, with a possible further 3-year extension. The intent of this provision is to provide temporary relief to permit adjustment to new competitive conditions. It is not intended to provide permanent tariff or quota protection.

From the Commission's point of view, this section seems to be working. Investigations are timely, and decisions are rendered promptly. In the 3½ years since Jimmy Carter became President, the ITC has sent him 16 affirmative injury determinations with recommendations for relief. It is at that point, however, that the process is clearly breaking down and our goal of petitioners being provided timely and effective relief not being achieved; for in none of those 16 cases has the President acted in accordance with the ITC's recommendations. If one wanted to be charitable, one could say that in two of the cases the President's decision was close to what the Commission recommended, but in all the rest his decision was effectively a rejection of their advice and a denial of relief petitioners clearly merited by reason of their injury.

One of the most egregious examples of this denial occurred this spring in the leather apparel case. In that case, the Commisison agreed unanimously that the industry was being seriously injured by imports, and it agreed unanimously on a remedy—3 years of increased tariffs.

The injury case was clear. Domestic production was down sharply from 1975 to 1978 despite a near doubling in domestic consumption. Further declines in production and capacity utilization occurred in 1979. During the same 1975–78 period the value of imports increased 143 percent, and the quantity of imports rose 146 percent. This meant an increase in import penetration in terms of quantity from 62 percent in 1975 to 79 percent in 1979.

Employment has also been adversely affected. Jobs in the industry declined from 11,100 in 1974 to 5,500 in 1979, a drop of more than 50 percent. More than 3,100 of the laid off workers have been certified for adjustment assistance.

Equally clear was the need for relief—a tariff increase to equalize the price of imports with the price of domestic products. The Commission voted unanimously for such relief, although the amount of tariff increase recommended was smaller than the industry requested.

Despite this clear-cut case, and despite these unanimous findings, the President declined to approve any action at all, aside from expedited adjustment assistance, which has little or no meaning. Mr. President, there is presently on the Senate calendar legislation (H.R. 1543) to make the adjustment assistance program more viable, and I am working for its enactment. But to suggest at the present time that we have an effecive program on that it is an adequate solution to a problem as serious as that of the leather apparel industry is simply ridiculous.

The main reason for the President's action, or rather nonaction, appears to have been the need to fight inflation. While this is an argument that always sounds convincing—no one is in favor of inflation—a closer examination reveals its weakness in this situation. As is the case with other apparel items and footwear, retailers tend to take advantage of the lower wholesale price of imported goods by marking them up more than domestic goods, thus increasing their profit but minimizing any real gain to consumers. Naturally such a practice accounts for the popularity of imports with retailers and hence their increased market share, although it is difficult to show any savings to consumers or any real preference on their part for foreign goods. As a result, to simply mouth the word "inflation" as if it explains everything is to misunderstand the way this industry operates.

I cite this example of the leather apparel case at some length, Mr. President, in part because there is presently in the Senate a resolution to override that decision by the President which I hope will be adopted, and because it serves as an excellent example of how the 201 escape clause process has gone awry in the hands of an administration which has neither sympathy for nor understanding of industrial trade problems.

Mr. President, this is not simply a question of protectionism versus free trade. It is a question of whether we are going to even try to make GATT-sanctioned escape clause procedures work and give our industries a chance to recover. The relief provided is temporary and consistent with our international obligations. It can be implemented only after a finding of injury by the quasi-judicial independent agency we have created for that purpose, the International Trade Commission.

Unfortunately this administration has consistently rejected or ignored the work of this Commission and in the process has jeopardized the very existence of a number of American industries. If this attitude is an example of the kind of industrial policy the administration will soon be proposing, I shudder to think what lies in store for other import-impacted industries.

Mr. President, the only real solution to this unfortunate situation is to redesign the escape clause language to remove the President's authority to overrule the ITC. However, in the interest of compromise, I am introducing a more modest proposal designed to deal with only the most offensive examples. This legislation would simply require the President to follow the Commission's advice in those cases where it was unanimous, such as in the leather apparel case. The bill also incorporates two proposals I have made previously: that the President be permitted to propose reducing or eliminating import relief he had previously provided only once each year, subject to congressional override; and that Presidential decisions on 3-year extensions of import relief that had been provided also be subject to congressional override, just as the original decision is now.

Frankly, Mr. President, if President Carter had administered section 201 as Congress intended, this bill would not be necessary. The legislative history on this section of the Trade Act of 1974 includes the following language from the Senate report:

> With regard to the effect of relief on consumers, the Committee feels that the goals of the Employment Act of 1946 should be paramount. Unemployed persons are not happy

consumers. The Executive should not confuse the effect on consumers with the effect on importers or foreign producers; they are not the same. If the choice is between (1) allowing an industry to collapse and thereby creating greater unemployment, larger Federal or state unemployment compensation payments reduced tax revenues, and all the other costs to the economy associated with high unemployment, or (2) temporarily protecting that industry from excessive imports at some marginal cost to the consumer, then the Committee feels that the President should adopt the latter course and protect the industry and the jobs associated with that industry. (Senate Report at p. 125).

Because the President has ignored this mandate, it is necessary that the Congress act to restore the ITC to its proper role and to reaffirm the basic fairness of our trade policy. It is too late for this bill to affect the leather apparel industry—it is not too late to save other import sensitive industries.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3077

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

(a) Subsection (a) of Section 202 of the Trade Act of 1974 (19 U.S.C. 2252) is amended by adding at the end thereof the following new sentence: "If there were no Commissioners voting in the negative with respect to the finding, then the President may not make the determination described in paragraph (1) (A) of this subsection."

(b) Subsection (a) of Section 203 of such Act (19 U.S.C. 2253) is amended by adding at the end thereof the following new sentence: "If there were no Commissioners voting in the negative with respect to the recommendation under Section 201(d)(1)(A), then the President shall take the action recommended by the Commission."

Sec. 2. Congressional Review of Import Relief Reduction or Termination Decisions.

Paragraph (4) of Section 203(h) of the Trade Act of 1974 (19 U.S.C. 2253(h)(4)) is amended to read as follows:

"(4) The President may reduce or terminate any import relief provided pursuant to this section if—

"(A) the President determines, after taking into account the advice received from the Commission under subsection (i)(2) and after seeking advice of the Secretary of Commerce and the Secretary of Labor, that such reduction or termination is in the national interest;

"(B) within 30 days after the receipt of all of the advice specified in subparagraph (A), the President transmits to the Congress a document setting forth his intention to reduce or terminate such import relief and the reasons for such proposed action, as well as the advice received from the Commission, the Secretary of Commerce, and the Secretary of Labor, and

"(C) both Houses of Congress (within the 30-day period following the date on which the document referred to in subparagraph (B) is transmitted to the Congress) have not adopted, by an affirmative vote of a majority of the Members of each House present and voting, a concurrent resolution disapproving the action proposed by the President in such document.

The President may not request a review of a particular Section 201 decision more than once during any 12-month period."

Sec. 3. Congressional Procedures.

(a) Disapproval Resolutions.—Paragraph (2) of Section 152(a) of the Trade Act of 1974 (19 U.S.C. 2192(a)(2)) is amended—

(1) by striking out "and" in subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph;

"(B) in the case of a resolution referred to in Section 203(h)(4), with the phrase 'the action proposed by the President under Section 203(h)(4) of the Trade Act of 1974'; and".

(b) Special Rules.—Section 154 of the Trade Act of 1974 (19 U.S.C. 2194) is amended—

(1) by inserting "203(h)(4)(B)," after "203(b)," in subsection (a); and

(2) by inserting "203(h)(4)(C)," after "203(c)," in subsection (b).

Sec. 4. The amendments made by Section 1 of this Act shall apply with respect to findings and recommendations of the United States International Trade Commission under Section 201 of the Trade Act of 1974 which are transmitted to the President after the date of enactment of this Act. The amendments made by Sections 2 and 3 of this Act shall apply after the date of enactment of this Act.●

By Mr. HATFIELD:

S. 3078. A bill to provide for the setting aside in special trust lands and interests within the Winema National Forest to Edison Chiloquin and for the transfer of moneys otherwise available to Mr. Chiloquin from the Klamath Indian Settlement to the Secretary of Agriculture for the acquisition of replacement lands or interests; to the Committee on Energy and Natural Resources.

● **Mr. HATFIELD.** Mr. President, today I am introducing a companion measure to H.R. 7960 sponsored by Congressman Ullman, which would set aside 300 acres in Winema National Forest in special trust for Edison Chiloquin, a Klamath Indian. The history which precedes the introduction of this bill begins when the Klamath Tribe of Oregon was terminated in 1954. At that time, 77 percent of the Klamath members elected to convert their tribal assets to cash and the remainder opted to participate in a trust which received 135,000 acres of prime timber land. Mr. Chiloquin joined the remaining members who retained the timber land. The balance of the reservation was sold and most of it was added to the Winema National Forest.

In 1969, the remaining members voted to terminate the trust and in 1974, the United States acquired by condemnation the 135,000 acres which were also added to the Winema National Forest; $49 million was paid to the remaining members. Edison Chiloquin, again wanting to keep the land, initiated a suit to enjoin the taking of the land and to force an option allowing individuals to acquire parcels in their own right. The suit failed and Mr. Chiloquin refused to accept the payment because of his belief that he cannot sell his ancestral lands.

Subsequently, a settlement was reached between the tribe and the Federal Government in which the remaining members will receive an additional $81.5 million, as the value of the land was underestimated. This brings the total amount due Edison Chiloquin to $275,000. Mr. Chiloquin remains steadfast in his belief that there is great spiritual and cultural significance to his ancestors' lands and will not associate himself with the land sale or the payment.

This bill provides that the money to which Edison Chiloquin is entitled will be paid to the Secretary of Agriculture, who will deposit it in a special fund in the Treasury. The money will be used to purchase land within the former Klamath Reservation boundaries deemed suitable by the Secretary to be added to the Winema National Forest.

It also provides, as I stated earlier, that approximately 300 acres will be placed in special trust for Mr. Chiloquin. This is the acreage estimated to be the amount that can be purchased with the $275,000. The United States would retain the legal fee to the land and its use must be consistent with its historic, cultural and archeological character. The land Mr. Chiloquin seeks to use was once occupied by his grandfather's Indian village. He intends to rebuild the village for Indian people to use and to teach the younger members of the tribe the traditional ways. It will also be made available to non-Indians to learn about the Klamath heritage and culture. If these lands are not set aside and protected now, the rich cultural and historical significance will be lost to all of us.

If the land is ever used for purposes other than those consistent with Indian traditions, it will revert to the United States to be held in perpetuity to protect the Indian traditions of the area.

Mr. President, Edison Chiloquin has never accepted the idea that the lands of his ancestors, steeped in cultural and religious significance, were his to sell. This man has stood firmly by the sacred values of his people. This legislation would allow him to keep his convictions and preserve the Klamath Indian heritage in a living museum from which we all will benefit.●

By Mr. TALMADGE:

S. 3079. A bill to exempt noncommercial educational broadcast stations from certain provisions of the Communications Act of 1934 with respect to access time for candidates for Federal elective office; to the Committee on Commerce, Science, and Transportation.

Mr. TALMADGE. Mr. President, today, I am introducing legislation to close a loophole in the Federal Communications Act which allows candidates for public office free air time on our public channels and educational networks.

Currently, under section 312 of the Communications Act of 1934, the so-called reasonable access" provisions, broadcasters are barred from denying time sought by candidates for Federal office. This act also states that time on public stations is not to be sold. It has recently been construed that this law therefore means that noncommercial public television must provide a reasonable amount of air time to candidates for Federal office free of charge if they request it.

I strongly believe that this loophole must be eliminated. I strongly oppose this freeloading on public television for political purposes. Under this interpretation, any candidate can get time on a public service station and also get free production of the program to be aired, while the taxpayers foot the bill. This certainly was not the intent of Congress when the public broadcasting system was established.

Rather, our public broadcasting system should be utilized for educational purposes. Educational broadcasting stations are a unique and valuable learning tool in the education of our children and also provide continuing education for adults as well. The public broadcasting system provides an important alternative to the programing provided by commercial networks and should not be invaded by political candidates seeking free time on the air.

Mr. President, I cannot think of anything more undemocratic than to use taxpayers' dollars to finance the campaign of someone whose views are repugnant to those a taxpayer may hold. If this law is not corrected, every candidate for Federal office, no matter how ridiculous his campaign may be or what platform he may profess, will be guaranteed free access to our Nation's public airways. This abuse of American tax dollars cannot be allowed to take place.

I encourage my colleagues to join me in cosponsoring this legislation to put an end to any further abuse of our public broadcasting stations which must remain noncommercial, nonpartisan, and nonpolitical if they are to continue to serve the American people as they were established to do.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3079

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 315 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection.

"(e) Nothing in this Act shall be construed to require a licensee of a noncommercial educational television broadcast station (as defined by the Commission) to furnish access time to any person who is a legally qualified candidate for any Federal elective office. The provisions of this subsection shall not be construed to exempt a licensee from the requirements of this section.".

By Mr. HATCH:

S.J. Res. 200. Joint resolution proposing an amendment to the Constitution of the United States relating to affirmative action; to the Committee on the Judiciary.

(The remarks of Mr. HATCH when he submitted the joint resolution appear earlier in today's proceedings.)

ADDITIONAL COSPONSORS

S. 2518

At the request of Mr. RIEGLE, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2518, a bill to provide a program of emergency unemployment compensation.

S. 2909

At the request of Mr. DOLE, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2909, a bill to amend title XI of the Social Security Act with respect to nonprofit health care philanthropy.

S. 2987

At the request of Mr. BOREN, the Senator from Alabama (Mr. HEFLIN), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 2987, a bill granting the consent of Congress to the southern States energy compact, and for related purposes.

SENATE JOINT RESOLUTION 193

At the request of Mr. RIEGLE, the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of Senate Joint Resolution 193, joint resolution authorizing the President to enter into negotiations with foreign governments to limit the importation of automobiles and trucks into the United States.

SENATE CONCURRENT RESOLUTION 119—ORIGINAL CONCURRENT RESOLUTION REPORTED REVISING THE CONGRESSIONAL BUDGET, 1981–83

Under authority of the order of August 26, 1980, Mr. HOLLINGS, on August 27, 1980, from the Committee on the Budget, reported the following original concurrent resolution, which was placed on the calendar:

S. CON. RES. 119

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby determines and declares, pursuant to subsection 310(a) of the Congressional Budget Act of 1974, that:

SECTION 1. The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1980, October 1, 1981, and October 1, 1982—

(a) the recommended level of Federal revenues:

Fiscal year 1981: $615,100,000,000;
Fiscal year 1982: $698,700,000,000;
Fiscal year 1983: $792,100,000,000;

and the amount by which the aggregate level of Federal revenues should be increased or decreased by bills and resolutions:

Fiscal year 1981: $5,200,000,000;
Fiscal year 1982: —$13,300,000,000;
Fiscal year 1983: —$35,600,000,000;

(b) the appropriate level of total new budget authority:

Fiscal year 1981: $699,600,000,000;
Fiscal year 1982: $778,800,000,000;
Fiscal year 1983: $852,600,000,000;

(c) The appropriate level of total budget outlays:

Fiscal year 1981: $633,000,000,000;
Fiscal year 1982: $709,900,000,000;
Fiscal year 1983: $777,700,000,000;

(d) the amount of the deficit or surplus in the budget which is appropriate in the light of economic conditions and all other relevant factors:

Fiscal year 1981: —$17,900,000,000;
Fiscal year 1982: —$11,200,000,000;
Fiscal year 1983: +$14,400,000,000;

(e) the appropriate level of the public debt:

Fiscal year 1981: $961,800,000,000;
Fiscal year 1982: $1,003,000,000,000;
Fiscal year 1983: $1,021,600,000,000;

and the amount by which the statutory limit on such debt should be increased:

Fiscal year 1981: $40,900,000,000;
Fiscal year 1982: $41,200,000,000;
Fiscal year 1983: $18,600,000,000.

SEC. 2. Based on allocations of the appropriate levels of total new budget authority and total budget outlays as set forth in subsections (b) and (c) of the preceding section of this resolution, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(a) National Defense (050):
Fiscal year 1981:
(1) New budget authority, $173,600,000,000;
(2) Outlays, $159,400,000,000;
Fiscal year 1982:
(1) New budget authority, $208,300,000,000;
(2) Outlays, $186,800,000,000;
Fiscal year 1983:
(1) New budget authority, $237,400,000,000;
(2) Outlays, $212,200,000,000;

(b) International Affairs (150):
Fiscal year 1981:
(1) New budget authority, $24,200,000,000;
(2) Outlays, $10,600,000,000;
Fiscal year 1982:
(1) New budget authority, $15,700,000,000;
(2) Outlays, $10,200,000,000;
Fiscal year 1983:
(1) New budget authority, $15,200,000,000;
(2) Outlays, $9,900,000,000;

(c) General Science, Space and Technology (250):
Fiscal year 1981:
(1) New budget authority, $6,600,000,000;
(2) Outlays, $6,200,000,000;
Fiscal year 1982:
(1) New budget authority, $7,000,000,000;
(2) Outlays, $6.800,000,000;
Fiscal year 1983:
(1) New budget authority, $7,100,000,000;
(2) Outlays, $7,000,000,000;

(d) Energy (270):
Fiscal year 1981:
(1) New budget authority, $6,300,000,000;
(2) Outlays, $7,400,000,000;
Fiscal year 1982:
(1) New budget authority, $7,100,000,000;
(2) Outlays, $10,200,000;
Fiscal year 1983:
(1) New budget authority, $9,500,000,000;
(2) Outlays, $11,300,000,000;

(c) Natural Resources and Environment (300):
Fiscal year 1981:
(1) New budget authority, $11,900,000,000;
(2) Outlays, $13,100,000,000;
Fiscal year 1982:
(1) New budget authority, $12,800,000,000;
(2) Outlays, $13,400,000,000;
Fiscal year 1983:
(1) New budget authority, $13,100,000,000;
(2) Outlays, $13,400,000,000;

(f) Agriculture (350):
Fiscal year 1981:
(1) New budget authority, $5,500,000,000;
(2) Outlays, $2,200,000,000;
Fiscal year 1982:
(1) New budget authority, $5,800,000,000;
(2) Outlays, $4,200,000,000;
Fiscal year 1983:
(1) New budget authority, $5,500,000,000;
(2) Outlays, $4,500,000,000;

(g) Commerce and Housing Credit (370):
Fiscal year 1981:
(1) New budget authority, $5,200,000,000;
(2) Outlays, $500,000,000;
Fiscal year 1982:
(1) New budget authority, $5,800,000,000;
(2) Outlays, $2,700,000,000;
Fiscal year 1983:
(1) New budget authority, $6,300,000,000;
(2) Outlays, $2,800,000,000;

(h) Transportation (400):
Fiscal year 1981:
(1) New budget authority, $20,700,000,000;
(2) Outlays, $19,300,000,000;

Fiscal year 1982:

(1) New budget authority, $20,200,000,000;

(2) Outlays, $20,000,000,000;

Fiscal year 1983:

(1) New budget authority, $20,800,000,000;

(2) Outlays, $21,000,000,000;

(i) Community and Regional Development (450):

Fiscal year 1981:

(1) New budget authority, $8,700,000,000;

(2) Outlays, $9,700,000,000;

Fiscal year 1982:

(1) New budget authority, $8,600,000,000;

(2) Outlays, $8,800,000,000;

Fiscal year 1983:

(1) New budget authority, $8,700,000,000;

(2) Outlays, $8,600,000,000;

(j) Education, Training, Employment, and Social Services (500):

Fiscal year 1981:

(1) New budget authority, $30,600,000,000;

(2) Outlays, $29,400,000,000;

Fiscal year 1982:

(1) New budget authority, $32,200,000,000;

(2) Outlays, $31,100,000,000;

Fiscal year 1983:

(1) New budget authority, $33,200,000,000;

(2) Outlays, $32,100,000,000;

(k) Health (550):

Fiscal year 1981:

(1) New budget authority, $70,000,000,000;

(2) Outlays, $63,600,000,000;

Fiscal year 1982:

(1) New budget authority, $81,500,000,000;

(2) Outlays, $75,000,000,000;

Fiscal year 1983:

(1) New budget authority, $92,400,000,000;

(2) Outlays, $84,700,000,000;

(l) Income Security (600):

Fiscal year 1981:

(1) New budget authority, $253,000,000,000;

(2) Outlays, $228,400,000,000;

Fiscal year 1982:

(1) New budget authority, $287,500,000,000;

(2) Outlays, $255,200,000,000;

Fiscal year 1983:

(1) New budget authority, $314,300,000,000;

(2) Outlays, $281,700,000,000;

(m) Veterans Benefits and Services (700):

Fiscal year 1981:

(1) New budget authority, $22,600,000,000;

(2) Outlays, $22,000,000,000;

Fiscal year 1982:

(1) New budget authority, $24,100,000,000;

(2) Outlays, $23,300,000,000;

Fiscal year 1983:

(1) New budget authority, $26,000,000,000;

(2) Outlays, $25,600,000,000;

(n) Administration of Justice (750):

Fiscal year 1981:

(1) New budget authority, $4,300,000,000;

(2) Outlays, $4,600,000,000;

Fiscal year 1982:

(1) New budget authority, $4,500,000,000;

(2) Outlays, $4,600,000,000;

Fiscal year 1983:

(1) New budget authority, $4,700,000,000;

(2) Outlays, $4,700,000,000;

(o) General Government (800):

Fiscal year 1981:

(1) New budget authority, $4,800,000,000;

(2) Outlays, $4,500,000,000;

Fiscal year 1982:

(1) New budget authority, $4,900,000,000;

(2) Outlays, $4,800,000,000;

Fiscal year 1983:

(1) New budget authority, $5,200,000,000;

(2) Outlays, $5,000,000,000;

(p) General Purpose Fiscal Assistance (850):

Fiscal year 1981:

(1) New budget authority, $6,200,000,000;

(2) Outlays, $6,700,000,000;

Fiscal year 1982:

(1) New budget authority, $6,400,000,000;

(2) Outlays, $6,400,000,000;

Fiscal year 1983:

(1) New budget authority, $6,500,000,000;

(2) Outlays, $6,500,000,000;

(q) Interest (900):

Fiscal year 1981:

(1) New budget authority, $70,100,000,000;

(2) Outlays, $70,100,000,000;

Fiscal year 1982:

(1) New budget authority, $73,800,000,000;

(2) Outlays, $73,800,000,000;

Fiscal year 1983:

(1) New budget authority, $76,400,000,000;

(2) Outlays, $76,400,000,000;

(r) Undistributed Offsetting Receipts (950):

Fiscal year 1981:

(1) New budget authority, —$24,700,000,000;

(2) Outlays, —$24,700,000,000; Fiscal year 1982;

(1) New budget authority, —$27,400,000,000;

(2) Outlays, —$27,400,000,000; Fiscal year 1983;

(1) New budget authority, —$29,700,000,000;

(2) Outlays, —$29,700,000,000.

CREDIT BUDGET

SEC. 3. The Congressional Federal Credit Budget for fiscal year 1981 is revised as follows:

(a) The appropriate levels of total Federal credit activity for fiscal year 1981 are:

(1) New direct loan obligations, $68,300,000,000;

(2) New primary loan guarantee commitments, $75,100,000,000; and

(3) New secondary loan guarantee commitments, $53,100,000,000.

(b) Based on allocations of the appropriate levels of total Federal credit activity as set forth in subsection (a) of this section, the appropriate levels of new direct loan obligations, new primary loan guarantee commitments, and new secondary loan guarantee commitments for each major functional category are as follows:

(1) National Defense (050):

(A) New direct loan obligations, $0;

(B) New primary loan guarantee commitments, $30,000,000;

(C) New secondary loan guarantee commitments, $0.

(2) International Affairs (150):

(A) New direct loan obligations, $7,500,000,000;

(B) New primary loan guarantee commitments, $6,600,000,000;

(C) New secondary loan guarantee commitments, $0.

(3) General Science, Space and Technology (250):

(A) New direct loan obligations, $0;

(B) New primary loan guarantee commitments, —$100,000,000;

(C) New secondary loan guarantee commitments, $0.

(4) Energy (270):

(A) New direct loan obligations:

(i) On-budget, $10,000,000;

(ii) Off-budget, $1,100,000,000;

(B) New primary loan guarantee commitments, $200,000,000;

(C) New secondary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

(A) New direct loan obligations, $0;

(B) New primary loan guarantee commitments, $0;

(C) New secondary loan guarantee commitments, $0.

(6) Agriculture (350):

(A) New direct loan obligations, $11,800,000,000;

(B) New primary loan guarantee commitments, $2,000,000,000;

(C) New secondary loan guarantee commitments, $0.

(7) Commerce and Housing Credit (370):

(A) New direct loan obligations:

(i) On-budget, $12,600,000,000;

(ii) Off-budget, $30,800,000,000;

(B) New primary loan guarantee commitments, $38,400,000,000;

(C) New secondary loan guarantee commitments, $53,000,000,000;

(8) Transportation (400):

(A) New direct loan obligations:

(i) On-budget, $500,000,000;

(ii) Off-budget, $20,000,000;

(B) New primary loan guarantee commitments, $1,500,000,000;

(C) New secondary loan guarantee commitments, $100,000,000;

(9) Community and Regional Development (450):

(A) New direct loan obligations:

(i) On-budget, $2,300,000,000;

(ii) Off-budget, $200,000,000;

(B) New primary loan guarantee commitments, $800,000,000;

(C) New secondary loan guarantee commitments, $0.

(10) Education, Training, Employment, and Social Services (500):

(A) New direct loan obligations, $100,000,000;

(B) New primary loan guarantee commitments, $2,800,000,000;

(C) New secondary loan guarantee commitments, $0.

(11) Health (550):

(A) New direct loan obligations, $200,000.000;

(B) New primary loan guarantee commitments, $200,000,000;

(C) New secondary loan guarantee commitments, $0.

(12) Income Security (600):

(A) New direct loan obligations:

(i) On-budget, $300,000,000;

(ii) Off-budget, $5,000,000;

(B) New primary loan guarantee commitments, $13,100,000,000;

(C) New secondary loan guarantee commitments, $0.

(13) Veterans Benefits and Services (700):

(A) New direct loan obligations, $600,000.000:

(B) New primary loan guarantee commitments, $9,800,000,000;

(C) New secondary loan guarantee commitments, $0.

(14) Administration of Justice (750):

(A) New direct loan obligations, $0;

(B) New primary loan guarantee commitments, $0;

(C) New secondary loan guarantee commitments, $0.

(15) General Government (800):

(A) New direct loan obligation, $0;

(B) New primary loan guarantee commitments, —$9,000,000;

(C) New secondary loan guarantee commitments, $0.

(16) General Purpose Fiscal Assistance (850):

(A) New direct loan obligations, $200,000,000;

(B) New primary loan guarantee commitments, $300,000,000;

(C) New secondary loan guarantee commitments, $0.

(c) It is the sense of the Congress that the President and the Congress, through the appropriations process, should limit in fiscal year 1981 the off-budget lending activities of the Federal Government to a level not to exceed $32,100,000,000, the on-budget lending activities to a lebel not to exceed $36,200,000,000, new primary loan guarantee commitments to a level not to exceed $75,100,000,000, and new secondary loan guarantee commitments to a level not to exceed $53,100,000,000.

SENATE CONCURRENT RESOLUTION 120—SUBMISSION OF A CONCURRENT RESOLUTION CONGRATULATING THE PEOPLE OF POLAND

Mr. HEINZ (for himself, Mr. COHEN, Mr. WALLOP, Mr. GARN, Mr. WARNER, Mr. ARMSTRONG, Mr. PRESSLER, Mr. DANFORTH, Mr. PERCY, Mr. HELMS, Mr. HUMPHREY, Mr. HAYAKAWA, Mr. LUGAR, Mr. HATCH, Mr. YOUNG, Mr. MITCHELL, and Mr. LEVIN) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 120

Whereas the recent workers' strike in Poland has ended; and

Whereas the conclusion of the strike is due to an agreement between the Government and the workers; and

Whereas that agreement includes recognition by the Government of independent trade unions and the right to strike; and

Whereas this agreement has historic significance for the economic and political structure of the Polish People's Republic; and

Whereas this agreement also has implications for other Eastern-bloc nations: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress praises the workers of Poland for their courageous and successful action, congratulates the workers of Poland on this agreement with their Government, expresses the hope that it will lead to greater political freedom and economic progress for the people of Poland, urges the Polish Government to respect the agreement, and calls for continued noninterference by all nations in the internal affairs of the nation of Poland.

Mr. HEINZ. Mr. President, I am today submitting a concurrent resolution expressing the sense of the Congress that the workers of Poland are to be congratulated for their recent courageous actions, and for their apparently successful effort to gain significant, perhaps even historical, substantive concessions from the Polish Communist Government with respect to the institutions representing Polish workers, and the interaction of those institutions with the Polish Communist Party and Government.

Mr. President, the events of the past 3 weeks in Poland give all freedom-loving peoples in the West cause for hope and celebration.

After a prolonged strike and difficult negotiations, the Polish Government has apparently granted Polish workers the right to form independent trade unions and the right to strike, along with significant new economic benefits.

If this agreement is honored, it will represent a historic turn of events for a Communist state. For the first time there will be more than one center of power in the country, and workers' rights and interests will not be identified solely with the advancement of the totalitarian Communist state.

This turn to multiple centers of economic power holds promise, over time, of a turn to multiple centers of political power as well—which could eventually evolve into a form of democratic pluralism—a development to be welcomed by all freedom-loving peoples, and one which will hopefully spread to other Eastern bloc states still oppressed by Soviet troops and a Marxist economic system that does not work.

Obviously this has been a hard won victory for the Polish workers, and the battle, in fact, may not be over yet. The Polish Government could seek to take away with one hand what it has just granted with the other, and the Soviet Union, which thus far has acted with caution, could intervene.

The agreement having been reached, we and all other nations should do our part by welcoming this important step in the life of that country, by calling for all nations to refrain from interference in Poland's internal affairs, and by standing ready to help Poland deal with the short term economic consequences of the agreement if our help is requested.

This resolution I am introducing today Mr. President, expresses those sentiments. It congratulates the Poles on their success, expresses the hope that the agreement will be honored, and urges all nations to avoid interference in Poland's internal affairs. Mr. President, I hope the Foreign Relations Committee will act expeditiously on this resolution so we can send a timely and important message to the Polish people, and all others interested in this matter.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

Mr. JACKSON. Mr. President, I wish to announce that the Subcommittee on Energy Conservation and Supply of the Committee on Energy and Natural Resources has scheduled a continuation of its oversight hearings on "international applications of renewable energy resources."

The hearings will be held on Friday, September 5, 1980, at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

The subcommittee will receive testimony on the potential impacts of such renewable energy applications on the growth of the fossil-fuel consumption, the domestic solar industry, and global environmental problems.

If you have any further questions, please contact Veronica Kun at 4-7166.

SUBCOMMITTEE ON PARKS, RECREATION AND RENEWABLE RESOURCES

Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks, Recreation and Renewable Resources.

The hearing is scheduled for September 9, 1980, beginning at 2 p.m., in room 3110 of the Dirksen Senate Office Building. Testimony will be received regarding S. 3072, a bill to establish the Rattlesnake National Recreation Area and Wilderness in the State of Montana.

For further information regarding the hearing, you may wish to contact Thomas Williams at 224-7145.

Those wishing to submit a written statement for the record should write to the Subcommittee on Parks, Recreation and Renewable Resources, room 3106 Dirksen Senate Office Building, Washington, D.C. 20510.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of an open business meeting before the Select Committee on Indian Affairs.

An open business meeting is scheduled for September 5, 1980, beginning at 10:30 a.m., in room 1202 of the Dirksen Office Building. The following is to be considered for markup: S. 2829, a bill to provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes.

For further information regarding the business meeting, you may wish to contact Peter Taylor or Timothy Woodcock of the committee staff on 224-2251.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. HARRY F. BYRD, JR. Mr. President, I wish to announce that the Subcommittee on Taxation and Debt Management of the Senate Finance Committee, in a hearing set for Wednesday, September 10, 1980, will consider several bills in addition to the bills previously announced

The hearing will begin at 9 a.m. in Room 2221 of the Dirksen Senate Office Building as previously announced.

The bills for consideration are:

S. 3076, introduced by Senator DURKIN, which would provide that section 4942, relating to taxes on the failure to distribute income, and section 4943, relating to taxes on excess business holdings, of the Internal Revenue Code of 1954 shall not apply to a private foundation which meets several prescribed requirements. The principal beneficiary of the bill is the Belle Peabody Brown Foundation. It is believed that the bill would have no significant impact on federal revenues.

S. 3080, introduced by Senator HARRY F. BYRD, JR., which would provide that gift taxes be paid annually rather than quarterly as is currently required. The measure is of general application and would have a one-time revenue loss of $50 million with an annual loss thereafter of $11 million.

S. 3070, introduced by Senator DURENBERGER, which would revise section 904, relating to the limitations on the foreign tax credit, with regard to tax treatment on the gain from the sale of stock of a subsidiary.

Witnesses who desire to testify at the hearing must submit a written request, including a mailing address and phone number, to Michael Stern, staff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on September 8, 1980.

WRITTEN STATEMENTS

Witnesses who are not scheduled to make an oral presentation, and others who desire to present their views to the subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearing. These written statement should be typewritten, not more than 25 double-spaced pages in length, and mailed with 5 copies to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than September 12, 1980.

ADDITIONAL STATEMENTS

ECONOMIC PRODUCTIVITY

● Mr. BAUCUS. Mr. President, I would like to submit for the RECORD a recent article on productivity that appeared in the Washington Post. Written by Pat Choate, a visting fellow at the Academy for Contemporary Problems, the article describes one view of the costs and consequences of delay in the completion of private and public projects across the Nation. I found the article informative and provocative, especially in light of our Nation's falling rate of productivity.

The article follows:

THE GREAT AMERICAN DELAY

(By Pat Choate)

It may be difficult to believe today, but in 1931 the Empire State Building was completed and the first tenant occupied space less than 14 months from the day the ground was broken. In 1941 the Pentagon building was completed 16 months after construction begun. By contrast, the new Phillip Hart Senate Office Building, begun in 1976, will require at least 7 to 10 years to complete.

These are not isolated examples. They reflect the extraordinary increase in the time required to complete private and public projects across the nation. These delays are decreasing the value of investments, retarding technological advances, slowing American productivity, fueling inflation, aggravating unemployment and concentrating wealth and power in fewer hands by chasing away smaller companies that cannot afford to pay for them.

More ominously, they are hurting major new weapons systems critical for national defense. For example, the Army and the Chrysler Corp. took more than eight years to design, test and produce the first model of the new Abrams XM1 tank, a central part of the U.S. and NATO defense strategy for Europe. Though the Army and Chrysler repeatedly have testified before Congress that technical problems associated with the tank have been solved, last spring the Army announced that full Chrysler production was being delayed from June 1983 until February 1986. Thus, 10 years will be required to produce the 7,058 tanks the Army is buying.

This is all a massive, perilous and unnecessary waste. Government and business frequently have operated well under tight deadlines. President Kennedy's commitment to place an American on the moon before the end of the 1960s obviously was met. In 1975, construction of the Smithsonian Institution's Air and Space Museum was completed on schedule and under cost in less than 35 months from groundbreaking. The Pentagon has long had a relationship with the naval shipyards in Bath, Maine, under which that facility consistently has built, launched and delivered naval vessels under cost and on time.

In other words, Americans surely have a great deal of know-how, but lately we have been running short on "know-when"—and we have been suffering in many ways as a result. Consider some of the current and prospective consequences of The Great American Delay.

First, it costs to wait.

As much as a quarter or more of all new capital investment in the United States simply finances delay—going for accumulated interest payments plus inflation-boosted prices.

For example, in the public utility industry the time required to build a new coal or nuclear electric power plant has increased from less than five years in the 1960s to more than 10 years in the 1980s. The result: Approximately $40 billion of the U.S. $122 billion backlog of public utility capital construction projects is devoted to paying for delay.

Expanding delays have increased the costs of the Tennessee Valley Authority's seven new power plants alone from an estimated $6.8 billion to more than $17.6 billion. Most of this $10.8 billion increase is financing delay. Needless to say, these increased costs are passed on, in part or whole, to the consumer, thus feeding our inflationary cycle.

Second, delay reduces competition and its benefits.

The expenses of delay limit the firms that can participate in the development process. Only those with substantial assets can sustain projects over long, fallow gestation periods before they show returns. Only a few firms, for example, have the resources necessary to undertake projects similar to L'Enfant Plaza in Washington, Embarcadero Center in San Francisco or Quincy Market in Boston, or to develop a new-generation computer, a new aircraft or other major projects. Even these companies have limits on the number of projects they can undertake.

Third, delay retards development of advanced technology.

An increasing number of companies find themselves unable to participate in the creation and production of new technologies—even technologies with high profit potentials—because of their inability to sustain high delay costs. Since 1971 the number of patents issued to U.S. corporations has declined annually while those issued to foreign firms has increased steadily. Many U.S. firms are selling or licensing their best technology or even selling entire companies to foreign firms, and a growing number are moving some or all of their research, development and production facilities to other nations.

Fourth, as delay greatly increases government costs, it also obviously reduces its benefits.

For example, in the seven years since the beginning of fiscal year 1974, the Department of Housing and Urban Development's Community Development Block Grant Program has disbursed less than 70 percent of its cumulative $18.6 billion appropriations. At present inflation levels, HUD is losing almost $1 billion of purchasing power a year due to its $6.2 billion backlog.

The District of Columbia has used only two-thirds of the HUD Block Grant funds to which it is entitled. The $78 million unclaimed balance is losing its purchasing power at the rate of $12 million a year.

The Department of Commerce's Economic Development Administration has undisbursed funds for approved but uncompleted projects that date back to the 1960s. EDA's $6 billion accelerated public works program created to combat the joblessness created in the 1974–1976 recession entered fiscal 1980 with more than $600 million of undisbursed funds. The Environmental Protection Agency has an undisbursed backlog of almost $9 billion for previously funded community water and sewerage treatment facilities.

Fifth, the more delays in private and public projects, the more jobs lost.

In the current recession, with construction unemployment nationally at 17 percent and in places as high as 40 to 50 percent, the public works pipeline at the federal, state and local levels has a backlog of more than $100 billion of projects. Self-evidently, if spending of these funds could catch up with intent, hundreds of thousands of construction jobs would quickly be created. In turn, linked industries such as steel, concrete and mechanical controls would also benefit.

Sixth, delay-generated costs threaten the political viability of programs such as environmental protection, worker health and consumer safety.

Attention to these programs has focused generally in the direct costs, such as those created by requirements for firms to clean up their pollutants. But the larger expenses often result from the delay-costs created by inefficient time management in their administration.

For example, in 1979 the actual value of the environmental protection investments made by all businesses and by all units of government in the United States was approximately $42 billion. This is roughly equal to the delay-costs created in the public utility sector—only one of many sectors affected by delay.

If the delay-costs associated with these programs can be reduced, the basic aims of the programs clearly would become more economically and politically attractive.

Seventh, delay undermines national defense.

The design and production delays of the XM1 tank exist throughout the military. For example, the creation of the Army's new Infantry Fighting Vehicle was initiated in the early 1960s. Yet this weapons system will not become operational until October 1982—almost 20 years later. It need scarcely be said, moreover, that all this reduces the number of weapons we can afford.

For example, the PP3C aircraft procurement program will decline from 12 units in fiscal year 1980 to eight units in fiscal year 1981 and then resume production at 12 units a year in fiscal year 1982. Inflation and penalties will add costs of $31 million to the program.

Similarly, the F15 aircraft procurement program has been delayed by reducing production from 60 planes per year to 30 planes per year. This will add more than $381 million to the cost of this program. Or take production of the F16 aircraft. It is being reduced from 180 units to 120 units a year beginning in fiscal year 1982. This will delay completion by at least 22 months and add more than $1.6 billion to its costs.

The basic source of delay is the simple mismanagement of time. Although this mismanagement has many origins, including private industry, the principal source is government. As government has rapidly expanded the size and scope of its intervention in the economy over the past two decades, virtually all decision-making by entrepreneurs and corporate managers has become shared with multiple government agencies.

The issue here, it should be understood, is not the free-marketers' one of whether those interventions are justified. Indeed, many of them are cherished by private business itself. One need only note Chrysler, or the truckers begging Washington to keep regulating them, to remember that more than a few industries are eager to be protected by the federal government.

The issue, rather, is reducing the time taken to carry out these tasks. This is something that cannot be achieved by single, broad-brush strokes by government. It will involve hundreds, even thousands, of actions which may seem unimportant individually but which together can eliminate a great deal of delay.

The most basic reform needed is the creation of time limits for specific government decisions. These limits should not only be reasonable but well publicized and firmly applied. When the limits are exceeded, the associated costs should be calculated, made known and be considered part of remedial actions.

Congress must hold the executive branch to the task of creating and meeting these deadlines. Its oversight function can serve as a regular means of identifying any laws, regulations and practices that require change to accomplish this.

In addition, beneficiaries of federal and state grant-in-aid programs need incentives for the timely use of grants and other funds. If changing programs and "de-obligation" of funds became a more common practice and well-managed programs were given bonus incentives, those receiving the money would be more inclined to improve their time management.

Mediation is an effective means of reducing delay-creating conflict in both the planning and development stages. For example, through mediation by a neutral third party, the Port of Everett, Wash., in 1977 broke a six-year port development stalemate between development and environmental advocates by creating a development plan acceptable to all.

Finally, unduly long court procedures play a significant role in delays. Many opponents of projects commonly use litigation delays (as others use stalling techniques in Congress) to raise the costs and thus kill projects. There are a number of ways to speed the appeals court review process without sacrificing the quality of any decisions.

Streamlined appellate review processes could be established. All appeals from permit or regulatory decisions connected with a single activity, such as land use, could be combined in a single appellate review process. This would not only speed up decisions, but the use of specialized staffs hopefully would result in better rulings as well. There is little doubt that streamlined judicial and appeals processes can be created that will assure access to all parties.

If we are serious about reversing the decline in American productivity, the rise in unemployment, persistently high inflation and the deterioration of our military position in the world, we can start by eliminating The Great American Delay. There's little time to lose.●

THE STRIPPER WELL EXEMPTION

● Mr. BELLMON. Mr. President, recently, the Senate passed by a vote of 72 to 23, an amendment which would exempt two barrels of oil produced by each stripper well from the windfall profit tax. The purpose of that amendment was to improve the economics of stripper oil production so that these wells can be kept in production as long as economically possible.

Prior to the passage of this amendment, the resources analysis and management group of the Interstate Oil Compact Commission had undertaken a study of the effect of the windfall profit tax on stripper well operation. The results of this study were published in the August 4 issue of the "Oil and Gas Journal."

This study concludes that the excess profits tax would reduce the amount of oil removable by stripper well production by the amount of 490 millon barrels over the life of existing wells. This oil will have to be replaced by imported crude which at $35 a barrel would cost $17 billion.

It is important to remember that once a stripper well is plugged, it will never be redrilled because the expected production is too low to justify the large investment required. Therefore, this $17 billion worth of oil is lost forever to the Nation's economy.

The overwhelming vote for the stripper oil exemption indicates that Members of the Senate understand the importance of keeping these wells in operation. I believe the interstate oil compact study strongly supports this conclusion. So that Members can have additional information on that subject in anticipation of renewed debate, I ask that the text of the "Oil and Gas Journal" be printed in full in the RECORD.

The article follows:

IOCC: EXCISE TAX TO CUT RESERVES 490 MILLION BBL

The Crude Oil Windfall Profit Tax of 1980 will prevent recovery of at least 490 million bbl of U.S. crude—most of it from stripper wells—by reducing the economic life of producing oil wells.

So says the Interstate Oil Compact Commission in a report prepared by Resource Analysis & Management (RAM) Group, Oklahoma City.

The reduced recovery will translate into a production loss of up to 131,480 b/d of crude, mainly due to the plugging of more than 13,140 existing stripper wells and premature abandonment of an additional 10,730 wells before stripper status is reached.

This loss, IOCC says, must be replaced by imported crude at landed prices of $35/bbl or more.

Wellhead value loss due to the tax is estimated at more than $17.22 billion, assuming a crude price of $35/bbl.

And the tax is a tax on salt water production from stripper wells. IOCC says the tax most severely affects wells with high water/oil ratios. Salt water disposal costs range from $800–$2,400/month/well.

About half of the primary and secondary recovery stripper wells produce large volumes of salt water with crude, and operating costs for such wells are two or more times the costs of simple law water:oil ratio wells.

Furthermore, the tax will trim more than $637 million out of state tax revenues, mainly because of premature abandonment of stripper wells.

The Crude Oil Windfall Profit Tax, effective Mar. 1, 1980, levies taxes on producers' extra income resulting from crude price decontrol (OGJ, Mar. 17, p. 59).

RESERVES, REVENUE LOSS

Of the 490.13 million bbl of oil that will be lost because of the tax, IOCC says 355.69 million bbl will be from stripper wells. Wellhead value of this lost stripped crude would be about $12.44 billion.

IOCC says the tax amounts to a price rollback on stripper crude of 16.91 percent for independent and 33.93 percent for major companies. This would give the independent operator $4.75/bbl less per $35/bbl of crude and the major operator $9.50/bbl less on the same price crude. This is based on the operator receiving 80 percent of all revenue after "windfall" tax deductions from the wellhead price.

The tax on decontrolled revenue can reduce net revenue in constant 1970 dollars to levels below those received by major oil companies in 1979 and substantially below December 1979 levels received by independents, IOCC says (see table).

This price rollback will cut the economic operating life for stripper wells operated by majors by 8.08 years and 4.46 years for independents' stripper wells (see chart).

The RAM report points out that more than 72 percent of all producing wells in the U.S. are stripper wells. These wells account for 16.16 percent of the country's crude production.

About 18 percent of the Jan. 1, 1980, total U.S. crude reserves of 27.05 billion bbl are in stripper wells. Of the stripper well reserves, 42.15 percent are associated with enhanced recovery projects.

Importance of stripper well production has been reemphasized since the 1973 Arab oil embargo. Since that time each U.S. stripper well has produced the average equivalent of $63,830 of oil. Cumulative stripper production since 1973 has reduced U.S. payments for imported crude by more than $27.95 billion, IOCC says.

Stripper crude prices rose in current dollars and in 1970 dollars during 1970–75.

But a price rollback reduced the 1976 net revenue to the operator to less than the 1974 net revenue on a constant 1970 dollar basis. The rollback increased abandonments.

INCOME LOSS FOR STATES

Ten states will be hardest hit by the tax.

They are Texas, Oklahoma, New Mexico, Louisiana, Michigan, Wyoming, Kentucky, Montana, Indiana, and Arkansas.

These states are expected to lose about $629.1 million of the nationwide $637-million state income loss.

Texas is expected to lose $331.84 million in state revenues, Oklahoma $215.47 million, New Mexico $26.28 million, Louisiana $24.66 million, and Wyoming $14 million.

The remaining six states will lose less than $6 million each.●

SOME THOUGHTS ON CONGRESSIONAL OVERSIGHT

● Mr. BAUCUS. Mr. President, last month the Washington Post published a series of articles chronicling abuses in the way the Federal Government handles its contracts with private firms.

These stories paint a picture of massive waste, favoritism, conflicts of interest, and violations of Federal rules. The authors contend that the Government's system for awarding contracts—competitive bidding—has "virtually collapsed."

The Senate Judiciary Subcommittee on the Limitations of Contracted and Delegated Authority, which I chair, will examine these charges in hearings scheduled for September 17 and 24.

The chore of making sure taxpayers money is spent wisely and judiciously is tough and often tedious. But if these kinds of abuses are going to be halted this process of congressional oversight is absolutely essential.

Federal rules mandate that contracts be awarded only after a competitive bidding process has taken place. Yet, all too often that rule is ignored.

A recent example discovered by the staff of my subcommittee illustrates this point.

Last year I chaired several hearings looking into charges of waste and abuse at the General Services Administration. During this investigation we discovered that the GSA was proposing a 5-year program to "update" the Federal Government's telephone system. Projected cost: $300 million.

This new phone system did not seem to offer substantial improvements to the Federal Government's existing phone system. But more important, GSA's Automated Data Telecommunications Service proposed to award a sole-source, noncompetitive contract for this project, which is called Metrex.

The 5-year contract was what was called an "interim" contract. An interim contract implies that another, more permanent contract will be awarded when the temporary one expires. Further examination indicated that even more expensive purchases could be involved in that award.

I raised questions about this proposal during one of the GSA hearings my subcommittee conducted. And, I ask other agencies, such as the Commerce Department's National Telecommunications and Information Administration, for their advice.

The result was a convincing case against the Metrex proposal. We succeeded in getting GSA to withdraw its plan.

Metrex is an example of the problems Congress faces in trying to oversee the activities of Federal agencies. And, Metrex is an example of what ails the Federal procurement process.

The Washington Post series has been a positive step in our efforts to curb abuses in the way Federal contracts are handled. Already the Office of Management and Budget has announced that it wants to tighten up administrative procedures. I hope our hearings will take another step in that direction.

Yet, although Metrex was halted, one can only wonder how many other contracts like Metrex slip through the cracks.●

LISBON: SHIFTING COALITIONS

● Mr. HEINZ. Mr. President, recently Michael Samuels, an executive director of Georgetown's Center for Strategic and International Studies, published a review of the developing political situation in Portugal entitled "Lisbon: Shifting Coalitions." Ambassador Samuels' brief article is an excellent primer on Portugal—a thorough overview of the current political situation and an incisive analysis of where current trends could lead. Mr. President, I commend this article to all Senators and ask that it be printed at this point in the Record.

The article follows:

Lisbon: Shifting Coalitions

(By Michael A. Samuels)

Nineteen eighty is not only an election year in the United States, it is also an election year for Portugal, a small but vital member of the Atlantic alliance, and because of U.S. bases in the Azores, one of importance to the U.S. military security system.

If the American atmosphere is charged with politics, the Portuguese one is even more so. The Portuguese have two elections in 1980—one in October for Parliament and prime minister, and one in December for president. The outcome of these elections will determine three major issues: First, whether Portugal's post-Salazar attempt at democracy has reached a point where politics move on to running the country smoothly; second, from what point on the political spectrum will Portugal be ruled; and finally, what will be the future political role of the Portuguese military, which has been an integral part of politics since the 1974 revolution?

The Portuguese political parties run a broad gamut from left to right. No party has majority electoral support, hence coalitions are necessary. The four largest parties, starting from the farthest left, are the Communists (PCP), headed by Alvaro Cunhal; the Socialists (PS), headed by Mário Soares; the Democratic Socialists (PSD), headed by Francisco Sá Carneiro; and the Christian Democrats (CDS), headed by Diogo Freitas do Amaral. Contention between these four large parties means that several smaller parties often have a political importance far beyond their popular appeal, since their support may be needed in coalition building. Only three types of coalitions are possible: a leftist coalition, a center-left coalition, and a center-right coalition.

The first legislative elections after the April 1974 revolution ending monolithic rule, opened Portuguese politics to competition and demonstrated an unwillingness to form any coalitions, either before or after the elections. When several attempts at coalitions failed to produce a prime minister and government with predictable parliamentary support, President Ramalho Eanes was forced to appoint first one and then subsequent nonparliamentary governments. Over time, each of these failed to gain the support of the parliament. Finally the center-right parties demanded and President Eanes called for a new parliamentary election last November, a full year earlier than was required constitutionally. Thus, when the October 1980 elections take place, the current government will have been in power only for eight months.

To contest last November's elections, the PSD and the CDS formed a center-right coalition called the Aliança Democrática (AD). The AD won a parliamentary majority, the second parliamentary majority gained by any party or coalition since the 1974 revolution. This majority surprised many observers and gave the AD and its leader and current prime minister, the PSD's Sá Carneiro, the opportunity to act decisively. The AD's victory convinced Sá Carneiro and many other AD leaders that the political mood in Portugal was center-right. Thus, the Sá Carneiro government has pursued policies with a style and ideology aimed at making his coalition a strong and permanent force in Portuguese politics. But the first goal for the coalition has been to stay together long enough to be reelected in the October parliamentary elections and to have its own candidate for the December presidential elections.

General Ramalho Eanes was a middle-level military officer who was chosen and supported by a noncommunist coalition, largely comprised of the PS, the PSD, and the CDS. Eanes received 61 percent of the popular vote and has felt a national mandate since. A major issue in political circles has been whether Eanes has personally maintained the large support, whether the center-left could gain a majority, or whether a center-right majority could be reproduced in the presidential election. In any case and for reasons that are not fully clear, Eanes has definitely decided to run for reelection.

Since Eanes' election, he has been perceived by the center-right as being sympathetic to leftist causes. One clear pattern that has emerged during the Sá Carneiro government has been his confrontation with President Eanes. Early on he was a supporter of Eanes, but the last few years have seen a major break between the two men.

The wounds are deep. Not least of these developed during the nearly two month delay between Sá Carneiro's election victory last November and Eanes' asking him to form a government in January. During this time, Eanes allowed his hand-picked, center-left prime minister, Maria Pintasilgo, a free rein in running the government. She pursued several policies that Sá Carneiro was known to oppose, and Eanes did nothing to inhibit her.

Soon after coming to power, Sá Carneiro directly opposed the president in several ways. In particular, he led Parliament to reject several Pintasilgo initiatives and to overrule several appointments of leading Portuguese known to be sympathetic to Eanes. In pursuing this independent policy, Sá Carneiro may have actually helped Eanes form a support structure of officials unhappy with Sá Carneiro and the AD that Eanes can use in the December 1980 presidential election.

Perhaps the major political question in 1980 Portuguese politics was whether the PSD would support Eanes again. In spite of a number of PSD officials who recommended such support in the belief that a center-left coalition would be viable, Sá Carneiro stood firm, even to the point of stating that he would not serve as prime minister if Eanes were reelected president. Having drawn the battle lines, the AD sought a candidate, eschewed selecting a civilian, and chose the relatively unknown Soares Carneiro, only recently promoted to general in the Portuguese army.

Soares Carneiro was not active in the 1974 revolution and is even considered by some to have been a full collaborator with the *ancien régime*. As the choice of the more right wing, he is known to have been opposed by sections of both the CDS and the PSD. Already the small Reformadores party of former PS foreign minister Medeiros Ferreira, which is now a part of the AD coalition, has announced it will not support Soares Carneiro and that he will support Eanes.

Meanwhile, other jockeying is taking place during this process of coalition building, and new center-left coalitions may be formed, with different components in each election. A key issue here will be whether the Communists, whose approximately 16 percent support seems constant, will try to join such a coalition and how the coalition will react, as Communist collaboration might be the kiss of death. Likewise, the Socialist party will insist on being the senior member of the coalition under the PS's former prime minister Mário Soares, even though several potential coalition partners feel he has been an unsuccessful leader.

The political atmosphere is not comprised solely of personalities. Issues play an important part in the national mood, and one of the most important issues is the need to revise the constitution.

The current Portuguese constitution was devised in the spirit of the revolution in April 1974 that toppled almost 50 years of strong-armed monolithic rule and brought about the withdrawal of Portugal from its colonial past. The constitution provides a significant division of power among three potentially conflicting sources: the prime minister who, in the context of a parliamentary system, is chosen by members of parliament; a president elected in a direct election; and a Revolutionary Council chosen from the military (particularly those youthful leaders of the 1974 revolution), that exercises its influence through the president who is chairman of the council.

The constitution thus provides fertile ground for frustration among civilian politicans who would like to eliminate the virtual veto power of the Revolutionary Council, as exercised by its Constitutional Tribunal. The past few months have witnessed a series of sparring matches between the "government"—Sá Carneiro and the AD—and President Eanes and the Revolutionary Council. Although electing a sympathetic president is desirable for the coalition that wins the September parliamentary election, there is widespread belief among politicians of diverse ideologies that the power of the Revolutionary Council must be ended. Only the Communist party seeks to transform, rather than end it.

The current constitution was intended as a transition document, one that was expected to be amended or revised in 1981. It was likewise widely assumed that the life of the Revolutionary Council would not be extended beyond 1981. But the members of the Revolutionary Council now realize that the control they have relished in the recent past may be fleeting, and have acted to consolidate their power. Recently, there have been signs that the council's demise is not a foregone conclusion and that it may wish to become a permanent part of the political climate.

The two hotly debated aspects of the constitution are the need to open the nationalized sectors of the economy to private sector competition and the process for changing the constitution. The current constitution makes it impossible for private ownership in such industries as banking, brewing, steel-making, and others that were nationalized in the wake of the 1974 revolution. Sá Carneiro and the AD do not believe that a nationalized industrial sector is the most efficient way to run a country. After his election, Sá Carneiro attempted to revise the ownership pattern to allow private investors to start new corporations in the industrial sectors to compete with nationalized firms. But parliamentary efforts have been vetoed by the Revolutionary Council with the assent of President Eanes. Thus, denationalization will be possible only after the constitution has been changed.

As for the means for changing the constitution in 1981, there are two alternatives. The constitution provides for changes by a two-thirds majority of Parliament. But since the AD now senses that it could not achieve the two-thirds, it has suggested an extra-constitutional vehicle, a national referendum. Such a referendum has become a major political issue.

While politics is the name of the game in Portugal, the current actions of the AD government are worth some comment. Sá Carneiro has a clear set of policies. Portugal has serious economic problems: high unemployment, a high rate of inflation, dependence on imported oil, little opportunity for new jobs, the reputation of being an unsure environment for international investment (mainly because of the constant change of signals concerning foreign investment), and a heritage of labor disruptions of various kinds. One of Sá Carneiro's first moves in January and February was swiftly to take those economic measures that were sure to have negative political impact, reasoning that since those steps were necessary, the earlier they were taken, the less likely it was that the short-term negative impact would be felt about the time of the October election. But the balance of payments, much improved in 1979 from previous years, has slipped again this year.

Sá Carneiro began his tenure by adopting an image different from that of his predecessors and his leading political opponent Mário Soares, head of the PS and a well-known international figure. Soares was active internationally, constantly traveling and in the public press. In contrast, adopting a style similar to the long-time Portuguese leader António Salazar, Sá Carneiro first minimized international travel and sought to be perceived as a quiet, hard-working prime minister. He makes few public speeches and works constantly. Recently, he has begun to travel, ostensibly for specific purposes related to EEC entry or to NATO obligations. But his travels are increasingly viewed as due less to international necessities than to his competition with President Eanes.

Sá Carneiro may have felt that international travel was necessary to point out the difficult policies pursued by himself and Eanes. The latter has pursued a broad foreign policy beyond the traditional scope of Portugal's Atlantic alliance responsibilities, somewhat nonaligned, but less so than the so-called Third-Worldist approach that was common immediately after the 1974 revolution. Eanes has been particularly successful in gaining the credibility of its former African colonies, one area where the Portuguese connection is very important for the West. Still, the AD (both Sá Carneiro and the CDS, whose leader Freitas do Amaral is both deputy prime minister and foreign minister) has pursued an overtly pro-Western policy. Sá Carneiro was one of the most immediate and vocal critics of the Soviet invasion of Afghanistan. Portugal was the first European country to announce sanctions on Iran in support of the United States, and the Portuguese government strongly supported a boycott of the Moscow Olympics, although the Portuguese Olympic Committee subsequently defied the government. But Soares too called for a boycott of the Olympics and the PS condemned the Soviet invasion of Afghanistan.

Even more important, Sá Carneiro's major international political effort has been his strong commitment to getting Portugal to join the EEC as quickly as possible. There is widespread support across the political spectrum on this issue. But a major obstacle will be the tendency of EEC bureaucrats to lump Portuguese admission with the admission of Spain. And Spanish admission may be delayed as a result of French concerns. Portugal, however, is determined to become a member of the EEC as soon as possible, it is hoped by 1983. This eagnerness results not simply from economic concerns. There is a major political reason: admission to the EEC requires a country to maintain a civilian political system, which would give Portugal additional insurance against another military coup.

The key question is whether Portugal will be able to devise a stable civilian political structure. Clearly, there has been little government stability since the 1974 revolution, a situation reminiscent of the 16 years during the First Republic (1910–1926) when there were 41 governments. Stability is not in the interest of the Communist party, whose power in the labor force makes it a group with prodigious economic and political power to be reckoned with in Portugal. The Socialist party, once thought to be the major political force, has declined in recent years. This election offers them a chance at revival. Will they become stronger and return to power or will they lose further ground, both to the AD and to the Communists?

In a country of shifting coalitions, it is just possible that a center-right coalition will win the parliamentary election and a center-left one will win the presidential election. If this is the case, the process of democracy will have passed two milestones, but little will have been resolved, and the Portuguese search for political stability will be postponed again.●

ANNOUNCEMENT OF POSITION ON VOTE TO OVERRIDE VETO OF VETERANS' ADMINISTRATION HEALTH CARE AMENDMENTS OF 1980

● Mr. BOREN. Mr. President, on August 26, 1980, the Senate, by a unanimous vote of 85 to 0, passed H.R. 7201 over the veto of the President. H.R. 7201 is the Veterans' Administration Health Care Amendments of 1980. I missed this vote because I was in Oklahoma exercising my responsibility to vote and participate in my State's primary election.

Had I been here, Mr. President, I would have voted with the majority in overriding the Presidential veto of H.R. 7201.

Oklahoma has one of the highest number of retired military personnel and veterans in our Nation. Pressure on our hospitals is increasing because of increasing patient loads. It will require a major effort to improve the quality of care. Currently, it is estimated that there are over 411,000 veterans who call Oklahoma home. Our two veterans' hospitals and one clinic, with their approximately 150 full- and part-time doctors, treated 18,907 veterans in 1978 alone. This figure will continue to rise. Our veterans deserve the best possible care through our veterans' hospitals. Recruiting and retaining top quality physicians and other health care providers in our veterans' hospitals is vital to insuring the health care for our Nation's veterans.

Mr. President, as you know, the House voted overwhelmingly by 401 to 5 to override this Presidential veto. Combined with the unanimous 85-to-0 vote of the Senate, this is ample evidence that the President was ill-advised on this bill.

Those who have faithfully served our country in the Armed Forces deserve the best that we can provide. H.R. 7201 will be a step in the right direction in recruiting and retaining top level health providers to insure that our veterans receive the kind of health care they deserve.●

SOME THOUGHTS ON GUNS

● Mr. BAUCUS. Mr. President, I am concerned today about a loss of perspective. The people of Montana are concerned about the perspective of the Senate of the United States.

I am referring to S. 1936 the so-called Saturday Night Special legislation which was introduced by the chairman of the Judiciary Committee on which I serve.

Perhaps it is because in much of Montana a Saturday Night Special is still a television program.

Perhaps it is because registration of firearms seems odd to people who know each other, face to face, and name by name, and family to family.

Perhaps the tax cost to American families of trying to account for 7 billion rounds of ammunition each year seems a little out of place to Montanans who are trying to protect herds from coyotes.

The Senate of the United States is again engaged in creating legislation just for the cities.

This body is engaged in protecting city dwellers from city dwellers. This proposed legislation does not address the causes of violent crime, but rather, attempts to retrace the crime after it has been committed. You do not prevent violent crime by taking away firearms from law-abiding citizens.

Clarence Darrow once observed that, "laws, like clothes, are meant to fit the people they are meant to serve." We are meant to serve all the people in these United States and I mean to serve the people of Montana.

This is my objection to S. 1936. It does not fit the people it was meant to serve. This is the lost perspective that disturbs me, personally, and the Montanans I represent. This is the lost perspective of national legislation written to solve regional and often local problems.

The law has been described as a "sort of hocus-pocus science that smiles in your face while it picks your pocket." S. 1936 attempts to reassure the American people with that hocus-pocus smile. The smile that picks your pocket gives only hollow reassurance.

One bit of magic in this hocus-pocus law, the so-called Handgun Crime Control Act of 1979, is the magic which creates new crimes and new criminals. The bill creates an entirely new set of

Federal gun crimes. The new criminal could be a man transferred by his company to a new city. The new criminal could be an honest firearms retailer. The new criminal could be a widow.

The widow who keeps her dead husband's handgun would be guilty of a Federal felony. She would be guilty of the felony whether she knew of the handgun or not.

If a citizen locating from one State to another violates any local law in the interstate transportation of firearms or ammunition, that citizen risks a felony charge.

The third example of the new criminal is the honest gun dealer. If a licensed dealer sells ammunition to a person discharged from the Armed Forces under dishonorable conditions, the dealer has committed a felony. The senior Senator from Massachusetts and his cosponsors have not told the gun dealer how to determine a man's discharge status from his appearance. To make such a guess would prove highly inaccurate and is a gross violation of the man's rights.

This is not all the bill does not explain. To give my colleagues an idea of the far-reaching implications of this legislation, more than three-quarters of the handguns currently in private ownership and half the handguns currently being produced would be immediately outlawed.

How can the authors of S. 1936 say that "the Handgun Control Act of 1979 seeks to find common ground between law-abiding responsible handgun owners and those Americans who do not wish to own handguns." This bill takes a determined step in the direction of prohibition. It outlines duties of a Handgun Criteria Commission that would be empowered to establish means for evaluating handguns to determine if they are "easily concealable, or are handguns with potential for criminal use, or are handguns particularly suitable for sporting purposes.

The bill does not explain what an "easily concealable weapon" is. The Supreme Court once contended that a 22-inch sawed-off shotgun was a concealable weapon.

The bill does not explain the intriguing phrase, "potential for criminal use." All guns have that potential, as do all of the knives in the kitchen drawer. How, precisely, does one distinguish between firearms with criminal potential and those without criminal potential.

As for the promise of finding a common ground between law-abiding handgun owners and those Americans who do not wish to own handguns, if the committee has been unable to distinguish between sporting use of handguns and street use of guns to this point, by what magic will that distinction be made by the new Federal Handgun Commission.

There is a sophistication in Washington by which we no longer throw money directly at a problem, we throw commissions at it. They in turn throw money at the problem. Money which might be more wisely spent on a more visible police force or public education on how to prevent crime.

The hocus-pocus smile of the law reaches even deeper into our pockets, for the bill calls for added consultants and researchers to study various firearms and report to the Attorney General periodically.

A second, and expensive portion of the bill calls for reimbursement of victims of crimes committed with handguns. It calls for reimbursement, however, the "program does not require as a precondition to payment that any person be apprehended, prosecuted, or convicted of the handgun crime that gave rise to the claim." We have here a different kind of crime, crime without an apparent perpetrator. I would question the appropriateness of this elaborate plan under a discussion of crime control.

One of the House sponsors of this legislation, Mr. DRINAN, has described the impact of S. 1936 in extremely clear terms: "Persons carrying handguns outside their homes or place of business should have a license to do so. Carrying a handgun without a license would be punished by a mandatory jail sentence." No longer are we talking about concealed weapons, we are talking about a citizen carrying a handgun off his personal property for whatever reason.

The gentleman reveals more about this proposed regulation when he talks about the process to "assign liability." He describes a hypothetical situation: "If a person illegally sells a handgun and it is subsequently used to kill or injure another person, the victim can hold the seller civily liable."

To be held responsible for the ultimate use of a weapon, which may have been somehow technically sold in contravention of a constitutionally dubious piece of legislation is simply an outrage.

There is no legal precedent for such a liability.

There is no moral precedent for such a liability.

S. 1936 extends the governmental infringement of the individual rights of the citizen. I cannot support a bill which promises to evolve into prohibition of the freedom to own a firearm. Prohibition of an individual right, guaranteed by the Constitution.

I do believe it is time for a change in the Gun Control Act of 1968. The needed changes are to reduce Government control over the law-abiding citizen.

S. 1862 which I have co-sponsored with Senator McCLURE is designed to deter continued harrassment of gun collectors, dealers, and law-abiding users of firearms.

This bill provides that law-abiding citizens of one State, not forbidden by their home State to buy a firearm, may purchase firearms in any of the United States as long as there exists no violation of any State laws.

The Federal Firearms Law Reform Act of 1979 eliminates the requirement for ammunition records to be kept. Much rural ammunition is sold in convenience and general stores where guns are not even available. More than seven billion rounds of ammunition are sold in the United States each year and the Federal Government must have more effective ways of dealing with street crimes than to count bullets.

I do not support further inflation of the number of licensed handgun dealers by forcing the licensing of convenience store owners who deal in ammunition only. The expense of this inflation to the taxpayer would be outrageous.

Firearms collecters would also be better protected from Government harassment by S. 1862. The buying or selling of firearms for private collections would not constitute "engaging in the business." Many private collectors have no guidelines to go by in deciding whether or not they may collect without a "dealer's license." The licensing of collectors is another example of extended bureaucracy.

It is important to license those persons who deal in firearms as a regular business, with the intent of making a livelihood. And S. 1862 does provide for that licensing.

Agents of the Bureau of Alcohol, Tobacco, and Firearms would be able to make checks of dealer's records only when the agent has reason to believe that specific violations of the law have occurred. (This is in keeping with the spirit of the law governing protected substances.)

There has been much proof of Federal harassment of legitimate gun collectors. A recent example discussed in the December and January issues of Washingtonian magazine describes the plight of a 29-year-old Vietnam veteran and former county policeman who became entangled in complex Federal gun laws, at a cost to him of 11 felony convictions. Richard Boulin sold guns from a personal collection to an undercover informant of the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms.

Boulin naively interpreted the law to mean that he could, as the holder of a dealer's license, sell guns from his own, private collection without all the Federal paperwork required of his commercial sales.

The Federal judge who tried the case convicted Boulin after 11 months of studying the action. Judge Murray said he had "no choice."

The Boulin case became even more complex because of a document given to my colleague Senator HAYAKAWA. It was a letter which had been written by John G. Krogman, Acting Director of the Bureau of Alcohol, Tobacco, and Firearms.

The letter said that the Bureau "recognizes that a licensee may maintain a private collection of firearms independent of the business inventory and lawfully dispose of such firearms without entering the transaction in the licensee records." Sale of such personal firearms need not be recorded in the business records and a form 4477 executed by the purchaser would not be required.

Further harassment by Federal agents raises a question of entrapment of gun collectors. In this same case, the undercover agent who was, incidentally, working for BATF to avoid a jail term for illegal possession of a machinegun, repeatedly called Boulin at home to request specific weapons.

As Boulin awaits the result of his appeal, BATF has yet to respond to Judge Murray's urging that $35,000 worth of commemorative guns seized at the time of Boulin's arrest be sold so that Boulin could receive the money. BATF says only that the judge's suggestion is "under advisement."

This kind of harassment is the result of a bounty mentality which I do not wish to see converted to even more restrictive and confusing legislation.

I think the 2d and the 14th amendments are quite clear. Neither the Federal Government, nor the States may infringe upon the right of the people to bear arms.

Gladstone reminded us that "Good laws make it easier to do right and harder to do wrong." S. 1936 does not meet that test—it is not a good law.●

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PRYOR). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further morning business?

Mr. ROBERT C. BYRD. Yes, Mr. President. Shortly, there will be a bit more. For the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SMALL BUSINESS EXPORT EXPANSION ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 858.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2620) to expand the opportunities for small business participation in exporting, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs with amendments as follows:

On page 4, line 22, after "subject," insert "however,";

On page 4, line 23, after "empowered" insert a comma and "only to such extent and in such amounts as are provided in appropriation Acts,";

On page 5, line 19, after "105." insert "(a)";

On page 8, beginning with line 5, insert the following:

(b) The amendment made by subsection (a) shall take effect on October 1, 1980, or the date of enactment of this Act, whichever occurs later.

On page 8, line 8, after "106." insert "(a)";

On page 10, beginning with line 3, insert the following:

(b) The amendment made by subsection (a) shall take effect on October 1, 1980, or the date of enactment of this Act, whichever occurs later.

On page 10, line 15, after the period, insert the following:

Nothing in this section shall be construed as authorizing the Secretary to enter into contracts or incur obligations except to such extent and in such amounts as are provided in appropriation Acts.

On page 12, line 18, strike "an additional amount (excluding any fees collected from receipts of such assistance)" and insert "a sum";

On page 12, line 20, strike "twice";

On page 13, line 20, after "thereof," insert "any";

On page 22, after "center," insert "any";

On page 22, line 22, after "business," insert "any nonprofit corporation, any regional commission,";

On page 14, beginning with line 1, insert the following:

(h) The authority to enter into contracts shall be in effect for each fiscal year only to the extent or in the amount as are provided in advance in appropriation Acts.

On page 14, line 11, after "shall" insert a comma and "only to such extent and in such amounts as are provided in appropriation Acts on and after October 1, 1980,";

On page 18, line 13, after "appropriated" insert "on or after October 1, 1980,";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Export Expansion Act of 1980".

SEC. 2. (a) The Congress finds and declares that—

(1) a strong export policy is essential to the health and well-being of the United States economy;

(2) exports of goods and services account for one out of every six jobs in the manufacturing sector and 10 per centum of the gross national product;

(3) every billion dollars in new exports is estimated to provide forty thousand jobs;

(4) there is increased and fierce competition in international markets to United States goods and services;

(5) small businesses account for no more than 10 per centum of all United States export sales;

(6) Federal Government programs are not sufficiently responsive to the needs of small business for export education and development of overseas marketing opportunities necessary to insure that small business realize their potential; and

(7) it is in the national interest to systematically and consistently promote and encourage small business participation in international markets.

(b) It is therefore the purpose of this Act to encourage and promote small business exporting by—

(1) providing educational and marketing assistance to small businesses;

(2) insuring better access to export information and assistance for small businesses by upgrading and expanding the export development programs and services of the Department of Commerce and the Small Business Administration; and

(3) promoting the competitive viability of such firms in export trade and encouraging increased tourism in the United States by creating a program to provide limited financial, technical, and management assistance as may be necessary.

TITLE I—SMALL BUSINESS EXPORT FINANCING ASSISTANCE

SEC. 101. Section 5(b)(7) of the Small Business Act is amended to read as follows:

"(7) in addition to any powers, functions, privileges, and immunities otherwise vested in him, take any and all actions (including the procurement of the services of attorneys by contract in any office where an attorney or attorneys are not or cannot be economically employed full time to render such services) when he determines such actions are necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this Act: *Provided,* That nothing herein shall be construed as authorizing the Administrator to contract or otherwise delegate his responsibility for loan servicing to other than Administration personnel, but with respect to deferred participation loans he may authorize participating lending institutions, in his discretion pursuant to regulations promulgated by him, to take such actions on his behalf, including, but not limited to the determination of eligibility and credit worthiness, and loan monitoring, collections and liquidation;".

SEC. 102. Section 7(a) of the Small Business Act is amended by inserting before the phrase "to finance plant construction," the phrase "to finance export assistance,".

SEC. 103. Section 7(a) of the Small Business Act is further amended by inserting before the phrase "The foregoing powers shall be subject, *however,*" the following new sentences: "The Administration is further empowered, only to such extent and in such amounts as are provided in appropriation Acts, to make or effect either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis extensions and revolving lines of credit for export purposes to enable small business concerns to develop foreign markets and for preexport financing: *Provided, however,* That no such extension or revolving line of credit may be made for a period of periods exceeding eighteen months. A bank or participating lending institution may establish the rate of interest on extensions and revolving lines of credit as may be legal and reasonable.".

SEC. 104. Section 7(a)(4) of the Small Business Act is amended by adding at the end thereof the following new sentence: "In the case of any deferred participation loan or extension or revolving line of credit made under section 7(a) for export purposes, the total amount outstanding and committed (by participation or otherwise) to the borrower from the revolving fund established by section 4(c)(1)(B) of this Act shall not exceed $750,000.".

SEC. 105. *(a)* The Small Business Act is amended by redesignating sections 16 through 21 as sections 17 through 22 respectively, and by inserting after section 15 the following new section:

"SEC. 16. (a) There is established within the Administration an Office of International Trade which shall implement the programs pursuant to this section.

"(b) The office shall promote sales opportunities for small business goods and services abroad. To accomplish this objective the office shall—

"(1) provide small businesses with access to current and complete export information by—

"(A) making available, at the Administration's regional offices through cooperation with the Department of Commerce, export information, including, but not limited to, the worldwide information and trade system and world trade data reports;

"(B) maintaining a current list of financial institutions that finance export operations;

"(C) maintaining a current directory of all Federal, regional, State and private sector programs that provide export information and assistance to small businesses; and

"(D) preparing and publishing such reports as it determines to be necessary concerning market conditions, sources of financing, export promotion programs, and other information pertaining to the needs of small business exporting firms so as to insure that the maximum information is made available to small businesses in a readily usable form;

"(2) encourage through cooperation with the Department of Commerce, greater small business participation in trade fairs, shows, missions, and other domestic and overseas export development activities of the Department of Commerce; and

"(3) facilitate decentralized delivery of export information and assistance to small businesses by assigning full-time export development specialists to each Administration regional office. Such specialists shall—

"(A) assist small businesses in obtaining export information and assistance from other Federal departments and agencies;

"(B) maintain a current directory of all programs which provide export information and assistance to small businesses within the region;

"(C) encourage financial institutions to develop and expand programs for export financing;

"(D) provide advice to Administration personnel involved in granting loans, loan guarantees, and extensions and revolving lines of credit, and providing other forms of assistance to small businesses engaged in exports; and

"(E) within one hundred and eighty days of their appointment, participate in training programs designed by the Administrator, in conjunction with the Department of Commerce and other Federal departments and agencies, to study export programs and to examine small businesses' needs for export information and assistance.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1980, or the date of enactment of this Act, whichever occurs later.

SEC. 106. (a) Section 5 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(f) (1) The Administrator, after consultation with the Secretary of Commerce, the President of the Export-Import Bank of the United States, the President of the Overseas Private Investment Corporation, and the Director of the Internal Revenue Service, shall establish an export promotion center in each of two regional offices of the Administration where field offices of the Department of Commerce and the Internal Revenue Service exist.

"(2) The Export-Import Bank of the United States, the Internal Revenue Service, the Overseas Private Investment Corporation, the Department of Commerce and the Administration shall each designate at least one full-time employee to serve as such agency's full-time representative in each such center. Each person designated by the Administration shall be familiar with the needs and problems of small business exporting and shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Each export promotion center shall serve as a one-stop information center on Federal Government export assistance, financing programs available to small business, and other provisions of law governing exporting for small business.

"(3) Not later than six months after the enactment of this Act, the Administrator shall report to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives on the progress made in implementing the provisions of this section.

"(4) Within two years after the date of enactment of this Act, the Administration shall evaluate these export promotion centers, including, but not limited to, an analysis of the effectiveness of the center in developing and expanding small business exports, and a comparison of the effectiveness of the center in relation to regional offices of the Administration which do not have an export promotion center. Such evaluation shall be submitted to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

"(5) This section is repealed effective October 1, 1983.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1980, or the date of enactment of this Act, whichever occurs later.

TITLE II—SMALL BUSINESS EXPORT EXPANSION ASSISTANCE

SEC. 201. (a) The Secretary of Commerce (hereinafter referred to as the "Secretary") is authorized to make grants (including contracts and cooperative agreements) to a qualified applicant to encourage the development and implementation of a small business international marketing program (hereinafter referred to as "the program"). Each qualified applicant under this title may receive a Federal grant not to exceed $150,000 annually for each of three years. Nothing in this section shall be construed as authorizing the Secretary to enter into contracts or incur obligations except to such extent and in such amounts as are provided in appropriation Acts.

(b) (1) To be eligible for a grant under this section, an applicant proposing to carry out a small business international marketing program must submit to the Secretary an application demonstrating, at a minimum.

(A) the geographical area to be served;

(B) the number of firms to be assisted;

(C) the staff required to administer the program;

(D) the means to counsel small businesses interested in pursuing export sales, including providing information concerning available financing, credit insurance, tax treatment, potential markets and marketing assistance, export pricing, shipping, documentation, and foreign financing and business customs;

(E) the ability to provide market analysis off the export potential of small business concerns; and

(F) the capability for developing contacts with potential foreign customers and distributors for small business and their products, including arrangements and sponsorship of foreign trade missions for small business concerns to meet with identified potential customers, distributors, sales representatives, and organizations interested in licensing or joint ventures: *Provided, however*, That no portion of any Federal funds may be used to directly underwrite any small business participation in foreign trade mission abroad.

(2) Program services shall be provided to small business concerns through outreach services at the most local level practicable.

(3) Each small business international marketing program shall have a full-time staff director to manage program activities, and access to export specialists to counsel and to assist small business clients in international marketing.

(c) (1) Each small business international marketing program shall establish an advisory board of nine members to be appointed by the staff director of the program, nor less than five members of whom shall be business persons or representatives of small business associations.

(2) Each advisory board shall elect a chairman and shall advise, counsel, and confer with the staff director of the program on all policy matters pertaining to the operation of the program (including who may be eligible to receive assistance, ways to promote the sale of United States products and services in foreign markets or to encourage tourism in the United States, and how to maximize local and regional private consultant participation in the program).

(d) The Secretary shall require, as a condition to any grant (or amendment or modification thereof) made to an applicant under this section, that a sum equal to the amount of such grant be provided from sources other than the Federal Government: *Provided*, That the additional amount shall not include any amount of indirect costs or in-kind contributions paid for under any Federal program, nor shall indirect costs or in-kind contributions exceed 50 per centum of the non-Federal additional amount.

(e) The Secretary shall develop a plan to evaluate programs approved under this section which shall only—

(1) determine the impact of small business international marketing programs on those small businesses assisted;

(2) determine the amount of export sales generated by small businesses assisted through such programs; and

(3) make recommendations concerning continuation and/or expansion of the program and possible improvements in the program structure. Such evaluation shall be submitted to the Congress by October 1, 1982.

(f) For the purpose of the evaluation under subsection (e), the Secretary is authorized to require any small business international marketing program, or party receiving assistance under this section, to furnish such information as is deemed appropriate to complete the required evaluation.

(g) As used in this section, the term "applicant" means any State government or agency or instrumentality thereof, any Small Business Administration—designated small business development center, any for profit small business, any nonprofit corporation, any regional commission, or any combination of such entities, which will carry out a small business international marketing program.

(h) The authority to enter into contracts shall be in effect for each fiscal year only to the extent or in the amounts as are provided in advance in appropriation Acts.

SEC. 202. At least one small business international program shall be established within each region of the Department of Commerce. There are authorized to be appropriated to the Secretary $1,500,000 for each fiscal year 1981, 1982, and 1983, to carry out the program established in section 201.

SEC. 203. The Secretary, through the International Trade Administration, shall, only to such extent and in such amounts as are provided in appropriation Acts on and after October 1, 1980, maintain a central clearinghouse to provide for the collection, dissemination, and exchange of information between programs established pursuant to this title, sections 105 and 106 of this Act, and other interested concerns.

TITLE III—NATIONAL EXPORT COUNCIL

ESTABLISHMENT AND MEMBERSHIP

SEC. 301. (a) There is hereby created a National Export Council (hereinafter referred to as "the Council") which shall be composed of the following members:

(1) (A) the Secretary of State;

(B) the Secretary of the Treasury;

(C) the Secretary of Agriculture;

(D) the Secretary of Commerce;

(E) the Secretary of Labor;

(F) the United States Trade Representative;

(G) the President and Chairman of the Export-Import Bank of the United States; and

(H) the Administrator of the Small Business Administration;

(2) three Members of the United States Senate, designated by the President of the Senate and three Members of the United States House of Representatives designated by the Speaker of the House;

(3) three Governors of States or territories, designated by the President; and

(4) no more than eighteen private citizens representing business and industry, agriculture, international banking, and labor to be appointed by the President, including at least five small business persons who are actively involved in export trade.

(b) The President shall appoint a Chairman of the Council from among its private citizen members who shall preside over the meetings of the Council.

(c) The Secretary of Commerce, with the concurrence of the Chairman, shall appoint an Executive Director.

FUNCTIONS

SEC. 302. (a) The Council shall serve as a national advisory body on matters relating to United States export trade. In carrying out such functions, the Council shall—

(1) survey and evaluate the export promotion and development activities of the communities represented by the membership;

(2) identify and examine specific problems which business, industrial, and agricultural practices may cause for export trade;

(3) examine the needs of business, industry, and agriculture to expand their efforts; and

(4) recommend specific legislative and administrative solutions to these problems and needs.

(b) The Council shall—

(1) act as liaison among the communities represented by its membership and may provide a forum for those communities on current and emerging problems and issues in the field of export promotion and development, and

(2) encourage the business, industrial, and agricultural communities to enter new foreign markets and to expand existing export programs.

(c) The Council shall provide advice on Federal plans and actions that affect export promotion and development policies which have an impact on those communities represented by its membership.

(d) The Council shall establish an executive committee and such other subordinate committees it considers necessary for the performance of its functions including, but not limited to, committees on export administration, export expansion and domestic disincentives, small business and export promotion, the General Agreement on Tariffs and Trade and the Multi-lateral Trade Negotiations, and Agriculture and East-West Trade. The chairman and members of the executive and subordinate committees shall be designated by the Chairman of the Council from among the membership of the Council.

ADMINISTRATIVE PROVISIONS

SEC. 303. (a) The Secretary of Commerce shall provide the Council, including its executive and subordinate committees, with administrative and staff services, support and facilities as may be necessary for the effective performance of its functions.

(b) Each member of the Council, including its executive and subordinate committees, who is not otherwise paid a salary by the Federal Government, shall receive no compensation from the United States by virtue of their service on the Council, but all members may receive the transportation and travel expenses, including per diem in lieu of subsistence, authorized by law.

(c) The functions of the President under the Federal Advisory Committee Act (5 U.S.C. App. I) except that of reporting annually to the Congress, which are applicable to the Council shall be performed by the Secretary of Commerce.

ANNUAL REPORT

SEC. 304. The Council shall transmit to the President and the Congress, not later than March 31 of each year, a full report on its activities, and the activities of its subordinate committees.

AUTHORIZATIONS

SEC. 305. There are authorized to be appropriated on or after October 1, 1980, such sums as may be necessary to carry out this title.

TITLE IV—COMMERCE DEPARTMENT—COMMERCIAL OFFICERS OVERSEAS

GENERAL PROVISIONS

SEC. 401. In order to develop, maintain, and expand international markets for the products and services of the United States; to insure the promotion and protection of United States trade and commercial services abroad for United States trade and commercial interests around the world; to provide trade and commercial services abroad for United States firms and businesses and trade and commercial organizations; and to secure trade and commercial information useful for the expansion of exports of United States products and services, the Secretary of Commerce (hereinafter referred to in this title as the "Secretary") is authorized to appoint such commercial ministers, commercial counselors, and commercial attachés, who shall be employees of the Department of Commerce (and who shall report to the Under Secretary for International Trade), as the Secretary determines to be necessary to carry out the purposes of this title and to assign such commercial ministers, commercial counselors, and commercial attachés to service abroad.

TRAINING OF COMMERCIAL OFFICERS

SEC. 402. Upon appointment, commercial officers shall participate in training sessions designed by the Secretary, in cooperation with the Department of State, the Foreign Service Institute, and other Federal agencies, to study export and import programs and to examine the needs of United States businesses for export information and assistance. As part of this training program the Secretary shall assign each officer to a field office of the Department to work in conjunction with the Department's field personnel responsible for implementation of export programs.

RANK AND PRIVILEGES

SEC. 403. Commercial ministers, commercial counselors, and commercial attachés assigned to posts abroad shall be accorded the same rank and privileges as those of other ministers, counselors, or attachés in the United States embassies and consulates.

RELATIONSHIP TO DIPLOMATIC MISSION

SEC. 404. Upon the request of the Secretary, the Secretary of State shall regularly and officially attach the commercial ministers, commercial counselors, and commercial attachés appointed and assigned hereunder to the diplomatic mission of the United States in the country in which such commercial ministers, commercial counselors, or commercial attachés or other personnel are to be assigned by the Secretary, and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

FUNCTIONS AND DUTIES

SEC. 405. Commercial ministers, commercial counselors, and commercial attachés appointed and assigned abroad by the Secretary under the title, and other personnel employed under their direction, in furtherance of the purposes set forth in section 401 and in accordance with regulations prescribed by the Secretary, shall have the following functions and duties:

(a) trade and commercial services, including, but not limited to—

(1) protection and promotion of United States trade and commercial interests and investments, including industrial property rights, within their districts;

(2) current market oriented assistance to United States firms and businesses visiting or operating within their districts;

(3) appointments and introductions for United States business persons visiting within their districts;

(4) assistance in pursuing trade opportunities;

(5) assistance, when appropriate, in the adjustment of trade and commercial disputes involving United States firms or commercial and financial interest; and

(6) assistance to other United States Government agencies or State agencies, and to firms and businesses with respect to trade missions, trade fairs, and other international trade and commercial exhibitions;

(b) export promotion, including, but not limited to—

(1) the promotion of United States exports and commercial interests in their districts;

(2) the creation, within the scope of their duties and as appropriate, of a demand for United States products and services in such districts; and

(3) the promotion of tourism in the United States by residents of the districts to which they are assigned;

(c) semiannual reports to the Secretary including, but not limited to, the following information:

(1) market conditions, commercial developments, and the economic climate within their districts, emphasizing changes between reports;

(2) implementation of and compliance with the provisions of multilateral and bilateral trade agreements with the United States by the government, agencies, or instrumentalities of the country to which they are assigned;

(3) specific industry and commodity conditions;

(4) foreign law and business practices affecting United States trade and commercial interests; and

(5) trade opportunities on an industry basis;

(d) maintain and make available current data on the commercial standing and capacity of foreign firms within their districts; and

(e) such other functions and duties as the Secretary determines to be necessary and proper for achieving the purposes of this title.

ASSIGNMENT TO UNITED STATES

Sec. 406. Any officer or employee appointed and assigned to a post abroad pursuant to this title may, in the discretion of the Secretary, be assigned for duty in the continental United States without regard to the civil service laws (and without reduction in grade if an appropriate position at the employee's grade is not available in any agency of the Department of Commerce) for a period of not more than three years.

OFFICE SPACE, EQUIPMENT, AND ADMINISTRATIVE AND CLERICAL PERSONNEL

Sec. 407. The Secretary of State, upon request of the Secretary, shall provide office space, equipment, facilities, and such other administrative and clerical services as may be required for the performance of the functions and duties of the commercial ministers, commercial counselors, and commercial attachés appointed and assigned abroad under this title, and other personnel employed under their direction, appropriate to Foreign Service officers or other personnel of the same rank and salary. The Secretary is authorized to reimburse or advance funds to the Secretary of State for such services. The Secretary is authorized, in accordance with applicable law and regulations prescribed by the Secretary, to employ locally such United States nationals or other personnel, as the Secretary deems necessary to further the purpose set forth in section 401 of this title or to the exercise and carrying out of the functions and duties of the commercial ministers, commercial counselors, and commercial attachés and other personnel appointed and assigned abroad under this title.

AGENCY, SERVICES, PERSONNEL, AND FACILITIES

Sec. 408. Upon the request of the Secretary, each Federal agency may make its services, personnel, and facilities available to the commercial ministers, commercial counselors, and commercial attachés appointed and assigned to a post abroad under this title in the performance of their functions and duties. The Secretary is authorized to reimburse or advance funds to any such agency for services, personnel, and facilities so made available.

PERFORMANCE OF FUNCTIONS IN FOREIGN LOCALITIES

Sec. 409. Each commercial minister, commercial counselor, or commerical attaché appointed and assigned under this title to a United States diplomatic mission abroad, may carry out the functions and duties authorized hereunder in such other nations as the Secretary, in consultation with the Secretary of State, may determine to be necessary and proper in order to carry out the purposes of this title.

REPORTS AND DISPATCHES—AVAILABILITY TO INTERESTED GOVERNMENT AGENCIES

Sec. 410. The reports and dispatches prepared by the commercial ministers, commercial counselors, or commercial attachés appointed and assigned abroad under this title shall be made available to the Department of State, the Small Business Administration and to other interested agencies of the Government.

REPRESENTATIVE ALLOWANCES

Sec. 411. Any commercial minister, commercial counselor, or commercial attaché appointed and assigned by the Secretary to a post abroad under this title, under regulations prescribed by the Secretary, may be authorized to receive a representation allowance in an amount to be determined by considering—

(a) the extent to which such commercial minister, commercial counselor, or commercial attaché can effectively use funds to further the purposes of this title;

(b) travel and entertainment expenses customary in the private trade for persons of comparable rank and salary; and

(c) the customs and practices in the nation to which he or she is assigned.

ALLOWANCES AND BENEFITS

Sec. 412. The Secretary may, under such rules and regulations as may be prescribed by the President or his designee, provide to the commercial ministers, commercial counselors, and commercial attachés appointed and assigned under this title, allowances and benefits similar to those provided by title IX of the Foreign Service Act of 1946. Leaves of absence for commercial ministers, commercial counselors and commercial attachés appointed and assigned under this title shall be on the same basis as is provided for Foreign Service of the United States by the Annual and Sick Leave Act of 1951.

ADVANCE PAYMENT FOR RENT AND OTHER SERVICES: FUNDS FOR COURTESIES TO FOREIGN REPRESENTATIVES

Sec. 413. In any foreign country where customs or practices require payment in advance for rent or other service, such payment may be authorized by the Secretary in accordance with regulations prescribed by the Secretary, upon consultation with the Secretary of State. Funds available for the purposes of this title may be used for extending courtesies to representatives of foreign countries, when so provided in appropriation or other law.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

UP AMENDMENT NO. 1545

(Purpose: To establish the Department of Commerce as the lead agency for the export promotion center program)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a technical amendment by Mr. Levin.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), for Mr. Levin proposes an unprinted amendment numbered 1545.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 8, line 8, strike out all through page 10, line 5, and insert in lieu thereof the following:

Sec. 106. (a) The Secretary of Commerce, after consultation with the Administrator of the Small Business Administration, the President of the Export-Import Bank of the United States, the President of the Overseas Private Investment Corporation, and the Director of the Internal Revenue Service, shall establish an export promotion center in each of two district offices of the International Trade Administration of the Department of Commerce which are located in metropolitan areas where district offices of the Small Business Administration and the Internal Revenue Service exist.

(b) The Export-Import Bank of the United States, the Internal Revenue Service, the Overseas Private Investment Corporation, the Department of Commerce, and the Small Business Administration shall each designate at least one full-time employee to serve as such agency's full-time representative in each such center. Each person designated shall be familiar with the needs and problems of small business exporting and shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Each export promotion center shall serve as a one-stop information center on Federal Government export assistance, financing programs available to small business, and other provisions of law governing exporting for small business.

(c) Not later than six months after the enactment of this Act, the Secretary of Commerce shall report to the Select Committee on Small Business and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Small Business and the Committee on Foreign Affairs of the House of Representatives on the progress made in implementing the provisions of this section.

(d) Within two years after the date of enactment of this Act, the Secretary of Commerce shall evaluate these export promotion centers, including, but not limited to, an analysis of the effectiveness of the centers in developing and expanding small business exports, and a comparison of the effectiveness of the centers in relation to district offices of the Department of Commerce which do not have an export promotion center. Such evaluation shall be submitted to the Committees of the Senate and the House of Representatives referred to in subsection (c).

(e) This section shall take effect on October 1, 1980, or on the date of enactment of this Act, whichever occurs later and shall expire on October 1, 1983.

Mr. ROBERT C. BYRD. Mr. President, I submit a statement by Mr. Levin on the amendment.

● Mr. LEVIN. Mr. President, today the Senate is considering S. 2620, the Small Business Export Expansion Act. It is an important piece of legislation and one which will assist small businesses in developing overseas markets.

During Small Business Committee consideration of this bill, an amendment which I offered was adopted establishing two one-stop export promotion centers. As written, the Small Business Administration was to be the lead agency in an effort to provide a full range of services to a small businessperson interested in exporting. It has subsequently become clear that the Department of Commerce is the most appropriate agency to lead this effort. This amendment provides that the Secretary of Commerce, in consultation with the Administrator of the Small Business Administration, the President of the Export-Import Bank, the President of the Overseas Private Investment Corporation, and the Director of the Internal Revenue Service, shall establish two export promotion centers.

This is essentially a pilot program to determine if locating all these agencies under one roof will substantially assist small business wanting to be involved in overseas trade. A number of witnesses who testified before the Small Business Committee during hearings on export policy testified in support of this concept and it was one of the recommendations of the White House Conference on Small Business. We will be able to test this concept for several years under this amendment and the Congress and the business community will have an opportunity to see if it is the workable and sensible program it appears to be. Small business now accounts for about 10 percent of our annual exports. Most authorities believe the potential for small firms is much greater and that 20,000 to 30,000 small businesses could be exporting. We must develop policies and legislation that encourage additional exporting by small business It not only would be good for small business, it would also benefit the entire economy by reducing our trade deficit.

I believe my amendment and the provisions contained in the Small Business Export Expansion Act are a step toward providing small businesses with the assistance needed to become more active in developing overseas markets. I urge my colleagues to support this important piece of legislation.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1545) was agreed to.

UP AMENDMENT NO. 1546

(Purpose: To authorize the Secretary of Commerce to use certain authorities under the Foreign Service personnel system)

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of Mr. Weicker.

The PRESIDING OFFICER. The amendment will be stated:

The legislative clerk read as follows:

The Senator from Tennessee (Mr. Baker), for Mr. Weicker, proposes an unprinted amendment numbered 1546.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 18, line 19, strike out all through line 11 on page 19, and insert in lieu thereof the following:

Sec. 401. (a) The purposes of this title are—

(1) to develop, maintain, and expand international markets for the products and services of the United States;

(2) to insure the promotion and protection of United States trade and commercial services abroad for United States trade and commercial interests around the world;

(3) to provide trade and commercial services abroad for United States firms and businesses and trade and commercial organizations; and

(4) to secure trade and commercial information useful for the expansion of exports of United States products and services.

(b) In carrying out the purposes of subsection (a), the Secretary of Commerce (hereafter in this title referred to as the "Secretary"), with respect to those employees of the Department of Commerce performing functions transferred to the Department of Commerce from the Department of State by Reorganization Plan Numbered 3 of 1979, may use authorities under the Foreign Service personnel system not conferred by law exclusively upon the Secretary of State, including the appointment of commercial ministers, commercial counselors, or commercial attaches and the assignment of such ministers, counselors, or attaches to service abroad.

Beginning on page 19, line 23, strike out all through line 14 on page 20.

On page 20, line 16, strike out "Sec. 405." and insert in lieu thereof "Sec. 403.".

Beginning on page 23, line 4, strike out all through line 22 on page 26.

● Mr. WEICKER. Mr. President, I rise in support of passage of S. 2620, the Small Business Export Expansion Act of 1980. This bill represents a synthesis of export promotion bills introduced by the chairman of the Small Business Committee, Senator Nelson and myself last year, specifically S. 2104 and S. 2040. I am extremely pleased that this legislation which the Senate considers today incorporates three titles from the original bill I introduced.

Hearings held by the Small Business Committee in September of last year provided a clear picture of the frustrations encountering small businesses that attempt to gain entrance to export markets. They are confronted by a Government uninterested and unable to provide small businesses the very basic tools necessary to a successful export operation. Not only do they meet obstacles at every turn, they are confronted with export "assistance" programs that fail to provide needed assistance.

At the Small Business Committee's 1979 hearings, and at hearings held on this legislation this spring, small business exporters pointed out that one of the most pressing problems they face is access to accurate and complete export information.

Currently, the Department of Commerce is the Federal clearinghouse for export information. However, many small businesses are not even aware that information and assistance is available. Small businesses that are aware such information exists have experienced great difficulty in obtaining the information in a readily usable form.

In addition, the Small Business Administration, whose statutory mission is to assist small business, is unfortunately of little use to those small firms endeavoring to market their products and services internationally. In fiscal year 1979, SBA employed only two full-time experts and spent less than $200,000 or approximately one-tenth of 1 percent of its total salary and expense budget to promote small business exports.

Because of these inadequacies a small business person who today goes to SBA for export information usually gets no answers to his questions and, more often than not, is simply referred to another agency—referred and put off and given useless pamphlets and made a victim of our Government's inability to place an appropriate emphasis on export promotion.

Faced with these shortfalls and the reluctance on the part of the bureaucracy to address the needs of small exporters, the Small Business Committee reported out this legislation mandating significant changes in SBA and the Department of Commerce programs designed to promote exports. Subsequently, the Banking Committee considered and reported favorably on S. 2620.

Mr. President, title I of S. 2620 amends the Small Business Act to substantially upgrade the export promotion activities of the Small Business Administration. Specifically, title I statutorily establishes an Office of International Trade at SBA whose mission will be to coordinate the export promotion efforts of the agency's 110 field offices in conjunction with export activities of other Federal agencies.

Funding is currently available for the agency to hire export specialists for each of the 10 Federal regions. These specialists will counsel small businesses on exporting procedures and problems, assist them in their dealings with other Federal agencies and advise them concerning available export programs and resources. With these personnel in the field, SBA's network of offices can be used effectively for the delivery of export information.

Mr. President, for the past 2 years I have been endeavoring to increase the effectiveness of SBA's international trade efforts. Through appropriations and authorization acts the Congress has directed SBA to hire these regional export development specialists. The Agency, in defiance of this clear congressional direction has steadfastly refused to comply. In the past few months some progress has been made, but it has come slowly and is a minimal effort. It is this "go slow" attitude that typifies this administration's export promotion efforts.

Under provisions of title II of S. 2620, grants would be made available to States and other entities to establish small business export development programs. These programs would provide much needed indepth assistance in all aspects of export financing, marketing, and operations. During committee consideration of this legislation, a number of successful export assistance programs were examined including the Massachusetts Port Authority's small business export program and programs at the Universities of Georgia and Wisconsin. These programs, in a very short period of time, have resulted in large increases in the export sales of participating companies.

Through this grant program, requiring a matching contribution by the sponsor equal to the Government's share, a partnership will be created with State governments and private sector entities. By providing a financial incentive through the grant, States will be encouraged to promote exports and will have the flexibility to design a program that effectively meets the needs of their individual regional economies.

Title III of this bill establishes a National Export Council. This Council is modeled after and is meant to replace the current President's Export Council. As currently constituted, membership of the President's Export Council does not include the Administrator of SBA or adequate representation from the small business community. There is also no requirement that States be represented on the Council at a time when individual States as well as the National Governors' Association are becoming increasingly involved in the promotion of exports and the development of export policies.

Title III of S. 2620 corrects this situation by mandating that the SBA Administrator, at least five small business persons actively involved in export and three State Governors be added to the Council's membership. I believe this membership more accurately reflects the constituencies in this country which have a keen interest in international trade and a role to play in the formulation of export policies.

Title IV of S. 2620 statutorily establishes the Foreign Commercial Service at the Department of Commerce. Pursuant to the trade reorganization plan which took effect in January of this year, 162 positions for commercial officers and 487 local employees who work in the commercial sections of U.S. Embassies were transferred from the Department of State to the Department of Commerce to form the Foreign Commercial Service. As a result, for the first time both the domestic and international trade promotion organizations of the Federal Government are located in the same department. This is an important first step toward improving our Nation's export promotion efforts.

However, the transfer of personnel alone does not insure a much needed improvement in the quality of operations in U.S. commercial offices located in embassies overseas. Experiences to date have not indicated that a marked improvement in the quality of services provided to American exporters has occurred.

It is imperative that U.S. commercial personnel overseas have as their first priority increasing sales of American goods overseas.

Title IV of this bill provides the Foreign Commercial Service with the necessary statutory guidance and direction to insure an effective level of performance and places the highest priority on providing services to American exporting firms. Under provisions of this title overseas commercial personnel will provide U.S. businesses with a broad range of marketing information and assistance, information on the creditworthiness of potential foreign buyers, assistance in resolving trade and commercial disputes, and assistance in contacting potential foreign buyers through individual meetings, trade fairs, missions, and exhibitions.

Title IV also will insure that personnel serving in the Foreign Commercial Service will have the same stature and all the rights and responsibilities as members of the Foreign Service under the Department of State. The Secretary of Commerce is authorized to utilize the Foreign Service personnel system with regard to those individuals serving in the commercial service overseas. This statutory authority will assist the Secretary of Commerce in his efforts to increase the effectiveness of our overseas export promotion efforts.

The administration has strongly opposed titles III and IV stating that this legislation is unnecessary and that it duplicates administrative efforts currently underway. I am well aware of this administration's efforts through Reorganization Plan No. 3 and through Executive orders and interagency agreements relating to the President's Export Council and the structure of the Commercial Foreign Service.

Despite these positive steps, various estimates of the number of export capable firms which are not exporting run as high as 20,000. If we are to reach these firms, if we are going to get small- and medium-sized businesses exporting, the Federal Government must mount a wholesale outreach effort.

The enactment of S. 2620 will insure that export promtion becomes a priority item. It will insure a consistent level of performance by the Commercial Service and make the promotion and sale of U.S. goods overseas their highest priority. It will insure that a National Export Council will continue to exist and will provide adequate representation for small business exporters. The enactment of S. 2620 will insure that the SBA will be able to provide assistance to small businesses striving to export.

Only through statute can this consistency of effort and performance be assured. Executive orders and interagency agreements can readily be changed at the whim or pleasure of employees of the Executive. With our balance-of-trade deficit increasing and our domestic economy in its current condition, this Nation cannot afford to leave the development of export promotion policies to Executive fiat. We cannot afford to allow small business markets to end at our shoreline.

Mr. President, small business can account for a large part of U.S. exports and play a major role in improving economic conditions in this country. The contributions of small business to productivity, employment, and new technologies is well documented. We must not continue to rely on a few large firms to carry American products to the world.

S. 2620 provides the impetus for new, more positive and responsive Government programs to aid the small exporter. I urge my colleagues to act favorably on this legislation and hope our colleagues in the House, seeing our resolve to aid small exporters, will move expeditiously so that this legislation can be enacted prior to adjournment of the 96th Congress.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (UP No. 1546) was agreed to.

● Mr. NELSON. Mr. President, for 4 years the United States has run a trade deficit which last year alone totaled $24.7 billion. Our Nation's terrible balance-of-trade position weakens the dollar, fuels inflation, and gives the jobs of American workers to workers in foreign countries. And, we are fighting an uphill battle to achieve a favorable balance of trade. This year U.S. oil imports will sap our economy of more than $90 billion. That problem, which is a major contributor to the trade imbalance, will only get worse as OPEC oil prices increase.

The following statistics are cited to emphasize the relative export performance of the United States by measuring exports as a percent of GNP:

Country:	*Percentage*
Japan	12.6
West Germany	27.4
France	19.9
South Korea	30.1
Italy	25.5
United States	9.0

We can and must do a better job of competing in the global marketplace. With a concerted effort, we can balance our trade deficit. But to do so, more U.S. companies, especially small businesses, must become active exporters in the years ahead.

The specific purpose of S. 2620, the Small Business Export Expansion Act, is to help those small businesses become exporters. Let me briefly explain the major problems of new-to-export small businesses and how S. 2620 addresses those problems.

At the outset, small businesses who want to export face severe financial constraints. A major problem is that small businesses are unable to obtain sufficient short-term working capital loans from commercial banks. These loans are necessary for production and marketing of a product or service. As Alfred Daiboch, assistant vice president of Bankers and Trust Co. said before the Small Business Committee on March 13, 1980:

> I can assure you that some type of pre-export guarantee program for small business is necessary.

Thomas Rees, a former Member of Congress and chairman of the Export Task Force of the White House Conference on Small Business also suggested the need for preexport financing when he told the committee:

> Eximbank or the SBA should consider providing pre-export financing to small businesses who have "bona-fide" export contracts; or should consider guaranteeing commercial bank credit extensions for this purpose.

Title I of S. 2620 accomplishes that purpose by expanding SBA's 7(a) regular business loan program to permit the extension of up to a $750,000, 18-month, preexport revolving line of credit. These loans can be guaranteed up to 90 percent.

In addition, the bill authorizes SBA to utilize its bank certification program (BCP) to deliver the newly authorized credit line feature. Under the BCP program, which was authorized in S. 2698, banks are a loan administration responsibility. As a result of Public Law 96-302, the average loan processing time has been reduced from over 3 weeks to approximately 3 days—a significant timesaving for a small business which will be competing in the world marketplace.

It should also be noted that title I creates two pilot one-stop shop information centers where a business can go to one location and receive all the information it needs about Federal assistance, laws, and regulations regarding exporting. By putting the major Federal agencies responsible for international trade, including the Commerce Department, the SBA, the Export-Import Bank, and the Overseas Private Investment Company, in one location in two cities, the bill incorporates an innovative attempt to stop the small businessman from getting the bureaucratic shuffle when he asks the Government for export information or assistance.

Finally, title I strengthens the role of the Office of International Trade within the Small Business Administration. The purpose of this office is not to duplicate the functions and export services offered by the Department of Commerce. Rather the purpose is to augment those services, to work and coordinate with the Commerce Department to assure the widest possible dissemination of export market information and to provide the necessary assistance to U.S. exporters.

Although the availability of financing is a critical problem in exporting, an equally important problem is the multitude of barriers to entry into export markets which small business must overcome. In spite of good efforts and programs by the Department of Commerce, most firms do not know how to find or assess the size of overseas markets for their products. U.S. exporters face a labyrinth of U.S. and foreign regulations that must be contended or complied with; they face problems with fluctuating exchange rates and with product pricing; they face shipping and freight forwarding problems; and, they often face foreign language and cultural problems.

The Small Business Committee found that these barriers can be overcome successfully and small businesses can penetrate export markets if they receive "hands-on" guidance. Title II of the committee's bill would provide that guidance. It establishes a grant program administered by the Department of Commerce for States, private concerns, and local and public entities to establish an individualized international marketing program for small business. The maximum grant would be $150,000 per year for 3 years. Assistance would be provided in the following areas:

Analyzing markets to determine the nature of a company's export potential;

Training and advising on matters concerning export pricing, shipping, documentation, financing, and business customs;

Identifying and contacting potential foreign purchasers and establishing trade missions in which small business executives would meet with prescreened potential buyers who have indicated a desire to purchase a product.

This provision of the bill will give small businesses the direct assistance they need to export successfully. It is modeled after the extremely successful international trade program run by the Massachusetts Port Authority and the Smaller Business Association of New England. For an expenditure of less than $100,000 annually, more than $3 million of revenue have flowed into New England companies as a result of program participation. That is a fifteenfold return on a dollar expended.

Furthermore, Mr. President, similar "hands-on" assistance programs run by the State of New York and the small business development centers at the University of Wisconsin and the University of Georgia have also yielded positive results.

The last two titles of the bill addresses organizational problems within the Federal Government's international trade bureaucracy. Title III statutorily creates the President's Export Council and increases small business representation on it. Title IV of the bill statutorily creates a job function for commercial attachés.

Of the millions of U.S. businesses, it is estimated that only about 25,000 directly engage in the sale of their goods and services in overseas markets. Of the 25,000 organizations that export it is further reported that 250 firms account for 80 percent of U.S. exports. This seems to indicate that major corporations dominate the Nation's present export performance and that other firms, regardless of their size, are either not committed to or presently do not have the expertise to actively participate or seek sales in overseas markets. Many of those nonexporting firms are small businesses. The Department of Commerce estimates that at least 20,000 U.S. firms could become exporters and many of those are small businesses.

A fundamental problem with U.S. export policy is that it has failed to adequately assist potential exporting firms to be come exporters. A key element of U.S. export policy, and the focus of the Small Business Export Expansion Act, is to get those firms involved in international trade. We can help small businesses overcome the financial, technical, and bureaucratic problems they must contend with when they try to engage in international commerce. This in turn will expand U.S. exports, help shore up the dollar abroad, help tackle one of our Nation's toughest domestic problems—inflation—and increase employment at home.

I urge my colleagues to support the Small Business Export Expansion Act. It is a small but important bill in our effort to improve our Nation's export performance.●

● Mr. LEAHY. Mr. President, I am pleased to have the opportunity to speak today in support of the Small Business Export Expansion Act of 1980, S. 2620.

I believe this act will equip many small businesses wishing to export with the tools they need to overcome the formidable obstacles now facing them.

As a nation we can no longer afford to overlook and neglect our full export potential. The Small Business Export Expansion Act—by providing small businesses with educational and marketing assistance, better access to export information and assistance, and a program for limited financial, technical, and management assistance—represents a giant step forward toward the full realization of our national export potential.

I especially wish to commend the Select Committee on Small Business and the Committee on Banking, Housing, and Urban Affairs for their wisdom in including the "encouragement of increased tourism in the United States" among the purposes of S. 2620. This provision was added with my full support and encouragement, and I believe it significantly strengthens and broadens the act before us today.

Mr. President, foreign tourism—that is foreign travel to the United States—may well be the U.S. product with the greatest potential for expansion in the world market today.

In 1979, international tourism receipts for the United States were $10 billion, and those receipts sustained an estimated 300,000 jobs in travel-related enterprises. It is particularly appropriate that I mention this in connection with the Small Business Export Expansion Act, because a full 98 percent of travel-related enterprises are small businesses.

America itself is a product with tremendous international appeal at this time. It is easily obtainable, and it is being sold at a price which is considerably cheaper than the competition. As you know, Mr. President, travel expenditures by foreign visitors generate foreign currency gains for the United States. They should, therefore, be viewed as exports and included in all Government export promotion efforts. I am pleased that this act fully recognizes and capitalizes on this important fact.

In testimony in support of the Small Business Export Expansion Act, it has been stated repeatedly that an estimated 20,000 U.S. firms could export but do not. I believe another 20.000 of the 1 million firms within the U.S. travel industry share this same untapped export potential.

For these reasons I urge that the Senate favorably consider S. 2620 with the promotion of foreign tourism included among the purposes to be furthered by the act.●

The bill was ordered to be engrossed

for a third reading, was read the third time, and passed, as follows:

S. 2620

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Export Expansion Act of 1980".

SEC. 2. (a) The Congress finds and declares that—

(1) a strong export policy is essential to the health and well-being of the United States economy;

(2) exports of goods and services account for one out of every six jobs in the manufacturing sector and 10 per centum of the gross national product;

(3) every billion dollars in new exports is estimated to provide forty thousand jobs;

(4) there is increased and fierce competition in international markets to United States goods and services;

(5) small businesses account for no more than 10 per centum of all United States export sales;

(6) Federal Government programs are not sufficiently responsive to the needs of small business for export education and development of overseas marketing opportunities necessary to insure that small businesses realize their potential; and

(7) it is in the national interest to systematically and consistently promote and encourage small business participation in international markets.

(b) It is therefore the purpose of this Act to encourage and promote small business exporting by—

(1) providing educational and marketing assistance to small businesses;

(2) insuring better access to export information and assistance for small businesses by upgrading and expanding the export development programs and services of the Department of Commerce and the Small Business Administration; and

(3) promoting the competitive viability of such firms in export trade and encouraging increased tourism in the United States by creating a program to provide limited financial, technical, and management assistance as may be necessary.

TITLE I—SMALL BUSINESS EXPORT FINANCING ASSISTANCE

SEC. 101. Section 5(b)(7) of the Small Business Act is amended to read as follows:

"(7) in addition to any powers, functions, privileges, and immunities otherwise vested in him, take any and all actions (including the procurement of the services of attorneys by contract in any office where an attorney or attorneys are not or cannot be economically employed full time to render such services) when he determines such actions are necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this Act: *Provided,* That nothing herein shall be construed as authorizing the Administrator to contract or otherwise delegate his responsibility for loan servicing to other than Administration personnel, but with respect to deferred participation loans he may authorize participating lending institutions, in his discretion pursuant to regulations promulgated by him, to take such actions on his behalf, including, but not limited to the determination of eligibility and credit worthiness, and loan monitoring, collections and liquidation;".

SEC. 102. Section 7(a) of the Small Business Act is amended by inserting before the phrase "to finance plant construction," the phrase "to finance export assistance,".

SEC. 103. Section 7(a) of the Small Business Act is further amended by inserting before the phrase "The foregoing powers shall be subject, however," the following new sentences: "The Administration is further empowered, only to such extent and in such amounts as are provided in appropriation Acts, to make or effect either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis extensions and revolving lines of credit for export purposes to enable small business concerns to develop foreign markets and for preexport financing: *Provided, however,* That no such extension or revolving line of credit may be made for a period or periods exceeding eighteen months. A bank or participating lending institution may establish the rate of interest on extensions and revolving lines of credit as may be legal and reasonable.".

SEC. 104. Section 7(a)(4) of the Small Business Act is amended by adding at the end thereof the following new sentence: "In the case of any deferred participation loan or extension or revolving line of credit made under section 7(a) for export purposes, the total amount outstanding and committed (by participation or otherwise) to the borrower from the revolving fund established by section 4(c)(1)(B) of this Act shall not exceed $750,000.".

SEC. 105. (a) The Small Business Act is amended by redesignating sections 16 through 21 as sections 17 through 22, respectively, and by inserting after section 15 the following new section:

"SEC. 16. (a) There is established within the Administration an Office of International Trade which shall implement the programs pursuant to this section.

"(b) The office shall promote sales opportunities for small business goods and services abroad. To accomplish this objective the office shall—

"(1) provide small businesses with access to current and complete export information by—

"(A) making available, at the Administration's regional offices through cooperation with the Department of Commerce, export information, including, but not limited to, the worldwide information and trade system and world trade data reports;

"(B) maintaining a current list of financial institutions that finance export operations;

"(C) maintaining a current directory of all Federal, regional, State and private sector programs that provide export information and assistance to small businesses; and

"(D) preparing and publishing such reports as it determines to be necessary concerning market conditions, sources of financing, export promotion programs, and other information pertaining to the needs of small business exporting firms so as to insure that the maximum information is made available to small businesses in a readily usable form;

"(2) encourage through cooperation with the Department of Commerce, greater small business participation in trade fairs, shows, missions, and other domestic and overseas export development activities of the Department of Commerce; and

"(3) facilitate decentralized delivery of export information and assistance to small businesses by assigning full-time export development specialists to each Administration regional office. Such specialists shall—

"(A) assist small businesses in obtaining export information and assistance from other Federal departments and agencies;

"(B) maintain a current directory of all programs which provide export information and assistance to small businesses within the region;

"(C) encourage financial institutions to develop and expand programs for export financing;

"(D) provide advice to Administration personnel involved in granting loans, loan guarantees, and extensions and revolving lines of credit, and providing other forms of assistance to small businesses engaged in exports; and

"(E) within one hundred and eighty days of their appointment, participate in training programs designed by the Administrator, in conjunction with the Department of Commerce and other Federal departments and agencies, to study export programs and to examine small businesses' needs for export information and assistance.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1980, or the date of enactment of this Act, whichever occurs later.

SEC. 106. (a) The Secretary of Commerce, after consultation with the Administrator of the Small Business Administration, the President of the Export-Import Bank of the United States, the President of the Overseas Private Investment Corporation, and the Director of the Internal Revenue Service, shall establish an export promotion center in each of two district offices of the International Trade Administration of the Department of Commerce which are located in metropolitan areas where district offices of the Small Business Administration and the Internal Revenue Service exist.

(b) The Export-Import Bank of the United States, the Internal Revenue Service, the Overseas Private Investment Corporation, the Department of Commerce, and the Small Business Administration shall each designate at least one full-time employee to serve as such agency's full-time representative in each such center. Each person designated shall be familiar with the needs and problems of small business exporting and shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Each export promotion center shall serve as a one-stop information center on Federal Government export assistance, financing programs available to small business, and other provisions of law governing exporting for small business.

(c) Not later than six months after the enactment of this Act, the Secretary of Commerce shall report to the Select Committee on Small Business and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Small Business and the Committee on Foreign Affairs of the House of Representatives on the progress made in implementing the provisions of this section.

(d) Within two years after the date of enactment of this Act, the Secretary of Commerce shall evaluate these export promotion centers, including, but not limited to, an analysis of the effectiveness of the centers in developing and expanding small business exports, and a comparison of the effectiveness of the centers in relation to district offices of the Department of Commerce which do not have an export promotion center. Such evaluation shall be submitted to the Committees of the Senate and the House of Representatives referred to in subsection (c).

(e) This section shall take effect on October 1, 1980, or on the date of enactment of this Act, whichever occurs later and shall expire on October 1, 1983.

TITLE II—SMALL BUSINESS EXPORT EXPANSION ASSISTANCE

SEC. 201. (a) The Secretary of Commerce (hereinafter referred to as the "Secretary") is authorized to make grants (including contracts and cooperative agreements) to a qualified applicant to encourage the development and implementation of a small business international marketing program (hereinafter referred to as "the program"). Each qualified applicant under this title may receive a Federal grant not to exceed $150,000 annually for each of three years. Nothing in this section shall be construed as authorizing the Secretary to enter into contracts or incur obligations except to such extent and in such amounts as are provided in appropriation Acts.

(b) (1) To be eligible for a grant under this section, an applicant proposing to carry out a small business international marketing program must submit to the Secretary an application demonstrating, at a minimum:

(A) the geographical area to be served;

(B) the number of firms to be assisted;

(C) the staff required to administer the program;

(D) the means to counsel small buisnesses interested in pursuing export sales, including providing information concerning available financing, credit insurance, tax treatment, potential markets and marketing assistance, export pricing, shipping, documentation, and foreign financing and business customs;

(E) the ability to provide market analysis of the export potential of small business concerns; and

(F) the capability for developing contacts with potential foreign customers and distributors for small business and their products, including arrangements and sponsorship of foreign trade missions for small business concerns to meet with identified potential customers, distributors, sales representatives, and organizations interested in licensing or joint ventures: *Provided, however*, That no portion of any Federal funds may be used to directly underwrite any small business participation in foreign trade missions abroad.

(2) Program services shall be provided to small business concerns through outreach services at the most local level practicable.

(3) Each small business international marketing program shall have a full-time staff director to manage program activities, and access to export specialists to counsel and to assist small business clients in international marketing.

(c) (1) Each small business international marketing program shall establish an advisory board of nine members to be appointed by the staff director of the program, nor less than five members of whom shall be small business persons or representatives of small business associations.

(2) Each advisory board shall elect a chairman and shall advise, counsel, and confer with the staff director of the program on all policy matters pertaining to the operation of the program (including who may be eligible to receive assistance, ways to promote the sale of United States products and services in foreign markets or to encourage tourism in the United States, and how to maximize local and regional private consultant participation in the program).

(d) The Secretary shall require, as a condition to any grant (or amendment or modification thereof) made to an applicant under this section, that sum equal to the amount of such grant be provided from sources other than the Federal Government: *Provided*, That the additional amount shall not include any amount of indirect costs or in-kind contributions paid for under any Federal program, nor shall indirect costs or in-kind contributions exceed 50 per centum of the non-Federal additional amount.

(e) The Secretary shall develop a plan to evaluate programs approved under this section which shall only—

(1) determine the impact of small business international marketing programs on those small businesses assisted;

(2) determine the amount of export sales generated by small businesses assisted through such programs; and

(3) make recommendations concerning continuation and/or expansion of the program and possible improvements in the program structure. Such evaluation shall be submitted to the Congress by October 1, 1982.

(f) For the purpose of the evaluation under subsection (e), the Secretary is authorized to require any small business international marketing program, or party receiving assistance under this section, to furnish such information as is deemed appropriate to complete the required evaluation.

(g) As used in this section, the term "applicant" means any State government or agency or instrumentality thereof, any Small Business Administration—designated small business development center, any for profit small business, any nonprofit corporation, any regional commission, or any combination of such entities, which will carry out a small business international marketing program.

(h) The authority to enter into contracts shall be in effect for each fiscal year only to the extent or in the amounts as are provided in advance in appropriation Acts.

SEC. 202. At least one small business international program shall be established within each region of the Department of Commerce. There are authorized to be appropriated to the Secretary $1,500,000 for each fiscal year 1981, 1982, and 1983, to carry out the program established in section 201.

SEC. 203. The Secretary, through the International Trade Administration, shall, only to such extent and in such amounts as are provided in appropriation Acts on and after October 1, 1980, maintain a central clearinghouse to provide for the collection, dissemination, and exchange of information between programs established pursuant to this title, sections 105 and 106 of this Act, and other interested concerns.

TITLE III—NATIONAL EXPORT COUNCIL

ESTABLISHMENT AND MEMBERSHIP

SEC. 301. (a) There is hereby created a National Export Council (hereinafter referred to as "the Council") which shall be composed of the following members:

(1) (A) the Secretary of State;

(B) the Secretary of the Treasury;

(C) the Secretary of Agriculture;

(D) the Secretary of Commerce;

(E) the Secretary of Labor;

(F) the United States Trade Representative;

(G) the President and Chairman of the Export-Import Bank of the United States; and

(H) the Administrator of the Small Business Administration;

(2) three Members of the United States Senate, designated by the President of the Senate and three Members of the United States House of Representatives designated by the Speaker of the House;

(3) three Governors of States or territories, designated by the President; and

(4) no more than eighteen private citizens representing business and industry, agriculture, international banking, and labor to be appointed by the President, including at least five small business persons who are actively involved in export trade.

(b) The President shall appoint a Chairman of the Council from among its private citizen members who shall preside over the meetings of the Council.

(c) The Secretary of Commerce, with the concurrence of the Chairman, shall appoint an Executive Director.

FUNCTIONS

SEC. 302 (a) The Council shall serve as a national advisory body on matters relating to United States export trade. In carrying out such functions, the Council shall—

(1) survey and evaluate the export promotion and development activities of the communities represented by the membership;

(2) identify and examine specific problems which business, industrial, and agricultural practices may cause for export trade;

(3) examine the needs of business, industry, and agriculture to expand their efforts; and

(4) recommend specific legislative and administrative solutions to these problems and needs.

(b) The Council shall—

(1) act as liaison among the communities represented by its membership and may provide a forum for those communities on current and emerging problems and issues in the field of export promotional and development, and

(2) encourage the business, industrial, and agricultural communities to enter new foreign markets and to expand existing export programs.

(c) The Council shall provide advice on Federal plans and actions that affect export promotion and development policies which have an impact on those communities represented by its membership.

(d) The Council shall establish an executive committee and such other subordinate committees it considers necessary for the performance of its functions including, but not limited to, committees on export administration, export expansion and domestic disincentives, small business and export promotion, the General Agreement on Tariffs and Trade and the Multi-lateral Trade Negotiations, and Agriculture and East-West Trade. The chairman and members of the executive and subordinate committees shall be designated by the Chairman of the Council from among the membership of the Council.

ADMINISTRATIVE PROVISIONS

SEC. 303. (a) The Secretary of Commerce shall provide the Council, including its executive and subordinate committees, with administrative and staff services, support and facilities as may be necessary for the effective performance of its functions.

(b) Each member of the Council, including its executive and subordinate committees, who is not otherwise paid a salary by the Federal Government, shall receive no compensation from the United States by virtue of their service on the Council, but all members may receive the transportation and travel expenses, including per diem in lieu of subsistence, authorized by law.

(c) The functions of the President under the Federal Advisory Committee Act (5 U.S.C. App. I) except that of reporting annually to the Congress, which are applicable to the Council shall be performed by the Secretary of Commerce.

ANNUAL REPORT

SEC. 304. The Council shall transmit to the President and the Congress, not later than March 31 of each year, a full report on its activities, and the activities of its subordinate committees.

AUTHORIZATIONS

SEC. 305. There are authorized to be appropriated on or after October 1, 1980, such sums as may be necessary to carry out this title.

TITLE IV—COMMERCE DEPARTMENT—COMMERCIAL OFFICERS OVERSEAS

GENERAL PROVISIONS

SEC. 401. (a) The purposes of this title are—

(1) to develop, maintain, and expand international markets for the products and services of the United States;

(2) to insure the promotion and protection of United States trade and commercial services abroad for United States trade and commercial interests around the world;

(3) to provide trade and commercial services abroad for United States firms and businesses and trade and commercial organizations; and

(4) to secure trade and commercial information useful for the expansion of exports of United States products and services.

(b) In carrying out the purposes of subsection (a), the Secretary of Commerce (hereafter in this title referred to as the "Secretary"), with respect to those employees of the Department of Commerce performing functions transferred to the Department of Commerce from the Department of State by Reorganization Plan Numbered 3 of 1979, may use authorities under the Foreign Service personnel system not conferred by law exclusively upon the Secretary of State, including the appointment of commercial ministers, commercial counselors, or commercial attaches and the assignment of such ministers, counselors, or attaches to service abroad.

TRAINING OF COMMERCIAL OFFICERS

SEC. 402. Upon appointment, commercial officers shall participate in training sessions designed by the Secretary, in cooperation with the Department of State, the Foreign Service Institute, and other Federal agencies, to study export and import programs and to examine the needs of United States businesses for export information and assistance. As part of this training program the Secretary shall assign each officer to a field office of the Department to work in conjunction with the Department's field personnel responsible for implementation of export programs.

FUNCTIONS AND DUTIES

SEC. 403. Commercial ministers, commercial counselors, and commercial attachés appointed and assigned abroad by the Secretary under the title, and other personnel employed under their direction, in furtherance of the purposes set forth in section 401 and in accordance with regulations prescribed by the Secretary, shall have the following functions and duties:

(a) trade and commercial services, including, but not limited to—

(1) protection and promotion of United States trade and commercial interests and investments, including industrial property rights, within their districts;

(2) current market oriented assistance to United States firms and businesses visiting or operating within their districts;

(3) appointments and introductions for United States business persons visiting within their districts;

(4) assistance in pursuing trade opportunities;

(5) assistance, when appropriate, in the adjustment of trade and commercial disputes involving United States firms or commercial and financial interest; and

(6) assistance to other United States Government agencies or State agencies, and to firms and businesses with respect to trade missions, trade fairs, and other international trade and commercial exhibitions;

(b) export promotion, including, but not limited to—

(1) the promotion of United States exports and commercial interests in their districts;

(2) the creation, within the scope of their duties and as appropriate, of a demand for United States products and services in such districts; and

(3) the promotion of tourism in the United States by residents of the districts to which they are assigned;

(c) semiannual reports to the Secretary including, but not limited to, the following information:

(1) market conditions, commercial developments, and the economic climate within their districts, emphasizing changes between reports;

(2) implementation of and compliance with the provisions of multilateral and bilateral trade agreements with the United States by the government, agencies, or instrumentalities of the country to which they are assigned;

(3) specific industry and commodity conditions;

(4) foreign law and business practices affecting United States trade and commercial interests; and

(5) trade opportunities on an industry basis;

(d) maintain and make available current data on the commercial standing and capacity of foreign firms within their districts; and

(e) such other functions and duties as the Secretary determines to be necessary and proper for achieving the purposes of this title.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DISABLED VETERANS REHABILITATION ACT OF 1980

The PRESIDING OFFICER. The clerk will state the pending business.

The legislative clerk read as follows:

A bill (S. 1188) to improve and modernize the vocational rehabilitation program provided service-disabled veterans under chapter 31 of title 38, United States Code, and for other purposes.

THE UNITED STATES SENATE

Mr. ROBERT C. BYRD. Mr. President, when I last spoke on the subject of the United States Senate, I closed that statement by referring to the farewell speech to the old Senate Chamber by Vice President John Breckinridge.

The Senate had been meeting in the Chamber down the hall since 1810. From 1810 to 1859, the Senate met just down the hall here; and on the occasion after Breckinridge had delivered his farewell message, he led the Secretary and the Sergeant at Arms of the Senate and the Senators, as they solemnly marched down the corridor and into this Chamber, where we, their successors—the distinguished Senator from New Jersey (Mr. WILLIAMS) is here with me now, and the distinguished Senator from Nebraska (Mr. EXON) is in the Chair—continue to meet.

This is the Chamber in which Senators have met since 1859, and when they came to this Chamber, there were 64 Senators. The Union had grown to the point that there were 32 States and 64 Senators. I believe that when the distinguished Senator from New Jersey and I came to this Chamber, there were 96 Senators; there were 48 States. After he and I became Members, Alaska and Hawaii were admitted into the Union. We saw their Senators sworn in, and the number reached 100, what it is today. But in 1859, when the Members moved into this Chamber, there were only 64 Senators.

The *New York Times* of January 5, 1859, gave a detailed description of the beautiful new chamber that awaited the 64 senators, and of the marvel of a heating system installed to serve it:

> The general aspect of the new Senate Hall is light and graceful. In shape and dimensions it is similar to the new Hall of Representatives, but to the eye appears more finely proportioned. . . . The inner roof, or ceiling, of iron, is flat, with deep panels, twenty-one of which are filled with ground glass, having in the center of each pane a colored medallion representing the printing press, steam engine, cornucopia, and other symbols. The light is supplied wholly through this window in the roof. The gas apparatus is placed above the ceiling. The ceiling is 35 feet from the floor, but presents an appearance of greater altitude. It is incrusted with floral and other embellishments in high relief, and all of iron. The floor of the chamber is covered with 1,700 yards of tapestry carpeting, having a large pattern of flowers on a purple ground. . . .
>
> The heating and ventilation arrangements are said to be the largest in the world—those of the English House of Parliament not excepted. Every portion of the Capitol—that mountainous mass of marble—is at once ventilated and warmed by one apparatus. The air is graduated according to the atmospheric temperature without and the political excitement within—during a sectional debate never to exceed 90 degrees, and on ordinary occasions to range between 70 degrees and 73 degrees.

Carpets and color schemes have changed over the last 121 years but much about our chamber has remained the same. Our desks, for example, are the same style as those which Clay, Webster, and Calhoun used to write upon. All of the desks purchased from Thomas Constantine in 1819 followed the senators into this chamber in 1859, and new ones, copied after the old, were added with the admission of each new state.

The custom of dividing the Senate desks by Party is very old but not always rigidly followed. In the old Senate chamber, an equal number of desks were placed on either side of the aisle, without regard to party size. During the 1840's and 1850's, Democrats could be found sitting at random on the Whig side. And when the Senate moved into this chamber, the practice of dividing the desks equally continued for several years. In 1877, the practice developed of moving desks back and forth across the center aisle to permit all the members of each party to sit on the appropriate side.

Facing the Chair, the Democrats sit on the Chair's right, and the Republicans sit on the Chair's left.

Occasionally, however, one party has elected such an overwhelming majority that some of its members had to sit with the minority. For instance, during the Sixtieth Congress (1907–1909), ten Republicans sat on the Democratic side, while during the Seventy-fifth Congress (1937–1938), thirteen Democrats sat on the Republican side. Such seating became known as the "Cherokee Strip," in the sense that the overflow senators were off their reservation. The seating of the majority and minority leaders at the front row desks on either side of the center aisle is another relatively recent Senate tradition, dating back to 1927 for the Democrats, and 1937 for the Republicans.

I note for the RECORD that other majority leaders have inscribed their names in the Majority Leader's desk drawer, beginning with the name of Robinson of Arkansas, followed by Barkley of Kentucky, Lucas of Illinois, McFarland of Arizona, Johnson of Texas as minority leader and then Johnson of Texas as majority leader, then Mansfield. As of this moment, I have not yet inscribed my name in the desk.

I take the liberty now of crossing over on the other side of the aisle and reading from the inscriptions in the minority leader's desk drawer. I read the following names: Frye, La Follette, Cummins, Capper, White, Jr., Wherry, Taft, Brewster, Knowland, Dirksen, Scott, and BAKER.

One of the few changes to our desks, in addition to the writing boxes I mentioned, has been the introduction, in 1969, of the inconspicuous apparatus for our public address system which enables us to be heard elsewhere on the floor, in the galleries, and in our offices.

There is now a quiet dignity and a rich tradition associated with this Senate chamber. Though renovated and redecorated over the last 121 years, its historical details have been preserved. Today, we conduct the nation's affairs against a background of cream and dark-red marble, gold silk damask walls, and the rich gleam of our carefully preserved mahogany desks.

As President of the Senate, the Vice President of the United States presides over the Senate from his mahogany desk on the rostrum before us. Dramatic red Levanto marble pilasters on either side of a heavy blue velvet drape fringed with gold provide an impressive backdrop. Carved in Hauteville cream marble about the rostrum is the motto, *E Pluribus Unum* (One Out of Many). Here stands the huge silk flag of the United States. Secretaries of the majority and minority sit on each side of the flag. The Secretary for the majority, Mr. Joe Stewart, sits in the chair to the right of the Presiding Officer. The secretary to the minority, Mr. Hildenbrand, sits in the chair to the left of the Presiding Officer. The Secretary of the Senate sits on the Vice President's left just in front of the secretary of the minority, and the Sergeant-at-Arms sits on the chair at the right just in front of the secretary for the majority.

At the long marble desk on the rostrum sit the Senate assistant secretary when he uses the chair, the legislative clerk, the Parliamentarian, and the journal clerk.

The two long mahogany tables in front of the rostrum are for the reporters of debates, although they seldom use those tables and especially during spirited debates, these tireless employees of the Senate rarely get a chance to sit down. The reporter of debates who is here taking down what I have to say is standing, as we can see.

As the usual thing, Mary Jane Checci, staff director of the Democratic Policy Committee staff and Howard Green, assistant to the minority and others sit at these mahogany tables to inform Senators as to what the vote count is, what the subject matter of a particular vote is all about, and what the issue is on which Senators are voting. These persons are seated at the mahogany table as the usual thing during votes to advise Senators as they come into the Chamber to cast their votes.

The current rostrum is relatively new to this chamber, being a product of the 1949–1950 restoration. During this refurbishing, a little part of the Senate chamber found its way to Kentucky. In 1950, the Senate resolved to honor Vice President John Breckinridge who first occupied the vice president's desk in the chamber, and Vice President Alben Barkley, who would be the last to use it, both being Kentuckians, by presenting this venerable relic to Mr. Barkley for his lifetime. Thereafter it was to become the property of their beloved State of Kentucky. And today it is on display in the Alben Barkley Collection at the University of Kentucky in Lexington.

In 1951, the Senate further resolved that the large clerk's desk, measuring 15 feet by 3 feet, which had matched the vice president's desk, should follow it to Kentucky. Until the 1970's, it was located in the Old Capitol Building in Frankfort. After that building was remodeled, the clerk's desk was moved to the Kentucky Building at Western Kentucky University in Bowling Green, where it is handsomely displayed.

Among the most revered articles in this chamber is the ivory gavel once used by vice presidents to call the Senate to order. The small, handleless gavel is of solid ivory, and measures 1⅜ inches in diameter and 2½ inches in length. According to tradition, this was the little piece of ivory with which the nation's first vice president, John Adams, called to order the first Senate session in New York City in 1789.

In 1947, after more than a century and a half of hard use, the gavel began to splinter. Silver disks were added to each face to try to strengthen and preserve it. But, alas, the ravages of time could not be halted. During a late night session in 1954, in the midst of a heated debate on atomic energy, the gavel, while being used to perform its proper function, suddenly began to disintegrate. The old gavel, wielded by some of the most venerable figures in the nation's history, had made its last demand for order. The pins securing the silver disks were broken; the ivory, yellow with age, had splintered.

A new gavel had to be found, and sentiment demanded that it be a similar weight and form as the old. When no piece of ivory large enough could be secured through commercial sources, the Sergeant-at-Arms appealed to the Indian Embassy for assistance. This sister republic not only furnished a piece of ivory but had a new gavel carved from a model of the old one, and sent her vice president to the United States to present it in person to the United States Senate. On November 17, 1954, the formal presentation was made in this chamber. In accepting the gavel, Vice President Richard Nixon, who had been wielding the old one when it fell apart, announced:

> For the benefit of those who have been in the galleries in the past, and those who will be there in the future, we shall place the old gavel . . . in a box which will be kept on the Senate Rostrum, while the Senate is in session. We shall use in its place the gavel of solid ivory, which has been presented to us, it seems to me quite significantly and appropriately, by the largest democracy in the world.

Moments before the opening of a Senate session, a page picks up the gavel case in the Office of the Sergeant-at-Arms, carries it to this chamber, and places it on the desk of the vice president.

I ask the Chair if he will for the moment put his hand on the gavel case. The Chair—Senator EXON of Nebraska sitting in the chair at the moment—is indicating the gavel case for the benefit of those who are listening, and that gavel case is picked up every day in the office of the Sergeant-at-Arms and carried by page to this Chamber and is placed on the desk of the Vice President where it now sits. In that gavel case is the old gavel which tradition has it was used by John Adams when he first opened the Senate in 1789. The new gavel is also daily placed in readiness. The old gavel remains at rest, a mute symbol of the first call to order 191 years ago.

Two other relics of the Senate's past, so small they are easily overlooked, rest here in the Chamber. They are two tiny lacquered snuff boxes resting on the marble ledges flanking the rostrum. Though I have never seen any of my colleagues take a pinch, the snuff boxes are kept filled by our pages. I am not sure that all Senators are aware of the presence of these lacquered snuff boxes, but for the benefit of Senators, pages, and others who may be watching and listening, there is one of the snuff boxes sitting here and it has in it some snuff which I will take a pinch of just now, and the other lacquered box sits in a similar place to the right of the Presiding Officer, and here it is and today it happens to be empty of snuff.

The pages will, before the day is over, see that the snuff supply is renewed in that box.

At one time, in the early 1800's, there was only one snuff box in the Old Senate Chamber. In his memoirs, former page Isaac Bassett, who, by the late 1800's had risen to the post of Senate Doorkeeper, recalled how the tradition of the two snuffboxes arose. It was always his custom, he said, to keep a snuffbox on the vice president's desk. The senators used to step up to the desk to get a pinch of snuff and they would stop to chat awhile with the vice president. Sometimes two or three senators would be standing at the rostrum, each with a pinch of snuff in his fingers, deep in conversation. One day in 1849, vice president Millard Fillmore complained to Bassett in desperation, "I want you to take this snuff box away from here. I can't understand what is going on in the Chamber because of the interruptions and the conversations of Senators who come here for snuff."

Mr. Fillmore suggested that boxes be placed on either side of the chamber and Bassett complied with the little boxes we see today and which I pointed out a moment ago.

I know of no Senator in the present membership who either sniffs or dips snuff. There is the sniffing kind and also the dipping kind. There are two kinds of snuff. One is dry and the other is moist. The moist snuff in the can which is delivered to the Senate Sergeant at Arms and used in the Senate snuffboxes was first manufactured in 1911.

For the benefit of those who may not have ever tasted snuff, may I say that snuff is a pulverized form of tobacco that is either inhaled through the nose or chewed.

I visited with Chancellor Schmidt of West Germany some time ago. Chancellor Schmidt uses snuff. As I recall, he uses the dipping kind.

My foster mother used snuff. She used the dipping kind.

I used to sell snuff—sweet snuff, Scotch snuff, Copenhagen, and it used to be a greatly used item. I still get back to the stores in West Virginia, back in the rural areas now, and I always look on the shelves to see if they are selling any snuff, and I find they still sell some snuff.

Snuff is made mainly from heavy-bodied grades of dark, fire-cured tobacco leaves and stems. The preparation may be moist or dry, the former being known as rappee, and the latter as Irish, Scotch, or sweet snuff, among other names.

Today, while we have no Senators who use snuff, the assistant to the Secretary for the Majority, Mr. Patrick Hynes, is a user of snuff, so that those who read the history of this institution a hundred years from now may know that snuff was not something that was unknown entirely to this august body in the year 1980.

The habit of snuff-taking in the Senate Chamber is as old as the Senate. For any today who would cast a jaundiced eye at the use of snuff, we might pause to be reminded that during the first half of the 19th Century most Members of this body carried their own boxes of finely ground tobacco and some even kept two boxes on their person, one containing a mixture for personal use and another, usually a milder type, which was offered to friends. Washington's leading Presidential hostess, Dolley Madison, is reported to have carried as many as three snuff boxes at White House receptions.

So while the custom of taking snuff in the Chamber has all but disappeared, the boxes continue to be filled by the staff of the Sergeant at Arms.

Seven sets of double doors lead into this Chamber, two to the Presiding Officer's immediate left, two to the Presiding Officer's immediate right; two to the east, two to the west, and three to the south—to the Democratic Cloakroom, to the Republican Cloakroom, and a third set of which points toward the corridor leading south to the other body.

As I noted in my first statement in this series, we are surrounded by Latin inscriptions, all of which our citizens carry daily on the reverse side of the $1 bill.

The sculpture *Patriotism* and motto *Annuit Coeptis* (God Has Favored Our Undertakings) appear over the east entrance; *Courage* and the motto *Novus Ordo Seclorum* (A New Order of the Ages) are over the west entrance, and *Wisdom* and our national motto "In God We Trust" appear over the south-central entrance.

On the upper level of the chamber, above these doorways, are the galleries of the Senate which can seat over 600 people. The press gallery occupies the entire north side of the chamber, and the various other galleries are reserved for the public, staff, diplomats and their guests, and senators' families. This is where America comes to witness our deliberations. Here we are on view to those to whom we are accountable.

Some of our visitors may wonder why they are not permitted to sit in the front row or lean on the railings. Such precautions are security measures and date back to the suffrage movement in the early part of this century. Richard Riedel, a former page, recalls the incident that produced the ban. One day in 1918, the galleries were full, particularly the one east of center, with ladies intent upon the suffrage debate. Suddenly, one of the women quickly lowered a golden satin banner over the railing. Startled senators looked up to read, "What Will You Do For Woman Suffrage?" Consternation swept the chamber. Doorkeepers tried to reach the ladies only to find the aisle blocked by their fellow suffragettes. In a few moments, a page was sent to climb up on someone's shoulders, reach up and yank the banner from the ladies' hands. The ladies watched in disappointment as their banner disappeared from the chamber.

Highlighting the gallery walls above us are marble busts of 20 vice presidents, resting in marble niches. The Senate first authorized placing these busts in 1886, and by 1898 all available niches were filled.

Since that time, busts of vice presidents have been placed in the halls surrounding the chamber, as well as in the Senate Reception Room. The two most recently placed are those of Lyndon Johnson and Richard Nixon.

Mr. President, while I was speaking of the desks a moment ago, I meant to refer to the blotting salt. The blotting salt on the Senate desk is known as "pounce." From the Middle Ages to the present day, pounce was made from the ground-up bone of the cuttlefish. The limestone in the bone is the absorbent element. Cuttlefish is found on the European Mediterranean coast and is not found on the Atlantic Coast.

The cost of importing pounce probably led to the use of an alternative sand, either silicate or biotite. The Curator's office tested the sand on one of the Senate's desks and they say that the present blotting sand is indeed silicate.

It used to be, when I first came to the Senate, there was ink in the ink bottles and there were some pens, in that day, with which we used the ink and we would write on stationery and then use the silicate or the pounce as a kind of blotter.

Leaving the Chamber through either of its doors on the northern side under the press gallery, one enters the Senate lobby. The lobby is furnished with couches and offers teletype machines to bring us the latest news from around the Nation and the world.

That lobby is lined with seven beautiful chandeliers made of crystal. But the outstanding pieces of art there are the two large Sevres vases, placed on either end of the lobby.

These huge vases—near six feet high—of green, blue, and crystal on a light background were a gift of the French government in 1918 in "sisterly gratitude for America's timely help," in World War I.

At the west end of the Senate Lobby is a beautifully decorated room known as the President's Room. It is undoubtedly one of the most elaborately finished rooms in the Capitol. In the past, it was primarily used on the 4th of March every fourth year by presidents who had to sign bills that had passed Congress during the waning hours of the session. Their signatures were not only necessary for the act to become a law, but had to be subscribed during their term of office, which ended simultaneously with that of Congress. Since the 20th Amendment took effect in 1937, the term of a Congress and the term of a president no longer expire on the same day, and the room is no longer needed for its original function. It is now used occasionally for meetings and ceremonies.

It is also used for interviews between Members of the Senate and representatives of the press. Senators are often called out into the President's Room by the press to answer questions or to have pictures taken—especially after passage of controversial bills, when the principal participants will pose for press photographers.

Early in 1865, the President's Room was the scene of a dramatic event with far-reaching implications. On March 3, 1865, in the final days of the Civil War, General Grant received a message from General Lee asking for a meeting and interchange of views about the submission of "the subjects of controversy between the beligerents to a convention." Not empowered to seek a peace, Grant immediately telegraphed the Secretary of War, asking for instruction. His dispatch was sent to President Lincoln who, at the time, was in the President's Room signing eleventh-hour bills. Consulting with his Secretaries of War and State, Lincoln wrote a reply, dated midnight, and signed by Secretary of War Stanton, which read as follows:

> The President directs me to say to you that he wishes you to have no conference with General Lee, unless it be for the capitulation of General Lee's army, or on some minor and purely military matter. He instructs me to say that you are not to decide, discuss, or confer upon any political question. Such questions the President holds in his own hands, and will submit them to no military conferences or conventions. Meantime you are to press to the utmost your military advantages.

A century later, the President's Room was the site of the signing of the historic voting rights bill by President Lyndon Johnson on August 5, 1965.

Upon entering the President's Room, one's attention is immediately drawn to the enormous chandelier in the center of the room. It was originally purchased for $900 in 1864, and, when it was installed, it burned gas. In 1896, the President's Room was electrified, and, in 1915, the chandelier was enlarged with the addition of six arms holding 24 more globes, making it 23 feet tall by 21 feet wide, and nearly filling up the small room.

A mahogany grandfather clock, decorated with gold, stands in one corner. It was purchased in 1887 and was long referred to as the "gold clock." However, the gold hands were carried off by a souvenir hunter and the replacements painted black. Leather couches and chairs are placed around the room, and in the center stands a large walnut table which has been available for the use of every president of the United States since James Buchanan.

The rich decorations on the wall are the work of Constantino Brumidi, the talented painter and muralist who fled political persecution in his native Italy in 1852. In 1855, Brumidi began the embellishment of the Capitol and his legacy includes not only the President's Room but the Senate Reception Room—to the northeast from where I stand—the beautiful "Brumidi corridor" on the first floor, and the Rotunda. In the President's Room, Brumidi decorated the ceiling with portraits of William Brewster, Elder of Plymouth Colony, Christopher Columbus, Benjamin Franklin, and Americus Vespucius. Four groups, depicting Religion, Executive Authority, Liberty, and Legislation also decorate the ceiling. About the walls are three tremendous gilt-framed mirrors and medallion portraits of the nation's first Cabinet: Thomas Jefferson, Alexander Hamilton, Henry Knox, Samuel Osgood, and Edmund Randolph.

Speaking of Brumidi, this year marks the 100th anniversary of his death at the age of 75. He was born in 1805 and came to this country in 1852. I believe he began painting in the Capitol in 1855.

He once said, "I no longer wish for fame and fortune. My only ambition and my longlasting prayer is to live long enough to make beautiful the Capitol of the only country on the face of the earth where liberty exists."

Brumidi did not live to finish his work in the Capitol, but he certainly made the Capitol beautiful.

Opening off the center of the lobby behind this chamber is the Marble Room, a private chamber reserved for senators only. The room earned its name by being constructed almost entirely of smooth, cool marble of various hues. The ceiling, pilasters, and fluted columns are of veined Italian marble, and the walls and wainscoting are of native, dark-brown marble from Tennessee. Two huge mirrors at each end reflect and re-reflect the room's magnificent crystal chandelier and give the illusion of endless halls and countless lights.

In the Marble Room, Senators may go and they will find newspapers from their respective States so that they may be able to read each day the news from back home. They also may see the dictionary and other volumes that are in the room, or they may open the doors and go out on the portico and in the summertime possibly read the newspapers outside the Marble Room.

They are not supposed to take their aides into that Marble Room. Only Senators are supposed to be in the Marble Room.

In 1869, *Harper's Magazine* reported that, "When the soldiers were quartered at the Capitol the enormity was committed . . . of hanging this white place full of flitches of bacon, slices of which our hungry sentinels toasted on their jack-knives at roaring fires in the chimney-place."

To the right of the Marble Room is the entrance to the Vice President's Room. Like the President's Room, the Vice President's Room is dominated by a large chandelier and huge gilt mirror. The chandelier was originally purchased for the White House by President Grant. It was removed from the Executive Mansion during the administration of President Theodore Roosevelt and moved to the Capitol. This was reportedly the chandelier under which President Grover Cleveland married Frances Folsom in their beautiful 1886 White House wedding.

In that room behind the lobby, just to the left of the Presiding Officer, one Vice President died and another took the oath of office as President. In November 1875, Vice President Henry Wilson caught a chill while bathing in the huge marble bathtubs in the Capitol basement. He was carried to the Vice President's room where he remained ill for several days. Finally, at 7:20 on the morning of November 22, 1875, the vice president died. His bust rests on the wall to one side of the massive wooden desk placed in the room in the late nineteenth century and used by every vice president until 1965. Below his bust is a plaque bearing the following inscription:

> In this room, Henry Wilson, Vice President of the United States and a Senator for 18 years, died November 22, 1875.
>
> The son of a farm laborer. Never at school more than 12 months, in youth a journeyman shoemaker, he raised himself to the high places of fame, honor and power, and by unwearied study made himself an authority in the history of his country and of liberty and an eloquent public speaker to whom Senate and people eagerly listened. He dealt with and controlled vast public expenditure during a great Civil War, yet lived and died poor, and left to his grateful countrymen the memory of an honorable public service, and a good name far better than riches.

In 1969, the desk was moved to the oval office of the White House where it remained until 1977, when it was returned to the Vice President's Room. On the other side of the desk rests a bust of Senator Lafayette Foster, president pro tempore of the Senate from 1865 to 1867.

On September 22, 1881, following the assassination of President James Garfield, Vice President Chester Arthur was sworn in as President of the United States in that room in the presence of former President Grant, Justices of the Supreme Court, and various senators and representatives.

At the east end of the Senate Lobby is the beautiful Senate Reception Room. Like the President's Room, this area owes much of its beauty to the brush of Brumidi. On the northern portion of the ceiling are four groups representing Peace, Freedom, War, and Agriculture. In the four corners of the southern half of the room are depicted the cardinal virtues, Prudence, Justice, Temperance, and Fortitude. On the south wall, we find George Washington in consultation with two members of his first Cabinet, Alexander Hamilton and Thomas Jefferson.

Brumidi left eleven blank spaces on the walls and ceilings of the Reception Room. The most prominent were the five "portholes" on the walls at eye level. In 1955, during the 84th Congress, the Senate created a Special Committee on the Reception Room and authorized it to select five outstanding senators from the past whose likenesses were to be placed in the five most prominent unfilled medallions. The selection of the five was fraught with peril. Each senator and almost every other prominent politician and historian had suggestions. The committee chairman was Senator John F. Kennedy, whose qualifications for the task were manifest in his Pulitzer prize-winning book *Profiles in Courage*. Other members were Senators Richard Russell from Georgia, Mike Mansfield from Montana, Styles Bridges of New Hampshire, and John Bricker of Ohio.

After much deliberation, the Committee reported its choices, selected artists to paint each portrait, and work began on the paintings. On March 12, 1959, in a historic dedication ceremony, which I remember, in the presence of many living relatives of these great men, America paid homage to the five selected senators. The men so honored were Henry Clay of Kentucky, Daniel Webster of Massachusetts, John C. Calhoun of South Carolina, Robert Taft of Ohio, and Robert La Follette of Wisconsin. There still remain six vacant spaces on the Reception Room Walls. Perhaps at some future date, the Senate will again convene a similar committee and select additional senators to be so honored by their successors.

Around the walls in the Reception Room are the busts of Vice Presidents Henry Wallace, John Nance Garner, Richard Nixon, and Senator Cordell Hull.

Except for four brief occasions, the Senate has met continually in this chamber, and used the rooms I have just described, ever since January 4, 1859. On those occasions when it did have to find a temporary home, the Senate returned to its old quarters, the chamber down the hall, which, from 1860 to 1935 had served as home for the Supreme Court.

In 1938, an engineering survey revealed that the supports of the 79-year-old glass and cast-iron ceiling over the Senate chamber did not meet even minimum safety requirements. Speedy improvements were urged to prevent the 90-ton ceiling and the roof over it from falling in on the heads of the senators assembled below. Reconstruction of the roof was authorized in 1940, but World War II interrupted and the planned improvements were suspended. Instead, steel supports were installed to forestall the roof's collapse. While they were being put in place, the Senate met in its old chamber. When the senators of the Seventy-seventh Congress returned to this chamber in January 1941, they found a spider-web of steel braces under which they and their successors met for the next nine years.

As long as extensive work was needed on the chamber anyways, collateral studies were conducted on other aspects of life in the chamber. A subcommittee of the Committee on Public Buildings and Grounds was empowered to examine "acoustics, redecoration and better lighting systems" for the Senate. What emerged from these hearings was the senators' great reluctance to tamper with their historic chamber. Each post and lintel was precious to them. Time and again, Chairman Charles Andrews of Florida reminded the architects and engineers who came before his committee that their concern was safety and facilitation of debate only.

It became clear during the hearings that the old ceiling, though lovely with its stained glass panels of cornucopias, printing presses, and steam engines, was the source of much of the Senate's problems. It was through this glass ceiling and the skylight above it that sunlight filtered into the chamber. Unfortunately, after passing through the greens and blues of the stained glass, it imparted a murky glow to the chamber which made it look uncomfortably like an aquarium. Until 1888, the only artificial illumination in the chamber came from gas lights located above the ceiling. The electric lighting installed in 1888 cast an uneven, shadowy glare onto the desks below. The hearings revealed that the glass and iron ceiling was the source of many of the Senate's acoustical problems as well. Was the ceiling, asked Senator Andrews, the reason we "can hardly hear anyone speak a few yards away from us in the Senate today?" "Yes, it was, agreed the consulting engineers.

Not only would the proposed ceiling of plaster, with the beautiful eagle in its center and its indirect lighting, ease problems of hearing and seeing, it would incorporate an airconditioning system to relieve another chronic problem, heat. Ever since members had arrived in 1859, senators had been plagued by hot, stuffy air in the chamber. The only sure method of beating the summer heat was to adjourn in the spring.

During some renovation in 1896, the first serious attempts at primative airconditioning in the chamber were made. The broiled senators concocted a novel means of bringing fresh air into their sweltering hall. A white-tiled false cellar was built beneath the chamber floor and a conduit connected this area with a stone structure on the Capitol grounds. Air was forced through the cool stone building into the conduit and boosted into the chamber cellar, where a series of fans pushed the breeze through holes in the floor beneath the senators' desks. But, despite this innovation and the large palm fans resorted to by many senators, the chamber remained uncomfortable. Seizing the opportunity of the proposed renovation in 1940, the senators finally made provisions that would enable them to carry on through the summer months in comfort, a measure for which we are all profoundly grateful on these hot September days.

Construction work in the chamber finally began in July 1949, and once again the senators moved back to their old meeting place down the corridor. Four of my colleagues were members of the Senate then and perhaps Senators Magnuson, Young, Stennis, and Long recall those crowded sessions. While the old chamber had been ample space for the Senate of 1819, it was overwhelmed by the Senate of 1949. There was room for desks for only the Majority and Minority Leaders: the remaining 94 senators—there were only 96 senators at that time—were lucky to have even chairs. The marble gallery, jammed with air-conditioning equipment, hung precariously over Vice President Alben Barkley's head. In 1950, while work in their own chamber was being finalized, the Senate met once again in the old quarters.

The senators returned to their newly refurbished chamber, with the ceiling we see today, for the first session of the Eighty-second Congress on January 3, 1951.

The last occasion on which the Senate met in the Old Senate Chamber is one which many of my colleagues will well remember, for I know it made a great impression on me. On June 16, 1976, the Senate convened in its old chamber to mark the completion of its restoration. Sitting beneath that beautiful crimson balcony, under the watchful gaze of Peale's portrait of Washington, one got a sense of the majesty of the mid-nineteenth century Senate.

This current chamber is full of strong associations for all of us, I am sure. There are fondly remembered colleagues who, though gone now, once made these halls ring with their heart-felt words. For me, this is the chamber where I was first sworn in as a United States Senator on Wednesday, January 7, 1959.

I was the 1579th Senator selected and/or elected to serve in this body since its beginning in 1789. I remember it as if it were yesterday. As the clerk called our names, Senator J. Glenn Beall, Sr., of Maryland and Senator Harry Byrd, Sr., of Virginia, both old-timers in the Senate, and my colleague, Senator HOWARD CANNON of Nevada and a nervous ROBERT C. BYRD of West Virginia, both of us newly elected, were escorted to the front of this chamber by Senator John Butler of Maryland, Senator Alan Bible of Nevada, Senator A. Willis Robertson of Virginia, and my own escort, Senator Lyndon Johnson of Texas, and there we took our solemn oath of office.

Before January 1959, when I became a Member of this body, there had been 1,571 Members.

I took the following oath of office on January 7, 1959;

IN THE SENATE OF THE UNITED STATES

January 7, 1959.

I, ROBERT C. BYRD, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

ROBERT C. BYRD.

Subscribed and sworn to before me this 7th day of January, A.D. 1959.

RICHARD M. NIXON,
President of the Senate.

State West Virginia.

Mr. President, every Senator who becomes a Member of this body, before he enters upon the office of United States Senator, must take the same oath.

The Senators who entered that 1959 class with me were Stephen Young, Hugh Scott, Clair Engle, Kenneth Keating, Eugene McCarthy, Winston Prouty, Thomas Dodd, ROBERT C. BYRD, HARRISON WILLIAMS, E. L. Bartlett, Edmund S. Muskie, Ernest Gruening, Philip Hart, Vance Hartke, Frank Moss, Gale McGee, and HOWARD CANNON. I ask unanimous consent to insert the names of those Senators of the 1959 class and those who have subsequently become Members, including the latest, Mr. GEORGE J. MITCHELL of Maine.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Start of Service, name, and end of service:
1959:
January 3 (in order of seniority):
Young, Stephen M. (D-OH), January 2, 1971.
Scott, Hugh (R-PA), January 2, 1977.
Engle, Clair (D-CA), July 30, 1964.
Keating, Kenneth B. (R-NY), January 2, 1965.
McCarthy, Eugene J. (D-MN), January 2, 1971.
Prouty, Winston L. (R-VT), September 10, 1971.
Dodd, Thomas J. (D-CT), January 2, 1971.
Byrd, Robert C. (D-WV).
Williams, Harrison A., Jr. (D-NJ).
Bartlett, E. L. (D-AK), December 11, 1968.
Muskie, Edmund S. (D-ME), May 7, 1980.
Gruening, Ernest (D–AK), January 2, 1969.
Hart, Philip A. (D-MI), December 26, 1976.
Hartke, Vance (D-IN), January 2, 1977.
Moss, Frank E. (D-UT), January 2, 1977.
McGee, Gale W. (D-WY), January 2, 1977.
Cannon, Howard W. (D-NV).
August 21:
Fong, Hiram L. (R-HI), January 2, 1977.
Long, Oren E. (D-HI), January 2, 1963.
November 19:
Brunsdale, Norman C. (R-ND), August 7, 1960.
1960:
March 16:
Lusk, Hall S. (D-OR), November 8, 1960.
August 8:
Burdick, Quentin N. (D-ND).
September 23:
Long, Edward V. (D-MO), December 27, 1968.
November 9:
Neuberger, Maurine B. (D-OR), January 2, 1967.
December 27:
Smith, Benjamin (D–MA), November 6, 1962.
1961:
January 3:
Boggs, J. Caleb (R–DE), January 2, 1973.
Hickey, J. J. (D–WY), November 6, 1962.
Metcalf, Lee (D–MT), January 12, 1978.
Miller, Jack (R–IA), January 2, 1973.
Pell, Claiborne (D–RI).
June 15:
Tower, John G. (R–TX).
December 7:
Murphy, Maurice J., Jr. (R–NH), November 6, 1962.
1962:
January 31:
Pearson, James B. (R–KS), January 2, 1979.
July 9:
Bottum, Joe H. (R–SD), January 2, 1963.
August 6:
Jordan, Len B. (R–ID), January 2, 1973.
November 7:
Kennedy, Edward M. (D–MA).
McIntyre, Thomas J. (D–NH), January 2, 1979.
Simpson, Milward L. (R–WY), January 2, 1967.

November 30:
Mechem, Edwin L. (R-NM), November 3, 1964.
1963:
January 3:
Bayh, Birch (D-IN).
Brewster, Daniel B. (D-MD), January 2, 1969.
Dominick, Peter H. (R-CO), January 2, 1975.
Inouye, Daniel K. (D-HI).
McGovern, George (D-SD).
Ribicoff, Abraham A. (D-CT).
January 7:
Edmondson, J. Howard (D-OK), November 3, 1964.
January 8:
Nelson, Gaylord (D-WI).
August 20:
Walters, Herbert S. (D-TN), November 3, 1964.
1964:
August 4:
Salinger, Pierre (D-CA), December 31, 1964.
November 4:
Bass, Ross (D-TN), January 2, 1967.
Harris, Fred R. (D-OK), January 2, 1973.
Montoya, Joseph M. (D-NM), January 2, 1977.
December 30:
Mondale, Walter F. (D-MN), December 30, 1976.
1965:
January 1:
Murphy, George (R-CA), January 2, 1971.
January 3:
Fannin, Paul J. (R-AZ), January 2, 1977.
Kennedy, Robert F. (D-NY), June 6, 1968.
Tydings, Joseph D. (D-MD), January 2, 1971.
April 22:
Russell, Donald (D-SC), November 8, 1966.
November 12:
Byrd, Harry F., Jr. (I-VA).
1966:
May 11:
Griffin, Robert (R-MI), January 2, 1979.
November 9:
Hollings, Ernest F. (D-SC).
December 31:
Spong, William B., Jr. (D-VA), January 2, 1973.
1967:
January 3:
Baker, Howard H., Jr. (R-TN).
Brooke, Edward W. (R-MA), January 2, 1979.
Hansen, Clifford P. (R-WY), January 2, 1979.
Percy, Charles H. (R-IL).
January 10:
Hatfield, Mark O. (R-OR).
1968:
September 10:
Goodell, Charles E. (R-NY), January 2, 1971.
December 17:
Cook, Marlow (R-KY), December 27, 1974.
December 24:
Stevens, Ted (R-AK).
December 28:
Eagleton, Thomas F. (D-MO).
1969:
January 3:
Allen, James B. (D-AL), June 1, 1978.
Bellmon, Henry L. (R-OK).
Cranston, Alan (D-CA).
Dole, Robert (R-KS).
Gravel, Mike (D-AK).
Gurney, Edward J. (R-FL), December 31, 1974.
Hughes, Harold E. (D-IA), January 2, 1975.
Mathias, Charles McC., Jr. (R-MD).
Packwood, Robert W. (R-OR).
Saxbe, William B. (R-OH), January 3, 1974.
Schweiker, Richard S. (R-PA).
September 17:
Smith, Ralph T. (R-IL), November 16, 1970.
1970:
November 17:
Stevenson, Adlai E., III (D-IL).
1971:
January 1:
Roth, William V., Jr. (R-DE).
January 2:
Tunney, John V. (D-CA), January 1, 1977.
January 3:
Beall, J. Glenn, Jr. (R-MD), January 2, 1977.
Bentsen, Lloyd M. (D-TX).
Brock, William E., III (D-TN), January 2, 1977.
Buckley, James L. (C/R-NY), January 2, 1977.
Chiles, Lawton M., Jr. (D-FL).
Taft, Robert, Jr. (R-OH), December 28, 1976.
February 1:
Weicker, Lowell P., Jr. (R-CT).
Gambrell, David H. (D-GA), November 7, 1972.
September 16:
Stafford, Robert T. (R-VT).
1972:
August 1:
Edwards, Elaine S. (D-LA), November 13, 1972.
November 8:
Nunn, Sam (D-GA).
November 14:
Johnston, J. Bennett, Jr. (D-LA).
1973:
January 3:
Abourezk, James (D-SD), January 2, 1979.
Bartlett, Dewey F. (R-OK), January 2, 1979.
Biden, Joseph R., Jr. (D-DE).
Clark, Richard (D-IA), January 2, 1979.
Domenici, Pete V. (R-NM).
Haskell, Floyd K. (D-CO), January 2, 1979.
Hathaway, William D. (D-ME), January 2, 1979.
Helms, Jesse A. (R-NC).
Huddleston, Walter (D-KY).
McClure, James A. (R-ID).
Scott, William L. (R-VA), January 1, 1979.
1974:
January 4:
Metzenbaum, Howard M. (D-OH), December 23, 1974 (returned December 29, 1976).
December 18:
Laxalt, Paul D. (R-NV).
December 21:
Garn, E. J. (Jake) (R-UT).
December 24:
Glenn, John H., Jr. (D-OH).
December 28:
Ford, Wendell H. (D-KY).
1975:
January 1:
Stone, Richard (D-FL).
Wyman, Louis C. (R-NH), January 2, 1975.
January 3:
Bumpers, Dale (D-AR).
Culver, John C. (D-IA).
Hart, Gary (D-CO).
Leahy, Patrick J. (D-VT).
Morgan, Robert (D-NC).
September 18:
Durkin, John A. (D-NH).
1976:
December 27:
Danforth, John C. (R-MO).
December 28:
Zorinsky, Edward (D-NE).
December 29:
Chafee, John H. (R-RI).
December 30:
Anderson, Wendell R. (D-MN), December 29, 1978.
Riegle, Donald W., Jr. (D-MI).
1977:
January 2:
Hayakawa, S. I. (R-CA).
January 3:
DeConcini, Dennis (D-AZ).
Hatch, Orrin G. (R-UT).
Heinz, H. John, III (R-PA).
Lugar, Richard G. (R-IN).
Matsunaga, Spark M. (D-HI).
Melcher, John (D-MT).
Moynihan, Daniel P. (D-NY).
Sarbanes, Paul S. (D-MD).
Sasser, James R. (D-TN).
Schmitt, Harrison H. (R-NM).
December 10:
Wallop, Malcolm (R-WY).
Hodges, Kaneaster, Jr. (D-AR), January 2, 1979.
1978:
January 22:
Hatfield, Paul G. (R-MT), December 14, 1978.
January 25:
Humphrey, Muriel (D-MN), November 7, 1978.
June 12:
Allen, Maryon (D-AL), November 6, 1978.
November 8:
Durenberger, David F. (R-MN).
Stewart, Donald W. (D-AL).
December 15:
Baucus, Max (D-MT).
December 23:
Kassebaum, Nancy L. (R-KS).
December 27:
Cochran, Thad (R-MS).
December 30:
Boschwitz, Rudy (R-MN).
1979:
January 1:
Simpson, Alan K. (R-WY).
January 2:
Warner, John W. (R-VA).
January 3:
Armstrong, William L. (R-CO).
Boren, David L. (D-OK).
Bradley, Bill (D-NJ).
Cohen, William S. (R-ME).
Exon, J. James (D-NE).
Heflin, Howell T. (D-AL).
Humphrey, Gordon J. (R-NH).
Jepsen, Roger W. (R-IA).
Levin, Carl (D-MI).
Pressler, Larry (R-SD).
Pryor, David H. (D-AR).
Tsongas, Paul E. (D-MA).
1980:
May 9:
Mitchell, George J. (D-ME).

Mr. ROBERT C. BYRD. Sometimes we probably all take this chamber a little for granted. But we should never forget the scenes these walls have witnessed or the debates they have heard.

I remember Senators Richard Russell, Allen Ellender, John McClellan, Spessard Holland, Olin Johnston, Lyndon Johnson, Harry F. Byrd, Sr., Joseph O'Mahoney, Robert Kerr, all of whom were Members of the Senate when I came here, Senator Dirksen and many others, who have now gone on to their rewards.

Some of those Senators are still among us, Senators YOUNG, MAGNUSON, STENNIS, LONG.

But I very well remember some of the great debates that took place in this Chamber on my arrival in the early years of my service, the civil rights debates in particular, the debate on the test ban treaty.

So the halls rang with the voices of those great men.

The hopes and dreams of the nation were riding on the United States Senate when it moved to this chamber in 1859, 121 years ago. I was deeply moved by a passage in Senator Crittenden's inspiring speech on that January day, 121 years ago, and, in closing, I should like to read it to my colleagues:

> Wherever we sit we shall be the Senate of the United States of America—a great, a powerful, a conservative body in the government of this country, and a body that will maintain, as I trust and believe, under all circumstances and in all times to come, the

honor, the right, and the glory of this country. Because we leave this Chamber, we shall not leave behind us any sentiment of patriotism, any devotion to the country which the illustraous exemplars that have gone before us have set to us. These like our household gods, will be carried with us; and we, the representatives of the States of this mighty Union, will be found always equal, I trust, to the exigencies of any time that may come upon our country. No matter under what sky we may sit; no matter what dome may cover us; the great patriotic spirit of the Senate of the United States will be there; and I have an abiding confidence that it will never fail in the performance of its duty, sit where it may, even though it were in a desert.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to my distinguished friend from Hawaii.

Mr. MATSUNAGA. I thank the majority leader for yielding.

I have been listening with keen interest and have been especially delighted to know that the distinguished majority leader is not only a great leader but a great historian, and I am sure as a historian he would like to keep history up to date.

As I have already pointed out to him on a previous occasion, up in the ceiling of this Chamber there are only 48 stars; which mean that the stars for Hawaii and Alaska are missing.

And here on the walls of this great Senate Chamber there are only 46 stars. So we have not only Hawaii and Alaska, but also Arizona and New Mexico missing.

So I plead with the distinguished majority leader to exert his influence in bringing the Senate Chamber up to date. The people of the four States not represented by their symbolic stars in this Chamber will be happy to learn that something is being done to rectify the omission.

Back in 1963, when I was a freshman Member in the House of Representatives I happened to look up at the ceiling and counted only 48 stars surrounding the American eagle.

I approached Speaker of the House John McCormack at that time and suggested that he put up the stars for Hawaii and Alaska. The response was not immediate, so whenever I had the opportunity in the House Chamber, I would good humoredly ask him, "Mr. Speaker, when are you going to put that star up there for Hawaii?" Whenever I asked him the question, he would respond with the same answer, "As soon as you tell me, SPARKY, who else but you would count the stars?" And for 2 years he gave me the same response.

So one day I thought to myself: maybe the Speaker means what he says. So, while I had Congressman Hanna and Congressman Leggett of California, who came to the Congress the same time I did, sitting next to me, I said to them: "Say, you guys, will you do me a favor? Will you count the stars up there?" And Congressman Hanna said, "Well, there's nothing else to do." And Congressman Leggett then said, "Hey, there are only 48." I said, "That's right, Hawaii is missing and so is Alaska."

Then I asked them, "Will you please come with me?", and I took them to the Speaker. I said, "Mr. Speaker, here are two other Members who counted the stars." The Speaker laughed and said, "Well, OK, SPARKY, you win. You win."

And that is how the stars for Hawaii and Alaska were finally installed in the House Chamber.

I learned subsequently that the Speaker was up against two problems. One was the cost: Just to install stars up on the ceiling, it would cost $2,000 because of the need to build a scaffolding all the way up to the ceiling. The second problem was how to put two stars in a circle of evenly spaced stars without having to move all 48. The Architect of the Capitol had a bright idea. Since the stars surrounded the American Eagle, he said, "Why don't we take the one at the head of the eagle and move that further in and put one there; then take the one at the tail of the eagle, move that further in, and put one there?"

And that is exactly what was done in the House Chamber. So they had to move but two stars to put in Hawaii's and Alaska's stars.

After the two brand new stars were put up, I approached Congressman Ralph Rivers of Alaska on the floor one day and said to him, "Ralph, do you see the two brand new stars up there?" He did not even know they were up there and asked me, "Well, when did they get up there?" I said, "During the recess. I want you to know" I told him, "that I was responsible for getting the stars up there. So I am telling you right now that the one at the head of the eagle is for Hawaii."

I thought this bit of history, although not of the Senate Chamber, might be of interest to my colleagues.

I once more plead with the distinguished majority leader to do all he can in his influence and power to put those stars for Hawaii and Alaska up on the ceiling, and on the walls for the four last States to be admitted into the Union.

I thank the majority leader for yielding.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Hawaii.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. PROXMIRE will be recognized for not to exceed 15 minutes under the order previously entered. The Senate will resume consideration of S. 1188, the veterans vocational rehabilitation bill.

Upon the disposition of that bill, and it is anticipated that it will not take too long, the Senate will likely proceed to the consideration of the conference report on the higher education bill.

At 4 p.m. tomorrow, the Senate will return to the consideration of the bill on domestic violence.

I would anticipate rollcall votes throughout the day, on the veterans vocational rehabilitation bill, on the higher education conference report, and on domestic violence legislation.

Mr. BAKER. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the majority leader

Mr. President, I might advise my friend, the majority leader, that the distinguished senior Senator from New York (Mr. JAVITS) has a special interest in the conference report on higher education. It is my understanding that he will not be back in the city until about noontime tomorrow.

Judging by the description the majority leader just gave us, I would assume we would not reach that conference report until that time or a little later.

But I wonder if the majority leader could agree to consider that factor if and when he might call up the conference report on tomorrow, in order to accommodate the requirements of the Senator from New York?

Mr. ROBERT C. BYRD. Yes, absolutely. Mr. JAVITS is one of the principals in the consideration of that measure and will be in the debate on the conference report.

As the distinguished minority leader has pointed out, I doubt that the Senate would get to the conference report before 12 noon anyhow, but that will be a consideration, certainly.

Mr. BAKER. Mr. President, I thank the majority leader.

Mr. ROBERT C. BYRD. Now, Mr. President, while I am talking about the program, there will not be any Saturday session this week. There will not be any Saturday session next week. So Senators can be assured that as far as Saturdays, September 6 and 13, are concerned, there will be no session.

What the outlook will be for the future Saturdays remains unintelligible for me at the moment, and unclear.

But for this week and next, there will be no Saturday session.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I now move to recess under the order until 10:30 a.m. tomorrow morning.

The motion was agreed to; and at 3:41 p.m., the Senate recessed until tomorrow, Thursday, September 4, 1980, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate on August 28, 1980, under authority of the order of the Senate of August 26, 1980:

DEPARTMENT OF STATE

Fernando E. Rondon, of Virginia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar.

THE JUDICIARY

Eugene H. Nickerson, of New York, to be U.S. circuit judge for the second circuit, vice Murray I. Gurfein, deceased.

Gerald B. Lackev, of Ohio, to be U.S. district judge for the northern district of Ohio, vice Don J. Young, retired.

Peter M. Lowry, of Texas, to be U.S. district judge for the western district of Texas, vice Jack Roberts, retired.

David G. Roberts, of Maine, to be U.S. district judge for the district of Maine, vice George J. Mitchell, resigned.

Executive nominations received by the Secretary of the Senate on August 29, 1980, under authority of the order of the Senate of August 26, 1980:

NATIONAL COUNCIL ON THE HANDICAPPED

Carl V. Granger, of Massachusetts, to be a Member of the National Council on the Handicapped for a term of 2 years (new position).

FOREIGN CLAIMS SETTLEMENT COMMISSION

Francis Leon Jung, of Virginia, to be a Member of the Foreign Claims Settlement Commission of the United States for the term of 3 years expiring September 30, 1983 (reappointment).

NATIONAL INSTITUTE OF BUILDING SCIENCES

The following-named persons to be Members of the Board of Directors of the National Institute of Building Sciences for the terms indicated:

For terms expiring September 7, 1981:

Alfred John Hofstede, of Minnesota, vice S. Peter Volpe, term expired.

Bennie S. Gooden, of Mississippi, vice Jasper S. Hawkins, term expired.

For terms expiring September 7, 1982:

Ralph M. Ball, of Oklahoma, vice O. M. Mader, term expired.

Robert A. Georgine, of Maryland (reappointment).

Bert D. Lee, of Michigan, vice David S. Miller, term expired.

Vivienne S. Thomson, of Massachusetts, vice Glen R. Swenson, term expired.

IN THE COAST GUARD

The following-named Reserve officers of the Coast Guard to be permanent commissioned officers in the grades indicated:

Lieutenant commander

Richard B. Harden
Glen C. Sicks
Malcolm J. Williams, Jr.

Lieutenant

Robert H. Cordz
William J. Gottschalk
Robert A. Kuhn
Gary G. Poll
David M. Tucker
Theodore A. Holloman

Lieutenant (junior grade)

Robert D. Allen
James C. Burton
Robert C. Eccles
Peter D. Eikenberry
Paul W. Fletcher
Alan L. Gabriel
John H. M. Jones, Jr.
William L. Ross
Ruben H. Arredondo

IN THE ARMY

The following-named officers for reappointment in the active list of the Regular Army of the United States, from the Temporary Disability Retired List, under the provisions of title 10, United States Code, section 1211:

To be colonel, Regular Army and colonel, Army of the United States

Zeleznikar, Louis J., [redacted].

To be captain, Regular Army and major, Army of the United States

Pickard, Andrew D., [redacted].

The following-named officers for appointment in the Regular Army of the United States, in the grade specified, under the provisions of title 10, United States Code, sections 3284 through 3294:

To be colonel

Bowen, Clotilde, [redacted].

To be major

Bagnal, William K., Jr., [redacted].
Lyons, Matthew, Jr., [redacted].
Thornsvard, Charles T., [redacted].

To be captain

Ball, Robert M., [redacted].
Barszcz, Michael E., [redacted].
Barth, Francis A., Jr., [redacted].
Baze, Wallace B., [redacted].
Begg, Irene, [redacted].
Birdseye, Helen M., [redacted].
Brennecke, Lucas H., [redacted].
Brumett, Joan H., [redacted].
Camp, Charles D., [redacted].
Combs, Maureen W., [redacted].
Conkright, Donald D., [redacted].
Denno, Gordon J., [redacted].
Dunn, Ronald J., [redacted].
Edlefsen, Gregory, [redacted].
Elfrink, Louis D., Jr., [redacted].
Elkins, Estel E., Jr., [redacted].
Ellis Dorothy A., [redacted].
England, Thomas F., [redacted].
Farris, Charles R., [redacted].
Foley, Brian P., [redacted].
Golson, Patricia S., [redacted].
Goodwin, Bradford S., Jr., [redacted].
Gosch, Larry E., [redacted].
Hanchett, Donald G., [redacted].
Hannah, Donald R., [redacted].
Hannah, John R., [redacted].
Hapner, Arthur W., [redacted].
Hobbs, Timothy, [redacted].
Injety, Jane H., [redacted].
Keeler, Jill R., [redacted].
Kraft, Gerald L., [redacted].
Krause, Patricia A., [redacted].
Kyzar, Carl T., [redacted].
Leslie, David H., [redacted].
Lucas, William R., [redacted].
Marsella, Richard C., [redacted].
McGuire, James R., [redacted].
McMichael, Lee N., [redacted].
McNeil, Marrian R. S., [redacted].
Milhous, Wilbur K., [redacted].
Miller, Joseph E., [redacted].
Monroe, Anthony M., [redacted].
Morrill, John C., [redacted].
Morrison, John W., Jr., [redacted].
O'Donnell, Jayne P., [redacted].
Palian, Charles W., [redacted].
Palmer, Gerald A., [redacted].
Parker, Merle H., [redacted].
Platte, Richard E., [redacted].
Price, Cecily B., [redacted].
Renaud, Michelle T., [redacted].
Rose, Madeleine S., [redacted].
Ruehle, Donald J., [redacted].
Smart, Stephen C., [redacted].
Sturgis, Anne K., [redacted].
Swenson, Karen M., [redacted].
Swingler, Ralph S., [redacted].
Thiel, Brian P., [redacted].
Thompson, Bruce H., [redacted].
Threadgill, James M., [redacted].
Tripp, Edwin A., Jr., [redacted].
Vickers, Robert C., [redacted].
Wiles, James R., [redacted].
Yarbrough, Leslie W., [redacted].

To be first lieutenant

Amato, Sandra A., [redacted].
Bledsoe, Robert D., [redacted].
Brettell, James R., [redacted].
Brewner, Eric A., [redacted].
Brookshire, Grail L., [redacted].
Brzozowski, Philip C., [redacted].
Bryant, Mary C., [redacted].
Bullerman, Wayne A., [redacted].
Burgess, Lawrence P., [redacted].
Carroll, Bernard L., [redacted].
Carroll, Naomi E., [redacted].
Christian Herman, [redacted].
Coffey, James A., [redacted].
Cryder, Terry E., [redacted].
Cuthbertson, Rand J., [redacted].
Davis, Harry Q. III, [redacted].
Davis, John W., [redacted].
Denton, David D., [redacted].
Dhane, John M., [redacted].
Donahue, Michael J., [redacted].
Dorsett, Cecil R., [redacted].
Engle, Scott Robert W., [redacted].
Fletcher, Linda L., [redacted].
Gaither, Neal S., [redacted].
Gillogly, Scott D., [redacted].
Gilman, James K., [redacted].
Granger, Elder, [redacted].
Greenman, Peter H., [redacted].
Griggs, Rosemary, [redacted].
Hamilton, Jana L., [redacted].
Harper, Dennis L., [redacted].
Harrington, Gerald R., Jr., [redacted].
Hartz, John C., [redacted].
Hicks, David H., [redacted].
Hohmann, Edmund G., [redacted].
Howell, Judith, [redacted].
Hume, Roderick F., Jr., [redacted].
Jackson, William N., [redacted].
Johnson, Catherine, [redacted].
Johnson, James D., [redacted].
Johnson, John B., [redacted].
Kaigler, Timothy J., [redacted].
Kautzman, Dennis J., [redacted].
Kelly, Kevin J., [redacted].
Kinsch, Nicholas L., [redacted].
Kohler, Mary M., [redacted].
Lutz, Teresa Y., [redacted].
Malconian, Mark K., [redacted].
McCrady, David B., [redacted].
Mouritsen, Paul B., [redacted].
Mussnug, Patricia L., [redacted].
O'Hair, Kevin C., [redacted].
Ostmann, Ronald B., [redacted].
Przybelski, Robert J., [redacted].
Pupa, Lawrence E., Jr., [redacted].
Riley, Roslyn S., [redacted].
Robbins, Randolph B., [redacted].
Satterwhite, Janet L., [redacted].
Saxon, Laurie K., [redacted].
Spiegel, Robert H., [redacted].
Taylor, Philip E., [redacted].
Thompson, Ian M., Jr., [redacted].
Tominey, Theresa M., [redacted].
Vincent, Dale S., [redacted].
Weber, Charles R., [redacted].
Weber, James R., [redacted].
Williams, John J., [redacted].
Willis, Samuel M., [redacted].
Zimmer, Bolko G., [redacted].

To be second lieutenant

Emmerson, John S., [redacted].
Holt, Gary L., [redacted].
Jaques, Christian K., [redacted].
Leblanc, Roger W., [redacted].
Von Plinsky, Alexander H., [redacted].

IN THE MARINE CORPS

The following-named Marine Corps enlisted commissioning education program graduate for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, section 5583, subject to the qualifications therefor as provided by law:

Doyle, Robert P.

HOUSE OF REPRESENTATIVES—*Wednesday, September 3, 1980*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. FOLEY).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
August 28, 1980.

I hereby designate the Honorable THOMAS S. FOLEY to act as Speaker pro tempore on September 3, 1980.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious Lord, we lift our hearts in praise for the heritage we have as a nation and as individuals. We thank You that leaders have been raised up to guide our country in times of turmoil and distress and to grant security to all citizens for the living of each day. We laud Your name that we have been blessed with family and friends who through example and concern have shown us the way of faith and love. To all those who by word or deed have witnessed to the way of truth and have helped us to understand the glory of Your world and our responsibility in it, we offer this our prayer. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

THE LATE HONORABLE JOSEPH EDWARD CASEY

(Mr. DRINAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DRINAN. Mr. Speaker, I note with sadness the passing of former Congressman Joseph Edward Casey, who occupied the seat in Congress which I have had the honor to hold during the past 10 years.

Mr. Casey was born in 1898, graduated from Boston University Law School in 1920, and served as a Democrat in Congress from 1935 to 1943. He was not a candidate for renomination to the 78th Congress. After his 4 terms in Congress, Mr. Casey practiced law in Washington, D.C.

The many friends of Joseph Casey in Massachusetts and in Washington lament his passing. We send our prayerful and profound compassion to his wife, Constance, to his three daughters, Jane, Constance, and Caroline, and to his sons, John and Joseph.

Joseph Edward Casey was a distinguished and devoted attorney, a veteran of World War I, and a very valued Member of this body. I thank him personally for all of the services which he gave to the people of the Third Congressional District of Massachusetts and on behalf of the Congress of the United States, I thank him for his many and significant contributions to the Congress and to the country.

DISTURBING DEVELOPMENTS IN CONSTRUCTION OF NATION'S FIRST COMMERCIAL SYNTHETIC FUEL PLANT IN NORTH DAKOTA

(Mr. FORD of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORD of Tennessee. Mr. Speaker, we all know the terrible effect that unemployment is having on our economy. The President's recently announced program of industrial revitalization is a sound step in the direction of full employment. An important part of that program is the development of synthetic fuels. The vast amounts of money that will be spent for the development of synthetic fuels will contribute to greater employment. It is because of the promise of the synthetic fuels program that I have become very disturbed about recent developments in the construction of our Nation's first commercial synthetic fuels plant in North Dakota.

A letter of intent has been sent to a Japanese firm for the construction and delivery of 14 pressure vessels for this plant. The second lowest bidder for the construction of these vessels is an American company. This company has had massive layoffs in recent years and the contract for these vessels is needed to put these people back to work. It should also be pointed out that it will be Japanese rather than American steel that will be used if this contract goes to the Japanese firm.

This project is being supported by a $250 million loan guarantee from the Federal Government. In today's Washington Post it was pointed out that the project may be asking the Government for an additional loan guarantee of $1.4 billion. We should not allow the synthetic fuels program to be used to solve Japan's unemployment problems. It is the American people's tax dollar that is at risk in this project, it should be Americans that are employed on the project.

THE HEIGHT OF GALL

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I note that President Carter has picked up the old line and is accusing Ronald Reagan of endangering the peace because he wants our Nation to have an adequate nuclear deterrent and wants us to negotiate only from a position of strength.

For the candidate of the Democratic Party to talk this way in the face of the Democrat peace record is the height of gall. Every war in this century began in Democrat administrations.

History has shown that strength does not lead to war. It has shown that weakness invites aggression, miscalculation, and reckless risks on the part of aggressor nations.

When Mr. Carter sent the SALT II treaty to Congress, he said that whether or not it was ratified, he would abide by it. Apparently he is doing so. He has systematically slowed down or scuttled improvements in our defenses. He scuttled the B-1 bomber. He has delayed the MX missile and the Trident submarine programs. He has cut back drastically the Navy's ship construction program.

The question that must be asked is: Does not this really constitute unilateral disarmament?

At Pearl Harbor, in Korea, and in Vietnam, we learned the tragic consequences of a weak America. We do not intend to let Mr. Carter's errors render us unable to defend our Nation and our interests around the world.

WHEELING-PITTSBURGH STEELWORKERS VOLUNTARY WAGE DELAYS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, I take the floor of the House at this time to commend the employees of the Wheeling-Pittsburgh Steel Corp. for their outstanding demonstration of loyalty to their company and to their country.

Last week the Steelworkers Union and employees voted to delay two cost-of-living increases and a $150 bonus in order to help their company, Wheeling-Pittsburgh Steel, to get through a rough economic period.

The cost-of-living increases will be delayed until some time in 1981. The $150 bonus was delayed until December of this year.

Support for these delays was overwhelming in both counts.

I applaud the employees of Wheeling-Pittsburgh Steel and I am particularly proud of the steelworkers, because they not only demonstrated exceptional loyalty to their company, but also to their country by the sacrifice they made in order to help our Nation to get back on the road to economic recovery.

A MATTER OF TIMING

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CONABLE. Mr. Speaker, the President this past week announced his economic renewal program. It is not bad: as a matter of fact, it is surprising how much this moral, responsible and noninflationary proposal looks like the immoral, inflationary and irresponsible schemes the President has been denouncing right up until his own plan came out.

There are details I would change if I had my way, but I would not be alarmed if Congress started with the President's scheme as a beginning of the process of working its will on taxes. However, the President does not even want to have Congress consider economic renewal until next year. While he wants it to have an effective date of January 1981—except for an extension of unemployment insurance—the same effective date for which other tax proposals are being advanced, he evidently feels that it would be irresponsible to consider tax legislation in a political environment—before the election.

Mr. Speaker, it is the economic circumstances of the country and the content of the bill that determines its responsibleness, not the political environment in which it is considered. The President's proposal puts appropriate emphasis on business tax reforms which will encourage investment. If we delay enactment of depreciation reform until the middle of next year, we will also delay any beneficial effects of such an important measure until after that time, allowing for business planning. If we cut taxes for individuals, as the President proposes to do, we should do it when the economy is in decline rather than after it starts recovering, as most economists think it will by the middle of next year. Administratively, it would make much more sense to pass a bill now to become effective the first of the year, rather than making it retroactive to the first of the year 6 months later, with all the overwithholding and other problems that entails.

Beyond these considerations, I am skeptical that tax-cut promises made before election will be kept later, when the financing of our uncontrolled Government is already so difficult, and political memories are so short. To be moral, responsible and noninflationary, we should do it now, rather than postponing it to the middle of next year.

☐ 1210

HOUSE OF REPRESENTATIVES SHOULD DEBATE ECONOMIC ISSUES

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, in reading the press in recent days, I have noticed that there seems to be some impediment to holding a debate at the Presidential level between the candidates of our two great political parties. This gives me great concern and alarm. I hope those matters get resolved and we have those debates.

However, of equal importance would be a debate between the leaders of this House of Representatives, Mr. O'NEILL and Mr. RHODES, or their designated representatives. We condemn Jimmy Carter for the sad state of the American economy, high inflation, and high credit, but this institution, the House of Representatives, is entitled to its equal share for the sadness of our economic status, because a President can only spend what the Congress appropriates.

The fiscal irresponsibility of the Congress in voting deficits is the basic cause of inflation. A national debate by leaders of the House of Representatives will turn the spotlight on this fact.

The duty is spelled out in the Constitution that the House of Representatives must originate any appropriation bill, and it is appropriate for those who have run this Congress for 25 years, the Democrats, to explain to the people of this country how they have caused the ridiculous status where if you want to buy a house you have to pay interest at 13 percent, the highest in the history in this century, and an inflation rate of 12 percent.

The people running this Congress should have the privilege of explaining that. A debate would throw the spotlight on it, and I ask the leaders of the House to perform this high calling.

SYRIA-LIBYA MERGER

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HOLT. Mr. Speaker, it has been revealed that negotiations have taken place between the nations of Syria and Libya, resulting in a call for total constitutional merger of the two countries.

Both Colonel Qadaffi of Libya and President Assad of Syria seek to spread their brand of imperialism throughout Africa and the Middle East. A merger of the two would be a blow to self-determination in the area; would further threaten a tenuous peace; and would serve Soviet hegemony.

This latest in a long list of pan-Arab movements is not being taken to stabilize the Arab world, but to promote the warmaking capabilities of two radical mavericks. As has been the case for 3½ years, the United States can only respond after the fact. Mr. Speaker, where does the administration stand on this afront to peace? The world wonders.

A NOTE OF HAPPINESS AMONGST DESPAIR

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, I noticed as I came in here this morning, into the happy hour, that eight of our colleagues from the Republican side of the aisle were seated there in the front row, each with a neatly typewritten speech. Eight is the number of keys in an octave, and I thought I might hear them sing some kind of song of gladness. But all I hear is despair.

Perhaps that is why they are the longest permanent floating minority in political history. All we hear is despair.

But I think we should add one note of happiness, and for that reason I am here to say that it is a great day, I love everyone, and I wish you all well.

Mr. ASHBROOK. Mr. Speaker, will my colleague yield?

Mr. DANIELSON. Surely I yield.

Mr. ASHBROOK. I would say to my colleague that with the smiles on our faces, the only despair we have in our hearts is that the occupant of the White House for the last 4 years is running for reelection.

Mr. DANIELSON. I did not realize that they were smiles. I thought they were gas pains.

LAMEDUCK SESSION UNHEALTHY

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, there is a growing feeling among the Members of the House, about the inevitability of a lameduck session of this legislative body commencing November 12—a full 8 days after the voters have expressed their preferences at the polls.

I believe that the fact that a lameduck session is being considered is unhealthy in and of itself, because it gives Members of the House a built-in incentive to delay decisionmaking on pressing national issues until after the election. The hard decisions will not be made.

But perhaps more distressing is the fact that defeated lawmakers will be making important decisions at a later date.

This was an overriding fear of the Members of this legislative body in 1932 when this very issue was debated in the context of the 20th amendment to the Constitution. Representative Lozier of Missouri put forth this very succinct statement of the real issue in the lameduck debate:

> Under the present system, when a Representative has been repudiated at the polls, and another person chosen by the voters to succeed him, does the gentleman think the repudiated Congressman should be permitted to return to Congress and . . . speak for and represent the people who by their bal-

lots have chosen another agent or Representative to speak for them?

That argument seemed eminently sensible in 1932 and it seems to me every bit as sound today.

CONTRAST IN U.S. FOREIGN POLICY TOWARD LIBYA AND ISRAEL

(Mr. PHILIP M. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PHILIP M. CRANE. Mr. Speaker, I would like to contrast our foreign policy toward Libya with our foreign policy toward Israel.

Libya's dictator has gained a well-earned international notoriety for exporting terrorism. Trained Libyan killers swept into Gafsa, Tunisia, in February of this year and left 200 dead in their wake. The American Embassy in Libya was stormed in 1979. Most recently, even the murder of a former Iranian diplomat in our own Capital City seems to have a Libyan link. These terrorist interventions in other nation's policies deserve the severest reprimand from every nation and international body. Yet these vile actions have stirred only weak reactions in international circles.

For all that has been said about the lack of success of the President's brother as a Libyan agent, the U.S. response to this terrorism has been mild. The U.S. diplomatic corps seems to shy away from censuring Libya for killing innocents in other nations.

Despite these despicable acts of international terrorism, no U.N. resolution has reprimanded Libya for international murder. Even the United States, with its much-vaunted human rights policy, has failed to call for such a U.N. resolution.

When Israel, on the other hand, passed laws regarding the city that has been its capital for 31 years, the U.S. delegation to the United Nations allowed its ally to be censured for tending to its own domestic business. Although the United States owes Israel a great debt for defending democratic principles and Western interests in a region threatened by terrorism and Soviet imperialism, those same foreign policy advisers who can accommodate Libyan terrorism still permit Israel to be censured.

Today I am offering a sense of the House resolution stating that the United States should repudiate its abstention on United Nations Security Council Resolution 478 (1980) and reaffirm Israel's right to choose its own capital city.

THE PRESIDENT'S LABOR DAY SPEECH

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS of Indiana. Mr. Speaker, this past Monday our Nation celebrated Labor Day, a day traditionally we set aside to honor the labor force of our country, to show our appreciation to the men and women who contribute to manufacture and make the products for the needs of our country and for our exports. It is a day that usually our leaders show their respect and honor to the American labor force.

I was shocked to read and listen to the media account of what the President of the United States spoke about as his subject this past Monday. It was not about showing appreciation for our labor force or how we might solve the problems of inflation, reduce interest rates, or how we might solve the problems of high unemployment. He spoke only about the brave people in Poland that are on strike.

This does not mean that we are not concerned about those in Poland that are on strike today and trying to protect their human rights, but it seemed to me the President of our United States should also remember that the labor force in this country has a lot of problems, too. Evidently our President is not aware of that fact.

CONGRESS CAN PASS BUDGET WITHOUT LAMEDUCK SESSION

(Mr. KRAMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KRAMER. Mr. Speaker, Groucho Marx once defined politics as "the art of looking for trouble, finding it everywhere, diagnosing it incorrectly and then applying the wrong remedies." This pretty well sums up the 25 years that the Democrats have controlled Congress. And, it describes why this fall people are going to be voting Republican for a change. Thus, you would think that the majority leadership would be anxious to pass the 1981 budget before we adjourn. After all, this will be the majority's last chance to offer the voters something more than rhetoric on what it intends to do about inflation, unemployment, taxes, and defense spending. Yet, as I look at this week's agenda, I do not see any mention of the second budget resolution. Could it be that the leadership does not have an economic game plan for the next year that is any different than what we have seen the last 25 years? Or, is it that the majority leadership is afraid the American people will reject another round of deficit spending after first being promised a balanced budget? Mr. Speaker, there is still time for Congress to complete work on next year's budget before we adjourn; a lameduck session is not necessary. But, let us not waste any more time.

□ 1220

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
September 3, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit sealed envelopes received from The White House as follows:

(1) At 4:10 p.m. on Friday, August 29, 1980 and said to contain a message from the President transmitting the Federal Pay Comparability Alternative Plan.

(2) At 12:35 p.m. on Tuesday, September 2, 1980 and said to contain a message from the President wherein he transmits the Annual Report of the Commodity Credit Corporation for Fiscal Year 1979.

With kind regards, I am,

Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

FEDERAL PAY COMPARABILITY ALTERNATIVE PLAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-367)

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Post Office and Civil Service and ordered to be printed:

(For message, see proceedings of the Senate of today, September 3, 1980.)

ANNUAL REPORT OF COMMODITY CREDIT CORPORATION FOR FISCAL YEAR 1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Agriculture:

To the Congress of the United States:

In accordance with the provisions of Section 13, Public Law 806, 80th Congress, I transmit herewith for the information of the Congress the report of the Commodity Credit Corporation for the fiscal year ended September 30, 1979.

JIMMY CARTER.

THE WHITE HOUSE, *September 2, 1980.*

CONSTANTINO BRUMIDI DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 594) to authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day."

The Clerk read the title of the joint resolution,

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. ADDABBO. Mr. Speaker, reserving the right to object, I take this time as a sponsor of this resolution to give special thanks to my fellow New Yorker, Mr. GARCIA, for giving us this timely opportunity to honor the "Michelangelo of the

United States Capitol"—Constantino Brumidi.

Brumidi's genius surrounds us, and there is not a visitor to these distinguished halls who has not joined in praise for the work which occupied the last 25 years of Brumidi's life. Arriving from Italy in the land he called the "only country on earth where liberty exists," Brumidi's love for his adopted country led him from New York to Washington where his only ambition was to make the Capitol beautiful. I believe it would be most unfortunate if we here in Congress, surrounded by this devotion, do not take this opportunity to recognize and show our appreciation for this great man and the contributions he has made to our Nation's heritage. In honor of the 100th anniversary of Brumidi's death, and the 128th anniversary of his arrival at New York Harbor, I urge all of my colleagues to to join me in this tribute.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. BIAGGI. I reserve the right to object, and I do not intend to object, Mr. Speaker. I just take this opportunity to congratulate the chairman and my colleague from the Bronx for reporting this legislation.

Mr. Speaker, during this, the 175th anniversary of the birth, and the 100th anniversary of the death of Constantino Brumidi, I rise in strong support of House Joint Resolution 594, a resolution designating September 18, 1980, as "Constantino Brumidi Day."

As an American of Italian heritage, I take special pride in the outstanding contribution this great artist—often referred to as the "Michelangelo of the U.S. Capitol"—made to his adopted American home in the name of liberty.

A brief review of Brumidi's life shows that he came to the United States as a renowned Italian artist on September 18, 1852—the date we are acknowledging with this resolution. In 1855, Brumidi was hired to decorate the Agriculture Committee room in the Capitol, and in so doing provided the first example of fresco in America.

After becoming a U.S. citizen in 1857, Brumidi spent the rest of his life serving his adopted home with artistic dedication. Using the Capitol as his canvas, he produced magnificent works of art in the Senate reception room, the Senate Appropriations Committee room, the President's room in the Senate extension, the Senate floor corridors, the House of Representatives Chamber, the House of Representatives committee room, and the Capitol rotunda.

Tragically, on February 19, 1880, Brumidi died after a fall from the dome of the Capitol rotunda while completing the final stages of what he considered the greatest work of his life—a scroll of American history, from the landing of Columbus to the present day.

While his life ended at the age of 75, his endeavors earned him a formidable place in art history, and the walls of the Capitol serve as a constant reminder of Constantino Brumidi's greatness. Truly, he was an inspired man, who was totally dedicated to the pursuit of liberty—the cause that originally brought him to America.

Recognition of his work has come slowly, and much more needs to be done. That is why I have joined a number of my colleagues in seeking a commemorative stamp to honor this memorable ethnic American. That is why I strongly urge that we unanimously approve this resolution aimed at providing Constantino Brumidi with the tribute he so richly deserves.

● Mr. GILMAN. Mr. Speaker, I commend the gentleman, my colleague from New York (Mr. ADDABBO), for bringing House Joint Resolution 594 before the House of Representatives today. As a cosponsor of this measure, I am pleased to join in honoring Constantino Brumidi, a most talented artist who has contributed immensely to the beauty of our Nation's Capitol and to the heritage of our country.

Constantino Brumidi arrived in this country 128 years ago as a political exile of Italy. His love for art was no greater than his love of liberty and his love for this Nation, which led him to seek citizenship 2 years after his arrival here.

His exceptional gift for art, which is evident today in the corridors of the Senate wing of the Capitol, the formal offices of the President and Vice President, the Senate reception room, and the present House and Senate Appropriations Committee rooms, earned him the tribute of the name, "The Michelangelo of the Capitol of the United States." His career ended tragically after a fall from a scaffolding during work on the fresco frieze encircling the top of the rotunda of the Capitol.

Constantino Brumidi was one of the thousands of immigrants who came to our country from Italy; as we honor him on September 18, we honor the many others of Italian descent who have played such a vital role in the development of our country and who have enabled our Nation to attain the level of freedom and prosperity we enjoy today.

Having agreed to honor this distinguished Italian-American, I now hope that my colleagues will also join with the gentleman from New York (Mr. WOLFF) and those of us who have cosponsored House Joint Resolution 568, proclaiming October 12 through October 19, 1980, as "Italian-American Heritage Week." The Italian-American community deserves our thanks and tribute, and I am hopeful that the Congress will see fit to honor the contributions this group has made by adopting House Joint Resolution 568, establishing "Italian-American Heritage Week." House Joint Resolution 568 pays tribute to the fact that the gifts of outstanding Italian Americans, their contributions to our heritage, their commitment to liberty, to freedom, and to our country have enriched not only our history but our present lives.

Our Nation is truly fortunate to have benefited from the legacy of a Constantino Brumidi and from the achievements and contributions of all those who arrived on our shores from their homeland in Italy. Accordingly, as we prepare to celebrate "Constantino Brumidi Day" on September 18, I urge my colleagues to join us in support of House Joint Resolution 568.

Mr. Speaker, I include the full texts of House Joint Resolution 594 and House Joint Resolution 568 in the RECORD at this point:

H.J. RES. 568

Whereas the Congress fully recognizes that it is essential for the people of the United States of America to understand and respect the rich heritage of all American ethnic groups if we are to maintain and foster the national unity; and

Whereas the many great contributions of Italian-Americans to our country must be recognized and the deep Western roots of Italian-American culture, history, and traditions must be appreciated; and

Whereas the long recognized American holiday of Columbus Day is celebrated on the second Monday of October to commemorate the discovery of America by the famous Italian geographer-navigator-explorer, and this day is of special significance to the Italian-American community as a symbol of their essential contributions to American society as courageous immigrants, hard-working citizens, and true American achievers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week" and calling upon the people of the United States, State, and local government agencies, and interested organizations to observe that week with appropriate ceremonies, activities, and programs.

H.J. Res. 594

Whereas Constantino Brumidi, born in Rome, Italy, on June 26, 1805, landed at New York Harbor on September 18, 1852, as a political exile, making his flight from Italy to the United States because of his love for liberty; and

Whereas Brumidi's love for his adopted country led him to seek citizenship two years after his arrival; and

Whereas the artist's love for liberty joined his love for art and his love for country as he spent the last twenty-five years of his life embellishing the United States Capitol, including the corridors of the Senate wing, the formal offices of the President and the Vice President, the Senate reception room, the present House and Senate Appropriations Committee rooms, and the rotunda; and

Whereas in 1877, at the age of seventy-two, Brumidi began his last work, the fresco frieze encircling the top of the rotunda, and fell from a slipped scaffolding three years later while attempting to complete part of the work, and though not injured, suffered a shock so great that he was never able to return to work; and

Whereas Brumidi died as a result of this experience three months later in February 1880; and

Whereas the Congress recognizes the artist's devotion and talent which earned him the nickname of the "Michelangelo of the Capitol of the United States"; and

Whereas the year 1980 marks the one hundred and seventy-fifth anniversary of his birth, and the one hundredth anniversary of the death of Constantino Brumidi: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day" and calling upon the people of the United States, State and local government agencies, and interested organizations to observe that week with appropriate ceremonies, activities, and programs.●

Mr. BIAGGI. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York (Mr. GARCIA)?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 594

Whereas Constantino Brumidi, born in Rome, Italy, on July 26, 1805, landed at New York Harbor on September 18, 1852, as a political exile, making his flight from Italy to the United States because of his love for liberty; and

Whereas Brumidi's love for his adopted country led him to seek citizenship two years after his arrival; and

Whereas the artist's love for liberty joined his love for art and his love of country as he spent the last twenty-five years of his life embellishing the United States Capitol, including the corridors of the Senate wing, the formal offices of the President and the Vice President, the Senate reception room, the present House and Senate Appropriations Committee rooms, and the rotunda; and

Whereas in 1877, at the age of seventy-two, Brumidi began his last work, the fresco frieze encircling the top of the rotunda, and fell from a slipped scaffolding three years later while attempting to complete part of the work, and though not injured, suffered a shock so great that he was never able to return to work; and

Whereas Brumidi died as a result of this experience three months later in February 1880; and

Whereas the Congress recognizes the artist's devotion and talent which earned him the nickname of the "Michelangelo of the Capitol of the United States"; and

Whereas the year 1980 marks the one hundred and seventy-fifth anniversary of the birth, and the one hundredth anniversary of the death of Constantino Brumidi: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day" and calling upon the people of the United States, State and local government agencies, and interested organizations to observe that week with appropriate ceremonies, activities, and programs.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

DISTRICT OF COLUMBIA APPROPRIATIONS, FISCAL YEAR 1981

Mr. DIXON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8061) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1981, and for other purposes, and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Michigan (Mr. PURSELL) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MONTGOMERY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 308, nays 2, answered "present" 2, not voting 120, as follows:

[Roll No. 507]

YEAS—308

Addabbo
Akaka
Albosta
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Aspin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Bolling
Boner
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Broyhill
Burgener
Burlison
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lowry
Luken
Lundine
Lungren
McClory
McHugh
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moffett
Montgomery
Moore
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nedzi
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Simon
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Williams, Mont.
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

NAYS—2

Lloyd
Wilson, Bob

ANSWERED "PRESENT"—2

Ottinger
Wyatt

NOT VOTING—120

Abdnor
Alexander
Anderson, Calif.
Anderson, Ill.
Applegate
Ashley
Atkinson
AuCoin
Beilenson
Bingham
Boggs
Boland
Bonior
Brademas
Breaux
Brown, Calif.
Brown, Ohio
Buchanan
Burton, John
Butler
Campbell
Chisholm
Coelho
Collins, Ill.
Conyers
Corman
Cotter
Crane, Daniel
D'Amours
Davis, Mich.
Davis, S.C.
Dingell
Dodd
Dornan
Duncan, Oreg.
Edgar
Edwards, Okla.
Emery
English
Erdahl
Evans, Del.
Ferraro
Fuqua
Gephardt
Gilman
Goldwater
Goodling
Gray
Hanley
Hansen
Hawkins
Hinson
Holland
Holtzman
Huckaby
Ichord
Jenrette
Johnson, Colo.
Kazen
Kemp
Leach, La.
Lederer
Lehman
Long, La.
Lott
Lujan
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marlenee
Mathis
Mattox
Mavroules
Miller, Calif.
Mitchell, Md.
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Neal
Nichols
Nolan
Patten

Pepper
Pritchard
Quayle
Rodino
Rostenkowski
Rousselot
Satterfield
Sebelius
Shannon
Shuster
Skelton
Spellman
Staggers
Steed
Symms
Synar
Tauzin
Vander Jagt
Walgren
Walker
Watkins
Whittaker
Whitten
Williams, Ohio
Wilson, C. H.
Wirth
Wydler
Young, Alaska
Zeferetti

☐ 1240

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 8061, with Mr. Gore in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the previous unanimous-consent agreement, the gentleman from California (Mr. Dixon) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. Pursell) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. Dixon).

Mr. DIXON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at this time we present to the House the District of Columbia appropriation bill for fiscal year 1981. I am indeed privileged to serve as chairman of the District of Columbia Subcommittee of the Committee on Appropriations. I would like to take a few minutes to bring to the Members some of the highlights of the bill.

Mr. Chairman, the budget of the District of Columbia government is extremely complex to review. We held 16 days of hearings and received testimony from over 200 witnesses. We then reviewed the testimony before we made our decisions on the level of funding for the individual offices and agencies of the District government.

The bill we present to the House today is the result of careful consideration by our committee. Mr. Chairman, we recommend to the House a budget for the District of Columbia government that is balanced on the accrual basis, which means that anticipated revenues will equal the amount of obligations. This is the method that was proposed by District officials and is one additional step forward in the city's efforts to better control its finances.

FEDERAL FUNDS

Mr. Chairman, the bill that is now before the House includes a total of $515,702,600 in Federal funds for 1981, an increase of $72,762,300 above the current year level. We recommend a Federal payment of $296,645,500 which is 7.3 percent or $20.1 million above the fiscal year 1980 Federal payment of $276.5 million. In addition to the Federal payment, the bill includes the Federal contribution of $52,070,000 to the local pension funds, a special Federal payment of $1,330,100 for expenses of the Presidential inauguration in January 1981, a reimbursement of $8.1 million for water and sewer services furnished to Federal facilities, and Federal loans totaling $157,557,000 for the city's capital program. These loans will be repaid to the Federal Treasury at the prevailing interest rate over a 30-year period.

DISTRICT FUNDS

Out of the District of Columbia treasury, we recommend a total of $1.7 billion, an increase of $174.5 million above the amounts appropriated for fiscal year 1980. This $1.7 billion consists of $1.5 billion in operating expenses and $247.9 million for capital outlay.

WORK FORCE

From time to time Mr. Wilson, in particular, in last year's bill, indicated that the employment practices and employment levels here in the District were a little high. This year, I am pleased to report there are a total of 36,159 positions funded in this bill for the District government. This reflects a reduction of 2,946 positions or 7.5 percent below the fiscal year 1980 level of 39,105. Mr. Chairman, the District is making progress in trying to reduce its work force, while at the same time maintain the services that are expected by local citizens, and the Federal Establishment, as well as visitors to our Nation's Capital. If you take the total number of employees from all sources of funding, the city will have 42,545 personnel in 1981, which is 4,425 or 9.4 percent below last year. Mr. Chairman, this is indeed a reflection of the city's commitment to streamline its work force.

GOVERNMENTAL DIRECTION AND SUPPORT

The committee recommends a total of $82.2 million for the agencies and offices funded through this appropriation. We recommend four new positions for the Council of the District of Columbia, the District's legislative branch of government. Two of these positions are to assist the Council in its work of revising the criminal law titles of the District of Columbia criminal code. The other two positions are recommended to establish a central budget staff for the Council. For the Office of the Corporation Counsel, we recommend an increase of $426,000 which will fund 11 new positions and 9 existing positions that are currently unfunded.

Mr. Chairman, the District has an able Corporation Counsel and we feel it is essential that the city be adequately and properly represented if it is to minimize contract losses and avoid increased costs resulting from settlements of claims and lawsuits made under less than desirable conditions. We recommend $355,900 for the Office of Business and Economic Development. This office has been funded since its creation in 1978 with a portion of the city's community development block grant. There is some concern on our committee about this office, Mr. Chairman, a concern that the office will encourage so-called smoke stack industries to locate in our Nation's Capital. We have been assured by District officials that this will not happen. The principal efforts of this office are to centralize the economic development functions of the District government and to retain and attract service-type industries.

ECONOMIC DEVELOPMENT AND REGULATION

Mr. Chairman, we recommend $28 million for the 14 departments and agencies in this appropriation. A total of $3.1 million is included in the bill for the Office of Planning and Development. With the leadership of Mr. Pursell, the ranking minority member of our subcommittee, the city is placing renewed emphasis on its comprehensive long-range planning and economic development, and we recommend an increase of $1.3 million in this bill which will allow the city to complete the first year of a planning process expected to take approximately 2 years. Mr. Pursell, the ranking minority member of the committee, and the majority members of the committee have been very interested in not dealing with the budget on a year-to-year basis exclusively, but providing long-term planning and programing. And so this year the bill includes $3.1 million for that long-term program planning for the economic health of the District of Columbia.

Mr. Chairman, decent, affordable housing is needed in all urban areas and Washington, D.C., is no exception. As we travel about this District, I am sure that all Members of Congress are impressed with the displacement rate of high income living here, and housing in the District. It seems appropriate that the District make an effort with four programs to refurbish and purchase property for low and moderate income housing. In this bill, we recommend $13.1 million for the city's Department of Housing and Community Development. Of this amount, $5 million is included to establish four new housing programs aimed at low and moderate income families. This $5 million, Mr. Chairman, will generate additional private financing to rehabilitate and develop housing in the District.

We recommend $2 million to establish the rehabilitation financing program which will provide property owners with low-cost financing to bring their properties into standard code compliance. Housing officials estimate that 58,000 units, or roughly 1 out of every 5 in the city, are in need of significant rehabilitation.

Mr. Chairman, $1.9 million is included in the bill for the first right purchase assistance program which is designed to allow lower income renters to purchase their homes and thus avoid displacement. A one-time appropriation of $1 million is recommended to establish vacant building and land purchase program to provide for the acquisition of vacant buildings and land for reuse as low or moderate income housing. Priority will be given to purchasing vacant buildings and land which have a blighting effect on the surrounding neighborhood.

The fourth new housing program is the Capital Gateway Project for which we are recommending $115,300. Two separate fiscal impact analyses indicate that over a 20-year period the cumulative net revenue from this project should total $119 million. The cost of constructing the public infrastructures and improvements is expected to total $40 million over the anticipated 10-year development period with private development costs expected to exceed $200 million.

In addition to these new housing programs, we recommend $1.5 million for the section 5-313 building repairs program which permits the District government to correct housing code violations when property owners fail or refuse to do so after having been given notice of the violations. These costs are subsequently recovered through the tax collection procedure.

For the Rental Accommodations Office, two additional positions are recommended to expedite the processing of landlord petitions.

☐ 1250

PUBLIC SAFETY AND JUSTICE

One of the areas of great concern to the subcommittee and to the full committee is the area of public safety and justice. We are recommending in this bill $342.7 million for public safety and justice.

In particular, the bill includes $113.5 million for the Metropolitan Police Department. Mr. Chairman, our recommendation reflects an increase of $6.4 million above the budget request to restore a proposed cut of 404 police officers, 204 by layoffs and 200 by attrition. It was the strong feeling of the committee that in an age and in an era when there is an upsurge in crime the District should not reduce its police department. The committee's recommendations will provide an on-board strength of 3,880 uniformed officers, the same as the 1980 year-end strength. We have also included language in the report which requires any proposal for reducing the employment level of uniformed officers to be submitted to our committee for approval. The request must be accompanied with statistical data justifying the reduction.

Mr. Chairman, disability retirements by police officers and firefighters are down from 44 percent of all retirements in 1978 and 55 percent in 1977, to 14 percent in 1979. This is by far the lowest reported level in decades, and the committee intends to pursue this subject next year to determine whether this trend toward reduced disability claims is continuing.

A total of $34.8 million is provided in the bill for the operation of the city's two courts—the Superior Court and the Court of Appeals—and the courts' administrative office. Our recommendation is $1.5 million above the 1980 appropriation and includes $1 million in jury fees and $911,000 for witness fees in 1981. Mr. Chairman, we have requested the Corporation Counsel to develop a comprehensive report addressing the present costs of witness and jury fees and possible modifications to these fees which might be desirable in civil or criminal proceedings.

For the Department of Corrections, we recommend $67.1 million which is $7.8 million above the 1980 level and includes funds to support an anticipated increase of 300 in the daily inmate population as well as higher operating costs in the areas of energy, food, clothing, and medicine.

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Mr. Chairman, after several years of hard work, legislation reforming the District's pension systems covering police officers, firefighters, public schoolteachers, and judges was signed into law by the President on November 17, 1979, as Public Law 96-122.

This legislation commonly referred to as the District of Columbia Retirement Reform Act, is designed to bring about a comprehensive overhaul of current pension statutes and establishes an 11-member board to manage and control retirement funds. The act mandates major changes in police and fire retirement benefits particularly in the disability area which I referred to earlier, and also requires that improvements be made in financing practices leading to actuarially sound pension funds. The act also calls for the implementation of procedures to determine the amount of the city's contribution to each pension system as well as the development of policy and administrative mechanisms to govern the control and investment of pension funds.

Mr. Chairman, the legislation authorizes an annual Federal payment of $52,070,000 to the pension funds over 25 years, starting in 1980, for a total of $1.3 billion to help place the system on a sound actuarial footing. The District government is required to budget an amount sufficient to cover its net pay-as-you-go costs plus an amortization amount which prevents the unfunded liability of the system from growing faster than the rate of inflation.

PUBLIC EDUCATION SYSTEM

Mr. Chairman, we recommend a total of $392.2 million for the city's public education system for fiscal 1981. This includes $276.4 million for the public school system and reflects an increase of $2 million above the budget request to help offset potential teacher layoffs. An area of great concern to the subcommittee is that of public education. As I travel about this District, it seems to me that almost everyone is trying to avoid the public education system here in the District of Columbia, whether they be a Member of Congress or a clerk who works on the Hill.

It seems to me that public education is one of the strong points about the United States. One of the rationales that the committee offered in not cutting the District's budget in education, although there is a modest declining enrollment, is that there is a correlation between classroom size and the ability of young people to learn. So the classroom size at the present time is, on the average, 26 students to 1 teacher.

A few months back, there was a very real possibility that 1,300 teachers would be laid off but it now appears that these layoffs may be avoided through a combination of efforts, including passage of legislation by the City Council permitting early-out retirements which could save 600 jobs—300 actual retirements at high salaries allowing 300 others to stay on the job—negotiations with employee unions to allow unpaid holidays, which could save 500 jobs; redirecting administrative positions which may save 100 jobs and the additional $2 million added by the committee which should allow the system to retain 100 jobs. This should help school officials so they will not have to increase the pupil-teacher ratio next year.

Mr. Chairman, the committee takes particular note of recent reports of scholastic improvements by public school students for the second consecutive year, although past records have not been desirable from our point of view. With school officials placing emphasis on basic reading and math and a competency based curriculum, the committee is hopeful that the system has been turned around and that progress will continue. In fact, keeping the classroom size at 26 to 1 will certainly assist in that effort.

For the University of the District of Columbia, we recommend the fall budget request of $58.4 million which includes $100,000 to establish an Institute of District Affairs to provide technical assistance and research support to the executive and legislative branches of the District government.

HUMAN SUPPORT SERVICES

Mr. Chairman, the committee recommends a total of $375.1 million for the 10 agencies funded through this appropriation. We recommend $2.4 million for programs for the District's 125,000 elderly residents, and an increase of $405,000 for the purpose of placing an additional 100 persons in adult foster care homes. For the city's day care programs, we recommend the full budget request of $10.3 million which is $550,000 above the 1980 appropriation. We recommend $20.5 million for the care and treatment of the mentally retarded at Forest Haven which presently has 982 patients. Funds totaling $1.2 million are included to cover the cost of placing an additional 100 patients in the community.

Under the public assistance program, we recommend a total of $59.5 million which will provide increased funding for families with dependent children and for those receiving general public assistance. However, the Committee has included report language, at the request of the gentleman from Arizona (Mr. RUDD), urging District officials to reduce the error rate, which has decreased from 23.8 percent in March 1979 to 12.9 percent this past March. A further decrease in the error rate will provide additional funds for those who are truly in need of assistance. Certainly the District can do better in this area.

For the Commission on Women, we recommend the full budget request of $106,900 and four positions, which is $51,000 and two positions above the 1980 level. These two new positions should strengthen the Commission's capability at the professional level.

A total of $13.3 million is recommended for four jobs programs directed toward young people and adults with dependents. During our hearings, Mr. Chairman, District officials testified that while the average unemployment rate is 6.5 percent, it is 38 to 42 percent for youth. Through these four programs, the committee believes the city is taking a step in the right direction and the results will be evident not only in a reduced unemployment rate but in other areas as well. The committee is hopeful that these programs will encourage students as well as those who have dropped out of school to obtain not only work experience but real job skills.

TRANSPORTATION

We recommend $147.2 million for transportation services and assistance. This is $21.7 million above the 1980 level. Our recommendation includes $100 million as the District's share of the Metro subsidy, an increase of $21.1 million above the amount available for 1980. Metro officials plan to open three additional stations and 3.5 miles of rail line during the year.

RIGHT TURN ON RED

Mr. Chairman, I know that Members of this House are very much interested in the right-turn-on-red situation here in the city. I am pleased to report that District officials, with assistance from the Federal Department of Energy, increased the number of approaches where right-turn-on-red is allowed full time from 18 percent to 41 percent in July 1980, and an additional 24 percent of the approaches allow right-turn-on-red between 7 in the evening and 7 in the morning. So, all in all, a total of 65 percent of the approaches permit right-turn-on-red, 41 percent full time and 24 percent between the hours of 7 p.m. and 7 a.m. A further effort to raise the level of compliance will be made this fall after District and Federal officials review the safety effects of the present policy. We have included report language to let District officials know that wherever possible and feasible we desire to have the right-turn-on-red policy in place.

ENVIRONMENTAL SERVICES AND SUPPLY

Mr. Chairman, the committee recommends $42 million from the general fund for the Department of Environmental Services and Supply. Our recommendation reflects an increase of $1.1 million above the 1980 level. This department is the focal point for environmental control activity within the District and is responsible for the distribution of a safe water supply throughout the city as well as the collection of residential refuse and the enforcement of environmental regulations for the protection of the health and welfare of District residents.

PERSONAL SERVICES

The committee recommends $25.3 million to fund a citywide 5-percent cost-of-living salary increase for all city employees. An additional $9.9 million is included in the public schools budget to cover a 5-percent increase for school system employees.

INAUGURAL EXPENSES

We recommend approval of the requested $1.3 million to cover the costs of support services to be provided by the District Government for the January 1981 Presidential Inauguration. Almost $1 million of this amount is for the Police Department.

WATER AND SEWER ENTERPRISE FUND

Mr. Chairman, a total of $81.1 million is recommended for the water and sewer operations of the Department of Environmental Services and the Washington Aqueduct. Our recommendation includes an increase of $13.6 million to improve the treatment of wastewater at the Blue Plains Sewage Treatment Plant to meet Federal standards required by the National Pollutant Discharge Elimination System permit issued to the District in July 1979. The program is designed to provide maximum treatment for wastewater so that the effluent will be of the highest quality and will have minimal impact on the receiving waterway, which in this case is the Potomac River. These funds will allow the region to move one step closer toward the goal of cleaning up the Potomac River.

CAPITAL OUTLAY

The committee recommends a total of $247.9 million for 51 construction projects. This allowance is $83.5 million above the 1980 level and $8.5 million below the request.

Mr. Chairman, we recommend the final appropriation of $26.7 million for construction of the Washington Civic Center in the Mount Vernon area between 9th and 11th Streets, NW., and between H Street and New York Avenue. Construction was started this past April and the facility is scheduled for completion in August 1982 at a total cost of $98.7 million. The civic center is expected to create 4,000 new permanent jobs in addition to construction jobs.

We recommend $32 million for the Department of Housing and Community Development. A total of $9.8 million will be used to make improvements at 10 public housing projects and $11.3 million is for the Capital Gateway Development project which is expected to attract more than $200 million in private development funds.

Mr. Chairman, we all know that the streets and bridges in the city are in need of repair, and we recommend $18.5 million for this purpose. In addition, $20.3 million is included as the District's share of construction costs and bus replacements for the Metro system.

The sum of $30.4 million is recommended to replace the present 100-year-old crosstown watermain. This is an essential project which will insure an adequate distribution of potable water throughout the city. We also recommend an increase of $14 million to cover the increased cost of replacing the 75-year old McMillan Water Treatment Plant. The committee was advised that the present plant is badly deteriorated and parts of it have been taken out of service because they have literally collapsed.

GENERAL PROVISIONS

Mr. Chairman, under section 119 of the general provisions, we have included language identical to that in the 1980 Act prohibiting the use of Federal funds to perform abortions except in cases of rape, incest, or where the life of the mother would be endangered if the pregnancy were carried to term.

CONCLUSION

I would like to thank the members of the committee in a true sense for their efforts and cooperation. This is my maiden voyage as chairman of this subcommittee. I received good cooperation and strong support from the gentleman from Arizona (Mr. RUDD), the gentleman from Kentucky (Mr. NATCHER) who was chairman of this subcommittee for many years and whose expertise in District affairs is clearly evident, the gentleman from Ohio (Mr. STOKES), the gentleman from Utah (Mr. MCKAY), and from the prior subcommittee chairman, the gentleman from Texas (Mr. CHARLES WILSON).

But in particular, Mr. Chairman, I would like to single out the ranking minority member, the gentleman from Michigan (Mr. PURSELL). He not only gave fine cooperation and advice but was really a mainstay in carrying through on some of the goals we would like to see accomplished in the near future, and that is long-term planning for the District rather than merely looking at this as a year-by-year budget.

Mr. Chairman, I have attempted to cover the highlights of the bill. The committee report is available to all members and explains our actions in greater detail.

This is a good bill, Mr. Chairman. Our subcommittee has worked long and hard trying to balance various competing needs with limited resources. We recommend this bill to the committee and respectfully request that it be accepted as reported.

Mr. PURSELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to associate myself with the remarks of our subcommittee chairman, the gentleman from California (Mr. DIXON). I especially want to compliment our subcommittee chairman, our staff, the gentleman from Kentucky (Mr. NATCHER), the gentleman from Arizona (Mr. RUDD), and the other members who diligently attended meetings and sessions here in the Capitol and also participated in something new that we developed for the first time this year. In looking at long-range planning for the District of Columbia, the committee and its staff took some time to go down to the District building and the Capital City and meet with our long-range planning people in housing, transportation, and other areas.

We thought it was important to look at the long-range future of what we think is "the Capital of the Free World," the city that not only the people of Washington, D.C., as residents respect in terms of a place to live but that people who travel respect and come from all over the world to see. This is the fair city that we know as the Capital of the United States.

Mr. Chairman, I am not going to spend too much time on the appropriation line items, because I think essentially those of us who are supporters of home rule believe very basically and philosophically that the District of Columbia, like any other city in this Nation, should have its own council and its own executive body and should make its line item principal policy decisions dealing with the city itself.

But frankly, I do think that since we do not have actual home rule as it exists, we as members of the committee must not only look at short-range line item issues that are appropriate each year during our congressional hearing process but, more importantly, we must address ourselves to the Federal policy of looking at long-range development of this particularly important city of the United States. We must look to long-range planning. We are looking at long-range planning in respect to housing, transportation, and the other issues that are fundamentally important for the growth and vitality of Washington, D.C.

As members of the committee, if we were to spend each day looking at line items and bickering back and forth with the Mayor and the City Council, I think we would not serve what I consider a constructive, useful purpose.

So this year, in a sort of further development of our efforts in the past, I would like to cite the gentleman from Kentucky, Mr. Bill Natcher, as a good example, for he is one who is interested in the Convention Center as a new center for the development of convention activities and growth in the Washington, D.C., area, not only for the benefit of the Capital itself, but for the city itself. This is an effort to have people come in and attend conventions and to bring some vitality to the city with what I, as a former president of a chamber of commerce, used to call "the pitter-patter of feet," because without people attending events and without people coming into the downtown area and without people eating, buying, shopping, and living in the city, a city is not going to survive.

☐ 1300

This Congress can spend a great deal of money on food stamps, on human needs, on bandaid solutions to our problems, and I think I have been generally a very good supporter in that area. But I think, more importantly, the Congress ought to address itself to the basic economic fundamentals of urban development, and that is good planning.

I would like to compliment the members of the City Council and the members of the executive body, especially the housing director, for taking a look at the decay of some of the areas on 14th Street and the Bates area, and some of the areas that I have toured personally, to see that we are using our Federal dollars and local dollars to revitalize the downtown and the essential living quarters of the citizens of the District of Columbia.

Now, that is an important principle in our development of this particular appropriation bill. So we have done two things, essentially. We have cut back the jobs, the basic slots, to I think about 2,600 jobs. Maybe some people will quarrel with that because jobs are important. But I think, in the long run, our dollars have been invested in capital outlay projects, because without good housing, without the redevelopment of the downtown, without cleaning up some of the areas of decay, it does not matter, in the long run, how many jobs are on the city payroll, on the public payroll, even though they are especially necessary in most cases.

The basic, primary purpose of our committee, in my opinion, my humble opinion, is that we address ourselves to those long-range capital outlay, economic growth projects. I would like to cite just one example which we took. A one-time appropriation of $1 million was recommended to establish a vacant building and land purchase program to provide for the acquisition of vacant buildings or land for reuse for low- or moderate-income housing. Now, this was a dual purpose, because it served here as providing housing and redevelopment of buildings and renovation in this particular land area, but also it has an effect of improving a blighted area in surrounding neighborhoods. So it has a trigger effect.

Aside from not only putting the $1 million of Federal money in this project, it triggered, in my opinion, approximately $310 million of private money. So here we can take a little investment on our side of the ledger, have it multiplied many times over through private development in the private sector, and you are going to get a rebirth of the city that I think is going to be second to none in this Nation.

So I think, in essence and in summary, I am very pleased with the committee in recognizing these important features of economic growth and development, in housing, transportation, public safety, and other public needs.

I want to thank the chairman, the gentleman from California (Mr. Dixon), because he is our new chairman this year, and I think he should be given outstanding praise, in my opinion, for not only being a good decision maker but, personally, in my opinion, he is a humanitarian, but more importantly, he is also a good listener. Sometimes Congressmen are not willing to listen, and we have taken the time this year as a committee—the gentleman from Arizona (Mr. Rudd) and myself on the minority side—to work with the majority to keep the budget down. It is only a 7.3-percent increase over last year, and that is really an outstanding achievement, in my opinion, when you look at other Federal projects and other Federal appropriation bills. And in light of those fiscal economic restraints that we have put into the bill, the aspect of capital planning and capital development for this city, I think it will get us into the right direction for this year and for the forthcoming years.

Mr. DIXON. Mr. Chairman, I yield 9 minutes to the distinguished representative from the District of Columbia (Mr. Fauntroy).

Mr. FAUNTROY. Mr. Chairman, I rise to commend the chairman for his outstanding leadership in bringing to the floor this appropriations bill which will enable the District of Columbia to meet its obligations as the Nation's Capital. The amount of the Federal payment, $296,645,500 very nearly approaches the present $300,000,000 authorization. The increase in this bill over that which was provided for in fiscal year 1980 will go a substantial way in enabling the city to provide those services which are desperately needed by all of our citizens.

I must however, point out that the relationship of the Federal payment to the general fund appropriations has not increased in any substantial way. It remains at 19 percent which is considerably less than the 27 percent which was provided in 1972, 25 percent in 1973, 24 percent in 1974, and 26 percent in 1975. It is true that the city's general revenue collections have increased; but, it is only through the city's own efforts that the Federal payment has not been substantially larger. I must express my concern over this continuing trend and speak for a moment about the reasons we in the Congress have provided an authorization for a Federal payment.

The Federal payment is not a gift to the city. Let us be very clear about that. It is not a gift and it is not out of the largess of the Congress that the District Committee authorizes and the Appropriation Committee appropriates funds. These funds are provided to offset the loss of tax revenues from exemptions held by the United States and foreign governments as well as for the payment of services this city renders those interests. There should also be some compensation for the tight restrictions on development which are most notably seen in the Height Limitation Act but which are also seen in such things as the operation of the NCPC, the Fine Arts Commission, and the general land use and zoning scheme which has been historically developed with congressional input. The right of foreign governments, for example, to locate at virtual will has a decided impact on zoning and land use because we must provide full services to all areas and we must set land uses which would be compatible to those who are sent here to represent their governments.

Each time there is a demonstration, each time there are foreign dignitaries who come to visit, each time the President moves about, and each time an official requires special services from our police or from another branch of our government, the city provides them without any second thoughts or comment. That is the way it ought to be; that is the way it is. Tragically, however, the Federal payment does not fully compensate for losses of revenue or for the incurred costs. That is wrong. The short of the matter is that the city and its residents have, at least since 1972, been subsidizing the operations of the Federal Government in this city. For our efforts, we have accumulated a sizable deficit, continued complaints, and increasing amounts of Federal intervention in what ought to be local matters.

I point out, for example, the committee's decision to mandate the size of our police force. I do not object to the concern that this city maintain the force at a certain size to assure that its excellent and well-deserved reputation be continued. I do object, however, to the mandate when it is unaccompanied by sufficient resources.

I can give you another example. The committee has expressed its concern over the city's decision to eliminate 25 welfare investigator positions in the Office of Eligibility Review which has had substantial success in reducing the welfare payment errors. It is important to cut expenses by reducing errors. It is also important, however, to increase revenues. The failure to fully fund the Office of Business and Economic Development, the Department of Finance and Revenue and the 14 departments and agencies of economic development and regulations, will not aid in the development and creation of more revenues. It is particularly tragic when we seek only to cut expenses without increasing resources especially when we in this Congress know, from the historic figures which are published annually in the committee report, that this city is directly and very heavily subsidizing the operations of the Federal Government.

Let me make this point again. Since 1975, the time of the inauguration of home rule, prices have increased 49 percent. The value of the present appropriation, then, is less than $150 million in terms of 1975 purchasing power. No agency in the Federal Government is forced to undergo these kinds of real dollar cuts. Put another way, if the fiscal year 1980 Federal payment had kept pace with the growth of the Federal Government, instead of $237 million, the initial fiscal year 1980 payment, before the supplemental, would have been $416 million.

Clearly, something must be done to correct this inequity which is borne by the unrepresented taxpaying citizens of this city. Unfortunately, it cannot all be done this year. I would hope, however, that in the next year something more equitable can be done through adoption of a formula-based payment that would compensate the city for its losses and its costs. Mrs. Fenwick, Mr. Dellums and Mr. McKinney, as well as myself, have all made proposals and I would hope that from these suggestions some equitable bill can be devised.

In the meantime, until that is accomplished, let me simply say that I would hope this House will adopt the bill as reported and without further amendments. It seems to me that it is the least which can be done for those who pay 81 percent of the costs of this city and who have neither full home rule nor any voting representation in the Congress.

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Mr. GONZALEZ. Mr. Chairman, will the gentleman yield for an inquiry?

Mr. FAUNTROY. I yield to the gentleman from Texas.

Mr. GONZALEZ. Since the gentleman is the distinguished representative from the District, I have had brought to my attention the fact that there is a new mandatory retirement, compulsory retirement for the city policeman, the metropolitan policeman, of 18 years, apparently occasioned by budgetary constrictions, but I did not have it explained too well to me.

The person telling me about it is a relative of a police officer and in a sense was asking me in a grieving way.

Can the gentleman explain what new policy has been announced or is in force now with respect to compulsory retirement or service limitation periods for police officers?

Mr. FAUNTROY. I am afraid I am not in a position to give the details of such a requirement because I assure the gentleman it is not the requirement.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. FAUNTROY. I yield to the gentleman from California.

Mr. DIXON. It is my understanding that the early retirement legislation was enacted to alleviate a serious situation where there was going to be a reduction in the work force. In this case, the gentleman was referring to the Police Department, but the legislation would also apply to personnel in the education field or any other areas of the work force.

Second, although it allows early retirement with 18 years of service, there is an appropriate reduction in the benefits the retiree will receive. It is designed to keep on board those younger employees and avoid a reduction in the work force.

Mr. GONZALEZ. If the gentleman will yield for one further question: Is that a wise policy in the case of a police department where the experienced man who has reached that point, where he has really accumulated extensive experience, may find himself pushed out? Does the gentleman have any knowledge of any debates that were held by the City Council with respect to that?

Mr. DIXON. I really cannot say whether it is a wise policy or not, because there are conflicting interests, particularly when it involves law enforcement or peace officers. Many people believe that the early-in, early-out system is much better than the early-in, late-out method, because of the agility and physical demands required of police officers.

Most importantly, and I want to make this very clear, the early-out retirement is optional with the person. He or she does not have to retire at the end of 18 years of service. It is not mandatory in any way.

Mr. GONZALEZ. I thank the distinguished gentleman and the distinguished gentleman from the District of Columbia.

Mr. PURSELL. Mr. Chairman, I yield 8 minutes to the distinguished gentleman from Arizona (Mr. Rudd), a member of the subcommittee.

(Mr. RUDD asked and was given permission to revise and extend his remarks and to include extraneous matter.)

Mr. RUDD. Mr. Chairman, the city of Washington has experienced a steady decline in population since the District of Columbia was granted partial home rule by Congress in 1975.

In that year, according to the U.S. Bureau of the Census, the District's population was 723,000.

Today, according to the preliminary official population count for the 1980 census, the District's population has declined to 568,300—a 21.4-percent decline in just 5 years.

Yet during the same period, the District government's annual budget has increased 59.6 percent—from $1.1 billion in 1975, to $1.76 billion for 1981, the proposed appropriation contained in this bill today.

Welfare recipients—those receiving aid for families with dependent children (AFDC), general public assistance, food stamps, and medicaid—numbered 23.6 percent of the city's total population in 1975.

Today, welfare recipients number 138,328, or 24.3 percent of the total population.

As the District of Columbia's population has declined, so has its public school enrollment.

In 1975, there were 127,608 students attending the city's public schools.

The 1980–81 school enrollment is estimated by the city to be 97,900—a decline of 23.3 percent below the enrollment of 5 years ago.

Yet the city's school budget has increased steadily in real terms throughout this period.

The average per student expenditure to support the school system has risen from $1,470 in 1975, to $2,823 in 1980–81—an increase of 92 percent in the cost per student.

Mr. Chairman, I relate these facts by way of background to highlight my concern over the direction of the District government.

The direction has been and still is toward more and more governmental programs, at an ever higher cost year after year, to service a steadily declining population.

Moreover, many of the city's 75 government agencies, according to the Mayor's public statements, are this year overspending their 1980 budgets at a rate that will produce a $125 million or higher deficit by the end of the current fiscal year.

This is in direct contradiction to instructions from Congress last year that the D.C. government operate within the limits of its congressional budget allowance.

There has been a tendency on the part of some district officials to try to blame Congress for the city's budget problems, and to demand more Federal funds to finance the city's ever-expanding governmental services.

The real facts are that Congress and the various Federal agencies already provide about 43 percent of all revenues to support the city's annual budget, and in addition provide about $80 million worth of unreimbursed services to the district beyond the cost of unreimbursed city services to the Federal Government.

This is in direct contradiction to instructions from Congress last year that the D.C. government operate within the limits of its congresssional budget allowance.

There has been a tendency on the part of some district officials to try to blame Congress for the city's budget problems, and to demand more Federal funds to finance the city's ever-expanding governmental services.

The real facts are that Congress and the various Federal agencies already provide about 46 percent of all revenues to support the city's annual $1.76 billion budget.

I include at this point in the Record a table enumerating the sources of the approximately $817.8 million in Federal funds that will go to the District in 1981.

Federal funds to the District of Columbia, 1981

Item	*1981 amount*
Federal payment	$296, 645, 500
Retirement fund (police, firefighters, teachers, judges)	52, 070, 000
Water and sewer reimbursement	8, 100, 000
Demonstration expense (Inaugural)	1, 300, 000
Loans for capital outlay	157, 557, 000
General revenue sharing [1] (local and State)	26, 300, 000
Federal agency grants [1]	275, 879, 000
Total Federal funds	[2] 817, 851, 500

[1] Estimate.

[2] Federal funds to the District of Columbia in 1981 will be approximately 46.3 percent of recommended new budget (obligational) authority of $1,764,957,400 for the District under H.R. 8061.

In addition, Mr. Chairman, the Federal Government will provide about $80 million worth of unreimbursed services to the District beyond the cost of unreimbursed city services to the Federal Government.

Mr. Chairman, the local newspapers and broadcast media here in the Nation's Capital provide us with daily reminders of the financial and other problems of the District government.

I personally believe that the City Council and the Mayor must take much firmer control over D.C. government agencies, to guide them into living within their appropriated budgets, to set proper spending priorities, and to cut out unnecessary and unjustified programs and expenditures.

Otherwise, I fear that Congress will ultimately be forced to revoke the limited home rule charter that the District now has.

The problems being faced by the city will not be solved unless the District's government leaders live up to their solemn obligation to effective self-government and fiscal responsibility.

A more detailed overview of the District government's budget situation since home rule is provided in my minority views in the Appropriations Committee report accompanying this bill.

I would like to include those views at this point in the RECORD:

[From House Report 96–1271, accompanying H.R. 8061, District of Columbia appropriation bill, 1981]

MINORITY VIEWS OF HON. ELDON RUDD

A great deal of emphasis is placed by District of Columbia officials on the concept of "home rule." Congress bestowed partial home rule upon the City of Washington in 1975. However, under the limited home rule charter enacted at that time, Congress reserved its statutory responsibility to appropriate the City government's annual budget, as well as Federal funds to support District of Columbia government operations and capital improvements, in the belief that full home rule should not be granted until the City had established a track record of sound and effective self-government.

The City has not established such a record of effective government and fiscal responsibility. To the contrary, the District's government leadership has brought the City to the brink of financial crisis through refusal to operate within its appropriated budget and available revenues.

The Mayor publicly acknowledged on July 21 that the City government faces the prospect of a $125 million operating deficit during this year alone. This is stark evidence that the City has thus far been unable to live up to the expectations and responsibilities of home rule.

The City government has ignored this Committee's specific directive in the report accompanying its FY 1980 appropriation to operate on the basis of the Congressional allowance. The rate of obligations and expenditures for many District agencies is running millions of dollars beyond the budget allowance, which will result in the $125 million or higher operating deficit for 1980 reported by the Mayor.

The City has also failed to cut program costs wherever possible, to eliminate programs that have outlived their usefulness, and to find less costly alternatives for obsolete programs and under-used facilities with high overhead costs, as directed last year by the Committee.

POPULATION DECLINE AND BUDGET INCREASE

While the District of Columbia's population has declined 21.4 percent since 1975, according to the U.S. Census Bureau, its government budget over the same five-year period has increased 59.6 percent. Following is a table showing the District's population, number of city employees, budget requests and appropriations, and Federal funds since 1975:

DISTRICT OF COLUMBIA POPULATION AND GOVERNMENT EXPENDITURES, 1975–81

Year	Population [1]	City employees [2]	Federal payment		Total Federal funds appropriated [4]	Total new budget obligational authority	
			Estimate	Appropriated [3]		Estimate	Appropriated [3] [5]
1975	723, 000	44, 901	$230, 000, 000	$226, 200, 000	$425, 232, 000	[6] $1, 134, 886, 400	[6] $1, 105, 838, 927
1976	697, 000	43, 422	254, 000, 000	248, 948, 700	505, 468, 700	1, 243, 655, 173	1, 199, 654, 073
Transition quarter	697, 000	43, 422	66, 500, 000	66, 137, 600	107, 559, 600	248, 536, 400	248, 130, 200
1977	683, 000	42, 459	280, 000, 000	276, 650, 000	422, 981, 000	1, 168, 176, 400	1, 160, 251, 700
1978	671, 000	41, 095	300, 000, 000	276, 000, 000	399, 116, 000	[7] 1, 441, 967, 200	[7] 1, 389, 964, 700
1979	656, 000	37, 569	319, 565, 000	252, 565, 000	282, 997, 000	1, 556, 278, 600	1, 412, 961, 400
1980	568, 300	38, 080	317, 000, 000	276, 500, 000	449, 940, 300	1, 761, 053, 200	1, 590, 440, 800
1981	568, 300	35, 111	301, 000, 000	[8] 296, 645, 500	[8] 515, 702, 600	1, 776, 811, 900	[8] 1, 764, 957, 040

[1] Source: U.S. Bureau of the Census.

[2] Includes Metro employees, adjusted to reflect allocation in the District of Columbia only.

[3] Includes supplemental appropriations.

[4] Includes permanent appropriations, annual Federal payment, Federal loans for capital outlay, reimbursements for water and sewer service to Federal buildings, and funds for the Temporary Commission on Financial Oversight (1977, 1978, 1979, 1980). Does not include Federal agency grants or revenue sharing funds.

[5] Does not include Federal grants and reimbursements.

[6] Includes $20,792,400 in supplemental appropriations to cover operating deficits for fiscal years 1972, 1973, and 1974.

[7] Includes $7,378,500 in additional fiscal year 1977 supplemental appropriations.

[8] House Appropriations Committee recommendation.

WELFARE RECIPIENTS

A major reason for the inordinately high government expenditures in the District of Columbia, in spite of the City's steadily declining population, is the fact that 133,140 people—more than 23 percent of all District residents—are on welfare. Furthermore, according to the Department of Human Services, which administers the City's welfare programs, more than 68 percent of welfare recipients have been receiving welfare assistance continuously for more than two years, and more than 40 percent have been on welfare for more than five years.

Welfare and social service programs of the District government comprise 21.2 percent of the total budget, which does not include funds for food stamps and medicaid assistance going to 40,097 recipients at the present time.

Following is a table showing the District's budget for Human Support Services since 1975, including the number of welfare recipients each year and their percentage of the total population of the City:

SOCIAL WELFARE EXPENDITURES AND WELFARE RECIPIENTS, 1975–81

Year	Annual budget for human support services		Welfare caseload [1]	Total number of welfare recipients [1]	Percentage of total population on welfare
	Estimate	Appropriated			
1975	$228, 278, 000	$226, 442, 000	67, 999	170, 133	23.5
1976	265, 079, 400	264, 074, 500	63, 679	158, 100	22.7
1977	268, 288, 800	274, 675, 600	56, 744	141, 244	20.7
1978	289, 250, 100	291, 548, 300	60, 144	141, 344	21.1
1979	303, 828, 700	296, 569, 000	54, 901	127, 952	19.5
1980	374, 156, 900	356, 859, 500	58, 943	133, 140	23.4
1981	382, 017, 000	[2] 375, 082, 200	[3] 62, 983	[3] 138, 328	24.3

[1] Includes individuals receiving aid to families with dependent children (AFDC), general public assistance (GFA), food stamps (adjusted to exclude recipients of other public assistance), and medicaid (adjusted to exclude recipients of other public assistance).

[2] House Appropriations Committee recommendation.

[3] Estimate of District of Columbia Department of Human Services.

PUBLIC SCHOOLS

As in the case of the District's steadily declining population, pupil enrollment in the City's public schools has also been sharply reduced since 1975. Public school enrollment was 105,362 during the 1979-80 school year, compared to 127,608 during the 1974-75 school year—a drop of 22,246 students, or 17.4 percent.

Public school officials estimate the school enrollment during the 1980-81 school year will be 97,900, a further 7 percent drop below last year's student enrollment, and a total decline of 29,708, or 23.3 percent, in the past five years.

Despite this sharp reduction in the number of students attending D.C. public schools, school expenditures have continued to rise steadily in real terms, as shown by the following table:

SCHOOL ENROLLMENT AND EXPENDITURES, 1975-81

Year	Adjusted average daily student enrollment [1]	Annual appropriation for public schools	Real appropriations (1967 standard dollars)	Average annual per pupil expenditure
1974-75	127, 608	$187, 574, 600	$124, 966, 400	$1, 470
1975-76	125, 871	203, 980, 600	126, 225, 600	1, 620
1976-77	122, 287	224, 767, 100	131, 300, 900	1, 838
1977-78	119, 068	243, 259, 600	132, 566, 500	2, 043
1978-79	113, 050	$253, 289, 100	$127, 730, 300	$2, 240
1979-80	105, 362	268, 295, 200	135, 220, 700	2, 546
1980-81	97, 900	[2] 276, 349, 700	139, 280, 200	2, 823

[1] Source: District of Columbia public schools.

[2] House Appropriations Committee recommendation. (Includes $29,810,400 for debt service not reflected in previous years.)

In my judgment, there is no justification for the steady increase in the District of Columbia budget and the amount of Federal funds allocated to the City, in light of the foregoing facts concerning the sharp population decline and other associated factors, such as the substantial drop in public school enrollment.

Moreover, the failure of District government leaders and managers to chart a clear course towards effective self-government and fiscal responsibility stands out as the surest threat to continued or total home rule for the people of Washington, D.C.

Congress cannot and I am sure will not stand by as the District of Columbia follows New York City to the brink of financial collapse. It was to help the District government to implement sound management and budgetary practices that Congress established and funded the Temporary Commission on Financial Oversight.

However, the primary responsibility in this effort rests with the elected and appointed District government officials themselves—the City Council, the Mayor, the school board, and all department heads. There has been a tendency on the part of some District officials to try to blame Congress for the City's budgetary and management problems. But under home rule, even partial home rule, the responsibility cannot be shifted in this manner.

If home rule for the District of Columbia is to continue, it is up to the City to work out it own problems, and to establish firm guidelines by which the District government will set proper priorities, cut out unnecessary and unjustified programs and expenditures, and live within its own means rather than relying upon the Nation's taxpayers to support unlimited governmental programs.

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Mr. DIXON. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. At this time, we submit for your approval the annual District of Columbia appropriations bill for fiscal year 1981. It is a distinct honor for me to serve on this subcommittee with our new chairman, the distinguished gentleman from California (Mr. DIXON). This is a difficult assignment and Mr. DIXON is making a good chairman. We have on our subcommittee Mr. STOKES of Ohio, Mr. PURSELL of Michigan, Mr. McKAY of Utah, Mr. RUDD of Arizona, and Mr. CHAPPELL of Florida. Mr. Chairman, all of these members are outstanding Members of the House of Representatives and are making every effort to see that the bill we present today is a good one.

I served for a period of 16 years as chairman of this subcommittee and have been a member of the subcommittee for 27 years. I know of the many problems confronting our Capital City, but I, for one, believe Mr. Chairman, that all of these problems can be solved.

In our report on pages 31 and 32, we have the following recommendations and directions concerning the Metropolitan Police Department:

A total of $113,522,100 is included in the bill for Fiscal Year 1981 for the Metropolitan Police Department. This allowance is $1,980,000 above the fiscal year 1980 level and $6,436,600 above the proposed budget for fiscal year 1981.

The budget approved by the Congress last year included additional funds which provided the District with a police force of 4,120 sworn officers. However, action taken since that time by District officials is expected to result in the attrition of 240 officers and an on-board strength of 3,880 officers as of September 30, 1980. The amended budget submitted by District officials for fiscal year 1981 proposed a further cut of 404 officers, 204 by lay offs and 200 by attrition, which would reduce the force to 3,476 as of September 30, 1981, a total reduction of 644 uniformed officers over a 2-year period. The Committee finds that this action on the part of District officials unacceptable, especially with the recent upsurge in the crime rate.

Accordingly the Committee has restored $6,436,600 to the police budget for fiscal year 1981 so that the department can maintain an average strength of 3,880 uniformed officers during the year. The Committee is concerned that funds are removed from the department's budget and transferred or reprogrammed to other agencies. While this was denied by District officials during the hearings on the budget amendment, the Committee subsequently received a reprogramming request which sought to use "savings" from the police budget to fund programs in a different department. The Committee expects the funds appropriated for the Police Department to be used by the Police Department and does not approve of the use of police funds for other purposes.

Appropriations are provided in the bill to fund an average employment level of 3,880 sworn police officers and 543 civilian employees for fiscal year 1981. Any reduction, by attrition or otherwise, in the employment level of the Police Department is not to be made unless prior approval is obtained from the House and Senate Subcommittees on District of Columbia Appropriations. Requests for any reductions must be accompanied with a justification supported by statistical data.

Mr. Chairman, when I first was elected a member of the subcommittee, we had some problems that were of a serious nature in the Metropolitan Police Department. The Chief of Police at that time was Robert V. Murray, one of the best Chiefs of Police we have ever had in our Nation's Capital. A number of police officers were dismissed and some were indicted by virtue of crimes that had been committed. The Chief of Police made up his mind that we would have a clean, honest, efficient police department and he received the full support of the Commissioners and our Subcommittee on District of Columbia Budget.

In addition to problems within the police department, crime was on the increase and with the authorized strength of 2,900 police officers, we did not have the kind of police force that could handle the problems in our Nation's Capital. Starting at that time, we, each year for a number of years, increased the size of the Metropolitan Police Department until we had a total complement of 5,100. This increase was fully justified and each year we properly funded this Department. I recall back in the beginning that our crime rate was increasing from 17 to 25 percent each year.

Almost monthly we had marches and disturbances of some kind or another here in our Capital City and these events required additional police officers. I recall one time when there were threats issued that beginning on the following Monday, the bridges would be blocked, along with the parkway and streets leading to our Nation's Capitol Building. These threats to keep the Congress away from the Capitol were never carried out because the Chief of Police of our city and the Metropolitan Police Department knew exactly what to do and met this situation head on. I could name many events that have transpired during the past 26 years that clearly show that we have a good Police Department here in our city and one that all of us should be proud of.

We have some 20 million people who visit our Capital City every year from the 50 States and thousands from abroad. These people, along with the people who live in the District of Columbia and pay the taxes to maintain this city are entitled to a system of law enforcement which will insure them the right to transact their business and tranverse the streets at any time without fear of assault. A well lighted city and the patrolman on the street are two of the best deterrents in the prevention of crime that I know anything about.

Like all large cities, our Nation's Capital has been confronted with serious crime problems all down through the years. For many years we had recruitment problems and throughout this country there was considerable competition for applicants among the many police departments. At one time, we recruited in a great many States and on two occasions we had to send out four teams of officials into the field to recruit new patrolmen for our Metropolitan Police Department. These four teams were sent into the States of Pennsylvania, Connecticut, New York, Virginia, West Virginia, Ohio, Indiana, Kentucky, Massachusetts, Rhode Island, and Maryland. In these States, the Labor Department statistics showed considerable unemployment and with the four teams working systematically throughout the States, we succeeded in obtaining a great many applications for employment and were able to meet our recruitment problems.

Down through the years, we had problems concerning the reporting of crimes here in our Nation's Capital. We developed a centralized control system over all crime reports and all crimes were reported to a central radio dispatcher's office which controlled the reporting of the crimes to make certain that they were reported. The system that we set up here in our Nation's Capital was set up in conjunction with the Federal Bureau of Investigation of the Department of Justice and was a system that was recommended by the International Association of Chiefs of Police. We thereby stopped once and for all the many rumors that seemed to float around our city that our system was wholly inadequate from the standpoint of the reporting of the crime situation here and in fact, was handled in such a manner as to make the people who live here believe the crime situation was well under control.

During this period of time, Mr. Chairman, notwithstanding how well our police department attempted to solve the crimes in our city, when apprehended and tried, a great many of the offenders were either turned loose or given sentences which were wholly inadequate for the crime committed. For a period of about 3 years, we, on every occasion when the courts appeared for their annual appropriation, stressed the importance of speedy trials, adequate sentences, and better cooperation with the Metropolitan Police Department.

These were difficult days, Mr. Chairman, and ones that I hope we never have to go through again. We must support our Police Department and be ever vigilant when anyone attempts to reduce the total complement when the facts do not justify such a move.

For many years now our Police Department has been known to be an excellent Department throughout our country. Our Chief of Police and all of the members of this Department work diligently to see that the law is enforced and that crimes are solved. Here in our Nation's Capital, you can follow through the newspapers the commission of major crimes and if you stay with it, you will find that these crimes, with the exception of a very few are solved and the offenders apprehended. I cannot make this statement, Mr. Chairman, about a lot of other police departments in this country, but I can insofar as our Department is concerned.

The drug situation is a serious problem now in our Nation's Capital, the same as it is in a number of other major cities throughout the country. Especially does this apply to the illegal sale and use of heroin. The Federal authorities have worked with our Police Department on many occasions during the past 10 years in apprehending those guilty of selling illegal drugs and it is now known throughout the other large cities that our Police Department will not, under any circumstances, permit the trafficking of illegal drugs to take place in our Nation's Capital.

This is not the time, Mr. Chairman, to make any reductions in the Police Department. The crime situation at this time would not justify such a move and with the number of visitors we have each year, we must continue to maintain a strong, efficient, well trained police department. Any deviation from the language set forth in our report concerning the Metropolitan Police Department would be a serious mistake on the part of the Mayor and the City Council. Our recommendation concerning the Metropolitan Police Department is for the best interest of our Nation's Capital and under no circumstances should any move be made to reduce the Department or to fail to spend necessary funds appropriated for the operation of this Department.

Mr. Chairman, we recommend this bill to the committee and respectfully request that the bill be accepted as reported.

Mr. PURSELL. Mr. Chairman, I have no further requests for time on this side.

Mr. DIXON. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

The CHAIRMAN. All time has expired. The Clerk will read.

The Clerk proceeded to read the bill.

Mr. DIXON (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any points of order against the bill?

The Chair hears none.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1981, $296,645,500, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code 47–2501d); and $8,100,000 in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government as authorized by the Act of May 18, 1954, as amended (D.C. Code 43–1541 and 1611).

For the Federal contribution to the Police Officers and Fire Fighters', Teachers' and Judges' Retirement Fund as authorized by the District of Columbia Retirement Reform Act, Public Law 96–122, approved November 17, 1979 (93 Stat. 866), $52,070,000.

For reimbursement for necessary expenses incurred in connection with inauguration activities as authorized by Section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1–827(b)), $1,330,100.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: On page 2, after the period in line 12, add: "The appropriation in this paragraph for the payment to the District of Columbia for the fiscal year ending September 30, 1981, is hereby reduced by $6,000,000. This reduction shall not be applied to reduce fire or police services or fire or police personnel below the levels provided in this Act before the application of this reduction.".

Mr. MILLER of Ohio. Mr. Chairman, this is the same as an amendment that I offered in the full committee. It is to reduce the amount of the Federal payment to the District of Columbia by approximately 2 percent. This same amendment has been offered on most of the appropriation bills this year. On this bill the 2 percent would equal $6 million.

Now, we have heard several times about the problems that we have maintaining police and fire protection and services. This amendment exempts the police and fire personnel and services from this cut.

The Federal payment in the last 10 years has more than doubled to the city of D.C. We might refer to some of the newspaper articles that we have read for an indication of why the city has money problems. Almost everyone here has seen the headlines of what takes place in D.C. as far as wasting the Federal dollar is concerned. One of the items says: "Three million dollars a year wasted in errors in welfare programs."

Another reads: "D.C. foster care program mismanaged." The number of children has been unknown.

I read in the newspaper the other evening where someone in responsibility in the Washington, D.C., government had stated; "We thought we had a thousand more children." Well, to lose the dollars is not as bad, but we certainly should not lose the children.

Another headline is: "District has lost 300 refrigerators." These were new refrigerators.

□ 1330

"D.C. Deficit Overstated, GAO Finds."

"Audit Troubles Still Plague District Budget Agency."

"D.C. School Board Has Area's Largest and Costliest Staff."

Those are headlines. Those are reports that we read almost weekly in the Washington papers.

As far as the District of Columbia school board is concerned, I think we should take a little deeper look at that and compare it with Montgomery, and Prince Georges Counties in Maryland, and Fairfax County in Virginia. These three suburban school boards have an enrollment of about 102,000 to 128,000 children. School board budgets run from $160,000 to $249,000 for school board members and their staffs. But not in D.C. For the same amount of pupils we spend $1 million.

Where the board members in the counties are paid from $4,500 to $7,200 a year, in the District of Columbia the board members are paid $18,725. In D.C. they have a staff of 37 persons whereas these other school jurisdictions of comparable size have staffs of from 6 to 8.

We would still have $14 million of that $20 million proposed additional Federal payment left in if we passed this amendment of 2 percent, which is a $6 million reduction. The Federal payment would still be up $14 million over fiscal 1980.

I would request that we get a yea vote on the amendment.

Mr. DIXON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have the greatest respect for the gentleman from Ohio (Mr. MILLER). He has served in this Congress for some seven terms, and I am in my first term.

But if my colleagues will listen closely to what the gentleman from Ohio (Mr. MILLER) says, the objective is to raise the biggest smokescreen one can and to raise emotions, but the cut that he is suggesting will do nothing to correct what he is talking about.

Let me give my colleagues an example. I could go through item by item, but for the sake of expediency I will only give one example. The gentleman from Ohio in the full committee and on the floor here today has raised the issue of a newspaper account of someone who is alleged to have stolen some number of refrigerators. I would ask my colleagues to ask themselves whether the cutting of this budget is going to stop a Government employee from stealing? The answer obviously is no.

But this amendment is geared to raise emotions, to raise a smokescreen, to throw out as much as the gentleman can in hopes of getting a vote.

Second, the gentleman from Ohio (Mr. MILLER) is a member of the Appropriations Committee. It seems to me that if he has some specific item in this budget that he is concerned about he owes it to the members of the subcommittee to come to them and discuss it. Our doors are open. He could come to the subcommittee at any point and inquire about something specific in this budget.

It seems to me that when a committee spends some 16 days in hearings, reviews some 60 or 70 agencies, cuts the level of spending for some 17 agencies, and allows no increase for 6 others, that it defeats the integrity of the subcommittee process to merely come in and say "there should be a cut someplace, so let us cut 2 percent."

Let me make clear, as the gentleman from the District of Columbia (Mr. FAUNTROY) pointed out, this Federal payment is not a gift to the District of Columbia. This payment is in lieu of property taxes that would normally be paid. Almost half of the land area in the District of Columbia is occupied by the Federal Government. So when the distinguished gentleman from Ohio (Mr. MILLER) raises the issue of some impropriety that may have occurred and that may be reported by the newspapers, the way to correct that is not necessarily to cut the budget. That is not going to do it. The way to correct the impropriety is through oversight and constant surveillance by the subcommittee. If he brings to our attention how we can better do that job, we will certainly listen to him and be glad to cooperate with him.

But to merely say, "Look, I am cutting the budget by 2 percent, and it is going to cure theft in the District of Columbia and it is going to cure mistakes that the District has made," is totally incorrect.

I ask my colleagues to vote against this amendment.

Mr. PURSELL. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

I have a great deal of esteem and respect for my colleague on the full Appropriation Committee, the gentleman from Ohio (Mr. MILLER).

While discussing this in the full Appropriation Committee where the full committee turned down and opposed the gentleman's amendment, I suggested, as the ranking minority member, to the gentleman from Ohio (Mr. MILLER) and his staff, that I would be very pleased to work with his staff in the forthcoming budget process and look at specific items within the D.C. appropriation budget where we could get agreement, and there are some areas where we could make some reductions in particular areas in the D.C. appropriation bill.

But in terms of what the gentleman from California (Mr. DIXON) has just respectfully said to the Members of the House, the integrity of the subcommittee is the key to my presentation today. I think it is inappropriate to make across the board a 2-percent reduction or 5 percent. I know the dramatics are there, it looks good, it is good press. As a former State senator, obviously I have seen this same concept develop in legislative bodies and on the floor from time to time. Sometimes it has some impact.

But in terms of really narrowing in to specific selected line items, I think it is much more constructive, much more statesmanlike, in my opinion, for our colleagues, particularly on the same committee, to work with each subcommittee and say "I have some recommendation, Mr. Subcommittee Chairman, and Mr. Ranking Member and I would like to make some reductions here," and we would like to do our homework. That is the key, let us do some homework in these areas, and maybe we can find some additional reductions.

I would like to say, however, we have made those reductions. I think my colleagues should know as a full House that the authorization level from the authorization committee this year was $300 million. We have it down to $296 million. We have approximately a 7.3-percent which would affect schoolchildren, is consistent with other appropriation bills.

With respect to the school budget, having some experience in various appropriation subcommittees in my State legislature, the basic, fundamental idea of using reductions in budgets as the gentleman has proposed here today, which would affect school children, is how much does the District put behind each child, their per pupil ratio. The per pupil ratio is important. When we looked at the solution to declining enrollments in the District of Columbia, along with all other declining enrollments in the United States, and all urban cities practically in the United States, it is important to keep in mind what the per pupil ratio is to the dollars behind each child and each classroom.

In looking at the analysis of the District of Columbia, which we did, and which is reflected in our testimony, the committee report and committee documents, the District of Columbia does not have an excessive per pupil investment in the dollars per child in their classroom. Our classroom average here, if I recall, is 27 students per classroom. That is not excessive with the 32 or 35 per pupil class ratio that some cities now are bearing up under and have because of declining enrollments and loss of money. Also it is not a low per average classroom, which could be around 22 children for a particular average sized class. So the average per student for dollars invested in the average sized classroom in the District of Columbia is fundamentally somewhere in the middle. So we are not spending excessive dollars in the classrooms in trying to improve the quality of education in the District of Columbia.

For those reasons, Mr. Chairman, I, too, oppose this amendment.

Mr. RUDD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, with due deference to the distinguished chairman and ranking minority member who oppose this, I must rise in support of this amendment.

The Federal payment to the District of Columbia included in this bill is the largest Federal payment in history.

It is $20 million above the 1980 Federal payment.

If this amendment is adopted, the Federal payment to the District of Columbia in 1981 will still be the largest Federal payment in history.

It will be $14 million above the current 1980 Federal payment.

I do not believe that anyone could have missed the almost daily reports in the media this year of spending excesses, bureaucratic waste, and other problems of the District of Columbia government.

The Washington Post capsulized the problem with its headline on a March 13 story comparing Washington's government with that of San Francisco, "When It Comes to City Payrolls, D.C. Is a Big Spender."

Or there was this one in the Washington Star on May 29 at the outset of the District's current budget crisis, "Agencies' Overspending Threatens To Add Millions to District Deficit."

Certainly Congress does not help this situation by providing ever larger amounts of Federal funds to support District of Columbia government operations each year—especially when the population and student enrollment in the public schools have been on a steady decline for the past 5 years.

Some discipline has got to be imposed.

This amendment will not jeopardize any needed programs.

But it will signal the District of Columbia government that Congress expects some added fiscal responsibility.

It is the least that we can do.

□ 1340

The statistics that I outlined in debate on this indicate that according to the figures, the District of Columbia government is a big spender. One may look at newspaper articles, which show comparisons with various cities across the Nation, including San Francisco, and these figures do not lie. I sit on that committee, and I work as hard as I can to bring about changes that are reasonable, logical, and that are not abusive or hurtful. I feel that I have done that in the past. I will continue to do it in the future. But I think that the reported figures themselves tell us that the expenditures are much too high.

It is true that our Capital is a unique city, and it should be, but this amendment would not cause any problems. It has excluded fire and police. I can recall in my own career with the FBI that at one time this city was classified, and with great respect, as the most law-abiding city in this Nation. It has been some years since the District of Columbia has been able to claim that title.

I commend the gentleman from Ohio (Mr. Miller) for inserting this exclusion because we do need good law enforcement in this city. We should have it. When millions of citizen visitors come here each year, they should be able to feel protected and be able to observe the sights that our city provides for them in the Capital, and the work that is done here, so they can better understand how they are represented and what their Government is all about. I do support this amendment, urge its adoption, and I think there will be no problem discerned as to where these cuts should come, excluding fire and police.

Mr. Chairman, I yield back the remainder of my time.

Mr. STOKES. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

First, I would like to point out as others have here today that the gentleman from California (Mr. Dixon) has done an extraordinary job as the chairman of the District of Columbia Subcommittee on Appropriations. As a new Member of Congress he has assumed a very real responsibility here in the Congress. He has done an excellent job, as the gentleman from Kentucky (Mr. Natcher) and others have said.

In addition, I might point out that he and the members of his committee have spent 16 days and have heard over 200 witnesses in trying to bring before the House the budget that is before us today. This committee has worked just as diligently as other subcommittees in the House have in trying to bring in a budget that conforms with the strict type of budgetary restraints that are now imposed upon all of us.

One of the things I wanted to point out was the fact that the District of Columbia itself, realizing the tight monetary constraints we are all confronted with this year, brought in a revised budget that has 2,000 fewer positions than they had in 1980. That is, the 1981 budget proposes 2,000 fewer positions, and this is in the revised budget brought in by the District of Columbia themselves. That budget is also now $12.9 million below the revised figure brought before the subcommittee by the District of Columbia.

I would also like to point out, Mr. Chairman, that my distinguished friend and colleague, the gentleman from the State of Ohio, raised the question of the very high per-pupil expenditure for the District of Columbia Board of Education. He cited the fact that in 1978 and 1979 the per-pupil expenditure in the District of Columbia was $2,400. I would bring to the attention of my colleagues, Mr. Chairman, the fact that Milwaukee spends $2,700 per pupil, and if we look at our local community here, the District of Columbia in comparison to other local communities, Alexandria spends $2,800 per pupil; Arlington spends $3,100 per pupil; and Falls Church spends $2,900 per pupil. So the expenditure of $2,400 per pupil in the District of Columbia is substantially lower than that of other communities.

I would also like to point out that when we take the D.C. budget that has been brought before the House and compare it with the budget request of other agencies and the amount of the budget approved here by the House, we get some very significant figures. The Department of Agriculture, for instance, got 99.5 percent of their budget request; energy and water development, 98.9 percent of their request; HUD-independent agencies got 98.2 percent of their budget request; foreign operations, 94 percent of their budget request; Labor-HEW, which we passed last week, got 99 percent of their budget request. What we gave the District of Columbia was 97 percent of their budget request, so obviously the District of Columbia Subcommittee is right in line with other committees here in the House with reference to the budget they bring before the House.

I would hope, Mr. Chairman, that we would not act irresponsibly here today and just take 2 percent across the board from this budget. We do not know where it is going to come from. The end result is that it throws the budget of the District of Columbia out of line. The District of Columbia under the home rule provisions are required to balance their budget. A cut of 2 percent throws this budget out of line and certainly leaves them in a very irresponsible position. I would hope that we would vote down the Miller amendment.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the question before us really is not whether we should cut 2 percent but whether we should cut more. As we look at this D.C. appropriation, we wonder if this is the most overstated amount that is coming before this session of Congress. The best way to review what is happening is just to compare year by year by year how D.C. funding has grown.

I just heard the gentleman from Ohio (Mr. Miller) make the statement that this doubled in the past 2 years, and when we see so many increases that we vote here, we ask ourselves, is this excess funding being fair to all America? For instance, we have set up in this bill—and we did this last year, and I had serious reservations then, and I do now—$52 million for the pension fund for D.C. which we are going to pay this year and for 25 more years. We did not do that for your city back home, and we did not do that for my city back home. We do all types of things on a special basis for the District of Columbia, and there is no equity to it, because here in D.C. we already provide—as we just got through talking, for instance, about the police—Congress pays for the Capitol Hill Police. The Secret Service, Executive Security, and FBI are already funded. Congress also provides for the Park Police, and yet we turn around here and have to provide still additional amounts beyond that for added D.C. security funds. I think of the comparisons we talk about in terms of D.C. Let us turn our concern to compare D.C. for what we do in terms of our local school systems.

The last time we discussed this bill I asked, How many merit scholars came out of D.C.? As I recall it, there was just one. I do not know whether it has improved or not, but as big as the D.C. school system is, it is not a quality education system. It is just a big one, and it has been so inferior that as we study the number of pupils enrolled, we see that in 1968 they had 146,000; in 1974 they had 128,000; and today they are down to 98,000. Students are just drifting, drifting downward, and yet there is nothing that is being decreased in what they are asking Congress to do in the way of supplementing this educational fund.

When I read the different statements filed with this bill, I was particularly impressed with the minority report and the statement made by the gentleman from Arizona (Mr. Rudd). He emphasized that 21.2 percent of the total budget of the District government goes for welfare and social service programs. Advocates ask where are we going to cut? If there is anyplace here in America that would be well to cut, it is in welfare and, of course, the deadheads in Washington, D.C., that are sitting around. You have asked about the cause of crime. If these people were out working hard for a living, if they put in 8 good solid hours each day, they would not be up to any meanness at night when they got off the job. It is people sitting around idle who are causing the crime problem. When we have 21.2 percent of the budget for people to sit on welfare, we have a discouraging problem. Mind you, that 21 percent does not include food stamps. It does not include medicaid. We provide for their health. We provide for their food. This is just D.C. supplementary welfare. Anybody in Washington, D.C., who wants to work on ditches, who wants to wash dishes, who wants to do any kind of a basic job can get a job tomorrow. He can get it this afternoon. We do not need all this welfare here in Washington, D.C. Look this big spending situation over and then remember that our country today is going to run a $69 billion increase in national debt. You all are not giving them money; you all are borrowing money from the taxpayers of America in order to furnish this excessive spending for D.C. The wisest thing we could do, the most constructive move we could make to move forward, would be to accept the excellent amendment that is introduced by the gentleman from Ohio (Mr. MILLER). Let us cut this 2 percent, and then we would also do better to go a step further and then recommit the whole D.C. bill back to the committee.

□ 1350

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment. I do so somewhat reluctantly having formerly served on this subcommittee. I realize the difficult job that this subcommittee has. They have done a good job. That does not mean there is not room for improvement. The chairman has asked where cuts can be made and I am certainly not an authority on this but as one example the District of Columbia does have more District employees than about any State that I know, the entire State. We recognize that it has to provide all the services but it does have many employees.

Payment in lieu of taxes, this is true. This is what the original purpose of the money was, because the Federal Government does hold, as I recall, 31 percent of the land in the District of Columbia but we must recognize this appropriation does appropriate 43 percent from the Federal Government from all Federal sources. In this budget, 43 percent is from the Federal Government. I, therefore, believe the Federal Government is being generous with the District of Columbia and I think without any question the gentleman from Ohio's amendment of 2 percent is reasonable and its one this House should support because 2 percent of $300 million, does anyone really think any budget could not be cut this much without doing serious damage?

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the ranking member from Michigan.

Mr. PURSELL. Mr. Chairman, we must remember the District of Columbia does not have revenue sharing like the State of Indiana or the State of Michigan in recent years. Their Federal payment is, in effect, a corollary to what the gentleman gets in Indiana and what I am receiving in Michigan, about $95 million of revenue sharing which the Governor and the State legislature sends down to the cities and townships for municipal services.

The District of Columbia is unique in this sense that they do not get much revenue sharing. They have no State to go to for Federal service.

Mr. MYERS of Indiana. Does the gentleman know of any State or any community which receives 43 percent of its funds from the Federal Government? Any State, any city that receives that much, even the city of New York?

Mr. DIXON. Will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from California.

Mr. DIXON. I know of no State that receives 43 percent of its budget from the Federal Government, but I know of no plot of land that is as unique as the District of Columbia. Washington, D.C. is not a State. It is a district.

The gentleman indicated, and I am not sure it is correct but I would accept the gentleman's word, that no State has more employees than the District. But certainly when one takes into consideration, as the gentleman indicates, the uniqueness of this District which has what we traditionally call city functions, county functions and State functions, and adds up the total employees in a State that had city, county, and State functions, certainly the District's employment of 36,000 would be a modest number.

Mr. MYERS of Indiana. I say this: I formerly represented a county which one-third of that county was Federal reservation. That county received nothing for that one-third of the land taken out. The only Federal funds it received were some impacted funds for school students.

I yield to the author of the amendment, the gentleman from Ohio (Mr. MILLER), for his comments.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to clear up a couple of points. I heard that the city of Washington would not receive revenue sharing. If I am not mistaken, there is something like $26 million allocated to the city of Washington. Is that not correct?

Mr. MYERS of Indiana. I yield to the gentleman from California for his response.

Mr. DIXON. I am informed that the District expects to receive $26.3 million in revenue sharing in fiscal year 1981.

Mr. MILLER of Ohio. $26,300,000, as I recall.

I would like to complete my statement if I may, Mr. Chairman. The gentleman from California (Mr. DIXON) and the gentleman from Michigan (Mr. PURSELL), have worked hard on this particular bill. There is no doubt about that. I have heard about many hard hours and days that have been put in on it. I have not isolated the city of Washington for the reduction. My record shows that I have attempted to reduce every possible appropriation bill that I can, so it is not isolating one particular area. In this case I believe we could have the reduction.

Mr. Chairman, I heard the gentleman from Ohio mention a few minutes ago something about the items that were allocated and that HEW had been approved to the extent of 99 percent of the request, the budget request. It seemed that almost all of the sums that have been requested were allocated. It fell between 96 percent to 99 percent of budget requests, on the other bills.

What we have today is the budget request guiding us, not what we spent last year but the budget request. It is like this: If your wife asked for five fur coats and you buy her three, you are under the budget request. That is what it amounts to. The request is what it would be nice to have.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(By unanimous consent, Mr. MYERS of Indiana was allowed to proceed for 2 additional minutes.)

Mr. MYERS of Indiana. Mr. Chairman, I continue to yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding.

We have gone overboard in saying that we are not up to the budget request. That has been a part of our problem continuously and we must keep it in mind. Our payment last year should be a big guiding factor, but we seem to lose sight of what it was last year. We want to work on this year's budget request, which is absolutely wrong.

Mr. STOKES. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the genleman from Ohio.

Mr. STOKES. I thank my distinguished colleague for yielding to me.

The point I was attempting to make was that the budget request of the District of Columbia has been reduced and the amount we are actually giving them under the budget request is 97 percent of the request.

I then cited what we have done with reference to other committee budgets that have been brought before the House. I cited, for instance, Labor-HEW. We gave that Department 99 percent of their revised budget request.

Mr. Chairman, the point I was trying to make was that if we reduce this budget by more than we have already reduced it, we will be treating the District of Columbia different from the way we have treated the other agencies of Government and that was the point I was trying to make.

Mr. MILLER of Ohio. I understand, and I thank the gentleman for the clarification. Mr. Chairman, the point I was trying to make is that we are constantly going by that budget request and I think even the other budget requests were too high to start with.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce that this is a regular quorum followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 508]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bolling
Boner
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McHugh
McKinney
Maguire
Markey
Marks
Marriott
Martin
Mathis
Matsui
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1410

The CHAIRMAN. Three hundred and forty-five Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The pending business is the demand of the gentleman from Ohio (Mr. MILLER) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind the Members that the time for this vote has been reduced to 5 minutes.

The vote was taken by electronic device, and there were—ayes 218, noes 144, not voting 70, as follows:

[Roll No. 509]

AYES—218

Abdnor
Albosta
Ambro
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bereuter
Bethune
Bevill
Boner
Bouquard
Bowen
Brinkley
Brooks
Broomfield
Broyhill
Burgener
Burlison
Byron
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dicks
Dornan
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fenwick
Findley
Fithian
Flippo
Foley
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Giaimo
Gilman
Gingrich
Glickman
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harkin
Harsha
Heckler
Hefner
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Livingston
Loeffler
Luken
Lungren
McDade
McDonald
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Mottl
Murphy, Pa.
Myers, Ind.
Neal
Nelson
O'Brien
Panetta
Paul
Petri
Pickle
Porter
Preyer
Quillen
Railsback
Regula
Rinaldo
Ritter
Roberts
Robinson
Roth
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stenholm
Stockman
Stratton
Stump
Tauke
Taylor
Thomas
Trible
Udall
Ullman
Van Deerlin
Volkmer
Walker
Wampler
Weaver
White
Whitehurst
Whitley
Whittaker
Williams, Ohio
Wilson, Tex.
Winn
Wyatt
Wylie
Yatron
Young, Fla.

NOES—144

Addabbo
Akaka
Alexander
Ashley
Aspin
Bailey
Barnes
Benjamin
Biaggi
Bingham
Blanchard
Bolling
Bonker
Brodhead
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Clay
Collins, Ill.
Conte
Conyers
Dellums
Derrick
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Evans, Ga.
Fascell
Fazio
Ferraro
Fisher
Florio
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Garcia
Gibbons
Ginn
Gonzalez
Green
Guarini
Harris
Heftel
Howard
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kildee
Lehman
Leland
Lewis
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCloskey
McHugh
McKinney
Maguire
Markey
Matsui
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Murtha
Musto
Natcher
Nedzi
Nowak
Oakar
Oberstar
Obey
Ottinger
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Price
Pursell
Rahall
Rangel
Ratchford
Reuss
Rhodes
Richmond
Roe
Rose
Rosenthal
Roybal
Sabo
Scheuer
Seiberling
Simon
Solarz
Spellman
St Germain
Staggers
Stanton
Stark
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Vanik
Vento
Walgren
Waxman
Weiss
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wolff
Wolpe
Wright
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—70

Anderson, Calif.
Anderson, Ill.
AuCoin
Beilenson
Boggs
Boland
Bonior
Brademas

Breaux
Brown, Ohio
Buchanan
Butler
Chisholm
Coelho
Corman
Cotter
Crane, Daniel
D'Amours
Davis, S.C.
Dingell
Dodd
Duncan, Tenn.
Edgar
Fish
Gephardt
Goldwater
Gray
Hanley
Hansen
Hawkins
Hinson
Holtzman
Horton
Ichord
Jenrette
Johnson, Colo.
Leach, La.
Lederer
Lott
Lujan
McCormack
McEwen
McKay
Mattox
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nichols
Nolan
Pritchard
Quayle
Rodino
Rostenkowski
Rousselot
Sebelius
Shannon
Smith, Iowa
Stack
Steed
Symms
Tauzin
Vander Jagt
Watkins
Whitten
Wirth
Wydler
Young, Alaska

☐ 1420

The Clerk announced the following pairs:

On this vote:

Mr. Nichols for, with Mr. Brademas against.

Mr. Hinson for, with Mr. Rostenkowski against.

Mr. Horton for, with Mr. Rodino against.

Mr. Duncan of Tennessee for, with Mr. Corman against.

Mr. Butler for, with Mr. Lederer against.

Mr. Brown of Ohio for, with Mr. Jenrette against.

Mr. Daniel B. Crane for, with Mr. Hawkins against.

Mr. Lott for, with Mr. Gray against.

Mr. Rousselot for, with Mrs. Boggs against.

Mr. Young of Alaska for, with Mr. Dingell against.

Mr. Lujan for, with Mrs. Chisholm against.

Mr. Breaux for, with Mr. Stack against.

Mr. Symms for, with Mr. Mollohan against.

Mr. Hansen for, with Mr. Boland against.

Mr. Quayle for, with Mr. Nolan against.

Mr. Moorhead of California for, with Mr. Hanley against.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Regula: On page 12, after line 21, add a new section as follows:

Sec. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

And renumber the following sections accordingly.

Mr. REGULA. Mr. Chairman, I understand that the subcommittee has required an accounting by the D.C. government for outside consulting services in the past. I congratulate members of the subcommittee for their concern in this matter and for their diligence in requiring information from government officials in the District of Columbia on their use of consultants. I urge this body to adopt this amendment and make the reporting requirement part of the D.C. appropriations bill as we have done on all the appropriations bills that we have passed so far this year.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from California.

Mr. DIXON. Mr. Chairman, as I understand the amendment, the thrust of it is to say that, where the District hires consultants, those contracts be a matter of public record.

Mr. REGULA. Right.

Mr. DIXON. If that is the case, we on this side of the aisle have no problem with the amendment and will be glad to accept it.

Mr. REGULA. I thank the gentleman.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Michigan.

Mr. PURSELL. Mr. Chairman, we, too, on this side accept the gentleman's amendment. We think it is well done and we congratulate the gentleman from Ohio for his good work.

Mr. REGULA. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Regula).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dornan: Page 19, insert after line 5, the following new section:

Sec. 120. None of the funds appropriated under this Act may be used to pay for abortions.

Mr. DORNAN. Mr. Chairman, there is one very real issue left undecided before us today, and that is the issue of abortion funding with U.S. taxpayers' dollars. There is one bogus issue before us today, and that is the issue of "home rule."

In the 19 pages of the D.C. appropriations bill, which I have just gone through, I have counted at least 53 congressional restrictions—count them, 53—placed on the moneys contained herein. So when I hear the "home rule" cry used against only one of these 53 congressionally proposed restrictions, I cannot consider this objection as the critical or real reason for opposition to my amendment.

There was no "home rule" cry when the Congress specifies in the same bill how may chauffeurs the mayor can have or what he can pay for mileage on official business, or on the prohibition on any court judgment ordering the District to pay more than 2 cents per kilowatt-hour for electricity consumed. Where is the "home rule" cry on the congressional prohibition on picking up ashes in alleys or installing taxicab meters or purchasing certain types of fire department vehicles?

The District is still a unique Federal City, as clearly specified by the U.S. Constitution, and the Congress still has the constitutional duty to appropriate moneys to the District. If this were not the case, this bill would not even be before us today. Therefore, no one can sidestep the abortion issue by invoking "home rule."

A similar sidestepping tactic was tried in 1862 by Senator Davis of Kentucky when he opposed a bill introduced by Senator Henry Wilson of Massachusetts which outlawed slavery in the District of Columbia. Speaking on March 4, 1862, Senator Davis said:

> Was there anything in British oppression upon the colonial inhabitants of this country at all comparable in grievance, in real wrong and outrage, to what you are endeavoring now to force upon the people of this District. Have they not as much right to say they will have slaves as you to say that you will not have slaves? If you will not allow them that privilege, will you not allow them the poor privilege of voting whether free Negroes shall stay here among them or not, a curse to the soil, a blight upon this small and poverty-stricken society?

That is, the District.

Abortion is the great moral issue of our day, as was chattel slavery in the last century. We all know of the great fire that passed through this Nation in that bloody conflict—double, more than double the number of young men and women and innocent people who were killed in the American efforts in World War II. This conflict has no less bloodshed. It is a national disgrace that the Nation's Capital, since our bicentennial year of 1976, actually the year preceding, has had more abortions than live births, and for some reason Mayor Barry was puzzled a few weeks ago that the population of the city is declining. It does not take much imagination to add 2 and 2 and figure out that you cannot have abortion and then wonder around why the population is going down. If the D.C. officials refuse to protect its unborn citizens, then I hope that this United States Congress will.

☐ 1430

On the particular wording of my amendment which cuts off abortion funding plain and simple. First, the amendment I offered last year did have a mother's life exception in it, but it was ruled out of order. And, all the Members here know that an exception clause will be added in conference. Second, Hippocratic oath which had been the guide of medicine for centuries never had an exception clause. Third, in addition, Dr. Jasper Williams, a black physician who practices in the inner-city of Chicago, stated on the McNeil-Lehrer program, and he was brilliant:

> I have been in practice now since 1957. I have lost two patients who were mothers delivering babies . . . one from a pulmonary embolism, and one from amniotic fluid embolism. Neither of these patients could have foreseen that that was what was going to happen to them, nor could any physician have foreseen. I know of no condition at the present time where the true life endangerment with adequate care, from the kind of medical treatment that is presently available and the kind of physicians who are out there able to help, that would require abortion.

The CHAIRMAN. The time of the gentleman from California (Mr. Dornan) has expired.

(By unanimous consent, Mr. Dornan was allowed to proceed for 1 additional minute.)

Mr. DORNAN. But to tell us where the abortion advocates are really coming from, just take a glace at the arrogant and coldblooded calculations of the former head of the D.C. Department of Human Resources, Al Russo, who compared the cost of abortion, $356, to the cost of hospital care and delivery of a poor woman's baby, $1,200 plus $720 for "keeping a child of a city-financed live birth" on welfare for 1 year. It seems to be that this is the ultimate racist argument. Kill "them." And the Members will recall that I discussed on this House floor that that simple little plural pronoun changes from locality to locality. "Them" in New York means Puerto Ricans, usually. In the Miami area, it is Cuban Americans. In California it is other people of Latin extraction, and in any major city and given time, "them" is blacks. American blacks. And now we are told by the D.C. Department of Human Resources that killing them is cost effective.

The CHAIRMAN. The time of the gentleman from California (Mr. Dornan) has again expired.

(By unanimous consent, Mr. Dornan was allowed to proceed for 30 seconds.)

Mr. DORNAN. That type of arithmetic was not only appealing to Herr Adolph Eichman, but he used it ineffectively of course, in his Man in the Glass Booth trial in Israel a decade ago.

I urge adoption of the amendment.

Mr. DIXON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think my distinguished colleague from the district that adjoins mine in California is absolutely correct when he says there is a moral issue involved here.

As I understand the amendment that is before us, and I shall read it. It says, "None of the funds appropriated under this Act may be used to pay for abortions."

I interpret that to mean none of the funds under any circumstances.

If incest is involved, if rape is involved, or even if the life of the mother is at stake, no money—whether it be Federal money or local revenues from property and sales taxes—could ever be used in an abortion procedure under any circumstances.

Let us talk about the moral issue here. The gentleman immediately jumps to the home-rule issue. That tells me that he does think there is a serious issue involving the integrity of home rule. He brings on dignity with this tremendous moral issue in our society, and compares his amendment with whether or not we have regulated the District of Columbia in some appropriate way as it relates to chauffeurs or some other minor conduct in government.

The moral issue here seems to be the great controversy in our society over abortions.

People who can afford abortions are not a part of that controversy because of the right to do as they seek.

The amendment that the gentleman from California (Mr. Dornan) is offering here, as a Congressman, could not be offered by him in the State of California, the State of Maryland, the State of Pennsylvania, or any other place in the United States except here in the District of Columbia, and the reason he can offer it here is because of the unique situation the District finds itself in.

So yes, I say to the gentleman from California (Mr. Dornan), there is a moral issue here. It is whether we should let the local communities, as the courts have indicated, decide for themselves what they want to do in their own communities with the local taxes and revenues they raise.

Obviously, it is a controversial issue. But it seems to me that the appropriate forum, if we believe in the integrity of home rule, is not to fight this out on the floor of this Congress, but rather allow this issue to be resolved in the City Council and in the executive branch of this government.

Let me say once again—and I do not think the gentleman from California (Mr. Dornan) could deny this—that strong as he feels about abortion, this is the only limited community where he could do this. He would not be able to do this in the community where he resides, or in a community that he represents, but he can in a community that is at the will of this Congress. There is a moral issue. It is morally wrong after passing home rule legislation to take advantage of it and superimpose on this community a principle; and that principle is deciding in your own community what you want to do about abortion and then imposing it on the District of Columbia rather than allowing their elected representatives to make the decision.

I ask and urge a "no" vote.

Mr. OBEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will not take the full 5 minutes.

I had not intended to get involved in this bill today, but I would suggest that the chairman of the committee is correct when he indicates this amendment ought to be defeated. There is the issue of local control. There is, of course, the issue of whether or not the Federal Government ought to be able to establish one rule for one community in this country and another rule for all other communities.

But I would simply suggest to the Members that there is another even more important problem with this language, and that is simply that it goes too far because it does not, as does the compromise language contained in the HEW bill, provide for an exemption in the case of life-threatening circumstances.

I want to make a point by telling the Members something that happened to me and my family a few months ago. Earlier in the year my wife became pregnant. And about 6 months into that pregnancy, she lost the baby. After she lost the baby, she developed phlebitis, and she developed some rather serious blood-clotting problems. The doctor said to her, "Hey, no more. As far as babies are concerned, you have had your last one unless you want to run an unacceptable risk."

Well, my wife could never have an abortion. If she became pregnant she would, not matter what the circumstances, insist on going through with the pregnancy. She said that to me many times. So what it means in plain English is if she does become pregnant, she would carry that pregnancy through to full term.

But the point that ought to be made on this floor today is that that choice in life-threatening situations ought to be hers. That choice should not be made by people on this floor, who know nothing about her medical condition, and who know nothing about her moral concerns.

I would suggest to the Members that the best way that we can resolve this problem is to adopt the language on all appropriation bills which we have on the Labor-HEW bill, because that at least makes exceptions in life-threatening circumstances.

☐ 1440

But to ask the House to go so far as to impose this kind of no-exception limit on only one community in the country without regard to the medical facts of life is just nonsense.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have been up the hill and down the hill on this legislation for many years. We made a wise choice one time. I remember quite well when Chairman Mahon had this legislation before this body. At first it failed and then some of us got together and decided that if we would include language to save the life of the mother or in the case of incest or rape, the legislation would pass, and it did.

I submit, Mr. Chairman, that we are doing wrong if we do not give those people that particular right to save the life of the mother.

I want to tell you that any man, you can take him independently and you know what he is going to do right here if his wife is raped, if his daughter is raped. He is going to take her to a physician and he is going to have whatever is necessary done—Mr. Chairman, I ask regular order that the gentleman from California sit down. I do not wish to yield to him at this time.

That man is going to go to the doctor and he is going to have whatever is necessary done to see that his wife does not bear a youngster by some brute. That is a fact of life.

I hope that the people in this group will have grit enough or sand enough to stand up and do what is right.

Furthermore, if you deny the right of poor people in this community in the District of Columbia whose wives' lives are in danger because of pregnancy and say that they cannot have federally funded abortions to save the life of the mother, in my opinion, you are committing a sin. You are not facing up to what is right. It does not matter who says it.

Let us just get down to basics. Let us get down to the facts of life. I have been a physician since 1937. I have never intentionally committed abortion. I have had occasion to clear up from abortionists, people who were not skilled, in which women had bled half to death who came to me, and I will tell you, they will continue to do that, too, and it is a great problem when you have to strive to save the lives of these women who have gone to a quack so that they will not have to bear that stigma through life. Then someone comes up with this false assumption that we should not do anything to save the life of the mother or in case of incest or rape, I say that he is morally wrong. He is not doing what is right.

I ask the people, I ask you men, for the ladies and gentlemen in this group to stand up and do what you would do if your own child were affected in this way. I hope you will have grit and sand enough to do it.

I want to tell you that when you go back home, there will not be "a one issue group" that will do anything to you. Those people will stand up and applaud you for doing what is right.

Mr. Chairman, I strongly oppose this amendment.

Mr. FAUNTROY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is with some reluctance that I rise in opposition to the amendment offered by the gentleman from California. I do so, however, because I believe that his amendment is very thoroughly in opposition to the premise of home rule in the District of Columbia. It is implicitly detrimental to the integrity of any State and local government process. It is discriminatory in its application; and it imposes a burden on the citizens of this city that is imposed nowhere else.

It is not necessary to support abortions or the choice of an abortion to recognize that this amendment is wrong. In the first place, this is not the bill on which such decisions ought to be made. That is a matter which should be made in this city first by the City Council and then by the legislative committee—the Committee on the District of Columbia—if events prove such a need to exist. Neither body has acted in this matter. Neither body has been asked to act. As a minimum proposition, it would seem to me that comity would mandate initial consideration be given first to the Council and then the committee.

If anyone thinks that the committee will merely rubberstamp what the Council does—and I do not pretend to know what the Council would do in this case—they need only to look at the very pointed veto resolution reported by the committee on a simple zoning matter concerning the placement of foreign chanceries. No one has discussed this matter with the Republican or Democratic caucuses of this committee. To my knowledge, no one has introduced a bill for us to consider and no one has introduced a bill and followed it with any comments to me or to any other Member of which I am aware. Action by this House without hearings, without a request for hearings, and without first seeking to determine what the Mayor and Council might do is simply unconscionable.

The amendment is discriminatory. It applies, by nature of the program, only to those persons who must look to Government for full medical services. It is one matter to hold that Federal funds should not be used to support an abortion program; it is quite another matter to hold that where such a medical practice is available it ought to be denied to the poor while available to the wealthy. Surely we do not intend such a result; but it is the factual result of this amendment. If abortions are wrong, they are wrong for everyone; if they are right for some, they must be right for everyone.

The amendment imposes a burden on the District of Columbia that is imposed on no other community. Not one person who is a citizen of the District voted for the gentleman who seeks to have the House impose, upon citizens of this city, this policy. Indeed, no one in the city can vote for anyone who can determine this policy. Like the gentleman from California, I am very much concerned about the number of abortions in this city. I do not, however, believe it right to impose a discriminatory policy upon these citizens which cannot be imposed upon any community. The fact that Congress can do anything it wants in the District of Columbia ought not give it license to do at a local interest level that which it would not do and cannot do elsewhere. That discipline by Congress is important not only to assure noninterference with local issues but to give sensitivity to the lack of voting representation in the House and the Senate by the citizens of this city.

The amendment is detrimental to the integrity of State rights and the decisionmaking process of local governments. Every time you elect to create or disband a program in which there has been any Federal support or any commingled funds, you run the risk that this amendment will be cited as a precedent for Federal intervention. Every dollar is fungible. Any dollar provided to one program has merely offset the dollar used in another program and therefore, so goes the argument, the dollar given was really transferred. Every program, then, is a program that exists because of Federal largess or Federal support through the thoroughly fungible dollars. You may not accept this theory; certainly you would not and should not like it. It is, however, implicit in the amendment. When you recognize it, you will want to reject it whether you believe abortions are right or wrong.

Finally, I would urge you to oppose this amendment because it is redundant of an antiabortion policy which is in line with existing Federal law—namely, that no Federal funds shall be used to support an abortion. This amendment is unnecessarily broad; it is not needed and it is not in line with existing law which so many have spent much time in fashioning.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the amendment.

Mr. Chairman, all of us may hold different views on the subject of abortion, but I would like to speak for a moment to my Republican colleagues on an issue where I believe all of us are in agreement. Whatever your personal views may be on abortion, I think we are united in seeking control of Congress for the first time since 1954 and in seeking a Republican administration. We are united on the concept that we want to minimize Federal involvement with local spending choices. When we passed the D.C. rule bill in 1973, we gave the District the right to control their own affairs. We have seen building up, fairly painfully and fairly slowly, a mutual respect between this city of nearly a million people and the Federal Government. In our framework of laws, we have allowed the States to generally spend federally appropriated moneys in the manner they choose. The Republican Party and the Republican platform stand squarely behind the enhancement of States rights to spend their money free of Federal controls as much as possible. Less than 20 percent of the District of Columbia's funds come from the Federal Government; perhaps 15 to 19 percent of the District's funds each year comes from the Federal Government. With respect to States, over 20 percent of the money spent in your State and mine comes from Federal revenues. There are nine States which have chosen voluntarily to spend those moneys for medicaid-type abortions under their laws and under their freedom of choice. It would be wrong from the States rights position of a party that stands for States rights to say to the District of Columbia, "You cannot do what nine States do, what the States of Maryland, Alaska, Colorado, Hawaii, Washington, New York, North Carolina, Oregon, and Michigan choose to do."

In building up this relationship with the District of Columbia, giving them the self-respect and the dignity of self-government, it would be dead wrong for us to impose on the District a rule that we do not choose to impose on the 50 sovereign States.

Mr. FAZIO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there is really not a lot to say about the abortion issue that has not already been said on the floor of the House many times. I do not intend to take all the time allotted, because I sense that there is no point in rehashing the moral arguments on both sides of the issue.

☐ 1450

My reason for speaking is simple. I am troubled by the way the House continually deals with this issue, for we constantly place this one value ahead of all others no matter how compelling

Recently, in the last few weeks, in fact, we have told Federal employees that while we are about to consider their total compensation in the manner in which we compensate them to be important, as we compare their wages and benefits with other people in the private sector of our society, that they cannot use the money they are given for the services they provide to their country for a private decision such as whether they or one of their dependents will have an abortion.

Last year, despite our concern for recruitment and retention of people in the military, we told people who serve our country as women in the Armed Forces and dependents of others who serve that they cannot make a private, personal decision along these lines because they are paid by the people, the Government they serve.

Now, one more time we are about to throw out another value that we all hold very close to our hearts, local control, simply because we have another opportunity to do so here in the District of Columbia.

This committee has not picked a fight. It has written into the language that it brought to us today the simple language that exists in all other legislation. We have retained the prohibition against the use of Federal funds to perform abortions except for cases of rape, incest, or when a mother's life is in danger.

But we have this need, this constant need to engage in one-upsmanship politically whenever this issue of abortion can be invoked. The political payoff is so great to simply lie down and vote with those forces that constantly support those who take the most extreme position on this issue that we as a body cannot seem to allow the opportunity to pass to take one more cheap shot when the impact on our constituents is negligible.

That is what we are doing here today. We are trying to treat one limited, very subscribed element of our population differently than we would treat anyone else in our country, anyone else that we represent in any of the other 50 States. I think it is unconscionable. I think we ought to oppose this amendment. We ought to compromise as we have constantly on other issues related to abortion by agreeing to the language the committee has already taken care to place in the bill and to simply avoid this constant and counterproductive wrangling.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentleman.

Mr. MAGUIRE. I compliment the gentleman on his statement and wish to associate myself with it.

I wonder if the gentleman knows and if, indeed, the sponsor of the amendment knows, that in 1979 there were 402 forceable rapes in the District of Columbia and that 23 percent of all pregnancies in the District of Columbia that year were among young people 19 years and younger with some 3,300 births. I wonder if the gentleman who offered the amendment, if the gentleman from California is inclined to yield, could answer if he is aware of those facts.

Mr. FAZIO. I am happy to yield to the gentleman for a response to the question.

Mr. MAGUIRE. I wonder if those facts disturb the author of the amendment (Mr. Dornan) at all or how he would react to them and, indeed, how the other gentleman from California (Mr. Fazio) would react to them.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I am happy to yield.

Mr. DORNAN. Yes; of course, these facts disturb me.

May I first politely inform the gentleman that I could have had your words taken down with the inference or was it an innuendo, that somehow I offered this amendment for political reasons. The gentleman may be surprised to learn but my opponent has more pro abortion money in his campaign than anyone in the history of this Nation. And from a newspaper report I saw a so-called independent expenditure group—Voters for Choice—has had a contract with my opponent's campaign about a pledge of a $50,000 independent expenditure of pro-abortion money against me. So you are wrong, but I passed on it because you are trying to approach this reasonably.

Now, in response to the gentleman who is the chairman of this committee about rape and innocent life, I knew a young student who was going to a university in a Northern State. Her father is a close friend of mine. Last year the editor of one of America's sleaziest hardcore pornography magazines came to this campus and offered to pay money to anyone who could get information on this my friends young daughter. The father was and is outspoken against public immorality. The next day the young coed was raped at noon, dragged into the bushes by a university parking lot, severely beaten and brutally raped.

Two days later the parents and that courageous young lady said that if she were pregnant, and this is particularly in response to one or our three M.D.'s in the House, they announced that if she were to become pregnant she would have the child, that "if a child was conceived, the baby is innocent." You are wrong, Doc, about a lot of courageous young citizens in our fair land.

By the way, the term "brute" many times is used as a "code word" for an ethnic slur, though I know that the distinguished gentleman would never use it in that manner.

The innocent child conceived by a rape has nothing to do with guilt or violence. On these rape figures, how many resulted in pregnancy out of the 402? I have not heard the gentleman mention any, not one! What is your point?

The CHAIRMAN. The time of the gentleman from California (Mr. Fazio) has expired.

(At the request of Mr. Maguire and by unanimous consent, Mr. Fazio was allowed to proceed for 3 additional minutes.)

Mr. FAZIO. I yield to the gentleman for the purpose of an answer to the gentleman's question. I would appreciate an answer.

Mr. DORNAN. To come back to the question, I do not concede of one shred of human sympathy or empathy to you over my own concerns as a father of five children, three of them daughters, that I do not understand the excruciating agony and the depth and horror of rape. I submitted antirape legislation and I hope everyone on this floor will willingly endorse this with me. It makes for a national rape center so that we can have some FBI investment and correlation of facts on professional rapers that rape in Florida and then go up into the State of Washington and kill girls in coed dorms. I think the bill's time has come and that we will all vote for it next year, because I cannot see a vote against it.

But I do not see the correlation on this floor that we are going to punish the innocent human life that we believe, and some of us with a God-ordained immortal soul, and some clinging, some kneeling around our feet, that we are going to punish the victim of the rape and show unbelievable mercy to the people who perform rape in the first place. It is a special argument and has nothing to do with it. I have 7,000 petitions here for the Reverend Delegate Walter Fauntroy, 7,000 petitions from District of Columbia citizens against abortion. Show me your petitions.

Mr. FAZIO. I would like to reclaim my time to yield to the gentleman from New Jersey (Mr. Maguire).

Mr. MAGUIRE. I thank the gentleman. Another interesting breakdown of the data is that more than 1,000 teenage pregnancies occurred among young people 17 and under in the District of Columbia in 1979. I wonder if the gentleman in the well has any comments on those facts.

Mr. FAZIO. I think these facts are certainly the kind of facts that would move a local city council, as in the case of the District of Columbia, to make decisions. It is entirely inappropriate to be dropping petitions on the doorsteps of the Delegate for the District of Columbia, Mr. Fauntroy. I think the appropriate place for this whole debate is in the city council which deliberates for the District of Columbia and so while all of this information is well taken by both sides of the aisle, it is the kind of data that ought to be given to the locally elected officials in their decisionmaking. It has no place in a debate here in the House of Representatives.

Mr. MAGUIRE. I thank the gentleman.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to associate myself with the gentleman's remarks. I think the House is taking a very dangerous and unfortunate step if we approve this amendment.

I agree with the gentleman totally, this is an amendment that goes far beyond the compromise language. It denies the victim of rape or incest the right to equal medical treatment.

Mr. FAZIO. I thank the gentleman for his comments.

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak against the amendment.

Mr. Chairman, I have never before spoken on abortion issues in this House. I sometimes feel it is rather obscene that this House discuss it. So I will not discuss the abortion issue.

Ten years ago I went to Jerry Ford and I said, "I want to be on the District of Columbia Committee." For the last 4 years I have been lucky enough to be ranking member. It has given some of my opponents great glee from the other side of the aisle who run against me by saying:

> Stu McKinney cares more about the District of Columbia and New York City

> than he does about the Fourth Congressional District in Connecticut.

A matter of opinion.

Jerry Ford turned around to me and he said:

> Stewart, why would you possibly want to be on the District of Columbia Committee? I have to grab people kicking and screaming and put them on that committee.

I said, to use the words once more:

> Mr. Minority Leader, the condition of the District of Columbia is a blotch, a smear, and an obscenity on the American democratic process.

I would suggest to my colleagues it still is. It is the most unbelievable, implausible, decadent part of our Nation that we sit here concerning ourselves so deeply with our own constituency that we do not pass a synthetic fuels bill for 5 years because we might hurt our oil interests, we do not do this or that because we might lose a vote. So for a spirit of something or other we take a great deal of time, effort, energy, and fun in kicking the living daylights out of 800,000 Americans who sent proportionately more kids to Vietnam, who pay proportionately more taxes than almost any other jurisdiction in this country, and who cannot even have their delegate vote in this Hall, who are truly taxed without representation. And I might add it is most obvious from our behavior that they cannot vote for us.

□ 1500

A friend of mine suggested that perhaps a petition should be dropped in front of the Delegate's door. Why bother? The Delegate cannot vote. He can pay taxes; he can send his kids to die; but he cannot vote because he is only a member of a colony around here. The last true slaves of the United States are right here in the District of Columbia.

Let me tell you about what I hear after 10 years of these fruitless fights. I said to myself, "Stewart, do not get up and do it. It is pointless. Do not waste your time. They will not listen." But look at what we have done. We criticize the Mayor and the City Council—and I have tremendous difficulty with both at various different times. We criticize them for the condition of the finances of this city. We put the city there. I used to listen to my good friend say, We cannot do this; we have got to get this straightened out. We ignored him, and we watched it happen. We watched the pension. We sat back. And President Nixon decreed that the city would have another 1,500 police whether we could afford it or not. And we said, "Do it." Now we blame them. The citizens of this city.

The Supreme Court made a very clear decision that we cannot require a jurisdiction or a political body to pay for an abortion, but they may of their own free choice decide to finance that. Would you once, please, let the citizens of this city, American citizens, despite the fact that we deny their franchise except when it comes to sending them to war and having to pay taxes—would we for once let these citizens run their own affairs.

It occurs to me sometimes that if we continue to heap the human and legal injustices on the people of the District of Columbia that we heap upon them, we will only awake some day to find those same injustices spread across the length and breadth of the 50 States of these United States, and that thought frightens me.

Mr. DOUGHERTY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise greatly disturbed by the comments that are made that the attempt by the gentleman from California is a foolish fight. We talk about moral issues and so on. Perhaps in a few moments we could just clarify the issue that is at stake here today. The issue at stake is not relevant to the special status of the District of Columbia. If you want to compare the moral issue, all right. The right of the District of Columbia to home rule versus the right of an unborn child to live—that perhaps is the emotional or the moral issue.

The gentleman, the chairman of the committee, says that if a local community wants to do something, it should be allowed to do it. He would not agree that if a local community wants to discriminate, they should be allowed to do it, and if there is discrimination in the District of Columbia, he would say that this Congress had an obligation to rise up and to strike down what the Congress saw to be wrong because of this special status we do have over the District of Columbia.

The gentleman from Kentucky, my distinguished friend, Mr. CARTER, comments that we should do what is right, and he is, indeed, correct. We should do what is right. It is no joke to anybody who happens to support the prolife position that in the District of Columbia, the Capital of the United States, more children are aborted every year than are born. That is an absolute obscenity. That is the greatest outrage. That is the greatest disgrace that could befall the city of Washington, a city that is our Nation's Capital.

You are being asked today to vote consistently. In Labor-HEW we voted to restrict abortions. We voted to protect the lives of unborn children. Last week we voted to say, "You Federal employees are not going to use taxpayers' money to kill unborn children." What we are saying today is, no funds, Federal or indirect, are going to be used in the District of Columbia to kill unborn children.

So all of the comments to the side about the poor status of the District of Columbia, and all the comments to the side about home rule, the issue is very, very clear. Abortion in the opinion of, I think, the majority of this body is the destruction of an unborn child's life. When you vote on the Dornan amendment, you are going to vote on that basic issue. Do you want to put up taxpayers' money to destroy the lives of unborn children? All the other arguments are irrelevant. That is the fact that we have to face.

You know that if we could, we would have a human life amendment and we would restrict abortion in all 50 States, but we cannot. We cannot because the leadership of this body will not allow the amendment to come to the floor and go to the people of America to take a position on it. It has been stymied. We are frustrated, just as perhaps some of the opponents are frustrated.

Mr. CARTER. Will the gentleman yield?

Mr. DOUGHERTY. I will not yield. I will not yield.

Mr. CARTER. I have a point of order, Mr. Chairman. The gentleman mentioned my name. According to the rules, he is supposed to yield to me.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. DOUGHERTY) will proceed.

Mr. DOUGHERTY. I thank the Chairman.

The fact of the matter is that if we could, we would have a human life amendment, and we would not be killing unborn children. But we do not have a human life amendment because the leadership of this Congress will not bring it to the floor.

So we have no other choice if we are going to do what we believe to be right, and what we believe to be right is that we have an obligation to protect the lives of innocent, unborn children. That is your vote, clear and simple—home rule or the life of an unborn child.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, it is a unique day today because we have made some great converts to the principle of States' rights whom I have never heard raise their voices before in support of this great principle. When 55 mile-an-hour speed limits were imposed on the States from "Mount Olympus" here in Washington, that was all right. When Washington tells local school districts how they are going to bus their kids around, that is all right. States' rights is not important. But today when it comes to the notion of abortion, which is killing by intention, by definition, which always happens over somebody's dead body, suddenly States' rights becomes a flag that we must wave and we must march behind and we must applaud. I find that interesting and encouraging.

The difficulty with abortion is simply this. What is an abortion? Is it a human life, or is it a growth, a tumor to be cut out and thrown away? If you do not think it is a human life, then, of course, the gentleman from California (Mr. DORNAN) is wrong. We should eliminate the inconvenience and the expense of bringing into the world unwanted children. On the other hand, if it is a human life, the fact that it was created through a crime, through a criminal act, through an act of rape, does not obviate the fact that an innocent human life is there. Now there are two victims. There is the poor woman who has been raped and there is an unborn child. You are going to execute the wrong person.

You are going to execute someone who is not a criminal when you abort that unborn child. Our great Supreme Court has said you may not execute a rapist. That is cruel and unusual punishment. Imagine, the brute—as he has been well described—who perpetrates the crime, commits an assault, impregnates a woman—his life must be spared. But the innocent unborn child, who is there through no fault of his or her own, must be thrown away like a used piece of Kleenex. The fetus has committed no rape; why should it be executed? As to the life of the mother exception, I am going to tell you it is going to be put in in conference. It cannot go on now as that is legislating on an appropriation. Why go through the points of order that so many raise if it is going to be put in here anyhow? It will be put on in conference. So it is a false issue.

Let me just raise one more point. There was a letter to the editor in the Wall Street Journal a few months back about a couple that adopted a little baby whose head was misshapen, whose spine was malformed. This poor little monstrous baby they adopted.

□ 1510

They said to the doctor, "How did this happen?"

The doctor said, "It is interesting. The woman who bore this child had had two previous abortions. The inside of the uterus had been scraped in the two previous abortions and scar tissue had developed resulting in the third pregnancy getting improper, incomplete nourishment."

And so this poor little baby was born, misshapen, and his disabilities incapable of being corrected by surgery.

Now the letter writers who adopted that little baby said, "What about this baby's rights? Did he have a right to be born healthy and normal?"

Those rights were thrown away because of the two previous abortions and the scar tissue.

Yes, there are lots of rights involved. There is inconvenience, there is cost, there are unwanted children, there is the crime of rape. The bottom line, you are talking about an innocent human life. That is the clinical biology. Not the theology.

And so, it is unfortunate that the City Council of the District of Columbia does not respond to this but we have a duty and our duty is to protect innocent human life. The law exists to protect the weak from the strong. I am not swayed by arguments of home rule and States rights which are never uttered by their advocates except on this issue. I am swayed by the need to protect the vulnerable innocent human life that is an unborn child. They cannot escape, they cannot vote, they cannot rise up in the streets—they can only be killed and forgotten.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would like to comment briefly in support of the amendment but also speak to the idea that this amendment is going against the States' rights issue and the D.C. government should be left to determine these matters on their own. I think if anybody would read the general provisions of the bill, they will find it is replete throughout with all types of restrictions on the D.C. government, everywhere from electric current for street lighting to how many chauffeurs they can have, who they shall be, how many policemen and everything else. I think that argument is completely invalid. It comes down to whether or not we wish to restrict further than the committee the funding of abortions, and that is the whole issue.

Mr. HYDE. Mr. Chairman, let us just get the Government out of the business of subsidizing killing preborn babies.

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Michigan.

Mr. ALBOSTA. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Dornan amendment.

Under the home rule, the Congress still has a great deal of input and authority in District matters. In the past, and I imagine in the future, Congress has clearly stated its opinion on the abortion issue. I feel it is important that the Congress be consistent in its view and adopt this amendment now before us.

I am frustrated that I have no control over my own State of Michigan where the Governor and the legislature have agreed to fund abortions. The U.S. Congress, under current law, has no control over those actions, however. On the other hand, the Congress does have input in the operation of the government of the District of Columbia, and to be consistent with our past views, we must write the Hyde amendment language into the appropriations bill.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I speak in opposition to this amendment.

Mr. Chairman, I think there are two things that need to be said on this sad subject. One is that obviously great passions are aroused and there is a great deal to be said on both sides. We have the highest clergy of all faiths, and doctors and lawyers, who are divided on the subject. No one can say that this is one-sided, that all the moral right is on one side and all the moral wrong is on the other. There is one thing, though, that I think is beneath the dignity of this House and that is to speak of such a tragic subject and compare it to a Kleenex or an inconvenience, which we have heard here at various times.

People do not kill themselves and tear themselves apart for something trivial. It does not make any difference what laws are passed. It does not make any difference. In every country of the world governments have tried it. Action has been brought against everybody—rich and poor—and, may I say, including the rich is better than just going after the poor.

However, what do we find? In Chile, it is completely illegal. Thirty-five percent of all the beds in the hospitals of Chile, when I was there, were filled with women dying or recovering from infection or hemorrhage from self-induced abortion

Ten thousand women die every year in Mexico through self-induced abortions. They have not the money to go to special doctors who can do this. Neither have they the money to go abroad.

No one is not going to stop it. All you do with all your good intentions and your high words of morality—which obviously, you must admit, are divided with equally moral people on the other side—all of them are useless against the desperate feeling that no man perhaps understands. And this is something we are going to have to pay attention to.

Mr. CARTER. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to my colleague from Kentucky.

Mr. CARTER. I thank the distinguished gentlewoman for yielding. I commend the gentlewoman on her remarks.

One thing we have not thought about today, is the life of the mother. Your wife. Suppose her life is in danger. This amendment, if you did not have money in the District of Columbia, would prevent you from saving your own wife's life. I want to know, are you of the opinion—you talk about murdering an unborn child. What about letting your own wife die? What about killing her? What about killing her? Where are all these people who were talking so much? You have lots of things at stake besides just a youngster. Now, to get down to it, I am strongly opposed to abortion. I never engaged in it. As a physician I had to repair the work abortionists have done over the years. It is like the gentlewoman says, they will use any method; knitting needles, anything else, to rid themselves of rape or incest or things of this nature.

A vote in this case is a vote to preserve the life of the mother. I want to tell you, this has been the ethic we have observed throughout my area for my lifetime. I was taught that at my mother's bedside before I ever thought of going to medical school. But that is part of it.

Mr. Chairman, I want to thank the gentlewoman for yielding and commend the gentlewoman for what she has said. I think we should consider the life of the mother as well as the life of the child. Certainly, whenever they point at you as if they are the best men in the world and tell you you are a murderer, you are an abortionist, when that is not the truth, it is the furthest thing from the truth. You are trying to save the life of the mother in this case and that is what this is, that is what this bill is all about. It is not even about incest or rape. It is about your wife or about any wife in the District of Columbia.

I thank the distinguished gentlewoman, the kindly gentlewoman from New Jersey.

Mr. HYDE. Would my friend yield to me briefly?

Mrs. FENWICK. I yield to the gentleman.

Mr. HYDE. I would just like to reply if I may about a couple of the comments made by my good friend from Kentucky who is as sincere, forthright, and honest of anybody in this Chamber on this issue. I call nobody a murderer. First of all, the gentleman said that you are getting rid of the rape and incest. That is the tragedy, you are not getting rid of the rape and incest. You are getting rid of an innocent preborn child that has resulted from rape and incest.

The CHAIRMAN. The time of the gentlewoman has expired.

(At the request of Mr. DORNAN and by unanimous consent, Mrs. FENWICK was allowed to proceed for 3 additional minutes.)

Mrs. FENWICK. Mr. Chairman, no one pretends we can end rape and incest. Nobody says we are going to get rid of crime and punishment. Nobody should bring in matters of money, either. What this is, is a great human problem and it has to be accepted as such. It should be a moment of great happiness and it turns into a moment of despair and that is what needs to be recognized. You are not going to stop it because people are desperate. Women are desperate and you will not stop them. All you do is encourage the butcher in the back room, or drive women into self-induced abortion. It is as simple as that. There is nothing you can do. No country in the world has ever come near any kind of control of this very deep, human tragic problem. Nobody. I do not think we are going to succeed in the U.S. Congress either.

Mr. DORNAN. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from California.

The CHAIRMAN. The gentlewoman will suspend.

The Chair will remind all persons in the gallery they are here as guests of the House and that any manifestation of approval or disapproval of proceedings here is in violation of the rules of the House.

The gentlewoman from New Jersey is recognized.

Mr. DORNAN. Mr. Chairman, I appreciate the gentlewoman yielding to me.

I appreciate the way my good friend has elegantly attributed solid moral motives to this side and I would like to return the compliment and say I have never heard anyone speak on either side of this issue, at least in this House—I cannot say this for outside the House—who did not have a sincere, ethical foundation motivating them. I have sat here searching for an analogy to make something clear to my friends and colleagues.

□ 1520

I cannot come up with a tamer analogy, so please hear mine out. If I were a German I would like to think—and I would probably be a Christian German—that if, in the early stages of the holocaust, Berlin was a federal city with some sort of home rule; and there was some legal nicety that only enabled me to stop the killing of Jews in Berlin and not in my home district of, say, Bavaria, I would still stop the killing of innocent life—wherever possible.

Mrs. FENWICK. If the gentleman will yield, the gentleman has a totally false analogy, and I am sure you must understand that. You would never find on that subject the divided people of high quality—clergymen of the highest integrity who have given their lives to the service of God and man; lawyers who have determined with the utmost probity and justice what the law says; and doctors on both sides——

Mr. DORNAN. Doctors in Germany went along with the killing.

Mrs. FENWICK. You do not find high moral and ethical and legal standards on both sides of the holocaust. You find people who were under fear of an authority that had the power to put them in prison, and saying things that they knew perfectly in their hearts they should not say.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would not take the well again on this subject—we have been here many times—except the last vote that we took dealing with Federal employees which broke their health contract by taking away funds for abortion, for the first time showed an increase, a substantial increase, in the number of Members who voted against the abortion amendment because they realized, perhaps, that we were finally going too far. The amendment still passed, but I feel progress was made.

It is my hope that in this type of an amendment that treats this particular part of our country more unjustly than any other part of our country, we may gain a little more. We might even win because you have gone too far. It is a very interesting thing to me to note that every poll that I have seen—and I will be glad to be corrected on this by any of the people who feel otherwise—has shown that the majority, the overwhelming majority of the American public, support the concept of freedom of choice of women for an abortion. We are now talking about tax dollars. That is what the argument has been.

Now, we are carrying it a step further and saying that the District of Columbia shall not have the right of deciding itself, like any other area, how it is going to utilize its money even with the abortion restrictions that are built into the legislation itself.

I do not understand why the House, that is representing all the people of this country, when the overwhelming numbers of people support the freedom of choice for women, are continually voting against that interest. You know, one of the very obvious things is that, here we are, overwhelmingly men, voting on an issue that only affects women. It is very easy to do. None of us have to face the problem. However, it would appear to me that if this House were made up equally of men and women, this vote would no longer be the automatic vote it has been in the past.

There is something about abortion that every Member of this House, or a majority, seem to think they have to vote against, it is time for a change.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Illinois.

Mr. HYDE. The gentleman has cited as statistics, and I would like to fill in some of the blanks on the statistics. The most recent poll—I believe it is a Gallup poll, or it could be a Harris poll—but the most recent report, within the last 2 weeks, says that there are 56 percent of the people who support abortion under some conditions—not under all conditions—some conditions. It could be the saving of the mother's life, that sort of thing. There are 17 percent of the people who oppose abortion under any conditions.

Now, you add that 56 percent who are not for abortion on demand, freedom of choice, and the 17 percent under no conditions, and you have 73 percent of the people who are opposed to unrestricted freedom of choice.

Mr. PEYSER. I will have to take back my time, because we are not talking unrestricted. This bill, I believe, says that the life of the mother, rape, and incest—may I ask the committee chairman; may I ask a member of the committee, does this bill call for a restriction on how the money will be used on abortion?

Mr. DIXON. Yes; this bill as presently written adheres to the compromise of last year which indicates that money could only be used for abortion procedures in the case of incest, rape, or the life of the mother.

Mr. PEYSER. Then, based on the figures my friend from Illinois just gave us, restricted abortions, the overwhelming number of Americans as I stated, are supportive of freedom of choice. Why, then, do we as representatives of the people vote for this type of an amendment? You know, there is another interesting factor that concerns me very deeply when we deal with children.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. PEYSER was allowed to proceed for 2 additional minutes.)

Mr. PEYSER. Are all of the Members who vote for abortion willing to vote for more money for school lunch programs, more money for the protection of young children?

Are we willing to do all of these additional things when we force a woman, whether her life is in danger or not, to have this child?

I think Dr. CARTER put it so well, that the basic issue also comes down to the fact that you are substantially condemning, or we are condemning, somebody's wife to death on the basis of this amendment. I would hope that now we may not defeat the amendment. Let us get more Members that are willing to stand up and say that we are for the rights of the people on this issue, and we support the people.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to my colleague.

Mr. WEISS. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. Chairman, I debated with myself as to whether I should get into this discussion at all. Most of the arguments I would have made have already been stated very, very eloquently. I rise at this point primarily because of a statement made by the author of the amendment, the gentleman from California, in the course of his dialog with the distinguished gentlewoman from New Jersey.

Although phrased in the form of an analogy it was a repeat of a reference, that I heard him make on local television sometime last week. He equates the right of women to make a choice, on the basis of medical consultation, of carrying a pregnancy through to term or not, to the most heinous, the most bestial, the most criminal course of conduct of this century and perhaps of all history; that is, the Hitlerian holocaust during which 6 million Jews and millions of others of other nationalities were murdered.

□ 1530

I for one, Mr. Chairman, find that kind of comparison, by analogy or any other way, to be totally reprehensible. I think it calls for an apology from the gentleman, and I think it is totally out of place in this or any other discussion of this subject.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has expired.

(On request of Mr. DORNAN, and by unanimous consent, Mr. PEYSER was allowed to proceed for 1 additional minute.)

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I will be glad to yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I politely decline to apologize for the historical basis of my analogy.

The 12 million people killed by Adolf Hitler, the 40 million people who died in the war, the heroic Protestant saints like Dietrich Bonhoeffer, the Catholic saints like Maximillian Kolbv, all the other clergymen, and the 6 million Jews who died all had immortal souls. Please respect my belief that every innocent child who died in their mother's wombs in this country is a child given an immortal soul by a Supreme Creator. Even the late proabortionist Dr. Stan Guttmaker knew that human life began with the union of the male and female seed.

We have now killed in the United States since our bicentennial year more American citizens than Hitler killed German citizens. Any child conceived by one American parent is an American citizen, even if the delivery of the baby is in Iceland or on the Moon. Even if they go to Thule, Greenland, or the Moon, they are still American citizens when they are born. We have killed more American citizens in their mothers' wombs, innocent children with immortal souls, than Adolph Hitler slaughtered innocent Jews. And in just a few years we will pass the figure of all innocent people "exterminated in all of Hitler's death camps, 12 million. I, Mr. Chairman, find it reprehensible that someone would dare to question another Member's moral basis for analogy.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has again expired.

Mr. DORNAN. Mr. Chairman, I ask unanimous consent that the gentleman from New York (Mr. PEYSER) be allowed to proceed for 1 additional minute, and then, if he will yield to me, I will finish.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. DOWNEY. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DORNAN. Mr. Chairman, I think it is reprehensible to lecture me in this matter.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has expired.

Mrs. CHISHOLM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, may I say to my colleagues in this House that I know this becomes a very emotional and a very passionate issue.

I did not become involved in having to make some real decision as to where I was going to stand on this matter of abortion until I had an opportunity some 11 years ago to visit many hospitals and to see women destroyed for the rest of their lives on this planet called Earth as a result of what had happened to their bodies with the use of different kinds of instruments and mechanisms that were employed in order to abort.

How strange it is that in a country such as Uruguay and Brazil, where a majority of the population is a Catholic population, we still see a high percentage of abortions, disproportionate percentages of abortions. Why? Because we are living in a Western type of civilization in which we are not going to be able to get rid of abortions so long as people are living in this modern-day world, whether they are in Catholic countries or non-Catholic countries, and this is becoming a real problem in terms of the bishoprics of many countries around the world.

Mr. Chairman, I am here to say this: I hope that the day will really come when we will be able to have more women in our legislative bodies so that they will be in a position to speak on behalf of what happens to their sisters.

The United States of America is not a theocracy. It is a country in which we have more than 976 different types of religions and sects. A country that has all kinds of multifaceted philosophies and ideologies so that no one should impose on anyone else their deep intrinsic beliefs.

I want to say to the Members that I personally know of 40 women who have to go to the hospital each month during their menstrual cycles in order to be taken care of. You do not know that. Very few of us know about the statistics pertaining to middle-class and upper-class women in this country who go through numerous abortions.

But, of course, they never become a statistic because they are not a part of the lower rung of the economic ladder. They go away for a vacation. Oh, I wish I could assert certain things with respect to Members around here speaking about people getting abortions.

The time has come for us to recognize that we must stop being hypocritical about this particular issue. Let this be a concern between the woman and the doctor and her family.

I wish to God that I could see and understand the same kind of passion that the gentlemen in this body emote and come forth with and enunciate on this floor when we talk of programs for children who right now are dying in the Appalachian region and the black deltas of Georgia and Mississippi. Oh, I wish I could see the same kind of togetherness and marching in order to preserve the lives of the children who are already here on this planet called Earth.

Mr. Chairman, I say to the ladies and gentlemen of this body that each one of us—I will not yield, I say to my good friend; I have got to get it out—each one of us will have to do what we have to do, but I want the Members to realize that what the amendment seeks to do is not to say that we can have abortions willy-nilly. The Members know that as well as I do. We have made certain kinds of stipulations.

Maybe some day we will be able to get rid of all this discussion and get rid of this constant amendment being added to legislation. Maybe the direction in which we have to move is to no longer talk about abortions but maybe put in an amendment to begin to deal with vasectomies.

Mr. VOLKMER. Mr. Chairman, I move to strike the requiste number of words.

Mr. Chairman, I did not plan to take the floor at all, and I am not going to take a lot of time. But I do think that the House should realize that those of us who support this amendment fully understand and try to understand the emotions of the gentlewoman who just spoke and the reasoning of the gentlewoman who just spoke.

All we ask is, as the gentleman from California has mentioned—and you may disagree with this completely—all we ask is that you try to understand our viewpoint also. Those of us who firmly believe that that fetus is a human being are firm in our belief. We do not believe that that fetus, if it is a human being, should be killed. And that is where we are coming from. I want the Members to understand that.

We have empathy and we have sympathy for all prospective mothers who have difficulties. We also believe that a country and a society that permits a practice such as abortion—we believe this, and firmly so—that they are on the wrong course and going in a wrong direction.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. Not at this time. As the gentlewoman knows, I would like to finish my point first.

Mr. Chairman, we feel, some of us, that they are going in the wrong direction.

As the gentleman from California said when he was relating this to what happened in Germany, maybe that seems far-fetched to some of the Members, but it really is not far-fetched to those of us who feel that this, too, is the taking of a human life, and if we add them all up, there are a heck of a lot of them. It goes into the millions, and that concerns us greatly.

The gentlewoman from New York (Mrs. CHISHOLM) says, and I agree, that we should take care of the children who are here. I think if the Members will look at my voting record, they will find that I agree with that.

□ 1540

As one who very strongly feels that we can take care of those children, and we should in this world, and it is our responsibility to do so—and I ask the gentleman, the colleagues on this side, to remember that—that is a firm responsibility, to see that every child is brought up with dignity and self respect.

I am willing to make that sacrifice if need be. All I ask you to do is, so we may cut back on other things we may want if necessary—and I will say this now to the gentlewoman from New York—if we need to increase funds to take care of those children, I am willing to do so. If it means that some of the privileges that our American people today so much enjoy, such as, of how much we spend on our pets and animals and things like that, and feeding them, surely we can take of our children.

So where are we on our values? So if you look at the whole thing on values, some of us feel that maybe those supporting abortion have their values turned around the wrong way and they should be going the other way, and so we ask you to look our other way also since it is the right way.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Illinois.

Mr. HYDE. I thank my friend for yielding, and I commend him as one of the staunchest defenders of the preborn child.

I just want to say to my dear friend, for whom I have tremendous admiration, the gentlewoman from New York, first of all, this is not a Catholic issue. Abortion was a crime in my State back in 1818 when the Catholics were not all that big back there. The Hippocratic oath, which goes centuries back, was not the product of the Vatican. Abortion has been a crime, a crime against humanity in all traditional societies.

Second, yes; I wish I could visit the hospitals with you and see these people. I wish I could. But I wish you could hear people tell me, "There are too many blacks, there are too many poor people, and why do you want them to bring more children into the world?"

Me, a middle-class white male, what do I care about more blacks in Harlem? I will tell you why I care. They are human beings. And we ought to look for human solutions to poverty rather than the Fascist solution of getting rid of poor people. I oppose that. And it is the minorities who suffer. They are the ones who have the abortions. "Too many people on welfare. Get rid of them." I am defending your people.

Mr. McKAY. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Utah.

Mr. McKAY. Mr. Chairman, I rise in support of the amendment.

I feel that the basic philosophy for civilization relates around the respect for life and the development of life, not the method to destruct it, and that we ought not in Government circles do anything that would tend to encourage the destruction of that life.

Mr. VOLKMER. I thank the gentleman for his remarks.

Mr. RUDD. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

As a member of the District of Columbia Appropriations Subcommittee, I want to emphasize that this amendment is quite consistent with the limited home rule charter enacted by Congress.

The District of Columbia's home rule statute—Public law 93-198—specifically reserved to Congress total fiscal responsibility over the D.C. government and all budget expenditures.

The home rule charter requires the Mayor's annual budget proposal to be approved by the City Council, and to be submitted to Congress along with the President's own budget request for final approval as part of the congressional budget and appropriations process.

The key section of the D.C. home rule charter statute delegating this responsibility to Congress is section 446, titled "enactment of appropriations by Congress."

That section states in part—

> No amount may be obligated or expended by any officer or employee of the District of Columbia government unless such amount has been approved by Act of Congress, and then only according to such Act.

Mr. Chairman, this provision of Federal law clearly requires the full Congress to approve or disapprove recommended programs and spending by the District of Columbia government, on a line-item basis.

That is exactly how the appropriations committee arrived at its recommendations in this year's appropriation bill, and in all former appropriations bills.

It should be noted that the provision in this bill prohibiting the use of Federal funds to finance abortions in the District of Columbia is included with no less than 10 other provisions designating how funds, including District of Columbia revenues, shall not be spent.

These provisions include the allowable compensation for government travel, a prohibition against taxicab meters, and restrictions against chauffeurs for District government employees.

Mr. Chairman, the fact that the District of Columbia is the only jurisdiction in the United States where abortions outnumber live births is, I believe, tragic in itself.

It would be unconscionable for Congress to sanction continued use of taxpayer dollars to finance this tragedy.

We cannot close our eyes to what is happening to human life here in the Nation's Capital.

I urge my colleagues to adopt this amendment, and to be firm in our insistence that no taxpayer's money be spent to subsidize abortion in the District of Columbia.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think an awful lot has been said about this issue, but I would like to just summarize where I think we are, because I think we have gotten off the track.

We are living in a different world than the one a lot of people have talked about here today. Let us talk about what the Supreme Court has said.

They have said that local areas can make this decision on abortion. We have the District of Columbia saying, "Why should we be treated different than other local areas in America?" That is issue No. 1.

Issue No. 2 is that in the bill we are talking about abortions to save the life of the mother or for rape or for incest is all that is allowed. It is the standard language. And this amendment would strike out that language and say "No abortion" period.

I think that one of the big problems about this afternoon's discussion is that we have gone off on all sorts of different tangents. But let us go back and stay right on target as to what this amendment is. I think we all know that there is a tremendous stigma in this society attached to a young woman who becomes pregnant, say, through incest or through rape. It is very hard to make a moral value judgment as to which is worse, abortion or being subject to such a stigma the rest of one's life. I am sure this is not the body where we make the final decision that women in the District of Columbia should have that illegitimate child or the incestuous child or should die rather than have an abortion. How can we make that kind of a decision for the District and not for any place else?

Many of the other issues that get thrown out here to compare abortion to other acts in this moral debate that has been raging emotionally for the last 2 hours are not analogous issues because they do not balance one life against another. Here we are talking about one life against another. Those are very, very, very difficult decisions, and I do not feel the Congress is qualified to make a flatout prohibition and say that we are going to disregard the life of the mother, or we are going to say that young girls subjected to rape or incest must carry the pregnancy to full term, and that the District of Columbia is going to be treated differently than any other area in the country.

That is the issue that is being discussed here. I think we need to keep that focus. All of the other things are really ancillary. I hope we reject this amendment.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I was not going to get involved in this debate because I do not believe there is a person on this floor who favors abortion for the sake of abortion. I listened to my colleagues as they spoke about abortion from a moralistic point of view. And I, too, stand here as a person who supports a woman's right, from a moralistic point of view. Yet those of us who stand before the people of this District (D.C.) and the people of this country, as it deals with this legislation, in due time we will be judged, not by each other, but by a power much more supreme than any of us, and we will be judged according to the actions we take here today. When we are judged, we are to be judged for what we do. Let us be judged in terms of our entire lives, in everything we do in regard to human life. I believe that that is the crux of what we are talking about. I believe that there are people who are antiabortionist, who are sincere in what they say, but they stand here and they judge those of us who believe that a poor woman is entitled to the same medical care as a woman who comes from Nassau or Westchester County in the affluent area's of New York. We want the best for all women. If a woman is to decide that she is not going to bear that child, whether it is incest or whether it is rape, or whatever the case might be, it is her judgment, and she, too, will answer. But let her answer; let not you and I.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the distinguished gentleman for yielding, and I wish to commend him on his remarks.

Mr. Chairman, I wish to return, really, to the problem that we face today, and that is whether we are going to save the life of the mother or not. That is the problem. This amendment would deny funds to save the life of the mother, even during the first 20 days of pregnancy. During the first 20 days of pregnancy there is no blood circulating, the heart is not beating actually, and this amendment today would make you take the choice of saving the mother or a child. Well, it is really a fetus. And I want to say strongly that, in my mind, all of us would put the mother first, at least I think so.

Mr. GARCIA. I thank the gentleman for his remarks.

Mr. Chairman, I would just like to add, if I may, in terms of morality, I was a member of the State Legislature. I have repeated that many times on this floor, because I was proud of the services that I was able to give to my State. I voted for the original abortion bill in the State of New York that passed by three votes. And I am the son of a minister. My dad was very much opposed to the bill, and when my father and I entered into a conversation as to whether in fact I was doing the right thing, I said to my father:

> Dad, there are times when a father and a son must understand that we have our own roads to go. Dad, I believe that I am right. I believe that I must afford all women an opportunity to seek the medical care that they need and deserve.
>
> □ 1550
>
> I am not going to make their minds up for them. That is their decision. But I, who come from a community that is poor and we are dependent on public hospitals. If they had to depend on their spouses or themselves, they would never be able to get proper medical care. Many of these poor people have been forced to the second floors of lofts and abandoned buildings in my districts.

That is what you are asking poor people to do. Let them make the judgment. Let them be the ones who in the final analysis they will meet their Creator and they will have to deal with that, as I will have to deal with my decision on this floor today.

Let us not take this floor and judge each other. We will be judged in terms of our action. I feel confident that the person who is going to judge me is just, and he knows what I am doing.

● Mr. STOKES. Mr. Chairman, I rise in opposition to the Dornan amendment. This amendment would single out the District of Columbia for unusually harsh and discriminatory treatment. The language in the bill would place the District of Columbia under a different and more restrictive policy than applies to any of the 50 States. This language, if enacted, will prevent the District of Columbia from using local tax dollars to finance abortions under locally determined circumstances, in no State does this situation apply. Rather, every State currently has the option of using State funds to pay for abortions under a variety of circumstances and situations. To treat the District of Columbia differently is to blatantly disregard the Home Rule Act of 1973 and to blatantly disregard the lives of poor women who just happen to live in the District of Columbia.

The position of this body is clear with respect to the use of Federal funds for abortion. The bill before you conforms to the House position by maintaining the current law prohibitions against using Federal funds for abortions. The basic question here is whether the residents of the District of Columbia should have the right to determine the disposition of local tax dollars—the same right that is enjoyed by all other taxpaying citizens. I say that the answer is "yes."

Mr. Chairman, over half of the funds in this bill are raised by the citizens of the District of Columbia. These are revenues generated by local real estate taxes, local income taxes, local sales taxes, and local water taxes. Sure, the Congress has the power of the purse. But, this power should not be used to thwart the desires of local taxpaying citizens. If District residents, through their elected officials, decide that public payment for abortion is an appropriate use of local funds, then who are we to abrogate that decision? Just as you would oppose any proposition which would seek to dictate how locally raised funds would be used in your State, county, or city, I would hope that you will also oppose any attempt to dictate how the locally raised funds in this city are to be used.

Whatever your position on abortion might be, I urge you to consider the rights of the residents of the District of Columbia as you would your own constituents. I urge you to vote no on this amendment.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DORNAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DORNAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 192, not voting 58, as follows:

[Roll No. 510]

AYES—182

Abdnor
Albosta
Ambro
Andrews, N.Dak.
Annunzio
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Boland
Boner
Bouquard
Breaux
Brinkley
Broomfield
Burlison
Byron
Campbell
Carney
Cavanaugh
Chappell
Cheney
Coleman
Collins, Tex.
Conte
Corcoran
Cotter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fithian
Fuqua
Gaydos
Gore
Gradison
Gramm
Grassley
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Harsha
Heckler
Hightower
Hillis
Holt
Hopkins
Hubbard
Hutto
Hyde
Ireland
Jeffries
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Long, La.
Luken
Lungren
McClory
McDade
McDonald
McEwen
McKay
Madigan
Markey
Marriott
Mathis
Mavroules
Mazzoli
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Mottl
Murtha
Musto
Myers, Ind.
Natcher
Nelson
Nowak
O'Brien
Oakar
Oberstar
Pashayan
Paul
Perkins
Petri
Quillen
Rahall
Regula
Rinaldo
Robinson
Roe
Roth
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Shelby
Shumway

Shuster
Skelton
Smith, Nebr.
Snyder
Solomon
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stratton
Stump
Tauke
Taylor
Traxler
Trible
Volkmer
Walker
Wampler
White
Whitehurst
Williams, Ohio
Winn
Wyatt
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—192

Addabbo
Akaka
Alexander
Andrews, N.C.
Anthony
Ashley
Aspin
Barnes
Bedell
Biaggi
Bingham
Blanchard
Bolling
Bonker
Bowen
Brademas
Brodhead
Brooks
Brown, Calif.
Broyhill
Burgener
Burton, John
Burton, Phillip
Carr
Carter
Chisholm
Clay
Cleveland
Clinger
Collins, Ill.
Conable
Conyers
Coughlin
Courter
Danielson
Daschle
Dellums
Derrick
Dickinson
Dicks
Dixon
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edwards, Ala.
Edwards, Calif.
Erdahl
Evans, Del.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Harkin
Harris
Hefner
Heftel
Holland
Hollenbeck
Horton
Howard
Huckaby
Hughes
Hutchinson
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Leach, Iowa
Lehman
Leland
Levitas
Lloyd
Long, Md.
Lowry
Lundine
McCloskey
McHugh
McKinney
Maguire
Marks
Marlenee
Martin
Matsui
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Neal
Nedzi
Nolan
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Porter
Preyer
Price
Pursell
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Ritter
Roberts
Rose
Rosenthal
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Sharp
Simon
Smith, Iowa
Snowe
Solarz
Spellman
Stack
Stark
Stewart
Stockman
Stokes
Studds
Swift
Synar
Thomas
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
Whitley
Whittaker
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Yates

NOT VOTING—58

Anderson, Calif.
Anderson, Ill.
AuCoin
Beilenson
Boggs
Bonior
Brown, Ohio
Buchanan
Butler
Clausen
Coelho
Corman
D'Amours
Davis, S.C.
Dingell
Dodd
Edgar
Gephardt
Gingrich
Goldwater
Gray
Hanley
Hansen
Hawkins
Hinson
Holtzman
Ichord
Jenrette
Leach, La.
Lederer
Lott
Lujan
McCormack
Mattox
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Nichols
Pritchard
Quayle
Rodino
Rostenkowski
Rousselot
Sebelius
Shannon
Steed
Symms
Tauzin
Thompson
Vander Jagt
Watkins
Whitten
Wilson, Bob
Wright
Wydler
Young, Alaska

☐ 1600

The Clerk announced the following pairs:

On this vote:

Mr. Nichols for, with Mr. Gray against.

Mrs. Boggs for, with Mr. Hawkins against.

Mr. Murphy of New York for, with Mr. Corman against.

Mr. Steed for, with Mr. McCormack against.

Mr. Hansen for, with Mr. Thompson against.

Mr. Hinson for, with Mr. Dodd against.

Mr. ECKHARDT and Mr. BROWN of California changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 19, after line 5, insert:

"SEC. 121. None of the funds appropriated by this Act shall be expended pursuant to any order or injunction of any court of the United States which would compel the expenditure of such funds for a purpose for which such expenditure is specifically prohibited by this Act."

☐ 1610

Mr. DIXON. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from California (Mr. DIXON) reserves a point of order.

Mr. ASHBROOK. Mr. Chairman, this is identical to the language adopted by the House on August 27 as an amendment to H.R. 7998, the Labor, Health and Human Services, Education Appropriations Act. The purpose of the amendment is simple and straightforward. It is a defense of the constitutional power of the Congress, and the Congress alone, to appropriate funds from the Federal Treasury.

Article I, section 9, clause 7 of the Constitution provides unequivocally:

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law;

Only the Congress can make a law. That is the very essence of the legislative authority which the Constitution vests solely in the Congress. Article I of the Constitution begins with the declaration that—

> All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.

Yet we have seen a steady erosion of this unequivocal grant through incursions by the courts and by the executive branch bureaucracy.

The Congress has begun to strike back and assert its constitutional powers. My amendment is a proper and necessary means of doing just that. In essence, it protects against an abuse of process by the courts whereby they have ordered the expenditure of funds from the Treasury for a purpose for which the Congress specifically refused to appropriate funds. Often they have done so with underhanded support and acquiescence of the executive branch which wanted to spend money for the prohibited purpose.

The most recent and most flagrant example involves the application of the Hyde amendment to prohibit the expenditure of Federal medicaid funds for abortions other than those necessary to save the life of the mother. A single Federal district court judge—Judge Dooling of the U.S. District Court for the Eastern District of New York—found the Hyde amendment unconstitutional, ordered a compliant Secretary of HEW to spend Federal funds for elective abortions, and applied his order to the entire Nation. This was January 15, 1980. The U.S. Supreme Court on February 19 agreed to hear the case, but left the Dooling order standing. On June 30, the Court upheld the Hyde amendment as constitutional and vacated the Dooling judgment.

But between January 15 and June 30, thousands of abortions were financed by medicaid funds which were not appropriated by this Congress. Worse, due to a technicality in the rules of the Supreme Court—a technicality which the Carter administration could have sought to overcome, but refused to attempt to do so—Federal medicaid funds are still being used to perform abortions for which no such funds are appropriated. An article in the Washington Post of Saturday, August 30, estimates that 1,000 abortions a week are being funded by medicaid funds specifically prohibited by the Hyde amendment.

And let us make no mistake about the legal facts in this matter. The precedents and practice of the House of Representatives and of the Congress is that a prohibition on the use of appropriated funds is a deliberate refusal to appropriate funds for the prohibited purpose. The prohibition is an integral part of the act, so that even if a court struck it down, there would be no funds appropriated for the prohibited purpose.

Indeed, that was the central point of a defense of the Hyde amendment in a brief amici curiae filed by 238 Members of Congress in the Harris against McRae case. In that brief, filed with the Supreme Court on March 18, 1980, we described the action of Judge Dooling as one which "ignores the nature of the appropriations power, disregards the practice and the precedents of the Congress, and in the most fundamental way subverts the Constitution of the United States by making meaningless the reservation to the Congress of the right to determine when 'money shall be drawn from the Treasury.' "

Mr. Chairman, let me remind my colleagues that this brief was joined in by a majority of the Members of this House, including many who had opposed the Hyde amendment, and including both the distinguished majority and minority leaders of the House. The issue is not the Hyde amendment or any other prohibition contained in an appropriations act. The issue is the legislative power of the Congress.

There are at least 10 specific prohibitions on the use of funds contained in the bill before us as reported from the Committee on Appropriations. I have not even considered whether I favor each and every one of these prohibitions.

But I know that I do not want to have any court order the expenditure of funds appropriated by this act for a purpose which is specifically prohibited under this act, thus usurping the constitutional authority of the Congress. My amendment would prevent that from occurring.

There are those who may argue that such action might force a constitutional confrontation with the Federal judiciary. It might, but not unless the Federal judiciary first invades the sole power of Congress to appropriate funds.

There are those who may argue that in theory the Congress could carve out a clearly unconstitutional exception to an expenditure of funds, for which the courts could provide no remedy. That just is not the case. Prof. John T. Noonan, of the University of California Law School at Berkeley, has pointed out the obvious—that the courts could invalidate the entire act. Thus it would be up to Congress to then decide whether it wanted to appropriate any funds at all for functions covered by the act.

Mr. Chairman, as a matter of fundamental constitutional principle, I urge adoption of this amendment.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I am very glad to yield.

Mr. DIXON. Mr. Chairman, this side of the aisle will accept this amendment.

Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The point of order is withdrawn.

Mr. PURSELL. Mr. Chairman, I move to strike the last word.

We have looked at the amendment and the language is consistent with previous House action. We think it does put restrictions in where appropriate in the legislation and on this side we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was agreed to.

Mr. DIXON. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. GORE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, H.R. 8061, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1981, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PURSELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 215, nays 158, not voting 59 as follows:

[Roll No. 511]

YEAS—215

Addabbo
Akaka
Albosta
Alexander
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Ashley
Aspin
Atkinson
Bailey
Baldus
Barnes
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burgener
Burton, John
Burton, Phillip
Carr
Carter
Chisholm
Clinger
Collins, Ill.
Conte
Conyers
Corcoran
Cotter
Coughlin
Danielson
de la Garza
Dellums
Derrick
Dicks
Dixon
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Erdahl
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Harkin
Harris
Heckler
Hefner
Heftel
Hollenbeck
Holt
Horton
Howard
Hutchinson
Hyde
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Kastenmeier
Kazen
Kogovsek
Kostmayer
Lehman
Leland
Lent
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCloskey
McEwen
McHugh
McKay
McKinney
Maguire
Marks
Marlenee
Marriott
Matsui
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Musto
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Porter
Preyer
Price
Pursell
Rahall
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Roe
Rose
Rosenthal
Roybal
Royer
Russo
Sabo
Scheuer
Seiberling
Sharp
Simon
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Stewart
Stokes
Studds
Swift
Synar
Thomas
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Wampler
Waxman
Weiss
Whitley
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Zablocki
Zeferetti

NAYS—158

Abdnor
Ambro
Applegate
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bereuter
Bethune
Boner
Bouquard
Breaux
Broomfield
Burlison
Byron
Campbell
Carney
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Conable
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dornan
Duncan, Tenn.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Forsythe
Frenzel
Gaydos
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Harsha
Hightower
Hillis
Holland
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jeffries
Jenkins
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Levitas
Lewis
Livingston
Loeffler
Luken
Lungren
McDade
McDonald
Madigan
Martin
Mathis
Mavroules
Michel
Miller, Ohio
Montgomery
Moore
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Oakar
Oberstar
Pashayan
Paul
Petri
Pickle
Quillen
Regula
Ritter
Roberts
Robinson
Roth
Rudd
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stenholm
Stockman
Stratton
Stump
Tauke
Taylor
Trible
Volkmer
Walker
Weaver
White
Whitehurst
Whittaker
Wilson, Tex.
Winn
Young, Fla.
Young, Mo.

NOT VOTING—59

Anderson, Calif.
Anderson, Ill.
AuCoin
Beilenson
Boggs
Bonior
Brown, Ohio
Broyhill
Buchanan
Butler
Clay
Coelho
Corman
D'Amours
Davis, S.C.
Dingell
Dodd
Edgar
Garcia
Gephardt
Gingrich
Goldwater
Gray
Hanley
Hansen
Hawkins
Hinson
Holtzman
Ichord
Jenrette
Leach, La.
Lederer
Lott
Lujan
McCormack
Markey
Mattox
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nichols
Pritchard
Quayle
Rodino
Rostenkowski
Rousselot
Sebelius
Shannon
Steed
Symms
Tauzin
Thompson
Vander Jagt
Watkins
Whitten
Wilson, Bob
Wydler
Young, Alaska

□ 1630

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Maddox against.

Mr. Jenrette for, with Mr. Brown of Ohio against.

Mr. Shannon for, with Mr. Gingrich against.

Mr. Lederer for, with Mr. Goldwater against.

Mr. Nichols for, with Mr. Hansen against.

Mrs. Boggs for, with Mr. Hinson against.

Mr. Murphy of New York for, with Mr. Lott against.

Mr. Gray for, with Mr. Lujan against.

Mr. Hawkins for, with Mr. Moorhead of California against.

Mr. McCormack for, with Mr. Quayle against.

Mr. Dingell for, with Mr. Rousselot against.

Mr. Dodd for, with Mr. Sebelius against.

Mr. Garcia for, with Mr. Symms against.

Mr. Rostenkowski for, with Mr. Vander Jagt against.

Mr. Hanley for, with Mr. Young of Alaska against.

Until further notice:

Mr. Myers of Pennsylvania with Mr. Pritchard.

Mr. Anderson of California with Ms. Holtzman.

Mr. Rodino with Mr. Steed.

Mr. Tauzin with Mr. Markey.

Mr. Beilenson with Mr. Watkins.

Mr. AuCoin with Mr. Whitten.

Mr. Bonior of Michigan with Mr. Ichord.

Mr. Clay with Mr. Broyhill.

Mr. Corman with Mr. Leach of Louisiana.

Mr. D'Amours with Mr. Buchanan.

Mr. Davis of South Carolina with Mr. Butler.

Mr. Murphy of Illinois with Mr. Edgar.

Mr. Coelho with Mr. Gephardt.

Mr. Bob Wilson with Mr. Wydler.

Mr. LEWIS changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to include pertinent and extraneous material on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

There was no objection.

PERSONAL EXPLANATION

Mr. GARCIA. Mr. Speaker, I have been notified today that on the District of Columbia appropriations bill, H.R. 8061, my vote was not recorded. I received a new voting card today, and I have been having some problems with it. I know that I voted, and had my vote been recorded, I would have voted in the affirmative on H.R. 8061.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON H.R. 7418, NUCLEAR WASTE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1980

Mr. SHARP. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce have until midnight tonight to file a report on the bill, H.R. 7418, Nuclear Waste Research, Development, and Demonstration Act of 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 601, INTERNATIONAL MONETARY FUND APPROPRIATIONS, 1981

Mrs. CHISHOLM, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1273) on the resolution (H. Res. 778) providing for the consideration of the joint resolution (H.J. Res. 601) making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 658, MAKING TECHNICAL AND CLARIFYING AMENDMENTS TO PUBLIC LAW 95–598, UNIFORM LAW ON BANKRUPTCIES

Mrs. CHISHOLM, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1274) on the resolution (H. Res. 779) providing for the consideration of the Senate bill (S. 658) to correct technical errors, clarify and make minor substantive changes to Public Law 95–598, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6777, INCREASING AUTHORIZATION AND EXTENDING TO SEPTEMBER 30, 1981, COUNCIL ON WAGE AND PRICE STABILITY

Mrs. CHISHOLM, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1275) on the resolution (H. Res. 780) to increase the authorization for the Council on Wage and Price Stability, to extend the duration of such Council, and for other purposes, which was referred to the House Calendar and ordered to be printed.

HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE AND NURSE TRAINING AMENDMENTS OF 1980

Mrs. CHISHOLM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 766 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 766

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7203) to amend the Public Health Service Act to revise and extend the programs for the National Health Service Corps and to revise and extend the programs of assistance under titles VII and VIII of such Act for the education of health professions personnel, and other purposes, the first reading of the bill shall be dispensed with, and all points of order against the bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule by titles instead of by sections, and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentlewoman from New York is recognized for 1 hour.

Mrs. CHISHOLM. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 766 provides for the consideration of the bill H.R. 7203, the Health Professions Educational Assistance and Nurse Training Amendments of 1980. H.R. 7203 amends the Public Health Service Act, to revise and extend the programs for the National Health Service and programs of assistance under the act for the education of health professions personnel.

This is an open rule, Mr. Speaker, providing for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce. The rule provides that the bill shall be read for amendment under the 5-minute rule by titles instead of by sections and provides for one motion to recommit.

In addition, the rule waives all points of order against the bill for failure to comply with the provisions of clause 5, rule XXI, which prohibits an appropriation in a legislative bill. Although there are no actual appropriations in the legislation, certain provisions of the bill could technically be construed as new appropriations; thus, the waiver was necessary.

Mr. Speaker, H.R. 7203 is an omnibus reauthorization of an extensive list of Federal programs supporting health education. Although there have been great strides in our efforts to insure more adequate and better distribution of health care in this country, many problems remain. I commend the Committee on Interstate and Foreign Commerce for recognizing the need to address the ongoing problems of medically underserved rural and urban areas, and the need to facilitate the entry of special populations into the medical professions.

Mr. Speaker, H.R. 7203 is a very important part of our Nation's commitment to insuring adequate access to health care for all Americans. I urge my colleagues to adopt House Resolution 766 so that we might proceed to the consideration of H.R. 7203, the Health Professions Educational Assistance and Nurse Training Amendments of 1980.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule is fairly routine. It provides 1 hour of general debate for consideration of health professions educational assistance and nurse training amendments. There are no restrictions on amendments in the rule.

There is one waiver of a House rule. The rule prohibiting appropriations on legislative bills is waived, because there are technically some appropriations in this bill. For example, it establishes a revolving fund which allows money to go out of the fund without going through the formal appropriation process, and this constitutes an appropriation on a legislative bill.

Mr. Speaker, the purpose of the bill made in order by this rule is to revise and extend the programs for the National Health Service Corps and certain programs of assistance for the education of health professions personnel.

The bill authorizes $684 million for fiscal year 1981, $818 million for fiscal year 1982, and $931 million for fiscal year 1983.

Mr. Speaker, these may be good programs but annual increases of the magnitude proposed in this bill, if extended to other areas, will assure ever-increasing taxes or deficits, or both. The bill authorizes a 19.2-percent increase in authorizations for fiscal year 1981 over fiscal year 1980.

The following chart prepared by the Congressional Budget Office sets forth the estimated costs of this bill:

[By fiscal years, in millions of dollars]

Authorization level	1981	1982	1983	1984	1985
National Health Service Corps	94	145	205		
National Health Service Corps scholarships	92	101	109		
Health professions:					
Health facilities construction	15				
Loans for teaching facility construction (estimated)	4	4	4		
HEAL loans (estimated)	(1)	(1)	(1)	(1)	(1)
HPSL loans	20	22.5	25		
Exceptional need scholarships	30	40	50		
Capitation grants	67.952	48.631	29.316		
Departments of family medicine	15	20	25		
Area health education centers	21	28	30		
Physician and dental assistants	14	15	16		
General medicine and pediatrics—Training and traineeships	23	30	32		
Family medicine and general practice dentistry	50	75	80		
Disadvantaged individuals	30	33	36		
Institutions	10	12.5	15		
Financial distress	20	20	20		
Environmental and occupational health personnel study	1	1	1		
Public health traineeships	8	9	10		
Special projects—Public health	5	5.5	6		
Midcareer training	1.5	2.5	3		
Graduate programs in health administration	4	4.5	5		
Health administration traineeships	2.5	3	3.5		
Department of preventive medicine	2	3	4		
Residency training in preventive medicine	6	7	8		
Special curriculum development for health administration	3	4	5		
Faculty development programs	1	1	1		
Allied health project grants	9	9.5	10		
Allied health traineeships	1.3	1.4	1.5		
Allied health assistance to disadvantaged individuals	1	1	1		
Nurse training:					
Construction grants	1	1	1		
Capitation	25	27.5	30		
Special projects	15	17.5	20		
Advanced nurse training	12	13.5	15		
Nurse practitioner	17	18.5	20		
Advanced nurse traineeships	15	17.5	20		
Nurse anesthetists traineeships	2	3	4		
Student loans	15	17.5	20		
Scholarships (estimated)	31	55	66	40	16
Total	684.252	818.031	931.316	40	16
Estimated outlays	153	523	824	669	301

[1] Less than $500,000.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mrs. CHISHOLM. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1520

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7203) to amend the Public Health Service Act to revise and extend the programs for the National Health Service Corps and to revise and extend the programs of assistance under titles VII and VIII of such act for the education of health professions personnel, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Waxman).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7203, with Mr. Biaggi in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill will be dispensed with.

Under the rule, the gentleman from California (Mr. Waxman) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. Carter) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. Waxman).

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today the House is considering H.R. 7203, the Health Professions Educational Assistance and Nurse Training Amendments of 1980.

I am especially pleased to present this bill because it insures that thousands of young health professionals will receive the financial assistance and training they need. I want to thank the members of the Interstate and Foreign Commerce Committee, particularly Chairman Staggers and Dr. Carter, for their extensive contributions to the development of this legislation.

H.R. 7203 reauthorizes the Federal health professions and nurse training programs for 3 years. It is the first revision of the health manpower authorities since 1976. Since that time the Nation's health professions priorities have changed and Federal budget constraints have tightened. H.R. 7203 tailors our health training programs to fit the new priorities and constraints.

H.R. 7203 is the product of a careful analysis of the Nation's current supply of health professionals and the ability of our existing programs to meet projected needs. The Subcommittee on Health and the Environment held 5 days of hearings on this legislation. More than 50 witnesses appeared at those hearings. The subcommittee devoted 3 days to marking up this bill. The current authorities were extensively revised by the subcommittee and additional amendments were adopted by the full committee.

H.R. 7203 includes major provisions in six areas:

First, the bill extends the nurse training authorities for 3 years. This extension insures that the Federal Government will do its share to alleviate the shortage of nurses that we have recently heard so much about. In particular, the bill supports nurse training by:

Continuing direct support for schools of nursing with increased emphasis on assistance to the 2- and 3-year schools which train bedside nurses;

Authorizing special project grants to communities with the greatest shortage of nurses and;

Assisting working nurses to return to school to upgrade their skills and improve their professional status.

Second, the legislation provides financial assistance to health professions students. Student assistance is especially important at a time when the cost of education continues to increase. The bill extends the health profession student loan program, the exceptional financial need scholarship program, and the health education assistance loan—or HEAL—program. Together with the guaranteed student loan program recently extended and expanded by the higher education amendments these programs assure that adequate funds will be available to health students in coming years.

Third, the bill phases down capitation grants to health professions schools over the next 3 years. This reduction responds to concerns of the administration and the Budget Committee about the continued need for capitation support. Federal expenditures are thus reduced in an orderly manner while the schools are provided adequate time to make necessary financial adjustments.

Fourth, the bill maintains the current efforts to develop area health education centers and the National Health

Service Corps. The geographic distribution of physicians and other health professionals continues to be an important problem. Many rural communities and inner city neighborhoods do not have adequate numbers of health care providers.

In revising the statutory authority for the corps, the bill assigns a greater role to physicians entering the private practice of medicine and allows professionals to be directly employed by local service programs. These provisions will both reduce direct Federal costs and increase the retention of professionals by these communities.

Fifth, the bill extends and revises assistance for primary care training. The number of family practice and other primary care residency programs has increased significantly over the past decade. Federal assistance has played a major role in this development. The bill continues the Nation's commitment to this important trend.

Sixth, the bill extends and strengthens the program of educational assistance to students from disadvantaged backgrounds. The number of these students enrolled in the health professions schools has not increased over the past 5 years, set in earlier years have not been met. The bill encourages further efforts in this area. It also continues assistance to Meharry Medical College and other minority health professions schools.

H.R. 7203 also revises and extends assistance to physician assistant, public health, health administration, and allied health training programs.

An important issue during the deliberations on this bill was the appropriate level for the authorizations for the health professions and nurse training programs for the next 3 years. The amounts provided in the committee bill are a reasonable balance between the sums necessary to maintain important existing programs and current budget constraints. Authorizations for fiscal year 1981 are only 62 percent of fiscal year 1980 authorizations and even fiscal year 1983 authorizations are less than current levels. The authorizations are the minimum necessary to accommodate inflation and still provide the Appropriations Committee with the flexibility it needs.

Mr. Chairman. support of the committee bill will insure that the Nation will have the health professionals it needs in the decades ahead. Thousands of future health professionals are dependent upon the programs authorized by this legislation. H.R. 7203 is a careful extension and revision of current efforts. It provides a strong foundation for our health professions and nurse training programs in the 1980's.

At this time, Mr. Chairman, I would like to yield such time as he may consume to the very distinguished chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I thank the gentleman. I again rise to congratulate those who have had a great hand in making this program here possible to bring before the House; that is, our good friend and colleague, Mr. WAXMAN of California, and our great friend from Kentucky, Dr. CARTER. I have come in many times before on great legislation. This is important legislation to all Americans.

When we are in need of health, in need of care, we need doctors and we need nurses, and then we appreciate them. When we do not need them, we just sort of forget about them. But, we are trying to provide those doctors and nurses and other things for America.

I think it is one of the great fundamental benefits of our health program that is so necessary to carry on what we have started now, to make a better way of relief for all America. We are starting into the programs of prevention in medicine because we think that is so important, instead of just trying to heal somebody after they get sick. If we can prevent them from getting sick, we think that is one of the great things we might be able to do.

We are trying to do that in the Congress; we are trying to do that in this bill. It is a very necessary bill, and I just commend all who had a part in taking part in the bill, including the staff and all the subcommittee members.

Mr. Chairman, I am pleased to speak this afternoon in support of H.R. 7203, the Health Professions Educational Assistance and Nurse Training Amendments of 1980.

I have long been a supporter of our Nation's health manpower and nurse training programs. I am proud of the achievements of these programs over the past two decades. I am especially pleased that these programs have improved the supply of doctors and nurses in my State of West Virginia, as well as in every State across the Nation.

The most important accomplishments of these programs include:

A 50-percent increase in the number of doctors in the Nation since 1965;

An 85-percent increase in the number of nurses in the Nation over the same period;

The development of the new specialty of family medicine; and

The expansion of the National Health Service Corps to provide doctors to the most underserved communities and neighborhoods in the Nation.

These programs have accomplished a great deal. But there is still much to be done. We cannot stop now. H.R. 7203 carries these critical programs forward into the 1980's. In particular, this bill:

Continues and directs our nurse training programs in response to the continuing shortage of nurses in many areas of the Nation;

Maintains Federal support for family practice and other programs which train young doctors to provide the primary care our people need; and

Strengthens the National Health Service Corps to insure that more rural and inner-city communities now without doctors will have them in the near future.

The bill also extends and revises many other important health programs.

There is some concern about the authorization levels included in H.R. 7203. This concern is unwarranted. The authorizations in H.R. 7203 in each of the 3 fiscal years—1981 through 1983— are less than current levels. This bill carefully targets limited funds on high priority programs.

I would like particularly to acknowledge the good work on this legislation of the chairman of the subcommittee, HENRY WAXMAN, and of the ranking minority member, Dr. TIM LEE CARTER, who has contributed so much to our health programs over the years. All the other members of the subcommittee are also to be commended. Additionally, I would like to mention a former member of the Commerce Committee staff, Dr. George Hardy. Dr. Hardy was an outstanding member of the staff for more than 3 years before he left to become an Assistant Administrator of the Center for Disease Control. His knowledge and hard work were of great assistance to the committee in the development of this and many other bills.

Mr. Chairman, I support H.R. 7203. I believe this bill merits the support of every Member of the House. It is the product of months of careful work by the Commerce Committee. It insures that our health manpower and nurse training programs will continue to meet our Nation's needs.

Mr. CARTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, certainly I do not mean to consume too much time at this late hour.

Mr. Chairman, I strongly support this legislation—H.R. 7203—which continues for 3 years—the authorizations for our Nation's important health professions training programs. I am referring to our schools of medicine; osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, and allied health whose graduates provide the health care essential to protect and maintain the health of all our people. Clearly the quality of health services provided by these professionals depends directly on the quality of the training they receive and that is why I believe continued Federal assistance to support and enhance that education is necessary. In addition this bill contains provisions to improve the distribution of health personnel throughout the country.

Mr. Chairman, before I review the main features of this bill, I would like to mention briefly some of the background relating to this legislation and some of the accomplishments which have been achieved.

If we consider the role of the Federal Government in this area over the past 17 years I believe that the record shows clearly that this assistance has been beneficial to the Nation as a whole.

As some of the Members in this Chamber may recall the Federal Government began to provide direct financial assistance for health professions education in 1963 (although public health traineeships actually began in the late 1950's).

This original health professions legislation was developed in response to critical shortages of health manpower in the Nation—that had been documented in various studies.

For example, the Magnuson Commission report in 1951 predicted a shortage of 30,000 to 59,000 physicians by 1960.

The Bane report in 1959 recommended that the number of medical school graduates be increased 50 percent by 1975.

And not only was there concern about shortages in the supply of physicians, a study group appointed by the Surgeon General in 1961 documented serious shortages in the nursing professions. At that time 23 percent of the available nursing positions in hospitals were unfilled. Over half of the nursing positions in public hospitals in New York City were vacant. The study group reported that unless the supply of nurses was substantially increased, the Nation would face a shortage of nearly 300,000 nurses by 1970.

In response to the growing concern about shortages of health personnel—and the effect of such shortages on public health—the Congress enacted the 1963 health professions legislation and the Nurse Training Act of 1964—which was the first comprehensive program of Federal support for nursing education.

The initial focus of these acts was to increase enrollment through construction of training facilities and expansion of existing facilities.

However, over the years, various amendments were enacted which provided additional incentives to increase enrollment through formula grants which later were named "capitation grants."

Continuing concern about the shortage of physicians persisted in 1971 when the Carnegie Commission issued its report on medical and dental education.

At that time the physician shortage still was estimated to be 50,000.

The Carnegie Commission recommended that the number of first-year places in medical schools be increased to 16,400 by 1978.

Subsequent legislation continued and expanded incentives to health professions schools to increase enrollments. Separate programs of institutional support were included to provide emergency financial assistance to schools in special financial need—and student assistance programs were expanded and revised to focus especially on increasing enrollment of students from disadvantaged backgrounds.

As a result of these health professions programs we have witnessed significant increases in the numbers of schools and students.

For example, the number of medical schools has increased from 87 schools in 1965 to 126 schools today.

And over that same 15-year period—first-year enrollment in medical schools has almost doubled—increasing from 8,800 to 16,500. Total enrollment has gone from about 32,000 to 62,000.

We find similar success with the capitation program in stimulating nursing school enrollment over the years. For example from 1964 to 1970—prior to the inception of the capitation grant program nursing school enrollment increased by less than 18,000 students. However—from 1970 to 1976 the increase in enrollment nearly doubled to 34,000 students. Nursing capitation grants have also led to an increase in the number of primary care training programs for nurses and programs for recruiting disadvantaged students—since such efforts have been alternative requirements under the nursing capitation program.

Mr. Chairman, there have been many other accomplishments in this field that can be linked with various programs authorized under the health professions legislation. Just briefly—I would like to list a few:

The establishment of the National Health Service Corps program and its scholarship program—which have helped to improve the distribution of health personnel in medically underserved areas. When the program completed its first full year of implementation in 1972—there were 288 Corps personnel serving in shortage areas. Today there are over 2,000 Corps personnel serving in nearly 900 communities that were in need of health care.

The establishment and support of 21 area health education centers—known as "AHECS"—which have provided decentralized training programs in community-based settings—that have made health services available to approximately 58 million persons.

Support for various programs to increase the number of primary care practitioners—including assistance to 95 family medicine programs and 46 awards to general dentistry training programs.

Assistance to thousands of health professions students through various loan and scholarship programs with special emphasis on programs to increase participation of students from disadvantaged backgrounds.

Recognition of the need to increase the supply of public health personnel through Federal traineeships and later through capitation grants. Over the years—the number of accredited health schools has grown from 11 with an enrollment of about 1,000 in 1956 to 21 schools today with an enrollment or more than 7,000 students.

Assistance in increasing the supply and improving the training of allied health personnel—with special attention on recruitment of students from disadvantaged backgrounds.

Recognition of the need to insure financial stability of the Nation's minority health institutions through a program of financial distress grants.

Mr. Chairman, these are just a few of the important accomplishments which have been made possible because of Federal assistance under the health professions and nurse training legislation.

And although great success has been achieved in many areas—we have not reached the stage where Federal assistance is no longer needed. In fact, in some areas, particularly student assistance, the need is even greater than in the past. And in other instances—we find that new priorities require special attention—such as in the field of primary care and preventive medicine.

In contrast to previous proposals which have emphasized increasing enrollments—we now find that current predictions for 1990 show we should have enough providers in most fields, except nursing, podiatry, and public health, and that we may even have an excess of physicians. Yet despite the increased number of minorities in the health professions from an historical perspective the percent of total first-year minority enrollment in medical schools, for example, has actually declined in recent years.

The legislation we are proposing today, H.R. 7203, responds to these new priorities and yet continues Federal assistance under current programs where it is still needed.

I strongly support this bill and urge its favorable adoption by my distinguished colleagues.

Although I regret that an amendment was adopted to phase-down most of current law's capitation support—I am pleased that the committee rejected the administration's proposal that would have terminated this funding abruptly in fiscal 1981.

Such an abrupt termination of capitation support would have had severe effects on many of our health care training programs. Instead, our bill provides notice to these institutions that funds will be decreasing in the future and allows time for a more orderly adjustment to this situation.

I also strongly support the committee's decision to continue Federal support to schools of nursing and public health under the new term "institutional support" program.

In both fields considerable evidence was provided which documented the shortages in these areas and the need to continue Federal assistance for these training programs.

For example, we received testimony on the nurse supply issue which reported an additional 100,000 nurses were required as of March 1980 to fill existing institutional needs. Other empirical evidence pointed to shortages throughout the country in all States except Rhode Island and Delaware.

With respect to public health personnel there is also justification for Federal support. There is an increasing need for well-trained public health personnel to carry out Federal programs such as health planning, clean air legislation, safe drinking water programs, maternal and child health activities, as well as traditional State public health responsibilities. Also, the recent Surgeon General's report, "Healthy People," found that there is a need for prevention manpower especially in the fields of epidemiology, biostatistics, health administration, environmental health, occupational and health, nutrition, and others, all of which are taught in public health schools. Finally—because schools of public health train graduates to go into public service jobs—over 50 percent go into Federal, State, or local governmental service—I believe the Federal Government has a direct interest and responsibility to help assure that an adequate supply of such personnel is available.

Mr. Chairman, this legislation also continues and strengthens the National Health Service Corps program—which as I mentioned earlier—was established to improve the delivery of health care services to persons living in health manpower shortage areas.

From my own experience with this program I can confirm that it has been most helpful in bringing needed health professionals to communities in my district and other places thoughout the State where health care was sorely needed.

The modifications to the program contained in H.R. 7203 are designed to encourage greater use of private placement options—and should greatly enhance the program's effectiveness at the community level. Also, we have required that an evaluation be conducted by the Secretary with regard to the criteria used to designate shortage areas to insure the most effective use of the program and its personnel in the future.

Finally, Mr. Chairman, in addition to the other important student assistance programs and primary care training programs which this legislation continues I would like to mention one other area to which this bill gives special attenton—namely assistance for individuals from disadvantaged or minority backgrounds who are seeking to enter health careers. This area has received increased support under the aegis of several programs including increased funding for exceptional financial need scholarships and additional support for special recruitment programs. However, the one program of special interest to me is the financial distress authority.

In that regard I was pleased that an amendment I offered to increase funding for institutions in financial distress was adopted and thus the bill provides $20 million each year for the next 3 years.

And although this authority will continue to be available to any health institution in financial distress it is intended primarily for those minority health schools such as Meharry Medical College, Xavier College of Pharmacy, and Tuskegee Institute's School of Veterinary Medicine, which have served as national resources in the training of minorities and individuals from disadvantaged backgrounds.

Clearly these schools deserve the additional support that may be necessary to insure the viability of their programs and I believe a Federal commitment to these institutions is indeed worthy of our continued support.

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Also, Mr. Chairman, as we look at our future health care needs, there will be two shortages, according to what I read. One of them will be in the field of nursing and we already have a shortage now. One of the reasons for that is not so much that we do not have enough nurses graduating but, rather, that they get married and make homes and raise families, which is indeed wonderful for them to do. But still we need more nurses, and almost all of us lack the cooling hand of the nurse on our sweating foreheads when we are ill.

Another part of the program which we are improving today is that in the area of nurse traineeships, in which are included nurse anesthetists. It is very difficult for us to have as many physician anesthetists as we need in this country, and for years we have had a number of nurse anesthetists. This legislation would help increase their supply.

Altogether, Mr. Chairman, I think this is excellent legislation. I have been working with it since 1965, and I have tried to improve it in every way possible since that time.

H.R. 7203 provides continued support for many important health programs which directly affect the quality of health care that all of us receive.

I strongly urge favorable consideration of this bill.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I am happy to yield to the distinguished gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I want to thank the distinguished ranking minority member of the subcommittee for yielding, and I compliment him and the other members of the subcommittee for bringing forth this very important and much needed piece of legislation.

I would like to ask the gentleman from Kentucky (Mr. CARTER), if I may, this question: I have recently become aware that people who are the recipients of artificial limbs oftentimes are fitted for those artificial limbs by people who have had very little training in the manufacture and fitting of artificial limbs.

It has also come to my attention that when surgical procedures are taught in various schools of medicine, there is no procedure taught that would enable a surgeon to in any way take into account the type of artificial limb for which the patient subsequently will be fitted.

It occurs to me that we might do well to have a study to determine whether or not medical schools ought to be more involved in teaching surgical practices that more closely ally the surgeon with the subsequent manufacturer and fitter of the artificial limb. I wonder if the gentleman would agree that such a study would be desirable.

Mr. CARTER. Mr. Chairman, I do agree that that study would be extremely helpful.

As it happened, in my experience I was associated with a group of doctors in Louisville, Drs. Fischer, Leatherman, and Kottcampe, and at that time they had a wonderful artificer who made the best prosthetic devices I have ever seen.

We do not have enough of those people in our country. Neither do we have enough people taking training to construct braces, limbs, and such devices as are needed. Neither do we have courses in our schools sufficient to train our physicians as to how to order correctly those prostheses which may be needed.

Mr. MADIGAN. Mr. Chairman, I wonder if the gentleman will yield to the chairman of the subcommittee so that we might have the benefit of his conclusions as to whether or not such a study would be desirable.

Mr. CARTER. I yield to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding.

I want the gentleman from Illinois (Mr. MADIGAN) to know that I appreciate his interest in this subject. We think it would be most appropriate for our Subcommittee on Health and the Environment to request a General Accounting Office study of the most proficient way of handling prosthetic devices. With this study, we will be able to see whether Government programs are providing the most up-to-date technology available.

Mr. Chairman, I would be pleased to join in urging this GAO study as a background for legislative action we might want to take thereafter.

Mr. MADIGAN. Mr. Chairman, I would be most pleased if the gentleman from California (Mr. WAXMAN) and the gentleman from Kentucky (Mr. CARTER) would allow me as a member of the full committee to take this action and would join with me in sending such a letter to the General Accounting Office.

Mr. CARTER. Mr. Chairman, I will say to the distinguished gentleman in the well that I certainly will join with him.

Mr. Chairman, I now recall the name—and it has been many years ago—of that wonderful builder of prosthetic devices in Louisville to whom I referred. His name is A. C. Weil. Even in retirement, he came back later on to help me with braces. I admire the skill of these artificers, and I just wish that more of our youngsters were as adept in making prostheses and in using their hands as he was.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield further?

Mr. CARTER. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I want to thank both the gentleman from Kentucky (Mr. CARTER) and the gentleman from California (Mr. WAXMAN) for their contribution, and I thank the gentleman from Kentucky for allowing me to participate.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman from Illinois (Mr. MADIGAN), who has really been an addition to the committee. As always, I certainly want to thank the chairman of my subcommittee and the chairman of my full committee.

In this legislation, of course, we are continuing to accentuate primary care, and in doing this we are assisting in the establishment of departments of family medicine in medical schools throughout the country.

We also support the training of physicians in the fields of general and internal medicine and general pediatrics. Also, this legislation supports the training of physicians and dentists and residents in training in family medicine and in the general practice of dentistry.

We also support, and the legislation supports, training in preventive medicine. It supports community dentistry departments and residents training in preventive medicine, as well as AHEC programs, which are "areas of health education centers."

For instance, under the AHEC programs, a university will be the center and will be the place to which patients are referred from satellite areas. Students, interns, and perhaps residents from the university go out to a satellite area to see patients, and if they find them needing referral, then they send them to the university. This helps a great deal in training physicians to become accustomed to practicing in rural areas and in ghetto areas as well. This applies to both areas.

Mr. Chairman, I strongly support this legislation, and I reserve the balance of my time.

Ms. MIKULSKI. Mr. Chairman, I am pleased to support the health professions education and nurse training amendments (H.R. 7203), because this bill extends the Federal programs which help provide our great Nation with needed health professionals and revises these programs to increase the responsiveness of these programs to the changing health care needs of our citizens.

This bill recognizes the needs of all Americans for qualified health professionals. In specific, the bill:

Extends the authority of the National Health Service Corps and revises it in order to increase the cost effectiveness of the program and improve the geographic distribution of students so they will work off their loans in those areas of the country where their services are needed most;

Revises the program of institutional support by phasing out capitation for most health professionals, and providing support for students who seek training in areas where health professionals are most needed—including primary care and family physicians, nurses, and public health; and

Calls for a study to determine this country's future needs for professionals whose expertise lies in dealing with environmental and occupational diseases.

One of the most important features of this bill is its recognition of this country's need for qualified nurses. Daily, we hear about the needs of hospitals for nurses, regardless of whether they are in the inner cities or the rural manpower shortage areas. This bill takes a major leap forward in addressing this problem by increasing support for:

Increasing training opportunities not just to young women who want to become nurses but also to older women who want to go parttime to school;

Increasing access of nurse training programs to disadvantaged students;

Providing continuing education courses to nurses who want to upgrade their skills and, most important; and

Providing advanced training as nurse practitioners, nurse midwives, nurse anesthetists.

The bill also recognizes the needs of Americans who want to become health professionals. The bill increases access to financial loans for members of the middle, and lower income groups, and provides additional money for students with exceptional financial needs. This bill recognizes the need of Americans to constantly upgrade their skills, and provides nurses, public health, and other allied health professionals with the opportunities to get advanced training while continuing in their jobs.

Best of all, this bill not only meets the needs of our country to have an adequate supply of health professionals, but does so with a realistic eye on the budget. In determining authorization levels our subcommittee took a careful look at what our current appropriations for health professions education and training were—not the higher levels of authorizations, and used them as guidelines for realistic spending limits for the future.

● Mr. BIAGGI. Mr. Chairman, I rise to add my support for the bill before us, H.R. 7203, Health Professions Educational Assistance and Nurse Training Amendments of 1980.

This bill extends our existing Federal health professions training programs for 3 years, programs which serve our future physicians, osteopaths, dentists, optometrists, podiatrists, pharmacists, veterinarians, public health personnel, nurses, and other health professionals. It also seeks to assure that our Nation's schools of health provide appropriate education and training for these professionals.

The provisions of particular interest to me are the student assistance programs which provide both loans and scholarships to student nurses to help them with their tuition costs. As New York's senior member of the House Education and Labor Committee which recently completed work on the Higher Education Act reauthorization, I can attest to the merit of these financial aid programs. They are an important component to our major student financial aid programs in the Higher Education Act. Since 1977, the nursing student loan program has provided over 100,000 student nurses with loans totaling almost $400 million and the nursing scholarship program, in that same time period, has assisted 32,000 nursing students with over $200 million in aid.

I know of few programs which provide such important long-term benefits as those programs which provide educational opportunities for our young people. Student aid programs such as these encourage those students to pursue postsecondary education which otherwise might not have done so. Such programs have also helped to alleviate the nursing shortage which has hit certain parts of this country. Hospitals and health care centers should not have to recruit personnel from overseas when there are many young people who anxiously look for career opportunities in this country. Health care facilities should be encouraged to promote programs, such as those provided for in this bill, so that more students could be afforded the opportunities in this legislation.

During hearings which we held during the reauthorization of the Higher Education Act, one of the problems that was heard from all segments of the educational community was the lack of information dissemination activities to interested students. One of the biggest barriers many students face is finding out how they can finance their education. We have provided for increased information dissemination activities in the higher education bill and it is my sincere hope that we will see the same kind of activity with these programs. No student should be deterred from pursuing a career because he or she could not find the information they need.

In short, this bill provides an essential component to our higher education programs and I urge my colleagues to join me in supporting it for final passage.●

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 7203, the Health Professions Education Assistance and Nurse Training Amendments of 1980. This bill would authorize $2.27 billion distributed over fiscal years 1981–83, to fund activities under the Public Health Service Act, including the National Health Service Corps, nurse training and health professions education.

With the enactment in 1963 of Public Law 88–129, the Health Professions Educational Assistance Act, the Federal Government began its initiative to provide direct financial assistance to schools and students of the health professions. It began the involvement of the Federal Government in the education of health specialists. As you all know, traditionally the Federal Government's role had been somehow limited to the indirect support provided through biomedical research grants from the National Institutes of Health. The change in policy as a result of the enactment of Public Law 88–129 was significant in that the problem of manapower shortages in the Nation is addressed. As a result, a dramatic increase in enrollment at health professions schools took place. With the constant increases in population, increases in the number of health professionals is necessary as well.

We can say without exaggeration that this legislation was a major step in complying with the self-imposed mandate of the Federal Government to expand preventive services, primary medical care, and to make health care available to isolated, deprived, and disadvantaged areas around the Nation.

This legislation has undergone various changes throughout the years. Right now under H.R. 7203 we are considering the extension and revision of authority for the National Health Service Corps. The bill includes provisions to improve the geographic distribution of health professionals. This is particularly important in health manpower shortage areas.

My district, Puerto Rico, actively participates in this program. The NHSC approved 111 positions for Puerto Rico, 79 of which are currently filled. Most of its members are practicing at facilities operated or supported by the Department of Health of Puerto Rico which is the major provider of direct health care services from the primary to the extended care levels. Among the 58 physicians currently on duty or who will begin practice soon, 30 are board-eligible or board-certified family practitioners, internists, pediatricians, obstetricians, gynecologists, or psychiatrists.

We have to take into account, however, that our population is likely to increase to close to 4 million this year and that the number of professionals under the NHSC is insufficient. Therefore, I wholeheartedly support the portions of this bill which revise the procedure for designating health manpower shortage areas to make it more responsive to local conditions, permits assignment of NHSC members to public or private nonprofit health centers as employees of that center and allows HHS to supplement the financial resources of public and private nonprofit health centers so that they can have NHSC members assigned as their employees, to name only a few.

Title II, health professions programs, is also of utmost importance in Puerto Rico, where many talented students desiring to make their careers in the health field are faced with the ever-increasing cost of higher education, specifically in this field and with a low standard of living, in comparison to the States on the mainland. Even if we find a high concentration of health professionals in the San Juan metropolitan area, in Puerto Rico it is also true that in towns in the mountainous interior and rural coastal areas, there are fewer private health professionals. In order to continue to make vast improvements and gains in the health field, I feel it is imperative to continue to support this program. I strongly support the provision that would make health education assistance loans available to all eligible students and would increase to $20,000 the present single-year loan limit and to $80,000 the total loan limit for medical osteopathic and dental students. I also particularly support the section of the bill which extends through fiscal year 1983 the present programs of capitation grants to public health schools, health administration graduate activities, and health administration traineeships.

Finally I support title III of the nurse training program. We have nine accredited nursing schools throughout Puerto Rico which graduate numerous professionals in the nursing field each year.

Notwithstanding the number of schools on the island, it is also true that there is a shortage of nurses in Puerto Rico. I am sure the situation is also prevalent on the mainland. All of these programs receive direct financial help from the Federal Government through title III. For example, the School of Nursing of the University of Puerto Rico receives aid to subsidize scholarships for graduate and undergraduate programs, student loans for graduate and undergraduate studies, training and capitation grants. A shortage of nurses will result in a decline of the quality of health services. The preventive role of nurse professions is widely recognized, they are being trained in highly technical and sophisticated areas such as prenatal care, premature births, burns therapy, gerontology, to name only a few.

For its significance in providing the adequate mechanisms for the training of qualified health manpower professionals, I urge my colleagues to support H.R. 7203, the Health Professions Education Assistance and Nurse Training Amendments of 1980.●

● Mr. PEPPER. Mr. Chairman, I rise in support of H.R. 7203, the Health Professions Educational Assistance and Nurse Training Amendments of 1980.

This legislation, which has been brought before the House by my good friend and distinguished colleague, Mr. WAXMAN, chairman of the Subcommittee on Health and the Environment, includes a number of important provisions to maintain our national effort to train an adequate number of health professionals, to address the problem of maldistribution, and achieve other goals. It extends, through fiscal year 1983, authorities for the National Health Service Corps, health professions educational assistance programs, and nurse training programs.

I am particularly supportive of the provisions to extend and maintain the nurse training provisions.

On August 20, the Subcommittee on Health and Long-Term Care of the Select Committee on Aging, both of which it is my privilege to chair, conducted a hearing to examine the nationwide nurse shortage, with special emphasis on the threat it brings to the quality of care given to the elderly people of the country. This development in the health care field could have grievous consequences in the years to come. Indeed, it is a problem which has already shown itself to be one which will not simply go away.

About one-fourth of the 1.4 million trained and licensed registered nurses in the country do not practice nursing. There are between 90,000 and 100,000 vacancies in hospital nursing staffs; 88 percent of hospitals have unfilled slots for nurses, and about half the nursing jobs in nursing homes are unfilled.

The Labor Department reports that by 1985 there will be almost a quarter of a million new nursing jobs, but last year 2 percent fewer nurses were graduated, the first time in 10 years there were fewer than the year before.

Between 1977 and 1978, applications to nursing schools went down 16 percent, and this year, there were 500 vacancies. Many nursing schools have closed.

Bounties as high as $1,000 are being paid to fill jobs, and hospitals spend hundreds of thousands of dollars to recruit and replace nurses, as they leave at the rate of nearly one-third per year.

The older citizens of this country have a heavy stake in a solution to the nursing shortage problem, for they are likeliest to suffer when there is a shortage of care-givers. The elderly comprise over 86 percent of all nursing home residents. They are likelier to enter a hospital, likelier to stay longer, and likelier to require surgery than persons under 65.

Witnesses at the hearing included representatives of the American Nurses Association, the National League of Nursing, the American and Florida Hospital Associations, the American Association of Homes for the Aging, the American Health Care Association, the National Council of Health Centers, and the Bureau of Health Professions of the Health Resources Administration within the Public Health Service/DHHS.

Causes for the shortage are varied. Among them are low salaries, low job prestige, and poor working conditions; recruitment and retention; the complexity of modern-day nursing and the development of more critical care units; the expanding role of nurses; impact of the women's movement, which has brought changes in vocations which once were predominantly male or female: the growth of nurse registries, or nursing pools; maldistribution the issues related to foreign-trained nurses; and more.

Finally, considerable concern was expressed at the hearing over the controversy regarding extension of the Nurse Training Act.

I confess disappointment with our good friends in the administration who recommended, in the budget proposal for fiscal year 1981, that authorizations for nurse training programs be limited to $27.6 million, substantially below our previous effort. While program authorized under these provisions will not, in themselves, solve the nursing shortage problem, they are felt by many, myself included, to be a significant part of the solution. I hope the administration will reconsider its position in this matter.

H.R. 7203 authorizes levels of $102 million, $116 million, and $130.3 million for fiscal years 1981, 1982, and 1983 respectively. This compares favorably with the fiscal year 1980 appropriations of $100 million, providing only modest expansion.

The funds authorized under these provisions will provide continued support for nursing schools through capitation grants, makes available loans and scholarships to nursing students, especially those with lower and middle incomes, and authorizes special projects which have, in part, the goal of addressing the problem of maldistribution. Support is provided to train nurses in specialty areas such as geriatric nursing and provides increased opportunities in graduate nursing. Moreover, the bill reauthorizes special projects in continuing education and retraining of nurses, advanced nurse training programs, and nurse practitioner training programs. Finally, the bill includes limited construction authorizations, limiting those projects to health manpower shortage areas.

Mr. Chairman, the provisions of this bill address a number of concerns which were expressed by witnesses at the August 20 hearing. While I believe that much more needs to be done to address the current nurse shortage and prevent a worsening of the situation, I also believe it is necessary to continue those programs which have been of benefit to our health care system and the Nation as a whole. It is my hope that my colleagues will see fit to support this important legislation.●

● Mr. FRENZEL. Mr. Chairman, the Health Professions Educational Assistance and Nurse Training Amendments of 1980, essentially revises and extends programs of the National Health Service Corps; programs of assistance for health professions education and training and programs of assistance for nurse training. The bill, H.R. 7203, provides authorizations for fiscal years 1981–83, at a total authorization of $2.269 billion.

Few can argue with the success of many of these programs which date back to the 1960's. The purpose of providing educational assistance to health professions was to avert an anticipated shortage of health care personnel and to improve access to, and the quality of, medical services in America. The recently released HEW report indicates that the supply of doctors will be at least adequate, if not slightly in excess of need by 1990.

Thus, I applaud the committee's efforts to phase down, over a 3-year period, capitation support for most of the health professions schools, with the exception of schools of public health and nursing. In an effort to provide an orderly transition from existing Federal support, H.R. 7203 authorizes for the various types of health professions institutions approximately 75 percent—of the fiscal year 1980 appropriations—for fiscal year 1981, 50 percent for fiscal year 1982, and 25 percent for fiscal year 1983. Capitation support will be continued for these years for schools of medicine, osteopathy, and dentistry which received capitation grants in fiscal year 1980. In addition, schools of veterinary medicine, optometry, pharmacy, and podiatry, will receive 3 years of continued support, for those schools who received support in fiscal year 1980. In my judgment, this phase-down program is reasonable and responsible.

To date, there still remains a number of questions about the availability of nursing personnel. While we await the results of a study currently being conducted, the committee chose to continue, at a reasonable level, support for capitation grants to nursing schools and assistance to nursing students. With respect to nursing scholarship and loan programs, the bill places new emphasis on assistance to lower- and middle-income students.

The bill also extends support for training of nurse-midwives and other nurse-practitioners and strengthens the provisions requiring service within a health manpower shortage area. I am pleased with the committee's continued commitment to provide support to the nursing profession.

With the rising costs of medical education, H.R. 7203 extends and revises the existing student assistance programs: The health professions student loan program; the exceptional financial need scholarship program; and the health education assistance loan program. I do have some concerns about the increases in the level of support for these three programs, particularly in view of students' eligibility for National Health Service Corps scholarship programs, Armed Forces scholarships, the guaranteed student loan program, and many other Federal student aid programs.

From a nationwide shortage of physicians in the 1960's, we enter the 1980's with a possible oversupply of physicians in urban communities and, at the same time, a serious shortage of health personnel in many low-income and rural areas.

In 1972 Congress established the National Health Service Corps scholarship (NHSC) program to encourage health professionals to serve in health manpower shortage areas. To date, we have spent some $331 million in NHSC scholarships. In 1972, 181 Corps personnel served in 94 shortage sites. By 1979, 1,824 Corps personnel served 875 sites. That is progress, but our retention rates have been a dismal failure. A GAO study determined that, from 800 NHSC physicians recruited through July 1976, only 42 remained in shortage areas in private practice or planned to do so.

The committee has made few significant changes in the NHSH program, but has increased its authorization level substantially—$94 million in fiscal year 1981, $145 million in fiscal year 1982, and $205 million in fiscal year 1983. Those increases can be compared with a fiscal year 1980 appropriation of $70 million. The strange logic working here is that if a program does not work, we pour more dollars into it.

I also agree with many of my minority colleagues on the committee that if we continue to provide this level of support for the NHSC program, not only will we receive just temporary relief in shortage areas, we are going to wind up with too many physicians who work for the Federal Government, rather than their own patients. In my judgment, Congress needs to look for more ways to stimulate private, rather than Federal responses to the health care needs of our Nation.

I supported this bill, but I have grave concerns about making promises that we have no intention of keeping when it comes down to providing the actual dollars for these programs.●

Mr. WAXMAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. CARTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. There being no further requests for time, pursuant to the rule, the bill will be considered under the 5-minute rule by titles, and each title shall be considered as having been read.

The Clerk will designate section 1.

The Clerk proceeded to designate section 1.

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The bill reads as follows:

H.R. 7203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT; AND TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Health Professions Educational Assistance and Nurse Training Amendments of 1980".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

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TITLE I—NATIONAL HEALTH SERVICE CORPS PROGRAMS

REVISION AND EXTENSION OF NATIONAL HEALTH SERVICE CORPS

SEC. 101. (a)(1) Section 331(a)(1) (42 U.S.C. 254d(a)(1)) is amended to read as follows: "(1) shall consist of—

"(A) such officers of the Regular and Reserve Corps of the Service as the Secretary may designate,

"(B) such civilian employees of the United States as the Secretary may appoint, and

"(C) such other individuals who are not employees of the United States and who the Secretary has designated under section 752(b)(4) to serve in health manpower shortage areas as members of the Corps to satisfy the service obligation described in section 751(f)(1)(B)(iv),

(such officers, employees, and individuals hereinafter in this subpart referred to as 'Corp members'), and".

(2)(A) Section 331(d)(1) is amended by inserting after "each member of the Corps" the following: "(other than a member described in subsection (a)(1)(C))".

(B) Section 331(d) is amended by adding at the end the following:

"(3) A member of the Corps described in subparagraph (C) of subsection (a)(1) shall when assigned to an entity under section 333 be subject to the personnel system of such entity, except that such member shall be entitled to receive during the period of assignment the income that the member would be entitled to receive if the member was a member of the Corps described in subparagraph (M) of such subsection.".

(3) Section 331(h)(1) is amended by striking out ", Education, and Welfare" and inserting in lieu thereof "and Human Services".

(b)(1) Section 332(c) is amended by adding after paragraph (3) the following new paragraph:

"(4) Comments of the appropriate health professions societies in the area respecting the designation of the area. The Secretary shall give written notice of a proposed designation of an area to the appropriate health professions societies in the area and shall permit the societies to submit comments during the 90-day period beginning on the date of such notice.".

(2)(A) Section 333(b) is amended by adding at the end the following: "Each health systems agency and State health planning and development agency shall in conducting its review under this subsection of an application consider comments submitted to the Secretary under subsection (c)(4) respecting such application.".

(B) Section 333(c) is amended by adding after paragraph (4) the following: "At least 90 days before approving such an application, the Secretary shall provide the appropriate health professions societies in the area to which an assignment would be made under the application the opportunity to submit comments on the assignment.".

(c) Section 332(h) is amended (1) by inserting "(1)" before "to inform", and (2) by inserting before the period a comma and the following: "and (2) to inform such entities and other individuals and entities who may be interested in the availability of health professions personnel of the provisions of section 753 which allow an individual to satisfy a National Health Service Corps Scholarship Program service obligation through the private practice of the individual's health profession".

(d)(1) Subsection (a) of section 333 (42 U.S.C. 254f) is amended by adding at the end the following:

"(3) In approving applications for assignment of members of the Corps the Secretary shall not discriminate against applications from entities which are not receiving Federal financial assistance under this Act.".

(2) Effective October 1, 1980, section 333 is amended by redesignating subsections (d) through (h) as subsections (e) through (i), respectively, and by adding after subsection (c) the following new subsection:

"(d)(1) The Secretary may not approve an application for the assignment of a member of the Corps described in subparagraph (C) of section 331(a)(1)(C) to an entity unless the application of the entity contains assurances satisfactory to the Secretary that the entity (A) has sufficient financial resources to provide the member of the Corps with an income of not less than the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 331(a)(1), or (B) would have such financial resources if a grant was made to the entity under paragraph (2).

"(2)(A) If in approving an application of an entity for the assignment of a member of the Corps described in subparagraph (C) of section 331(a)(1) the Secretary determines that the entity does not have sufficient financial resources to provide the member of the Corps with an income of not less than the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 331(a)(1), the Secretary may make a grant to the entity to assure that the member of the Corps assigned to it will receive during the period of assignment to the entity such an income.

"(B) The amount of any grant under subparagraph (A) shall be determined by the Secretary. Payments under such a grant may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. No grant may be made unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.".

(3) Subsection (g) (as so redesignated) of section 333 is amended by adding at the end of paragraph (1) the following: "Assistance provided under this paragraph shall include assistance to an entity in (A) analyzing the potential use of health professions personnel in defined health services delivery areas by the residents of such areas, (B) determining the need for such personnel in such areas, (C) determining the extent to which such areas will have a financial base to support the practice of such personnel and the extent to which additional financial resources are needed to adequately support the practice, and (D) determining the types of inpatient and other health services that should be provided by such personnel in such areas.".

(4) Subsection (g) (as so redesignated) of section 333 is amended by adding at the end the following:

"(4)(A) The Secretary shall undertake to demonstrate the improvements that can be made in the assignment of members of the Corps to health manpower shortage areas and in the delivery of health care by Corps members in such areas through coordination with States, political subdivisions of States, agencies of States and political subdivisions, and other public and nonprofit private entities which have expertise in the planning, development, and operation of centers for the delivery of primary health care. In carrying out this subparagraph, the Secretary shall enter into agreements with qualified entities which provide that if—

"(i) the entity places in effect a program for the planning, development, and operation of centers for the delivery of primary health care in health manpower shortage areas which reasonably addresses the need for such care in such areas, and

"(ii) under the program the entity will perform the functions described in subparagraph (B),

the Secretary will assign under this section members of the Corps in accordance with the program.

"(B) For purposes of subparagraph (A), the term 'qualified entity' means a State, political subdivision of a State, an agency of a State or political subdivision, or other public or nonprofit private entity operating solely within one State, which the Secretary determines is able—

"(i) to analyse the potential use of health professions personnel in defined health services delivery areas by the residents of such areas;

"(ii) to determine the need for such personnel in such areas and to recruit, select, and retain health professions personnel (including members of the National Health Service Corps) to meet such need;

"(iii) to determine the extent to which such areas will have a financial base to support the practice of such personnel and the extent to which additional financial resources are needed to adequately support the practice;

"(iv) to determine the types of inpatient and other health services that should be provided by such personnel in such areas;

"(v) to assist such personnel in the development of their clinical practice and fee schedules and in the management of their practice;

"(vi) to assist in the planning and development of facilities for the delivery of primary health care; and

"(vii) to assist in establishing the governing bodies of centers for the delivery of such care and to assist such bodies in defining and carrying out their responsibilities.".

(e)(1) Section 334(a) (42 U.S.C. 254g(a)) is amended by inserting "for the assignment of a member of the Corps" after "section 333".

(2) Section 334(a)(3)(A) is amended by inserting "from the United States" after "received by such member".

(3) Section 334(a)(3)(C) is amended (A) by inserting "or a grant under section 333(d)(2)" after "section 335(c)", and (B) by inserting "or grant" after "loan" each time it occurs.

(4) Subsection (e) of section 334 is amended to read as follows:

"(e)(1) There is established in the Treasury of the United States a revolving fund to be called the National Health Service Corps Fund (hereinafter in this subsection referred to as the 'Fund') which shall be available to the Secretary, without fiscal limitation, to carry out this subpart.

"There shall be deposited in the Fund, subject to withdrawal by check by the Secretary—

"(A) funds received by the Secretary after September 30, 1980, under an agreement entered into under subsection (a), and

"(B) interest which may be earned on investments of the Fund.

"(3) If the Secretary determines that the moneys of the Fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary deems advisable by the Secretary of the Treasury in obligations of, or obligations guaranteed by, the Government of the United States, and, with the approval of the Secretary of the Treasury, in such other obligations or securities as it deems appropriate.

"(4) With the approval of the Secretary of the Treasury, the Secretary of Health and Human Services may deposit moneys in the Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Secretary of Health and Human Services and the Secretary of the Treasury may mutually agree.

"(5) The Fund and the funds credited to it shall not be subject to apportionment under section 3679 of the Revised Statutes (31 U.S.C. 665).".

(f)(1) Effective October 1, 1980, subpart II of part D of title III is amended by redesignating sections 336, 337, and 338 as sections 328, 338A, and 338B, respectively; by transferring section 755 to the subpart, inserting such section after section 335, and redesignating it as section 336; and by adding after section 336 (as so redesignated) the following new section:

"PREPARATION FOR PRACTICE

"SEC. 337. (a) The Secretary may make grants to and enter into contracts with public and private nonprofit entities for the conduct of programs which are designed to prepare individuals subject to a service obligation under the National Health Service Corps Scholarship Program to effectively provide health services in the health manpower shortage area to which they are assigned.

"(b) No grant may be made on contract entered into under subsection (a) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.".

(2) Subsection (a)(1) of section 336 (as so redesignated) is amended by inserting "at least two years of" after "completed".

(g) Section 338B(a) (as so redesignated) (42 U.S.C. 254k) is amended (1) by striking out "and" after "1979;", and (2) by adding before the period a semicolon and the following: "$94,000,000 for the fiscal year ending September 30, 1981; $145,000,000 for the fiscal year ending September 30, 1982; and $205,000,000 for the fiscal year ending September 30, 1983".

(h) Effective October 1, 1980, the Secretary of Health and Human Services shall—

(1) evaluate the criteria used under section 332(b) of the Public Health Service Act to determine if the use of the criteria has resulted in areas which do not have a shortage of health professions personnel being designated as health manpower shortage areas; and

(2) consider different criteria (including the actual use of health professions personnel in an area by the residents of an area taking into account their health status) which may be used to designate health manpower shortage areas.

Not later than 18 months after the date of the enactment of this Act, the Secretary shall report to the Congress the results of the activities undertaken under this subsection.

REVISION AND EXTENSION OF NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

SEC. 102. (a)(1) Paragraphs (1) through (4) of section 752(b) (42 U.S.C. 294u(b)) are amended to read as follows:

"(b)(1) If an individual is required under subsection (a) to provide service as specified in section 751(f)(1)(B)(iv) (hereinafter in this subsection referred to as 'obligated service'), the Secretary shall, not later than 90 days before the date described in paragraph (5), determine if the individual shall provide such service—

"(A) as a member of the Corps who is a commissioned officer in the Regular or Reserve Corps of the Service or who is a civilian employee of the United States, or

"(B) as a member of the Corps who is not such an officer or employee,

and shall notify such individual of such determination.

"(2) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is a commissioned officer in the Service or a civilian employee of the United States, the Secretary shall, not later than 60 days before the date described in paragraph (5), provide such individual with sufficient information regarding the advantages and disadvantages of service as such a commissioned officer or civilian employee to enable the individual to make a decision on an informed basis. To be eligible to provide obligated service as a commissioned officer in the Service, an individual shall notify the Secretary, not later than 30 days before the date described in paragraph (5), of the individual's desire to provide such service as such an officer. If an individual qualifies for an appointment as such an officer, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint the individual as a commissioned officer of the Regular or Reserve Corps of the Service and shall designate the individual as a member of the Corps.

"(3) If an individual provided notice by the Secretary under paragraph (2) does not qualify for appointment as a commissioned officer in the Service, the Secretary shall appoint such individual as a civilian employee of the United States and designate the individual as a member of the Corps.

"(4) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is not an employee of the United States, the Secretary shall as soon as possible after the date described in paragraph (5), designated such individual as a member of the Corps to provide such service.".

(2)(A) Subsection (c)(1) of section 752 is amended by striking out "or as a member of the Corps" and inserting in lieu thereof "or as a civilian employee of the United States or is designated as a member of the Corps under subsection (b)(4)".

(B) The second sentence of subsection (d) of section 752 is amended by inserting after "written contract" the following: "and if such individual is an officer in the Service or a civilian employee of the United States".

(b) Subsection (e) of section 752 is amended to read as follows:

"(e) Notwithstanding any other provision of this title, service of an individual under a National Research Service Award awarded under subparagraph (A) or (B) of section 472(a)(1) shall be counted against the obligated service which the individual is required to perform under the Scholarship Program.".

(c)(1) Section 753(b)(1)(B) (42 U.S.C. 294v(b)(1)(B)) is amended (A) by inserting "(i)" before "shall not", and (B) by inserting before the semicolon a comma and the following: "and (ii) shall agree to accept an assignment under section 1842(b)(3)(B)(ii) of such Act for all services for which payment may be made under part B of title XVIII and enter into an appropriate agreement with the State agency which administers the State plan for medical assistance under title XIX of such Act to provide services to individuals entitled to medical assistance under the plan".

(2) Section 753 is amended by adding the following new subsections:

"(c) If an individual breaches the contract entered into under section 751 by failing (for any reason) to begin his service obligation in accordance with an agreement entered into under subsection (a) or to complete such service obligation, the Secretary may permit such individual to perform such service obligation as a member of the Corps.

"(d) The Secretary shall, upon request, provide technical assistance to individuals who are considering entering into an agreement under subsection (a) or have entered into such an agreement to assist them in the establishment of their clinical practice under the agreement.".

(3) Section 751(c)(2) is amended by inserting "information respecting meeting a service obligation through private practice under an agreement under section 753 and" after "(2)".

(4)(A) Subsection (a) of section 753 is amended (i) by inserting "or under section 225 (as in effect on September 30, 1977)" after "section 752(a)", and (ii) by striking out "which (A)" and all that follows in that subsection and inserting in lieu thereof a period.

(B) Section 754(c) (42 U.S.C. 294w(c)) is amended (i) by striking out "(c) If" and inserting in lieu thereof "(c)(1) Except as provided in paragraph (2), if", and (ii) by adding at the end the following:

"(2) If an individual is released under section 753 from a service obligation under section 225 (as in effect on September 30, 1977) and if the individual does not meet the service obligation incurred under section 753, subsection (f) of such section 225 shall apply to such individual in lieu of paragraph (1) of this subsection.".

(C) Section 735(c)(1) (42 U.S.C. 294h(c)(1)) is amended by striking out "clauses (A) and (B) of".

(d) Section 751(a) is amended by inserting "clinical psychologists," after "pharmacists,".

(e) Section 751(d) is amended by inserting after paragraph (2) the following:

"In considering applications and contracts for which a priority is required under paragraph (2), the Secretary shall give special consideration to the applications and contracts of individuals who intend to be primary care physicians in health manpower shortage areas (as defined in section 332), who have resided or been employed in such areas, or who meet such other qualifications as the Secretary may prescribe to assist in determining if an individual will become a primary care physician in such an area.".

(f)(1) The first sentence of section 756(a) is amended (A) by striking out "and" after "1979," and (B) by inserting before the period, the following: ", $92,000,000 for the fiscal year ending September 30, 1981, $101,000,000 for the fiscal year ending September 30, 1982, and $109,000,000 for the fiscal year ending September 30, 1983".

(2) The second sentence of such section is amended (A) by striking out "1981" and inserting in lieu thereof "1984", and (B) by striking out "1980" and inserting in lieu thereof "1983".

(g) The amendments made by subsection (a) shall apply with respect to contracts entered into under the National Health Service Corps Scholarship Program under subpart III of part C of title VII of the Public Health Service Act after the date of the enactment of this Act. An individual who before such date has entered into such a contract and who has not begun the period of obligated service required under such contract shall be given the opportunity to revise such contract to permit the individual to service such period as a member of the National Health Service Corps who is not an employee of the United States.

TITLE II—HEALTH PROFESSIONS PROGRAMS UNDER TITLE VII

PART A—CONSTRUCTION ASSISTANCE

REPEAL OF ENROLLMENT INCREASE REQUIREMENT

SEC. 201. (a) Paragraph (2) of section 721(c) (42 U.S.C. 293a(c)(2)) is amended (1) by inserting "and" after "the facility,", and (2) by striking out ", and (D)" and all that follows in that paragraph and inserting in lieu thereof a semicolon.

(b) The amendment made by subsection (a) shall apply with respect to entities which received a grant under section 720 of the Public Health Service Act before the date of the enactment of this Act.

CONSTRUCTION ASSISTANCE FOR CONVERSIONS

SEC. 202. (a) Section 720(a) (42 U.S.C. 293(a)) is amended by adding at the end the following:

"(3) The Secretary may make grants to schools providing the first two years of education leading to the degree of doctor of medicine to assist in the construction of the teaching facilities which the schools require to become schools of medicine.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) For the purpose of grants under subsection (a)(3), there are authorized to be appropriated $15.000.000 for the fiscal year ending September 30, 1981, to remain available until expended.".

(c) Section 721(b)(1) (42 U.S.C. 293a(b)) is amended (1) by inserting after "(1)" the following: "To be eligible to apply for a grant under section 720(a)(3) the applicant must be a public or nonprofit school providing the first two years of education leading to the degree of doctor of medicine and be accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.", and (2) by striking out "under this part" and inserting in lieu thereof "under paragraph (1) or (2) of section 720(a)".

(d) Subsection 721(g)(1) is amended by striking out "section 720(a)(2)" and inserting in lieu thereof "paragraph (2) or (3) of section 720(a)".

(e) Subsection (a) of section 722 (42 U.S.C. 293b(a)) is amended by adding at the end the following:

"(3) The amount of any grant under section 720(a)(3) shall be such amount as the Secretary determines to be appropriate after obtaining advice from the Council, except that no grant for any project may exceed 80 percent of the necessary costs of construction, as determined by the Secretary.".

(f) Section 723(a) (42 U.S.C. 293c(a)) is amended by striking out "section 720(a)(1)" and inserting in lieu thereof "paragraph (1) or (3) of section 720(a)".

LOAN GUARANTEES AND INTEREST SUBSIDIES

SEC. 203. (a) Section 726(a) (42 U.S.C. 293i(a)) is amended (1) by striking out "construction projects for" in the first sentence and inserting in lieu thereof "projects for the remodeling, renovation, or alteration of", (2) by striking out "1980" and inserting in lieu thereof "1983", and (3) by striking out "cost of the construction of the project" in the last sentence and inserting in lieu thereof "cost of the project, including architect fees and the initial equipment of the remodeled, renovated, or alterated teaching facilities".

(b) Section 726(b) is amended (1) by inserting "before October 1, 1980," after "loan has been made", and (2) by striking out ", during the period beginning July 1, 1971, and ending with the close of September 30, 1980,".

PART B—STUDENT ASSISTANCE

EXTENSION AND REVISION OF INSURED STUDENT LOAN PROGRAM

SEC. 205. (a)(1) The first sentence of section 728(a) (42 U.S.C. 294a(a)) is amended by inserting a comma before the period and the following: "and for each of the next three fiscal years".

(2) The second sentence of such section is amended by striking out "1982" and inserting in lieu thereof "1985".

(b) Section 729(a) (42 U.S.C. 294b(a)) is amended (1) by striking out "$15,000" and inserting in lieu thereof "$20,000", and (2) by striking out "$60,000" and inserting in lieu thereof "$80,000".

(c)(1) Section 731(a)(1)(A) (42 U.S.C. 294d(a)(1)(A)) is amended (A) by inserting "and" at the end of clause (iv), and (B) by striking out clause (v) and redesignating clause (vi) as clause (v).

(2) Section 731(a)(2) is amended (A) by striking out "installments of principal need not be paid, but interest shall accrue and be paid" in subparagraph (C) and inserting in lieu thereof "installments of principal and interest need not be paid, but interest shall accrue", (B) by striking out "three years" in subparagraph (C)(ii) and inserting in lieu thereof "four years", (C) by inserting "except as provided in subparagraph (C)," after "period of the loan," in subparagraph (D), and (D) by striking out "otherwise payable (i) before the beginning of the repayment period, (ii) during any period described in subparagraph (C), or (iii) during any other period of forbearance of payment of principal," in subparagraph (D).

(3) Section 731(a)(2) is amended (A) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), and (B) by inserting after subparagraph (D) the following:

"(E) offers, in accordance with criteria prescribed by regulation by the Secretary, a schedule for repayment of principal and interest under which payment of a portion of the principal and interest otherwise payable at the beginning of the repayment period (as defined in such regulations) is deferred until a later time in the period;".

(4) Section 731(c) is amended by striking out "The total" and inserting in lieu thereof "Except as provided in subsection (a)(2)(C), the total".

(d) Section 731(b) is amended by striking out "12 percent per annum on the unpaid principal balance of the loan" and inserting in lieu thereof "the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the previous quarter plus 2 percent".

(e) Section 739(b) is amended to read as follows:

"(b) The Secretary shall require an eligible institution to record, and to make available to the lender and to the Secretary upon request, the name, address, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart.".

EXTENSION OF STUDENT LOAN PROGRAM

SEC. 206. (a)(1) The first sentence of section 742(a) (42 U.S.C. 294b(a)) is amended (1) by striking out "and" after "1979,", and (2) by inserting before the period a comma and the following: "$20,000,000 for the fiscal year ending September 30, 1981, $22,500.000 for the fiscal year ending September 30, 1982, and $25,000.000 for the fiscal year ending September 30, 1983".

(2) The second sentence of such section is amended (A) by striking out "1981" and inserting in lieu thereof "1984", and (B) by striking out "1980" and inserting in lieu thereof "1983".

(b) Section 743 (42 U.S.C. 294c) is amended by striking out "1983" each place it occurs and inserting in lieu thereof "1986".

EXTENSION OF SCHOLARSHIPS FOR STUDENTS OF EXCEPTIONAL FINANCIAL NEED

SEC. 207. (a) Section 758(d) (42 U.S.C. 294z(d)) is amended (1) by striking out "and" after "1979,", and (2) by inserting before the period a comma and the following: "$30,000,000 for the fiscal year ending September 30, 1981, $40,000,000 for the fiscal year ending September 30, 1982, and $50,000,000 for the fiscal year ending September 30, 1983".

(b) Section 758(c) is amended (1) by striking out "distribute grants under this section among all schools of the health professions, but shall", and(2) by striking out "such grants" and inserting in lieu thereof "grants under subsection (a)".

(c)(1) Section 758(a) is amended by striking out "first year" and inserting in lieu thereof "first or second year".

(2) Section 758(b)(1) is amended by striking out "first year" and inserting in lieu thereof "first or second year".

(3) Section 758(b)(3) is amended (A) by striking out "first year of study" and inserting in lieu thereof "first or second year of study", and (B) by striking out "student's first year" and inserting in lieu thereof "student's first or second year."

PART C—INSTITUTIONAL SUPPORT

GRANTS

SEC. 211. (a) Effective with respect to fiscal years beginning after September 30, 1980, section 770(a) (42 U.S.C. 295f(a)) is amended to read as follows:

"SEC. 770. (a) GRANT COMPUTATION.—The Secretary shall make annual grants to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, and podiatry for the support of the education programs of such schools. The amount of the annual grant to each such school with an approved application shall be computed for each fiscal year as follows:

"(1) Each school of medicine, osteopathy, and dentistry shall receive—

"(A) for the fiscal year ending September 30, 1981, $2,000 for each full-time student enrolled in such school in the school year beginning in such fiscal year;

"(B) for the fiscal year ending September 30, 1982, $1,000 for each full-time student enrolled in such school in the school year beginning in such fiscal year; and

"(C) for the fiscal year ending September 30, 1983, $500 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

"(2) Each school of veterinary medicine shall receive—

"(A) for the fiscal year ending September 30, 1981, $1,200 for each full-time student enrolled in such school in the school year beginning in such fiscal year;

"(B) for the fiscal year ending September 30, 1982, $600 for each full-time student enrolled in such school in the school year beginning in such fiscal year; and

"(C) for the fiscal year ending September 30, 1983, $300 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

"(3) Each school of optometry shall receive—

"(A) for the fiscal year ending September 30, 1981, $700 for each full-time student enrolled in such school in the school year beginning in such fiscal year;

"(B) for the fiscal year ending September 30, 1982, $350 for each full-time student enrolled in such school in the school year beginning in such fiscal year; and

"(C) for the fiscal year ending September 30, 1983, $100 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

"(4) Each school of pharmacy shall receive—

"(A) for the fiscal year ending September 30, 1981, $600 for each full-time student enrolled in the last four years of such school in the school year beginning in such fiscal year;

"(B) for the fiscal year ending September 30, 1982, $300 for each full-time student enrolled in the last four years of such school in the school year beginning in such fiscal year; and

"(C) for the fiscal year ending September 30, 1983, $100 for each full-time student enrolled in the last four years of such school in the school year beginning in such fiscal year.

"(5) Each school of podiatry shall receive—

"(A) for the fiscal year ending September 30, 1981, $600 for each full-time student enrolled in such school in the school year beginning in such fiscal year;

"(B) for the fiscal year ending September 30, 1982, $400 for each full-time student enrolled in such school in the school year beginning in such fiscal year; and

"(C) for the fiscal year ending September 30, 1983, $200 for each full-time student enrolled in such school in the school year beginning in such fiscal year.".

(b)(1) Section 770(b) is amended by striking out "public health,".

(2) Section 770(c)(2) is amended by striking out ", or to a graduate degree in public health or an equivalent degree".

(3) Subsection (d) of section 770 is repealed and subsection (e) is redesignated as subsection (d).

(4) Section 772(b)(1) is amended by striking out "public health,".

(c) Effective with respect to fiscal years beginning after September 30, 1980, section 770 (d) (as so redesignated) is amended to read as follows:

"(d) Authorizations of Appropriations.—

"(1) There are authorized to be appropriated $37,259,000 for the fiscal year ending September 30, 1981, $24,836,000 for the fiscal year ending September 30, 1982, and $12,418,000 for the fiscal year ending September 30, 1983, for payments under grants under this section to schools of medicine.

"(2) There are authorized to be appropriated $2,904,000 for the fiscal year ending September 30, 1981, $1,936,000 for the fiscal year ending September 30, 1982, and $968,000 for the fiscal year ending September 30, 1983, for payments under grants under this section for schools of osteopathy.

"(3) There are authorized to be appropriated $12,148,000 for the fiscal year ending September 30, 1981, $8,099,000 for the fiscal year ending September 30, 1982, and $4,049,000 for the fiscal year ending September 30, 1983, for payments under grants under this section for schools of dentistry.

"(4) There are authorized to be appropriated $2,700,000 for the fiscal year ending September 30, 1981, $1,800,000 for the fiscal year ending September 30, 1982, and $900,000 for the fiscal year ending September 30, 1983, for payments under grants under this section to schools of veterinary medicine.

"(5) There are authorized to be appropriated $794,000 for the fiscal year ending September 30, 1981, $529,000 for the fiscal year ending September 30, 1982, and $265,000 for the fiscal year ending September 30, 1983, for payments under grants under this section to schools of optometry.

"(6) There are authorized to be appropriated $4,538,000 for the fiscal year ending September 30, 1981, $3,025,000 for the fiscal year ending September 30, 1982, and $1,513,000 for the fiscal year ending September 30, 1983, for payments under grants under this section to schools of pharmacy.

"(7) There are authorized to be appropriated $609,000 for the fiscal year ending September 30, 1981, $406,000 for the fiscal year ending September 30, 1982, and $203,000 for the fiscal year ending September 30, 1983, for payments under grants under this section to schools of podiatry.".

(d)(1) The heading for part E of title VII is amended by striking out "Public Health,".

(2) The heading for section 770 is amended to read as follows:

"INSTITUTIONAL SUPPORT".

GRANT REQUIREMENTS

Sec. 212. (a)(1) Effective with respect to grants made under section 770 of the Public Health Service Act for the fiscal year ending September 30, 1980, section 771(a)(1) (42 U.S.C. 295f–1(a)(1)) is amended by inserting after "first-year enrollment" the following: "(determined without regard to any increase in such enrollment made by the school to enable it to qualify for financial assistance under chapter 82 of title 38, United States Code)".

(2) Effective with respect to grants made under section 770 of the Public Health Service Act for fiscal years beginning after September 30, 1980, subsection (a) of section 771 (42 U.S.C. 295f–1) is amended to read as follows:

"Sec. 771. (a) In General.—

"(1) The Secretary shall not make a grant under section 770(a) to any school in a fiscal year beginning after September 30, 1980, unless the application for the grant contains, or is supported by, assurances satisfactory to the Secretary that the applicant will expend in carrying out its functions as a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, as the case may be, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the fiscal year preceding the fiscal year for which such grant is sought.

"(2) If in the fiscal year the amount appropriated under subsection (d) of section 770 for grants under subsection (a) of such section for a category of schools is less than the amount appropriated for the fiscal year ending September 30, 1980, for such grants, then in the fiscal year in which the appropriations are less, no grant may be made under subsection (a) of section 770 to any school in such category which did not receive such a grant in the fiscal year ending September 30, 1980.".

(b)(1) Subsection (b)(1) of section 771 is amended by striking out "paragraphs (2) and (3)" and inserting in lieu thereof "paragraph (2)".

(2) Paragraph (3) of section 771(b) is repealed.

(c) Subsection (g)(3) of section 771 is amended by striking out "(or 50 percent if the applicant is a nonprofit private school of optometry)".

(d) Subsection (e) of section 771 is repealed and subsections (f), (g), (h), and (i) are redesignated as subsections (e), (f), (g), and (h).

(e)(1) Subsection (b) of section 772 (42 U.S.C. 295f–5) is amended by striking out "or subsection (a) or (b) of section 788".

(2) Paragraph (2) of subsection (d) of section 772 is amended by striking out "under the section authorizing the grant for which the application is made" and inserting in lieu thereof "under section 770".

(3) The first sentence of section 788(a)(3) (42 U.S.C. 295g–8(a)(3)) is amended by inserting "and the applicant meets the requirements of subsection (b) of section 772" before the period.

(f)(1) The heading for section 771 is amended to read as follows:

"ELIGIBILITY FOR INSTITUTIONAL SUPPORT".

(2) The heading for section 772 is amended to read as follows:

"APPLICATIONS FOR INSTITUTIONAL SUPPORT".

Part D—Project Grants and Contracts

DEPARTMENTS OF FAMILY MEDICINE

Sec. 215. (a) Section 780(c) (42 U.S.C. 295g(c)) is amended (1) by striking out "and" after "1979,", and (2) by inserting after "1980" the following: ", $15,000,000 for the fiscal year ending September 30, 1981, $20,000,000 for the fiscal year ending September 30, 1982, and $25,000,000 for the fiscal year ending September 30, 1983".

(b) Section 780(b)(1)(D) is amended by striking out "have control over" and inserting in lieu thereof "have control over or affiliation with".

AREA HEALTH EDUCATION CENTERS

Sec. 216. (a) Section 781(g) (42 U.S.C. 295 g–1(g)) is amended (1) by striking out "and" after "1979,", and (2) by inserting after "1980" the following: ", $21,000,000 for the fiscal year ending September 30, 1981, $28,000,000 for the fiscal year ending September 30, 1982, and $30,000,000 for the fiscal year ending September 30, 1983".

(b) The last sentence of section 781(c) is amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (2) or (3)".

(c) Section 781(d)(2)(E) is amended by striking out "support services" and inserting in lieu thereof "educational support services".

(d)(1) Effective October 1, 1980, subsection (a) of section 781 is amended to read as follows:

"Sec. 781. (a)(1) The Secretary may enter into contracts with schools of medicine and osteopathy for the planning, development, and operation of area health education center programs.

"(2) The Secretary may enter into contracts with schools of medicine and osteopathy, which have previously entered into contracts under this section, to carry out under area health education center programs—

"(A) projects to improve the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system;

"(B) projects to encourage the regionalization of educational responsibilities of the health professions schools; and

"(C) projects designed to prepare, through preceptorships and other programs, individuals subject to a service obligation under the National Health Service Corps Scholarship Program to effectively provide health services in health manpower shortage areas."

(2) The first sentence of subsection (e) is repealed.

(3) The first sentence of subsection (f) is amended to read as follows: "For purposes of this section, the term 'area health education center program' means a program which is organized as provided in subsection (b) and under which the participating medical and osteopathic schools and the area health education centers meet the requirements of subsections (c) and (d).".

(4) Subsection (g) of such section is amended by adding at the end the following: "The Secretary may obligate not more than 10 percent of the amount appropriated under this subsection for any fiscal year for contracts under subsection (a)(2).".

(e) The authority to enter into contracts under section 781 of the Public Health Service Act is not authority to enter into cooperative agreements under that section.

PHYSICIAN ASSISTANTS AND DENTAL AUXILIARIES

SEC. 217. (a) Section 783(e) (42 U.S.C. 295g–3(e)) is amended (1) by striking out "and" after "1979,", and (2) by inserting after "1980" the following: ", $14,000,000 for the fiscal year ending September 30, 1981, $15,000,000 for the fiscal year ending September 30, 1982, and $16,000,000 for the fiscal year ending September 30, 1983".

(b) Section 783(c) is amended by striking out "830" and inserting in lieu thereof "822".

GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS

SEC. 218. (a) Section 784(b) (42 U.S.C. 295g–4(b)) is amended (1) by striking out "and" after "1979,", and (2) by inserting after "1980" the following: ", $23,000,000 for the fiscal year ending September 30, 1981, $30,000,000 for the fiscal year ending September 30, 1982, and $32,000,000 for the fiscal year ending September 30, 1983".

(b) Section 784(a) is amended—

(1) by inserting ", public or private nonprofit hospital, or any other public or private nonprofit entity" after "osteopathy"; and

(2) by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting a semicolon, and by adding at the end the following:

"(3) to plan, develop, and operate programs for the training of physicians who plan to teach in general internal medicine and general pediatrics training programs; and

"(4) to provide assistance (in the form of traineeships and fellowships) to physicians who are participants in any such program.".

FAMILY MEDICINE AND GENERAL PRACTICE OF DENTISTRY

SEC. 219. (a) Section 786(d) (42 U.S.C. 295g–6(d)) is amended (1) by striking out "and" after "1979,", and (2) by inserting after "1980" the following: ", $50,000,000 for the fiscal year ending September 30, 1981, $75,000,000 for the fiscal year ending September 30, 1982, and $80,000,000 for the fiscal year ending September 30, 1983".

(b) Effective October 1, 1980, the Secretary of Health and Human Services shall conduct a study to determine the most effective and efficient means of providing financial assistance to graduate medical education programs in the United States in primary internal medicine, primary pediatrics, and family medicine. The Secretary shall complete such study and report, not later than one year after the date of the enactment of this Act, to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate the results of the study and recommendations, if any, for legislation.

ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

SEC. 220. Effective with respect to fiscal years beginning after September 30, 1980, section 787 is amended to read as follows:

"EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

"SEC. 787. (a) For the purpose of assisting individuals from disadvantaged backgrounds (as determined in accordance with criteria prescribed by the Secretary) to undertake education to enter a health profession, the Secretary may make grants to or enter into contracts with schools of medicine, osteopathy, dentistry, nursing, veterinary medicine, optometry, pharmacy, podiatry, or public health, training centers for the allied health professions, institutions providing graduate programs in health administration, or other public or private nonprofit health or educational entities, to assist in meeting the cost of—

"(1) establishing secondary education programs designed to increase the number of students from disadvantaged backgrounds that pursue careers in the health professions;

"(2) strengthening the preprofessional curriculum of baccalaureate degree institutions predominantly attended by individuals from disadvantaged backgrounds;

"(3) establishing joint programs between baccalaureate degree institutions and health professions schools, training centers, or other appropriate entities designed to increase the number of students from disadvantaged backgrounds in health professions schools;

"(4) providing, for a period prior to the entry of such individuals into the regular course of education of health professions schools, preliminary education designed to assist such individuals in successfully completing such regular course of education at such schools, or referring such individuals to institutions providing such preliminary education;

"(5) identifying, recruiting, and selecting individuals from disadvantaged backgrounds for education and training in a health profession;

"(6) facilitating the entry of such individuals into such schools;

"(7) providing counseling, work-study opportunities in health service agencies, or other services designed to assist such individuals to complete successfully their education at such schools;

"(8) publicizing existing sources of financial aid available to students in the education program of such school or who are undertaking training necessary to qualify to enroll in such program; or

"(9) increasing the number of faculty from disadvantaged backgrounds in the health professions schools.

"(b)(1) There are authorized to be appropriated for grants and contracts under this section, $30,000,000 for the fiscal year ending September 30, 1981, $33,000,000 for the fiscal year ending September 30, 1982, and $36,000,000 for the fiscal year ending September 30, 1983. Not less than 80 percent of the funds appropriated in any fiscal year shall be obligated for grants or contracts to institutions of higher education and not more than 5 percent of such funds may be obligated for grants and contracts for activities described in paragraph (8) of subsection (a).

"(2) Funds provided under grants and contracts under this section may be used to provide traineeships to students receiving the education described in subsection (a)(4) if such students would not otherwise be able to receive such education.".

START-UP, FINANCIAL DISTRESS, CONVERSION, AND CURRICULUM GRANTS

SEC. 221. (a)(1) Section 788(a)(1) (42 U.S.C. 295g–8) is amended by striking out "medicine, osteopathy, dentistry,".

(2) The amendment made by paragraph (1) shall not apply with respect to a school of medicine, osteopathy, or dentistry which received a grant under section 788(a)(1) of the Public Health Service Act for the fiscal year ending September 30, 1980. Such a school may continue to receive grants under such section in accordance with the requirements in effect for grants under the section for such fiscal year.

(b) Effective with respect to fiscal years beginning after September 30, 1980, section 788(c) is amended to read as follows:

"(c)(1) The Secretary may make grants to schools which provide the first two years of education leading to the degree of doctor of medicine to assist the schools in accelerating the date they will become schools of medicine.

"(2) The amount of a grant under paragraph (1) to a school shall be equal to the product of $25,000 and the number of full-time, third-year students which the Secretary estimates will enroll in the school in the school year beginning in the fiscal year in which such grant is made. Estimates by the Secretary under this paragraph of the number of full-time, third-year students to be enrolled in the school may be made on assurances provided by the school.

"(3) No grant may be made under paragraph (1) unless an application for such grant is submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and shall contain such information, as the Secretary may by regulation prescribe. To be eligible to apply for a grant under subsection (a), the applicant must be a public or nonprofit school providing the first two years of education leading to the degree of doctor of medicine and be accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.".

(c) Section 788(d) is amended—

(1) by striking out "and" at the end of paragraph (20),

(2) by striking out the period at the end of paragraph (21) and inserting in lieu thereof "; and", and

(3) by adding at the end the following:

"(22) training of health professionals in the diagnosis, treatment, and prevention of diabetes and other severe chronic diseases and their complications.".

(d) Section 788(d)(6) is amended by inserting "dentistry," before "optometry".

(e) Section 788(e)(1) is amended (1) by striking out "and" after "1979,", and (2) by inserting after "1980" the following: ", $10,000,000 for the fiscal year ending September 30, 1981, $12,500,000 for the fiscal year ending September 30, 1982, and $15,000,000 for the fiscal year ending September 30, 1983".

(f)(1) Part G of title VII is amended by adding after section 789 the following new section:

"FINANCIAL DISTRESS GRANTS

"SEC. 789A. (a) The Secretary may make grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry which are in serious financial distress for the purposes of assisting in—

"(1) meeting the costs of operation of any such school,

"(2) meeting accreditation requirements if they have a special need to be assisted in meeting such requirements,

"(3) carrying out appropriate operational, managerial, and financial reforms on the basis of information obtained in a comprehensive cost analysis study or on the basis of other relevant information,

"(4) meeting the costs of maintaining the quality of their educational programs, and

"(5) meeting the costs of strengthening their academic resources and capabilities.

A grant under this subsection shall be made for such period as the Secretary may specify.

"(b)(1) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information as the Secretary may prescribe.

"(2) Any grant under subsection (a) may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree—

"(A) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of the school's financial distress,

"(B) to conduct a comprehensive cost analysis study, and

"(C) to carry out appropriate operational, managerial, and financial reforms as the Secretary may require, except that the Secretary shall not require changes in the educational component of the school's program.

"(3) A recipient of a grant under subsection (a) must provide assurances satisfactory to the Secretary that the recipient will expend in carrying out its function as a school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry, as the case may be, during each fiscal year for which such grant is awarded an amount of funds (other than funds for construction, as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended (excluding expenditures of a nonrecurring nature) by the recipient to carry out such functions in the two years preceding the year in which the grant is awarded.

"(c) The Secretary may provide to any school eligible for a grant under subsection (a) technical assistance to enable the school to conduct a comprehensive cost analysis study of its operations, to identify operational inefficiencies, and to develop or carry out appropriate operational, managerial, and financial reforms.

"(d) There are authorized to be appropriated for grants under subsection (a), $20,000,000 for the fiscal year ending September 30, 1981, $20,000,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983. Funds appropriated under this subsection shall remain available until expended.".

(2) Section 788 is amended—

(A) by striking out subsection (b); and

(B) by amending subsection (e)(2) to read as follows:

"(2) From the sums authorized to be appropriated under paragraph (1) not more than $5,000,000 may be obligated or expended for the purposes of subsection (a).".

(g)(1) Subsections (f) and (g) of section 788 are repealed and subsections (c), (d), and (e) are redesignated as subsections (b), (c) and (d), respectively.

(2) Subsection (d)(1) (as so redesignated) of section 788 is amended by striking out "(other than the provisions of subsections (f) and (g))".

(3) The heading for section 788 is amended to read as follows:

"START-UP, CONVERSION, AND CURRICULUM GRANTS".

PART E—PUBLIC HEALTH PERSONNEL

INSTITUTIONAL SUPPORT, TRAINEESHIPS, AND OTHER PROGRAMS

SEC. 230 Subpart I of part G of title VII is amended as follows:

(1) The following section is inserted at the beginning of the subpart:

"INSTITUTIONAL SUPPORT

"SEC. 791 (a) GRANTS.—The Secretary shall make annual grants in accordance with this section to public and other nonprofit schools of public health.

"(b) GRANT COMPUTATION.—The amount of the annual grant under subsection (a) to be made in a fiscal year to a school with an approved application for such fiscal year shall be an amount which bears the same ratio to the total amount appropriated for such fiscal year under subsection (d) as the sum of—

"(1) the total number of full-time students enrolled in such school in the school year beginning in such fiscal year, and

"(2) the number of full-time equivalents of parttime students in such school for such school year,

bears to the sum of the total number of full-time students enrolled in such school year and the number of such full-time equivalents for such school year in all schools of public health with approved applications for such fiscal year.

"(c) ENROLLMENT DETERMINATIONS.—For purposes of this section:

"(1) Section 770(c) shall apply to regulations of the Secretary under this section relating to the determination of the number of full-time students enrolled in a school eligible for a grant under subsection (a).

"(2) The number of full-time equivalents of part-time students in a school of public health for any school year is a number equal to—

"(A) the total number of credit hours of instruction in such year for which part-time students in such school, who are pursuing a course of study leading to a graduate degree in public health or an equivalent degree, have enrolled, divided by

"(B) the greater of (i) the number of credit hours of instruction which a full-time student in such school was required to take in such year, or (ii) 9,

rounded to the next highest whole number.

"(3) The term 'full-time students' (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study leading to a graduate degree in public health or an equivalent degree.

"(d) AUTHORIZATIONS OF APPROPRIATIONS.—For the purpose of making grants under subsection (a) there are authorized to be appropriated $7,000,000 for the fiscal year ending September 30, 1981, $8,000,000 for the fiscal year ending September 30, 1982, and $9,000,000 for the fiscal year ending September 30, 1983.

"(e) GRANT REQUIREMENTS.—The Secretary shall not make a grant under subsection (a) to any school in a fiscal year beginning after September 30, 1980, unless—

"(1) the application for the grant contains, or is supported by, assurances satisfactory to the Secretary that the applicant will expend in carrying out its functions as a school of public health during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the fiscal year preceding the fiscal year for which such grant is sought; and

"(2) the school maintains an enrollment of full-time first-year students, for the school year beginning in the fiscal year for which a grant under subsection (a) is sought, which exceeds the number of full-time students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1978—

"(A) by 5 percent of such number if such number was not more than 100, or

"(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

The Secretary may waive (in whole or in part) application of the requirements of paragraph (2) to a school if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (approved for such purposes by the Secretary of Education) that compliance by such school with such requirement will prevent it from maintaining its accreditation.

"(f) APPLICATIONS.—

"(1) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which such applications must be filed.

"(2) To be eligible for a grant under subsection (a) the applicant must be accredited as determined in accordance with section 772(b).

"(3) The Secretary shall not approve or disapprove any application for a grant under subsection (a) except after consultation with the National Advisory Council on Health Professions Education (established by section 702).

"(4) A grant under subsection (a) may be made only if the application therefor—

"(A) is approved by the Secretary upon his determination that the applicant (and its application) meet the eligibility conditions prescribed by subsection (e) and paragraph (2) of this subsection;

"(B) contains such additional information as the Secretary may require to make the determinations required of him under subsection (a); and

"(C) provides for such fiscal control and accounting procedures and reports, including the use of such standard procedures for the recording and reporting of financial information as the Secretary may prescribe, and access to the records of the applicant, as the Secretary may require to enable him to determine the costs to the applicant of its program for the education or training of students.".

(2) Section 748 is transferred to the subpart, inserted after the section 791 added by paragraph (1), redesignated as section 792, in subsection (a)(2) amended by striking out "749" and inserting in lieu thereof "794B", in subsection (b)(3)(A)(i) amended by striking out "postbaccalaurate" and inserting in lieu thereof "baccalaureate", and in subsection (c) amended (A) by striking out "and" after "1979;", and (B) by inserting before the period a semicolon and the following: "$8,000,000 for the fiscal year ending September 30, 1981, $9,000,000 for the fiscal year ending September 30, 1982, and $10,000,000 for the fiscal year ending September 30, 1983".

(3) The section 792 entitled "SPECIAL PROJECTS FOR ACCREDITED SCHOOLS OF PUBLIC HEALTH AND GRADUATE PROGRAMS IN HEALTH ADMINISTRATION" is inserted after the section inserted by paragraph (2), redesignated as section 793, and is amended (A) in the section heading by striking out "AND GRADUATE PROGRAMS IN HEALTH ADMINISTRATION", (B) by striking out subsection (b) and redesignating subsection (c) as subsection (b), and (C) in subsection (b) (as so redesignated) by (i) striking out "and" after "1979;", and (ii) by inserting after "1980" the following: "; $5,000,000 for the fiscal year ending September 30, 1981; $5,500,000 for the fiscal year ending September 30, 1982; and $6,000,000 for the fiscal year ending September 30, 1983".

(4) The following section is inserted after section 793 (as so redesignated):

"MIDCAREER TRAINING AND EDUCATION

"SEC. 794. (a) The Secretary may make grants to and enter into contracts with public and nonprofit private entities for the establishment, operation, and administration of centers to provide intensive, short-term, advanced training, to individuals with demonstrated expertise in health policy and management, in—

"(1) health systems management,

"(2) health policy, planning, and regulation,

"(3) environmental policy and management,

"(4) financial management and strategy in health care,

"(5) the management of collaboration between health care entities,

"(6) the management of small health care entities in inner cities and rural areas, and

"(7) other matters which will increase the capabilities of such individuals and broaden their perspectives in carrying out their functions.

"(b)(1) The amount of any grant or contract under subsection (a) shall be determined by the Secretary. No grant may be made or contract entered into unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) The Secretary shall, to the extent feasible, make grants and enter into contracts under subsection (a) for centers in such a manner that there is an appropriate geographic distribution of the centers.

"(c) For the purpose of making grants and contracts under subsection (a) there are authorized to be appropriated $1,500,000 for the fiscal year ending September 30, 1981, $2,500,000 for the fiscal year ending September 30, 1982, and $3,000,000 for the fiscal year ending September 30, 1983.".

(5) The section 791 entitled "GRANTS FOR GRADUATE PROGAMS IN HEALTH ADMINISTRATION" is inserted after the section added by paragraph (4), redesignated as section 794A, and is amended as follows:

(A) Subsection (c)(2)(A)(i)(II) is amended by striking out "$100,000" and inserting in lieu thereof "$150,000".

(B) Subsection (c)(2)(A)(ii) is amended—

(i) by striking out "1978" and inserting in lieu thereof "1981"; and

(ii) by striking out "1976" and inserting in lieu thereof "1980".

(C) Subsection (c)(2)(A) is amended—

(i) by strikng out "and" at the end of clause (ii)(II); and

(ii) by redesignating clause (iii) as clause (iv) and by inserting the following new clause after clause (ii):

"(iii) contains assurances satisfactory to the Secretary that the program for which such application was submitted shall provide a concentration or special emphasis on one or more of the following:

"(I) health planning,

"(II) health policy,

"(III) ambulatory care services,

"(IV) long-term care,

"(V) home health care,

"(VI) multi-unit care systems,

"(VII) comprehensive prepaid service systems,

"(VIII) mental health administration, and

"(IX) any other health care delivery system determined by the Secretary to require special emphasis; and".

(D) Subsection (c)(3) is amended by striking out "Commissioner" and inserting in lieu thereof "Secretary".

(E) Subsection (d) is amended—

(i) by striking out "and" after "1979,"; and

(ii) by inserting after 1980 the following: ", $4,000,000 for the fiscal year ending September 30, 1981, $4,500,000 for the fiscal year ending September 30, 1982, and $5,000,000 for the fiscal year ending September 30, 1983".

(6) Section 749 is inserted after the section inserted by paragraph (5), redesignated as section 794B, in subsection (b)(3)(A) amended by striking out "postbaccalaureate" and inserting in lieu thereof "baccalaureate", and in subsection (c) amended (A) by striking out "and" after "1979;", and (B) by inserting before the period a semicolon and the following: "$2,500,000 for the fiscal year ending September 30, 1981; $3,000,000 for the fiscal year ending September 30, 1982; and $3,500,000 for the fiscal year ending September 30, 1983".

(7) The following sections are inserted after section 749B (as so redesignated):

"GRANTS TO DEPARTMENTS OF PREVENTIVE OR COMMUNITY MEDICINE OR DENTISTRY

"Sec. 794C. (a) The Secretary may make grants to schools of medicine, dentistry, and osteopathy for the costs of projects—

"(1) to establish, maintain, and improve academic administrative units in preventive or community medicine or dentistry;

"(2) to improve predoctoral and postdoctoral instruction in preventive, community, or occupational medicine or dentistry;

"(3) to plan, develop, and operate joint programs between academic administrative units in preventive or community medicine or dentistry and such units in other clinical specialties, which programs integrate the teaching of clinical preventive, community, or occupational medicine or dentistry within clinical programs for other medical or dental disciplines; and

"(4) to plan, develop, and operate special programs to train teachers and researchers in the fields of preventive, community, or occupational medicine or dentistry.

"(b)(1) The amount of any grant under subsection (a) shall be determined by the Secretary. No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) To be eligible for a grant under subsection (a), an applicant school must have, or demonstrate an intention to establish, an academic administrative unit in preventive or community medicine or dentistry or an academic or administrative unit which has the primary responsibility, within that medical, dental, or osteopathic school, for teaching the principles of preventive or community medicine or dentistry.

"(c) For the purpose of making grants under subsection (a), there are authorized to be appropriated $2,000.000 for the fiscal year ending September 30, 1981; $3,000,000 for the fiscal year ending September 30, 1982; and $4,000,000 for the fiscal year ending September 30, 1983.

"TRAINING IN PREVENTIVE MEDICINE

"Sec. 794D. (a) The Secretary may make grants to schools of medicine and schools of public health to meet the costs of projects—

"(1) to plan and develop new residency training programs and to develop and expand accredited residency training programs in preventive medicine; and

"(2) to provide financial assistance to residency trainees enrolled in such programs.

"(b)(1) The amount of any grant under subsection (a) shall be determined by the Secretary. No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) To be eligible for a grant under subsection (a), the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the fields of preventive medicine and support from other faculty members trained in public health and other relevant specialties and disciplines.

"(c) For the purpose of making grants under subsection (a), there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1981; $7,000,000 for the fiscal year ending September 30, 1982; and $8,000,000 for the fiscal year ending September 30, 1983.

"SPECIAL CURRICULA DEVELOPMENT PROJECTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

"Sec. 794E. (a) The Secretary may make grants to assist education institutions with accredited programs in health administration to meet the costs of developing curricula designed to improve training in health care management. Such curricula may include—

"(1) finance (particularly as applied to health care);

"(2) marketing (particularly as applied to health care);

"(3) economics (including macro-economics and micro-economics, and with special emphasis on health economics);

"(4) epidemiology and health planning;

"(5) health policy, law, and regulation;

"(6) quality assurance and assessment;

"(7) information systems;

"(8) health services organization and management for students in health disciplines other than health administration; and

"(9) management of ambulatory care services.

"(b) For purposes of subsection (a), the term 'accredited program in health administration' means a graduate program which is accredited for the purpose of training individuals in health administration by a body or bodies approved for such purpose by the Secretary of Education and which meets such other standards as the Secretary of Education may by regulation prescribe.

"(c) For the purpose of making grants under subsection (a), there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1981, $4,000,000 for the fiscal year ending September 30, 1982, and $5,000,000 for the fiscal year ending September 30, 1983.

"FACULTY DEVELOPMENT PROGRAMS

"Sec. 794F. (a) The Secretary may make grants to assist accredited schools of public health and other education institutions with accredited programs in health administration to meet the costs of establishing and operating faculty development programs. Such faculty development program shall—

"(1) train individuals in management or other disciplines that are, in the judgment of the Secretary, underrepresented in programs of health administration and necessary to improve training in health care management; and

"(2) train individuals experienced in such disciplines with respect to health care issues relating to the teaching of health administration.

"(b) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, be submitted in such manner, and contain such information as the Secretary shall prescribe. The Secretary may not approve an application for a grant under subsection (a) unless such application contains assurances satisfactory to the Secretary that at least three individuals shall complete the program in such year for which an application is made.

"(c) Grant funds awarded under subsection (a) shall be used to provide 12 month fellowships to individuals who—

"(1) have received a doctoral degree or equivalent professional recognition in a discipline determined by the Secretary to be underrepresented in programs of health administration and necessary to improve training in health care management; and

"(2) agree to serve as a faculty member for a period of not less than two years in an accredited school of public health or other educational program with accredited programs in health administration.

"(d) For the purpose of making grants under subsection (a), there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1981, $1,000,000 for the fiscal year ending September 30, 1982, and $1,000,000 for the fiscal year ending September 30, 1983.".

(8) The section 793 entitled "Statistics and Annual Report" is inserted after section 794F and redesignated as section 794G.

STUDY

SEC. 231. (a) The Secretary of Health and Human Services shall, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Labor and on an ongoing basis, assess and identify—

(1) current and projected personnel needs for the implementation of Federal, State, and local environmental protection and occupational health laws, and

(2) current and projected personnel needs of environmental and occupational health.

(b) The Secretary of Health and Human Services shall—

(1) study and assess the policies, programs, and activities of the Department of Health and Human Services, the Department of Labor, the Environmental Protection Agency, and other Federal departments and agencies for the education (including continuing education) and training of the personnel of such departments and agencies in environmental and occupational health and in the implementation of environmental protection and occupational health laws and the training programs of such departments and agencies (and their policies respecting such programs) under which persons engaged in the implementation of such laws would be able to receive training in environmental and occupational health and persons engaged in research or providing training in environmental and occupational health would be able to receive training in the implementation of environmental protection and occupational health laws;

(2) study and assess methods by which the Secretary and the Administrator of the Environmental Protection Agency may provide technical assistance to other Federal departments and agencies and to States and political subdivisions of States to assist them in the development of programs to identify their respective needs for personnel to implement their environmental protection and occupational health laws, methods of assisting States to plan to meet such needs, and methods of assisting States in meeting such needs;

(3) study and assess the efficacy of the establishment, jointly by the Federal Government and the States, of a register (A) of personnel with training or substantial experience in environmental health and in the implementation of environmental protection laws and of the types of positions available to such personnel, and (B) of personnel with training or substantial experience in occupational health and in the implementation of occupational health laws and of the types of positions available to such personnel;

(4) study and assess programs to encourage innovation in the curricula for education and training in educational institutions, including schools of medicine, osteopathy, and public health, in environmental and occupational health and in education and training in the implementation of environmental protection and occupational health laws;

(5) study and assess programs to encourage and enable individuals with training in environmental or occupational health or in the implementation of environmental protection or occupational health laws to undertake such additional education or training, such as specialized post-graduate education, as may be necessary to enable them to fill personnel needs in positions in environmental or occupational health or in the implementation of environmental protection or occupational health laws;

(6) identify geographical areas where training in environmental and occupational health or in the implementation of environmental protection and occupational health laws is insufficient and determine the most effective means of providing such training to individuals in such areas;

(7) determine the most effective and expeditious means of encouraging individuals to undertake education and training in environmental and occupational health and in the implementation of environmental protection and occupational health laws and encouraging individuals with such training and education to obtain positions in environmental or occupational health or in the implementation of such laws and to remain in such positions;

(8) determine if a requirement of service in an underserved area as a condition to the receipt of Federal financial assistance (A) affects the number of individuals applying for such assistance, (B) encourages individuals to undertake education and training in environmental and occupational health and in the implementation of environmental protection and occupational health laws, (C) encourages to remain in an underserved area, and (D) will be met by individuals receiving such assistance; and

(9) determine the extent of the cooperation and coordination between the Department of Health and Human Services, the Environmental Protection Agency, and the Occupational Safety and Health Administration in the performance of their respective functions relating to the education and training of personnel for the administration and enforcement of environmental protection and occupational health laws or for other positions in environmental and occupational health and identify areas where such functions and agencies are duplicative or conflicting.

(c) The Secretary shall report annually to the Congress respecting the activities undertaken pursuant to subsection (a). Within two years after the date of enactment of the first appropriation for the Secretary, the Secretary shall report to the Congress respecting the Secretary's activities under subsection (b). Each report under this subsection shall contain such recommendations as the Secretary determines appropriate for administrative actions and legislation to carry out the recommendations of the Secretary. The Department of Labor, the Environmental Portection Agency, and the Occupational Safety and Health Administration shall be provided copies of reports made by the Secretary under this subsection.

(d) There are authorized to be appropriated to carry out this section $1,000,000 for the fiscal year ending September 30, 1981, $1,000,000 for the fiscal year ending September 30, 1982, and $1,000,000 for the fiscal year ending September 30, 1983.

PART F—ALLIED HEALTH PERSONNEL

PROJECT GRANTS

SEC. 235. Section 796(d)(1) (42 U.S.C. 295h–5) is amended (1) by striking out "and" after "1979;", and (2) by inserting after "1980" the following: "; $9,000,000 for the fiscal year ending September 30, 1981; $9,500,000 for the fiscal year ending September 30, 1982; and $10,000,000 for the fiscal year ending September 30, 1983".

TRAINEESHIPS

SEC. 236. Section 797(c) (42 U.S.C. 295h–6) is amended (1) by striking out "and" after "1979;", and (2) by inserting after "1980" the following: "; $1,300,000 for the fiscal year ending September 30, 1981; $1,400,000 for the fiscal year ending September 30, 1982; and $1,500,000 for the fiscal year ending September 30, 1983".

ASSISTANCE TO DISADVANTAGED INDIVIDUALS

SEC. 237. Section 798(c) (42 U.S.C. 295h–7) is amended (1) by striking out "and" after "1979,", and (2) by inserting after "1980" the following: ", $1,000,000 for the fiscal year ending September 30, 1981, $1,000,000 for the fiscal year ending September 30, 1982, and $1,000,000 for the fiscal year ending September 30, 1983".

DEFINITION

SEC. 238. Section 795(2)(A) (42 U.S.C. 295h–4(2)(A)) is amended (1) by striking out "medical technology, optometric technology, dental hygiene, or in any of such other of" and inserting in lieu thereof "such of", and (2) in clause (ii) by striking out "optometric technology, dental hygiene, or such other curricula" and inserting in lieu thereof "such curricula".

TITLE III—NURSE TRAINING

CONSTRUCTION

SEC. 301. (a)(1) Section 801 (42 U.S.C. 296) is amended (A) by inserting "in health manpower shortage areas designated under section 332" after "nursing", (B) by striking out "and" after "1978,", and (C) by inserting after "1980" the following: ", $1,000,000 for the fiscal year ending September 30, 1981, $1,000,000 for the fiscal year ending September 30, 1982, and $1,000,000 for the fiscal year ending September 30, 1983".

(2) Section 802(b)(1) (42 U.S.C. 296a(b)(1)) is amended by inserting "in a health manpower shortage area designated under section 332" before the semicolon.

(b) Section 805(a) (42 U.S.C. 296d(a)) is amended by striking out "1980" and inserting in lieu thereof "1983".

INSTITUTIONAL SUPPORT

SEC. 302. (a) Effective with respect to appropriations under section 810(f) of the Public Health Service Act for fiscal years beginning after September 30, 1980, section 810(a) (42 U.S.C. 296e(a)) is amended by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following:

"(1)(A) For the fiscal year ending September 30, 1981, each collegiate school of nursing shall receive an amount equal to the product of—

"(i) $200, and

"(ii) the sum of (I) the number of full-time students enrolled in each of the last two years of such school in the fiscal year for which the grant is to be made, and (II) the number of full-time equivalents of part-time students for such school for such fiscal year.

"(B) For the fiscal year ending September 30, 1982, each collegiate school of nursing shall receive an amount equal to the product of $210 and the sum described in subparagraph (A)(ii).

"(C) For the fiscal year ending September 30, 1983, each collegiate school of nursing shall receive an amount equal to the product of $220 and the sum described in subparagraph (A)(ii).

"(2)(A) For the fiscal year ending September 30, 1981, each associate degree school of nursing and each diploma school of nursing shall receive an amount equal to the product of—

"(i) $200, and

"(ii) the sum of (I) the number of full-time students enrolled in such school in the fiscal year for which the grant is to be made, and (II) the number of full-time equivalents of part-time students for such school for such fiscal year.

"(B) For the fiscal year ending September 30, 1982, each such school of nursing shall receive an amount equal to the product of $210 and the sum described in subparagraph (A)(ii).

"(C) For the fiscal year ending September 30, 1983, each such school of nursing shall receive an amount equal to the product of $220 and the sum described in subparagraph (A)(ii).".

(b) Section 810(c)(2) is amended—

(1) in subparagraph (A), by striking out "June 30, 1975" and all that follows in that subparagraph and inserting in lieu thereof "September 30, 1979, by 15 percent or 10 students, whichever is greater.";

(2) by amending subparagraph (B) to read as follows:

"(B) In the case of a collegiate school of nursing, the school has provided reasonable assurances to the Secretary that it will carry out, in accordance with a plan submitted by the school to the Secretary and approved by the Secretary, in the school year beginning in the fiscal year in which such grant is to be made and in each school year thereafter beginning in a fiscal year in which such a grant is made, a program for the training of nurse practitioners (as defined in section 822)."; and

(3) by adding after subparagraph (B) the following:

"(C) The application of the school for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that it will carry out, in accordance with a plan submitted by the school to the Secretary and approved by the Secretary, in the school year beginning in the fiscal year in which such grant is to be made and in each school year thereafter beginning in a fiscal year in which such grant is made, a program to identify, recruit, enroll, retain, and graduate individuals from disadvantaged backgrounds (as determined in accordance with criteria prescribed by the Secretary) under which program at least 20 percent of each year's entering full-time students (or ten students, whichever is greater) is comprised of such individuals.

"(D) In the case of a collegiate school of nursing, the application of the school for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that in the school year beginning in the fiscal year in which such grant is to be made and in each school year thereafter beginning in a fiscal year in which such a grant is made at least 20 percent of each year's entering full-time students (or ten students, whichever is greater) shall be comprised of individuals who have a degree from an associate degree school of nursing or a diploma or equivalent indicia from a diploma school of nursing.

"(E) In the case of an associate degree school of nursing or a diploma school of nursing, the application of the school for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that in the school year beginning in the fiscal year in which such grant is to be made and in each school year thereafter beginning in a fiscal year in which such a grant is made at least 20 percent of each year's entering full-time students (or ten students, whichever is greater) shall be comprised of individuals who are licensed practical or vocational nurses.

"(F) The application of the school for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that in the school year beginning in the fiscal year in which such grant is to be made and in each school year thereafter beginning in a fiscal year in which such a grant is made the number of part-time students enrolled in the school in its program leading to the degree or diploma or equivalent indicia which it awards will be at least 20 percent of all the students enrolled in the school in such program.".

(c) Section 810(d) is amended (1) by striking out "part D" each place it occurs and inserting in lieu thereof "part B", and (2) by adding after paragraph (2) the following:

"(3) The number of full-time equivalents of part-time students for a school of nursing for any school year is a number equal to—

"(A) the total number of credit hours of instruction in such year for which part-time students of such school, who are pursuing a course of study leading to a degree or diploma or equivalent indicia, have enrolled, divided by

"(B) the number of credit hours of instruction which a full-time student of such school was required to take in such year,

rounded to the next highest whole number, except that in the case of a collegiate school of nursing, only the credit hours of instruction in courses offered to students who are enrolled in the third or fourth year program of instruction of such school shall be considered in making the computation under subparagraph (A).".

(d) Section 810(f) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1980" the following: ", $25,000,000 for the fiscal year ending September 30, 1981, $27,500,000 for the fiscal year ending September 30, 1982, and $30,000,000 for the fiscal year ending September 30, 1983".

(e) The heading for section 810 is amended to read as follows:

"INSTITUTIONAL SUPPORT".

SPECIAL PROJECTS

SEC. 303. (a)(1) Section 820(a) (42 U.S.C. 296k(a)) is amended (A) by striking out paragraphs (1), (2), and (8), (B) by inserting "or" at the end of paragraphs (6), (C) in paragraph (7) by striking out ", nursing assistants, and other paraprofessional nursing personnel; or" and inserting in lieu thereof a period, and (D) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (1), (2), (3), (4), and (5), respectively.

(2) Notwithstanding the amendment made by paragraph (1), an entity which received a grant or contract under section 820(a) of the Public Health Service Act for the fiscal year ending September 30, 1980, for a project described in paragraph (1), (2), or (8) of such section (as in effect when it received the grant or contract) may receive one additional grant or contract under such section for such project.

(b) Section 820(d) is amended—

(1) by striking out "and" after "1978,", and by inserting after "1980" the following: ", $15,000,000 for the fiscal year ending September 30, 1981, $17,500,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983"; and

(2) by amending the last sentence to read as follows: "Of the funds appropriated under this subsection for any fiscal year beginning after September 30, 1980, not less than 20 percent of the funds shall be obligated for payments under grants and contracts for special projects described in subsection (a)(1) and not less than 20 percent of the funds shall be obligated for payments under grants and contracts for special projects described in subsection (a)(4).".

ADVANCED NURSE TRAINING

SEC. 304. (a) Section 821(a)(1) (42 U.S.C. 2961(a)(1)) is amended by striking out "to each" and inserting in lieu thereof "to teach".

(b) Section 821(b) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1980" the following: ", $12,000,000 for the fiscal year ending September 30, 1981, $13,500,000 for the fiscal year ending September 30, 1982, and $15,000,000 for the fiscal year ending September 30, 1983".

NURSE PRACTITIONER PROGRAMS

SEC. 305. (a) Section 822(b)(1) (42 U.S.C. 296m(b)(1)) is amended by striking out "who are residents of a health manpower shortage area (designated under section 332)" and inserting in lieu thereof a period and the following: "In considering applications for a grant or contract under this subsection, the Secretary shall give special consideration to applications for traineeships to train individuals who are residents of health manpower shortage areas designated under section 332.".

(b)(1) Section 822(b)(3) is amended by inserting before the period the following: "for a period equal to one month for each month for which the recipient receives such a traineeship".

(2) Section 822(b) is amended by adding after paragraph (3) the following:

"(4)(A) If, for any reason, an individual who received a traineeship under paragraph (1) fails to complete a service obligation under paragraph (3), such individual shall be liable for the payment of an amount equal to the cost of tuition and other education expenses and other payments paid under the traineeship, plus interest at the maximum legal prevailing rate.

"(B) When an individual who received a traineeship is academically dismissed or voluntarily terminates academic training, such individual shall be liable for repayment to the Government for an amount equal to the cost of tuition and other educational expenses paid to or for such individual from Federal funds plus any other payments which were received under the traineeship.

"(C) Any amount which the United States is entitled to recover under subparagraph (A) or (B) shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States.

"(D) The Secretary shall by regulation provide for the waiver or suspension of any obligation under subparagraph (A) or (B) applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.".

(3) The amendments made by paragraphs (1) and (2) shall apply with respect to traineeships which are awarded under section 822(b) of the Public Health Service Act after the date of the enactment of this Act.

(c) Section 822(e) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1980" the following: ", $17,000,000 for the fiscal year ending September 30, 1981, $18,500,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983".

TRAINEESHIPS

Sec. 306. (a) (1) Subparagraph (C) of section 830(a) (1) (42 U.S.C. 297(a) (1)) is amended to read as follows:

"(C) to serve as nurse midwives, or".

(2) An individual who received a traineeship under section 830(a) of the Public Health Service Act for the fiscal year ending September 30, 1980, to receive training to serve as a nurse practitioner may, notwithstanding the amendment made by paragraph (1), receive additional traineeships under that section to complete the training to be a nurse practitioner.

(b) Section 830(b) is amended—

(1) by striking out "and" after "1978,", and by inserting after "1980" the following: ", $15,000,000 for the fiscal year ending September 30, 1981, $17,500,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983"; and

(2) by adding at the end the following: "Not less than 50 percent of the funds appropriated under this subsection for any fiscal year shall be obligated for traineeships described in subsection (a) (1) (A), except that if the obligation of that amount of the funds appropriated under this subsection will prevent the Secretary from continuing a traineeship to an individual who received a traineeship under subsection (a) for the fiscal year ending September 30, 1980, the Secretary shall reduce the amount to be obligated for traineeships described in subsection (a) (1) (A) by such amount as may be necessary for the continuation of traineeships first awarded in such fiscal year.".

NURSE ANESTHETISTS

Sec. 307. Section 831(b) (42 U.S.C. 297-1(b)) is amended by inserting after "1980" the following: ", $2,000,000 for the fiscal year ending September 30, 1981, $3,000,000 for the fiscal year ending September 30, 1982, and $4,000,000 for the fiscal year ending September 30, 1983".

STUDENT LOANS

Sec. 308. (a) Section 835(b) (4) (42 U.S.C. 297a(b) (4)) is amended by striking out "1980" and inserting in lieu thereof "1983".

(b) (1) Section 836(b) (1) (A) is amended by inserting after "(A)" the following: "is in exceptionally needy circumstances or is from a low-income or disadvantaged family (as those terms are defined by regulations under subsection (j)) and".

(2) The amendment made by paragraph (1) shall not apply with respect to any loan under subpart II of part B of title VIII of the Public Health Service Act to students who received such a loan before the date of the enactment of this Act.

(3) Section 836(b) (5) is amended by striking out "3" and inserting in lieu thereof "6".

(c) Section 837 (42 U.S.C. 297c) is amended (1) by striking out "and" after "1978,", (2) by inserting after "September 30, 1980" the following: "$15,000,000 for the fiscal year ending September 30, 1981, $17,500,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983", (3) by striking out "1981" in the second sentence and inserting in lieu thereof "1984", and (4) by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1983".

(d) Section 839 (42 U.S.C. 297e) is amended by striking out "1983" each place it occurs and inserting in lieu thereof "1986".

SCHOLARSHIPS

Sec. 309. Section 845 (42 U.S.C. 297j) is amended (1) by striking out "next four fiscal years" in subsections (b) and (c) (1) (A) and inserting in lieu thereof "next seven fiscal years", (2) by striking out "1981" in subsections (b) and (c) (1) (B) and inserting in lieu thereof "1984", and (3) by striking out "1980" in subsections (b) and (c) (1) (B) and inserting in lieu thereof "1983".

TECHNICAL

Sec. 310. Section 851(a) (42 U.S.C. 298(a)) is amended by striking out ", and the Commissioner of Education, both of whom shall be ex officio members" and inserting in lieu thereof "and an ex officio member".

TITLE IV—GRADUATE MEDICAL EDUCATION NATIONAL ADVISORY COMMITTEE

GRADUATE MEDICAL EDUCATION NATIONAL ADVISORY COMMITTEE

Sec. 401. (a) Effective October 1, 1980, part A of title VII is amended by inserting after section 711 the following:

"GRADUATE MEDICAL EDUCATION NATIONAL ADVISORY COMMITTEE

"Sec. 712. (a) (1) There is established the Graduate Medical Education National Advisory Committee (hereinafter in this section referred to as the 'Advisory Committee'). The Advisory Committee shall consist of 23 members as follows:

"(A) A representative of the Public Health Service and a representative of the Health Care Financing Administration each designated by the Secretary, a representative of the Department of Defense designated by the Secretary of Defense, a representative of the Veterans' Administration designated by the Administrator of Veterans' Affairs, and the Chairman of the Coordinating Council on Medical Education shall each be ex officio members of the Advisory Committee.

"(B) The Secretary shall appoint 18 members from individuals who are representative of providers of health care, insurers and other payers of health care, and interested national and local organizations.

"(2) (A) Except as provided in subparagraph (B), the term of office of a member of the Advisory Committee shall be three years.

"(B) Of the members first appointed to the Advisory Committee after the date of the enactment of this section—

"(i) six members shall be appointed to serve for terms of one year, and

"(ii) six members shall be appointed to serve for terms of two years,

as designated by the Secretary at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office.

"(3) Members of the Advisory Committee who are officers or employees of the United States shall serve without pay. The other members of the Advisory Committee shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of the duties vested in the Committee.

"(4) The chairman of the Advisory Committee shall be designated by the Secretary from the appointed members of the Advisory Committee.

"(5) The Advisory Committee shall meet at the call of the chairman, except that the Advisory Committee shall meet at least once every calendar quarter. Notice of meetings of the Advisory Committee shall be made available to the public and such meetings shall be open to the public.

"(6) The Secretary shall provide the Advisory Committee such support staff and administrative services as may be necessary for the Advisory Committee to carry out its functions under subsection (b).

"(b) The Advisory Committee shall—

"(1) advise, consult with, and make recommendations to, the Secretary with respect to—

"(A) the need for and supply of physicians in the various medical specialties (including subspecialties) and with respect to the geographic distribution of physicians;

"(B) the factors which affect a physician's choice of graduate medical training and the location of the physician's practice;

"(C) the effect that—

"(i) the rate of reimbursement for health care services provided by physicians in the different medical specialties, and

"(ii) the availability of financial support for persons undergoing graduate medical education,

has on the selection of a medical specialty or subspecialty;

"(D) the proportion of health services provided by persons undergoing graduate medical education; and

"(E) such other matters relating to graduate medical education as the Secretary may specify;

"(2) recommend to the Secretary goals for (A) the distribution of physicians by medical specialties and subspecialties, and (B) the number of graduate medical education positions that should be available in each of the medical specialties and subspecialties; and

"(3) recommend to the Secretary policies and procedures to achieve such goals.

The Advisory Committee shall inform the Secretary of the data it will need to carry out its functions under this subsection.

"(c) (1) The Advisory Committee shall consult with appropriate entities, including the Coordinating Council on Medical Education and its constituent members, concerning appropriate actions to attain the goals recommended under subsection (b) (2).

"(2) The Secretary may enter into contracts with public and other nonprofit entities, including the Coordinating Council on Medical Education and its constituent members to provide assistance to the Advisory Committee in carrying out its functions under subsection (b).

"(d) The Advisory Committee shall consult with the Health Care Financing Administration and private health insurance carriers concerning any changes in the rates of reimbursements for health services provided by physicians in graduate medical education training programs and other practicing physicians necessary to provide incentives to achieve the goals recommended by the Advisory Committee for the distribution of physicians by medical specialties.

"(e) The Advisory Committee shall submit to the Secretary an annual report respecting the activities of the Advisory Committee. The Advisory Committee shall include in such report a description of the consultations undertaken under subsections (c) and (d).".

(b) A member of the Graduate Medical Education National Advisory Committee established by the Secretary of Health, Education, and Welfare on May 1, 1978, shall continue in office as a member of the Advisory Committee established under subsection (a) for the term of office prescribed for that member at the time of the member's appointment.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that the committee amendments be considered en bloc, and that they be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The committee amendments are as follows:

Committee amendments: Page 4, line 13, strike out "and who" and all that follows through line 17 and insert in lieu thereof a comma.

Page 5, insert after line 10, the following new paragraph:

(4) Section 331 is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by adding after subsection (f) the following new subsection:

"(g) (1) The Secretary shall, by rule, prescribe conversion provisions applicable to any individual who, within a year after completion of service as a member of the Corps described in subsection (a) (1) (C), becomes a commissioned officer in the Regular or Reserve Corps of the Service.

"(2) The rules prescribed under paragraph (1) shall provide that in applying the appropriate provisions of this Act which relate to retirement, any individual who becomes such an officer shall be entitled to have credit for any period of service as a member of the Corps described in subsection (a) (1) (C).".

Page 6, strike out lines 1 through 9 and insert in lieu thereof the following:

(b) (1) (A) Section 332(a) (1) (42 U.S.C. 254e(1)) is amended by striking out "which the Secretary determines" each place it occurs and inserting in lieu thereof "which as determined under this section".

(B) Section 332(c) is amended to read as follows:

"(c) (1) The Secretary shall refer a proposed designation of an area, population group, or facility (other than a Federal medical facility) to each health systems agency for a health service area which includes such area, group, or facility or if such an area, group, or facility is in a health service area for which a health systems agency has not been designated, to the State health planning and development agency for the State in which the area, group, or facility is located. Each health systems agency and State health planning and development agency to which a proposed designation has been referred shall be given a reasonable period to review the designation and approve or disapprove the designation. In making such a review the agency shall consider—

"(A) the criteria established under subsection (b),

"(B) the recommendation of the Governor of each State in which the area, population, or facility under consideration for designation is in whole or part located,

"(C) the comments of all interested persons and the comments of the appropriate health professions societies in such area or whose members serve such population or facility, and

"(D) the extent to which individuals who are (i) residents of the area, members of the population group, or patients in the facility, and (ii) entitled to have payments made for medical services under title XVII or XIX of the Social Security Act, cannot obtain such services because of suspension of physicians from the programs under such titles.

The reviewing agency shall give written notice to health professions societies described in subparagraph (C) of the review of a proposed designation, and the societies shall be permitted to submit their comments on a proposed designation to the reviewing agency during the 90-day period beginning on the date the agency notifies it of the review of the proposed designation.

"(2) Upon completion of its review of a proposed designation, the reviewing agency shall approve or disapprove the designation and submit to the Secretary a detailed statement in writing of the reasons for its decision. If an agency approves a proposed designation, the Secretary shall, within the sixty-day period beginning on the date the Secretary receives the decision of the agency, make the designation unless the Secretary, within such period, determines the decision of the agency is not supported by the criteria established under subsection (b) and the other matters considered by the agency in making its decision and submits to the agency a detailed statement of the reasons for such determination. If an agency disapproves a proposed designation, the Secretary may not make the designation unless the Secretary, within the sixty-day period beginning on the date the Secretary receives the decision of the agency, determines the decision of the agency is not supported by the criteria established under subsection (b) and the other matters considered by the agency in making its decision and submits to the agency a detailed statement of the reasons for such determination.".

(C) Section 332(d) is amended by adding at the end the following: "The revision of a designation shall be subject to the same review and approval and disapproval by health systems agencies and State health planning and development agencies as is prescribed by subsection (c) for designations.".

(D) Section 332(g) is amended by inserting "or the revision of a health manpower shortage area" immediately before the period.

(E) The amendments made by this paragraph shall take effect one year after the date of the enactment of this Act.

Page 14, insert after line 17 the following:

(4) Section 334(b) is amended by adding at the end the following:

"(4) In determining whether to grant a waiver under paragraph (1) or (2), the Secretary shall not discriminate against a public entity."

Page 14, line 23, strike out "(4)" and insert in lieu thereof "(5)".

Page 28, insert after line 11 the following:

(e) Paragraph (1) of section 737 (42 U.S.C. 294j(1)) is amended to read as follows:

"(1) The term 'eligible institution' means a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health within the United States which is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.".

Page 28, line 19, strike out "(e)" and insert in lieu thereof "(f)".

Page 44, beginning in line 3, strike out "training centers for the allied health professions,"; and in line 17 on page 44 strike out ", training centers,".

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. LELAND

Mr. LELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LELAND: Page 37, insert before the close quotation marks in line 22 the following: "For purposes of this paragraph, a school of pharmacy which did not receive such a grant in such fiscal year because accreditation requirements prevented it from meeting applicable enrollment requirements shall be considered as having received such a grant in such fiscal year.".

Mr. LELAND. Mr. Chairman, I am offering an amendment to H.R. 7203 with respect to grants made under section 770 of the Public Health Service Act.

This amendment seeks to correct a discrepancy between the necessity of meeting standards set by accrediting bodies and the ability of professional health programs, particularly in minority institutions, to acquire and maintain adequate Federal funding.

Presently, to be eligible for capitation funds, the law requires that schools of pharmacy must be accredited. The law also states that schools must maintain prior levels of enrollment. Unfortunately, accreditation bodies are requiring financially distressed institutions, such as Texas Southern University School of Pharmacy in my district, to reduce their enrollments in order to maintain accreditation, which, without my amendment, will cost the schools their capitation funding.

Current law prohibits the Secretary from waiving that requirement for pharmacy schools—but allows a waiver for dental and public health institutions. Therefore, pharmacy schools are caught in a catch-22 dilemma. If schools comply with the accreditation bodies and reduce enrollment, as TSU has for the coming year, then they will receive no capitation funds. On the other hand, if schools fail to comply with the accreditation requirements and do not reduce enrollment—they will still lose capitation funds because they will no longer be accredited. This catch-22 coupled with a triangular nightmare of meeting rigorous accreditation standards, maintaining required enrollment figures, and procuring adequate funding will place the schools in double jeopardy, which threatens the basic existence and survival of these important professional institutions.

Because this bill is so late coming to the floor, nothing can be done about capitation money for 1980. But, I am seeking to insure that institutions will not be penalized even after the new law is effective; that is, for fiscal years 1981 through 1983.

The provisions of H.R. 7203 require that for a school to receive capitation funds during its effective years—1981–83—institutions must have received capitation funds in 1980.

Therefore, unless this amendment is accepted, these pharmacy institutions, like TSU, will lose capitation money, not only for 1980, but also in 1981–83. At that point, there may be no need for these institutions to look for further funds, because their doors may be shut down.

Mr. Chairman, I do not believe that the present law was intended to include this "catch-22"; it was an oversight, and the schools of pharmacy should not be penalized.

This amendment will give pharmacy schools parity with the schools of dentistry and public health, and will in no way conflict with the authorization for the next 3 years, as the current bill contains no enrollment requirements whatsoever as a condition for future capitation funds.

I ask your support for my amendment.

☐ 1700

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. LELAND. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, this amendment is a reasonable one. It provides that Texas Southern may receive capitation support in fiscal years 1981 through 1983, although it lost support in 1980. It is similar to language now in the statute, as the gentleman mentioned, for schools of dentistry. Under the committee bill, there will be no requirement for maintenance of enrollments for schools in 1981 or thereafter. We join in support of the amendment.

Mr. LELAND. I appreciate the chairman's support of this amendment.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. LELAND. I would be privileged to yield to my distinguished colleague, the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, I certainly support the gentleman's amendment, and it has been a pleasure to serve with the gentleman.

Mr. LELAND. I thank the gentleman for his remarks.

Mr. Chairman, I ask for the support of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. LELAND).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request to the gentleman from California?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. DANNEMEYER: Page 29, line 5, strike "$20,000,000" and insert in lieu thereof "$18,480,000".

Page 29, line 6, strike "$22,500,000" and insert in lieu thereof "$20,290,000".

Page 29, line 7, strike "$25,000,000" and insert in lieu thereof "$22,000,000".

Page 29, line 21, strike "$30,000,000" and insert in lieu thereof "$27,200,000".

Page 29, line 22, strike "$40,000,000" and insert in lieu thereof "$29,750,000".

Page 29, line 23, strike "$50,000,000" and insert in lieu thereof "$16,690,000".

Page 39, line 6, strike "$15,000,000" and insert in lieu thereof "$10,640,000".

Page 39, line 7, strike "$20,000,000" and insert in lieu thereof "$11,680,000".

Page 39, line 8, strike "$25,000,000" and insert in lieu thereof "$12,660,000".

Page 39, line 17, strike "$28,000,000" and insert in lieu thereof "$23,050,000".

Page 39, line 18, strike "$30,000,000" and insert in lieu thereof "$24,990,000".

Page 41, line 25, strike "$23,000,000" and insert in lieu thereof "$21,800,000".

Page 42, line 1, strike $30,000,000" and insert in lieu thereof "$23,940,000".

Page 42, line 2, strike "$32,000,000" and insert in lieu thereof "$25,950,000".

Page 42, line 23, strike "$50,000,000" and insert in lieu thereof "$45,360,000".

Page 42, line 24, strike "$75,000,000" and insert in lieu thereof "$49,800,000".

Page 43, line 1, strike "$80,000,000" and insert in lieu thereof "$53,990,000".

Page 45, line 20, strike "$30,000,000" and insert in lieu thereof "$20,800,000".

Page 45, line 21, strike "$33,000,000" and insert in lieu thereof "$22,830,000".

Page 45, line 22, strike "$36,000,000" and insert in lieu thereof "$24,760,000".

Page 48, line 10, strike "$12,500,000" and insert in lieu thereof "$1,980,000".

Page 48, line 11, strike "$15,000,000" and insert in lieu thereof "$10,980,000".

Page 51, line 2, strike "$20,000,000" and insert in lieu thereof "$10,000,000".

Page 53, line 25, strike "$8,000,000" and insert in lieu thereof "$7,690,000".

Page 54, line 1, strike "$9,000,000" and insert in lieu thereof "$8,330,000".

Page 57, line 2, strike "$8,000,000" and insert in lieu thereof "$7,840,000".

Page 57, line 3, strike "$9,000,000" and insert in lieu thereof "$8,610,000".

Page 57, line 4, strike "$10,000,000" and insert in lieu thereof "$9,330,000".

Page 57, line 16 strike "$5,500,000" and insert in lieu thereof "$5,490,000".

Page 57, line 18, strike "$6,000,000" and insert in lieu thereof "$5,950,000".

Page 57, strike out line 19 and all that follows through line 6 on Page 59.

Page 59, line 7, strike "(5)" and insert in lieu thereof "(4)".

Page 59, line 9, strike "(4)" and insert in lieu thereof "(3)".

Page 60, line 23, strike "$4,000,000" and insert in lieu thereof "$3,360,000".

Page 60, line 24, strike "$4,500,000" and insert in lieu thereof "$3,680,000".

Page 61, line 1, strike "$5,000,000" and insert in lieu thereof "$4,000,000".

Page 61, line 9, strike "$2,500,000" and insert in lieu thereof "$2,240,000".

Page 61, line 10, strike "$3,000,000" and insert in lieu thereof "$2,460,000".

Page 61, line 11, strike "$3,500,000" and insert in lieu thereof "$2,670,000".

Page 61, strike out line 15 and all that follows through line 5 on Page 72.

Mr. DANNEMEYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANNEMEYER. Mr. Chairman, I offer this amendment not out of opposition to improving the delivery of physical health care services to the American people, but out of concern for the financial well-being of this Nation. No one can quarrel with the motives behind this bill; the problem is one of timing and the danger of excess Federal spending as it relates to inflation. Despite the reluctance of some people to face up to it, Federal deficits do produce inflationary pressures which, in turn, erode the value of programs such as those we are discussing here today. Compensating by increasing the funding levels for the next year may provide short-term relief, but over the longer term, such an approach makes the pressure worse. In short, a vicious cycle is created—a catch-22 if you will—which threatens not only potential beneficiaries of health care programs, but everyone else. Opting for a short-term "quick fix" may be politically expedient, but from a policy standpoint it is myopic. If we are really serious about our long-term commitment to both the physical and financial health of this Nation, we need to take a longer view.

The amendment just read would help us to do just that. What it does is take those programs within title II of the bill, exclusive of institutional support and, wherever applicable, reduces the fiscal 1981 authorization level for each to 12 percent above fiscal year 1980 appropriation levels. Then, for fiscal year 1982, a 9.8-percent increase above the fiscal year 1981 authorization level is permitted and in fiscal year 1983 an 8.4-percent increase over the fiscal year 1982 authorization level is provided for. The one exception to this general rule deals with programs that will primarily benefit minority students and minority medical schools; funding for financial distress to disadvantaged individuals is not cut until fiscal year 1983, construction money for Morehouse College will not be affected at all and exceptional financial need moneys are reduced far less than would have been the case had the general rule been applied. In short, this amendment takes into account historical prejudices at the same time it acknowledges the need for medical care providers and services in various low-income, minority-population areas.

All told, this amendment would save the American taxpayers $39.28 million in fiscal 1981, $89.25 million in fiscal 1982 and $135.28 million in fiscal 1983 for a total of $263.81 million over the 3-year life of this bill. I should also note that, in accomplishing this, new programs not previously funded have been dropped on the grounds that we simply cannot afford new endeavors in a year (fiscal 1981) when the total budget deficit—including off-budget items—is likely to reach $65 billion if not more. I might also note, by way of further explanation that, in cases where the program increase recommended by the committee was less than that permitted under the general rule controlling this amendment, the committee's recommendation was left standing. Likewise, titles I and III—the National Health Service Corps and the nurse training provisions of H.R. 7203—are not affected by this amendment.

Speaking of the general rule—that increases in authorizations be held to 12, 9.8, and 8.4 percent for the 3 fiscal years, respectively—I should point out that these percentages are not arbitrary figures. Rather, they are the same as the inflation rates being projected for the years 1980, 1981 and 1982 by the Office of Management and Budget in its mid-session budget review published in July. That being the case, the effect of this amendment is to compensate for the inflation rate predicted by the administration the previous year and no more. What with the producer price index having jumped 22 percent (on an annualized basis) last month, that is the least we can do. And if it turns out the inflation projections have been optimistically low, then this amendment will tend to discourage the advent of excess statistical optimism in the future.

It should be added, however, that OMB's inflation projections are similar to those being made by others. The Congressional Budget Office, for instance, has pegged inflation at 10.5–12.5 percent for 1980 and 8.3–10.3 percent in 1981. And the U.S. Chamber of Commerce is predicting inflation rates of 13.5, 9.1, and 8.9 percent for the years 1980, 1981, and 1982, respectively. Other predictions are in the same ballpark.

Some will argue, I am sure, that these cuts are too drastic, that programmatic increases are essential if the health care needs of this Nation can be met. I can understand, even sympathize with, such arguments. But, just like most every

American family, we cannot afford everything we might like—or even need. Sometimes we have to cut back on our aspirations a little; in other instances, we have to delay things a bit until our financial position improves. More borrowing is not the answer; it will only make things worse later on.

Also, it is not as if we have not been putting ever more money into health manpower programs in recent years. Take the exceptional financial need program—which this amendment reduces but not as much as with some other programs. In 1978–79, 14 percent of such students were assisted; in 1979–80, 44 percent of these students were helped; in 1980–81, 47 percent will be helped, and under this amendment an even higher percentage will be helped in the future. But there are limits, and I think it is high time we recognize them.

Mr. Chairman, the thrust of this amendment is simple, cut authorization levels to cover projected inflation rates and no more until these big budget deficits are a thing of the past. It may not be easy, but it will show we are serious about fighting inflation, and I urge its adoption.

□ 1710

Mr. WAXMAN. Mr. Chairman, I rise in opposition to this amendment.

The authorizations that are in the bill before us are greatly reduced from current levels. The 1981 authorizations are only 62 percent of those for 1980, $649 million in 1981 against $1.37 billion in 1980.

The increases in authorizations of the bill would barely cover inflation. The amount by which increases in authorization exceed inflation are necessary to give the Appropriations Committee the flexibility it needs.

Under the Dannemeyer amendment we would see cuts in the student loan program, the exceptional financial scholarship program, the family medicine training program, the educational assistance to disadvantaged students program, public health schools, and health administration programs. I do not believe that these areas ought to be cut below amounts that reflect their real needs.

These are programs that will affect the health of people for decades to come. They will mean, as a practical matter, whether students will decide to go to health professional schools or will decide that, because of their financial circumstances, they cannot afford to go to these schools. Students will not enter careers of great service to the community, but satisfying to themselves as well.

I would hope we would retain the authorization levels in the committee bill. Due to the amendment offered by the gentleman from Ohio (Mr. LUKEN), the authorization levels are greatly decreased from what has been the authorization level under present law. I believe that retaining the amounts that the committee proposed is a reasonable step.

Mr. LUKEN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Ohio.

Mr. LUKEN. As our distinguished chairman indicated in the subcommittee, I did offer an amendment in subcommittee. I believe the figures should be reviewed. This is a compromise which was accepted by the subcommittee.

The 1980 authorization for capitation was $229 million. The appropriation was $71 million. Under the amendment which was accepted by the subcommittee and, is therefore included in the bill which is being offered, that $229 million was reduced to $60 million in 1981 and $40 million in 1982 and $20 million in 1983. This will result in savings of $166 million, $189 million and $209 million respectively for the next 3 years, a total savings of about $567 million.

Is that the chairman's understanding?

Mr. WAXMAN. The gentleman has correctly stated the reductions in the authorization levels due to this amendment.

Mr. LUKEN. I think that the committee fully considered the arguments and accepted a compromise here which results in a tremendous savings. I think therefore that the Committee compromise should be approved and that the amendment should be opposed.

Mr. WAXMAN. I thank the gentleman for his comments and want to point out to our colleagues the great role he played in the subcommittee deliberations on this bill. His amendment dramatically reduced the amount of money authorized for this program, particularly as we phase out the capitation grants to the medical and other health professional schools. As we phase these grants out, as we face the realities of fiscal constraints, I think the subcommittee handled this in a very responsible way. I want to commend the gentleman for the amendment that was offered in the subcommittee. I urge the House to support the work done by the committee and to reject this amendment.

Mr. COLLINS of Texas. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, this is a very reasonable and logical request. We should all be cognizant of the manner in the authorization process where we have been rapidly escalating the demands and even putting pressure on the Appropriations Committee, because we ask and authorize so much more than an appropriation eventually calls for. I want to pull out two sections of the bill in here that caught my eye.

The first one is the National Health Service Corps, which is title I. It has grown from 1971, when they appropriated $3 million, to $70 million in 1980. In other words, in 10 years the appropriation has grown 23 times over. What was interesting was that in 1980 in this section we authorized $82 million and they only appropriated $70 million, which is an example of how we overauthorize with our Commerce Committee.

Back several years there was a time when we were really pressing for doctors in this country. Of course, we always need more doctors. We always need more nurses, but we are not in the critical situation that the country once experienced.

Let me give the Members an example. Twenty years ago, on the physician per 100,000 population, we had 141 per 100,000. Today, we have 200. In 20 years we have grown from a ratio in the public of 141 to 200. That means we have much, much greater supply of medical doctors than we had back then. One thing we always need to remember is we cannot do everything for medicine or for the health of America we would like to, but Congress has certainly been generous.

In the past few years, we have gone from where we were giving 25 percent of the Nation's budget for health while today we are budgeting 50 percent. It is time we began to reappraise the entire fiscal appropriation.

Mr. Chairman, I yield back the balance of my time.

Mr. FORD of Tennessee. Mr. Chairman, I rise in opposition to the amendment offered by my colleague from California.

First, to point out when we talk about exceptional, the financial need, distressed schools, we are talking about in fiscal year 1981 a reduction of $30 million to $27.2 million. And fiscal year 1982, we are talking about $40 million, which is in the proposed bill and under this amendment would be cut to $29.7 million; and in fiscal year 1983, we are talking about $50 million being reduced to $16.6 million.

Mr. Chairman, the amendment offered by Representative DANNEMEYER proposes to cut title II of the health professions and nurse training amendments in order to keep the program encompassed in the whole bill in line with the projected inflation rate. That, at least, is the said purpose of the bill. Its effect is totally different.

The cutting of title II programs directly effects the education of black students. Two programs of major importance to black medical colleges and the students in them. The first program involves financial distress funds to schools with great need, and which serve minority students. The bill provides $20 million for all 3 fiscal years. This amendment maintains that amount for 2 years, and cuts it in half during the third. Little could be more cruel. With this amendment, we in Congress dangle a carrot—a carrot of survival—in front of the nose of black medical institutions, and, just as they are getting close to it, pull the carrot away.

Schools such as Meharry Medical College, in my home State of Tennessee, which have been working hard to stabilize themselves financially, will be forced to close. The financial distress program is the key to survival for Meharry. Without full funding, black students in medical and dental programs at Meharry, in the veterinary programs at Tuskegee, and in the pharmacy program at Savior will have no place to continue their education. These schools have been working to pull themselves up. Let us not push them down.

The other major program affecting black students to be cut is student assistance for those with exceptional financial need. The bill appropriates $30 million in fiscal year 1981, $40 million in fiscal year 1982, and $50 million in 1983. This amendment cuts those amounts to $27 million in fiscal year 1981, to $29.75 million in fiscal year 1982, and to $16.69 million in fiscal year 1983. These funds are critical for students attending black medical institutions.

The young people have worked hard, overcoming many obstacles, to join the medical professions. To adopt these amendments would be to deny these students the future for which they have striven.

As devastating as the cuts are to the two programs I have mentioned, they are the least affected. They were singled out as programs affecting black schools for a program increase of more than the 12.9 percent in fiscal year 1981, than the 9.8 percent in fiscal year 1982, and the 8.4 percent in fiscal year 1983. What is at stake here is the future of medical education, and good medical treatment for all people. Many areas of the country do not have sufficient numbers of trained personnel to meet their needs. The bill assists these communities through the education and provision of medical professionals.

The students involved in the black schools, and in other programs funded here, often enter the National Health Service Corps, giving themselves to assist those who otherwise would receive no medical attention. With this amendment, we are not just denying an education to qualified students. We are denying health care to Americans. It is imperative that we vote against this amendment.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. FORD of Tennessee. I yield to the gentleman from Kentucky.

Mr. CARTER. I only ask the gentleman to yield because actually the gentleman knows that Meharry is only 85 miles from where I live. I am quite familiar with Tuskegee and also Xavier. That was my amendment to increase financial distress funds that the gentleman referred to. I thank the gentleman for his statement.

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Mr. FORD of Tennessee. I want to thank my distinguished colleague, who is also a physician and a distinguished Member of the House.

As I must continue and close, Mr. Chairman, I would like to point out that the students involved in the black schools and in other programs funded here often enter the National Health Service Corps giving themselves to assist those who otherwise would receive no medical attention whatsoever. With this amendment, we are not just denying an education to qualified students, we are denying health care to Americans. It is imperative that we vote against this amendment before the House now.

Mr. PURSELL. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the Dannemeyer amendment.

Mr. Chairman, this Manpower Training Act has been pending for some time. I rise in opposition to the amendment because we are talking about an authorization bill here and we are not sure what the Senate is going to do. In a fiscal year that is admittedly very tight, it will behoove the Appropriations Committee to look at and set some guidelines for the House that may not be consistent with different figures from the Senate.

Also a corollary to that is that those of us who serve on the Appropriations Subcommittee that funds this particular authorization bill will have to look at some hard dollars. But this amendment goes much, much too far to this issue of striking basic programs of preventive health and primary care.

I would like to briefly say on behalf of the nurses of America, you know, they do not have a big powerful lobby here as the M.D.'s, the dentists, and other professional groups. You do not see nurses here in the lobby lobbying on this bill because many cannot even afford to come into Washington.

Now, I realize the gentleman is going to say that his amendment does not affect the nurses. I think he has learned that since last year when his amendment was severely defeated on the House floor, so I appreciate that he has come a long way in his enlightened approach on this bill; however, beyond the gentleman's amendment, which I oppose, because of reductions in preventive care, primary care, and preventive health, this bill is essential to addressing access to preventive health measures by the people of the United States.

I think there are people on my side of the aisle who are very much opposed to national health insurance.

So what are the alternatives? Are they opposed to the alternatives too? This is an excellent alternative.

I just want to say in behalf of the nurses' program and this amendment, this amendment would be counterproductive to the bill as a whole. We are short over 100,000 nurses in the United States according to testimony by Dr. Davis from the University of Michigan who testified I believe before this authorization committee.

We have had several meetings with nurses all over the United States in various coalitions of one sort or the other that could be organized to come to Washington and present their point of view as a national health group.

I think 1 year ago, I remember, or 2 years ago when the President cut this out in revision, the gentleman from West Virginia (Mr. STAGGERS) got up and eloquently defended the nurses programs. We did bring nurses back to Washington. They came in buses, sleeping in various facilities here, and slept on the floor with sleeping bags to come to Washington and fight for the cause of additional nursing programs in the United States.

With a shortage of over 100,000 nurses in the United States, well documented, all you have to do is read an ad and look at the daily want ads in all the newspapers all over the United States. It is very obvious that his is not a power packed lobby organization, because they are underfunded. They do not have the finances; so some of us should speak out in behalf of the nurses and this bill.

I have come to the conclusion that one of the major reasons that we in Congress come to a far different position on this matter than do our counterparts in the executive branch is that we listen closer to those directly involved in nursing and more often observe firsthand the provision of health care in the hospitals and homes of our various districts. For example, it came to my attention last year that no nurses served on the management staff of the Health Resources Administration, or at any level above HRA where decisions in this area are made.

I am pleaesd to report that, since that time, a number of administration officials—at my request—have met with nurse leaders. In addition, it appears that a nurse will soon be appointed to the National Council on Health Planning and Development. These are small, but significant, first steps toward a truly comprehensive and cooperative approach to our health care needs.

In H.R. 7203, Congress, for the first time, combines the nurse training auhorization with that for other health care professions. That action is symbolic of this new approach, and I am hopeful that the reality of it can soon be achieved. For we have the better health of our Nation and its citizens to gain and nothing to lose. Mr. Chairman I oppose this amendment and support this bill, the Health Professions Educational Assistance and Nurse Training Amendments of 1980 (H.R. 7203).

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words.

I want to commend the distinguished gentleman from Michigan on his remarks.

Ms. MIKULSKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will be brief in my remarks. I hope, however, the points that I make will have the impact of defeating this amendment.

The reason I oppose the Dannemeyer amendment is because it will have the impact of closing the hope people of ordinary backgrounds have of achieving an education in the health field.

Once again, we will make health opportunities in the health career field the monopoly of the rich, those with trust funds, those with big daddies who can afford to write the checks to the medical schools or to the nursing schools or to the dental schools. The people of the third congressional district that I represent, they will be excluded from having a career in nursing or medicine.

I know of two students right now who would be excluded. One is a young girl who would like to go to nursing school where the tuition is $4,000 a year. She is the daughter of an unemployed steelworker. She will not have the opportunity to be a bedside nurse or perhaps work in hospice care because they will say, "Too bad, we have other national priorities."

There is another young woman I met working as a checkout girl at a local food market whose father was a city employee. She is one of seven children. Her father has never made $12,000 a year. Her mother works part time as a sales girl. Maybe their whole family income is $16,000 a year. She asked me, "Miss MIKULSKI, how can a girl like me afford the tuition of a medical school like Georgetown when it is $13,000 a year? I will never have a chance unless there are scholarships available."

This Health Manpower Act gives those two women the opportunity to provide public service and have meaningful careers. They should not be excluded because their fathers are unemployed or because their mothers are paid too little to send them to the kinds of schools that are necessary.

We have voted consistently in this Congress on the right-to-life, to save lives. If we are going to save lives, we need people in the health care professions who are dedicated and compassionate. That is not limited to one social class.

I, therefore, urge the defeat of this amendment so that we can embrace the American dream that the Presidential nominee of my colleague, the gentleman from California, advocated when he said he did not want any more broken promises for the constituency I represent.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. DANNEMEYER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 512]

Addabbo
Akaka
Albosta
Ambro
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harkin
Harris
Heckler
Hefner
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mavroules
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

The CHAIRMAN. 361 Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. DANNEMEYER) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will advise the Members that they will have 5 minutes to record their votes.

The vote was taken by electronic device, and there were—ayes 68, noes 303, not voting 61, as follows:

[Roll No. 513]

AYES—68

Archer
Badham
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Bereuter
Bethune
Broomfield
Broyhill
Burgener
Campbell
Collins, Tex.
Corcoran
Cotter
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Derrick
Derwinski
Devine
Dickinson
Dornan
Erlenborn
Fenwick
Frenzel
Gradison
Grisham
Hagedorn
Huckaby
Ireland
Jacobs
Jeffries
Johnson, Colo.
Kelly
Kindness
Kramer
Lagomarsino
Latta
Lungren
McDonald
Martin
Michel
Miller, Ohio
Moore
Nelson
O'Brien
Pashayan
Paul
Petri
Rhodes
Ritter
Robinson
Roth
Rudd
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Spence
Stockman
Stump
Thomas
Trible
Walker
Whitehurst

NOES—303

Abdnor
Addabbo
Akaka
Albosta
Ambro
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnard
Barnes
Bedell
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Cleveland
Clinger
Coleman
Collins, Ill.
Conable
Conte
Conyers
Coughlin
Daniel, Dan
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Dicks
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harkin
Harris
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Hughes
Hutchinson
Hutto
Hyde
Jeffords
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCloskey
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mavroules
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Musto

Myers, Ind.
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Roberts
Roe
Rose
Rosenthal
Roybal
Royer
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Snowe
Snyder
Solarz
Solomon
Spellman
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
Weaver
Weiss
White
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—61

Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Ashbrook
AuCoin
Beilenson
Boggs
Bonior
Brown, Ohio
Cheney
Clay
Coelho
Corman
D'Amours
Davis, S.C.
Dingell
Dodd
Gephardt
Giaimo
Gingrich
Goldwater
Hanley
Hansen
Harsha
Hawkins
Hinson
Holtzman
Ichord
Jenrette
Leach, La.
Lederer
Lott
Lujan
McCormack
Mattox
Mazzoli
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nichols
Obey
Pritchard
Quayle
Rodino
Rostenkowski
Rousselot
Scheuer
Sebelius
Shannon
Steed
Symms
Tauzin
Vander Jagt
Watkins
Whitten
Wilson, C. H.
Wright
Wydler
Young, Alaska

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Mr. LOEFFLER and Mr. SOLOMON changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of engaging in a brief colloquy with the distinguished chairman of the subcommittee, Mr. WAXMAN, about the committee's intent with respect to the provision in title IV of the bill—which would establish in statute the advisory committee known as GMENAC—or the Graduate Medical Education National Advisory Committee.

Frankly, Mr. Chairman, although I feel this group has been doing a fine job in studying the supply and distribution of physicians in various medical specialities—I have serious reservations as to whether it is wise to establish this body by statute—as our bill would do. Personally—I feel it would be preferable to continue GMENAC administratively—by charter—and I would urge that the administration move expeditiously to do so.

At this time, however, I would simply like to ask the chairman's assistance in clarifying our committee's intent with respect to the GMENAC provision as it is now written in the bill—to assure that we do not intend for GMENAC to have any regulatory authorities. It is merely to be an advisory body, as I understand it. Is that correct?

Mr. WAXMAN. Mr. Chairman, I understand the gentleman has some concerns about the Graduate Medical Education National Advisory Committee—GMENAC. I know the gentleman is concerned that GMENAC may someday assume regulatory activities.

I want to assure the gentleman that the GMENAC provided in this bill is not a regulatory body. It is a committee to study the current patterns of graduate medical education. It is to consult with the AMA, AHA and other responsible bodies about training patterns. It is to talk with medicare and medicaid about more equitable payments for family doctors. But it is not our intent that it have any regulatory authority.

The GMENAC provided in the bill is the GMENAC that has worked well for the past 4 years. The language in the bill is, in fact, adopted from—and often identical to—the language of the current GMENAC charter.

Mr. CARTER. I thank the distinguished chairman.

Mr. MAGUIRE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as a cosponsor of the health manpower legislation, I am pleased to rise in support of several specific personnel sections which I had a hand in drafting. The funding provisions for disadvantaged persons and the study on environmental health manpower needs are important and forward looking and deserve special support by the committee today.

The sections of this bill dealing with the access of disadvantaged persons to health professions education are noteworthy. The ones about which I am specifically concerned are those providing financial support for institutions in financial distress, aid for students with exceptional financial need, assistance to individuals from disadvantaged backgrounds and construction and conversion assistance for 2-year schools converting to 4-year institutions. All of these provisions are directed toward improving the access of disadvantaged persons to a health professions education by relieving some of the fiscal uncertainty associated with the cost of that education, strengthening the educational programs designed to prepare them for professional school and ameliorating the budget problems of those institutions which are in financial distress.

We have a chronic maldistribution of health professionals especially in terms of care for the underprivileged. One remedy for this problem involves increasing the representation of disadvantaged persons in these occupations. The Association of American Medical Colleges set a goal 10 years ago of having the underrepresented populations reach at least 10 percent of the total student body in professional school by 1980. Current data not only shows that we have not reached that goal but the numbers also indicate that the rate of enrollments by disadvantaged persons may actually be dropping. While there may be many reasons for this drop, two important ones are the costs of a professional education and the difficulty some persons experience in gaining adequate preparation to make successful application to schools providing training. This bill addresses these problems by increasing support available for persons with severe financial need and by increasing the funds used for special programs designed to prepare the disadvantaged for health professions education. In addition, the section on financial assistance to institutions in distress will aid those schools which traditionally and historically serve disadvantaged students.

Section 231 of this act calls for the completion of a study by the Secretary of Health and Human Services of environmental and occupational health personnel needs. The committee has acted upon our request for this study out of a concern that there be a sufficient number of specialized and highly trained individuals to manage programs such as the Clean Air Act, TOSCA, and the Resource Recovery and Conservation Act. This concern was recently justified by a report prepared by the Bureau of Health Manpower which stated that "(L)ittle is known about requirements or shortages of manpower, and less about geographic and organizational distribution." This study will give us a chance to "look before we leap," to get a fix on the scope of the manpower training problem in this area before prescribing solutions.

The Harvard School of Public Health recently commented that in the drafting of legislation in the environmental health field, little attention is given to associated manpower needs and, that only when the backlog of educational needs reaches the crisis stage, will Congress likely pass ameliorative legislation. Although we probably have not reached that stage yet, there are indications that we may be approaching that point. Funding limitations are such that there is an erosion of the quality of graduate level programs which threatens the capability of the Federal Government and State and local agencies to meet their assigned air pollution responsibilities. EPA funding for manpower-related programs has decreased from approximately $12 million in 1973 to less than $3 million in 1977 and to a negligible amount for 1980.

Members of the Johns Hopkins environmental health sciences faculty cited the lack of comprehensive training in the vital educational areas as the motivation behind their belief that there are no more than 100 well-trained environmental toxicologists in the United States today. The PenJerDel Council, a tristate association of business, industry, and professionals from my area discussed "The Manpower Crisis in Toxicology," in their December 1979, monthly meeting of the Environmental Improvement Committee. The flyer advertising this forum stated:

> It is quite likely that there will be a crunch of some proportions as various types of institutions reach out to add toxicologists to their staffs.

So, I think that it is clear that the lack of information about manpower and the predominant assumption that our training is not keeping up with the demand for experts, is a concern shared by Government, industry, and academics alike.

Is this important? I think it is. The consequences of the crisis in manpower, funding for environmental health personnel are obvious. We get contracting-out as agencies turn to the "invisible government" for expertise they do not have in-house. We get maladministered programs or Federal officials who cannot defend the merits of environmental laws against baseless claims by groups who would damage the purity of our water or air. We get botched analyses like that performed for the citizens of Love Canal this spring which so needlessly terrorized the citizens there. The situation at Love Canal is convincing proof that we need to train our physicians to treat maladies caused by environmental contamination.

For all of these reasons, I believe that the knowledge that we can glean from a study of the factors and variables at work in shaping the dimensions and characteristics of the current work force will serve as a foundation for effective manpower projection capabilities. When we return to reauthorize these programs in the years down the line, we will be able to fine-tune our supply of epidemiologists, biomedical researchers and environmental health personnel in a manner which accurately reflects the data on supply, society's need and which utilizes our resources in a cost-effective manner.

I would urge support for the legislation generally and for this section in particular. I thank Chairman WAXMAN and Dr. CARTER for their help in adding it.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the Chair, Mr. BIAGGI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7203) to amend the Public Health Service Act to revise and extend the programs for the National Health Service Corps and to revise and extend the programs of assistance under titles VII and VIII of such Act for the education of health professions personnel, and for other purposes, pursuant to House Resolution 766, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

☐ 1800

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 368, nays 8, answered "present" 2, not voting 54, as follows:

[Roll No. 514]

YEAS—368

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Cleveland
Clinger
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Cotter
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harkin
Harris
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Roe
Rose
Rosenthal
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—8

Collins, Tex.
Crane, Daniel
Crane, Philip
Dannemeyer
Jeffries
Kelly
McDonald
Paul

ANSWERED "PRESENT"—2

Gonzalez
Wilson, Tex.

NOT VOTING—54

Anderson, Calif.
Ashbrook
AuCoin
Beilenson
Boggs
Bonior
Brown, Ohio
Cheney
Clay
Coelho
Corman
D'Amours
Davis, S.C.
Dodd
Gephardt
Giaimo
Goldwater
Hanley
Hansen
Harsha
Hawkins
Hinson
Holtzman
Ichord
Jenrette
Leach, La.
Lederer
Lott
Lujan
McCormack
Mattox
Mazzoli
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nichols
Obey
Pritchard
Quayle
Roberts
Rodino
Rostenkowski
Rousselot
Sebelius
Shannon
Steed
Symms
Tauzin
Vander Jagt
Watkins
Whitten
Wilson, C. H.
Wydler
Young, Alaska

☐ 1810

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Ashbrook.

Mr. Lederer with Mr. Goldwater.

Mr. Rostenkowski with Mr. Hansen.

Mr. Murphy of New York with Mr. Pritchard.

Mr. McCormack with Mr. Quayle.

Mr. Mazzoli with Mr. Rousselot.

Mr. Giaimo with Mr. Lujan.

Mr. AuCoin with Mr. Symms.

Mr. Corman with Mr. Vander Jagt.

Mr. Steed with Mr. Watkins.

Mr. Whitten with Mr. Wydler.

Mr. Charles H. Wilson of California with Mr. Sebelius.

Mr. Jenrette with Mr. Lott.

Mr. Hawkins with Mr. Hinson.

Mr. Hanley with Mr. Harsha.

Mr. Murphy of Illinois with Mr. Young of Alaska.

Mr. Nichols with Mr. Brown of Ohio.

Mr. Obey with Mr. Cheney.

Mr. Roberts with Mr. Mattox.

Mr. Shannon with Mr. Myers of Pennsylvania.

Mr. Tauzin with Mr. Bonior of Michigan.

Mr. Rodino with Mr. Clay.

Mr. Coelho with Mr. Davis of South Carolina.

Mr. Dodd with Mr. D'Amours.
Mr. Ichord with Mr. Gephardt.
Ms. Holtzman with Mr. Beilenson.
Mr. Anderson of California with Mr. Leach of Louisiana.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 7203, the bill just under consideration.

The SPEAKER pro tempore (Mr. DANIELSON). Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1177, MENTAL HEALTH SYSTEMS ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1177) to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia? The Chair hears none and, without objection, appoints the following conferees: Messrs. STAGGERS, WAXMAN, SATTERFIELD, PREYER, MAGUIRE, LUKEN, and WALGREN, Ms. MIKULSKI, and Messrs. BROYHILL, CARTER, DEVINE, and STOCKMAN.

There was no objection.

MORE THAN 100,000 VETERANS AND ELIGIBLE DEPENDENTS MAY NOT RECEIVE EDUCATION CHECKS IN SEPTEMBER BECAUSE OF OMB DILLYDALLYING

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, as incredible as it may be, the Veterans' Administration has apparently run out of money for the payment of education and training benefits for more than 100,000 veterans and eligible dependents due in September.

The Veterans' Administration has informed the committee that in July it recommended a supplemental request to the Office of Management and Budget for $75 million to meet the education and training payments through September 1980. The VA realized in July that they had not requested sufficient funds for fiscal year 1980.

OMB's attitude was predictable. Its response to the agency was that no supplemental was necessary in that a transfer of funds from the compensation and pension accounts could be made to correct any shortfall, if necessary. Although VA officials attempted to establish that this could not be done, OMB insisted there was no problem. Since July OMB has done nothing and word has gone out to all VA regional offices that many veterans and dependents will not be receiving checks in September because the Agency is now out of money.

It should be made clear, Mr. Speaker, that the problem is in no way the fault of the Appropriations Committees. To the contrary, Chairman EDWARD BOLAND and members of his Subcommittee on HUD-Independent Agencies have always demonstrated their willingness to provide the necessary funds for all veterans' programs authorized by the Congress. We know the Appropriations Committee and the House would have acted promptly on any reasonable request submitted by the Office of Management and Budget.

I felt I should explain the situation to all Members today because of the many inquiries the committee has received regarding the matter. To the best of my knowledge the overwhelming majority of veterans will receive their checks in September; however, those eligible to receive advance payments, work-study payments, retroactive and special payments for the month will not be receiving checks. I am told this will probably affect some 100,000 individuals.

Mr. Speaker, it is inconceivable that this has happened. As I said on the floor of the House a few days ago when we voted overwhelmingly to override the President's veto of H.R. 7102, I do not understand the attitude of some administration officials about veterans. Apparently the same OMB officials who advised the President to veto H.R. 7102 are responsible for this problem. One can only conclude that it is another case of extremely poor management by OMB or another demonstration of a total lack of sensitivity for veterans by the Office of Management and Budget and this administration.

I would strongly urge the Director of the Office of Management and Budget to make the proper request to the Appropriations Committees of the Congress and that we act immediately to resolve the matter.

FEDERAL AGENCY WOULD RUIN THIS MAN

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUBBARD. Mr. Speaker, I want to bring to the attention of my colleagues a situation involving the Federal Aviation Administration and my constituent, Mr. Donald Farrington, Jr., Farrington Aircraft Corp., Paducah, Ky.

The following editorial, written by Jack Paxton, editor of the Paducah Sun, relates this situation very clearly. I am sure this is not an isolated case. How many times must we be confronted with this kind of behavior before the Congress will act? We are faced with a runaway bureaucracy and need new tools to handle it. The choice before this body is between representative government, where laws are written by elected representatives of the people, and government by bureaucracy, where nonelected officials remain faceless, nameless, and unresponsive to the American public. Mr. Speaker, I submit the following:

FEDERAL AGENCY WOULD RUIN THIS MAN

(By Jack Paxton)

The man I'm writing about didn't want publicity. He feared it would hurt him with those who are trying to punish him. But the proposed punishment is so unjust, so outrageous, that I'm doing this on my own, hoping to God it helps him more than it hurts him.

For more than two years Don Farrington Jr., has been trying to start up a small general aviation airport on the south side of Paducah. It's the kind of airport that serves the little man who loves flying but can't really afford it, an airport which caters to the people who want to fly homebuilts or ultralights or gliders or do skydiving or buy 80 octane gas for their elderly airplanes because they were designed to run on it but almost nobody sells it anymore.

It's the sort of airport which is difficult to operate these days, much less start from scratch. The economics and government regulations of the day are of a nature to be challenged by only the most determined. These airports are going out of business by the score. Nobody builds them anymore.

But that's what Farrington has been doing every spare minute away from his full-time flying job with Pan American. I've watched him. The hours he's put in, the difficulties overcome, are staggering. I've been silently, unwillingly betting against him for two years. I just didn't see how he could make it.

But slowly he's been moving. In the last six months he reached a stage where meaningful money was coming in. Lately I've been thinking he might actually pull it off. Though I still wonder if it was worth it to him. He looks worn out. His customers joke about him having permanent, possibly terminal, jet lag. But while we joked we were admiring his grit. It's hard not to respect a man who's willing to work so hard for something he wants.

One of the things which has allowed Farrington to stay in business is a contract to make a nightly freight run around Kentucky and parts of the midwest. It adds to the revenue of such runs if one can get permission from the Federal Aviation Administration to also carry what are called hazardous materials. They're almost never in fact very hazardous but much paperwork is necessary to get the permission.

Farrington submitted the paperwork, went through the lengthy process, then was told by an FAA official that everything was OK. Farrington took it as verbal permission, believed he could begin carrying the additional materials. He began to do that and almost immediately was hit with a ramp check in which his plane was found to be carrying dry ice and some mildly radioactive pharmaceuticals, so-called hazardous materials though neither would have endangered anyone.

Farrington told FAA inspectors he's been given verbal approval but didn't yet have the official papers in hand. He since got them without submitting anything in addition to his original documents but that wasn't satisfactory to the agency.

A second charge against Farrington was that a pilot who made his freight run one night was unqualified. The basis for this was that the man had been checked out on the run by an "examiner" instead of a "check pilot." Both are designated by the FAA to test whether people can fly, but there is a technical difference. (The pilot in question is himself an examiner in Lear jets and flies big transports for Flying Tiger lines.)

Both Farrington's alleged offenses might seem, to the layman, on the technical side and slightly mild. Not so the punishment. The other day the FAA told Farrington he must close his entire air taxi operation for sixty days. That's all charter and freight service, his main revenue producers, for which he has invested in two very expensive twin-engine planes. Stop it all for two months.

That isn't just punishment. It could be capital punishment, as far as his business is concerned; tantamount, after years of grinding work and borrowing to the hilt, to putting the man out of business.

How can he close for two months and make it back? I'd bet he couldn't make payments on his loans for two months if he was shut down.

Almost anybody who's dealt with the FAA knows you need a specialized lawyer if it gets after you; someone who knows the intricacies, habits, inclinations and preference of this labyrinthine monster.

So Farrington called an FAA attorney in Washington who was recommended to him. The lawyer said yes, he'd take the case, but it would cost Farrington $1,500 to get in the door and $6,000 to $8,000 in legal fees if he carried the whole case through. In addition, the lawyer said, Farrington had better be prepared to spend the better part of the next two months on this matter—don't plan to do much flying for Pan American or much that is productive toward increasing, or even preserving, his business.

And oh yes, said the attorney, don't do the least thing to make the FAA angry. Don't go public. And have a real, nice, polite attitude, for as you have already had occasion to note, the FAA is not only lawmaker, enforcer, accuser, prosecutor and jury—it is also the judge and the punishment it can inflict is limited pretty much by its own whim.

A $1,000 fine, I feel certain would have been plenty to get Farrington's attention, given his present circumstances. And it would have been more in line with the seriousness of the charges. Plus he's got his papers and surely wasn't going to make this mistake again.

But now, at best, even if Farrington wins a total victory and the FAA levies no punishment (unlikely as that is), he'll be out $6,000 and two months of time he needs to keep his business going. At worst, of course, the punishment the FAA has already decided upon will stand and he won't have to worry about his business anymore.

I've taken it on my own to publish this because the punishment so grossly overshadows the offense. It is so wrong. I can't believe, if enough people know about it, that this will be allowed to happen. I can't believe this unfeeling, unaccountable federal mammoth will be allowed to routinely plow under an individual who has worked so hard.

This kind of outrage is not unheard of—in fact in recent years it's become increasingly frequent: the ruination of small businessmen by more or less routine regulations, inspections, paperwork and punishments inflicted by federal agencies which write their own rules and are held accountable to no one.

It's got to stop somewhere.

□ 1820

THE POUGHKEEPSIE RAIL BRIDGE—A VITAL RAIL LINK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GILMAN) is recognized for 60 minutes.

Mr. GILMAN. Mr. Speaker, I wish to review with my colleagues a matter which should be of great concern to all of us.

In May 1974, the Poughkeepsie Railroad Bridge which spans the Hudson River in New York State was rendered impassable by fire which destroyed approximately 600 feet of roadbed and ties. The superstructure of the bridge was left intact.

Today, some 6 years after that fire, and 2 years after Congress authorized $9 million for the repair of the bridge, we are no closer to the reopening of this vital rail link than we were at any point in the past.

Conrail's continual refusal to repair and reopen this bridge is indicative of that agency's authoritarian attitude. It is as if that supragovernmental agency has decided to use this bridge as a symbol of their arrogance and lack of responsiveness. It is as if they are telling us that no one—not even the Congress of the United States—can tell Conrail what to do. And yet, Conrail keeps coming back to the Congress hat in hand, to bail them out of the ever-increasing deficits, much of which is attributed to their incompetence and arrogance.

This past month, the House Subcommittee on Transportation of the Appropriations Committee denied the request for a bridge repair appropriation which was urged by Representatives DODD, MCKINNEY, and MOFFETT of Connecticut, and by Representatives FISH of New York, and myself. Our amendment which was subsequently introduced on the floor of the House, called for an appropriation of $1 million in order to begin this long-delayed bridge reconstruction. Unfortunately, the committee's opposition prevailed.

In order to more fully acquaint our colleagues with the issues involved in this matter permit me to review the background of this issue which is not solely a bridge repair, but which has become a symbol of Conrail's inadequacies and unwillingness to meet the needs of our Nation and the Northeast.

Soon after the burning of the Poughkeepsie Bridge, on May 8, 1974, the Penn Central Co. sought funds for bridge repairs from the Federal Government under the Regional Rail Reorganization Act. Our rail administrators readily admitted that there was a vital need for this rail link and noted that they felt the Federal Government had a stake in helping to fund its restoration.

W. Gifford Moore, who at the time of the bridge fire was the president of the Lehigh & Hudson Railroad, received estimates stating that the total cost of the repairs would amount to less than $1 million. An insurance settlement provided a repair fund of $359,000 which is still being held in an escrow account. Mr. Moore, who is now a consultant with Genessee and Wyoming industries, informed me that the night the bridge burned the railroad was given an estimate of $600,000 and a projected 6 months for the completion of the repair work.

In January 1975, a proposed three-party bridge repair agreement was announced whereby the State of New York and the Penn Central would share the cost of the repair, with the Federal DOT picking up that portion of Penn Central's share that exceeded $350,000. While this contract apparently made several round trips among the parties involved without gathering a single signature, repeated statements were made by all concerned parties, that only minor problems remained to be ironed out and that the repairs would soon be commenced. Later, when Federal participation was eliminated from the agreement and Penn Central received its insurance settlement for the bridge damages, still another contract began another protracted meandering through the New York State bureaucracy and the Penn Central offices.

Please note that at about that time, the State of Connecticut offered to help subsidize the repair of the bridge in the amount of $450,000 because of the vital importance of the bridge to rail freight traffic to the State of Connecticut. A glance at any rail map readily discloses that, without the Poughkeepsie Railroad Bridge, Connecticut has no direct access to the West. All rail freight traffic must detour through Massachusetts to gain access to and from Connecticut. Thus the Poughkeepsie Bridge has been and remains vital to the interests of the State of Connecticut.

On January 8, 1975, Raymond T. Schuler, then commissioner of the New York State Department of Transportation, advised me that a basis for agreement for bridge repair had been reached and that the agreement would be signed within the next few days.

On March 26, 1975, in reply to my inquiry as to why that agreement had yet to gain a single signature, Commissioner Schuler advised me that—

> The only delay which occurred in drafting a written agreement resulted because the engineering staff of the Penn Central had to update their engineering cost estimates, and added that a meeting on March 14th had clarified those concerns, and that the review of the agreement was proceeding quickly.

Then abruptlv, all references to this agreement ended. Rather, New York State began to argue for the Poughkeepsie Bridge as a non-Conrail freight route. I felt obliged, on April 10, 1975, to write to Commissioner Schuler asking him if he was now putting preconditions on the restoration of the bridge. His May 6, 1975, reply stated that there were no preconditions on the repair of the bridge and that New York State had decided to forego Federal participation in the repair contract in order to "hasten the preconstruction process."

Subsequently, in correspondence dated June 10, 1975, Commissioner Schuler advised me that the two-party idea was acceptable to the State and that the only cause of the current delay in forwarding this document to the Penn Central trustees for execution was the lack of an appropriation of funds by the State legislature from their 1974 rail transportation bond issue. Acting on this advice, I appealed to our State legislators to seek prompt passage of the necessary appropriation.

On December 23, 1975, Commissioner Schuler stated that—

> Within hours of gaining legislative and gubernatorial approval authorizing the fi-

> nancing of our rail program, a draft agreement was forwarded from his Transportation Department to Penn Central. The signed agreement was then transmitted to Penn Central who then had to petition the Federal Bankruptcy Court for permission to enter into the agreement to repair the bridge.

The court's approval was granted on November 10, 1975. On November 11, 1975, the Penn Central forwarded copies of this agreement to the appropriate State officials for their signatures.

On April 1, 1976, Conrail's conveyance date, the director of the budget was the only State official who had approved the execution of the agreement.

I was then informed that the execution of the agreement was then contingent upon the State's ability to market rail bonds. I could not understand this new excuse for the delay, since the New York State Legislature had appropriated all of the necessary funds for the restoration of this vital span in the rail preservation bond issue of 1974.

And despite all those delays, the support for repairing the Poughkeepsie Railroad Bridge grew. The Governors of New York and Connecticut continued to urge its repair. The final rail systems plan, issued by the U.S. Railway Association in mid-1976, included the Poughkeepsie Railroad Bridge as a vital rail link that must be repaired.

In August 1977, in concert with my distinguished colleagues, the gentleman from New York (Mr. Fish), and the gentleman from Connecticut (Mr. Moffett), we conducted ad hoc congressional public hearings in Poughkeepsie regarding the future of the Poughkeepsie Bridge. Over 400 pages of testimony was taken from public officials and shippers from throughout southeastern New York and western Connecticut. All but one pleaded with us to restore rail service on the bridge. Almost every witness focused attention of the unbelievable 150-mile detour north to Selkirk and then south down the Hudson's east bank caused by the failure to reopen the bridge route into New England. All pointed to the increased cost of freight being incurred as a result of this detour, and all the wasted fuel and energy. All pointed to the unconscionable and substantial delays and losses being sustained because of the overcrowded railyards at Selkirk, noting that all rail traffic to and from New England could be paralyzed by inclement weather or by sabotage of the only intact bridge across the Hudson at Selkirk.

Armed with this data, we presented our case for the repair of the Poughkeepsie Bridge to the 95th Congress in 1978. The Senate approved an amendment introduced by the senior Senator from the State of Connecticut, Mr. Ribicoff, authorizing $9 million for the repair and reactivation of the bridge. Later in that same session, the House passed an identical amendment which I introduced as part of the Railway Association Amendments Act of 1978 which was signed into law by the President as Public Law 95-265.

What had transpired prior to the adoption of that law was a dress rehearsal in Government procrastination; what transpired subsequently was a full-scale performance of "passing the buck."

Soon after the final adoption of the legislation, we were informed by both John M. Sullivan, Administrator of the Federal Railroad Administration, and by John L. Sweeney, Vice President for Governmental Affairs at Conrail, that "preliminary engineering feasibility studies" would be begun to determine the "condition of the piers supporting the bridge" and "to determine what part of the $9 million authorization is needed to reconstruct the bridge and the facilities needed to support it." It was further pointed out that 'we do not know precisely how long it will take to complete the preliminary engineering work."

This preliminary engineering work was delayed time after time. Despite several requests for status reports from the FRA by my office and by my colleagues, Mr. Fish and Mr. Moffett, the "preliminary engineering work" study was not released until April 14, 1980.

The results of the Deleuw, Cather & Co. report were astounding, projecting that "cost levels for restoration of the bridge itself would range from $19,762,000 to $26,938,000." A project that would have cost only some $600,000 in May 1974 had skyrocketed in a 6-year period to $26 million in April 1980.

That ridiculous cost estimate—which was inflated an additional $10 million to include a signal system and high speed trackage on either side of the bridge for a total of some 85 miles—was contradicted by a study completed at about the same time by the Providence & Worcester Railroad, which estimated a cost of $9,500,000 for the bridge repair.

It should be obvious to our colleagues, that Conrail is determined that it does not want to repair this bridge and is not going to cooperate in any manner in bringing it about.

And now we are confronted with a new argument. Suddenly Conrail officials are talking about demolition of the bridge, an exercise which the DeLeuw, Cather report estimates would cost in excess of $10 million—$1 million more than the repair estimate by the Providence & Worcester.

Since the official FRA report contends that demolition would cost more than the estimated $9 million cost of repair, why not repair and reopen this important rail route?

The recent inaction by Conrail and by Congress have not gone unnoticed by those professionals who follow the rails. On August 11, 1980, Traffic World, a magazine published in Washington, printed a full page editorial entitled "A Bridge Over the River Hudson," which stated in part:

> Hundreds of millions of dollars were voted for the component agencies of the DOT, and in the case of the Federal Aviation Administration and the Federal Highway Administration . . . the totals are in billions of dollars. But there was not much debate or discussion about those big expenditure items. One item that did generate lively debate was an amendment, offered by Representative Benjamin A. Gilman (R-NY) that would add to the bill an appropriation of $1,000,000 to enable the Secretary of Transportation to make payments for the reconstruction of the railroad bridge over the Hudson River at Poughkeepsie, N.Y., as authorized by section 6 of Public Law 95-265 . . .
>
> It is of prime importance to the transportation needs of not only southern New England, but also southeastern New York, and for the coal-producing regions of Pennsylvania, Virginia, and Kentucky, Mr. Gilman said . . . The Poughkeepsie Bridge provides the shortest rail route between southern New England, southeastern New York, points on Long Island into metropolitan New York and the coal fields of Pennsylvania, Virginia, and Kentucky. At a time when we are considering our Nation's energy needs, when our utility companies are exploring methods of converting from gas-fired generation to coal generation, this could be an important supply route for the coal-burning power plants in the New England area. . . . Restoration of the bridge would avoid an unbelievable 150-mile detour through the overloaded rail yards up at Selkirk, New York . . .

The Traffic World editorial concluded:

> The arguments by proponents of the bridge repair project appear to us to be too strong to be ignored. We hope a way can be found, and soon, to make the bridge serviceable again. The fate of the Poughkeepsie Bridge should not be like that of the River Kwai bridge.

We proponents of the repair of the Poughkeepsie Bridge also feel that this argument has gone on much too long. Conrail refuses to repair the bridge, despite the dictates of commonsense, for no reason other than to flaunt its independence of Congress and to show that this supraagency takes orders from no one.

The time has come for the Congress to reassert its authority over this monster that we have created, and which we subsidize year after year to the tune of billions. The time has come for Congress to reject the facetious reports issued by the FRA which inflate this simple cost of construction three and four times above and beyond other reasonable studies and to consider the following salient facts:

The Poughkeepsie Railroad Bridge offers the shortest and most fuel efficient route between the energy-starved industries and utilities of New England and the rest of the Nation.

The Poughkeepsie Bridge is the major gateway for coal and beef to New England.

The utilization of the Poughkeepsie Bridge is called for in the final rail systems plan of 1976.

The Poughkeepsie Bridge is the best way to slow down the march of freight shipping to the truck clogged highways of the Northeast.

The Poughkeepsie Bridge is an effective way of detouring the inclement weather which sometimes closes the Selkirk route.

The Poughkeepsie Bridge, the only extant rail route across the Hudson south of Albany, is vital to our national security.

The Poughkeepsie Bridge is structurally sound and should be repaired by its owners.

If not repaired, the Poughkeepsie Bridge will become a safety hazard to river traffic and to residents of the densely populated city below.

The Poughkeepsie Bridge avoids an unbelievable 150-mile detour through

Selkirk, providing ready access by rail to southern New England, southeastern New York, Long Island, and metropolitan New York.

The Poughkeepsie Bridge will shorten rail travel time from Washington, D.C., to New Haven, Conn., from the current 59 hours to 17 hours.

Some of our local editorialists have argued in support of the repair of this bridge:

The Newburgh, N.Y., Evening News:

> It's hard to understand why ConRail stubbornly refuses to repair the fire-ravaged Poughkeepsie railroad bridge, despite offers of financial help from New York and Connecticut.
>
> ConRail's approach is thought by some to be illogical. It says that improved rail service brought about by the repair of the Poughkeepsie Bridge would increase rail freight competition in the northeast.
>
> Let's say that ConRail's attempts to jazz up the service once provided by Penn Central has been received with something less than enthusiasm. Wasn't ConRail supposed to end 1979 with a hugh profit? Now it is asking for $1.3 billion in federal subsidies.
>
> Some day, when the span begins to deteriorate and fall apart, pieces will rain down on land and river. There will be a big hue and cry about removing it as a hazard to river navigation. And do you know who will pay for this? The taxpayer.
>
> Efforts to get Congress off its legislative seat and force ConRail to repair the bridge failed, so it looks like the railroad seems to be able to determine its own destiny in all but one field: profit.

The Walden, N.Y., Citizen Herald:

> Time is long overdue for ConRail to restore a vital freight link in the Northeast—the Poughkeepsie railroad bridge which is vitally needed for direct connections between New York and Southern New England.
>
> ConRail's judgement has been questioned repeatedly in refusing to put the fire-damaged span back into service. Congressmen Ben Gilman of Middletown and Toby Moffett of Connecticut have ably pointed out the strategic importance of the bridge. But ConRail, the questioning of whose judgement may well become a national pastime, is adamant.
>
> All western freight consigned to New England, and all New England freight consigned to the west, must pass through Selkirk, ten miles below Albany, into Massachusetts. There is no direct freight link with Connecticut, a highly important industrial state. Rail freight must be routed . . . fifty to a hundred miles south again to major cities such as Hartford, Waterbury, Bridgeport and New Haven. At least a day in time is lost. . . ."

All that is just and reasonable calls for the prompt repair and restoration of the Poughkeepsie Rail Bridge. Let us hope that Conrail will finally respond to our transportation needs.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from New York.

Mr. FISH. Mr. Speaker, I thank my distinguished colleague from New York (Mr. GILMAN) for his initiative, his tenacity in this issue, and for his fine assessment of the importance of the Poughkeepsie Railroad Bridge. I fully concur with my colleague that repair of this bridge is of the utmost importance.

The Poughkeepsie Railroad Bridge is the only rail link across the Hudson River south of Albany. Our energy-starved industries in southern New England are in dire need of coal from the mines of Kentucky, West Virginia, and Pennsylvania. Rail traffic over this bridge would go a long way toward fulfilling this need.

Our consumers in the Northeast need beef from the Midwest, wheat from the Great Plains, and produce from the Sun Belt. The Poughkeepsie Railroad Bridge is the shortest and the cheapest means of transporting vital goods to New England. This bridge avoids the current 150-mile detour through the already overburdened Selkirk rail yards south of Albany. The Selkirk route is now so overburdened that the shippers of the region are forced to endure unconscionable delays and losses.

In light of the current energy crisis, this bridge's restoration is more important than ever. Rail traffic should be encouraged as an alternative to the truck traffic which severely clogs the highways of the Northeast. Our air is polluted and an alternative is needed to the truck shipments which are now the lifeline of this region. This bridge is the only viable rail alternative to the highway corridor. The fact that only one rail bridge, the one at Selkirk, is now operable across the Hudson, fosters a national security threat in the event of a disaster of sabotage. The Poughkeepsie Railroad Bridge is vital to the health and safety of New England, the Northeast, and the Nation.

It is also essential for the health and safety of the residents of the city of Poughkeepsie, N.Y. The structure is deteriorating so rapidly that it is literally falling apart above the city of Poughkeepsie. It is endangering lives and property and presents a very real hazard.

For all of these reasons, I strongly urge the revitalization of this important rail bridge.

Mr. GILMAN. I want to thank the gentleman from New York (Mr. FISH) for joining this continual battle, for conducting hearings in his own district, for continual appeals to the Conrail agency to respond to the needs of our area and, hopefully, to the needs of the entire Northeast.

● Mr. OTTINGER. Mr. Speaker, I thank the distinguished gentleman from New York (Mr. GILMAN) for yielding his time to me, and I congratulate him for the outstanding leadership he has shown us all by keeping the Poughkeepsie Bridge issue alive.

I am vitally interested in the future of this bridge because of its importance to the economy of the entire Hudson River Valley.

My 24th Congressional District of New York encompasses a portion of Westchester County, an area just north of New York City. I find it ludicrous that shippers in my district who desire to ship by rail to, say, New Jersey, must send their cargo straight north for about 150 miles, to Albany, and then down the western bank of the Hudson for another 150 miles, to the rail yards of northern New Jersey. Mr. Speaker, a trip which is 20 to 30 miles by auto is 300 miles by rail.

This would be an intolerable situation if there was no intact rail structure crossing the Hudson south of Albany, but in fact there is such a structure.

The Poughkeepsie Bridge, if the several hundred feet of ties and roadbed were repaired, would cut the rail distance from my congressional district to New Jersey in less than half.

The fact that Conrail has refused to repair this minor segment of roadbed increases the costs to shippers in my congressional district and to consumers in the entire area.

The day is fast approaching when the utilities of New England are going to be dependent upon coal shipments from our coal producing sister States of Pennsylvania, West Virginia, and Virginia. The most cost-effective means of shipping coal is by rail, and yet, because the Poughkeepsie Bridge is out of commission, the Hudson River is as much of a barrier today as far as coal shippers are concerned, as it was to travelers 200 years ago. It is deplorable that such a major portion of our Nation as New England can remain completely cut off from rail traffic from the rest of the Nation.

I join with my distinguished colleagues in urging both Houses of Congress to take appropriate action to fund the repair of this vital link before it is too late. The loss of the Poughkeepsie Bridge is unforgivable, and is a mortal blow to the economy of our entire region.●

GREEN SPONSORS BILL CREATING HOLOCAUST MEMORIAL COUNCIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 10 minutes.

● Mr. GREEN. Mr. Speaker, on November 1, 1978, President Carter created his Commission on the Holocaust to make recommendations for an appropriate American memorial "to those who perished in the holocaust." The Commission, in its September 1979 Report to the President, recommended a "living memorial" to consist of a museum, an educational foundation, a Committee on Conscience, and annual National Days of Remembrance in order to make available to the people of this great Nation increased knowledge of the holocaust and to stimulate awareness of its far-reaching significance.

I was honored to be appointed to serve as a member of that esteemed Commission, and its successor body, the U.S. Holocaust Memorial Council. Today I join my congressional colleagues on the Council in introducing legislation to create a permanent Holocaust Memorial Council. I am pleased that so many of our House colleagues have joined in cosponsoring this legislation and hope that the full House will promptly pass this bill.

The holocaust signifies a watershed event in human history in which incalculable suffering was inflicted upon innocent human beings. Not only was there dreadful loss of life, but also an entire way of life was almost erased. The event challenged moral, spiritual, ethical, and political standards of the modern, civilized world with consequences of enormous significance for all humanity. By establishing a permanent Holocaust

Memorial, not only the agony and suffering of these innocent human beings will be commemorated, but also the memory will forever be preserved. And by remembering, we attempt to fulfill, at least in part, our moral obligation to deliver mankind "from apathy to evil, if not from evil itself."

I feel that it is imperative that we, as lawmakers of this Nation, provide the American people an opportunity to remember the holocaust in order that we, and all mankind, may dedicate our energies to the prevention of any other such atrocity.

Last year, we observed Days of Remembrance of the Victims of the Holocaust in a ceremony in the Capitol. At that time, Senator John Danforth of Missouri delivered a thoughtful message on the meaning of the holocaust. I believe that the text of his address should be included in the Congressional Record, and hereby call it to the attention of my colleagues:

Sermon Preached by the Reverend John C. Danforth, a U.S. Senator From Missouri, on the Occasion of Days of Remembrance of the Victims of the Holocaust, at the National Cathedral, Washington, D.C., Sunday, April 29, 1979

It is a national observance and an interfaith congregation. We commemorate the death of six million Jews. Yet the message which follows is unmistakably Christian in its content. It is delivered by a minister of the Gospel in a Christian Cathedral with the intention of evoking in Christians a response to the Holocaust.

The resolution, enacted by Congress and signed by the President denominates this weekend "Days of Remembrance of the Victims of the Holocaust." Two days were selected, not one—the distinct days of religious observance for Jews and for Christians. The intention of the resolution was to encourage a consideration of the Holocaust from at least two points of view: Jewish and Christian. For if that hideous course of events is never to recur, it is the responsibility not only of Jews as victims to reflect on the meaning of the Holocaust; it is the responsibility of Christians as well. And so, the time has come for something more than generalized, non-sectarian good feeling. The time has come for an examination of the Holocaust in the light of what each of us professes as believing persons.

Yesterday, Jews throughout America had a special occasion to reflect on that set of events which has touched them and their families so tragically. Today is an opportunity for Christians to consider the most fundamental premises of their faith, and on that basis to assure that the Holocaust, and nothing like it, can be allowed to happen again.

The Holocaust must be considered the darkest single period of human history. It had its beginning in 1933 when Hitler came to power in Germany, and quickly proceeded with the burning of books by Jewish authors and the establishment of a concentration camp at Dachau. By 1938, synagogues were burned and Jewish shops and businesses were pillaged in Germany. In 1938 and 1939, German Jews were imprisoned, and Jews living in conquered eastern Europe were forced into labor camps and sealed into ghettos.

Then, the killing began in earnest and on a very large scale. It started in Russia, where highly efficient mobile units followed the advancing German army murdering some one million Jews. Then the death camps went into full operation. Throughout Germany and occupied Europe, Jews were herded into cattle cars and transported to teeming camps where they were exploited, starved and finally exterminated. At Auschwitz, four gas chambers, each capable of holding 2000 persons at a time, were kept busy. Throughout the war, the task of murdering Jews assumed a greater priority to the Nazis than fighting. Trains carrying Jews to concentration camps were deemed more important than trains carrying ammunition to the front. When fuel to incinerate corpses ran out, bodies were piled up in the open air.

In the end, six million Jews had been murdered. One million of them were children. Nearly 90 percent of the Jewish population of Poland was exterminated. It was true genocide. It was a systematic effort to destroy an entire people just because they were a people—they were Jews.

Christians often point out that some of their faith were also victims of the Holocaust, dissenting clergy in particular. This is true, but this was not genocide. Christians were not put to death because they were Christians. Jews were put to death because they were Jews.

There are those who would prefer to reconstruct history—to convince us that the Holocaust was the work of a few demented individuals whose deeds were hidden from the public. What strikes the reader of Holocaust literature is that such a reconstruction of history could not conceivably be true. The fact is that the Holocaust was not a brief and discrete episode carried on by a limited number of people. It was an enormous undertaking, spanning 12 years, and involving thousands, if not hundreds of thousands, of participants.

Consider, if you will, the enormous number of persons required to round up six million Jews. Consider the complex logistics of transporting them to death camps. Consider the policing of the ghettos, the mechanics of confiscating property, the building and manning of the camps, the supervision of forced labor. Those who participated in the liquidation of European Jews, those who witnessed it firsthand, and those who heard about it and countenanced it exceed our ability to estimate their number.

For some, the Holocaust has created a classic crisis of faith. Richard Rubenstein put the question very clearly when he asked, "How can Jews believe in an omnipotent, beneficent God after Auschwitz?" He stated that "A God who tolerates the suffering of even one innocent child is either infinitely cruel or hopelessly indifferent." Rubenstein's solution to this theological dilemma is to reject the God of History, the God of Abraham, Isaac and Jacob, and to embrace what he calls the "omnipotent nothingness" of existentialism.

But to blame or discredit the God of History for the events of the Holocaust, to dismiss Him as cruel or indifferent, misses the point entirely. The Holocaust was not the doing of God. We cannot escape responsibility by blaming it on Him. It was, instead, the doing of fallen man. Like sin everywhere and in all times, it was wholly inconsistent with God's scheme of things. The Holocaust was the quintessence of sin—the ultimate example of the abuse of human freedom.

It is as old as the beginning of Genesis. God created man good and also free. That is the story of Creation. And the story of the Fall is that we abuse that freedom, rebel against our creator, and war against our brother. The Holocaust testifies not to the cruelty or the indifference of God, but instead it testifies to the profound seriousness, the awful consequences of human sin. Our tendency to evil, yours and mine, is not a trivial matter. It is not a game to be taken lightly. It is an overturning of God's order, for which we are accountable, and which leads, in its extreme manifestation, to Holocaust.

The extreme to which sin was carried by the Nazis creates a sense of nightmarish unreality in our minds. It is difficult for us to comprehend the magnitude of the Holocaust. The vast number of victims and the size and duration of the undertaking tempt us to dismiss the Holocaust as an aberration, wholly unrelated to the world we know. Yet on closer inspection, each arrest, each beating, each confiscation was a separate act, committed at a single moment in time by a responsible individual. The Holocaust was the ultimate extension of sin, but it was sin—the same sin which has been part of human behavior since the fall of mankind—the same sin to which each of us will yield today.

Now let us on this Sunday observance face an uncomfortable fact squarely and frankly. The murder of six million Jews was accomplished by people who, while having reverted to paganism, had been raised in the Christian faith. Their ideology was, of course, hopelessly twisted and insane. But it sprang, somehow, from the traditions of Christianity—in a contorted, grotesque shape, wholly inconsistent with the tenets of our religion.

In the Jewish Historical Museum in Holland, a photograph shows SS officers celebrating Christmas, the birth of our Lord, in the grisly setting of a concentration camp. How, we ask, can it be possible for people to have even a passing acquaintance with the Christian faith, and at the same time participate in the extermination of Jews? There were, of course, Christian clergy who were imprisoned and killed because their witness to their Lord compelled them to condemn the actions of the Nazi regime. Yet others found no apparent conflict between their own religious tradition and the atrocities they were perpetrating.

It has been said that the most hideous sin is committed in the name of religion. The Holocaust was not the first time Christians have persecuted Jews. In her history of the Fourteenth Century, A Distant Mirror, Barbara Tuchman reports that, "Throughout the century, the church multiplied decrees designed to isolate Jews from Christian society."

In 1348, 11 Jews were burned alive in Savoy, allegedly for poisoning wells. A year later, in Basle, the entire Jewish community was burned to death in a wooden house especially constructed for the purpose. A month later, in Strasbourg, 2,000 Jews were taken to a burial ground where those who did not accept conversion to Christianity were burned at rows of stakes. That same year, flagellants killed 6,000 Jews at Mainz and 3,000 at Erfurt. In 1378 a mob of Christians rampaged through the Jewish quarter of Paris, to the cry of "Noel! Noel!", looting stores, throwing Jews in the river, and subjecting children to forced Baptisms.

Brutally antisemitic activity, perpetrated by persons thoroughly familiar with Christianity, or even worse, in the name of Christianity, is, therefore, not of recent origin. Its roots have been traced to the time of the early church.

Last month, in a lecture at Georgetown University, Cardinal Franz König said that "Anti-semitism . . . has no basis in theology."

That is the very least that should be said. But it is not sufficient to state the negative—to say that anti-semitism cannot be based on Christian theology. We must go further and recognize the positive—that the Christian faith excludes the possibility of religious persecution—that religious persecution of any kind is flatly contrary to the most fundamental beliefs of Christianity.

That is precisely why it is appropriate to reflect on the Holocaust in the light of the Christian faith. It is not simply a matter of exhortation to do good and avoid evil. It is not simply a matter of an emotional remembrance and an appeal to treat one another in a more humane manner. Emotions are impermanent. They come and go. Exhortations are forgotten soon after they are made. A commitment not to persecute must be something more than a fleeting whim, emanating from the good feelings of the moment.

Elie Wiesel entitled his moving account of his own dreadful Holocaust experience simply Night. How descriptive that word is. It was, in fact, night. It was the blackest epoch of history, born in the darkest regions of the soul.

St. John said that Christ is the light of men, that the light shines out in the darkness, that the darkness has never been able to overcome that light. As light and darkness are mutually exclusive, so bigotry and persecution cannot coexist with the Christian faith. Those, then, who would celebrate Christmas in an SS quarters in Holland—those who would should "Noel, Noel" while rampaging through the Jewish quarter of Paris, do so not in the service of Christianity, but in blasphemous contempt for the faith of the church.

At the heart of the Christian ethic is a humble and dedicated acceptance of the relationship we are commanded to have with our neighbors and with our God. These basic principles of our faith were rejected in the 1930's and 1940's. If we are to avoid Holocausts of the future, you and I have an obligation to accept these basic principles today and to act in accordance with them.

First, we are compelled to recognize that all people, no matter who they are or where they are, are the children of God. If they are black or white, old or young, Jew, Christian or non-believer, American, Russian or Chinese, all people are God's people—created by Him and for his purposes, and entitled to our respect—no our love—because they are His. We cannot humiliate, we cannot destroy others because to do so is to destroy the people of God.

Second, we are expressly forbidden to judge or condemn other people. This is a point made not just once or twice, but over and over again in the New Testament. It is a message of humility. It is a recognition that we have not been commissioned to judge others, and that we who profess the Christian faith stand ourselves under the judgment of God. St. Paul put it very clearly: "There is no just man, not one . . . no human being can be justified in the sight of God." St. Paul was not speaking only of the other person—of those who do not believe what we believe. He was speaking of you and of me. The notion that we are somehow better than others and that we are vested with some special commission to impose what we believe on others contradicts the meaning of the New Testament.

Finally, the Christian faith proclaims that the establishment of the Kingdom of God is His work and His alone. The establishment of a new order—a Third Reich—with an idolized fuhrer as its leader is, in its essence, an act of rebellion against God. It is the attempted overthrow of the Kingdom of God and its replacement with another kind of kingdom, claiming absolute allegiance and asserting absolute power over its subjects—even the power to commit mass murder in the name of the state.

It was said by the Nazi war criminals, in apparent self-justification, that they were only following orders. That kind of allegiance to a fuhrer is not compatible with total allegiance to the Christ. Ultimate commitment cannot be shared. If such a commitment is made to God, it cannot simultaneously be made to any earthly power. That is why totalitarianism—the total claim of the state on the individual—is fundamentally incompatible with the Christian faith. Nazism, with its mass rallies and banners and twisted cross symbol was a parody of religion—a usurpation of the role of the church.

God establishes His own Kingdom by His own Son, with His own power. That is the faith of the church. To wrest that power from God, to claim allegiance to another kingdom, and to set oneself up as judge of others is to assume the role of antichrist.

What, then, can prevent the occurrence of another Holocaust? It cannot be a fleeting mood of kindness nor an exhortation from this or any other public rostrum. It can only be a faith which alone claims our total commitment, with which a holocaust cannot coexist, and which commands us that we are to love the Lord our God with all our hearts, our souls and our minds, and we are to love our neighbors as ourselves.●

WHO'S THE PRESIDENT TRYING TO KID?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. CAMPBELL) is recognized for 10 minutes.

Mr. CAMPBELL. Mr. Speaker, I have been deeply concerned lately as to the direction of the campaign for President in this country.

Mr. Speaker, President Jimmy Carter is kidding himself if he believes the American people will fall for his election year tactics of making personalities rather than the abysmal failure of his administration the issue in 1980.

Here is a President who has nearly quadrupled the inflation rate; who has raised taxes 75.6 percent to $628 billion; who has increased Federal spending over $230 billion, who has increased the national debt by $300.9 billion. And here is a President who is now trying to correct his imprudent and irresponsible budgetary policies by deliberately leading this Nation into a recession.

This is the same President who now says economy and jobs are not the issues, because he will somehow do better the next time. And this is the same President who is desperately trying to divert the attention of the American public from his record to unsubstantial, scurrilous and, frankly, irresponsible attacks on the Republican nominee.

Well, you cannot fool all of the people all of the time, and Jimmy Carter is going to find out the American people are a lot smarter than he thinks.

The American people do not like the dirty politics that Mr. Carter and his people excel at. They will not tolerate a President whose Secretary of State has adopted, with the President's blessing, an activist political role unprecedented for one in his position; whose Secretary of Defense likewise, in an attempt to disguise the Carter administration's anemic performance on defense, abandoned the secrecy of the stealth technology, putting political gain over national security; whose Secretary of Health and Human Services flies around the country at taxpayers' expense to mount direct, personal and irrelevant attacks on Ronald Reagan; whose Ambassador to the People's Republic of China makes dangerous allegations about the Republican nominee in clear violation of the nonpartisan traditions of professional foreign service officers.

The net worth of the average middle-income American family has declined more than 8 percent since Carter took office. Regardless of how hard he tries or how low he is willing to stoop, Jimmy Carter will never succeed in diverting the attention of the citizens of this Nation from the state of their pocketbooks.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I wonder if the gentleman, knowing the area of the country that he represents and his concern about remarks that have been made over the weekend about Klan activities and the linkage, and so on, is aware of a news flash that just came over the wires indicating that a Member of this body has now formed a committee in which he is hoping to get more black voter participation, he says, but he made this statement:

□ 1830

> Ronald Reagan is a clear and present danger to black America. He has been embraced and endorsed by the Ku Klux Klan.

I would say to the gentleman I do not know whether he is aware of that particular article that came in, but I am extremely concerned about this. It sounds to me like exactly the kind of smear campaign that he has been referring to. I would think the President of the United States, if he is going to be true to his statement, the last couple of days would repudiate this effort that is being done on their behalf.

Mr. CAMPBELL. I am appalled by this. I did not know and had not heard the text of what the gentleman has said.

I, unfortunately, am not surprised, because a member of the Cabinet of the President of the United States has been traveling about this country at taxpayers' expense, making the same charges for quite some time, and it is time they were exposed and put behind us. It is time that the politics of fear, and the politics of racism are removed from the scene in America. I certainly hope the President will repudiate this.

Mr. WALKER. I thank the gentleman for his statement, because I think that is what we are witnessing, a smear campaign of the worst kind. It was the President himself who raised the subject of the Ku Klux Klan when he addressed an audience in Alabama the other day. To have this follow on immediately afterward, being done in his name, it seems to me is an example of a smear. It looks almost like the White House plan. I think it is highly demeaning to the Presidency and to the White House to have this kind of thing take place. I would hope the President would immediately repudiate it.

Mr. CAMPBELL. I agree with the gentleman.

I would like to point out once again the President has used the Secretary of

State in a partisan manner, that he has used the Secretary of Defense in a partisan manner, that he has used the Ambassador to China in a partisan manner, unprecedented actions. The Secretary of State and the Secretary of Defense and our Foreign Service officials are supposed to maintain continuity in the foreign policy of this Nation. Mr. Carter has now stooped literally to revealing national security statements. I am appalled by that. I think the American public should know it.

Mr. WALKER. I thank the gentleman.

TAIWANESE BENEVOLENT ASSOCIATION OF AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, I wish to point out this last Sunday on August 31, I had the high privilege and honor of being invited to address the Third National Convention of the Taiwanese Benevolent Association of America. It had a tremendous outpouring of presence, more than 2,500 persons attending that national convention or meeting. The most impressive thing about it, quite unprecedented for me, was to see the nature and the caliber of the leaders and the members of this organization, consisting of mainland Taiwanese, of Chinese ethnic descent, native Taiwanese and others in reflection of one of the most interesting and one of the most meaningful countries to the United States and to us, not only economically, but securitywise.

The association reflects the presence of very great people who are contributing through their talents and their ability to the commonwealth of our own country, the United States.

Most everyone there was a professional, either an M.D., a doctor, or technicians working for the great American corporations ranging from data services, communications services, IBM, Sperry Rand Corp., and everyone there almost without exception, was some kind of a professional and most noteworthy and inspiring.

Mr. Speaker, I offer for the RECORD at this point the text of my address:

REMARKS OF U.S. REPRESENTATIVE HENRY B. GONZALEZ, TAIWAN BENEVOLENT ASSOCIATION OF AMERICA, SHAMROCK HILTON HOTEL, HOUSTON, TEX., AUGUST 31, 1980

My friends: You have given me a special honor and very great privilege in inviting me to be a part of this meeting. I am delighted to be here, and I thank you for the opportunity to join you tonight.

We are, it is truly said, a Nation of immigrants. For some of us, the United States is a new place; others have been on this continent for generations, and can trace a family history back hundreds of years; but there are very few citizens of the United States who can call themselves true natives, aborigines.

In this sense, the United States is not unlike Taiwan. Like the United States, the great majority of the population of Taiwan is a population of immigrants, who have found their way there over the course of hundreds of years, sometimes alone, sometimes in small groups, and sometimes in very large numbers.

The United States reflects the heritage of many nations—and so does Taiwan. The Western name, Formosa, itself came from the expression of Portuguese mariners (Ilha Formosa—beautiful island) of the 16th Century, and the name of the adjacent islands, the Pescadores, is an expression of my own native Spanish. I feel certain that only a little searching would produce traces of Dutch culture in Taiwan, just as there are traces of Dutch culture in our own New York, for the Dutch arrived on Formosa and Manhattan at almost the same time—1624 and 1626, respectively.

Ours is a small world, and the same seas wash upon the shores of all countries, bringing us a common bounty, a common heritage and a common concern.

As immigrants, we have heritages that may be different, but our experiences have been common.

We, or our parents, have at one time or another, and for one reason or another, had to make the great and painful decision to seek life in another country. For my parents, there was really no choice: they fled revolutionary turmoil in Mexico, because my father certainly would have been killed had he stayed on in his beloved country. It was not an easy thing for him to leave Mexico, even to save his own life, because he left behind a family heritage of four hundred years. And, indeed, although my father lived out his life here in Texas, his heart never really left Mexico; though he loved the United States, he longed for all that he had left behind, and could never return to.

I know that there are some among you who could relate the very same story—a life left behind, a heart in two places, a struggle for a secure future in a new and very different land.

In this Nation of immigrants, that is the common thread, a universal experience. But we are here, for a common reason: this is the land of refuge and hope. And, Taiwan itself, is a land of refuge and hope.

We recognize here that people from many different places can live together in peace and harmony, can enjoy freedom, and can taste the fruits of prosperity. If we are free to move and work, if we are free to think and act for ourselves, then we can make the most of opportunities we have. We recognize that success in life is not simply a matter of keeping others away from whatever wealth there is; success in life is creating new wealth. It is not a matter of concealing jewels, but a matter of making new ones.

Freedom makes it possible for us to fail, but freedom also makes it possible for us to succeed, to be all that we can, on the basis of our own merit and work. It is freedom that we enjoy in the United States, and freedom is also enjoyed in Taiwan. The blessing of individual freedom binds these lands together, and brings with it the flowering of hope.

There are human yearnings that no one can explain. For example, no one can say how far back in human history music goes. No matter how far back we search, we find that human beings have created music. Why should this be? Music is here and gone; it lasts only as long as it is heard—but it is remembered and cherished, and is always a source of consolation and joy. Music cannot be eaten, it cannot be stored, it cannot be seen—and yet it is essential to us, an inseparable part of life.

There is also the yearning for beauty—for art, for great vistas of mountains or oceans, for green fields to see, for pictures or sculptures to look at, for buildings that please the eye and lift the spirit. But why is this?

Objects of art have no practical use of their own; places of great natural beauty are not likely to be economically useful; and a building that lifts the spirit provides no better shelter than an ordinary one—and yet these are things that we human beings need, yearn for, and sacrifice to obtain.

So it is with the spirit of freedom. It is possible to live and work without freedom, but no human being can live or work well without freedom. It is possible to be happy without being free, but it is not possible to be fully happy without being free. There is no way of explaining this human need for freedom—but there it is, an inseparable part of our living and being, a spirit that we never lose, and a spirit that can never be crushed nor taken away.

We in the United States come from many lands, and from many circumstances: but we live here with a common hope and belief, a common faith in the worth and dignity of human beings, and a common understanding that the only complete person is a person who enjoys the blessings of freedom. For we know that the spirit, the longing for freedom, is as much a part of the human soul as music or beauty, or even intelligent thought, or hope itself.

As the son of an immigrant, I know the hardship that is an almost universal experience among new arrivals. I know the hardship that my father felt because of the necessity to leave the land that his family had lived in for centuries; I know the hardship of somehow feeling a stranger in my own land—an American by birth, a Mexican by heritage. I know at first hand how difficult it was for my father to accept the reality that my brothers, my sister and myself, had a new and different citizenship, a new and different outlook, and that we would not be Mexicans, but Americans. Our heritage was one we cherished, one that I honor, one that I take pride in. But while my father in a sense never left his Mexican community, I had to, because life demanded that I find my way in a larger community than his. His friends were all Mexican; but my friends were Mexicans and Americans, Germans and Italians, Catholics, Protestants and Jews. And with my children, this is the way it is: I grew up speaking Spanish, but they grew up speaking English. The process of growth and assimilation goes on, and it is never easy, but it takes place.

Yet as much as we grow into the larger American society, and as much as each succeeding generation moves more into the mainstream, the connection between ourselves and our heritage remains. Americans of Irish descent maintain a passionate interest in Irish affairs; Americans of Polish descent who have never seen Poland, and never will, take personal pride in the elevation of a Polish Prelate to Pope, and look with hope and anguish as the workers of Poland seek to liberate their lives from Communist oppression.

As a citizen of Mexican descent, I have special interest in the events in Mexico; and you have a natural and abiding concern about your own land. This is an amalgam of feeling that is almost impossible to explain—for it does not mean, as some would think, that this is a country torn with ethnic strife; it does mean that we are a country, that uniquely in all the world, truly cares about what is happening all around the world, truly hopes that the blessings we enjoy will come to be shared by others, living far away, beyond our reach but not beyond our sense of caring.

All Americans have an attachment to the principles of liberty—these are principles that we not only enjoy, but principles we recognize to be universal. We know that the human spirit seeks freedom just as it seeks music, just as it aspires to art, just as it draws nourishment from nature's beauty. We know that anything threatening freedom anywhere is a threat to our own liberty here at home.

So it is that we can see that any threat to Taiwan is a threat to ourselves; for if freedom can be extinguished there, our own hopes are diminished, our future threatened.

If we love freedom, we cannot afford to see the world in simple geopolitical terms. We cannot view the globe with the cynical detachment of potentates and be true to ourselves or to our heritage as Americans. Neither can we view the world in simple terms of economic self-interest. After all, human beings do not exist as mere pawns in the service of conflicting and competing, blind-eyed powers. Human beings have worth in their own right, and are worthy of respect. A policy that ignores the value, the worth, the dignity of humanity is a policy that violates human rights, diminishes freedom, destroys faith.

In pure and simple economic terms, Taiwan is vitally important to the United States—it is, after all, our eighth biggest trading partner, and our trade is growing by vast amounts each year. If we looked at the world in terms of mere economic interest, we would simply say that the United States and Taiwan have mutual self interest. But there is more to it than that. We are places that have a free market, enjoy free enterprise, and give full reign to allow individuals to do all they are capable of achieving. These are economic systems that embrace and, in fact, require political and personal freedom, and they are also systems that serve as a shining light to the rest of the world. People do not flee economic and personal liberty; they flock to it. We cannot ignore the fact that there is more to this commerce than mere trade; this commerce between the United States and Taiwan reflects, and is part of, an economic system that recognizes, values, and gives the greatest emphasis to the worth and dignity of individual human beings. It is a system that liberates, not one that subjugates. It is a system that does not set up artificial economic goals, but one recognizing that human beings acting freely will surpass any goal that any state could devise, because they know of themselves what can be done and what cannot be done.

In cold geopolitical terms, Taiwan might not be the most important place in the world. It is small in size—maybe a third the size of the State of Ohio; its population is small; it is isolated politically. But no American could afford to look at the world in such brutal, callous and cold geopolitical terms. An island of freedom is an island of hope; a land of liberty is a land that is our friend and brother, our partner in faith, the faith of the dignity of man. That is not the kind of place we can ignore, for we ignore our brothers only if we do value our own lives; we forget our friends only if we do not value friendship.

Taiwan is a place that is not merely important to this country as a trading partner; it is not merely a piece on the world map of competing and conflicting power; it is a place founded on and dedicated to the ideas and ideals that we, ourselves, live by and are pledged to. We can abandon it only at the cost of betraying ourselves. I do not believe we will abandon Taiwan. We will stand by it.

I believe that if we stand strongly by Taiwan, it will survive. And I believe that if it survives, mainland China will grow more like Taiwan—will recognize, as all Communist countries have, that economic efficiency and human freedom are inseparable. I believe that mainland China will one day realize that individual human worth has to be respected, maintained and encouraged. It may take a long time for this to happen—but it will happen.

In the meanwhile, we have to keep faith—with ourselves and with our friends; with our own spirit and with the spirit of those who share the same hopes and beliefs we do.

The security of Taiwan is in the final analysis our own security. The growth and prosperity of Taiwan is our own growth and prosperity. We are separated by half the globe, but the same waters touch our shores; and we have to remember that just as Dutch soldiers arrived on Taiwan they also arrived on our own island of Manhattan. Three and a half centuries later, can life have changed so much? Not at all, for the same spirit that drove those invaders, in those tiny ships, from that tiny land of Holland, to seek empire here and on Taiwan three and a half centuries ago, still lives. The spirit and limitless ambition of the invader did not limit itself then, and does not limit itself today.

And so here we find ourselves, immigrants who care about America, but also care about the rest of the world—not because we are loyal to a past that cannot be brought back, not because we care about another place more than our own land, but because we, as human beings, have to care about anything that threatens what we came here to find—hope, freedom, a chance to live in dignity and peace—that, and the belief that what matters to us, also matters to those who happen to live elsewhere.

I thank you for the pleasure of being here, and I wish you happiness and good fortune.

STATEMENT BY HON. JOHN M. MURPHY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Murphy) is recognized for 30 minutes.

● Mr. MURPHY of New York. Mr. Speaker, I have today requested a special order so that I might share with my colleagues the statement which I issued yesterday regarding the so-called Abscam case in which I am a party. I intend to continue to make public all such statements so that the public record on this matter will be complete:

New York, N.Y.—Congressman John M. Murphy today responded to the Justice Department's leaks of the Abscam videotapes to Columnist Jack Anderson. "This is a blatant effort to deal a fatal blow to my candidacy for reelection," Murphy declared. "In an effort to present the other side of the story—the facts—and to challenge Mr. Anderson's transposed mishmash of incomplete quotations, I have attached my statement on the newspaper columns and the Justice Department leaks, as well as copies of the affidavits and memoranda of law submitted by my attorneys to the second circuit court of appeals in support of my request for full publication of all the tapes."

Statement of Hon. John M. Murphy on an Abscam Appeal Motion, the Jack Anderson Columns, and the Justice Department Leaks, Federal Courthouse, Foley Square, September 2, 1980

As I stated on August 29, 1980, a handful of Justice Department employees have willfully and brazenly released portions of videotapes associated with the so-called Abscam affairs to Columnist Jack Anderson in an effort to deal a fatal blow to my candidacy for reelection. Needless to say, the released tapes—and the Anderson columns—tell only part of the story. The facts are these:

I agreed to meet with business agents of the bogus sheik on the strength of the representation that they were prepared to make massive investments in enterprises in my Congressional District and in the American Merchant Marine. It is common knowledge that I am an aggressive proponent of the economic revitalization of both the City of New York and the American Shipping Industry, both of which have stagnated or declined throughout the 1970's. I would have been delinquent had I turned my back on a prospective investor with assets such as those purportedly held by the bogus Arab sheik. Thus I consented to meet with his representatives.

At the first such meeting near Kennedy Airport, Howard Criden and I met and conversed with the FBI agents. Mr. Criden, I presumed, was acting in good faith as an attorney assisting in the startup of the sheik's hypothetical ventures. Mr. Criden was not acting on my behalf in any way whatsoever, then or at any time.

Two questions arise from that encounter and from the Anderson story: Did I promise assistance on immigration matters and did I suggest that Howard Criden accept money as my partner or agent?

In both instances, the answer is "no."

First of all, I have not introduced private immigration legislation for years for good reason: To avoid any possible appearance of impropriety. It is often difficult or impossible to determine the background or affiliations of a foreign citizen who seeks such assistance, and I have preferred to avoid that problem by treating the immigration problems of constituents on an administrative basis through the Immigration and Naturalization Service.

Regardless, I neither promised nor undertook any action on behalf of the bogus Arab. In telling them on the tapes that I foresaw no problem, I simply meant that a person of the bogus sheik's stature should encounter little difficulty in entering the country if he had competent legal advice.

At the conclusion of the meeting I was offered a briefcase, the contents of which I was told were immigration papers. Presuming that Mr. Criden was acting in a professional business capacity, I said, "Howard you take care of that," referring the briefcase to him. After all, he had told me he was their lawyer and was to handle any immigration matters, facts that I had mentioned several times during the meeting.

Stripped of the rhetorical flourishes the facts, again, are both simple and stark: I promised nothing. I accepted nothing. Presuming the legitimacy and good faith of the men in that room and that the contents of the briefcase were what I was told they were, I had no cause or reason to think otherwise. I had been introduced to Mr. Criden by a congressional colleague and had no reason to question either his role or motives.

Acting on selected facts released by the Government, some of the press have sought to portray me as cleverly ambiguous in this meeting, with Mr. Criden playing the role of "bagman" to use their term. That interpretation flies in the face of the facts and is illogical.

During the years immediately prior to "ABSCAM," my performance as a public official has been studied, investigated, interpreted and attacked by a loose coalition of new left journalists and a few uncontrollable Federal employees acting in violation of the privacy act. During that period, I have grown accustomed to close scrutiny, surveillance, invasion of privacy and reputational assault by innuendo and canard. Disagreeing with my politics and unable to defeat me on the high road of electoral politics, they took to the low road.

Not once did these inquiries result in any formal charge—until ABSCAM. Prosecutor Puccio—unlike last week's trial where he said the defendants were "acting" in court and not on the tapes—Puccio told the grand jury I was "acting" on the tapes, that my refusal to take a bribe or do anything illegal or unethical was simply because I was "too clever" and "too sly." I might add, by the way, this is the very same hypothesis advanced in the Anderson columns, that "I was being clever and sly". I don't think the similarity in phraseology is a coincidence.

I ask reasonable citizens to judge whether someone who has served two decades in Congress, someone who has been under frequent politically motivated attack, and someone who has had his affairs under constant scrutiny would compromise himself with men whom he had never met? Of course he wouldn't—and I didn't. And if the matter were not so serious, it would almost be laughable.

The Jack Anderson columns maliciously claim that my remarks to Mr. Criden amount to me "instructing (him) . . . to accept" the briefcase. A fair interpretation of the conversation, I submit, must acknowledge that I had neither the power nor the inclination to "instruct" Criden and any other inference is the product of Mr. Anderson's vivid imagination and florid prose.

The Anderson columns go on to recount the details of meetings involving Lawrence Buser, a former president of American Export Lines and of Pacific Far East Lines, who has served in the past as a consultant to the Merchant Marine and Fisheries Committee. Mr. Buser is an acknowledged expert on maritime operations.

It is common knowledge that the American flag merchant marine has been in rapid decline throughout the 1970's. Indeed, my main preoccupation as chairman of the House maritime panel has been the reinvigoration of the country's merchant fleet. Facing a bleak situation and charged with overseeing the formulation of maritime policy, I joined with my Republican colleagues in introducing an omnibus maritime bill which subsequently attracted international attention.

That legislation focused on improving the international shipping posture of the United States and had nothing whatsoever to do with our so-called "domestic" fleet, that is, those ships which travel between points in the United States such as between Puerto Rico and the Mainland. Such domestic carriers do not receive government subsidies. Their sole government generated benefit lies in protection from foreign competition based upon laws which have been on the books since the continental Congress.

Early on in the legislative process, I publicly stated to maritime industry audiences that the omnibus maritime bill would not in any way benefit domestic carriers. The point ignored by Mr. Anderson and the prosecutors is that the bill discussed on the tapes, in fact, could in no way benefit domestic shipping companies such as Navieros, the company discussed on the tapes. Further, Mr. Buser was no longer a consultant to the Merchant Marine Committee but when he was, all of his connections and holdings with U.S. shipping companies were cleared by the committee's chief counsel with the House Ethics Committee. And although the Ethics Committee told Buser he could retain substantial stock holdings in four U.S. shipping companies, he sold these holdings at a substantial financial loss to avoid even the appearance of a conflict of interest. The companies included American export lines, Moore McCormack, Pacific Far East Lines and U.S. Lines.

In a private meeting with FBI agents which I did not attend Mr. Buser made a number of statements that only he can explain. It would be clear, however, to anyone who actually viewed the videotapes of this meeting that Mr. Buser is taken unawares by the question of whether I would be "a partner in this" and is merely speculating when he answers that I would be "a silent partner, I would imagine." I am informed that Mr. Buser has uncategorically told the government that I had no interest, financial or otherwise in this proposed matter and that if Mr. Anderson had given Mr. Buser the courtesy of contacting him before printing his columns, Mr. Buser would have informed him as well.

Indeed, at a later meeting Mr. Buser is at pains to state with regard to me, "he's not in this." Should there be any lingering doubt, let me state now that I have not and would not assent to such a relationship while acting as a member or chairman of the House Merchant Marine and Fisheries Committee. In addition, Mr. Buser asserts that legislation before my committee would be "manipulated" to advance a private transaction. This language is regrettable and undoubtedly does not convey Mr. Buser's precise meaning. What is clear and precise is that Mr. Buser made this statement without my knowledge and certainly without my approval which I would never have given him.

The American people and my constituents can rest assured as far as this Congressman is concerned that no legislation has ever been, or will ever be, influenced for such a purpose in the United States Congress. In fact, in the case of the omnibus maritime bill, this landmark measure was the subject of intense debate with any change or alteration requiring the approval of a bipartisan drafting group of congressmen and then only upon the recommendation of the committee's bipartisan legal staff, not to mention the requirement that a majority of the members of the 40 person committee approve any proposal.

As a matter of fact, I told the business agents of the phony sheiks that no legislation could conceivably benefit a transaction involving the Puerto Rican company, at the January 10, 1980, meeting which I did attend. Moreover, the government concluded that I had done absolutely nothing wrong and according to sources close to Jack Anderson, one government supervisor went so far as to call agent Amoroso to the phone during the January meeting to tell him, "Tony we don't have a case on Murphy, you have got to get him to commit himself." In a subsequent session involving me and agent Amoroso, I told him emphatically, "I never received any money from anyone and would not accept anything."

Maritime lobbyists or businessmen frequently enhance their standing with potential clients by claiming special access to, or friendship with, congressional figures—trying to create the perception of power. Such assertions are beyond the control of the public official and are a regrettable by-product of our political process. Such assertions are often unfounded, as was the case here.

Mr. Buser's objective—which he was pursuing without me as a beneficiary or partner—a fact which he told the FBI agents repeatedly on January 10, 1980—could have resulted in enormous benefit to the American merchant marine, had the company been routinely purchased and had it flourished. Indeed, if American mercantile shipping is to advance we must attract investment—including foreign investment—to our fleet for its expansion. Indeed, on its own commercial merits, the shipping purchase proposed by Mr. Buser would have had considerable merit in that it would have sustained an important American shipping company in the Caribbean where American interests face cutthroat competition from foreign operations. In fact, the proposal in any other context but abscam would have been an exciting and attractive one. I meet regularly with international shipping leaders to encourage and stimulate transactions which would prompt a resurgence of the American merchant marine. Those efforts, including the one by Mr. Buser, are undertaken for public benefit, and not for my own private gain.

My tax returns have been audited annually for a decade, and under the rules of the House of Representatives, I annually disclose all of my holdings. It would, therefore, be virtually impossible to hide a commercial interest in a shipping venture from public view—and, regardless, such an interest would amount to a conflict of interest.

Mr. Buser speculated without me in attendance that I would be, and I quote, "A silent partner, *I would imagine*. (emphasis added.) Concentrate on the word "imagine" and you have captured the essence of the case against me: a combination of expansive rhetoric, movie studio-like sets, and vigorous imaginations which amount to an aborted attempt to get me to incriminate myself. Even Jack Anderson admits in a forthcoming column that "one thing (that) is clear is that the FBI team failed to get Murphy to incriminate himself."

When all else failed, the government has had to piece together a series of unrelated remarks made in my absence in a desperate effort to shore up their fragile position. All-in-all, it is enough to make Fred Silverman envious.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. OBERSTAR) is recognized for 5 minutes.

● Mr. OBERSTAR. Mr. Speaker, on Thursday, August 28, 1980, I was absent from the House on official business in my district. Had I been present, I would have voted:

"Yea" on agreeing to the conference report on H.R. 5192, amendments to the Higher Education Act of 1965 (rollcall No. 503).

"Yea" on the motion to go to conference on H.R. 3904, amendments to the Employee Retirement Income Security Act of 1974 (rollcall No. 504).

"Yea" on agreeing to House Resolution 765, the rule providing for the consideration of H.R. 7036, Public Health Service Act amendments (rollcall No. 505).

"Yea" on passage of H.R. 7036 (rollcall No. 506).●

T. C. SELMAN ELECTED COMMANDER-IN-CHIEF OF THE VETERANS OF FOREIGN WARS OF THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 5 minutes.

● Mr. ROBERTS. Mr. Speaker, a fellow Texan and longtime personal friend of mine has been elected to the highest office of the Veterans of Foreign Wars of the United States.

He is T. C. Selman of Freeport, Tex., who served with highest distinction as a U.S. marine in overseas combat during World War II.

T. C. Selman was elected commander-in-chief at the conclusion of the organization's 81st national convention which was held in Chicago, Ill., August 15–24, 1980. The membership of the VFW, which is at an all time high of approximately 1.9 million, is intensely interested in veterans' rights, benefits and programs.

T. C. brings a wealth of leadership experience to the office he now holds.

A native Texan born in Magnolia, October 6, 1920, he earned his battle stars and veteran status as a first sergeant during the U.S. invasion of the island of Guam in June 1944. His ability to get the job done was soon recognized following the Guam campaign when he was advanced to sergeant major—the highest noncommissioned officer rank—and supervised marines who had been first sergeants longer than he had been in the corps. He also saw action in the Solomon Islands, Saipan, and Marianas Islands campaigns and was discharged September 28, 1945.

A past Texas Department Commander (1957–58) and District 17 Commander, T. C. has served on the National Council of Administration (Texas, Oklahoma, Missouri) has been chairman or a member of the National Community Activities, Americanism, Loyalty Day and Security Committees. A life member of the VFW, the National Home and the MOC, he is also Past Commander of Post 4006, Navasota; Post 1799, Tyler; and Post 8576, Freeport.

A graduate of Palestine High School and the Nixon Business College, Palestine, Tex., prior to World War II, T. C. was employed in management positions with the J. C. Penney Co. in both Conroe and Navasota, Tex., before enlisting in the Marines in 1942.

Following his wartime service, he returned to the Penney Co. and was employed in the Navasota, Longview, Tyler, and Houston areas in Texas as well as a stint in Bastrop, La.

Actively engaged in chamber of commerce, civil projects and patriotic activities, T. C. ran for the office of mayor of Freeport, Tex., a position he won and held from 1964 to 1972.

T. C. and his lovely wife, the former Mildred E. Bohot, of Navasota, are the proud parents of three sons, all married. Both are members of the First Baptist Church of Freeport.

Mr. Speaker, under the great leadership of my good friend from Texas, I predict the Veterans of Foreign Wars will have a most successful year. He will be an outstanding Commander-in-Chief. Since I will retire from the House at the close of this session of Congress, I will not be able to greet T. C. when he appears before the Committee on Veterans' Affairs early next year to present his legislative proposals. But knowing him as I do, I know his recommendations to the Congress will be reasonable and I know our committee will seriously consider his views and the views of the 1.9 million members of the Veterans of Foreign Wars.

T. C. Selman is one of the finest men I have been privileged to know and we all wish him well as he leads his great organization during the next year.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Corman (at the request of Mr. Wright), for today, on account of official business.

Mr. Hawkins (at the request of Mr. Wright), for September 3 through 5, on account of official business.

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Tauzin (at the request of Mr. Wright), for September 3 through 5, on account of a necessary absence.

Mr. Thompson, for September 4, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Gilman) to revise and extend their remarks and include extraneous material:)

Mr. Gingrich, for 60 minutes, September 4, 1980.

(The following Members (at the request of Mr. Campbell) to revise and extend their remarks and include extraneous material:)

Mr. Green, for 10 minutes, today.

Mr. Campbell, for 10 minutes, today.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Bingham, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Murphy of New York, for 30 minutes, today.

Mr. Oberstar, for 5 minutes, today.

Mr. Roberts, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Ms. Mikulski's remarks to be entered under general debate on this bill.

(The following Members (at the request of Mr. Campbell) and to include extraneous matter:)

Mr. Wydler.
Mr. Roth.
Mr. Derwinski in two instances.
Mr. Findley.
Mr. Grassley in two instances.
Mr. Madigan.
Mr. Gilman.
Mr. Sensenbrenner.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Waxman.
Mr. Gore in two instances.
Mr. Corman in five instances.
Mr. Mazzoli in two instances.
Mr. de la Garza in 10 instances.
Mr. McHugh.
Mr. Holland in five instances.
Mr. Frost in three instances.
Mr. Anderson of California in 10 instances.
Mr. Gonzalez in 10 instances.
Mr. Rosenthal in 10 instances.
Mrs. Bouquard in five instances.
Mr. Hamilton in 10 instances.
Mr. Brown of California in 10 instances.
Mr. Annunzio in six instances.
Ms. Holtzman in 10 instances.
Mr. Jones of Tennessee in 10 instances.
Mr. Boner of Tennesee in five intances.
Mr. Cavanaugh in five instances.
Mr. Corrada.
Mr. Traxler.
Mr. Drinan.
Mr. Ratchford.
Mr. Bonker in three instances.
Mr. Harris.
Mr. Pepper.
Mr. Lehman.
Mr. Udall.
Mr. McDonald in three instances.
Mr. Ford of Michigan.
Mr. Ottinger.
Mr. Brooks in two instances.
Mr. Roberts.
Mr. Shelby.
Mr. Charles H. Wilson of California.

BILLS PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on the following days present to the President, for his approval, bills of the House of the following titles:

On August 28, 1980:

H.R. 8010. An act to amend the Comprehensive Employment and Training Act to designate a Job Corps Center as the "Earle C. Clements Job Corps Center."

On September 2, 1980:

H.R. 7072. An act to amend sections 5702 and 5704 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowances of Government employees on official travel, and for other purposes;

H.R. 1781. An act to amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes; and

H.R. 1967. An act to modify the boundary of the White River National Forest in the State of Colorado.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Thursday, September 4, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5198. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting a report on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under the German Offset Agreement, for the quarter ended March 31, 1980, pursuant to section 720 of Public Law 96–154; to the Committee on Appropriations.

5199. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of three construction projects proposed to be undertaken by the Army Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

5200. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the need to convert the laundry function at the Army Armament Research and Development Command, Dover, Del., to contractor performance, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

5201. A letter from the Assistant Secretary of the Army (Installation, Logistics and Financial Management), transmitting notice that a decision has been made to convert the food services function at Fort Lee, Va., to contractor performance, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

5202. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a decision has been made to convert the real property maintenance functions at Vint Hill Farms Station, Va., to contractor performance, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

5203. A letter from the Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice that a decision has been made to convert the commissary shelf-stocking and custodial services function at Charleston Air Force Base, S.C., to contractor performance, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

5204. A letter from the Acting Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice that a decision has been made to convert the military family housing maintenance function at Norton Air Force Base, Calif., to contractor performance, pursuant to section 806 of Public Law 96–107; ot the Committee on Armed Services.

5205. A letter from the Principal Deputy Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice that a decision has been made to convert the commissary shelf-stocking and custodial services function at Travis Air Force Base, Calif., to contractor performance, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

5206. A letter from the Principal Deputy Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice that a decision has been made to convert the military family housing maintenance function at Reese Air Force Base, Tex., to contractor performance, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

5207. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to sell certain naval vessels to Brazil, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

5208. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to sell certain naval vessels to Peru, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

5209. A letter from the Director of Legistion, Department of the Navy, transmitting notice of the Navy's intention to sell a naval vessel to the Coordination Council for North American Affairs, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

5210. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense equipment to Malaysia (Transmittal No. 80–89), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

5211. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment and services to Egypt (Transmittal No. 80–92), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

5212. A letter from the First Vice President and Vice Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction exceeding $60 million with Air Canada, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

5213. A letter from the First Vice President and Vice Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction exceeding $60 million with the Republic of Nigeria, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

5214. A letter from the Secretary of Education, transmitting proposed final regulations to govern the program of grants to State education agencies for educational improvement, resources, and support, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

5215. A letter from the Secretary of Education, transmitting notice of the closing date for applications for grants to State educational agencies to improve the interstate and intrastate coordination of migrant education program activities, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

5216. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Israel for permission to transfer certain U.S.-origin military equipment, pursuant to section 3(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5217. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to Malaysia (Transmittal No. 80–89), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5218. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to Egypt (Transmittal No. 80–92), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5219. A letter from the Assistanct Secretary for Health, Department of Health and Human Services, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 55a(o); to the Committee on Government Operations.

5220. A letter from the Assistance Secretary of Housing and Urban Development for Administration, transmittting notice of proposed changes in an existing records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

5221. A letter from the Inspector General-designate, Department of Health and Human Services, transmitting the quarterly report of his office for the period April 1 through June 30, 1980, pursuant to section 204(b) of Public Law 94–505; to the Committee on Government Operations.

5222. A letter from the Comptroller General of the United States, transmitting a report on internal financial controls in 11 Federal agencies (FGMSD–80–65. Aug. 28, 1980); to the Committee on Government Operations.

5223. A letter from the General Counsel, Department of Energy, transmitting notice of various meetings relating to the international energy program to be held on September 4 and 5 in Ottawa, Canada, and on September 9 in New York, N.Y.; to the Committee on Interstate and Foreign Commerce.

5224. A letter from the Chairman, Federal Trade Commission, transmitting two proposed amendments to the trade regulation rule on games of chance in the food retailing and gasoline industries, pursuant to section 21(a)(1) of Public Law 96–252; to the Committee on Interstate and Foreign Commerce.

5225. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

5226. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens under the authority contained in section 13(b) of the act of September 11, 1957, pursuant to section 13(c) of the act; to the Committee on the Judiciary.

5227. A letter from the Chairman, National Transportation Safety Board, transmitting the Board's 1982 budget submission, pursuant to section 304(b)(7) of Public Law 93–633; jointly, to the Committees on Appropriations and Public Works and Transportation.

5228. A letter from the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), transmitting a directive of the Department of Defense on "Mutual Logistic Support Between the United States and Other NATO Forces," pursuant to 10 U.S.C. 2329; jointly, to the Committees on Armed Services and Foreign Affairs.

5229. A letter from the Comptroller General of the United States, transmitting a report on the need to improve the administration of the State energy conservation program (EMD–80–97, Sept. 2, 1980); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

5230. A letter from the Comptroller General of the United States, transmitting a report on the international crude oil spot market (EMD–80–98, Aug. 21, 1980); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 7418. A bill to establish a research, development, and demonstration program for the disposal of radioactive wastes with amendment (Rept. No. 96–1156, pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. Supplemental report on S. 658. A bill to correct technical errors, clarify and make minor substantive changes to Public Law 95–598 (Rept. No. 96–1195, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZEFERETTI: Committee on Rules. House Resolution 778. Resolution providing for the consideration of House Joint Resolution 601. Joint resolution making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981 (Rept. No. 96–1273). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 779. Resolution providing for the consideration of S. 658. An act to correct technical errors, clarify, and make minor substantive changes to Public Law 95–598 (Rept. No. 96–1274). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 780. Resolution providing for the consideration of H.R. 6777. A bill to increase the authorization for the Council on Wage and Price Stability, to extend the duration of such Council, and for other purposes (Rept. No. 96–1275). Referred to the House Calendar.

Mr. FOLEY: Committee on Agriculture. H.R. 3765. A bill to provide that orders issued by the Secretary of Agriculture under the Agricultural Adjustment Act respecting development projects designed to assist, improve, or promote the marketing, distribution, and consumption or production of walnuts may provide for any form of marketing promotion, including paid advertising, and for crediting certain direct expenditures of handlers for such promotion; with amendments (Rept. No. 96–1276). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 8062. A bill to establish controls on yearend expenditure practices of Federal agencies; to the Committee on Government Operations.

By Mr. BROOKS:

H.R. 8063. A bill to amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency, and for other purposes; to the Committee on Government Operations.

By Mr. CARTER:

H.R. 8064. A bill to amend the Foreign Assistance Act of 1961 and the Public Health Service Act to provide for the advancement of international cooperation and assistance in health, and for other purposes; jointly, to the Committee on Foreign Affairs and Interstate and Foreign Commerce.

By Mr. DRINAN:

H.R. 8065. A bill to amend title 18 of the United States Code to provide penalties for trafficking in stolen or forged U.S. checks, bonds, and securities, and for other purposes; to the Committee on the Judiciary.

By Mrs. FENWICK:

H.R. 8066. A bill to amend title 49 of the United States Code to make transportation by motor vehicle of food and other edible products intended for human consumption exempt from the jurisdiction of the Interstate Commerce Commission; to the Committee on Public Works and Transportation.

By Mr. FISH:

H.R. 8067. A bill to amend the Immigration and Nationality Act to provide for the deportation of certain nonimmigrant aliens involved in unlawful conduct in demonstrations and for the expediting of judicial review of deportation and exclusion orders; to the Committee on the Judiciary.

By Mr. JENKINS (for himself and Mr. Ginn):

H.R. 8068. A bill to amend the Internal Revenue Code of 1954 to exempt from the manufacturers excise tax chassis primarily designed as feed, seed, or fertilizer equipment and chassis, and parts and accessories therefor, sold in connection with the first retail sale of trucks and trailers with feed, seed, or fertilizer bodies; to the Committee on Ways and Means.

By Mr. RODINO:

H.R. 8069. A bill to make technical corrections in Public Law 96–247; to the Committee on the Judiciary.

By Mr. STANGELAND:

H.R. 8070. A bill to amend the Internal Revenue Code of 1954 to increase the minimum accumulated earnings credit from $150,000 to $1 million; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.R. 8071. A bill to amend the Agricultural Act of 1949 to increase to 100 percent the amount of the deficiency in the production of the 1980 crops of corn, wheat, and feed grains with respect to which farm disaster payments may be made; to the Committee on Agriculture.

By Mr. FISH:

H. Con. Res. 428. Concurrent resolution expressing the sense of the Congress with respect to the deportation of nonimmigrant aliens arrested for unlawful conduct in connection with demonstrations; to the Committee on the Judiciary.

By Mr. PHILIP M. CRANE:

H. Res. 781. Resolution relating to the Capital of Israel; to the Committee on Foreign Affairs.

SUBSEQUENT ACTION ON A BILL SEQUENTIALLY REFERRED UNDER TIME LIMITATION

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee on the Judiciary consideration of the bill (H.R. 5615) to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources, extended for an additional period ending not later than September 4, 1980.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FISHER presented a bill (H.R. 8072) for the relief of Dr. David Pass, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1055: Mr. Panetta.

H.R. 1738: Mr. Gilman.

H.R. 2085: Mr. Hyde.

H.R. 3254: Mr. Lott and Mr. Philip M. Crane.

H.R. 3258: Mr. Mottl.

H.R. 3263: Mr. Mattox.

H.R. 4175: Mr. Tauke and Mr. Grassley.

H.R. 6074: Mr. Sawyer.

H.R. 6220: Mr. Wolff.

H.R. 6461: Mr. Leach of Iowa.

H.R. 6637: Mr. Rhodes.

H.R. 6833: Mr. Carter.

H.R. 6941: Mr. Burgener, Mr. Montgomery, Mr. Steed, and Mr. Charles Wilson of Texas.

H.R. 6977: Mr. Drinan.

H.R. 7287: Mr. Neal and Mr. Davis of Michigan.

H.R. 7424: Mr. Buchanan, Mr. Evans of Georgia, and Mr. Fithian.

H.R. 7529: Mr. Murphy of Illinois, Mr. Fascell, Mr. Mottl, Mr. Maguire, Mr. Bedell, Mr. Mitchell of Maryland, Mr. Brown of California, Mr. Weiss, Mrs. Chisholm, Mr. Dixon, Mrs. Collins of Illinois, Mr. Kogovsek, Mrs. Spellman, Mr. Lowry, Mr. Conyers, Mr. Clay, and Ms. Ferraro.

H.R. 7538: Mr. Anderson of California.

H.R. 7647: Mr. Florio and Mr. Rinaldo.

H.R. 7749: Mr. Forsythe, Mr. Badham, Mr. Jeffries, Mr. Lott, Mr. Petri, and Mr. Carter.

H.R. 7773: Mr. Matsui and Mr. Lewis.

H.R. 7793: Mr. Glickman and Mr. McKay.

H.R. 7795: Mr. Carter and Mr. Yatron.

H.R. 7839: Mr. Carter and Mr. Yatron.

H.R. 8000: Mr. Railsback, Mr. Whitehurst, Mr. Nolan, Mr. Lagomarsino, and Mr. Frenzel.

H.R. 8024: Mr. Perkins.

H.R. 8027: Mr. Mottl.

H.J. Res. 435: Ms. Ferraro.

H.J. Res. 560: Mr. Carter.

H.J. Res. 568: Mr. Beard of Rhode Island, Mr. Beard of Tennessee, Mr. Barnes, Mr. Bedell, Mr. Benjamin, Mr. Harsha Mr. Brodhead, Mr. Brooks, Mr. Broyhill, Mr. Carter, Mr. Cavanaugh, Mr. Coelho, Mrs. Collins of Illinois, Mr. Conte, Mr. Dingell, Mr. Donnelly, Mr. Edgar, Mr. Ertel, Mr. Evans of the Virgin Islands, Mr. Ford of Tennessee, Mr. Green, Mr. Holland, Mrs. Holt, Ms. Holtzman, Mr. Horton, Mr. Jenrette, Mr. Kazen, Mr. Lederer, Mr. Lee, Mr. Leland, Mr. Lujan, Mr. Markey, Mr. Mineta, Mr. Moffett, Mr. Mollohan, Mr. Musto, Mr. Oberstar, Mr. Ottinger, Mr. Roe, Mr. Rostenowski, Mr. Shannon, Mr. Stack, Mr. Stokes, Mr. Thompson, Mr. Walgren, Mr. Bob Wilson, Mr. Waxman, and Mr. Wolpe,

H.J. Res. 580: Mr. Fithian.

H. Con. Res. 361: Mr. Gingrich, Mr. Gray, and Mr. Synar.

H. Con. Res. 414: Mr. Dougherty, Mr. Stump, Mr. Hance, Mr. Whitehurst, Mr. Edwards of Alabama, Mr. Van Deerlin, Mr. Montgomery, Mr. Bevill, Mr. Dannemeyer, Mr. Hutto, Mr. Won Pat, Mr. Hinson, Mr. Winn, Mr. Frenzel, Mr. Frost, Mr. Michel, Mr. Hall of Texas, Mr. Badham, Mr. Hughes, and Mr. Ritter.

H. Con. Res. 416: Mr. Donnelly, Mr. Dornan, Mr. Horton, Mr. Coelho, Mrs. Schroeder, Mr. Forsythe, Mr. Ottinger, Mr. Benjamin, Mrs. Holt, Mr. Brodhead, Mr. Roe, Mr. Lagomarsino. and Mr. Weiss.

H. Con. Res. 423: Mr. Rousselot.

H. Res. 292: Mr. Harris.

H. Res. 677: Mrs. Smith of Nebraska.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6721

By Mr. YOUNG of Missouri:

—Page 73, lines 16 and 17, strike out "Administrator of the Federal Aviation Administration" and insert in lieu thereof "Secretary".

Page 73, line 21, strike out "Administrator" and insert in lieu thereof" "Secretary".

Page 73, line 25, strike out "Administrator" and insert in lieu thereof "Secretary".

Page 74, line 23, strike out "Administrator" and insert in lieu thereof "Secretary".

—Page 83, lines 17 and 18, strike out "Administrator of the Federal Aviation Administration" and insert in lieu thereof "Secretary".

Page 83, line 21, strike out "the Secretary," and strike out the comma after "States".

H.R. 6846

By Mr. GILMAN:

—Page 25, after line 24, add the following new section:

Sec. 12. The Attorney General may not, after the date of enactment of this Act, promulgate, administer, or enforce any regulation, or enforce any policy, to the extent that such regulation or policy designates, determines, or fixes the maximum limit of age within which an original appointment may be made to a position as a law enforcement officer (as defined by section 8331(20) of title 5, United States Code) in the Federal Prison System at any age lower than 40 years.

EXTENSIONS OF REMARKS

RISK AND THE REGULATORY DECISION PROCESS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. BROWN of California. Mr. Speaker, over the past year, our Subcommittee on Science, Research, and Technology has been interested in risk assessment and its implications for the regulatory decisionmaking process. We have held two sets of hearings, and we are now considering legislation which will help to promote fundamental research into those areas of science which can contribute to better risk assessments. Furthermore, we hope to facilitate the applications of this research to the many complex problems now facing the various regulatory agencies. While the ultimate decisions on establishing regulations are political and social as well as scientific ones, it is certainly necessary to develop the best possible scientific component for these decisions. Even with the best scientific data, these decisions will still be difficult to make and will still be controversial, but as a society, we must insure that we have the best decisionmaking tools available.

Mr. Speaker, I wish to commend to my colleagues an article by the former Commissioner of the Food and Drug Administration which speaks to these difficulties and the role that risk assessment plays in the process.

The article follows:

COMMONWEALTH CLUB TALK

Let me begin with an assertion that is unlikely to surprise you: It is that the Food and Drug Administration—like the Environmental Protection Agency, the Occupational Safety and Health Administration, the Consumer Product Safety Commission, and the other government agencies in the health regulation business—is controversial. I knew that before I went to run the Food and Drug Administration in April of 1977. But I must confess that it was borne in on me much more forcefully during my first week in office, when one of my new colleagues gave me a metaphor for what life in the Agency was like. "The FDA", he said, "is a slowly moving target that bleeds profusely when hit."

That rueful assessment, I'm glad to report, is not an evaluation of the people at FDA, who are capable and dedicated. It reflects, instead, the intensity of the social and political controversy in which the health regulatory agencies are embroiled. Today I want to give some background that may help explain the origins of that controversy, then analyze some of its contemporary elements, and finally suggest some ways in which we might, if we really wanted to, reduce its intensity.

I begin with a simple historical point: The situation is relatively new. The very first federal health and safety regulatory agency came into being in the mid-19th century. It was called the Steamboat Inspection Service, and its purpose was to address a specific problem: Exploding boilers on river steamboats. You might characterize this as an unequivocal problem. Boilers either exploded, or they did not. Given the explicit nature of explosions, the results were inescapable. There was noise, and then smoke and flames—usually followed quite rapidly by the sensation of water lapping about one's ankles. It is not unreasonable to assume that people *detested* having boilers on their steamboats explode. There was no constituency that favored, let's say from motives of overwhelming boredom, the excitement that followed your run-of-the-mill exploding boiler. History does not attest that anyone ever organized the survivors into a "committee of 100 for steamboat freedom of choice," dedicated to the promise of adventure between Memphis and St. Louis. Indeed, even private enterprise saw clearly that one might anticipate a larger passenger revenue if people were given some assurance that a trip to New Orleans might not terminate unexpectedly in the middle of the Mississippi River, causing one to miss all kinds of connections with the not unlikely exception of that with one's maker.

But modern hazards are very different from steamboat boiler explosions. Let me cite the major new elements that have made health regulation a more complex and a more controversial subject.

First, the hazards are different. There is an increased focus on the diseases of age, especially cancer and heart disease. These diseases have been "promoted" into prominence by the solution of other health problems and by the resulting changes in the demographic profile of the post-industrial nations. As we have reduced the traditional health hazards of older times—among which infectious diseases are actually a little more prominent than boiler explosions—we have increased the incidence of these two afflictions of older age. And cancer and heart disease challenge both the ingenuity of our researchers to solve them and the capacity of our society to pay for their cure.

Increasingly, we are coming to understand that cancer and heart disease are social diseases, in the sense that they are in significant degree the products of the behavior of people and of social institutions. As a result, much attention is now being given to disease prevention, or as the optimists prefer, health promotion. To the extent that individuals have made themselves vulnerable, and can reduce those risks for themselves, this strategy is politically popular and uncontroversial; it involves dietary goals for Americans, more stress on nutrition research, the social encouragement of jogging, and support for campaigns to reduce cardiovascular risk factors.

But the diseases we are talking about are also diseases that involve externally imposed risks. They are associated with the hazards of life in an industrial society—in the workplace, in the food supply, in the air and water, and even in the drugs and devices we deploy against other diseases. That brings me to the second source of controversy; the hazards often arise out of the private activities of others.

Much of this part of the burden is associated with the results of a remarkable revolution in synthetic organic chemistry. This revolution has produced an industry that has increased by ten-fold during each decade of the past half century. Its production now exceeds 150 billion pounds a year—of molecules that are often extraordinarily long-lived and stable, and not infrequently produce toxic effects long after the time at which people are first exposed to them. We cannot deal effectively with the "external costs" associated with this activity by reliance only on the judicial system. Cause and effect are too far apart, and there is too complex an array of risks to permit effective compensation for harm through lawsuits. So nearly all governments have chosen to deal with this problem by a system of regulation that is aimed at sources instead of consequences; and thereby hangs the controversy.

People have two kinds of difficulty with government regulation in the health area. First, it raises questions about the degree to which the State may appropriately intervene in the personal behavior of citizens, even in their own interest. The Boston Globe columnist Ellen Goodman described this issue eloquently, after reciting the history of a seventy year old woman named Mary Northern, who spent the final months of her life fighting off the good intentions of a large government effort to make her undertake medical treatment she did not wish to receive.

"Mary Northern" . . . Ms. Goodman said, "leaves us a legacy beyond the ramshackle old house she shared with her cats and family memories. She leaves a reminder of how often individuals, especially the weak, the sick, the elderly and the dependent, need protection from the powerful establishments—even the establishment of kindness."

To many, government regulation in the health area raises issues about "freedom of choice". During my time as Commissioner, this argument was applied with particular vigor to regulation in the area of cancer and its causation—as, for example, in the public debates surrounding saccharine and laetrile. I think there are special reasons for this.

We Americans have become used to a series of purchased triumphs over the major diseases—purchased, that is, with tax and private support of biomedical research. After expecting that a similar research investment would do to cancer what it did to poliomyelitis and earlier "killer diseases", Americans have been understandably disappointed by the failure of the science they supposed to achieve a victory. Now they are being told, in effect, "We have met the enemy, and he is us." It is entirely natural that people are impatient at the news that the research investment did not work out, and that self-denial is the answer instead!

But whatever its psychological causation, the important political element is a genuine concern about the invasiveness of regulation into areas that people would prefer to reserve for personal choice. There is a second and even more significant element in the controversy. Since the days of the good old Steamboat Inspection Service, the health and safety regulatory agencies of our Nation have been profoundly transformed. Once their main task was to police the market place against various visible abominations—in FDA's old law, those sins subsumed under the threatening terms "misbranding" and "adulteration". But now they have become regulators of technology transfer: That is, they are assigned by the Congress the task of making sure that new technologies are safe. That means that they must play the unpopular role of Cassandra in a go-go industrial society. Furthermore, they get asked an entirely reasonable question: "Are you not costing society more, in the form of foregone innovation, than you are actually saving by enhancing the public health?"

In examining the sources of this controversy, it is not surprising to find that some of them are scientific and some legal.

Among the scientific difficulties two are especially prominent. One has to do with a troublesome mismatch between the rates of advance of two critical scientific disciplines. The first is analytical chemistry; the second, toxicology. In the three and a half decades since World War II, analytical chemistry has advanced as dramatically as synthetic chemistry. In a good post-war laboratory, analyses at the level of parts per million were possible with the best available methods of optical spectroscopy. New methods of clean-up and the advent of mass spectroscopy moved that to parts per billion in the 1960's, and recently such modern techniques as radioimmunoassay and high-resolution mass spectroscopy have pushed the limits to parts per trillion in many cases.

But we still have to evaluate the toxicity of such substances in relatively time-consuming and expensive ways. To determine that an agent is cancer-causing, laboratory animals must be allowed to eat or breathe the substance over most or all of a lifetime, must be maintained under constant conditions in a way identical to a control group, and at the end of the experiment there must be complete and searching pathological examination of all the tissues. To do a single such test may require $300,000 and over three years. There is nothing wrong with such experiments; they are based on an entirely sound scientific rationale, and they have proven both repeatable and reliable. But we do not have the resources to perform as many of them as it would take to get the answers we need.

As a result of this mismatch, then, we find ourselves in an odd position: We can detect more prospective hazards than we can thoughtfully evaluate.

The second scientific difficulty is that, contrary to what many members of the public believe, science is not in a position to provide absolute, cut and dried quantifications of the level of risk, or even assertions about the certainty of risk. Conversely, where our society wants scientific evidence of benefit, as in the case of the process by which we evaluate and approve new drugs, science has also been less decisive than many would like it to be. Let me take a moment to explain the problem.

Experiments in this area, whether we are evaluating the clinical benefit of a new drug or the cancer-causing potential of a food additive, basically involve comparisons between the effect of the substance on experimental and control populations of people or animals. If all the people given an experimental drug get better, and all of the "controls" given sugar pills stay sick, the result is clear, and the regulatory decision is easy to make. But if the differences are small, we have to apply a statistical test to see whether they might be due to chance alone instead of the experimental variable. Scientists are accustomed to accepting a particular level of that probability as "proving" a result: If there is more than a one in twenty chance that the result is not due to the experimental variable, the result is usually said not be "statistically significant".

There is nothing magic about that number of one in twenty; it is a matter of scientific taste, based upon the well-worn tradition that since research builds upon other research it is important to be certain of each piece. But to say that a result is statistically significant does not mean that it is biologically significant. Let me give an example from the drug part of FDA's work, where law requires that a drug be proven effective by scientific test. FDA and the courts have interpreted this to mean that clinically significant benefits must derive from the drug's use.

Suppose we were to do an unimaginably large clinical trial for a new drug—one that has 50,000 subjects in the experimental group and 50,000 in the control group, if five people got better in the experimental group and none in the control group, the result would reach statistical significance because of the large sample size. Yet only one in 10,000 people taking the drug would have gotten better. I think none of us would want to pay much, in dollars *or* risk, for a one in ten thousand chance of improvement.

The same sort of judgments apply to the assessment of risk. In a necessarily small sample of laboratory animals subjected to safety tests for a food additive, the incidence of cancer in the experimental group sometimes falls just short of the magic level of 95% confidence. Suppose, in such a trial, that the experimental animals develop more cancers than the controls, but the difference is just sufficient to establish a 9 in 10 certainty, instead of the magic 19 in 20 certainty, that the result was due to the experimental variable instead of the chance. Is that the same as saying the risk is zero?

I hope these examples convince you that there are important areas in which we cannot count on science to provide decisive, yes-or-no answers. Yet there often is a tendency, on the part of people who make laws, to nurture the perennial hope that somehow it can. Since the people who make laws are almost never scientists, they perhaps believe in it too much. In short, we need to be a little more flexible in our view of what standard of proof we will accept. Society recognized long ago that for different settings it will accept different levels of evidentiary certainty. "Beyond reasonable doubt" may be required for certain purposes; "the preponderance of the evidence" suffices for others. The scientific community adopted a particular standard out of the need of the research system for extreme reliability. When the main point at issue is public risk or public benefit, there is every reason to consider a different standard. That brings me to the legal difficulties associated with the present health regulatory statutes, of which I will give only two examples to illustrate the points I have just made.

The well-known Delaney Clause of the Food Drug and Cosmetic Act prohibits the addition to food of any substance that has been shown, by appropriate tests on laboratory animals or humans, to cause cancer. That is a unique legal provision, because it actually codifies a scientific hypothesis: that there is no threshold concentration at which a chemical causes cancer, so that if you reduce the amount of a cancer-causing substance to which people are exposed, the resulting cancers just get rarer.

Now, it turns out that that hypothesis probably holds most of the time, and in fact I believe that the Delaney Clause is, in its intent and in its usual operation, a pretty good version of how society ought to deal with such risks. But it is in deep trouble because of its inflexibility; it leaves no room even for a convincing scientific demonstration that there is a safe level for some cancer-causing substance. I am as certain as I can be of any scientific prediction that some day, very soon, some compound will be demonstrated to have a threshold level for cancer causation; and I think that any law that purports to deal with science ought to leave room for scientific progress. For that reason, I favor altering the Delaney Clause and similar provisions to reflect presumption rather than certainty—a presumption of risk that could be rebutted by a scientific showing that a certain level is indeed safe, or that the use of a particular kind of experiment actually overstated the risk.

And I believe, furthermore, that the law ought to recognize that some level of risk is acceptable if there are significant benefits to be had—as long as the benefits accrue to the same people experiencing the risks. In the case of saccharine it was argued that there were health benefits for persons with diabetes or problems of obesity. The National Academy of Sciences panel that evaluated those claims was not convinced by them. But suppose they had been fully convincing. Should the law have recognized the validity of a demonstrable benefit of that sort? I think it should.

Having pointed to some of the sources of the controversy in which health regulators find themselves, I want to conclude by reemphasizing something that may sound a little strange to you, coming as it does from a scientist who ventured into the arena known to some as "political economy". It is that most of the controversies about health regulation, although it sometimes appears otherwise, have rather little to do with science, and a very great deal to do with politics. It would be nice if more scientific precision could, by relieving us of uncertainty, convert us to a clockwork universe in which political decisions would be easy and automatic. It sounds like exactly the kind of political system Thomas Jefferson had in mind. But even if we could do animal tests as easily and accurately as we can do analytical chemistry, even if we could assess human risk to the third decimal place, even if we could measure medical benefits with great precision, most of our difficulties would still remain. That is because there is an authentic public ambivalence about risk—not how much risk there is, but how much risk we want. Our citizens are uncertain about how much government intervention in the interest of their health they will tolerate, and they are also uncertain about how many other things—like new inventions, or creature comforts, or old habits—they are willing to trade in order to be safer.

Such doubts cannot be resolved merely by stating the risks more precisely. They can only be resolved by the political process, in which public views of such issues are accounted and the laws then changed to accord with them.

That is why, during my term as Commissioner, I came to lay great stress on the process of statutory reform and on the kind of public education that must accompany it. We took significant proposals to the Congress for reform of the new drug approval process; most of the major reforms were then embodied in a series of amendments introduced by Senator Kennedy and passed by the Senate this past year. And, following the instructions Congress gave us after the saccharin debate, we developed agency recommendations for changes in the food safety laws that should be delivered to the Congress by the administration later this year.

It has been over twenty years since there was a major congressional debate and review of these provisions. What the public furor about health regulation is telling us is that the time for that debate has come. In its resolution, science may clarify and inform the discussion, but cannot dominate it; for the great issues are political and not scientific.●

HEALTH MANPOWER BILL

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. BROYHILL. Mr. Speaker, I appreciate this opportunity to address the House membership on a noteworthy subject—the Health Professions Educational Assistance and Nurse Training Amendments of 1980, otherwise referred to as the "health manpower bill."

The programs authorized by the health manpower bill are among the cornerstones of the health care foundation in our country. The various programs for assistance to students and to schools, for construction and for local projects and programs all contribute immeasureably to our efforts to insure a better health care delivery system in our country. As such, the legislation and the programs it authorizes reap benefits for those at all levels—for individuals—be it students who receive aid to study or individuals who are served by the Government-aided projects—for State and local projects, and for schools and health education centers.

I would like to take this opportunity to comment briefly on some of my special interests in relation to this bill.

First of all, title I of the bill extends and revises the National Health Service Corps program through fiscal year 1983. During consideration of this bill, I was among many Members who expressed the concern that the program is not living up to its intent. The intent of the NHSC program is to provide trained physicians, dentists, nurses, and other health specialists to areas which are medically underserved. What we believe is happening in some cases is that these health personnel are being sent needlessly to areas where shortages do not truly exist. These personnel are duplicating services which are already being provided to the community. A safeguard which my colleague Dr. TIM LEE CARTER was instrumental in inserting into the bill during Health Subcommittee consideration was an amendment which requires consideration of comments by health professions societies regarding the designation of shortage areas and the assignment of Corps personnel. Hopefully, this safeguard will insure a more thorough review than that which is provided under the current system and will insure that we place these health personnel in the most critically underserved areas.

Title II of the bill extends certain health professions programs. The phasedown in funding for many of the so-called capitation programs reflects a growing feeling in the Congress and the Government as a whole that our doctor shortage and maldistribution may be growing to an end in the not-too-distant future.

On the other hand, the continuation of most aid programs for nursing schools and students reflects a growing concern I, for one, have had that our nursing shortage is growing worse each day. Just the other day, I read in the newspaper that one hospital is offering free use of a car to prospective nursing employees. What lengths we are having to go to to attract skilled personnel.

North Carolina, in particular, is faced with a most critical shortage of nurses according to hospital and health care officials with whom I have conferred. One North Carolina board of nursing study has cited that almost one-third of licensed North Carolina nurses either do not work or work in non-nursing-related employment. A North Carolina Hospital Association survey quoted to me indicates that among 100 or so hospitals, there were 1,500 vacancies for registered nurses.

In this light, I feel it is most important that we continue our commitment to furthering the nursing profession and the valuable services nurses provide. It is necessary that we continue our support for the training of nurses in the United States. At the same time, I would suggest it may also be important for us to study ways in which we can encourage greater retention rates for nursing personnel, as the shortage is most certainly exacerbated by the number of nurses who leave the profession each year.

The legislation contains an authorization for continued project grants and contracts for physician and dental assistants. As my colleagues are aware, I am firmly convinced that the services of these physician and dentist extenders are one means of providing quality health care to our citizens at a reasonable cost. In fact, I was the original sponsor of a provision which was later enacted into law to reimburse physician assistants and nurse practitioners under medicare. We should continue to encourage these health professionals to provide their necessary and beneficial services.

Finally, I would like to take this opportunity to note that the bill extends and revises somewhat the Area Health Education Centers (AHEC) program, which have proven to be so instrumental in tying together educational and planning institutions to provide for manpower development. The North Carolina program, operating from the Area Health Education Centers program at the University of North Carolina at Chapel Hill, has been exemplary and has established a firm base for expansion. Without a doubt, the work carried out by the AHEC in Chapel Hill has contributed to the goal of decentralizing medical and health professions education.

The North Carolina AHEC has begun substantial work into investigating manpower needs and ways in which they can be addressed, and I could not let this opportunity pass by without commenting on the worthiness of this project in my home State.●

THE POISONED TRAIL OF AGENT ORANGE

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. RATCHFORD. Mr. Speaker, some of the furor over the long-term effects of the defoliant agent orange on American servicemen of the Vietnam war era has died down in recent months. But the critical medical and psychological problems traceable to exposure to this powerful chemical have not disappeared or diminished.

It was my concern for the fate of Vietnam war and Vietnam era veterans that prompted me to consponsor H.R. 6377 this year—the Vietnam Era Veterans Agent Orange Act. I am disappointed in the slow progress this measure has made in the House, and I am hopeful the logjam will be broken in the 96th Congress. I am also encouraged by actions being taken in the Senate this week to amend S. 1188, the Disabled Veterans Rehabilitation Act, to provide a presumption of service-connected disability to those veterans suffering the insidious effects of agent orange exposure.

If this grave issue has not received the attention it warrants in this body, it has continued to attract the interest of the public. I commend to my distinguished colleagues the following editorial that appeared on August 21, 1980, in the News-Times of Danbury, Conn., and I hope that its message will prove persuasive:

QUESTIONS ABOUT AGENT ORANGE

The U.S. military made huge mistakes in Vietnam, one of the worse having been the employment of the defoliant named Agent Orange in an effort to render the Vietnamese countryside bare of leaves and other greenery so that North Vietnamese forces could not hide in the forests or live off the countryside.

One of the principal chemicals in Agent Orange was dioxin which has since been identified as a cancer-causing agent.

The Pentagon claims there is no conclusive link between the use of the herbicide and the high incidence of cancer, skin disease and other problems among veterans who were involved in the Agent Orange spraying.

The Veterans Administration takes a similar attitude, in spite of claims from Vietnam veterans suffering from cancers, the skin disease known as chloracne, impotence, weight loss, headaches and other medical problems. Additionally, there have been numerous cases of birth defects among children born to Vietnam veterans who had been exposed to Agent Orange.

New studies have shown that a substantial number of Vietnam veterans are suffering similar problems due to exposure to other chemicals widely used during the fighting in Southeast Asia.

The VA, at the prompting of members of Congress, has grudgingly agreed to re-examine some of the veterans suffering from chloracne.

In fairness to Vietnam veterans, whether they were drafted or volunteered to fight there, the VA should do more. Questions about Agent Orange and other chemicals cannot be left hanging, not only over the heads of Vietnam veterans, but over the heads of their wives and children for years to come.●

NUCLEAR WASTE: STRONG STATE ROLE NECESSARY

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. MARKEY. Mr. Speaker, as three committees of the House of Representatives put the final touches on a national nuclear waste disposal program, it is apparent that the right of the States to exercise a meaningful degree of control over waste siting decisions has been given short shrift. It is extremely disturbing to note that none of the legislation reported out of the Commerce, Interior, and Science and Technology Committees allows the States even the limited right of blocking a Department of Energy decision to site a nuclear waste facility within their borders subject to a congressional override. Instead, the bills would allow a DOE siting decision to go forward over State objections unless the State could convince one or both Houses of the Congress to support, by resolution, its objections, or no role is provided for a State's objections to be heard at all.

These provisions will be the subject of intensive and extended debate when the waste proposals reach the House floor later this month. For the information of the Members, I am inserting in the RECORD a little bit of history in the nuclear waste disposal area.

The Department of Energy and its predecessors have an unenviable track record in their dealings with the States over the question of where to locate nuclear waste repositories. A case in point is what happened to Kansas in the early 1970's. The story of how the Atomic Energy Commission tried to force the selection of a nuclear waste dump in Lyons, Kans., is told in a book by Ronnie Lipschutz, "Radioactive Waste: Politics, Technology and Risk," Cambridge, Mass.: Ballinger, 1980. Excerpts from the Lipshutz book follow:

> By 1971, preparatory work was considered complete, and the AEC announced that permanent disposal of both transuranic and high level wastes would soon commence in the Lyons mine. The agency claimed that research had shown the method to be fully developed and the site to be suitable. The wastes would be isolated from the biosphere for the requisite period of time, according to the commission's claims.
>
> As of 1971, the AEC had spent 15 years and some $100 million studying bedded salt disposal. The Agency maintains that the radioactive waste problem was solved and that implementation of the solution could begin promptly. So confident was the AEC that Milton Shaw, Director of the AEC's Division of Reactor Development in testifying before the Joint Committee on Atomic Energy on the fiscal year 1972 budget for the Lyons project, * * * stated that the site was "equal or superior to the others (in the country)." But AEC confidence was, as things turned out, badly misplaced. The site was grossly unsuitable. The Kansas Geological Survey concluded that the Lyons site was not at all adequate for the purpose. Independent geologists concurred, for at the other end of the town of Lyons was another salt mine, and underneath the town, the galleries of the two mines came as close as 500 yards to the selected site. The operators of the second mine utilized a salt extraction process called hydraulic fracturing, in which fresh water is injected into one borehole and emerges from another as brine, which is then pumped to the surface. One of these operations unexpectedly produced no brine; over 180,000 gallons of water were pumped into a borehole and simply disappeared. It became clear that the geology of the site was inadequately known. Moreover * * * the location of many of these—oil and gas-boreholes was not known because the State of Kansas did not require the registration of dry wells. Dr. William Hambleton of the Kansas Geological Survey described the Lyons site as "a bit like a piece of Swiss cheese" * * *. The Kansas Geological Survey recommended abandonment of the site, and the citizens of Kansas showed strong resistance * * *. Under pressure from the Kansas congressional delegation, the AEC announced in 1973 that the Lyons site was being abandoned.●

IMPROVING SOILS WITH ORGANIC WASTES

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. GRASSLEY. Mr. Speaker, in 1978, the U.S. Department of Agriculture issued a report entitled "Improving Soils with Organic Wastes." This report was issued in response to section 1461 of the Food and Agriculture Act of 1977—Public Law 95-113. In this report a team of USDA and other public-spirited agricultural scientists listed a series of eight recommendations for action relative to how we best proceed to protect and improve our Nation's most valuable natural resource, our soil, through the proper use of organic wastes.

The list of research topics which this report highlighted included:

First. Conduct a national survey to obtain a complete listing of the kind and amount of organic wastes available now and in the future.

Second. Assess the effects of various processing methods on the value of wastes for soil improvement.

Third. Conduct research to determine how organic wastes differ in their ability to improve soil tilth and fertility.

Fourth. Determine the effect on soil erosion and productivity of a major diversion of crop residues to energy-recovery systems.

Fifth. Conduct research on the utilization of organic wastes on small farms to improve soil productivity and control erosion.

Sixth. Conduct a thorough study of the economic, social, and environmental results of organic farming systems versus conventional agriculture.

Seventh. Develop educational programs to increase public awareness of the value of recycling organic wastes on soils.

Eighth. Collect more information on the extent to which the utilization of organic wastes could be improved through relaxation of regulatory restraints or establishment of incentives.

Mr. Speaker, with rising energy costs pushing up the costs of chemicals upon which many producers depend heavily to maintain high levels of crop production, it is becoming more and more important that all options and alternatives for lessening this dependence be explored. Unfortunately, the term "organic farming" has come to imply to many a sort of purist rejection of all farming practices involving manmade chemicals of any sort. In fact, organic farming in the true sense of the word is practiced to greater or lesser degree by nearly all farmers and ranchers, large and small.

Research into reduction of energy-related agricultural production inputs is important to our Nation's future, the future of agriculture in this country, the future use and conservation of our soils, and the future and nature of our Nation's food supply. I applaud the team of scientists for having enumerated these recommendations and having brought them to public attention. This type of information is needed to help move agriculture forward and keep our Nation's farmers the most productive in the world. This is an area of research we need to support and activate—research designed to improve America's agriculture for the future, while effectively using and conserving our national resources.

As a farm boy in Iowa, I recall how our family utilized animal wastes, plant stubble, and other agricultural wastes effectively in our farming operations. I am always anxious to find what new advancements have been made in this important area which relates to crop production and resource utilization.

Mr. Speaker, my office recently received a copy of a new report from the U.S. Department of Agriculture entitled "Report and Recommendations on Organic Farming." This report is dated July 1980.

My staff and I were pleased to receive this new report for we were aware of the recommendations made in the 1978 report.

Mr. Speaker, what concerns me today was what I read in this new 1980 report:

> All of the research recommendations listed in the 1978 report Improving Soils

> with Organic Wastes directly support the goals and objectives of organic farming. Because of their relevance to the present report and because they have not yet been implemented (except for limited action on recommendations 2, 5, and 7), they are listed here as follows.

These scientists are telling us that the USDA has not yet moved to implement research recommended in 1978. These scientists are so concerned with the lack of attention by Secretary Bergland to the 1978 report, his lack of attention to the problems they outlined for him, that they feel compelled to reiterate the recommendations in this new report. I would ask, along with this distinguished group of experts, how many times do we need to study what needs to be done?

During the last 2 years the Secretary of Agriculture has reduced the number of employees engaged in agricultural research in his Department and has testified before the Congress how this is in the Nation's interest. We do not move our Nation ahead by failing to address our problems and work to provide solutions to them. We move forward through improved technology, resource conservation and management, and research that provides new and improved opportunities for our citizens to be productive and still not adversely affect the conservation of our Nation's natural resources.

It seems to me that the best public service the Secretary of Agriculture could perform in this case would be to initiate the research his scientists are proposing and let them spend their time doing the job that needs to be done rather than studying and restudying the question of what ought to be undertaken.

A few days ago the Des Moines Register published an editorial entitled "Organic Farming Endorsed," which concluded in this way:

> Iowa farmers would be wise to take a long and serious look at their organic colleagues who are developing an intricate and workable system of organic recycling and pest control farming that frees them from the rising cost of chemical and fuel dependence and ensures a more stable and natural agricultural system.
>
> A shifting of priorities is in order. Taking organic farming seriously is a sensible beginning.

I would respond to that editorial by saying I believe that a great many Iowa farmers do take organic farming seriously. What they have problems with are the righteous admonitions of the organic purists who contend that the solution to our ills lies in completely forsaking all agricultural chemicals. For all the problems they have brought, agricultural chemicals have done much to help increase the bounty of the land. As we learn more about the dangers of long-term use and abuse of chemicals, and as the economic future of chemical use grows more and more doubtful, we must be seriously looking at ways in which alternative farming practices can be effectively adapted to maintain the productively of U.S. agriculture. This is a job for the agricultural research community, both public and private, and it is clear that they are willing and eager to do the job if given the support to undertake it. They should be provided the support and the direction to proceed, rather than being asked to make up more new lists of what needs to be done.

The Des Moines Register editorial follows:

ORGANIC FARMING ENDORSED

> Mention organic farming and many conventional, or chemical-intensive, farmers conjure up images of backyard gardeners who have discovered the joys of composting.
>
> It was this type of misconception, and the need for alternatives in current farm practices, that prompted the U.S. Department of Agriculture to begin a study of organic farming in April 1979. The results of that study were released recently, and, for the first time, the USDA endorses organic farming as a "legitimate and promising" agricultural technique.
>
> The USDA defines organic farming as that which "avoids or largely excludes the use of synthetically compounded fertilizers, pesticides, growth regulators and livestock feed additives," while also using mechanical cultivation, certified seed and sound methods of organic waste management and biological pest and insect control.
>
> Chemical-intensive farming has been widespread since the 1940s for the continuous production of cash crops such as corn, soybeans and wheat. Severe problems have developed. Not only has the cost of fuel and chemicals shot skyward, but soil productivity has declined, primarily because of erosion and the depletion of natural soil nutrients. Fertilizer and pesticide runoff have created water pollution.
>
> As more chemicals are found unsafe and subsequently banned and not replaced, farmers may find themselves shifting to organic methods. While the USDA does not advocate a total shift, it does encourage blending the practices of organic and conventional farming where feasible and economical.
>
> "The greatest opportunity for organic farming," according to the report, "will probably be on small farms and on larger mixed-crop/livestock farms."
>
> The USDA report notes that not enough is yet documented on organic farming's limitations and advantages. The report concedes that the minority of farmers who do use organic methods do not do so for "solely economic reasons. Rather, they are more concerned with protection of human and animal health, protection of the environment, energy conservation and preservation of soil resources and will, if necessary, accept some economic loss to achieve these objectives."
>
> Iowa farmers would be wise to take a long and serious look at their organic colleagues, who are developing an intricate and workable system of organic recycling and pest control farming that frees them from the rising cost of chemical and fuel dependence and ensures a more stable and natural agricultural system.
>
> A shifting of priorities is in order. Taking organic farming seriously is a sensible beginning.●

NEW RISK APPROACHES MAKE FOR BETTER REGULATORY SENSE

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. WYDLER. Mr. Speaker, the technique of risk assessment is becoming a widespread tool in analysis of the real benefits of technological fixes, particularly those mandated by regulatory agencies. The regulatory agencies, for example NRC and EPA, are becoming keenly aware of the fact that technologists are refining this tool, and in the future these agencies are going to have to look more carefully at the projected benefits that accrue for certain technological changes required by standard settings in these agencies. In the "Science and Technology" section of the Economist magazine—July 19, 1980, issue—there appeared a note on a study done recently by Mr. Richard Schwing of General Motors Research Laboratories in Warren, Mich. He looks at the benefits of increased life expectancy as a yardstick for measuring the effective risk decrease as a result of technological investments—for example, to reduce carbon monoxide emissions from the automobile. I would recommend that my colleagues read this note. It appears that certain fixes devised by the regulatory agencies are seen to stand out as having very minimal return when compared with other suggested fixes already in process such as sulfur scrubbing from powerplant emissions. I hope that the Nuclear Regulatory Commission will consider this approach carefully in assessing the advisability of future nuclear licensing modifications in terms of real promise for health and safety. The note on Mr. Schwing's study from the Economist follows:

A QUESTION OF LIFE OR DEATH

> Industry's risk assessors are trying to come up with alternative ways of calculating the costs and benefits of the difficult choices that regulators face in deciding on new technologies, sharing out health-care money, responding to pressures for (and against) pollution controls and the like. The aim is to take some of the emotional heat and sheer political quackery out of debates on such issues as coal versus nuclear power. Or, at the very least, to alert decision-makers to the furore that some choices could unleash.
>
> One new approach attempts to take into the equation the public's intuitive notions about benefits and costs. These notions may be dotty. For example, many people still doubt the benefits of water fluoridation (though these are well documented in statistics of tooth decay) and fear the alleged risks (though, after years of experience, none has been demonstrated). Still, policy-makers ignore such popular myths at their peril. Mr. Chauncey Starr, at the Electric Power Research Institute in Palo Alto, California, is looking for ways to present these subjective judgments mathematically for the guidance of legislators. As a result, rule-makers should at least have a better idea of

which risks the public finds acceptable or not.

Another tack is being taken by Mr. Richard Schwing at the General Motors Research Laboratories in Warren, Michigan. This approach seeks to replace the crude "lives saved/lost" criterion of risk assessment with the more accurate yardstick of changes in life expectancy. As Mr. Schwing points out, death does not involve chance; it is one of life's great certainties. The only uncertainty is in its precise cause and timing.

For example, on average, American men would live one year longer if any of the following causes of death were eliminated: influenza, pneumonia and bronchitis; degenerative diseases (like nephritis, cirrhosis, ulcers and diabetes); certain diseases of infancy; motor accidents; other accidents and violence. Eliminate the lot and the American male would live five years longer.

To allow policy-makers to compare alternative uses of funds and scarce personnel, Mr. Schwing has come up with a formula that measures benefits and costs of any programme in terms of added longevity per dollar spent. The chart shows his arithmetic for some policy choices.

It also shows how fashion can override common sense. Take the fashion for controls on pollution. America's Environmental Protection Agency (EPA) is proposing to reduce the carbon monoxide emitted by car exhausts from the 15 grams per mile allowed by present standards to just 3.4 grams per mile. On EPA's own estimate, that change could save two lives over the next 20 years; implementing it is likely to cost $1 billion. That works out at $500m a life or (on Mr. Schwing's criterion) $25m for one person to live one year longer.

By contrast, providing a specialised ambulance service to treat victims of heart attacks would cost less than $550 for one person to live a year longer. If implemented throughout the country, such a service would add six months to the average life expectancy of all Americans at a cost of just $100m a year. Mr. Reagan, please note. By all means, look hard at the economics of car emission standards. Look at cost-effective alternatives, too.●

THE FEDERAL MANAGER'S ACCOUNTABILITY ACT OF 1980

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. BROOKS. Mr. Speaker, I am introducing today legislation entitled "The Federal Manager's Accountability Act of 1980."

Newspapers regularly headline mismanagement and inappropriate use of Government funds. A review of such charges shows that much of this waste can be specifically linked to the lack of adequate systems of control in the departments and agencies. Without such control the managers and administrators holding positions of responsibility have inadequate means to maintain the necessary oversight of the units within their jurisdiction.

In attempting to explain this situation, head of the General Accounting Office, Comptroller General Staats has stated:

> We believe that the reason internal control systems are in a state of disrepair is that top management has devoted most of its concern and emphasis to delivering funds and services and that effective controls over tasks and functions which lead to the delivery of these funds and services has had a low priority * * *.

General Accounting Office standards define internal control as a "plan of organization and all the coordinate methods and measures adopted to safeguard assets, check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies." Such is the foundation of internal control—and such is necessary for accountability. Achieving effective Government accountability begins with the chief executive of each agency. If the chief executive accepts responsbility for administrative, financial, and programmatic performance, then the internal control and reporting mechanism needed to reduce fraud, waste, and abuse will be formulated promptly and effectively.

The bill I am introducing today requires that the head of the agency certify, by appropriate language over his signature, that the agency for which he or she is responsible has an adequate system of control. It is expected that he or she will have to instigate suitable inspections and audits to insure the accuracy of the certification. And it is expected that any lack in the control process will be promptly eliminated.

This bill will also require personal responsibility at the secretarial level for the provision of adequate resources for the Offices of Inspector General in the various agencies. This is of utmost importance. These offices cannot adequately meet their mandate without the resources necessary to pursue effective audit and investigation responsibilities.

I recognize that certification and reporting alone will not improve management performance. There is no substitute for good judgment, competence, and ethical behavior. However, the requirements mandated by this legislation will evidence a willingness on the part of Government managers to take responsibility for their actions—in other words, to be accountable to the public they serve. Such accountability will improve management performance and help restore the public's confidence in the Federal Government.

This legislation complements acts which created offices of Inspector General in 15 Federal departments and agencies during the past 4 years. It also complements the OMB's financial priorities program which was launched in 1979; the President's Executive Group to Combat Fraud and Waste, also established in 1979; and the GAO's administratively established special task force for the prevention of fraud, which has the responsibility to evaluate the adequacy of management control systems within the Federal agencies. This bill also reflects the efforts of the Association of Government Accountants, an organization of professional accountants dedicated to improving economy and efficiency in the Federal agencies through better fiscal management

The American taxpayer is not the proverbial "goose that laid the golden egg" and the Federal Government is not the keeper of the goose. By introducing the Federal Managers' Accountability Act of 1980, I am emphasizing my continuing concern and commitment to insuring that the Federal Government gets a fair return for tax dollars spent.●

BIRTHDAY FELICITATIONS TO CHAIRMAN CLAUDE PEPPER

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. BEARD of Rhode Island. Mr. Speaker, when our admired and respected friend, CLAUDE PEPPER, becomes an octogenarian on September 8, 1980, all can marvel at his amazing grit, durability, and tenacity. From President Franklin Roosevelt to President Jimmy Carter, his public service demonstrates his abiding commitment to people, his genuine accomplishments, and his personal popularity. I salute you, Chairman PEPPER, and wish you continued success.●

HOW TO END INTERNATIONAL CORRUPTION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. BONKER. Mr. Speaker, corruption in the practice of international business and trade is a problem that continues to plague the world community. Accounts of international dealings are replete with examples of such corruption: Aid and development funds diverted to the enrichment of an already comfortable few, governmental officials growing rich through industry payoffs, and contracts awarded not on the basis of merit or competitive bidding, but rather on the basis of bribes and kickbacks.

It is important to note, Mr. Speaker, that the practice of international corruption damages all of the parties involved. Business and industry can no longer hope to compete honestly for contracts on the basis of their expertise or the quality of their product. Development projects in Third World nations serve increasingly to benefit the rich without regard to the needs of the mass of the people. Even Third World governments which seemingly benefit from the payoffs and other practices of international corruption are hurt in the long run, as the needs of their people continue to go unmet and the legitimacy of their rule is eroded.

In recent years, the United States has taken extremely commendable steps to eliminate corruption in the overseas dealings of our business community. Unfortunately, this effort on our part has served to do little beyond hampering the ability of our Nation's businesses to compete abroad, due to the lack of cooperation from the other developed nations of the world and the continued shortsighted indifference of a number of Third World governments. Until the dangers of international corruption are recognized and addressed through a multinational approach, this critical problem will continue to stalk the globe, undermining the legitimacy of governments, blocking efforts to truly address pressing human needs, and hampering the honest practice of international business.

I recently received a brief memorandum, prepared by Mr. E. H. van Eeghen of the Netherlands, on the topic of international corruption. Mr. van Eeghen offers a succinct description of the problem and presents a five-point proposal for a multinational effort to end these insidious and destructive practices. I commend this memorandum to the attention of my distinguished colleagues in the hopes that it will serve as a first step toward the elimination of corruption in the practice of international business and international assistance.

MEMORANDUM ON INTERNATIONAL CORRUPTION

Definition: "International corruption" cannot be easily defined, but the following are the outstanding characteristics:

(a) Paying individuals in powerful positions in an illegal or unofficial manner in order to obtain special favours, treatment, or additional profit;

(b) Receiving secret money or goods in business by taking advantage of the power or influence attached to one's position;

(c) Channelling public funds or development aid into private accounts.

International corruption is a growing cancer. In the Third World, it benefits a very small number of national businessmen and/or government officials, resulting automatically in the rich becoming richer and the poor becoming poorer. In the capitalistic world, this corruption makes success in business no longer dependent on well-conceived, honest practices but increasingly on unscrupulous ones. The companies who are unwilling to go along with these unscrupulous practices are at a disadvantage and are sometimes altogether ruled out of the competition, one more factor contributing to the general destruction of an honest international business community. International corruption is therefore as disastrous for both sides.

Both the West and the Third World face a crisis situation at home because of this corruption. The credibility of a number of governments in the Third World is at stake, which means that giving development aid to these countries becomes at least partly questionable. At the same time the Western capitalistic system can be accused of having made this corruption possible, especially after the decolonisation of great parts of the world following World War II.

Almost nothing has been done to halt this disaster. The prevailing attitude in the capitalistic world is that these practices are an inevitable part of present-day international business and that if one does not participate, one will be left out of the competition. Unfortunately, there seems to be evidence to substantiate this attitude.

The fairly recent United States anti-corruption laws, which were certainly well meant and which continued to be honestly executed, have done very little to change the situation in the Third World or other parts in the Western World. Because of too little co-operation from other Western countries, the U.S.A. lost a rather large number of commercial orders to companies operating in countries without such legislation or control. Also, the force of corruption in developing nations remains unbroken.

It appears likely that unless a multi-national effort is made in which both the donor countries and the receiver countries participate together with the international financial or aid agencies, these self-destructive business practices cannot be stopped. The following five-part proposal offers possible guidelines for such an effort:

(1) A treaty is drawn up by participating Western World and Third World countries in which all signatories promise to do everything in their power to make corrupt practices difficult and punishable in their countries. This includes legislation, organisation and other means of legal control.

(2) All signatories become members of an international organisation with a small but effective permanent office where complaints can be lodged and investigated. All signatories agree to give this office every facility necessary to comply with its task.

(3) Private businesses within participating countries which engage in international trading are also required to submit to investigation by this office should serious complaints be lodged against them.

(4) This treaty is of the same nature as the non-proliferation treaty but, in this case, without exception. Countries unwilling to sign are exempt from bi-lateral aid, credit insurance and assistance from the World Bank, I.M.F., I.F.C., I.D.A., European Investment Bank and other agencies of the same kind. Therefore, contrary to the non-proliferation treaty, this treaty has for the most part the means to enforce its charter.

(5) The possibility of holding an international conference on this subject is discussed with all interested national and international agencies present.●

CAMBODIAN REPRESENTATION AT THE UNITED NATIONS

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. McHUGH. Mr. Speaker, I would like to call attention to a recent editorial in the New York Times which discusses the position the United States should take when the U.N. General Assembly considers the question of representation for Cambodia later this month.

As some of our colleagues may recall, the United States voted to seat the representative of the Khmer Rouge when this issue was debated last year. The Times questions whether the United States should take a similar stand during the forthcoming consideration of this issue.

As it points out, the Pol Pot/Khieu Samphan regime no longer governs Cambodia, and its atrocious behavior when it did rule has forfeited any moral claim to international backing. Thus, it concludes that continued U.S. support for the Khmer Rouge "would be a cynical betrayal of a ravaged people." I share that view.

At the same time, it is also clear that the United States should not endorse seating the Vietnamese-imposed Heng Samrin regime. The circumstances under which it was brought to power make it clear that it is not the legitimate representative of the Cambodian people, and its behavior since that time suggests that it is prepared to sacrifice the interests of the Cambodian people in order to enhance its own position.

For these reasons the Times concludes that the United States should use its influence to leave this seat vacant, a position advocated by the Government of India last year. While I share this view, I think that it is important to recognize that time is rapidly running out. If the United States does not throw its support behind such an effort soon, it is likely that the U.N. will eventually seat either the Pol Pot or the Heng Samrin delegations.

In my judgment, that would be a tragedy for the Cambodian people and would represent a failure of U.S. policy. Thus, after reading this editorial, I hope that our colleagues will share their own views on this subject with Secretary Muskie:

[From the New York Times, Aug. 29, 1980]

WHO IS CAMBODIA?

An awkward question will arise again next month in the United Nations: Who gets the chair labeled Cambodia? To Americans, both contestants are objectionable. The representative of Pol Pot's Khmer Rouge retained the seat last September even though Pol Pot had been deposed and his government had been revealed as monstrous. Yet most nations refused to seat his successors, the Cambodians installed in Phnom Penh by Vietnam. Although it never directly recognized Pol Pot's regime, the United States voted with the majority so as not to sanction the invasion of 1978–79.

Nothing has changed, but it is time for at least a slight change in the American posture. To keep championing Pol Pot's murderous gangs, who control only a few outposts in western Cambodia, would be a cynical betrayal of a ravaged people. It may please China, Thailand and other enemies of Vietnam, who support this desperate rear-guard faction with no concern for the welfare of Cambodians. But that is not a proper standard for membership in the United Nations.

To shift sides altogether would be equally wrong. The present regime in Phnom Penh, led by Heng Samrin, has done little to establish its independence of the Vietnamese or to build a government of genuine reconciliation. It has hampered the worldwide effort to relieve Cambodia's hunger, admitting food only when it could be used also to enhance its own power.

The right answer at the United Nations, therefore, is abstention, to leave Cambodia's seat conspicuously empty until a new regime can demonstrate a desire and capacity to govern without foreign troops.

The majority of the governments at the United Nations are hardly fit to pass on the humaneness or democratic legitimacy of another member. An institution that counts the Ukraine as an independent state and South Africa and Vietnam as representative of their inhabitants is reduced to some pretty shaky definitions. It can ask only that a regime be in effective command of a designated country.

Even the puppet rulers installed by Vietnam could rightly claim Cambodia's chair if they could manage to rule without an alien army of occupation. That is the deal that should be offered them, and it might, at least incidentally, evoke from them a greater concern for the plight of their people.●

THE CENTER FOR SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENT OF THE BEN-GURION UNIVERSITY OF THE NEGEV

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. WAXMAN. Mr. Speaker, I am pleased to bring to the attention of the House a very exciting development involving advanced education and research exchanges between the United States and Israel. Recently, the Center for Scientific and Technological Development of the Ben-Gurion University of the Negev, a private nonprofit institution in Los Angeles, has established a partnership with the University of the Negev, located in Be'er Sheva. The center will serve as an American school for applied research in energy, agriculture, and other fields of scientific and technological endeavor.

Several benefits are anticipated from this ambitious program. The challenges in these crucial areas of research are common not only to the United States and Israel, but to all the nations in the Middle East. It is hoped that the work of the center and the Ben Gurion University will help to build the bridges of peace in the area. Equally important, the center will maintain a strong relationship with U.S. educational institutions, providing exchange programs and other cooperative projects.

The center will therefore serve as a vast research laboratory, where innovative techniques, such as in energy generation and arid land agriculture, will be explored. As the American Southwest has a similar climate to the Negev, the lessons learned at Ben Gurion University have every potential of being effectively applied in this country.

It is my hope the goals of the center will be fulfilled, and that the peoples of several nations will benefit from these activities in the years to come.

Following is a detailed statement on these developments:

NEW AMERICAN SCIENTIFIC RESEARCH CENTER ESTABLISHED IN ISRAEL

The Center for Scientific and Technological Development of the Ben-Gurion University of the Negev, Inc., was recently established under the laws of California as a charitable, nonprofit corporation. The objective of the Center is to operate and maintain an American school of higher education for scientific research and technological development in Beersheva, Israel. The Center plans to construct a fully integrated facility in Beersheva, Israel. The facility is estimated to cost approximately three million U.S. dollars ($3,000,000.00).

The Center is most fortunate to have the full cooperation and support of Ben-Gurion University of the Negev ("BGU"). BGU is a leading academic and research institution, and is particularly well-known and respected for its accomplishments in many important areas related to the objectives of the Center—energy research, desert agriculture and new approaches to medical education. BGU's location in the Negev places the Center at the gateway to Egypt, and thus puts the Center's programs within reach of Egyptian scholars and students, as well as, of course, those from Israel.

The Center is committed to the furtherance and demonstration of American ideas and practices. Its control and direction is vested in a Board of Trustees of distinguished American citizens. It is committed to a close, working relationship with U.S. institutions of higher learning, particularly those located in California and the U.S. Southwest. The Center will serve as a unique vehicle for coordinating programs and pursuing projects and studies of common interest with such U.S. educational institutions and for exchanging students, professors and teaching and research techniques. Both the Center and these American institutions share a common concern for desert research, and other pressing problems arising out of shortages of water and energy—problems common to Israel, California, the U.S. Southwest and Egypt.

The Center will serve a unique role in providing an American founded institution through which Arab-Israeli participation and cooperation can be facilitated.

The Center has applied to the U.S. Government for assistance in the amount of one million U.S. dollars ($1,000,000.00) through AID's American Schools and Hospitals Abroad program.

Even though the Center does not yet have its own facilities, it has already moved forward, on a modest scale, with its programs. It recently appointed Dr. David Chipman, a distinguished educator, to its faculty; BGU facilities have been leased by the Center; and some Israeli students are enrolled in its programs.

By assisting the Center, the United States will not only further the goals and objectives of AID's American Schools and Hospitals Abroad program, but will, in a real sense, make a significant contribution to the stability and peaceful development of an area of the world of increasing political, economic and strategic importance to the United States.●

HANDGUN VIOLENCE CLAIMS 727 LIVES IN JULY

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. DRINAN. Mr. Speaker, the American handgun war continues. Another 727 lives have been lost during 1 month due to handgun misuse, bringing the total for 1980 to 4,429. Across the country, the unchecked transfer of dangerous handguns is responsible for these unnecessary fatalities.

As I have indicated in the past, the alarming growth in handgun deaths demands that the Congress examine this problem carefully and act on tough handgun control legislation. It is my hope that the Judiciary Committee will undertake this project soon.

I bring to the attention of my colleagues the roll of handgun dead for July 1980, as compiled by Handgun Control, Inc.

The list follows:

THE AMERICAN HANDGUN WAR DEAD—JULY 1980

ALABAMA (10)

W. Drinkard, W. Durden, S. Ewing, Jr., A. Mackey, C. Mackey, B. Morris, B. Morris, S. Palmer, F. Reese, W. Wyrick.

ARIZONA (12)

R. Barnes, E. Blackmer, R. Chaira, R. Evans, J. Finn, K. Furr, Z. Hopkins, G. Monsour, B. Poyson, J. Sharp, T. Vanegas, M. Wheadon.

ARKANSAS (12)

B. Allen, J. Bess, J. Burrage, A. Daniel, Jr., M. George, A. Mack, R. Meredith, P. Nickles, J. Oliver, W. Swift, R. Tatum, M. Young.

CALIFORNIA (77)

A. Alamaria, M. Altamirano, S. Arriaga-Lopez, W. Baird, D. Barry, D. Boardman, R. Bolbolan, C. Carranco, F. Cimino, J. Cordova, E. Crandall, F. Deciderio, C. Decker, K. Dillard, W. Emde.

H. Estes, W. Farley, A. Fong, L. Fong, S. Fong, S. Friou, C. Gramkow, D. Gregory, M. Harper, D. Hernandez, L. Hernandez, C. Holder, G. Ishiara, J. Johnson, R. Kelly.

E. Kitchen, S. Kitchen, C. Kriss, C. Kriss, V. Landayan, B. Levy, H. Lucio, J. Luna, K. Magee, C. Marchand, J. Mesa, C. Montgomery, L. Munoz, W. Nickerson, E. Perez.

K. Pickett, E. Pruett, E. Pruett, C. Rey, S. Rivera, F. Rodriguez, J. Sanford, C. Santiallano, C. Sheffield, R. Smith, J. Stevens, B. Stewart, L. Tareumotto, W. Tillman, R. Trujillo.

P. Tufilau, C. Turner, N. Valenzuela, L. Vasquez, J. Vidal, S. Vitolio, L. Willie, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified female, Unidentified female.

COLORADO (23)

J. Armatas, L. Blake, R. Coyle, T. Evans, J. Fedderson, P. Gallegos, J. Garcia, S. Grady, C. Heavlin, C. Hecker, P. Hinshaw, R. Hogobom, R. Jaminez, S. Johnson, R. Kohn, G. Medina, G. Prien, J. Sanchez, R. Sanchez, R. Trujillo, A. Verdell, M. Wagnon, Unidentified male.

CONNECTICUT (6)

D. Avnayim, D. Betty, B. Flowers, C. Quintana, E. Sanders, M. Soloman.

DELAWARE (1)

L. Cruz.

DISTRICT OF COLUMBIA (3)

H. Brooks, J. Edmonds, J. Ross.

FLORIDA (43)

C. Ballard II, D. Balthaser, S. Beasley, J. Brannon, G. Carey, J. Dellamar, C. Dowling, V. Farrington, A. Garcia, G. Haeberle, B. Hamilton, J. Hernandez, B. Hill, K. Hood, D. James.

G. Johnson, W. Johnson, B. King, H. Klausner, G. Knight, L. Lynch, L. Magill, C. Moncau, R. Moncau, E. Murdock, M. Murdough, G. Oreno, G. Pitsch, P. Reburr, L. Reed.

R. Roberts, J. Robinson, M. Robinson, M. Siletta, R. Smith, G. Triana, E. Turner, J. Uptgrow, W. Williams, Unidentified. female, Unidentified. female, Unidentified. male, Unidentified. male.

GEORGIA (17)

C. Back, E. Baisden, M. Baisden, E. Campbell, M. Cook, J. Davis, D. Hardin, W. Hodges, M. Mangram, L. McDowell, J. Miller, N. Rakestraw, J. Russo, G. Sullivan, W. Walker, A. Watley, E. Williams.

HAWAII (1)

G. Chiu.

IDAHO (1)

O. de la Pena.

ILLINOIS (79)

S. Aguero, J. Allen, R. Anderson, J. Andrews, A. Anthony, D. Ashford, J. Baiter, H. Billingslea, J. Capozzoli, M. Castro, K. Cherry, G. Chestnut, V. Cox, E. Currie, H. Dodd, A. Figueroa, A. Flores, M. Florez, R. Franklin, R. Frazier.

T. Gomez, J. Gonzales, L. Green, J. Harris, J. Harris, J. Hill, W. Hill, V. Hooks, D. Hunt, D. Hurst, M. Johnson, N. Johnson, J. Jones, J. Lipinski, E. Lofton, T. Lynch, R. Matos, P. McClary, C. McCullough.

E. McGlone, S. Medina, A. Mickey, C. Miller, M. Mirelez, C. Mitchell, W. Mitchell, K. Moore, W. Moore, D. Pearson, J. Pena, F. Perez, J. Peterson, W. Pickens, W. Porter, W. Price, E. Ramos, H. Randel, J. Reed, J. River.

R. Robbins, D. Robinson, F. Robinson, O. Roman, R. Saunders, D. Schrishuhn, Jr., L. Shepard, W. Spaulding, D. Swoboda, M. Tatro, A. Taylor, S. Tintera, R. Trevino, R. Watkins, W. Whitley, D. Williams, D. Williams, F. Williams, R. Williams, E. Young.

INDIANA (11)

C. Baldridge, K. Bowen, L. Farmer, R. Good, M. Greer, D. Hall, M. Perkins, M. Quillen, R. Salazar, J. Smith, E. Young.

IOWA (3)

G. Guthrie, Jr., W. Sandt, J. Sefton.

KANSAS (6)

J. Bradham, R. Capehart, S. Hersey, I. Keller, G. Newman, W. Simmons.

KENTUCKY (21)

F. Allen, O. Allison, R. Anderson, Jr., J. Barker, W. Barker, P. Cundiff, D. Dixon, J. Ferguson, M. Freeman, B. Hurley, E. Jackson, D. Johnson, K. Martin, D. Miles, R. Morris, D. Neylon, B. North, R. Pennington, G. Scott, B. Shelton, M. Witek.

LOUISIANA (32)

C. Bellard, N. Bullard, K. Collins, Jr., R. Crader, E. Evans, R. Freeman, H. Horton, Jr., S. Howell, R. Hull, N. Jackson, J. Johnson, R. Knight, J. Lawrence, D. Marcarelli, L. McCoy.

B. Monroe, R. Moran, D. Pelt, C. Pyle, R. Rainey, M. Rhea, B. Richard, R. Sebble, R. Simon, H. Smith, Jr., L. Smith, F. Thomas, T. Trahan, D. Williams, L. Williams, J. Wilson, Unidentified male.

MAINE (2)

R. Johnson, J. Lidiak.

MARYLAND (23)

J. Blanding, E. Cohen, O. Collins, H. Davis, M. Dela-Vega, R. Glover, M. Jackson, L. Johnson, P. Kennedy, S. Key, B. McCord, K. Pope, A. Rhyne, A. Richards, D. Sprouse, A. Steck, A. Tabatabai, T. Wall-El, D. Williams, Unidentified male, Unidentified male, Unidentified male.

MASSACHUSETTS (7)

P. Anderson, A. Cashin, K. Collins, B. Dinovo, C. Johnson, P. Mazac, M. Veligor.

MICHIGAN (13)

R. Ficaro, M. Greer, R. Guster, D. Hall, J. Myers, R. Reeves, J. Ryskamp, S. Thompson, R. Usiondek, M. Washington, C. Wills, J. Woodruff, E. Young.

MINNESOTA (2)

D. Bryan, M. McTighe.

MISSOURI (34)

G. Atkinson, J. Banks, L. Barton, W. Bell, S. Davenport, J. Drone, B. Durnil, M. Ellison, Jr., A. Gray, E. Griffin, R. Harris, T. Harris, C. Jackson, T. Kleiman, F. Lambeth.

R. Lanning, J. Malone, E. McDonald, R. Menaugh, I. Miles, H. Minor, C. Moore, J. Murphy, T. Nichols, A. Patterson, J. Paulette, J. Reding, W. Robinson, M. Sims, W. Smothers, M. Tatro, R. Welch, J. Wright, Unidentified female.

MONTANA (1)

R. O'Brien.

NEBRASKA (5)

A. Calabretto, L. Fitzgerald, G. Johnson, A. Mays, Jr., S. Reed.

NEVADA (6)

R. Haynes, D. Kinnamon, T. Sylvester, Unidentified male, Unidentified female, Unidentified female.

NEW HAMPSHIRE (4)

R. Day, S. Kelley, J. Lidiak, T. Lidiak.

NEW JERSEY (9)

J. Alston, R. Gonzalez, C. Iaconelli, L. Jackson, S. Kryszon, R. Lawrence, J. Moses, M. Sammel, S. Siman.

NEW MEXICO (10)

D. Fernandez, A. Gallegos, D. Klutke, R. Martinez, S. Millen, R. Ortega, B. Ramirez, J. Rodriguez, W. Uecker, E. Whatley.

NEW YORK (15)

R. Caggiano, J. Consilio, T. Edmundson, G. Hardwell, G. Horton, V. Lane, G. Matos, J. McGregor, S. Murray, G. Papa, O. Smith, A. Soleh, E. Tompkins, Jr., A. Walton, Unidentified male.

NORTH CAROLINA (22)

P. Autry, L. Buie, Jr., R. Creese, J. Davis, W. Elam, P. Griffin, S. Johnson, M. Kennerly, B. Leak, H. Liles, H. Miller, D. Morgan, R. Narcowicz, C. Pegess, M. Proctor, T. Sanders, J. Satterfield, L. Shoe, S. Smith, E. Williams, M. Wyatt.

OHIO (27)

C. Boggess, R. Brown, D. Byrne, G. Cobbs, R. Conrad, T. Conrad, W. Dillon, D. Estridge, E. French, J. Hanshaw, T. Hardnett, R. Harrison, J. Hawkins, M. Hill, F. Hilt, R. Humes, Jr., J. Johnson, E. Jones, W. Jufer, L. McGee, E. Pace, C. Scott, D. Sherry, V. Stanhope, G. Townsend, I. Voskuhl, T. Waldorf.

OKLAHOMA (16)

O. Adams, B. Cole, G. Cole, V. Endicott, L. Evans, A. Jones, B. Lofton, J. Louden, D. Martin, K. Mitchell, M. Nowlin, Jr., R. Peters, E. Pierce, S. Quinton, J. Shores, Unidentified male.

OREGON (12)

C. Cusick, M. Earle, R. Ellis, B. Henry, R. Jeffers, A. Kindred, D. Legler, D. Miller, R. Nees, Jr., L. Newingham, W. Rojas, D. Sivers.

PENNSYLVANIA (17)

J. Abney, A. Blake, L. Blake, N. Bunch, C. Butler, E. Davis, L. Evans, J. Fitzgerald, R. Knight, G. McLaughlin, S. Motton, B. Noble, L. Rowdenn, A. Scott, R. Sergeant, E. Small, S. Windbush.

SOUTH CAROLINA (7)

P. Lane, G. Sanders, Jr., T. Sanders, J. Satterfield, K. Waddell, R. Wheeler, M. Wyatt.

TENNESSEE (24)

G. Alcorn, H. Allen, L. Banks, C. Beene, R. Bell, Jr., J. Calloway, R. Carter, M. Coleman, A. Echols, R. Gray, C. House, L. Kiser, R. Knox, E. Jones, Sr., J. Moore, R. Newby, J. Riley, D. Rinderle, F. Smith, S. Thomas, J. Walker, K. Watson, M. Whitfield, B. Wilmoth.

TEXAS (89)

H. Alpha, M. Alzaldua, R. Avila, F. Bibian, B. Botello, M. Bowen, C. Brantley, A. Braswell, D. Brown, T. Burnley, R. Buyher, G. Carmon, W. Carroll, Jr., G. Cavarrubio, J. Cavarrubio, L. Cavarrubio, A. Coburn, W. Collay, C. Coronado, R. Creacy.

C. Dickerson, J. Dixon, M. Escobar, A. Esparza, R. Fawcett, A. Felsher, J. Finney, C. Flynt, D. Fowler, W. George, E. Gilford, F. Gipson, H. Govea, V. Green, W. Guerra, S. Harlow, J. Harris, D. Heathington, J. Heathington, W. Hicks.

J. Holt, G. Jensen, D. Jillson, S. Jillson, M. Johnson, V. Johnson, B. Jordan, C. Jordan, L. Kirkpatrick, J. Lester, W. Lindahl, W. Marshall, G. Mitchell, E. Ochoa, D. Patrick, N. Patrick, R. Payne, D. Pelt, H. Pyle, M. Pyle, T. Rainey.

L. Ramos, I. Rios, J. Rios, J. Rodriguez, G. Sanchez, I. Sanchez, L. Scott, W. Segura, T. Simmons, S. Sims, K. Smartt, A. Stiers, T. Temple, M. Thompson, R. Triplett, F. Vasquez, L. Villareal, Jr., H. Walker, C. West, T. Williams, J. Winters, J. Zuniga, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified female.

UTAH (4)

P. Black, L. Offenes, L. Osmus, C. Woodland.

VIRGINIA (5)

J. Bess, R. Dodson, T. Fitzgerald, B. Hill, I. Willis, Jr.

WASHINGTON (10)

D. Archer, R. Blyton, R. Britt, J. Bush, B. Knott, L. Linfor, W. Martinsen, R. Snyder, L. Tim, Unidentified male.

WISCONSIN (3)

D. Clark, F. Estrada, W. Harris.

WYOMING (2)

J. Campol, Unidentified male.●

CONGRESSMAN ROSENTHAL SPEAKS TO PANEPIROTIC FEDERATION

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. HARRIS. Mr. Speaker, earlier this summer, our colleague, Congressman Benjamin Rosenthal, addressed the Panepirotic Federation of America and Canada.

In his address, Congressman Rosenthal described the consistent efforts of the federation on behalf of the people of Northern Epirus, in Albania. These people of Greek heritage are struggling desperately to preserve their traditions, their language, and their religion in the face of ruthless oppression by the Albanian Government.

Congressman Rosenthal also spoke of the plight of the Greek population on Cyprus, and the importance of resolving these international problems in order to strengthen the southeastern flank of NATO.

I urge all of my colleagues to read this address carefully. Those of us concerned about human rights, and about stability on NATO's flank, can learn a great deal from Mr. ROSENTHAL's insights.

The text of Congressman ROSENTHAL's speech follows:

SPEECH OF CONGRESSMAN BENJAMIN ROSENTHAL

Ladies, Gentlemen, my friends; I am honored to be here with you this evening on the occasion of the 21st Biannual Convention of the Panepirotic Federation of America and Canada.

Since July 1942, the Federation has been coordinating the activities of the many epirotic societies in the United States. With the avowed goals of cultivating brotherhood and working for the extension of human rights and freedom, the Federation stands as an important example of a humanistic fraternal organization.

It is an international tragedy that the people of Northern Epirus have been systematically denied the most basic of freedoms. The Albanian government has ruthlessly set about the cultural elimination of the Greek language, religion and spirit among the Epirotes within their border.

We in America prize our individual ethnic heritages and have created strength out of diversity. Albania has adopted the opposite approach. The Tirana government has as its explicit policy the elimination of tradition and the forced standardization of its population.

Although our information about internal Albanian affairs is meager, we do know that the government there has institutionalized a concentration camp system for dealing with dissent. There are currently over 33,000 prisoners; 20,000 are of Greek descent. Every prominent citizen of a Greek town or village has once passed through the Albanian prison system.

The calculated eradication of Greek culture has especially focused on the Greek Orthodox Church. Since 1967, when there were 670 Orthodox churches in Albania, 640 have been either destroyed or converted to commercial uses like grain storage and movie theatres. The remaining 30, have become non-religious museums. The Tirana government is publicly on record as opposed to all religions and for the forcible maintenance of a secular country.

The Albanian government has even mandated the eradication of what they call "inappropriate names." It is not enough that they imprison citizens of Greek descent, burn churches and attempt to outlaw the Greek Orthodox religion, they even proscribe childrens names if they have a traditional or religious origin. By law, all children in Albania must have their name chosen from a list of approved names prepared by the party organization. Even the most personal and private freedoms of choice are denied.

Approximately 300,000 people of Greek ancestry currently live in Albania. The country is the poorest in Europe, with a stagnant agrarian economy. The farmers and workers have no forseeable future, no hope for improvement. I do not have to further particularize, to this audience, the discrimination practiced upon them. We must continue to keep alive the issue of their human rights and their need for dignity in the future. We cannot let the hope of freedom fade.

The denial or limitation of human rights in Albania is a tragic symbol of repression everywhere. It is our moral obligation to combat discrimination and persecution. We in the United States must speak out and defend justice wherever it is imperiled. The very rights and freedoms we enjoy should be used and considered as a sacred trust—we who are blessed with liberty must forever fight for the basic human rights of those who are oppressed.

Unfortunately the situation in other parts of the Eastern Mediterranean is also grim.

After six years of armed occupation, the armed forces of Turkey still control 40% of the independent country of Cyprus. The intercommunal talks have disintegrated. The Turkish government has not seriously decided to resolve the stalemate and the United Nations Secretary General appears to be helpless.

The Congress of the United States foolishly removed its best and most effective lever when it voted to lift the Turkish arms embargo. The Administration claimed that as soon as the embargo was lifted, the Turks would be forthcoming on the Cyprus problem. That was nearly two years ago, and there are still as many as 200,000 refugees on that divided island, and no real progress or a real solution.

What many of us argued at that time, and still maintain today, is that the rule of law in the conduct of American foreign policy recognizes the Turkish invasion and occupation as a clear and continuing violation of American and international law. It is incumbent on people of conscience in a country like ours not to let the forcible partition of Cyprus continue.

The hoped for Greek reentry into the NATO military alliance also appears stalled. Current Administration policy claims that this is an internal affair between two allies and that the two principals and the NATO command should be the only parties involved. The Greek government has as it should, effectively made the continuation of the U.S. military bases in Greece contingent on a successful NATO military reentry. As a longtime supporter of NATO, I am convinced that the southeastern European flank, to remain viable, must include Greek military participation and every NATO member nation should be working to bring Greece's armed forces back into the alliance.

Most of this news of the international situation is discomforting. Yet we cannot allow that to weaken our resolve or our efforts. Our world has become increasingly small and interdependent. It is more necessary than ever to care about and express our position on international issues. I applaud the federation's past concern and activities and I look forward expectantly to your continued beneficial involvement.●

PERSONAL EXPLANATION

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. ROTH. Mr. Speaker, I was unable to be present August 28. Had I been present I would have voted as follows:

Rollcall 503, yea;
Rollcall 504, yea;
Rollcall 505, yea;
Rollcall 506, yea.●

GETTING OUR FAIR SHARE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. MICHEL. Mr. Speaker, a recent study of where Federal dollars come from and where they go pointed to the fact that Illinois gets only about 70 cents for every dollar sent to the Federal Treasury by its residents.

The study revealed that Illinois got back less in defense contracts, transfer payments, and other spending in relation to the amount of taxes raised than any other State in the 1974–76 period.

The figures for Illinois hold true for most the northern industrialized States. New York, Pennsylvania, Ohio, Indiana, Wisconsin, Michigan, and New Jersey were all among those that contributed more than they got from Uncle Sam.

What is the point? Is it an indictment of the Members of Congress from these States who do not draw enough pork to their districts? I do not think so. I think it is an indictment of the entire Congress and the executive branch and the foolhardy manner in which Federal funds are disbursed.

It is a national tragedy that the Federal Government invests such massive amounts in areas where the investment is not needed, in cities and States where unemployment is low, but the temperatures are high, and in regions where the economies are strong, but so are the political power brokers.

Not every State in the Union is ever going to get its fair share, and I have some reservations about even wanting defense installations, which hold the false promise of employment only to be moved every few years. However, the implications of the present distribution system are clear. They are not based on need, but political opportunism. I think it is time we began concentrating more on needs and less on needless profiteering at the taxpayer's expense.

At this point in the RECORD, I insert an article by Paul Merrion of the Crain's Chicago Business, in the August 4 edition:

ILLINOIS' 70-PERCENT RETURN ON TAXES RANKS LAST IN FEDERAL OUTLAYS

(By Paul Merrion)

WASHINGTON.—The federal government giveth, the federal government taketh away—and in the case of Illinois it's been doing more of the latter for the last 25 years.

A new, state-by-state study of the sources of federal revenues and the distribution of expenditures shows that Illinois got back less in defense contracts, transfer payments and other spending in relation to the amount of taxes raised than any other state in the 1974–76 period.

Roughly speaking, Illinois received approximately 70 cents for every dollar it sent to Washington, according to the study, "Regional Growth: Flows of Federal Funds 1952-76," by the Advisory Commission on Intergovernmental Relations, a bipartisan government body that studies federal-state matters.

Although the study shows that many states have seen less of a discrepancy between taxes and expenditures in the last 25 years, as interstate differences in personal income narrowed, Illinois made only a negligible improvement that is probably statistically insignificant.

The study shows that the state's 70-cent return on the tax dollar in 1974-76 was practically the same as 25 years earlier, when it was 69 cents on the dollar. The ratio reached a high of .75 in 1959-61 and a low of .59 in 1965-67. However, because of many assumptions made in the study, interpretations "should be limited to broad comparisons . . . the quantitative expression of results gives them an appearance of much greater precision than can reasonably be claimed."

Looking at the data another way, expressing federal spending and revenues in relation to personal income in each state, Illinois contributes 101.2% of the national average to the federal coffers but receives only 70.5% of average expenditures for its level of personal income.

The study also shows that in 1974-76 Illinois contributed 6.11% of all federal revenues and received 4.26% of government spending. On a per capita basis, in 1974-76 Illinois residents contributed 116.0% of the national per capita average tax payment of $1,321 and received 80.8% of the national per capita federal expenditure of $1,398.

Federal deficits account for spending that is higher than revenues, which means the actual return on the tax dollar is less than the study states.

The shortfall in government spending in Illinois is most dramatic in military outlays, excluding personnel, where the state receives only 30% of the average federal expenditure per resident.

Illinois firms received only 1.6% of all military contracts in 1974-76, and only 1.4% of defense contracts in excess of $10,000.●

THE ALL-VOLUNTEER ARMY RECRUITS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. MAZZOLI. Mr. Speaker, this country must have a strong and versatile military force. Its strength depends substantially upon the quality and ability of the men and women who comprise the Armed Forces.

For this reason I have been greatly distressed by recent disclosures that the Pentagon miscalculated—perhaps on purpose—the intelligence of its personnel as measured by the Armed Forces qualification test (AFQT). Instead of proposing some helpful steps, Secretary of the Army, Clifford Alexander, has decided to expunge all AFQT scores from the service records of all those who entered the Army since the draft ended.

I bring to the attention of my colleagues the following editorial which appeared in the Louisville Times on August 13, 1980. I cannot believe that a return to a draft is the answer, but I certainly believe it is the height of irresponsibility for the Army to hide the test scores of their enlisted personnel and leave it at that.

The article follows:

[From the Louisville Times, Aug. 13, 1980]

COULD SOMEONE BE CHEATING IS DISPUTE OVER ARMY TESTS?

Tests are the focal point of a major battle between the Army and critics of the all-volunteer force, and, as is so often the case with tests, it looks like someone is cheating.

There is fuel for suspicion that the Army's top leaders, including Secretary Clifford L. Alexander Jr., are going above and beyond the call of duty to make the Volunteer Army concept appear to be a success, even if it is not. If that's true, it is cheating and the victims include all Americans, especially if we are misled into believing that our armed services are stronger than they really are.

The tests around which the battle has raged are variations of those the Army uses to measure the intelligence of soldiers, particularly the Armed Forces Qualification Test. The AFQT is a 42-minute test designed to measure mathematical aptitude, reading skills and the ability to understand spatial relationships. Comparison of the dismally declining level of achievement in the AFQT with results of similar tests back to World War II has been a major weapon of critics of the all-volunteer Army.

The latest setback was the recent disclosure that the Pentagon greatly miscalculated, for all branches, the number of servicemen in the lowest acceptable AFQT level, Category IV, those who scored between the bottom 10th and 30th percentiles. A reassessment of the scores showed that one-third of all last year's military recruits, rather than the 5 per cent formerly reported, were in Category IV. The Army had the worst record of all the branches, with 46 per cent of its recruits in the lowest acceptable level, instead of the 9 per cent reported earlier.

The response of the Army, however, was not to acknowledge the corrected figures as evidence that either it or the all-volunteer concept has failed to attract enough qualified recruits to man the nation's defenses in the Missile Age. Instead, top-level officials now seek to discredit the tests used by the Army for more than 30 years as an indication of recruit suitability, and they quietly ordered the scores erased from the record of every soldier enlisted since the Volunteer Army began.

Mr. Alexander, in defense of that action, insists that the tests are not an accurate indication of military aptitude. The Defense Department reassessment study did not share that view, citing the experience of 30 years that those who score lowest are less likely to be successful and more likely to have disciplinary problems.

Mr. Alexander and aides also insisted that low test scores might stigmatize a soldier and unfairly hamper his career. When pressed they could cite no examples of this.

But shakiest of all was the fact that the brass ordered the test scores erased before it had anything else in place to help unit commanders assess the capabilities of the men they—and the rest of us—would have to depend on in case of war. Even if Mr. Alexander is right when he scoffs at mental tests as indicators of military virtue or a willingness to obey orders, a lot more than that is necessary. Today's soldier throws missiles, not spears.

Maybe higher pay and better benefits for the all-volunteer force are needed, or perhaps the answer is a return to the draft. But the one thing this nation doesn't need to strengthen its defenses is to wipe out records so we won't know how well, or badly, we're really doing.●

NATIONAL GRANDPARENTS DAY

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. GRASSLEY. Mr. Speaker, on Sunday, September 7, America will observe National Grandparents Day. The occasion does not enjoy the recognition of Mother's Day or Father's Day, but a little reflection will reveal many reasons why it should.

Americans of 1980 owe a great debt to their grandparents. As a body, they embrace the generations which have endured the sacrifices of two world wars, and the war in Korea. They are a generation of unquenchable patriotism, national pride, and a strong sense of public duty.

Grandparents of today have witnessed and been a part of the great transition from the horse to the interplanetary rocket. In fact, it is mainly their vision, their labors, and their innovation that underlie the revolutionary technical progress of America over the past 50 years. In the fields of inventive science, they have made us the most mobile people the world has ever known. They have brought us the technology of jet airflight, nuclear power, space travel, television, computers, and fast foods. Their accomplishments in the fields of medicine, the laboratory sciences, and nutrition have added years to our lives. In an era when there were few geographical frontiers left to conquer, they became pioneers in new fields which have greatly improved the quality of human life throughout the spectrum of its social and economic aspects.

America's grandparents have been through a great depression and the crucible of disruptive challenge and change which marked the difficult years of the latter 1960's and the early 1970's. During those eras, as have other grandparents in other times, they represented the continuity, the linkage with the past, and the faith in the future which held America close to the traditional values responsible for its greatness.

Grandparents are a legacy. They build the platforms of scientific progress, of human values, of steadying institutions, and enlightened change that elevate each new generation to a better point from which to set forth in life.

Grandparents are love. They want a better life for their children and their grandchildren. Their pleasures are largely vicarious, derived from enriching the lives of others. They are an example of human love and caring which infects those who are near to them and is thereby perpetuated.

Grandparents are wise. They grow closer to God as they grow older in years. Life has taught them to distinguish between passing fancies and solid values. They have much to contribute and their wisdom provides an essential influence on the tiller of our great ship of state.

We are deeply indebted to America's grandparents, whether they be in government, in industry, or the quietness of well-earned retirement. I hope that the day set aside for them will bring them the recognition that they so richly deserve.●

GARDENA'S GOLDEN JUBILEE

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. CHARLES H. WILSON of California. Mr. Speaker, September 13, 1980, marks the 50th year of incorporation for the city of Gardena, Calif. The residents of this remarkable city have reason to celebrate and proclaim with pride their accomplishments of the years gone by. The people of Gardena have constantly worked to improve upon the life they lead while celebrating and understanding the accomplishments of the past. The city has set aside September 2-14 to honor its success. It is a celebration that is well deserved.

The evolution of Gardena from the Spanish Rancho San Pedro land grant to the 30th largest city in the Los Angeles County is a history of development that has bound together multiethnic heritages into the pursuit of common community needs and individual fulfillment. It is a city that recognizes that the changes of the last 50 years has required constant innovation and adaptation. It is a community that recognizes that future changes will require a continued ability to act on their common interest. Gardena has always been capable of changing for the better because Gardena is a community in every sense of the word.

Gardena is a community which is based not only on an ability to build upon success, but on an ability to overcome hardship. The internment of the Japanese-American families of 40 years ago was a sad and difficult time for the community. While we as a nation are still coming to grips with this action, the city of Gardena has lived with and overcome this treatment of the Issei and Nisei Americans. It is a credit to the community and to every American that this city, once divided, has prospered and proven that citizenship and common goals are more lasting and beneficial than any other characteristic of American life. Every resident of Gardena has a heritage and history which is far richer as a result of this action than any other city in this country.

Congratulations to the city of Gardena.

The past has proven Gardena as a showcase for community responsibility. These past 50 years have shown that community development can effectively combine individuals, business, and government into a cohesive force for constructive changes. This last half decade of community improvement has placed individual diversity and pursuits in concert with collective goals. The foundation established by these last 50 years makes Gardena the "City of the Future." It is the next 50 years that the city of Gardena can look forward to with anticipation.

The Gardena "50th Anniversary Weeks" is a celebration of the past and the future.●

U.S. HOLOCAUST MEMORIAL COUNCIL

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. OTTINGER. Mr. Speaker, the passage of time must not diminish the horror and magnitude of the holocaust. Age will yellow the photographs of persecuted Jews, but if we ignore the atrocities of the past, we will invite them in the future.

Today I am cosponsoring a bill which would establish a permanent U.S. Holocaust Memorial Council. The Council would have the responsibility to plan and carry out the recommendations of the President's Commission on the Holocaust. The Council would plan and oversee the construction and operation of a permanent, living memorial to the victims of the holocaust. Also, it would establish and administer an educational foundation. The Council would designate 1 week in each year to be known as "Days of Remembrance" as a national civic commemoration of the holocaust. Of particular importance, the Council would establish a Committee on Conscience which will provide early warning of threats of genocide against any people throughout the world. Congress must exert every effort to insure that the planned program of atrocities carried out by the Nazis is never repeated. I believe this is a good way to attempt to prevent the holocaust from repeating itself in the future.

Mr. Speaker, besides creating a living memorial to the holocaust, there is another way in which America can honor the memory of the 6 million Jews who were killed. That is to remain unwaivering in our commitment to Israel, which has been a refuge of holocaust survivors and of persecution everywhere. We must protect these people by insuring that Israel is not pressured to jeopardize its security in accepting the terrorist PLO at its borders. We must pursue a forceful policy which stresses Israel's legitimacy as a nation and its purpose as a homeland.

I believe that we must continually strive for a world in which all people can live in peace and security. To achieve this, we must recognize the tragedies of the past and keep their memory burning bright as a reminder of man's most brutal capabilities. The hope for a humane world lives in our ability to grapple with yesterday and provide for tomorrow. This legislation is a step in that direction.●

POSTMASTER HERBERT W. WIPPERMAN RETIRES

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. SKELTON. Mr. Speaker, it has come to my attention that a long and illustrious civil service career is coming to an end. I have learned of the retirement of Herbert W. Wipperman as postmaster of Wellington, Mo. It has been my good fortune to know Mr. Wipperman and I want to take this opportunity to comment on his record of service.

It has been my belief that in most small towns in America, the post office is the closest and best manifestation of the Federal Government. If that is true, in Wellington, Mo., our presence has been a very positive one. Mr. Wipperman has served as postmaster for the past 27 years. During that time he has been truly a pillar of his community.

In addition to handling his duties for the Postal Service, Mr. Wipperman has held several positions of leadership in local and county organizations, including Boy Scouts, the Red Cross, March of Dimes, the Cancer Society, Lions Club, the Masonic Lodge, and Shrine Club. He is also an officer and devout member of the United Methodist Church.

I am proud to take this time to congratulate Herbert Wipperman on his distinguished record and to thank him for his efforts in behalf of his community.●

WHAT HELP IS AVAILABLE TO CREATE JOBS?

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. HAMILTON. Mr. Speaker, I insert my Washington report for Wednesday, September 3, 1980, into the CONGRESSIONAL RECORD:

WHAT HELP IS AVAILABLE TO CREATE JOBS?

A recession takes a heavy toll on Americans in the workplace. The unemployment rate has risen from 6.2 percent in March to 7.8 percent in July. The ranks of the jobless have grown by 25 percent since March, leaving more than 8 million people idle. Most forecasters see the unemployment rate peaking at 8.5 percent sometime early next year.

It is important to understand unemployment from a national perspective, but all too often the statistics hide the true meaning of not having a job. While impossible to state in terms of dollars, the social costs of unemployment are staggering. They include not only the loss of self-esteem, but also higher rates of crime, suicide, marital strife, and illness. Hoosiers talk to me about unemployment every time I am in the Ninth District. They have been asking me how jobs can be created in their communities. The best answer to their question is an economic policy that will unleash the productive capacity of the country, upgrade the skills of our workforce, and achieve long-term economic growth without inflation. It may also be useful to know what help is available from the federal government to create and protect jobs.

One source of funds for the creation of jobs is the Economic Development Administration (EDA). EDA makes grants for water projects, sewer systems, utilities, and roads. Loans and loan guarantees are available for other purposes. EDA also offers grants of technical assistance for economic development and grants for areas experiencing economic deterioration or dislocation. Projects funded by EDA must be of a kind that lead to permanent jobs in the community. Like EDA, the Department of Housing and Urban Development (HUD) has programs that create jobs. There are community development block grants for housing, conservation of neighborhoods, planning, urban renewal, social services, construction of commercial or industrial buildings, and rehabilitation of private property. HUD also makes grants to small cities and counties for community development and rehabilitation. Yet another source of funds in HUD is the program of urban development action grants. These grants go to cities and counties for land clearance, site improvement, development of infrastructure, and construction or rehabilitation of buildings. Many projects funded by HUD are intended to create permanent jobs. Other agencies of the federal government—the Small Business Administration, the Farmers Home Administration—have programs that can be used to create jobs.

The Comprehensive Employment and Training Act (CETA), administered by the Department of Labor, is a further source of funds that communities may tap for jobs. Block grants provide employment and training services to disadvantaged people. Activities include classroom and on-the-job training, assistance with job search, counseling, referral, and public service employment. Another program, trade adjustment assistance, does not create jobs directly, but it does help workers in industries where imports have caused unemployment. Workers totally or partly cut off from employment because of imports may petition to participate in the program. Benefits include wage and relocation allowances, training, employment services, and job search grants.

Employers and employees themselves can take action to combat unemployment. The targeted jobs tax credit, for example, gives employers an incentive to hire disadvantaged people. The credit is set at a maximum of $4,500 over two years for each certified employee hired. Job sharing is receiving more attention as an alternative to the layoff. Under a job-sharing plan, employees, in consultation with management, agree to work fewer days so that no one will have to lose his job. Local conditions, union contracts, and other factors may play a role in the decision. Legislation pending in Congress would encourage states to make prorated payment of unemployment compensation to job sharers, thereby helping them maintain most of their income.

The federal government is moving against unemployment on several other fronts. To assist ailing American industry, Congress approved loan guarantees for Chysler, an action that may have saved as many as 800,000 jobs nationwide. In addition, the President has announced a comprehensive plan to revitalize the sagging automobile industry. The steel industry has been the beneficiary of a similar plan. In the days ahead, the President will be arguing for his new program of economic renewal in which tax relief would be combined with spending for job retraining, economic adjustment, and research to spur industrial innovation. Governments may need help too, so Congress is considering special anti-recessionary fiscal assistance to states and localities. Spending under this program would be triggered by two consecutive declines in gross national product and real wages. The funds could be used to retain workers or do new hiring.

A bill under consideration in Congress would establish a new program to prevent unemployment through the teaching of basic skills to disadvantaged youth in the high schools. Under the program, funds would be channeled into high schools that submitted plans for appropriate education, work experience, training and services to ease the transition from school to workplace. Other legislation, now being examined in the Senate, would cut taxes. Although the merits and drawbacks of a tax cut are being weighed, the issue may not come to a vote until the close of the year. On the positive side, a tax cut could be the most forceful step congress could take to blunt the effects of the recession. On the negative side, it could increase the rate of inflation. To minimize the inflationary potential, any tax cut should be designed to boost the nation's productivity. Higher productivity means economic growth and more jobs.●

DEATH OF ROBERT KELLER

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. BROOKS. Mr. Speaker, I was saddened to read the other day of the death of Robert Keller, who served the Government and his country so long and so well as Deputy Comptroller General of the United States.

Over the years Bob Keller appeared before the Committee on Government Operations many times and always performed in a most professional manner. His message was always clear and concise and enabled Congress to understand the complex issues involved in the work of the General Accounting Office.

Having retired just last February, after a 45-year career in the Government, it is a great sorrow that he was allowed so brief a time to enjoy the years of leisure he had earned. My deepest sympathy goes out to his wife and family.●

EPIDEMIC OF TETANUS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. McDONALD. Mr. Speaker, in the medical field the clinical problem of tetanus is caused by the anaerobic bacillus *Clostridium tetani.* The clinical manifestation of this dread disease, frequently associated with involuntary muscle spasm of the jaw muscles and hence, in the general public, the term lockjaw is sometimes used.

Shifting to the political world, we are currently witnessing a form of lockjaw by contemporary and would be leaders. Specifically I am referring to the silence by American leaders in view of the plight of the Polish people in their struggle for freedom. This was especially evident during the strike.

There are basic rights that come from a divine source and not government. In Russia, and in the Communist colonial empire, the rights of the people are held as coming from the dictatorship of the Communist party. The people of Poland today, like the people of Hungary in 1956 and the people of Czechoslovakia in 1968, are making initial efforts toward the reestablishment of the proper relationship of man and the state.

In spite of the epic proportions of the current struggle for freedom in Poland, President Carter seems to be preoccupied with the routine affairs of state and the fall campaign. The Reagan-Bush team has entangled itself in the China card—a card which has turned out to be a joker. Mr. Anderson is flailing away with the rhetoric of the campaign trail. If the free world is looking to the United States for leadership, it must be discouraged by the lack of vision and courage by our leaders. It is possible that in certain cases of Western leadership void, more sinister reasons exist.

It is indeed refreshing to note that the above described void is not total. On August 21, 1980, the wire services noted that the West German statesman Franz Josef Strauss has courageously and correctly noted the ritual of the West when forced with Soviet pressure. First there is insurrection and then we cry for sanctions. Various so-called and sometimes self-appointed leaders give warning of overreaction. This status is followed by decay of unanimity in the West and then worry over a danger to détente. The terminal phases include the abandonment of sanctions and finally the shameful transition back to normal activity.

It is unfortunate that more leaders do not have a clear vision of what must be done to insure liberty for the next generation; they are preoccupied with what must be done to gain the next election.

On August 21, the German wire service carried the following account. My own rough German translation follows, and I hope some of our would be leaders might gain insight and courage. For the interest of my colleagues the wire account follows:

> Opposition leader Kohl hopes for along with the striking Polish workers understanding by the leadership of the country, that the business and trade union problems in Poland would only be solved completely

through reforms and more liberty not through terror from above or outside. On the morning of 20 August in Bonn, Kohl expressed the public support and great admiration of the CDU/CSU for the courage and self determination of the Polish workers. In the opinion of the CDU president those of their remaining demands show that once again with Poland a communist system is pushed up against their borders. Strauss explained, the situation in Poland brings to mind in depressing ways the Czechoslovakian incident of twelve years ago, when Soviet troops smothered "Spring in Prague." The ritual of the West over Soviet pressure is always the same. It is composed of insurrection, the cry for sanctions, the warning of overreaction, the decay of unanimity of/in the West, the worry over the "so-called" politics of detente, the abandonment of sanctions, and finally the transition back to normal activity.

The CDU member Norbert declared solidarity for the strikers in Poland. He outwardly seeks an explanation from Ig-Metal leader Eugen Loderer.●

WYATT EARP DIPLOMACY

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. BONKER. Mr. Speaker, Tom J. Farer, a distinguished professor of law at Rutgers University and president of the Inter-American Commission on Human Rights, has written a thought-provoking article in Newsweek, August 11, 1980, entitled "Wyatt Earp Diplomacy."

He writes:

Today a host of influential citizens, intent on appropriating the direction of American foreign policy, hustle about retailing news of American defeats, like so many beggars in an Oriental bazaar exhibiting their children's deformities. In Angola, the Horn of Africa, Iran, Nicaragua, Panama and elsewhere, they say, the United States experienced defeat because our leaders lacked the passion for victory * * *. If misreading the past is a sure recipe for trouble, then trouble is coming our way. For these cases do not teach that the key to a more successful foreign policy is to hurl ourselves violently into every breach of the global status quo.

I commend this outstanding essay to all of my distinguished colleagues, especially those advocating reverting to the policy of embracing every unsavory dictator who spouts anti-Communist slogans to win our affections, while they imprison, torture, exploit, and repress their own people.

The article follows:

WYATT EARP DIPLOMACY

(My Turn/Tom J. Farer)

Today a host of influential citizens, intent on appropriating the direction of American foreign policy, hustle about retailing news of American defeats, like so many beggars in an Oriental bazaar exhibiting their children's deformities. In Angola, the Horn of Africa, Iran, Nicaragua, Panama and elsewhere, they say, the United States experienced defeat because our leaders lacked the passion for victory. Curiously enough, few of these honorable gentlemen stop to explain in what sense these were defeats or how they might have been averted by a diplomacy springing from the barrel of a gun. Much of their national audience seems equally uninterested in such pedestrian questions, as if the idea of defeat rooted in a craven pacifism strummed some deeply satisfying, masochistic chord.

If misreading the past is a sure recipe for trouble, then trouble is coming our way. For these cases do not teach that the key to a more successful foreign policy is to hurl ourselves violently into every breach of the global status quo. For exemplary purposes I will briefly consider three of these supposed defeats: Iran, Panama and the Horn of Africa.

Could a President weaned on the wit and wisdom of the late General Patton have, unlike Jimmy Carter, preserved our Pahlavian asset? One hears a good deal of sleazy innuendo about failure to encourage the Shah or his generals, as if they had not amply demonstrated an unflappable will to torture and slaughter just as long as they could deploy the necessary human instruments to that end. The late Shah needed not encouragement but troops whom he could count on to shoot until the bulk of his beloved subjects had submitted or died. And so far, no American politician has slunk out from behind this wall of innuendo to arraign Carter for not making Iran safe for the Shah by killing the Iranian people.

Even the most primitive advocates of a bellicose foreign policy seem to appreciate the staggering costs—if not the moral burden—of occupying a country of 36 million people. And an occupation it would have had to be, since in the process of pacifying Iran, we would have turned all but the Shah's palsied hands against us.

A volcanic political eruption that we could not hope to control at any tolerable cost catapulted the Shah out of Iran. Against the advice of our own experts on the scene, Washington chose to compound its earlier complicity with the Shah's regime by offering asylum, however temporary, to the tyrant, with consequences which continue to unfold. Thus, in the case of Iran, through moral confusion and political cowardice Washington played into the hands of America's adversaries.

ADVOCATES OF A MORE BELLICOSE FOREIGN POLICY EAGERLY SNATCH DEFEAT FROM THE JAWS OF VICTORY

Risk: In Panama, by brute force we could certainly have achieved a "victory" defined as maintaining in the Canal Zone all the insignia of imperial control. And if we were willing to post a significant proportion of our strategic reserves along that vulnerable waterway and to occupy much of Panama itself, we could probably have made the canal secure, although the risk of guerrilla attacks would have encouraged use of alternative routes by the commerical interests we were presumbaly protecting.

Since all over Latin America the canal was a brooding symbol of old-time "Yankee imperialism," the violence required to achieve Mr. Reagan's conception of victory in Panama would have made moving targets out of Americans in a host of other countries. Willingly or otherwise, some would have paid the price of "glory."

The tangible costs of force in Panama would have run into the billions. The intangible—among them the unraveling of relations with hitherto friendly Latin states, including oil-rich Mexico and Venezuela—might in the long run have hurt more. So the decision of successive administrations to negotiate for the preservaton of basic American interests in the security of the canal and in its effective operation—while surrendering the forms of control yielded much earlier by the European powers in their colonies—was hardly an act of unbridled altruism, or even of simple compliance with the prevailing norms of the rest of mankind. If the end of foreign policy is protection of real interests at minimum cost, the Panama Canal treaties were a diplomatic victory.

Alarms: Ethiopia, another case invoked by th Wyatt Earp School of Diplomacy, is equally a pseudo-defeat. In the early and middle '70s, the sort of experts now seeking the Promised Land aboard the good ship Reagan trumpeted alarms about Soviet air and naval facilities in Somalia which were said to threaten, even to control Western oil routes. No sooner did the Soviet Union propel itself out of those facilities by opposing Somali aspirations in Ethiopia than the same experts began celebrating another American "defeat." Now Washington is free to negotiate its own way into these facilities for a fraction of their cost to Moscow. Whatever Ethiopia's worth to the Soviets, the price to the United States to compete for influence was grossly disproportionate to the potential gains. The refusal to bid for overvalued assets is a defeat neither in business nor diplomacy.

Then why does an aura of loss nevertheless hang over American policy on the Horn of Africa and practically everywhere else in the Third World?

For a luminous moment we enjoyed an indisputable global pre-eminence. Vietnam and OPEC brought a sudden sensation of harsh limits on America's ability to dominate events. The requisite adjustment of perspective does not come easily.

Unlike the '40s, '50s and '60s when American muscle could be associated with an array of Soviet defeats, frustrations and retreats, the '70s were marked by events seen as victories for Soviet power—beginning with the American Mission's frantic departure from Saigon and culminating in the occupation of Afghanistan. Practically no one asks whether Moscow's acquisition of additional impoverished clients amounts to a costly misdirection of resources on the eve of an era of pronounced economic difficulties for the Kremlin. (Cuba alone consumes subsidies of $2.7 billion per year.) This disinclination to apply long-term cost-benefit analysis to Soviet "victories" in the global boondocks is at one with the simplistic vision of American defeats.

Influence and material gains secured by trade, investment and negotiation lack glamour. Intoxicated by images of raw power, Americans seem unaware that after all its supposed triumphs, the Soviet Union remains peripheral to developments in Africa, is frozen out of Asia's most economically dynamic states and has achieved nuisance status, if that, in the Western Hemisphere. And they are unimpressed by such triumphs as the full-scale incorporation of Egypt into the United States sphere of influence and the extraordinary transformation of our relations with China.

Winners: Defeat in other realms of policy—inflation and the dollar's weakness, our industrial decline, the persistence of poverty and racial conflict—helps to create a searing self-image of failure. And it does so when Americans particularly need the satisfaction of vicarious participation in victory. For in a time of stagflation, they cannot reach the normal benchmark of personal success: enhanced consumption.

Americans are inclined to transcend a sense of personal inadequacy through identification with winners. Geographic identity with victorious sporting teams offers one source of personal fulfillment. National identity with a victorious diplomacy offers another. Foreign policy thus becomes the moral equivalent of sport, with other countries as irredeemable competitors. Cooperation spoils the game, and defeat aches like a charley horse. For the ultimate canon of American sporting life is that winning isn't the most important thing; it is everything. Without conspicuous victories ripped by main force from the grasp of history, how can we bellow to the heavens: "We are number one!"? ●

W. W. "FOOTS" CLEMENTS

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. SHELBY. Mr. Speaker, although great honor has already been bestowed on the distinguished Alabamian of whom I speak—for he was recognized in May of this year as a much-deserved recipient of the Horatio Alger Award for 1980—I wish to further the recognition of his achievements on the floor of the U.S. House here today.

W. W. "Foots" Clements is a living, breathing Horatio Alger, and an exceptionally fine gentleman to boot. Born in Tuscaloosa County in 1914, the last of nine children in the family, Foots pulled his financial weight through odd jobs with the local butcher and dormitory janitor. Finally in 1935, Foots landed a real job as a route salesman for the Dr. Pepper Bottling Co. in Tuscaloosa, Ala., to meet the expenses of his college education at the University of Alabama.

It was at this early point in his Dr. Pepper career that the Horatio Alger steam roller began to move. After being a route salesman for 6½ years, Clements became a zone manager in 1942 representing Virginia, North Carolina, Pennsylvania, and West Virginia. In 1944, he was promoted to sales promotion manager; by 1948 he became assistant manager of bottler service. Just 1 year later, Clements was named general sales manager and was elected vice president-general sales manager in 1951. In 1957, that title became vice president-marketing and within 10 years Foots was elected executive vice president and a member of the board of directors.

In March 1969, Clements' Horatio Alger story had come true: He became president and chief operating officer of Dr. Pepper. In 1974, Clements was further elevated to the position of chairman of the board, president and chief executive officer. In February of this year, Clements relinquished the mantle of president and chief operating officer, while remaining as chairman and chief executive officer, as well as wearing the hats of chairman of the board and president of the Dr. Pepper Metroplex Refreshment Co., its bottling companies in Houston, Waco, and San Antonio, the Dr. Pepper Beverage Sales Co., and the Dr. Pepper Japan Co. and chairman and president of the Dr. Pepper Bottling Co. of Southern California.

Now 65, Foots could certainly rest on his laurels if he so chose. The Dr. Pepper Co. has, under his tutelage, became the fourth largest selling brand of soft drink with sales in 1979 reaching $292 million—up from $12 million in 1959 when he served as head of the marketing department. Clements set out to, and obviously succeeded in, building the strongest franchised bottler network in the soft drink industry. His ingenuity included shifting marketing strategy to consumers in the 13 to 30 age bracket and expanded to the introduction of Dr. Pepper in Japan, the first international marketplace penetration.

But this fine man is not one to ride his comfortable chariot off into the sunset. The list of his civic activities and business-related memberships is too lengthy to recount here; suffice it to say that Foots is an extremely busy and committed man. Moreover, from his position of chairman and chief executive officer, Clements intends to devote his Dr. Pepper time and energy to long-range planning and acquisitions. It goes without saying that he will leave an indelible mark on the company.

I am proud to say that this most exemplary recipient of the extraordinary Horatio Alger Award was born and reared in my home county which I now have the honor to represent in Congress. The example of W. W. "Foots" Clements is one for all Americans—young and old—to note. He really is a pepper.●

NOT THE SAME OLD MANURE

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. GORE. Mr. Speaker, as my colleagues will remember, this Congress made a major commitment to the development of alternative energy resources when it passed the Energy Security Act of 1980. I was pleased to serve as a conferee for the House-Senate deliberations on that legislation, as the support for the intent of the act was widespread.

A particularly important part of the act was title II, which provided financial incentives for biomass conversion projects. This technology embraces a number of energy-producing measures readily available to a wide range of potential individuals and companies.

One of these methods produces methane gas from animal manure, an age-old process which can accomplish several goals: Energy to burn directly or to power a generator, disposal of a caustic farming byproduct, creation of a high-quality fertilizer, among others.

The Washington Post, reporting on this process in the August 31 issue, revealed that this manure-to-energy technology is being virtually ignored by officials of the Departments of Agriculture and Energy. USDA, through its Farmers Home Administration, has principal jurisdiction for distribution of the funds we have made available for loans to start innovative onfarm energy programs such as the ones mentioned in the Post article, and I am distressed that the agency has reportedly turned its back on such promising projects.

I commend the Post article to my colleagues for their information:

NOT THE SAME OLD MANURE: USDA DOESN'T KNOW ENERGY FROM SHINOLA

(By Thomas Grubisich)

A growing number of American farmers think that Agriculture Secretary Bob Bergland's bureaucracy is full of it. They're mad because the bureaucracy won't practice what is preached and help farms, which are also full of "it," turn a lot of "it" into cost-effective energy.

The "it" is manure. By a relatively simple process, which involves no serious environmental hazards such as meltdowns, manure can be converted to a burnable gas. If 60 per cent of agriculture's waste could be so utilized, the energy benefit would be the equivalent of 155 million barrels of oil a year—enough to supply all the electrical needs of 15 million of America's 78 million homes.

On selected occasions, Dick Waybright, co-owner of the Mason-Dixon dairy farm southeast of Gettysburg, raises up a sign that shows a Holstein cow with a bolt of energy coming from the vicinity of its tail.

This is Waybright's way of advertising cow power. His farm, which straddles the historic boundary between Pennsylvania and Maryland, is converting 2.7 million tons of manure from its 700 Holstein cows into $30,000 worth of energy annually. The system works, and it is cost-effective.

If Waybright could get the help he needs to expand his operation, he could produce all the electricity he needs, use waste heat to run an alcohol still to produce fuel for his tractors, and export surplus current to the local utility, which happens to be Metropolitan Edison of Three Mile Island fame.

In his search for financial help, Waybright went to the federal government, which says it is committed to moving the nation toward energy independence. The Department of Energy, after many months, said no. The Agriculture Department said no. This is the same department which has been committed by its chief—Bergland—to bringing its "full range of authorities and resources . . . to help America become energy independent."

Recite those words to Waybright, and he will say wearily: "I can't understand why the government can recognize the process and yet not move on it."

Waybright is only one farmer who is learning the bitter lesson that the federal government isn't yet prepared to put its money where its press releases and speeches are and help farmers tap their enormous energy potential. In Illinois, one of the nation's biggest farm states, John W. Lehman, alternate fuels coordinator for the Illinois Agriculture Department, says Farmers Home Administration (FmHA, the main aid agency within USDA) "has not guaranteed a single dollar's worth of loans for alternate energy projects in this state."

Many forms of alternate energy involve high technology (squeezing gas or oil out of a lump of coal) or a touch of romance (windmills churning on the horizon). But there is nothing romantic or very technological about cow power. It is actually an age-old process that has been widely used on a small scale in China and India and other countries that don't have huge, modern energy grids like the United States.

While not technologically imposing, the Mason-Dixon system is not exactly a Rube Goldberg contraption held together with baling wire and desperate hope. It is simple, but not simple-minded. Manure from about 700 cows is flushed to a pit where the solids are separated out and sent to a basin tightly covered by a big black plastic cover that keeps oxygen out. In the oxygen-free atmosphere under the bag, bacteria and other microbes devour the solids and then die, their decay produce a gas that expands the bag like a giant balloon. The gas is 60 per cent methane and 40 per cent carbon dioxide.

The gas is used as a fuel to run a generator which produces electricity. Converting the gas' BTUs into kilowatts is not as efficient as burning the gas directly, but Waybright wants to utilize the generator's considerable waste heat to make alcohol from corn grown at the farm. There is a big controversy about whether alcohol production is cost-effective when its operation requires a fuel such as petroleum. But when waste heat is used, there is a clear net gain.

The problem so far with alternate energy, which America is supposed to exploit so it can become less dependent on imported petroleum, is that what sounds wonderful on paper ("harnessing the endless power of the sun," etc.), in reality can be horrendously expensive and/or susceptible to frequent breakdowns.

When Waybright decided to try to make Mason-Dixon energy-independent, he cast a cold eye before he put up $100,000 for cow power. (He received not one dollar of federal help for the methane digester.) "There are a lot of pie-in-the-sky ideas," he says. "I wanted a system that worked. I'm not an altruist. I wanted to make a profit."

What is the evidence?

Since cow power went on line at Mason-Dixon on Oct. 2, 1979, there have been eight days of down time, but in no instance was there a problem with the methane operation. The bugs were in the conventional generator, which kept shorting out because of a poorly designed connection.

When a second digester is added to the present one, Waybright and his consultants, Sheaffer & Roland, Inc. of Washington, estimate that after 20 years the methane operation alone (not counting the yet-to-be-built alcohol still) will have produced an accumulated net gain of $1.8 million (subtracting total capital and operating costs from the benefits of reduced purchase of electricity).

In putting together their balance sheet, Waybright and Sheaffer & Roland estimated that the farm's electricity bill from Metropolitan Edison would increase on the average of 6½ percent over the 20-year period. A spokesman for the utility said that was a "conservative" estimate.

One of the interesting byproducts of converting manure to methane is a fluffy, odor-free material that cows prefer as bedding over sawdust. Since Waybright started putting this material in the barns, cases of mastitis (an udder disease) among his Holsteins has dropped dramatically, raising the cows' annual milk production. Waybright estimates that the bedding change results in direct and indirect savings of $36,000 annually, but this too is not calculated in the benefits column, nor is the value of the more stable form of fertilizer left behind after the methane extraction.

There is yet another benefit that is kept out of the balance sheet. Because the manure at Mason-Dixon is totally utilized as methane, fertilizer and cow bedding, none of it contributes to what is being recognized as a major source of pollution—animal wastes that are washed off farmland into streams and rivers. Billions of dollars have been spent on new and improved sewage treatment plants, but none of that money can clean up water polluted by agricultural wastes. The federal Environmental Protection Agency estimates that the total cost of the cleanup would be about $9 billion.

But the main attraction of cow power is that, coupled with alcohol production, it can help turn farms into energy producers instead of consumers (and wasters). As Waybright says, "Food production all depends on the next boatload of oil coming in. If we could make the farmer energy independent, that would be worth a couple of missiles in the silo."

But unless the federal government, and especially USDA, gets moving, American food production will remain dependent on the next boatload of oil.

To tap their energy potential, farmers need information as much as money. "The government has not sought out the proper experts in financial operations administered by Farmers Home Administration (which can make and guarantee loans to farmers)," says John T. Breuere, a lawyer in Missouri who is an expert in agricultural economics. "That's the biggest problem—there's no drive in the FmHA to seek out technical information so it is well-equipped to deal with small farmers and small business people."

But even if the farmer comes before FmHA technically well prepared, his odds of success are slim in getting help for an alternative-energy project.

Earlier this year, Rushville, Ill., farmer C. DeWayne Bond, who had hired Breuere as a consultant, was able to get approval of $350,000 in loans from two banks for construction of an alcohol still—on the condition that FmHA would provide a guarantee. The farmer proposed using a design from which successful stills had already been built. Several experts in alcohol production told him his project would work.

Yet FmHA turned down Bond's application.

Whatever shortcomings there are in present programs, FmHA officials say, a lot of new help will be available in fiscal 1981, beginning Oct. 1, when the office will have $525 million to make or guarantee loans for projects that would tap agricultural energy.

But after looking at the more than 50 pages of draft regulations covering the loan money, Illinois' alternate energy chief, Lehman, says they are hopelessly complicated and restrictive, and will discourage all but big agricultural operations controlled by major corporations. "The new program will be a fiasco," he predicts.

It's hard to find anybody—outside of the Agriculture Department's headquarters on Independence Avenue NW—who has any hope that farmers will get substantial federal aid in helping America to move toward energy independence.

Recently Sen. Charles H. Percy (Ill.), ranking Republican on the Senate Permanent Subcommittee on Investigations, held hearings in Springfield, Ill., on farm-based energy. The testimony was uniformly dismaying.

"FmHA will not take risks in an area that demands risk taking," says committee investigator Howard Marks. "The Small Business Administration has a very high rate of failure. It's willing to take the heat to get loans out to small business and minority business people."

Or as John Lehman says, "We didn't drill for oil with proven technology."

Most of the critics of FmHA and other government agencies that could provide help for developing farm-based energy are worried that big businesses, not small farmers, will benefit from the new loan guarantees totaling $525 million. They say the government will go to big energy operations as a sure way of meeting goals on alternate energy production.

Pat Ledford, an analyst for Sheaffer & Roland Inc., the consulting firm that designed the Waybrights' methane facility, says: "Government, by its funding policies, creates large-scale operations. Those like Mason-Dixon would be small ones, and I just don't think the government likes things on a small scale. So it goes to the big companies, who end up calling the tune."

But it is the rapidly disappearing small farms that need to move toward energy independence most urgently, for they have the least ability to absorb steep rises in the cost of fuel. Energy costs—direct and indirect—can include as much as 25 percent of a farmer's expenses, and more than 90 percent of the power he uses is derived from petroleum.

Help will be coming, says the Agriculture Department. But down on the farm, whether it's in Pennsylvania or Illinois, no one believes that will happen.●

STATEMENT OF REPRESENTATIVE CLAUDE PEPPER, CHAIRMAN, HOUSE SELECT COMMITTEE ON AGING, REGARDING LOW-INCOME ENERGY ASSISTANCE OUTREACH

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. PEPPER. Mr. Speaker, I am pleased to note that yesterday's passage of H.R. 7998, the Labor-HHS appropriations bill, included $1.8 billion for the low-income energy assistance program authorized by the Windfall Profit Tax Act. As every Member of this body is painfully aware, we have not begun to devote our attention to the upcoming winter a moment too soon. Over 2,000 Americans, most of whom were elderly and poor, lost their lives to the killer heat wave which gripped much of the Nation for 2 months. Many additional thousands will die, however, should our upcoming winter be a severe one.

To prevent such tragedies from occurring, the House of Representatives has agreed to expend $1.8 billion for energy assistance to the poor. This assistance will take the form of direct cash benefits, vendor payment, and other in-kind assistance, such as packages of blankets, warm clothing, and footwear.

This program has received such widespread support because it literally means the difference between life and death to the millions of the low-income elderly who are particularly vulnerable to intense heat and cold. In the past, however, many of the disabled and homebound poor have been cut off from assistance. Although their isolation places the disabled and homebound in the most desperate of circumstances, it is precisely this isolation which cuts them off from assistance.

Congress cannot sit idly by when such grave consequences are at stake. We must undertake every effort humanly possible to insure the full participation of poor families and elderly in the energy assistance program. All those who are eligible and can possibly be reached, must be reached. All those who are in need of assistance and can be helped, must be helped. All those who are the disabled, homebound and isolated poor who face high energy costs, must be assisted to the fullest extent that this program allows. To inform, to make an application process simple and prompt, and to provide assistance to those in need is our mandate and our pledge to the poor and the elderly.

I call the attention of my colleagues to the report language of H.R. 7998, which would transfer $20 million to the Community Services Administration for special outreach efforts to native Americans, migrant workers and other special populations who traditionally are not as well served by the States. Perhaps the most underserved group in America has been the low-income, homebound, disabled, and isolated elderly population. The low-income energy assistance program must not ignore these people. I hope that this special set-aside will be utilized to conduct a national outreach effort through national aging organizations, as provided in the 1980 Crude Oil Windfall Profit Tax Act. Spending a small amount for an extraordinary outreach effort to the elderly poor and their families will go a long way to meeting our pledge.●

UNITED STATES TOO WEAK: REAGAN ADVISER

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. DERWINSKI. Mr. Speaker, I would like to direct the attention of the Members to an interview which appeared in the July 21 edition of the News-World of New York. In the following interview with the News-World Washington Bureau Chief, Ted Agres, Dr. Lev Dobriansky, chairman of the National Captive Nations Committee, discusses U.S. policy toward the Soviet Union and the challenges this Nation faces abroad in the 1980's:

The material follows:

[From the News-World, New York, N.Y., July 21, 1980]

UNITED STATES TOO WEAK: REAGAN ADVISER

While many of the advisers to President Carter are now household names, little is known about the men and women who may help lead the nation if Republican presidential candidate Ronald Reagan is elected. The following article is one in an occasional series of News World interviews with the people Reagan has chosen to be his top advisers in the areas of foreign policy, defense, economics and domestic politics.

Dr. Lev Dobriansky, a professor of economics at Georgetown University and chairman of the Captive Nations Committee, was named last month as one of a group of foreign policy advisers to Reagan.

Q: What are three main problems that are facing the United States today in terms of foreign policy?

A: The major problem, as I see it, is a lag in the military field which is unexcusable and quite foolish. The Soviet Union, as far back as the end of the 50's, proceeded on a military buildup, especially in the naval area and after the Cuban crisis into missilery. While we were preoccupied in Vietnam, they continued the buildup. In the conventional area they have definite superiority, no doubt about it.

In the nuclear area I suspect that they're close to superiority. If you look at all the statements coming out of DOD, the analyses from CIA and the private research projects, there is the same general conclusion: We tend to depend heavily on our technological margin and I think there is a growing opinion that that has contracted.

When you talk about relations with the Soviet Union, you have to act from strength, and not increasing weakness.

The second problem is our incapacity to meet them on a level I call psycho-political warfare. This, of course, entails quite a number of operations, particularly propaganda. We have not been skillful enough with regard to Voice of America, Radio Liberty and Radio Free Europe. We have no Free Cuba broadcasts to concentrate on an area only 90 miles from our own border, whereas the Soviet Union has been consistently pouring resources into its propaganda efforts. This is a problem of reaching the various peoples and it's an important thing because the Soviet Union itself is highly vulnerable. Without the Soviet Union there are diverse peoples. What's interesting is the sudden interest in the Muslim nations within the Soviet Union simply because of Afghanistan.

Yet those who have studied this in terms of captive nations ideology have been stressing this point since 1957, 1958.

The third problem is the matter of a national strategy, or consistency in foreign policy instead of the constant vascillations. A case in point is human rights application of the administration.

Human rights can be the centerpiece of U.S. foreign policy. It's a natural type of foreign policy—one with morality, one with humanity, one with cultural warmth. But the administration has failed to even define the human rights policy adequately. Cyrus Vance and even the president have failed in that respect, seeing it more in terms of "civil rights" activity, rather than in connection with our struggle against the Soviet Union, Russian imperialism and ideological communism, and stressing national human rights.

The Soviet Union has built up itself by conquest of nations. And they are using that as a base, having proceeded into Central Europe and now into Afghanistan and, of course, previously Cuba.

Q: Could you describe your world view?

A: I look at the world in two areas, which we used to call the communist world and the free world. But because many people feel an authoritarian government cannot be placed in the cloak of free world, I've been using the distinction between totalitarian and non-totalitarian worlds. There's a vast difference between totalitarianism and authoritarianism.

To be sure there are many parts of free world, noncommunist world, or better still the non-totalitarian world, where you have more authoritarianism than anything in democracy as we know it in the United States and elsewhere.

The best way of viewing it is like the Soviet Union: There is nothing over the communist party, not even God. And if it were necessary to go ahead and incarcerate people en masse as they have done, deportations and so on, they will do it. In the case of authoritarian governments, I do admit you have abuses, social injustices and the like and these things should be addressed, but not in the way the Carter administration has done it. It can be done recognizing that they are our allies and are important to our national security interests.

Q: What should be U.S. policy toward the Soviet Union?

A: I believe in genuine detente. But in this sense: We don't brush truths under the rug and the first important thing is a general recognition that the Soviet Union is not a nation, it's not a genuine multinational state as they claim to be. It is an empire. Unless you perceive the importance of that premise, which is based on history, on current developments and the like, then you can't proceed along other lines of constructive policy.

I'm saying there has to be a recognition that it is an empire and that it has a two-tiered type of operation, namely government to government and systemic warfare. And they have been continually in systemic warfare against the West and against developing countries that tend to democratize as much as possible.

Does that foreclose the matter of interchange and detente? No. I've always claimed that we should talk to them. We should even go beyond Moscow through various media and even through economic media to be able to affect the peoples within—a recognition of the various nations within the Soviet Union.

Q: How practically might that be carried out? With Afghanistan, Carter attempted to impose economic sanctions: a ban on strategic trade, grain and so on. Are these the types of economic measures you mean?

A: Yes, but these are reactive. In 1966 I testified before the Senate Foreign Relations Committee and advanced what I call the "pol-trade" concept, which essentially is a policy to engage in economic transactions with them but oriented toward the extraction of cultural and political concessions.

Now the implementation of that came a little later in connection with Jewish emigration from the Soviet Union. But there are other things with regard to technology, in particular, which they have sought. I have always felt that that cannot and should not be simple commercial transactions. We should operate in the same way they do and have that additional value put on by way of cultural and political concessions.

Q: Do you feel that SALT II and the SALT process is workable?

A: The concept of SALT is workable provided that we are able to obtain a position in both conventional and strategic areas of power. In other words you can't negotiate on this favorable to yourself and to them unless you have comparable power.

Q: Why do you support Gov. Reagan?

A: It's absolutely necessary to have an alternative to the "no policy" of the present administration. Also I think he's very competent. He comes from California and was a governor just as Mr. Carter was a governor, but he demonstrated his ability to have highly competent people about him manage government.

I have a deep feeling that he has the firmness and solid instincts with regard to the values of this nation and its potential for the future. He won't be saying he can't do anything because there's a "malaise" in the country, which we've heard. The point is that anyone in that position of leadership should be able to dispel it, and guide the country in a proper direction. And in a democratic way be responsive to Congress and responsive to the people.

Q: Some say that Reagan's policy to the Soviet Union is a much harder stance than yours. This issue of detente, using the economic card against the Soviets is something President Carter used but is something Reagan might not favor. How do you see his views in this foreign policy issue compared to your views?

A: Actually I don't see any fundamental difference. I've read his column and the many articles he's written since 1976 and I find that he's been on track. He certainly has taken up the captive nations idea and has a keener appreciation of it. He's not one to be caught in the situation to say, "Up until two weeks ago I hadn't thought the Russians were as bad as this . . ."

I think there's more background in the case of Reagan than in the case of Carter. Quick characterizations and appellations, particularly on the part of the media, say that he is possessed with Cold War, that he is a Cold Warrior and that therefore there's a threat that U.S.-U.S.S.R. relations won't go well. But whether you're aware of it or not, we've been in a cold war all along. It may not have been in the direct relationship of Washington to Moscow but it certainly is in other areas of the world, and certainly in the Third World. The Soviets continue with their subversive activities, infiltrations, furnishing of arms—all entirely in line with their concept of peaceful coexistence. This means that Moscow exists peacefully with Washington, they won't berate each other and the like, but in the meantime, underground, surreptitiously, they'll work us over as they work even more intensively in the other areas that can affect our interests.

Q: How should the U.S. woo Eastern Europe? How should we try to draw them more into our sphere? Should we give aid? Should we take any active stance as far as Eastern Europe goes?

A: The first thing we have to recognize is what is Eastern Europe. This came up in the '76 campaign and both Ford and Carter would speak of Eastern Europe, but their conception of Eastern Europe would be the western border of Soviet Union. I don't buy that, I go along with historians and scholars; namely, that Eastern Europe is roughly from the Danube all the way to the Ural Mountains.

The same policies that we apply to the Soviet Union should be applied to other parts of Eastern Europe or what some people call the satellite areas. But with variations. There has to be a recognition of this diversity within the totalitarian scheme and it behooves us to employ various techniques that are adaptable to the situation and that would maximize benefits that we would receive from it.

Q: Is there a China card? And how should the U.S. play it?

A: There's been a denial that there is a China card but I think there is one. Of course one is speaking of mainland China. I think we have to be very cautious of not going through a period very similar to previous periods in which we helped the Russian communists. Without our help I'm certain there would not be any Soviet Union today. The Lenin regime was really on the brink of overthrow and we helped them with American aid. U.S. corporations such as International Harvester and Occidental Petroleum went in and set up [concessions]. And I fear there may be a repetition with China. The fact is that if we go at it in an accelerated way, especially in the military area, helping them to modernize their arms, it would not be beneficial to the U.S. and it would jeopardize one of our closest friends—the people of Taiwan, the Republic of China.

In the global framework and particularly in terms of our relations with the Soviet Union, I hold that we should pursue a two-China situation very similar to recognition of East Germany and West Germany and to maintain it along those lines.

I would say there should be an increase in pressure for re-recognition of Taipei. And that is going to cause great deal of furor.

It is essential that we keep Taiwan well armed, because there isn't much room for them to make any withdrawal from the Pacific Ocean.

Q: How strong is the movement toward democracy within Eastern Europe? How strong is the dissident movement?

A: Concerning the first, you have to think of it in historical framework and that illuminates to the significance of the Czechoslovak affair in '68. Remember in Eastern Europe there is hardly any island of democracy. Yet Czechoslovakia was in the forefront. Then the experience of the three Baltic countries is a thing to bear in mind; they did have democratic governments between the two wars and they were independent states. But aside from that if you look into Poland, East Germany, Hungary, Bulgaria, and Romania, you can't call them democracies although you had authoritarian governments there. So the democratic movements were in the right direction but developed at a slow pace. One would say that there are seeds if you will, or preludes, ephemeral as some have been, for democratic government.

How strong at this moment? I don't think very strong simply because the opportunities have not presented themselves for them to attempt anything along these lines. My feeling is that, if there were opportunities for liberalization of the area, very likely you'd see a strong democratic movement in Czechoslovakia and in Poland, which could overspill into the other Slavic areas.

With regard to dissidents, in all of these countries you've had dissidents all along. The only problems is that dissidents under Stalin didn't last long. They were incarcerated, they were annihilated. And the same, more or less, in these other satellite areas. Now on this the Helinski accords helped a great deal to fan this dissidence.

Q: What presently is happening with the captive nations movement?

A: There will be a large captive nations gathering in Detroit before the Republican National Convention. The main point here is because of the invasion of Afghanistan, which we have declared as a new captive nation, there is observed among the press, academia and the like, a sudden interest in the Muslims within the Soviet Union. That is a very essential thing because it could have a great impact on the Islamic world from Morocco to Indonesia. And I think it's important to begin concentration, to have adequate VOA transmitters and have them broadcast each into an area that on the captive nations list I call Turkistan and to the Muslims in the area.

There are many avenues, especially the religious. There is a matter of resurrecting the mosques, or converting them from museum pieces to institutions that could produce a great deal of trouble for Moscow.

The Soviet Union can never be a nation. But the Soviet Union is an area that has the sixth largest body of Muslims in the world. The estimate there is 30-45 million.

At the rate of their demographic growth it's estimated you may have doubling by the end of the '90s. The point is you have 40-45 million now and over 80 million by the end of the '90s. It's significant.

Somewhere along the line, hopefully in the Reagan administration, there must be a recognition of the captive nations ideology and that has to be incorporated to play a definite role in our foreign policy. Remember the basis of our own country, which is Judeo-Christian, the religious bases upon which our country is founded. And then the tradition of democracy, recognition of sacredness of the person, really the whole development of the republic, institutional pluralism, where you have autonomous bodies, and the meaning of America—there is no country in the world that has representations from every corner, and is becoming even more so that way.

The point is that the U.S. has to present itself not merely as a model, but actually as a vigorous leader among nations and extend hope and vision to all nations and peoples, especially to those of totalitarian area.●

CRITICAL MINERAL SHORTAGES

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. UDALL. Mr. Speaker, I want to take this opportunity to bring to the attention of the Members of the House the work that Representative Jim Santini, chairman of the Subcommittee on Mines and Mining, has been doing on the very obvious, yet neglected, critical shortage of certain minerals that are so necessary to this Nation's military independence and economic future. The Washington Star of September 2, 1980, carried a thoughtful editorial showing the vital relationship of scarce and critical minerals of southern Africa to this Nation's future welfare. That editorial follows. I commend it to your attention:

[From the Washington Star, Sept. 2, 1980]

BULLETIN FROM THE RESOURCE WAR

People given to worrying about the United States' position in a world of hostile or dubiously friendly govenments tend to focus their anxieties on either oil or nation-destroying nuclear weapons. Now, however, there is a growing awareness that these are by no means the only threats to American security.

The most recent reminder of this uncomfortable truth is the report on strategic materials issued on Thursday by Rep. James Santini, D-Nev. Rep. Santini, who is chairman of the Mining and Minerals subcommittee, based his report on a January trip to southern Africa to investigate American sources of such critical materials as chromium, platinum, industrial diamonds and cobalt.

He was not happy about what he found. Ever since his return, he has been trying, in and out of the Capitol, on television and off, to alert Congress and the public to the dangers of shortfalls. He blames the administration for not following through on the nonfuel minerals policy he helped to formulate two years ago.

The dangers he is talking about are not only the military crisis kind. Rep. Santini points out that much of American industry can be brought to a standstill by the lack of materials such as those we get from Zaire, Zimbabwe and South Africa.

Rep. Santini is by no means the first observer to be alarmed at American vulnerability in strategic materials. In June, the National Strategy Information Center, a private organization headed by a retired rear admiral, William C. Mott, put out a white paper on the "resource war" calling attention to the way Soviet geopolitical strategies were working to make it possible to cut off this country from access to a considerable list of materials for which there are no adequate substitutes and no other adequate sources of supply.

Inquiries by congressional committees in the last few months have reinforced the perception. And, as Daniel James pointed out in *The Star* earlier this summer, failures to carry out the requirements of stockpiling legislation long on the books have denied the United States even the fragile defense of, for example, manganese and titanium inventories big enough to keep aircraft and armaments production going for a few years.

Critics of the Carter administration call it one more indictment of a foreign policy that has refused to recognize the importance of the Soviet Union's old-fashioned approaches to international power. While the Kremlin has been trying to advance its interests via buildups of well-positioned bases and client states in such areas as Africa, the United States has concentrated on human rights and hopes of coming out "on the right side of history" by forbearing to press material or geopolitical interests against revolutionary regimes.

There is still time for us to protect ourselves in the area of strategic materials. But it will take a rethinking of priorities in the way we define allies and adversaries abroad as well as in domestic stockpiling policies.●

REPRESENTATIVE MARKEY'S STATEMENT BEFORE THE DEMOCRATIC CONVENTION

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. MOFFETT. Mr. Speaker, the Democratic platform contains important language stressing the benefits of using conservation, renewable resources, and clean-burning coal technologies to reduce our present dependence on imported oil.

At the convention, Representative Edward J. Markey gave an excellent speech discussing the Democratic energy platform and the need to emphasize and develop conservation and solar energy strategies. His statement, however, quite properly recognizes that words and platform provisions alone are not adequate unless they are backed up by meaningful and effective actions.

I urge all of my colleagues to read Congressman Markey's statement and to join in actively working toward implementation of the objectives contained in the Democratic platform.

The statement follows:

Edward J. Markey's Statement Before the Democratic Convention

Thank you Mr. Chairman. I am honored to be here tonight to address the Democratic Convention on the issue of nuclear power . . . the issue of solar power . . . and a new, safe energy future for America.

The Democratic Platform—which we adopted this week—now calls for the phase-out of all nuclear power plants in the United States . . .

And a phase-in of a non-nuclear energy future. Energy conservation. Clean coal. And solar power in all its forms.

As Senator Kennedy declared last night: and I quote: "We can be proud that our Party stands for investment in safe energy . . . instead of a nuclear future that may threaten the future itself . . ."

I stand here tonight for the tens of millions of Americans who want this energy message to resound all across this land.

Americans know that a new energy vision will not emerge from the Republican Party. The Republican Platform short changes solar power and energy conservation.

Instead, the Party of Ronald Reagan trumpets the policies of the big oil and nuclear companies. These are the same discredited energy policies and mistakes that have been repeated for years.

They ignore the promise of a safe energy future. They promote nuclear power as a panacea. They disregard the environment. They put profit before the public interest.

In November, there will be a clear choice between Democrats and Republicans on the issue of a new energy future for America. Republicans will lose that battle in November, because the American people want their future based on solar power, not on nuclear power.

The American people know—after Three Mile Island—that nuclear power is not fail safe. Because people are not fail safe.

Accidents do happen. A single accident could kill thousands, and poison a land area larger than the State of Pennsylvania.

The American people know there is no real solution to the problem of radioactive waste, a threat to the health of this and future generations. As the nuclear waste keeps piling up . . . scientists scratch their heads, and wonder what to do.

And nuclear power is not cheap. Even Wall Street knows it's a financial disaster. Reactors that cost 200 million dollars to build a few years ago now cost well over one billion dollars.

Furthermore, nuclear power is not needed. Demand for electricity has dropped sharply. Most of the country has excess capacity.

And we are learning that nuclear power does not significantly reduce our dependence on foreign oil. Only 10 percent of our oil is burned to generate electricity.

Perhaps most alarming of all, nuclear power guarantees the spread of atomic arms around the world—as country after country takes the fuel from their reactors and uses it for weapons.

For the same nuclear reactor that boils water to create electricity also creates plutonium, the stuff of atomic bombs. Plutonium from which the next Ayatollah can roll the dice and hold the entire world hostage.

For all these reasons, millions of Americans will cheer the fact that the Democratic Party endorses an orderly phase-out of every nuclear power plant in America. And the fact that the Democratic Party endorses an energy future based on conservation and solar power.

In the five years after the 1973 oil embargo, energy conservation and energy efficiency alone delivered two and one half times the energy of all other sources combined. From the Alaska pipeline, offshore drilling, nuclear power, all of them

If we saved only 15 percent of our energy today, it would equal all the oil we now import from OPEC.

If we launched a crash energy productivity program, we could save millions of barrels of oil every day by 1990.

By weatherizing our homes and offices and factories;

By tough new appliance and automobile fuel efficiency standards;

By Industrial innovation and co-generation.

Not by sacrifice of our living standard. Not by loss of jobs. But simply by investing in the steps—already within our reach—to use our energy more wisely.

But saving energy is not enough. We must produce new energy as well.

We must accelerate clean coal technologies, compatible with environmental quality. We must drill for new oil and gas.

And we must depend upon the sun.

For our nation is not running out of energy. Bountiful resources lie all around us, waiting to be tapped. Clean, safe, inexhaustible solar energy—in all of its forms.

Solar is not only the promise of tomorrow. It's here today.

300,000 homes in America now have solar equipment on their roofs. Thousands have wood burning stoves in their dens and living rooms. Thousands of farms are turning crops into gasohol. Dozens of cities are burning their trash to produce electric power. Hundreds of streams and rivers have been harnessed to produce electricity. Thousands of businesses produce wind machines and solar collectors to draw power from the sun.

Power from the sun that is immune to boycotts and embargoes.

Power from the sun that will leave our earth unravaged.

Within twenty years, renewable resources could deliver more than one quarter of the nation's energy. Within 50 years, we could be a truly solar society.

Americans will pitch in. They will roll up their sleeves. Like the people of Davis, California. Like the people of Fitchburg—in my own state of Massachusetts—where everyone last year from senior citizens to school children launched a campaign to weatherize every one of Fitchburg's 14,000 homes.

Like the delegates who came to this convention, working with the Campaign for Safe Energy and the Solar Lobby, to demand that the Democratic Party take an important first step towards charting this new energy vision for America.

In our Platform, we have promised to phase out—as alternatives are ready—all nuclear plants in this nation.

We have promised to fight for more dollars to speed the arrival of a solar tomorrow. To bring it within reach of every American.

But we need more than just words in our Platform. Words can be a sop to the discontented. We must leave this Convention determined to go the full distance. To ensure that these pledges are fulfilled.

History will record that the challenge of shaping a new and safer and more secure energy future was the great challenge of the 1980's.

The Republican Party Platform points in one direction. But it is the discredited direction. A direction of the past. For they are the Party of nostalgia.

But for the people of this country, the past is only a memory. The future is their hard reality.

The decisions before us are as urgent as any that have faced us in our 200-year history. The United States can no longer tolerate the course of its energy destiny being set by the oil tankers of OPEC. Our nation's survival hangs in the balance.

We can meet this challenge.

Let us join together.

Let us shape—together—a new energy destiny for America: Breaking our addiction on foreign oil; phasing out nuclear power; And committed to leading America and the world into the solar age.

Thank you very much.●

H.R. 7230—EXPORT TRADING COMPANIES

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

• Mr. BONKER. Mr. Speaker, I would like to commend to the attention of my distinguished colleagues a recent survey conducted by the Wall Street Journal and the Gallup organization. The survey, which appeared in the Wall Street Journal of August 27, 1980, indicates:

> Most small company owners said they favor greater restrictions on imports, and most said they believe business community support for tougher curbs is increasing . . . . Although two-thirds of the heads of medium-sized firms and more than three-fourths of large-company chiefs said they personally oppose more curbs, about two-thirds of all executives said they believe support for such action is growing in the business community.

The House Foreign Affairs Committee recently approved H.R. 7230, which I introduced and which is designed to foster the creation of trading companies to boost exports from the United States. We in the Congress must act now to promote exports before the protectionist fever overwhelms us.

With the passage of H.R. 7230, the new export trading companies would become formidable competitors, with the incentive and means to create new markets and turn thousands of small- and medium-sized businesses into exporters.

Commerce Department studies show that these new companies have the potential to ultimately lift overall U.S. exports by as much as 30 percent. Export success can often depend on intermediaries which take the actual risks and can easily develop economies of scale in marketing, transportation, financing, and other export services.

Congress needs to act this session to establish a coherent and effective export policy. I hope all of my distinguished colleagues will join me in this effort to correct our trade imbalance and improve the economy.

The article follows:

EXECUTIVES SAY IMPORTS POSE SERIOUS THREAT

(By Frank Allen)

The American economy's competitive edge needs honing.

That is the view of chief executive officers of U.S. corporations of all sizes, most of whom believe foreign competition is a serious economic problem. More than half consider it very serious, but there isn't much consensus on what to do about it.

The solution chief executives propose most often is to become more competitive by increasing productivity. Another popular idea is greater cooperation from government, specifically by relaxing regulations.

A typical chief executive's comment: "We need the same kind of cooperation from our government that the foreign country governments give their industries." And the head of a large chemical company says, "In no other country in the free world is there such an adversary relationship between government and business."

PRODUCE QUALITY PRODUCTS

The Wall Street Journal/Gallup survey of business opinion that produced these results also found that small-company chief executives are more willing than their large-company counterparts to impose stiffer trade restrictions on foreign competitors. As another solution, small-company heads suggest producing quality products; large-company chiefs advocate changing the tax structures.

The survey, conducted jointly by the Journal and the Gallup Organization, is based on interviews with 306 chief executives of the country's largest corporations (including 100 of the Fortune 500 companies), 276 heads of medium-sized companies and 198 small-firm owners.

Asked to name the most important action that could be taken to alleviate the problem of foreign competition, respondents offered more than 20 answers. Some called for tougher enforcement of existing trade laws (including antidumping laws); others stressed encouraging capital investment to upgrade factories and mills; several criticized organized labor.

UNIONS ARE CITED

"Labor is very demanding on salaries, but produces very little for the money," said a company chief. Added another: "Unions have to start realizing they must help their companies by lessening their scale of demands. Wages are getting out of hand."

In large companies, many bosses said they strongly opposed import curbs. "I am a free trader," said the head of one corporation. "If someone can do it cheaper, fine." Another large-company chief said, "Protection is terrible. Get the tariff laws equalized between major partners. Charge the same amount for an incoming Toyota as an outgoing Chevy."

But chief executives of larger companies may be better informed about their own attitudes on the import issue than about the views of their peers. Although two-thirds of the heads of medium-sized firms and more than three-forths of large-company chiefs said they personally opposed more curbs, about two-thirds of all executives said they believe support for such action is growing in the business community.

MORE CONSISTENT VIEWS

In small companies, the views seem more consistent. Most small-company owners said they favor greater restrictions on imports, and most said they believe business-community support for tougher curbs is increasing.

The survey also found that the degree of opposition to trade barriers depends to a significant extent on how serious the business executives believe the foreign-competition problem is. Among those who see competition as very serious, support for curbs is much greater. But a majority in large firms oppose stiffer curbs.•

BELIEFS AND PRINCIPLES OF THE JOHN BIRCH SOCIETY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

• Mr. McDONALD. Mr. Speaker, many of my colleagues have questioned me concerning the beliefs and principles of the John Birch Society.

The John Birch Society was founded in December 1958. It is an educational organization that believes strongly in its motto of, "Less government, more responsibility, and with God's help, a better world."

The society does not endorse or contribute to political parties or candidates and in the strict sense is not a political organization. Individual members are active in education/action programs concerned with sound economics, proper values of government, and an appreciation of the lessons of history. The society, in short, is active in the building of an informed electorate and by so doing restore the values that made the country great. The members hope to play a major role in halting this Nation's retreat from greatness.

In my opinion, the John Birch Society is the finest body of men and women in the world today, and I appreciate the interest of my colleagues. For their improved understanding, I insert those beliefs and principles into the CONGRESSIONAL RECORD:

GENERAL BELIEFS AND PRINCIPLES OF THE JOHN BIRCH SOCIETY

I

With very few exceptions the members of the John Birch Society are deeply religious people. A member's particular faith is entirely his own affair. Our hope is to make better Catholics, better Protestants, better Jews—or better Moslems—out of those who belong to the society. Our never-ending concern is with morality, integrity, and purpose. Regardless of the differences between us in creed and dogma, we all believe that man is endowed by a Divine Creator with an innate desire and conscious purpose to improve both his world and himself. We believe that the direction which constitutes improvement is clearly visible and identifiable throughout man's known history, and that this God-given upward reach in the heart of man is a composite conscience to which we all must listen.

II

We believe that the Communists seek to drive their slaves and themselves along exactly the opposite and downward direction, to the Satanic debasement of both man and his universe. We believe that communism is as utterly incompatible with all religion as it is contemptuous of all morality and destructive of all freedom. It is intrinsically evil. It must be opposed, therefore, with equal firmness, on religious grounds, moral grounds, and political grounds. We believe that the continued coexistence of communism and a Christian-style civilization on one planet is impossible. The struggle between them must end with one completely triumphant and the other completely destroyed. We intend to do our part, therefore, to halt, weaken, rout, and eventually to bury, the whole international Communist conspiracy.

III

We believe that means are as important as ends in any civilized society. Of all the falsehoods that have been so widely and deliberately circulated about us, none is so viciously untrue as the charge that we are willing to condone foul means for the sake of achieving praiseworthy ends. We think that communism as a way of life, for instance, is completely wrong; but our ultimate quarrel with the Communists is that they insist on imposing that way of life on the rest of us by murder, treason, and cruelty rather than by persuasion. Even if our own use of force ever becomes necessary and morally acceptable because it is in self-defense, we must never lose sight of the legal, traditional, and humanitarian considerations of a compassionate civilization. The Communists recognize no such compulsions, but this very ingredient of amoral brutishness will help to destroy them in the end.

IV

We believe in patriotism. Most of us will gladly concede that a parliament of nations, designed for the purpose of increasing the freedom and ease with which individuals, ideals, and goods might cross national boundaries, would be desirable. And we hope that in some future decade we may help to bring about such a step of progress in man's pursuit of peace, prosperity, and happiness. But we feel that the present United Nations was designed by its founders for the exactly opposite purpose of increasing the rigidity of Government controls over the lives and affairs of individual men. We believe it has become, as it was intended to become, a major instrumentality for the establishment of a one-world Communist tyranny over the population of the whole earth. One of our most immediate objectives, therefore, is to get the United States out of the United Nations, and the United Nations out of the United States. We seek thus to save our own country from the gradual and piecemeal surrender of its sovereignty to this Communist-controlled supergovernment, and to stop giving our support to the steady enslavement of other people through the machinations of this Communist agency.

V

We believe that a constitutional Republic, such as our Founding Fathers gave us, is probably the best of all forms of government. We believe that a democracy, which they tried hard to obviate, and into which the liberals have been trying for 50 years to convert our Republic, is one of the worst of all forms of government. We call attention to the fact that up to 1928 the U.S. Army Training Manual still gave our men in uniform the following quite accurate definition, which would have been thoroughly approved by the Constitutional Convention that established our Republic: "Democracy: A Government of the masses. Authority derived through mass meeting or any form of direct expression results in mobocracy. Attitude toward property is communistic—negating property rights. Attitude towards law is that the will of the majority shall regulate, whether it be based upon deliberation or governed by passion, prejudice, and impulse, without restraint or regard to consequences. Results in demagogism, license, agitation, discontent, anarchy." It is because all history proves this to be true that we repeat so emphatically: "This is a Republic, not a democracy; let's keep it that way."

VI

We are opposed to collectivism as a political and economic system, even when it does not have the police-state features of communism. We are opposed to it no matter whether the collectivism be called socialism or the welfare state or the New Deal or the Fair Deal or the New Frontier, or advanced under some other semantic disguise. And we are opposed to it no matter what may be the framework or form of government under which collectivism is imposed. We believe that increasing the size of government, increasing the centralization of government, and increasing the functions of government all act as brakes on material progress and as destroyers of person freedom.

VII

We believe that even where the size and functions of government are properly limited, as much of the power and duties of government as possible should be retained in the hands of as small governmental units as possible, as close to the people served by such units as possible. For the tendencies of any governing body to waste, expansion, and despotism all increase with the distance of that body from the people governed; the more closely any governing body can be kept under observation by those who pay its bills and provide its delegated authority, the more honestly responsible it will be. And the diffusion of governmental power and functions is one of the greatest safeguards against tyranny man has yet devised. For this reason it is extremely important in our case to keep our township, city, County and State governments from being bribed and coerced into coming under one direct chain of control from Washington.

VIII

We believe that for any people eternal vigilance is the price of liberty far more as against the insidious encroachment of internal tyranny than against the danger of subjugation from the outside or from the prospect of any sharp and decisive revolution. In a republic we must constantly seek to elect and to keep in power a government we can trust, manned by people we can trust, maintaining a currency we can trust, and working for purposes we can trust (none of which we have today). We think it is even more important for the government to obey the laws than for the people to do so. But for 30 years we have had a steady stream of governments which increasingly have regarded our laws and even our Constitution as mere pieces of paper, which should not be allowed to stand in the way of what they, in their omniscient benevolence, considered to be "for the greatest good of the greatest number." (Or in their power-seeking plans pretended so to believe.) We want a restoration of a "government of laws, and not of men" in this country; and if a few impeachments are necessary to bring that about, then we are all for the impeachments.

IX

We believe that in a general way history repeats itself. For any combination of causes, similar to an earlier combination of causes, will lead as a rule to a combination of results somewhat similar to the one produced before. And history is simply a series of causes which produced results, and so on around cycles as clearly discernible as any of the dozens that take place elsewhere in the physical and biological sciences. But we believe that the most important history consists not of the repetitions but of the changes in these recurring links in the series. For the changes mark the extent to which man has either been able to improve himself and his environment, or has allowed both to deteriorate, since the last time around. We think that this true history is largely determined by ambitious individuals (both good and evil) and by small minorities who really know what they want. And in the John Birch Society our sense of gratitude and responsibility (to God and to the noble men of the past), for what we have inherited makes us determined to exert our influence, labor, and sacrifice for changes which we think will constitute improvement.

X

In summary, we are striving, by all honorable means at our disposal and to the limits of our energies and abilities, to bring about less government, more responsibility, and a better world. Because the Communists seek, always and everywhere, to bring about more government, less individual responsibility, and a completely amoral world, we would have to oppose them at every turn, even on the philosophical level. Because they are seeking through a gigantically organized conspiracy to destroy all opposition, we must fight them even more aggressively on the plane of action. But our struggle with the Communists, while the most urgent and important task before us today, is basically only incidental to our more important long-range and constructive purposes. For that very reason we are likely to be more effective against the Communists than if we were merely an ad hoc group seeking to expose and destroy so huge and powerful a gang of criminals. In organization, dedication, and purpose we offer a new form of opposition to the Communists which they have not faced in any other country. We have tried to raise a standard to which the wise and the honest can repair. We welcome all honorable allies in this present unceasing war. And we hope that once they and we and millions like us have won a decisive victory at last, many of these same allies will join us in our long look toward the future.●

TRIBUTE TO MRS. DORIS WESTERN

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. TRAXLER. Mr. Speaker, it is a great pleasure for me to call the attention of this Congress and our Nation to the overwhelming accomplishments of Mrs. Doris Western. I have had an opportunity to personally witness Mrs. Western's work for many years now, and I want to take this opportunity to offer her my heartiest congratulations and gratitude.

For the past 41 years, Doris has given unselfishly of her life and energies to the Agricultural Stabilization and Conservation Service in her own county, the State of Michigan, and the country as a whole. She is now retiring, having served a career of distinction and dedication.

Doris began her career as a part-time office assistant in the Huron County ASCS office in 1937. The following year she became a full-time employee as an office clerk. Since then she has received continuous promotions to secretary-treasurer and county office manager, and in 1970 she was made the Huron County Executive Director.

During her years of service, Doris performed at such an outstanding level that she received individual performance awards in 1959, 1965, 1969, 1972, 1974, 1978, and 1980. She also received the outstanding newsletter award for 1968 and five awards for developing new methods of increasing office efficiency.

Her efforts also reflected on the office as a whole, and the Huron County ASCS office was named the outstanding office in the State in 3 separate years. In 1957, the Huron County office was chosen as the first training center for new county executive directors. Most of the directors currently serving in Michigan were trained by Doris.

Her expertise and effective administrative abilities have brought Doris respect from all her colleagues, not only in the State of Michigan, but also at the national level. I know that her leadership has been a constant source of inspiration and guidance for all her fellow employees throughout her years of service.

As Congressman of the Thumb area of Michigan, I have had many opportunities to speak on the floor of the House of Representatives on behalf of the interests and concerns of my congressional district. Today, it has been a special pleasure for me to speak of the contributions of one of our leading citizens. Her lifetime of service is most greatly appreciated and I know we will all miss her when she retires.●

CHRISTIANITY AND POLITICS—PART I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. McDONALD. Mr. Speaker, there has been a growing concern about the involvement of Christians in political affairs. This trend seems to be polarizing the Christian community. However, there is increasing realization that the moral basis of our laws are biblical. So, if Christians elect to remain inactive, they stand not only to lose their country, but also their freedom of worship. Rev. Joseph C. Morecraft of Atlanta, Ga., has written an excellent analysis entitled "The Counterproductivity of Not Linking Christianity and Politics: A Reply to Senator Mark Hatfield." I commend part I of two parts to the careful attention of my colleagues.

The analysis follows:

THE COUNTERPRODUCTIVITY OF NOT LINKING CHRISTIANITY AND POLITICS: A REPLY TO SENATOR MARK HATFIELD

Before Christians today can hope to make any contribution to the solution of the social and political ills afflicting our nation this is an imperative: they must dispose of the humanist myth of the neutrality of politics so far as religion is concerned. (E. L. Hebden Taylor, "The Myth of Religious Neutrality in Politics.")

What is religious neutrality in politics? Hebden Taylor answers, "According to this neutrality principle Christians may participate in the political process only as citizens but never as believers. Thus in his book "The Christian in Politics" Walter James argues: "The Christian is called upon to act beside other men and no assurance is given him that he will sense God's purpose better than they. He can no more aim to be a Christian statesman than a Christian engineer. Politics has at any one time its own techniques, aims and standards, vary though they may, and in the light of them as they are in his lifetime, the Christian's effort must be to make a good politician and no more. He stands on a par with the nonchristian, just as there are no denominations in the science of physics. His religion will give him no special guidance in his public task, as it will do within his personal relationships with close neighbors." In thus advocating that Christians must abide by the prevailing doctrine of neutrality which seeks to exclude religion from politics and in suggesting that Christians should restrict their religion to the field of personal relationships, James has neatly fallen right into the secular liberal humanist trap which tries to place religion alongside man's other activities and interests, whether these be academic, social, economic, political, or artistic. This modern idea of "religion" is one which the secular apostate world around us today loves to have Christians accept. Secular humanists have no objection to our Christian faith at all, provided we reserve it strictly for ourselves in the privacy of our homes and church buildings, and just so long as we do not try to live up to our Christian principles in our business and public life.

On no account must the Spirit and Word of the Lord Jesus Christ be allowed to enter the ballot booth or the market place where the real decisions of modern life are made, nor must religion interfere with such vital matters as education, politics, labor relations, profits and wages. These activities are all supposed to be "neutral" and they can therefore be withdrawn from sectarian influences so that the secular spirit of the community may prevail. This is the spirit of reason, science and pure technique of the practical pragmatist. For him truth is only what works out in practice and for whom the God of the Bible is thought to be the projection of the father image or at least a being concocted out of man's image of himself or of the society in which he lives. (Hebden Taylor, "The Myth of Religious Neutrality in Politics.")

Bernard Zylstra has well spoken in "Challenge and Response," "Neutralism is the view that man can live wholly or partly without taking God's Word into account. Those who pay homage to the fiction of neutrality maintain that many segments of modern culture are merely technical. It is then thought that a corporation, a union, a school, a government can be run by making exclusively factual, technical decisions which have no relation to one's ultimate perspective on the basic issues. . . . This 'technalism' is the result of a pragmatic philosophy. The defenders of 'technalism' are among the most dangerous guides to a wholly secular world. For it is inevitable that the realm of the 'neutral' and the 'factual' will constantly increase until it has swallowed all of human morality and faith."

Religious neutrality in politics has been advocated in a recent CONGRESSIONAL RECORD (Vol. 126; No. 66) by Sen. Mark Hatfield, who espouses "evangelical" Christianity. The title of this article (pg. S4271) reveals its main thrust, "The Counterproductive Linking of Religion and Politics." In this speech, which is a response to the "Washington for Jesus" rally on April 29, 1980, Sen. Hatfield commends the leadership of that rally for not "linking their religious concerns with so-called political issues." He says "I want to commend them for seeing the danger in such a strategy and putting aside an organized lobbying effort on issues which people of goodwill have a difference of opinion." Bear in mind that those attending the rally were fellow "evangelical" Christians.

Sen. Hatfield included in his speech an article by Stanley Mooneyham, entitled, "United We Fall." In this article, Mooneyham misinterprets and misapplies several biblical texts to make his point: "I am as scared of an evangelical power bloc as I am of any other . . . Although it is not impossible to harmonize the two in some situtations, there is actually a basic conflict between christian commitment and political power. The strength of faith is in its avalanche of powerlessness, its tidal force of love. If politics is the art of achieving the possible, faith is the art of achieving the impossible. Politics says, 'Destroy your enemies.' Christian faith says, 'Love your enemies.' Politics says, 'The end justifies the means.' Christian faith says, 'The means validates the end.' Politics says, 'The first shall be first.' Christian faith says, 'The last shall be first.'"

Mooneyham's redefining of faith and dichotomyzing of faith and politics is tantamount to making faith irrational, contentless and irrelevant and to making politics autonomous, pragmatic, and sovereign. It sounds like he found his definition in Karl Marx or some other advocate of secular pragmatism. Furthermore, man-as-individual or man-in-society is dependent upon Almighty God, Who alone is autonomous and sovereign—so believes the Christian.

Sen. Hatfield refers to a second article written by Charles Bergstrom entitled, "When the Self-Righteous Rule, Watch Out!" This article is an attack on "evangelicals" who believe the Bible is to be used as a political textbook, as our founding fathers believed. Mr. Bergstrom sets up a man of straw and then proceeds to knock him down. His exaggeration of the position he is opposing shows that he does not really understand that position. He identifies those Christians who "read the Bible without a sense of mystery and ambiguity" with those who gave us "the Crusades, the Spanish Inquisition and the Salem witchcraft trials." He goes on to intimate that these Christians are self-righteous, because they hold this position. I thought only God could see the heart?

There are two fundamental weaknesses with this position held by Sen. Hatfield concerning religious neutrality in the political arena. First, there is a misunderstanding of the relationship of religion to culture (life, including politics). And, second, there is an (unintentional) denial of two basic principles of Christianity: (1) the lordship of Jesus Christ over all of life; and (2) the all-embracing authority of the Law of God.

What is the relationship of religion to culture (life), according to the teachings of the Bible, and recognized by many christians and non-christians alike? This is not an irrelevant theological debate. It is central to the whole discussion of the role of the Christian and of Christianity in American politics. A misunderstanding here can be, and has been, devastating for Americans.

What do we mean by the word, "religion"? It is "the binding tendency in every man to dedicate himself with his whole heart to the true God or an idol," according to F. Nigel Lee. In this sense all men are religious because no man can escape being a man in the image of God created to worship and serve God, rebellious and unregenerate though he be. Romans 1:25 says, "For they (mankind) exchanged the truth of God for a lie, and worshipped and served the creature rather than the Creator. . . ." Man is inescapably religious.

What do we mean by the word, "culture"? It is religion externalized. Culture "is the unavoidable result of man's necessary efforts to use and to develop the world in which he lives either under the guidance of the Lord or under the influence of sin, in accordance with whichever of the two controls his heart. As such, culture includes all of man's works—his arts, his science, his agriculture, his literature, his language, his astronomical investigations, his rites of worship, his domestic life, his social customs, (his politics)—in short, the cultural products of the whole of man's life stand either in the service of God or in the service of an idol," writes Lee. Man was created by God for culture, i.e., to "cult-ivate" the garden (Gen. 2:15); to multiply and have dominion over the earth (Gen. 1:28). He cannot escape his calling, although unregenerate man perverts it, while regenerate man does it for the glory of God and in submission to God's command.

Now concerning the relationship of religion to culture. It bears a similar relationship as "faith" does to "works". Works grow from the root of faith and are expressions of that faith. "Faith without works is dead," according to James 2:26. Culture is religion externalized. It is the outgrowth and expression of the religion of the people. All cultures, then, are thoroughly religious and never can be a-religious. (That is not to say that they are all theistic. For instance, humanism, as recognized by the U.S. Supreme Court (Torcaso vs. Watson), is a non-theistic religion, believing only in man.) Every aspect of a nation's life will reflect, and cannot help but reflect, the religion of the citizenry, whatever that religion may be. Religious neutrality in politics, and in every facet of a nation's culture and life, is a myth. Because religion (faith) is all-inclusive, all human activity will be colored by the religion (faith) one holds. There are no neutral cultural activities, as there are no neutral "works"; they are either "good works" or "evil deeds", done either to the glory of the God of the Bible or to the glory of an idol (non-god). Van Til writes on this subject, that:

"Culture is not something neutral, without ethical or religious connotation. Human achievement is not purposeless but seeks to achieve certain ends, which are either good or bad. (For the Christian, the one standard of morality, public and private, is the Bible.) Since man is a moral being, his culture cannot be a-moral. Because man is a religious being, his culture, too, must be religiously oriented. There is no pure culture in the sense of being neutral religiously or without positive or negative value ethically. Although the realization of values in a culture may seem on the surface to be concerned merely with the temporal and the material, this is appearance only, for man is a spiritual being destined for eternity, exhaustively accountable to his Creator-Lord. All that he does is involved in the whole of his nature as man.

"Culture, however, does not include religion. The notion that it does is the basic error of practically all our cultural anthropologists, which fact may be ascertained by perusing casually any standard work on anthropology by such authors as Vander Leeuw, Malinowsky and others. But the basic assumption underlying this position negates Christianity and is thoroughly naturalistic. For the position of the cultural anthropologist is that religion is simply a projection of the human spirit, an attempt to manipulate the unseen by magic, or, in any case, that man creates the gods of his own image, thus making it a cultural achievement. This is also the general attitude of the religious liberal, who uses religions for achieving man's ideal goals such as world peace. . . .

"The reason religion cannot be subsumed under culture is the fact that whereas man as a religious being transcends all his activities under the sun, culture is but one aspect of the sum total of these activities and their results in forming history. To divide life into areas of sacred and secular, letting our devotions take care of the former while becoming secular reformers during the week, is to fail to understand the true end of man."

We need to understand that a man never can lay down his religion and act as a religionless person. He can have his religion changed, but he cannot act or think in a religionless manner, because religion is the governing principle of all he does, is and says. Religion is like the "heart", out of it flow the issues of life, prejudicing all areas of human experience and thought, (Proverbs 4:23). This is re-affirmed by Jesus, when He taught that it is the heart that influences the thinking and behavior, and not vice versa, (Mark 7:20). The implication, then, is clear: The Christian may never think or live as anything other than a Christian governed by the Word of God. He is never his own person, being "bought with a price." He may not claim sovereign rights over his own opinion or behavior. He is a person under authority, who is striving to "bring every thought captive to Christ," even his political thoughts.

To attempt to act "neutrally" in any field of endeavor is to make the mistake of Eve, who assumed, that after God had spoken ("Don't eat!") and after Satan had spoken ("Do eat!"), she had to take a neutral position and decide for herself and by herself who spoke the truth. Thus, in a fallen condition, she, as the first humanist, pretended to have the autonomous ability and responsibility to determine for herself "good and evil." (Genesis 3:5) The Christian asks, "Who is man ever to take a neutral position to the command of the living God?" Neutrality is disobedience.

The other side of this should be obvious also. Since religious neutrality is a myth, those who profess to be such, have, in fact, laid aside their Christian presuppositions and have (unintentionally) taken up another religion. The humanists will not lay down their presuppositions, goals, and objectives. And when the Christian does so, he falls into the humanists' well-laid trap. He, in reality, joins the humanist in striving for his goals and objectives. He adopts, in the political arena, the humanist's presupposition, which is the belief that man-in-community can solve his problems without reference to God or to His written revelation.●

YOU CANNOT BUY FREEDOM

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. DERWINSKI. Mr. Speaker, an article has crossed my desk written by Baron Alex Ostoja Starzewski, an American born in Poland, who tells a familiar but rarely accepted story. Baron Starzewski has seen one nation after another slip into the "muffled zone" behind the Iron Curtain while Western leaders temporize and pretend that they can buy their freedom. Read what a man who fought both the Nazis and the Communists had to say. Reprinted from the Manchester Union Leader of June 19, 1980, the article appears below:

YOU CANNOT BUY FREEDOM WITH MONEY

As an American born in Poland, I recall how I came to realize only too dramatically, when I was but 18 years old, how important it is to speak out in defense of the basic values of one's society—rather than in support of mere political slogans.

It was in August, 1939, during the night of the 20th day of the war—the war which was to become World War II—but, at that time, all of the Polish people were already fighting against both Germany and its ally, the Soviet Union with its Red Army.

I was sitting behind a tree on a hill overlooking the cemetery of the city of Lwow—the Orleta Cemetery (the "Eagles Cemetery") where the defenders of the city in 1919 and 1920 had been put to rest. (The majority of those buried in Orleta had been boys of only 12, 14 and 16 years.

(And buried there, also, were American volunteers who had joined the Polish defenders against the Lenin-sponsored and Lenin-instigated Ukrainian attacks.)

Now, as a young cadet officer, I was one of 90 Polish soldiers defending this position against the Red Army surrounding the city of Lwow. (The Red Army had replaced the German Army which had pulled out of the territory in accordance with the 1939 Ribbentrop-Molotov treaty dividing Poland in two.)

I was hungry and thirsty and very much exhausted. The Soviets had cut our water supply four days before. We had eaten all our horses and we were told that the civilian population of Lwow had begun to eat the rats. Dogs and cats had disappeared long before.

Nevertheless, and although we were expecting another Red attack at any moment, our spirits were high because we were sure England, France and possibly the mighty United States surely would not let us down. It surely could not be, we felt, that England and France, which had signed a mutual defense pact with Poland in 1939 against third-country aggressors, would stand by and let the barbaric forces take over not only Poland but also Europe and, possibly, the whole world.

Although the Red Army was near, I kept on dreaming—we were all dreaming—dreaming about brave Polish soldiers fighting shoulder-to-shoulder with French, English, Dutch and Norwegian troops against the evil forces of Germany and the Soviet Union. And, in that dream, we saw our victorious allied forces marching through the Brandenburg Tor (Berlin), and, after liberating the Ukrainians, Cassocks, Armenians and Tartars—all Soviet-enslaved nations—we finally marched in our dream through the Red Square in Moscow.

And then we dreamed a picture of a new Europe—free from terror and a place where liberties flourished and where there was human dignity and real justice for all.

Because of this vivid dream, even the fact that our forces, especially at our position, had lost 80 percent of the men in the last six days without replacement, that we had not tasted warm food for 10 days and were eating only carrots or whatever we found in the fields, that we had not had water—all this could not discourage me from believing that, ultimately, we would win this war.

Suddenly, the roaring of artillery fire broke the silence of the night and the shells began exploding over our position. The time had come and the dream was over.

For some, it was a long road indeed from that cemetery hill in Poland—through Soviet Russian prison camps, escaping through the endless snow-covered Soviet land, then through German prison camps and, finally, to liberty with the American forces which had at last landed on the European continent.

As the road to the West became shorter, however, it had grown much more painful, for the recognition was growing that all our dreams had been betrayed, that all the destruction, all the deaths, all the total sacrifice had been in vain—because we began to see that the victory was not the victory of freedom, human dignity and human rights, but it was the victory of the forces of darkness—the victory of those who have manipulated whole peoples, whole nations simply in the thirst for power and dirty profit, for the God of Mammon.

Somehow, the terrible recognition was emerging, but the ugly truth was so incredible, the injustice so overwhelming, and the pain so intense, that decent minds recoiled from accepting it.

And so, out of desperation, our resistance against this ugly truth grew stronger and with it came the awful realization that it would take even more sacrifice, more pain, and more fighting to defeat the despicable forces which had betrayed truth, justice and the established order.

Then I remembered from my school days the story that when the Persian Army was approaching Greece, one of the leaders of Athens said to the people of that city, "And those who want to live can go and live, but they will put the chain of slavery around their necks—but the rest of us will stay and fight, and we shall either win as a free people or die as a free people!"

It was then that the small band of 500 Spartans challenged the Persians at Thermopylae. All 500 died bravely but, in dying, they had alerted others to the fact that freedom and justice have to be defended with one's own life.

Today, history is repeating itself and it does not matter that the forces now surrounding the last bastion of the free world, our beautiful country, are not the Persian armies. The values for which the Spartans fought at Thermopylae are again in danger.

Around the world today, country after country has fallen into enemy hands—just as nations fell when the Persians were on the march. We, as the supposed last bastion of liberty, in most cases, did nothing to help those nations as they fell, nothing to stop the victorious armies of the modern enemy. We, in our time, have also chosen to "live" instead of fighting, have chosen to allow the chain of slavery to be placed around the neck of other countries and, now, we have reached the point where the silvery chain is dangling dangerously close to our own necks.

In our time, the modern Spartans have been the Poles, the Hungarians, the Czechoslovakians, the East Germans, the South Vietnamese, the Angolans, the Cubans, the Nicaraguans and many others—courageous nations which sent their own brave warriors to challenge the advancing enemy armies at the entrance to their own Thermopylaes.

All of them fought bravely and most of them were killed in the belief that their struggle would mean something. Alas, however, their heroic deaths somehow have not alerted you to the fact that you have to defend your liberties, your human rights, your claim on justice and your personal dignity with your own life.

There is no substitute for it in the long run. You cannot buy it with money. Like the ancient Greeks, you have only two alternatives: to "live" with the chain of slavery around your neck, or to fight—perhaps even to the death—to remain free men and women.

There are only a few Spartans left in our nation with the courage to challenge the forces of darkness, in defense of your rights and the values you cherish.

Are you going to watch them being crushed and then turn your back on them—or are you going to fight?●

U.S. HOLOCAUST MEMORIAL COUNCIL

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. LEHMAN. Mr. Speaker, I am very pleased to report that I am today joining with many of my distinguished colleagues in introducing legislation to establish, as a permanent body, the U.S. Holocaust Memorial Council.

The Holocaust Memorial Council will have the responsibility to plan and carry out the recommendations of the President's Commission on the Holocaust. The Commission was established by the President on November 1, 1978, to recommend a fitting memorial to all those who perished in the Nazi holocaust as well as other victims of persecution. The Commission recommended to the President that a permanent living memorial/museum to the victims of the holocaust be established, that an educational foundation be established, and that there be created a Committee on Conscience to provide early warning of threats of genocide against any people throughout the world. In addition, the Commission recommended that 1 week each year be designated "Days of Remembrance" to be marked by a national, civic commemoration and appropriate private and public observances.

Private contributions, Mr. Speaker, will provide most of the funding for these projects. The Holocaust Memorial Council, which was itself established by Executive order as a temporary body, has already established the U.S. Holocaust Remembrance Foundation, Inc. for the purpose of accepting private contributions.

Mr. Speaker, the establishment of a permanent Holocaust Memorial Council to plan and oversee the construction and operation of a memorial museum and to oversee the implementation of the other recommendations is of great importance, not only to the memory of the victims of the holocaust but to all people who have been persecuted and those who may perhaps escape persecution in the future. While the Council will be concerned with commemorating the holocaust, its work will be dedicated to seeking to prevent genocide directed against any people, anywhere in the world.

For these reasons, I would like to urge my colleagues to join with the 100 Members on the House side who have already sponsored this legislation to establish a permanent U.S. Holocaust Memorial Council.

Mr. Speaker, I would also like at this time to share with our colleagues the letter from President Carter to Hon. Elie Wiesel requesting Mr. Wiesel to serve as Chairman of the Holocaust Memorial Council, and the text of an address presented by Hon. Monroe Freedman, Director of the U.S. Holocaust Memorial Council, at the May 1980 meeting of B'nai B'rith International in Washington, D.C.

The two articles follow:

THE WHITE HOUSE,
Washington, April 18, 1980.

Hon. ELIE WIESEL,
239 Central Park West,
New York, N.Y.

TO ELIE WIESEL: I want you to know once again how greatly I have valued your distinguished service as Chairman of the President's Commission on the Holocaust. Under your guidance and leadership, the Commission has made an invaluable contribution to our country and to the memory of the six million Jews who perished in the Holocaust, and the other victims of Nazism in World War II.

I have been gratified by our developing friendship, and deeply touched by the opportunity to broaden my awareness and perception of the Holocaust—a period of darkness that revealed the most profound evil and the highest spirituality that the human soul is capable of achieving.

In order to carry out the Commission's recommendations, I have now established the United States Holocaust Memorial Council. Specifically, the Council will be responsible for the establishment of an appropriate memorial museum, an educational and research foundation, and a Citizens Committee on Conscience to commemorate the Holocaust.

I think it is essential that these projects recognize the distinctively Jewish nature of the Holocaust. As you so eloquently wrote in submitting the Commission's report, while not all victims were Jews, *all* Jews were victims, destined for annihilation solely because they were born Jewish. Of course, it is also important to take into account, as the Council's work proceeds, that there were Nazi atrocities committed against other nationalities and ethnic groups in all of the occupied countries of Europe.

Although the Holocaust took place in Europe, the event is of fundamental significance to Americans for at least three reasons. First, it was American troops who liberated many of the death camps, and who helped to expose the horrible truth of what had been done there. Also, the United States became a homeland for many of those who were able to survive. Secondly, however, we must share the responsibility for not being willing to acknowledge forty years ago that this horrible event was occurring. Finally, because we are humane people, concerned with the human rights of all peoples, we feel compelled to study the systematic destruction of the Jews so that we may seek to learn how to prevent such enormities from occurring in the future.

I am pleased to invite you to serve as Chairman of the Holocaust Memorial Council. In view of your previous service and your extraordinary record as a survivor, witness, author, scholar, and teacher, it is uniquely appropriate that you once again assume the responsibilities of leadership in this vital mission.

As always, you will have my strongest personal support.

Sincerely,

JIMMY CARTER.

THE PARTICULAR HOLOCAUST

(By Monroe Freedman)

Two years ago President Carter established the President's Commission on the Holocaust, under the chairmanship of Elie Wiesel. In September 1979, that Commission fulfilled its responsibilities by presenting to the President its Report and Recommendations. The Commission recommended a permanent memorial/museum to the victims of the Holocaust, an educational foundation, and a Committee on Conscience, to monitor and provide early warning against threats of genocide worldwide. Funding is to be primarily through private contributions. The present body, the United States Holocaust Memorial Council, was established by a second Executive Order to seek legislation to carry out the Commission's recommendations.

In forming the Holocaust Memorial Council, President Carter noted the reasons that the Holocaust is of fundamental significance to Americans, and why there should be an American commemoration of its victims. It was American troops who liberated many of the death camps and exposed the horrible truth of what had been done there. Also, the United States subsequently became the homeland of many survivors. The President noted further that Americans must bear responsibility for not being willing to acknowledge 40 years ago that the tragedy was occurring. Thus, thousands of refugees were turned away from our shores, and countless thousands of lives were lost that otherwise could have been saved. Further, Americans are a humane people, concerned with the human rights of all peoples. In studying the systematic destruction of the Jews by the Nazis, the President added, we can seek to learn how to prevent the recurrence of genocidal threats against any national or ethnic group.

The original Commission recognized at an early point, however, that the Holocaust could not be appropriately memorialized—historically, logically, or morally—as an event unrelated to Nazi atrocities throughout the occupied countries of Europe. In addition, the earlier annihilation of one and one-half million Armenians is a relevant, significant precedent for genocide unrestrained by a community of nations claiming to be civilized.

Moreover, just as the Armenian genocide should have become an object lesson to the world, rather than a precedent for brutality unrestrained, so the Holocaust must provide lessons to humanity of the individual, national and international moral responsibility for such catastrophes as we have subsequently witnessed in Bangladesh and Nigeria, and are witnessing today in Cambodia.

Just as it would be illogical, unhistorical, and immoral to commemorate the Holocaust unrelated to historical precedent and context, and without regard to the continuing confrontation with genocide, so too would it defy logic, history, and morality to deny what the Holocaust itself was. As recognized in literature, philosophy, and theology (and even on television), the Holocaust was the annihilation of six million Jews as a formal, systematic act of state, pursuant to what the Nazis referred to as the Final Solution of the Jewish question. The event was all the more ghastly because it was committed by a modern European country with an extraordinary history of achievement in science, the arts and philosophy. Indeed, those very achievements, which might have been expected to provide a civilizing bulwark against bestiality, were put to work to expedite the mass slaughters, to ease the consciences of the slaughterers and even to attempt to rationalize and to justify the evil. And through the years of anti-Semitic race laws, persecution and extermination, the world acquiesced in its silence and inaction.

To say, therefore, that the Holocaust was unique, and that its victims were Jews who died as Jews because they were Jews, is to recognize a horrible historical truth. Surely, however, that observation does not denigrate in the least the sufferings of other peoples. For just as each person is unique, so is each people, and the calamities of each people, unique. To say that is to emphasize, not to deny, our common humanity.

It has been suggested, however, that a commemoration of the Holocaust—even in its historical context and with full recognition of its universal implications—is somehow inappropriate, unless the Holocaust is to be redefined as an event involving not six million Jews, but eleven million civilians. That is, the Holocaust, it is suggested, should be universalized, not only in its implications, but also in such a way as to deny that it was, fundamentally, the policy and execution of genocide against the Jewish people. As the universalist view has been expressed rhetorically, are Jewish lives more precious, or more deserving of commemoration, than are those of other civilian victims of Nazism?

Of course not. And, as I have already emphasized, other victims of Nazi atrocities will, unquestionably, be a significant part of any United States Holocaust Memorial. Accomplishing that, however, does not require either a redefinition of the Holocaust, or a falsification of the historical fact of the Final Solution, or a denial of the uniqueness of the Jewish experience that the Holocaust represents.

That suggests no lack of compassion, much less disrespect, for others who have suffered. Indeed, the extreme universalist position succumbs ineluctably to the logic of its own rhetoric. If commemoration of the Holocaust is somehow ethnocentric, and implies lack of compassion for others, then where, rationally or morally, is the stopping point? How can we be so callous as to exclude the civilian victims of the Nazi firebombings of London? And indeed, why should a memorial be limited to civilians? Are their lives somehow more precious, or are they more worthy of being commemorated, than are the young men who were drafted into military service to be killed before their time? Moreover, what of the civilians on the other side? Are we to deny, for example, the humanity of those who perished so horribly in the destruction of Dresden? Indeed, why are those who died during World War II more worthy of remembrance than those who died in other wars—or in peacetime, for that matter?

Where, indeed, is the rational or moral stopping point? Once one starts trying to impose a sense of guilt for commemorating a particular group of victims, there is no valid justification to stop short of all humankind.

For the reasons stated earlier, it is clear to me that the Jewish victims of the Holocaust are entitled to particular recognition. Moreover, they died as Jews, because they were Jews. I am offended, therefore, by efforts to strip them of their Jewishness. I understand that there are religious groups who posthumously convert people to their faith. In a sense, the insistence of referring to six million Jews as an indistinguishable part of eleven million civilians is a similar effort—if not of conversion, then of posthumous assimilation.

If we are to have a philosophical objection to commemorating the Jews of the Holocaust, then I am afraid we must also rethink other particularist causes, such as our support of Soviet Jewry. What, for example, if one were to argue as follows:

People say to me, "We must help the Jews in the Soviet Union," and I reply, "You can't improve the lot of Jews in the Soviet Union until you improve the lot of the whole (Soviet) population."

That is another aspect of universalism. Nor have I fabricated an argument *ad absurdum* to make the point. That quotation is from a statement by Simon Wiesenthal. As a further example of Mr. Wiesenthal's universalism, we have a full-page ad from the Wiesenthal Holocaust Center. Nowhere on that entire page does the word "Jew" appear, even once. Although I admire much of what Mr. Wiesenthal has done, I cannot concur in his apparent compulsion to assimilate every Jew, living and dead, into the non-Jewish community.

Let me state as a fact, without expressing either pride or apology, that I rarely have been involved previously with particular Jewish causes, although I have always been involved with a sense of Jewish identity and obligation. Whether black civil rights, the anti-war movement, the rights of indigent criminal defendants, prisoners' rights, women's liberation, affirmative action, homosexuals' rights, the handicapped, union democracy, institutionalized children—even the rights of Nazis to march in Skokie—each was a particular cause. And each, in my mind, has had universal implications.

It is in that spirit that I speak for the integrity of our remembrance of the Holocaust. It was a uniquely Jewish event, and it cannot be understood if we deny that fact. It occurred, however, in a historical context of suffering of millions of others, who cannot, who should not, be ignored. And its implications are, awesomely, frighteningly universal.●

H.R. 7235—RAIL ACT OF 1980

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. MADIGAN. Mr. Speaker, tomorrow the House will resume consideration of H.R. 7235, the Rail Act of 1980. On July 24, the House, by a vote of 204 to 197, adopted the Eckhardt amendment. At that time Mr. FLORIO, the majority floor manager of the bill, and I withdrew the bill from further floor consideration. We took that action because the Eckhardt amendment severely limited the ratemaking freedom contained in the committee bill. Quite frankly, we believed that it would be better to let the Interstate Commerce Commission continue their policy toward deregulation under existing law than to pass a bill which froze Government regulation of railroads for at least 3 years.

Further study of the Eckhardt amendment by the Chairman of the Interstate Commerce Commission confirmed our belief that no rail bill was preferable to a rail bill containing the Eckhardt amendment. I ask unanimous consent that a copy of a letter from Chairman Gaskins to Chairman FLORIO be printed in the RECORD immediately following my remarks.

When it became clear that the committee leadership could not support the rail bill with the Eckhardt amendment, a number of members, railroads, shipper interests, and the administration sought out a compromise between the bill as reported from committee and the bill with the Eckhardt amendment. I am pleased to report that the search for a compromise has been successful.

When the House resumes consideration of H.R. 7235 tomorrow, Mr. Staggers will offer the Staggers-Rahall-Lee-Loeffler compromise amendment. Mr. Florio, Mr. Broyhill, and I have worked closely with the sponsors of the compromise amendment and are convinced that it is a good compromise. As in the Eckhardt amendment, the compromise amendment focuses mainly upon the ratemaking provisions of the committee bill. The compromise amendment affords those interest groups who supported the Eckhardt amendment greater protection than contained in the committee bill without sacrificing the principle of substantial rate deregulation.

For example, agricultural interests in my own State and throughout the Nation were principally concerned about the demand-sensitive rate provision of existing law and the contract rate provision of the House bill. They expressed a preference for repeal of the existing law relating to demand-sensitive rates. The compromise amendment does just that.

On contract rates, a preference was expressed for the provision contained in the Senate bill, S. 1946, as opposed to the contract rate provision in the committee bill. The compromise amendment adopts those features of the Senate provision preferred by agricultural shippers. In addition, it is my understanding that there will be an amendment to a subsequent title of the bill which will establish a Shipper Needs Board to make certain that the Department of Agriculture and others monitor the workability of the new rail law to make certain that rail service to agricultural shippers is improved.

Large shippers and electric utilities were concerned about both the level and timing of the rate freedom contained in the committee bill. Their concern in this regard has been met in the compromise amendment by putting a cap on the jurisdictional threshold for rate freedom and by phasing such rate freedom in over a period of 5 years. The Committee of Rail Shippers, the coal industry, the Chemical Manufacturers Association, and the National Industrial Traffic League have all devoted long hours to the legislative process involving this bill. It is my understanding that each of those groups finds the compromise amendment acceptable.

Finally, Mr. Speaker, the compensatory joint rate title of the bill caused concern for many short line railroads, ports, and shippers. That section of the committee bill is in title III and was not addressed at the time the managers of the bill removed it from floor consideration. Had we considered title III, Congressman Lee of New York would have offered an amendment which addressed the concerns of short line railroads. The compromise amendment contains those provisions which were worked out by Mr. Lee in order to protect short line railroads. It has the endorsement of the American Short Line Association and nearly every one of the short line railroads in the country. In addition, the compromise amendment contains a number of shipper safeguards against the unwarranted use of the surcharge provision which is used to assure compensatory joint rates. This provision has the specific endorsement of the Committee of Rail Shippers.

The compensatory joint rate or surcharge provision is further amended by the compromise to protect ports by preserving their rights to challenge surcharges on the basis of discrimination. This represents a further extension of the amendment offered by Congresswoman Mikulski and adopted on the House floor prior to the Eckhardt amendment.

Mr. Speaker, I ask unanimous consent that a detailed explanation of the compromise amendment be printed in the Record immediately following my remarks.

Mr. Speaker, the Rail Act of 1980 is a necessary piece of legislation. It is necessary because our Nation needs a strong railroad system. Under existing law we do not have a strong railroad system. We have been plagued by failing railroads and progressively poorer rail service. The need for legislation is so apparent that Members on both sides of the aisle have been careful not to make this bill a political issue. In my judgment we should keep it that way.

I sincerely hope that Members on both sides of the aisle will wholeheartedly support the Staggers-Rahall-Lee-Loeffler compromise so that we may proceed with further consideration and eventual passage of this necessary legislation.

The letter and explanation follow:

Interstate Commerce Commission,
Washington, D.C.

Hon. James J. Florio,
Chairman, Subcommittee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: This is in response to your request for my views on the Eckhardt amendment to H.R. 7235, the "Harley O. Staggers Rail Act of 1980." As you know, I believe it imperative that the rail industry be brought into the mainstream of modern American business if the industry is to survive without massive and continuing federal assistance and if it is to realize its potential for efficient service to the Nation. In my view, this cannot be done unless we place maximum possible reliance on the marketplace to establish rates and conditions of service. Consequently, I am concerned about specific provisions of the Eckhardt amendment that seem to work against this goal, and about its impact on the thrust of the bill generally.

The Eckhardt amendment addresses three areas: rate reasonableness; contract rates; and demand-sensitive rates. In the ratemaking area, the amendment would for three years limit Commission jurisdiction to rates above 160 percent of variable cost, while retaining the market dominance provision of the current statute. This appears to provide rail carriers greater ratemaking flexibility than the current statute. However, in effect, it merely freezes existing Commission practice. It does not, therefore, represent a step forward, I believe crucial to the ability of the rail industry to compete successfully with other carriers, regain lost traffic, and earn sufficient revenues to attract adequate private investment.

Further, the revised market dominance standards, which were deleted from the bill by the Eckhardt amendment, were extremely useful. By explicitly recognizing source and product competition as factors to be considered, the bill (before the amendment) would have allowed the Commission to focus its resources on those situations where shippers really cannot rely upon the marketplace for protection.

The demand-sensitive rate section of the Eckhardt amendment represents, in my view, a significant step backward. That section prohibits the application of demand-sensitive rates to a broad category of agricultural commodities. It is important to remember that any demand for rail service that varies substantially at different times of the year will cause the rail industry to incur greater costs. The exempted commodities have in the past and will continue to place such demands on the rail system since they move in greater volume when commodity prices are high no matter how much elevator capacity is constructed or how short rail car supply is. Demand-sensitive rates aid the railroads in reducing such costs in some circumstances by encouraging shippers to smooth the level of demand for rail service. When demand does peak, such pricing assures that the railroads at least recover their costs. Demand-sensitive pricing has a further positive feature in that it permits the marketplace to better allocate transportation resources by rationing cars on the basis of price during peak demand periods to those for whom it has the greatest importance. Railroads are specifically permitted such flexibility under the current statute. Their truck and barge competitors have enjoyed such flexibility for many years when transporting such commodities, and shippers have, therefore, grown accustomed to accommodating themselves to fluctuating rates. Loss of such flexibility for almost any major category of traffic would, therefore, in my view, seriously inhibit the railroads in their efforts to earn adequate revenues.

In summary, I am concerned that the Rail Act with the Eckhardt amendment does not give railroads sufficient pricing flexibility. In my previous comments on the bill, I have expressed the opinion that H.R. 7235 provided a balanced approach to solving the railroads financial problems while at the same time guaranteeing shippers protection from abuses of the marketplace. The rate flexibility given rail carriers was, however, balanced by a clear mandate to the Commission to substantially eliminate collective ratemaking as well as a clear mandate to encourage contract rates. The bill thus gives shippers greater and effective access to marketplace alternatives. Such access will help to assure fair regulation of rail pricing. Congressional guidance in these areas is of great importance as a legal matter, as well as in establishing the policy framework for future regulation. For these reasons, I conclude that the "Harley O. Staggers Rail Act of 1980," is far better balanced without the Eckhardt amendment, and hence will be more successful in achieving its objectives without it.

Sincerely,

Darius W. Gaskins, Jr.,
Chairman.

OUTLINE OF PROPOSED RAHALL, STAGGERS COMPROMISE AMENDMENT TO H.R. 7235

I. MAXIMUM RATE REGULATION

A. Jurisdictional threshold to exclude ICC review, rail carrier would bear the burden of showing the rate is below the revenue cost ratio set forth below or the shipper would bear the burden of showing there is market dominance, as in present law. (Strike (c) (i) and (ii) of H.R. 7235.)

October 1, 1980: revenue-variable cost ratio 160 *or* market dominance.

October 1, 1981: revenue-variable cost ratio 165 *or* market dominance.

October 1, 1982: revenue-variable cost ratio 170 *or* market dominance.

October 1, 1983: revenue-variable cost ratio 175 or C.R.P. whichever is lower (no lower than 170 or higher than 180) *or* market dominance.

October 1, 1984 and subsequent years: revenue-variable cost ratio C.R.P. (no lower than 170 to higher than 180) *or* market dominance.

B. Zone of rate flexibility for rates subject to ICC jurisdiction:

1. Date of Enactment to October 1, 1984: Inflation plus 6 percent annually (18 percent cumulative: Carryover up to 6 percent permitted if 6 percent not taken in the past year).

2. After October 1, 1984: Inflation plus 4 percent for Carriers without adequate revenues. (No carryover if 4 percent not taken; no cumulative limit.) By October 1, 1983, ICC to submit report to Congress recommending whether to limit 4 percent increase only to participants not earning adequate revenues when such participants have only a small portion of the haul. Unless Congress changes law to the contrary, all joint rate participants are entitled to 4 percent unless all are earning adequate revenues.

3. Inflation to be computed quarterly.

C. Limit On rates Within The Zone Of Flexibility: Rate increases in excess of inflation which are subject to ICC jurisdiction and are within the zone of flexibility nevertheless would be subject to investigation (but not suspension) if and to the extent the increase brings the revenue cost ratio more than 20 percent points above that year's threshold level. If the Commission decides to investigate the burden of proof, as under existing law, would be on the carrier. If the increase does not bring the rate more than 20 percent points above that year's threshold level, there would be no suspension or investigation, but rate increases could be challenged on complaints.

D. No Presumption Of Unreasonableness: Rates subject to ICC jurisdiction or above any zone shall not be presumed to be unreasonable.

E. ICC Proceeding On Product Competition: The ICC shall institute and conclude a proceeding to determine if, and to what extent, geographic and product competition should be included as a test of reasonableness. The ICC's determination in this proceeding may not extend geographic and product competition beyond the definition of "same commodity" and other limits imposed by the provisions of H.R. 7235 as amended by Mr. Madigan. The legislative history would make it clear that, if the ICC determined to make this a reasonableness factor, the specific limitations of H.R. 7235 would not be exceeded, and the ICC would consider how existing long-term contracts are to be considered in this proceeding. The legislative history would explain the term "consignee's needs", and address cases such as the transportation between two facilities owned by the same shipper.

F. Studies: ICC to study whether either the cost recovery percentage, a new market dominance test, return on investment or some other standard should be instituted as a jurisdictional threshold, and the extent to which geographic product competition should be a determinant of reasonable transportation alternatives and report to Congress the results by the end of the third year.

II. ADEQUATE REVENUES

The ICC shall annually determine whether a rail carrier has adequate revenues based upon a uniform procedure to be promulgated. Within 90 days following enactment, the ICC shall institute a proceeding on uniform methodology for determining whether a rail carrier has adequate revenues and shall establish such methodology within 270 days after enactment.

III. SUSPENSION AND INVESTIGATION OF RATES SUBJECT TO ICC REVIEW

Rates subject to ICC jurisdiction could be suspended for 5 months if a protestant met the tests under the House bill. This period could be extended up to 8 months if the Commission sent a report to Congress. A shipper would be liable for any undercharge if it loses.

IV. DEMAND SENSITIVE RATES

Repeal existing law.

V. CONTRACT RATES

House provision but for agricultural shippers Senate language about holding out same contract to similarly situated shippers ready, willing, and able to enter into contract at a time essentially contemporaneous.

Grandfather provision will be added for existing contracts, and the statute will clearly state that enforcements of the terms of the contract lies with the courts. The provision will make it clear that contracts are not subject to challenge under the Interstate Commerce Act after ICC approval and redefine the grounds for pre-approval challenge to ensure that the common law common carrier obligation will not frustrate the formation of contracts.

VI. PORTS

A specific provision will be added to the bill indicating that nothing in the legislation shall be construed to affect the existing law or the authority of the Commission with respect to rate relationships between ports or to affect the authority and responsibility of the Commission with regard to equalization of rates within the same port.

VII. INTRASTATE RATES

Follow provisions of Broyhill amendment with two changes: Allow 4 months for submission of procedures to ICC and delete annual review. In lieu thereof, certification shall be reviewed every 5 years. ICC and state jurisdiction under Broyhill shall be exclusive.

VIII. RATE BUREAUS

House provision.

IX. GENERAL RATE INCREASES

House provision.

X. CARRIER OBLIGATION

Subject to review of the language, amend Carmack Act to expedite claim filing processes and to eliminate claims for special damages except where provided for in carrier shipper agreements.

XI. DISCRIMINATION

Section 208 of the House bill with port amendment.

XII. SURCHARGES AND CANCELLATIONS (SECTION 301)

1. Clarify that the maximum rate provisions of Title II apply to surcharged joint rates; surcharge may remain if sucharged division qualifies under Section 301, but ICC can require that the surcharge revenue be supplied by connecting carriers where overall rate (with the surcharge) is above jurisdictional threshold and is unreasonable.

2. Section 301(a) surcharges not available for main line movements of carriers who have achieved revenue adequacy; otherwise, surcharge provisions remain.

3. Cancellation provisions of H.R. 7235.

4. Amendments to Section 301 of H.R. 7235 as proposed by Mr. Lee.

5. Include the following protective provisions for shippers in Section 301:

A. Surcharges shall be free from regulation only to the extent that such increases of the surcharging carriers' divisions yield the surcharging carrier a division equal to 110 percent of its variable cost of providing the service;

B. Subsection (b) of section 301 should be amended so that surcharges on light-density lines are subject to the cancellation provisions of section 301(a);

C. Shippers who request cost information for purposes of challenging a surcharge shall, like connecting carriers in similar situations, be given access to such information within five days;

D. Shippers shall have an immediate right to challenge the application of a surcharge (instead of the current provision which requires shippers to defer challenges to surcharges until the connecting carriers have failed to challenge the surcharges;

E. Shippers shall be allowed to challenge a surcharge where they have no competitive alternative to the surcharged route (sec. 301 currently permits surcharges even when the only available alternative routes a shipper could use are priced at rates well above the proposed rate as surcharged);

F. Shippers, as well as connecting carriers, have the right to challenge rate cancellations.

6. Surcharges and cancellations cannot unreasonably discriminate against ports.

7. ICC proceeding to determine if additional protections are needed for Class III and Class II carriers and ports with a report of its findings to the Congress 12 months from date of enactment.

XIII. EXEMPTION

Change standard "not needed to protect shippers from abuse of market power" to "not needed to protect shippers and receivers where there is an absence of effective competition".

XIV. COMPENSATION FOR SHIPPER-OWNED CARS

House provision.

XV. SAFE RAILROAD REINVESTMENT

House provision with Glickman amendment added.

XVI. ROCK ISLAND AND MILWAUKEE

Attempt to make Rock Island Act constitutional so employees will receive $75 million in benefits provided under that Act. Clarify that Tucker Act, applies, and establish an expedited appeal.

Forgiveness of $60 million of debt owed by Milwaukee to the U.S. which is already in default when:

1. Milwaukee is successfully reorganized; or

2. Substantially all is purchased with more than 50 percent of employees.

$15 million for the Milwaukee, which has already been appropriated contingent upon an authorization, is authorized.

$13 million additional in loan guarantees for those, including shippers, who take over Rock Island lines is authorized.

$9 million additional in loan guarantees for those, including shippers, who take over Milwaukee lines is authorized.

XVII. POWDER RIVER BASIN

Requires a DOT decision within 45 days on CN & W's loan application. Waives a portion of the DOT Act which requires findings by the Secretary on such things as the only available route.

XVIII. DELAWARE & HUDSON

Waives requirement that USRA find that loans will be repaid. Assures the D. & H. that funding will continue.●

CONFERENCE REPORT ON H.R. 5192, HIGHER EDUCATION ACT REAUTHORIZATION: A FISCALLY RESPONSIBLE BILL

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. FORD of Michigan. Mr. Speaker, last Thursday the House adopted, by an overwhelming vote of 373 to 16, the conference report on H.R. 5192, the Education Amendments of 1980. Some concerns about the cost of this measure which were not raised during the floor debate on the conference report have been expressed. In response to these concerns, I would note that the conference report reduces the total authorizations of the House-passed bill by a total of nearly $11 billion or about $2 billion for each year authorized. With respect to the loan programs, which include the only entitlement program contained in the bill, the Congressional Budget Office estimates that this bill will reduce the cost of these programs in fiscal year 1981 by $280 million below the House passed bill and by $284 million below current policy. In addition, over the length of this reauthorization, fiscal years 1981-85, this bill will reduce the cost of the loan programs by $2.8 billion below the House-passed bill and by $2.2 billion below current policy.

I include following my remarks a memorandum from the Congressional Budget Office, "Estimates of the Costs and Effects of Student Loans Under the Conference Agreement on H.R. 5192."

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., August 27, 1980.

MEMORANDUM

To: Tom Wolanin and Pat Rissler.
From: Deborah Kalcevic and David Longanecker.
Subject: Estimates of the costs and effects of student loans under the conference agreement on H.R. 5192.

This memorandum examines the costs and effects of the student loan components in the conference agreement on H.R. 5192, a bill to amend and extend the Higher Education Act of 1965. The memorandum also provides estimates for the current Guaranteed Student Loan (GSL) and National Direct Student Loan (NDSL) programs and for the student loan components of H.R. 5192 as passed by both Houses. All estimates are based on CBO's mid-year economic assumptions.

STUDENT LOAN PROVISIONS OF H.R. 5192

The conference agreement on H.R. 5192 does not appreciably alter the GSL program. Interest rates are raised from 7 percent to 8 percent, eligibility for borrowing at less highly subsidized rates is extended to parents, maximum borrowing levels are increased, and default collection procedures are improved—but these changes are not expected to significantly change the program.

The conference agreement also retains the basic structure of the NDSL program, but provides an alternative funding option that, if implemented, would affect both the NDSL and GSL programs. Currently, the federal government provides an annual capital contribution to revolving funds at each participating institution. These revolving funds, which include the federal capital contribution, institutional contributions, and collections from loans in repayment, may be used only to provide loans to students with assessed need. At present, however, the NDSL program provides only about $800 million, whereas the estimated assessed need for loans is greater than $3 billion. To allow greater access to need-based loans, the conference agreement, under an "alternative source of funds" provision would allow the Secretary of Education to request authority to borrow more than is provided through existing institutional revolving funds. Once this borrowing authority is appropriated, the revolving funds would be dissolved and collections from old NDSL notes would be distributed to the federal government and participating institutions. Expanding the NDSL program would allow many needy students currently borrowing GSLs to borrow under more attractive terms through the NDSL program, thus reducing the demand for GSLs.

COSTS AND EFFECTS OF H.R. 5192

To estimate the costs of the loan components in the conference agreement, we have assumed maximum authorization levels. Therefore, the estimate for the NDSL component assumes that the Secretary of Education requests and receives appropriations act authority in fiscal year 1981 to borrow an amount sufficient to meet the estimated assessed need for NDSL loans (approximately $3.4 billion). The full effect of this increase in NDSL capital, however, would not be reflected in fiscal year 1981 costs. Because the NDSL program is forward funded, the expanded availability of loans would not occur until the 1981-1982 academic year—that is, NDSL funds appropriated for fiscal year 1981 would not become available for obligation until the summer of 1981. As a result, only a portion of the anticipated reduction in the demand for GSLs resulting from increased availability of NDSL capital could actually occur in fiscal year 1981, with the full effect occurring for the first time in fiscal year 1982. The loan components of the conference agreement would cost approximately $300 million less in fiscal year 1981 than either current policy or H.R. 5192 as passed by the House (see Table 1). The reduced cost occurs primarily because the Secretary is allowed to recoup collections from outstanding NDSL notes amounting to approximately $220 million in fiscal year 1981. These receipts would offset both budget authority and outlays in 1981. The conference agreement would result in costs approximately $400 million more than the Senate passed bill primarily because the combined borrowing in both programs would be considerably higher (see Table 2).

To allow comparison with other options, the long-term cost estimate of the conference agreement's loan component assumes that the NDSL and GSL programs overlap for the full year. Thus, borrowers with assessed financial need including those who previously would have had to rely solely on the GSL program, are assumed to borrow through the expanded NDSL program. Some students are assumed to remain as borrowers under both programs. Both the overall long-term cost and the long-term cost per dollar loaned of the conference agreement are appreciably higher than either the House or Senate passed bills. The long-term costs exceed those of the House bill principally because the conferees incorporated an expanded NDSL program (assuming action by the Secretary of Education) without changing the GSL program substantially, thus significantly increasing the overall amount of student borrowing. The costs exceed those of the Senate bill primarily for two reasons: (1) because the conferees did not incorporate Senate provisions that would have virtually eliminated in-school interest subsidies for non-needy students, thus reducing the demand for GSLs, and (2) the conferees only increased the NDSL interest rate from 3 percent to 4 percent and the GSL interest rate from 7 percent to 8 percent, rather than to the respective 7 and 9 percent rates included in the Senate bill.

As previously mentioned, these estimates assume that the Secretary of Education requests and receives authority to borrow an amount sufficient to meet the full assessed need for NDSLs. Because sufficient funds would be available for student borrowing, we have assumed that recouped collections from old NDSL notes would be available to the Secretary to offset program costs. The conference report language is vague on precisely how these funds should be used, but both House and Senate authorizing commit-

TABLE 1.—1981 AND 5-YEAR FEDERAL LOAN COSTS OF: (1) CURRENT POLICY, (2) H.R. 5192 AS PASSED BY THE HOUSE, (3) H.R. 5192 AS PASSED BY THE SENATE, AND (4) THE CONFERENCE AGREEMENT ON H.R. 5192

[By fiscal year, in millions of dollars]

	1981 total cost		1981-85 total cost	
	BA[1]	0	BA[1]	0
Current policy	1,870	1,892	13,391	12,936
H.R 5192—House passed[2]	1,868	1,888	14,000	13,507
H.R. 5192—Senate passed[3]	1,208	[4]1,353	8,017	[4]8,018
Conference agreement on H.R. 5192[3]	1,591	1,608	11,735	10,733

[1] Assumes carryover of $100 million from fiscal year 1980.

[2] Assumes current policy funding of NDSL program, not full level of funding authorized in House passed bill.

[3] Much of the fiscal year 1981 and 1981-1985 cost savings from current policy result from assuming that NDSL collections offset program costs.

[4] Assumes that 1980 appropriations for current NDSL program would not outlay.

TABLE 2.—LOAN VOLUME AND FEDERAL COST OF NDSL AND GSL PROGRAMS UNDER: (1) CURRENT POLICY, (2) H.R. 5192 AS PASSED BY THE HOUSE, (3) H.R. 5192 AS PASSED BY THE SENATE, AND (4) H.R. 5192 AS REPORTED FROM CONFERENCE

	Direct loans		GSL program		Long-term cost[1] (millions)	Long-term cost per dollar loaned	Fiscal year 1981 costs (In millions of dollars)					
							NDSL		GSL		Total	
	Number (thousands)	Dollars (millions)	Number (thousands)	Dollars (millions)			BA	0	BA[2]	0	BA[2]	0
Current policy	900	765	2,500	5,880	3,151	0.47	334	300	1,536	1,592	1,870	1,892
H.R. 5192, House passed[3]	900	765	2,631	6,379	3,267	0.46	334	300	1,534	1,588	1,868	1,888
H.R. 5192, Senate passed	2,180	3,280	1,099	1,957	2,244	0.43	−6	[4]−5	1,214	1,358	1,208	[4]1,353
H.R. 5192 conference agreement[5]	2,000	3,345	2,236	5,076	3,735	0.49	158	84	1,433	1,524	1,591	1,608

[1] Full-term cost of loans provided in fiscal year 1981, with future costs discounted to 1981 dollars.

[2] Assumes carryover of $100 million from fiscal year 1980.

[3] Assumes current policy funding of NDSL program, not full level of funding authorized in House passed bill.

[4] Assumes that 1980 appropriations for current NDSL program would not outlay.

[5] These estimates assume that the Secretary of Education requests and receives authority to borrow enough to meet the full assessed need for NDSLs in fiscal year 1981 ($3.4 billion). It further assumes, except in the case of long-term costs, that these funds would first become available to students for the 1981-82 academic year, due to forward funding of the NDSL program. To allow comparison with other options, however, the estimate of long-term costs assumes immediate implementation of the expanded NDSL program, which reduces the demand for GSLs to 1,860 loans amounting to $4.009 billion dollars.

tee staff have assured CBO that the intent of the conferees was to allow the Secretary to use collections to offset program costs in the event that student need for NDSLs has been met with borrowed federal funds.

Program costs could vary considerably from these estimates, however, if the program evolves differently than we have assumed in this analysis. For example, if the Secretary did not request authority to borrow funds for the NDSL program, the existing program would remain intact; program costs and effects would be similar to those projected for the House passed bill. On the other hand, if the Secretary received authority to borrow more than currently provided in the NDSL program, but less than full assessed need, the campus revolving funds would be dissolved, but the collections from old NDSL notes would have to be used as NDSL capital, rather than to reduce program costs as would occur if the Secretary borrowed full need. This would appreciably increase budget costs in the first few years, but would have virtually no effect on long-term program costs.

If you have any questions, please feel free to contact us.●

CHARLOTTE'S WEB—1980 STYLE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. BIAGGI. Mr. Speaker, I wish to call to my colleagues' attention an article in this week's Newsweek magazine entitled "Aunt Charlotte's Reward." It deals with the elderly aunt of the author, Bernard Sloan. According to Mr. Sloan, his Aunt Charlotte seems to be the victim of a new form of double jeopardy—being old but not being very poor.

The article points to an unintended but increasingly obvious shortcoming in a number of Federal programs designed for the elderly. These programs, while reaching those most in need are practically ignoring thousands if not millions of other seniors who might be considered among the "near poor."

In my service as an original member of the House Select Committee on Aging, I have worked diligently on such legislation as the Older Americans Act, and the title XX program I fought to insure that these programs did not impose individual means tests on individuals seeking benefits and services. In the case of the Older Americans Act—the law stressed that those in the greatest economic and social need were to receive a priority in receiving services. However, it must be noted that it did not say only those people could obtain these services.

My point in inserting this article into the RECORD is to advise my colleagues that in our efforts to serve the elderly—let us not be overly rigid in who we serve. While it is easier to characterize younger Americans into certain economic strata such as poor middle class—upper middle class and rich—it is far more difficult to do so with older people. Yet certain Federal programs approach the elderly in a very arbitrary fashion—and people like Charlotte—with legitimate needs are lost in the shuffle. It is very wrong.

AUNT CHARLOTTE'S REWARD

(By Bernard Sloan)

My wife's Aunt Charlotte lives in Brooklyn, A tiny, soft-spoken woman of 74, she could easily pass for 60 with her relatively unlined face and undyed brown hair that is just beginning to break out in gray flecks. Only her diminished hearing gives her age away, and the cautious steps she takes in her orthopedic shoes. Her mind and her vision are sharper than those of many 40-year-olds. A shy woman, Charlotte never married. When she telephones us she says, "It's only me."

In 1923, when she was 17, Charlotte went to work for the telephone company, eventually attaining the position of customer-service representative, a role she performed with pride, skill and dedication for nearly a half century. She responded with patience and courtesy to every customer, even to those whose complaints were voiced in somewhat questionable language. Charlotte, who would commit hara-kiri before permitting an unlady-like word to slip through her lips, never displayed a hint of anger or disapproval, although she confided to us that some of her clients should have their mouths washed out with soap. The days she was out sick could be counted on her fingers, it took a transit strike to make Charlotte late.

As a reward for her dedication, the U.S. Government forced Charlotte to retire. She was given a luncheon, a subscription to a retirement magazine, free home-telephone service and a pension and sent home. Two women in their 20s replaced her. Since the government made it difficult for them to be fired no matter what their attitude or degree of competence, neither felt compelled to duplicate Charlotte's conscientiousness. Or productivity, as we say today.

Distress Call: Several months afterward the telephone company sent out a distress call for retired workers. Temporary help was needed in the Upper West Side of Manhattan to handle the surge of problems arising from the minority groups in the area, many of whom either did not know English or were baffled by the complexities of maintaining telephone service—problems the new employees displayed no interest in solving. Giving up her social-security checks, Charlotte set off each day to a part of the city considered dangerous for the young and fit, let alone a woman of Charlotte's age. Before long she had added an extensive Spanish vocabulary to her store of black English and was being presented with gifts by her clients. Unable to change old habits, she arrived early, stayed late and quickly worked herself out of a job.

The government was not finished with Charlotte. Now it was the city's turn to take a whack at her. It moved welfare families by the score into her neighborhood, many into her building, which was like moving the fox into the hen yard. For many of these families consist of a mother and unsupervised children—children who often stand 6 feet tall and carry knives or worse. Soon mailboxes were found ripped open social-security checks stolen. The once neat hallways are now filled with beer cans, softdrink and liquor bottles and the smell of marijuana. Groups of youths, radios blaring, congregate on the front steps late into the night, making obscene remarks and giggling as people pass. There are purse snatchings and muggings in the once quiet neighborhood. An elderly couple were found tied to their bed, beaten and robbed. Charlotte has stopped going out at night. When she ventures out during the day she conceals cash in varous places on her person, leaving a carefully calculated amount in her purse to placate an attacker. Visiting Charlotte requires driving past miles of burnt-out apartment buildings; fires are set either by landlords for the insurance or by welfare tenants for the hardship money. (Everyone has been given an equal opportunity to profit by the system.) Although Charlotte remains outwardly cheerful, she knows she will have to do something soon. But what?

The neighbors who drive her to the market (the nearby one has been boarded up since the blackout riot) are moving to New Jersey. Others have fled to upstate New York and Florida. It is easier for couples to move to new areas. the widowed have moved in with their children. We have suggested that Charlotte move near us, but that would mean tripling her rent and being a stranger in a new community, as well as being dependent on us. Charlotte is not comfortable imposing on people.

Mistake: She found something that would have answered her needs beautifully. In a group of buildings clustered around a senior center, there were apartments with safety features designed for seniors, including buzzers to summon aid; meals were available in the center. Unfortunately, the government limited it to people with little or no money, and Charlotte had made the mistake of saving hers. There are other such places to which she might be admitted if she moved away from the city, leaving her entire life behind. But if welfare people don't have to move, she wonders, why should she?

When she decided to call on different government agencies for guidance, she learned that not one of the myriad programs for the aging she had heard about over the years, and which her taxes helped support, was for her. They were reserved for the penniless.

The other day she visited a sick woman in her building, a woman on welfare for whom the city provided a homemaker, a nurse and a cab to and from free medical attention. If Charlotte were ill, she would have to fend for herself. No government department would rush to her rescue.

Perhaps the time has come to reconsider which of our citizens are entitled to first claim on our resources. In our haste to better the lives of the lowest economic level of our society we have betrayed another, far larger and more deserving group. People who have worked hard, paid their taxes, contributed to the country. Shouldn't their needs be met first? Their housing, their neighborhoods, their security?

If a choice must be made, shouldn't first choice be given Aunt Charlotte? She has earned it.

Or doesn't that count anymore?●

INTERNATIONAL HEALTH

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1980

● Mr. CARTER. Mr. Speaker, today I am introducing the International Health Act of 1980, a bill to amend the Foreign Assistance Act and the Public Health Service Act to provide for the advancement of international cooperation and assistance in health. I am doing so because I believe that promoting the cause of health for all the citizens of this world is one of the single, most effective approaches available to us to encourage world peace and understanding. I would submit that our foreign assistance programs should emphasize cooperative efforts which seek to improve the physical and mental health of other peoples less fortunate than ourselves so that we might reaffirm the traditional humanitarian concerns of the American people.

Mr. Speaker, it is a fact that lack of decent health care, poor nutrition and sanitation, and unneeded exposure to disease place a heavy burden on most of the developing countries of the world. Forty percent of the children in those countries die before they reach 5 years of age—of those who do survive, many are sick and malnourished. Severe tropical diseases and a wide range of infectious diseases, many of which can be controlled if proper medical care were available, afflict staggering portions of the world population. Susceptibility to these diseases is exacerbated because exploding levels of population often exceed the agricultural and economic capacity of these countries with widespread malnutrition and marginal levels of subsistence the inevitable result.

Unfortunately, the population explosion is overwhelming all available resources and thus the twin problems of poverty and disease are becoming worse. The staggering burden of illness made more severe by inadequate resources is sapping the productive energy of developing societies, trapping them in a vicious cycle of despair leading to less effective responses to the problems they face. Most urgently, the competition for ever-scarcer resources will undoubtedly promote greater social and political instability while providing fertile ground for those who would disrupt and destroy peaceful relationships between the nations of the world.

Given the overriding importance of international health problems, I believe that the United States must play a leading role in finding cooperative solutions to those problems. Unfortunately, we have not paid sufficient attention to these efforts, and as a result they have become mired in inefficiency, bureaucratic turf wars, and excessively complicated and uncoordinated management. I would submit that we cannot continue to allow the improvement of health in developing countries and the resulting potential for mutual benefits to be smothered or fall between the bureaucratic cracks due to lack of leadership or poor Government organization.

Mr. Speaker, no less than 23 different departments and agencies of the Federal Government spend over one-half billion dollars a year on international health, even if we exclude the substantial expenditures of the Defense Department; 325 private organizations contribute a still larger amount. In spite of this large expenditure, responsibilities are not clearly defined, Government-wide priorities and coordinated planning is lacking, and most importantly, no single agency is vested with the clear responsibility for leadership.

Specifically, U.S. ability to participate in international health programs is impaired because three agencies—the Department of State, the Agency for International Development, and the Department of Health and Human Services—share responsibility for international health. HHS and AID are vested with the bulk of this responsibility with AID having the largest budget. Unfortunately, AID has allowed the number of health specialists to decline, while HHS, with substantial expertise in the health sciences, lacks an overseas presence or an international mission.

There is no existing organizational arrangement for planning and coordination of international health activities. Existing management is excessively complicated because there is no simple set of priorities or goals to which all the agencies involved can relate nor is there any mechanism for periodic evaluation of the effectiveness of our international health efforts.

Cooperation and coordination between public and private efforts and expertise in the international health field is inadequate. The expertise of the American health science community is widely appreciated throughout the world, yet this resource is not being effectively used to further our efforts in international health.

Perhaps most importantly, there is no single spokesman for this area to which the Congress could look for reports on the amount of money spent, the effectiveness of that expenditure, and the priorities for further effort. Without mandating new organizational arrangements to deal with the problems I have enumerated, Congress will not be able to examine adequately the impact of moneys appropriated or participate in the setting of priorities for international health.

The major objective of the legislation I am introducing today is to increase the return on our current expenditures by insuring that the estimated $528 million a year now spent is effectively managed. The bill provides for the modest expenditure of $43 million over a 3-year period—a sum less than the cost of one F-14 jet. It is my belief that on a cost-benefit ratio basis, this expenditure will pay great dividends in the form of effective planning, programing, and coordination of international health activities and will yield a much greater return on existing public and private efforts. Most importantly, strengthening and enhancing these efforts will pay immeasurable dividends through improvements in the health status and the well-being of all the citizens of the world.

I should also point out that this legislation is strongly grounded in increasing domestic interest in international health. The White House recently published an extensive report, including analysis and program recommendations, entitled "New Directions in International Health Cooperation." The Institute of Medicine published its report "Improving Health Care in Developing Countries" in April 1978. My bill is based largely upon the directions for U.S. international health activities indicated by these reports.

The increasing interest in international health here at home is complemented by an increasing awareness in the developing world of the crucial impact of health and health care. My proposal is based upon the philosophy endorsed by the developing countries at the recent International Health Conference held at Alma Ata in the U.S.S.R. in late 1978, a philosophy which emphasizes collaborative, "people to people," efforts in health.

Mr. Speaker, my bill is designed to improve and enhance our international health efforts through the following specific steps:

First, the bill will improve the management of our current international health expenditures. It will establish an interagency coordinating committee of the agencies most involved in international health activities—AID, HHS, State, DOD, and so forth. This interagency group will be established as a subcommittee of the existing Development Coordination Committee. The chairman will be appointed by the President.

This subcommittee would coordinate international health programs in relationship to an overall U.S. international health policy. The subcommittee would provide strong and visible leadership in determining Government-wide international health policy and for initiatives that involve several agencies resources. It would support and initiate multidonor projects with other governments and multilateral organizations and in this way encourage the positive trend toward multilateral development cooperation.

Private sector membership on the subcommittee is provided in order to further facilitate the utilization of the best talent in the field, whether in Government or out.

The subcommittee will also prepare an annual report on the President and Congress which describes and evaluates the nature, objectives, and expenditures relating to the international health activities of all U.S. agencies.

The subcommittee mandated by law will also elevate international health in importance. The highest ranking international health official in the two main agencies—AID and HHS—are buried below layers of bureaucracy. In AID, the senior health official with expertise in the area is five levels below the Administrator. In HHS, the Office of the Deputy Assistant Secretary for International Health is one of the lowest priorities in the Department. The bill proposes to remedy this by statutorily establishing the Office of International Health in HHS.

The second part of the bill is designed to develop the necessary resources for enhanced efforts in international health and the collaborative application of those resources to the health problems of the developing world. My proposal would provide three mechanisms for the achievement of these purposes. First, the bill authorizes a modest fellowship program—to be known as the "Paul G. Rogers international health fellowship program." Fellowships would be awarded to students in the various health professions as well as mid-career and senior health professionals for study and work experience in developing countries. Second, the bill provides for the establishment of an International Health Service Corps which would be a small-scale program to place U.S. health professionals in short-term service abroad for projects designed to enhance the capabilities of these countries to develop needed health care services. Third, the bill proposes a small grant program to provide support to U.S. universities, medical centers, and private voluntary organizations for international health projects in developing countries.

I believe that the three modest efforts which I am proposing will strongly benefit both our own country and the less fortunate countries of the world. The fellowship program and the International Health Service Corps will serve to enhance the interest of U.S. health professionals in the health problems of the developing world—problems that are often not dissimilar to problems found in the inner cities and rural areas of our own country. Moreover, these two programs coupled with the grant program will insure that the expertise of the academic community in the health sciences as well as the private voluntary organizations involved in international health projects will be brought more directly to bear upon the health problems of the developing countries. Clearly, a continuous flow of individuals and organizations with interest and understanding of international health programs will strengthen and enhance our efforts in this area.

I would also like to emphasize strongly an important feature of my proposal and that is the bill's emphasis on collaborative efforts with less-developed countries. Under the bill's requirements, a fellow or an International Health Service Corps member may not be placed in a positon abroad unless that position has been developed in cooperation with the country involved. Similarly, a grant may not be made to a university or private voluntary organization unless the university or organization has established a relationship with a health professions school or public health program in a developing nation. In this way my bill insures that this program will not replicate the outdated aid concept but will instead emphasize a collaborative, give-and-take process truly appropriate to relationships in the modern world.

Mr Speaker, in conclusion I would like to reiterate why I am committed to a greater involvement in international health activities, and why I believe my colleagues should support this legislation. First, as part of the overall international and diplomatic efforts of the United States, history has shown that medical diplomacy is more readily acceptable to the nations of the developing world than are more traditional foreign aid efforts. In the words of the distinguished Dr. Kevin Cahill, "medicine is our untapped resource" it can be called neither political nor military. This aid is necessarily provided by a new kind of diplomat, a white coat diplomat, who is much more readily accepted than the traditional striped pants diplomat.

Second, the United States has a great humanitarian tradition which has been strongly expressed through a long commitment to international health. This commitment was exemplified by U.S. leadership in forming the Pan American Sanitary Bureau, a landmark endeavor now succeeded by the Pan American Health Organization. Mindful of our stature in medical research and technology, we must continue to build upon this historic leadership role.

Third, international health is an area where a small investment can make a great difference. The improvement in effectiveness and efficiency of the use of existing resources will insure that we are receiving the greatest benefit from the dollars invested in this effort. The United States maintains the greatest store of health resources and knowledge in the world—we must not ignore our responsibility to use this store to extend a hand to those less fortunate than ourselves. I urge my colleagues to join with me in cosponsoring this important legislation.

Thank you, Mr. Speaker.

A summary of my legislation follows:

SUMMARY—"THE INTERNATIONAL HEALTH ACT OF 1980"

I. INTERNATIONAL HEALTH SUBCOMMITTEE

Amends the Foreign Assistance Act to establish the International Health Subcommittee of the Development Coordination Committee with the following membership: Secretaries of State, Health and Human Services, Treasury, Commerce, Defense, Agriculture; head of the Peace Corps, Director of the Office of Management and Budget, and the Administrator of the Agency for International Development; provides for appointment by the President of four public members especially qualified to serve on the Subcommittee.

Requires the Subcommittee to develop a comprehensive Federal International Health Plan. In developing the plan the Subcommittee is to: 1) develop a consistent and coordinated Federal international health policy; 2) develop a comprehensive inventory of Federal international health activities; 3) identify all proposed Federal international health activities; 4) develop a coordinated mechanism by country or region for addressing international health needs; and 5) identify all aspects of the Federal budget which involve international health activities and prepare an evaluation of such budget. The initial plan will cover a period of five years and will identify the activities required of each agency and Department in implementing the plan. $1 million per year is authorized for fiscal years 1982, 1983, and 1984 for activities of the Subcommittee.

II. REPORT TO CONGRESS AND THE PRESIDENT

The International Health Subcommittee is required to report to the appropriate Committees of the Congress and to the President annually on the International Health Plan and on Federal international health activities.

III. OFFICE OF INTERNATIONAL HEALTH

Amends the Public Health Service Act by adding a new title entitled "International Health." Establishes within the Department of Health and Human Services an Office of International Health headed by a Deputy Assistant Secretary for International Health, appointed by the Secretary, to be responsible for international health activities including relations with W.H.O. and other international health agencies. $2 million per year is authorized for fiscal years 1982, 1983, and 1984 for the activities of the Office.

IV. PAUL G. ROGERS INTERNATIONAL HEALTH FELLOWSHIPS

Establishes the Paul G. Rogers International Health Fellowship program to provide competitive fellowships to health professions students for study and work experience in developing countries and to health professionals for teaching, research, and clinical positions in developing countries. The period and amount of the award is at the discretion of the Secretary but no award may be made to an individual unless an appropriate position exists in a developing country and the position has been developed in collaboration with a public health program or health professions school in the developing country. There is authorized $3.5 million for fiscal year 1982, $4.5 million for fiscal year 1983, and $5 million for fiscal year 1984 for the fellowship program.

V. INTERNATIONAL HEALTH SERVICE CORPS

Establishes the International Health Service Corps to consist of officers of the Commissioned Corps of the Public Health Service and such civilian personnel as the Secretary may designate. The Corps will be used by the Secretary to enhance the capabilities of developing countries in public health, the delivery of health care, and health care research. Assignment of members of the Corps to a developing country may only be made upon request of the country and shall be subject to the approval of the International Health Subcommittee. $2 million per year is authorized for fiscal years 1982, 1983, and 1984 to operate the Corps.

VI. GRANTS FOR HEALTH CARE RESEARCH, TRAINING, AND DELIVERY

Authorizes the Secretary to make grants to public and nonprofit private entities for research and training in the health care delivery problems of developing countries. The Secretary may not make a grant to an entity unless the entity has formed a collaborative relationship with a public health program or health professions school in a developing country.

Authorizes the Secretary to make grants to public and nonprofit private entities for the development of resources for the delivery of health care in developing countries.

Authorizes $4 million for FY 1982, $5 million for FY 1983, and $6 million for FY 1984 for the two grant programs.

VII. EVALUATION

Requires the Secretary to evaluate annually the activities carried out under the Department's International Health Program and report the results of the evaluation to the President and the Congress.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 4, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 5

8:00 a.m.

Labor and Human Resources

To resume hearings on the nomination of John C. Truesdale, of Maryland, to be a member of the National Labor Relations Board.

4232 Dirksen Building

9:00 a.m.

Judiciary

To hold hearings on S. 2216, improving the intelligence system of the United States and providing protection of certain national security information.

2228 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To continue hearings on the Federal regulatory reform policy of the Administrative Law Judge system, focusing on its operation within the agencies and departments under the Committee's jurisdiction.

235 Russell Building

10:00 a.m.

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To resume oversight hearings to study the potential impact of international applications of renewable energy resources on the growth of fossil-fuel consumption, the domestic solar industry, and global environmental problems.

3110 Dirksen Building

Environment and Public Works

Water Resources Subcommittee

Business meeting, to continue consideration of a proposed committee amendment to authorize additional water resources and supply project studies, and navigation, flood control, beach erosion, and dam safety projects to S. 1641, Water Resources and Development Act (pending on Senate calendar).

4200 Dirksen Building

Judiciary

Subcommittee, to continue hearings on matters relating to its investigation of individuals representing the interests of foreign governments.

318 Russell Building

Joint Economic

To hold hearings on the employment-unemployment situation for August.

6226 Dirksen Building

10:30 a.m.

Appropriations

Military Construction Subcommittee

Business meeting, to mark up H.R. 7592, appropriating funds for fiscal year 1981 for military construction programs of the Department of Defense.

S-126, Capitol

SEPTEMBER 8

10:00 a.m.

Energy and Natural Resources

Parks, Recreation, and Renewable Resources Subcommittee

To hold hearings on H.R. 7105, to establish a national hostel system to encourage the development of hostels by State and local government agencies, and private, nonprofit groups; and S. 2263, to provide for the establishment of the Women's Rights National Historic Park in Seneca Falls, New York.

3110 Dirksen Building

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on the substance of H.R. 6721, to revise airport development and planning funding, focusing on the Airport and Airway Trust Fund extension and the aviation-related excise taxes transferred to that trust fund which expires on October 1, 1980 (pending in House committee).

2221 Dirksen Building

SEPTEMBER 9

9:00 a.m.

Finance

International Trade Subcommittee

To hold hearings on S. 2721, to permit the granting of most-favored-nation treatment to products of a country which have not expropriated U.S. citizens' property without compensation therefor; on a proposed amendment, to provide for action regarding claims of U.S. citizens against the Government of Czechoslovakia, thereto, and on miscellaneous tariff bills.

2221 Dirksen Building

9:30 a.m.

Environmental and Public Works

Transportation Subcommittee

To resume hearings on S. 2913, authorizing funds through fiscal year 1983 for the Federal Aid Highway Program.

4200 Dirksen Building

Judiciary

Business meeting, to consider pending legislation and nominations.

2228 Dirksen Building

10:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on H.R. 7724, appropriating funds for fiscal year 1981 for the Department of the Interior and related agencies.

1114 Dirksen Building

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To hold hearings on S. 2858, to allow the Department of the Interior to lease additional lands for the purpose of oil shale mining.

3110 Dirksen Building

*Labor and Human Resources

Education, Arts, and Humanities Subcommittee

Business meeting, to mark up title II, providing financial assistance to meet basic, and employment skills needs of secondary school youth of S. 2385, proposed Youth Act and H.R. 7859, to provide assistance to state and local agencies for the education of Cuban and Haitian refugees.

4232 Dirksen Building

SEPTEMBER 10

9:00 a.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on H.R. 6883, to revise certain provisions relating to the tax treatment of installment sales of realty and incidental sales of personal property, and on miscellaneous tax bills, S. 2512, 2900, 2915, and 2916.

2221 Dirksen Building

9:30 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of Education For All Handicapped Children Act (Public Law 94-142).

4232 Dirksen Building

Veterans' Affairs

To hold hearings to review current studies conducted by certain Government agencies on the long-term health effects of agent orange.

412 Russell Building

10:00 a.m.

Rules and Administration

To hold hearings on S. 16 and 964, providing for changes in the Presidential primary system, and S.J. Res. 189, establishing a Commission on Presidential Nominations; and to consider other legislative and administrative business.

301 Russell Building

SEPTEMBER 11

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on the substance of S. 1480, authorizing funds for fiscal years 1981 through 1986, to provide for the safe and adequate treatment of hazardous substances released into the environment (pending on Senate calendar).

235 Russell Building

10:00 a.m.

Finance

To hold hearings on provisions of sec. 5, to establish in the Treasury of the United States a Hazardous Substance Response Fund, of S. 1480, proposed Environmental Emergency Response Act.

2221 Dirksen Building

SEPTEMBER 12

9:30 a.m.

Commerce, Science, and Transportation

To continue hearings on the substance of S. 1480, authorizing funds for fiscal years 1981 through 1986, to provide for the safe and adequate treatment of hazardous substances released into the environment (pending on Senate Calendar).

235 Russell Building

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
Business meeting, to resume markup of title II, providing financial assistance to meet basic and employment skills needs of secondary school youth of S. 2385, proposed Youth Act.
4232 Dirksen Building

SEPTEMBER 16

10:00 a.m.
Labor and Human Resources
To hold oversight hearings on the implementation of certain compensation programs for longshoremen.
4232 Dirksen Building

*Special on Aging
To hold hearing to examine proposals for possible changes to the social security system.
5110 Dirksen Building

SEPTEMBER 17

10:00 a.m.
Rules and Administration
Business meeting, to consider Senate Resolution 448, to establish the Select Committee on Indian Affairs as a permanent Senate committee; and other legislative and administrative business.
301 Russell Building

SEPTEMBER 19

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on the scope of science and technology policy.
235 Russell Building

SEPTEMBER 23

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 2979, to maintain and extend to 1986 the cost-of-living increases for pre- and post-retirement for railroad employees, and to increase the tax that employers are required to pay into the fund on behalf of active workers of the railroad industry.
4232 Dirksen Building

11:00 a.m.
Veterans' Affairs
To hold hearings on fiscal year 1981 legislative recommendations from officials of the American Legion.
318 Russell Building

2:00 p.m.
Office of Technology Assessment
The Board to meet and discuss pending business items.
EF-100, Capitol

SEPTEMBER 24

10:00 a.m.
* Labor and Human Resources
To hold oversight hearings on the implementation of the home energy assistance program.
4232 Dirksen Building

CANCELLATIONS

SEPTEMBER 17

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 1608, 1609, and 2400, bills providing certain assistance to employees who suffer employment loss due to closings and relocations of business concerns.
4232 Dirksen Building

SEPTEMBER 18

10:00 a.m.
Labor and Human Resources
To continue hearings on S. 1608, 1609, and 2400, bills providing certain assistance to employees who suffer employment loss due to closings and relocations of business concerns.
4232 Dirksen Building

SENATE—*Thursday, September 4, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou Giver of every good and perfect gift, shape our lives into instruments of service for Thy coming kingdom. Deliver us from the unconsecrated drives and the undisciplined instincts which impair doing Thy will. Cover our sins with Thy forgiveness and apply divine grace to all our weaknesses. Lift us up, set our feet upon a high place, and guide us to the goals which belong to a people whose God is the Lord.

O Thou who art the Light of the world, be Thou with us today, that whatever light may shine or shadow fall, we may ever live and work as children of the light, through Him who is the Light of the world. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore (Mr. BOREN). Under the previous order, the Senator from West Virginia, the majority leader, is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATO MISSILES

Mr. ROBERT C. BYRD. Mr. President, recently Soviet President Leonid Brezhnev delivered a major foreign policy address in Alma Ata, Kazakhstan, in the Central Asian region of the Soviet Union. In that address, the Soviet President proposed that talks begin soon on limiting medium-range nuclear missiles in Europe. Brezhnev implied that the United States has been stalling in response to a similar Soviet proposal last July. Before his address in Alma Ata, he had delivered the same message in letters to President Carter and other Western heads of state.

In fact, it was NATO and the United States which first proposed European arms limitation talks to the Soviets, last December. It took the Soviets until this July to respond to the NATO invitation on the terms NATO had set. The Soviets previously had rejected the NATO conditions. But during German Chancellor Schmidt's state visit to Moscow in July, the Soviets did meet our conditions. These recent communications only reiterate the Soviet acceptance of July.

The condition we attached was a reasonable one. It was that the talks are not to be considered as a substitute for the NATO modernization program; and that the modernization program should be able to proceed simultaneously with the talks. The modernization program, which was agreed to by the NATO allies last December, is to begin deployment in 1983 of 572 medium-range nuclear missiles at U.S. bases in Europe.

The reason for our condition is clear: The European nuclear scale is out of balance because the Soviets are in the process of deploying 200 SS-20 medium-range ballistic missiles. The NATO position is that the deployment of missiles in NATO countries should not preclude any arms limitation discussions, but neither should the discussions forestall what has become a necessary modernization program.

By this latest communication, the Soviets apparently have tried to take a propaganda offensive, perhaps because their actions have put them on the defensive in other parts of the world. And, the Soviets may be trying to cause dissension among the NATO allies by singling out the United States as the cause of delay.

In response to the Soviet acceptance in July, the NATO allies are having consultations as preparation for exploratory arms limitation talks. The next scheduled meeting on the preparations among the NATO allies is on September 15, in Brussels.

It is important that there be careful preparation for the proposed talks. The Soviets want the discussions to begin with a whole range of theater nuclear weapons. We have said that the first step is to deal solely and directly with the land-based nuclear weapons. It is these weapons, after all, that have caused much of the current tension in the European theater; that have caused the current imbalance; and that have sparked the current miniarms race in Europe.

Furthermore, it is important that these talks do not range so widely and loosely that they add further delay to the mutual and balanced force reduction (MBFR) negotiations in Vienna. Those negotiations deal primarily with the reduction of military personnel in the European theater. Those talks should proceed on their own, unhampered by the simultaneous occurrence of other theater talks.

Finally, the proposed European nuclear arms limitation talks should be recognized as being part of a larger strategic arms limitation process. The European talks should not be allowed to jeopardize other parts of the arms limitation process. Thus, while the potential European talks have correctly been described as part of an eventual SALT III treaty, the talks should not be allowed to place the SALT II treaty in further jeopardy.

President Brezhnev implied in his Alma Ata speech that the United States had somehow forced the decision to deploy the NATO missiles on the other NATO members. To the contrary, the decision was freely made, after full and constructive public debate. If there has been any pressure on NATO, it has been caused by the Soviet decision to deploy the SS-20 in central Europe.

The NATO medium-range missile deployment program envisions deployment of the Tomahawk and Pershing missiles in Europe, with deployment beginning in 1983. Deployment sites already have been picked in England. Both Germany and Italy have indicated a desire to have the missiles deployed on their soil. Other NATO nations have the deployment option under consideration.

In the meantime, we can expect more propaganda from the Soviet Union on this subject. They may repeat the line that they are prepared to begin European missile limitation talks immediately, and that we are not. This tactic is just another of the irritants that the Soviet Union has resorted to in the wake of the diplomatic chill caused by their invasion of Afghanistan. If the Soviets were genuinely interested in reducing international tensions at this time, they would give serious consideration to withdrawing their military forces from Afghanistan now, thereby removing one of the major causes of this new and unnecessary tension between our two nations.

THE PRESIDENT'S AND VICE PRESIDENT'S ACCEPTANCE SPEECHES

Mr. ROBERT C. BYRD. Mr. President, at the Democratic Convention a few weeks ago President Carter and Vice President MONDALE presented to the American people their perspectives on this year's election. I found both speeches to be constructive and informative contributions to understanding the Democratic candidates and their campaigns. I commend these speeches to the attention of my colleagues.

I ask unanimous consent that they be printed in the RECORD.

There being no objection, the speeches were ordered to be printed in the RECORD, as follows:

CARTER ACCEPTANCE SPEECH: SHAPE OF THE 21ST CENTURY IS A 1980 CHOICE

Fellow Democrats, fellow citizens:

I thank you for the nomination you've offered me. And I especially thank you for choosing as my running mate the best partner any president ever had—Fritz Mondale.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

With gratitude and with determination, I accept your nomination.

And I am proud to run on a progressive and sound platform that you have hammered out at this convention.

Fritz and I will mount a campaign that defines the real issues—a campaign that responds to the intelligence of the American people—a campaign that talks sense—and we're going to beat, whip the Republicans in November.

We'll win because we are the party of a great president who knew how to get reelected—Franklin D. Roosevelt. And we're the party of a courageous fighter who knew how to "give 'em hell"—Harry Truman. And as Truman said, he just told the truth and they thought it was hell.

And we're the party of a gallant man of spirit—John Fitzgerald Kennedy. And we're the party of a great leader of compassion—Lyndon Baines Johnson.

And the party of a great man who should have been president and would have been one of the greatest presidents in history—Hubert Horatio Hornblower—Humphrey. I have appreciated what this convention has said about Senator Humphrey, a great man who epitomized the spirit of the Democratic Party, and I would like to say that we're also the party of Governor Jerry Brown and Senator Edward M. Kennedy.

SALUTE TO SEN. KENNEDY

I'd like to say a personal word to Senator Kennedy. Ted, you're a tough competitor and a superb campaigner and I can attest to that. Your speech before this convention was a magnificent statement of what the Democratic Party is and what it means to the people of this country—and why a Democratic victory is so important this year. I reach out to you tonight and I reach out to all those who have supported you in your valiant and passionate campaign.

Ted, your party needs—and I need—you and your idealism and dedication working for us. There is no doubt that even greater service lies ahead of you—and we are grateful to you and to have your strong partnership now in the larger cause to which your own life has been dedicated.

I thank you for your support. We'll make great partners this fall in whipping the Republicans.

We're Democrats and we have had our differences, but we share a bright vision of America's future—a vision of good life for all our people—a vision of a secure nation, a just society, a peaceful world, a strong America—confident and proud and united.

And we have a memory of Franklin Roosevelt forty years ago when he said that there are times in our history when concerns over our personal lives are overshadowed by concern for "what will happen to the country we have known." This is such a time—and I can tell you that the choice to be made this year can transform our own personal lives and the life of our country as well.

During the last presidential campaign, I crisscrossed this country and I listened to thousands and thousands of people—housewives and farmers, teachers and small-business leaders, workers and students, the elderly and the poor—people of every race and every background and every walk of life. It was a powerful experience—a total immersion in the human reality of America.

"NO EASY ANSWERS" IN WHITE HOUSE

And I have now had another kind of total immersion—being president of the United States of America. Let me talk for a moment about what that job is like—and what I have learned from it.

I've learned that only the most complex and difficult tasks come before me in the Oval Office. No easy answers are found there—because no easy questions come there.

I've learned that for a president, experience is the best guide to the right decisions. I'm wiser tonight than I was four years ago.

And I have learned that the presidency is a place of compassion. My own heart is burdened for the troubled Americans. The poor and the jobless and the afflicted—they've become part of me. My thoughts and my prayers for our hostages in Iran are as though they were my own sons and daughters.

The life of every human being on Earth can depend on the experience and judgment and vigilance of the person in the Oval Office. The president's power for building and his power for destruction are awesome. And the power is greatest exactly where the stakes are highest—in matters of war and peace.

And I have learned something else—something that I have come to see with extraordinary clarity. Above all, I must look ahead—because the president of the United States is the steward of the nation's destiny.

He must protect our children—and the children they will have—and the children of generations to follow. He must speak and act for them. That is his burden—and his glory.

And that is why a president cannot yield to the short-sighted demands, no matter how rich or powerful the special interests might be that make those demands. And that is why the president cannot bend to the passions of the moment, however popular they might be. And that is why the president must sometimes ask for sacrifice when his listeners would rather hear the promise of comfort.

The president is a servant of today. But his true constituency is the future. That is why the election of 1980 is so important.

Some have said it makes no difference who wins this election. They are wrong.

CHOICE OF TWO FUTURES

This election is a stark choice between two men, two parties, two sharply different pictures of what America is and what the world is. But it is more than that.

It is a choice between two futures. The year 2000 is just less than 20 years away—just four presidential elections after this one. Children born this year will come of age in the 21st century.

The time to shape the world of the year 2000 is now. The decisions of the next few years will set our course, perhaps an irreversible course—and the most important of all choices will be made by the American people at the polls less than three months from tonight.

The choice could not be more clear—nor the consequences more crucial.

In one of the futures we can choose—the future that you and I have been building together—I see security and justice and peace.

I see a future of economic security—security that will come from tapping our own great resources of oil and gas, coal and sunlight—and from building the tools, the technology and factories for a revitalized economy based on jobs and stable prices for everyone.

I see a future of justice—the justice of good jobs, decent health care, quality education, and the full opportunity for all people, regardless of color or language or religion; the simple human justice of equal rights for all men—and for all women, guaranteed equal rights at last—under the Constitution of the United States of America.

And I see a future of peace—a peace born of wisdom and based on the fairness toward all countries of the world—a peace guaranteed both by American military strength and by American moral strength as well.

That is the future I want for all people—a future of confidence and hope and a good life. It is the future America must choose—and with your help and with your commitment, it is the future America will choose.

REPUBLICAN FUTURE

But there is another possible future.

In that other future, I see despair—the despair of millions who would struggle for equal opportunity and a better life—and struggle alone.

And I see surrender—the surrender of our energy future to the merchants of oil; the surrender of our economic future to a bizarre program of massive tax cuts for the rich, service cuts for the poor and massive inflation for everyone.

And I see risk—the risk of international confrontation; the risk of an uncontrollable, unaffordable, and unwinnable nuclear arms race.

No one, Democrat or Republican leader, consciously seeks such a future. And I do not claim that my opponent does. But I do question the disturbing commitments and policies already made by him and by those with him who have now captured control of the Republican Party.

The consequences of those commitments and policies would drive us down the wrong road. It's up to all of us to make sure America rejects this alarming, and even perilous, destiny.

The only way to build a better future is to start with realities of the present. But while we Democrats grapple with the real challenges of a real world, others talk about a world of tinsel and make-believe.

Let's look for a moment at their make-believe world.

In their fantasy America, inner-city people and farm workers and laborers do not exist. Women, like children, are to be seen but not heard. The problems of working women are simply ignored. The elderly do not need Medicare. The young do not need more help in getting better education. Workers do not require the guarantee of a healthy and a safe place to work.

In their fantasy world, all the complex global changes of the world since World War II have never happened. In their fantasy America, all problems have simple solutions. Simple—and wrong.

It is a make-believe world. A world of good guys and bad guys, where some politicians shoot first and ask questions later.

No hard choices. No sacrifice. No tough decisions. It sounds too good to be true—and it is.

The path of fantasy leads to irresponsibility. The path of reality leads to hope and peace. The two paths could not be more different. Nor could the futures to which they lead.

REBUILDING MILITARY STRENGTH

Let's take a hard look at the consequences of our choice.

You and I have been working toward a secure future by rebuilding our military strength—steadily, carefully and responsibly. The Republicans talk about military strength—but they were in office for eight out of the last 11 years—and in the face of a growing Soviet threat they steadily cut real defense spending by more than a third.

We've reversed the Republican decline in defense. Every year since I've been president, we've had real increases in our commitment to a stronger nation—increases which are prudent and rational. There is no doubt that the United States of America can meet any threat from the Soviet Union.

Our modernized strategic forces, a revitalized NATO, the Trident submarine, the cruise missile, Rapid Deployment Force—all these guarantee that we will never be second to any nation. Deeds, not words—fact, not fiction.

We must and we will continue to build our own defenses. We must and we will continue to seek balanced reductions in nuclear arms.

NUCLEAR ARMS CONTROL

The new leaders of the Republican Party, in order to close the gap between their rhetoric and their record, have now promised to launch an all-out nuclear arms race. This would negate any further effort to negotiate a strategic arms limitation agreement.

There can be no winners in such an arms race—and all the people of the Earth can be the losers.

The Republican nominee advocates abandoning arms control policies which have been important and supported by every Democratic president since Harry Truman and also by every Republican president since Dwight D. Eisenhower. This radical and irresponsible course would threaten our security—and could put the whole world in peril.

You and I must never let this come to pass.

It's simple to call for a new arms race. But when armed aggression threatens world peace, tough-sounding talk like that is not enough. A president must act—responsibly.

KEEPING THE PEACE

When Soviet troops invaded Afghanistan, we moved quickly to take action. I suspended some grain sales to the Soviet Union. I called for draft registration. We joined wholeheartedly with the Congress. And I joined wholeheartedly with the Congress and with the U.S. Olympics Committee and led more than 60 other nations in boycotting the big propaganda show in Russia—the Moscow Olympics.

The Republican leader opposed two of these forceful but peaceful actions and he waffled on the third. But when we asked him what he would do about aggression in Southwest Asia, he suggested blockading Cuba. Even his running mate wouldn't go along with that.

He doesn't seem to know what to do with the Russians. He's not sure if he wants to feed them or play with them or fight with them.

As I look back on my first term, I'm grateful that we've had a country with a full four years of peace. And that's what we're going to have for the next four years—peace.

It's only common sense that if America is to stay secure and at peace, we must encourage others to be peaceful as well.

As you know, we've helped Zimbabwe-Rhodesia, where we stood firm for racial justice and democracy. And we have also helped in the Middle East. Some have criticized the Camp David accords and they've criticized some delays in the implementation of the Middle East peace treaty.

Well, before I became president there was no Camp David accord and there was no Middle East peace treaty. Before Camp David, Israel and Egypt were poised across barbed wire, confronting each other with guns and tanks and planes. But afterward, they talked face-to-face with each other across a peace table—and they also communicated through their own ambassadors in Cairo and Tel Aviv.

Now that's the kind of future we're offering—of peace to the Middle East if the Democrats are re-elected in the fall.

AID TO ISRAEL

I am very proud that nearly half the aid that our country has ever given to Israel in the 32 years of her existence has come during my administration. Unlike our Republican predecessors, we have never stopped nor slowed that aid to Israel. And as long as I am president, we will never do so. Our commitment is clear: security and peace for Israel; peace for all the peoples of the Middle East.

HUMAN RIGHTS

But if the world is to have a future of freedom as well as peace, America must continue to defend human rights.

Now listen to this: The new Republican leaders oppose our human rights policy. They want to scrap it. They seem to think it's naive for America to stand up to freedom and—for freedom and democracy. Just what do they think we should stand up for?

Ask the former political prisoners who now live in freedom if we should abandon our stand on human rights.

Ask the dissidents in the Soviet Union about our commitment to human rights.

Ask the Hungarian-Americans, ask the Polish-Americans. Listen to Pope John Paul II.

Ask those who are suffering for the sake of justice and liberty around the world.

Ask the millions who've fled tyranny if America should stop speaking out for human principles.

Ask the American people. I tell you that as long as I am president, we will hold high the banner of human rights, and you can depend on it.

Here at home the choice between the two futures is equally important.

ENERGY FUTURE

In the long run, nothing is more crucial to the future of America than energy—nothing was so disastrously neglected in the past.

Long after the 1973 Arab oil embargo, the Republicans in the White House had still done nothing to meet the threat to national security of our nation. Then, as now, their policy was dictated by the big oil companies.

We Democrats fought hard to rally our nation behind a comprehensive energy program and a good program—a new foundation for challenging and exciting progress. Now, after three years of struggle, we have that program.

The battle to secure America's energy future has been fully and finally joined. Americans have cooperated with dramatic results.

We've reversed decades of dangerous and growing dependence on foreign oil. We are now importing 20 percent less oil. That is one and a half million barrels of oil every day less than the day I took office.

And with our new energy policy now in place, we can discover more, produce more, create more, and conserve more energy—and we will use American resources, American technology, and millions of American workers to do it with.

REPUBLICAN ENERGY PROGRAM

Now what do the Republicans propose?

Basically their energy program has two parts.

The first part is to get rid of almost everything that we've done for the American public in the last three years.

They want to reduce or abolish the synthetic fuels program. They want to slash the solar energy incentives, the conservation programs, aid to mass transit, aid to the elderly Americans to help pay their fuel bills.

They want to eliminate the fifty-five mile speed limit. And while they're at it, the Republicans would like to gut the Clean Air Act. They never liked it to begin with.

That's one part of the program.

The other part is worse.

To replace what we have built, this is what they propose: to destroy the windfall profits tax, and to "unleash" the oil companies and let them solve the energy problem for us.

That's it. That's the whole program. There is no more.

Can this nation accept such an outrageous program? No! We Democrats will fight it every step of the way, and we'll begin tomorrow morning with the campaign for re-election in November.

NEW ECONOMIC AGE

When I took office, I inherited a heavy load of serious economic problems besides energy—and we've met them all head-on. We've slashed government regulation and put free enterprise back into the airlines, the trucking and the financial systems of our country—and we're now doing the same thing for the railroads. This is the greatest change in the relationship between government and business since the New Deal.

We've increased our exports dramatically. We've reversed the decline in the basic research and development. And we have created more than 8 million new jobs—the biggest increase in the history of our country.

But the road's bumpy, and last year's skyrocketing OPEC price increases have helped to trigger a worldwide inflation crisis.

We took forceful action, and interest rates have now fallen, the dollar is stable and, although we still have a battle on our hands, we are struggling to bring inflation under control.

We are now at a critical turning point in our economic history. Because we made the hard decisions—because we guided our economy through a rough but essential period of transition—we have laid the groundwork for a new economic age.

Our economic renewal program for the 1980s will meet our immediate need for jobs by attacking the very same long-term problems that caused unemployment and inflation in the first place. It will move America simultaneously towards our five great economic goals—lower inflation, better productivity, revitalization of American industry, energy security and jobs.

It is time to put all America back to work—not in make work, but in real work.

There is real work in modernizing American industry and creating new industries for America.

Here are just a few things we will build together:

New industries to turn our coal and shale and farm products into fuel for our cars and trucks, and to turn the light of the sun into heat and electricity for our homes;

A modern transportation system for railbeds and ports to make American coal into a powerful rival of OPEC oil;

Industries that will provide the convenience of communications and futuristic computer technology to serve millions of American homes, offices and factories;

Job training for workers displaced by economic changes;

New investment pinpointed in regions and communities where jobs are needed most;

Better mass transit in our cities and between cities;

And a whole new generation of American jobs to make homes and vehicles and buildings that will house us and move us in comfort—with a lot less energy.

This is important, too: I have no doubt that the ingenuity and dedication of the American people can make every single one of these things happen. We are talking about the United States of America—and those who count this country out as an economic superpower are going to find out just how wrong they are.

We are going to share in the exciting

enterprise of making the 1980s a time of growth for America.

REPUBLICAN TAX PROPOSAL

The Republican alternative is the biggest tax giveaway in history. They call it "Reagan-Kemp-Roth." I call it a free lunch Americans cannot afford.

The Republican tax program offers rebates to the rich, deprivation for the poor and fierce inflation for all of us. Their party's own vice presidential nominee said that "Reagan-Kemp-Roth" would result in an inflation rate of more than 30 percent. He called it "voodoo economics." He suddenly changed his mind toward the end of the Republican convention, but he was right the first time.

Along with this gigantic tax cut, the new Republican leaders promise to protect retirement and health programs, and to have massive increases in defense spending.

And they claim they can balance the budget.

If they are serious about these promises—and they say they are—then a close analysis shows that the entire rest of the government would have to be abolished—everything from education to farm programs, from the G.I. Bill to the night watchman at the Lincoln Memorial. And the budget would still be in the red.

The only alternative would be to build more printing presses to print cheap money. Either way the American people lose. But the Americtn people will not stand for it.

The Democratic Party has always embodied the hope of our people for justice, opportunity and a better life. And we've worked in every way possible to strengthen the American family, to encourage self-reliance, and to follow the Old Testament admonition: "Defend the poor and fatherless: give justice to the afflicted and needy." (Psalms 82:3)

We have struggled to assure that no child in America ever goes to bed hungry, that no elderly couple in America has to live in a substandard home, and that no young person in America is excluded from college because the family is poor.

What have the Republicans proposed? Just an attack on everything we have done in the achievement in social justice and decency that we've won in the last 50 years—ever since Franklin Delano Roosevelt's first term. They would make Social Security voluntary. They would reverse our progress on the minimum wage, full employment laws, safety in the work place and a healthy environment.

Lately, as you know, the Republicans have been quoting Democratic presidents, but who can blame them? Would you rather quote Herbert Hoover or Franklin Delano Roosevelt? Would you rather quote Richard Nixon or John Fitzgerald Kennedy?

The Republicans have always been the party of privilege, but this year their leaders have gone even further. In their platform, they have repudiated the best traditions of their own party.

Where is the conscience of Lincoln in the party of Lincoln? What's become of that traditional Republican commitment to fiscal responsibility? What's happened to their commitment to a safe and sane arms control?

DEMOCRATIC DECISIONS

Now I don't claim perfection for the Democratic Party. I don't claim that every decision that we have made has been right or popular. Certainly they've not all been easy. But I will say this:

We've been tested under fire. We've neither ducked nor hidden. And we've tackled the great, central issues in our time, the historic challenges of peace and energy which had been ignored for years.

We've made tough decisions and we've taken the heat for them. We've made mistakes and we've learned from them. So we have built the foundation now for a better future.

We've done something else—perhaps even more important. In good times and bad, in the valleys and on the peaks, we've told people the truth—the hard truth—the truth that sometimes hurts.

One truth that we Americans have learned is that our dream has been earned for progress and for peace. Look what our land has been through within our own memory—a great depression, a world war, the technological explosion, the civil rights revolution, the bitterness of Vietnam, the shame of Watergate, the twilight peace of nuclear terror.

Through each of these momentous experiences we've learned the hard way about the world and about ourselves. For we've matured and we've grown as a nation. And we've grown stronger.

We've learned the uses and the limitations of power. We've learned the beauty and responsibility of freedom. We've learned the value and obligation of justice—and we have learned the necessity of peace.

Some would argue that to master these lessons is somehow to limit our potential. That is not so. A nation which knows its true strengths, which sees its true challenges, which understands legitimate constraints—that nation, our nation—is far stronger than one which takes refuge in wishful thinking or nostalgia.

The Democratic Party—the American people—have understood these fundamental truths.

All of us can sympathize with the desire for easy answers. There's often the temptation to substitute idle dreams for hard reality.

The new Republican leaders are hoping that our nation will succumb to that temptation this year. But they profoundly misunderstand and underestimate the character of the American people.

Three weeks after Pearl Harbor, Winston Churchill came to North America—and he said:

"We've not journeyed all this way across the centuries, across the oceans, across the mountains, across the prairies because we are made of sugar candy."

We Americans have courage.

CARTER'S HOPES FOR FUTURE

Americans have always been on the cutting edge of change. We've always looked forward with anticipation and confidence. I still want the same thing that all of you want—a self-reliant neighborhood and strong families; work for the able-bodied and good medical care for the sick; opportunity for our youth and dignity for our old; equal rights and justice for all people.

I want teachers eager to explain what a civilization really is—and I want students to understand their own needs and their own aims, but also the needs and yearnings of their neighbors. I want women free to pursue without limit the full life of what they want for themselves.

I want our farmers growing crops to feed our nation and the world, secure in the knowledge that the family farm will thrive and with a fair return on the good work they do for all of us. I want workers to see meaning in the labor they perform—and work enough to guarantee a job for every worker in this country.

And I want the people in business free to pursue with boldness and freedom new ideas. And I want minority citizens fully to join the mainstream of American life, and I want from the bottom of my heart to remove the blight of racial and other discrimination from the face of our nation, and I'm determined to do it.

I need for all of you to join me in fulfilling that vision. The choice—the choice between the two futures—could not be more clear. If we succumb to a dream world, then we'll wake up to a nightmare. But if we start with reality and fight to make our dreams a reality—then Americans will have a good life, a life of meaning and purpose in a nation that's strong and secure.

Above all, I want us to be what the founders of our nation meant us to become—the land of freedom, the land of peace, and the land of hope.

Thank you very much.

Mondale Attacks Ronald Reagan

Mr. Speaker, fellow Americans, fellow Democrats.

I am honored to accept your nomination. I am proud to be running with Jimmy Carter, and I am proud to be running on our party's progressive platform. And we're going to win!

This has been an extraordinary week in American politics. We have just held the most representative and the most open political convention in American history.

Last month in Detroit another convention was held, isolated in a bubble of privilege from the city that hosted it.

A comfortable convention composed of America's wealthy told us they symbolized the nation.

A malapportioned convention where the cities were denied their share of the delegates told us they symbolized democracy.

A token convention, whose workers and women and minorities sat at the back of the bus, they told us they symbolized the people.

They spoke of realism and cheered the gold standard. They spoke of truth and said Franklin Roosevelt caused World War II. They spoke of modernization and vindicated Barry Goldwater. They spoke of justice with a script by Phyllis Schlafly, and they spoke of fairness with a text by Jesse Helms.

MIRROR OF AMERICA

This Democratic convention is a mirror of all America—all of it, black and white, Asian and Hispanic, native and immigrant, male and female, young and old, urban and rural, rich and poor.

When we speak of peace, the voice is Ed Muskie's. When we speak of workers, the voices are Lane Kirkland's and Doug Fraser's. When we speak of freedom, the dream is Coretta King's. When we speak of compassion, the fire is Ted Kennedy's.

And when we speak of courage, the spirit is Jimmy Carter's. When we in this hall speak for America—it is America that is speaking.

Tonight, at this Democratic convention, let us openly declare our faith. We believe in the fundamental decency of the American people. And we believe in strong, efficient and compassionate government. We believe that America's greatest strength is its values—our love of freedom, our sense of fairness, our spirit of service.

These beliefs have been passed in every accent that America speaks, in Polish, in Italian, in Yiddish, in Greek, at the kitchen tables in Boston, on family farms in my own Midwest.

We Democrats believe that government can serve those values. No government can guarantee a perfect life for anyone, no government can substitute for our families, our churches, our synagogues, our neighborhoods or our volunteers. But a progressive government must do two things. It must create the conditions to help all people build better lives for themselves. And it must do so efficiently, honestly and fairly.

Those are the beliefs that we share together as Democrats. But the Republican nominee for president has a different view of government. He tells us instead—and let me use his own words—that "the best thing that government can do is nothing." We disagree.

Let him tell the auto workers in Detroit that the right to collective bargaining is nothing. Let him tell the senior citizen in Philadelphia that the Social Security index for inflation is nothing. Let him tell the freshman in Chicago that student assistance is nothing. Let him ask the family in Boulder [Colo.] if clean air and pure water and protected wilderness are nothing. And let him ask the people of Selma, Ala., if the right to vote is nothing.

These rights and these programs are the work of Democrats and were fiercely opposed by the Republicans. The Republican Party has been out of step with America for 50 years, and their nominee is out of step more than any of them.

BUT NOT RONALD REAGAN

Today, most Americans, indeed most Republicans, believe that the Constitution of the United States should incorporate an Equal Rights Amendment for the women of this country. But not Ronald Reagan.

Most Americans today believe that we should have strong federal aid to education and a Department of Education to support it. But not Ronald Reagan.

Most Americans believe that no family should be impoverished in medical debts because of tragic illness. But not Ronald Reagan.

Most Americans believe in labor law reform to protect the rights won by workers in the Thirties. But not Ronald Reagan.

Most Americans believe that workers' health and safety should be protected on the job by federal law, but not Ronald Reagan.

You're getting better.

Most Americans believe that we need energy conservation to cut out dependence on foreign oil, but not Ronald Reagan.

Most Americans, including the American Bar Association, believe in a judiciary free from right-wing loyalty tests, but not Ronald Reagan.

And yet, the Republican nominee wants us to forget all that, forget 40 years of extreme positions. All of a sudden, that party is for jobs. The party that gave us the Great Depression and four years ago the highest unemployment since then, would have us believe that they're now for working people and for leaving no one behind.

Well, I've been in politics many years, and I've noticed that the closer the Republican oratory moves toward Franklin Roosevelt, the closer their policies move to Herbert Hoover.

REAGAN-KEMP-ROTH

This year's version of prosperity's just around the corner is called "Reagan-Kemp-Roth." It's simple and it goes like this:

Cut taxes by one trillion dollars. That's it. Their entire strategy. Every one of their promises, your next pay check, your grocery bills, your home, they all hang on that slender thread.

It's a trillion-dollar tax cut based on a two-cent theory. Every leading economist rejects it. Most Americans disbelieve it and for a good reason.

First of all, it is obviously, murderously inflationary. Even Business Week said it would touch off an inflationary explosion that would wreck the country.

Second, it's the most regressive tax proposal in history. It is the stalest Republican idea of all. Tax cuts for the wealthy trickle down for the rest of Americans. If you're earning $200,000 a year, you save enough money to buy a new Mercedes. But if you're a teacher, you save enough money to buy a hubcap.

And if you're unemployed or on Social Security, you don't even get your bus fare back.

Kemp-Roth is an insult to the American people. The only way to cut taxes by a trillion dollars, add billions to defense and balance the budget all at the same time, as they propose, is to destroy everything that Roosevelt and Truman and Kennedy and Johnson and Humphrey and Carter and every delegate in this room has worked for all our lives.

Only if Mr. Reagan repealed Medicare and Medicaid and all of our programs for schools and cities and veterans and the unemployed. Only then could he finance that tax scheme. Only if he destroyed the Social Security system and all who depend on it, only then would the job be done.

RONALD REAGAN SAID . . .

It's hard to believe, I confess, it's hard to believe that Ronald Reagan would do that. After all, what kind of a person would try to wipe out every program since Roosevelt. Well, he'd have to be a person who'd believe, and I quote, "Fascism was really the basis for the New Deal."

Now who would say something like that?

Ronald Reagan would.

He'd have to be a person who calls the weak and the disadvantaged, and I quote, "a faceless mass waiting for handouts."

Who on earth would say something like that?

Ronald Reagan did.

He'd have to be a person who would call programs that help blacks and Hispanics "demeaning and insulting."

Who on earth would say that?

Ronald Reagan did.

He'd have to be a pearson who believes, and I quote, get this, "the minimum wage has caused more misery and unemployment than anything since the Great Depression."

Who on earth would say anything like that?

Ronald Reagan.

He'd have to be a person who thinks antitrust suits should bust up trade unions in America. Who would propose anything like that? Ronald Reagan.

He'd have to be a person who would wreck the Social Security system by making it voluntary. Who would ever suggest anything like that? Ronald Reagan.

He'd have to be a person who would destroy the family farm programs because they're, quote, "subsidizing the inefficient." Who would propose anything like that? Ronald Reagan, of course.

He would have to be a person who called the Civil Rights Act of 1964 "a bad piece of legislation." Who would say anything like that? Ronald Reagan.

One of the finest student bodies I've ever lectured to in my life.

Now get this one: Who on earth would call the League of Women Voters "Rhine Maidens." Who would say anything like that? You guessed it, Ronald Reagan.

PROGRESSIVE RECORD OF DEMOCRATS

That negative-thinking, I must say, was not a part of that small town of rural Minnesota where I grew up. That tone of resentment was never heard in my father's church. That cynicism was not what I felt in the high schools, the farms, the factories and the homes that I visited all over this nation in the last 30 years.

The fact of it is that the people of this country want to work together; they want to build, they are confident, and as the Republican nominee will learn in November, the American people do not and will not turn back. They want to move forward, and moving forward is what we're doing under President Carter.

This administration has a good, solid, progressive record, and we're going to run on it and we're going to win with it. In 1976, I will remind you, from this podium, we said we believed in jobs.

And today there are over 8 million more people at work than on the day that President Carter was inaugurated. A higher percentage of working age Americans are on the job today than ever before. We have added more jobs to the workforce than any administration in American history.

That is a good—the best record of producing jobs in American history and Jimmy Carter deserves credits for that accomplishment.

But we all know there are still too many unemployed in America, and I pledge to you, I pledge to every delegate in this convention hall and to the American people that this administration and this Democratic Party will not stop until everybody who needs and wants a job in America has one.

In 1976, we promised Americans that we would support education. And after eight years of Republican vetoes and impoundment, President Carter has added more funds to education than any president in American history. President Carter goes down as the most pro-education president in the nation's history.

We said we believed in the dignity of our seniors. We rescued the Social Security system from the brink of bankruptcy where the Republicans left it, and we made sure the benefits kept on growing. We increased health care programs for the elderly by 50 percent, doubled housing aid, eliminated the cash downpayment for food stamps. We proposed and passed the nation's first program to help older Americans pay their fuel bills, and up and down this progressive agenda, this administration has delivered.

And I would point out that President Carter has appointed more women, more blacks and more minorities to the federal bench than all the previous presidents in American history combined.

We created the first farmer-held reserves and each year we built an all-time record in farm exports, we passed the biggest increase in minimum wages, we doubled legal services for the poor, we built the most effective across-the-board, pro-city policy in our history. Every mayor and county executive, practically, in America is supporting President Carter because he's done more for the cities than any president in American history.

We did this within a tight budget to bring down inflation. It is a good, solid record, by Democrats. It is a good, solid record. Let's be proud of it, let's work for it, and let's fight those who wish to destroy it. Let's stick with this good president and this political party and the platform that we've developed.

Let us not go for this quick-fix tax cut for the rich. The American people do not want to wipe out a half-century of progress in the know-nothing season of resentment. The American people do want their government to be efficient and honest, and I am confident they also want their government to fight for social and economic justice. And on that belief I will stake this election.

NATIONAL STRENGTH

We will also stake the contest on the paramount issue that the Republicans tried to raise in Detroit—the question of national strength. We gladly accept the challenge. The president of the United States has an enormous job. He's charged with the most powerful responsibility and most sober responsibility to be found in the world—the burden of nuclear power. He is the leader of the civilized world. He must defend its freedom, he must grasp the complexities of our difficult world, he must protect our security by freeing our dependence on foreign oil. And to do all of that we must have a strong president.

Yet last month, Ronald Reagan spent two days on national television drawing up a plan to divide the presidency and weaken its powers. Anyone who seeks the presidency and in his first serious act convenes a constitutional convention in his hotel room to weaken the office he's seeking does not understand the Constitution, the presidency, or what national security is all about.

The first responsibility of a strong president is to defend our nation. For the eight years of Republican rule while the Soviets were building up their power, real American defense spending dropped 35 percent. That's the Republican record.

We not only have increased real defense support by 10 percent, we also have invested in the most sophisticated weapons in the world. No American general or admiral would dream of exchanging our forces for any on Earth. But Mr. Reagan scolds us for having canceled an outmoded bomber that would be obsolete and vulnerable the day it was launched.

President Carter chose instead the modern cruise missile which renders the whole expensive Soviet air defense system obsolete. Up and down the defense system agenda the Republicans repeat the same mistake. They want to resurrect decommissioned ships. They want to revive the ABM system, which even Nixon junked. With obsolete missiles, mothballed ships, vulnerable bombers, and petrified ideas, they would waste billions on defense relics that would drain and weaken us.

President Carter does not want to mimic the Soviets' bulk. He has chosen to offset it with the greatest resource we have—genius of American technology. And as a result, this nation today is building security, not for yesterday, but for the rest of the century.

National strength requires more than just military might, it requires the commitment of the president to arms control. If there is one thing that bothers me more than anything else, and I think bothers you, it is the fear that someday, somehow, for reasons that do not matter, the world will resort to the final madness of a nuclear holocaust.

Reason, common sense and a decent respect for humanity demand that we stall this nuclear arms race before it bankrupts and destroys us all.

Without arms control, everything is out of control. Without the SALT treaty, we would be forced to waste billions on weapons that buy us nothing. And even though it took seven years to negotiate this treaty, and even though our president and our secretary of state and all the Joint Chiefs of Staff and every NATO ally wants this treaty ratified, Mr. Reagan for the life of him cannot understand why.

Well, let me say, Mr. Reagan, we must have arms control for the life of all of us. And we need a President Jimmy Carter who believes in controlling the madness of controlling nuclear arms.

HUMAN RIGHTS

Above all, America's strength depends on American values. Every time we have a foreign policy that reflects American beliefs, we strengthen this nation. Last month I was in Nigeria, the world's most powerful black nation and the second largest source of American oil. A few years ago the secretary of state under the Republicans was told he was not welcome in Nigeria because they did not stand up for the principle of human rights and majority rule.

But when I went to Nigeria I was welcome because the United States has a president, President Carter, who in his first act in office said from here on out the United States is going to stand for human rights and majority rule all over this Earth.

And now, and now, in Rhodesia, we see the same developments, a new democracy based on democratic institutions and the Soviets suffering another reversal. Today, our human rights policy is drawing the nations of Africa and the world together like a magnet and toward us.

The Republicans say a strong nation is one that never apologizes to any one. I say it's a nation whose leaders who are not doing things for which we must apologize. That's the difference.

A foreign policy that reflects American values advances American interests.

When President Carter saw through the ratification of the Panama Canal treaties, not only did we rid ourselves of the last vestiges of colonialism, we also strengthened our influence in Latin America.

When the president normalized relations with China, he not only told one-fourth of the human race that they exist, he also established a powerful counterforce to Soviet aggression.

And when the president denounced the persecution of Andrei Sakharov, he not only affirmed individual liberty, he also unmasked the Kremlin to other nations.

FOUR YEARS OF PEACE

Today, my fellow Democrats, thank God, for four years, our nation is at peace. Our armed forces are engaged in combat nowhere in the world. But I want you to note this. In the years of preparing to run for the presidency, Mr. Reagan suggested that American forces be sent—now listen to this—Mr. Reagan said that we should send American forces to Equador, to Angola, to Rhodesia, to Panama, to Cyprus, to Pakistan, to North Korea, to the Middle East; and I don't think the American people stand for that for a moment.

They want a president who is steady, who's sober, who's experienced, and who has demonstrated that he knows how to keep the peace. And that's why they're going to reelect President Carter.

They want a president, who like Jimmy Carter, took Egypt and Israel, that had fought four tragic wars in 30 years, brought them together, got them talking, caused a peace treaty to be signed. And tonight they are exchanging ambassadors and not bullets between Israel and Egypt because of Jimmy Carter's courage and leadership.

And let me say a special word about Israel. Israel is our friend, our conscience, our partner. Its well-being is in our moral, our political and our strategic interest. And I stand before you tonight and say that the people of the United States, the president of the United States will stand by Israel in this term, in the next term and always.

SERVICE AS VICE PRESIDENT

In the last three-and-a-half years, you permitted me to serve you as your vice president. I've been privileged to represent you to the people of every continent on this Earth, and every time I've traveled abroad, the more I've loved my home.

I spent my whole life in the struggle for civil rights, but when I heard the president of Senegal invoke the words of Martin Luther King, seldom have I loved our conscience more. My whole life, I've been proud of the refuge we've been to exiles, but when I saw the men of the USS *Midway* who had saved both people from the sea, seldom have I prized our compassion more.

I have been my whole life an advocate of family farming in America, but when I spent a week in China answering questions about our triumphs, seldom have I respected and admired our genius more. All my life I believed that America must be strong, but when I met the people of Norway, whose independence our strength protects, seldom have I been more thankful for our power.

Like every American, I value freedom above all else, but when the U.S. Olympic Committee and American athletes sacrificed for an Afghan nation half a world away, seldom have I loved our people more.

We are blessed to be Americans. We are an example to the world. Don't let anyone tell you that we're less than we've been. And don't let anyone make us less than we can be.

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time. If the minority leader needs some of it, I would be glad to yield to him.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader, the Senator from Tennessee, is recognized.

Mr. BAKER. Mr. President, I thank the majority leader. I have no need for additional time.

GOVERNOR REAGAN'S SPEECH TO B'NAI B'RITH

Mr. BAKER. Mr. President, few issues are more fundamentally important to the United States than peace in the Middle East. The process of seeking peace in the Middle East is, and will remain, a fundamental element of the foreign policy of the United States.

I was pleased, therefore, to read the account and then the text of Governor Reagan's address last night before the annual convention of the B'nai B'rith. In that address, he demonstrated a sensitive and comprehensive understanding, not only of the interests of the United States in the Middle East, but of the issues that fuel that volatile conflict. Most importantly, he understands the necessity of our unrelenting efforts to diminish the risks of war and seek finally a just and permanent peace.

As demonstrated by the address last night, Governor Reagan knows full well that the commitment of the United States to the existence and security of Israel is neither altruistic nor philanthropic, it is critical to our own self-interest. As the Governor said last night, a safe, secure, and democratic Israel is the "cornerstone of our effort and of our interest" in the stability of the Middle East. Moreover, the undoubted continuance of our commitment to Israel's security is fundamentally important in one other respect and that is the credibility of our own Nation: Unlike any previous administration, the Carter administration has, by the combined effects of its defense and foreign policies, led ally and adversary alike to question whether the commitments of the United States are truly commitments. Our credibility must be restored—militarily, economically, and politically—and Governor Reagan understands the dimensions of that undertaking.

Governor Reagan also understands full well the dangers of inconsistency and of the difficulties that the failure to chart and maintain a steady course have brought us over the past 4 years. He noted last night that this is the administration that began its endeavors by inviting the Soviet Union to continue on an officially sanctioned basis its disruptive meddling in the region. Fortunately, President Sadat rejected that approach. This is an administration that has reversed itself on the votes in the United Nations, consulted with the PLO and toyed with the revision of the one enduring element in the search for peace, Security Council Resolution 242. To be fair, it is also this administration that achieved the Camp David accords, which continue to represent a significant achievement in the search for peace in the region. But as the Governor so correctly observed, it is Resolution 242 that remains the guiding principle to which we must look as the Camp David negotiations continue.

The Governor's statement is an excellent and comprehensive description of the prospects and problems we face in the Middle East over the coming years. He is sensitive to the issues involved in the search for peace and the necessity for the United States to remain a credible, consistent and honest partner in that search. I invite the attention of all my colleagues to the thoughts that he expressed last night and ask unanimous consent that his remarks be printed at this point in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Speech by Governor Reagan

I know it will come as no surprise to you that I have chosen to speak to you tonight about the state of Israel, its importance to our own nation and world peace.

But in a sense when I speak of Israel, I speak as well of other concerns of B'nai B'rith and of the entire Jewish community in the United States. Israel is not only a nation—it is a symbol. During my campaign I have spoken of the values of family, work, neighborhood, peace and freedom. I made a commitment to see to it that those values would be at the heart of policy-making in a Reagan administration. Israel symbolizes those values. What is Israel if not the creation of families, working together to build a place to live and work and prosper in peace and freedom?

In defending Israel's right to exist, we defend the very values upon which our nation is built.

The long agony of Jews in the Soviet Union is, of course, never far from our minds and hearts. All these suffering people ask is that their families get the chance to work where they choose, in freedom and peace. They will not be forgotten by a Reagan administration.

But, I must tell you this:

No policy, no matter how heartfelt, no matter how deeply rooted in the humanitarian vision we share, can succeed if the United States of America continues its descent into economic impotence and despair.

Neither the survival of Israel nor the ability of the United States to help dissidents resist tyranny can become realistic policy choices if our American economy continues to deteriorate under the Carter policies of high unemployment, taxes and inflation.

The rhetoric of compassion and concern becomes just that, mere words, if not supported by the vision—and reality—of economic growth. The present administration does not seem to realize this. It seems to believe that if the right kind of words are chosen and repeated often enough, all will be well. Can those who share our humanitarian concerns ignore the connection between economic policy, national strength and the ability to do the work of friendship and justice and peace in our own nation and world?

The theme of this convention, "A Covenant with Tomorrow," speaks directly to the question of American interests and the well-being of Israel. There is no covenant with the future which is not firmly rooted in our covenant with the past. Since the rebirth of the State of Israel, there has been an iron-clad bond between that democracy and this one.

That bond is a moral imperative. But the history of relations between states demonstrates that while morality is most frequently given as a motive for actions, the true and abiding motive is self-interest. Well, the touchstone of our relationship with Israel is that a secure, strong Israel is in America's self-interest. Israel is a major strategic asset to America.

Israel is not a client, but a very reliable friend, which is not something that can always be said of the United States today under the Carter administration.

While we have since 1948 clung to the argument of a moral imperative to explain our commitment to Israel, no Administration has ever deluded itself that Israel was not of permanent strategic importance to America. Until, that is, the Carter administration, which has violated this covenant with the past. Can we now have confidence it will honor a covenant with tomorrow?

The interests of all the world are served by peace and stability in the Middle East. To weaken Israel is to destabilize the Middle East and risk the peace of the world, for the road to world peace runs through the Middle East.

How do we travel that road?

We cannot positively influence events at the perimeters of our power if power—including economic power—at the center is diminished.

The conduct of this nation's foreign policy in the last four years has been marked by inconsistency and incompetence.

We must have a principled, consistent foreign policy which our people can support, our friends understand, and our adversaries respect. Our policies must be based upon close consultation with our allies.

We require the defensive capability necessary to ensure the credibility of our foreign policy, and the security of our allies and ourselves. There can be no security for one without the other.

Today, under Jimmy Carter, our defensive capability has been so seriously eroded as to constitute not a deterrent but a temptation.

This is not a campaign issue, it is a matter of grave national concern; indeed so grave that the President considers it a liability to his personal political fortunes. He has tried to give the appearance of responding to it. But the half-hearted measures he proposes are clearly inadequate to the task.

We must restore the vital margin of safety which this administration has allowed to erode, maintaining a defense capability our adversaries will view as credible and that our allies can rely upon.

As an ally of the United States, Israel must have the means to remain strong and secure. Over the years, the United States has provided economic and defense assistance, and a Reagan Administration will maintain this traditional commitment.

In 1976, Candidate Jimmy Carter came before this convention and said: "I have called for closer ties with our traditional allies, and stronger ties with the State of Israel. I have stressed," he said, "the necessity for a strong defense—tough and muscular, and adequate to maintain freedom under any conceivable circumstances."

One wonders, did the candidate listen to his own call? Today we have fewer real allies and, among those, we speak with diminished authority. Our relations with Israel are marked by doubt and distrust. Israel today is in grave danger, and so is freedom itself.

In 1976, Jimmy Carter declared that he would seek what he called a "comprehensive settlement" in the Middle East. What this might mean for Israel and how this might be achieved were questions neither asked nor answered.

The comprehensive agreement which Mr. Carter sought required, first, a reconvening of the Geneva Conference. Israel was amenable to this step. Her adversaries agreed conditionally. But, the conditions were that the Palestine Liberation Organization be represented and that Israel effectively agree in advance of negotiation to withdraw to the pre-1967 borders, which were in fact armistice lines resulting from the first effort to destroy the State of Israel. Israel rightly refused these conditions and was promptly accused of intransigence. Can we believe that Mr. Carter is not still in favor of dealing with the P.L.O. and desirous of forcing the terms of a settlement?

Mr. Carter invited the Soviet Union to join him in his effort to force Israel to accept the mockery of negotiations in Geneva. Before that, it had required a major effort to keep the Soviets out of the Middle East peace process. In October, 1977, Mr. Carter invited them back in free of charge, and they graciously accepted. The Carter administration presented as a major achievement the conclusion of a joint Soviet-American accord which would have given the Russians a stranglehold on negotiations, as well as a convenient calling card for inserting themselves more deeply into the Middle East.

This seriously disturbed President Sadat. The President of Egypt did not share Mr. Carter's appreciation of the Soviets, and he came to the conclusion which other world leaders, including Mr. Brezhnev, have now reached: Mr. Carter is incapable of distinguishing between his own short-term political interests, and the nation's long-term foreign policy interests. Mr. Carter professed not to understand what all the fuss was about.

The result was that the United States Government, for the first time in the history of the rebirth of Israel, found itself on the outside looking in. President Sadat made his courageous trip to Jerusalem at the invitation of Prime Minister Begin, and a bilateral peace process began. Without, let me reemphasize, the participation of Mr. Carter. The quick foreign policy success that Carter had hoped to achieve turned instead into another major foreign policy blunder.

What we do or fail to do in the Middle

East is of vital importance not only to the peoples of the region, but also to the security of our country, our Atlantic and Pacific allies, Africa, China, and the Asian subcontinent.

Because of the weak and confused leadership of Jimmy Carter, we are approaching a flashpoint in this tragic process, with Soviet power now deployed in a manner which directly threatens Iran, the Persian Gulf and Arabian Sea; with Soviet forces and proxy forces building up again in the region; with Soviet fleets and air bases emplaced along the sea lanes on which we and our Allies and the entire free world depend.

In spite of this I am confident that if we act with vigor, vision and practical good sense, we can peacefully blunt this Soviet thrust. We can rely upon responsible Arab leaders in time to learn what Anwar Sadat learned, which is that no people can long endure the cost of Soviet patronage.

How we deal with Israel and her neighbors in this period will determine whether we rebuild the peace process or whether we continue to drift. But let it be clear that the cornerstone of our effort and of our interest is a secure Israel, and our mutual objective is peace.

While we can help the nations of that area move toward peace, we should not try to force a settlement upon them.

Our diplomacy must be sensitive to the legitimate concerns of all in the area. Before a negotiated peace can ever hope to command the loyalty of the whole region, it must be acceptable to Israelis and Arabs alike.

Most important, we must rebuild our lost reputation for trustworthiness. We must again become a nation that can be relied upon to live up to its commitments.

In 1976, candidate Jimmy Carter said: "I am concerned with the way in which our country, as well as the Soviet Union, Britain and France have poured arms into certain Arab countries—five or six times more than Israel receives."

But it was Mr. Carter who agreed to sell 60 F-15 fighters to Saudi Arabia. To get the Congress to go along, he assured these aircraft would not have certain offensive capabilities. Now, the Secretary of Defense tells us he cannot say whether this commitment to Congress will be honored.

It was Mr. Carter who agreed to sell 100 main battle tanks to Jordan.

It was Mr. Carter who agreed to provide U.S. licensed turbine engines for Iraqi warships.

Meanwhile, Israel is being increasingly isolated by international terrorism—terrorism by bullets and terrorism by U.N. resolutions, while Carter stands by and watches.

I was appalled to see the Carter administration abstain from voting on, rather than veto, the Resolution passed by the United Nations Security Council two weeks ago, totally disregarding the Democratic Platform promises of 1976 and 1980. As I stated then, that Resolution not only undermines progress toward peace by putting the United Nations on record against Israel and on one side of the sensitive issue of the status of Jerusalem; it also presumes to order other nations—including our Dutch ally—to move their embassies from Jerusalem.

I believe this sorry episode sheds some new light on an earlier action by Jimmy Carter concerning another U.N. resolution, voted on in March this year. On March 1st, the Carter administration failed to veto a mischievous U.N. Resolution condemning Israel's presence in Jerusalem, calling it an "occupation". That was the position of the Carter administration on Saturday. Two days later, on a Monday, reacting to the public outcry, Jimmy Carter put the blame for this outrage on his Secretary of State and reversed the position of the administration.

The man who asks "trust me," zigzags and flip-flops in ever more rapid gyrations, trying to court favor with everyone: Israel, the PLO, the voting bloc in the United Nations and the voters at home. On March 1st, it took the Carter administration three days to switch positions. On August 20th, it took only three minutes. Secretary of State Muskie condemned the U.S. Resolution on Jerusalem in a long speech that was for the voters in this country. Minutes later, he abstained instead of vetoing the U.N. Resolution. That was for the PLO and their friends.

This is the Carter record on the Middle East. Arab leaders are persuaded that we don't say what we mean. Israel is persuaded that we don't mean what we say. How do we build productive relations with either side on such a basis?

Before we can act with authority abroad, we have to demonstrate our ability to make domestic policy without asking permission of other governments.

Mr. Carter sent an emissary to Saudi Arabia to ask for permission to store petroleum here in our own country—a strategic reserve vital to our national security and long demanded by Congress. The Saudis, predictably, said no. Mr. Carter halted the stockpiling.

Can we have relations with our friends in the Arab world if those relations are built on contempt for us?

Clear away the debris of the past four years, and the following issues remain to test the good faith of the Arab nations and of Israel, and to challenge our national will and diplomatic skill in helping them to shape a peace.

There is the unresolved question of territorial rights resulting from the 1967 war.

There is the status of Jerusalem which is part of the first question.

There is the matter of refugees.

There is the matter of the PLO, which I consider distinct from the matter of the refugees.

The question of territory, putting aside Jerusalem for the moment, must still be decided in accordance with Security Council Resolutions 242 and 338. We will tolerate no effort to supersede those resolutions. We must weigh the future utility of the Camp David accords against that position.

There are basic ambiguities in the documents Camp David produced, both in the links between the Israeli-Egyptian peace, and in the provisions for an autonomous regime in the West Bank and the Gaza Strip. These ambiguities have now brought negotiations to a dangerous impasse.

Let us remember that an autonomous Palestinian Arab regime for the West Bank and the Gaza Strip was an Israeli proposal—a major concession on Israel's part in the interest of progress toward peace.

Negotiations between Israel and Jordan could result in long and creative steps toward resolving these problems. Israel and Jordan are the two Palestinian states envisioned and authorized by the United Nations. Jordan is now recognized as sovereign in some 80 percent of the old territory of Palestine. Israel and Jordan are the parties primarily authorized to settle the future of the unallocated territories, in accordance with the principles of the Mandate and the provisions of Resolutions 242 and 338.

Thus, the autonomy plan called for in the Camp David Agreements must be interpreted in accordance with the two Security Council Resolutions, which remain the decisive and authoritative rules governing the situation. The Camp David Agreements cannot and should not lead to fundamental changes in the security position, or to the withdrawals of Israeli troops, until Jordan and other neighbors make peace.

Jerusalem has been a source of man's spiritual inspiration since King David founded it. Its centrality to Jewish life is known to all.

Now it exists as a shared trust. The holy places of all faiths and protected and open to all. More than this, each is under the care and control of representatives of the respective faiths. Unlike the days prior to 1967, Jerusalem is now and will continue to be one city, undivided, with continuing free access for all. That is why I disagree with the cynical actions of the Carter administration in pledging to preserve the status of Jerusalem in its party platform and its undercutting Israel and Jerusalem by abstaining on a key U.N. vote. I believe the problem of Jerusalem can be solved by men of good will as part of a permanent settlement. The immediate problem is to make it easier for men of good will to come to the peace table.

President Carter refuses to brand the PLO as a terrorist organization.

I have no hesitation in doing so.

We live in a world in which any band of thugs clever enough to get the word "liberation" into its name can thereupon murder school children and have its deeds considered glamorous and glorious. Terrorists are not guerillas, or commandos or freedom-fighters or anything else. They are terrorists and they should be identified as such.

If others wish to deal with them, establish diplomatic relations with them, let it be on their heads. And let them be willing to pay the price of appeasement.

The PLO is said to represent the Palestinian refugees. It represents no one but the leaders who established it as a means of organizing aggression against Israel. The PLO is kept under tight control in every state in the area except Lebanon, which it has effectively destroyed. As for those it purports to represent, when any Palestinian breathes a word about peace to Israel, he is an immediate target for assassination. The PLO has murdered more Palestinians than it has Israelis.

This nation made an agreement with Israel in 1975 concerning its relations with the PLO.

This administration has violated that agreement.

We are concerned not only with whether the PLO renounces its charter calling for the destruction of Israel, we are equally concerned with whether it is truly representative of the Palestinian people. If we can be satisfied on both counts, then we will not be dealing with the PLO as we know it, but a quite different organization, one truly representative of those Arab Palestinians dedicated to peace and not to the establishment of a Soviet satellite in the heart of the Middle East.

Finally, the question of Arab Palestinian refugees.

My analysis of this tragic situation begins with the Declaration of the Establishment of the State of Israel, May 14, 1948. Let me read the relevant paragraph:

"We appeal—in the very midst of the onslaught launched against us now for months—to the Arab inhabitants of the State of Israel to preserve peace and to participate with us in the upbuilding of the State on the basis of full and equal citizenship and due representation in all its provisional and permanent institutions."

Tragically, this appeal was rejected. People left their land and their homes confident Israel would be destroyed in a matter of days and they could return. Israel was not destroyed and the refugee problem is with us today.

One solution to this refugee problem could be assimilation in Jordan, designated by the U.N. as the Arab Palestinian state.

The Psalms speak to our concerns, for they encompass all that we strive for. They are a vision of our ideals, of the goal to which we strive with constancy, dedication and faith. They embrace our hopes for a just, lasting peace in the Middle East and our hopes that the works of justice and mercy be done at home:

. . . May our garners be full,
    affording every kind of store; . . .
May there be no breach in the walls,
    no exile, no outcry in our streets.
Happy the people for whom things are thus;

It is given to us to see that this vision is never lost, its message never forgotten, that the work of peace and justice and freedom goes on, inspired by our values, guided by our faith and made permanent by our commitment.

Let us hope during these Holy Days of Rosh Hashanah and Yom Kippur that this next year will bring peace and justice to all the peoples of the Middle East; and to all of you I wish a Happy and Healthy New Year.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have no requests for time, and I am prepared to yield back my time unless the majority leader or another Member has some need for additional time.

Mr. ROBERT C. BYRD. I thank the minority leader. I yield back my time, too.

Mr. BAKER. I yield back my time.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

SENATOR BOREN IS COMMENDED FOR HIS PRESIDING OVER THE SENATE

Mr. PROXMIRE. First, Mr. President, I would like to commend the distinguished Presiding Officer, the Senator from Oklahoma (Mr. BOREN). I think few people realize that while presiding over the Senate is an honor—and I have been honored to do that—it is also a chore. It takes time, and takes time from busy Senators who have a great deal to do.

The Senator, the Presiding Officer, is not only a distinguished Senator, he was an outstanding Governor of Oklahoma. He has done a brilliant job since he has been in the U.S. Senate. I think our colleagues, all of our colleagues, should recognize that this young man has devoted more time to presiding than any other Member of the Senate this year, I might say, including the Vice President of the United States, whose job it is to preside.

I just wanted to call attention to that fact because I have such respect and affection for the distinguished Presiding Officer.

HOW DO WE COMPARE THE MILITARY POWER OF THE SOVIET UNION AND THE UNITED STATES?

Mr. PROXMIRE. Mr. President, how does the United States compare with our prime potential adversary in the world, the Soviet Union in military power? Consider the vast number of decisions that affect the life of all Americans that depend on the answer to that question.

Virtually all Americans agree we should match or surpass the Soviet Union. If in fact the Soviet Union does, indeed, surpass us we suffer a danger so serious that we should sharply increase our military effort to assure that we have a deterrent sufficient to prevent the U.S.S.R. from starting a nuclear war they might think they could win.

Even if we assume the Russians would not start a nuclear war if we feel the Russians have a preponderant military advantage over this country, we have the economic power to build our forces to a point where we equal or surpass the U.S.S.R. and we should do so.

Soviet military preponderance could force this country to cave in the Middle East where we have a vital stake in preserving our oil supply. If Soviet military force could cut off this supply, the United States would suffer an economic catastrophe.

In Europe our stake looms even greater. A successful Russian invasion of Western Europe would give the Soviet Union the economic domination and very quickly the certain military domination that would spell the end of freedom in this country.

So, if, indeed, the Soviet Union surpasses this country in military power, this country must build up its military force to overcome that advantage.

On the other hand if this country already enjoys at least parity or superiority in military strength over the Soviet Union, a further massive multibillion dollar buildup would feed inflation, deepen the deficit, increase the tax burden and accomplish no useful economic or social end.

So a great deal hinges on whether or not the Soviet Union does, in fact, own an advantage over the United States in military power. Does it?

How do we determine which nation has the biggest military power?

In some areas we lead. In some kinds of power this country swamps the Soviet Union. In some the U.S.S.R. sports a huge advantage.

CATEGORICAL COMPARISONS

Take the simplest element in any military force—old or new, ancient or modern—manpower. More than 4 million men and women serve in the Soviet military. About 2 million serve in the American military. A hundred years ago that difference would have concerned us very deeply. But today in 1980, no one judges military power just from the number of troops. If they did, the Chinese would have by far the most powerful military force on the face of the Earth and would enjoy greater military power than the Soviet Union and the United States combined. Except for an ability to defend China in a conventional war—not in a nuclear war—no one would rate the Chinese military as an important international factor. Their nuclear strength: primitive. Their naval power: puny. Their airpower: relatively feeble. In artillery, tanks, antitank weapons, mobility they just do not play in the same ball park as either the United States or the U.S.S.R.

So clearly we cannot accept the 2-to-1 advantage the Soviet Union now sports over the United States in military manpower as indicating by itself any military advantage over the United States. Power in a modern military force depends on the weapons the manpower has ready to use. So how do we compare with the U.S.S.R. in weapons?

Again, the issue becomes much more complex. Just as we cannot measure the strength of a military force based on the number of troops their generals and admirals can command, we cannot measure the strength of a military force by the sheer number of weapons each side may have. For example, the Russians have more naval ships—more fighting naval ships than the United States. But do the Russians really enjoy more naval power? First, consider firepower. By far the most powerful conventional naval vessel in the world is the aircraft carrier and the planes that use the carrier as their landing field. How do the two superpowers compare in aircraft carriers? The U.S.S.R. has two small carriers. We have 13 attack carriers—some of massive size and awesome power. But in sheer firepower our carrier fleet probably enjoys at least a 50-to-1 advantage over the Soviet Union and it may be that the advantage goes even higher.

In submarines the Soviet Union may have 30 or 40 percent more nuclear powered and nuclear armed submarines. But the U.S. submarines have several vital advantages. The U.S. subs move faster. They also move more quietly, so they appear to be far less vulnerable to antisubmarine attack than the Soviet submarine fleet. Also our ships spend about three times as much time at sea. That gives our naval ships a clear readiness advantage over the Soviet Union. We know the ships are ready to move because they are constantly moving in training exercises. Our American naval personnel also enjoys the skill that only constant practice can provide. Accuracy and reliability make a critical contribution to power. Here again the United States enjoys sharp advantages. Our nuclear missiles seem to have greater reliability and accuracy according to our best intelligence estimates.

So how would you rate the power—the side that has the great number by 30 or 40 percent or the side that has the ships with greater speed, quietness, accuracy, and reliability and with crews that have enjoyed far more practice at sea to work out the bugs?

I know what side I would bet on in the event of a conflict. I would bet on the U.S. Navy.

The comparison of U.S. and U.S.S.R. planes poses an equally tough problem. By and large the Russians have a greater number of planes. Again ours seem to be more advanced. Our pilots fly far more hours than the Soviet pilots. Our planes generally deliver more firepower. They seem to have an advantage in armor protection. Again we have every reason to bet on American airpower because our qualitative advantage matches their advantage in numbers.

In the strategic area—nuclear power—again the comparison becomes mixed. The Soviet Union certainly has more megatonnage. If we add up the destructive power of every nuclear weapon they possess, the Russians do, indeed, have a clear numerical advantage. At the moment we have more nuclear warheads—almost twice as many as the U.S.S.R. It is true, however, that the advantage may be fading.

Three or four years from now the Soviet Union may match the number of nuclear warheads we have. Will we then suffer a strategic disadvantage because their megatonnage will be much bigger? No. Our nuclear weapons now possess a much greater degree of accuracy than the Russians. Whose weapons will fire most reliably—on time, on target, without breakdowns? The evidence tells us this country enjoys the advantage. Much of that advantage will continue.

Some argue that anyone who would compare nuclear capability must suffer from insanity. Both nations would lose. A nuclear war means a double suicide and a probable knockout for civilization if not for mankind. That view may be correct. It lies behind Churchill's observation 30 years ago that:

> Then it may well be that we shall, by a process of sublime irony, have reached a state in this story where safety will be the sturdy child of terror, and survived the twin brother of annihilation.

If Churchill observed the strategic balance accurately then when both sides were prepared to fire little, what by today's standards would be, nuclear popguns, consider how much more true his observation has become when 4 short years from now the U.S.S.R. can deliver four nuclear warheads into every single county in the United States and we can retaliate with the same destruction in the Soviet Union.

The notion that nuclear war can only result from insane madness that has little or no relation to whether this country or the Soviet Union has half as much or twice as much power as they have now—does not impress me. We cannot and should not unilaterally disarm. We can and should match or surpass the Soviet Union. Deterrence does, indeed, depend on maintaining the balance of terror. Until we can develop a Strategic Arms Limitation Treaty—that is, a SALT treaty that genuinely reduces nuclear arms on both sides, peace ironically depends on matching or surpassing the U.S.S.R. in strategic as well as conventional capability.

DOLLAR COST METHOD OF COMPARISON

So how do we compare the Russian military strength with American military strength? So very much depends on this comparison. Has the President asked for too big a defense budget? Not big enough? Should we cut it? Should we increase it? With inflation, our overwhelming economic problem. With defense spending an absolute dead weight economically, how do we determine whether or not overall we match or even surpass the U.S.S.R. militarily on the one hand or permit them to forge ahead on the other?

Obviously, it is very hard to take an overall comparison when we have these very sharp differences.

THE UNITED STATES AND U.S.S.R.

Because we differ in quantity, in technology, in readiness, in so very many respects, some have suggested that we should compare how much we spend on our military effort and how much the U.S.S.R. spends on their military effort. Advocates of this basis of comparison argue that if one side spends much more money on the military than the other side, the side spending the largest amount of money must be buying the stronger military power.

That proposition should concern any budget watcher who has seen the Federal Government throw money at problems for years with heartbreaking results. The more money we have spent on our schools, our cities, our poor—the worse the problem seems to get. Obviously if the United States is spending its military money more wisely than the U.S.S.R., we may be buying greater military power while spending less. Or we may not. The quantity of money poured into the military will not tell us which country generates the most military power.

But we suffer a more serious problem using the money comparison. The advocates of this comparison rightly say that we cannot simply take the amount the U.S.S.R. spends on their military and compare that with how much we spend. They make sense. The Russians pay their troops far less. The Russian worker in a tank factory earns far less than an American worker. Most of the raw materials the Russians use for their military probably cost the Russians less than they cost our military. So if we construct a budget of actual Russian spending on the military we would understate by billions of dollars the amount of resources they put into the military.

HOW DO WE CORRECT THIS?

What the advocates of the comparison propose is that we estimate how much it would cost this country to reproduce the Russian military force, using American dollars, assuming that Russian military personnel were not—as they are—drafted and paid very little, but paid as much as our Volunteer Army, Navy, and Marine Corps and civilians earn. They assume the tank factory workers and the aircraft factory workers and the technicians and mechanics who construct Soviet missiles, electronics, and other military gear are paid what Americans earn. On those assumptions they conclude that the U.S.S.R. now spends at least 50 percent more than this country spends. They argue that whatever differences there may be in efficiency and whatever technical defects there may be in the comparison, we have here at least a rough and ready basis for comparing the effort each country puts into their military and a rougher but not unreliable or deceptive measure of the actual military power of the two countries.

In doing that, they make a serious mistake. So serious that this calculation may well be the underlying basis for having turned the Congress and the country around and persuaded us to waste literally billions on military spending on the mistaken assumption that we have a rough but reliable proof that the Soviet Union spends more and in the process builds a more powerful military force than the United States.

FALLACY OF EXAGGERATED MANPOWER COSTS

For the simplest way to see the gross fallacy in this reasoning consider again the Chinese military. Let us suppose we apply the same method of comparing military resource use for China and the United States of the Soviet Union. We have reliable reports that the People's Republic of China has a 7½-million-man military force. Let us apply precisely the same yardstick to the Chinese military force that the Defense Department has applied to the U.S.S.R. military force. Suppose the Chinese paid their military personnel in U.S. dollars at the same rate we pay our military personnel. Obviously by this comparison the Chinese would have the most costly and by far the most powerful military force on the face of the Earth—far more powerful than the Soviets and way ahead of the United States. They would be spending not 50 percent more than the United States spends but more than twice as much. And yet, as we have seen earlier, the Chinese military force would have the power of a butterfly's hiccough in any conventional conflict more than a few hundred miles from the Chinese border.

PRODUCTIVITY LOWER IN U.S.S.R.

If the comparison with the Soviet Union overstates the Soviet as well as the Chinese strength because of the equation of sheer numbers of troops with military power, that marks just the beginning of it. Every indication of economic efficiency has shown us that Russian industry trails far behind the United States in efficiency or productivity. In recent years the United States has failed to increase its productivity at its historic pace. But American worker productivity still matches the productivity of German and Japanese workers. That may change dramatically in the next 10 years unless we can find ways to resume our historic productivity gains. But no one can question that our productivity as well as the productivity of workers throughout Western Europe far surpasses the relatively crude productivity of Soviet workers.

This lower Soviet productivity explains why we make such a gross error when we flatly apply U.S. pay to Russians working on military contracts. When we bring the Russian worker in an aircraft plant up to the pay of American workers we do not determine how much it would cost us to build the Russian tank or plane. We determine how much it would cost us to build such a plane if we were working with Russian equipment, Russian management, and using materials mined and refined by Russians who in turn are using Russian equipment and operating under Russian management.

If we know anything about this country's economy and the economy of the Soviet Union, we know that our equipment operates far more efficiently, and we know our management has some and probably a very great advantage over Soviet management.

What does this all mean? It means that Russian industry simply does not produce the quantity or quality of weapons we could produce using the same amount of manpower and materials. And it certainly means that our calculations grossly overstate the cost of this country reproducing the military force of the Soviet Union.

As I have said, all this has the most profound implications. It means that the Members of Congress and the administration as well as our very influential kibitzers in the press have been persuaded to favor increasing spending by billions based on a gross exaggeration of defense spending by the U.S.S.R.

Mr. President, I am making this speech this morning based not simply on observations as a Senator from Wisconsin but because, for some 10 years now, every year I have conducted hearings in executive session, because much of the information is classified, with the CIA and the DIA testifying on the military and economic power of the Soviet Union, United States, and also China.

The CIA unfortunately, has been badly misinterpreted in this matter.

A man named Arthur Macy Cox wrote an article—a remarkably important article, in my judgment—in the Washington Post on this subject a couple of weeks ago. That article appeared on August 17. Cox served as a CIA official. He specializes in Soviet affairs. He now works as a policy consultant to the American Committee on East-West accord.

Mr. President I challenge members of the Senate Armed Services Committee to read that article. I am sending the article to the Secretary of Defense, and to Admiral Turner, the head of the CIA, to secure a response.

Mr. President, listen to what this article has to say and I quote:

> Congress recently authorized the largest U.S. defense budget in history because most members of Congress also have come to believe that the Soviets have doubled their defense spending during the decade of the 1970's. But the facts are very different. At no time has the Soviet defense budget been increased by more than 3 percent a year.

Mr. President, let me repeat that:

> At no time has the Soviet defense budget been increased by more than 3 percent a year.

Mr. President, none of us change our minds easily, but I do hope that if the military and defense officials of this country cannot answer Mr. Cox, we will take a more critical and careful look at military spending than we have taken in recent years.

Let me conclude this speech by quoting further from Mr. Cox and specifically from his explanation of how the news that the CIA had doubled its estimates of Soviet defense spending. and how no one in the Government or in the press has ever corrected that error. Cox explains:

> During the period from 1973 to 1976 as CIA analysts refined their methodology and obtained better intelligence, they made an important breakthrough. In costing Soviet defense production they had been crediting the Soviets with efficiency which was close to that of the United States. What they discovered was that Soviet defense production, in fact, was not very efficient. Thus, the Soviet defense effort was absorbing a greater share of the GNP than previously believed.

Here is what the published 1978 CIA report said:

> The new estimate of the share of defense in the Soviet GNP is almost twice as high as the 6–8 percent previously esitmated. This does mean that the impact of defense programs on the Soviet economy has increased—only that our appreciation of this impact has changed. It also implies that Soviet defense industries are far less efficient than formerly believed.
>
> The CIA increased the percent of GNP from 6 to 8 percent to 11 to 13 percent but there has been no doubling of the rate of actual Soviet defense spending. There was merely an increase in the CIA's estimate of the share of GNP expended for defense. What should have been cause for jubilation was never adequately explained to the Congress and the public. Instead, for the past four years, a misperception that there has been a great surge in Soviet defense spending has gone uncorrected. In fact, there have been no dramatic increases in Soviet defense spending during the entire decade.

Mr. President, I ask unanimous consent that the article to which I referred by Mr. Cox be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY THE SOVIETS "DOUBLED" ARMS SPENDING

(By Arthur Macy Cox)

In 1976, the CIA made what appeared to be an astounding discovery about Soviet defense outlays. News outlets throughout the country headlined the story, "CIA Doubles Estimate of Soviet Defense Spending." The media were very poorly briefed. Nobody at CIA thought the Soviets had suddenly increased their defense spending by 100 percent. But the impression was allowed to stand and has not been clarified.

A recent study published by the U.S. Air Force and prepared by the U.S. Strategic Institute said: "Estimates prepared by the Central Intelligence Agency, as well as by U.S. academic economists, have been in error by as much as 100 percent. The CIA estimates were accepted without question until 1976, when they were acknowledged to be grossly in error and doubled. Economists have not yet recovered from the shock of that experience."

Former President Richard Nixon in his new book, "The Real War" says: "In 1976 the CIA estimates of Russian military spending for 1970–1975 were doubled overnight as errors were discovered and corrected . . . When the first concrete steps toward arms control were taken, American presidents were being supplied by the CIA with figures on Russian military spending that were only half of what the agency later decided spending had been. Thanks, in part, to this intelligence blunder, we will find ourselves looking down the nuclear barrel in the mid-1980s."

Congress recently authorized the largest U.S. defense budget in history because most members of Congress also have come to believe that the Soviets have doubled their defense spending during the decade of the 1970s.

But the facts are very different. At no time has the Soviet defense budget been increased by more than 3 percent a year.

The CIA has an admittedly difficult job estimating what the Soviets spend on defense because so much is secret. The figure which the Soviets publish in their annual budget doesn't come close to approximating Soviet defense totals. The CIA tries to estimate the dollar cost of the Soviet military by determining what it would cost the United States to duplicate the Soviet defense establishment. This is obviously subject to considerable error because there are such vast differences in the costs of U.S. and Soviet defense programs.

The most glaring difference is in military manpower. The Soviets have about 4.4 million military personnel compared to a U.S. figure of 2.1 million.

The CIA makes an estimate of the dollar cost of the 4.4 million Soviet force multiplied by U.S. military pay and allowance rates. This results in a significant distortion because U.S. military personnel are volunteers with relatively high levels of pay and allowances. The Soviet forces, on the other hand, are drafted and paid about one-fifth the U.S. rate.

When this method of costing Soviet defense began in the early 1970s, the CIA concluded that the Soviets were spending between 6 and 8 percent of their gross national product (GNP) for defense. At the time, the United States was expending about the same percentage of its GNP for defense. Today, the U.S. figure is closer to 5 percent. However, it is often forgotten that the U.S. has a GNP which is about double that of the Soviets.

During the period from 1973 to 1976, as CIA analysts refined their methodology and obtained better intelligence, they made an important breakthrough. In costing Soviet defense production they had been crediting the Soviets with efficiency which was close to that of the United States. What they discovered was that Soviet defense production, in fact, was not very efficient. Thus, the Soviet defense effort was absorbing a greater share of the GNP than previously believed.

Here is what the published 1978 CIA report said: "The new estimate of the share of defense in the Soviet GNP is almost twice as high as the 6–8 percent previously estimated. This does not mean that the impact of defense programs on the Soviet economy has increased—only that our appreciation of this impact has changed. It also implies that Soviet defense industries are far less efficient than formerly believed."(Emphasis added.)

The CIA increased the percent of GNP from 6–8 to 11–13, but there had been no doubling of the rate of actual Soviet defense spending. There was merely an increase in CIA's estimate of the share of GNP expended for defense. What should have been cause for jubilation was never adequately explained to the Congress and the public. Instead, for the past four years, a misperception that there has been a great surge in Soviet defense spending has gone uncorrected.

In fact, there have been no dramatic increases in Soviet defense spending during the entire decade. There is what the CIA paper published in January 1980 said for the 1970–79 period: "Estimated in constant dollars, Soviet defense activities increased at an average annual rate of 3 percent." In other words, the Soviets have indeed been increasing their defense budget, each year, at about the same rate as the United States and most of its NATO partners. The U.S. defense budget for next year calls for an increase, in real terms, of about 5 percent.

From the standpoint of weighing the essential defense burden of the United States and Russia, there are several factors that should be given much greater emphasis when the executive branch is presenting the facts to Congress.

The first is the great difference between the defense contribution made by the European allies of the United States and the Warsaw Pact allies of the Soviet Union. In 1978, the European NATO members expended $75 billion for defense and France, a non-NATO ally, spent $16 billion—a total of $91 billion. The Warsaw Pact members, other than the U.S.S.R., expended $23 billion, or one-fourth of the defense spending of our European allies.

Perhaps even more important in considering the relative defense burdens is the cost shouldered by the U.S.S.R. in defending against China. The U.S. Defense Department says: "At least 22 percent of the increase in the Soviet defense budget during these 13 years [1964–1977] has been attributed to the buildup in the Far East . . . The high construction costs in Siberia suggest that the intelligence estimates may understate the cost of the Soviet buildup in the Far East substantially." In addition, according to the Defense Department, the Soviets "station as much as 25 percent of their ground forces and tactical air power on their border with China."

The Soviet burden of defense against China comes more sharply into focus when note is made of the fact that the Soviets have 44 divisions facing China and 31 divisions facing NATO. Of the 31 divisions in Central Europe, four are standing guard in Hungary and five have remained in Czechoslovakia since the invasion of that country in 1968. In other words, there are about twice as many divisions committed to the China front as to the West German front.

Furthermore, the U.S. does not have to match the Soviet forces facing China. Those forces are at the end of a long and tenuous line of communication that can be severed, in time of war, by missile strikes. These are not forces that can be readily transferred to combat in a European war. On the other hand, if it is argued that the U.S. defense budget should provide forces to counter the Soviet threat to China, then the Chinese defense budget should be included on our side—a total of $35 billion.

The combined NATO defense budgets are greater than the combined Soviet-Warsaw Pact defense budgets, and if the China factor is included, the Soviet proportion of defense facing the U.S. and its allies is less than 75 percent of that of the NATO powers.

These are facts which Congress should have before it when it weighs the budget appropriation decisions in the next few weeks. The Soviets have an ample defense budget, but it still does not equal its potential adversaries. The perception of Soviet military superiority is an illusion based, in large part, on a misunderstanding of the facts.

MEMORIES

Mr. PROXMIRE. Mr. President, last week Mrs. Eric Meier presented the Yad Vashem Museum with a photo album full of personal memories. But they are not pleasant memories. They are not memories of vacations in the sun or picnics in the park. They are memories of unthinkable horror: rows upon rows of pajama-clad inmates silently freezing to death in sub-zero calls of the roll, mounds of still-warm corpses being covered with quicklime, and the sight of Mrs. Meier watching her own family being prodded toward the gas chamber.

These are the images which have haunted Mrs. Meier's mind for more than 30 years, Mr. President.

Hopefully, with last week's gesture, she can exorcise them from her memory. But they must not be erased from our memory. Unthinkable horrors, yes, but we must think of them. We must grit our teeth and confront the gruesome reality of genocide, so that our children and grandchildren will never have to experience genocide. Mrs. Meier lived this horror; we were lucky enough to be spared it. Does this mean we should forget about it? Does this mean we should shove the memory of it into obscurity, as we have attempted to do with the Genocide Treaty?

The answer should be clear to every one of my colleagues: the answer is no, no, no.

When Mrs. Meier made her photographs public, they became our photographs. Her memories became our memories. And they must haunt us day after day until we take the step that our consciences tell us we should take—the ratification of the Genocide Treaty.

Mr. President, this body has an opportunity to pass on this horror, this genocide that took place. As we know, every President since President Truman, every Republican President, every Democratic President, the American Bar Association, and every religious organization has called on us to ratify this Genocide Convention.

Every other developed country in the world has ratified the Genocide Convention. Only the United States, which conceived the convention and pushed it through the United Nations, has failed to ratify it.

Mrs. Meier and her fellow inmates at Auschwitz felt the horror of genocide firsthand over 30 years ago; unless we be men and women without souls, we feel it still today. In the words of John Dunne:

> Never send to know for who the bell tolls; it tolls for thee.

I appeal to my colleagues: hearken to the bell which Mrs. Meier rang so courageously last week—ratify the Genocide Convention without delay.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DISABLED VETERANS REHABILITATION ACT OF 1980

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business, which the clerk will state by title.

The assistant legislative clerk read as follows:

> A bill (S. 1188) to improve and modernize the vocational rehabilitation program provided service-disabled veterans under Chapter 31 of Title 38, United States Code, and for other purposes.

The Senate resumed consideration of the bill.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Garner Shriver of the staff of the Committee on Veterans' Affairs may have the privilege of the floor during consideration of the veterans legislation and all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on the amendment by Mr. PRESSLER, there be a 90-minute time limitation, to be equally divided in accordance with the usual form, and that there be, on any amendment to the amendment, 30 minutes, to be equally divided in accordance with the usual form.

Mr. STAFFORD. Mr. President, reserving the right to object, the minority manager is not here. I am not sure whether he has been consulted on this agreement. I respectfully suggest that the request be withheld. I think it will be agreed to when he gets here.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request temporarily. I yield the floor.

Mr. STAFFORD. Mr. President, it is the understanding of the Senator from Vermont that opening statements on S. 1188, the Disabled Veterans Rehabilitation Act, were printed in the RECORD last week. The Senator from Vermont does have an opening statement and it is his intention to proceed with that statement at this time.

A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. STAFFORD. It is the understanding of the Senator from Vermont that there is no time agreement pending at the present time, either on the bill or amendments.

The PRESIDING OFFICER. The Senator is correct.

Mr. STAFFORD. I thank the Chair.

Mr. President, I support S. 1188, the Disabled Veterans Rehabilitation Act of 1980. One of the most pleasant and rewarding features of service on the Committee on Veterans' Affairs is to spend time and effort in behalf of veterans disabled as a result of wartime service in our Nation's Armed Forces. Consistent with this feature of contribution and satisfaction, our committee unanimously recommends the bill we are now considering—S. 1188—which improves and modernizes the disabled veterans rehabilitation program.

The first legislation to provide vocational rehabilitation for service-connected disabled veterans was in 1917, when Congress enacted the War Risk Insurance Act. Then, in 1918, the Vocational Rehabilitation Act was passed to provide for service-connected disabled veterans' vocational rehabilitation. Under this act, the veteran had to demonstrate inability to carry on gainful employment or reenter the occupation he left when entering service. This program for World War I disabled veterans ended in 1928.

Congress has, from time to time since 1928, enacted various laws expanding and improving the VA's rehabilitation program. A Veterans' Administration study and an extensive study by the General Accounting Office have recommended various administrative and legislative changes in the rehabilitation program.

As a result of these studies and of careful consideration by the Committee on Veterans' Affairs and its staff, S. 1188 has been drafted to provide a more effective and improved program of assistance in the rehabilitation of service-connected disabled veterans.

This bill proposes a principal change from the current rehabilitation program in the purpose—a change from the purpose of achieving employability to helping the veteran to find and maintain employment in a suitable job with emphasis on employment assistance, including postplacement service, and the bill includes pretraining services to help improve the ability of severely disabled veterans to participate in vocational training.

The General Accounting Office's study recommended the implementation of the case-manager concept whereby one person would be assigned the responsibility and held accountable for the veteran's case from point of application through employment placement, including followup services to be provided the veteran. Our committee agreed with this recommendation and has included the case-manager concept in the bill we are now considering.

Mr. President, S. 1188 would enlarge and expand the scope of service offered under chapter 31, including pretraining services to help improve the ability of severely disabled veterans to participate in vocational training.

The existing VA program under chapter 31 stresses vocational training and relies on other programs to meet basic needs in connection with the veteran's ability to function. This bill emphasizes a unified program of vocational, prevocational, nonvocational, and posttraining services and assistance. Management and counseling personnel are responsible for the success of the entire rehabilitation program.

Our bill makes provision for the furnishing of independent living services to seriously disabled veterans in need of this kind of assistance to achieve a maximum level of independent, self-sustaining life in their families and communities. The bill also creates a 4-year pilot program of independent living services, limited to 500 new participants each year. This pilot program is for those who are determined to be too severely disabled to pursue a vocational goal.

For many veterans with serious disabilities which impair their abilities to care for themselves, to move about in their homes and communities, and to communicate and deal effectively with others, these socalled "independent living services" are needed to enable them to achieve a maximum level of independent living, and indeed, in finding and maintaining gainful employment. Members of our committee feel that the VA's rehabilitation program should offer the seriously disabled veterans the very best opportunity possible for the best possible life.

S. 1188 provides for a 10-percent cost-of-living increase in chapter 31 subsistence allowances for institutional training, for farm cooperative and on-job training, and establishes new rates to correspond with the provisions of the committee bill that would establish extended evaluation and a pilot program of independent living services and assistance. The full-time rate for each of these new types of programs would be equal to the full-time rate for institutional training as part of a vocational rehabilitation program.

Our bill would establish a Veterans' Advisory Committee on Rehabilitation to coordinate VA resources devoted to rehabilitation efforts and to serve as a go-between between the VA and other Federal agencies. It would also assist in evaluating veterans' needs in the field of rehabilitation to make sure those needs are being met.

No less than one-half of the membership of the Advisory Committee shall be disabled veterans.

The employment provisions of the committee bill would establish a new veterans' employment and training outreach program, called "VETOP." This new program is based on the current highly successful disabled veterans' outreach program, called "D-VOP," now conducted by the Department of Labor under CETA. VETOP specialists would have a variety of responsibilities and duties designed to promote employment and training opportunities for veterans, especially those who have service-connected disabilities—both within local employment service offices and at locations such as the new Veterans' Readjustment Counseling Centers.

The committee bill requires that the Secretary of Labor make sufficient funds available in each State to support a level of approximately 2,000 VETOP specialists throughout the country. These specialists would carry out functions and duties as the DVOP staff now does—reaching out to eligible veterans and making job development contracts with employers. Their priorities would be with disabled veterans who have participated in a program of vocational rehabilitation; other disabled veterans; and other eligible veterans taking into account the needs of categories of veterans with high rates of unemployment, such as young Vietnam-era and minority group Vietnam-era veterans.

S. 1188 also contains provisions to improve the VA's program of training on the job under the GI bill to make the program more attractive to both employers and eligible trainees.

Mr. President, a comprehensive revision of the chapter 31 veterans' rehabilitation program is necessary to serve the rehabilitation needs of this country's service-connected disabled veterans. In addition to the need for more comprehensive service, there is the need to enlarge the purpose of the vocational rehabilitation program from the attainment of employability to include the attainment of suitable employment, to improve outreach efforts to seriously disabled veterans, to place greater emphasis on meeting the counseling needs of veterans throughout the rehabilitation process and to increase the availability and use of on-job training under chapter 31.

Mr. President, I do not intend to discuss all of the changes proposed by this bill; however, I am hopeful that an improved program of rehabilitation for veterans will result during the closing days of this Congress. I commend S. 1188 to my colleagues as worthy of the support of the entire Senate.

Mr. THURMOND. Mr. President, I support S. 1188, the Disabled Veterans Rehabilitation Act of 1980.

S. 1188, as reported by the Senate Committee on Veterans' Affairs, will overhaul chapter 31 of title 38, United States Code. Prior legislative action in the area of the Veterans' Administration's vocational rehabilitation program has been addressed only in piecemeal fashion since 1943. Although the VA has become a leader in vocational rehabilitation, I believe S. 1188 will be a great improvement to this VA program and will enhance the rehabilitation opportunities of our disabled veterans.

Mr. President, S. 1188 would expand the purpose and effective operation of the VA's rehabilitation program beyond the achievement of a veteran's employability to that of obtaining and maintaining suitable employment. The VA would take a greater role in not only training a disabled veteran for a particular occupation but the agency would expand its function in assisting the veteran in obtaining employment.

The VA would be given authority to provide a broader range of services and assistance than is provided under current law. Due to the great advances that have been made in the past few years in the field of rehabilitative medicine, the VA's authority to provide these services pursuant to existing law has been questioned. Therefore S. 1188 provides greater latitude for the VA to utilize a full range of rehabilitative and employment services.

Mr. President, the Administrator's responsibility to seek and insure that veterans participating in chapter 31 programs obtain employment will be expanded. The Administrator will be greatly involved in all Federal veterans employment efforts and programs. These would include the Comprehensive Employment Training Administration (CETA) program within the Department of Labor; the veterans cost of instruction program (VCIP) conducted by the Department of Education; and provisions mandating preference for veterans under the Small Business Act, and other similar programs.

Mr. President, I am pleased that S. 1188 contains a provision that would provide, by statute, a clerical secretary for each of the 52 State representatives of the Veterans' Employment Service. Thus, these secretaries will become an integral part of the Veterans' Employment Service and its effort to assist veterans to obtain employment in each State.

I believe, Mr. President, that S. 1188 as reported will provide the VA with the needed statutory authority to render service and training to those veterans who have been disabled while serving our Nation. I urge my colleagues to support S. 1188.

Mr. CRANSTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mr. CRANSTON. I renew the request of the majority leader, to a time agreement on the Pressler amendment.

Mr. STAFFORD. Mr. President, reserving the right to object——

Mr. CRANSTON. That has been cleared.

Mr. STAFFORD. I understand that would be 45 minutes a side on the Pressler amendment, 90 minutes equally divided, with 30 minutes on any secondary amendment, motion, or appeal. Am I correct?

Mr. CRANSTON. That is correct. And in the regular order.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. PRESSLER. Mr. President, reserving the right to object, and I do not intend to object, I wish to thank the majority for agreeing. As I understand it, I will get an up or down vote on the amendment.

Mr. CRANSTON. That is not included in the time agreement. But that is the intent.

Mr. PRESSLER. Then I would have no further objection.

Mr. STAFFORD. Mr. President, on my reservation, on the right to object, I do not object.

The ACTING PRESIDENT pro tempore. Without objection, the request is agreed to.

AMENDMENT NO. 1906

(Purpose: To provide for a program of career development, advancement, and training and for outreach and supportive services for veterans of the Vietnam era and for certain other veterans)

Mr. PRESSLER. Mr. President, I have a printed amendment at the desk numbered 1906, which I would like to call up.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER) proposes an amendment numbered 1906, as modified:

On page 71, between lines 3 and 4, insert a new title as follows:

"TITLE III—VETERANS CAREER DEVELOPMENT, ADVANCEMENT, AND TRAINING ASSISTANCE

"ESTABLISHMENT OF CAREER DEVELOPMENT, ADVANCEMENT, AND TRAINING ASSISTANCE PROGRAM USING EDUCATIONAL ASSISTANCE ENTITLEMENT

"SEC. 1001. (a) Part III is amended by adding at the end thereof the following new chapter:

"Chapter 45—VETERANS CAREER DEVELOPMENT, ADVANCEMENT, AND TRAINING ASSISTANCE

"Subchapter I—Purpose; Definitions

"Sec.
"2101. Purpose.
"2102. Definitions.

"Subchapter II—Eligibility and Entitlement

"2103. Establishment of program.
"2104. Eligibility; entitlement; duration.
"2105. Time limitations for completing a program of career development or training.
"2106. Occupational and vocational counseling.

"Subchapter III—Enrollment

"2111. Selection of program.
"2112. Applications; approval.
"2113. Disapproval of enrollment in certain program.
"2114. Discontinuance for unsatisfactory conduct or progress.

"Subchapter IV—Payments to Eligible Employers

"2121. Career development and advancement and career development and training allowances.
"2122. Computation of career development and advancement and career development and assistance allowances.
"2123. Payment of career development and advancement or career development and training assistance allowances.

"Subchapter V—Approval

"2131. Approval of programs.
"2132. Authority for approval.
"2133. Approval of career development and training programs.
"2134. Notice of approval of programs.
"2135. Disapproval of programs.
"2136. Overpayments to eligible employers.
"2137. Discontinuances of allowances; examination of records; false or misleading statements.
"2138. Change of program.
"2139. Compliance surveys of employers.
"2140. Duties of the Secretary of Labor.
"2141. Veterans information and outreach.
"2142. Termination dates.

"Suchapter I—Purpose; Definitions

"§ 2101. Purpose

"The Congress hereby declares that the career development, advancement, and training program created by this chapter is for the purpose of—

"(1) extending the benefits of a meaningful career to qualified and deserving veterans who might otherwise be unable to attain a meaningful career opportunity;

"(2) providing vocation readjustment and restoring lost career opportunities to those individuals whose careers have been interrupted or impeded by reason of active military service after August 4, 1964;

"(3) aiding such individuals in attaining the vocational and occupational status which they might normally have aspired to and obtained had they not served their country; and

"(4) providing an opportunity for such individuals to attain their full employment capability, to increase their earned income, and to attain their economic selfsufficiency.

"§ 2102. Definitions

"For the purposes of this chapter—

"(a)(1) The term 'eligible veteran' means a veteran who—

"(A) served on active duty for a period of more than one hundred and eighty days, any part of which occurred after August 4, 1964, and before January 1, 1977, and was discharged or released therefrom under conditions other than dishonorable;

"(B) contracted with the Armed Forces and was enlisted in or assigned to a Reserve component prior to January 1, 1977, and as a result of such enlistment or assignment served on active duty for a period of more than one hundred and eighty days, any part of which commenced within twelve months after January 1, 1977, and was discharged or released from such active duty under conditions other than dishonorable; or

"(C) was discharged or released from active duty, any part of which was performed after August 4, 1964, and before January 1, 1977, or following entrance into active service from an enlistment provided for under clause (B) of this paragraph, because of a service-connected disability.

"(2) For purposes of paragraph (1)(A) of this subsection and section 1661(a) of this title, the term 'active duty' does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard or as a Reserve, Marine Corps Reserve, or Coast Guard Reserve unless at some time subsequent to the completion of such period of active duty for training such individual served on active duty for a continuous period of one year or more (not including any service as a cadet or midshipman at one of the service academies).

"(b) The term 'eligible employer', when used with respect to the employment of a veteran, means any public or private employer who meets the criteria set forth in this chapter and such other criteria as the Administrator considers necessary and appropriate.

"(c) The term 'dependent' means—

"(1) a child of an eligible veteran;

"(2) a dependent parent of an eligible veteran; and

"(3) the spouse of an eligible veteran.

"Subchapter II—Eligibility and Entitlement

"§ 2103. Establishment of program

"(a) The Administrator shall establish a program in accordance with this chapter to assist eligible veterans in selecting and pursuing career development and advancement programs and career development and training programs.

"(b) A career development and advancement program is a program under this chapter that will assist an eligible veteran to acquire full-time permanent employment or to advance in such veteran's chosen career and to increase such veteran's earned income and economic self-sufficiency through a partial subsidy of such veteran's wages and benefits.

"(c) A career development and training program is a program under this chapter that will assist an eligible veteran to acquire full-time permanent employment, to advance in such veteran's chosen occupation, and to increase such veteran's earned income and economic self-sufficiency through a subsidy of training costs and partial subsidy of such veteran's wages and benefits.

"§ 2104. Eligibility; entitlement; duration

"(a) Subject to section 2122 of this chapter, an eligible veteran is entitled to a career development and advancement allowance or a career development and training allowance under this chapter in an amount equal to the amount of the entitlement of such veteran, and for the period of the entitlement of such veteran, remaining under the provisions of section 1661 or section 1631 of this title, as the case may be.

"(b) Entitlement under this chapter in the case of any eligible veteran may not exceed the number or months specified in section 1622(a) of this title.

"(c) A veteran described in clause (A) or (B) of paragraph (1) of section 2122(a) of this title whose annual income exceeds $13,000 at the time of application for assistance under this chapter may not participate unless the Administrator determines that the participation of such veteran is necessary and appropriate for such veteran's readjustment, rehabilitation, or productive employment.

"§ 2105. Time limitations for completing a program of career development or training

"Notwithstanding the provisions of section 1662 of this title, an eligible veteran may pursue a program of career development and advancement or a program of career development and training under this chapter if such veteran otherwise meets the eligibility criteria set forth in this chapter.

"§ 2106. Occupational and vocational counseling

"The counseling to be made available under section 1663 of this title shall include such occupational skills assessment counseling and assistance as the Administrator determines to be necessary and appropriate for the effective implementation of this chapter.

"Subchapter III—Enrollment

"§ 2111. Selection of program

"Subject to the provisions of this chapter, an eligible veteran may select a program of career development and advancement or a program of career development and training with an eligible employer for the purpose of assisting such veteran in attaining an occupational, professional, or vocational objective or advancing in such veteran's chosen career field (approved in accordance with the provisions of this chapter) selected by the eligible veteran, if such eligible employer hires such veteran into its regular workforce with the expectations by the employer of permanent employment of the veteran after the training and career development assistance ends.

"§ 2112. Applications; approval

"An eligible veteran who desires to undertake a program of career development and advancement or career development and training under this chapter shall submit an application for such program to the Administrator in such form and containing such information as the Administrator may prescribe. The Administrator shall approve such an application unless the Administrator finds that the veteran is not eligible for or entitled to the career development and advancement or career development and training assistance applied for, that the veteran's program of career development and advancement or career development and training applied for fails to meet the requirements of this chapter, that the veteran is already qualified, or that such veteran's readjustment or employment would not be assisted or advanced by participation in such program.

"§ 2113. Disapproval of enrollment in certain program

"The Administrator may not approve the enrollment of a veteran in a program for employment—

"(1) which consists of seasonal, intermittent, or temporary jobs, except that the Administrator may approve enrollment in a program for employment on a seasonal basis if the Administrator determines such action appropriate under all the circumstances;

"(2) which pays less than $4 per hour (exclusive of benefits and other nonmonetary remuneration) unless the Administrator determines in a particular case that this clause shall not apply;

"(3) which is outside the United States or its territories or possessions;

"(4) under which commissions are the primary source of income;

"(5) which involves political or religious activities;

"(6) which is in an industry in which a substantial number of experienced and able workers are unemployed;

"(7) under which the job is above entry level, except when applicable personnel procedures and collective bargaining procedures regarding the advancement of currently employed workers are complied with;

"(8) which would result in the displacement of any currently employed worker (including partial displacement such as a reduction in the amount of nonovertime work); or

"(9) in a job which if filled would replace any worker who is on layoff or on strike.

"§ 2114. Discontinuance for unsatisfactory conduct or progress

"(a) The Administrator shall discontinue the career development and advancement allowance or the career development and training allowance of a veteran if the Administrator finds that, according to the standards that the Administrator may prescribe or the regularly prescribed standards of the eligible employer, the conduct or progress of the veteran is unsatisfactory. Unless the Administrator finds there are mitigating circumstances, progress will be considered unsatisfactory at any time the veteran is not progressing at a rate that will permit the veteran to complete training, retain such employment, or advance in such career field according to criteria set forth in this chapter or in agreements certified to the Veterans' Administration or within such other length of time (exceeding such approved length) as the Administrator determines to be reasonable in accordance with regulations.

"(b) The Administrator may renew the payment of a career development and advancement allowance or the career development and training allowance suspended under subsection (a) of this section only if the Administrator finds that—

"(1) the cause of the unsatisfactory conduct or progress of the veteran has been removed; and

"(2) the program which the veteran now proposes to pursue (whether the same as the program originally pursued or revised) is suitable to the aptitudes, interests, and abilities of the veteran.

"Subchapter IV—Payments to Eligible Employers

"§ 2121. Career development and advancement and career development and training allowances

"The Administrator shall, in accordance with the applicable provisions of this title, pay to each eligible employer on behalf of each eligible veteran pursuing a program of career development and advancement or career development and training under this chapter with such employer a monthly allowance (computed under section 2122 of this title) to meet, in part, the expenses of such veteran's wages, benefits, and training and other necessary or appropriate costs.

"§ 2122. Computation of career development and advancement and career development and assistance allowances

"(a)(1) Subject to the provisions of subsections (b) and (c) of this section, the amount of a career development and advancement or career development and training allowance to be paid under section 2121 of this title may not exceed the applicable amount provided under section 1682(a)(1) of this title in the case of a veteran whose eligibility is derived under chapter 34 of this title and who is pursuing a full-time program of institutional training as determined by the veteran's dependency status. Such assistance shall be paid for a period of—

"(A) twelve months, for an eligible veteran with a service-connected disability who served on active duty during the Vietnam era and is entitled to disability compensation under laws administered by the Veterans' Administration;

"(B) nine months, for an eligible veteran who served on active duty in the Indochina theater of operations or Korea during the Vietnam era.

"(2) Assistance under this chapter shall be paid for a period of eighteen months in the case of an eligible veteran who, after counseling under section 1663 of this title, is found to be experiencing serious rehabilitation, readjustment, or employment problems that require an extension of the time period authorized under the second sentence of paragraph (1) of this subsection in order to allow the veteran to pursue and satisfactorily complete a program of career development and advancement or a program of career development and training under this chapter.

"(b) The amount of a career development and advancement allowance paid to an eligible employer on behalf of an eligible veteran—

"(1) may not exceed one-third of the gross wages and benefits paid by such employer to such eligible veteran; and

"(2) may not exceed the amount of increased gross wages and benefits of any eligible veteran whose career has been advanced under this program.

"(c) The amount of a career development and training allowance paid to an eligible employer on behalf of an eligible veteran—

"(1) may not exceed the actual cost of training as provided in section 2133 of this title plus an amount equal to one-fourth of the amount in wages and benefits paid by such employer to such eligible veteran, except that the total amount may not exceed an amount equal to 50 per centum of the wages and benefits paid by such employer to such eligible veteran, unless intensive training or additional training arrangements are necessary for veterans with severe employability problems, particularly for disabled veterans; and

"(2) may not exceed by more than twice the annual amount of increased gross wages and benefits of any eligible veteran whose career and income have been advanced through training under this program.

"(d) A career development and advancement allowance or career development and training allowance paid under this section shall be charged against the period of entitlement of the eligible veteran under section 1661(a) or section 1631(a) of this title, as appropriate.

"§ 2123. Payment of career development and advancement or career development and training assistance allowances

"(a) Payment of a career development and advancement allowance on behalf of a veteran for any period may not be made to an eligible employer employing such veteran until the Administrator has received—

"(1) from such veteran, a certification as to such veteran's actual employment with such employer and attendance during such period; and

"(2) from the employer, a certification (or an endorsement on the eligible veteran's certification) that such veteran was satisfactorily employed and pursuing a program of career development and advancement during such period.

"(b) Payment of a career development and training allowance on behalf of a veteran may not be made to an eligible employer employing such veteran until the Administrator has received—

"(1) from such veteran, a certification as to such veteran's actual employment, attendance, and training with such employer during such period; and

"(2) from the employer, a certification (or an endorsement on the veteran's certification) that such veteran was employed and progressing satisfactorily while pursuing a program of career development and training during such period.

"Subchapter V—Approval

"§ 2231. Approval of programs

"An eligible employer may be paid a career development and advancement allowance or a career development and training allowance on behalf of an eligible veteran participating in a career development and advancement program or a career development and training program offered by such employer only if such program is approved in accordance with this subchapter.

"§ 2132. Authority for approval

"Subject to the provisions of this title and such regulations the Administrator may prescribe, a program of career development and advancement or career development and training may be approved—

"(1) by the Administrator, the Secretary of Labor, by a prime sponsor designated under section 101 of the Comprehensive Employment and Training Act or, in the case of a program of career development and training involving apprenticeship, by an approving agency meeting the standards of apprenticeship published by the Secretary of Labor pursuant to section 2 of the Act of August 16, 1937 (commonly referred to as the 'National Apprenticeship Act') (29 U.S.C. 5a); or

"(2) by such other means as the Administrator may consider appropriate.

"§ 2133. Approval of career development and training programs

"(a) Any entity having authority under section 2132 of this title to approve programs under this chapter (hereinafter in this chapter referred to as an 'approving agency') may not approve a program of career development and training (other than a program of apprenticeship) unless it finds that the career which is the objective of the training is one in which progression and appointment to the next higher classification are based upon skills learned through organized and supervised training (including cooperative training, as defined in section 1682(a)(2) of this title), and not on factors such as length of service and normal turnover, and that the provisions of subsections (b), (c), and (d) of this section are met.

"(b) The employer or training establishment offering training which is desired to be approved for the purposes of this chapter must submit to the appropriate approving agency a written application for such approval which, in addition to furnishing such information as is required by the approving agency, shall contain a certification that—

"(1) the wages and benefits to be paid to veterans participating in a program under this chapter are not less than the wages and benefits normally paid for the job for which the veteran is to be trained;

"(2) the amount of the career development and training allowance to be paid to such employer on behalf of a veteran does not exceed the actual cost of the training plus an amount equal to one-fourth of the amount in wages and benefits paid to the veteran, except that the total amount may not exceed an amount equal to 50 per centum of the wages and benefits paid to the veteran, unless intensive training or additional training arrangements are necessary for veterans with severe employability problems, and particularly for disabled veterans; and

"(3) there is reasonable certainty that the career or position for which the veteran is to be trained will be available to such veteran at the end of the training period.

"(c) Before approving a program of career development and training (other than a program of apprenticeship), the approving agency must find (upon investigation) that the following criteria are or will be met by the employer applying for approval:

"(1) The training content of the course is adequate to qualify a veteran participating in the program for appointment to a position in the career field for which such veteran is to be trained.

"(2) The career field or position customarily requires full-time training for a period of not less than four months.

"(3) The length of the training period under the proposed program is not longer than that customarily required by employers and training establishments in the community to provide a person with the required skills and to arrange for the acquisition of job knowledge, technical information, and other facts which a veteran will need to learn in order to become competent in the career field or position for which the veteran is being trained.

"(4) Provision is made for related instruction for individual veterans who may need related instruction.

"(5) There is in the training establishment or place of employment adequate space, equipment, instructional material, and instructor personnel to provide satisfactory training on the job.

"(6) Adequate records will be kept to show the progress made by each veteran participating in the program toward such veteran's career objective.

"(7) The course of training will not be given to veterans who are already qualified by training and experience for the career or position.

"(8) A signed copy of the training agreement for each eligible veteran, including the training program and wage scale as approved by the approving agency, will be provided by the employer to the veteran, the Administrator, and the approving agency.

"(9) Reasonable efforts will be made to provide special training and employment opportunities and working conditions for disabled veterans.

"(10) The program meets such other criteria as may be established by the approving agency.

"(11) There is a reasonable certainty that a position for which a veteran was hired, or a position to which a veteran is intended to be promoted, will be reasonably available for the veteran at the end of the period for which a career development and advancement allowance was paid to the eligible employer.

"(d) Before approving a program of career development and advancement, the approving agency must find (upon investigation) that the following criteria are or will be met by the employer applying for approval:

"(1) The program offered by the employer is not one described in section 2113 of this title.

"(2) The selection of eligible veterans for hiring, upgrading, promotion, or advancement will be based upon the potential and qualifications of such veterans for the career or advancement the veterans are seeking.

"(3) The program will provide eligible veterans with reasonable progression, resulting in qualification for a recognized position of greater skill, responsibility, remuneration, or career advancement in the employment of such employer.

"(4) Adequate personnel, attendance, and progress records will be maintained.

"(5) The program is designed so that to the extent feasible, additional vacancies will be created for new entry level employment and training opportunities for women and members of appropriate minority groups (as determined by the Administrator in consultation with the Director of the Office of Personnel Management).

"(6) Compensation will be paid by the employer at rates, including periodic increases, considered by the approving agency to be reasonable, considering such factors as industry practice, skill requirements, individual proficiency, geographical region, and a veteran's dependency status, age, and previous work experience.

"(7) The employer is financially sound and capable of fulfilling its commitments.

"(8) A comprehensive job description is available for each job or position for which approval is requested.

"(9) The employer will not exceed enrollment limitations as established by the approving agency.

"(10) If a career development and advancement program is for or from positions covered by a collective bargaining agreement, arrangements with the employer to carry out the program have the concurrence of labor organizations representing employees in such positions.

"§ 2134. Notice of approval of programs

"The approving agency, upon determining that an eligible employer has complied with the requirements of this chapter, shall issue a certification to such employer setting forth the jobs or positions which have been approved for a program of career development and advancement or a program of career development and training for the purposes of this chapter and shall furnish a copy of such certificate and any subsequent amendment of such certificate to the Administrator and to the Secretary of Labor. The certificate of approval shall be accompanied by a copy of a catalog or bulletin of the eligible employer, as approved by the approving agency, and shall contain the following information:

"(1) The date of certification and the effective date of approval of programs.

"(2) The name and address of the employer.

"(3) The authority for approval and the conditions of approval, referring specifically to the approved catalog or bulletin published by the eligible employer.

"(4) The name and description of each job, career, position, or advancement opportunity approved.

"(5) If applicable, limitations with respect to enrollment, hiring, and advancement.

"(6) The signature of responsible official of the appropriate approving agency.

"(7) Such other provisions as are considered necessary by the appropriate approving agency.

"§ 2135. Disapproval of programs

"Any program of career development and advancement or career development and training approved for the purposes of this chapter which after such approval fails to meet any of the requirements of this chapter shall immediately be disapproved by the appropriate approving agency. An eligible employer which has its program disapproved by an approving agency under this section shall be notified of such disapproval by a certified or registered letter of notification, and a return receipt shall be secured.

"§ 2136. Overpayments to eligible employers

"Whenever the Administrator finds that an overpayment has been made to an eligible employer under this chapter as the result of (1) the willful or negligent failure of such employer to report, as required by this chapter and applicable regulations, to the Administrator excessive absences from work or discontinuance or interruption of a program of career development and advancement or career development and training by such veteran, or (2) false certification by an eligible employer, the amount of such overpayment shall constitute a liability of such employer and may be recovered in the same manner as any other debt due the United States, and such employer shall be suspended from further participation in any program under this chapter. This section shall be notified of such disapproval by a cer-civil or criminal liability under any other law.

"§ 2137. Discontinuances of allowances; examination of records; false or misleading statements

"(a)(1) The Administrator may discontinue a career development and advancement or career development and training allowance paid to an eligible employer on behalf of an eligible veteran if the Administrator finds that the program of career development and advancement or career development and training or any job, career, or position in which such veteran is enrolled or employed fails to meet any of the requirements of this chapter or applicable provisions of this title, or if the Administrator finds that the employer offering such program or employment has violated any provision of this chapter or fails to meet any of the requirements of this title.

"(2) Any action by the Administrator under paragraph (1) of this subsection to discontinue (or suspend) assistance provided to an eligible employer on behalf of an eligible veteran under this chapter shall be based upon evidence that the eligible employer or eligible veteran is not or was not entitled to such assistance. Whenever the Administrator so discontinues any such assistance. the Administrator shall immediately provide written notice to such employer and such eligible veteran of such discontinuance, including a statement of the reasons therefor.

"(b) Notwithstanding any other provision of law, the records and accounts of eligible employers pertaining to eligible veterans who have received career development and advancement or career development and training assistance under the provisions of this chapter or applicable provisions of this title, as well as other records which the Administrator determines necessary to ascertain compliance with the requirements of this chapter, shall be available at a reasonable time for examination by authorized representatives of the Government.

"(c) Whenever the Administrator determines that an eligible employer has willfully submitted a false or misleading claim, or that a veteran, with the complicity of an employer, has submitted such a claim, the Administrator shall make a complete report of the facts thereof to the appropriate approving agency and, if considered advisable, to the Attorney General of the United States for appropriate action.

"§ 2138. Change of program

"(a) Except as provided in subsections (b) and (c) of this section, an eligible veteran may make not more than one change of program of career development and advancement or career development and training under this chapter, but an eligible veteran whose program has been interrupted or discontinued due to the veteran's own neglect, or the veteran's own lack of application, shall not be entitled to make any such change.

"(b) The Administrator may approve one additional change in program (or an initial change in the case of a veteran not eligible to make a change under subsection (a) of this section) if the Administrator finds—

"(1) that the program of career development and advancement or career development and training which the veteran proposes to pursue is suitable to the veteran's aptitudes, interests, and abilities; or

"(2) in any instance where the eligible veteran has interrupted, or failed to progress in, the veteran's program due to the veteran's own misconduct, the veteran's own neglect, or the veteran's own lack of application, that there is a reasonable likelihood with respect to the program which the eligible veteran proposes to pursue that there will not be a recurrence of such an interruption or failure to progress.

"(c) The Administrator may also approve additional changes in the program if the Administrator finds such changes are required by circumstances beyond the control of the veteran.

"(d) As used in this section, the term 'change of program of career development and advancement or career development and training' shall not be considered to include a change from the pursuit of one program to pursuit of another when the first program is a prerequisite to, or generally required for, entrance, promotion, or advancement into pursuit of the second.

"§ 2139. Compliance surveys of employers

"The Administrator shall periodically conduct compliance surveys of employers offering one or more programs of career development and advancement or career development and training approved for the enrollment of eligible veterans under the provisions of this chapter. Such surveys shall be made to assure that the eligible employer and the approved programs are in compliance with applicable provisions of this title.

"§ 2140. Duties of the Secretary of Labor

"(a) The Secretary of Labor shall provide for the participation of eligible veterans in career development and advancement and career development and training programs authorized under this Act and under section 12(b)(2)(A) of the Comprehensive Employment and Training Act. In carrying out this responsibility, the Secretary of Labor shall consult with and solicit the cooperation of the Administrator. Actions by the Secretary of Labor under this section shall include the development of career development and advancement and career development and training programs, supportive services, technical assistance and training, support for community-based veterans programs, and other programs as are necessary to serve the unique readjustment, rehabilitation, and employment needs of eligible veterans.

"(b) The Secretary of Labor shall make special efforts to acquaint eligible veterans with the career development and advancement and career development and training opportunities available under this chapter and to coordinate such opportunities with those job opportunities authorized under chapters 41 and 42 of this title and other similar job opportunities offered by other public agencies and organizations.

"(c) Entities which are prime sponsors under the Comprehensive Employment and Trainnig Act shall provide such arrangements (to include program approval) as may be necessary and appropriate to promote maximum feasible development and use of career development and advancement and career development and training programs and opportunities authorized under this chapter.

"§ 2141. Veterans information and outreach

"The Administrator (in consultation and cooperation with the Secretary of Labor and the Secretary of Health and Human Services) shall provide for an outreach and public information program utilizing, to the maximum extent feasible, the facilities of the Department of Labor to carry out efforts to develop career development and advancement and career development and training programs and opportunities for eligible veterans and to inform such veterans about employment, job development, advancement, and training opportunities under this title and other provisions of law and to inform prime sponsors, Federal contractors and subcontractors, Federal agencies, labor unions, educational institutions, and employers of their legal responsibilities and opportunities with respect to such veterans and to provide them with technical assistance and training in meeting those responsibilities.

"§ 2142. Termination dates

"A veteran may not apply for a program of career development and advancement or career development and training under this chapter after the end of the eighteen-month period beginning on the effective date of this chapter. A career development and advancement or career development and training allowance may not be paid to an eligible employer on behalf of an eligible veteran after the end of the thirty-six-month period beginning on the effective date of this chapter.".

(b) The table of chapters preceding part I and the table of chapters at the beginning of part III are amended by adding after the item relating to chapter 43 the following new item:

"45. Veterans Career Development, Advancement, and Training Assistance.. 2101.".

On page 71, line 4, strike out "III" and insert in lieu thereof "IV".

On page 71, line 6, strike out "301" and insert in lieu thereof "401".

On page 71, line 10, strike out "302" and insert in lieu thereof "402".

On page 71, line 12, strike out "303" and insert in lieu thereof "403".

On page 72, line 14, strike out "304" and insert in lieu thereof "404".

On page 72, line 20, strike out "305" and insert in lieu thereof "405".

On page 73, line 14, strike out "306" and insert in lieu thereof "406".

On page 74, line 5, strike out "307" and insert in lieu thereof "407".

On page 74, strike out lines 22, 23, and 24, and insert in lieu thereof the following:

"SEC. 408. (a) Except as provided in subsections (b), (c), and (d), the provisions of this Act shall become effective on October 1, 1980.

"(b) In the case of veterans who are participating in a program of vocational rehabilitation under chapter 31 of title 38, United States Code, on September 30, 1980, the Administrator of Veterans' Affairs—

"(1) shall formulate individualized written plans of vocational rehabilitation under section 1507 of such title (as amended by section 101(a) of this Act) for such veterans to the extent that and at such times as the Administrator of Veterans' Affairs determines that the formulation of such plans is feasible, and shall formulate such plans on the basis of such priorities as the Administrator of Veterans' Affairs shall prescribe; and

"(2) may extend the eligibility of any veteran under section 1503(c) of title 38, United States Code (as amended by section 101(a) of this Act), or the period of vocational rehabilitation under section 1505(c) of such title (as amended by section 101(a) of this Act) without regard to the requirements for a determination of a serious employment handicap.

"(c) The amendments made by title III of this Act shall become effective on March 1, 1981, in the case of veterans who have service-connected disabilities and who have serious readjustment, rehabilitation, or employment problems, and in the case of veterans who served in the Indochina theatre of operations or Korea during the Vietnam era (as defined in section 101(29) of title 38, United States Code) unless sufficient funds are made available before such date to carry out the provisions of chapter 45 of title 38, United States Code, as added by title III of this Act, in which event the effective date in the case of such veterans shall be the first date on which such funds become available for such purpose (as determined by the Administrator of Veterans' Affairs).

"(d) The amendments made by sections 210, 211, and 212 shall become effective on December 1, 1980, unless sufficient funds are made available to carry out such amendments before such date, in which event the effective date shall be the first date on which such funds become available for such purpose (as determined by the Administrator of Veterans' Affairs).".

UP AMENDMENT NO. 1547

Mr. PRESSLER. Mr. President, I have an amendment which I send to the desk.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER) proposes to an unprinted amendment numbered 1547, to amendment numbered 1906.

The amendment is as follows.

On page 1, line 8, strike out "Sec. 1001" and insert in lieu thereof "Sec. 301".

On page 2, below line 2, in the item relating to section 2112, strike out the period at the end of such item and insert in lieu thereof a semicolon and the following: "issuance of voucher.".

On page 8, line 15, insert "; issuance of voucher" after "approval".

On page 8, line 16, insert "(a)" before "An".

On page 9, between lines 5 and 6, insert the following new subsection:

"(b) Upon approval of the application of a veteran for a program of career development and advancement or career development and training, the Administrator shall issue such veteran a voucher certifying such veteran's eligibility for such program and the amount of the entitlement under such program. The voucher issued to any veteran under this subsection shall be in such form as may be necessary to enable the veteran to whom it is issued to market the career development and advancement or career development and training program to potential employers and to develop initial employment, advancement, and training opportunities for the veteran.

On page 15, between lines 14 and 15, insert the following new subsection:

"(c) Payment of a career development and advancement allowance or a career development and training allowance shall be paid to an eligible employer on behalf of an eligible veteran at the end of each ninety-day period of employment or training satisfactorily completed by such veteran.

On page 29, after line 23, add the following new section:

Sec. 302. (a) The Secretary of Labor may transfer, to the extent authorized in appropriation Acts, to the Administrator of Veterans' Affairs funds available to carry out the Help Through Industry Retraining and Employment (HIRE) program during fiscal year 1981 for the purpose of carrying out during such fiscal year the career development and advancement and career development and training programs provided for under chapter 45 of title 38, United States Code, as added by section 301 of this Act.

(b) The Secretary of Labor may also transfer to the Administrator of Veterans' Affairs in any fiscal year such amounts from funds appropriated to the Department of Labor to carry out employment and training programs as the Secretary of Labor considers necessary or appropriate to carry out the programs provided for under chapter 45 of title 38, United States Code, as added by section 301 of this Act, or such amounts from such funds for such purpose as may be specified from time to time in appropriation Acts.

On page 32, line 3, strike out "Affairs)." and insert in lieu thereof "Affairs).'.".

On page 32, strike out lines 4 through 10.

Mr. PRESSLER. Mr. President, I ask that the amendment (UP No. 1547), being a modification of amendment No. 1906, be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1547) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1906, as modified.

AMENDMENT NO. 1906, AS MODIFIED

Mr. PRESSLER. Mr. President, I have a number of remarks to make in regard to this amendment. I would like to cover the recent changes made in the amendment.

The first change involves the cost. Originally, we had intended to fund our amendment by deferring the cost-of-living increase in the GI bill benefits. However, the Senate Veterans' Affairs Committee included such a delay in the reconciliation bill as a cost savings measure. As a result, this technical amendment will provide the authority for the Secretary of Labor to transfer unspent HIRE funds to the Veterans' Administration for the purpose of paying for the 1981 costs. This money would otherwise revert back to the Treasury at the end of this fiscal year.

The second change is only a technical change which will make the program more workable.

Most of the Members of this body are familiar with the provisions of this amendment. Senator HEINZ and I offered similar amendments when S. 780, the GI Bill Amendments Act of 1979, was debated here in January of this year. At this time, on the behalf of its 12 cosponsors, I would like to bring this amendment up for consideration again.

The career development, advancement and training program amendment would permit disabled and Vietnam theater veterans to use their earned readjustment entitlement to provide direct financial incentives to employers to hire, train, and advance them in permanent and productive private sector careers.

We bring this amendment before the Senate again for three reasons:

First, members of the Senate Veterans' Affairs Committee had expressed concerns that hearings had not been held on this amendment. Since that time, hearings have been held. Testimony at the hearings brought out a clear need for a career development advancement and training program.

Second, this amendment is an improved version of the amendments that were offered in January to the GI bill amendments of 1979. The revised amendment includes technical corrections, additional safeguards, and legislative clarifications sought by the VA.

The third and most important reason, however, is the unemployment rate. In January, Vietnam veterans faced an unemployment rate of 5.7 percent. Today, they face an unemployment rate of 7.1 percent. This factor alone provides the need for the passage of our amendment. Had it not been for their service to and sacrifice for their country in Vietnam, many of these unemployed veterans would have the seniority and the skills to retain employment in our present troubled economy. The fact that they are so sensitive, as a group, to the pressures of the economy shows that, for the most part, too many are employed in short term, dead-end jobs. This makes them prime targets for being layed off when a recession strikes.

Mr. President, let me put this third point in perspective. Historically, veterans have enjoyed an unemployment rate much lower than that of the general populace. They are generally in good physical shape, as they must pass a comprehensive physical examination in order to be in the service. The unique nature of the Vietnam war and its veterans has reversed this trend, however. Today, Vietnam veterans face an unemployment rate of 7.1 percent while nonveterans of the same age group are unemployed at a rate of 6.4 percent. In the past year alone, the unemployment rate for Vietnam veterans has doubled.

This can lead us to only one conclusion: Too many Vietnam veterans are employed in short term dead-end jobs. When the economy suffers, these veterans are the first ones to lose their jobs. Passage of our amendment would allow these veterans to establish meaningful careers. The Vietnam veterans career development advancement and traning program would allow veterans to use their earned GI bill entitlement to reimburse employers who provide them with substantive career opportunities.

To date, the employment programs that Congress has provided the Vietnam veteran have been ineffectual, short-term welfare programs such as CETA. As a veteran who served in the military in Vietnam, I find it appalling that we offer our veterans temporary, social welfare employment programs. The unique nature of the problems faced by Vietnam veterans demands a program able to deal with the problems. Our amendment would do that. By allowing the veteran to use GI bill entitlement to provide training and employment in a substantive career, this program adapts itself to the special needs of the individual veteran, especially those that have fallen outside of the scope of past programs.

Our amendment authorizes the same level of funding for employer reimbursement as is presently offered to veterans using the GI bill for educational purposes.

The career development, advancement and training program will cost approximately $3,000 per veteran. This is far less than the cost of institutional training under the GI bill which is $10,000 per veteran or CETA Public Service Employment, which is $7,800.

So I think the cost effectiveness of this program is well established.

The 1981 cost of our amendment is $19.3 million. The total 5-year cost is $246.6 million. Both of these are estimates made by the Congressional Budget Office on July 15 of this year.

Mr. President, I am very aware, as a member of the Senate Budget Committee, of the limitations imposed upon veterans programs by the budget resolution. We had intended to fund our amendment by deferring the cost-of-living increase in GI bill benefits. However, the Senate Veterans' Affairs Committee included such a delay in the reconciliation bill as a cost-saving measure.

As a result, our amendment will provide the authority for the Secretary of Labor to transfer unspent HIRE funds to the Veterans' Administration for the purpose of paying for the 1981 costs. This money would otherwise revert back to the Treasury on October 1, 1980. Congress appropriated HIRE funds in 1977 for a private sector on-the-job training program, which is what the career development program is.

No money whatsoever will be taken away from a service-connected disabled veteran or a survivor of one who died of service-connected disabilities, and no money will be taken away from a GI bill recipient. In fact, veterans will be given a new opportunity for a meaningful readjustment program at no first-year cost to the VA.

In order to participate in the Vietnam veterans career development, advancement, and training program, employers must agree that the employment will continue once the funding has ended. Because the program is designed to provide a meaningful, long-term career opportunity, it removes the structural inadequacies in past training and educational programs: The career continues after the Government funding expires. It allows Vietnam veterans who choose not to use their earned GI bill entitlement for educational purposes to provide themselves with a readjustment tool. It offers businessmen an incentive to hire Vietnam veterans. This lack of incentive has been the downfall of past employment programs. In testimony before the House Veterans' Affairs Committee in 1979, the Veterans' Administration endorsed the concept of employer subsidies as a means of providing incentives. They said:

> A very significant factor in the low usage rates for job training programs has been employer resistance. The typical employer, when asked to participate in the VA's job training program is inclined to ask, "What's in it for me?" Although our outreach personnel can point out the advantages to the employer, such as maturity and reliability of the veterans, the lack of tangible benefits to the employer has been a major deterrent to greater use of the job training program.
>
> To counteract this tendency on the part of employers, we recommend that in the case of vocational rehabilitation trainees, consideration be given to providing a direct finannancial incentive in individual instances to the employer-trainer in the form of a subsidy. This subsidy would help cover the cost of training.

In recent testimony before the House Veterans' Affairs Subcommittee on Education, Training, and Employment, Dennis R. Wyant, Deputy Assistant Secretary of Labor for Veterans' Employment, said:

> The Department of Labor is willing to coordinate with the VA to help develop regulations authorizing payment to employers for on-the-job training in individual instances when the Administrator determines such payment is necessary to obtain the training or to begin employment. In the labor market of recent years, the VA's on-the-job training programs have suffered from a lack of employer incentive. By comparison, reimbursements to employers for the cost of training have been a feature of many of the Department of Labor's on-the-job training programs for a number of years.

This is exactly what the career development, advancement, and training program does. It provides a direct financial incentive in individual instances to the employer/trainer in the form of a subsidy. The subsidy would help cover the cost of training. It would provide the incentive necessary for this program to work.

Payment under the career development program would be authorized after the veteran has been in his or her job and/or training for 90 days. Payment then can be made only for employment and training completed and only after both the veteran and employer sign separate certificates that the employment and training was actually completed.

The program utilizes almost entirely existing delivery systems and approval mechanisms and thus would not require expanding the bureaucracy or increasing Government regulations.

This amendment is strongly supported by Vietnam Veterans of America.

In both this instance and January when this amendment was before the Senate, the Vietnam Veterans of America have supported this legislation strongly. It is one of the cornerstones of their legislative package. We sincerely appreciate their support.

Mr. President, it is past the time when we should make an objective assessment of our debt to Vietnam veterans. The Vietnam war ended over 7 years ago. We committed 8 million of our young people to a war that was unpopular by all standards. When the war was over, Americans attempted to remove all reminders of a conflict that had no resolution. Because few people wanted to talk about Vietnam, few wanted to talk with its veterans. When the country ignores problems, so does Congress. A recent study done by Louis Harris and Associates, Inc. for the Veterans Administration entitled, "Myths and Realities: A study of attitudes toward Vietnam Era Veterans" shows that the American people are ready to deal with the continuing problems of Vietnam veterans. In chapter 10, page 243, the study states:

> Vietnam Era Veterans, particularly those who are under 35 and who served in combat, feel that certain obligations to them have not been met by the country they served. Most feel that they have received the same benefits as veterans of World War II and Korea. They also feel, however, that they have suffered more serious problems than those faced by veterans of earlier wars. Hence, a majority of Vietnam Era Veterans feel that they, as a group, have not received all the benefits they deserved. Moreover, nearly three-quarters of VEV's feel that the federal government should be doing more for veterans of the Vietnam era.
>
> The American public agrees with these veterans of the Vietnam era. A two-thirds majority of the public feel that the federal government should do more to help the Vietnam Era Veteran.

The most severe problem confronting today's Vietnam disabled and theater veteran is unemployment and underemployment. The country is ready to deal with those problems. Congress must also do so.

In summary, this amendment is directed toward the theater veterans of Vietnam and disabled veterans. Preliminary studies indicate that the greatest employment need is with those veterans who actually served in the Vietnam theater. This also reduces the cost considerably.

Earlier this year, I had an amendment which provided that the statistics on employment and education be broken out separately for Vietnam theater veterans as opposed to Vietnam era veterans. Most of the psychological damage was suffered by those who actually served in Vietnam, as opposed to those who served in the military during the Vietnam era. This amendment, to meet some of the requirements and to meet the greatest need, is limited to those Vietnam era veterans who served in the theater.

Since World War II, our main emphasis in veteran programs has been educational in nature. However, many of those veterans who actually served in Vietnam have not chosen to go on to college and have not used their GI benefits. They also have not chosen to go on to vocational school.

Part of the reason is a result of the draft at the time. The draft and the system we had of bringing people into the Vietnam war was such that those with the lowest educational backgrounds and the lowest income ended up serving in Vietnam.

Indeed, as I have stated in the past on the Senate floor, if we have a draft in the future, I hope it is not as unfair as that draft.

As one who served in the Army in Vietnam during the conflict, I saw firsthand that most of the persons who ended up serving in Vietnam came from our lowest socio-economic groups and from our lowest educational achievement groups. The result has been that they have not responded to the educational programs in the GI bill.

That is why an amendment such as this is necessary. It allows those who wish to work to have on-the-job training in a very positive program—training that will increase their skills in a vocational sense and will result in greater productivity.

The Congressional Budget Office did a study earlier this year, which I understand may be referred to on the floor, in which they established that there was evidence that those who served in the theater had no greater needs.

I dispute that. I have asked the various governmental agencies to break out the figures, and it will be very easy to do—it will not cost much at all—on a computer and find out for sure if the theater veterans did suffer greater psychological damage.

All related studies have shown that fact to be true. The recent Harris study showed that.

I have written to the agencies responsible for accumulating labor data and they have written back saying that they do not wish to break it out at this point. That is very much taking the line of the old-line veterans organizations which incidentally are not opposing this amendment.

But let me say that I think it is time that we recognize that those who served in the Vietnam theater have a unique situation because of the attitudes they ran into when they came back to the United States.

It is a war of which they are not proud and of which our society is not proud. World War II soldiers are very proud of their service.

Also, I think, that even in conversations that I have had about service in Vietnam, people think that a veteran did something wrong, that he did not respond properly if he served in Vietnam. It is not a war that our country is proud of and the people who served in it are sort of, in an intellectual fashion, browbeaten on a daily basis by any mention of their service and what their activities may have been in Vietnam.

I also might say we have continuing problems with matters such as agent orange. I am also cosponsoring an amendment dealing with this dioxin which I feel very strongly about. Our Government and the bureaucracy and indeed some of the traditional veterans organizations have been resisting some of the progress that we should be making in areas such as these.

But this career development amendment is a very cost-effective amendment. In the first year it would use funds that already exist. It would actually increase taxes paid by increasing the training levels and the skills of many of our veterans, and it is one of the more positive programs that I think we have to offer the Vietnam veterans.

Mr. President, I ask that my colleagues give this amendment their favorable consideration. I have circulated to every office a statement on its cost and a statement of its purpose. I thank the Vietnam Veterans of America and other organizations who helped in contacting various Senators' offices on this issue.

Mr. President, I wish to reserve the remainder of my time for a rebuttal if there are speeches against this amendment. I am concluded in presenting the amendment at this time, and I wish to reserve the remainder of my time.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. LEVIN). The Senator has 27 minutes remaining.

Mr. CRANSTON. Mr. President, I yield such time as may be required to my distinguished colleague from Wyoming.

Mr. SIMPSON. Mr. President, I express my appreciation to Senator CRANSTON again. I enjoy my working relationship with him and with members of his fine staff.

I rise in objection to the amendment of Senator PRESSLER. I do that reluctantly, but after very careful consideration of the amendment I can only conclude that it is crafted, I think, on some inaccurate assumptions and, if enacted, I think it could be subject to widespread abuse. In the final analysis, I think it would be far too expensive when it is weighed against the benefits to be gained.

Vietnam veterans do, indeed, suffer perhaps higher than average unemployment rates. Yet the Congressional Budget Office in a recent study concludes that these unemployment rates are not indicative of the true portrayal. Indeed, this CBO analysis finds that if other factors, such as educational levels, race, and age are controlled in the equation these veterans of the Vietnam era enjoy a better rate of employability than do similarly situated nonveterans.

Therefore, I think it is inappropriate to assume that the Vietnam-era veterans suffer a disproportionate level of unemployment for reason alone of their military service.

It is, therefore, difficult to justify this amendment as a readjustment effort, especially when we consider that the veteran achieves a level and a quality of employment higher than that of a similarly situated nonveteran.

That is not to imply, Mr. President, that I am resisting initiatives which are designed to enhance the employability of Vietnam-era veterans. Indeed, there are programs within CETA and targeted jobs tax credit provisions which are specifically designed to afford the Vietnam-era veteran enhanced employment opportunities, and there are many others also.

Many of the existing programs are quite workable and have proven to be so and will, I think, for the indefinite future continue to provide the means necessary to assist the Vietnam-era veteran who is seeking employment.

The proposed amendment will in large measure be, I think, very duplicative of those efforts and far, far more costly.

Let me share with my colleagues a very interesting article from the Stars and Stripes which I recall I used to read when I was laboring in Germany in 1955 and 1956 near the end of the Army of Occupation. This is a report of the remarks of Max Cleland, the head of our Veterans' Administration, before the American Legion Convention in Boston. This is a quote of Thursday, August 21, 1980, in the Stars and Strips of Darmstadt, Germany:

> Vietnam veterans are taking better advantage of more benefits than did their World War II counterparts, the head of the Veterans Administration told the American Legion convention Tuesday.
>
> "The current GI Bill for Vietnam veterans has been the most successful, by any standard," and Max Cleland, who lost both legs and an arm while serving in the Army in Vietnam.
>
> Cleland said some 65 percent of eligible Vietnam-era veterans have participated in the GI Bill program, compared to 50 percent of those who saw duty during World War II.
>
> "The 4.5 million Vietnam-era veterans who have trained at the college level exceed by more than one million the combined total of 3.4 million World War II and Korean conflict veterans who trained at the college level," he said.
>
> Cleland's appearance before the 62d annual American Legion convention . . .

The synthesis of these comments is that the VA has undertaken all manner of programs to aid Vietnam veterans, to include the pending legislation which will create a 2-year delimiting date extension on GI bill benefits for the educationally disadvantaged.

There have been numerous legislative accomplishments on behalf of the Vietnam veterans, and I see my good colleague from South Dakota with slight trace of smile crossing his face as he has heard this from me before. We should not say, even in a moment of emotionalism, that we are doing very little for the Vietnam-era veteran. That is just not the case.

I could describe a litany of programs that have been presented to this Congress and passed in the past 10 years that provide a level of assistance and support to the Vietnam veteran that far exceeds that provided to any other veteran of any war in our Nation's history.

If there is one group of veterans that has not been properly taken care of, then certainly it is the World War I veteran.

I ask unanimous consent to have printed in the RECORD the legislative accomplishments of the past 10 years on behalf of Vietnam-era veterans.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEGISLATIVE ACCOMPLISHMENTS ON BEHALF OF VIETNAM-ERA VETERANS

Beginning 10 years ago the Veterans' Affairs Committee of the Senate conducted an extensive congressional investigation into the adequacy of VA medical care for veterans wounded in Vietnam to explore the special problems confronting the VA in caring for veterans of the Vietnam conflict. These hearings led to dramatic improvements in VA hospital staffing, facilities, and services. Since 1970, six new VA hospitals have been built; the staff-patient ratio has been increased from 157 FTEE's to 100 patients in 1974, 50 more than 200 FTEE's to each 100 patients; the health-care staff has been increased by 50,000 since 1970; the number of outpatient clinics has been increased from 209 to 219 in the last 5 years; and special pay for physicians and dentists was authorized in 1975 to improve the retention and recruitment of these health-care professionals.

Also, in 1970, the Veterans' Affairs Committee of the Senate reported the Veteran's

Education and Training Amendments Act of 1970 (Public Law 92–219). This legislation included provisions to:

First. Increase rates of GI bill benefits by 34.6 percent. During the first year after this rate increase took effect, there was a 56-percent increase in GI bill participation.

Second. Establish a program of "special assistance for the educationally disadvantaged" under which veterans without high school diplomas or in need of refresher or remedial courses could—without charge to entitlement—use GI bill benefits for pursuit of appropriate programs or education. Since this program was established, more than 407,000 veterans have received benefits under it.

Third. Establish a program for tutorial assistance under the GI bill. Almost 200,000 veterans have used tutorial assistance—receiving $17.7 million in benefits—through this program.

Fourth. Establish the "predischarge education program" to provide an opportunity for service personnel to pursue high school, remedial, or refresher courses—while on active duty. More than 304,000 Vietnam-era personnel participated in this program.

Fifth. Provide for a greatly expanded "veterans' outreach service program" designed to search out recently discharged veterans, to advise them of benefits, and to assist them in obtaining them. Since enactment of this expanded authority, the VA has communicated with over 6.2 million Vietnam-era veterans shortly after release from service, established 72 "one-stop" USVAC centers to provide complete benefit information and assistance to veterans, conducted job interviewing classes for those needing guidance in order to obtain meaningful employment, and provided veterans in rural areas with service by use of mobile vans.

At the same time, the Veterans' Affairs Committee of the Senate supported an increase of rates of service-connected compensation—which raised the rate of compensation for "total disability" by 12.5 percent (Public Law 91–376). Since that time, nine additional rate increases have been approved.

In 1970, the Veterans' Affairs Committee of the Senate reported the Veterans' Housing Act of 1970 (Public Law 91–507) which provided for VA loan guarantees for veterans who wish to purchase mobile homes. From the inception of the mobile home loan program, the VA has guaranteed 33,684 loans. It is estimated that over 60 percent of these loans—totaling almost $396 million—were made to Vietnam-era veterans.

In 1971, the Labor and Human Resources Committee of the Senate reported the Emergency Employment Act of 1971 (Public Law 92–54) to require that veterans who served in the Indo-China area be given special consideration in filling public employment program (PEP) jobs. Under this authority, such veterans constituted 13 percent of all participants.

In 1972, the Senate passed the veterans' cost-of-instruction (VCI) program legislation as part of this Education Act Amendments of 1972 (Public Law 92–318). This authority was designed to provide incentives and supporting funds for colleges and universities to recruit veterans and to establish special programs and services necessary to assist GI bill veteran-students in readjusting to an academic environment and to reach out to surrounding communities to get more veterans back to school under the GI bill, with special emphasis on educationally disadvantaged veterans.

Also in 1972, the Senate passed the Veterans' Compensation and Relief Act of 1972 (Public Law 92–328), which included provisions to provide an annual clothing allowance for service-connected disabled veterans whose prosthetic devices or wheelchairs tend to tear or wear out their clothing.

In 1972, the Veterans' Affairs Committe of the Senate reported the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (Public Law 92–540). This legislation included provisions to:

First. Increase GI bill benefits by 25.7 percent and increase assistance rates for VA apprenticeship and OJT programs by 48 percent.

Second. Provide for advance payment of GI bill benefits at the start of a school term.

Third. Establish the VA work-study program for veterans attending school under the GI bill. An average of 50,000 GI bill students have benefited annually from participation in this program receiving about $20 million each year in assistance.

Fourth. Set up the VA education loan program as a means of supplementary assistance. Since its inception, 65,761 loans have been made under this authority, totaling $63.9 million.

Fifth. Revised chapter 41 of title 38 setting forth the basic veterans employment responsibilities of the Department of Labor as administered by the Veterans Employment Service, stressing the needs of recently separated veterans.

Sixth. Add a new chapter 42 to title 38 to require Federal contractors to give emphasis to employment of Vietnam-era and disabled veterans and provide for mandatory listing of job openings with local employment service offices and priority in referrals to disabled and Vietnam-era veterans. This requirement has led to the employment of more than 540,000 disabled and Vietnam-era veterans.

In 1973, the Senate passed Senate Concurrent Resolution 51, to express the gratitude of the Congress to the Vietnam veteran for his efforts to make it possible for our Nation to observe Veterans' Day, 1973, in peace, and to commend the Vietnam veteran for his valor, courage, loyalty, and devotion to duty as an American serviceman.

In 1973, the Comprehensive Employment and Training Act of 1973 (CETA) (Public Law 93–203), was drafted to require CETA prime sponsors to give special consideration to certain unemployed veterans in filling public service employment jobs. Almost 2 million Vietnam-era veterans have been served by CETA programs since 1973.

In 1974, the Veterans' Affairs Committee of the Senate reported legislation, ultimately enacted as Public Law 93–337, to extend the delimiting period under the current GI bill from 8 years to 10 years. It is estimated that this extension has benefited more than 2 million veterans.

In 1974, the Senate passed the Emergency Jobs and Unemployment Assistance Act of 1974 (Public Law 93–567) which among other things provided for the conduct, by the Secretary of Labor, of a special outreach and public information program to promote maximum effort to produce job and job training opportunities for Vietnam-era veterans.

In 1974, the Veterans' Affairs Committee of the Senate reported the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (enacted as Public Law 93–508). This measure included provisions to:

First. Increase rates of GI bill benefits by 25.7 percent. During the first year after this rate increase took effect, there was a 25-percent increase in GI bill participation.

Second. Add an additional 9 months of GI bill entitlement for a total of 45 months of maximum entitlement to be earned by a veteran.

Third. Authorize refresher training under the GI billl.

Fourth. Establish the veteran representative on campus (Vet-Rep) program. Under this program more than 1,327 "Vet-Reps" were assigned to 3,320 colleges across the Nation to assist veterans in obtaining GI bill benefits.

Fifth. Require the Secretary of Labor to establish definitive standards for determining compliance with the employment assistance programs mandated by chapter 41.

Sixth. Strengthen chapter 42 to require Federal contractors to take affirmative action to employ Vietnam-era and disabled veterans.

Seventh. Establish the authority for veterans' readjustment appointments (VRA) under which certain disabled and Vietnam-era veterans could receive noncompetitive appointments (up to a GS–5) in the Federal civil service. Since its inception, more than 125,000 veterans appointments have been made throughout the Federal Government.

Eight. Extend the protections of veterans' reemployment rights to persons who prior to military service had been employed by State or local governments and otherwise improve the veterans reemployment rights program.

In 1974, the Veterans' Affairs Committee of the Senate reported the Disabled Veterans' and Servicemen's Automobile and Adaptive Equipment Amendments of 1974 (Public Law 93–538) to liberalize eligibility requirements for Vietnam-era service-connected disabled veterans to receive automobile assistance grants, to increase the grant by 17.8 percent, to add the provision of adaptive equipment to this benefit as well as driver training in the use of the adaptive equipment, to require the promulgation of quality and safety standards for adaptive equipment, and specifically to authorize research relating to improvements in such adaptive equipment.

In 1975, the Veterans' Affairs Committee of the Senate reported legislation (Public Law 94–482) to extend for 3 years the authority for the VCI program, require increased emphasis on educationally disadvantaged veterans, and provide for offsetting the impact of the May 31, 1976, GI bill delimiting date in the formula for determining which colleges were eligible for and the size of their grants.

In 1976, the Veterans' Affairs Committee of the Senate reported the Veteran's Education and Employment Assistance Act of 1976 (Public Law 94–502). This legislation provided an 8.0 percent increase in GI bill benefits and contained provisions to: First, repeal the restriction on graduate study during the last 9 months of a veterans' entitlement; second, increase the maximum amount of a VA education loan; and third, establish a Deputy Assistant Secretary of Labor for Veterans' employment issues.

In 1977, the Veterans' Affairs Committee of the Senate reported the GI Bill Improvement Act of 1977 (Public Law 95–202). This measure included provisions to:

First. Increase by 6.6 percent the rates of GI bill benefits.

Second. Extend the delimiting period during which a veteran or eligible spouse may use GI bill benefits when the veteran has a mental or physical disability which prevents initiating or completing a course of study. More than 2,700 veterans have received extensions of their delimiting periods as a result of this provision.

Third. Extend for 2 additional years the period of time a veteran is able to receive direct education loans when enrolled full time at the time the delimiting period expires. More than 1,400 veterans have received $1.5 million in assistance under this authority.

Fourth. Require more extensive VA educational and vocational counseling and outreach services.

Fifth. Provide for a Federal-State matching program of accelerated tuition assistance for veterans enrolled in high-cost institutions of higher learning. To date, Louisiana has enacted legislation to establish a mechanism for participating in this program.

Sixth. Require the VA to conduct a study into the extent to which Vietnam-era veterans use GI bill entitlements, complete programs of education under the GI bill, and achieve job satisfaction and readjustment.

In 1978, the Veterans' Affairs Committee of the Senate reported the Veterans' Housing Benefits Act of 1978 (Public Law 95-476). This legislation included provisions to:

First. Increase from $25,000 to $30,000 the maximum amount of grants for specially adapted housing to assist severely disabled veterans. Because of the proportionately greater number of Vietnam-era veterans who have suffered the severe disability requirement for eligibility for specially adapted housing, this increase is particularly beneficial to veterans of that era.

Second. Extend entitlements to VA home, condominiums, and mobile home loan guarantees and loans to additional Vietnam-era veterans by reducing from 161 days to 90 days the length of service requirement.

In 1978, the Veterans' Affairs Committee of the Senate reported the VA Programs Extension Act of 1978 (Public Law 95-520). This measure included provisions to:

First. Extend for 3 years (until September 30, 1981) the VRA appointments authority and expand the VRA program by removing all limitations based on the date of the veteran's discharge, raising the maximum civil service grade appointment from GS-5 to GS-7, and making any service-connected disabled veterans rated at 10 percent or more eligible for an appointment regardless of years of education completed.

Second. Give service-connected disabled veterans the right to file with the Veterans Employment Service in the Department of Labor a complaint that he or she has been discriminated against because of handicap by a Federal contractor.

In 1978, the Senate passed the Comprehensive Employment and Training Act Amendments of 1978 (Public Law 95-524) which included provisions to:

First. Require that, with respect to public service jobs, prime sponsors give special consideration to disabled and Vietnam-era veterans (with special emphasis on Vietnam theatre veterans).

Second. Require the Secretary to take appropriate steps to provide for increased participation of disabled and Vietnam-era veterans (with special emphasis on theatre veterans) in all CETA job and job training opportunities.

Third. Promote maximum arrangements by CETA prime sponsors for utilization of apprenticeship and other OJT opportunities available under the GI bill.

Fourth. Require the Secretary of Labor to coordinate with the Administrator of Veterans' Affairs in carrying out all of the Department's responsibilities with respect to veterans under CETA.

Fifth. Add veterans' organization representatives as permanent members of local, State, and national planning councils. As of October 1, 1979, 365 prime sponsors had veterans' representatives serving on their planning councils.

Sixth. Include as a special Federal responsibility of the Secretary the conduct of the veterans' outreach and public information program enacted by Public Law 94-567.

In 1978, the Senate passed the Revenue Act of 1978 (Public Law 95-600) which included provisions to authorize the targeted jobs tax credit program designed to promote increased employment of seven "target groups" including low-income Vietnam-era veterans under 35 years of age and disabled veterans participating in vocational rehabilitation programs. The program was implemented in May 1979, and, as of July 31, 1979, 3,152 Vietnam-era veterans have been certified as eligible for the credit and 880 have been employed.

Last year, the Veterans' Affairs Committee of the Senate reported the Veterans' Health Care Amendments of 1979, signed into law as Public Law 96-22 on June 13, 1979. This measure contains a number of important new VA health-care programs. Most directly targeted to Vietnam-era veterans is the readjustment counseling program, under which the VA is finally authorized to provide readjustment counseling for those Vietnam-era veterans who have not made a successful transition from their military service to civilian life.

The agency is establishing 85 store-front facilities across the country, staffed by outreach teams that will go into the community to locate and assist Vietnam-era veterans. The emphasis of the program will be on peer counseling in a nonformal setting so as to encourage the participation of those veterans distrustful of normal VA and other governmental efforts. It is estimated that 1,970,000 Vietnam-era veterans will participate in this program in the first 2 years.

Three other improvements in VA's healthcare programs enacted in Public Law 96-222 will also benefit Vietnam-era veterans; new authority for the VA to enter into contracts with halfway houses and other community facilities for the treatment of veterans suffering from alcohol and drug abuse dependencies; authority for the VA to provide preventive health-care services for veterans with service-connected disabilities rated at 50 percent or greater and veterans receiving care for service-connected disabilities; and extension of dental care benefits to all veterans with 100-percent service-connected disabilities and to those who were prisoners of war for at least 6 months.

In this year, the Senate Veterans Affairs Committee has reported legislation that improves provisions of the GI Bill and provides for a much needed cost of living increase. Additionally, the Committee has reported out legislation that streamlines and much improves the vocational rehabilitation available to our service-disabled veterans. We have also reported legislation revising the incentive pay system for VA physicians and dentists in order to attract and retain quality health care professionals in the VA hospital system. And of course as we do each year, we have adjusted the rates of compensation for the service-disabled to compenaste for the rate of inflation over the past twelve months.

Anyone who claims that the Congress had not afforded the Vietnam-era veteran consideration above and beyond that provided to the veterans of earlier conflicts is obviously misinformed or for his own reasons chooses to ignore the legislative accomplishments of the past decade.

Mr. SIMPSON. Mr. President, the Senator from South Dakota also asserts that the necessary safeguards have been incorporated into this amendment in order to alleviate the very real problem of abuse. But as far as I am able to determine in my review of it, there is very little in that amendment that would prevent an unscrupulous employer or unscrupulous veterans from thoroughly gimmicking the system, and that causes me a great deal of concern.

Employers can and will raise a veteran's salary or afford unemployed veterans an employment opportunity to only lay off the veteran when his eligibility under the program terminates, and I see no effective way of preventing such abuse.

The necessary bureaucratic safeguards against such widespread abuse would be both inappropriate and prohibitively expensive. I can not envision how the Congress could craft the kind of safeguards to control the abuse which, I think, could and would take place.

I think it is not beyond reason to expect that 50 percent of the costs of this amendment could easily be absorbed by the abuses and the efforts to combat those abuses that would naturally follow. We know that has happened when we have used this on previous occasions in an employer-employee relationship where we paid the employer to hire the employee.

You may be assured that there will always be abuses in that type of intrusion into the normal marketing and social system of employer-employee relationships.

Mr. President, the Senator from South Dakota has also indicated that we can find the necessary funding for the program in certain unobligated accounts within the Department of Labor. That causes me to prick up my ears a bit. I have never found in my time in Washington a Federal bureaucracy worth its salt that would ever have unobligatd funding available in the amounts that would be required by this program.

That is just not going to happen. I do readily admit that the VA could administratively delay the implementation of this program and, thereby, perhaps control first-year costs. But I doubt that even then the necessary moneys could be found to effect even a minimum first year effort. I am absolutely convinced, Mr. President, that funding beyond the first year would be tremendously expensive and would require the very drastic alteration of other benefit programs in order to keep this one program alive.

Mr. President, I must respectfully request that my colleagues reject this proposal of the very able Senator from South Dakota.

At this time I yield to my colleague from Oklahoma.

Mr. PRESSLER. Mr. President, will the Senator yield for two or three questions?

Mr. SIMPSON. I yield for a question to the Senator from South Dakota on his time.

Mr. PRESSLER. Fine.

The Senator said the study by the Congressional Budget Office offered some conclusions. Did those carrying out the study have the statistics to delineate between theater and era veterans, which our amendment does?

Mr. SIMPSON. Would the Senator please restate his question?

Mr. PRESSLER. Yes. The Senator said a study by CBO, in his remarks, was involved. As far as we can tell those who carried out that study did not have statistics to delineate between theater and era Vietnam veterans. This amendment is limited to theater veterans.

Our contention has been that the greatest psychological damage and the greatest problems exist among theater veterans. Indeed the various statistics prove that. As far as we can tell, CBO did not have statistics to back up their rather sweeping statement. Is the Senator aware of any statistics and could he produce them?

Mr. SIMPSON. I can share with the Senator from South Dakota that in the study it was the statistics of the use of resources that 85 percent of those in the study are theater veterans of Vietnam.

Mr. PRESSLER. Yes. But as far as employment problems are concerned, did the CBO have statistics distinguishing theater veterans from era veterans?

Mr. SIMPSON. Not specifically, but the age groups of veterans studied had a high proportion of individuals with Vietnam theater service, approximately 55 percent of those in the study population. I also believe, if I correctly recall, that the Senator proposed amendments to legislation requiring the study of the problems of Vietnam-era veterans that would require separate statistical analysis of Vietnam theater veterans.

Mr. PRESSLER. That is correct.

First of all, we have a copy of the study here, and I do not want to spend a lot of time on this, and perhaps our staffs can work this out here, but we cannot find that 85-percent figure. We have the study here. Also I have been trying to make a point of it, and it is still grinding through the legislation, to have the agencies distinguished in terms of employment and need between those theater veterans as compared to era veterans, and that is what this amendment is directed to.

Many of the fine remarks by my colleague from Wyoming were directed in general to Vietnam-era veterans. This amendment focuses down on those with the sharpest problems, those who are theater veterans, who were, first of all, almost selected from the lowest economic and educational classes in America to go into the theater, and since then have suffered the greatest psychological problems.

We are searching here through this study which the Senator has cited, and which I believe will be cited by my friend from Oklahoma, but we cannot find, at least maybe the staff can show us, where that 85-percent figure comes from.

Mr. SIMPSON. Mr. President, we will certainly provide that information for the Senator, and on reflection I believe that the figure is probably too high. I will provide you the figure, if one can be accurately determined, at the earliest opportunity. Both I and Senator Cranston will also be pressing for a study which will investigate the specific problems of theater veterans in any general study with regard to Vietnam-era veterans.

I am one of those—and I speak only for myself in this instance—and I made these comments at the national convention of VFW in Chicago several days ago—who considers appropriate a more specific targeting of benefits for veterans than we have done in the past, and that distinctions may well be warranted in awarding benefits to theater veterans versus era veterans.

There may not be others who share that view, but to me that becomes important that we begin to assess the needs of different groups of veterans, separately. Granted there are those who, through no fault of their own and without the ability to control it, served only within the United States or served only in an administrative capacity versus those who served in combat areas and in combat duties. I can assure the Senator that I will personally join him in calling for the necessary studies to address the differences in needs and circumstances between theater and non-theater veterans.

Mr. PRESSLER. We have the study over here, and perhaps our staffs can get together. We cannot find the 85-percent figure that the committee has repeatedly referred to.

Mr. SIMPSON. I have been informed, Mr. President, that the age groups used in the study had as high as an 85-percent composition of theater veterans but the Senator may be assured that I will check that figure closely since it seems inordinately high.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. SIMPSON. Mr. President, I yield to the Senator from Oklahoma (Mr. BELLMON).

Mr. BELLMON. Five minutes.

Mr. SIMPSON. I yield 5 minutes.

Mr. BELLMON. Mr. President, first, I would like to commend the distinguished floor manager and the ranking member of the Veterans' Affairs Committee for the fine job they have done over the years in looking at the needs of American veterans.

I also appreciate the interest the distinguished Senator from South Dakota has in the Vietnam-era veteran, and I readily accept the fact that there are special problems that Vietnam veterans have been faced with that were not necessarily faced by veterans of other wars, although I think it is a mistake to feel that those of us who served in World War II all came back as conquering heroes and had no problems to face. I think any veteran has a certain period of adjustment to go through.

While the Vietnam veterans' problems may have been somewhat more severe, they are certainly not totally different from those that have been faced by veterans throughout our history.

Mr. President, as much as I appreciate the good intentions of the Senator from South Dakota and Senator HEINZ, I feel that the amendment should be defeated. I would like to give some reasons for my conclusions.

In the first place, this amendment would establish two career development and advancement programs for Vietnam-era veterans, and both of them, Mr. President, would be entitlements. It is the entitlements programs that are causing us to have such an enormous problem in managing the fiscal affairs of this Nation.

The first program that this amendment would establish would permit such veterans to use their GI bill entitlements to subsidize up to one-third of their wages in public or private sector employment. The second program would permit such veterans to use their GI bill entitlements to reimburse public or private sector employers for training costs and to subsidize a portion of their wages. Under the proposed program, GI bill entitlements could only be used for a maximum period of 18 months, but there is also the possibility, of course, that that could be extended. I understand and commend my colleagues' efforts to ease the problems of Vietnam-era veterans because they, as I have said, do have difficulties sometimes in adjusting to civilian life.

The impression, Mr. President, that has been given by numerous reports in the press is that many Vietnam-era veterans are unable to readjust to civilian life. I do not accept that impression totally. In particular, many difficulties cited are in the area of employment and career development. Combat veterans especially are often described as having the worst problems in getting and keeping jobs.

However, the fact is that the Federal Government has provided a number of ways to help veterans resume their civilian careers. These include the GI bill which provides both institutional and on-the-job training, rehiring rights to jobs previously held, additional points on civil service exams and subsidies to employers who hire veterans under certain circumstances.

Mr. President, Congress in the Revenue Act of 1978 created a targeted jobs tax credit to offer businesses of any size the incentive in the form of tax credits to hire hard-to-employ individuals. The Pressler-Heinz amendment would largely duplicate that program. Economically disadvantaged Vietnam veterans under the age of 35 are one of the targeted categories eligible for this program. Businesses can qualify for a tax credit of up to 50 percent of the first year's wages (up to $6,000) and 25 percent of the second year's wages (up to $6,000) for each eligible employee hired. So that is a program that is very closely paralleled to the program that would be established by the Pressler-Heinz amendment.

Analysis performed by CBO does not corroborate the assumption that those who are veterans are subject to either low earnings or to higher unemployment. Variation in the proportion of persons with low income and variation in unemployment rates are generally correlated with education, age, and race, but not with whether one is a veteran. There are two exceptions to this. First, young veterans have a higher unemployment rate than nonveterans of similar age. This probably results from the short period since discharge which they have had time to look for work. Second, there is some indication that veterans who served in combat have psychological problems that may or may not turn into employment related problems. Again, however, no definitive statistical evidence demonstrated that career adjustment was impeded by military service in Vietnam

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. BELLMON. Mr. President, could I have an additional 2 minutes?

Mr. SIMPSON. Mr. President, I yield such time as the Senator from Oklahoma may require.

Mr. BELLMON. I thank my friend from Wyoming.

Mr. President, statistical evidence from a recent CBO study memorandum (dated June 4, 1980) indicates that in general Vietnam-era veterans do as well in career readjustment as their nonveteran counterparts. A comparison of median personal income—and I have it as part of my statement in table 1—shows that their incomes are well above those of comparable nonveterans within each relevant age group. Although there are not quite so many college graduates among veterans as nonveterans, a far greater percentage are high school graduates than nonveterans and a slightly greater percentage have at least some higher education (table 2). Finally, overall unemployment statistics show very little difference between veterans and nonveterans (see table 3). Comparisons in tables 1-3 are made for males only, because nearly all (99 percent) Vietnam-era veterans are male. I believe this CBO study documents the success of our earlier efforts to ease the readjustment problems of Vietnam-era veterans.

Furthermore, the Pressler-Heinz amendment is bad from a budget standpoint. It creates an entitlement program which will preclude congressional control of spending through the appropriations process. In other words, the amendment would commit the Federal Government to pay the bill, no matter how much the costs grow in the future. CBO's current estimate is that the amendment would cost $20 million in fiscal year 1981, $99 million in fiscal year 1982, and $76 million in fiscal year 1983. These are sizable amounts, but we cannot be at all certain that the costs will not be considerably higher. The experience generally with entitlements programs is that the costs wind up much higher than anyone anticipates. We can be certain, if we adopt this amendment, that we are making an open-ended commitment which we will have to pay the cost of later on.

Mr. President, because of the fact that this amendment duplicates existing programs and because it is an entitlements program with a very high cost both now and in future years, I urge that the amendment be rejected.

Mr. President, I ask unanimous consent that the tables referred to be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—COMPARISON OF VETERANS' AND NONVETERANS' MEDIAN PERSONAL INCOMES, BY AGE GROUP

[In dollars, 1977]

Age group	Veterans	Nonveterans
20 to 24	6,750	5,860
25 to 29	11,380	10,810
30 to 34	14,470	13,780
35 to 39	16,680	15,290

Source: Veterans' Administration, "Educational and Income Characteristics of Veterans," Reports and Statistics Service, Office of the Controller (March 1978).

TABLE 2.—COMPARISON OF VETERANS' AND NONVETERANS' EDUCATION LEVELS, BY AGE GROUP [1]

[In percents, March 1978]

Education level	Veterans	Nonveterans
Less than high school	8.1	21.2
High school diploma	38.5	28.5
Some college	32.0	20.4
College diploma	21.3	29.9

[1] Excludes those still in school.

Source: Current Population Survey for March 1978.

TABLE 3.—COMPARISON OF THE UNEMPLOYMENT RATES OF VETERANS AND NONVETERANS AGED 25 TO 39

[In percents, August 1979]

	Veterans	Nonveterans
July 1978	3.9	3.4
July 1979	3.5	3.7

Source: U.S. Department of Labor, Bureau of Labor Statistics, "Employment and Earnings" vol. 26, No. 8 (August 1979).

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER. Mr. President, how much time do I have remaining? I would like to have about 2 or 3 minutes at the end.

The PRESIDING OFFICER. The Senator has 22 minutes remaining.

Mr. HEINZ. Mr. President, will the Senator yield me 10 minutes?

Mr. PRESSLER. Mr. President, I yield 10 minutes to the Senator from Pennsylvania.

Mr. HEINZ. I thank my colleague from South Dakota for yielding.

Mr. President, I rise in support of the Pressler amendment. It is manifest to me that, notwithstanding the objections of the committee to this amendment, the merits of the case clearly rest with Senator PRESSLER and this amendment.

Mr. President, let me simply cite two statistics that should be of great concern to every single one of our colleagues. We should look, I think, at the most vulnerable group of Vietnam-era veterans, and that is the group of somewhat younger veterans, about 2 million in number, age 25 to 29, a group of veterans who are at a critical period of their development, both as individuals and as wage earners.

What do we find when we look at that very significant group among Vietnam-era veterans? We find that they have an unemployment rate better than 50 percent higher than their nonveteran counterpart.

In July of this year, their nonveteran counterpart had an 8.2-percent unemployment rate. The Vietnam-era veterans, some 2 million of them in that age group of 25 to 29, suffered a 12.4-percent unemployment rate.

If you look a little deeper into the numbers for that same group, you find that among the employed veterans, only one-third of that group, 33 percent, are in the white collar jobs; whereas, some 46 percent of their nonveteran counterparts in that same age group—and, again, we are talking in comparison about some 2 million Vietnam-era veterans—46 percent of the nonveterans have white collar jobs.

Mr. President, why is that significant? It is significant because these are jobs with a future. If you can make it into that wonderful category of professional, technical, managerial, administrative, sales, and clerical workers, you have likely entered into one of the industries of the future, one of the jobs of the future. Your earnings potential in the future will be substantially enhanced because of the laws of labor supply and demand.

And yet our Vietnam-era veterans in the age group I mentioned, 25 through 29, some 2 million of them, have a 50-percent higher chance of simply not being in that class of opportunity.

I want to remind everyone that we are talking about a large class of people here because of the shortcomings in the statistics of Vietnam-era veterans. Were we to look at the people who simply served in Vietnam, the theater veterans, we would find, if we had those statistics in detail before us, much more grievous horror stories.

It is no secret that their unemployment problems, whether it is underemployment or unemployment directly, are far, far worse than the Vietnam veterans as a whole.

That, of course, is what the amendment of Senator PRESSLER is targeted on. It is targeted on the disabled veterans, the theater veterans, and especially on those 40 percent of the theater veterans who are still, 10 years after in many cases, experiencing serious readjustment problems.

I believe the Senator's amendment is terribly important, and it is very carefully and correctly drawn.

There are some who have argued that this career development advancement training program would be subject to some abuses. I strongly disagree with that contention. This amendment is structured upon existing laws and regulations to preclude abuse and to insure ease of implementation. I must say that it bothers me somewhat that the people who take this point of view are essentially suggesting that Vietnam veterans are likely to go around the corner in some way and cheat the taxpayers in some way. I disagree with that entirely.

I think the Senator from South Dakota put it extremely well in some recent remarks. I will quote from his remarks:

> I am especially concerned about this example because it casts unwarranted, negative images on the character, motivation and integrity of Vietnam veterans. Just because a veteran is unemployed or underemployed and seeking to further his career does not motivate him to abuse his benefits. Just the contrary is true. These veterans are seeking a worthwhile place in the labor force.

Mr. President, he is right. We are talking about veterans who want to be a part of our society. They are a group who did a very difficult thing. They went and fought and gave of themselves in a tremendously controversial and, to many, unpopular war. It is some measure of their patriotism, dedication, and commitment to this country that notwithstanding all those difficulties they did their duty. I hope nobody will cast aspersions upon them.

Mr. President, nobody has been able to substantiate a case for abuse of taxpayer dollars in the case of this amendment. The career development advancement and training program's approval and safeguard provisions are drawn entirely from existing VA practices, regarding on-the-job training. In fact, they are tighter than existing laws. No payments would be authorized to be made under our amendment until the veteran has been in his or her job and/or training for 90 days. Payment could then be made only for completed employment and training, and only after both the veteran and the employer sign separate certificates that the employment and training was actually completed. The program utilizes almost entirely existing delivery systems and approval mechanisms and thus would not require an expanded bureaucracy or increased Government regulations.

I might add that the Veterans' Administration has had employment monitoring experience with the OJT programs. The veteran would be a principal monitor of his own program. A veteran would not authorize payment of his benefits to an employer if he were not satisfied with the job or the training.

Employers would also be making a great investment in the veteran, so it would be in their self-interest to see that the veteran is a well-trained and productive employee.

For these reasons, Mr. President, I find the arguments of those who claim that there may be some potential for abuse frankly misleading, inaccurate, and without any merit whatsoever.

Mr. President, how much time remains to me?

The PRESIDING OFFICER. The Senator has 15 seconds left of the 10 minutes yielded to him.

Mr. HEINZ. Will the Senator yield 2 additional minutes?

Mr. PRESSLER. I yield 2 additional minutes.

Mr. HEINZ. I thank my colleague.

Mr. President, we have been working very hard for literally months if not years to try to get a program that is more responsive to the needs of our Vietnam-era, and particularly our Vietnam theater, veterans with respect to their job opportunities.

On several occasions, at least three on this floor, we have argued back and forth about whether or not Vietnam veterans are underemployed.

I know they are underemployed. In my State of Pennsylvania, in order to try to do something in anticipation of Vietnam Veterans' Week in May a year ago, I wrote to 5,000 employers in the State of Pennsylvania and said, "Look, we are not getting anywhere in the Congress. They have turned a blind eye to the Vietnam veteran. Let us do something about it ourselves by our own bootstraps."

Those 5,000 Pennsylvania employers wrote back and said, "Here are 5,000 job slots that we promise, and if you will simply send veterans to those 5,000 job slots we will give them jobs." So we arranged this through the State bureau of employment security, helping the State to set up a Vietnam veterans employment program.

As of today, over 4,000 Vietnam veterans have been successfully placed through that program. There was a need; there was a response; and there was success.

What people are telling us here today, Mr. President, is that there is no need to respond. Let me guarantee that if we do not respond, there will be no success, especially for our Vietnam veterans.

This amendment does a very simple thing. All it says is that the world is changing, that education, important as that is, may not be the very best way for somebody who is 28 or 32 or 35 to get ahead in the world. Maybe it is better for him to get some meaningful on-the-job training. Maybe the kind of education he needs is best found in the workplace. Maybe it is best for that particular veteran not to quit what he is doing and go to school for 4 years and lose whatever progress or momentum he has had in his occupational field or career. That is precisely what we who offer this amendment seek to accommodate: the different needs of a different era of veterans at a different time—now.

I do not believe that confining ourselves to a narrow educational appoach is what is required. Those other approaches that people cite—the hire program, the large number (an excessively large number, I might add) of so-called OJT programs—the very fact that we have so many of those programs should tell us one thing: That they are not working. And we need something, Mr. President, that will work.

I urge my colleagues to support this amendment.

Mr. PRESSLER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7½ minutes remaining.

Mr. SIMPSON. What was the review of the time, Mr. President?

The PRESIDING OFFICER. The Senator from South Dakota has 7½ minutes remaining; the Senator from Wyoming has 25 minutes remaining.

Mr. SIMPSON. Mr. President, let me first ask a question, if I may, of Senator Heinz, then yield to Senator Stafford for his remarks.

The Senator from Pennsylvania has based the premise of his remark upon employment statistics which involve the present age groups of 25- to 29-year-old veterans. I believe that we must agree that, although the Vietnam era did not officially end until 1975, the vast majority of all of the troops in Vietnam were withdrawn from 1969 through 1972. I think, consequently, it is unlikely that a very significant percentage of veterans now aged from 25 to 29 ever served in Vietnam. I ask if those statistics could be provided. It need not be at this time. I would certainly appreciate that.

Mr. HEINZ. I should be pleased to provide these statistics to the Senator and for the Record.

Mr. President, I ask unanimous consent that these statistics and the citations for them be printed in the Record at the appropriate place.

There being no objection, the material was ordered to be printed in the Record, as follows:

TABLE A.—JULY 1980: EMPLOYMENT STATUS OF VIETNAM ERA VETERANS

1. Number of Unemployed Vietnam Era Veterans

Age	Total Viet vet population (thousands)	Viet vets unemployed (thousands)	Percent unemployed
20 to 24	548	55	17.3
25 to 29	1,945	200	12.4
30 to 34	3,613	207	5.9
35 to 39	1,582	94	4.8
Over 40	863	25	2.9
Total	8,541	581	7.1

TABLE B.—COMPARISON BETWEEN VETERAN AND NONVETERAN UNEMPLOYMENT RATES

Age	July 1980	June 1980	July 1979
1. Unemployment rates (percent):			
Vietnam era veterans:			
20 to 24	17.3	13.7	11.6
25 to 29	12.4	11.1	5.1
30 to 34	5.9	5.4	3.0
35 to 39	4.8	4.9	2.5
Over 40	2.9	3.3	2.1
Total	7.1	6.5	3.5
Nonveterans:			
20 to 24	NA	NA	NA
25 to 29	8.2	7.9	4.1
30 to 34	5.9	5.4	3.6
35 to 39	3.8	3.7	3.1
Over 40	NA	NA	NA
Total	6.4	6.2	3.7

	June 1980 to July 1980		July 1979 to July 1980	
	Veterans	Nonveterans	Veterans	Nonveterans
2. Percent change in unemployment:				
20 to 24	26.3	NA	49.1	NA
25 to 29	11.7	3.8	143.1	100.0
30 to 34	9.2	9.3	96.7	63.9
35 to 39	−2.0	2.7	91.0	22.6
Over 40	−12.1	NA	38.1	NA
Total	9.2	3.2	102.9	73.0

TABLE C.—EMPLOYED MALE VIETNAM ERA VETERANS AND NONVETERANS, BY AGE, RACE, OCCUPATION, AND INDUSTRY, 1978 ANNUAL AVERAGES[1]

[Percent distribution]

Occupation and industry group	Total, 20 to 34 yr	20 to 24 yr	25 to 29 yr	30 to 34 yr	Black and other, 20 to 34 yr
VETERANS					
Total employed (thousands)	5,858	592	2,100	3,166	527
White-collar workers (in percentages)	[2] 38.7	[3] 20.4	[3] 33.0	45.9	29.2
Professional and technical	14.8	5.7	11.9	18.4	9.5
Managers and administrators	11.6	4.1	9.0	14.7	6.1
Salesworkers	5.3	3.7	4.9	5.9	2.7
Clerical workers	6.9	6.9	7.2	6.8	11.0
NONVETERANS					
Total employed (thousands)	15,744	6,567	5,490	3,687	1,773
White-collar workers (in percentages)	[2] 39.8	[3] 29.3	[3] 45.7	49.7	30.0
Professional and technical	17.0	10.0	20.7	23.8	12.4
Managers and administrators	10.3	5.8	12.1	15.5	5.6
Salesworkers	6.0	5.8	6.3	5.9	3.3
Clerical workers	6.6	7.7	6.5	4.6	8.4

[1] Results taken from charts presented by John F. Stinson, Jr. and entered into the Record, Jan. 23, 1980, at S. 236.

[2] It should be noted that the total figures are not very different, however.

[3] The amendment addresses the large disparity between these age groups.

TABLE D.—UNEMPLOYED MALE VIETNAM ERA VETERANS AND NONVETERANS AGE 20 TO 34 YR, BY REASON FOR UNEMPLOYMENT AND DURATION OF UNEMPLOYMENT, 1978 ANNUAL AVERAGE[1]

[Percent distribution]

Reason and duration	Total		20 to 24 yr		25 to 29 yr		30 to 34 yr	
	Veterans	Nonveterans	Veterans	Nonveterans	Veterans	Nonveterans	Veterans	Nonveterans
REASON								
Total unemployed (thousands)	314	1,033	80	619	133	280	101	134
Job losers	62.2	57.5	56.3	52.0	63.2	64.6	65.7	67.9
On layoffs	[2] 20.6	[2] 15.0	15.0	13.4	20.3	17.1	25.5	17.9
Other job losers	41.8	42.4	41.3	38.6	42.9	47.5	40.2	50.0
Reentrants	[2] 16.9	[2] 20.4	17.5	23.9	17.3	16.1	15.7	13.4
Job leavers	17.5	17.3	17.5	17.6	18.0	17.1	17.6	16.4
DURATION								
Total unemployed (thousands)	314	1,033	80	619	133	280	101	134
Less than 5 weeks	37.8	41.6	43.8	43.0	34.6	40.5	37.3	36.8
5 to 14 weeks	[2] 34.9	[2] 32.3	33.8	33.0	39.1	30.8	30.4	32.3
15 weeks and over	27.3	26.1	22.5	23.9	26.3	28.7	32.4	30.8

[1] Results taken from table 5, as presented by John F. Stinson, Jr. and entered into the Record, Jan. 23, 1980, at S. 237.

[2] Significant differences between veteran and nonveteran results.

Mr. PRESSLER. Mr. President, on my time, may I respond to that question?

Mr. SIMPSON. I would appreciate that, Mr. President.

Mr. PRESSLER. We have some statistics we would like to supply. Indeed, the Senator from Wyoming based his earlier remarks on a CBO study which we questioned one part of. Did I not understand the Senator from Wyoming to base his earlier arguments on the CBO study which, indeed, is based on that same group which the Senator seemed to question Senator HEINZ' using—if, indeed, he did use it?

Mr. SIMPSON. Mr. President, I want to be sure that the remarks of the Senator from South Dakota are on his time and not that of the Senator from Wyoming.

Mr. PRESSLER. I requested that, Mr. President.

Are not the very same years—was not the CBO study based on those same years; therefore—I do not know if Senator HEINZ' remarks were based on those years. Would that not disqualify the CBO study in the same manner?

Mr. SIMPSON. No, these are not the same figures. The CBO study concentrated on the veterans who served in the height of the conflict. They are not the same.

Mr. PRESSLER. The CBO study was of the age group 20 to 34, which encompasses the very same years from which the Senator has raised an objection to Senator HEINZ using statistics.

Mr. HEINZ. Mr. President, will the Senator from Wyoming yield on his time for a brief response to what I take to be the thrust of the Senator's point?

Mr. SIMPSON. I prefer not to. I have two more members of the minority who wish to speak on this issue.

Mr. HEINZ. Well, I am frankly a little puzzled about the mathematics of my good friend from Wyoming. The fact is that the last American did not leave Vietnam until 1973. In 1972, we had one heck of a lot of men still there; 1972 was 8 years ago. If we subtract 8 from 29, I get 21. Most of the young men who went there were drafted at age 18. I know; that is when I got my draft notice.

That gives a number of years to work with. It means that, in fact, we could have had a lot of people there in Vietnam, at a much earlier period than 1970 or 1971, who were 18 or 19. That was the age of the dogface, the private, the people just out of basic training that were sent to fill the gaps to fight that war. So I am not entirely sure what the Senator from Wyoming has in mind.

There are certainly many people in this age group who were in Vietnam, fought there. Some of them may not have returned, either. I am puzzled by his remark.

Mr. SIMPSON. Mr. President, let me state for the record that in 1972 in Vietnam, we had 100,000 soldiers at the most in that country, down from a figure of 500,000 in 1968, and that we stopped sending replacement troops in 1972 because the demand was down. I am simply stating that if we are using the 25- to 29-year-old veteran as typical of the Vietnam theater veteran we are not using the correct statistics.

In answer specifically to Senator PRESSLER'S question, the statistics used in the CBO age group study that I remarked about are now 30 through 39 in age. That is the figure. I believe the Senator has a copy of the study.

I yield to Senator STAFFORD.

Mr. STAFFORD. Mr. President, with some reluctance, I have to rise in opposition to the amendment of my distinguished colleague (Mr. PRESSLER). I remind my colleagues, Mr. President, that the Senate has previously voted on a similar amendment to that being offered now by Senator PRESSLER when the Senate was considering the GI Bill Amendments of 1980, on January 23, 1980. At that time, unprinted amendment numbers 917 and 921 were offered by Senators PRESSLER and HEINZ and the amendments were defeated by votes of 56 to 38 and 53 to 37, respectively. So we are, once again, considering adopting a new program that has previously this year been discussed on this floor and rejected by the Members of this body.

It should also be noted that the Committee on Veterans' Affairs of the House of Representatives has rejected the proposed program as included in the amendment now being considered.

The Pressler amendment would permit Vietnam-era veterans to utilize their GI bill educational entitlement to pay employers a "subsidy" to train them.

Under the career development and advancement program the subsidy could be part of the veteran's wages whereas under the training program the VA would pay the employer the cost of the training and subsidize up to 50 percent of the individual's training and wages. Payments would be made directly to the employer—not to the veteran. It is an objectionable feature of this amendment. It has great potential for abuse. Unless such a subsidy program is tightly controlled and closely watched with considerable governmental redtape, it will likely result in failure.

When our Committee on Veterans' Affairs held hearings on the issue before us in March of this year, the Veterans' Administration said this and I emphasize that this is a quote from the Veterans' Administration and not the sentiment, necessarily, of this Senator from Vermont:

> Contrary to its expressed intention of addressing employment problems of Vietnam-era veterans, enactment of this measure would result in a vague, ill-defined program which would convert veterans educational entitlements into substantial employer subsidies at considerable cost to the taxpayer. These subsidies would be highly subject to abuse and there is no assurance that the Federal resources expanded would be effectively directed to providing meaningful training and job training opportunities for those veterans who need them.

At the same hearing the Labor Department said:

> A job subsidy program for Vietnam-era veterans would be difficult to administer. Further it proposes to duplicate veterans assistance programs currently operated by DOL, by establishing a major new employ-

ment-related program within the Veterans' Administration.

On March 6, 1980, our Senate Committee on Veterans' Affairs heard testimony in support of a career development, advancement, and training program for certain disabled and Vietnam theater veterans. Senator PRESSLER testified in behalf of the proposed program, the concept included in the amendment we are now considering. Forrest Lindley, a Vietnam veteran with Stars and Stripes newspaper, also presented his views on readjustment and employment for Vietnam veterans and in behalf of S. 1872, Senator PRESSLER's bill.

On the other hand, the major veterans' organizations and the VA testified in opposition to the Pressler proposed career development, advancement, and training assistance program. The following quotes are some of those positions on the issue.

The Disabled American Veterans at the March 8 committee hearing said:

> [We] are opposed to the concept of "paying" employers to hire veterans. Rather, Mr. Chairman, we believe that the Department of Labor should be expending its emphasis on enforcement of existing laws passed by Congress over the last several years—laws which are designed to enhance the employment opportunities of all veterans and which, if properly and aggressively implemented, could make a significant impact upon the high rate of unemployment among Vietnam era veterans.
>
> The very idea that we should have to pay employers to hire those who served our country during a period of armed conflict is extremely distasteful to the Disabled American Veterans.

The American Legion said on March 6:

> [We] are quite concerned with the specific guidelines under which this program would operate in that there is a general lack of substantive controls to ensure accountability and preclude fraud and abuse on the part of the veterans and/or the employer. Without adequate controls built into such a program, we would question whether or not those veterans participating would, in fact, receive meaningful employment opportunities.

The Senate Veterans' Affairs Committee rejected the subsidy program—the proposal of the Pressler amendment. There is no enthusiasm from the 10 members of our committee for this program.

One of the reasons for rejection of the proposal within the committee is that there are a number of ongoing programs to meet the employment needs of veterans—especially Vietnam veterans.

First, the GI bill provides for a program of on job and apprentice training opportunities for eligible veterans. More than 500,000 Vietnam-era veterans have participated in this program. In fiscal year 1979, approximately 84,000 received benefits from this program.

Second, there are several programs available under Comprehensive Employment and Training Act (CETA) including help through the industry retraining and employment (HIRE) program. Under the law providing for this program, the Secretary of Labor is required to take special steps under CETA to maximize the opportunities for Vietnam-era veterans and disabled veterans in all programs conducted by prime sponsors such as job training, upgrading and retraining, public service employment, and private sector initiatives. About 3 million of these veterans have been served by this program.

Third, we have the targeted jobs tax credit program authorized in 1978. Employers receive a tax credit of up to $3,000 for hiring certain low-income Vietnam-era veterans. Senator BELLMON spoke of this tax credit a few minutes ago. He reminded us that it would be a duplication.

Fourth, the purpose of the bill we are considering—S. 1188—includes other positive assets in the area of employment and advancement of Vietnam-era veterans.

All in all, Congress has not been inactive in striving to meet the needs of Vietnam veterans. Senator SIMPSON has previously inserted a list of legislative accomplishments on behalf of Vietnam-era veterans.

Mr. President, I conclude by reminding my colleagues once again that the substance of the pending amendment has been rejected by this body this year, on January 23, by votes of 56 to 38 and 53 to 37.

So, Mr. President, it is with regret that I must urge my colleagues to vote against the Pressler amendment at this time.

Mr. President, I yield the floor to Senator SIMPSON.

(During the preceding remarks, Senator BUMPERS assumed the chair.)

Mr. SIMPSON. Mr. President, I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 1 p.m. today, the vote occur on the amendment by Mr. HEINZ, to be followed immediately by the vote on the amendment by Mr. PRESSLER, to be followed immediately, without further amendments, motions, or debate, by third reading, and then to be followed immediately, without further debate or motion, by final passage, with paragraph 4 of rule XII being waived, and with the additional proviso that the vote on the second and third matters, to wit, on the amendment by Mr. PRESSLER and on final passage, each be 10-minute rollcall votes.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it may be in order to order the yeas and nays now on these three votes by one show of seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, how much time remains on the Pressler amendment on my side?

The PRESIDING OFFICER. The Senator from California has 12 minutes remaining.

Mr. CRANSTON. Mr. President, I oppose the amendment offered by the junior Senator from South Dakota (Mr. PRESSLER), which would establish a veterans' career development, advancement, and training assistance program. Although I appreciate and share the concerns of the Senator which have prompted him once again to put his proposal before the Senate, I cannot support its adoption by the Senate.

Mr. President, Amendment No. 1906 would establish a "career development, advancement, and training program" for certain disabled and Vietnam-theater veterans. The amendment would provide financial incentives—essentially what amounts to wage subsidies—to employers to hire, train, or promote certain veterans. The thrust of this amendment is identical to the thrust of those—unprinted Nos. 917 and 921—offered by Senators PRESSLER and HEINZ during the Senate's consideration in January of S. 870, the proposed GI bill amendments of 1980. Those amendments were defeated by votes of 56 to 38 and 53 to 37, respectively.

In essence, I oppose this amendment because I believe that funds for veteran's benefits should be used for direct payments to veterans not for incentive payments for private firms, and because I have grave reservations about whether this approach would really produce jobs for the veterans involved.

I believe, Mr. President, that it is most important to stress that the program proposed by the Senator is in reality a wage-subsidy type program. The proposal does provide for some rather standard safeguards to curb misuse, but the vast potential for rip-offs and abuses still is inherent in its structure. Historically, wage subsidy programs, unless very tightly structured and monitored—through a process which involves enormous amounts of redtape, Federal regulations, investigations, and Government intervention creating its own administrative monstrosity—result in situations where there is substitution, dead-end jobs, and exploitation of those who are intended to be helped by such programs.

Mr. President, how much time does the other side have remaining on this amendment?

The PRESIDING OFFICER. The Senator from South Dakota has 3 minutes remaining.

Mr. CRANSTON. I remind my colleagues of the years of experience we have had with employment and training programs conducted by the Department of Labor—first under the Manpower Development and Training Act of 1964 and then under CETA. As a long-time member of the Employment Subcommittee of the Labor and Human Resources Committee, I can personally attest to the hundreds of long hours and hard work that have gone into trying to design an "abuse-proof" program. Yet those efforts are undermined daily by reports of outrageous abuses and rip-offs, and the Department of Labor, an agency with extensive experience in administering job and job-training programs, spends millions of dollars and hundreds of employee hours in attempting to remedy these problems.

The program proposed by the Senator from South Dakota would establish this brand new, untested program in an agency with no such employment-monitoring experience in this area—the Veterans' Administration. In my opinion, this substantially compounds the potential for abuse and misuse.

Mr. President, since Senator **Pressler** first proposed this approach, we have taken a close look at it and received testimony on it. Here is what the VA said about it at hearings held by the Committee on Veterans' Affairs on March 4:

> Contrary to its expressed intention of addressing employment problems of Vietnam-era veterans, enactment of this measure would result in a vague, ill-defined program which would convert veteran educational entitlements into substantial employer subsidies at considerable cost to the taxpayer. These subsidies would be highly subject to abuse and there is no assurance that the Federal resources expended would be effectively directed to providing meaningful training and job training opportunities for those veterans who need them.

Here is what the Labor Department said about it:

> A subsidy program for Vietnam-era veterans would be difficult to administer. Further, it proposes to duplicate veterans assistance programs currently operated by D.O.L., by establishing a major new employment-related program within the Veterans' Administration.

Here is what the Disabled American Veterans said about the approach at hearings held by the House Veterans' Affairs Committee on March 6:

> We are opposed to the concept of 'paying' employers to hire veterans. Rather, Mr. Chairman, we believe that the Department of Labor should be expanding its emphasis on enforcement of existing laws passed by Congress over the last several years—laws which are designed to enhance the employment opportunities of all veterans and which, if properly and aggressively implemented, could make a significant impact upon the high rate of unemployment among Vietnam-era veterans.
>
> The very idea that we should have to pay employers to hire those who served our country during a period of armed conflict is extremly distasteful to the Disabled American Veterans.

Here is what was said about the approach by the American Legion at the House Committee's March 6 hearing:

> We are quite concerned with the specific guidelines under which this program would operate in that there is a general lack of substantive controls to ensure accountability and preclude fraud and abuse on the part of the veteran and/or the employer. Without adequate controls built into such a program, we would question whether or not those veterans participating would, in fact, receive meaningful employment opportunities.

Finally, as Dr. Sar Levitan, the highly regarded and well-known labor market economist, testified at our Senate committee hearings:

> Neither the veterans' administration nor the labor department have the capability to monitor the employers who hire veterans, nor is it desirable to provide such a capability to the government agencies. In the absence of such an army of inspections, there is little assurance that the beneficiaries of the proposed program would be veterans, and the program may result in a bounty to employers.

Dr. Levitan went on to state that with respect to the approach taken by the Senator's amendment "the costs of monitoring the subsidized employers would be prohibitive and intolerable."

Mr. President, over the years, Congress and the Federal Government have developed, enacted, and implemented a myriad of programs designed to meet the employment needs of veterans.

The current GI bill—in section 1787 of title 38—provides for a program of apprenticeship and other on-job-training opportunities for eligible Vietnam-era veterans. In a 1978 study, the General Accounting Office found that this program had an outstanding record of success with almost 90 percent of those who participate in the program being placed in permanent jobs upon the completion of training.

Currently, under the VA-OJT program, a married veteran with two dependents may be paid by the VA a training assistance allowance of $226 a month for the first 6 months of apprenticeship or other on-job-training. This is in addition to the salary he or she would receive directly from the employer. Those OJT benefits are available for up to 2 years at a declining rate during the veteran's employment. Under the provisions of H.R. 5288 as passed by the Senate in January, the period of time in which Vietnam-era veterans have to participate in this program would be extended for 3 years. Also, under provisions contained in S. 1188 as reported, the criteria and approval process for VA-OJT slots would be streamlined and improved—resulting in increased participation in this valuable program.

Other provisions in S. 1188 as reported are designed to increase the VA's responsibility and effectiveness in employment-related areas. First, the measure would require the Administrator to take increased responsibility for active advocacy and promotion of effective implementation, enforcement, and application of all laws and regulations relating to employment, training, and other opportunities for veterans. It would also require the Administrator, in cooperation with the Secretary of Labor, to seek actively to promote the development and establishment of employment, training, and other employment-related opportunities for veterans. Finally, the Administrator, and the Secretary of Labor, would be charged with responsibility of promoting the development of VA-OJT opportunities for eligible veterans.

Cumulatively, through fiscal year 1979, nearly half a million Vietnam-era veterans have trained under the VA's OJT program. This year, it is estimated that more than 74,000 Vietnam-era veterans will receive OJT benefits under the current program. If the modifications I have noted are enacted, it is estimated that an additional 15,300 veterans would find employment through this program.

There is also the targeted jobs tax credit—TJTC—enacted in October 1978 in Public Law 95-600. Under this authority, employers may receive a tax-credit of up to $3,000 for hiring individuals who are members of certain mandated target groups, including low-income Vietnam-era veterans under 35 years of age. Since the enactment of this program, more than 10,500 Vietnam-era veterans have benefited from it. The removal of the age limitation applicable to this program—as proposed by S. 2838, which Senator **Matsunaga** and I introduced on June 17, would permit additional Vietnam-era veterans to be served by this initiative. That measure is now pending before the Finance Committee, and I hope action will be taken on it soon.

In addition, there is, of course, CETA. Under CETA, the Secretary of Labor is required to take special steps to maximize opportunities for Vietnam-era and disabled veterans in all programs conducted by prime sponsors, such as job-training, upgrading, and retraining, public service employment, and private sector initiatives. In addition, the Secretary is required to conduct a public information and outreach program to promote maximum job opportunities for veterans. Almost 3 million Vietnam-era veterans have been served by CETA since its enactment in 1973. An age limitation in CETA similar to that now applicable to TJTC, would be removed by my amendment No. 1964 to S. 2708 which I introduced on August 5.

Further, Mr. President, under the authority in section 2012 of title 38, as it would be amended by H.R. 5288 as passed by the Senate in January, all eligible Vietnam-era veterans regardless of the length of time they have been out of service, would be covered for at least 2 years by the affirmative action and mandatory listing requirements imposed by law in connection with Federal contracts. Under those requirements, any firm with a contract with the Federal Government involving more than $10,000 must have an approved affirmative action plan for Vietnam-era veterans and disabled veterans and is required to list job openings with the local employment service which in turn is required to give eligible veterans priority in referral to jobs. Over 540,000 Vietnam-era veterans have found jobs as a result of this initiative.

Finally, Mr. President, there is the highly successful disabled veterans outreach program—D-VOP—conducted by the Department of Labor. Under the D-VOP program, nearly 1,500 disabled veterans are currently working in State and local employment security agencies and offices, providing employment assistance to disabled and Vietnam-era veterans through counseling, job development, and placement services. Since the inception of this program, D-VOP staff have contributed to the successful placement in jobs of more than 135,000 disabled Vietnam-era veterans.

Mr. President, S. 1188 as reported would establish, on a permanent basis, a program modeled on the D-VOP program—the veterans' employment and training outreach program—V-TOP. Under the committee bill, V-TOP would expand the current D-VOP initiative and increase the emphasis on job development and placement in the private sector—particularly in terms of small- and medium-sized employers.

Mr. President, throughout this session of the Congress, the Veterans' Affairs Committee has held a series of five hearings focusing on the continuing readjustment needs of Vietnam-era veterans. We have attempted to discover where we are and what still remains to be done in this area. Throughout these hearings the committee has received very compelling testimony to the effect that what is not needed is new programs and new initiatives. There are good and effective programs and laws already in existence. What is needed is forceful and vigorous implementation of those programs and laws.

Mr. President, let me stress that neither I nor my colleagues on the Veterans' Affairs Committee, nor many of the Members of this body who joined in defeating the very similar proposal made by the Senator in January, believe that enough has been done in the area of veterans' employment—particularly for younger veterans, disabled veterans, and minority group veterans. Certainly, there is no disputing the statistical evidence published monthly that shows unacceptably high rates of unemployment for certain categories of veterans.

The latest available labor force data indicate that the employment situation of male Vietnam-era veterans has deteriorated in recent months along with the rest of the population. However, the data show that for the most part, Vietnam-era veterans are fairing about as well as their nonveteran contemporaries.

In July, the number of unemployed Vietnam-era veterans totaled 581,000 and their unemployment rate was 7.1 percent, up from a year ago. However, the jobless rate for veterans in the 30 to 34 year age group, who comprise over 35 percent of all Vietnam-era veterans was 5.9 percent—the same as it was for nonveterans of the same age and 23 percent better than the unemployment rate generally.

In sum, the situation is not good, but much has been done and much more can be done under existing programs. I am continuing my efforts to seek effective implementation of current laws and ongoing initiatives designed to assist veterans. Evidence of my very deep concerns in this area are reflected in the many employment-related provisions of S. 1188 as reported as well as the provisions of the proposed GI Bill Amendments Act of 1980 passed by the Senate in January.

Mr. President, under the amount assigned for veterans' entitlement programs to the Senate Veterans' Affairs Committee in the first concurrent resolution on the budget for fiscal year 1981—amounts I believe are totally inadequate—the committee is working very hard to assure the enactment of important legislation designed to meet the very real needs of our Nation's veterans. As it stands now, however, there are barely sufficient funds available for the provision of a badly needed 10-percent cost-of-living increase in GI bill benefits—the first since 1977—and an appropriate cost-of-living increase in veterans' service-connected disability compensation, and the Senate has already unanimously voted, in approving by an 89 to 0 tally on June 30, title VIII of S. 2885, the proposed Reconciliation Act of 1980, to defer that GI bill increase until January 1981.

Mr. President, I should like now to respond to some of the remarks made by the junior Senator from South Dakota (Mr. Pressler) in the Congressional Record for August 21 and today. These remarks were made in response to my statement regarding the pending amendment in the Congressional Record of August 6.

First, I would challenge the Senator's assertion that this is the last opportunity we will have to provide for meaningful and productive rehabilitation and employment for Vietnam veterans. I have been working and fighting for initiatives designed to meet the needs of these very deserving veterans since I came to the Senate in 1969 and I will continue to do so. Much has been done, but clearly more remains to be done. I will urge the Senate to defeat the pending amendment, but I reject wholeheartedly the suggestion, Mr. President, that this amendment is any such last-ditch effort to assist those who served in our Nation's longest war. Indeed, I am working right now to get two provisions enacted to improve the CETA and targeted jobs tax credit provisions for Vietnam-era veterans.

Second, Mr. President, the Senator from South Dakota has stated that "no payments are authorized to be made under the career development program until the veteran has been in his or her job and/or training for 90 days." He seems to assert that this is one of the means by which abuses could be curbed and the needs of veterans further served. I am not sure what particular vulnerability to abuse such a 90-day provision might be intended to avoid. So far as I can see, such a lag in payments would serve only to frustrate employers and add no safeguards against abuse.

Third, the Senator has stated that "if anyone were to be cheated under the career development program it would be the employer." Mr. President, I think that is a fairly damaging admission with respect to the design of this provision. Frankly, I do not want to see any of the parties cheated—the veteran, the employer, or the taxpayer. It seems most unfair to me to suggest, as the Senator from South Dakota has suggested, that a small businessman or women who in good conscience hires and trains—at significant cost—an eligible Vietnam veteran, should then be denied reimbursement because the veteran feels he is not satisfied with the training or simply did not like the job. In such situations—if the veteran arbitrarily withholds certification of the training—the employer would be stuck with the cost of the training provided in good faith.

Quite frankly, Mr. President, I know of few businesses or employers who would participate in such programs if the full nature of the "risk" was made clear, and I assume no one would suggest we hide this risk.

Fourth, Senator Pressler has suggested that the recent survey by Louis Harris and Associates, entitled "Myths and Realities: A Study of Attitudes Toward Vietnam-era Veterans," reinforces his assumption that Vietnam veterans are experiencing severe unemployment and underemployment difficulties resulting solely from their military experience in Vietnam. I find no such data in that survey report.

Mr. President, there is no disputing the fact that unemployment rates among Vietnam-era veterans are unacceptable. However, the correlation between these indicators of labor market experience and military service is not firmly established. The Lou Harris survey tends to suggest that employers are favorably disposed to employing the Vietnam veteran. In particular, 60 percent of the employers surveyed responded that service in Vietnam helps an applicant's chances for employment. Only 1 percent said that service in Vietnam hurts an applicant's job chances. Seventy-two percent of the employers questioned had hired Vietnam-era veterans in the last 3 years. Of the 16 percent who had not hired Vietnam-era veterans during that period, 52 percent responded that the reason was that none had applied.

Fifth, the Senator stated that 2 years ago, the employment responsibility for veterans was passed from the Deputy Assistant Secretary of Labor for Veterans Employment to the White House Veterans' Federal Coordinating Committee, and that I now—by virtue of a provision for a targeted delimiting date extension in H.R. 5288 as passed the Senate in January—want to "put the burden on the VA."

Mr. President, first of all, as far as I am aware, veterans employment responsibility still rests where it belongs and has never left there—in the office of the Deputy Assistant Secretary of Labor for Veterans' Employment. Indeed, the same measure—the Senate-passed version of H.R. 5288—would elevate the Deputy Assistant Secretary to the assistant secretarial level so as to help further assure that veterans receive the priority and special consideration that Congress has mandated in so many employment programs.

Further, Mr. President, I am not suggesting that the VA usurp those responsibilities. On the contrary, it is the Senator from South Dakota who suggests this by proposing to shift employment responsibilities to the VA under his amendment to establish a wage-subsidy-type program in the VA.

Finally, Mr. President, there is the issue of cost. Senator Pressler has suggested his proposal is acceptable because he has "found" the money to fund it for fiscal year 1981. He would give the Secretary of Labor the authority to transfer unexpended veterans employment program funds to the VA for the purposes of funding a career development program.

Mr. President, there is only $30 million of unexpended funds and although it is enough to fund the first few months of a career development program—costing only $17.9 million in fiscal year 1981 because it is phased in slowly near the end of the fiscal year—I would ask where the second- and third-year costs—$182.8 million would come from. And I would question that the Secretary of Labor or OMB—or the appropriations committees in Congress—would agree to make such a transfer of funds to the VA for this type of discredited wage-subsidy program even if the authority to do so were provided. And if such a transfer is not made by the Secretary or is not approved by the appropriations committees, then the funding for this program would need to be found within the VA budget, and we would find this new program once again competing with funds reserved for veterans' compensation and GI bill benefits in fiscal year 1981, and in any event in fiscal year 1982–83.

Mr. President, the Senator has stressed the high rates of unemployment among Vietnam-era veterans, and on that point, we have no disagreement. However, let us examine for a moment exactly who would benefit from the career development program—other than the employer who receives a wage subsidy—and whether his proposal would have a substantial impact on these veterans' unemployment rates.

In assessing the cost of this proposal, Mr. President, CBO has estimated that of the more than 71,000 participants expected to take advantage of the program, only 7,500—or slightly more than 10 percent—would not have obtained jobs without the subsidy and only 4,000 of those would be collecting unemployment insurance prior to participation in the program.

Spending more than $200 million to provide jobs to just 4,000 veterans—a cost of $50,000 per veteran actually placed in a job he would otherwise not get—is a most cost-ineffective way of assisting those Vietnam veterans looking for work. It would have a very unsubstantial effect on reducing unemployment.

Senator Heinz has stated that he contacted Pennsylvania employers and asked them to hire veterans in recognition of Vietnam Veterans Week and that as a result 4,000 Vietnam-era veterans were placed in jobs. No subsidy went to those employers. They hired those veterans without the Federal Government paying them to do so.

I congratulate the Senator on his highly effective, most economical outreach activities.

With respect to the concept of career advancement, I believe that the Senator's proposal would be very wasteful. What evidence is there that Vietnam veterans are not getting the promotions, raises, and advancements in their careers that they merit? Veterans make good employees, and employers know this. The recent Lou Harris survey illustrates this. If the veteran is deserving of an increase or promotion, what evidence is there that he will not receive one? If they are receiving them as a matter of course and justice from their employers, why should the Federal Government now start to underwrite them? On the other hand, if they are not earning them on the basis of their job performances, why should the Federal Government "bribe" employers to give them raises, and why should the Federal Government pay for raises for employees who have not earned them?

Mr. President, I must contradict the Senator from South Dakota with respect to the position of the veterans organizations on his amendment. The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans are all opposed to the approach in the Senator's amendment and all are working against it. So is the Non-Commissioned Officers Association. I had printed in the Record letters in opposition to the amendment from the DAV and the VFW on August 6. I wish now to have printed in the Record a similar letter from the NCOA at this point and ask unanimous consent to do so.

There being no objection, the letter was ordered to be printed in the Record, as follows:

September 3, 1980.

Dear Senator: Tomorrow, you will be asked to vote on S. 1188, the "Disabled Veterans Rehabilitation Act of 1980," and Mr. Pressler's amendment No. 1906. The amendment seeks the establishment of a "career development, advancement and training program."

The more than 211,000 members of the Non-Commissioned Officers Association of the USA (NCOA) strongly opposes passage of amendment No. 1906.

NCOA believes greater emphasis should be placed on making existing veteran training and employment programs work to their potential. There are a number of programs within the Department of Labor, the nation's employment agency, that can fill the employment placement needs of veterans. Among them are the Help Through Industry Retraining (HIRE) and Targeted Jobs Tax Credit (TJTC) programs. Both offer financial incentives to employers who hire veterans.

We believe it is shameful for government to have to entice employers into hiring veterans by providing financial incentives. Nevertheless, we are willing to support such a program if it is administered and funded by the Labor Department.

Herein lies the greatest fault with Amendment No. 1906. It seeks to create a new program, administered and funded by the Veterans Administration, yet providing direct payments to employers. We believe that such a program is not needed but should be a function of the Labor Department if it is created.

Senator Cranston has articulated his opposition to Amendment No. 1906 very well in his Congressional Record remarks of August 6, 1980. We agree with the Chairman and have included his remarks for your use.

While you and I may agree that Mr. Pressler's goal is a laudible one, I urge you to vote "No" on amendment No. 1906.

Thank you for your kind attention to this issue.

Sincerely,
Richard W. Johnson, Jr.,
Assistant Director for Legislation.

Mr. CRANSTON. Mr. President, as I noted, the Senate rejected this approach twice in January and should do likewise now. I strongly urge the Senate to defeat the amendment.

The PRESIDING OFFICER. All time of the Senator from California has expired.

The Senator from South Dakota has 3 minutes remaining.

Mr. PRESSLER. Mr. President, to bring this debate to a conclusion, let me again say that this program is directed and targeted to those veterans who served in Vietnam in the theater, and it is a program that would respond to the greatest needs and to the group that has the greatest needs.

Although we have had some disagreement here which still exists about numbers from the CBO study, we have a copy of the study here. It reads as follows:

> Analysis performed by CBO does not corroborate the assumption that those who are veterans are subject to either low earnings or to unemployment . . . There are two exceptions to this. One, young veterans have a higher unemployment rate than nonveterans of similar age . . . Two, there is some indication that veterans who served in combat have psychological problems that may or may not turn into employment-related problems. Again, however, no definite statistical evidence demonstrated that career adjustment was impeded by military service in Vietnam.

Mr. President, the study says that analysis performed by CBO does not show that veterans are subject to unemployment. In July of this year, a month after this study was published, the unemployment rate for Vietnam veterans was 7.1 percent, double that of a year ago. This compares with 6.4 percent for nonveterans in the same age group. As I stated earlier, had it not been for their service to and sacrifice for their country in Vietnam, many of these unemployed veterans would have the seniority and the skills to retain employment in our present troubled economy. The fact that they are so sensitive, as a group, to the pressures of the economy shows that, for the most part, too many are employed in short-term, dead-end jobs. This makes them prime targets for being layed off when a recession strikes.

The study also states that "there is some indication that veterans who served in combat have psychological problems that may or may not turn into employment related problems." Mr. President, although "definite statistical evidence" does not exist, experts over the years have determined that combat exprience has a definite effect on readjustment. This finding was reinforced by the recent study done by Louis Harris on Vietnam veterans. Our amendment is specifically targeted to help the combat veteran.

It is also targeted to assist the disabled veteran. In recent testimony before the House Veterans' Affairs Subcommittee on Education, Training, and Employment, Dennis R. Wyant, Deputy Assistant Secretary of Labor for Veterans Employment stated the following:

> While we do not have data on employment and unemployment or disabled veterans, employment service indicators continue to show evidence of their severe problems in finding employment.

To reinforce the scope and severity of the unemployment problem, I would like to read you statistics from the recent VA commissioned Harris study of attitudes toward Vietnam-era veterans. When asked, "As of today, what would you say are the two or three serious problems, if any, facing veterans who actually served in Vietnam?" employment problems were cited by 48 percent of Vietnam veterans and 49 percent of Vietnam-era veterans. The Harris study was based on statistical evidence while the CBO study was based on "analysis performed by CBO" and admittedly not on statistical evidence. I ask my colleagues to weigh their merits accordingly.

Hearings before the Senate and House Veterans' Affairs Committees brought out the need for career development. Existing programs are fragmented, uncoordinated, and largely irrelevant to the employment and training needs of the Vietnam veteran. Only one in five unemployed veterans qualifies for existing programs such as CETA and targeted tax credit. The HIRE program will end in October. Career development is not so much a new program but rather a workable codification and improvement of existing programs. It combines the employer incentives offered by the HIRE programs with the training opportunities offered by the VA on-the-job training program.

Mr. President, Vietnam Veterans of America, in a recent letter to each Member of the Senate, put the entire question in perspective very well. A portion of the letter reads as follows:

> The proposed amendment seeks, simply, to give Vietnam veterans the same break we give nonveterans. Its first year's cost is only $19 million.
>
> In a sense, such a limited goal hardly seems debatable. But yet, the amendment will surely be hotly debated. And that goes directly to the second need for the program. The country—not just the Vietnam veteran—needs this program.
>
> The very fabric of our national defense is woven in a bond between the government and its citizens. Those who serve their country are, in turn, served by it. A country that abandons that bond endangers its military manpower policy.
>
> The spectacle of a government that after nearly a decade still needs to fight over $19 million to address the sky-rocketing unemployment among the veterans of our last war is not the drama we should be enacting before the 19 and 20 year olds we are now asking to serve . . .

Vietnam veterans overwhelmingly feel that the greatest problem facing them today, is employment. The American public, as the Harris study showed, feels that more should be done to help the Vietnam veteran. The passage of our career development program would enable us to carry out the wishes of the American people while also dealing with the employment problems of Vietnam veterans.

I urge my colleagues to give this amendment their favorable consideration.

The PRESIDING OFFICER. The time of the Senator from South Dakota has expired.

UP AMENDMENT NO. 1548

(Purpose: To modify the Post-Vietnam Era Veterans' Educational Asistance Program, to modify the termination date of the current GI Bill, to facilitate VA debt-collection efforts, to clarify the Veterans' Administration's authority to recover certain health-care costs, and for other purposes)

Mr. CRANSTON. Mr. President, on behalf of the Committee on Veterans' Affairs and joined in by our distinguished ranking minority member, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) for himself and Mr. SIMPSON, proposes an unprinted amendment numbered 1548.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 71, between lines 3 and 4, insert the following:

SEC. 213. Section 1622 is amended by—

(1) amending subsection (a) by—

(A) striking out in the first sentence "Each" and inserting in lieu thereof "Except as provided in subsections (c) and (d) of this section, each"; and

(B) striking out in the second sentence "$50" and "$75" and inserting in lieu thereof "$25" and "$100", respectively;

(2) inserting after "Forces" in subsection (c) a comma and "including contributions in lieu of, or to reduce the amount of, monthly deductions under subsection (a) of this section"; and

(3) adding at the end the following new subsection:

"(d) Subject to the maximum contribution prescribed by subsection (a) of this section, a participant shall be permitted, while serving on active duty, to make a lump-sum contribution to the fund. A lump-sum contribution to the fund by any participant shall be in addition to or in lieu of monthly deductions made from such participant's military pay and shall be considered, for the purposes of paragraph (2) of section 1631(a), to have been made by monthly deductions from such participant's military pay in the amount of $75 per month or in such lesser amount as may be specified by such participant pursuant to regulations issued jointly by the Secretary and the Administrator.".

SEC. 214. Section 1662 is amended by—

(1) amending subsection (a) by—

(A) inserting after "1955" in paragraph (1) a comma and "and before January 1, 1980"; and

(B) adding at the end the following new paragraph:

"(3) An eligible veteran whose last discharge or release from active duty occurs after December 31, 1979, shall not be afforded educational assistance under this chapter after (A) the expiration of the five-year period following the date on which such veteran first begins to pursue a program of education under this chapter after such discharge or release if such date occurs no later than two years after such discharge or release from active duty or (B) December 31, 1989, whichever is the later."; and

(2) striking out subsection (e) in its entirety.

SEC. 215. Section 1712(a) is amended by—

(1) striking out "and" at the end of clause (4);

(2) redesignating clause (5) as clause (6); and

(3) inserting before clause (6), as so redesignated, the following new clause (5):

"(5) if the person becomes eligible by reason of the provisions of section 1701(a)(1)(A)(iii) of this title after the person's eighteenth birthday but before the person's twenty-sixth birthday, then (unless clause (4) of this subsection applies) such period shall end eight years after the date upon which the person thus becomes eligible; however, in no event shall such period be extended beyond the person's thirty-first birthday; and".

TITLE III—VETERANS' ADMINISTRATION DEBT COLLECTION AMENDMENTS

SEC. 301. (a)(1) Chapter 53 is amended by adding at the end the following new sections:

"§ 3113. Indebtedness offsets

"(a) Notwithstanding any other provision of this title or of any other law, where an individual has been determined to be indebted to the United States by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, the amount of the indebtedness concerned shall, under regulations which the Administrator shall prescribe, be deducted from future payments made under laws administered by the Veterans' Administration to such individual if—

"(1) such individual has been provided with reasonable notice of such individual's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and the right to request a waiver of such indebtedness pursuant to section 3102 of this title and with a reasonable opportunity to exercise such rights;

"(2) the Administrator has made a determination with respect to any such challenge or request, unless the Administrator determines that the passage of the time required to make such determinations prior to making deductions would have the effect of jeopardizing the Administrator's ability to recover the full amount of such indebtedness through deductions from such payments; and

"(3) the Administrator has made reasonable efforts to notify such individual about the proposed deduction from such payments and the provision of subsection (c) of this section and the regulations prescribed thereunder.

"(b) Notwithstanding any other provisions of this title or of any other law, the authority of the Administrator to make deductions under this section or to take other administrative action authorized by law for the purpose of collecting an indebtedness described in subsection (a) of this section, or for determining the credit worthiness of the individual who owes such indebtedness, shall not be subject to any limitation with respect to the time for bringing civil actions or for commencing administrative proceedings.

"(c) Upon application by the individual concerned and under such regulations, the Administrator may, in order to avoid undue hardship to such individual to the extent consistent with recovering the full amount of an indebtedness described in subsection (a) of this section, set the rate at which the amount of such indebtedness shall be deducted from future payments at a rate less than that which would otherwise be required.

"§ 3114. Interest and administrative costs charges on delinquent payments of certain amounts due the United States

"(a) Notwithstanding any other provision of this title or of any other law, and subject to section 3102 of this title, interest and administrative costs (as described in subsection (b) of this section) shall, under regulations which the Administrator shall prescribe, be charged on an amount owed to the United States—

"(1) for an indebtedness to the United States resulting from a person's participation in a benefits program administered under this title by the Veterans' Administration, other than a loan, loan-guaranty, or loan-insurance program;

"(2) for the provision of care or services under chapter 17 of this rule; or

"(3) to the extent permissible under the loan instruments concerned, for an indebtedness resulting from an individual's participation in a program of loans, loan guaranties, or loan insurance administered by the Veterans' Administration under this title,

if a reasonable period of time, as determined under such regulations, has expired following the initial notification of the amount due to the person owes such amount of the amount due and the fact that such amount has not been paid. Interest shall accrue on such amount after the expiration of such reasonable period of time, but not for any period prior to the date (A) of the enactment of this section, or (B) on which the Administrator has mailed to the individual concerned, at such individual's most currently available address, notice of the Administrator's intention to charge interest on the indebtedness.

"(b)(1) The administrative costs to be charged under this section shall be so much of the costs incurred by the United States in collecting an indebtedness as the Administrator determines, under such regulations, to be reasonable and appropriate.

"(2) The rate of interest to be charged under this section shall be based on the rate of interest paid by the United States for its borrowing and shall be determined by the Administrator, in consultation with the Secretary of the Treasury, under such regulations.

"§ 3115. Authority to sue to collect certain debts

"(a) Not later than ninety days after the date of the enactment of this section, the Administrator shall take appropriate steps to authorize attorneys employed by the Veterans' Administration to exercise the right of the United States to bring suit, subject to the direction and supervision of the Attorney general and upon such terms and conditions as the Attorney General may prescribe, in any court of competent jurisdiction to recover any indebtedness that is owed to the United States by an individual by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, if the Administrator has determined, under regulations which the Administrator shall prescribe, that such individual has failed to respond appropriately to reasonable administrative efforts to collect such indebtedness.

"(b) Not later than one hundred and twenty days after the date of the enactment of this section, the Administrator and the Attorney General shall submit to the appropriate committees of the Congress a joint report that describes and explains the actions taken by the Administrator and the Attorney General to implement subsection (a) of this section.

"(c) Nothing in this section shall derogate from the authority of the Attorney General of the United States under sections 516 and 519 of title 28, United States Code, to direct and supervise all litigation to which the United States or an agency or officer thereof is a party.".

(2) Not later than October 1, 1980, the Administrator shall prescribe the regulations required to be prescribed under sections 3113 and 3114 of title 38, United States Code, as added by paragraph (1) of this subsection.

(3) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

"3113. Indebtedness offsets.

"3114. Interest and administrative costs charges on delinquent payments of certain amounts due the United States.

"3115. Authority to sue to collect certain debts.".

(b) Section 3301 is amended by—

(1) inserting "or in preparation for" after "In" in clause (5) of subsection (b);

(2) amending subsection (c) to read as follows:

"(c)(1) The amounts of any monetary payments made by the Veterans' Administration to a beneficiary of a benefits program administered by the Veterans' Administration under this title shall be made known to any person who applies for such information, and the Administrator, with the approval of the President, upon determination that the public interest warrants or requires, may, at any time and in any manner, publish any or all information of record pertaining to any claim.

"(2) Any appraisal report or certificate of reasonable value submitted to or prepared by the Veterans' administration in connection with any loan program authorized under chapter 37 of this title shall be made available to any person who applies for such report or certificate.";

(3) redesignating subsection (g) as subsection (i) and inserting after subsection (f) the following new subsections (g) and (h):

"(g)(1) Subject to the provisions of this paragraph, the Administrator may, pursuant to regulations which the Administrator shall prescribe, release the name and address of an individual to a consumer reporting agency when necessary for the purpose of—

"(A) locating such individual when (i) such individual is administratively determined to be indebted to the United States by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, or (ii) the Administrator determines under such regulations that (I) it is necessary to locate such individual in order to conduct a study pursuant to section 219 of this title or a study required by any other provision of law, (II) such individual's inclusion in such study and the cost of such inclusion, in light of any other alternatives reasonably available to develop information necessary for such study and the costs of such alternatives and any possible consequences for such individual resulting from such release, clearly warrant such release, and (III) the release of such information and the fact that the Administrator has inquired as to such individual's present address (in order that any such study may be conducted) will not create a substantial risk of being construed as indicating that such individual is indebted to the United States or of otherwise having an adverse effect on such individual's credit worthiness, credit standing, or credit capacity; or

"(B) obtaining a consumer report in order to assess the ability of an individual so indebted to the United States to repay the indebtedness when the Administrator determines under such regulations that such individual has failed to respond appropriately to administrative efforts to collect such an indebtedness;

and may so release to such agency for either such purpose such other information as the Administrator determines under such regulations is reasonably necessary to identify such individual, but not including any information indicating expressly or implicitly any indebtedness to the United States or any other information reflecting adversely on such individual. Prior to making any such release, the Administrator shall, to the maximum extent practicable and under such regulations, determine that such agency (including any consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which such information is to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) maintains and reports information of the character involved in such release in such a manner as not to indicate in its file on such individual or in any consumer report issued or other disclosure made by it that an inquiry by the Veterans' Administration pursuant to this paragraph indicates the existence of an indebtedness to the United States or otherwise reflects adversely on such individual. A consumer reporting agency to which the Administrator releases information under this paragraph may not, on the basis of such information, indicate by any such recording or notation in such file or in any consumer report issued or disclosure made by such agency the existence of such indebtedness or any other information reflecting adversely on such individual's credit worthiness, credit standing, or credit capacity. Any willful failure of such consumer reporting agency or of any employee of such agency to comply with the requirements set forth in the preceding sentence shall be punishable in the same manner prescribed for the violation described in the last sentence of subsection (f) of this section.

"(2)(A) When the Administrator determines under such regulations that an individual has failed to respond appropriately to reasonable administrative efforts to collect an indebtedness described in paragraph (1)(A)(i) of this subsection, the Administrator may release information relating to such indebtedness and the identity and address of such individual to one or more consumer reporting agencies for the purposes of making such information available for inclusion in consumer reports regarding such individual and, if necessary, of locating such individual if—

"(i) the individual has been provided reasonable notice of such individual's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and the right to request a waiver of such indebtedness pursuant to section 3102 of this title, has been provided with a reasonable opportunity to exercise such rights, and the Administrator has made a determination with respect to any such challenge or request; and

"(ii) sixty calendar days have elapsed following the mailing to such individual at such individual's most currently available address of notice of the Administrator's intent to release such information for such purposes, notice of the name and address of each consumer reporting agency to which such release will be made by the Administrator, and the specific information intended to be released.

"(B) Following the release of information under subparagraph (A) of this paragraph—

"(i) the Administrator shall notify each consumer reporting agency (including each consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which the Administrator has caused such information to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) to which such information has been released by the Administrator of any substantial change in the status or amount of such indebtedness by the end of the calendar month following the calendar month during which such change occurs and shall, upon the request of any such consumer reporting agency for verification of any or all information so released, promptly provide verification or correction, as appropriate, of such information; and

"(ii) if the Administrator determines that the individual concerned had not, prior to such release of information, received a communication from the Veterans' Administration providing such individual with actual notice of the indebtedness and the rights and the opportunity described in subparagraph (A)(i) of this paragraph, any information in the possession of a consumer reporting agency indicating that such indebtedness is delinquent or past due shall, notwithstanding any other provision of law, be deemed to be inaccurate for purposes of section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i), and the Administrator shall immediately advise such individual and each consumer reporting agency (including each consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which the Administrator has caused such information to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) to which the Administrator has released information relating to such indebtedness that any such indication is inaccurate for purposes of such section and advise such individual of the provisions of such section.

"(3) No contract entered into for any of the purposes of this subsection or subsection (h) of this section and no action taken pursuant to any such contract or either such subsection shall result in the application of section 552a of title 5 to any consumer reporting agency or employee thereof.

"(4) For the purposes of this subsection and subsection (h) of this section—

"(A) The terms 'consumer report' and 'file' shall have the meaning provided in subsections (d) and (g) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a (d) and (g)), respectively.

"(B) The term 'consumer reporting agency' (i) shall have the meaning provided in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), and (ii) shall also mean any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (I) obtaining credit information or other information on consumers from consumer reporting agencies (as defined in subsection (f) of section 603 of such Act) for the purpose of furnishing such information to third parties, or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such agencies.

"(h) The Administrator may, pursuant to regulations which the Administrator shall prescribe and which shall not become effective until 30 days following publication in the Federal Register, release the name, address, and other information relating to the identity of an individual, to any person in a category of persons that is described in such regulations and specified as a category of persons to whom such information may be released, if the release of such information is necessary for the purpose of—

"(1) determining the credit worthiness, credit capacity, income, or financial resources of an individual who has (A) applied for any benefit under chapter 37 of this title, or (B) submitted an offer to the Administrator for the purchase of property acquired by the Administrator under section 1820(a)(5) of this title;

"(2) verifying, either before or after the Administrator has approved an individual's application for assistance in the form of a loan guaranty or loan insurance under chapter 37 of this title, information submitted by a lender to the Administrator regarding the credit worthiness, credit capacity, income, or financial resources of such individual;

"(3) offering for sale or other disposition by the Administrator, pursuant to section 1820 of this title, any loan or installment sale contract owned or held by the Administrator; or

"(4) to the extent not otherwise authorized by this paragraph, providing assistance to any applicant for benefits under chapter 37 of this title or administering such benefits if the Administrator promptly records the fact of such release in appropriate records pertaining to the person concerning whom such release was made."; and

(4) amending subsection (i), as redesignated by clause (2) of this section, by striking out "Any" and inserting in lieu thereof "Except as provided in subsection (g)(3) of this section, any".

TITLE IV—VETERANS' ADMINISTRATION HEALTH-CARE COST RECOVERY PROVISIONS

Sec. 401. (a) Subchapter III of chapter 17 is amended by adding after section 628 the following new section:

"§ 629. Recovery by the United States of the cost of certain care and services

"(a) In any case in which a veteran is furnished care and services under this chapter for a non-service-connected disability and such disability was incurred—

"(1) incident to such veteran's employment and the disability is covered under a workers' compensation law or plan which provides reimbursement for or indemnification of the cost of health care and services provided to the veteran by reason of the disability,

"(2) as the result of a motor vehicle accident covered under the law of a State which requires the owners or operators of motor vehicles registered in such State to have in force automobile accident reparations insurance, or

"(3) as the result of a crime of personal violence that occurred in a State or subdivision thereof in which a person injured as the result of such crime is entitled to receive health care and services at such State's or subdivision's expense for personal injuries suffered as the result of such crime,

the United States shall have the right to recover, subject to the limitations, conditions, and procedures prescribed in subsections (b) and (c) of this section, the reasonable costs of such care and services from the State or subdivision thereof, employer, employer's insurance carrier, or automobile accident reparations insurance carrier, to the extent that such veteran, or the provider of care and services to such veteran, would be eligible to receive reimbursement or indemnification for such care and services if such care and services had not been furnished by a department or agency of the United States.

"(b) The amount that may be recovered by the United States in exercising the right provided under subsection (a) of this section may not exceed the lesser of (1) an amount equal to the reasonable cost of the care and services furnished such veteran under this chapter, as determined by the Administrator pursuant to regulations which the Administrator shall prescribe after notice and opportunity for public comment, or (2) the maximum amount specified by the law of the State or subdivision thereof concerned or by any relevant contractual provision to which such veteran was a party or was subject.

"(c)(1) The United States shall, as to the right provided in subsection (a) of this section, be subrogated to any right or claim that such veteran or such veteran's personal representative, successor, dependents, or survivors may have against a State or subdivision thereof, an employer, an employer's insurance carrier, or an automobile accident reparations insurance carrier.

"(2) In order to enforce any such right or claim to which it is subrogated under paragraph (1) of this subsection—

"(A) the United States may intervene or join in any action or proceeding brought by the veteran or such veteran's personal representative, successor, dependents, or survivors against a State or subdivision thereof, an employer, an employer's insurance carrier, or an automobile accident reparations insurance carrier, or

"(B) if—

"(i) no such action or proceeding has been commenced within one hundred and eighty days after the first day on which care and services for which recovery is sought were furnished to such veteran by the Veterans' Administration under this chapter, and

"(ii) the United States has sent written notice by certified mail to such veteran at such veteran's last-known address, or to such veteran's personal representative or successor, of the United States' intention to institute legal proceedings,

the United States may, sixty days after the mailing of such notice, institute and prosecute legal proceedings against such State or subdivision thereof, employer, employer's insurance carrier, or automobile accident reparations carrier.

"(d) A veteran eligible for care and services under this chapter may not be denied such care and services by reason of this section.

"(e) No law of any State or of any subdivision thereof, and no provision of any contract or agreement entered into, renewed, or modified pursuant to any State law shall operate to prevent recovery by the United States under (1) subsection (a) of this section for care and services furnished under this chapter to any veteran for a non-service-connected disability, or (2) subsection (b) of section 611 of this title for care and services furnished as a humanitarian service in emergency cases under such subsection to any individual.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 628 the following new item:

"629. Recovery by the United States of the cost of certain care and services.".

On page 71, line 4, strike out "III" and insert in lieu thereof "VI".

On pages 71 through 74, redesignate sections 301 through 308 as sections 601 through 608.

On page 74, between lines 21 and 22, insert the following new sections:

Sec. 609. Section 502 of Public Law 96-128 is amended by adding at the end the following new sentence: "Disclosures of information made under this section shall for all purposes be deemed to be disclosures authorized in title 26, United States Code.".

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Health Programs Extension and Improvement Act of 1979, Public Law 96-151 (93 Stat. 1092, 1096), is amended by—

(1) inserting "(a)" before "Section"; and

(2) adding at the end the following new subsection:

"(b) The amendment made by subsection (a) of this section shall take effect with respect to appointments made on or after the date of the enactment of this Act.".

Sec. 611. Notwithstanding the provisions of section 5072(b), 5073(a)(2), or 5082(b) of title 38, United States Code, in cases in which the Administrator has approved an application for a grant or supplemental grant under subchapter I of chapter 82 of such title (for the establishment of a new State medical school), amounts appropriated pursuant to section 5072(a) or 5082 of such title that are approved for such a grant or supplemental grant shall remain available for, and may be paid during, a period of twelve months in addition to the periods provided for in such sections, respectively, and any funds made available by this section for payments, or authorized to be paid, under such grant or supplemental grant for faculty salaries may not exceed the amount provided for under section 5073(a)(2)(G) of such title.

Sec. 612. Section 4107(c)(3) is amended by striking out "section 4507" and inserting in lieu thereof "sections 4507 and 5384".

On page 74, line 22, strike out "309" and insert in lieu thereof "613".

On page 74, line 22, strike out "subsection (b)" and insert in lieu thereof "subections (b) through (f)".

On page 75, after line 16, insert the following new subsections:

(c) The provisions of sections 210, 211, and 212 shall take effect on January 1, 1981.

(d) The provisions of sections 213, 214, and 215, titles III and V, and section 610 shall take effect on the date of the enactment of this Act.

(e) The amendments made by title IV shall be effective with respect to care and services furnished under chapter 17 of title 38, United States Code, after September 30, 1980.

(f) The provisions of section 609 shall take effect as of November 28, 1979.

Mr. CRANSTON. Mr. President, the committee amendment would add to S. 1188 provisions of other measures that have already passed the Senate earlier this session so that the resolution of differences with the House of Representatives regarding these provisions will be facilitated by taking place in the context of this bill. Those provisions are three sections of S. 2649, originally passed by the Senate as part of H.R. 7511 on August 6—section 402, relating to the disclosure of certain information for purposes of administering the VA home-loan program; section 503, modifications in the post-Vietnam-era veterans' educational assistance program; and section 504, modifications of the 1989 termination date of the current GI bill—and section 805 of S. 2885, relating to the enhancement of VA debt-collection efforts, passed by the Senate on June 26.

For my colleagues' reference, Mr. President, these provisions were described in detail during the Senate's previous consideration and approval of the measures cited above, and I would refer those who wish to review them to pages 21426 through 21445 of the Record for August 6 and pages 17078 through 17083 of the Record for June 26.

Mr. President, the committee amendment would also amend the provisions of S. 1188 relating to the 10-percent GI bill cost-of-living increase to delay the effective date from October 1, 1980, to January 1, 1981. This is consistent with section 801 of S. 2885, the proposed "Reconciliation Act of 1980," which passed the Senate on June 30 by a vote of 89 to 0 and which included a 10-percent GI bill rate increase, effective January 1, 1981. I am proposing this provision of the committee amendment with the utmost reluctance and solely because of the budgetary constraints imposed by the first concurrent resolution on the budget for fiscal year 1981. I believe that it is very unfair that the Congress must consider such a substantial postponement of this GI bill increase—the first in 3 years—in order to make it possible, within the inadequate levels for veterans' programs in the first budget resolution, to meet our commitments to our Nation's service-connected disabled veterans and the survivors of those who have died in the service of our country.

Further, the committee amendment would modify the age criteria for receipt of educational assistance under chapter 35 of title 38 in the case of dependents of individuals serving on active duty in the military who are listed by the Department of Defense for more than 90 days as missing in action, as prisoners of war, or as being forcibly detained or interned in the line of duty by a foreign government so as to apply generally the same age criteria applied under current law to chapter 35—eligible dependents who themselves enter service in the military. In this regard, the amendment would provide that a dependent who—as the result of his or her parent being missing in action or taken captive—becomes eligible for chapter 35 assistance after turning 18 but prior to attaining 26 years of age, would have 8 years or until his or her 31st birthday, whichever comes first, in which to utilize entitlement under chapter 35. Mr. President, this amendment is based on the provisions of H.R. 8007, which was introduced on August 22 by Representative Mottl, of Ohio in response to the case of a dependent of one of the Marine guard hostages being held in Iran.

The committee amendment would also add to S. 1188 certain provisions from title III of H.R. 7102, originally passed by the Senate on June 5, 1980, strengthening and clarifying the Veterans Administration's authority to recover the costs of veterans' non-service-connected care, in appropriate cases, from workers' compensation carriers, auto no-fault insurers, and States that pay for the costs of health care provided to victims of crimes of personal violence. The House of Representatives did not accept these provisions, and they are thus not contained in H.R. 7102 as enacted over the President's veto on August 26. By adding these provisions to this bill, we will be extending to the House a further opportunity to consider them.

In addition, Mr. President, the committee amendment includes a provision to make a technical amendment in section 502 of Public Law 96–128, the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979, to clarify, what was clearly the intent of Congress in enacting that law in December of last year, that disclosures of information made pursuant to the authority provided in section 502 are not in technical violation of the criminal provisions of title 26 of the United States Code.

Mr. President, section 502 of Public Law 96–128 requires that the Director of the National Institute of Occupational Safety and Health—NIOSH—request from the Internal Revenue Service under section 6103(m)(3) of the Internal Revenue Code of 1954—title 26 of the United States Code—and supply to the VA the mailing addresses of individuals whom the VA Administrator has certified as having experienced a possible occupational hazard exposure during military service. This section authorizes the VA to use addresses solely for the purpose of locating these individuals as part of an activity being carried out by or on behalf of the VA to determine the status of the health of such individuals or to inform them that they may need medical care or may be entitled to VA benefits. This provision was intended to facilitate the ability of the VA and its contractors to conduct epidemiological followup studies of the long-term health effects of exposure to radiation, agent orange, and other hazardous substances. Section 502 gives the same authority to other Federal agencies.

Mr. President, section 6103(m)(3) of title 26 authorizes the IRS to disclose the mailing addresses of taxpayers only to officers and employees of NIOSH solely for purposes of locating individuals who are, or may have been, exposed to occupational hazards. However, neither that provision nor any other provision of title 26 authorizes NIOSH to disclose these IRS-provided addresses to the VA, or the VA to disclose them to a contractor carrying out an epidemiological study.

In addition, section 7213(a)(2) of title 26 provides that it shall be unlawful for any Federal employee or former Federal employee willfully to disclose to any person, "except as authorized in" title 26, any Federal tax return information. Section 7213(a)(2) further provides that any violation of this provision shall be a felony punishable by rather severe penalties.

Because the disclosures authorized under section 502 of Public Law 96–128 are not authorized "in" title 26, NIOSH employees who disclose IRS-provided addresses to the VA and VA employees who further disclose those addresses to a VA contractor or other Federal agencies may be considered technically in violation of section 7213(a)(2) of title 26.

Thus, in order to correct this situation, the committee amendment would amend section 502 of Public Law 96–128 to provide that disclosures made under that section shall be deemed to be disclosures authorized "in" title 26, United States Code.

Mr. President, the committee amendment also includes a provision that would make a technical, clarifying amendment in paragraph (3) of section 4107(c) of title 38, relating to nonphysician VA hospital directors, to add a cross-reference to a provision in title 5, section 5384, which relates to the award of performance bonuses to employees in the Senior Executive Service.

This amendment is necessary because section 105(c) of Public Law 96–330, the recently enacted Veterans' Administration Health Care Amendments of 1980, which added paragraph (3) to section 4107(c), by inadvertence included only a cross-reference to section 4507 of title 5 and the further reference to section 5384 of such title is needed to fulfill the congressional intent—set forth in the explanatory statement inserted in the Congressional Record during consideration in both bodies, July 31, 1980, in the House, and August 1, 1980, in the Senate—of insuring that nonphysician VA hospital directors remain eligible for SES bonuses once they are transferred, pursuant to other provisions in Public Law 96–330, from title 5 personnel system to the VA's Department of Medicine and Surgery title 38 personnel system.

Mr. President, another provision in the committee amendment would amend section 303 of Public Law 96–151, the Veterans' Health Programs Extension and Improvement Act of 1979, to clarify that that section—which reduced from 3 years to 2 years the probationary period for certain employees hired under the authority of title 38 in the VA's Department of Medicine and Surgery—applies only to appointments made on or after December 20, 1979, the date of the enactment of that law. This is the way that the VA has implemented this provision—a sensible approach that avoids the confusion and administrative impracticalities that could result from any retroactive application of a reduced probation period in the cases of employees who were well into their probationary service when the law was enacted, especially those in the third year of probationary status. Thus, this provision of the committee amendment would provide specific clarification confirming the validity of the VA's implementation of the provision reducing the probationary period.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the text of VA Circular 00–80–24, the document by which the VA is, as I have just described, implementing section 303 of Public Law 96–151.

There being no objection, the circular was ordered to be printed in the RECORD, as follows:

CIRCULAR 00–80–24

Public Law 96–151, "Veterans' Health Programs Extension and Improvement Act of 1979," and change in probationary period for title 38 employees.

1. Purpose: This circular implements the provision of P.L. 96–151, approved December 20, 1979, which amended 38 U.S.C. 4106 (B). This amendment has the effect of changing the required period of probationary service from three to two years for title 38 employees given probationary appointments in DM&S on or after December 20, 1979, the effective date of the law. This does not affect title 38 probationary employees who were appointed on or before December 19, 1979, who will complete the required 3-year period of probationary service for which they were appointed.

2. Probationary period: All persons indicated in par 1 above appointed on or after December 20, 1979, are required to serve a period of two years of probationary service in DM&S.

3. Creditable service while on leave without pay: The amounts of service creditable toward completion of the probationary period while on leave without pay prescribed in MP–5, part II, chapter 4, paragraph 5D, will apply to all probationary employees, irrespective of the length of the probationary period.

4. Documentation: Paid instructions for documenting records of affected employees appointed on and after December 20, 1979, were issued by teletype to ALVAMC on January 15, 1980.

5. The provisions of chapter 4, "Probationary Period," MP–5, part II, and the DM&S supplement thereto are modified insofar as they are affected by the provisions of this circular. Appropriate changes to chapter 4 will be issued later.

6. A confirming issue of this teletype will not follow.

7. A copy of this circular should be furnished exclusively recognized labor organizations representing employees covered by its provisions. Management should meet in advance with such labor organizations concerning its implementation procedures and its impact on affected unit employees. Also, existing negotiated agreements should be reviewed for applicable provisions.

8. Rescission: This circular expires February 28, 1981.

Mr. CRANSTON. Finally, Mr. President, the committee amendment contains a provision to modify the VA's program of grant assistance to new State medical schools under chapter 82 of title 38. Under subchapter I of chapter 82, the VA operates a program for assistance in the establishment of new State medical schools, under which 5 medical schools—Marshall University in Huntington, W. Va.; the Quillen/Dishner Medical School in Johnson City, Tenn.; Texas A. & M. University in Temple, Tex.; the University of South Carolina in Columbia, S.C.; and Wright State University in Dayton, Ohio—have received grants to assist these institutions to extend, alter, remodel, improve, or repair buildings to make them suitable for use as medical school facilities and to help pay the faculty salaries at such schools. Each of these schools is affiliated with at least one nearby VA medical center.

No new schools may any longer be established under this program, but the authorization of appropriations extends through fiscal year 1982, and funds previously appropriated remain available—by virtue of sections 5072(b) and 5082(b)—for 6 years after the year for which they were appropriated. Under section 5073(a)(2), a grant made under this subchapter for the payment of faculty salaries may be used for that purpose only during the first 7 years of the school's operation and only up to specified percentages of total faculty salary costs—declining from 90 percent in the first 3 years of operation to 50 percent in the 7th year.

Wright State was the first of these schools to receive a subchapter I grant, and it has just begun its 7th year of operation, as defined in the VA's implementing regulations. My distinguished colleague from Ohio (Mr. GLENN) has brought to my attention that Wright State may be unable to use effectively by the end of the 7-year period the full amount of the grant money it has received under this program for faculty salaries.

To resolve this problem, and to prevent the other four schools from facing similar problems with respect to grants for salaries or for other authorized purposes, section 510 in the committee amendment would provide for an additional 12-month period—beyond the periods prescribed in sections 5072(b), 5082(b), and 5073(a)(2)—in which these new State medical schools could obligate the funds which have been committed to them under subchapter I. This amendment would not provide for the authorization of appropriations for any additional funds for the schools in the eighth year and would limit the amount of the remaining funds which could be used to pay faculty salaries in the eighth year to 50 percent of the cost of such salaries, the same limit that currently applies in the seventh year. Thus, the amendment is designed to permit the schools to make appropriate, efficient use of the funds that the VA has already committed to them under this grant program.

I wish to thank the Senator from Ohio (Mr. GLENN) very much for his excellent work on this amendment and for bringing this problem to the committee's attention. We believe that this program has been most successful and hope that this amendment will allow these five new medical schools to use the grant money they receive under subchapter I for the intended purposes.

Mr. President, I know of no objection to this amendment which I offer along with the distinguished ranking minority member in behalf of the committee, and urge its adoption.

Mr. SIMPSON. Mr. President, I wish to join my esteemed colleague and chairman of the Veterans' Affairs Committee in calling for adoption of this committee amendment.

Senator CRANSTON has adequately and very clearly summarized the text of this amendment, and I should wish to point out to our colleagues that the basic purpose of the amendment is to facilitate our conferring with the House of Representatives on those legislative items which were passed by this body at an earlier date.

I know of no objection to this committee amendment, and I urge my colleagues to adopt it.

Thank you, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment (UP No. 1548) was agreed to.

UP AMENDMENT NO. 1549

(Purpose: To authorize expansion of the scope of an epidemiological study regarding veterans exposed to Agent Orange to include additional factors)

Mr. CRANSTON. Mr. President, on behalf of the distinguished ranking minority member, Mr. SIMPSON, and myself, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Mr. SIMPSON, proposes an unprinted amendment numbered 1549.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 71, between lines 3 and 4, insert the following new title:

TITLE V—AMENDMENTS TO AGENT ORANGE STUDY PROVISIONS

SEC. 501 Section 307 of the Veterans' Health Programs Extension and Improvement Act of 1979, Public Law 96–151 (93 Stat. 1097), is amended by amending subsection (a)(1) to read as follows:

"(a)(1)(A)(i) The Administrator of Veterans' Affairs shall design a protocol for and conduct an epidemiological study of the long-term adverse health effects in humans of service in the Armed Forces of the United States in the Republic of Vietnam during the period of the Vietnam conflict as such health effects may result from exposure to phenoxy herbicides (including the herbicide known as 'Agent Orange') and the class of chemicals known as 'the dioxins' produced during the manufacture of such herbicides.

"(ii) In conducting the study provided for by division (i) of this subparagraph, the Administrator may, as the Administrator deems appropriate, expand the scope of such study to include an evaluation of the adverse health effects in humans of such service as such health effects may result from other factors involved in such service, including exposure to other herbicides, chemicals, medications, or environmental hazards or conditions.

"(B) (i) The Administrator shall also conduct a comprehensive review and scientific analysis of the literature covering other studies relating to whether there may be long-term adverse health effects in humans from exposure to phenoxy herbicides (including the herbicide known as 'Agent Orange') and the class of chemicals known as 'the dioxins' produced during the manufacture of such herbicides.

"(ii) In conducting the review and analysis of the literature provided for by division (i) of this subparagraph, the Administrator may, as the Administrator deems appropriate, expand the scope of such review and analysis of the literature to include a review and analysis of the literature covering other studies relating to whether there may be long-term adverse health effects in humans from other factors involved in service in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam conflict or in other comparable situations involving one or more of the factors described in subparagraph (A) (ii) of this paragraph.".

Mr. CRANSTON. Mr. President, this amendment, which relates to the issue of the adverse health effects in Vietnam veterans that may be associated with exposure to the herbicide agent orange during their service in Vietnam and the Government's response to this issue, would amend a provision—section 307—in Public Law 96-151, the Veterans' Administration Health Resources and Programs Extension Act of 1979, that requires the VA to "design a protocol for and conduct an epidemiological study of" persons exposed to agent orange while serving in the Armed Forces of the United States during the Vietnam conflict. As my colleagues will recall, last December, during consideration of H.R. 3892—the legislation that was ultimately enacted as Public Law 96-151—the Senate adopted a provision I proposed to mandate this study. The amendment that I am offering today would amend that study provision in three ways. First, it would authorize—although not mandate—the VA Administrator to expand the scope of the statutory study—along lines recommended by the scientific panel of the interagency work group to study the possible long-term health effects of phenoxy herbicides and contaminants, the so called IAC. This recommendation was included in the panel's July 30, 1980, "herbicide orange status report," that I inserted into the August 6 CONGRESSIONAL RECORD.

Thus, the amendment would expand the study to include an evaluation of the possible adverse health effects of factors other than agent orange related to service in Vietnam. Second, the amendment would add a provision to section 307 to authorize expressly the Administrator to carry out the statutory study through a contract with a public or private entity so as to clarify the congressional intent in this regard; and, finally, my amendment would make certain technical amendments to the description of the scope of the agent orange study mandate.

On the issue of the expanded scope of the study, the recommendation of the IAG's scientific panel seems to me to be highly significant. In making the recommendation that any study of adverse health effects in Vietnam veterans be expanded beyond agent orange, the panel seems to suggest that a combination of chemical, physical, environmental, and emotional factors peculiar to service in the war in Vietnam might be responsible for a host of health problems now being blamed on agent orange alone. Further, the scientific panel indicated that, because of the difficulties inherent in identifying a population of ground troops who were exposed to agent orange in Vietnam and the uncertain scientific data available on the health effects of dioxin exposure, it would be more appropriate to design a study that would recognize other factors as possible bases for any ill-health effects that are shown to exist in the Vietnam veteran population.

Mr. President, agent orange may be only the tip of an epidemiologic iceberg, or it may not. Either way, the sooner we know the truth, the better. An expansion of the study could help resolve this question.

Should the Administrator exercise the option in the amendment and expand the focus of the study, the broader study should lead to a more reliable, and possibly faster, result. The results of such a study could do much to reassure veterans and their families who are presently experiencing so much anxiety.

Mr. President, as I noted earlier, our amendment would expressly authorize the VA to carry out the mandated study through a contract with a public or private entity. Earlier this year, on June 3, because of my concern that many of those most concerned about the agent orange issue no longer believe that the VA can by itself fairly study and evaluate the merits of the issue, I called upon the Administrator to contract with an outside entity of high scientific repute for the management of the mandated study, a recommendation that the VA is still evaluating, and I continue to believe that having an outside body—beyond the Office of Technology Assessment which already has a statutorily mandated monitoring role—actively involved in the management of the study would improve the likelihood that the study results will be viewed as credible. Indeed, the VA has already requested bids from outside entities on designing the protocol for the study. The provision in the amendment would make clear that the VA has the authority to contract for the management of the study, and I hope that such clarification will remove any concerns on this point.

Whether the study's scope is broadened or not—and I want to stress that the decision on whether to broaden the study would be left solely to the Administrator's discretion under the amendment—the law would continue to require the focus on agent orange. Indeed, the study mandate, as my amendment would slightly revise it, would still place primary emphasis on the adverse health effects of exposure to dioxin as contained in agent orange by requiring the VA to study the effects of exposure to dioxin while giving the Administrator the discretion to study the effects of other factors related to Vietnam service.

In order to assist the Administrator to make an informed decision on the possible expansion, the Committee on Veterans' Affairs will hold a hearing on September 10 to receive an update on agent orange-related matters, especially activities by the Federal Government, and specifically to explore in more detail the IAG scientific panel's July 30 report and its recommendation regarding expansion of the study.

Because of the continuing emphasis on agent orange, whether the scope of the study is expanded or not, our amendment would make some technical adjustments to the study description set forth in Public Law 96-151 so as to remedy some problems that VA scientists and others have noted in the existing study mandate.

The result of the proposed technical amendment would be to change the study from a study of "persons who, while serving in the Armed Forces of the United States during the period of the Vietnam conflict, were exposed to any of the class of chemicals known as the dioxins produced during the manufacture of the various phenoxy herbicides (including the herbicide known as agent orange)" to a study of "the long-term adverse health effects in humans of service in the Armed Forces of the United States in the Republic of Vietnam during the period of the Vietnam conflict as such health effects may result from exposure to phenoxy herbicides (including the herbicide known as agent orange) and the class of chemicals known as the dioxins produced during the manufacture of such herbicides." By this change, the threshold problem of identifying a population exposed to dioxins is removed and, instead, the VA—or an outside contractor, if one is utilized—can begin the mandated study by identifying a population with service in Vietnam and then focus on dioxin exposure among those in that population.

Mr. President, I believe that the impact of the various provisions in our amendment will be to define properly and emphasize the existing agent orange study mandate and this should result in the study moving forward in a more expeditious and effective manner. As I have stated on a number of occasions, we cannot resolve the many very difficult, very complex issues related to agent orange without valid data on the effects of dioxin exposure in general and on the current health of Vietnam veterans as a group, and I believe that the Public

Law 96–151 study is a key method by which this data can be gathered.

I urge my colleagues to adopt this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

Mr. CRANSTON's amendment (UP No. 1549) was agreed to.

UP AMENDMENT NO. 1550

The PRESIDING OFFICER. The Senator from Pennsylvania (Mr. HEINZ).

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) for himself and others proposes an unprinted amendment numbered 1550.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 71, between lines 3 and 4, insert the following new section following section 501:

SEC. 502. Section 307 of the Veterans' Health Programs Extension and Improvement Act of 1979, Public Law 96–151 (93 Stat. 1097), is further amended by amending subsection (b)—

(A) by amending paragraph (2) by inserting "for administrative or legislative action, or both," after "recommendations";

(B) by adding at the end the following new paragraph:

"(3) (A) (i) Not later than ninety days after the submission of each report provided for in paragraph (2), the Administrator shall, based on the results described in each such report and the comments and recommendations thereon and any other available pertinent information, develop and publish in the Federal Register, for public review and comment, proposed regulations containing proposed guidelines, standards, and other criteria (together with an explanation of the bases for such proposed guidelines, standards, and criteria) for resolving claims for benefits administered by the Veterans' Administration based on exposure to Agent Orange during service in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam conflict.

"(ii) If the Administrator expands the scope of the study provided for in subsection (a) (1) (A) (i) (as provided for in subsection (a) (1) (A) (ii)), such proposed regulations shall contain proposed guidelines, standards, and other criteria for resolving such claims based on one or more factors described in subsection (a) (1) (A) (ii) related to such service.

"(iii) Proposed regulations developed and published pursuant to division (i) of this subparagraph (and, if proposed regulations are developed and published pursuant to division (ii) of this subparagraph, pursuant to such division) shall include specification of any presumptions (including any presumptions regarding service and exposure) to be applied to the resolution of the claims to which such proposed guidelines, standards, and criteria in such proposed regulations apply.

"(iv) Notwithstanding any other provision of law, the public review and comment process required by division (i) of this subparagraph shall be conducted in accordance with the provisions of sections 553(b) and (e), 556, and 557 of title 5, United States Code.

"(v) On the same day as such proposed regulations are published as required by division (i) of this subparagraph, the Administrator shall submit to the appropriate Committees of the Congress any recommendations for legislative action that the Administrator considers appropriate in light of such proposed guidelines, standards, and criteria, the report submitted pursuant to subsection (b) (2), and any other available pertinent information.

"(B) Not later than ninety days after the completion of the public review and comment process provided for in subparagraph (A) (i) and (iv), the Administrator shall publish in the Federal Register final regulations containing the guidelines, standards, and other criteria (together with an explanation of the bases for such guidelines, standards, and criteria) for resolving the claims involved.

"(C) Nothing in subparagraphs (A) or (B) shall be considered to limit in any way the discretion and authority of the Administrator to promulgate or prescribe regulations, guidelines, standards, or other criteria for resolving any claims described in subparagraph (A) (i) or (ii) at any time earlier than the time prescribed in subparagraph (A) for the publication of the proposed regulations described in such subparagraph.

"(D) The Administrator's compliance with the provisions of, and any regulations promulgated pursuant to, this paragraph shall be subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code.".

Mr. HEINZ. Mr. President, I offer the amendment on behalf of myself, Senator CRANSTON, Senator SIMPSON, Senator PRESSLER, Senator HATFIELD, Senator DURKIN, Senator PERCY, Senator BIDEN, Senator RANDOLPH, and Senator MATSUNAGA.

Mr. President, the purpose of this amendment is really quite straightforward. It is very similar to an amendment I offered in January of this year. It quite simply requires the VA to promulgate regulations containing guidelines to resolve the claims of veterans' benefits based on exposure to agent orange.

This addresses, in other words, one of the most serious problems still confronting Vietnam veterans and their families, the toxic effects of the herbicide agent orange. In the last few years over 10,000 veterans have gone to the VA for treatment of agent orange-related problems resulting from skin and nervous disorders to malfunctions of internal organs and cancer.

Nor is this problem restricted to veterans. Among alleged effects are birth defects in offspring.

In recognition of the serious nature of this problem, Congress has directed the VA to conduct a wide-ranging epidemiological study of those Vietnam veterans who were exposed to agent orange. This study is just beginning and it will be at least a year before the initial findings are reported to Congress.

Mr. President, it has already been 13 years since agent orange was identified as a hazard to humans, and considerable scientific evidence exists indicating its harmful effects. It is understandable, therefore, when many Vietnam veterans express frustration and hostility toward the efforts of their Government to respond to their pleas for help.

It is the purpose, therefore, of my amendment to remove obstacles that could block compensation to veterans for agent orange, and to insure the timely consideration by the VA of findings causally linking agent orange to diseases in humans.

Since the Vietnam veteran is being told that there are insufficient data to rule on his claim for compensation, it is important that he be given assurance that every effort will be made to evaluate new evidence obtained from the VA study just as soon as possible. To accomplish this objective my amendment requires the VA to develop regulations which define what conditions of service establish exposure to agent orange and what symptoms medical research has shown to be caused by agent orange. I would like to point out that the amendment does not prejudge the findings of the VA epidemiological study and does not compel the VA to take any action which is not justified by the existing scientific evidence at the time.

Mr. President, I worked very hard with the committee to structure this amendment so that the committee could be supportive of it at this time. I believe this amendment, on which I worked very closely with Senator CRANSTON and others, is the minimum we should be doing to insure that our Nation's veterans are awarded the benefits they are owed and, I believe, the minimum required to restore the Vietnam veteran's faith in the Government's efforts to address this problem thoroughly and expeditiously.

Mr. President, I would add one other observation on the amendment. Although the amendment that we offer today does not include a specific mandate that the VA's final regulations include a particular presumption framework, it is my understanding that if the VA determines that there are disabilities casually related to exposure, then the VA will have to adjudicate individual claims for those disabilities through a presumption framework. Any other approach would result in massive and unacceptable inequities.

There is no way that individual veterans can prove that their disabilities are specifically and individually related to exposure that occurred one to two decades ago. My belief that the VA must proceed this way is reinforced by a belief that the VA will in fact proceed through a presumption framework because that is both consistent with the statutory framework for adjudicating claims which itself proceeds through presumptions and is also consistent with the VA's administrative practice of giving veterans the benefit of the doubt. Indeed, in the VA's recent decision to grant service-connection status to certain cardivascular disabilities that developed after service in veterans with certain service connected amputations, the VA adjudicated claims through a presumption framework. Accordingly, at this time I can understand that it is not necessary to include a specific requirement, but I remain convinced that the final regulations must include a presumption framework of some sort.

Mr. President, I mentioned earlier that the Senator from California (Mr. Cranston) and I worked long and hard to try to bring about a compromise solution to this problem. There are three points about my amendment that I want to highlight and on which I would like the views of the Senator from California (Mr. Cranston) for the purpose of establishing a legislative history.

First, Mr. President, I want to note my understanding that, although our amendment calls for action by the VA Administrator to issue proposed regulations not later than 90 days after the submission of the first report, and not later than 90 days after each subsequent report, on the VA's epidemiological study, the amendment does not expressly preclude, and is not intended to prevent, the Administrator from taking such action at any earlier time, and indeed the text makes this point explicitly. In fact, I believe that the Administrator should develop and promulgate regulations providing guidelines for the resolution of agent orange-related claims at any earlier point at which he has information warranting specific guidelines for one or more specific types of claims for VA benefits based on exposure to agent orange.

In this regard, I would also note that our amendment is not restricted to requiring action on the study results alone but also on other available pertinent information at the time the proposed regulations are issued. It seems to me that this is a clear recognition that other information may be developed on the basis of which the Administrator could act and that such information is not limited to information available at the time of the study. By including a reference to other pertinent information, the amendment makes the important point that although the results of the study are important, those results will not and should not be the only basis for action.

Mr. CRANSTON. Mr. President, I agree completely with my colleague from Pennsylvania (Mr. Heinz) about the pending amendment. The time frame incorporated in our amendment is appropriate in light of the expectation that the Public Law 96–151 study should yield some information regarding Vietnam veterans on which action could be taken and that this information will likely be the first good information on those veterans. However, at any point that the VA has adequate information on which to base specific guidance for resolving agent orange claims, it should do so. I assure my friend from Pennsylvania and all of my colleagues that, in my capacity as chairman of the Committee on Veterans' Affairs, I will work to insure that the VA takes such action at all appropriate points.

Mr. HEINZ. Mr. President, I thank the Senator from California.

Let me also stress that the purpose of the amendment is to require the VA to conduct rulemaking once reliable results of the study are available. As we have just indicated, the amendment is not intended to prohibit or preclude any agency rulemaking action before the results of that study are available. I am aware that the VA has yet to conduct public rulemaking on the rules it now uses to decide claims for agent orange-related disabilities. Indeed, I encourage the VA to allow public participation in all agency decisions made before the study is completed. And I understand that such action is the subject of a lawsuit filed in Federal District Court in Washington, D.C., White against Cleland. This amendment is not intended to affect or influence in any way the outcome of this litigation or any rules that may or should be promulgated before the study is completed.

A second point about my amendment that I want to highlight is the absence of any specific mention of genetic damage or birth defects in the amendment itself. In the amendment that I had originally planned to offer, I had included specific reference to this issue and provided a mechanism by which birth defects in the children of Vietnam veterans might be compensated for, should such a health problem be linked to their parent's exposure to agent orange. Such reference is not included in the pending amendment because, in my discussions with the distinguished chairman, I have become convinced that it would be more appropriate for the Congress to fashion any suitable legislation needed to provide compensation and health-care benefits for a child of a veteran only after Congress would have before it definitive data indicating that the birth defects do result from genetic damage due to exposure to a particular chemical during service—if that should prove to be the case. Once any such data is provided, I am confident that the Veterans' Affairs Committee and the Congress would respond promptly and properly to the need for such legislation in light of the particular facts shown to exist.

Nevertheless, I remain very concerned about this aspect of the agent orange issue, and stress that the study itself will include a focus on the question of genetic damage—as one of many alleged "long-term adverse health effects" to be investigated—and that the provisions requiring the Administrator's recommendations on any study findings or other data to include recommendations "for administrative or legislative action, or both" would provide a firm basis for the consideration of legislative action, as indicated, to address problems related to genetic damage.

Mr. CRANSTON. Mr. President, my colleague is again correct. As he notes, the Public Law 96–151 study calls for an evaluation of adverse health effects. There is no question but that this term includes any genetic damage that may be shown to have resulted from exposure to agent orange or from other aspects of service in Vietnam. I believe that the study—along with other studies, such as that which the Center for Disease Control, utilizing its birth defects registry, is preparing to undertake in the Atlanta area—will shed light on this most troublesome facet of the agent orange problem, on which some important reassurance has recently been provided by the male mouse study. Should such studies demonstrate a clear link between dioxin exposure and genetic damage in humans, I would do all that I could to insure prompt legislative action recognizing such a connection and providing appropriate relief. I would also expect the Administrator of Veterans' Affairs to recommend such a legislative change pursuant to the provision in the pending amendment.

I believe it is preferable, however, that the legislative language not undertake to begin to laundry list a whole variety of adverse health effects that some veterans are concerned might be linked to their exposure to agent orange, and I thank the Senator from Pennsylvania for his cooperation in this respect in the drafting of the pending amendment.

Mr. HEINZ. Finally, I wish to stress that this amendment is not intended to affect or influence in any way litigation in connection with the VA's initial notice regarding the contracting process on the original request for proposal issued pursuant to Public Law 96–151, which is also the subject of a GAO investigation requested by several Members of Congress. I do not intend by this amendment to interfere with the orderly processes of the courts and the investigating arm of Congress.

Mr. CRANSTON. Once more, Mr. President, I concur with the Senator regarding the concern he has expressed.

Mr. HEINZ. Mr. President, I thank all my colleagues, and I urge support of this amendment.

Mr. CRANSTON. Mr. President, I am pleased to cosponsor the amendment of the Senator from Pennsylvania (Mr. Heinz). I have worked closely with the Senator in the development of this amendment—a modification of printed amendment No. 2274, submitted by the Senator last month—and I believe that it is an entirely appropriate amendment. I am extremely grateful to the Senator for his excellent work and his cooperation with me in the development of his amendment.

Mr. President, I believe that this amendment can make a contribution to alleviating the concerns of Vietnam veterans and their families about the health effects of exposure to the dioxin in agent orange. I believe that the approach contemplated by this amendment—setting specific time frames within which the VA must take specified action to develop and issue appropriate guidelines pursuant to which agent orange claims can be resolved—is a useful way to proceed at this point.

Let me stress, however, that this amendment in no way prejudges what the studies and data will show, scientifically, legally, or practically. It does not establish any presumptions of service connection or exposure; nor does it require the VA to take any action in these respects other than what all the evidence suggests should be done at particular points in time.

Mr. President. I know the Senator from Pennsylvania (Mr. Heinz) agrees with me that, first and foremost, the Government needs valid information on agent organge—information on the effects in humans of dioxin exposure and on the present status of the health of Vietnam veterans—before there can be any meaningful response to the agent orange issue, and our amendment recognizes that we do not now have the needed information. I also note that our amendment would not in any way alter the provisions of my amendment that was just adopted that would permit the Administrator to expand the scope of the mandated study to include an evaluation of the effects of elements other than agent orange to which Vietnam veterans might have been exposed during their service in Vietnam.

Mr. President, I urge my colleagues to support our amendment.

Mr. SIMPSON. Mr. President, I want to commend my fine friend, the Senator from Pennsylvania for his willingness to work with the Veterans' Affairs Committee in the development of this amendment. I want to emphasize to the Senator from Pennsylvania that he joins every single member of this committee in our concern to effectively and honestly settle the tough issue of agent orange. I thank the Senator for his courtesy and cooperation—always evident traits of his.

Mr. MATSUNAGA. Mr. President, will the Senator from California yield?

Mr. CRANSTON. I yield.

Mr. MATSUNAGA. Mr. President, I rise in support of the Heinz amendment. I congratulate the Senator from Pennsylvania and the Senator from California for having worked up an acceptable compromise.

Mr. President, I rise to join the distinguished chairman of the Committee on Veterans' Affairs, the Senator from California (Mr. CRANSTON), in opposition to the amendment offered by the junior Senator from South Dakota (Mr. PRESSLER) which would establish a veterans' career development, advancement, and training assistance program. As a member of the Veterans' Affairs Committee, I strongly believe that the approach taken in S. 1188, as reported by the committee, is the correct approach that we must take in order to address the continuing employment and other readjustment needs of Vietnam veterans.

Mr. President, as Chairman CRANSTON has indicated, the thrust of the Pressler amendment, which would provide financial incentives, or what could be called wage subsidies, to employers to hire, train, or promote Vietnam veterans, is identical to the amendments offered by the Senator from South Dakota and the Senator from Pennsylvania (Mr. HEINZ) last January during the Senate's consideration of S. 870, the GI Bill Amendments of 1980. I would remind my colleagues that those amendments were resoundingly defeated by the Senate.

In the case of the Pressler amendment to S. 870, a strong argument was made by Chairman CRANSTON in opposition to the amendment that the members of the Veterans' Affairs Committee had not yet had the opportunity to analyze or consider the merits of the career development training proposal. The chairman also argued very forcefully that, over the years, the Congress and the Federal Government have enacted, developed, and implemented a number of important programs designed to meet the unique and sometimes difficult employment needs and problems of veterans.

Mr. President, since last January, the Veterans' Affairs Committee has taken the time to carefully review and evaluate the Pressler proposal, which is embodied in the pending amendment, and other approaches to the veteran, particularly Vietnam veteran, unemployment problem. The committee held hearings on these proposals on March 4 of this year and received critical testimonies from the Veterans' Administration, the Department of Labor, and the Disabled American Veterans which expressed serious reservations about the feasibility and desirability of the Pressler career development training legislation.

The Veterans' Administration was of the view that, contrary to its expressed intention of addressing employment problems of Vietnam veterans, the Pressler legislation would "result in a vague, ill-defined program which would convert veterans educational entitlements into substantial employer subsidies at considerable cost to the taxpayer." The VA further testified that these subsidies would "be highly subject to abuse" and that "there is no assurance that the Federal resources expended would be effectively directed to providing meaningful training and job training opportunities for those veterans who need them."

Mr. President, I believe that the VA's testimony struck at the heart of what is wrong with the approach taken in the amendment of the Senator from South Dakota. I oppose the amendment because I believe, as does Chairman CRANSTON, that funds for veterans benefits should be used only for direct payments to veterans and not for incentive payments to private firms. Senators should realize that what is being proposed here is, in reality, a "wage subsidy" program. While the proposal outlines standard safeguards to curb misuse, the Veterans' Affairs Committee, the Veterans' Administration, and the Department of Labor see vast potential for abuse in the structure of the proposed program.

It is a well-known fact, Mr. President, that such wage-subsidy programs, unless very tightly structured and monitored, many times result in situations where there is substitution, dead end jobs, and exploitation of those who are intended to be helped by such programs. As the committee chairman has indicated, we have had a difficult time with employment and training programs conducted by the Department of Labor. No matter how well we thought we designed employment and training programs, no matter how tightly we drew the program regulations and safeguards, the Department of Labor, the agency in our Federal Government with the most expertise and experience in job training programs, has had to struggle to correct problems and remedy abuses.

Mr. President, my colleagues should note that the Pressler amendment would establish a new, thus far untested program in the Veterans' Administration, an agency which has no employment monitoring expertise or experience in this area. Surely, in view of these circumstances, there is even more reason to believe that there is great potential for abuse of this program.

In testimony before the Veterans' Affairs Committee, the Department of Labor indicated that the VA would have difficulty administering the program envisioned in the Pressler amendment. According to the Department of Labor, the Pressler proposal "proposes to duplicate veterans assistance programs currently operated by the Department by establishing a major new unemployment-related program within the VA."

Not only would the new career development training program duplicate the Department of Labor's veterans employment efforts, which are substantial and are expanded under S. 1188, as reported by the Veterans' Affairs Committee, but, as I have said, there are already a number of programs in existence designed to meet the employment needs of veterans, particularly those of the Vietnam era.

First, and most importantly, there is the VA program of apprenticeship and on-the-job training for eligible Vietnam era veterans. This program, which has been rated outstanding in terms of the success of participants being placed in permanent jobs, has been streamlined and improved under the provision of S. 1188.

And under other legislation passed by the Senate this year, the period of time in which Vietnam-era veterans have to participate in the VA–OJT program would be extended for 3 full years. Let me just add that throughout the life of the VA–OJT program, nearly half a million Vietnam-era veterans have received on-the-job training, 74,000 during fiscal year 1980 alone. It is estimated that if the modifications in the VA–OJT program contained in S. 1188 are enacted, including provisions designed to mandate an increase in the VA's responsibility and effectiveness in employment-related areas, an additional 15,300 veterans would find employment through the program.

Second, the Department of Labor administers employment and job training programs for veterans under the Comprehensive Employment and Training Act. Some 3 million veterans, many of them Vietnam-era veterans, have been served by CETA over the past 7 years.

Third, the Congress, in 1978, enacted a targeted jobs tax credit under which employers may receive a tax credit of up to $3,000 for hiring individuals who are members of certain targeted groups, including low-income Vietnam-era veterans under 35 years of age. As a member of the Senate Finance Committee, I strongly supported the enactment of this tax incentive program and, most recently, have introduced legislation along with Chairman CRANSTON to improve the eligibility requirements for Vietnam-era veterans.

Finally, the Department of Labor administers the disabled veterans outreach program, known as D–VOP. Under this highly successful program, nearly 1,500 disabled veterans are working in State and local employment agencies providing employment assistance to disabled and Vietnam-era veterans.

Mr. President, it is my view, and that of the Veterans' Affairs Committee, that in order to address properly the very serious veterans employment problem we are now experiencing, we need not begin new, untested programs, but should, instead, seek effective implementation of the current laws and ongoing veterans' employment initiatives, some of which I have just described.

Mr. President, there is no denying that the Veterans' Affairs Committee has this year taken significant steps toward this important goal under the provisions of the pending bill and the GI Bill Amendments of 1980.

Mr. President, as I have earlier observed, the Senate earlier this year rejected the proposal embodied in the Pressler amendment. I urge my colleagues once again to vote to defeat this amendment and support the veterans employment initiatives contained in S. 1188, as reported by the Veterans' Affairs Committee.

Mr. HEINZ. Mr. President, will the Senator from California yield for two unanimous-consent requests?

Mr. CRANSTON. I yield.

Mr. HEINZ. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH) be included as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. I would also like to yield 1 minute, if there is going to be enough time, to the Senator from South Dakota (Mr. PRESSLER).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. I yield 1 minute to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, as a cosponsor, I rise in strong support of the amendment offered by the Senator from Pennsylvania.

This amendment will require the Veterans' Administration to publish the assumptions, standards, and criteria used in claims for disability to agent orange.

Having served in the Army in Vietnam, I am especially concerned about the effects of agent orange. This chemical, which was used as a defoliant between 1962 and 1970 in Vietnam and surrounding countryside, has been thought to cause health problems for Vietnam veterans exposed to it. I have been in touch with several veterans who feel that they have been exposed to the chemical, which has caused them great problems.

In the last 2 years, several thousand veterans have come to the VA with agent orange related diseases. Almost all veterans expressed similar symptoms, liver disorders, numbness in the extremities, and cancer. Many veterans have attempted to establish a link between birth defects in their children and exposure to agent orange. In my estimation, the VA has not dealt fairly with those who have claimed damages for exposure to the dioxin. The VA must meet its obligations in this matter: It must determine whether the agent orange claims are valid, and if they are, what compensation will go to the victims.

As previously stated, this amendment will require the Veterans' Administration to publish the assumptions, standards, and criteria used in claims for disability to agent orange. This is a good first step in coming to terms with this problem. It certainly will not solve the problem entirely, but it is a step forward.

Mr. President, I ask unanimous consent that the testimony of Christopher H. Johnson, president of Vietnam Veterans of South Dakota, Inc. be printed following my remarks. This testimony was delivered before the Veterans' Affairs Subcommittee on Medical Facilities.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF CHRISTOPHER H. JOHNSON

Mr. Chairman, I am privileged to appear before the Veterans' Affairs Subcommittee on Medical Facilities and Benefits to discuss the devastating effects and problems the Vietnam Veterans are dealing with on a daily basis.

At nineteen I was a machine gunner on an Armored Personnel Carrier with the 11th Armored Cavalry. I served in the Tay Ninh Province which was heavily concentrated with herbicides. At nineteen I was killing people for what I naively believed in. In March of 1970 I lost my right leg and sustained multiple fragment wounds to my left foot, left hip, right arm and also have a hearing loss all due to a confrontation with the North Vietnamese Army. I spent thirteen months at Fitzsimons Army Hospital in Denver.

Ten years later I find that while I was fighting for what I believed in, government agencies were experimenting with us and everything around. Today I can no longer be the naive person I was at nineteen years old. I can still be a patriot but I can not approve of some of my country's thoughtless actions. You took the cream of the crop for that war, look around you today, look at what has been done to that crop. The hard fighting men that were in Vietnam are withering away like the defoliated Vietnam.

While I was in Vietnam I had a respiratory problem which I reported to the medical unit. Unsurprisingly to me it is not in my medical records. I still have reoccurring respiratory problems, when I was at Fitzsimons I very vividly remember the chloracne like retention cysts that I developed. I remember the other patients lying around pulling them out of their arms and legs. I still have this embarrassing problem. At that time we made no connection.

About three years ago I weighed 175 pounds, a short time later I weighed 130 pounds after having intestinal problems, loss of appetite and flu type symptoms which I still have. I went to doctors at the VA and the Air Force only to have them say nothing is wrong and send me home. Not once did they mention Agent Orange, I had to tell them and show them an article in December of 1979.

During my weight loss we conceived our second child. Nicholas was born with chromosome damage, which they tested my wife and I for, with negative results.

Nicholas had every imaginable deformity, about twenty-six in all. To list a few: club feet, deformed hands and face, a hole in his heart, his intestines were outside of his body along with his liver, cysts on his kidneys, etc. My wife and I believe in natural child birth so I was present in the delivery room. When he was delivered the nurse said, "Hurry, get the doctor" to the other nurse. Nicholas was flown four hundred miles to Denver to try to save him. What a blessing he is not here today to struggle for life as many Vietnam Veterans' children do. When I go to the VA hospital the only way to get there is to go past the National Cemetery where my son is buried. What a strange feeling to know my son is also a victim of war. The doctors can not explain why, they only say he is the worst case they have seen as they send me the medical bills.

I have started Vietnam Veterans of South Dakota to work with all the other service organizations such as the DAV, VFW, American Legion and the Vietnam Veterans organizations. The South Dakota DAV is covering my expenses out here so that I can help represent us. We are all working with veterans, helping them where the VA has failed. We are reaching out to them and letting them know someone is there who cares and will not label them a hypochondriac because my symptoms are just as real as theirs. We let them know what to expect on an Agent Orange Exam at the VA. Many veterans think they will find out if chemicals are ruining their bodies. Many find out that they are subjected to a questionnaire of nonsensible questions. Also the VA Central Office sent out memos to hospitals instructing them to only give simple reassurance that their problems are not connected to herbicides and also to make no relationship between the veterans' symptoms and Agent Orange in their medical records. It's working—they put it that way in my records.

How can the VACO even expect to learn from the Agent Orange Exam registry about our problems when the VACO instructs the local VA to discredit what a veteran complains of?

The United States sent these same questionnaires to the Repatriation Commission in Australia for their use on veterans over there. They discontinued its use because of the complaints about the questions. They report the same exact symptoms along with the same types of birth defects. But yet the U.S. government agencies and Australia are trading information so that they can keep on trying to discredit all veterans claims.

In Australia at Sydney's Royal Alexandria Hospital for Children, Dr. David Walsh, a biochemist on fetal deformities, said regarding limb deformities, "Something stinks. There is obviously something wrong. At this stage we can't say whether it is linked with Agent Orange, but to say that there is no scientific evidence showing a link is to say nothing. It just plain means we haven't done the work." Dr. Walsh examined veterans' children free of charge. Their complaints are identical to ours.

You can no longer look the other way. Our health problems are real and won't go away just as we won't go away. The men who fought in Vietnam joined in brotherhood because then it was survival that brought us together, today it is survival again.

April 15, 1970 the Surgeon General appeared before the Energy Subcommittee and announced governmental actions aimed at limiting the use of 2,4,5-T in the United States. The same day the Deputy Secretary of Defense, David Packard announced that the military would stop using Agent Orange in Vietnam. With those actions doesn't that tell you that the risks were greater than the benefits?

Also during 1970 the chemical companies were fighting the Department of Agriculture to keep the use of 2,4,5-T on rice crops on the grounds that it brought larger food yields. At the same time in 1970 the military used this chemical to destroy one-half million acres of rice crops on Vietnam. Doesn't this tell you that the severe concentrations used in Vietnam were harmful?

In pointing out concentrations I make reference to: Army TM 3-216 page 74 Section III 107 dated 1964. "These compounds are effective in killing plants when used in concentrations as low as 0.5 pounds per acre. This concentration is generally non-toxic to man and animals. There are no proven defensive measures against these compounds. By the time symptoms appear nothing can be done to prevent damage."

In reference to the: Minnesota Department of Veterans Affairs Study, Section II Application procedures used in South Vietnam. "Agent Orange was sprayed undiluted at the rate of three gallons per acre. (12 pounds of 2,4-D and 13.8 pounds of 2,4,5-T per acre.) "That is 13.3 pounds per acre more than the Army manual recommended. The Herbs Tapes show that some areas were sprayed as much as twenty-five times in just a few short months. Doesn't that sound very harmful to human health at such heavy concentrations? On one occasion there were one thousand gallons dumped on a delegation office.

If Agent Orange is so non-toxic to us, why then did the Air Force draft an Environmental Impact Statement on how to get rid of existing stocks of Agent Orange without danger to human health or the environment?

If it is no threat to man, why then in Feb. of 1972 did the Mississippi Air and Pollution Control Commission request that Agent Orange be removed from storage at Gulfport, Mississippi immediately?

The USAF OEHL Technical Report, TR-78-92 page I-2 table 4, Acres Treated shows that between 1967 and 1969 were the years when the most acres were treated.

The Agent Orange organizations who are taking questionnaires are finding that most of the men complaining of health problems, served during 1967 to 1970. That should show some relationship. Isn't it odd how the layman can find disturbing similarities? Yet part of the scientific community can not? Maude DeVictor is a layperson who could see a relationship among men and their service in Vietnam. I find it very hard to believe that anyone could write such an accurate memo without help from someone in the scientific community.

Referring back to te USAF OEHL report page I-3: In April 1970 the Secretaries of Agriculture; Health, Education and Welfare and the Interior jointly announced the suspension of certain uses of 2,4,5-T. These suspensions resulted from studies published indicating that 2,4,5-T was a teratogen.

It also appears that Vietnam was a proving ground for herbicides. From the same report page I-2 and I-3, Brown reported "that the first shipments of Herbicides Purple and Blue was received in Vietnam the 9th of January 1962." Also the report says "Two additional phenoxy herbicide formulations were received in Vietnam in limited quantities and evaluated during the first two years of Operation Ranch Hand." These were Pink and Green. Then in 1965 two more were brought in, Orange and White. Orange replaced, Purple, Pink and Green. The Air Force also conducted an experiment in Vietnam along with National Forestry Department called Pink Rose. Pink Rose was an operation where Orange and Blue were applied to kill off an area of vegetation followed with a burning off process.

If TCDD is the result of a heating process then it is possible that there was a lot of smoke filled with TCDD around from this and other fires?

In 1977 the World Health Organization's International Agency for Research on Cancer studied research papers going back twenty years. Their results were that TCDD could create serious health effects on humans:

Dermatological: Chloracne—a severe skin disease of follicular and sebaceous glands, causing skin lesions, sebaceous cysts, blisters and pustules and eventual scarring of the skin. Susceptibility to bruising. Hyperpigmentation of the skin and abnormal body hair growth.

Internal: Liver damage-inflamed tissues, fatty changes, specialized cell degeneration, abnormal liver function, disorders of fat metabolism, disorders of carbohydrate metabolism. Heart and blood vessel disorders. Urinary tract disorders. Respiratory disorders. Pancreatic disorders.

Neurological: Polyneuropathies—a number of disease conditions of the nervous system. There may be polyneuritis, abdominal pain and mental disturbance. Lower extremity weakness. Sensorial impairments—sight, hearing, smell and taste.

Psychiatric: Depressive syndromes—a state of general debility, both physical and mental. Taken from:

World Health Organization, International Agency for Research on Cancer. Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Man. Vol. 15, Lyon, August 1977.

The Armed Forces Institute of Pathology (AFIP) had a monthly report from August 15, 1979 on cases submitted from veterans and labeled, Possible Exposure to Herbicides During the Vietnam War. Page 4.

"d. of particular interest are the following:

(1) unusual or unique tumors occurring in an organ or organ system.

(2) an unusually high incidence of a tumor for a particular anatomic site.

(3) a tumor occurring at an unusually young age."

This was included in the VACO Steering Committee minutes on Herbicide Toxicity, November 15, 1979.

Why doesn't the VA print some of these results in their Public Opinion Digest? Instead they print about everything they can find to sour the VA staff on the Agent Orange issue. This type of one sided point of view effects the staff all the way down to the scheduling workers that greet you at the front doors. If you insist that the jury is still out on the Agent Orange issue then what do you think this type publicity does to effect the veteran seeking medical attention?

In an Air Force report by Young and Thalken was the following table 16:

NUMBER OF FETUSES FOUND PER FEMALE MOUSE IN TEST AND CONTROL AREAS

Year of capture	Fetuses, control group I	Fetuses, test group II	Percent difference, groups I and II
1973	2.4	1.4	−46.6
1974	1.1	.7	−36.4

But yet Young and Thalken concluded "TCDD encountered in the field failed to induce observable developmental defects."

You can clearly see that like Barry Commoner and Robert E. Scott of the Center for the Biology of Natural Systems point out in their evaluation that, "The Air Force data include striking evidence of either a decline in fertility or an increase in fetal deaths in the TCDD exposed mouse population."

There are many animal tests in the scientific community that show numerous health effects and fetal problems. Such laboratory testing is usually accepted. It seems that many do not want to accept these results concerning herbicides. Are we going to wait for another body count of men who fought in the Vietnam War?

It is easy to see why no one will own up to the fact that we were over exposed to chemicals that are harming our health. First of all the chemical companies have too much to lose since they depend so much on all the revenue that they receive. As an example: Dow Chemical's sales of Agricultural Chemicals was $398 million in 1978 and $471 million in 1979. The majority of it being herbicides. There are chemical plants worldwide, including Australia. If the Australian government were to decide that their men were seriously effected then that would set a precedent for us in the United States or vice versa. Some members in the timber industry think they could not live without its use also. It seems that the thought pattern is that it would cost too many dollars. Does this mean that I am still naive in believing that human life is far more precious than money?

What does the veteran end up with? We wonder what happened to the phrase, "life, liberty and the pursuit of happiness." The suffering men who were once healthy and fighting hard battles are now fighting the hardest battle of all, life. Now we say, "liberty, little happiness and the pursuit of life."

In conclusion I must give you some of my very deep feelings, but these feelings apply to almost every veteran, especially those of us who face life threatening health problems from chemical exposure.

We are the men who went to fight a very complicated war and the suffering and dying was just as real as in all wars. You asked us to go and we went. We are the ones who were fighting on foreign soil so we could keep the United States such a freedom loving country. You must not turn your backs on us now that we are in real need of help. We are not the ones who went to Canada for awhile, who were allowed to come back home with a guaranteed work program. They are the men that you see smiling and healthy today. We are the men who made this country such a great place to swim to, along with the other war veterans. You are not turning your backs on the Vietnamese refugees or the Cuban refugees. You are still sending monetary aid to Vietnam and allowing Cubans to take up bed spaces in VA hospitals. I do not mind them coming to our country, I would in no way want to live in their countries either.

Don't you think that it is only right to take care of the American men who supported you, first. We are natural born citizens of the United States of America. We have been reaching out for years for help. Now is the time for you to step forward and take the responsibility and appropriate action. Don't leave us with the only benefit remaining, which is the burial benefit. A lot of Vietnam Veterans have already used it much too early in life. The Vietnam Veteran never had the chance to enjoy growing into adulthood, now I can't enjoy growing old. The evidence and facts have been in for years, Agent Orange is a killer.

● Mr. BELLMON. Mr. President, I rise in support of the Heinz, Pressler, Cranston amendment to S. 1188. This amendment will establish an administrative mechanism for resolving claims by veterans for disability based on exposure to agent orange.

Because of the problems in data collection pertaining to agent orange, determining the number of veterans who might be affected by agent orange, and the extent of diseases associated with agent orange, it is my opinion that this amendment, if approved, is a reasonable response to this issue.

The black lung program bears some

disturbing similarities to the program proposed by an earlier version of this amendment. In 1977, Congress amended the Federal Coal Mine Health and Safety Act of 1969. One effect of these amendments was to require the person claiming eligibility for benefits to provide medical or other relevant evidence to show that the miner is or was totally disabled from black lung and that it resulted from coal mine work. Where there is no medical or other relevant evidence, the act permits the use of affidavits and years of coal mine employment as evidence in establishing disability.

In a recent review (dated July 28, 1980) of the effects of the 1977 amendments, GAO reported that:

> GAO's review of a random sample of 200 SSA reviewed and approved black lung claims indicated that, in 88.5 percent of the cases, medical evidence was not adequate to establish disability or death from black lung. SSA approved claims on the basis of affidavits, inconclusive medical evidence, and presumptions based on years of coal mine employment—all of which were legal under existing legislation. Projecting the results of its sample, GAO estimated that successful claimants received retroactive lump-sum payments of about $353.6 million, of which $312.9 million was for claims that were not based on adequate medical evidence of disability or death from black lung. The same claimants also receive about $79 million annually in monthly payments, of which $69.8 million was not supported by adequate medical evidence of disability or death by black lung.

No one should doubt our commitment to aid those who have been adversely affected by either black lung disease or the effects of agent orange. We must, however, be careful in the manner in which we draft such legislation. Clearly the 1977 amendments were too broadly written, allowing, it appears, almost unlimited access to this program for coal miners and their surviving dependents. Mr. President, I believe that this amendment avoids the problem of presuming the connection between an illness and exposure to agent orange.

Mr. President, on my own farm in Oklahoma, I have used and continue to use 2,4,5-T, one of herbicide orange's components. 2,4,5-T is available for such use in this country with EPA approval. I realize the amount of 2,4,5-T I use is less than one-third of the amount used in Vietnam per acre sprayed. However, the amount of 2,4,5-T actually reaching ground level in what I use in Oklahoma due to the dense jungle growth on which it was sprayed. I have seen no evidence of any diseases such as those claimed to be caused by agent orange among my family or my farm employees.

Steps are now underway in the executive branch to determine the degree of the agent orange problem:

VA is now developing a list of all Vietnam veterans who have been treated for herbicide related health problems.

The Air Force has initiated a health effects study of Air Force personnel involved in spraying agent orange in Vietnam.

The Secretary of Health and Human Services (HHS) has been directed by the Senate to perform an epidemiological study of the long-term health effects of exposure to dioxins such as agent orange.

HHS, the Environmental Protection Agency and industrial groups are studying the effects of agent orange.

Mr. President, I believe these efforts should soon provide a basis for determining whether certain diseases are caused by exposure to agent orange or not. At that time, if there is a causal connection, the administration of the Veterans' Administration can publish regulations providing disability benefits to those who meet scientifically established criteria.●

● Mr. DeCONCINI. Mr. President, I would like to record my vote as present on this amendment and on final passage of S. 1188 inasmuch as it has come to my attention that my family law firm in Tucson Ariz., DeConcini, McDonald, Brammer, Yetwin & Lacy, is handling a number of agent orange cases.●

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. CRANSTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CRANSTON. What do we vote on first?

The PRESIDING OFFICER. The first vote will be on the amendment offered by the Senator from Pennsylvania (Mr. Heinz).

Mr. HEINZ. Mr. President, I ask unanimous consent that the Senator from Hawaii (Mr. Matsunaga) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment offered by the Senator from Pennsylvania (Mr. Heinz). The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DeCONCINI (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), and the Senator from Alabama (Mr. Stewart) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. Bradley) is absent because of death in family.

I further announce that if present and voting, the Senator from New Hampshire (Mr. Durkin) would vote "yea."

Mr. BAKER. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Arizona (Mr. Goldwater), and the Senator from Alaska (Mr. Stevens) are necessarily absent.

The PRESIDING OFFICER (Mr. Heflin). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 86, nays 0, as follows:

[Rollcall Vote No. 387 Leg.]

YEAS—86

Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

ANSWERED "PRESENT"—1

DeConcini

NOT VOTING—13

Armstrong
Bradley
Church
Culver
Durkin
Goldwater
Gravel
Johnston
Kennedy
Long
McGovern
Stevens
Stewart

So Mr. Heinz' amendment (UP No. 1550) was agreed to.

AMENDMENT NO. 1906

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENSON. Mr. President, on this vote, I have a live pair with the Senator from New Hampshire (Mr. Durkin). I have voted "nay." If he were present and voting, he would vote "yea." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern) and the Senator from Alabama (Mr. Stewart) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. Bradley) is absent because of death in family.

Mr. BAKER. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Arizona (Mr. Goldwater), and the Senator from Alaska (Mr. Stevens) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 35, nays 51, as follows:

[Rollcall Vote No. 388 Leg.]

YEAS—35

Baker
Baucus
Biden
Boren
Boschwitz
Bumpers
Chafee
DeConcini
Dole
Garn
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Kassebaum
Laxalt
Leahy
Levin
Magnuson
Mathias
Melcher
Metzenbaum
Mitchell
Morgan
Pell
Pressler
Riegle
Sarbanes
Schweiker
Tsongas
Warner
Weicker
Young

NAYS—51

Bayh
Bellmon
Bentsen
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cohen
Cranston
Danforth
Domenici
Durenberger
Eagleton
Exon
Ford
Glenn
Hart
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Lugar
Matsunaga
McClure
Moynihan
Nelson
Nunn
Packwood
Percy
Proxmire
Pryor
Randolph
Ribicoff
Roth
Sasser
Schmitt
Simpson
Stafford
Stennis
Stone
Talmadge
Thurmond
Tower
Wallop
Williams
Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stevenson, against.

NOT VOTING—13

Armstrong
Bradley
Church
Culver
Durkin
Goldwater
Gravel
Johnston
Kennedy
Long
McGovern
Stevens
Stewart

So the amendment (No. 1906) was rejected.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. GLENN. Mr. President, I want to commend the committee and its chairman, Senator CRANSTON, for the effort that has gone into this legislation to improve and expand upon the vocational rehabilitation program for veterans with service-related disabilities.

This is important legislation. It is important because there is no better measure of a nation than how it treats those who bear the wounds of service. It is important for these veterans to be able to achieve a maximum degree of employment and independence.

Mr. President, I also want to commend Senator CRANSTON and the committee for including in the committee's amendments to S. 1188 my suggestion to permit new, State-supported medical schools receiving assistance from the Veterans' Administration under Public Law 92–541 an additional 12 months in which to expend currently existing and awarded grants used to support faculty salaries. This amendment, which does not involve any additional authorization, is going to be most helpful to the School of Medicine at Wright State University in Dayton, Ohio—the first such college to benefit from the program for the establishment of new, State medical schools.

Dr. John R. Beljan, vice president for health affairs of Wright State University and dean of the school of medicine, has assured me that this simple authority to carry over remaining grant programs beyond the presently scheduled June 30, 1981, termination date for the school's award will significantly lessen the impact of the loss of the grant funds on its operating budget.●

● Mr. HUMPHREY. Mr. President, I urge my colleagues to support S. 1188, the Disabled Veterans Rehabilitation Act of 1980. This bill contains an overdue cost-of-living adjustment for the GI bill as well as provisions to strengthen the vocational rehabilitation programs for veterans. Needed revisions of the GI bill's on-the-job training program and the creation of an outreach employment program are also included.

The Senate Veterans' Affairs Committee recognizes that while great strides have been made in assisting the disabled veteran through vocational rehabilitation programs, training alone does not make a disabled veteran employable. This bill provides for the followthrough necessary to help the disabled veteran complete the transition to useful civilian employment.

Testimony before the Veterans' Affairs Committee has confirmed that many disabled veterans are enrolling in GI bill programs even when vocational rehabilitation programs are more appropriate to their needs. This occurs simply because the GI bill subsistence rate is higher. S. 1188 addresses this problem of disincentives by equalizing the rates.

Since October 1977, the cost of living has jumped 30 percent while GI bill benefits have remained stationary. It is time to restore those well-deserved benefits that inflation is stealing away. The modest 10 percent COLA begins to do that.

Passage of this bill will demonstrate to the veteran that the Senate has not forgotten the commitment made by a grateful Nation to those who have given so much in the service of their country. I trust my colleagues will join me in support of this bill.●

Mr. LEVIN. Mr. President, I support Senator PRESSLER's amendment to S. 1188. There seems to be little question as to the difficulty that many Vietnam theater veterans have in becoming a permanent part of the work force. This amendment will provide these veterans with a program which will provide financial incentives to private sector employers to hire, train, and advance these veterans.

In January 1980, during the consideration of the GI bill amendments, Senators HEINZ and PRESSLER offered separate, but similar amendments to aid the Vietnam veteran. At that time I supported Senator HEINZ' amendment because the assistance it furnished was less costly on a per veteran basis. At this time the Senate only has one amendment before it and Senator HEINZ has cosponsored it.

There were 2.7 million Americans who served in Vietnam. Many of them have taken advantage of the GI bill, but many have not. Some of those who have not used the GI bill would be able under this amendment to use their entitlement to get needed training and employment. In Michigan, the unemployment rate is over 14 percent and among those unemployed are countless young people who served in Vietnam and have had problems getting training and employment. This measure will encourage employers to give these persons an opportunity.

I encourage my colleagues to support this amendment.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is: Shall the bill (S. 1188), as amended, pass? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DECONCINI (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Alabama (Mr. STEWART) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. BRADLEY) is absent because of death in the family.

I further announce that, if present and voting, the Senator from New Jersey (Mr. BRADLEY) and the Senator from New Hampshire (Mr. DURKIN) would each vote "yea."

Mr. BAKER. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Arizona (Mr. GOLDWATER) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 86, nays 0, as follows:

[Rollcall Vote No. 389 Leg.]

YEAS—86

Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell

Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

ANSWERED "PRESENT"—1

DeConcini

NOT VOTING—13

Armstrong
Bradley
Church
Culver
Durkin
Goldwater
Gravel
Johnston
Kennedy
Long
McGovern
Stevens
Stewart

So the bill (S. 1188) was passed, as follows:

S. 1188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Disabled Veterans Rehabilitation Act of 1980".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—REHABILITATION AMENDMENTS

SEC. 101. (a) Chapter 31 is amended to read as follows:

"CHAPTER 31—TRAINING AND REHABILITATION FOR SERVICE-CONNECTED DISABLED VETERANS

"Sec.

"1500. Purpose.
"1501. Definitions.
"1502. Basic entitlement.
"1503. Periods of eligibility.
"1504. Scope of services and assistance.
"1505. Duration of rehabilitation programs.
"1506. Initial and extended evaluations; determinations regarding serious employment handicap.
"1507. Individualized vocational rehabilitation plan.
"1508. Allowances.
"1509. Entitlement to independent living services and assistance.
"1510. Leaves of absence.
"1511. Regulations to promote satisfactory conduct and cooperation.
"1512. Revolving fund loans.
"1513. Books, supplies, and equipment.
"1514. Vocational rehabilitation for hospitalized members of the Armed Forces and veterans.
"1515. Vocational rehabilitation outside the United States.
"1516. Rehabilitation resources.
"1517. Employment assistance.
"1518. Personnel training, development, and qualifications.
"1519. Rehabilitation research and special projects.
"1520. Pilot program of independent living services and assistance.
"1521. Veterans' Advisory Committee on Rehabilitation.
"1522. Evaluations after individual unemployability adjudications.

"§ 1500. Purpose

"The purposes of this chapter are to provide for all services and assistance necessary to enable veterans with service-connected disabilities to achieve maximum independence in daily living, and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment.

"§ 1501. Definitions

"For the purposes of this chapter—

"(1) The term 'independence in daily living' means the ability of a veteran, without the services of others or with a reduced level of the services of others, to live and function within such veteran's family and community.

"(2) The term 'medical condition' means a disability, including an alcohol or drug dependence or abuse disability, or combination of disabilities of a veteran.

"(3) The term 'program of education' has the meaning provided in section 1652(b) of this title.

"(4) The term 'program of independent living services and assistance' includes both (A) the services provided for in this chapter that are needed to enable a veteran to achieve independence in daily living, including, but not limited to, such counseling, diagnostic, medical, social, psychological, and educational services as are determined by the Administrator to be needed for such veteran to achieve maximum independence in daily living, and (B) the assistance authorized by this chapter for such veteran.

"(5) The term 'rehabilitated to the point of employability' means rendered employable in the occupation for which a vocational rehabilitation program has been provided under this chapter.

"(6) The term 'rehabilitation program' means (A) a vocational rehabilitation program, or (B) a program of independent living services and assistance for a veteran for whom a vocational goal has been determined not to be reasonably feasible.

"(7) The term 'serious employment handicap' means a significant impairment of an individual's ability to prepare for, obtain, or retain employment consistent with such individual's abilities, aptitudes, and interests.

"(8) The term 'vocational goal' means a gainful employment status that is consistent with an individual's abilities, aptitudes, and interests.

"(9) The term 'vocational rehabilitation program' includes both—

"(A) the services provided for in this chapter that are needed for the accomplishment of the purposes of this chapter, including, but not limited to, such counseling, diagnostic, medical, social, psychological, independent living, economic, educational, vocational, and employment services as are determined by the Administrator to be needed—

"(i) in the case of a veteran for whom the achievement of a vocational goal has not been determined not to be reasonably feasible, (I) to determine whether a vocational goal is reasonably feasible, (II) to improve such veteran's potential to participate in a program of services designed to achieve a vocational goal, and (III) to enable such veteran to achieve maximum independence in daily living, and

"(ii) in the case of a veteran for whom the achievement of a vocational goal is determined to be reasonably feasible, to enable such veteran to become, to the maximum extent feasible, employable and to obtain and maintain suitable employment, and

"(B) the assistance authorized by this chapter for a veteran receiving any of the services described in clause (A) of this paragraph.

"§ 1502. Basic entitlement

"An individual veteran shall be entitled to rehabilitation under the terms and conditions of this chapter if such individual—

"(1) is a veteran who has a service-connected disability which is, or but for the receipt of retirement pay would be, compensable under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940; or

"(2) is, pending discharge or release from active military, naval, or air service, hospitalized in a hospital over which the Secretary of Defense has jurisdiction.

"§ 1503. Periods of eligibility

"(a) Unless a longer period of eligibility is authorized pursuant to subsection (b), (c), or (d) of this section, educational assistance or rehabilitation may not be afforded to a veteran under this chapter after the end of the ten-year period beginning on the date of such veteran's discharge or release.

"(b) (1) If the Administrator determines that a veteran has been prevented from entering or completing a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a medical condition made it infeasible for such veteran to participate in such a program, the ten-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

"(2) If the Administrator determines that a veteran has been prevented from entering or completing a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because (A) such veteran had not met the requirement of a discharge or release under conditions other than dishonorable before (i) a change, correction, or modification of a discharge or dismissal made pursuant to section 1553 of title 10, (ii) a correction of the military records of the service department concerned under section 1552 of title 10, or (iii) other corrective action by competent authority, or (B) such veteran's discharge or dismissal was, under section 3103 of this title, a bar to benefits under this title before the Administrator made a determination that such discharge or dismissal is not a bar to such benefits, the ten-year period of eligibility shall run from the date on which such veteran's discharge or dismissal was so changed, corrected, or modified or the Administrator made such determination, as appropriate.

"(3) If the Administrator determines that a veteran has been prevented from entering or completing a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because such veteran had not established the existence of a service-connected disability which is compensable under chapter 11 of this title and such veteran has a serious employment handicap, vocational rehabilitation may be afforded such veteran during the ten-year period beginning on the date on which notification is mailed to such veteran that it has been determined that such disability exists.

"(c) A veteran who is in need of services to overcome a serious employment handicap may be afforded a vocational rehabilitation program after the expiration of the period of eligibility otherwise applicable to such veteran if the Administrator determines that an extension of the applicable period of eligibility is necessary for such veteran based upon such veteran's particular employment handicap and need for such services and if—

"(1) such veteran had not previously been rehabilitated under this chapter;

"(2) such veteran had previously been rehabilitated under this chapter but (A) such need for such services has developed from, or as a result of, a change in such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran previously received vocational rehabilitation under this chapter, or (B) the occupation for which such veteran had been so rehabilitated was not appropriate in view of such veteran's employment handicap and abilities; or

"(3) the Administrator determines, under regulations which the Administrator shall prescribe, that an extension of the period of eligibility of such veteran is necessary to carry out the purposes of this chapter.

"(d) A veteran whose disability or disabilities are so severe that the achievement of a vocational goal by such veteran is determined not to be reasonably feasible may be afforded a program of independent living services and assistance under this chapter after the expiration of the period of eligibility otherwise applicable to such veteran if the Administrator determines that an extension of the period of eligibility of such veteran is necessary for such veteran to achieve maximum independence in daily living.

"§ 1504. Scope of services and assistance

"(a) Services and assistance which the Administrator may provide under this chapter, pursuant to regulations which the Administrator shall prescribe, shall include—

"(1) evaluation, including periodic reevaluations as appropriate with respect to a veteran participating in a rehabilitation program, of the potential for rehabilitation of a veteran, including diagnostic and related services (A) to determine whether such veteran's disability or disabilities cause a serious employment handicap and whether a vocational goal is feasible for such veteran, and (B) to provide a basis for planning a suitable vocational rehabilitation program or a program of services to improve the vocational rehabilitation potential or independent living status of such veterans, as appropriate;

"(2) educational, vocational, psychological, employment, and personal adjustment counseling;

"(3) an allowance and other appropriate assistance, as authorized by section 1508 of this title;

"(4) a work-study allowance as authorized by section 1685 of this title;

"(5) placement services to effect suitable placement in employment, and postplacement services to attempt to assure satisfactory adjustment in employment.

"(6) personal adjustment and work adjustment training;

"(7) vocational and other training services and assistance, including individualized tutorial assistance, tuition, fees, books, supplies, and licensing fees, and equipment and other training materials determined by the Administrator to be necessary to accomplish the purposes of the rehabilitation program in the individual case;

"(8) loans as authorized by section 1512 of this title;

"(9) treatment, care, and services described in chapter 17 of this title;

"(10) prosthetic appliances, eyeglasses, and other corrective and assistive devices;

"(11) services to a veteran's family as necessary for the effective rehabilitation of such veteran;

"(12) for the most severely disabled veterans requiring homebound training or self-employment, or both homebound training and self-employment, such license fees and essential equipment, supplies, and minimum stocks of materials as the Administrator determines to be necessary for such a veteran to begin employment and are within the criteria and cost limitations that the Administrator shall prescribe in regulations for the furnishing of such fees, equipment, supplies, and stocks;

"(13) travel and incidental expenses under the terms and conditions set forth in section 111 of this title, plus, in the case of a veteran who because of such veteran's disability has transportation expenses in addition to those incurred by persons not so disabled, a special transportation allowance to defray such additional expenses during rehabilitation, job seeking, and the initial employment stage;

"(14) special services related to blindness and deafness, such as—

"(A) language training, speech and voice correction, training in ambulation, and one-hand typewriting;

"(B) orientation, adjustment, mobility, reader, interpreter, and related services; and

"(C) telecommunications, sensory, and other technical aids and devices; and

"(15) services necessary to enable a veteran to achieve maximum independence in daily living.

"(b) A program of independent living services and assistance may include the types of services and assistance described in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796).

"(c) A rehabilitation program (including individual courses) to be pursued by a veteran shall be subject to the approval of the Administrator.

"§ 1505. Duration of rehabilitation programs

"(a) The period of extended evaluation under section 1506(b) of this title for a veteran for whom the reasonable feasibility of achieving a vocational goal is undetermined may not exceed twelve months, except that such period may be extended for additional periods of up to six months each if the Administrator determines that, during the extended period concerned, it is reasonably likely that a determination can be made with respect to such veteran as to whether the achievement of a vocational goal is reasonably feasible.

"(b) Except as provided in subsection (c) of this section, the period of a vocational rehabilitation program for a veteran under this chapter following a determination of the reasonable feasibility of achieving a vocational goal may not exceed forty-eight months, except that, in the case of a veteran who is determined to have a serious employment handicap, the counseling and placement and postplacement services described in section 1504(a) (2) and (5) of this title may be provided for an additional period not to exceed eighteen months.

"(c) In the case of a veteran who has been determined to have a serious employment handicap, the Administrator may extend the period of vocational rehabilitation for such veteran to the extent necessary to enable such veteran to achieve a vocational goal if—

"(1) such veteran had previously been rehabilitated to the point of employability under this chapter but (A) such veteran's need for further vocational rehabilitation has developed from, or as a result of, a change in such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran had been so rehabilitated, or (B) the occupation for which such veteran had been so rehabilitated was not appropriate in view of such veteran's employment handicap and abilities; or

"(2) the Administrator determines, under regulations which the Administrator shall prescribe, that such an extension is necessary to carry out the purposes of this chapter.

"(d) Unless the Administrator determines that a longer period is necessary and likely to result in a substantial increase in a veteran's level of independence in daily living, the period of a program of independent living services and assistance for a veteran under this chapter following a determination that such veteran's disability or disabilities are so severe that the achievement of a vocational goal is not reasonably feasible may not exceed twenty-four months.

"§ 1506. Initial and extended evaluations; determinations regarding serious employment handicap

"(a) A veteran with a service-connected disability who applies for benefits under this chapter shall be provided with an initial evaluation consisting of such services described in section 1504(a)(1) of this title as are necessary to determine whether such veteran has a serious employment handicap and to determine, if reasonably feasible without extended evaluation, whether the achievement of a vocational goal is reasonably feasible for such veteran.

"(b) Where the Administrator has determined that a veteran has a serious employment handicap and that the achievement of a vocational goal is reasonably feasible for such veteran, such veteran shall be provided counseling in accordance with an individualized written plan of vocational rehabilitation developed under section 1507 (a) of this title.

"(c) Where the Administrator has determined that a veteran has a serious employment handicap but the Administrator is unable to determine, in an initial evaluation pursuant to subsection (a) of this section, whether or not the achievement of a vocational goal is reasonably feasible, such veteran shall be provided with extended evaluation consisting of the services described in section 1504(a)(1) of this title, such services under this chapter as the Administrator determines necessary to improve such veteran's potential for participation in a program of services designed to achieve a vocational goal and enable such veteran to achieve maximum independence in daily living, and assistance as authorized by section 1508 of this title.

"(d) As expeditiously as possible (and, if applicable, not later than the end of the period of extended evaluation for a veteran under subsection (c) of this section, including any extensions under section 1505(a) of this title), the Administrator shall determine whether the achievement of a vocational goal by such veteran is reasonably feasible. In determining whether the achievement of a vocational goal is reasonably feasible, the Administrator shall resolve any reasonable doubt in favor of determining that such achievement is reasonably feasible.

"(e) In connection with each period of extended evaluation of a veteran and each rehabilitation program for a veteran who is determined to have a serious employment handicap, the Administrator shall assign a Veteran's Administration employee to be responsible for the management and follow-up of the provision of all services (including employment assistance under section 1517 of this title) and assistance under this chapter to such veteran.

"§ 1507. Individualized vocational rehabilitation plan

"(a) The Administrator shall formulate an individualized written plan of vocational rehabilitation for a veteran described in section 1506(b) of this title. Such plans shall be developed jointly with such veteran, and shall include, but not be limited to (1) a statement of long range rehabilitation goals for such veteran and intermediate rehabilitation objectives related to achieving such goals, (2) a statement of the specific services (which shall include counseling in all cases) and assistance to be provided under this chapter, (3) the projected date for the initiation and the anticipated duration of each such service, (4) objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and (5) the name and business address and telephone number of the Veterans' Administration employee assigned responsibility for the management and followup of the provision of such services and assistance to such veteran.

"(b) The Administrator shall review at least annually the plan formulated under subsection (a) of this section for a veteran, and such veteran shall be afforded the opportunity to participate in each review of such plan. Based on such review, the Administrator shall, jointly with such veteran, redevelop such plan as appropriate.

"(c) Prior to agreeing to a plan under subsection (a) of this section or to any redevelopment or denial of redevelopment of a plan under subsection (b) of this section, a veteran shall be informed of such veteran's opportunity for a review as set forth in the following sentences. If a veteran does not agree to such plan, redevelopment, or denial of redevelopment, such veteran may submit to the person described in subsection (a)(5) of this section a written statement, prepared by or for such veteran, containing such veteran's objections to such plan and requesting a review of the plan as proposed. The Administrator shall review such statement and the plan as proposed and render a decision on such review not later than ninety days after the date on which such veteran so submits such statement, unless a longer period, not to exceed one hundred and fifty days, is allowed for rendering such decision in certain cases under regulations of the Administrator.

"§ 1508. Allowances

"(a) (1) Except for a veteran who makes an election under subsection (f) of this section, each veteran shall be paid a subsistence allowance in accordance with this section during a period determined by the Administrator to be a period of such veteran's participation under this chapter in (A) extended evaluation, or (B) a rehabilitation program.

"(2) A veteran who is determined to have a serious employment handicap and who is determined, at the conclusion of such veteran's pursuit of a program of vocational rehabilitation under this chapter, to be rehabilitated to the point of employability shall be paid a subsistence allowance, as prescribed in this section for full-time training for the type of program that the veteran was pursuing, for two months following the conclusion of such pursuit.

"(b) Except as otherwise provided in this section, the subsistence allowance paid to a veteran under this chapter shall be determined in accordance with the following table, and shall be the monthly amount shown in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of program being pursued as specified in column I:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$265	$328	$386	$29
Three-quarter-time	199	246	289	21
Half-time	132	164	194	14
Farm cooperative, apprentice, or other on-job training:				
Full-time	231	279	322	21
Extended evaluation:				
Full-time	265	328	386	29
Independent living training:				
Full-time	265	328	386	29
Three-quarter-time	199	246	289	21
Half-time	132	164	194	14"

"(c) (1) If the vocational rehabilitation program for a veteran includes training on the job by an employer in any month, such employer shall be required to submit to the Administrator a statement in writing showing any wage, compensation, or other income paid by the employer to such veteran for such month, directly or indirectly. Based upon such written statement, the Administrator is authorized to reduce the subsistence allowance of such veteran to an amount considered equitable and just in accordance with criteria which the Administrator shall establish in regulations which the Administrator shall prescribe.

"(2) A veteran pursuing on-job training or work experience as part of a vocational rehabilitation program in a Federal agency under the provisions of section 1516(a) (1) of this title without pay or for nominal pay shall be paid the appropriate subsistence allowance rate provided in subsection (b) of this section for an institutional program.

"(d) (1) The Administrator shall, in accordance with regulations, which the Administrator shall prescribe, not inconsistent with regulations governing the determination of full-time status and part-time status under chapter 34 of this title, define full-time and each part-time status for veterans participating in rehabilitation programs under this chapter.

"(2) A veteran participating in extended evaluation on less than a full-time basis may be paid a proportional subsistence allowance in accordance with regulations which the Administrator shall prescribe.

"(e) In the case of a veteran pursuing a rehabilitation program on a full-time residential basis in a specialized rehabilitation facility, the Administrator may, upon the request of such veteran, (1) pay to such facility the cost of such veteran's room and board in lieu of payment to such veteran of the subsistence allowance (not including any portion payable for any dependents) payable under subsection (b) of this section, and (2) pay to such veteran that portion of the allowance for dependents payable, as determined by such veteran's dependency status, under subsection (b) of this section for a full-time institutional program.

"(f) To the extent that a veteran who is determined to be entitled to rehabilitation under this chapter has remaining eligibility for and entitlement to educational assistance benefits under chapter 34 of this title, such veteran may elect, as part of a vocational rehabilitation program under this chapter but in lieu of the services and assistance described in section 1504(a) (3) (other than an allowance and other assistance under this subsection) and section 1504(a) (7) and (8) of this title, to pursue an approved program of education and receive allowances and other forms of assistance equivalent to those authorized for veterans enrolled under chapter 34 of this title, if the Administrator approves the educational, professional, or vocational objective chosen by such veteran for such program. In the event that such veteran makes such an election, the terms and conditions applicable to the pursuit of a comparable program of education and the payment of allowances and provision of assistance under such chapter shall be applied to the pursuit of the approved program of education under this chapter.

"(g) (1) Notwithstanding any other provision of this title, the subsistence allowance for a veteran who is pursuing a rehabilitation program under this chapter while incarcerated in a Federal, State, county, or local prison or jail, shall be paid as follows:

"(A) If such a veteran has no dependents, the Administrator shall withhold such allowance while such veteran is so incarcerated and pay such allowance to such veteran upon such veterans' release from prison or jail or, at the request of such veteran, purchase with such allowance, and hold for such veteran, United States Government securities and deliver them to such veteran upon such veteran's release from prison or jail.

"(B) If such veteran has one or more dependents, the Administrator shall pay such allowance to such veteran's dependent or dependents (or the legal guardian or guardians thereof) designated by such veteran to receive such allowance, but only to the extent that both the veteran and the designated dependent or dependents (or the legal guardian or guardians thereof) so request. To the extent that such veteran does not request the Administrator to pay to a particular dependent of such veterans an amount payable on account of such dependent or such dependent does not join in such request, the amount involved shall not be paid to or accrued by such veteran. The Administrator shall, while such veteran is so incarcerated, withhold any amount of such allowance, not payable on account of a dependent or dependents, that is accrued by such veteran and shall pay such amount to such veteran upon such veteran's release from prison or jail or, at the request of such veteran, purchase with such amount, and hold for such veteran, United States Government securities and deliver them to such veteran upon such veteran's release from prison or jail.

"(2) The provisions of paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a rehabilitation program under this chapter while placed and residing in a halfway house or while participating in a work-release program.

"(h) (1) Notwithstanding any other provision of this title, the allowance for a veteran who has made an election under subsection (f) of this section and who is pursuing an institutional program of education under this chapter while incarcerated in a Federal, State, county, or local prison or jail, shall be computed and paid as follows:

"(A) If such veteran is pursuing a program of education on a half-time or more basis and has no dependents, the Administrator shall pay such veteran such amount, not in excess of the appropriate rate, as is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans pursuing the same program. The Administrator shall withhold any amount in excess of such cost and pay such amount to such veteran upon such veteran's release from prison or jail or, at the request of such veteran, purchase with such excess amount, and hold for such veteran, United States Government securities and deliver them to such veteran upon such veteran's release from prison or jail.

"(B) If such veteran is pursuing a program of education on a half-time or more basis and has one or more dependents, the Administrator shall pay such veteran such amount, not in excess of such appropriate rate, as is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans pursuing the same program; and the Administrator shall pay any amount in excess of such cost to such veteran's dependent or dependents (or the legal guardian or guardians thereof) designated by such veteran to receive such excess amount, but only if both the veteran and the designated dependent or dependents (or the legal guardian or guardians thereof) so request. To the extent that such veteran does not request the Administrator to pay to a particular dependent of such veteran an amount payable on account of such dependent or such dependent does not join in such request, the amount involved, if not payable to such veteran under the first sentence of this subparagraph, shall not be paid to or accrued by such veteran. The Administrator shall pay any excess amount accrued by such veteran to such veteran upon such veteran's release from prison or jail, or, at the request of such veteran, purchase with such excess amount, and hold for such veteran, United States Government securities and deliver them to such veteran upon such veteran's release from prison or jail.

"(2) The provisions of paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a program of education under this chapter while placed and residing in a halfway house or while participating in a work-release program.

"(i) Notwithstanding any other provision of this title, in the case of a veteran pursuing a rehabilitation program while receiving care in a Veterans' Administration hospital, nursing home, or domiciliary facility, or in a facility with which the Administrator, under the provisions of chapter 17 of this title, has contracted for such veteran's care at Veterans' Administration expense, the subsistence or (if such veteran has made an election under subsection (f) of this section) other allowance appropriate for the type of training pursued shall, after such veteran has been receiving such care for thirty days, accrue and be withheld (and converted to securities), paid to dependents, and paid to such veteran upon discharge from such facility under the same terms and conditions set forth in subsection (g) or (h) of this section, as appropriate, except that the Administrator shall, upon the request of such veteran, pay to such veteran all or part of such monthly allowance payments as are determined to be necessary to meet continuing financial obligations of such veteran.

"(j) Payment of a subsistence allowance may be made in advance in accordance with the provisions of section 1780(d) of this title.

"§ 1509. Entitlement to independent living services and assistance

"Where the Administrator has determined under section 1506(d) of this title that the achievement of a vocational goal by a veteran is not reasonably feasible, such veteran shall be entitled, pursuant to the provisions of section 1520 of this title, to a program of independent living services and assistance designed to enable such veteran to achieve maximum independence in daily living.

"§ 1510. Leaves of absence

"The Administrator shall prescribe such regulations as the Administrator determines necessary for granting leaves of absence to veterans pursuing rehabilitation programs under this chapter. During authorized leaves of absence, a veteran shall be considered to be pursuing such program.

"§ 1511. Regulations to promote satisfactory conduct and cooperation

"The Administrator shall prescribe such rules and regulations as the Administrator determines necessary to promote satisfactory conduct and cooperation on the part of veterans who are pursuing rehabilitation programs under this chapter. If a veteran fails to maintain satisfactory conduct or cooperation, the Administrator may, after determining that all reasonable counseling efforts have been made and are not reasonably likely to be effective, discontinue services and assistance unless the Administrator determines that mitigating circumstances exist. In any case in which such services and assistance have been discontinued, the Administrator may reinstitute such services and assistance only if the Administrator determines that—

"(1) the cause of the unsatisfactory conduct or cooperation of such veteran has been removed; and

"(2) the rehabilitation program which such veteran proposes to pursue (whether the same or revised) is suitable to such veteran's abilities, aptitudes, and interests.

"§ 1512. Revolving fund loans

"The revolving fund established pursuant to part VII of Veterans Regulation Numbered 1(a) is continued in effect, and may be used by the Administrator, under regulations prescribed by the Administrator, for making advances, not in excess of twice the amount of the full-time institutional monthly subsistence allowance for a veteran with no dependents, as set forth in section 1508(b) of this title, to veterans pursuing rehabilitation programs under this chapter. Such advances, and advances from such fund made before the effective date of the Disabled Veterans Rehabilitation Act of 1980, shall bear no interest and shall be repaid in such installments, as may be determined by the Administrator, by proper deductions from future payments of compensation, pension, subsistence allowance, educational assistance allowance, or retirement pay.

"§ 1513. Books, supplies, and equipment

"Any books, supplies, or equipment furnished a veteran under this chapter shall be deemed released to such veteran, except that if the Administrator determines that, because of fault on such veteran's part, such veteran has failed to complete the course involved, the Administrator may require such veteran to return any or all of such books, supplies, or equipment not actually expended, or to repay the reasonable value thereof. Such books, supplies, and equipment may be turned in to educational or training institutions for credit under such terms as may be approved by the Administrator, or may be disposed of in such other manner as the Administrator may determine.

"§ 1514. Vocational rehabilitation for hospitalized members of the Armed Forces and veterans

"(a) Services and assistance may be provided under this chapter to an individual who is hospitalized pending discharge from active military, naval, or air service if such individual would be eligible for such services and assistance except for the fact that such individual has not been discharged or released from such service. In such cases, no subsistence allowance shall be paid.

"(b) Services and assistance may be provided under this chapter to a veteran who is receiving care in a Veterans' Administration hospital, nursing home, or domiciliary facility or in any other hospital or medical facility.

"§ 1515. Vocational rehabilitation outside the United States

"Pursuant to regulations which the Administrator shall prescribe, a program of vocational rehabilitation under this chapter may be provided outside the United States if the Administrator determines that such training is (1) necessary in the particular case to provide the preparation needed to render a veteran employable and enable such veteran to obtain and retain suitable employment, and (2) in the best interest of such veteran and the Federal Government.

"§ 1516. Rehabilitation resources

"(a) Notwithstanding any other provision of law, for the purpose of providing services under this chapter, the Administrator may—

"(1) use the facilities of any Federal agency (including the Veterans' Administration) to provide training or work experience as part or all of a veteran's vocational rehabilitation program without pay or for nominal pay when the Administrator determines that such training or work experience is necessary to accomplish such veteran's rehabilitation;

"(2) use the facilities, staff, and other resources of the Veterans' Administration;

"(3) employ such additional personnel and experts as the Administrator considers necessary; and

"(4) use the facilities and services of any Federal agency, agencies maintained by joint Federal and State contributions, private institutions and establishments, and private individuals.

"(b)(1) While pursuing on-job training or work experience under clause (1) of subsection (a) of this section, a veteran shall be considered to be an employee of the United States for the purposes of the benefits of chapter 81 of title 5, but not for the purposes of laws administered by the Office of Personnel Management.

"(2)(A) Use of facilities, staff, and other resources of the Department of Medicine and Surgery under clause (2) of subsection (a) of this section, to provide rehabilitation services under this chapter, including hospital care and medical services described in chapter 17 of this title, shall, as provided for in a veteran's individualized written plan under section 1507 or 1520(a) of this title, be procured through contract with such department; and the amounts of payments for such services shall be determined in accordance with current accounting principles used within such department, subject to review and modification by the Administrator with respect to the reasonableness of proposed charges.

"(B) Except as provided in chapter 17 of this title, hospital care and medical services provided under this chapter shall be furnished in facilities over which the Administrator has direct jurisdiction.

"(3) Use of facilities and services under clause (4) of subsection (a) of this section, shall be procured through contract, agreement, or other cooperative arrangement.

"§ 1517. Employment assistance

"(a) A veteran with a service-connected disability who has participated in a vocational rehabilitation program under this chapter or a similar program under the Rehabilitation Act of 1973 and who is determined to be employable shall be furnished assistance (including any assistance necessary to assure that such veteran receives the benefit of any applicable provisions of law or regulation providing for special consideration or emphasis or preference for such veteran in employment or training) in obtaining employment consistent with such veteran's abilities, aptitudes, interests, and employment handicap. Such assistance may include (1) direct placement of such veteran in employment, (2) utilization of the services of United States employment and training outreach program specialists under section 2003A of this title, and (3) utilization of the job development and placement services of (A) programs under the Rehabilitation Act of 1973, (B) the State employment service and the Veterans' Employment Service of the Department of Labor, (C) the Office of Personnel Management, and (D) any other public or nonprofit organization having placement services available. To the extent that resources are available, a veteran without a service-connected disability who has participated in such a simillar program and who is determined to be employable may be furnished the assistance described in the preceding sentence.

"(b)(1) If a veteran has completed vocational rehabilitation for self-employment in a small business enterprise under this chapter, the Administrator shall cooperate with the Small Business Administration to assist such veteran to secure a loan for the purchase of equipment needed to establish such veteran's own business and to assure that such veteran receives the special consideration provided for in section 8 of the Small Business Act (15 U.S.C. 633(b)).

"(2) The Administrator may, under the terms and conditions set forth in clause (12) of section 1504(a) of this title, furnish a veteran described in such clause who has trained under a State rehabilitation program with the objective of self-employment in a small business enterprise such supplementary equipment and initial stocks and supplies as are determined to be needed by such veteran if such supplementary equipment and initial stocks and supplies, or assistance in acquiring them, are not available through the State program or other sources.

"(c) The Administrator shall prescribe regulations, with the concurrence of the Secretary of Labor in light of the provisions of title V of the Rehabilitation Act of 1973 (29 U.S.C. subch. V) and section 2012 of this title, and regulations prescribed thereunder, to authorize payments to be made to employers for providing on-job training to veterans who have been rehabilitated to the point of employability in individual instances where the Administrator determines that such payment is necessary to obtain the needed on-job training or to begin employment. Such payments shall not exceed the direct expenses incurred by such employers in providing such on-job training or employment opportunity. If any such veteran participates in such on-job training that satisfies the criteria for payment of a training assistance allowance under section 1787 of this title, such veteran shall, to the extent that such veteran has remaining eligibility for and entitlement to such allowance, be paid such allowance.

"§ 1518. Personnel training, development, and qualification

"(a) The Administrator shall provide a program of ongoing professional training and development for Veterans' Administration counseling and rehabilitation personnel engaged in providing rehabilitation services under this chapter. The objective of such training shall be to assure that rehabilitation services for disabled veterans are provided in accordance with the most advanced knowledge, methods, and techniques available for the rehabilitation of handicapped persons. For this purpose, the Administrator may employ the services of consultants and may make grants to and contract with public or private agencies (including institutions of higher learning) to conduct such training and development.

"(b) The Administrator shall coordinate with the Commissioner of the Rehabilitation Services Administration in the Department of Education and the Deputy Assistant Secretary for Veterans' Employment in the Department of Labor in planning and carrying out personnel training in areas of mutual programmatic concern.

"(c) Notwithstanding any other provision of law, the Administrator shall establish such qualifications for psychologists providing evaluation and rehabilitation services to veterans under this chapter and for employees performing the functions described in section 1506(f) of this title as the Administrator determines are necessary and appropriate to assure the quality of rehabilitation programs under this chapter. In establishing such qualifications, the Administrator shall take into account the provisions of section 4105(a)(10) of this title and the qualifications established for comparable personnel under the Rehabilitation Act of 1973 (29 U.S.C. ch. 16).

"§ 1519. Rehabilitation research and special projects

"(a) The Administrator shall carry out an ongoing program of activities for the purpose of advancing the knowledge, methods, techniques, and resources available for use in rehabilitation programs for veterans. For this purpose, the Administrator shall conduct and provide support for the development or conduct, or both the development and conduct, of—

"(1) studies and research concerning the psychological, educational, employment, social, vocational, industrial, and economic aspects of the rehabilitation of disabled veterans, including new methods of rehabilitation; and

"(2) projects which are designed to increase the resources and potential for accomplishing the rehabilitation of disabled veterans.

"(b) For the purpose specified in subsection (a) of this section, the Administrator is authorized to make grants to or contract with public or nonprofit agencies, including institutions of higher learning.

"(c) The Administrator shall cooperate with the Commissioner of the Rehabilitation Services Administration and the Director of the Institute of Handicapped Research in the Department of Education, the Deputy Assistant Secretary for Veterans' Employment in the Department of Labor, and the Secretary of Health and Human Services regarding rehabilitation studies, research, and special projects of mutual programmatic concern.

"§ 1520. Pilot program of independent living services and assistance

"(a) During fiscal years 1982 through 1985, the Administrator is authorized to contract with public or nonprofit agencies (including contracting for services under section 1516(b)(2) of this title) with a demonstrated capacity to conduct programs of independent living services for severely handicapped persons to provide, under regulations which the Administrator shall prescribe, programs of independent living services and assistance under this chapter in various geographical regions, to veterans as to whom it is determined that the achievement of vocational goals is not reasonably feasible, who are selected pursuant to criteria prescribed in such regulations, and who have remaining entitlement and periods of eligibility for rehabilitation under this chapter. The Administrator shall, to maximum extent feasible, include in such program substantial numbers of such veterans receiving long-term care in Veterans' Administration hospitals and nursing homes and in nursing homes with which the Administrator contracts for the provision of care to veterans. A program of independent living services and assistance for a veteran shall consist of such services described in section 1504 (a) and (b) of this title as the Administrator determines necessary to enable such veteran to achieve maximum independence in daily living. Such veteran shall have the same rights with respect to an individualized written plan of services and assistance as are afforded veterans participating in vocational rehabilitation under section 1507 of this title. Any contract for services that are initiated with respect to any veteran prior to the end of fiscal year 1985 may be continued in effect after the end of fiscal year 1985 for the purposes of providing services and assistance to such veteran in accordance with the provisions of this chapter. Programs of independent living services and assistance shall be initiated for no more than five hundred veterans in each of the fiscal years 1982 through 1985, and the first priority in the provision of such programs shall be afforded to veterans for whom the reasonable feasibility of achieving a vocational goal is precluded solely as a result of a service-connected disability.

"(b) Not later than September 30, 1984, the Administrator shall submit to the Congress a report on the programs of independent living services and assistance provided for in subsection (a) of this section. Such report shall include—

"(1) the results of a study which the Administrator shall conduct of the accomplishments and cost-effectiveness of such programs, including the extent to which (A) such programs have met needs for comprehensive independent living services that would not otherwise have been met, (B) severely disabled veterans have achieved and maintained greater independence in daily living as a result of participation in the programs, and (C) costs of care in hospital, and nursing home, and domiciliary facilities have been and may be avoided as the result of such services; and

"(2) the Administrator's recommendations for any legislative changes with respect to the provision of independent living services and assistance to veterans for whom the achievement of a vocational goal is not feasible.

"§ 1521. Veterans' Advisory Committee on Rehabilitation

"(a) The Administrator shall appoint an advisory committee to be known as the Veterans' Advisory Committee on Rehabilitation (hereinafter in this section referred to as the 'Committee'). The members of the Committee shall be appointed by the Administrator from the general public and shall serve for terms to be determined by the Administrator not to exceed three years. Service-connected disabled veterans shall constitute not less than one-half of the membership of the Committee, and the Committee shall also include individuals who have distinguished themselves in both the public and private sectors in the fields of rehabilitation medicine, vocational guidance, vocational rehabilitation, and employment and training programs. The Administrator may designate one of the members of the Committee as the chairperson of the Committee. The Committee shall also include representatives of the Department of Medicine and Surgery and the Department of Veterans' Benefits, of the Commissioner of the Rehabilitation Services Administration and of the Director of the National Institute for Handicapped Research in the Department of Education, of the Deputy Assistant Secretary for Veterans' Employment in the Department of Labor, and of the Secretary of Health and Human Services.

"(b) The Administrator shall advise and consult with the Committee on a regular basis with respect to the administration of veterans' rehabilitation programs under this title.

"(c) The Committee shall submit to the Administrator and the Congress an annual report on the rehabilitation programs and activities of the Veterans' Administration, and shall submit such other reports or recommendations to the Administrator and the Congress as the Committee determines appropriate. The annual report shall include an assessment of the rehabilitation needs of veterans and a review of the programs and activities of the Veterans' Administration designed to meet such needs.

"§ 1522. Evaluation after individual unemployability adjudications

"Following the adjudication of a claim under chapter 11 of this title of any veteran for total disability on the basis of such veteran's individual unemployability resulting from service-connected disability, the Administrator shall provide for a comprehensive diagnostic evaluation by Veterans' Administration employees responsible for such evaluations under this chapter when, in the opinion of the Administrator, there exists a potential for the vocational rehabilitation and employment of such veteran.".

(b) The items relating to chapter 31 in the table of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are amended to read as follows:

"31. Training and Rehabilitation for Service-Connected Disabled Veterans__ 1500".

TITLE II—EMPLOYMENT AND EDUCATION AMENDMENTS

SEC. 201. Section 220 is amended by—

(1) amending the catchline by inserting "and promotion" after "Coordination";

(2) inserting after "title" a comma and "and shall actively promote the effective implementation, enforcement, and application of all provisions of law and regulations providing for special consideration, emphasis, or preference relating to employment, training, and other related opportunities for veterans, with particular emphasis on the needs of

veterans with service-connected disabilities and other eligible veterans; taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title"; and

(3) amending the table of sections at the beginning of chapter 3 by amending the item relating to section 220 by inserting "and promotion" after "Coordination".

Sec. 202. Section 244 is amended by inserting after "Administration" in clause (1) a comma and "and, in cooperation with the Secretary, actively seek to promote the development and establishment of employment, training, and other opportunities for veterans, with particular emphasis on the needs of veterans with service-connected disabilities and other eligible veterans, taking into account applicable rates of unemployment and the employment emphasis set forth in chapter 42 of this title".

Sec. 203. Section 1652 is amended by—

(1) inserting after "chapter" the first time it appears "and chapter 36 of this title";

(2) striking out in subsection (e) "For the purposes of this chapter and chapter 36 of this title, the" and inserting in lieu thereof "The";

(3) striking out in subsection (f) "For the purposes of this chapter and chapter 36 of this title, the" and inserting in lieu thereof "The"; and

(4) striking out in subsection (g) "For the purposes of this chapter and chapter 36 of this title, the" and inserting in lieu thereof "The".

Sec. 204. Section 1701(a) is amended by—

(1) inserting after "chapter" the first time it appears "and chapter 36 of this title";

(2) striking out in paragraph (9) "For the purposes of this chapter and chapter 36 of this title, the" and inserting in lieu thereof "The";

(3) striking out in paragraph (10) "For the purposes of this chapter and chapter 36 of this title, the" and inserting in lieu thereof "The"; and

(4) striking out in paragraph (11) "For the purposes of this chapter and chapter 36 of this title, the" and inserting in lieu thereof "The".

Sec. 205. Section 1772 is amended by adding after subsection (c) the following new subsection:

"(d) The Administrator shall be responsible for the approval of all programs of training on the job other than those described in subsection (c) of this section (including apprenticeship programs), and shall exercise this responsibility directly or through agreements with non-Veterans' Administration sources, including those described in section 1771(a) of this title. Pursuant to regulations jointly prescribed by the Administrator and the Secretary of Labor, the Administrator shall actively promote the development of programs of training on the job (including programs of apprenticeship) for the purposes of sections 1777 and 1787 of this title and shall utilize the services of veterans' employment and training outreach program specialists under section 2003A of this title to promote the development of and, as appropriate, approve such programs.".

Sec. 206. Section 1777 is amended by—

(1) amending subsection (a) by—

(A) striking out "Any State approving agency may approve a" and inserting in lieu thereof "A";

(B) inserting "may be approved" after "apprenticeship)";

(C) striking out "it finds that"; and

(D) striking out "subsections (b) and (c)" and inserting in lieu thereof "subsection (b)";

(2) amending subsection (b) to read as follows:

"(b) The Administrator, after consultation with the Secretary of Labor, shall prescribe regulations specifying criteria for the approval of programs of training on the job (including registered and nonregistered apprenticeship training meeting the standards of apprenticeship published by the Secretary pursuant to section 50a of title 29) in order to carry out the provisions of subsection (a) of this section and to assure the appropriateness of the training provided in meeting the purposes of chapters 34 and 35 of this title. Such criteria for a program of training on the job (other than a program of apprenticeship) shall include a certification that—

"(1) the training content and procedures of the course are adequate to qualify the eligible veteran or person for appointment to the job for which such veteran or person is to be trained:

"(2) the wages to be paid the eligible veteran or person (A) upon entrance into training are not less than wages paid nonveterans in the same training position and are at least 50 per centum of the wages paid for the job for which the veteran or person is to be trained, and (B) will be increased in regular periodic increments until, not later than the last full month of the training period, they will be at least 85 per centum of the wages paid for the job for which such veteran or person is being trained;

"(3) there is reasonable certainty that the job for which the eligible veteran or person is to be trained will be available to such veteran or person at the end of the training period; and

"(4) the job customarily requires full-time training for a period of not less than three months and the length of the training period is not longer than that customarily required by training establishments in the community."; and

(3) striking out subsection (c) in its entirety.

Sec. 207. Section 1787(a) is amended to read as follows:

"(a) An eligible veteran or an eligible person shall be paid a training assistance allowance as prescribed by subsection (b) of this section while pursuing a full-time program of training on the job (including a program of apprenticeship) approved under section 1777 of this title, subject to the conditions and limitations set forth in chapters 34 and 35 with respect to educational assistance.".

Sec. 208. Section 2003 is amended by inserting after "veterans' employment representative" the first time it appears "(and shall assign full-time clerical support to each such representative)".

Sec. 209. (a) Chapter 41 is amended by inserting between sections 2003 and 2004 the following new section:

"§ 2003A. Veterans' Employment and Training Outreach Program

"(a) (1) The Secretary of Labor shall make available to each State, directly or by grant or contract, such funds as may be necessary to support a program of employment and training outreach designed to meet the employment needs of veterans, especially disabled veterans of the Vietnam era. Funds provided to a State shall be sufficient to support the assignment of one veterans' employment and training outreach program specialist for each 5,300 Vietnam-era and disabled veterans residing in such State. Such specialist shall be a veteran, and shall be a disabled Vietnam-era veteran or disabled veteran unless the Secretary finds that a disabled Vietnam-era or disabled veteran is not available, and shall be compensated at a rate not less than the rate prescribed for an entry level professional in the State concerned. Such additional funds as may be necessary to support the reasonable expenses of such specialists for training, travel, supplies, and fringe benefits shall also be made available by the Secretary to the State.

"(2) Specialists assigned pursuant to paragraph (1) of this subsection shall be in addition to and shall not supplant employees assigned to local employment service offices pursuant to section 2004 of this title.

"(b) Pursuant to regulations prescribed by the Secretary, veterans' employment and training outreach program specialists shall be assigned only those duties directly related to meeting the employment needs of eligible veterans, with priority for services as follows: to disabled Vietnam-era veterans who are participating in or have completed a program of vocational rehabilitation under chapter 31 of this title; to other disabled veterans; and to other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title. Maximum emphasis shall be placed on assisting economically or educationally disadvantaged veterans. Not more than three-quarters of the veterans' employment and training outreach program specialists in each State shall be stationed at local employment service offices in such State. Specialists not so stationed shall be stationed at centers established by the Veterans' Administration to provide a program of readjustment counseling pursuant to section 612A of this title, veterans assistance offices established by the Veterans' Administration pursuant to section 242 of this title, and such other sites as may be determined appropriate in accordance with regulations jointly prescribed by the Secretary and the Administrator.

"(c) Each veterans' employment and training outreach program specialist shall carry out the following functions for the purpose of providing services to eligible veterans in accordance with the priorities set forth in subsection (b) of this section:

"(1) Develop job and job training opportunities for such veterans through contacts with employers, especially small- and medium-size private sector employers.

"(2) Pursuant to regulations jointly prescribed by the Secretary and the Administrator, promote, develop, and, as appropriate, approve apprenticeship and other on-job training positions pursuant to section 1787 of this title.

"(3) Carry out outreach activities to locate such veterans through contacts with local veterans organizations, the Veterans' Administration, the State employment service agency and local employment service offices, and community-based organizations.

"(4) Provide appropriate assistance to community-based groups and organizations and prime sponsors under the Comprehensive Employment and Training Act in providing services to such veterans.

"(5) Provide appropriate assistance to local employment service offices employees with responsibility for veterans in carrying out their responsibilities pursuant to this chapter.

"(6) Consult and coordinate with other appropriate representatives of Federal, State, and local programs for the purpose of developing maximum linkages to promote employment opportunities for and provide maximum employment assistance to such veterans.

"(7) Carry out such other duties as will promote the development of entry-level and career job opportunities for such veterans.

"(d) Individuals serving as staff in the Disabled Veterans Outreach Program conducted under title III of the Comprehensive Employment and Training Act on the date of enactment of this section shall be appointed as veterans' employment and training outreach program specialists in the State in which such individual is so serving, unless the Secreary for good cause shown determines that such individual is not qualified for such appointment.

"(e) The Secretary shall administer the program provided for by this section through the Deputy Assistant Secretary for Veterans' Employment.".

(b) The table of sections at the beginning of chapter 41 is amended by inserting after the item relating to section 2003 the following:

"2003A. Veterans' Employment and Training Outreach Program."

SEC. 210. Chapter 34 is amended by—

(1) striking out in the last sentence of section 1677(b) "$288" and inserting in lieu thereof "$317";

(2) amending the table contained in paragraph (1) of section 1682(a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$342	$407	$464	$29
Three-quarter-time	256	305	349	21
Half-time	172	204	232	14
Cooperative	276	323	367	21";

(3) striking out in section 1682(b) "$311" and inserting in lieu thereof "$342";

(4) amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$276	$323	$367	$21
Three-quarter-time	207	243	276	17
Half-time	139	162	184	11";

(5) striking out in section 1692(b) "$69" and "$828" and inserting in lieu thereof "$76" and "$911", respectively; and

(6) striking out in section 169(b) "$311" and inserting in lieu thereof "$342".

SEC. 211. Chapter 35 is amended by—

(1) striking out in section 1732(b) "$251" and inserting in lieu thereof "$276"; and

(2) striking out in section 1742(a) "$311", "$98", "$98", and "$10.40" and inserting in lieu thereof "$342", "$108", "$108", and "$11.40", respectively.

SEC. 212. Chapter 36 is amended by—

(1) striking out in section 1786(a)(2) "$311" and inserting in lieu thereof "$342";

(2) amending the table contained in paragraph (1) of section 1787(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$249	$279	$305	$13
Second 6 months	186	217	243	13
Third 6 months	124	155	180	13
Fourth and any succeeding 6-month periods	62	92	119	13";

and

(3) striking out in paragraph (3) of section 1798(b) "$311" and inserting in lieu thereof "$342".

SEC. 213. Section 1622 is amended by—

(1) amending subsection (a) by—

(A) striking out in the first sentence "Each" and inserting in lieu thereof "Except as provided in subsections (c) and (d) of this section, each"; and

(B) striking out in the second sentence "$50" and "$75" and inserting in lieu thereof "$25" and "$100", respectively;

(2) inserting after "Forces" in subsection (c) a comma and "including contributions in lieu of, or to reduce the amount of, monthly deductions under subsection (a) of this section"; and

(3) adding at the end the following new subsection:

"(d) Subject to the maximum contribution prescribed by subsection (a) of this section, a participant shall be permitted, while serving on active duty, to make a lump sum contribution to the fund. A lump-sum contribution to the fund by any participant shall be in addition to or in lieu of monthly deductions made from such participant's military pay and shall be considered, for the purposes of paragraph (2) of section 1631(a), to have been made by monthly deductions from such participant's military pay in the amount of $75 per month or in such lesser amount as may be specified by such participant pursuant to regulations issued jointly by the Secretary and the Administrator.".

SEC. 214. Section 1662 is amended by—

(1) amending subsection (a) by—

(A) inserting after "1955" in paragraph (1) a comma and "and before January 1, 1980"; and

(B) adding at the end the following new paragraph:

"(3) An eligible veteran whose last discharge or release from active duty occurs after December 31, 1979, shall not be afforded educational assistance under this chapter after (A) the expiration of the five-year period following the date on which such veteran first begins to pursue a program of education under this chapter after such discharge or release if such date occurs no later than two years after such discharge or release from active duty or (B) December 31, 1989, whichever is the later."; and

(2) striking out subsection (e) in its entirety.

SEC. 215. Section 1712(a) is amended by—

(1) striking out "and" at the end of clause (4);

(2) redesignating clause (5) as clause (6); and

(3) inserting before clause (6), as so redesignated, the following new clause (5):

"(5) if the person becomes eligible by reason of the provisions of section 1701(a)(1)(A)(iii) of this title after the person's eighteenth birthday but before the person's twenty-sixth birthday, then (unless clause (4) of this subsection applies) such period shall end eight years after the date upon which the person thus becomes eligible; however, in no event shall such period be extended beyond the person's thirty-first birthday; and".

TITLE III—VETERANS' ADMINISTRATION DEBT COLLECTION AMENDMENTS

SEC. 301. (a)(1) Chapter 53 is amended by adding at the end the following new sections:

"§ 3113. Indebtedness offsets

"(a) Notwithstanding any other provision of this title or of any other law, where an individual has been determined to be indebted to the United States by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, the amount of the indebtedness concerned shall, under regulations which the Administrator shall prescribe, be deducted from future payments made under laws administered by the Veterans' Administration to such individual if—

"(1) such individual has been provided with reasonable notice of such individual's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and the right to request a waiver of such indebtedness pursuant to section 3102 of this title and with a reasonable opportunity to exercise such rights;

"(2) the Administrator has made a determination with respect to any such challenge or request, unless the Administrator determines that the passage of the time required to make such determinations prior to making deductions would have the effect of jeopardizing the Administrator's ability to recover the full amount of such indebtedness through deductions from such payments; and

"(3) the Administrator has made reasonable efforts to notify such individual about the proposed deduction from such payments and the provision of subsection (c) of this section and the regulations prescribed thereunder.

"(b) Notwithstanding any other provisions of this title or of any other law, the authority of the Administrator to make deductions under this section or to take other administrative action authorized by law for the purpose of collecting an indebtedness described in subsection (a) of this section, or for determining the credit worthiness of the individual who owes such indebtedness, shall not be subject to any limitation with respect to the time for bringing civil actions or for commencing administrative proceedings.

"(c) Upon application by the individual concerned and under such regulations, the Administrator may, in order to avoid undue hardship to such individual to the extent consistent with recovering the full amount of an indebtedness described in subsection (a) of this section, set the rate at which the amount of such indebtedness shall be deducted from future payments at a rate less than that which would otherwise be required.

"§ 3114. Interest and administrative costs charges on delinquent payments of certain amounts due the United States

"(a) Notwithstanding any other provision of this title or of any other law, and subject to section 3102 of this title, interest and administrative costs (as described in subsection (b) of this section) shall, under regulations which the Administrator shall prescribe, be charged on an amount owed to the United States—

"(1) for an indebtedness to the United States resulting from a person's participation in a benefits program administered under this title by the Veterans' Administration, other than a loan, loan-guaranty, or loan-insurance program;

"(2) for the provision of care or services under chapter 17 of this title; or

"(3) to the extent permissible under the loan instruments concerned, for an indebtedness resulting from an individual's participation in a program of loans, loan guaranties, or loan insurance administered by the Veterans' Administration under this title,

if a reasonable period of time, as determined under such regulations, has expired following the initial notification of the amount due to the person owes such amount of the amount due and the fact that such amount has not been paid. Interest shall accrue on such amount after the expiration of such reasonable period of time, but not for any period prior to the date (A) of the enactment of this section, or (B) on which the Administrator has mailed to the individual concerned, at such individual's most currently available address, notice of the Administrator's intention to charge interest on the indebtedness.

"(b)(1) The administrative costs to be charged under this section shall be so much of the costs incurred by the United States in collecting an indebtedness as the Administrator determines, under such regulations, to be reasonable and appropriate.

"(2) The rate of interest to be charged under this section shall be based on the rate of interest paid by the United States for its borrowing and shall be determined by the Administrator, in consultation with the Secretary of the Treasury, under such regulations.

"§ 3115. Authority to sue to collect certain debts

"(a) Not later than ninety days after the date of the enactment of this section, the Administrator shall take appropriate steps to authorize attorneys employed by the Veterans' Administration to exercise the right of the United States to bring suit, subject to the direction and supervision of the Attorney General and upon such terms and conditions as the Attorney General may prescribe, in any court of competent jurisdiction to recover any indebtedness that is owed to the United States by an individual by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, if the Administrator has determined, under regulations which the Administrator shall prescribe, that such individual has failed to respond appropriately to reasonable administrative efforts to collect such indebtedness.

"(b) Not later than one hundred and twenty days after the date of the enactment of this section, the Administrator and the Attorney General shall submit to the appropriate committees of the Congress a joint report that describes and explains the actions taken by the Administrator and the Attorney General to implement subsection (a) of this section.

"(c) Nothing in this section shall derogate from the authority of the Attorney General of the United States under sections 516 and 519 of title 28, United States Code, to direct and supervise all litigation to which the United States or an agency or officer thereof is a party.".

(2) Not later than October 1, 1980, the Administrator shall prescribe the regulations required to be prescribed under sections 3113 and 3114 of title 38, United States Code, as added by paragraph (1) of this subsection.

(3) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

"3113. Indebtedness offsets.
"3114. Interest and administrative costs charges on delinquent payments of certain amounts due the United States.
"3115. Authority to sue to collect certain debts.".

(b) Section 3301 is amended by—

(1) inserting "or in preparation for" after "In" in clause (5) of subsection (b);

(2) amending subsection (c) to read as follows:

"(c)(1) The amounts of any monetary payments made by the Veterans' Administration to a beneficiary of a benefits program administered by the Veterans' Administration under this title shall be made known to any person who applies for such information, and the Administrator, with the approval of the President, upon determination that the public interest warrants or requires, may, at any time and in any manner, publish any or all information of record pertaining to any claim.

"(2) Any appraisal report or certificate of reasonable value submitted to or prepared by the Veterans' Administration in connection with any loan program authorized under chapter 37 of this title shall be made available to any person who applies for such report or certificate.";

(3) redesignating subsection (g) as subsection (i) and inserting after subsection (f) the following new subsections (g) and (h):

"(g)(1) Subject to the provisions of this paragraph, the Administrator may, pursuant to regulations which the Administrator shall prescribe, release the name and address of an individual to a consumer reporting agency when necessary for the purpose of—

"(A) locating such individual when (i) such individual is administratively determined to be indebted to the United States by virtue of such individual's participation in a benefits program administered by the Veterans' Administration under this title, or (ii) the Administrator determines under such regulations that (I) it is necessary to locate such individual in order to conduct a study pursuant to section 219 of this title or a study required by any other provision of law, (II) such individual's inclusion in such study and the cost of such inclusion, in light of any other alternatives reasonably available to develop information necessary for such study and the costs of such alternatives and any possible consequenecs for such individual resulting from such release, clearly warrant such release, and (III) the release of such information and the fact that the Administrator has inquired as to such individual's present address (in order that any such study may be conducted) will not create a substantial risk of being construed as indicating that such individual is indebted to the United States or of otherwise having an adverse effect on such individual's credit worthiness, credit standing, or credit capacity; or

"(B) obtaining a consumer report in order to assess the ability of an individual so indebted to the United States to repay the indebtedness when the Administrator determines under such regulations that such individual has failed to respond appropriately to administrative efforts to collect such an indebtedness;

and may so release to such agency for either such purpose such other information as the Administrator determines under such regulations is reasonably necessary to identify such individual, but not including any information indicating expressly or implicitly any indebtedness to the United States or any other information reflecting adversely on such individual. Prior to making any such release, the Administrator shall, to the maximum extent practicable and under such regulations, determine that such agency (including any consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which such information is to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) maintains and reports information of the character involved in such release in such a manner as not to indicate in its file on such individual or in any consumer report issued or other disclosure made by it that an inquiry by the Veterans' Administration pursuant to this paragraph indicates the existence of an indebtedness to the United States or otherwise reflects adversely on such individual. A consumer reporting agency to which the Administrator releases information under this paragraph may not, on the basis of such information, indicate by any such recording or notation in such file or in any consumer report issued or disclosure made by such agency the existence of such indebtedness or any other information reflecting adversely on such individual's credit worthiness, credit standing, or credit capacity. Any willful failure of such consumer reporting agency or of any employee of such agency to comply with the requirements set forth in the preceding sentence shall be punishable in the same manner prescribed for the violation described in the last sentence of subsection (f) of this section.

"(2)(A) When the Administrator determines under such regulations that an individual has failed to respond appropriately to reasonable administrative efforts to collect an indebtedness described in paragraph (1)(A)(i) of this subsection, the Administrator may release information relating to such indebtedness and the identity and address of such individual to one or more consumer reporting agencies for the purposes of making such information available for inclusion in consumer reports regarding such individual and, if necessary, of locating such individual if—

"(i) the individual has been provided reasonable notice of such individual's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and the right to request a waiver of such indebtedness pursuant to section 3102 of this title, has been provided with a reasonable opportunity to exercise such rights, and the Administrator has made a determination with respect to any such challenge or request; and

"(ii) sixty calendar days have elapsed following the mailing to such individual at such individual's most currently available address of notice of the Administrator's intent to release such information for such purposes, notice of the name and address of each consumer reporting agency to which such release will be made by the Administrator, and the specific information intended to be released.

"(B) Following the release of information under subparagraph (A) of this paragraph—

"(i) the Administrator shall notify each consumer reporting agency (including each consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which the Administrator has caused such information to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) to which such information has been released by the Administrator of any substantial change in the status or amount of such indebtedness by the end of the calendar month following the calendar month during which such change occurs and shall, upon the request of any such consumer reporting agency for verification of any or all information so released, promptly provide verification or correction, as appropriate, of such information; and

"(ii) if the Administrator determines that the individual concerned had not, prior to such release of information, received a communication from the Veterans' Administration providing such individual with actual notice of the indebtedness and the rights and the opportunity described in subparagraph (A)(i) of this paragraph, any information in the possession of a consumer reporting agency indicating that such indebtedness is delinquent or past due shall, notwithstanding any other provision of law, be deemed to be inaccurate for purposes of section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i), and the Administrator shall immediately advise such individual and each consumer reporting agency (including each consumer reporting agency described in paragraph (4)(B)(i) of this subsection to which the Administrator has caused such information to be transmitted by a consumer reporting agency described in paragraph (4)(B)(ii)(I) of this subsection) to which the Administrator has released information relating to such indebtedness that any such indication is inaccurate for purposes of such section and advise such individual of the provisions of such section.

"(3) No contract entered into for any of the purposes of this subsection or subsection (h) of this section and no action taken pursuant to any such contract or either such subsection shall result in the application of section 552a of title 5 to any consumer reporting agency or employee thereof.

"(4) For the purposes of this subsection and subsection (h) of this section—

"(A) The terms 'consumer report' and 'file' shall have the meaning provided in subsections (d) and (g) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a (d) and (g)), respectively.

"(B) The term 'consumer reporting agency' (i) shall have the meaning provided in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), and (ii) shall also mean any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (I) obtaining credit information or other information on consumers from consumer reporting agencies (as defined in subsection (f) of section 603 of such Act) for the purpose of furnishing such information to third parties, or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such agencies.

"(h) The Administrator may, pursuant to regulations which the Administrator shall prescribe and which shall not become effective until 30 days following publication in the Federal Register, release the name, address, and other information relating to the identity of an individual, to any person in a category of persons that is described in such regulations and specified as a category of persons to whom such information may be released, if the release of such information is necessary for the purpose of—

"(1) determining the credit worthiness, credit capacity, income, or financial resources of an individual who has (A) applied for any benefit under chapter 37 of this title, or (B) submitted an offer to the Administrator for the purchase of property acquired by the Administrator under section 1820(a)(5) of this title;

"(2) verifying, either before or after the Administrator has approved an individual's application for assistance in the form of a loan guaranty or loan insurance under chapter 37 of this title, information submitted by a lender to the Administrator regarding the credit worthiness, credit capacity, income, or financial resources of such individual;

"(3) offering for sale or other disposition by the Administrator, pursuant to section 1820 of this title, any loan or installment sale contract owned or held by the Administrator; or

"(4) to the extent not otherwise authorized by this paragraph, providing assistance to any applicant for benefits under chapter 37 of this title or administering such benefits if the Administrator promptly records the fact of such release in appropriate records pertaining to the person concerning whom such release was made."; and

(4) amending subsection (i), as redesignated by clause (2) of this section, by striking out "Any" and inserting in lieu thereof "Except as provided in subsection (g)(3) of this section, any".

TITLE IV—VETERANS' ADMINISTRATION HEALTH CARE COST RECOVERY PROVISIONS

SEC. 401. (a) Subchapter III of chapter 17 is amended by adding after section 628 the following new section:

"§ 629. Recovery by the United States of the cost of certain care and services

"(a) In any case in which a veteran is furnished care and services under this chapter for a non-service-connected disability and such disability was incurred—

"(1) incident to such veteran's employment and the disability is covered under a workers' compensation law or plan which provides reimbursement for or indemnification of the cost of health care and services provided to the veteran by reason of the disability,

"(2) as the result of a motor vehicle accident covered under the law of a State which requires the owners or operators of motor vehicles registered in such State to have in force automobile accident reparations insurance, or

"(3) as the result of a crime of personal violence that occurred in a State or subdivision thereof in which a person injured as the result of such crime is entitled to receive health care and services at such State's or subdivision's expense for personal injuries suffered as the result of such crime,

the United States shall have the right to recover, subject to the limitations, conditions, and procedures prescribed in subsections (b) and (c) of this section, the reasonable costs of such care and services from the State or subdivision thereof, employer, employer's insurance carrier, or automobile accident reparations insurance carrier, to the extent that such veteran, or the provider of care and services to such veteran, would be eligible to receive reimbursement or indemnification for such care and services if such care and services had not been furnished by a department or agency of the United States.

"(b) The amount that may be recovered by the United States in exercising the right provided under subsection (a) of this section may not exceed the lesser of (1) an amount equal to the reasonable cost of the care and services furnished such veteran under this chapter, as determined by the Administrator pursuant to regulations which the Administrator shall prescribe after notice and opportunity for public comment, or (2) the maximum amount specified by the law of the State or subdivision thereof concerned or by any relevant contractual provision to which such veteran was a party or was subject.

"(c)(1) The United States shall, as to the right provided in subsection (a) of this section, be subrogated to any right or claim that such veteran or such veteran's personal representative, successor, dependents, or survivors may have against a State or subdivision thereof, an employer, an employer's insurance carrier, or an automobile accident reparations insurance carrier.

"(2) In order to enforce any such right or claim to which it is subrogated under paragraph (1) of this subsection—

"(A) the United States may intervene or join in any action or proceeding brought by the veteran or such veteran's personal representative, successor, dependents, or survivors against a State or subdivision thereof, an employer, an employer's insurance carrier, or an automobile accident reparations insurance carrier, or

"(B) if—

"(i) no such action or proceeding has been commenced within one hundred and eighty days after the first day on which care and services for which recovery is sought were furnished to such veteran by the Veterans' Administration under this chapter, and

"(ii) the United States has sent written notice by certified mail to such veteran at such veteran's last-known address, or to such veteran's personal representative or successor, of the United States' intention to institute legal proceedings,

the United States may, sixty days after the mailing of such notice, institute and prosecute legal proceedings against such State or subdivision thereof, employer, employer's insurance carrier, or automobile accident reparations carrier.

"(d) A veteran eligible for care and services under this chapter may not be denied such care and services by reason of this section.

"(e) No law of any State or of any subdivision thereof, and no provision of any contract or agreement entered into, renewed, or modified pursuant to any State law shall operate to prevent recovery by the United States under (1) subsection (a) of this section for care and services furnished under this chapter to any veteran for a non-service-connected disability, or (2) subsection (b) of section 611 of this title for care and services furnished as a humanitarian service in emergency cases under such subsection to any individual.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 628 the following new item:

"629. Recovery by the United States of the cost of certain care and services.".

TITLE V—AMENDMENTS TO AGENT ORANGE STUDY PROVISIONS

SEC. 501. Section 307 of the Veterans Health Programs Extension and Improvement Act of 1979, Public Law 96–151 (93 Stat. 1097), is amended by amending subsection (a)(1) to read as follows:

"(a)(1)(A)(i) The Administrator of Veterans' Affairs shall design a protocol for and conduct an epidemiological study of the long-term adverse health effects in humans of service in the Armed Forces of the United States in the Republic of Vietnam during the period of the Vietnam conflict as such health effects may result from exposure to phenoxy herbicides (including the herbicide known as 'Agent Orange') and the class of chemicals known as 'the dioxins' produced during the manufacture of such herbicides.

"(ii) In conducting the study provided for by division (i) of this subparagraph, the Administrator may, as the Administrator deems appropriate, expand the scope of such study to include an evaluation of the adverse health effects in humans of such service as such health effects may result from other factors involved in such service, including exposure to other herbicides, chemicals, medications, or environmental hazards or conditions.

"(B)(i) The Administrator shall also conduct a comprehensive review and scientific analysis of the literature covering other studies relating to whether there may be long-term adverse health effects in humans from exposure to phenoxy herbicides (including the herbicide known as 'Agent Orange') and the class of chemicals known as 'the dioxins' produced during the manufacture of such herbicides.

"(ii) In conducting the review and analysis of the literature provided for by division (i) of this subparagraph, the Administrator may, as the Administrator deems appropriate, expand the scope of such review and analysis of the literature to include a review and analysis of the literature covering other studies relating to whether there may be long-term adverse health effects in humans from other factors involved in service in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam conflict or in other comparable situations involving one or more of the factors described in subparagraph (A)(ii) of this paragraph.".

Sec. 502. Section 307 of the Veterans Health Programs Extension and Improvement Act of 1979, Public Law 96-151 (93 Stat. 1097), is further amended by amending subsection (b)—

(A) by amending paragraph (2) by inserting "for administrative or legislative action, or both." after "recommendations";

(B) by adding at the end the following new paragraph:

"(3)(A)(i) Not later than ninety days after the submission of each report provided for in paragraph (2), the Administrator shall, based on the results described in each such report and the comments and recommendations thereon and any other available pertinent information, develop and publish in the Federal Register, for public review and comment, proposed regulations containing proposed guidelines, standards, and other criteria (together with an explanation of the bases for such proposed guidelines, standards, and criteria) for resolving claims for benefits administered by the Veterans' Administration based on exposure to Agent Orange during service in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam conflict.

"(ii) If the Administrator expands the scope of the study provided for in subsection (a)(1)(A)(i) (as provided for in subsection (a)(1)(A)(ii)), such proposed regulations shall contain proposed guidelines, standards, and other criteria for resolving such claims based on one or more factors described in subsection (a)(1)(A)(ii) related to such service.

"(iii) Proposed regulations developed and published pursuant to division (i) of this subparagraph (and, if proposed regulations are developed and published pursuant to division (ii) of this subparagraph; pursuant to such division) shall include specification of any presumptions (including any presumptions regarding service and exposure) to be applied to the resolution of the claims to which such proposed guidelines, standards, and criteria in such proposed regulations apply.

"(iv) Notwithstanding any other provision of law, the public review and comment process required by division (i) of this subparagraph shall be conducted in accordance with the provisions of sections 553(b) and (e), 556, and 557 of title 5, United States Code.

"(v) On the same day as such proposed regulations are published as required by division (i) of this subparagraph, the Administrator shall submit to the appropriate committees of the Congress any recommendations for legislative action that the Administrator considers appropriate in light of such proposed guidelines, standards, and criteria the report submitted pursuant to subsection (b)(2), and any other available pertinent information.

"(B) Not later than ninety days after the completion of the public review and comment process provided for in subparagraph (A)(i) and (iv), the Administrator shall publish in the Federal Register final regulations containing the guidelines, standards, and other criteria (together with an explanation of the bases for such guidelines, standards, and criteria) for resolving the claims involved.

"(C) Nothing in subparagraphs (A) and (B) shall be considered to limit in any way the discretion and authority of the Administrator to promulgate or prescribe regulations, guidelines, standards, or other criteria for resolving any claims described in subparagraph (A)(i) or (ii) at any time earlier than the time prescribed in subparagraph (A) for the publication of the proposed regulations described in such subparagraph.

"(D) The Administrator's compliance with the provisions of, and any regulations promulgated pursuant to, this paragraph shall be subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code.".

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Section 612(f)(2) is amended by inserting "any veteran for whom medical services are provided pursuant to an individualized written plan for rehabilitation developed under chapter 31 of this title" after "more".

Sec. 602. Section 1781 is amended by inserting "or subsistence allowance granted under chapter 31" after "36".

Sec. 603. Section 1795 is amended by—

(1) amending clause (4) to read as follows:

"(4) chapters 32, 34, 35, and 36 of this title, and the former chapter 33";

(2) striking out the comma immediately following "thereof)" and inserting in lieu thereof a period; and

(3) striking out "but this section shall not be deemed to limit the period for which assistance may be received under chapter 31 alone." and inserting in lieu thereof a period and the following new sentence: "No person may receive assistance under chapter 31 of this title in combination with assistance under any of the provisions of law cited in clauses (1), (2), (3), and (4) of this section for a period in excess of forty-eight months (or the part-time equivalent thereof) unless the Administrator determines that additional months of benefits provided for by such chapter are required to accomplish the rehabilitation purposes set forth in such chapter.".

Sec. 604. Section 1631(a)(1) is amended by adding at the end thereof the following new sentence: "The 36-month maximum shall be subject to the provisions of section 1795 of this title limiting the aggregate period for which any person may receive assistance under two or more programs of education administered by the Veterans' Administration.".

Sec. 605. Section 1682 is amended by adding at the end the following new subsection:

"(h) Notwithstanding any other provision of this title, in the case of an eligible veteran pursuing a program of education while receiving care in a Veterans' Administration hospital, nursing home, or domiciliary facility or in a facility with which the Administrator, under the provisions of chapter 17 of this title, has contracted for such veteran's care at Veterans' Administration expense, the educational assistance allowance appropriate for the type of training pursued shall, after such veteran has been receiving such care for thirty days, accrue and be withheld (and converted to securities), paid to dependents, and paid to such veteran upon discharge from such facility, as appropriate, under the same terms and conditions set forth in subsection (g) of this section, except that the Administrator shall, upon the request of such veteran, pay to such veteran all or part of such monthly allowance payments as are determined to be necessary to meet continuing financial obligations of such veteran.".

Sec. 606. Section 1624(a) is amended to read as follows:

"(a)(1) If a participant dies, the amount of such participant's unused contributions to the fund shall be paid to the living person or persons first listed below:

"(A) The beneficiary or beneficiaries designated by such participant under such participant's Servicemen's Group Life Insurance policy.

"(B) The surviving spouse of the participant.

"(C) The surviving child or children of the participants, in equal shares.

"(D) The surviving parents of the participant, in equal shares.

"(2) If there is no such person living, such amount shall be paid to the participant's estate.".

Sec. 607. The authority to make loans in the increased amounts authorized under sections 1512 and 1798(b)(3) of title 38, United States Code, as amended by sections 101(a) and 211(3) of this Act, respectively, shall be effective only to such extent or in such amounts as are provided in appropriation Acts. The preceding sentence shall be effective only if, on the day a bill containing amendments substantively identical to the amendments made by sections 101(a) and 211(3) of this Act to increase the amounts of loans authorized by sections 1512 and 1798(b)(3) of such title is passed by the House of Representatives or the Senate, there is in effect in such body a rule which provides that it shall not be in order in such body to consider a bill containing such amendments unless such bill provides that the authority to make such loans in such increased amounts shall be effective only to such extent or in such amounts as are contained in appropriation Acts.

Sec. 608. The Veterans' Administration Medical Center in Topeka, Kansas, on and after the date of enactment of this Act, shall be known and designated as the "Colmery-O'Neil Veterans' Administration Medical Center", in honor of the late Harry W. Colmery and Ralph T. O'Neil. Any reference to such center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed a reference to the Colmery-O'Neil Veterans' Administration Medical Center.

Sec. 609. Section 502 of Public Law 96-128 is amended by adding at the end the following new sentence: "Disclosures of information made under this section shall for all purposes be deemed to be disclosures authorized in title 26, United States Code.".

Sec. 610. Section 303 of the Veterans Health Programs Extension and Improvement Act of 1979, Public Law 96-151 (93 Stat. 1092, 1096), is amended by—

(1) inserting "(a)" before "Section"; and

(2) adding at the end the following new subsection:

"(b) The amendment made by subsection (a) of this section shall take effect with respect to appointments made on or after the date of the enactment of this Act.".

Sec. 611. Notwithstanding the provisions of section 5072(b), 5073(a)(2), or 5082(b) of title 38, United States Code, in cases in which the Administrator has approved an application for a grant or supplemental grant under subchapter I of chapter 82 of such title (for the establishment of a new State medical school), amounts appropriated pursuant to section 5072(a) or 5082 of such title that are approved for such a grant or supplemental grant shall remain available for, and may be paid during, a period of twelve months in addition to the periods provided for in such sections, respectively, and any funds made available by this section for payments, or authorized to be paid, under such grant or supplemental grant for faculty salaries may not exceed the amount provided for under section 5073(a)(2)(G) of such title.

Sec. 612. Section 4107(c)(3) is amended by striking out "section 4507" and inserting in lieu thereof "sections 4507 and 5384".

Sec. 613. (a) Except as provided in section 612 of this Act and subsections (b) through (f) of this section, the provisions of this Act shall become effective on October 1, 1980.

(b) With respect to veterans who are participating in a program of vocational rehabilitation under chapter 31 of title 38, United States Code, on September 30, 1980—

(1) individualized written plans of vocational rehabilitation shall be formulated under section 1507 of such title (as amended by section 101(a) of this Act) for such veterans to the extent that and at such times as the Administrator determines that the formulation of such plans is feasible and on the basis of such priorities for the formulation of such plans as the Administrator shall prescribe; and

(2) extensions may be granted a veteran under sections 1503(c) and 1505(c) of such title (as amended by section 101(a) of this Act) without regard to the requirement for a determination of a serious employment handicap.

(c) The provisions of sections 210, 211, and 212 shall take effect on January 1, 1981.

(d) The provisions of sections 213, 214, and 215, titles III and V, and section 610 shall take effect on the date of the enactment of this Act.

(e) The amendments made by title IV shall be effective with respect to care and services furnished under chapter 17 of title 38, United States Code, after September 30, 1980.

(f) The provisions of section 609 shall take effect as of November 28, 1979.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I send to the desk an amendment to the title of S. 1188.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. Cranston) proposes an amendment to the title as follows.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend the title so as to read:

To amend title 38, United States Code, to improve and modernize the rehabilitation programs for service-connected disabled veterans under chapter 31 of title 38, United States Code, to increase the rates of rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons, to enhance employment opportunities for eligible veterans, to establish a veterans' employment and training outreach program, to modify the Post-Vietnam Era Veterans' Educational Assistance Program, to modify the termination date of the current GI Bill, to facilitate Veterans' Administration debt-collection efforts, and to clarify the Veterans' Administration's authority to recover health-care costs; to authorize expansion of the scope of an epidemiological study regarding veterans exposed to Agent Orange to include additional health factors and require the issuance of guidelines for resolving claims based on exposure to Agent Orange; and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ON H.R. 5192

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the conference report on H.R. 5192, the higher education bill, which will be laid before the Senate shortly, there be a time agreement as follows: 3 hours overall—1½ hours to be controlled by Messrs. Pell and Stafford in support of the report; 1½ hours to be controlled by Messrs. Hollings and Bellmon in opposition to the report.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, could the Senator from Virginia have 20 minutes?

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senator from Virginia (Mr. Harry F. Byrd, Jr.) have 20 minutes under his control, outside the 3 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION AMENDMENTS OF 1980—CONFERENCE REPORT

Mr. PELL. Mr. President, I submit a report of the committee of conference on H.R. 5192 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes. Having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of August 25, 1980.)

Mr. ROBERT C. BYRD. Mr. President, if the Senator from Rhode Island will yield to me 1 minute, there will be no session tomorrow. The time agreement on the higher education conference report assures that the action will be completed today and, therefore, there will not be any need for a session tomorrow. There will be no session Saturday, as I have already indicated.

So, with completion of the action on the higher education conference report and on the domestic violence bill today and any other measures that can be cleared for unanimous consent today that will be the end of the business for today and there will be no session tomorrow and no session Saturday.

I thank the Senator for yielding.

Mr. PELL. Mr. President, that was one of the nicest introductions or interpositions that one can hear in the Chamber.

Mr. President, the conference report on the reauthorization of the Higher Education Act represents the culmination of 2 long, hard years of work. It is a bill that reflects the cooperation, accommodation, and a willingness to compromise that is what makes our system of government work the way it does.

At the outset, I thank my fellow conferees who worked long and hard to arrive at this conference agreement. The conference lasted for several days, and most of those days we worked well into the evening hours. Without the support of Senators Javits, Stafford, Schweiker, Randolph, Williams, Eagleton, and Kennedy, this agreement might never have been reached.

This conference represents, as most conference reports do, a true compromise. Neither the House nor Senate got all that it wanted. Each side had to give a little, but I think the outcome has been an excellent agreement that provides much needed student assistance benefits to American students, while at the same time recognizing the fiscal realities that confront us. In the loan programs, which are the only entitlement programs in the bill, the conference agreement saves $300 million in fiscal year 1981, compared to continuing current law unchanged. Over the 5-year life of this authorization, $2.2 billion is saved, compared to extending existing law. The bill is $300 million less than the cost of the loan programs in the House bill for fiscal year 1981 and $2.8 billion less than the House bill over the 5-year life of the bill. So I think we have been fiscally responsible. We recognize we had to save money, and we did.

All of the other authorizations in the agreement are subject to the appropriations process. Each year, the Appropriations Committee can take a look at the existing economic condition and decide how much money should be appropriated for each program. And the Senate conferees emphasized in the conference report that these authorizations are not binding on the Appropriations Committee; they are merely advisory guidelines to that committee.

Mr. President, let me briefly touch on a few highlights of this legislation. It authorizes increases in student grant assistance to help poor and middle-income students meet the increased cost of college at all levels. It maintains the promise and the spirit of the Middle Income Student Assistance Act, which we enacted in 1978, that makes some form of Federal student assistance available to every American student. It extends program eligibility to unserved part-time students, recognizing that these students too would like to pursue the dream of a college education.

It establishes fellowship opportunities for graduate and professional school, realizing that the future of our country in many ways is tied to the continued viability of these types of institutions. It makes important reforms in the loan programs aimed at reducing default rates and improving the administration of the loan programs. While the bill extends the availability of need-based loans, it also establishes a loan program for parents who are hard pressed in finding ways to finance their children's college education. And the legislation strengthens authorities for support of such national priorities as continuing education, developing institutions, libraries, international studies, research programs and urban universities.

Mr. President, I should point out that many of my colleagues added amendments to this bill when it originally was considered on the floor of the Senate. We had to fight very hard for these amendments, but we have retained a substantial number of them in one form or another. We were able to retain assistance to the Robert A. Taft Institute, which was a proposal of Senator Bellmon. We kept the Chappie James Memorial sponsored by Senators Stewart and Heflin, and the Dawson Chair sponsored by Senator Sasser. We kept a study of the special needs of nontraditional and adult learners sponsored by Senator Chiles. We kept the amendment creating the information clearinghouse for handicapped individuals, which was sponsored by Senator Boschwitz. Amendments which were authored by Senator DeConcini to the Navajo Community College Act were retained. An amendment to create new land-grant colleges in American Samoa and Micronesia, sponsored by Senator Inouye, was retained, along with a modified study of the education opportunities available to Native Hawaiians. A provision requiring an education impact statement sponsored by Senator Helms, was retained, and a modified version of Senators Bellmon and Domenici's administrative simplification study was also retained.

I would also like to point out the additions that Senators Long and Johnston made with respect to the State legislative grant program in Louisiana. We adopted their suggestions before we took the bill to the Senate floor, and kept that provision in conference. We did the same thing with a recommendation from Senator Bentsen concerning State revenue bonds for student loan purposes. Senator Bentsen's suggestions were also retained in conference.

In summation, Mr. President, I believe the Senate conferees retained many of the Senate provisions. We kept the cost of the bill to a minimum, saving $300 million from current policy in fiscal year 1981. And we did not renege on our previous commitments to the future of this country, our young.

Mr. President, I urge my colleagues to adopt this conference report.

Mr. President, I shall describe in more detail the provisions of the conference agreement.

Part A of title I establishes a new Commission on National Development in Postsecondary Education. This Commission was authorized at the suggestion of Senator Javits of New York. The function of the Commission shall be to review national, State, and institutional policies to examine the effectiveness of Federal financial assistance to students and institutions in conjunction with State and institutional aid policies; to consider the research capacity of institutions and the relationship between institutions and the public and private sector in promoting research; and to examine the resources of institutions and the effect of demographic changes which will impact on their ability to meet social and economic needs. At the initiative of Senator Chiles of Florida, the Commission will also conduct a study of the special needs of nontraditional and adult students in postsecondary education.

Part B of title I is renamed education outreach programs. It combines the authorization for comprehensive State planning from section 1203, the authority for education information centers from title IV, the current title I (community service and continuing education), and some essential elements of titles VI (financial assistance for the improvement of undergraduate instruction) and title X (establishment and expansion of community colleges).

The planning, information services and continuing education (including rural community education) activities are all focused on outreach to adults who have not been adequately served by postsecondary education.

Ninety percent of the funds are allocated to the States on an equal per State basis and on the basis of their adult population. The bill establishes a general allocation of the funds among the types of State activities authorized while leaving substantial flexibility for each State to set its own priorities. Each State is guaranteed to a minimum of $187,500.

Ten percent of the funds are reserved for the Secretary to support projects and activities to expand access to education, particularly for underserved adults.

The following authorization levels are established:

FY 1981—$20 million; FY 1982—$40 million; FY 1983—$60 million; FY 1984—$80 million; FY 1985—$100 million.

Title II, college and research library assistance and library training and research, has been reorganized, by eliminating the supplemental grant, which has never been funded, and by transferring the special purpose grant program from part A into a more comprehensive part B. Assistance under part A will come in the form of resource development grants up to a maximum of $10,000, increased from the current $5,000, to institutions of higher education, combinations of institutions, branch campuses or public and private nonprofit library institutions serving higher education.

The maintenance of effort provisions have been strengthened, permitting only very unusual circumstances to qualify institutions for waivers.

The funding for an expanded part B, library training research and development, would be divided between three functions on a one-third, one-third, one-third basis, reflecting the addition of special purpose grants to part B from part A.

No major changes have been made in the substance of part C, strengthening research library resources, except the addition of a provision prohibiting recipients of part C grants from receiving grants under either parts A or B.

The conference substitute authorizes the following amounts:

Part A—$10 million/FY 1981; $30 million/FY 1982; $30 million/FY 1983; $30 million/FY 1984; $35 million/FY 1985.

Part B—$10 million/FY 1981; $30 million/FY 1982; $30 million/FY 1983; $30 million/FY 1984; $35 million/FY 1985.

Part C—$10 million/FY 1981; $15 million/FY 1982; $15 million/FY 1983; $15 million/FY 1984; $15 million/FY 1985.

An important change in the college library programs in title II is the addition of a new part D, a study of the feasibility and advisability of establishing a national periodicals system. The authorization for this study is $750,000 for fiscal years 1981 and 1982 and such sums for fiscal years 1983 through 1985, to be funded only if parts A, B and C are funded at the fiscal year 1979 appropriations level.

The conference substitute creates a title III program which contains three parts. Part A, strengthening institutions, is derived from the provisions of the House bill. Part B, aid to institutions with special needs, contains provisions that were in part A of the Senate amendment. Fifty percent of the appropriation will go to each of these parts. Under both parts, the purposes of the program are clarified to focus on strengthening institutions which enroll large numbers of disadvantaged students, lack resources and are taking steps to improve their chances for survival.

Under part B of the conference substitute, the institutions that historically have served substantial numbers of black students shall be assured that their sector will receive not less than 50 percent of the amount that the sector received in fiscal year 1979 under the current title III program. Community colleges are guaranteed a floor of 24 percent of the assistance under part A and 30 percent of the assistance under part B.

The conference substitute incorporates the provisions of the House bill pertaining to challenge grants to institutions eligible for assistance under part A or part B. An institution receiving a challenge grant will match Federal funds on a 50-to-50 basis. The institutional match must be new money and can be raised from alumni giving, foundation grants, and increased State appropriations.

The conference substitute modifies the provisions of the House bill establishing an application review process and a committee on review to provide only for an application review process.

The conference substitute authorizes the following amounts for parts A and B:

$160 million/FY 1981; $185 million/FY 1982; $210 million/FY 1983; $245 million/FY 1984; $280 million/FY 1985.

The substitute provides the following authorizations for the challenge grant program:

$25 million/FY 1982; $35 million/FY 1983; $45 million/FY 1984; $50 million/FY 1985.

TITLE IV, STUDENT ASSISTANCE

BASIC GRANTS

The basic grant is renamed the Pell grant and the maximum award is increased. In addition, the limitation in the program that a student's basic grant may not exceed 50 percent of their cost of attendance is modified. The maximum grant amount is increased in steps from the current level of $1,800 to $2,600 in fiscal year 1985 and the percentage of cost limitation is also increased from the current level of 50 to 70 percent when the maximum grant reaches $2,600.

In the case of less than full funding, students whose eligibility for a basic grant is within $200 of the maximum grant will be paid the full amount of their grant first, then grants will be reduced according to a statutory schedule which gives the most protection to the lowest income students. The minimum basic grant award at less than full funding is increased from $50 to $200.

Students will be eligible for a grant during the period required to complete their first baccalaureate course of study. Current law provides for 4 years of full-time support.

The thresholds in current law requiring funding for the college work study, supplemental educational opportunity grant, and national direct student loan programs are retained. However, the Senate conferees point out that these funding levels are merely advisory and serve as guidelines to the Appropriations Committee. The level of the college work study threshold is revised from $500 to $550 million, and the SEOG threshold increases from $370 to $480 million in step with increases in the maximum grant and percentage of cost limitation. A new threshold is established for the State student incentive grant program at $76.75 million.

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT

The definition of student eligibility is simplified so that the program serves students with "need." The requirement that SEOG awards be matched at the campus with other forms of assistance is eliminated. Students are provided with the same eligibility as basic grants toward completion of their undergraduate studies.

The maximum yearly award is increased from $1,500 to $2,000. The $4,000 cumulative maximum in current law is repealed.

The conference substitute authorizes initial year appropriations of $400 million for fiscal years 1981 through 1985 and authorizes appropriations of such sums as may be necessary for continuing year SEOG awards for fiscal years 1981 through 1985.

The formula for the allocation of SEOG funds among the States is modified to be based on undergraduates rather than persons since the program only serves undergraduates and not graduate students who are included in the term "persons."

The conference substitute determines institutional need for supplemental grant funds by subtracting from 75 percent of the total student expenses the sum of family and student contributions, Pell grants, SSIG assistance and 25 percent of grants and awards made by the institution from its own resources. The substitute further provides a declining institutional hold-harmless related to increased availability of appropriations for the program.

For the purposes of determining each institution's need for SEOG funds, I believe that the conferees intend that SSIG funds be counted in each institution's SEOG application in a manner that reflects total State grants (the Federal SSIG contribution plus total State matching contribution) received for students at that institution. I have been advised that certain States, such as Missouri, maintain separate accounting procedures for distribution of Federal SSIG funds and State SSIG funds. Where this procedure is used, and given the manner in which the SEOG formula determines institutional need, certain institutions could be unfairly penalized. Thus, I think it important to emphasize that for the purpose of determining SEOG need, SSIG funds allotted to a State and the State contribution shall be considered proportionately utilized in each State student grant.

Institutions will be permitted to use up to 10 percent of their SEOG funds to make awards to less-than-half-time students.

With respect to the relationship between the basic educational opportunity grant, the supplemental educational opportunity grant and the State student incentive grant, a Federal policy objective is set of meeting 75 percent of a student's cost of education through a combination of family contribution and grant aid.

In sum, the SEOG program is simplified to make it a flexible source of campus-based grant assistance available to meet the diverse needs of students.

STATE STUDENT INCENTIVE GRANT PROGRAM

The distinction between authorizations for initial year and continuing year awards is removed and authorizations are provided as follows:

FY 1981—$100 million; FY 1982—$100 million; FY 1983—$150 million; FY 1984—$200 million; FY 1985—$250 million.

The maximum award to a student is increased from $1,500 to $2,000. Current law is clarified to permit State grant programs which serve less than half time students or graduate students to qualify. The requirement that eligible State programs serve students in all nonprofit institutions is modified to exempt State statutory restrictions enacted prior to October 1, 1978. The bonus allotment for States with State guarantee agencies is repealed.

TRIO PROGRAMS

The authorization is increased to $400 million in fiscal year 1981 and as such sums authorization is provided for in subsequent years. The staff development authority is clarified to provide for greater involvement by professionals in the field. The unfunded service learning center authority is repealed. The Secretary is required to consider the prior experience of applicants in making TRIO awards.

The talent search program is focused as a community based program serving youth. The services to be provided to clients are enumerated and include tutorial services. Two-thirds of those served must be both low income (150 percent of poverty) and first generation in college (neither parent completed a baccalaureate degree).

The Upward Bound program is focused on junior and senior high school youth and the services to be provided are enumerated. Two-thirds of those served must be low income and first generation in college, and one-third can be either low income or first generation.

The special services for disadvantaged students program is focused on those enrolled in postsecondary education and the services to be provided are enumerated. Two-thirds of those served must be low income and first generation in college or handicapped, and one-third of those served can be either low income, first generation, or handicapped.

The educational opportunity centers are focused as a community-based program serving adults. Two-thirds of those served must be low income and first generation. The services to be provided are specified and language is included to prevent duplication between talent search and educational opportunity centers.

Statutory authority is provided for the special programs for students whose families are engaged in migrant and seasonal farm work. The authorization for this program is $9.6 million in fiscal year 1981, $12 million in fiscal year 1982, $14 million in fiscal year 1983, $16 million in fiscal year 1984, and $18 million in fiscal year 1985.

ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

Current law is retained unchanged.

VETERANS COST OF INSTRUCTION PROGRAM

The program is modified to provide greater encouragement for institutions to serve handicapped and disabled veterans. Consortia arrangements among institutions serving veterans and coordination among programs serving veterans are also further encouraged.

GUARANTEED STUDENT LOANS

This program is the major vehicle through which middle-income families find the necessary resources to send their children to college. And these resources are expanded by the creation of a parent loan program. Under the parent loan program, parents could borrow up to $3,000 per year and $15,000 total for any one student. Parents would begin repaying a loan at the earliest of the following dates: 4 years after disbursement of the loan; the student completes his or her studies; the student ceases to be enrolled at least half time; a date set by the parent and the lender.

Parents who begin repaying on an installment basis within 60 days or less would pay 8 percent interest. Parents who begin repaying after 60 days would pay 11 percent. Thus, there is an incentive for parents to begin repayment within 60 days.

In all other respects, the parent loan would be identical to the current guaranteed student loan program.

The Student Loan Marketing Association (Sallie Mae) is given the authority to make loans directly to students and parents in areas where there is a severe shortage of student loan capital. In addition, State guarantee agencies may act as lenders of last resort using funds borrowed from Sallie Mae.

If a student or parent borrower has loans from more than one lender or under NDSL, GSL, or another Federal student loan program the aggregate amount of which exceeds $5,000, Sallie Mae could make a single consolidation loan to the borrower. If the total indebtedness of a student or a parent exceeds $7,500, Sallie Mae could make a new loan to the borrower with graduated or income-sensitive repayment terms of up to 20 years length. Sallie Mae is mandated to disseminate information on its consolidation and extended repayment loan options.

Incentives are also provided for State guarantee agencies to provide lender referral services to borrowers. Curbing defaults was a major goal of the conference; making loans available to parents, providing for loan consolidation and providing for extended and income-sensitive repayment should effectively prevent defaults. In addition, a system is established for the Secretary to share information on defaulted loans with credit bureaus. Provision is also made for student borrowers to request lenders to report to credit bureaus their positive record of student loan repayment. The Department of Education is instructed to share information on student names and addresses with State guarantee agencies to facilitate the collection of defaulted loans. Lenders under the program are also required to provide thorough and accurate loan information to student borrowers.

Sallie Mae's dependency on Federal capital is reduced by prohibiting the Secretary of the Treasury from requiring that Sallie Mae raise funds through the Federal Financing Bank and by removing the guarantee of the full faith and credit of the United States in 1984. To complement these changes, Sallie Mae's ability to raise private capital is enhanced by permitting it to deal in debt obligations comparable to those offered by other secondary markets, to raise funds through the sale of nonvoting common stock and by removing the specification in the law of the par value of Sallie Mae's stock.

Finally, Sallie Mae's ability to effectively perform as a secondary market for student loans is enhanced by permitting Sallie Mae to advance to a lender up to 100 percent of the face value of a student loan in warehousing and in broadening the types of securities that Sallie Mae can accept in providing warehousing advances. Under current law, Sallie Mae can deal with lenders with assets of less than $50 million even if the lenders discriminate against borrowers on the basis of their banking relationship with the lender. This $50 million limit is increased to $75 million.

The annual loan limit for independent undergraduate students is increased from $2,500 to $3,000. The aggregate loan maximums for students are modified as follows:

	Current law	H.R. 5192
Dependent undergraduate	$7,500	$12,500
Independent undergraduate	7,500	15,000
Graduate student	15,000	25,000

The Secretary is given the authority to waive the aggregate maximum for graduate students enrolled in unusually expensive programs of professional studies.

The interest rate for new borrowers is increased from 7 to 8 percent, and the grace period before repayment begins is shortened from 9 to 12 months to 6 months for new borrowers.

Limitations are placed on the payment of the special allowance for loan funds raised through the issuance of tax-exempt bonds to prevent abuses in this practice.

The allocation of administrative allowances among specified purposes by State guarantee agencies is removed and the definition of allowable administrative expenses is clarified.

The conference agreement calls for prompt action by the Federal Government in determining whether a lending institution has exercised due diligence in the processing of student loans and prompt insurance payments to lending institutions pending completion of the due diligence investigation.

The conference committee adopted this amendment to remedy the severe hardship which has been experienced by certain lending institutions under the Federal insured student loan program. It has been brought to our attention that the Federal Government has withheld millions of dollars in insurance payments from some lenders without any finding of wrongdoing or lack of due diligence on the part of the lenders. The conference agreement is intended to remedy this situation by requiring prompt payments to lending institutions upon the filing of insurance claims.

COLLEGE WORK STUDY

Authorization for the program is provided as follows:

FY 1981—$670 million; FY 1982—$720 million; FY 1983—$760 million; FY 1984—$800 million; FY 1985—$830 million.

Students employed under this program are required to be paid the minimum wage. Institutions are permitted to carry forward and carry backward up to 10 percent of their college work study funds. The job location and development program is expanded by permitting institutions to use up to $25,000 for this purpose rather than $15,000 in current law.

Institutions are permitted to use up to 10 percent of their work-study funds for less than half time students and are encouraged to provide employment that complements the educational program of a student. Institutions are also permitted to use part of their administrative allowance to establish community service learning programs.

NATIONAL DIRECT STUDENT LOAN PROGRAM

Authorization for new capital contributions is provided as follows:

FY 1981—$400 million; FY 1982—$400 million; FY 1983—$475 million; FY 1984—$550 million; FY 1985—$625 million.

The aggregate loan limits are modified as follows:

	Current law	H.R. 5192
First 2 years as an undergraduate	$2,500	$3,000
Undergraduate total	5,000	6,000
Undergraduate and graduate total	10,000	12,000

The interest rate for new loans is increased from 3 percent to 4 percent.

For both the national direct student loan program and the guaranteed student loan program four new circumstances under which borrowers can defer repayment of their loans are defined: First periods of up to 3 years for temporary total disability (at the suggestion of Mr. BINGHAM of New York); second, service in the Commissioned Corps of the Public Health Service (at the suggestion of Mr. STAGGERS of West Virginia); third, service as a full-time volunteer with a nonprofit agency that engages in activities like the Peace Corps or VISTA; and fourth, internships required to begin professional practice.

Efforts to curb defaults will be enhanced by a system for the exchange of information on defaulted loans between the Secretary and credit bureaus and by providing for the sharing of names and addresses of defaulters with leaders. The conference substitute also requires the Secretary to attempt to collect defaulted loans for 4 years after they are assigned and requires institutions to provide thorough and accurate loan information to students.

The definition of handicapped students for purposes of teacher loan cancellation is conformed to the definition used in the Education of the Handicapped Act, and the law is clarified with regard to the treatment of loan cancellations as income.

The conference substitute also provides an alternative financing mechanism through borrowing by the Secretary to meet the student loan capital needs of institutions of higher education through a procedure by which existing campus revolving funds revert to the Federal Government.

This financing mechanism will permit more money to be made available for need-based loans on campus, while at the same time controlling the costs of student loan programs. By using this new financing mechanism, it is estimated that $300 million will be saved in fiscal year 1981.

GENERAL PROVISIONS—TITLE IV

INSTITUTIONAL ELIGIBILITY

Institutions are required to provide students and prospective students with information on their academic programs, costs, student financial aid programs, tuition refund policy, special services for the handicapped, accreditation status and standards of satisfactory progress.

NEEDS ANALYSIS

The development of a single system of needs analysis for eligibility for student assistance is mandated. Participation by the higher education community in the development of an annual schedule of expected family contributions is required, and congressional review of the schedule is mandated.

An assessment rate of 14 percent on discretionary income is specified for adjusted gross family incomes less than $25,000.

The criteria to be used in formulating the expected family contribution schedule are specified for all title IV Federal student assistance programs rather than just for the basic grant program. The criteria in current law applicable to the basic grant program are retained with the following exceptions and modifications:

Reasonable child care expenses are included in the student's budget;

All individuals are provided with an asset reserve of not less than $10,000. All equity in the family's principal place of residence is excluded from consideration as an asset. An additional asset reserve of not less than $50,000 is provided to those with farm or business assets;

The assessment rate on the income of independent students with dependents will be the same as the rate for the families of dependent students;

In calculating student cost of attendance separate commuter budgets are provided for students who live with their parents and those who do not;

Simplified data requirements from institutions by eliminating the requirement that "actual" cost of attendance be provided for every student;

Permits the calculation of student budgets on the basis of the costs of study abroad where such study is included in a formal program at the institution;

Requires that a married student will be considered independent and be permitted to use current year income information; and

Expenses for the special services or equipment needed by handicapped students are included in the student's budget.

SINGLE FORM

Requires that student eligibility for title IV programs be established through a single form without cost to the student or the student's family. Also requires that the processing of such application be decentralized to the maximum extent practicable. The Secretary is also authorized to develop a system of pre-eligibility assistance to provide students with early notice of their potential eligibility for financial aid.

ADMINISTRATIVE ALLOWANCE

Provides institutions with an administrative allowance of $10 per each basic grant recipient and $10 per each holder of a guaranteed student loan. In addition, provides that from the campus-based programs each institution shall receive an administrative allowance equal to 5 percent of the amount of campus-based funds up to $2.75 million, 4 percent of the amount of campus-based funds greater than $2.75 million but less than $5.5 million, and 3 percent of the amount of campus-based funds in excess of $5.5 million. The ceiling on the amount of administrative allowance an institution can receive is removed, and institutions are required to use their administrative allowance solely for the purpose of administering the student financial aid programs.

CRIMINAL AND CIVIL PENALTIES

The criminal penalties for fraud which in current law apply only to the guaranteed student loan program are applied to all of the title IV programs. Instiutions may be suspended or terminated from the program or civil penalties levied for substantial misrepresentation of educational programs, financial changes or the employability of graduates.

STUDENT FINANCIAL ASSISTANCE TRAINING PROGRAM

The program is modified to provide for training services through contracts with the Secretary for those involved in student financial assistance programs.

A National Commission on Student Assistance is established to undertake a 2½-year study of issues such as more effective means to curb defaults, capital availability, the most appropriate mix of gift aid and self help, the status of financial aid for graduate students, the appropriate level of public subsidy of student loans and the impact of student assistance on student career choices and educational prices. In addition, special 1-year studies of the following topics will be made: insurance premiums charged to students, the method of determining the special allowance, the academic progress standards required for student eligibility for financial assistance and the recapture of interest subsidies paid on behalf of student borrowers by the Federal Government.

The President, the Speaker, and the President pro tempore of the Senate each appoint one-third of the 12 members. An authorization of $10 million is provided.

TITLE V. TEACHER TRAINING PROGRAMS

The limitation on the salaries for teacher interns in the Teacher Corps programs is deleted. Cooperation between local educational agencies and institutions of higher education in the Teacher Center program is encouraged.

More emphasis is placed on updating teachers in the use of technology, telecommunications, and testing. The pool of eligible grantees for teacher centers is expanded with the inclusion of educational service agencies.

Direction is given to the Secretary to make at least one grant award for teacher centers in each State.

Grants to schools of education for upgrading their faculty and curriculum to meet current needs are authorized.

The conference substitute establishes an Office of Education Professional Development in the Department of Education to review professional development operations and to coordinate their activities among the various Federal education programs.

The conference substitute authorizes the following amounts for the teacher corps program:

$45 million—FY 1981; $55 million—FY 1982; $65 million—FY 1983; $75 million—FY 1984; $85 million—FY 1985.

The conference substitute provides for the following authorizations for teacher training programs:

$20 million—FY 1981; $30 million—FY 1982; $40 million—FY 1983; $50 million—FY 1984; $55 million—FY 1985.

The conference substitute authorizes a new program of training for elementary and secondary school teachers to teach handicapped children in areas where there is a shortage of such teachers. This training program, sponsored by Senator RANDOLPH of West Virginia, is in the nature of fellowships to individual teachers who must within 5 years after completion of training teach for at least 2 years in a special education program or repay the stipend awarded to the individual.

The authorization levels for this new program are:

$2 million—FY 1981; $3 million—FY 1982; $5 million—FY 1983–85.

Title VI of the current law is replaced by a new Title VI: Foreign Studies and Language Development. The new title VI incorporates title VI of the National Defense Education Act, Language and Area Studies, some provisions from the International Education Act as well as the recommendations of the President's Commission on Foreign Language and International Studies. Senators STAFFORD and JAVITS provided the leadership for the development of this title.

The conference substitute provides the following authorizations:

$45 million—FY 1981; $55 million—FY 1982; $70 million—FY 1983; $80 million—FY 1984; $85 million—FY 1985.

The conference substitute authorizes a new part B of title VI, business and international education programs. This new part establishes a dollar-for-dollar matching grant program to postsecondary institutions which have entered into agreements with business enterprises, trade organizations or consortia of such organizations to establish or expand curricula to serve the international needs of the American business community.

There is authorized an annual appropriation of $7,500,000 for fiscal year 1981 through 1985 for the purposes of this new part.

TITLE VII, CONSTRUCTION, RECONSTRUCTION AND RENOVATION OF ACADEMIC FACILITIES

The title is simplified but retains the current State allocation formula. New authority to support improvement of research facilities including libraries and for compliance with section 504 is provided. Assistance for facilities in areas experiencing unusual increases in enrollments or requiring the detection or removal of asbestos hazards is also authorized. Part D, assistance in major disaster areas, is repealed. The interest rate for academic facilities loans is increased from 3 to 4 percent.

The conference substitute provides the following authorizations for part A, State grant program for the construction, reconstruction and renovation of academic facilities:

$140 million—FY 1981; $140 million—FY 1982; $145 million—FY 1983; $150 million—FY 1984; $155 million—FY 1985.

The substitute provides an authorization of $80 million per year for part B, institutional grants for construction, reconstruction and renovation of graduate academic facilities.

The substitute authorizes $110 million per year for part C, loans for construction, reconstruction and renovation of academic facilities.

TITLE VIII, COOPERATIVE EDUCATION

The conference substitute authorizes $30 million for fiscal years 1981 through 1985 for the basic program. The maximum grant to a single institution is increased from $175,000 to $325,000, and the maximum grant to each member of a consortia is increased from $120,000 to $250,000. Different approaches to cooperative education are encouraged by permitting programs to include alternate or "parallel" periods of work and study.

An authorization of $5 million for each of the fiscal years 1981 through 1985 is provided for grants and contracts for training and research.

TITLE IX, GRADUATE PROGRAMS

The title is updated by striking references to the "expansion" of graduate programs. Part A, grants to institutions of higher education, is extended through fiscal year 1985 at its current authorization level of $50 million.

Parts B, C and D of current law are revised by the conference substitute to provide a program of campus based grant awards to graduate and professional students based on financial need. The maximum award to a student is $4,500 per year for 3 years. The substitute also provides for the maintenance of the level of awards (including institutional allowances) for the public service, mining and graduate and professional opportunity fellowship programs. The substitute authorizes $60 million for fiscal year 1981 and for fiscal year 1982 and such sums as may be necessary for fiscal year 1983 through 1986 for this new part B.

The conference substitute also provides a new part C, national graduate fellowships. This part would provide 450 portable competitive fellowships each year in the arts, humanities and social sciences. Selection of these fellowships would be based on merit, with the stipend awarded being related to the recipient's financial need. The National Graduate Fellows Program Fellowship Board would be created to select the areas in which the fellowships are to be awarded and to appoint panels for the selection of recipients.

The conference substitute extends the program of assistance for training in the legal profession as a new part D of title IX with the following authorizations:

$5 million—FY 1981; $5 million—FY 1982; $7.5 million—FY 1983; $7.5 million—FY 1984; $10 million—FY 1985.

The conference substitute continues the authority for the law school clinical experience program as part E in title IX (deleting such authority from title XI). The following authorizations are provided:

$5 million—FY 1981; $8 million—FY 1982; $8 million—FY 1983; $9 million—FY 1984; $10 million—FY 1985.

TITLE X

The vacated parts of this title are replaced by transferring the authority for the Fund for the Improvement of Postsecondary Education from the General Education Provisions Act. The Board of the Fund is given a statutory base. The following authorizations are provided:

$20 million—FY 1981; $30 million—FY 1982; $40 million—FY 1983; $50 million—FY 1984; $50 million—FY 1985.

Part C of title X creating the Bureau of Occupational and Adult Education and the Community College Unit is retained in current law.

NEW TITLE XI, THE URBAN GRANT UNIVERSITY PROGRAM

This title is designed to provide assistance to urban educational institutions in developing, in conjunction with local officials, responses to needs and problems of the urban area. It builds on the idea that the urban university and the urban area in which it is located have a natural affiliation and that the institution can provide research and services to help address urban problems.

Under this program, grants will be awarded on a competitive basis to institutions to provide applied research and service projects for their cities. The application must indicate the degree to which the local government is involved with planning and is committed to a financial contribution to the project. The Federal share is limited to 90 percent of the project cost.

As defined in this title, an urban area is a SMSA with a 500,000 or more population (the State may designate an area in States where there is no such SMSA). An urban university is one which is located in an urban area, draws a substantial portion of its students from said area; has the capacity to provide the services authorized, and offers a sufficient range of graduate or professional programs to sustain its offerings of services. A consortium can qualify for this program as long as one member meets all the qualifications.

The conference report authorizes the appropriation of up to $15 million for fiscal year 1981 under this title. This is not a large amount, but it is enough to get the program under way and to fund some projects, perhaps of a demonstration nature, during the initial program year.

The authorization levels are:

FY 1981—$15 million; FY 1982—$25 million; FY 1983—$40 million; FY 1984—$50 million; FY 1985—$65 million.

TITLE XII, GENERAL PROVISIONS

The provision for State agreements are modified to simplify the mechanism through which States provide assurances to the Federal Government for their participation in programs authorized under the Higher Education Act.

The States are given more flexibility in establishing a structure through which to perform federally required planning under the Higher Education Act, but broad participation continues to be assured.

The conference substitute authorizes the Secretary to make such modifications of any program under the act as she deems necessary in order to adapt such programs to the needs of the territories, and requires the Secretary within 18 months after the time of enactment to conduct an analysis of the unique educational needs of the territories.

The conference substitute also authorizes $2 million for each fiscal year through 1985 to support the cost of postsecondary education programs in Guam for nonresident students from other Pacific Territories.

The conference substitute establishes a National Advisory Committee on Accreditation and Institutional Eligibility to advise the Secretary.

NEW TITLE XIII, WOMEN'S WORKSITE DEVELOPMENT DEMONSTRATION PROGRAM

The conference substitute authorizes a program to encourage and to support the efforts of all forms of postsecondary institutions to serve women in their workplaces with the collaboration of labor unions and employers. An authorization of $7.5 million is provided for each fiscal year 1981 through 1985.

TITLE XIV, MISCELLANEOUS PROVISIONS

The conference substitute amends the contingent extension provision of the General Election Provisions Act to authorize the contingent extension of any forward-funded program for 2 fiscal years.

The conference substitute amends the General Education Provisions Act to authorize the Congress to disapprove Department of Education regulations in whole or in part.

The conference substitute authorizes appropriations to the Secretary of Education for fiscal year 1981 of $2.5 million for the college science teacher program, and $5 million for the minority institution science program.

The conference substitute extends the life of the Commission on the Review of the Federal impact aid program until September 30, 1981.

The conference substitute amends the General Education Provisions Act to provide that no regulation affecting any institution of higher education in the United States shall become effective unless the agency promulgating such regulation publishes in the Federal Register an educational impact assessment statement which shall identify what information specified by the regulation is available from another authority of the United States.

The conference substitute authorizes the Secretary to make a 1-year study of programs authorized by the Elementary and Secondary Education Act, the Vocational Education Act and the Education of the Handicapped Act in order to analyze if there are unnecessary duplications, conflicts, and reporting requirements in these programs, while at the same time insuring the delivery of educational services and the ability of the Federal Government to monitor and evaluate the programs' effectiveness in serving the desired target populations.

The conference substitute adds, as a priority for research by the National Institute of Education, special problems of the nontraditional student. The authorization for the Institute is extended at the following levels:

$125 million—FY 1981; $145 million—FY 1982; $165 million—FY 1983; $190 million—FY 1984; $215 million—FY 1985.

The conference substitute establishes an advisory council to evaluate the needs of Native Hawaiians and the effectiveness of existing State and federally assisted educational programs in meeting such needs. A total of $500,000 is authorized for the period of fiscal years 1981 through 1983.

The conference substitute authorizes a 1-year provision amending the impact aid laws to provide special assistance to local school districts facing influxes of Cuban, Haitian, and Indochinese refugee children.

The conference substitute extends the authorization of appropriations for construction at Navajo Community College for 1 year and changes the authorization to an amount based on the actual cost of operation and maintenance of the institution.

The conference substitute makes the College of Micronesia a land grant college.

The conference substitute authorizes an appropriation of $750,000 per year to be matched by funds from private sources for the Robert A. Taft Institute.

The conference substitute authorizes $6 million for fiscal year 1981 for a grant to establish the General Daniel James Memorial Health Education Center to be located in the Tuskegee Institute in Tuskegee, Ala.

The conference substitute authorizes $750,000 for fiscal year 1981 to establish the William Levi Dawson Chair of Public Affairs at Fisk University at Nashville, Tenn.

Mr. STAFFORD. Mr. President, first, before I go into some prepared remarks, we had a long and generally pleasant but very hard-fought conference with the conferees from the House of Representatives over this legislation, and it was obviously necessary for both the House of Representatives and the Senate conferees to compromise their differences on some important matters to get a conference report that we could bring back to our respective bodies.

It is the very strong hope of this Senator that our colleagues in the Senate will accept the conference report we have been able to work out after many difficult bargaining sessions because it is my personal fear that if we cannot adopt this conference report, in the light of the strong positions the House of Representatives took on some matters, it may be difficult to get any conference report before our two bodies that can be adopted and sent to the President in 1980.

Mr. President, having said that, I rise to express my appreciation to the chairman of the Education Subcommittee, my distinguished colleague, Senator Pell, for his continued leadership in the field of higher education and for his leadership in securing the conference report before us at this time.

This is an important measure in that it seeks to advance the goal of achieving equal opportunity for education by continuing and strengthening our programs of Federal assistance to students. Passage of this legislation will reaffirm the commitment of the Federal Government to help students attend colleges and universities of their choice throughout the United States, whether those institutions are public or private.

The keystone of Federal aid to higher education is set in the provisions of Federal financial aid to students, and the most essential portion of that assistance is the basic educational opportunity grant (BEOG) program. The conference report extends those grants through the 1985 fiscal year, and increases the grant limits over the period of that time in order to provide for a more realistic payment to meet the skyrocketing costs of higher education.

The maximum basic educational opportunity grant that a student can receive would be increased step-by-step from the current figure of $1,800 to a new maximum of $2,600 by 1985. In addition, that portion of a student's costs which the grant would cover would rise from 50 to 70 percent by fiscal year 1985.

I must note that these grants have very appropriately been renamed the Pell grants by this conference report. The Senator from Rhode Island developed this concept back in 1972 and his unshaking support of these grants then and over the years since then has guaranteed their being the most essential ingredient of student aid from the Federal Government. I think it is extremely appropriate, therefore, that they be known henceforth as Pell grants. The conferees from both Houses and of both political parties joined in unanimously adopting the provision that names the grants in Senator Pell's honor as a tribute to his leadership over the years.

The conference report contains other provisions designed to continue the Federal policy of providing assistance to students primarily on the basis of need in continuation of our goal that no qualified youngster in this Nation be denied equal educational opportunity because of economic condition.

The distinguished chairman of the Education Subcommittee, Mr. Pell, has given full details of the provisions of the conference report.

I want to join with him in commending this report to you for your support, and in noting that various provisions of this legislation are designed to assure that small, rural States, like my own State of Vermont, stand on equal footing with larger, urban States in their ability to participate fully in the programs authorized.

In that regard, I must commend the efforts of my colleague from Vermont in the House of Representatives, Mr. Jeffords, who also served on the committee of conference, and who played such an active role in producing the conference report before the Senate today.

Additionally, I am compelled, as usual, to remind my colleagues in the Senate of the extraordinary contribution to this report by the senior Senator from New York, Mr. Javits, who is also the senior member of the minority on the Committee on Labor and Human Resources.

Mr. Javits and I joined in offering a new title to this legislation—a title dealing with international education, and one designed to help all Americans broaden our knowledge of other nations and of other people of this world.

This new addition to the Higher Education Act will serve our national security, diplomacy and business relations by improving our language and analytical capabilities for international affairs.

In this new initiative, as in so many other portions of this legislation, Senator Javits inspired all the conferees by the freshness of his ideas, the buoyancy of his spirit and the stamina of his flesh. But, then, that is nothing new. He has been doing all that for a long time and continues to do so with an ease that inspires the admiration of all of us.

This conference report recommends a continued investment in our most precious national resource—the youth of our Nation.

Mr. President, I urge our colleagues to adopt the conference report.

I yield the floor.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER (Mr. Mitchell). Who yields time?

Mr. PELL. I am glad to yield, on the proponents' side, as much time as the Senator needs.

Mr. JAVITS. Mr. President, may I explain to Senator Byrd that I am under a great time exigency, so I will not take more than 10 minutes.

Mr. President, first, I am very grateful to Senator Stafford for the very fine things he said about me, which I may deserve somewhat, but not as warmly as he has uttered them, and to thank him for his collaboration in that amendment and for the additions to the totality of higher education which it represents. I join him in my congratulations to Senator Pell, for there are few things that are noted when we are gone that we have done here. I was personally delighted with the idea broached by one of our Members, I think it was Tom Eagleton, that these grants, which are so much his creation, might be called Pell grants.

This bill, which I must say I regret to see opposed in terms of a conference report by my colleagues, who are the principal factors on the Budget Committee, represents the end of an effort, of a magnificent effort, to do two things: First, to make higher education availability a matter of consumer responsibility, that is, to equip the student to go shopping with the financial abilities, which are so heavily attributable to the Federal Government, and to pick the best institution for that particular student.

Second, we have also provided a sure course for the moderate-income student, even at the lower end of that scale, and for the poor student and for the family to find the route for the young member of that family to go to an institution of higher education.

Mr. President, the manpower needs of this country are such that higher education ought to become, as time goes on, as usual as a high school diploma. Indeed, we are still far from an optimum position in respect of a high school diploma. But this bill will help put us on a higher course so urgently required by the security of our Nation as well as by the advancement and enlightenment which make every American so proud to be an American.

One point that has not been emphasized enough, I say to my colleagues, was the grave difficulty at arriving at a conference agreement. It should be noted there were 300 points of difference between the two bills, and Senator PELL kept the conferees' feet to the fire, working morning, noon, and very much into the night in order to bring about a conference result. It was an almost lock-the-door-and-throw-away-the-key technique that produced this result and, therefore, it is with special concern that I look at the opposition which is based, I understand with great respect, upon budget factors. I, too, realize and support the maintenance of fiscal restraint in this and other legislation, and in achieving a balanced budget.

But really one would have had to sit in on the conference to realize how far it may set us back if this conference report is not approved.

Finally, Mr. President, one other important factor or two, rather: One, these are authorizations. Senator PELL has made that very, very clear. What will impinge upon the budget, if it be an impingement, will come, if there are appropriations, on what they are, and that can be adjusted to economic conditions.

The outlines of this bill, however, will be the channels through which the money will flow to given objectives, and those objectives are very sound, and that really ought to be the only criterion on the approval of the conference report.

Finally, Mr. President, a very strong effort was made here, for which I have the highest respect, by Senator METZENBAUM in an effort to approach a rather special way of dealing with the question of interest on guaranteed student loans.

The House was absolutely adamant and dug in, and I have been around here a while, and I have been in a lot of conferences, including education conferences. But I have not seen them before dug in as deeply on many propositions as they were on this one. That was just flatly out, and I believe in providing for the study and in providing for the direction which interest payments shall take, by increasing interest all across the board, the committee did everything humanly possible to save what was the Senate's view respecting the Metzenbaum amendment.

I really think the greatest respect and attention was paid to it, and I, as a conferee, and the other conferees, had it constantly on our minds so that we could do the right things about it.

Mr. President, for all of those reasons I hope very much that the Senate will approve this conference report. These authorizations expire September 30, and whereas the authorizations do not bind appropriations, the authorizations do bind a continuance of these absolutely indispensable programs to millions of young people who are matriculating in our colleges and universities.

Most importantly, for the Senate, the conference agreement retains the structure and direction of the Senate bill with respect to the student loan programs, which were a principal focus of disagreement between the House and Senate positions.

Mr. President, H.R. 5192 has been a painstakingly constructed bill which sets the tone for Federal higher education policy as we enter the 1980's, a period of considerable uncertainty for both students and institutions. It responds to the need to continue the principal Federal responsibility with respect to higher education—to provide all students who wish to participate an equal opportunity, through the means of the basic educational opportunity grant, to do so and through the instrumentality of the campus-based programs and the guaranteed student loan, to afford students a choice in the selection of an institution at which to matriculate. In this regard, H.R. 5192 retains and enhances the promise of the 1978 Middle Income Student Assistance Act, which provided opportunities for thousands more students to reap the benefits of higher education by expanding eligibility for the BEOG and removing many of the administrative barriers which restricted the availability of student loan capital.

Simultaneously, the conferees were extremely circumspect in keeping the cost of the student aid, institutional assistance, and other programs in this reauthorization within reasonable and achievable limits. Over the 5-year period of this reauthorization, the maximum BEOG—the principal mechanism of Federal student assistance—would be increased by an average of approximately 7.5 percent per year, from $1,800 to $2,600, this at a time when the annual rate of inflation at institutions of higher education, in part passed on to the students in the form of tuition increases, will exceed 10 percent.

Increases in the campus-based programs, particularly the supplemental educational opportunity grant (SEOG), are commensurate with and linked to the increase in the BEOG entitlement. Costs in the student loan programs have also been reduced, by raising interest rates to the student in the NDSL program from 3 to 4 percent and in the GSL program from 7 to 8 percent, to reflect more clearly the cost of money at current and projected rates of inflation. Finally, authorization increases for the nonstudent aid programs—direct aid to institutions, State program and planning assistance, direct categorical assistance to other entities—have been kept at responsible levels which take into account realistically reachable levels of funding over the next 5 years.

Title IV, the student aid title, is the crux of this bill, and is based upon two fundamental principles which have characterized the Federal role and responsibility in higher education during the last decade: First, that any student admitted to an institution of higher education have the opportunity to do so, regardless of his or her financial means; and second, that a student wishing to attend college should be afforded the opportunity to choose, through a combination of parental contribution, Federal, State, and institutional assistance, which institution to attend.

Mr. President, the conferees viewed with extreme seriousness the dictates of the Senate with respect to this legislation and the budget reconciliation targets attendant to this bill. We have generated, according to the Congressional Budget Office, fiscal year 1981 savings of approximately $300 million in the loan programs relative to current policy, and savings over the 5 years of the bill approximating $2.2 billion. These savings are achieved, consistent with the structure of the Senate bill, by establishing a new national direct student loan program financed by direct Federal borrowing, which will provide substantially greater amounts of loan capital for the neediest students. Under the conference agreement, more than 3.8 million loans, with a total volume of $7.3 billion would be available to help students meet the cost of attendance, relative to 3.4 million loans and a total volume of $6.5 billion under current policy. The increased availability of loan capital is directly attributable to the new, more highly targeted, NDSL mechanism.

This method of targeting to the neediest students is consistent with the basic principle of the Metzenbaum amendment to S. 1839—to direct Federal subsidies for student loans to those who most require them. Thus, while the conferees from the other body were adamant in their opposition to the Metzenbaum amendment, its direction has been retained in the conference agreement. Furthermore, the conference agreement includes a provision that the National Commission on Student Financial Assistance established by H.R. 5192 shall conduct a special analysis of so-called "convenience borrowing" and interest subsidies under the GSL program, in the absence of accurate existing information regarding this problem and in response to the thrust of the Metzenbaum amendment.

I would like to highlight briefly at this time, Mr. President, certain other important elements of the conference agreement. First, title I of H.R. 5192 includes a new part, which I proposed, to establish a Commission on National Development in Postsecondary Education, to review the range of Federal policies toward students, States, and institutions with respect to higher education, as we enter a period of declining enrollments of traditional age students.

Second, the conference agreement

provides for a study of the feasibility and advisability of establishing a national periodical system as a means of promoting access to increasingly costly periodical literature. It is expected that the corporation established to conduct a feasibility study and design for a national periodical system carefully review and consider policies which provide access to periodicals, indexes, and abstracts, such as the National Library of Medicine, to insure that such existing programs are consistent with the system. In designing any such prospective system, it is not intended that the Federal Government duplicate or compete with activities in the private sector, either in the United States or abroad. Furthermore, it is not intended that the legislation modify in any way the Copyright Act of 1976.

Third, H.R. 5192, in title IV, strikes a critical balance between the public and private sectors of higher education and among the various student aid programs by gradually increasing the percentage of cost of education which may be covered by the BEOG from 50 to 70 percent and tying the changes in the "half-cost" provision of BEOG to proportionate increases in the BEOG floor funding level.

The agreement includes my amendment to remove the administratively imposed penalties in SEOG awards to institutions by disallowing the deduction of State and institutional assistance to students from the institutional allocation formula. Thus, States and institutions which have been in the forefront of providing aid to students such as New York State and its colleges and universities, will no longer be penalized in the Federal allotment formula for SEOG, and students receiving such assistance will be able to receive their fair share of SEOG funds.

Fourth, H.R. 5192 provides for three new critically needed programs—one, in title II, to promote through programs of language and other international training, our export and international economic performance; two, to provide, in title IX, through a modest program of grants to exceptional graduate students in the humanities and social sciences, a critical mass of qualified representatives in these fields; and three, in title XI, a program of aid to urban universities, to tap their unique capacity to promote solutions to urban needs, as did the land grant colleges for agriculture in the last century.

Mr. President, the conference agreement is a balanced proposal which will result in effective programs for students and the institutions which serve them. I commend heartily the work of the chairman of the Education Subcommittee, Senator PELL, the ranking member Senator STAFFORD, the chairman of the full Labor and Human Resources Committee, Senator WILLIAMS, the ranking member, Senator SCHWEICKER, and of course, the House conferees, particularly Chairman FORD, Chairman PERKINS, and ranking members BUCHANAN and ASHBROOK, in painstakingly developing this conference agreement.

I hope very much that in time—and this day of September 4 is in time—the Senate will approve this conference report.

Mr. HARRY F. BYRD, JR., addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, will the distinguished floor manager of the bill yield for a question?

Mr. PELL. Certainly.

Mr. HARRY F. BYRD, JR. Will the Senator from Rhode Island tell the Senate something about the college in Micronesia? No. 1, where is it located; No. 2, what is the enrollment?

Mr. PELL. The simple answer is that it is in Micronesia, but I am not sure on which island. This is a floor amendment that we kept in conference. I do not believe the island was specified. It was to be in Micronesia.

Mr. HARRY F. BYRD, JR. The college has not yet been established?

Mr. PELL. The Senator from Hawaii, I believe, informed us by coming before us, that it was a small college in its initial stages of development. Perhaps the similarity here is to the college in the Virgin Islands, which 10 years ago was in rudimentary form. My recollection is that we gave it a little Federal assistance and that college is going great guns.

Mr. HARRY F. BYRD, JR. Is this a new college?

Mr. PELL. It is a college that is in existence, but not in a very stalwart form. What we have done is to designate this college and make it eligible for designation as a land-grant college, which gives it a boost.

Mr. HARRY F. BYRD, JR. But it is now existing?

Mr. PELL. It is existing, but not in a stalwart form.

Mr. HARRY F. BYRD, JR. Not in a what form?

Mr. PELL. Stalwart; strong. In other words, it is small.

Mr. HARRY F. BYRD, JR. If it exists, where does it exist?

Mr. PELL. It exists in Micronesia.

Mr. HARRY F. BYRD, JR. But where in Micronesia? Micronesia is spread over a million square miles.

Mr. PELL. I am going to ask my staff to immediately call Senator INOUYE's office and find out which one of the islands it is located on.

Mr. HARRY F. BYRD, JR. Does it involve islands other than those which have been given commonwealth status?

Mr. PELL. I cannot give the Senator the answer to that at this time. I can get it for him later on as the debate goes on.

Mr. HARRY F. BYRD, JR. I would appreciate that.

While I am asking a couple of questions about it, maybe I could ask a couple more and then we could discuss it a little later on.

The cost of this program, the enrollment——

Mr. PELL. Mr. President, I hate to interrupt. I see the Senator from Hawaii (Mr. INOUYE) is here. Maybe he could help me answer Senator BYRD's questions. Where is the College of Micronesia supposed to be located? Which island is it on?

Mr. INOUYE. It is on Ponapei.

Mr. PELL. I thank the Senator. It is on Ponapei.

Mr. HARRY F. BYRD, JR. I thank the Senator from Hawaii.

May I ask another question at this point?

Mr. PELL. Certainly.

Mr. HARRY F. BYRD, JR. Does it exist only to serve the Marianas or does it serve the Marshalls and the other islands of Micronesia?

Mr. INOUYE. If the Senator will yield, this special college will serve the people of the area that was once referred to as the Trust Territory.

Mr. HARRY F. BYRD, JR. The entire Trust Territory?

Mr. INOUYE. So that would mean the federated states of Micronesia, the commonwealth of the northern Marianas, and the remainder.

Mr. HARRY F. BYRD, JR. Although most of that area is not involved in the commonwealth.

Mr. INOUYE. That is correct. It will serve—eventually, we are hoping, by our negotiations, all of the islands there will somehow join hands with the United States in some sort of relationship.

Mr. HARRY F. BYRD, JR. Does the Senator from Hawaii know what the enrollment is?

Mr. INOUYE. At the present time, I have no idea. It is still new. But the potential is great.

Under the trusteeship arrangement, I think we have a very solemn obligation there. But, more important than that, I am certain the Senator is well aware of the strategic importance of these islands. I am certain many countries are looking upon these islands with rather envious eyes.

Mr. PELL. Before the Senator came in the Chamber, not knowing as much about it as he did, I said that it was not presently in a stalwart form as a college but that by having this amendment, the Senator's amendment, in the bill it meant that it would get land-grant-college status, which would give it the strength that it really needs.

Mr. INOUYE. That is correct. Right now the college is spread all over the island; some in Quonset huts and some in shacks. I think the people there deserve a little better than that.

Mr. HARRY F. BYRD, JR. I think all of this is fine. But I am just wondering whether we are in a position financially to be branching out and establishing a new college for an area which has no real connection with the United States—other than the Marianas, of course, which now have commonwealth status.

Mr. INOUYE. I think, to the contrary, these islands are extremely important to the well-being and the national interest of the United States. If only from the standpoint of defense, it is priceless.

Mr. HARRY F. BYRD, JR. As one who served on many of those islands during World War II, I am not certain that I can agree with the great strategic value of the islands. But, nevertheless, I would like to get—not now, because the staff is looking it up—the amount of money involved.

Mr. PELL. I have checked into that. This does not add any additional amount of money. It merely diminishes, I guess to a tiny degree, the amount of money available to other land-grant colleges by designating this university a land-grant college. I hope, incidentally, the next time this bill is up for authorizations—and I hope we three are still here then—that we will be considering it for sea grant college status as well as land grant. If ever a college was suitable, as the University of Hawaii is, for sea grant college status, this one in Ponapei would be.

Mr. INOUYE. I think the situation in Ponapei would be quite similar to that in Hawaii. As you know, when land-grant colleges are established, they receive title to certain lands that are in the Federal jurisdiction from that area. In the case of Hawaii, there was not much Federal land to give away and the people of Hawaii were not quite ready to take some land from Alaska, which now they should have. So, in lieu of land, the University of Hawaii received a small sum of money which is now held in trust by the U.S. Treasury. So what the arrangements will be as to this college, no one can tell at this time.

Mr. HARRY F. BYRD, JR. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, a commencement address was once started by addressing the group as: "My fellow students, as long as we continue to learn, we continue to live."

I emphasize that because I believe in education. In fact, I believe so much in education that I have made the statement so many times that you just really cannot waste money on education. At least that is what I have been saying for the last 30 years.

But, again, as a student, I am learning something new here this afternoon—that you can waste it. You can waste it. The Senator from New York says that the conferees were in a room in the morning and evening and locked the door and threw away the keys. They did not only throw away the keys. They threw away all fiscal judgment.

You have to study this bill. All you have to do is just look at this bill. In anyone's opinion who would look at it dispassionately, they would have to agree on the one hand, it is outrageously expensive and, on the other hand, it violates the sentiment the Senate expressed on three different occasions.

It is $2 billion over what the Senate passed. Then it is over what we agreed to in the budget resolution, and again when the Senate bill passed and again when we unanimously passed that reconciliation.

So they went about it with complete abandon to enrich those who are able to pay for their education.

As Ms. Quinn says—and we have that enclosure, I think, in the letter that we sent around—Jane Bryant Quinn says that there is no reason any longer for anyone to have to save up their money in order to pay for a college education.

So let us, in the very beginning, while we stand up here to many as robots just babbling all kinds of figures, percentages, budgets, and everything else, let us talk about education here in a few minutes and let us try to educate ourselves to some kind of discipline in trying to hold the line on inflation, so when they do get a college education they cannot only earn the living but hold their earnings. That is the whole trouble that we have at this particular moment.

We are still fighting inflation. We have to borrow every dime we provide for in these programs. We are in a $63 billion deficit now, and all the gimmickry programs are coming forward to get into capital investment. If we will just balance the budget. If we just hold to what we promised to hold to in June, we have $63 billion less to borrow. Then we could get out of the capital investment markets and they could get money for the colleges, for the students, and they could finance education.

But here in the name of trying to let them go shopping, as the distinguished Senator says, I will tell you where they go shopping. They do not go shopping to the colleges of their choice but to the savings and loans. Just across the river in Dominion Federal a new savings program comes to Roslyn, with a 12.37 percent certificate of deposit on $100, earning 12.37 percent yield.

Under this bill, you can get any kind of money for 8 percent and go over and start making yourself a good living. You do not have to get inside a college. In fact, one of the bad things to do would be to graduate. Then you would start cutting yourself off. I would flunk a little while and keep on going, or attend graduate school.

Let us get to the conference agreement, because it is outrageously expensive. It would cost the taxpayers $51 billion over the next 5 years: $37 billion of this is virtually uncontrollable, including $11 billion in entitlement spending.

The conferees added back, Mr. President, several features which the Senate had rejected and which will force the appropriations committees to provide minimum funding for certain programs. These provisions will limit Congress ability to control spending for the programs.

The conference agreement would cost $2 billion more than the Senate-passed bill in fiscal 1981, and $13 billion more over the next 5 years.

It will cost $2.5 billion more than the President's higher education request next year, and almost $19 billion more over the next 5 years.

Can you imagine that? Now we have a bunch of bills coming along and they are going to give more than the President wanted. The taxpayers cannot tolerate this excess.

For example, take the basic educational opportunity grant, the BEOG's program. That started prior to 1978 with a $15,000 earned income and then for the guaranteed loans they topped it off at $25,000 in income per family. Then in the 1978 amendments they jumped that $15,000 to approximately $25,000, but on guaranteed loans they just removed the ceiling. So everybody, Bunker Hunt, can come not to find silver but to find gold in Washington, with this conference report right here.

The President requested $2.2 billion. The conference agreement authorizes $3.2 billion for BEOG's, a $1 billion increase, and a lot of that would go to the students with family incomes over $15,000. The distinguished Senator was talking about moderate and low income students.

Look at the entitlement cost of the student loan programs. The Senate voted three times in the last 3 months to make significant savings, because it is a well conceived program and should not be eliminated. We have supported student loans. Ever since we have been in the Senate we have supported higher education. But just like the food stamp program, which, instead of feeding America's hungry poor, those on retirement, without a capital net worth test, can come down and buy a magnificent home in South Carolina and Florida and go ahead with their minimal retirements and then enjoy food stamps.

So you have people making $10,000 a year coming up to the food stamp window, instead of holding it where we were—around 3 million Americans.

If the Senator from Virginia will remember from both the New Frontier and Great Society in 1969, we have it up to 23 million. Instead of solving hunger, we are having a hard time retrenching and getting back to the original intent.

We want to continue higher education for everybody in America. For those who can afford it, they are glad to pay for it because it is the best investment they will make. For those who cannot, we have had the BEOG's program and other grant and loan programs. But this is an adulteration, an abuse, and will wreck the whole, well-conceived program. That is why we speak out this afternoon.

We passed the first budget resolution in which we assumed large savings. We instructed the Labor and Human Resources Committee to report savings in these programs of $350 million in budget authority and $450 million in outlays.

Next we passed the higher education bill, and the Senate would have saved $700 million in budget authority and $600 million in outlays.

Then on the third time, by unanimous vote, we adopted the Senate-passed savings in the reconciliation bill.

How much entitlement savings do they have in this conference report after those three votes? They say they were locked in a room and they threw away the key.

Out of $700 million the Senate had endorsed two times, in as many as the last 2 months, they came out and thought they had worked day and night and threw away the key.

They threw away the key to keep us from coming in to see what is going on.

The costs of the guaranteed loan program have skyrocketed. This conference agreement fails to bring it under control. In 1978 it cost $650 million, and in

1980 it will cost us $1.4 billion, a 100-percent increase.

With no change in existing law it will grow still further to $1.6 billion in fiscal year 1981 and $2.6 billion in fiscal year 1985, for a total increase over that period of 400 percent. These are costs which are beyond the control of the Appropriations Committee, Mr. President, because this is an entitlement program.

What does the conference agreement do to control the runaway program? It cuts the program cost in 1981 all of $0.2 billion, 1 percent. By 1985, the savings will amount to $0.1 billion, or 4 percent.

But let us just look to see who is benefiting the most from this shockingly expensive program. My friends, the taxpayers of this counrty, which means the working people, too, will be helping to send the children of the wealthiest men and women in America to college. These privileged families will benefit no less than the neediest families in America.

Take, for example, the child of your average millionaire. If his or her college expenses equal at least the $5,500 per year, under this conference report he or she can get a guaranteed student loan of $2,500 at 8 percent interest, and the Federal Government will make payments on the interest while the student is in school. The student pays nothing.

Since that is not enough to cover the full year's cost, the conference agreement would establish a new program which will allow the student's parents to take out a federally guaranteed loan of $3,000 at 8 percent, or 11 percent if the parents choose to wait 4 years before making any payments.

Compare these interest rates to the 14, 15 percent interest that the student would have to pay under an unsubsidized loan program. But the benefits do not stop there. Under an unsubsidized loan, you have to start making payments on interest and principal right away. If you are smart enough to be a subsidized loan, you do not have to make any payments for the 4 years in college. The taxpayers will pick up the tab.

That is the inflation. That is why you have the 14-, 15-percent interest. Where do you think it comes from? Is there any mystery to this? We are operating now borrowing down into that capital market for $63 billion. You tell your committees, you tell yourselves, you have a balanced budget in June. We held in the second conference. We were ready to debate that and we cut it down some $45 billion to $18 billion. We hope we can pass that. But this bill goes up, up, and away, as if we never had any budget process and we never voted to hold down costs the three times.

For example, in the case of our millionaire family, the taxpayers would pay almost $1,600 to support their $5,500 in student and parent loans.

And what would this family—or any sensible investor—do?

I am not against them; I am for them. I like to have rich friends. What will they do with the low-priced loans? One thing they might do is check out the newspapers for the current yields offered on certificates of deposit at local savings and loan associations. I pointed out that yesterday's Post, for example, was full of ads for CD's yielding as much as 12.37 percent.

The rich student could take his 8-percent loan, for $2,500 and with his own money buy one of these CD's. He would make no payments on the loan interest for 4 years, because the taxpayer would pick up that cost. At the end of the 4 years, he could repay the loan principal and pocket the $1,400 earnings from the certificate of deposit.

You cannot blame him. He would be stupid to save, as Jane Bryant Quinn said. Get the kids through college. Many a grandparent, many a parent in America worked and saved to send their sons and daughters through college—that is what they really pride themselves on. That is a successful family, a mother or father, grandparent or otherwise, who can get a child through college by saving.

What else are you saving for? I shall tell you—you are saving for the interest and the wheelbarrows to carry the money in. We shall be like Germany, the way this Government is going.

Mr. PELL. Will the Senator yield?

Mr. HOLLINGS. If the Senator will let me get through this, I shall be glad to yield.

All this generosity is in addition to the basic benefit inherent in any guaranteed loan—the Federal guarantee. If the student—or the parents—decide not to repay the loan for whatever reason, who picks up the tab? No one else but the American taxpayer—as usual.

I was just told, because this only came to my attention last evening, trying to check where I was, down in my own State, that we have a poor record of paying back those loans in my home State. I think it is one of the worst in the country. We have to try to do something about that. But you cannot blame them if everybody gets the attitude that we as Senators approach a particular problem with the idea, just send the money, whoopee, it is great for America, it improves the national security. We did a great job; we held it down so the moderate- and low-income people can go to college. I can tell now we have waste in this one.

On yesterday's edition of the CBS morning news show Wednesday morning, business columnist Jane Bryant Quinn summarized the overabundance of this conference report perfectly. She said:

> It makes it almost unnecessary for anyone to save money for a college education. . . . Even if you don't need a loan, it pays to use the government's free money and keep your own money in the bank earning interest.

I ask unanimous consent that the transcript of Ms. Quinn's remarks be printed in the RECORD at this point.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

TRANSCRIPT

JANE BRYANT QUINN. Thank you, Bill. I have some news for parents who are sending children to college. Congress is putting the finishing touches on an amazing new student aid bill. It makes it almost unnecessary for anyone to save money for a college education. Furthermore, if you are old-fashioned enough to save anyway, you may even be penalized for it. The Carter Administration has opposed this bill, but Congress felt that it's what the American people want. For the school year starting next September, there is a brand new taxpayer-subsidized parent loan program. These loans are open to everyone, even the rich. Parents can now borrow up to $3,000 a year at participating banks. You're charged only eight percent interest if you start repaying right away. Or you can pay nothing at all for four years, and then repay at 11 percent. Students themselves can still get subsidized student loans. The interest rate is up one point to eight percent, for a new maximum of $2,500 a year. Counting both loans, a family can now borrow as much as $5,000 a year for college and pay back nothing at all for four years. Even if you don't need a loan, it pays to use the government's free money and keep your own money in the bank earning interest.

Moving right along, Congress has also enlarged the free grant program for needy students. And it has stretched the meaning of needy to cover people of greater wealth. If you own a house, no matter how valuable it is, it will no longer be counted in figuring what you ought to pay for your child's education. What this means is that a parent with a big house but no money in the bank may be considered needy by the government, but a parent who saved money and lived in a smaller house might not get a grant, because of the size of his bank account.

You know, in this election year, we keep hearing that people want government to do less. But on student aid, Congress is definitely getting the message that people want more and more and more.

Mr. HOLLINGS. Mr. President, student loan programs under this conference report are shamelessly biased toward upper income families. The higher income benefits are guaranteed through the entitlement structure of the guaranteed loan programs—well insulated against pressures to cut the budget.

But the benefits for lower-income people are provided primarily through grant programs, over which the Congress has more control. So when pressure occurs to cut the budget, these programs are more susceptible to reductions than the loan programs.

We just saw an example of how this works. The 1980 supplemental appropriations bill included a $50 cutback in the basic grant provided to each student for this school year. This reduction will save $130 million in fiscal year 1981.

The supplemental bill could not cut back the student loan programs because of their entitlement nature; instead, it added $650 million for the 1980 costs of the guaranteed student loan program. We were waiting for this reauthorization bill to cut back that program.

Now the bill is before us, and how much does it save for the rich people's loan programs? Twenty million dollars, compared to the $140 million we just cut out of the poor people's grant program.

We all went moaning and groaning, we had to tighten our belts, we were going to discipline them all. So we cut back on the poor. But when the rich got in through the closed doors and threw away the key, they saved all of $20 million on that program.

It is no secret what the driving force is behind this bill, Mr. President. It is the colleges and universities. We have to be realistic. They need more money. They are faced with rising costs and declining numbers of students.

And this bill gives them money in every possible way. That is why their lobbyists have been all over each of us and our staffs for weeks now, telling us that we have to support this conference report.

I want to help the colleges, and students—the Senate-passed bill would have helped both.

But I also want to help the taxpayer, and help the Government help us all—college, student, Senator, taxpayer, everyone, poor, rich, everybody, every American who is watching helplessly as inflation is stealing the paycheck. That is what is happening.

The Senate—and the Congress—have repeatedly made a commitment to cut back on Federal spending so we could do something about inflation.

If we reject the conference report, we would ask them to go back into conference and see if they can get back within the confines of what we have voted three times on this side, and the House agreed to. This is over $2 billion above the first budget resolution.

Mr. President, are we so weak in our resolve that we fold our tents and run at the first attack from the special interests? Are our election-year jitters so strong that we will completely renege on the promises we made just 1 month ago? I hope not.

We must remain firm. We must defeat this conference report and insist that the conferees bring us back a responsible bill.

Mr. President, I reserve the remainder of my time and yield to the distinguished Senator from Oklahoma.

Mr. BELLMON. Mr. President, I thank my friend, the distinguished Senator from South Carolina, who is doing such an outstanding job in chairing the Senate Budget Committee. He shares the same concern I have about the impact this conference report would have on inflation and bringing a responsible fiscal policy to reality.

Mr. President, I strongly oppose this conference report both on the basis of its substance and on budgetary grounds. This report costs too much and, what is worse, this exorbitantly costly piece of legislation does not address the critical problems which presently exist in our student loan programs. First, let me discuss the budgetary aspects.

This conference report would add $0.5 billion to the budget for entitlement spending in fiscal year 1981, and $7 billion over the next 5 years. These add ons cannot be accommodated in either the first budget resolution—or in the second budget resolution as reported.

This conference agreement scorns reconciliation. Congress voted to cut $11 billion from the fiscal year 1981 deficit, when we adopted reconciliation in the first budget resolution. The reconciliation instructions in the budget resolution assumed savings in student loan programs. The Senate-passed version of this bill included savings that satisfied reconciliation. The reconciliation savings bill, which passed the Senate unanimously—**and I emphasize that we agreed on it unanimously—included provisions identical to those in the Senate-passed version of H.R. 5192. The House-reported reconciliation bill also includes savings in student loan programs.**

So both the House and Senate agreed that we are going to save money in student loan programs. Now we have before us a conference report that scorns the actions that the House and Senate have already taken and adds to the cost of these programs.

This conference report includes neither the savings the Senate has endorsed four times, nor even the lesser savings in the House-reported reconciliation bill.

Let me further point out that no one is suggesting that we "kill" this legislation.

I believe every Member of the Senate wants us to have a workable and adequate student loan program. It is the intention of those of us who oppose the conference report to ask for a further conference with the House and we are confident that this Congress can agree on a strong affordable program of student assistance. We passed such a bill through the Senate. What we are insisting is that the House and Senate conferees work out a bill that is closer to the Senate version.

Mr. President, how many times have we been told, "The Senate must accept this result because the House will accept nothing else"? I have also been a member of many conferences and I have never seen an easy conference with the House. But the fact that the House is intractible is no reason for the Senate to lie down and play dead and give the House whatever it wants. What we are trying to do here is strengthen the backbone of our conferees and insist that they stand firm on the Senate position.

Senator Hollings already referred to a CBS news transcript which was broadcast recently, calling attention to the inequities and the costly provisions of this conference report.

Senator Hollings and I sent a copy of a CBS News transcript to all of our colleagues, when we sent a "Dear Colleague" letter expressing our opposition to this conference report. Jane Bryant Quinn, of CBS in reporting on this bill, says:

> You know, in this election year, we keep hearing that people want government to do less. But on student aid, Congress is definitely getting the message that people want more and more.

I am not going into that again except to say that I believe this CBS broadcast, this transcript, puts this matter into sharp focus. I urge my colleagues to read the article which the Senator from South Carolina has had printed in the Record.

I would agree with the conclusion which Ms. Bryant reached in this broadcast.

Mr. President, Ms. Bryant is unquestionably right that—should we pass this conference report it would appear that the message we are hearing from our constituents is that people want more. But I don't think that is what people want at all, but that our constituents want not only some fiscal policy, but that they also want better student aid programs which the Senate bill would provide and which this conference report has not called for.

I believe our country desperately needs programs that take into account the dangers of inflation and that give us a chance to bring our budget into balance.

As far as student programs are concerned, I believe our taxpayers would be grateful, should Congress enact programs that better meet student needs if we could also save billions of dollars of the taxpayers' money as did the Senate-passed bill.

Mr. President, I said at the outset that the real tragedy is that this bill not only costs much more than we can afford, but as costly as this conference report is, it fails to meet some of the pressing needs of students across the country.

I have a deep interest in strong student assistance programs.

As a matter of fact, I was one of those who borrowed heavily to get through college, myself.

Senator Kennedy and I introduced a bill, S. 1600—with 19 cosponsors—which sought to address three critical problems in existing student assistance programs. Those problems are: capital availability for student loans; I call the Senate's attention to the fact that now, in many cases, banks refuse to make loans to students unless the families are substantial bank customers; duplication and overlap in existing programs that creates administrative nightmares, leads to unacceptably high default rates, and confuses students; and cost. This conference report does not address those problems.

Thousands of students across the country cannot now get student loans. Many banks will not make the loans—even with the Government paying them 15 percent interest. Some States have no State loan program at all. Some States have student loan programs, but severely proscribe the amounts a student can borrow, and the conditions on which they will make student loans. The Senate-passed version of this bill not only would have cost far less than this conference report; it would have insured capital availability to all students in all States. This conference report would not accomplish this objective. While the Senate-passed bill established a new direct loan program to insure that all students everywhere would be able to borrow the money they need to go to school—this conference relegates that important objective to a program that may or may not be implemented, at the discretion of the Secretary of Education.

Going into this reauthorization cycle, we had seven Federal student loan programs. The bill Senator Kennedy and I introduced would have reduced the number to two. The Senate-passed bill created a new direct loan program—but that program replaced an existing system of seven programs. This conference agreement envisions a new program, which may—but probably will not—replace anything. It actually adds to the number of Federal student loan programs, so that if we adopt this conference report we may wind up with nine—rather than seven—loan programs.

Think of the additional confusion this will cause.

In addition, that will add to the cost of the program and I doubt any of us believe students will be well served by such a proliferation of student assisted options.

Is anyone surprised that this could be very costly? Does anyone really believe students will be well served by such a proliferation of student assistance options? The profusion of new programs will increase the default problems we have now, which the Senator from South Carolina alluded to.

Finally—and obviously—this conference will not achieve the savings we all know can be achieved without shortchanging students who need help.

What does the conference report do? It continues the costly practice of providing deep subsidies to all students who borrow—without respect to need. The wealthiest families in the United States can qualify for these deeply subsidized loans. The wealthy are taking advantage of student loans now. They will do so more under the terms of the conference report. The administration, and the CBO, have said time and again that all the evidence indicates that many parents are taking advantage of these loans and putting the money into certificates of deposit. Why should they not? After all, the money costs the borrower nothing while the student is in school—and under this conference agreement the student would only pay 8 percent interest after graduation, which is far less than can be earned now on a certificate of deposit. Needless to say, CD's are bringing a high enough return now to make this kind of activity very attractive—particularly to parents who do not need to borrow to send their children to school.

Therefore, it works a hardship on those who do really need these funds in order to educate their children.

Mr. President, I know that many of our colleagues have heard from schools and banks in their States that we must adopt this legislation. Is it any surprise that those institutions which reap the benefits of this bill avidly support it? But what about the student? And what about the taxpayer who foots the bill for these costly programs that benefit no one except the institutions and the wealthy families who do not need the help?

Mr. President, if the Senate is serious, and I hope we are serious about taking actions that restrain inflation and produce a responsible fiscal policy, I hope we are not going to cave in to the pressures that special interest groups can bring at the suggestion we are going to reduce unnecessary spending. I hope Members never believe we can cut back on spending, control inflation, and balance the budget, without any complaints from somebody. Obviously, when we make changes like this, some groups are going to feel threatened and will do all they can to stir up opposition.

I hope the Senate has enough backbone to recognize that these kinds of pressures are going to exist and go ahead and stand up to them.

I believe we can produce a program that will adequately meet student needs, make administrative sense, and wind up saving the taxpayers substantial amounts of money.

I strongly urge my colleagues to vote against the conference report, to send this legislation back to conference with the House, and under those circumstances, I believe the conferees can produce legislation which accomplishes the objectives of the Senate-passed bill.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER (Mr. MITCHELL). The Senator from Rhode Island.

Mr. PELL. Mr. President, we have heard some arguments for the conference report. We have heard some arguments against it. I think we see the overall question of priorities involved here.

I am among those who believe that the true wealth and strength of our Nation is not measured by weapons of destruction or means of production, but, basically, by the strength, or the character, of the education of its people.

Feeling that way, I do not have quite the same concerns about a strong educational budget and actually would choose moving in that direction of a budget more than the direction of supporting weapons of destruction.

That is the broad philosophical point which we are talking about in the report before us.

I would like to answer a couple of points that have been raised in specific terms.

It was stated earlier that youngsters were borrowing money, or their parents were, and using that money to go out and buy a certificate of deposit to make money.

If they do that, they will not only get the benefit of the additional money, but 5 years of free lodging, courtesy of the criminal act they are performing.

Doing that makes them liable to a fine of up to $10,000 or 5 years in jail. I agree that some people probably are getting away with it, but if they are actually doing what was said, they are eligible for the extra 5 years of lodging.

With regard to what the bill does and does not save, there is a difference of view. It is said that statistics say what you want them to say, but I believe that the Congressional Budget Office has proved very responsible. In a memorandum put out by the CBO in August 1980, they say:

> The loan components of the conference agreement would cost approximately $300 million less in fiscal year 1981 than either current policy or H.R. 5192 as passed by the House.

In this regard, too, if the conference report is rejected, the House, in all likelihood, would prefer present law. We may be left with present law, which is more expensive than the present conference report.

We should recognize, too, that the conference report was agreed to by the House by the overwhelming vote of 373 to 16. The conference report also is supported by the administration. Secretary Hufstedler specifically said that she supports it. Mr. Eizenstat, at the White House, supports it. It has a good deal of support, not only from banks, universities, and colleges.

We tried to get the Metzenbaum amendment, or a version of it, adopted by the conference three times. We made three offers. Each time, the House unanimously rejected the offer. One time, as chairman of the conference, I recessed the conference for a couple of weeks, hoping that they would come to our viewpoint in that period of time. They did not.

I appreciate what the Senator from New York said, that we almost had to lock the door to keep going. However, the compelling physical element was not locking the door but the fact that the air conditioning is turned off at 8 o'clock, which spurs compromise.

I yield the floor.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. JAVITS. One fact should be stated: We took the cap off the student loan eligibility in 1978, and it should be stated why we did. We took it off because the banks had to run a means test, and that made it impossible to get loans.

So while we realized that somebody might abuse it, we realized that that was a risk we had to take or see the whole program bogged down. Therefore, the criminal penalties were affixed with respect to conversion of the individual student loan.

It seems to me, therefore, that considering the purpose to be served, we are justified in that policy, rather than to be criticized for it.

Mr. PELL. That is correct.

Mr. STAFFORD. Mr. President, I have listened carefully to our two distinguished colleages from the Budget Committee. Throughout this year, as a born-again budget balancer, after years of being one who has been willing to spend more for some of our programs than a balanced budget would justify, I have supported the efforts of Senator BELLMON and Senator HOLLINGS—and, earlier, Senator Muskie—to bring us a balanced budget this year. I have supported the reconciliation moves in the first budget resolution.

So it is with some difficulty that I find myself at this moment asking our colleagues in the Senate to adopt the conference report which is before us today. The reasons why I feel we should are these, beyond those which Senator PELL and Senator JAVITS have expressed:

First, I believe sincerely that the conference report before the Senate at the present time is the best conference report the conferees can obtain. As our chairman, Senator PELL, has said, we had more than 300 differences to resolve in the conference with the House. After we had successfully resolved a number of them, down to about four of the most difficult, we were unable to make any progress with the House conferees, and Chairman PELL then wisely recessed the conference for a couple of weeks in order to permit the staff to work and tempers in the conference to cool off somewhat. This was after some late night sessions in which, as Senator PELL said, the air-conditioning was turned off about 8 o'clock; so they were hot in every sense of the word.

It is my opinion that if the Senate sends this back for another conference with the House, we simply will stalemate and, in the time constraints that face us this year, will not be able to obtain another conference report.

Not only did we give somewhat—because compromise is the name of the game in writing legislation in Washington, and always has been and always will be—but also, House Members made some major concessions to us in the course of working out the conference report that is before the Senate this afternoon.

So if we do not accept this conference report, which has been supported very heavily in the House, it is the fear of the Senator from Vermont that there will be no higher education bill this year; that the conferees will not be able to agree; and that means that we will be facing, I say to my colleagues, a continuing resolution based upon present law.

If my figures are correct, the conference report we are asking the Senate to adopt would be, as Senator PELL has indicated, $300 million lower than the continuing resolution would leave us at existing law for fiscal year 1981, and overall over the 5-year period, $2.2 billion under existing law, if we stay with it.

So I hope our colleagues in the Senate will join us in supporting the conference report that is before us today.

As I indicated at the outset, the Senator from Vermont has supported the Budget Committee thus far this year and intends generally to do so in the future. But as I heard the figures bruited about of $2 billion over this year and $13 billion over the 5-year period, it occurred to me that I was not sure which budget resolution we were talking about—the one we have adopted or the second budget resolution, which, as I understand it, is up a very substantial amount over the first budget resolution and has not yet been adopted on the part of the Senate.

For all these reasons, I hope we can adopt the conference report as pending before the Senate this afternoon.

I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield time to the Senator from Ohio.

Mr. METZENBAUM. I thank the Senator from South Carolina.

Mr. President, I wish to preface my remarks with a word of commendation for the Members of the Senate who served on the conference committee. I was not one of those conferees and appropriately should not have been one of the conferees. However, members of the conference committee from the Senate who were not in accord with respect to an amendment I had offered fought zealously, they fought hard—they fought as hard as I possibly could have expected them to fight—in order to support an amendment that had been adopted by the Senate, which I had offered, having to do with cutting back on some of the costs of the student loan program.

So none of my remarks here should in any way be interpreted as any criticism of the distinguished Senator from Rhode Island, the distinguished Senator from Vermont, the distinguished Senator from New York, the distinguished Senator from New Jersey and others who served on that conference committee and others as well.

But I do rise in support of my colleagues on the Budget Committee because I think that no matter how we slice it, the action of the House of Representatives in remaining adamant and in remaining determined not to accept certain of the Senate amendments that would have effected cost savings was irresponsible.

Some of those people who sat on that very committee, and that committee stood as a solid block, are the same people who make the best speeches in the country talking about balancing the budget. One of them, in fact, is from my own State of Ohio and he prides himself on being one of the great conservatives of America and he prides himself about balancing the budget and cutting out excessive spending. But the fact is that with respect to the amendment that I had offered and the Senate had accepted he was as adamant and maybe stronger than some of the others on that committee.

The New York Times on July 21, 1980, summarized this situation very well. In an editorial entitled "Austerity Begins with Student Aid," they state as follows:

> There's plenty of cheap talk now in Congress and elsewhere about cutting Government spending. Taxpayers will soon find out if the House is serious, or if it remains determined to subsidize loans for college students who don't need the help.
>
> Income ceilings for these loans were abolished in 1978. Since then, Government outlays have soared. Last November, before budget-balancing became so popular on Capitol Hill, the House passed legislation enlarging the student assistance program. But the Carter Administration's pleas to curb costs were finally heeded when the bill reached the Senate this summer. The measure it adopted is variously estimated to be $600 million to $5 billion cheaper over five years than the House version. We urge the Senate to stick to its cost-cutting guns in conference.
>
> The extravagant House bill leaves intact the liberalized limits and unbeatable borrowing rates authorized two years ago by the Middle Income Student Assistance Act. These terms have drawn thousands of new students into the programs. Children from affluent families would continue to qualify for interest-free, Government-guaranteed loans while in college: on graduation, they could repay them at rates considerably below market rates. Direct Government loans, which are dispensed according to need, would be available, as before, at 3 percent.
>
> The Senate has parted company with the House by raising rates on both kinds of loans. Borrowers who aren't needy would no longer get a free ride while in college; interest charges incurred during that period would have to be paid later. The Senate also wants the Government to become a much more active lender, through a new corporation to be called the National Direct Student Loan Association.
>
> The tougher Senate proposals would unburden the Federal budget in several ways. The higher rates coupled with interest charges while in college would dissuade some borrowers who don't really need Government loans. And they would shrink the subsidies for those who do need help without imposing an intolerable repayment burden. The Congressional Budget Office estimates that the monthly payments of the typical borrower would rise by only $12, from $46 to $58. An enlarged direct loan program spares the Government the expense of underwriting more costly market-rate loans for the same students.
>
> The Senate approach is appealing also because it reasserts the principle, which once governed such student assistance programs, that scarce public resources should be allocated according to the greatest need. Although the Senate opted not to reimpose income limits on guaranteed loans, its new emphasis on direct loans that do have ceilings is a step in the right direction.
>
> College costs are undeniably straining family incomes. But so, too, are taxes for programs that benefit those who don't require Government help. On student loans, the House could practice the austerity it so often preaches.

Mr. President, my colleagues on the Budget Committee, both in the majority and the minority, have already addressed themselves to the issues that this bill presents us with. It is very difficult for anyone to stand on this floor to oppose legislation dealing with higher education. All of us, with no exceptions, support efforts to assist our home State colleges, universities, and the students as well.

My own State of Ohio has an outstanding university program, both private and public, that benefits greatly from Federal higher education programs.

We are all familiar with students who have been assisted by the variety of grant and loan programs, and I am proud that many of them live in my own State.

Our offices have all been contacted by banks and other lending institutions who benefit greatly from the loan programs authorized in this bill.

Mr. President, as a supporter of higher education I must question the cost of the programs authorized in this conference agreement.

I am not opposed to higher education, and no Member of the Senate that I know of is opposed to higher education.

The question is whether or not we are going to support legislation which ignores the budget process and which attempts to exempt certain programs from the constraints faced by every other Federal program.

The question is how much is enough and is there too much proposed in this legislation?

There are two fundamental questions here.

The first involves the issue of next year's budget. Does this conference agreement meet the instructions passed by the Budget Committee and affirmed by the full Senate which required the education function to cut fiscal 1981 costs by $350 million in budget authority and $450 million in outlays?

According to the Congressional Budget Office, the agreement does not meet those reconciliation instructions, even under the best cost-saving scenario.

I wish to say that I really was not in favor of making that kind of cut. I fought in the Budget Committee against cutting funds for education and while at the same time we increased funds disproportionately for our defense establishment. But the fact is I was overruled and the fact is that the Senate has an obligation to live up to the budgetary process.

The second question involves the long-term costs of programs authorized under this legislation. Does this agreement include provisions passed in June by the Senate that will bring the escalating student loan programs under control? Clearly it does not.

Mr. President, the legislation reported out of conference is a very, very expensive bill. According to the Congressional Budget Office, student loan programs in the conference bill would cost a minimum of $800 million for each cohort of loans, or a minimum of $4 billion in this 5-year authorization bill, compared to the Senate-passed bill.

I emphasize that those are the long-term costs for each cohort of loans, not costs that would show up in next year's budget. But even those costs may be conservative. If the NDSL program is fully implemented, the GSL program volume would be reduced, but the overall loan costs to the Government would be increased dramatically.

The CBO estimates that under such a scenario of full implementation of the NDSL program, each cohort of loans would cost $1.5 billion more than the Senate bill. When multiplied times the five cohorts authorized in this bill, we are talking about a piece of legislation that would cost $7.5 billion more than the legislation we originally passed in the Senate.

Again, it is an extremely expensive piece of legislation.

Let me explain that a cohort refers to that group of loans made in each calendar year and that repayment of those loans and the continuation of those loans extends out over a period of years and somehow it has picked up the description of being a cohort, but we are not talking about the cost on an annual basis, but rather the cost extended out.

As CBO states:

> Both the overall long-term cost and the long-term cost per dollar loaned of the conference agreement are appreciably higher than either the House or Senate passed bills.

As a matter of fact, one could say they took the most expensive of each and kept them in.

The conference bill is more expensive than the Senate bill for two primary reasons. First, the conference agreement retains lower interest rates for the NDSL and the GSL programs, requiring the Federal Government to pay a greater subsidy on loans issued.

Second, the conference agreement fails to incorporate an amendment, which I had previously mentioned as having been sponsored by me in the Senate, that would require a student to repay the in-school interest subsidy he currently receives under the GSL program.

Let me make it clear that there is no suggestion that he or she pay that interest while he or she is in college. It is a question of whether or not the individual who got the loan was going to repay that loan plus the interest, or whether we are going to look to the American taxpayer to subsidize him or her, notwithstanding the fact that after they have graduated from college they may have a very substantially higher income than the average citizen.

I recognize that there has been intense opposition to the amendment I sponsored to recover the interest subsidy under the guaranteed student loan programs.

We have heard from the bankers, from the universities, from the student organizations. But I believe that the amendment is sound public policy, and I was disappointed to learn that the conferees failed to include that provision.

Mr. President, the American Bankers Association came in to talk about this amendment because there was considerable comment being made that the banks would withdraw from the program, that the banks would no longer make student loans, and I am pleased to report that upon further consideration the banks have indicated they will continue to make the loans and they withdrew their opposition to the amendment. So that any suggestion that the loan program will no longer be extant by reason of the banks' operations is not in accord with the facts.

I commend my colleagues on the Senate Education Committee who stood by that language in the conference, and I thank them for their support.

Throughout the conference there seemed to be a basic unwillingness on the part of the House conferees to admit there is a need to scale back the GSL program at all. But the GSL program is escalating at an alarming rate. I have used these numbers in the past, but they bear reapeating:

In the past 3 years, the guaranteed student loan program has tripled from $546 million in outlays to $1.5 billion in outlays. The loan volume under GSL has gone from $3 billion in 1979 to over $5.3 billion in 1980—it has almost doubled in 1 year alone.

Surely our student population has not increased that much. Certainly higher education costs have not increased that much. As CBO has pointed out, the GSL loan has expanded so rapidly because many eligible students are turning to guaranteed student loans—loans that are interest-free for the period the student remains in school—to borrow for both educational purposes and, increasingly, to borrow for noneducational purposes.

Mr. President, I came to the floor of the Senate, and I heard my good friend from Rhode Island commenting on this question of borrowing for noneducational purposes, and he rightly pointed out that under the law one who does that and is prosecuted could gain a seat in the penitentiary for up to 5 years.

But the facts are that students are doing it, have been doing it, and no student has been prosecuted, no students will be prosecuted, and it is an inoperable penal provision. Nobody denies the fact that it has been done and will continue to be done as long as students can borrow at less than the going rate more money. That kind of discretionary borrowing is expected to continue so long as interest-free money is available to eligible students at a time when other money is being charged interest rates of 15 percent and higher.

Our amendment, passed by the Senate by a vote of 56 to 41, was intended to bring the long-term costs of the GSL program under control. According to CBO, this amendment, which I am proud to say was cosponsored by Senators ARMSTRONG, DOLE, BELLMON, and others, would have $3 billion in long-term costs. It simply says that students must repay the interest subsidy to the Government once they have graduated and are in the workplace. As a matter of equity, that is fair to the general taxpayer who now subsidizes the student loan programs. And it is fair to the student. According to CBO, this amendment would cost the average borrower of $4,000 only $7 per month during the repayment period of the loan. Yet that incremental increase would be enough to discourage borrowing under the GSL program unless it is truly necessary for school purposes.

That amendment would not hurt the GSL program. I believe it would improve it by directing federally assisted programs to people who truly need it for their college education. That amendment has been criticized as being administratively unworkable, but we have addressed that criticism.

We have said that the conferees, if they desired, could streamline the amendment to eliminate modifications which make it cumbersome. I, as a principal sponsor of the amendment, had said, "Tell me what you need to have changed in order to make it more workable if you claim it is unworkable." But that was not the real issue. The real issue is that the educational lobby does not want to scale back on this program even though it is being misused by many borrowers and even though the expenses of the program are rising at a troublesome rate.

I believe it is high time that the educational lobby ought to be advised that they may win on this issue, they may win on another issue, but the day is far distant when there will be a reversal. It is as much a part of their obligation to keep down the cost of educational programs as it is to fight for those very same programs. That, to me, is elementary; that, to me, is an indication of responsibility.

While long-term costs are technically not a part of the reconciliation issue, it is an extremely important part of the budget process. Time and again members of the Budget Committee are faced with the problem of trying to cut costs in the next year from programs that have been authorized several years earlier. Unless we control long-term costs, we will be facing the same reconciliation fight year after year.

The guaranteed student loans and the national defense student loans authorized under this program will be issued over the next year to students who are now in school. Repayment of those loans will not even start for a couple of years on this first cohort of loans. Loans authorized in the fifth year of this legislation will not even start repayment for at least 7 years from today. But once those loans are authorized under this legislation, they are available as needed in future academic years. They become uncontrollable expenses. Banks and universities will be authorized to make loans under these loan programs, and the Budget Committee and the Senate will be frustrated in the effort to bring the costs of loan programs under control. Obviously, if we are going to keep the out-year costs in line, we must do so in this authorizing legislation.

I would like to add that returning this legislation to conference will not harm the loan programs available to students during the new academic year.

It has been suggested if the conference committee gets it back, there will be no program. It is a well-known fact that, everyone is talking about that, we are coming back after the election, and it would give the conferees plenty of time to deal with the issue. The GSL program has another year left under its current authorization, and the NDSL program has already been funded for the new year. Therefore, delay is not going to create an insurmountable problem. There is no reason why we must pass this 5-year bill under the heat of election-year pressures. We should take our time and insure that the legislation is sound and fiscally responsible.

Mr. President, the basic question is not whether we support higher education. I support higher education, and I believe most of my colleagues do as well. The real issue is whether the education program will be allowed to expand at a rapid rate at a time when other programs are being forced to cut back. I support higher education programs, but I do not believe they are sacrosanct. They must be brought into line, just as we must bring other programs under the constraints of our congressional budget process. We should provide assistance to students who need funds to go through college; I have always supported that concept. But the conference report has failed to address the key issues of meeting the short-term reconciliation mark and the long-term cost savings that were included in the Senate-passed bill. It is for that reason that I support my colleagues on the Budget Committee. We can improve the loan programs by targeting them and keeping them fiscally sound. I urge my colleagues to join in defeating the conference report and to instruct the conferees to retain those important cost-saving provisions that were in the Senate bill.

I thank my friend from South Carolina for having yielded me the time.

The PRESIDING OFFICER (Mr. Ford). The Senator from Rhode Island.

Mr. PELL. I appreciate very much the remarks of the Senator from Ohio, and I am glad he realizes that we worked for it as hard as we could and as vigorously as we could—I am referring to his amendment.

As you know, we have—it is not perhaps a 50-50 compromise—a vestigial portion of his amendment left in the conference report. We call for a study to come back, within 1 year.

But we come to this basic question of the Metzenbaum amendment. We argued this out on the floor at a time a while back, and I am not sure there is any reason to go over the same ground again except to say that the cost savings of the Congressional Budget Office, which they made for fiscal 1981, was $61 million. The reason for those savings, the main reason, is because 425,000 fewer loans would have been made if the Metzenbaum amendment had been retained in conference.

There is no question that if you want to save some money, we can have fewer loans. The question is what is national policy. But I think we have covered that ground some months ago or weeks ago and there is no point in going over that again.

I believe Senator Byrd still has some time. He should be notified if he wants to speak. Otherwise, I am prepared to vote.

Mr. HOLLINGS. Mr. President, the Senator from Tennessee will be in momentarily and perhaps some others.

Let me emphasize something that was appropriately emphasized by the Senator from Ohio, and that is the work done and the respect we have for the distinguished Senator from Rhode Island and his counterpart, the distinguished Senator from Vermont.

The Senate-passed bill was supported by the Budget Committee. The Senate bill was supported by the Senate and was supported by this individual Senator.

By way of commendation, the Senate-passed bill liberalized the basic grant program by increasing the size of that grant from $1,800 to $1,900. We are very, very much aware of the inflation problem. But the conference goes further and makes more students eligible for the program.

The Senate-passed bill on basic grants, we increased the cost from $2.5 billion to $2.7 billion. And we support these increases.

It is not a situation of who is for and who is against higher education. On the contrary, we have been in the posture of supporting increases to higher education. The trouble with the conference agreement is it just ripped the lid off of it. It just went right up from $2.7 billion to $3.2 billion. That just got too expensive.

Additionally, the Senate bill shifted funds from guaranteed loans to direct loans, which currently makes about $800 million in loans. The direct loan program under the Senate-passed bill expanded that to $3 billion and targets the loans to the needy kids. But the conference agreement likes the guaranteed loan program, with its entitlement for the banks, not to the students. I think we ought to emphasize that.

So the conference agreement does not insure that the poor kids will get the loans, because they have to go to the banks and the banks have so many other students wanting loans, and, necessarily, they are bankers and they are not, like they say, socialists. They believe in the capitalistic free enterprise system, and what have you. That means profits. That means the best loans. So they will take, if nothing else, the business from that particular affluent family. It just makes better banking sense to finance the affluent. So the poor kids are not necessarily going to get the loans. Now, the Senate bill made sure that loan capital was available to poor students.

So we are not being formalistic in commending Senator Pell and Senator Stafford. We believe they did their job and they did a good job and they provided for those increases and we supported those increases.

In that context, I am somewhat envious of the Senator from Rhode Island, because he is remembered for Pell grants. I can tell from his discourse that when they see me, they think of a gun or missile or somebody in uniform, because we immediately got into some kind of defense discussion and that the wealth and strength is measured by education rather than weapons of destruction.

Mr. PELL. And character.

Mr. HOLLINGS. And character?

Mr. PELL. Education and character.

Mr. HOLLINGS. Well, that is very good. We believe in that, too.

Let us go to the defense budget, to the actual facts and figures. Since 1965, I say to the Senator from Rhode Island, and I am talking about after inflation now, after inflation, the defense annual average of 0.2 percent growth in the defense budget from 1965 to 1980—I see the Senator is thinking that is a 15-year period—that is 3.4 percent growth during that 15-year period.

Higher education grew at an annual average of 12 percent, for a total of 448 percent. And that is important.

And, bless us all, I wish we could all beat our souls into plowshares and go back to the boards of higher education. The first public college, the University of South Carolina, I served there and served as chairman. I served on a church school. I served on a medical university board. I served on several boards around. If you want to hear my talk on the policy of education, that would be a nice talk, that would be a nice talk to emphasize about the quality of education.

Let me yield for the moment now, because my distinguished colleague from Tennessee is here. I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I thank my friend from South Carolina.

Mr. President, I really would prefer not to oppose this conference report. In doing so—and I do oppose its passage—I do so without any criticism of or diminution of the contribution made by the distinguished Senator from Rhode Island or the distinguished Senator from Vermont, who have dedicated so much of their time and effort to this subject and this bill which is returned to us now in the form of a conference report.

The House and Senate committees have labored long and hard to draft a bill which responds to the diverse needs of the American education community.

And there can be no doubt that American education needs help. I am deeply disturbed by the continuing decline in the levels of competence in basic skills. Demographic changes are putting our public education systems under extraordinary pressures. In our increasingly technical society, the skills and knowledge acquired at the postsecondary level are fast becoming a prerequisite for successful participation in the mainstream of the American economy.

So it is with great reluctance that I rise to express my disagreement in the conclusions reached by the conferees of the two Houses.

I have been informed by Senators HOLLINGS and BELLMON, the chairman and the ranking minority member of the Budget Committee, that this bill exceeds the Senate passed version of the bill and fails to incorporate the cost savings required by the first concurrent budget resolution and reconciliation bill.

The Budget Committee is doing its job by calling the Senate's attention to the conflict between H.R. 5192 and our earlier decisions on spending. I have no reason to doubt the accuracy or integrity of the Budget Committee's computations.

Mr. President, I have consistently supported the maximum possible funding for Federal assistance to postsecondary students and institutions. But, unfortunately, I believe the higher education conference report now being considered by the Senate far exceeds the maximum desired amount of money available at this time. Under these circumstances, I feel compelled to vote against it.

This bill, like many others that will come before us in the closing days of the session, demands that we honor our long-standing commitment to control Federal spending. It is always easy to denounce excessive Federal spending in the abstract; it is more difficult when the purposes are good and the programs are dear to the heart. I believe we should not undo the savings that we have directed in those measures in one fell swoop in this conference report.

Mr. President, I am confident that we will proceed with further legislation to reauthorize the programs for higher education during this Congress, but I urge that we do so in a fiscally responsible manner and that we request a further conference with the House by declining to accept this conference report.

Mr. President, it has been my purpose in the years I have served in the Senate to advance public education at the primary, secondary, and postsecondary levels at every opportunity. I have steadfastly supported almost every effort to fund to the maximum extent the programs that have been adopted to further that purpose.

So it is with special reluctance that I express my misgivings and reservations about this measure and announce that I will vote against the conference report and I urge my colleagues to do the same.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Tennessee. He and I both support higher education.

The fact is that the projected real growth in the defense budget during the next 5 years will be a sum total of 21 percent. Higher education is projected to grow at 7 percent under the Senate-passed bill, and under the conference agreement at 40 percent. But the Budget Committee is put into the unfortunate posture from time to time of opposing programs because we are trying to support them all. We are trying to arrest this inflation. In order to arrest inflation we have to hold the line generally, which means all of them. But even with that zeal of trying to hold the line, do not look upon the Budget Committee process as a non- or anti-educational force in the society or in the Congress.

We must have a balance. If we want to talk about education we will gladly talk about education but we must emphasize that the greatest social service that can be rendered the individual citizen is to be kept alive and free. That is the Department of Defense.

I am constantly asked in these various get-togethers, since they look at me and think of defense, how can you balance the budget; how can you increase defense; which is more important? I cannot look at them singularly. In the last instance, you have to have a strong economy. I guess that is what we approved when we reported our second concurrent resolution. We held the line there and did not go for any increases above the programs approved by the Senate in the first resolution. We are still at 5.1 percent in national defense, 5.1 percent of our GNP.

But here, again, let us talk sense. Everyone knows, and the Senator from Rhode Island must know, that the guaranteed loan program needs reshaping. If I was a millionaire, I am going to borrow the money and send my kid to college, taking the other moneys that I would have expended and use those to buy the savings and loan certificates of deposit and make my $1,400 cash, just indirectly banking the Government's money. That is what occurs. You do not get a criminal offense on that and you do not get a trip to the jail.

Other and more important Senators have reached the floor who want to speak on this measure. We are on limited time. I will yield first to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I will match my record in support of higher education against any other Senator. I supported higher education vigorously, not only while in the Senate but also while Governor of my State where we vastly increased the appropriations for higher education and, indeed, started the entire junior college system in our State to give greater opportunities for college education to our young people.

Mr. President, I think there are few groups which are suffering more from inflation than parents who are seeking to send their children to college. Every year the cost of higher education increases $200, $300, $500. That comes about nearly entirely due to inflation. There are few institutions in our Nation which have been harder hit by inflation than our institutions of higher learning. Indeed, the very existence of some of those institutions is in peril as a result of inflation.

This Congress and this Senate repeatedly have stated through its individual Members and through actions on the floor, that we will do everything we can to arrest inflation. The way you arrest inflation is to hold down Federal spending to the greatest extent possible.

As has been pointed out in this Chamber this afternoon, the bill that we passed in the Senate for higher education was a generous bill, and it went a long way to take care of our young people who wish to go to college and to graduate school.

Now, Mr. President, the bill that we passed went to conference and there, despite the valiant efforts on the part of our conferees, the bill was vastly increased. There can be argument over whether it is vastly increased for the budget year 1981, but it seems to me that there is no argument whatsoever that it is vastly increased for the outyears.

Indeed, in the letter that has been circulated by the members of the Budget Committee, the distinguished senior Senator from Oklahoma and the distinguished senior Senator from South Carolina, it states:

> The conference agreement exceeds the cost of the Senate bill by almost $13 billion over the next 5 years. It exceeds the cost of the President's higher education proposal by $2.5 billion in 1981, and $19 billion over the next 5 years.

Mr. President, if we are going to do anything about inflation, we have to bite the bullet in a whole series of programs. We have expanded higher education programs significantly in recent years. But enough is enough.

As has been pointed out, there are abuses that can exist and do exist under this program where wealthy parents, instead of paying their children's tuition, can go out and get these low interest rate loans and then invest their money at much higher rates.

Certainly, there is a penalty, but it has also been pointed out that nobody has been punished under that penalty and there is little chance that anybody will be.

Mr. President, I think this conference report should be rejected and that the conferees should go back and reconsider this bill. As has been pointed out, the immediate damage will be none. I think it is worth an additional effort because the key effort we must make, Mr. President, is to try as best we can to reduce the horror of inflation so that more young people will be able to go to college without these increases in costs every single year, and so that the very existence of our educational institutions, particularly the private ones, will not be in the dangerous situation that they currently are.

It is for those reasons that I support

the Budget Committee, as I supported the Budget Committee time and time again on this floor. I thank you, Mr. President.

The PRESIDING OFFICER (Mr. EXON). Who yields time?

Mr. PELL. I am willing to yield back the remainder of my time, Mr. President, if that is the will of the Senate.

Mr. HOLLINGS. Mr. President, I yield to the Senator from Florida.

Mr. CHILES. Mr. President, I happened to have occasion to be listening to the news last night, a local newscast. I was amazed to hear the newscaster, a lady, describing this bill and what we were doing. She said, in a year in which there is very tight money and in which Congress has wrestled with a reconciliation motion for the first time and even attempted to balance the budget, we are now getting ready to adopt this higher education conference report. She was pointing out that under this bill, one would be able to borrow up to $5,500 a year, the parents would for the accommodation of the child, at an interest rate of 8 percent regardless of what your means were, and one would be able to borrow all this money toward a college education and not have to pay anything back for 4 years. She said it was the best deal around, especially when you think that the rate now is 11¾ if you happen to be fortunate enough to borrow at the prime rate. I suspect that most people who are sending kids to school cannot borrow exactly at the prime.

But here one can borrow at three and three-quarters points below prime, no repayment due for 4 years, and we are talking about setting up a program with no means test on it, that is going to allow you to borrow up to $5,500 a year for each of 4 years. At some stage, I think we really ought to be looking at ourselves and determining, are we really operating with sanity when we talk about what we are doing toward balancing a budget and now trying to get control over inflation? We have been working very hard, I think, to try to set up some loan programs, and I think the Senate had a strong strategy. I think that strategy made sense, to try to go toward the guaranteed loan program away from the grant—rather, we elected to go in the other direction, to try to go into one loan program and to see that there was some means test within that loan program, especially where we are making the difference up.

Mr. President, if these loans were arms-length, market transactions, that is one thing. But when the Federal Government is paying the difference between what the rate is and what the bank is going to lend at, plus the guarantee—and we really do not know that we have all the bugs out of the loan program yet until we see what the losses were under the loan program we had before. They are astronomical, because people are not paying back.

It seems to go now to this conference bill which is both an expanded guaranteed loan program and an expanded direct loan program, instead of streamlining and putting in the savings of the Senate version, this just adds on extra programs. I do not think it makes any sense at all. I think it goes directly contrary to the thrust of what we have been trying to do to make some sense out of the program.

Mr. President, I think it is time we said to a conference that wants to bring this back to us, we are not going to accept this; it destroys the reconciliation and the savings we are trying to provide in the reconciliation. It destroys the thrust that we are trying to build some credibility into this program.

I hope we turn down the conference report.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, the Senator from South Carolina, to meet the requirements of one of our colleagues who has an engagement, is ready to yield back the time. I have the CBO estimates of the H.R. 5192 conference report by way of analysis and table 1. I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CBO'S ESTIMATES OF H.R. 5192 CONFERENCE REPORT

The CBO has done two separate cost estimates of the conference-agreement on H.R. 5192, the higher education amendments.

The first estimate, dated August 27, 1980, the one that is being touted by the conferees and the higher education groups, included a table which shows the conference report costing $0.3 billion less than current policy. A copy of this table is attached (Attachment A).

This estimate is not a valid reflection of the true cost of this bill.

Under current law, the National Direct Student Loan Program (NDSL) is administered by colleges and funded through annual appropriations. Repayments of loans are collected by the colleges and re-lent to new borrowers.

The conference agreement would continue the present arrangement unless the following events occur:

The Secretary of Education chooses to request Congressional approval to use authority provided in the conference report to fully fund the NDSL program by borrowing from the Federal Financing Bank.

The Congress approves the Secretary's use of this borrowing authority through the annual appropriations process.

Should both these discretionary actions occur and the NDSL program is funded through FFB borrowing, the Department of Education would begin administering the NDSL program, and not the colleges.

All repayments from prior loans would then go not to the colleges but to the federal government. They would be applied against the program costs that would be still appropriated on-budget (such as interest and administrative costs), lowering the budget spending totals by $220 million in FY 1981.

Furthermore, if the direct loan program is fully funded, CBO assumes that the demand for guaranteed loans would drop because students would rather get a direct loan from the government at 4 percent than a guaranteed loan from a bank at 8 percent. The ensuing outlay reduction in guaranteed student loan costs would be $68 million in FY 1981.

Thus, the savings in the conference report would be increased by a total of $288 million—but only if the discretionary steps described above by the Secretary and the Congress are taken.

However, because the bill does not require that these actions be taken, these savings are by no means insured and cannot count as legitimately meeting the savings assumed in the budget resolution and required through the reconciliation instructions to the Labor and Human Resources Committee.

The second CBO estimate, dated September 2, (Attachment B) shows that the actual savings in the conference report are only $16 million. This estimate does not assume that the discretionary borrowing authority will be invoked by the Secretary and approved by the Congress.

TABLE 1.—THE 1981 AND 5-YR FEDERAL LOAN COSTS OF: (1) CURRENT POLICY, (2) H.R. 5192 AS PASSED BY THE HOUSE, (3) H.R. 5192 AS PASSED BY THE SENATE, AND (4) THE CONFERENCE AGREEMENT ON H.R. 5192

[By fiscal year, in millions of dollars]

	1981 total cost		1981–85 total cost	
	Budget authority [1]	Outlays	Budget authority [1]	Outlays
Current policy	1,870	1,892	13,391	12,936
H.R. 5192—House passed [2]	1,868	1,888	14,000	13,507
H.R. 5192—Senate passed [3]	1,208	[4] 1,353	8,017	[4] 8,018
Conference agreement on H.R. 5192 [3]	1,591	1,608	11,735	10,733

[1] Assumes carryover of $100,000,000 from fiscal year 1980.

[2] Assumes current policy funding of NDSL program, not full level of funding authorized in House passed bill.

[3] Much of the fiscal year 1981 and 1981–85 cost savings from current policy result from assuming that NDSL collections offset program costs.

[4] Assumes that 1980 appropriations for current NDSL program would not outlay.

Mr. HOLLINGS. Mr. President, to emphasize the job we have done, we believe that the distinguished Senators from Vermont, Rhode Island, and New York did an outstanding job on the Senate bill. They aimed the BEOG and loan program directly to the needy and moderate income people of America. But in essence, the conference report really, like Bossie the cow, having given a full pail, kicks it all over.

What this conference agreement does is put us in a defensive posture, trying to maintain the money necessary for the deserving in the country with respect to a college education. This is not being appreciated by the college administrators and presidents who have been on the phone, calling around the clock. It is not that we are against higher education. We are trying to take a good and valid program, that has been built and supported and embellished and bringing fruit, to streamline that program and maintain its credibility and its progress. So I hope that we will defeat this report. and ask the House to go back to conference to produce a more responsible bill.

Is it agreeable that I yield back my time?

Mr. PELL. Mr. President, I ask unanimous consent that the time of Senator

HARRY F. BYRD, JR., be yielded back. He sent word that he will not need his time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. As a conferee, I was particularly concerned about the programs available to institutions in small and rural States, and about the access opportunities for students in such States. Critical to this concern is the ability to improve access for adults and nontraditional students whose educational needs have been inadequately served for reasons such as rural isolation. Under title I, continuing postsecondary education program and planning, it was necessary to assure that each State would receive sufficient funding to meet the needs of this population. Under this bill each State will receive a minimum of $187,500 so that at least a basic program can be provided.

It is particularly important in small States that adequate funding be available for the administration and coordination of these programs. I would like to clarify a portion of the report, regarding title I funding, so that the intent is clearly understood by all, including those staff in the Department of Education. On page 22938 of the August 25 issue of the CONGRESSIONAL RECORD the following language appears:

> Each state shall receive an allotment of funds from available appropriations based 60 percent on relative state adult population and 40 percent on an equal basis, except that no state shall receive less than $187,500 in any fiscal year.

It was also my understanding, and I would like to check this out with the chairman, that in the event an appropriation is not sufficient to provide the minimum of $187,500 for each State, that each State's allocation would be reduced on a pro rata basis and not switched back to the formula, as happened recently. This switch created havoc throughout the program. I wonder if was this intent also the understanding of the chairman of the subcommittee?

Mr. PELL. I believe the Senator states very accurately my understanding of what the conference agreed to.

Mr. STAFFORD. I hope that understanding will be reflected. I hope the problem of reduced appropriations never has to be faced but if it is that it will not have to be resolved as it was before—with the passage of emergency legislation.

I thank the chairman for this clarification.

IN SUPPORT OF HIGHER EDUCATION ACT CONFERENCE REPORT

● Mr. DOLE. Mr. President, I am pleased to extend my support to the conference report on the Higher Education Act Amendments of 1980. The Senator from Kansas believes that the bill which has emerged from the lengthy sessions between the House and Senate embodies reasonable compromises between the original House and Senate versions, even though its funding levels exceed those previously endorsed by the Senate. I congratulate those who participated in the conference for their efforts in trying to keep spending at a minimum, while simultaneously encouraging one of the most worthwhile programs of Federal assistance for our citizens that we have in existence today.

This legislation will mean increased opportunities for all Americans to participate in the learning process, while pursuing courses of study that interest them and will make them better equipped for the working world upon completion of their studies. Higher education is one of the most valuable long-term investments that the Federal Government can make in the future well-being of this country.

CONCERNS FOR FUTURE EDUCATION TRENDS

Mr. President, it is my feeling that H.R. 5192, as it now exists, addresses future concerns in higher education. We are currently confronting an unprecedented decline in enrollments, increases in educational costs due to the impact of inflation, and decreases in research activity that have been projected during the course of the eighties.

For some time now, we have all been trying to cope with the side effects of spiraling inflation, which brings with it accompanying reductions in the discretionary income of families, making it even more difficult than in the past for them to come to terms with increased educational costs for their children's college and postgraduate study. In addition, the demographic composition of the Nation is changing in that the baby boom which followed World War II seems to be over, and consequently, we will see fewer and fewer students enrolled in our colleges and universities. At the same time, there is an increase in the number of older people who are going back to complete their college educations or who are seeking graduate study in professional areas.

STUDENT LOAN PROGRAMS

The provisions for so many student loan programs serving different financial needs for students and their families are perhaps the most important part of this legislation. These programs have been carefully balanced to fulfill diverse educational funding needs for students who have the ability to pursue higher education objectives, but demonstrate financial need.

Title IV represents a valiant attempt to satisfy the needs of students in both public and private institutions of higher education. Independent colleges and universities have been assisted by the integral way in which the supplemental education opportunity grant program (SEOG's) has been constructed to complement the basic education opportunity grant program.

While concentrating funding benefits on low-income students and their families, financial strains on the middle-income taxpayer have not been ignored in this legislation. The new parental loan program bridges a necessary cash-flow gap for middle-income parents who are becoming increasingly burdened by the eroding effects of inflation on their income and asset capabilities in combination with rising tuition costs.

INCREASES IN INTEREST RATES

While inflation has had its deleterious effects on almost every economic aspect of the world in which we live, the student loan programs have continued to be blessed with low interest rates. Although the Federal Government has done much to assist students in the pursuit of higher educational endeavors for many years, the interest rates on the loans provided have simply not kept pace with economic realities on a larger scale. While commercial interest rates have soared under the impact of our out-of-control economy, only 3 percent and 7 percent interest rates were in effect for the direct student loan and guaranteed student loan programs, respectively. Although the Federal Government should remain generous in its support of a very worthwhile investment in our citizen resources, it should also exercise a realistic approach in carrying out this support. Increases in the interest rates on student loans are entirely justified at this time, and H.R. 5192 makes an equitable adjustment in these rates to correspond with economic necessity.

FOCUS ON CURRENT EDUCATIONAL NEEDS

There are several provisions in S. 1839 which seek to address current needs in higher education for our society. At a time when the complexities of international relations are overwhelming, and we live with the everyday knowledge of world events, our educational system has not kept pace with the demand for more specialized knowledge of other countries that share our hemispheres. Several months ago, I was pleased to cosponsor a bill that the distinguished Senator from Vermont, Mr. STAFFORD, introduced, which has become the new title VI of the Higher Education Act amendments. The international study programs outlined in the title VI provisions do much to provide support for areas in our academic institutions that have required strengthening for some time.

As we watch the young people in our country graduate from colleges and universities, we are struck with another blatant need within our society: So many of these graduates are finding it extremely difficult to find jobs that suit their skills, because they have not been trained for any specific career path. This legislation provides for continuing education opportunities, as well as for a policy that will address the needs of students after they enter the working world.

THE GIFT OF OPPORTUNITY

Mr. President, one of the greatest contributions that Government can make to the society it protects and enhances is that of insuring equal educational opportunity for all its citizens. For centuries, America has represented to the rest of the world a land of possibilities, where talent and intelligence and diligence could go far toward achieving success within our society. We have always been careful to guard our freedoms, while pursuing our goals of progress. Somewhere along the path toward accomplishment, education plays an important role—this education can be either formal or informal based upon experience in the world around us. However, the goal of achieving a high level of learning goes hand in hand with what has made our country great. We have always encouraged the development of the minds of our citizens, which remain our most valuable natural resources.

The Senator from Kansas extends his support to the Higher Education Act conference report. If we do not vote in favor of this legislation, we will be forced to continue the existing programs at higher cost than this bill calls for. There are $300 million savings projected for fiscal year 1981, and, over the 5-year life of this legislation, the Federal Government will spend $2.2 billion less than current law.

As we vote on the Higher Education Act conference report, let us keep in mind that, through the programs authorized by this legislation, we are making the most constructive investment in our country's future well-being by encouraging the development of American minds and making opportunities available to students who otherwise would find the doors closed to their progress in the world.●

Mr. RANDOLPH. Mr. President, I hope the Senate-House conference report on the Higher Education Act Amendments of 1980, which is before us today, can be given approval.

As a Senate conferee, I assure my colleagues that throughout the many days, and the late hours, of conference meetings on this legislation, we were constantly aware that these are times of fiscal restraint, and of the urgent need to report a bill that could be called "cost effective."

Fiscal responsibility has two sides to it. If we are too restrictive in our authorizing process, in our effort to reduce the cost of higher education in this country, we will reauthorize programs of higher education that do not meet the needs of our college-bound youngsters. Our adult learners are returning to places of learning to improve and enhance their ability to advance in the workplace, and to stay in the mainstream of their community life.

A reauthorization bill that has earned the name "cost effective" but deprives students of an equal opportunity to attend a college of his or her choice, is not truly "cost effective," we may have locked out a future leader in business, in industry, in government, in research, and in education.

Mr. President, our colleague Senator CLAIBORNE PELL, chairman of the Senate Subcommittee on Education, has worked diligently to bring this legislation to the Senate, to report it out of the joint conference committee, to continue our vitally important mission of assisting millions of our citizens—young and old—traditional and nontraditional students—who will hopefully attend institutions of higher education over the next 5 years.

There are thousands of students who will testify that they could not have entered college had it not been for Senator PELL's concept of providing basic grants to low-income students having the greatest financial need for tuition assistance.

The grants authorized in the conference agreement can be funded to $1,800 maximum before the advisory triggers for funding the other campus based programs go into effect. This balance between the Pell grant, and the supplemental grant, college work study, and the national direct student loan program in the appropriations process, students will not have access to a "student aid package" that will amount to the total required for their annual tuition needs. I stress that the so-called triggers, or funding thresholds, are advisory in nature and express the strong belief of the authorizing committee that those levels of funding are necessary to meet the needs of students nationwide, and create the right "balance" between the four needs based programs.

Mr. President, if we provide educational opportunities for students beyond high school, we improve their future ability to earn higher salaries or wages and, consequently, help to assure that they become taxpayers—taxes on which our current, and certainly our future, will depend.

My able colleagues on the Budget Committee would like the general public to believe that we have now reached a "point of no return" and that investing Federal dollars in education is no longer a good business investment.

Mr. President, we live in a time when a family with an annual income of $35,000 to $40,000 cannot afford to send a child to college.

The reconciliation agreement requires us to save $350 million in fiscal year 1981. Estimates from the Congressional Budget Office show a $300 million savings in fiscal year 1981 from current policy in student loans contained in this conference report. In 5 years of the bill's authorization, the cost of loans is $10.7 billion, which is $2.3 billion below current policy, and $2.8 billion below the proposals in the original House bill.

This is September, our desk is covered with letters from students and parents seeking information on the availability of tuition assistance from Federal programs. Many of those students are low-income, forced to seek loans because this body approved a rescission of $140 million in Pell grants intended to serve students entering college this year.

In West Virginia, we have a newly established State Student Loan Guarantee Agency, and has $1.2 million in loans promised to students for this academic year—provided this conference report is adopted. They cannot loan those dollars until and unless the Higher Education Act Amendments of 1980 are enacted.

Many of us worked our way through college. We do have high unemployment rates among college age youths. This conference report, if accepted, will provide college work study programs so students can earn part of their tuition needs.

I am a realist. If this conference report is recommitted to conference, we will have seriously jeopardized, and placed in doubt, the chance of its enactment by this Congress.

We should not provide fewer incentives and opportunities for students to go to college in a time of declining enrollments, and then call it "cost effective" when colleges close their doors.

I believe that a vote in favor of the report today will be justified in later years by your constituencies.

Mr. President, I remind my colleagues that the House of Representatives passed this conference agreement on August 28 by a vote of 373 to 16.

My compliments go to the Senate Subcommittee on Education Chairman, Senator CLAIBORNE PELL, and to our able chairman of the Committee on Labor and Human Resources, Senator HARRISON WILLIAMS. I also genuinely thank our distinguished ranking minority Members, Senator JACOB JAVITS, Senator RICHARD SCHWEIKER, and Senator ROBERT STAFFORD for their contributions toward conciliation and final agreements worked out between the Senate and House of conferees in the conference on the Higher Education Act.

Mr. THURMOND. Mr. President, when this legislation was considered by the Senate several weeks ago, I supported it. I have always considered higher education to be one of the best investments an individual could make, whether viewed from a career, economic, or personal development standpoint. This legislation reauthorizes a number of worthwhile programs that will help insure that all those who truly desire a college education can obtain it, and it will help insure continued improvements in the institutions which provide these educational opportunities.

Unfortunately, Mr. President, the total cost of these higher education assistance programs is rapidly leaping out of control. The bill passed by the Senate several weeks ago imposed much-needed fiscal restraint on a number of these programs whose costs threatened to get completely out of hand. This conference report, however, fails to maintain this fiscal discipline, adding some $2 billion to the cost of the Senate-passed bill in fiscal year 1981 and some $13 billion over the next 5 years. If a balanced Federal budget is ever to be achieved, Congress must make the hard, often unpopular, decisions necessary to control the cost of these programs.

Mr. President, I recognize and appreciate the strong interest and support for this bill among the institutions of higher education, college students and their parents, teachers, and other education groups. There are many worthy programs contained in this legislation which have been demonstrated to be effective and deserve to be reauthorized. At the same time, I feel it is imperative that the cost of these programs—particularly those which are of an open-ended, entitlement nature—be brought under control. If the Senate will stand firm for fiscal responsibility, I believe the House will see the wisdom of the Senate's position and support steps to control the future cost of higher education programs. Accordingly, Mr. President, I hope the Senate will defeat this conference report and request a new conference with the House for the purpose of effecting further cost savings.

Mr. MORGAN. Mr. President, I rise in reluctant opposition to the conference report on H.R. 5192, the Higher Education Act Amendments of 1980. Mr. President, my reluctance is based on several factors. We need to reauthorize the Higher Education Act, and it needs to be done by October 1. In addition, there are a number of good provisions in this bill, especially those relating to title III, the strengthening developing institution program. Finally, I believe that the senior Senator from Rhode Island has done yeomanlike work on this bill and should be credited with having done an excellent job.

But, Mr. President, the student aid provisions (title IV) of this bill are out of line with the budgetary realities facing the Federal Government and have failed to deal with some of the most serious ongoing abuses allowed under current law. As a result, I feel I have no choice but to oppose this conference report.

The cost of this conference report is estimated to be $51 billion over the next 5 years, $13 billion more than the Senate approved less than 2 months ago and $19 billion more than the President has requested. For fiscal year 1981 alone, the cost exceeds the Senate bill by $2 billion and the President's budget request by $2.5 billion. At a time when the public clearly wants Federal spending reduced and the budget brought in to balance, legislation carrying this type of price tag should not be enacted.

But, quite frankly, the problem with the student assistance provisions go deeper than that. I have always argued that the primary responsibility for providing for a student's education belongs to the student and his family. The role of the Federal Government should be one of last resort—to insure that students can obtain the funds to attend a good school, public or private, after he and his family have done everything they possibly could to raise the money on their own.

But, increasingly, the thrust of Federal student aid programs has been that the Government has an obligation to provide the necessary funds to everyone wanting to go to college. Thus, one finds that this bill allows everyone to get subsidized loans from the Government, regardless of need. High-paid corporate executives, multimillionaires, and Members of Congress will be able to borrow $5,500 a year at subsidized interest rates.

Mr. President, that money is not going to be used to finance a college education. It is going to be invested in the private sector, and the Federal Government will, in effect, be providing a subsidized loan to somebody so they earn money off a profitable investment.

Another example of what is wrong with this bill is how eligibility is established for the grant programs. Ownership of a home is not counted, regardless of how valuable the home is or what kind of equity the person has in it. I do not want to force a person to sell his home to finance his child's college education, and to exempt, say, the first $20,000 of equity seems reasonable. But, does the Congress really want to say a person owning a $100,000 home, free and clear, has no obligation to find financing for college tuition.

These are the kinds of things in this conference report that worry me, made me decide to vote against it. The Senate showed great courage 2 months ago when it turned a fiscally irresponsible House bill into a good piece of legislation. The conference report can hardly be called a compromise; rather, it is really the House bill with a few minor modifications and the Senate is now being called upon to vote on a bill that would have been overwhelmingly rejected not too long ago.

If this conference report is rejected today, the Senate will not be killing this needed bill. A new conference will be convened, and I am certain a more fiscally responsible bill shall emerge. Accordingly, I urge my colleagues to follow the lead of the Budget Committee on this matter, and vote against the conference report.

I would like to make one final comment. The mood of this country today on Federal spending is one that is clear and responsible. The people—not only in North Carolina, where fiscal responsibility is a way of life, but throughout the country—want Federal spending brought under control in a reasonable and responsible manner. But, more and more, they want spending controlled. If the Congress cannot find the discipline to do this, the people will do it for them. There will be a constitutional convention for the purpose of writing an amendment requiring a balanced budget and limiting spending, something no Member of Congress would like and many are afraid of. And people will be elected to this body who will, in order to reduce the size of Government, destroy programs, many of them valuable, wholesale. The continued failure to act in a fiscally responsible manner will force a desperate counterreaction, much in the way the refusal of King George III and the English Parliament to be reasonable led to a revolution most Americans did not want.

Mr. PELL. I am prepared to yield back my time.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL. I yield back my time, Mr. President.

Mr. STAFFORD. I yield back my time.

Mr. HOLLINGS. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Alabama (Mr. STEWART) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. BRADLEY) is absent because of a death in the family.

I further announce that, if present and voting, the Senator from Louisiana (Mr. LONG), the Senator from New Hampshire (Mr. DURKIN) and the Senator from New Jersey (Mr. BRADLEY) would each vote "yea."

(Mr. BRADLEY) would each vote "yea."

Mr. BAKER. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 43, nays 45, as follows:

[Rollcall Vote No. 390 Leg.]

YEAS—43

Baucus
Bayh
Boschwitz
Bumpers
Burdick
Byrd, Robert C.
Cranston
Danforth
DeConcini
Dole
Durenberger
Eagleton
Ford
Hatch
Hatfield
Heflin
Heinz
Huddleston
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher
Moynihan
Nelson
Packwood
Pressler
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stevenson
Tsongas
Weicker
Williams

NAYS—45

Baker
Bellmon
Bentsen
Biden
Boren
Byrd, Harry F., Jr.
Cannon
Chafee
Chiles
Cochran
Cohen
Domenici
Exon
Garn
Glenn
Hart
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
McClure
Metzenbaum
Mitchell
Morgan
Nunn
Pell
Percy
Proxmire
Roth
Schmitt
Simpson
Stennis
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—12

Armstrong
Bradley
Church
Culver
Durkin
Goldwater
Gravel
Kennedy
Long
McGovern
Stevens
Stewart

So the conference report was rejected.

(During the foregoing rollcall, the following occurred:)

The PRESIDING OFFICER. The Chair calls the clerk's attention to the Senator from West Virginia, who is about to cast his 9,000 rollcall vote.

[Applause.]

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? May we have order in the galleries? The rules require there will be no demonstration in the galleries.

The PRESIDING OFFICER. The Senate will suspend until there is order.

Mr. METZENBAUM. Regular order.

The PRESIDING OFFICER. Regular order has been called for.

(Conclusion of earlier proceedings.)

Mr. PELL. Mr. President, I move to reconsider the vote by which the conference report was rejected.

Mr. CRANSTON. I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Regular order, Mr. President.

Mr. JEPSEN. Mr. President, I move to

lay that motion on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, regular order. Regular order is that we have the other vote at 4 o'clock.

DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

The PRESIDING OFFICER. Under the previous order, the hour of 4 p.m. having arrived, the Senate will now resume consideration of H.R. 2977, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2977) to provide for Federal support and encouragement of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, to provide for coordination of Federal programs and activities relating to domestic violence, and for other purposes.

The PRESIDING OFFICER. Under the previous order, there shall be 1 hour of debate on the bill, to be equally divided between and controlled by the Senator from California (Mr. CRANSTON) and the Senator from New Hampshire (Mr. HUMPHREY).

The Senate will be in order. Senators will please take their seats and clear the well, so that we may resume consideration of the matter at hand. The Senate will be in order.

The Chair requests his colleagues to dispense with the several conversations that are going on and requests that Senators retire to the cloakroom for their discussions. The work of the Senate will not proceed until the Senate is in order.

The Senate will be in order.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Chair will not recognize the Senator from California until in the Chair's opinion the Senate has come to due order.

Conversation continues on the floor of the U.S. Senate. The Chair is hesitant to mention any of the Senators by name who are involved in conversation, but the Chair will advise that unless order is maintained in the Senate, we may have to take some measure that we generally do not take in this body.

Will the body please come to order?

That also goes for the people in the front desk.

The Chair recognizes the Senator from California.

Mr. CRANSTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CRANSTON. The vote was scheduled for 5 p.m. after 1 hour of debate. At what time will the vote now occur?

The PRESIDING OFFICER. The vote under the previous order will occur at 5 p.m.

The Senator from California.

Mr. CRANSTON. Mr. President, on behalf of both sides of the aisle, having consulted with the Senator from New Hampshire, I ask unanimous consent that the vote be held at 5:13 p.m. rather than at 5 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

Mr. CRANSTON. Mr. President, the Senate will be voting 1 hour from now on H.R. 2977.

The PRESIDING OFFICER. With apologies to the Senator from California, the Senate is not in order, and we will not continue until it is in order.

I ask once again that Senators retire to their seats or the cloakrooms so that we can proceed with the business of the Senate in an orderly fashion. If we have any more discussion with staff, the Chair might take the option of clearing the staff from the room.

The Chair is going to insist that we have order in the Senate.

With my apologies, I recognize the Senator from California.

Mr. CRANSTON. I thank the Presiding Officer.

Mr. President, the Senate will soon be voting on H.R. 2977, which now contains, with several acceptable amendments, the text of S. 1843, as reported by the Labor and Human Resources Committee. The domestic violence provisions of this measure have had broad support in the Senate with 22 cosponsors from both sides of the aisle.

The House passed its companion measure last year by a 2 to 1 margin.

The legislation is supported by a broad range of groups from religious organizations and churches to police and law enforcement organizations.

Last week, the Senate debated this legislation at length, and a number of reasonable changes were made in the domestic violence provisions to accommodate the concerns of some of my colleagues. Indeed, one of my colleagues, the Senator from Utah (Mr. HATCH), stressed several times during last week's debate the extent to which we went to accommodate in a very reasonable fashion the concerns that he and others had raised.

I believe that the provisions of this legislation that the Senate will vote on shortly, offer a truly efficient and effective program to deal with the problem of domestic violence. Throughout the debate last week, there appeared to be a consensus that domestic violence is a very real and serious problem. I hope that as a result of the many changes and compromises which have been reached during the course of our consideration of this measure, my colleagues who have expressed some reservations about this bill will be able to give this measure their support.

Mr. President, I would like to review briefly for my colleagues exactly what this legislation would accomplish, why it is important, and finally, why the arguments made against the bill cannot withstand scrutiny.

WHAT THE LEGISLATION DOES

The Senate substitute for H.R. 2977 would accomplish the following four things:

First, the major component of this legislation—title I—would authorize the Secretary of Health and Human Services to administer a program of assistance and services for victims of domestic violence. The Secretary would be authorized to approve applications from States to establish programs designed to assist the State itself, units of local government, and/or private nonprofit organizations to operate programs offering shelter and related assistance to victims of domestic violence and their dependents, or programs to train persons who come in contact with these victims. These projects would be required to meet a certain match requirement—including private funding—and would only be allowed to receive Federal assistance for 4 years, not exceeding $50,000 in any one year or $150,000 over 4 years.

Second, title II would establish a commission to study various proposals on national service. Many people strongly believe that we have not made full use of our greatest national resource in this country—the American people themselves—and that greater opportunities should be available to allow persons to make a contribution to their society. The range of ideas about how such opportunities for service could be provided are many and varied. The title II commission would help us understand the pros and cons of not only the various models for national service, but the viability of the entire concept.

Third, as amended by the Senator from Wyoming (Mr. WALLOP) with my strong support, this legislation contains provisions based upon S. 105, the proposed Parental Kidnaping Act of 1980, to authorize the use of the existing parent locator system in the Department of Health and Human Services to help locate missing children, give full faith and credit to custody determinations entered by State courts, and make parental kidnaping a Federal offense. This title, cosponsored by a bipartisan group of 24 Senators representing a wide political spectrum, is an important response to the very serious and alarming problem of child stealing.

Finally, the Senate substitute contains a provision, sponsored by the Senator from Hawaii (Mr. MATSUNAGA), to permit the U.S. Commission on Proposals for the National Academy of Peace and Conflict resolution to continue its activities and submit its final report to Congress not later than January 31, 1981.

WHY THIS LEGISLATION IS IMPORTANT

Mr. President, let me outline a few of the reasons why this legislation is so important. First as I mentioned earlier, there seems to be unanimous agreement—even from the opponents of this legislation—that there is a great need for a response to the problem of domestic violence. As the Senator from Utah (Mr. HATCH) said during the debate last week, "I think we are united in recognizing the severity of the problem of domestic violence; that it affects all kinds of families; that its principal victims are usually without resources; and that we ought to do something about it."

The Senator from Kansas (Mrs. KASSEBAUM) stated:

> The controversy over the legislation before us today is not the need to address the problem of domestic violence itself. We all agree that this is a problem—indeed, a serious one. Even the most conservative estimates of the extent of domestic violence in our nation are sufficient to cause alarm. It is equally obvious that many victims in need of assistance are not able to obtain it.

Thus, as both the proponents and opponents of this legislation have repeatedly said, the problem of domestic violence is severe. Witnesses before the Child and Human Development Subcommittee have indicated that between 1.8 and 3.5 million women are abused each year by their husbands, and that one out of every six couples in the country experience some violence in the year. Testimony has also indicated that large numbers of children and elderly persons are also suffering from serious physical abuse in the home.

A second serious cause for concern is the phenomenal numbers of police injuries and deaths which are the direct result of domestic violence and the inability—resulting from lack of training—of law enforcement personnel to deal with domestic violence. Forty percent of all police injuries and one-fifth of all police deaths arise in domestic violence situations.

A third important fact to evaluate in considering this legislation is that most victims of domestic violence are victims of repeated violence. They are revolving-door users of expensive government services such as police personnel, hospital personnel, and social service agencies. Offering domestic violence victims and their families options for learning to cope with their difficulties in nonviolent ways should certainly decrease the tremendous drain on resources that this problem now places on other, already strained government programs.

Fourth, we should be concerned about the evidence indicating an intergenerational pattern for domestic violence. Children from families where violence is the rule tend to become abusers themselves as adults. This cycle can be broken with some preventive effort today. The social and emotional costs which this problem inflicts upon its victims may be irreparable.

But we do not have to stand by and watch the beating and killing continue.

We can begin to lessen the pain for victims today by voting "yes" on this measure and thus increasing the likelihood that tomorrow's children will not become tomorrow's abusers and abused.

WHY OPPONENTS' ARGUMENTS ARE FAULTY

Mr. President, I firmly believe that the arguments made by the opponents of this legislation are unsound. I would like to take a couple of minutes to respond to some of the concerns raised during last week's debate.

The first, and perhaps most fundamental, argument made against the domestic violence legislation amounts to an alleged difference in philosophy of approach. Mr. President, I call the philosophical difference "alleged" because the lengthy debate we have had on this matter makes me feel confident that there is not truly such a difference between the proponents and opponents of the approach presented in this measure. Those who oppose this legislation say they do so not because domestic violence is not a problem, but because they think it is a family matter which is private in scope and which should not be dealt with through a Federal solution. Proponents of the bill say the problem of domestic violence is a private family matter which can ultimately only be solved privately, but, which touches community and human life to such an extent that it cannot conscionably be ignored by any level of government.

The bill has been carefully drafted, however—and let me stress this again—to keep the control of domestic violence programs in the hands of local communities. The amendments adopted last week strengthen that local control even more. This bill just does not, Mr. President—does not—provide a "Federal" solution to the problem of domestic violence; what it does is provide a supportive and stimulative role for Federal Government to play.

The second argument which has been raised is the allegation that we are already doing enough in this area. A number of Federal agencies have become peripherally involved with the problem of domestic violence. But these activities have been fragmented and have not focused upon the greatest need in the area of domestic violence—the need for immediate shelter for domestic violence victims and their defendants. The former acting Secretary of the Office of Human Development Services of the Department of Health and Human Services, Manuel Carballo, in testimony before my subcommittee stated:

> While Federal programs support bits and pieces of services needed . . . no Federal agency is able to support emergency . . . shelter for battered women and their children. . . .

He also stated that the lack of emergency shelter is "the major gap in services needed." Ironically, it is believed that perhaps the most effective way of providing a long-term solution to the problem of domestic violence is to provide the abuser and the victim with the opportunity to be apart during the crisis in order to get feelings sorted out and be able to understand the dangerousness of the battering experience.

Presently, Federal funds are available to support a limited number of research and demonstration projects, technical assistance programs, and some volunteers and staff working in local programs. Some domestic violence victims have found longer-term help from some social service programs, such as job training or legal services programs.

However, Mr. President, although a number of Federal agencies have been involved in domestic violence, none of them focuses on the need for emergency shelter. For example, LEAA has funded 25 demonstration projects in the last 2 years. These programs, however, are chiefly designed to improve the responsiveness to the domestic violence problem of the criminal justice system—the police, the prosecutors, and the courts. No new local projects are planned for this year.

HUD community development block grant funds can be used to acquire or renovate a building to be used as an emergency shelter, and some 25 communities have been able to obtain a shelter facility through this program. However, this program does not provide funds to maintain or operate a shelter.

The Legal Services Corporation, a private, nonprofit corporation funded by the Federal Government to make grants to programs providing legal assistance to low-income individuals, does offer domestic-violence related legal assistance. These services, however, are unrelated to the needs for emergency shelter of many domestic violence victims.

The CETA program, conducted by the Department of Labor, is often utilized as a source of staff for shelter programs, and some programs rely heavily on CETA employees to answer hotlines, provide information and referral, and assist with the operation of shelters. However, eligibility for shelters to obtain CETA employees is limited, and CETA workers are available for only a limited time period.

ACTION agency volunteers, through VISTA, the foster grandparent program, and RSVP, are another source of personnel to help staff shelters. However, neither CETA workers nor ACTION volunteers can operate a program without other support.

CSA has supported a limited number of research and demonstration projects related to domestic violence, but CSA, as the other agencies and departments I have mentioned, does not itself have a specific program to support direct shelter services to those in need of them.

Title XX of the Social Security Act, which is most frequently thought of as a source of funds for shelter support, has assisted providers in only a dozen States. Until June and the enactment of H.R. 3434, title XX funds could not be used for shelter care for adults. Although I authored a provision in H.R. 3434 to eliminate the prohibition against the use of title XX funds to support shelter care for domestic violence victims, there will not be any new moneys provided under title XX for shelter support. In fact, H.R. 3434 actually cuts very sharply the level of title XX funds for fiscal year 1980—by $200 million from their 1979 level.

The Senate rejected the title XX approach last week in defeating the amendment of the Senator from Missouri (Mr. DANFORTH).

A telling illustration of the tremendous need for an increased Federal effort in this area is the fact that when the Office of Human Development Services recently announced plans to award three grants of $100,000 in the area of domestic violence, it received over 250 applications.

Mr. President, I do not mean to imply by my statements that the limited current activities of the Federal Government are not useful. They most certainly are. However, there are serious drawbacks and limitations in the existing effort. The primary drawback results from the fact that current Federal funding of domestic violence activities is haphazard and has left substantial gaps—the lack of assistance for emergency shelters being the most serious problem. Since there is no legislative mandate for the involvement of Federal programs in assisting shelters, their few, uncoordinated discretionary efforts are very difficult to hold accountable for the effective use of Federal moneys.

Mr. President, I continue to reiterate the lack of support for emergency shelter because the local public and private organizations trying to deal with the domestic violence problem are struggling to survive. Many shelters, with very limited resources and capacities, are forced to turn away more domestic violence victims than they actually serve.

This legislation would provide assistance in this area of greatest need—the need for emergency shelter—a need which is just not being met under current programs.

Mr. President, to summarize, there is virtually unanimous agreement that domestic violence is a serious problem about which something must be done. Although we do have some differences about which approach is the best, a number of accommodations have been made to address the concerns of the opponents of this legislation. The costs of domestic violence are heavy, and this legislation offers a modest approach to dealing with the short-term and long-term impact of this terrible problem. Finally, this legislation has other important provisions—principally, the National Service Commission, and the parental kidnaping provisions—which should be enacted.

For all these reasons, I urge my colleagues to support this measure.

Mr. President, before I close, I want to acknowledge the contributions of four Members of the House of Representatives—GEORGE MILLER of California, BARBARA MIKULSKI, of Maryland, LINDY BOGGS, of Louisiana, and PAUL SIMON, of Illinois—and their able staffs in moving this legislation through the other body. Without their tremendous efforts on the domestic violence legislation, it is doubtful congressional approval could have been achieved during this Congress. Finally, I want to thank all the countless individuals and organizations who have supported and worked for passage of this measure, and express my gratitude again to the staff of the Child and Human Development Subcommittee for all of their outstanding work on behalf of this legislation.

I yield 5 minutes to the Senator from Michigan.

Mr. RIEGLE. I thank my colleague, the Senator from California, for his kindness in yielding to me.

Mr. President, let me say to my colleague from South Carolina before he leaves that I hope in listening to the ensuing debate that his mind will be changed. I think this legislation is important legislation, good for the country, good for his State and good for mine. I hope as he has a chance to hear some of the points that those of us who favor the legislation will make, that, perhaps, just perhaps, he will decide to change his thinking and vote for this legislation.

As an original cosponsor of S. 1843, I want to express my strong support for this legislation. The bill is a result of years of hard work by the Subcommittee on Child and Human Development, specifically, Senator CRANSTON and many other concerned Americans across the country, and I am pleased it is before us today.

I just want to begin by commending those who have been given the leadership in reaching this final version of the bill we will shortly be voting on.

There has been much discussion about the problem of domestic violence during the recent debate. The consequences affect the whole of American society, as well as individual family members. The chairperson of the domestic violence prevention and treatment board in my own State of Michigan stated in his testimony to the White House Conference on Families in Detroit last December:

> Domestic violence occurs in one-third of American homes without regard to race or ethnic origin, education, religion, or socioeconomic status. This violence against mates results in an annual economic loss to the nation of $3 billion to $5 billion; medical bills easily add another $100 million to these totals; it takes 30%-40% of police officer time and 15%-35% of court dockets. While undocumentable, it also relates to juvenile delinquency, child abuse, educational problems, and is a behavioral model that perpetuates the cycle of intrafamily violence.

Families affected by domestic violence share a feeling of humiliation and all too often bear their fear and physical and emotional pain in silence. The silence perpetuates a destructive cycle that is passed on through generations and may lead to disaster and even death.

H.R. 2977 is a commitment by the Federal Government to assist those families caught in this cycle. Victims of domestic violence, their children, and the assailants who were often victims themselves or who witnessed family violence in their homes as children, need support and help to learn healthy ways of coping with feelings of frustration and anger. With the assistance of H.R. 2977, States can do what my colleague from South Carolina suggested he would support. That is, the States will be better able to provide the appropriate kind of needed help.

H.R. 2977 offers an incentive for States to develop domestic violence programs on State and local levels. With amendments already accepted, all of the funds authorized by this bill will be distributed to States and local communities for emergency shelters for victims of domestic violence and counseling programs for victims and assailants. Strict limits on the size of grants and requirements for matching funds insure that projects will seek outside funding sources.

We are all aware that these are times of economic instability and recession. As unemployment increases, stress levels, alcoholism, drug abuse and family violence also increase. I have been gravely concerned about my own State of Michigan where unemployment has reached 14 percent and tensions are rising. But Michigan is not alone in experiencing severe economic distress. National unemployment is now 7.9 percent and is expected to average 9 percent through fiscal year 1981. Unemployment at these levels exacerbates family tensions and it is therefore particularly important that H.R. 2977 be enacted this session.

Michigan has an excellent domestic violence program coordinated and administered by a State Domestic Violence Prevention and Treatment Board. There are currently 31 emergency shelter programs in the State which operate at 100 percent capacity and are forced to turn away or find alternative temporary shelter for many individuals and families.

For example, in Michigan, 12 shelters reporting services for July–September 1979 were unable to provide emergency housing to 478 victims of domestic violence because their shelters were full to capacity. Shelters provide specific services to women and children who have left their homes as a result of violence or the threat of violence, often with only the clothes they are wearing. These services include crisis and support counseling, emergency medical care, legal assistance, housing assistance, financial support to help with immediate necessities, transportation, child care services and employment assistance.

The Michigan State Board also supports prevention and treatment services for assailants, promotes research, and provides State-wide educational programs to increase public awareness and remove the stigma from those involved in family violence.

As chairperson of the Subcommittee on Alcoholism and Drug Abuse, I have a special interest in the problem of domestic violence. The Committee on Labor and Human Resources in its report on S. 1843 noted the significant correlation between alcohol and drug abuse and domestic violence. Statistics have indicated a large percentage of domestic assaults involve the excessive use of alcohol or drugs.

At hearings I chaired in February of last year, I was deeply moved by witnesses who shared personal and family experiences with alcohol abuse and the harmful affects it had on their families. After those hearings, I learned that a domestic violence project in Ann Arbor, Mich., found that 58.9 percent of the spouse abusers also abused alcohol, and 20.7 percent abused drugs. For these reasons, the subcommittee included a provision in S. 440, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act amendments of 1979, authorizing the National Institute on Alcohol Abuse and Alcoholism to provide emergency assistance to individuals and their families who require immediate counseling and shelter as a result of alcohol-related domestic violence.

Since the House had passed their domestic violence bill, H.R. 2977, and it appeared that the Senate would soon follow suit, I agreed in conference—with considerable reluctance—to drop some of the domestic violence provisions in S. 440.

Domestic violence is a widespread problem which, if left untreated, is passed on through generations. The damage it does will have effects for years to come unless we begin the process of change now.

So I would hope that my colleagues had a chance to study what this legislation can do to be helpful. This is by no means an invasion of States' rights. It preserves States' rights in every way, shape, and form. It is designed to see that the work is done and is done at the State and local level.

I know from my experience as chairman of the Subcommittee on Alcoholism and Drug Abuse, the problem of family violence is often alcohol and drug connected. We must make a greater effort to try to remedy these difficult problems.

I hope that by passing this long overdue initiative today we can prevent more damage from being done that will otherwise perpetuate itself through future generations. I hope that when my colleagues have a chance to weigh this issue, that they will decide with a large majority to vote today in favor of H.R. 2977.

Mr. CRANSTON. I thank the Senator from Michigan for those very fine remarks.

I yield 1 minute to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, the bill before the Senate today, the Domestic Violence Prevention and Services Act, poses a recurring problem for the Congress and the Federal Government.

Violence between spouses and within families is a tragic part of life for many Americans. Those abused frequently find themselves the objects of contempt, as much as of neglect. And the toll on our law enforcement agencies underlines the very real extent of this problem. Forty percent of police deaths and injuries occur in the course of domestic altercations. Thirteen percent of murders each year occur between spouses. Surveys have found that in these murder cases, police have frequently been called to the secene before.

Understandably, police reluctance to intervene in domestic argument—and other demands on police time—have meant that women and children facing physical violence most frequently have nowhere to turn for help, for shelter or for counseling to enable them to avoid recurrences of abuse.

Growing public awareness of this aspect of the problem—and increased public understanding of the fact that violence is not a phenomenon limited only to the very poor, the out-of-work, the habitual drunkard or drug-taker—has led to the creation of some 250 shelters around the country, principally in our major urban centers. These shelters care for the immediate needs of the victims and provide at least one avenue of escape for women and children exposed to the continuing threat of brutalization. This community response to a perceived need is one that can be strengthened and improved through additional Federal funding, but one which would be weakened by central direction from Washington.

For the congressional quandary is that the ability of the Federal Government to do more than simply provide money is minimal. Our ability to develop and operate programs which effectively protect the victims of domestic violence can only be pursued through the erection of Federal requirements, Federal regulations and Federal direction which frequently hinder rather than help the direct delivery of services to those who need them.

For that reason, the traditional and appropriate governmental involvement in domestic matters remains today—as it should—at the State and local level.

The Federal Government is incapable of dealing appropriately with the individual needs of family members who are driven to inflict physical harm on each other, or who repeatedly endure such abuse. Domestic violence occurs in a context where counselling services are needed, not only by the victim, but also by the abuser, and the children who may be victims of abuse or bystanders, forced to witness repeated acts of brutalization. The only governmental agencies capable of developing an appropriate response to this syndrome—and the only governments capable of involving the entire structure of medical, spiritual and and psychological service providers—are the governments at the State and local levels.

For that reason, I believe the involvement of local governments in the provision of grant funds is essential if the necessary support services are to be provided effectively and without duplication of cost or effort.

I am pleased that this bill includes a provision to channel funds through State and local governments for disbursement to providers. States can more effectively assess their local needs and their resources to provide services if they have control over the grant funds provided for this program.

I am pleased that the legislation has been structured to assure that 95 percent of the funds will be devoted to direct services. And I believe the best way to make certain the victims of domestic violence receive maximum benefit from that financing is to make certain that shelters are established and followup and counselling services provided to complement other State service programs, not to duplicate them.

At a time when every Federal program is being subjected to the most severe fiscal scrutiny, it is essential that limited Federal resources be used as efficiently as possible. In this instance, that clearly means that as large a proportion as possible of these funds should be channeled for the direct services envisaged.

I do not believe that the provision of $15 million will insure an end to the violence some women and children face in their own homes. But if the use of these Federal funds can arouse local interest in the problems faced by people in the community, and if they can encourage the growth of community-based services and help, they will have been well spent.

It is only through the supportive efforts of friends, neighbors, and churches that the pressures which drive some to inflict physical abuse on their wives and children will be curbed. I would not support the erection of a Federal barrier to increased community involvement in this problem. And I believe that with appropriate safeguards, this Federal seed money can help build the basis for community involvement and community help.

Accordingly, I will vote for the measure on final passage.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, will the Senator from California yield me 1 minute?

Mr. SIMPSON. I yield 1 minute to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I thank the Senator from California.

Mr. President, stress is a byproduct of our complex society which makes many tangible and intangible demands on all of us. Families, which in simpler days provided refuge from the demands of everyday life, unfortunately are no longer immune from the adverse effects of stress. Peaceful communication and harmony have given way in thousands of households to physical and mental abuse between spouses. Domestic violence threatens the well-being of millions of people. Congressional witnesses indicated that between 1.8 and 3.5 million women are abused each year by their husbands, and that one out of every six couples in the country experience some violence during the year. A large number of children and elderly persons are also victims of serious abuse in their homes. Family violence is not an isolated occurrence or restricted to any particular locale or group of people. It is a phenomenon that knows no boundaries.

Like other social diseases, domestic violence can be treated. The primary victims of domestic violence—most often women and their children—need safe places to go for short periods of time so that they can make plans either to begin new lives or to return to their homes to work out their interspousal problems. Many of these women also need counseling and other assistance to help them make the transition out of the family or to help them return to their homes. The physically abused woman is not the only victim of violence; the person inflicting pain and misery is the other victim. This person—most often the husband—needs help in understanding why he takes his tensions and aggressions out on his loved ones so that he can control this behavior. Help for both victims of domestic violence will make it possible for husbands and wives to restore domestic tranquility. This in turn will rescue marriages that may otherwise have failed and save countless families along the way.

While I would like to be able to report that the people of my own State have not experienced family violence, this simply is not the case. A recently formed statewide coalition on family violence and sexual assault presented the case of some 4,000 to 6,000 families afflicted by chronic misdemeanor or felonious battery in the family to the Wyoming Conference on the Family. The coordinator of the coalition informed me that the conference responded by passing their only unanimous resolution citing the need for a State shelter and treatment system for the perpetrators of family violence. While eight sexual assault-family violence projects have recently been undertaken throughout the State, each one of these programs needs a secure source of funding to get through its initial phase of operation. The legislation before us will provide support from the Federal Government for these and other programs like them and will enable them to provide services to victims of family violence while developing independent funding sources for their future operation.

Mr. President, I support the Domestic Violence Prevention and Services Act before us now and intend to vote for it. Title I of the bill, as amended, will provide needed funds for State, local and community activities to prevent domestic violence and to provide immediate shelter and other assistance to the victims of family violence.

The legislation has been improved through a series of constructive amendments offered on the floor during consideration of the measure. These amendments resolve many concerns I had, and which have been expressed by people across this country who did not want a bill that would thrust the Federal Government on the family.

Some concerns were raised about the Federal Government imposing domestic violence programs on unwilling States or communities. The bill does not give the Federal Government the right or the power to intrude uninvited into State or local affairs.

If a State wishes to participate in the Federal grant program, it can submit an application to the Secretary of the Department of Health and Human Services. It is not required to participate. In addition, a floor amendment adopted by the Senate provides that the State legislature must be given written notice of any grant to the State under this program. Thus, even after a State has voluntarily submitted a plan, the State legislature can take steps to prohibit participation in the program if it so desires.

Importantly, the bill was also amended to prohibit direct Federal grants to private nonprofit local organizations. According to the amendment, the Secretary can make grants only to the State or to units of general local government—cities and counties—and not to private entities.

Another amendment insures that the programs or projects that receive Federal funds will not become dependent upon Federal funding for their existence. In addition to the provisions of the bill which limit the size and duration of grants, this amendment requires the recipient of funds to match Federal dollars with local dollars. The provision calls for a sliding local share under which the non-Federal share would be 25 percent in the first year, 33⅓ percent in the second year, and 50 percent in the third year. In addition, one-half of the non-Federal match would have to come from private sources. This amendment will guarantee local community and private support for the programs that receive Federal dollars and will facilitate transition to full local funding.

Concerns were also raised about the creation of a bigger bureaucracy. The bill has been amended to prevent this from happening. The Senate agreed to delete from the bill the provision creating a National Center on Domestic Violence. Instead, the functions that would have been carried out by this center will be carried on in-house at the Department of Health and Human Services.

Another amendment was adopted which requires shelters receiving financial assistance to comply with any licensing requirements that the State might impose on the operation of shelter facilities.

In addition to title I of the legislation, the domestic violence program, title II of the bill authorizes the establishment of a Presidential commission to study the need for and the desirability of establishing a national service program to meet a broad range of human and societal needs.

The Senate also adopted as a new title III to the bill an amendment I offered to reduce the heartbreaking and all-too-frequent problem of childsnatching. My amendment is nearly identical to a bill that I introduced which has broad bipartisan support in both houses of Congress. The bill, S. 105, and this amendment are designed to assist States in the enforcement of their child custody laws, to assist parents in locating their abducted children, and punish parents who, without regard to the safety or well-being of their children, and in violation of enforceable custody or visitation rights of the other parent, deny these children access to or communication with, their other parent. This provision should alleviate another manifestation of family violence—the tug of war between feuding parents which leads to devastating psychological injuries for the innocent children who get caught in the middle.

In conclusion, Mr. President, let me say that I am satisfied that the amendments to title I of the bill have greatly improved the legislation. These amendments have assured that Federal assistance will be limited in amount and duration, and focused on projects and programs with local community support. I am also very pleased that the Senate has adopted the parental kidnapping prevention proposal. This marks the second time the Senate has taken favorable action on this legislation. Now we must turn our attentions to the House to impress our colleagues there with the need to enact this important proposal.

Mr. BELLMON. Mr. President, will the Senator from New Hampshire yield me 1 minute for a unanimous-consent request?

Mr. HUMPHREY. Mr. President, I yield 1 minute to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, the Senate is about to vote on the Domestic Violence Prevention and Services Act which addresses a problem that is widespread. Economists have estimated that the cost of domestic violence is $3 billion a year. The loss of jobs, hospitalization costs, welfare and food stamps to victims and their dependents all contribute to this cost. More policemen are killed in the line of duty while responding to "domestic" calls than in any other aspect of their jobs. Conclusive evidence demonstrates that domestic violence often contributes to child abuse and repeated patterns of violence when the child grows up. There is no question that appropriate remedies for this problem must be found.

Many local and community groups in Oklahoma as in other States are providing services to battered wives and children. The majority of shelters in Oklahoma are located in urban areas. I am concerned that such shelters are not available to residents of more rural areas. The major reason for this is a lack of community organization and funding for such programs. Even our urban shelters are having a difficult time coping with finding adequate funding to meet the high costs of operation. There is a limit to the amount of community funding available to groups providing shelter and counseling to victims and their dependents.

Mr. President, there is reason to be concerned that this legislation will mean more Federal intervention into local and family relationships. I am concerned that there is a potential for Federal regulators to meddle in such programs when they would be more aptly run by local groups.

It is ironic to me that we find ourselves in the position of establishing a new categorical program. My colleague, Senator DANFORTH, was right when he proposed an amendment to make such funds available through title XX rather than establishing a new program. Unfortunately, his amendment failed.

Mr. President, I feel that the proper authority to operate domestic violence programs lies with local governments and organizations rather than the Federal Government. Already these officials have available general revenue sharing funds as well as title XX funding. I cannot support a new categorical grant program which will bring Federal involvement into a local and family relationship.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Will the Senator from California yield me 1 minute?

Mr. CRANSTON. Only with the consent of the Senator from New Hampshire, because we agreed on the time.

Mr. HUMPHREY. The difficulty is we are racing the clock. I do not want to see our side bumped into.

Mr. CRANSTON. Mr. President, we are using our time. I yield 30 seconds to the Senator from Arizona.

Mr. DECONCINI. I thank the distinguished Senator from California.

Mr. President, because of my concern about the growth in the incidents of domestic violence I chose to cosponsor the Domestic Violence Prevention and Services Act. The preponderance of evidence indicates that domestic violence has grown to near epidemic proportions. For example, a 1979 Harris poll found that 1 wife in 10 had experienced some kind of violence from her husband within the last 12 months. The recipients of such violence are not limited to wives—the committee report for the bill states that in any given year as many as one-quarter of a million husbands might be battered.

Many of the victims of domestic violence do not have the means to seek assistance whether it is in the form of counseling or an overnight shelter. Further, if the victim possessed the necessary means to get away from the abuser in many instances there is no emergency shelter available.

Although there is an obvious lack of services available to victims, valiant efforts have been made by private nonprofit organizations to alleviate this situation. During the last few years over 350 shelters have been established by such groups. However, these shelters operate on a hand-to-mouth budget, and are able to accommodate only a fraction of the victims seeking shelter. Few of these shelters receive any State or local public funds.

Available Federal funding for family violence is extremely limited. It is my understanding that except for a few shelters funded as part of LEAA demonstration projects, no Federal agency provides funding for operation of shelters for battered women.

The purpose of this bill is not to encourage intervention in family matters—if the bill did encourage such intervention I would not have cosponsored it, or support it. The purpose of the shelters that will be provided assistance when this bill is enacted is to assist law enforcement officials in protecting victims of family violence from further abuse. The ultimate goal is to save lives.

In conclusion, funds provided by this bill will help local agencies to assist victims of domestic violence who in a crisis situation seek refuge in a shelter. Further, it will help prevent domestic violence through counseling services to those individuals who request it.

Mr. President, I urge my colleagues to support this measure.

Mr. HUMPHREY. Mr. President, I yield 1 minute to the Senator from North Carolina.

Mr. HELMS. Mr. President, on August 18 an article appeared in the Washington Post which in a very direct fashion bears on many of the issues concerning domestic violence in general and this legislation in particular.

The article was headed: "Courts Increasingly Asked to Rule on Affairs of Heart." Fred Barbash, the Washington Post reporter who wrote the story, began as follows:

> Tom Hansen, a lonely and troubled young man, sued his parents in 1978 because he didn't like the way they brought him up.
>
> It was a unique case then. Now it seems rather ordinary, compared with other cases in recent months. A woman sued her husband for not carrying out his household chores. A rejected suitor sued his ex-fiancee to recover expensive tokens of love. A man sued his former lover—after the baby was born—because she had assured him she was on the pill.
>
> A lot of these cases, including Hansen vs. Hansen are thrown out of court eventually, but they attract attention and more lawsuits like them. They are the kind of stories you overhear on the bus or read about in The National Enquirer: the freak case, kid sues mom and dad, a joke.
>
> But the frequency of these lawsuits is mounting, and the doors to the courthouse are slowly beginning to open for them. Serious questions are being asked about the portents for the law.
>
> Can the courts, which often fail to resolve less subtle issues, settle disputes of the heart? Even if judges can assess who was at fault and award money, can they do it without further damaging an already injured family or personal relationship? Must every problem facing humanity be brought to the courts just because someone has been hurt?
>
> Supreme Court Justice William H. Rehnquist warned in a speech recently that the response of courts to these cases "has not generally been to bounce these individuals out of the courtroom and back into their livingrooms. . . ."
>
> This trend, he said, "cannot but endanger even further the vitality of the family as an institution in our society."

Mr. President, I ask unanimous consent that the remainder of the article be printed in the Record at this point.

There being no objection, the remainder of the article was ordered to be printed in the Record, as follows:

> Tom Hansen, the man who sued his parents for $350,000 in Boulder, Colo., is now 26. His case is over. Hansen has hardly seen his parents since the suit was filed. He says he doesn't know where they are. His mother and father say they don't know where he is.
>
> A sad and strange outcome Hansen acknowledges now. For what he really wanted from his lawsuit, he says, "was love from them. I wanted attention."
>
> If his case had been heard by a court Hansen would have centered it on the physical workload—backyard labor—his father made him carry as punishment for his problems in school at the age of 13, on the fact that his parents sent him away to boarding school in Italy, how these and other actions damaged his ability to work and to function emotionally.
>
> The suit, he said, was originally suggested by his psychiatrist as a form of therapy. "The suit was to be my treatment," Hansen said.
>
> For Hansen's lawyer, Boulder attorney John Taussig, the legal theory was simple and should have been accepted by the Colorado courts, which refused to hear the complaint.
>
> "It was an extension of the battered-child syndrome," Taussig said. "If a kid is physically abused, we have precedent allowing a suit for damages against the parents.
>
> "Here you had emotional rejection, rejection that screws up a child for life. Isn't it a small difference between this and physical abuse?"
>
> The family heard about their son's suit before it was filed, said Shirley Hansen, the mother, but, like everyone else, they regarded it as a joke.
>
> She was "devasted" and "humiliated," she said. "Being a parent is the most important thing you can do. Your kids are just fundamental to your existence. Something like this just doesn't belong."
>
> "I thought the parents were really held up to public ridicule," said E. Gregory Martin, the parents' lawyer. "I think they love him, but they're just beside themselves as to what to do."
>
> Tom Hansen is equally uncertain about his future. "I'm going out to California," he said in an interview from Colorado. "I think I'm going to try to connect with some consciousness groups."
>
> "This is the problem," said Jay Folberg, a professor at Lewis and Clark Law School in Portland, Oreg., and an official of the Association of Family Conciliation Courts.
>
> "Litigation only fans the flames," Folberg said. "The adversary process—by definition—pits people against one another and results in a winner and a loser. Whenever you have a relationship that should continue, having a winner and loser only creates further friction."
>
> That is just one reason, Folberg says, that many of these personal cases may not belong in court, or belong there only as the final resort, after efforts at conciliation.
>
> "You have people dealing with each other without any written contract," he said. "They never anticipated being where they are now. Lawyers, judges and others in the adversary system are trained for a type of precision. And precision may be the antithesis of what we want to help parties resolve matters so sensitive."
>
> Lawyers who approve of such personal cases understand the difficulties courts have with the nuances and the undefinables. They also say they understand the damage that can be done by going into the harsh adversary climate of the courts.
>
> But they argue that the damage has already been done.
>
> If a child cannot sue his or her parents for psychological damage, can a wife sue her husband for failing to shovel snow off the front walk?
>
> Most states have prohibited such lawsuits between spouses in order to protect the integrity of marriages and to prevent collusion between husbands and wives who want to defraud insurance companies by collecting damages for household injuries.
>
> But during the past decade, more than half the states have either eliminated or sharply modified this concept. Massachusetts did so last month in the case of Brown vs. Brown.
>
> William Brown, of Wakefield, Mass., allegedly had responsibility for shoveling ice and snow off the walk and driveway in front of the family's home.
>
> One winter morning in 1978, according to his wife, Brown had to leave home in a hurry, and neglected to do the shoveling. She slipped, broke her pelvis and sued him for $35,000.
>
> The Massachusetts Supreme Judicial Court had already eliminated a ban on suits between husbands and wives stemming from automobile accidents. The court ruled last month that eliminating it for other kinds of damages is the next logical step.
>
> The ban on such suits is based on the idea that the husband and wife are legally one person, the Massachusetts court said, but it is time to change those "antediluvian assumptions concerning the role and status of women in marriages . . . Mrs. Brown should at least get a chance to prove her case in court."
>
> Mrs. Shirley Brown seems confident that her marriage can survive the upcoming lawsuit. "She loves her husband," her lawyer, Charles Blumsack, told reporters. "This has not created any problems."
>
> The Florida Supreme Court reached an opposite conclusion in a similar case now before the U.S. Supreme Court, involving a suit between husband and wife (Raisen vs. Raisen) stemming from an auto accident.
>
> The Florida court would not allow the suit. "There have been many changes in Florida since 1829 [when the ban on husband-wife suits originated] but the reasons for it still exist," the court said.
>
> The suits "can have an upsetting and embittering effect upon domestic tranquility

and the marital relationship," the Florida court ruled.

The Florida judges were also wary of collusion, warning:

"We expect too much of human nature if we believe that a husband and wife who sleep in the same bed, eat at the same table and spend money from the same purse can be truly adversary to each other in a lawsuit when any judgment obtained . . . will be paid by an insurance company and will ultimately benefit both spouses."

Another avenue for new litigation is lawsuits over broken promises. Marie Hajus, a Connecticut teacher, was engaged for two years to an airline pilot, Robert Piccininni. He says he bought gifts for her and her children and paid for substantial improvements to her home.

Then she told him the wedding was off. Their relationship dissolved and, eventually, each married someone else.

Last year, Piccininni sued. He asked the court to award him the value of all the gifts and home improvements, which he estimated to be $40,000. "Every salad bowl that was purchased," according to Diane Ruben, a New attorney who is defending Hajus.

The Connecticut Supreme Court decided in April that such cases should be heard, even though the state has a legal prohibition against "breach of promise to marry" suits.

The law was designed to prevent the courts from adjudicating confused feelings, sentimental bruises, blighted affections, wounded pride and mental anguish.

Called a heart-balm law, it was also designed to prevent such suits from becoming a club to be held over the head of a reluctant bride or groom.

But it is possible, the Connecticut court said, to weed out those factors and concentrate on purely legal elements. Was property exchanged? Was it exchanged under fraudulent circumstances? The courts can handle such questions, Connecticut's judges decided, and allowed the case to proceed to trial.

It becomes "a dry economic claim," said lawyer Ruben. "It has to do with the economic intentions of the parties. It is not inappropriate for a court."

Because few of these cases have reached the testimony stage, Ruben's view is untested. But the possibilities for confusion are clear, if not in this specific case, then certainly in others.

Was the couple really engaged to be married? How did he ask her? What did she say when she accepted? Was it a fraudulent engagement? Did she really intend to marry? Did she really love him? Did he love her?

Piccininni vs. Hajus is, in some respects, an extension of the "palimony" suit brought to notoriety in Michele Triola Marvin's case against actor Lee Marvin. But there is an important difference: the couple in Connecticut never lived together.

The potential, many lawyers believe, is mind-boggling.

Mr. HELMS. Mr. President, I attended the meeting at which Mr. Justice Rehnquist delivered the remarks quoted by the Washington Post. Mr. Justice Rehnquist spoke to the increasing intrusion into family matters by both Government and the legal system under the pretext of resolving ordinary family disputes. He observed that this steady imposition of adversarial laws and processes upon the family has contributed to its disintegration. He concluded that the integrity and autonomy of the family are "best retained by a government which provides for no intervention except in extreme cases."

Mr. President, I have not discussed the pending legislation with Justice Rehnquist, nor am I suggesting that he has a particular opinion on its merits one way or the other. But, Mr. President, the thrust of Justice Rehnquist's remarks are essentially correct and completely applicable to the legislation the Senate is now considering.

We could quickly and easily reach a consensus regarding some of those "extreme cases" of domestic violence which clearly fall under the responsibility of Government to address. But that is not what this legislation does. Instead, this bill proposes the authorization by Congress of the expenditure of milllions of taxpayers' dollars while allowing Government bureaucrats, through Federal regulations, to determine at what point domestic unhappiness becomes domestic violence. We may well ask: "What is domestic violence?" S. 1843 defines "domestic violence" as "any act or threatened act of violence * * * which results or threatens to result in physical injury." Is it limited to physical abuse, or does it include psychological and emotional abuse? How about spanking, for example, or nagging? This bill is unclear. It is open to the whim and caprice of Federal bureaucrats.

In the State of Washington we witness the spectacle of a 15-year-old girl being granted a "divorce" from her parents solely on the grounds that the parents disagreed with her over her friends, her dating practices and her desire to smoke. The parents, by the way, were found by the court to be "fit" as that term is used in the juvenile court statutes. To what degree will the federally funded domestic violence centers contemplated by this legislation become havens for teenagers and others who resent family discipline?

The extent to which these centers will encourage or discourage the disintegration of thousands of American families will depend in great part on the regulations concerning their operation adopted by Government agencies and the attitudes of those involved in the centers' operation.

In this regard we have extraordinary examples as to the way these projects may be administered. In 1978, the U.S. Commission on Civil Rights sponsored a "consultation" on the subject of "Battered Women: Issues of Public Policy." These hand-picked experts in the area of domestic violence detailed at length their views of the causes of and solutions to domestic violence.

I hope my colleagues will take the time to consult this report before voting. On page 419 of the report, readers will find the following analysis of the causes of domestic violence:

> Bryant's crusade against homosexuals under the misleading banner of "Save the Children" is the panicked cry of powerless women who see their sexuality threatened by the assertiveness of male and female gays seeking their own personhood rights; her crusade arouses fears and anxieties concerning the viability of traditional heterosexual marriages and the continuation of the power system of the heterosexual family model, a system that has historically accorded full power to the male partner on the basis of legal tradition, physical superiority, and the domestic enslavement of women whose housewifely chores have not been compensated. Schlafly's pose as the defender of orthodox family values and the protector of the rights of married women is by now a cliche; indeed the classic appeals of the anti-ERA groups in American society, as well as those of opponents elsewhere to women's equality movements, rest on the disruptive and destructive impact of equality to the "rights" of married women. The illogicality and indeed mendacity of these arguments is easily established in the rare instances where coherent debate is possible, but for many American citizens—male as well as female—the institution of marriage seems synonymous with a rigid symbiotic power distribution between the sexes so that a redistribution of power appears an ominous threat to the stability and continuity of the institution of marriage. This equation between marriage and the perpetuation of male power rests on ancient historical foundation; but given the tremors which have surrounded that foundation on many social and economic fronts, it seems clear that a permanent Andreas fault underlines the past definitions of marriage, and that a redefinition of that institution must be part of an effort to eliminate the abuses which women have suffered within its framework.

On page 479, under the heading: "A Sociological Perspective on the Prevention of Wife Beating," and "Summary of Policy Implications for Prevention Derived from Analysis of Six Social Structural Causal Factors" we find the following recommendation:

> Eliminate the husband as "head of the family" from its continuing presence in the law, in religion, in administrative procedure, and as a taken-for-granted aspect of family life.

This type of social engineering does not command the support of the majority of the American people and I suspect this is the primary reason why these centers have not been able to generate sufficient financial support within their local communities and now seek Federal tax dollars.

Mr. President, if there is any doubt that such views of the nature of the family are unrelated to the bill we are now considering, I suggest a review of appendix D of the Commission's publication which includes three bills introduced during the last Congress regarding domestic violence including an earlier version of the pending legislation.

Mr. President, I cannot support legislation which gives every indication of supporting activities which can only further undermine the ability of many families to resolve their problems while preserving their unity.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. Mr. President, I yield 5 minutes to the distinguished Senator from Missouri.

Mr. DANFORTH. Mr. President, I plan to cast my vote against the passage of H.R. 2977. I support public and private efforts aimed at preventing child abuse, wife abuse, and other forms of domestic violence, and aimed at helping victims of such violence. What I oppose is an inefficient, wasteful, bureaucratic new Federal program which centralizes decisionmaking in Washington when a more efficient block grant program, which reinforces decisionmaking at the State and local level, is already in place.

Mr. President, a lot of speeches have been delivered on the floor of the Senate opposing more control in Washington, and supporting local decisionmaking; opposing duplicative, overlapping programs; and generally opposing additional, narrow, categorical grant programs. Notwithstanding all that rhetoric, if Congress enacts H.R. 2977, it will be expressing its will clearly and decisively in favor of centralized control in Washington, in favor of an expanded Federal bureaucracy, and in favor of overlapping programs with duplicative and expensive paperwork and redtape.

H.R. 2977 authorizes a new, narrow categorical program of Federal grants to public and private agencies for domestic violence prevention and assistance services. As with other categorical programs, it imposes new requirements on States. States must designate a State agency to administer the State program, assure active citizen participation, file the reports required by the Secretary of Health and Human Services, allocate two-thirds of their formula grants to nonprofit organizations, and comply with a whole series of other burdensome, expensive requirements.

In addition, the bill provides for an expanded Federal bureaucracy to oversee and administer the new program in Washington. It specifies that 5 percent of the appropriated funds would be spent by the Federal Government.

In contrast, we have already enacted a program of grants for domestic violence programs but without the strings, without the paperwork, and without the expanded Federal bureaucracy. The program is title XX of the Social Security Act.

Title XX provides substantial funds to the States for providing social services to its citizens. In addition to other kinds of social services, title XX expressly authorizes the use of its funds for the kinds of services contemplated in H.R. 2977.

Unlike H.R 2977, though, the States are free to design their own mix of services to meet, in their best judgment, the needs of their own citizens. One State might allocate more funds to alcoholism and drug abuse problems and relatively less to day care; another might emphasize domestic violence shelters with fewer funds for foster care. Washington does not have the power to direct that a certain percentage of funds must be used for homemaker services for the elderly and another percentage for family planning services. Rather, each State designs its own program.

Title XX funds are currently used to help victims of domestic violence. In fiscal year 1978, title XX expenditures for protective services for children totaled $266 million or 8 percent of total program expenditures. Title XX expenditures for protective services for adults totaled $96 million or 3 percent of total expenditures.

The issue with respect to H.R. 2977 is not whether Federal funds should be spent on services with respect to domestic violence—they already are—but rather how many strings are attached to the funds and how much redtape is associated with their distribution. I do not believe all compassion and all wisdom reside in Washington. The expenditures of funds under title XX for protective services demonstrates a nationwide concern for those in our society who are vulnerable and unable to protect themselves. The expenditures do not indicate to me a callous attitude by the States.

Even if Washington did have a preponderance of the Nation's wisdom, our Nation would still be better served by local decisionmaking. Our Nation is too diverse to be well-served by centralized decisionmaking. Our entire system of government, with its checks and balances and Federal/State divisions, is geared to maintaining a diversity of decisionmaking authority. In the 1979 State title XX plans, for example, Indiana estimated it would spend 6.9 percent of its title XX money on protective services for children; New Mexico, 11.5 percent; and New York, 15.2 percent. Who are we to say which State's mix of services is right?

I oppose narrow, categorical programs because I believe they are too inflexible to meet adequately the local circumstances across this Nation. They cannot adapt to local variations.

In contrast, a block grant by definition is flexible. It provides funds to States and communities with relatively few strings, so the funds can be used most efficiently for local needs.

Further, in the name of accountability, narrow, categorical programs are expensive and burdensome to administer. H.R. 2977 contemplates that 5 percent of the appropriated funds will be used for Federal administration of the program and 10 percent of the funds for developing and administering the State plans. If the additional funds were distributed through title XX, there would be no additional administrative costs.

Finally, to the charity desiring to assist its community, the plethora of narrow, categorical programs each with its own set of rules, reports, methods of accounting, and other redtape, must be confusing, time-consuming, and expensive.

At present, an organization that wishes to assist victims of domestic violence can seek funding from title XX, from the Community Action Agency, and from LEAA; it can seek HUD funds for acquiring and renovating buildings for emergency shelters; it can apply to ACTION and CETA for volunteer help; and if H.R. 2977 is enacted, it can seek funding there as well. It is no wonder that more and more charities are hiring individuals to spend all of their time seeking grants.

I believe the best way for the Federal Government to assist the States and local communities is through general block grants rather than through a whole series of separate pots of money.

Our system is a system of federalism. Its strength lies in its diversity of decisionmaking. It depends on mutual trust. A block grant approach fits into this system. It is a partnership approach. A categorical grant approach is a "Big Brother" approach—with Washington as "Big Brother." Every time we establish a program which increases the control in Washington, we weaken local initiative and government, and, as a consequence, weaken our entire system of government.

Because I believe additional, narrow, categorical programs which overlap existing authorities are ultimately self-defeating, I plan to vote against H.R. 2977. I believe it is well-intentioned but very ill-advised.

Mr. HUMPHREY. Mr. President, I yield 5 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, we can certainly all agree that there is a cause for just concern about the increasing abuse within families around the country. It is not just wives, but also children and the elderly. It could be husbands as well. I think we can all agree that we certainly need to counsel and aid the victims of family abuse.

Therefore, Mr. President, it is with the greatest of reluctance that I have decided to oppose the domestic violence legislation that is before us today. As the distinguished Senator from Missouri has said, I feel that we are heading in the wrong direction with this program. As we look to the next 5 years, or the next 10 years, we are tying ourselves to a program that will seem to be a panacea. In reality, it will offer a single rigid approach which will not allow us the adaptability and flexibility needed to meet the unique problems of different States.

I have been strongly supportive of the shelter programs in Kansas, and I will continue to be. However, I have also felt very strongly that this is an issue that could best be dealt with on the State and community level.

My decision to oppose this measure is the product of many hours of thought and extensive conversations with individuals holding widely divergent views on the bill. Throughout my deliberations, I have been torn by conflicting feelings about this measure.

Domestic violence is a family and community problem; and I seriously question the effectiveness and propriety of involving the Federal Government. As I stated earlier in the debate over this bill, if I could feel secure in believing that a one-time infusion of Federal funds would stimulate an effective local response to domestic violence, I could support this measure without reservation. However, I fail to see how a new pool of Federal funds will encourage others to add to it. My fear is that creation of this program—limited as it is—will foster an attitude that there is a Federal program to deal with domestic violence, so we at the State and local levels do not need to worry about it any longer. Even though the life of the bill is limited to 3 years, it will inevitably be extended.

I am also puzzled by the perceived need to create an entirely new program to address domestic violence, particularly when so many other potential administrative mechanisms are already in place. I joined many others in supporting the alternative offered by Senator DANFORTH and am disappointed that the majority of this body chose to reject it. The Danforth substitute held the advantage of using an existing program, title XX, to administer new Federal funds.

Acceptance of this amendment would also have placed decisionmaking authority at the State level where problems such as domestic violence are most properly addressed. Although it is true that States would not be required to allocate title XX funds toward domestic violence projects, I have no reason to believe that officials at the State level are any less sensitive to this problem than any of us here today.

More and more we are realizing that the involvement of the Federal Government does not assure the resolution of a problem In fact, my constituents are indicating that we would do well to get rid of a few we already have, returning some of their tax dollars in the process. I am confident that the generosity and good will of the American public is sufficient to address many of the problems facing us—including domestic violence. Our role should be to free individuals to assume greater responsibility for dealing with situations which affect their families and their communities. Our continued insistence on determining private behavior has grave consequences in the long term—perpetuating and expanding reliance on external forces to deal with deeply personal problems. Unless this trend is curbed, we will reach a point where individuals totally lose confidence in their own ability to deal constructively with any situation.

Attempts by Government to regulate almost every aspect of personal relationships and responsibility is one of Alexander Solzenitsyn's heaviest indictments of our society. His words are worth remembering:

> When the tissue of life is woven of legalistic relations, there is an atmosphere of moral mediocrity, paralyzing man's noblest impulses.

Mr. HUMPHREY. Mr. President, how much of my time remains?

The PRESIDING OFFICER. Ten minutes and 56 seconds remain to the Senator from New Hampshire.

Mr. HATFIELD. Mr. President, will the Senator yield me 2 minutes?

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I yield 2 minutes to Senator HATFIELD.

Mr. HATFIELD. Mr. President, I do not think it necessary for me to dwell on the very frightening statistics of spouse abuse. The facts have been well-cited by my colleagues, and dramatize a most desperate situation faced by many women in our country.

I do think it necessary, however, to respond briefly to the criticism voiced by opponents of the legislation we have before us, which deals with the human tragedy resulting from spouse abuse: The Domestic Violence Prevention and Services Act. A number of religious groups, and others involved in the "profamily" movement, have begun a campaign attempting to defeat this legislation. I regret that their efforts often have been fueled by wrong perceptions, misinformation, and an attitude which ignores the seriousness of domestic violence in our Nation. I am religious. I am profamily. And I support this bill as being consistent with my beliefs, and supportive of the family.

The prominent claim of these organizations is that as a result of S. 1843, the Federal Government will intrude into the family, that it will regulate relations between husband and wife, and that it will break down the traditional family. Others even have claimed that the legislation allows Federal agents to enter the home and remove husbands from their families.

I should like to make two brief points. First, if I believed any of these accusations to be true, I could not support this legislation, for I, too, support the concept that the Federal Government must not intrude into matters of the family. But S. 1843 does not violate this concept. It simply provides funding assistance to local organizations which elect to establish shelters for women who have been beaten by their spouses. The sponsors have worked diligently and carefully to assure that this intent is not open to misinterpretation. The matching requirement provides that there must be local concern and support in order for these shelters to survive.

Second, I sincerely urge the opponents of this legislation to take a look at their own commitment to the resolution of this problem. Those with the best interests of the family at heart should work to establish shelters in their own communities, or provide other innovative solutions to help meet this significant need. Evidence suggests that those who are most vocal in their opposition to this bill have done the least to provide alternatives of a nonpublic nature. Many have misdirected their criticism at the Government, which is simply attempting to fill a void that exists.

Mr. President, this problem cannot be ignored. I urge my colleagues to vote in favor of legislation which will enable individuals who seek help to receive it. Ultimately, this opportunity for shelter may provide spouses the time and assistance they need to deal with these problems, and perhaps return to a strong and healthy family unit.

I thank the Senator from California for yielding me time.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. Mr. President, we have 11 minutes, approximately, remaining, is that correct?

The PRESIDING OFFICER. The Senator has 7 minutes and 55 seconds remaining. The Senator from California has 6 minutes and 49 seconds.

Mr. HUMPHREY. A parliamentary inquiry: The last time I inquired, I believe it was around 11 minutes. I do not believe anybody has spoken for our time.

The PRESIDING OFFICER. I believe a mistake was made at the desk in that the Senator from New Hampshire did not yield to the Senator from Oregon. That was done by the Senator from California. We shall correct the time.

Mr. HUMPHREY. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Chair advises the time of the Senator from New Hampshire is 11 minutes remaining, the Senator from California had 6 minutes and 49 seconds. We will have to cut that down to about 2 minutes for the Senator from California.

Mr. HUMPHREY. Mr. President, those of us who oppose this bill, which we view as dangerous and costly, do not favor wife beating, of course. Although we may be accused of that. What we oppose is another beating for taxpayers and another beating for States rights. We oppose creation of another power-grabbing bureaucracy, a program controlled by Government officials in Washington, D.C., and operating without regard to needs as perceived by State and local governments or local public sentiment.

Who can believe that the Federal Government, which will be providing these funds, will not insist that certain standards be met as always and will, in large measure, control the direction of these programs.

Domestic violence is a great tragedy, but the Federal Government has no business running the new set of programs and services described in the bill. Such services should be tightly connected with the communities they serve. They should arise from and be funded by private and local government sources. They should most certainly not be imposed on local communities by any Federal agency.

Federal programs dealing in these social issue areas are often run by social service ideologues far from the mainstream of the American public.

Most voters now realize that not every problem can be properly or practically addressed with Federal money or new Federal programs.

Already there are 274 shelters across America which are involved in efforts against domestic violence. At least another 204 service agencies offer help to domestic violence victims. The social service staffers who run these existing programs think they do not get enough local support, so they are running to Washington.

I suppose anyone who opposes this bill runs the risk of being linked with wife beaters, just as anyone who opposes funding, for instance, a new Federal rat control program, may be accused of being prorats.

Not all newspapers view S. 1843 favorably. The often liberal Washington Star in its editorial June 30 gave another view of my opposition to this bill. The Star wrote:

> Senator Humphrey's sentiment does not represent indifference to domestic violence, though the special-interest groups supporting the bill will attempt thus to portray it. If domestic violence is a pervasive problem, then it properly should be a priority for the state or locale where the abuse has become apparent. If the lobbying groups seeking federal legislation and funds were to besiege a legislature or city council with the energy they bring to Capitol Hill, there can be little doubt that the issue would be promptly addressed.
>
> But the statists have little patience with incremental approaches to social or political problems. They prefer a federal blanket big enough to cover every bed and cot in the land.

Mr. President, I have done my best to resist the demands of those who want to place another expensive, ill-defined program on the backs of the Nation's taxpayers. I am confident most taxpayers would support my position.

Mr. President, I would advise Senators who may hear my voice over the intercom that when they come to the floor in another 10 minutes to vote, to bring with them a napkin and a fork because we have before us here another piece of apple pie legislation.

With respect to my colleagues from Vermont, where they are in the habit of eating their apple pie with a piece of their delicious cheese, they might bring some of that Cheddar cheese, as well.

This is apple pie legislation. But voting for a euphemistically named bill, for the Domestic Violence Act, is not going to prevent domestic violence.

I am incredulous, after all the horribly expensive social programs which have been near or total failures over the last 20 years, that we, in this hour of financial and fiscal crisis, find ourselves faced with the proposal to undertake a new program which encompasses an area we have never before claimed responsibility for, a program which will authorize, over the next 3 years, $65 million.

That, perhaps, is not a great deal of money in the total scheme of things, considering the size of the Federal budget.

In any case, it is a lot of money back home.

Millions of dollars add up into billions of dollars. We just cannot afford this. It is not as though the intent is wrong. It is fine. I would love to see States, communities, counties, cities, towns, private organizations, singly and in concert, develop domestic violence programs. But, instead, we see a proposal for the Federal Government to do it.

It will not work. No matter how much is claimed by the proponents, no matter how euphemistically named, no matter how apple pie in the nature of this legislation, it will more than likely fail.

I urge my colleagues to vote against it.

Mr. HUMPHREY. Mr. President, I yield 10 minutes to the Senator from South Carolina and if it is possible for him to finish sooner, I shall be grateful.

Mr. THURMOND. Mr. President, I rise to voice my strong opposition to S. 1843, the Domestic Violence Prevention and Services Act and National Service Commission Act. This bill represents a further intrusion by the Federal Government into an area which should be within the authority of the individual States. Over the years, I have expressed my concern over the steady growth of Federal Government programs designed to serve our social needs. Then, as now, I argued that the Federal Government has no jurisdiction in matters of this kind, including domestic violence. Who can seriously argue that the Federal Government is better suited than family and friends, churches and community groups to cure this social ill? I cannot stress strongly enough that the Federal Government has no business intruding into this area of vital State concern. Moreover, I am disturbed that the initial $65 million authorization over 3 years will expand into another costly, inefficient bureaucracy, which will spawn a lobby which each year asks for more and more money.

Mr. President, the legislation before the Senate follows a pattern that has become all too common in Congress in the last two decades. It is a pattern which I believe, if allowed to expand unchecked, will ultimately destroy the Federal Republic that the Founding Fathers envisioned as the governmental structure for the United States.

The pattern of which I speak, Mr. President, is one in which a serious social problem—in this case, spouse and child abuse—is perceived by Congress. Congress declares it to be a nationwide problem of substantial proportions; and, then, Congress creates a new program in Washington (where, of course, the superior wisdom and understanding is implicitly thought to reside) to cope with this social dilemma. Then, according to this philosophy of governmental problem solving, if the particular societal "illness" persists, it is because we have not devoted sufficient resources (that is, Federal spending) to the program.

Mr. President, I know my distinguished colleagues join me in my abhorrence of this ill that affects many families of our great Nation. There is no doubt—and the statistics will bear me out—that domestic violence is widespread and gnaws away at the very core of the family unit, the very fabric that binds our country together. I do not rise to dispute these statistics, nor do I want to attempt to minimize the effect that domestic violence has on our family life. I agree with the Senator from California that something must be done to eliminate this terrible ill, but I do not agree, Mr. President, that this ill can be or should be cured by the Federal Government.

NO FEDERAL JURISDICTION

Mr. President, my principal objection to the Domestic Violence bill is that I do not believe the Federal Government has any business interjecting itself into these matters. Violence in the home between spouses and child abuse are indisputable frequent occurrences with substantial social costs. There are a wealth of statistics, which I am sure the proponents of this bill have or will bring forth, which clearly document the seriousness of the domestic violence problem.

However, in my opinion, Mr. President, these statistics and the serious nature of the problem depicted do not translate into Federal Government jurisdiction over the matter. These problems exist in every State, but they are not inherent in the nature of problems between States. I fundamentally disagree with the notion that every problem of national dimension is automatically a problem to be dealt with by the Federal Government especially where, as in this instance, the problem is one involving intrafamily relationships. The rising frequency of divorce may be a nationwide problem, but I do not believe the Federal Government should institute or fund programs aimed at reducing the incidence of broken marriages or child abuse.

The point is, Mr. President, the Federal Government must stop intervening in the affairs of the States. Uncle Sam must be prevented from trying to regulate further the private lives of our citizens. I believe that we must draw the line somewhere on what the Federal Government can and should do to cure the various social ills plaguing our Nation. We should have drawn this line years ago. We must recognize that Washington simply cannot and—perhaps more importantly—should not solve all the domestic problems that exist among our people. Moreover, I think that it is important that my colleagues be made aware that there are efforts presently being made by State, local, and volunteer organizations to address the problem of domestic violence. These efforts should not be "federalized" or duplicated.

FUNDING

Mr. President, the economic status of this Nation is at best strained. At a time when we find ourselves under severe budgetary restraints, I find it incomprehensible that we should enact legislation which is designed to achieve the same purpose for which other programs already have been created. The committee estimates initial authorization will be $15,750,000 in 1981 and increased to $30 million in fiscal year 1983. I am reluctant to endorse any new Federal spending at this time because of the urgent national priority of balancing the budget.

Mr. President, there are existing Federal programs in this area of domestic violence. The administration has established an interdepartmental committee on domestic violence which reviews and coordinates domestic violence programs on a governmentwide basis. Additionally, under existing law, State social services programs can be funded under the Social Security Act. A Congressional Research Service study shows that a minimum of $11.5 million went to support some form of domestic violence research or services in fiscal year 1979.

Mr. President, it is beyond me why the Congress continues to establish program on top of program without any real control or coordination.

INTRUSION ON PRIVATE FAMILY MATTERS

Mr. President, one of the things that frightens me most about this legislation is the liberty that it grants to the Federal Government to intrude into private family matters. This argument goes hand-in-hand with the States right to govern their citizens.

Many of my colleagues may remember several months back when S. 10 was before this body for debate. This bill, which was later signed into Public Law by President Carter, allows the Attorney General to intervene on behalf of citizens in problem institutions. I was opposed to that bill for many of the same reasons that I am opposed to S. 1843. The individual States have the responsibility of insuring the domestic peace of their citizens through the exercise of the police power. S. 1843 would involve the Federal Government in arbitrating family disputes and thereby in imposing values upon families. Mr. President, I fear this legislation would result in dividing the family rather than uniting the family and curing domestic violence.

Where do we draw the line on Federal intervention into private family matters? I can foresee the time when the citizens of this great Nation come to expect the Federal Government to assist them at any time the whim strikes. Mr. President, we all know that complaints of the past have stemmed from the Federal Government's creeping into the private matters of its citizens. I cannot help but feel that this legislation would give rise, once again, to criticism from our citizens.

Mr. President, I wish to recognize the efforts of several Senators who successfully amended this bill to lessen the degree of Federal involvement in matters of marital disputes and child abuse which, in my view, are better handled by State and local governments. The amendment worked out by Senator HUMPHREY and Senator CRANSTON which would require matching funds at the local level is a step in the right direction because it would demonstrate that there is concrete local support for the establishment of domestic violence shelters.

Moreover, I favor the amendments offered by Senator HATCH to: First, require State licensing of domestic violence shelters in order to guarantee safe, clean, habitable housing, nutritious meals, and competent personnel; second, provide State legislatures with the power to veto grants approved by the Secretary of Health and Human Services; and third, permit direct grants only to units of general local government.

Additionally, Mr. President, I am pleased that the Senator from Wyoming (Mr. WALLOP) successfully offered as an amendment to this bill the text of S. 105, the Parental Kidnaping Prevention Act of 1980, of which I am a cosponsor. On January 30, 1980, I testified before the Subcommittee on Criminal Justice of the Judiciary Committee and the Subcommittee on Child and Human Development of the Labor and Human Resources Committee expressing my support for this measure. This legislation would make it a Federal crime to restrain a minor child in violation of another's right of custody or visitation arising from a court order entitled to interstate enforcement. The need for this legislation arose because of the current judicial interpretations of the full faith and credit clause of the Constitution whereby child custody orders are rendered almost unenforceable throughout the Nation. It should be noted that the approach taken by S. 105 preserves the traditional State control over child custody determinations. It is my belief that this legislation will help prevent kidnaping in violation of a bona fide child custody decree and preserve the role of the States in overseeing marital and family disputes.

Mr. President, although I approve of these desirable amendments to S. 1843, the Domestic Violence Prevention and Services Act, which are designed to reduce the degree of Federal involvement in areas which have traditionally been within the jurisdiction of State and local governments, I remain opposed to this bill. Because this bill creates a new Federal effort in an area where I strongly believe no Federal jurisdiction exists, I intend to vote against the measure.

I wish to thank the able Senator from New Hampshire for his kindness and the Senator from California for his courtesy.

Mr. CRANSTON. I thank the Senator.

The PRESIDING OFFICER. The Senator from California.

Mr. HATCH. Mr. President, will the Senator from California yield?

Mr. CRANSTON. I am delighted to yield.

Mr. HATCH. Mr. President, after all the debate on this bill, at least one thing becomes clear. Everyone here recognizes the problem of domestic violence. It is real. It is growing. It deserves our attention, demands our solution and we are obligated to seek every proper and effective means in providing one.

When any Senator has worked as long and hard on legislation as Senator CRANSTON has on S. 1843, he or she deserves our respect and admiration. Our California colleague gets it, both here and in the Labor and Human Resources Committee on which I serve with him. I offer an additional word of appreciation for the spirit of compromise and the genuine effort to reach a common accord on this bill which has characterized Senator CRANSTON's effort and that of his staff. My modified amendments which were accepted to the bill on August 25 will preserve the ground we have gained to improve what I think were some serious weaknesses in the legislation.

Now that we are about to vote on the final passage of the Domestic Violence Prevention Act, I believe the problem becomes a broader one. That is, addressing provisions in the legislation like how domestic should be licensed or how much money should be spent per fiscal year, do not answer the fundamental question asking whether the Federal Government should be directly involved at the expense of the States and local civil authorities.

I believe now, as I believed before and during the debate on this measure, that we can legislate the most effective domestic violence remedy without further arming a Federal bureaucracy which by tradition works to make matters worse.

I have spoken at length on this legislation and in this Chamber four separate times. I would like to lend whatever additional time given to me during the remaining minutes of discussion on S. 1843 to those of my colleagues who have expressed a renewed desire to speak on the matter. I only wish to reaffirm my earlier opposition to this bill. I wish to repeat that the good intentions of the bill's sponsor and supporters and amended improvements in the bill are not weighty enough trade-offs to offset what in a very short time would become a Federal OSHA on the family.

As I have in the past, I will continue to work with any and all of my colleagues to draft legislative relief for domestic violence victims, and to assist the States in constructing and maintaining effective antiabuse programs. I just do not believe that this bill is the right way to do the job, and I urge my colleagues to vote against it as I will.

Mr. RANDOLPH. Mr. President, as ranking majority member of the authorizing committee, the Labor and Human Resources Committee, I have worked on, and support, this legislation. As a cosponsor of S. 1843, the Domestic Violence Prevention and Services Act, I believe an urgency exists to address the widespread incidence of domestic violence and to eliminate the enormous social costs of this pervasive national problem. Existing programs have been unable to meet the need for assistance and emergency shelter of domestic violence victims and their dependents.

I was also, Mr. President, a cosponsor of the legislation, S. 2159, the National Service Commission Act, contained as title II of this measure. Introduced by Senators TSONGAS, CRANSTON, myself, and others, it authorizes the establishment of a Presidential commission to examine the need for, and the desirability of, establishing a national service program to meet a broad range of human and societal needs.

In this connection, Mr. President, I believe a system of national service would provide our people, young and old, with structured opportunities to express their acceptance of the responsibilities of citizenship. I support such a purpose.

This concern is widely shared. This past May, a number of organizations, drawn from the business, labor, and education sectors of our Nation and sharing an interest in citizenship, emphasizing citizenship education, met at the Wingspread Conference Center in Racine, Wis. Sponsors included the Center for Citizenship Education, the American Federation of Teachers, the Close-Up Foundation, the Combined Insurance Co. of America, the Council of Chief State School Officers, the education commission of the States, the National School Boards Association, the National 4-H Council, the National Education Association, and the national PTA. Many other groups and individuals participated. They agreed to undertake the formation of a coalition for the advancement of citizenship. The participants were particularly concerned about relating citizenship service opportunities to the high school and college experience of our young people and to the continuing education of older people. The members of this coalition should be able to provide valuable service and serve as a resource for the Presidential commission in defining alternative service opportunities.

Mr. JAVITS. Mr. President, as an original cosponsor of similar legislation, I am pleased to support the pending bill, the Domestic Violence Prevention and Services Act, which will begin to provide necessary Federal support to State and local programs and activities to prevent domestic violence and to assist victims of such violence.

The bill establishes within the Department of HEW a National Center on Domestic Violence to coordinate Federal prevention and research efforts, and to act as a clearinghouse for information and technical assistance for domestic violence prevention and treatment programs throughout the United States. Building upon the concepts and experience of the Child Abuse Prevention and Treatment Act, Public Law 93-247, this bill will assist the States to direct protection and treatment services toward actual and potential victims of domestic violence, regardless of age. Perhaps most importantly, the structure of this bill's State and private grant mechanism enables support to be targeted primarily to local public and private nonprofit programs which most closely serve the needs of domestic violence victims in local communities.

This bill is a refinement of legislation introduced in the 95th Congress by Senator CRANSTON, myself, and 17 cosponsors, which passed the Senate unanimously on August 1, 1978. Unfortunately, the other body did not act favorably on similar legislation, thus postponing the critical enactment of a domestic violence prevention measure. I am hopeful that the Congress will realize the devastation of families caused by domestic violence, and will act apace to pass appropriate legislation. The House has already so acted in this 96th Congress.

Until recently the problem of domestic violence in the United States has been largely hidden or ignored, its proportions unknown, its victims faceless and mute. We have begun to recognize, however, that domestic violence in the United States is not only widespread, but wreaks terrible damage to individuals, families, and to society as a whole.

Domestic violence is not restricted to any one sector of our society, but affects the whole spectrum of American social and economic life. Previous efforts to combat this grave wrong have been minimal or largely inadequate in relation to its vast dimension. State social service programs provide funds for shelters and supportive services to victims of domestic violence, through titles IV–B and XX of the Social Security Act, yet these efforts are sporadic and underdeveloped.

In my own State of New York, private nonprofit organizations such as the Coalition for Abused Women, and the Victims Information Bureau of Suffolk have begun innovative programs for comprehensive crisis intervention, advocacy, and counseling for victims of domestic violence. The New York State Department of Social Services has established a task force to develop programs for victims of domestic violence. These local and State efforts can and must be encouraged, expanded, and improved by appropriate Federal help.

The time is at hand for a concerted program of Federal assistance to encourage and support such State and local prevention and treatment services. This bill will establish a first, yet nonetheless comprehensive, Federal effort to assist States and localities to help thousands of people affected directly or indirectly by the tragic consequences of domestic violence, and I urge my colleagues' support of the measure.

Mr. HEINZ. Mr. President, I rise to express my concern about the tragic, and all too pervasive, problem of domestic violence in our Nation. It is horrifying to learn that somewhere between 1.8 and 3.5 million women each year are victims of spouse abuse. I know that all of my colleagues here in the Senate share my concern and my desire to address the problem. However, what divides us is the approach that we should take to best help the individual victims and avoid family violence.

Mr. President, I am concerned about the approach to the problem embodied by S. 1843, the Domestic Violence Prevention and Services Act, and would like to take a brief moment to delineate my reservations.

First, Mr. President, the bill is entitled "The Domestic Violence Prevention and Services Act". I have studied it closely, and devoted a great deal of thought to it, and I have yet to understand how this legislation can be construed to prevent domestic violence. Rather, it will provide a band-aid for the symptoms—shelters for abused spouses. The illness, the root of the problem of domestic violence, is not addressed by this legislation.

A wide body of evidence suggests that most domestic violence is triggered by alcohol or drug abuse. We also know that in times of adverse economic conditions, there is an increase in the incidence of spouse abuse. And I suspect that there are a number of other underlying causes of a swelling statistic of incidence of family violence. But this bill does not address these underlying problems, and consequently, the real ills will go untreated, and we will witness an evergrowing need for this symptomatic response—shelters for battered spouses.

Mr. President, this leads me to my second concern. Because of the symtomatic nature of this approach, and because of the funding levels that would be authorized by this legislation, I am afraid that passage of S. 1843 would falsely raise the expectations of the American people.

Because the bill fails to address the root problems that trigger family violence, those Americans who are desperately hoping that the Government's assistance will arrest the swell of abuse will be disappointed to learn that this response—a band-aid—cannot reduce the incidence of abuse.

They will also be disappointed to learn that the band-aid is not large enough to cover the entire wound. Although $15 million, and $20 million, and even $30 million are significant sums in the aggregate and to our taxpayers, this money would fall far short of providing adequate services to all abused spouses. Again, we will disappoint many hopeful Americans.

My third concern, and related, Mr. President, is a serious question mark that presents itself regarding the proper role of the Federal Government in dealing with the problem of domestic violence. I am not convinced that establishing a program in which localities must meet Federal guidelines, standards, and regulations in order to secure Federal funds to address a problem that must be dealt with by people at the local government level is the most efficient or effective way to address this real problem. It seems to me that the most appropriate response of this problem should be determined at the local or State level. Instead, under this legislation, the localities would be bound to establish shelters, and furthermore to meet with Federal standards in doing so.

Mr. President, I must reiterate that I sincerely believe that the growing problem of domestic violence in our Nation is a tragic one, and that we as national legislators, must address this problem. However, I believe that we must do so in ways that are more appropriately within our jurisdiction. We must adopt the measures necessary to stabilize our sagging economy. We must work to increase employment opportunities for husbands and wives. And we must arrest the skyrocketing inflation that is taking a tragic toll on the American family.

I am more than willing to work with my colleagues on these and other alternative measures that will get to the root of the family violence problem. I commend Senator CRANSTON and his committee for all of their hard work on this bill. Whatever the fate of this bill, I hope that we can mount a concerted effort to truly arrest the problem of domestic violence in our Nation.

Mr. TSONGAS. Mr. President, I wish to thank my distinguished colleagues for their support of my proposal for the establishment of a Presidential Commission on National Service, which is now title II of S. 1843, the Domestic Violence Prevention and Services Act.

Mr. President, we have reached a point in the history of this great Nation that makes it necessary for the American people to begin to face up to the harsh realities of the world situation. We can no longer sit back and wait. Today millions of capable young people are alienated from American society. Their lives lack goals and a feeling of self-worth. This Nation needs a program that will bring youth back into the mainstream of American life. We can use their talents, their energies, and their trust. A national service program will fortify these qualities.

In addition to helping our youth, national service has the potential to meet many other human needs at home and abroad. A national program of service by Americans can also help make ours a more cohesive, caring society.

Today, I would like to share with you some of my personal feelings about service. Then I will discuss the unresolved problems surrounding this issue. Without answers, we will not be able to achieve the consensus necessary for a program of national service to succeed. This is why a Presidential commission is vital.

SERVICE AS LEARNING

The benefits of service to others are shared between the recipient and the provider. This fundamental aspect of the service experience has been proven to me—and to thousands upon thousands of volunteers—powerfully and personally. My 2 years as a Peace Corps volunteer in a small Ethiopian town were a learning experience that surpassed any formal study before or after it. There I lived and learned with students whose lives had been vastly different from my own. I was a Peace Corps teacher, but I hope my Ethiopian friends know how much they taught me.

We had a very personal sense of depending on each other, so it was natural for us to know that nations also must depend on each other. Nothing before or after that time has shaped my view of the world so deeply.

The experience of service puts us in

touch with problems on a human scale. Too often, public policy is made in a bureaucratic dreamworld. The real impact on people's lives is lost. But living in and learning about culture, whether in Ethiopia or in Appalachia, brings understanding and an approach which embraces the human element. Volunteers do not forget their experiences with VISTA or the Peace Corps. They carry the experience with them into future careers.

National service would help young Americans understand the complexity of chronic problems. A new, national commitment to service could be the right medicine for our ailing national spirit. It might help turn our society away from the extremes of the "me generation" of the 1970's when many young Americans have grown up to be fashion conscious, but unconscious—apparently unaware—that other Americans are struggling for basic needs.

It is an astonishing irony that, while many young people feel their lives lack meaning, many unmet social needs are crying for help. Daycare centers go unstaffed. Elderly citizens are shuffled away to inadequate homes because there is no one to care for them. Local communities have many projects—energy conservation and neighborhood cleanups—which desperately need manpower.

The list of human needs could go on. But in analyzing how participants in a national service program might be apportioned among potential recipients, we must look at both the benefit to the so-called recipient and the benefit to the person who serves. In service, all the participants gain. The education that the service provider gets is a fundamental reason why I support a program of national service for America's youth.

SERVICE'S POTENTIAL AND PROBLEMS

It is clear that the idea of national service has tremendous potential for the United States in the 1980's and beyond. Despite limited opportunities for full-time volunteer service at present, young people participate effectively in public and private programs.

With the potential for greatly expanding the opportunities for service so impressive, we owe it to ourselves and future generations to confront the unanswered questions that surround national service.

What types of service would be most beneficial?

What should be the duration of service?

What incentives for participation would be used?

How can involvement of youth from all ethnic, economic, and regional backgrounds be assured?

How much would it cost?

How could existing programs be used to offset the costs of national service?

How would coordination among different levels of government and with the private sector be managed?

Should national service be limited to youth?

Two of the most fundamental issues are voluntary service versus mandatory service program's relationship to military service.

I personally favor a volunteer service plan. I feel that the benefits derived from the national service experience would be seriously compromised by compulsory service, whether civilian or military. The idealism of Peace Corps volunteers, for example, has a major bearing on the quality of their work. The wonderful learning, sharing process that providers of service to others experience cannot be expected for an unwilling worker in national service.

Regarding the military aspect, there is much confusion and much dissent. I oppose mandatory service, and I oppose the draft. The All-Volunteer Army is working adequately, despite some shortfalls in the Reserve component of the military. But even Secretary of the Army, Clifford Alexander, believes the voluntary system is working well. I do not feel we should revert to a compulsory system when it is not necessary.

Many facets of national service deserve thorough analysis and debate. Whatever our opinions on specific features, it would be senseless to establish a Presidential Commission with preconceived conclusions. The Commission's mandate should be an open-minded, comprehensive inquiry into the range of national service possibilities.

SEARCHING FOR CONSENSUS

Mr. President, this legislation would establish a 25-member Presidential Commission to study this issue and report its findings within 18 months. At least seven of its members would be young people between the ages of 16 and 25. We should not, however, attempt to specifically mandate the Commission's membership beyond the seven youths.

This legislative approach is preferable to introducing legislation for a full-scale national service program at this time. If national service is to be successful, it will require a wide base of support. It must be well received by the intended participants, and by Federal, State, and local officials and members of private agencies who run the programs with volunteers. I fear that to go full steam ahead with a national service program could alienate many of these same people. They might see the program as an infringement of their territory rather than as the provider of expanded programs and services that it really is. A Presidential Commission will make contact with these people during the study and involve them in the evolution of the idea.

Excellent groundwork has been laid for a Presidential Commission by the Committee for the Study of National Service. Last year the committee issued its report, "Youth and the Needs of the Nation." It is a valuable contribution to the debate. But it has raised more questions than it has answered.

Another factor arguing for a Presidential Commission is the tremendous interest among young Americans. The Gallup Youth Survey on National Service has found that an overwhelming majority of 13- to 18-year-olds—71 percent—favor a voluntary service system of national service. When asked whether they would be interested in participating in such a program, 22 percent said they definitely would, and another 32 percent said they might.

Mr. President, I held a conference in Massachusetts on the subject of national service this past February, in conjunction with the Massachusetts Department of Education. We invited high school students from throughout the State to participate in the day-long event. There were speeches, films, seminars and panel discussions. At the conclusion of the conference, my staff distributed a questionnaire to the 250 participants. We were somewhat astounded by the results, because throughout the day, many people had spoken out against a national service program. Of those who responded to the questionnaire, 164 favored a system of national service and 26 were opposed. Twenty-five people thought national service should be mandatory, and 142 thought it should be voluntary. I will admit that this was not a scientifically designed poll. However, it does clearly demonstrate that when people, especially young people, are provided with a clear understanding of what we mean by national service, they support it overwhelmingly. We therefore must provide many more citizens in this country with an explanation of our ideas. I am hopeful that a Presidential Commission on National Service holding regional conferences, taking testimony, and talking with our young people, could do just that.

The idea of national service has widespread support among young Americans now—nearly 70 years after William James first wrote in favor of it. James predicted that young Americans would get "the childness knocked out of them, and would come back . . . with healthier sympathies and soberer ideas." As a new decade begins, our situation cries out for the values inherent in national service.

I strongly encourage my colleagues to facilitate this educational process, and to support S. 1843.

Mr. President, I wish to thank my distinguished colleague from California (Mr. CRANSTON) for his continued support of this proposal.

● Mr. PACKWOOD. Mr. President, it is time the issue of domestic violence be allowed out of the closet. I ask my colleagues to consider the following facts:

The FBI estimates that one incident of wife beating occurs somewhere in the United States every 18 seconds.

More than one-quarter of all murders occur in the family. Nearly half of these are husband-wife killings.

According to FBI statistics, 20 percent of police officers killed in the line of duty die while answering family disturbance calls.

Add to these already disturbing statistics the fact that thousands of spouse and child abuse cases are never reported, and we have a problem of epidemic proportions.

Mr. President, family violence exists in all segments of our society. Instances of wife beating and child beating, as well as abuse of the elderly, occur in families of college-educated persons, as well as the less educated, among the middle class, as well as the poor, in high-rise apartments and suburban neighborhoods, as well as in ghettos. The problem is with us, and has been with us for years.

It is time we recognize the problem, admit that hundreds of thousands of individuals are abused in families—by family members—each year, and look for remedies.

The domestic violence bill we are considering today is a significant step toward correcting this problem. It will help provide the most critical assistance needed by victims of family violence—temporary shelter.

When a woman or child is being beaten, abused, or otherwise threatened by a violent family member, their first concern is physical safety. In almost all cases of domestic violence, when tempers are calmed and the immediate crisis has passed, family members can be counseled to face their problems, and look for solutions. But when family members are in imminent danger of physical abuse, or are injured by a violent family member, they need a place to turn to. They need shelter, and temporary shelters for victims of violence is what this bill will provide.

No one is really sure how many families in Oregon have experienced instances of violence. We now have 10 or so temporary shelters available for victims of family violence. These shelters operate full to capacity, on shoestring budgets, and always with the knowledge their services could be curtailed at any time because of lack of funds.

The domestic violence bill will provide grants for these independent shelters, insuring they can continue to operate, and provide the services so desperately needed by victims of family violence.

Oregon needs the services which will be made available as the result of this bill. Indeed, the several million women, children, and elderly victims of family violence in our country desperately need the services which will result from this legislation. I wholeheartedly support this bill, Mr. President, and urge my colleagues to join me in voting for its passage today.●

DOMESTIC VIOLENCE: THESE OUTRAGEOUS ACTIONS SHOULD NOT BE A PART OF "TRADITIONAL FAMILY LIFE"

● Mr. BAYH. Mr. President, today the Senate has taken a courageous step to provide Federal stimulation of State, local, and community activities to prevent a travesty in our American families—domestic violence—to assist these victims of domestic violence and provide coordination of Federal programs and activities pertaining to domestic violence. I am pleased to be a cosponsor of S. 1843, the Domestic Violence Prevention and Services Act" and welcomed the opportunity to cast my vote in favor of this long-needed legislation. The distinguished senior Senator from California (Mr. CRANSTON) has worked long and hard on this legislation for a number of years and he deserves the credit for sheparding this dynamic act through the Senate to final passage today. It is my hope that the President will sign this act as soon as possible and that the Appropriations Committees in both Houses will provide the necessary resources to begin these programs; $10 million is being requested by the administration for the domestic violence programs and the funds will be well worth our efforts here today.

This legislation has grown out of the desire of many Members of this body to address an ever-expanding problem in our Nation—the problem of spouse abuse, child abuse by parents, and parents' abuse by children. Through the leadership of Senator CRANSTON, we have before us today a comprehensive response to the inadequacy of our present system in combating the growing epidemic of domestic violence.

Manuel Carballo told the Senate Subcommittee on Child and Human Development that the major gap in services to victims of domestic violence is the lack of emergency shelters.

A national survey funded by the National Institute of Mental Health found that some 1.8 million women are abused each year by their husbands and that one out of every six couples in the United States experiences some violence during the survey year. This does not begin to touch the millions of children that are abused by their parents each year, nor the numbers of older persons who are abused by their children each year. Of course, even this violence does not account for the number of men who are abused by their wives each year, but who are frightened, ashamed, or embarrassed to report the violence. When we discuss domestic violence, most assume that it is the wife who is abused, but this problem affects all age groups, rural, suburban, and urban people of both sexes and is not confined to any race, religion, or social economic class of persons. Colleagues, unfortunately spousal abuse of women is just the tip of the iceberg.

A 1979 Louis Harris survey in Kentucky showed that 10 percent of wives interviewed had been abused by their husbands during a prior 12-month period, while only 2 percent reported physical assaults outside the home.

While various Federal agencies are supporting some activities to alleviate the problem of domestic violence, and about one-third of the States have taken steps to support emergency shelters, my State of Indiana being one of those States, the new legislation will be an incentive to States to move more quickly to improve services to victims of domestic violence.

Last spring, the administration established an Interdepartmental Committee on Domestic Violence to review and coordinate Federal Government activities.

An Office of Domestic Violence, established by the Department of Health and Human Services (HHS) last April, has started to coordinate the many separate Federal programs that can assist battered women and men with health, social, legal, employment, and other services. The new office located in the Administration for Children, Youth and Families, also provides information and technical assistance to local organizations dealing with spouse abuse and supports a limited number of demonstration projects.

In my own State of Indiana the new office is handled by region V, Domestic Violence Technical Assistance Project Community Crisis Center, Inc., located at 600 Margaret Place, Elgin, Ill. 60120, telephone 312-697-2380. The Women's Shelter Advisory Committee of the YWCA in South Bend (219-232-3344) and the Women's Center (219-233-9491) also provides legal aid, counseling, referral, and hotline assistance. The YWCA Shelter for Women Victims of Violence in Fort Wayne (219-424-2554-Crisis) also provides counseling, referral, 24-hour hotline services, child care, and housing for approximately 30 women and children.

In addition, Mr. President, I was extremely pleased to announce recently that the Law Enforcement Assistance Administration had continued to fund the Gary, Ind., family violence program, which began in 1978. This project is a comprehensive approach to reduce the incidence of intrafamily violence in Gary. It features four components: The police component; the prosecution component; the court component; and the shelter component. Major project objectives include the coordination of the police, prosecutor, city court, protective services, welfare, hospitals, community mental health services, shelter facilities, other relevant public and private agencies, and community organizations to respond more effectively to the crime of domestic violence; increased prosecution of cases of repeat domestic violence; and the establishment of a city court pretrial diversion program that is specifically designed for defendants and their families involved in domestic cases.

Mr. President, I am very proud of Indiana State Representative Jim Jontz, who has been a leader in the State house of representatives for domestic violence legislation. I congratulate him for his strong support of these programs in Indiana and assure him that I will do my part at the Federal level to support these worthwhile programs. I also wanted to assure my Indiana constituents that they can refer any of their domestic problems to the following programs, some with and some without Federal funding:

Family Service Agency of Tippecanoe County, Lafayette; Gary Commission on the Status of Women; Mental Health Association in Indiana and Allen County, Fort Wayne; Middleway House Inc., Bloomington; Salvation Army Family Service Department, Indianapolis; Southlake Community Mental Health Center, Merrillville; Women's Center of Columbus; YWCA of St. Joseph County-The Shelter, South Bend; and the YWCA Shelter for Women Victims of Violence, Fort Wayne, and the YWCA of Evansville.

It is appalling that in my own State of Indiana the YWCA-sponsored Shelter for Women Victims of Violence estimates that there are from 5,000 to 7,000 cases of spousal assault a year in Allen County, Ind., alone. No matter what the actual number is, all authorities who have studied the problem of battered men and women agree that the present system provides no adequate answers for these unfortunate victims of violence.

What recourse does a battered person have at the present? The answer is, not much. She or he can appeal to the local police who are frequently unwilling to intervene in what they determine is a "family matter" (danger to police is a very real concern—one-fifth of all deaths to police officers and 40 percent of all injuries to them occur when on duty investigating domestic violence cases). She or he can seek restraint on the spouse through the courts; most frequently to be admonished by a family court judge that she or he has provoked the attacks themselves. They can run away provided they have the economic independence to sustain themselves or their children. Finally they can turn to local shelters for battered persons which have been springing up in localities all over the Nation.

Mr. President, I was a cosponsor of this legislation in the last Congress, when the Senate passed the bill the first time. However, the House failed to act on the bill before the close of that session, when they failed to get the two-thirds vote margin needed to pass the bill under suspension of the rules. The failure to pass the bill in the House in the 95th Congress was a major shock to all associated with the subject. Some of the reasons the House failed to pass the bill were reluctance to spend more Federal money on a new HHS program, especially one that may be handled on the local level, and a charge that this bill was antifamily. Both charges clearly miss the mark. First, most States and local communities do not have the resources to initiate domestic violence programs and have called on the Federal Government to assist them with their growing problems of domestic violence. The Federal Government has encouraged the States to take the lead and provide the majority of the resources. Second, this measure is designed to save families who are in desperate trouble and reunite families who have been torn apart by serious daily conflicts. This is a voluntary program, the respective abused persons would have to seek out help. The local, State and Federal governments involved would provide the resources, but by no means become involved in initiating any interference in the traditional family.

Mr. President, preventing violence is far more cost-effective to the Federal. State, and local governments. But, most importantly, prevention is far more constructive for the men, women, and children who are the victims of domestic violence.

Mr. President, I call on all my colleagues in this body and that of the House to congratulate Senator CRANSTON and his able staff of the Subcommittee on Child and Human Development of the Senate Committee on Labor and Human Resources for their persistence in providing us the opportunity to vote on this legislation today and more importantly to pass this legislation with a strong majority of the Senate in support of the Domestic Violence Prevention and Services Act. ALAN, thanks for your efforts on behalf of Hoosiers and other citizens throughout this Nation.

Mr. President, at this point I submit for the RECORD a basic list of those organizations which support this legislation. The list is as follows:

LIST OF ORGANIZATIONS SUPPORTING THE DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT—1980

General Federation of Women's Clubs.
American Association of University Women.
American Home Economics Association.
B'nai B'rith Women's International.
Business and Professional Women's Clubs, Inc.
Criminal Justice and the Elderly—National Council of Senior Citizens.
National Association of Colored Women's Clubs.
National Organization of Women.
Young Women's Christian Association.
Center for Women Policy Studies.
Federally Employed Women.
National Association of Social Workers.
National Council on Crime and Delinquency.
National Coalition Against Domestic Violence.
WEAL (Women's Equity Action League).
Planned Parenthood.
Intercollegiate Association of Women's Studies.
American Jewish Congress.
Parents Without Partners.
Rural American Women, Inc.
Council on Family Relations.
National Association of Counties.
National Organization of Victim Assistance.
American Association of Marriage and Family Therapy.
American Public Health Association.
American Nurses Association.
American Psychiatric Association.
American Speech and Hearing Association.
Family Services Association.
National Citizens Committee for Broadcasting.
American Baptist Churches, USA.
American Baptist Women.
Board of Church and Society of the United Methodist Church.
Board of Global Ministers of the United Methodist Church.
Catholic Women for the ERA.
Christian Church (Disciples of Christ).
Church of the Brethren.
Christian Feminist.
Episcopal Church, Executive Council Diocesan Office.
Leadership Conference of Women's Religious.
Lutheran Council of the USA.
Mormons for ERA.
Congressional Women's Caucus.
National Association of Women Business Owners.
National Urban League.
National Women's Party.
National Women's Political Caucus.
Rural America, Inc.
National Council of Jewish Women.
Florida—Association of Junior Leagues.
American Federation of Government Employees.
American Sociological Association.
International Association of Chiefs of Police.
International Brotherhood of Police Officers.
National District Attorneys Association.
National Federation of Business and Professional Women's Clubs.
National Student Education Fund.●

Mr. MORGAN. Mr. President, the Domestic Violence Prevention and Services Act is an understandable attempt to remedy a widespread problem by providing shelter and aid to battered wives. I do not believe anyone could disagree that victims of such awful violence within the family need and deserve assistance. The incidence of physical abuse of wives by husbands is well known, and I am sure that each Senator is acquainted with instances of it in his own community.

Yet after agreeing in principle with the need for the kind of shelters that this legislation would fund, I have not been persuaded to vote for this bill. In fact, I have been persuaded there are some reasons to oppose it, and I urge my colleagues to think them over before yielding to their good intentions and passing this measure.

To begin with, shelters are already being funded with Federal tax dollars. I note that in North Carolina, funding for some of the existing shelters comes from such diverse sources as LEAA and the Higher Education Act. And in other States, Federal funds come from CETA, from the title XX block grant program, and from revenue sharing.

It seems to me that Senator DANFORTH made several superb speeches last week on why title XX funds can and should be used for shelters of this kind, if, in the judgment of the States, that funding is justified. After all, title XX is the existing Federal block grant program for social services, and the funds can be used for the very purposes this bill has. So why set up an entirely new grant program so narrow in its purposes? Why should we set up a brandnew Federal bureaucracy with brandnew Federal rules that the States must meet? Why should the States be required to generate new State plans for the use of categorical grants when they can already make use of the block grants they now receive without additional work? I do not think these questions can really be answered by the advocates of this legislation.

Let me state another strong reservation that I have with this bill. Why should we begin an entirely new Federal program in a year when we are trying to balance the budget, in a year when we are trying to hold down spending? The Federal deficit for this year is going to approach $60 billion. Does anyone doubt that next year's deficit will also be larger than we now anticipate? In a year when we are cutting back on other social programs, why are we in the process of starting another? I do not believe we should.

It seems to me that the States themselves ought to be wary about the financial implications of this bill, because they will be drawn into spending more and more of their own money for this program. Do they really comprehend what is going on in this legislation? I doubt it.

Let me put a more general inquiry to my colleagues. Why should the Federal Government be so heavily involved in services for battered wives? Is this not an area more for private associations, for communities themselves, and for States that feel a particular obligation for such services? Is it the case that shelters funded largely by the Federal Government and meeting requirements set by the Federal Government will be up to the delicate task of trying to keep families together? Is the Federal Government, although with the best of intentions, trying to enter an area better served by churches and community organizations? I suspect so.

There are many citizens in my State who fear Federal involvement in family matters. And the fear may be justified in this case. We can expect too much from government at this level, and well laid plans can go awry. I would much rather see the support for the shelters now existing in North Carolina and across the country come from the communities of which they are a part.

In summary, Mr. President, I cannot support this bill. I cannot support it because a mechanism already exists for assuring that some Federal money can be applied to shelters for battered wives. I cannot support it because we should not establish new Federal programs when we so desperately need to balance the Federal budget and stop fueling the inflation that is the enemy of every American family. I cannot support it because the family problems that need treating will not be cured through a new Federal bureaucracy and new Federal rules, but rather through the delicate counseling and aid best generated within the communities where these shelters are located.

I urge my colleagues to think again about this legislation. This is not the way to reach the goal we are all seeking.

The PRESIDING OFFICER (Mr. Tsongas). Who yields time?

The Chair will state that time will be charged equally if time is not yielded.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The time remaining does not allow for a quorum call. The Senator may yield back his time and request a quorum at that point.

Mr. CRANSTON. Mr. President, I am prepared to yield back my time so that we can have a vote at this time.

I would like to urge that all Senators vote for this measure. I think it is very important to help victims of family violence. And it is to be done at the local level. Thus, it is not Federal intervention. It is Federal assistance to local people who are seeking help in regard to a very serious American problem.

Mr. President, I yield back the remainder of my time.

Mr. HUMPHREY. Mr. President, briefly, I say in closing, if I have remaining time, that there are already in operation some 274 domestic violence shelters across the country. If they truly had lost support, why are they running to Washington, demanding Congress use the Federal Government as an agency to collect money from those who would not give voluntarily?

There is not sufficient lost support for these organizations. If there were, they would not be here, using us in the fashion they are.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question recurs on the bill, as amended. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from Alabama (Mr. Stewart), and the Senator from Missouri (Mr. Eagleton) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. Bradley), is absent because of death in the family.

I further announce that, if present and voting, the Senator from New Jersey (Mr. Bradley) and the Senator from New Hampshire (Mr. Durkin) would each vote "yea."

Mr. BAKER. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Arizona (Mr. Goldwater), and the Senator from Alaska (Mr. Stevens) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. Goldwater) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 46, nays 41, as follows:

[Rollcall Vote No. 391 Leg.]

YEAS—46

Baker
Baucus
Bayh
Bentsen
Biden
Boschwitz
Bumpers
Burdick
Cannon
Chafee
Chiles
Cranston
DeConcini
Durenberger
Ford
Glenn
Hart
Hatfield
Huddleston
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Stone
Tsongas
Wallop
Weicker
Williams

NAYS—41

Bellmon
Boren
Byrd, Harry F., Jr.
Byrd, Robert C.
Cochran
Cohen
Danforth
Dole
Domenici
Exon
Garn
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
McClure
Morgan
Nunn
Percy
Pressler
Proxmire
Roth
Sasser
Schmitt
Schweiker
Simpson
Stennis
Talmadge
Thurmond
Tower
Warner
Young
Zorinsky

NOT VOTING—13

Armstrong
Bradley
Church
Culver
Durkin
Eagleton
Goldwater
Gravel
Kennedy
Long
McGovern
Stevens
Stewart

So the bill (H.R. 2977) was passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RIEGLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I send to the desk an amendment to the title of the bill and move that the title of the bill be amended accordingly.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. Cranston) proposes an amendment to the title.

Amend the title so as to read: "A bill to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and provide immediate shelter and other assistance for victims of domestic violence, and provide for coordination and evaluation of programs and activities pertaining to domestic violence; to establish a Presidential Commission on National Service; and for other purposes."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I move that the Senate insist upon its amendments to the House bill and request a conference with the House of Representatives thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. Cranston, Mr. Williams, Mr. Nelson, Mr. Riegle, Mr. Humphrey, Mr. Hatch, and Mr. Schweiker conferees on the part of the Senate.

EDUCATION AMENDMENTS OF 1980—CONFERENCE REPORT

The Senate resumed the consideration of the conference report.

The PRESIDING OFFICER. The Senate is not in order.

Could we have the well cleared, please?

The pending question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the conference report was rejected. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from New Hampshire (Mr. Durkin), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), and the Senator from Alabama (Mr. Stewart) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. Bradley), is absent because of a death in the family.

I further announce that, if present and voting, the Senator from New Jersey (Mr. Bradley) would vote "nay."

Mr. BAKER. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Arizona (Mr. Goldwater), and the Senator from Alaska (Mr. Stevens) are necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber desiring to vote who have not already done so?

The result was announced—yeas 44, nays 43, as follows:

[Rollcall Vote No. 392 Leg.]

YEAS—44

Baker
Bellmon
Bentsen
Biden
Boren
Bumpers
Byrd, Harry F., Jr.
Cannon
Chafee
Chiles
Cochran
Cohen
Domenici
Exon
Garn
Glenn
Hart
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
McClure
Metzenbaum
Mitchell
Morgan
Nunn
Percy
Proxmire
Roth
Simpson
Stennis
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—43

Baucus
Bayh
Boschwitz
Burdick
Byrd, Robert C.
Cranston
Danforth
DeConcini
Dole
Durenberger
Ford
Hatch
Hatfield
Heflin
Heinz
Huddleston
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher
Moynihan
Nelson
Packwood
Pell
Pressler
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stevenson
Tsongas
Weicker
Williams

NOT VOTING—13

Armstrong
Bradley
Church
Culver
Durkin
Eagleton
Goldwater
Gravel
Kennedy
Long
McGovern
Stevens
Stewart

So the motion to lay on the table the motion to reconsider was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? We cannot hear what the Senator is saying.

The PRESIDING OFFICER. The Senate is not in order. The Senate is not in order. The Senate will not proceed until there is order. Senators wishing to converse will kindly retire to the cloakroom. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield to the distinguished majority leader.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 30 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALIENS

Mr. THURMOND. Mr. President, the American people are deeply upset about the events surrounding the tremendous influx of Cuban refugees. Riots and skyjackings have followed in the wake of this massive exodus from Cuba as our Government has ineptly handled this problem from beginning to end.

We have been a sympathetic Nation in the past, and we may be compelled to take political refugees in the future; however, we cannot become the home for the millions of people who want to come to America.

Mr. President, a recent editorial by WSPA radio and TV in Spartanburg, S.C., deals with this problem and offers some interesting observations. In order that I may share it with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ALIENS

The recent influx of Cubans and Haitians poses a challenging problem for the United States. This country has a long tradition of welcoming both immigrants seeking economic opportunity and political and religious refugees. It will be difficult to shift to a new policy, nonetheless, in WSPA's opinion that is what must be done.

We can no longer afford to accept indiscriminately all people who wish to reside in the United States. The 130,000 Cubans and Haitians who have entered this country in the past months are a tremendous financial burden and during a period of rising unemployment are a threat to American jobs. The government is supplementing contributions of private groups which are aiding the Cubans and Haitians to the tune of $300 per immigrant. And for the current fiscal year alone training and relocation will cost the United States $485 million.

Moreover, the current spate of skyjackings by refugees wanting to return to Cuba poses a safety problem for American air travelers. Fortunately, none of these incidents has led to the injury of any passengers, but as a spokesman for the F.B.I. said, "the potential for violence seems to be increasing." This development shows how unsound it is to adopt an open door immigration policy without the proper guidelines for and screening of applicants.

Most of these refugees will probably be able to stay in this country permanently. The question then is when will we formulate a policy to handle this problem properly. West Germany has had similar difficulties, with thousands of persons from a dozen Third World countries taking advantage of Germany's liberal political asylum laws to enter that country to look for jobs. Their legislature is moving to tighten laws to protect the German economy while keeping the door open to bona fide political refugees. We must do the same.

CONTINUED SOVIET MILITARY ACTION AGAINST PEOPLE OF AFGHANISTAN

Mr. THURMOND. Mr. President, the American people need to be informed as to Soviet actions in Afghanistan. Based upon my observations the U.S. Government and the public media in this country have not reported a great deal on this subject in recent weeks and months.

We should not forget that U.S. policy has been impacted to a considerable degree by the Soviet invasion and subsequent military attacks on the people of Afghanistan. Therefore, I believe it in the best interests of our Nation that maximum coverage of events in Afghanistan take place. Hopefully, continued exposure in the free press and protests from our Government could increase pressure on the Soviet Union to end or reduce their military attacks in that nation.

Mr. President, articles on recent Soviet actions in Afghanistan appeared in two area newspapers. However, I have seen little on TV news reports or in other sections of the media. I ask unanimous consent that an article entitled "Stiff Fighting Reported in Afghanistan" in the September 4, 1980 issue of the Baltimore Sun and an article entitled "Soviets Reported Rotating Afghanistan-Based Units" which appeared in the September 4, 1980 issue of the Washington Star, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

STIFF FIGHTING REPORTED IN AFGHANISTAN

NEW DELHI.—Soviet forces in Afghanistan have been engaged in heavy fighting with rebels in widespread areas of the country in recent weeks, Western diplomatic sources said in New Delhi yesterday.

Soviet planes had bombed the Western city of Herat, and clashes were reported in the southern province of Kandahar, the sources said.

The highway from Kabul to Jalalabad had been open only sporadically since August 18, with parts of the road destroyed by rebels in the last 10 days, the sources said. One report had a bridge being blown up and another said the highway had been closed by landslides set off by the rebels.

In Wardak province, west of Kabul, rebels reportedly set off road mines when a small Soviet convoy passed.

Kabul itself was quiet, but reports persited that minor government and police officials had been assassinated, the sources said.

They said heavy Soviet traffic was seen at Kabul airport from August 29 to August 31, with some Soviet troops being sent home and fresh replacements coming in.

An increased number of Soviet MI–24 helicopter gunships were seen during this period flying between Kabul and the countryside. Fresh fighting was reported in the Panjsher valley northeast of Kabul, the sources said.

They said there were reliable reports that several Foreign Ministry officials in Kabul had been transferred abroad or dismissed.

The Afghan government was again refusing passports to many people wishing to leave, the sources added.

SOVIETS REPORTED ROTATING AFGHANISTAN-BASED UNITS

NEW DELHI, INDIA.—The Russians airlifted new soldiers into Afghanistan and withdrew others in a three-day "troop rotation" amid widespread fighting against rebels in the countryside, a Western diplomatic source said yesterday.

Russian transport planes "roared overhead" during the airlift as fresh uniformed troops arrived from the Soviet Union at Kabul International Airport and drove toward the city in trucks.

Dressed in civilian clothes, Soviet troops could be seen arriving at the airport in the same military trucks and then departing for the Soviet Union in the same transport planes, he said.

The Soviet transport planes used in the "heavy" Soviet airlift were AN–12s, AN–22s and 11–76s which ferried the troops in and out of Afghanistan Friday, Saturday and Sunday, he added.

The three-day Russian airlift apparently was a "troop rotation" and not a build-up by reinforcements or a simple withdrawal, he said.

The troop maneuvers came amid reports of "heavy Soviet bombing in Herat" city and scattered fighting by Soviet and Afghan forces against Moslem rebels throughout the countryside, the diplomatic source said.

"Continued heavy fighting" rocked Herat, Afghanistan's major western city near the Iranian and Soviet borders, he said.

The source was unable to give details of the fighting but the Soviets have had a difficult time controlling the border town.

Guerrillas often hold sections of the old part of Herat and demand money, food, weapons and shelter from residents.

Increased Soviet helicopter gunship activity in recent days out of Kabul has been directed towards fighting north, south, and southwest of the Afghan capital, he added.

U.S. POLICY ON AFGHANISTAN

Mr. THURMOND. Mr. President, almost every day we read in the press about Soviet helicopter attacks on Afghanistan villages and the massive force being used to suppress the people of this war-torn nation.

Although the Afghans are equipped with only rifles and other small weapons, many are conducting a courageous fight to preserve their freedom and independence.

These forces have not called upon any nation for troops to aid them in this fight, but they have issued continuous pleas for armaments with which to defend their freedom.

The United States should provide such aid, and I urge the administration to do so at once. This aid can be given through third nations or other means, but it must be accomplished without delay. To do otherwise would deny the Afghan people the means with which to fight for their independence.

The open and brutal attacks mounted against the Afghan people by the military force of the Soviet Union cannot be allowed to succeed. Our obligation as the leader of the free world is clear.

Mr. President, an editorial on this subject entitled, "Give Us Weapons" appeared in the August 10,1980, issue of the Richmond Times-Dispatch. I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Give Us Weapons

A college-educated Afghan villager visited 10 refugee camps in Pakistan to interview her countrymen who have been forced to leave their homes because of the Soviet invasion. Writing in The Christian Science Monitor under the pseudonym Mina Herati, she reported one simple but compelling message from the refugees: "Give us weapons!"

On many occasions in history, the people of Afghanistan have been able to resist successfully the efforts of foreigners to dominate them. The best evidence is that Afghan freedom fighters have given Moscow's storm-troopers far more of a battle than the Soviets bargained for when they went into Afghanistan last Christmas. But to go with their boundless courage and determination they desperately need something to offset a bit the Soviets' enormous advantage in destructive technology.

Let one of the young freedom fighters interviewed by Mina Herati make the case:

"We don't want sympathy. We don't need fancy blankets . . . We need something to fight with . . . We need modern weapons to stop the airplanes and helicopters which massacre our people by the thousands.

"We have men. We don't want anyone else to fight for us. We want to have the honor for ourselves of destroying the criminals who have murdered our innocent people, destroyed thousands of our villages, and forced millions of us to be refugees in other countries. We want to be the ones to defeat the traitors and the invaders."

What an eloquent plea! In the words of Mina Herati, America is the symbol of freedom so highly valued by her countrymen and "the Afghan people's only hope against the Russians." Can Americans have become so wrapped up in themselves as to ignore such a cry for help from a freedom-loving people about to be forced into communist slavery?

From time to time, there have been news reports suggesting that some American weapons have slipped across the Pakistani border into the hands of the Afghan fighters. But judging from the Afghans' evaluations, these have been few and far between and of little value.

President Carter's grain embargo, Olympic boycott and partial ban on technological trade with the Soviet aggressors have been only partially effective at best because America's allies seem only too willing to fill in the gaps these measures have created for Soviet planners. But arming the fiercely independent Afghans would be a way to impose a sure penalty on the Soviets and perhaps make them think twice before trying to swallow up another country.

It should be done.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 237

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

I am transmitting herewith the First Annual Report of the Federal Labor Relations Authority for the Fiscal Year ended September 30, 1979, in accordance with the Civil Service Reform Act of 1978 (P.L. 95-454, Sec. 701) (5 U.S.C. 7104(e)).

As the independent agency set up to resolve union-management disputes in the Federal sector, the Authority oversees the creation of bargaining units, supervises elections, rules on the scope of negotiations, hears complaints of unfair labor practices, and interprets the labor-management statute. These activities have greatly enhanced the credibility and effectiveness of the Federal personnel system in resolving union-management disputes.

Jimmy Carter.

The White House, *September 4, 1980.*

MESSAGES FROM THE HOUSE

At 4:12 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House insists upon its amendments to the bill (S. 1177) to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Staggers, Mr. Waxman, Mr. Satterfield, Mr. Preyer, Mr. Maguire, Mr. Luken, Mr. Walgren, Ms. Mikulski, Mr. Broyhill, Mr. Carter, Mr. Devine, and Mr. Stockman were appointed as managers of the conference on the part of the House.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 4627. An act to authorize the enlistment of citizens of the Northern Mariana Islands in the Armed Forces of the United States of America.

The enrolled bill was subsequently signed by the President pro tempore (Mr. Magnuson).

At 5:40 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2538. An act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. Boren).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4527. A communication from the President of the United States, transmitting a proposed amendment to the request for appropriations for the fiscal year 1981 in the amount of $113,800,000 for the Department of Housing and Urban Development; to the Committee on Appropriations.

EC-4528. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Agricultural Foreign Investment Disclosure Act of 1978 to clarify the definition of agricultural land and to provide for reports when previously reported and is no longer agricultural or is held by a person who is no longer a foreign person; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4529. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller), reporting, pursuant to law, the value of property, supplies and commodities provided by the Berlin Magistrate, and under German Offset Agreement for the quarter January 1, 1980 through March 31, 1980; to the Committee on Appropriations.

EC-4530. A communication from the Acting Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend title 10, United States Code, to extend eligibility for advanced training in the Senior Reserve Officers' Training Corps to certain persons who have no military training, and for other purposes; to the Committee on Armed Services.

EC-4531. A communication from the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), transmitting, pursuant to law, a directive on Mutual Logisic Support Between the United States and Other NATO Forces; to the Committee on Armed Services.

EC-4532. A communication from the Acting Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to Malaysia for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4533. A communication from the Acting Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to Egypt for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4534. A communication from the Acting Assistant Secretary of the Air Force (Research, Development and Logistics), reporting, pursuant to law, that a study has been conducted with respect to converting the protective coating maintenance function at Sheppard Air Force Base, Texas, and a decision has been made that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–4535. A communication from the Assistant Secretary of the Air Force (Research, Development and Logistics), reporting, pursuant to law, that a study has been conducted with respect to converting the commissary shelf-stocking and custodial services function at Charleston Air Force Base, South Carolina, and a decision has been made that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–4536. A communication from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), reporting, pursuant to law, that a cost study has been conducted with respect to converting the food services function at Fort Lee, Va,. resulting in a tentative decision that performance under contract is the most cost-effective method of performance; to the Committee on Armed Services.

EC–4537. A communication from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), reporting, pursuant to law, that a cost study of selected real property maintenance functions at Vint Hill Farms Station, Va., has resulted in a tentative decision that contracting would be the most cost-effective method of performance; to the Committee on Armed Services.

EC–4538. A communication from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), reporting, pursuant to law, that in early April 1980, prior to completion of a cost study with respect to the laundry function at the Army Armament Research and Development Command (ARRADCOM) at Dover, N.J., to determine the most effective method of performance, ARRADCOM determined the laundry facility to be structurally unsound, the local commander closed the facility and detailed the five full-time permanent employees to other positions within ARRADCOM, and since that time the laundry workload has been performed by support agreement with Fort Dix and purchase order with a local commercial firm; to the Committee on Armed Services.

EC–4539. A communication from the Principal Deputy Assistant Secretary of the Air Force (Research, Development and Logistics), reporting, pursuant to law, that a study has been conducted with respect to converting the military family housing maintenance function at Reese Air Force Base, Tex., and a decision has been made that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–4540. A communication from the Acting Assistant Secretary of the Air Force (Research, Development and Logistics), reporting, pursuant to law, that a study has been conducted with respect to converting the military family housing maintenance function at Norton Air Force Base, Calif., and a decision has been made that performance under contract is the most cost-effective method of acomplishment; to the Committee on Armed Services.

EC–4541. A communication from the Principal Deputy Assistant Secretary of the Air Force (Research, Development and Logistics), reporting, pursuant to law, that a study has been conducted with respect to converting the commissary shelf-stocking and custodial service functions at Travis Air Force Base, Calif., and a decision has been made that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–4542. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on three construction projects to be undertaken by the Army Reserve; to the Committee on Armed Services.

EC–4543. A communication from the First Vice President, Export-Import Bank of the United States, reporting, pursuant to law, that Eximbank is prepared to make available financing in the form of loans and guarantees (Eximbank Financing) of $247,503,000 to the Republic of Nigeria, acting by and through its Federal Ministry of Finance (Borrower); to the Committee on Banking, Housing, and Urban Affairs.

EC–4544. A communication from the First Vice President, Export-Import Bank of the United States, reporting, pursuant to law, that Eximbank is prepared to make available to Air Canada financing in the form of loans and guarantees (Eximbank Financing) of $460,173,000 to facilitate the purchase in the United States by Air Canada of 12 Boeing 767-200 jet aircraft with related spare engines, spare parts and service; to the Committee on Banking, Housing and Urban Affairs.

EC–4545. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on restrictions on exports to Afghanistan; to the Committee on Banking, Housing, and Urban Affairs.

EC–4546. A communication from the First Vice President, Export-Import Bank of the United States, reporting, pursuant to law, that Eximbank is prepared to make available financing in the form of a financial guarantee of a commercial loan of $223,550,000 to be extended by a United States private lender to T.N.H. Leasing A.G.; to the Committee on Banking, Housing, and Urban Affairs.

EC–4547. A communication from the First Vice President, Export-Import Bank of the United States, reporting, pursuant to law, that Eximbank is prepared to make available financing in the form of loans and guarantees (Eximbank Financing) of $150,000.000 to Transportes Aereos Portuguese (TAP), Lisbon, Portugal; to the Committees on Banking, Housing, and Urban Affairs.

EC–4548. A communication from the First Vice President, Export-Import Bank of the United States, reporting, pursuant to law, that Eximbank is prepared to make available financing to Hylsa, S.A. in the form of loans and guarantees (Eximbank Financing) of $178,110,000 covering U.S. costs of $151,393,500 and local costs of $26,716,500; to the Committee on Banking, Housing, and Urban Affairs.

EC–4549. A communication from the First Vice President, Export-Import Bank of the United States, reporting, pursuant to law, that Eximbank is prepared to make available financing in the form of loans and guarantees (Eximbank Financing) of $111,387,400 to Comision Federal de Electricidad (CFE); to the Committee on Banking, Housing, and Urban Affairs.

EC–4550. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on possible modifications to the Title I Mobile Home Loan Program, August 6, 1980; to the Committee on Banking, Housing, and Urban Affairs.

EC–4551. A communication from the Chairman, Federal Deposit Insurance Corporation, transmitting, pursuant to law, its annual report for calendar year 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC–4552. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the second annual report on the Urban Development Action Grant Program; to the Committee on Banking, Housing, and Urban Affairs.

EC–4553. A communication from the Secretary of Commerce, transmitting, pursuant to law, the fourth report on activities of the Regional Fishery Management Councils and the Department of Commerce concerning fishery management plans, regulations to implement such plans, and other activities in the conservation and management of fishery resources that were undertaken during 1979; to the Committee on Commerce, Science, and Transportation.

EC–4554. A communication from the Chairman, National Transportation Safety Board, transmitting, pursuant to law, the board's budget for 1982; to the Committee on Commerce, Science, and Transportation.

EC–4555. A communication from the Chairman, Federal Trade Commission, reporting, pursuant to law, that the Commission has approved two amendments to the Trade Regulation Rule on Games of Chance in the Food Retailing and Gasoline Industries; to the Committee on Commerce, Science, and Transportation.

EC–4556. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The United States Exerts Limited Influence on the International Crude Oil Spot Market," August 21, 1980; to the Committee on Energy and Natural Resources.

EC–4557. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Delays and Uncertain Energy Savings in Program To Promote State Energy Conservation," September 2, 1980; to the Committee on Energy and Natural Resources.

EC–4558. A communication from the United States Trade Representatives, transmitting, pursuant to law, a report reviewing all actions taken with respect to investigations pending during the period January 1, 1980, through June 30, 1980; to the Committee on Finance.

EC–4559. A communication from the Assistant Secretary for International Organization Affairs, Department of State, transmitting, pursuant to law, documents from United Nations organizations containing information on actions taken relating to U.N. Joint Inspection Unit reports; to the Committee on Foreign Relations.

EC–4560. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days of the execution thereof; to the Committee on Foreign Relations.

EC–4561. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "How to Make Special Emphasis Programs an Effective Part of Agencies' EEO Activities," August 27, 1980; to the Committee on Governmental Affairs.

EC–4562. A communication from the Assistant Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC–4563. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Continuing Widespread Weaknesses in Internal Controls Results in Losses Through Fraud, Waste, and Abuse," August 28, 1980; to the Committee on Governmental Affairs.

EC-4564. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the Majority Printing Clerk, House of Representatives, For the Fiscal Year Ended August 31, 1979; to the Committee on Governmental Affairs.

EC-4565. A communication from the Inspector General (Designate), Department of Health and Human Services, transmitting, pursuant to law, a quarterly report covering the activities of the Office of Inspector General for the period April 1 to June 30, 1980; to the Committee on Governmental Affairs.

EC-4566. A communcation from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the Minority Printing Clerk, House of Representatives, for the Fiscal Year Ended September 30, 1979," August 28, 1980; to the Committee on Governmental Affairs.

EC-4567. A communication from the Assistant Secretary for Health and Surgeon General, Department of Human Services, transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC-4568. A communication from the Assistant Attorney General for Administration, U.S. Department of Justice, transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC-4569. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC-4570. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "President's Reorganization Project, Report on Strengthening Federal Cash Management," August 1980; to the Committee on Governmental Affairs.

EC-4571. A communication from the Assistant Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC-4572. A communication from the Staff Director, United States Commission on Civil Rights, reporting, pursuant to law, the availability of the recently published proceedings of the U.S. Commission on Civil Rights' consultation on "The Civil Rights Issues of Asian and Pacific Americans: Myths and Realities"; to the Committee on the Judiciary.

EC-4573. A communication from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered under the authority contained in Section 13(b) of the Immigration and Nationality Act of 1952, as amended; to the Committee on the Judiciary.

EC-4574. A communication from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders suspending deportation as well as a list of persons involved; to the Committee on the Judiciary.

EC-4575. A communication from the Secretary of Education, transmitting, pursuant to law, notice for grants to State Educational Agencies to Improve the Interstate and Intrastate Coordination of Migrant Education Program Activities; to the Committee on Labor and Human Resources.

EC-4576. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for Grants to State Educational Agencies for Educational Improvement, Resources, and Support; to the Committee on Labor and Human Resources.

EC-4577. A communication from the Assistant Secretary of Labor for Occupational Safety and Health, reporting, for the information of the Senate, relating to an amendment to H.R. 3904, the Multiemployer Pension Plan Amendment Act, which would amend the Occupational Safety and Health Act to exempt certain firms from programmed OSHA safety inspections; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment and an amendment to the title:

H.R. 2255. An act to amend the Bank Holding Company Act of 1956 to limit the property and casualty and life insurance activities of bank holding companies and their subsidiaries (Rept. No. 96-923).

By Mr. PELL, from the Committee on Rules and Administration, with an amendment and an amendment to the title:

S. 2. A bill to require authorizations of new budget authority for Government programs at least every ten years, to provide for review of Government programs every ten years, and for other purposes (Rept. No. 96-924).

By Mr. GLENN, from the Committee on Governmental Affairs, with amendments:

S. 1938. A bill to ensure adequate protection of workers, the general public, and the environment from harmful radiation exposure, to establish mechanisms for effective coordination among the various Federal agencies involved in radiation protection activities, to develop a coordinated radiation research program, and for other purposes (Rept. No. 96-925).

By Mr. PROXMIRE, from the Committee on Appropriations, with amendments:

H.R. 7631. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96-926).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

The following-named persons to be Members of the Federal Farm Credit Board, Farm Credit Administration:

Ralph Raikes, of Nebraska; and

William D. Wampler, of Virginia.

(The above nominations reported from the Committee on Agriculture, Nutrition, and Forestry were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HUMPHREY:

S. 3081. A bill for the relief of Edwin S. Greble; to the Committee on the Judiciary.

By Mr. TOWER:

S. 3082. A bill to reinstate the tax treatment with respect to annuity contracts with reserves based on a segregated asset account as they existed prior to issuance of Revenue Ruling 77-85; to the Committee on Finance.

By Mr. PRESSLER (for Mr. McGovern (for himself and Mr. Pressler)) (by request):

S. 3083. A bill to deauthorize the Oahe Unit, James Division, Missouri River Basin Project, South Dakota; to the Committee on Energy and Natural Resources.

By Mr. BENTSEN (for himself, Mr. Boren, and Mr. Chiles):

S. 3084. A bill to provide that a Federal agency may not require that any person maintain records for a period in excess of five years, and a Federal agency may not commence an action for enforcement of a law or regulation or for collection of a civil fine after five years from the date of the act which is the subject of the enforcement action or fine, and for other purposes; to the Committee on Governmental Affairs.

By Mr. NELSON:

S. 3085. A bill to amend the Internal Revenue Code of 1954 to allow a refundable income tax credit for the purchase of new automobiles manufactured by certain companies which have substantially increased their average fuel economy; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 3086. A bill to amend the Internal Revenue Code to provide that certain research and development expenditures will not be taken into account for purposes of the "small-issue exemption" from the industrial development bond rules; to the Committee on Finance.

By Mr. SASSER (for himself, Mr. Moynihan, Mr. Roth, Mr. Nunn, and Mr. Danforth):

S. 3087. A bill to amend the Congressional Budget Act to require the Congressional Budget Office, for every significant bill or resolution reported in the House or Senate, to prepare and submit an estimate of the cost which would be incurred by State and local governments in carrying out or complying with such bill or resolution; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to order of August 4, 1977.

By Mr. MOYNIHAN:

S. 3088. A bill to amend the Internal Revenue Code to permit foreign pension plans to invest in the United States on a nontaxable basis; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. Metzenbaum):

S. 3089. A bill to amend or disapprove certain amendments to the Federal Rules of Criminal Procedure and the Federal Rules of Evidence proposed by the Supreme Court; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself, Mr. Nelson, Mr. Boren, and Mr. Baucus):

S. 3090. A bill to amend section 6427(e) of the Internal Revenue Code of 1954; to the Committee on Finance.

By Mr. DOMENICI:

S. 3091. A bill to authorize certain revisions to the boundary of Chaco Canyon National Monument, to provide for the protection of archeological sites of the Chacoan Culture, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. TSONGAS (for himself, Mr. Jackson, Mr. Magnuson, Mr. Bradley, Mr. Javits, Mr. Nelson, and Mr. Gravel):

S. 3092. A bill entitled the "National Hostel System Act of 1980"; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:

S. 3093. A bill to amend the Social Security Act to provide that the Federal Government will gradually take over the local share of welfare and medicaid costs, and for other purposes; to the Committee on Finance.

By Mr. HATCH:

S. 3094. A bill to reinstate the tax treatment with respect to annuity contracts with reserves based on a segregated asset account as they existed prior to issuance of Revenue Ruling 77–85; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. Bayh, Mr. Danforth, Mr. DeConcini, Mr. Garn, Mr. Goldwater, Mr. Hayakawa, Mr. Jackson, Mr. Moynihan, Mr. Nelson, Mr. Packwood, Mr. Stafford, Mr. Stevenson, and Mr. Williams):

S.J. Res. 201. Joint resolution to provide for the designation of a week as "National Lupus Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TOWER:

S. 3082. A bill to reinstate the tax treatment with respect to annuity contracts with reserves based on a segregated asset account as they existed prior to issuance of Revenue Ruling 77–85; to the Committee on Finance.

● Mr. TOWER. Mr. President, I am today introducing legislation to rectify an injustice caused by the Internal Revenue Service's sudden departure from longstanding procedure in the taxation of investment annuities. This bill, identical to H.R. 6287, introduced earlier this year in the House by Congressman Barber Conable, would reinstate the tax treatment of annuity contracts with reserves based on a segregated asset account as they existed prior to the issuance of Revenue Ruling 77–85. This ruling was subsequently held unlawful by the U.S. District Court, District of Columbia, on the ground that it constituted an illegal, arbitrary, and capricious act beyond the statutory authority of the IRS, based on an unreasonable interpretation of the Internal Revenue Code. The appellate court, while not addressing the merits of the district court's decision, did invite Congress to provide relief, which this bill is designed to accomplish.

From 1963 to 1965, when the IRS issued basic rulings on the subject of variable, or investment annuities, all relevant departments of the national office of the IRS insisted that an innovative form of annuity upon which the Service had been asked to rule was purely and simply a variable annuity pursuant to the separate account laws that had previously been enacted in 1962.

During the ensuing 12 years after 1965, the IRS reaffirmed its basic position over 70 times, including the issuance of Revenue Ruling 68–488 pertaining to deferred annunities. On March 9, 1977, the IRS issued Revenue Ruling 77–85, which completely reversed its longstanding rulings upon which an important segment of the life insurance industry had relied. The result was, and continues to be, devastating to this segment of the industry.

Several Members of Congress protested this action to the Treasury and the IRS. On April 29, 1977, the Senate passed, by a vote of 57 to 26, an amendment to H.R. 3477, the Tax Reduction and Simplification Act of 1977, which would have deferred the effective date of Revenue Ruling 77–85 for 1 year in order to permit Congress to study the matter and to consider any appropriate legislation. Unfortunately, this amendment was not adopted in subsequent negotiations on H.R. 3477 by the House-Senate conference committee.

Immediately after the conference committee completed its work, one insurance company, the originator of the investment annuity and whose entire business was destroyed by the IRS's sudden flip-flop of position on this matter, sued the Internal Revenue Service in Federal District Court for the District of Columbia for arbitrary, illegal and capricious acts.

On November 9, 1977, the Court ruled that Revenue Ruling 77–85 was indeed unlawful and beyond the statutory authority of the IRS. Judge Charles R. Richley expressed the "confident assumption" that the IRS would proceed to rectify its error without the need for the issuance of an injunction.

However, the IRS refused, stating that it would appeal any injunction issued and would retroactively tax any annuities sold during the interim of the appellate process, should the IRS prevail on appeal.

The President's 1978 tax program proposed the taxation of all nonqualified deferred annuities in the same way as that imposed upon the investment annuity by Revenue Ruling 77–85, which, of course, had been declared unlawful by Federal district court.

The President's 1978 tax proposals relating to all annuities were wisely rejected by the House Ways and Means Committee during its consideration of H.R. 12173, to override Revenue Ruling 77–85, which was approved by committee by a vote of 22 to 14. Due to a procedural constraint at that time, however, H.R. 12173 was not incorporated in the tax bill reported by the committee.

The appellate court declared that it did not have jurisdiction and, therefore, reached no decision on the merits of the case. The appellate court added language, however, inviting Congress to fashion appropriate relief:

> This is not a situation where there are no remedies, however. Congress keeps a watchful eye on developments in the tax field, and will listen to citizens with a grievance or plea.

Mr. President, the entire matter, quite frankly, is a clasic case of the will of Congress being frustrated and subverted by agency action in influencing the legislative process. The advocates of the investment annuity have a serious grievance which, in my mind, requires a prompt congressional remedy. I believe that the action by the IRS in issuing the manifestly unreasonable and unsupportable Revenue Ruling 77–85 deserves the attention of the Senate before adjournment this year in order to restore the investment annuity to its proper place, tax-wise, under the law and to resolve the severe inequities which have resulted from the internal revenue service's arrogant disregard for sound judicial authority.●

By Mr. BENTSEN (for himself, Mr. Boren, and Mr. Chiles):

S. 3084. A bill to provide that a Federal agency may not require that any person maintain records for a period in excess of 5 years, and a Federal agency may not commence an action for enforcement of a law or regulation or for collection of a civil fine after 5 years from the date of the act which is the subject of the enforcement action or fine, and for other purposes; to the Committee on Governmental Affairs.

LIMITATION ON GOVERNMENT RECORDKEEPING REQUIREMENTS ACT OF 1980

● Mr. BENTSEN. Mr. President, I think it is indeed ironic that much of the criminal element in this country—our forgers, embezzlers, thieves and extortionists—are protected by a statute of limitations. If they can perpetrate a crime and remain undetected for a specified number of years, they can be assured of immunity from prosecution for that deed, no matter how strong the case against them.

But there is no statute of limitation for the honest, hardworking small businessman or entrepreneur who unwittingly violates one of the rules or regulations that spew forth from this city like volcanic ash from the summit of Mount St. Helens. The innocent taxpayer who happens to violate a dictate of DOE or the EPA is liable forever; and he would be well advised to maintain records that go back years and years just in case he is called to account by a Federal agency for an alleged misdeed sometime in the distant past.

I can really see no good reason, Mr. President, to accord the professional criminal element in this country a greater measure of protection than we offer to our law-abiding citizens. I am therefore introducing legislation today with Senators Boren and Chiles that would place a 5-year statute of limitations on the enforcement of rules and regulations promulgated by Federal agencies. This legislation would also limit to 5 years the time period required for individual recordkeeping.

Mr. President, at a time when compliance with Federal rules and regulations creates a $100 billlion annual drag on our economy, it is obvious in our national interest to reduce whenever possible and appropriate the crushing burden of Federal interence.

We should understand that this burden falls most heavily on the shoulders of small and medium-sized enterprises—those segments of our economy least able to afford it. The fortune 500 corporations can afford the lawyers, the trade associations and the accountants required to keep abreast of and in compliance with all Federal regulations. They can afford to microfilm their records and keep them indefinitely as insurance against a change, however ill conceived, that they violated a Federal regulation a decade ago.

But the small company frequently lacks the resources for this sort of monitoring and recordkeeping. These corporations are more likely to put their scarce resources into the sort of R. & D. or new equipment that our economy needs so desperately. And these are the companies that would benefit most from a statute of limitations on the enforcement of Federal regulations and at the same time a limit on recordkeeping requirements.

Let me emphasize that this 5-year statute of limitations will not apply in cases of fraud or willful or knowing violation. In addition, actions and records relating to dangerous material are also exempted from the 5-year rule. The legislation is designed to protect against harassment for inadvertent violations far in the past and to reduce the cost involved in recordkeeping.

Mr. President, if enacted into law, this proposal will be favorably received by millions of small businessmen in America; it will free up scarce resources and put them to more productive use. It will not diminish the force of effectiveness of necessary regulations, but it will protect honest businessmen all across this country from the lingering fear of prosecution for an alleged violation more than 5 years in the past.

Mr. President, I hope the Senate will move promptly to approve this legislation and I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3084

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Limitation on Government Recordkeeping Requirements Act of 1980".

Sec. 2. (a) Except as otherwise provided by the Internal Revenue Code of 1954 or any regulations promulgated under such Code and Subsection (b)—

(1) an agency may not require, or enforce any law or regulation to the extent that such law or regulation requires, that any person maintain, prepare, or produce any record (other than a record relating to a dangerous material), after the expirtaion of five years after the date of the transaction or event which is or is to be the subject of such record; and

(2) an agency may not commence an action, suit or proceeding against any person for enforcement of a law or regulation or for the collection of any civil fine, penalty, or forfeiture (other than action, suit, or proceeding relating to a dangerous material) after five years from the date of the act or failure to act which is the subject of such action, suit or proceeding, or fine, penalty or forfeiture.

(b) Subsection (a) shall not apply in any case involving—

(1) fraud;

(2) a willful or knowing violation; or

(3) an untrue statement of material fact made to an agency, or the omission of any material fact necessary to make a statement to such agency not misleading

(c) For the purposes of this section—

(1) "agency" has the meaning given such term in section 551(1) of title 5, United States Code;

(2) "Dangerous material" means—

(a) hazardous waste as defined in section 1004 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903); and

(b) byproduct, source, or special nuclear material, as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014);

(3) "Person" includes an individual, corporation, partnership, and an association; and

(4) "Regulation" means the whole or part of a statement by an agency regarding the applicability or enforceability of a provision of law.●

By Mr. MOYNIHAN:

S. 3086. A bill to amend the Internal Revenue Code to provide that certain research and development expenditures will not be taken into account for purposes of the "small-issue exemption" from the industrial development bond rules; to the Committee on Finance.

● Mr. MOYNIHAN. Mr. President, we have heard a great deal recently about venture capital firms and how the United States needs more of them if we are to compete with the Japanese and West Germans. These are small companies, set up by individuals who have worked for high-technology giants like IBM and ITT, but who have ideas of their own that they want to develop and market. Venture capitalists started the microchip boom in the 1970's. They are already heavily involved in the next growth industry, biotechnology. In short, they are terribly important to the American economy.

That this is the case is well understood. But what is not generally known is that the Federal tax laws discriminate against venture capitalists. We let cities borrow money, at tax-exempt rates, for small stores and small factories, but not for venture capital firms or, for that matter, for any small business that spends a large part of its budget on research and development.

This difference in treatment arises because of the way the Internal Revenue Service has interpreted section 103 of the Tax Code. I am, therefore, proposing legislation that would change the code. If cities can borrow for small manufacturers, they should also be able to borrow for venture capital firms.

Technically, the question is how two words used in the "small-issue exemption" for industrial development bonds should be defined. IDB's are a type of municipal bond, but they have certain distinctive features. For one, a city issues a municipal bond to borrow money for itself to build a hospital, school, or other public project. But it issues an IDB to borrow for someone else, usually a private company. In this way, the city can induce a company to set up shop nearby and to provide jobs for local workers.

Another difference is that municipal bonds are tax exempt. IDB's are not, although there are exceptions, one of which is the "small-issue exemption." The exemption is very complicated. Unfortunately, it can be stated only in mathematical terms. I will say it slowly. IDB's issued by a city are tax exempt if the face amount of the bond issue plus the "capital expenditures" of the company in the 3 years preceding and the 3 years following the issue date do not exceed $10 million.

Venture capital firms rarely, if ever, can take advantage of the exemption. Other small businesses can. The reason is the IRS has defined the term "capital expenditures" in a way that excludes venture capitalists. "Capital expenditures" are obviously such items as the cost of land, buildings, machinery, and other depreciable assets. But the IRS maintains that research and development expenses also are covered.

This makes it difficult, if not impossible, for companies in rapidly changing, high-technology fields to take advantage of IDB financing. It is not unusual for even small venture capital firms to spend millions of dollars in research over a period of several years. These companies must develop their own products. Companies that merely buy their inventory from others have no problem. Since they can ignore the money invested in product development by others, they are less likely than venture capital firms to exceed the $10 million limit on "capital expenditures."

Surely this is an oversight by Congress. If not, it is appalling economic policy. My bill would correct for it by making clear that research expenses are not "capital expenditures." I ask unanimous consent, Mr. President, that the measure be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) Paragraph (6) of section 103(b) of the Internal Revenue Code of 1954 (relating to exemption for certain small issues) is amended by adding at the end thereof the following new subparagraph:

"(J) Research and experimental expenditures not taken into account.—For purposes of applying subparagraph (D)(ii), research and experimental expenditures (within the meaning of section 174) shall not be taken into account."

(b) The amendment made by subsection (a) shall apply—

(1) to obligations issued after the date of the enactment of this Act in taxable years ending after such date, and

(2) with respect to capital expenditures made after December 31, 1979.●

By Mr. SASSER (for himself, Mr. Moynihan, Mr. Roth, Mr. Nunn, and Mr. Danforth):

S. 3087. A bill to amend the Congressional Budget Act to require the Congressional Budget Office, for every significant bill or resolution reported in the House or Senate, to prepare and submit an estimate of the cost which would be incurred by State and local governments in carrying out or complying with such bill or resolution; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to order of August 4, 1977.

STATE AND LOCAL GOVERNMENT FISCAL NOTE ACT OF 1980

● Mr. SASSER. Mr. President, today I am introducing the State and Local Government Fiscal Note Act of 1980. I am pleased to be joined as cosponsors by Senators Moynihan, Roth, Nunn, and Danforth on this important legislation.

The Senate Intergovernmental Relations Subcommittee is holding hearings today on this bill and on S. 2691, the State and Local Government Cost Estimate Act of 1980 which was introduced earlier this year by my distinguished colleague from New York, Senator MOYNIHAN.

Both the Fiscal Note Act and S. 2691 would require the Congressional Budget Office to estimate the costs which would be incurred by State and local governments in carrying out or complying with Federal legislation. These estimates would be made only for those bills or resolutions which are reported by congressional committees, not for all bills which are introduced. The CBO already undertakes these estimates, commonly known as fiscal notes, to determine such costs to the Federal Government itself.

The rationale for both bills is straightforward. The costs of many activities undertaken to further Federal policies are not always borne exclusively by the Federal Government. On the contrary, significant costs may be assigned to State and local governments, sometimes with accompanying Federal assistance, but sometimes without.

By extending the fiscal note process to include the costs to State and local governments, the Congress would be better able to evaluate whether the total benefits of a given program are justified by the total costs and to decide just how the costs should be apportioned among the three levels of government.

In hearings before the House Budget Committee last year, H.R. 3697, the House equivalent of S. 2691, received unanimous support of the State and local public officials who testified.

The State and Local Fiscal Note Act differs from S. 2691 in three areas. First, the effective date would be October 1, 1981, thus providing ample time for the CBO to develop appropriate methodologies for the analysis. Second, the bill would require State and local fiscal notes only for bills or resolutions which would result in an annual cost of $200 million or more to State or local governments—or which would have exceptional fiscal consequences for a particular level of government or geographic region. And third, it inludes a sunset provision by which the act will expire on September 30, 1984.

The second change would reduce the potential workload of the CBO. Rather than requiring the BOC to do fiscal notes on all the approximately 100 bills reported annually which affect the lower levels of government, the CBO would only develop fiscal notes for those which would impose significant costs. Should a bill or resolution not exceed the $200 million cost floor, but still have exceptional fiscal consequences for a particular level of government or geographic region, the CBO would prepare a fiscal note anyway.

I would like to call the State and Local Government Fiscal Note Act of 1980 to the attention of the Senate and I recommend its swift passage.

The passage of this measure would provide a strong and a clear signal to State and local governments that we realize that no one level of government has infinite resources, that we are prepared to carefully weigh the total costs of national goals against the total benefits, and that we are prepared to cease to ignore some of the costs by merely passing them along to other levels of government.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State and Local Government Fiscal Note Act of 1980."

SEC. 2. (a) (1) Section 403 of the Congressional Budget Act of 1974 is amended by inserting "(a)" before "The".

(2) Clause (1) of Section 403(a) of such Act (as redesignated by paragraph (1) of this Subsection) is amended by striking out "costs which would be incurred in carrying out such bill or resolution" and inserting in lieu thereof "the costs which would be incurred by the Federal Government in carrying out such bill or resolution, and an estimate of the costs which would be incurred by State and local governments in carrying out or complying with any significant bill or resolution".

(3) Section 403(a) of such Act (as redesignated by paragraph (1) of this Subsection) is further amended by striking out "estimate" each place it appears in clause (2) and in the last sentence, and inserting in lieu thereof "estimates".

(b) Section 403 of such Act is further amended by adding at the end thereof the following subsection:

"(b) For purposes of Subsection (a)(1), the term 'local government' has the same meaning as in Section 103 of the Intergovernmental Cooperation Act of 1968."

"(c) For purposes of Subsection (a)(1), the term 'significant bill or resolution' is defined as any bill or resolution which in the judgment of the Director of the Congressional Budget Office is likely to result in an annual cost to state or local governments of $200 million or more or to have exceptional fiscal consequences for a particular level of government or geographic region."

SEC. 3. The amendments made by Sec. 2 of this Act shall apply with respect to significant bills or resolutions reported by committees of the Senate and the House of Representatives after September 30, 1981.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 5. The authorization granted under the terms of this Act shall expire on September 30, 1984.●

● Mr. ROTH. Mr. President, I am pleased to cosponsor the State and Local Government Fiscal Note Act of 1980 with my colleague and chairman of the Subcommittee on Intergovernmental Relations, Senator JIM SASSER.

In the years since the passage of the Congressional Budget Act in 1974, the Congress has been receiving better information on the economic effects of proposed policies and programs. The act contains a requirement that the Congressional Budget Office supply the Congress with a 5-year estimate of the fiscal impact on the Federal Treasury of all legislation reported from the committees to the Congress. This requirement, while far from perfect, has, in many instances, provided better information to the Congress on the potential effects of proposed legislation.

Unfortunately, we know little about the economic effects of proposed legislation on State and local governments, our supposed partners in the Federal system. Over 15 percent of the 1980 Federal budget went to pay for grant programs administered by the States and localities. Almost 80,000 units of State and local government participate in the various Federal programs. Nearly two-thirds of the Federal budget is used to finance shared functions in which other levels of government or individuals have roles as partners or beneficiaries. It is clear that the Federal Government has a large, if often ignored, effect on States and localities.

Congress must reform its legislative procedures so that questions relating to federalism are considered by the members and committees. For example, one requirement recently mandated by Congress as a part of the conditions attached to many grant programs, may wind up costing States and local entities up to $6.8 billion nationally to implement. The requirement was never the subject to hearings, its economic effects were never considered, and its wording and meaning were vague and unclear.

To prevent such legislating, Congress should enact a fiscal note process which would require a careful analysis of the economic effects of all major bills upon States and localities. Such a fiscal note requirement is standard procedure in over 30 State legislatures and has helped to reduce the amount and cost of State requirements and rules heaped upon local governments. At a minimum, a Federal fiscal note requirement would force Congress to consider questions related to federalism in its deliberations, something which has rarely been done in the recent past.

I believe the legislation we are introducing today will give us the tools we need to carefully assess the potential results of our enactments on the Federal system. I commend Senator SASSER for his leadership on this issue and hope my colleagues will give this legislation careful consideration.●

By Mr. MOYNIHAN:

S. 3088. A bill to amend the Internal Revenue Code to permit foreign pension plans to invest in the United States on a nontaxable basis; to the Committee on Finance.

● Mr. MOYNIHAN. Mr. President, I am introducing legislation today that would exempt from U.S. taxation the investment income earned by certain foreign pension plans in the United States.

Under present law, a U.S. pension plan does not pay tax on its investment income, provided the plan meets certain Federal standards. It must be "qualified," in the language of the Internal Revenue Code. The same rule applies to foreign pension plans. This may seem fair but it is not.

In effect, we are forcing other countries to conform to our philosophy of what makes a pension plan safe, when their own may make just as much sense within their system. For example, in the United States, we require that a pension plan be "fully funded." That is to say, an employer must set aside enough money each period to pay all of the benefits that have been promised. In West Germany, on the other hand, the government actively discourages employers from fully funding their plans. The German Government wants capital that will be needed in the future to pay benefits reinvested in the employing companies and not tied up in trusts.

Why should we require that a West German plan be "qualified" under U.S. law before it is given favorable tax treatment? The answer simply is that we should not. It should suffice that the plan is considered sound by the West German Government. After all, the plan covers West German workers. We have no business ordering such plans to conform to our standards before they may invest here on favorable terms.

Not only does the present practice offend foreign countries, but it also penalizes us by preventing American industry from tapping a potential source of investment capital. Few foreign plans buy U.S. stock or bonds now. But I predict that many would do so if U.S. tax law were changed. Foreign pension fund managers are eager to diversify their portfolios and reduce their dependence on the economies of their home countries. The United States has a long history of political and economic stability, making it a much more desirable place to invest than most other nations.

My bill would retain the general rule that a pension plan must be "qualified" before it is exempt from tax on its investment income. But for foreign plans, qualification would be determined by looking to the laws of the foreign country. Is the income of the plan exempt from tax or subject to a reduced rate of taxation in the country where the plan is maintained? That would be the test.

The bill would also establish a framework for reviewing whether other countries discriminate against U.S. pension plans. Pension plans in countries that do discriminate could be denied the benefits of the bill. The proposal should result in little or no revenue loss, since there is practically no investment by foreign pension plans now.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) Section 501(c) (relating to organizations exempt from tax under section 501(a)) is amended by adding the following new paragraph:

"(22) A trust or corporation which is formed pursuant to, or as part of, a foreign pension plan which satisfies the following requirements—

"(A) the plan is maintained primarily to provide retirement or similar benefits to employees who are primarily nonresident alien individuals;

"(B) the assets of the plan are segregated from the assets of the employer or employers maintaining the plan pursuant to the laws of the foreign country in which such plan is maintained; and

"(C) under the laws of the foreign country in which the plan is maintained, the income of the plan is exempt from tax or is subject to a reduced rate of taxation than is generally imposed on other residents of such foreign country.

The exemption provided by this paragraph shall be subject to adjustment under section 896 (relating to the adjustment of tax of nationals of foreign countries), and no later than January 1, 1984, the President shall report to Congress on the extent to which he has exercised the authority under that section with respect to relief from foreign income taxes for plans described in section 401(a)."

(b) Section 512(a)(2) (relating to the unrelated business taxable income of certain foreign organizations) is amended by inserting "or section 501(c)(22)" immediately after "section 511".

(c) Section 805(d) (relating to pension plan reserves of life insurance companies) is amended by adding the following new paragraph:

"(7) purchased by a foreign pension plan (within the meaning of section 501(c)(22))."

(d) The amendments made by this section shall become effective on January 1, 1981.●

By Mr. KENNEDY (for himself and Mr. METZENBAUM):

S. 3089. A bill to amend or disapprove certain amendments to the Federal Rules of Criminal Procedure and the Federal Rules of Evidence proposed by the Supreme Court; to the Committee on the Judiciary.

● Mr. KENNEDY. Mr. President, today, together with my colleague Senator METZENBAUM, I am introducing legislation to address a number of amendments to the Federal Rules of Criminal Procedure which are currently pending before the Congress. Last year, on April 30, 1979, the Chief Justice of the United States sent to the Congress a number of amendments to the Federal Rules of Appellate Procedure, Federal Rules of Criminal Procedure, Federal Rules of Evidence, and rules governing habeas corpus (House Doc. No. 96–112). All but eight of these rules went into effect automatically at the expiration of the applicable time periods.

Congress, however, delayed the effective date of eight rules relating to plea agreements—rules 11(e)(6) of the Federal Rules of Criminal Procedure and 410 of the Federal Rules of Evidence—criminal discovery—rules 26.2 and 17(h) of the Federal Rules of Criminal Procedure—probation revocation—rules 32.1, 32(f), and 40(d) of the Federal Rules of Criminal Procedure—and multiple codefendant representation—rule 44(c) of the Federal Rules of Criminal Procedure. The effective date of these rules was delayed until December 1, 1980, because of a number of issues—both legal and constitutional—which were raised.

The legislation which we are introducing today disposes of those rules which are still pending before Congress. Briefly, this legislation provides that the rules relating to plea agreements and criminal discovery will not take effect; the rules relating to probation revocation and multiple codefendant representation will take effect as modified.

I would like to point out, Mr. President, that the decision that certain rules shall not take effect is not a rejection of these rules on their merits. Rather, it should be viewed both as a request as well as an opportunity for the Advisory Committee to reexamine these rules in light of both the issues which have been raised by members of the bar and legal scholars, and the case law which has developed while these rules have been pending before Congress which the Advisory Committee has not had the opportunity to review and analyze.

In fairness to the excellent work which the Advisory Committee has done in the past—and which we urge it to continue to do in the future—the committee sent out over 7,000 copies of the proposed rules, but received very few responses to them. The issues which have been raised before the Congress were not presented to the Advisory Committee for consideration or debate. We would strongly urge that, when these rules come again before the Advisory Committee for discussion, the members of the bar who have raised the issues before us participate fully in their consideration before the committee.

The provisions of this legislation relating to plea agreements and criminal discovery should in no way be interpreted as an effort to influence the Advisory Committee which will address these issues in the future. Nor is this legislation an attempt directly or indirectly to influence the expansion or limitation of developing case law in the courts.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the provisions of—

(1) sections 3771 and 3772 of title 18, United States Code;

(2) sections 2072, 2075, or 2076 of title 28, United States Code; and

(3) the Act entitled "An Act to delay conditionally the effective date of certain rules of procedure and evidence proposed by the United States Supreme Court, and for other purposes", approved July 31, 1979;

the amendments to the rules proposed by the United States Supreme Court, transmitted by the Chief Justice on April 30, 1979, and specified in subsection (b) of this section shall take effect only as provided in such subsection.

(b)(1) Rule 11(e)(6) of the Federal Rules of Criminal Procedure as amended by the amendments so proposed and transmitted shall not take effect, but rule 11(e)(6) of the Federal Rules of Criminal Procedure as in effect on April 30, 1979 shall remain in effect.

(2) Rule 410 of the Federal Rules of Evidence as amended by the amendments so proposed and transmitted shall not take effect, but rule 410 of the Federal Rules of Evidence as in effect on April 30, 1979 shall remain in effect.

(3) Rules 17(h) and 26.2 of the Federal Rules of Criminal Procedure as added by the amendments so proposed and transmitted shall not take effect.

(4) Rule 32.1 of the Federal Rules of Criminal Procedure as added by the amendments so proposed and transmitted shall take effect as proposed and transmitted, except that—

(A) paragraphs (1) and (2) of subsection (a) shall be redesignated as paragraphs (2) and (3); and

(B) the following new paragraph shall be inserted after "(a) REVOCATION OF PROBATION.":

"(1) Institution of Proceeding. If there is cause to believe that a probationer has violated a condition of probation—

"(A) a probation officer may issue a summons for such probationer to appear at a preliminary hearing under paragraph (2);

"(B) the court may issue a warrant to retake the probationer; or

"(C) the probation officer may arrest the probationer pursuant to the provisions of section 3563 of title 18, United States Code.".

(5) Rules 32(f) and 40(d) of the Federal Rules of Criminal Procedure as added or amended by the amendments so proposed and transmitted shall take effect as proposed and transmitted.

(6) Rule 44(c) of the Federal Rules of Criminal Procedure as added by the amendments so proposed and transmitted shall take effect as proposed and transmitted, except that the second sentence thereof shall be amended by striking out "Unless it appears that there is good cause to believe no conflict of interest is likely to arise, the court" and inserting in lieu thereof "The court".

SEC. 2. This Act and the amendments made by this Act shall take effect on December 1, 1980.●

By Mr. MOYNIHAN (for himself, Mr. NELSON, Mr. BOREN, and Mr. BAUCUS):

S. 3090. A bill to amend section 6427 (e) of the Internal Revenue Code of 1954; to the Committee on Finance.

● Mr. MOYNIHAN. Mr. President, taxicab operators have not had to pay the 4-cent-a-gallon Federal excise tax on gasoline since January 1, 1979. Or, more precisely, they have paid the tax, but they have then had it refunded to them by the Federal Treasury.

This arrangement was prescribed by Congress in the 1978 Surface Transportation Assistance Act. But authority for the refunds is scheduled to expire at the end of 1980. The bill I am introducing today would extend it for another 12 months, through next year.

We need an extension because there has not been sufficient time to judge whether the taxicab rebate program has been a success and should be made permanent. First, the IRS has been slow to implement it. Forms for refund applications were not printed until the summer of last year and they were not available in all district offices until last June. In July, a survey of 350 cab companies showed that two-thirds of those eligible for refunds still had not received them.

Second, while we have very clearly in mind what the rebate program must do to succeed, we lack the data we need to evaluate it. Congress directed that gas taxes be refunded to cab operators for two reasons. It wanted to encourage cab companies to buy more fuel-efficient automobiles. We did this by denying refunds to cabbies who buy 1978 or later model-year taxis that do not meet Federal fuel-economy standards.

The International Taxicab Association says that in 1978, before the refunds, the average taxicab got 11.8 miles per gallon, while in 1979, it got 12.6 miles per gallon, a 7-percent increase. The fuel efficiency of the average passenger vehicle was up by only 1.5 percent during the same period. These are impressive statistics, but we need more time to determine whether the improvement was due to the rebate or to other factors.

Congress also wanted to encourage cities to let drivers carry more than one passenger, or more than one group of people going to a single destination, at a time. This was done by limiting the refunds to cabs in jurisdictions where State or local law does not prohibit shared rides. The conference report on the 1978 act said:

> The conferees expect that the Treasury Department and the taxicab industry will determine, and report to the tax-writing committees before the end of the two-year exemption, the extent to which government (and other) barriers to ride sharing have been removed. . . .

The industry has already made its report. According to it, ride-sharing programs stimulated by the rebate have caused the average number of passengers carried per trip to increase from 1.2 in 1975 to 1.8 in 1980:

> When these figures are viewed in terms of gasoline consumed to passenger trip, the taxicab industry has reduced its fuel consumption per passenger trip by 38 percent since 1975.

But the Treasury Department has made no presentation of its own. And the Department of Transportation has not yet finished a study that it undertook with the cooperation of the cab industry earlier this year.

The rebate program should neither end nor be made permanent until Congress has had a chance to evaluate it properly.

Mr. President, three of my colleagues on the Finance Committee are joining me today as cosponsors. I ask unanimous consent that our bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph 3 of section 6427(e) of the Internal Revenue Code of 1954 (relating to refunds of Federal excise taxes paid on gasoline used in certain taxicabs) is amended by striking out "1980" and inserting in lieu thereof "1981".●

By Mr. DOMENICI:

S. 3091. A bill to authorize certain revisions to the boundary of Chaco Canyon National Monument, to provide for the protection of archeological sites of the Chacoan culture, and for other purposes; to the Committee on Energy and Natural Resources.

CHACOAN CULTURE PRESERVATION ACT

● Mr. DOMENICI. Mr. President, I introduce today, a bill to establish the Chaco Culture National Historical Park. This legislation will authorize certain revisions to the boundary of Chaco Canyon National Monument and redesignate the monument as a national historical park. It will provide for the protection and maintenance of certain outlying archeological sites representative of the prehistoric Chacoan culture in the San Juan basin of New Mexico.

The San Juan basin is a major geological feature, roughly 150 miles across, encompassing the entire northwestern portion of New Mexico and parts of Arizona and Colorado. The San Juan basin forms the setting of the Chacoan, Mesa Verdean, and Chuskan Anasazi cultures dating from A.D. 500 to A.D. 1300 when these cultures flourished.

Archeological research of the past decade has provided evidence that the prehistoric Chacoan culture may have been the most highly organized and far-reaching culture of its time on this continent north of Mexico. The Chacoan cultural system grew to include at least 80 communities spread throughout a 30,000-square-mile region. All of these communities may have been linked by an extensive road system emanating from the massive masonry structures of Chaco Canyon.

Today the San Juan basin is a major center of the Nation's energy development. Over 77,000 acres of the basin have existing or pending coal leases. New recovery techniques are being developed to increase the production of oil and gas in the San Juan basin, which already supplies 6 percent of the oil and 44.5 percent of the gas produced in New Mexico. There are over 100 uranium mines and an estimated 30,000 uranium claims throughout the basin.

In conjunction with development of energy resources in the basin, other resource values must be considered. The areas' paleontological resources compose a unique and fairly complete fossil record of the period when mammals succeeded dinosaurs as the dominant life form. The record of the ancient Anasazi civilization found in Chacoan communities cannot be ignored.

Development of the San Juan basin's important natural resources will not be hindered by the preservation of the archaeological integrity of the area. The sites under consideration include less than 0.2 percent of the San Juan basin, and techniques exist for extraction of energy resources without immediate damage to the archaeological sites. The Chacoan resources of the San Juan basin can be protected and preserved, while at the same time the rights of current landowners to the traditional use of their properties can be respected.

Cooperation of all agencies, individuals and commodity producers within the basin is needed to insure a balance among uses to assure environmental protection and resource availability. This cooperation is already in evidence today. A major Chacoan archaeological research effort has resulted in the publication "Anasazi Communities of the San Juan Basin." This effort was equally funded by the Public Service Company of New Mexico, and the State of New Mexico with the Heritage Conservation and Recreation Service, Department of the Interior.

This legislation will provide a firm foundation for continuing this cooperation among the diverse interests of the archaeological and academic communities, the energy producing interests, the involved Federal and State agencies, the Navajo Nation, and individual New Mexicans.

I anticipate this bill will result in a national model of what can be achieved by diverse interests working together for mutual benefit.

I urge the rapid consideration of this bill.●

By Mr. TSONGAS (for himself, Mr. Jackson, Mr. Magnuson, Mr. Bradley, Mr. Javits, Mr. Nelson, and Mr. Gravel):

S. 3092. A bill entitled the "National Hostel System Act of 1980"; to the Committee on Energy and Natural Resources.

NATIONAL YOUTH HOSTEL SYSTEM ACT OF 1980

● Mr. TSONGAS. Mr. President, today I am introducing the "National Hostel System Act of 1980," a bill to plan for the development of a national youth hostel system. I am pleased that Senators Jackson, Magnuson, Bradley, Javits, Nelson, and Gravel have joined with me as sponsors of the bill. It is the intent of this legislation to establish a commission for the purpose of developing a national hostel system plan. The commission shall consider such factors as existing hostel facilities and their locations; an assessment of the demand for hostel facilities; the identification of locations conducive to hostel development such as national parks, historic and recreation sites; minimum standards for management; and an assessment of the applicability and feasibility of incorporating existing State and Federal employment programs such as the young adult conservation corps, the Comprehensive Employment and Training Act program and summer youth programs. The commission will also examine the role of the Federal Government in such a system.

Currently there are over 5,000 youth hostels located in 50 nations around the world, including the United States. The international youth hostel system promotes low-cost, energy efficient travel for people of all ages. Hostels provide low-cost, usually dormitory style accommodations for national and international travelers throughout the world. Because of their dormitory-like bedrooms and open lounges, hostels provide unique opportunities for travelers to share their experience with travelers from many nations. Recently President Carter praised American Youth Hostel, Inc. for "its dedicated and highly successful efforts in the field of low-cost youth travel accommodations * * * (and for its) outstanding work (which has) greatly advanced international understanding and goodwill and strengthened our efforts to maintain peace in the world."

While in the United States we have only 240 hostels, Japan has over 563 hostels, West Germany over 550, and Great Britain over 269. These nations have recognized the important economic and cultural values of youth hostels and thus have actively participated in planning and developing hostel systems within their respective countries. Great Britain pays 50 percent of construction costs for approved hostels and Japan pays up to 90 percent. The economic spin-offs derived from the availability of these low-cost accommodations should not be underestimated. The savings on the cost of lodging can be spent in other sectors of the economy, in local restaurants, markets or cultural attractions.

Low-cost tourist accommodations in Europe, combined with the inflated dollar and low airfares, made European travel more accessible to east coast residents than cross-country travel in the United States. However, now that foreign currencies buy more in America, we must take advantage of the foreign tourist market available to us. We need to cultivate this market and one of the best means available is to provide a familiar youth hostel system.

Not only are low-cost accommodations important to encourage foreign travel in the United States: We can encourage greater use of our recreational, historic, educational, and cultural facilities by Americans if we have a well-developed national youth hostel system. Camp Fire, Inc., a national nonprofit youth organization, has written endorsing this legislation because it—

> Will enhance opportunities for youth to travel across this Nation by increasing the number of facilities that are affordable, where youth can build friendships and find safety when taking rest . . . (it) will result in learning experiences for young people in settings that encourage the study of nature and conservation of natural resources.

It is the intention of this bill to promote the development of a national youth hostel system in order to encourage increased use of our existing national resources, our parks, and historic sites, while promoting recreation and energy efficient travel. Hiking and biking groups support the bill as well as conservation and preservation groups.

One of the very attractive aspects of the bill is that it encourages the use of existing structures at historic sites, structures designated as part of the National Register of Historic Places. This contributes to the cultural and educational value of hosteling, furthers our goal of preserving architectural structures of historic and cultural value, and provides constructive use of these structures. The rehabilitation of these sites contributes to local revitalization efforts and is energy and resource efficient as well as labor intensive. One of the provisions of the bill directs the commission to evaluate the feasibility of using employment programs like Young Adult Conservation Corps and CETA to participate in the rehabilitation efforts. Skills learned in rehabilitating historic structures can prove valuable as our urban revitalization efforts expand. One need only look at Washington to see the market for workers skilled in housing rehabilitation.

Conservation, preservation and recreation groups, hiking, biking, airline, and railroad interests, national and international groups, young and old, all support the development of a national youth hostel system. Obviously there is a need for this program: Government financing of the development plan will provide the stimulus for private sector development and management of the Nation's hostels.

I am pleased to introduce this legislation today and appreciate the support of my cosponsors Senators Jackson, Magnuson, Bradley, Javits, Nelson, and Gravel. Also I ask unanimous consent that three newspaper articles be included in the Record regarding hosteling. I urge my colleagues to carefully consider this legislation and join with me in sponsoring the National Hostel System Act of 1980.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, July 13, 1980]

CONGRESS MAY MODESTLY HELP MODEST TRAVEL

(By Jill Smolowe)

Long associated with backpacking youngsters hitchhiking across Europe, hostels may soon be gaining popular support, and Government aid, in the United States. Granted, hostlers must be willing to sleep in bunk beds, share bedrooms and bathrooms with as many as seven others and sometimes perform housekeeping chores, including sweeping floors. But at an average cost of $3 to $5 per night, the budget-minded nowadays may be willing to overlook inconvenience and even adhere to occasional prohibitions against liquor, cigarettes, mixing of the sexes and staying out after midnight.

The trouble with hostels in the United States, say enthusiasts fresh from their European adventures, is that they are too few and far between. West Germany, for example, boasts more than 550 facilities and children are introduced to hostels as part of their schooling. In London, four facilities provide 1,000 beds on any night, while may of the 269 hostels dotting the English and Welsh countrysides are only a day's hike or bike trip from each other.

Vast distances separate America's 240 hostels, and this country is unique among Western nations in having no Government subsidies for them. Only about 20 percent are in cities, the areas most attractive to foreigners; New York City has none at all.

This could now change. In May, the House of Representatives passed legislation calling for a two-year national plan to develop model hostels. While not financing construction of new facilities, the bill does call for the Government to grant up to $200,000 for each existing building that would be renovated for use as a hostel. This month, the Senate Subcommittee on Parks, Recreation and Renewable Resources received the amended House measure. If it meets the subcommittee's approval and that of the parent Committee on Energy and Natural Resources, the bill will come before the full Senate in August.

Members of American Youth Hostel, Inc., the sole hostel system in the United States, are hoping that their two years of planning and lobbying for Congressional action will pay off as these residences become a way-of-American-life. "And without creating a new ward of the state," says Toby Gearhart, assistant manager of the only hostel in Washington, D.C.

Mr. Gearhart said that some American facilities belong to and are operated by the American youth hostel organization, which, as a member of the International Youth Hostel Federation, links them with an international network of 5,000 hostels in 50 member nations on six continents. But the majority, he said, are owned and operated by private citizens, who receive occasional financial assists from A.Y.H. "And most of these," he said, "are profitable enough to support themselves."

Thus passage of the legislation and enactment of subsidies, Mr. Gearhart said, would mean a net increase of units in a fairly self-sufficient system. "And more hostels in the United States would promote travel," said Tom Newman, executive director of the American hostel organization. "If you get people out to travel, even if they take low cost accommodations," he added, "they are still going to spend a lot of money in the cities that they visit."

Mr. Newman said that the rising costs of fuel and transportation and the shrinking purses people can spend on leisure activities are making hostels an increasingly appealing option for Americans of all ages. School groups, families and individuals are discovering that they need not pay an average of $35 to $40 a night for a hotel room when they can stay in a hostel for less than $6.

"People who are traveling on a shoestring budget come to cities without hostels and are floored by the prices," said Ralph Lusich, who directs the American Youth Hostel facilities in New York State. Contending that such experiences discourage tourism, he noted that "European governments are very interested in establishing hostels not only to encourage their own young to travel but as a spin-off. They know that a foreigner who travels to their country at 18 on a low budget will return when he's 25 or 30 years old traveling first class."

Though documentation is hard to find, this notion is shared by people expert in the travel and tourist business. Officials at the United States Travel Service, in the Department of Commerce, and the United States Travel Data Center in Washington, D.C., for example, agree that traveling inexpensively at an early age encourages people to continue traveling throughout their lives.

Mr. Gearhart suggested that a national hostel system could also encourage a certain American boosterism. "Even though hostels are international, they are in some ways very nationalistic," he said. "In Uruguay and Bolivia, for example, they are a source of national honor, like a famous soccer team."

As in those countries, the new hostels in the United States would be intended for use by both native and foreign travelers. Existing American hostels already enjoy diverse clientele. In Washington, about 50 percent of the guests are foreigners. In Boulder, Colo., Americans constitute about 75 percent of those spending the night.

And the possibility for significant increases in visitors and natives hosteling their way across the United States is high. More than three million people, from toddlers to retirees, already are members of the International Youth Hostel Federation. The annual fee for a membership card—$7 to $14 depending on the applicant's age—allows them to use any facility in any part of the world at special rates. (Non-members can stay at the hostels, though they pay slightly more.)

Many people, particularly students, find the physical layout of the buildings, with their common meeting rooms, convivial. The curfews, uncommon in the United States, and the drinking and smoking prohibitions do not faze most early-to-bed, early-to-rise types and the opportunity for sharing information and perhaps picking up road companions is a boon.

"The beauty is sitting in a recreation room and hearing four languages spoken," Mr. Newman said. "It's the best of what the United Nations is supposed to have been: people discovering their own and other lands through the eyes of a foreigner."

[From the Christian Science Monitor, Aug. 19, 1980]

American Hostels: Simple, Friendly, Inexpensive Lodging

(By Denise Rea)

In the front yard the group may be playing duck-duck-goose; in the back, sitting around a bonfire exchanging stories; and before the day ends, some of these strangers may become friends.

These travelers are hostelers exploring the American countryside, discovering places others only dream about. They come in all ages and backgrounds, families or singles, from every part of the world.

They may be in the Rockies for the weekend, bicycling across the U.S., or walking the Florida beaches. But all have one thing in common—the desire to get out and see what's over the next hill.

At night they converge on hostels—safe, clean places to spend the night without spending a fortune. Overnight fees average $3.50 per person, slightly more during the winter due to heating costs. Hostelers bring their own food and cook their own meals.

On the outside, these American hostels may be farmhouses, mansions, barns, or private homes; on the inside they are converted into dormitory-style sleeping accommodations with kitchen facilities and a common living-room.

Simplicity is the rule. There are no servants, so hostelers share in domestic duties, washing dishes and sweeping floors. They are supervised by resident houseparents who are volunteers or hired at small salaries.

Hostels, open to all who carry a valid American Youth Hostel membership pass, are usually closed during the day and have some type of curfew varying from 10 p.m. to 1 a.m. Maximum stay is usually three nights. Many of them are open year round; most encourage reservations.

In the US, hosteling means traveling under your own steam—biking, hiking, canoeing, skiing, or by horseback—but since many hostels are located in isolated areas, public transportation or private cars can be used as long as travelers plan to engage in outdoor activities during their stay at a hostel.

"Hostels bring people together," explains Art Olson, a co-houseparent with his wife Lucy, in Durango, Colo. "It's like organizing a family. Even the chores—especially dishwashing—become a good time."

Hostelers usually arrive in Durango by bus, but participate in outdoor activities during their stay, visiting prehistoric cliff dwellings at Mesa Verde National Park, the melodrama Abbey Theater, or they go snow-skiing, hiking, rafting, or fishing. Discount coupons are available through the hostel for many activities.

The Durango hostel has already had visitors from 36 countries and 45 states so far this year. Art Olson says it's like "bringing the world to us."

Star of the Sea Hostel in Nantucket, Mass., an island off Cape Cod, was originally a lifesaving station built in 1883. It is listed in the National Register of Historic Places.

Nantucket houseparents Becky Buck-Leaman and Jeff Leaman first became enthused about hosteling during their travels in Europe and were tour leaders for many AYH-sponsored trips in the United States.

"We enjoy interacting with people who share our interest in the out-of-doors," says Jeff Leaman. "I can't think of another way I'd rather spend my time." Star of the Sea, with accommodations for 70, is booked for 90 percent of the summer, an indication of the way hosteling in the US is skyrocketing.

At this hostel, rise and shine is 7 a.m., allowing two hours for wakeup and breakfast. From 9 to 9:30 a.m., everyone does chores and then hits the road.

Hostelers start arriving for the night at 5 p.m. and spend a few minutes registering and settling in. The rest of the evening may be spent at the beach, playing volleyball or horseshoes, but mostly just getting to know everyone. Lights are out by 10:30 p.m.

Hostels can be owned privately or by AYH councils and other groups such as the YMCA and church and outdoor organizations.

In Carnation, Wash., Darcy and Don Newman have opened their private home to hostelers. "It doesn't tie us down," says Darcy Newman. "It's really a neighborhood hostel. If we're booked up or out when a hosteler arrives, they can just go next door."

Most Carnation hostelers arrive by car or bus. The area is a great bike riding, swimming, and hiking area, with four ski resorts only 30 minutes away.

"We have had many hostelers from Australia and Germany," says Mrs. Newman. "House parenting has been great. It's like traveling without going anywhere."

The first US hostel was opened in 1934 by two American schoolteachers, Isabel and Monroe Smith, in Northfield, Mass. Today, there are 250 hostels in 40 states and the District of Columbia and more than 82,000 AYH members.

AYH is part of the worldwide International Youth Hostel Federation. Memberships cost $7 to $14 annually, depending on age. Special discount rates are available for families and nonprofit organizations. Introductory cards for $1 are available for first-time visitors who want to try the experience before joining.

Members receive the "American Youth Hostel Guide" listing all US hostel locations, prices, maps, and suggestions for tours including the popular "chains" in California, Colorado, and the New England states where many hostels are clustered together.

AYH hopes to add coastal chains on the Atlantic, Pacific, and Gulf shores; the area of western Montana between Yellowstone and Glacier National Parks; and the Great Lakes area.

Because the US is so vast, youth hostels have not yet developed in all areas of the country. "We need a hostel in Concord or Manchester, N.H., to fill in a chain between Boston and Montreal," explains Ron Gallagher, office manager for the Greater Boston AYH Council.

He emphasizes that hostels try to promote international goodwill. "It's one of the biggest reasons I'm involved with AYH. People on international travels get to know and make friends with people in other countries, so we're less likely to go to war with each other."

For information contact: American Youth Hostels, Inc., Delaplane, Va. 22025.

[From the Los Angeles Times, June/July 1980]

Hostels Cut Across Cultural Exchange Barriers

(By George Geyer)

Washington.—I was bad that night, I admit it. With Mary McDermott, the other half of the friendship that reinforced our distinct dereliction. I went to see The Tarantella Champion of All Sicily dance in a little Sicilian tavern. And it was well worth it.

What was not worth it that warm and innocent Sicilian night was being locked out—and eventually thrown out—of the Youth Hostel at Taormina. Even though the other students gamely jimmied the lock at 2 a.m. to sneak us back in, we were found out and. in the morning, Mary and I were solemnly told that, having broken the 11 p.m. curfew, we must go.

Sadly we moved on, waving farewells to those good friends who would have covered us. Our tails were between our legs but we were not, in truth, sorry—after all, how many nights can you see The Tarantella Champion of All Sicily dance only for you?

It would be easy this time of year to reminisce over and over, now that another summer is upon us with its sticky nights, which so readily germinate memories in ways that cool nights do not.

There was a Youth Hostel grapevine all over Europe in those days, and you soon heard about the prizes: Florence's hostel was an old palace complete with bar and barman; Stockholm's was a graceful white sailing ship, and each bed had its own reading light;

Carcassonne, the magnificent old walled city in southern France, had its hostel in an old church, where we ended up sleeping in the choir loft.

And it all cost only 20 cents a night! It was enough to make of you forever a happy and very continental cheapskate, and there have been those who have malevolently suggested that this is indeed what came about.

But I am not only, now, reminiscing. It is a time of quintessentially bad news in the world, and yet there are all sorts of good things happening underneath. One of them is the fact that, finally, a comprehensive American Youth Hostel system is getting closer to reality.

The bill to develop a national system of hostels here passed the U.S. House of Representatives on May 19 and has been sent to the Senate for what we hope will be prompt action. Because, although there already are some 240 Youth Hostels, Inc., this is the first time the country itself will create a real structure. There are even plans to convert some historic trust properties into living monuments by making them into hostels.

But—and I can testify from my own experience roaming all over Europe those 20 years ago—youth hosteling is much, much more than just having inexpensive places to lodge with other genial cheapskates.

It is much more than a movement that allows you to "see the world." It is a kind of other wave length, which permits people, living by their own choice at a minimal cost and in a special way, to cut across the barriers that more formal ways of living place in the way of real cultural exchange.

And this brings to mind a real worry of mine—that, in the harsh exigencies of all the difficult and cruel things that have been happening in the world recently, we are forgetting the utterly crucial ingredient of culture. Yet there has never been a time when we more truly need (even for our own sanity) to know and appreciate other cultures and to reinforce our own.

There are clearly negative ways to react to the events of the world today: with fear, with withdrawal, with more exchanges of brutality. And there are positive ways: by reinforcing the strong points of cultures, by more exchange, by precisely programs like the Youth Hostel one, which will encourage Americans and visitors even to meet problems of energy and inflation in new and creative ways.

And unless the world and mind of the Youth Hostelers have changed, I remain confident that if there is a Tarantella dancer out there, they will find him.●

● Mr. JACKSON. Mr. President, I want to take just a moment to join with Senator Tsongas in highlighting the merits of the bill we are introducing today—The National Hostel System Act of 1980.

The measure is intended to set in motion a systematic approach for the development of a plan for a network of American hostels which will serve millions of traveling youth in the decades ahead by providing them with a clean and habitable environment at an affordable cost. It will also assist an already burgeoning American hostel movement by providing limited funds for the renovation of existing buildings so that they may accommodate budget-minded and energy-conscious travelers with a safe and supervised overnight dwelling.

In this regard, European countries have long supported hosteling as a way of promoting inexpensive travel among their young people so that they will continue traveling throughout their lives, and have an established system which is remarkable for its growth and self-sufficiency. For instance, West Germany boasts of more than 550 hosteling facilities which are within an easy day's hike or bike trip from each other, and Britain has 269 hostels dotting the English and Welsh countrysides for the benefit of British youth. In my own home State of Washington, Mr. President, the hosteling movement is gaining great momentum as Sea Haven Hostels, a nonprofit organization, has established 7 hostels and is planning expansion of its recreational program to 30 more facilities. The cost for acquisition and renovation, however, is enormous and often inhibits or slows systematic growth. But with enactment of the bill we are introducing today, we can help to expand America's hosteling system to complement its European counterpart, and thereby help to insure that all in America who appreciate our great cultural and natural heritage, and who enjoy traveling and actively partaking in such activiites as backpacking, hiking, skiing, and bicycling, can afford to do so.

Mr. President, the House of Representatives has already passed a similar measure, and therefore I urge all Members of the Senate to join us today in support of the National Hostel System Act of 1980 so that we may begin to establish a coherent youth hosteling system across America to serve America's youth in their travels and development.●

By Mr. HATCH:

S. 3094. A bill to reinstate the tax treatment with respect to annuity contracts with reserves based on a segregated asset account as they existed prior to issuance of Revenue Ruling 77–85; to the Committee on Finance.

● Mr. HATCH. Mr. President, this proposed legislation is very important not only because it rights a tremendous injustice in the administration of our tax laws, it is important to the authority and integrity of the U.S. Senate and the laws of our country. It is a matter of tax laws, but more importantly, also a matter of who makes the law. The Internal Revenue Service has in the specific instance pertaining to this matter usurped that authority in the face of opposition of the U.S. Senate, a U.S. district court decision and the expressed will of the House Committee on Ways and Means.

The specific matter at hand pertains to IRS Revenue Ruling 77–85 that reversed over 70 consistent public and private rulings that covered a time span of more than a decade. This ruling not only strangled an innovative annuity industry to the detriment of the well-being of our Nation's citizens. This ruling, and the IRS actions related thereto, constitute a documentable case of arbitrary, capricious and illegal acts that cannot be acceptable nor tolerable to the Senate.

The merits of this proposed amendment are clearly reflected in the various courts pronouncements. The U.S. District Court, District of Columbia declared that: Revenue Ruling 77–85 is an erroneous and unreasonable interpretation of this Internal Revenue Code; the ruling was unlawful and beyond the IRS' statutory authority; and that substantial deference to the IRS' expertise is unwarranted in this matter. While the appellate court never addressed the merits of this matter, because it based its findings upon a jurisdiction question, the appellate court stated:

> This is not a situation where there are no remedies, however. Congress keeps a watchful eye on developments in this tax field and will listen to citizens with a grievance or plea.

The true victims of these illegal, unreasonable IRS actions are our Nation's citizens who are being illegally denied a most innovative and useful annuity that was developed in the public interest. Thus, this is a situation that warrants remedial action by the Senate; action that will also restore the authority of the Congress in the writing of our tax laws—a most important matter that commands our immediate and resolute action.●

By Mr. CRANSTON (for himself, Mr. Bayh, Mr. Danforth, Mr. DeConcini, Mr. Garn, Mr. Goldwater, Mr. Hayakawa, Mr. Jackson, Mr. Moynihan, Mr. Nelson, Mr. Packwood, Mr. Stafford, Mr. Stevenson, and Mr. Williams):

S.J. Res. 201. Joint resolution to provide for the designation of a week as "National Lupus Week"; to the Committee on the Judiciary.

NATIONAL LUPUS WEEK

● Mr. CRANSTON. Mr. President, today I am introducing, on behalf of myself and a bipartisan group of 13 other Senators, a resolution providing for the designation of the week of October 19 through 25, 1980, as "National Lupus Week." This resolution has been introduced each of the last 3 years. Once again, I am happy to provide my assistance to focus national attention on the serious nature of the disease lupus erythematosus.

Mr. President, I would like to explain briefly the nature of lupus erythematosus and the intent of the resolution.

Lupus erythematosus is a disease of the connective tissue of the body including the skin. Its causes are unknown. It is essentially a disorder of the body's immune system, which is the first line of defense against infection and inflammation anywhere within the body. Its main target is women in the early and young adult age bracket—age 14 to 40. There may be as many as 500,000 cases in the United States with approximately 50,000 new cases diagnosed each year. The majority of the cases can be effectively treated; however, tragically, lupus causes 5,000 deaths annually.

The intent of the resolution is to help the American Lupus Society, the volunteer organization, make the public aware of the tragedy of lupus erythematosus. The American Lupus Society is a nonprofit organization originally founded in 1973 in California. The purpose of the organization is to assist lupus patients and their families in their fight against the disease, to develop and engage in programs aimed toward making the public aware of lupus, and to raise funds for lupus research and patient care. With a nationally proclaimed week, the effectiveness of the voluntary organization's efforts would be considerably enhanced due to the increased public awareness of lupus.

President Carter has designated a National Lupus Week in 1977, in 1978, and in 1979. This resolution calls on him to make that designation again in 1980.

I urge my colleagues to support this joint resolution.●

ADDITIONAL COSPONSORS

S. 1945

At the request of Mr. BOREN, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 1945, a bill to increase the accountability of, policy coordination by, and management of priorities by agencies through an improved mechanism for congressional oversight of the rules of agencies.

S. 2111

At the request of Mr. TALMADGE, the Senator from North Carolina (Mr. HELMS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Indiana (Mr. LUGAR), the Senator from Michigan (Mr. LEVIN), and the Senator from Maine (Mr. MITCHELL) were added as cosponsors of S. 2111, a bill to incorporate the National Federation of Music Clubs.

S. 2732

At the request of Mr. PACKWOOD, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 2732, a bill to direct that a clinical investigation of the safety and efficacy of dimethyl sulfoxide as a drug to be used by persons with arthritis be conducted through the National Institute of Arthritis, Metabolism and Digestive Diseases.

S. 2818

At the request of Mr. TALMADGE, the Senator from Oklahoma (Mr. BOREN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Kentucky (Mr. FORD), and the Senator from Georgia, Mr. NUNN) were added as cosponsors of S. 2818, a bill to amend the Internal Revenue Code of 1954 with respect to the treatment of mutual or cooperative electric and telephone companies.

S. 2890

At the request of Mr. LEVIN, the Senator from Michigan (Mr. RIEGLE), the Senator from Maryland (Mr. SARBANES), the Senator from Texas (Mr. BENTSEN), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 2890, a bill for the relief of Maria and Timofei Chmykhalov, and for Lilia, Peter, Liubov, Lidia and Augustina Vashchenko.

S. 2906

At the request of Mr. DANFORTH, the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of S. 2906, a bill to amend the Internal Revenue Code of 1954 to provide a credit against tax for certain research and experimental expenditures, and for other purposes.

S. 2923

At the request of Mr. CRANSTON, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2923, a bill to reduce the capital gains tax rate and for other purposes.

S. 2927

At the request of Mr. MORGAN, the Senator from Utah (Mr. HATCH) and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of S. 2927, a bill to prescribe an interest rate differential on deposits and accounts in insured banks and savings institutions.

S. 3030

At the request of Mr. DURENBERGER, the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 3030, a bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for the purchase of a commuter highway vehicle, to exclude from gross income certain amounts received in connection with the provision of alternative commuter transportation, to provide employers a credit against tax for costs incurred in ridesharing programs, and for other purposes.

SENATE JOINT RESOLUTION 176

At the request of Mr. INOUYE, the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. BUMPERS), the Senator from New York (Mr. JAVITS), the Senator from Delaware (Mr. ROTH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Kansas (Mr. DOLE), and the Senator from Texas (Mr. TOWER) were added as cosponsors of Senate Joint Resolution 176, a joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 5, 1980, as "National Port Week," and for other purposes.

SENATE CONCURRENT RESOLUTION 109

At the request of Mr. GLENN, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of Senate Concurrent Resolution 109, a concurrent resolution disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license applications XSNM-1379 and XSNM-1569.

SENATE CONCURRENT RESOLUTION 120

At the request of Mr. HEINZ, the Senator from South Carolina (Mr. HOLLINGS), the Senator from New York (Mr. MOYNIHAN), the Senator from Maryland (Mr. MATHIAS), the Senator from Michigan (Mr. RIEGLE), the Senator from Florida (Mr. STONE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from South Carolina (Mr. THURMOND), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Oklahoma (Mr. BOREN), the Senator from Florida (Mr. CHILES), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from Ohio (Mr. GLENN) were added as cosponsors of Senate Concurrent Resolution 120, a concurrent resolution congratulating the people of Poland on the successful conclusion of the strike.

AMENDMENT NO. 1906

At the request of Mr. PRESSLER, the Senator from Nevada (Mr. LAXALT) and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of amendment No. 1906 proposed to S. 1188, a bill to improve and modernize the vocational rehabilitation program provided service-disabled veterans under chapter 31 of title 38, United States Code, and for other purposes.

AMENDMENT NO. 2274

At the request of Mr. HEINZ, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of amendment No. 2274 intended to be proposed to S. 1188, a bill to improve and modernize the vocational rehabilitation program provided service-disabled veterans under chapter 31 of title 38, United States Code, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

SUNSHINE ACT OF 1980—S. 2

AMENDMENT NO. 2287

(Ordered to be printed and to lie on the table.)

Mr. HART submitted an amendment intended to be proposed by him to S. 2, a bill to require authorizations of new budget authority for Government programs at least every 10 years, to provide for review of Government programs every 10 years, and for other purposes.

FEDERAL EMPLOYEE PAYCHECK PROTECTION

● Mr. HART. Mr. President, last October, disagreements in Congress over amendments to appropriations bills seriously threatened to delay the regularly scheduled paychecks of millions of military personnel and Federal employees. With 13 appropriations measures still to be acted on by the Senate, we may face a similar situation in the next few weeks.

Last year I introduced legislation to prevent such intolerable situations by providing that appropriations for payment of pay to Federal employees shall be enacted separately from other bills. The objective is to insulate Federal paychecks from the kind of legislative controversies we experienced in October of 1979. Today I am filing this legislation as an amendment to S. 2, the sunset bill now pending in the Rules Committee, to improve its chances for consideration this year.

I ask unanimous consent that the amendment be printed in the RECORD at this point. I urge my colleagues to study it and to support it.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2287

On page 73, after line 7, add the following new section:

"SEC. 808. (a) It is the purpose of this amendment to insulate Federal employees from the kind of legislative controversies over appropriations bills that have left some Government employees with less than full pay or uncertain as to when their next payday will be.

"(b) No bill or joint resolution carrying an appropriation for any agency for payments by such agency or any pay to employees of such agency shall be in order in either the House of Representatives or the Senate unless such bill or joint resolution, or each section of such bill or joint resolution, reads after the enacting or resolving clause only as follows: 'There is appropriated for ——— out of any money in the Treasury not otherwise appropriated, for payment of pay to employees thereof, for the period ———, $———.'; the first blank being filled only with the name of the agency for which a sum is appropriated, the second blank being filled only with the period of time for which the sum is appropriated, and the third blank being filled only with the monetary amount of the sum appropriated.

"(c) An amendment to any bill or joint resolution described in subsection (b) shall not be in order in either the House of Representatives or the Senate unless such amendment only strikes out the monetary amount of any sum to be appropriated by such bill or joint resolution and inserts in lieu thereof another monetary amount.

"(d) The provisions of the first section of this amendment are enacted by Congress—

"(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

"(e) The provisions of the first section of this amendment shall apply only with respect to bills or joint resolutions appropriating funds for periods beginning on or after October 1, 1980." ●

FOUNDRY UNITED METHODIST CHURCH—H.R. 5829

AMENDMENT NO. 2288

(Ordered to be printed and referred to the Committee on Finance.)

Mr. JAVITS (for himself, Mr. Nelson, Mr. Domenici, Mr. Williams, Mr. Heinz, Mr. Metzenbaum, Mr. Durkin, Mr. Cohen, Mr. Percy, Mr. Schweiker, and Mr. Pell) submitted an amendment intended to be proposed by them, jointly, to H.R. 5829, an act for the relief of Foundry United Methodist Church.

● Mr. JAVITS. Mr. President, I send to the desk an amendment designed to alleviate a potential injustice suffered by one-person, low-income households in need of fuel assistance and ask unanimous consent that it be printed in the Record.

Mr. President, when the House and Senate passed the Oil Windfall Profit Tax Act it included a fuel assistance program for low-income persons which was originally reported by the Senate Labor and Human Resources Committee as a separate bill and was adopted on the Senate floor to the windfall tax legislation. Chairman Williams, Senator Schweiker, the distinguished ranking member of the Labor and Human Resources Committee, and I were graciously invited by the distinguished chairman of the Senate Finance Committee to serve on the House-Senate conference for the purposes of this section. The program that was agreed upon was designed to expand and improve upon the $1.6 billion program for fiscal 1980. It expanded the program eligibility from the 13.7 million households eligible for assistance in last year's program to a maximum of 20 million households, depending on the available funding. It also clarified the standards that each State's program will have to meet so that prompt assistance is delivered to as many families in need as possible.

The amount of $3.1 billion was authorized, the minimum sum we estimated should be spent from windfall profit tax receipts in order to meet the rising costs of fuel to a larger number of persons.

Unfortunately, inflationary changes in our economy have meant that certain low-income persons, particularly elderly persons, who were eligible and received assistance last year will not be able to do so under the eligibility standards for this year's program. Inflation has changed the budget levels used to calculate when a household is in poverty. Last year a single person, or widow or widower, with $4,250 in income was eligible for the program because this income level was the equivalent of 125 percent of the poverty level established by the Office of Management and Budget. This year, that figure has risen to $4,740, still a pitiably small sum of money for an individual trying to heat a home while still eating and paying rent.

When we sought to broaden eligibility in the windfall profit tax bill, we did so by using the lower living standard of the Bureau of Labor Statistics, a figure which at the time was more generous than the poverty-level standard. But this measure has not yet been revised upward to reflect 1980 inflation and therefore is more restrictive in some regions of the country than the poverty standard. Thus, inflation and the slow pace of getting statistics have combined to make elderly and other single persons who were eligible for help last year ineligible this year, although in real dollar terms they are still just as poor. This is contrary to the intent of the legislation which sought to implement a more inclusive program.

Mr. President, information on the poor collected by the Government is so inadequate that there is no single reliable estimate of the numbers of low-income persons who fall in gaps between last year's eligibility and the levels authorized this year. I am submitting for the Record an estimate by the Congressional Research Service based on Department of Health and Human Services, showing that those affected may number as few as 30,000 or as many as 300,000 persons. The wide variation depends in part on the estimates of how many of those persons would be automatically made eligible because they receive SSI payments or food stamps. However, the Social Security Administration and the USDA have no reliable estimates of how many of the potential eligibles actually participate in these programs. Field experience tells us the elderly are least likely to participate in any assistance programs for which they may be eligible.

My own staff has estimated, by assuming that the proportion of one-person households at each relative income level is approximately the same as in the 1976 census estimates, that the number of persons affected is 240,000. From this group should be subtracted several thousand single persons who live in institutions and are not eligible for fuel assistance. Their number is also not known.

This problem does not affect all parts of the country. In some regions the Bureau of Labor Statistics lower living standard is still higher than 125 percent of poverty. However, the BLS lower living standard average for urban areas of the United States is $4,530 for one person, compared to the $4,740 which represents 125 percent of poverty. In some areas the disparity is greater. In rural Louisiana, one person with income of over $4,020 would be ineligible unless our amendment is enacted; in Dallas, Tex., the analogous figure is $4,210.

My own State of New York Office of Aging estimates that 35,000 households eligible last year could be disqualified for fuel assistance this year. Nearly two-thirds of these persons are elderly. I ask unanimous consent that a letter from Mrs. Lou Glasse, the director of the NYS Office of Aging to the U.S. Social Security Commissioner William Driver be printed in the Record following my remarks.

Mr. President, passage of our amendment adds no additional cost to the fuel assistance program. It simply assures that, while the program is expanded no one who's poverty status would have qualified them last year will be disqualified this year. It has been suggested that the Appropriations Committees could resolve this matter by report instructions to the Secretary of Health and Human Services. While this could be very helpful, it is clearly better legislative practice to amend the authorizing legislation and, in any case, the legislative prognosis for fiscal year 1981 appropriations is clouded. This fact should not be permitted to override the needs of low-income elderly persons.

On July 23, in floor debate over S. 2939, I brought this matter to the attention of the distinguished chairman of the Senate Finance Committee and he graciously agreed to work with us on this matter of great concern to my colleagues and to those who represent the concerns of senior citizens and other low-income persons. I look forward to achieving together these needed changes before the October startup of the new fuel assistance program.

There being no objection, the amendment and material were ordered to be printed in the Record, as follows:

Amendment No. 2288

At the appropriate place, insert the following:

Sec. . Eligibility for fuel assistance.—

Sec. 305(a)(2) of the Crude Oil Windfall Profit Tax Act of 1980, is amended by inserting before the period a comma and the following: "except that, in the case of a one-individual household, the income may be equal to or less than the lower living standard income level or equal to or less than 125 per centum of the federal poverty level, whichever is higher."

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, D.C., September 3, 1980.

To: Honorable JACOB JAVITS.

From: Kenneth Cahill, Analyst in Social Legislation, Education and Public Welfare Division.

Subject: The FY 1981 low-income energy assistance program: Exclusion of single person households from energy assistance.

This memo is in response to your request for information on the possible exclusion of single person households with incomes below 125 percent of the OMB poverty line from eligibility for assistance under the FY81 Low-Income Energy Assistance Program.

The Home Energy Assistance Act of 1980 (title III of the Crude Oil Windfall Profit Tax Act) uses household income of less than 100 percent of the Bureau of Labor Statistics' Lower Living Standard as its income eligibility standard. The most recently published U.S. average Lower Living Standard (LLS) for an urban family of four is $12,585 (autumn, 1979); the autumn 1979 LLS will be used for the FY81 program. This is substantially higher than 125 percent of the current family of four OMB poverty line, which is $9,310 (spring, 1980). However, as family size decreases the decrement in the LLS is greater than that in the poverty guidelines. For families of two and three persons the LLS is still higher than 125 percent of poverty. This is not the case for all single person families. The current U.S. average LLS for a one-person household is approximately $4,530, while 125 percent of the OMB poverty line for a single person family is $4,740.

How does this affect eligibility for energy assistance? Several factors need to be considered.

First, the LLS makes adjustments for both regional cost of living differences and metropolitan—nonmetropolitan status; the OMB poverty guidelines do not (with the exception of separate higher poverty levels for Alaska and Hawaii). The LLS figures presented above are U.S. averages. In the highest cost of living areas (primarily the metropolitan northeast and Pacific west) the LLS cutoff for a single person household would be greater than the $4,740 OMB cutoff. (For example, in the Boston Massachusetts metropolitan area the single person LLS is approximately $4,900.) In the lowest cost-of-living areas, the single person LLS is even lower than the $4,530 reported above. (For example, in the Atlanta Georgia metropolitan area the single person LLS is approximately $4,180.)

The attached table lists the family of four Lower Living Standard for the various regions of the country. Also included is a copy of the LLS household size adjustment procedure and the most recent OMB Poverty Guidelines. The breakeven point is approximately $13,170. Below this level an area may have some single person households with incomes below 125 percent of poverty who would be income ineligible for energy assistance in FY81. It should be remembered that only single person households with income between the LLS and 125 percent of the poverty line may be excluded.

Another consideration is that income is not the only eligibility criterion used by the Home Energy Assistance Act. Households receiving SSI, AFDC, Food Stamps, or Veterans pensions are categorically eligible for energy assistance. It is probable that many of the single person households with income below 125 percent of poverty receive SSI, Food Stamps or Veterans pensions, and therefore would not be adversely affected by the Lower Living Standard income cutoff.

Therefore, the group you were concerned about which may not be eligible for energy assistance benefits in FY81 consists of single person households in non-high cost of living States, with incomes between the LLS and 125 percent of the OMB poverty guidelines, who do not receive SSI, Food Stamps, or Veterans pensions.

It is difficult to estimate the number of these people. This is due primarily to the lack of income and program data for 1980 and 1981 (the years in which the LLS and poverty guidelines apply). It is also due to the lack of adequate information on program participation by the categorically eligible. However, the Department of Health and Human Services has made an estimate that the number of these people is between 30,000 and 300,000. The upper and lower bounds were made using very extreme assumptions as to categorical eligibility and income distribution, so that the actual number is more likely in the 125,000 to 225,000 range.

HHS has estimated that there will be 20.7 million persons eligible for energy assistance in FY81. The range of 30,000 to 300,000 represents between .15 and 1.5 percent of the total pool of eligibles.

APPENDIX A.—LOWER LIVING STANDARD INCOME LEVELS

The lower living standard income level varies by location and size of household. First, on Table 1 find the Standard Metropolitan Statistical Area (SMSA) or non-SMSA area for which you want the living standard. That gives the living standard for a household of 4. To find the income level for a household of other than 4, identify the line on Table 2 which contains, in the column for a family size of 4, the standard you found in Table 1. Then track across that line to the desired family size column.

TABLE 1—*Family of 4*

A. Northeastern States (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont), and Virgin Islands:

Boston SMSA	$13,620
New York SMSA	12,950
Other SMSA's	12,630
Non-SMSA	12,420

B. North Central States (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin):

Chicago SMSA	$12,890
Milwaukee SMSA	12,890
Minneapolis-St. Paul SMSA	12,790
Other SMSA's	12,600
Non-SMSA	12,240

C. Southern States (Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia), American Samoa, Northern Marianas, Puerto Rico, and Trust Territory of Pacific Islands:

Baltimore SMSA	$12,770
Houston SMSA	12,100
Washington, D.C.-Maryland-Virginia SMSA	13,630
Other SMSA's	11,960
Non-SMSA	11,180

D. Western States (Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming):

Los Angeles-Long Beach SMSA	$13,400
San Francisco-Oakland SMSA	13,910
Seattle-Everett SMSA	13,910
Other SMSA's	13,240
Non-SMSA	13,540

E. Alaska:

Anchorage SMSA	$19,690
Non-SMSA	18,510

F. Hawaii and Guam:

Honolulu SMSA	$16,510
Non-SMSA	15,520

TABLE 2.—ADJUSTMENT OF LOWER LIVING STANDARD INCOME LEVEL BY HOUSEHOLD SIZE

1	2	3	4	5	6[1]
$4,020	$6,600	$9,060	$11,160	$13,190	$15,430
4,310	7,050	9,690	11,950	14,110	16,500
4,350	7,140	9,800	12,100	14,280	16,700
4,410	7,720	9,910	12,240	14,440	16,890
4,470	7,330	10,060	12,420	14,860	17,140
4,540	7,430	10,210	12,600	14,870	17,390
4,570	7,490	10,260	12,690	14,970	17,510
4,600	7,530	10,340	12,770	15,070	17,620
4,630	7,550	10,360	12,790	15,090	17,650
4,640	7,600	10,430	12,880	15,200	17,770
4,660	7,610	10,440	12,890	15,210	17,790
4,650	7,640	10,490	12,950	15,280	17,870
4,770	7,910	10,720	13,240	15,620	18,270
4,620	7,910	10,850	13,400	15,810	18,490
4,670	7,990	10,970	13,540	15,990	18,620
4,900	8,040	11,030	13,620	16,070	18,800
4,910	8,040	11,040	13,630	16,080	18,810
5,010	8,210	11,270	13,910	16,410	19,200
5,590	9,160	12,570	15,520	18,310	21,420
5,940	9,740	13,570	16,510	19,480	22,780
6,660	10,920	14,990	18,510	21,840	25,540
7,090	11,020	15,950	19,690	23,230	27,170

[1] For each household's member over 6 persons add to the 6-person level an amount equal to the differance between the 6-person level and the 5 person level.

Source: Department of Labor, Employment and Training Administration, Office of Comprehensive Employment Development.

APPENDIX B.—GENERAL ADMINISTRATIVE REQUIREMENTS FOR THE LOW INCOME ENERGY ASSISTANCE PROGRAM

A. SINGLE STATE AGENCY RESPONSIBILITY

The single State agency designated to administer the State's low income energy assistance program under Pub. L. 96–223, accepts responsibility for the administration of the program. The State agency must administer the program in accordance with the requirements of 45 CFR Part 74 and § 260.50. This includes responsibility for eligibility and administrative policy, and for operational procedures, including: 1. Outreach; 2. Intake process; 3. Methods of eligibility determination; 4. Maintenance of adequate records supporting the eligibility decisions, including a consideration of income and energy increases; 5. Method of payment or issuance of vouchers and cash flow; 6. The accounting system; 7. Procedures for monitoring agency performance; 8. Staffing and plans for staff training related to the energy program; 9. Procedures for handling complaints and review process; and 10. Remedial methods for correction of errors.

B. AGENCY DELEGATION

If the single State agency uses one or more other agencies to perform any operational function of the energy program, the agencies must enter into an agreement which must specify, at a minimum—

1. The division of responsibility among or between the agencies;

2. The manner in which the single State agency retains control and supervision of the program with respect to—a. Eligibility policy; b. Operational implementation; c. Payment process and methods of reporting; d. Recording and accounting procedures; e. Monitoring of agency performance; f. Handling of complaints and review processes including fair hearings; g. Staffing and staff training plans; h. Administrative cost reimbursements; and i. Benefit calculations.

The agreement must also specify remedial methods for the correction of administrative errors, if the agency or agencies providing operational support fail(s) to carry out the provisions of the agreements.

Agreements entered into must be submitted to us as an attachment to the State Plan and are subject to review and approval by us.

C. EXPENDITURES NOT REIMBURSABLE UNDER THE ENERGY ASSISTANCE PROGRAM

The following expenditures are not subject to Federal reimbursement and must not be claimed—

1. Energy assistance payments to or on behalf of households not meeting the eligibility and payment requirements under the State plan;
2. Tax credits which are not in accordance with the State plan;
3. Any portion of an energy assistance payment which exceeds the amount set forth in the State plan;
4. Allowable administration and planning costs in excess of the limitations in 45 CFR 260.88;
5. Allowable assistance payments, tax credits, and administration and planning costs in excess of the amount we allot to the State;
6. Administrative costs which do not meet the requirements of 45 CFR Part 74 (Administration of grants), 45 CFR 205.150 (Cost allocation), and 45 CFR 205.160 (Non-expendable personal property);
7. Energy assistance payments made to or on behalf of eligible households or tax credits after September 30, 1981; and
8. Any expenditures which are not in accordance with the approved State plan.

We will determine the allowability of costs claimed for reimbursement under the energy assistance program. A State may appeal our determination that expenditures are not reimbursable under the energy assistance program. We will establish procedures for such appeals.

D. ALLOWABLE ADMINISTRATIVE COSTS

Costs charged to the administration of the energy assistance program will meet the requirements set forth in 45 CFR Part 74 (Administration of grants), 45 CFR 205.150 (Cost allocation), 45 CFR 205.160 (Non-expendable personal property), and the following criteria—

1. For costs which do not require allocation—those costs that result directly from carrying out the State plan;
2. For costs which must be allocated—those costs incurred for common or joint purposes; not readily assignable to a process, function, or activity; and allocated to the administration of the State Plan in accordance with an approved cost allocation plan.

Any State agency having administrative costs chargeable to the energy assistance program must have a cost allocation plan for allocating costs to the administration of the energy assistance program. That plan must be approved by the Regional Director, Division of Cost Allocation, before any allocated costs can be allowed for Federal reimbursement.

Any local agency having administrative costs chargeable to the energy assistance program must have a cost allocation plan available for review. That plan must show the methods used for allocating the costs to the energy assistance program, except when the local agency has an approved cost allocation plan or indirect cost rate. In these cases, the local agency must execute an amendment to its approved plan.

NEW YORK STATE
OFFICE FOR THE AGING,
Albany, N.Y., June 24, 1980.

WILLIAM J. DRIVER,
Commissioner of Social Security, Department of Health and Human Services, Baltimore, Md.

DEAR COMMISSIONER DRIVER: During the winter of 1979–80, the New York State Office for the Aging actively participated in the operation of the Energy Crisis Assistance Program (CAP). Area Agencies on Aging throughout New York State provided outreach, escort, transportation, information and referral, and counseling services to help older persons apply for the program benefits. As of this date, over 212,920 households have received fuel assistance, of which 50.62 percent or 107,780 elderly households have been provided this benefit during the 1979–80 heating season. However, without changes in the current regulations issued by your office, it is unlikely that the 1980–81 Fuel Assistance Program will be as successful in serving the older population of New York.

After reviewing the Low Income Energy Assistance Program, Interim Final Regulations of the Home Energy Assistance Act of 1980, we are very concerned about two issues: the use of the Lower Living Standard Income Levels for the one-member household and the use of an AFDC verification process for determination of an older person's eligibility.

First, I would like to address my concerns regarding the use of the Lower Living Standard Income Levels (LLSIL) for the one-member household. The proposed regulations place a one-member household's income eligibility criteria below last years ECAP eligibility criteria, while the LLSIL income criteria for multi-member households have dramatic increases ranging from 21.2 percent to 44 percent. Our office calculates that these income levels will result in an increase of over 300,000 additional multi-member households who will be eligible for the 1980–81 Fuel Assistance Program. Yet, it will result in a decrease of 35,000 one-person households, 21,000 of which are estimated to be headed by older persons. The situation for the one-person household will be further aggravated on July 1, when a 14 percent Social Security cost of living increase will disqualify many households which were eligible for ECAP last year. It is clearly evident that the inequity of the LLSIL for one-member households will have a significant negative impact on the older population of New York State.

Each winter, New York State's older citizens face increasing difficulty in meeting their fuel and energy needs. These problems emanate from deteriorating housing, mounting inflation, and poor health. Our programs must be developed recognizing the unique needs of our older citizens and not developed to exclude them from participating in benefit programs they surely deserve. The New York State Office for the Aging strongly recommends that the regulations be technically amended to raise the income eligibility levels for the one-member household by at least the lowest percentage increase experienced by the multi-member households of 21.3 percent. This increase would protect persons who were eligible last year and those who are going to receive a Social Security increase and it would also increase slightly the number of older persons eligible for the program.

In adopting the LLSIL standard, the Congress clearly intended to raise eligibility standards for this year's program in comparison with last year's ECAP. The law should therefore be interpreted as mandating the use of the LLSIL standard as compiled for 4-person households, with appropriate adjustment for households of other sizes. As you know, 1-person households are particularly subject to the burden of higher energy costs, so the New York State Office for the Aging suggests that an appropriate adjustment of the 4-person LLSIL standard would result in no less than a 21.3% increase for 1-person households (the lowest percentage increase experienced by multi-person households).

Secondly, the regulations indicate that, "special treatment relating to assistance, such as certifying the elderly and handicapped persons by home visits or by mail." However, the regulations also state that "States must verify household income elegibility. In verifying income, the Senate must apply verification standards and verification procedures consistent with those it uses for A.F.D.C." Last winter, in New York State, over 62 thousand elderly households were reached and assisted in applying for fuel assistance by using the mail. The elderly have historically been reluctant to apply for benefits and entitlements that might aid them. However, through the use of the mail-in procedures, the program was successful in reaching the older population without sacrificing their pride and integrity. If the AFDC verification standards are applied in New York State this winter, the practice of accepting applications for older persons through the mail would be discontinued. Not only would the use of AFDC procedures for the elderly be more costly, but the process would establish one more barrier to discourage the older person from applying for benefits.

It is evident that your office intended to allow the elderly and handicapped to apply for benefits through the use of special mechanisms. However, we believe that the regulations should be modified to clarify this particular difference by specifically stating that certifying the elderly and handicapped through the use of a mail-in procedure under the special treatment clause of the regulations is allowable. If clarification of the regulations is not possible, the New York State Office for the Aging will request that the New York State Department of Social Services submit with their application a request that you approve a waiver of the AFDC verification procedure for the elderly and handicapped of New York State.

It is truly with much concern that we request that you take positive action on making these necessary changes. The success of the 1980–81 HEAP program in reaching the elderly households in New York State is dependent on the development of reasonable Federal Regulations which take into consideration the unique needs of our older population.

I am sure that you will give our recommendations careful consideration. If I can be of any assistance to you or your staff, please feel free to contact me.

Sincerely,

LOU GLASSE,
Director.●

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, on behalf of the Committee on Labor and Human Resources, I wish to announce that the committee will hold hearings on the role of the worker in the evolving economy of the eighties.

The coming decade will see a rapidly evolving industrial base to meet the challenges of foreign competition, shifting energy sources, and domestic demographic changes. Meeting these challenges will speed the development of new technologies, accentuate market demand changes, and result in structural adjustments in many of our basic industries. Sound national policies must be developed now to assure full worker participation in this period of economic growth and to improve the quality of employment and industrial production.

During these hearings, the committee will explore whether policies can be developed to facilitate occupational mobility, including how traditional collective bargaining mechanisms may be strengthened, to deal more effectively with work force dislocation and, as necessary, to encourage the rational transfer of workers from less to more productive employment. A key part of this inquiry will be to examine how we can foster better labor-management communication about the massive changes that will be taking place in our industries.

The first 2 days of hearings, September 17 and 18, 1980, will focus on work force displacement situations, particularly those caused by the cessation of business activity on a plantwide or product-line basis. The committee's interest in these situations encompasses methods for maintaining continuity of employment in these situations, as well as ways of enhancing work force mobility and worker retraining in cases where employment continuity cannot be maintained. The hearings will commence each day at 9:30 a.m. in room 4232 of the Dirksen Senate Office Building.

Anyone desiring further information about these hearings, or wishing to testify, should contact Jerry Lindrew, Labor Counsel, U.S. Senate Committee on Labor and Human Resources, Washington, D.C. 20510, (202) 224-3674.

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, I announce, for the information of the Senate and the public, the hearing schedule of the Committee on Veterans' Affairs for the month of September.

On Wednesday, September 10, the committee will conduct a hearing for the purpose of receiving an update on the current state of scientific knowledge on the long-term health effects in humans of exposure to agent orange and the status of other agent orange-related activities currently being conducted by various Government agencies that are involved in this issue. The hearing will begin at 9:30 a.m. in room 412 of the Russell Senate Office Building.

Persons wishing additional information should contact Cheryl Beversdorf, professional staff member of the Committee on Veterans' Affairs, at (202) 224-9126.

On Tuesday, September 23, beginning at 11 a.m. in room 318 of the Russell Senate Office Building, the committee will receive the American Legion legislative recommendations for 1981.

SUBCOMMITTEE ON ANTITRUST, MONOPOLY, AND BUSINESS RIGHTS

Mr. METZENBAUM. Mr. President, the Judiciary Subcommittee on Antitrust, Monopoly, and Business Rights will hold a hearing on S. 2798, the Small Business Motor Fuel Marketer Preservation Act of 1980, and on S. 2828, the Small Business Motor Fuel Market Preservation Act of 1980, on Wednesday, September 10, 1980. The hearing will begin at 9 a.m. in room 5110 of the Dirksen Senate Office Building.

SUBCOMMITTEE ON PARKS, RECREATION, AND RENEWABLE RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks, Recreation, and Renewable Resources.

The hearing is scheduled for September 11, 1980, beginning at 10 a.m., in room 3110 of the Dirksen Senate Office Building. Testimony will be received regarding S. 2630, a bill to establish the Martin Luther King, Jr., National Historic Site in the State of Georgia, and S. 3091, a bill to designate the Chaco Culture National Historic Park in New Mexico.

For further information regarding the hearing, you may wish to contact Mr. Thomas Williams at 224-7145.

Those wishing to submit a written statement for the record should write to the Subcommittee on Parks, Recreation, and Renewable Resources, room 3106 Dirksen Senate Office Building, Washington, D.C. 20510.

SUBCOMMITTEE ON FOREIGN AGRICULTURAL POLICY

Mr. STONE. Mr. President, I wish to announce that the Foreign Agricultural Policy Subcommittee of the Committee on Agriculture, Nutrition, and Forestry will hold a hearing at 9:30 on September 18 to examine ways of encouraging further increases in our agricultural exports in the 1980's. The hearing will be in room 324 RSOB, and anyone desiring further information should contact Nancy Foster (224-3041) of my staff or Nelson Denlinger (224-2035) of the committee staff.

Our agricultural exports have grown by leaps and bounds during the 1970's. At the start of the 1970's, U.S. agricultural exports were $7 billion, last year they reached $32 billion, and this year we expect the total to exceed $40 billion. These exports are important for our agricultural producers, and they also are vital for the Nation's balance of payments.

While there clearly is room for further growth in years ahead, there is concern as to how best to proceed. We will be hearing from invited witnesses at this hearing in order to receive new ideas or approaches on how to proceed during the decade ahead. This hearing should be viewed as a prelude to the development of the 1981 farm bill.

Various ideas have been proposed including the establishment of a revolving credit fund, increased funding for market development and the cooperator programs, greater emphasis on the export sale of finished or processed products and the negotiation of further bilateral trade agreements. I would also anticipate a review of the Agricultural Trade Act of 1978 and its usefulness in furthering our agricultural export sales.

This hearing will concern itself with the broad issues of our agricultural trade policy. I would anticipate that farm organizations and commodity groups would provide additional views as we develop the 1981 farm bill.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE TO INVESTIGATE INDIVIDUALS REPRESENTING INTERESTS OF FOREIGN GOVERNMENTS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Judiciary Subcommittee to Investigate Individuals Representing Interests of Foreign Governments of the Committee on Judiciary be authorized to meet during the session of the Senate today to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Water Resources Subcommittee of the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to hold a markup session on the Omnibus Water Resources Amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

POLITICAL ABUSES AT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

● Mr. SCHMITT. Mr. President, I have recently become very concerned by abuses that have been detailed by Mr. Lewis Helm, a former Assistant Secretary for Public Affairs of the Department of Health, Education, and Welfare in the Federal Times. The abuses and possible illegalities described by Mr. Helm have been occurring at the Department of Health and Human Services under the Carter administration in its desperate quest for reelection.

Mr. President, I realize that a Cabinet officer may be permitted to have some leeway in campaigning for the reelection of the President at taxpayers expense. The actions described in the article by Mr. Helm however far exceed what is permissible.

As described by Mr. Helm political appointees at the Department of Health and Human Services have:

Sought to use confidential student loan records against Republican William Janklow in his succesful 1978 race for Governor of South Dakota.

Used career employees to assist in campaign speeches; and

Used Government travel funds to allow political appointees to keep in touch with their home areas.

Mr. President, these articles show that Secretary Harris used career employees to draft and disseminate a speech that was political. In speeches to the Black Congress on Health and Law in Dallas, Tex., and to the United Steelworkers of America in Los Angeles, Secretary Patricia Harris attacked the candidacy of Ronald Reagan because he had been endorsed by the Ku Klux Klan, carefully omitting Governor Reagan's repudiation of that endorsement. In asking the Black Congress members to support the President, Secretary Harris stated:

> As he (Reagan) speaks to a black group today, many will see the spectre white sheet behind him.

Mr. Helm reported that when he presented the facts of the situation to a staff attorney he was informed that:

> If schedule C and career employees are involved putting together media coverage and contacts for a political speech, it is clearly a violation of the Hatch Act.

Mr. President, I think that the behavior by Secretary Harris and other departmental employees, if occurred as alleged by Mr. Helm, is so violative of the law as to require a thorough investigation.

These incidents also raise questions as to whether the law is restrictive enough in preventing campaign activities by career Federal employees.

I submit the articles I have referred for the Record at this point.

The articles are as follows:

The Devious Craft of Shading Truth

(By Lewis M. Helm)

More than 100 former appointees of the Eisenhower administration were helping in the 1968 Republican presidential campaign.

When it appeared that Republicans would gain control of the White House, one senior member of Ike's team passed along some advice to me based on his years as the head of public information at the Department of Commerce.

"From the day you join the government, everything must be directed toward re-electing the President. You can do this best by doing a good job.

"Never tell people what a great job the administration is doing. Give accurate information about policies and programs. People can face bad news. They'll never forgive or forget a snow job. And be sure to hire good experienced people."

We discussed other government public affairs problems.

There was Congress' historic fear that the Executive Branch would create a propaganda machine to extol the administration's virtures, the media's focus on news coverage and disregard for government's need to reach specific audiences with understandable messages, the public's abhorrence of the use of tax money for publicity unless it is publicity about services they agree with or use themselves, and the information officer's isolation from the decision-making process.

We felt then, and I believe even more firmly now, that the purpose, structure and definition of public affairs must be clearly defined if government ever is to re-establish its credibility. (In this and subsequent columns, the term "public affairs" will be used in the broad sense of communications with various publics. It will not refer to a public information office.)

Most public affairs people have the same concerns and follow basically the same philosophy that my friend passed along to me. This philosophy has served well during the times when White House occupants often destroyed their own credibility. Despite strong pressures through the years, the government public affairs system has performed at an acceptable level, basically because of the integrity of the people who work in it.

Now, however, even this underlying strength is being strained beyond the breaking point in the government's most massive department, Health and Human Services. The strain comes from a combination of inexperience, ineptness, arrogance and a disregard for the basic rules of government on the part of some of the department's top officials.

When I left Health, Education and Welfare in March, 1976, I was determined to avoid second-guessing of the department's future leadership. But some things, like preservation of a system of government that works, are more important than silence.

The erosion that has taken place is so widespread that disregard of what is happening in itself would be a crime of omission. Because the erosion no longer can be ignored, I have talked with the department's public affairs people and scrutinized its records to see what is happening.

The results are deeply distressing for anyone who is concerned about the government's mandate to communicate. A comparison is required with the past to see the present.

From 1973 through much of 1975, Secretary Caspar Weinberger steered HEW free from the erosion of credibility that was taking place in the White House. The department's controversies were confined to those dealing with cuts in the staff, whether equal publicity was given to competing health insurance proposals and why we opened congressional correspondence to public scrutiny.

There were never any stories about misrepresenting facts, misuse of public funds, cronyism, illegal use of information.

Secretary David Mathews succeeded Weinberger. He assiduously avoided bureaucratic strife unless it directly involved him. Personal image, not departmental public affairs, became his focus. No improvements were made in mission, structure or personnel but he did not disrupt activities except through passive resistance to needed decisions.

One of our major achievements was the development of a strong career public affairs staff in ten regional offices. These administered the Freedom of Information Act, worked with state and local officials, special interest groups and the press and provided information about the billions of dollars in HEW funding in those areas.

This structure has now been decimated. Positions have been downgraded and politicized. Inexperienced people replaced some of government's best career public affairs officers.

Instead of building on the sound structure that existed to convey needed information to the public, thereby helping the President as my friend had suggested, the tack was just the opposite. As HEW changed its name to Health and Human Services, it took with it a pattern of performance in public affairs that cannot be shed. It is a pattern that has eroded confidence to a point that the governor of one state told regional HHS officials to stay out of his state.

Here are some of the actions which careerists attributed to HHS political appointees. They:

Sought to obtain the aid of career employees in political campaigns.

Attempted to use confidential HEW files to defeat a Republican candidate and then lied about the reason for seeking his file.

Violated the Whitten amendment against jumping salaries too high and too quickly, then violated consultancy regulations.

Abused a system created to lend key people to help state and municipal offices.

Added more than one-quarter million dollars for three deputies and four "experts" to do the job of one deputy in the Nixon/Ford administrations.

Used travel funds to keep political appointees "in touch with" home areas where they might seek elective office.

The erosion of the public affairs system at HHS through these actions and others will be examined in the columns that follow. There also will be specific recommendations on how the system should be altered to improve the government's ability to communicate.

My purpose in exposing present abuses is to help restore the system to a level where it can function at least sufficiently to meet public needs At that point an intelligent discussion must occur to give a sound direction for the future.

There must be an awareness that government communications with the people it serves are as important as the programs themselves. Improvement in both is necessary for government to become credible again.

HHS Politics Evident in S. Dakota Saga

(By Lewis M. Helm)

The Department of Health & Human Services has done more than restructure its regional offices that administer billions of dollars to people and states throughout the country.

If the saga of the governor of South Dakota is an example, HHS regional offices have begun political surveillance of opposition candidates in an effort to defeat their election efforts.

As a result of a bungled attempt in 1978 to obtain the nonexistent confidential student loan file of Republican gubernatorial candidate William Janklow, and sloppy coverup attempts afterward, HHS officials have been asked to stay out of the state.

"I told them I won't do business with them," the governor said. "This kind of politics is unacceptable whether it occurs in the Nixon or Carter administrations. What will they do to me for saying what I think? Cut off money for the old folks of South Dakota?"

The governor was still fuming when he talked with me about the use of the HHS federal regional office in an attempt to defeat his election bid . . . and what he termed the lies that followed when regional officials were questioned.

"One of my campaign people called me shortly before the election after he got a phone call from a banker in my hometown, Flandru. Someone from HEW's Denver office had asked for my student loan file to see if I ever defaulted on a student loan.

"I'd never borrowed any money from that bank and never took out a student loan from them. It was obvious that they were trying to get something on me to use in the campaign against me."

At the time Janklow was attorney general of South Dakota.

"I called the person who had contacted the bank and demanded to know who was in charge of political surveillance for the Carter administration. I asked who wanted to know about the loan and he wouldn't say.

"I told him that if I didn't get a reply in 30 minutes, I was going to file suit against him and HEW the next morning. He then said that it was a congressional inquiry . . . that he would let me know who the member was.

"He called back, this time very embarrassed saying that he had been wrong. The requestor was Grace Mickelson, who was in charge of HEW government affairs in Denver. He apologized and said that this would never happen again."

The governor said he knew Mickelson and that she had been a state senator who was defeated in 1976 when running for Congress against James Abnor, a Republican. She joined HEW with the new administration a while later.

Departmental regulations and statutes, including the Privacy Act, forbid arbitrary perusal of personal documents provided to the government, such as student loan files. Only government officials who need to review the files for an authorized purpose may have access.

Guaranteed Student Loan Program officials normally review a student loan file at the time of decision as to whether to guarantee the loan. If a student defaults, a review takes place within several months, not years later as would have been the case with the governor.

A review of the files by any official other than those directly administering the GSL program rarely occurs. There is little reason to do so. GSL officials cannot recall ever providing a member of Congress with a file or the information contained in one.

"In January or February, the HEW principal regional official (Wellington E. Webb) paid a courtesy call on me as governor. I told him the bottom line was that I didn't trust him or his people and that I wanted to know more about the student loan incident." (Webb, a former Colorado state representative, had been a campaign manager for

Jimmy Carters' presidential race in Colorado in 1976.) Janklow continued.

"He promised to check into it fully but I never heard from him. So I called him and told him again that it was a congressional inquiry . . . that it was Senator James Abourezk, who asked. I knew that was a lie because Jim and I are personal friends. We went to the University of South Dakota Law School together.

"Jim just laughed when I told him . . . and said there was no way he would have done that."

Almost a year later, the governor said that he and other heads of the 50 states attended a White House briefing by President Carter. The President took a question from Governor Janklow:

"Some of us in states that don't have primaries before June 3 are afraid that there won't be any funds left for our states [alluding to heavy federal expenditures in states with important primaries]. Will there be anything left?"

The President replied in this way, Janklow said.

"I can assure you that it would be improper to use federal money to do things like that and it won't happen in my administration."

Janklow's reaction was this:

"He's my President so I have to give him the benefit of the doubt about lying. If he's not lying, then he sure doesn't know what's happening in his administration . . . at least in the Department of Health & Human Services."

"Gang That Couldn't Shoot Straight"

(By Lewis M. Helm)

Grants, special projects, presidential visits and lots of praise have become standard ways for an administration to help members of Congress from the same party win re-election.

But there is a line which administrations and members of both parties agree must not be crossed in political campaigns. It is the line between helpfulness and stupidity.

That's one reason why career employees in the Denver regional office of the Department of Health and Human Services were amazed when told by a new congressional liaison specialist from Washington headquarters that he and others had been hired quickly before the personnel freeze this year "to help re-elect some Democrats who are in trouble at home."

Concerned about such a potential blatant violation of the Hatch Act and other laws, I phoned Thomas S. McFee, HHS assistant secretary for administration. The next day McFee told me that the congressional liaison specialist involved denied the charge and that he could do nothing further without the names of witnesses.

The department's inspector general's office later phoned me to say that they would guarantee anonymity to witnesses in order to obtain candor. Three days later they said no investigation would be taken. They denied making earlier comments.

I was told that McFee's office "found no violations of staffing regulations or the Hatch Act," by the HHS public relations office.

Here's what this writer was told by Denver careerists:

"Grace Mickelson, the second ranking HHS regional official, told her intergovernmental affairs staff that a new congressional liaison person from Washington, responsible for the Rocky Mountain area, would be here April 9, 1980. He would want to discuss what was happening in each state. So, everyone in IGA pulled together reports about the status of projects that members of Congress had been interested in."

Robert H. Maloney arrived in Denver, talked with top regional officials and then met with career employees of IGA.

"He got right to the point in the meeting," one careerist said. "Maloney told the small meeting, 'I understand that Senators Hart, D-Colo., McGovern, D-S.D., Reps. Schroeder, D-Colo., McKay, D-Utah and Kogoveek, D-Colo., are in trouble this election. We want to do everything we can in this department to help re-elect them. I'm here to see how *you* can help'.

"No one knew what to say. The four career employees present looked at their boss Mickelson, to straighten out Maloney about the rules against political activity with federal funds by employees."

Normally, a few political zealots float through every department during election years. The more senior political appointees straighten them out about the rules of the game and how that type of overt campaign activity is counterproductive.

But Mickelson did nothing to stop Maloney. She apparently had learned nothing from the investigation by the department IG into her violation of the Privacy Act. As noted in this column last week, she had sought to obtain the student loan file of the Governor of South Dakota to use against him in his 1978 election campaign.

The careerists told themselves during the luncheon break that surely even Mickelson would realize the stupidity of the discussion and stop Maloney. But she didn't.

"After lunch he said that he was one of five congressional liaison employees hired to help the department campaign for Democrats. He even boasted that they had been hurried through the civil service process just three days before the President's hiring freeze so they'd be available."

The careerists didn't know whether to walk out of the meeting or just laugh to themselves. They knew that there was little HHS could do to help members of Congress, except to expedite service of inquiries and several pending projects. HHS doesn't have much discretionary money that it can spend.

It was another case of the 'gang that couldn't shoot straight,' just the same as the Mickelson quest for the South Dakota Governor's student loan file from a bank where he didn't bank. And what member would want that kind of help, anyway?

Later Mickelson drove Maloney to the office of Rep. Timothy Wirth, D-Colo., who was not on the Maloney "in trouble" list.

"This was the part of the Maloney visit that really ticked her off," a careerist said. "Maloney told her to wait in her car while he talked with the congressman."

When I talked to Maloney, he claimed total innocence:

"I categorically deny saying those things. I'm in charge of regions eight and nine. It is my responsibility to get to know the people I deal with and the problems of the region. That's why I went to Denver and San Francisco . . . to visit the office of members."

He couldn't explain the careerists' version of his visit. Nor could he say why South Dakota Governor William Janklow had received a telephone call from an employee in the Denver office warning that HHS had been instructed to spend everything possible in South Dakota to help re-elect Sen. McGovern.

Maloney said that he visited three congressional offices before going on to San Francisco. These were the offices of Sen. Hart, Rep. Schoeder and Rep. Wirth. When asked if he called on any Republican offices, his response was:

"There weren't any on that block where I was. But I understand that one of our people who handles Region ten went to a Republican office in Seattle." Maloney didn't know the name of the Republican member.

He then explained that he and four others were visiting congressional offices in all ten regions "to see how we can be helpful." He added that HUD, he knew, has the same program as does at least one other department.

This HHS activity, according to Maloney, is supervised by Michael Kerr within the office of assistant secretary for legislation, William Welsh. Welsh also has responsibility over intergovernmental activities in regional offices, including the activities of Mickelson. He participated in the HHS decision to keep her on HHS's payroll even though she had violated the Privacy Act.

HHS records show that Maloney was hired as a GS–14(6), at a salary of $40,498, on March 23, 1980. Two other congressional liaison specialists Maloney identified as visiting congressional offices in the regions were hired on the same day at GS–13(1) at a salary of $29,375. They were Linda Wray and Thomas Hipple.

The Office of Personnel Management affirmed that the hiring freeze was announced on March 14, 1980, and was retroactive until February 29, 1980.

The additional congressional liaison specialists who Maloney said were contacting regional congressional offices were Susan Lubick GS–14(2), $35,870, and Marion Troyer-Merkel, GS–12(3), $26,349.

HHS travel records show that Maloney's fellow workers all took trips to regional offices at the following costs:

Maloney, April 8–13 to Denver and San Francisco, $1,028.

Wray, April 10–11, Flint, Mich., at the "request of Congressman Dale Kildee to meet with members of his district staff," $331.

Lubick, May 8 to New York City, $133.

Lubick, April 10–11 to Boston, $239.

Hipple, April 9–11 to Dallas, $553.

Hipple, April 20–22, to Philadelphia, $161.

Troyer, April 7–14 to Seattle and Spokane, $632.

Troyer, May 19–20 to Kansas City, $448.

Before joining HHS, Maloney was executive director of a health association and a legislative aide on Capitol Hill for Rep. Louis Stokes, D–Ohio. He was a law clerk under a District of Columbia Superior Court judge for a year after graduating from Harvard Law School.

Maloney refused to say if he had passed the bar exam to practice law.

Thomas McFee said that Maloney's hiring had not been rushed through to avoid the freeze. "We had been recruiting to fill those positions for some time," McFee said, "and Maloney had appeared as an applicant in ample time for regular processing. He was hired to do case work, filling a position that normally is non-career."

Based on these contacts with HHS, it is easy to understand why the department's reputation has deteriorated so rapidly. It is the result of a deep and pervasive fear that candor will bring problems if it reflects on the political leadership.

One top HHS official said, "If an investigation is conducted through normal channels, everyone who talks is in trouble. That's the way it is now."

Hatch Act Fails To Daunt Harris

(By Lewis M. Helm)

Secretary of Health and Human Services Patricia Harris has caused her staff to violate at least one law and possibly others as she traveled across the country to give two speeches, which I consider racist, in behalf of President Carter just before the Democratic convention.

To support her political swing, Harris used 11 HHS employees and spent more than $10,000 in money that had been appropriated to help fight the poverty and discrimination which she discussed in her speeches.

This misuse of tax money by a government official is the most blatant in the public affairs area that I have seen in recent years.

Even during the most trying times of government from 1973 through 1975, former

HEW Secretary Caspar W. Weinberger studiously avoided any use of federal funds for purposes other than authorized by Congress. Other secretaries have followed the spirit of the law that Harris flaunts.

On August 5, Harris, accompanied by three aides, flew to Dallas to deliver a speech to the Black Congress on Health and Law.

For this trip, Jake Sullivan of her staff acted as advance man to make certain that she got maximum exposure. The Dallas HHS regional office notified the press that she would deliver an important speech.

An editorial board meeting with The Dallas Times Herald was held and a taping with KDFW–TV was made to be aired that Sunday.

No copies of her speech had been sent to Dallas so the regional officials could review it in advance. Normally the secretary's speechwriter, Jeff Kelly, developed her words early.

The regional public affairs chief and the principal regional official joined Harris and her entourage which consisted of Dr. George Lythcott, administrator of the Health and Human Services Administration; Randal Kinder, executive assistant; and Ken Lopez, her bodyguard.

Copies of the speech, brought with them on the plane, were distributed at the Dallas Convention Center where the 8000 black professionals were meeting.

Harris said: "Our nation is about to embark on an election campaign which may be a watershed in American history.

"Fifty years ago, President Hoover spent a full term in the White House without speaking to his black servants. Today, Republicans do talk to black people. Fifty years from now, they may even listen to black people."

Harris then said Republican presidential candidate Reagan had been endorsed by the Ku Klux Klan. She never pointed out that Reagan had immediately repudiated the endorsement of the Klan.

"As he speaks to a black group today, many will see the spectre white sheet behind him," she said, calling on the assembled to support Carter.

Harris is not prevented by law from making this totally political speech. She is not deterred, as often proven, from making the most inflammatory, racist and misleading comments.

But it is against the law for any career or non-career government employee to write, promote, and disseminate campaign material and appearances.

In other words her speechwriter, advance man, regional officials and, perhaps the aides accompanying her were instructed by the secretary to violate the law.

I talked with the special counsel's office about the situation, without giving names. The attorney replied:

"If Schedule C and career employees are involved in putting together media coverage and contacts for a political speech, it is clearly a violation of the Hatch Act."

Justice Department's Criminal Division Election Crimes Branch, added that a violation of the Hatch Act is covered by administrative, not criminal remedies. That means that the department may take administrative actions against those employees.

"It would be highly doubtful that a department head who gave that kind of speech would do so," they added.

The HHS Hatch Act violators apparently are safe, since it is obvious Pat Harris will not act, having ordered the violations herself.

"The use of appropriated funds is a different issue," I was told. "The degree of misuse becomes the principal criterion for whether there is a violation of statutes dealing with stealing government property. There occasionally are prosecutions under this criminal statute, but rarely, because the laws do not address this issue specifically."

There are stipulations in most appropriations acts forbidding departments to use funds to lobby in behalf of legislation . . . but none related to campaigning.

From Dallas that afternoon, Harris and company flew to Los Angeles, leaving Dr. Lythcott to talk with the conventioners. This time, advance copies of her speech before the United Steelworkers of America at the city's convention center had been telexed for distribution.

Two public affairs officers from HHS San Francisco went to Los Angeles to work with her aide, Rick Rosen, an advance party for the trip. Speech copies were distributed and a press conference arranged.

Harris waxed racist again before the 8,000 conventioners. But this time, they paid little attention as they milled around the convention floor.

The press was interested, though. Wire services moved pieces nationally, quoting her comments about Reagan and the KKK. Again, no mention was made of Reagan's repudiation of the endorsement.

To compile figures to show the cost of these racist speeches to the government, I requested from the department's Freedom of Information officer, Russell Roberts, copies of the travel vouchers, travel requisitions and forms 171 of all of the participants in the trip.

This inquiry now is getting "special handling." Roberts' boss, the deputy assistant secretary for public affairs, Clifton Session, has removed the request from the FOIA office and is handling it personally. This is permitted under HHS rules since Roberts works with "delegated" authority from the assistant secretary for public affairs.

It will be interesting to see the result of this "special handling." I also requested similar information about who paid for trips Harris and her aides made to the Democratic convention in New York.

My query was received by HHS on Friday, August 8. A response is due by law, ten working days later, August 22. Full details about the handling of this inquiry and the data it reveals will be discussed in a later column.

TRAVELIN' TO SUCCESS

(By Lewis M. Helm)

During most of his 30 years on earth, Frederick Durrie "Rick" Barton of Maine has been busy punching all the tickets of political success . . . and the Department of Health and Human Services is doing everything possible to assist in his rise.

As one veteran career employee said, "It sure looks like a full political scholarship to help out a bright young guy on the way up."

Here's what HHS is doing to help Rick:

A capable career employee was moved into another job to make room for Rick as public affairs director of Region I.

Instead of receiving the $30,000 a year salary he sought, Rick started at $40,000 a year and was raised recently to $43,554 (GS–15–3).

He is assigned to work with media and interest groups in his home state where he once ran for Congress and probably will do so again.

Even though there are six states in the New England region, Barton has made 32 of his 53 trips on expense account to Maine.

He has ample opportunity to be advance man for trips for the White House and the HHS secretary, not only in New England but elsewhere providing top contacts with party leaders for the future.

The political leadership of HHS felt Rick was ideally suited for a top job in Region I. He won a respectable 43 percent of the vote in a 1976 Maine congressional race against an incumbent Republican. This followed a job as district administrator for then-Sen. William D. Hathaway.

Rick had other qualifications. He was graduated from Harvard University and nominated for a Rhodes scholarship. He is an athletic 6 feet, 3 inches tall, 180 pounds, articulate and outgoing.

Based on this, Rick was initially tabbed to be deputy regional director for the New England states. But Tip O'Neill had someone else in mind for that job. Kevin Boyle was appointed on the House Speaker's recommendation.

Barton agreed to accept the public affairs director's post which previously had been designated for a friend of the then-under secretary, Hale Champion. The friend, Gail Rotegard, and her Champion helped to arrange for her to be placed on loan from her job with the Boston city government to Region I, with HHS paying for the assignment with federal funds.

Although Rick had never worked in public affairs or studied it at Harvard, it was felt that on-job training would make up for the shortcoming.

That solved everything . . . almost.

What could be done with the guy who already held the job? He was capable, experienced, educated and a proven public affairs officer who, just several years before, led the Boston office to be picked as the most effective in the United States. He was offered, and accepted, another career position.

Rick went to work with a speed that surprised even the critics of his selection. In just one year on the job he reeled off more than two dozen trips with 15 of them to Maine. Then he settled down to a steady pace of at least two a month. By this July he had returned to the scene of his political affairs 32 times.

A check of his travel vouchers shows a large number of the trips either starting or ending on the first or last day of the week in Maine, near his home of Portland. He alternately uses Portland and Boston as the terminus of trips.

Federal Times talked with Rick about his activities as public affairs director, his trips and his aspirations. His personality and seeming candor can dispel notions of potential boondoggling that might easily be read into the travel vouchers.

Here are some of his comments:

"I have been living in both Portland and Boston throughout my time with the department. It's been the only way to do this job.

"Whenever I go on a trip, I charge the department whichever is less . . . from Portland or Boston. I even try to save the government money during trips by staying with friends and then not charging that per diem.

"Take a look at my trips to Washington. I don't even remember charging a hotel. I always stay with friends," he said. (Federal Times did check and he was right.)

He explained his numerous visits to Maine this way:

"People in our regional office recognize that I know most of the leaders in Maine. So, when it's necessary to do something there, I normally am asked to go. It's the same with the Boston area. Kevin (Boyle) normally handles that.

"The public affairs staff also shares responsibility. One person handles Connecticut and Rhode Island and another covers New Hampshire and Vermont. Much of our business is generated through local contacts."

When asked why there were so many trips, he responded that it was a good way to make the department more open and accessible. "As a politician, you must be more out front about everything. I've kept that in mind."

Rick was asked about his plans for future offices.

"I really don't have any specific plans," he replied. "There might be circumstances in which I could run for Congress again."

The Republican who beat Rick in the 1976 race for Congress now is thinking about seeking the seat Sen. Edmund S. Muskie left when be became Secretary of State. If he does, insiders say, Rick would be well positioned to make a major race for that congressional seat. He has maintained, through his HHS office, a very high profile among Down Easters.

And so, the saga of Rick Barton raises some serious questions about the responsibility of government . . . and the specific actions of the political appointees of HHS. What should the function of a federal department be in the selection of top schedule C appointees? Should the development and encouragement of career talent be forsaken to provide an opportunity for bright, energetic, and unqualified young men and women?

Should the career public servants be subjected to periodic purges as an expendient to bring in political aspirants? The Rick Barton case, by itself, is not important in the scheme of things. It is important because it reflects an attitude by HHS that has led to politicizing of the three top jobs in each of ten regions, a disregard for the career service that helped to carry the country through the tough years of Watergate, and a return to "the end justifies the means."

And as a practical matter, it is stupid. As previously expressed in this column, the electorate supports an administration that does a job for the people. It resents one that does a job on the people!●

COMMUTER TRANSPORTATION ENERGY EFFICIENCY ACT OF 1980

● Mr. HEFLIN. Mr. President, I am delighted to say that I have been added as a cosponsor of S. 3030, the Commuter Transportation Energy Efficiency Act of 1980. This is an excellent, timely piece of legislation, and I support it wholeheartedly.

The facts concerning our addiction to foreign oil are depressing. They also serve as strong reminders that America is becoming more and more vulnerable to imported oil dependency and internal, economic disorder. Unfortunately, Mr. President, these alarming facts are the result of our gluttonous oil appetites.

If war occurred today in the Middle East, the United States could be drawn into armed conflict in order to insure a continuous flow of oil throughout this country. As we well know, the President has firmly committed the United States to protect its vital, strategic interests in the Middle East.

It is most regrettable that our American economy bordered on the brink of ruin throughout the seventies partly because of our great dependence on foreign oil. The energy crises during the past decade caused two recessions in this country and double digit inflation. It is no wonder then that strong, but inexpensive solutions to our energy problems are desperately needed. It is undisputed that energy conservation is our cheapest way to reduce our dependence on foreign oil.

The Commuter Transportation Energy Efficiency Act of 1980 contains an excellent proposal for energy conservation. The act would create no costly programs, no counterproductive bureaucracy, and no waste or inefficient squandering of the taxpayers' money. Instead, the legislation proposes a simple, time-proven solution of rewarding the energy-thrift.

There are several provisions in the Commuter Transportation Energy Efficiency Act of 1980 that are also so logical and simple that they form a very wise and much needed bill. This legislation encourages the use of car pooling, van pooling, buses and other forms of mass transportation as energy conservation measures.

Our highways are choked with numerous motor vehicles. Millions of Americans waste gas and pollute the environment by using an astronomical number of single passenger cars. In so many of these cases, multi-passenger vehicles could easily substitute for them, but old habits are very tenacious creatures. Without some incentives, massive car and van pooling will never become a reality.

Mr. President, S. 3030 creates several different types of incentives. It provides a 15-percent tax credit to individuals purchasing vans for van pooling, increases the investment tax credit for employers who purchase vans for van pooling to 20 percent, excludes employer subsidies for ride-sharing programs from the taxable income of the employee, provides a tax credit to the employer for the administrative costs of ride-sharing programs, and restores the gasoline tax deduction for motor fuels used in ride-sharing vehicles.

Mr. President, imagine the results if all employees were to take advantage of the ride-sharing programs outlined in this magnificent piece of legislation. Imagine the money and gasoline that would be saved, the pollution that would be curtailed, and the highway congestion that would be sizably reduced by participating in these various ride-sharing programs. The results would, indeed, be profound.

Mr. President, such results would do enormous good for this Nation and would put it back on the road to continuing progress for the benefit of all. In my mind, this bill is one of the most important pieces of energy legislation to come up during the 96th Congress. Its potential is enormous and its contributions are vast.

Mr. President, I urge all of my colleagues to support this bill. We must show our Nation and the world that the U.S. Government is determined to reverse its present decline due to energy inefficiency and neglect. We must demonstrate to the world in general and to our country in particular that energy waste and inefficency will no longer be tolerated. We must prove that this Nation will do everything possible to free itself from being a hostage to foreign oil. For these reasons, Mr. President, I urge speedy passage of the Commuter Transportation Energy Efficiency Act of 1980.●

PRESIDENT CARTER'S DECEPTIVE STATEMENT ON SOCIAL SECURITY

● Mr. DOLE. Mr. President, over the weekend Mr. Carter has leveled another of his deceptive attacks on Governor Reagan, this time for a 16-year old statement that the social security system should be voluntary. This, he says, would "destroy the system." A brief review of a far more recent period—the last 4 years—reveals that Carter has done more to undermine retirement security in this country than any president since the Social Security program was initiated.

CARTER SOCIAL SECURITY TAX INCREASE

During his 4 years in the White House, Carter has recommended massive social security tax increases and numerous significant benefit cuts. In 1977 Carter recommended and the Congress passed the largest tax increase in the history of this country. Carter broke his own record last year when he signed the even larger windfall profit tax. Next year alone the social security tax is due to increase by $16 billion. Carter's 1977 act will increase social security taxes by $150 billion through 1985.

CARTER BENEFIT CUTS

Mr. President, at the same time Carter has proposed numerous benefit reductions every year that he has been in the White House. Among the benefits that Carter has tried to wipe out are:

First. Post-secondary student benefits;

Second. Lump-sum death benefits;

Third. Minimum benefits for future retirees; and

Fourth. Parent's benefits when the youngest child reaches 16 instead of 18.

He also has proposed increasing the age of eligibility for social security retirement by 1 month and reducing social security benefits by $1 for every $3 of a Federal pension.

In addition to proposing benefit cuts he has opposed constructive changes designed to eliminate inequities. For example, he opposed modifying the monthly earnings test that has been denying earned benefits to self-employed farmers, teachers, salesmen, and others.

CARTER BREACHES CONTRACT WITH AMERICANS

Mr. President, social security is a solemn contract between American workers and their Government. It is a serious breach of faith to reduce benefits after workers have spent their whole lives contributing to their retirement and planning on certain benefits.

It is incredible that Carter should criticize anyone for damaging the retirement security of our citizens. Before he attacks, let him defend. Let him tell the woman who has lost her husband that he tried to take away the death benefits that are intended to help bury him. Let him tell the child who is trying to go to college after his father has died that he would take away his student benefits. Let him tell the low-income worker who has paid into social security his or her whole life that he would eliminate minimum benefits.

GENERAL FUND FINANCING

The Carter record on social security is not a good one. He has consistently proposed tax hikes and benefit reductions. His most recent so-called "economic recovery" plan contains another broadside on the social security system. He has proposed a tax credit that, in effect, amounts to back door general fund financing of social security. This proposal would drive a wedge between a worker's contributions and his benefits. If anything will undermine the viability of our social security system, general fund financing will do it.●

SUPERFUND: FEDERAL CAUSE OF ACTION IS NOT NOVEL STATUTORY APPROACH

● Mr. MITCHELL. Mr. President, I want to congratulate the Senate majority leader Mr. Byrd for his wise insistance that S. 1480, the Environmental Emergency Response Act, be designated as priority legislation for the remaining days of the 96th Congress. It certainly is priority legislation.

I am proud to be a cosponsor of this legislation and to be associated with a bill inspired by Senator Culver and my predecessor Edmund Muskie.

My support for the superfund legislation is strong and centers on the important liability provisions contained in S. 1480.

The committee markups, in which I participated, convinced me that without a strong Federal liability scheme, few victims of toxic contamination would be compensated for their harm and few producers and users of toxic chemicals would have the incentive to prevent such occurrences in the first place. It is only right that the risks imposed upon society by the manufacture, transport, use and disposal of hazardous substances should be tempered by the often-used legal instrument of liability—which places the responsibility for harm at the point from which it derives.

There are those who argue that the strict liability provisions of S. 1480 are not only punitive but that the legislation would change existing common law by creating a Federal cause of action. In fact, this was the major reason given for the only dissenting vote cast to report this bill from the Committee on Environment and Public Works.

I must take issue with those who believe there is something novel or wrong with this approach. S. 1480 would indeed create a Federal cause of action which would allow for private rights of action to be created at the Federal level. But, there is ample precedent for such legislation.

A Federal cause of action has been created in at least 36 other laws—dealing in such areas as labor relations, protecting citizens against securities and credit fraud, civil rights violations, and patent infringement. There is no reason why the same avenue of redress, which has been made available to the citizens of this Nation in these areas of concern, should not be made available on the same level to those who have been detrimentally affected by the spread of ultrahazardous chemicals into the environment.

In essence then, S. 1480 builds upon the foundation of existing statutory approaches and seeks only to make those who are truly responsible for harm liable for its specific consequences.

There is no greater question concerning the health of our people and environment today then the unabated spread of hazardous chemicals into the environment. There is no better vehicle in law to turn this problem around, in my opinion, than the strict liability provisions in the Environmental Emergency Response Act.

Mr. President, the Library of Congress has compiled an initial list of some of the Federal statutory provisions which provide Federal cases of action that offer some parallel to the cause of action created by S. 1480. I ask that this inexhaustive list be printed in the Record.

The information follows:

Federal Cause of Action

EMPLOYEE-RELATED

Labor-Management Relations Act (Taft-Hartley Act)

Section 301, 29 U.S.C. 185, provides that labor organizations and employers shall be bound by the acts of their agents, and allows suits for violation of labor-management contracts to be brought in Federal district court. Any doubt that this provision created a new cause of action not available at common law was eliminated by the decision in *Textile Workers Union of America* v. *Lincoln Mills*, 353 U.S. 448 (1957).

Section 303, 29 U.S.C. 187, gives persons injured by a labor organization's unfair labor practice a cause of action to recover for injuries sustained.

Labor-Management Reporting and Act (Landrum-Griffin Act)

Section 102, 29 U.S.C. 412, allows any person whose rights under the Act have been infringed to sue "for such relief (including injunctions) as may be appropriate."

Federal Employers' Liability Act

Section 1, 45 U.S.C. 51, makes every common carrier by railroad (while engaged in interstate commerce) liable in damages to employees injured through the negligence of officers, agents, or employees of the carrier.

Section 2, 45 U.S.C. 52, is a similar liability provision for railroads operating in the District of Columbia, territories, or Panama Canal Zone—i.e., with no requirement that the railroad be engaged in interstate commerce.

(Section 3, 45 U.S.C. 53, imposes a comparative negligence rule, and section 4, 45 U.S.C. 54, bars an assumption of the risk defense.)

Merchant Marine Act of 1920

Section 33, 46 U.S.C. 688, more commonly known as the Jones Act, declares that any seaman injured in the course of employment may maintain an action for damages.

Longshoremen's and Harbor Workers' Compensation Act

Section 4, 33 U.S.C. 904, imposes strict liability on employers of such persons for medical care, disability, and death in connection with employment.

Employee Retirement Income Security Act

Section 502, 29 U.S.C. 1132, allows participants or beneficiaries of employee pension plans to bring civil actions for up to $100 per day where the plan administrator refuses to supply information required under the Act to be furnished, or for benefits owed under the terms of the plan.

BANKING/CREDIT

National Bank Act

12 U.S.C. 86 states that where interest beyond that allowed under the Act has been paid, the person who paid may sue to recover twice the amount of the interest paid.

Savings and Loan Insurance Corporation Act

Section 412, 12 U.S.C. 1730e, is a provision similar to the above for savings and loan institutions.

Bank Holding Company Act

Section 106(e), 12 U.S.C. 1975, allows any person injured in his business or property by certain prohibited bank tie-in arrangements to sue for three times the damages sustained.

Fair Credit Reporting Act

Section 617, 15 U.S.C. 1681o, makes a consumer reporting agency that negligently fails to comply with the Act liable to the consumer for actual injuries resulting from the failure and, if the action is successful, the costs of the action and attorneys' fees.

Equal Credit Opportunity Act

Section 706, 15 U.S.C. 1691e, subjects a creditor who discriminates against a credit applicant on the basis of race, religion, sex, etc., to liability for any actual damages sustained by the applicant, and, if the action is successful, for litigation costs and attorney's fees.

Truth in Lending Act

Section 130, 15 U.S.C. 1640, makes creditors liable for violations of the Act in the amount of any actual damages sustained by the plaintiff as a result of the violation, plus costs of the action and reasonable attorneys' fees.

SECURITIES

Securities Act of 1933

Section 11, 15 U.S.C. 77k, gives a cause of action to any person acquiring a security because of false representations in the registration statement.

Section 12, 15 U.S.C. 77, creates liability for the selling of a security without a registration statement in effect for that security, or by means of a prospectus containing untrue statements.

Section 15, 15 U.S.C. 77o, provides that every person who, through stock ownership or otherwise, controls a person liable under the above two sections, shall also be liable jointly and severally with such controlled person to any person to whom the controlled person is liable.

Securities Exchange Act of 1934

Section 9(e), 15 U.S.C. 78i(e), declares that persons who willfully participate in any of various specified securities transactions shall be liable to persons who buy or sell any security at a price that is affected by such transactions for the damages sustained.

Section 18, 15 U.S.C. 78r, allows any person who buys or sells a security in reliance upon a false statement filed under the Act to sue the maker of the statement for damages caused by such reliance.

Section 20, 15 U.S.C. 78t, is a counterpart to 15 U.S.C. 77o above as regards persons found liable under the instant Act.

COMPETITION

Clayton Antitrust Act

Section 4, 15 U.S.C. 15, authorizes persons injured by violations of the antitrust laws to sue for triple damages (plus costs of suit and attorneys' fees).

Unfair Competition Act

Section 801, 15 U.S.C. 72, makes it unlawful to systematically import articles into the United States at a price substantially lower than the actual market value. Any person injured in his business or property by violation of this prohibition may sue for three times the damages sustained, plus litigation costs and attorneys' fees.

Agricultural Unfair Trade Practices Act

Section 6(c), 7 U.S.C. 2305(c), authorizes any person injured in his business or property by various practices of agricultural produce handlers to sue for damages sustained.

TRADEMARK/PATENT

Trademark Act

Section 32, U.S.C. 1114, authorizes the registrant of a trademark to bring a civil action against an infringer for damages where the infringing acts have been committed with knowledge that the limitation is intended to cause confusion or mistake.

Section 35, 15 U.S.C. 1117, states that when a violation of any right of a registrant shall be established, the registrant shall be entitled, with exceptions, to recover defendant's profits, damages sustained by the registrant, and litigation costs.

Section 38, 15 U.S.C. 1120, provides that any person who procures registration of a mark by false representations shall be liable to persons injured thereby for any damages sustained.

Patent Infringement

35 U.S.C. 281 creates a remedy by civil action for infringement of any patent. See also 35 U.S.C. 284 governing the amount of damages to be awarded.

35 U.S.C. 291 states that the owner of an interfering patent may have relief against the owner of another by civil action.

CIVIL RIGHTS

Fair Housing Act (Title VIII, Civil Rights Act of 1968)

Section 812, 42 U.S.C. 3612, authorizes suits for damages by persons who have been discriminated against on the basis of race, religion, sex, etc., in the sale or rental of housing. (An older provision of the Civil Rights Act of 1875, 42 U.S.C. 1982, has been held to impliedly create the same cause of action as regards racial discrimination.)

Civil Rights Act of 1871

Section 1, 42 U.S.C. 1983, states that every person who, under color of State statute or custom, deprives a citizen of the United States of rights secured "by the Constitution and laws," shall be liable to the injured party in an action at law.

Section 2, 42 U.S.C. 1985, establishes personal liability for conspiracy to interfere with the civil rights of another, where the other person is injured in his person or property or deprived of any right of a U.S. citizen.

Section 6, 42 U.S.C. 1986, provides that any person who knows of an imminent interference with the civil rights of another (per 42 U.S.C. 1985) and who refuses to aid in preventing same despite the ability to do so, shall be liable to the party injured for all damages caused by the wrongful act which such person by reasonable diligence could have prevented.

MISCELLANEOUS

Magnuson-Moss Warranty Act

Section 110(d), 15 U.S.C. 2310(d), provides that a consumer who is damaged by the failure of a supplier, warrantor, or service contractor to comply with any obligation under the Act, or a warranty or service contract, may, with limited exceptions, bring suit for damages.

Packers and Stockyards Act

Section 308, 7 U.S.C. 209, makes violators of the livestock-related provisions of the Act liable to persons injured thereby for the full amount of damages sustained in consequence of the violation.

Jewelers' Liability Act (Gold and Silver Articles)

Section 5, 15 U.S.C. 298, provides that competitors and customers of persons who overstate the fineness of gold or silver alloy shall have an action for damages against such person.●

BILINGUAL EDUCATION

● Mr. DANFORTH. Mr. President, I wish to bring to the attention of my colleagues an amendment which was added to the Labor-HHS-Education appropriations bill by the House of Representatives. The amendment prohibits the Department of Education from using appropriated funds to enforce regulations requiring a State or local school board to teach basic courses in languages other than English.

I strongly support the amendment, not because of my views I hold with regard to bilingual education, but because I believe strongly that decisions about curriculum should remain the responsibility of the State government and local school boards.

In 1979, when the Department of Education Organization Act was before the Senate, I cosponsored an amendment with Senator Roth to insure that the Department of Education did not turn into a national school board, exercising control over curriculum, teacher qualifications and other areas of responsibility traditionally reserved to States and local governments.

Notwithstanding this amendment, the Department of Education published proposed regulations on August 5, 1980, regarding students with limited proficiency in English, which usurp the traditional areas of responsibility of State and local governments.

I was pleased to see the House of Representatives take action to block the proposed regulations. I have written to the chairman and ranking minority members of the Appropriations Committee and the Appropriations Subcommittee on Labor, Health, Education, and Welfare expressing my support for the House amendment and my desire that it remain in the appropriations bill when it is reported to the Senate.

For the information of my colleagues, I ask that the text of my letter be printed.

The letter is as follows:

Committee on Finance,
Washington, D.C., September 3, 1980.

Hon. Warren G. Magnuson,
Chairman, Appropriations Committee,
Dirksen Senate Office Building,
Washington, D.C.

Dear Mr. Chairman: I would like to alert you to my support for an amendment which was added to the Labor-HHS-Education Appropriations bill when the bill was considered by the House of Representatives on Wednesday, August 27, 1980. The amendment prohibits the Department of Education from using appropriated funds for enforcing regulations which would require a state or local school board to teach basic courses in languages other than English.

When the Department of Education Organization Act was considered by Congress, I cosponsored an amendment with Senator Roth to ensure that the Department of Education would not exercise control over the curricula of local schools.

The amendment was agreed to by Congress and was a part of the final legislation signed by the President. The amendment provided, in part, that:

"No provision of a program administered by the Secretary (of Education) or by any other officer of the Department (of Education) shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational installation, school or school system . . . except to the extent authorized by law."

At the time the above language was included in the enabling legislation, I believed it was written clearly and specifically. I believed it would prevent the new Department from telling the school boards of our nation what subjects to teach and what teachers to hire.

I continued to believe that until I reviewed the proposed regulations of the Department of Education with respect to students with limited proficiency in English, which were published in the Federal Register on August 5, 1980.

The proposed regulations are detailed and specific. They tell the schools what language tests must be administered and when; which students must receive bilingual instruction and in what subjects; it defines what constitutes a qualified instructor; it specifies how long a school must continue to offer a student intensive-English instruction or bilingual courses, and so on. In my view, these regulations constitute "control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school systems."

I have consistently opposed a legislative veto over regulations, arguing that the appropriate response to overly broad and intrusive regulations are statutes which are more clearly and narrowly drafted. In this case, I believe the intent of the statute was clear and narrow; nevertheless, the Department has chosen to issue proposed regulations which ignore the clear legislative intent.

I recognize that those students in our country who have limited English proficiency need extra help if they are to receive the full benefits of our educational system. However, I do not believe the best way to provide for these students is through a centralized, rigid set of rules devised in Washington. Even the Supreme Court, in the landmark case on the subject, *Lau* v. *Nichols*, simply directed the Board of Education to apply its expertise to the problem of teaching students with limited English but did not mandate a particular course of action.

For these reasons, I was pleased to see the House of Representatives take action to block the proposed regulations in this area. I urge you to follow the direction of the House and report the legislation to the full Senate with the House amendment.

Sincerely,

John C. Danforth.●

THE FAMILY RENTAL TAX

● Mr. WILLIAMS. Mr. President, in enacting the Tax Reform Act of 1976 the Congress closed a number of tax loopholes which had been abused by some taxpayers to unjustifiably shelter income; including that which permitted a taxpayer to take various deductions on second vacation homes. While the elimination of this shelter was quite proper, it has come to my attention that the Internal Revenue regulations which will implement this change in law will have the unanticipated and undesirable effect of discouraging family members from assisting each other in providing housing.

Mr. President, on July 24 I introduced S. 2969, the Real Estate Construction and Rehabilitation Incentives Act of 1980, for the purpose of making necessary revisions in the code's treatment of realty and, in particular, to provide incentives for new rental housing construction. I am very gratified that the Finance Committee, swayed by the strong advocacy of Senator Bentsen, adopted the depreciation proposal for structures set forth in S. 2969 as a major part of the tax cut bill they recently reported. It is my hope that, as the Senate continues to develop its tax legislation, an additional provision of S. 2969, designed to eliminate this family rental tax, will receive the same favorable response. Quite simply, I have proposed to amend section 280(A)(d)(2) of the IRS Code to make it clear that, where a property is rented to a relative for use as his or her principal residence, at a fair market rent, the taxpayer-landlord is entitled to the same deductions as if he had rented to a stranger.

Mr. President, in the August 23 Washington Post, Mr. Kenneth Harney, one of our leading journalists in the real estate field, described the proposed IRS regulations that are at issue. I commend this article to the attention of my colleagues, and ask that it be printed at the conclusion of my remarks. At a time when Congress is becoming more sensitive to the impact of our actions on the family, and in particular is moving to eliminate the discriminatory effects of the so-called marriage tax, I believe we should clarify the law lest we discourage family members from assisting each other in coping with a very tight and high-priced housing market.

The article follows:

Coming Soon From IRS: A "Family Rental Tax"

(By Kenneth R. Harney)

The Internal Revenue Service has issued a list of proposed regulations on real estate that could shock even the most fervent tax reformer.

The eight-page IRS bombshell appeared in the Aug. 7 Federal Register.

Among other things it said that:

Americans who rent property to close relatives—such as an elderly mother or a young son or daughter just out of college—will be penalized at tax time, even if the relative was charged rental for the property at the full market rate.

Homeowners who have a legitimate secondary source of income, and who set aside a small portion of their home as an office, will not be able to deduct business-related expenses on that office—despite a 1980 decision by the top Federal tax court that says they can.

Vacation property owners who rent their units will be charged with a full day of "personal" use of the property every time they visit it without spending virtually every minute repairing it. Even if a parent who owns a cabin in the woods does spend eight hours each day fixing it up, he or she will get tagged with personal use if, for example, an accompanying 17-year-old child was not forced to work on the house for eight-hours also.

The suggested regulations affect far more than real estate, by the way; they apply to any type of nonhotel accommodation that is rented, including houseboats, recreational vehicles, trailers and mobile homes.

These are just a few of the surprises awaiting taxpayers who learn about the tough new IRS proposals.

The proposals derive from a law passed by Congress in 1976, during the waning moments of the last push for reform to plug the loopholes in our labyrinthine tax code. The IRS was supposed to issue regulations within a year of that law but only now has gotten around to publishing them in proposed form.

The rules will go into effect this fall—and could trigger thousands of tax audits on returns beginning next year—unless the Treasury Department is convinced by public outcry to postpone them. The IRS is taking "comments" in the form of letters and telegrams from the public through Oct. 6. so it is not too late for you to make your feelings on the subject known to the IRS.

You've heard of the "marriage tax" in the current IRS code that penalizes couples who marry but rewards those who live together unmarried. Now the country is about to get a "family rental tax"—a penalty for providing shelter to members of the family and in-laws!

This rule, penalizing anyone who rents property to a close relative, undoubtedly is the most hard-nosed of the proposed regulations. It prohibits the owner of a house, a condominium or other dwelling unit rented to a relative—at full market rates—from taking the normal tax benefits associated with rental property.

Under the new IRS rules, an owner will not be allowed to deduct any more on such a property than he or she receives in rental income. The owner will be able to deduct property taxes and mortgage interest but will not be allowed to add the full extent of depreciation, routine maintenance and other customary deductions if total writeoffs exceed rental income.

The amount at stake could involve several thousand dollars a year in lost deductions in the case of a rental house or condominium in a typical U.S. metropolitan market.

In practical terms, this means that a person, who normally would be able to take a paper "loss" for tax purposes on a house rented to a stranger, would have to pay higher taxes for renting it to a close relative.

If the IRS meant to restrict its rule only to rentals to family members at less than the going market rate, that would be tough enough. But to discourage taxpayers from renting either full-time residences or vacation space to relatives, paying the same rate that a stranger would be charged, is downright mean.

The IRS explains that it's merely following the sense of Congress on this whole issue—a Congress that dates back to 1976. The law clearly distinguished rentals to relatives from rentals to others, IRS maintains. Rentals to family members are considered personal use by the property owner, even if the owner never sets foot on the place.

If you rent out property of any type, or were thinking about doing so, get a copy of IRS's Aug. 7 proposals and show them to your accountant or attorney. The rules could cost you a lot of money. They could also cost some innocent renters a family roof over their heads.●

WHAT NEXT, MR. PRESIDENT?

● Mr. DOLE. Mr. President, the Senator from Kansas would like to comment on the curious timing of a White House announcement about a diplomatic non-event. In another political cheap-shot, Mr. Carter made a so-called dramatic announcement that Egypt and Israel had agreed to resume the crucial Palestinian negotiations just as Ronald Reagan was scheduled to appear before a cheering and receptive national B'nai B'rith Convention. Mr. Reagan's speech outlined his strong commitment to our traditional ally, Israel, recognizing not only the strategic importance of Israel but the moral imperative that has been the bedrock of our support for the past 32 years.

Yet, even as Mr. Reagan's speech was interrupted thirty times by applause, President Carter was attempting to undercut those remarks with his puffed-up piece of demagogic statesmanship. Sitting on the sidelines, Mr. Carter timed the announcement to take the media spotlight away from the Republican candidate in a tactic increasingly recognized as typical of the Carter-Mondale campaign—using critical diplomatic issues for his own personal and political gain. President Carter is abusing his office and his authority in a desperate attempt to revive his standings in the polls and win reelection.

PHONY PEACE PROGRESS

President Sadat and Prime Minister Begin are unwilling accomplices dependent on an American good will vital to their security amid a sea of enemies. This good will is dispensed by the most political U.S. President in recent years, yet, realistically there is little the Egyptians and Israelis can do without undercutting their future support from Mr. Carter.

What was actually accomplished in this "dramatic" bit of statemanship? No timetable was indicated. The Egyptian foreign minister reported that the agreement referred only to "preparatory talks" and "cannot be considered the resumption of negotiations." Mr. Begin, meanwhile, claimed he had not changed any of his positions on the key issues which caused the negotiations to originally break off. This "dramatic" progress caused the President's special Middle East envoy, Sol Linowitz, to announce the results in Cairo yesterday claiming sanctimoniously:

> We are dealing with issues of war and peace. I am not here on a political mission.

Shortly thereafter, half a world away, Mr. Carter was announcing this piece of political fluff as a significant step forward.

WHAT NEXT, MR. PRESIDENT?

This kind of tactics may help Mr. Carter politically in the short run, but they will undermine any attempts to build a lasting Middle East peace structure. The American public is more sophisticated than the President thinks. But, these political cheap shots are typical of Mr. Carter's campaigns. This is just the beginning. We can expect sudden developments on the hostage crisis in Iran, although perhaps a little closer to November.

We can look forward to a timely resumption of serious arms reduction talks with the Soviet Union, and perhaps new trade understandings with Japan limiting imports or increasing exports. Perhaps we may hear of new agreements with Mr. Carter's chief supporter in China, Deng Xiaoping.

Whatever these dramatic events are, we can be sure of one thing: Like last night's revelation, 6 months from now they will signify little and few will remember them. What will be the new storm in a teacup, Mr. Carter? What will be next, Mr. President?●

U.S. POPULATION

● Mr. PACKWOOD. Mr. President, I would like to report that, according to the latest U.S. Census Bureau approximations, the total population of the United States on September 1, 1980 was 223,558,075. This represents an increase of 297,436 since August 1, 1980. Since this time last year, our Nation's population has increased by 2,378,050 persons.

During the past month we have added

enough people to our population to more than fill the city of Norfolk, Va. Over the past year, our population has increased enough to fill the entire city of Portland, Oreg., more than six times.●

THE PLIGHT OF THE U.S. SHRIMP INDUSTRY

● Mr. STONE. Mr. President, I would like to bring to the Senate's attention the plight of the shrimp industry in the United States.

Quite simply, the industry is on the verge of bankruptcy. The combination of soaring fuel prices, unfair competition from subsidized foreign vessels and high interest rates is bringing about the end of the American shrimp industry.

In my travels throughout Florida I have been impressed with the shrimpers' willingness to compete with any other country in the world so long as the competition is fair and just; however, this is currently not the case. For example, the shrimpers in Mexico are purchasing diesel fuel at about 17 cents per gallon, while our people are forced to run on fuel which costs about $1 per gallon.

It does not take long to understand that the American shrimp industry will not last without some protection by the Federal Government in the form of a differential tariff on imported shrimp, revitalization of the Fisheries Loan Fund to help boats refinance mortgages or refit their boats for combination fishing and a new, aggressive marketing strategy.

I, for one, will not quietly witness the shrimp industry fade away from neglect. I urge the administration to propose a package which will help to revitalize the industry and allow these people to compete on an equal basis with foreign fisheries. And I stand ready to help in any way with this effort. For if we fail to act, and act soon, it may be too late to save many of the boats, and this will only increase our imports of shrimp and increase our balance of trade deficit.

I ask that the following article from the August 8, 1980 Christian Science Monitor, which details the urgent problems facing the shrimp industry, be printed in the Record.

The article follows:

Gulf Shrimp Boats Sail into Trouble on Economic Ebb Tide

(By Gil Klein)

Tampa, Fla.—With the price of fuel up, the demand for shrimp down, and international restrictions on where they can fish, many Gulf Coast shrimpers say they may be out of business within a year.

"We're in pretty much of a scrape," said Jimmy Loeb, owner of the shrimp boat Rachel Lyn and a shrimper since he was 12. "We've got higher operating costs and lower market values for the shrimp. Some of the boats are already tied up."

Four factors are working together to make life difficult for the shrimpers:

Fuel costs have more than quadrupled in the past five years. Catching a pound of shrimp takes a gallon of diesel fuel, and many shrimpers complain they work mostly to pay the fuel man.

A recessionary economy dampens the appetite for shrimp, and as the demand for the pink crustaceans drops, the price the shrimpers can get for them drops, too. The American shrimp fleet was able to sell only 336 million pounds of shrimp in 1979 compared with a five-year average of 405 million pounds. The price the shrimpers got for their product dropped by about a third.

The Mexican government squeezed American shrimpers out of Mexican waters. The Mexicans imposed a 200-mile territorial limit in 1974, and during the next five years issued fewer and fewer permits to American shrimpers. By December 1979 no Americans were allowed to fish for shrimp in Mexican waters, which meant more shrimp boats were competing for shrimp in American waters.

An oil-rich Mexico has been able to hold down the price of its diesel fuel. While American shrimpers are paying 87 cents a gallon for their fuel, Mexicans are still getting theirs for 18 cents a gallon. Therefore, Mexicans are able to sell their shrimp in the American market at a lower price which helps keep shrimp prices down.

"I think there's a lot of shrimpers about to go out of business," said Robert Jones of the Southeastern Fisheries Association. "How this year's season goes off Texas will have a big bearing on who does go out of business. If it's a bad season, I think hundreds will go out of business."

Shrimpers are groping for answers, but the only solution Mr. Jones's association has devised is a proposal for Congress to roll back the price of diesel fuel for farmers and fishermen to January 1978 levels. That would mean diesel fuel would cost shrimpers about 43 cents a gallon, and Jones said the oil companies would be allowed to make up the difference in price through a reduction in the windfall profits tax.

Mr. Jones concedes the plan has a slim chance of passing through Congress, and most shrimpers are not counting on it.

"Everyone knows what the problem is, and there's nothing we can do about it," said an angry Ernie Donini, who has been in the shrimp business since 1954 and is president of the Superior Seafood Company. "If we're lucky, we're hoping to pay the bills we already have and float through to next year and see what happens."

The hundreds of shrimp boat owners who ferried Cuban refugees to Key West weren't actually making any money, Mr. Donini claimed. They were just trying to pay off some of their bills.

"I don't believe the government should support me," he said, "but if the government is going to support everyone else, then I'm worse off."

Clark Rodgers, owner of the shrimp boat Beverly R., clasped his hands together as he leaned against the rail of his boat and looked at the other shrimp boats tied up in Tampa's port.

"If it weren't for the fuel and the imports we could make it," he said.●

THE DEATH OF ROBERT KELLER

○ Mr. GLENN. Mr. President, the United States lost one of its most dedicated public servants when Robert F. Keller, former Deputy Comptroller General of the United States, died on August 28 of a heart attack. Mr. Keller had retired from the General Accounting Office earlier this year, after a career that spanned 45 years with the GAO. He was one of the few employees at the agency who had worked under all five Comptrollers General and played a central role in transforming the GAO into an agency emphasizing the evaluation of programs utilizing Federal funds and paying increased attention to the needs and requirements of Congress.

Mr. Keller was the recipient of a number of prestigious awards during his career, including the Rockefeller Public Service Award in the field of law, legislation, and regulation in 1965, the National Civil Service League Award in 1976, and the Benjamin Franklin University Alumni Award in 1972.

Mr. President, the Subcommittee on Energy, Nuclear Proliferation and Federal Services, which I chair, took over the jurisdiction of GAO oversight more than 2 years ago. I and my staff have had continuing close contact with the top level officials at the GAO since that time. Mr. Keller's good offices enabled this relationship to prosper and the result was the passage of two comprehensive pieces of legislation last year dealing with the GAO—legislation that will enable the GAO and the Congress to improve oversight over the activities of the legislative branch in the future.

Mr. President, it has become fashionable in recent years to denigrate the professionalism and dedication of the Federal worker. Robert Keller was the shining counterexample to any negative characterization of Federal employees. His entire career, beginning with his first job as a GS-3 clerk, up to and including his Presidential appointment to GAO's second highest position, was marked by selfless dedication, high performance, and rigorously applied standards. Although we will miss him, his career will stand as an inspirational monument to anyone who wants to understand the true meaning of Federal service.●

RESOLUTION HONORING REPRESENTATIVE JAMES C. CLEVELAND

● Mr. HUMPHREY. Mr. President, on June 9, 1980, I introduced legislation to name the Federal Building in Concord, N.H., after retiring Congressman James C. Cleveland.

One of New Hampshire's most distinguished public servants, Jim Cleveland has served the people of the Granite State for over 30 years. His 19 years in Congress stand as a measure of service and dedication. It is fitting and proper that we should honor Congressman Cleveland in this way.

The citizens of New Hampshire have shown their widespread support for this action. Indeed, the City Council of Concord, N.H., unanimously passed a resolution this month urging Congress to approve the renaming of this building. I request that my colleagues give prompt consideration to this request by the people of New Hampshire. I ask that the full resolution be printed in the Record.

The resolution follows:

Resolution Honoring United States Representative James C. Cleveland, "The Constituent Congressman"

Whereas, James C. Cleveland has served the people of New Hampshire for 30 years, first as a State Senator from New London (1951–1963), and then as a United States Representative for New Hampshire's second Congressional District in the United States House of Representatives (1963–1981), and

Whereas, James C. Cleveland's strong emphasis on constituent service to both individuals and communities in New Hampshire is a model to his colleagues in the Congress and to those who aspire to public office, and

Whereas, James C. Cleveland, as a ranking member of the House Public Works and Transportation Committee, has been instrumental over the years in assuring the development of New Hampshire's interstate highway system and water pollution control projects, and

Whereas, United States Senator John Durkin, United States Senator Gordon Humphrey, and United States Representative Norman D'Amours are co-sponsoring resolutions (H.R. 7588 and S. 2803) before the Congress to name Concord's Post Office and Federal Court Building the "James C. Cleveland Building", in honor of his 30 years of public service,

Therefore, the Concord City Council joins with New Hampshire's Congressional Delegation in urging Congress to approve the naming of the building and expresses its appreciation to Congressman Cleveland for his years of constituent service to Concord and its citizens.●

HURRY-UP SPENDING

● Mr. LEVIN. Mr. President, an article recently appeared in the September issue of the Reader's Digest that typifies the national attention being devoted to wasted tax dollars by Federal agencies. Specifically, the article, entitled "Washington's Year-End Spending Spree," addresses the "use-it-or-lose-it" mentality that has plagued the Federal Government for at least 60 years.

Hurry-up spending, an agency practice of rushing to spend unobligated funds before the end of each fiscal year to avoid having those funds revert to the Treasury, is costing the taxpayers at least $2 billion each year. The Senate Governmental Affairs Subcommittee on Oversight of Government Management, which I chair, recently has issued its report on hurry-up spending that documents wasteful spending practices in 10 Federal agencies. The report identifies fundamental deficiencies in budget planning and management within Federal agencies and deficiencies in the Federal procurement process that lead to excessive year-end buying.

Senator Cohen recently introduced legislation which would address these fundamental deficiencies. S. 3051, the "Government Management and Year-End Procurement Control Act of 1980," would tighten the Federal procurement process and provide added checks to control wasteful year-end spending, specifically with respect to the excessive number of noncompetitive procurement practices that have become so common in the waning months of each fiscal year.

I have expressed my support for Senator Cohen's legislation in this Chamber, and I will continue to support my colleague in his efforts to bring a halt to wasteful Government spending.

Mr. President, I ask that the Reader's Digest article be printed in the Record.

The article follows:

Washington's Year-End Spending Spree

(By Eugene H. Methvin)

It happens every August and September. The baseball pennant races heat up. Mothers scour the back-to-school ads. And all across America federal bureaucrats hurry to spend every last dollar of their budgets. Why the rush? Because, when the fiscal year ends on September 30, any unspent funds must be returned to the Treasury. And since Congress allocates money to an agency largely on the basis of how much the agency spent during the previous year, bureaucrats naturally fear that funds unspent now will be funds unbudgeted next year.

One result of this attitude, says former Treasury Secretary W. Michael Blumenthal, is that "more money is wasted in the federal government in the last two months of the budget year than in the previous ten."

This last-minute spending spree has inflicted these all-too-typical atrocities on the taxpayer:

The Department of Health, Education and Welfare issues $135 million in contracts on the last three days of fiscal year 1979—Friday, Saturday and Sunday. This is more than ten percent of HEW's entire contract budget.

In one fiscal year, the Community Services Administration awards 32 contracts; 70 percent are given out in the last month; 64 percent in the last week.

An Office of Education official, by handwritten note, orders hundreds of thousands of dollars of additional cash showered on six colleges whose grant applications happen to be pending. He neither knows nor cares where the money will go. As he later tells a Senate subcommittee, he was "embarrassed that we may have to give $1.2 million back to the Treasury."

The Department of Housing and Urban Development spends $65,280 for hundreds of unneeded desks, chairs, couches, filing cabinets and other office furniture, then spends thousands more to store it, in the original cartons, in four Denver warehouses.

Federal-budget directors have exhorted government agencies to avoid wasteful spending at the end of the fiscal year, but these warnings have been "a paper exercise," says Assistant Comptroller General Harry S. Havens of the Congressional watchdog General Accounting Office. More examples:

In the last week of fiscal 1979, the Veterans Administration dispensed millions of dollars for computers to manage its patient-scheduling and drug-prescription operations. Five contracts totaling $3 million went out on the last four days—with no competitive bids, no negotiations on price, none of the usual advance audits on contractors' proposed costs and profits.

In late August 1978, the Office of Family Assistance at the Social Security Administration found itself with several million unspent dollars. A small consulting firm was promptly offered a $161,245 contract to study the nation's welfare system. Two of the consultant company's officials spent a few hours throwing together a formal proposal. As one later explained to the Washington Post, "It was obvious the government officials did not know exactly what they wanted. This was end-of-the-year money they had to spend so they could use up their budget. So we wrote a couple of pages that didn't say anything. We knew they'd accept it."

At boarding schools run by the Bureau of Indian Affairs in Oklahoma, year-end sprees have pushed per-pupil costs as high as $10,281 a year. One school with 113 students possessed more than a dozen washers and dryers. As September 30, 1977, neared, it ordered two more of each, plus $8000 worth of clothing to add to large existing stockpiles. Another school with 168 students bought two popcorn machines, four hair dryers and five electric typewriters, even though it already had popcorn machines in each dormitory, unused hair dryers in storage and 14 typewriters for four typists.

On September 8, 1978, a deputy notified Commissioner of Education Ernest L. Boyer that his agency had saved more than $2 million in payroll and data-processing costs. "These funds can be made available to you to allocate as you see fit," the deputy advised. "We need to move quickly as these funds lapse at midnight on September 30."

Three weeks later, just hours before the fiscal year was to end, the Office of Education handed the Rand Corporation $123,006 to analyze "the effects of post-secondary schooling on one's attitudes to the self," a bit of educational leaf-raking that earlier had been labeled "marginal."

One consequence of all this hurry-up spending is sharply higher costs for civil-service overtime as harried contracting officers, auditors and clerical employees put in extra hours shoveling out the money. Last September, for example, the Department of Interior spent four times as much for overtime work on contracts as it had averaged for each of the preceding 11 months. The ultimate irony: on the last working day of the fiscal year, the department awarded a $145,322 contract to a management consultant to tell it how to avoid having to award contracts on the last day of the fiscal year.

This 11th-hour orgy of spending persists because nobody is ever held responsible for waste. And voters share the blame. Says Sen. William S. Cohen (R., Maine), whose Subcommittee on Oversight of Government Management has spotlighted the August-September spending scandal: "At election time, the voters tend to judge us in Congress by how many bills we have introduced or passed, not on how well we overseas the spending bureaucracies or how many programs we eliminate. There are no rewards or incentives for saving dollars, for either bureaucrats or elective officials. The system is common sense turned upside-down."

But the system can be changed. By October, the new Senior Executive Service created under the Civil Service Reform Act will have a performance-appraisal system operating for senior executives in all government agencies. (A similar system will be in effect for all mid-level managers by 1981.) Pay and promotions should be tied directly to sound management, and managers at every level held accountable for the efficiency of the organizations they direct.

It's up to the nation's voters to let the President, Congress—and candidates for office—know that we want those who return dollars to the Treasury rewarded for promoting efficiency in government.

After all: it's your money.●

THE U.S. DEFENSE BUDGET

● Mr. HAYAKAWA. Mr. President, the U.S. defense budget continues to be a major source of political debate. The defense budget is the foundation of our national security policy. The amount we spend on defense directly determines our ability to cope with the military power of the Soviet Union in both a diplomatic and military sense. Our inability to respond to events in Afghanistan and Iran clearly indicate that our defense investment must be improved upon. I would submit for the Record remarks made by Adm. U. S. Grant Sharp (retired) at a meeting at the Military Order of the World Wars. Admiral Sharp, a distinguished constituent, spent 41 years in the Navy, reaching 4-star rank in 1963. He was Commander in Chief of the Pacific from 1964 to 1968. Admiral Sharp outlines the serious situation that we face in the years ahead.

Mr. Sharp's remarks are as follows:

I am sure that all of you are as pleased as I am to hear that President Carter is taking a new approach to foreign policy.

It appears that he may finally be coming to recognize the Soviet menace. After three years of attempting to appease the Russians, he has apparently become a realist. The myth of détente is exposed. In grave tones the President has warned the nation of the seriousness of the Soviet invasion of Afghanistan, calling it the greatest crisis since World War II!

In his State of the Union Address to the Congress, the President said he would propose a strong defense budget for fiscal year 1981 because of our serious National Security situation and to counter the growing military threat from the Soviets.

It would seem then that the dual crises of the Iranian hostages and the Soviet invasion of Afghanistan may have had some beneficial aspect. Perhaps the President, recognizing that the American people have become aroused, will get on with the task of restoring this country's power. But I am skeptical—I want to see those words backed up by concerted action!

We can be sure that the Soviets are listening to Carter's strong words. We can also be sure that they are skeptical—they will be very attentive to the actions that follow. A strong buildup of our defense budget would indicate that we really mean business. That is the action that would impress them.

Now for a brief look at the international situation: To begin with, we cannot afford to minimize the dangers inherent in the Soviet invasion of Afghanistan. The Red Army could now move into Pakistan or to the Strait of Hormuz. Air bases in Afghanistan give their fighter bombers the capability to cover the strait.

More importantly, they have generated apprehension of further aggression in all countries of the Middle East, thus facilitating subversive moves in those nations. I believe it is apparent that the Kremlin's ultimate objective is to control Middle East oil and the strategic mineral resources of Africa. They will move toward that objective, using subversion and proxy forces by preference, with their own ground, air and naval forces poised and ready to be employed if necessary.

It is important to remember, moreover, that the Soviet power play in Afghanistan does not lessen the threat in other areas. On the northern and central European front, for example, they have such a preponderance of force that they could probably overrun the area in 15 to 30 days—before our reinforcements could get into the battle.

But most significantly, a comparison of the strategic forces of the United States and the Soviet Union gives them a clear superiority, in the opinion of most analysts. In a year or so the Soviets will have the capability to make a disarming first strike on the United States!

With that kind of superior force the Soviets could just threaten to use it and coerce the United States into accepting an unfavorable situation. In my opinion, that is the objective of the Soviet military buildup—not to wage a nuclear war, but to win political predominance without having to fight. When that happens we will no longer survive as a free nation!

With those sobering thoughts in mind I have examined the fiscal year 1981 defense budget and Carter's new five year defense plan. As a result of my examination I can only view with alarm the continuing failure of the Administration and the Congress to produce a defense budget which makes any significant progress toward restoring a favorable balance of strategic and conventional forces between the Soviet Union and the United States.

Our budget for defense is estimated to be 5.2 percent of the Gross National Product. In contrast, the Soviets have been spending between 11 percent and 15 percent of their GNP for arms buildup. The Soviet military budget is currently 40 to 80 percent more than ours in real terms.

Both houses of the Congress are now in the process of adding to the defense budget. The White House says that the current effort to achieve a balanced budget in fiscal year 1981 will leave the defense budget intact, but they are also talking about a reduction of about $1 billion. The "bleeding hearts" in Congress will be looking at the defense budget as fair game when their favorite give-away programs are up for a cut!

I told you earlier that I was skeptical—I want to see all the tough words emanating from Washington backed up by some actions which indicate that Carter is going to prepare the Armed Forces for the confrontations he keeps talking about. Such action is not apparent to date.

What the Carter fiscal year 1981 budget and the new five year defense plan really say is that the President is willing to concede military superiority to the Soviet Union! And you can be sure that the Soviets have reached the same conclusion. So they will press forward with their plan for world domination, assuming that the United States will continue to make concessions—continue with a policy of appeasement. The Russians believe that we lack the will to oppose them when the chips are down! ●

MARSHALL SPACE FLIGHT CENTER

● Mr. HEFLIN. Mr. President, NASA's Marshall Space Flight Center celebrated its 20th anniversary recently, and I shall take a moment to consider the remarkable work that goes on there in Huntsville.

The Center's first director was Dr. Wernher von Braun, and the original staff corps came for the most part from the U.S. Army, where rocket research was conducted. During its first years of existence, Marshall's pioneer team developed the largest rocket ever built, the Saturn V. It was this rocket that propelled America's Apollo astronauts to the Moon. And, in fact, Marshall's traditional specialities as a NASA field center have been in rocket research and in transportation systems. Today, the Marshall Space Flight Center is managing the development of the Space Shuttle main engines, the most advanced rocket engines in the world.

In addition, Marshall manages a variety of scientific and technical projects, including a series of satellites that are changing our understanding of the universe. These are the high energy astrophysical observatory (HEAO) missions.

HEAO–1, launched in August 1977, did an unprecedented survey of the entire X–ray sky. In addition to finding five times more X–ray sources than were previously known, HEAO–1 discovered unexpectedly strong emissions from certain classes of stars and from active galaxies.

HEAO–1 found the diffuse sky background radiation to be consistent with that expected from a hot (400 million degrees) tenuous gas. The observed intensity implies that this material constitutes a significant fraction of the mass in the universe; alternatively, if this radiation represents the unresolved emission of very faint, discrete sources, the measurement provides important information relevant to their physical nature and evolution.

The HEAO–2 mission, launched in November 1978, was built on HEAO–1 observations. Designed as a pointing mission for high-resolution imaging and spectral measurements of X-ray sources over a limited fraction of the sky, HEAO–2 has contributed a wealth of valuable, and frequently unexpected, information on astrophysical phenomena ranging from the nearest stars to the most distant quasars. One of the entirely unexpected initial results from HEAO–2 was the discovery of substantial X-ray emission from the atmospheres of stars.

HEAO–2 has also provided information on the dynamic state of the universe, one of the leading questions of present day astrophysics. HEAO–2 results support the hypothesis of an "open" universe, a universe which will continue to expand indefinitely.

The third spacecraft in the HEAO series, launched in September 1979, broadens the scope of the program to include gamma-ray astronomy and cosmic ray astrophysics.

The success of HEAO is changing our understanding of the universe. NASA's HEAO missions are among those that keep this country a leader in space. I am proud that the men and women at Marshall Space Flight Center have added this particular accomplishment to a lengthy list of spaceflight contributions from Alabama over 20 years.●

THE CASE FOR SUPPLY-SIDE ECONOMICS

● Mr. HATCH. The term "supply-side economics" is circulating widely in political circles nowadays as various prescriptions are put forward to cure our economic ills. The widespread use of the term is presumably due to the popularity of the proposal to which it was originally applied—significant across-the-board reductions in individual income tax rates designed to increase incentives to work and produce, save and invest.

However, the term has been abused and misused. It is often confused as a synonym for any type of business tax cut. Recently it has been so abused that the President of the United States used to describe the economic package he unveiled last Thursday, which is really a proposal to redistribute income, channel capital away from productive uses through the Government to less productive uses, and award Government handouts to industries and regions of the country that are politically sensitive and uncertain in this election year. The President's package destroys incentives for private market activity, and creates an even larger role for the Federal Government in managing the economy. There is nothing supply-side about it.

I doubt that the public will be fooled into believing that a proposal for more Government intervention is the way to get the productive, private economy growing again just because the accompanying rhetoric includes the word "supply-side." But for those who might be confused, a recent article in Policy Report by Bruce Bartlett entitled "The Case for Supply-Side Economics" will set the record straight. Mr. Bartlett makes clear that supply-side economics calls for economic policies designed to give the maximum stimulus to investment, savings, and work incentive, and that this may best be accomplished through reductions in marginal tax rates which affect rates of return on these activities. I commend this article to my colleagues and ask consent that it be printed in the RECORD.

The article follows:

The Case for Supply-Side Economics

(By Bruce Bartlett)

In many respects, supply-side economics is nothing more than classical economics rediscovered. More particularly, it is Say's Law of Markets rediscovered. The essence of Say's Law, named for the great French economist Jean Baptiste Say, is that goods are ultimately paid for with other goods. Thus it is production that limits the satisfaction of human wants, not the ability to consume, which, in the aggregate, is unlimited. Consequently, Say argued that "the encouragement of mere consumption is no benefit to commerce; for the difficulty lies in supplying the means, not in stimulating the desire of consumption; and we have seen that production alone furnishes those means. Thus it is the aim of good government to stimulate production, of bad government to encourage consumption."

This doctrine was essentially accepted by all economists until the Great Depression, when it came under heavy attack from John Maynard Keynes, who misunderstood and misrepresented the basis of Say's Law. He turned Say's Law into a simple statement that "supply creates its own demand" and said that this is "equivalent to the proposition that there is no obstacle to full employment." In defense of this proposition Keynes quoted John Stuart Mill out of context, implying that Say's Law holds that there can never be an oversupply of any product, when in fact Mill states only that there cannot be a general oversupply of all goods.

Keynes argued that the cause of the Great Depression was underconsumption and that government policy ought to be directed toward stimulating demand by means of budget deficits and easy money. Keyne's theory soon became the new economic orthodoxy, largely because his policy prescriptions coincided with the politics of the times. As Joseph Schumpeter said of Keynes's General Theory, "Whatever its merit as a piece of analysis may be, there cannot be any doubt that it owed its victorious career primarily to the fact that its argument implemented some of the strongest political preferences of a large number of modern economists."

In fact, there was a serious problem with the demand side of the economy in the 1930s, but it had nothing to do with Keynesian theory. The problem resulted from the Federal Reserve Board's tragic blunder in causing the U.S. money stock to decline by over a third between 1929 and 1932. When the rigidities of the economy prevented prices and wages from falling to an equilibrium level consistent with the existing money stock, the depression ensued. The great error of economists and policy makers was accepting Keynesian demand-management theories as the basis for a general economic program, rather than restricting them to the conditions of a deflationary depression.

By the end of World War II Keynesian economics had the nearly total allegiance of younger economists. By the 1960s they were the full professors at most universities, their influence so pervasive that Milton Friedman, the preeminent monetarist, remarked in 1965, "We are all Keynesians now." But the heavily Keynesian economic policies of the 1960s and 1970s were sowing the seeds of their own destruction.

In a real sense, Keynesian economics died during the recession of 1974–75. In 1975 the unemployment rate hit its highest level since the depression—8.5 percent—despite a $45 billion budget deficit, the largest since World War II until that time, and a soaring inflation rate. According to conventional Keynesian theory, this just couldn't happen. The Phillips curve, a basic Keynesian component, shows that there is an inverse relationship between inflation and unemployment—the higher one is the lower the other should be—and thus the Keynesians were completely baffled about what policy prescription to offer. Normally, unemployment calls for a budget deficit, and inflation calls for a budget surplus. In the face of the largest peacetime deficit in American history and double-digit inflation, Keynesians could hardly call for more deficit spending, but a reduction in the deficit to battle inflation would worsen the already bad unemployment situation. The Keynesians were therefore left with no solution to offer. Many began to proclaim the death of Keynes.

The question thus arose, What will take the place of Keynesian economics? Irving Kristol was the first to draw attention to supply-side economics as a replacement for the discredited Keynesian school:

"In response to this crisis in the theory of economic policy, a 'new' economics is beginning to emerge. . . . Its focus is on economic growth, rather than on economic equilibrium or disequilibrium, and it sees such growth arising from a free response (e.g., investment, hard work, etc.) to the economic incentives of a free market.

"It does retain the Keynesian macroeconomic apparatus for diagnostic purposes, but its inclination is 'conservative' rather than 'liberal'—i.e., it believes that only the private sector can bring us sustained economic growth, and that whatever tasks one might wish to assign to the public sector, economic growth cannot be one of them.

"This "new" economics is sometimes described, rather cumbersomely, as "supply-side fiscal policy." . . . It arises in opposition to the Keynesian notion that an increase in demand, by itself, will increase supply and therefore accelerate economic growth. The "new" economics asserts that an increase in demand, where the natural incentives to economic growth are stifled, will result simply in inflation. It is only an increase in productivity, which converts latent into actual demand by bringing commodities (old and new) to market at prices people can afford, that generates economic growth."

The difference between the supply-side economists and the Keynesians is most graphically shown by their attitude toward taxation. To the Keynesians, rising taxes hurt the economy only because they cut down on consumer purchasing power. Conversely, to the Keynesians, all tax cuts are the same. It makes little difference whether you have a tax rebate, a tax cut only for those with low incomes, a tax cut only for those with high incomes, a corporate tax cut, whether you cut average tax rates or marginal tax rates, or whether you cut taxes for individuals or businesses. No matter how you do it only one thing counts: the aggregate size of the tax cut, for this alone determines how much fiscal stimulus there will be to aggregate demand. Consequently, it makes no difference to the Keynesians whether you cut taxes or increase government spending since either method generates the same result.

By contrast, to the "new" economists, the supply-side fiscalists, it makes all the difference in the world whether you cut taxes or increase spending, and there are vast differences between the effects of various kinds of tax cuts. They would say that tax rebates and increases in spending stimulate inflation and do nothing for supply because they must be financed either through borrowing—which crowds out private borrowers and raises interest rates—or by increasing the quantity of money through monetization of the debt.

The supply-side economists argue that tax cuts should be structured to give the maximum stimulus to investment, savings, and work incentive. This means a preference for marginal tax rate reductions because they increase the trade-off between work and leisure, investment and consumption. Similarly, they favor reductions in the corporate tax rate, which affect the rate of return, rather than investment tax credits, which primarily affect cash flow.

The principal issue is whether or not a tax cut per se is inflationary and whether a tax cut must be accompanied by a dollar-for-dollar cut in government spending to be effective. Those who argue against tax cuts because they are inflationary or who demand matching spending cuts are not true supply-siders but really conservative Keynesions, for it is only in the Keynesian model that tax cuts are assumed to stimulate demand and therefore inflation. In the supply-side model the critical question is how taxes are being cut. A tax cut that merely reduces government revenue, while government spending remains the same, might be inflationary because it would probably require monetization of the increased debt. But a reduction in tax rates—in particular, marginal tax rates—does more than just increase individual disposable incomes: It alters relative prices, changing the trade-off between work and leisure, savings and consumption. Whether such a tax cut would be inflationary in the short run will depend on how much additional production and saving it generates and on how the government finances its short-run deficit.

Even some self-professed supply-siders fail to see this difference and oppose any tax cut without a corresponding spending reduction. Martin Feldstein, for example, recently said, "Although I support a supply-side approach to unemployment and productivity, I am convinced that inflation will be tamed only by appropriate limits to demand." Dr. Michael Evans, who built a supply-side econometric model for the Senate Finance Committee, has made much the same point, saying the Roth-Kemp 30 percent tax rate reduction would be highly inflationary. And the Federal Reserve Bank of Minneapolis has argued that because the real burden of government is what it spends, a tax cut merely shifts government finances from taxes to borrowing. Insofar as the increased deficit is inflationary it may actually increase the tax burden in the long run by pushing people up into higher tax brackets.

Unfortunately, all of this criticism misses the point, which is that cutting tax rates does much more than reduce government revenue. It eliminates disincentives. As Paul Craig Roberts recently argued,

"The total resources claimed by government is a better measure of the tax burden than tax revenues alone. But some economists let this adding up of concrete resources blind them to another measure of the real tax burden—the production that is lost to disincentives. It is difficult to see the production that doesn't take place because the government has made it unprofitable, but it is nevertheless a part of the tax burden.

"From the viewpoint of this more complete measure of the tax burden, a tax cut can be real even if it is not matched dollar for dollar with a spending cut. That's because a reduction in marginal tax rates changes relative prices. It causes people to shift into work out of leisure and into investment out of current consumption. These shifts occur even if people expect that in the future taxes might be raised to pay off any government debt incurred by cutting tax rates. In the meantime, however, the additional work and investment expands the tax base; to make good on the deficit, future tax rates would not have to be raised as much as they were cut—if they need to be raised at all."

The theoretical support for Roberts's argument can be found in the work of Sir John Hicks, among others. In Value and Capital Hicks pointed out that price changes involve income and substitution effects. Thus a fall in the price of a commodity makes the consumer better off by raising his real income in terms of goods. On the other hand, it changes relative prices, causing a substitution effect in which the consumer will substitute the commodity whose price has fallen for other commodities. Since the buyer's income gain is exactly offset by the seller's loss, the income effects are canceled, leaving the substitution effect.

So too with changes in tax rates. A reduction in tax rates may reduce the government's revenue, requiring it to borrow more from the public, but the income gain of the taxpayer whose rate is cut is exactly offset by another whose savings went into government debt instead of being consumed or invested in some other way. Thus the income effects cancel out, leaving the substitution effect. (If the government had inflated the currency instead of borrowing the money it would be the same thing, the currency expansion being seen as forced saving or a tax on cash balances.) The substitution effect will cause people to substitute work for leisure and saving for consumption.

Another line of argument is that because inflation is fundamentally caused by an increase in the quantity of money in excess of the growth of goods and services, any tax cut that causes more goods and services to be produced will be antiinflationary as long as the money supply is tightly controlled. This is essentially the view of the Joint Economic Committee, which has published two papers showing how tax cuts can reduce inflation. Conversely, there is now growing doubt that the traditional Keynesian cure for inflation—a recession—will work because it leads to a decline in the production of goods and services while the money stock remains unchanged.

In the end, the political process will decide whether an antiinflationary tax cut is possible. The fact is that the Congress just does not like the Keynesian cure for inflation—unemployment, declining economic growth, etc. Despite opposition to a supply-side tax cut, the political appeal is enormous; it promises that inflation can be reduced without running the country through a wringer and allows politicians to give the people tax cuts without fearing additional inflation. If such a tax cut is enacted and works, supply-side economics may suddenly find itself as the new economic orthodoxy for a generation.●

EXPORT TRADING COMPANIES

● Mr. CHILES. Mr. President, yesterday, the Senate passed S. 2718, a bill to promote and assist American export business. While I supported this legislation and believe it will be of great help in this critical area, I do want to voice a note of concern. This concern involves the banking related provisions of the bill and what amounts to another piecemeal, fragmented change in the banking laws of our land. I have no doubt that banks are important to the future success and growth of export trading companies but I am concerned that we are once again initiating major changes in our banking laws without the benefit of proper congressional review or consideration.

In the past, we have taken this same ad-hoc approach to changes in our banking laws and just this year, in fact, we witnessed another good example of this when efforts were made to eliminate the prohibition against interstate trust branching during consideration of the financial institutions deregulation bill. In proposing that large, money center banks be allowed to branch their trust operations across State lines, we questioned a longstanding and fundamental element of our banking laws that prohibit such interstate banking activities. Issues like this are just too big and too important to be lumped together with other legislation.

It is my view that major changes in our banking laws similar to the important ones we have looked at today need to be reviewed in a much more comprehensive, studied manner and in the context of the other major banking issues facing us today. If we want to make sure we end up with banking laws and policies that make sense and address the important issues facing the industry, then we need to avoid dealing with banking legislation on a piece by piece basis. In my opinion fragmented changes in the banking laws are not in the best interest of the banking community or the people who use bank services.●

DAWDLING WITH INCENTIVES

● Mr. HATCH. Mr. President, with the Finance Committee placing a tax bill before us, Paul Craig Roberts' recent column in the Wall Street Journal is of special relevance. The U.S. economy is not in good condition, and as we all know concern with the budget deficit and inflation has delayed the needed action on the tax front to restore incentives necessary for economic progress. With all the concern about revenue loss—and with a limited budget of revenues to lose—we have got to make sure that none of the revenues that we put into tax cuts are wasted.

Wasted revenues would be those that simply hand back money without increasing incentives to save and produce. From reports that I have seen, the Finance Committee's bill seems to waste about $7 billion in essentially rebate-type handouts that do not really lower the marginal tax rates. These are the revenues allocated to increasing the personal exemption, the zero rate bracket amount, and earned income tax credit. If Government spending is not cut by an offsetting amount, this part of the committee's bill will just result in an increase in aggregate demand of $7 billion without providing the needed incentives on the supply-side. This part of the bill, then, would be inflationary.

Other parts of the committee's bill are good in that they do reduce the marginal tax rate on additional earnings, rather than just providing rebates on present earnings. Because of our failure to control spending, we have a limited ability to act on the tax front. Therefore, we should be sure to cut taxes in a way that most effectively restores production incentives and maximizes revenue feedbacks. The rebate-type parts of the committee's bill do not meet these two crucial tests. It would be much better for the economy to put that $7 billion into lowering marginal tax rates across-the-board.

In terms of supply-side economics, lowering the average tax rate alone does not really qualify as a tax cut. Only reductions that lower marginal tax rates provide the supply-side incentives that the economy so badly needs. As Dr. Roberts pointed out in his testimony before the Committee on Ways and Means on July 29, it is not possible to increase "incentives or raise aggregate supply through tax cuts that simply lower the average rate of tax. The purpose of the tax cut is not to give people more money to spend, but to let them keep more of any additional income that they earn. Tax rebates, earned income credits, and a larger personal exemption and zero rate bracket amount have little or no effect on the marginal rate of tax on additional income earned, so they have no general incentive effects to speak of and do not produce a greater level of supply."

If we are going to cut taxes, we should do it right. I ask that Dr. Roberts' column, "Dawdling With Incentives," from the August 7 Wall Street Journal be printed in the Record.

The article follows:

Dawdling With Incentives

(By Paul Craig Roberts)

Senate Finance Committee Chairman Russell Long has settled the debate about whether the Reagan-Kemp tax cut is good politics by announcing that the Senate is going to pass a tax cut before the election. Many hands are now at work to shape its structure. If we are to avoid the deficits and inflation that tax cuts are said to cause, we will have to avoid a tax bill that adds to immediate spending power but delays (through phasing-in) the real production incentives.

From an economic standpoint it is easy to have an incentive tax cut that doesn't add to the deficit and inflationary pressures. You simply design it not to lose any revenues in the first place. All you have to do is to lower the marginal tax rates on personal income and simultaneously reduce the personal exemption or some of the deductions and credits. That way the average tax rate, or the amount of taxes people pay on existing earnings, doesn't change. The government doesn't lose any revenues, yet everyone still has an incentive to increase his work effort and savings as a result of getting to keep a larger percentage of additional income.

A tax cut of this kind would be a revenue raiser because it expands the tax base without lowering the average tax rate. But a Congress that is still dominated by Keynesian thinking is unlikely to legislate a pure incentive tax cut, and, even if it were, an election year calls for a more visible form of tax cutting. The Keynesian teaching that the purpose of cutting taxes is to increase spending goes well together with the political instinct to cut the average tax rate on existing earnings—the larger paycheck is clearly visible.

The goal of the Kemp-Roth bill is to increase production incentives by lowering marginal tax rates, but it doesn't attempt to prevent the average tax rate from falling too. It would leave the private sector with larger paychecks at existing production levels. Whether or not this would add to immediate spending power before the incentive effects have time to increase supply depends on the behavior of the Congress and the Federal Reserve. Congress can avoid a deficit (and pressure on the Fed to finance it by printing money) if it offsets the larger paychecks by holding down the growth in its own spending.

The real problem will come from those politicians who are primarily interested in redistributing income, whether through spending programs or the tax code. They are already busy arguing that Kemp-Roth isn't fair, because it treats taxpayers equally. A fair tax cut, they claim, is one that takes tax dollars paid at the upper end and hands them back at the lower end through rebates and earned income credits. Since a relatively few people at the top pay most of the income taxes collected (the top 10 percent account for 50 percent of the revenues), the vote-buying inclination naturally leads Congress to show its compassion before it does anything that might aid the better-off elements.

That means Congress—especially if it doesn't want to hold down its own spending—can find itself with a big deficit before it gets around to the incentive part of the tax cut, which it then phases in to avoid worsening the deficit. The result, of course, would be to immediately increase spending while postponing the production incentives. The pressure that this would put on the price level could result in Congress phasing out the promised incentives before they took effect.

The idea of phasing in incentives has been receiving enough attention lately to warrant a close look at it from a supply-side perspective, Martin Feldstein recently argued on this page that Congress can improve current incentives "by enacting now a schedule of future tax cuts." People would begin working and investing more today in anticipation of the lower tax rates in the future, and the growth in the tax base would generate the revenues to pay for the subsequent tax cuts.

What we have here is the responsible economist's version of the "Laffer curve." Instead of getting the revenues back after you cut taxes, you get them back before you cut taxes. Politicians are always attracted by the prospect of something for nothing, and they will find the "Feldstein curve" enticing as it allows all of the benefits of tax cuts before they go into effect. But the question is: Will it work?

Professor Feldstein is right that people's current actions will be affected if they expect their tax rates to be lower in the future, but the effect may be the opposite of what he supposes. Remember, a reduction in marginal tax rates changes relative prices. It makes both leisure and current consumption more expensive in terms of forgone income, causing people to shift into work out of leisure and into investment out of current consumption.

However, if you know that the prices of leisure and current consumption are not going to rise now but at a future date, you might decide to enjoy them while they are still cheap and wait until the price (tax rate) actually changes before you work harder and save more. If people respond in this way, then the promise of lower tax rates in the future would cause GNP and tax revenues to be lower in the present.

Now you get the picture: a Congress that rushes to buy votes with some sort of tax handouts and seizes on the Feldstein argument to delay the needed incentives. Consumption and leisure then boom while work and output fall. As the deficit rises and pressure on the price level mounts, people decide that the critics were right after all—tax cuts are inflationary.

The key to a successful tax cut is one that raises the price of leisure and current consumption right now, not in some future year. Announcing a future tax cut can produce the opposite of the desired results as people withhold income until the future period when its after-tax value is greater—just as expected higher oil prices cause OPEC to withhold oil by keeping it in the ground.

Professor Feldstein is right, however, that the tax cut won't work if it doesn't produce more savings and a higher real growth rate. That's why we need a tax cut that doesn't dawdle before it goes into effect.●

A FATHER'S PRIDE; A SON'S COURAGE; AND THE DRAMA IN POLAND

● Mr. WILLIAMS. Mr. President, in recent days we have been reminded once again of the power of the individual in bringing about important change in society and I would like to take a minute to discuss the dramatic developments in Poland as they relate to the family Walesa.

Leach Walesa is, as the world by now knows, the 37-year-old electrician who has been in the forefront of negotiating worker demands in Poland. As all of New Jersey knows, his father is Stanislaw Walesa, a proud and determined lumber worker who resides in our Garden State. New Jersey is especially honored to have this direct and personal link to the events in Poland and our State has been proud of the contributions made not only by Leach Walesa, but by the relatives in Poland of many Polish-American citizens residing in our State.

The elder Mr. Walesa has expressed, eloquently in his native language, his paternal pride for the achievements of his son. The courage, dignity, and persistence of Leach Walesa has resulted in a pact with the Polish Government which many Western specialists have sometimes called impossible—a document which comes very close to acknowledging the right of workers to bargain collectively within the context of a Socialist society. This is a rare and profound achievement for it requires a somewhat novel interpretation of the Marxist dogma which so often stultifies societies under the thumb of conservative communism.

On the other hand, it would be far from correct to read the triumph of the Workers' Committee and the victory of the 21 demands as an endorsement of democratization in Poland. The legitimacy of the Polish regime is balanced precariously between the traditional need of Communist ruling parties to control all the levers of society and the more recent need to satisfy an increasingly hostile and consumer-oriented public. I think Secretary of State Muskie and the Carter administration have been quite correct in their careful yet encouraging analysis of the events in Poland and I think we can all be thankful that our Nation did not act or speak rashly at what might have been a very dangerous moment.

The Polish reformers still have a long road to travel and there are ominous rumblings from the Soviet Union which must cause us alarm. Many scholars have said that the U.S.S.R. is especially wary of reform movements in Eastern Europe because they so quickly become a topic for discussion within Soviet dissident circles. It would be hard to see how the victory and struggle of the Polish workers could not lend inspiration to all freedom-loving people, in both Communist and capitalist nations.

So we are left with an exciting and encouraging story and one which makes us realize how much the people of captive nations cherish the freedoms and independence which have long been enjoyed by citizens in our country. And that is why it is so appropriate for us to express our solidarity with the workers of Poland, as suggested by the Senator from Pennsylvania, Mr. HEINZ, and why it is good to recall the heroic struggle of Leach Walesa and the pride of his father, Stanislaw.

Mr. President, I am proud to add my name as a cosponsor to the resolution introduced by Senator HEINZ and to acknowledge the important contributions in Poland made by the son of one of my constituents.●

NATIONAL PORTS WEEK

● Mr. DURENBERGER. Mr. President, it is a pleasure to join my distinguished colleague from Hawaii, Senator INOUYE in cosponsoring Senate Joint Resolution 176, "National Ports Week."

Senate Joint Resolution 176 recognizes the fact that our Nation's ports plays a vital role in our national security and economic health. The water borne commerce of the United States is responsible for the continued employment of more than 1 million workers and a yearly contribution in excess of $56 billion to the economic well-being of our Nation.

In my home State of Minnesota, the Port of Duluth-Superior plays an important role in the economic well-being of the State and of the Nation. In 1979, 48 million tons of cargo crossed the docks which resulted in an economic impact upon the State of $239 million on taxes and employment. It is estimated that 15 percent to 20 percent of employment in the Duluth region centers around port activities.

An article from the August 26, 1980, Minneapolis Tribune further illustrates the role of importance Duluth plays.

The article follows:

DULUTH-SUPERIOR AGAIN TOPS GREAT LAKES PORTS

DULUTH, MINN.—The port of Duluth-Superior is again leading Great Lakes ports and in 11th place nationally in total water-borne commerce, the Seaway Port Authority of Duluth said Monday.

Preliminary tonnage summaries for the 1978 calendar year by the U.S. Army Corps of Engineers show Duluth-Superior replaced Chicago among Great Lakes ports and moved ahead of Mobile, Ala., and Texas City, nationally compared with final 1977 statistics.

Davis Helberg, port director, said Duluth-Superior and Chicago have alternated at the top of the Great-Lakes port ranking for several years depending mainly on the changes in the flow of ore, grain and coal and other bulk cargo movements.

Duluth-Superior's water-borne commerce in 1978 was 45,841,364 short tons, compared with 33,419,210 in 1977, when the port ranked 14th nationally.

Helberg said the corps of engineers complete 1979 national ranking would be reported in mid-1981.

Duluth is Minnesota's world port. It is the key port for the agri-business community of

Minnesota, the Dakotas, Eastern Montana, and portions of Wyoming, Colorado, Nebraska, and Iowa.

I am pleased to be co-sponsoring Senate Joint Resolution 176 because it insures that ports like Duluth will be recognized for their great contributions.

I urge my colleagues to support this resolution also.●

POLAND'S STRIKES

● Mr. MOYNIHAN. Mr. President, all of us who care about the advancement of human rights look upon Poland's workers with enormous respect and admiration. We can afford them nothing less, for they symbolize in a vivid way the durability of the human longing for freedom, autonomy, and dignity. We owe them much; their strike for human rights strengthens the freedom of everyone, for freedom is something not confined or easily preserved by national boundaries.

Last Sunday, Mr. President, the New York Times published a column on the Polish strikers by Mr. Albert Shanker, president of the American Federation of Teachers, AFL–CIO. Mr. Shanker, one of the finest trade unionists we have, understands something about strikes and organizing. He also understands that trade unionism and collective bargaining can survive only in free systems where human rights are respected and promoted. As such, Mr. Shanker and his union have been in the forefront of the movement for international human rights.

Mr. Shanker's comments about the Polish situation are exceptionally insightful. I commend them to my colleagues. Therefore, Mr. President, I ask that Mr. Shanker's column be printed in the Record.

The column follows:

Strike in Poland: A Labor Day Sermon

Labor Day is traditionally a time to take a look at the problems facing workers and their unions. In that respect, this Labor Day will be no different. It is a time to look at layoffs and unemployment, the decline in productivity, inflation, the narrow defeat of labor law reform, the prospects for labor unity as affiliation talks continue with the United Auto Workers and Teamsters. And it will surely be a day to predict what will happen to working people in America if Ronald Reagan is elected as against the reelection of Jimmy Carter.

But the big Labor Day story is not in this country. It is in Poland, where the strike goes on amid fears that at any moment there will be brutal repression. What can Americans do? What should our government be doing? What can we learn from the struggle in Poland?

Clearly, we don't want to do anything which will provide an excuse for Soviet intervention. Our government has said clearly that we will not intervene. Unfortunately, it has also said that the Polish struggle is an internal affair. This is dead wrong, and such statements are damaging to America and what it stands for in the world.

It is one thing to say that we will not interfere (and we should also say that no other foreign power should interfere). But it is quite another to give the impression that, therefore, anything the Polish government decides to do—or the U.S.S.R. might do at the "request" of the Polish government—is their own business. Repression of the strike and the destruction of the Polish workers' union would be violations of the Declaration of Human Rights, Convention 87 of the International Labor Organization and the Helsinki agreements, to which Poland is a signatory. These are international human rights commitments and obligations. Their violation is not a mere internal matter but a proper matter for international concern. To say that it is a purely internal matter is to abandon the American commitment to continue the fight for human rights.

While assuring the Polish and Soviet governments—in private and in public—that the U.S. will not intervene, we should nevertheless speak out. The struggle of the Polish workers deserves at least a good Moynihan-like speech in the United Nations and a demand for investigation by the International Labor Organization.

But expressing our country's concern should not be the business of government alone. Most Americans support the Polish workers. Isn't it time to demonstrate that support? Don't we care enough to maintain demonstrations and protests on a regular basis in front of Polish consulates and tourist bureaus across the country? Is there any question that Polish workers—and others seeking freedom around the world—are looking to see if we are doing everything we can do? They know that we can't intervene, but they also know that when Americans care about something, they have ways of communicating that concern to the world.

The Polish workers may bring about major changes in Poland. And they may cause some changes here in America, too. Americans are giving near universial support to the Polish workers. They see that the strike is not just about a little more money or meat. Of course, these are issues, too, but the basic struggle is for human rights—and the major issue is whether the Polish workers will be permitted to have free trade unions. Millions of Americans who have generally been hostile to trade unions can clearly see in this struggle in Poland what they have not always been able to see in their own backyard: that a union gives workers dignity, and that a union is not just a vehicle allowing a worker to win one benefit or another but, rather, a permanent instrument enabling him to fight for his rights without fear of punishment or reprisal. As one Polish worker told *The New York Times* correspondent in Gdansk, the strike is not about money or apartments or petty grievances. "It is for a free trade union. This is the idea: the worker can go and ask for his rights and do it while he is protected against the red bourgeoisie."

If the Carter Administration hasn't been as strong as it should be on this issue, the Republicans are in much worse shape. It is clear that the Polish workers have a union. What they are demanding is that the government recognize it and that the employer deal fairly. They want the Polish version of labor law reform. It will be interesting to see how the Reagans, Hatches and Helmses, who claim to be warriors on the side of freedom against the Communist tyranny, will square their support for the Polish workers with their crusade to weaken unions in America. Or as Alexander Cockburn, commenting in the *Village Voice* on the editorial support for the Polish workers expressed by the *Wall Street Journal* and other newspapers, put it: "This solidarity with insurgent labor seems to wane once the strikes are taking place this side of the Iron Curtain. . . . Once the *Wall Street Journal* remembers its priorities, it will be urging the Polish government to deal severely with the outrageous and inflationary demands of the toilers and recommending that Milton Friedman be taken on as special assistant to Edward Gierek."

Yes, there is a lesson this Labor Day in the Polish workers' struggle. Americans—and especially those who disdain unions or oppose the right of workers to organize and bargain collectively—should ask themselves some hard questions. Where is there more productivity—in countries with free trade unions, or in those where workers must struggle for them against enormous odds? Where is there more general prosperity—in countries like the U.S., where national policy protects the rights of workers to belong to the union of their choice, or in the Communist bloc, where the policy and the practice are to suppress and stamp out workers' rights? Who fights harder for freedom and human rights—trade unions, or those who see unions as enemies to be battled in every arena? Maybe this will lead Americans to think about what our country would be like if the Reagans, Helmses and others had their way and there were no trade unions in America.●

THE 1980 U.S. CULINARY OLYMPIC TEAM

● Mr. SCHWEIKER. Mr. President, this weekend, September 5, 6, and 7, a group of chefs comprising the 1980 U.S. Culinary Olympic Team will be coming to Washington, D.C., from their respective cities around the country. They will gather at Loew's L'Enfant Plaza Hotel to conduct one last practice session before traveling to Frankfurt, Germany, this coming October. In Frankfurt, they will take part in an international competition of culinary skills which has been held there every 4 years since 1896. In recent years, the United States has become a leading force in the world of fine food and this year's team stands a good chance of improving on their third place finish in 1976.

I urge my colleagues to join me in extending wishes of good fortune as they represent us and this country in their quest next month.

In addition, let me say that I am proud to have as my constituents, Chef Gunther Heiland of the Fairmont Hotel in Philadelphia, Chef Roland Schaeffer of Gibsonia, Pa., experimental Chef with H. J. Heinz Corp., Chef Baron Galand of Uniontown, Pa., and Chef Richard Bosnjak of Verona, Pa.●

DEAN WITTER SAYS GASOHOL IS GOOD BUSINESS PROSPECT

● Mr. BAYH. Mr. President, as Chairman of the National Alcohol Fuels Commission, I am keenly aware that potential producers of fuel alcohol often face serious problems when they attempt to arrange financing for their planned production facilities. The natural and understandable conservatism of the banking and investment communities and the relative youth of the fuel alcohol industry have combined to make financing for many projects especially difficult. It is for this reason that Congress responded with a range of financial incentives to accelerate the commercialization of this vital new industry.

However, even with the incentives provided by, notably, the Windfall Profit Tax Act and the Energy Security Act, lending institutions must still have confidence that the fuel alcohol industry is a wise investment. It is for this reason that I and many other supporters of alcohol fuels, especially my colleagues on the National Alcohol Fuels Commission, Senators CHURCH and MCGOVERN, viewed with dismay the now-discredited report by the Department of Energy's Energy Research Advisory Board (ERAB) which took such a negative view of gasohol's prospects. While the so-called ERAB gasohol report was recognized by technical experts as a quickly thrown-together document relying on out-of-date information, many felt that the stature of ERAB would serve to dampen the interests of private sector investors whose support is absolutely essential to the growth of the gasohol industry.

Against this background, I was most pleased to notice that the prestigious investment counseling firm of Dean Witter Reynolds, Inc., of New York has recently released a report on gasohol as an investment opportunity. And it is a bullish report, to say the least.

The report cites testimony before the National Alcohol Fuels Commission in June—as well as a Dean Witter analysis of gasohol's prospects—to refute the ERAB gasohol report. In addition, Mr. President, the report says that the flood of imported alcohol streaming into this country—about which I have spoken on the floor several times—does not represent a meaningful threat to domestic producers. This conclusion is reached, Mr. President, because the Dean Witter analyst assumes that Congress will pass the 40-cent-per-gallon tariff that is included in the Senate version of the revenue reconciliation legislation. That is an assumption I hope will become a reality in the coming weeks.

Because of the importance that investor confidence will have in the development of the infant alcohol fuels industry, Mr. President, I ask that the Dean Witter "Gasohol Update" be made part of the RECORD so that my colleagues might benefit from the views of this prestigious firm.

The update follows:

GASOHOL UPDATE

The United States National Alcohol Fuels Commission recently held a conference in Washington, D.C., at which individuals from business, government, and educational institutions made presentations on a variety of issues relating to gasohol. Although we did not attend the conference, we have reviewed transcripts of the presentations. We have also reviewed a recent report on gasohol issued by the United States General Accounting Office and a somewhat controversial study by the Energy Research Advisory Board. The conference and the studies are summarized below. We also discuss the issue of alcohol imported into the United States. A summary of this material follows:

1. The question of alcohol's "energy efficiency" has subsided over the past year as critics have become aware of more modern production technologies which use less energy and of the importance of saving liquid fuel rather than Btu's. Also, we believe that increasing emphasis will be placed on the ability of alcohol to reduce oil consumption by raising octane levels.

2. The "food versus fuel" issue is likely to decline in importance. It can be demonstrated that 1.2 billion gallons of alcohol could be produced annually from corn in the United States over the intermediate term without placing significant pressure on grain supplies or prices.

3. Although the capacity to produce alcohol may slightly exceed demand in 1982 when a number of new facilities are scheduled to come on stream, we do not believe that this will lead to large, if any, declines in the price of alcohol. It will only mean that the price of alcohol will be less than it would be if capacity were less.

4. Alcohol imported into the United States does not represent a meaningful threat to domestic producers.

5. The Energy Research Advisory Board's recent somewhat controversial report on gasohol contains some questionable statements and analysis.

SUMMARY OF CONFERENCE SPONSORED BY UNITED STATES NATIONAL ALCOHOL FUELS COMMISSION

Statements by speakers and our comments follow:

John A. Schnittker, president of Schnittker Associates. In 1985 1.2 billion gallons of alcohol could be produced from corn without reducing feed supplies in the United States or exports below anticipated demand and without causing grain prices to increase more than prices in general. The agricultural byproducts from this level of alcohol production could be absorbed in the market without disruptions. Only an 8-percent increase in "real" corn prices would be needed to generate the higher level of corn production needed to produce 2 billion gallons of alcohol in 1985. Also, despite a greater quantity of by-products for use as animal feed, soybean meal consumption would be only 5 percent lower than if 1 billion gallons of alcohol were produced. There are 24 million acres of high-quality land in the United States currently in pasture that could be cropped. In fact, it is estimated that by 1990 corn acreage could approximate 107 million acres with enough corn to produce 9 billion gallons of alcohol.

Dr. J. Carroll Bottum, professor, Department of Agricultural Economics, Purdue University. The elimination of the acreage-set aside program in 1978 would have contributed to an increase in grain production sufficient to produce about 2 billion gallons of alcohol. From a worldwide perspective 73 percent of the labor force in 37 low-income countries are engaged in agriculture. Since these persons are producers as well as consumers of food, an increase in food prices could benefit them. Also, countries with substandard diets generally keep food prices too low to justify needed expansion of food production. Finally, it was predicted that gasohol will eventually be competitive with gasoline in the United States without government subsidies.

Mr. Richard E. Burket, vice president and assistant to the chairman, Archer Daniels Midland Company. The production of alcohol from corn leads to a more efficient utilization of the corn crop. Also, ADM's alcohol production process introduces new potentially positive variables into the "food supply" question because waste heat will be used as a heat source for a greenhouse in which vegetables will be grown, and carbon dioxide, a byproduct of alcohol production, could be used to accelerate plant growth. It was also noted that the production of lower-octane gasoline, which could subsequently attain a higher normal octane level by blending with alcohol, may increase the amount of gasoline per barrel of crude oil by 7 percent.

Dr. Barry Commoner, director of Center for the Biology of Natural Systems, Washington University of St. Louis. Fifty billion gallons of alcohol could be produced from agricultural crops in the United States without reducing food or feed production and without soil loss. This could be accomplished by altering the present mix of crops produced. The potentially arable land in the world is twice the amount currently cultivated. The production of alcohol in Third World countries may lead to an increase in food supplies, as higher agricultural prices could contribute to a greater amount of capital devoted to crop production and to higher levels of production.

Lester R. Brown, president, Worldwatch Institute. Individuals in poor countries suffering from substandard diets lack sufficient calories as well as protein. It might be possible to double-crop to produce a winter feed crop such as barley, which matures early, and also a summer "energy" crop such as sweet sorghum.

Daniel E. Shaughnessy, executive director, Presidential Commission on World Hunger. Global grain production will increase at a 2.7 percent compound annual rate, or at a pace fast enough to meet projected commercial demand. The key to alleviating hunger in the world is to increase food production in the developing nations. This is technically, ecologically, and economically feasible. In fact, the quantities of food and money needed to eliminate hunger are remarkably small.

Bob S. Bergland, secretary of the United States Department of Agriculture. The government is unlikely to allow the production of grain for alcohol on set aside acreage. It would be easier to forego a set aside.

James A. Dunlap, vice president, Alternate Energy Department, Texaco. The increase in liquid fuel, which is substantial when coal is the fuel source at an alcohol plant, is the key variable in evaluating the energy efficiency of alcohol.

Barbara Blum, deputy administrator, United States Environmental Protection Agency. Evaporative hydrocarbon emissions from automobiles increase significantly when gasohol is used. However, this is not a serious problem, and these emissions could be reduced by blending alcohol with gasoline at the refinery.

Samuel P. Dickens, vice president, Planning and Finance, Texaco. Gasohol is expected to account for 10–15 percent of motor fuel sales at those Texaco stations where it is sold.

Dr. James L. Prouty, director of fuel alcohol programs, Davey McKee Corporation. The conversion of existing excess or idle plant capacity in a number of industries to alcohol production in combination with existing and planned new facilities of corn wet-millers could result in alcohol capacity in the United States of 500 million gallons by the end of 1981 and about 900 million gallons by 1986. Potential alcohol fuels capacity by 1986 from conversions by industry follow: Distilleries—95 million gallons at a conversion cost of $0.24 per gallon; breweries—95 million gallons at a cost of $1.20 per gallon; sugar beet plants—100 million gallons at a cost of $0.98 per gallon; corn wet-milling plants—93 million gallons at a cost of $0.74 per gallon; and other industries—78 million gallons.

Dr. Raphel Katzen, president, Raphel Katzen Associates, Inc. Small alcohol plants will require a considerably higher investment per gallon and will have higher production costs than large facilities.

Mr. Roger N. Etrheim, marketing director, Iowa Corn Promotion Board; Strud Nash, E. F. Hutton; Donald E. Hill, Citibank; and Burgee Amdahl, St. Paul Bank for Cooperatives. Potential lenders are reluctant to loan money to finance smaller alcohol facilities.

Charles W. Duncan, Jr., secretary of United States Department of Energy. The recent somewhat negative and controversial report on gasohol by the Energy Research Advisory Board has not caused him to alter his basically positive viewpoint.

OUR COMMENTS

The issue of alcohol's energy efficiency has declined significantly in importance over the past 12 months. Many of those who previously questioned the energy efficiency of alcohol have become aware of the reductions in energy usage achievable through the use of more modern production technologies and of the importance of achieving a positive balance of liquid fuel. The "food versus fuel" issue still generates attention. Based on comments made at this and other conferences and in other studies, we believe that the following conclusions are valid.

First, 1–2 billions gallons of alcohol could be produced annually in the United States from corn over the intermediate term without significantly impacting grain prices or availability. Second, the longer-term production potential is 7–9 billion gallons annually without meaningfully impacting prices or supplies in the United States. Third, these levels of alcohol production would not adversely effect the standard of living of persons in countries with substandard diets. Finally, we believe that the food versus fuel issue will decline in importance over the next 12 months as has the energy efficiency question over the past year.

The capacity to produce alcohol for gasohol could approximate 500 million gallons in 1982 and *700 million gallons in 1985*. The demand for alcohol will depend on the number of retail gasoline stations at which gasohol is sold, gasohol sales as a percent of a station's sales mix, and the possible use of alcohol as an octane enhancer to produce gasoline of only average octane levels.

Assume that alcohol is not used to produce gasoline of average octane levels, and assume that gasohol sales approximate 10–15 percent of motor fuel sales at stations where it is available, which has been the typical experience to date. Under this scenario, 500 million gallons of alcohol would be needed in 1982 if gasohol were sold at stations accounting for 40 percent of total gasoline sales. 700 million gallons of alcohol would be demanded if gasohol were sold at outlets representing 55 percent of gasoline sales.

Based on *current* marketing programs it seems unlikely that gasohol will be sold at stations selling 40 percent of total gasoline in 1982. However, if gasoline prices continue to increase as seems likely, then gasohol could be selling for less than gasoline in the not too distant future. Based on the current alcohol price of $1.80 per gallon and the $0.04 per gallon federal excise tax exemption for gasohol, then the price of unleaded regular gasoline would equal gasohol if unleaded gasoline prices were increased from the current $1.00 per gallon level at the refinery to $1.44. In those 13 states where a $0.04 or higher per-gallon state excise tax exemption exists, unleaded regular gasoline already sells for the same price as gasohol. When gasoline prices exceed those for gasohol, which seems possible over the next few years, then we would expect gasohol to be sold at a large number of gasoline stations. As a result, we do not expect alcohol capacity to significantly exceed demand in the 1982–85 period, especially if some alcohol is used at petroleum refineries to produce a motor fuel of average octane but containing gasoline of below-average octane.

It is possible that capacity for alcohol might be somewhat greater than demand in the year 1982, when a number of new alcohol facilities are scheduled to open. However, this does not mean that alcohol prices will decline sharply, if at all. All it means is that alcohol prices will be lower than they would have been if there were less capacity.

Two factors are critical in evaluating the impact on alcohol prices of a temporary excess of capacity. First, to the extent that front-end grind can be profitably diverted from the production of alcohol to corn sweeteners, there is less incentive for producers to reduce alcohol prices to maintain high operating rates. Second, variable costs account for about 50 percent of the cost of producing alcohol, which also reduces the incentive to cut alcohol prices to maintain high operating rates.

The somewhat controversial report on gasohol by th Energy Research Board is discussed in the next section.

AN EVALUATION OF THE ENERGY RESEARCH ADVISORY BOARD'S REPORT ON GASOHOL

An Energy Research Advisory Board (ERAB) was organized in 1979 to make a study on gasohol for the Department of Energy. The study group consisted of four college professors and three research scientists from corporations or research institutes. Importantly, the board's study was primarily based on existing studies and data, and very little original research was conducted. In our opinion, some of the sources of information are of questionable usefulness. In a letter to Charles Duncan, secretary of energy, the chairman of the Energy Research Advisory Board notes that "the study itself was undertaken on a quick turnaround basis."

Important conclusions of the study and our comments follow:

ERAB conclusion: The net energy return for alcohol produced at plants fueled by oil or natural gas is zero. If coal is the fuel source at the alcohol plant, then each gallon of alcohol produced could save one-half gallon of gasoline.

Our comment: The study was not rigorous in defining "energy balances" or "net energy return." Energy balances are not affected by the type of fuel used at the alcohol plant. When the study refers to a net energy gain from coal, it is actually referring to a saving in "liquid" energy. The study's model of energy balances shows 114,000 Btu's used to produce one gallon of alcohol, with 45,000 expended in growing corn and 69,000 used at the alcohol plant. For energy output, the study calculates 90,000 Btu's for one gallon of alcohol and associated by-products which can be used as an animal feed. This produces a "net energy loss" of 24,000 BTU's. However, the study allocates only 11,000 BTU's to the agricultural by-products produced with one gallon of alcohol, as compared to the 50,000-Btu figure shown in all other studies and generally accepted as accurate. If a 50,000-Btu figure were given to by-products, a "net energy gain" would be shown. Also, the study's figure of 69,000 Btu's needed at the plant to produce one gallon of alcohol is too high based on current technologies such as those used by Archer Daniels Midland.

The study asserts that one-half gallon of oil can be saved when alcohol is produced using coal as the fuel source at the plant. This conclusion is based on the fact that the "net liquid energy savings" of 53,000 Btu's per gallon when coal is used represents about one-half of the Btu's in a gallon of gasoline. However, a gallon of alcohol replaces one gallon of gasoline in gasohol, and since gasohol is only 10 percent alcohol, there is little or no reduction in automobile mileage.

The ERAB study apparently assumes that gasohol provides only 50 percent of the mileage provided by gasoline.

ERAB Conclusion: The use of grain to produce gasohol could adversely affect the quantities of grain available to feed livestock in the United States and for export.

Our Comment: The study's discussion of the "food versus fuel issue" was surprising for the following reasons. First, the study's major concern related to the possibility of higher prices for meat, milk, and eggs in the United States, a situation which might be an acceptable tradeoff for reduced dependency on imported energy. Second, the study failed to mention that the by-products of alcohol production include corn gluten feed and corn gluten meal or distillers' dried grains, which are used as animal feeds. Third, the study states that most cropland in the world is already in production. Interestingly, on the very next page in the study it is stated that "some cropland (in the United States), about 40 million acres, that is currently in pastures could be converted into grain production." That's right. There is a considerable amount of potential but unused cropland available in the United States. Fourth, the study states that grain yields per acre in the world are declining. The ERAB's source for this statement is Lester R. Brown, who recently wrote a paper in which he expressed concern that the production of alcohol would reduce food supplies. Yields for corn in the United States have increased significantly in recent years, as shown in Table 1.

TABLE. 1.—*Corn yields per harvested acre in the United States*

Crop year beginning October 1:	*Bushels per acre*
1972–73	97.0
1973–74	91.3
1974–75	71.9
1975–76	86.3
1976–77	87.9
1977–78	90.7
1978–79	100.8
1979–80	109.4

Source: United States Department of Agriculture.

ERAB Conclusion: Alcohol should be allowed to find its own level of usage based on current incentives, and additional incentives should not be implemented.

Our comments: Existing incentives are sufficient for alcohol to be produced and sold at a price which will generate excellent profitability to the producer and allow for continued expansion in gasohol sales.

Our purpose is not to be critical of the Energy Research Advisory Board, whose members were obviously well-intentioned. However, hopefully we have demonstrated that it is important for investors to objectively evaluate increasing number of studies and statements regarding gasohol.

A SUMMARY OF THE UNITED STATES GENERAL ACCOUNTING OFFICE'S REPORT ON "POTENTIAL OF ETHANOL AS A MOTOR FUEL"

The General Accounting Office interviewed government officials, representatives of automobile, engineering, oil and utility companies, alcohol producers, and distributors of gasohol. Also, other studies and information regarding Brazil's alcohol program were reviewed. Important statements in the study and our comments follow.

1. The analysis of net energy balances for alcohol has been overemphasized. The real goal is to produce usable liquid fuels. If oil is used as a fuel source at the alcohol plant, then the oil consumed in the production process amounts to about one-half gallon per gallon of alcohol produced. Thus, every gallon of alcohol produced and used to replace gasoline will save one-half gallon of oil.

However, additional savings are possible. For example, oil refiners can reduce the octane level of the base unleaded gasoline so that when it is blended with alcohol, the octane of the resulting gasohol is at an average level. In this manner, almost one gallon of oil could be saved for each gallon of alcohol produced because less oil is required to produce the lower octane gasoline. Furthermore, even more oil could be saved if gasohol were used to replace premium (above-average octane) unleaded gasoline, which requires more oil to produce than unleaded regular (average octane) gasoline. Used in this way, one gallon of alcohol could save more than one gallon of oil.

Our comments: We believe that the energy savings possible by using alcohol to increase octane levels are significant for gasohol's longer-term potential and will receive increasing attention.

2. Alcohol production from crops could be gradually expanded to 5 billion gallons annually without disrupting our agricultural economy. Cellulose feedstocks would probably be required to increase alcohol production beyond 5 billion gallons.

Our comments: This reinforces our belief that the production of alcohol from corn will not lead to significant price increases for this grain over the intermediate term. Furthermore, the GAO's prediction of 5 billion gallcns as the practical upper limit of alcohol production fom crops could be conservative if significant amounts of new acreage are brought under cultivation.

3. The technology exists for automobiles to run on alcohol blends exceeding the current 10 percent, and necessary modifications could easily be made at auto factories.

Our comments: We expect gasohol in the United States to continue to consist of only 10 percent alcohol for a number of years.

4. Oil companies are becoming more positive towards gasohol.

Our comments: We expect the marketing of gasohol to increase significantly over the next few years.

ALCOHOL IMPORTS ARE NOT A SIGNIFICANT THREAT TO DOMESTIC PRODUCERS

A number of articles have appeared recently in the press relating to the importation of alcohol for gasohol. The level if imports are shown in Table 2.

TABLE 2.—*Alcohol imports*
[*Millions of gallons*]

1976	12.8
1977	19.2
1978	22.9
1979	28.1
First-Quarter 1980	6.4
April 1980	12.2

In the first four months of 1980, Brazil and Argentina accounted for 56 percent and 35 percent, respectively of total alcohol imports. The imports from Brazil reflect strike-related delays in manufacturing automobiles in that country capable of running on high levels of alcohol. The alcohol from Brazil is being sold in the United States for $1.40 per gallon, which is less than the $1.80 per gallon price currently charged by Archer Daniels Midland, the largest producer in the United States. The $1.40 per gallon price of imported alcohol appears to be below cost in view of the relatively inefficient production methods used in Brazil and shipping charges. In fact, the $1.40 per gallon price is less than the price charged at retail in Brazil.

Imported alcohol has probably been a positive rather than a negative factor for alcohol producers in the United States *to date*. The additional availability of alcohol from Brazil has facilitated oil companies testing of gasohol marketing programs. Interestingly, some imported alcohol earlier in the year to supply existing customers.

The alcohol imports have stirred considerable attention among government officials, and the Budget Reconciliation Bill recently passed by the Senate Finance Committee contains a provision which would place a $0.40-per-gallon tariff on alcohol imported for gasohol. [There is strong sentiment among politicians against gasohol containing imported alcohol from receiving federal excise tax exemptions. As a result, we do not consider the imports to be a meaningful threat to domestic alcohol producers.] ●

TRIBUTE TO MARY M. WEILER

● Mr. DANFORTH. Mr. President, I wish to bring to the attention of the Senate the retirement of Miss Mary M. Weiler. A native of St. Louis, she is returning there to live after 52 years of loyal and dedicated service in an out of Government. I am proud to salute a fellow Missourian, whose career exemplifies tireless hard work, loyalty, commitment to excellence, and devotion to country.

During the course of her career, she served as secretary to Clark M. Clifford, himself a native Missourian whose outstanding record is a source of pride to our State. As Mr. Clifford's secretary, she became known to most of Washington and distinguished herself with her knowledge, skill and willingness to be of assistance to all.

In World War II, she set a record of honor and distinction in the U.S. Army. As personal assistant to Gen. Ira Eaker, she served the United States in a number of different threaters in Europe and Africa.

Later, she held the position of special subordinate to the Secretary of Defense, and received a citation for particularly meritorious service.

Mr. President, Mary M. Weiler has earned a unique place for herself in our country. We hereby extend to her our congratulations and best wishes on her retirement and on her return to Missouri. ●

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Mr. TALMADGE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7018.

The PRESIDING OFFICER (Mr. TSONGAS) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 7018) to extend the Federal Insecticide, Fungicide, and Rodenticide Act until September 30, 1981, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. TALMADGE. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. TALMADGE, Mr. STONE, Mr. LEAHY, Mr. STEWART, Mr. HELMS, Mr. HAYAKAWA, and Mr. JEPSEN conferees on the part of the Senate.

EDUCATION AMENDMENTS OF 1980—CONFERENCE REPORT

Mr. HOLLINGS. Mr. President, I would like to move that the Senate insist upon its amendment to H.R. 5192 and request a further conference with the House, with whoever the manager of the bill will agree to as conferees. What we are trying to do is to bring this bill within reasonable fiscal bounds, with the tremendous improvements made by the Senate bill. We are not against higher education. We are hopeful that another good try will be made on the Metzenbaum amendments and the reconciliation provisions. We did not want to leave the bill hanging.

Mr. PELL. Mr. President, a point of inquiry. Am I correct in saying that it takes unanimous consent to ask for a conference now that the report has left the desk?

The PRESIDING OFFICER. The Chair will state that the request by the Senator from South Carolina is not in order at this point, that it would require the message coming back from the House.

Mr. PELL. Mr. President, does that require unanimous consent?

The PRESIDING OFFICER. It would require unanimous consent.

Mr. PELL. Mr. President, we would like to discuss this with the House first. It might be better, if there is a conference, that the House make the request first. I have worked long and hard on this bill and I am not in the mood to ask the House for a conference at this time. If it is parliamentarily in order, I will object. I may not object tomorrow or another day, but at the moment, if it is in order, I will object.

Mr. HOLLINGS. I will not object to the managers of the bill——

Mr. SARBANES. Mr. President, is it not out of order to ask for unanimous consent?

The PRESIDING OFFICER. Yes.

Mr. SARBANES. It is my understanding that if the House chooses not to go to conference, we may not have a higher education bill, I will say to the Senator from South Carolina and those who support his position.

Mr. HOLLINGS. Mr. President, I am glad they supported that particular position. They understood it. If the Senator had been here during the debate, he would have understood it too, because it was stated very clearly: We intended to move to request a further conference with the House, so that the conferees could bring us back a better bill. Those who lost have actually won. Those who were the original sponsors of the basic educational opportunity grant program, the guaranteed loan program, and the other programs, and for higher education, are willing to work, and I am sure the House is willing to work. But if they want to sulk a little bit, let them sulk a little bit. I do not mind.

I have never heard of any unanimous-consent request being out of order.

We are not trying to force a conference. We want the committee to handle the bill and give us back one that we can support for higher education and which will be in conformance generally with the three votes on higher education that the Senate has taken in the last 3 months.

Mr. SARBANES. Mr. President, I am listening to the Senator very carefully, and the only point I am making is that the Senator stood up to make a motion which is out of order. A unanimous-consent request that would seek to achieve the same objective would also be out of order.

The Senator, in effect, has placed us in the position now of not being able to get back to conference unless the House chooses to go there.

Mr. PELL. If the Senator will yield at that point, I did not express myself correctly earlier in that the papers are with the House now, so it does not make any difference if I object or do not object. The only body that could ask for the conference now is the House.

Mr. HOLLINGS. Mr. President, I was trying to be recognized earlier to make my motion, which was the proper motion. The fact that I may be out of order at this particular time is because I could not get recognized. The senior Senator from South Carolina on another matter then had the floor. I fully intended to be recognized before this went back to the House, to request that we insist further on our amendments and ask for a further conference. That is where it is. It was not the vote that put us in this situation but the fact that I was not recognized to make the motion.

Mr. METZENBAUM. Mr. President, the Senator from Ohio was informed at the desk that there is some question as to whether the papers are in the possession of the Senate, whether they are somewhere between here and the House, and whether or not it would be in order to request that the papers be returned from the House in order that the Senator from South Carolina might make his motion.

I would make a parliamentary inquiry as to exactly what is the position.

We first were informed that they were not in the possession of the Senate. Then there seemed to be some question about that, as to whether they are or are not in the possession of the Senate.

The other question is, if they are not in the possession of the Senate, what procedure can we proceed with in order to request that they be returned from the House?

The PRESIDING OFFICER. The Chair will state that the papers are not at the desk. Before a conference can be requested, the papers would have to be at the desk. The papers would have to be here at the desk.

Mr. METZENBAUM. Will the Chair advise as to whether, if they are not at the desk, they are still in the possession of the Senate, and whether they can be brought back to the desk? It is my understanding that they have not been forwarded to the House.

Mr. BELLMON. If the Senator will yield, it would seem that the papers were what we were voting on.

The PRESIDING OFFICER. The Chair will state that the Chair does not know where the papers are at this point except that they are in transit to the House with the amendments from the Senate.

Mr. METZENBAUM. Mr. President, is that correct, or are they somewhere in one of the desks in the Senate?

The PRESIDING OFFICER. The Chair has not looked into it further.

Mr. METZENBAUM. Mr. President, if I may ask one more question. Can a Member of the Senate request that they be returned? If they have not yet been delivered to the House, may they be returned?

The PRESIDING OFFICER. The Chair will state that as long as the papers are in the custody of the Senate, they may be brought back to the desk.

Mr. METZENBAUM. If it is appropriate, Mr. President, I ask that they be returned to the desk in order that the Senator from South Carolina may make such motion as he desires to make. Would that be in order?

The PRESIDING OFFICER. The Senator could make such a request.

Mr. METZENBAUM. I do make such a request.

The PRESIDING OFFICER. Is there objection to the request?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, what is the request?

Mr. METZENBAUM. Mr. President, I request that inasmuch as there seems to be some question as to where the papers are at the moment, that they be returned to the desk in order that such motions as are appropriate may be made.

Mr. ROBERT C. BYRD. Will the Senator withdraw his request for the moment?

Mr. METZENBAUM. I certainly will.

Mr. ROBERT C. BYRD. The matter will work itself out all right.

Mr. METZENBAUM. At the urging of the leader, I am happy to comply.

The PRESIDING OFFICER. Does the Senator from Ohio withdraw his request?

Mr. METZENBAUM. I do.

STANDING RULES OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of Senate Resolution 508.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 508. This has been cleared, I believe, with the minority leader.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, this matter has been cleared on our side and we join with the majority leader in his request for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 508) proposing a change in the Standing Rules of the Senate.

The PRESIDING OFFICER. The Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 508) was considered and agreed to, as follows:

S. RES. 508

Resolved, That nothing in the provisions of the Standing Rules of the Senate shall be construed to limit contributions to defray investigative, civil, criminal, or other legal expenses of Members, officers, or employees of the Senate relating to their service in the United States Senate, subject to limitations, regulations, procedures, and reporting requirements which shall be promulgated by the Select Committee on Ethics. Nothing in the provisions of the Standing Rules of the Senate shall be constructed to limit contributions to defray the legal expenses of the spouses or dependents of Members, officers, or employees of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REMOVAL OF INJUNCTION OF SECRECY—EXECUTIVE Q, 96TH CONGRESS, 2D SESSION

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from a tax convention with the Kingdom of Denmark (Executive Q, 96th Congress, 2d session), transmitted to the Senate today by the President of the United States; and ask that the treaty be considered as having been read the first time, that it be referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, a Convention between the Government of the United States of America and the Government of the Kingdom of Denmark for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (the Convention), together with a related exchange of notes, signed at Washington on June 17, 1980. I also transmit the report of the Department of State with respect to the Convention.

The Convention will replace the existing convention between the United States and Denmark, which has been in effect since 1948. It is similar to the United States model income tax convention published in May 1977, which takes into account the modernization of tax laws and conventions, but it retains certain provisions of the existing convention. For example, interest from investment and royalties continues to be exempt from withholding of tax at source.

In the new Convention, Denmark agrees to extend to the United States shareholders in Danish corporations a dividend tax credit similar to that available to Danish shareholders; Denmark regards this as a major concession, in that the United States does not grant an analogous reciprocal credit.

In addition, the Convention contains a provision, at the request of the United States, that allows either country to tax capital gains derived by residents of the other country from the sale of real property located in the first country.

An exchange of notes clarifies some technical points.

I recommend that the Senate give early and favorable consideration to the Convention and its advice and consent to ratification.

JIMMY CARTER.

THE WHITE HOUSE, *September 4, 1980.*

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, there will be no further rollcall votes today.

SACRAMENTO VALLEY CANALS, CENTRAL VALLEY PROJECT, CALIF.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 989.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2111) to extend the service area for the Sacramento Valley Canals, Central Valley project, California, and for other purposes.

(Mr. PRYOR assumed the chair.)

Mr. TOWER. Mr. President, I am informed that the bill has been cleared on this side of the aisle.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That the features authorized under section 2 of the Act of September 26, 1950 (64 Stat. 1036), as amended, and generally consisting of the Tehama-Colusa Canal with all necessary pumping plants and appurtenances, were intended to serve and were thereby authorized to serve those lands in Yolo County, California, lying within the boundaries of the Colusa County and Dunnigan water districts and existing contracts between the Secretary of the Interior and the Colusa County and Dunnigan water districts are hereby validated by the Congress with respect to the inclusion of said districts in the authorized service area of the Tehama-Colusa Canal.

SEC. 2. Section 2 of the Act of September 26, 1950 (64 Stat. 1036), as amended, is further amended by striking the phrase "Tehama, Glenn, and Colusa Counties or" and inserting in lieu thereof the phrase "Tehama, Glenn, and Colusa Counties, and those portions of Yolo County within the boundaries of the Colusa County, Dunnigan, and Yolo-Zamora water districts or".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the bill passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDEFINITE POSTPONEMENT OF CALENDAR MEASURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 734 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATIONS TO WILLIAM A. COX, JR.

Mr. HARRY F. BYRD, JR. Mr. President, it is with great pleasure that I take this opportunity to congratulate William A. Cox, Jr., professional engineer, of Virginia Beach, Va., who was recently elected president of the National Society of Professional Engineers, a nationwide organization which represents nearly 80,000 individual members working in all engineering fields.

Mr. Cox has a remarkable history of service to his profession, having served as a founding and charter board member and president of the Virginia Society of Professional Engineers (VSPE). In 1973, NSPE named him Engineer of the Year and, on three occasions, presented him with outstanding and distinguished service awards.

A registered professional engineer in Virginia and Florida, he is a graduate of the Virginia Polytechnic Institute. In 1946, he helped found Cox-Powell Corp. in Norfolk, Va., of which he is president.

Mr. President, it is with pride that I recognize a fine Virginian as he becomes president of the National Society of Professional Engineers.

THE JESSE HELMS CENTER

Mr. HARRY F. BYRD, JR. Mr. President, in a ceremony at Murfreesboro, N.C., on Labor Day, the senior Senator from North Carolina (Mr. HELMS) was honored by Chowan College.

Chowan's new physical education center was dedicated Monday morning and named the Jesse Helms Center.

Chowan is a 132-year-old college with an enrollment of 1,100; its president being Dr. Bruce E. Whitaker.

The dedication plaque is as follows:

Dedicated to The Glory of God and in honor of Jesse Alexander Helms, Jr., Monroe, North Carolina, Baptist Layman, United States Senator, Friend of Christian Higher Education, September 1, 1980.

I was pleased and honored to have been chosen as the dedication speaker. Chowan is situated about 30 miles from the Virginia border, and approximately 40 percent of the students are from Virginia.

The president of the student body is Sharee Atkinson of Petersburg, Va. The chairman of the board of advisers is Dr. H. Melvin Kunkle of Portsmouth, and the president of the Alumni Association is Mrs. Sandra McCoy of Norfolk.

I was much impressed with Chowan College and with the students. Indeed, it was heartwarming that at the conclusion of the National Anthem the students responded with prolonged applause.

There were 3,000 to 4,000 persons in the gymnasium for the dedication ceremony, and Senator HELMS received a tremendous ovation from the entire group. Especially significant, I think, was the prolonged applause he received from the students. Senator HELMS obviously has great strength, and deservedly so, among rank and file North Carolinians. He was reelected by a large majority 2 years ago, and appears even stronger today.

In talking with hundreds of those present Monday, I got the very clear impression that Senator HELMS' strength comes from his consistency and his willingness to fight for the principles in which he believes, even if he stands nearly alone—as he frequently does.

The naming of the splendid center at Chowan College for JESSE HELMS is a tremendous tribute to the senior Senator from North Carolina, and I wish that all of his Senate colleagues could have been present at the ceremony Monday.

ORDER FOR RECESS TODAY UNTIL MONDAY, SEPTEMBER 8, 1980, AT 1 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 1 p.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BAKER AND SENATOR TOWER ON MONDAY, SEPTEMBER 8, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on Monday next, Messrs. BAKER and TOWER be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS AND BILLS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess over until Monday at 1 p.m., committees may file bills, reports, and conference reports from 9 a.m. on Friday, September 5, to 3 p.m. on Friday, September 5.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR CERTAIN ACTION DURING RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during that same recess, the Secretary of the Senate be authorized to receive messages from the other body and/or from the President of the United States and that they may be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the same recess, the Vice President, the President pro tempore, the Acting President pro tempore be authorized to sign all duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DISABLED VETERANS REHABILITATION ACT OF 1980

Mr. ROBERT C. BYRD. Mr. President, today the Senate completed action on the Disabled Veterans Rehabilitation Act of 1980. The bill would improve and modernize Veterans' Administration rehabilitation programs for veterans disabled in service. Since the statutes for VA rehabilitation assistance were written more than 30 years ago, there have been many changes in rehabilitation concepts and therapy practices. Equally important, there have been significant changes in peoples' perception of the role of handicapped individuals in our society.

The legislation would take simple, but overdue and necessary steps to offer disabled veterans new opportunities to function independently, to find employment, and to contribute to society. It would also provide a modest cost-of-living increase in rehabilitation and educational benefits.

I thank my friend from California (Mr. CRANSTON) for his able management of the bill on the floor today. Legislation which he has authored and steered through the Veterans' Committee and through the Senate has been and will continue to be of great benefit to millions of veterans and their families across the country. I also commend Senator SIMPSON, ranking minority member of the Veterans' Committee, for his contribution to the legislation.

SENATOR ROBERT C. MORGAN

Mr. ROBERT C. BYRD. Mr. President, as the 96th Congress draws to a close, I would like to comment on the distinguished service rendered to the Senate by Senator ROBERT MORGAN during his first term.

The junior Senator from North Carolina was sworn in to the Senate in January 1975. Prior to his election in November 1974, Senator MORGAN had served his State as attorney general for 6 years and in the State Senate for 5 terms.

During his first 6 years in the U.S. Senate, ROBERT MORGAN has distinguished himself as a hard-working, conscientious, and reliable colleague. His forceful advocacy of strongly held beliefs has earned him the respect of this body.

ROBERT MORGAN is a team player. When difficult responsibilities are to be shared, he readily steps forward. He is the only original member of the Select Committee on Ethics who still serves there, and also was an original member of the Select Committee on Intelligence. As an active member of both select committees, he helped restore the faith in our governmental institutions which had been badly shaken during the Nixon administration.

ROBERT MORGAN has been a leading advocate for a strong national defense, and he has used his position on the Armed Services Committee to insure that this country stands prepared to defend its vital interests. He has supported efforts to increase the Nation's stock of modern weaponry, including a manned strategic bomber, the cruise missile and the MX missile system.

Senator MORGAN was an early Senate supporter of the registration of young men to provide the Nation with an inventory of manpower in the event of a national emergency. This year the Congress voted its support for this position.

ROBERT MORGAN'S extensive experience as a public official in largely rural North Carolina prepared him well for his responsibilities as chairman of the Rural Housing Subcommittee of the Banking, Housing and Urban Affairs Committee. He understands the need for rural development and has used his chairmanship to promote this goal.

During the 4 years of his chairmanship, the Farmers Home Administration has made more loans for rural housing than it had in the previous 40 years.

States rights has consistently been an important issue to the junior Senator from North Carolina. He has fought to uphold that section of the Constitution which reserves for the States those powers not given the Federal Government. On this issue, as with numerous others, he has faithfully represented the people of his State.

The people of North Carolina—a State which is required by law to balance its budget—are fiscally prudent. Senator MORGAN has reflected this heritage in his efforts to limit Federal spending and balance the Federal budget.

ROBERT MORGAN recognizes that we cannot balance the Federal budget with massive tax cuts. Even while seeking reelection, he has had the courage to argue the impossibility of cutting taxes, increasing defense spending, and balancing the budget unless nondefense spending is cut drastically.

Mr. President, I know North Carolina and I know its people. They are much like the people of my State of West Virginia. They are people who have their roots in the old virtues on which this Nation was founded and which have made this Nation great. They are nononsense people and they approach problems with commonsense solutions. They are not afraid to try new methods, but not just because they are new—they want to be sure that when they make changes, those changes will lead to better things.

And in my opinion, when they sent ROBERT MORGAN to represent them in the Senate, they sent a commonsense man who is entirely in tune with their way of thinking.

As he nears the end of his first term in the Senate, I would like to offer my thanks and congratulations to ROBERT MORGAN for a job well done.

RECESS UNTIL MONDAY, SEPTEMBER 8, 1980, AT 1 P.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 1 o'clock Monday next.

The motion was agreed to; and, at 6:08 p.m., the Senate recessed until Monday, September 8, 1980, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate September 4, 1980:

IN THE AIR FORCE

The following-named officers for promotion as a reserve of the Air Force, under the appropriate provisions of chapter 35 and 837, title 10, United States Code:

LINE OF THE AIR FORCE

Major to lieutenant colonel

Aaronson, Lewis, [redacted].
Aines, John A., [redacted].
Albright, Gary L., [redacted].
Alligood, Gilbert R., [redacted].
Alsip, Thomas E., [redacted].
Amber, Stanley, [redacted].
Ames, Robert T., Jr., [redacted].
Apgar, Henry E., Jr., [redacted].
Arbuckle, Don C., [redacted].
Atkinson, Thomas S., [redacted].
Bailey, James R., [redacted].
Barlow, Glenn B., [redacted].
Barnes, James H., Jr., [redacted].
Barrett, Frederick W., III, [redacted].
Bates, Austin B., [redacted].
Bean, Bruce, [redacted].
Becker, Allen S., [redacted].
Belcher, Alden C., [redacted].
Bell, Raymond L., Jr., [redacted].
Benavides, Louis H., Jr., [redacted].
Bengston, Leroy A., [redacted].
Bennett, Paul D., [redacted].
Bennett, Peter, [redacted].
Bennett, Thomas A., [redacted].
Berge, Donald E., [redacted].
Bess, Robert C., [redacted].
Beyeler, Kerry F., [redacted].
Blankenheim, Hans F., [redacted].
Blizzard, Gerald V., [redacted].
Bohan, James A., Jr., [redacted].
Boone, Harry D., [redacted].
Bowen, Ross R., [redacted].
Bozarth, Gerald W., Jr., [redacted].
Brachvogel, Donald F., [redacted].
Bridges, Clayton I., Sr., [redacted].
Brodnax, Charles T., [redacted].
Brown, Michael A., [redacted].
Brown, Richard C., [redacted].
Brown, Samuel N., Jr., [redacted].
Brown, William F., [redacted].
Brubeck, Hatfield C., Jr., [redacted].
Brumbaugh, Daughn L., [redacted].
Bubel, Howard L., [redacted].
Buchmeier, Otto, [redacted].
Buckner, Thomas A., III, [redacted].
Budge, David C., [redacted].
Buhler, Ernest O., [redacted].
Burkhart, Clark Jr., [redacted].
Burnham, Hathorne A., [redacted].
Busby, Leon R., [redacted].
Byerley, William H., Jr., [redacted].
Cairns, Darin T., [redacted].
Callahan, Robert C., [redacted].
Cano, Alonzo R., [redacted].
Capell, John L., [redacted].
Carbaugh, James H., [redacted].
Carney, John S., Jr., [redacted].
Casson, Charles B., [redacted].
Catey, David L., [redacted].
Cathey, George E., [redacted].
Caviness, Herman L., [redacted].
Chappell, Rulon A., [redacted].
Chirico, Dominick E., [redacted].
Choplin, John R., [redacted].
Cocco, Nicola, [redacted].
Cohen, Allen I., [redacted].
Conant, Ernest M., Jr., [redacted].
Conley, John F., [redacted].
Connell, Ralph W., [redacted].
Conway, William J., Jr., [redacted].
Cook, Richard L., [redacted].
Cooper, John T., [redacted].
Corbin, Jerry W., [redacted].
Cornwell, William C., [redacted].
Corson, Edgar E., Jr., [redacted].
Cosgrove, Richard D., [redacted].
Cowden, Stephen O., [redacted].
Craddock, Joe P., [redacted].

Crigler, Louis A., [redacted].
Criswell, Joe W., [redacted].
Currier, William R., [redacted].
Dangleis, Joseph P., [redacted].
Dart, George W., [redacted].
Davis, Lester J., [redacted].
Day, Foster H., [redacted].
Dejarnette, James C., IV, [redacted].
Denomme, Donald L., [redacted].
Diluzio, Rudolph G., [redacted].
Dilworth, David J., [redacted].
Dornfeld, Gerald R., [redacted].
Doscher, John H., Jr., [redacted].
Duncan, John K., [redacted].
Dutrow, George F., [redacted].
Duvall, William L., [redacted].
Dwyer, Robert J., [redacted].
Eichel, Richard S., [redacted].
Eichelberger, Robert A., [redacted].
Ellis, David A., [redacted].
Elman, Howard L., [redacted].
Erickson, Thad L., [redacted].
Euler, Charles W., [redacted].
Evaniuk, Edward C., [redacted].
Falk, Joel V., [redacted].
Farrell, Ronald E., [redacted].
Fearon, Calvin C., [redacted].
Filkill, Ronald R., [redacted].
Fisher, Frank P., [redacted].
Flair, Leo, [redacted].
Fleming, Thomas F., III, [redacted].
Folds, Joseph B., Jr., [redacted].
Ford, Charles C., [redacted].
Forkner, R. E., [redacted].
Forman, William H., Jr., [redacted].
Foxwell, Vaughn M., Jr., [redacted].
Frantz, James R., [redacted].
Freeman, James C., [redacted].
Fremd, Robert W., [redacted].
Friend, Edwin V., [redacted].
Gale, William C., [redacted].
Garner, Jerry L., [redacted].
Garrison, Durrell W., [redacted].
Gates, George O., [redacted].
Gault, James A., [redacted].
Gemelos, Elias N., [redacted].
Geoghan, Thomas L., [redacted].
Gereghty, Arthur G., Jr., [redacted].
Gerenz, Ralph F., [redacted].
Giblin, Thomas A., [redacted].
Gibson, James H., [redacted].
Gorman, Edward J., [redacted].
Gorman, Haven D., [redacted].
Gradinjan, Stephen P., [redacted].
Graham, Johnnie B., [redacted].
Greene, Wiley E., [redacted].
Griffin, Paul M., Jr., [redacted].
Griffith, Richard V., [redacted].
Griffith, Ritchie L., [redacted].
Grigsby, Jack L., [redacted].
Grose, Andrew P., [redacted].
Gross, James R., [redacted].
Guerra, Rafael, Jr., [redacted].
Gustavson, Donald O., [redacted].
Hackel, Stuart M., [redacted].
Hall, William H., [redacted].
Hannon, Lawrence H., [redacted].
Harper, David J., [redacted].
Harper, Merle G., [redacted].
Harrington, David R., [redacted].
Haskins, Burtrand S., [redacted].
Hasler, Dwight F., [redacted].
Haynes, William H., [redacted].
Haynie, Charles W., Jr., [redacted].
Hebert, Huey J., [redacted].
Hemphill, Kent W., [redacted].
Henny, Robert W., [redacted].
Hillman, Richard J., [redacted].
Himley, Richard O., [redacted].
Hinkle, Richard E., [redacted].
Hintzen, Martin H., [redacted].
Holbrook, Albert K., [redacted].
Holko, Andrew R., [redacted].
Hooper, George L., [redacted].
Hopkins, Douglas W., [redacted].
Inabinet, George E., Jr., [redacted].
Ingalls, Kenneth N., [redacted].
Ingram, Edsam M., [redacted].
Jackson, Bobbie G., [redacted].
James, James W., [redacted].
Janczyk, John E., [redacted].
Jarvis, Robert J., [redacted].
Jenkins, Tim W., [redacted].
Jernigan, George W., [redacted].
Jernigan, Kenneth J., [redacted].
Johnson, Benny L., [redacted].
Johnson, Cecil D., [redacted].
Johnson, James A. R., [redacted].
Johnson, Russell C., [redacted].
Johnson, Thomas S., [redacted].
Johnston, Melvin L., [redacted].
Jolly, William R., [redacted].
Jones, James E., [redacted].
Jones, Michael H., [redacted].
Jordan, Donald L., [redacted].
Justiss, Billy R., [redacted].
Kariker, Cecil R., [redacted].
Keen, Robert L., [redacted].
Kehoe, Peter J., [redacted].
Kelly, Douglas N., [redacted].
Kelly, Richard H., [redacted].
Kenney, John W., [redacted].
Kerley, Robert D., [redacted].
Kezar, Charles A., [redacted].
Kiefer, Robert J., [redacted].
Kimberlin, Ralph D., [redacted].
King, Bernard R., [redacted].
Kinoshita, Joseph A., [redacted].
Kirkstadt, James M., [redacted].
Klahre, Harold L., [redacted].
Klapel, Allen R., [redacted].
Klebold, Richard G., [redacted].
Klingbeil, Roger A., [redacted].
Kniffin, Andrew E., [redacted].
Knott, Roland B., [redacted].
Kosnick, Richard S., [redacted].
Krass, John G., [redacted].
Kubert, John P., Jr., [redacted].
Kuntz, Gordon B., [redacted].
Kvidera, Michael L., Jr., [redacted].
Lachinski, George R., [redacted].
Lafollette, John P., [redacted].
Lark, Richard F., [redacted].
Lawyer, John E., Jr., [redacted].
Leach, Charles A., [redacted].
Leazer, Donald W., [redacted].
Lee, Howard H., [redacted].
Leonard, David A., [redacted].
Leonard, John W., [redacted].
Lesesne, Eugene F., [redacted].
Lesinski, John M., [redacted].
Lifvergren, Bruce H., [redacted].
Lightfoot, Thomas E., [redacted].
Lomax, John D., [redacted].
Loosbrock, Marcel I., [redacted].
Lovfald, Lorin O., [redacted].
Lukens, Donald E., [redacted].
Lux, Edward C., Jr., [redacted].
MacDowell, David M., [redacted].
Maier, Norbert J., [redacted].
Maldonado, Joaquin S., [redacted].
Manis, Angelo G., [redacted].
Mansuetti, Leo, Jr., [redacted].
Marks, David D., [redacted].
Mayes, Thomas R., [redacted].
McCarley, Robert W., [redacted].
McCaughey, John R., [redacted].
McCoy, Richard A., [redacted].
McCracken, Theodore E., [redacted].
McDonald, Bross K., Jr., [redacted].
McDowell, Jerry W., [redacted].
McGrory, Robert C., [redacted].
McGuinness, Richard J., Jr., [redacted].
McKinney, William F., [redacted].
McQuate Jack E., [redacted].
McWilliams, Rhea A., Jr., [redacted].
Meriakri, Alexander, [redacted].
Merna, Robert L., [redacted].
Mestre, Richardo W., [redacted].
Meyer, George C., [redacted].
Mikulecky, Richard J., [redacted].
Milligan, Thomas F., [redacted].
Mims, Roy L., [redacted].
Mitchell, Samuel P., [redacted].
Mitchelmore, Gary E., [redacted].
Mocarski, Alexander W., [redacted].
Mock, Terry L., [redacted].
Moore, Gerald J., [redacted].
Morgan, Jack W., [redacted].
Morrison, Burkhardt N., [redacted].
Morrissey, Thomas F., [redacted].
Mosier, Bruce M., [redacted].
Moulton, Harry A., [redacted].
Muckstadt, John A., [redacted].
Murphy, Donald J., [redacted].
Murphy, Timothy J., Jr., [redacted].
Myers, Brenton D., [redacted].
Myers, William A., [redacted].
Nagy, Robert A., [redacted].
Nanney, John P., III, [redacted].
Nelson, Charles H., [redacted].
Ness, Buford D., [redacted].
Neubert, Thomas L., [redacted].
Newcomb, Allen J., [redacted].
Newell, David B., [redacted].
Niven, William A., [redacted].
Noreen, Courtney W., [redacted].
Normand, Kenneth A., [redacted].
Norris, Hugh C., Jr., [redacted].
Norton, Leslie L., [redacted].
Nugent, Maurice J., [redacted].
Nutt, Keith L., [redacted].
Odom, Robert E., [redacted].
Oleary, Joseph P., [redacted].
Olsen, Harold A., [redacted].
Osborne, Charles E., [redacted].
Osborne, Lynwood H., [redacted].
Osik, Robert J., [redacted].
Palmer, William C., [redacted].
Papa, Henry W., [redacted].
Pappas, Nicholas, [redacted].
Pattridge, Roger H., [redacted].
Peck, Frank E., [redacted].
Pepples, Craig A., [redacted].
Pegg, Leonard C., [redacted].
Pfister, Robert E., [redacted].
Picknally, Robert J., [redacted].
Plehal, William B., [redacted].
Polk, James G., [redacted].
Polzin, Robert R., [redacted].
Porter, Charles D., [redacted].
Prentiss, Charles A., [redacted].
Probst, Robert C., [redacted].
Purkalitis, Varis, [redacted].
Raymer, James A., [redacted].
Reed, William H., [redacted].
Reeder, Allen E., Jr., [redacted].
Reichert, Charles M., [redacted].
Reid, John R., [redacted].
Richardson, Henry M., [redacted].
Richardson, Robert C., [redacted].
Ritchie, Richard S., [redacted].
Robins, Raymond C., [redacted].
Robinson, Peter G., [redacted].
Robnett, Dean E., [redacted].
Rock, Leo P., Jr., [redacted].
Rockwell, Lorin L., [redacted].
Rodgers, Charles, [redacted].
Rodriguez, Rodolfo R., [redacted].
Rogers, James E., [redacted].
Roosna, Valdek, [redacted].
Ross, George H., [redacted].
Rubel, Ray R., [redacted].
Ruggiero, Robin R., [redacted].
Rushmore, Thomas C., [redacted].
Russell, Richard A., [redacted].
Sample, Travis L., [redacted].
Sandlin, Albert L., Jr., [redacted].
Sapp, Edwin G., [redacted].
Saroni, Maurice J., [redacted].
Sawyer, George L., [redacted].
Sawyer, Newel E., [redacted].
Scheder, Frank L., [redacted].
Schenk, Robert E., [redacted].
Schlegel, Robert A., [redacted].
Schnell, John J., [redacted].
Schoen, Lewis L., [redacted].
Schrock, Derel D., [redacted].
Schultz, Neil H., [redacted].
Schuster, Fredrick L., Jr., [redacted].
Seabright, Ralph W., II, [redacted].
Searle, Clark W., [redacted].
Seemann, Arthur D., [redacted].
Seivert, Richard H., Jr., [redacted].
Sharpe, Theodore C., [redacted].
Sheridan, Donald T., [redacted].
Sherrow, Herbert R., Jr., [redacted].
Shrack, Gene F., [redacted].
Sibbald, David M. H., [redacted].
Singleton, James A., III, [redacted].
Slebrch, Eugene P., [redacted].
Sleeper, Alburn R., [redacted].
Slothower, Douglas W., [redacted].

Smith, Jerry G., [redacted].
Smoot, Marvin T., Sr., [redacted].
Sommer, Richard B., [redacted].
Spangler, Warren E., [redacted].
Speth, Peter P., [redacted].
Stanton, Charles L., [redacted].
Steele Clifford W., [redacted].
Stegman, Ronald C., [redacted].
Stoiber, George A., [redacted].
Storment, John W., [redacted].
Strickland, Wilton W., [redacted].
Sullivan, William A., [redacted].
Svarverud, Dale M., [redacted].
Szappanos, Emeric T., [redacted].
Szendrey, John P., [redacted].
Talley, Bernard L., Jr., [redacted].
Tanaka, Kenny, [redacted].
Taylor, Vin A., [redacted].
Teasley, Martin M., [redacted].
Thomas, Jerry J., [redacted].
Thomsen, Bruce D., [redacted].
Thomssen, Darrel D., [redacted].
Thurlow, John S., [redacted].
Thweatt, Jerome A., [redacted].
Timmerman, John C., Jr., [redacted].
Tintle, David F., Jr., [redacted].
Tracy, William D., [redacted].
Travis, Rex K., [redacted].
Trefethen, Robert T., [redacted].
Trevor, Malcolm L., [redacted].
Tucker, Franklin D., [redacted].
Turk, George L., [redacted].
Turner, Van W., Jr., [redacted].
Vanderveen, John E., [redacted].
Vanmeter, Donald E., [redacted].
Vaughan, John E., [redacted].
Vick, Orville T., [redacted].
Vincent, Eugene G., [redacted].
Walsh, Robert A., [redacted].
Walter, Raymond C., Jr., [redacted].
Webb, Jon N., [redacted].
Webster, Edward F., [redacted].
Wege, David J., [redacted].
Wehr, Rolf A., Jr., [redacted].
Wendt, David K., [redacted].
Wetzel, James C., [redacted].
Whittemore, John D., [redacted].
Wilkins, Warren E., [redacted].
Winslow, John M., Jr., [redacted].
Winters, Walter L., Jr., [redacted].
Withers, Robert L., [redacted].
Wolff, William J., [redacted].
Woodin, William L., [redacted].
Woodruff, Gary L., [redacted].
Woolley, Verlin R., [redacted].
Worthington, Daniel J., [redacted].
Wrabel, John J., [redacted].
Wright, Larry O., [redacted].
Yu Jackson, [redacted].

CHAPLAIN CORPS

Bahr, Vernon L., [redacted].
Clarke, Thomas J., [redacted].
Gholston, Cecil E., [redacted].
Greene, James F., [redacted].
Lenihan, John P., [redacted].
Martin, William F., [redacted].
McCarter, Calvin W., [redacted].
Murphy, Miles, Jr., [redacted].
Nelson, Warren A., [redacted].
Phillips, Donald G., [redacted].
Relic, John M., [redacted].
Ross, Curtis E., [redacted].
Smeltzer, John P., [redacted].
Thomas Wilton B., [redacted].

DENTAL CORPS

Anderson, Maynard C., [redacted].
Cash, Allan H. Jr., [redacted].
Cheney, George K. III, [redacted].
Deen, Allen L., [redacted].
Gordon, Dean W., [redacted].
Holt, Stanley E., [redacted].
Jones, Thomas M., [redacted].
Pelosi, Robert A., [redacted].
Watson, Richard, [redacted].
Welsh, Edward L., [redacted].

MEDICAL CORPS

Acostavelez, Carlos F., [redacted].
Arthes, Federico G., [redacted].
Aubrey, Howard L., [redacted].
Cambier, Jacob W., [redacted].
Congdon, David R., [redacted].
Curran, John S., [redacted].
Dugdale, William R., [redacted].
Ellis, Roy C. Jr., [redacted].
Gilner, Donald M., [redacted].
Herron, Neal F. Jr., [redacted].
Hill, James A., [redacted].
Jansen, George A., [redacted].
Joneslukacs, Elizabeth L., [redacted].
Kapstrom, Albert B., [redacted].
Kelly, Thomas J., [redacted].
Lea, Frederick G., [redacted].
Maxwell, John R., [redacted].
Menn, Stuart J., [redacted].
Metzger, Walter S., [redacted].
Millburn, Lowell F., [redacted].
Ong, Arsenio M., [redacted].
Perico, Carlos J., [redacted].
Riego, Arturo M., [redacted].
Surratt, Jay C., [redacted].
Turner, Francis L., [redacted].
Turner, Jerald B., [redacted].
Urban, Stephen F. Jr., [redacted].
Willoughby, William F., [redacted].

NURSE CORPS

Abrams, Patricia A., [redacted].
Adamczyk, Leonore M., [redacted].
Aleman, Nancy E., [redacted].
Anthony, Rosemary A., [redacted].
Ausen, Ardyce H., [redacted].
Baker, Alexe M., [redacted].
Bergeron, Pauline M., [redacted].
Best, Marilyn A., [redacted].
Bryan, Elsiemae, [redacted].
Camenzend, Ramah J., [redacted].
Carawon, Betty J., [redacted].
Carter, Pauline E., [redacted].
Collins, Deanna L., [redacted].
Danowski, Catherine A., [redacted].
Vevanna, Kathleen M., [redacted].
Dillion, Barbara A., [redacted].
Dilworth, Richard F., [redacted].
Dixon, Audrey A., [redacted].
Dobosz, Mary E., [redacted].
Dobson, Rita E., [redacted].
Donofrio, Anne M., [redacted].
Eszlinger, Julia E., [redacted].
Evans, Edith Y., [redacted].
Gibbons, Mary C., [redacted].
Gier, Margaret E., [redacted].
Gondolfo, Rosario C., [redacted].
Grams, Carol A., [redacted].
Graner, Alice M. H., [redacted].
Grant, Katherine L., [redacted].
Guyton, Nancy C., [redacted].
Hacherl, Michele C., [redacted].
Hall, Caroline M., [redacted].
Hamilton, Rosalind W., [redacted].
Holland, Carol A., [redacted].
Hughes, Naomi F., [redacted].
Jones, Charles E., [redacted].
Jordan, Shirley M., [redacted].
Kamper, Sandra M., [redacted].
Keller, Barbara A., [redacted].
Kelly, Marylou I., [redacted].
King, Sylvia R., [redacted].
Kocon, Patricia A., [redacted].
Koenig, Evelyn L., [redacted].
Kristofsky, Nellie I., [redacted].
Labonoski, Monica J., [redacted].
Lewis, Donna J., [redacted].
Maeder, Darlene A., [redacted].
Matsumoto, Mabel Y., [redacted].
McAfee, Maryann, [redacted].
McGowan, Geraldine B., [redacted].
Merkel, Esther M., [redacted].
Miller, Beverly A., [redacted].
Montgomery, Judith A., [redacted].
Moore, Rita V., [redacted].
Normand, Judith A., [redacted].
O'Neill, Rosella M., [redacted].
Owin, Juanita E., [redacted].
Parrillo, Cecilia D., [redacted].
Patton, Dorothy S., [redacted].
Pedersen Helen J., [redacted].
Ray, Marilyn A., [redacted].
Reinke, Frances F., [redacted].
Sacawa, Marion A., [redacted].
Skipper, Julie J., [redacted].
Snow, Yvonne A., [redacted].
Stone, Carolyn R., [redacted].
Strain, William C., [redacted].
Vanderveen, Ruth E., [redacted].
Wahl, Madeline E., [redacted].
Wilson, Waymon M., [redacted].
Wode, Dora B., [redacted].

MEDICAL SERVICE CORPS

Bailey, Jack C., [redacted].
Blaschke, Ewald J., [redacted].
Bowen, James O., [redacted].
Child, Jerry D., [redacted].
Creed, Robert B., [redacted].
Davidson, Allan W., [redacted].
Eberley, Robert E., [redacted].
Johnson, Richard W., [redacted].
Lorenz, Gerald J., [redacted].
Mason, William M., [redacted].
McIntosh, Stuart S., [redacted].
Mosher John E., [redacted].
Proctor, Marvin F., Jr., [redacted].
Rardin, Ronald A., [redacted].
Schleh, Robert C., [redacted].
Simmons, Henry H., [redacted].
Sorter, Bruce W., [redacted].
Young, Samuel S., [redacted].

BIOMEDICAL SCIENCE

Basile, Joseph R., [redacted].
Bibeau, Robert A., [redacted].
Boehrer, Jane M., [redacted].
Bowler, Richard W., [redacted].
Brown, Mary L., [redacted].
Butterweck, Joseph S., [redacted].
Dumas, Ronald L., [redacted].
Fox Edgar M., [redacted].
Friedle, Carolyn J., [redacted].
Hanley, Eugene P., [redacted].
Hanson, John R., [redacted].
Johnson, William S., [redacted].
Kummero, Virgil E., Jr., [redacted].
Meloan, Don W., [redacted].
Quirin, Frederick M., [redacted].
Waxman, Irwin [redacted].
Whiting, John H., [redacted].

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

To be captain

Abshire, Daniel J., [redacted].
Achey, Michael D., [redacted].
Acklin, James T., [redacted].
Adair, George W., [redacted].
Adams, Walter H., [redacted].
Ahne, David J., [redacted].
Ajas, Hiroshi, [redacted].
Alba, Ruperto R., [redacted].
Aldwell, Anthony A., [redacted].
Alexander, Gilbert D., Jr., [redacted].
Alford, Dennis L., [redacted].
Allen, Jimmy R., [redacted].
Allmon, Robert R., [redacted].
Alsop, James A., [redacted].
Alvis, Joe W., [redacted].
Anderson, Barbara B., [redacted].
Anderson, Lois E., [redacted].
Antal, Gary S., [redacted].
Antell, Mark R., [redacted].
Armstrong, Frank I., [redacted].
Arnold, Walter A., [redacted].
Asbury, Edward T., Jr., [redacted].
Atwell, Keith A., [redacted].
Babson, Thomas F., [redacted].
Baker, Craig M., [redacted].
Baker, Dean L., [redacted].
Baker, Roosevelt, Jr., [redacted].
Baker, Stanley L., [redacted].
Bale, Arthur L., [redacted].
Ball, Ted M., [redacted].
Ballengee, James E., [redacted].
Balzli, Peter J., [redacted].
Bankhead, David H., [redacted].
Barker, Bruce E., [redacted].

Barker, Merna R., [redacted].
Barnes, Randall T., [redacted].
Barrow, Robert J., [redacted].
Barsalou, Joseph N. A., [redacted].
Bartz, David W., [redacted].
Bates, Leonard H., [redacted].
Beaman, Robert E., [redacted].
Beazley, William B., [redacted].
Becker, Donald A., [redacted].
Becker, Harold L., Jr., [redacted].
Beesley, Ronald L., [redacted].
Belie, Robert G., [redacted].
Bell, Charles W., [redacted].
Bell, David M., [redacted].
Bennett, Ross E., [redacted].
Beres, Thomas M., [redacted].
Bessel, Robert P., Jr., [redacted].
Best, Eugene S., [redacted].
Bethart, Thomas H., [redacted].
Biancalana, Martin J., [redacted].
Birgel, Stephen H., IV, [redacted].
Bittlinger, Harry F., Jr., [redacted].
Blanar, Reuben W., Jr., [redacted].
Blank, Richard A., [redacted].
Blocher, William K., [redacted].
Bolen, Paul S., [redacted].
Bombeck, Jeffrey L., [redacted].
Bonnell, Richard A., [redacted].
Bores, David A., [redacted].
Borgman, Marvin L., [redacted].
Bostelman, David R., [redacted].
Bowman, Margaret A., [redacted].
Bowman, Ronald L., [redacted].
Bradshaw, Steven M., [redacted].
Braud, Stuart P., [redacted].
Braun, Richard H., [redacted].
Braund, Thomas F., [redacted].
Brewer, Milton M., [redacted].
Britt, David L., [redacted].
Brod, Joseph D., [redacted].
Brown, Owen S., [redacted].
Brown, Paul T., Jr., [redacted].
Brown, Rufus, Jr., [redacted].
Brown, William N., [redacted].
Bryant, Jeffery W., [redacted].
Bryce, Linda K., [redacted].
Bunt, Joe M., [redacted].
Bush, James A., Jr., [redacted].
Bush, Michael D., [redacted].
Butler, Ralph Q., [redacted].
Butler, Robert K., Jr., [redacted].
Butt, Ray L., Jr., [redacted].
Bystrom, Karl H., [redacted].
Caldwell, Charles S., [redacted].
Callaway, Vera S., [redacted].
Canaday, Ralph W., [redacted].
Candelario, Buddy W., [redacted].
Capes, Robert C., [redacted].
Carlson, Robert D., [redacted].
Carr, Vernon, III, [redacted].
Carrier, Rick T., [redacted].
Carruthers, Arthur B., [redacted].
Cashes, Joseph A., Jr., [redacted].
Cattron, Kirt R., [redacted].
Chalkley, Randolph J., [redacted].
Chamberlin, Gary G., [redacted].
Chapin, Ronald J., [redacted].
Chapman, Clayton J., Jr., [redacted].
Cheek, Richard V., [redacted].
Chesterman, Patrick J., [redacted].
Christopher, Richard S., [redacted].
Cima, Michael T., [redacted].
Clark, Gerald D., [redacted].
Clark, Thomas R., [redacted].
Clark, William G., [redacted].
Clarke, Lane R., [redacted].
Cleland, Timothy R., [redacted].
Coco, Louis J., Jr., [redacted].
Coe, Robert L., [redacted].
Colliander, Paul G., [redacted].
Collins, Patrick J., [redacted].
Collins, Robert J., Jr., [redacted].
Comer, John E., Jr., [redacted].
Conley, Robert J., [redacted].
Connolly, Richard P., [redacted].
Conroy, James G., [redacted].
Cooper, Sheldon B., [redacted].
Cornette, Earl M., Jr., [redacted].
Court, Charles M., [redacted].
Couto, C. Douglass, [redacted].
Cowan, Paul G., [redacted].
Cox, Donald A., [redacted].
Crawford, Ervin, [redacted].
Crespo, Francis J., [redacted].
Crowder, Benjamin G., [redacted].
Crumley, General F. II, [redacted].
Cryer, Jerry M., [redacted].
Cummings, Stephen P., [redacted].
Cunningham, Robert E., [redacted].
Cussins, Roger L., [redacted].
Cyriaks, John B., [redacted].
Danner, Lawrence M., [redacted].
Danzey, Richard E., Jr., [redacted].
Davis, Jimmie R., [redacted].
Davis, John C., [redacted].
Davis, John R., [redacted].
Day, Joseph G., [redacted].
Dean, Charles H., [redacted].
Dennis, John W., Jr., [redacted].
Desanto, Robert J., [redacted].
Diegelman, Larry P., [redacted].
Dillon, James E., [redacted].
Doan, Robert H., [redacted].
Dobrowolski, Henry J., [redacted].
Dohanyos, Alan J., [redacted].
Donovan, John M., [redacted].
Doran, Lenn A., [redacted].
Downer. Virgil D., [redacted].
Dozier, William K., [redacted].
Dreiling, Rene F., [redacted].
Drelick, Walter J., [redacted].
Dubner, Joseph L., [redacted].
Dunbar, James G., [redacted].
Duncan, C.M., III, [redacted].
Dungan, William C., [redacted].
Durham, Randy P., [redacted].
Dwyer, John J., III, [redacted].
Ebsen, Gregory P., [redacted].
Edelen, Michael A., [redacted].
Egan, Christopher D., [redacted].
Eilermann, Keith G., [redacted].
Elder, Richard J., [redacted].
Ellis, Dale L., [redacted].
Ellis, Lawrence R., [redacted].
Elmore, Robert L., Jr., [redacted].
Engbers, Stephen K., [redacted].
England, Michael C., [redacted].
Epley, Jerry D., [redacted].
Faber, Terry L., [redacted].
Fager, Jerry D., [redacted].
Falkenstein, Kurt A., [redacted].
Feeser, Timothy L., [redacted].
Feit, Donald L., [redacted].
Fellows, Jack R., [redacted].
Fenton, David S., [redacted].
Ferguson, Richard M., [redacted].
Ferrell, John S., [redacted].
Ferren, George J., [redacted].
Ficklin, George R., [redacted].
Fickling, Raymond L., [redacted].
Filios, John G., [redacted].
Fingerlos, James P., [redacted].
Fischer, Cary A., [redacted].
Fitzpatrick, Harry B., [redacted].
Flowers, Larry F., [redacted].
Foor, Daniel B., [redacted].
Ford, Jerry L., [redacted].
Fowler, Robert C., [redacted].
Frazho, Glenn J., [redacted].
Freeman, Donald A., [redacted].
Fritch, William R., [redacted].
Fulghum, Joseph T., [redacted].
Fultz, Robert T., [redacted].
Furbush, Robert M., [redacted].
Gagnon, Lannis K., [redacted].
Gaiter, Franz R., [redacted].
Galan, Iris I., [redacted].
Galpin, James E., [redacted].
Gandee, Patrick L., [redacted].
Ganger, Stephen R., [redacted].
Garton, Daryl W., [redacted].
Gauci, Dennis J., [redacted].
Gauthier, Robert J., [redacted].
Genaw, Edward G., [redacted].
Gewain, Matthew P. III, [redacted].
Gibbons, James E., [redacted].
Gibbons, Lawrence C., [redacted].
Gibbs, Alan W., [redacted].
Gibbs, Douglas R., [redacted].
Gibson, Richard B., [redacted].
Gill, Robert P., [redacted].
Gillett, Keith R., [redacted].
Glasgow, Frank J., Jr., [redacted].
Glover, Kenneth J., [redacted].
Goss, William G., [redacted].
Goudreau, Roger L., [redacted].
Grace, Robert W., [redacted].
Graham, David C., [redacted].
Gray, Lewis H., Jr., [redacted].
Green, Gerald A., [redacted].
Greene, Mandell H., [redacted].
Grek, John E., [redacted].
Grubbs, Paul A., [redacted].
Grundy, Michael T., [redacted].
Gummo, Thomas L., [redacted].
Gunn, Mark D., [redacted].
Guoan, William H., [redacted].
Gutheinz, David J., [redacted].
Haas, Samuel J., III, [redacted].
Hajdu, William, [redacted].
Hale, Coy R., [redacted].
Halfmann, Eugene P., [redacted].
Hamilton, Terry J., [redacted].
Hammon, Charles M., [redacted].
Hanks, Clifford G., [redacted].
Hansen, Larry A., [redacted].
Haralson, Roger T., [redacted].
Harlamor, Slava W., [redacted].
Harless, George C., Jr., [redacted].
Harrell, Joseph E., [redacted].
Harrington, Charles A., III, [redacted].
Harris, William T., [redacted].
Harsany, Frederick J., [redacted].
Harstine, John R., [redacted].
Harvey, Percy L., [redacted].
Hatfield, David M., [redacted].
Havens, Gregg R., [redacted].
Hearn, William L., [redacted].
Heck, Raymond D., [redacted].
Heilman, William J., III, [redacted].
Heller, Larry J., [redacted].
Hemmerly, Richard M., [redacted].
Hendricks, David L., [redacted].
Henkle, James B., [redacted].
Henthorn, Charles R., [redacted].
Herbolsheimer, Glen A., [redacted].
Hesse, John L., [redacted].
Hidler, Allen E., [redacted].
Higgins, John N., [redacted].
Hill, Wayne H., [redacted].
Hille, Eric J., [redacted].
Hillin, Harry C., [redacted].
Hoag, Edwin C., [redacted].
Hoffman, Frederick C., [redacted].
Holmes, Vernon I., [redacted].
Holt, James R., [redacted].
Holtzman, Lynn I., [redacted].
Horch, Thomas C., [redacted].
Horne, Gary A., [redacted].
Horsfall, John D., [redacted].
Hoshour, James A., [redacted].
Houp, Gary S., [redacted].
House, Robert T., [redacted].
Howard, John D., [redacted].
Howell, Larry B., [redacted].
Hu, Edward C. Y., [redacted].
Hudlin, Charles W., [redacted].
Hudson, Raymond E., Jr., [redacted].
Huebner, Kent L., [redacted].
Hughes, Luther F., [redacted].
Huntsman, Jay K., [redacted].
Huston, Edward S., [redacted].
Ivey, Ronald D., [redacted].
Jackson, Donald E., [redacted].
Jackson, Stephen L., [redacted].
January, Ibra B., [redacted].
Jaremko, Christine L., [redacted].
Jarrell, George A., [redacted].
Jeffreys, John R., [redacted].
Jenchura, James F., [redacted].
Jewell, David C., [redacted].
Jewell, Donald L., [redacted].
Johnson, Daniel E., [redacted].
Johnson, Jeanne M., [redacted].
Johnson, Leon J., [redacted].
Johnson, Peter H., [redacted].
Johnson, Verlan, [redacted].
Johnston, Paul J., [redacted].
Jones, Dwight L., [redacted].
Jones, John F., Jr., [redacted].

Jones, Richard L., [redacted].
Jordan, Hal W., [redacted].
Jordan, Jack L., [redacted].
Jurek, Stanley H., [redacted].
Kamerer, Alain B., [redacted].
Kane, Michael, [redacted].
Karl, Lawrence A., Jr., [redacted].
Kelley, James D., [redacted].
Kelley, Stephen E., [redacted].
Kelley, Francis C., Jr., [redacted].
Kershaw, Robert W., III, [redacted].
Kettela, David J., [redacted].
Kettner, Joseph F., [redacted].
Kilgore, Mary E., [redacted].
Kilp, Dennis W., [redacted].
King, Carl V., [redacted].
King, Gerald L., [redacted].
King, Michael J., [redacted].
King, Philip A., [redacted].
Kintner, Mark A., [redacted].
Kipps, Warren W., [redacted].
Kirchner, Gregory A., [redacted].
Kirk, Carlton K., [redacted].
Kjesbo, Lee A., [redacted].
Kling, Lawrence C., Jr., [redacted].
Knutson, Eric K., [redacted].
Koch, James C., II, [redacted].
Kranz, Stephen F., [redacted].
Kreighbaum, Franklyn B., [redacted].
Kuhar, Charles A., Jr., [redacted].
Kunstadt, Ernest, III [redacted].
Kwan, Anthony J., [redacted].
Lamkey, Robert J., [redacted].
Lamoureaux, Donald W., [redacted].
Lane, Marcus J., [redacted].
Laney, Theon W., [redacted].
Langey, Michael B., [redacted].
Lapointe, Gilbert J., Jr. [redacted].
Lappe, Steven G., [redacted].
Lapusheski, Charles, [redacted].
Latham, Michael T., [redacted].
Lauritzen, Michael A., [redacted].
Lee, Peter H., [redacted].
Lee, Samuel J., [redacted].
Leger, Darryl W., [redacted].
Lett, Jerry M., [redacted].
Lewis, Richard B. H., [redacted].
Lilley, Michael T., [redacted].
Livingston, Luther H., [redacted].
Long, Benny D., [redacted].
Lorincz, Thomas E., [redacted].
Lowery, Donald F., [redacted].
Lowery, Robert D., [redacted].
Lucas, Harry B., Jr., [redacted].
Ludvigsen, John R., [redacted].
Ludwig, William E., [redacted].
Lunsford, Jerry W., [redacted].
Lynn, Gary D., [redacted].
Maasjo, Bradley A., [redacted].
Macartor, Neal C., [redacted].
Macaulay, Alvin G., [redacted].
Madden, John D., [redacted].
Magnuson, Robert N., [redacted].
Manko, Edward J., [redacted].
Manlove, Dow E., Jr., [redacted].
Mann, Thomas C., [redacted].
Marshall, Paul C., III, [redacted].
Martello, Michael J., [redacted].
Martin, Gary P., [redacted].
Martin, Jacob E., [redacted].
Martinez, James E., [redacted].
Mason, Allen E., [redacted].
Mason, Timothy J., [redacted].
Matarazzo, Daniel T., [redacted].
Mathis, Jon W., [redacted].
Matthews, Edward C. II, [redacted].
Mazurowski, Alfonse J., [redacted].
McAfee, John H., [redacted].
McCladdie, Willie, [redacted].
McCord, Richard D., Jr., [redacted].
McCoy, David B., [redacted].
McDougald, Neil A., [redacted].
McEwen, Lewis P., [redacted].
McFarland, Michael W., [redacted].
McKim, Michael L., [redacted].
Mercer, Bret T., [redacted].
Merrill, Alan B., [redacted].
Mertz, Brian M., [redacted].
Mestemaker, David C., [redacted].
Mikesell, Richard E., [redacted].
Miklasevich, James, [redacted].
Miknis, Gerard M., [redacted].
Mikoleit, Kenneth J., [redacted].
Miller, Hugh G., [redacted].
Miller, Richard D., [redacted].
Miller, Robert L., [redacted].
Miller, Rodney L., [redacted].
Miller, William A., [redacted].
Milligan, Thomas H., [redacted].
Millikin, Richard J., [redacted].
Mills, Harold M., [redacted].
Mims, Cecil L., [redacted].
Miner, Robert C., [redacted].
Minsterl, James R., [redacted].
Mistele, Britton M., [redacted].
Mitchell, Robert N., [redacted].
Moeller, David H., [redacted].
Moeller, Peter G., II, [redacted].
Monk, Gerald W., [redacted].
Montgomery, Larry S., [redacted].
Moore, Jerry D., [redacted].
Moreno, Richard, [redacted].
Morgan, Charles E., [redacted].
Morgan, John D., [redacted].
Mulholland, Alan R., [redacted].
Nastasi, Joseph P., [redacted].
Nawoj, Bruce E., [redacted].
Neal, Earl W., [redacted].
Neissel, Coral D., [redacted].
Nelms, Winston D., [redacted].
Nelson, James R., [redacted].
Nelson, Richard H., [redacted].
Nett, Thomas J., [redacted].
New, William D., [redacted].
Newcom, Winfred D., [redacted].
Nicodemus, Ivan F., [redacted].
Nighbert, Kenneth P., [redacted].
Nolan, Thomas C., [redacted].
Obyrne, William C., III, [redacted].
Odonnell, William H., [redacted].
Older, Mark E., III, [redacted].
Oleyar, John E., [redacted].
Oneill, Michael D., [redacted].
Onikama, Burton K., [redacted].
Orban, Roger L., [redacted].
Orr, John D., Jr., [redacted].
Owens, Dewey B., [redacted].
Owens, William D., III, [redacted].
Page, Robert F., [redacted].
Pairett, Charles E., [redacted].
Palmcook, William E., [redacted].
Panter, James R., [redacted].
Paris, Paul N., Jr., [redacted].
Parker, Allen D., [redacted].
Parker, Donald W., Jr., [redacted].
Patrick, Nicholas, [redacted].
Patterson, Donald, [redacted].
Patterson, Thuman B., Jr., [redacted].
Patton, David J., [redacted].
Patton, William J., [redacted].
Payseur, James W., Jr., [redacted].
Peer, Richard G., [redacted].
Pena, Benedict G., [redacted].
Perdue, David L., [redacted].
Perkumas, Joseph D., [redacted].
Perry, Joe M., [redacted].
Pesterfield, John D., [redacted].
Phelps, Dwight E., [redacted].
Phelps, Thomas L., [redacted].
Pierce, Robert D., [redacted].
Pindzola, Stephen, [redacted].
Pintler, Richard W., [redacted].
Plaskett, Richard L., [redacted].
Pontius, Chester M., [redacted].
Pratt, Donald R., [redacted].
Pricer, Stanley M., [redacted].
Prince, Glen D., [redacted].
Probart, Thomas L., [redacted].
Pursell, Terry E., [redacted].
Pyle, Steven J., [redacted].
Ramsden, James A., [redacted].
Rankin, Clifford A., [redacted].
Rebeck, James S., [redacted].
Rees, Kenneth R., Jr., [redacted].
Reeve, David C., [redacted].
Reid, Timothy W., [redacted].
Reimers, Perry G., [redacted].
Reinema, Loren L., [redacted].
Reisenger, James R., [redacted].
Remington, James H., [redacted].
Repaal Douglas L, [redacted].
Reynolds, Richard T., [redacted].
Reynolds, William J., [redacted].
Rhue, George T., [redacted].
Richwine, John C., [redacted].
Ritter, Lee E., [redacted].
Ritz, Mark A., [redacted].
Roberts, Allen M., [redacted].
Roberts, David E., Jr., [redacted].
Robinson, Hugh C., [redacted].
Rooney, Michael T., [redacted].
Rossbach, Gary P., [redacted].
Rosson, Roark M., [redacted].
Rotge, James R., [redacted].
Rothenberg, Damon P., [redacted].
Rothweiler, William A., [redacted].
Russell, Michael J., [redacted].
Salberg, Russell H., III., [redacted].
Salisbury, Edwin H., Jr., [redacted].
Sampson, David C., [redacted].
Sanborn, Keith D., [redacted].
Sanders, David W., [redacted].
Scherzberg, Craig A., [redacted].
Schiffner, Larry L., [redacted].
Schmidt, Rebecca L., [redacted].
Schmitz, Rodney H., Jr., [redacted].
Schmoll, Joseph H., [redacted].
Schoonover, Kenneth, [redacted].
Scott, Robert W., [redacted].
Schott, Steven R., [redacted].
Scully, Robin E., [redacted].
Seekins, Robert S., [redacted].
Seeman, Russell E., [redacted].
Segura, Mark A., [redacted].
Sellner, James A., [redacted].
Sewell, Larry R., [redacted].
Shackelford, James G., [redacted].
Shallington, Jackie T., [redacted].
Shaw, Gerald L., [redacted].
Shawhan, David N., [redacted].
Shea, Dennis M., [redacted].
Shelton, Bernard E., Jr., [redacted].
Shiel, Walter P., [redacted].
Shoemaker, Roger L., [redacted].
Showalter, Frank G., III, [redacted].
Showalter, Thomas W., [redacted].
Showers, Jerry L., [redacted].
Siebert, William F., III, [redacted].
Sieck, Robert C., [redacted].
Sismour, Richard P., [redacted].
Skomski, James M., [redacted].
Slone, Melvin S., Jr., [redacted].
Smith, Alan G., [redacted].
Smith, James R., [redacted].
Smith, Lendon J., Jr., [redacted].
Smith, Michael G., [redacted].
Smith, Norman D., [redacted].
Smith Randall N., [redacted].
Snow, John H., [redacted].
Sparks, Bryan H., [redacted].
Spence, Larry D., [redacted].
Spenst, Wayne F., [redacted].
Spriggs, Gary W., [redacted].
Stearns, Lloyd B., Jr., [redacted].
Steichen, Thomas J., [redacted].
Stephans, James R., Jr., [redacted].
Stephens, Rickey V., [redacted].
Stevens, James K., Jr., [redacted].
Stevens, Wilbur N., Jr., [redacted].
Stevenson, Gordon M., [redacted].
Stevenson, William R., [redacted].
Stibravy, John A., [redacted].
Stilwell, Thomas J., [redacted].
Stinson, Jerry L., [redacted].
Stohr, David L., [redacted].
Stone, Dennis F., [redacted].
Stone, Stephen D., [redacted].
Stradleigh, Norman F., Jr., [redacted].
Stricker, Russell C., [redacted].
Strom, David A., [redacted].
Strosnider, Joseph D., [redacted].
Stroud, Robert L., Jr., [redacted].
Stuckey, Ronald W., [redacted].
Surguine, Freneau B., III, [redacted].
Sweesy, Thomas I., [redacted].
Swenson, Royce W., [redacted].
Tafolla, Jose, [redacted].
Tamulevicz, James J., [redacted].
Tatman, Doren B., [redacted].
Taylor, Dorna A., [redacted].
Teague, George L., [redacted].
Terrio, Roy J., Jr., [redacted].

Terry, Newton W., III, [redacted].
Thatcher, Paul C., [redacted].
Theisen, George L., II, [redacted].
Thessing, Mark R., [redacted].
Thibodeau, Mark J., [redacted].
Thomas, Alan J., [redacted].
Thome, William J., [redacted].
Thorpe, Charles E., Jr., [redacted].
Thum, William W., [redacted].
Thurston, Sidney R., [redacted].
Tidd, William J., [redacted].
Toft, William R., [redacted].
Tucker, John W., [redacted].
Turner, Robert N., [redacted].
Upham, Walter A., [redacted].
Vananden, John B., [redacted].
Vanlandingham, Gerald D., [redacted].
Vanparys, Terrance J., [redacted].
Vansickel, James R., Jr., [redacted].
Vanwey, Jack C., [redacted].
Varner, John D., [redacted].
Veitch, Robert H., [redacted].
Velino, John A., Jr., [redacted].
Vendt, Bruce A., [redacted].
Wagner, David M., [redacted].
Wahlstedt, Michael Jr., [redacted].
Wakeland, Gary D., [redacted].
Walker, Oscar L., [redacted].
Wallen, Michael D., [redacted].
Waninger, David A., [redacted].
Ward, John P., [redacted].
Ward, Randolph, Jr., [redacted].
Washington, Ronald K., [redacted].
Watt, George A., [redacted].
Wayman, Eugene O., [redacted].
Waymire, Michael E., [redacted].
Webb, James T., [redacted].
Weidenbusch, Coleman C., [redacted].
Westenbarger, Ronald R., [redacted].
Westfall, Monte J., [redacted].
Whang, Frederic P. S., [redacted].
White, Jeffrey W., [redacted].
Whitfield, Stanley G., [redacted].
Whitmore, Jerald L., [redacted].
Whitworth, Gary T., [redacted].
Wiese, Gary L., [redacted].
Wight, Deane R., [redacted].
Williams, James R., [redacted].
Williams Jeffrey M., [redacted].
Williams Terry S., [redacted].
Williamson, Janet S., [redacted].
Wilson, Richard L., [redacted].
Wimmer, Bruce E., [redacted].
Winchester, James H., [redacted].
Wittliff, Danny J., [redacted].
Wohlers, Robert A., [redacted].
Wong, Neil V., [redacted].
Wood, John P., [redacted].
Woodland, David B., [redacted].
Woodruff, Walter W., [redacted].
Woodward Gary A., [redacted].
Work, Kermit A., [redacted].
Worthington, Jeanne M., [redacted].
Wren, Billy W., [redacted].
Wright, George L., [redacted].
Yesconis, Robert R., [redacted].
Young, Roger L., [redacted].
Zernow, Melvin R., [redacted].
Zimmerman, Ronald D., [redacted].

To be first lieutenant

Abitz, Carole A., [redacted].
Ackerson, Jeffrey W., [redacted].
Acres, Michael D., [redacted].
Aelmore, Martin A., III, [redacted].
Aiken, Richard B., [redacted].
Albrecht, Thomas E., [redacted].
Ales, Ricky R., [redacted].
Alexander, Carl P., [redacted].
Allen, Leslie J., [redacted].
Allison, Dennis M., [redacted].
Alston, Lavon, [redacted].
Altman, Derrall, [redacted].
Anderson, Bradley A., [redacted].
Anderson, Edward M., Jr., [redacted].
Anderson, Jerry C., [redacted].
Anderson, Matthew T., [redacted].
Anderson, Michael T., [redacted].
Andrews, Calvin A., [redacted].
Anen, Richard J., [redacted].
Appel, Daniel G., [redacted].
Arms, Robert C., Jr., [redacted].
Armstrong, John F., D., [redacted].
Armstrong, Terry D., [redacted].
Arniotis, Ernest D., [redacted].
Arrance, Edwin S., [redacted].
Arrington, Steven A., [redacted].
Arthur, Peter J., [redacted].
Arzt, Frederick K., Jr., [redacted].
Ashby, Keith R., [redacted].
Ashton, Daniel M., [redacted].
Atkins, Dan V., [redacted].
Atkinson, Bruce M., [redacted].
Austin, Arthur E., Jr., [redacted].
Auton, William G., [redacted].
Babb, William M., [redacted].
Badurek, Darrell J., [redacted].
Baer, David E., [redacted].
Bahrey, Gregory J., [redacted].
Bailey, Paul L., [redacted].
Bailey, Raymond A., [redacted].
Baily, Frank H., [redacted].
Bain, Gary R., [redacted].
Bain, Harold C., [redacted].
Baker, Lee R., [redacted].
Baker, William G., [redacted].
Baldwin, Carey, [redacted].
Ball, Jesse W., Jr., [redacted].
Ballog, Dennis F., [redacted].
Bandre, Frank L., [redacted].
Barbour, William I., Jr., [redacted].
Barker, Brent R., [redacted].
Barnes, Richard L., [redacted].
Barnes, Thomas L., [redacted].
Barnett, Donna G., [redacted].
Barnett, John M., [redacted].
Barnett, Kim C., [redacted].
Barnett, Richard L., [redacted].
Barr, Glen R., [redacted].
Bartels, Mark D., [redacted].
Barth, Frederick C., [redacted].
Barton, Donald G., [redacted].
Bateman, Sandra L., [redacted].
Bateman, William W., [redacted].
Beachy, Keith A., [redacted].
Beane, Christopher P., [redacted].
Beasley, Paul A., [redacted].
Beason, Michael A., [redacted].
Beaver, Carl F., Jr., [redacted].
Beck, Daniel S., Jr., [redacted].
Becker, Marvin L., [redacted].
Beckett, Mason H., Jr., [redacted].
Beckett, Thomas A., [redacted].
Bedford, Sherman C., Jr., [redacted].
Beetz, John R., [redacted].
Begunich, Christine A., [redacted].
Behrens, Loretta A., [redacted].
Bellinger, John N., Jr., [redacted].
Bennett, Edward L., [redacted].
Benning, Ronald E., [redacted].
Berdine, Ronald J., [redacted].
Berg, Scott L., [redacted].
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Miller, James M., [redacted].
Miller, Robert C., [redacted].
Miller, Russell R., [redacted].
Miller, Thomas B., [redacted].
Mills, Gary L., [redacted].
Millward, Donald R., [redacted].
Milroy, Dennis E., [redacted].
Miner, Dennis D., [redacted].
Minich, William J., [redacted].
Mitchell, Dennis A., [redacted].
Mitchell, Oakley J., [redacted].
Mitchell, Robert I., [redacted].
Moberg, Thomas F., [redacted].
Modelle, Michael P., [redacted].
Modzelesky, Arthur J., Jr., [redacted].
Moehlman, Thomas J., [redacted].
Moken, Richard J., [redacted].
Monaco, Michael, [redacted].
Moore, Cheryl K., [redacted].

Moore, Sterling J., [redacted].
Moran, Michael A., [redacted].
Moreman, David B., [redacted].
Moreno, Abel, [redacted].
Morgan, Kenneth W., [redacted].
Moriarty, Kenneth R., [redacted].
Morris, Robert R., [redacted].
Mortensen, Charles F., [redacted].
Muhlberger, Kent E., [redacted].
Mullis, David B., [redacted].
Mumper, Laddie V., Jr., [redacted].
Munk, Bruce E., [redacted].
Munsey, Donald E., Jr., [redacted].
Munson, Kenneth B., [redacted].
Muntzner, Gregory C., [redacted].
Murphy, Ernest E., [redacted].
Murphy, Kevin M., [redacted].
Murray, Harold W., [redacted].
Murray, Kenneth F., [redacted].
Mushaw, Stanley L., [redacted].
Muth, Kenneth C., Jr. [redacted].
Mychalishyn, Michael, [redacted].
Myers, Kenneth E., [redacted].
Myers, Robert J., [redacted].
Nance, Kelcie T., [redacted].
Natal, Carlos A., [redacted].
Naumann, Richard M., [redacted].
Nay, Blaine S., [redacted].
Nelson, James B., [redacted].
Nelson, Robert D., [redacted].
Nelson, Steven L., [redacted].
Newman, James R., [redacted].
Newman, Lee A., Jr., [redacted].
Ng, John Jr., [redacted].
Nicholl, Gregory M., [redacted].
Nichols, Michael J., [redacted].
Nichols, William R., [redacted].
Nicholson, Robert W., Jr., [redacted].
Nickason, James J., [redacted].
Nixon, Roy D., [redacted].
Nord, Kenneth W., [redacted].
Nordhagen, Randall A., [redacted].
Norman, Charles E., [redacted].
Norris, James M., [redacted].
Norris, Robert E., [redacted].
Norris, Steven L., [redacted].
Nugent, Steven J., [redacted].
Nuss, Rodney G., [redacted].
Nuttall, Lawrence A., [redacted].
Nutter, Harry L., III, [redacted].
Oakes, Robert K., Jr., [redacted].
Ochsner, David A., [redacted].
Oconnell, James A., [redacted].
Odom, James M., [redacted].
Odom, William M., [redacted].
Olenoski, Joseph L., Jr., [redacted].
Olsen, Allan R., [redacted].
Olson, Michael S., [redacted].
Orellana, Richard C., [redacted].
Ortiz, Raymond A., [redacted].
Osborne, William E., [redacted].
Overfield, Charles N., [redacted].
Owen, Robert C., [redacted].
Owen, Ronny C., [redacted].
Owens, Laurence J., [redacted].
Packard, Richard P., [redacted].
Pahler, Thomas R., [redacted].
Paini, Kathleen D., [redacted].
Palmer, Edwin, II, [redacted].
Pappas, Paul A., [redacted].
Park, John M., [redacted].
Parker, Richard K., [redacted].
Parrett, John W., [redacted].
Parrish, Wayne P., [redacted].
Parsons, Kenneth M., [redacted].
Paryzek, James G., [redacted].
Paterson, Stephen A., [redacted].
Patrick, Donald W., [redacted].
Pauli, Patrick J., [redacted].
Payne, Alan H., [redacted].
Peacock, Christie C., [redacted].
Pearce, Barbara A., [redacted].
Pegan, Kevin M., [redacted].
Pegg, Harry T., Jr., [redacted].
Peppers, Gregory S., [redacted].
Perez, Salvador R., [redacted].
Perkins, Alton, [redacted].
Perkins, James R., [redacted].
Perrin, Wayne E., [redacted].
Perritt, John M., Jr. [redacted].
Perry, Jack E., Jr., [redacted].

Perry, Robert J., [redacted].
Peters, Spence E., Jr., [redacted].
Peterson, James R., [redacted].
Petrik, Robert D., [redacted].
Pfeifer, David M., [redacted].
Pflieger, Michael D., [redacted].
Phelps, Charles D., [redacted].
Philipsek, Roger W., [redacted].
Phillips, Earl, [redacted].
Phillips, John D., [redacted].
Phillips, Thornton D., [redacted].
Phoebus, Edward C., Jr., [redacted].
Piatek, Edward F., [redacted].
Pickett, Brian M., [redacted].
Pierson, Dennis A., [redacted].
Plummer, William H. A., [redacted].
Polillo, Ronald T., [redacted].
Pollock, Michael J., [redacted].
Potts, Allen S., [redacted].
Powell, Morrell L., Jr., [redacted].
Poynor, Donald R., [redacted].
Pratt, Randall L., [redacted].
Prescott, David M., [redacted].
Preston, Edward L., [redacted].
Prewitt, Reginald, [redacted].
Pribyla, Virginia N., [redacted].
Price, James L., [redacted].
Price, William E., [redacted].
Price, William L., [redacted].
Propp, Harold B., [redacted].
Provencher, Gary P., [redacted].
Prusak, Michael, [redacted].
Pugh, Henry L., Jr., [redacted].
Pytko, Dennis L., [redacted].
Qualler, William T., [redacted].
Quigley, Bruce M., [redacted].
Quinlan, Michael J., [redacted].
Quinn, David P., [redacted].
Quinn, Donald F., [redacted].
Quintero, Linda M., [redacted].
Rakip, Russell E. J., [redacted].
Ramsey, Robert, [redacted].
Rankin, Richard A., [redacted].
Rannalli, Fred Jr., [redacted].
Rath, Thomas J., [redacted].
Rattan, Travis P., [redacted].
Rawlings, Stephen H., [redacted].
Ray, William L., [redacted].
Razer, Jerry R., [redacted].
Rebhun, Marc I., [redacted].
Reed, John D., [redacted].
Regan, Dennis P., [redacted].
Rehrmann, William E., [redacted].
Reid, Richard L., [redacted].
Remol, John C., [redacted].
Reynolds, Richard M., [redacted].
Ricci, Vincent A., [redacted].
Rice, Dean E., [redacted].
Richardson, Mark H., [redacted].
Richmond, Howard L., Jr., [redacted].
Rickard, Douglas P., [redacted].
Ridge, Daniel V., [redacted].
Riegling, Anthony E., [redacted].
Rife, Robert S., III, [redacted].
Risley, Perry W., [redacted].
Ritchie, Brian D., [redacted].
Ritter, Richard S., [redacted].
Robbins, Dennis L., [redacted].
Roberson, Kerry L., [redacted].
Roberts, Michael L., [redacted].
Roberts, William B., [redacted].
Robertson, Charle R., [redacted].
Robinson, Samuel A., Jr., [redacted].
Robles, Eleno H., [redacted].
Robson, Robert J., [redacted].
Rogers, Renny M., [redacted].
Rohr, John C., [redacted].
Rolfe, Michael E., [redacted].
Romanick, Paul D., [redacted].
Roock, Philip J., [redacted].
Rosado, Artemio, [redacted].
Rosenbaum, John F., [redacted].
Rosenberry, Roger C., [redacted].
Rouse, Danny M., [redacted].
Rouse, William H., [redacted].
Rowland, Ford W., [redacted].
Ruark, Ronald R., [redacted].
Ruehl, Daniel A., [redacted].
Ruess, John C., [redacted].
Ruetten, Thomas M., [redacted].
Runyon, Rodney J., [redacted].

Ruschmann, David F., [redacted].
Russ, Alonzo Z., Jr., [redacted].
Russell, William E., [redacted].
Ryall, Paul J., [redacted].
Ryan, Richard V., [redacted].
Ryle, Thomas A., [redacted].
Sahli, Gregory J., [redacted].
Saier, William E., [redacted].
Sailer, Joseph J., [redacted].
Salisbury, Keith E., [redacted].
Sander, Paul C., [redacted].
Sandiford, Gary R., [redacted].
Santana, Juanita [redacted].
Sapp, James L., [redacted].
Sarrat, Allan J., Jr., [redacted].
Saucier, Joseph F., [redacted].
Sauers, Robert M., Jr., [redacted].
Scaling, Joseph R., Jr., [redacted].
Schafer, John A., [redacted].
Schiermeyer, James J., [redacted].
Schiffman, Larry S., [redacted].
Schindler, Ray G., [redacted].
Schlapkohl, Orval J., [redacted].
Schmidlkofer, Jill G., [redacted].
Schmidt, Kenneth R., [redacted].
Schmidtke, William G., [redacted].
Schnaible, Gregory L., [redacted].
Schott, Frederick O., [redacted].
Schram, Eugene C., III, [redacted].
Schramm, Kenneth G., [redacted].
Schricker, Kristin E., [redacted].
Schroeder, Martin C., [redacted].
Schultz, Michael D., [redacted].
Schwaab, Douglas G., [redacted].
Scoggins, John R., Jr., [redacted].
Scott, Jerry A., [redacted].
Scott, Sandra M., [redacted].
Scott, Theodore J., [redacted].
Sears, David M., [redacted].
Seccombe, William J., [redacted].
Seidel, Kenneth J., [redacted].
Sendral, Edouard D. E., [redacted].
Sennate, Keith H., [redacted].
Seymour, Jeffrey C., [redacted].
Shadden, Marie C., [redacted].
Shaw, Philip R., [redacted].
Shaw, Thomas P., [redacted].
Shay, Larry G., [redacted].
Shea, Robert D., [redacted].
Shellenberger, Richard A., [redacted].
Sheraden, Dennis M., [redacted].
Shimet, Wayne R., [redacted].
Shy, George T., [redacted].
Sierra, Efrain, Jr., [redacted].
Silva, Samuel D., [redacted].
Simmons, Mary E., [redacted].
Simmons, Robert G., Jr., [redacted].
Simpson, James H., [redacted].
Sinor, Ben L., Jr., [redacted].
Sitnik, Edward J., [redacted].
Skousen, Daniel D., Jr., [redacted].
Sloop, Stephen E., [redacted].
Smith, Craig H., [redacted].
Smith, David M., [redacted].
Smith, Doyne E., [redacted].
Smith, Edgar C., [redacted].
Smith, Gary R., [redacted].
Smith, Gerald O., [redacted].
Smith, Homer C., Jr., [redacted].
Smith, Neil D., [redacted].
Smith, Robert A., [redacted].
Smith, Samuel W., [redacted].
Snyder, George H., III, [redacted].
Snyder, Jack M., [redacted].
Snyder, John F., [redacted].
Snyder, Steven N., [redacted].
Soares, Philip J., [redacted].
Soben, Robert S., [redacted].
Soval, Douglas P., [redacted].
Specht, Robert A., [redacted].
Speck, Peter W., [redacted].
Speer, Robert G., [redacted].
Spence, William T., [redacted].
Spillane, Paul W., Jr., [redacted].
Spiller, James D., [redacted].
Sponsler, Mark J., [redacted].
Stanik, Paul, Jr., [redacted].
Stansbury, Kenneth E., [redacted].
Stanzione, Daniel F., [redacted].
Stavropoulos, Thomas G., [redacted].
Steele, Charles L., Jr., [redacted].

Stein, John H., [redacted].
Steinbach, Wayne R., [redacted].
Stephens, Larry M., [redacted].
Stephens, Laveen M., [redacted].
Stevenson, Andrew G., [redacted].
Stevenson, Robert L. B., [redacted].
Stine, Gary W., [redacted].
Stockmann, William H., [redacted].
Stoehr, Carolyn S., [redacted].
Stone, Dallas R., [redacted].
Stone, Donald G., [redacted].
Stoudt, Raymond H., [redacted].
Stout, Clarence A., Jr., [redacted].
Stoutamire, David L., [redacted].
Stowell, Ronald B., [redacted].
Strauss, Randall W., [redacted].
Stringer, Dwyer K., [redacted].
Stutz, Derryl L., [redacted].
Suber, William V., [redacted].
Sudano, Eric V., [redacted].
Sulak, Dale E., [redacted].
Sullivan, Keith C., [redacted].
Suter, Frederick R., [redacted].
Suther, Charlie R., [redacted].
Sutterfield, Stanley J., [redacted].
Swallom, Keith R., [redacted].
Swann, Fred L., [redacted].
Swanson, Robert S., [redacted].
Swartzwelder, John W., Jr., [redacted].
Sweet, Thomas A., [redacted].
Swope, Robert S., Jr., [redacted].
Szymkowicz, Lynn D., [redacted].
Taft, Gary D., [redacted].
Taft, Kathryn T., [redacted].
Talbot, Thomas N., [redacted].
Tanner, Charles R., [redacted].
Tatsch, Lynette M., [redacted].
Taylor, Arvil V., Jr., [redacted].
Taylor, Delawrence W., [redacted].
Taylor, Richard M., [redacted].
Teeter, Martha N., [redacted].
Tennant, John E., [redacted].
Thomas, Michael J., [redacted].
Thomas, Richard M., [redacted].
Thompson, Dean J., [redacted].
Thompson, Larry D., [redacted].
Thompson, Rodney C., [redacted].
Thonn, Robert R., [redacted].
Thornton, Roderick M., [redacted].
Thornvaldsen, Kirk, [redacted].
Thumser, Joseph F., [redacted].
Tiahrt, Harold, II, [redacted].
Tiefenthaler, Steven S., [redacted].
Tigerman, Mark R., [redacted].
Timm, Jerome C., [redacted].
Tirado, Pedro N., [redacted].
Tisdailflood, Marta A., [redacted].
Toffenetti, Paul L., [redacted].
Tom, Robert C., [redacted].
Tompkins, James A., [redacted].
Torigian, Albert S., [redacted].
Townes, Michael L., [redacted].
Townsend, John G., [redacted].
Townsend, Samuel A., [redacted].
Trammell, George H., [redacted].
Trapp, Herbert S., [redacted].
Tredway, George B., [redacted].
Treuting, William J., Jr., [redacted].
Trotter, Michael D., [redacted].
Trudeau, Charles H., Jr., [redacted].
Tubig, Simeon B., [redacted].
Tucker, Donnie M., [redacted].
Tucker, Michael R., [redacted].
Turner, Colleen, [redacted].
Turner, Robert L., [redacted].
Tyler, Brooks B., [redacted].
Tyley, Jeffrey L., [redacted].
Ullman, Robert P., [redacted].
Ullo, Lawrence E., [redacted].
Underwood, J. Flovridge, [redacted].
Unice, Charles J., III, [redacted].
Unnever, Gregory, [redacted].
Vaillancourt, Dennis R., [redacted].
Vanburen, Larry N., [redacted].
Vanderwall, John R., [redacted].
Vanmarter, David C., [redacted].
Vann, Cynthia G., [redacted].
Vansandt, Jack K., [redacted].
Vaught, Sidney P., [redacted].
Veillon, Joseph B., [redacted].
Verbois, Gary D., [redacted].
Verchot, Edgar A., Jr., [redacted].
Visyak, Gregory W., [redacted].
Vogt, Richard A., [redacted].
Volk, Bradley W., [redacted].
Volpe, Richard L., Jr., [redacted].
Wabs, Carl E., Jr., [redacted].
Walker, David M., [redacted].
Walker, Michael W., [redacted].
Wallace, Charles M., [redacted].
Wallace, John O., [redacted].
Walloga, Stanley J., [redacted].
Walls, Glen A., [redacted].
Walton, Bruce A., [redacted].
Wampler, Bert J., [redacted].
Ward, George M., [redacted].
Ward, Randy K., [redacted].
Warner, James F., [redacted].
Warner, Mack L., [redacted].
Washington, Solomon W., III, [redacted].
Watkins, Edwin S., [redacted].
Webb, Frederick B., [redacted].
Webb, Stephen B., III, [redacted].
Webber, James L., [redacted].
Weber, Henry J., [redacted].
Weber, Michael H., [redacted].
Weber, Paul A., [redacted].
Weber, Stephen J., [redacted].
Weems, John F., [redacted].
Weidetz, Arthur D., [redacted].
Weil, Gregory C., [redacted].
Weitzel, Eugene H., [redacted].
Welch, Robert D., [redacted].
Welch, Willard D., Jr., [redacted].
Welcome, Paul A., [redacted].
Weller, Stephen K., [redacted].
Wells, Charles H., [redacted].
Wells, David A., Jr., [redacted].
Wells, Fred L., III, [redacted].
Wells, Lewis F., Jr., [redacted].
Wenger, Kathryn A., [redacted].
Wesley, Mae E., [redacted].
West, Michael S., [redacted].
Westman, Ronald A., [redacted].
Wheeler, Charles R., [redacted].
Wheeler, Thomas R., [redacted].
Whitaker, Michael F., [redacted].
Whitaker, Michael H., [redacted].
White, John A., III, [redacted].
White, Marsha F., [redacted].
White, Maurice E., [redacted].
White, Rick W., [redacted].
White, Thomas G., [redacted].
Whitmer, Benjamin K., [redacted].
Wieler, Theodore P., [redacted].
Wiesel, William E., Jr., [redacted].
Wild, Michael J., [redacted].
Wilds, Catherine M., [redacted].
Wilhelmson, Ronald L., [redacted].
Wilken, Dale L., [redacted].
Wilkerson, Kenny J., [redacted].
Wilkinson, James P., III, [redacted].
Williams, Alden A., [redacted].
Williams, Charles R., [redacted].
Williams, George B., [redacted].
Williams, Glen L., [redacted].
Williams, Lonnie R., [redacted].
Williams, Myron E., [redacted].
Williams, Robert P., [redacted].
Williams, Thomas G., [redacted].
Williamson, Charles R., [redacted].
Willis, Donald K., [redacted].
Wills, Lynn R., Jr., [redacted].
Wilson, Charles E., [redacted].
Wilson, Richard B., [redacted].
Wilson, Richard D., [redacted].
Wishnietsky, Anida G., [redacted].
Witt, Janis R., [redacted].
Witter, Peter C., [redacted].
Wolden, Charles B., [redacted].
Woloshuk, Michael J., Jr., [redacted].
Wooddell, Charles E., [redacted].
Woods, Alfred E., [redacted].
Woodside, Joseph B., [redacted].
Woodsmall, Gary K., [redacted].
Woodward, Edward T., [redacted].
Woodward, Ronald D., [redacted].
Wu, Sally S. Y., [redacted].
Wyrick, Wesley T., [redacted].
Yarbrough, David E., [redacted].
Yokoyama, George A., [redacted].
Young, Roger, [redacted].
Youngblood, Robert L., Jr., [redacted].
Yunes, Barry P., [redacted].
Zagar, Gregory J., [redacted].
Zalneraitis, Roger A., [redacted].
Zanfardino, Louis, [redacted].
Zaremba, John, [redacted].
Zeno, Gregory J., [redacted].
Zitko, Dwaine A., [redacted].
Zwick, Michael J., [redacted].
Zylwitis, Joseph D., [redacted].

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

CHAPLAIN

To be captain

Anderson, Weaver S., [redacted].
Bickers, Donald R., [redacted].
Bischoff, William J., III, [redacted].
Breeding, David E., [redacted].
Brooks, James, [redacted].
Chaviano, Emilio A., [redacted].
Coleman, James W., [redacted].
Cosby, Samuel, [redacted].
Ewing, Bruce, [redacted].
Fey, Thomas J., [redacted].
Freeto, Sharon M., [redacted].
Harris, Howard E., [redacted].
Jewett, Russell E., [redacted].
Kelling, Ronald H., [redacted].
McCahon, Joseph F., Jr., [redacted].
Schiltz, Roger J., [redacted].
Swanson, Loren E., [redacted].
Thompson, Danny R., [redacted].
Tyler, Milton O., [redacted].
Wilks, Robert L., Jr., [redacted].
Willis, John T., [redacted].
Wilson, James R., [redacted].
Zimmerman, Donald M., [redacted].

To be first lieutenant

Armstrong, Danny N., [redacted].
Brantley, Clinton, [redacted].
Wretlind, Dennis O., [redacted].

JUDGE ADVOCATE CORPS

To be captain

Anthony, Michael P., [redacted].
Bauer, Fredric L., [redacted].
Brennan, David R., [redacted].
Donahue, Bernard E., [redacted].
Dunlap, Charles J., [redacted].
Episcopo, Joseph, [redacted].
Hill, William A., Jr., [redacted].
McCormack, Michael G., [redacted].
Pearson, David A., [redacted].
Roberts, George K., [redacted].
Starling, Haywood R., [redacted].
VanNorman Beverly M., [redacted].
Vines, Keith B., [redacted].

To be first lieutenant

Cox, Donald A., Jr., [redacted].
Cox, James F., [redacted].
Jenkins, David L., [redacted].
McAntee, Michael R., [redacted].
Wilbert, Gary M., [redacted].

NURSE CORPS

To be captain

Ackerman, Janet C., [redacted].
Althoetmar, Pamela A., [redacted].
Borowiak, Patrick K., [redacted].
Boucher, Donald A., [redacted].
Bowser, Linda J., [redacted].
Clark, David L., [redacted].
Colliander, Diane E., [redacted].
Fremming, Jackie L., [redacted].
Glodek, Raymond J., [redacted].
Goretski, Eileen M., [redacted].
Gunning, Patricia L., [redacted].
Moll, Stephen C., [redacted].
Newman, Loren D., [redacted].

Nicolao, Shirley A., [redacted].
Perry, Marilyn A., [redacted].
Thoman, Margaret A., [redacted].

To be first lieutenant

Adams, Beth L., [redacted].
Adams, Stephen M., [redacted].
Atkins, Dian L., [redacted].
Backenstoe, Jan R., [redacted].
Banville, Richard E., [redacted].
Beane, David G., [redacted].
Bertinasco, Linda G., [redacted].
Bottemiller, Sandra D., [redacted].
Boyce, Daniel A., [redacted].
Brezinski, Raymond E., [redacted].
Brown, Margaret A., [redacted].
Buckley, Robert L., [redacted].
Burtner, Elizabeth, [redacted].
Byrnes, Ethel L., [redacted].
Campbell, Terry D., [redacted].
Cardinali, Mary A. E., [redacted].
Chapman, Leslie A., [redacted].
Coleman, Joyce K., [redacted].
Collins, Carole S., [redacted].
Connell, Mary L., [redacted].
Crow, Geraldine S., [redacted].
Crye, James F., [redacted].
Davenport, Bruce B., [redacted].
Davis, Thomas A., [redacted].
Delafosse, Jodie L., [redacted].
Dusenbery, John D., [redacted].
Ellis, Lynda S., [redacted].
Farthing, Christine A., [redacted].
Felix, Robert H., Jr., [redacted].
Freeman, Loisann M., [redacted].
Gagnon, Nancy B., [redacted].
Gerow, Ann B., [redacted].
Gilmore, Samuel W., [redacted].
Gooden, Joyce A., [redacted].
Gormley, Thomas M., [redacted].
Guzowski, Christine J., [redacted].
Hall, Kathleen S., [redacted].
Hansen, Jacob A., [redacted].
Hart, Deborah A., [redacted].
Howard, Patricia A., [redacted].
Howell, Pamela M., [redacted].
Hughes, Debra S., [redacted].
Jimenez, Edith S., [redacted].
Jones, Sheila A., [redacted].
Jordan, Suzanne E., [redacted].
Kelly, Joan M., [redacted].
Killby, Maureen M., [redacted].
Knecht, Sherrie L., [redacted].
Kramer, William E., [redacted].
Land, Patricia A., [redacted].
Leatherman, Debra J., [redacted].
Leduc, Margaret H., [redacted].
Lewis, Dorothy M., [redacted].
Lile, Deborah A., [redacted].
Lucas, Karen L., [redacted].
Madsen, Julia W., [redacted].
Maldonado, Gaudiosa, [redacted].
Marchand, Janice L., [redacted].
Martin, Janie L., [redacted].
McGinnis, Randy M., [redacted].
Miller, Rita L., [redacted].
Mitchell, David W., [redacted].
Olson, Jane L., [redacted].
Parker, Gail L., [redacted].
Pegula, Margaret A., [redacted].
Purtle, Jeffrey W., [redacted].
Reidy, Pamela J., [redacted].
Repko, Mary C., [redacted].
Ricci, Corinne A., [redacted].
Rogers, Suzanne M., [redacted].
Root, Diane M., [redacted].
Ross, Glenda G., [redacted].
Sand, Barbara S., [redacted].
Schmidt, Margaret J., [redacted].
Schueller, Lou A. G., [redacted].
Schwartz, Judith M., [redacted].
Schwartz, Loislee A., [redacted].
Sherrill, Tedana M., [redacted].
Smith, Jimmie M., [redacted].
Sullivan, Eileen L., [redacted].
Thompson, Mary, [redacted].
Thompson, Nancy M., [redacted].
Tiley, Patricia A., [redacted].
Turner, Dolores H., [redacted].
Vanderburg, Kathleen, [redacted].
Vandeventer, Jerry D., [redacted].
Wetherald, Shirley D., [redacted].
Williams, Margaret J., [redacted].
Young, Cynthia R., [redacted].

MEDICAL SERVICES CORPS

To be captain

Newell, Carl L., [redacted].

To be first lieutenant

Anderson, Alden P., [redacted].
Baker, Theresa S., [redacted].
Bauer, Charles R., [redacted].
Berger, Robert J., [redacted].
Bonham, George C., Jr., [redacted].
Brown, Don C., [redacted].
Bullis, Cordell W., [redacted].
Davenport, Thomas E., [redacted].
Deem, Charles F., Jr., [redacted].
Delffs, Roger D., [redacted].
French, Patricia, M., [redacted].
Gambino, Michael A., [redacted].
Giesecke, Stephan A., [redacted].
Holmes, Timothy H., [redacted].
Jayne, Kenneth M., [redacted].
Kincy, Ray, [redacted].
Kleefisch, William B., [redacted].
Klinzmann, Jackie L., [redacted].
Latini, Norman J., [redacted].
Lowe, Charles P., [redacted].
Morris, Jasper D., [redacted].
O'Rourke, Patrick J., [redacted].
Schmidt, Frank E., III, [redacted].
Schneider, Carl F., [redacted].
Sietsema, Harvey, [redacted].
Skalomenos, Thomas D., [redacted].
Valliere, Robert P., [redacted].
Williamson, Paul T., [redacted].
Wright, Raymond D., [redacted].

BIOMEDICAL SCIENCE CORPS

To be captain

Green, David E., [redacted].
Larsen, Gary D., [redacted].
Pailthorp, Gary D., [redacted].
Stanley, Marie E., [redacted].

To be first lieutenant

Aycoth, Carol L., [redacted].
Ball, John D., [redacted].
Barker, William F., [redacted].
Barnett, Ralph A., [redacted].
Barrett, Edwin T., [redacted].
Bloom, Richard W., [redacted].
Blue, Sandra J., [redacted].
Burough, Leallan L., [redacted].
Chandler, Keith D., [redacted].
Chyrek, Michael L., [redacted].
Crane, Robert L., [redacted].
Eyestone, Scott M., [redacted].
Fifer, Robert G., [redacted].
Flynn, Thomas A., [redacted].
Fogelman, Vicky L., [redacted].
Gilmore, Carol J., [redacted].
Grosnik, Brenda J., [redacted].
Harris, Richard K., [redacted].
Harshbarger, Harry C., Jr., [redacted].
Hickey, Roberta L., [redacted].
Hodgson, Mary Ann, [redacted].
Horowitz, Neil D., [redacted].
Jessen, John B., [redacted].
Jung, Lynette C., [redacted].
Kazmaier, Martin F., Jr., [redacted].
Kearney, Peggy R., [redacted].
Klassy, Sandra S., [redacted].
Lafky, Alan M., [redacted].
Leonowich, John A., [redacted].
Mann, Dale P., [redacted].
Martinez, Perez Roberto, [redacted].
Meyer, Fdererick M., [redacted].
Moon, Carl R., [redacted].
Morris, James L., [redacted].
Murray, Gerald F., [redacted].
Murray, Ross Jr., [redacted].
Mutschler, Gary G., [redacted].
Neal, Donna P., [redacted].
Ng Elliot K., [redacted].
Nonnemacher, Margaret M., [redacted].
Olsen, Fred W., Jr., [redacted].
Orr, Nancy P., [redacted].
Pasquale, Thomas A., [redacted].
Petrin, Milton J., [redacted].
Phillips, Donald J., [redacted].
Piciucco, Luigi, [redacted].
Polhamus, Garrett D., [redacted].
Poling, Clifton W., [redacted].
Sarno, Wayne A., [redacted].
Sherer, Joel I., [redacted].
Silk, Neil, [redacted].
Singer, Timothy J., [redacted].
Smith, Coy M., [redacted].
Warren, Lawrence C., [redacted].
Werkley, Christopher J., [redacted].
Wians, Frank H., Jr., [redacted].
Wormington, Charles M., III, [redacted].

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under provisions of title 10, United States Code, sections 3442 and 3447:

ARMY PROMOTION LIST

To be colonel

Abrahamson, James L., [redacted].
Abrahamson, John D., [redacted].
Adair, Robert B., [redacted].
Allison, William C., [redacted].
Ammons, David C., [redacted].
Anderson, Charles E., [redacted].
Andrews, Anthony J., [redacted].
Andrews, William R., Jr., [redacted].
Appleton, Forrest W., [redacted].
Armstrong, Charles H., [redacted].
Armstrong, Donald R., [redacted].
Arnold, Steven L., [redacted].
Averill, Ronald H., [redacted].
Baeb, David E., [redacted].
Baldwin, Edward R., Jr., [redacted].
Baldwin, Ronald C., [redacted].
Balish, Warren N., [redacted].
Banks, James H., [redacted].
Barkett, John S., [redacted].
Barmore, Frederick E., Jr., [redacted].
Barnes, Wilson E., [redacted].
Barnett, John R., [redacted].
Barnwell, Isaiah E., Jr., [redacted].
Barnwell, Marion L., [redacted].
Barone, Ercole M., [redacted].
Barr, Grady W., [redacted].
Barrett, Peter J., [redacted].
Baugh, Raymond C., [redacted].
Beakey, Danny J., [redacted].
Bean, Roger K., [redacted].
Beard, Louin L., [redacted].
Beasley, John D., III, [redacted].
Beech, Gary D., [redacted].
Beltson, Richard D., [redacted].
Benson, Roger R., [redacted].
Bergeron, Gary P., [redacted].
Berkley, Nathan R., [redacted].
Berta, Thomas L., [redacted].
Best, David M., [redacted].
Beurket, Raymond T., Jr., [redacted].
Beyer, Alfred H., [redacted].
Bickford, James E., [redacted].
Birrane, John H., [redacted].
Bishop, Edward L., [redacted].
Blanchard, Charles E., [redacted].
Blasco, Andrew P., [redacted].
Blumhardt, Glen A., [redacted].
Bohach, John L., Jr., [redacted].
Borlund, Thomas V., Jr., [redacted].
Borstorff, Allan R., [redacted].
Bosch, Brian J., [redacted].
Boss, Jerry L., [redacted].
Bowdoin, Max S., [redacted].
Boyd, Robert C., [redacted].
Boyle, David J., [redacted].
Boysen, John H., [redacted].
Bradley, Peter W., [redacted].
Brady, Patrick H., [redacted].
Branagan, Brian J., [redacted].
Brass, Ronald W., [redacted].
Brehaut, Joseph W., [redacted].
Breslin, Frederick C., [redacted].
Briggs, Harold L., Jr., [redacted].
Brooke, Arthur L., III, [redacted].
Brown, Gerald C., [redacted].
Brown, Patty E., [redacted].
Buchanan, William J., Jr., [redacted].
Buckley, Benjamin C., Jr., [redacted].
Buckley, James M., [redacted].
Buckman, Leroy R., [redacted].

Burbank, Arlene G., [redacted].
Burchell, Larry E., [redacted].
Burlas, Joseph E., Jr., [redacted].
Camp, Junius W., Jr., [redacted].
Campbell, J. F., [redacted].
Cansler, Joe C., [redacted].
Carroll, Robert C., [redacted].
Cato, Richard W., [redacted].
Catt, Jackie D., [redacted].
Cerjan, Paul G., [redacted].
Chen, William S., [redacted].
Cinci, Lyn G., [redacted].
Cisneros, Marc A., [redacted].
Clarke, Gordon M., [redacted].
Clawson, Lucien B., Jr., [redacted].
Clifton, James A., [redacted].
Cloud, Leon B., [redacted].
Cobb, Edward R., Jr., [redacted].
Conforti, Gilbert, [redacted].
Connor, George H., Jr., [redacted].
Conrad, Joseph C., [redacted].
Cook, Grady W., [redacted].
Cooper, Ted V., [redacted].
Cotrupi, Francis J., [redacted].
Council, Robert L., [redacted].
Counts, John E., [redacted].
Craig, Joe F., [redacted].
Crawford, William R., [redacted].
Crouch, James E., [redacted].
Crumley, Michael H., [redacted].
Cumings, Thayer, [redacted].
Cunningham, Patrick J. [redacted].
Cypher, Ronald P., [redacted].
Dahill, John B., [redacted].
Daly, William F., Jr., [redacted].
Darling, Dean H., [redacted].
Davis, Bruce H., [redacted].
Davis, Joseph S., [redacted].
Davis, Russell H., Jr., [redacted].
Dawson, Lawrence S., [redacted].
Deatkine, Norvell B., [redacted].
Deboeser, Edward V., Jr., [redacted].
Degrant, Robert L., [redacted].
Delikat, Stanley J., [redacted].
Demont, Robert W., [redacted].
Dendtler, Robert B., [redacted].
Denney, J. Thomas H., [redacted].
Dennis, Harold B., [redacted].
Dewar, John D., [redacted].
Dexter, Charles E., [redacted].
Dickson, Carroll Z., [redacted].
Dierickx, James E., [redacted].
Dill, Earnest W., [redacted].
Dishner, Wilbert J., Jr., [redacted].
Doran, William K., [redacted].
Doyle, Noel J., Jr., [redacted].
Drewfs, Henry F., Jr., [redacted].
Duchin, Ronald A., [redacted].
Duggan, Dennis M., [redacted].
Durning, Allan R., Jr., [redacted].
Edge, James G., [redacted].
Edmiston, Howard W., Jr., [redacted].
Edwards, Robert H., [redacted].
Eskridge, Robert J., [redacted].
Estes, Ernest F., [redacted].
Evans, Alexander H., [redacted].
Evans, Kenneth A., [redacted].
Fairweather, Robert S., Jr. [redacted].
Farley, John C., [redacted].
Farmen, William N., [redacted].
Fasching, George H., [redacted].
Felsher, Edwin H., Jr., [redacted].
Ferguson, Norman N., [redacted].
Fernandez, Victor M., [redacted].
Fetkenhour, Gordon K. [redacted].
Fitchett, Donald J. [redacted].
Fitzgerald, Joseph P., [redacted].
Fleming, Thomas E., [redacted].
Fluke, Eugene C., [redacted].
Forster, William H., [redacted].
Fournier, Albert L., [redacted].
Fraase, William K., [redacted].
Freeman, Waldo D., Jr., [redacted].
Fucella, Edward D., [redacted].
Gallagher, Robert J., [redacted].
Garrison, Darrold D., [redacted].
Gavan, William H., [redacted].
Gehler, Donald C., [redacted].
Gibbs, Philip E., [redacted].
Gilbertson, Clarence L., [redacted].
Gillespie, Paul H., Jr., [redacted].
Gilmartin, Michael W., [redacted].
Glenn, Robert W., [redacted].
Gordon, Don E., [redacted].
Goulet, Donald J., [redacted].
Gracey, Lloyd F., Jr., [redacted].
Grannemann, Rodney F., [redacted].
Grayson, Eugene H., Jr., [redacted].
Green, Grant S., Jr., [redacted].
Greene, Fred W., III, [redacted].
Greenwood, Everett O., [redacted].
Gregg, Noel D., [redacted].
Griffin, Gerald K., [redacted].
Hale, William M., [redacted].
Hall, Bruce W., [redacted].
Hall, Dennis C., [redacted].
Hall, James A., [redacted].
Halstead, Bruce B., [redacted].
Hamilton, Welton E., [redacted].
Handy, George W., [redacted].
Hanson, Wayne A., [redacted].
Hardiman, Robert R., [redacted].
Harmon, Wilburn H., [redacted].
Harnagel, William R., [redacted].
Harper, Thomas M., [redacted].
Harrell, Pascal B., [redacted].
Harris, David H., [redacted].
Harris, Jasper R., [redacted].
Harrison, Jerry C., [redacted].
Harvey, William R., [redacted].
Haselton, Hunter G., [redacted].
Hays, Robert O., [redacted].
Heath, Guy H., Jr., [redacted].
Heberle, Charles J., [redacted].
Heinrich, Darrell C., [redacted].
Heller, Stephen M., [redacted].
Helms, Bobby T., [redacted].
Hendrickson, Charles W., [redacted].
Hessler, Thomas J., [redacted].
Heyman, William, [redacted].
Hill, Jimmy C., [redacted].
Hill, William V., Jr., [redacted].
Hintz, Norman C., [redacted].
Hobar, Basil J., [redacted].
Hobbs, Dale G., [redacted].
Holcomb, Rowland R., [redacted].
Holland, Patrick J. [redacted].
Holley, John C., [redacted].
Hooker, George A., [redacted].
Hooper, Lynn C., [redacted].
Horner, Thomas A., [redacted].
Horton, Lowrey P., [redacted].
Horvath, Richard L., [redacted].
Houston, Samuel B., [redacted].
Howard, James D., [redacted].
Howe, Robert D., [redacted].
Hubbard, Jerry A., [redacted].
Huggin, Benjamin A., [redacted].
Humphrey, Richard A., [redacted].
Hutson, Heyward G., [redacted].
Inglett, Robert A., [redacted].
Irby, Dewitt T., Jr [redacted].
Jayne, Robert K., Jr. [redacted].
Jenkins, Wilburt L., [redacted].
Johnson, Charles E., [redacted].
Johnson, Hugh P., [redacted].
Johnson, Marshall B., [redacted].
Johnson, Stanley R., [redacted].
Jones, Daniel M., [redacted].
Jones, William S., [redacted].
Joosse, Stanley B., [redacted].
Kaiser, George F., [redacted].
Karl, Edward V., [redacted].
Kawano, Kenneth I., [redacted].
Kee, Robert J., [redacted].
Kellenberger, William E., Jr., [redacted].
Kendall, Donald S., [redacted].
Kennedy, John L., [redacted].
Kennedy, Thomas J., Jr. [redacted].
Kenney, Laurence P., Jr. [redacted].
Keyes, Billy G., [redacted].
Kieffer, George W., [redacted].
Kind, Peter A., [redacted].
Kinney, Linford N., [redacted].
Kirchner, Warren F., [redacted].
Kleb, George R., [redacted].
Kline, Gary L., [redacted].
Knisely, Lynn B., [redacted].
Kniskern, Bruce E., [redacted].
Knoop, Paul R., [redacted].
Kolin, Raymond A., [redacted].
Kraus, George F., Jr., [redacted].
Kuhn, William K., Jr. [redacted].
Kvederas, Robert A., [redacted].
Ladehoff, Harold L., [redacted].
Landry, John R. [redacted].
Langrehr, Michael J. [redacted].
Laposata, Joseph S. [redacted].
Larson, Christian M., [redacted].
Lavigne, Norman A. [redacted].
Lawlor, James, [redacted].
Lax, Robert E., [redacted].
Lechner, Ralph C., [redacted].
Lee, Francis G., [redacted].
Lee, Phillip A., [redacted].
Lee, Robert C., [redacted].
Leffler, Samuel A., [redacted].
Leonard, Daniel R. [redacted].
Lewis, John H., Jr. [redacted].
Lewis, Terris C., [redacted].
Liberatore, Samuel N. [redacted].
Lind, Richard W., [redacted].
Lindquist, Robert E. [redacted].
Lionetti, Donald M. [redacted].
Lipinski, Robert H. [redacted].
Lopez, Manuel, [redacted].
Lotz, Reinhard M., [redacted].
Lovell, James A., [redacted].
Lucas, Wayne L., [redacted].
Luckey, Robert M., [redacted].
Lymn, Harry C., [redacted].
Madden, Charles D. [redacted].
Maglin, Richard R. [redacted].
Malcor, Dennis P., [redacted].
Mallion, Richard J. [redacted].
Manderson, Ivor C. [redacted].
Manderville, Bernard P., Jr. [redacted].
Mangum, Robert A. [redacted].
Markham, John F. [redacted].
Marley, Ronald W. [redacted].
Marsh, Byron D., [redacted].
Martin, Geary D., [redacted].
Martin, Richard H. [redacted].
May, James L., [redacted].
Mayer, John H., [redacted].
McCarthy, Paul J., [redacted].
McCarthy, William J. [redacted].
McCotter, Orson L., [redacted].
McCracken, Henry E., Jr. [redacted].
McCrary, Richard F., [redacted].
McFadden, Phillip L. [redacted].
McFarland, Jon W., [redacted].
McKnight, James G., [redacted].
McLaughlin, Edward J. [redacted].
McQuaid, Ronald J. [redacted].
Medley, Ted, [redacted].
Meloy, John N., [redacted].
Menoher, Paul E., Jr. [redacted].
Mentor, John L., [redacted].
Merchant, James L. [redacted].
Mergner, George F., [redacted].
Merski, Norman R., [redacted].
Miller, Donn G., [redacted].
Miller, James E., [redacted].
Miller, Joseph, Jr., [redacted].
Miner, William H., [redacted].
Minnich, Lawrence E. [redacted].
Mitchell, Corless W., [redacted].
Moe, Donald W., [redacted].
Moore, Bobby L., [redacted].
Moore, Riley R., II, [redacted].
Moorhead, John H., [redacted].
Morton, James O., [redacted].
Motley, James B., [redacted].
Moutos, Gus, [redacted].
Mullen, Frederick F., [redacted].
Mullenax, Donald C., [redacted].
Mullenix, Ronald O., [redacted].
Murray, Jon L., [redacted].
Murry, William V., [redacted].
Musmanno, Francis J., Jr. [redacted].
Myers, Charles T., III, [redacted].
Najera, Pedro, [redacted].
Neely, Carl C., Jr., [redacted].
Noack, Richard R., [redacted].
Nobles, Charles S., [redacted].
Norman, Kenneth G., [redacted].
Novogratz, Robert M., [redacted].
O'Connor, Hugh T., [redacted].
Odom, Fredwin M., [redacted].
Offan, Kenneth J., [redacted].
O'Grady, John E., [redacted].

Oliver, Robert T., [redacted].
Olson, Martin G., [redacted].
Oneill, Kevin J., [redacted].
Oneill, Malcolm R., [redacted].
Oneill, Richard T., [redacted].
Ord, Robert L., III, [redacted].
Orr, Paul F., [redacted].
Osborn, Larry N., [redacted].
Ostovich, Rudolph, III, [redacted].
Ott, John S., [redacted].
Parker, Robert W., [redacted].
Parsons, Donald L., [redacted].
Passarella, Patrick F. [redacted].
Pattison, John A., [redacted].
Patty, J. W., III, [redacted].
Perkins, Stuart L. [redacted].
Pfister, Cloyd H., [redacted].
Phillips, Alan B., [redacted].
Pigaty, Leo J., [redacted].
Plassmeyer, Martin L., [redacted].
Plummer, George W., [redacted].
Posey, Dudley M., [redacted].
Potter, Richard W., Jr. [redacted].
Powell, Jamo C., [redacted].
Powell, Roger E., [redacted].
Pratt, Robert H., [redacted].
Press, Donald P., [redacted].
Prisk, Courtney E., [redacted].
Rafferty, John L., [redacted].
Randall, Howard W., [redacted].
Rapp, Edward G., [redacted].
Ratcliffe, John P., [redacted].
Rauch, Frank C., [redacted].
Ray, Harry D., Jr., [redacted].
Redding, Frank J., [redacted].
Regel, Thomas J., [redacted].
Reinhard, Donald R., [redacted].
Reiser, Andre K., [redacted].
Rexrode, Kenneth E., [redacted].
Reynolds, Harvey J., [redacted].
Rhen, Thomas A., [redacted].
Rhynsburger, Robert B., [redacted].
Richards, Arthur E., III, [redacted].
Richardson, Celeste T., [redacted].
Rigby, Joe W., [redacted].
Riley, James E., [redacted].
Riordan, Robert W., Jr., [redacted].
Robb, Allan D., [redacted].
Robinson, Charles D., [redacted].
Robinson, Edward C., [redacted].
Robinson, John D., [redacted].
Rocco, Domenic P., Jr., [redacted].
Rogers, James G., [redacted].
Roney, Kenneth D., [redacted].
Rosamond, John B., [redacted].
Ross, Lawrence C., [redacted].
Ross, Raymond R., II, [redacted].
Rothblum, Richard A., [redacted].
Rounseville, Richard G., [redacted].
Rushton, Pierce A., Jr., [redacted].
Russell, Thomas B., [redacted].
Salley, Robert W., [redacted].
Salomon, Leon E., [redacted].
Saunders, David L., [redacted].
Sauvageot, Jean A., [redacted].
Schiano, Louis J., [redacted].
Schmacker, Bruce E., [redacted].
Schmidt, Jackie E., [redacted].
Schmitz, Ralph, [redacted].
Schneider, Michael M., [redacted].
Schor, Stephen H., [redacted].
Schroeder, Daniel R., [redacted].
Scott, Richard M., [redacted].
Seitz, John A., III, [redacted].
Seybold, Thomas K., [redacted].
Shachnow, Sidney, [redacted].
Shauf, Elton R., [redacted].
Sheldon, Thomas K., [redacted].
Shepard, Phillip G., [redacted].
Sherard, Stewart, [redacted].
Sherburne, Thomas N., [redacted].
Sherrell, Wilson J., [redacted].
Shimek, Daniel W., [redacted].
Shirey, Wilbur C., [redacted].
Short, Alonzo E., Jr., [redacted].
Shouse, Delbert F., [redacted].
Sikora, Thomas F., [redacted].
Simerly, Julian C., Jr., [redacted].
Slifer, Richard D., [redacted].
Smith, Byrd, [redacted].
Smith, Harold L., [redacted].
Smith, Jack C., [redacted].
Smith, Lee C., Jr., [redacted].
Smith, William G., [redacted].
Sobke, John F., [redacted].
Solomon, Irwin E., [redacted].
Sorensen, Gary A., [redacted].
Sorenson, Wilbert W., Jr., [redacted].
Spisak, John J., [redacted].
Sprague, Ronald K., [redacted].
Springer, Anthony T., [redacted].
Squire, John H., [redacted].
Stanley, Charles M., Jr., [redacted].
Stanley, Frederick J., [redacted].
Starling, James D., [redacted].
Stebbins, Allen F., [redacted].
Stephens, Donald G., [redacted].
Stephens, William J., [redacted].
Stiepock, Robert C., [redacted].
Stiles, Howard J., [redacted].
Stone, Thomas R., [redacted].
Stone, Wayne F., [redacted].
Stroup, Theodore G., Jr., [redacted].
Svendsen, Don F., [redacted].
Swindells, John E., [redacted].
Szustak, Frank G., [redacted].
Tancreti, Roger J., Jr., [redacted].
Taylor, Horace G., [redacted].
Taylor, John E., [redacted].
Taylor, William D., [redacted].
Temple, William E., [redacted].
Thomassy, Fernand A., [redacted].
Thompson, Floyd J., [redacted].
Thompson, Paul F., II [redacted].
Thompson, Vernon D., [redacted].
Thudium, Christian C., [redacted].
Thurston, Joe B., Jr., [redacted].
Tichenor, James R., III, [redacted].
Torres, Frank C., Jr., [redacted].
Tozier, Robert E., [redacted].
Trdla, Joseph R., [redacted].
Tredinnick, Richard E., [redacted].
Trinkle, Patrick M., [redacted].
Tyler, Erven S., [redacted].
Vaglia, James E., [redacted].
Valleant, John H., [redacted].
Vargosko, Michael A., [redacted].
Vay, Nicolas R., [redacted].
Vercellone, Joseph E., [redacted].
Vermette, Robert E., [redacted].
Vick, Gerald A., [redacted].
Voke, Edward N., [redacted].
Wacloff, Robert L., [redacted].
Wait, William M., [redacted].
Walker, Robert T., [redacted].
Wall, Kenneth L., [redacted].
Wallace, Malcolm K. R., [redacted].
Walsh, James E., Jr., [redacted].
Walters, James P., [redacted].
Warnock, William H., [redacted].
Warren, James A., [redacted].
Weaver, Charles R., [redacted].
Weber, Thomas E., [redacted].
Weinfurter, Robert J., [redacted].
Wenzel, Paul J., [redacted].
Westmoreland, Franklin D., [redacted].
Wheeler, John B., [redacted].
Wheeler, Robert A., [redacted].
White, Lyman G., Jr., [redacted].
Whiteside, Jerry E., [redacted].
Whitworth, David C., [redacted].
Wigner, Larry R., [redacted].
Wilder, William B., [redacted].
Wilkerson, Edwin A., [redacted].
Williams, Arthur E., [redacted].
Williams, Cary E., [redacted].
Williams, Donald B., [redacted].
Williams, Robert B., [redacted].
Williams, Robert S., Jr., [redacted].
Williams, Stuart H., [redacted].
Williamson, Myrna H., [redacted].
Williamson, William R., [redacted].
Wilson, William R., [redacted].
Wolters, Robert A., [redacted].
Woodhouse, Donald L., [redacted].
Woodle, Kenneth J., [redacted].
Worthington, Wayne L., [redacted].
Wuerpel, Charles L., [redacted].
Yeats, Philip L., [redacted].
Yelverton, Rush S., [redacted].
Yon, Frank E., [redacted].
York, Dennis J., [redacted].
Zagalak, Stanley J., [redacted].
Zahn, Kenneth C., [redacted].
Zaldo, William T., III, [redacted].
Zierak, Robert A., [redacted].

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

Babcock, Charles S., [redacted].
Briggs, David B., [redacted].
Cole, Raymond D., [redacted].
Creekmore, Joseph P., [redacted].
Cuthbert, Thomas R., [redacted].
Ickhardt, William G., [redacted].
Endicott, James A., Jr., [redacted].
Felder, Ned E., [redacted].
Hug, Jack P., [redacted].
Kane, Peter J., [redacted].
Lewis, Jerome X., II, [redacted].
McRorie, Raymond C., [redacted].
Nutt, Robert M., [redacted].
Stone, Frank R., Jr., [redacted].
Watkins, Charlie C., [redacted].
White, Charles A., Jr., [redacted].
Yawn, Malcolm T., [redacted].

CHAPLAIN CORPS

To be colonel

Alexander, George W., II, [redacted].
Bell, Bobby D., [redacted].
Brough, Alfred E., [redacted].
Burttram, Danny W., [redacted].
Compton, David O., [redacted].
David, Lawrence T., [redacted].
Evangelisto, Louis A., [redacted].
Hilliard, Henry C., Jr., [redacted].
Hoh, David W., [redacted].
Huseth, Joseph L., [redacted].
Ives, Ivan G., [redacted].
Keefe, Francis L., [redacted].
Kleinworth, Robert R., [redacted].
Martin, Richard K., [redacted].
Saunders, Robert E., [redacted].
Scott, John C., [redacted].
Standley, Meredith R., [redacted].
Torer, Roland R., [redacted].

MEDICAL SERVICE CORPS

To be colonel

Alex, Allen M., [redacted].
Baker, Harlan H., Jr., [redacted].
Bambery, Thomas W., [redacted].
Benson, Warren D., [redacted].
Boyd, William M., Jr., [redacted].
Crow, Kenneth E., Sr., [redacted].
Gensler, Jay D., [redacted].
Gillespie, Ronald L., [redacted].
Grider, Donald A., [redacted].
Grodt, Robert G., [redacted].
Helgeson, James G., [redacted].
Heller, Kyle M., [redacted].
Hill, William R., [redacted].
Hoke, Mark L., [redacted].
Johnson, Walter F., III, [redacted].
Kielman, Roger W., [redacted].
Labat, Roger J., [redacted].
Leahey, Raymond, [redacted].
Lingle, Kenneth C., [redacted].
MacIntyre, John A., Jr., [redacted].
McIntyre, James E., [redacted].
Moussa, Moufied A., [redacted].
Peacock, James L., [redacted].
Pittman, Thurman M., [redacted].
Posey, William L., [redacted].
Sylvester, Ernest J., [redacted].
Vermillion, James G., [redacted].
Weaver, Joseph U., Jr., [redacted].
Whitlaw, Joseph T., Jr., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Elbeheri, Hahmoud S., [redacted].
Gierhart, Jane E., [redacted].
Hummel, Robert A., [redacted].
Lucas, Mary E., [redacted].
McDowell, Joyce, [redacted].

VETERINARY CORPS

To be colonel

Barck, John C., [redacted].
Cooper, James C., [redacted].
Freel, Marvin E., [redacted].
Gustin, Philip N., [redacted].

Hilmas, Duane E., [redacted].
Robinson, David M., [redacted].
Rozmiarek, Harry, [redacted].
Sims, William M., Jr., [redacted].
Via, Robert E., Jr., [redacted].

ARMY NURSE CORPS

To be colonel

Barrington, Tillman E., [redacted].
Carson, Amelia, J., [redacted].
Christ, Nancy M., [redacted].
Condon, Kathleen T., [redacted].
Fenlon, Eileen M., [redacted].
Fiaschi, Peter J., [redacted].
Halliburton, Sarah, [redacted].
Herman, James W., Jr., [redacted].
Houghton, Jean M., [redacted].
Hunn, James M., [redacted].
Kamensky, Richard J., [redacted].
Kennedy, Eunice J., [redacted].
King, Joyce W., [redacted].
Kuntz, Mary K., [redacted].
Metz, Martha L., [redacted].
Pavlakovic, Dorothy D., [redacted].
Troniar, Maryrose F., [redacted].

IN THE NAVY

Dennis D. Guy, Navy enlisted scientific education program candidate, to be appointed a permanent ensign in the line of the U.S. Navy, subject to qualification therefor as provided by law.

John H. Keogh, civilian college graduate, to be appointed a permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

Ronald J. Lentz, ex-U.S. Navy officer, to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

The following-named ex-Naval Reserve officers to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Bergeon, Milton C.
Winkle, Richard J.

Jere G. Sutton, civilian college graduate, to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

The following named U.S. Navy officers to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Brownell, Douglas A.
Stuckey, Charles E.

Sarv M. Grover, civilian college graduate to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

IN THE NAVY

The following-named ensigns of the U.S. Navy for temporary promotion to the grade of lieutenant (junior grade) in the line and staff corps, as indicated, pursuant to title 10, United States Code, sections 5784 (line and staff corps officers) and 5791, subject to qualifications therefor as provided by law:

LINE

Ahern, Jeffrey J.
Allen, Marvin T.
Anderson, Frederick C.
Aucoin, Joseph P.
Barber, Frederick L.
Barnett, David E., III
Baxley, Michael S.
Beard, Dale A.
Beauchamp, M. J.
Belanger, Scott J.
Bell, Anthony T.
Berry, Eric C.
Berry, Ralph M.
Best, David C.
Blohm, Keith W.
Blomquist, Karl E.
Born, Edward G., Jr.
Botek, John T.
Bouma, John C.
Bousa, Vincent P.
Boyd, Harold D.
Brewster, Edward Y.
Brooks, James D., III
Brugal, Andres A.
Brummett, Jack D.
Bruster, Barry G.
Buczkowski, Bruno R.
Burnick, Mark H.
Burtner, Keith E.
Butterer, Albert J.
Cabe, William G., Jr.
Carney, William
Carter, Clarence E.
Caspers, Jeffrey L.
Causey, Randolph E.
Chappell, David C.
Chevrie, Rickey E.
Childers, Roger M.
Chipkin, Martin
Christianson, Marc S.
Connors, William G.
Convery, James J.
Cooper, Alvin
Corkill, Patrick W.
Corpuz, Richard A.
Cousin, Dewayne G.
Critch, Ronald W.
Crouse, Robert D.
Curtis, Sherman L.
Dahmer, Carl W.
Dallago, David S.
Daus, William B.
Davis, James C.
Decker, Brian N.
Dennis, Carl P.
Doskocil, William C.
Driscoll, Barry P.
Dykes, Joel B.
Egide, Mark S.
Ellis, Roland L.
Erickson, Jon J.
Fagan, L. Martin
Fawcett, James D.
Firmin, Glynn R.
Flynn, John M.
Franklin, Gene C.
Friend, Donald W.
Fritsch, David C.
Gagan, Casey A.
Gagne, Robert E.
Gaioni, Steven A.
Garcia, Patrick C.
Garrity, Ellsworth M. I.
Gaskin, David D.
George, James M.
Gerson, Gregory S.
Glazer, Elliott H.
Gonzalez, Armando
Graham, Robert G.
Gross, Frederic J.
Groves, Kim R.
Grubbs, Jeffrey W.
Harper, Larry
Harper, Timothy A.
Harvey, Steven F.
Harward Robert S.
Havrilak, James J.
Heinze, Marvin H.
Herbold, Gary B.
Herning, Steven D.
Hill, James R., Jr.
Himebaugh, Paul K.
Hoerning, Brian D.
Hogan, William E.
Humphrey, Michael J.
Hunt, Gordon S.
Huscher, Paul D.
Hutto, Gregory T.
Jansen, Clifford
Johnson, Jeffrey
Johnson, Craig C.
Jones, David W.
Jones, William B.
Jordan, Joseph B.
Jordan, Kurt A.
Kahl, Bruce W.
Karstens, G. A.
Kassilke, Donald J.
Kaus, Paul M.
Kennedy, Michael J., Jr.
Kenyon, Steven E.
King, Michael F.
Kneeland, Walter W.
Knowles, Todd W.
Kociban, Andrew M.
Kolasinski, John T.
Krueger, David L.
Krumel, Glenn L.
Lamb, William D.
Lambie, Michael G.
Lang, James C.
Lashua, Ernest E., Jr.
Ledesma, Alfred
Lee, Charles C., Jr.
Lennon, Jeffrey C.
Leon, Guerrero P.
Lester, Donald J., Jr.
Lighthizer, Kenneth L.
Lipovsik, Mark S.
Lloyd, Charles C.
Long, Charles R.
Loper, Mark W.
Los, Banos G. S.
Lueders, John D.
Lybarger, Michael T.
Maguire, Laurence
Maher, Jerome J., Jr.
Maier, Curt M.
Malone, Richard W.
Manners, David C.
Marble, David C.
Matheke, James D.
Mathis, Gerald
Matthews, Jerry D.
McAuliffe, Warren
McCaffrey, Thomas E.
McClung, Scott H.
McConnell, John A.
McDaniel, James T.
McDonald, Allen D.
McGee, William S.
McIntire, Kevin W.
McIamb, Gary M.
McLarney, David W.
McPhillips, T. M.
Meeks, Walter A.
Mendiola, Anthony
Mess, Jeffrey K.
Meyer, Dean W.
Michielini, Norman
Mihacevich, S. M.
Miller, Benjamin K.
Miller, Michael
Miller, Michael W.
Miller, Ronald A.
Miller, Stephen K.
Miller, Steven C.
Miller, Theodore A.
Miller, Walter A.
Miller, Andrew W.
Mills, Neal J.
Milne, Gregory L.
Minnich, David L., Jr.
Minnig, Douglas A.
Minor, Mark A.
Mirick, Robert A.
Miskell, William G.
Mitchell, William D.
Mitchell, Kenneth C.
Mitenius, Edward J.
Mixon, Robert N.
Model, Sean M.
Mohan, Mark D.
Mohler, Phillip S.
Molleson, Kenneth C.
Monroe, Gregory A.
Monroig, Agustin
Montana, Maurice M.
Montgomery, Joseph R.
Montgomery, Paul R.
Montgomery, Robert G.
Moody, Donald J.
Moon, David B.
Moon, Timothy D.
Moore, Alan R.
Moore, Carter D.
Moore, Corey S.
Moore, Douglas E.
Moran, David R.
Moran, Kevin S.
Morgan, Charles R.
Morgan, Stephen L.
Morgan, Thomas K.
Morlang, Gary M.
Moroney, David T.
Morrison, Robert S.
Morrison, Robert E.
Morrison, Stacy Q.
Morriss, David M.
Morrow, Glenn C., Jr.
Morton, Kenneth P.
Moses, Clyde D.
Moss, Daniel S.
Mostert, Justin R.
Moulden, Bobby F.
Mowins, Michael L.
Mroczynski, Edward R., Jr.
Mueller, Lyle K.
Muir, Bruce V.
Mulcahy, John M.
Mulcare, Timothy M.
Muldoon, John J.
Muldoon, Michael P.
Muller, Kurt A.
Mulloy, Joseph P.
Mumpower, Thomas S.
Munyon, Thomas J.
Murakami, Lance E.
Murphy, Harry A.
Murphy, Michael P.
Murphy, Richard H.
Murray, Michael W.
Murray, Richard P.
Murrell, Thomas A.
Myers, Terry W.
Mygas, Nicholas F.
Nagle, Timothy J.
Neary, James P.
Needham, Robin F.
Nees, Dale M.
Neller, Michael E.
Nelson, Erik S.
Nelson, Peter W.
Nelson, Robert L.
Nelson, Ronald E.
Nestle, Mark L.
Nettles, Patrick
Nevin, Robert W.
Nevitt, Russell D.
Newcomb, Steven L.
Newman, Robert B.
Newmaster, Jeffrey T.
Nicolai, Peter E.
Niederhauser, Glen A.
Nigro, Michael L.
Niner, Francis J.
Noble, William D.
Noel, Harold G.
Nolan, Richard J., Jr.
Norman, Brent B.
Normand, Mitchell W., Jr.
Norton, Blaine T.
Norton, David J.
Norton, Donald E.
Nowell, Richard D.
Noyes, Daniel A.
Nye, Kerry L.
Oard, Douglas W.
Oboyle, Seamus M.
Obrien, Edward V., Jr.
Obrien, Ronald C.
Oconnell, Michael J.
Oconnell, James W.
Oconnor, Thomas C.
Odell, Stephen J.
Odonnel, Richard B.
Oertling, John K.
Ogg, Jack W.
Ohanian, Arthur J.
Ohlson, Edward C.
Okeefe, James L., III
Oldfield, William D.
Olivier, Timothy J.
Olmstead, David
Olsen, Dennis K.
Olsen, Edward D.
Olson, David R.
Olson, Peter J.
Olsson, Lars O.
Olynick, Peter A.
Oneal, Daniel T.
Oneil, Danny T.
Oneill, Andrew J.
Opsal, Philip A.
Orem, John H.
Osterman, James P.
Ott, Timothy M.
Otterson, David J.
Owen, Jeffrey P.
Owen, Walter E.
Owens, Billy L.
Pagel, Keith R.
Pagadanganan, Romeo M.
Pagett, Ronald E.
Painter, Kenneth B.
Palmer, David A.
Palmer, John A.
Palmer, John W.
Palmrose, Donald E.
Paluszek, Stephen E.
Pandes, Ruben C.
Panos, Kenneth J.
Papalski, Joseph C.
Para, Raymond
Parente, Christopher L.
Parker, Andrew A.
Parker, Barry L.
Parker, Daniel L.
Parker, Gary D.
Parker, Gregory S.
Parker, John M., IV
Parrish, John R.
Parrott, Michael T.
Parshall, Gerald H., J.
Parsons, Peter S.
Pasko, John A.
Patrou, Neil T.
Patterson, F.
Patterson, John W.
Patton, Douglas A.
Pauls, Rodney K., Jr.,
Pavelle, Timothy J.
Pavoni, Justin F.
Pawlak, Mark J.
Payette, Stephen W.
Payne, Edward
Payne, Stephens S.
Payton, Lewis N.
Peacock, Robert C.
Peacock, William H.
Peck, Richard D.
Peck, William H.
Pedersen, Dean M.
Pedigo, John C.
Pekarik, Randall J.
Pelc, James H.
Pelliccione, Vincent F.
Peltzer, Todd J.
Pendley, James V.
Penniman, Russell S. I.
Pennington, Charles D.
Perez, Rolando S.
Perkins, Clifton E., Jr.,
Perritt, Stuart E.
Pertle, William E.
Pestcoe, Martin T.
Peters, Larry N.
Peterson, Jay L.
Peterson, Merle N.
Phares, Richard K.
Phelan, Thomas P.
Philipp, Brian F.
Philips, Allen G.
Phillips, Richard M.
Phillips, George M.
Philpot, Daniel V.
Picchini, Renard T.
Pickles, Scott T.
Piela, Donald J.
Pieper, Harry L.
Pierce, Daniel L.
Pietrzak, Ray A.
Pilewski, Phillip J.
Pinho, Michael E.
Pinkston, James T., Sr.
Piper, John C.
Pirozzi, Philip C.
Pitchford, Martin V.
Pletl, Robert T., Jr.
Plumlee, Thurman R.
Pluto, Michael
Podoba, John S.
Poehler, Lester C.
Poetsch, James D.
Pohlmeyer, Mark R.
Pohlmeyer, Paul E.
Pollard, James D.
Pollard, Joseph E., Jr.
Polnaszek, Mark R.
Pomeranz, Henry D.

Pong, William R.
Poole, Richard M.
Pope, Dale W.
Popek, John M.
Poplin, Woodrow M.
Porter, William L.
Poss, Edward F. III
Post, Bradley D.
Potter, Robert D., Jr.
Powell, William E.
Powers, Benjamin W., III
Powers, Matthew R.
Powers, Peter W.
Powers, Timothy J.
Pratton, Samuel D.
Prentiss, Paul R.
Price, Paul M.
Prindle, Brian C.
Prinzel, Lawrence J., Jr.
Pritchard, Donald L.
Prochaska, James
Prothero, David W.
Prutzman, Paul B.
Pryde, David R., II
Pullar, Walter S., III
Pursley, Scott J.
Pybus, Sean A.
Quale, Theodore J., Jr.
Quarles, Ralph D.
Quigley, John V.
Quigley, Miles C., III
Quinn, Donald P.
Quinn, James J.
Quinn, Michael S.
Quintong, Wilfred P.
Rabens, Michael V.
Radloff, Robert W.
Radona, Pepito J.
Rahall, Ronald G.
Rahmes, Todd W.
Rains, Terry D.
Ralston, Kelvin D.
Ranalli, David M.
Rand, Gregory P.
Ranker, Keith A.
Ranstead, Robert A.
Ranz, Michael C.
Rasmussen, Pete R.
Ratte, James E., Jr.
Raup, Kenneth W.
Rauss, Robert A.
Rawlins, Robert S.
Reasor, Richard S.
Redwine, Kirk S.
Reed, Vernon D.
Reedy, Michael W.
Reese, Loren F.
Reese, Paul J.
Reeves, Peter F.
Regan, Kevin J.
Regis, Patrick J.
Rehling, Carl W., III
Reid, John A.
Reilly, Dennis J.
Reilly, Robert D.
Reily, Philip K., III
Reinhardt, Gregory R.
Reinard, Bruce E.
Reinhold, Roy A.
Reisch, Christopher P.
Remelius, Frederick P.
Renaud, Philip G.
Rendine, John J.
Resser, William H.
Retterer, Dennis K.
Reuer, Kenneth L.
Reuss, James L.
Reynolds, James O.
Reynolds, Kenneth M.
Reynolds, Richard C.
Reynolds, Theodore A.
Rhoads, Mark C.
Rhue, William B.
Rice, Lawrence S.
Rice, Russell J.
Rich, David B.
Richards, Donald P.
Richardson, Duncan W.
Richardson, George D.
Rickard, John R.
Riddle, Guy R.
Riedel, Randolph A.
Riggin, Scott A.
Riley, Raymond B.
Rill, Louis F.
Ringlein, Mark J.
Rinke, William J.
Rishel, Douglas M.
Ritz, Kenneth L.
Ritzert, Timothy E.
Rivers, Robert H.
Robb, Thomas E.
Roberts, Bruce V.
Roberts, Gene A.
Roberts, Howell F. I.
Roberts, James F.
Roberts, Mark S.
Robertson, Allen J.
Robertson, James W., Jr.
Robertson, Steven M.
Robinson, Warren T.
Roche, Richard L.
Rocker, Jeffrey
Rodgers, Brian A.
Rodgers, David A. T.
Roegge, Frederick J.
Rogers, David B.
Rogers, David M.
Rogers, Morgan M.
Rogers, Therodore E.
Rohren, Lathan E.
Rohrs, Bradley B.
Roll, Richard A., Jr.
Rolow, Patrick J.
Romaneski, Peter C.
Romano, Joseph J.
Romanoff, Gregory G.
Rome, Kenneth M.
Rooker, Terry L.
Root, David B.
Roper, Steven M.
Rose, Roger M.
Rose, William S.
Rosenberg, Jerald A.
Rosholt, Gary W.
Ross, Michael A.
Ross, Steven H.
Ross, Stephen S.
Ross, Thomas E.
Rossi, Gary L.
Rothwell, Brian J.
Rousseau, Lester G.
Rowe, Kenneth M.
Rowe, Lawrence A., Jr.
Rowen, James D.
Roy, Michael L.
Roys, James R.
Rubin, James B.
Rubin, Robert J.
Rucker, William K.
Ruebens, Mark A.
Rugieri, Dale L.
Ruiz, Fernando A., Jr.
Runow, Michael J.
Rupp, Jimmie D.
Russell, John M.
Rust, Kenneth E.
Ruth, Thomas A.
Rutherford, James A. Jr.
Rutherford, Paul M. Jr.
Ryan, James R.
Sablan, Francis E., Jr.
Sabo, Robert P.
Sadler, Roy D.
Saenz, Steven
Sain, Robert C.
Salazar, Gabriel R.
Saltsman, Robert R.
Salvatori, Marc J.
Sampson, Paul M.
Sampson, William J.
Samson, David F.
Sanborn, Brian L.
Sanchez, Benjamin W.
Sanderson, George H. J.
Sanford, James C.
Sanford, William R., Jr.
Santos, Dioscord C.
Sapone, David T.
Sarmiento, Bundy C.
Sassman, Roger W.
Sauer, Arthur R.
Saunders, Shannon D.
Savas, Sam M., III
Sawyer, Danny R.
Saylor, Robert L.
Scanlon, Randy J.
Schafer, Kurt D.
Schaffner, John N., Jr.
Scheitlin, Mark E.
Scherer, Alan T.
Scheurich, Scott S.
Scheurich, Norman C., Jr.
Schimizze, Richard R.
Schini, Stephen K.
Schmid, John D.
Schneider, John F.
Schock, Steven G.
Schoelen, James C.
Scholley, Frank G.
Schreiber, Mark M.
Schukraft, Keith B.
Schuler, Fred S.
Schultz, Frederick L.
Schwarzkopf, Michael A.
Schwermer, Jay P.
Scott, Brian C.
Scott, George R.
Scott, John B.
Scott, Raymond
Scranton, Michael S.
Seaman, Mark D.
Sebastian, James R.
Sechrest, Edward A.
Secor, Eugene D.
Seffel, Gary A.
Seglem, Mark K.
Seim, Stephen W.
Selden, John K.
Selle, James D.
Sepulveda, John
Sevon, Tero T.
Shafer, David G.
Shaffer, Kirk A.
Shaffer, Paul T.
Shaltz, Terry M.
Shanaghan, Kerry M.
Shareno, David P.
Sharry, John M.
Shatynski, Michael M.
Shaughnessy, Kevin J.
Shaw, Donis L., Jr.
Shawcroft, Grant J.
Sheehan, Joseph D.
Shell, Mark D.
Shellenberger, Paul K.
Shelly, Thomas J.
Shelton, Terence E.
Shepard, Peter
Shepard, Wayne E.
Shepherd, Douglas C.
Sherley, Richard A.
Sherman, Jefferson W.
Shields, Robert E., III
Shikada, David S.
Shin, Kon Y.
Shockley, David W.
Shore, James D.
Short, Randall G.
Shotsberger, Paul G.
Showalter, James M.
Shrader, Lee T.
Shreiner, Terry L.
Shuga, Gilbert
Shugars, Joel C.
Sienicki, Joseph P.
Sifferlen, Stephen G.
Sifford, Douglas P.
Silva, Donald A.
Silvester, Lindsey M., IV
Silvester, Vincent J., Jr.
Simmons, Stephen M.
Simmons, William A.
Simon, Peter S.
Simons, Charles E.
Simons, Thomas P.
Simpson, Richard L., Sr.
Simpson, Robert E.
Sinnett, Kevin P.
Skillman, William F.
Skipley, Mitchell N.
Skogstad, Britt C.
Slain, Gerry L.
Slaughter, Michael S.
Slawson, Mark A.
Slippy, Thomas G.
Sloan, Timothy J.
Slomke, Michael E.
Slomski, Joseph F., Jr.
Sluter, Robert S., Jr.
Smietana, Stephen T.
Smith, Allan E.
Smith, Alvin R.
Smith, Bradley E.
Smith, Brett E.
Smith, Bret W.
Smith, Charles E.
Smith, Clifford A.
Smith, Danny G.
Smith, David C.
Smith, Eric M.
Smith, Galen L.
Smith, Jamie L.
Smith, James C.
Smith, James D., II
Smith, John H.
Smith, John H.
Smith, John M.
Smith, Michael K.
Smith, Richard B.
Smith, Robert J.
Smith, Roy M.
Smith, Scott J.
Smith, Stephen E.
Smith, Steven D.
Smith, Steven L.
Smith, Thomas G.
Smout, Robert J.
Snedeker, John W., Jr
Snell, Ray L.
Snide, Lyle W.
Snyder, Jeffrey C.
Snyder, Mark C.
Snyder, Matthew R.
Sokolik, James O.
Solik, Robert A.
Soper, Robert T.
Soranno, David A.
Sorensen, Walter C.
Sorge, Robert V.
Soriano, James R., III
Sottung, Michael
Spain, David L.
Sparks, Bart R.
Spaulding, Ralph E.
Speer, Harvey D., III
Spellissy, Brian E.
Spencer, George O., III
Spicer, Raymond A.
Spigler, Richard D.
Spiker, Ronald W.
Spiller, John H.
Spivey, Delmar S.
Spotts, Phillip B.
Sprosty, Terry D.
Spruill, Charles K.
Squires, Clifford E.
Squires, Stephen G.
Stacey, Michael K.
Stackley, Sean G. J.
Stadius, Frank J.
Stalters, Russell E.
Stancil, Charles
Stancil, Charles R., Jr.
Stangl, Kevin C.
Stansbury, Robert W.
Stark, Walter A.
Stark, William G.
Starkey, Walter A., III
Statler, Mark A.
Staudt, James E.
Steel, Alan P.
Steelman, Mark B.
Steinfeld, Henry S.
Stephens, Carl W.
Stephens, James M.
Stephenson, Parks E., III
Sterling, Robert R., Jr.
Stetson, James B.
Stevens, James G.
Stevenson, Danny R.
Stevenson, Gregory A.
Stevenson, John R., IV
Stevens, Clark D.
Stewart, Michael R.
Stewart, Richard A.
Stewart, Roger F.
Stidham, Douglas C. S.
Stiles, Philip A., Jr.
Stiles, Richard G.
Stiner, Donn O.
Stockton, Richard V.
Stoehr, Jonathan W.
Stone, Douglas H.
Stone, Howard L., III
Stone, Richard C., Jr.
Storch, Mark G.
Stout, Michael F.
Stowe, Martin D.
Stratton, Jeffrey P.
Strebeck, Walter R.
Streich, Daniel B.
Strickland, Robert T.
Strong, Keith G.
Stuckey, Victor B.
Stumborg, Jack R., Jr.
Sturm, Robert A.
Suits, David L.
Sulkowski, David P.
Sullivan, Christopher J.
Sullivan, Robert J.
Summers, Christopher L.
Sumner, Charles P.
Sumner, James F., II
Susalla, Michael P.
Suttie, Richard D.
Sutton, Steven H.
Suycott, Mark L.
Svatek, Gary F.
Swanstrom, Peter M.
Swauger, Ernest V., Jr.
Swayze, James R.
Sweeney, William C.
Sweigard, Eric L.
Swenson, Dana E.
Swetnam, Michael S.
Swithers, David J.
Szabat, John J.
Szalucka, Gary V.
Szostak, Michael J.
Taggart, Douglas M.
Takasugi, Richard M.
Talon, James D.
Tanaka, Randall R.
Tannenbaum, Steve
Tarbell, Richard W.
Tata, Robert M.
Tate, Gary J.
Tate, Robert J.
Tatman, Larry E.
Taylor, Donald E.
Taylor, John E.
Teasley, Mack M., II
Tedin, David P.
Tedrow Jefferson E.
Tees, Raymond W.
Telson, Ross D.
Tempestilli, Mark
Temple, Kennon P.
Tertocha, James C.
Tetreault, Paul J.
Teynor, Thomas K.
Thelen Jeffrey E.
Thiessen, Myron J.
Thomas, Charles D.
Thomas, Doyle E.
Thomas, Michael J.
Thomas, Stuart J.
Thomas, Timmie L.
Thompson, Mike.
Thompson, Peter M.
Thompson, Thomas C.
Thompson, Thomas W., Jr.
Thorn, Ronald D.
Thorton, Grant B.
Throop, David P.
Tibbits, Timothy S.
Tillotson, Daniel D.
Tilton, William L.
Tindall, Keith D.
Tirpak, Kenn D.
Tisdale, Charles W.
Tobey, Richard D.
Tobin, Timothy M.
Tolis, Spencer P.
Tomlinson, Douglas P.
Tomlinson, Gerald E.
Tortorelli, James P.
Tortorich, Larry J.
Toti, William J.
Towery, John W.
Towle, Thomas D.
Townsend, Armand R.
Townsend, Keith A.
Toy, Bradley K.,
Tozier, James E.
Tracy, Timothy, Jr.
Trail, Kevin E.
Trainer, William T.
Trcka, Michael J., Jr
Trees, James M.
Trimmer, James E.
Tripp, Raymond F.
Troutman, Bruce A.
Trudell, Jerry R.
Trummer, Frederick G., Jr.
Tucker, Alan A.
Tucker, Richard J.
Tully, James E.
Tungett, David W.
Turner, Shelby J.
Turnquist, Guy W.
Turriff, Arthur E.
Twardosky, David R.
Tyre, Odeen L.
Tyson, Donald G.
Uhar, Mark J.
Uhrich, Kevin K.
Ullman, Keith A.
Underwood, Jon H.
Unetic, Frank D., Jr.
Unger, Joseph F.
Urda, Theodore J.
Urrutia, Alexander L.
Ussery, Darrell G.
Uthe, Dennis A.
Utterback, Wiley V.
Valdez, Samuel E.
Valenti, Joseph A.
Valentine, Thomas J.
Valentine, William D., Jr.
Vanbrocklin, Kermit L.
Vanbuskirk, Scott R.
Vancleve, Paul M.
Vanderhorst, Kenneth R.
Vanderslice, Eric T.
Vanderwerken, Roger E.
Vanhorn, Michael A.
Vanhorn, Steven C.
Vanlangen, James, Jr.
Vanmeter, Robert A.
Vann, David D. N.
Vanwagoner, David D.
Vawter, Paul D., Jr.
Veasey, Byron K.
Veringa, Michael G.
Vermette, Paul M.
Verrando, Matthew R.
Vess, Raymond L.
Vezetinski, Patrick E.
Vinci, David L.

Vinci, Donald W.
Vivadelli, John H.
Vlastaras, Emanuel
Voetsch, Stephen S.
Vogels, Richard A.
Voigt, Robert J.
Volonino, David M.
Vonbuelow, Carl E.
Vongohren, John E.
Vonhitritz, Stephen R.
Voorhies, Gerald J.
Vortherms, Daniel R.
Vose, Michael H.
Wagoner, Victor E.
Waite, Stephen G.
Walbert, Joseph A.
Walker, David W.
Walker, Norman C.
Wallin, Jay W.
Walsh, Harvey T., III
Walsh, Michael R.
Walter, Peter J.
Walton, Lynwood G., Jr.
Walton, Steven D.
Waran, David A.
Ward, Brian D.
Ward, Gerald D.
Ward, James A.
Warick, Emory R.
Warner, Richard
Warren, Carey R.
Warren, Thomas C.
Wasilewski, Patrick A.
Wassik, Michael J.
Wasylkiw, Theodore J.
Watkins, Richard H.
Watson, Donald D.
Watson, Philip P.
Watson, Walter B., Jr.
Watters, William J.
Watts, Michael
Wawrzeniak, Bernard T.
Weber, Clifford D.
Weber, Juergen
Webster, John D.
Weckerly, James M.
Weddle, Leonard E.
Weigel, Alan M.
Weigel, Timothy C.
Weikel, Charles W.
Weir, Robert C.
Wert, Leonard D., Jr.
Weis, Robert S.
Weisbrook, Ronald E.
Weiss, Michael R.
Welch, Michael K.
Welch, Thaddeus B., II
Welch, William J., III
Welsh, Christopher B.
Wender, James D.
Wenz, Christopher
Wessel, James J.
West, Phillip H., Jr.
West, Richard C.
Westhaus, Randall T.
Weston, Richard L.
Wetherald, Thomas S.
Weyman, Roland A.
Wheeler, Kenneth
Whipple, Stephen C.
Whitaker, Jerry E.
White, Joseph M.
Whitehead, Christopher C.
Whiting, Alan B.
Whitney, Peter D.
Whitney, Scott W.
Whitson, Mark E.
Whorley, Steven J.
Wicker, Richard F., III
Wieder, Frank P.
Wiemann, Robert D.
Wierzbicki, Dennis M.
Wiesenberg, Robert A.
Wikstrom, Kenneth R.
Wilborn, Dennis W.
Wilckens, Richard D.
Wild, Brian C.
Wilder, Calvin R.
Wiley, Wendell S.
Wilhelm, Paul S.
Wilhelm, Robert H.
Wilhite, James R.
Wilkening, Scott A.
Wilkins, Richard A.
Willett, Charles D., Jr.
Williams, Brian J.
Williams, Bryan S. M.
Williams, Claude M.
Williams, J. S.
Williams, Jackie E.
Williams, James M., III
Williams, John C.
Williams, John R., Jr.
Williams, Lawrence J.
Williams, Michael J.
Williams, Norris O.
Williams, Robert A.
Williams, Steven M.
Williams, Thomas R.
Williamson, Larry D.
Williamson, Michael L
Williamson, Paul D.
Willis, Paul A.
Wilsey, Mark S.
Wilson, Clifford C.
Wilson, Douglas M.
Wilson, Duane A.
Wilson, George H.
Wilson, Gregory J.
Wilson, James J.
Wilson, Joseph A.
Wilson, Robert J.
Wilson, Thomas A.
Wilson, William L.
Winger, Lon L.
Winkowski, David J.
Winsor, Mark R.
Winter, Bruce E.
Winterroth, James M.
Wippell, Harrell G.
Wirth, Gustav A.
Wise, James E., II
Wisnom, Jeffrey R.
Withers, John D.
Wittenschlaeger, Thomas M.
Wittry, Randall J.
Wolfe, John A.
Wolter, Thomas M.
Womble, Thurston E.
Wong, Abraham H. K.
Wong, Chester W.
Wood, Charles L.
Wood, Gary W.
Wood, John S.
Wood, John T.
Wood, Michael E.
Woodson, Steven W.
Woodville, Anthony R.
Woodward, Charles C., Jr.
Woolwine, Deverett
Wootten, Mark A.
Works, Thomas V.
Wortham, Howard L.
Worthington, Michael A.
Wray, Robert O., Jr.
Wright, Andrew N.
Wright, Bill V.
Wright, Charles R.
Wright, Harry M.
Wright, John H.
Wright, Paul T.
Wright, Steven W.
Wrynn, Barry J.
Wyatt, David C.
Wylly, James R.
Yalen, William J.
Yamasyita, Leslie K.
Yanagi, Brian S.
Yancy, Kevin A.
Yarborough, Dean H.
Yarwood, Ralph H.
Yep, Bruce W.
Yingling, Thomas G.
Yip, David W.
Yocum, Richard A.
Yoshihara, David G.
Young, Hershel C.
Young, Mark F.
Young, Randolph K.
Young, Robert A.
Zaiss, David W.
Zaleski, Peter P.
Zaperach, Ronald W.
Zarzycki, Michael S.
Zbaeren, William D.
Zeigler, Eric
Zell, Bradley D.
Zeller, William F., III.
Ziegler, Michael A.
Zimmerman, Robert L., II.
Ziolkowski, James E.
Zitka, Glenn L.
Zmijewski, Michael P.
Zuchero, William J., Jr.

SUPPLY CORPS

Aasheim, Larry D.
Abramowicz, Sylvester P., Jr.
Albano, Drencio D.
Arguilla, Rodolfo G.
Baird, George K.
Ballou, Douglas R.
Barredo, Ramon M., III
Baumgardner, Charles R.
Beach, Robert A.
Bennett, Jeffery P.
Bing, Moses L.
Bradfield, Joseph J.
Bradley, Jeffrey D.
Brennan, William J.
Breslauer, Edward
Brown, Dewayne C.
Brown, Kenneth D.
Browning, Michael J.
Carmona, Alfredo P.
Castillo, Steven A.
Cavagnaro, Albert N.
Christensen, John H.
Cockrum, Logan V., Jr.
Conner, Paul B., II
Corbat, Christopher S.
Cowan, Brian J.
Crossley, Scott E.
Cutchins, David O.
Daft, Michael P.
Daly, Robert C.
Domingo, Reynaldo D.
Doswell, John M.
Drehoff, Richard B.
Drinan, John V., Jr.
Dunlap, Leslie H.
Eble, Joseph J.
Fitzgerald, David M.
Flowers, James N.
Floyd, John C., Jr.
Fontilla, Rodolfo E.
Fulton, Timothy V.
Gallagher, Robert J.
Gebhart, Edward R.
Goettl, Leonard J.
Graham, James M.
Grebe, Michael J.
Hanson, Bruce H.
Heckelman, Loren V.
Heibel, John L., III
Heinrich, Mark F.
Heldreth, Steven E.
Howe, James E., Jr.
Hufford, Ross M., Jr.
Hunt, Ohlen M.
Ilk, Joseph L.
Johnescu, Paul A.
Johnson, Darrell G.
Johnson, Robert J.
Joves, Rodante R.
Kaish, Mark A.
Koenig, Peter
Koufos, Peter J.
Kyrios, Christian L.
Lane, Aubrey E.
Larimer, Neil M.
Leavitt, James E. C. I.
Lozano, Carlos
Lucia, Russell J.
Luker, Cordial K.
MacLaren, Ron J.
Madden, Michael T.
Madison, Thomas D.
Mallin, Raemon P.
Manias, Budd L.
Marentic, George A.
Markert, George W.
Martineau, Paul J., Jr.
Matias, Manuel B.
Mauricio, Loreto L.
McCarthy, Patrick J., Jr.
McCombs, Ashton P.
Meisman, David C.
Minter, Oscar R.
Mosley, Ronald S.
Mower, James H.
Munar, Ignacio A.
Nemechek, Paul M.
Nibbe, Scott E.
Norstedt, Lawrence P., Jr.
Obrien, Timothy L.
Paco, Renato M.
Palmquist, Robert J.
Panado, Ernesto F.
Patton, Bennie G.
Peterson, Kevin L.
Platt, William J.
Prendergast, John J. I.
Quinn, Randy L.
Rattz, Donald E.
Rogers, Jerry L.
Rosado, Gilberto
Rosenau, Chris H.
Schauber, Jon A.
Schuler, Paul F.
Sheehan, David R.
Sheets, Glenn E.
Sherbanee, Kelly F.
Shields, David G.
Souther, Rory L.
Stanfield, Paul C.
Stevens, Mark D.
Summerour, Thomas J., Jr.
Summers, Marc A.
Szymanski, Michael L.
Tichy, Thomas N.
Tindell, Douglas R.
Williams, Timothy B.
Wood, David R.
Yeomands, John W.
Zabarouskas, Michael W.

CIVIL ENGINEER CORPS

Arenz, Thomas W.
Banks, Albert J., Jr.
Barnard, Douglas M.
Barron, Robert B., Jr.
Becker, Joseph D., III
Bowles, Craig D.
Chase, Henri G.
Classen, Terry L.
Crider, Steven S.
Dale, Charles L.
Denardo, Gregory K.
Dressel, Kenneth W.
Elliott, James A.
Femling, Gary W.
Fritzley, Richard D.
Galloway, William J.
Gorman, Robert G.
Grimmig, Alvin E., Jr.
Kuzio, Paul M.
Laboone, Perry A.
Laib, David R.
Linn, Larry D.
Marrs, Richard L.
McKerall, William C.
Miller, Thomas M.
Miller, Timothy R.
Murtha, Michael J.
Plows, Donald A.
Poelker, Scott D.
Raines, Robert B.
Reichert, Bruce A.
Roth, Christopher J.
Sachuk, Robert J.
Sampey, Jerome
Sarles, Mark V.
Shear, Wayne G., Jr.
Shepard, Theodore H., III
Smith, Barry R.
Smith, Mark A.
Stokes, James A.
Taberski, Charles M.
Terpolilli, Alan M.
Toribio, Gary A.
Walter, James R.
Watts, David L.
Williamson, Edward T.

MEDICAL SERVICE CORPS

Abeya, Edwin B.
Alford, Samuel P.
Barrett, Paul G.
Biggs, Michael W.
Brown, Ricky
Coffield, Craig R.
Dheron, Ronald W.
Fahler, Danny J.
Ford, Robert F.
Foster, Richard C.
Giewont, Vincent A.
Halley, Dennis P.
Hoffner, Robert C.
Hogerson, James S.
Hutchings, Richard P.
King, Charles L.
Lowe, William B., Jr.
McInnis, Steven R.
Newsom, Paul E.
Nielsen, Dann W.
Ritz, Robert E.
Roberts, Richard G.
Sacash, Christopher W.
Scott, Craig R.
Setzer, Richard C.
Turner, Donald R.
Walker, Mark A.

The following-named women ensigns of the U.S. Navy for temporary promotion to the grade of lieutenant (junior grade) in the line and staff corps, as indicated, pursuant to title 10, United States Code, sections 5787b (line and staff corps officers) and 5791, subject to qualifications therefor as provided by law:

LINE

Allen, Susan M. R.
Baker, Adrienne M.
Booth, Barbara G.
Bowlby, Linda S.
Brewer, Barbara A.
Clarkson, Elizabeth A.
Crall, Carrie L.
Deniston, Margaret S.
Donovan, Maureen E.
Dullum, Pamela I.
Evans, Jennifer L.
Fordham, Dawn R.
Gabrielli, Gail V.
Glover, Ann C.
Haeffner, Dawn R.
Halsema, Theresa A.
Hayden, Cathy E.
Haynes, Leslie E. D.
Hoffman, Catherine E.
Huffstetler, Laura G.
Jacobs, Mary C.
Kline, Donna E.
Knott, Ellen E.
Long, Anne L.
Lusk, Gail M.
McLaughlin, Kathleen M.
Minton, Rebecca H.
Myers, Connie L.
Nielsen, Sharon C.
Osman, Catherine H.
Owens, Elizabeth C.
Peterson, JoAnn L. S.
Purtell, Barbara S.
Rawls, Patsy E.
Ross, Sarah L.
Ruddell, Germaine M.
Russell, Angela G.
Rychlak, Michelle E.
Sando, Jean M.
Schnabel, Marybeth
Skiber, Carol A.
Strat, Patricia A.
Thompson, Margaret M.
Walsh, Cynthia A.
Wardrop, Ellen A.
Wentland, Cynthia M.
Williams, Mary C.
Wolk, Jean M.

SUPPLY CORPS

Krause, Elaine P.
Shunk, Kimberly
Wendland, Juanita F.

CIVIL ENGINEER CORPS

Kappus, Mary E.
White, Margaret L.

MEDICAL SERVICE CORPS

Daly, Patricia A.
Day, Patricia R.
Thomas, Sharon R.

HOUSE OF REPRESENTATIVES—*Thursday, September 4, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O Lord, we thank You for this new day with its opportunities for service to all people who are in need. May we be instruments of Your healing hand as we seek to speak Your word of hope in an uneasy world. We pray for strength, gracious Lord, that we might face the difficulties of the moment undergirded by the presence of Your spirit and with the awareness of Your constant love. Remind us that all things done in Your name may work together for the common good. May our trust in Your grace never wane nor our faith in Your promise ever diminish. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 1, 2, 4, and 5 to the bill (H.R. 2538) "An act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2514. An act to authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal year 1981, and for other purposes; and

S. 2620. An act to expand the opportunities for small business participation in exporting, and for other purposes.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

REINSTATEMENT AND VALIDATION OF SPECIFIED U.S. OIL AND GAS LEASES

The Clerk called the bill (H.R. 6258) providing for reinstatement and validation of U.S. oil and gas leases numbered C–9496, C–9711, C–11600, C–11621, C–11622, C–11630, C–11631, C–11597, C–11599, C–13774, C–14197, C–17049, C–18262, C–26048, C–13532, C–11581, C–11585, C–11590, C–11591, and C–11595.

There being no objection, the Clerk read the bill, as follows:

H.R. 6258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any decision to the contrary heretofore made by the Secretary of the Interior of the United States or his authorized agents or representatives, United States oil and gas leases numbered C–9496, C–9711, C–11600, C–11621, C–11622, C–11630, C–11631, C–11597, C–11599, C–13774, C–14197, C–17049, C–18262, C–26048, C–13532, C–11581, C–11585, C–11590, C–11591, and C–11595, shall be held not to have terminated by operation of law or otherwise on November 1, 1978, but shall be deemed to be in full force and effect and the terms of said leases extended for a period equal to the unexpired portion of the leases or any extensions thereof remaining on November 13, 1978, or for a period equivalent to the time interval between November 13, 1978, and the date on which the Secretary of the Interior reinstates said leases, whichever is the shorter time period, and so long thereafter as oil or gas is produced in paying quantities: *Provided*, That within thirty days after the receipt of written notice from the Secretary of the Interior of the amount of rental then accrued to the United States under said leases and unpaid to the last record holder of said leases, Fuel Resources Development Company, doing business in Denver, Colorado, its successors or assigns, said record holder shall tender payment of said amount of rental. Notice shall be given by the Secretary within thirty days after the effective date of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING AND DIRECTING THE SECRETARY OF THE INTERIOR TO REINSTATE OIL AND GAS LEASE NEW MEXICO 33955

The Clerk called the bill (H.R. 6538) to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 33955.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MRS. ALICE W. OLSON

The Clerk called the bill (H.R. 5160) to amend the act entitled "An act for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson."

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

WOODSTOCK DAILY SENTINEL

The Clerk called the bill (H.R. 7175) for the relief of the Woodstock Daily Sentinel.

There being no objection, the Clerk read the bill, as follows:

H.R. 7175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of sections 501 and 504, title 44, United States Code, the Secretary of Defense is hereby authorized and directed to pay out of any money in the Treasury not otherwise appropriated the sum of $1,372.08 to the Woodstock Daily Sentinel, of Woodstock, Illinois. This payment shall be in full and complete settlement of all claims against the United States, based upon the unreimbursed printing services provided by the claimant to the United States Army 12th Special Forces Group, of Arlington Heights, Illinois in 1978.

SEC. 2. No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REINSTATING AND VALIDATING U.S. OIL AND GAS LEASES NUMBERED OCS–P–0218 AND OCS–P–0226

The Clerk called the bill (H.R. 5769) to reinstate and validate U.S. oil and gas leases numbered OCS–P–0218 and OCS–P–0226.

There being no objection, the Clerk read the bill, as follows:

H.R. 5769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding any other provision of law, and subject to the requirements of section 2 of this Act, United States oil and gas leases numbered OCS–P–0218 and OCS–P–0226, located in the Santa Barbara Channel, California, shall be deemed to be in full force and effect from date of enactment of this Act for a period of four years, one hundred and twenty-six days, and so long thereafter as oil or gas is produced in paying quantities.

SEC. 2. (a) Lessees must exercise due diligence in the exploration and development of

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

oil and gas from these leases. Within forty-five days after the effective date of this Act, lessees shall submit an exploration and development plan to the Secretary of the Interior.

(b) Lessees shall be subject to the pertinent provisions of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95–372).

(c) Lessees shall pay to the United States the amount of unpaid rental accrued under said leases and shall continue to pay the annual rental payment for the period the leases are in force.

With the following committee amendment:

Page 2, after line 18 insert the following:

(d) In lieu of the standard royalty interest payment required in each lease, the lessees shall pay to the United States a net profit share payment which—

(1) shall be made in accordance with Part 390 of Title 10 of the Code of Federal Regulations and which is determined on the basis of a recovery allowance of 15 percent, and

(2) shall be an amount equal to 50 percent of the net profits of the lessee under the lease as determined in accordance with such Part 390: *Provided*, That, subject to the provisions of 45 U.S.C. § 1337(a)(3), the payment to the United States in accordance with this subsection shall in each reporting period be at least equivalent to the royalty provided for in the original leases.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the further call of the Private Calendar be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

BUREAUCRACY HAS STRUCK AGAIN

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, bureaucracy has struck again. This time it is HUD, and just as arrogant and abusive of congressional intent as its other sister agencies.

And who is at fault? It is us. It is Congress. Over the past 35 years, Congress has given away more power to bureaucrats than Congress itself has kept.

In a recent action, HUD officials in Columbus, Ohio, completely disregarded the wishes of local determination and arbitrarily ordered a project to proceed, backed by the threats of loss of grants; and worse, the project does not fully meet HUD's own criteria.

And they are doing it in your areas, too. Yes, we have all had a bad taste of bureaucratic power. How does it feel to have been made into a fifth wheel by our predecessors? But let us not just blame them. Let us take a look at our own records and see what we have done to continue the decline of Democratic government. We are all guilty; but my friends, we had better take the bull by the horns, and do it soon, if we want the people of this Nation to have a real voice.

GOOD NEWS ABOUT YOUNG AMERICANS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I have good news this morning about the young Americans of this country.

Mr. Speaker, the Chair has received a message today from the Director of the Selective Service System, and also a press conference is being held at this time by the Director of the Selective Service System, about the number of 18- and 19-year-old men that registered in August.

Our young people have come through for us, Mr. Speaker. Well over 3,593,000 have answered the call of peacetime registration. At this time 93 percent of those that were projected and who are eligible have registered. Seventeen hundred more registrations came in yesterday.

In comparison with 1973, 1 month after they had registered in 1973, which is the same comparison we have today, there was only 83 percent in 1973. Today it is 93 percent.

Mr. Speaker, we should be proud of our young men. In spite of those who preached gloom and doom about registration, our young men showed their love and respect for this country.

DEFENSE

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, as the strange story of how the Carter administration leaked the story of the stealth airplane unfolds, it is a shocking case of our defense secrets being revealed for political advantage. It should make every American's blood boil. In my 28 years in Washington, this is the worst thing I have ever seen a President and his associates do, a terrible breach of national security.

According to testimony given the Congress, the Defense Department leaked the story to Armed Forces Journal, then used that leak as the basis for officially announcing stealth technology, "since it had leaked out" anyway. This is an unsavory mess. Not only has the well-kept U.S. defense secret been betrayed, the announcement implied that we have operational aircraft using the technique, and that it is applicable to planes that would take the place of the B–1 bomber. None of this is true.

I have seen instances of political recklessness before, but never have I seen an administration sacrifice military security on the altar of political expediency, as the Carter minions have done. The Soviets, having been tipped off, will be planning accordingly and the job of defending America has become more difficult, thanks to Carter, Brown, and Perry, our leaky sieve Defense Department, and its misuse of its own stealthy technique in leaking classified information.

SAVINGS AND INVESTMENT—THE SOURCE OF AMERICA'S ECONOMIC GROWTH AND NEW JOBS

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, Federal Government policies that arbitrarily hold down interest rates on savings accounts to 5.5 percent, and impose taxes on even the first $1,000 of savings interest, are helping to restrict America's economic recovery by discouraging savings and investment.

Our citizens' savings become the capital to help finance our country's economic growth, prosperity, and creation of jobs in the private sector—yet because of these restrictive Government policies, Americans are saving only 3.5 percent of their after-tax income, the lowest savings rate in this generation.

In Canada, where as much as 10.5 percent can be earned on ordinary savings, and where the first $1,000 in savings interest is tax-free, people are putting away more than $100 from each $1,000 of take-home pay in savings, and providing a needed anti-inflation shot-in-the-arm for economic growth in these recessionary times.

Our Government should follow the wise example of our Canadian neighbors by encouraging greater savings and capital formation—the life blood of free enterprise productivity and the source of needed new jobs for our people.

□ 1010

WALKER SCORES CARTER'S PENNSYLVANIA RECORD

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, President Carter's political visit to Pennsylvania yesterday was a callous attempt to paper over his record of failure and neglect in our State.

President Carter promised Pennsylvanians yesterday that he would bring them jobs. He did so despite the sorry record of increasing unemployment in Pennsylvania ever since he became President. Unemployment has gone from 8 percent when President Carter assumed office to 9.5 percent today.

President Carter failed to mention that his opponent might harm the social security system. He said so despite his record of being the worst enemy of social security recipients ever to serve in the White House. Under his guidance, social security taxes have risen dramatically while the retirement trust fund has steadily deteriorated.

President Carter was the first President ever to have a recommendation emerge from within his administration to tax social security benefits, a recommendation that was overwhelmingly rejected by the Congress.

President Carter claimed that civil rights advances had been halted during recent Republican administrations while in Pennsylvania. The record says something quite different. A good job providing real opportunity is the basic civil right. The Carter record shows that the unemployment gap between black and white America, which narrowed during Republican years, has widened dramatically during this administration.

President Carter failed to mention that for his entire 4-year term, the Pennsylvania congressional delegation has regularly sought to meet with him on matters of concern to the State. Yet, in that 4-year period, he has not been able to find even a few minutes to meet with the entire delegation. His interest in and concern for Pennsylvania are purely matters of political necessity and not reflected in the Carter record.

The voters of Pennsylvania recognized and rejected the Carter treatment of them during the spring primary election. They also will reject his attempts to gloss over his failures in Pennsylvania this November.

HOUSE SHOULD RENOUNCE LAME-DUCK SESSION

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, those who recommend that the Members of the House be called into a lameduck session this November would do well to study the history of this legislative Chamber. If they did, they would understand that such sessions have historically seen a deterioration in the consensus that this body normally can expect to have.

Congressman Stafford of Wisconsin, illustrated this point in a statement he made in the Congressional Record of 1932. I quote:

> I well remember—and the older Members will remember—that fateful day, March 4, 1911, when the Republicans, after having been in control of all branches of Government for 16 years and were then losing control of the House, with Speaker Cannon in the chair, at the hour of 11:15, tried to put through the House under whip and spur, the tariff Commission Act.
>
> The Democrats were solidly arrayed against that outrageous legislative coup. Feeling ran high. The House was in wild disorder. One Democratic Member stood here in the well with a knife in his hand, threatening the Speaker if he would recognize Members to pass the resolution.
>
> By what constitutional right could a legislative body, after it had been renounced by the electorate, assume to legislate, especially on a partisan matter?
>
> Why should any Congress, in a hold-over session, be permitted to pass appropriation bills or any kind of legislation in the short time of the hold-over session, especially where the membership has changed.

For those very reasons, Congress renounced lameduck sessions in 1932, with the passage of the 20th amendment. For the very same reasons, we should renounce lameduck sessions today in 1980.

REAGAN ON THE MIDDLE EAST

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, last night Gov. Ronald Reagan addressed the 1980 International Convention of B'nai B'rith, the world's largest Jewish service organization, here in Washington, D.C. In his remarks, Governor Reagan detailed his views on the Middle East, setting himself firmly on the side of the security interests of the United States, the State of Israel, and all peace-loving peoples of that troubled region.

Governor Reagan sharply criticized the administration's vacillating Middle East policies, its reluctance to label the Palestinian Liberation Organization for what it is—a gang of terrorists, and the disgrace of the recent U.S. abstention on a United Nations vote condemning Israel for establishing its seat of government in its historic capital in Jerusalem.

I applaud Governor Reagan's forthright stand on these critical questions, and ask that they be printed in full in the Extensions of Remarks section in tonight's Record so that my colleagues will have the benefit of sharing his views.

OMNIBUS RECONCILIATION ACT OF 1980

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 776 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 776

Resolved, That upon the adoption of this resolution it shall be in order to move, any rule of the House to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7765) to provide for reconciliation pursuant to section 3 of the First Concurrent Resolution on the Budget for the fiscal year 1981, and the first reading of the bill shall be dispensed with, and all points of order against said bill are hereby waived. General debate shall continue not to exceed ten hours, with one hour to be equally divided and controlled by the chairman and ranking minority member of each of the following committees, in the following order, followed by two hours to be equally divided and controlled by the chairman and ranking member of the Committee on Ways and Means: the Committee on the Budget, the Committee on Armed Services, the Committee on Education and Labor, the Committee on Interstate and Foreign Commerce, the Committee on Post Office and Civil Service, the Committee on Public Works and Transportation, the Committee on Small Business, and the Committee on Veterans' Affairs: *Provided*, That the chairman and ranking minority member of the Committee on the Budget may reserve a portion of their time to close general debate. The bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order in the House or in the Committee of the Whole except the following amendments: (1) amendments recommended by the Committee on the Budget, which shall not be subject to amendment; (2) an amendment to strike out subtitle C of title V (sections 520 through 561), and subtitle C of title IX (sections 920 through 948) and to redesignate subtitle D, E, and F of title IX, and said amendment shall not be subject to amendment or to a division of the question in the House or in the Committee of the Whole but shall be debatable for not to exceed thirty minutes, to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto; (3) an amendment printed on page H6529 of the Congressional Record of July 25, 1980, by, and if offered by, Representative Vanik of Ohio, and said amendment shall not be subject to amendment but shall be debatable for not to exceed thirty minutes, to be equally divided and controlled by Representative Vanik and a Member opposed thereto; and (4) two amendments to be considered en bloc to strike title I and section 401 of the bill if offered by Representative Bauman of Maryland which shall not be subject to amendment or to a division of the question in the House or in the Committee of the Whole but shall be debatable for not to exceed thirty minutes, to be equally divided and controlled by Representative Bauman and a Member opposed thereto. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Ohio (Mr. Latta), pending which I yield myself such time as I may consume.

Mr. Speaker, I am not going to talk very long at this point about the rule. Anyone who was interested and who listened to it, would find that it is relatively straightforward and simple. I think most Members know that it was not the rule that I initially preferred. I would have preferred a completely closed rule with the exceptions of a couple of amendments that were requested by the committees involved in the reconciliation process.

Although I am not going to speak long at this point, I know of no issue more important than this rule and the subsequent consideration of the reconciliation bill it makes in order. It is so important because this is the attempt to implement a specific edict of the House. A unique and unprecedented step was taken in the consideration of the budget resolution. Provision was made for this process through which we are now proceeding. Provision was made to direct, in effect, committees in general to save money by cuts and to find money by increases in taxes.

☐ 1020

That was done by all of the committees so directed by the House, and if anybody had any doubt that it would have been done, they should have been reassured by the overwhelming vote by which the House of Representatives made it clear that it wanted the reconciliation process to go forward. That vote came on an amendment to strike reconciliation offered by the distinguished gentleman from Arizona (Mr. Udall) and that vote was 127 to 289. The House overwhelmingly voted to adopt this process. This process is, as I say, a unique endeavor for the institution.

It is a crucial endeavor because on it, in my judgment, rests the future of the budget process, the first process in modern times which has sought to manage the affairs of Government in a fashion that involved everything at the same time. I cannot conceive of a more important vote. It is my hope that it will be dealt with by everybody who speaks to it with the kind of importance that I indicated I feel that it has. I feel, however, from what I have heard that there may be a good deal of frivolity in the approach of some, although it will be concealed by solemn faces.

I am hopeful that we can look at this as the long term management effort by an institution which long ago should have undertaken this effort. There are an infinite number of ways to attack this kind of a democratic effort to constrain our spending, this kind of a democratic effort to make choices in an infinitely complicated country. Naturally, not everyone is pleased with the result. In fact, no one is delighted with the result but, nevertheless, we accept the responsibility implicit in the idea of majority decision and majority rule. If we act today irresponsibility, we may be throwing away our best hope of effective management by the Congress of its duties, of its responsibilities. If that should turn out to be the case, we may do grave damage to the democratic process itself. I believe very strongly that it is imperative that we get support for this rule and for this process.

Mr. Speaker, I reserve the remainder of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I quite agree with the statements just made by our chairman that this is an important moment because it is the first time since the budget process was started that we will be taking up a matter of reconciliation. By the same token, I think that we ought to realize what we are doing by adopting this rule. By adopting this rule we are limiting ourselves as to the amendments that can be offered, and they are set out in the rule. We have a closed rule being offered to the House on one of the most important pieces of legislation that we will be considering during this session of the Congress, so I want to stress this. If this is what you want, all you have to do is vote for the previous question on this rule, and you have got a modified closed rulemaking in order only three amendments.

A lot of important proposed amendments were brought before the Committee on Rules and were not made in order. I think that it is well for us to consider at this time some of those amendments and ask ourselves whether or not the House should have an opportunity under this rule to voice an opinion on them. For example, the gentlewoman from New York (Mrs. CHISHOLM) wanted to offer an amendment dealing with child nutrition programs, and she was denied the opportunity to do so. We are dealing here with her one amendment of $483 million, not a small sum. Concerning the military retiree COLA reforms that we heard so much about, the gentleman from Maryland (Mr. BAUMAN) was given the right to offer an amendment so the House could choose to delete these.

Under title III, the Interstate and Foreign Commerce section, we have spending increases of about $183 million in one program, $54 million in another, and $155 million in another, and we have absolutely no opportunity in those cases to direct an amendment specifically at those programs. Under Post Office and Civil Service we have $356 million in savings from the COLA reform, and once again it will be affected by the gentleman from Maryland's amendment. That will be taken care of. But we have recommended in the reconciliation bill the elimination of dual compensation for reservists, which is very, very important to the Defense Establishment of this country.

We have heard from our Adjutants General on the National Guards throughout the country. I have heard from General Clement of Ohio that if we do go forward with a program that will deny Federal enlistees or Federal officers who are in the National Guard their dual compensation, the same that private industry affords these indivduals, we will automatically have a decline in membership at a time when we need members in the Ohio National Guard and other National Guards and reservists throughout the country.

Certainly on something of this importance the House should have an opportunity to work its will, but that has been denied under this particular rule that we will be considering. I personally am very much concerned, and have stated in the Committee on the Budget as well as in the Committee on Rules, about using the procedure that we are now undertaking, the reconciliation procedure, for new spending initiatives—new spending initiatives.

Certainly it was not the intent and purpose of the reconciliation process to permit new initiatives. I, frankly, believe that this violates the intent and purpose of the reconciliation process provided in the Congressional Budget Act. The budget committee permitted three committees of the Congress to slip a total of $3.1 billion in new spending increases into the bill along with reductions which the House instructed them to make.

Let us remember that the Committee on the Budget was carrying out a mandate given them by the House of Representatives, and at the same time they were doing that they were permitting these three committees of the Congress to come up with new spending initiatives, and the Committee on Rules refused to make in order an amendment to correct this error. I say it is a precedent-setting error. We have eight House committees that were instructed to come up with spending reductions totaling $6.4 billion in fiscal year 1981, and five of the committees followed the instructions given them by this House and recommended legitimate, straight-forward spending reductions.

Three committees, the Committee on Education and Labor, the Committee on Ways and Means, and the Committee on Interstate and Foreign Commerce, not only recommended the reductions that I have said but took advantage of the situation and proposed spending increases which will cost the taxpayers of this country $3.1 billion over the next 5 years. Certainly this is a violation of the reconciliation section of the Budget Act and sets a dangerous precedent for the future. Why do I say that? If three committees of the Congress can use this process for slipping new spending initiatives into law, how about the other committees of the Congress? They will be able to come back here next year and say, "Well, now, these three committees did it in the First Budget Resolution or reconciliation proposal, how about us? How about us?"

☐ 1030

Certainly we will not be able to say: No, that is a violation of the concept. It was established when we passed the Budget Act initially and when we passed the first reconciliation bill it was firmly entrenched into the law that that should not take place.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Speaker, I thank the gentleman for yielding.

I speak now about the Committee on Education and Labor to which the gentleman just referred. That committee cut $850 million. Frankly, I was very opposed to that and appeared before the Rules Committee asking for the right to offer an amendment which request was denied. There was $350 million for the school lunch program and $500 million for the student loan program.

The gentleman just mentioned that we have worked in a way of increasing our expenditures. I wonder if the gentleman would care to expand a little on that statement.

Mr. LATTA. Mr. Speaker, let me say to my friend we have a whole list of them. Rather than take the time, we can supply the list.

Mr. PEYSER. Mr. Speaker, I would be glad to look at the list. I think I am familiar with what the gentleman is saying but we are talking about a progressive program not a new expenditure in this year.

Mr. LATTA. Mr. Speaker, in Education and Labor under title XX, there is a new initiative costing $155 million. I am not quibbling about any of the programs to which the new initiatives pertain. I am speaking not about the merits of the programs. I would probably vote for them if they came before the House in regular form. What I am complaining about is the procedure being used to put these programs into law. I want to make that absolutely clear. We have a lot of changes, for instance, in the medicare and medicaid programs, most of which came from the Committee on Ways and Means.

As a matter of fact, with the exception of a $155 million spending increase from the Committee on Education and Labor and increases of $500 million from the Committee on Interstate and Foreign Commerce, all the remaining spending increases were reported out of the Committee on Ways and Means. I think that is wrong. I stated in the Committee on the Budget, on the floor, and in the Committee on Rules that this is wrong, that it sets a bad precedent. We are going to rue the day in this House that we come forward with a reconciliation which permits new spending initiatives because I can foresee the time when reconciliation bills will be used as a grab bag. You know, if you cannot pass legislation in regular fashion, wait until we get the reconciliation bill and we are going to put it all in there and then we are going to close the rule so you cannot object.

I do not think that is the way to legislate and I do not think that is the way the majority of the Members of this feel that we ought to legislate. I cannot quite understand why the Committee on Ways and Means, the Committee on Education and Labor, and the Committee on Interstate and Foreign Commerce were given the favored position that they were by the Committee on the Budget who permitted them to offer these initiatives. All I know is, they say we cannot make substantive changes or should not make substantive changes in the reconciliation bill. Well, I think that we can do anything on this House floor. Since we could not do it in the Committee on the Budget, now is the time to do it. By voting down the previous question, this House can take up this $3.1 billion of new spending initiatives over the next 5 years and say, for all time to come, when we have this reconciliation bill before the House, that it is going to be for reducing expenditures, not providing new expenditures into the future and that is exactly what you would be doing here.

There are many other parts of this reconciliation bill that I am sure the Members are aware of. For instance, the Committee on Veterans' Affairs tightens the eligibility criteria for medical care. That saves $109 million. They eliminate flight training and correspondence course benefits among other changes. That saves $63 million. They eliminate burial benefits to veterans earning more than $20,000. That saves $87 million. They improve collection of debts on VA loans, eliminating $116 million.

The Committee on Public Works and Transportation recommends a decrease for the fiscal years 1980 and 1981 in the obligational ceiling on the Federal highway programs. This saves $700 million.

It reduces the level of the airways program in the reauthorization bill to $60 million in outlays. So it goes. We are talking about $6 billion in savings, and we are going to close the door to only three amendments. I do not think we ought to close the door. We are going to hear from a lot of people back home who are going to be adversely affected. Are we going to be able to use the argument: Well, we had a semiclosed rule or a modified closed rule or a modified open rule, call it what you like, and say to them, and satisfy them, that you had no opportunities to vote? Yes you will. You have an opportunity to vote to open up the rule so that you can go beyond these three amendments provided for by the Committee on Rules.

Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, I will oppose the reconciliation amendment. One reason is because public attitudes are so set on controlling the spiraling cost of Federal pension programs, and bringing them into line with other entitlement programs, that I believe Federal pensioners will face much more drastic action later on, unless this change to once-a-year cost-of-living pension increases is made for Federal civilian and military retirees.

The drastic action I refer to is the proposal to join the Federal civil service and military retirement programs with the social security program, a proposal that I oppose.

I do not believe that the proposal to join these pension programs with social security is the answer to any problem involving any of the programs.

But it is an alternative that is bound to gain wider acceptance and possible enactment later on unless the twice-a-year COLA for Federal civil service and military retirees is changed to once-a-year, so that the inflation adjustment is consistent across-the-board with other indexed entitlement programs, including social security.

I speak as a Federal retiree myself, even though I do not now receive a Federal pension, when I say that I can understand the concern expressed by many citizens to Members of Congress on this issue.

That concern can be summarized this way—

Give Federal retirees their fair and just due, including appropriate pension cost-of-living adjustments, but not to the point where generous benefits become extravagant at the expense of all other Americans.

The average Federal retiree now receives $849 a month, compared to $295 a month for retired workers on social security.

It is true that Federal retirees pay taxes on their pension income, while social security recipients do not.

And all of us want to see that some appropriate increases are made each year to compensate Federal retirees adequately for the impact of inflation on their pension income.

But each time that a cost-of-living adjustment is provided, the unfunded liability of Federal civilian and military pensions also increases—and that unfunded liability has to be paid for all by taxpayers.

The unfunded liability of Federal civil service retirement in 1979 was $136 billion, and the Federal subsidy in that year was $8.8 billlion.

The unfunded liability of military retirement in 1979 was $355.8 billion, and the Federal contribution was $10.3 billion.

At the present rate of growth, with the unfunded liability of civil service and military retirement increasing at an annual rate of $25 to $30 billlion a year, we face a situation in the not-too-distant future when the unfunded liability of these Federal pension programs will be $1 trillion.

We simply cannot allow this to happen.

I strongly believe that Congress must fulfill its responsibility to retired civil service and military workers, by giving them their fair and just due.

This means adequate protection for their pension income from the ravages of inflation.

But I believe that the biggest single threat to the integrity and continued payments of Federal pension programs is the growing unfunded liability, and the mounting opposition of taxpayers to the yearly amount of taxpayer dollars necessary to keep these increased benefits flowing.

I therefore support the once-a-year cost-of-living adjustment for Federal civil service and military retirees, as proposed in this reconciliation bill, with the expectation that Congress will make certain that this once-a-year adjustment will be sufficient to keep the pension income up with the rate of inflation throughout the year so that no hardship will be encountered by our retired Government workers.

□ 1040

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Speaker, I rise to support the rule. I think the rule has been gone over for several weeks now. Different ones of us have had an opportunity before the Rules Committee, and have our say. It has not been an easy process for that committee or for anybody, but a rule has been crafted which I think would permit the House to address the reconciliation head on and allow us to vote on a certain number, a limited number of amendments that are important to large numbers of people in the House and, of course, in the country. I do not think we are going to do better than this rule, and therefore I rise in support of it.

The part of it that I have taken a particular interest in, of course, is the part relating to the cost-of-living adjustment for Federal military and civil employees. I think it is important that one of the provisions on which this House has a separate vote is this very matter of cost-of-living adjustments to military and civil employees. Currently, retirees, civil and military, receive cost-of-living adjustments in their annuities or retirement pay twice a year. The provisions of the reconciliation bill call for elimination of the second adjustment in fiscal year 1981, but we are going to be permitted to have an up-or-down vote on this under the rule; and that seems fair enough to me.

By way of background, before 1977 adjustments in retirement benefits for civil servants and military were made based on changes in the Consumer Price Index, with an additional 1-percent increase to compensate for the time lag in making the adjustments. Now, in return for taking away the 1-percent add-on 3 years ago, Congress agreed to make cost-of-living adjustments every 6 months.

The loss of the add-on was unsettling and disturbing to the retirees and those nearing retirement, but they accepted it because they were promised twice-a-year adjustments. Now, the reconciliation bill proposes to take away one of the twice-yearly adjustments in the coming fiscal year.

The retirees, with good cause, believe this is a breach of faith, that the Congress is going back on its word. But, by permitting an amendment to be voted on today in the House on this matter, it could result in the restoration of the twice-a-year adjustments which really have been promised to the retirees in action taken and through discussion in the House and the Senate only 3 years ago.

Therefore, I rise to support the rule with the COLA amendment to be voted on in the House, and I urge my colleague to support the rule and then go forward to vote in favor of the amendment to be offered by my colleague from Maryland (Mr. Bauman), a member of the Rules Committee. This is the amendment which I originally asked the Rules Committee to make in order and which I had in the Record on July 29—page 20119.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from California.

Mr. FAZIO. Mr. Speaker, first I want to congratulate the gentleman for the leadership role he played in bringing this issue to the attention of the Rules Committee. His very eloquent statement in the Rules Committee. I think, was very important in the deliberations that led to a separate vote on this COLA issue.

I would certainly like to associate myself with the gentleman's remarks. I think retired Federal civil and military employees in particular, at this point, are very anguished at the turmoil they have been exposed to in the last several years. I think the gentleman's efforts—and I am sure he will be successful in eliminating this threat to remove the twice-a-year annual cost-of-living allowance when it becomes possible to vote on the separate amendment to the reconciliation bill—will be very reassuring to them. I think they understand that there are many people here in Congress who share their concern and wish to attempt at least to stabilize their retirement situation, particularly during this period of high inflation.

Once more, Mr. Speaker, I want to offer my congratulations to the gentleman for his successful effort in getting a separate vote on this issue which is so crucial to Federal retirees and those who have retired from military service. Without his strong advocacy, the Rules Committee would never have been required to acquiesce in granting this rule which is so necessary to preserve the rights of these retirees.

Mr. FISHER. I thank the gentleman from California, and yield back the balance of my time.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

OMNIBUS RECONCILATION ACT OF 1980

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. Davis).

Mr. DAVIS of Michigan. Mr. Speaker, I rise with mixed emotions about this particular reconciliation bill, because some of the amendments that the Rules Committee allowed to be offered today I support. I had offered a substitute amendment in the Rules Committee on behalf of Congressman Oberstar and myself to the Vanik amendment. The Vanik amendment will be offered later on to this bill, which sets the effective date of H.R. 1543 at September 30, 1981.

We wanted to offer a substitute which would allow us an opportunity to let the Members vote on an effective date of September 30, 1980. The reason for that should be quite obvious. We passed H.R. 1543 many, many months ago in the House, which would have allowed steelworkers, suppliers of the automobile industry, iron ore workers, and so forth, to be able to qualify for TAA, trade assistance benefits. Under this proposal, none of those people that will be laid off or are laid off now will be able to qualify for these benefits.

It seems to me, and I very much do support the unemployed auto workers being able to qualify for these benefits, that the reason they are laid off is because of the import of foreign automobiles into this country, but these imports have also affected the suppliers of the automobile industry, the steelworker and the iron ore worker.

We had hoped to be able to offer a substitute amendment to the Vanik amendment which would move the date up by 1 year so that those unemployed workers who are laid off would be able to qualify for trade adjustment assistance. There are hundreds of thousands of people laid off now who cannot draw trade adjustment benefits, while some of their cohorts in the industry, directly related to the automobile industry, can draw these benefits, and many people are precluded. This September 30 date means that anyone who is laid off before September 30, 1980, will not even be able to qualify.

□ 1050

So, Mr. Speaker, that means those people who are laid off now will not qualify for these benefits and the benefit will accrue only to those people who are laid off after October 1 of this year. I do not think that is in the best interests of the unemployed workers of this country.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Conable).

Mr. CONABLE. Mr. Speaker, I think we are all quite uncertain about the right thing to do on this reconciliation motion, and we are aware that what we do may set a very important precedent for the future.

I have strongly supported the concept of reconciliation. I would prefer to see it as part of the second budget resolution, but I accept it now as an important principle in our process. However, I deeply regret that this reconciliation motion has become the vehicle for some increases in outyears, even though it involves some reductions in expenditures this year. I think the precedent, coupled with the possibility that it may be amended to add additional expenditures of one sort or another, is a very bad one.

The reconciliation motion can become something like the continuing resolution, which has all kinds of interesting conditions and additions added to it because it is such a critical part of our process when we have not timely passed appropriations bills.

I would like to see us keep reconciliation pristine in its purpose, namely, an expenditure saver and an indication to the legislative committees that they must achieve some additional saving in order to meet our budgetary goals.

For that reason, Mr. Speaker, I urge a vote against the previous question so that the Latta amendment can be considered. I reserve my right to do what I think is right in the light of adopted amendments to this reconciliation motion on final passage. It is a very important part of our procedure, and what we do here may define this part of the process in future years and have a tremendous impact on the budget process generally.

I personally would like to see a tax cut added to reconciliation, but I have to acknowledge that it is inappropriate as part of this motion, and, therefore, I am not going to be pressing for a tax cut amendment. I urge my colleagues to exercise similar restraint on additional opportunities for expenditure, which should not ride this vehicle, either.

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. Conable) has expired.

All time of the gentleman from Ohio (Mr. Latta) has expired.

Mr. LATTA. Mr. Speaker, I would inquire, will the gentleman from Missouri (Mr. Bolling) yield me some time?

Mr. BOLLING. Mr. Speaker, the gentleman from Ohio (Mr. Latta) may use 10 minutes of my time, and I now yield him those 10 minutes so he may yield time to other Members.

Mr. LATTA. Mr. Speaker, I thank the chairman of the committee, and I now yield 3 minutes to the gentleman from Virginia (Mr. Satterfield).

Mr. SATTERFIELD. Mr. Speaker, I voted for reconciliation because I felt it would help us achieve the objectives of the budget process. Now, however, I have serious reservations about reconciliation because of the way it is being used.

I understand and support the proposition that the reconciliation process can function properly only if floor amendments which would affect authorization levels or spending ceilings are precluded or, at least, narrowly controlled. H.R. 7765, however, is not confined to levels of expenditure but contains legislative provisions which do not affect authorizations or spending ceilings. Because this is so I must reluctantly oppose this rule. These provisions have no valid place in a process intended only to effect a reconciliation of expenditures. If they are to be included then they should be subject to amendment in order that the House may freely work its will. I know that the rule before us can be amended to achieve that result without doing violence to the intended reconciliation process.

No better examples of the necessity for this limited right to amend H.R. 7765 can be found than in those sections which were submitted for inclusion in the reconciliation bill by the Interstate and Foreign Commerce Committee and by the Ways and Means Committee. H.R. 3990 and H.R. 4000 are measures which deal with medicaid and medicare. They were referred to the Commerce Committee which has jurisdiction over medicaid and to the Ways and Means Committee which exercises jurisdiction over medicare. These two measures were considered by the Interstate and Foreign Commerce Committee, amended and favorably reported.

Certain provisions in these bills provide cost savings which the Budget Committee indicated it would accept and credit against the respective expenditure categories involved. Thus it became desirable to include savings provisions in the reconciliation measure. I have no quarrel with that. However, this objective led to negotiations between persons who were certainly not designated for that purpose by the Interstate and Foreign Commerce Committee, and representatives of the Ways and Means Committee who developed compromises in each bill. The compromised bills were then included in the submissions by these two committees for inclusion in H.R. 7765.

No effort was made to confine those submissions solely to provisions affecting authorization levels or spending ceilings with the result that H.R. 7765 now contains legislative provisions which are not related in any way to expenditures.

Mr. Speaker, Members of this House should be concerned not only by the questionable negotiations to which I have referred but by the fact that these negotiations resulted in substantive and material variances between the provisions of H.R. 3990 and H.R. 4000 as there are contained in the reconciliation bill and their provisions when reported by the full Interstate and Foreign Commerce Committee.

I do not believe this practice was ever contemplated by the Members of the House when it voted for reconciliation. The practice not only ignores the affirmative action of the Interstate and Foreign Commerce Committee but under the rule now before us, the Members of this body will be denied an opportunity to work their will with respect to the purely legislative provisions of H.R. 3990 and H.R. 4000.

Mr. Speaker, as you know, I am not seeking reelection. I will not be in this body after this year to see it—but I predict that the precedent established by the practice to which I have referred will return to haunt this House and to compromise the legislative process.

By approving this rule and by denying amendment to the legislative provisions of H.R. 7765 which are not involved in the reconciliation of expenditures, this House will create a dangerous precedent upon which the reconciliation process may well serve as a clearinghouse, so to speak, for all manner of legislation—written outside of the accepted legislative process—and insulated against amendment under conditions which are far less stringent than would otherwise be permitted.

Mr. Speaker, for the reasons assigned, I am compelled to oppose this rule and to support an effort to vote down the previous question so that the rule may be amended to permit consideration of amendments to the legislative proposals to which I have referred. I urge my colleagues to consider this matter carefully and to do likewise.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I think that this whole process, the budget process, has become an abomination. It has been used as an excuse to squeeze the programs that I think are essential to the future of our country and the basic fabric of our society.

The Budget Committee has endorsed incredible increases in defense expenditures, engaging us in a multibillion dollar resumption of the arms race which will leave us much less secure than we are today. That, combined with a fictional drive to balance the budget, results in disastrous cuts in education, urban development, jobs, health and senior citizen programs that are essential to our fabric. I am very concerned about that.

I am concerned also about the process by which we are here considering this vitally important matter. The good chairman of the Committee on Rules declined to yield to Members who wanted to speak against this resolution, and the way he worked it out is that majority side opponents would get our time from the minority, as if those of us in the majority who disagree with the Rules Committee were somehow being traitorous. When that Budget Act was considered, the chairman of the Committee on the Budget said there was no time to be yielded to opponents, and the gentleman from New York (Mr. WEISS) and I were excluded from being able to express our contrary points of view altogether. I think that is dangerously undemocratic and contrary to the whole process of the House.

I would like to register my strong objection to the procedure, and I think our democratic process will be in danger indeed if we shut off the voices which may differ from the position of the leadership at any particular time. The budget reconciliation resolution before us is odious, representing dangerously skewed priorities that will permanently damage our Nation. Worst of all, it is being brought up under a closed rule that would not even permit us to vote on many of the most damaging provisions. I am sure that many of my colleagues are not even aware of some of the incredible actions that have been taken.

The bill cuts the postal budget, for example, so as to increase by $100 million the amounts nonprofit organizations must pay to raise their funds. This means that the budget of every private school and college, every hospital, health group, religious organization, and other charitable endeavor will be decimated. Some examples of the costs to the private charities that do such important work in our society and replace the need for further governmental efforts are:

National Catholic Development Conference, $9 million;

March of Dimes, $1.2 million;

National Wildlife Federation, $480,000;

St. Jude Children's Research Hospital, $600,000;

Epilepsy Foundation, $180,000; and

American Lung Association, $1.32 million.

These nonprofit organizations and countless others depend on reduced third-class postal rates to raise funds. The unforseeable increases in postal rates that will be thrust upon religious and charitable organizations by the committee's action—on which we are not even given an opportunity to vote—will result in an enormous reduction in funds available for their charitable, educational, and religious programs.

Equally outrageous cuts made in this resolution, on which we are denied even the right to vote, include a cut of $483 million reduction in child nutrition programs that will deprive thousands of schoolchildren of the one sound meal they get, will impair their ability to participate in their educational programs, demonstrably impairing their futures and increasing the chance they will become public charges.

The sum of $238 million is cut from the guaranteed student loan program, again with no vote provided. This cut will mean that thousands of low- and moderate-income students will not be able to afford higher education.

The Small Business Administration is cut by $800 million at a time of record small business bankruptcies. If you believe as I do that small business is the backbone of our free enterprise economy, and knowing that the SBA was already drastically underfunded to meet the needs in these hard economic times, these cuts appear to be plainly nonsensical, grossly counterproductive. And again, under the rule before us the Members of this House will be denied the opportunity to even vote on the proposal.

Veterans' medical care eligibility is cut as are burial benefits, for total veterans program reductions of $275 million, a major breach of faith with those who sacrificed of themselves for the security of our country. Again, we are denied a vote.

Lastly, while trade adjustment assistance is provided in the resolution for automobile workers displaced by foreign imports, the thousands of workers in related industries who produced the tires, wheels, parts, and materials dependent on auto production, are denied assistance, and an amendment to provide such assistance is denied even consideration by this supposedly democratic institution.

There are a number of other bad provisions in this resolution, but these in my opinion are the worst. Consideration is denied to any substitute proposals to cut wasteful defense increases or close tax loopholes by which many individuals and companies escape taxation altogether or fail to pay their fair share of the Nation's tax burden. This is the way I feel the budget should be balanced. It is a frightening denial of democracy not even to permit the House of Representatives to vote on the measures within this bill, to say nothing of being able to raise sound, sensible alternative budget balancing proposals.

I strongly urge defeat of this undemocratic, restrictive rule—and should the rule pass, defeat of an unsound, counterproductive resolution.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I rise in opposition to this closed rule. Earlier in the year, I opposed efforts to remove the reconciliation instructions from the first concurrent budget resolution. I took this position because I believed, wrongly in retrospect, that reconciliation could be used to eliminate some of the real waste and abuse in Government. I thought reconciliation could be used to eliminate wasteful contracting out of Government functions, to curtail the expensive practice of hiring consultants to do that Government's work, to wipe out excesses in GSA's procurement, and to trim fat in the Defense Department.

Instead, H.R. 7765, the omnibus budget reconciliation bill, strikes at those recipients of Federal money who are least able to endure the cuts and who are least able to fight back. The bill eliminates one of the two cost-of-living adjustments (COLA) now made for civil service and military retirees. These are people on fixed incomes who, for the most part, have no way to make up the loss. The bill raises the postal rates of nonprofit organizations. Specifically, the major charities which provide direct human services in health or welfare to the public will have to pay more to raise the same amount of money. The bill strikes at the school lunch program, which provides needed hot meals for children in schools.

The truly sad part is that the lengthy delay in enacting the bill and the types of cuts made in the bill will actually end up costing the Government more money, not less. Perhaps the most expensive provision is the elimination of the lookback provision in civil service retirement. The current provision, allowing retirees to gain the benefit of the cost-of-living adjustment prior to their retirement, is replaced with a provision allowing retirees to receive only a prorata portion of that increase. This change is forcing thousands of skilled, experienced, and needed Federal workers to retire before this bill becomes law. These unexpectedly early retirements mean higher costs for the retirement system and new training and salary costs for replacement employees. These retirements mean lower productivity and efficiency for the Federal Government.

Similarly, by raising the costs that charities have to pay to raise money, we are forcing them to provide fewer services. Without a doubt, it will be the Government that has to pick up the slack.

Let me say something to those who think they will protect retirees by voting for the Fisher amendment made in order under the rule. While we may retain twice a year cost-of-living adjustments in our bill, the companion bill passed by the other body eliminates twice a year COLA. The conference will be essentially between the budget committees. The House Budget Committee has made its position quite clear on this issue. So, if you really want to protect retirees, the best way is to defeat this rule.

H.R. 7765 is a bad and expensive piece of legislation. The rule does not permit us to improve it by amendment. The only reasonable course is to vote down this rule and kill H.R. 7765.

The SPEAKER pro tempore. The Chair will state that the gentleman from Ohio (Mr. LATTA) has 5 minutes remaining, and the gentleman from Missouri (Mr. BOLLING) has 10 minutes remaining.

The Chair recognizes the gentleman from Ohio (Mr. LATTA).

□ 1100

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I suppose I should be grateful for the fact that I will be permitted under this rule to offer an amendment dealing with the cost-of-living adjustment concerning the Federal, military, and civilian retirees, and indeed I am. Perhaps I should apologize to the Democratic leadership for having delayed this bill for 30 days in committee. I guess I delayed it, although it was the chairman of the Rules Committee who pulled it off our agenda in a rather unsuccessful attempt to reverse my offering of this COLA amendment.

But whether this rule is adopted or not, the COLA issue will be addressed because if there is no rule, then the twice-a-year cost-of-living adjustments will continue. Government retirees will be protected.

But I, too, share the concern expressed by a number of people here about a reconciliation bill which proposes about $10 billion in savings and then heaps on top of that $3 billion in new spending. And that is what the Latta amendment would correct. I supported reconciliation in the debate on the budget resolution because I still think it is a good idea. But nowhere was it written when we considered reconciliation that it was to mean simply that the committees of jurisdiction in the House would act and no one else would get a chance to act on their decisions. And that is what the Democratic leadership would like to have; no chance for the full House to act.

They simply do not want the House to vote on these issues. They want a closed rule. They do not want the major issues addressed, and they do not want the Members to have to go on record because they know that if they had to vote on these issues, many of the spending programs will be passed. But frankly, whether you are for or against these given propositions, including COLA, the least we ought to have, as a number of speakers this morning have said, the right to vote. That is why we are supposed to be here.

Now, I heard some remarks made about the sacrosanct budget process and how it had to be protected and how reconciliation was so important a part of this.

Let me just note to the Members some of the important parts of this sacrosanct process that are being thrown right out the window by the Democratic leadership who care very little about the democratic process. The Budget Act, in section 300, says that by the 15th of September of each year the Congress is supposed to complete its action on the budget resolution for that year. It sets October 1 for the beginning of the new fiscal year. Section 309 of that act says that not later than 7 days after Labor Day both Houses are supposed to complete action on all bills providing new budget authority. Congress has not acted finally on any of the appropriation bills, although the House has passed most of them.

So, quite obviously, the Democrats do not give a darn about the Budget Act nor the budget process. They are willing to destroy it. They have destroyed it this year and they are doing it for political motives in the sense that they are delaying these votes for an already announced lameduck session that will begin after the November 4 elections. They do not want to have to vote on a balanced budget and a tax cut. And today, as a part of that strategy, they bring you a largely closed rule that prevents you from voting on any of these other budget issues at a time when you should have that right.

I think we should vote down the previous question and, barring that, we should vote down the rule and expose this legislative sham for what it is.

CALL OF THE HOUSE

Mr. BOLLING. Mr. Speaker, as I understand it, the gentleman from Ohio has 1 minute remaining. I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 515]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Trible
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1110

The SPEAKER pro tempore. On this rollcall 361 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

☐ 1120

OMNIBUS RECONCILIATION ACT OF 1980

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to my friend.

Mr. CLINGER. Mr. Speaker, I rise in opposition to the previous question. A provision included in the Senate-version of the reconciliation bill but not in the House's version deals with the windfall profit tax. This provision would exempt the first two barrels of stripper well production from the windfall profit tax. To offset the revenue losses to the Treasury, a slightly higher tax would be levied on larger producing wells.

Stripper wells are marginal wells producing less than 10 barrels per day. Before the tax, stripper wells were exempt from price controls. With the tax, many stripper wells would soon be abandoned due to economic changes in their producing life.

A recent study by the Interstate Oil Compact Commission found that some 13,000 oil wells will be abandoned over the next 10 years because of the windfall profit tax. The resulting loss of production will be 175 million barrels of U.S. crude oil. Moreover, another 10,000 wells will be abandoned before reaching "marginal" status. We face a serious situation where we are taxing our own oil wells out of existence.

Our Nation desperately needs every drop of oil we can get. To duck this issue for another time on another day may be too late. The modified-closed rule on H.R. 7765 will not enable the House to full debate and determine its position on a stripper well exemption. I, therefore, urge my colleagues to defeat the motion on the previous question.

Mr. MICHEL. Mr. Speaker, I read a "Dear Colleague" letter from our good friend from California (Mr. PASHAYAN) recently, which made mention of the Bretton Woods Agreement Act.

That legislation embodied the Grassley-Byrd amendment. There may not be many here who remember Grassley-Byrd, or want to. This administration and this Congress in recent months have been fleet afoot putting as much distance as possible between them and that simple, one-sentence amendment. The amendment wrote into law the now infamous promise made 4 years ago by President Carter to balance the 1981 budget.

We adopted the Grassley-Byrd language on September 14, 1978, just 6 weeks before the election I might add.

Next week is the 2-year anniversary of the legislation. There will be no celebration, of course. The amendment has rusted through. It will be thrown on the scrap heap along with a good many other political promises that have turned to useless junk.

The public knew the truth then and they know it now. Budgets are balanced in Disneyland. They are not balanced in Washington, not under this administration or in this Congress.

But that is all behind us. What we have before us is the issue of reconciliation. I hope reconciliation will survive. I do not want it to end up in the scrap heap of broken political promises.

I have few quarrels with the reconciliation bill that came out of committee. None of us would have an easy time living with all of its provisions, but each and everyone of us are obligated to bite the bullet.

I had hoped that the Rules Committee would have made in order my amendment to make the outlay figure in the second budget resolution a statutory ceiling and give back to the President the power to impound funds over and above the ceiling. Reconciliation needs this kind of discipline.

The Rules Committee turned thumbs down on my request. That I can take. What I cannot take are the amendments the Rules Committee did make in order. The Rules Committee flatly rejected the concept of spending control, but warmly embraced the compulsion to spend more. The Rules Committee has allowed two amendments alone that are going to add in excess of $1.5 billion to the budget, half this year and half the next.

I know why the leadership turned thumbs down on a spending ceiling and thumbs up on spending more.

It is the power of the purse. The compulsion to spend. Not too long ago the Fed clamped down on credit because millions of Americans were in hock up to their ears. They had reached the outer limits of borrowing on those little plastic credit cards, but they just could not bear to rip them up and stop charging. They just could not do it, not even when interest rates were 18 percent or more.

The cards were too handy, too easy, too quick, too painless.

Thousands of Americans got themselves into deep, serious financial trouble with those cards, and they dragged the Nation's economy down with them. They had lost the will to fight the compulsion to spend. The Government had to step in.

That is the way it is in this House. We are at the limit, but the spending compulsion is still there. Only here there is no higher authority to invoke discipline. We are the highest authority. We have to put the lock on the piggybank and throw away the key. If we do not, no one will. If we do not, we will drag the economy down with us.

It is quite obvious the Democratic leadership will not permit us a vote on a spending ceiling. They want to tempt us with amendments to spend more. They love to see us use our little plastic voting cards to get us further and further in debt. It is compulsive, and they want us all to become compulsive spenders. Big spenders do love company.

That is why I am going to vote against the previous question on this rule. I think we should start sending these rules back to the committee until the committee either gives us the opportunity to vote on spending restraint or it quits sending us these billion-dollar budget busters that were not part of the original bill.

We cannot allow the reconciliation process to become a meaningless gesture. We cannot allow this budget to blow up in our faces as did the 1980 budget.

I also urge defeat of the rule if the previous question is ordered, because it is a very selective rule that provides for amendments designed to gut the reconciliation process, but allows none that would strengthen it.

For instance, Mr. CONABLE, Mr. FRENZEL, and myself had hoped to offer an amendment which would provide that the outlay figure in the second budget resolution for fiscal year 1981 constitute a final and statutory ceiling on spending for the fiscal year. Should the ceiling be exceeded by congressional action, the President would be required to impound funds, as has been the prerogative of Presidents throughout our history. The difference here, however, is that there would be certain limits placed on this impoundment power, including requirements that the President not terminate any program, that he not impose cost savings inequitably, and that he not cut social security.

I regret very much that the House leadership, acting through the Rules Committee, did not see fit to allow this amendment to be brought before this body for discussion and a vote. It reminds one very much of the similar types of closed procedures they successfully imposed on the Democratic Convention last month. I do not know what they are afraid of—or perhaps I do. It seems to me, though, that there comes a time when the principle of openness or free choice should take precedence over simply winning or losing.

The House of Representatives is the one body, the only body, which equitably represents all the American people. We surely ought to have an opportunity to consider steps to help save the budget process without being cut off at the pass.

If the budget process is to have any meaning at all, we cannot have a repeat of the fiasco in 1980, when the supposedly final, $547 billion spending ceiling was exceeded by $32 billion, with Congress hardly batting an eye, or where the deficit ballooned from $30 billion to over $60 billion.

The same thing is already occurring with the 1981 budget. One month we have a deficit of $15 billion, the next month it is a surplus of $16 billion, and the following month we are headed down the same old road with a deficit in excess of $30 billion.

The second budget resolution represents a time to reconcile these changes. When we do so, though, we should do so in an honest and realistic fashion—and then live by those changes, as is intended by the Budget Act.

The amendment we had proposed to offer would force us to do that, but in an effective and constructive manner that provides considerable discretion and flexibility as to how to adjust spending.

The idea of a statutory ceiling is not new. It was included by this body in 1973 as part of the Impoundment Control Act, with the support of the majority of Members on the other side of the aisle.

We need such a ceiling now in order to give the budget process credibility, to make it work, and to avoid a repetition of the 1980 experience, now a seemingly commonplace experience, where third and fourth budget resolutions are used to undermine all the hard work we have done up to that point.

We also need such a ceiling to insure that any tax cut we enact does not send the deficit soaring and further fan the fires of inflation. There seems little question now but that we will have a tax cut in fiscal year 1981. The only question is the form it will take and when it will be enacted.

Surely there can be little question that when the Federal tax take from the average American family has gone up by 27 percent over the past 4 years, or when Federal taxes go up by 16 percent for every 10 percent increase in income, that the American people deserve a tax reduction. The economy certainly requires the stimulus that would result from a tax cut. But we must hold overall spending in check when we provide such a cut, and this amendment would help insure that we do so.

Federal spending has gone up by $232 million during the past 4 years, the largest 4-year increase in the history of our Nation. We simply cannot afford, as a nation, such massive spending increases by a bloated, overweight Federal Government.

Adoption of this rule as submitted by the Rules Committee threatens to make a sham of the reconciliation process. The reconciliation bill as it is depends to a great extent upon gimmicks and one-shot reductions in order to achieve the mandated savings level. The amendments allowed by the rule would serve only to weaken the bill further and turn it into a phony exercise.

If we are going to allow amendments, we should make in order those designed to save and enhance the reconciliation process as well as those designed to gut it. If we cannot be fair in this regard, then we should open up the bill to all amendments.

I urge that this rule be defeated.

☐ 1130

The SPEAKER pro tempore. The gentleman from Ohio (Mr. LATTA) has 2 minutes remaining.

Mr. LATTA. Mr. Speaker, I would just like to comment on the parliamentary situation. If we vote down the previous question we will have an opportunity on this side to offer a substitute rule. In that substitute rule we will be making in order the amendment I referred to earlier, that eliminates $3.1 billion in new spending that is provided for in this reconciliation bill.

In addition to that, we will make the motion to recommit with instructions. The way the motion is now, it is without instructions.

At that point, if the previous question on my resolution is voted down, then these other people who have come to me here, and there have been several of them, who are requesting votes on various amendments to the bill will have an opportunity to do whatever they like. They will be able to move for an open rule, which I certainly would oppose.

Let me just say as far as the $3.1 billion increase is concerned, some of it is for good programs. If the benefit expansions were coming along through regular channels I would undoubtedly support most of them. As I indicated, I am not against them on their merits. I am merely against the procedure being used to put them in the law.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman.

Mr. OTTINGER. I just did not understand completely. If we vote down the previous question the gentleman is offering and then vote down the previous question on the gentleman's rule, is the gentleman going to support having votes on other amendments?

Mr. LATTA. At that point the previous question will go to somebody who opposes my resolution.

Mr. OTTINGER. Does the gentleman intend to support allowing votes, even an open rule?

Mr. LATTA. The point is that if the previous question on my amendment is defeated, then someone else may be recognized to propose another sort of amendment to the rule, including an open rule. Therefore, to join me in opposing the previous question on this rule now before us will not foreclose your opportunity to propose additional changes to the rule beyond those I will propose.

Mr. BOLLING. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman is recognized for 10 minutes.

Mr. BOLLING. Mr. Speaker, first it is important to understand what the rule reported contains and also what the rule proposed contains in the event that the previous question is not ordered. The rule reported provides for the offering of the Vanik amendment which does not add money for fiscal year 1981 but keeps alive the import aid bill that came from the Ways and Means Committee to begin with, the aid to workers unemployed because of imports.

We also make in order an amendment by Mr. BAUMAN on the COLA that affects our retirements, and the civil service and military retirement programs, and is probably one of the least excusable of all of the proposals that will be made.

Budget Committee amendments are in order and there is a provision which, of course, I think will pass easily to strike the super fund.

It is not entirely clear to me what my distinguished friend from Ohio (Mr. LATTA) is going to offer, but it does clearly include an elimination of the increases provided in the reconciliation process by some of the committees. On that issue I disagree with him fundamentally. It is inevitable that in the reconciliation process there will be some trade-offs such as the trade-offs that increase funding for title XX programs in the child nutrition portion of the education bill and those going to medicare and medicaid. But, there are very substantial offsets which save a great deal of money. I think it would be a very bad mistake if we tied reconciliation up so it could not deal with trade-offs in that fashion.

That is what the Latta part of the substitute rule would do.

The other part that I will mention, and there may be more to it although I am not quite clear, is that it provides for a recommitment with instructions. This is a very tight rule that we initially offer. A recommitment with instructions enables the managers on that side to deal with all of the political plums in town.

Talk about politics, they could set up a Christmas tree alternative in either direction, either to save or to spend or a combination of the two that would be absolutely incredible. But this should not surprise anybody. This is one area in which the Republican Party is schizophrenic. In the other body, on the other side of the Capitol, there has been a consistent, effective, responsible effort to achieve bipartisanship on the budget process. Witness the fact that the other body has already passed its reconciliation bill and is already in very good shape on an agreed-upon basis. But in the House from the very beginning, and most regrettably, the matter has fallen into about as partisan a set of exercises as I have ever seen.

So I do not think there is any question what is up on the previous question. It is not going to help the liberals over here with whom I sympathize. Many of the programs that are cut in this reconciliation bill are my favorite programs, too. It is not going to help anybody that really wants to do something different.

There is no opportunity to change the balance as between military and people programs. That is not what is up. My colleagues are not going to be benefited by voting against the rule or voting against the previous question.

Really, finally, the issue comes down to two absolute fundamentals. The great dilemma of the democratic process in the world, not just in the United States, is the management by free governments of their budgets. It cannot be said that any free governments have always succeeded in managing their budgets, in managing their spending so as to maximize employment and minimize inflation. It is the greatest dilemma that faces free societies, here no more than in all other free societies that I know. The budget process in this institution, in this Congress, is the key to the effective management of our getting and spending.

If as a people, if as a whole we cannot master this problem, our society will not survive as we know it. That is no prophecy of doom. That is a simple fact. It is easy to see. One of the things that we have to be able to do, one of the things that we have to be able to reconcile is our particular form of fragmented government.

□ 1140

I represent a congressional district. Each of you equally represents a congressional district. You are under enormous pressure from your district, from the interests that are particularly strong in that district, to vote their way. But we can only manage a national budget as a whole. Altogether we must act if we are to be responsible in the management of the affairs of the Nation. We developed a process that has been further evolving this year, a process that is key to that management, and it is a process called reconciliation. We fought out the trade offs, and my side, the Democratic side, generally lost. I was for more for the people programs and somewhat less for defense, and we generally lost. But an overwhelming majority of this institution spoke and said: This is the reconciliation we want. Once that majority spoke, it became a question of implementing a majority decision, a majority decision made after full debate, with bitter argument, with strong feeling. We have to stick by that decision because it was in effect the national decision of all these districts in this House.

I remind you that the other body has already acted. That is what this process is all about. It is pulling together all the interests of the individual districts into a cohesive, coherent, managing whole that says we can manage our affairs; we can manage our business. That is what the vote on the previous question is about.

We need your vote in support of the previous question. That is what the vote on the rule is about. Can this Congress manage its affairs? Can this House of Representatives manage its affairs? This is where party comes into it. We Democrats, whether we like it or not, are properly held responsible for what we do. We have the responsibility to manage our own affairs. We solicit support and help, and bipartisanship from the Republicans, but it is our responsibility, and, quite properly, we will be said to have failed if we cannot come together on this process we established freely, on this process that has come so far.

It is a critical point on a critical issue which has to do with the survival of our free society. I urge your vote for the previous question. I urge your vote for the rule.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

Mr. LATTA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 230, nays 157, not voting 45, as follows:

[Roll No. 516]

YEAS—230

Addabbo
Akaka
Albosta
Alexander
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Chisholm
Clay
Collins, Ill.
Corman
Cotter
D'Amours
Daniel, Dan
Danielson
Daschle
de la Garza
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hefner
Heftel
Hightower
Holland
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ireland
Jacobs
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McHugh
McKay
Maguire
Markey
Mathis
Matsui
Mavroules
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Murphy, Pa.
Murtha
Musto
Neal
Nedzi
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Scheuer
Seiberling
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
White
Whitley
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—157

Abdnor
Anderson, Calif.
Andrews, N.Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Carney
Carter
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Emery
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Forsythe
Frenzel
Gilman
Gingrich
Goodling
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hammerschmidt
Heckler
Hillis
Hollenbeck
Holt
Hopkins
Horton
Hyde
Ichord
Jeffords
Jeffries
Johnson, Colo.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Lewis
Loeffler
Lott
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Natcher
O'Brien
Pashayan
Paul
Perkins
Petri
Pickle
Porter
Pritchard
Pursell
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roe
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Stump
Tauke
Taylor
Thomas
Trible
Walker
Wampler
Whitehurst
Whittaker
Williams, Ohio
Wilson, Bob
Winn
Wylie
Young, Fla.

NOT VOTING—45

Ambro
Anderson, Ill.
Beilenson
Boggs
Bowen
Brodhead
Campbell
Cavanaugh
Chappell
Coelho
Davis, S.C.
Dellums
Dodd
Edwards, Okla.
Goldwater
Gradison
Hansen
Harsha
Hawkins
Hinson
Holtzman
Jenrette
Leach, La.
Lederer
Livingston
Lujan
McCormack
Mattox
Mazzoli
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nichols
Nolan
Quayle
Rodino
Sebelius
Shannon
Steed
Symms
Tauzin
Vander Jagt
Whitten
Wydler
Young, Alaska

□ 1150

The Clerk announced the following pairs:

On this vote:

Mr. Rodino for, with Mr. Chappell against.

Mr. Nichols for, with Mr. Steed against.

Mrs. Boggs for, with Mr. Campbell against.

Mr. Murphy of New York for, with Mr. Edwards of Oklahoma against.

Mr. Shannon for, with Mr. Goldwater against.

Mr. Mattox for, with Mr. Hansen against.

Mr. Lederer for, with Mr. Hinson against.

Mr. Myers of Pennsylvania for, with Mr. Lujan against.

Mr. Beilenson for, with Mr. Sebelius against.

Mr. Coelho for, with Mr. Symms against.

Mr. Hawkins for, with Mr. Young of Alaska against.

Mr. Dellums for, with Mr. Gradison against.

Mr. Leach of Louisiana for, with Mr. Harsha against.

Mr. Tauzin for, with Mr. Wydler against.

Mr. Dodd for, with Mr. Livingston against.

Mr. Murphy of Illinois for, with Mr. Vander Jagt against.

Mr. McCormack for, with Mr. Quayle against.

Until further notice:

Mr. Ambro with Mr. Davis of South Carolina.

Mr. Bowen with Mr. Cavanaugh.

Mr. Brodhead with Ms. Holtzman.

Mr. Jenrette with Mr. Nolan.

Mr. Mazzoli with Mr. Whitten.

Mr. ICHORD changed his vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

□ 1200

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OTTINGER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 206, nays 182, not voting 44 as follows:

[Roll No. 517]

YEAS—206

Addabbo
Akaka
Albosta
Alexander
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Brademas
Breaux
Brinkley
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Byron
Carr
Cavanaugh
Collins, Ill.
Corman
Cotter
Daniel, Dan
Danielson
Daschle
de la Garza
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Hefner
Heftel
Hightower
Holland
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kogovsek
Kostmayer
LaFalce
Lehman
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McHugh
McKay
Maguire
Markey
Mathis
Matsui
Mavroules
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Musto
Neal
Nelson
Nowak
Obey
Panetta
Patterson
Pease
Peppper
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Sharp
Shelby
Simon
Skelton
Solarz
St Germain
Stack
Staggers
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
White
Whitley
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—182

Abdnor
Anderson, Calif.
Andrews, N.Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Bouquard
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Butler
Carney
Carter
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Emery
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Gilman
Gingrich
Goodling
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hammerschmidt
Harris
Heckler
Hillis
Hollenbeck
Holt
Hopkins
Horton
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Kelly
Kemp
Kildee
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Leland
Lent
Lewis
Loeffler
Lott
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Myers, Ind.
Natcher
Nedzi
O'Brien
Oakar
Oberstar
Ottinger
Pashayan
Patten
Paul
Perkins
Petri
Peyser
Pickle
Porter
Pritchard
Pursell
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roe
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stangeland
Stanton
Stark
Stockman
Stump
Tauke
Taylor
Thomas
Traxler
Trible
Walker
Wampler
Weiss
Whitehurst
Whittaker
Williams, Ohio
Wilson, Bob
Winn
Wylie
Young, Fla.

NOT VOTING—44

Ambro
Anderson, Ill.
Beilenson
Boggs
Bowen
Brodhead
Campbell
Chappell
Coelho
Davis, S.C.
Dellums
Dodd
Edwards, Okla.
Goldwater
Gradison
Hansen
Harsha
Hawkins
Hinson
Holtzman
Jenrette
Leach, La.
Lederer
Livingston
Lujan
McCormack
Mattox
Mazzoli
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nichols
Nolan
Quayle
Rodino
Sebelius
Shannon
Steed
Symms
Tauzin
Vander Jagt
Whitten
Wydler
Young, Alaska

□ 1210

The Clerk announced the following pairs:

On this vote:

Mr. Rodino for, with Mr. Steed against.

Mr. Nichols for, with Mr. Chappell against.

Mr. Lederer for, with Mr. Campbell against.

Mr. Mattox for, with Mr. Wydler against.

Mrs. Boggs for, with Mr. Edwards of Oklahoma against.

Mr. Murphy of New York for, with Mr. Hansen against.

Mr. Hawkins for, with Mr. Hinson against.

Mr. Jenrette for, with Mr. Lujan against.

Mr. Leach of Louisiana for, with Mr. Symms against.

Mr. Shannon for, with Mr. Vander Jagt against.

Mr. Myers of Pennsylvania for, with Mr. Young of Alaska against.

Mr. Murphy of Illinois for, with Mr. Goldwater against.

Mr. McCormack for, with Mr. Gradison against.

Mr. Dodd for, with Mr. Livingston against.

Mr. Beilenson for, with Mr. Quayle against.

Mr. Coelho for, with Mr. Sebelius against.

Mr. Tauzin for, with Mr. Harsha against.

Until further notice:

Mr. Ambro with Mr. Nolan.

Mr. Bowen with Ms. Holtzman.

Mr. Brodhead with Mr. Whitley.

Mr. Davis of South Carolina with Mr. Mazzoli.

Mr. CLAY and Mr. OBERSTAR changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. GIAIMO. Mr. Speaker, I move that the House resolve into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7765) to provide for reconciliation pursuant to section 3 of the first concurrent resolution on the budget for the fiscal year 1981.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. GIAIMO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7765, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the following Members will be recognized for 30 minutes each:

The gentleman from Connecticut, Mr. GIAIMO;

The gentleman from Ohio, Mr. LATTA;

The gentleman from Illinois, Mr. PRICE;

The gentleman from California, Mr. BOB WILSON;

The gentleman from Kentucky, Mr. PERKINS;

The gentleman from Ohio, Mr. ASHBROOK;

The gentleman from West Virginia, Mr. STAGGERS;

The gentleman from North Carolina, Mr. BROYHILL;

The gentleman from New York, Mr. HANLEY;

The gentleman from Illinois, Mr. DERWINSKI;

The gentleman from California, Mr. JOHNSON;

The gentleman from Ohio, Mr. HARSHA;

The gentleman from Iowa, Mr. SMITH;

The gentleman from Pennsylvania, Mr. McDADE;

The gentleman from Texas, Mr. ROBERTS; and

The gentleman from Arkansas, Mr. HAMMERSCHMIDT.

And the following Members for 1 hour each:

The gentleman from Oregon, Mr. ULLMAN, and the gentleman from New York, Mr. CONABLE.

The Chair recognizes the gentleman from Connecticut (Mr. GIAIMO).

□ 1220

Mr. GIAIMO. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, the House is at a historic point in terms of the budget process. For the first time in the history of the Budget Act since it was adopted in 1974, the House is now proceeding on reconciliation. Reconciliation, by its very nature, was intended to be an extraordinary tool that was developed within the context of the Budget Act. It was not intended to be a normal legislative process. It was intended to be an extraordinary tool to implement legislative savings and to implement the goals contained in the budget resolution. That is what the reconciliation is all about. It is the tool to implement, to expedite the enactment of savings as a package.

If the legislative process were to take piece by piece each of the proposals that are contained in the reconciliation package, then there would be no need for reconciliation. The purpose and the intent behind reconciliation was to be able to put together in one package legislative savings, meaningful legislative savings, so that the House and the Congress could expedite action on those savings and on the goals contained in the budget process.

Why is that necessary? Because the reality is that the committees and the House will not come forward with legislative savings without the implementation offered by reconciliation. And we have seen it. We have seen it happen.

Last year we targeted $2.8 billion in legislative savings in the 1980 budget resolution. Of that $2.8 billion, only $200 million was enacted in legislative savings. At that time we felt that the approach should be to encourage these committees to come forward on their own to deal with legislative savings. But the reality is that we are talking about entitlement programs, we are talking about the area of uncontrollable spending where committees will stray away from unless the tool of reconciliation is present to encourage action.

And so today, as part of the budget resolution enacted a few months ago, we are now implementing reconciliation. Why do we need this discipline? The fact is that we are now dealing with a part of the 75 percent of the Federal budget which is uncontrollable. Over $400 billion of an over $600 billion Federal budget is based on entitlement programs, is labeled "uncontrollable." We have heard that figure over and over again.

To achieve some restraint on Federal spending, it is absolutely essential that committees look at this 75 percent of the budget which is entitlement spending, which is uncontrollable spending, or we will never—we will never—get a handle on the Federal budget. You simply cannot hope to balance the Federal budget or restrain Federal spending based on 25 percent discretionary spending when over one-half of that 25 percent is defense spending.

So the reality is that, if we are really serious about controlling Federal spending, we have to target at those entitlement programs. To encourage that process, we have developed some interesting tools that have been recommended here: Legislative veto, sunset laws, limitation on Federal spending.

But the reality is that reconciliation performs that same role by instructing committees to meet a savings target. And that is what we did this year.

In the first budget resolution we said that eight committees of the House will come forward with $6 billion in legislative savings.

The CHAIRMAN. The time of the gentleman from California (Mr. PANETTA) has expired.

Mr. GIAIMO. Mr. Chairman, I yield 4 additional minutes to the gentleman from California.

Mr. PANETTA. These eight committees were instructed to come forward with $6 billion in legislative savings and $4 billion in terms of the Ways and Means Committee for reforms on the revenue side.

We have a $10 billion savings package that is before the House.

I commend the committees and their chairmen for the hard work that they did in responding to the instructions that were provided in the budget resolution. I know that for many of those chairmen and for many of the members of the committees, this was not an easy task. They were asked to take on programs that they have worked closely with, that they would prefer not to touch. But, on the other hand, they were looking at elements of savings, at administrative controls that are essential and that have been recommended year in and year out, budget resolution upon budget resolution, and for the first time they had to grapple with the issue of achieving those savings.

Those eight committees have come forward. Of the 25 areas that are recommended for savings, the House or the Congress has acted on almost 20 of those areas. We have four contained here that are mentioned in the reconciliation that are public law. We have some 15 areas that were acted upon by the House in one context or another. So the House has affirmed these legislative savings in one way or another. Certainly the vote on the budget resolution was an affirmation of it, certainly the vote on the Udall amendment was an affirmation of this process. But, more importantly, the House has also acted on specific measures that are contained in the reconciliation resolution.

Some will argue that, as a result of current trends in the economy, reconciliation is no longer necessary nor should it be used. Let me say that reconciliation should not be tied to economic conditions. Reconciliation is a process by which committees can review ongoing programs. It is not tied to economic conditions in the sense that, when we have high unemployment or when you have a recession, you ought to do away with reconciliation. Reconciliation is a tool through which committees can continue to review ongoing spending. And that is why it is still important to pass reconciliation as a tool to achieve the goals laid out in the budget resolution.

I want to commend the chairman of the Budget Committee for the work that he has done in emphasizing reconciliation. I want to commend the chairmen of the particular committees that have had to grapple with this issue and have made their recommendations, which I think meet the goals that were provided them within the budget resolution, and I want to commend the chairman of the Rules Committee for keeping a tight rule, because without that we could not implement the basic goals of the reconciliation process.

Mr. Chairman, I urge the Members of Congress to consider this package as a unit, as a first step toward achieving significant legislative savings in one single package and as setting a precedent that has never been accomplished in Congress, a precedent of real savings that everybody likes to talk about but, for the first time, can be achieved in implementing the goals of the resolution.

Mr. LATTA. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, we have before us the omnibus reconciliation bill for fiscal year 1981. This bill, while far from perfect, is, in its original, unamended form, at least a step in the direction toward fiscal responsibility at the Federal level. The reconciliation process embodied in this bill is the only real measure of enforcement we seem to be able to find to control our own excesses. I feel that it is imperative that we pass this bill and establish at least a facsimile of a sound budgetary process.

The budget is the fiscal expression of the administration and Congress priorities. Taking a look at how the administration and this Congress are spending the taxpayers' money, I can only assume that the preservation of the U.S. economy is not one of these priorities.

Although the procedure was conceived in 1974, this is the first year the majority party has used reconciliation. I feel its use is long overdue. As with any "now" method, its implementation has been subject to the effects of outside forces.

Specifically, the reconciliation process has been hampered this year by those who would resort to creative accounting and thus delay, rather than cut, spending, and by those who have used this measure to clean out their legislative closets and attach the residue to this bill.

Also, the partisan atmosphere has done little to speed this much needed bill to the floor, and the gag rule under which it will be debated has made the partisan atmosphere even more stifling.

As we consider this bill, we have to take our current economic situation into account. This bill, with the effects of its pending cuts and the increases in revenues it provides, would save us around $10 billion in fiscal year 1981. Unless the bill is inundated by amendments, we cannot afford to pass up these savings. When Public Law 93-344 went into effect in July 1974 we said that we wanted to establish "effective congressional control over the budgetary process." We have not achieved it. Federal spending still has the American economy by the throat and is choking the life out of it.

Since 1974, the national debt has nearly doubled—from $486 billion in fiscal year 1974 to a projected $962 billion in fiscal year 1981. The amount it will cost us to service this burden for fiscal year 1981 is $80.4 billion, or about 12.7 percent of our total projected expenditures. These massive increases, and the burden that has been placed on the taxpayers are optional. So far, Congress has opted for the course of fiscal profligacy.

The effects on the economy of these spending increases have been catastrophic. Growth in real GNP is down, as is growth in real business investment. Worse, productivity is sinking. Inflation has been reaching alltime high levels and the rate of unemployment is approaching staggering levels. Government spending and the resulting increase in borrowing it requires is crowding private investors out of the market. The Federal Government made up approximately 23 percent of the total credit market borrowings for the period from fiscal year 1975 to fiscal year 1979. This crowding out effect on private investment is another link in the vicious circle whose growth we are fostering. We cannot increase productivity and investment in an adequate or timely fashion without cutting Federal spending.

While this bill encompasses legislative remedies to curb spending from most House committees, in an attempt to curb my own remarks, I will limit my comments to those provisions that originated from one of my own committees, Ways and Means.

The budget resolution required the Ways and Means Committee to find $4.2 billion in additional revenues. While I am in favor of using the reconciliation process to help shrink the budget deficit, I am opposed to the abuse of reconciliation by the administration in order to pass some of its unpopular, unnecessary, and ineffective revenue raising bills.

Among the revenue raising provisions, and perhaps the most obnoxious of the lot, is the provision dealing with the President's cash management proposals for corporations. These provisions, which provide over $3 billion of the total additional revenues, were first presented to the Ways and Means Committee last March. The proposals at that time appeared to have as much popularity among the members of the Ways and Means Committee as another one of the President's revenue raising proposals—the 15 percent withholding tax on savings. Nevertheless, the administration apparently felt that it was most important to remove over $3 billion of vital capital from the economy in order to provide a one-time gain to its election year budget.

The other provisions of the Ways and Means Committee's proposed revenue raising package, while deficient in that it did not have the benefit of legislation action in both Houses of Congress, make some relatively painless, and in some cases necessary, changes in our tax laws.

Last Congress, both the Ways and Means and Interstate and Foreign Commerce Committees spent considerable time in preparing to make needed changes in the medicare and medicaid programs—only to have the bill expire in the Senate's last minute rush to pass bills at the end of the session. This Congress, the House committees again, spent considerable time in passing needed reforms to medicare and medicaid.

While the reforms have great merit, the reconciliation bill is not the appropriate vehicle to pass legislation not now on the statute codes. To allow reconciliation to be used to create new programs is to corrupt the system. Never the less, it was chosen as a safety valve to assure that these reforms would be given adequate consideration by the other body and would be enacted. H.R. 3990 and H.R. 4000 are included in this reconciliation package and are necessary to make the medicare and medicaid programs more responsible to their constituencies, but they should never be included in a reconciliation bill.

While I support most of the changes in the medicare and medicaid programs, I have some concerns about the revision of the home health services that were included in H.R. 3990. In my judgment, the States ought to have the authority to determine the licensing requirements for proprietary home health agencies.

The bill removes the requirement that proprietary home health agencies can only operate in States that have licensing requirements. The bill further allows the Secretary of HHS to establish administrative requirements for these home health agencies. I am concerned that this action might result in more redtape and regulations, and could have the effect of taking away States rights to determine which home health agencies will be allowed to operate in the State.

However, H.R. 3990 makes important changes in the medicare and medicaid reimbursement policy. Among those are to allow: First, dentists to serve their patients in a hospital setting in the same manner by which physicians serve their patients; second, speech pathologists to service patients directly; third, chiropractors to be reimbursed for services in connection with X-rays previously required by medicare; fourth, optometrists to provide postsurgical lenses for aphakic patients; and fifth for expansion of the limitation on services furnished by physical therapists on an outpatient basis. The bill also makes changes in certain automobile insurance cases, reimbursement for blood and ambulance services, and changes in outpatient mental health benefits.

H.R. 4000 makes a number of reforms in the medicare and medicaid program specifically with regard to the Professional Standards Review Organization (PSRO s). It expands the membership of PSRO's to correspond with individual hospital admittance practices and also expands the membership on statewide council advisory groups.

As a result of a recent court ruling, H.R. 4000 provides that no PSRO will be required to make available any records pursuant to a request under Freedom of Information Act until 180 days after the entry of a final court order requiring such disclosure. That is a great improvement.

Further, the bill provides that, in determining the amount of reimbursement for nonprofit hospitals under these programs, grants, gifts, and income from endowments are not to be deducted from hospital operating costs. In addition, H.R. 4000 makes reasonable changes in Life Safety Code requirements for health institutions and eases the accounting procedures for hospitals who provide long-term care services or "swing beds."

By repealing section 227 of the 1972 Social Securiy Amendments, reimbursement under medicare and medicaid to hospitals with approved teaching programs for services rendered by physicians is authorized, if the hospital so elects, and, if all physicians agree not to bill the program eligibles for professional services rendered in the hospital. Otherwise, physicians in teaching hospitals are to be eligible for reimbursement directly under the physician payment provisions. Finally, the bill authorizes changes in reimbursement for HMO's.

While I would have preferred that H.R. 3990 and H.R. 4000, could have been passed on their own and not part of the reconciliation process, the changes in both bills will greatly improve the medicare and medicaid programs for both the provider and the patient. I hope these provisions, in the original bills, will be accepted by the Senate and quickly be enacted. They are long overdue.

The Rules Committee provided for the Bauman and Vanik amendments to be in order. I oppose both amendments.

I strongly oppose the Bauman amendment to restore the second cost-of-living adjustment (COLA) that the reconciliation bill is designed to eliminate. By eliminating the twice a year COLA, we can save all our taxpayers about $756 million. It is wholly unnecessary and wasteful to escalate Federal pensions more often than once a year.

The Bauman amendment will maintain a preferential, unearned benefit for an elite group in our society. The taxpayers should not be required to bear this inflationary burden merely to provide another benefit, unmatched elsewhere in our society to any already privileged group.

If we cannot defeat the Bauman amendment, we can never control our budget.

I also oppose the Vanik amendment which reverses the Ways and Means Committee's decision to rescind H.R. 1543, which provided changes to our trade adjustment assistance program. The Vanik amendment would delay passage of H.R. 1543 for 1 year. I believe the committee made a wise choice to rescind passage of H.R. 1543, which would have resulted in a costly extension of benefits under the TAA program.

This trade readjustment assistance bill would have added about $822 million in the first year alone, with no indication that the funds would accomplish the original intent of the TAA program, which I do support. In addition, it is apparent that the other body will not pass H.R. 1543, so this exercise is destined for futility in any case.

I hope my colleagues will vote to support the Ways and Means Committee's rescission by opposing the Vanik amendment and thereby conforming to the spirit of the reconciliation bill. During the next Congress, we will have a much better opportunity to reevaluate the TRA bill in more realistic terms to make the needed reforms. If Vanik is passed, reconciliation becomes deferral instead of honest decisionmaking. Deferral merely will prove again that Congress does not have the courage to restrain its spending.

I am not as satisfied with all of the Ways and Means Committee's actions as its opposition to the Vanik amendment, but will support them. A part of its proposal to make the required $2 billion in spending cuts, the Ways and Means Committee made some necessary changes in the laws pertaining to unemployment compensation. These proposals would: first, terminate the provision providing for Federal reimbursement from the FUBA account from unemployment benefits paid to CETA workers; second, increase the length of service in the Armed Forces required for ex-military personnel for purposes of unemployment benefits; and third, terminate extended unemployment insurance benefits when the benefits are paid under an interstate claim in a State where the unemployment level, has not triggered the extended benefits period. I think that all of these provisions are desirable. They do not cause the loss of any unemployment benefits to any worker who has lost his job and has been unable to secure new employment, while at the same time, they tighten up the eligibility requirements for unemployment compensation, so that we do not continue to encourage workers to remain on the unemployment rolls.

Finally, the reconciliation package makes an attempt to cut some of the formerly untouchable areas of the budget. These entitlements must be cut if we want to get spending under control. A great part of entitlements are deadweight and should be trimmed. Since our oversight committees seem unable, or rather, unwilling, to do this it must be attempted by other means, such as the reconciliation process.

This reconciliation measure would be important if only for the savings it is bringing us. However, its impact is magnified by the effect it could have on the budget process as a whole.

Reconciliation is an act of self-discipline, something that is sorely needed, almost unheard of, in this Congress. It could be the start of a more controlled, prudent approach to Federal spending. It probably is not our last chance to gain control of expenditures, but today its the only game in town. If we pass this opportunity, we signal to our constituencies, that we are untrainable and that others are needed in our places to restore fiscal sobriety.

I urge my colleagues to support this measure without amendment. It contains many flaws, but it is very much needed to offset the ruinous spending policies initiated by the Carter administration and previously ratified by this Congress.

This bill does not entirely satisfy me for a number of reasons. Some of its cuts in entitlement programs are temporary where they should be permanent. Some of its so-called cuts are mere postponements. Some of its cuts will lead to increases in costs in the outyears of these programs. But its the only opportunity available now through which to show first Congress does not intend to insult the taxpayers forever.

☐ 1230

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, this is a significant and historic day in the House of Representatives. For the first time, we are taking an extra step. We are going the second mile to make the budget process a reality.

We might describe the budget resolution which we adopt in the spring of each year as a roadmap pointing the direction toward a fiscally prudent result, and this year's case a balanced budget. The reconciliation bill which we now have before us is the fuel by which our vehicle can reach the destination marked on that roadmap.

In one sense the budget resolution is a skeleton outline, and those reforms embodied in this piece of legislation are the flesh and blood that can make that skeleton a living and breathing reality.

Pursuant to our budget resolution directive of last June, wherein we reached a balanced budget, 18 committees of the House have adopted a total of some 22 separate spending reforms and 6 separate tax reforms which have been encompassed in this one piece of legislation.

The spending reforms are calculated to save a total of some $6 billion in fiscal 1981. The tax reforms will save almost $4 billion if all are adopted. Even taking the least optimistic fiscal case under this rule that we have approved, assuming the adoption of amendments and the restoration of the semiannual cost-of-living adjustment for retirees, which I believe a majority of us will support, the total saving by the adoption of this bill still will be at least $8½ billion or probably $9 billion in the new fiscal year.

I want to point out that we have not sought to balance this budget upon the backs of the elderly in our society. There were suggestions made to the group originally attempting to achieve a balanced budget, that we might do so by restructuring the formula under which the cost-of-living percentage is computed for our elderly citizens. But when it became apparent that this was being proposed with the preordained goal of saving money under the premise that housing costs were less for senior citizens than for others, we rejected that idea. We realized that other costs like medical and health care costs are quite considerably higher and that it would be grossly unfair to attempt to rearrange that formula with the specific goal, as one who shoots the arrow first and then draws the target where the arrow hits, of saving money at the expense of our retired citizens. So we dropped that proposal.

In my opinion it would be eminently more fair to lift the ceiling on allowable outside income for social security retirees.

□ 1240

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

Mr. PANETTA. Mr. Chairman, I yield 1 additional minute to the gentleman from Texas.

Mr. WRIGHT. Another proposal was suggested to the effect that additional revenues might be achieved if we were to impose a tax upon those who were the recipients of social security benefits. That was overwhelmingly rejected. Upon the same general premise, I believe we shall today reject the proposed cutback in cost-of-living adjustments for military and civilian retirees.

So what we have achieved here, while not a perfect instrument—and we will never have a perfect instrument in this imperfect world—is at least an honest attempt on the part of this Congress to make good on its promise of a balanced budget. And we shall not balance it upon the backs of those who can least afford it.

I think it is a significant day in the history of the Congress. After the membership has worked its will upon the amendments before us, I urge our support for the passage of this bill because I believe it is an important milestone in our quest for fiscal responsibility.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, let me just point out two facts that we have to keep in mind. One is that an increasing percentage of our tax dollar is going for interest, rather than for goods and services. Whether you are a conservative, Liberal, Democrat, or Republican, that just does not make sense.

In theory, this reconciliation, assuming now no amendments were to be adopted, would save about $10.4 billion. While the prime rate right now is 11½ percent and the Treasury bonds coming due in 1982 are now 11 percent, the best rate (from the Government viewpoint) you can get on Treasury bonds (those due in 1981) is 10.3 percent. If you apply that best rate to the $10.4 billion, you are talking about $1,071,000,000 each year from now on that will be spent either on interest or on jobs programs or aid to the handicapped or a reduction of taxes to taxpayers or something else; so we have this choice of continuing an interest payment or using that money more effectively and in a noninflationary way.

The second point that we have to keep in mind is that any rational analysis of our budget process over the last 21 years suggests that we need some additional restraint. That additional restraint will either come from the legislature, from this body, or it will come inevitably from the executive branch of Government, one of the two.

Those of us who support this reconciliation resolution are suggesting that that restraint ought to come from the legislative side of Government.

Mr. LATTA. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, for some time now I have been looking forward to the time when the House would consider its first reconciliation bill. You know, the congressional budget process has been in being now for some 6 years. Believe it or not, this is the first time we have had an opportunity to consider it on this floor; but since 1977 every Republican budget substitute has included reconciliation as an essential part of bringing Federal spending under control. Each and every one of these substitutes was defeated by the majority. Only a year ago when we were considering the second budget resolution for 1980, the Senate wrote reconciliation into its version of the budget resolution, but that, too, was rejected by the majority in this House.

For these reasons, I was particularly gratified that the House has finally consented to subject the spending committees to the long overdue discipline of reconciliation.

Unfortunately, the promise of reconciliation far exceeded the results. Several of the committees did a responsible, reasonable job. Others did their best to take advantage of the situation and to sabotage the very intent and purpose of the law. As I have mentioned, reconciliation was seen as one of the few means available to the Congress to reduce uncontrollable entitlement portions of the budget; but several of the committees recommended only one shot, one-year's savings in some entitlement programs, these very programs becoming totally uncontrollable once again in 1982.

Mr. Chairman, I do not believe this is what we had in mind when we talked about reconciliation.

Let me mention the Committee on Ways and Means as one committee. It did not even go so far as to make a one-shot, 1-year savings; but instead, produced a phony savings of $675 million merely by postponing a medicare payment to hospitals scheduled for next September and making it, instead, several weeks later in October, the first month of the next fiscal year.

Now, I do not know whether we had that type of savings in mind when we talked about reconciliation or not, but I do not believe we did.

The taxpayers are not saved 1 penny by this maneuver and the 1982 deficit will be $675 million higher because of this abuse of the reconciliation portion of the Budget Act.

Other committees did their best to make cuts where they were least justified in order to spare some of their more wasteful programs. For example, at the very time our National Guard and Reserve Armed Forces are at their weakest levels in 30 years, the Committee on Post Office and Civil Service decided to further discourage participation by penalizing Federal employees who are also members of the Guard or Reserve. They would do this by cutting out the extra pay these employees now receive when they attend the annual 2-week training exercises in the summer. In my mind, such a proposal is a gross distortion of our most pressing national priorities; yet they took this particular program as a way to save. But these intentional end-runs on the congressional budget process pale in comparison to what three of the eight committees, which I mentioned earlier, ordered to reconcile did in reporting out their recommendations. Not content to live within the technical requirements of the reconciliation instructions—that is, to reduce spending—three committees decided to increase spending in programs under their control in the hopes that these new spending programs would slip through the House, unnoticed and untouchable under a closed rule.

Included in this reconciliation bill are new spending provisions which we will not be able to touch, which will cost the American taxpayer $3.1 billion or more during the next 5 years. So for those of you who think we have before us a bill which will reduce spending, let me tell you that hidden within the bill are 26 separate provisions which will cost $3.1 billion.

So all that glitters is not gold as far as savings are concerned and we have $3.1 billion as increases that you cannot touch.

Now, it does not surprise me that several of the committees inserted the spending increases. After all, they did not like the idea of reconciliation in the first place. But what really disappoints me is that the majority on the House Budget Committee and on the Rules Committee, the two committees charged with enforcing the Budget Act, refused to do anything about it and this House then followed suit and refused to do anything about it.

Now, let me make one thing clear about these particular programs. I do not oppose the individual programs which go toward making up this $3.1 billion. I do not know of any opposition to them in this House; but the question is whether or not the reconciliation procedure is a procedure to use in coming forth with new spending initiatives. I say it is not and we will rue the day we did that in this House today, because reconciliation was not intended to add, but to cut spending.

I have gone over the legislative history of the Budget Act with particular emphasis on those sections dealing with reconciliation and find not a single reference to reconciliation being anything other than the means to reduce uncontrollable spending programs and to raise revenues. Not a single mention is made of using reconciliation to both reduce some spending and increase it elsewhere. For those of you who were not here in 1974 when the Budget Act passed, or for those of you who were but have a selective memory, I would urge you to read the House floor debate at the time the conference report on the Budget Act was being considered.

□ 1250

Virtually every Member agreed that at long last we were going to get deficit spending under control, do away with devious, backdoor spending, and beat inflation. I would like to share two statements with my colleagues that were made at that time. The first was made by the chairman of the Rules Committee, and I quote:

> The problem is that new programs have a way of developing powerful constituencies, and payments to individuals have a way of being made into voters. So in the last analysis we come back to the question of will. Do we have the will to make this new tool work? I hope we do because the alternative is a budget completely out of control, and a nation which is rapidly outspending its resources.

I could not agree more with that statement. But apparently today we do not have that will he talked about.

This trade-off business, I do not know where that came into being, in order to get one thing we have to trade something. I do not buy that at all.

Let me also quote a former Member of this House, the Honorable H. R. Gross of Iowa who said at the time in response to all of the praise being lavished on the new Budget Act:

> I will not be here when this alleged reform goes into operation, but I predict the Members of this House. . . . will quickly find ways to warp and bend the reform rules laid down here today and, at least, some of the Members present on the floor today will be part of it.

Mr. Chairman, if anything sums up what the Congress has done with the budget process, that does it in a nutshell.

Now, once again, today we are being asked to warp and bend the budget process because it suits the desires of a handful of Members, many of whom were here when the Budget Act was passed.

New spending programs have absolutely no place in a reconciliation bill. We have heard the argument put forth about the trade-offs, and that some consider reconciliation something to trade with. I do not buy that at all.

We have heard the argument that we have assumed some of these spending increases in the first budget resolution, and I cannot accept that assumption.

So I am here to say today that we will rue this day that we have established a precedent in this House, that when reconciliation comes before this body in the future we will have all committees of the Congress, not just three, attempting to bring in new spending initiatives and trading off, as one might say, or has been said here in argument, or they might say we have assumed it in one resolution or another. But, nevertheless, it will come down to more spending, more inflation, and more taxes for the American people.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman.

Mr. FINDLEY. I am wondering if we may also rue the day when we started on the road of bringing to the floor bills under rules as complex as the one under which we are now operating. As I read the rule, time is being yielded to nine different committees. Is that correct?

Mr. LATTA. That is correct.

Mr. FINDLEY. I look back with nostalagia on the day when one single committee controlled all time on a bill. It would seem to me much more orderly for the Budget Committee to be controlling all time on this bill, and I say that with due respect for the other committees invloved. I suspect this is inspired by the new rule under which many bills are referred for consideration to more than one committee. I would suggest to the gentleman that we are fast ruing the day that we started on that road, too.

I fear that the legislative process is literally going to grind to a halt the way we are going.

Mr. LATTA. I could not agree more with the gentleman. As far as the legislative process grinding to a halt, the mere fact they are mentioning a lameduck session indicates something has to be done.

Mr. GIAIMO. Mr. Chairman, I reserve the balance of my time.

Mr. LATTA. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The next Members to be recognized are the Chairman of the Armed Services Committee, the gentleman from Illinois (Mr. Price) and the ranking minority member of the Committee on Armed Services, the gentleman from Alabama (Mr. Dickinson).

The Chair recognizes the gentleman from Illinois (Mr. Price).

Mr. PRICE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman. I rise at this time to explain briefly the provision of title I of the reconciliation bill now under consideration.

The Members are aware that the Committee on Armed Services was directed in House Concurrent Resolution 307 to report to the Budget Committee legislation to reduce expenditures in fiscal year 1981 by $400 million.

The Committee on Armed Services has concluded that the required reduction could best be achieved by adopting legislation that would temporarily suspend the automatic adjustment mechanism for military retired pay. The committee would have preferred to suspend the increase in retired pay that is scheduled for March 1981. However, based on the economic assumptions used by the Congressional Budget Office, it appears that only a suspension of the September 1980, increase would generate reductions sufficient to satisfy the reconciliation requirement.

The effect of this proposal would be to defer the increase in military retired pay that otherwise would occur on September 1, 1980. In March 1981 the percentage by which military retired pay would otherwise be increased would be augmented by the percentage that retired pay would have been increased on September 1, 1980. Under the proposed provision, the semiannual adjustment in retired pay would be resumed on September 1, 1981.

In addition, the conference report on H.R. 6974, the Defense Authorization Act for fiscal year 1981, contains an identical provision.

I point out to the Members that this provision differs from the provision advanced by the House Committee on Post Office and Civil Service for retired civil service personnel. Under that committee's proposal, the March 1981, increase would be deferred rather than the September 1980 increase.

The Armed Services Committee has specifically conditioned its provision for the annualization of retired pay increases on similar action being taken in the case of retired civil service personnel. The committee believes that retired Federal personnel—military and civil service—should be similarly treated with regard to cost of living increases in retired pay. Should the amendment to be offered by the gentleman from Maryland (Mr. Bauman) be adopted by the House and by the conference, neither the provision in title I of this bill nor the similar provision in the Defense authorization bill will become operative.

On the other hand, the delay in enacting the legislation before us now will require some adjustment to this legislation and to the Defense authorization bill should the amendment of the gentleman from Maryland not be adopted. The September increase has become effective. Military (as well as civil service) retired pay is accuring at the higher rate effective September 1, 1980. Should the civil service retirement system be changed to defer either the September 1980, or March 1981, cost-of-living increase, the provision in the Defense authorization bill would become enabled and the September increase would be deferred—after it has been provided. It was never the intent of the Armed Services Committee to revoke the increase; at most, only to defer it. Therefore, I strongly recommend that, if necessary, the conferees modify, at the appropriate time, not only the provision in the reconciliation bill but also the provision in the Defense authorization bill to avoid a retired pay cut for military retirees that would presently be required if a change is made to the civil service system.

In conclusion, the recommendation for eliminating the September 1980 increase is made by the Committee on Armed Services with reluctance but in conformity with the requirements of the reconciliation direction in the first concurrent resolution in the budget for fiscal year 1981.

□ 1300

Mr. DICKINSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the Chairman of the Committee on Armed Services and his statement that he has just given on this subject, title I of H.R. 7765.

The Committee on Armed Services in compliance with the direction contained in the first concurrent budget resolution on the budget for fiscal year 1981 has proposed that the scheduled September 1980 retired pay increase be suspended. Under the Armed Services Committee proposal, the semiannual adjustments in retired pay will be resumed in March 1981. Under that proposal the March 1981 adjustment would reflect the increase in the Consumer Price Index for the entire calendar year of 1980.

This action achieves savings in the order of magnitude required by the first concurrent resolution on the budget for fiscal year 1981, but preserves the permanent law providing for semiannual adjustments in military retired pay.

Time has passed us by on this specific provision, and some action must be taken to recognize that the provision was recommended well in advance of the September cost-of-living increase which already has gone into effect. Retired pay for military and civil service retirees has begun to accrue already at a higher rate, and it would be unconscionable to take it away at this time. Should the provision deferring the adjustment of civil service retired pay remain in the reconciliation bill, we must change the provision affecting military cost-of-living increases, both in this bill and in the Defense authorization bill, which contains a similar provision.

In other words, Mr. Chairman, all we are trying to do is effect equity. To say that the military will be treated the same as the civilian sector, I think, is only commonsense and fair. I would hope that the committee would see fit to do so.

Mr. Chairman, I reserve the balance of my time.

Mr. PRICE. Mr. Chairman, I yield 10 minutes to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. I thank the chairman of the full committee for yielding time to me.

Mr. Chairman, section 403 of the Omnibus Reconciliation Act of 1980 would eliminate military leave pay to Federal employees while they are on their annual 15-day period of active duty. Today, there are 115,000 Federal employees who also serve as members of the Guard and the Reserve.

The Federal Government established military leave pay to Federal employees some 50 years ago to encourage Government employees to voluntarily participate in reserve programs. Subsequently, most State, county, and municipal governments and additionally many private industries and businesses have also adopted the program. Today, 48 out of the 50 States now pay the civilian salary of their employees while they are on military active duty. A recent survey indicates that 12 percent of the private industry sector do also.

Many of the employees of the Federal, State, county, and municipal governments as well as employees of private industry volunteered for service in the Reserve and National Guard because of the attractiveness of this incentive which allows them to receive both their civilian pay as well as their military pay, while they are serving their annual 15-day period of active duty.

If section 403 is adopted, it would be only a matter of time until State, county, and municipal governments, as well as private industry would follow the lead of the Federal Government. Such action would, in my opinion, cause a wholesale loss of members from the Guard and Reserve because they would perceive that they were losing a benefit; another erosion of their entitlements.

It makes no sense to me to spend large sums of money for recruiting, bonuses, et cetera, to encourage civilians to join the Reserve and National Guard and then take away a benefit that will decimate the organizations that we are devoting so much time, effort, and money to build as a critical component of our Defense Establishment.

I am opposed to section 403 of the Omnibus Reconciliation Act of 1980. I urge those Members of this House who are appointed to the House/Senate conference committee to keep in mind the urgent need for incentives to provide manpower for the Guard and Reserve.

Mr. PRICE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DICKINSON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The gentleman from Kentucky (Mr. PERKINS) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, first let me state that we did our best to reconcile our differences with the Committee on the Budget, but in doing so I feel that we did considerable harm to our school lunch programs and other programs. It was my hope that we would have had the opportunity to offer an amendment to restore approximately a half billion dollars to the school lunch program, and we were foreclosed of that opportunity. But I do want to take a moment to point out why I feel that we will do harm to the school lunch program. The response of the Committee on Education and Labor to the direction by the Congress to report legislation to reduce spending is contained in title II of the Omnibus Reconciliation Act of 1980. Title II has three subtitles. Subtitle A deals with child nutrition programs, B with Federal employees compensation, and C with the student loan program.

Details of the cuts, including cost estimates prepared by the Congressional Budget Office, are fully described in the report accompanying the reconciliation bill. I shall not take the time of my colleagues in discussing the programs which provide savings of under $30 million.

Under subtitle A, savings estimated at $190 million would come from the school lunch program. The bill proposes that for fiscal year 1981 the basic Federal reimbursement for all school lunches be lowered by 2.5 cents per meal, except in school districts in which 60 percent or more of the children received free or reduced price meals in the second preceding fiscal year.

The effect of this proposal would be to lower the estimated fiscal year 1981 reimbursement rates from approximately 19.75 cents to 17.25 cents. The U.S. Department of Agriculture assumes that there will be a reduction of 36 million meals reimbursed at the paid rate because of a drop in participation. Estimated fiscal year 1981 savings—$85 million.

Additional cash subsidies are provided to the States for serving lunches free or at a reduced price to needy children whose family incomes fall within income guidelines prescribed by law. The bill before you proposes that the provision that updates the poverty guidelines to the beginning of the relevant fiscal year be eliminated.

This proposal also eliminates the current allowance permitting families to deduct from their incomes special hardship expenditures (for example, high medical and housing expenses) for determining the meal subsidy class.

In place of the hardship deductions the proposal would allow a standard deduction comparable to that used in the food stamp program.

The bill provides for the elimination of the currently allowed higher reimbursement for reduced price lunches served in States that provide a uniform charge for each such lunch that is less than 20 cents. This special assistance factor allows up to 10 cents additional reimbursement for reduced price meals under these circumstances.

Elimination of the higher special assistance reimbursement will have the effect of reducing the reduced price reimbursement rate by approximately 10 cents for more than 90 percent of the reduced price meals currently served. Estimated fiscal year 1981 savings—$105 million.

Reimbursement rates in the school lunch, breakfast and child care food programs under current law are adjusted semiannually in January and July. The bill would change from the current semiannual inflation adjustments of reimbursement rates to annual adjustments for the school lunch, breakfast, summer food, and child care food programs. The effect would be to maintain the reimbursement levels established in July of each fiscal year for the entire fiscal year, instead of updating for the previous 6 months' inflation in January.

Thus, assuming continued inflation, the reimbursement levels would remain at lower levels than currently allowed with a semiannual adjustment. Estimated fiscal year 1981 savings—$75 million.

A reduction is proposed in the per meal value of donated commodities. Federal assistance is provided in the program of cash and donated commodities for distribution to schools and institutions for school lunches and meals served in the child care food program.

The cash assistance factor is adjusted yearly to reflect changes in the producer price index for foods used in schools and institutions. The total program cost is estimated at $747.6 million for fiscal year 1980.

The bill would reduce the mandated level of commodity assistance for each school lunch and child care meal by 2 cents. This would have the effect of lowering the estimated average commodity reimbursement for each such meal from approximately 17 to 15 cents. Estimated fiscal year 1981 savings—$90 million.

The special milk program would be affected by a reduction proposed in the reimbursement rate for milk served to paying children. Federal subsidies are paid for the full cost of milk served free to children qualifying under the Secretary's guidelines. The subsidy for paying children is adjusted each school year to reflect changes in the producer price index for fresh processed milk.

The bill would lower to 5 cents and freeze the reimbursement for milk served to paying students in schools, institutions or camps that provide federally subsidized meal service.

This change would not affect the reimbursement for free milk served to needy children, or paid milk served in schools or institutions that have no meal service program. The effect of this proposal would be to lower the estimated reimbursement for paid milk from an estimated rate of 8.4 cents in fiscal year 1981 to a flat rate of 5 cents for fiscal year 1981 only. Estimated fiscal year 1981 savings—$57 million.

Subtitle B relates to the Federal Employees' Compensation Act and in effect represents the recommendation by the administration contained in Executive Communication No. 4020.

The Federal Employees' Compensation Act (FECA) was enacted in 1916 to provide compensation benefits for Federal employees injured or killed performing their duties. Cost-of-living increases were provided to FECA compensation claimants by the 1966 amendments to the act. Existing law provides that if a claimant has been receiving compensation for more than 1 year, compensation shall be increased whenever the Consumer Price Index rises at least 3 percent for 3 consecutive months over the index of the latest base month.

The proposed legislative change would provide annual FECA cost-of-living adjustments, which would put FECA on the same timetable being proposed by the administration for the Federal civilian and military retirement systems as part of the President's budget revisions for fiscal year 1981.

When this legislative proposal is enacted, the next benefit adjustment would not occur until March 1, 1981 and would be based upon the CPI change between the last date on which the current law adjustment was applied (probably September 1, 1980) and December 31, 1980. Estimated fiscal year savings—$33 million.

Subtitle C contains the changes proposed for the guaranteed student loan program.

Two proposals contained in the reconciliation bill have already been adopted by the House when the conference report on H.R. 5192, Education Amendments of 1980, was passed on August 28, 1980. One allows for providing information concerning student borrowers who are in default to credit bureau organizations. The other reduces the special allowance by one-half on new guaranteed student loans made with the proceeds of State revenue bonds. As I said, both these proposals are contained in the conference report on H.R. 5192.

The most significant legislative proposal remaining in subtitle C relates to the new parent loan program that was created in H.R. 5192. The reconciliation provision would amend the new parent loan program by forcing parents to borrow to the full extent permitted under the program before a student could apply for a guaranteed loan. This would result in a reduction in loan volume by which savings estimated at $134 million would be achieved in fiscal year 1981.

This proposal will have the effect of severely limiting or terminating the operations of State guarantee agencies, which have proven themselves to be a very effective mechanism for promoting the participation of lenders and for curbing student loan defaults.

In addition, this proposal is likely to have an adverse effect on new State agencies which have been established as a result of the encouragement and reforms included in the Education Amendments of 1976. Estimated fiscal year 1981 savings—$42 million.

When the committee acted to report its cuts, there was no specific information on the next steps in the process. There had been discussions on the staff level, and we had a copy of a document (unattributed and undated) entitled "Questions and Answers on Reconciliation in the First Budget Resolution, Fiscal Year 1981."

In that document the answer to question No. 7 "Will amendments to the reconciliation bill be in order on the floor?" was: "The Rules Committee has the responsibility to draft a rule appropriate for the consideration of all parts of the reconciliation bill. It is likely that the eligibility of specific amendments will be addressed at that time."

On July 3, 1980 (the day following the deadline for the reporting of reconciliation provisions) a letter from the Speaker stated:

> The Rules Committee will consider the reconciliation bill for purposes of fashioning a rule.

Whatever rule each of us may have envisioned back in July, I am sure no one could have imagined the current rule which denies a separate vote on all the savings provisions except for the cost-of-living adjustment to Federal and military retirees. Equity demands that separate votes should be permitted for all provisions of the reconciliation measure.

□ 1320

As I stated at the outset, we have complied the best we can, but I feel that we are practicing a lot of false economy in supporting this resolution at this time.

Mr. Chairman, in my judgment the reconciliation bill before the House represents poor legislation—both in substance and in procedure. I acted in accordance with the mandate of the Congress to report savings in order to balance the budget, but in my judgment we have mandated cuts in the wrong place. The budget for fiscal year 1981, in light of economic trends that were as evident in January 1980 as in July 1980, cannot successfully be balanced. To have forced reconciliation on the House under the guise of achieving a balanced budget on the items mentioned by me is not an achievement to be admired. I think we were put more or less in a straitjacket here, and we are going to cause many of our good programs to suffer considerable damage.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to my distinguished friend from New York (Mr. PEYSER).

Mr. PEYSER. I thank the chairman for yielding to me. I want to join with him, in what he has just mentioned in his most thoughtful statement, and also again point out that in my opinion the hardships and the problems we are going to cause by the enactment of this legislation, we are hitting at really the wrong places. I think it is unfortunate that we are not going to have the opportunity to vote and express ourselves on this kind of an issue.

I particularly am thinking of the families, both poor and middle income, who are going to be severely impacted by the changes that will come about under student loan programs, and for the poorer children particularly under the school lunch program, that the chairman himself has been so involved in and has played such a key role over the years in seeing that they reach the level they are at today.

I simply want to make it known that, in today's inflationary period, in striking at these areas as a method of securing a so-called balanced budget that in truth is not going to be balanced is really bad. I resist it personally, and will continue to resist it in every way I can, but I just think that the Congress itself is going to have to move—if not this year, immediately next year—to rectify this particular problem.

I thank the chairman for yielding.

Mr. PERKINS. Let me thank my distinguished colleague from New York.

Mr. Chairman, I now yield 5 minutes to the distinguished gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, I thank the distinguished chairman of the Committee on Education and Labor for yielding to me.

Mr. Chairman, the distinguished chairman of the Education and Labor Committee has very thoroughly and very eloquently stated in detail the problem that we face in relation to the cutbacks that have been mandated on the Education and Labor Committee. I will not repeat what he has said, but want to associate myself fully with his statement.

I do want to underscore the point which he made: These are not just words or numbers on a piece of paper we are discussing; we are literally taking food out of the mouths of children in the cutbacks that are being mandated. Indeed, the U.S. Department of Agriculture has projected that because of reduced participation by children there will be some 36 million fewer lunches served and some $85 to $90 million saved.

Children will be dropping out of the program because their parents will not be able to afford the additional cost which the Federal Government is now bearing. That is literally taking food out of the mouths of children.

I do not understand how under the false guise of balancing a budget we can do that kind of thing. I want to refer, Mr. Chairman, very briefly to how we find ourselves where we are right now. During the spring of this year there was a great game of pretense that went on in this body about how this process of reconciliation on the first budget resolution was essential in order to have a balanced budget. The argument was a sham even then, but at least on paper it added up.

Currently, the Secretary of the Treasury, Mr. Miller, has said to us that the budget for fiscal year 1981 will be out of balance, will be in deficit somewhere between $25 and $30 billion—and that is a very conservative estimate. That is not counting the projected tax cut of an additional $25 to $35 billion. And so, here we are, pursuing a myth which was false to begin with, and taking a half a billion dollars in food subsidies out of the mouths of children.

☐ 1330

Mr. Chairman, it is particularly ironic that we are doing this at a time when the whole process of reconciliation and budget resolution has been turned on its head. In 1973, when this legislation was first considered, Senator Ervin, then Chairman of the Senate Government Operations Committee, stated, and I quote:

> Long and serious consideration was given to the possibility of setting a firm limit on total expenditures in the first budget resolution.
>
> However, we were persuaded that Congress needs a flexible budget process, one that can respond to changing circumstances and that an early determination of spending ceilings might be rigid and premature.

He was talking about exactly the kind of situation we find ourselves in.

Our distinguished Chairman of our Committee on Rules, who is an architect of the Budget Act, stated on the floor of this House on December 4, 1973, and again I quote:

> The first concurrent resolution on the budget would set tentative total levels for new budget authority and outlays. . . . These figures would operate to guide Congress during its subsequent consideration of the various spending bill.

It was never intended that in the first budget resolution we would be tying in and legally binding by this reconciliation process figures that were supposed to be simply totals.

It is doubly ironic, because here we are barely 10 days away from the deadline for the second budget resolution, which requires that there be a total review of the basic economic assumptions on which the first budget resolution was based. Those assumptions are totally out of whack. When they first came down, the projection was that at the end of fiscal 1981 we would have a 7.2-percent unemployment rate. We currently, right now, at this very minute, have a 7.8-percent unemployment rate.

Mr. Chairman, the better part of wisdom, would be to defeat this reconciliation measure, have the Budget Committee review the basic economic assumptions, and let them come back to us with a second budget resolution which will be based not on myth but on reality.

Mr. Chairman, I am opposed to the Omnibus Reconciliation Act of 1980.

As provided under the Budget Act of 1974, the first concurrent budget resolution sets spending targets for the coming fiscal year. The legislation we consider today now attempts to apply the reconciliation procedure to the first resolution. If this is adopted, these targets will then in effect become fixed ceilings. This was not the intention of the Congress in 1974 when both Houses decided to use the first concurrent resolution to establish targets, and rejected the idea of fixed ceilings. In the floor debate on March 17, 1974, Senator Sam Ervin, then Chairman of the Senate Government Operations Committee stated:

> Long and serious consideration was given to the possibility of setting a firm limit on total expenditures in the first budget resolution . . . however, we were persuaded that Congress needs a flexible budget process, one that can respond to changing circumstances and that an early determination of spending ceilings might be rigid and premature . . .

Our distinguished colleague, Representative RICHARD BOLLING, an achitect of the budget act, stated on the House floor on December 4, 1973, that—

> The first concurrent resolution on the budget would set tentative total levels for new budget authority and outlays . . . these figugres would operate to guide Congress during its subsequent consideration of the various spending bills.

Clearly, reconciliation was never intended to apply to the first budget resolution.

We are debating reconciliation when the deadline for the budget resolution is barely 10 days away, if we must impose reconciliation, consideration of the second budget resolution may be the more appropriate time for discussion and revision. The economy has changed since the time when the committees first considered this legislation, months ago. And that was a time when it was being considered as a means to achieve a balanced budget. If reconciliation were to be adopted during consideration of the second budget resolution the legislative savings could be properly modified to be in line with the economic realities of today. We are imposing an unnecessary and complicated burden by debating this outdated proposal today.

But today we are debating the application of reconciliation to the first budget resolution, and the bill is being considered under a modified closed rule. This too is contrary to the avowed purpose of congressional debate and the Houses' role as a deliberative body. Quoting again from Senator Ervin regarding floor consideration of the budget resolution and related matters:

> The goal is to provide all members ample opportunity to be heard and offer amendments.

Certainly we are being denied that opportunity today, as we have been throughout this entire process, this year. The argument has been made that these are extraordinary times, and that therefore applying reconciliation to the first resolution is a necessary evil in order to balance the 1981 Federal budget.

But it is clear that the budget will not be balanced in 1981. Just 2 weeks ago Treasury Secretary G. William Miller acknowledged that there may be a deficit of between $25 and $30 billion in the Federal budget for fiscal year 1981. What is the point in cutting back needed services for millions of Americans in pursuit of the illusory and unattainable goal of balancing the Federal budget? We are imposing needless suffering across the Nation if we adopt this measure today.

These are indeed extraordinary times which call for extraordinary measures. But certainly not this measure that is before us today.

At a time when unemployment nationwide is at 7.8 percent, when the average family's real income is actually smaller than it was a year ago, when the Council of Economic Advisors projects the annual rate of inflation to reach 18 percent, it is an absurdity to further cutback basic Federal programs which are intended to deal with the very problems created by such an economy. And many of these programs, especially savings in those reported from the Education and Labor Committee on which I serve, are the very ones which provide a safety net for those who suffer most from unemployment, inflation, and recession.

The Education and Labor Committee was forced to report savings of over $700 million; $500 million of these savings are from the child nutrition programs.

Let us make no mistake about the effect of these cutbacks. We are taking food from the mouths of children. The lowering by 2.5 cents of the Federal reimbursement for school lunches will cause a reduction of 36 million meals reimbursed at the paid rate because of a drop in participation. And the Congressional Budget Office estimates that half of the children who now receive reduced price lunches would instead drop out of the program. This is due to the imposition of the standard $75 monthly deduction when computing a family's income, the change in income eligibility adjustment from semiannual to annual, and the increase in costs of reduced price meals for the individual child.

Because of a reduction of 2 cents per meal in the commodity assistance program, that is, cash and donated commodities a school receives, New York City alone stands to lose $1.698 million. So when we talk about cuts in nutrition programs we are not talking about kids paying more for their meals. We are talking about kids not eating.

The committee has also reduced the options needy students can weigh when applying for financial assistance in pursuit of a college or university education. If reconciliation is adopted, parents will be forced to take out loans amounting to $3,000 before the prospective needy student could receive a much lower cost guaranteed student loan. This new parent loan program will be much more costly for the family and may force some students to choose a lower cost institution, or no schooling at all. This is most ironic when one considers that the fundamental Federal policy in regards to higher education is to guarantee access and choice for every prospective student, regardless of income.

And under reconciliation seven other committees are forced to cutback numerous vital Federal programs. When unemployment is rising it is difficult to understand a recommendation by the Ways and Means Committee which will most likely result in a reduction in the number of CETA positions, the major Federal manpower initiative. Included in this bill today is the proposed elimination of the Federal reimbursement to States for unemployment compensation benefits for CETA employees. The office of the mayor of the city of New York predicts that payment of unemployment benefits will have to come from funds provided for CETA slots. They estimate that in fiscal year 1982 the city will be forced to spend $20 million on these benefits, or 15 percent of their current CETA budget. The city will be forced to cut the number of available CETA positions by 15 percent in order to fulfill a mandate of the CETA law.

The recommendations of the Ways and Means Committee also include the proposed elimination of the Trade Adjustment Assistance Projects Improvements Act which the House passed by voice vote in May of last year. This legislation would extend adjustment assistance coverage to workers in firms which supply parts and services essential for production of import-impacted products. Enactment of this legislation is critical for the thousands of workers who are adversely impacted by imports.

Mr. Chairman, these are only a few examples of programs devastated by this legislation. But the critical point is that reconciliation was never intended to apply to the first budget resolution. And the savings which are in this legislation basically reflect the dictates of the Budget Committee.

When the economy is worsening, when unemployment and inflation rise hand in hand almost monthly, it is absurd to tie the hands of the Federal Government at a time when its services are most needed.

Again the question becomes why are we doing this? Are we adopting reconciliation so that the Members of Congress can go back to their constituents and claim that a balanced Federal budget is a reality? This is simply not true—there will be no balanced budget next year. This is a cruel hoax we are perpetrating on the American people.

I urge my colleagues to join me in rejecting this measure.

The CHAIRMAN pro tempore (Mr. WHITE). The Chair advises the gentleman from Kentucky (Mr. PERKINS) that he has 6 minutes remaining.

Without objection, the minority member of the Committee on Education and Labor yields back the balance of his time.

There was no objection.

Mr. PERKINS. Mr. Chairman, I yield 3 minutes to our distinguished colleague, the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, it is with some sadness that I even come to the floor during consideration of this bill and this part of the resolution, because I know that when the chairman of the full Committee on Education and Labor was speaking a few moments ago, there were Members in this Chamber who, along with me, were aware of how many years of his life he has invested in developing the foundation for and in building brick by brick a rational program to provide the very basic nutrition that some children need to learn. And here we are, for the first time in my 16 years in Congress, being asked, not by a bad President and not by a bad OMB, but by our own colleagues who have acted on a budget resolution, to literally tear apart a program that affects hundreds of thousands of children across this country in a very direct way. As my colleague, the gentleman from New York, has already said, this literally asks us to take food from the mouths of babes—not only that, but to take milk away from children.

Do we think the kids in school are drinking too much milk for their own good? Do we think this generation is so healthy that it really does not need the kind of support we have accepted as basic for years?

We are not today turning our backs on some new scheme that has started to cost the Government a lot of money. We are turning our backs on basic programs that Congress after Congress, dominated by a majority in both political parties, has kept on the books and improved and enlarged upon. And now, willy-nilly, we are going to cut them.

The Education and Labor Committee was told that we would find a billion dollars that was to be saved in this fiscal year and take it out of entitlement programs. Now, many of the Members who voted for this resolution and against the Udall amendment which would have spared us this reconciliation process thought that if committees were required to cut funds, they would be given discretion in what to cut. They thought we would be able to do it in some fashion that would make rational and good sense with respect to the overall budget under the jurisdiction of that committee and would not seriously wound or kill any particular programs.

But our instructions were more narrow than this. We were not given that discretion. One of the programs that has to bear the biggest part of the burden is child nutrition. Why? Because it is an entitlement program. We were told to cut entitlement programs under the jurisdiction of the Committee on Education and Labor.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. FORD) has expired.

Mr. PERKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. FORD).

The CHAIRMAN pro tempore. The gentleman from Michigan (Mr. FORD) is recognized for the balance of the time.

Mr. FORD of Michigan. Mr. Chairman, as I said, the Education and Labor Committee does not have much in the way of entitlements, so our choice of options was very narrow. No one who was there the day our committee had to act to knock $500 million out of child nutrition could have failed to be impressed by the pain felt by our chairman when, as a good soldier, exercising the responsibility of the full committee chairmanship and the responsibility that that brings to him in the majority, he was the first one with courage enough in that room to say, "Yes," when he called for a vote on adopting the substance of this resolution.

Mr. Chairman, we brought it out of the committee with a big gun pointed at our heads, not by the Budget Committee, not by a bad President, not by the minority, but by the action of this body.

The mistake that we will make if we adopt this resolution today will perpetuate the first mistake that was made in 1973 when we got started on this process. We cannot go back and unravel that. We can look for people and individuals to try to blame. I know now that it is popular to say, "Well, you know, Giaimo is the fellow with the tight pocketbook, and he is responsible for all this."

Well, I do not want to take anything away from the tough way in which the committee chairman, the gentleman from Connecticut (Mr. GIAIMO), has handed this resolution, but the jam we are in today is really inevitable under the rules we have set for ourselves.

I walked around here a little while ago when I voted with the majority for the previous question, and, responding to colleagues who asked, "How can you possibly vote for this resolution?" I said, "I can't."

I have been struggling for a week to find a "good government" explanation for a yes vote on this resolution. I challenge anybody—anybody—to give me a "good government" explanation for why we should be adopting a resolution today which, as the gentleman from New York (Mr. WEISS) has already said, does not bear any resemblance to a balanced budget.

Is there any Member here or out there watching that tube in their office who really thinks they can go back home and con the American people with the idea that we are balancing the budget today, and that the numbers that we had before us when we adopted the budget resolution still mean anything today?

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. Yes, I yield to the chairman of the Budget Committee.

Mr. GIAIMO. Mr. Chairman, the gentleman is challenging, and I hope he has a little time left.

The fact of the matter is that we do not have control over the economy in this land. What happens to our economy and what happens to revenues will determine whether or not the budget stays in balance or goes out of balance.

The CHAIRMAN pro tempore. All time has expired.

The gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, under the first budget resolution requiring reconciliation this committee is mandated to reduce medicaid by $200 million and railroad retirement by $100 million. It is important to impress upon the House that, while none of us like making these reductions, especially in programs which have a profound effect upon the poor and elderly, were we not to comply, in all likelihood the Budget Committee would have sought the authority to make perhaps even greater cuts, without our having any control or discretion over the reductions or where they were made.

As is indicated by the extensive and successful effort the committee has made to comply with the reconciliation provisions of the first budget resolution, the committee supports the congressional budget process in general as a responsible effort to hold down Federal spending. The committee feels also that some form of reconciliation process may be desirable as a part of the budget process, but it feels strongly that the reconciliation process followed in the instant case infringes upon the jurisdiction and procedures of committees of the House and of the House itself. The committee is also critical of the procedures followed by the Budget Committee, in that it requested this committee to take actions, but failed to provide the information and guidance necessary for the committee to make cogent decisions, and also that it based some of its recommendations upon assumptions that the committee found later to be substantially inaccurate.

JURISDICTION

In dealing with the reconciliation issue, this Committee was faced with two significant issues involving jurisdiction. The first involved the Hazardous Waste Containment Act of 1980, the second the medicare-medicaid amendments contained in H.R. 3990 and H.R. 4000.

In regard to the former, the Committee reported H.R. 7020, the Hazardous Waste Containment Act of 1980, to the House on May 16, 1980. This legislation would amend the Solid Waste Disposal Act to: First, provide authorities to the Administrator of the Environmental Protection Agency to respond to releases from inactive and certain other hazardous waste disposal sites which endanger public health and the environment; second, establish a Hazardous Waste Response Fund for appropriate response actions, to be financed through a system of industry-based fees and Federal appropriations; and third, establish a Federal cause of action in strict liability to enable the Administrator promptly to recover costs incurred in undertaking such response actions from persons liable for such costs.

Following completion of consideration of H.R. 7020 by the Committee on Interstate and Foreign Commerce, the bill was sequentially referred to the Committee on Ways and Means until June 29, 1980, for consideration of the revenue aspects of the legislation. On that date, the Committee on Ways and Means reported H.R. 7020, with an amendment in the form of a new title, to the House.

On June 25, 1980, the Committee on Ways and Means ordered reported to the House H.R. 7652, its reconciliation recommendations. Included in H.R. 7652 are provisions virtually identical to the amendment to H.R. 7020 as adopted by the Committee on Ways and Means.

The substance of the amendment to H.R. 7020 adopted by the Committee on Ways and Means is inextricably related to the other provisions of the bill. Indeed, the Committee on Interstate and Foreign Commerce, to whom the introduced bill (which would impose substantial industry fees and hence has revenue implications) was solely referred and which has primary jurisdiction over this legislation, reported H.R. 7020 with provisions that would be substantially modified by the amendment adopted by the Committee on Ways and Means. Enactment of the substance of this amendment into law through the reconciliation process prior to enactment of H.R. 7020 could result in establishment of a naked Trust Fund receiving moneys without either the underlying purposes of the Fund, or any legal authority for expenditures from the Fund, having been established in law. Moreover, the reconciliation recommendations of the Committee on Ways and Means include authorizations of appropriations reported by the Committee on Interstate and Foreign Commerce and are keyed to nonrevenue provisions of H.R. 7020. These matters are within the sole jurisdiction of the Committee on Interstate and Foreign Commerce. Clearly, piecemeal legislation that would produce such results was never implemented under the Budget Act and would set an undesirable precedent.

A similar situation arises in connection with the medicare and medicaid amendments which were originally reported by both the Ways and Means Committee and the Committee on Interstate and Foreign Commerce as H.R. 3990 and H.R. 4000. While there was susbtantial similarity in the amendments reported by each committee, there were also numerous differences. In order to respond to the reconciliation requirements, both committees included the provisions of H.R. 4000 in their recommendations. Informal negotiations were undertaken to eliminate the differences between the committees' versions; however, necessarily the compromises were not satisfactory to all concerned. Further, because of the absence of medicaid savings provisions in H.R. 3990, the Commerce Committee was precluded from including H.R. 3990 in its reconciliation package, and was forced to rely on the accommodations the Ways and Means Committee voluntarily incorporated into its recommendations to take into account the version of H.R. 3990 which the Commerce Committee had reported. Again, the concerns of all members of the committee were not satisfied in this process.

The Committee on Interstate and Foreign Commerce is concerned that legislating in this fashion in an attempt to comply with reconciliation directives may subvert the legislative process. If the above-described portions of the reconciliation recommendations of the Committee on Ways and Means are all committees with jurisdiction in two brought before the full House under the procedure envisaged in the reconciliation process, the House will be summarily deprived of an opportunity openly and fully to consider the views of all committees with jurisdiction in two very important areas. Instead, for all practical purposes, the House will be forced to consider, in a precipitous, piecemeal and ill-advised fashion, legislation that should properly be brought before it in a comprehensive, integrated fashion with procedures which allow the House to settle areas of policy differences.

At the time of its action on the reconciliation motion, the committee was unaware of the action of the Committee on Ways and Means regarding H.R. 7020 and, therefore, took no action. It was aware of the problem regarding the medicare and medicaid amendments (H.R. 3990 and H.R. 4000) and directed that a letter be sent to the Committee on Rules, requesting an opportunity for amendments to be in order concerning these areas of difference when the reconciliation bill is considered. It is the intent of the committee to file a similar letter regarding H.R. 7020.

INFORMATION AND GUIDANCE

One very troublesome issue is the adequacy of the information and guidance available to committees upon which to base reconciliation recommendations. The following exchange of correspondence between the chairman of this committee and the chairman of the Committee on the Budget underscores this problem:

House of Representatives,
Committee on Interstate and Foreign Commerce,
Washington, D.C., June 6, 1980.
Hon. Robert N. Giaimo,
Chairman, Committee on the Budget, A214 House Office Building, Washington, D.C.

Dear Mr. Chairman: I am writing to request further information regarding the premises upon which your Committee based its recommendations regarding reconciliation in House Concurrent Resolution 307 and further explanation of the procedures your Committee proposes to have followed by authorizing Committees in trying to achieve reconciliation.

As you are aware, this Committee has already met its first reconciliation goal by reducing fiscal year 1981 outlays by $100 million through the enactment of Public Law 96–254.

As for the remaining reduction of $200 million in budget authority and $300 million in outlays, House Concurrent Resolution 307 explicitly states that this must be achieved by reducing spending authority by changes in laws described in Section 401(c)(2)(C) of the Budget Act, i.e., entitlement programs. For all practical purposes for this Committee, this would mean deep cuts in railroad retirement and in health programs, particularly medicaid, and thus would require this Committee to impose the burden of achieving reconciliation upon those in our society who are already bearing the major burdens of inflation, persons living on fixed incomes, the poor and the elderly. From discussions with members of your staff we understand that this was not the precise intent of your Committee, but resulted in part from the assumption that a $100 million reduction would be achieved by the enactment of the Hospital Cost Containment Act (H.R. 2626), an Administration proposal decisively rejected by the Members early in this Congress.

Your staff has also indicated that despite the explicit requirement in House Concurrent Resolution 307, your Committee would be inclined to accept "genuine" reductions achieved by reducing authorizations. The difficulty arises in trying to determine what is a "genuine" reduction since both appropriations and outlays, which are not under the control of this Committee, are frequently lower than the authorizations. There are only two ways this Committee can attempt to achieve such reductions:

(1) by reducing authorizations for funds authorized and appropriated in a previous year, but not as yet expended, and

(2) by reducing current authorizations below subsequent appropriations.

In either case, we lack the specific information—as to unexpended funds or prospective appropriations—upon which to make judgments.

I presume that in order to arrive at a realistic overall budget figure, your Committee must have made specific assumptions regarding individual appropriations. If so, I respectfully request that in order to enable this Committee to make its decisions regarding reconciliation in a timely manner and pursuant to Rule X(e)(2) of the House, you make available to this Committee, at the earliest possible date, the assumptions regarding appropriation and outlays for fiscal year 1981 for specific programs authorized under this Committee's jurisdiction. I request also that you inform this Committee whether and how these assumptions may be utilized in determining whether and to what extent a reduction in a specific authorization will achieve a "genuine" reduction in spending.

Should such information not be available, I request that you inform this Committee precisely what test may be applied to determine whether a reduction in authorization will result in reduction of outlays.

I appreciate your cooperation.

Sincerely,
Harley O. Staggers, *Chairman.*

U.S. House of Representatives,
Committee on the Budget,
Washington, D.C., June 20, 1980.
Hon. Harley O. Staggers,
U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

Dear Harley: This is in response to your letter requesting information on the assumptions that were used in determining the Interstate and Foreign Commerce Committee reconciliation targets included in House Concurrent Resolution 307, the First Budget Resolution for Fiscal Year 1981.

As you state, the resolution assumes that total savings of $200 million in budget authority and $400 million in outlays would be achieved through changes in laws within the jurisdiction of the Interstate and Foreign Commerce Committee. Specifically, the reconciliation directive to your Committee approved by the Congress on June 12, 1980, states: "The House Committee on Interstate and Foreign Commerce shall recommend (A) program reductions in laws within its jurisdiction to reduce spending for fiscal year 1981 by $100,000,000 in outlays; and (B) changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $200,000,000 in budget authority and $300,000,000 in outlays;"

Your understanding is correct that recent enactment of Public Law 96–254, the Passenger Railroad Rebuilding Act, will achieve the $100 million reduction in outlays referred to in clause (A) of the paragraph quoted above.

Clause (B) of the above section specifies that reductions in spending of $200 million in budget authority and $300 million in outlays shall be achieved through changes in laws which provide spending authority. The term "spending authority" is defined in Section 401(c)(2)(C) of the Budget Act as: ". . . authority (whether temporary or permanent) . . . to make payments (including loans and grants) . . . to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law."

Programs, establishing spending authority are popularly referred to as "entitlement programs."

In developing the agreement on the First Budget Resolution for Fiscal Year 1981, the House and Senate Conferees decided not to recommend specific legislative proposals to achieve the savings in the reconciliation directives. However, as the quotation from the Budget Act indicates, it was intended that the savings be achieved through changes in entitlement programs.

Your letter asks whether the Interstate and Foreign Commerce Committee reductions may be achieved through changes in programs which create authorizations for appropriations. In most instances this will not be possible to verify. The allowance established in the Resolution for the Appropriations Committee are aggregated. For fiscal year 1981, the aggregate totals allocated to the Appropriations Committee in the Resolution are $420.3 billion in budget authority and $374.5 billion in outlays. The determination of specific funding levels for individual programs is left to the discretion of that Committee. Therefore, it is extremely questionable whether a change in an authorization for a specific program will have a comparable impact on the level of total spending resulting from the appropriations process.

The key test in determining whether a Committee has complied with the reconciliation directive is whether the change in law proposed by the Committee results in a reduction in Federal spending. In other words, does the change result in "genuine" reductions in spending? While the Budget Committee will be expected to provide its assessment of the recommendations submitted by the House Committees, the final judgment on whether a committee has complied with the reconciliation directives of House Concurrent Resolution 307 will be that of the House of Representatives.

In developing the First Budget Resolution for fiscal year 1981, the House Budget Committee recognized that reducing Government spending in many areas would be very difficult. At the same time the full leadership of the House and Senate and in approving House Concurrent Resolution 307, both Houses, took the position that this is a vital need. I enlist your continued support in this effort.

I hope that this letter has helped to clarify the reconciliation process as it affects your committee. Please let me know if I may be of further assistance.

Sincerely yours,
Robert N. Giaimo,
Chairman.

By failing to provide the chairman of this committee with the information or guidance he requested, the Committee on the Budget made it impossible for this committee to determine what, in fact, would be "genuine" reductions and thus dreprived this Committee of the option of selecting areas for reduction other than entitlement programs. Despite its statements to the contrary, this had the effect of having the Committee on the Budget dictate to this Committee the program areas to be cut under the current reconciliation process.

Finally, the committee was concerned over the inaccuracy of assumptions made by the Committee on the Budget in recommending reductions. In one case, the committee estimated that a savings of $70.2 million would be achieved by changes in the railroad retirement system. Upon that assumption the Committee on the Budget recommended a reduction of $100 million (under its procedure of rounding out all figures over $50 million to $100 million). In fact, after enactment of the recommendation of the Committee on the Budget, it turned out that due to an error in computation, the reduction in savings would be only $35.8 million or almost 50 percent of the Committee on the Budget's estimate.

In another instance, the Committee on the Budget estimated reductions in spending of $100 million to result from enactment of section 208 of Public Law

96-254. Subsequently and after this committee had adopted its reconciliation motion, it was discovered that the reduction in spending would be $155 million, or more than 50 percent greater than the Committee on the Budget's estimate. Under the rounding off procedure this should be treated as $200 million, substantially increasing the effect of the error on the part of the Committee on the Budget. Lacking accurate information or guidance from the Committee on the Budget, this committee at no point in the reconciliation process could be certain whether it was reducing spending by too much or too little, a very unsatisfactory approach to orderly control of the budget.

If the reconciliation process is to be repeated—and I do not recommend that—this committee strongly recommends that the Committee on the Budget and the House address these problems and attempt to shape a procedure that protects the jurisdiction and prerogatives of the House and its committees and provides an orderly mechanism for reducing spending.

I will now recognize the two subcommittee chairmen who have jurisdiction over the railroad retirement and medicaid programs to explain how the reductions will be accomplished.

☐ 1340

Mr. Chairman, I yield 15 minutes to my colleague, the gentleman from California (Mr. WAXMAN), the chairman of the Subcommittee on Health and the Environment.

Mr. WAXMAN. Mr. Chairman, the Committee on Interstate and Foreign Commerce recommended to the Budget Committee a series of amendments affecting the medicaid and medicare programs for inclusion in the reconciliation bill. Following the instruction of the House in the first budget resolution, we recommend changes in the medicaid program which would result in a reduction in expenditures in fiscal year 1981 of nearly $200 million. Many of the provisions designed to achieve these savings had already been reported to the House as part of H.R. 4000; additional proposals were developed to reach the savings target. The committee also recommended inclusion in the reconciliation bill of other provisions which were originally part of H.R. 4000 which reform and revise medicaid and medicare practices. In some cases, these changes have no direct cost impact; in others, some cost is entailed. However, the committee complied with the directives of the House in limiting new spending in fiscal year 1981 to the levels assumed in the first resolution. Additionally, the provisions included have previously been reported as integral portions of a bill which contained savings proposals.

The health provisions included in titles III and VIII of the bill are in many instances identical. With few exceptions, these provisions were considered by both the Committee on Interstate and Foreign Commerce and by the Committee on Ways and Means, and were included in two jointly referred bills which were reported previously to the House, H.R. 3990 and H.R. 4000. The cooperative relationship between the members of the Health Subcommittee of the Committee on Ways and Means and the members of the Subcommittee on Health and the Environment has been outstanding throughout consideration of these provisions, and because of that willingness to work together, we are able to bring to the House a set of proposals for changes in the medicare and medicaid programs that will strengthen administration, extend benefits, and result in general improvements. I want to particularly acknowledge my colleague, CHARLES RANGEL, chairman of the Health Subcommittee on Ways and Means, the two chairmen of our committees, who have been unfailingly cooperative throughout, AL ULLMAN and HARLEY STAGGERS, and, of course, the ranking minority member of the Subcommittee, Dr. TIM LEE CARTER. Because these health provisions represent the joint work of both of the committees, I am pleased to divide my time today with Congressman RANGEL, so that the Members of the House can discuss all of the health provisions included in H.R. 7765 at one time.

The medicare and medicaid provisions contained in H.R. 7765 are designed to bring program improvements in a number of areas, including PSRO operation, long-term care, antifraud activities, improved Federal fiscal management, and coverage of prevention services. They are designed to open medicare and medicaid coverage to a broader range of providers.

I will not take the time of the House today to discuss all the provisions of the bill. I do want to mention several provisions that I believe will be of particular interest to the Members:

H.R. 7765 provides for 90 percent Federal matching funds for a 3-year period to establish and operate State medicaid antifraud units. After this startup period, Federal matching is continued at 75 percent thereafter. Few expenditures of Federal funds could be more cost effective than this—establishing effective units to find, punish and deter fraud in our medical care programs.

H.R. 7765 provides coverage for pneumoccocal vaccine under the medicare program. This provision, originally developed in the Commerce Committee, represents an important extension of medicare into the preventive area, a focus of the program which has been lacking. Again, the millions of dollars in decreased expenditures for hospital care to treat the victims of pneumonia, as well as the additional years of healthy life that many senior citizens enjoy, make this an extremely cost effective expenditure.

H.R. 7765 basically repeals the provisions of medicare concerning payment of teaching physicians under the program which have been part of the law since 1972 but which have never been implemented. The time has come to recognize that implementation of these specific provisions in an equitable and reasonable manner seems to be beyond the capacity of the Department. The legislative approach should be rethought; the uncertainty facing the medical schools because the 1972 provision stays on the books should be ended.

H.R. 7765 provides for a period of protection of the confidentiality of PSRO records. This issue is in the courts. When a decision is rendered, records will be protected for 6 months so the Congress can reexamine the issue with the benefit of the court ruling and an institute of medicine study which is now underway.

H.R. 7765 protects medicaid recipients from losing their eligibility because of cost-of-living increases in social security, railroad retirement, or civil service retirement benefits. This remedies an injustice which occurs now when the Congress gives additional cash benefits to help people meet higher living costs and then takes away medicaid benefits as a result.

Two additional sections of the bill should be noted. First, in order to secure the savings in medicaid which the committee was directed to achieve in the first resolution, H.R. 7765 provides for the Federal Government promptly to recover Federal matching funds previously granted to States when the State use of those funds is disallowed. Currently the State retains those funds throughout a lengthy appeals process, returning the money only when the Federal disallowance is upheld. This procedure would be reversed under the bill. The Federal Government would recover the funds by withholding them from the next State grant award. If any State appeal is eventually upheld, the Federal Government would return the money to the States with interest. Unfortunately, the current appeals process is a lengthy one. Concern has been expressed that the Federal Government would delay resolving the State appeal if it held the money. I do not believe this is the case. The provision for payment of interest to the States is designed to encourage the Federal Government to act on the appeal in a timely manner. Let me assure my colleagues, however, that it is the committee's expectation that HHS would resolve appeals within 6 months, and that we will be closely monitoring experience under this provision to assure that there are not inexcusable delays.

Second, some have expressed concern about the so-called swing bed provision contained in the bill. Under this proposal, a hospital could secure planning agency approval to "swing" beds from acute care to long-term care, without setting up the separate cost accounting system required when a distinct part of the institution is set aside for long-term care services.

Questions have been raised concerning the possibility that swing beds would be approved when there were skilled nursing home beds available in the community. Let me state clearly that this is not the intent of the committee. Planning agency review is required specifically to assure that swing beds will not come into existence if there are nursing home beds available. I anticipate that if the occupancy rate in nursing homes in the area is less than 90 percent, the planning agency would not grant approval. Again, we will closely monitor swing bed approvals to assure that this arrangement is not used inappropriately.

Mr. CORMAN. I thank my colleague for yielding.

Mr. Chairman, I speak for the Ways and Means Health Subcommittee chairman, the gentleman from New York (Mr. RANGEL), who is not in the Chamber at the moment but who will join the debate shortly.

Mr. Chairman, working with the Subcommittee on Health and Environment on this matter has been most satisfying. A number of difficult and complex problems related to the medicare and medicaid programs had to be resolved. And we did so. We also met the demands for savings in a responsible manner.

Mr. Chairman, H.R. 7765 includes the provisions H.R. 3990 and H.R. 4000 which were favorably reported earlier this Congress by both the Ways and Means Committee and the Committee on Interstate and Foreign Commerce. These provisions introduce a number of administrative improvements in the medicare program which result in substantial program savings. They also provide for relatively modest, yet much needed, improvements in medicare benefits. In addition, H.R. 7765 achieves a major fiscal year 1981 savings—$675 million—by temporarily postponing periodic interim payments to hospitals.

The two medicare bills which have been incorporated into H.R. 7765 are the result of lengthy and careful deliberation by the two committees. Similar legislation was overwhelmingly approved by the House during the 95th Congress but was not acted on by the Senate because of the limited time remaining in the session.

The administrative improvements included in the bill represent changes which will not only result in savings to the medicare and medicaid programs but which will also make the programs much more responsive to the individual needs of beneficiaries and providers of medical services. Among those provisions which result in savings is a provision which authorizes the Secretary to require PSRO review of the appropriateness of services routinely required on admission to a hospital and the appropriateness of lengthy preoperative stays.

A number of studies have shown that these are two areas of unnecessary or avoidable utilization that have not received sufficient attention by PSRO's. There is also a provision which makes medicare payment liability secondary rather than primary in cases where there is automobile liability insurance. It has been argued for years that medicare should not have to pay in cases where there is liability under a private insurance contract. The bills also provide reimbursement for ambulatory surgical centers. This new benefit will result in savings because the use of expensive inpatient services will be avoided. Another major savings provision provides for a differential level of reimbursement for inpatient acute care services furnished to patients who really should be in a nursing home.

Mr. Chairman, I am pleased to say that the bill also provides for a number of changes in the medicare program which will have the result of eliminating unnecessary administrative hardships for beneficiaries. For example, the bill allows the medicare program to make payment for physician services on the basis of an unpaid bill in the case of a deceased beneficiary; eliminating a requirement which has long been perceived as unnecessary and unfair and which often represents a financial hardship for the families of deceased beneficiaries.

The bill also limits excessive penalties for late enrollment and liberalizes the requirements related to how many times, and when, beneficiaries can enroll.

The bill is also responsive to the needs of providers of health care services under the program. The Secretary is authorized to apply medicare standards more flexibly to rural hospitals to take into account the availability of qualified technical personnel and the economic impact of required changes in structural standards. The bill also, however, provides assurances that the health and safety of patients will not be jeopardized. In addition, hospital philanthropy is encouraged by providing that grants, gifts, and endowments will not be offset in determining medicare reimbursement.

I am also pleased that the bill provides for benefit increases which, in the context of a $38 billion program may seem rather insignificant but which, in reality, are important to beneficiaries. With a minimum of new cost to the program we have managed to expand coverage for home health services; provide coverage for services furnished in community mental health centers and outpatient rehabilitation centers; and expand coverage for services furnished by dentists, podiatrists, chiropractors, psychologists, and optometrists. The Secretary is also directed to carry out a number of studies so that we can determine the most cost efficient way to cover new services.

The bill also includes an amendment to clarify the respective roles of renal disease networks, State planning agencies and the Secretary in connection with decisions on the necessity for additional renal disease treatment capacity. While the amendment authorizes State planning agencies to determine whether additional capacity is necessary, the role of the renal disease network in providing professional advice and guidance remains undiminished. It is the intent that the networks will be consulted by planning agencies in making such decisions. Moreover, I would emphasize that determinations relating to the quality and effectiveness of services, as well as conditions of participation (including those related to minimum utilization) in which the networks have played an important part, are not affected by the amendment. The Secretary will continue to be responsible for making these determinations—relying to a considerable degree, as in the past, on the expertise and recommendations of the networks—so as to assure that beneficiaries have effective access to all modalities and receive services of appropriate quality in an efficient manner.

Mr. Chairman, this bill represents a balanced package of benefit improvements and savings achieved through administrative improvements. The Congress has not significantly expanded medicare benefits since the Social Security Amendments of 1972. It should be a matter of concern to all of us that we have done nothing for so many years to help the elderly cope with the increasing cost of medical care and the continuing erosion of their medicare benefits. This is a bill that helps to remedy, in small measure, that failure. And it is a bill we can at least take some pride in both from the standpoint of achieving greater cost effectiveness in the medicare program and improving the protection of beneficiaries.

Mr. WAXMAN. I thank the gentleman for his comments.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Chairman, the reconciliation recommendations would result in a net savings to the Federal Government of $51.8 million through minor modifications to the railroad retirement system. Minor benefit modifications will reduce spending by $24.3 million and a small increase in the tax on railroads will produce $27.5 million in new revenues. The suggested changes would only be effective for fiscal year 1981. Existing recipients would not be affected. The reductions are prospective only.

The benefit modifications are minor and should not be controversial. Most of them were adopted from a proposal developed by rail labor. In several cases, they merely conform the railroad retirement system to the social security system. For example, under current law, spouses can receive reduced benefits at age 62. The first change would adopt the reduction factor used in social security instead of the more generous one currently used in railroad retirement.

Similarly, cost-of-living increases are currently reduced for those who receive early benefits—but by a smaller amount than the initial benefit itself. The second change would merely conform to social security practice and use the same fixed reduction factor for both the initial benefit and the cost-of-living increase. In addition, under social security, there is a 5-month waiting period for disability benefits. The proposal would adopt the same waiting period for railroad retirement. Most beneficiaries would be eligible for sickness benefits from the railroad unemployment fund during this period—which are often larger than the corresponding disability benefit.

The other changes are also minor. For example, employees who retire currently have their years and months of service rounded up to the next highest year. The proposed change would eliminate this rounding up and use the actual number of months of service. Retiring employees under age 62 with 30 years of service would be deemed age 62 instead of age 65. Actual age would be used for those between 62 and 65. The actuarial reduction would be applied uniformly in computing benefits due early retirees entitled to both social security and railroad retirement. Currently, different reduction factors are used in the formula and this generates arbitrary results. Finally, the calculation of the maximum benefit a spouse could receive would be modified. This maximum is currently based on 110 percent of the most any spouse could possibly receive under social security—the most extreme hypothetical case. The revised maximum would be based on a more realistic formula.

The $27.5 million in revenue will be raised by a small increase—from 9.5 to 9.75 percent—in the payroll tax paid by the railroads to finance the nonsocial security component of railroad retirement. The Budget Committee had suggested raising over $260 million in new taxes from the railroads. The recommended proposal is quite modest compared to what the Budget Committee had suggested.

This proposal will enable us to comply with the reconciliation instructions in the budget resolution and help us reduce the budget deficit. But it does not constitute a long-range solution to the financial problems of the railroad retirement system, which is currently operating at a 4-percent deficit. To deal with the longer range problems, there are several options. My subcommittee just held a hearing this morning on one possible solution—H.R. 7793. As another option, the reconciliation bill requires railroad labor and management to submit a joint recommendation to Congress by December 31 of this year that will assure the long-term soundness of the system. I am sure this House will be evaluating these options, shortly.

□ 1350

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

First, I would like to congratulate the committee on this excellent decision not to reduce one benefit when another benefit is raised by a cost-of-living benefit. That is a great forward step.

I would like to ask about the railroad retirement fund specifically. As the gentleman knows, the strike that we have just had, involved 177 carmen under the Railroad Act. According to the published figures, their salaries are $18,000 or $19,000 a year when they are working. Married men receive a pension of $17,000, plus a supplementary pension of $6,000. The unmarried workman receives $12,000 and the supplementary pension of $6,000.

Now, what I wanted to ask is, Do these pensions come out of the railway retirement fund? In other words, there is a supplementary pension on top of the pension, which means that one would make more when retired than one would when working. Is this the common practice in the industry?

Mr. FLORIO. The fact of the matter is I am not familiar with the specific numbers, and I do not think there are specific numbers, because this whole pension system is calculated upon a formula that determines years of service in terms of a lot of other things as well, so one cannot say what one gets until one specifically calculates what the individual is entitled to.

The fact of two systems of retirement is built into the law. There is a tier one provision which roughly matches the social security provision, and there is a tier 2 provision which is in a sense an employer-contributed pension system, private pension system.

This was done pursuant to a legislative enactment in 1974, prior to, I suspect, the gentlewoman's coming to Congress and my own coming to Congress.

There are some problems associated with that system that we are now in the process of trying to correct as a result of those things that were done in prior years. As I have indicated in my remarks, the solvency of this pension fund may not very well survive too terribly long. I would think the more appropriate long-term response would be for this Congress, as a result of recommendations that will be coming to us as a result of negotiations between labor and management, should evaluate at a more leisurely pace, leisurely being programs in the early years of the next session, to formulate a long-term response. That is the way we are going to insure the integrity of the system.

Mrs. FENWICK. I thank my colleague.

Mr. FLORIO. Mr. Chairman, I yield back the balance of my time.

Mr. STAGGERS. Mr. Chairman, we reserve the balance of our time.

Mr. BROYHILL. Mr. Chairman, I yield 10 minutes to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, as ranking minority member of the Subcommittee on Health and the Environment I wish to express my support for the health provisions which have been included in title III and title VIII of the Omnibus Reconciliation Act of 1980.

Clearly, in my view, it is preferable to achieve savings in the medicare and medicaid programs through administrative means, rather than through benefit reductions or new eligibility restrictions. I would submit that the proposal before us accomplishes that all-important task—avoiding any adverse effect on patient care for those who rely upon these programs for their needed medical care.

To meet the goal of more efficient and effective administration of the programs, the Commerce Committee has proposed:

First, more effective review of routine hospital admissions and preoperative stays;

Second, appropriate levels of reimbursement for long-term care provided in hospitals—and the use of acute-care beds as long-term beds, where needed;

Third, coordinated audits of providers participating in the medicare and medicaid programs;

Fourth, reimbursement limits and competitive bidding for laboratory services;

Fifth, disallowance of medicaid benefits for those who fraudulently dispose of assets in order to gain eligibility; and

Sixth, expedited review for certain disallowed medicaid claims. Mr. Chairman, I believe that the Commerce Committee's recommendations are an appropriate response to problems which have occurred in the administration of medicare and medicaid. I would submit that many of the recommendations are needed to insure that providers are treated equitably. Others are designed to increase our ability to serve the needs of beneficiaries while also saving the taxpayers money through a more rational system of reimbursing for medical services.

However, in looking ahead to the inevitable pressures that we will face to control Federal spending, I would strongly urge that our Health Subcommittee and our colleagues on the Ways and Means Health Subcommittee join together in a series of oversight hearings on the medicare and medicaid programs so that we will be prepared to make fully informed judgments about the best ways to achieve additional savings in the future. Frankly, I believe that there are more savings to be gained in the administration of the medicaid program, particularly at the State level, where the Federal Government directly supports administrative costs through matching funds. Nevertheless, it would be irresponsible to propose any across-the-board cuts without carefully evaluating the impact of such action.

For this reason, I would urge that we devote a great deal of scrutiny to these programs so that we are better prepared to consider any future reductions that may be necessary.

I am greatly relieved that we have been able to propose savings this year without adversely affecting those for whom these programs were created. However, I remain concerned about the reconciliation process in general, especially to the extent that the process is not grounded on reasoned consideration of the areas in which cuts should be made. I submit that we should keep in mind that millions of people depend on these programs for the health care which they need and the health care which they deserve. With that view in mind, I would hope that future efforts at obtaining savings in these programs could come about as the outcome of the regular legislative process and not one which is disruptive of considered deliberation and one which does damage to traditional jurisdictional responsibilities.

Mr. Chairman, I include charts on medicaid and medicare as follows:

	1981	1982	1983	1984	1985
H.R. 4000—Medicaid:					
Required budget authority	−129.9	−39.1	43	59	77
Estimated outlays:					
Sec. 309: Review of routine hospital admission services and preoperative stays by PSRO's	−4	−6	−6	−7	−7
Sec. 311: Nonprofit hospital philanthropy	0	11	12	14	15
Sec. 320: Hospitals providing long-term care services:					
Swing beds	1	6	9	10	11
Reimbursement for inappropriate hospital services	−13	−20	−23	−26	−30
Sec. 321: Coordinated audits	−4	−5	−6	−6	−7
Sec. 322: Demonstration projects for training AFDC recipients as home health aides	1	−1	−9	−13	−18
Sec. 324: Reimbursement for clinical laboratory services:					
Reimbursement limits	−5	−7	−8	−8	−9
Competitive bidding	−7	−11	−9	0	0
Sec. 326: 2d opinion demonstration projects: Informed consent in certain demonstration projects	0	0	0	0	0
Sec. 331: Reimbursement for nurse-midwives	0	0	0	0	0
Sec. 332: Continuing eligibility despite cost-of-living increases	1	27	49	75	104
Sec. 333: Disposal of assets	−3	−7	−11	−16	−19
Sec. 334: Increased matching for the territories	18.1	31.9	35	38	40
Sec. 335: Funding for long-term care facilities inspectors	9	10	11	0	0
Sec. 336: Funding for fraud control units	15	15	15	16	17
Sec. 337: Satisfactory utilization review	8	0	0	0	0
Sec. 341: Expedited review for certain disallowed claims	−147	−83	−16	−18	−20
Total, medicaid estimated outlays	−129.9	−39.1	43	59	77
Total savings	−183.0	−140.9	−62	−94	−110
Total costs	53.1	100.9	105	153	187
H.R. 3990 Provisions—Medicare (function 550):					
Budget authority	0	−11	−35	−62	−93
Estimated outlays:					
Sec. 102: Home health services	6	35	56	91	154
Sec. 104: Dentists' services	3	16	19	21	24
Sec. 105: Treatment of plantar warts	0	2	2	2	2
Sec. 106: Community mental health centers	0	75	90	110	140
Sec. 107: Comprehensive outpatient rehabilitation facility services	0	13	15	17	20
Sec. 108: Optometrists' services	0	2	2	3	3
Sec. 109: Antigens	0	0	0	0	0
Sec. 116: Payment of providers of services	−6	−8	−10	−12	−15
Sec. 117: Limit on premium increases for late enrollment	0	9	10	11	14
Sec. 119: Chiropractors' services	9	49	55	61	68
Sec. 120: Increases in outpatient mental health benefits	0	61	77	94	114
Sec. 121: Limitation on payments to radiologists and pathologists	−10	−17	−20	−26	−30
Sec. 123: Outpatient physical therapy services	0	4	5	5	5
Sec. 124: Reimbursement for blood	6	30	35	40	45
Sec. 125: Medicare liability secondary in certain automobile accident cases	−8	−18	−42	−97	−112
Sec. 127: Outpatient surgery	−1	−2	−4	−6	−9
Sec. 129: Preadmission diagnostic testing	−3	−6	−9	−12	−16
Sec. 130: Studies and demonstration projects	1	2	0	0	0
Sec. 133: Medicare coverage of pneumococal vaccine	0	45	24	22	0
Total, medicare outlays	−3	292	305	324	407
H.R. 4000—Medicare:					
Budget authority	3	11	17	24	31
Estimated outlays:					
Sec. 306: Required activities of PSRO's	0	0	0	0	0
Sec. 309: Review of routine hospital admission services and preoperative hospital stays by PSRO's	−38	−65	−86	−102	−119
Sec. 310: Study of PSRO criteria	0	0	0	0	2
Sec. 311: Nonprofit hospital philanthropy	0	70	80	90	100
Sec. 313: Study of SNF dual participation	0	0	0	0	0
Sec. 320: Hospitals providing long-term care services:					
Swing beds	2	10	17	19	20
Reimbursement for inappropriate hospital services	−48	−73	−83	−94	−107
Sec. 321: Coordinated audits	0	0	0	0	0
Sec. 324: Reimbursement for clinical laboratory services: Reimbursement limits	−14	−21	−23	−25	−27
Sec. 326: 2d opinion demonstration projects; informed consent in certain demonstration projects	0	1	0	0	0
Sec. 328: Reimbursement for health maintenance organizations	1	5	25	35	40
Total, medicare estimated outlays	−97	−73	−70	−77	−93
Total savings	−100	−159	−192	−221	−253
Total costs	3	86	122	144	160

□ 1400

Mr. BROYHILL. Mr. Chairman, at this time I yield 10 minutes to the gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. Mr. Chairman, sections 351 through 360 of the reconciliation bill relate to savings recommended in the railroad retirement system. Specifically, benefits were reduced by $24.3 million and the railroad retirement tax paid by the railroads is increased by $27.5 million. These suggested changes are effective for the fiscal year 1981.

At the outset, Mr. Chairman, let me point out that we all realize that the present system of funding railroad retirement is insufficient to support the benefits due and payable under that retirement system. The subcommittee of the Committee on Interstate and Foreign Commerce responsible for that problem has taken a number of steps in order to provide a rational and fair way for financing railroad retirement.

Last February we began the process of developing the program for putting Railroad Retirement on a sound financial basis. At that time we encouraged both railroad management and the railroad labor organizations to recommend to us means for solving the deficiency in the railroad retirement fund. Both parties have held numerous meetings and will have recommendations, we are promised, for the Congress to consider by the end of this year.

We believe the new Congress should set as one of its priorities adopting a long term solution to the problem of funding railroad retirement. Unfortunately, this very arbitrary, quick-fix solution, as contained in the reconciliation resolution is counterproductive to achieving the goal of financial integrity for the railroad retirement fund.

In the first place, the benefit reductions raise legal questions because of the nature of railroad retirement benefits. A congressionally mandated reduction of benefits to railroad employees invites litigation and needlessly causes fear and anxiety for potential beneficiaries.

The second quick fix contained in the resolution in order to achieve reconciliation is an increase of $27 million in the payments railroads must make into the railroad retirement fund.

Mr. Chairman, I must reluctantly oppose this provision contained in the budget resolution in that it neither solves the problem of the railroad retirement fund, nor does it provide fairness and equity for either railroad retirement beneficiaries or railroad companies.

Mr. Chairman, I yield back the balance of my time.

Mr. BROYHILL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise to express some grave concern about provisions in this bill that unless they are deleted would in my judgment severely limit the ability of this House to work its will on this particular subject matter. The subject I am referring to is the "Super Fund" bill, as it has been called, that would provide for the creation of a fund that would be available to clean up hazardous waste sites.

Now, our Committee on Interstate and Foreign Commerce has voted out a provision that would provide for a strategy, as well as authority, to deal with hazardous waste sites. The Committee on the Budget, however, has seen fit to include a provision that was recommended by another committee. In fact, another committee, other than the Committee on Ways and Means, and the Committee on Interstate and Foreign Commerce, has also been dealing with this subject.

So I would urge at the proper time that Members support an amendment to delete this section. This would give us an opportunity to work our will on this subject.

My understanding is that the Committee on Rules has permitted this bill to be considered at any time and also would provide for ample opportunity for amendments, so that Members could choose between the various strategies that are offered, ways to deal with this particular problem area.

I do not think it would be good to tie our hands in this way by leaving this amendment in this bill with no provision to amend it or to consider other alternatives.

I would urge that Members support the amendment that will be offered at the proper time by the gentleman from Connecticut (Mr. GIAIMO) that would strike this section of the bill and then we could at a later time consider the other alternatives.

Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. STAGGERS. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

The CHAIRMAN. At this time the gentleman from New York (Mr. HANLEY) is recognized for 30 minutes, and the gentleman from Illinois (Mr. DERWINSKI) is recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. Mr. Chairman, I rise to explain the committee's recommendations to reduce spending for fiscal year 1981 by nearly $1 billion. Ordinarily, I would say that I rise in support of the committee's recommendations but in this case I cannot honestly say that I support these changes, nor can I honestly say that these are the "recommendations" of the committee. They can be best described as the changes which the committee has reported in compliance with the instructions contained in the budget resolution.

Our proposals would reduce fiscal year 1981 expenditures by $973 million, almost equally divided between postal appropriations made annually and expenditures for civil service pay and benefits.

The sectional analysis of the Budget Committee's report relating to these matters was written by our committee, and accurately reflects the committee's intent. So I will not dwell at length on this subject at this time.

We propose to postpone the March 1981 cost-of-living adjustment in civil service annuities until September 1981. President Carter's proposal would make permanent the once-a-year adjustment in annuities. Our committee proposal, the proposal of the Senate, is that the permanent change not be made at this time, but that there be only one increase between now and the end of fiscal year 1981. Savings resulting from the House committee's proposal would be approximately $356 million.

The second change would be to eliminate the so-called look back feature of the retirement law which permits an employee to enjoy the full benefit of the next increase in annuities when he retires. For instance, an employee who retires on the last day before a cost-of-living adjustment receives the full benefit of the adjustment which was made 6 months prior to this retirement as well as the adjustment which is made the day after his retirement.

The committee proposal would eliminate entitlement to the most recent increase entirely, and would prorate the next increase so that the retiring employee would receive only that portion of the subsequent increase accruing after his retirement. Savings resulting from this change are approximately $34 million.

The third committee proposal would eliminate dual pay for National Guard or Reserve duty for certain Federal employees. Under current law, Federal employees are paid salaries for both military and civilian service during training periods. Under our proposal, employees hereafter would receive only the military pay for training periods, plus the difference, if any, by which their civilian pay exceeds their military pay. Savings resulting from this change are approximately $56 million.

The fourth proposed change would eliminate payment for Federal holidays which happen to fall during the period after an employee is separated from the service, but before his accumulated days of paid leave have expired. This change would save approximately $22 million.

The fifth proposed change would modify the disability entitlement provisions of the civil service retirement laws by requiring an agency to place an employee in another position of equal rank and pay rather than separating the employee on disability simply because he cannot perform the duties of that particular position. Under existing practice, the availability of another position for which the employee is qualified, and which would cause him no loss in pay or rank, is not taken into account. Savings resulting from this change are approximately $13 million.

I want to make it clear that our committee does not intend for this change to interfere with any collective bargaining agreement governing employment in the U.S. Postal Service. Employees in the Postal Service work in particular crafts—letter carriers, clerks, mail handlers, and other positions. We do not intend to require that an employee who becomes disabled for continued service as a letter carrier be transferred to a position in another craft.

The sixth proposed change would change the civil service retirement law, relating to the minimum annuity for individuals who retire on disability. Under existing law, an individual who has at least 5 years' creditable service may retire on disability if he is medically qualified to do so. His annuity is the lesser of 40 percent of his average salary or his earned annuity computed by projecting his service and age to 60 years. The committee would eliminate the minimum in the case of an employee who retires and is also receiving retired or retainer pay from the Armed Forces or compensation from the Veterans' Administration in lieu of such pay. This change would save approximately $3 million.

The seventh proposed change would prohibit State governments from imposing taxes on life insurance premiums paid to insurance firms participating under the Federal employee group life insurance program. This tax exemption would save approximately $3 million.

The second portion of our proposed changes relate to appropriations for the Postal Service. The instructions accompanying the budget resolution required that our committee reduce postal appropriations by $500 million, and this was generally understood to mean the elimination of Saturday mail delivery. We have reduced postal spending by $486 million, but we have carved it out of moneys available for other than Saturday mail delivery, and we have included language prohibiting the elimination of Saturday mail delivery—or any other day's delivery—in fiscal year 1981.

The first proposed change would reduce the public service authorization for fiscal year 1981 by $250 million. We believe this loss of revenue can be absorbed without eliminating one day of delivery. Undoubtedly service will be adversely affected. It is folly to presume that hundreds of millions of dollars can be taken out of a labor-intensive organization without affecting service, but a balanced budget is what the House has demanded and we are complying with that instruction.

The second major change is that we reduce appropriations which subsidize preferred classes and users of mail by a total of $211 million. The first part of that $211 million is a postponement in the authorization for reconciliation appropriations for prior fiscal years—to balance revenues which would have been appropriated if accurate estimates of mail volume had been made at an earlier date. Those estimates are virtually impossible to make accurately, and so the Postal Service is permitted to come in later and ask for an adjustment. We have no objection to that kind of appropriation; if it is all right with the Committee on Appropriations, it is all right with the Committee on Post Office and Civil Service, but we postponed the authorization for that amount for 1 year. The savings is $111 million.

The second part to be carved out of the subsidy for preferred mail is a $100 million reduction for the subsidy for third-class nonprofit mail. Let me explain this in a little more detail, because I am sure that many of my colleagues have heard from the organizations concerning this change.

The third-class bulk rate—meaning rate applicable to mass volume mailers of advertising circulars and other kinds of third-class mail—was established by Congress in 1928. The rate was set at 1 cent per piece. No change was made until 1951, when the rate was raised to 1½ cents. But, responding to the pressures of a great many charitable, religious, and other organizations, Congress provided an exception to maintain the rate at the 1-cent level for any nonprofit organization which fell into any one of eight general categories—religious, educational, scientific, philanthropic, agricultural, labor, fraternal or veterans. A couple of groups have been added since but those basic eight groups are the principal users of third-class nonprofit mail. Their rates have remained very low ever since. In 1967, the last time Congress passed a postal rate bill, the rate for each piece of third-class nonprofit mail was set at 40 percent of the regular third-class rate.

In 1970, as part of the Postal Reorganization Act, Congress provided that the rates applicable to nonprofit third-class mail, as well as some kinds of second and fourth-class mail, could not exceed "attributable" costs. That means that thousands of churches which mail appeals for financial support, and all of the other nonprofit organizations, pay postage rates which include no contribution whatsoever to the overhead or institutional costs of the postal system. And that means that nonprofit third-class mailers pay 3.5 cents per piece for sending their mail, and regular third-class bulk mailers pay 8.4 cents per piece.

The difference, 4.9 cents, is made up by appropriations which were permanently authorized in 1970 and have been made each year. For fiscal year 1981, the total subsidy for all preferred mail, small newspapers, books, church newsletters, and so on, is $678 million. Out of that total, $419 million is the subsidy for third-class nonprofit mail—nearly two-thirds of the total subsidy. Our committee proposal would cut $100 million of that $419 million subsidy. Third-class mailers would still get a subsidy of $319 million, or about 4 cents per piece, rather than 5 cents per piece.

☐ 1420

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I will be delighted to yield to my friend, the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding. I want to express my praise for his action.

Mr. HANLEY. I thank the gentleman.

Mr. OTTINGER. And I want particularly to say that the 6-day delivery of mail I think is important to a great many of our businesses and also to employment in the Postal Service. But I would like to express my concern about the cut in the third-class appropriations for nonprofit organizations, because what it means is that the budget of every school, hospital, health group, religious organization, and institution specified by my friend, the gentleman from New York, is going to be seriously damaged and the charitable work they do is going to be impaired.

I think at the very least this body ought to have been given an opportunity to decide for itself to vote on the question of whether or not this kind of subsidy should continue, because these organizations for the most part do work which, if they were not doing and were not raising these funds for, would have to be done by Government.

A few examples of the costs of this provision that I would like to give are, it is going to cost the National Catholic Development Conference $9 million additional; the March of Dimes $1.2 million; the National Wildlife Federation some $480,000; the American Lung Organization, $1.32 million. This comes as a surprise to these organizations. It is not in their budget. It is going to mean reduced ability for them to operate in these important areas. I would like to express my severe concern about the measure, and particular concern that this body was not allowed to vote on this matter.

I thank the gentleman for yielding.

Mr. HANLEY. I appreciate the gentleman's comments. I certainly share his concern, and I have evidenced this concern throughout this entire budget overture, but, as I mentioned initially in my remarks, this committee is doing not necessarily what it wanted to do or what it would have done.

This committee is actually working at the direction of the House of Representatives by virtue of the vote in favor of the budget resolution. The suggestion of the gentleman that we have a separate vote on this issue, of course, at this point in time is academic. We made an overture that might have provided that opportunity, but that, too, was denied.

Mr. OTTINGER. Will the gentleman yield just one second extra? We do have recourse. We can vote down this reconciliation resolution, which I hope we will do.

Mr. HANLEY. That, of course, is the prerogative of each Member of the House.

Undoubtedly the measure and this particular issue will have some impact upon mail operations, but I am constrained to say that the impact upon third-class mail users will probably be no more severe than the diminution of veterans benefits, which our Veterans' Affairs Committee has proposed, or the reduction of money for school lunches, which the Committee on Education and Labor has proposed. If we are going to balance the budget, as we have all heard time and again, cuts in favorite programs are inevitable.

The alternatives would be to cut out Saturday mail delivery or to close, say, 10,000 small rural post offices, which might save $100 million or so; but our committee reached the conclusion that those alternatives are worse.

Our final change is to eliminate the third-class subsidy for political committees after the end of the current fiscal year. This provision has had a difficult, brief life. For those who advocate its continuation, I suggest that when it is brought up again it be presented in a straightforward manner with committee reports and an adequate amount of legislative history, so that its application can survive the test of constitutionality. That goal was not met this time around, and our committee recommends its repeal. The savings will be about $25 million.

The total savings from the combination of civil service and postal changes for fiscal year 1981 are $973 million. We believe that we have complied substantially with the instructions which the House imposed upon our committee. We have done so with a heavy heart and with a conviction on the part of all of us that this legislative act is something between folly and futility. But if it is the House's wish, then the House may sleep more peacefully, perhaps, knowing that its Committee on Post Office and Civil Service has complied with this mandate.

Mr. Chairman, I yield back the remainder of my time.

☐ 1430

Mr. DERWINSKI. I yield myself such time as I may consume.

Mr. Chairman, this bill is a smorgasbord of recommendations which will neither delight nor satisfy legislative and fiscal gourmets. Under the reconciliation instructions in the first budget resolution eight committees were given target levels of figures which were to be submitted to the Budget Committee.

Some of the targeted savings were completely unrealistic, but in the best Broadway tradition the "show must go on." The Post Office and Civil Service Committee, for example, was mandated to come up with savings of $1 billion. With some sleight of hand, it conjured up savings of $953 million. Minority members of the committee were unanimous in expressing their misgivings in supporting the legislative package manufactured by the majority. Forced into a parliamentary vise, majority members could respond only in a way which clearly compromised the legislative independence of the committee.

It is neither realistic nor logical to expect the U.S. Postal Service to absorb $466 million in reductions without resultant cutbacks in service or adjustments in rates for certain categories of mail. Included in that total is a $100 million reduction in the revenue foregone appropriation which underwrites lower postal rates for religious, charitable, educational, and fraternal organizations. The reduction in that appropriation will result in higher rates for worthwhile organizations. These same organizations were assigned lower rates by congressional action, now we are reneging on our commitment.

In postponing the March 1981 cost-of-living adjustment for Federal annuitants, the committee position is more practical than that of the Senate, but there still is a question of equity. A more preferable approach in offering this reduction would be to tie it to absolute assurance that the integrity and independence of the civil service retirement system would be preserved.

It remains to be seen what further damage we face from a Budget Committee intent on producing artificial numbers rather than engaging in legitimate application of budgetary discipline.

Mr. Chairman, now I wish to explain the reasoning behind my votes on the budget reconciliation measure.

Since I believe the Budget Committee has usurped the authority of the authorizing and appropriations committees, I will support Representative BAUMAN's COLA amendment. If Federal employees are to have their cost of living adjustment cut back to once a year, it should be decided in the first place by the committees having proper authority and jurisdiction over this matter. It should not be used as a gimmick for budget committee purposes.

I will also vote for the other two pending amendments.

As we all know this budget is not in balance and never has been (except on paper) in addition we endured the "smuggling" of sizable deficit spending into the 1980 budget year. The whole process has become a charade, and the victims are American taxpayers.

After all the amendments have been proposed and thrashed out, my vote will be cast against this budget reconciliation bill.

Mr. Chairman, like many of the other Members I sense the awesome importance of this issue and I note, of course, the attendance on the floor of so many Members which attests to their great interest in this budget process.

Mr. Chairman, I would digress for a moment to commend the gentleman from New York (Mr. HANLEY), the chairman of the Committee on Post Office and Civil Service. The gentleman is retiring this year and we will miss him and miss the leadership the gentleman has so vigorously displayed this afternoon. The gentleman gave what I considered a near perfect description of the legislative problems facing the committee and I wish to associate myself with the remarks of the gentleman from New York and commend him for the very able leadership he has provided our committee as chairman.

Mr. HANLEY. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I do yield to the gentleman from New York.

Mr. HANLEY. I am deeply grateful for what the gentleman has said. I want to express my deep gratitude for the ever present cooperation of the gentleman from Illinois. I thank the gentleman very much.

Mr. DERWINSKI. Mr. Chairman, I think the gentleman would agree with me, however, if I pointed out that behind every great chairman and any ranking member there are very efficient staff personnel. In the case of the Committee on Post Office and Civil Service we have the example of Mr. Ted Kazy who started his career in the very demanding profession of sports reporter. And Mr. Joe Fisher who was a political reporter and eventually came to work on our committee. Then, of course, you have Mr. Lockhart, who passed his bar exam with grades bordering on genius and then, of course, Mr. Minton the staff director who first worked in the other body and when he discovered how not to legislate he crossed over to the House where he has performed admirably as staff director. I am sure the gentleman from New York (Mr. HANLEY) would agree with me that these men have been invaluable.

Mr. HANLEY. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I do yield to the gentleman from New York.

Mr. HANLEY. The gentleman provides a nice precedent and while I am on the subject now I feel inclined to say something about some great staff people over on this side of the aisle. They too, contributed greatly in this effort and to each I extend my commendation.

Mr. DERWINSKI. Mr. Chairman, at the risk of forcing an eruption from the chairman of the Committee on the Budget I would like to point out that I think our staff has served us quite effectively and if there was more attention paid to our staff recommendations and less attention paid to the recommendations of the staff of the Committee on the Budget, the whole situation would be better today.

Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. I thank the gentleman from Illinois for yielding.

Mr. Chairman, I take this time to discuss an issue in which I have a major concern and which comes under the jurisdiction of this committee. The matter is COLA.

As one who has been for some period of time talking on the floor about the need to balance the budget and who believes in the reconciliation process, I was one who initially viewed the retention of a twice a year COLA procedure somewhat skeptically.

However, upon one of my trips to my district I had the opportunity to talk to a number of retired people who are not recent retirees, living in an area of my district known as Leisure World where the average age is 75 and every third person is 83. I find these were people who retired from the Federal employment perhaps 20 years ago, when I do not think it can be argued there was truly a comparability in pay between those in Federal employment and those in the private sector. One of the things that was held out to these people at that time and repeated to them time and time again was that in lieu of receiving comparability in terms of direct salary, they could rely on the Federal Government's pension plan to see them through their senior years.

I was particularly struck by the fact of the women who visited me who have been retired 25 years who I do not think anyone could argue, were being paid at a very low rate and, therefore, have a very low basis upon which to figure their pension and to whom COLA twice a year is extremely important.

Many times those of us in the House think of some of our former colleagues, those who have retired, who have told us in effect that the dual COLA adjustment is something which suits them very well and in some eyes might be too generous. However, when you are talking about those other people who are in the lower scheme of things financially, I think it is a very different picture.

I am hopeful that in some time in the future Congress can address this particular issue; that is, whether we should perhaps make different adjustments with respect to those who have retired for some period of years and are receiving money in a very minimal sense, receiving less than social security recipients, so we can be true to the promise made to them a number of years ago that they should receive lesser pay with the expectation of having a pension plan which would be a realistic pension plan.

It seems to me that, attempting to make an adjustment or a change in the 2-year COLA procedure that affects all of these individuals, at this time, puts many of us in a difficult position. We think that a change perhaps ought to be done on those in the higher spectrum and perhaps those people who are more recently retired, when comparability was certainly within reach.

We would hope that perhaps a distinction can be made treating one group a little differently than the other and in the absence of being able to make that determination at this time, it would seem to me to be the better part of judgment to get support for the Bauman amendment so that those people who find themselves in very difficult straits financially ought not to be unfairly affected this year.

I would just address a question to the distinguished ranking Member, the gentleman from Illinois (Mr. DERWINSKI), as to whether consideration has been given about how this COLA question falls unevenly across people who have retired in different eras and with different bases of pay.

Mr. DERWINSKI. If the gentleman would yield, the gentleman is absolutely correct. In years gone by there was no real effort at so called comparability where in recent years it has been subject to adjustment process and, therefore, the most recent retirees have had their retirement based on salary scales with are much more comparable to private industry.

Then the gentleman is absolutely correct in my judgment at least by stating, as the gentleman has, his affirmative report for the Bauman amendment. I think that is a very equitable effort and I would suggest that Members of the House would do well to support that amendment when we reach that point in this legislative procedure. I think it is a matter of fairness to these people who, as the gentleman indicates, have a legitimate right to expect this budget pension support.

Mr. LUNGREN. Mr. Chairman, it is my understanding that in the legislative context presently before us we really will not have the opportunity to try to make a distinction between one group or another.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DERWINSKI. Mr. Chairman, I yield the gentleman from California 2 additional minutes.

Mr. LUNGREN. Mr. Chairman, I appreciate the gentleman yielding additional time.

Mr. Chairman, it is my understanding that in this legislative context to try to deal with the complex question of deciding when comparability came closer to reality and that period of time in which it did not.

Mr. DERWINSKI. The gentleman is correct. I would point out since we are dealing just with the 1981 budget, therefore, our committee has authorizing jurisdiction. The subject we could well address as we take a good look at the long-term status of the Federal retiree program. In the meantime, the budget issue before us is, as I say, 1 year. Therefore, the COLA battle is a 1-year issue just for this year only and that, hopefully, with a little practical adjustment of the budget process, the authorizing and appropriating committees might be allowed to do work in areas where they presumably have expertise.

Mr. Chairman, I have no further requests for time and I yield back the balance of my time.

Mr. HANLEY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The gentleman from California (Mr. JOHNSON) is recognized for 30 minutes, the gentleman from Ohio (Mr. HARSHA) is recognized for 30 minutes, and the gentleman from Kentucky (Mr. SNYDER) is recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. JOHNSON).

☐ 1440

Mr. JOHNSON of California. Mr. Chairman, I yield 5 minutes to the subcommittee chairman, the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Chairman, title 5 of the bill contains the contribution of the Committee on Public Works and Transportation to the budget reconciliation process. As you know, Mr. Chairman, I am one of those who originally and strongly opposed reconciliation at this stage of the budget process. I continued to have serious misgivings about this mode of proceeding and intervening events in our national economy have only contributed to this opinion.

However, in the interest of harmony and legislative progress, I am committed, as I know the other members of the Committee on Public Works and Transportation are, to supporting this budget reconciliation effort.

Title 5 of the bill is divided into three subtitles. Subtitle A contains the report of the Committee on Public Works and Transportation for Savings in the basic highway programs; subtitle B contains the savings in the airport and airway development program, and subtitle C contains the superfund approach taken by our committee on those matters within its jurisdiction.

Mr. Chairman, subtitle A imposes a ceiling on the obligation authority of the Secretary of Transportation for Federal-aid highway and highway safety construction programs for fiscal year 1980 and fiscal year 1981. Section 501 establishes a fiscal year 1980 obligation ceiling of $7,900,000,000 and section 502 establishes a fiscal year 1981 obligation ceiling of $8,750,000,000. Because of the user-financed nature of the Federal-aid highway program, the committee has always been reluctant to impose any obligation limitation. The administration and the Office of Management and Budget have continued to insist on an obligation ceiling for the highway program in every fiscal year. Notwithstanding the current revenue problems with the highway trust fund, the committee still believes that the Congress should be slow to enact obligation limitations when there is such a strong record for permitting the States to encumber the highway trust fund up to the full amount of the contract authority authorizations in title 23, as periodically amended.

Because of the extreme restrictions which these obligation limitations have placed on the Federal-aid highway program, the committee has had to resort to a very detailed scheme for allocating these limitations so that each State is still able to get its fair share of the available obligation authority regardless of the timing of its construction season. The committee is going to watch these issues closely and I want to alert the Members to the willingness of the Committee on Public Works and Transportation to advance on short notice legislation increasing very substantially the availability of Federal-aid highway and highway safety construction funding as a part of any overall congressional effort to alleviate our current national economic crisis.

Subtitle A will have the effect of deferring substantially more than the $300 million in new budget authority sought by the Budget Committee, and, when considered in conjunction with the committee's aviation proposals, will produce at least $750 million in outlay reductions in fiscal year 1981. The Congressional Budget Office confirms this estimate.

Mr. JOHNSON of California. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. ANDERSON), chairman of the Aviation Subcommittee.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of section 511 of the reconciliation bill. This section reduces funding for the airport and airway development programs to meet the requirements of the first concurrent resolution on the budget.

The existing airport and airway development programs terminate at the end of fiscal 1980. The Public Works Committee has reported a bill, H.R. 6721, to reauthorize the program from fiscal years 1981 through 1985. Our bill will go to the floor this week.

Section 511 of the reconciliation bill contemplates that in the conference with the Senate on the airport and airway development bill, we will reduce budget authority for fiscal 1981 by $300 million. If we should adopt a conference report which does not make this reduction, section 511 directs the Clerk of the House to make the necessary reductions by adding an obligational ceiling to the conference bill.

Thus, section 511 makes the reductions in airport and airway programs required by the first budget resolution. Section 511 does not make these reductions immediately, but requires that they be made in conference. This procedure is desirable because the funding levels for airport programs are only one part of the total legislative package and cannot be separated from other issues which will be taken up in the conference. If the funding levels are reduced now, there will be an unnecessary and undesirable limitation on the flexibility of the House conferees. We need this flexibility to deal with controversial provisions in the Senate bill, particularly the so-called defederalization provisions which make the 72 largest airports ineligible for Federal assistance. There is no comparable provision in our bill.

There is no danger that deferral of the reductions until conference will lead to excessive spending for the airport development program. The current law expires at the end of fiscal 1980 and there can be no authorizations for fiscal 1981 until H.R. 6721 is passed. Before this bill is passed, it will have to comply with the reconciliation resolution.

Mr. Chairman, section 511 complies with the requirements of the first budget resolution. I urge its adoption.

Mr. JOHNSON of California. Mr.

Chairman, I now yield 5 minutes to the gentleman from Texas (Mr. Roberts), Water Resources Subcommittee chairman.

Mr. ROBERTS. Mr. Chairman, title V of H.R. 7765 contains the entire text of H.R. 85, the comprehensive oil pollution liability and compensation bill, in the form in which it was reported out of the Public Works and Transportation Committee on May 16, 1980. In this regard it should be noted that H.R. 85 has been referred to three different committees—the Public Works and Transportation Committee, the Merchant Marine and Fisheries Committee, and the Ways and Means Committee—and that it has been reported out in a different form by each. Two versions of H.R. 85—that of the Ways and Means Committee and that of the Public Works and Transportation Committee—appear in the bill before us; however, it does not include the version reported by the Merchant Marine and Fisheries Committee.

Mr. Chairman, the differences in the three versions of H.R. 85 as reported by the various committees have been worked out, and the Rules Committee has granted a rule on the bill. It is anticipated that it will reach the floor of the House within the next few weeks.

I have maintained all along—and I continue to maintain—that it would be most inappropriate for us to enact part or all of H.R. 85 through the medium of the budget reconciliation bill. Nevertheless, our committee felt that, if any of the provisions of H.R. 85 were to be included in H.R. 7765, all of them should be included. With that basic premise in mind, our committee reluctantly decided to include our own superfund legislation in the reconciliation recommendation that we transmitted to the Budget Committee.

Mr. Chairman, I understand that the gentleman from Connecticut (Mr. Giaimo), pursuant to the rule, intends to offer an amendment which would strike from this bill those provisions in subtitle C of title IX representing the Ways and Means Committee's version of title V of H.R. 85. That amendment would also strike my own committee's version of H.R. 85, which appears in subtitle C of title V. I will give that amendment my wholehearted support, as I feel that the reconciliation process is not an appropriate vehicle for the consideration of new and complex legislation such as H.R. 85.

□ 1450

Mr. JOHNSON of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the budget journey has been long and hard this year, and we have several difficult steps yet to take.

Rapidly changing economic forces both at home and abroad have contributed mightily to the problem of choosing effective budget policies.

I have not always supported all of the budget policies recommended—such as the use of trust fund receipts to offset deficit spending in other program areas and the use of reconciliation in the first concurrent resolution on the budget—a notion that was rejected by the framers of the Budget Act.

However, the members of the Committee on Public Works and Transportation have in the past done and will continue to do everything possible to abide by the wishes of the majority of our colleagues with respect to the requirements of section 3 of the first resolution and the reconciliation process.

Title V of H.R. 7765 contains the recommendations of the Committee on Public Works and Transportation to achieve the savings directed by section 3 of the first concurrent resolution.

This section directs our committee to "recommend program reductions in laws or in reported bills or resolutions within its jurisdiction to reduce spending for fiscal year 1981 by $600 million in budget authority and $750 million in outlays."

Included among the recommendations of the Committee on Public Works and Transportation are a series of limitations which would reduce the amounts of budget authority already available for obligation for fiscal years 1980 and 1981 for highway trust fund programs, State and community highway safety programs, and for airport and airway development programs.

The net effect of these actions is to reduce the budget authority available in 1981 far in excess of the recommended $600 million and accomplish outlay reductions greater than the $750 million included in the first concurrent budget resolution.

The reductions contained in title 5 of H.R. 7765 comply fully with the letter and spirit of the reconciliation process.

I want to commend the three fine subcommittee chairmen: Jim Howard, Surface Transportation; Glenn Anderson, Aviation; and Ray Roberts, Water Resources; and their minority counterparts, Bud Shuster, Gene Snyder, and Don Clausen—for their work on H.R. 7765.

Bill Harsha, our ranking minority member, provided his usual good leadership.

It is never easy to cut back on good programs, as the programs in title V certainly are, programs that are delivering a quality product for the taxpayer.

Our acceptance of these reductions should be viewed not as a lessening of our commitment to these worthy programs but as a recognition by myself, the Members I have mentioned, and the committee as a whole, of the need to support some reductions now in the hope of getting Federal spending under control at this critical time.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. Snyder).

Mr. SNYDER. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. Harsha).

Mr. HARSHA. Mr. Chairman, I rise in support of sections 501, 502, 503, and 511 of the Omnibus Reconciliation Act of 1980. These sections impose budget restrictions in highway and aviation authorizations for fiscal years 1980 and 1981. Taken together, these should result in savings in both fiscal 1981 budget authority and outlays at least equal to the reductions required in the revised conference report on the first concurrent resolution on the budget for fiscal year 1981.

Under the first concurrent resolution, the Committee on Public Works and Transportation was required to develop program reductions in either existing laws or in reported bills within the committee's jurisdiction to reduce spending for fiscal year 1981 by $600 milllion in budget authority and $750 million in outlays. We proposed to accomplish these savings in the following manner:

First, the fiscal year 1980 obligations limitation for Federal-aid highways and highway safety construction is reduced to $7.9 billion. This new limit is $850 million below the ceiling previously established in the fiscal year 1980 Appropriations Act.

Second, the fiscal year 1981 obligations limitation for Federal-aid highways and highway safety construction would be limited to $8.75 billlion.

These new obligations ceilings for fiscal years 1980 and 1981 highway programs would be distributed to the States in accordance with formulas aimed at equitably sharing the reductions.

Third, obligations for State and community highway safety programs for fiscal year 1981 would be limited to $150,405,000, nearly $50 million under its authorized level.

Fourth, fiscal year 1981 obligations for airport development and airport planning and for grants under section 104(e) of the Airport Safety and Noise Abatement Act of 1979 would be limited to $725 million.

While I support these recommendations in an effort to achieve a balanced Federal budget for fiscal year 1981, it is not without some reluctance. My reservations center on the source of funds being used to obtain budget authority and outlay reductions. All four sections imposing obligations limitations for activities within the jurisdiction of the Committee on Public Works and Transportation involve programs financed from self-supported trust funds. I seriously question whether reductions in outlays from trust fund accounts are consistent with the discipline embodied by the balanced budget concept. It occurs to me that the decision to defer these trust fund expenditures may fuel, rather than fight, inflation in the long run.

The Highway Trust Fund is an excellent case in point. Historically, the trust fund has shown a steady upward growth since its creation in 1956. In the late 1950's and early 1960's, it generated $2 billion in annual revenues. That grew to $6 billion in the midseventies, and to just under $8 billion in annual revenues in 1979.

Despite the critical needs of this Nation's highway system, the Highway Trust Fund today has a cash value of over $12 billion. We have been asked, and have reluctantly agreed, to hold down expenditures from the trust fund in both fiscal years 1980 and 1981. We will be holding back more than $700 million in fiscal year 1981 outlays. But these will only achieve a paper "savings." The trust fund is being used for the sake of appearances in the budget-balancing act. This administration-requested act merely inflates the cash balance in the Highway Trust Fund in order to offset the real deficit of the general funds in the unified budget. This paper "savings" would seem to permit an even larger portion of the budget to be spent elsewhere.

Very clearly, these Highway Trust Fund outlay reductions do nothing to solve the real problem in fighting inflation, namely how to close the gap on deficit spending in general fund programs. The trust fund "savings" cannot be diverted to offset revenue shortfalls in other program areas. It is an apples and oranges situation. On paper we hold down total outlays when in real terms the revenue/deficit gap remains the same or increases.

Aside from the question of impact on the fiscal year 1981 Federal budget, I am equally troubled by the effect the deferral in Highway Trust Fund expenditures will have on our Federal-aid highway program. While the cash balance in the trust fund keeps going up, the value of that money in terms of the improvements it will buy keep going down. It keeps declining every year as the construction cost factors escalate due to runaway inflation and the outrageously high interest rates.

It has not been that long ago that Federal impoundments forced States to accumulate large unobligated balances in the various program categories which make up our national highway effort. It is ironic that the very act passed to remedy previous impoundment actions is now, in 1980, the source of negative signals as to our resolve in completing the interstate system and maintaining the quality of our transportation investment. At best we are sending conflicting signals.

Let me remind you of the actions taken by Congress when we passed the Surface Transportation Assistance Act of 1978. We determined that it was imperative that the interstate system be brought to full completion as rapidly as possible. In order to encourage early completion, several steps were taken. We mandated that environmental impact statement for incomplete gaps in the system be submitted by September 30, 1983, and that these segments have construction begin or rights-of-way acquired by September 30, 1986. Accelerated completion was also encouraged by limiting the interstate obligation period to 2 years after which lapsed funds would be available in a pool to faster moving States on a first-come, first-serve basis.

In noninterstate highway construction programs we substantially liberalized provisions governing the transference of funds from one program to another in order to provide the States with enhanced flexibility. These actions told the States to beef up their programs and get ready to spend. Subsequently, the States did move to comply on the assumption that the necessary funding would be there when needed. Certainly, our action of deferring trust fund obligations must be causing the States to reassess their decisions.

We must not be unmindful of the present crisis being experienced by America's railroads, particularly in the Northeast Corridor. This Nation s Transportation systems are deteriorating at an alaming rate. Our highways last only about 20 years, and current reports suggest they are wearing out faster than they are being replaced.

In order to make our major roads last beyond their 20-year economic life, they must be completely reconstructed or at least undergo major rehabilitation to bring them back to original construction conditions. It is certainly a sign of the times that the cost of reconstruction now is generally greater than the cost of original construction—and that includes the original right-of-way purchase. Nearly half of the Nation's 1.9 million miles of paved roads are rated "very poor" or "fair," and 9 percent of all paved roads are beyond repair and must be rebuilt. In the 1978 Surface Transportation Assistance Act, the largest increases in authorization levels were for resurfacing, restoring, and rehabilitating activities both on interstate sections as well as for primary and Federal-aid secondary system roads.

The needs of our bridge program are no less critical. Approximately 105,500 of our 563,500 bridges have been determined to need repair or replacement. A 1-year delay in continuing our highway efforts may be tolerable in light of the current budget concerns. But it must be a 1-year proposition only. Our actions today must not be misinterpreted. We must not allow our highway system to follow the same path as our railroads. We must not in the name of saving $1 in 1981 put ourselves in the position of having to spend $5 later to make up for it. We already recognize the seriousness and extensive cost of the national bridge problem. It is a symptom of a pennywise and pound foolish policy. We cannot and must not allow the same situation to occur with our highways.

When we first imposed the highway user tax we made a commitment to America's drivers. We committed the use of those tax dollars for the sole purpose of maintaining our highway network. Those taxes have been faithfully paid. They cannot be spent for any other purpose.

Mr. Chairman, in the spirit of cooperation the Committee on Public Works and Transportation will not oppose these trust fund restrictions for fiscal year 1981.

Mr. SNYDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the distinguished chairman of the full committee and the distinguished gentlemen who are the various chairmen of the subcommittees on the other side have very amply explained the provisions as they apply to this committee. We have been over their statements, and I would say that the minority agrees with them in all respects.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. JOHNSON of California. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. Smith) for 30 minutes.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the first concurrent resolution on the budget for fiscal year 1981 requires the Committee on Small Business to recommend program changes in the laws within its jurisdiction to reduce spending for fiscal year 1981 by $800 million in budget authority and $600 million in outlays.

Now, it was said by the Budget Committee that this could be accomplished by requiring farm producers, agricultural producers, to go to the Farmers Home Administration for loans—that would be for both disaster loans and other loans—rather than to go to SBA. Of course, any loans they receive there instead of from SBA would reduce SBA requirements but would also be offset by increases in FmHA requirements. As far as SBA is concerned, it would reduce their outlays.

We had pending for a considerable number of months legislation that would provide that while they could not discriminate against the small businessmen which happen to be agricultural producers rather than processors, they should go to FmHA if the service is there and available. If not, they should not be discriminated against and must be served by SBA.

Well, since that time that bill has been passed and signed into law, so at the present time what was assumed by the Budget Committee to produce the results that they are requesting has been done, and so this part of the requirements under the bill have been complied with by the Committee on Small Business. Accordingly no further legislation is required in this part of the bill.

Mr. Chairman, unless there are further requests, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Iowa (Mr. Smith) yields back the balance of his time.

The Chair understands that the gentleman from Pennsylvania (Mr. McDade) does not desire to be recognized.

The gentleman from Texas (Mr. Roberts) is recognized for 30 minutes.

Mr. ROBERTS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the conference report and statement on House Concurrent Resolution 307 instructed the Committee on Veterans' Affairs to recommend program reductions in laws within its jurisdiction, or changes in laws within its jurisdiction, that would reduce spending in fiscal year 1981 by $400 million in budget authority and $400 million in outlays. The Committee on the Budget made several recommendations that were not acceptable to the Committee on Veterans' Affairs.

The Committee on the Budget indicated that if the Committee on Veterans' Affairs desired not to accept the recommendations of the Budget Committee it should proceed to recommend alternatives that would provide for the targeted legislative cost savings.

The Committee on Veterans' Affairs has attempted to carry out the mandate of the Committee on the Budget and the House. And I will review very briefly the recommendations of our committee, contained in title VII.

First, the Subcommittee on Medical Facilities and Benefits, under the very able leadership of the distinguished gentleman from Virginia (Mr. SATTERFIELD) and the ranking minority member of the full committee, the very able gentleman from Arkansas (Mr. HAMMERSCHMIDT), recommended that the Administrator of Veterans' Affairs be given authority to consider the amount of income and the amount of insurance that certain non-service-connected veterans may have in determining such veterans' eligibility for VA medical care. This would result in net savings of $109 million in fiscal year 1981. This provision is included in H.R. 7102, which passed the House on May 20, 1980. It was accepted by the other body and is contained in Public Law 96–330, which became law on August 26, 1980.

Second, the Subcommittee on Education, Training and Employment, chaired by the distinguished gentleman from North Carolina (Mr. HEFNER) in cooperation with the gentlelady from Massachusetts (Mrs. HECKLER), recommended to the full committee certain amendments to title 38, United States Code, that would assist the VA in the collection of certain debts owed to the Veterans' Administration. These amendments are contained in H.R. 7394, which passed the House on July 21, 1980. If enacted, the amendments would realize savings of $116 million in fiscal year 1981.

In addition, the subcommittee recommended certain GI bill education and training reforms that would result in additional savings of approximately $63 million. These savings are also contained in H.R. 7394.

Finally, the Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs, chaired by the distinguished gentleman from Mississippi (Mr. MONTGOMERY) in cooperation with the distinguished gentleman from Ohio (Mr. WYLIE) recommended two reforms within that subcommittee's jurisdiction that would result in savings of $87 million in fiscal year 1981.

Most of the savings, $83.5 million, would be realized by eliminating certain nonservice-connected burial benefits. The subcommittee also recommended certain restrictions on the payment of compensation to incarcerated veterans. These amendments are contained in H.R. 7511 that passed the House on Monday, July 21.

I want to thank the gentleman from Arkansas (Mr. HAMMERSCHMIDT) for the complete cooperation he has given me in helping to put together these proposals. It is never easy to recommend program reductions.

I, of course, have very strong feelings, as does the gentleman from Arkansas, that our priorities are wrong when we must cut back in programs for veterans, many of whom served during a time of war, while at the same time, adding to the budget in other areas. I happen to believe that one of our Nation's highest priorities should be in the benefits, care and treatment of our veterans and their dependents.

It distresses me when I am required to bring to the floor legislative proposals to reduce the level of benefits and services for these individuals while, as a body we add to the deficit many millions of dollars to provide care and treatment of individuals whose sacrifices have been far less than those who served our country in time of need. Many recipients of Federal benefits have yet to contribute to our Nation's welfare.

Notwithstanding my personal feelings, I am pleased that the committee has carried out the mandate given to it by the House when Members voted overwhelmingly to accept the reconciliation instructions contained in the first concurrent budget resolution. I am very grateful for the support I have received from all members of the Committee on Veterans' Affairs, who worked so hard to get this matter resolved.

I am privileged to serve with a fine group of people.

I shall not take further time of the House to discuss the specifics of these provisions since there was thorough debate on these cost-savings provisions when the bills containing these provisions were considered and recently passed by the House.

Mr. Chairman, I have no further request for time and yield back the balance of my time.

□ 1500

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas (Mr. HAMMERSCHMIDT) for 30 minutes.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to associate myself with the remarks of the distinguished chairman of the full committee, Mr. ROBERTS, and again thank him for his leadership in reaching these program reductions. As you know, Mr. Chairman, the Veterans' Administration budget, particularly in the health-care area, has suffered for several years. Since President Carter took office the VA hospital system has lost 10,000 beds. As such, it does not give me any great satisfaction to stand here and announce my support for the cuts we have been mandated to come up with.

I believe the record should again reflect the closed process that brought about these cuts. The Committee on Veterans' Affairs, which deals with the needs of our Nation's veterans on a full-time basis, recommended a budget to the Budget Committee that was more than a billion dollars higher than the Budget Committee's eventual figure. I should emphasize, Mr. Chairman, that the members of the Veterans' Affairs Committee are not known among their colleagues, for the most part, as big spenders. However, a federal system should adhere to its priorities, and to its governmental structure. The primary obligation of the Federal Government is to provide for defense and defense-related topics, including veterans' benefits. These items should be accorded the highest priority when the Federal Government determines where it must begin to reduce spending. I believe it is highly unfortunate that the Budget Committee went along with the administration's recommendations rather than those of the Veterans' Affairs Committee. I find it equally unfortunate that the Rules Committee failed to approve an amendment offered by its distinguished ranking minority member, Mr. QUILLEN of Tennessee, that would have allowed full debate on the Veterans' Administration budget when it reached the floor of this body. As a Member who has long supported the notion of a balanced budget, I nonetheless am disappointed with the priorities, and the closed manner in which debate was limited, as this body attempted to balance the budget this year.

With respect to the specific recommendations of the various subcommittees, as outlined very well by our distinguished chairman of the full committee, I can only express my support. It should be a simple process to accept these reductions, Mr. Chairman, in light of the fact that they have already been voted on by the full House of Representatives, and overwhelmingly approved. I do, however, wish to express my concern regarding a few of these observations.

First, we are eliminating nonservice-connected burial benefits for veterans with incomes of greater than $20,000 a year. I am deeply disturbed over the idea of turning burial benefits into a program based purely on financial need. I do not believe we should be giving the impression that we are subsidizing paupers' funerals with the burial benefit. We have provided this benefit based on a veteran's service to his country, not on his later economic status. It is a final reward, a last thanks of a grateful nation. I am thankful that the reconciliation provisions limit this reduction only to this fiscal year, and I would be inclined to vigorously oppose a total elimination along these lines.

Second, Mr. Chairman, I do not believe that the administration's logic holds up in the elimination of flight school and correspondence training under the GI bill. All economic indicators show that there will be a pilot shortage in the 1980's. We are making a judgment regarding a traditional earned entitlement that is out of place, and although I have supported this reduction due to lack of any other alternatives, if other alternatives reveal themselves, I can assure you, Mr. Chairman, that I and many other Members will pursue them.

With these hesitations, Mr. Chairman, and with the general misgivings which I discussed at the outset, I lend my support to title VII, the veterans affairs committee reconciliation provisions contained in the conference report.

Mr. Chairman, if there are no requests for time, I yield back the balance of my time.

Mr. ROBERTS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. ULLMAN) for 1 hour, following which the Chair will recognize the gentleman from New York (Mr. CONABLE) for 1 hour.

Mr. ULLMAN. Mr. Chairman, I yield myself such time as I may consume.

OVERVIEW

Titles 8 and 9 of H.R. 7765 contain the budget reconciliation recommendations of the Committee on Ways and Means which the committee was required to report under sections 3(a)(8) and 3(a)(9) of House Concurrent Resolution 307, the first concurrent budget resolution for fiscal year 1981. Title 8 provides spending reductions of approximately $2 billion with respect to programs within the committee's jurisdiction while title 9 provides revenue increases of approximately $4.2 billion in fiscal year 1981.

SPENDING REDUCTIONS (TITLE 8)

A. HEALTH SAVINGS

Title 8 includes the provisions of two medicare-medicaid bills, H.R. 3990 and H.R. 4000, both of which were favorably reported by the Committee on Ways and Means. In my judgment, enactment of these provisions will improve the cost effectiveness of these programs and enhance the protection they provide aged citizens.

The major medicare and medicaid savings provisions include: First, more appropriate payment for long-term services furnished in hospitals; second, more intensive PSRO review of routine hospital admission services and excessive preoperative stays; third, making medicare the second payor in automobile insurance cases; and fourth, encouraging the use of outpatient surgical centers. Title 8 also includes provision for a temporary postponement of periodic interim payments to hospitals.

In addition, title 8 includes provisions that will encourage use of lower cost alternatives to institutional care by: First, improving coverage of home health services, outpatient services in community mental health centers and rehabilitation facilities; second, covering the preventive use of pneumoncoccal vaccine for aged medicare beneficiaries; and third, revising the medicare method of providing reimbursement for services furnished by HMO's. Title 8 also makes benefit improvements relating to services furnished by dentists, optometrists, chiropractors and physical therapists, and strengthens existing protections against fraud and abuse in the medicare and medicaid programs.

These medicare and medicaid revisions are estimated to result in legislative savings of approximately $803 million in fiscal year 1981, and merit the support of all Members.

B. UNEMPLOYMENT COMPENSATION SAVINGS

Title 8 contains three amendments to the Federal unemployment compensation law which, in the aggregate, will reduce fiscal year 1981 spending by $139 million. The first amendment terminates Federal reimbursement from the Federal Unemployment Benefits Accounts for unemployment benefits paid to CETA workers. Under present law, any unemployment compensation benefits paid to a former CETA worker are initially paid out of the State unemployment insurance trust fund. The State is then reimbursed from general revenues contained in the Federal Unemployment Benefits Account for the amount of the unemployment compensation that was based on CETA employment. Title 8 includes a provision which terminates this Federal reimbursement to States for unemployment compensation benefits paid to former CETA workers. Legislative savings from this provision in fiscal year 1981 are estimated to be approximately $50 million. The committee assumes that there will be no change in the provision in the CETA law that requires CETA workers to have the same unemployment compensation protection as other workers. Rather, it is assumed that States will be reimbursed for such benefits from CETA grants to prime sponsors.

Another unemployment compensation provision increases the length of active duty that is required of ex-military personnel for purposes of unemployment benefits. Under present law, federally funded unemployment benefits are provided to former members of the Armed Forces upon their separation from military service if they meet the qualifying requirements of the State in which they apply for unemployment compensation. The military services of the individual can be considered as wages or employment in the determination of eligibility under the State unemployment compensation law only if: First, the person had served continuously for 90 days or more prior to separation: and second, the individual was separated under other than dishonorable or bad-conduct circumstances. The 90-day continuous service requirement does not apply where separation was the result of a service-incurred injury or disability.

The bill before us today includes a provision which extends to 1 year the period of continuous active duty an individual must serve in the military in order for such service to qualify as employment in the determination of eligibility for unemployment compensation benefits following separation from the military. Legislative savings from this provision in fiscal year 1981 are estimated to be approximately $43 million.

The third unemployment compensation amendment pertains to the interstate payment of extended unemployment benefits. Under present law, a State is required to pay unemployment benefits to individuals who meet the State qualifying requirements even if they are or become residents of another State. If an individual works and qualifies for benefits in a State in which the extended unemployment benefits program is in effect, the State will be required to pay him such benefits even if the individual changes residence to a State in which the extended benefits program is not in effect.

Title 8 contains an amendment that precludes individuals from receiving more than 2 weeks of extended unemployment compensation benefits through an interstate benefit claim, if such claim is filed in a State where extended benefits are not payable because unemployment has not reached the extended benefit trigger level. The provision does not change other conditions of eligibility or benefit computation that may differ between the two States. Legislative savings from this provision in fiscal year 1981 are estimated to be approximately $46 million.

C. TRADE ADJUSTMENT ASSISTANCE SAVINGS

Title 8 rescinds passage of H.R. 1543 by providing that the bill is repealed on the day before the date of enactment of that bill. H.R. 1543 amends the trade adjustment assistance programs for workers and firms under the Trade Act of 1974 to remove inequities in program eligibility under existing law, to improve adjustment aspects, and to accelerate certification and benefit delivery. A major provision of H.R. 1543 would extend trade adjustment assistance to workers and firms supplying component parts and services to import-impacted end products.

The Ways and Means Committee recommended repeal of H.R. 1543 as a legislative savings of $822 million—which was the current reestimate by the Congressional Budget Office of the cost of the bill in fiscal year 1981—this would not adversely affect workers and firms eligible for benefits under existing law. The committee did not consider or take any action to amend the current trade adjustment assistance programs as a budget reconciliation measure.

D. SAVINGS FROM ENACTED LEGISLATION

Congress has enacted H.R. 3236, the Social Security Disability Amendments of 1980, and H.R. 3434, the Adoption Assistance and Child Welfare Act of 1980, both of which were originated by the Committee on Ways and Means. H.R. 3236 establishes work incentives for the disabled and improves accountability in the disability and AFDC programs which will result in savings of $133 million in fiscal year 1981. H.R. 3434 makes a number of improvements in both the child welfare program and the title XX social services program. Specifically, the bill includes provisions that will: First, establish a ceiling on title XX training funds; second, encourage employment of welfare recipients as child care workers; third, disallow AFDC earnings disregards in the case of any income which is reported late; and fourth, permit States to prorate AFDC benefits to children to take into account the income of certain relatives living in the household. The legislative savings in fiscal year 1981 from these provisions of H.R. 3434 are estimated to be approximately $103 million.

These newly enacted laws will reduce spending in fiscal year 1981 by approximately $236 million and have been claimed by the Ways and Means Committee, with the approval of the Budget Committee, in satisfaction of the committee's reconciliation requirements.

REVENUE INCREASES (TITLE 9)

The first budget resolution required the Ways and Means Committee to make recommendations which would raise budget receipts by $4.2 billion in fiscal year 1981. Title 9 embodies the committee's recommendations. In making its decisions, the committee tried to minimize whatever adverse economic effects might result from tax increases at this time. It also attempted to correct some structural problems in the tax law.

Title 9 of the reconciliation bill contains the language of the mortgage subsidy bond bill passed by the House last March. The extraordinary growth of housing bonds threatens to overload the market for tax-exempt bonds and greatly increase the revenue loss associated with tax-exempt bonds. The bill limits the tax exemption for mortgage bonds so that it is only available in cases where the issuance of such bonds is consistent with good housing policy. The bill also provides liberal transition rules in cases where action was taken before the committee began work on the bill. The revenue gain is expected to be $500 million in fiscal year 1981.

Title 9 also contains the tax and related portions of the superfund bills reported by the Ways and Means Committee. These bills impose, on crude oil and chemical feedstocks, new excise taxes which are deposited into various trust funds to be used for cleaning up inactive hazardous waste sites and compensating for damages caused by spills of oil and hazardous substances. The revenue gain is estimated to be $300 million in fiscal year 1981.

The rule makes in order an amendment to delete the superfund provisions from the bill. This amendment would be acceptable to me because the superfund bill is proceeding along its own track and would be easier to deal with separately. The only reason the Ways and Means Committee put the superfund language in its reconciliation recommendations is that it was advised to do so by the House Budget Committee as the only way by way by which the Ways and Means Committee could be credited with the revenue increase of $300 million associated with the committee's prior action on the superfund legislation. I wish to emphasize, however, that without the superfund provisions, we cannot promise the House that the conference agreement on reconciliation will raise the full $4.2 billion assumed by the first budget resolution. It may be necessary, for example, to come out of conference with a bill raising only $3.9 or $4 billion, leaving the additional $300 million for enactment of the separate superfund bills.

Title 9 also imposes a tax on capital gains by foreigners on the sale of U.S. farm land and other real estate. Reporting requirements are provided to identify when taxable transactions have occurred. The revenue gain is expected to be $40 million in fiscal year 1981.

Title 9 also delays for 1 year the phaseout of the telephone excise tax. Since 1973, this tax has been phasing down from its prior rate of 10 percent. Under present law, it is scheduled to decline to 1 percent in 1981 and to terminate in 1982. Under title 9, the rate will be 2 percent in 1981 and 1 percent in 1982; the tax will terminate in 1983. The revenue gain is estimated to be $400 million in fiscal year 1981.

Title 9 also eliminates a provision in present law relating to social security and unemployment compensation payroll taxes under which employers can reduce their tax base by paying their employees' social security taxes. More and more employers are using this device, and if the practice continues to grow, the solvency of the social security trust fund will be greatly imperiled. The revenue gain is estimated to be $50 million in fiscal year 1981, but considerably more in future years. A transition period is allowed for State and local governments that currently take advantage of this provision to adjust their payroll practices.

The bulk of the revenue raised by title 9 comes from a change in the estimated tax on large corporations. Currently, corporations may base their estimated tax payments on either 80 percent of their current year's tax liability or 100 percent of the prior year's tax liability. This exception based on prior year's tax liability provides a tax deferral which is only available to companies whose tax liability is growing rapidly. Title 9 places a limit on the exception by providing that when a corporation whose taxable income has been more than $1 million in any of the 3 preceding taxable years elects the exception, it must cover a minimum of 60 percent of the current year's tax liability with estimated tax payments. The revenue gain is estimated to be $3.1 billion in fiscal year 1981. The revenue gain will be significantly reduced in future years because the provision does not change final tax liabilities.

CONCLUSION

In conclusion, I would like to stress the following:

First. The Ways and Means Committee did meet the recommendations to reduce spending by $2 billion and increase revenues by $4.2 billion as provided by the first concurrent budget resolution.

Second. The Ways and Means Committee worked quickly and efficiently in developing these recommendations. They were approved by a bipartisan voice vote. The committee's reconciliation recommendations were achieved in as painless a manner as possible to insure that they would not be disruptive to the economy. Revenues are raised without imposing new taxes. We were mindful of the unemployed worker in this time of recession, and no program bore the brunt of these spending reductions. If one examines the Senate's spending reductions, I am sure that you will conclude that the changes recommended by the Ways and Means Committee are less disruptive to all concerned parties.

Third. The subject on which there was the greatest controversy was the committee's decision to rescind passage of H.R. 1543, the trade adjustment assistance bill. The cost estimates of the modifications to the trade adjustmemnt assistance program, as provided by H.R. 1543, had significantly increased from $165 to $822 million.

The provisions of titles 8 and 9 were carefully and responsibly considered and developed by the Ways and Means Committee and merit the support of all the Members of the House.

□ 1510

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I am happy to yield to my friend, the gentleman from North Carolina.

Mr. FOUNTAIN. I want to commend the gentleman from Oregon (Mr. ULLMAN), the members of the Committee on Ways and Means and the members of the committee and the chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO), and those who worked on the Budget Control Act and also the legislative committees which have gone through the agonizing and painful process of coming to the floor with this reconciliation legislation.

It seems to me, however, there are countless thousands of people all over America who somehow do not understand why it has become necessary for us to do what we are doing.

I would like to ask just a couple of questions just to emphasize something which all of us know, but which we seldom hear, particularly from those who are running for public office at this time.

Will the gentleman tell the Members of the House what our national debt is at this time? Is it in the neighborhood of $900 billion?

Mr. ULLMAN. It is very close to $900 billion.

Mr. FOUNTAIN. And the annual interest on that national debt is about how much?

Mr. ULLMAN. About $60 billion to $70 billion.

Mr. FOUNTAIN. So were it not for the fact that the Federal Government has a tremendous amount of power and a lot of ways in which it can get funds, it is basically insolvent; is it not?

□ 1520

Mr. ULLMAN. Well, I guess it would depend on the definition of solvency. I think this is a solvent measure, even with the debt; but I would fully agree with the gentleman that the present level of our indebtedness is intolerable and further extensions of the federal debt are intolerable. That is one of the reasons we are having the persistent problems of inflation. It is not the only reason, but one of the reasons.

It is absolutely essential that we turn that situation around and not only balance the budget, but begin carving away at the existing indebtedness. The budget system is the only way that we can do it. The budget system will not work adequately unless we do have a reconciliation provision that forces us to make the hard decisions that we have tended to evade in the past without a budget system.

Mr. FOUNTAIN. Mr. Chairman, I thank the gentleman for his answer, because I think too often we have a tendency to overlook the necessity for a balanced budget, and reversing the excessive spending process and becoming more fiscally responsible.

Mr. ULLMAN. The gentleman is correct.

● Mr. CORMAN. Mr. Chairman, H.R. 7765 contains three unemployment compensation provisions.

Section 891 of the bill terminates the provision in current law that provides Federal reimbursement from the FUBA account for unemployment compensation paid to former CETA workers.

The Comprehensive Employment and Training Act (CETA) requires that all persons employed in CETA public service jobs be provided unemployment benefits under the same conditions, and to the same extent, as other employees doing the same type of work. Unemployment compensation benefits paid to a former CETA worker are initially paid out of the State unemployment insurance trust fund. The State is then reimbursed from general revenues contained in the Federal unemployment benefit account (FUBA) for the amount of the unemployment compensation that was based on CETA public service employment. This Federal reimbursement was provided under Public Law 94-444, the Emergency Jobs Program Extension Act of 1976, which amended the Emergency Jobs and Unemployment Assistance Act of 1974 (Public Law 93-567).

The provision in section 891 terminates Federal reimbursement to States from the FUBA account for unemployment compensation benefits paid to former CETA workers. Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (Public Law 93-567), which provides such reimbursement, is amended to provide that the term "public service wages" does not include remuneration for service performed in weeks which begin after Otcober 1, 1980.

The committee assumes that there will be no change in the CETA law requiring CETA workers to have the same unemployment compensation protection as other workers. Rather, it is assumed that States will be reimbursed for such benefits from CETA grants to prime sponsors.

Section 892 increases from 90 days to 1 year the length of active duty an individual must serve in the military in order for his or her military service to be counted as employment in determining eligibility for unemployment compensation.

Under present law, federally funded unemployment benefits are provided to former military personnel upon their separation from military service if they meet the qualifying requirements of the State in which they apply for unemployment compensation. The military service of the individual qualifies as wages or employment in the determination of eligibility under the State unemployment compensation law only if: First, the person had served continuously for 90 days or more prior to separation; and second, the inidvidual was separated under other than dishonorable or bad-conduct circumstances. If the individual meets these requirements, the entire period of military service can be counted when determining whether the individual meets the wages or employment qualifications of the State in which he or she files an application for benefits. The 90-day continuous service requirement does not apply where separation was the result of the service-incurred injury or disability.

In recent years, the number of persons leaving the military before their term of enlistment has expired has been on the increase. Questions have been raised about the number of individuals who serve shortened terms of service on the presumption that unemployment compensation will be available to them after only 90 days of active duty. It is the committee's position that unemployment compensation should be available only to those persons who have completed a more lengthy period of service.

This provision changes the present 90-day continuous service requirement to 365 days, effective for individuals who begin active service after October 1, 1980.

Section 893 of the bill limits an individual's entitlement to extended unemployment compensation benefits to no more than 2 weeks, if he or she moves into a State where the unemployment level has not triggered an extended benefits period.

In general, States pay unemployment benefits up to a maximum of 26 weeks. In times of high unemployment, the Federal-State extended unemployment compensation program becomes effective. Under the extended benefits program, up to a maximum of 13 additional weeks of benefits are payable to individuals who exhaust regular benefits. The extended benefits program goes into effect on a State-by-State basis if the insured unemployment rate (IUR) in a State reaches a specified level, or in all States if the national IUR exceeds a specified level.

Under present law, a State is required to pay unemployment benefits to individuals who meet the State qualifying requirements even if they are or become residents of another State. If an individual works and qualifies for benefits in a State in which the extended benefits program is in effect, the State will be required to pay him such benefits (so long as he meets the eligibility requirements for such benefits) even if the individual changes residence to a State in which the extended benefits program is not in effect because unemployment in the new State of residence has not reached the extended benefits trigger level.

In general, an individual obtains benefits in a new State by filing an interstate claim, under an interstate benefit payment plan, against the State in which the qualifying wages were earned.

The provision terminates the payment of extended benefits to an individual who changes his or her residence to a State in which such benefits are not being paid because unemployment in the new State has not reached the extended benefit trigger level. Specifically, the bill terminates an individual's eligibility for extended benefits after he or she has collected 2 weeks of extended benefits through an interstate claim under an interstate benefit payment plan. The provision does not change other conditions of eligibility or benefit computation that may differ between the two States. Further, the individual will continue to be eligible for regular State unemployment compensation benefits for which he or she qualified in his or her former State of residence.

The intent of the provision is to deny extended benefits to those persons who earn their qualifying wages in one State, move to a State in which the extended benefits program is not in effect, and then file an interstate claim under an interstate benefit payment plan against the first State based upon wages or employment in that State. It is not intended to apply to individuals who have worked in two or more States and file an interstate claim for purposes of combining the wages or employment in those States in order to qualify for benefits under the law of the paying State.

The provision applies to weeks of unemployment beginning after October 1, 1980. However, the provision will not become a requirement of State law for any week which begins before June 1, 1981. Where a State legislature does not meet in 1981 in a regular session which begins before April 1, 1981, the provision is not to be a requirement of State law until June 1, 1982.●

The CHAIRMAN pro tempore (Mr. CORMAN). The Chair recognizes the gentleman from California (Mr. ROUSSELOT) for 1 hour.

Mr. ROUSSELOT. Mr. Chairman, I would say to my colleague, the gentleman from North Carolina, in answer to his questions, that we are not doing anywhere near enough to bring this Federal budget into balance. I am afraid that this budget resolution in many ways is a sham no matter what we tell ourselves. The accumulated Federal debt will be almost $900 billion in a few weeks. I say to my colleague, the gentleman from North Carolina, that the interest charge alone is now $75 billion as the gentleman very well knows. I do not think we have done anywhere near enough to bring this budget under control.

If the Congress would just restrain the increases in expenditures in any given year, we could do a lot more to reduce the necessity to increase the debt in any year.

The gentleman knows, because I am sure he has studied this budget process, but we are just kidding ourselves when we talk about balanced budgets. The majority in this House does not really mean it. It is all rhetoric. We are are not really balancing the budget but we try to have the American public believe we are.

I do think that the Committee on Ways and Means did what they were asked to do by the Budget Committee and that is to come up with some $4.2 billion of new revenue. That is actually what happened in the Committee on Ways and Means. The committee came up with it. In some cases it means increasing taxes. In other cases we are going to adjust laws to collect revenues on an accelerated basis. My colleague, the gentleman from Minnesota (Mr. FRENZEL), will describe those items in just a minute.

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to my colleague, the gentlewoman from Maryland, a very devoted member of the Budget Committee who has tried desperately for a long time to bring this thing into balance and has had a terrible time getting the votes.

Mrs. HOLT. Mr. Chairman, I thank the gentleman for yielding and for those kind words.

Is it not true that most of this $4.2 billion is going to be a tax increase that will fall on business at a time when it is struggling to recover from the recession, at a time when we are trying to get unemployment down, get employment up, is it not a very bad time to put that kind of tax on business?

Mr. ROUSSELOT. Well, I think it is. There are parts of this tax increase, and most of it is a tax increase and/or postpones reductions; in the case of the telephone excise tax we have postponed for 1 year a reduction in the tax. The answer to the gentlewoman's question is a big chunk of the $4.2 billion is estimated tax for corporations to pay.

Of course, we go through the fiction here that, wow, we are really socking it to the corporations. What they really do is turn around and pass it on to the consumers, as the gentlewoman knows.

Mrs. HOLT. Mr. Chairman, it is difficult to believe. Here we are, with a country in the throes of a serious recession, and we are being asked to enact a tax increase.

In other words, the doctor is preparing to give the patient an extra dose of poison. A rising tax burden driven by inflation is among the major depressants afflicting the economy.

The proponents of this omnibus reconciliation bill prefer to concentrate our attention on the legislative savings that would be achieved, but they say very little about the $4.2 billion in extra tax revenues they propose to obtain through legislative changes.

You might argue that $4.2 billion is a fairly modest sum, given the enormously higher numbers we commonly deal with here. But I would remind the House that the tax burden is already excessive and growing, and it is bad economics to add any increment to the awful load.

Most of the proposed tax increase will fall on business at a time when business will be struggling to recover from the recession. This bill would increase revenues by an estimated $3.1 billion by accelerating payments of corporate taxes. The faster tax collections will mean a one-time windfall for Government, but will reduce the cash available for business recovery in 1981.

That is bad news for the unemployed, and bad news for anyone concerned about the future prospects for the American economy. Government not only taxes excessively, but is attempting to grab its take at a faster rate.

There are other pieces in the tax part of this legislation, but the economic consequences of the package will be harmful.

Well, you might say this bill is worth supporting because it changes laws to effect savings of $6.2 billion in 1981. That sounds good until you study the proposals and discover that $1.8 billion of the savings would be for 1 year only, and some of the legislative changes would actually require spending increases in following years.

This bill would simply defer $675 million in medicare payments to hospitals to 1982, effecting no real savings.

In medicare and medicaid reforms proposed by the legislation, $131 million would be saved in 1981, but benefits would be liberalized to add $713 million to spending by 1985.

It is not my intention to demean the real and lasting legislative savings that would be achieved by the bill, but I am alarmed by the tax increase and dismayed by the illusory nature of some of the claimed savings.

Under the prevailing conditions, no tax increase of any kind is tolerable. We should be cutting taxes substantially, with considerably more restraint on spending than provided by the 1981 budget.

I would remind the House that the average annual growth rate of Federal spending in recent years has been in the 11-percent range, will reach an extraordinary 17 percent in the current fiscal year, and is expected to exceed 9 percent in the 1981 fiscal year. I do not believe that the majority that has controlled this Congress for many years can point with pride to this record.

Mr. Chairman, if you make some economic comparisons of the 1960's with the 1970's, you will find that Government claimed a larger share of the gross national product in the 1970's and the economy grew at a slower rate. Those facts are related.

The sure way to wreck an economy is to stimulate consumption with excessive Government spending that strips away increasing shares of the capital needed to expand production. Federal policy has been going down that road for many years.

It is the prime cause of slower production, higher inflation, a rising tax burden driven by inflation, and more unemployment. Some of us have been warning about this trend for many years, demanding that we change course.

The extravagant growth of Government does not bring the economic growth that we need. It does not offer opportunities to Americans who need jobs. It does not rescue people from poverty. It does not improve the advancement opportunities for those already employed.

Only economic growth can open opportunities to the young and poor and enable the struggling middle class to fulfill its ambitions. The way to achieve that growth is to reduce the growth rate of Federal spending and cut taxes substantially.

This year, as in past years, the House minority supported a budget amendment that would have allowed the tax relief so desperately needed by our economy. Unfortunately, the Latta amendment was defeated on the House floor by a majority that continues to pursue more income redistribution instead of economic growth.

Depending on a number of factors, the tax reduction supported by the House minority would have amounted to $20 to $30 billion next year, about half designed to stimulate saving and personal investment and half to offset the impact of inflation on personal incomes.

The best anti-inflation policy consists of tax cuts that reward saving and investment to expand our production capacity and increase productivity, and there is no doubt that American families need tax relief.

If we want to work our way out of the current recession and begin the longer-range objective of rebuilding the American economy with less inflation, and if we want to restore our ability to compete in world markets, then we will begin to reduce the heavy tax penalties that have been imposed on American families and on their savings and investments.

A nation that wants a prosperous economic future must save and invest; a nation that wants production and jobs does not punish investors and producers with execessive taxation. A nation that wants to continue helping its elderly, disabled, and other needy people does not destroy the economic growth that makes those programs possible.

Remember, our future ability to help the least able citizens of our society depends on a healthy economic growth rate, which cannot be achieved with the current growth rates of Government spending and taxation.

Mr. ROUSSELOT. Mr. Chairman, I yield 5 minutes to my colleague, the gentleman from Minnesota (Mr. FRENZEL), a member of the Committee on Ways and Means, I might say.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman.

Mr. Chairman, under the time granted to me by the distinguished gentleman from Ohio (Mr. LATTA) earlier, I commented on the Ways and Means section of the reconciliation bill. What I said was that to ask the Committee on Ways and Means to increase taxes in reconciliation is to me an abuse of the reconciliation process. It was a direction that should not have been given to the committee by the Congress.

Because that direction was, in fact, given, I think the commitee did its best with a poor directive. It has laid on $4.2 billion in new taxes as painlessly as anyone could have done it.

Nevertheless, as the gentlewoman from Maryland pointed out, this is going to be a drag on the economy. It will particularly hurt companies who have had a bad showing in previous years and are finally beginning to make some money. They are the ones who are going to have to escalate their tax payments.

Those escalated payments into the Federal Treasury are going to mean a slower production of new jobs, and a slower infusion of new capital and new investment. So the mandate to the committee to increase taxes was a mistake. The committee did the best it could with it.

Second, the committee did decrease some spending, which is wonderful. Unfortunately, however, it also attached some previously House passed bill which the other body has not accepted. So, in fact, the committee is sending forward some new programs that it apparently has not been able to pass otherwise. That is also a mistake. That also is an abuse of the system. That is something that we are going to have to clean out of the system before we have a useful reconcilation procedure and, therefore, an effective budget process.

Also, I believe the Committee on Rules made a serious error in making the Bauman amendment in order. I hope it is defeated and the same may be said for the Vanik amendment.

When all is said and done, if this bill is not amended too severely, it still is the only savings game in town. It should be supported by this body.

At this point, I would like to make a brief comment about the proposed 40-cent-per-gallon duty on imports of ethyl alcohol. This provision is not part of the House reconcilation recommendations that we are considering today but was included in the Senate version passed on July 23.

The proposed duty increase is designed to eliminate for importers the benefit of the 40-cent-per-gallon tax credit given to producers of fuels with an alcohol content. The credit was enacted in the Windfall Profit Tax Act of 1979 and applies to producers of gasohol and other special fuels regardless of whether they use imported or domestic alcohol.

The "bound" MFN rate of duty on imported ethyl alcohol is 3 percent ad valorem. To increase that rate unilaterally in order to focus a subsidy solely on domestic producers would violate two important principles of international trade law.

The first is that bound rates of duty will not be increased except under very limited circumstances and then only after an investigation is made and certain other procedures established by law are completed. The second principle is that of "national treatment" whereby the United States and other members of the world trading community agree to treat importers no less favorably than domestic producers with respect to internal taxes, laws and regulations, and so forth.

The worst problem is that when the U.S. unilaterally gains a sound duty rate, under international law, the exporting country can claim compensatory reductions in other products. Certainly Brazil would like to have its shoe duty reduced, but I doubt many people here would support that.

No domestic producer has filed any complaint of unfair trade practices or otherwise exercised the import relief procedures provided in the Trade Agreements Act of 1979 and elsewhere in U.S. law. Neither has any investigation of national security implications been made as is also required under U.S. law before duties are raised for the purpose of protecting a vital national security interest.

Although the Senate report specifically cites national security concerns as a principle objective in offering this provision, it is hard to believe that imports amounting to 45 to 65 million gallons per year could be a threat to our national security. This is especially true since the use of ethyl alcohol, whether domestic or foreign, to make gasohol contributes to our overall energy independence from foreign sources of fossil fuel. It appears that the domestic industry in this case is using Congress to protect them from competition where they would not be able to justify such protection under current U.S. law or under international law. Cannot the auto industry, the steel industry and many others make an equal claim to the national security link?

In short, the duty increase on ethyl alcohol suggested by the Senate has no basis that would justify a unilateral action in violation of our international agreements.

Finally, I would like to point out that Congress requested in the Windfall Profit Tax Act that a study of imports of ethyl alcohol be submitted by October 2, 1980, and that recommendations on import relief be included in that report. When that report is completed less than 2 months from now we will have the information necessary to make a proper assessment of the import situation. To enact a substantial tariff on ethyl alcohol in this reconciliation process is misplaced and premature and I will work to have this provision removed in conference.

Mr. ROUSSELOT. Mr. Chairman, I now yield 5 minutes to my colleague, the gentleman from Iowa (Mr. GRASSLEY), a fervent fighter for a balanced budget and reduced expenditures and all those things.

Mr. GRASSLEY. Mr. Chairman, I thank the gentleman for yielding. I will not take the 5 minutes to express the views that I have on a provision that has been included in this reconciliation act.

I want to thank the chairman of the committee for bringing forth to the floor of the House the legislation that does, in fact, change an inequitable part of our tax law whereby certain tax treaties give foreigners some capital gain tax advantage over American citizens, on real estate in this country.

Originally, I and 185 other cosponsors of H.R. 3106 sponsored legislation affecting a very narrow area of real estate in which we thought it was very unfair for agricultural property to be taxed on capital gains at a higher rate if owned by American citizens than by foreign citizens under some of the tax treaties with our country.

□ 1530

The committee expanded that to include all real estate, and I understand it will bring in several additional millions of dollars, which is badly needed. More importantly, this legislation will extract dollars from people who are avoiding taxes in a way that is very detrimental to the American economy. Under current tax treaties, we encourage foreigners to invest in this country, however, we do not give that same encouragement to American citizens within our country. This is very justifiable legislation. I think it came along at a time when there was money being sought to work a proper balance for the budget, or at least reduce the deficit to some degree. I am glad that my bill became a part of this; not for the sake of the accounting procedures of the Federal Government but because it does take care of an inequity that cannot be justified.

The people in the Midwest who have not experienced a large influx of foreign investment, however, still see this as unfair competition. They probably do not like it in the first instance, but then in the second instance they like it less when they see the unfair competition that comes from the inequitable treatment under our tax laws. It is of some concern to Midwesterners and other people in rural and agricultural America. I am sure they are going to be thanking the Committee on Ways and Means as much as I am for their support of this legislation and for its inclusion in this reconciliation bill.

Mr. ROUSSELOT. Mr. Chairman, I yield 5 minutes to my colleague from New Jersey (Mrs. FENWICK), who has a couple of questions.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

I wonder if some questions could be answered. In relation to unemployment compensation, I have brought it to the attention of some of the Members of the House that in my State a person who leaves a job, where the employer has begged him to stay, who then goes to his second job and does not qualify for unemployment, is able to receive unemployment from the first employer whom he left, despite every urging on the part of the employer. Is this general practice? Is this contemplated under Federal law or guidelines?

Second, and even more extraordinary, a man was dismissed from employment because he was said to have stolen something from the company and, indeed, it was proved and he was convicted in court and sent to prison for having stolen. He, too, received unemployment compensation. I believe now the time has been extended. Such an employee used to be able to get unemployment compensation in 6 weeks under those conditions and now he can only get it a year.

When I brought this to the attention of Members of the House, I was told each State makes it own rules concerning these unemployment benefits and that it would be very much resented if the Federal Government took any part. But it does seem to me that if the taxpayers of this country are going to have to put up money when the fund has been exhausted, we must have standards. When I think of 180 people in my district who have lost their jobs because the whole company folded—people who want to work—we ought to be able to take care of them until they find a job. How can we do it if we are going to continue this way of handling public money?

Mr. ULLMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman.

Mr. ULLMAN. Let me say to my friend from New Jersey that many times we have had recommendations that Federal standards in unemployment compensation be adopted and we have had a lot of votes in the Congress. The Congress has resisted imposition of those Federal standards. The provisions the gentlewoman is talking about are strictly up to the State law. They vary from State to State. They are not Federal standards.

The State legislature is the recourse for any remedies that we might seek.

Mrs. FENWICK. Surely, Mr. Chairman, if we accept those conditions then the Federal Government should say that the States have the right to do with their own money what they want, however unwise or improvident, but we cannot expect the general taxpayers whose States may be far more prudent to be rescuing them when they get in these difficulties.

Mr. ULLMAN. If the gentlewoman will yield again, of course it is employer money, it is State-collected money in large part, and a person might be able to justify one standard, but one standard leads to another. So by and large I think that the Congress has been wise in not moving into the area of standards.

Mrs. FENWICK. And the gentleman thinks that we can continue this system even if these funds are going to convicted felons in jail?

Mr. ULLMAN. No, that is not what I said or implied. But as far as the standards and requirements of unemployment compensation, they should be left, I think, as they are, to State control.

Mrs. FENWICK. Thank you, Mr. Chairman.

Mr. ROUSSELOT. Mr. Chairman, I yield 5 minutes to my colleague from Illinois (Mr. Michel).

Mr. MICHEL. Mr. Chairman, notwithstanding my having spoken earlier in the day in opposition to the rule considering this measure, I rise in general support of the bill in its present unamended form. I do so despite misgivings over some of the individual parts, but I think it is absolutely essential to the viability of the budget process that we establish the principle of reconciliation.

It has taken us 6 years to implement the reconciliation provisions of the Budget Act, which is really a disgraceful performance. Still, it is better late than never. This bill represents a positive first step, but only if it is a first step, and not a last step as well.

As I see it, the real key here is the second budget resolution, for reconciliation was really meant to be applied to that resolution. What I am afraid of is that if this bill becomes law, we will consider that action sufficient for the year and revert back to our old practice of simply raising the spending ceiling in the subsequent resolutions. That is why I wanted to offer my amendment to establish a statutory ceiling and provide the President with impoundment powers. My amendment would have imposed upon the process a fiscal discipline that we will most likely not have the gumption to institute on our own.

Since this body turned down the opportunity to consider that amendment, I assume the majority side of the aisle feel they can discipline themselves. But do not count on it. The mere fact that the majority leadership plans to delay consideration of the second resolution until after the election is ample indication that majority members intend to enact a higher spending ceiling without offsetting reductions. They are planning to turn a balanced budget into a $30 billion deficit, but they do not have the courage to do it before the election.

Will we include reconciliation as part of the second resolution, as the law intended? I doubt it. But I am glad that we at least have this bill before us today. It is hardly a perfect document, in that it relies on gimmicks and one-shot reductions in many instances to produce the required savings. In several respects, the Senate version does a better job, and I hope in conference that a number of the Senate changes will be accepted.

But the bill does contain a number of important reductions that will serve to eliminate fat from the budget and excesses from our entitlement programs. I point in particular to the provision killing the massive, unjustified expansion of the trade adjustment assistance program; and to the section terminating Federal unemployment benefits to CETA public service jobholders; and to the provision tightening up on the payment of unemployment benefits to ex-military personnel; and to the provisions tightening up the school lunch program; and finally to the sections placing Federal military and civilian retirees on an equal footing with social security recipients as far as cost-of-living increases are concerned.

These are all fully justifiable savings, and savings which must be made permanent if we ever hope to bring the budget into balance.

Consequently, while the bill leaves much to be desired, it does undertake what some of us have been urging for years, and I thus recommend its adoption in its present form without the adoption of some of the proposed amendments. I would further urge the Budget Committee to follow up this effort by including reconciliation in the second budget resolution, as is required by law, in order to really make the budget process a meaningful vehicle.

Mr. ROUSSELOT. Mr. Chairman, I am willing to yield my time back.

Mr. ULLMAN. I yield back my time, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. Giaimo).

Mr. GIAIMO. I yield myself 7 minutes.

Mr. GIAIMO. Mr. Chairman, we have completed general debate at this point, I believe, insofar as all of the legislative committees are concerned, and I do not intend to take too much time here. I did want to make just a few comments because I think this is a historic piece of legislation that is before the House today. We have never had this kind of legislation before. What it is is an effort on the part of many people in this Chamber to find areas where we can reduce Federal spending. To the extent that we are effective and can enact this legislation, we will reduce Federal spending, hopefully to the tune of about $6 billion in spending programs, plus, because of the efforts of the Committee on Ways and Means, about $4 billion in additional revenues raised without creating new taxes. This $10 billion in savings will serve the taxpayer and the working man and woman of America in good stead. It did not just happen. It happened and is happening because of the great effort of many, many people.

I certainly want to pay my respects to all of the members of the Committee on the Budget on both sides, Democrats and Republicans, who have worked hard to make reconciliation a reality. I want to certainly pay my respects to the gentleman from California, Mr. Leon Panetta, who, above all, has made this a project for several years and has really contributed tremendously. I think without the gentleman from California (Mr. Panetta), we would probably not be here today. There are many other people that I would like to single out who have made great contributions—the Committee on Rules, and particularly the chairman of the Committee on Rules, the gentleman from Missouri (Mr. Bolling), who fully understands the problems confronting this Nation and the Government and what we must do and the steps we must take in order to bring about changes, healthy changes, reforms, if you will, and a different or better way of conducting the public's business.

I certainly want to pay my gratitude and respect to the committees, all of the committees that have been involved in this reconciliation process. You have heard from them all here today. They have all spoken. They have all explained the various items of legislation which they have proposed as fit subjects of reconciliation. I know that some Members of the House are less than enthusiastic about reconciliation because, as you well know, it is a very difficult thing to reduce programs. It is a very difficult thing to go after the entitlement programs of this Government, which now constitute about 75 percent of the total Federal budget, and to seek changes and reductions in them. But, nevertheless, they have done it. They have recommended it, and they bring it forth to you here today.

I just want to take you back a little bit this year. It was just a few months ago that we were confronted with a very serious crisis—inflation running at 20 percent, interest rates up about 18 percent, and we had to find ways of reducing Federal expenditures. We reported out a first budget resolution which in fact did reduce Federal expenditures by about $16 billion in discretionary programs.

In addition to that amount it was agreed when we worked on these issues in the spring that there was also a necessity to try to reform some of our existing legislation and try to save some money. That is what gave rise to the reconciliation process in the first budget resolution. If we adopt this reconciliation bill, what we will have accomplished is $16 billion worth of reduced spending in the fiscal year 1981 budget, plus $10 billion in reductions through reconciliation, a combination of reduced spending and some additional revenues. That is about $25 or $26 billion off of your deficit, and that is a step in the right direction.

I also think that this process, because of the way in which it is put together, because of the fact that it comes out with a limited rule, is the only practical way in which we can begin to look at the entitlement programs and make some changes in them. That is healthy, and that is good. So again I am grateful for the work and the effort of so many, many people in this House, in addition to the people that I just mentioned and named. I urge that you support this legislation. Let us go to conference with the other body which has already passed a similar type of legislation, and it will mean a real savings to the hard-pressed and harassed taxpayers of the United States.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I want to take a few minutes to congratulate our retiring leader, the distinguished gentleman from Connecticut (Mr. Giaimo), for his work in moving the reconciliation process forward.

It is no secret, for we have screamed it to the rooftops around here for the last couple of hours, that the minority side is not wholly satisfied with either the process or the result. But, the minority side is delighted that the majority has finally joined with it in its willingness to begin an important aspect of the

Budget Procedures Act which has been ignored for the past 6 years.

I think a good deal of the credit can be assigned to the gentleman from Connecticut, and I would like him to know that we all appreciate his efforts in this regard.

Mr. Chairman, we have over the past couple of hours pointed out a number of criticisms that we have. These have centered on the process, but they also relate to the substantive matter of the Reconciliation Act. Nevertheless, the Reconciliation Act is the only opportunity before us to make some desirable reductions in Federal spending this year. Therefore, Mr. Chairman, I am going to support this bill unless it is amended too vigorously, and unless too much money is put back in it.

Mr. Chairman, at this time I would like to yield 5 minutes to the distinguished gentleman from Ohio (Mr. REGULA), a member of the Committee on the Budget.

□ 1550

Mr. REGULA. Mr. Chairman, I rise in support of H.R. 7765, the Omnibus Reconciliation Act of 1980. I hope this is the first of many such bills to reduce and restrain Federal spending.

This is the first real test of the reconciliation process, and I am not 100 percent pleased with this bill, but I believe that a fair appraisal can only come to the conclusion that the House committees have responded well to the reconciliation instructions of the first budget resolution for 1981. It is now up to the whole House to carry on and pass this bill.

Final completion of the conciliation process will send an important message to the American people—that it is possible to change existing laws to achieve significant savings without causing harm to disadvantaged members of our society. My hope is that this is only a beginning, and that the Congress, and the President, finally catch the fiscal restraint bug that has been endemic everywhere except here in Washington.

A majority of the minority members of the Budget Committee voted against reporting this bill, but as we noted in our minority views, that vote should not necessarily be taken as an indication of our votes on final passage. Our vote against reporting the bill was intended to highlight several deficiencies in the bill:

First, the reconciliation process, and specifically a reconciliation bill, should not be used to fight major turf battles between committees. I am referring, of course, to the issue regarding the so-called superfund and the conflicting proposals contained in the reconciliation bill. I trust this will be resolved by amendment.

Second, some of the changes recommended by committees are fine, but they have been restricted to 1 year only. After the fiscal year ends, it is business as usual. While I recognize that the Budget Act cannot insist, through reconciliation, on out-year changes, there is no doubt that the spirit, if not the letter, of the Budget Act intends for the reconciliation-directed savings to be permanent. Nearly one-third of the estimated $6 billion in savings for 1981 is in the form of a 1-year only reduction.

Third, I strongly object to the use of budget-bookkeeping tricks that show savings, but in reality save nothing. The best example of this is in the case of postponing some $675 billion in medicaid payments so that they are counted in 1982 rather than 1981.

Fourth, a reconciliation bill should not provide a vehicle for standing committees to enact their legislative calendars. This bill has been widely touted as a bill that saves money; we are told that the reconciliation recommendations from the House committees will save $21 billion through 1985. But, this bill also contains some $3 billion in added spending—in medicare, medicaid, and child nutrition programs—that need not and should not be part of this legislation. I strongly concur with my colleague from Ohio (Mr. LATTA) in this regard, and support his efforts to remove these items from the bill. I oppose the inclusion of these increases in the bill without prejudice to the proposals.

These program increases should not be a part of reconciliation; they should be brought up separately, outside of the reconciliation process. The biggest danger associated with leaving these matters in the bill is that of a conference deadlock. The Senate did not include these or any other increases in their reconciliation, and I understand that the Senate feels as I do that reconciliation bills should only contain reductions. I would hate to see reconciliation defeated simply because the House insisted on attaching unnecessary cost increases to the reconciliation bill.

Reconciliation has not always been a bipartisan issue. In the past, Members on this side of the aisle were all but alone in demanding that the Budget Act be used to its full legal extent to rein in a Government whose budget had truly become uncontrollable. I am pleased that today the reconciliation process has strong bipartisan support throughout this body.

I especially want to thank the distinguished chairman of the Budget Committee for his leadership; without his stewardship, reconciliation would not be possible. There is not the slightest doubt in my mind as to the sincerity and conviction of my chairman, the gentleman from Connecticut, concerning the reconciliation process.

Let us keep up the momentum of the reconciliation process. I urge an "aye" vote.

● Mr. PEPPER. Mr. Chairman, the bill before this body, H.R. 7765, the Omnibus Reconciliation Act of 1980, represents more than is indicated by its title. To be sure, the bill incorporates many provisions whose purpose is to generate savings in the fiscal year 1981 budget of the Nation. But beyond that, certain features of this bill, which some of us who are members of the Rules Committee fought to preserve, represent triumph for the elderly and disabled people of this land who are served by medicare and the low-income persons who are recipients of medicaid. Moreover, they represent the culmination of several years' work by the Select Committee on Aging, which I have the privilege to chair. I take pleasure in the fact that as the ranking majority member of the Rules Committee, I was able to offer the motion which, among other things, prevented an effort to strip from this bill the provisions of H.R. 3990, the Medicare Amendments of 1980 and H.R. 4000, the medicare and medicaid amendments.

These measures, which were reported months ago by both the Ways and Means and Interstate and Foreign Commerce Committees, include provisions which would accomplish savings and improve benefits. The spending provisions are well below the amount authorized for medicare improvements and they are consistent with the provisions of the first budget resolution.

I wish to commend our distinguished colleague, Mr. GIAIMO, for the courage and leadership he has displayed in the course of these deliberations. His continued role will be most important in the work that remains to be done with regard to the fiscal year 1981 budget.

I must also commend and thank Mr. RANGEL, chairman of the Ways and Means Health Subcommittee, and Mr. WAXMAN, chairman of the Health and the Environment Subcommittee of the Interstate and Foreign Commerce Committee, for their persistence and dedication in bringing this legislation before the full House. Their committees have worked long and hard in developing this legislation, encountering delay and discouragement along the way. Two years ago, both the House and Senate overwhelmingly adopted bills which included many of the same provisions. Unfortunately there was too little time for completion of consideration. That this body will now finally have an opportunity to approve these provisions is a tribute to their labors. And it is a tribute to the respect and concern Members of this body exhibit for the elderly, disabled, and poor people of this country—those who will be the ultimate victors when the provisions of this bill become law.

Limitations of time prevent elaboration of all the provisions included in this measure. There are a few provisions which I wish were not included and which, under other circumstances, I would oppose. There are, of course, other provisions—other needed improvements in medicare and medicaid—which are not included and which, if it were in my power to do so, I would make magically appear in the text of the bill. But on balance, these provisions offer great hope for the people of this country who rely on the medicare and medicaid programs for assistance in meeting their health care needs.

A number of features from H.R. 3990 and H.R. 4000 and, now, H.R. 7765, are similar or identical to legislation I have introduced, with many Members of Congress as cosponsors. Some were passed by the House in the 95th Congress; others were added more recently.

The bill before us would improve the medicare home health benefit by eliminating the requirement of a 3-day prior hospitalization under part A, deleting the limit on visits under parts A and

B, eliminating the $60 part B deductible for home health, and establishing the need for occupational therapy as a qualifying criterion for receipt of home health care.

I regret that the committee saw fit to include the provision which would remove the requirement that proprietary home health agencies be licensed by the States in which they operate in order to receive medicare reimbursement. Some 5 years ago, proposed regulations to accomplish this were issued. Joint hearings were conducted by the Subcommittee on Health and Long-Term Care, which I also chair, and the Subcommittee on Long-Term Care of the Senate Special Committee on Aging. We concluded at that time that removing the licensure requirement was not warranted. The regulations were withdrawn.

I warmly applaud the inclusion of several provisions which will expand the coverage under medicare for mental health services. The bill would increase, from $250 to $750, the annual limit on outpatient mental health services and reduce the coinsurance requirement from 50 to 20 percent. It would provide coverage for psychologists services, with referral by a physician, and provide coverage for services furnished in qualified community mental health centers. Up to 15 outpatient visits and 60 partial hospitalization visits per year would be covered.

The bill authorizes the President to enter into reciprocal agreements with other countries to provide hospital and medical benefits for medicare beneficiaries who might live or be traveling outside the United States.

It would provide coverage for services furnished in comprehensive outpatient rehabilitation centers. It would eliminate the requirement that elderly and disabled medicare beneficiaries replace or pay for the first three pints of blood. It would make available coverage of pneumococcal vaccine, which is an important first step toward coverage for preventive health care. Benefit improvement with respect to services furnished by dentists, optometrists, chiropractors, and physical therapists also are included.

Finally, the bill includes a provision which would encourage enrollment by the elderly in health maintenance organizations.

This provision, the inclusion of which I warmly applaud, is very similar to legislation I first introduced in October of 1977 and to the bill offered early in this Congress by Mr. RANGEL, Mr. ULLMAN, Mr. CORMAN, and myself. It would establish a prospective reimbursement mechanism for medicare beneficiaries and thereby encourage their enrollment in HMO's.

The Carter administration has placed great emphasis on the development of HMO's. One of the large, unresolved issues regarding HMO development relates to their service to the elderly who are medicare beneficiaries.

HMO's offer comprehensive medical benefits, economic efficiency, and require only nominal premiums. Through emphasis on preventive and outpatient services, they are able to reduce hospital utilization significantly and channel the savings into broader services for their members.

This provision would institute prospective medicare reimbursement of HMO's, in line with prevailing HMO practices. Under this proposal, medicare would pay an HMO 95 percent of the cost of rendering the medicare part A and B services in the community by providers other than HMO's. A "community rate" for medicare members would be determined, adjusted to reflect the higher utilization rates of the elderly. The difference between the medicare reimbursement rate and the community rate would be used by the HMO to reduce out-of-pocket costs or finance broader benefits for medicare enrollees.

In a very few years, I expect this provision will generate savings in the medicare program—an obvious 5-percent saving for each medicare beneficiary enrolled.

On May 2, 1978, I conducted a hearing by the Subcommittee on Health and Long-Term Care of the Select Committee on Aging, in which we examined, for the first time in a congressional hearing, the benefits to be gained by the elderly as a result of HMO enrollment.

The advantages were clearly demonstrated: the potential for out-of-pocket cost savings; improved access to a wide range of services, such as home health care and prescription drugs; and assured availability of preventive and maintenance care, free of bureaucracy and burdensome paperwork.

Our principal medical programs, medicare and medicaid, promote an institutional bias which is both callous and costly. They to a great degree ignore the most pressing needs of a vast majority of older citizens—care for chronic illness and health maintenance. It is in the area of prevention and maintenance that HMO's can provide such enormous assistance to the elderly, and it is my strong hope that this provision will be enacted into law.

Mr. Chairman, there are many other important medicare and medicaid provisions included in this bill. Some would address fraud and abuse issues. Others would improve the administration of the medicare and medicaid programs. Significant savings in these programs will be generated by this measure. I commend medicare and medicaid provisions of the pending bill to the attention of my colleagues.●

● Mr. ALBOSTA. Mr. Chairman, I rise in support of reconciliation.

If Congress is serious about lowering inflation, balancing the budget, and cutting Government spending, passage of H.R. 7765, the Omnibus Reconciliation bill is a must. This important legislation implements the mandate set down in the first budget resolution to achieve savings of over $10 billion. I commend the chairmen and the members of the various standing committees for their diligence in completing this very difficult task.

There are real sacrifices made in H.R. 7765, cutting back on many popular programs. However, in this period of inflation, I feel it is vital that we tighten up our belts, and start living within our means. Programs that are absolutely necessary are still funded; but with this bill, we have been successful at eliminating excessive Government spending.

While it is clear because of economic forecasts that a balanced budget will be difficult to achieve in fiscal year 1981, the passage of H.R. 7765 will help make that goal a reality. We cannot balance the budget on the backs of the taxpayers. It must be done with responsible cuts in Government spending. This reconciliation bill makes those cuts.

I feel it is imperative that this House pass reconciliation with overwhelming support, to send a message to the Senate, the administration, the financial markets and the American public that we are serious about solving our economic problems by learning to say no to high deficits, and no to higher taxes.

I urge my colleagues to support H.R. 7765.●

● Ms. MIKULSKI. Mr. Chairman, I must urge my colleagues to oppose H.R. 7765—the budget reconciliation bill. I strongly support Congress effort to control Federal expenditures and set an example by balancing the budget—but we must not do so on the backs of our poorest and most disadvantaged citizens and our most loyal Americans.

Look at what this bill does in the name of "budget balancing":

It deprives some of our children of the only nutritious meal they get by cutting back on the child nutrition program and increasing the price students must pay for meals.

It severely restricts students' access to guaranteed student loans by requiring parents to use up their borrowing eligibility before they can get the loan. And, if the parents cannot pay the loan back in time—because we have thrown the father out of work and would not pay the mother a decent salary—then we are going to let the IRS hound them for the money.

It deprives the families of some of our gallant veterans of a decent burial.

It denies hundreds of thousands of workers in the auto, steel, textile, apparel, electronics, and footwear industries of the trade adjustment assistance they so well deserve.

It deprives our faithful civil service employees and valiant members of our armed services of a right they have worked for and counted on—a semiannual cost of living adjustment.

I urge you to oppose this bill. Controling Federal expenditures is supposed to benefit all Americans. This bill makes sure that many of those who are least able to fend for themselves are the first not to benefit.●

● Mr. HILLIS. Mr. Chairman I rise in general support of the bill, H.R. 7765, the Omnibus Reconciliation Act of 1980. I rise in support, however, with the regret that the House and Senate obviously cannot control the expenditures of the Federal Government.

Throughout the spring of this year there was much talk of balancing the Federal budget. The first budget resolution was almost impossible to get passed due to the debate over how to divide those few precious $613 billion. As part of that prolonged debate, the reconciliation bill became the linchpin to the success of the balanced budget effort.

In retrospect, the debate this spring seems almost foolish. Since then all hope of a balanced budget has gone down the drain. Congress continues to reach into the taxpayers' pockets and pull out huge deficits.

While all but the most liberal spenders of Federal money support this bill's purpose—to reduce unneeded or unnecessary Federal spending—we must keep it in perspective. Many of the savings in this bill are only temporary. Most of the so-called entitlement programs which we in Congress like to call "uncontrollables" have gone untouched.

We must learn from the lesson we have been taught. We must realize that regardless of our best efforts, the leadership of this Congress is unable to do anything about our huge Federal spending programs. Given every possible tool, some never before used, this Congress still finds it impossible to develop a balanced budget.

It would appear that the lesson to be learned is that now legislation such as sunset, tax reforms to spur the economy, tighter congressional control over Federal agencies, such as one House vetoes, are needed in addition to a meaningful reconciliation bill.

But beyond that—beyond the many legislative approaches which have been offered—we need a change in the attitude of this Congress. We often hear debates on this floor concerning the unemployed, the unborn, the disadvantaged, and the elderly. While it is obvious that we should be concerned about these groups, should we not also be concerned about the family with an income of $15, $20, or $30 thousand. After all, it is that group—the great American middle class—that is fast becoming an endangered species. Yet there seems to be more concern on this floor for the snail darter than the American middle class taxpayer.

We sit in the Congress and watch the oil companies take in billions more each year. We watch inflation hit record highs. We watch interest rates take huge jumps upward. We sit here with the economy in a shambles. Yet the best we can do is to hide behind this bill and pretend to be fiscally conservative. This bill will not help the American worker who is out there watching every dollar eaten by inflation or confiscated by the Government. We have yet to address the problems of excessive taxation and runaway Federal entitlement programs.

And if that were not enough, this Congress has the apparent determination to recess 1 month from today and return after the election in order to avoid being held accountable for the budget as determined by the second budget resolution.

Reconciliation as presented here today by this bill is not the answer. Nevertheless, we should pass the bill but with the understanding that until we re-arrange our priorities and begin examining and solving the problems we have in our economy, the only hope for the American worker is new leadership in this House and in the White House.●

● Mr. DANNEMEYER. Mr. Chairman, last May 7, when the House rejected the amendment of the distinguished gentleman from Arizona (Mr. UDALL) to strike the reconciliation requirement from the first budget resolution, a lot of us really believed the House had taken an important step in the direction of fiscal responsibility. But now that the reconciliation bill (H.R. 7765) is before us, one is not so sure. Rather than living up to the principle and promise of reconciliation, this bill seems to do little more than pay lipservice to the concept.

Particular reference is made to three things: First, that $675 million of the so-called budget cuts called for in H.R. 7765 are achieved, not by cutting spending, but simply by postponing the date of the spending 3 weeks; second, that $3 billion of the $4.2 billion in revenue increases come about, not by raising taxes, but through a speed-up of tax collections; and third, that several new programs—with big price tags—are included in the bill.

I am aware, of course, that an amendment to eliminate one of these new spending programs—the one for hazardous waste cleanup—is in order under the rule, an amendment that I intend to support because we should not be legislating on a reconciliation bill. But the same argument should also apply to the medicare and medicaid reform package that is part and parcel of H.R. 7765. If we are really serious about cutting the budget, and reconciliation is supposed to help us do just that, then we cannot countenance the spending increases and accounting gimmickry this bill incorporates.

In this context, it should also be remembered that, when the House approved reconciliation, the prospects, or at least the publicly stated prospects, were for a balanced budget. But now that OMB has issued its midsession budget review projecting a $30 billion deficit (which does not count another $21.7 billion in off-budget items), everyone knows that the financial picture will be far less rosy and the need for effective reconciliation far greater than ever. I recognize that the idea of cutting the budget in an election year is anathema to a lot of people but, if the inflation rate is not to exceed 20 percent next year or the year after, it simply has to be done. Like it or not, deficit spending by the Federal Government is the major cause of inflation and we cannot cut it by simply creating illusions. Somewhere, somehow, sometime, we have to make the reality match the appearances and, to quote the old adage "there is no time like the present." ●

● Mr. STOKES. Mr. Chairman, I rise in opposition to H.R. 7765, the Omnibus Reconciliation Act of 1980.

As one of six Budget Committee members who voted against the first budget resolution during committee deliberations, I am again faced with the task of voicing my disapproval of this reconciliation bill.

My opposition to the reconciliation proposal stems as a result of three fundamental factors: The first, is that reconciliation as a process is unwarranted, given existing economic realities. The second, is that like the first concurrent budget resolution, this reconciliation package represents a totally inequitable and misguided set of legislative reforms and priorities; and the third and probably most important factor is that reconciliation represents a fraudulent attempt on the part of Congress to show to the voting public our commitment to fiscal restraint.

Never before in the history of the congressional budget process, have both the Senate and House recommended the use of reconciliation as a component in the budget process. This is not to say that reconciliation has not been seriously considered in the past. The Senate proposed its use last year as a part of the budget process. The House Budget Committee conferees insisted that reconciliation not be used, but rather a set of legislative savings proposals were recommended. Although we have not achieved much of the savings recommended in the fiscal year 1980 budget, much of the rationale that led to our decision last year exists today. The budget process has in fact been effective and survived thus far without reconciliation, and certainly can continue another year without it.

I find the use of reconciliation this year, especially in light of the current economic crisis our country is facing, to be totally inappropriate and untimely. One need only consider that over 8 million American people are now unemployed. One need only consider that inflation is deeply embedded into our economy, and what is really needed are effective long-range economic growth policies, if we are to really turn the tide on inflation. Reconciliation serves only as a short-term, ineffective, and politically expedient measure.

We are all aware that the impact of a deficitless Federal budget on reducing the rate of inflation is minimal; and the direct effect of this reconciliation package is even less. We are also aware that the recession—which is really a code word for depression in my district, will and is having its most devastating impact on our poor and disadvantaged citizens. Yet, the majority of the legislative changes which would save $6 billion in outlays, will affect the very same programs which are aimed at ameliorating the plight of our poor and disadvantaged.

I am particularly concerned with the legislative proposals covering the areas of health, nutrition, and retirement benefits. If one carefully examines the language of the bill, we are not in fact eliminating fraud and abuse, but rather reducing actual benefits. Eliminating real benefits at a time when heads of households are increasingly out of work and a time when inflation is reducing the buying power of the dollar daily. This is totally unacceptable.

Many of the proponents of this bill will be quick to point out that along with the actual program reductions, there are in fact many program expansions which would raise the costs of certain programs by $630 million in fiscal year 1981, and $7.4 billion over the next 5 years. The fact is, the greater portion of these program expansions occur in fiscal year 1983 and beyond. The $6 billion in outlay savings for fiscal year 1981 are very real, and will have their most devastating impact next year. In this sense, the fact that reconciliation contains some program expansions is relative, and actually a moot point with regards to the fiscal year 1981 Federal budget.

One need only look at the reconciliation package closely to see that it is grossly inequitable. The legislative savings of $6 billion recommended in the bill include no legislative changes which would reduce overall defense spending, nor any significant revenue-producing changes in the area of tax expenditures for fiscal year 1981. In short, the majority of the $6 billion in savings for fiscal year 1981 come in only the human needs programs. I question the apparent theory that no legislative changes can be made in the area of defense spending, that would effectuate program savings. Are we saying that the only area where we can tighten our belts is in the human needs program? That there is no fraud and abuse of Federal funds in defense programs. I would disagree.

Likewise I have always found the Budget Committee's oversight of the revenue side of the budget to be lacking. In this sense, the lack of any significant reform in the area of tax expenditures is no surprise. If there is one glaring weakness in the budget process, it has been in lack of emphasis placed on revenue issues versus spending.

In closing, reconciliation was bandied about this spring as the key to a balanced budget. At that time, I as well as many of my colleagues predicted that a balanced budget would be an impossibility for fiscal year 1981. While I am not a soothsayer, it was very clear to me that given the present economy, such a balance was not achievable. The Congressional Budget Office now estimates that the deficit next year will be approximately $30 billion, not including a possible tax cut. While this deficit is due largely to events beyond the control of Congress, the fact remains that the fiscal year 1981 budget will be in deficit. The $6 billion in recommended savings included in this bill will have a negligible effect on both the deficit and the rate of inflation.

On this issue, I disagree with many of my Budget Committee colleagues who contend that without reconciliation the deficit will automatically increase by approximately $10 billion. They are well aware that such a blanket statement is not necessarily true, especially since a second budget resolution for 1981 is still to come.

The reconciliation proposal represents an illusory response on the part of the Congress to today's rapidly changing social, economic and political environment. If we are to be fiscally responsible, we must attack the long-run structural problems of the economy with a comprehensive economic growth policy, and a targeted structural employment effort. In this sense, a delay in the implementation of the policies set forth in the Humphrey-Hawkins Act is counter-productive, and harmful to the economy of this Nation.

I urge each of you not to fall prey to election year politics by passing this bill. It will not stem the tide of inflation, and is truly not a fiscal responsible response to the economic ills of our Nation.●

● Mr. ABDNOR. Mr. Chairman, I rise in support of H.R. 7765, the budget reconciliation measure now before us. While H.R. 7765 has not lived up to all my expectations as a fiscal conservative, I believe it takes us in the right direction: Toward meaningful fiscal sanity.

I support in particular the swing bed portion of the medicare and medicaid amendments, an idea I introduced as H.R. 3460 on April 5, 1979, and have subsequently worked for. It is not often that the Federal Government devises a program which is not only socially desirable but also cost effective, and when that happens it is worth noting.

The swing bed program allows rural hospitals with unused beds to provide long-term care services for needy patients. The measure authorizes medicare and medicaid reimbursements to hospitals for nursing services provided on a "swing bed" basis—that is, alternating between acute and long-term care.

This legislation is aimed primarily at assisting the rural elderly person who is in need of long-term care but is unable to obtain such care due to a lack of nursing home beds. By permitting long-term patients to remain in their local hospital after their acute-care needs are met, the proposal would not only serve the needs of the patient but would also encourage hospital cost containment by allowing the rural administrator to broaden the base of his fixed hospital costs.

One of the most vexing problems faced by rural hospitals has traditionally been uneven demands for acute care services, a circumstance which produces low occupancy rates. Instead of encouraging alternatives to empty hospital beds, our existing medicare and medicaid laws unnecessarily restrict the options available to both patients and hospital administrators.

We in Congress must realize that what is good for one part of the country is not necessarily the best option for another. In most urban areas hospital occupancy rates are high and there is at least an adequate supply of nursing home beds. The opposite is true in rural States like South Dakota. I believe we must support the development of local health care resources which would allow people to remain close to their home communities, if not in their own homes. Rural citizens historically have not had decent access to long-term care facilities.

The swing bed idea is not new. Since the early seventies, the Department of Health, Education, and Welfare has assisted a number of experimental programs designed to reduce health care costs. The Utah cost improvement project, implemented in 1973, and the reducing acute care costs (RACC) experiments in Texas, western Iowa, and South Dakota, implemented in 1976, have provided swing-bed care for the last few years.

I welcome the support of my colleagues for this important legislation.●

● Mr. BETHUNE. Mr. Chairman, the budget reconciliation bill, H.R. 7765, is an indictment of the current congressional leadership and its failure to formulate and pass a balanced budget. Last May, the House adopted an amendment to the first concurrent budget resolution which required the reconciliation bill. This reconciliation amendment required that all of the authorizing committees submit to the Budget Committee their proposed cuts to bring their spending into line with the budget totals. The budget reconciliation is the sum total of these proposals.

During consideration of the rule on this bill, I supported attempts to uphold the spirit of reconciliation. The Latta proposal would have deleted from the reconciliation bill provisions which will add $3.1 billion in spending over the next 5 years that had been added by the authorizing committees.

This was an attempt by the authorizing committees to legislate through the budget reconciliation process. By an almost straight party vote, these actions were allowed to stand. I supported the reconciliation process when I thought that it would be enforced and that it might result in a balanced budget.

However, it is obvious that the majority party of this Congress is not serious about restraining spending. They chose to hide spending increases—new funding authorizations—in this, a budget reconciliation bill.

I could not support the Budget Committee in their move to eliminate twice-a-year cost-of-living adjustments—COLA's—for Federal retirees. I may, one day, support an amendment of that nature—which takes due account of any contractual or implied obligations that have been promised to Federal employees—if and when the Congress demonstrates that it is serious about fiscal restraint and balancing the budget. To date, that has not been demonstrated. Under such circumstances, it is patently unfair to single out these people for retirement pay cuts since Congress does not have the will to impose fiscal discipline across the board.

The fiscal year 1981 budget process is a sham. The will of the people has not been worked. The reconciliation process did not work. Funding increases were protected by parliamentary rules and many groups were singled out for cuts that were by no means fair.●

Mr. GIAIMO. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. LATTA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. No amendments are in order except amendments recommended by the Committee on the Budget or except the following amendments, all of which shall not be subject to amendment, but each designated amendment shall be debatable for 30 minutes to be equally divided between a proponent and opponent thereto: First, an amendment to strike sections 520 through 561 and sections 920 through 948, and said amendment shall not be subject to a division of the question; second, an amendment printed on page 19812 of the CONGRESSIONAL RECORD of July 25, 1980 by, and if offered by, Representative VANIK of Ohio; and third, two amendments to be considered en bloc to strike title I and section 401 if offered by Representative BAUMAN of Maryland which shall not be subject to a division of the question.

The bill reads as follows:

H.R. 7765

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Reconciliation Act of 1980".

PURPOSE

SEC. 2. The Congress declares that the purpose of this Act is to implement the reconciliation provided for in the First Concurrent Resolution on the Budget for the fiscal year 1981, and in so doing—

(1) to help curb the inflationary pressure on the Nation's economy;

(2) to restrain growth in Federal spending by targeting reductions in certain programs;

(3) to begin to control the uncontrollables which account for approximately 75 percent of the Federal budget;

(4) to eliminate waste and inefficiency in Federal spending through basic program reforms; and

(5) to extend review and fiscal discipline in revenues as well as direct spending programs.

TITLE I—HOUSE COMMITTEE ON ARMED SERVICES

ELIMINATION OF SEPTEMBER 1980 COST-OF-LIVING INCREASE IN MILITARY RETIRED PAY

SEC. 101. (a) The increase in the retired and retainer pay of members and former members of the uniformed services which but for this section would be made effective September 1, 1980, under the provisions of paragraph (2)(B) of section 1401a(b) of title 10, United States Code, shall not be made.

(b)(1) In making the determination required by the provisions of paragraph (1) (A) of such section to be made on January 1, 1981, or within a reasonable time thereafter, the Secretary of Defense shall determine the percent change in the index (as such term is defined in section 1401a(a) of title 10, United States Code) published for December 1980 over the index published for December 1979 (rather than over the index published for June 1980).

(2) The increase in the retired and retainer pay of members and former members of the uniformed services to be made effective March 1, 1981, under the provisions of paragraph (2)(A) of such section shall, in lieu of the increase prescribed by such paragraph, be the percent change computed under paragraph (1), adjusted to the nearest 1/10 of 1 percent.

(c) For the purposes of this section, the term "uniformed services" means—

(1) the armed forces; and

(2) the commissioned corps of the Public Health Service and of the National Oceanic and Atmospheric Administration.

(d) Subsections (a) and (b) shall not take effect unless similar legislation is enacted to provide for no cost-of-living increase in annuities under subchapter III of chapter 83 of title 5, United States Code, to be effective September 1, 1980, and a cost-of-living increase in such annuities to be effective March 1, 1981, based upon the increase in the Consumer Price Index published for December 1980 over the Consumer Price Index published for December 1979.

TITLE II—HOUSE COMMITTEE ON EDUCATION AND LABOR

SUBTITLE A—SAVINGS UNDER THE SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS

REDUCTION IN GENERAL REIMBURSEMENT

SEC. 201. Notwithstanding section 4 of the National School Lunch Act, for the fiscal year ending September 30, 1981, the national average payment per lunch under such Act for such fiscal year, after being adjusted under section 11(a) of such Act, shall be reduced by 2½ cents for any school food authority under which less than 60 percent of the lunches served in the school lunch program were served free or at reduced price during the second preceding school year. The amount of State administrative expense funds to be made available to the States by the Secretary of Agriculture under section 7 of the Child Nutrition Act of 1966 for the fiscal year ending September 30, 1983, shall not be reduced because of a reduction in the amount of Federal funds expended as a result of the preceding sentence. For the purpose of this section, the term "school fund authority" means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a school lunch or school breakfast program.

REDUCTION IN COMMODITY ASSISTANCE

SEC. 202. (a) For the fiscal year ending September 30, 1981, the national average value of donated foods, or cash payments in lieu thereof, as determined under section 6(e) of the National School Lunch Act, shall be reduced by 2 cents.

(b) For the school year ending June 30, 1981, the Secretary shall not offer commodity assistance based upon the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966.

INCOME ELIGIBILITY GUIDELINES

SEC. 203. (a) During the fiscal year ending September 30, 1981, the income poverty guidelines described in the second sentence of section 9(b)(1) of the National School Lunch Act shall be adjusted annually without regard to the proviso contained in such sentence.

(b) In computing household income under section 9(b) of the National School Lunch Act for the fiscal year ending September 30, 1981—

(1) in States other than Alaska, Hawaii, and Guam, the Secretary shall allow a standard deduction of $60 each month for each household, which standard deduction shall be adjusted to the nearest $5 on July 1, 1980, to reflect changes in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor, for items other than food for the period beginning September 1977 and ending March 1980;

(2) the monthly standard deduction allowed in Alaska shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Alaska bear to the applicable income poverty guidelines for such States; and

(3) the monthly standard deduction allowed in Hawaii and Guam shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Hawaii bear to the applicable income poverty guidelines for such States.

ANNUAL ADJUSTMENTS

SEC. 204. (a) The proviso contained in the first sentence of the second paragraph under section 11(a) of the National School Lunch Act shall have no effect during the fiscal year ending September 30, 1981.

(b) During the fiscal year ending September 30, 1981—

(1) no semiannual adjustment required under the second sentence of the second paragraph under section 11(a) shall be made on January 1 of such fiscal year; and

(2) the adjustment required under the second sentence of the second paragraph under section 11(a) which is to be made on July 1 of such fiscal year shall reflect the changes in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor, for lunches served during the preceding 12-month period.

INELIGIBILITY OF JOB CORPS CENTERS

SEC. 205. During the fiscal year ending September 30, 1981, for purposes of the National School Lunch Act and the Child Nutrition Act of 1966, the term "school" shall not be considered to include Job Corps Centers funded by the Department of Labor.

FOOD SUPPLEMENTS

SEC. 206. (a) Section 13(b)(2) of the National School Lunch Act is amended by striking out "Any" and inserting in lieu thereof "except during fiscal year 1981, any".

(b) During the fiscal year ending September 30, 1981, any service institution (as defined under section 13(a)(1)(B) of the National School Lunch Act) shall be permitted, under section 13 of the National School Lunch Act, to serve lunch and either breakfast or a meal supplement each day of operation, and any service institution that is a camp or that serves meals primarily to migrant children shall be permitted to serve not more than four meals each day of operation, if—

(1) the service institution has both the administrative capability to serve such meals, and the food preparation and food holding capabilities, where applicable, to manage more than one meal service each day; and

(2) the service period of different meals does not coincide or overlap.

Meals which camps and any such service institutions serving meals primarily to migrant children may serve shall include a breakfast, a lunch, a supper, and meal supplements.

AMENDMENT TO THE CHILD CARE FOOD PROGRAM

SEC. 207. (a) Section 17(a) of the National School Lunch Act is amended in the second sentence by inserting before the period at the end thereof the following: "; and such term shall also mean any other private organization providing nonresidential day care services for which it receives compensation from amounts granted to the States under title XX of the Social Security Act".

(b) The amendment made by subsection (a) of this section shall apply with respect to all fiscal years beginning on or after October 1, 1980.

NATIONAL AVERAGE PAYMENT FOR SUPPLEMENTS

SEC. 208. (a) During the fiscal year ending September 30, 1981, in determining under paragraphs (1) through (3) of section 17(c) of the National School Lunch Act the national average payment rate for supplements served in institutions (other than family or group day care home sponsoring organizations)—

(1) no adjustment under such paragraphs shall be made on January 1 of such fiscal year; and

(2) the adjustment under such paragraphs required to be made on July 1 of such fiscal year shall be computed to the nearest one-fourth cent based on changes, measured over the preceding twelve-month period for which data are available, in the series for

food away from home of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor.

(b) For the fiscal year ending September 30, 1981, the average payment rate determined under paragraphs (1) through (3) of section 17(c) of the National School Lunch Act for supplements served in institutions (other than family or group day care home sponsoring organizations), taking into account any adjustment under such paragraphs in accordance with subsection (a) of this section, shall be reduced by 3 cents.

REDUCTION IN EQUIPMENT ASSISTANCE

SEC. 209. Notwithstanding the first sentence of section 17(n) of the National School Lunch Act, during the fiscal year ending September 30, 1981, only $4,000,000 shall be made available under such section for the purpose of providing equipment assistance to enable institutions to establish, maintain, and expand the child care food program.

REDUCTION IN REIMBURSEMENT FOR MILK

SEC. 210. Notwithstanding the sixth and seventh sentences of section 3 of the Child Nutrition Act of 1966, during the fiscal year ending September 30, 1981, the rate of reimbursement per half-pint of milk under such section shall be 5 cents for milk which is—

(1) served to children who are not eligible for free milk; and

(2) served in schools, child care institutions, and summer camps participating in meal service programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966.

PAYMENTS FOR FREE BREAKFASTS

SEC. 211. Notwithstanding section 4(b)(2)(B)(ii) of the Child Nutrition Act of 1966, in determining the maximum payment for free breakfasts under such section for the fiscal year ending September 30, 1981—

(1) no adjustment under such section shall be made on January 1 of such fiscal year; and

(2) the adjustment under such section required to be made on July 1 of such fiscal year shall be computed to the nearest one-fourth cent based on changes, measured over the preceding twelve-month period for which data are available in the series for food away from home of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor.

FOOD SERVICE EQUIPMENT

SEC. 212. Section 5(a) of the Child Nutrition Act of 1966 is amended by striking out "June 30, 1975, not to exceed $40,000,000" and inserting in lieu thereof "September 30, 1980, not to exceed $20,000,000, for the fiscal year ending September 30, 1981, not to exceed $15,000,000,".

NUTRITION EDUCATION AND TRAINING

SEC. 213. Section 19(j)(2) of the Child Nutrition Act of 1966 is amended by inserting after the first sentence the following: "For the fiscal year beginning October 1, 1980, there is authorized to be appropriated for the grants referred to in the preceding sentence not more than $15,000,000.".

Subtitle B—Savings Under the Federal Employees' Compensation Act

SEC. 221. (a) Subsection (a) of section 8146a of title 5, United States Code, is amended to read as follows:

"(a) Compensation payable on account of disability or death which occurred more than one year before March 1 of each year shall annually increase on that date by the amount determined by the Secretary of Labor to represent the percent change in the price index published for December of the preceding year over the price index published for December of the year prior to the preceding year, adjusted to the nearest one-tenth of 1 percent.".

(b) Section 8101 of title 5, United States Code, is amended by striking out paragraph (19), and by redesignating paragraphs (20) and (21) as paragraphs (19) and (20), respectively.

SEC. 222. The amendments made by section 221 shall take effect on the date of the enactment of this Act with respect to any adjustments which are to be made on or after that date; except that the period specified in such section as extending from December to December shall, with respect to the adjustment to be made on March 1, 1981, extend instead from the last month in which the price index resulted in an adjustment prior to enactment to December of 1980.

Subtitle C—Savings Under the Student Loan Program

SEC. 231. (a)(1) Section 430(b) of the Higher Education Act of 1965 is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2)(A) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance or guarantees pursuant to this part, the Commissioner shall enter into cooperative agreements with credit bureau organizations providing for the exchange of information concerning student borrowers in accordance with the requirements of this paragraph. For the purpose of assisting such organizations to comply with the Fair Credit Reporting Act, such agreements may provide for timely response by the Commissioner to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subparagraph (C), such agreements shall provide for the disclosure by the Commissioner to such organizations with respect to any loan for which the Commissioner has received a notice of default under subsection (a) of this section of—

"(i) the date of disbursement and the amount of any such loan;

"(ii) information concerning collection of any such loan, including information concerning the status of any defaulted loan on which the Commissioner has made a payment pursuant to subsection (a) of this section;

"(iii) the date of cancellation of the note upon completion of repayment by the borrower of any such loan or payment by the Commissioner pursuant to section 437.

"(B) Such agreements may also provide for the disclosure by such organizations to the Commissioner, upon receipt from the Commissioner of a notice under subparagraph (A)(ii) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Commissioner in proceeding to collection of the defaulted amount.

"(C) Agreements entered into pursuant to this paragraph shall contain such provisions as may be necessary to ensure that—

"(i) no information is disclosed by the Commissioner unless its accuracy and completeness have been verified, and no information stating that a loan is in default is disclosed until the Commissioner has made a reasonable effort to collect the debt;

"(ii) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Commissioner with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

"(iii) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(iv) the Commissioner (I) shall not disclose any such information until he has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (II) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(D) The Commissioner shall, within ninety days after the date of enactment of this paragraph, take such steps as may be necessary to establish the disclosure of information described in subparagraph (A)(i), (ii), and (iii) as a routine use in accordance with section 552a(b)(3) of title 5, United States Code, and to establish a system for the prompt notification of any borrower of any disclosure made pursuant to this paragraph.".

(2) Section 427(a)(2) of such Act is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H)(i) contains a notice of the system of disclosure of information concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations,".

(b) Section 430(c) of such Act is amended by adding at the end thereof the following new sentence: "Any forbearance which is approved by the Commissioner under this subsection with respect to the repayment of a loan shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and diligence in the collection of the loan.".

(c) Section 432 of such Act is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, the Commissioner may provide to eligible lenders, and to any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is available to him, from whatever source such information may be derived.".

SEC. 232. Section 438(b)(2) of the Higher Education Act of 1965 is amended by inserting "(A)" after "(2)", by inserting "subparagraph (B) and" immediately after "Subject to", and by adding at the end thereof the following new subparagraph:

"(B)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954 shall be one-half the quarterly rate of the special allowance established under subparagraph (A). Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.

"(ii) the rate set under division (i) shall not be less than one-half of 1 per centum.".

SEC. 233. (a) Part B of title IV of the Higher Education Act of 1965 is amended by inserting immediately after section 428A the following new section:

"LOANS TO PARENTS OF DEPENDENT UNDERGRADUATE STUDENTS

"SEC. 428B. (a) Parents of a dependent undergraduate student (as defined by regulations by the Secretary) shall be eligible to borrow funds under this part in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part.

"(b)(1) Subject to paragraphs (2) and (3), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation by the Secretary) is $3,000.

"(2) The aggregate insured principal amount for insured loans made to parents on account of an undergraduate dependent student shall not exceed $15,000.

"(3) No loan may be made to any parents or student under this part which would cause their combined loans for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

"(c)(1) Repayment of principal on loans made under this section may be deferred until the earliest of—

"(A) four years from the disbursement date of the first loan made for the educational expenses of the dependent student named in the parent's loan application;

"(B) the student's anticipated date of graduation or completion of studies estimated at the time of the application for a loan;

"(C) the date on which the student ceases to be at least a half time student at an eligible institution; or

"(D) such other date as the parent may request.

Such repayment obligation shall not be further delayed because of any current status of the student, but nothing in this section shall be construed to prohibit a lender from exercising forbearance for the benefit of the borrower.

"(2) No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(3) If a borrower under this section elects to begin making regular monthly payments of principal and interest at a date later than sixty days after the date such loan is disbursed by a lender, then the interest which would accrue between the date of disbursement and a date thirty days prior to the due date of the first payment shall be calculated and subtracted from the proceeds of the loan before the balance is disbursed. If such repayment begins on a date earlier than thirty days prior to the due date of the first payment, any such interest so retained by the lender which has not been earned shall be used to reduce the principal owing on the loan.

"(4) If a borrower under this section elects to begin making regular monthly payments of principal and interest at a date not later than sixty days after the date such loan is disbursed by a lender, then the interest shall be 7 per centum per annum on the unpaid principal balance of the loan.

"(d) Loans made under this section shall be insured by the Secretary in a State only if—

"(1) the State is not served by an agency having an agreement with the Secretary pursuant to section 428(b), or

"(2) an agency in a State having such an agreement does not authorize loans under this section (A) within one hundred and twenty days after the effective date of this amendment, or (B) if a State is prohibited from authorizing loans under this section because of existing State law, one hundred and twenty days after the adjournment of the next regular session of the State legislature which convenes after the effective date of this amendment.".

(b) Notwithstanding any provision of part B of title IV of the Higher Education Act of 1965, during the period beginning October 1, 1980, and ending September 31, 1981, no loan may be insured under section 427 of such Act, or made under a program covered by an agreement under section 428(b) of such Act, with respect to any dependent undergraduate student (as defined by regulations prescribed pursuant to section 428B(a) of such Act), if—

(1) the parents of such student reside within a State in which the program authorized by section 428B of such Act is determined by the Secretary by regulation to be fully operational; and

(2) such parents have not (A) borrowed under such section an amount equal to the maximum amount which may be borrowed consistent with section 428B(b) of such Act or (B) provided such amount from other sources.

SEC. 234. (a) Paragraph (4) of section 6103(m) of the Internal Revenue Code of 1954 (relating to individuals who have defaulted on student loans) is amended to read as follows:

"(4) INDIVIDUALS WHO HAVE DEFAULTED ON STUDENT LOANS.—

"(A) IN GENERAL.—Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan—

"(i) made under part B or E of title IV of the Higher Education Act of 1965, or

"(ii) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such loan.

"(B) DISCLOSURE TO EDUCATIONAL INSTITUTIONS, ETC.—Any mailing address disclosed under subparagraph (A)(i) may be disclosed by the Secretary of Education to—

"(i) any lender, or any State or nonprofit guarantee agency, which is participating under part B of title IV of the Higher Education Act of 1965, or

"(ii) any educational institution with which the Secretary of Education has an agreement under part E of title IV of such Act,

for use only by officers, employees, or agents of such lender, guarantee agency, or institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such loan programs for purposes of collecting such loans.".

(b) The first sentence of section 7213(a)(2) of such Code (relating to unauthorized disclosure of information by State and other employees) is amended to read as follows: "It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (l)(6) or (7), or (m)(4) of section 6103.".

(c) The amendments made by subsections (a) and (b) of this section shall take effect on the date of the enactment of this Act.

SEC. 235. Section 428(f) of the Higher Education Act of 1965 is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of this subsection no payment may be made under paragraph (1) or (2) of this subsection during the fiscal year beginning October 1, 1980 and ending September 30, 1981.".

TITLE III—HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Subtitle A—Savings Under the Medicare and Medicaid Programs

CHAPTER 1—PROVISIONS OF H.R. 4000

SHORT TITLE; TABLE OF CONTENTS

SEC. 300. This chapter may be cited as the "Medicare and Medicaid Amendments of 1980".

TABLE OF CONTENTS

Sec. 300. Short title; table of contents.

PART A—MEDICARE AND MEDICARD RELATED PROVISIONS

Sec. 301. In general.

[NOTE.—The succeeding sections (302–328), which are listed in this table of contents as being included in part A of this chapter but the text of which is not actually set forth, are substantially identical to the sections included in chapter 2 of subtitle A of title VIII. The text of these sections appears in this Act as sections 842 through 868.]

Sec. 302. Expanded membership of professional standards review organizations.

Sec. 303. Registered nurse and dentist membership on statewide council advisory group.

Sec. 304. Nonphysician membership on national professional standards review council.

Sec. 305. Efficiency in delegated review.

Sec. 306. Required activities of professional standards review organizations.

Sec. 307. Response of professional standards review organizations to Freedom of Information Act requests.

Sec. 308. Consultation by professional standards review organizations with health care practitioners.

Sec. 309. Review of routine hospital admission services and preoperative hospital stays by professional standards review organizations.

Sec. 310. Study of professional standards review organizations norms, standards, and criteria.

Sec. 311. Nonprofit hospital philanthropy.

Sec. 312. Consultative services for skilled nursing facilities.

Sec. 313. Study of need for dual participation of skilled nursing facilities.

Sec. 314. Alternative to decertification of long-term care facilities out of compliance with conditions of participation; look behind authority.

Sec. 315. Life safety code requirements.

Sec. 316. Criminal standards for certain medicare- and medicaid-related crimes.

Sec. 317. Exclusion of health care professionals convicted of medicare- or medicaid-related crimes.

Sec. 318. Requirements concerning reporting of financial interest.

Sec. 319. Withholding of Federal share of payments to medicaid providers to recover medicare overpayments.

Sec. 320. Hospital providers of long-term care services ("swing-beds").

Sec. 321. Coordinated audits under the Social Security Act.

Sec. 322. Demonstration projects relating to the training of aid to families with dependent children recipients as home health aides.

Sec. 323. Quality assurance programs for clinical laboratories.

Sec. 324. Reimbursement of clinical laboratories under medicare and medicaid.

Sec. 325. Reimbursement of physicians' services in teaching hospitals.

Sec. 326. Demonstration projects for requiring second opinions for certain elective surgical procedures under medicare and medicaid; application of informed consent to certain demonstration projects.

Sec. 327. Continued use of demonstration project reimbursement systems.

Sec. 328. Reimbursement for health maintenance organizations.

PART B—MEDICAID ONLY RELATED PROVISIONS

Sec. 331. Reimbursement under medicaid for services furnished by nurse-midwives.

Sec. 332. Continuing medicaid eligibility for certain individuals by disregarding certain involuntary increases in income.

Sec. 333. Limitation on medicaid eligibility for individuals who dispose of assets.

Sec. 334. Adjustment of dollar limitation and elimination of special limitation on medicaid payments to Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

Sec. 335. Extension of increased funding for long-term care facility inspectors under medicaid.

Sec. 336. Extension of increased funding for State medicaid fraud control units.

Sec. 337. Change in calendar quarter for which satisfactory utilization review must be shown to receive waiver of medicaid reduction.

PART A—MEDICARE AND MEDICAID RELATED PROVISIONS

IN GENERAL

SEC. 301. For the text of the medicare and medicaid related provisions of H.R. 4000 which are to be taken into account in satisfaction of the reconciliation requirements imposed upon the House Committee on Interstate and Foreign Commerce by section 3(a)(3) of H. Con. Res. 307 (Ninety-sixth Congress), and which are also taken into account in satisfying the corresponding requirements imposed upon the House Committee on Ways and Means, see chapter 2 of subtitle A of title VIII (sections 842 through 868).

PART B—MEDICAID ONLY RELATED PROVISIONS

REIMBURSEMENT UNDER MEDICAID FOR SERVICES FURNISHED BY NURSE-MIDWIVES

SEC. 331. (a)(1) Subsection (a) of section 1905 of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (16);

(B) by redesignating paragraph (17) as paragraph (18); and

(C) by inserting after paragraph (16) the following new paragraph:

"(17) services furnished by a nurse-midwife (as defined in subsection (m)) which he is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not he is under the supervision of, or associated with, a physician or other health care provider; and".

(2) Such section is further amended by adding at the end thereof the following new subsection:

"(m) The term 'nurse-midwife' means a registered nurse who has succesfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary, or has been certified by an organization recognized by the Secretary, and performs services in the area of management of the care of mothers and babies (throughout the maternity cycle) which he is legally authorized to perform in the State in which he performs such services.".

(b) Section 1902(a) of such Act is amended—

(1) by striking out "clauses (1) through (5)" in paragraph (13)(B) and inserting in lieu thereof "paragraphs (1) through (5) and (17)";

(2) by striking out "clauses (1) through (5)" in paragraph (13)(C)(i) and inserting in lieu thereof "paragraphs (1) through (5) and (17)";

(3) by striking out "clauses numbered (1) through (16)" in paragraph (13)(C)(ii) and inserting in lieu thereof "paragraphs numbered (1) through (17)"; and

(4) by striking out "clauses (1) through (5) and (7)" in paragraph (14)(A)(i) and inserting in lieu thereof "paragraphs (1) through (5), (7), and (17)".

(c)(1) The amendments made by this section shall (except as provided under paragraph (2)) be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning more than one hundred and twenty days after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

CONTINUING MEDICAID ELIGIBILITY FOR CERTAIN INDIVIDUALS BY DISREGARDING CERTAIN INVOLUNTARY INCREASES IN INCOME

SEC. 332. The next to last paragraph of subsection (a) of section 1902 of the Social Security Act is amended by adding at the end the following new sentence: "In the case of an individual who, for a month after May 1980, was determined to be eligible for medical assistance under the the plan and was receiving a monthly insurance benefit under title II of this Act or under the Railroad Retirement Act of 1974, or an annuity under subchapter III of chapter 83 of title 5, United States Code (relating to civil service retirement), or compensation, dependency and indemnity compensation or a pension, under chapter 11, 13, or 15 of title 38, United States Code (relating to veterans and other persons) and who (but for this sentence) would have become ineligible for such medical assistance in the subsequent month because of an increase in the amount of such benefit or annuity due to an increase in a cost-of-living or price index, or because of an annual, general increase in the amount of such compensation or pension, respectively, becoming effective in such subsequent month, for purposes of establishing the individual's eligibility for medical assistance under the plan for such subsequent month (and each month thereafter until the first month in which the individual otherwise becomes ineligible for such assistance) there shall not be included in the individual's income any such increase in the amount of such benefit, annuity, compensation, or pension which becomes effective in or after such subsequent month.".

LIMITATION ON MEDICAID ELIGIBILITY FOR INDIVIDUALS WHO DISPOSE OF ASSETS

SEC. 333. (a)(1) Section 1902(a)(17)(B) of the Social Security Act is amended by inserting "(except as provided under subsection (i))" after "(B) provide for taking into account".

(2) Section 1902 of such Act is further amended by adding after subsection (h) (added by section 854(b)(1)(A) of this Act) the following new subsection:

"(i)(1) Notwithstanding any other provision of this title (including subsection (f), but except as provided in paragraphs (2) and (4)) and to the extent permitted in this subsection, a State plan for medical assistance under this title may provide that an individual shall be ineligible for medical assistance, provided under a State plan approved under this title, for the period specified in paragraph (2) if—

"(A) within any twenty-four-month period that begins with or after the twenty-fourth month preceding the month in which he files an application for medical assistance under the plan, the individual (or another person whose resources are considered in determining the eligibility of the individual) disposed of resources which, if retained, would have caused the individual to be ineligible for such assistance, for the purpose of establishing eligibility for such benefits (and any disposition of resources within such period may be presumed to have been for such purpose unless the State is furnished convincing evidence that the transaction was for some other purpose), and

"(B) the sum of—

"(i) the current market value of the individual's (or other person's) equity interest in such resources disposed of without any compensation, and

"(ii) the difference between the current market value of the individual's (or person's) equity interest in such resources disposed of for compensation and the amount of such compensation,

exceeded $6,000.

"(2)(A) Except as provided in subparagraph (B), the period for which an individual is ineligible for medical assistance under a State plan by reason of the application of paragraph (1) shall be—

"(i) six months, if the sum described in paragraph (1)(B) is less than $12,000,

"(ii) twelve months, if the sum described in paragraph (1)(B) exceeded $12,000 but was less than $30,000, and

"(iii) twenty-four months, if the sum described in paragraph (1)(B) exceeded $30,000,

and shall begin with the month following the month in which such disposition occurred.

"(B) A period of ineligibility shall end after the month in which the individual (or other person) either (i) returns the resources, the disposition of which caused the ineligibility to occur or (ii) receives payment equal to the amount of any uncompensated interest described in paragraph (1)(B).

"(C) A State plan may provide for the waiver of the requirement of paragraph (1), or the reduction in the period of ineligibility imposed by this paragraph, in such cases as the State determines that such a waiver or reduction is justified.

"(3) If the eligibility of a person for medical assistance under this title is dependent upon the eligibility of another individual and that other individual is determined to be ineligible for medical assistance under paragraph (1) for a period of time, the person shall be ineligible for medical assistance for the same period of time.

"(4)(A) Except as provided in subparagraph (B), paragraph (1) shall not apply to individuals with respect to whom supplemental security income benefits are being paid under title XVI.

"(B) Subparagraph (A) shall not apply to a State which, pursuant to subsection (f), does not provide for medical assistance to all individuals with respect to whom supplemental security income benefits are being paid under title XVI.

"(5)(A) Notwithstanding any other provision of law, if an individual disposes of resources to another person which disposal, under this subsection, could make the individual ineligible for medical assistance from a State for a period, the State plan under this title may provide for the recovery from such other person of an amount equal to—

"(i) the cost of the medical assistance provided to the individual during or after such period, or

"(ii) the sum described in clauses (i) and (ii) of paragraph (1)(B) with respect to transactions between the individual and the person for such period.

whichever is less, except that the State may not initiate such an action for recovery more than three years after the last date in such period of ineligibility.

"(B) If a State recovers funds under subparagraph (A), it shall provide for notice to the Secretary of the amounts so recovered and the Secretary shall reduce the amount of payments otherwise provided to the State under this title by an amount equal to product of—

"(i) the amount so recovered, and

"(ii) the Federal medical assistance percentage of the State.".

(b)(1) Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) shall become effective on the later of October 1, 1980, or the first day of the first month beginning after the date of the enactment of this Act, and shall apply to dispositions of resources that occur (or occurred) on and after such date (before, on, or after the date of the enactment of this Act) as the State may specify.

(2) Section 1902(i)(5) of such Act shall apply to dispositions of property that occur on or after the date of the enactment of this Act.

(3)(A) The amendments made by subsection (a) shall (except as otherwise provided in subparagraph (B)) apply to a State which is a non-SSI medicaid State (as defined in subparagraph (C)) on and after the first day of the first calendar quarter beginning more than six months after the date of the enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to comply with the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to comply with such amendments before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(C) For purposes of this paragraph, the term "non-SSI medicaid State" means a State which, pursuant to section 1902(f) of the Social Security Act, has elected not to provide, under the State's plan approved under title XIX of such Act, medical assistance to all individuals with respect to whom supplemental security income benefits are payable under title XVI of such Act.

ADJUSTMENT OF DOLLAR LIMITATION AND ELIMINATION OF SPECIAL LIMITATION ON MEDICAID PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, THE NORTHERN MARIANA ISLANDS, AMERICAN SAMOA, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS

SEC. 334. (a)(1) The first sentence of section 1101(a)(1) of the Social Security Act is amended—

(A) by striking out "title V" and inserting in lieu thereof "titles V and XIX", and

(B) by striking out "American Samoa" and inserting in lieu thereof "the Northern Mariana Islands, American Samoa,".

(2)(A) Effective for fiscal year 1980 only, section 1108(c)(1) of such Act is amended by striking out "$30,000,000" and inserting in lieu thereof "$33,000,000".

(B) Effective for fiscal year 1981, subsection (c) of section 1108 of such Act is amended to read as follows:

"(c) The total amount certified by the Secretary under title XIX with respect to fiscal year 1981, for payment to—

"(1) the Commonwealth of Puerto Rico, shall not exceed $45,000,000,

"(2) the Virgin Islands shall not exceed $1,500,000,

"(3) Guam shall not exceed $1,400,000,

"(4) the Northern Mariana Islands shall not exceed $350,000,

"(5) American Samoa shall not exceed $350,000, and

"(6) the Trust Territory of the Pacific Islands shall not exceed $1,400,000.".

(C) Effective for fiscal year 1982 and subsequent fiscal years, subsection (c) of section 1108 of such Act is amended to read as follows:

"(c) The total amount certified by the Secretary under title XIX with respect to—

"(1) fiscal year 1982, for payment—

"(A) to the Commonwealth of Puerto Rico shall not exceed $60,000,000,

"(B) to the Virgin Islands shall not exceed $2,000,000,

"(C) to Guam shall not exceed $1,800,000,

"(D) to the Northern Mariana Islands shall not exceed $500,000,

"(E) to American Samoa shall not exceed $500,000, and

"(F) to the Trust Territory of the Pacific Islands shall not exceed $1,800,000; and

"(2) any subsequent fiscal year, for payment to the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands shall not exceed the amount specified in subparagraphs (A), (B), (C), (D), (E), and (F), respectively, of paragraph (1) increased by a percentage equal to the percentage increase in the Consumer Price Index for all urban consumers (published monthly by the Bureau of Labor Statistics of the Department of Labor) between October 1982, and the first month of such fiscal year.".

(b) The first sentence of section 1905(b) of such Act is amended—

(1) by striking out "(1)", and

(2) by striking out ", and (2)" and all that follows through "shall be 50 per centum".

(c)(1) The amendment made by subsection (a)(1) shall apply to fiscal years beginning after September 30, 1979.

(2)(A) Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply with respect to care and services provided, under a State plan approved under title XIX of the Social Security Act, in a calendar quarter beginning after September 30, 1979.

(B) Each of the agencies administering or supervising the administration of the State plan, approved under title XIX of the Social Security Act, for the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or the Northern Mariana Islands may elect not to have the amendments made by subsection (b) apply to any care or services provided in its jurisdiction to an individual over a period of time beginning before October 1, 1979, and ending after October 1, 1979.

EXTENSION OF INCREASED FUNDING FOR LONG-TERM CARE FACILITY INSPECTORS UNDER MEDICAID

SEC. 335. (a) Section 249B of the Social Security Amendments of 1972 (Public Law 92–603) is amended by striking out "and ending September 30, 1980,".

(b) Section 1903(a)(4) of the Social Security Act is amended by inserting "and before October 1, 1983" after "during such quarter".

(c) The amendment made by subsection (b) shall apply to calendar quarters beginning on or after October 1, 1980.

EXTENSION OF INCREASED FUNDING FOR STATE MEDICAID FRAUD CONTROL UNITS

SEC. 336. Section 1903(a)(6) of the Social Security Act is amended by striking out "an amount equal to" and all that follows through "with respect to costs incurred" and inserting in lieu thereof the following:

"an amount equal to—

"(A) 90 per centum of the sums expended during such a quarter within the twelve-quarter period beginning with the first quarter in which a payment is made to the State pursuant to this paragraph, and

"(B) 75 per centum of the sums expended during each succeeding calendar quarter,

with respect to costs incurred".

CHANGE IN CALENDAR QUARTER FOR WHICH SATISFACTORY UTILIZATION REVIEW MUST BE SHOWN TO RECEIVE WAIVER OF MEDICAID REDUCTION

SEC. 337. Section 1903(g)(3)(b) of the Social Security Act is amended—

(1) by striking out "October 1, 1977" and inserting in lieu thereof "January 1, 1978"; and

(2) by striking out "the calendar quarter ending on December 31, 1977" and inserting in lieu thereof "any calendar quarter ending on or before December 31, 1978".

CHAPTER 2—MEDICAID DISALLOWANCE SAVINGS

EXPEDITED RECOVERY FOR CERTAIN DISALLOWED MEDICAID CLAIMS

SEC. 341. (a) Section 1116 of the Social Security Act is amended by adding at the end the following new subsection:

"(e)(1) In the case of a disallowance under subsection (d) with respect to a State under title XIX, the Secretary shall not make such a disallowance unless the State has been provided, at least 30 days before the date the final notice of such disallowance is provided to the State, a preliminary notice of the Secretary's intent to make such a disallowance. After the Secretary provides a State such a final notice of disallowance and pending any reconsideration of such disallowance, the Secretary shall offset, from any subsequent payments made to the State under title XIX, an amount equal to the amount of the disallowance.

"(2) If, in the reconsideration (or appeal of a reconsideration) of such a disallowance, it is determined that the Secretary's disallowance (and offsetting) of an amount was incorrect, the Secretary shall pay to the State, in addition to the amount of such disallowance incorrectly taken, interest on such amount disallowed for the period beginning on the date such amount was offset from payment to the State and ending on the date it was paid to the State at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during such period.".

(b) The amendment made by subsection (a) shall apply to notices of disallowance made on or after October 1, 1980.

Subtitle B—Savings Under Railroad Retirement

CHANGE IN DEFINITION OF YEARS OF SERVICE

SEC. 351. The last sentence of section 1(f)(1) of the Railroad Retirement Act of 1974 is amended to read as follows: "Ultimate fractions shall be taken at their actual value.".

CHANGE IN REDUCTION OF SPOUSE'S ANNUITY

SEC. 352. Section 2(c)(2) of the Railroad Retirement Act of 1974 is amended by striking out "$\frac{1}{180}$" and inserting in lieu thereof "$\frac{1}{144}$".

CHANGE IN DEEMING REQUIREMENT

SEC. 353. (a) Section 3(a)(2) of the Railroad Retirement Act of 1974 is amended—

(1) by inserting "who have not attained

age 62" after "paragraph (ii) of section 2(a)(1) of this Act"; and

(2) by striking out "65" and inserting in lieu thereof "62".

CHANGE IN METHOD OF COMPUTING EFFECTS OF ANNUITY INCREASES ON CERTAIN DEDUCTIONS

SEC. 354. Section 3(1) of the Railroad Retirement Act of 1974 is amended to read as follows:

"(1) In cases where an annuity awarded under paragraph (iii) of section 2(a)(1) or under section 2(c)(2) of this Act is increased either by a change in the law or by a recomputation, the reduction on account of age in the amount of such increase shall be computed as though such increased annuity amount had been in effect for and after the month in which the annuitant first became entitled to such annuity under section 2(a)(1)(iii) or section 2(c)(2).".

CHANGE IN COMPUTATION OF SOCIAL SECURITY DEDUCTION

SEC. 355. (a) Section 3(m) of the Railroad Retirement Act of 1974 is amended by inserting ", after any reduction pursuant to paragraph (iii) of section 2(a)(1)," after "shall".

(b) Section 4(i)(1) of the Railroad Retirement Act of 1974 is amended by inserting ", after any reduction pursuant to section 2(c)(2)," after "shall".

CHANGE IN COMPUTATION OF SPOUSE ANNUITIES

SEC. 356. Section 4(b) of the Railroad Retirement Act of 1974 is amended by striking out "the maximum amount which could be paid" and all that follows through the end of such subsection and inserting in lieu thereof the following: "the maximum amount which could be paid to anyone with respect to such month as a wife's insurance benefit under section 202(b) of the Social Security Act on the basis of the wages of an individual who retired at age 65 in such month with credit for maximum taxable wages (as defined in section 3121 of the Internal Revenue Code of 1954) for each year after the year in which such individual attained age 21 and before the year in which such individual attained age 65, the amount of the annuity of such spouse under this subsection shall be reduced until the total of such annuity amounts equals such amount.".

CHANGE IN BEGINNING DATE FOR DISABILITY ANNUITIES

SEC. 357. Section 5(a) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (ii);

(2) by striking out the period at the end of paragraph (iii) and inserting "; and" in lieu thereof; and

(3) by adding at the end the following new paragraph:

"(iv) in the case of an applicant entitled to an annuity under paragraph (iv) or (v) of section 2(a)(1) of this Act or under section 2(d)(1)(i) of this Act on the basis of disability, not earlier than the first day of the sixth month following the onset date of the disability for which such annuity is awarded.".

REPORT

SEC. 358. No later than December 31, 1980, representatives of employees and representatives of carriers, acting through a group designated by them, shall submit to the Senate Committee on Labor and Human Resources and the House of Representatives Committee on Interstate and Foreign Commerce a report containing their joint recommendations for further restructuring of the railroad retirement system in a manner which will assure the long-term actuarial soundness of such system.

INCREASE IN RAILROAD RETIREMENT TAX ON EMPLOYERS

SEC. 359. Subsection (a) of section 3221 of the Internal Revenue Code of 1954 (relating to railroad retirement tax on employers) is amended by inserting "(9.75 percent in the case of compensation paid for services rendered after September 30, 1980, and before October 1, 1981)" after "9.5 percent".

EFFECTIVE DATES FOR SUBTITLE

SEC. 360. (a) The amendments made by sections 351, 352, 353, 354, 355, 356, and 357 shall take effect and apply only with respect to months in the fiscal year ending September 30, 1981, and only with respect to annuities which first begin to accrue during such fiscal year.

(b) Sections 358 and 359 shall take effect on the date of the enactment of this Act.

(c) Except as provided in this section, the Railroad Retirement Act of 1974 shall continue in effect as though this subtitle did not exist.

Subtitle C—Additional Savings

SEC. 361. For provisions of law (within the jurisdiction of the House Committee on Interstate and Foreign Commerce) which further reduce spending for fiscal year 1981 in satisfaction of the reconciliation requirements imposed by section 3(a)(3) of H. Con. Res. 307 (96th Congress), see Public Law 96–254 (the Rock Island Railroad Transition and Employee Assistance Act).

TITLE IV—HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Subtitle A—Savings Under the Civil Service Program

LIMITATION ON ANNUITY COST-OF-LIVING ADJUSTMENTS IN FISCAL YEAR 1981

SEC. 401. (a) Notwithstanding subsection (b) of section 8340 of title 5, United States Code, relating to cost-of-living adjustments—

(1) no determination under paragraph (1)(A) of such subsection, and no annuity increase under paragraph (2)(A) of such subsection, may be made with regard to changes in the price index occurring between June and December of 1980; and

(2) the determination under paragraph (1)(B) of such subsection required to be made on July 1, 1981 (or within a reasonable time thereafter), shall be made with regard to the percent change in the price index published for June 1981 over the price index published for June 1980, and any related annuity increase to be effective September 1, 1981, under paragraph (2)(B) of such subsection shall be based on the percent change so determined.

(b) Subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to any annuity to which section 8340 of title 5, United States Code, applies, whether that annuity commenced on, before, or after the date of the enactment of this Act.

ELIMINATION OF RETROACTIVE ANNUITY ADJUSTMENT; PRORATION OF INITIAL ADJUSTMENT

SEC. 402. (a) Section 8340(c) of title 5, United States Code, relating to cost-of-living adjustments, is amended—

(1) by striking out paragraph (1) thereof; and

(2) by inserting in lieu thereof the following new paragraph:

"(1) The first increase (if any) made under subsection (b) of this section to an annuity which is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member, shall be equal to the product (adjusted to the nearest 1/10 of 1 percent) of—

"(A) ⅙ of the applicable percent change computed under subsection (b) of this section, multiplied by

"(B) the number of full months for which the annuity was payable from the Fund before the effective date of the increase (counting any portion of a month as a full month).".

(b)(1) The amendment made by subsection (a)(1) shall apply with respect to annuities commencing after September 1, 1980, or after the date of the enactment of this Act, whichever date is later.

(2) The amendment made by subsection (a)(2) shall apply to any annuity increase taking effect after the date of the enactment of this Act. In applying section 8340(c)(1) of title 5, United States Code, to the annuity increase to be effective September 1, 1981 (taking into account section 401), "1/12" shall be substituted for "1/6" where it appears in section 8340(c)(1)(A) of such title 5 (as amended).

ELIMINATION OF CERTAIN DUAL COMPENSATION

SEC. 403. (a) Section 5519 of title 5, United States Code, relating to crediting of pay for certain amounts received for Reserve or National Guard service, is amended by striking out "section 6323(c) or (d)" and inserting in lieu thereof "section 6323(a) or (b)".

(b) The amendment made by subsection (a) shall take effect on the first day of the first applicable pay period beginning on or after October 1, 1980.

ELIMINATION OF CREDIT FOR HOLIDAYS IN CALCULATING LUMP-SUM LEAVE PAYMENTS

SEC. 404. (a) Section 5551(a) of title 5, United States Code, relating to lump-sum payment at separation for accumulated leave, is amended by adding at the end thereof the following new sentence: "The period of leave used for calculating the lump-sum payment shall not be extended due to any holiday occurring after separation.".

(b) The amendment made by subsection (a) shall take effect October 1, 1980, and shall apply to employees separating from the service on or after such date.

DISABILITY RETIREMENT ELIGIBILITY

SEC. 405. (a) Section 8337(a) of title 5, United States Code, relating to disability retirement, is amended to read as follows:

"(a) An employee who completes 5 years of civilian service and has become disabled shall be retired on the employee's own application or on application by the employee's agency. Any employee shall be considered to be disabled only if the employee is found by the Office of Personnel Management to be unable, because of disease or injury, to render useful and efficient service in the employee's position and is not qualified for reassignment, under procedures prescribed by the Office, to a vacant position which is in the agency at the same grade or level and in which the employee would be able to render useful and efficient service. A Member who completes 5 years of Member service and is found by the Office to be disabled for useful and efficient service as a Member because of disease or injury shall be retired on the Member's own application. An annuity authorized by this section is computed under section 8339(g) of this title, unless the employee or Member is eligible for a higher annuity computed under section 8339(a)–(e) or (n).".

(b) Section 8331 of title 5, United States Code, is amended by striking out paragraph (6).

(c) The amendments made by this section shall take effect on the 90th day after the date of the amendment of this Act.

MINIMUM DISABILITY RETIREMENT ANNUITY

SEC. 406. (a) Section 8339(g) of title 5, United States Code, is amended by adding at the end thereof the following: "However, if an employee or Member retiring under section 8337 of this title is receiving retired pay or retainer pay for military service (except that specified in section 8332(c)(1) or (2) of this title) or Veterans' Administration pension or compensation in lieu of such retired or retainer pay, the annuity of that employee or Member shall be computed under subsection (a), (b), or (c) of this section, as appropriate, excluding credit for military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in section 5532 of this title, or the Veterans' Administration pension or compensation in lieu of such retired or retainer pay, is less than the smaller of the annuity otherwise payable under paragraph (1) or (2) of this subsection, an amount equal to the difference shall be added to the annuity payable under subsection (a), (b), or (c) of this section, as appropriate.".

(b) Section 8347 of title 5, United States Code, is amended by adding at the end thereof of the following new subsection:

"(m) Notwithstanding any other provisions of law, for the purpose of ensuring the accuracy of information used in the administration of this chapter, at the request of the Director of the Office of Personnel Management—

"(1) the Secretary of Defense or the Secretary's designee shall provide information on retired or retainer pay provided under title 10; and

"(2) the Administrator of Veterans Affairs shall provide information on pensions or compensation provided under title 38.

The Director shall request only such information as the Director determines is necessary. The Director, in consultation with the officials from whom information is requested, shall establish, by regulation and otherwise, such safeguards as are necessary to ensure that information made available under this subsection is used only for the purpose authorized.".

(c) The amendments made by this section shall take effect on October 1, 1980.

EXEMPTION OF LIFE INSURANCE PREMIUMS FROM STATE TAXATION

SEC. 407. (a) Section 8714 of title 5, United States Code, relating to Employees' Life Insurance Fund, is amended by adding at the end thereof the following new subsection:

"(c)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, on, or with respect to, any premium paid under an insurance policy purchased under this chapter.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this chapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to premiums paid on or after such date.

Subtitle B—Savings Under the Postal Service Program

AUTHORIZATIONS FOR PUBLIC SERVICE APPROPRIATIONS

SEC. 411. Section 2401(b)(1)(C) of title 39, United States Code, is amended by striking out "an amount equal to 8 percent of such sum for fiscal year 1971" and inserting in lieu thereof "$486,000,000".

CONTINUATION OF SIX-DAY MAIL DELIVERY

SEC. 412. During the period from the date of enactment of this Act until October 1, 1981, the Postal Service shall take no action to reduce or to plan to reduce during that period of time the number of days each week for regular mail delivery.

AUTHORIZATION FOR REVENUE FOREGONE APPROPRIATIONS

SEC. 413. (a) Notwithstanding the provisions of sections 2401(c) and 3626 of title 39, United States Code, the authorization for appropriations for fiscal year 1981 for revenue foregone for mail matter described in former section 4452(b) and (c) of title 39, United States Code, shall be $100,000,000 less than would be authorized if this section were not enacted.

(b) The reduction in authorization made by subsection (a) of this section may be deemed a failure of appropriation for the purposes of section 3627 of title 39, United States Code, as amended by section 414 of this Act.

ADJUSTMENT OF REDUCED RATES

SEC. 414. Section 3627 of title 39, United States Code, is amended to read as follows:

"§ 3627. Adjusting free and reduced rates

"If Congress fails to appropriate an amount authorized under section 2401(c) of this title for any class, subclass, or type of mail sent free or at a reduced rate of postage under sections 3217, 3403–3405 or 3626 of this title, the Federal Voting Assistance Act of 1955, or the Overseas Citizens Voting Rights Act of 1975, the rate for that class, subclass, or type may be adjusted so that the increased revenues received during the fiscal year affected from users of the class, subclass, or type will equal approximately the amount which the Congress failed to appropriate. Adjustments made under this section may not become effective until the Postal Service has submitted a request for a recommended decision by the Postal Rate Commission and the recommended decision has been acted upon by the Governors of the Postal Service under section 3625 of this title. The Commission shall conduct a proceeding under section 553 of title 5 and shall issue its recommended decision not later than 60 days after receiving the request. If the Commission fails to render its decision within 60 days, subject to the extension of time provisions of section 3624(c) of this title, the Postal Service may establish temporary rates which may continue in effect until the Commission's decision is acted upon".

RECONCILIATION APPROPRIATIONS

SEC. 415. (a) Section 2401(c) of title 39, United States Code, is amended by adding at the end thereof the following new sentence: "In requesting an appropriation under this subsection for a fiscal year, the Postal Service shall include an amount to reconcile sums authorized to be appropriated for prior fiscal years on the basis of estimated mail volume with sums which would have been authorized to be appropriated if based on the final audited mail volume.".

(b) The request for a reconciliation appropriation described in subsection (a) of this section which was submitted by the Postal Service for fiscal year 1981 shall be resubmitted for fiscal year 1982.

NONPROFIT MAIL RATES FOR POLITICAL COMMITTEES

SEC. 416. Section 3626(e) of title 39, United States Code, is repealed.

EFFECTIVE DATES

SEC. 417. (a) Except as provided by subsection (b) of this section, this subtitle and the amendments made by this subtitle shall become effective upon the date of the enactment of this Act.

(b) The amendment made by section 416 shall become effective October 1, 1980.

TITLE V—HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Subtitle A—Savings Under Highway Programs

SEC. 501. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for the fiscal year ending September 30, 1980, shall not exceed $7,900,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code.

(b) For the fiscal year ending September 30, 1980, immediately upon enactment of this Act, the Secretary of Transportation shall control the obligation of such limitation by distribution of amounts of such limitation not obligated on the date of enactment of this Act in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to a State in fiscal year 1980 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States in such fiscal year; except that no State shall receive a distribution such that the total of amounts so distributed to such State and amounts obligated by such State on or before the date of enactment of this Act would exceed a distribution of such limitation made in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to such State in fiscal year 1980 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States in such fiscal year and the Secretary of Transportation shall not be required to cancel any obligations incurred on or before the date of enactment of this Act.

(c) Notwithstanding subsection (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State has indicated prior to April 2, 1980, its intention to lapse sums apportioned under section 104 (b)(5)(A), title 23, United States Code;

(2) after August 25, 1980, revise a distribution made under subsection (b) in the event a State will not obligate the amount distributed during fiscal year 1980 and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during fiscal year 1980; and

(3) not distribute funds for administration expense and forest highways under such limitation.

SEC. 502. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for the fiscal year ending September 30, 1981, shall not exceed $8,750,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code.

(b) For the fiscal year ending September 30, 1981, the Secretary of Transportation shall control the obligation of the limitation imposed by subsection (a) by allocation according to the following formula: 70 per centum in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to a State for fiscal year 1981 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year; the remaining 30 per centum not so allocated, in the order in which States having obligated all such sums so allocated submit projects on or after July 1, 1981, to the Secretary of Transportation for his approval and in the amounts for such projects.

(c) Notwithstanding subsection (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums

apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after July 1, 1981, revise a distribution of the 70 per centum made under subsection (b) if a State will not obligate the amount distributed during fiscal year 1981 and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during fiscal year 1981; and

(3) not distribute amounts authorized for administrative expenses and forest highways.

SEC. 503. Notwithstanding any other provision of law, the total of all obligations for "State and Community Highway Safety" (23 U.S.C. 402) for the fiscal year ending September 30, 1981, shall not exceed $150,405,000.

Subtitle B—Savings Under Airport and Airway Improvement Act

SEC. 511. If the House of Representatives approves a conference report on the Airport and Airway Improvement Act which includes budget authority for fiscal year 1981 which in total exceeds a sum $300,000,000 below the budget authority for fiscal year 1981 in H.R. 6721, as reported by the Committee on Public Works and Transportation, then before the bill which is the subject of such conference report is enrolled, the Clerk of the House is directed to include the following provision in the bill: "Notwithstanding any other provision of law, the total amount which is obligated from the Airport and Airway Trust Fund for airport development and airport planning and for grants under section 104(e) of the Airport Safety and Noise Abatement Act of 1979, as amended, for the fiscal year ending September 30, 1981, shall not exceed $725,000,000.".

Subtitle C—Comprehensive Oil Pollution Liability and Compensation; Hazardous Substances

SHORT TITLE

SEC. 520. This subtitle may be cited as the "Comprehensive Oil Pollution Liability and Compensation Act".

CHAPTER 1—POLLUTION LIABILITY, COMPENSATION, AND FUND

SEC. 521. For the purposes of this chapter, the term—

(a) "Secretary" means the Secretary of Transportation;

(b) "fund" means the fund established by section 522;

(c) "person" means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity;

(d) "incident" means any occurrence or series of occurrences, involving one or more vessels, facilities, or any combination thereof, which causes, or poses an imminent threat of, oil pollution;

(e) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water;

(f) "public vessel" means a vessel which—

(1) is owned or chartered by demise, and operated by (A) the United States, (B) a State or political subdivision thereof, or (C) a foreign government, and

(2) is not engaged in commercial service;

(g) "ship" means either of the following types of vessels carrying oil in bulk as cargo or in residue:

(1) a self-propelled vessel, or

(2) a non-self-propelled vessel other than an inland oil barge;

(h) "inland oil barge" means a non-self-propelled vessel, carrying oil in bulk as cargo and certificated to operate only on the internal waters of the United States while operating in such waters;

(i) "facility" means a structure, or group of structures (including a mobile drilling rig when in the drilling mode), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil;

(j) "onshore facility" means any facility, (including, but not limited to, any motor vehicle or rolling stock) located in, on, or under any land within the United States;

(k) "offshore facility" means any facility located in, on, or under the navigable waters or, if the facility is subject to the jurisdiction of the United States, the high seas;

(l) "terminal" means a permanently situated facility, located within the territorial limits of the United States and not owned by an agency of the Federal Government, which receives oil in bulk directly from a vessel, offshore production facility, offshore port facility, onshore pipeline, or the pipeline constructed under the provisions of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.);

(m) "refinery" means a terminal that receives crude oil for the purpose of refinement;

(n) "oil pollution" means—

(1) the presence of oil, either in an unlawful quantity or which has been discharged at an unlawful rate—

(A) in or on the navigable waters or on land within the United States immediately adjacent thereto; or

(B) in or on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

(2) the presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

(A) when discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) or the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501 et seq.);

(B) causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of, the United States; or

(C) when discharged from a ship that received oil at the terminal facilities of the pipeline constructed under the provisions of the Trans-Alaska Pipeline Authorization Act, as amended (43 U.S.C. 1651 et seq.), for transportation to a port in the United States, and was discharged from that ship prior to being brought ashore in such a port; or

(3) the presence of oil in or on the territorial sea, internal waters, or adjacent shoreline, of a foreign country, in a case where damages are recoverable by a foreign claimant under section 523(b)(6);

(o) "navigable waters" means the waters of the United States, including territorial seas;

(p) "United States claimant" means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim;

(q) "foreign claimant" means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

(r) "United States" and "State" include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction;

(s) "oil" means petroleum, including crude oil or any fraction or residue therefrom;

(t) "cleanup costs" means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident;

(u) "barrel" means forty-two United States gallons at 60 degrees Fahrenheit;

(v) "claim" means a demand in writing for a sum certain;

(w) "discharge" means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

(x) "owner" means any person holding title to, or, in the absence of title, any other indicia of ownership of, a vessel or facility, but does not include a person who (either directly or through a trust or singly or in combination with others) holds title to or any indicia of ownership of a vessel or facility and without participating in the management or operation of such vessel or facility, leases or charters to any other person (with whom such person is not otherwise affiliated), or holds indicia of ownership primarily to protect his security interest in the vessel or facility;

(y) "affiliated" means a relationship in which a person owns (in whole or in part), is owned by (in whole or in part), or is under common control with, another person;

(z) "operator" means—

(1) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

(2) in the case of a facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner;

(aa) "natural resources" includes fish, wildlife, biota, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government;

(bb) "removal costs" means—

(1) costs incurred under subsection (c), (d), or (l) of section 311 of the Federal Water Pollution Control Act, as amended, section 5 of the Intervention on the High Seas Act, or subsection (b) of section 18 of the Deepwater Port Act of 1974 as amended; and

(2) cleanup costs, other than the costs described in clause (1);

(cc) "guarantor" means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator; and

(dd) "internal waters of the United States" means those waters of the United States lying inside the base line from which the territorial sea is measured and those waters outside that base line which are a part of the Gulf Intracoastal Waterway.

FUND ESTABLISHMENT, ADMINISTRATION, AND FINANCING

SEC. 522. (a) There is established in the Treasury of the United States a fund known as the Comprehensive Oil Spill Liability Fund. The amount of the fund may not exceed $200,000,000, except to the extent necessary to permit payment into the fund of moneys recovered or collected under subsections (b)(2) and (3) of this section. The fund shall be administered by the Secretary and the Secretary of the Treasury, as specified in this section. The fund may sue and be sued in its own name.

(b) The fund is constituted from—

(1) all fees collected pursuant to subsection (d);

(2) all moneys recovered on behalf of the fund under section 528;

(3) all other moneys recovered or collected on behalf of the fund, under this chapter.

(c) In addition to the processing and settlement of claims under section 527, the fund is immediately available to pay those removal costs defined in section 521(bb)(1) arising out of or directly resulting from an oil pollution incident. The Secretary may issue regulations designating the person or persons who may obligate available money in the fund for those purposes.

(d)(1) Subject to the provisions of section 542(b), the Secretary of the Treasury shall collect from each refinery owner, and from the owner of each terminal receiving oil for export or entry into the United States, whether for import or transfer to a foreign country, a fee, not to exceed 3 cents per barrel of oil received. Oil upon which a fee has been levied under this paragraph shall not be subject to subsequent levy hereunder. The person who owns such oil or has a royalty interest in such oil under the Outer Continental Shelf Lands Act, as amended, shall be obligated to reimburse the owner of such refinery or terminal, as the case may be, the amount of the fee levied on the oil of that person and paid by the owner of the refinery or terminal: *Provided,* That whenever a fee is levied on oil that was produced under a lease agreement or other contract, under the authority of the Outer Continental Shelf Lands Act, as amended, that entitles a person to a payment calculated as a percentage of production, commonly referred to as a royalty, that person is considered to be the owner of that percentage of oil which constitutes a royalty, whether that royalty is paid in value or in kind.

(2) The Secretary of the Treasury, after consulting with the Secretary, shall, by regulation, establish the amount of the fee to be collected and procedures relating to the collection of the fee. No amendment to these regulations may become effective less than ninety days after publication of the amendment in the Federal Register. Any change in the amount of the fee shall be designed to insure that the fund is maintained at a level not less than $150,000,000 and not more than $200,000,000. No regulation that changes fees, whether or not in effect, may be stayed by any court pending completion of judicial review of that regulation.

(3)(A) Any person who fails to collect or pay fees as required by this section and the regulations issued under paragraph (2) shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fees required to be collected or paid and the interest on those fees at the rate the fees would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e)(2). Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the fund against that person for such amount.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected under paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such required material for the purpose of audit and examination.

(e)(1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the fund.

(2) The Secretary of the Treasury may invest any excess in the fund, above the level determined under paragraph (1), in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and under regulations issued by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the fund shall be credited to and form a part of the fund.

(f) If at any time the moneys available in the fund are insufficient to meet the obligations of the fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the Secretary from moneys in the fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States.

DAMAGES AND CLAIMANTS

SEC. 523. (a) Claims for damages for economic loss, incurred on or after the effective date of this section and arising out of or directly resulting from oil pollution, may be asserted for—

(1) removal costs;

(2) injury to, or destruction of, real or personal property;

(3) loss of use of real or personal property;

(4) injury to, or destruction of natural resources;

(5) loss of use of natural resources;

(6) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources; and

(7) loss of tax revenue for a period of one year due to injury to real or personal property.

(b) A claim authorized by subsection (a) may be asserted—

(1) under item 1, by any claimant: *Provided,* That the owner or operator of a vessel or facility involved in an incident may assert such a claim only if he can show that he is entitled to a defense to liability under section 524(e)(1) or 524(e)(2) or, if not entitled to such a defense to liability, that he is entitled to a limitation of liability under section 524: *Provided further,* That where he is not entitled to such a defense to liability but entitled to such a limitation of liability, the claim may be asserted only as to the removal costs incurred in excess of that limitation;

(2) under items 2, 3, and 5, by any United States claimant, if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;

(3) under item 4, by the President, as trustee for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority, or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State: *Provided,* That compensation paid under this item may be used only for restoration of the damaged resources or for acquisition of equivalent resources;

(6) under item 6, by any United States claimant if the claimant derives at least 25 percent of his earnings from activities which utilize the property or natural resource;

(5) under item 7, by any State or political subdivision thereof;

(6) under items 2 through 7, by a foreign claimant to the same extent that a United States claimant may assert a claim if—

(A) the oil pollution occurred (1) in the navigable waters or (2) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;

(B) the claimant is not otherwise compensated for his loss;

(C) the oil was discharged from a facility or from a vessel located adjacent to or within the navigable waters or was discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) or the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501 et seq.); and

(D) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants: *Provided, however,* That condition (C) shall not apply where the claim is asserted by a resident of Canada and where the oil pollution involves oil that has been transported through the pipeline constructed under the provisions of the Trans-Alaska Pipeline Authorization Act, as amended, has been loaded on a ship for transportation to a port in the United States, and is discharged from the ship prior to being brought ashore in that port; and

(7) under any item, by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection.

(c) If the Attorney General fails to act under clause (7) of subsection (b) within sixty days of the date on which the Secretary designates a source under section 526, any member of a group may, in accordance with rule 23 of the Federal Rules of Civil Procedure, maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to act shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

LIABILITY

SEC. 524. (a) Subject to the provisions of subsections (b), (c), (d), and (e), the owner and operator of a vessel other than a public vessel, or of a facility, that is the source of oil pollution, or poses a threat of oil pollution in circumstances that justify the incurrence of the type of costs described in section 521(bb)(1), shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under section 523.

(b) Except when the incident is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator; or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or except when the owner or operator fails or refuses to report the incident or to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, the total of the liability under subsection (a) and any removal costs incurred by, or on behalf of, the owner or operator shall be limited to—

(1) in the case of a vessel other than a ship or other than an inland oil barge, $150 per gross ton;

(2) in the case of an inland oil barge, $150,000 or $150 per gross ton, whichever is greater;

(3) in the case of a ship, $250,000 or $300 per gross ton (up to a maximum of $30,000,000), whichever is greater;

(4) in the case of a deepwater port subject to the Deepwater Port Act of 1974 (including the liability of the owner or operator of such deepwater port for a discharge from a ship moored at such port), $50,000,000;

(5) in the case of an offshore facility operated under authority of the Outer Continental Shelf Lands Act, as amended, the total of removal costs plus $50,000,000; or

(6) in the case of a facility other than one described in clause (4) or (5), $50,000,000 or such lesser limit as is established under subsection (d).

The Secretary shall, from time to time, report to Congress on the desirability of adjusting the limitations of liability specified in this subsection.

(c) The Secretary may, by regulation, reduce the limitation of liability for facilities subject to clause (5) of subsection (b), to the total of all removal costs plus an amount not less than $35,000,000, if he determines that the limitation will have either a significant adverse impact on small business enterprises or a significant anticompetitive impact.

(d) The Secretary shall issue regulations establishing limits of liability, up to $50,000,000, for various classes of facilities other than those described in clauses (4) and (5) of subsection (b). These regulations shall take into account the size, type, location, oil storage and handling capacity, and other matters relating to the likelihood of incidents involving those classes. These limits shall, to the extent practicable, be comparable to the limits established under clause (3) of subsection (b), taking into account the relative potential threat of oil pollution, but in no case shall such a limitation be less than $2,000,000 for any tank motor vehicle operated on highways and transporting oil in bulk with a water capacity of more than 3,500 gallons.

(e) There shall be no liability under subsection (a)—

(1) to the extent that the incident is caused—

(A) By an act of war, hostilities, civil war, or insurrection; or

(B) by a natural phenomenon of an exceptional, inevitable, and irresistible character, which could not have been prevented or avoided by the exercise of due care or foresight;

(2) to the extent that the incident is caused by an act or omission of a person other than—

(A) the claimant,

(B) the owner or operator,

(C) an employee or agent of the claimant, the owner, or the operator, or

(D) one whose act or omission occurs in connection with a contractual relationship with the claimant, the owner, or the operator;

(3) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(4) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(f)(1) The fund shall be liable, without any limitation, for all damages for which a claim may be asserted under section 523, to the extent that the loss is not otherwise compensated.

(2) Except for the removal costs specified in clause (1) of section 521(bb), there shall be no liability under paragraph (1) hereof—

(A) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection;

(B) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(C) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(g)(1) In addition to the damages for which claims may be asserted under section 523, and without regard to the limitation of liability provided in this section, the owner, operator, or guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim was presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or guarantor shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept that amount, inclusive. However, if the owner, operator, or guarantor shall offer to the claimant, within sixty days of the date upon which the claim was presented, or of the date upon which advertising was commenced pursuant to section 526, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

(2) The interest provided in paragraph (1) shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

(h) No indemnification, hold harmless, or similar agreement shall be effective to transfer from the owner or operator of a facility, to any other person, the liability imposed under subsection (a), other than as specified in this title: *Provided*, That this provision does not preclude an agreement whereby the holder of a leasehold interest or permit for the exploration of oil agrees to indemnify for, or hold harmless from, such liability, the owner or operator of a vessel or facility which is, by contract or other agreement, engaged in activity on behalf of the holder of the leasehold interest or permit.

(i) Nothing in this chapter shall bar a cause of action that an owner or operator, subject to liability under subsection (a), or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

(j) To the extent that it is in conflict with, or otherwise inconsistent with, any other law relating to liability or the limitation thereof, this section supersedes such other law, including section 4283(a) of the Revised Statutes, as amended (46 U.S.C. 183(a)).

FINANCIAL RESPONSIBILITY

SEC. 525. (a)(1) The owner or operator of each vessel (except a non-self-propelled barge that does not carry oil, as that term is defined in section 311(a)(1) of the Federal Water Pollution Control Act, as amended, or hazardous substances), over three hundred gross tons that uses an offshore or onshore facility or the navigable waters, shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability under this subtitle to which the owner or operator of such vessel would be exposed in a case where he would be entitled to limit his liability in accordance with section 524 and with subsection (g) of section 311 of the Federal Water Pollution Control Act, as amended. Financial responsibility may be established by any one, or any combination, of the following methods, acceptable to the President: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In cases where an owner or operator owns, operates, or charters more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

(2) The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any vessel, subject to this subsection, that does not have certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(3) The Secretary, in accordance with regulations issued by him, shall (A) deny entry to any port or place in the United States or navigable waters to, and (B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to this subsection that, upon request, does not produce certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(b)(1) The owner or operator of each offshore facility shall establish and maintain, in accordance with regulations issued by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of the facility would be exposed in a case where he would be entitled to limit his liability in accordance with section 524, or $50,000,000, whichever is less. These regulations shall take into account the size, type, location, arrangement and degree of consolidation of the structure, platform, well, or pipeline. The regulations shall also take into account the various groupings of multiple offshore facilities owned or operated by the same person or persons or under joint venture. In cases where the owner or operator owns, operates or leases more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such facilities.

(2) When an offshore facility is owned or operated by more than one person, evidence of financial responsibility covering the facility may be established and maintained by any one of the owners or operators, or, in consolidated form, by or on behalf of two or more owners or operators. When evidence of financial responsibility is established in a consolidated form, the proportional share of each participant shall be shown. The evidence shall be accompanied by a statement authorizing the applicant to act for and in behalf of each participant in submitting and maintaining the evidence of financial responsibility.

(3) The owner or operator of each tank motor vehicle operated on highways and transporting oil in bulk, with a water capacity of more than 3,500 gallons shall establish and maintain, in accordance with regulations issued by the Secretary, evidence of financial responsibility in such amounts as the Secretary, by regulation, shall establish, but in no event less than $2,000,000.

(c) Any claim authorized by section 523 (a) may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section. In defending such a claim, the guarantor may invoke all rights and defenses which would be available to the owner or operator under this chapter. He may also invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but he may not invoke any other defense that he might have been entitled to invoke in proceedings brought by the owner or operator against him.

DESIGNATION AND ADVERTISEMENT

SEC. 526. (a)(1) When the Secretary receives information of an incident that involves oil pollution, he shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner and operator of the source, and the guarantor, of that designation.

(2) When a source designated is a vessel or a facility, and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator, or guarantor, as required by regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not otherwise made in accordance with this paragraph, the Secretary shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to that owner, operator, or guarantor.

(b) In a case where—

(1) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of subsection (a),

(2) the source of the discharge was a public vessel, or

(3) the Secretary is unable to designate the source or sources of the discharge under paragraph (1) of subsection (a),

the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the fund.

(c) Advertisement under subsection (a) shall commence no later than fifteen days from the date of the designation made thereunder and continue for a period of no less than thirty days.

CLAIMS SETTLEMENT

SEC. 527. (a) Except as provided in subsection (b), all claims shall be presented to the owner, operator, or guarantor.

(b) Claims shall be presented to the fund—

(1) where the Secretary has advertised or otherwise notified claimants in accordance with section 526(b), or

(2) where the owner or operator may recover under section 523(b)(1).

(c) In the case of a claim presented in accordance with subsection (a), and in which—

(1) the person to whom the claim is presented denies all liability for the claim, for any reason, or

(2) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (A) the claim was presented, or (B) advertising was commenced pursuant to section 526(a)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or to present the claim to the fund; that election to be irrevocable and exclusive.

(d) In the case of a claim presented in accordance with subsection (a), where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 524 or because the owner, operator, and guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the fund.

(e) In the case of a claim which has been presented to any person, under subsection (a), and which is being presented to the fund, under subsection (c) or (d), such person, at the request of the claimant, shall transmit the claim and supporting documents to the fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

(f) In the case of a claim presented to the fund, under subsection (b), (c), and (d), and in which the fund—

(1) denies all liability for the claim, for any reason, or

(2) does not settle the claim by payment to the claimant within sixty days of the date upon which (A) the claim was presented to the fund or (B) advertising was commenced under section 526(b), whichever is later.

the claimant may submit the dispute to the Secretary for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the fund under subsection (b) may elect to commence an action in court against the fund in lieu of submission of the dispute to the Secretary for decision; that election to be irrevocable and exclusive.

(g)(1) The Secretary shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the fund.

(2) Except as provided in paragraph (3), the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract for those facilities and services. Any contract made under this paragraph may be made without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made under this subsection. A payment in excess of $100,000 to a single claimant, or one aggregating in excess of $200,000 to multiple claimants shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

(3) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the fund.

(h) Without regard to subsection (b) of section 556 of title 5, United States Code, the Secretary is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Secretary under subsection (f). At least one member of each panel shall be qualified in the conduct of adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special Government employees, apply to panel members appointed from private life.

(i)(1) Upon receipt of a request for decision from a claimant, properly made, the Secretary shall refer the dispute to an administrative law judge, appointed under section 3105 of title 5, United States Code, or a panel appointed under subsection (h).

(2) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit, of the nearest circuit.

(3) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding under this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

(4) A hearing conducted under this subsection shall be conducted in the United States judicial district within which the damage complained of occurred, or, if the damage complained of occurred within two or more districts, in any of the affected districts, or, if the damage occurred outside any district, in the nearest district.

(5) The decision of the administrative law judge or panel under this subsection shall be the final order of the Secretary, except that the Secretary, in his discretion and in accordance with rules which he may issue, may review the decision upon his own initiative or upon exception of the claimant or the fund.

(6) Final orders of the Secretary made under this subsection shall be reviewable under section 702 of title 5, United States Code, in the district courts of the United States.

(j)(1) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the fund at the same time those pleadings are served upon the opposing parties.

(2) The fund may intervene in the action as a matter of right.

(3) In any action to which the fund is a party, if the owner, operator, or guarantor admits liability under this chapter, the fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

(4) If the fund receives from either the plaintiff or the defendant notice of such an action, the fund shall be bound by any judgment entered therein, whether or not the fund was a party to the action.

(5) If neither the plaintiff nor the defendant gives notice of such an action to the fund, the limitation of liability otherwise permitted by section 524 is not available to the defendant, and the plaintiff shall not recover from the fund any sums not paid by the defendant.

(k) In any action brought against the fund, the plaintiff may join any owner, operator, or guarantor, and the fund may implead any person who is or may be liable to the fund.

(l) No claim may be presented, nor may an action be commenced for damages recoverable under this chapter, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, or against the fund, as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under section 523(a), or within six years of the date of the incident which resulted in that loss, whichever is earlier.

SUBROGATION

SEC. 528. (a) Any person or governmental entity, including the fund, who compensates any claimant for an economic loss, compensable under section 523, shall be subrogated to all rights, claims, and causes of action which that claimant has under this chapter.

Upon request of the Secretary, the Attorney General may commence an action, on behalf of the fund, for the compensation paid by the fund to any claimant under this chapter. Such an action may be commenced against any owner, operator, or guarantor, or against any other person or governmental entity, who is liable, under any law, to the compensated claimant or to the fund, for the damages for which the compensation was paid.

(c) In all claims or actions by the fund against any owner, operator, or guarantor, under subsections (a) and (b), the fund shall recover—

(1) for a claim presented to the fund (where there has been a denial of source designation) under section 527(b)(1), or (where there has been a denial of liability) under section 527(c)(1)—

(A) subject only to the limitation of liability to which the defendant is entitled under section 524(b), the amount the fund has paid to the claimant, without reduction;

(B) interest on that amount, at the rate calculated in accordance with section 524(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the fund shall offer to the claimant the amount finally paid by the fund to the claimant in satisfaction of the claim against the fund to the date upon which the claimant shall accept that offer, inclusive; and

(C) all costs incurred by the fund by reason of the claim, both of the claimant against the fund and the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

(2) for a claim presented to the fund under section 527(c)(2)—

(A) in which the amount the fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the fund has paid to the claimant;

(ii) interest, at the rate calculated in accordance with section 524(g)(2), for the period specified in clause (1) of this subsection; and

(iii) all costs incurred by the fund by reason of the claim of the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; or

(B) in which the amount the fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claimant against the defendant—

(i) the amount the fund has paid to the claimant, without reduction;

(ii) interest, at the rate calculated in accordance with section 524(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this subclause: *Provided*, That if the defendant tendered the offer of the largest amount referred to in this subclause within sixty days of the date upon which the claim of the claimant was either presented to the defendant or advertising was commenced under section 526, the defendant shall not be liable for interest for that period; and

(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, under clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

(e) The fund is entitled to recover for all interest and costs specified in subsection (c) without regard to any limitation of liability to which the defendant may otherwise be entitled.

JURISDICTION AND VENUE

SEC. 529. (a) The United States district courts shall have exclusive original jurisdiction over all controversies arising under this chapter, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For the purposes of this section, the fund shall reside in the District of Columbia.

PREEMPTION

SEC. 530. (a) Except as provided in this chapter—

(1) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for damages for an economic loss described in section 523(a) a claim for which may be asserted under this chapter, and

(2) no person may be required to contribute to any fund, the purpose of which is to compensate for such a loss, nor to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss.

(b) Nothing in subsection (a) shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and prepositioning of oil pollution cleanup and removal equipment.

(c) Nothing in subsection (a) shall prohibit an action by the fund, under any other provision of law, to recover compensation paid under this chapter.

PENALTIES

SEC. 531. (a) Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of section 525, the regulations issued thereunder, or with any denial or detention order shall be liable to the United States for a civil penalty, not to exceed $10,000 for each violation. The amount of the civil penalty shall be assessed by the President in connection with section 525(a)(1) and by the Secretary in connection with all other sections, by written notice. In determining the amount of such penalty, the appropriate Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) The Secretaries may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(c) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretaries may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

APPROPRIATIONS

SEC. 532. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(b) The Secretary may incur indebtedness on behalf of the United States, as provided in section 522(f), to the extent provided in appropriation Acts for that purpose.

ANNUAL REPORT

SEC. 533. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress a report on the administration of the fund during that fiscal year, and his recommendations for any legislative changes he finds necessary or appropriate to improve the management of the fund and the administration of the liability provisions of this chapter.

CHAPTER 2—EFFECTIVE DATES; SAVINGS PROVISION; CONFORMING AMENDMENTS

SEC. 541. (a) This section, section 521, section 532, section 543, and each provision of chapter 1 that authorizes the promulgation of regulations shall be effective on the date of enactment of this Act.

(b) All other provisions of chapter 1, the regulations issued thereunder, and section 542 shall be effective on the one hundred and eightieth day after the date of enactment of this Act: *Provided*, That the penalty prescribed by section 531 for failure to comply with the requirements of section 525 or the regulations issued thereunder shall not be effective until the ninetieth day after issuance of those regulations or the two hundred and seventieth day after the date of enactment of this Act, whichever is earlier.

(c) Any regulation respecting financial responsibility, issued pursuant to any provision of law repealed by section 542, and in effect on the day immediately preceding the effective date of section 542 shall remain in force until superseded by regulations issued under chapter 1 of this subtitle.

SEC. 542. (a) Subsection (b) of section 204 of the Trans-Alaska Pipeline Authorization Act (87 Stat. 586) is amended, in the first sentence, by inserting after "any area" the words "in the State of Alaska"; by inserting after "any activities" the words "related to the trans-Alaska oil pipeline", and by inserting at the end of the subsection a new sentence to read as follows: "This subsection shall not apply to removal costs resulting from oil pollution as that term is defined in section 101(n) of the Comprehensive Oil Pollution Liability and Compensation Act.".

(b)(1) Subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act is repealed. The Trans-Alaska Pipeline Liability Fund is abolished. All assets of that fund, as of the effective date of this section, shall be transferred to the Comprehensive Oil Spill Liability Fund established by section 522 of this Act. The Comprehensive Oil Spill Liability Fund shall assume all liability incurred by the Trans-Alaska Pipeline Liability Fund under the terms of subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act, and shall assume all liability incurred by the officers or trustees in the execution of their duties involving the Trans-Alaska Pipeline Liability Fund, other than the liability of those officers or trustees for gross negligence or willful misconduct.

(2) The Secretary of the Interior shall certify to the Secretary the total amount of

the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the transfer of assets required under paragraph (1) is made. If the Secretary finds that—

(A) the total amount of the assets so transferred is greater than the total amount of the outstanding claims so certified, subject to paragraph (4) of this subsection, the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified shall constitute an advance payment toward payment of the fee due under section 522(d) on barrels of oil, and the Secretary may waive such fee until such time as the total amount of the fees so waived equals the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified: *Provided*, That, should the fee due under section 522(d) be no longer required whereby the assets transferred and remaining can no longer be used as an advance payment, then the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified shall be rebated by the Secretary directly to the operator of the trans-Alaska oil pipeline for payment, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel; or

(B) the total amount of the assets so transferred is less than the total amount of the outstanding claims so certified, the Secretary shall increase by 2 cents per barrel the fee imposed under section 522(d) on barrels of oil until such time as the total amount of the 2-cent-per-barrel increase so collected equals the difference between the amount of the certified outstanding claims and the amount of the transferred assets.

(3) In the event that the total amount of the actual claims settled is less than the total amount of the outstanding claims certified, the difference between these amounts shall be rebated by the Secretary directly to the operator of the trans-Alaska oil pipeline for payment, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(4) If an owner of oil (as that term is used in section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act) who prior to enactment of this Act paid fees to the operator of the pipeline for transfer to the Trans-Alaska Pipeline Liability Fund receives the benefit of an advance payment under paragraph (2) of this subsection for the collection or payment of fees established under section 522(d), such owner of oil shall compute, based upon accepted accounting procedures, what the oil production tax and what the royalty paid to the State of Alaska would have been had payments not been made to the Trans-Alaska Pipeline Liability Fund in the amount of fees waived. The difference between the amounts so computed and amounts actually paid to the State of Alaska shall be paid by each such owner to the State of Alaska. The owner shall pay to the State of Alaska during such time as the collection or payment of fees under section 522(d) is waived.

(5) For purposes of paragraphs (2) and (3)—

(A) the term "barrels of oil" means only barrels of oil which would, but for the repeal made by paragraph (1), be subject to the fee imposed under section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act; and

(B) the term "Secretary" means the Secretary of the Treasury.

(c) Section 17 of the Intervention on the High Seas Act (88 Stat. 10) is amended to read as follows:

"SEC. 17. The fund established under section 522 of the Comprehensive Oil Pollution Liability and Compensation Act is available to the Secretary for actions and activities, relating to oil pollution (as defined in section 521 of that Act), taken under section 5 of this Act. The revolving fund established under section 311(k) of the Federal Water Pollution Control Act, as amended, is available for actions and activities, relating to other pollution, taken under section 5 of this Act.".

(d) Section 311 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321), is further amended as follows:

(1) Subsection (a) is amended by replacing the period at the end of clause (17) with a semicolon and adding a new clause (18) to read as follows:

"(18) 'person in charge' means the individual immediately responsible for the operation of a vessel or facility.".

(2) Paragraph (5) of subsection (b) is amended, in the last sentence, by inserting after the word "person" the words "or his employer".

(3) Clause (A) of paragraph (6) of subsection (b) is amended—

(A) in the first and second sentences, by striking out the phrase "or person in charge" each time it appears and inserting in lieu thereof "person in charge, or employer of such person in charge,"; and

(B) in the third sentence, by striking out "the owner or operator" and inserting in lieu thereof "whoever being".

(4) Clause B of paragraph (6) of subsection (b) is amended in the flirst and second sentences by striking out the phrase "or person in charge" each time it appears and inserting in lieu thereof "person in charge, or employer of such person in charge,".

(5) Clause (H) of paragraph (2) of subsection (c) is amended by inserting after the words "of this section" the words "or the fund established under section 522 of the Comprehensive Oil Pollution Liability and Compensation Act, as appropriate,".

(6) Subsection (d) is amended by striking out the last sentence and inserting in lieu thereof "Any expense incurred under this subsection or under the Intervention on the High Seas Act (or the Convention as defined in section 2(3) thereof) shall be reimbursed from the fund established under subsection (k) of this section or the fund established under section 522 of the Comprehensive Oil Pollution Liability and Compensation Act, as appropriate. Any expense incurred thereunder for which reimbursement may be had from the fund established under subsection (k) of this section shall be recoverable from the owner or operator of the vessel in accordance with this section.".

(7) Subsection (l) is amended by striking out the period at the end of the second sentence and by inserting in lieu thereof the words "respecting discharges or imminent discharges of oil (other than petroleum, crude oil, or any fraction or residue therefrom) and hazardous substances.". Such subsection (l) is further amended by striking out "subsections (c) and (l)" and inserting in lieu thereof "subsection (c)".

(8) Subsection (p)(1) is amended by inserting after "oil" each place it appears the following: "(other than petroleum, crude oil, or any fraction or residue therefrom)".

(9) Subsection (q) is repealed, and subsection (r) is redesignated as subsection (q).

(e) Section 404 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(u) Notwithstanding any other provision of this section, the Secretary shall make any determination with respect to those navigable waters to which the provisions of this section shall apply."

(f) The Deepwater Port Act of 1974 (88 Stat. 2126) is amended as follows:

(1) Section 4(c)(1) is amended by striking out "section 18(l) of this Act;" and inserting in lieu thereof "section 525 of the Comprehensive Oil Pollution Liability and Compensation Act;"

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), and (n) of section 18 are repealed.

(3) Clause (3) of subsection (c) of section 18 is amended by striking out "Deepwater Port Liability Fund established pursuant to subsection (f) of this section." and inserting in lieu thereof "fund established under section 522 of the Comprehensive Oil Pollution Liability and Compensation Act.".

(4) Subsection (k) of section 18 is amended to read as follows:

"(k) This section shall not be interpreted to preclude any State from imposing additional requirements, not inconsistent with the provisions of the Comprehensive Oil Pollution Liability and Compensation Act, for any discharge of oil from a deepwater port or a vessel within any safety zone.".

(5) Subsections (c), (k), and (m) of section 18 are redesignated as subsections (b), (c), and (d), respectively.

(g) Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95–372) is repealed. Any fees or moneys deposited in the Offshore Oil Pollution Compensation Fund established under section 302 of that title shall be deposited in the fund established by section 522 of this Act. The Comprehensive Oil Spill Liability Fund shall assume all liability incurred by the Offshore Oil Pollution Compensation Fund under title III of the Outer Continental Shelf Lands Act Amendments of 1978.

SEC. 543. No part of any moneys in the Comprehensive Oil Spill Liability Fund established by section 522 of this Act shall be obligated or otherwise expended for any of the administrative expenses of the Environmental Protection Agency.

SEC. 544. If any provision of this subtitle or the applicability thereof is held invalid, the remainder of the subtitle shall not be affected thereby.

CHAPTER 3—HAZARDOUS SUBSTANCE LIABILITY

HAZARDOUS SUBSTANCE LIABILITY

SEC. 551. (a)(1) Subsection (a) of section 311 of the Federal Water Pollution Control Act (as amended by section 541(d)(1) of this Act) is further amended by replacing the period at the end of clause (18) with a semicolon and adding a new clause (19) to read as follows:

"(19) 'supplier' means, with respect to subsection (k) of this section, any person who produces, manufactures, or imports any substance identified in paragraphs (2), (3), (4), or (5) of subsection (k) of this section at a place or for removal to a place other than the site of production, manufacture, or importation, or a site that adjoins the site of production, manufacture, or importation, or uses those feedstocks or elements and compounds himself at a place other than the site of production, manufacture, or importation or a site that adjoins the site of production, manufacture, or importation.

"(20) 'United States claimant' means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim:

"(21) 'foreign claimant' means any person residing in a foreign country, a government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

"(22) 'guarantor' means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

"(23) 'removal costs' means—

"(A) costs incurred under subsection (c), (d), or (l) of this section; and

"(B) cleanup costs, other than those described in clause (A);

"(24) 'cleanup costs' means costs of reasonable measures taken, after a discharge has occurred, to prevent, minimize, or mitigate pollution from that discharge;

"(25) 'affiliated' means a relationship in which a person owns (in whole or in part), is owned by (in whole or in part), or is under common control with, another person.".

(2) Paragraph (6) of subsection (a) of section 311 of the Federal Water Pollution Control Act is amended to read as follows:

"(6)(A) 'owner' means any person owning title to, or in the absence of title, any other indicia of ownership of, a vessel or facility, but does not include a person who (either directly or through a trust or singly or in combination with others) holds title to or any indicia of ownership of a vessel or facility and without participating in the management or operation of such vessel or facility, leases or charters to any other person (with whom such person is not otherwise affiliated), holds indicia of ownership primarily to protect his security interest in the vessel or facility;

"(B) 'operator' means (i) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualling, and supplying of a vessel or (ii) in the case of a facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner;".

(b) Subsections (f), (g), (h), and (i) of section 311 of the Federal Water Pollution Control Act are amended to read as follows:

"(f)(1) Claims for damages for economic loss, incurred on or after the effective date of chapter 3 of the Comprehensive Oil Pollution Liability and Compensation Act and arising out of or directly resulting from the discharge of oil (other than petroleum, crude oil, or any fraction or residue therefrom), or hazardous substances, may be asserted for—

"(A) removal costs;

"(B) injury to, or destruction of, real or personal property;

"(C) loss of use of real or personal property;

"(D) injury to, or destruction of, natural resources;

"(E) loss of use of natural resources;

"(F) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources; and

"(G) loss of tax revenue for a period of one year due to injury to real or personal property.

"(2) A claim authorized by paragraph (1) may be asserted—

"(A) under item (A) of paragraph (1), by any claimant: *Provided,* That the owner or operator of a vessel or facility involved in a discharge may assert such a claim only if he can show that he is entitled to a defense to liability under subsection (g)(5)(A) or (g)(5)(B) or, if not entitled to such a defense to liability, that he is entitled to a limitation of liability under subsection (g): *Provided further,* That where he is not entitled to such a defense to liability but entitled to such a limitation of liability, the claim may be asserted only as to the removal costs incurred in excess of that limitation;

"(B) under items (B), (C), and (E) of paragraph (1), by any United States claimant, if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;

"(C) under item (D) of paragraph (1), by the President, as trustee for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority, or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State: *Provided,* That compensation paid under this item may be used only for restoration of the damaged resources or for acquisition of equivalent resources;

"(D) under item (F) of paragraph (1), by any United States claimant if the claimant derives at least 25 percent of his earnings from activities which utilize the property or natural resource;

"(E) under item (G) of paragraph (1), by any State or political subdivision thereof;

"(F) under items (B) through (G) of paragraph (1), by a foreign claimant to the same extent that a United States claimant may assert a claim if—

"(i) the discharge occurred (I) in the navigable waters, or (II) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;

"(ii) the claimant is not otherwise compensated for his loss;

"(iii) the discharge was from a facility or from a vessel located adjacent to or within the navigable waters or was discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331, et seq.) or the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501, et seq.); and

"(iv) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants; and

"(G) under any item, by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection.

"(3) If the Attorney General fails to act under clause (G) of paragraph (2) within sixty days of the date on which the Secretary designates a source of discharge, any member of a group may, in accordance with rule 23 of the Federal Rules of Civil Procedure, maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to act shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

"(g)(1) Subject to the provisions of paragraphs (2), (3), (4), and (5), the owner and operator of a vessel other than a public vessel, or of a facility, that is the source of a discharge of oil (other than petroleum, crude oil, or any fraction or residue therefrom) or a hazardous substance, or poses a threat of such a discharge in circumstances that justify the incurrence of removal costs, shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under subsection (f).

"(2) Except when the discharge or threat of discharge is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator; or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or except when the owner or operator fails or refuses to report the discharge or to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, the total of the liability under paragraph (1) and any removal costs incurred by, or on behalf of, the owner or operator shall be limited to—

"(A) in the case of a vessel other than a ship or other than an inland oil barge, $150 per gross ton;

"(B) in the case of an inland oil barge, $150,000 or $150 per gross ton, whichever is greater;

"(C) in the case of a ship, $250,000 or $300 per gross ton (up to a maximum of $30,000,000), whichever is greater;

"(D) in the case of a deepwater port subject to the Deepwater Port Act of 1974 (including the liability of the owner or operator of such deepwater port for a discharge from a ship moored at such port), $50,000,000;

"(E) in the case of an offshore facility operated under authority of the Outer Continental Shelf Lands Act, as amended, the total of removal costs plus $50,000,000; or

"(F) in the case of a facility other than one described in clause (D) or (E) $50,000,000 or such lesser limit as is established under paragraph (4).

The Secretary shall, from time to time, report to Congress on the desirability of adjusting the limitations of liability specified in this paragraph.

"(3) The Secretary may, by regulation, reduce the limitation of liability for facilities subject to clause (E) of paragraph (2), to the total of all removal costs plus an amount not less than $35,000,000, if he determines that the limitation will have either a significant adverse impact on small business enterprises or a signficant anticompetitive impact.

"(4) The Secretary shall issue regulations establishing limits of liability, up to $50,000,000, for various classes of facilities other than those described in clauses (D) and (E) of paragraph (2). These regulations shall take into account the size, type, location, storage and handling capacity, and other matters relating to the likelihood of discharges involving those classes. These limits shall, to the extent practicable, be comparable to the limits established under clause (C) of paragraph (2), taking into account the relative potential threat of pollution, but in no case shall such a limitation be less than $5,000,000 for any tank motor vehicle operated on highways transporting oil (other than petroleum, crude oil, or any fraction or residue therefrom) or a hazardous substance, in bulk, with a water capacity of more than 3,500 gallons.

"(5) There shall be no liability under paragraph (1)—

"(A) to the extent that the discharge is caused—

"(i) by an act of war, hostilities, civil war, or insurrection; or

"(ii) by a natural phenomenon of an exceptional, inevitable, and irresistible character, which could not have been prevented or avoided by the exercise of due care or foresight;

"(B) to the extent that the discharge or threat of discharge is caused by an act or omission of a person other than—

"(i) the claimant,

"(ii) the owner or operator,

"(iii) an employee or agent of the claimant, the owner, or the operator, or

"(iv) one whose act or omission occurs in connection with a contractual relationship with the claimant, the owner, or the operator;

"(C) as to a particular claimant, where the discharge or threat of discharge or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

"(D) as to a particular claimant, to the extent that the discharge or economic loss is caused by the negligence of that claimant.

"(h)(1) The fund shall be liable, without any limitation, for all damages for which a claim may be asserted under subsection (f), to the extent that the loss is not otherwise compensated.

"(2) Except for removal costs (other than cleanup costs), there shall be no liability under paragraph (1) hereof—

"(A) where the discharge or threat of discharge is caused primarily by an act of war, hostilities, civil war, or insurrection;

"(B) as to a particular claimant, where the discharge or threat of discharge or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

"(C) as to a particular claimant, to the extent that the discharge or threat of discharge or economic loss is caused by the negligence of that claimant.

"(3) In addition to the damages for which claims may be asserted under subsection (f), and without regard to the limitation of liability provided in subsection (g), the owner, operator, or guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim was presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or guarantor shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept that amount, inclusive. However, if the owner, operator, or guarantor shall offer to the claimant, within sixty days of the date upon which the claim was presented, or of the date upon which a source of discharge is designated, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

"(4) The interest provided in paragraph (3) shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

"(i)(1) No indemnification, hold harmless, or similar agreement shall be effective to transfer from the owner or operator of a facility, to any other person, the liability imposed under subsection (g), other than as specified in this title: *Provided*, That this provision does not preclude an agreement whereby the holder of a leasehold interest or permit for the exploration of oil agrees to indemnify for, or hold harmless from, such liability, the owner or operator of a vessel or facility which is, by contract or other agreement, engaged in activity on behalf of the holder of the leasehold interest or permit.

"(2) Nothing in this title shall bar a cause of action that an owner or operator, subject to liability under subsection (g), or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

"(3) To the extent that it is in conflict with, or otherwise inconsistent with, any other law relating to liability or the limitation thereof, subsections (g), (h), and (i) supersede such other law, including section 4283(a) of the Revised Statutes, as amended (46 U.S.C. 183(a)).".

(c) Subsection (k) of section 311 of the Federal Water Pollution Control Act is amended to read as follows:

"(k)(1) There is hereby established in the Treasury a revolving fund to be maintained at a level (except as provided in paragraph (8)) of not to exceed $100,000,000. Forty per centum of the fund revenues each fiscal year shall be collected pursuant to paragraph (2) of this subsection. Twenty per centum of the fund revenues each fiscal year shall be collected pursuant to paragraph (3) of this subsection. Twenty per centum to paragraph (4) of this subsection. Twenty per centum of the fund revenues each fiscal year shall be collected pursuant to paragraph (5) of this subsection. Such fund shall be for the purpose of carrying out subsections (c), (d), (f), and (l) of this section respecting discharges or imminent discharges of oil (other than petroleum, crude oil, or any fraction or residue therefrom), and hazardous substances. All sums appropriated to, or deposited in, the fund shall remain available until expended.

"(2) There is imposed upon each supplier of petrochemical feedstocks a fee, not to exceed 0.1 cent per pound, on any amount of petrochemical feedstock supplied to another person or used by such supplier. Fees imposed under this paragraph shall be deposited in the revolving fund established in paragraph (1). For the purposes of this paragraph, 'petrochemical feedstock' means liquid or gaseous hydrocarbons used primarily for the preparation of more complex chemicals including, but not limited to, ethylene, propylene, butylenes, butadiene, butane, propanes, ethane, benzene, toluene, xylenes, naphthalenes, carbon black, and methane (other than methane used to make ammonia).

"(3) There is imposed upon each supplier of inorganic elements and compounds a fee, not to exceed one dollar per short ton, on any amount of inorganic element or compound supplier to another person or used by said supplier. Fees imposed under this paragraph shall be deposited in the revolving fund established in paragraph (1). The inorganic elements and compounds subject to this fee are—

"(A) arsenic, cadmium, chromium, lead, mercury, and the equivalent weight of the foregoing elements in arsenic trioxide, chromite, chromic acid, sodium dichromate, potassium dichromate, and lead oxide;

"(B) chlorine, hydrochloric acid, hydrofluoric acid, and bromine in methyl bromide and ethylene dibromide;

"(C) phosphoric acid, sulfuric acid, nitric acid, potassium hydroxide, and sodium hydroxide;

"(D) ammonia and the equivalent weight of ammonia in ammonium nitrate; and

"(E) such other inorganic elements or compounds as the Administrator may deem appropriate, based upon information available to him as a result of listing or characterizing hazardous substances under this section.

"(4) There is imposed upon each supplier of benzene, toluene, xylene, or styrene a fee, not to exceed 0.1 cent per pound, on any amount of such substances supplied to another person or used by such supplier. There is imposed upon each supplier of sodium hydroxide, hydrochloric acid, sulfuric acid, ammonia, nitric acid, and phosphoric acid a fee, not to exceed one dollar per short ton, on any amount of such substances supplied to another person or used by such supplier. Fees imposed under this paragraph shall be deposited in the revolving fund established in paragraph (1).

"(5) There is imposed upon each supplier of any substances listed in Committee Print 96–45 of the Committee on Public Works and Transportation of the House of Representatives a fee, not to exceed $1 per short ton, on any amount of such substances supplied to another or used by the supplier. Fees imposed under this paragraph shall be deposited in the revolving fund established in paragraph (1).

"(6) Any fees imposed by paragraphs (2) through (5), inclusive, shall be assessed and collected by the Secretary of the Treasury or his delegate, and the provisions of subtitle F of the Internal Revenue Code of 1954 shall apply to the assessment and collection of such fee as if such fee were a tax described in chapter 32 of such Code.

"(7) No earlier than 24 monthe after the enactment of this paragraph, and not more often than once per fiscal year thereafter, the Administrator shall adjust the fees collected pursuant to paragraphs (2) through (5), inclusive, of this subsection to assure, to the extent reasonably possible, that the percentage of the total fees collected from each of the authorized sources is equitable, based upon the claims and payment experience of the fund. The Secretary of the Treasury shall establish the new fee schedule by regulation within ninety days of publication in the Federal Register of the Administrator's determination.

"(8) Any other funds received by the United States under this section shall also be deposited in the fund established by paragraph (1) of this subsection, along with the fees collected pursuant to paragraphs (2) through (5), inclusive, of this subsection, for such purposes as are authorized in paragraph (1) of this subsection.

"(9) Two years after the date of enactment of this paragraph and annually thereafter, the Administrator is authorized to add to or delete from those substances covered by paragraph (4) of this subsection. Such additions or deletions shall be based on discharge history data, including frequency of discharge, volume of discharge, and the environmental damages incurred as the result of such discharge.

"(10) The recommendations of the Administrator as to substances which should be added to or deleted from those listed in paragraphs (2) and (3) of this subsection shall be submitted annually to Congress.".

SEC. 552. (a) Subsection (o) of section 311 of the Federal Water Pollution Control Act is amended to read as follows:

"(o)(1) Except as provided in this title—

"(A) no action may be brought in any court of the United States or of any State or political subdivision thereof, for damages for an economic loss described in subsection (f)(1), a claim for which may be asserted under this title, and

"(B) no person may be required to contribute to any fund, the purpose of which is to compensate for such a loss, nor to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss.

"(2) Nothing in paragraph (1) shall preclude any State from imposing a tax or fee upon any person or any oil (other than petroleum, crude oil, or any fraction or residue therefrom), or hazardous substance in order to finance the purchase and prepositioning of any oil (other than petroleum, crude oil, or any fraction or residue therefrom) or hazardous substance, pollution cleanup and removal equipment.

"(3) Nothing in paragraph (1) shall prohibit an action by the fund, under any other provision of law, to recover compensation paid under this title.".

(b) Section 311 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsections:

"(r)(1) When the Administrator receives information of a discharge in violation of this section, he shall, where possible, designate the source or sources of the discharge and shall immediately notify the owner and operator of the source, and the guarantor, of that designation.

"(2) When a source designated is a vessel or a facility, and the owner, operator, or guarantor fails to inform the Administrator, within five days after receiving notification of the designation, or his denial of such designation, such owner, operator, or guarantor, as required by regulations promulgated by the Administrator, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not otherwise made in accordance with this paragraph, the Administrator shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to that owner, operator, or guarantor.

"(3) In a case where—

"(A) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of this subsection,

"(B) the source of the discharge was a public vessel, or

"(C) the Administrator is unable to designate the source or sources of the discharge under paragraph (1) of this subsection,

the Administrator shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the fund.

"(4) Advertisement under this subsection shall commence no later than fifteen days from the date of the designation made hereunder and continue for a period of no less than thirty days.

"(s)(1) Except as provided in paragraph (2), all claims shall be presented to the owner, operator, or guarantor.

"(2) Claims shall be presented to the fund under subsection (k)—

"(A) where the Administrator has advertised or otherwise notified claimants in accordance with subsection (r), or

"(B) where the owner or operator may recover under subsection (f)(2)(A).

"(3) In the case of a claim presented in accordance with paragraph (1), and in which—

"(A) the person to whom the claim is presented denies all liability for the claim, for any reason, or

"(B) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (i) the claim was presented, or (ii) advertising was commenced pursuant to subsection (r)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or to present the claim to the fund under subsection (k); that election to be irrevocable and exclusive.

"(4) In the case of a claim presented in accordance with paragraph (1), where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under subsection (g) or because the owner, operator, and guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the fund under subsection (k).

"(5) In the case of a claim which has been presented to any person, under paragraph (1), and which is being presented to the fund under subsection (k), under paragraph (3) or (4), such person, at the request of the claimant, shall transmit the claim and supporting documents to the fund under subsection (k). The Administrator may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

"(6) In the case of a claim presented to the fund under subsection (k), under paragraphs (2), (3), and (4), and in which the fund—

"(A) denies all liability for the claim, for any reason, or

"(B) does not settle the claim by payment to the claimant within sixty days of the date upon which (i) the claim was presented to the fund or (ii) advertising was commenced under subsection (r)(3), whichever is later, the claimant may submit the dispute to the Administrator for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the fund under paragraph (2) may elect to commence an action in court against the fund in lieu of submission of the dispute to the Secretary for decision; that election to be irrevocable and exclusive.

"(7)(A) The Administrator shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the fund under subsection (k).

"(B) Except as provided in subparagraph (C), the Administrator shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract for those facilities and services. Any contract made under this subparagraph may be made without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Administrator that advertising is not reasonably practicable. The Administrator may make advance payments to a contractor for services and facilities, and the Administrator may advance to the contractor funds to be used for the payment of claims. The Administrator may review and audit claim payments made under this paragraph. A payment in excess of $100,000 to a single claimant, or one aggregating in excess of $200,000 to multiple claimants shall be first approved by the Administrator. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Administrator.

"(C) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Administrator may use Federal personnel to process claims against the fund.

"(8) Without regard to subsection (b) of section 556 of title 5, United States Code, the Administrator is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Administrator under paragraph (6). At least one member of each panel shall be qualified in the conduct of adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special Government employees, apply to panel members appointed from private life.

"(9)(A) Upon receipt of a request for decision from a claimant, properly made, the Administrator shall refer the dispute to an administrative law judge, appointed under section 3105 of title 5, United States Code, or a panel appointed under paragraph (8).

"(B) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occcurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit, of the nearest circuit.

"(C) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding under this paragraph, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Administrator. If a person fails or refuses to obey a subpena, the Administrator may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

"(D) A hearing conducted under this paragraph shall be conducted in the United States judicial district within which the damage complained of occurred, or, if the damage complained of occurred within two or more districts, in any of the affected districts, or, if the damage occcured outside any district, in the nearest district.

"(E) The decision of the administrative law judge or panel under this paragraph shall be the final order of the Administrator, except that the Administrator, in his discretion and in accordance with rules which he may issue, may review the decision upon his own initiative or upon exception of the claimant or the fund under subsection (k).

"(F) Final orders of the Administrator made under this paragraph shall be reviewable under section 702 of title 5, United States Code, in the district courts of the United States.

"(10)(A) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the fund at the same time those pleadings are served upon the opposing parties.

"(B) The fund may intervene in the action as a matter of right.

"(C) In any action to which the fund is a party, if the owner, operator, or guarantor admits liability under this title, the fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

"(D) If the fund receives from either the plaintiff or the defendant notice of such an action, the fund shall be bound by any judgment entered therein, whether or not the fund was a party to the action.

"(E) If neither the plaintiff nor the defendant gives notice of such an action to the fund, the limitation of liability otherwise permitted by subsection (g) of this section is not available to the defendant, and the plaintiff shall not recover from the fund any sums not paid by the defendant.

"(11) In any action brought against the fund, the plaintiff may join any owner, operator, or guarantor, and the fund may implead any person who is or may be liable to the fund.

"(12) No claim may be presented, nor may an action be commenced for damages recoverable under this section, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, or against the fund under subsection (k), as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under subsection (f) of this section, or within six years of the date of the discharge which resulted in that loss, whichever is earlier.

"(t)(1) Any person or governmental entity, including the fund under subsection (k), who compensates any claimant for an economic loss, compensable under subsection (f), shall be subrogated to all rights, claims, and causes of action which that claimant has under this section.

"(2) Upon request of the Administrator, the Attorney General may commence an action, on behalf of the fund, for the compensation paid by the fund to any claimant under this section. Such an action may be

commenced against any owner, operator, or guarantor, or against any other person or governmental entity, who is liable, under any law, to the compensated claimant or to the fund, for the damages for which the compensation was paid.

"(3) In all claims or actions by the fund against any owner, operator, or guarantor, under paragraphs (1) and (2), the fund shall recover—

"(A) for a claim presented to the fund (where there has been a denial of source designation) under subsection (s)(2)(A), or (where there has been a denial of libility) under subsection (s)(3)(A)—

"(i) subject only to the limitation of liability to which the defendant is entitled under subsection (g), the amount the fund has paid to the claimant, without reduction;

"(ii) interest on that amount, at the rate calculated in accordance with subsection (h)(4), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the fund shall offer to the claimant the amount finally paid by the fund to the claimant in satisfaction of the claim against the fund to the date upon which the claimant shall accept that offer, inclusive; and

"(iii) all costs incurred by the fund by reason of the claim, both of the claimant against the fund and the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

"(B) for a claim presented to the fund under subsection (s)(3)(B)—

"(i) in which the amount the fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(I) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the fund has paid to the claimant;

"(II) interest, at the rate calculated in accordance with subsection (h)(4), for the period specified in clause (A) of this paragraph; and

"(III) all costs incurred by the fund by reason of the claim of the fund against the defendant, including, but not limited, to processing costs, investigating costs, court costs, and attorneys' fees; or

"(ii) in which the amount the fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(I) the amount the fund has paid to the claimant, without reduction;

"(II) interest, at the rate calculated in accordance with subsection (h)(4), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this clause: *Provided*, That if the defendant tendered the offer of the largest amount referred to in this clause within sixty days of the date upon which the claim of the claimant was either presented to the defendant or advertising was commenced under subsection (r), the defendant shall not be liable for interest for that period; and

"(III) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

"(4) The fund under subsection (k) shall pay over to the claimant that portion of any interest the fund shall recover, under subparagraph (A) and clause (i) of subparagraph (B) of paragraph (3), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

"(5) The fund under subsection (k) is entitled to recover for all interest and costs specified in paragraph (3) without regard to any limitation of liability to which the defendant may otherwise be entitled.

"(u) No part of any moneys in the revolving fund established in subsection (k) of this section shall be obligated or otherwise expended for any of the administrative expenses of the Environmental Protection Agency.

"(v) The owner or operator of a tank motor vehicle operated on highways transporting oil (other than petroleum, crude oil, or any fraction or residue therefrom) or a hazardous substance, in bulk, with a water capacity in excess of 3,500 gallons shall establish and maintain in accordance with regulations issued by the President evidence of financial responsibility in such amounts as the President determines necessary but not less than $5,000,000.".

SEC. 553. Nothing in this subtitle or the amendments made by this subtitle shall be construed to authorize any officer or employee of the United States or any department, agency, or instrumentality of the United States to prohibit, control, or otherwise regulate the use of any groundwaters.

SEC. 554. The last sentence of section 115 of the Federal Water Pollution Control Act is amended to read as follows: "Not to exceed $10,000,000 per fiscal year for fiscal years beginning after September 30, 1980, shall be available from the revolving fund established in section 311(k) of this Act for obligation to carry out this section.".

SEC. 555. (a) In any case where the revolving fund established in section 311(k) of the Federal Water Pollution Control Act is insufficient to carry out the purposes for which such fund is available, the Secretary of the Treasury is authorized to utilize funds in the Comprehensive Oil Spill Liability Fund established in section 522 of this Act for such purposes. The Secretary of the Treasury shall, as soon as practicable, repay to such Comprehensive Oil Spill Liability Fund from the fees collected under section 311(k) of the Federal Water Pollution Control Act an amount equal to the amount utilized from such Fund.

(b) In any case where the Comprehensive Oil Spill Liability Fund established in section 522 of this Act is insufficient to carry out the purposes for which such fund is established, the Secretary of the Treasury is authorized to utilize funds in the revolving fund established in section 311(k) of the Federal Water Pollution Control Act for such purposes. The Secretary of the Treasury shall, as soon as practicable, repay to the revolving fund established in section 311(k) of the Federal Water Pollution Control Act from the fees collected under section 522 of this Act an amount equal to the amount utilized from such Fund.

SEC. 556. In any case where the discharge of pollutants is a mixture of both oil and hazardous substances, both the Comprehensive Oil Spill Liability Fund and the revolving fund established by section 311(k) of the Federal Water Pollution Control Act shall be immediately available for payment of emergency work for any purpose for which either fund is available. The Secretary of the Treasury shall, as soon as practicable, make such adjustments in such funds as may be necessary to ensure that the costs of any such work are appropriately allocated to the proper fund.

SEC. 557. This chapter and the amendments made by this chapter shall take effect one hundred and eighty days after the date of enactment of this Act.

CHAPTER 4

SEC. 561. (a) Notwithstanding any other provision of law, simultaneously with promulgation or repromulgation of any rule or regulation under authority of this subtitle or of any amendment made by this subtitle, the head of the department, agency, or instrumentality promulgating such rule or regulation shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subsection (b) of this section, the rule or regulation shall not become effective, if—

(1) within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by the   dealing with the matter of   , which rule or regulation was transmitted to Congress on   .", the blank spaces therein being appropriately filled; or

(2) within sixty calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within thirty calendar days of continuous session of Congress after such transmittal.

(b) If, at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in subsection (a) of this section.

(c) For purposes of subsections (a) and (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of thirty, sixty, and ninety calendar days of continuous session of Congress.

(d) Congressional inaction on, or rejection of, a resolution of disapproval shall not be deemed an expression of approval of such rule or regulation.

TITLE VI—HOUSE COMMITTEE ON SMALL BUSINESS

SEC. 601. For provisions of law (within the jurisdiction of the House Committee on Small Business) which reduce spending for fiscal year 1981 in satisfaction of the reconciliation requirements imposed by section 3(a)(6) of H. Con. Res. 307 (96th Congress), see Public Law 96-302 (the Small Business Development Act of 1980).

TITLE VII—HOUSE COMMITTEE ON VETERANS' AFFAIRS

STANDARDS FOR PRESUMPTION OF INABILITY TO DEFRAY MEDICAL EXPENSES

SEC. 701. (a) Section 622 of title 38, United States Code, is amended to read as follows:

"§ 622. Evidence of inability to defray necessary expenses

"For the purposes of sections 610(a)(1)(B), 610(b)(2), 624(c), and 632(a)(2) of this title, the fact that a person is—

"(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(2) a veteran with a service-connected disability; or

"(3) in receipt of pension under any law administered by the Veterans' Administration;

shall be accepted as sufficient evidence of such person's inability to defray necessary expenses.".

(b) The item relating to such section in the table of sections at the beginning of chapter 17 of such title is amended to read as follows:

"622. Evidence of inability to defray necessary expenses.".

LIMITATION ON PAYMENT OF BURIAL ALLOWANCES

SEC. 702. Benefits may not be paid under either section 902 or 903(a) of title 38, United States Code, in the case of an individual who dies during the period beginning on October 1, 1980, and ending on September 30, 1981, and with respect to whose death benefits under either such section may otherwise be paid if the individual's income during the twelve-month period immediately preceding the individual's death exceeded $20,000. If the individual was married during such twelve-month period, the income of the individual's spouse during such period shall be included in determining the income of the individual for the purposes of this section.

REPEAL OF AUTHORITY FOR PURSUIT OF FLIGHT AND CORRESPONDENCE TRAINING

SEC. 703. (a)(1) Section 1631 of title 38, United States Code, is amended by striking out subsection (c).

(2) Section 1641 of such title is amended to read as follows:

"§ 1641. Requirements

"The provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, and 1683 of this title and the provisions of chapter 36 of this title, with the exception of sections 1777, 1780(b), and 1787, shall be applicable to the program.".

(b)(1) Section 1652(c) of such title is amended by striking out "correspondence school,".

(2) Section 1662(c) of such title is amended by striking out "or flight training within the provisions of section 1677 of this chapter,".

(3) Section 1673(b) of such title is amended by striking out "Except as provided in section 1677 of this title, the end inserting in lieu thereof "The".

(4)(A) Section 1677 of such title, relating to flight training, is repealed.

(B) The table of sections at the beginning of chapter 34 of such title is amended by striking out the item relating to section 1677.

(5) Section 1681 of such title is amended—

(A) in subsection (b), by striking out ", other than a program exclusively by correspondence or a program of flight training,"; and

(B) by striking out subsection (c) (including the center heading preceding such subsection).

(6) Section 1682(a)(1) of such title is amended by striking out "1677 or".

(7)(A) Section 1684 of such title is amended to read as follows:

"§ 1684. Apprenticeship or other on-job training

"Any eligible veteran may pursue a program of apprenticeship or other on-job training and be paid a training assistance allowance as provided in section 1787 of this title.".

(B) The item relating to such section in the table of sections at the beginning of **chapter 34 of such title is amended to read as follows:**

"1684. Apprenticeship or other on-job training.".

(c)(1) Section 1701(a)(6) of such title is amended by striking out "correspondence school,".

(2)(A) Section 1734 of such title is amended—

(i) by striking out "(a)"; and

(ii) by striking out subsection (b).

(B) The heading for such section is amended to read as follows:

"§ 1734. Apprenticeship or other on-job training".

(C) The item relating to such section in the table of sections at the beginning of chapter 35 of such title is amended to read as follows:

"1734. Apprenticeship or other on-job training.".

(d)(1) Section 1780 of such title is amended—

(A) in subsection (a)—

(i) by striking out ", other than a program by correspondence or a program of flight training,"; and

(ii) by striking out clause (5);

(B) by striking out subsection (b) (including the center heading preceding such subsection); and

(C) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively.

(2) Section 1784(a) of such title is amended by striking out "or, in the case of correspondence training, the last date a lesson was serviced by the school".

(3)(A) Section 1786 of such title, relating to correspondence courses, is repealed.

(B) The table of sections at the beginning of chapter 36 of such title is amended by striking out the item relating to section 1786.

(4) The second sentence of section 1798(c) of such title is amended by striking out "correspondence, flight,".

(e) Section 604(a) of the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (38 U.S.C. 1712 note) is amended by striking out "(1) eligible to pursue a program of education exclusively by correspondence by virtue of the provisions of section 1786 of such title (as added by section 316 of this Act) or (2)".

(f) The amendments made by this section shall take effect on October 1, 1980.

DEDUCTION OF OVERPAYMENTS FROM FUTURE BENEFITS PAYMENTS AND REQUIREMENT THAT INTEREST AND OTHER COSTS BE CHARGED ON THE PAYMENT OF CERTAIN AMOUNTS DUE THE UNITED STATES

SEC. 704. (a)(1) Chapter 53 of title 38, United States Code, is amended by adding at the end thereof the following new sections:

"§ 3113. Overpayment adjustments

"(a) If there is an overpayment of compensation under chapter 11 of this title, an overpayment of dependency and indemnity compensation under chapter 13 of this title, an overpayment of pension under chapter 15 of this title, or section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, or an overpayment of educational assistance benefits under chapter 31, 32, 34, 35, or 36 of this title, the amount of such overpayment shall be deducted (unless waived by the Administrator under section 3102 of this title) from any future payment made under laws administered by the Veterans' Administration to the person concerned.

"(b) The right of the Administrator to make deductions under this section shall not be subject to any limitation with respect to the time for bringing civil actions or for commencing administration proceedings.

"§ 3114. Interest and other costs on delinquent payments of certain amounts due the United States

"(a) Subject to section 3102 of this title and to subsection (b) of this section, interest and administrative costs shall be charged on amounts owed to the United States for (1) overpayment of benefits under laws administered by the Veterans' Administration, or (2) the provision of care or services under chapter 17 of this title. Interest on such amounts shall accrue from the date of the initial notification of the amount due to the person or educational institution owing such amount. The administrative costs which may be collected are such amount of the cost to the Veterans' Administration of furnishing the benefit or care or services, and such amount of the cost of the collection of the amount owed the United States for such overpayment or care or services, as may be determined by the Administrator to be equitable.

"(b) Interest under this section shall not be charged if the amount due the United States is paid within a reasonable period of time. The Administrator shall prescribe by regulation what shall constitute a reasonable period of time for such payment.

"(c) The rate of interest to be charged under this section shall be based on the rate of interest paid by the United States for its borrowing and shall be determined under such regulations as the Administrator shall prescribe.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

"3113. Overpayment adjustments.

"3114. Interest and other costs on delinquent payments of certain amounts due the United States.".

(b)(1) Subsection (a) of section 3102 of title 38, United States Code, is amended by inserting "(or any interest thereon)" after "overpayments".

(2) Subsection (c) of such section is amended by inserting "(or any interest thereon)" after "indebtedness" both places it appears.

(c) Section 415 of such title is amended by striking out subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(d) Subsection (b) of section 506 of such title is amended to read as follows:

"(b) If there is an overpayment of pension under section 521, 541, or 542 of this title or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, the amount of such overpayment shall be deducted (unless waived by the Administrator under section 3102 of this title) in accordance with section 3113 of this title.".

(e) The text of section 1785 of such title is amended to read as follows:

"(a) Whenever the Administrator finds that an overpayment has been made to an eligible person or veteran, the amount of such overpayment shall constitute a liability of the eligible person or veteran to the United States.

"(b) Whenever the Administrator finds that an overpayment has been made to an eligible person or veteran as the result of (1) the willful or negligent failure of an educational institution to report, as required by this chapter or chapter 34 or 35 of this title and applicable regulations, to the Veterans' Administration excessive absences from a course, or discontinuance or interruption of a course by the eligible person or veteran, or (2) false certification by an educational institution, the amount of such overpayment shall constitute a liability of the educational institution to the United States.

"(c) Any overpayment referred to in subsection (a) or (b) may be recovered, except as otherwise provided in section 1784(b) of this title, in the same manner as any other debt due the United States.

"(d) Any such overpayment may be waived as to the eligible person or veteran as provided by section 3102 of this title. Waiver of any such overpayment as to the eligible person or veteran shall in no event release the educational institution from liability under subsection (b).

"(e)(1) Any amount collected from the eligible person or veteran shall be reimbursed to the educational institution which is liable pursuant to subsection (b), to the extent that collection was made from the educational institution.

"(2) This section shall not preclude the imposition of any civil or criminal liability under this or any other law.

"(3) Nothing in this section or any other provision of this title shall be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.".

(f) Section 3114 of title 38, United States Code, as added by subsection (a), shall apply to payments of amounts due the United States which are made after the date of the enactment of this Act, but no interest shall accrue by virtue of such section for any period before such date.

DISCLOSURE OF CERTAIN INFORMATION BY THE VETERANS' ADMINISTRATION TO CONSUMER REPORTING AGENCIES

SEC. 705. (a) Subsection (f) of section 3301 of title 38, United States Code, relating to confidential nature of claims, is amended to read as follows:

"(f)(1) The Administrator may disclose the name or address, or both, of any person who is a present or former member of the Armed Forces or a dependent of a present or former member of the Armed Forces (and such other information concerning such person as is authorized to be released under subsection (e) of this section)—

"(A) to any nonprofit organization, if the release is directly connected with the conduct of programs and the utilization of benefits under this title;

"(B) to any criminal or civil law enforecement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality has made a written request that such name or address, or both, be provided for a purpose authorized by law;

"(C) to any consumer reporting agency—

"(i) for the purpose of locating any such person—

"(I) if the person has been administratively determined to be indebted to the United States by virtue of participation in any Veterans' Administration benefits program; or

"(II) when necessary to conduct any study authorized by section 219 of this title or authorized or required by any other Federal law pertaining to the evaluation of veterans' benefit programs; or

"(ii) subject to paragraph (2) of this subsection, if the person has been determined by the Administrator to have failed to respond to administrative efforts to collect moneys owed by such person to the United States by virtue of participation in any Veterans' Administration benefits program; or

"(D) for use in connection with proceedings for the collection of amounts owed to the United States by virtue of the participation by such person in any Veterans' Administration benefits program.

"(2)(A) Disclosure of information under clause (C)(ii) of paragraph (1) of this subsection may only be made for the purpose of obtaining consumer reports in order to assess the ability of the person to repay the amount owed to the United States or to give notice of the outstanding obligation.

"(B) The Administrator may not disclose any information under clause (C)(ii) of paragraph (1) of this subsection which would give notice of a debt owed by any person to the United States until after thirty days have elapsed after reasonable efforts have been made to notify the person of the Administrator's intent to disclose information concerning the debt.

"(3) If a person to whom paragraph (1) of this subsection applies who has been administratively determined to be indebted to the United States by virtue of participation in any Veterans' Administration benefits program alleges that the Veterans' Administration is in error as to the existence or the amount of the indebtedness or alleges that repayment of all or any part of such indebtedness is not required disclosure of such person's name and address may not be made under clause (C)(ii) of paragraph (1) of this subsection until a determination regarding the allegation has been made by the Administrator.

"(4) Section 552a of title 5 shall not apply to records released by the Administrator to a consumer reporting agency under a contract entered into to accomplish any of the purposes set forth in clause (C) of paragraph (1) of this subsection. The Administrator shall take reasonable steps to provide for the personal privacy of persons about whom information is disclosed under such clause.

"(5)(A) Any organization or member thereof or other person who, knowing that the use of any name or address released by the Administrator pursuant to paragraph (1) of this subsection (except as specified in subparagraph (B) of this paragraph) is limited to the purpose specified in such paragraph, willfully uses such name or address for a purpose other than those so specified, shall be guilty of a misdemeanor and be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of any subsequent offense.

"(B) Subparagraph (A) of this paragraph shall not apply to the use of any name or address released by the Administrator to a consumer reporting agency under a contract entered into to accomplish any of the purposes of clause (C) of paragraph (1) of this subsection.

"(6) The Administrator shall prescribe regulations for the administration of paragraphs (1), (2), and (3) of this subsection.

"(7) For the purpose of this subsection, the term 'consumer reporting agency' means—

"(A) a consumer reporting agency, as such term is defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)); or

"(B) any organization (as determined by the Administrator) which provides to an agency described in subparagraph (A) of this paragraph information relating to the credit experience of persons.".

(b)(1) Subsection (c) of such section is amended—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end of such subsection the following new paragraph:

"(2) Any appraisal report or certificate of reasonable value submitted to or prepared by the Veterans' Administration in connection with any home, condominium, or mobile home loan under chapter 37 of this title shall be made available to any person who applies for such report or certificate.".

(2) Such section is further amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) (as amended by subsection (a) of this section) the following new subsection (g):

"(g)(1) The Administrator may disclose the name or address, or both, of any person (and such other information relating to the identity of such person as the Administrator may prescribe) to any person in a category of persons described in regulations prescribed pursuant to paragraph (3) of this subsection, if the release of such information is necessary for the purpose of—

"(A) determining the creditworthiness, credit capacity, income, or financial resources of a person who has (i) applied for any benefit under chapter 37 of this title, or (ii) submitted an offer to the Administrator for the purchase of property acquired by the Administrator under section 1820(a)(5) of this title;

"(B) verifying, either before or after the Administrator has approved a person's application for assistance in the form of loan insurance or a loan guaranty under chapter 37 of this title, information submitted by a lender to the Administrator regarding the creditworthiness, credit capacity, income, or financial resources of such person.

"(C) offering for sale or other disposition by the Administrator, pursuant to section 1820 of this title, any loan or installment sale contract owned or held by the Administrator; or

"(D) providing assistance to any applicant for benefits under chapter 37 of this title or administering such benefits, so long as the Administrator records the fact of the disclosure in the records of the person concerned.

"(2) Section 552a of title 5 shall not apply to records released by the Administrator to a consumer reporting agency under a contract entered into to accomplish any of the purposes set forth in paragraph (1) of this subsection. The Administrator shall take reasonable steps to provide for the personal privacy of persons about whom information is disclosed under such paragraph. For the purposes of this paragraph, the term 'consumer reporting agency' has the meaning given such term by paragraph (7) of subsection (f) of this section.

"(3) The Administrator shall prescribe regulations for the administration of this subsection. Such regulations shall specify and describe the categories of persons to whom information may be released under paragraph (1) this subsection.".

(c) The amendments made by this section shall take effect on the first day of the first month beginning after the end of the sixty-day period beginning on the date of the enactment of this Act.

REPEAL OF AUTHORITY TO PURSUE PREDISCHARGE EDUCATION PROGRAM (PREP) UNDER CHAPTER 32

SEC. 706. (a) Section 1631 of title 38, United States Code, is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (d) as subsection (b).

(b)(1) Subchapter VI of chapter 34 of such title is repealed.

(2) Section 1661(c) of such title is amended by striking out "subchapters V and VI" and inserting in lieu thereof "subchapter V".

(3) The table of sections at the beginning of such chapter is amended by striking out the item relating to subchapter VI and the

items relating to sections 1695, 1696, 1697, and 1698.

(c)(1) Subsection (c) of section 1780 of such title (as redesignated by section 703(d)(1)(C)) is amended—

(A) in paragraph (2)—

(i) by striking out "other than under subchapter VI of chapter 34)"; and

(ii) by striking out "paragraphs 5(B) and (C) and (6)" and inserting in lieu thereof "paragraphs (4)(B) and (C) and (5)";

(B) by striking out paragraph (3);

(C) by redesignating paragraph (4) as paragraph (3);

(D) by redesignating paragraph (5) as paragraph (4) and striking out "paragraphs (2) and (3)" in such paragraph and inserting in lieu thereof "paragraph (2)"; and

(E) by redesignating paragraph (6) as paragraph (5) and striking out "paragraph (5)" in such paragraph and inserting in lieu thereof "paragraph (4)".

(2) Subsection (d) of such section (as redesignated by section 703(d)(1)(C)) is amended by striking out "subsection (d)(2) and (3)" and inserting in lieu thereof "subsection (c)(2)".

(3) Subsection (e) of such section (as redesignated by section 703(d)(1)(C)) is amended by striking out "(except as provided by subsection (d)(3) of this section)".

(4) Subsection (b) of section 1784 of such title is amended by striking out "section 1780(d)(5)" and inserting in lieu thereof "section 1780(c)(4)".

(5) Section 1788(a)(6) of such title is amended by striking out "or 1969(a)(2)".

(6) Section 1789(b)(5) of such title is amended by striking out "or VI".

(7) The second sentence of section 1798(c) of such title is amended by striking out ", or PREP".

(8) Section 1798(f)(2) of such title is amended by striking out "section 1780(d)(5)" and inserting in lieu thereof "section 1780(c)(4)".

(d) The amendments made by this section shall take effect on October 1, 1980.

LIMITATION ON BENEFITS TO INCARCERATED VETERANS AND INCARCERATED ELIGIBLE PERSONS

SEC. 707. (a) Section 1682(b) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of clause (1);

(2) by adding "or" at the end of clause (2); and

(3) by inserting after clause (2) the following new clause:

"(3) in the case of a veteran who is incarcerated in a Federal, State, county, or local prison or jail,".

(b) Section 1732 of such title is amended by adding at the end thereof the following new subsection:

"(e) In the case of an eligible person who is incarcerated in a Federal, State, or local prison or jail, the educational assistance allowance shall be at the rate as prescribed in section 1682(b)(3) of this title for incarcerated veterans.".

(c) Section 1780(a) of such title (as amended by section 7103(d)(1)(A)) is further amended by inserting after clause (4) the following new clause (5):

"(5) to any eligible veteran or person incarcerated in a Federal, State, or local prison or jail for any course (A) for which the tuition and fees of the veteran or person are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program, or (B) for which there are no tuition and fees.".

(d)(1) Chapter 55 of such title is amended by adding after section 3204 the following new section:

"§ 3205. Limitation of payment of compensation for service-connected disabilities or death and payment of dependency and indemnity compensation during confinement in a penal institution

"(a) Compensation for a service-connected disability or death under chapter 11 of this title or any other law administered by the Veterans' Administration and dependency and indemnity compensation under chapter 13 of this title or any other law administered by the Veterans' Administration may not be paid in an amount in excess of $60 per month to or for any individual who is imprisoned in a Federal, State, or local penal institution as a result of conviction of a felony or misdemeanor for the period beginning sixty-one days after such individual's imprisonment begins and ending on the date such individual's imprisonment ends.

"(b) If a veteran is disqualified from receiving compensation in an amount in excess of $60 per month for any period solely by reason of subsection (a) of this section, the Administrator may apportion and pay to such veteran's spouse, children, or dependent parents the compensation which such veteran would have received for such period but for this section.

"(c) If any surviving spouse or child of a veteran is disqualified from receiving compensation or dependency and indemnity compensation for any period solely by reason of subsection (a) of this section, the Administrator may (1) if the surviving spouse is so disqualified, pay to the child, or children, the compensation or dependency and indemnity compensation which would be payable if there were no such surviving spouse, or (2) if a child is so disqualified, pay to the surviving spouse or other children, as applicable, the compensation which would be payable if there were no such child.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"3205. Limitation of payment of compensation for service-connected disabilities or death and payment of dependency and indemnity compensation during confinement in a penal institution.".

(e)(1) The amendments made by subsections (a), (b), and (c) shall take effect on the first day of the first month beginning after the end of the sixty-day period beginning on the date of the enactment of this Act.

(2) The amendments made by subsection (d) shall apply only to payments for months beginning after September 30, 1980.

TITLE VIII—HOUSE COMMITTEE ON WAYS AND MEANS; EXPENDITURE REDUCTIONS

Subtitle A—Medicare and Medicaid Program Savings

CHAPTER 1—H.R. 3990 PROVISIONS

SHORT TITLE; TABLE OF CONTENTS

SEC. 801. This chapter may be cited as the "Medicare Amendments of 1980".

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Sec. 833. Medicare coverage of pneumococcal vaccine and its administration.

HOME HEALTH SERVICES

SEC. 802. (a) Section 1811 of the Social Security Act is amended by striking out "and related post-hospital services" and inserting in lieu thereof ", related post-hospital, and home health services".

(b) Section 1812(a)(3) of such Act is amended to read as follows:

"(3) home health services.".

(c) Section 1812(d) of such Act is repealed.

(d) Section 1812(e) of such Act is amended—

(1) by striking out "(b), (c), and (d)" and inserting in lieu thereof "(b) and (c)"; and

(2) by striking out "post-hospital extended care services, and post-hospital home health services" and inserting in lieu thereof "and post-hospital extended care services".

(e) Sections 1814(a) and 1835(a) of such Act are amended by adding the following new sentence at the end of each such section: "With respect to the physician certification required by paragraph (2) for home health services furnished to any individual by a home health agency (other than an agency which is a governmental entity) and with respect to the establishment and review of a plan for such services, the Secretary shall prescribe regulations which shall become effective no later than January 1, 1981, and which prohibit a physician who has a significant ownership interest in, or a significant financial or contractual relationship with, such home health agency from performing such certification and from establishing or reviewing such plan.".

(f) Section 1814(a)(2)(D) of such Act is amended—

(1) by striking out "post-hospital home health services" and inserting in lieu thereof "home health services";

(2) by inserting ", occupational," after "or physical"; and

(3) by striking out ", for any of the conditions" and all that follows through "extended care services".

(g) Section 1832(a)(2)(A) of such Act is amended by striking out "for up to 100 visits during a calendar year".

(h) Section 1833(b) of such Act is amended—

(1) by striking out "and" at the end of clause (1) in the first sentence; and

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", and (3) such deductible shall not apply with respect to home health services.".

(i) Section 1834 of such Act is repealed.

(j) Section 1835(a)(2)(A) of such Act is amended by inserting ", occupational," after "or physical".

(k) Section 1861(e) of such Act is amended—

(1) by striking out "subsections (i) and (n)" in the material preceding paragraph (1) and inserting in lieu thereof "subsection (i)"; and

(2) by striking out "subsections (i) and (n)" in the third sentence and inserting in lieu thereof "subsection (i)".

(l) Section 1861(m)(4) of such Act is amended by inserting the following before the semicolon: "who has successfully completed a training program approved by the Secretary".

(m) Section 1861(n) of such Act is repealed.

(n) Section 1861(o) of such Act is amended—

(1) by striking out "and" at the end of paragraph (5), by inserting "and" at the end of paragraph (6), and by adding the following new paragraph after paragraph (6):

"(7) meets such additional requirements (including conditions relating to bonding or establishing of escrow accounts as the Secretary finds necessary for the financial security of the program) as the Secretary finds necessary for the effective and efficient operation of the program;"; and

(2) by striking out "except that" the first place it appears in the material following paragraph (6) and all that follows through "regulations; and".

(o) Section 1816(e) of such Act is amended—

(1) by inserting "(subject to the provisions of paragraph (4))" after "the Secretary may" in paragraph (2); and

(2) by adding the following new paragraph at the end thereof:

"(4) Notwithstanding subsections (a) and (d) and paragaphs (1), (2), and (3) of this subsection, the Secretary shall designate regional agencies or organizations which have entered into an agreement with him under this section to perform functions under such agreement with respect to home health agencies (as defined in section 1861(o)) in the region, except that in assigning such agencies to such designated regional agencies or organizations the Secretary shall assign a home health agency which is a subdivision of a hospital (and such agency and hospital are affiliated or under common control) only if, after applying such criteria relating to administrative efficiency and effectiveness as he shall promulgate, he determines that such assignment would result in the more effective and efficient administration of this title.".

(p) Section 1861(v)(1) of such Act is amended by adding the following new subparagraph at the end thereof (after the new subparagraph added by section 860(a)(2) of this Act):

"(H) In determining such reasonable cost with respect to home health agencies, the Secretary may not include—

"(i) any costs incurred in connection with bonding or establishing an escrow account by any such agency as a result of the financial security requirement described in subsection (o)(7);

"(ii) in the case of home health agencies to which the financial security requirement described in subsection (o)(7) applies, any costs attributed to interest charged such an agency in connection with amounts borrowed by the agency to repay overpayments made under this title to the agency, except that such costs may be included in reasonable cost if the Secretary determines that the agency was acting in good faith in borrowing the amounts;

"(iii) in the case of contracts entered into by a home health agency after the date of enactment of this subparagraph for the purpose of having services furnished for or on behalf of such agency, any cost incurred by such agency pursuant to any such contract (I) which is entered into for a period exceeding five years, or (II) which determines the amount payable by the home health agency on the basis of a percentage of the agency's reimbursement or claim for reimbursement for services furnished by the agency; and

"(iv) in the case of contracts entered into by a home health agency before the date of enactment of this subparagraph for the purpose of having services furnished for or on behalf of such agency, any cost incurred by such agency pursuant to any such contract, which determines the amount payable by the home health agency on the basis of a percentage of the agency's reimbursement or claim for reimbursement for services furnished by the agency, to the extent that such cost exceeds the reasonable value of the services furnished on behalf of such agency.".

(q) Section 226(c)(1) of such Act is amended—

(1) by striking out "and post-hospital home health services" and inserting in lieu thereof "and home health services"; and

(2) by striking out "or post-hospital home health services" in clause (B).

(r) Section 7(d)(1) of the Railroad Retirement Act of 1974 is amended by striking out "posthospital home health services" and inserting in lieu thereof "home health services".

(s)(1) The amendments made by this section shall become effective with respect to services furnished on or after July 1, 1981, except that the amendments made by subsections (n) and (o) shall become effective on the date of the enactment of this Act.

(2) The Secretary of Health and Human Services shall take administrative action to assure that improvements, in accordance with the amendment made by subsection (n)(1), will be made with respect to home health services by December 31, 1980.

RECIPROCAL AGREEMENTS FOR SERVICES FURNISHED OUTSIDE THE UNITED STATES

SEC. 803. Title XVIII of the Social Security Act is amended by adding at the end thereof (after the new subparagraph added by section 860(a)(2) of this Act) the following new section:

"INTERNATIONAL AGREEMENTS

"SEC. 1884. (a) The President is authorized to enter into agreements establishing reciprocal arrangements between the programs established by this title and the program of any foreign country under which similar services are provided directly to entitled individuals or under which insurance is provided to meet all or part of the expenses of entitled individuals for such services.

"(b) Any agreement establishing such a reciprocal arrangement pursuant to this section shall specify—

"(1) the nature and extent of payment to be made to or on behalf of (A) individuals entitled to benefits under this title for services covered under such title when such individuals are present in the foreign country and receive such services from persons who are authorized under the program of that foreign country to furnish them, and (B) individuals entitled to benefits under the program of that foreign country who receive such services in the United States from persons meeting such requirements or conditions as are required under such title;

"(2) such limitations on the nature and duration of services for which payment may be made in one country to individuals entitled to benefits under the program of the other country, as the President deems appropriate, except that no agreement shall authorize any individual to receive benefits in the United States on a reciprocal basis in excess of those provided for individuals entitled to benefits under this title;

"(3) such limitations on entitlement of individuals to benefits on a reciprocal basis under an agreement in the United States and in the foreign country, as the President deems appropriate, except that no agreement shall provide entitlement to benefits under this title in the United States for an individual who does not meet the requirmeents for entitlement applicable under such title with respect to age or medical condition;

"(4) the methods by which the cost of providing services to persons on a reciprocal basis shall be shared equitably by the persons receiving such services and by the respective programs of the United States and the foreign country; and

"(5) such other provisions, not inconsistent with this section, as the President deems appropriate.

"(c) The Secretary shall make rules and regulations and establish procedures which are reasonable and necessary to implement and administer any agreement which has been entered into in accordance with this section.

"(d) Pending the conclusion of an agreement under this section with a foreign country, the Secretary is authorized to enter into interim arrangements with any hospital in that country which is accredited by the Joint Commision on Accreditation of Hospitals, or such other hospitals as the Secretary finds meet health and safety standards equivalent to those required under this title for hospitals in the United States and which are accredited in the foreign country concerned, under which payment may be made for inpatient hospital services, as defined in section 1861, to or on behalf of an individual who is entitled to such benefits under part A of this title. For purposes of making payment under such an interim arrangement, the Secretary shall use whichever of the methods provided for in section 1814(f) he finds appropriate, except that any payments made under part A of this title to the individual or to the hospital shall be reduced to the extent that the individual has no legal obligation to pay for any items or services furnished to such individual by reason of the laws of the foreign country in which the hospital is located or such individual's membership in an insurance plan that provides for payment for such items or services.".

DENTISTS' SERVICES

SEC. 804. (a) Clause (2) of the first sentence of section 1861(r) of the Social Security Act is amended to read as follows: "(2) a doctor of dental surgery or of dental medicine who is legally authorized to practice dentistry by the State in which he performs such function and who is acting within the scope of his license when he performs such functions,".

(b) Section 1814(a)(2)(E) of such Act is amended to read as follows:

"(E) in the case of inpatient hospital services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, the individual, because of his underlying medical condition and clinical status or because of the severity of the dental procedure, requires hospitalization in connection with the provision of such services;".

(c) Section 1862(a)(12) of such Act is amended by inserting "or because of the severity of the dental procedure" after "clinical status".

(d) The amendments made by this section shall apply with respect to services provided on or after July 1, 1981.

TREATMENT OF PLANTAR WARTS

SEC. 805. (a) Section 1862(a)(13)(C) of the Social Security Act is amended by striking out ", warts,".

(b) The amendment made by subsection (a) shall apply with respect to services furnished on or after July 1, 1981.

COMMUNITY MENTAL HEALTH CENTERS

SEC. 806. (a) Section 1832(a)(2) of the Social Security Act is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon, and by adding the following new subparagraph at the end thereof:

"(E) community mental health center services;".

(b) Section 1832(a)(2)(B)(i) of such Act is amended by striking out "or" at the end of subclause (I), by striking out "and" at the end of subclause (II) and inserting in lieu thereof "or", and by adding the following new subclause after subclause (II):

"(III) a physician to a patient in a community mental health center or to a patient in a comprehensive outpatient rehabilitation facility; and".

(c) Section 1933(c) of such Act is amended by inserting "and not a patient of a community mental health center" after "of a hospital".

(d) Part B of title XVIII of such Act (as amended by section 802(i) of this Act) is amended by inserting the following new section after section 1833:

"LIMITATION ON COMMUNITY MENTAL HEALTH CENTER SERVICES

"SEC. 1834. Payment under this part may be made for community mental health center services furnished an individual for—

"(1) up to 15 outpatient visits during any calendar year; and

"(2) up to 60 partial hospitalization visits to such a center during any calendar year.

Services shall be taken into account for purposes of paragraphs (1) and (2) only if payment is or would be, except for this section or the failure to comply with the request and certification requirements of or under section 1835(a), made with respect to such services under this part.".

(e) Section 1835(a)(2) of such Act is amended by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon, and by inserting the following new subparagraph after subparagraph (D):

"(E) in the case of community mental health center services, (i) such services are or were required in connection with the treatment of mental, psychoneurotic, or personality disorders, (ii) a plan for furnishing such services has been established by a physician (as defined in section 1861(r)(1)) or other mental health professional (as defined for this purpose in regulations by the Secretary) and is periodically reviewed and approved by a physician, (iii) such services are or were furnished while the individual is or was under the case management of a physician (as defined in section 1861(r)(1)), and (iv) in the case of services provided with respect to a partial hospitalization visit, the individual would otherwise require or have required (in the professional judgment of such physician) inpatient psychiatric services;".

(f) Section 1861(l) of such Act is amended by inserting "or community mental health center" after "nursing facility" each place it appears therein.

(g) Section 1861(u) of such Act is amended by inserting "community mental health center," after "home health agency,".

(h) Section 1861(w)(1) of such Act is amended by inserting "community mental health center,", after "nursing facility,".

(i) Section 1861 of such Act (as amended by section 868(c)(1) of this Act) is further amended by adding the following new subsection at the end thereof:

"Community Mental Health Center Services

"(cc)(1) The term 'community mental health center services' means the following items and services furnished to an individual as an outpatient by a community mental health center or (to the extent permitted in regulations by the Secretary) by others under arrangements with them made by the center—

"(A) diagnostic, therapeutic, or rehabilitative services furnished at the facility and crisis intervention outside the facility, when furnished by a physician (as defined in subsection (r)(1)) or any qualified mental health professional (as defined by the Secretary in regulations), including clinical psychologists, psychiatric nurses, and psychiatric social workers;

"(B) drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered; and

"(C) such items and supplies as are ordinarily furnished to outpatients by community mental health centers in connection with an active mental health program of diagnosis and treatment,

excluding, however, any item or service if it would not be included under subsection (b) if furnished to an inpatient of a hospital.

"(2) The term 'community mental health center' means a facility which—

"(A) meets the definition of a community mental health center under section 201 of the Community Mental Health Centers Act and the regulations prescribed thereunder;

"(B) has a requirement that all mental health services are provided under the supervision of a physician or other qualified mental health professional;

"(C) meets such requirements as the Secretary may prescribe with respect to staffing requirements and qualifications of the staff;

"(D) maintains clinical records on all patients;

"(E) has in effect a utilization review plan in accordance with regulations prescribed by the Secretary;

"(F) has in effect an agreement with a hospital pursuant to subsection (1);

"(G) in the case of a community mental health center in any State in which State or applicable local law provides for the licensing of community mental health centers, is licensed pursuant to such law;

"(H) has appropriate procedures or arrangements (in compliance with applicable State and Federal law) for storing, administering, and dispensing drugs and biologicals; and

"(I) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such center.".

(j) Section 1864(a) of such Act is amended—

(1) by inserting ", or whether a facility therein is a community mental health center as defined in section 1861(cc)(2)" before the period at the end of the first sentence;

(2) by inserting "or a community mental health center" after "home health agency" in the second sentence; and

(3) by inserting "community mental health center," after "laboratory," each place it appears in the fifth sentence.

(k) The amendments made by this section shall become effective with respect to a community mental health center's first accounting period which begins on or after July 1, 1981.

(l) The Secretary of Health and Human Services shall submit a report, not later than twenty-four months after the date of the enactment of this Act, to the Congress recommending a definition of an outpatient mental health center which could be used to broaden the definition of community mental health center as established by the amendments made by this section, especially the part of that definition which requires that such a center meet the definition of section 201 of the Community Mental Health Centers Act.

COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES

SEC. 807. (a) Section 1832(a)(2) of the Social Security Act is amended by adding the following new subparagraph at the end thereof (after the new subparagraph added by section 806(a) of this Act):

"(F) comprehensive outpatient rehabilitation facility services; and".

(b) Section 1835(a)(2) of such Act is amended by inserting the following new subparagraph at the end thereof (after the new subparagraph added by section 806(e) of this Act):

"(F) in the case of comprehensive outpatient rehabilitation facility services, (i) such services are or were required because the individual needed skilled rehabilitation services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician; and".

(c) Section 1861(u) of such Act is amended by inserting "comprehensive outpatient rehabilitation facility," immediately after "skilled nursing facility,".

(d) Section 1861(z) of such Act is amended by striking out "extended care facility," and inserting in lieu thereof "skilled nursing facility, comprehensive outpatient rehabilitation facility,".

(e) Section 1861 of such Act is amended by adding the following new subsection at the end thereof (after the new subsection added by section 806(i) of this Act):

"Comprehensive Outpatient Rehabilitation Facility Services

"(dd)(1) The term 'comprehensive outpatient rehabilitation facility services' means the following items and services furnished by a physician or other qualified professional personnel (as defined in regulations by the Secretary) to an individual who is an outpatient of a comprehensive outpatient rehabilitation facility under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician—

"(A) physicians' services;

"(B) physical therapy, occupational therapy, speech pathology services, and respiratory therapy;

"(C) prosthetic and orthotic devices, including testing, fitting, or training in the use of prosthetic and orthotic devices;

"(D) social and psychological services;

"(E) nursing care provided by or under the supervision of a registered professional nurse;

"(F) drugs and biologicals which cannot, as determined in accordance with regulations, be self administered;

"(G) supplies, appliances, and equipment, including the purchase or rental of equipment; and

"(H) such other items and services as are medically necessary for the rehabilitation of the patient and are ordinarily furnished by comprehensive outpatient rehabilitation facilities,

excluding, however, any item or service if it would not be included under subsection (b) if furnished to an outpatient of a hospital.

"(2) The term 'comprehensive outpatient rehabilitation facility' means a facility which—

"(A) is primarily engaged in providing (by or under the supervision of physicians) diagnostic, therapeutic, and restorative services to outpatients for the rehabilitation of injured, disabled, or sick persons;

"(B) provides at least the following comprehensive outpatient rehabilitation services: (i) physicians' services (rendered by physicians, as defined in section 1861(r)(1), who are available at the facility on a full- or part-time basis); (ii) physical therapy; and (iii) social or psychological services;

"(C) maintains clinical records on all patients;

"(D) has policies established by a group of professional personnel (associated with the facility), including one or more physicians defined in subsection (r)(1) to govern the comprehensive outpatient rehabilitation services it furnishes, and provides for the carrying out of such policies by a full- or part-time physician referred to in subparagraph (B)(i);

"(E) has a requirement that every patient must be under the care of a physician;

"(F) in the case of a facility in any State in which State or applicable local law provides for the licensing of facilities of this nature (i) is licensed pursuant to such law, or (ii) is approved by the agency of such State or locality, responsible for licensing facilities of this nature, as meeting the standard establishment for such licensing;

"(G) has in effect a utilization review plan in accordance with regulations prescribed by the Secretary;

"(H) has in effect an overall plan and budget that meets the requirements of subsection (z); and

"(I) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such facility, including conditions concerning qualifications of personnel in these facilities.".

(f) Section 1863 of such Act is amended by striking out "and (o)(6)" in the first sentence and inserting in lieu thereof "(o)(6), and (dd)(2)(I)".

(g) Section 1864(a) of such Act is amended—

(1) by inserting "or a comprehensive outpatient rehabilitation facility as defined in section 1861(dd)(2)" after "section 1861(aa)(2)" in the first sentence; and

(2) by inserting "comprehensive outpatient rehabilitation facility," after "rural health clinic," each place it appears in the second and fifth sentences.

(h) The amendments made by this section shall become effective with respect to a comprehensive outpatient rehabilitation facility's first accounting period which begins on or after July 1, 1981.

OPTOMETRISTS' SERVICES

SEC. 808. (a) Clause (4) of the first sentence of section 1861(r) of the Social Security Act is amended by striking out "but only with respect to establishing the necessity for prosthetic lenses," and inserting in lieu thereof "but only with respect to services related to the condition of aphakia,".

(b) The Secretary of Health and Human Services shall submit to the Congress by January 1, 1982, legislative recommendations with respect to reimbursement under title XVIII of the Social Security Act for services furnished by optometrists in connection with cataracts and such other services which they are legally authorized to perform.

(c) The amendment made by subsection (a) shall apply to services furnished on or after July 1, 1981.

ANTIGENS

SEC. 809. Section 1861(s)(2) of the Social Security Act is amended by striking out "and" at the end of subparagraph (E), by adding "and" after the semicolon at the end of subparagraph (F), and by inserting the following new subparagraph after subparagraph (F):

"(G) antigens (subject to quantity limitations prescribed in regulations by the Secretary) prepared by a physician, as defined in section 1861(r)(1), for a particular patient, including antigens so prepared which are forwarded to another qualified person (including a rural health clinic) for administration to such patient, from time to time, by or under the supervision of another such physician;".

PAYMENT WHERE BENEFICIARY NOT AT FAULT

SEC. 810. Section 1879 of the Social Security Act is amended by adding the following new subsection at the end thereof:

"(e) Where payment for inpatient hospital services or extended care services may not be made under part A of this title on behalf of an individual entitled to benefits under such part solely because of an unintentional, inadvertent, or erroneous action with respect to the transfer of such individual from a hospital or skilled nursing facility that meets the requirements of section 1861 (e) or (j) by such a provider of services acting in good faith in accordance with the advice of a utilization review committee, professional standards review organization, or fiscal intermediary, or on the basis of a clearly erroneous administrative decision by a provider of services, the Secretary shall take such action with respect to the payment of such benefits as he determines may be necessary to correct the effects of such unintentional, inadvertent, or erroneous action.".

FLEXIBILITY IN APPLICATION OF STANDARDS TO RURAL HOSPITALS

SEC. 811. Section 1861(e) of the Social Security Act is amended by adding the following new sentence at the end thereof: "The term 'hospital' also includes a facility of fifty beds or less which is located in an area determined by the Secretary to meet the definition relating to a rural area described in subparagraph (A) of paragraph (5) of this subsection and which meets the other requirements of this subsection, except that—

"(A) with respect to the requirements for nursing services applicable after December 31, 1978, such requirements shall provide for temporary waiver of the requirements, for such period as the Secretary deems appropriate, where (i) the facility's failure to fully comply with the requirements is attributable to a temporary shortage of qualified nursing personnel in the area in which the facility is located, (ii) a registered professional nurse is present on the premises to render or supervise the nursing service provided during at least the regular daytime shift, and (iii) the Secretary determines that the employment of such nursing personnel as are available to the facility during such temporary period will not adversely affect the health and safety of patients;

"(B) with respect to the health and safety requirements promulgated under paragraph (9), such requirements shall be applied by the Secretary to a facility herein defined in such manner as to assure that personnel requirements take into account the availability of technical personnel and the educational opportunities for technical personnel in the area in which such facility is located, and the scope of services rendered by such facility; and the Secretary, by regulations, shall provide for the continued participation of such a facility where such personnel requirements are not fully met, for such period as the Secretary determines that (i) the facility is making good faith efforts to fully comply with the personnel requirements, and (ii) the employment by the facility of such personnel as are available to the facility will not adversely affect the health and safety of patients; and

"(C) with respect to the fire and safety requirements promulgated under paragraph (9), the Secretary may (i) waive, for such period as he deems appropriate, specific provisions of such requirements which if rigidly applied would result in unreasonable hardship for such a facility and which, if not applied, would not jeopardize the health and safety of patients, and (ii) may accept a facility's compliance with all applicable State codes relating to fire and safety in lieu of compliance with the fire and safety requirements promulgated under paragraph (9), if he determines that such State has in effect fire and safety codes, imposed by State law, which adequately protect patients.".

CERTIFICATION AND UTILIZATION REVIEW BY PODIATRISTS

SEC. 812. (a) Section 1861(r)(3) of the Social Security Act is amended to read as follows: "(3) a doctor of podiatric medicine for the purposes of subsection (s) of this section but only with respect to functions which he is legally authorized to perform as such by the State in which he performs them; and for the purposes of subsections (k) and (m) of this section and sections 1814(a) and 1835 but only if his performance of functions under subsections (k) and (m) and sections 1814(a) and 1835 is consistent with the policy of the institution or agency with respect to which he performs them and with the functions which he is legally authorized to perform,".

(b) Section 1861(k)(2)(A) of such Act is amended by inserting after "two or more physicians" the following: "(of which at least two must be physicians described in subsection (r)(1) of this section)".

PHYSICIAN TREATMENT PLAN FOR SPEECH PATHOLOGY

SEC. 813. Section 1835(a)(2)(D)(ii) of the Social Security Act is amended by inserting after "established" the following: "by a physician or by the speech pathologist providing such services".

PAYMENT FOR PHYSICIANS' SERVICES WHERE BENEFICIARY HAS DIED

SEC. 814. (a) Section 1870(f) of the Social Security Act is amended to read as follows:

"(f) If an individual who received medical and other health services for which payment may be made under section 1832(a)(1) dies, and no assignment of the right to payment for such services was made by such individual before his death, and payment for such services has not been made—

"(1) if the person or persons who furnished the services agree that the reasonable charge is the full charge for the services, payment for such services shall be made to such person or persons, and

"(2) if the person or persons who furnished the services do not agree that the reasonable charge is the full charge for the services, payment for such services shall be made on the basis of an itemized bill to the person who has agreed to assume the legal obligation to make payment for such services and files a request for payment (with such accompanying evidence of such legal obligation as may be required in regulations),

but only in such amount and subject to such conditions as would be applicable if the individual who received the services had not died.".

(b) The amendment made by this section shall apply only to claims filed on or after the date of the enactment of this Act.

PRESUMED COVERAGE PROVISIONS

SEC. 815. (a) Section 1814 of the Social Security Act is amended by striking out subsections (h) and (i) and by redesignating subsection (j) as subsection (h).

(b) Section 1814(c) of such Act is amended by striking out "subsection (j)" and inserting in lieu thereof "subsection (h)".

PAYMENT TO PROVIDERS OF SERVICES

SEC. 816. (a) Section 1814(b) of the Social Security Act is amended to read as follows:

"(b) The amount paid to any provider of services with respect to services for which payment may be made under this part shall, subject to the provisions of section 1813, be the reasonable cost of such services, as determined under section 1861(v) and as further limited by section 1881(b)(2)(B).".

(b) Section 1833(a) of such Act is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) in the case of services described in section 1832(a)(2) (except those services described in subparagraphs (D), (E), (F), and (G) of such section and in paragraph (5) of this subsection)—

"(A) with respect to home health services, the reasonable cost of such services, as determined under section 1861(v);

"(B) with respect to other services (except those described in subparagraph (C) of this paragraph), the reasonable costs of such services, as so determined, less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), but in no case may the payment for such other services exceed 80 percent of such costs;

"(C) with respect to services described in the second sentence of section 1861(p), 80 percent of the reasonable charges for such services;

"(3) in the case of services described in subparagraphs (D), (E), and (F) of section 1832(a)(2), the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A), less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), but in no case may the payment for such services exceed 80 percent of such costs; and

"(4) in the case of facility services described in subparagraph (G) of section 1832(a)(2), the applicable amount described in subparagraph (A) of section 1833(i)(2); and

"(5) in the case of preadmission diagnostic services described in section 1861(s)(2)(C) which are furnished to an individual by the outpatient department of a hospital within 7 days of such individual's admission to the same hospital as an inpatient or (to the extent practicable as determined by regulations prescribed by the Secretary) to another hospital, the reasonable costs for such services.".

(c) The amendment made by subsection (a) shall apply to services furnished on or after October 1, 1980.

LIMIT ON PREMIUM INCREASES DUE TO LATE ENROLLMENT

SEC. 817. (a) The first sentence of section 1839(d) of the Social Security Act is amended by inserting the following immediately before the period at the end thereof: "; except that in no case may the total amount of such increase exceed 30 percent of such monthly premium so determined".

(b) The amendment made by subsection (a) shall apply to premiums for months after June 1981.

REENROLLMENT AND OPEN ENROLLMENT IN PART B

SEC. 818. (a) Subsection (b) of section 1837 of the Social Security Act is repealed.

(b)(1) Subsection (e) of such section is amended to read as follows:

"(e) There shall be a general enrollment period which is any period after the period described in subsection (d).".

(2) Subsection (g)(3) of such section is amended by striking out "the earlier of the then current" and all that follows through "subsection (e) of this section)" and inserting in lieu thereof "the month in which the individual files an application establishing such entitlement".

(c)(1) Section 1838(a)(2)(E) of such Act is amended by striking out "the July 1" and inserting in lieu thereof "the first day of the third month".

(2) The second sentence of subsection (d) of section 1839 of such Act is amended by striking out "who enrolls for the second time) (2)" and all that follows through "in which he enrolled for the second time" and inserting in lieu thereof "who reenrolls) (2) the months which elapsed between the date of termination of a previous coverage period and the month after the month in which he reenrolled".

CHIROPRACTORS' SERVICES

SEC. 819. (a) Section 1861(r)(5) of the Social Security Act is amended by striking out "demonstrated by X-ray to exist" and inserting in lieu thereof "demonstrated by X-ray or other chiropractic clinical findings to exist".

(b) Section 1861(s)(3) of such Act is amended by inserting "(A)" after "(3)", and by adding the following new subparagraph at the end thereof:

"(B) diagnostic X-ray tests which are furnished by a physician described in subsection (r)(5) and which are reasonable and necessary in the diagnosis of a subluxation of the spine;".

(c) The amendments made by this section shall apply to services furnished on or after July 1, 1981.

INCREASE IN OUTPATIENT MENTAL HEALTH BENEFITS UNDER PART B

SEC. 820. (a)(1) Section 1833(c) of the Social Security Act is amended—

(A) by striking out "there" and inserting in lieu thereof "not more than $937.50"; and

(B) by striking out everything after "subsections (a) and (b)" and inserting in lieu thereof a period.

(2) Section 1866(a)(2)(A) of such Act is amended by striking out the last sentence.

(b)(1) Section 1861(r) of such Act is amended by striking out "or" at the end of clauses (3) and (4) of the first sentence and by inserting the following before the period at the end of the first sentence: ", or (6) a clinical psychologist who is licensed as such by the State (or in a State which does not license clinical psychologists as such, is legally authorized to perform the services of a clinical psychologist in the jurisdiction in which he performs such services) and who meets uniform minimum requirements prescribed by the Secretary, but only for the purpose of section 1861(s)(1) and section 1835(a)(2)(B)(ii) and only with respect to the treatment of an individual who is not an inpatient of a hospital (as defined in subsection (e) or (f) of this section), was referred to the psychologist by a physician described in clause (1), and is receiving such services in connection with the treatment of mental, psychoneurotic, or personality disorders and only with respect to services which such clinical psychologist is legally authorized to perform by the State or jurisdiction in which such services are furnished".

(2) Section 1835(a)(2)(B) of such Act is amended—

(A) by inserting "(i)" before "in the case of";

(B) by striking out "and" at the end thereof; and

(C) by adding the following at the end thereof:

"(ii) in the case of services furnished by a physician described in section 1861(r)(6) to an individual described in such section, such services are or were required for the treatment of mental, psychoneurotic, or personality disorders;".

(c) The amendments made by this section shall apply to expenses incurred in calendar years beginning with 1982.

LIMITATION ON PAYMENTS TO RADIOLOGISTS AND PATHOLOGISTS

SEC. 821. (a) Subsections (a)(1)(B) and (b)(2) of section 1833 of the Social Security Act are each amended by inserting after "pathology" the following: "who has in effect an agreement with the Secretary by which the physician agrees to accept an assignment (as provided for in section 1842(b)(3)(B)(ii)) for all physicians' services furnished by him for hospital inpatients enrolled under this part".

(b) The amendments made by subsection (a) shall apply to services furnished after the sixth calendar month beginning after enactment of this Act.

SHORTENED PART B TERMINATION PERIOD FOR CERTAIN INDIVIDUALS WHOSE PREMIUMS MEDICAID HAS CEASED TO PAY

SEC. 822. (a) Section 1843(e) of the Social Security Act is amended by adding at the end thereof the following: "The coverage period under this part of any such individual who (in the last month of his coverage period attributable to the State agreement or in any of the following six months) files notice that he no longer wishes to participate in the insurance program established by this part, shall terminate at the close of the month in which the notice is filed.".

(b) The second sentence of section 1838(b) of such Act is amended by inserting "(except as otherwise provided in section 1843(e))" after "shall".

(c) Section 1843(g)(2) of such Act is amended—

(1) by adding "and" at the end of clause (A);

(2) by striking out ", and" at the end of clause (B) and inserting in lieu thereof a period; and

(3) by striking out clause (C).

(d) The amendments made by this section apply to notices filed after the third calendar month beginning after the date of the enactment of this Act.

(e) The coverage period under part B of title XVIII of the Social Security Act of an individual whose coverage period attributable to a State agreement under section 1843 of such Act is terminated and who has filed notice before the end of the third calendar month beginning after the date of the enactment of this Act that he no longer wishes to participate in the insurance program established by part B of title XVIII shall terminate on the earlier of (1) the day specified in section 1838 without the amendments made by this section, or (2) (unless the individual files notice before the day specified in this clause that he wishes his coverage period to terminate as provided in clause (1)) the day on which his coverage period would terminate if the individual filed notice in the fourth calendar month beginning after the date of the enactment of this Act.

OUTPATIENT PHYSICAL THERAPY SERVICES

SEC. 823. (a) Section 1833(g) of the Social Security Act, as added by section 251(a)(2) of Public Law 92-603, is amended by striking out "$100" and inserting in lieu thereof "$500".

(b) Subsection (g) of section 1833 of such Act, as added by section 279(b) of Public Law 92-603, is redesignated as subsection (h).

(c) The amendment made by subsection (a) shall apply to expenses incurred in calendar years beginning with calendar year 1982.

REIMBURSEMENT FOR BLOOD

SEC. 824. (a) The following provisions of the Social Security Act are repealed:

(1) paragraph (2) of section 1813(a);

(2) the last sentence of section 1833(b); and

(3) section 1866(a)(2)(C).

(b) Section 1861(v)(1)(A) of such Act is amended by striking out "and" before "(ii)" in the fourth sentence and by inserting the following before the period at the end of such sentence: ", and (iii) take into account the customary practices of providers of services in the replacement of blood (or equivalent quantities of packed red blood cells, as defined in regulations) furnished to an individual with respect to whom payment may be made under this title, except that, notwithstanding such practices, such adjustments as are necessary to assure compliance with the principles set forth in this subsection (and regulations pursuant thereto) shall be made in determining such costs".

(c) The amendments made by this section shall apply to blood furnished on or after July 1, 1981.

MEDICARE PAYMENT LIABILITY SECONDARY IN CERTAIN INSURANCE

SEC. 825. Section 1862(b) of the Social Security Act is amended—

(1) by inserting "or under an automobile insurance policy" before the period at the end of the first sentence thereof; and

(2) by inserting "or policy" before the period at the end of the second sentence thereof.

HOSPITAL TRANSFER REQUIREMENT FOR SKILLED NURSING FACILITY COVERAGE

SEC. 826. Section 1861(i) of the Social Security Act is amended—

(1) by striking out "14 days" each place it appears therein and inserting in lieu thereof "30 days"; and

(2) by striking out ", or (B) within 28 days" and all that follows through "he resides, or (C)" and inserting in lieu thereof ", or (B)";

OUTPATIENT SURGERY

SEC. 827. (a) Section 1832(a)(2) of the Social Security Act is amended by adding the following new subparagraph at the end thereof (after the new subparagraphs added by sections 806(a) and 807(a) of this Act):

"(G) facility services furnished in connection with surgical procedures specified by the Secretary pursuant to section 1833(i)(1) and performed in an ambulatory surgical center (which meets health, safety, and other standards specified by the Secretary in regulations).".

(b) Section 1833 of such Act is amended by adding the following new subsection at the end thereof:

"(i)(1) The Secretary shall, in consultation with the National Professional Standards Review Council and appropriate medical organizations, specify surgical procedures which are appropriately (when considered in terms of the proper utilization of hospital inpatient facilities) performed on an inpatient basis in a hospital but which also can be performed safely on an ambulatory basis in an ambulatory surgical center or hospital outpatient department.

"(2)(A) The amount of payment to be made for facility services furnished in connection with surgical procedures specified pursuant to paragraph (1) and furnished to an individual in an ambulatory surgical center shall be equal to an amount established by the Secretary with respect to each such procedure which (i) takes into account the costs incurred by such centers, or classes of centers, generally in providing the services appropriate for the performance of such services, and (ii) takes such costs into account in such a manner which will assure that the performance of the service in such an ambulatory surgical center will result in substantially less amounts paid under this title than would have been paid if the services had been furnished on an inpatient basis. The amount so established shall be reviewed periodically and may be adjusted, when appropriate, to take account of varying conditions in different areas.

"(B) The amount of payment to be made under this part for services (including all pre- and post-operative services) described in paragraphs (1) and (2)(A) of section 1861(s) and furnished in connection with surgical procedures (specified pursuant to paragraph (1) of this subsection) in an ambulatory surgical center or a hospital outpatient department shall be the reasonable charge for such services if the physician accepts an assignment, as provided for in section 1842(b)(3)(B)(ii), with respect to such payment.".

(c) Section 1835(a)(2) of such Act is amended by adding the following new subparagraph at the end thereof (after the new subparagraphs added by sections 806(e) and 807(e) of this Act):

"(G) in the case of services furnished in connection with surgical procedures, specified pursuant to section 1833(i)(1), in an ambulatory surgical center, such services are or were medically required.".

(d) Section 1861(u) of such Act is amended by inserting "ambulatory surgical center," after "hospital,".

TECHNICAL RENAL DISEASE AMENDMENTS

SEC. 828. (a) Sec. 1881(c)(4) of the Social Security Act is amended by adding at the end the following sentence: "The Secretary may not find, for purposes of such certification, that the addition or expansion of a facility within a network is not needed if the State health planning and development agency, fully or conditionally designated under title XV of the Public Health Service Act for the State in which the facility is located, has certified under section 1523(a)(4)(B) of such Act that such addition or expansion is needed.".

(b) Section 1881(e) of such Act is amended—

(1) by striking out "and" the first place it appears in paragraph (1) and inserting a comma in lieu thereof;

(2) by inserting "and nonprofit entities which the Secretary finds can furnish equipment economically and efficiently," after "renal dialysis facilities," in paragraph (1);

(3) by striking out "such providers and facilities" and inserting in lieu thereof "such providers, facilities, and nonprofit entities"; and

(4) by striking out "or facility will—" in paragraph (2) and inserting in lieu thereof ", facility, or other entity will—".

(c) Section 1881(g) of such Act is amended by striking out "April" each place it appears and inserting in lieu thereof "July".

PREADMISSION DIAGNOSTIC TESTING

SEC. 829. (a) Section 1833(a)(1) of the Social Security Act is amended by striking out "and (E)" and inserting in lieu thereof "(E)", and by inserting the following after "section 1881," at the end of clause (E); "and (F) with respect to expenses incurred for preadmission diagnostic radiological or pathological services for which payment may be made under this part and which are furnished to an individual by the outpatient department of a hospital within seven days of such individual's admission to the same hospital as an inpatient or, to the extent practicable as determined by regulations prescribed by the Secretary, to another hospital by a physician in the field of radiology or pathology who has an agreement in effect with the Secretary by which the physician agrees to accept an assignment (as provided for in section 1842(b)(3)(B)(ii)) for all physicians' services furnished by him for such services to individuals enrolled under this part, the amounts paid shall be equal to the reasonable charges for such services,".

(b) The Secretary of Health and Human Services shall report to the Congress no later than one year after the date of the enactment of this Act describing the policy which has been developed and is being or will be implemented with respect to the amendments made by subsection (a) of this section and by section 816(b) of this chapter as they concern expenses incurred for preadmission diagnostic testing furnished to an individual at a hospital within seven days of an individual's admission to another hospital.

STUDIES AND DEMONSTRATION PROJECTS

SEC. 830. (a) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall develop and carry out a demonstration project to determine (1) the extent to which the commencement of nutritional therapy in early renal failure, utilizing (but not limited to) controlled protein substances, can retard or arrest the progression of the disease with a resultant substantive deferment of dialysis, and (2) the administrative, financial, and other aspects of making such nutritional therapy generally available as part of the benefits received under title XVIII of the Social Security Act.

(b) The Secretary shall submit, to the Congress, within one year after the date of the enactment of this Act, a report on the demonstration projects being conducted by the Secretary with respect to waiving the applicable cost sharing amounts which beneficiaries under title XVIII of the Social Security Act have to pay for obtaining a second opinion on having surgery performed. Such report shall include any recommendations for legislative changes in such title which the Secretary finds desirable as a result of such demonstration projects.

(c) The Secretary shall conduct a study of the circumstances and conditions under which services furnished by registered dietitians should be covered as a home health benefit under title XVIII of the Social Security Act.

(d) The Secretary shall develop and carry out demonstration projects to determine the administrative, financial, and other aspects of making the services of clinical social workers more generally available as part of the benefits received under title XVIII of the Social Security Act.

(e) The Secretary shall, in consultation with appropriate professional organizations, conduct a comprehensive study of methods for providing coverage under part B of title XVIII of the Social Security Act for orthopedic shoes for individuals with disabling or deforming conditions who require special fitting considerations to help protect against increasing disability or serious medical complications or who require special shoes in conjunction with the use of an orthosis or foot support. The Secretary shall submit to the Congress, no later than July 1, 1981, a report on the findings of this study and such specific legislative recommendations as is appropriate with respect to the utilization, cost control, quality of care, and equitable and efficient administration of such an extension of coverage.

(f) The Secretary shall conduct a study of the circumstances and conditions under which services furnished with respect to respiratory therapy should be covered as a home health benefit under title XVIII of the Social Security Act.

(g) The Secretary shall conduct a study involving a comprehensive analysis of the cost effects of alternative approaches to improving coverage under title XVIII of the Social Security Act for the treatment of various types of foot conditions.

(h) The Secretary shall submit a report on each of the demonstration projects and studies described in subsections (a), (c), (d), (f), and (g). Each such report shall be submitted within twenty-four months of the date of the enactment of this Act and shall contain any recommendations for legislative changes which the Secretary finds desirable as a result of conducting the demonstration project or study with respect to which the report is submitted.

(i) Grants, payments under contracts, and other expenditures made for studies and demonstration projects under this section shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant, payment, or other expenditure, the amount to be paid from each of such trust funds shall be determined by the Secretary, giving due regard to the purposes of the experiment or project involved.

PROVIDER REIMBURSEMENT REVIEW BOARD

SEC. 831. Section 1878(f)(1) of the Social Security Act is amended by inserting the following after the second sentence thereof: "Providers shall also have the right to obtain judicial review of any action of the fiscal intermediary which involves a question of law or regulations relevant to the matters in controversy whenever the Board determines (on its own motion or at the request of a provider of services as described in the following sentence) that it is without authority to decide the question, by a civil action commenced within sixty days of the date on which such determination is rendered. If a provider of services may obtain a hearing under subsection (a) and has filed a request for such a hearing, such provider may file a request for a determination by the Board of its authority to decide the question of law or regulations relevant to the matters in controversy (accompanied by such documents and materials as the Board shall require for purposes of rendering such determination). The Board shall render such determination in writing within thirty days after the Board receives the request and such accompanying documents and materials, and the determination shall be considered a final decision and not subject to review by the Secretary. If the Board fails to render such determination within such period, the provider may bring a civil action (within sixty days of the end of such period) with respect to the matter in controversy contained in such request for a hearing.".

ACCESS TO BOOKS AND RECORDS OF SUBCONTRACTORS

SEC. 832. Section 1861(v)(1) of the Social Security Act is amended by adding the following new subparagraph at the end thereof (after the new subparagraph added by section 802(p) of this Act):

"(I) In determining such reasonable cost, the Secretary may not include any costs incurred by a provider with respect to any service furnished in connection with matters for which payment may be made under this title and furnished pursuant to a contract between the provider and any of its subcontractors which is entered into after the date of enactment of this subparagraph and the value or cost of which is $10,000 or more over a twelve-month period unless the contract contains a clause to the effect that until the expiration of three years after the furnishing of such services pursuant to such contract, the subcontractor shall make available, upon request, to the Secretary or the Comptroller General of the United States (or any of their duly authorized representatives) the contract, and books, documents, and records of such subcontractor that are necessary to verify the nature and extent of such costs.".

MEDICARE COVERAGE OF PNEUMOCOCCAL VACCINE AND ITS ADMINISTRATION

SEC. 833. (a)(1) Section 1861(s) of the Social Security Act is amended—

(A) by redesignating paragraphs (10) through (13) as paragraphs (11) through (14), respectively;

(B) by striking out "and" at the end of paragraph (8);

(C) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(D) by inserting after paragraph (9) the following new paragraph:

"(10) pneumococcal vaccine and its administration.".

(2) Section 1864(a) of such Act is amended by striking out "paragraphs (10) and (11) of section 1861(a)" and inserting in lieu thereof "paragraphs (11) and (12) of section 1861(s)".

(3) Section 1862(a) of such Act is amended—

(A) by inserting ", or, in the case of items and services described in section 1861(s)(10), which are not reasonable and necessary for the prevention of illness" before the semicolon at the end of paragraph (1), and

(B) by inserting "(except as otherwise allowed under section 1861(s)(10) and paragraph (1))" in paragraph (7) after "immunizations".

(b)(1) Section 1833(a) of such Act (as amended by sections 816(b) and 829(a) of this Act) is amended—

(A) by striking out "and" before "(F)" in paragraph (1);

(B) by inserting at the end of paragraph (1) the following: "and (G) with respect to items and services described in section 1861(s)(10), the amounts paid shall be 100 percent of the reasonable charges for such items and services,";

(C) by inserting "and to items and services described in section 1861(s)(10)" in paragraph (2)(A) after "home health services"; and

(D) by inserting "(other than for items and services described in section 1861(s)(10))" in paragraph (3) after "but in no case may the payment for such services".

(2) The first sentence of section 1833(b) of such Act is amended by inserting "(A)" in clause (2) after "expenses incurred", and by inserting before the comma at the end of such clause the following: ", or (B) for items and services described in section 1861(s)(10)".

(3) Subparagraph (A) of section 1861(aa)(1) of such Act is amended by inserting before the comma at the end the following: "and items and services described in section 1861(s)(10)".

(c) The amendments made by this section shall apply to services furnished on or after July 1, 1981.

CHAPTER 2—H.R. 4000 PROVISIONS

SHORT TITLE; TABLE OF CONTENTS

SEC. 841. This chapter may be cited as the "Medicare and Medicaid Amendments of 1980".

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EXPANDED MEMBERSHIP OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 842. Section 1152(b)(1)(A) of the Social Security Act is amended—

(1) by inserting "and, if the organization so elects, of other health care practitioners engaged in the practice of their professions in such area who hold independent hospital admitting privileges," after the comma in clause (ii); and

(2) by inserting "(except as otherwise provided under section 1155(c))" after "does not" in clause (vi).

REGISTERED NURSE AND DENTIST MEMBERSHIP ON STATEWIDE COUNCIL ADVISORY GROUP

SEC. 843. (a) Section 1162(e)(1) of the Social Security Act is amended by inserting "(including at least one registered professional nurse and at least one doctor of dental surgery or of dental medicine)" after "representatives".

(b) The amendment made by this section shall become effective 180 days after the date of the enactment of this Act.

NONPHYSICIAN MEMBERSHIP ON NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

SEC. 844. (a) Section 1163(a)(1) of the Social Security Act is amended by inserting "one doctor of dental surgery or of dental medicine, one registered professional nurse, and one other health practitioner (other than a physician as defined in section 1861 (r)(1))," after "physicians,".

(b) Section 1163(a)(2) of such Act is amended by striking out "four members" and inserting in lieu thereof "five members".

(c) Section 1163(a)(3) of such Act is amended by inserting "physician" before "members".

(d) Section 1163(b) of such Act is amended by striking out "Members" and inserting in lieu thereof "Physician members".

(e) Section 1173 of such Act is amended by striking out "(except sections 1155(c) and 1163)" and inserting in lieu thereof "(except section 1155(c))".

(f) The amendments made by this section shall become effective 180 days after the date of the enactment of this Act.

EFFICIENCY IN DELEGATED REVIEW

SEC. 845. Section 1155(e) of the Social Security Act is amended by striking out "effectively and in timely fashion" and inserting in lieu thereof "effectively, efficiently, and in timely fashion".

REQUIRED ACTIVITIES OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 846. (a)(1) Subsection (b) of section 1154 of the Social Security Act is amended—

(A) by striking out "in addition to review of health care services provided by or in institutions, only such of the duties and functions required under this part of Professional Standards Review Organization as he determines such organization to be capable of performing" in the first sentence and inserting in lieu thereof "in addition to review of health care services (other than ancillary, ambulatory care, and long-term care services) provided by or in hospitals, only such of the duties and functions as he requires the organization to perform under subsection (f)(2) or subsection (f)(4) and which the organization is capable of performing"; and

(B) by striking out "only if the Secretary finds that it is substantially carrying out in a satisfactory manner, the activities and functions required of Professional Standards Review Organizations under this part with respect to the review of health care services provided by or in institutions (including ancillary services) and, in addition, review of such other health care services as the Secretary may require" in the second sentence and inserting in lieu thereof "only if the Secretary finds that it is substantially carrying out in a satisfactory manner the activities and functions required of that Professional Standards Review Organization under this part".

(2) Subsection (c) of such section is amended by inserting "of that organization" after "required under this part".

(3) Such section is further amended by adding at the end the following new subsection:

"(f)(1) The Secretary shall establish a program (hereinafter in this subsection referred to as the 'program') for the evaluation of the cost-effectiveness of review of particular health care services by Professional Standards Review Organizations.

"(2) In order to demonstrate the cost-effectiveness of requiring review of particular health care services before such review is generally required, the program shall be designed in a manner so that the Secretary will require particular Professional Standards Review Organizations, chosen by a statistically valid method that will permit a valid evaluation of the cost-effectiveness of such review, to review particular health care services.

"(3) The program shall provide for the evaluation of cost-effectiveness of the review of particular health care services under the program, particularly in comparison with areas in which such review was not required or performed.

"(4) Based upon such evaluation, or upon an evaluation of comparable statistical validity, and a finding that review of particular health care services is cost-effective or yields other significant benefits, the Secretary shall specify such particular health care services which Professional Standards Review Organizations (either generally or under such conditions and circumstances as the Secretary may specify) have the duty and function of reviewing under this part.

"(5) For purposes of this subsection, the term 'particular health care services' does not include health care services (other than ancillary, ambulatory care, and long-term care services) provided by or in hospitals.".

(b) Section 1155(a) of such Act is amended—

(1) by striking out "at the earliest date practicable" in paragraph (1) and inserting in lieu thereof "to the extent and at the time specified by the Secretary under section 1154(f)";

(2) by inserting ", consistent with section 1154(f)," in paragraph (7)(A) after "only"; and

(3) by inserting "(consistent with section 1154(f))" in paragraph (7)(B) after "to the extent".

(c) Section 1155 of such Act is amended by striking out subsection (g).

(d) Section 1155 of such Act is amended by adding at the end thereof the following new subsection:

"(h) If the Secretary has designated an organization (other than under section 1154) as a Professional Standards Review Organization, but that organization has not assumed responsibility for the review of particular activities in its area included in subsection (a)(1), the Secretary may designate another qualified Professional Standards Review Organization (in reasonable proximity to the providers and practitioners whose services are to be reviewed) to assume the responsibility for the review of some or all of those particular activities.".

RESPONSE OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS TO FREEDOM OF INFORMATION ACT REQUESTS

SEC. 847. No Professional Standards Review Organization designated (conditionally or otherwise) under part B of title XI of the Social Security Act shall be required to make available any records pursuant to a request made under section 552 of title 5, United States Code, until the end of the 180-day period beginning on the date of entry of a final court order requiring that such records be made available.

CONSULTATION BY PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS WITH HEALTH CARE PRACTITIONERS

SEC. 848. (a) Section 1155(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(8) Each Professional Standards Review Organization shall consult (with such frequency and in such manner as may be prescribed by the Secretary) with representatives of health care practitioners (other than physicians described in section 1861(r)(1)) and of institutional and noninstitutional providers of health care services, in relation to the Professional Standards Review Organization's responsibility for the review under paragraph (1) of the professional activities of such practitioners and providers.".

(b) Section 1162(e) of such Act is amended by striking out the first parenthetical material in paragraph (1) and the parenthetical material in paragraph (2).

(c) The amendments made by this section shall become effective 180 days after the date of enactment of this Act.

REVIEW OF ROUTINE HOSPITAL ADMISSION SERVICES AND PREOPERATIVE HOSPITAL STAYS BY PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 849. Section 1155(a)(2) of the Social Security Act is amended to read as follows:

"(2) Each Professional Standards Review Organization shall have the authority to determine, in advance, in the case of—

"(A) any elective admission to a hospital or other health care facility (including admissions occurring on weekends), and

"(B) any routine diagnostic services furnished in connection with such an admission,

whether such service, if provided, or if provided by a particular health care practitioner or by a particular hospital or other health care facility, organization, or agency, would meet the criteria specified in subparagraphs (A) and (C) of paragraph (1). Each such Organization may be directed by the Secretary to exercise such authority where the Secretary finds (consistent with section 1154(f)) that such determinations can be made on a timely basis by the Organization and appropriate procedures will be applied to assure prompt notification of such determinations to providers, physicians, practitioners, and persons on whose behalf payment may be made under this Act for services and items.".

STUDY OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS NORMS, STANDARDS, AND CRITERIA

SEC. 850. The Secretary of Health and Human Services shall, in consultation with the National Professional Standards Review Council, conduct a nationwide study of the differences in medical criteria and length-of-stay norms utilized by Professional Standards Review Organizations in the various regions of the country. The study shall include an assessment of the rationale that contributes to these regional differences. The Secretary shall report the findings and conclusions made with respect to the study to the Congress within one year after the date of the enactment of this Act.

NONPROFIT HOSPITAL PHILANTHROPY

SEC. 851. (a) Part A of title XI of the Social Security Act is amended by adding after section 1133 the following new section:

"ENCOURAGEMENT OF NONPROFIT HOSPITAL PHILANTHROPY

"SEC. 1134. (a) It is the policy of the United States that philanthropic support for

health care be encouraged and expanded, especially in support of experimental and innovative efforts to improve the health care delivery system.

"(b) For purposes of determining under titles V, XVIII, and XIX the reasonable costs of services furnished by nonprofit hospitals, unrestricted grants, gifts, and income from endowments shall not be deducted from any operating costs of such hospitals, and, in addition, the following items shall not be deducted from any operating costs of such hospitals:

"(1) A donor designated or restricted grant, gift, or income from an endowment, as defined in section 405.423(b)(2) of title 42 of the Code of Federal Regulations.

"(2) An unrestricted grant or gift, or income from such a grant or gift, which is not available for use as operating funds because of its designation by the hospital's governing board.

"(3) A grant or similar payment which is made by a governmental entity and which is not available, under the terms of the grant or payment, for use as operating funds.

"(4) The sale or mortgage of any real estate or other capital assets of the hospital which the hospital acquired through a gift or grant and which is not available for use as operating funds under the terms of the gift or grant or because of its designation by the hospital's governing board, except for recovery of the appropriate share of gains and losses realized from the disposal of depreciable assets.

"(5) A sinking fund which is (A) created by the hospital in order to meet a condition imposed by a third party for the third party's financing of a capital improvement of the hospital, and which fund is used exclusively to make payments to such third party for the financing of the capital improvement.".

(b) Subsection (b) of section 1134 of the Social Security Act (as added by subsection (a)) shall apply to grants, gifts, and endowments made or established on or after September 1, 1981.

CONSULTATIVE SERVICES FOR SKILLED NURSING FACILITIES

SEC. 852. Section 1864(a) of the Social Security Act is amended by striking out the third and fourth sentences.

STUDY OF NEED FOR DUAL PARTICIPATION OF SKILLED NURSING FACILITIES

SEC. 853. (a)(1) The Secretary of Health and Human Services shall conduct a study of the availability and need for skilled nursing facility services covered under part A of title XVIII of the Social Security Act and under State plans approved under title XIX of such Act.

(2) Such study shall include—

(A) an investigation of the desirability and feasibility of imposing a requirement that skilled nursing facilities (i) which furnish services to patients covered under State plans approved under title XIX of the Social Security Act also furnish such services to patients covered under part A of title XVIII of such Act, and (ii) which furnish services to patients covered under such title XVIII also furnish such services to patients covered under such State plans,

(B) an evaluation of the impact of existing laws and regulations on skilled nursing facilities and individuals covered under such State plans and under part A of such title XVIII, and an evaluation of the extent to which existing laws and regulations encourage skilled nursing facilities to accept only title XVIII beneficiaries or title XIX recipients, and

(C) an investigation of possible changes in regulations and legislation which would result in encouraging a greater availability of nursing facility services.

(3) In developing such study, the Secretary shall consult with professional organizations, health experts, private insurers, nursing home providers, and consumers of skilled nursing facility services.

(b) Within one year after the date of the enactment of this Act the Secretary shall complete such study and shall submit to the Congress a full and complete report thereon, together with recommendations with respect to the matters covered by such study (including any recommendations for administrative or legislative changes).

ALTERNATIVE TO DECERTIFICATION OF LONG-TERM CARE FACILITIES OUT OF COMPLIANCE WITH CONDITIONS OF PARTICIPATION; LOOK BEHIND AUTHORITY

SEC. 854. (a) Section 1866 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f)(1) Where the Secretary determines that a skilled nursing facility which has filed an agreement pursuant to subsection (a)(1) or which has been certified for participation in a plan approved under title XIX no longer substantially meets the provisions of section 1861(j), and further determines that the facility's deficiencies—

"(A) immediately jeopardize the health and safety of its patients, the Secretary shall provide for the termination of the agreement or of the certification of the facility and shall provide, or

"(B) do not immediately jeopardize the health and safety of its patients, the Secretary may, in lieu of terminating the agreement or certification of the facility, provide

that no payment shall be made under this title (and order a State agency established or designated pursuant to section 1902(a)(5) of this Act to administer or supervise the administration of the State plan under title XIX of this Act to deny payment under such title XIX) with respect to any individual admitted to such facility after a date specified by him.

"(2) The Secretary shall not make such a decision with respect to a facility until such facility has had a reasonable opportunity, following the initial determination that it no longer substantially meets the provisions of section 1861(j), to correct its deficiencies, and, following this period, has been given reasonable notice and opportunity for a hearing.

"(3) The Secretary's decision to deny payment may be made effective only after such notice to the public and to the facility as may be prescribed in regulations, and its effectiveness shall terminate (A) when the Secretary finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance) with the provisions of section 1861(j), or (B) in the case described in paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective, whichever occurs first. If a facility to which clause (B) of the previous sentence applies still fails to substantially meet the provisions of section 1861(j) on the date specified in such clause, the Secretary shall terminate such facility's agreement or provide for termination of such facility's certification, notwithstanding the provisions of paragraph (2) of subsection (b) effective with the first day of the first month following the month specified in such clause.".

(b)(1)(A) Section 1902 of such Act is amended by adding at the end the following new subsection:

"(h)(1) In addition to any other authority under State law, where a State determines that a skilled nursing facility or intermediate care facility which is certified for participation under its plan no longer substantially meets the provisions of section 1861(j) or section 1905(c), respectively, and further determines that the facility's deficiencies—

"(A) immediately jeopardize the health and safety of its patients, the State shall provide for the termination of the facility's certification for participation under the plan and may provide, or

"(B) do not immediately jeopardize the health and safety of its patients, the State may, in lieu of providing for terminating the facility's certification for participation under the plan, provide

that no payment will be made under the State plan with respect to any individual admitted to such facility after a date specified by the State.

"(2) The State shall not make such a decision with respect to a facility until the facility has had a reasonable opportunity, following the initial determination that it no longer substantially meets the provisions of section 1861(j) or section 1905(c) (as the case may be), to correct its deficiencies, and, following this period, has been given reasonable notice and opportunity for a hearing.

"(3) The State's decision to deny payment may be made effective only after such notice to the public and to the facility as may be provided for by the State, and its effectiveness shall terminate (A) when the State finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance) with the provisions of section 1861(j) or section 1903 (c) (as the case may be), or (B) in the case described in paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective, whichever occurs first. If a facility to which clause (B) of the previous sentence applies still fails to substantially meet the provisions of the respective section on the date specified in such clause, the State shall terminate such facility's certification for participation under the plan effective with the first day of the first month following the month specified in such clause.".

(B) Such section is further amended by inserting before the semicolon at the end of subsection (a)(33)(B) the following: ", except that the Secretary is authorized to validate State determinations and, on that basis, make independent and binding determinations concerning the extent to which individual institutions and agencies meet the requirements for participation".

(2) Section 1910 of such Act is amended by adding at the end thereof the following new subsection:

"(c)(1) The Secretary may cancel approval of any skilled nursing or intermediate care facility at any time if he finds on the basis of a determination made by him as provided in section 1902(a)(33)(B) that a facility fails to meet the requirements contained in section 1902(a)(28) or section 1905(c), or if he finds grounds for termination of his agreement with the facility pursuant to section 1866(b). In that event the Secretary shall notify the State agency and the skilled nursing facility or intermediate care facility that approval of eligibility of the facility to participate in the programs established by this title and title XVIII shall be terminated at a time specified by the Secretary. The approval of eligibility of any such facility to participate in such programs may not be reinstated unless the Secretary finds that the reason for termination has been removed and there is reasonable assurance that it will not recur.

"(2) Any skilled nursing facility or intermediate care facility which is dissatisfied with a determination by the Secretary that it no longer qualifies as a skilled nursing facility or intermediate care facility for purposes of this title, shall be entitled to a hearing by the Secretary to the same extent as is provided in section 205(b) and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g). Any agreement between such facility and the State agency shall remain in effect until the period for filing a request for a hearing has expired or, if a request has been filed, until a decision has been made by the Secretary; except that the agreement shall not be extended if the Secretary makes a written determination, specifying the reasons therefor, that the continuation of provider status constitutes an immediate and serious threat to the health and safety of patients, and the Secretary certifies that the facility has been notified of its deficiencies and has failed to correct them.".

LIFE SAFETY CODE REQUIREMENTS

SEC. 855. Section 1861(j)(13) of the Social Security Act is amended by striking out all that follows "(13)" and precedes the first semicolon and inserting in lieu thereof "meets such provisions of such edition (as is specified by the Secretary in regulations) of the Life Safety Code of the National Fire Protection Association as are applicable to nursing homes".

CRIMINAL STANDARDS FOR CERTAIN MEDICARE- AND MEDICAID-RELATED CRIMES

SEC. 856. Paragraphs (1) and (2) of section 1877(b) of the Social Security Act and of section 1909(b) of such Act are each amended by inserting "knowingly and willfully" after "Whoever".

EXCLUSION OF HEALTH CARE PROFESSIONALS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 857. (a) Part A of title XI of the Social Security Act is amended by inserting after section 1127 the following new section:

"EXCLUSION OF CERTAIN INDIVIDUALS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

"SEC. 1128. (a) Whenever the Secretary determines that a physician or other individual has been convicted (on or after October 25, 1977, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to such individual's participation in the delivery of medical care or services under title XVIII or title XIX, the Secretary—

"(1) shall bar from participation in the program under title XVIII, for such period as he may deem appropriate, each such individual otherwise eligible to participate in such program;

"(2)(A) shall promptly notify each appropriate State agency administering or supervising the administration of a State plan approved under title XIX, of the fact and circumstances of such determination, and (except as provided in subparagraph (B)) require each such agency to bar such individual from participation in such program for such period as he shall specify, which in the case of an individual specified in paragraph (1) shall be the period established pursuant to paragraph (1);

"(B) may waive the requirement under subparagraph (A) to bar an individual from participation in a State plan program under title XIX, where he receives and approves a request for such a waiver with respect to that individual from the State agency administering or supervising the administration of such plan; and

"(3) shall promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such individual of the fact and circumstances of such determination, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health and Human Services fully and currently informed with respect to any actions taken in response to such request.

"(b) A determination made by the Secretary under this section shall be effective at such time and upon such reasonable notice to the public and to the person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of inpatient hospital services, post-hospital extended care services, and home health services furnished under title XVIII, such determination shall be effective in the manner provided in paragraphs (3) and (4) of section 1866(b) with respect to terminations of agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

"(c) Any person who is the subject of an adverse determination made by the Secretary under subsection (a) shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).".

(b) Section 1862(e) of such Act is amended to read as follows:

"(e) No payment may be made under this title with respect to any item or service furnished by a physician or other individual during the period when he is barred pursuant to section 1128 from participation in the program under this title.".

(c) Section 1902(a)(39) of such Act is amended to read as follows:

"(39) provide that the State agency shall bar any specified individual from participation in the program under the State plan for the period specified by the Secretary, when required by him to do so pursuant to section 1128, and provide that no payment may be made under the plan with respect to any item or service furnished by such individual during such period;".

(d) Section 1902(g) of such Act is repealed.

REQUIREMENTS CONCERNING REPORTING OF FINANCIAL INTEREST

SEC. 858. (a) Section 1124(a)(3)(A)(ii) of the Social Security Act is amended to read as follows:

"(ii) is the owner of a whole or part interest in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof, which whole or part interest is equal to or exceeds $25,000 or 5 per centum of the total property and assets of the entity; or".

(b) Section 1902(a)(35) of such Act is amended to read as follows:

"(35) provide that any disclosing entity (as defined in section 1124(a)(2)) receiving payments under such plan complies with the requirements of section 1124;".

WITHHOLDING OF FEDERAL SHARE OF PAYMENTS TO MEDICAID PROVIDERS TO RECOVER MEDICARE OVERPAYMENTS

SEC. 859. (a) Subparagraphs (D) and (E) of section 1902(a)(13) of the Social Security Act are each amended by inserting "(except where the State agency is subject to an order under section 1913)" after "payment".

(b) Section 1903(a)(1) of such Act is amended by striking out "subject to subsections (g) and (h)" and inserting in lieu thereof "subject to subsections (g), (h), and (j)".

(c)(1) Section 1903(j) of such Act is amended to read as follows:

"(j) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) for any State for any quarter shall be adjusted in accordance with section 1913.".

(2) Section 1903(n) of such Act is amended by striking out "or is subject to a suspension of payment order issued under subsection (j)".

(d) Title XIX of such Act is amended by adding at the end the following new section:

"WITHHOLDING OF FEDERAL SHARE OF PAYMENTS FOR CERTAIN MEDICARE PROVIDERS

"SEC. 1913. (a) The Secretary may adjust, in accordance with this section, the Federal matching payment to a State with respect to expenditures for medical assistance for care or services furnished in any quarter by—

"(1) an institution (A) which has or previously had in effect an agreement with the Secretary under section 1866; and (B)(i) from which the Secretary has been unable to recover overpayments made under title XVIII, or (ii) from which the Secretary has been unable to collect the information necessary to enable him to determine the amount (if any) of the overpayments made to such institution under title XVIII; and

"(2) any person (A) who (i) has previously accepted payment on the basis of an assignment under section 1842(b)(3)(B)(ii), and (ii) during the annual period immediately preceding such quarter submitted no claims for payment under title XVIII, or submitted claims for payment under title XVIII which aggregated less than the amount of overpayments made to him, and (B)(i) from whom the Secretary has been unable to recover overpayments received in violation of the terms of such assignment, or (ii) from whom the Secretary has been unable to collect the information necessary to enable him to determine the amount (if any) of the overpayments made to such person under title XVIII.

"(b) The Secretary may (subject to the remaining provisions of this section) reduce payment to a State under this title for any quarter by an amount equal to the lesser of the Federal matching share of payments to any institution or person specified in subsection (a), or the total overpayments to such institution or person under title XVIII, and may require the State to reduce its payment to such institution or person by such amount.

"(c) The Secretary shall not make any adjustment in the payment to a State, nor require any adjustment in the payment to an institution or person, pursuant to subsection (b) until after he has provided adequate notice (which shall be not less than 60 days) to the State agency and the institution or person.

"(d) The Secretary shall by regulation provide procedures for implementation of this section, which procedures shall (1) determine the amount of the Federal payment to which the institution or person would otherwise be entitled under this section which shall be treated as a setoff against overpayments under title XVIII, and (2) assure the restoration to the institution or person of amounts withheld under this section which are ultimately determined to be in excess of overpayments under title XVIII and to which the institution or person would otherwise be entitled under this title.

"(e) The Secretary shall restore to the trust funds established under sections 1817 and 1841, as appropriate, amounts recovered under this section as setoffs against overpayments under title XVIII.

"(f) Notwithstanding any other provision of this title, an institution or person shall not be entitled to recover from any State any amount in payment for medical care and services under this title which is withheld by the State agency pursuant to an order by the Secretary under subsection (b).".

HOSPITAL PROVIDERS OF LONG-TERM CARE SERVICES ("SWINGBEDS")

SEC. 860. (a)(1) Title XVIII of the Social Security Act is amended by adding after section 1882 the following new section:

"HOSPITAL PROVIDERS OF EXTENDED CARE SERVICES

"Sec. 1883. (a) (1) Any hospital (other than a hospital which has in effect a waiver of the requirement imposed by section 1861 (e) (5)) which has an agreement under section 1866 may (subject to subsection (b)) enter into an agreement with the Secretary under which its inpatient hospital facilities may be used for the furnishing of services of the type which, if furnished by a skilled nursing facility, would constitute post-hospital extended care services.

"(2) (A) Notwithstanding any other provision of this title, payment to any hospital for services furnished under an agreement entered into under this section shall be based upon the reasonable cost of the services as determined under subparagraph (B).

"(B) (i) The reasonable cost of the services consists of the reasonable cost of routine services (determined under clause (ii)) and the reasonable cost of ancillary services (determined under clause (iii)).

"(ii) The reasonable cost of routine services furnished during any calendar year by a hospital under an agreement under this section is equal to the product of (I) the number of patient days during the year for which the services were furnished, and (II) the average reasonable cost per patient-day, such average reasonable cost per patient-day being the average rate per patient-day paid for routine services during the previous calendar year under title XIX to skilled nursing facilities located in the State in which the hospital is located and which have agreements entered into under section 1902(a) (28).

"(iii) The reasonable cost of ancillary services shall be determined in the same manner as the reasonable cost of ancillary services provided for inpatient hospital services.

"(b) The Secretary may not enter into an agreement under this section with any hospital unless the hospital has been granted a certificate of need for the provision of long-term care services from the State health planning and development agency (designated under section 1521 of the Public Health Service Act) for the State in which the hospital is located.

"(c) An agreement with a hospital under this section shall, except as otherwise provided under regulations of the Secretary, be subject to termination on the same conditions as are agreements with skilled nursing facilities under section 1866 (unless the hospital fails to satisfy the requirements specified in subsection (b)) and shall, where not inconsistent with any provision of this section, impose the same duties, responsibilities, conditions, and limitations, as those imposed under such agreements entered into under section 1866; except that no such agreement with any hospital shall be in effect for any period during which the hospital does not have in effect an agreement under section 1866, or where there is in effect for the hospital a waiver of the requirement imposed by section 1861(e)(5). A hospital whose agreement under this section has been terminated shall not be eligible to undertake a new agreement until a two-year period has elapsed from the termination date.

"(d) Any agreement with a hospital under this section shall provide that payment for services will be made only for services for which payment would be made as post-hospital extended care services if those services had been furnished by a skilled nursing facility under an agreement entered into under section 1866; and any individual who is furnished services, for which payment may be made under an agreement under this section, shall, for purposes of this title (other than this section), be deemed to have received post-hospital extended care services in like manner and to the same extent as if the services furnished to him had been post-hospital extended care services furnished by a skilled nursing facility under an agreement under section 1866.

"(e) During a period for which a hospital has in effect an agreeemnt under this section, in order to allocate routine costs between hospital and long-term care services for purposes of determining payment for inpatient hospital services, the total reimbursement received for routine services from all classes of long-term care patients (including title XVIII, title XIX, and private pay patients) shall be subtracted from the hospital's total routine costs before calculations are made to determine title XVIII reimbursement for routine hospital services.

"(f) A hospital which enters into an agreement with the Secretary under this section shall be required to meet those conditions applicable to skilled nursing facilities relating to discharge planning and the social services function (and staffing requirements to satisfy it) which are promulgated by the Secretary under section 1861(j)(15). Services furnished by such a hospital which would otherwise constitute post-hospital extended care services if furnished by a skilled nursing facility shall be subject to the same requirements applicable to such services when furnished by a skilled nursing facility except for those requirements the Secretary determines are inappropriate in the case of these services being furnished by a hospital under this section.

"(g) The Secretary shall prescribe by regulation an alternative method for determining the amount of the reasonable cost of post-hospital extended care services furnished in a distinct part of a hospital certified as a skilled nursing facility under section 1861(j) that is the same method as the method prescribed in subsections (a) and (e) for determining the amount of the reasonable cost for such services furnished by a hospital that uses beds interchangeably for either acute or long-term care and shall approve the use of this method when a hospital can demonstrate that its use would contribute significantly to the more efficient or effective administration of this part and would be in the interest of program beneficiaries.".

(2) Section 1861(v)(1) of such Act is amended by adding after subparagraph (F) the following new subparagraph:

"(G) Where a hospital furnishes inpatient services that would otherwise constitute post-hospital extended care services if furnished by a skilled nursing facility on the basis of a determination made by a Professional Standards Review Organization (or, in the absence of such a qualified organization, by such organization or agency with review responsibility as is otherwise provided for under this title) that (i) post-hospital extended care services are medically necessary; and (ii) such services are not otherwise available (as determined in accordance with criteria established by the Secretary) at the time the determination is made that post-hospital extended care services rather than inpatient hospital services are medically necessary (and for such period as the circumstances described in clauses (i) and (ii) continue to apply); and where the Secretary finds that such hospital (I) has had, during the immediately preceding calendar year, an average daily occupancy rate of less than 80 percent, and (II) could be granted a certificate of need for the provision of long-term care services from the designated State health planning and development agency for the State in which the hospital is located, the reasonable cost of such services for such hospital shall be computed as provided for in section 1883(a). Where payment is made in accordance with the preceding sentence, the individual who is furnished such services will be deemed to have received post-hospital extended care services in like manner and to the same extent as if the services furnished to him had been post-hospital extended care services furnished by a skilled nursing facility under an agreement under section 1866.".

(3) Within three years after the date of the enactment of this Act, the Secretary shall submit to the Congress a report evaluating the program established by the amendment made by paragraph (1) of this subsection and shall include in such report an analysis of—

(A) the extent and effect of the agreements under the program on availability and effective and economical provision of long-term care services, and

(B) whether the program should be continued.

(b) Title XIX of such Act is amended by adding after section 1913 (added by section 859(d) of this Act) the following new section:

"HOSPITAL PROVIDERS OF SKILLED NURSING AND INTERMEDIATE CARE SERVICES

"Sec. 1914. (a) Notwithstanding any other provision of this title, payment may be made, in accordance with this section, under a State plan approved under this title for skilled nursing facility services and intermediate care facility services furnished by a hospital which has in effect an agreement under section 1834.

"(b) (1) Payment to any such hospital, for any skilled nursing or intermediate care facility services furnished, shall be at a rate equal to the average rate per patient-day paid for routine services during the previous calendar year under this title to skilled nursing and intermediate care facilities located in the State in which the hospital is located. The reasonable cost of ancillary services shall be determined in the same manner as the reasonable cost of ancillary services provided for inpatient hospital services.

"(2) With respect to any period for which a hospital has an agreement under section 1883, in order to allocate routine costs between hospital and long-term care services, the total reimbursement for routine services received from all classes of long-term care patients (including title XVIII, title XIX, and private pay patients) shall be subtracted from the hospital total routine costs before calculations are made to determine title XIX reimbursement for routine hospital services.

"(c) The State plan may provide an alternative method for determining the amount of payment for long-term care services furnished in a distinct part of a hospital (where the conditions described in section 1883(g) are met) that is the same as the method prescribed in subsection (b) of this section for determining the amount of payment for such services furnished by a hospital that uses beds interchangeably for either acute or long-term care.".

(c) The amendments made by this section become effective on the date on which final regulations, promulgated by the Secretary to implement the amendments, are first issued; and those regulations shall be issued not later than the first day of the sixth calendar month following the month in which this Act is enacted.

COORDINATED AUDITS UNDER THE SOCIAL SECURITY ACT

Sec. 861. (a) Title XI of the Social Security Act is amended by inserting after section 1128 (added by section 857(a) of this Act) the following new section:

"COORDINATED AUDITS

"Sec. 1129. (a) If an entity provides services reimbursable on a cost-related basis under title V or XIX, as well as services reimbursable on such a basis under title XVIII, the Secretary shall require, as a condition for payment to any State under title V or XIX with respect to administrative costs incurred in the performance of audits of the books, accounts, and records of that entity, that these audits be coordinated through common audit procedures with audits performed with respect to the entity for purposes of title XVIII. The Secretary shall specify by regulation such methods as he finds feasible and equitable for the apportionment of the cost of coordinated audits between the program established under title V or XIX and the program established under title XVIII. Where the Secretary finds that a State has declined to participate in such a common audit with respect to title V or XIX, he shall reduce the payments otherwise due such State under such title by an amount which he estimates to be in excess of the amount that would have been apportioned to the State under the title (for the expenses of the State incurred in the common audit) if it had participated in the common audit.

"(b)(1) In the case of entities which have audits coordinated under subsection (a), the Secretary shall establish one or more projects to demonstrate the feasibility of creating a single coordinated appeal hearing to adjudicate those administrative cost items which are determined under such a coordinated audit and which such entities dispute and appeal.

"(2) In the case of a demonstration project under this subsection, the Secretary may waive such requirements of title V, XVIII, or XIX as would prevent carrying out the project or would require duplicative activity or otherwise create unnecessary administrative burdens in carrying out the project.

"(3) The Secretary shall report to Congress not later than April 1, 1982, on demonstration projects conducted under this subsection, including the reaction of the entities involved and estimates of any savings effected through reduction of duplication of appeal hearings, and shall include in such report recommendations for such legislation as the Secretary deems appropriate to insure the maximum feasible coordination of such appeal hearings.

"(4) The Secretary shall also provide for the review of the feasibility of establishing a single coordinated process for the collection of overpayments established in a coordinated audit under subsection (a). The Secretary shall report to Congress not later than April 1, 1981, on such review and on such recommendations for changes in legislation as the Secretary deems appropriate.".

(b)(1) Section 1902(a) of such Act is amended—

(A) by striking out "and" at the end of paragraph (40);

(B) by striking out the period at the end of paragraph (41) and inserting in lieu thereof "; and "; and

(C) by inserting after paragraph (41) the following new paragraph:

"(42) provide (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for such entities also providing services under title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such part, and (C) for payment of such proportion of costs of each such common audit as is determined under methods specified by the Secretary under section 1129(a).".

(2)(A) The amendments made by paragraph (1) shall (except as provided under subparagraph (B)) apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter beginning more than 30 days after the date of enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraph (1), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

(c)(1) Section 505(a) of such Act is amended—

(A) by striking out "and" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and "; and

(C) by inserting after paragraph (15) the following new paragraph:

(16) provides (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for entities also providing services under title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such part, and (C) for payment of such proportion of costs of each such common audit as is determined under methods specified by the Secretary under section 1129(a).".

(2) The amendments made by paragraph (1) shall apply to services provided, under a State plan approved under title V of the Social Security Act, on and after the first day of the first calendar quarter beginning more than 30 days after the date of enactment of this Act.

(d) The Secretary shall report to the Congress, not later than July 1, 1981, on actions the Secretary has taken (1) to coordinate the conduct of institutional audits and inspections which are required under the programs funded under title V, XVIII, or XIX of the Social Security Act, and (2) to coordinate such audits and inspections with those conducted by other cost payers, and he shall include in such report recommendations for such legislation as he deems appropriate to assure the maximum feasible coordination of such institutional audits and inspections.

DEMONSTRATION PROJECTS RELATING TO THE TRAINING OF AID TO FAMILIES WITH DEPENDENT CHILDREN RECIPIENTS AS HOME HEALTH AIDES

SEC. 862. (a) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") may enter into agreements with States, selected at his discretion, for the purpose of conducting demonstration projects for the training and employment of eligible participants as homemakers or home health aides, who shall provide authorized services to elderly or disabled individuals, or other individuals in need of such services, to whom such services, are not otherwise reasonably and actually available or provided, and who would, without the availability of such services, be reasonably anticipated to require institutional care.

(b) For purposes of this section the term "eligible participant" means an individual who has voluntarily applied for participation and who, at the time such individual enters the project established under this section, has been certified by the appropriate agency of State or local government as being eligible for financial assistance under a State plan approved under part A of title IV of the Social Security Act and as having continuously received such financial assistance during the ninety-day period which immediately precedes the date on which such individual enters such project and who, within such ninety-day period, had not been employed as a homemaker or home health aide.

(c)(1) The Secretary shall enter into agreements under this section with no more than twelve States. Priority shall be given to States which have demonstrated interest in providing services of the type authorized under this section.

(2) A State may apply to enter into an agreement under this section in such manner and at such time as the Secretary may prescribe.

(3) Any State entering into an agreement with the Secretary under this section must—

(A) provide that the demonstration project shall be administered by a State health services agency designated for this purpose by the Governor (which may be the State agency administering or responsible for the administration of the State plan for medical assistance under title XIX of the Social Security Act);

(B) provide that the agency designated pursuant to subparagraph (A) shall, to the maximum extent feasible, arrange for coordinating its activities under the agreement with activities of other State agencies having related responsibilities;

(C) establish a formal training program, which meets such standards as the Secretary may establish to assure the adequacy of such program, to prepare eligible participants to provide part-time and intermittent homemaker services or home health aide services to individuals who are elderly, disabled, or otherwise in need of such services;

(D) provide for the full-time employment of those eligible participants who successfully complete the training program with one or more public agencies (or, by contract, with private bona fide nonprofit agencies) as homemakers or home health aides, rendering authorized services, under the supervision of persons determined by the State to be qualified to supervise the performance of such services, to individuals described in subsection (a) at wage levels comparable to the prevailing wage levels in the area for similar work;

(E) provide that such services provided under subparagraph (D) shall be made available without regard to income of the individual requiring such services, but that a reasonable fee will be charged (on a sliding scale basis) for such services provided to individuals who have income in excess of 200 percent of the needs standard in such State under the State plan approved under part A of title IV of the Social Security Act for a household of the same size as such individual's household;

(F) provide for a system of continuing independent professional review by an appropriate panel, which is not affiliated with the entity providing the services involved, to assure that services are provided only to individuals reasonably determined to be in need of such supportive services;

(G) provide for evaluation of the project and review of all agencies providing services under the project;

(H) submit periodic reports to the Secretary as he may require; and

(I) meet such other requirements as the Secretary may establish for the proper and efficient implementation of the project.

(4) The number of participants in any project shall not exceed that number which the Secretary determines to be reasonable, based upon the capability of the agencies involved to train, employ, and properly utilize eligible participants. Such number may be appropriately modified, subsequently, with the approval of the Secretary.

(5) Any contract with a private bona fide nonprofit agency entered into pursuant to paragraph (3)(D) shall provide for reasonable reimbursement of such agencies for services on a basis proportionate to the amount of time allocated to individuals eligible to receive such services under this section (and, in case such agency is an institution, the amount of the reimbursement shall

not exceed the amount of reimbursement which would have been payable if the services involved had been provided by a free-standing agency).

(6) For purposes of this section, a facility of the Veterans' Administration shall, at the request of the Administrator of Veterans' Affairs, be considered to be a public agency. In the case of any such facility which is so considered to be a public agency, of the costs determined under this section which are attributable to such facility, 90 percent shall be paid by the State and 10 percent by the Veterans' Administration.

(d)(1) For purposes of this section, authorized homemaker and home health aide services include part-time or intermittent—

(A) personal care, such as bathing, grooming, and toilet care;

(B) assisting patients having limited mobility;

(C) feeding and diet assistance;

(D) home management, housekeeping, and shopping;

(E) health-oriented recordkeeping;

(F) family planning services; and

(G) simple procedures for identifying potential health problems.

(2) Such authorized services do not include any services performed in an institution, or any services provided under circumstances where institutionalization would be substantially more efficient as a means of providing such services.

(e)(1) Agreements shall be entered into under this section between the Secretary and the State agency designated by the Governor. Under such agreement the Secretary shall pay to the State, as an additional payment under section 1903 of such Act for each quarter, an amount equal to 90 percent of the reasonable costs incurred (less the Federal share of any related fees collected) by such State during such quarter in carrying out a demonstration project under this section, including reasonable wages and other employment costs of eligible participants employed full time under such project (and, for purposes of determining the amount of such additional payment, the 10 percent referred to in subsection (c)(6), paid by the Veterans' Administration, shall be deemed to be a cost incurred by the State in carrying out such a project).

(2) Demonstration projects under this section shall be of a maximum duration of four years, plus an additional time period of up to six months for planning and development, and up to six months for final evaluation and reporting. Federal funding under this subsection shall not be available for the employment of any eligible participant under the project after such participant has been employed for a period of three years.

(f) For purposes of title IV of the Social Security Act, any eligible participant taking part in a training program under a project authorized under this section shall be deemed to be participating in a work incentive program established by part C of such title.

(g) For the first year (and such additional immediately succeeding period as the State may specify) during which an eligible participant is employed under the project established under this section, such participant shall, notwithstanding any other provision of law, retain any eligibility for medical assistance under a State plan approved under title XIX of the Social Security Act, and any eligibility for social and supportive services provided under the State plan approved under part A of title IV of such Act, which such participant had at the time such participant entered the training program established under this section.

(h) The Secretary shall submit annual reports to the Congress evaluating the demonstration projects carried out under this section, and shall submit a final report to the Congress not more than six months after he has received the final reports from all States participating in such projects.

(i) The Secretary shall, and is hereby authorized to, waive such requirements, including formal solicitation and approval requirements, as will further expeditious and effective implementation of this section.

(j) The Secretary's authority to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

QUALITY ASSURANCE PROGRAMS FOR CLINICAL LABORATORIES

Sec. 863. Section 1123(a) of the Social Security Act is amended by striking out "1977" and inserting in lieu thereof "1980".

REIMBURSEMENT OF CLINICAL LABORATORIES UNDER MEDICARE AND MEDICAID

Sec. 864. (a)(1) Section 1842 of the Social Security Act is amended by inserting at the end the following new subsection:

"(h) If a physician's bill or request for payment for a physician's services includes a charge to a patient for a laboratory test for which payment may be made under this part, the amount payable with respect to the test shall be determined as follows:

"(1) If the bill or request for payment indicates that the physician who submitted the bill or for whose services the request for payment was made personally performed or supervised the performance of the test or that another physician with whom the physician shares his practice personally performed or supervised the test, the payment shall be the reasonable charge for the test (less the applicable deductible and coinsurance amounts).

"(2) If the bill or request for payment indicates that the test was performed by a laboratory, identifies the laboratory, and indicates the amount the laboratory charged the physician who submitted the bill or for whose services the request for payment was made, payment for the test shall be the lower of—

"(A) the laboratory's reasonable charge to individuals enrolled under this part for the test, or

"(B) the amount the laboratory charged the physician for the test,

plus a nominal fee (where the physician bills for such a service) to cover the physician's costs in collecting and handling the sample on which the test was performed (less the applicable deductible and coinsurance amounts).

"(3) If the bill or request for payment (A) does not indicate who performed the test, or (B) indicates that the test was performed by a laboratory but does not identify the laboratory or include the amount charged by the laboratory, payment shall be the lowest charged at which the carrier estimates the test could have been secured by a physician from a laboratory serving the locality (less the applicable deductible and coinsurance amounts).".

(2) The amendment made by paragraph (1) shall apply to bills submitted and requests for payment made on or after such date (not later than October 1, 1980) as the Secretary of Health and Human Services prescribes by a notice published in the Federal Register.

(3) Not later than 24 months after the effective date specified in paragraph (2), the Secretary of Health and Human Services shall report to the Congress—

(A) the proportion of bills and requests for payment submitted (during the 18-month period beginning on such effective date) under title XVIII of the Social Security Act for laboratory tests which did not identify who performed the tests,

(B) the proportion of bills and requests for payment submitted during such period for laboratory tests with respect to which the amount paid under such title was less than the amount that would otherwise have been payable in the absence of section 1842(h) of such Act,

(C) with respect to requests for payment described in subparagraph (B) which were submitted by patients, the average additional cost per laboratory test to patients resulting from reductions in payment that would otherwise have been made for such tests in the absence of such section 1842(h), and

(D) with respect to bills described in subparagraph (B) which were submitted by physicians, the average reduction in payment per laboratory test to physicians resulting from the application of such section 1842(h).

(b)(1) Section 1902(a) of the Social Security Act (as amended by section 861(b) of this Act) is further amended—

(A) by striking out "and" at the end of paragraph (41);

(B) by striking out the period at the end of paragraph (42) and inserting in lieu thereof "; and"; and

(C) by adding after paragraph (42) the following new paragraph:

"(43) if the State plan makes provision for payment to a physician for laboratory services the performance of which such physician (or any other physician with whom he shares his practice) did not personally perform or supervise, include provision to insure that payment under the State plan for such laboratory services not exceed the payment authorized for such services by section 1842 (h).".

(2)(A) The amendments made by paragraph (1) shall (except as otherwise provided in subparagraph (B)) apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter that begins more than six months after the date of enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraph (1), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

(c)(1)(A) Section 1902(a)(23) of such Act is amended by inserting "(A)" before "has entered into" and by inserting before the semicolon at the end the following: ", or (B) during the three-year period beginning on the later of October 1, 1980, or the date of the enactment of this clause, has made arrangements through a competitive bidding process or otherwise for the purchase of laboratory services referred to in section 1905 (a)(3), if the Secretary has found that (i) adequate services will be available under such arrangements, (ii) such laboratory services will be provided only through laboratories (I) which meet the requirements of the section 1861(e)(9) or paragraphs (10) and (11) of section 1861(s), and such additional requirements as the Secretary may require, (II) no more than 75 percent of whose charges for such services are for services provided to individuals who are entitled to benefits under this title or under part A or part B of title XVIII, and (iii) charges for services provided under such arrangements are made at the lowest rate charged (determined without regard to administrative costs which are related solely to the method of reimbursement for such services) for comparable services by the provider of such services, or, if charged for on a unit price basis, such charges result in aggregate expenditures not in excess of expenditures that would be made if charges were at the lowest rate charged for comparable services by the provider of such services".

(B) The Secretary of Health and Human Services shall evaluate arrangements made for the purchase of laboratory services under section 1902(a)(23)(B) of the Social Security Act and shall transmit that evaluation to the Congress, together with recommendations as to whether such section 1902 (a)(23)(B) should be extended or modified, no later than 24 months after the date of enactment of this Act.

(2) Section 1902(a)(9) of such Act as amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the semicolon at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(C) by adding after subparagraph (B) the following new subparagraph:

"(C) that any laboratory services paid for under such plan must be provided by a laboratory which meets the requirements of section 1861(e)(9) or paragraphs (10) and (11) of section 1861(s);".

REIMBURSEMENT OF PHYSICIANS' SERVICES IN TEACHING HOSPITALS

SEC. 865. (a)(1) Paragraph (7) of section 1861(b) of the Social Security Act is amended to read as follows:

"(7) a physician where the hospital has a teaching program approved as specified in paragraph (6), if (A) the hospital elects to receive any payment due under this title for reasonable costs of such services, and (B) all physicians in such hospital agree not to bill charges for professional services rendered in such hospital to individuals covered under the insurance program established by this title.".

(2) Section 1832(a)(2)(B)(i)(II) of such Act is amended by striking out ", unless either clause (A) or (B) of paragraph (7) of such section is met" and inserting in lieu thereof "where the conditions specified in paragraph (7) of such section are met".

(b) The amendments made by this section shall apply with respect to cost accounting periods beginning on or after October 1, 1978. A hospital's election under section 1861(b)(7)(A) of the Social Security Act (as administered in accordance with section 15 of Public Law 93–233) as of September 30, 1978, shall constitute such hospital's election under such section (as amended by this Act) on and after October 1, 1978, until otherwise provided by the hospital.

DEMONSTRATION PROJECTS FOR REQUIRING SECOND OPINIONS FOR CERTAIN ELECTIVE SURGICAL PROCEDURES UNDER MEDICARE AND MEDICAID; APPLICATION OF INFORMED CONSENT TO CERTAIN DEMONSTRATION PROJECTS

SEC. 866. (a)(1) Part A of title XI of the Social Security Act is amended by inserting after section 1129 (added by section 861(a) of this Act) the following new section:

"DEMONSTRATION PROJECTS FOR REQUIRING SECOND OPINIONS FOR CERTAIN ELECTIVE SURGICAL PROCEDURES UNDER MEDICARE AND MEDICAID

"SEC. 1130. (a)(1) The Secretary is authorized to make grants to, and enter into contracts with, public and private nonprofit entities, including professional standards review organizations designated (conditionally or otherwise) under part B of this title and medical societies, for the conduct of demonstration projects for the purpose of determining the cost-effectiveness and appropriateness of requiring that a second opinion with respect to specified elective surgical procedures (defined in subsection (f)(1)) be provided before payment may be made under title XVIII or under a State plan approved under title XIX with respect to the performance of the procedure

"(2) To the extent feasible, the Secretary shall provide under this section for—

"(A) demonstration projects applicable to all specified elective surgical procedures proposed to be furnished to individuals eligible to hospital insurance benefits under part A, and enrolled under the supplementary medical insurance program under part B, of title XVIII of this Act, and

"(B) demonstration projects applicable to all specified elective surgical procedures proposed to be furnished to individuals eligible for medical assistance under State plans approved under title XIX of this Act.

"(3) The Secretary shall provide, to the extent feasible—

"(A) for at least seven demonstration projects under this section,

"(B) that the number of such projects conducted be equally divided between projects described in paragraph (2)(A) and projects described in paragraph (2)(B), and

"(C) for the conduct of such projects in a variety of geographic settings and covering a variety of sizes of populations, in order to determine the relative effectiveness of requiring second opinions in different areas of the country and under programs of different sizes.

"(b)(1) No grant may be made or contract entered into under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary may provide.

"(2) The amount of any grant or contract under this section shall be determined by the Secretary.

"(3) Grants and payments under contracts made for demonstration projects and related administrative expenses (including expenses for analysis of data) described—

"(A) in subsection (a)(2)(A) shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841), and

"(B) in subsection (a)(2)(B) shall be made from funds appropriated under title XIX of this Act.

Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section.

"(4) In addition to any other authority provided under part B of this title, professional standards review organizations designated (conditionally or otherwise) under such part are authorized to receive grants and enter into contracts for demonstration projects under this section.

"(5) For administrative expenses (including analysis of data) associated with demonstration projects under this section, there is authorized to be appropriated for fiscal year 1981 an amount, not to exceed $7,000,000, to remain available until expended.

"(c) No grant or contract shall be made with respect to a demonstration project under this section unless the project meets the following requirements:

"(1) The project must potentially apply to a sufficiently large population of individuals eligible for benefits under part A of title XVIII (in the case of a project described in subsection (a)(2)(A)) or under the State plan (in the case of a project described in subsection (a)(2)(B)) for specified elective surgical procedures recommended during a two-year period, so as to provide for statistically valid data to properly evaluate the project.

"(2)(A) The project must provide (through the entity or the Secretary) for notice to the applicable population, and, to the extent feasible, to physicians and hospitals which may provide specified elective surgical procedures for such population, of the existence of the demonstration project and the requirement of subsection (d) for a second opinion as a condition of payment for such procedures, and must include in such notice made to the applicable population a general description of the procedure and techniques available for the treatment of the condition for treatment of which a specified elective surgical procedure has been recommended.

"(B) The project must provide for making available to individuals covered under the project lists of qualified physicians who have indicated that they will provide, in accordance with the provisions of the project, written opinions with respect to the necessity and appropriateness of particular specified elective surgical procedures.

"(3) To the extent practicable and consistent with the protection of patient privacy, the project must be so designed as—

"(A) to prevent the qualified physician providing the second or third opinion from knowing the identity of the physician who provided a previous opinion with respect to that procedure, and

"(B) to avoid duplication of laboratory and other tests required in order to render such an opinion.

"(4) The project must provide that for the transmittal to the Secretary—

"(A) of interim data on the project's performance not later than eighteen months after the date the project is initiated, and

"(B) of final data on its performance not later than six months after the end of the two-year period described in paragraph (1).

"(d)(1) Notwithstanding any other provision of law (except as provided in paragraph (2)), if a specified elective surgical procedure to be furnished to an individual is covered under a demonstration project under this section applicable to title XVIII or to a State plan approved under title XIX, no payment may be made under such title or plan, respectively, with respect to the procedure unless the individual has been furnished, before the procedure is undertaken, at least—

"(A) one written opinion by a physician described in subsection (f)(2)(A), and

"(B) one written opinion by a qualified physician (as defined in subsection (f)(2)), based on all factors deemed relevant to the determination, respecting the necessity and appropriateness of the procedure.

"(2) Paragraph (1) shall not apply—

"(A)(i) in the case of a demonstration project described in subsection (a)(2)(A), to procedures furnished by or through a health maintenance organization under a risk sharing contract entered into with the Secretary pursuant to section 1876(i)(2)(A), or

"(ii) in the case of a demonstration project described in subsection (a)(2)(B), to procedures furnished by or through a health maintenance organization which provides to the enrollees, on a prepaid capitation risk basis or on any other risk basis, such procedures; and

"(B) in the case in which the patient is unable, because of severe physical or cognitive limitations, to understand the requirement of such paragraph or in such other cases as the Secretary determines that equity requires that such paragraph not apply.

"(e) The Secretary shall analyze the data on demonstration projects transmitted to him under this section and shall submit to the Congress—

"(1) not later than two years after the date of the enactment of this section, an interim report on the demonstration projects assisted under this section, and

"(2) not later than four years after the date of the enactment of this section, a final report on the demonstration projects assisted under this section.

Such final report shall include such recommendations for changes in legislation with respect to imposing the requirement described in subsection (d) with respect to some or all of the specified elective surgical procedures as the Secretary determines to be appropriate.

"(f) For purposes of this section:

"(1) The term 'specified elective surgical procedure' means—

"(A) in the case of a demonstration project applicable to the medicare program—

"(i) cholycystectomy,

"(ii) menisectomy,

"(iii) prostatectomy,

"(iv) cataract surgery,

"(v) hemorrhoidectomy, and

"(vi) excision of varicose veins; and

"(B) in the case of a demonstration project applicable to State plans approved under title X X of this Act—

"(i) hysterectomy,

"(ii) menisectomy,

"(iii) submucous resection,

"(iv) hemorrhoidectomy,

"(v) excision of varicose veins, and

"(vi) tonsillectomy and adenoidectomy,

if such procedures are medically necessary to treat other than an emergency medical condition. In addition, such term includes such other elective surgical procedures as the Secretary, in his discretion, determines to be appropriate.

"(2) The term 'qualified physician' means, with respect to an opinion on a specified elective surgical procedure for treatment of a medical condition of a particular patient, a physician who—

"(A) is a board-eligible or certified specialist with respect to the procedure or with respect to treatment of the medical condition or who possesses such other qualifications with respect to such procedure or treatment as the Secretary may specify;

"(B) agrees not to perform the surgical procedure for which the opinion is sought (except under emergency conditions); and

"(C) is not affiliated with a physician who provided a previous opinion with respect to such treatment of such patient.".

(2) The Secretary of Health and Human Services is not authorized to make grants or enter into contracts under section 1130 of the Social Security Act until October 1, 1980, and any projects under such grants or contracts shall not be construed to be subject to any of the requirements of part 46 of title 45, Code of Federal Regulations (applicable to research, development, and related activities in which human subjects are involved).

(b)(1) Section 1861(q) of such Act is amended by inserting (including consultation as to the necessity and appropriateness of elective surgical procedures)" after "consultation".

(2)(A) Section 1833(a)(1) of such Act (as amended by section 833(b)(1) of this Act) is further amended—

(i) by striking out "and" before clause (G), and

(ii) by adding at the end thereof the following: "and (H) with respect to a second or third opinion as to necessity and appropriateness of specified elective surgical procedures in the case of a demonstration project described in section 1130(f)(1)(A), the amounts paid shall be equal to 100 percent of the reasonable charge for such opinion".

(B) The first sentence of section 1833(b) of such Act (as amended by section 802(h) of this Act) is further amended by striking out "and" before clause (3) and by inserting before the period the following new clause: ", and (4) such total amount shall not include expenses incurred for a second or third opinion described in subsection (a)(1)(H) for an elective surgical procedure".

(3)(A) Section 1842(b)(3)(B) of such Act is amended by inserting "in paragraph (6) of this subsection or" after "(except as otherwise provided)".

(B) Section 1842(b) of such Act is further amended by adding after paragraph (5) the following new paragraph:

"(6) No such contract shall provide for payment for a second or third opinion described in section 1833(a)(1)(H) on a basis other than that described in clause (ii) of paragraph (3)(B).".

(4) The amendments made by this subsection shall take effect with respect to opinions provided on or after the first day of the first month beginning after the date of the enactment of this Act.

(c)(1) Section 1903(a) of such Act is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) an amount equal to 90 per centum of the sums expended during such quarter which are attributable to the performance of a second or third opinion as to necessity and appropriateness of specified elective surgical procedures in the case of a demonstration project described in section 1130(f)(1)(B); plus".

(2) Sections 506(f)(1) and 1903(i)(1) of such Act are each amended by striking out "and fifth" and inserting in lieu thereof ", fifth, and ninth".

(3) The amendments made by this subsection shall apply to calendar quarters beginning on or after October 1, 1980.

(d) Notwithstanding subsection (a)(2) of this section and section 1130(d)(1) of the Social Security Act, a demonstration project under section 1130 of the Social Security Act shall not apply to an individual unless the individual has provided a written and legally effective informed consent, described in section 46.103(c) of title 45, Code of Federal Regulations, to participate in the project.

CONTINUED USE OF DEMONSTRATION PROJECT REIMBURSEMENT SYSTEMS

SEC. 867. (a) Section 1814(b) of the Social Security Act (as amended by section 816(a) of this Act) is further amended—

(1) by inserting "(1)" after "(b)",

(2) by inserting "the lesser of" before "the reasonable cost",

(3) by inserting before the period the following: ", or the amount determined under paragraph (2)", and

(4) by adding at the end the following new paragraph:

"(2) If some or all of the hospitals in a State have been reimbursed for services (for which payment may be made under this part) pursuant to a reimbursement system approved as a demonstration project under section 402 of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendments of 1972, if the rate of increase in such hospitals in their costs per hospital inpatient admission of individuals entitled to benefits under this part over the duration of such project was equal to or less than such rate of increase for admissions of such individuals with respect to all hospitals in the United States during such period, and if either the State has legislative authority to operate such system and the State elects to have reimbursement to such hospitals made in accordance with this paragraph or the system is operated through a voluntary agreement of hospitals and such hospitals elect to have reimbursement to those hospitals made in accordance with this paragraph, then such hospitals shall continue to be reimbursed under such system until the Secretary determines that—

"(A) a third-party payor reimburses such a hospital on a basis other than under such system, or

"(B) the rate of increase for the previous three-year period in such hospitals in cost per hospital inpatient admission of individuals entitled to benefits under this part is greater than such rate of increase for admissions of such individuals with respect to all hospitals in the United States for such period.".

(b) Section 1902(a)(13)(D) of such Act is amended by inserting before the semicolon at the end of the following: ", except that in the case of hospitals reimbursed for services under part A of title XVIII in accordance with section 1814(b)(2), the plan must provide for payment of inpatient hospital services provided in such hospitals under the plan in accordance with the reimbursement system used under such section".

REIMBURSEMENT FOR HEALTH MAINTENANCE ORGANIZATIONS

SEC. 868. (a) Section 1876 of the Social Security Act is amended to read as follows:

"PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1876. (a)(1) The Secretary shall annually determine a per capita rate of payment—

"(A) for each class of individuals who are enrolled (in accordance with this section) with a health maintenance organization which has entered into a contract under this section and who are entitled to benefits under part A and enrolled under part B; and

"(B) for each class of individuals who are so enrolled with such an organization and who are enrolled under part B only.

Such rate for each class shall be equal to 95 percent of the adjusted average per capita cost for that class.

"(2) For purposes of this section, the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by a health maintenance organization or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for services covered under parts A and B, or part B only, and types of expenses otherwise reimbursable under parts A and B, or part B only (including administrative costs incurred by organizations described in sections 1816 and 1842), if the services were to be furnished by other than a health maintenance organization or, in the case of services covered only under section 1861(s)(2)(H), if the services were to be furnished by a physician or as an incident to a physician's service.

"(3) In establishing classes of individuals for purposes of this subsection, the Secretary shall take into consideration such factors as age, sex, institutional status, disability status, and place of residence.

"(4) After determining under paragraph (1) the rate of payment to be utilized with respect to a health maintenance organization, the Secretary shall make monthly payments, in advance and in accordance with such rate, except as provided in subsection (i)(2), to such organization for each individual enrolled in accordance with this section with the organization. Such payments shall be in lieu of payments which (in the absence of the contract entered into under this section) would be payable otherwise pursuant to section 1814(b) or 1833(a) for services furnished by or through the organization to individuals enrolled with the organization and entitled to benefits under part A and enrolled under part B or enrolled under part B only.

"(5) The payment to a health maintenance organization under this subsection for individuals enrolled in accordance with this section with the organization and entitled to benefits under part A and enrolled under part B shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust

Fund. The portion of that payment to the organization for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

"(A) the product of (i) the number of such individuals for the month who have attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(1); and

"(B) the product of (i) the number of such individuals for the month who have not attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(4).

The remainder of that payment shall be paid by the former trust fund.

"(b)(1) For purposes of this section, the term 'health maintenance organization' means a public or private organization, organized under the laws of any State, which is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) or which—

"(A) provides or otherwise makes available to enrolled participants health care services, including at least the following health care services: physicians' services performed by physicians (as defined in section 1861(r)(1)), inpatient hospital services, laboratory, X-ray, emergency, and preventive services, and out of area coverage;

"(B) is compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided;

"(C) provides physicians' services primarily (i) directly through physicians who are either employees or partners of such organization, or (ii) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis);

"(D) assumes full financial risk on a prospective basis for the provision of the health care services listed in subparagraph (A), except that a health maintenance organization may obtain insurance or make other arrangements—

"(i) for the cost of providing to any enrolled participant health care services listed in subparagraph (A) the aggregate value of which exceeds $5,000 in any year,

"(ii) for the cost of health care services listed in subparagraph (A) provided to its enrolled participants other than through the organization because medical necessity required their provision before they could be secured through the organization, and

"(iii) for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year; and

"(E) has made adequate provision against the risk of insolvency, which provision is satisfactory to the Secretary.

"(2) The Secretary may not enter into a contract with a health maintenance organization under this section, unless, with respect to individuals enrolled with the organization under this section, the following requirements are met:

"(A) BENEFIT PACKAGE.—The organization must provide to such individuals who are—

"(i) entitled to benefits under part A and enrolled under part B, only those services covered under parts A and B of this title, or

"(ii) only enrolled under part B, only those services covered under such part,

except that, in addition, the organization may provide such individuals with such additional health care services either as the Secretary may approve or as such individuals may elect, at their option, to have covered. The Secretary shall approve any such additional health care services which the organization proposes to offer to such individuals, unless the Secretary determines that including such additional services will substantially discourage enrollment by covered individuals with the organization.

"(B) LIMITS ON DEDUCTIBLES, COINSURANCE, AND COPAYMENTS.—The amount of any deductibles, coinsurance, and copayments required by such individuals will not exceed the limits applicable under subsection (g) of this section.

"(C) PROVIDERS.—The organization must provide the services described in subparagraph (A) to such individuals through institutions, entities, and persons meeting the applicable requirements of section 1861.

"(D) OPEN ENROLLMENT.—The organization must have an open enrollment period, for the enrollment of such individuals, of reasonable duration at least every year during which it accepts up to the limits of its capacity and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (d) in the order in which they apply for enrollment, unless to do so would result in failure to meet the requirements of subsection (h) or would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the geographic area served by the organization.

"(E) EXPULSION OF MEMBERS.—The organization must (i) provide assurances to the Secretary that it will not expel or refuse to re-enroll any such individual because of the individual's health status or requirements for health care services, and (ii) notify each such individual of such fact at the time of the individual's enrollment.

"(F) AVAILABILITY OF SERVICES.—The organization must—

"(i) make the services described in subparagraph (A) (and such other health care services as such individuals have contracted for) (I) available and accessible to each such individual, within the area served by the organization, promptly as appropriate and in a manner which assures continuity, and (II) when medically necessary, available and accessible twenty-four hours a day and seven days a week, and

"(ii) provide for reimbursement with respect to services which are described in clause (i) and which are provided to such an individual other than through the organization, if the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition.

"(G) GRIEVANCE PROCEDURES.—The organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and such individuals.

"(H) QUALITY ASSURANCE.—The organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals, which program (i) stresses health outcomes and (ii) provides review by physicians and other health care professionals of the process followed in the provision of such health care services.

"(c) If an individual is enrolled in accordance with this section with a health maintenance organization, only the health maintenance organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"(d) Subject to the provisions of subsection (e), every individual entitled to benefits under part A and enrolled under part B or enrolled under part B only (other than an individual medically determined to have end-stage renal disease) shall be eligible to enroll under this section with any health maintenance organization with which the Secretary has entered into a contract under this section and which serves the geographic area in which the individual resides.

"(e)(1) An individual may enroll under this section with a health maintenance organization as may be prescribed in regulations and may terminate his enrollment with the health maintenance organization as of the beginning of the first calendar month following a full calendar month after the request is made for such termination.

"(2) The Secretary may prescribe the procedures and conditions under which a health maintenance organization that has entered into a contract with the Secretary under this subsection may inform individuals eligible to enroll under this section with the organization about the organization, or may enroll such individuals with the organization.

"(f) Any individual enrolled with a health maintenance organization under this section who is dissatisfied by reason of his failure to receive any health care service to which he believes he is entitled and at no greater charge than he believes he is required to pay shall, if the amount in controversy is $100 or more, be entitled to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the health maintenance organization a party. If the amount in controversy is $1,000 or more, the individual or health maintenance organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the health maintenance organization shall be entitled to be parties to that judicial review.

"(g)(1) In no case may—

"(A) the portion of a health maintenance organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to services covered under parts A and B) to individuals who are enrolled in accordance with this section with the organization and who are entitled to benefits under part A and enrolled under part B, or

"(B) the portion of its premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to services covered under part B) to individuals who are enrolled in accordance with this section with the organization and enrolled under part B only

exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled in accordance with this section with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, other appropriate data) and entitled to benefits under part A and enrolled under part B, or enrolled under part B only, respectively, if they were not members of a health maintenance organization.

"(2) If the health maintenance organization provides to its enrollees under this section services in addition to services covered under parts A and B of this title, election of coverage for such additional services (unless such services have been approved by the Secretary under subsection (b)(2)(A)) shall be optional for such enrollees and such organization shall furnish such enrollees with information on the portion of its premium rate or other charges applicable to such additional services. In no case may the sum of—

"(A) the portion of such organization's premium rate charged, with respect to such additional services, to individuals enrolled in accordance with this section, and

"(B) the actuarial value of its deductibles, coinsurance, and copayments charged, with respect to such services, to such individuals exceed the adjusted community rate for such services.

"(3) For purposes of this section, the term 'adjusted community rate' for a service means, at the election of a health maintenance organization, either—

"(A) the rate of payment for that service which the Secretary annually estimates would apply to an individual enrolled in accordance with this section with the health maintenance organization if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C), or

"(B) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to an individual enrolled in accordance with this section with the health maintenance organization, as the Secretary annually estimates is attributable to that service,

but adjusted for differences between the utilization characteristics of the individuals enrolled with the health maintenance organization under this section and the utilization characteristics of the other members of the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals in other health maintenance organizations, or individuals in the area, in the State, or in the United States, eligible to enroll under this section with a health maintenance organization and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(4) Notwithstanding any other provision of law, the health maintenance organization may (in the case of the provision of services to an individual enrolled in accordance with this section for an illness or injury for which the member is entitled to benefits under a workman's compensation law or under an automobile insurance policy) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

"(A) the insurance carrier, employer, or other entity which under such law or policy is to pay for the provision of such services, or

"(B) such member to the extent that such member has been paid under such law or policy for such services.

"(h)(1) Except as provided in paragraph (2), each health maintenance organization with which the Secretary enters into a contract under this section shall have, for the duration of such contract, an enrolled membership at least half of which consists of individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(2) The Secretary may modify or waive the requirement described in paragraph (1) in circumstances which, as determined by the Secretary, warrant special consideration (and may take into account, in determining whether to modify or waive that requirement, the reasonableness of the organization's premium rate and other charges for members entitled to benefits under this title or under a State plan approved under title XIX; except that the Secretary may make such a modification or waiver only on the condition that the health maintenance organization will not have, for the duration of such contract, an enrolled membership of which one-half or more are individuals entitled to benefits under part A or enrolled under part B.

"(i)(1) The Secretary may enter into a contract with any health maintenance organization, as defined in subsection (b)(1), for the purpose of carrying out this section.

"(2) Each contract shall provide that—

"(A) if the adjusted community rate, as defined in subsection (g)(3), for services covered under parts A and B (as reduced for the actuarial value of the coinsurance and deductibles under those parts) for individuals enrolled in accordance with this section with the organization and entitled to benefits under part A and enrolled in part B, or

"(B) if such adjusted community rate for services under part B (as reduced for the actuarial value of the coinsurance and deductibles under that part) for individuals enrolled in accordance with this section with the organization and enrolled under part B only

is less than the average of the per capita rates of payment to be made under subsection (a)(1) at the beginning of an annual contract period for individuals enrolled in accordance with this section with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B only, respectively, the health maintenance organization shall provide to each individual enrolled in accordance with this section with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B, respectively, additional benefits which are selected by the health maintenance organization and which the Secretary finds are at least equal in value to the difference between the average per capita payment and the adjusted community rate (as so reduced); except that this paragraph shall not apply with respect to any organization which elects to receive a lesser payment to the extent that there is no longer a difference between the average per capita payment and adjusted community rate (as so reduced). If the Secretary finds that there is insufficient enrollment experience to determine an average of the per capita rates of payment to be made under subsection (a)(1) at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this section.

"(3) Such additional benefits shall be (A) the reduction of the premium rate or other charges made with respect to services furnished by the organization to individuals enrolled under this section, or (B) the provision of additional health benefits, or both.

"(4) The effective date of any contract executed pursuant to this subsection shall be specified in the contract.

"(5) Each contract under this section—

"(A) shall provide that the Secretary, or any person or organization designated by him—

"(i) shall have right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under the contract, and

"(ii) shall have right to audit and inspect any books and records of the health maintenance organization that pertain (I) to the ability of the organization to bear the risk of potential financial losses, and (II) to services performed or determinations of amounts payable under the contract;

"(B) shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this section with the organization; and

"(C) shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary.

"(6) The Secretary may not enter into contract with a health maintenance organization under this section if a former contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(7) The authority vested in the Secretary by this subsection may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.".

(b) Section 1861(s)(2) of such Act (as amended by section 809 of this Act) is further amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by adding "and" after the semicolon in subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) services furnished pursuant to a contract under section 1876 to a member of a health maintenance organization by a physician assistant or by a nurse practitioner and such services and supplies furnished as an incident to his service to such a member as would otherwise be covered under this part if furnished by a physician or as an incident to a physician's service;".

(c)(1) Section 1861(aa) of such Act is amended—

(A) by striking out ", for purposes of paragraphs (1) and (2)," in paragraph (3);

(B) by redesignating paragraph (3) as subsection (bb) of section 1861; and

(C) by inserting the following subsection heading after and below paragraph (2):

"Physician Assistant and Nurse Practitioner".

(2) Section 3(e) of Public Law 95-210 is amended by striking out "section 1861(aa)(3)" and inserting in lieu thereof "section 1861(bb)".

(d)(1) Section 1122 of the Social Security Act is amended by adding at the end the following new subsection:

"(j) A capital expenditure made by or on behalf of a health care facility shall not be subject to review pursuant to this section if the obligation of the capital expenditure by the facility would not be required to be reviewed under section 1527 of the Public Health Service Act.".

(2) Section 1124(a)(2)(A) of such Act is amended by striking out "(as defined in section 1301(a) of the Public Health Service Act)".

(e) The amendments made by this section (other than subsections (c) and (d)) shall apply with respect to services furnished on or after the first day of the thirteenth calendar month which begins after the date of enactment of this Act, or earlier (but not earlier than July 1, 1981) with respect to any health maintenance organization if the organization so requests and the Secretary of Health and Human Services agrees, except that such amendments shall not apply—

(1) with respect to services furnished by a health maintenance organization to any individual who is enrolled with that organization and entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act at the time the organization first enters into a contract subject to the amendments made by this section, unless—

(A) the individual requests at any time that the amendments apply, or

(B) the Secretary determines at any time that the amendments should apply to all members of the health maintenance organization because of administrative costs or other administrative burdens involved and so informs in advance each affected member of the health maintenance organization, or

(2) with respect to services furnished by a health maintenance organization during the five-year period beginning with the date of enactment of this Act, if a contract between the organization and the Secretary of Health and Human Services under section

1876(i)(2)(A) of the Social Security Act was in effect immediately before the date of the enactment of this Act, unless the organization requests that the amendments apply earlier.

(f) The Secretary shall conduct a study of the additional benefits selected by health maintenance organizations pursuant to section 1876(i)(2) of the Social Security Act, as added by subsection (a) of this section. The Secretary shall report to the Congress within twenty-four months of the date of the enactment of this Act with respect to the findings and conclusions made as a result of such study.

(g) The Secretary shall conduct a study evaluating the extent of, and reasons for, the termination by medicare beneficiaries of their memberships in health maintenance organizations. In conducting such study, the Secretary shall place special emphasis on the quantity and quality of medical care provided in health maintenance organizations and the quality of such care when provided on a fee-for-service basis. The Secretary shall submit an interim report to the Congress, within two years from the date of the enactment of this Act, and a final report within five years from such date containing the interim and final, respectively, findings and conclusions made as a result of such study.

CHAPTER 3—TEMPORARY DELAY IN PERIODIC INTERIM PAYMENTS

TEMPORARY DELAY IN PERIODIC INTERIM PAYMENTS

SEC. 871. Notwithstanding section 1815(a) of the Social Security Act, in the case of a hospital which is paid periodic interim payments under such section, the Secretary of Health and Human Services shall provide that with respect to the last twenty-one days for which such payments would otherwise be made during fiscal year 1981, such payments shall be deferred until fiscal year 1982.

Subtitle B—Additional Savings

SEC. 881. For provisions of law (within the jurisdiction of the House Committee on Ways and Means) which further reduce spending for fiscal year 1981 in satisfaction of the reconciliation requirements imposed by section 3(a)(8) of H. Con. Res. 307 (96th Congress), see Public Law 96–265 (the Social Security Disability Amendments of 1980) and Public Law 96–272 (the Adoption Assistance and Child Welfare Act of 1980).

Subtitle C—Unemployment Compensation Amendments

SEC. 891. TERMINATION OF PROVISIONS PROVIDING REIMBURSEMENT FOR UNEMPLOYMENT BENEFITS PAID ON THE BASIS OF PUBLIC SERVICE EMPLOYMENT.

Part B of title II of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by adding at the end thereof the following new section:

"TERMINATION

"SEC. 224. Notwithstanding any other provision of this part, the term 'public service wages' shall not include remuneration for services performed in weeks which begin after October 1, 1980."

SEC. 892. INCREASE IN LENGTH OF SERVICE IN ARMED FORCES REQUIRED FOR EX-SERVICEMEN TO BE ELIGIBLE FOR UNEMPLOYMENT BENEFITS.

(a) GENERAL RULE.—Subparagraph (A) of section 8521(a)(1) of title 5 of the United States Code is amended by striking out "90 days or more" and inserting in lieu thereof "365 days or more".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to periods of continuous active service which begin after October 1, 1980.

SEC. 893. CESSATION OF EXTENDED BENEFITS WHEN PAID UNDER AN INTERSTATE CLAIM IN A STATE WHERE EXTENDED BENEFIT PERIOD IS NOT IN EFFECT.

(a) GENERAL RULE.—Section 202 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new subsection:

"Cessation of Extended Benefits When Paid Under an Interstate Claim in a State Where Extended Benefit Period Is Not in Effect

"(c)(1) Except as provided in paragraph (2), payment of extended compensation shall not be made to any individual for any week if—

"(A) extended compensation would (but for this subsection) have been payable for such week pursuant to an interstate claim filed in any State under the interstate benefit payment plan, and

"(B) an extended benefit period is not in effect for such week in such State.

"(2) Paragraph (1) shall not apply with respect to the first 2 weeks for which extended compensation is payable (determined without regard to this subsection) pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended compensation account established for the benefit year.

"(3) Section 3304(a)(9)(A) of the Internal Revenue Code of 1954 shall not apply to any denial of compensation required under this subsection."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to weeks of unemployment beginning after October 1980; except that such amendment shall not be a requirement of any State law under section 3304(a)(11) of the Internal Revenue Code of 1954 for any week which begins before June 1, 1981.

(2) SPECIAL RULE FOR CERTAIN STATES.—In the case of any State the legislature of which does not meet in a regular session which begins during calendar year 1981 and before April 1, 1981, paragraph (1) shall be applied by substituting "June 1, 1982" for "June 1, 1981".

Subtitle D—Repeal of Trade Adjustment Assistance Amendments

SEC. 895. REPEAL OF TRADE ADJUSTMENT ASSISTANCE AMENDMENTS.

Effective on the day before the effective date provided by section 303 thereof, the Act to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974 (H.R. 1543, 96th Congress) is hereby repealed.

TITLE IX—HOUSE COMMITTEE ON WAYS AND MEANS; REVENUE INCREASES

Subtitle A—Housing Bonds

SEC. 901. SHORT TITLE.

This subtitle may be cited as the "Mortgage Subsidy Bond Tax Act of 1980".

SEC. 902. MORTGAGE SUBSIDY BONDS.

(a) IN GENERAL.—PART III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by inserting after section 103 the following new section.

"SEC. 103A. MORTGAGE SUBSIDY BONDS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, any mortgage subsidy bond shall be treated as an obligation not described in subsection (a)(1) or (2) of section 103.

"(b) MORTGAGE SUBSIDY BOND DEFINED.—

"(1) IN GENERAL.—For purposes of this title, the term 'mortgage subsidy bond' means any obligation which is issued as part of an issue a significant portion of the proceeds of which are to be used directly or indirectly for mortgages on owner-occupied residences.

"(2) EXCEPTIONS.—The following shall not be treated as mortgage subsidy bonds:

"(A) any qualified mortgage bond; and

"(B) any qualified veterans' mortgage bond.

"(c) QUALIFIED MORTGAGE BOND; QUALIFIED MORTGAGE ISSUE; QUALIFIED VETERANS' MORTGAGE BOND.—

"(1) QUALIFIED MORTGAGE BOND DEFINED.—

"(A) IN GENERAL.—For purposes of this title, the term 'qualified mortgage bond' means an obligation which is issued as part of a qualified mortgage issue.

"(B) 2-YEAR TERMINATION.—No obligation issued more than 2 years after the date of the enactment of this section may be treated as a qualified mortgage bond.

"(2) QUALIFIED MORTGAGE ISSUE DEFINED.—

"(A) DEFINITION.—For purposes of this title, the term 'qualified mortgage issue' means an issue by a State or political subdivision thereof of 1 or more obligations, but only if—

"(i)) all proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are to be used to finance owner-occupied residences, and

"(ii) such issue meets the requirements of subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(B) GOOD FAITH EFFORT TO COMPLY WITH MORTGAGE ELIGIBILITY REQUIREMENTS.—An issue which fails to meet 1 or more of the requirements of subsections (d), (e), (f), (g), and (h) and paragraphs (4) and (5) of subsection (l) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to satisfy all such requirements before the mortgages were executed,

"(ii) 95 percent or more of the proceeds devoted to owner-financing was devoted to residences with respect to which (at the time the mortgages were executed) all such requirements were met, and

"(iii) any failure to meet the requirements of such subsections and paragraphs is corrected within a reasonable period after such failure is first discovered.

"(C) GOOD FAITH EFFORT TO COMPLY WITH OTHER REQUIREMENTS.—An issue which fails to meet 1 or more of the requirements of subsections (i), (j), and (k) and paragraphs (1), (2), and (3) of subsection (l) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to satisfy all such requirements, and

"(ii) any failure to meet such requirements is due to inadvertent error after taking reasonable steps to comply with such requirements.

"(3) QUALIFIED VETERANS' MORTGAGE BOND DEFINED.—For purposes of this section, the term 'qualified veterans' mortgage bond' means any obligation—

"(A) which is issued in registered form as part of an issue substantially all of the proceeds of which are to be used to provide residences for veterans,

"(B) the payment of the principal and interest on which is secured by the general obligation of a State, and

"(C) which is part of an issue which meets the requirements of subsection (l)(4).

"(d) RESIDENCE REQUIREMENTS.—

"(1) FOR A RESIDENCE.—A residence meets the requirements of this subsection only if—

"(A) it is a single-family residence which can reasonably be expected to become the principal residence of the mortgagor within a reasonable time after the financing is provided, and

"(B) it is located within the jurisdiction of the authority issuing the obligation.

"(2) For an issue.—An issue meets the requirements of this subsection only if all of the residences for which owner-financing is provided under the issue meet the requirements of paragraph (1).

"(e) 3-Year Requirement.—

"(1) In general.—An issue meets the requirements of this subsection only if each mortgagor to whom financing is provided under the issue had a present ownership interest in a principal residence of such mortgagor at no time during the 3-year period ending on the date the mortgage is executed. For purposes of the preceding sentence, the mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account.

"(2) Exceptions.—Paragraph (1) shall not apply with respect to—

"(A) any financing provided with respect to a targeted area residence,

"(B) any qualified home improvement loan, and

"(C) any qualified rehabilitation loan.

"(f) Purchase Price Requirement.—

"(1) In general.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is to be provided under the issue does not exceed 80 percent of the average area purchase price applicable to such residence.

"(2) Average area purchase price.—For purposes of paragraph (1), the term 'average area purchase price' means, with respect to any residence, the average purchase price of single family residences (in the statistical area in which the residence is located) which were purchased during the most recent 12-month period for which sufficient statistical information is available. The determination under the preceding sentence shall be made as of the date on which the commitment to provide the financing is made (or, if earlier, the date of the purchase of the residence).

"(3) Separate application to new residences and old residences.—For purposes of this subsection, the determination of average area purchase price shall be made separately with respect to—

"(A) residences which have not been previously occupied, and

"(B) residences which have been previously occupied.

"(4) Special rule for targeted area residences.—In the case of a targeted area residence, paragraph (1) shall be applied by substituting '110 percent' for '80 percent'.

"(5) Exception for qualified home improvement loans.—Paragraph (1) shall not apply with respect to any qualified home improvement loan.

"(g) Downpayment Requirement.—

"(1) 5-percent requirement.—An issue meets the requirements of this subsection only if 75 percent or more of the owner-occupied financing provided by the issue (other than qualified home improvement loans and qualified rehabilitation loans) is 95-percent financing.

"(2) 95-percent financing defined.—For purposes of paragraph (1), financing of a residence is 95-percent financing if such financing is 95 percent or more of the acquisition cost of such residence.

"(3) Larger downpayment permitted in case of graduated payment mortgages.—For purposes of determining whether a graduated payment mortgage meets the 95-percent financing requirement of paragraph (1), the percentage of the acquisition cost of the residence which is not required to be financed by the mortgage shall be increased to the lesser of—

"(A) 10 percent of the acquisition cost, or

"(B) the sum of—

"(i) 5 percent of the acquisition cost, plus

"(ii) the excess of—

"(I) the aggregate amount payable before the crossover point under a comparable standard mortgage, over

"(II) the aggregate amount payable before the crossover point under such graduated payment mortgage.

For purposes of the preceding sentence, the crossover point is the first day of the first payment period for which the payment under the graduated payment mortgage is greater than the payment would be under a comparable standard mortgage.

"(h) Income Requirements.—

"(1) In general.—An issue meets the requirements of this subsection only if—

"(A) at least 50 percent of the owner-financing provided under the issue is provided for mortgagors whose family income is 90 percent or less of the median family income for the statistical area in which the residence is located, and

"(B) all owner-financing provided under the issue is provided for mortgagors whose family income is 115 percent or less of the median family income for the statistical area in which the residence is located.

"(2) Determination of family income.—For purposes of this subsection, the family income of mortgagors, and median family income, shall be determined under regulations prescribed by the Secretary which, to the extent not inconsistent with the purposes of this subsection, shall be consistent with the regulations prescribed under section 8 of the United States Housing Act of 1937.

"(3) Special rule for applying paragraph (1)(B) in the case of targeted area residences.—In the case of any financing provided under any issue for targeted area residences—

"(A) the mortgages for one-third of the targeted area residences may be provided without regard to paragraph (1)(B), and

"(B) paragraph (1)(B) shall be treated as satisfied with respect to the remainder of the targeted area residences if the family income of the mortgagor is 140 percent or less of whichever of the following is the greater:

"(i) the median family income for the statistical area in which such residence is located, or

"(ii) the statewide median family income for the State in which such residence is located.

"(i) Limitation on Aggregate Amount of Qualified Mortgage Bonds Issued During Any Calendar Year.—

"(1) In general.—An issue meets the requirements of this subsection only if the aggregate amount of bonds issued pursuant thereto, when added to the aggregate amount of qualified mortgage bonds previously issued by the issuing authority during the calendar year, does not exceed the applicable limit for such authority for such calendar year.

"(2) 5-percent limit.—Except as provided in paragraph (3), the applicable limit for qualified mortgage bonds for any issuing authority for any calendar year shall be 5 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences located within the jurisdiction of such issuing authority.

"(3) At least $50,000,000 may be issued in each State during each calendar year.—If, but for this paragraph, the aggregate amount of qualified mortgage bonds which could be issued in any State during any calendar year is less than $50,000,000, the aggregate amount which may be issued by each issuing authority in such State during such calendar year (determined without regard to this paragraph) shall be increased to the amount determined by multiplying such aggregate amount by a fraction—

"(A) the numerator of which is $50,000,000, and

"(B) the denominator of which is the aggregate amount of qualified mortgage bonds which could be issued by all issuing authorities in such State during such year (determined without regard to this paragraph).

"(4) Overlapping jurisdictions.—Except as provided in paragraph (5), if 2 or more governmental units have authority (determined without regard to paragraph (1)) to issue qualified mortgage bonds with respect to residences in the same geographical area, for purposes of this subsection only the unit having jurisdiction over the smallest geographical area shall be treated as having issuing authority with respect to such area unless such unit agrees to surrender part or all of such authority for such calendar year to the unit with overlapping jurisdiction which has the next smallest geographical area.

"(5) State may provide different formula.—The State may, by law enacted after the date of the enactment of this section, provide a different formula for allocating the 5-percent limitation (and, if applicable, the $50,000,000 limitation) among the governmental units in such State having authority to issue qualified mortgage bonds.

"(6) Transitional rules.—In applying this subsection to any calendar year, there shall not be taken into account any bond which—

"(A) was issued on or before April 24, 1979, or

"(B) by reason of section 214 of the Mortgage Subsidy Bond Tax Act of 1980, receives the same tax treatment as bonds issued on or before April 24, 1979.

"(j) Portion of Loans Required To Be Placed in Targeted Areas.—

"(1) In general.—An issue meets the requirements of this subsection only if at least 20 percent of the proceeds of the issue which are devoted to providing owner-financing is made available (with reasonable diligence) for owner-financing on targeted area residences for at least 1 year after the date on which owner-financing is first made available with respect to targeted area residences.

"(2) Limitation.—Nothing in paragraph (1) shall be treated as requiring the making available of an amount which exceeds 40 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences located in targeted areas within the jurisdiction of the issuing authority.

"(k) Requirements Related to Arbitrage.—

"(1) In general.—An issue meets the requirements of this subsection only if such issue meets the requirements of paragraphs (2), (3), and (4) of this subsection. Such requirements shall be in addition to the requirements of section 103(c).

"(2) Effective rate of mortgage interest cannot exceed bond yield by more than 1 percentage point.—

"(A) In general.—An issue shall be treated as meeting the requirements of this paragraph only if the excess of—

"(i) the effective rate of interest on the mortgages provided under the issue, over

"(ii) the yield on the issue,

is not greater than 1 percentage point.

"(B) Effective rate of mortgage interest.—

"(i) In general.—In determining the effective rate of interest on any mortgage for purposes of this paragraph, there shall be taken into account all fees, charges, and other amounts borne by the mortgagor which are attributable to the mortgage or to the bond issue.

"(ii) Specification of some of the amounts to be treated as borne by the mortgagor.—For purposes of clause (i), the following items (among others) shall be treated as borne by the mortgagor:

"(I) all points or similar charges paid by the seller of the property, and

"(II) the excess of the amounts received from any person other than the mortgagor by any person in connection with the acquisition of the mortgagor's interest in the property over the usual and reasonable acquisition costs of a person acquiring like property where owner-financing is not provided through the use of qualified mortgage bonds.

"(iii) Specification of some of the amounts to be treated as not borne by the mortgagor.—For purposes of clause (i), the following items shall not be taken into account:

"(I) any expected rebate of arbitrage profits, and

"(II) any application fee, survey fee, credit report fee, insurance charge or similar amount to the extent such amount does not exceed amounts charged in such area in such cases where owner-financing is not provided through the use of qualified mortgage bonds.

Subclause (II) shall not apply to origination fees, points, or similar amounts.

"(iv) Prepayment assumption.—In determining the effective rate of interest, it shall be assumed that the mortgage prepayment rate will be the rate set forth in the most recent mortgage maturity experience table published by the Federal Housing Administration for the State (or, if available, the area within the State) in which the residences are located.

"(C) Yield on the issue.—For purposes of this subsection, the yield on the issue shall be determined on the basis of—

"(i) the issue price (within the meaning of section 1232(b)(2)), and

"(ii) an expected maturity for the bonds which is consistent with the assumption under subparagraph (B)(iv).

"(3) Non-mortgage investment requirements.—

"(A) In general.—An issue meets the requirements of this paragraph only if—

"(i) at no time during any bond year may the amount invested in non-mortgage investments with a yield higher than the yield on the issue exceed 150 percent of the debt service on the issue for the bond year, and

"(ii) the aggregate amount invested as provided in clause (i) is promptly and appropriately reduced as mortgages are repaid.

"(B) Exception for temporary periods.—Subparagraph (A) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for mortgages, and

"(ii) temporary investment periods related to debt service.

"(C) Debt service defined.—For purposes of subparagraph (A), the debt service on the issue for any bond year is the scheduled amount of interest and amortization of principal payable for such year with respect to such issue. For purposes of the preceding sentence, there shall not be taken into account amounts scheduled with respect to any bond which has been retired before the beginning of the bond year.

"(4) Arbitrage and investment gains to be used to reduce costs of owner-financing.—

"(A) In general.—An issue shall be treated as meeting the requirements of this paragraph only if an amount equal to the sum of—

"(i) the excess of—

"(I) the amount earned on all nonmortgage investments (other than investments attributable to an excess described in this clause), over

"(II) the amount which would have been earned if the investments were invested at a rate equal to the yield on the issue, plus

"(ii) any income attributable to the excess described in clause (i),

shall be paid or credited to the mortgagors as rapidly as may be practicable.

"(B) Investment gains and losses.—For purposes of subparagraph (A), in determining the amount earned on all non-mortgage investments, any gain or loss on the disposition of such investments shall be taken into account.

"(l) Other Requirements.—

"(1) State opinion that issue meets federal requirements.—An issue meets the requirements of this subsection only if a preliminary official statement of such issue has been submitted to a State agency and—

"(A) such agency has, within 30 days after the date of such submisssion, isssued an opinion that such issue meets the requirements of subsections (i) and (j) of this section, or

"(B) 30 days have elapsed since such submission and during such 30-day period the State agency has not issued an opinion that the issue does not meet the requirements of subsections (i) and (j) of this section.

"(2) Obligations must be registered.—An issue meets the requirements of this subsection only if each obligation issued pursuant to such issue is in registered form.

"(3) Requirement of more than one lender.—

"(A) In general.—Except as provided in subparagraph (B), an issue meets the requirements of this subsection only if the mortgages are originated by 2 or more persons.

"(B) Exceptions.—Subparagraph (A) shall not apply if—

"(i) due diligence was exercised in offering an opportunity to participate and not more than one person was willing and able to originate the mortgages, or

"(ii) a sound public purpose is served by having one person originate all owner-financing provided under the issue.

"(4) Mortgages must be new mortgages.—

"(A) In general.—An issue meets the requirements of this subsection only if no part of the proceeds of such issue is to be used to acquire or replace existing mortgages.

"(B) Exceptions.—Under regulations prescribed by the Secretary, the replacement of—

"(i) construction period loans,

"(ii) bridge loans or similar temporary initial financing, and

"(iii) in the case of a qualified rehabilitation, an existing mortgage,

shall not be treated as the acquisition or replacement of an existing mortgage for purposes of subparagraph (A).

"(5) Certain requirements must be met where mortgage is assumed.—An issue meets the requirements of this subsection only if a mortgage with respect to which owner-financing has been provided under such issue may be assumed only if the requirements of subsections (d), (e), (f), and (h) are met with respect to such assumption.

"(m) Targeted Area Residences.—

"(1) In general.—For purposes of this section, the term 'targeted area residence' means a residence in an area which is either—

"(A) a qualified census tract, or

"(B) an area of chronic economic distress.

"(2) Qualified census tract.—

"(A) In general.—For purposes of paragraph (1), the term 'qualified census tract' means a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income.

"(B) Data used.—The determination under subparagraph (A) shall be made on the basis of the most recent decennial census for which data are available.

"(3) Area of chronic economic distress.—

"(A) In general.—For purposes of paragraph (1), the term 'area of chronic economic distress' means an area of chronic economic distress—

"(i) designated by the State as meeting the standards established by the State for purposes of this subsection, and

"(ii) the designation of which has been approved by the Secretary and the Secretary of Housing and Urban Development.

"(B) Criteria to be used in approving state designations.—The criteria used by the Secretary and the Secretary of Housing and Urban Development in evaluating any proposed designation of an area for purposes of this subsection shall be—

"(i) the condition of the housing stock, including the age of the housing and the number of abandoned and substandard residential units,

"(ii) the need of area residents for owner-financing under this section, as indicated by low per capita income, a high percentage of families in poverty, a high number of welfare recipients, and high unemployment rates,

"(iii) the potential for use of owner-financing under this section to improve housing conditions in the area, and

"(iv) the existence of a housing assistance plan which provides a displacement program and a public improvements and services program.

"(n) Other Definitions and Special Rules.—For purposes of this section—

"(1) Mortgage.—The term 'mortgage' includes any other owner-financing.

"(2) Bond.—The term 'bond' includes any obligation.

"(3) State.—The term 'State' includes a possession of the United States and the District of Columbia.

"(4) Statistical area.—

"(A) In general.—The term 'statistical area' means—

"(i) a standard metropolitan statistical area, and

"(ii) any county (or the portion thereof) which is not within a standard metropolitan statistical area.

"(B) Standard metropolitan statistical area.—The term 'standard metropolitan statistical area' means the area in and around a city of 50,000 inhabitants or more (or equivalent area) as defined by the Secretary of Commerce.

"(C) Designation where adequate statistical information not available.—For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in subparagraph (A)(ii), the Secretary may substitute for such county (or portion thereof) another area for which there is sufficient recent statistical information.

"(D) Designation where no county.—In the case of any portion of a State which is not within a county, subparagraphs (A)(ii) and (C) shall be applied by substituting for 'county' an area designated by the Secretary which is the equivalent of a county.

"(5) Acquisition cost.—

"(A) In general.—The term 'acquisition cost' means the cost of acquiring the residence as a completed residential unit.

"(B) Exceptions.—The term 'acquisition cost' does not include—

"(i) usual and reasonable settlement or financing costs,

"(ii) the value of services performed by the mortgagor or members of his family in completing the residence, and

"(iii) the cost of land which has been owned by the mortgagor for at least 2 years before the date on which construction of the residence begins.

"(C) Special rule for qualified rehabilitation loans.—In the case of a qualified rehabilitation loan, for purposes of subsection (f), the term 'acquisition cost' includes the cost of the rehabilitation.

"(6) Qualified home improvement loan.—The term 'qualified home improvement loan' means the financing (in an amount which does not exceed $15,000)—

"(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

"(B) only if such items as substantially protect or improve the basic livability of the property.

"(7) Qualified rehabilitation loan.—

"(A) In general.—The term 'qualified rehabilitation loan' means any owner-financing provided in connection with—

"(i) a qualified rehabilitation, or

"(ii) the acquisition of a residence with respect to which there has been a qualified rehabilitation,

but only if the mortgagor to whom such financing is provided is the first resident of the residence after the completion of the rehabilitation.

"(B) Qualified rehabilitation.—For purposes of subparagraph (A), the term 'qualified rehabilitation' means any rehabilitation of a building if—

"(i) there is a period of at least 20 years between the date on which the building was first used and the date on which the physical work on such rehabilitation begins,

"(ii) 75 percent or more of the existing external walls of such building are retained in place as external walls in the rehabilitation process, and

"(iii) the expenditures for such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the residence.

For purposes of clause (iii), the mortgagor's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the mortgagor acquires the residence.

"(8) Determinations on actuarial basis.—All determinations of yield, effective interest rates, and amounts required to be paid or credited to mortgagors under subsection (k) (4)(A) shall be made on an actuarial basis taking into account the present value of money.

"(o) Special Rule for Issue Used for Owner-Occupied Housing and Rental Housing.—In the case of an issue—

"(1) part of the proceeds of which are to be used for mortgages on owner-occupied residences in a manner which meets the requirements of this section, and

"(2) part of the proceeds of which are to be used for rental housing which meets the requirements of section 103(b)(4)(A),

under regulations prescribed by the Secretary, each such part shall be treated as a separate issue.

"(p) Advance Refunding of Mortgage Subsidy Bonds Not Permitted.—On and after the date of the enactment of this section, no obligation may be issued for the advance refunding of a mortgage subsidy bond (determined without regard to subsection (b)(2))."

(b) Clerical Amendment.—The table of sections for part III of subchapter B of chapter I of such Code is amended by inserting after the item relating to section 103 the following new item:

"Sec. 103A. Mortgage subsidy bonds."

Sec. 903. Industrial Development Bonds for Housing Purposes Limited to Low- or Moderate-Income Rental Housing.

Subparagraph (A) of paragraph (4) of section 103(b) of the Internal Revenue Code of 1954 (relating to industrial development bonds) is amended to read as follows:

"(A) projects for residential rental property if—

"(i) 20 percent or more of the units in each project are to be occupied by individuals of low or moderate income (within the meaning of section 167(k)(3(B)), and

"(ii) each obligation issued pursuant to the issue is in registered form,".

Sec. 904. Effective Date for Bond Provisions.

(a) General Rule.—Except as otherwise provided in this section, the amendments made by sections 902 and 903 shall apply to obligations issued after April 24, 1979.

(b) Exception for Official Action Taken Before April 25, 1979.—

(1) In general.—The amendments made by sections 902 and 903 shall not apply to obligations if official action before April 25, 1979, of the governing body of the unit having authority to issue such obligations indicated an intent to such obligations.

(2) Action by staff of housing authority treated as action of authority in certain cases.—For purposes of paragraph (1), if, before April 25, 1979—

(A) the permanent professional staff of a State or local housing authority performed substantial work on a bond issue, and

(B) it was reasonable to expect that the bond issue, as developed by the staff, would be promptly approved by the governing body of the housing authority,

then such action by such staff shall be treated as the official action of such governing body.

(3) Special rules relating to size of issue.—

(A) In general.—Except as provided in subparagraph (B), an issue does not qualify for the exception provided by paragraph (1) if the issue size exceeds the intended issue size.

(B) Exception.—In the case of an issue to provide owner-financing for residences for which as of April 24, 1979, there was no documentation relating to intended issue size, paragraph (1) shall not apply unless—

(i) substantially all of the proceeds of the issue (exclusive of issuance costs and a reasonably required reserve) are to be used to provide owner-financing for one to four family residences (one unit of which is owner occupied) and not to acquire or replace existing mortgages within the meaning of section 103A(i)(4) of the Internal Revenue Code of 1954), and

(ii) substantially all of the proceeds referred to in clause (i) are committed by firm commitment letters (similar to those used in owner-financing not provided with tax-exempt bonds) to such owner-financing before the day which is 9 months after the date of issue of the obligations.

(C) Issue size defined.—For purposes of this paragraph, the term "issue size" means the aggregate face amount of obligations issued pursuant to the issue.

(D) Intended issue size.—For purposes of this paragraph, the term "intended issue size" means the aggregate face amount of obligations which a reasonable individual would reasonably conclude from the documentation before April 25, 1979, was the issue size which the governing body of the issuing authority intended to issue.

(4) Local referendum held before June 7, 1979.—

(A) In general.—For purposes of paragraph (1), if—

(i) on April 25, 1979, legislation was pending in a State legislature,

(ii) on April 27, 1979, such legislation was amended to authorize local governmental units to issue tax-exempt obligations,

(iii) before June 7, 1979, such legislation was enacted and a local governmental unit in such State held a referendum with respect to the issuance of obligations to finance owner-occupied residences, and

(iv) any action with respect to the issuance of such obligations by the governing body of such local governmental unit would have met the requirements of paragraph (1) if such legislation had been in effect, and such referendum had been held, when that action was taken,

then such legislation shall be treated as in effect, and such referendum shall be treated as having been held, at the time when such action was taken.

(B) Dollar limit for local governmental units.—The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of subparagraph (A) may not exceed—

(i) $35,000,000, reduced by

(ii) the aggregate amount of obligations which are issued (before, on, or after the issue under this paragraph) by local governmental units with respect to such area after April 24, 1979, and to which the amendments made by this subtitle do not apply solely by reason of this subsection (determined without regard to the application of subparagraph (A) of this paragraph).

(C) Mortgage requirements.—Subparagraph (A) shall not apply with respect to any issue unless such issue meets the requirements of paragraph (3)(A) of subsection (c).

(5) Certain local action pursuant to legislation enacted before September 29, 1979.—

(A) In general.—For purposes of paragraph (1), if—

(i) on April 25, 1979, legislation was pending in a State legislature authorizing a local governmental unit to issue tax-exempt obligations for owner-occupied residences,

(ii) before September 29, 1979, such legislation was enacted, and

(iii) any action with respect to the issuance of such obligations by the local governing body would have met the requirements of paragraph (1) if such legislation had been in effect when that action was taken,

then such legislation shall be treated as in effect at the time when such action was taken.

(B) Dollar limit for local governmental units.—The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of subparagraph (A) may not exceed the lesser of—

(i) the aggregate amount authorized by the legislation referred to in subparagraph (A), or

(ii) $150,000,000.

(C) Mortgage requirements.—Subparagraph (A) shall not apply with respect to any issue unless such issue meets the requirements of paragraph (3)(A) of subsection (c).

(c) $150,000,000 Exception for State Housing Finance Agencies.—

(1) In general.—To the extent of the limit set forth in paragraph (2), the amendments made by this subtitle shall not apply to obligations issued by a State housing finance agency.

(2) Dollar limit for state housing finance agencies.—The aggregate amount of obligations which may be issued by State housing finance agencies with respect to any State by reason of paragraph (1) may not exceed—

(A) $150,000,000, reduced by

(B) the aggregate amount of obligations which are issued (before, on, or after the issue under this subsection) by the housing finance agencies of such State after April 24, 1979, to finance owner-occupied residences and to which the amendments made by this subtitle do not apply solely by reason of subsection (b).

(3) Commitments.—Paragraph (1) shall

not apply with respect to any issue unless substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve)—

(A) are to be used to provide owner-financing for 1 to 4 family residences (1 unit of which is owner-occupied) and not to acquire or replace existing mortgages (within the meaning of section 103A(l)(4) of the Internal Revenue Code of 1954), and

(B) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to owner-financing before January 1, 1981.

(4) SPECIAL RULE FOR ACTION IN 1978 PURSUANT TO MORTGAGE PROGRAM ESTABLISHED IN 1970.—

(A) IN GENERAL.—If—

(i) in 1970 State legislation established a program to issue tax-exempt obligations to finance the purchase of existing mortgages from banks,

(ii) in August 1978, as a step toward issuing obligations under such program, the governing body of the housing agency administering the program made a finding that there was a shortage of mortgage funds within the State,

(iii) moneys received by any bank on the purchase of mortgages will be reinvested within 90 days in new mortgages, and

(iv) the issue meets the requirements of subparagraphs (B) and (C),

then paragraph (3) shall not apply with respect to an issue of obligations pursuant to the program referred to in clause (i) and the finding referred to in clause (ii).

(B) DOWNPAYMENT REQUIREMENT.—An issue meets the requirements of this subparagraph only if 75 percent or more of the financing provided under the issue is financing for residences where such financing constitutes 95 percent or more of the acquisition cost of the residences.

(C) TARGETED AREA REQUIREMENT.—An issue meets the requirements of this subparagraph only if at least 20 percent of the financing provided under the issue is owner-financing of targeted area residences. For purposes of the preceding sentence, the term "targeted area residence" means a residence in an area which is a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income (determined on the basis of the most recent decennial census for which data are available).

(D) DOLLAR LIMIT.—The aggregate amount of obligations which may be issued by a State housing authority by reason of subparagraph (A) may not exceed $125,000,000.

(d) SPECIAL RULES.—

(1) COURT ACTION WAS PENDING TO DETERMINE SCOPE OF AUTHORIZING LEGISLATION.—

(A) IN GENERAL.—If—

(i) before April 25, 1979, a State had enacted a law under which counties were authorized to establish public trusts to issue tax-exempt obligations for public purposes,

(ii) on such date the question of whether or not that law authorized the issuance of obligations to finance certain owner-occupied residences was being litigated in a court of competent jurisdiction,

(iii) before July 31, 1979, the Supreme Court of such State held that the counties were so authorized, and

(iv) there is written evidence (which was in existence before April 25, 1979) that before April 25, 1979, the governing body of a county in such State had taken action indicating an intent to issue (or to establish a program for issuing) tax-exempt obligations to finance owner-occupied residences,

then the amendments made by section 902 shall not apply to obligations issued by the public trust for such county.

(B) DOLLAR LIMIT.—The aggregate amount of obligations which may be issued with respect to any county by reason of subparagraph (A) may not exceed $50,000,000.

(2) STATE LEGISLATION ENACTED BEFORE JUNE 8, 1979, WHERE LOCALITY HAD ESTABLISHED INCOME LIMITATIONS BEFORE APRIL 25, 1979.—

(A) IN GENERAL.—If—

(i) on April 25, 1979, legislation was pending in a State legislature authorizing a local governmental unit to issue tax-exempt obligations for owner-occupied residences,

(ii) there is written evidence (which was in existence before April 25, 1979) that before April 25, 1979, the governing body of the local governmental unit had taken action indicating to its delegation to the State legislature what the income limitation would be for individuals who would be eligible for mortgages under the program, and

(iii) before June 8, 1979, the legislation referred to in clause (i) was enacted,

then the amendments made by section 902 shall not apply to obligations issued by the local governmental unit.

(B) DOLLAR LIMIT.—The aggregate amount of obligations which may be issued with respect to any local governmental area by reason of subparagraph (A) may not exceed $150,000,000.

(3) RESOLUTIONS BEFORE CITY COUNCIL HELD FOR ENACTMENT OF STATE AUTHORIZING LEGISLATION.—

(A) IN GENERAL.—If—

(i) before April 25, 1979, 2 resolutions were submitted to a city council the first of which would create an urban residential finance authority and the second of which would authorize the president of the city council to appoint the members of such authority,

(ii) the vote on the second resolution was postponed because the State authorizing legislation had not been enacted,

(iii) before April 25, 1979, the State authorizing legislation was enacted, and

(iv) after April 24, 1979, and before May 17, 1979, the 2 resolutions referred to in clause (i) were passed by the city council,

then section 902 shall not apply with respect to obligations issued on behalf of such city.

(B) DOLLAR LIMIT.—The aggregate amount of obligations which may be issued with respect to any city by reason of subparagraph (A) may not exceed $50,000,000.

(4) SPECIAL RULE WHERE CITY POSTPONED SECOND HALF OF AUTHORIZED ISSUE TO SAVE INTEREST.—If—

(A) on April 11, 1979, the council of a city adopted a resolution authorizing the issuance of not to exceed $30,000,000 of mortgage revenue bonds,

(B) on or about August 1, 1979, approximately one-half of the obligations authorized by such resolution were issued, and

(C) the reason why the remaining obligations were not issued at that time was to save interest payments until the money was actually needed,

then the amendments made by section 902 shall not apply with respect to the issuance of the remaining obligations which were authorized by such April 11, 1979, resolution.

(5) STATE WAS IN PROCESS OF PERMITTING LOCALITIES TO ESTABLISH NONPROFIT CORPORATIONS.—

(A) IN GENERAL.—If—

(i) a State law enacted after April 24, 1979, and before June 16, 1979, provides that local governments may establish nonprofit corporations to issue tax-exempt obligations to finance owner-occupied residences,

(ii) pursuant to such State law, a local government establishes such a nonprofit corporation and designates it for purposes of this subsection, and

(iii) on November 7 or 14, 1979, an amount was specified by or for the local government as the maximum amount of obligations which the local government expected the nonprofit corporation to issue with respect to the area under any transitional authority provided by this subtitle,

then the amendments made by section 902 shall not apply to obligations issued by the nonprofit corporation with respect to the area for which such local government has jurisdiction.

(B) DOLLAR LIMITS.—The aggregate amount of obligations which may be issued with respect to any area by reason of subparagraph (A) may not exceed the amount referred to in subparagraph (A)(iii) which was specified on November 7 or 14, 1979, by or for the local government.

(C) SUBSTITUTION OF HOUSING AUTHORITIES, ETC.—For purposes of applying so much of paragraph (7) as relates to subparagraph (A)—

(i) if the local housing authority had the intent referred to in paragraph (7), such local housing authority shall be substituted for the local government, and

(ii) if the governing body of the local government is a commissioners court, the county judge who was on April 24, 1979, the presiding officer of such court shall be treated as the governing body of such government.

(6) OBLIGATIONS ISSUED UNDER THIS SUBSECTION MUST MEET THE REQUIREMENTS OF SUBSECTION (c)(3).—No obligation may be issued under this subsection unless the issue meets the requirements of subsection (c)(3).

(7) GOVERNING BODY MUST FILE AFFIDAVITS SHOWING INTENT ON APRIL 24, 1979.—No obligation may be issued under this subsection with respect to any area unless a majority of the members of the governing body of the local governmental unit having jurisdiction over that area file affidavits with the Secretary of the Treasury (or his delegate) indicating that it was their intent on April 24, 1979, either that tax-exempt obligations be issued to provide financing for owner-occupied residences or that a program be established to issue such obligations.

(8) LIMITATIONS REDUCED BY CERTAIN PRIOR ISSUES.—Any limitation on the amount of obligations which may be issued by any issuer by reason of any paragraph of this subsection shall be reduced by the aggregate amount of obligations which are issued (before, on, or after the issue under this subsection) by local governmental units with respect to the area within the jurisdiction of such issuer after April 24, 1979, and to which the amendments made by this subtitle do not apply solely by reason of subsection (b).

(e) ONGOING LOCAL PROGRAMS FOR REHABILITATION LOANS.—

(1) IN GENERAL.—If before April 25, 1979, a local governmental unit had a qualified rehabilitation loan program, then the amendment made by this subtitle shall not apply to obligations issued by such governmental unit for qualified loans if substantially all of the proceeds of such issue (exclusive of issuance costs and reasonably required reserve) are committed by firm commitment letters (similar to those used in owner financing not provided by tax-exempt bonds) to qualified loans before January 1, 1981.

(2) LIMITATION.—The aggregate amount of obligations which may be issued by reason of paragraph (1) by local governmental units with respect to the area comprising any local governmental area may not exceed the lesser of—

(A) $10,000,000, or

(B) the aggregate amount of loans made with respect to that area under the qualified rehabilitation loan program during the period beginning on January 1, 1977, and ending on April 24, 1979.

The limitation established by the preceding sentence shall be reduced by the aggregate amount of obligations (if any) which are issued (before, on, or after the issue under this subsection) under the qualified rehabilitation loan program after April 24, 1979, with respect to the same local governmental area and to which the amendments made by this subtitle do not apply solely by reason of subsection (b).

(3) QUALIFIED REHABILITATION LOAN PROGRAM.—For purposes of this subsection, the term "qualified rehabilitation loan program" means a program for the financing—

(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

(B) only of such items as substantially protect or improve the basic livability of the property.

(4) QUALIFIED LOAN.—For purposes of this subsection, the term "qualified loan" means the financing—

(A) of alterations, repairs, and improvements on or in connection with an existing 1 to 4 family residence (1 unit of which is owner-occupied) by the owner thereof, but

(B) only of such items as substantially protect or improve the basic livability of the property.

(5) DOLLAR LIMIT ON QUALIFIED LOANS.—For purposes of this subsection, a loan shall not be treated as a qualified loan if the financing is in an amount which exceeds $20,000 plus $2,500 for each unit in excess of 1.

(f) $50 PER CAPITA EXCEPTION FOR LOCAL GOVERNMENTS.—

(1) IN GENERAL.—To the extent of the limit set forth in paragraph (2), the amendments made by section 902 shall not apply to mortgage subsidy bonds issued by local governmental units after April 24, 1979.

(2) LIMIT.—

(A) IN GENERAL.—The aggregate amount of obligations issued with respect to any area by reason of paragraph (1) shall not exceed—

(i) the amount equal to the product of $50 and the population of that area, reduced by

(ii) the aggregate amount of obligations which are issued (before, on, or after the issue under this subsection) by local governmental units after April 24, 1979, with respect to that area and to which the amendments made by this subtitle do not apply solely by reason of subsections (b), (d), and (e).

(B) DETERMINATION OF POPULATION.—For purposes of subparagraph (A), the population of any area shall be the population as of July 1, 1976, as determined for purposes of the State and Local Fiscal Assistance Act of 1972.

(3) UNIT MUST ESTABLISH THAT ACTION WAS TAKEN BEFORE APRIL 25, 1979.—Paragraph (1) shall not apply with respect to any obligation issued by any local governmental unit unless—

(A) there is written evidence (which was in existence before April 25, 1979) that before April 25, 1979, the governing body of such local governmental unit had taken action indicating an intent to issue (or to establish a program for issuing) tax-exempt obligations to finance owner-occupied residences,

(B) on October 30, 1979, such local governmental unit had authority to issue obligations to finance owner-occupied residences, and

(C) a majority of the members of the governing body of the local governmental unit file with the Secretary of the Treasury (or his delegate) affidavits that the requirement of such subparagraph (A) is met.

For purposes of subparagraph (A), action of the governing body of a second local governmental unit with respect to the same area shall be treated as action of the issuing governmental unit.

(4) COMMITMENTS.—Paragraph (1) shall not apply with respect to any issue unless such issue meets the requirements of paragraph (3) of subsection (c).

(5) OVERLAPPING JURISDICTIONS.—For purposes of this section, if 2 or more local governmental units meet the requirements of paragraph (3) and have authority to issue mortgage subsidy bonds with respect to residences in the same area, only the unit having jurisdiction over the smallest geographical area shall be treated as having issuing authority with respect to such area unless such unit agrees to surrender part or all of the amount permitted under this subsection to the local governmental unit with overlapping jurisdiction which has the next smallest geographical area.

(g) ROLLOVER OF EXISTING TAX-EXEMPT OBLIGATIONS.—

(1) IN GENERAL.—The amendments made by sections 902 and 903 shall not apply to the issuance of obligations to refinance for the same purpose tax-exempt indebtedness which was outstanding on April 24, 1979 (or indebtedness which had previously been refinanced pursuant to this subsection), but only if—

(A) on April 24, 1979, there was an agreed on period for the maturity of the mortgages or other financing, and

(B) the new obligations have a maturity date which does not exceed by more than 2 years the agreed on period referred to in subparagraph (A).

(2) AMOUNTS FOR RESERVES, ISSUE COSTS, ETC.—An issue which otherwise meets the requirements of paragraph (1) shall not be treated as failing to satisfy such requirements solely because the amount of the new indebtedness exceeds the amount of the old indebtedness by such amount as is reasonably necessary to cover construction period interest, reserves, and the costs of issuing the new indebtedness.

(h) SPECIAL RULES FOR PROJECTS UNDER DEVELOPMENT.—

(1) RENTAL HOUSING.—The amendment made by section 903 shall not apply to a project which was in the development stage on April 24, 1979, if—

(A) a plan specifying the number and location of rental units was approved on or before such date by a governing body of a State or local government or by a State or local housing agency or similar agency, and

(B) substantial expenditures for site improvement for the project had been incurred on or before such date.

(2) RENTAL HOUSING PROJECTS APPROVED BY SECRETARY OF HUD.—The amendment made by section 903 shall not apply to a project which was in the development stage on April 24, 1979, if—

(A) a plan specifying the number and location of rental units was preliminarily approved by the Secretary of Housing and Urban Development pursuant to section 221 (d)(4) or section 232 of the Housing Act on or before such date, and

(B) fees for processing the project with the Department of Housing and Urban Development and other expenditures for the project had been incurred on or before such date.

(3) OWNER-OCCUPIED HOUSING.—The amendments made by section 902 shall not apply to a project which was in the development stage on April 24, 1979, if on or before such date—

(A) substantial expenditures had been made for detailed plans and specifications, and

(B) either tax-exempt construction financing had been issued with respect to the project or there is written evidence that a governmental unit intended to issue tax-exempt obligations to finance the acquisition of the units by home buyers.

The amendment made by section 903 shall not apply to construction or other initial temporary financing issued with respect to a project which meets the requirements of the preceding sentence if substantially all of the dwelling units in such project are to be owner-occupied residences.

(4) CERTAIN REDEVELOPMENT MORTGAGE BOND FINANCING PROJECTS.—Subparagraph (B) of paragraph (3) shall be treated as satisfied if, before April 25, 1979—

(A) the developer of a project acquired the land for such project,

(B) there was approval by the mayor's advisory committee of a city of a comprehensive proposal (under a State law authorizing tax-exempt obligations for use only in redevelopment areas) for such project, subject to revisions to be made, and

(C) a revised proposal was submitted to the redevelopment agency and city council containing the revisions.

The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of this paragraph may not exceed $20,000,000.

(i) REGISTRATION REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, the amendments made by sections 902 and 903, insofar as they require obligations to be in registered form, shall apply to obligations issued after the date of the enactment of this subtitle.

(2) BONDS UNDER TRANSITIONAL RULES.—Any obligation issued by reason of subsection (b), (c), (d), (e), (f), (g), (h), or (l) of this section after the date of the enactment of this Act shall be in registered form.

(j) ADVANCE REFUNDING.—Notwithstanding any other provision of this section—

(1) subsection (p) of section 103A of the Internal Revenue Code of 1954 (as added by section 902) shall apply to obligations issued after the date of the enactment of this Act to refund obligations issued before, on, or after such date of enactment, and

(2) subsections (b), (c), (d), (e), (f), (g), and (h) shall not apply to obligations issued after such date of enactment for the advance refunding of obligations issued before, on, or after such date of enactment.

(k) TRANSITIONAL RULE FOR 20-PERCENT LOW- AND MODERATE-INCOME REQUIREMENT.—In the case of obligations issued after April 24, 1979, and before January 1, 1981, the period for which clause (i) of section 103 (b)(4)(A) of the Internal Revenue Code of 1954 (as amended by section 903 of this subtitle) is required to be met shall be 20 years.

(l) SUBSTITUTION OF GOVERNMENTAL INSTRUMENTALITY FOR CITY.—

(1) IN GENERAL.—If—

(A) a corporation was created on June 17, 1971, pursuant to State law to provide financing for the construction and rehabilitation of low-income housing,

(B) pursuant to a State law enacted in 1955 a city has made loans to housing developers from the proceeds of short-term bonds and notes issued by the city, and has secured 50-year mortgages from the developers, and

(C) the corporation agrees to acquire from the city certain of the loans referred to in subparagraph (B) by issuing obligations which will be secured by mortgages referred to in subparagraph (B) on 12 projects (11 of which projects are subsidized with interest-reduction subsidies under section 236 of the National Housing Act),

then the amendments made by this subtitle shall not apply to obligations issued by the corporation to acquire the loans (and mortgages) referred to in subparagraph (C).

(2) DOLLAR LIMIT.—The aggregate amount of obligations to which paragraph (1) applies shall not exceed $135,000,000.

(3) TIME LIMIT.—Paragraph (1) shall not

apply to any obligation issued after December 31, 1980.

(m) State Legislation Was Pending on April 1, 1979, and Enacted on April 26, 1979, Where Locality Had Taken Action To Undertake a Study of Local Mortgage Market.—

(1) In general.—If—

(A) on April 1, 1979, legislation was pending in a State legislature limiting the authority of local governments within such State to issue tax-exempt obligations for owner-occupied residence under existing home rule authority, and such legislation was enacted on April 26, 1979,

(B) there is written evidence (which was in existence before April 25, 1979) that not earlier than June 1, 1978, but before April 25, 1979, the governing body of a local government in such State had taken action authorizing the undertaking of a demographic or related study of the local mortgage market, which study was intended to serve as a basis for issuance of tax exempt obligations for owner occupied residences,

(C) on December 20, 1979, an amount was specified by or for the local government as the range of obligations which it expected to issue with respect to the area under any transitional authority provided by the Act, and

(D) a majority of the members of the governing body of the local government certify that the city or county was waiting enactment of the legislation described in subparagraph (A) prior to determining to proceed towards the issuance of tax-exempt obligations for owner-occupied residences.

then the amendments made by section 902 shall not apply to obligations issued by such city or county.

(2) Dollar limits.—The aggregate amount of obligations which may be issued with respect to any area by reason of subparagraph may not exceed the maximum amount referred to in paragraph (1)(C) which was specified on December 20, 1979, by or for such local government.

(3) Time limits.—Paragraph (1) shall not apply with respect to any issue unless substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to owner-financing before January 1, 1981.

Subtitle B—Cash Management

Sec. 911. Estimated Income Tax Payments by Corporations.

(a) General Rule.—Section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end thereof the following new subsection:

"(h) Large Corporations Required To Pay at Least 60 Percent of Current Year Tax.—

"(1) In general.—In the case of a large corporation, the amount treated as the estimated tax for the taxable year under paragraphs (1) and (2) of subsection (d) shall in no event be less than 60 percent of—

"(A) the tax shown on the return for the taxable year, or

"(B) if no return was filed, the tax for such year.

"(2) Large corporation.—For purposes of this subsection, the term 'large corporation' means any corporation if such corporation (or any predecessor corporation) had taxable income of $1,000,000 or more for any taxable year during the testing period.

"(3) Rules for applying paragraph (2).—

"(A) Testing period.—For purposes of this subsection, the term 'testing period' means the 3 taxable years immediately preceding the taxable year involved.

"(B) Members of controlled groups.—For purposes of applying paragraph (2) to any taxable year in the testing period with respect to corporations which are component members of a controlled group of corporations for such taxable year, the $1,000,000 amount specified in paragraph (2) shall be divided among such members under rules similar to the rules of section 1561.".

(b) Technical Amendment.—Subsection (e) of section 6655 of such Code is amended by striking out "subsections (b) and (d)" and inserting in lieu thereof "subsections (b), (d), and (h)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

Subtitle C—Environmental Revenue

CHAPTER 1—ENVIRONMENTAL REVENUE ACT OF 1980

Sec. 920. Short Title.

This chapter may be cited as the "Environmental Revenue Act of 1980".

Subchapter A—Imposition of Taxes

Sec. 921. Imposition of Taxes.

(a) General Rule.—Subtitle D of the Internal Revenue Code of 1954 (relating to miscellaneous excise taxes) is amended by inserting after chapter 37 the following new chapter:

"CHAPTER 38—ENVIRONMENTAL TAXES

"Subchapter A. Tax on petroleum.
"Subchapter B. Tax on certain chemicals.

"Subchapter A—Tax on Petroleum

"Part I. Taxes to fund pollution liability.
"Part II. Taxes to fund hazardous waste containment.

"Part I—Taxes To Fund Pollution Liability

"Sec. 4601. Imposition of tax.
"Sec. 4602. Definitions and special rules.

"Sec. 4601. Imposition of Tax.

"(a) General Rule.—There is hereby imposed a tax of 1.3 cents a barrel on—

"(1) crude oil received at a United States refinery, and

"(2) petroleum products entered into the United States for consumption, use, or warehousing.

"(b) Tax on Certain Uses and Exportation.—

"(1) In general.—If—

"(A) any domestic crude oil is used in or exported from the United States, and

"(B) before such use or exportation, no tax was imposed on such crude oil under subsection (a),

then a tax of 1.3 cents a barrel is hereby imposed on such crude oil.

"(2) Exception for use on premises where produced.—Paragraph (1) shall not apply to any use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced.

"(c) Persons Liable for Tax.—

"(1) Crude oil received at refinery.—The tax imposed by subsection (a)(1) shall be paid by the operator of the United States refinery.

"(2) Imported petroleum products.—The tax imposed by subsection (a)(2) shall be paid by the person entering the product for consumption, use, or warehousing.

"(3) Tax on certain uses or exports.—The tax imposed by subsection (b) shall be paid by the person using or exporting the crude oil, as the case may be.

"(d) Termination.—The taxes imposed by this section shall not apply after September 30, 1985.

"Sec. 4602. Definitions and special rules.

"(a) Definitions.—For purposes of this part—

"(1) Crude oil.—The term 'crude oil' includes crude oil condensates and natural gasoline.

"(2) Domestic crude oil.—The term 'domestic crude oil' means any crude oil produced from a well located in the United States.

"(3) Petroleum product.—The term 'petroleum product' includes crude oil.

"(4) United states.—

"(A) In General.—The term 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(B) United states includes continental shelf areas.—The principles of section 638 shall apply for purposes of the term 'United States'.

"(C) United states includes foreign trade zones.—The term 'United States' includes any foreign trade zone of the United States.

"(5) United states refinery.—The term 'United States refinery' means any facility in the United States at which crude oil is refined.

"(6) Refineries which produce natural gasoline.—In the case of any United States refinery which produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at such refinery at the time so produced.

"(7) Premises.—The term 'premises' has the same meaning as when used for purposes of determining gross income from the property under section 613.

"(8) Barrel.—The term 'barrel' means 42 United States gallons.

"(9) Fractional part of barrel.—In the case of a fraction of a barrel, the tax imposed by section 4601 shall be the same fraction of the amount of such tax imposed on a whole barrel.

"(b) Only 1 Tax Imposed With Respect to Any Product.—No tax shall be imposed under section 4601 with respect to any petroleum product if the person who would be liable for such tax establishes that a prior tax has been imposed by such section with respect to such product.

"Subchapter B—tax on Certain Chemicals

"Part I. Taxes to fund pollution liability.
"Part II. Taxes to fund hazardous waste containment.

"Part I—Taxes To Fund Pollution Liability

"Sec. 4651. Imposition of tax.
"Sec. 4652. Definitions and special rules.

"Sec. 4651. Imposition of Tax.

"(a) General Rule.—There is hereby imposed a tax on any taxable chemical sold by the manufacturer, producer, or importer thereof.

"(b) Amount of Tax.—The amount of the tax imposed by subsection (a) shall be—

"(1) $1.18 a ton in the case of specified petrochemical feedstocks, or

"(2) 31 cents a ton in the case of specified inorganic substances.

"(c) Termination.—The taxes imposed by this section shall not apply after September 30, 1985.

"Sec. 4652. Definitions and Special Rules.

"(a) Definitions.—For purposes of this part—

"(1) Taxable chemical.—The term 'taxable chemical' means any substance—

"(A) which is a specified petrochemical feedstock or a specified inorganic substance, and

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

"(2) SPECIFIED PETROCHEMICAL FEEDSTOCK.—

"(A) IN GENERAL.—The terms "specified petrochemical feedstock' means any of the following substances:

Ethylene
Propylene
Butylene
Butadiene
Butane
Propane
Benzene
Toluene
Xylene
Naphthalene
Methane
Carbon Black
Ethane

"(B) SPECIAL RULE FOR CERTAIN SUBSTANCES.—Under regulations prescribed by the Secretary, any substance listed in subparagraph (A) for which a principal use is use as a fuel shall be treated as a specified petrochemical feedstock only if it is used otherwise than as a fuel (and, for purposes of section 4651(a), the person so using it shall be treated as the manufacturer thereof).

"(3) SPECIFIED INORGANIC SUBSTANCE.—The term 'specified inorganic substance' means any of the following substances:

"(A) arsenic, cadmium, chromium, lead, mercury, and the equivalent weight of the foregoing elements in arsenic trioxide, chromite, chromic acid, sodium dichromate, potassium dichromate, and lead oxide;

"(B) chlorine, hyrdrochloric acid, hydrofluoric acid, and the equivalent weight of bromine in methyl bromide and ethylene dibromide;

"(C) phosphoric acid, sulfuric acid, nitric acid, potassium hydroxide, and sodium hydroxide; and

"(D) ammonia and the equivalent weight of ammonia in ammonium nitrate.

"(4) UNITED STATES.—The term 'United States' has the meaning given such term by section 4602(a)(4).

"(5) IMPORTER.—The term 'importer' means the person entering the taxable chemical for consumption, use, or warehousing.

"(6) TON.—The term 'ton' means 2,000 pounds. In the case of any taxable chemical which is a gas, the term 'ton' means the amount of such gas in cubic feet which is the equivalent of 2,000 pounds on a molecular weight basis.

"(7) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by section 4651 shall be the same fraction of the amount of such tax imposed on a whole ton.

"(b) USE BY MANUFACTURER, ETC., CONSIDERED SALE.—If any person manufactures, produces, or imports a taxable chemical and uses such chemical, then he shall be liable for tax under section 4651 in the same manner as if such chemical were sold by him.

"(c) REFUND OR CREDIT FOR CERTAIN USES.—Under regulations prescribed by the Secretary, if—

"(1) a tax under section 4651 was paid with respect to any taxable chemical, and

"(2) such chemical was used by any person in the manufacture or production of any other substance the sale of which by such person would be taxable under such section, then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by such section. The amount of any such credit or refund shall not exceed the amount of tax imposed by such section on the other substance so manufactured or produced."

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle D of such Code is amended by inserting after the item relating to chapter 37 the following new item:

"CHAPTER 38. Environmental taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1980.

Subchapter B—Establishment of Trust Funds

PART I—ESTABLISHMENT OF TRUST FUNDS

SEC. 925. ESTABLISHMENT OF COMPREHENSIVE OIL POLLUTION LIABILITY TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Comprehensive Oil Pollution Liability Trust Fund" (hereinafter in this subchapter referred to as the "Oil Pollution Trust Fund"), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or as may be transferred to such Trust Fund under the Comprehensive Oil Pollution Liability and Compensation Act.

(b) TRANSFER TO OIL POLLUTION TRUST FUND OF CERTAIN AMOUNTS.—There are hereby appropriated to the Oil Pollution Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this subchapter referred to as the "Secretary") to be equivalent to—

(1) the amounts received in the Treasury under section 4601 of the Internal Revenue Code of 1954,

(1) the amounts recovered or collected on behalf of the Oil Pollution Trust Fund under chapter 1 of the Comprehensive Oil Pollution Liability and Compensation Act, and

(3) any penalties imposed under chapter 1 of such Act or under section 311 of the Federal Water Pollution Control Act (insofar as it relates to petroleum oils).

(c) EXPENDITURES FROM OIL POLLUTION TRUST FUND.—

(1) IN GENERAL.—Amounts in the Oil Pollution Trust Fund shall be available only for purposes of paying claims for compensable damages which are recognizable under chapter 1 of the Comprehensive Oil Pollution Liability and Compensation Act (as in effect on the date of the enactment of such Act).

(2) CLAIMS INCLUDE CERTAIN EXPENSES.—For purposes of paragraph (1), the amounts payable out of the Oil Pollution Trust Fund shall include the costs incurred by the United States by reason of any claim referred to in paragraph (1) (including processing costs, investigating costs, court costs, and attorney fees).

(d) TERMINATION.—No amount may be paid out of the Oil Pollution Trust Fund after September 30, 1985.

SEC. 926. ESTABLISHMENT OF HAZARDOUS SUBSTANCE POLLUTION LIABILITY TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Hazardous Substance Pollution Liability Trust Fund" (hereinafter in this subchapter referred to as the "Hazardous Substance Trust Fund"), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or as may be transferred to such Trust Fund under the Comprehensive Oil Pollution Liability and Compensation Act.

(b) TRANSFER TO HAZARDOUS SUBSTANCE TRUST FUND OF CERTAIN AMOUNTS.—There are hereby appropriated to the Hazardous Substance Trust Fund amounts determined by the Secretary to be equivalent to—

(1) the amounts received in the Treasury under section 4651 of the Internal Revenue Code of 1954,

(2) the amounts recovered or collected on behalf of such Trust Fund under section 311 of the Federal Water Pollution Control Act, and

(3) any penalties imposed under section 311 of such Act (insofar as it relates to substances other than petroleum oils).

(c) EXPENDITURES FROM HAZARDOUS SUBSTANCE TRUST FUND.—

(1) IN GENERAL.—Amounts in the Hazardous Substance Trust Fund shall be available only for purposes of paying claims for compensable damages which are recognizable under section 311 of the Federal Water Pollution Control Act (as in effect on the date of the enactment of the Comprehensive Oil Pollution Liability and Compensation Act).

(2) CLAIMS INCLUDE CERTAIN EXPENSES.—For purposes of paragraph (1), the amounts payable out of the Hazardous Substance Trust Fund shall include the costs incurred by the United States by reason of any claim referred to in paragraph (1) (including processing costs, investigating costs, court costs, and attorney fees).

(d) TERMINATION.—No amount may be paid out of the Hazardous Substance Trust Fund after September 30, 1985.

PART II—GENERAL PROVISIONS APPLICABLE TO TRUST FUNDS

SEC. 927. PURPOSES FOR WHICH TRUST FUNDS ARE AVAILABLE.

(a) DEFINITION OF COMPENSABLE DAMAGES.—

(1) IN GENERAL.—For purposes of this subchapter, the term "compensable damages" means damages asserted for—

(A) removal costs,

(B) injury to, or destruction of, real or personal property,

(C) injury to, or destruction of, natural resources, and

(D) loss of opportunity to harvest marine life due to injury to, or destruction of, natural resources, but—

(i) only if the person asserting the claim meets the income requirements of paragraph (2), and

(ii) only to the extent that the damages were sustained during the 2-year period beginning on the date the claimant first suffered such loss.

(2) INCOME REQUIREMENTS.—For purposes of paragraph (1), a person meets the income requirements of this paragraph if—

(A) such person's gross income from the harvesting of marine life for the taxable year which includes the day on which such person first suffered the loss described in paragraph (1)(D), or for the preceding taxable year, exceeds

(B) 25 percent of his total gross income from all sources for the taxable year (or preceding taxable year, as the case may be).

(b) RESTRICTION ON INTEREST PAYABLE OUT OF TRUST FUNDS.—No amount in any Trust Fund established by this subchapter may be used to pay interest on any claim for any period before the 46th day after the day on which such claim is finally determined.

(c) CERTAIN INTERFUND LOANS PERMITTED.—

(1) IN GENERAL.—Amounts in any Trust Fund established by this subchapter (hereinafter in this subsection referred to as the "lending fund") may be loaned to the other Trust Fund established by this subchapter if—

(A) the Secretary (after consultation with the appropriate Federal official) reasonably expects that the amount to be loaned will not be needed by the lending fund for the period of such loan,

(B) interest is payable on such loan at a rate comparable to the investment yield (as of the date of the loan) on interest-bearing obligations of the United States having maturities similar to that of such loan, and

(C) immediately after the making of such loan, the amount in the lending fund equals or exceeds $30,000,000.

(2) APPROPRIATE FEDERAL OFFICIAL.—For purposes of paragraph (1), the appropriate Federal official is—

(A) the Secretary of Transportation in the case of the Oil Pollution Trust Fund, and

(B) the Administrator of the Environmental Protection Agency in the case of the Hazardous Substance Trust Fund.

(3) Amount in trust fund.—For purposes of this subsection and section 928(a), the amount in any Trust Fund shall be the sum of any cash in such Trust Fund and any public debt securities held by such Trust Fund.

Sec. 928. Limitation on Payment of Claims by Fund.

(a) General Rule.—No amount in any Trust Fund established by this subchapter shall be used to pay any claim (other than a claim for removal costs) to the extent that the payment of such claim would reduce the balance in such Fund to an amount less than $30,000,000.

(b) Order in Which Unpaid Claims Are To Be Paid.—If at any time any Trust Fund established by this subchapter is unable (by reason of subsection (a)) to pay all of the claims (other than for removal costs) payable out of such Trust Fund at such time, such claims shall, to the extent permitted under subsection (a), be paid in full in the order in which they were finally determined.

Sec. 929. Liability of United States Limited to Amount in Trust Fund.

(a) General Rule.—Any claim for damages filed against any Trust Fund established by this subchapter may be paid out of such Trust Fund. Nothing in the Comprehensive Oil Pollution Liability and Compensation Act (or in any amendment made by such Act) shall authorize the payment by the United States Government of any additional amount for damages with respect to any such claim out of any source other than a Trust Fund established by this subchapter.

(b) No Borrowing From General Fund of Treasury.—Nothing in the Comprehensive Oil Pollution Liability and Compensation Act (or in any amendment made by such Act) shall be construed to authorize any Trust Fund established by this subchapter to borrow any money from the general fund of the Treasury.

Sec. 930. Administrative Provisions.

(a) Method of Transfer.—The amounts appropriated by section 925(b) or 926(b) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in such section. Proper adjustments shall be made in the amount subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(b) Management of Trust Funds.—

(1) Report.—The Secretary shall be the trustee of each Trust Fund established by this subchapter, and shall report to the Congress for each fiscal year ending on or after September 30, 1981, on the financial condition and the results of the operations of such Trust Fund during such fiscal year and on its expected condition and operations during the next 5 fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) Investment.—It shall be the duty of the Secretary to invest such portion of each Trust Fund established by this subchapter as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of the Trust Fund and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities, adjusted to the nearest one-eighth of 1 percent. The income on such investments shall be credited to and form a part of the Trust Fund.

Subchapter C—Coordination With Other Provisions of Law

Sec. 931. Coordination With Other Provisions of Law.

(a) General Rule.—Nothing in the Comprehensive Oil Pollution Liability and Compensation Act (or in any amendment made by such Act) shall authorize—

(1) the establishment of any fund,

(2) the payment out of any Trust Fund created by this subchapter,

(3) the level or collection of any fee, or

(4) the imposition of any requirement with respect to the procedure applicable to rules and regulations prescribed under this chapter (or under any amendment made by this chapter).

(b) Reference to Fund.—To the extent not inconsistent with this chapter—

(1) any reference in chapters 1 and 2 of the Comprehensive Oil Pollution Liability and Compensation Act (or in any amendment made by either of such chapters) to a fund shall be deemed to be a reference to the Comprehensive Oil Pollution Liability Trust Fund established by this chapter, and

(2) any reference in chapter 3 of the Comprehensive Oil Pollution Liability and Compensation Act (or in any amendment made by such chapter) to a fund shall be deemed to be a reference to the Hazardous Substance Pollution Liability Trust Fund established by this chapter.

(c) Certain Liabilities Arising Before October 1, 1980.—If any provision of the Comprehensive Oil Pollution Liability and Compensation Act provides that the balance in any fund (hereinafter in this subsection referred to as the "transferor fund") is to be transferred to any Trust Fund established by this chapter (hereinafter in this subsection referred to as the "transferee fund"), any claim which arises before October 1, 1980 (to the extent such claim would have been payable out of the transferor fund), shall be payable out of the transferee fund notwithstanding any of the limitations imposed by subchapter B of this chapter.

(d) Adjustment in Tax for Balance in Trans-Alaska Pipeline Liability Fund.—

(1) In general.—If the Secretary of the Treasury (or his delegate) determines—

(A) that there is a TAP fund surplus, the amount of such surplus shall be treated as an advance payment of the tax imposed by section 4601 of the Internal Revenue Code of 1954 on crude oil first transported through the trans-Alaska pipeline after the date of such determination, or

(B) that there is a TAP fund deficit, the tax imposed by section 4601 on crude oil first transported through the trans-Alaska pipeline after the date of such determination shall be increased by 2 cents per barrel until such time as the total amount of such increased tax equals such deficit.

(2) Definitions.—For purposes of paragraph (1)—

(A) TAP fund surplus.—The term "TAP fund surplus" means the excess (if any) of—

(i) the total amount of the assets transferred from the Trans-Alaska Pipeline Liability Fund to the Comprehensive Oil Pollution Liability Trust Fund established by this chapter, over

(ii) the amount certified by the Secretary of the Interior as the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time of such transfer.

(B) TAP fund deficit.—The term "TAP fund deficit" means the excess (if any) of—

(i) the amount certified by the Secretary of the Interior as the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the assets of such fund are transferred to the Comprehensive Oil Pollution Liability Trust Fund established by this chapter, over

(ii) the total amount of the assets transferred from the Trans-Alaska Pipeline Liability Fund to the Comprehensive Oil Pollution Liability Trust Fund established by this chapter.

Subchapter D—Study

Sec. 935. Study.

(a) General Rule.—The Secretary of the Treasury (in consultation with the Secretary of Transportation, the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and the United States Trade Representative) shall conduct a study—

(1) on the feasibility of—

(A) taxes which are based on the frequency of hazardous substances pollution and the degree of harm to the environment which results from such pollution, and

(B) adjustments in the amount of taxes on different modes of transportation to reflect different risks of pollution,

(2) an exemption from the taxes imposed by section 4651 of the Internal Revenue Code of 1954 for feedstocks when used as a fuel, and

(3) on the impact of the taxes imposed by sections 4601 and 4651 of the Internal Revenue Code of 1954 on the Nation's balance of trade with other countries.

(b) Report.—Not later than January 1, 1985, the Secretary of the Treasury shall submit to the Congress a report on the results of the study conducted under subsection (a), together with such recommendations as he deems feasible.

CHAPTER 2—HAZARDOUS WASTE REVENUE ACT OF 1980

Sec. 940. Short Title.

This chapter may be cited as the "Hazardous Waste Revenue Act of 1980".

Subchapter A—Imposition of Taxes

Sec. 941. Imposition of Taxes.

(a) Tax on Petroleum.—Subchapter A of chapter 38 of the Internal Revenue Code of 1954 (as added by section 921) is amended by adding at the end thereof the following new part:

"Part II—Taxes to Fund Hazardous Waste Containment

"Sec. 4611. Imposition of tax.

"Sec. 4612. Definitions and special rules.

"Sec. 4611. Imposition of Tax.

"(a) General Rule.—There is hereby imposed a tax of 0.6 cents a barrel on—

"(1) crude oil received at a United States refinery, and

"(2) petroleum products entered into the United States for consumption, use, or warehousing.

"(b) Tax on Certain Uses and Exportation.—

"(1) In general.—If—

"(A) any domestic crude oil is used in or exported from the United States, and

"(B) before such use or exportation, no tax was imposed on such crude oil under subsection (a),

then a tax of 0.6 cents a barrel is hereby imposed on such crude oil.

"(2) Exception for use on premises where produced.—Paragraph (1) shall not apply to any use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced.

"(c) Persons Liable for Tax.—

"(1) Crude oil received at refinery.—The tax imposed by subsection (a)(1) shall be paid by the operator of the United States refinery.

"(2) Imported petroleum products.—The tax imposed by subsection (a)(2) shall be paid by the person entering the product for consumption, use, or warehousing.

"(3) Tax on certain uses or exports.—The tax imposed by subsection (b) shall be paid by the person using or exporting the crude oil, as the case may be.

"(d) Termination.—The taxes imposed by this section shall not apply after September 30, 1985.

"Sec. 4612. Definitions and Special Rules.

"(a) Definitions.—For purposes of this part—

"(1) Crude oil.—The term 'crude oil' includes crude oil condensates and natural gasoline.

"(2) Domestic crude oil.—The term 'domestic crude oil' means any crude oil produced from a well located in the United States.

"(3) Petroleum product.—The term 'petroleum product' includes crude oil.

"(4) United states.—

"(A) In general.—The term 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(B) United states includes continental shelf areas.—The principles of section 638 shall apply for purposes of the term 'United States'.

"(C) United states includes foreign trade zones.—The term 'United States' includes any foreign trade zone of the United States.

"(5) United states refinery.—The term 'United States refinery' means any facility in the United States at which crude oil is refined.

"(6) Refineries which produce natural gasoline.—In the case of any United States refinery which produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at such refinery at the time so produced.

"(7) Premises.—The term 'premises' has the same meaning as when used for purposes of determining gross income from the property under section 613.

"(8) Barrel.—The term 'barrel' means 42 United States gallons.

"(9) Fractional part of barrel.—In the case of a fraction of a barrel, the tax imposed by section 4611 shall be the same fraction of the amount of such tax imposed on a whole barrel.

"(b) Only 1 Tax Imposed With Respect to Any Product.—No tax shall be imposed by section 4611 with respect to any petroleum product if the person who would be liable for such tax establishes that a prior tax has been imposed by such section with respect to such product."

(b) Tax on Certain Chemicals.—Subchapter B of chapter 38 of such Code (as added by section 921 of this Act) is amended by adding at the end thereof the following new part:

"Part II—Taxes to Fund Hazardous Waste Containment

"Sec. 4661. Imposition of tax.
"Sec. 4662. Definitions and special rules.

"Sec. 4661. Imposition of Tax.

"(a) General Rule.—There is hereby imposed a tax on any taxable chemical sold by the manufacturer, producer, or importer thereof.

"(b) Amount of Tax.—The amount of the tax imposed by subsection (a) shall be—

"(1) $2.54 a ton in the case of specified petroleum feedstocks, or

"(2) $2.33 a ton in the case of specified inorganic substances.

"(c) Determination.—The taxes imposed by this section shall not apply after September 30, 1985.

"Sec. 4662. Definitions and Special Rules.

"(a) Definitions.—For purposes of this part—

"(1) Taxable chemical.—Except as provided in subsection (b), the term 'taxable chemical' means any substance—

"(A) which is a specified petrochemical feedstock or a specified inorganic substance, and

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

"(2) Specified petrochemical feedstock.—

"(A) In general.—The term 'specified petrochemical feedstock' means any of the following substances from whatever source derived:

Ethylene
Propylene
Butylene
Butadiene
Butane
Benzene
Toluene
Xylene
Naphthalene
Methane

"(B) Special rule for certain substances.—Under regulations prescribed by the Secretary, any substance listed in subparagraph (A) for which a principal use is use as a fuel shall be treated as a specified petrochemical feedstock only if it is used otherwise than as a fuel (and, for purposes of section 4661(a), the person so using it shall be treated as the manufacturer thereof).

"(3) Specified inorganic substance.—The term 'specified inorganic substance' means any of the following substances:

"(A) arsenic and the equivalent weight of arsenic in arsenic trioxide;

"(B) cadmium;

"(C) chromium and the equivalent weight of chromium in chromite, sodium dichromate, and potassium dichromate;

"(D) lead and the equivalent weight of lead in lead oxide;

"(E) mercury;

"(F) the equivalent weight of barium in barium sulfide;

'(G) antimony and the equivalent weight of antimony in antimony trioxide and antimony sulfide;

"(H) cobalt;

"(I) nickel;

"(J) the equivalent weight of tin in stannic chloride and stannous chloride;

"(K) chlorine;

"(L) the equivalent weight of fluorine in hydrofluoric acid;

"(M) bromine;

"(N) the equivalent weight of hydrogen in phosphoric acid, sulfuric acid, hydrochloric acid, or nitric acid; and

"(O) elemental phosphorus.

"(4) United States.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(5) Importer.—The term 'importer' means the person entering the taxable chemical for consumption, use, or warehousing.

"(6) Ton.—The term 'ton' 2,000 pounds. In the case of any taxable chemical which is a gas, the term 'ton' means the amount of such gas in cubic feet which is the equivalent of 2,000 pounds on a molecular weight basis.

"(7) Fractional part of ton.—In the case of a fraction of a ton, the tax imposed by section 4661 shall be the same fraction of the amount of such tax imposed on a whole ton.

"(b) Exception for Use in Production of Fertilizer.—

"(1) In general.—For purposes of this part, the term 'taxable chemical' shall not include any substance—

"(A) used in a qualified use by the manufacturer, producer, or importer,

"(B) sold for use by the purchaser in a qualified use, or

"(C) sold for resale by the purchaser to a second purchaser for use by such second purchaser in a qualified use.

"(2) Qualified use.—For purposes of this subsection, the term 'qualified use' means any use in the manufacture or production of a fertilizer.

"(3) Registration.—The provisions of section 4222 (relating to registration) may be extended to, and made applicable with respect to, the exemption provided by paragraph (1) to the extent provided by regulations prescribed by the Secretary.

"(c) Use by Manufacturer, Etc., Considered Sale.—If any person manufactures, produces, or imports a taxable chemical and uses such chemical, then he shall be liable for tax under section 4661 in the same manner as if such chemical were sold by him.

"(d) Refund or Credit for Certain Uses.—Under regulations prescribed by the Secretary, if—

"(1) a tax under section 4661 was paid with respect to any taxable chemical, and

"(2) such chemical was used by any person in the manufacture or production of—

"(A) any other substance the sale of which by such person would be taxable under such section, or

"(B) a fertilizer,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by such section. In any case to which paragraph (2)(A) applies, the amount of any such credit or refund shall not exceed the amount of tax imposed by such section on the other substance so manufactured or produced."

(b) Effective Date.—The amendments made by this section shall take effect on October 1, 1980.

Subchapter B—Establishment of Trust Fund

Sec. 945. Establishment of Hazardous Waste Response Trust Fund.

(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the "Hazardous Waste Response Trust Fund" (hereinafter in this subchapter referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section.

(b) Transfers to Trust Fund.—

(1) Amounts equivalent to certain taxes, penalties, etc.—There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this subchapter referred to as the "Secretary") to be equivalent to—

(A) the amounts received in the Treasury under section 4611 or 4661 of the Internal Revenue Code of 1954,

(B) the amounts recovered by the United States under subpart F of part 2 of subtitle C of the Solid Waste Disposal Act,

(C) any amount reimbursed to the Trust Fund as provided in subsection (a)(3) of section 3041 of the Solid Waste Disposal Act, and

(D) any penalties assessed under part 2 of subtitle C of the Solid Waste Disposal Act.

(2) Authorization for appropriations.—There is authorized to be appropriated to the Trust Fund for the fiscal year—

(A) 1981, $50,000,000,

(B) 1982, $75,000,000,

(C) 1983, $75,000,000,

(D) 1984, $100,000,000, and

(E) 1985, an amount equal to so much of the aggregate amount authorized to be appropriated under subparagraphs (A), (B), (C), and (D) as has not been appropriated before October 1, 1984.

(c) Expenditures From Trust Fund.—

(1) In general.—Amounts in the Trust Fund shall be available, to the extent provided in appropriations Acts, only for purposes of making expenditures for emergency response, removal, containment, cleanup, and other action taken under subpart C of part 2 of subtitle C of the Solid Waste Disposal Act (including reimbursement of excess costs pursuant to section 3041(c) of such Act) as in effect on the date of the enactment of the Hazardous Waste Containment Act of 1980. No amount in the Trust Fund may be used to pay any part of the costs referred to in the preceding sentence which are incurred with respect to an inactive hazardous waste site which is owned or operated by any agency of the United States.

(2) Limitation on amount expended out of trust fund for any fiscal year.—The amount expended out of the Trust Fund for any fiscal year shall not exceed 10 times the amount appropriated to the Trust Fund for such fiscal year under the authority contained in subsection (b)(2).

(d) Termination.—No amount may be paid out of the Trust Fund after September 30, 1985.

Sec. 946. Administrative Provisions.

(a) Method of Transfer.—The amounts appropriated by section 945(b)(1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in such section. Proper adjustments shall be made in the amount subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(b) Management of Trust Fund.—

(1) Report.—The Secretary shall be the trustee of the Trust Fund, and shall report to the Congress for each fiscal year ending on or after September 30, 1981, on the financial condition and the results of the operations of the Trust Fund during such fiscal year and on its expected condition and operations during the next 5 fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) Investment.—It shall be the duty of the Secretary to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of the Trust Fund and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities, adjusted to the nearest one-eighth of 1 percent. The income on such investments shall be credited to and form a part of the Trust Fund.

(c) No Authority To Borrow.—Nothing in any provision of law shall be construed to authorize the Trust Fund to borrow any money from the general fund of the Treasury or from any other fund established in the Treasury.

Subchapter C—Coordination With Other Provisions of Law

Sec. 947. Coordination With Other Provisions of Law.

(a) General Rule.—Nothing in the Hazardous Waste Containment Act of 1980 (or in any amendment made by such Act) shall authorize—

(1) the establishment of any fund,

(2) the payment out of the Trust Fund created by this chapter, or

(3) the levy or collection of any fee.

(b) Reference to Fund.—To the extent not inconsistent with this chapter, any reference to a fund in the Hazardous Waste Containment Act of 1980 (or in any amendment made by such Act) shall be deemed to be a reference to Hazardous Waste Response Trust Fund established by this chapter.

Subchapter D—Study

Sec. 948. Study.

(a) General Rule.—The Secretary of the Treasury (in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and the United States Trade Representative) shall conduct a study on—

(1) the feasibility and desirability of—

(A) a schedule of taxes—

(i) which is based on the disposal or generation of hazardous waste, and

(ii) which would reflect the degree of hazard and risk of harm to the public health and the environment posed by the various hazardous wastes.

(B) taxes imposed on substances not taxed by the amendments made by this chapter such as coal and biomass, and

(C) taxes which are designed to promote the recycling, incineration, and neutralization of hazardous waste,

(2) an exemption from the taxes imposed by section 4661 of the Internal Revenue Code of 1954 for feedstocks when used as a fuel, and

(3) the impact of the taxes imposed by sections 4611 and 4661 of the Internal Revenue Code of 1954 on the Nation's balance of trade with other countries.

(b) Report.—Not later than January 1, 1985, the Secretary of the Treasury shall submit to the Congress a report on the results of the study conducted under subsection (a), together with such recommendations as he deems feasible.

Subtitle D—Telephone Tax

Sec. 951. Telephone Tax Continued at 2 Percent for 1981.

(a) In General.—The table contained in paragraph (2) of section 4251(a) of the Internal Revenue Code of 1954 (relating to imposition of tax on communication services) is amended by striking out the last 2 lines of such table and inserting in lieu thereof the following:

"During 1980 or 1981	2
During 1982	1".

(b) Conforming Amendment.—Subsection (b) of section 4251 of such Code is amended by striking out "January 1, 1982" and inserting in lieu thereof "January 1, 1983".

Subtitle E—Taxation of Foreign Investment In United States Real Property

Sec. 961. Short Title.

This subtitle may be cited as the "Foreign Investment in Real Property Tax Act of 1980".

Sec. 962. Tax on Disposition of Foreign Investment in United States Real Property.

(a) In General.—Subpart C of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions with respect to nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"Sec. 897. Disposition of Investment in United States Real Property.

"(a) General Rule.—For purposes of this title, gain or loss of a nonresident alien individual or a foreign corporation from the disposition of a United States real property interest shall be taken into account—

"(1) in the case of a nonresident alien individual, under section 871(b)(1), or

"(2) in the case of a foreign corporation, under section 882(a)(1),

as if the taxpayer were engaged in a trade or business within the United States during the taxable year and as if such gain or loss were effectively connected with such trade or business.

"(b) Limitation on Losses of Individuals.—In the case of an individual, a loss shall be taken into account under subsection (a) only to the extent such loss would be taken into account under section 165(c) (determined without regard to subsection (a) of this section).

"(c) United States Real Property Interest.—For purposes of this section—

"(1) United states real property interest.—

"(A) In general.—Except as provided in subparagraph (B), the term 'United States real property interest' means—

"(i) an interest in real property (including an interest in a mine, well, or other natural deposit) located in the United States, and

"(ii) any interest (other than an interest solely as a creditor) in any entity which was a United States real property holding organization at any time during the shorter of—

"(I) the period after June 18, 1980, during which the taxpayer held such interest, or

"(II) the 5-year period ending on the date of the disposition of such interest.

"(B) Exclusion for interest in certain entities.—The term 'United States real property interest' does not include any interest in an entity if—

"(i) as of the date of the disposition of such interest, such entity did not hold any United States real property interests, and

"(ii) all of the United States real property interests held by such entity at any time during the shorter of the periods described in subparagraph (A)(ii)—

"(I) were disposed of in transactions in which the full amount of the gain (if any) was recognized, or

"(II) ceased to be United States real property interests by reason of the application of this subparagraph to one or more other entities.

"(2) United states real property holding organization.—The term 'United States real property holding organization' means any entity (whether domestic or foreign) if—

"(A) the fair market value of its United States real property interests equals or exceeds 50 percent of

"(B) the fair market value of—

"(i) its United States real property interests,

"(ii) its interests in real property located outside the United States, plus

"(iii) any other of its assets which are used or held for use in a trade or business.

'((3) Exception for stock regularly traded on established securities markets.—If any class of stock of a corporation is regularly traded on an established securities market, stock of such class shall be treated as a United States real property interest only in the case of a person who, at some time during the shorter of the periods described in paragraph (1)(A)(ii), held more than 5 percent of such class of stock.

"(4) Treatment of controlling interest.—

"(A) In general.—Under regulations, if any person holds a controlling interest in any entity, for purposes of determining whether such person is a United States real property holding organization—

"(i) such controlling interest shall not be taken into account,

(ii) such person shall be treated as holding a pro rata share of the assets of such entity, and

"(iii) any assets used or held for use by such entity in a trade or business shall be treated as so used or held by such person.

"(B) Controlling interest.—For purposes of subparagraph (A), the term 'controlling interest' means—

"(i) in the case of a corporation, 50 percent or more of the total combined voting power of all classes of stock of such corporation, or 50 percent or more of the fair market value of all classes of stock of such corporation,

"(ii) in the case of a partnership, 50 percent or more of the capital or profits interest, or

"(iii) in the case of a trust, 50 percent or more of the beneficial interests in such trust (actuarially determined).

"(5) OTHER SPECIAL RULES.—

"(A) INTEREST IN REAL PROPERTY.—The term 'interest in real property' includes fee ownership and co-ownership of land or improvements thereon, leaseholds of land or improvements thereon, options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon.

"(B) CONSTRUCTION OWNERSHIP RULES.—For purposes of determining under paragraph (3) whether any person holds more than 5 percent of any class of stock and of determining under paragraph (4) whether a person holds a controlling interest in any entity—

"(i) with respect to a corporation, section 318(a) shall apply (except that paragraphs (2)(C) and (3)(C) of section 318(a) shall be applied by substituting '5 percent' for '50 percent'), and

"(ii) with respect to a partnership or trust, rules similar to the rules of clause (i) shall apply (but substituting interests in the entity for stock).

"(C) REAL PROPERTY INCLUDES ASSOCIATED PERSONAL PROPERTY.—The term 'real property' includes movable walls, furnishings, and other personal property associated with the use of the real property.

"(D) ENTITY.—The term 'entity' means a corporation, partnership, or trust.

"(d) COORDINATION WITH NONRECOGNITION PROVISIONS.—

"(1) IN GENERAL.—Except to the extent otherwise provided in paragraph (2), any nonrecognition provision shall apply for purposes of this section to a transaction only in the case of an exchange of a United States real property interest for an interest the sale of which would be subject to taxation under this chapter.

"(2) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section.

"(3) NONRECOGNITION PROVISION DEFINED.—For purposes of this subsection, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart C is amended by adding at the end thereof the following new item:

"Sec. 897. Disposition of investment in United States real property."

(c) CROSS REFERENCES.—

(1) Subsection (g) of section 871 of such Code (relating to tax on income of nonresident alien individuals) is amended by adding at the end thereof the following new paragraph:

"(8) For special tax treatment of gain or loss from the disposition by a nonresident alien individual of a United States real property interest, see section 897."

(2) Subsection (a) of section 882 of such Code (relating to tax on income of foreign corporation connected with United States business) is amended by adding at the end thereof the following new paragraph:

"(3) For special tax treatment of gain or loss from the disposition by a foreign corporation of a United States real property interest, see section 897."

SEC. 963. REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Subpart A of part III of chapter 61 of the Internal Revenue Code of 1954 (relating to information returns concerning persons subject to special provisions) is amended by inserting after section 6039B the following new sections:

"SEC. 6039C. RETURN OF CERTAIN ENTITIES HOLDING UNITED STATES REAL PROPERTY INTERESTS.

"(a) ENTITIES TO WHICH THIS SECTION APPLIES.—

"(1) IN GENERAL.—This section applies to any entity for a calendar year if at any time during such year—

"(A) 1 or more of the persons owning an interest in such entity is a foreign person, and

"(B) such entity would be a United States real property holding organization under section 897(c)(2) if '40 percent' were substituted for '50 percent' in section 897(c)(2)(A).

"(2) CONTINUING APPLICATION.—This section applies to any entity for any calendar year if this section applied to such entity for any of the 4 preceding calendar years (determined without regard to this paragraph).

"(b) RETURN REQUIREMENT.—If this section applies to any entity for any calendar year, such entity shall make a return for such calendar year setting forth—

"(1) the name and address of any foreign person who held an interest in such entity at any time during the calendar year,

"(2) such information with respect to the composition of the assets of such entity at such time or times during the calendar year as the Secretary may be regulations prescribe,

"(3) such information with respect to transfers during the calendar year of interests in such entity as the Secretary shall by regulations prescribe,

"(4) whether such entity is a United States real property holding organization (with the meaning of section 897(c)(2) at any time during the calendar year), and

"(5) such other information as the Secretary shall by regulations prescribe.

Any such return shall be made at such time in and in such manner as the Secretary shall by regulations prescribe.

"(c) STATEMENTS TO BE FURNISHED TO PERSONS HOLDING INTERESTS IN THE ENTITY.—Every entity making a return under subsection (a) shall furnish to each foreign person who at any time during the calendar year held an interest in such entity a written statement showing—

"(1) the name and address of the entity making such return,

"(2) whether such entity is a United States real property holding organization at any time during the calendar year, and

"(3) such other information as the Secretary shall by regulations prescribe.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the year for which the term under subsection (a) was made.

"(d) SPECIAL RULES.—For the purposes of this section—

"(1) FOREIGN OWNER MUST HOLD MORE THAN 5 PERCENT OF STOCK IF ENTITY IS PUBLICLY TRADED CORPORATION.—In the case of any corporation the stock of which is regularly traded on an established securities market at all times during the calendar year, subsections (a) and (c) shall be applied by substituting 'a more than 5-percent interest' for 'an interest'.

"(2) MORE THAN 5-PERCENT INTEREST.—The term 'more than 5-percent interest' means more than 5 percent of the fair market value of any class of stock of the corporation.

"(3) FOREIGN PERSON.—The term 'foreign person' means any person who is not a United States person.

"(4) CONSTRUCTIVE OWNERSHIP.—For purposes of determining ownership in any entity, the rules of section 897(c)(5)(B) shall apply.

"(5) ENTITY.—The term 'entity' means any corporation, partnership, or trust.

"SEC. 6039D. RETURN OF CERTAIN FOREIGN PERSONS HOLDING UNITED STATES REAL PROPERTY INTERESTS.

"(a) PERSONS TO WHOM THIS SECTION APPLIES.—This section applies to any foreign person for a calendar year if—

"(1) at any time—

"(A) during such calendar year, such person owned a United States real property interest, or

"(B) during such calendar year or a subsequent calendar year, such person received (or is to receive) an installment payment from an obligation acquired from the disposition of a United States real property interest.

"(2) such person did not engage in a trade or business in the United States at any time during such calendar year,

"(3) the aggregate of—

"(A) the fair market value of the United States real property interests owned by such person at any time during such year, and

"(B) the face amount of the installment obligations referred to in paragraph (1)(B),

equals or exceeds $5,000, and

"(4) such person is not required to file a return for such calendar year under section 6039C(b).

"(b) RETURN REQUIREMENT.—If this section applies to any person for any calendar year, such person shall make a return for such calendar year setting forth—

"(1) the name and address of such person,

"(2) a description of all United States real property interests held by such person at any time during the calendar year and of all installment obligations referred to in subsection (a)(1)(B), and

"(3) such other information as the Secretary may by regulations prescribe.

"(c) TIME FOR FILING RETURN.—Any return required under subsection (b) with respect to any calendar year shall be filed on or before April 15 (March 15 in the case of a corporation) of the following calendar year, or at such other time as the Secretary may by regulations prescribe.

"(d) DEFINITIONS AND SPECIAL RULES.—

"(1) UNITED STATES REAL PROPERTY INTEREST.—For purposes of this section, the term 'United States real property interest' has the meaning given to such term by section 897(c).

"(2) DETERMINATION OF FAIR MARKET VALUE.—For purposes of subsection (a)(3)(A), fair market value shall be determined as of the end of the calendar year (or, in the case of any property disposed of during the calendar year, as of the date of such disposition).

"(3) FOREIGN PERSON.—For purposes of this section, the term 'foreign person' means any person who is not a United States person."

(b) PENALTY FOR FAILURE TO FILE RETURN.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) RETURNS REQUIRED UNDER SECTION 6039C OR 6039D.—

"(1) IN GENERAL.—In the case of each failure—

"(A) to make a return required by section 6039C(b) or 6039D(b) which contains the information required by such section, or

"(B) to furnish a statement required by section 6039C(c),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the amount determined under paragraph (2) shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to make such return or furnish such statement.

"(2) AMOUNT OF PENALTY.—For purposes of paragraph (1), the amount determined under this paragraph with respect to any failure shall be $25 for each day during which such failure continues.

"(3) LIMITATIONS.—

"(A) FOR FAILURE TO MEET REQUIREMENTS OF SECTION 6039C.—The amount determined under paragraph (2) with respect to any person for failing to meet the requirements of section 6039C for any calendar year shall not exceed $25,000.

"(B) FOR FAILURE TO MEET REQUIREMENTS OF SECTION 6039D.—The amount determined under paragraph (2) with respect to any person for failing to meet the requirements of section 6039D for any calendar year shall not exceed the lesser of $25,000 or 5 percent of the aggregate of—

"(i) the fair market value of the United States real property interests owned by such person at any time during such year, and

"(ii) the face amount of the installment obligations referred to in section 6039D(a)(1)(B).

For purposes of clauses (i), fair market value shall be determined as of the end of the calendar year (or, in the case of any property disposed of during the calendar year, as of the date of such disposition)."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of chapter 61 is amended by inserting after the item relating to section 6039B the following new items:

"Sec. 6039C. Return of certain entities holding United States real property interests.

"Sec. 6039D. Return of certain foreign persons holding United States real property interests."

SEC. 964. MISCELLANEOUS AMENDMENTS.

(a) SOURCES WITHIN UNITED STATES.—Paragraph (5) of subsection (a) of section 861 of the Internal Revenue Code of 1954 is amended to read as follows:

"(5) DISPOSITION OF UNITED STATES REAL PROPERTY INTEREST.—Gains, profits, and income from the disposition of a United States real property interest (as defined in section 897(c))."

(b) RESTRICTION ON EXAMINATION OF TAXPAYERS.—Subsection (b) of section 7605 of such Code (relating to restrictions on examinations of taxpayers) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any inspection of a taxpayer's books of account for purposes of section 897."

SEC. 965. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to dispositions after June 18, 1980.

(b) REPORTING.—The amendments made by section 963 shall apply to 1980 and subsequent calendar years. In applying such amendments to 1980, such calendar year shall be treated as beginning on June 18, 1980, and ending on December 31, 1980.

(c) SPECIAL RULE FOR TREATIES.—After December 31, 1984, nothing in section 894(a) or 7852(d) of the Internal Revenue Code of 1954 or in any other provision of law shall be treated as requiring an exemption from (or reduction of) any tax imposed by section 871 or 882 of such Code on a gain described in section 897 of such Code by reason of any treaty obligation of the United States.

Subtitle F—Inclusion in Wages for Purposes of Social Security and Unemployment Taxes of Employer

SEC. 971. INCLUSION IN WAGES OF EMPLOYEE TAXES PAID BY EMPLOYER.

(a) SOCIAL SECURITY TAX.—

(1) AMENDMENT OF INTERNAL REVENUE CODE OF 1954.—Paragraph (6) of section 3121(a) of the Internal Revenue Code of 1954 (defining wages) is amended to read as follows:

"(6) the payment by an employer (without deduction from the remuneration of the employee)—

"(A) of the tax imposed upon an employee under section 3101, or

"(B) of any payment required from an employee under a State unemployment compensation law,

with respect to remuneration paid to an employee for domestic service in a private home of the employer;".

(2) AMENDMENT OF SOCIAL SECURITY ACT.—Subsection (f) of section 209 of the Social Security Act is amended to read as follows:

"(f) The payment by an employer (without deduction from the remuneration of the employee)—

"(1) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954, or

"(2) of any payment required from an employee under a State unemployment compensation law,

with respect to remuneration paid to an employee for domestic service in a private home of the employer;".

(b) FEDERAL UNEMPLOYMENT TAX.—Paragraph (6) of section 3306(b) of the Internal Revenue Code of 1954 (defining wages) is amended to read as follows:

"(6) the payment by an employer (without deduction from the remuneration of the employee)—

"(A) of the tax imposed upon an employee under section 3101, or

"(B) of any payment required from an employee under a State unemployment compensation law,

with respect to remuneration paid to an employee for domestic service in a private home of the employer;".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to remuneration paid after December 31, 1980.

(2) EXCEPTION FOR STATE AND LOCAL GOVERNMENTS.—

(A) The amendments made by this section (insofar as they affect the application of section 218 of the Social Security Act) shall not apply to any payment made before January 1, 1984, by any governmental unit for positions of a kind for which all or a substantial portion of the social security employee taxes were paid by such governmental unit (without deduction from the remuneration of the employee) under the practices of such governmental unit in effect on June 18, 1980.

(B) For purposes of subparagraph (A), the term "social security employee taxes" means the amount required to be paid under section 218 of the Social Security Act as the equivalent of the taxes imposed by section 3101 of the Internal Revenue Code of 1954.

(C) For purposes of subparagraph (A), the term "governmental unit" means a State or political subdivision thereof within the meaning of section 218 of the Social Security Act.

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Sec. 971. Inclusion in wages of employee taxes paid by employer.

AMENDMENT OFFERED BY MR. GIAIMO

Mr. GIAIMO. I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GIAIMO: Strike out subtitle C of title V (comprehensive oil pollution liability and compensation; hazardous substances), beginning on page 59, line 20, and ending on page 144, line 3.

Strike out subtitle C of title IX (environmental revenue), beginning on page 364, line 10, and ending on page 400, line 22.

Redesignate subtitles D, E, and F of title IX as subtitles C, D, and E, respectively.

The CHAIRMAN. Pursuant to the rule, the gentleman from Connecticut (Mr. GIAIMO) is recognized for 15 minutes.

Mr. GIAIMO. Mr. Chairman, the amendment which I offer is really simple in nature. It would simply strike the so-called superfund provisions from the reconciliation bill.

The superfund legislation, contained in H.R. 85 and H.R. 7020, falls within the jurisdiction of four House Committees: Ways and Means, Public Works and Transportation, Merchant Marine and Fisheries, and Interstate and Foreign Commerce. As reported by the Budget Committee, pursuant to the requirements of the Budget Act, the reconciliation bill contains differing versions of the superfund, as submitted by two of those committees. These provisions would raise $300 million of the $4.2 billion in new revenues contained in the bill. However, consideration of the superfund proposal in the context of reconciliation would necessitate the resolution of substantive issues effecting the jurisdictions of these four House committees. Consequently, I believe that it will be more efficient to separate the issue of the oil and hazardous material cleanup fund from the issue of reconciliation. I understand that the respective committees are prepared to move superfund legislation to the floor so that we may, in fact, realize the $300 million in new revenues by the time conference on the reconciliation bill is concluded.

Mr. Chairman, I understand the rules have been granted on that legislation. In this regard, on August 27, as I recall, and as I stated, the Committee on Rules did act.

Given that the superfund legislation is proceeding satisfactorily on a separate track and moving along quickly to the floor of the House and that it involves a multifaceted jurisdictional issue and that it is expected to generate increased revenues for fiscal year 1981 I urge Members to support my amendment to strike the superfund provisions from the reconciliation bill. There will be no harm done. The legislation will be forthcoming to the floor of the House and will proceed on its own track and it will be a much better way of handling it.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I thank the gentleman for yielding.

The reason, of course, this provision was put into our section of the bill was so that we could indeed claim credit for the increased tax rates the Committee on Ways and Means put on the bill.

Now, as the gentleman has stated, an agreement has been worked out between the committees and the legislation will now move forward in an orderly way. With that understanding I certainly have no objection to the amendment and I hope the House will approve it without further delay.

Mr. GIAIMO. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Connecticut. This amendment would strike from H.R. 7765 all provisions that are identical to the respective versions of H.R. 85 that have already been reported out of the Committee on Ways and Means and the Committee on Public Works and Transportation. As much as I want to see the substantive provisions of H.R. 85 enacted into law, I remain convinced that the Omnibus Reconciliation Act of 1980 is the wrong vehicle to use in accomplishing that goal.

When the Committee on Ways and Means filed its reconciliation recommendations, it included the text of its amendment to H.R. 85. In light of this action, our committee included H.R. 85, as we reported it, in our reconciliation recommendations. While we believed that substantive legislation such as H.R. 85 should not be included in the reconciliation bill, we wished to insure that if it was included it be included as a whole and not taken up in piecemeal fashion.

Since that time, the three committees involved in H.R. 85 have reached agreement on a substitute amendment incorporating all the committees' views. A rule has been granted on H.R. 85 and we expect it to come to the floor in the near future.

I, therefore, urge passage of the gentleman's amendment which would remove all references to the text of H.R. 85 from the reconciliation bill.

● Mr. SNYDER. Mr. Chairman, I rise in support of the amendment of the gentleman from Connecticut (Mr. GIAIMO). The purpose of the amendment has already been explained by the gentleman—we seek to delete from the reconciliation bill all provisions relating to H.R. 85, the Comprehensive Oil and Hazardous Substances Pollution Liability and Compensation Act and H.R. 7020, the Hazardous Waste Containment Act. I do not intend to repeat the able statement of the gentleman from Connecticut, but I would like to underscore a few points for the benefit of the Members which I feel are important in understanding this issue.

Our reason for supporting the amendment is simple. It is the position of the Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries that the reconciliation bill is not the appropriate vehicle for considering a piece of legislation as complex and complete as H.R. 85. H.R. 85 is important enough to be considered on its own merits under an open rule.

If the provisions of H.R. 85 are not deleted from H.R. 7765, then the Members of the House will be faced with passing legislation which would establish a new comprehensive approach to oil and hazardous substances pollution liability and compensation. Since the House is considering H.R. 7765 under a modified closed rule, the opportunity for amendments (and some are necessary in the opinion of the leadership of our committee) is denied; and further, if H.R. 7765 passes in its current form, the provisions of title V would be in conflict with title IX.

Moreover, there would be no clear understanding of how these issues would be resolved. Certainly, a new approach is too important to be "worked out in conference," especially if a committee having no substantive responsibility nor expertise over the subject matter is in charge of the conference.

Also, anyone who supports the budget process must be concerned about the use of the reconciliation bill to enact major legislative initiatives. The budget process is concerned with fiscal policy and should not be used as an end run around the normal legislative procedure. H.R. 85 should come to the floor on its own merit, under an open rule allowing every Member the full opportunity to debate, to work out problems, and to perfect the legislation, if necessary.

Let us examine for a moment what exactly is involved in the problem we are attempting to resolve with the pending amendment. In the 95th Congress the House on two occasions passed H.R. 6303, the Comprehensive Oil Pollution and Liability Act. Because of a disagreement with the other body that bill failed to become law. H.R. 6803 had been developed by the Committee on Merchant Marine and Fisheries and concurred on by the Committee on Public Works and Transportation. Ways and Means neither sought nor received referral of this legislation.

In the 96th Congress a similar bill to H.R. 6803, H.R. 85, was introduced and jointly referred to the Committees on Public Works and Transportation and Merchant Marine and Fisheries. Merchant Marine and Fisheries reported the bill on May 15, 1979 and Public Works and Transportation reported their version on May 15, 1980. As reported by Merchant Marine and Fisheries, H.R. 85 imposes a fee of up to 3 cents a barrel on oil imported into and exported from or produced within the United States. It establishes a $200 million "superfund" to pay for cleanup and removal of oil pollution and to pay compensation for damages to the victims of these events.

The bill also establishes a comprehensive liability scheme. As reported by Public Works the oil pollution-related provisions are virtually identical to those of Merchant Marine and Fisheries Committee. Public Works, however, added a new title to establish a comprehensive liability and compensation program to deal with hazardous substances regulated under the Federal Water Pollution Control Act. An existing fund under section 311 of the Federal Water Pollution Control Act would be expanded to $100 million financed by a fee on certain petrochemical feedstocks and specific chemicals which pose the greatest risk to the environment.

The Committee on Ways and Means sought and received a sequential referral of H.R. 85 and changed the two funds created by this legislation to trust funds financed by a tax on oil and petrochemical feedstocks. The size of the funds was reduced to $75 million per year per fund and a 5-year limitation on the program was imposed. Additionally, that Committee substantively changed the program by amending the provisions of H.R. 85 relating to compensation for economic damages by reducing the categories for which claims could be presented to the funds. Additionally, Ways and Means exempted their amendments from title IV of the Public Works Committee bill which allows review of executive regulations by the Congress. The Committee on Ways and Means upon reporting their amendments to H.R. 85 also adopted these same amendments as part of their reconciliation package.

The Committee on Public Works and Transportation seriously questioned the appropriateness of using the reconciliation process to adopt measures relating to superfund. By letter dated July 1, 1980, the Public Works Committee leadership requested the Budget Committee to delete from the Reconciliation bill the measures relating to H.R. 85. The letter is as follows:

Hon. Robert N. Giaimo,
Chairman, Committee on the Budget,
Washington, D.C.

Dear Mr. Chairman: We are writing with regard to the reconciliation bill which is to be considered by your committee. The Committee on Ways and Means has recommended that its amendments to H.R. 85 be included in that bill when it is taken to the floor. This is a matter which is of great concern to the Committee on Public Works and Transportation for a variety of reasons.

H.R. 85 has been reported by three committees—our Committee, the Committee on Merchant Marine and Fisheries, and the Committee on Ways and Means. The bill is now awaiting action by the Rules Committee. This legislation establishes a comprehensive system providing for the recovery of cleanup costs and compensation of damages caused by spills of oil and hazardous chemicals, liability for these costs and damages, and funds out of which these costs and damages will be paid. The amendments of the Committee on Ways and Means substitute excise taxes for fees, limit the damages for which claims may be filed, and limit the availability of the oil and hazardous chemicals funds for the payment of claims and cleanup costs. Also included are conforming amendments.

Under the procedure planned to be followed in connection with the reconciliation bill, these amendments would be considered separately from the remainder of the provisions of H.R. 85. The House would be considering a substantive portion of this legislation before the remainder of the legislation had even come before the Committee on Rules, much less the House. Moreover, this procedure would have the effect of predetermining the House's position on a significant part of H.R. 85—a part that is not without some controversy on jurisdictional issues—before the House has an opportunity to consider the bill as a whole. In short, the proposed procedure would subvert the normal legislative process and would render meaningless the concept and purposes of joint referral.

We would also point out that the revenues to be raised in the amendments to H.R. 85 as reported by the Committee on Ways and Means would be deposited in funds which are available only for designated cleanup and compensation costs and not available to reduce deficits, and only then if there is money in the funds. In addition, the balance of H.R. 85 relating to liability, claims procedures and the like is not yet law, so that the revenues collected could not be spent, even for the purposes contemplated in H.R. 85. There is therefore considerable questions as to the appropriateness of including these amendments as part of a reconciliation bill or resolution, certainly to the extent that they address matters other than revenue raising measures, such as limitations on the types of damages for which claims may be filed.

It is our position that the Comprehensive Oil Pollution Liability and Compensation Act should not be considered in piecemeal fashion by the House of Representatives. Therefore, the Committee on Public Works and Transportation requests that the measures relating to H.R. 85 reported by the Ways and Means Committee not be included in the reconciliation bill. If they are included, however, we have been directed by the Committee on Public Works and Transportation to include in the reconciliation package adopted by the Committee our version of H.R. 85 (a copy of which is included and report language supporting the recommended statutory language) approved by the Committee on Public Works and Transportation. If the House of Representatives is to consider legislation relating to oil pollution and hazardous substances liability and compensation, then it must have before it the complete legislative package in order to act responsibly.

Sincerely,
Harold T. (Bizz) Johnson,
Chairman.
Ray Roberts,
Chairman,
Subcommittee on Water Resources.
William H. Harsha,
Ranking Minority Member.
Don H. Clausen,
Ranking Minority Member,
Subcommittee on Water Resources.

Recognizing that the request might be beyond the scope of the jurisdiction of Budget Committee, the Public Works Committee directed the chairman to include in the reconciliation package adopted by the Committee the Public Works version of H.R. 85. This was necessary because the committee felt that if the House of Representatives is to consider legislation relating to oil pollution and hazardous substances liability and compensation, then it must have before it the complete legislative package in order to act responsibly.

While we recognize that the creation of two trust funds financed by a tax which will raise $300 million in fiscal year 1981 appears to be generating revenues which will be available to offset deficits, we also believe that these funds may not comply with the mandate to the Ways and Means Committee under the reconciliation process because these funds are available only for designated cleanup and compensation expenditures. That is, they have a dedicated purpose and therefore are not available to reduce deficits in the fiscal year 1981 budget. It is our position, therefore, that they should not be included in the reconciliation process.

Mr. Chairman, I believe that a thorough examination of the issues surrounding H.R. 85 and H.R. 7765 will lead most Members to the conclusion that the reconciliation process is not the appropriate vehicle to consider the major substantive legislation. Superfund should be debated on its merits, and under an open rule. Therefore, I urge the Members to support the amendment to delete from H.R. 7765 all provisions relating to H.R. 85, the Comprehensive Oil and Hazardous Substances Pollution and Compensation Act, and H.R. 7020, the Hazardous Waste Containment Act.●

● Mr. BIAGGI. Mr. Chairman, I fully support the position of the chairman of the Committee on the Budget, the Honorable ROBERT GIAIMO.

As you may know, I have been working on legislation to provide a comprehensive system of liability and compensation for damage caused by oil and hazardous substances pollution and for removal costs for the past several Congresses.

I have been and continue to be gravely concerned over those who have been victimized as well as those who will pay for such a system. Therefore, I would of course like to see H.R. 85 enacted. However, I desire to see it enacted under conditions that will insure a carefully considered, integrated bill. I do not believe that enactment of H.R. 85 as part of the budget reconciliation process will produce that result.

The three involved committees have carefully and laboriously developed this bill and are in the process of resolving a number of remaining issues. Recently, the Committee on Rules provided the necessary vehicle to bring H.R. 85 to the House floor in the very near future. This procedure would be more appropriate and conducive to the finalization of a good bill.

I therefore whole heartedly support the distinguished gentleman from Connecticut in his motion to remove consideration of H.R. 85 from the difficult process of balancing the budget.●

The CHAIRMAN. Does any Member desire to be heard in opposition to the amendment offered by the gentleman from Connecticut (Mr. GIAIMO)?

If not, the question is on the amendment offered by the gentleman from Connecticut (Mr. GIAIMO).

The amendment was agreed to.

□ 1600

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment printed on page 19812 of the CONGRESSIONAL RECORD of July 25, 1980, made in order pursuant to H. Res. 776.

The Clerk read as follows:

> Amendment offered by Mr. VANIK: Page 306, strike out lines 11 through 19, inclusive, and insert the following:
>
> Subtitle D—Delay of Effective Date of Trade Adjustment Assistance Amendments
>
> SEC. 895. DELAY OF EFFECTIVE DATE OF TRADE ADJUSTMENT ASSISTANCE AMENDMENTS
>
> Notwithstanding any other provision of law, the effective date of the Act to improve the operation of the adjustment assistance programs for worker and firms under the Trade Act of 1974 (H.R. 1543, 96th Congress) shall be September 30, 1981.
>
> Amend the index to bill accordingly.

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio (Mr. VANIK) is recognized for 15 minutes.

Mr. VANIK. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, section 895 of H.R. 7765 repeals enactment of amendments contained in H.R. 1543, to improve the operation of the trade adjustment assistance programs for workers and firms under the Trade Act of 1974. The Committee on Ways and Means included repeal of H.R. 1543 as one of its recommendations under title VIII of the Omnibus Reconciliation Act for spending reductions totaling $2 billion in fiscal year 1981.

The amendment I propose to section 895 would delay the effective date of H.R. 1543 to September 30, 1981, as a substitute for the repeal of the bill. This amendment would achieve the same spending reductions as called for in the first concurrent budget resolution, but delay the effective date of H.R. 1543 until the last day of fiscal 1981, and at the same time retain the improvements in the trade adjustment assistance programs which the bill provides.

Mr. Chairman, a bill similar to H.R. 1543 passed both Houses and would have been enacted by the 95th Congress except for nongermane Senate amendments which could not be resolved in the closing hours before adjournment. H.R. 1543 passed the House on May 30, 1979, by a voice vote, has been reported by the Senate Finance Committee and is currently pending on the Senate Calendar. The amendment I now propose was nearly adopted by the Ways and Means Committee during its consideration of budget reconciliation recommendations, failing by a vote of 16 to 17.

The trade adjustment assistance program was established by Congress in 1962, and revised in the Trade Act of 1974 as a vital component of U.S. national policy to reduce the barriers to international trade. This policy is based on the belief that trade expansion benefits the American economy as a whole. However, Congress also recognized that sudden increases in import competition can adversely affect employment in entire industries, making it very difficult for workers to obtain suitable alternative employment, particularly if layoffs are concentrated in a particular region. The Congress believed the Federal Government rather than individual workers and firms affected, should bear the cost of adjustment resulting from Federal liberal trade policies and that the nature of trade-related dislocation warranted a special program of assistance.

Mr. Chairman, to date over 650,000 workers, particularly in auto, steel, textile and apparel, electronics, and footwear industries have received adjustment assistance benefits under the Trade Act. Over 200 small and medium-sized companies have received financial assistance, and over 750 companies have received technical assistance under the adjustment program for firms.

H.R. 1543 addresses the principal inequities in coverage, deficiencies in adjustment benefits, and delays in certification and delivery procedures in the current programs brought to the attention of the Ways and Means Committee by Members of Congress, major unions, and individual companies and their workers. A major provision of the bill extends program eligibility to all workers and firms supplying components and services directly impacted by increased imports in the end product. While auto parts workers would be the largest beneficiaries at the present time, the amendment would apply to workers in firms in any import-impacted industry supplying essential components or services.

H.R. 1543 also provides benefits to workers unaware of the 1-year time limit under the new program for filing petitions. It reduces the minimum prelayoff employment eligibility requirement, extends benefit periods for workers in training or older workers, increases relocation and job search allowances, establishes demonstration training projects, increases technical and financial assistance and reduces loan interest rates for firms, and provides industry-wide technical assistance.

Mr. Chairman, the need for program improvements under this bill has never been more urgent than now, in a period of recession, high unemployment, and efforts by our basic industries, such as automobiles and steel, and their suppliers, to adjust to import competition. In legislation, to date, Congress has recognized that a viable adjustment assistance program is an essential part of a balanced trade policy. Unless effective assistance is available to help firms and their workers hurt by these policies, the pressures to impose import restrictions will increase to the detriment of our economy and the trading system as a whole. Unfortunately, the spending limits necessitated by the first concurrent budget resolution preclude the immediate enactment of H.R. 1543. However, my amendment provides a realistic compromise which achieves the purpose of budget reconciliation while enabling enactment of sorely needed changes for viable import adjustment.

Mr. Chairman, I urge the passage of this amendment, and I reserve the balance of my time.

Mr. FRENZEL. Mr. Chairman, I rise to speak in opposition to the amendment.

The CHAIRMAN. The gentleman from Minnesota (Mr. FRENZEL) is recognized for 15 minutes.

Mr. FRENZEL. Mr. Chairman, earlier today I commented on the Vanik amendment and indicated that it would delay the passage of H.R. 1543 for 1 year, and defer a decision which really ought to be made in this reconciliation bill. At that time, I indicated also that I do not expect the other body to pass H.R. 1543, so that this effort we are conducting at this moment is probably one of futility anyway.

The Vanik amendment seeks to postpone for 1 fiscal year, minus 1 day, the effective date of H.R. 1543, the trade adjustment assistance program improvements bill passed by the House last May. The Vanik amendment is, in essence, a substitute for the provision of the budget reconciliation recommendations agreed to by the Ways and Means Committee which would rescind passage of H.R. 1543 altogether.

Although H.R. 1543 provided for certain valuable changes in the trade adjustment assistance program designed to broaden the program's scope and to make it more responsive to current needs, there was a great deal of concern over whether some of these changes did not redirect the focus of the program from trade readjustment to a sort of second-tier unemployment compensation system. There was also a great deal of uncertainty over the cost of the new legislation. It now seems that these concerns were justifiable.

The costs associated with H.R. 1543 are officially estimated at $822 million for the first fiscal year. I understand those costs should now be reversed upward to $1.2 billion. They come principally from the provision which would expand coverage of the trade adjustment assistance program to parts and service industries. Under the new legislation, a firm would no longer have to produce a product like or directly competitive with a particular imported product in order to qualify, or for their workers to qualify, for trade adjustment assistance benefits. These firms would need only supply parts or services to another firm adversely affected by import competition and be, as a consequence, adversely impacted themselves. You readily can see the difficulty in predicting exactly how many workers and firms could become certified under the new legislation and thus predict the cost associated with such a vast expansion of the program.

As you know, the House approved H.R. 1543 by voice vote early this session when the total cost of the bill was estimated to be about $166 million in fiscal year 1981. However, the Senate has not yet acted on the bill and is unlikely to do so during this Congress. The principal concern of the Senate in postponing final passage is the bill's price tag, which seems to escalate daily. The cost, of course, is also the reason the Ways and Means Committee agreed to recommend that Congress reverse its decision to expand the trade adjustment assistance program this year.

The recession we are now experiencing touches every aspect of our economy. Imports are but one element, and industries that feel the competition if imported products most keenly cannot necessarily claim to be more seriously injured than industries hurt by other factors of the current economic crunch. Congress has been acutely aware of the effects of imports and a free-trade policy on our economy. We have put in place what I believe to be an effective trade adjustment assistance program designed to cushion the effects of import-related unemployment.

However, the trade adjustment assistance program cannot be expected to solve every problem associated with an overall economic slowdown. Fiscal responsibility is especially important as the economy adjusts and moves toward recovery. Merely postponing the effective date of H.R. 1543, as the Vanik amendment would do, does not solve either the problem of cost nor the inherent problem of whether expanding the program in such a manner is a viable response to trade-related unemployment. Delaying the budget impact does not in any way assure us that the cost of the new legislation will ever be controllable even though its provisions are triggered in fiscal year 1982 or perhaps later still.

In the course of the budget reconciliation process, the Ways and Means Committee recognized that now is not the time for a significant expansion of the trade adjustment assistance program. That decision goes beyond the fiscal year 1981 budget impact. If the repeal of H.R. 1543 stands, we will have an opportunity during the next Congress to reevaluate the improvements that need to be made in more realistic terms. It is difficult to see how we will be able to move a trade adjustment assistance bill through both the House and Senate, and have it signed into law, without limiting its scope and bringing its costs under control.

Although I am a long-time supporter of the trade adjustment assistance program, and will work toward enactment next year of needed improvement in the system, I agree with the budget reconciliation recommendation to forego enactment of H.R. 1543. I hope my colleagues agree as well and will join me in opposing the Vanik amendment.

Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. DAVIS).

Mr. DAVIS of Michigan. Mr. Chairman, I rise to support the Vanik amendment. I appeared before the Rules Committee and asked for the opportunity to offer a substitute amendment which would have put the Vanik amendment into effect on September 30 of 1980 instead of 1981. The reason for that should be quite obvious. It would have allowed many of our unemployed workers in the steel industry, the supply industry, and the iron ore industry to be able to qualify for TAA benefits, which they will not be able to qualify for now.

Because we lost on that, or at least we were not allowed the opportunity to present that amendment on the floor and debate it, I must rise to support the Vanik amendment now, which will at least allow those people who are laid off after September 30 of this year to perhaps qualify because, under the Vanik amendment, they have 1 year to go back and put their application in. The Vanik amendment, of course, would set the date at September 30, 1981, as a compromise—not really the best compromise that I would like, but the best we could get at this time. I recognize that in the future, if the imports of foreign products do cause layoffs of a number of our people in this country, then they would be able to collect benefits under the Vanik amendment.

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Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I certainly thank my distinguished colleague for his support of this amendment.

I want to point out that for many people who are involved in the benefits that are provided under this program, it is for many a "tombstone" support program. They have got to convert to another kind of job. I hope I am wrong, but I sadly fear there is going to be a permanent attrition for maybe as high as 25 percent of our work force in automobiles and components. This is resulting from not only the import problem but also from the problem that results from higher costs of automobiles.

If the average person in America owns an automobile one extra year, that can dry up 25 percent of the sales in this country, whether they are imported or domestic.

So I think what we are dealing with here is the fact that we are providing workers who have suffered from trade impact dislocation an opportunity to face up to the realities of what they have to adjust to because of a certain change of status, not of their making and very often not of the making of their employer but from circumstances that came about through policies of our Government and the administration's trade policy.

Mr. Chairman, I thank the gentleman for his support.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Michigan. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I want to compliment the gentleman in the well and associate myself with his remarks. I commend also the gentleman from Ohio (Mr. VANIK) for offering this amendment.

I believe that 650,000 workers have already availed themselves of this program as a result of the flood of imports and the depressed condition of the automobile industry, the textile industry, the apparel industry, and the footwear industry in my part of the country.

The gentleman from Ohio (Mr. VANIK) has phrased it well. For a lot of workers this is a "tombstone." It is a little crumb that we can give them to carry on their existence, and I want to compliment the gentleman for offering the amendment.

Mr. DAVIS of Michigan. Mr. Chairman, I appreciate the remarks of both gentlemen.

I might just say that I happen to have 2,000 iron ore workers who were laid off on the last Sunday in June as a direct result of the import of foreign automobiles. It is very difficult to explain to them why they cannot qualify for trade adjustment benefits when some of the auto workers in our automobile manufacturing plants can.

What I wanted to be able to do, of course, was to offer an amendment which would qualify them. I cannot do that, so the only way we have to go is to support this amendment, and this will at least allow them to qualify for these benefits in the future.

Mr. FRENZEL. Mr. Chairman, I have no further requests for time.

Mr. VANIK. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland (Mr. Mitchell).

Mr. MITCHELL of Maryland. Mr. Chairman, those workers drawing TAA assistance are broken down into three categories, as most of the Members know.

The first category is that group that is permanently unemployed because of plant closings and other things like that. Approximately 23 percent of all recipients fall into that category.

The second group of TAA recipients are those who are on temporary layoff. That is the largest group, and that makes up about 60 percent of all the recipients. These are the workers, primarily male workers, who are heavily concentrated in the durable manufacturing industries, particularly the automobile and steel industries.

The last group of recipients are those who work on reduced hours. That is about 17 percent of the TAA recipients.

I look to my own city and my own district where we have Bethlehem Steel which has suffered because of the dumping of steel for many, many years. I look to the Fisher body plant where there are layoffs because of the obvious influx and importation of foreign cars. I attended a meeting in my district in which a number of these workers asked, "What will we do? How can we possibly make it without TAA assistance?"

Mr. Chairman, I think my distinguished colleague, the gentleman from Ohio (Mr. Vanik), has provided an answer, not a full answer but at least an answer that is characterized by some sense of compassion, and I would urge the support of the Vanik amendment.

● Mr. ALBOSTA. Mr. Chairman, I rise in support of the Vanik amendment to delay the effective date of H.R. 1543, instead of rescinding the earlier House approval of the bill.

H.R. 1543 is necessary to improve the operation of the trade adjustment assistance program under the Trade Act of 1974. No, it is more than necessary; for my constituents in Michigan, it is vital. That is why I have cosponsored H.R. 1543, and that is why I now support the amendment to retain it.

Most laid-off automobile workers are getting TRA benefits, but workers who supply parts and services to the automobile companies have been denied them—even though they can lose their jobs because of the same foreign import crisis. The whole industry is so interdependent, it seems only fair to extend TRA benefits to those who supply parts and services. And this, in part, is what H.R. 1543 intends to do.

Those who favor deleting H.R. 1543 are missing a critical point: the same spending reductions sought by the Ways and Means Committee can be achieved in 1981 simply be delaying the effective date of H.R. 1543. This will satisfy the Committee goal of reduced spending while at the same time preserve the positive changes in the trade adjustment assistance program.

I urge my colleagues to vote in favor of the Vanik amendment.●

Mr. FRENZEL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. VANIK. Mr. Chairman, I yield back the balance of my time, and I urge the adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Vanik).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment which is at the desk and which is made in order by the rule.

The Clerk read as follows:

Amendment offered by Mr. Bauman: Beginning on page 2, line 14, strike all through page 4, line 2; and

Beginning on page 45, line 8, strike all through page 46, line 7.

The CHAIRMAN. Under the rule, the gentleman from Maryland (Mr. Bauman) is recognized for 15 minutes.

Mr. BAUMAN. Mr. Chairman, I yield myself 2 minutes.

The CHAIRMAN. The gentleman from Connecticut (Mr. Giaimo) will be recognized in opposition to the amendment for 15 minutes.

The Chair recognizes the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Chairman, the amendment before us simply strikes the sections from the bill that would remove the cost-of-living adjustments which are granted under the current law twice yearly to Federal civilian and military retirees.

I think most of us have heard from individual constituents, as well as organizations, who are interested and understand the import of the Bauman amendment.

I noted that my colleague, the gentleman from Virginia (Mr. Fisher), in a very well written "Dear Colleague" letter set out the case in favor of this amendment and stated; and I quote: "Regardless of who offers the amendment, the principle remains the same." I am not sure of the full implication of that wording, "Regardless of who offers the amendment."

But, quite frankly, my reason for offering the amendment was that this is one of the many issues that ought to be addressed by the full House during the reconciliation process. As a matter of fact, I believe I voted in favor of every amendment that was proposed in the Committee on Rules for cuts or increases in order to allow them to be debated on the floor. This particular issue, with its inherent question of equity to Federal retirees, is one on which I thought we ought to have the right to act here on the floor. The majority of the Committee on Rules, as a bipartisan group, joined together to make my amendment possible today, in spite of the overwhelming opposition of the Democratic leadership.

I have another reason for offering the amendment. That is that I do not believe this bill does what some of the people who support it say it does on the Federal COLA issue. What is included in this bill is simply a one-time delay in the cost-of-living increase that was scheduled for September. That date has gone by. But I also understand that this bill might very well result in a double cost-of-living increase at the end of next year. So the COLA reduction is in one sense a phony reduction.

Other pending legislation would do away with the twice-a-year cost-of-living increase, but I viewed this bill section as a gimmick and I think that the House can reject it for what it is, a false saving that will not occur. I think we should face the issue directly today by adopting the amendment and honoring the congressional commitment to Federal retirees.

Mr. FISHER. Mr. Chairman, will the gentleman yield to me briefly?

Mr. BAUMAN. Yes. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. Fisher).

Mr. FISHER. Mr. Chairman, I thank the gentleman very much.

Mr. Chairman, I rise in support of this amendment which has been offered by my colleague, the gentleman from Maryland (Mr. Bauman). We should definitely stay with twice-a-year COLA—cost-of-living adjustment—for Federal, military, and civil employees.

We agreed to this only 3 years ago. It is necessary to keep faith with the military and civil employees. Certainly at this time we should do nothing to renege on retirement benefits for members of the Armed Forces.

Going to once-a-year COLA saves $600 million or $700 million in fiscal year 1981 but will not save over the longer run. It will simply mean that on the first day of fiscal year 1982 we will make all that up, and it is, therefore, a temporary, once-only, quick kind of fix for the benefit of the 1981 budget.

Finally, in a sense this reconciliation effort has been passed and overtaken by events. If the reconciliation proposal was put together in the framework of the first budget resolution which called for a balanced budget—and I supported that, and many others did—the recession, with its automatic revenue-reducing and expenditure-increasing effects, will force us to go to a second budget resolution with a deficit. That is sad, but it is a fact of life.

Some of the reconciliation items continue to be sound and desirable; others should be reexamined in the light of present realities and future likelihoods. COLA is one requiring reexamination.

Mr. Chairman, the amendment to retain the twice-a-year COLA should be approved, and I urge support of the amendment.

☐ 1620

Mr. BAUMAN. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Maryland (Mr. Mitchell).

Mr. MITCHELL of Maryland. I am

delighted that my distinguished colleague, the gentleman from Maryland (Mr. BAUMAN), yielded to me.

Mr. Chairman, the power of this House always overwhelms me. It is being manifested today in Mitchell rising to support a Bauman amendment, which I do support heartily and without any reservations or equivocations. With double-digit inflation raging as it does, the gentleman from Maryland has shown that the milk of human kindness flows in his veins, and he indeed is rising to the occasion by looking out for people who need help desperately. It shows the power of the House and it shows the redemptive power of love of the church that the gentleman from Maryland has risen to new heights and has offered us an amendment that we should all support. I am deeply and profoundly grateful to my colleague.

Mr. BAUMAN. Mr. Chairman, today Bauman, tomorrow Reagan and the world.

I yield 1 minute to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, I support the amendment of the gentleman from Maryland for several reasons, not the least of which is that it minimizes some of the coercive character of the budget reconciliation process.

In a statement that accompanied our committee reconciliation amendments, our Republican members declared:

> We have grave misgivings of developments which have forced this legislative committee to take action and offer recommendations against its better judgment. We do not fully agree with the course of legislative action produced by the majority members, but we felt, as they do, that the independence of the legislative committees has been compromised.

Mr. Chairman, the elimination of the cost-of-living adjustment next March for Federal civilian and military annuitants is less a budgetary saving than it is cost avoidance that eventually will be disbursed from the Federal Treasury.

As a matter of equity, we owe it to Federal annuitants to deal more carefully with this matter and should not be rushed into legislation that makes the budget look good by simply delaying authorized payments to annuitants.

The bill under consideration is the wrong place to tinker with a critical element of retirement law. The amendment of the gentleman from Maryland offers us the opportunity to set this issue aside and to consider it at the proper time in conjunction with all other aspects of retirement law and under saner circumstances.

Mr. Chairman, I wish to commend the gentleman from Maryland (Mr. BAUMAN) for what I understand was a very effective manner in which he manipulated the Rules Committee for a 3- or 4-week period until this rule was granted. I understand, from reading the publications of the Federal employee groups, especially the retirees, that the gentleman from Maryland is considered sort of a male Joan of Arc, saving them from the Budget Committee. I commend the gentleman. I commend him for his leadership and his political astuteness and the great manner in which he approached this legislation. I also commend him for the very effective fashion in which I understand he helps the chairman of the Rules Committee operate that body.

Mr. BAUMAN. Perhaps we can all go out and burn a stake together later this evening.

Mr. GIAIMO. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, there is no question that in attempting to achieve legislative savings there are obviously concerns about priorities and specifics of the proposal that is before the House, but, surely, no one can argue that the burden that is presented here on legislative savings ought not to be shared as equally as possible between the rich and the poor, between the retirees and the active employees, between the public and the private sector.

In the name of that equity, this amendment ought to be rejected.

The poorest in our society are limited, at most, to a once-a-year increase. Those on social security receive once-a-year increases. Those receiving food stamps receive once-a-year increases. Built into the reconciliation bill are limitations on Federal workmen's compensation and child nutrition that limit increases to once a year. Active duty personnel, be they in the military or people who work in the Government, are limited to once-a-year increases in October. And in the private sector, there is not one pension plan that provides for twice-a-year cost-of-living increases.

If this amendment passes and if reconciliation passes, the only group in our society that will receive twice-a-year increases are Federal retirees and military retirees.

The cost here is $800 million in legislative savings that will be impacted in terms of the reconciliation process.

So in the name of fairness and in the name of equity and in the name of reconciliation and the process of reconciliation, I ask the Members to reject this amendment and support the committee position.

Mr. GIAIMO. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I oppose the Bauman amendment to restore the second cost-of-living adjustment that the reconciliation bill is designed to eliminate.

By eliminating that twice-a-year COLA, we can save all of our taxpayers about three-quarters of a billion dollars. It is unnecessary and wasteful to escalate more often than once a year.

The Bauman amendment will maintain a preferential, unearned benefit for a small group in our society. The general taxpayers should not be required to bear this inflationary burden merely to provide another benefit, unmatched elsewhere in our society, to this small group.

If we cannot defeat the Bauman amendment, we can never control our budget.

Mr. GIAIMO. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in strenuous opposition to this amendment. We are talking about saving the taxpayers money in this reconciliation bill. We are talking about trying to make combined savings in outlays and revenues of $10 billion. One of the key parts of that is the $700 million for twice-a-year cost-of-living adjustments for Federal retirees, military and civilian.

It is no secret to any of the Members in this chamber that I am not running for reelection. I have decided that 22 years in Congress is sufficient time, and I am going to retire to private life in January. So I will be one of those retirees who will be getting a lovely pension from the Federal Government, twice a year adjusted for inflation, with a look-back provision, probably, while everyone else in this land is lucky if they get any kind of adjustment for inflation. And I know the pressure that has been put on the Members of this body by the lobbies of the retired employees of the Government, military and civilian, and I say to the Members that it is disgraceful. There is nothing as good in this land as a Federal pension. We have people, as I said, who get no pension at all. We have many others who do get pensions. Some of them get an adjustment for inflation. Very few of them get 100-percent adjustment for inflation, and even fewer get a 100-percent adjustment for inflation twice a year like our Federal retirees do.

Our social security recipients, our social security pensioners, they get an adjustment for inflation once a year. Once a year.

Oh, it will be said, "Yes, but they do not pay into their retirement fund like Federal retirees do," or, rather, "They do not pay income tax on the money."

The fact is that, after the second year as a Federal retiree, you have gotten back all of the money that has been paid in, and it is Uncle Sam's money, or better yet, the taxpayers' money, that is financing this. I think it is outrageous that we should compensate twice a year for inflation for Federal retirees when we do not do it for anyone else in the land. And the only reason the pressure is on us is because the retirees are so well organized. They have been crawling all over this Chamber, hitting every Member here and back home, and putting the heat on them. And they are politically organized. But I say to the Members that it is wrong. It is the least justifiable of Federal programs. We are talking about $700 million. I must say that I am shocked that my friend, the gentleman from Maryland, who is such a great protector of the public's purse, has seemed to have erred in this particular instance and is proposing this amendment. Shame, I say, on my good friend from Maryland. Shame.

You are going to hear arguments from some of my colleagues who represent areas which have many, many retirees living in them. But I will submit to you, do not listen to them. The pressure is on. This is a wrong, wrong expenditure of money.

At one time we tried to have comparability between Federal pay and civilian pay in the economy, and at that time we came forth with twice-a-year adjustments for inflation, a 1-percent kicker. But those days have passed, and I will say to the Members today that a Federal pension is better than any other pension you can get anywhere in the land. And it certainly does not need a 1-percent kicker, and we recognized that and we eliminated it several years ago.

□ 1630

Now we have this twice-a-year adjustment at 100 percent for inflation. This is wrong, and it should go.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. GIAIMO) has expired.

Mr. GIAIMO. Mr. Chairman, I yield myself an additional 2 minutes.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut.

Mr. GIAIMO. They will tell you, "We made a contract with them. It is wrong to breach faith with them."

That is nonsense. Nonsense. We are talking about the taxpayers' money, and we have a responsibility to achieve equity; and nothing goes on forever, and even ripoffs have to end.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I remember as the gentleman does the debate in this House on the 1-percent kicker. I joined the gentleman and other Members in arguing that really had to be abolished because it built on itself and it compounded itself, and it really more than adjusted for the rate of inflation.

My recollection, though, is in that debate and in those discussions, we indicated that we would be sympathetic to the continuation of the twice-yearly adjustment on the ground that that was a proper, a more fair way of keeping up with the rate of inflation, as opposed to the kicker, which really was quite unfair to the taxpayer.

I just wondered if the gentleman would comment on that and whether or not we do, in fact, have on the record of this House, when we eliminated the 1-percent kicker, a type of commitment to continue the twice annual adjustment.

Mr. GIAIMO. One Congress cannot commit another. There is no such thing as a commitment. There is a law, and the law, when circumstances come along, can be changed. There is no commitment, and certainly what might have been committed by some Members of Congress in an earlier Congress cannot commit this one.

Mr. MAGUIRE. I was one of those Members who did make that kind of commitment. That is one of the things that will motivate me in my vote today.

I thank the gentleman.

Mr. GIAIMO. Let me repeat, in closing: Social security benefits are only adjusted once a year for inflation. No private pension plans are automatically adjusted twice a year. Only 3 percent of private pension plans are adjusted automatically for inflation on any basis.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. GIAIMO) has again expired.

Mr. GIAIMO. Mr. Chairman, I yield myself 1 additional minute.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut.

Mr. GIAIMO. Sixty percent of private pension plans are adjusted on an ad hoc basis. Thirty-seven percent of private pension plans provide no adjustment for inflation.

Let me tell this body something: We will not vote an adjustment upward for inflation for ourselves. We will not vote it for certain working people in the Government. And yet, we will do it for the retirees because of this pressure on us from the retired groups. I say it is wrong, and the time to stop it is now. This is the least justifiable of all Federal expenditures.

Mr. BAUMAN. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment offered by my colleague, the gentleman from Maryland (Mr. BAUMAN), which would strike those sections of H.R. 7765 proposed by the Committees on Armed Services and Post Office and Civil Service eliminating: First, the September 1980 cost-of-living adjustment for military retirees; and second, the twice per year COLA for Federal civilian retirees;

H.R. 7765 as presently written would adversely affect more than 3 million Federal civilian and military retirees.

I cannot agree with the determination of those on the House Committee on Armed Services who recommended a cut for our already hard-pressed military retirees. I believe that those who have served our Nation bravely and in its time of need should not be singled out and penalized at a time when our Nation is suffering through an economy ravaged by inflation.

Turning to the recommendation proposed by the Committee on Post Office and Civil Service, of which I am a member, which I could not support, I can only say that we are sending into the front line in the war against inflation, those least fiscally fit for the assignment. I am referring to our civilian retirees.

While our committee's recommendation does not permanently modify the twice-per-year COLA statute, it does delay the March 1981 COLA until September 1981, thus further jeopardizing the financial status of our Federal annuitants. Such action, and the magnitude of the estimated savings involved, $356 million, would be better addressed by our committee through deliberative consideration of authorization legislation—not the broad dictates of a Budget Committee which demands somehow that our committee, in a relatively short period of time, achieve, in whatever manner, budget cuts in important programs. Congress in repealing the 1 percent add-on or "kicker" in retirement benefits for Federal civilian retirees, committed itself to a statute providing for a semi-annual COLA. H.R. 7765, as presently written, would result in the Congress reneging on its commitments to Federal governmental retirees.

Accordingly, for these reasons, I urge my colleagues to support the amendment offered by the gentleman from Maryland to correct the serious deficiencies in this legislation which misdirect our efforts on behalf of fiscal responsibility.

Mr. BAUMAN. Mr. Chairman, I yield 1 minute to the gentleman from Hawaii (Mr. HEFTEL).

Mr. HEFTEL. Mr. Chairman, in 1976, this body entered into a contract with the people who serve this Nation, military and nonmilitary. That contract stipulated that the Government would withdraw the 1-percent kicker and as a partial compensation provide a twice-a-year cost-of-living allowance adjustment. The Federal retirees were led to believe that the commitment could be taken seriously and that we care about the relationship we have with those who serve our Nation, in and out of the military.

I know of no group of people in this Nation working for a company with a sense of responsibility who would expect to retire and then that their retirement compensation is adjusted downward according to the dictates of the directors or management personnel, unilaterally, as though no prior contract had been consummated.

Mr. BAUMAN. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. LOEFFLER).

Mr. LOEFFLER. Mr. Chairman, I rise in support of Bauman twice yearly COLA amendment. No one has yet given me a convincing reason why we should target this group of people and cut the benefits due to them.

No one today is saying that twice yearly COLA's are unnecessary to keep the income of retirees in line with the inflation rate. No one has shown me that retirees are being overcompensated for inflation, as was argued in 1976, when Federal retirees were first placed on the semi-annual COLA system as a replacement for their 1-percent "kicker." In fact, GAO recently reported that retirees are not being overcompensated for inflation, and there is even concern that the Consumer Price Index understates the impact of inflation on the elderly.

I believe the Government has a commitment to provide the inflation protection promised to Government workers when they began work for they selected the military or Civil Service in large part because of its secure retirement plan.

Today, we are trying to upgrade the quality and quantity of military personnel and of course we are always looking for qualified and dedicated people to fill the ranks of our Civil Service. Yet time after time I have been told by military people in my district: "You can't attract people on the basis of benefit packages when they can look to Congress and see their benefit plans being bounced around as political toys." We are striving to strengthen our national defenses on the one hand, yet we consider stabbing ourselves in the back by implementing this kind of policy on the other.

I urge my colleagues to join me in supporting the Bauman amendment, not only for today's retirees but also for tomorrow's qualified and capable military and civil servants.

Mr. BAUMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. CARNEY).

Mr. CARNEY. Mr. Chairman, I stand in support of the Bauman amendment. As we are all aware, the legislative package we are now considering contains a provision that would limit the number of cost-of-living adjustments received by Federal retirees from twice to once a year. Proponents of this measure claim that this change is fair since social security recipients receive only one cost-of-living increase a year.

What this argument fails to consider, however, is the unique nature of the civil service retirement system. Social security was never intended to provide individuals with a full retirement income, only to serve as a supplement in their later years. The civil service retirement system, on the other hand, is designed to provide a full retirement income in lieu of other benefits.

There are many other differences between the two programs. Civil service annuities are taxable; social security benefits are not. Federal employees contribute a greater portion of their incomes into their retirement system than private sector workers pay into social security. Federal retirees have health and life insurance payments deducted from their annuities while social security recipients do not.

Furthermore, the Government's own statistics show that private sector workers in comparable positions earn more than most of their Federal counterparts. Many qualified employees, however, enter—and remain in—Government service because the existence of a sound, attractive retirement program compensates for the lower pay and lack of social security coverage. Eliminating the twice-a-year adjustment at this stage is akin to changing the rules after the game has been played. Enactment of a once-a-year COLA would be a breach of faith by the American Government to the very citizens responsible for the successful day-to-day operation of the United States.

I believe that any modification to the present system is, at best, premature. The President's Commission on Pension Policy is currently studying indexation procedures in all retirement plans and seeking to develop a recommendation for an equitable cost-of-living adjustment that can be adapted to various programs. At the very least, we should wait until the Commission has released its report before considering a drastic change in the civil service retirement system.

Mr. Speaker, many glittering tributes to our Nation's senior citizens have been uttered on the floor of the House. Unfortunately, when the time comes to support some or all of them through concrete action, these sentiments change rapidly. I, for one, do not believe that the annuities received by many older Americans should be sacrificed to the reconciliation process. I strongly oppose the elimination of the twice annual cost-of-living adjustment for Federal retirees.

Mr. BAUMAN. Mr. Chairman, I yield 4 minutes to the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Chairman, Machiavelli was a piker. Machiavelli was a pantywaist. He would be green eyed with envy if he could see the kind of antics that have been displayed here in this House in opposition to the COLA amendment.

Just today, we Democrats received an issue paper which purported to convey the real story on Federal retirement. It was interesting that we received it today, not yesterday, not the day before—today—so that we could not give a point-by-point refutation of the document that was so full of misinformation.

Many of my colleagues here think that Federal retirees are all fat cats. They have these big earning figures thrown at them in newspapers and issue papers like the one I just referred to.

Well, what is the truth? Who are we really talking about?

According to the Office of Personnel Management's 1979 Federal fringe benefits statistics, 90,000 Federal retirees and the 150,000 survivors of Federal retirees receive less than $200 a month in benefits. Approximately 700,000 annuitants receive less than $500 a month. Half of the people we are talking about, half who are on the rolls as of March 1980, receive less than $700 a month. They are not really as fat as those figures that we received would have us believe.

Mr. Chairman, in that issue paper that we received, there was a comparison of the Federal retirement system to social security. That is totally ridiculous. They cannot be compared. They are two entirely different kinds of programs.

□ 1640

Social security was not meant to be a retirement program. It is an insurance program, a quasi-welfare program. Social security is not taxable. Civil service is taxable.

Has anyone compared General Motors retirement to social security? Of course not. Everyone recognizes the difference between their retirement program and social security. As a matter of fact their employees all have both.

Let us talk a little bit about the benefits. Social security recipients receive medicare benefits. Federal retirees do not. Social security income is tax free. Federal retirement is not.

Social security disability benefits provide additional supplements for dependents. Civil service does not.

Social security old age benefits are supplemented for dependents. Civil service benefits are not.

A civil service retiree must take a reduced benefit to provide dependents with some protection. But, social security provides additional benefits to aged parents, to students, to divorced spouses, to the families of disabled workers, for medical expenses, rehabilitation service. The civil service retiree had better save some money. None of those are covered.

But if we have to equate the two, and my beloved chairman of the Budget Committee just made mention of the fact that social security is adjusted only once a year, let me point out that the Social Security Advisory Council in December of 1979 recommended that the law be changed to provide for twice a year cost-of-living adjustments for social security.

You have heard here that only Federal retirees get cost-of-living adjustments.

The CHAIRMAN. The time of the gentlewoman from Maryland has expired.

Mr. BAUMAN. Mr. Chairman, I yield 30 seconds of the time of the gentleman from Maryland (Mr. BARNES) to the gentlewoman from Maryland (Mrs. SPELLMAN). I am sorry to do that. That is all I have left.

Mrs. SPELLMAN. It just is not so. Many receive regular adjustments through collective bargaining, an option, obviously not available to Federal employees. I can tell you that those people who are retirees in the United Steelworkers, Caterpillar Corp., John Deere Co., the United Autoworkers, Bell Telephone, ITT Corp., and I do not have time to give you all the rest, would never change places with a Federal retiree.

Let us keep our promise. Besides, we promised a twice a year adjustment at the time we dropped the 1 percent kicker. Keeping promises is sacred with me. It should be for this body.

Of course, we can save money with the cuts being proposed. We have taken money from children. We have taken money from students and I know we are going to be proud now to take this from our senior citizens. I congratulate my colleagues, the gentleman from Virginia, (Mr. FISHER) and the gentleman from Maryland (Mr. BAUMAN) and I would hope that all of my colleagues will join with us to vote for the amendment.

Mr. GIAIMO. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Chairman, I thank the very gracious chairman of the Budget Committee, the gentleman from Connecticut (Mr. GIAIMO) for yielding me this minute of time.

I do not think there is any question about what is going on here today. I think the comments from the gentleman from Connecticut made it clear that this is not a proposal for a temporary suspension of COLA. It is a proposal for a permanent suspension, with the first step being a temporary suspension. I think this makes it clear.

The question is whether we are going to control inflation or whether we are going to make the little people that are subjected to inflation pay the bill. That is what the question is.

This budget resolution, this reconciliation resolution says it is the little people that are going to pay. We are going to have them carry the burden.

Mr. Chairman, this is wrong. This is not in the spirit of the Democratic Party. This is not in the spirit of the people that brought these kinds of decent annuity benefits to our civil service workers.

The Democratic Party brought these benefits, not the Republican Party. The Democratic Party has no business sponsoring this type of a measure. They should not do it today and they should not do it tomorrow.

Mr. HARRIS. Mr. Chairman, I urge my colleagues to join me in casting a vote in favor of the amendment to retain two cost-of-living adjustments for Federal retirees who are struggling to make ends meet in these inflationary times. The vote on the amendment today caps a long battle to allow Members of this body to vote against making Federal retirees the scapegoats of inflation.

The House Post Office and Civil Service Committee was ordered by the Budget Committee to enact legislation saving $1 billion. I voted to strike reconciliation. Unfortunately it did not succeed. I voted against the budget resolution because it contained this requirement and because I could not support what was only a charade of a balanced budget. I offered an amendment in the House Post Office and Civil Service Committee to retain the cost-of-living adjustments and to substitute the savings from my legislation, H.R. 4717. Enactment of H.R. 4717 would eliminate wasteful Federal contracting and year-end spending. My amendment narrowly missed passage in committee by a vote of 8 to 10.

When the language eliminating the March COLA was included in the reconciliation bill, I wrote the House Rules Committee urging them to allow a separate vote on the elimination of the March COLA. The Rules Committee's favorable response to my request makes possible the vote we are about to take.

Reducing earned benefits would be one more sad example in the string of broken promises between the Federal Government and its employees. It would be bad for recruitment of future employees, bad for the morale of current employees and unconscionable for current annuitants. It would clearly demonstrate bad faith on the part of the Federal Government in dealing with its own employees. I will vote for the amendment to retain the semiannual COLA, and I strongly urge my colleagues to do the same.

Mr. GIAIMO. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I want to follow on with what my colleague, the gentleman from Virginia just said. There is no free lunch. That is how it is being portrayed to this House and to this committee.

One of the most attractive parts of Federal service and military service is our retirement programs. What we are doing here again is taking away benefits that we promised civil service workers, that we promised military workers. It is another erosion of those benefits. We have all heard about it when we have gone home, that "you just will not keep faith with your commitment when we hired on."

Now people in the military, we have tried to send a positive signal to with the Nunn-Warner amendments and an 11-percent pay increase, they are going to say again, "Oh, yes, but now they are going to take away our retirement benefits. They are going to take away our COLA. That is one of the reasons we got in, because the retirement program was attractive."

This is just another effort to erode those benefits. I think it is wrong. I think it is a tragic mistake. I urge the House to accept this amendment.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Maryland. The ravages of inflation spare no one, least of all our retired citizens. Medical costs and the daily necessities of life increase even more rapidly than the general economy. Yet these are the part and parcel of a retired person's expenses. We now have before us legislation that would signal a wholesale retreat from a commitment to protect those civilian and military retirees who gave long and dedicated service to the Nation. We must not allow this to happen.

A retiree with a $700 a month annuity, a modest income by any standards, would stand to lose $360 in the first year of a annualized COLA. The average annuitant, who receives $300 a month, would lose $150 in that first year. Many Federal retirees have difficulties stretching the few dollars they receive now. To make that burden even worse can simply not be justified.

We should also remember that unlike social security, Federal retirement payments are taxed. Federal retirees experience the same bracket creep from inflation that others do. This is an extra burden that can at least be partially offset by a semiannual cost of living adjustment.

Recruitment and retention of skilled and dedicated military and civilian personnel is critical to the effective operation of Government. Our ability to recruit and retain such people is dependent on providing adequate incentives. The Federal retirement systems that recognize the impact of inflation are among our most valuable incentives. Yet it is fashionable to view Federal workers and retirees as repeated victims for budget cuts. Repeated pay caps and attacks on the retirement system have seriously eroded both civilian and military morale and made management of these vital resources exceedingly difficult.

I am particularly disturbed by the signal the COLA cutback would have on the military. Just last week this body approved the Nunn-Warner compensation package designed to improve our ability to retain skilled personnel. Now we are being asked to turn 180 degrees and take an important benefit away. While we are handing a welcome check to the military member, we are picking his pocket under this bill. It is a classic case of the Congress giveth and the Congress taketh away.

Solving our military personnel crisis will take time and considerable effort. The most critical task now is to convince those in the service who are considering leaving that the Congress recognizes the problem and is working to solve it. This proposed COLA reduction sends exactly the wrong signal. If military retirement is to be changed, it must be done in the context of other compensation adjustments, not on a piecemeal basis.

Retention of civilian personnel is also a growing problem. At industrially funded activities in the Department of Defense we often find it impossible to recruit the engineers and skilled personnel we need. The incentives in the private sector are just too attractive. For the Federal civilian, the retirement system is a prime motivator. Yet this system has come under repeated attack. Federal workers are uncertain about their future, their morale has declined tremendously, many are leaving while they see the leaving good.

When Congress eliminated the 1-percent adjustment for time delays in the COLA adjustment in 1976, we pledged to our retirees that there would be no more tampering with this mechanism. We can not commit the breach of faith which this reconciliation proposes.

There of course, must be a sharing of the burden in this important reconciliation process. Included in this bill are $131 million in civil service salary and retirement reductions besides the annualization of cost-of-living adjustments for retirement. The Post Office and Civil Service Committee will still have $600 million in reductions for programs under its jurisdiction should this amendment succeed. I do not advocate that Federal workers should be exempt from the sacrifices necessary to reduce spending. But we can not have a reconciliation bill which is built on the backs of those who can least bear the burden. The Congress can do better than that. We must do better than that.

Mr. BAUMAN. Mr. Chairman, I yield my other half minute to the gallant gentleman from Maryland (Mr. BARNES).

Mr. BARNES. Mr. Chairman, I rise in strong support of the Bauman amendment, which retains the twice/yearly cost-of-living adjustments for millions of retired Federal civilian and military personnel. This amendment would correct an injustice which the reconciliation bill in its present form would inflict on retired Americans, most on fixed incomes, who earned and depend upon these cost-of-living adjustments to keep pace with inflation. A vote in favor of the Bauman amendment would also insure that the Federal Government keeps faith with its employees and former employees now in retirement. That faith has been sorely tested recently.

Many Members who served in this House during 1976 may have forgotten that they voted overwhelmingly to institute the twice/yearly COLA adjustments as a cost savings measure in place of the "1-percent add-on" feature which had been part of the Federal retirement system and which had provided additional protection against inflation. The floor manager of the bill which instituted the twice/yearly COLA, our former colleague Congressman George Shipley of Illinois, said that the switch to the twice/yearly system would save $3 billion over the following 5 years. At the time the change was made, there was an implied promise to Federal retirees from the Government that it was a one-time change, and that the U.S. Government's retirement system would not continue to be nit-picked apart year after year to achieve cost savings for political reasons.

Yet, almost immediately, efforts began to eliminate permanently one of the two cost-of-living adjustments, and when that failed we were confronted with the present bill.

Mr. Chairman, there has been a specious argument raised which purports to compare the cost-of-living adjustments in the Federal retirement system with social security. This argument overlooks a number of key points. First, Federal employees contribute a higher portion of their income to their retirement system as contributions during their period of employment. They pay much more to get the benefits they receive. Second, Federal retirees are taxed on their annuities after they have received back the amounts they contributed. Social security recipients are not taxed. And third, the twice/yearly COLA adjustments are part of a Federal retirement system which we need to maintain and to make attractive so that people will work for the Government. That was the rationale behind the system to begin with—to let the Federal Government compete successfully for the best people.

This Congress and other Congresses and administrations before it have done much to undermine the compensation paid to Federal civilian employees and members of our Armed Forces, and to try to take back the retirement annuities which Federal personnel thought they were earning during their participation in the system. Morale throughout the Federal service is very low. Members of this body who constantly carp against Federal workers and retirees must share the responsibility for the record number of retirements of highly trained and experienced personnel recently. People are getting out now because they do not trust their Government, and with good reason. There are plenty of other areas where budget cuts can more reasonably be made.

Congress should keep hands off the Federal retirement system before things get worse than they already are. Leave it alone, and vote for the Bauman amendment.

Mr. GIAIMO. Mr. Chairman, I reserve the balance of my time.

Mr. BAUMAN. Mr. Chairman, under the rule, does not the proponent have the closing time?

The CHAIRMAN. The gentleman from Maryland gets the last word. The gentleman from Maryland has 1 minute remaining. The gentleman from Connecticut has 2 minutes remaining.

The gentleman from Maryland gets the last word.

Mr. GIAIMO. Mr. Chairman, I think I had another strong proponent of twice-a-year adjustment for COLA here who wanted a minute.

Does the gentleman from Virginia seek a minute?

I really like to hear these arguments in favor of COLA twice a year.

I yield 1 minute to the gentleman from Virginia.

Mr. FISHER. Mr. Chairman, I thank the gentleman very much.

I look back very fondly on the time I spent on the Budget Committee under the gentleman's chairmanship.

Mr. Chairman, I am proud to have brought this amendment to the Rules Committee originally. I am delighted that my colleague, the gentleman from Maryland (Mr. BAUMAN), a member of the Rules Committee, carried it forward so effectively.

I am delighted also that we have such generous support from both sides of the aisle for this amendment.

I do urge my colleagues to vote for it.

Mr. GIAIMO. Mr. Chairman, I rise in opposition to this amendment. I urge that it be defeated.

I just say that I hope the American people wake up and realize what waste is going on with this whole business of pensions involving Federal retirees. It is an outrage. It is a shame and it should be terminated.

I urge the defeat of the amendment.

Mr. BAUMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California, Mr. LAGOMARSINO.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the Bauman amendment to continue twice-a-year cost-of-living allowances.

As has been pointed out two times a year COLA's was the trade for elimination of the 1 percent inflation kicker several years ago.

Now the Budget Committee wants to go back on that commitment.

How can we attract and retain qualified people in the civil service and in the military if we don't keep our commitments?

I urge support of the amendment.

Mr. BAUMAN. Mr. Chairman, I just want to say to the gentleman from Connecticut, he has been very gallant in opposing this amendment.

I am not at all ashamed in offering it. I do think the House ought to have a chance to work its will on this issue, as I felt they should on others. Earlier this year the House adopted my amendment cutting $1.4 billion from the international lending institution bill. I need not point out that more than covers the cost of this amendment.

I congratulate the gentleman on his retirement from the Congress and his remarks today. I am sure they are unrelated to each other; but I would say to the gentleman that many of us do have some concern about the Federal retirees that are involved in this program. We do think their treatment at the hands of the Federal Government influences whether or not we are going to have retention in the military and other Government service.

So simply, I am presenting the case today and a chance for the House to work its will, as they were denied the right to work their will on a great many other amendments. If, in fact, the amendment passes, the House will have decided that the gentleman from Maryland is once again right.

● Mr. CONYERS. Mr. Chairman, I will vote for the amendment to the budget reconciliation bill to preserve the twice-annual cost-of-living adjustment (COLA) to the pensions of retired Armed Forces personnel and retired civilian employees of the Federal Government.

The attempt by the Budget Committee to cut out one of the two cost-of-living adjustments in fiscal year 1981 for the sake of budgetary savings is without any justification. It was done earlier this year, along with other selective savings, to achieve a balanced Federal budget. Now that the goal of a balanced budget is unachievable largely because of the recession, there is no justification for singling out retired civil servants and military personnel for sacrifices that others are not being called on to make.

In principle, the attempt to eliminate twice annual cost-of-living adjustments was wrong from the start. In 1976 when the adjustments were established, Congress made a commitment to retirees that their benefits would keep pace with inflation. To change the rules now would abrogate that agreement, which became the basis for financial planning for Federal retirees.

Furthermore, the reconciliation bill would have eliminated one of the two semiannual adjustments only during the next budget year, and presumably restore the twice-annual payments in future years. This kind of tinkering with retirement benefits is the height of arbitrary policymaking.

The twice-annual cost-of-living adjustment that was created for Federal civil servants and Armed Forces personnel was a reasonable way to protect the economic rights of more than 3 million individuals. It should be the model for extending similar protections to social security recipients, who presently receive only one annual adjustment, and for recipients of private pension plans, only 3 percent of which are adjusted automatically for inflation. Working men and women, whether in the Government or the private sector, deserve to have ample security in their retirement.●

● Mr. ALBOSTA. Mr. Chairman, I rise in support of the Bauman amendment.

I am a strong supporter of the reconciliation process. I do not feel however, that the place to make last minute cutbacks should rest with the retirees who are already finding it very difficult to deal with spiraling inflation.

As my colleagues know, I have been in the forefront against the taxation of social security benefits for our Nation's retired persons. I took on this battle because I felt that the elderly public has paid its dues to the Government, and should not have their limited earnings from social security chopped away by the Internal Revenue Service.

Likewise, the retirees in this Nation who chose a career of military or civil service should not have their retirement benefits arbitrarily cut back at a time when senior citizens can least afford any downward movement in their income.

A recent study by the American Association of Retired Persons showed that the Consumer Price Index actually understates the effect of inflation on our retired public. Federal retirees, however, must pay income tax on their pensions, so any cost-of-living increase would be negated by the increased tax burden. It should thus be clear that every penny of that increase is needed by those retirees.

To change the rules of COLA in midstream during one our Nation's highest periods of inflation would represent a great injustice to these retirees who have served this Nation well.

I urge my colleagues to support this amendment to protect the well-being of these retirees and to protect the good work of the Congress in promising COLA in the first place.●

● Mr. ANDERSON of California. Mr. Chairman, I would like to express my strong support for the adoption of Representative BAUMAN's amendments to the Budget Reconciliation Act which we are considering today.

As you know, my distinguished colleague's amendments will strike the provisions in the bill which would provide, on a one-time basis only, that retirement benefits for military and civilian retirees be adjusted to match the rise in the cost-of-living only once a year rather than the usual twice a year.

I am in sympathy with those who want to cut back on Federal spending. Indeed, I have introduced a constitutional amendment which, if ratified, would mandate a balanced budget after 4 years. So, I respect the goals of budget cutters.

But their aims must be targeted sensibly. While the elimination of one of the two COLA's for military and civilian retirees would save the Federal Government millions of dollars, I just cannot support such proposals. How can we, for the sake of expediency, penalize the Government's Federal retirees, after they spent so many years helping to support their country?

I might add that in 1976 the "1-percent add-on" provision of the Federal retirement system was rescinded and, Congress enacted the current biannual cost-of-living adjustment system in its place. In times of double-digit inflation, such as we have today, it is imperative that military and civilian retirees retain their deserved biannual COLA's.●

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 22, noes 12.

RECORDED VOTE

Mr. GIAIMO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 309, noes 72, answered "present" 6, not voting 45, as follows:

[Roll No. 518]

AYES—309

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Applegate
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Burton, Phillip
Byron
Carney
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Clinger
Coleman
Collins, Ill.
Conte
Conyers
Corman
Coughlin
Courter
D'Amours
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jeffries
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McDade
McDonald
McHugh
McKay
Madigan
Maguire
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mavroules
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nelson
Nolan
Nowak
Oakar
Oberstar
Ottinger
Patten
Patterson
Paul
Pepper
Perkins
Petri
Peyser
Porter
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts
Roe
Rose
Rosenthal
Roth
Roybal
Royer
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stark
Stokes
Studds
Stump
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vento
Volkmer
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—72

Anderson, Ill.
Anthony
Archer
Ashbrook
Ashley
Aspin
Bolling
Bowen
Butler
Carr
Cleveland
Collins, Tex.
Corcoran
Cotter
Crane, Daniel
Crane, Philip
Daniel, Dan
Dannemeyer
Devine
Duncan, Oreg.
Erlenborn
Fary
Fenwick
Findley
Frenzel
Gephardt
Giaimo
Gradison
Gramm
Hagedorn
Hutchinson
Ichord
Jacobs
Jeffords
Jenkins
Johnson, Colo.
Jones, Okla.
Kelly
McCloskey
McEwen
McKinney
Michel
Miller, Ohio
Mottl
Neal
O'Brien
Obey
Panetta
Pease
Pickle
Pritchard
Regula
Ritter
Robinson
Rostenkowski
Rudd
Sabo
Scheuer
Seiberling
Sharp
Simon
Snowe
Stanton
Stenholm
Stewart
Stockman
Stratton
Thomas
Walgren
Waxman
Wirth
Wylie

ANSWERED "PRESENT"—6

Carter
Moorhead, Pa.
Nedzi
Staggers
Vanik
Wilson, Bob

NOT VOTING—45

Albosta
Alexander
Annunzio
Beilenson
Boggs
Brodhead
Burlison
Campbell
Coelho
Conable
Davis, S.C.
Derrick
Dodd
Edwards, Okla.
Goldwater
Hansen
Hawkins
Hinson
Holland
Holtzman
Jenrette
Leach, La.
Livingston
Lujan
McCormack
Markey
Mattox
Mazzoli
Murphy, N.Y.
Myers, Pa.
Nichols
Pashayan
Quayle
Rhodes
Rodino
Rousselot
Sebelius
Shannon
Steed
Symms
Tauzin
Vander Jagt
Whitten
Wydler
Young, Alaska

□ 1700

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio for, with Mr. Nedzi against.

Mr. Murphy of New York for, with Mr. Derrick against.

Mr. Edwards of Oklahoma for, with Mr. Livingston against.

Mrs. SNOWE, Mr. COTTER, and Mr. SCHEUER changed their votes from "aye" to "no."

Mr. ANDERSON of California changed his vote from "no" to "aye."

Mr. BOB WILSON changed his vote from "aye" to "present."

Mr. NEDZI. Mr. Chairman, I have a live pair with the gentleman from Illinois (Mr. ANNUNZIO). If he were present, he would have voted "aye." I voted "no." I withdraw my vote and vote "present."

Mr. NEDZI changed his vote from "no" to "present."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

● Mr. NELSON. Mr. Chairman, I speak in favor of the Omnibus Reconciliation Act of 1980. First, I want to commend the eight committees of the House who responsibly worked to come up with this package of legislative savings in many Federal programs. This bill represents tough decisions by each of the committees.

This is an unprecedented effort to restrain the growth in Federal spending. The best past record for the Congress to restrain spending by reforming programs was never more than $200 or $300 million. The reconciliation bill will result in a savings of $6.2 billion.

Not everything in the package is palatable to everyone—in fact, there are probably objections from one interest group or another to each piece of legislation in the bill. These are painful, but necessary changes.

Three-fourths of the budget is "uncontrollable." This means that these programs require changes in current law to cut funding—that is what this reconciliation does. These programs cannot be cut by the appropriations process alone. They must be changed legislatively.

We cannot continue to make major cuts only in the "controllable" portion of the budget either. The bulk of the "controllable" or discretionary portion of the budget is in national defense spending. We cannot diminish our national defense spending at this time. We must strengthen our defense and military readiness.

This reconciliation bill is the beginning of a reform of entitlement programs to target them better and to make them fairer and more equitable. This should be an ongoing process—we should not stop with the passage of this one bill.

We must show the American people that the Congress can fiscally discipline itself—their impression of the Congress now is that it knows only how to spend more and more. As the balanced budget becomes more difficult to attain due to the current recession, it becomes even more important to enact this legislation. The failure to enact the reconciliation bill would add another $10.4 billion to any 1981 deficit.

However, these savings are not just for fiscal year 1981—there will be long-term savings realized by the passage of this vital legislation.

The Senate has already passed their version of the reconciliation bill. It is time to get on with our attempts to restrain Federal spending.

Mr. Chairman, I urge the passage of the Reconciliation Act of 1980.●

Mr. WIRTH. Mr. Chairman, I want to emphasize to my colleagues the importance of the 1981 National Science Foundation authorization legislation we are considering today.

I strongly urge their support for an institution whose funding represents one of the most important investments our Nation can make in its economic future—both in improving the long-term health of domestic industries and in strengthening the United States' international economic position.

In 1979, for the first time since World War II, our Nation's productivity actually declined, reversing nearly 25 years of constant, steady increases. The implications of that decline for the health of the American economy in the 1980's are serious and have a broad impact on all Americans.

First, and most important, declining productivity will add to the inflationary pressures against which every family is struggling. In an economy whose underlying, basic inflation rate is broadly agreed to be in the vicinity of 10 percent, continuing declines in productivity—which are synonymous with increasing labor requirements for each unit of goods produced—can hamstring even the most promising efforts to bring inflation under control.

Second, declining productivity and the consequent cost increases in American exports may continue into this decade to place our economy at a competitive disadvantage in world markets. Export-stimulating measures will be no more than temporary palliatives if we do not address the long-term weakness in our Nation's productivity.

There is already broad agreement among economists that three measures are critical in restoring our economy's long-term health:

First. Carefully targeted tax cuts to spur increased business investment in new capital equipment;

Second. Incentives to reverse the drop-off in savings by individuals, now at a 28-year low, in order to increase capital availability; and

Third. Increased Federal support for basic research.

The legislation we are considering today is the third critical component in any program which seeks to address the long-term problems of our economy.

Particularly in a time of high inflation, basic research—whether it be university- or industry-based—requires strong and consistent Federal support. In a period of inflation as high as that we have experienced during the past year, business support for basic research—whose payoffs are frequently years down the road—declines, as businesses seek investments which provide immediate hedges against inflation. Strong Federal support becomes more and more important.

Unfortunately, that simple fact has not been recognized over the past decade in Federal policy. We have concentrated for so long on short-term solutions to whatever ails our economy in any particular year, that Federal investment in our economic future has declined consistently. Industrial and Government support for basic research and development has declined from a high of about 3 percent of our gross national product in 1964 to approximately 2.2 percent in 1980. That decrease parallels the slowdown in productivity growth of the past 10 years. Today, we are paying the price for that long-term slippage in the form of an actual decline in economic productivity.

Mr. Chairman, that trend must be reversed. Along with the investment incentives which we must provide to business and individuals, we must reverse the trend of falling investment in basic research and development.

As my colleagues on the House Budget Committee are aware, I strongly believe that one step toward economic health in this decade must be a consistent effort to bring the Federal budget and the unsustainable growth of Federal spending under control. That has required major cuts in Federal programs in virtually every area of the budget. But we cannot achieve the long-term reduction in inflation we are seeking if we misallocate those cuts and in the process cripple the scientific community by slashing Federal support for basic research. Every area of the budget must be scrutinized for wasteful or ineffective programs, and this field is no exception, but we cannot accept cuts which eviscerate basic research efforts which will play a key role in reversing our productivity decline.

During the first House-Senate conference on the first budget resolution for 1981, a majority of House conferees accepted an agreement which, in my view, would have done precisely that. I was pleased that the full House saw fit to reject that agreement, and that in a second conference we were able to restore $100 million in budget authority for the National Science Foundation and the National Aeronautics and Space Administration. That authority is reflected in the legislation before us now.

I strongly urge my colleagues to support the 1981 National Science Foundation authorization, and to reject proposals which will be offered to slash its funding once again.

The programs we fund through NSF can make a critical contribution to increasing productivity in almost every sector of our economy. In voting to preserve those programs, the Members of this body will be suporting one of the most important long-term investments in our economic health the Federal Government can make.

● Mr. ASHLEY. Mr. Chairman, I strongly oppose Mr. BAUMAN's amendment.

Most of us agree, or at least pay lip-service to the fact, that we need to get a grip on Government spending. The obstacle that confronts us when we attempt to reduce Government spending is the fact that a full 76 percent of the budget is made up of so-called uncontrollable expenditures, half of which are indexed, either explicitly or implicitly, for inflation. These automatic increases of Government benefits year after year have added a momentum to Government spending totally independent of congressional action. Indexation has been one of the primary sources of growth in Federal spending in the past decade. If this Congress is serious about getting a handle on Government spending, it cannot refuse to change policies and programs we can no longer afford. Congress cannot ignore the budgetary impact of indexing entitlement programs.

The current policy of protecting retired military and Federal employees against inflation by indexing retirement benefits 100 percent for inflation twice a year has substantial budgetary impact. These cost-of-living adjustments are like a time bomb waiting to blow the top off the Federal budget some day. Clearly, Congress has the responsibility to defuse this time bomb before it goes off.

The fact is that neither the military nor the civil service retirement system is a self-financing system as is the social security system. The military retirement system is a noncontributory system. All benefits are financed from general revenues, courtesy of the U.S. taxpayer. The civil service retirement system is a contributory system, but matching employee-agency contributions do not begin to come close to paying for the long-term costs of the system. In 1980, almost half, 46 percent, of the total cost of the civil service system was financed by the U.S. taxpayer. The current unfunded liability is $136 billion, most of which has come from benefit liberalization and cost-of-living increases. Annual payments from the general revenues each year compensate for this unfunded liability. But the fact is that each cost-of-living adjustment adds billions of dollars to this liability and to the drain on the Treasury and ultimately the U.S. taxpayer.

If this Congress refuses to make changes in the cost-of-living adjustment, we are going to be in serious trouble. The Budget Committee has made projections on the total cost of the system if inflation and current cost-of-living adjustments continue at the present rate. In 1980, the civil service retirement system cost the Federal Government $15 billion; by 1990 the system will cost $64 billion; by 2000, $198 billion and by 2010, $487 billion. For comparative purposes, I would point out that the entire Federal budget for fiscal year 1980 was $526 billion.

Even more startling are projections on annual civil service benefit levels. Assuming a 14 percent rate of inflation, the Budget Committee projects that the benefit level for a colonel in the Armed Forces who retires with 30 years service at age 52, would receive at age 70 $353,295 a year; a colonel in the Armed Forces with 20 years service who retires at age 42 would receive at age 70 $863,996; a Federal civilian employee who retires at age 58 with earnings the same as average annual earnings in the private sector ($12,545 in 1980) would receive $31,572; a Federal civilian employee who retires at ceiling with 30 years service at age 58 would receive at age 70 $131,093. These projected annuities are outrageous. How can Congress allow such cost-of-living increases to continue? By contrast, the average U.S. taxpayer who is covered by the social security system and is footing the bill for this very expensive system, would receive at age 70 $14,114 per year from social security. A worker in the private sector who had earned minimum wage all of this life, would receive only $10,950.

Not only are the civil service and military retirement systems far more generous than any pension system currently available in the private sector, but the semiannual adjustment for retired Federal workers is extremely generous when compared with the protection provided persons in the private sector. The cornerstone of retirement protection in the private sector is the social security program. Social security benefits are adjusted only once a year for inflation. While there have been proposals to provide semiannual adjustments for social security recipients, the cost as all of us know would be prohibitive. Yet, the U.S. taxpayer who is covered by social security is expected to finance two cost-of-living adjustments for retired Federal employees.

Furthermore, private pension plans provide extremely limited protection against inflation. Only 3 percent of private pension plans are adjusted automatically for inflation on any basis. Sixty percent of private pension plans are adjusted on an ad hoc basis. Thirty-seven percent of private pension plans provide no adjustment at all.

Additionally, the benefits of Federal retirees compare quite favorably with social security and a private pension. The average civil service retiree receives $940 a month. The average social security recipient receives $330 a month. A civil service employee can retire at age 55 without a reduction in retirement benefits. Under social security, early retirement is not available until age 62 and then only with a lifetime reduction in benefits. Civil service retirees can go to work in private industry, earn as much or more than they did in the Government, and still receive an annuity. Under social security, until the recipient reaches age 72, benefits are reduced if he or she returns to work.

The real issue simply is whether this country will continue as a matter of public policy to protect a select group of Americans at the expense of everyone else. Who can argue the unfairness of continuing to provide Federal employees two cost-of-living adjustments a year? As part of the effort to control Federal spending this year, legislation was enacted into law this spring to provide annual cost-of-living adjustments in the food stamp program. This change reduced benefits for 22 million low-income Americans. The Omnibus Reconciliation Act which we are considering here today also provides annual cost-of-living adjustments in the school lunch and child nutrition programs. The Bauman amendment would not undo these reductions, it would simply change the reduction in the number of cost-of-living increases for retired Federal employees. When circumstances demand sacrifice, all beneficiaries of Federal largess, including Federal employees, must bear a fair share of the burden.

I strongly urge my colleagues to defeat the Bauman amendment.●

□ 1710

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7765) to provide for reconciliation pursuant to section 3 of the first concurrent resolution on the Budget for the fiscal year 1981, pursuant to House Resolution 776, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GIAIMO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 294, nays 91, not voting 47, as follows:

[Roll No. 519]

YEAS—294

Abdnor
Akaka
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Clausen
Cleveland
Clinger
Coleman
Conte
Corcoran
Corman
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dickinson
Dicks
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lundine
McClory
McCloskey
McDade
McHugh
McKay
McKinney
Maguire
Marks
Marlenee
Marriott
Mathis
Mica
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nowak
O'Brien
Obey
Panetta
Patten
Patterson
Pease
Pepper
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rangel
Ratchford
Regula
Reuss
Ritter
Roberts
Robinson
Rose
Rostenkowski
Royer
Russo
Satterfield
Sawyer
Scheuer
Schulze
Seiberling
Sharp
Shelby
Shuster
Simon
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—91

Addabbo
Andrews, N.Dak.
Archer
Ashbrook
Badham
Bauman
Beard, Tenn.
Bethune
Bingham
Blanchard
Bonior
Buchanan
Burton, John
Burton, Phillip
Cheney
Chisholm
Clay
Collins, Ill.
Collins, Tex.
Conyers
Courter
Crane, Daniel
Crane, Philip
Dannemeyer
Dellums
Derwinski
Devine
Dingell
Dornan
Early
Fenwick
Florio
Ford, Mich.
Forsythe
Garcia
Goodling
Gray
Hammerschmidt
Hollenbeck
Holt
Jeffries
Kastenmeier
Kildee
Kindness
Kramer
Lee

Lewis
Luken
Lungren
McDonald
McEwen
Madigan
Martin
Matsui
Mavroules
Michel
Mikulski
Mitchell, Md.
Moorhead, Calif.
Nedzi
Nolan
Oakar
Oberstar
Ottinger
Paul
Perkins
Petri
Peyser
Porter
Rahall
Richmond
Rinaldo
Roe
Rosenthal
Roth
Rousselot
Roybal
Rudd
Sabo
Schroeder
Sensenbrenner
Shumway
Smith, Iowa
Solarz
Stark
Stokes
Thompson
Traxler
Waxman
Weiss
Wilson, C. H.

NOT VOTING—47

Albosta
Alexander
Annunzio
Beilenson
Boggs
Brodhead
Burlison
Campbell
Coelho
Conable
Davis, S.C.
Derrick
Dodd
Duncan, Oreg.
Edwards, Okla.
Goldwater
Hansen
Hawkins
Hinson
Holland
Holtzman
Jenrette
Leach, La.
Livingston
Lujan
McCormack
Markey
Mattox
Mazzoli
Murphy, N.Y.
Myers, Pa.
Nichols
Pashayan
Quayle
Railsback
Rhodes
Rodino
Santini
Sebelius
Shannon
Steed
Symms
Tauzin
Vander Jagt
Whitten
Wydler
Young, Alaska

□ 1720

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio for, with Mr. Steed against.

Mr. Derrick for, with Mr. Hawkins against.

Until further notice:

Mr. Tauzin with Mr. Hansen.

Mr. Murphy of New York with Mr. Livingston.

Mrs. Boggs with Mr. Symms.

Mr. Santini with Mr. Vander Jagt.

Mr. Rodino with Mr. Conable.

Mr. Jenrette with Mr. Edwards of Oklahoma.

Mr. Mazzoli with Mr. Goldwater.

Mr. McCormack with Mr. Hinson.

Mr. Nichols with Mr. Lugar.

Mr. Coelho with Mr. Young of Alaska.

Mr. Dodd with Mr. Railsback.

Mr. Myers of Pennsylvania with Mr. Pashayan.

Mr. Whitten with Mr. Quayle.

Mr. Albosta with Mr. Wydler.

Mr. Beilenson with Mr. Sebelius.

Mr. Burlison with Mr. Campbell.

Mr. Brodhead with Mr. Holland.

Mr. Davis of South Carolina with Ms. Holtzman.

Mr. Leach of Louisiana with Mr. Duncan of Oregon.

Mr. Markey with Mr. Mattox.

Messrs. RICHMOND, LEE, and BLANCHARD changed their votes from "yea" to "nay."

Mr. VENTO changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 7765.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

AUTHORIZING CLERK TO CORRECT PUNCTUATION MARKS, CROSS-REFERENCES, AND SECTION NUMBERS IN ENGROSSMENT OF H.R. 7765, OMNIBUS BUDGET RECONCILIATION BILL

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 7765, the Clerk of the House be authorized to correct punctuation marks, cross-references, and section numbers.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 2719, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2719) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, with the House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Ohio? The Chair hears none, and appoints the following conferees: Messrs. Reuss, Ashley, St Germain, Gonzalez, Fauntroy, Patterson, AuCoin, and Lundine, Ms. Oakar, and Messrs. Vento, Stanton, Wylie, McKinney, Evans of Delaware, and Green.

FIRST ANNUAL REPORT OF FEDERAL LABOR RELATIONS AUTHORITY FOR FISCAL YEAR 1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Post Office and Civil Service.

(For message, see proceedings of the Senate of today, September 4, 1980.)

NATIONAL SCIENCE FOUNDATION AUTHORIZATION, 1981

Mr. BROWN of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7115) to authorize appropriations for activities of the National Science Foundation for fiscal year 1981, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. Brown).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7115, with Mr. Breaux in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, June 16, 1980, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 7115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science Foundation Authorization Act for Fiscal Year 1981".

Sec. 2. (a) There are authorized to be appropriated to the National Science Foundation, for the fiscal year 1981, the sums indicated for the following categories:

(1) Mathematical and Physical Sciences, $259,800,000.

(2) Astronomical, Atmospheric, Earth, and Ocean Sciences, $235,800,000.

(3) United States Antarctic Program, $61,400,000.

(4) Ocean Drilling Programs, $17,500,000.

(5) Biological, Behavioral, and Social Sciences, $187,510,000.

(6) Science Education Programs, $92,200,000.

(7) Engineering and Applied Science, $142,560,000.

(8) Scientific, Technological, and International Affairs, $30,450,000.

(9) Cross-Directorate Programs, $33,200,000.

(10) Program Development and Management, $59,800,000.

(b) Of the total amount authorized under subsection (a)(7)—

(1) not less than $19,400,000 shall be available for Earthquake Hazards Mitigation;

(2) not less than $1,000,000 shall be available for the Small Business Innovation Program, for projects to aid the handicapped;

(3) not less than $3,000,000 shall be available for Research and Development in Appropriate Technology;

(4) not less than $5,000,000 shall be available for a Center for Innovation Development to be located in an area which experienced an unemployment rate in excess of 10 per centum in 1979, and which is centrally located to serve several major metropolitan centers; and

(5) not less than $1,800,000 shall be available for the establishment and operation of three university-based Innovation Centers.

(c) Of the total amount authorized under subsection (a)(6)—

(1) not less than $2,400,000 shall be available for Science Faculty Improvement Programs, for year-long awards to experienced, full-time, two- and four-year college and university science teachers who are involved primarily in undergraduate science instruction to increase their competence in science; and

(2) not less than $1,500,000 shall be available for Science Education Programs relating to Appropriate Technology.

(d) Of the total amount authorized under subsections (a)(1), (a)(2), (a)(5), and (a)(7), not less than $2,000,000 shall be available for the salaries of faculty members of two-year and four-year colleges that have only small or no doctoral programs in science and engineering or of universities that have very limited science and engineering programs, for the purpose of enabling them to participate in research projects at institutions other than the faculty members' home institutions.

(e) Of the total amount authorized under subsection (a)(4), not more than $500,000 is authorized for the Ocean Margin Drilling Project, including such sums as may be necessary for the National Academy of Sciences study specified in section 3(c).

(f) Of the total amount authorized under subsection (a)(9), not more than $1,600,000 is authorized for United States/Union of Soviet Socialist Republics cooperative research, no portion of which shall be expended until the President has certified in writing to the Congress that such expenditures shall be of direct and very substantial benefit to the United States.

(g) Of the total amount authorized under subsection (a)(8), $14,500,000 is authorized for International Cooperative Science Activities.

Sec. 3. (a) The Foundation shall prepare a report on the Ocean Margin Drilling Project and shall transmit the report to Congress not later than December 31, 1980. The report shall include—

(1) plans for conversion of the Glomar Explorer or other drilling platform;

(2) plans for drilling;

(3) detailed cost estimates;

(4) a discussion of the feasibility and cost of alternative drilling platforms;

(5) plans for funding; and

(6) other plans.

(b) No funds shall be obligated for the Ocean Margin Drilling Project after December 31, 1980, until the report specified in subsection (a) is transmitted Congress.

(c) The National Academy of Sciences shall study marine earth sciences research and report to the Congress.

(d) To the extent permitted by law, all Federal funding of the Ocean Margin Drilling Project shall be provided from the Windfall Profit Tax Account.

Sec. 4. Appropriations made under the authority provided in sections 2 and 6 shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making the appropriations.

Sec. 5. From appropriations made under the authority provided in this Act, not more than $5,000 may be used for official consultation, representation, or other extraordinary expenses at the discretion of the Director of the National Science Foundation. His determination will be final and conclusive upon the accounting officers of the Government.

Sec. 6. Besides the sums authorized by section 2, not more than $5,500,000 is authorized to be appropriated for the fiscal year 1981 for expenses of the National Science Foundation incurred outside the United States, to be drawn from foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

Sec. 7. Funds may be transferred among the categories listed in section 2(a), but neither the total funds transferred from any category nor the total funds transferred to any category may exceed 10 per centum of the amount authorized for that category in section 2(a) or available for that category after the application of section 10, unless—

(1) thirty calendar days on each of which at least one House of Congress is in session have passed after the Director of the National Science Foundation or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the Committee on Science and Technology of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(2) before the expiration of the thirty days both the Committee on Science and Technology of the House and the Committee on Labor and Human Resources of the Senate have written to the Director to the effect that they have no objection to the proposed transfer.

Sec. 8. The National Science Foundation is directed to consolidate all Directories, including the Science Education Directorate, under one roof, in the present location of the central administrative offices, on or before August 1, 1982.

Sec. 9. The Director of the National Science Foundation, jointly with the Secretary of Education, shall develop and transmit to Congress a proposed joint Science Education Program plan.

Sec. 10. If the total amount of appropriations made by any Act for program activities included in section 2 for the fiscal year 1981 is less than the total amount authorized to be appropriated for those activities by section 2, the amount available for such appropriations for any particular program activity shall bear the same ratio to the amount authorized to be appropriated for that activity by section 2 as the total amount of the appropriations made by such appropriation Act for all included program activities bears to the total amount authorized to be appropriated for those activities by section 2 (with each ceiling and floor set forth in section 2 being reduced in the same ratio for purposes of determining the amounts so available), except to the extent specifically otherwise provided in the text of the Act making the appropriations for the program activities involved.

Sec. 11. (a) Section 15 of the National Science Foundation Act of 1950 is amended by striking out subsection (c), and by redesignating subsection (d) as subsection (c).

(b) The text of section 16 of such Act is amended to read as follows:

"Sec. 16. To enable the Foundation to carry out its powers and duties, only such sums may be appropriated as the Congress may authorize by law.".

Sec. 12. (a) Section 2(a) of the Act entitled "An Act to establish a National Medal of Science to provide recognition for individuals who make outstanding contributions in the physical, biological, mathematical, and engineering sciences", approved August 25, 1959 (42 U.S.C. 1881(a)), is amended by striking out "or engineering" and inserting in lieu thereof "engineering, behavioral, or social".

(b) The title of such Act is amended by striking out "and engineering" and inserting in lieu thereof "engineering, behavioral, and social".

Sec. 13. The President, with the assistance of the Director of the Office of Science and Technology Policy and members of the Cabinet, shall develop a comprehensive national policy with regard to women and minorities in science and technology. Further, the President is directed to report to the Congress a comprehensive legislative and administrative program to implement this policy before January 1, 1981.

Sec. 14. The Director of the National Science Foundation shall henceforth require the titles of all its grants to contain a brief statement of the purpose of the research being undertaken. Insofar as possible such statements shall be in layman's language.

Sec. 15. Any deferral of funds for research and related activities appropriated pursuant to the National Science Foundation Authorization Act for Fiscal Year 1980 (Public Law 96-44) shall be applied such that the ratios of the amount deferred from a category to the amount authorized for that category shall be the same for all categories of section 2(a) of that Act, excepting category (5).

Mr. BROWN of California (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I will ask the gentleman from California (Mr. Brown) what his intention is as far as the remainder of the evening is concerned. Are we going to finish this bill, and does the gentleman have an estimate of time?

Mr. BROWN of California. Mr. Chairman, if the gentleman will yield, it is my understanding that we have completed all general debate, and that the gentleman from Ohio may have an amendment to offer.

I have two minor amendments which are perfecting amendments that are technical in nature. It is our hope that we can complete the bill within a very short period of time, and I have no further understanding of the program for the rest of the evening.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I make this motion for the purpose of explaining where we are from a parliamentary standpoint, and at the conclusion of my explanation I have two technical amendments which I will offer.

I would like to refresh the memory of the Members as to the status of this bill. It was brought up for general debate on June 16, and general debate was completed at that time. Subsequent to that the House took up the appropriation bill with regard to this matter and passed the appropriation bill, so that, much as I regret to make the statement, very little of what we do with regard to the actual passage of this bill will have an impact upon the actual dollars spent next year.

The appropriation bill that passed the House was, as I recall, identical to the President's request, but with a slightly different distribution of funds. What the Committee on Appropriations did—and this has the full support of the authorizing committee, I might say, except for the magnitude of the numbers—was to put additional emphasis upon science education in the Foundation's budget. It did so by cutting slightly into the research directorates and taking the money from the research directorates and putting it into science education. The Senate has likewise considered the authorization bill and has passed it also at the same amount as the President's request. So we have more or less established the parameters within which the budget for the Foundation will exist for the next fiscal year.

I might also indicate that the distinguished gentleman from Ohio (Mr. Miller) succeeded in placing an amendment on the appropriation bill which withheld 2 percent of the total, and while the exact impact of that on the National Science Foundation is not clear, I think it is obvious that the amount of money available for the Foundation will be somewhat less than the amount budgeted by the President as far as the appropriation bill is concerned.

Now, the authorization bill which we have before us, as I pointed out at the time of general debate, is a bill which is less than the President's original budget submission in January, but it is approximately $50 million more than his revised budget.

□ 1740

I would like to make the point that since June, when we discussed this bill, the administration has already recognized that the amount that they requested was inadequate due to an unexpected escalation in the cost of energy. It should not have been unexpected, but they say unexpected.

A good part of the money in this bill goes to provide fuel for our oceanographic fleet, fuel for research activities on Antarctica and fuel for other kinds of activities that are paid for by the Foundation, and the administration has now submitted a request for $10 million more than was in their revised budget request.

I might even say further that, in the President's new economic policy for the reindustrialization of American industry announced just last week—not yet translated into specific figures—there is a request for about $300 million more for research and development in fiscal year 1981 than was included in his budget request in April.

Now, while the National Science Foundation is not the only agency doing research and development, it is highly likely that when this additional request is translated and distributed to the various agencies, the President will be requesting an additional $50 million or $60 million for the research programs of the National Science Foundation.

What I am saying to the Members is that I think the bill that the authorizing committee brought to the floor in June will end up being almost exactly at the level which the President's revised requests are going to ask for when he finishes the rethinking that is going on in the administration at the present time.

I ask the Members to bear these points in mind in the event that any of the Members, in all good faith, should be tempted to offer additional substantial cuts in this authorization.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment to strike section 15 of the bill.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California: Strike all of section 15, beginning on page 9, line 17 and ending on line 23.

Mr. BROWN of California. Mr. Chairman, this is an amendment which I discussed on the floor during general debate and which I had agreed to with the distinguished chairman of the Appropriations Subcommittee, the gentleman from Massachusetts (Mr. BOLAND), which removes language which attempted to direct the way in which rescissions in the President's budget would be made in fiscal year 1980.

The distinguished gentleman from Massachusetts has convinced me with his eloquence and with his logic that this was an unnecessary effort on the part of the authorizing committee, and I am pleased to offer this amendment to accommodate his feelings in that regard.

Mr. HOLLENBECK. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to my distinguished colleague, the ranking minority member of the subcommittee, the gentleman from New Jersey.

Mr. HOLLENBECK. Mr. Chairman, the minority is familiar with the purpose behind this amendment and the reasons for it, and we have studied it and we have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BROWN).

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments?

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California: In section 13, lines 7-8, page 9, delete the phrase "with regard to women and minorities in science and technology." and insert in lieu thereof: the phrase "with regard to women, minorities, science and technology."

Mr. BROWN of California. Mr. Chairman, this is a purely technical amendment to correct a typographical error in the language, and it merely states what was intended to be the thrust of the language.

Mr. HOLLENBECK. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New Jersey.

Mr. HOLLENBECK. Mr. Chairman, again we are familiar with this amendment. It is purely a technical amendment, and there is no objection on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BROWN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 2, line 12, delete "$187,510,000" and insert in lieu thereof "$177,900,000".

Mr. ASHBROOK. Mr. Chairman, I should probably preface my remarks by saying, "Here we go again." I say that because I have offered amendments to National Science Foundation authorization and appropriation legislation for several years, each time with the hope that NSF will get the message that taxpayers do not wish to see their hard-earned dollars expended on projects which are often of a dubious nature. My amendment should come as no surprise to my colleagues. I am simply proposing that the funding for biological, behavioral and social science research be held at the level appropriated in fiscal 1980. I believe that my amendment is a modest one in light of our present budgetary crisis and I think that most of my colleagues will be able to accept it. While I would personally like to cut more, I will settle for adoption of this amendment.

Many of my colleagues may recall some of the ridiculous taxpayer-financed studies which we discussed during last year's debate. How could anyone forget that memorable $52,000 study of the sex life of the African white fronted bee eater or the $88,000 project detailing homosexual couple formation and career conflicts. And then there was that $83,000 grant to the American Bar Association financing a study of the legal profession—by the legal profession—at taxpayer's expense. And finally, let us not forget that $68,000 project which revealed, at long last, the differences between men and women.

One would think that after last year's debate, the officials at NSF would be a little more careful with the tax money which is entrusted them. From what I can tell, they were not. I have made it a point to monitor NSF grants very closely during the last year. I have not been favorably impressed.

Duplication of existing work seems to be about par for the course at NSF. In 1979, the Library of Congress conducted a study of research in the areas supported by the National Science Foundation to see what activity was going on outside of that funded by the agency. In all six cases, knowledge had been expanded without NSF help. In some cases, a virtual avalanche of work had been conducted on the very same topics, or topics which were closely related.

As I pointed out to the Science and Technology Subcommittee earlier this year, the NSF, in March of 1979, spent $30,759 for a book on women scientists in the United States from 1830 to 1980. The Library of Congress found no less than 82 books and articles on this subject dating back to 1970. Unfortunately, this is not an isolated example.

Let us take for instance, the study of decisionmaking, an area where many of us might feel the Federal Government does not belong—particularly when you consider its own dismal record. $93,686 for a project entitled "Comparative Study of Organization"; $95,117 for "Decision Making Under Majority Rule;" $49,120 for "Multiperson Cooperative Game Theory." The list goes on.

First, from a management standpoint, the funding of duplicate projects is just plain irresponsible. Second, the National Science Foundation has no business funding studies which can and have been well researched in the private sector. As a businessman, as a legislator, I can appreciate the need for studies on decisionmaking but the last place I would go for help is the Federal Government.

On that note, let us take a look at some of the areas where the NSF has funded studies the Federal Government has no business funding. While the Carter administration has made no secret of its interest in regulating the American family, the National Science Foundation has funded social engineering away from the public eye. In fact, in the 17 separate grants I reviewed in that category, I totaled expenditures of more than $1,250,000. Studies like "Socialization of Achieving Behavior in Men and Women," $149,724. "Birth Spacing and Family Size," $48,054. "Families and Communities: Helping Networks," $150,262. "Gender Differences in Influenceability," perhaps a sequel to last year's study which told us the basic differences between the two sexes, $45,475. And there is plenty more where that came from. When my colleagues rise to oppose this amendment, to say that its adoption will cause a setback in the scientific community, I wonder if they will be able to respond to my objections to these taxpayer-financed social studies. Looking at these grants makes one wonder how we were ever able to survive for these 2,000 years. One would think that we never had successful families in the United States before the Federal Government made families its business.

I also strongly object to taxpayer-financed doctoral dissertations. I would guess that many of my colleagues in this Congress did their undergraduate work in political science. I wonder if any of them studied under instructors who were being heavily subsidized by the Federal Government. Well, I can tell you that some of our sons and daughters have and I, for one, have serious reservations about the Federal Government involving itself in academia to such a dangerous degree.

I frankly could not believe how many separate grants were funded in this last fiscal year by the National Science Foundation that enabled budding, young professors to complete political science projects, particularly when so many of the projects, as is so often the case with NSF-financed projects, were duplicates. I counted $56,805 in grants for doctoral dissertations in anthropology and $94,722 for dissertations in political science, the history of science and sociology. I will note that many of my colleagues would not blink an eye at that kind of money but if that is the case here, then why such a small amount? How can we arbitrarily subsidize these future professors? If we were to use NSF logic, if we were to give them the full amount as suggested by the committee, then why not give tax dollars to everyone who wants to get a doctorate? Why not give away more money that we do not have?

After reviewing some of the NSF grants to academia, I could not help but wonder how Madison and Hamilton and Jay ever completed the Federalist Papers without a Federal subsidy. I wonder how De Tocqueville ever got started on "Democracy in America" without an NSF grant to pay for his travel expenses from France. Even Marx and Engels, who launched the greatest revolutionary movement of our time did so without Government money.

Mr. Chairman, last year when the House adopted a similar amendment which I offered to the NSF authorization bill, I pointed out that when the scientific process is bureaucratized and used by Government, thought control and Government intervention into fundamental freedom is inevitable. If an academic is funded by big government, will his or her work not then be biased toward that big government? I think it will.

Finally, the National Science Foundation has pursued a policy typical of Federal agencies in the Carter administration. Like the Department of Commerce, which has allowed the illegal diversion of sophisticated technology to the Soviet Union for the benefit of big business and to the detriment of our Nation, NSF has funded a host of projects which benefit other nations which share few, if any of our basic values.

Take for instance, a grant which I just learned about last week—a $300,000 grant for the support of scientists for research in Communist China to the International Communications Agency. That should go along well with the previously awarded grant of $170,000 to that very same agency for that very purpose. All in all, I totalled more than $1 million in that aid category, which I call "Aid to the Communists." Those grants included a $153,949 grant which financed 'collaborative United States-U.S.S.R. research in econometric modeling and computer analysis applied to the economics and management of large systems." Perhaps some of my colleagues would support that venture but I would not.

Mr. Chairman, every year when I offer these amendments, opponents rise to say that if adopted, the amendment will cause a dangerous setback for science, that it will prevent the future development of cancer cures, that we will never again have another discovery like the Salk vaccine. I do not buy that at all. I'm simply proposing that we maintain funding for the National Science Foundation at the level appropriated in fiscal 1980. If the NSF can come back next year and show us that they have spent the money well, that they have not squandered it on projects they have absolutely no business sponsoring, then perhaps some of us will be more receptive to their requests.

I urge adoption of the amendment.

Mr. LOTT. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would like to speak briefly in support of this amendment because we are talking about just a minimum of a cut. Over the years I have paid close attention to some of the grants that have been approved in this behavioral science area, and there is no question in my mind that a lot of them are of a very dubious nature and value.

I want to give credit where credit is due to the distinguished ranking member of the subcommittee and committee that has worked on this to try to get the behavioral science program better under control. He has already spoken of that, I believe, in his remarks in general debate. But I think that still we have to keep the pressure on so that some of these ridiculous programs we have heard about in the past do not continue to be funded where money is wasted on personal items not really dealing with the behavioral sciences. I think a minimum cut here that the gentleman from Ohio has offered with his amendment is in order. It helps to keep emphasis on the problem, and certainly we should be able to make some small cut in the National Science Foundation and in the authorization we have here.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Chairman, in support of my effort to be brief, I did not point out what the $177 million figure is. That is the amount of last year's budget. So we are not really talking about a deep cut. Yes, we would be cutting the increase that they would normally get, and I think that is a very reasonable cut.

Mr. LOTT. I thank the gentleman for his comments.

Mr. Chairman, I would like to ask the chairman of the committee, is the chairman satisfied that we are getting a more responsible decisionmaking process from the NSF in making these behavioral science grants?

Mr. BROWN of California. Will the gentleman yield?

Mr. LOTT. I yield to the gentleman from California.

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Mr. BROWN of California. I am happy to say that there has been substantial improvement in the quality of the granting process and the quality of the research done in these areas that have been subject to scrutiny by the gentleman from Ohio.

Not only has the Foundation been much more careful in the type of research for which it awards grants, but our distinguished colleague from New Jersey has introduced language into the authorizing bill which requires them to do a much better job of explaining and tightening the titles of these grants so that they will not be subject to misinterpretation.

I am frankly appreciative of the effort that the gentleman from Ohio has made in seeking to make these kinds of improvements. I think he knows, as we know, that in the social and behavioral sciences we are not as far advanced as we are in some of the so-called hard sciences. They require greater scrutiny and I think a closer direction to make sure that we are actually improving the quality of this science. I think we are doing that, and I can respond with an enthusiastic affirmative to the gentleman's question as to whether we are making that kind of effort.

Mr. LOTT. I appreciate the chairman's comments.

I also want to say I am pleased to see the language in the report that calls for some fairer geographic distribution of these grants also. That is an area where I have had a lot of concern over the past few years.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I would like to comment, and I am afraid to oppose the amendment, because we had two very interesting things come on the floor of the House. Objection was made to a program entitled "Study of the Sweat Glands of Australian Aborigines." It was considered to be totally irrelevant, and why are we interested.

It turned out to be a most important study that the Army wanted because of survival in very hot desert conditions.

Another was a study entitled "Study of the Sex Life of the Fruitfly."

I remember one of our colleagues from Texas rose and said that this study saved millions of dollars for the growers of Texas, that they did not have to spray from airplanes any more. They merely put out attractive little lures with exactly the right kind of perfume, sex-attractive perfume, and solved a great problem for that whole area of Texas.

I think the titling has a lot to do with the discouragement of the public.

Thank you.

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. Lott) has expired.

(At the request of Mr. Ashbrook and by unanimous consent, Mr. Lott was allowed to proceed for 3 additional minutes.)

Mr. LOTT. I would like to make one comment. I think the gentlewoman makes a very important point. I have also taken the time to look at some of these grants and seen where some of this money is spent. I found one particular instance where some of the grant money was spent for luggage for the person who was going to do the study, such as a typewriter, guide services, private airplane transportation in South America; and that is why I think that a minimal reduction of the nature we are talking about here would encourage the NSF to see that the people's money is not spent for such things as luggage and typewriters and a very large salary for a guide and things like that. That is why I support the amendment.

While I recognize some of these things sound bad, there is some value and some merit in it.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Ohio.

Mr. ASHBROOK. If I could direct one comment to my very good friend and esteemed colleague from New Jersey in a vein somewhat of using the pessimistic-optimistic argument, half-full, half-empty, if you look at my amendment, and what we are saying, and the gentleman from Ohio finds he must almost say this for the record, what we would in effect be saying if we passed my amendment is we are probably doing with 95 to 97 percent good; and maybe they could be a little more careful with the 3 percent we are trying to cut.

The gentlewoman used the tactic, and I suppose we could use the other side of it. We always use the good side to carry the bad. I suppose in past years I have used the bad side to somewhat denigrate some of the good side.

I will stipulate for the record I think they do a lot of good. As a matter of fact, the two committees I have had some degree of oversight on, I think in many ways the NSF runs a tighter ship than the NIE, in education and LEAA in the judiciary.

It is not just one isolated area of Government. I believe earnestly we still could make this small cut and not do any great disservice to all those projects we are talking about and maybe make their degree of selectivity in the projects a little more acute.

Mr. PEASE. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Ohio.

Mr. PEASE. I thank the gentleman for yielding.

I am a member of the subcommittee. I would be grateful if the gentleman would give me specific information about the particular projects that he had in mind. I would like to pursue it on the subcommittee. I think we all are interested in cutting out waste and making sure our taxpayers are not ripped off.

We on the floor of the House, it seems to me, have a responsibility to be factual and objective, and I know the gentleman is, and I know that he would not want to unfairly hold up a project to ridicule. I would just promise him that if he would present me with the specifics——

The CHAIRMAN. The time of the gentleman from Mississippi (Mr. Lott) has expired.

(At the request of Mr. Pease and by unanimous consent, Mr. Lott was allowed to proceed for 1 additional minute.)

Mr. PEASE. If the gentleman would continue to yield, I would just promise him if he would provide me with the specifics, I would be happy to pursue that as a member of the subcommittee. I do think that we have to be very careful not to broadbrush and paint these projects as being wasteful and that sort of thing. I am pleased to note the very fair attitude of my colleague from Ohio who points out that the NSF has done a better job than some other agencies in oversight.

I would come to a different conclusion. Mine would be that we ought to reward that tightness on the NSF's part with the amount of their authorization and not to cut them back. I think that is a poor reward for the work they have been doing.

Mr. LOTT. The details of those particular programs are in the record from the debate of last year. I do have some specifics I will give the gentleman.

I think NSF has been improving. I think we need to keep the pressure on and make sure that the money is properly spent.

Mr. PEASE. I thank my colleague.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Does the gentleman know that much of this research deals with productivity, that the Japanese are in fact using a great deal of these studies to improve their own productivity? We seem to stomp on some of this kind of research. While I realize there may be some dogs in the bunch here, I wanted to make the point clear that much of this category does deal with productivity research. I think that is important.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

I realize I am addressing the House for a second time. I will take 1 minute.

Let us be very honest about our budgetary situation. I have spent a considerable amount of time with the NSF people. They clearly indicate in this particular category they have high priority; they have middle priority and they have low priority areas.

I think it is proper to tell anyone, I would say to my friend from Ohio, my colleague (Mr. Pease), it is proper to tell anyone to cut down some the lower priority. I think that is exactly what this amendment would do would be to encourage them to cut back on some of the low-priority items, not only because of some of the concerns we have, but also budgetary concerns.

I yield back the balance of my time.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

I do want to call to the attention of my colleagues the urgent necessity of this NSF funding to examine not only the question of productivity in this country, and that is an urgently important matter, but also to have a comprehensive scientific look at what is happening to our planet. All of us have been shocked, indeed, horrified by the July report of The Year 2000 issued by the State Department, and the President's Council on Environmental Quality, and by an equally horrendous projection of population explosion and environmental degradation released by the World Bank this month.

Clearly, this Congress, this House and the other body, ought to have a systematic, structured, organized way of looking at these problems of future global change that threaten the Earths ecosystems as we know them.

But certainly in the meantime we urgently need the National Science Foundation to create a data base, to take a systematic look at these awesome global changes that are coming about, so that when the Congress finally creates a means to cope, we will have a systematic, scientific, technologically sound way of confronting these issues and developing public policies and programs to deal with them.

At the U.N. conference on population and development at Sri Lanki in August 1979, attended by over 200 parliamentarians from 52 developed and developing nations, including Senator Percy, Representative John Erlenborn and myself, one of the major recommendations coming out of the conference was that each national parliament should organize a committee of members concerned with the challenges of global population and development problems. High on the agenda of the 97th Congress should be creation of a joint Senate-House committee to create strategies to help us and other leaders in the developed and developing world cope with the impending devastation of the world's fragile ecosystems.

We urgently need to establish a more secure and well-positioned center of expertise on these complex issues and to advise both the Congress and the executive branch on the momentous issues facing us worldwide:

World population is now 4.4 billion, and growing at a rate of 90 million persons a year, will reach nearly 7 billion by the year 2000. Ninety percent of this increase will occur in the developing world—Asia, Africa and Latin America—where the poor are getting poorer.

This is producing a desperate need for job creation. The developing world will have a deficit over what they have now of an additional 800 million jobs by the year 2000, more than the entire employed population of the Western World. How can this enormous job deficit be met? The factors that encourage developing country citizens to enter the United States illegally should be examined by Congress more closely than before. These factors include both "push" factors, such as extensive unemployment and "pull" factors, such as the perceived opportunity of relatively highly paid employment in the United States.

According to World Bank and "Global 2000" studies, these disparities will continue and in all likelihood grow in the foreseeable future. Hence the forces fueling the "push-pull" components driving illegal immigration over our borders may be expected to accelerate considerably in the coming decades.

According to the "Global 2000" report, the world faces the "potential for global problems of alarming proportions" by the turn of the century unless steps are taken to avert environmental and population problems.

"If present trends continue, the world in 2000 will be more crowded, more polluted, less stable ecologically and more vulnerable to disruption than the world we live in now," according to the report, a 3-year study that coordinated data from all Federal Government agencies.

The "Global 2000" study, in its more than 800 pages of detail, paints a generally gloomy picture:

> Income: Using estimates of gross national product, the "Global 2000" researchers project overall increases, but the gaps between the rich and poor countries are expected to widen.
>
> Food: Food production is projected to be 90 percent higher in 2000 than in 1970, but population growth will counterbalance much of that increase.
>
> Fish: Although fishery resources have been put forth as a possible solution to world food shortages, the international harvest of fish is "expected to rise little, if at all, by the year 2000," says the report.
>
> Forests: On the basis of present trends, government forecasters warn that "significant losses of world forests" will continue over the next 20 years as the demand for forest products and wood fuel increases.
>
> Water: Rapidly increasing demands for fresh water may worsen regional water shortages and water quality deterioration over the next two decades. Irrigation for agriculture and rising consumption from population growth will put increasing demands on water and water development will become more costly.
>
> Energy: The study's projections show no "early relief" from the world's energy problems and cost increases would make it difficult for less developed countries to meet their demands. World energy needs are projected to increase nearly 60 percent by 1990.
>
> Environmental consequences: Population growth and resource demands would dramatically affect the quality of the environment in almost every way, says the study, unless current practices change. With the push for increased food production, water would become more polluted from heavy application of pesticides and the rapid loss of tropical forests could also affect water supplies. World climate would be altered by increasing concentrations of carbon dioxide, and acid rain threatens more damage to lakes, soils and crops.

Mr. Chairman, I could go on and on, reciting one bleak statistic after the other about the major population problems facing society the world over today. The "Global 2000" study—issued by the State Department and the President's Council on Environmental Quality—warned last month that:

> If present trends continue, the world in 2000 will be more crowded, more polluted, less stable ecologically and more vulnerable to disruption than the world we live in now.

And the World Bank predicted just this month that economic growth rates will decline worldwide in the first half of the 1980's because of inflation, recession, and higher energy costs.

Here, for example, is what the World Bank study found:

> Economic growth rates will decline around the world in the first half of the 1980's because of inflation, recession, and higher costs of energy.
>
> African and South Asian countries that import all of their oil and contain most of the 800 million people living in what the bank calls "absolute poverty" will be hardest hit, with growth rates sinking to the levels of the 60's or lower, the report said, or about 1.8 to 2.4 percent.
>
> Under any but the most favorable circumstances, people in sub-Saharian Africa will be poorer in 1990 than they are now, according to the report's projections.
>
> The study, "World Development Report, 1980," is the bank's third. It is less optimistic than the 1979 study, which was "far less optimistic" than the 1978 report, a bank official said.
>
> Similar concerns are expressed in a foreword to the report by Robert S. McNamara, who will retire in 1981 after 13 years as president of the World Bank. "There is a real risk," he writes, "that the domestic economic problems of richer countries will cause them to give inadequate attention to the immense problems of the developing world and to the hardships that narrow or shortsighted policies—in energy, trade and financial assistance—can inflict."

This is not a pretty picture, and population growth is one of the main keys to the whole problem.

Perhaps we need a joint House-Senate committee which would examine the major problems of the developing world and how best the United States can construct an agenda to help the Third World in such areas, for example, as decertification—the annual reversion of grazing lands to desert, dust and sand, that Secretary of State Muskie described at the U.N. last week, equal in area to the size of his State of Maine; the loss of crop lands and grazing lands and depletion of our forests and ocean fisheries. Current population trends are causing serious problems in resource depletion, the most desperate energy and food shortages and tragic environmental degradation.

We cannot afford to wait much longer, and the House and Senate should act expeditiously to structure a mechanism to cope with the horrendous problems threatening to envelop us by the year 2000, if we do not encourage intelligent global policies to conserve the richness of our planet and its sensitive ecosystems which current global population trends threaten to ravage.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ASHBROOK

Mr. BROWN of California. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. BROWN of California as a substitute for the amendment offered by Mr. ASHBROOK: On page 2, line 7 strike "$235,800,000" and insert in lieu thereof "$237,100,000"; on page 2, line 9 strike "$61,400,000" and insert in lieu thereof "$64,200,000"; and on page 2, line 12 strike "$187,510,000" and insert in lieu thereof "$183,410,000".

Mr. BROWN of California. Mr. Chairman, may I precede my remarks by again acknowledging the very healthy contribution made by the gentleman from Ohio (Mr. ASHBROOK) in focusing attention on the need for greater accountability, responsibility and quality in social science research, which I think is the area on which the gentleman has primarily focused. As some of the previous speakers have indicated, we have tended to downgrade this type of science in this country to our own detriment.

Our competitors in Japan have, as they have in connection with our technological developments in many other areas, made very widespread use of our social science research in the fields of worker productivity, motivation and other research of that sort. In considerable degree their success in doing a better job in productivity than we have is due to the fact that they use our published research and put it into practice in their industrial system, whereas we tend to disregard it. That is regrettable.

I think this focus on social science research may help us to correct that shortcoming.

Let me explain very briefly what my substitute would do. It concedes about half of the reduction which the gentleman from Ohio (Mr. ASHBROCK) wishes to make. It reduces the biological, behavioral, and social sciences by a total of $4.1 million, but it takes that same amount of money and uses it to meet the request that the administration has made in part for a $10 million additional supplement to meet the escalating cost of fuel oil. It does that by transferring the reduction from biological, behavioral and social sciences, to the Antarctic program and to the astronomical atmospheric, Earth and ocean sciences program.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I would be happy to yield.

Mr. ASHBROOK. Well, I think what my colleague has done is most interesting. I have been sitting here thinking. I do not know who would win on a vote. Let us not find out. As far as I am concerned, I think what the gentleman has done serves the purpose and I would accept it as a substitute for my amendment.

Mr. BROWN of California. I will not belabor the point.

Mr. HOLLENBECK. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I would be happy to yield to the gentleman from New Jersey.

Mr. HOLLENBECK. Mr. Chairman, I rise in favor of the Brown substitute and against the Ashbrook amendment.

I want to associate myself with the remarks of our subcommittee chairman and colleague, the gentleman from California (Mr. BROWN), with regard to the Ashbrook amendment. As I indicated in my opening statement, the biological, behavioral, and social sciences are today at the same stage of development I believe that electronics and the chemical industry were just prior to the Second World War and we have seen how those sciences have taken off with a tremendous variety of applications which have changed entirely the character of our modern lives.

The traditional so-called soft sciences are about to do the same. We can see this in biology, where the introduction of recombinant DNA techniques and other forms of biological engineering are on the verge of exploitation. They are expected to open up a whole new range of innovation in the pharmaceutical industry, in the development of new materials, the development of new methods of industrial fermentation in the chemical industry.

The discovery of endorphins and enkephalins, the natural analogs of morphine produced by the brain, will, I am told by the director of research for a major drug company, revolutionize anesthesia and pain relief.

Memory research sponsored by NSF is expected to have a major impact on the way courts and the law treat eyewitness testimony.

Psychological studies are on the way to understanding the causes of obesity.

Energy conservation, without which we cannot solve our national energy problems, cannot be achieved by hardware alone—it depends on people—turning down thermostats, driving slower, buying energy-efficient cars and appliances, or making the decision to actually install insulation. We desperately need to know what motivates people to conserve energy. To obtain that knowledge and translate it into action will require advances in sociology, psychology, economics, and political science—all four of them social sciences.

Mr. Chairman, I think I have made my point—the biological, behavioral, and social sciences are of great importance to our future economic well-being. Indeed, we will need these very sciences to determine where best to allocate R. & D. funds for improving economic productivity.

It is, however, true, Mr. Chairman, that there has been great misunderstanding with regard to the purpose of some scientific research. Since the subjects are esoteric, it should not surprise us when the public questions why the Government is apparently wasting taxpayers' money on such arcane topics as the life-cycle evolution and speciation in North American gryllus or the experience of crowding. In fact, the first grant was given to find out how field crickets behave. Field crickets, and their relatives, locusts and grasshoppers, are extremely destructive to agricultural produce. Understanding their life cycle and development could well lead to safe methods of controlling these agricultural pests. The grant on the experience of crowding could contribute to reducing crime in the streets or increasing workplace productivity if we knew better how people feel when their personal spaces are violated as a result of the crowded conditions in which they live and work.

One example where a "silly" grant did pay off was a project called "The Growth of Viruses in Monkey Kidney Cells." That project won a Nobel prize for Dr. John Enders and it made possible the controlled growth of polio viruses which led Jonas Salk to his development of a polio vaccine, virtually eliminating a disease which affected me as a child.

Mr. Chairman, in order to correct this, at my suggestion H.R. 7115 contains a provision which stipulates that hereafter the National Science Foundation must require all grant titles to include a brief statement of purpose—a subject touched upon by the gentlelady from New Jersey (Mrs. FENWICK). It does seem to me that scientists have an obligation to explain to the public, which after all is supporting their research, why it is being undertaken. And they should do this in language which is understandable to the layman. I believe that if the Foundation and the scientific community make a sincere effort in this regard, public support for science and technology will grow, as it must, if we are to survive economically in this highly competitive world.

We can ill afford to neglect the sciences while other nations such as Germany, Japan, and the Soviet Union steadily increase the scientific and technical literacy of their citizens on a mass basis. We must not only continue and greatly strengthen our public and private support of science, but we must also develop an educated public which understands science and which knows its limitations as well as its strengths. And I thank the gentleman from Missouri (Mr. LOTT) and the gentleman from Ohio (Mr. ASHBROOK) for their recognition of my amendment and commend them for their attention to the responsibility of the NSF.

Mr. Chairman, I believe my provision on grant titles and the purpose of research which the committee adopted will do much to alleviate the concerns which prompt the amendment, and thus render it unnecessary at this time.

Mr. Chairman, one final point I would make is this. Our economy is predominantly a service economy. Services are the largest single sector—46 percent—of the GNP. And the proportion is growing all the time. To really improve the productivity of our economy, we must above all improve the productivity of services. That task is predominantly a problem for the social and behavioral sciences. If we slight funding for these sciences now, we are foreclosing most improvement in the productivity and working conditions of the vast majority of working Americans, that is, 58 million working men and women, or approximately 65 percent of our labor force.

The Brown substitute, which the gentleman from Ohio (Mr. ASHBROOK) has accepted, is well directed at this time and is typical of the gentleman's awareness of several other potentially catastrophic problems facing our Nation's physical environment.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

I rise to speak in favor of the substitute amendment.

Actually I rise to direct some questions more than to address myself at any particular length to the amendment.

First, I wish to compliment the distinguished chairman of the subcommittee for some very fine work in a very important area. I am glad that the gentleman is offering this substitute amendment.

There are two areas of concern to me and I think would be of particular concern to the gentleman, since he is from California. One has to do with this very specific field of inquiry on earthquake consequences and societal acceptance of the pending threat. I noticed in a science magazine of a technical nature just last week that one of the leading scientists in this area had written the Governor of California in very precise terms about the rather imminent danger of a very substantial earthquake.

Apparently there has been very little response.

Does this legislation, this authorization, in any way recognize this very important area to which much could be contributed by the Science Foundation for the avoidance of otherwise catastrophic consequences of such a tremor?

Mr. BROWN of California. Mr. Chairman, would the gentleman yield?

Mr. GONZALEZ. Certainly.

Mr. BROWN of California. I am very pleased that the gentleman brought the subject up. I am sure he recalls that I had the pleasure of sponsoring the Earthquake Hazard Reduction Act which the House passed 3 years ago.

The act provides a key role in this area to the National Science Foundation, as well as the Geological Survey in the Department of the Interior and to the Federal Emergency Management Agency as a part of a coordinated program to understand and reduce the hazards to our urban communities and other communities from earthquakes.

The science has progressed to the point where we are able to make reasonably accurate predictions of earthquake occurrences in some circumstances. What we need now is further work on organizing our social systems to take advantage of this knowledge and to protect our society from the catastrophic consequences of earthquakes. The Science Foundation does play a lead role in that.

Mr. GONZALEZ. The second question has to do with something of more immediate concern to my area. The gentleman will recall last year's oil spill in the Bay of Campeche. There were some very consequential and rather detrimental results, and to my complete dismay I find neither on the State level or on the national level do we have resources and recourse to even study now the consequences of our impact on our environmental, on our estuaries in Texas. It just seems terrible.

I notice that in this bill the Foundation has a specific area on oceanographic studies; also some local scientists at the University of Texas in San Antonio have stated that some of the very unusual weather manifestations and phenomena in our particular area and right above the geographical area of the oil spill was perhaps a consequence of that spill.

So recently I asked the leading oceanographic scientists of the U.S. Service and he said that the matter has not been studied. They suspect that perhaps there is a relation.

I am wondering if there is any area for that kind of a study in this budget for this authorization.

□ 1810

Mr. BROWN of California. There is a very small amount of research in this area, I might tell the gentleman. If the research is focused on the weather aspects, the primary responsibility in this area would be in the National Oceanic and Atmospheric Administration. If the research focuses on the effects on physical organisms, the ecological effects, it would generally be done by the Environmental Protection Agency, but fundamental research underlying both of these is done in the National Science Foundation.

Mr. GONZALEZ. I thank the gentleman.

Mr. RITTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to support the substitute offered by the gentleman from California to the amendment of the gentleman from Ohio. I want to commend the reasonable compromise proposed by my colleague, the Chairman of the Subcommittee on Science, Research and Technology. Throughout our consideration of this important bill he has always succeeded in finding a middle ground upon which we all could agree—this is no exception.

Let me say also that I too share some of the concerns of the gentleman from Ohio about the character of social and behavioral research—for this reason I wish to commend my colleague, the gentleman from New Jersey, and Ranking Minority Member of our subcommittee for his efforts to provide greater public understanding of biological, behavioral and social sciences. This is terribly important. We cannot afford the breakdown in communication which is so often the case between the public and the scientific community.

As a scientist become Congressman I can personally attest to this. So it is very important to point out some of the highly worthwhile areas of research which are being funded by the biological, behavioral, and social science directorate of the National Science Foundation. Perhaps the best known example is Recombinant DNA research or so-called "genetic engineering." Every day the newspapers related a new discovery. There is substantial evidence to suggest that this new research will produce a whole sector of our economy just as electronics and computers have since World War II.

New techniques of industrial fermentation using biological mechanisms could provide reasonable cost alcohol/gasohol fuels as well as a wide variety of chemicals currently produced from oil and natural gas.

In the area of material resources, bacteria have been discovered which can reduce sulfate and oxide mineral ores to pure metals. This may prove the only economic way to tap the very low grade mineral resources upon which we will depend in the future. At the same time biology helps save our materials shortages it may help protect our environment through the development of artificial bacteria which can digest oil spills. These bacteria have been much in the public eye because they were the subject of a recent Supreme Court decision on the patenting of life.

Mr. Chairman, the watchword of this election year is "industrial innovation and productivity." The social sciences can make an essential contribution. I recall a recent conversation I had with Robert Samuelson, the columnist. He said that Japanese managers are incorporating American developed social science research into new corporate and industrial organizations, industrial quality control, labor-management relations and improved efficiency. Our subcommittee heard eloquent testimony this spring from Professor Robert Cole of the University of Michigan which supports my conversation.

Mr. Chairman, we need better social and economic data and research to understand how to allocate R & D funds and capital investments so as to increase productivity. Preliminary data which we heard in testimony before our Subcommittee by Professor Edwin Mansfield of the University of Pennsylvania indicates that the rate of return on technological innovation growing out of research is very high (25–50 to 1 year). But we need much more data and research before we can put this preliminary understanding to work.

In sum, Mr. Chairman, we cannot afford to become technologically obsolete when we live in such a highly competitive world economy. Technology is, however, people working with machines to satisfy economic and human needs. Hardware alone will not do but we require social and economic research and development as well.

As a final word of warning—we heard testimony yesterday that Japanese and Swedish engineers are required to learn the social sciences, as part of their professional training. This will be tough competition for the future. Support for the social, behavioral, and management sciences is essential both for government and private industry. Otherwise, we may lose the race for the future.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BROWN) as a substitute for the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), as amended.

The amendment, as amended, was agreed to.

Mr. PEASE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate this opportunity to appear before the House to discuss the National Science Foundation authorization for fiscal year 1981 and to urge its approval as it was unanimously discharged from the Science and Technology Committee.

The Subcommittee on Science, Research and Technology, under Congressman GEORGE BROWN's peerless leadership, has completed an extensive review of the NSF budget request. Mr. BROWN has detailed here the recommendations made by the subcommittee and the rationale for them. As a subcommittee member, I fully support the decisions reached by our authorizing committee regarding the National Science Foundation. More specifically, however, this afternoon, I would like to bring the high priority of NSF science education programs to the attention of my colleagues.

For a number of years, this subcommittee and the Congress have been concerned over the fate of science education within the National Science Foundation. The record shows that science education has not fared well in the administration's budget review process—either relative to the rest of the foundation or in absolute terms. And this year is no exception. The January funding request for all of NSF was for 15-percent increase over fiscal year 1980 which was revised by the President to 8.1 percent in March.

In contrast, the request for the science education directorate began at a much smaller 9.6 percent—not even enough to keep up with inflation—and was revised downward to a negative 3.2-percent change compared to the fiscal year 1980 level. In my mind, these funding decisions show a disturbing trend in the ordering of priorities. The administration has discarded even the illusion that science education is one of its priority missions for NSF. Fortunately, our committee agreed to oppose and reverse this disastrous proposal which would have compromised long-term manpower and public education needs for very minor short-term savings. The administration initiated these budgetary slashes, I might add, at exactly the same time it proposed very large increases for basic research programs for the same agency during the same year of severe economic constraints. I find such inconsistent hypotheses particularly disturbing in light of the fact that our best scientists, to paraphrase, are made—not born—and their performance depends on the quality of our teachers, classrooms, and scientific equipment.

We have seen the purchasing power of the science education budget cut to one-third of the level it enjoyed as recently as 1968. This trend cannot be allowed to continue in the face of mounting evidence of an impoverished degree of science literacy in this country and in the face of a crisis shortage of top-flight engineers as well as developing problems in other areas of science.

My colleagues may have seen two recent Washington Post articles describing the extraordinary accomplishments in the Soviet Union in science education which, as the author points out, render the American system "primitive by comparison." I will not take the time to list all of the shortfalls and the dangers thereof of this country's failure to make science literacy a national priority. However, I will take a moment to emphasize that our science training at all academic levels is crucial to our ability to maintain a strong, effective national defense system. One article states:

> The disparity between the level of training in science and mathematics of an average Soviet skilled worker or *military recruit* and that of a non-college-bound American high school graduate, an average worker in one of our major industries or *an average member of our All-Volunteer Army* is so great *that comparisons are meaningless.* (Emphasis is mine.)

In order to reverse this alarming deficiency in this country's science training institutions, the committee has seen fit to approve a modest increase in the President's original budget request for the science education directorate. Unfortunately, the job of providing adequate funding for the science education directorate has been chronically neglected by the National Science Foundation—the Nation's lead science agency. It has fallen to the Science, Research, and Technology Subcommittee year after year to provide a sufficient increase to the administration to request to continue science education program funding at the bare minimum. Our subcommittee has been fortunate in finding support in this endeavor from the NSF Appropriations Subcommittee. I would like to thank Chairman BOLAND for his persevering perspicacity.

The support of my colleagues and of our good friends on the Appropriations Committee has been particularly vital in light of the Myopia of the Foundation's own National Science Board as well as that of the Office of Management and Budget. I would like to quote from a portion of testimony that was offered during our subcommittee hearings on science education which I chaired last February. The remarks were offered by Dr. Jerrold Zacharias, who is widely recognized as a leader in the fields of nuclear physics and educational reform. Dr. Zacharias stated:

> The education directorate is struggling against an almost impossible enemy—an enemy from within. From its inception, the Science Board that supervises the NSF has treated the education directorate as a trivial country cousin. They have said that the Government should give the NSF money for scientific research and never mind what happens to the 200 million people who don't do research.

I agree with Dr. Zacharias that—

> It is those very people whose lives, jobs, leisure, entertainment, food, security, and everything else depend on a sound economy in a democratic society.

Moreover, as the Washington Post articles also pointed out, a high degree of science literacy on the part of all our citizens is essential to increasing our productivity, improving the ability of our electorate to make astute political judgments on a number of public issues that require scientific background, and providing a military that is able to operate the sophisticated weaponry that is critical to the defense of this country.

It is not consistent to both bemoan the public's lack of understanding of technical choices and risks and then undermine the strength of vital science education programs. Yet, the administration continues its policy of robbing Peter to pay Paul, as is evident from its redundant request for science education rescissions for fiscal year 1980.

I believe it is imperative that Congress begin a long-term commitment to improving the quality of science courses, science teachers, science literacy and to expanding the pool of science and engineering students. This Nation cannot afford to further experience an "intellectual shortage" either on the part of our top-flight scientists or on the part of the electorate. Therefore, I ask that the House support the full authorization of this bill with its commitment to science education.

In addition, Mr. Chairman, I would like to note that last February the White House requested the National Science Foundation and the Department of Education to collaborate on a report, due to be released at any minute, on science and engineering education in the United States. I am intrigued by the fact that a study of this caliber—the first in almost two decades—emanated from the White House rather than from the Nation's foremost science agency. Nevertheless, I look forward to the background and to the momentum that this study will undoubtedly provide to the continuing efforts of our subcommittee to focus attention on science education as a national priority.

The President's budget this year placed an important emphasis on basic research. However, providing funds for insuring the continuation of high quality science education programs seems to me an integral part of such an emphasis. Therefore, I asked that no less than $2.4 million of the directorate's funds be used for the science faculty professional development program. The intent is to provide year-long awards to experienced, full-time 2- and 4-year college and university science instruction to increase their competence in science. The administration has requested no funds for this highly competitive and productive program for fiscal year 1981. Fortunately, the subcommittee agreed with my perception of the critical need for this type of opportunity for undergraduate faculty.

It is also of great importance that the National Science Board and the Foundation take immediate steps to narrow the institutional gap between science education and research which serves to diminish the quality of both. The Board and the Foundation should stress excellence in attempting to reach its target population in science education rather than remedial short-term measures. This goal can be best accomplished by finding ways to integrate serious research with education. I have taken steps to enlarge a very small and under-used opportunity in the research directorates to provide 9- to 12-month sabbaticals for undergraduate faculty as employees of the major research projects at large academic institutions.

It is my intent that this expanded opportunity will contribute to breaking down the barriers between research and education and to maintaining the competence of able people who are committed to teaching science. I hope that NSF will see the wisdom of permitting the grantees to combine research and teaching at the university if they see fit during their sabbatical. In addition, I hope State institutions will be encouraged to urge their faculty to take advantage of this program which does not require a matching contribution from the participant's home institution.

There is no longer any excuse for the National Science Foundation to overlook the needs and contributions that can be realized through a strong science education program. The White House is gearing up for such a commitment: The Congress must turn its words into action in this regard. It is rumored that the imminent report on science and engineering education suggests that the United States is perhaps uniquely evolving into a two-culture society—divided between highly trained, professionally engaged scientists and engineers and a scientifically illiterate mass with little or no comprehension of the workings of the modern world. With a little help from the National Science Foundation, such a catastrophe can be reversed.

I include the following articles:

CRISIS IN THE SCIENCE CLASSROOM

(By Efthalia and John Walsh)

Young people going back to school and college this month are members of the post-Sputnik generation, beneficiaries of the highly touted "revolution" in American education two decades ago that transformed the teaching of science, math, and foreign languages. But the new curriculum proved to be no cure-all and now there are warnings of another crisis in the classroom.

The symptoms? Science and math test scores are sagging. Top echelon computer science jobs are going begging. A high-tech military cannot find and keep officers and noncoms to man and maintain sophisticated equipment. American setbacks in international markets raise anxieties that the U.S. work force is losing its technical edge.

Such concerns recently reached the top of the policy pyramid in Washington. President Carter's science advisor Frank Press took over an emergency assessment of science and math education, saying "We would be stupid as a country to permit the continued erosion of science and math training in our primary and secondary schools." As with the 1957 Sputnik, the sense of urgency is sharpened by what is seen as a direct challenge from the Soviet Union. This challenge is expressed not only in growing military strength but in a bid to outpace the United States and other Western nations through an educational "mobilization" program designed to prepare all Soviet youth to participate fully in an advanced technological society.

Central to this Soviet effort is a reform of compulsory education launched 15 years ago and aimed at a major expansion of enrollment and improvement in instruction. Heavy stress is placed on science and mathematics. The capstone of the reform is a new math program that is topped off by two years of calculus in the final two years of the ten-year, general polytechnic school course. The result: An estimated five million Soviet graduates from secondary schools this year will have studied two years of calculus. This compares to about 105,000 U.S. students who will have taken only one year of calculus in high school. Press and many American educators feel that calculus is crucial because it serves as the passport to the study of advanced sciences and higher mathematics.

American math and science teaching reforms of the 1950s and 1960s were designed to produce more scientists and engineers and to prepare young people heading for careers in science. Ironically, the programs may have worked too well. Available data indicates that students on the fast track, taking advanced courses, are as well or better prepared in science and math as American students have ever been. The trouble comes in the underrepresentation of women and minority students in this select group and with the low level of competency in science and math among the overwhelming majority of students.

This time around it will not be enough to develop new course materials, retrain teachers, and provide extra funds for lab equipment and supplies, although that too is necessary. Clearly, there are serious problems with student motivation. A decline in teacher status and pay, poor discipline in the classroom, and financial constraints in most school districts are the most widely publicized of all the difficulties that directly and indirectly affect science and math education. These difficulties, rooted in more fundamental changes in family life and in society at large, are hard to understand and harder to change.

Nevertheless, sentiment is strong that whatever the obstacles, corrective measures must be taken. The surge in Soviet education and comparable efforts in other socialist countries and in friendly rivals such as Japan and Western Europe is seen as putting the U.S. future on the line.

Comparing educational systems in different countries is notoriously tricky. Evidence is accumulating, however, that the Soviets and countries of Eastern Europe are making an extraordinary effort to raise the level of scientific understanding among the masses, which in this case really does mean everybody. Of course, this is what the Russians have been saying they meant to do all along. Marxist-Leninist theory provides an ideological basis for a scientific world view that puts a high value on scientific knowledge, theoretical and applied. But the Soviets are not so naive as to assume that identifying ideology with science will be sufficient to motivate students. Education is the chief mobility mechanism in Soviet society. Success in school, above all in science and math, opens the way to careers with high prestige and pay. This is well understood, and it is a powerful incentive to parents and children.

Until recently, Americans who called attention to the thrust of Soviet education received the Cassandra treatment. All that is changing. For example, receiving newfound attention are the views of University of Chicago mathematics professor Izaak Wirzup, a knowledgeable student of Soviet and Eastern European math education. He writes that the Soviets have not only made a prodigious effort to enroll all school-age children, but, "For the 98 percent of the school-age population that now completes secondary school or its equivalent, the Soviets have introduced science and mathematics curricula whose content and scope place them far ahead of every other nation, including the United States.

Making a direct comparison, Wirzup notes that, "In only ten years, the Soviet compulsory program for all students covers the equivalent of at least 13 years of American schooling in arithmetic, algebra, and calculus and does so much more thoroughly and effectively. The American one-year geometry course offers but a small fraction of the Soviet ten-year geometry curriculum." The Soviets have also made a much greater research effort to find better ways to teach children math and science.

Have the Soviets created an educational utopia? Visiting Americans doubt it. A gap in the quality of education in urban and rural schools remains. Students in non-Russian regions of the USSR are said to be denied opportunities for training and jobs open to Russian students. Wirzup himself notes difficulties with the new math curriculum. Its introduction in 1975, at the time compulsory schooling was lengthened to ten years, increased stresses on the system. Some Soviet educators have told visitors that the Soviets were repeating the mistakes of the American reformers of the 1960s. Students were overworked and teachers overburdened. And the innovative math curriculum encountered resistance from traditionalists. As a result, authorities in 1977 ordered a review of all school curricula, particularly the math program.

There is also considerable skepticism in the United States that 15- and 16-year-olds across the board will attain a very high proficiency in calculus. At the same time, there is respect for the Russian assumption that students of normal intelligence will profit from serious exposure to physics, chemistry, and math. The Soviets have put massive resources behind their assumption that a decisive advantage is to be gained by raising the level of scientific literacy and numeracy of their population.

The United States has no centralized educational system comparable to the Soviets, Europeans, or Japanese. Education, constitutionally, is the responsibility of the states and is carried out in some 16,200 local school districts. Quality, therefore, varies enormously. State requirements exert little pressure toward excellence in science and math. Two-thirds of the states require only one year of high school science for graduation; the other third requires two years. The last science course taken by half of the high school graduates is biology in the tenth grade. Only seven percent of all students take advanced math or calculus.

There is no mandated national curriculum in this country and little likelihood for one. The elective system that prevails in the U.S. high schools encourages adolescents to follow the path of least resistance. "Kids are capable of learning a great deal more than we require of them," says Lee S. Shulman, director of the Institute for Research on Teaching at Michigan State University. "The price we pay for giving students freedom to elect courses of study is that many of them either select themselves out or are counseled out of the more difficult courses. This is especially true for minorities and women."

Admiral Hyman Rickover, long a critic of American education, seconds this view that students are pampered. In a recent letter to the director of the National Science Foundation, Rickover writes, "By promoting the notion that learning is easy and entertaining, we are letting our children grow up believing they need not struggle to excel—a notion which is damaging to both the child and to society."

Standardized test scores in science and math have shown a pattern of decline for a decade or more. An inquest of the downward trend in Scholastic Aptitude Test (SAT) scores found that 70 percent of the decline was due to a change in the composition of the group taking the tests, but cited other factors such as poor motivation, broken families, television, peer pressure, and a declining ability to write and think effectively. The National Assessment of Educational Progress exam in science, given three times since 1969, indicate significant declines in both biological and physical science scores for 17-year-olds and also some erosion in the scores for 9- and 13-year-olds. Drops occurred in all reporting regions and all groups, but as predicted, patterns of advantage emerged. Groups performing above the national norms were whites, males, students with at least one parent with post-high school education, students from the northeast and central regions, and students from affluent groups in cities and big city suburbs.

What do educators cite as the causes of the downward trend?

"The curriculum reforms of the 60s were purist and elitist," says Bill Aldridge, Executive Director of the National Science Teachers Association. They were intended to educate the scientific and mathematical crême de la crême, but they were far too difficult for the majority of students. "The new curriculum was too heavy on theory and abstraction," he says, "and applications were systematically purged." The result, claims Aldridge, was that science became less interesting to most students, and their ability to succeed was lowered. Perhaps only five or six in a class master the material.

Other critics say that the concepts and curricula were not at fault, but rather teacher training and pay. According to Jerome S. Marco, principal of Walt Whitman High School in Bethesda, Maryland, whose student body annually produces a bumper crop of National Merit Scholar Finalists, "You can have the greatest equipment and the greatest curriculum, but if you don't have people who can translate concepts into skills, well then, forget it."

Also, schools are not getting and keeping the excellent teachers in science and math that are needed. "You have to have one hell of a commitment to be willing to teach today," he said. "The quality math- and science-oriented people are being drained from the field. They can get double their salaries just sitting at a desk as low level computer technicians."

Science and math teaching has always had a high turnover, but an unprecedented exodus from the field now is occurring. The National Science Teachers Association lost 1,000 of its 10,000 high school members this year. Critics say that the situation is even worse than it appears because teachers who stay are the likeliest ones to have lower qualifications.

In elementary schools, the "Back to the Basics" movement is said to have damaged science and math teaching. Science has not been considered a "basic," and relatively little time is spent on it. Elementary science has always been an uphill fight because most elementary school teachers have little science training and many are intimidated by it. And the back-to-basics approach to mathematics has been extremely narrow, centered on computational skills, not on problem solving.

Almost everybody agrees that science and math education need federal help. However, science educators see a lack of real commitment by government and the science establishment. As evidence of benign neglect, they cite disappearing federal support for pre-college science and math education programs. In 1964, National Science Foundation funding for pre-college science education reached 60 million dollars. Funding currently runs only 20 million dollars out of a total billion-dollar NSF budget, and that is in inflation-shrunk 1980 dollars. In this period, the programs for teacher retraining and refreshing are remembered as particularly important in providing teachers with intellectual, financial, and moral support. Among science educators now, there is a feeling that by backing out of the curriculum reform effort after the first round of curricula revisions the government left the schools high and dry.

"The question is of a scientific elite," concludes Wirzup. "The United States has a superior elite in science and mathematics. But ours is a small elite, while the Soviets are training a new elite, a large elite, and the general population will be much more sophisticated in science and math than we are."

[From the Washington Post, May 13, 1980]

THE INTELLECT GAP

(By Daniel S. Greenberg)

Americans who monitor Soviet education are reporting extraordinary accomplishments there from a decade-long drive to provide all high school students with extensive, super-enriched training in mathematics and science. It's so successful, they're saying, that the American high school system has been rendered primitive by comparison.

Though there can be a lot of slack in the linkage between national power and scientific literacy, interest is compelled by the Soviet commitment to make virtually all its young people go through mathematical and scientific training of a duration and intensity that relatively few Americans experience. For example, while calculus has almost disappeared from the American high school curriculum—only about 100,000 students a year take it—all Soviet high school students get two years of calculus, and about 97 percent of Soviet youngsters now finish high school.

According to one of the leading American observers of Soviet education, Izaak Wirszup, professor of mathematics at the University of Chicago, the new Soviet science education represents a break with the old lock-step, imagination-dulling methods that have been widely blamed for Soviet science's relatively poor standing in world-class research. "These changes," Wirszup says in an unpublished report to the National Science Foundation, "are tantamount to an educational mobilization of the entire population." Of particular importance, he notes, is that the reformed scientific training is characterized "by an unexpected turn toward the individual and the development of his ability to do independent, creative work."

If that's so, and if it eventually takes hold in the actual conduct of scientific research, then the Soviet scientific community may be on its way to shaking off a well-earned reputation as a sluggish giant. The Soviets are aware of the relatively low productivity of their scientific enterprise and, as Wirszup points out, have given a high priority to expansion and reform of a school system that has been identified as a major bottleneck in the modernization of the Soviet economy.

The Soviets, he states, gave a great deal of authority for curriculum reform to their leading mathematicians and educational researchers. The result, he continues, "is a program for mathematics instruction that is modern in content, innovative in approach, well integrated and highly sophisticated. It gives strong emphasis to theoretical foundations and logical rigor as well as to applications. . . . Moreover, the extraordinary Soviet research in psychology and methods of learning and teaching mathematics has been applied to the new curriculum, which now surpasses in quality, scope and range of implementation that of any other country."

Wirszup, who is an internationally recognized authority on Soviet computer technology and mathematics education in the Eastern bloc, added in his report that the Soviet effort amounts to "a concerted drive to produce mass education of unmatched quality."

For those many Americans who take a peculiar pride in acknowledging scientific ignorance, the differences that Wirszup tabulated in standard Soviet and American high school programs are likely to be quite startling. He reports, for example, that a Soviet high school student is required to complete five years of physics, four years of chemistry, one year of astronomy, five and one-half years of biology, and so on down a list that would empty America's high schools via the drop-out route. Wirszup concludes: "The disparity between the level of training in science and mathematics of an average Soviet skilled worker or military recruit and that of a non-college-bound American high school graduate, an average worker in one of our major industries, or an average member of our all-volunteer army is so great that comparisons are meaningless."

Finally, he observes that while the remaking of the Soviet education system has hit some snags and stirred up pedagogical controversies, the Soviets feel they're on the right track and continue to invest vast resources in what they themselves describe as an "educational revolution." As for the students, they are lured on, Wirszup states, by the realization that "educational achievement . . . is practically the only safe avenue to a more comfortable standard of living under Soviet conditions."

Wirszup's findings, along with continuing reports of slumping standards and student achievements in American high school science and math programs, contributed to a White House request in February for the Department of Education and the National Science Foundation to collaborate on a report, due next month, on science and engineering education in the United States.

Of the many shortages now confronting the United States, it may be that the intellect shortage is the most dangerous.

WHILE ALL WE DO IS PUSH THE BUTTON

(By Daniel S. Greenberg)

Compare their education standards and ours, and you'll have a new clue to the runaway industrial performance of West Germany and Japan.

That's one of the main points that's going to be delivered to the White House next month when a team of specialists completes what's described as "the first review of science and engineering education policies to be prepared at the presidential level in almost two decades." Conducted at President Carter's request by the Department of Education and the National Science Foundation, the report, now circulating in near-final draft form, introduces an additional suspect to the long-running inquest on what ails the American economy; the declining quality and scope of science, engineering and mathematics training throughout the education system.

While, as is so often the case in American society, the peaks are at world-beater levels, the rest of the system is decaying at a time when Germany, Japan and the Soviet Union have pin-pointed mass science and mathematics training as strategic requirements for the modern state. The result, the report suggests, is that the United States is perhaps uniquely evolving into a two-culture society—divided between highly trained, professionally engaged scientists and engineers and a scientifically illiterate mass with little or no comprehension of the workings of the modern world.

Meanwhile, the report notes, in Great Britain, France, Germany, the Soviet Union and Japan, "virtually the entire educated class of opinion leaders and decision-makers . . . has a high level of scientific and technical literacy. In the U.S., however, there is an increasing divergence in the science and mathematics qualifications between those secondary students interested in the science and engineering professions and those who are not."

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The key question, of course, is whether it matters that a large part of our population is uncomprehending of science and technology. After all, it is possible to use modern machinery without having the remotest notion of how it works; the ubiquitous hand-held electronic calculator is a perfect case in point.

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The American political and administrative tradition holds that the non-technical generalist leader can get by with the assistance of highly skilled advisers and that engineering management can make up for lack of trained skills on the factory floor.

The forthcoming White House report on science and engineering education strongly indicates that's no longer true. Whether this country can act on that diagnosis is a separate matter.

Mr. ERTEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, an important part of our responsibility in the Congress is to make decisions which will shape the future of the country. Decisions which affect our ability to provide for future energy needs, to improve the quality of life for our children, to guarantee the continued economic strength of the country both domestically and in the international marketplace. Increasingly, we depend upon advances in science and technology to meet the challenges and opportunities of the future. Yet, I fear that we are paying too little attention to the health and vitality of the scientific community to whom we will turn for answers to increasingly complex problems.

Examples of what can happen in the future if we fail to live up to our responsibility for the future are in the areas of energy and productivity. We are all aware of our dependence upon foreign sources of energy and the urgent need to develop new sources of energy. The Nation's productivity has been declining, thus adding to inflation and unemployment. Unless we take a strong stand in support of science and provide the Nation's scientists with the necessary resources and equipment, these problems will only be compounded.

Advances in science, and the ability of science and technology to respond to national needs, do not come overnight. Our investment in science in many cases will not yield benefits until years into the future. Yet unless we have the foresight to make these investments today, there may well not be solutions at hand for our future needs. I believe that it is in this context that we must view the work of the National Science Foundation.

The chairman of the Science and Technology Committee and the chairman of the Science, Research, and Technology Subcommittee are to be commended for their dedicated work to insure that the Nation continues to generate new understandings of the world and the universe and to bring that knowledge to bear on our needs and opportunities. Much attention has been focused on the activities supported by the National Science Foundation. This authorization is a tribute to their foresight and devotion to the Nation. If I have any quarrel with this bill, it is that there is not more support for many of the critical areas of research that we will be turning to tomorrow.

While I understand and support the need to work toward a balanced budget, it would be a tragic mistake to cut money from science and technology research. Such moves are shortsighted. Investments in these areas are not inflationary, they are deflationary. They provide us with new goods and services, improved methods of manufacturing, new jobs, and an improved quality of life.

We have already seen some of the harm that comes from inadequate support for the sciences. In the early 1970's funding in many areas of research was reduced. Today productivity is declining; we are increasingly losing to foreign competition in the international market—even in the high technology fields which are so critical to our balance of payments; the number of students seeking scientific and technical degrees dropped and we are already witnessing serious shortages in trained professionals in important fields such as energy.

The downward trend in our support for science has only recently begun to be reversed, but our support is still inadequate to insure that our future needs will be met. Further reductions in this support are irresponsible and unconscionable.

Let me turn my attention to some of the specific activities being supported by the National Science Foundation. This work can be broken down into three broad categories: Basic science, applied science, and science education.

It is far too easy to make light of specific basic science research endeavors. These projects often have titles which are unintelligible to the general public and the research seems to have little relevance. By its very nature, basic science does not have a clear and immediate application. This is not to say, however, that tomorrow it will not prove to be fundamental to advances of enormous significance.

I believe that assessing the importance of basic science is more easily accomplished in retrospect. For example, advances in basic science have given us understandings of the basic building blocks of atomic and molecular structures. This information is critical for future energy developments. Advances in our knowledge of the geophysical forces of the Earth has improved our knowledge of the dynamics of earthquakes and climate, as well as the formation and location of fossil fuel and mineral deposits. We have witnessed a remarkable expansion in the computer sciences as pure mathematic theories have combined with the silicon chip to advance the solid state technology of high-speed computers. The deciphering, just 10 years ago, of the genetic code for DNA and RNA has led to advances in cell biology and immunology. Our understanding of the genetic code has great significance for agriculture and medicine, and may even create new energy sources. Private industry is already engaged in the production of synthetic insulin and interferon, using recombinant DNA techniques. Similar techniques are being applied to the study of nitrogen fixation in plants. Many of the conveniences enjoyed by our society have their origins in basic research. The only bounds on our ability to predict future applications of basic science are those of our own imaginations. The returns on our investments in basic research are too great to even calculate.

Applied Science represents the critical linking mechanism for directing science and technology to national needs and opportunities. Again, the range of these activities and their implications for the Nation are enormous. In the process of bringing the fruits of our basic science research endeavors to bear on current or near-term needs, increased productivity in the private sector is often a byproduct. An important part of the National Science Foundation's applied science activities centers on the small business innovation and industrial technology program. While nearly all of the NSF's programs, including basic research, may contribute to innovation and productivity indirectly, this program is specifically geared to improving the innovative capabilities of the private sector.

The primary objectives of the program are: First, to draw upon scientific and technological research capabilities in small businesses and universities with the goal of moving the most promising research into commercialization as soon as possible, and second, to combine the scientific and technological resources of universities and industry in innovative programs which accelerate the introduction of new technologies in U.S. business.

It is important in looking at this program to realize that the Foundation is not so much promoting specific innovations as it is providing the environment in which industry and universities can innovate on their own. This is accomplished through a variety of mechanisms and has been very successful. In fact, many of the elements of the President's industrial innovation initiatives, unveiled late last year, were modeled after NSF programs. Among the approaches used in this effort are: University/industry cooperative research; the development of generic technology research centers; and centers to assist small businesses wishing to innovate.

In addition to these particular innovation programs, there is an ongoing effort to direct information derived from individual basic research programs toward specific applications. This linking of basic and applied science is essential if the Nation is to maintain its strong competitive position in the future. We are increasingly realizing the emphasis that our trading competitors place on research applications.

Science education is another area where the NSF makes an important contribution to the Nation. The importance of science education and the need for its improvement in the United States was pointed out in a recent editorial in the Washington Post by Daniel S. Greenberg. I am submitting that article here for the RECORD.

WHILE ALL WE DO IS PUSH THE BUTTONS

Compare their education standards and ours, and you'll have a new clue to the runaway industrial performance of West Germany and Japan.

That's one of the main points that's going to be delivered to the White House next month when a team of specialists completes what's described as "the first review of science and engineering education policies to be prepared at the presidential level in almost two decades." Conducted at President Carter's request by the Department of Education and the National Science Foundation, the report, now circulating in near-final draft form, introduces an additional suspect to the long-running inquest on what ails the American economy: the declining quality and scope of science, engineering and mathematics training throughout the education system.

While, as is so often the case in American society, the peaks are at world-beater levels, the rest of the system is decaying at a time when Germany, Japan and the Soviet Union have pinpointed mass science and mathematics training as strategic requirements for the modern state. The result, the report suggests, is that the United States is perhaps uniquely evolving into a two-culture society—divided between highly trained, professionally engaged scientists and engineers and a scientifically illiterate mass with little or no comprehension of the workings of the modern world.

Meanwhile, the report notes, in Great Britain, France, Germany, the Soviet Union and Japan, "virtually the entire educated class of opinion leaders and decision-makers . . . has a high level of scientific and technical literacy. In the U.S., however, there is an increasing divergence in the science and mathematics qualifications between those secondary students interested in the science and engineering professions and those who are not."

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The Foundation has worked to address some of these science education problems and needs by developing better science curricula for our schools, by supporting scientist's research endeavors, and through a variety of informal educational efforts designed to increase the science literacy of the general public. Unfortunately, these activities have not received the support which is necessary both today and for the future. Hopefully, the review of science and engineering education to be completed in the near future at the President's request will give this activity a higher priority.

Mr. Chairman, the United States cannot afford to sit back and rest on its scientific and technological successes of the past. Change is coming at a dizzying pace. Today's knowledge knows no national boundary. Western Europe and Japan are making striking advances in their efforts to improve the strength and vitality of their own scientific and technological communities. We have already lost our leading position in many electronic and industrial fields. Japanese televisions and radios are a painful example of how we are being overtaken. Eastern Airlines' decision to buy a fleet of the European-built wide-body A-300 Airbus—the first time that a major U.S. carrier has gone abroad to purchase big planes—is an example of Europe's advances in high-technology manufacturing and increasing competition in the international marketplace. Japan has focused on the goal of passing the United States in computer technology. We must make a commitment to support scientific inquiry in this Nation and to put the fruits of our new knowledge to work. We cannot afford not to increase our scientific investments. To do otherwise will only aggravate our present problems and add to them.

This authorization for the National Science Foundation represents a bare minimum commitment to these critical endeavors. Just as the loss of America's nuclear monopoly profoundly changed the military security of the Nation, we are now losing our preeminent position in science and technology. The implications of this will be equally significant for our economic security in the future. I urge my colleagues to support this important bill.

The CHAIRMAN. Are there additional amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. BREAUX, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7115), to authorize appropriations for activities of the National Science Foundation for fiscal year 1981, and for other purposes, pursuant to House Resolution 685, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 314, nays 55, not voting 63, as follows:

[Roll No. 520]

YEAS—314

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.Dak.
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Clinger
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe

Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Huckaby
Hughes
Hutchinson
Hyde
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Lederer
Lehman
Leland
Lent
Levitas
Lloyd
Long, La.
Lowry

Luken
Lundine
McClory
McCloskey
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Marks
Marlenee
Marriott
Martin
Matsui
Mavroules
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Ritter
Roberts
Robinson
Roe
Rose

Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Shelby
Shuster
Simon
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—55

Ashbrook
Badham
Bafalis
Bauman
Bethune
Broyhill
Collins, Tex.
Crane, Philip
Daniel, R. W.
Dannemeyer
de la Garza
Devine
Dornan
English
Evans, Ind.
Goodling
Gramm
Hagedorn
Hall, Tex.

Harsha
Hopkins
Hubbard
Ichord
Jeffords
Jones, Okla.
Kelly
Kramer
Latta
Leath, Tex.
Lee
Loeffler
Lott
Lungren
McDonald
Michel
Miller, Ohio
Montgomery
Paul

Petri
Porter
Rousselot
Rudd
Satterfield
Schulze
Sensenbrenner
Shumway
Skelton
Solomon
Spence
Stangeland
Stenholm
Stump
Taylor
Volkmer
Whittaker

NOT VOTING—63

Albosta
Alexander
Andrews, N.C.
Annunzio
Beilenson
Boggs
Bowen
Brodhead
Burlison
Campbell
Cleveland
Coelho

Conable
Corman
Crane, Daniel
Davis, S.C.
Dodd
Edwards, Okla.
Ford, Mich.
Garcia
Giaimo
Goldwater
Hansen
Hawkins

Heckler
Hinson
Holtzman
Hutto
Jenrette
Leach, La.
Lewis
Livingston
Long, Md.
Lujan
McCormack
Markey

Mathis
Mattox
Mazzoli
Moakley
Murphy, N.Y.
Myers, Pa.
Nedzi
Nichols
Pashayan

Preyer
Quayle
Quillen
Rhodes
Rinaldo
Rodino
Roth
Sebelius
Shannon

Steed
Stockman
Symms
Tauzin
Vander Jagt
Whitten
Wilson, C. H.
Wydler
Young, Alaska

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Campbell.

Mr. Nichols with Mr. Rinaldo.

Mr. Nedzi with Mr. Young of Alaska.

Mr. Tauzin with Mr. Quillen.

Mr. Mazzoli with Mr. Roth.

Mr. Murphy of New York with Mr. Wydler.

Mr. McCormack with Mr. Conable.

Mr. Burlison with Mr. Daniel B. Crane.

Mrs. Boggs with Mr. Sebelius.

Mr. Beilenson with Mr. Edwards of Oklahoma.

Mr. Alexander with Mr. Quayle.

Mr. Giaimo with Mr. Lujan.

Mr. Hawkins with Mr. Symms.

Mr. Jenrette with Mr. Pashayan.

Mr. Markey with Mr. Stockman.

Mr. Moakley with Mr. Livingston.

Mr. Myers of Pennsylvania with Mr. Vander Jagt.

Mr. Dodd with Mr. Cleveland.

Mr. Coelho with Mr. Goldwater.

Mr. Corman with Mr. Hansen.

Mr. Bowen with Mr. Lewis.

Mr. Albosta with Mrs. Heckler.

Mr. Brodhead with Mr. Hinson.

Mr. Davis of South Carolina with Mr. Garcia.

Mr. Mathis with Mr. Mattox.

Mr. Steed with Mr. Rodino.

Mr. Preyer with Mr. Whitten.

Mr. Hutto with Ms. Holtzman.

Mr. Long of Maryland with Mr. Leach of Louisiana.

Mr. Charles H. Wilson of California with Mr. Ford of Michigan.

Mr. Andrews of North Carolina with Mr. Rhodes.

☐ 1830

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 568) to promote the full use of human resources in science and technology through a comprehensive program to maximize the potential contribution and advancement of women in scientific, professional, and technical careers and to authorize appropriations for activities for the National Science Foundation for fiscal years 1981 and 1982, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 568

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That this Act may be cited as the "National Science Foundation Authorization and Women in Science Act".

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

AUTHORIZATION OF APPROPRIATIONS

Sec. 101. (a) There are authorized to be appropriated to the National Science Foundation $1,074,000,000 for the fiscal year 1981 and $1,235,500,000 for the fiscal year 1982.

(b) Funds authorized for the fiscal year 1981 will be available for the following categories:

(1) Mathematical and Physical Sciences, $245,290,000.

(2) Astronomical, Atmospheric, Earth and Ocean Sciences, $225,540,000.

(3) United States Antarctic Program, $58,000,000.

(4) Ocean Drilling Programs, $24,000,000.

(5) Biological, Behavioral, and Social Sciences, $173,540,000.

(6) Science Education Programs, $87,100,000.

(7) (A) Engineering, $58,540,000.

(B) Applied Sciences, $69,540,000 of which not less than 12.5 per centum shall be expended to small business concerns.

(8) Scientific, Technological, and International Affairs, $26,500,000.

(9) Cross-Directorate Programs, $32,750,000.

(10) Program Development and Management, $60,000,000.

(11) Funds to be expended at direction of the Director in accordance with section 255 (b) (3), $7,700,000.

(c) Funds authorized for the fiscal year 1982 will be available for the following categories:

(1) Mathematical and Physical Sciences, $267,800,000.

(2) Astronomical, Atmospheric, Earth and Ocean Sciences, $245,800,000.

(3) United States Antarctic Program, $64,000,000.

(4) Ocean Drilling Programs, $26,500,000.

(5) Biological, Behavioral, and Social Sciences, $189,800,000.

(6) Science Education Programs, $121,000,000.

(7) (A) Engineering, $67,800,000.

(B) Applied Sciences, $96,800,000 of which not less than 12,5 per centum shall be expended to small business concerns.

(8) Scientific, Technological, and International Affairs, $29,000,000.

(9) Cross-Directorate Programs, $52,000,000.

(10) Program Development and Management, $66,000,000.

(11) Funds to be expended at the direction of the Director in accordance with section 255(b) (3), $9,000,000.

(d) Of the total amount authorized under subsection (b) (9), not more than $1,000,000 is authorized for United States/Union Soviet Socialist Republics cooperative research, no portion of which shall be expended until the President has certified in writing to the Congress that such expenditures shall be of direct and very substantial benefit to the United States of America.

AVAILABILITY OF APPROPRIATIONS

Sec. 102. Appropriations made under authority provided in sections 101 and 104 shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making the appropriations.

SPECIAL EMPHASIS PROGRAMS

Sec. 103. (a) Of the total amount authorized under sections 101(b) (6) and 101(c) (6)—

(1) $1,000,000 is authorized for a program of education in appropriate technology;

(2) $2,250,000 is authorized for the program Ethics and Values in Science and Technology; and

(3) $5,000,000 is authorized for the program Minorities and the Handicapped in Science.

(b)(1) Of the total amount authorized under sections 101(b)(1), 101(b)(2), and 101(b)(5) for equipment and instrumentation, not less than 10 per centum shall be made available for grants to two- and four-year colleges for equipment and instrumentation costing $35,000, or less.

(2) Of the total amount authorized under sections 101(c)(1), 101(c)(2), and 101(c)(5) for equipment and instrumentation, not less than 10 per centum shall be made available for grants to two- and four-year colleges for equipment and instrumentation costing $35,000, or less.

OFFICIAL EXPENSES

SEC. 104. From appropriations made under this Act, not more than $5,000 for fiscal year 1981 and such sums as may be necessary for fiscal year 1982 may be used for official consultation, representation, or other extraordinary expenses at the discretion of the Director of the National Science Foundation. His determination will be final and conclusive upon the accounting officers of the Government.

FOREIGN CURRENCY

SEC. 105. Besides the sums authorized by section 101, not more than $5,500,000 for fiscal year 1981 and such sums as may be necessary for fiscal year 1982 are authorized to be appropriated for expenses of the National Science Foundation incurred outside the United States, to be drawn from foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

TRANSFER AUTHORITY

SEC. 106. (a) Funds may be transferred among the categories listed in section 101(b) or 101(c), so long as the net funds transferred to or from any category do not exceed 10 per centum of the amounts authorized for that category in section 101.

(b) The Director of the Foundation may propose transfers to or from any category exceeding 10 per centum of the amounts authorized for that category in section 101. Such a proposal must be transmitted in writing to the Speaker of the House, the President of the Senate, and the Senate Committee on Labor and Human Resources and the House Authorization Committee on Science and Technology. The proposed transfer may be made only when—

(1) thirty calendar days have passed after submission of the written proposal, or

(2) the chairmen of the House Committee on Science and Technology and the Senate Committee on Labor and Human Resources have both written the Director to the effect that the committees have no objection to the proposed transfer.

AMENDMENTS TO THE NATIONAL SCIENCE FOUNDATION ACT OF 1950

SEC. 107. (a)(1) Section 4(c) of the National Science Foundation Act of 1950 is amended by inserting after the first sentence the following new sentence: "In making nominations under this section, the President shall give due regard to equitable representation of scientists who are women and who represent minority groups.".

(2) Section 4(j) of the Act is amended to read as follows:

"(j)(1) The Board shall prepare and submit a biennial report to the President, for submission to the Congress, on or before January 15th of every other year, commencing with 1982. Such policy report shall deal essentially, though not exclusively, with policy matters or issues which affect the Foundation or with which the Board in its official role as the policy-making body of the Foundation is concerned.

"(2) The Board shall prepare and submit a biennial report to the President for submission to Congress, on or before January 15th of every other year commencing with 1982. Such report shall deal with indicators of the state of science in the United States. In addition, the Board shall prepare and submit to the President for submission to the Congress such other reports on policy matters related to science, engineering, and science education, as the Board, the President, or the Congress may determine necessary.".

(b)(1) Section 15(c) of the National Science Foundation Act of 1950 is repealed.

(2) Subsection (d) of section 15 of such Act is redesignated as subsection (c).

(c) Section 16 of the National Science Foundation Act of 1950 is amended to read as follows:

"APPROPRIATIONS

SEC. 16. To enable the Foundation to carry out its powers and duties, only such sums may be appropriated as the Congress may authorize by law.".

AMENDMENTS TO AWARDS

SEC. 108. (a) Section 2(a) of the Act entitled "An Act to establish a National Medal of Science to provide recognition for individuals who make outstanding contributions in the physical, biological, mathematical, and engineering sciences" approved August 25, 1959 is amended by striking "or engineering" and inserting in lieu thereof "engineering, behavioral or social".

(b) Section 6(a) of the National Science Foundation Authorization Act, 1976 is amended by inserting after "engineering" a comma and the following: "behavioral".

TITLE II—WOMEN IN SCIENCE

SHORT TITLE

SEC. 201. This title may be cited as the "Women in Science and Technology Equal Opportunity Act".

PART A—STATEMENT OF FINDINGS, PURPOSE, AND POLICY

STATEMENT OF FINDINGS

SEC. 211. The Congress finds that—

(1) it is in the national interest to promote the full use of human resources in science and technology and to insure the full development and use of the talents of men and women with scientific and technical skills;

(2) the preeminent position of the Nation in science and technology depends upon the development of the full potential of the talents of men and women with scientific and technological skills, and the full employment of such men and women produces job opportunities in technical and support occupations and exerts a multiplier effect on the gross national product;

(3) the full use of the scientific and technical human resources of the Nation is required to meet the demand for such resources over the long term;

(4) skills in science and mathematics are essential for entry and achievement in a wide range of professional and technical fields;

(5) literacy in science and mathematics contributes importantly to the ability of the individual to function in a wide range of activities;

"(6) women have long been denied equal employment opportunities in scientific and technical fields; and

"(7) although men and women have equal potential for excellence and advancement in scientific and technical fields—

"(A) about 10 per centum of scientists and engineers engaged in research are women;

"(B) the unemployment rates of women scientists are two to five times higher than such rates for men in every field of science;

"(C) women scientists generally earn less than men in every field, at every degree level, at every level of experience and in every employment setting;

"(D) minority women have yet to achieve measurable participation in science; and

"(E) handicapped women have yet to achieve measurable participation in science.

"STATEMENT OF POLICY

SEC. 212. The Congress declares it is the policy of the United States to encourage women to acquire skills in science and mathematics, to assure equal opportunity for women in education, training, and employment in scientific and technical fields, and thereby to promote scientific literacy and the full use of the human resources of the Nation in science and technology. Activities conducted to carry out the purposes and provisions of this Act shall—

(1) be carried out under the direction of the National Science Foundation;

(2) make maximum use of existing Federal programs, funding, and reporting procedures;

(3) provide for coordination between all Federal agencies involved in carrying out the provisions of this Act;

(4) use the expertise of women scientists and women involved in scientific activities;

(5) provide for the participation of professional associations and groups with expertise in the advancement of women, especially associations and groups involved in the advancement of women in scientific and technical fields;

(6) encourage the involvement in and contribution of resources for scientific activities by the private sector;

(7) encourage opportunities for accomplishing comprehensive and long-term institutional change relating to the participation of women in science;

(8) emphasize fields of scientific and technical study and employment in which the underrepresentation of women is most serious and in which employment opportunities are the greatest; and

(9) provide for and encourage cooperation among governmental, industrial, academic, and other types of employers in accomplishing the purposes of this Act.

DEFINITIONS

SEC. 213. For the purposes of this Act—

(1) the term "Federal agency" means an agency as defined in section 551(1) of title 5, United States Code;

(2) the term "State" means each of the several States and the District of Columbia;

(3) the term "Foundation" means the National Science Foundation;

(4) the term "Director" means the Director of the Foundation;

(5) the term "Committee" means the Committee on Women in Science established under section 251; and

(6) the term "science" includes engineering.

PART B—EDUCATION

ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

SEC. 221. (a) The Foundation is authorized to support, by way of grant or contract, programs in science and mathematics in elementary and secondary schools.

(b) Programs supported under this section shall emphasize the acquisition of knowledge, skills, and information by female students, and may include—

(1) the training and retraining (including inservice training) of teachers, counselors, administrators, and other appropriate educational personnel to improve the quality and relevance of education in science and mathematics and to increase student awareness of career opportunities requiring scientific and technical skills;

(2) the use of visiting women scientists and technicians, field trips, or other techniques to encourage students to continue in and complete courses in science and mathematics and to consider careers in scientific and technical fields;

(3) student science training programs, research participation projects, and internships; or

(4) workshops for students and their parents and guardians to increase awareness and understanding of the importance of skills in science and mathematics and of the extent to which scientific and technical skills are required for entry into careers.

(c) The Foundation shall coordinate activities to carry out this section with complementary activities of appropriate public agencies and private entities.

(d) Elementary and secondary school programs included under this section shall not be implemented by the Foundation or any of its grantees or contractors in any school system without the prior written consent of the local education agency as defined in section 801(f) Public Law 89–10.

HIGHER EDUCATION PROGRAMS

SEC. 222. (a) The Foundation is authorized to support, by way of grant or contract, activities designed to (1) increase the participation of women in courses of study at the undergraduate, graduate, and postgraduate levels leading to degrees in scientific and technical fields, (2) encourage women to consider and prepare for careers in science and technology, (3) provide traineeship and fellowship opportunities for women in science and technology, or (4) provide continuing education and retraining opportunities in scientific and technical fields for women whose careers have been interrupted.

(b) Activities supported under this section may include—

(1) the awarding of graduate and postgraduate fellowships, and career development grants, directly to individuals and to institutions for award to individuals, without regard to when the individual received an undergraduate or graduate degree; or

(2) research participation, traineeships, and internship programs;

(c) The Foundation shall coordinate activities under this section with complementary activities of appropriate public agencies and private entities.

(d) Individual recipients of fellowships, grants, and traineeships under this section shall be paid such stipends as the Director may prescribe.

CONTINUING EDUCATION PROGRAM

SEC. 223. (a) The Foundation is authorized to support, by way of grant or contract, activities in continuing education in science and engineering which provide opportunities for women who (1) are in the work force or (2) who are not in the work force because their careers have been interrupted to acquire new knowledge, techniques, and skills in scientific and technical fields.

(b) Activities supported under this section may include—

(1) the award of full-time and part-time fellowships to enable individuals eligible under subsection (a) to pursue study and research, continuing education, and career development in scientific and technical fields, without regard to when the individual received a degree; or

(2) other activities, including pilot programs and regional efforts, to further the purposes of this section.

(c) Individual recipients of fellowships under this section shall be paid such stipends as the Director may prescribe.

(d) The Foundation shall coordinate activities under this section with complementary activities of appropriate public agencies and private entities.

PART C—PUBLIC UNDERSTANDING

RESEARCH PROGRAM

SEC. 231. (a) The Director is authorized to undertake or support, by way of grant or contract, a comprehensive research program designed to increase understanding of (1) the potential contribution of women in science and technology and (2) the means to facilitate the participation and advancement of women in scientific and technical careers.

(b) The program shall include studies concerning the problems confronting girls and women in the study of science and mathematics, and the impact of science and mathematics skills on the entry and advancement of women in nonscientific fields.

VISITING WOMEN SCIENTISTS PROGRAM

SEC. 232. (a) The Director is authorized to establish a visiting women scientists program.

(b) Each year, the Director is authorized to name not fewer than thirty women to be visiting women scientists. Visiting women scientists named under this subsection shall visit secondary schools and institutions of higher education in all regions of the country in order to—

(1) encourage girls and women to acquire skills in mathematics and science;

(2) encourage girls and women to consider careers in science and engineering and to prepare themselves appropriately for such careers; and

(3) conduct lectures, seminars, informal discussions, and workshops concerning various aspects of scientific and technical careers for women.

(c) Each visiting woman scientist who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including travel-time, she is engaged in the actual performance of her duties under this section. A visiting woman scientists who is an officer or employee of the United States Government shall serve without additional compensation. Each visiting scientist shall be reimbursed for travel, subsistence, and other necessary expenses incurred by her in the performance of her duties.

MEDIA PROJECTS

SEC. 233. (a) The Foundation is authorized to support, by way of grant or contract, activities designed to improve the scope, relevance, and quality of information available to the public concerning the importance of the participation of women in careers in science and technology through the use of radio, television, journals, newspapers, magazines, and other media.

(b) Activities supported under subsection (a) may—

(1) demonstrate potential for increasing public awareness of the contribution of women in scientific and technical fields;

(2) stress the importance of equal opportunity for women in careers in science and technology;

(3) emphasize the importance of skills in mathematics and science for a wide range of activities and programs; or

(4) include new media or information techniques with the potential to further the purposes of this section.

MUSEUM PROGRAMS

SEC. 234. The Foundation is authorized to support, by way of grant or contract, activities of museums and science centers which demonstrate potential to interest and involve women. Activities supported under this section shall encourage the study and development of skills in mathematics and science, emphasize opportunities for careers in scientific and technical fields, and stress the importance of equal opportunity for women in science and technology.

PART D—OPPORTUNITY IMPROVEMENT AND REPORTING PROGRAMS

Subpart 1—Opportunity Programs

NATIONAL RESEARCH OPPORTUNITY GRANTS

SEC. 241. (a) Each year, the Director is authorized to make grants, to be known as the National Research Opportunity Grants, to women scientists who (1) have received their doctorate within five years prior to the date of the award or (2) have received their doctorate, have had their careers interrupted, and are re-entering the work force within five years after such interruption. Grants under this section shall be made on the basis of merit through an annual competition.

(b) Each grant made under this section shall be used by the recipient to conduct scientific research in a field chosen by the recipient. Grants made under this section may include funds for the acquisition or maintenance of equipment and the renovation of facilities for research purposes.

(c) Each grant made under this section shall be made for a period of three-years and may be renewed once for an additional three-year period.

(d) The minimum annual amount of any grant under this section shall be $10,000 and the maximum annual amount of any such grant shall be $75,000. In determining the amount of each grant, the Director shall consider the field in which the research is to be carried out pursuant to the grant and the costs of carrying out research in such field. A grant under this section shall be paid directly to the scientist conducting the research.

(e) The Director may provide not in excess of $5,000 per year to each academic institution, research center, or research organization in which research conducted pursuant to any grant made under this section is carried out. Such funds shall be used for the purposes of defraying the administrative costs of such institution, center, or organization related to such research.

(f) A recipient of any grant under this section may conduct research pursuant to the grant at any academic institution, research center, or research organization approved by the Director.

VISITING PROFESSORSHIPS FOR WOMEN IN SCIENCE

SEC. 242. (a) The Foundation is authorized to make grants to individuals or academic institutions for full-time or part-time visiting professorships for women in science. Such professorships may be held by individuals from the industrial, public, or academic sectors.

(b) A visiting professor shall serve at an institution which assures the Director that—

(1) the visiting professor will have appropriate research and teaching opportunities, as well as opportunities to serve as a source of advice and counsel for women considering careers in science and technology; and

(2) the institution will establish or expand activities to increase the participation and advancement of women scientists and engineers in the activities of the institution, including research and teaching activities.

(c)(1) Each visiting professor shall serve in an institution in which the establishment of a visiting professorship is expected to increase the participation and advancement of women scientists and engineers in its research and teaching activities.

(2) Each visiting professorship shall be for a period of at least one year and not more than two years.

DEMONSTRATION PROJECTS

SEC. 243. The Foundation is authorized, after consultation with appropriate public agencies and private entities, to support, by way of grant or contract, activities of individuals, public agencies, and private entities designed to encourage the employment and advancement of women in science, engineering, and technology through—

(1) the establishment and implementation of cooperative research and education arrangements among business concerns, academic institutions, and other appropriate entities;

(2) the development of work-study, preservice, or inservice programs leading to permanent employment or advancement;

(3) the development of programs to assist scientists and engineers to obtain new skills in order to change fields, advance, or otherwise adapt to changing needs in science and technology;

(4) the development of programs to permit scientists and engineers to exchange positions or rotate between positions within and among public agencies and private entities;

(5) the establishment of new research opportunities for students, scientists, and engineers;

(6) the improvement of employment policies and conditions; and

(7) other appropriate activities.

Subpart 2—Agency Responsibility

DEFINITIONS

SEC. 246. (a) For purposes of this part—

(1) the term "Federal financial assistance" means any grant, loan, or contract other than a contract of insurance or guaranty;

(2) the term "national laboratory" means any Government directed research and development laboratory, as well as any research and development laboratory funded at least in part by the Federal Government, except as provided in paragraph (3) of this subsection; and

(3) the term "federally funded research and development center" means any organization which performs research and development exclusively or substantially financed by the Federal Government and which is administered by an industrial firm, university, college, or other nonprofit institution.

(b) The Director of the Office of Science and Technology Policy, in consultation with the Director of the National Science Foundation, the Director of the Office of Personnel Management, the Director of the Office of Management and Budget, and appropriate public and private entities, shall establish the criteria for defining the term "scientific and technical positions" for the purposes of this part.

DATA COLLECTION

SEC. 247. (a) By September 30 of each year, the Chairman of the Equal Employment Opportunity Commission shall prepare and transmit to the Foundation a report concerning the employment status of women in scientific and technical fields. To the maximum extent possible, the Chairman shall collect such information through existing appropriate data collection mechanisms and reporting procedures.

(b) The report required by subsection (a) shall include but not be limited to—

(1) for all employers with fifteen or more employees who employ individuals from scientific and technical fields and for each Federal agency that conducts or supports research and development in science and technology, a compilation, comparison, and evaluation, by sex, race, ethnic groups, and discipline, of—

(A) the number of individuals in permanent and temporary and in full-time and part-time scientific and technical positions, by level or other similar category;

(B) the average salary of individuals employed in such scientific and technical positions, by level or other similar category;

(C) the number and type of promotional opportunities realized by individuals in such scientific and technical positions;

(D) the number of individuals serving on each Federal peer review and advisory panel dealing with scientific research and development activities; and

(E) the number of individuals serving as principal investigators in Federal agency, national laboratory, or federally funded research and development center supported or conducted scientific research and development projects; and

(2) for each Federal agency, national laboratory, or federally funded research and development center, a description and evaluation of the activities of such agency, laboratory, or center to—

(A) prevent discrimination against women in science and technology;

(B) increase opportunities for the employment, training, and advancement of women in science;

(C) increase the participation of women scientists in federally funded research;

(D) encourage the participation of minority women in scientific and technical careers; and

(E) encourage the participation of handicapped women in scientific and technical careers.

BIENNIAL REPORT

SEC. 248. (a) By January 30, 1982, and biennially thereafter, the Director shall simultaneously transmit the report to the Congress, the Attorney General, the Director of the Office of Science and Technology Policy, the Chairman of the Equal Employment Opportunity Commission, the Director of the Office of Personnel Management, the Secretary of Labor, the Secretary of Education, and the Secretary of Health and Human Services.

(b) The report required by subsection (a) shall contain—

(1) an accounting and comparison, by sex, race, and ethnic group and by discipline, of the participation of women and men in scientific and technical positions, including—

(A) the number of individuals in permanent and temporary and in full-time and part-time scientific and technical positions by appropriate level or similar category;

(B) the average salary of individuals in such scientific and technical positions;

(C) the number and type of promotional opportunities realized by individuals in such scientific and technical positions;

(D) the number of individuals serving as principal investigators in federally conducted or federally supported research and development; and

(E) the unemployment rate of individuals seeking scientific and technical positions; and

(2) such other data as the Commitee determines appropriate in accordance with section 251(a)(7).

(c) In preparing the report required by subsection (a), the Director shall use the report prepared by the Chairman of the Equal Employment Opportunity Commission pursuant to section 247 and may collect, compile, and analyze such other data and information as may be necessary.

PART E—GENERAL PROVISIONS

COMMITTEE ON WOMEN IN SCIENCE

SEC. 251. (a) There is established within the Foundation a Committee on Women in Science, which shall be composed of 13 members. The Commitee shall—

(1) provide advice to the Foundation concerning (a) the implementation of the provisions of this Act and (B) other policies and activities of the Foundation to encourage full participation of women in scientific, engineering, professional, and technical fields;

(2) establish goals for increasing the participation of women in science and technology;

(3) make recommendations to the Foundation concerning the manner in which funds appropriated to carry out the provision of this Act should be distributed among the programs and activities authorized by this Act, taking into consideration the activities conducted and supported by other public agencies and private entities;

(4) provide advice to the Foundation concerning mechanisms to encourage women scientists and engineers to fully participate in all the programs of the Foundation, particularly research programs;

(5) provide advice concerning the appropriate manner to increase the number of women principal investigators on research projects, the development of flexible research support programs, and the improvement of cooperation between business concerns, academic institutions and other appropriate entities to facilitate research opportunities;

(6) make recommendations for the modification of the policies and procedures of the Foundation relating to the appointment of advisory committees and the selection of peer review committees in order to further the purposes of this Act;

(7) make recommendations to the Director concerning the inclusion of data in the report required under section 248; and

(8) evaluate the effectiveness of activities undertaken and supported under this Act.

(b)(1) Each member of the Committee shall be appointed by the Director with the concurrence of the National Science Board. The membership of the Committee shall represent a cross-section of the physical, mathematical, life, behavioral, and social sciences. At least two members of the Committee shall be nonscientists. At least nine members of the Committee shall be women, of whom at least seven shall be scientists or engineers active in promoting increased participation of women in science. In appointing members to the Committee, the Director shall obtain recommendations from governmental and private organizations active in promoting equal opportunity for women in science.

(2) The Chairperson of the National Science Board Committee on Minorities and Women shall be an ex officio member of the Committee.

(c) Members of the Committee shall be appointed to serve for a three year term, except that the terms of office of members first appointed shall expire, as designated by the Director at the time of appointment, five at the end of one year, four at the end of two years, and four at the end of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of such term. Members may be reappointed to serve one additional term of three years.

(d) Seven members of the Committee shall constitute a quorum, and any vacancy in the Committee shall not affect its power to function.

(e) Members of the Committee shall select a member to serve as Chairperson.

(f) Each member of the Committee who is not otherwise employed by the United States Government shall receive compensation, at a rate established by the Director which shall not exceed a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including travel-time, such member is engaged in the actual performance of duties as a member of the Committee. A member of the Committee who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(g)(1) The Director shall establish in the Foundation a Special Assistant for Women in Science who—

(A) shall be the principal adviser of the Director on matters relating to the advancement of women in science and technology;

(B) shall provide such support, staff, and assistance to the Committee as may be necessary to carry out its responsibilities under this Act; and

(C) shall facilitate the implementation of recommendations of the Committee.

(2) The Director shall provide the Special Assistant with such support, staff, and assistance as may be necessary to carry out the duties specified in this subsection.

(h) The Committee, with the approval of the Director, is authorized to establish such additional procedures and criteria as necessary to implement the provisions of this part.

(i) Each year the Committee shall prepare and transmit to the Congress a report concerning its activities during the previous year and its proposed activities for the next year.

AUTHORITY

SEC. 252. (a) Except as otherwise provided in this Act the Foundation shall, in carrying out its functions under this Act, have the same powers and authority the Foundation has under the National Science Foundation Act of 1950 to carry out its functions under that Act.

(b) Except as otherwise provided in this Act, the Director shall, in carrying out the functions of the Director under this Act, have the same powers and authority the Director has under the National Science Foundation Act of 1950 to carry out the functions of the Director under that Act.

APPLICATIONS REQUIRED

SEC. 253. No grant may be made nor any contract entered into under this Act unless an application is submitted to the Director at such time and in such manner and containing or accompanied by such information as the Director may require.

SEVERABILITY

SEC. 254. If a provision of this Act is held invalid, the validity of the other provisions of the Act shall not be affected. If an application of a provision of this Act to a person or circumstance is held invalid, the validity of the application of the provisions to another person or circumstance shall not be affected.

AVAILABILITY OF APPROPRIATIONS

SEC. 255. (a) Of the sums appropriated for the National Science Foundation under section 101(a), not less than 2.1 percentum shall be available in fiscal years 1981 and 1982 for carrying out the provisions of this title.

(b) The funds made available under subsection (a) shall be expended as follows:

(1) one-third of such sums to be expended to carry out the provisions of parts B and C of title II;

(2) one-third of such sums to be expended to carry out the provisions of part D of title II; and

(3) one-third of such sums to be expended to carry out the provisions of title II at the direction of the Director.

(c) Funds appropriated to carry out programs and activities authorized by this Act are in addition to funds appropriated pursuant to any other provision of law for the purpose of increasing the participation of women in science and technology.

MOTION OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROWN of California moves to strike out all after the enacting clause of the Senate bill, S. 568, and to insert in lieu thereof the text of the bill, H.R. 7115, as passed, as follows:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "National Science Foundation Authorization Act for Fiscal Year 1981".

SEC. 2. (a) There are authorized to be appropriated to the National Science Foundation, for the fiscal year 1981, the sums indicated for the following categories:

(1) Mathematical and Physical Sciences, $259,800,000.

(2) Astronomical, Atmospheric, Earth, and Ocean Sciences, $237,100,000.

(3) United States Antarctic Program, $64,200,000.

(4) Ocean Drilling Programs, $17,500,000.

(5) Biological, Behavioral, and Social Sciences, $183,410,000.

(6) Science Education Programs, $92,200,000.

(7) Engineering and Applied Science, $142,560,000.

(8) Scientific, Technological, and International Affairs, $30,450,000.

(9) Cross-Directorate Programs, $33,200,000.

(10) Program Development and Management, $59,800,000.

(b) Of the total amount authorized under subsection (a)(7)—

(1) not less than $19,400,000 shall be available for Earthquake Hazards Mitigation;

(2) not less than $1,000,000 shall be available for the Small Business Innovation Program, for projects to aid the handicapped;

(3) not less than $3,000,000 shall be available for Research and Development in Appropriate Technology;

(4) not less than $5,000,000 shall be available for a Center for Innovation Development to be located in an area which experienced an unemployment rate in excess of 10 per centum in 1979, and which is centrally located to serve several major metropolitan centers; and

(5) not less than $1,800,000 shall be available for the establishment and operation of three university-based Innovation Centers.

(c) Of the total amount authorized under subsection (a)(6)—

(1) not less than $2,400,000 shall be available for Science Faculty Improvement Programs, for year-long awards to experienced, full-time, two- and four-year college and university science teachers who are involved primarily in undergraduate science instruction to increase their competence in science; and

(2) not less than $1,500,000 shall be available for Science Education Programs relating to Appropriate Technology.

(d) Of the total amount authorized under subsections (a)(1), (a)(2), (a)(5), and (a)(7), not less than $2,000,000 shall be available for the salaries of faculty members of two-year and four-year colleges that have only small or no doctoral programs in science and engineering or of universities that have very limited science and engineering programs, for the purpose of enabling them to participate in research projects at institutions other than the faculty members' home institutions.

(e) Of the total amount authorized under subsection (a)(4), not more than $500,000 is authorized for the Ocean Margin Drilling Project, including such sums as may be necessary for the National Academy of Sciences study specified in section 3(c).

(f) Of the total amount authorized under subsection (a)(9), not more than $1,600,000 is authorized for United States/Union of Soviet Socialist Republics cooperative research, no portion of which shall be expended until the President has certified in writing to the Congress that such expenditures shall be of direct and very substantial benefit to the United States.

(g) Of the total amount authorized under subsection (a)(8), $14,500,000 is authorized for International Cooperative Science Activities.

SEC. 3. (a) The Foundation shall prepare a report on the Ocean Margin Drilling Project and shall transmit the report to Congress not later than December 31, 1980. The report shall include—

(1) plans for conversion of the Glomar Explorer or other drilling platform;

(2) plans for drilling;

(3) detailed cost estimates;

(4) a discussion of the feasibility and cost of alternative drilling platforms;

(5) plans for funding; and

(6) other plans.

(b) No funds shall be obligated for the Ocean Margin Drilling Project after December 31, 1980, until the report specified in subsection (a) is transmitted to Congress.

(c) The National Academy of Sciences shall study marine earth sciences research and report to the Congress.

(d) To the extent permitted by law, all Federal funding of the Ocean Margin Drilling Project shall be provided from the Windfall Profit Tax Account.

SEC. 4. Appropriations made under the authority provided in sections 2 and 6 shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making the appropriations.

SEC. 5. From appropriations made under the authority provided in this Act, not more than $5,000 may be used for official consultation, representation, or other extraordinary expenses at the discretion of the Director of the National Science Foundation. His determination will be final and conclusive upon the accounting officers of the Government.

SEC. 6. Besides the sums authorized by section 2, not more than $5,500,000 is authorized to be appropriated for the fiscal year 1981 for expenses of the National Science Foundation incurred outside the United States, to be drawn from foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

SEC. 7. Funds may be transferred among the categories listed in section 2(a), but neither the total funds transferred from any category nor the total funds transferred to any category may exceed 10 per centum of the amount authorized for that category in section 2(a) or available for that category after the application of section 10, unless—

(1) thirty calendar days on each of which at least one House of Congress is in session have passed after the Director of the National Science Foundation or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the Committee on Science and Technology of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(2) before the expiration of the thirty days both the Committee on Science and Technology of the House and the Committee on Labor and Human Resources of the Senate have written to the Director to the effect that they have no objection to the proposed transfer.

SEC. 8. The National Science Foundation is directed to consolidate all Directorates, including the Science Education Directorate, under one roof, in the present location of the central administrative offices, on or before August 1, 1982.

SEC. 9. The Director of the National Science Foundation, jointly with the Secretary of Education, shall develop and transmit to Congress a proposed joint Science Education Program plan.

SEC. 10. If the total amount of appropriations made by any Act for program activities included in section 2 for the fiscal year 1981 is less than the total amount authorized to be appropriated for those activities by section 2, the amount available from such appropriations for any particular program activity shall bear the same ratio to the amount authorized to be appropriated for that activity by section 2 as the total amount of the appropriations made by such appropriation Act for all included program activities bears to the total amount authorized to be appropriated for those activities by section 2 (with each ceiling and floor set forth in section 2 being reduced in the same ratio for purposes of determining the amounts so available), except to the extent specifically otherwise provided in the text of the Act making the appropriations for the program activities involved.

Sec. 11. (a) Section 15 of the National Science Foundation Act of 1950 is amended by striking out subsection (c), and by redesignating subsection (d) as subsection (c).

(b) The text of section 16 of such Act is amended to read as follows:

"Sec. 16. To enable the Foundation to carry out its powers and duties, only such sums may be appropriated as the Congress may authorize by law.".

Sec. 12. (a) Section 2(a) of the Act entitled "An Act to establish a National Medal of Science to provide recognition for individuals who make outstanding contributions in the physical, biological, mathematical, and engineering sciences", approved August 25, 1959 (42 U.S.C. 1881(a)), is amended by striking out "or engineering" and inserting in lieu thereof "engineering, behavioral, or social".

(b) The title of such Act is amended by striking out "and engineering" and inserting in lieu thereof "engineering, behavioral, and social".

Sec. 13. The President, with the assistance of the Director of the Office of Science and Techology Policy and members of the Cabinet, shall develop a comprehensive national policy with regard to women, minorities, science and technology. Further, the President is directed to report to the Congress a comprehensive legislative and administrative program to implement this policy before January 1, 1981.

Sec. 14. The Director of the National Science Foundation shall henceforth require the titles of all its grants to contain a brief statement of the purpose of the research being undertaken. Insofar as possible such statements shall be in layman's language.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize appropriations for activities of the National Science Foundation for fiscal year 1981, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 7115) was laid on the table.

GENERAL LEAVE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. HUTTO. Mr. Speaker, I was unable to register my vote on H.R. 7115. Had I been able to do so, I would have voted "yea."

DEFENSE AUTHORIZATION, 1981—CONFERENCE REPORT

(Mr. BENNETT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BENNETT. Mr. Speaker, for myself and Mr. Ichord, I want to say that the portion of the Defense authorization, 1981, conference report, title II, research development test and evaluation, entitled "new class carrier design" has, I am afraid, been subject to misinterpretation.

The August 26, 1980, Congressional Record, Senate, page 23250, contains a statement which purports to clarify the legislative intent of the conferees respecting aircraft carrier design. Unfortunately, the "clarification" is not consistent with the understanding of the House conferees or the specific language in the conference report.

The House report on the Department of Defense Authorization Act, 1981, contains no reference to a specific aircraft carrier design for the Navy. The Senate report contains very specific guidelines for a light carrier program. The guidelines set limits on tonnage, aircraft complement, acquisition costs and design specifications.

The House Armed Services Committee has long favored nuclear-powered aircraft carriers, preferably of the *Nimitz*-type. Large deck carriers can accommodate an optimum number of aircraft required for the most meaningful operation of air power at sea. The committee is mindful of the recent lessons learned from carrier units in the Indian Ocean that show the nuclear-powered carriers to cost less operationally than oil-fired carriers by an order of about two to one. The House conferees were, therefore, unanimous in their decision not to accept any compromise in conference that contained any restrictions on carrier design for the Navy. The House conferees specifically rejected language which contained the words "light carrier." The latter was to make very clear that the House would not accept any restrictions as to size and propulsion characteristics of aircraft carriers.

The conference report language on carriers was one of the last issues to be settled by the conferees. The House was adamant that the Senate's "light carrier" language was unacceptable. The agreed upon compromise specifically eliminated any reference to "light carriers" by adopting instead the words "new class carrier design."

The conference report language thus states:

> NEW CLASS CARRIER DESIGN
>
> The Senate amendment authorized $30 million which would have allowed for the development of a new class of aircraft carrier. The Department of Defense requested no funds for such purpose, and the House bill contained no authorization.
>
> If the United States Naval Forces are to continue to carry out their mission, there is strong evidence to support the need for additional aircraft carrier forces. For over three years, the Navy has been studying various sea-based aircraft platform alternatives. Despite this intense study effort, no program has been forthcoming to increase naval air capability at sea. Air-at-sea continues to provide the greatest flexibility in meeting new and challenging technological changes in warfare. It would be shortsighted indeed to fail to provide adequate forces, and especially air capable platforms, in this era of increasing Soviet naval capability. In providing for adequate forces in the years ahead, the Navy should consider carriers of all various designs.
>
> Therefore, $30 million is authorized for such additional R&D efforts as may be required to permit a definitive recommendation by the Navy to the Congress for a new class of aircraft carrier.

The legislative intent of the conferees clearly is to leave with the Navy the choice of the kind of aircraft carrier it may need now and in the future, without any restrictions as to size, propulsion or aircraft complement.

I believe that it is an accepted principle of legislative interpretation when one House of the Congress submits language in legislation, or in report language, to a conference, and the other House has different or no language on the subject, that then, when the conference agrees on language on the general subject matter, this renders inoperative the language which has been substituted for. It is manifestly obvious that the new language agreed upon by the House and Senate in this conference report supersedes the rejected Senate language and removes all restrictions in the study as to size, propulsion, or aircraft complement.

☐ 1730

SENATOR RANDOLPH'S 9,000TH VOTE

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAHALL. Mr. Speaker, it is with great pride that I rise today to congratulate my home State's senior Senator, a great American and a great man, Jennings Randolph, on the casting of his 9,000th vote as a Member of Congress.

The depth of Senator Randolph's commitment to his country and his State, can certainly be measured by this milestone.

A champion of the Interstate Highway System, the 55 miles per hour speed limit, environmental protection, the social security system, water resources, flood control, energy, coal, air travel, the disabled, the handicapped, older Americans, economic development, and the Appalachian Regional Commission; Senator Randolph has always been there, in a leadership role, to help those who need help the most.

For 14 years in the House of Representatives, and for 22 years in the U.S. Senate, Jennings Randolph has been in the forefront, advancing the causes that are good. His career has truly been "people oriented."

I know this great achievement is shared by his wonderful wife, Mary, and his two sons, Jay and Frank. The entire Randolph family is joined, with pride, by all West Virginians and by all Americans in the celebration of the major accomplishment.

Congratulations, Senator Randolph. Keep on going, and I hope to be here to help you celebrate No. 10,000 also.

THE HOLOCAUST COMMISSION

(Mr. YATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YATES. Mr. Speaker, I am extremely pleased to advise the House that I am joining today with 99 of my colleagues to introduce legislation which will establish the U.S. Holocaust Memorial Council as a permanent body.

The principal functions of the Holocaust Memorial Council will be to plan and oversee the construction and operation of a permanent, living memorial museum to the victims of the holocaust; to establish and administer an educational foundation; and to establish a Committee on Conscience to provide early warning of threats of genocide against any people throughout the world. In addition, the Council will designate 1 week in each year, to be known as Days of Remembrance, as a national, civic, commemoration of the holocaust, and it will encourage and sponsor appropriate observation of Days of Remembrance throughout the United States.

The funding for these projects, Mr. Speaker, is to be primarily through private contributions. I am pleased to be able to report that, toward that end, a private foundation, the U.S. Holocaust Remembrance Foundation, Inc., has already been established. The Remembrance Foundation will receive donations and contributions from private citizens and groups.

In establishing the Holocaust Memorial Council by Executive order as a temporary body, pending this legislation, President Carter noted the reasons that the holocaust is of fundamental significance to Americans, and explained why there should be an American commemoration of its victims. It was American troops who liberated many of the death camps and exposed the horrible truth of what had been done there. Also, the United States subsequently has become the homeland of many survivors and their families.

The President noted further that Americans must bear responsibility for not having been willing to acknowledge, 40 years ago, that the tragedy was occurring. Thus, thousands of refugees were turned away from our shores, and countless thousands of lives were lost that otherwise could have been saved. In studying the systematic destruction of the Jews by the Nazis, the President added, we can seek to learn how to prevent the recurrence of genocidal threats against any national or ethnic group.

As we know, Mr. Speaker, the holocaust was the annihilation of 6 million Jews as a formal, systematic act of state, pursuant to what the Nazis referred to as the final solution of the Jewish question. The event was all the more ghastly because it was committed by a modern European country with an extraordinary history of achievement in science, the arts, and philosophy. Indeed, those very achievements, which might have been expected to provide a civilizing bulwark against beastliness, were put to work to expedite the mass slaughters, to ease the consciences of the slaughterers, and even to attempt to rationalize and to justify the evil. And, through the years of anti-Semitic race laws, persecution, and extermination, the world acquiesced in its silence and inaction.

Inevitably, the horror spread, and other people, throughout the occupied countries of Europe, were subjected to Nazi atrocities. Those victims, too, will be remembered through the work of the Holocaust Memorial Council.

In addition to commemoration, the Council will be concerned with attempting to comprehend the holocaust, to draw lessons from that experience, and to seek to prevent genocide directed against any people, anywhere in the world. Those goals are to be achieved through the Educational Foundation and through the Committee on Conscience. Unhappily, the urgent need for such an effort has been made manifest by events since World War II, even into the present day.

For those reasons, Mr. Speaker, I take particular pride in introducing this legislation, and in calling upon my colleagues to join in establishing a permanent U.S. Holocaust Memorial Council.

A TRIBUTE TO THE WORKERS OF POLAND

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, the coal miners of Silesia, the last of the workers of Poland still striking, returned to work today after having won the agreement of the government of Poland to their insistence on greater freedom. The heroic and historic strike of the Polish workers is now over and all of us as Americans should join in saluting the Polish workers for their extraordinary bravery and their dedication to freedom.

For, Mr. Speaker, the workers of Poland, and the Polish people who stood with them, have provided the world an example of courage that will be forever remembered.

The Polish workers have demonstrated that the flame of freedom, which in the long and tortured history of Poland has often been dimmed, can never be quenched.

It was just 41 years ago this month, I would remind you, Mr. Speaker, that the armies of Nazi Germany and the Soviet Union swept into Poland and destroyed a democratic society. While defending their homeland during the years of terror under the Nazis, more than 6 million Poles were killed.

Today, Mr. Speaker, 4 decades later, a new generation of Poles has accomplished what only weeks ago would have been thought impossible.

In just 18 days, the workers of Poland have radically altered the conditions under which they work and live. By their heroic actions, the Polish workers have won economic and political rights unmatched in any other nation controlled by a Communist Party.

Alone and unarmed, the Polish workers have won the right to strike and the right to establish their own trade unions, independent of control by the government, as well as a series of economic and political reforms that we in the United States take for granted but which have been denied the people of either Eastern Europe or the Soviet Union.

One of the most striking aspects of this victory, to me, Mr. Speaker, is the way it happened. What began as a protest by one small group of workers at a shipyard in Gdansk spread within less than 3 weeks to 600,000 workers in more than 20 cities.

Never once did these brave people flinch, and never once did they resort to violence. They stood their ground as their forebears stood so courageously over 4 decades ago and as Poles have for generations resisted forces arrayed against them.

Mr. Speaker, there are several reasons that I take this time to pay tribute to the Polish workers.

In the congressional district in Indiana which I have the honor to represent, there are many Americans of Polish origin.

I have on several occasions had the opportunity to visit Poland, most recently in August of 1979 when I led a delegation of Members of the House of Representatives for meetings with officials of the Polish Government and with leaders of the Roman Catholic Church. While in Poland, we had the privilege of meeting with Stefan Cardinal Wyszynski, Primate of the Roman Catholic Church of Poland, and Franciszek Cardinal Macharski, successor to Pope John Paul II as Archbishop of Krakow. We also visited Czestochowa, the shrine of Polish Roman Catholics.

Beyond all these reasons for my interest in Poland, Mr. Speaker, my wife, Mary Ellen, is of Polish origin.

But I am sure, Mr. Speaker, that Americans of all backgrounds because of our belief in human freedom and human rights will join in admiration for what the workers of Poland have accomplished.

I should, however, note, Mr. Speaker, that it would be foolhardy for us to assume that the struggle in Poland is over. Obviously it is not. Promises have been made to the workers by the Government of Poland and the Communist Party of Poland and those promises must be kept. There must be no outside interference in the internal affairs of Poland. The Polish people must be allowed to work out the details of their destiny.

Indeed, Mr. Speaker, many of us in the House of Representatives, together with the distinguished chairman of the Committee on Foreign Affairs, the Honorable CLEMENT J. ZABLOCKI of Wisconsin, joined late last month in introducing a resolution which called on the Government of Poland to observe the political and civil rights of the striking workers.

That resolution, Mr. Speaker, noted various international agreements which the Polish Government had accepted guaranteeing civil and political rights, including the right to form and join trade unions.

The resolution urged the Polish Government "to resolve the issues raised by the workers through peaceful means" and requested the government "immediately to release persons unjustly imprisoned * * * for their efforts to exercise their rights."

The resolution also called on all signatories of the Helsinki Accords to observe its principles "relating to sovereign equality, inviolability of frontiers, and nonintervention in internal affairs."

Mr. Speaker, I believe that the Government of our country has been wise in demonstrating moral support for the position of the Polish workers while avoiding any action that could have been seized upon by the Soviet Union to justify intervention, military or otherwise, in Poland.

I am pleased also that President Carter has taken the initiative in suggesting to the nations of the West that they favorably consider requests for assistance from Poland in this time of difficulty.

Mr. Speaker, the 12 million Americans of Polish origin have been among our most valued citizens. Today Polish Americans—and all Americans—have the right to feel a sense of pride and joy at the success of our friends and relatives in Poland in achieving progress in human rights to a degree that exists nowhere else in the countries of Eastern Europe.

LEGISLATION TO HELP HOSPITALS SERVING THE MEDICALLY INDIGENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 15 minutes.

Mr. BINGHAM. Mr. Speaker, I am today introducing a bill which would help hospitals which serve the medically indigent. It is called the Hospital Ambulatory Services Reimbusement Reform Act.

This bill is designed to keep financial crises from recurring in hospitals which have already come through a crisis, and to prevent such crises from occurring in other hospitals serving similar populations. The proposed reimbursement reform program presumes that the provision of care to those who cannot pay for it is part of the legitimate cost of operation in certain hospitals serving large indigent populations and should be accommodated within the reimbursement system. Under this bill medicare and medicaid would be required to assume their share of the costs to the hospitals of providing ambulatory services to those unable to pay.

This bill has been introduced in the Senate by Senator JAVITS.

The need for this kind of legislation has become increasingly clear. I myself became aware of this need through the problems experienced by the Bronx-Lebanon Hospital Center (BLHC) located in my congressional district. Serving an urban area, BLHC has found it increasingly necessary to provide essential ambulatory care services to people who cannot pay, either because they have no private insurance or because they are ineligible for medicaid. Unfortunately, the future operation of hospitals such as BLHC is threatened because the cost of nonreimbursed services is greater than available resources. This is so in spite of the almost Herculean efforts of its president to keep the hospital open and serving the community.

At the same time, I am cosponsoring two bills already introduced by my colleague from New York, Mr. RANGEL, which are also aimed at helping hospitals in financial difficulty. These bills are H.R. 7680, the Financially Distressed Hospitals Assistance Act, and H.R. 7776, the Hospital Financing Experiment and Demonstration Act.

H.R. 7680 would provide emergency grants to prevent the closure of hospitals which are the principal source of essential health services in their communities and which are experiencing severe financial distress due to the high volume of ambulatory health services provided to the medically indigent. Grants would provide for payment of accrued debts for private nonprofit hospitals to allow them to regain a stable financial position for future operations.

H.R. 7776 is designed to provide the information necessary to develop more permanent reforms in the health care system. It would expand existing demonstration authorities under the medicare and medicaid programs to allow the Secretary of Health and Human Services to test some of the reimbursement reforms which have been suggested. The Health Subcommittee which Mr. Rangel chairs has already marked up this bill and is expected soon to report it to the full Ways and Means Committee.

The time has come for Congress to address the problems faced by hospitals that serve the medically indigent. These hospitals provide vital services, and they are often the financial backbone of the community. We cannot allow them to go under. Although time is short, I hope Congress can act on these bills before the end of this session.

The text of the Hospital Ambulatory Services Reimbursement Reform Act follows:

H.R. 8074

A bill to amend the Social Security Act to provide for reimbursement reform with respect to financially distressed hospitals serving the medically indigent

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hospital Ambulatory Services Reimbursement Reform Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) many hospitals are experiencing financial distress as a consequence of providing ambulatory health services to individuals who have no means by which to pay for such services; and

(2) the costs of providing ambulatory and emergency services in such hospitals to such individuals is a part of the cost of operating that hospital and should be shared by all who pay for hospital care.

(b) It is the purpose of this Act to—

(1) encourage more efficient and effective use of ambulatory care and emergency services; and

(2) modify Federal reimbursement policies to provide assistance to hospitals delivering ambulatory and emergency services to patients who have no means by which to pay for such services.

MEDICARE REIMBURSEMENT

SEC. 3. Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"COMMUNITY SERVICE COST REIMBURSEMENT FOR FINANCIALLY DISTRESSED HOSPITALS

"SEC. 1882. (a)(1) For purposes of reimbursement under this title to a financially distressed hospital (as defined in subsection (b)), there shall be included as an allowable cost item in determining reasonable cost under the regulations issued pursuant to section 1861(v)(1), an amount equal to the community service costs incurred by such hospital in providing covered outpatient services (as defined in subsection (e)) to any individual—

"(A) whose family income is not in excess of an amount equal to 125 percent of the annually adjusted Community Services Administration income poverty guidelines in the area in which such hospital is located;

"(B) who is not covered for such services under a State plan for medical assistance; and

"(c) who is not covered by insurance for such service and is not able to pay for such services after the hospital has made reasonable efforts to collect all charges for such services.

"(2)(A) The amount of the community service costs shall be determined as follows:

"(i) The amount of the charges for covered outpatient services (as defined in subsection (e)) provided by such hospital to individuals described in paragraph (1) shall be divided by the amount of the charges for covered outpatient services provided by such hospital to all patients.

"(ii) The amount determined under clause (i) shall be multiplied by the reasonable cost of covered outpatient services provided by such hospital to all patients.

"(iii) The amount determined under clause (ii) shall be reduced by the amount of the charges for covered outpatient services provided to individuals described in paragraph (1) which are collected by such hospital.

"(iv) The amount determined under clause (iii) shall be further reduced by an amount equal to such hospital's obligation to provide services to persons unable to pay therefor, with respect to covered outpatient services, under regulations issued pursuant to section 603(e) of the Public Health Service Act.

"(B) The amount of the community service costs as determined under subparagraph (A) for a hospital shall be apportioned to the program established by this title in an amount which bears the same ratio to the total amount of such community service costs as the total charges by such hospital for beneficiaries under this title bears to the total charges by such hospital for all patients.

"(b)(1) For purposes of this title, a hospital shall be considered a financially distressed hospital for the first accounting year beginning after the date of the enactment of this section if such hospital—

"(A) is a non-Federal public or private nonprofit short-term acute care facility;

"(B) meets the requirements of section 1861(e);

"(C) primarily serves a medically underserved population (within the meaning of section 330(b)(3) of the Public Health Service Act);

"(D) is certified by an independent accounting firm or fiscal intermediary, based upon generally accepted accounting principles, to (i) have had a net patient care deficit (excess of patient care expenses over patient care revenue) in the outpatient department and emergency room service of such hospital in each of the two preceding accounting years prior to the accounting year in which an application is submitted under this section, and (ii) the net revenue of the hospital did not exceed the net patient care deficit of the combined outpatient department and emergency room service for each of such two preceding accounting years; except that the provisions of this subparagraph shall not apply in the case of a public general hospital or a hospital owned or operated by a public benefit corporation; and

"(E) demonstrates that for each of the two preceding accounting years, at least 60 percent of the total charges for patient services in the outpatient department and emergency room were incurred by any combination of (i) individuals eligible for medical assistance under a State plan approved under title XIX, or under another State or local medical assistance program, at the time of such service, or (ii) individuals who were not covered by any form of medical insurance with respect to the payment of or reimbursement for the services, and were unable to pay for such services after the hospital had made reasonable efforts to collect all charges for such service.

"(2) With respect to accounting years beginning after the accounting year referred to in paragraph (1), a hospital shall be considered a financially distressed hospital if it meets the requirements of subparagraphs (A) through (D) of paragraph (1) and demonstrates that for the preceding accounting year at least 60 percent of the total charges for covered outpatient services were incurred by any combination of—

"(A) individuals who were eligible for medical assistance under a State plan approved under title XIX, or under another State or local medical assistance program, at the time such services were provided; or

"(B) individuals (i) whose family income is not in excess of an amount equal to 125 percent of the annually adjusted Community Services Administration income poverty guidelines in the area in which such hospital is located, and (ii) who were not covered by any form of medical insurance with respect to the payment of reimbursement for the services provided and were unable to pay for such services after the hospital had made reasonable efforts to collect all charges for such services.

"(c)(1) In order for a hospital to participate in the reimbursement program established under this section, the State in which such hospital is located must submit an application to the Secretary on behalf of such hospital. Such application shall include—

"(A) a description of the hospital's financial condition, including any supporting documentation required by the Secretary;

"(B) documentation that the hospital meets the eligibility requirements set forth in subsection (b);

"(C) utilization data necessary to make the community service cost determinations under subsection (a);

"(D) projected changes in revenues and expenses in the event that the hospital is approved for participation in the reimbursement program established under this section;

"(E) description of current management practices of the hospital as the Secretary may determine to be necessary; and

"(F) a plan prepared by the State and the hospital for any appropriate reorganization of health care services, emphasizing the closing or conversion of unnecessary hospital beds or any managerial, operational, or fiscal reforms, to be undertaken by the hospital.

"(2) The Secretary shall approve an application if the Secretary determines that—

"(A) the hospital meets all applicable requirements of this section;

"(B) the application has been reviewed and approved by the National Advisory Council on Hospital Financing Stabilization and Reorganization established under subsection (f);

"(C) the hospital and the State in which the hospital is located have agreed to provide any appropriate additional information or reports which the Secretary may require; and

"(D) the State, county, and municipality in which the hospital is located provide assurances that State, county, and municipal funding for such hospital will be maintained at levels not lower than the level provided with respect to the preceding accounting year, increased by a percentage equal to the percentage increase in the medical care expenditure class of the consumer price index for such preceding accounting year or the annual increment permitted under existing State law whichever is less; except that the Secretary may waive the requirement of this subparagraph to the extent that lower funding levels reflect increased revenue or cost savings resulting from improved collections, management efficiencies, reorganization of services, changes in size of patient population, changes in case mix, or other indices of performance in such hospitals as may be determined by the Secretary in consultation with the National Advisory Council on Hospital Financing Stabilization and Reorganization.

"(3)(A) The Secretary shall approve or disapprove an application submitted under this subsection within 90 days after a completed application has been submitted. The Secretary shall provide specific reasons for disapproving any such application. If the Secretary disapproves any such application, the applicant State may, within 30 days after such disapproval, submit a revised application on behalf of such hospital responding to the specific reasons of the Secretary for disapproval of such application. The National Advisory Council on Hospital Financing Stabilization and Reorganization shall consider such revised application and make its recommendation to the Secretary for action in accordance with this paragraph.

"(B) Approval of an application shall be for a one-year period only. Any renewal application shall contain such additional information as the Secretary may require in order to make determinations of eligibility under this section.

"(C) Prior to approval of a renewal application, the Secretary may request that a hospital which is participating in the reimbursement program established under this section make appropriate changes in health care services organization or in managerial, operational, or fiscal practices. The hospital's responsiveness to such request may be taken into account by the Secretary in making determinations with respect to renewal applications.

"(d) Notwithstanding the provisions of subsection (a), the amount of additional reimbursement made under this title and under the State plan approved under title XIX for any accounting year to any hospital on account of the provisions of this section and section 1902(a)(41) may not exceed the combined net deficit in the operation of the outpatient department and emergency room for such accounting year.

"(e) For purposes of this section—

"(1) the term 'patient care expenses' means the total amount of expenses incurred in the provision of direct patient care by a hospital, reduced by an amount equal to (A) such hospital's obligation to provide services to persons unable to pay therefor under regulations issued pursuant to section 603(e) of the Public Health Service Act, and (B) any community funds, or grants, gifts, or endowment income, designated by a donor for payment of specific patient care expenses incurred;

"(2) the term 'revenue' means the total income of the hospital from whatever source, excluding (A) specific purpose service grants and grants for education, research, or training programs, from the Federal Government and (B) restricted grants, gifts, endowments and income therefrom not designated by a donor for payment of specific patient care expenses incurred and (C) unrestricted grants, gifts, and endowments and income therefrom;

"(3) the term 'patient care revenue' means revenue collected for the delivery of direct patient care; and

"(4) the term 'covered outpatient services' means preventive, diagnostic, therapeutic, rehabilitative, or palliative services provided in a hospital to an outpatient by or under the supervision of a physician or dentist.

"(f)(1) There is established a National Advisory Council on Hospital Financing Stabilization and Reorganization (hereinafter in this section referred to as the 'Council').

"(2) The Council shall be composed of nine members appointed by the Secretary. The members shall be selected as follows:

"(A) Two members shall be individuals representative of hospital administration, one of whom shall represent a public general hospital.

"(B) Two members shall be individuals representative of private entities that insure individuals and reimburse hospitals on behalf of such individuals.

"(C) Two members shall be individuals who represent consumers of health care services at hospitals for which reimbursement is intended under this section and who do not meet the criteria of subparagraph (A) or (B).

"(D) One member shall be an individual who represents an organization representing hospital employees.

"(E) Two members shall be individuals who, as a result of training or experience in fields of health care management, health services organization, health care financing, or health care quality assurance, are exceptionally well qualified to assist in serving on and carrying out the functions of the Council.

"(F) The Secretary or the Secretary's designee, the Director of the Health Care Financing Administration or the Director's designee, and the Assistant Secretary for Health or the Assistant Secretary's designee, shall be ex officio members of the Council.

"(3) The Secretary shall appoint the members of the Council not latter than 60 days following the date of the enactment of this section. Four members of the Council shall be appointed for four years, three members of the Council shall be appointed for three years, and two members of the Council shall be appointed for two years. Members appointed to fill a vacancy previously filled by a member shall be appointed for a term of four years. A vacancy in the Council shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

"(4) The Council shall elect one member who is not a Federal employee to act as Chairperson and the Chairperson shall serve until the expiration of such member's term.

"(5) Five members of the Council shall constitute a quorum to do business. The Council shall meet at least quarterly at the call of the Chairperson or at the call of a quorum of its members.

"(6) The functions of the Council shall be to—

"(A) advise the Secretary with regard to the preparation of general definitions, regulations, and policy matters regarding the implementation of this section, and review and approve such definitions, regulations, and policy matters prior to implementation;

"(B) review and approve, disapprove, or make recommendations to the Secretary for modification of, the applications submitted pursuant to this section; and

"(C) monitor and evaluate the operational, managerial, and financial practices, and health services of hospitals receiving reimbursement under this section to the extent necessary to implement this section.

"(7) (A) Each member of the Council not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day such member engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

"(B) The Council is authorized to—

"(i) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

"(ii) enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Council in such amounts as may be agreed upon by the Chairperson and the Administrator of General Services; and

"(iii) procure supplies, services, and property, and make contracts, without regard to the laws and procedures applicable to Federal agencies.

"(C) Section 14 of the Federal Advisory Committee Act shall not apply to the Council.

"(D) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this paragraph.".

MEDICAID REIMBURSEMENT

SEC. 4. (a) Section 1902(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and "; and

(3) by inserting after paragraph (40) the following new paragraph:

"(41) provide that payment to any hospital, which has been determined to be a financially distresed hospital under section 1882, shall include payment of the community service costs incurred by such hospital in providing covered outpatient services in the same manner as such payments are included under section 1882, except that such cost shall be apportioned to the State plan in an amount which bears the same ratio to the total amount of such community service costs incurred by such hospital as the total amount of charges by such hospital for individuals eligible for services under the State plan bears to the total amount of charges by such hospital for all patients.".

(b) Section 1902(a) (13) (D) of such Act is amended by inserting after "section 1122," the following: "and consistent with the requirements of paragraph (41) of this subsection relating to financially distressed hospitals,".

EFFECTIVE DATES

SEC. 5. The amendments made by this Act shall become effective one hundred and eighty days after the date of the enactment of this Act.

FUEL FROM BIOMASS PRODUCTION INCENTIVE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 5 minutes.

Mr. DASCHLE. Mr. Speaker, I am today introducing legislation to encourage the production of fuel from our Nation's renewable biomass resources. Fuel produced from biomass is a renewable domestic fuel which can replace imported fuels and lessen our Nation's dependence on imported energy resources. Already the Congress has recognized the important contribution which fuel produced from biomass can make in reducing our dependence on imported oil by including in the Crude Oil Windfall Profit Tax Act an incentive for the production of fuel from processed wood. The legislation I am introducing today will extend the same production incentive to fuel produced from additional biomass resources including flax residue, rye grass, peanut hulls, sugar cane, and other agricultural residues and will compliment the alternative fuel production incentive provided earlier this year by the Congress.

Fuel produced from biomass is a very clean and efficient fuel. In a recent assessment of fuel produced from biomass the Solar Energy Research Institute has stated densified biomass fuel can be burned in standard equipment with reduced emissions and increased heat release and thermal efficiency. The sulfur content of biomass fuel is less than one-tenth of 1 percent thus reducing or eliminating the need for costly sulfur control equipment. The ash content of densified biomass fuel is approximately 1 percent and this can be returned to the soil as a fertilizer or conditioner. Fuel produced from biomass is an attractive alternative fuel and should be extended the same production incentive which has already been provided for processed wood.

I am very pleased Senator RUSSELL LONG, chairman of the Senate Finance Committee, has introduced similar legislation in the Senate and I am hopeful this body will quickly and favorably consider this measure.

Mr. Speaker, I include the text of the Fuel From Biomass Production Inventive Act in the RECORD at this point.

ALTERNATIVE FUEL PRODUCTION CREDIT

General rule

The conference agreement includes a nonrefundable income tax credit for the production and sale of certain alternatives energy sources. This credit is intended to provide a guaranteed price floor for production from these sources in the event of future declines in the price of oil. The credit is $3 per barrel of oil-equivalent, measured on a Btu basis. The $3 amount (except in the case of tight sands gas production) is adjusted for inflation occurring after 1979, as measured by the GNP deflator.

The credit is allowed only for energy produced and sold from domestic facilities placed in service between December 31, 1979, and January 1, 1990, or from wells drilled during that period on properties with no production before January 1, 1980. Fuel is eligible only if the sale occurs after December 31, 1979, and before January 1, 2001. The credit for production from any particular facility is reduced proportionately to the extent the facility or equipment was financed with grants, subsidized energy loans, or tax-exempt financing. The production credit otherwise allowable for any facility is reduced dollar-for-dollar to the extent that the energy investment credit was allowable for that facility until the full energy credit is recaptured.

The credit phases out as the average price of uncontrolled domestic oil rises from $23.50 to $29.50 per barrel, adjusted for inflation occurring after 1979. The credit for tight sands gas production terminates if that gas is deregulated.

The following energy sources are eligible for the credit:

(1) oil from shale;

(2) oil from tar sands;

(3) liquid, gaseous or synthetic solid fuel or feedstock produced from coal;

(4) natural gas from geopressured brine, coal seams, tight sands, or Devonian shale;

(5) gas produced from biomass;

(6) steam produced from solid agricultural by-products; and

(7) processed wood if the energy content, per unit of weight or volume, of the processed wood exceeds that of the raw wood by at least 40 percent.

Special rules

Devonian shale.—For production and sales in 1980, 1981 and 1982, the phaseout of the credit for gas produced from Devonian shale is based on the price of deregulated natural gas, not deregulated oil. Specifically, the credit phases out as the average price of high cost natural gas (as defined under section 107(c) (2), (c) (3), and (c) (4) of the Natural Gas Policy Act of 1978) rises from $4.05 to $5.08 per thousand cubic feet (mcf).

Qualifying processed wood.—The credit is available only for facilities placed in service in calendar years 1980 and 1981 and for production from these facilities before either October 1, 1983, or three years from the date that the facility first is placed in service, whichever comes later. However, the phaseout based on the price of oil will not apply to the first three years of production from any facility.

Steam from solid agricultural byproducts.—The credit is available only for production before January 1, 1985. However, the phaseout based on the price of oil will not apply to the first three years of production from any facility, and expansions of pre-1980 facilities will be treated as facilities placed in service after December 31, 1979, and, therefore, will be eligible with respect to incremental production.

H.R. 8077

A bill to amend the Internal Revenue Code of 1954 with respect to the application of the credit for producing fuel from a nonconventional fuel to solid fuel pellets made from biomass

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF SECTION 44D.

(a) BIOMASS FUEL PELLETS TREATED AS QUALIFIED FUEL.—Paragraph (1) of section 44D(c) of the Internal Revenue Code of 1954 (relating to general definition of qualified fuels) is amended—

(1) by striking out "and" at the end of subparagraph (D),

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a comma and the word "and", and

(3) by adding at the end thereof the following new subparagraph:

"(F) qualifying fuel pellets produced from biomass.".

(b) Definition; Special Rules.—

(1) Definition.—Subsection (c) of section 44D of such Code (relating to definition of qualified fuels) is amended by adding at the end thereof the following new paragraph:

"(6) Qualifying fuel pellets from biomass.—

"(A) In General.—The term 'qualifying fuel pellets from biomass' means any solid fuel in pellet form produced from biomass (other than wood or wood products) which has a Btu content per unit of volume or weight, determined without regard to any nonbiomass elements, which is at least 40 percent greater per unit of volume or weight than the Btu content of the biomass from which it is produced. The determination of Btu content shall be made immediately before processing, and, in the case of such fuel produced from bagasse, after sugar extraction and before drying.

"(B) Election.—A taxpayer shall make an election, the same as the election described in (4)(B), with respect to the determination of Btu content for purposes of this paragraph.

"(C) Use by taxpayer.—

"(i) In general.—The use by the taxpayer in his trade or business of qualifying fuel pellets from biomass shall be treated as a sale by the taxpayer to an unrelated person on the date of use.

"(ii) Use as steam.—If the taxpayer produces steam described in paragraph (1)(E) as a result of such use, the taxpayer shall elect, at such time and in such manner as the Secretary may prescribe, to claim the credit allowed by subsection (a) with respect to such steam or with respect to the qualifying fuel pellets from biomass so used, but not both, with respect to such use.".

(c) First 3 Years of Production To Qualify.—Paragraph (5) of section 44D(d) of such Code (relating to application of phaseout) is amended—

(1) by striking out "or steam from solid agricultural products" in the caption of such paragraph and inserting in lieu thereof the following: ", steam from solid agricultural byproduct, or qualifying fuel pellets from biomass",

(2) by striking out "or" at the end of subparagraph (A),

(3) by inserting "or" at the end of subparagraph (B), and

(4) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) qualifying fuel pellets from biomass,".

(d) Effective Date.—Subsection (f) of section 44D of such Code (relating to application of section) is amended—

(1) by striking out "paragraph (2)" in paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)"; and

(2) by adding at the end thereof the following new paragraph:

"(3) Special rules for qualifying fuel pellet facilities.—In the case of qualifying fuel pellets from biomass, this section shall apply only with respect to such pellets which are—

"(A) produced in a facility—

"(i) placed in service after December 31, 1979, and before October 1, 1983, or

"(ii) for the construction of which the taxpayer was obligated under a contract which, on September 30, 1983, was binding on all parties, and

"(B) sold before January 1, 1990.

Sec. 2. Effective Date.

The amendments made by section 1 of this Act shall apply with respect to taxable years ending after December 31, 1979.

NORTHWEST ENERGY BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. Weaver) is recognized for 5 minutes.

Mr. WEAVER. Mr. Speaker, today the Committee on Interior and Insular Affairs, by a vote of 28 to 14, passed the Northwest energy bill. One of those 14 votes in opposition to the bill was mine. I have fought this bill now for 4 years. Finally, the power of certain political elements in the State of Washington and in the State of Oregon and elements within the utility industry and the Federal Government have forced this bill through, now, two House committees, and it will be coming to the floor if they can get it through the Committee on Rules.

Mr. Speaker, this bill nationalizes the utility industry of the Northwest by putting all power in the hands of the Bonneville Power Administration. It forces my constituents and every ratepayer in the Northwest to pay for any project that the Bonneville Power administrator and the utilities wish to propose, without their consent, whether they need it or not, whether it works or not.

I offered a freedom of choice amendment, Mr. Speaker, allowing a utility to opt out of any given project. A project could be in one end of the Northwest of such magnitude costing billions of dollars and a utility in the other end of the Northwest may not wish to take the risk and would not, of course, share in any benefits, et cetera.

Mr. Speaker, this amendment of mine was crushed by the utility lobby because they must force every single ratepayer, every single utility, every single county and State in the Northwest to bend under their whip, whether they like it or not, whether they consent to it or not, whether anything they do works or not, whether it is needed or not.

Now, the fundamental part of the bill is that it would have the Federal Government, an agency of the Federal Government, guarantee to purchase the output of a plant, whether it works or not. I do not mind buying the actual electricity, Mr. Speaker, but to be forced, without our consent our choice, to buy the theoretical output of a plant is to me close to the worst elements of other forms of government.

□ 1840

This is a democracy; this is supposedly a free market, a free enterprise system of government. Now, we have the nationalization of the utility industry in the Northwest coming to a head in the Northwest energy bill, and I beseech my good conservative friends that, where I am fighting the fight for the free market——

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. WEAVER. I would be only too glad to yield to my colleague.

Mr. SWIFT. To suggest that the regional power bill for the Northwest would nationalize the power industry is the grossest misunderstanding of the bill that I can imagine.

Mr. WEAVER. I would like to have a debate here with my dear friend and say that what it does is put all planning in the hands of the Bonneville Power Administrator, plus a council—a council that will be chosen by the Secretary of Energy.

Mr. SWIFT. Will the gentleman yield further?

Mr. WEAVER. I surely do.

Mr. SWIFT. It does not put all of the planning power in the hands of the Bonneville Power Administrator. It specifically does not put the planning power in the hands of the Administrator. It rather puts it in the hands of a council which is appointed——

Mr. WEAVER. I just said, appointed by the——

Mr. SWIFT. Appointed by the Governor.

Mr. WEAVER. It is my time, I say to the gentleman from Washington. I would be delighted to have an argument with him, but if the Attorney General, if the unofficial letter from the Justice Department is correct, that the appointment by the Governor is unconstitutional, then the bill says the Secretary of Energy shall appoint a council.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Washington.

Mr. DICKS. There are very few people in the House I have more personal respect for and enjoy more than the gentleman from Oregon, but I also want to point out that the private utilities in the Pacific Northwest are all in favor of this legislation. It is nearly laughable to say that they would participate in some process that would lead to the nationalization of the energy industry.

Mr. WEAVER. I would like to comment on that very point. The reason the private utilities are for the bill is, there is something in it for them. It guts the Public Utility Holding Company Act of 1935, pushed through the Congress by Sam Rayburn—his most cherished bill—and its guts that law. That is why the private utilities support it.

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. Neal) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, I am submitting to the House today the U.S. Export-Import Bank's proposal to help finance the sale of more than $291 million worth of U.S. goods and services for a fertilizer project in the Republic of Nigeria.

The Eximbank would provide loans and financial guarantees of $247,503,000 for the project, which would be jointly managed and operated by Nigeria's Federal Ministry of Industries and the Pullman-Kellogg Co. of Houston, Tex. Pullman-Kellogg would provide, or contract with other U.S. companies for the goods and technical services required.

The nitrogenous fertilizer project, which would include ammonia, urea and mixed fertilizer plants, would provide Nigeria with a domestic source of fertilizer (now imported from Europe) and would utilize natural gas currently being flared.

Pullman-Kellogg has strong competition for this sale from a French firm, which is offering official financing similar to the Eximbank's.

This Eximbank notification was referred to me as chairman of the Banking Committee's Subcommittee on International Trade, Investment and Monetary Policy. Under section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, the Eximbank must notify Congress of loans or financial guarantees, or combinations thereof, of $100 million or more. Unless Congress determines otherwise, the Eximbank may give final approval to the transaction after 25 days of continuous session of the Congress following notification.

I am submitting for the RECORD a copy of the Eximbank notification stating the terms and details of this proposed transaction. I would welcome any comments or questions my colleagues might have.

The Eximbank material follows:

EXPORT-IMPORT BANK OF THE
UNITED STATES,
Washington, D.C., September 2, 1980.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

H. K. ALLEN.

EXPORT-IMPORT BANK OF THE
UNITED STATES,
Washington, D.C.

The SPEAKER OF THE HOUSE OF
REPRESENTATIVES,
H-209, U.S. Capitol,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to Nigeria.

A. Description of Transaction.

1. Purpose.

Eximbank is prepared to make available financing in the form of loans and guarantees (Eximbank Financing) of $247,503,000 to the Republic of Nigeria, acting by and through its Federal Ministry of Finance (Borrower). The purpose of the Eximbank Financing is to facilitate the purchase in the United States by the Federal Ministry of Industries (FMI) of the Republic of Nigeria of equipment and services for a nitrogenous fertilizer project together with related infrastucture (Project). The total U.S. export value for this transaction is estimated to be $291,180,000.

2. Identity of the Parties.

(a) Republic of Nigeria.

The Republic of Nigeria, acting by and through its Federal Ministry of Finance, will act as the Borrower of the Eximbank Financing.

(b) FMI and Pullman-Kellogg.

FMI is the Ministry of the Republic of Nigeria charged with the responsibility for developing the country's industrial resources. FMI and Pullman-Kellogg (P-K) of Houston, Texas intend to form a joint venture company for the management and operation of the Project.

3. Nature and Use of Goods and Services.

The Project will be comprised of a 1,000 metric tons per day (MTD) ammonia plant, a 1,500 MTD urea plant, and a 1,000 MTD mixed fertilizers unit. The goods to be exported will involve chemical process, materials handling, utility plant, and construction equipment as well as various services including: engineering, procurement, construction supervision, start-up, training, and process licensing.

B. Explanation of Eximbank Financing.

1. Reason.

The Eximbank Financing of $247,503,000 will facilitate the export of $291,180,000 of U.S. goods and services. P-K has initialed a lump sum contract with FMI to act as prime contractor for the Project. The Project will provide Nigeria with a domestic source of fertilizer, will utilize natural gas currently being flared, and will result in foreign exchange savings since Nigeria currently imports the fertilizer to be produced from Europe.

The award of this Project to P-K represents a major breakthrough for a U.S. firm in Nigeria, a market in which the U.S. has had only limited success. It was accomplished in the face of strong competition from the French who also offered official export financing for 85 percent of the Project costs at a blended rate of 8.4 percent per annum.

P-K estimates that its engineering and other client services will involve approximately 607,000 man-hours of employment. In addition, P-K, as managing contractor will subcontract for equipment and engineering services from a number of other U.S. suppliers which will account for substantial additional man-hours of employment.

2. The Financing Plan.

The total cost of United States goods and services to be purchased for this project will be financed as follows:

	Amount	Percent of U.S. cost
Cash	$43,677,000	15
Eximbank financing	247,503,000	85
Total	291,180,000	100

It is expected that the Eximbank Financing will consist of a blend of an Eximbank direct loan and a loan of a private financial institution guaranteed by Eximbank.

(a) Eximbank Charges.

The financial charge on the Eximbank Financing to be paid by the Borrower will be 8.4% per annum payable semiannually, a rate established in a Preliminary Commitment authorized by Eximbank for the Borrower on September 11, 1979. A commitment fee of 0.5% per annum will be charged on the undisbursed portions of the Eximbank Financing and is included in the above financial charge of 8.4%.

(b) Repayment Terms.

The Eximbank Financing will be repaid by the Borrower in 20 semiannual installments beginning December 31, 1984.

Attached is certain additional information on Eximbank activity in, and economic data about, the country involved in this transaction.

Sincerely,

H. K. ALLEN.

NIGERIA: KEY ECONOMIC INDICATORS

[In millions of dollars at current exchange rate unless otherwise indicated]

	1977	1978	Percent change 1977-78	Estimate 1979
National income:				
GDP (current prices)	41,476	42,698	2.9	46,968
Population (millions)	79.7	81.7	2.5	83.7
GDP per capita	520.5	522.6	.4	561.1
Exchange rate (Naira dollar) [1]	1.55	1.56	.6	1.66
Production index (1972=100):				
Mining	114.5	103.6	−9.5	125
All manufacturing	193.5	221.4	14.4	230
Beer	185.6	285.2	53.7	290
Cotton textiles	172.9	167.1	−3.4	200
Vehicle assembly	1,097.3	922.7	−9.5	1,145
Soap, detergents	328.4	362.5	10.4	320
Electricity	212.3	260.6	22.8	285
Agricultural production (1,000 tons):				
Yams	18,000	18,100	.6	18,100
Millet	2,950	3,100	5.1	3,100
Corn	1,500	1,675	11.7	1,070
Palm kernels	340	350	2.9	370
Cocoa beans (commercial)	205	165	−19.5	170
Cotton (commercial: 1976=81)	36	40	11.1	41
Peanuts (commercial: 1975=300)	14	20	429	50
Monetary:				
Money supply (Dec. 31)	7,431	7,466	.5	9,500
Retail price index (urban) (1975=100)	141.5	176.0	24.4	210
Commercial minimum lending rate (percent)	6	7	16.7	8
Treasury certificates	3.5	4.5	28.6	4.5
Trade:				
Reserves (Dec. 31)	3,908	1,948	−57.8	3,400
Payments balance (private)	648	4,730	629.9	3,000
Exports	12,364	9,838	−20.0	16,000
To United States	4,675	3,981	−14.8	8,000
Imports	10,747	13,136	22.2	11,000
From United States	1,203	1,407	17.0	1,000
Petroleum exports (million barrels per day)	2.03	1.85	−8.9	2.23

[1] The rate is adjusted frequently by the Central Bank. The figure for 1979 is a weighted average of rates during 1979. At the year's end the rate was $1.74 Naira.

Sources: Central Bank of Nigeria, Federal Office of Statistics, Agricultural Data and 1979 estimates, U.S. Embassy. From: U.S. Department of Commerce: Foreign Economic Trends and Their Implications for the United States, April 1980, No. 80-023.

Eximbank Exposure in Nigeria as of July 31, 1980

Short-term FCIA Insurance	$20,619,000
Medium-term FCIA Insurance	1,525,000
Medium-term Bank Guarantees	6,290,000
Financial Guarantees	3,375,000
Direct Credits	28,302,000
Cooperative Financing Facility	-----------
Total Exposure	60,111,000

PAYMENTS HISTORY

Overall, Eximbank has had a satisfactory repayment record on direct credits in Nigeria. Some slow payments have occurred due to delays within Nigeria's administrative system.

PERSONAL STATEMENT

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, on Thursday, August 28, 1980, I missed rollcall No. 506, a vote on final passage of H.R. 7036, the Health Research Act of 1980. The bill passed by a vote of 292 to 48. I was paired for this bill and had I been present, would have voted "yea."

On September 3, 1980, Mr. Speaker, I missed two recorded votes. The votes are as follows:

Rollcall No. 507, on a motion that the House resolve itself into the Committee of the Whole for consideration of H.R. 8061, District of Columbia Appropriations, fiscal 1981. The motion was agreed to by a vote of 308 to 2. Had I been present, I would have voted "yea."

Rollcall No. 509, on an amendment to H.R. 8061, District of Columbia Appropriations, fiscal 1981, offered by Mr. Miller of Ohio. The amendment was agreed to by a vote of 218 to 144. Had I been present, I would have voted "no." ●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Corman (at the request of Mr. Wright), after 6 p.m., today, and for September 5, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Lee) to revise and extend their remarks and include extraneous material:)

Mr. Gingrich, for 60 minutes, September 8.

(The following Members (at the request of Mr. Swift) to revise and extend their remarks and include extraneous matter:)

Mr. Bingham, for 15 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Daschle, for 5 minutes, today.

Mr. Weaver, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Snyder, following Mr. Giaimo's remarks on Giaimo amendment to eliminate superfund on H.R. 7765.

Mr. Nelson, prior to vote on final passage of H.R. 7765 in the House today.

Mr. Ashley, prior to vote on final passage of H.R. 7765 in the House today.

Mr. Wirth's remarks to appear prior to the vote on final passage on H.R. 7115.

(The following Members (at the request of Mr. Lee) and to include extraneous matter:)

Mr. Lee.

Mr. Gilman.

Mr. Young of Florida in five instances.

Mr. Wydler.

Mr. Derwinski.

Mr. Carter in four instances.

Mr. Sawyer.

Mr. Kemp in three instances.

Mr. Frenzel in three instances.

Mr. Philip M. Crane.

Mr. Mitchell of New York.

Mr. Walker.

Mr. Leach of Iowa.

Mr. Dickinson.

Mr. Abdnor.

Mr. Collins of Texas in four instances.

Mr. Bereuter.

Mr. Dornan in two instances.

(The following Members (at the request of Mr. Swift) and to include extraneous matter:)

Mr. Baldus.

Mr. Brodhead.

Mr. Gaydos in two instances.

Mr. Kildee.

Mr. Mollohan.

Mr. Frost.

Mr. Stokes in two instances.

Mr. Dingell in two instances.

Mr. McDonald.

Mr. Hamilton.

Mr. Rodino.

Ms. Mikulski.

Mr. Ertel.

Mr. Ford of Michigan.

Mr. Long of Maryland.

Mr. Long of Louisiana.

Mr. Moorhead of Pennsylvania.

Mr. Young of Missouri.

Mr. Harris.

Mr. Skelton.

Mr. Ashley.

Mr. Luken.

Mr. Yatron.

Mr. Conyers.

Mr. Markey.

Mr. Daschle.

Mr. Drinan.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2620. An Act to expand the opportunities for small business participation in exporting, and for other purposes; to the Committee on Small Business and the Committee on Foreign Affairs.

ENROLLED BILLS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2538. An act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes; and

H.R. 4627. An act to authorize the enlistment of citizens of the Northern Mariana Islands in the Armed Forces of the United States of America.

ADJOURNMENT

Mr. SWIFT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 43 minutes p.m.) the House adjourned until tomorrow, Friday, September 5, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5231. A letter from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1980 and budget amendments for fiscal year 1981 (H. Doc. No. 96–368); to the Committee on Appropriations, and ordered to be printed.

5232. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

5233. A letter from the Assistant Secretary of Transportation for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

5234. A letter from the Secretary of the Interior, transmitting a correction to a previously submitted notice of bidding systems to be used in an Outer Continental Shelf lands lease sale, pursuant to section 8(a)(8) of the Outer Continental Shelf Lands Act, as amended; to the Committee on Interior and Insular Affairs.

5235. A letter from the Comptroller General of the United States, transmitting a report on natural gas incremental pricing (EMD–80–96, Sept. 4, 1980); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. Supplemental report on H.R. 7418 (Rept. No. 96–1156, pt. 4). Ordered to be printed.

Mr. EDWARDS of California: Committee on the Judiciary. H.R. 5615. A bill to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources (Rept. No. 96–1219, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 7112. A bill to authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes; with amendment (Rept. No. 96–1277). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7956. A bill to make various changes in the tax laws; with amendments (Rept. No. 96–1278). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SCHROEDER: Committee on Post Office and Civil Service. H.R. 7466. A bill to amend section 3102 of title 5, United States Code, and section 7 of the Federal Advisory Committee Act to permit the employment of personal assistants for handicapped Federal employees both at their regular duty station and while on travel status; with amendment (Rept. No. 96–1279). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SPELLMAN: Committee on Post Office and Civil Service. H.R. 7666. A bill to amend chapter 87 of title 5, United States Code, to increase the amounts of regular and optional group life insurance available to Federal employees and provide optional life insurance on family members, and for other purposes; with amendment (Rept. No. 96–1280). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SPELLMAN: Committee on Post Office and Civil Service. H.R. 6372. A bill to amend title 5, United States Code, to provide for voluntary withholding of State income tax for civil service annuitants (Rept. No. 96–1281). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6175. A bill to provide that certain lands constituting part of the El Dorado National Forest be conveyed to certain persons who purchased and held such lands in good faith reliance on an inaccurate surveyor's map; with amendment (Rept. No. 96–1282). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7519. A bill to amend section 2 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049; 25 U.S.C. 70a), as amended (Rept. No. 96–1283). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1464. A bill to direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians; with amendment (Rept. No. 96–1284). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2223. A bill to permit any Indian to transfer by will restricted lands of such Indian to his or her heirs or lineal descendants, and other Indian persons; with amendment (Rept. No. 96–1285). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. S. 1280. A bill to provide assistance to States and to political subdivisions within States to promote national energy objectives, and for other purposes; with amendments (Rept. No. 96–1286, pt. 1). Ordered to be printed.

Mr. FOLEY: Committee on Agriculture. H.R. 7548. A bill to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes; with amendments (Rept. No. 96–1287). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ULLMAN:

H.R. 8073. A bill relating to the tax treatment of certain transactions involving automobiles and trucks entered into before January 1, 1981; to the Committee on Ways and Means.

By Mr. BINGHAM:

H.R. 8074. A bill to amend the Social Security Act to provide for reimbursement reform with respect to financially distressed hospitals serving the medically indigent; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. BROWN of Ohio:

H.R. 8075. A bill to add representatives of town officials to the membership of the Advisory Commission on Intergovernmental Relations; to the Committee on Government Operations.

By Mr. DASCHLE:

H.R. 8076. A bill to authorize appropriations for fiscal year 1981 for the Navy for research, development, test, and evaluation of a shallow underwater missile (SUM) submarine system; to the Committee on Armed Services.

H.R. 8077. A bill to amend the Internal Revenue Code of 1954 with respect to the application of the credit for producing fuel from a nonconventional fuel to solid fuel pellets made from biomass; to the Committee on Ways and Means.

By Mr. DASCHLE (for himself and Mr. Abdnor) (by request):

H.R. 8078. A bill to deauthorize the Oahe unit, James division, Missouri River Basin project, South Dakota; to the Committee on Interior and Insular Affairs.

By Mr. MOLLOHAN:

H.R. 8079. A bill to designate the Veterans' Administration medical center in Clarksburg, W. Va., as the "Louis A. Johnson Veterans' Medical Center"; to the Committee on Veterans' Affairs.

By Mr. SOLARZ (for himself and Mr. Winn, Mr. Whitehurst, Mr. Hinson, Mr. Corcoran, Mr. Rose, Mr. Butler, Mr. Findley, Mr. Carter, Mr. Edgar, Mrs. Fenwick, and Mr. Fazio):

H.R. 8080. A bill to amend the Foreign Agents Registration Act of 1938 to prohibit relatives of the President, Vice President, any Member of Congress, or the President's Cabinet from acting as a foreign agent; to the Committee on the Judiciary.

By Mr. YATES (for himself, Mr. Lehman, Mr. Blanchard, Mr. Green, Mr. Solarz, Mr. Wright, Mr. Brademas, Mr. Michel, Mr. Phillip Burton, Mr. Addabbo, Mr. Akaka, Mr. AuCoin, Mr. Barnes, Mr. Benjamin, Mr. Bingham, Mr. Bolling, Mr. Bonior of Michigan, Mr. Bonker, Mr. Brodhead, Mr. Burgener, Mr. Carney, Mr. Coelho, Mr. Conte, Mr. Corman, Mr. Courter, Mr. Dixon, Mr. Dodd, Mr. Dougherty, Mr. Drinan, Mr. Edwards of California, Mr. Edwards of Oklahoma, Mr. Evans of Delaware, Mr. Fary, Mr. Fascell, Mr. Fazio, Mr. Fish, Mr. Ford of Tennessee, Mr. Forsythe, Mr. Frenzel, Mr. Frost, Mr. Gibbons, Mr. Gilman, Mr. Glickman, Mr. Gray, Mr. Harris, Mr. Hollenbeck, Ms. Holtzman, Mr. Howard, Mr. Hughes, Mr. Jacobs, Mr. Jeffords, Mr. Kastenmeier, Mr. Kemp, Mr. Kildee, Mr. Kostmayer, Mr. Lagomarsino, Mr. Leach of Louisiana, Mr. Leach of Iowa, Mr. Lederer, Mr. Lent, Mr. Levitas, Mr. Lloyd, Mr. Long of Maryland, Mr. Lowry, Mr. Maguire, Mr. Marks, Mr. Martin, Mr. Matsui, Mr. Mavroules, Mr. Mazzoli, Mr. McDade, Mr. McHugh, Mr. Moakley, Mr. Oberstar, Mr. Ottinger, Mr. Pepper, Mr. Peyser, Mr. Porter, Mr. Rangel, Mr. Ratchford, Mr. Richmond, Mr. Rinaldo, Mr. Roe, Mr. Rose, Mr. Rosenthal, Mr. Royer, Mr. Scheuer, Mrs. Schroeder, Mrs. Spellman, Mr. Stack, Mr. Stark, Mr. Thompson, Mr. Van Deerlin, Mr. Vanik, Mr. Waxman, Mr. Weiss, Mr. Whitehurst, Mr. Wirth, Mr. Wolff, Mr. Wolpe, and Mr. Carter):

H.R. 8081. A bill to establish the "United States Holocaust Memorial Council"; jointly, to the Committees on Post Office and Civil Service, House Administration, and Interior and Insular Affairs.

Mr. DORNAN:

H.J. Res. 605. Joint resolution proposing an amendment to the Constitution of the United States allowing the District of Columbia, Puerto Rico, Guam, and the Virgin Islands to have Representatives in the House of Representatives; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 844: Mr. Murphy of New York.

H.R. 5225: Mr. Murtha.

H.R. 6402: Mr. Tauke.

H.R. 6632: Mr. Lloyd, Mr. Clinger, Mr. Shuster, Mr. Musto, Mr. Bailey, Mr. Bereuter, Mr. Evans of Delaware, Mr. Andrews of North Carolina, Mr. Murphy of Pennsylvania, Mr. Florio, and Mr. Philip M. Crane.

H.R. 7505: Mr. Dixon.

H.R. 7622: Mr. Andrews of North Dakota and Mr. Harkin.

H.R. 7663: Mr. Lujan.

H.R. 7773: Mr. Bowen.

H.R. 7776: Mr. Bingham.

H.R. 7793: Mr. Kildee and Mr. Atkinson.

H.R. 7846: Mr. Marks, Mr. Railsback, Mr. Green, Mr. Petri, Mr. Thomas, and Mr. McCloskey.

H.J. Res. 511: Mr. Hance, Mr. Mazzoli, Mr. Lott, Mr. Hyde, Mr. Yatron, Mr. Carter, Mr. Waxman, and Mr. Fazio.

H.J. Res. 568: Mr. Garcia, Mr. Pritchard, Mr. Harris, Mr. Panetta, Mr. Roybal, Mr. Heftel, Mr. O'Brien, Mr. Brown of California, Mr. Bingham, Mr. Fountain, Mr. Miller of California, Mr. Maguire, Mr. Charles H. Wilson of California, Mr. Cotter, Mr. Jacobs, Mr. Royer, Mr. Clinger, Mr. Ritter, and Mr. Jones of Oklahoma.

H.J. Res. 596: Mr. Oberstar, Mr. Barnes, Mr. Kogovsek, Mr. Benjamin, Mr. Lagomarsino, Mr. Marks, Mr. Whitehurst, Mr. Gore, Mr. Horton, Mr. Applegate, Mr. Barnard, Mr. Neal, Mr. Porter, Mr. Ertel, Mr. Wolff, Mr. Brademas, Mrs. Boggs, Mr. Burgener, Mr. Gradison, Mr. Mineta, Mr. Ambro, Mr. Fithian, Mr. Rose, Mr. Brown of California, Mr. Buchanan, Mr. Hughes, Mr. Mazzoli, Mr. Rahall, Mr. Carr, Mr. Anderson of California, Mr. Stratton, Mr. McDonald, Mr. Petri, Mr. Hance, Mrs. Spellman, Mr. Findley, Mr. Kemp, Mr. Scheuer, Mr. Hollenbeck, Mr. Lott, Mr. Hutto, Mr. McKinney, Mr. Bereuter, and Mr. Moorhead of Pennsylvania.

H. Con. Res. 396: Mr. Fithian.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6721

By Mr. BADHAM:

—Add to the end of section 24, page 132:

(e) Until such time as the task force shall report its findings and recommendations to the chairmen of the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate, neither the Secretary nor the Administrator of the FAA shall have any power under the Federal Aviation Act or any other statute to institute, continue or conduct proceedings designed to compel an airport operator to change its present method of allocating the use of airport facilities and airspace (including, but not limited to, gate facilities, landing facilities, airspace slots, and ticketing and terminal space) among persons using or seeking to use such facilities.

By Mr. PETRI:

—Page 102, after line 4, insert the following new paragraph:

(10) (A) (i) No project grant application for an airport with respect to which the Secretary has received a complaint under clause (i) may be approved unless the Secretary is satisfied that the airport owner and operator do not and will not deny reasonable opportunity to pick up and discharge passengers at the terminal area of such airport to any approved motor common carrier of persons.

(ii) For purposes of clause (i), any approved motor common carrier of persons may submit a complaint to the Secretary, pursuant to procedures prescribed by the Secretary, alleging that the owner or operator of such airport deny reasonable opportunity to pick up and discharge passengers at the terminal area of such airport to such carrier.

(B) (i) No project grant application for an airport with respect to which the Secretary has received a complaint under clause (ii) may be approved unless the Secretary is satisfied that the airport owner and operator provide a reasonable number (considering the size of such airport) of clearly marked locations at such airport where information relating to the transportation provided by any approved motor common carrier of persons to and from such airport can be placed or displayed.

(ii) For purposes of clause (i), any approved motor common carrier of persons may submit a complaint to the Secretary, pursuant to procedures prescribed by the Secretary, alleging that the owner or operator of an airport do not provide a reasonable number (considering the size of such airport) of clearly marked locations at such airport where information relating to the transportation provided by such carrier to and from such airport can be placed or displayed.

(C) For purposes of this paragraph—

(i) the term "approved motor common carrier" means a motor common carrier which has been authorized by the Interstate Commerce Commission, a State or local government, or a local public body to provide regularly scheduled transportation between an airport and another point; and

(ii) the term "motor common carrier" has the same meaning such term has in section 10102(11) of title 49, United States Code.

H.R. 7235

By Mr. ALBOSTA:

—Page 164, strike out lines 7 through 13 and insert in lieu thereof the following:

SEC. 502. (a) Section 10906 of title 49, United States Code, is amended to read as follows:

"§ 10906. Purchase of abandoned lines; rail bank

"(a) (1) When the Commission finds under section

Page 165, line 19, strike out the closing quotation marks and the following period.

Page 165, after line 19, insert the following new subsection:

"(b) (1) When the Commission finds under section 10903 of this title that the present or future public convenience or necessity requires or permits abandonment or discontinuance of rail properties and such properties are not disposed of under subsection (a) of this section, the Secretary shall either (A) enter into appropriate arrangements to acquire property rights, other than fee simple title, with respect to such properties to ensure their future availability for railroad purposes, including, but not limited to, the leasing of the property or the acquisition of easements, or (B) if no arrangements described under clause (A) are feasible, purchase such properties. Any property rights or properties acquired under the preceding sentence shall be included in the Railroad Land Bank established under section 502(c) of the Harley O. Staggers Rail Act of 1980. In the event that sufficient funds are not available in any fiscal year to acquire all such property rights or properties, the Secretary shall determine which property rights or properties will be acquired for inclusion in the Railroad Land Bank on the basis of the factors set forth in paragraph (3) (A) of such section 502(c). In no event shall the amount paid for the acquisition of such property rights or properties exceed the net liquidation value, as established by the Commission.

"(2) As used in this subsection and in section 502(c) of the Harley O. Staggers Rail Act of 1980, the term 'rail property' shall not include railroad cars, engines, or other rolling stock or property other than real property, fixtures thereto, and any appurtenant rights.".

Page 166. after line 5, insert the following new subsection:

(c) (1) The Secretary of Transportation shall, within 90 days after the effective date of this Act, establish within the Department of Transportation a Railroad Land Bank for purposes of holding, preserving, and facilitating the return to service of abandoned rail properties. The Secretary shall include in such Railroad Land Bank all rail properties and property rights acquired under section 10906(b) of title 49, United States Code (hereinafter in this subsection referred to as "rail properties").

(2) The Secretary shall encourage the use of rail properties included in the Railroad Land Bank established under this subsection to the extent that such use does not substantially impair the future availability of such properties for railroad purposes. Such use shall include, but need not be limited to, bicycle paths, power transmission lines, and forms of mass transportation and communication that do not require removal of substantially sound railroad track. The Secretary may require reasonable fees for the use of such rail properties.

(3) The Secretary shall, at the end of the 4-year period beginning on the effective date of this Act and at the end of each subsequent 4-year period, submit a report to the Congress containing—

(A) his recommendations with respect to which rail properties acquired for the Railroad Land Bank during the preceding 4 years should continue to be included in such Bank because—

(i) the benefits afforded by retaining such properties in such Bank are significantly greater than the costs of such retention; or

(ii) the availability of such properties for future rail service is important to energy production and conservation, the national defense, or agricultural production; and

(B) a listing of any rail properties acquired for the Railroad Land Bank during the preceding 4 years which are not recommended for retention under subparagraph (A).

In making the determination described under subparagraph (A), the Secretary shall take into consideration, to such extent as he determines to be appropriate, the factors used by the States in the development of their rail services plan under section 1654(j) of title 49, United States Code.

(4) If, during the 90-day period beginning on the date of the submission of any report to the Congress under paragraph (3) either House of the Congress passes a resolution—

(A) disapproving any recommendation for retention of rail property made in such report, such property shall be subject to disposition under paragraph (5); or

(B) disapproving any recommendation for the sale of rail property made in such report, such property shall not be subject to disposition under paragraph (5).

(5) (A) After submission of each report to the Congress under paragraph (3), the Secretary shall, after the end of the 90-day period referred to in paragraph (4), provide for the sale of—

(i) any rail properties which are listed in the report, pursuant to paragraph (3) (B), as properties not recommended for retention in the Railroad Land Bank, unless the recommendation to dispose of such property was disapproved by a resolution of either House of the Congress under paragraph (4); and

(ii) any rail properties recommended for retention in the report, pursuant to paragraph (3) (A), but subject to disposition under this paragraph as the result of a resolution of either House of the Congress under paragraph (4) disapproving of the Secretary's recommendations.

Such property shall, in accordance with any other applicable requirements of law not inconsistent with the provisions of this paragraph and after adequate public notice thereof, be sold by the Secretary to any person submitting an offer to purchase of the highest amount, subject to subparagraph (B).

(B) In disposing of property under this paragraph the Secretary shall give priority to any reasonable offer to purchase submitted by any person who indicates an intention to use such property for the purpose of providing rail service. If more than one person submits an offer to purchase such property for such purpose at an amount determined by the Secretary to be reasonable, the Secretary shall sell the property to the person intending to use the property for rail service who submits such an offer to purchase for an amount higher than any amounts offered by other persons intending to use the property for such purposes. In the case of any sale made under this subparagraph, the property shall be sold subject to the condition that the property shall be used for the purpose of providing rail service during a period of 20 years beginning on the date of the sale of the property under this subparagraph and that before the property may be sold or used for any other purpose during such period, the owner thereof shall first provide the Secretary with the right to purchase such property at its net liquidated value.

(5) There are authorized to be appropriated for fiscal years 1981, 1982, 1983, and 1984 not to exceed $50,000,000 per year for purposes of carrying out the provisions of this subsection and for the acquisition of rail properties under section 10906(b) of title 49, United States Code.

By Mr. STAGGERS:

—Page 125, strike out line 14 and all that follows through line 17 on page 138 (including the material between lines 17 and 18) and insert in lieu thereof the following:

COMPENSATORY JOINT RATE RELIEF

SEC. 301. (a) (1) Chapter 107 of title 49, United States Code, is amended by inserting after section 10705 the following new section:

"§ 10705a. Joint rate surcharges and cancellations

"(a) (1) (A) Except as provided in subparagraph (B) of this paragraph, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may publish and apply a surcharge increasing or decreasing the through charge applicable to any movement between points designated by the surcharging carrier subject to a joint rate. Such a surcharge may be applied without the concurrence of the other carriers that are party to such joint rate.

surcharge to any movement on a line operated by such carrier which carried more than 3,000,000 gross ton miles of traffic in the preceding year.

"(C) Any surcharge applied pursuant to this subsection must be applied in equal dollar amounts to the movement subject to the surcharge over all routes between the points designated by the surcharging carrier which such carrier participates in under the joint rate involved, and, when the surcharge increases the through charges, under any of such carrier's single line rates between the same points.

"(2)(A) Whenever a rail carrier applies a surcharge increasing a through charge pursuant to paragraph (1) of this subsection, any other rail carrier that participates in any movement subject to such surcharge may cancel the application of such surcharge to any route participated in by such carrier, if such carrier makes the demonstration described in subparagraph (B) of this paragraph.

"(B) A rail carrier may cancel the application of a surcharge under this paragraph if such carrier demonstrates to the Commission that the surcharging carrier's share of the revenues, at the time the surcharge was filed with the Commission, from its participation in the movement over the route involved would have been equal to or greater than 110 percent of its variable costs of providing service over such route, under either—

"(i) the applicable joint rate, in effect at the time the surcharge was filed with the Commission, without the surcharge;

"(ii) a new rate division increasing the share of the surcharging carrier;

"(iii) a new higher lawful rate published by the canceling carrier; or

"(iv) a new, lesser surcharge which shall be prescribed by the Commission upon and in conformity with the request of the carrier proposing to cancel the surcharge. Any such prescribed surcharge shall, in conjunction with the surcharging carrier's division of the joint rate in effect on the date the original surcharge was filed with the Commission, provide the carrier proposing the original surcharge revenues equal to or greater than 110 percent of such surcharging carrier's variable cost of providing service over such route.

"(C)(i) The cancelling tariff shall only become effective if the rail carrier proposing to cancel the application of the surcharge makes the demonstration described in subparagraph (B) of this paragraph.

"(ii) If the demonstration described in clause (i) of this subparagraph is made on the basis of the applicable joint rate in effect at the time the surcharge was filed with the Commission, without the surcharge, the tariff shall become effective on one day's notice.

"(B) A carrier earning adequate revenues (as defined in section 10704(a)(2) of this title) may not apply such a surcharge to any movement on a line operated by such carrier which carried more than 3,000,000 gross ton miles of traffic in the preceding calendar year.

"(iii) If the demonstration described in clause (i) of this subparagraph is made on the basis of a new rate, division, or surcharge prescribed pursuant to subparagraph (B)(iv) of this paragraph, the tariff shall become effective the date such new rate, division, or surcharge becomes effective.

"(D) The remedy available to a call carrier cancelling the application of a surcharge under this paragraph shall be in addition to any other remedy available to such carrier under this chapter.

"(3)(A) The Commission may cancel the application of a surcharge to a route to which such surcharge applies if a shipper moving traffic over such route demonstrates to the Commission that—

"(i) there is no competitive alternative to such route for the movement of the traffic involved that is not subject to such surcharge; and

"(ii) the surcharging carrier's share of the revenues from its participation in the movement over the route to which such surcharge applies, under the applicable joint rate in effect at the time the surcharge was filed with the Commission, with the surcharge, would be greater than 110 percent of its variable cost of providing service over such route.

"(B) If the Commission cancels the application of a surcharge to a particular route pursuant to subparagraph (A) of this paragraph, the Commission shall determine the level of surcharge which, in conjunction with the surcharging carrier's division of the joint rate in effect at the time the surcharge was filed with the Commission, would equal 110 percent of the surcharging carrier's variable cost of providing service over such route, and shall authorize such carrier immediately to apply such a surcharge without any further proceedings under this subsection.

"(4) A rail carrier may not apply a surcharge under this subsection unless, for the one-year period preceding the surcharge, such carrier has concurred in all rate increases of general applicability applicable to the joint rate to which such surcharge applies and agreed to by all other carriers that are party to such joint rate.

"(5) A rail carrier may not apply a surcharge under this subsection increasing a through charge applicable to a particular movement more than once each calendar year.

"(6) Notwithstanding any other provision of this subsection, a rail carrier may, by tariff, reduce the total charges applicable to a movement over any specific joint line or single line route or routes in which such carrier participates, if such reduction does not lower the total charges applicable to such movement to a level that is less than the lowest total charges applicable to the same movement over a competing route. Any such reduction may be made without the concurrence of any other rail carrier, and shall be borne solely by the carrier reducing the charge.

"(b)(1) Notwithstanding subsection (a) of this section, a rail carrier may publish and apply a surcharge applicable to traffic originating or terminating upon any of its lines that carried less than 3,000,000 gross ton miles of traffic per mile, in the most recent calendar year for which traffic data is available. Such a surcharge may be applied without the concurrence of any connecting rail carrier.

"(2) A rail carrier may apply a surcharge under this subsection if, prior to the application of such surcharge, that portion of the charges applicable to traffic to and from the line to which the surcharge applies and accruing to the surcharging carrier does not provide such carrier revenues adequate to cover—

"(A) 110 percent of such carrier's variable cost of transporting the traffic involved to or from such line; plus

"(B) 100 percent of such carrier's reasonably expected costs of continuing to operate such line, which shall include all costs necessary to sustain service on the line.

"(3)(A) Upon petition of a shipper located upon a line to which a surcharge under this subsection is applied, the Commission may cancel the application of a surcharge under this subsection if such shipper demonstrates to the Commission that, after application of the surcharge, the surcharging carrier's revenues from all traffic originating or terminating upon the line to which the surcharge applies exceed 110 percent of such carrier's variable cost of transporting all traffic to or from such line plus such carrier's reasonably expected costs of continuing to operate such line.

"(B)(i) A rail carrier's revenue from all traffic originating or terminating upon a line shall be presumed to exceed 110 percent of its variable cost of transporting all traffic to or from such line plus its reasonably expected costs of continuing to operate such line if the complaining shipper demonstrates that the carrier is earning revenues from all traffic originating or terminating upon such line equal to or greater than the percentage set forth in section 10701(e)(1) of this chapter (as adjusted therein) of its variable costs.

"(ii) A surcharging carrier may rebut the presumption set forth in clause (i) of this subparagraph by demonstrating to the Commission that its reasonably expected costs for operating the line to which the surcharge applies exceed the percentage of variable cost set forth in such clause (i).

"(C) Upon a finding by the Commission that application of the surcharge will produce revenues in excess of 110 percent of the surcharging carrier's variable cost of transporting traffic to or from the line plus its reasonably expected costs for operating the line, the Commission shall determine the level of surcharge which would produce revenues equal to such figure and shall authorize such carrier immediately to apply such surcharges as will generate such revenues without any further proceedings, subject only to the right of a shipper to proceed under paragraph (4) of this subsection.

"(4)(A) A rail carrier may not apply a surcharge under this subsection that results in any shipper being required to bear more than a reasonable proportion of the reasonably expected costs of continuing to operate the line to which such surcharge applies.

"(B) Upon complaint of a shipper, the Commission shall determine whether the shipper is being required to bear more than a reasonable proportion of the costs described in subparagraph (A) of this paragraph.

"(C) If the Commission finds that a complaining shipper is being required to bear more than a reasonable proportion of the costs described in subparagraph (A) of this paragraph, the Commission may reallocate the surcharge among the traffic originating or terminating on the line to which the surcharge applies, but may not order relief which would result in the surcharging carrier's earning revenues less than those which the carrier would have earned had the surcharge been applied as filed.

"(5) A shipper may, in a single complaint, seek relief under paragraphs (3) and (4) of this subsection. In any such complaint, the Commission shall first determine the right to relief under paragraph (3) and shall grant such relief as is appropriate under such paragraph.

"(6) In any proceeding brought before the Commission challenging the application or amount of a surcharge under this subsection, whether the surcharge is claimed to violate this subsection or some other provision of this chapter, the Commission shall not suspend the application of any such surcharge unless the person filing the verified statement required by section 10707(c) of this title, in addition to the matters required by such section, also makes the demonstration required by paragraph (3)(A) of this subsection. If the demonstration required by paragraph (3)(A) is made, the Commission may suspend the application of only so much of the surcharge as will produce revenues in excess of the amount so demonstrated.

"(c)(1) Notwithstanding any other provision of this title, any prior agreement in effect on the effective date of the Harley O. Staggers Rail Act of 1980, or any requirement of the Commission, a rail carrier may cancel the application of a joint rate to a through route in which it participates, without the concurrence of any other rail carrier that is a party to such joint rate, unless another rail carrier that participates in such through route or a shipper that has no competitive alternative to such route makes the demonstration described in paragraph (2) of this subsection.

"(2) The application of a joint rate to a through route may not be canceled under this subsection if a rail carrier that participates in such through route or a shipper that has no competitive alternative to such route from an origin or destination served by such route demonstrates to the Commission that the canceling carrier's share of the revenues, under the joint rate in effect at the time the application of the joint rate is canceled, is equal to or greater than—

"(A) 110 percent of the canceling carrier's variable cost of providing service over such route; or

"(B) such lesser percent of the canceling carrier's variable cost as such carrier earns over a competing through route to which application of the joint rate has not been canceled, or over a competing single line route.

"(3) When a complaining party is unable to make the demonstration required by paragraph (2) of this subsection, the Commission may suspend the tariff canceling the joint rate only if—

"(A) a complaining carrier publishes a new rate division or a new higher lawful rate which increases the canceling carrier's share of the revenues over such route to the amount calculated under paragraph (2)(A) or (2)(B) of this subsection, whichever is less; or

"(B) a complaining carrier or shipper petitions the Commission and the Commission, in conformity with such petition, imposes a surcharge upon the joint rate which will accrue solely to the canceling carrier and which, in conjunction with the canceling carrier's division of the joint rate in effect on the date the tariff canceling the joint rate was filed, will provide the canceling carrier revenues equal to or greater than 110 percent of its variable cost of providing service over such route.

Unless a new rate, division, or surcharge described in this paragraph becomes effective within 120 days after the proposed effective date of the rate cancellation, the canceling tariff shall, nevertheless, become effective.

"(4) If the demonstration described in paragraph (2) is made or a new rate, division, or surcharge described in paragraph (3) becomes effective, the tariff canceling the joint rate shall be considered by the Commission in accordance with section 10705 of this title. The existing joint rate or the new rate, division, or surcharge, as appropriate, shall remain in effect during the pendency of the Commission's consideration.

"(5) Whenever the application of a joint rate to a through route is canceled under this subsection and a rate other than a joint rate is or has been published by the canceling carrier to apply to such route, such rate shall thereafter apply in lieu of all other rates (except joint rates subsequently agreed to by such carrier) and any through rate of which such rate is a factor shall divide as the separate factors of such rate are made.

"(6) Nothing in this subsection shall be construed to limit the authority of the Commission under section 10705(a) of this title to prescribe joint rates which provide a rail carrier participating in such joint rate revenues equal to or greater than 110 percent of its variable cost of providing service over each route to which such rate applies.

"(d)(1) Except as provided in paragraph (2) of this subsection, any increase or decrease in revenue resulting from the application of a surcharge under subsection (a) of this section, or from the cancellation of the application of a joint rate under subsection (c) of this section, shall accrue solely to or be borne solely by the carrier applying the surcharge or canceling the application of the joint rate, as the case may be.

"(2) Whenever a class III rail carrier which participates in a through route to which a surcharge has been applied under subsection (a) of this section by a carrier operating in the same rate territory as such class III carrier demonstrates to the Commission that the application of such surcharge to such route provides, in the absence of any increase in the joint rate in effect on the date the surcharge was filed with the Commission, revenues from traffic moving over such route to such surcharging carrier in excess of 110 percent its variable costs over such route, such surcharging carrier shall, from the date of such demonstration, share those revenues from such route, from the surcharge and the applicable joint rate in effect on the date the surcharge was filed with the Commission, in excess of 110 percent of its variable costs with all class III rail carriers participating in such route, on the basis of their existing divisions of the joint rate to which the surcharge applies.

"(e)(1) Except as provided in paragraph (2) of this subsection, whenever a rail car- subsection (a) of this section or to cancel rier proposes to apply a surcharge under the application of a joint rate under subsection (c) of this section and another rail carrier subsequently agrees to a new rate division or a new lawful rate that increases the surcharging or canceling carrier's share of the total through charges for a movement over a particular through route subject to a joint rate, such other rail carrier shall also agree to any other new rate division and new lawful rate—

"(A) that is proposed within 120 days after the date of the first agreement; and

"(B) that increases the surcharging or canceling carrier's share of the total through charges for movements over a competing through route subject to such joint rate.

"(2) A rail carrier shall not be required to agree under this subsection to any proposed new division or new rate which would—

"(A) reduce such carrier's share of the total through charges for a movement over any through route to less than (i) 110 percent of its variable costs of providing service over such route, or (ii) such lesser percent of its variable costs as such carrier earns from such movement over a competing through route with respect to which such carrier has agreed to a new division or rate;

"(B) increase the surcharging or canceling carrier's share of the total through charges for a movement over any through route to an amount in excess of 110 percent of its variable costs of providing service over such route;

(C) reduce such carrier's share of the total through charges for a movement over any through route by a dollar amount in excess of the greatest dollar reduction which such carrier has agreed to make, for purposes of increasing the surcharging or canceling carrier's share, to its share of the total through charges for a movement over any competing through route; or

"(D) reduce such carrier's share of the total through charges for a movement over any through route in an amount in excess of such carrier's pro rata share (based on established divisions for movements over such route) of the increase of the surcharging or canceling carrier's share of the total through charges for movement over such route.

"(f) A rail carrier applying a surcharge or canceling the application of a joint rate under this section shall file a tariff with the Commission in accordance with section 10762 of this title. Such a tariff may not become effective until the expiration of the 45-day period (or such longer period as the filing carrier specifies) beginning on the date such tariff is filed.

"(g)(1) Any rail rate to which a surcharge is applied under this section shall be subject to section 10701a and 10709 of this title, and any such surcharge shall constitute a rate increase for purposes of such sections.

"(2) For purposes of rate regulation under section 10701a of this title—

"(A) only the rail carrier proposing a surcharge under this section shall be required to defend such surcharge; and

"(B) the reasonableness of the surcharge and the revenues received by the rail carrier proposing the surcharge under the joint rate to which the surcharge applies shall be determined without regard to amounts received and services performed by other rail carriers that are party to such joint rate.

"(3) Except as provided in subsection (i), (j), or (k) of this section, if the application of a surcharge or the cancellation of the application of a joint rate under this section is found to constitute a violation of any provision of this title, such violation shall not be ordered remedied in any manner which—

"(A) requires the carrier applying a surcharge under subsection (a) of this section or canceling the application of a joint rate under subsection (c) of this section to provide service over any route under a rate that provides revenues to such carrier that are less than 110 percent of its variable costs of providing such service; or

"(B) which requires the carrier applying a surcharge under subsection (b) of this section to provide service over the route to which such surcharge applies in a manner that provides revenues to such carrier that are less than 110 percent of such carrier's variable cost of transporting the traffic involved to or from the line to which the surcharge applies, plus such carrier's reasonably expected costs of providing service over such line.

"(h) Within 5 days after the request of a rail carrier participating in a joint rate subject to a surcharge or cancellation under this section, a shipper moving traffic over a route to which such surcharge or cancellation applies, or an affected port, the Commission shall make available to such carrier, shipper, or port the Commission's determination of the variable costs and revenues, over the route or routes to which the surcharge or cancellation applies, of the carrier applying the surcharge or canceling the application of the joint rate.

"(i)(1) Whenever a class III rail carrier, in a protest filed with the Commission, makes a prima facie showing that the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section will have an adverse effect on competition, the Commission shall investigate such protest. If on the basis of such investigation the Commission finds that the protested surcharge or cancellation is, or is intended to be, anticompetitive, the Commission shall, within 30 days after the date such protest is filed, enter an order rescinding such surcharge or cancellation, and may, on presentation of an adequate record, prescribe new joint rates or divisions of joint rates.

"(2) No order prescribed under this subsection shall require a carrier to provide service over any route under a rate which provides revenues less than 110 percent of the variable cost of providing such service unless the Commission determines that the public interest requires a lesser revenue to variable cost ratio to avoid anticompetitive action and to preserve service on the route involved.

"(j)(1) Any class III rail carrier which originates or terminates traffic subject to the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section may protest such surcharge or cancellation whenever—

"(A) such surcharge or cancellation affects the sole remaining route available to that carrier for that traffic; and

"(B) (i) such carrier demonstrates that alternative transportation is available or that a shipper dependent on that carrier will suffer significant market loss because of such surcharge or cancellation; or

"(ii) such surcharge or cancellation, alone or when considered in conjunction with other surcharges or cancellations affecting the carrier, is likely to unduly impair a carrier's ability to earn an adequate rate of return.

"(2) (A) The Commission may, after an investigation on the basis of a protest under this subsection, prescribe a lesser surcharge or a different division of the joint rate. The Commission shall grant the surcharging or canceling carrier revenues not less than 110 percent of its variable cost of the movement involved, unless it determines that the public interest requires a lesser revenue to variable cost ratio to preserve service on the route involved. Any action by the Commission based on a protest under this subsection shall be taken within 30 days after the date such protest is filed.

"(B) If the Commission prescribes a different division of a joint rate under this paragraph, the Commission shall, upon petition of the surcharging or canceling carrier or the protesting class III rail carrier, reopen the proceeding in which such division was prescribed to reconsider whether such prescribed division is reasonable. If, on the basis of such reconsideration, the Commission determines that such division is not reasonable, it shall prescribe a new, reasonable division of the joint rate to which the surcharge or cancellation applies.

"(k) (1) Upon the complaint of a class III rail carrier which originates or terminates traffic subject to the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section that such surcharge or cancellation will result in differences or greater differences in rates, including any surcharges, for the traffic to which the surcharge or cancellation applies over different routes in which the surcharging or canceling carrier participates—

"(A) from a single origin point to destination points within a 75 mile direct radius from the destination point on such class III rail carrier; or

"(B) to a single destination point from origin points within a 75 mile direct radius from the origin point on such class III rail carrier,

the Commission shall investigate such complaint and shall, within 30 days after the date such complaint is filed, take such actions, including rescinding surcharges or cancellations or prescribing new joint rates or surcharges, as it determines are required to eliminate such differences in rates, unless it finds that such actions are not warranted by the public interest in ensuring effective competition among rail carriers or in the preservation of rail service on the route involved.

"(2) No action taken by the Commission under this subsection shall require a carrier to provide service over any route under a rate which provides a revenue to variable cost ratio over such route less than that provided under the joint rate to which the surcharge or cancellation was applied or less than 110 percent, whichever is greater, unless the Commission determines that the public interest in ensuring effective competition among rail carriers or in preserving service over such route warrants requiring the surcharging or cancelling carrier to provide service at a lesser revenue to variable cost ratio.

"(3) Notwithstanding subsection (m) (1) of this section, if, in a proceeding under this subsection or under subsection (i) or (j) of this section, the Commission considers whether to require the revenues of a carrier applying a surcharge under subsection (a) of this section or cancelling the application of a joint rate under subsection (c) of this section to be less than 110 percent of its variable costs (as calculated using the Commission's Rail Form A cost finding methodology), such surcharging or cancelling carrier may prove its actual variable costs on the basis of evidence other than unadjusted costs calculated using such Rail Form A cost finding methodology. Such evidence shall be prepared in accordance with generally accepted accounting principles.

"(l) Whenever the application of a joint rate to a through route is cancelled under subsection (c) of this section, the Commission shall, upon petition by a class II or III rail carrier participating in such route, prescribe a new compensatory through rate or rates over such route within 30 days after the date such petition is filed.

"(m) For purposes of this section—

"(1) variable costs for a class I rail carrier shall be determined only by using such carrier's unadjusted costs, calculated using the Commission's Rail Form A cost finding methodology (or an alternative methodology adopted by the Commission in lieu thereof) and indexed quarterly to account for current wage and price levels in the region in which the carrier operates;

"(2) variable costs for a rail carrier other than class I shall be presumed to be the average variable costs of all class I rail carriers in the region in which such carrier operates (as determined under paragraph (1) of this subsection) unless a rail carrier rebuts such presumption with other proof of variable costs; and

"(3) at the option of a carrier applying a surcharge or canceling the application of a joint rate under this section, revenue share may be determined by reference to past revenue settlements actually made in the most recent calendar year by connecting lines.

"(n) (1) The authority to apply a surcharge under subsection (a) of this section, and (except as provided in paragraph (2)) the authority to cancel such a surcharge, shall expire 3 years after the effective date of the Harley O. Staggers Rail Act of 1980 unless extended for one additional year by the Commission upon petition of any rail carrier and for good cause shown.

"(2) Any surcharge lawfully applied under subsection (a) of this section shall remain in effect in accordance with its terms following the expiration of the provisions of this section. Any such surcharge applied during the 45-day period immediately preceding the date of the expiration of the provisions of this section shall, notwithstanding such expiration, be subject to cancellation under subsection (a) (2) or (a) (3) of this section during the 45-day period beginning on the date such surcharge is applied.".

(2) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10705 the following new item:

"10705a. Joint rate surcharges and cancellations.".

(b) For purposes of section 10705a of title 49, United States Code, the Interstate Commerce Commission shall classify all rail carriers on the basis of revenues, shall from time to time review its regulations setting forth revenue-based classifications for rail carriers, and shall make appropriate changes in such regulations in order to reflect inflation. The Commission shall not reclassify switching and terminal carriers, or any other rail carriers not classified on the basis of revenues on the effective date of this Act, for any purpose other than for purposes of such section 10705a.

(c) (1) The Interstate Commerce Commission shall include in its annual report to the Congress under section 10311 of title 49, United States Code, a report with respect to the application of surcharges and the cancellation of the application of joint rates by the Consolidated Rail Corporation and other rail carriers, during the preceding year, under section 10705a of title 49, United States Code. Each such report shall include—

(A) an analysis of the effect of application of surcharges and the cancellation of the application of joint rates under such section 10705a on shippers, ports, class II and class III rail carriers, railroad employees, and other elements of the rail system;

(B) (i) the number of surcharges applied by the Consolidated Rail Corporation and other rail carriers under such section 10705a and the amount of revenue received by the Corporation and all other rail carriers from the application of such surcharges, (ii) the number of surcharges applied by the Corporation and all other rail carriers that were canceled under the procedures of such section 10705a, and (iii) the number of cancellations of the application of a joint rate by the Corporation and other rail carriers under such section 10705a; and

(C) an analysis of the operation of the remedies made available to class III rail carriers under subsections (i), (j), and (k) of such section 19705a and to class II and class III rail carriers under subsection (l) of such section 10705a.

(2) The Interstate Commerce Commission shall, within 2 years after the effective date of this Act, submit a report to the Congress with respect to whether the provisions of section 10705a of title 49, United States Code, have adequately addressed the joint rate problems of rail carriers. The report shall include such recommendations with respect to such joint rate problems as the Commission considers necessary and appropriate.

EXPEDITED DIVISION OF REVENUES PROCEEDINGS

SEC. 302. Section 10705(e) (1) of title 49, United States Code, is amended to read as follows:

"(e) (1) (A) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by a rail carrier within 9 months after the complaint is filed if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission. The Commission must take final action by the 180th day after completion of the evidentiary proceedings, except that—

"(i) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceedings preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary proceedings; and

"(ii) in all cases other than those specified in clause (i) of this subparagraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursuant to this clause, it must report its reasons to Congress.

"(B) The provisions of this paragraph imposing time limitations upon Commission action shall not apply to any division proceeding involving a joint rate participated in by a class III rail carrier.".

REGULATION OF RAILROAD RATES

SEC. 303. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by inserting after section 10701 the following new section:

"§ 10701a. Standards for rates for rail carriers

"(a) Except as provided in subsection (b) or (c) of this section and unless a rate is prohibited by a provision of this title, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may establish any rate for transportation or other service provided by the carrier.

"(b)(1) If the Commission determines, under section 10709 of this title, that a rail carrier has market dominance over the transportation to which a particular rate applies, the rate established by such carrier for such transportation must be reasonable.

"(2) In any proceeding to determine the reasonableness of a rate described in paragraph (1) of this subsection—

"(A) the shipper challenging such rate shall have the burden of proving that such rate is not reasonable if—

"(i) such rate (I) is authorized under section 10707a of this title, and (II) results in a revenue-variable cost percentage for the transportation to which the rate applies that is less than 20 percentage points above the revenue-variable cost percentage applicable under section 10709(d) of this title; or

"(ii) such rate does not meet the description set forth in clause (i) of this subparagraph, but the Commission does not begin an investigation proceeding under section 10707 of this title to determine whether such rate is reasonable; and

"(B) the rail carrier establishing the challenged rate shall have the burden of proving that such rate is reasonable if—

"(i) such rate (I) is greater than that authorized under section 10707a of this title, or (II) results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 20 percentage points above the revenue-variable cost percentage applicable under section 10709(d) of this title; and

"(ii) the Commission begins an investigation proceeding under section 10707 of this title to determine whether such rate is reasonable.

"(3) In determining whether a rate established by a rail carrier is reasonable for purposes of this section, the Commission shall recognize the policy of this title that efficient rail carriers shall earn adequate revenues, as established by the Commission under section 10704(a)(2) of this title.

"(c)(1) Any rate established after the effective date of the Harley O. Staggers Rail Act of 1980 for transportation by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that does not contribute to the going concern values of such rail carrier is not reasonable.

"(2) A rate for transportation by a rail carrier that equals or exceeds the variable cost of providing the transportation is conclusively presumed to contribute to the going concern value of such rail carrier.

"(3)(A) Upon the filing of a complaint alleging that a rate is in violation of this subsection, the Commission shall take final action thereon by the 90th day after the date such complaint is filed.

"(B) If the Commission determines, based on the record after opportunity for a hearing, that a rate is in violation of this subsection, the Commission may order such rate to be raised, but only to the minimum level required by this subsection. The complainant shall have the burden of proving that such rate is in violation of this subsection.".

(b)(1) The first sentence of section 10701(a) of title 49, United States Code, is amended by inserting "(other than a rail rate)" immediately after "A rate".

(2) Section 10701(b) of title 49, United States Code, is repealed.

(3) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately below the item relating to section 10701 the following new item:

"10701a. Standards for rates for rail carriers.".

DETERMINATION OF MARKET DOMINANCE

SEC. 304. Section 10709 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) In this subsection—

"(A) 'fixed and variable cost' means all cost incurred by rail carriers in the transportation of freight, but limiting the return on equity capital to a rate equal to the embedded cost of debt.

"(B) 'cost recovery percentage' means the lowest revenue-variable cost percentage which, if all movements that produced revenues resulting in revenue-variable cost percentages in excess of the cost recovery percentage are deemed to have produced only revenues resulting in the cost recovery percentage, would produce revenues which would be equal, when combined with total revenues produced by all other traffic transported by rail carrier, to the total fixed and variable cost of the transportation of all traffic by rail carrier.

"(C) 'revenue-variable cost percentage' means the quotient, expressed as a percentage figure, obtained by dividing the total revenues produced by the transportation of all traffic received by rail carriers for rail transportation by the total variable cost of such transportation.

"(2) In any proceeding under this section, the Commission shall find that the rail carrier establishing the challenged rate does not have market dominance over the transportation to which the rate applies if such rail carrier proves that the rate charged results in a revenue-variable cost percentage for such transportation that is less than—

"(A) 160 percent during the period beginning on the effective date of the Harley O. Staggers Rail Act of 1980 and ending September 30, 1981;

"(B) 165 percent during the period beginning October 1, 1981, and ending September 30, 1982;

"(C) 170 percent during the period beginning October 1, 1982, and ending September 30, 1983;

"(D) 175 percent or the cost recovery percentage, whichever is less, during the period beginning October 1, 1983, and ending September 30, 1984; and

"(E) the cost recovery percentage, during each 12-month period beginning on or after October 1, 1984.

For purposes of subparagraphs (D) and (E) of this paragraph, the cost recovery percentage shall in no event be less than a revenue-variable cost percentage of 170 percent or more than a revenue-variable cost percentage of 180 percent.

"(3) A finding by the Commission that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the applicable percentage under paragraph (2) of this subsection does not establish a presumption that (A) such rail carrier has market dominance over such transportation, or (B) the proposed rate exceeds a reasonable maximum.

"(4)(A) Within 180 days after the effective date of the Harley O. Staggers Rail Act of 1980 and on an annual basis thereafter, the Commission shall determine the cost recovery percentage for transportation of all traffic received by rail carrier. The Commission shall make such determination after considering each individual revenue-variable cost percentage resulting from the revenues and costs of a valid and reliable statistical sample of all movements of commodities transported by class I rail carriers during the most recent calendar year for which such information is available.

"(B) If, on the basis of calculations under subparagraph (A) of this paragraph, the Commission determines that revenues earned by all class I rail carriers during the previous calendar year do not exceed the fixed and variable costs of such carriers, then the cost recovery percentage for purposes of this section shall be deemed to be equal to the cost recovery percentage last determined by the Commission.

"(C) The Commission shall, in its annual report submitted to the Congress under section 10311 of this title, set forth the cost recovery percentage determined for that year under subparagraph (A) of this paragraph.".

ZONE OF RATE FLEXIBILITY

SEC. 305. (a) Subchapter I of chapter 107 of title 49, United States Code is amended by inserting after section 10707 the following new section:

"§ 10707a. Zone of rail carrier rate flexibility.

"(a) In this section—

"(1) 'base rate' means the rate in effect on the effective date of the Harley O. Staggers Rail Act of 1980 for the transportation of a particular commodity. If no rate exists for the transportation of a particular commodity on such effective date, the base rate for the transportation of such commodity shall be the rate established by the rail carrier, unless such rate is found to be unreasonable by the Commission, in which case the base rate shall be the rate authorized by the Commission.

"(2) 'adjusted base rate' means the base rate, as adjusted on a quarterly basis to reflect inflation.

"(b)(1) Except as provided in paragraph (2) of this subsection, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may, in addition to rate increases authorized under subsection (b) or (c) of this section, increase any rate over which the Commission has jurisdiction under section 10709 of this title in order to cover cost increases due to inflation, so long as the increased rate is not greater than the adjusted base rate for the transportation involved.

"(2) A rail carrier may not increase a rate under this subsection to the extent that the cost increases to such carrier due to inflation are recovered through (A) general rate increases pursuant to section 10706 of this title, or (B) inflation-based rate increases under section 10712 of this title.

"(c)(1) During the 12-month period beginning on the effective date of the Harley O. Staggers Rail Act of 1980, a rail carrier may, in addition to rate increases authorized under subsection (a) of this section, increase any rate over which the Commission has jurisdiction under section 10709 of this title by an annual amount of not more than 6 percent of the base rate. During each of the 3 succeeding 12-month periods, a rail carrier may, in addition to rate increases authorized under subsection (a) of this section, increase any such rate by an annual amount of not more than 6 percent of the adjusted base rate, except that in no event shall the total increase under this subsection result in a rate which is more than 118 percent of the base rate.

"(2) If any portion of a rate increase under this subsection is not implemented in the year in which it is authorized, such portion may be implemented only in the next succeeding year.

"(d)(1) Except as provided in paragraph (3) of this subsection, during the 12-month period beginning on October 1, 1984, and during each succeeding 12-month period, a rail carrier may, in addition to rate increases under subsection (a) of this section, increase any rate over which the Commission has jurisdiction under section 10709 of this title by an annual amount of not more than 4 percent of the adjusted base rate.

"(2) No portion of any rate increase under this subsection which is not implemented in the year in which it is authorized may be implemented in any other year.

"(3) The provisions of this subsection shall not apply to (A) a rail carrier proposing to increase a single line rate if such carrier earns adequate revenues, as established by the Commission under section 10704(a)(2) of this title, or (B) rail carriers proposing to increase a joint rate if all carriers participating in the route to which the joint rate applies earn adequate revenues, as established under such section.

"(e)(1) Notwithstanding the provisions of section 10707 of this title, in the case of any rate increase by a rail carrier that is authorized under this section—

"(A)(i) the Commission may not suspend such rate increase pending final Commission action; and

"(ii) except as provided in paragraph (2) of this subsection, the Commission may not begin an investigation proceeding under section 10707 of this title with respect to the reasonableness of such rate increase; but

"(B) an interested party may file a complaint under section 11701(b) of this title alleging that such rate increase violates the provisions of this subtitle;

"(2)(A) If a rate increase authorized under this section in any year results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 20 percentage points above the revenue-variable cost percentage applicable in that year under section 10709(d) of this title, the Commission may, on its own initiative or on complaint of an interested party, begin an investigation proceeding to determine whether the proposed rate increase violates this subtitle.

"[(B) In determining whether or not to investigate a proposed rate increase, the Commission shall set forth its reasons therefor, giving due consideration to the following factors:

"[(i) the amount of traffic which is transported at revenues below going concern value and efforts made to minimize such traffic;

"[(ii) the amount of traffic which contributes only marginally to fixed costs and the extent, if any, to which rates for such traffic can be changed to maximize the revenue from such traffic; and

"[(iii) the impact of the proposed rate increase on attaining the long-term national energy goals and the rail transportation policy set forth in section 10101a of this title, taking into account the rail carrier's role as a primary source of energy transportation and the need for a sound rail system in accordance with the revenue adequacy goals of section 10704(a)(2) of this title.

This subparagraph shall not be construed to change existing law with respect to the nonreviewability of such determinations.]

"[(C) In determining whether a rate is reasonable, the Commission may consider, among other factors, evidence of the following:

"[(i) the amount of traffic which is transported at revenues below going concern value and efforts make to minimize such traffic;

"[(ii) the amount of traffic which contributes only marginally to fixed costs and the extent, if any, to which rates for such traffic can be changed to maximize the revenues from such traffic; and

"[(iii) whether any commodity is paying an inordinate and unreasonable share of the carrier's overall revenues.]

"(f) In any proceeding under this section, evidence of the underlying rail carrier rate is admissible.

"(g) A finding by the Commission that a rate increase exceeds the increase authorized under this section does not establish a presumption that the proposed rate exceeds a reasonable maximum.

"(h) The authority of the Commission to determine and prescribe reasonable rules, classifications, and practices may not be used, directly or indirectly, to limit the rates which rail carriers are otherwise authorized to establish under this section.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10707 the following new item:

"10707a. Zone of rail carrier rate flexibility.".

(c)(1) Any rail carrier rate which increased over 70 percent between 1976 and 1979 inclusive for the transportation, in shipper owned equipment over a distance exceeding 1,550 miles between points within the United States, of coal pursuant to a tariff calling for an annual volume of more than 2,000,000 tons per year purchased by a municipality owned utility for the generation of electric power under a 20-year purchase agreement entered into by such utility in the year 1974 shall not be increased so long as coal is purchased under such original agreement, except that—

(A) during the period beginning October 1, 1980, and ending September 30, 1987, the Interstate Commerce Commission may permit increases in such rate which result in a revenue-variable cost percentage of not more than 162 percent; and

(B) after October 1, 1987, such rate shall be subject to section 10701a of title 49, United States Code, and related provisions of such title governing regulation of rail carrier rates, except that until such rate results in a revenue-variable cost percentage that equals or exceeds the revenue-variable percentage applicable under section 10709(d) of such title, such rate may not be increased more than 4 percent, in addition to inflation, in any year.

(2) Neither the provisions of this subsection nor any rate subject to this subsection shall be admissible as evidence or considered in any way in any proceeding involving any other rail carrier rate that is commenced to determine market dominance under section 10709 of title 49, United States Code, or to determine reasonableness under section 10701a of such title.

RATE REGULATION PROCEEDING AND STUDY

SEC. 306. (a)(1) The Interstate Commerce Commission shall commence a proceeding for purposes of determining whether, and to what extent, product competition should be considered in proceedings under subtitle IV of title 49, United States Code, to determine the reasonableness of rail carrier rates. The Commission shall complete its proceeding under this subsection within 180 days after the effective date of this Act.

(2) On the basis of the proceeding conducted under this subsection, the Commission may find that, in determining the reasonableness of rail carrier rates—

(A) proof of product competition should be considered as a factor to the same extent as it is considered under existing law on the effective date of this Act;

(B) proof of product competition should be given greater weight than that described in subparagraph (A) of this paragraph; or

(C) proof of product competition should be conclusive.

(3)(A) For purposes of this subsection, the term "product competition" means the availability to a consignee, at a competitive delivered cost and in sufficient quantities, of products or commodities which are of the same type as the commodity or product to which the rate in question applies, without regard to whether such products or commodities are available from the same or a different origin as those to which the rate applies.

(B) In determining the availability of alternative sources of a particular commodity for purposes of this subsection, such commodity must be capable, by reason of similar specifications such as Btu's, sulfur content, and ash content, of being effectively utilized by the consignee.

(C) In determining the availability of alternative sources of coal for purposes of this subsection, such coal must be capable, by reason of similar specifications such as Btu's and sulfur content, of being effectively utilized by the consignee.

(D) For purposes of this subsection, any coal imported in the United States for the generation of electricity by utilities shall not be taken into account in the determination of whether coal is available to a consignee from another source.

(4)(A) Nothing in this subsection shall be construed as requiring the Commission to modify its determination of the reasonableness of rail carrier rates under existing law and procedures.

(B) Nothing in this section shall be construed as altering the meaning, use, or interpretation by the Commission, the courts, or any party of the term "market dominance", as defined in section 10709(a) of title 49, United States Code. No determination under this subsection shall in any way alter the meaning of such term, even if such meaning denies the Commission jurisdiction over the transportation of commodities where product competition exists.

(b)(1) The Interstate Commerce Commission shall, within 3 years after the effective date of this Act, submit a report to the Congress setting forth its recommendations with respect to the appropriate jurisdictional threshold to be used for purposes of determining those cases in which the Commission will have jurisdiction to determine whether a proposed rail carrier rate is reasonable.

(2) The report submitted under this subsection shall include a consideration of feasibility of utilizing, as the criteria for establishing the jurisdictional threshold described in paragraph (1) of this subsection—

(A) the cost recovery percentage, as defined in section 10709(d) of title 49, United States Code;

(B) a specific revenue-variable cost percentage;

(C) a reasonable transportation alternative test;

(D) a revised statutory or administrative market dominance test;

(E) a test based on rail carrier return on investment; or

(F) such other criteria as the Commission considers appropriate.

(c)(1) The Interstate Commerce Commission shall, within 180 days after the effective date of this Act and thereafter as necessary, establish standards for determining what constitutes adequate revenues for rail carriers under section 10704 of title 49, United States Code.

(2) On the basis of the standards established under paragraph (1) of this subsection, the Commission shall, within 180 days after the effective date of this Act and on an annual basis thereafter, determine which rail carriers are earning adequate revenues.

(d) The rail carrier rate level resulting from any case pending in any Federal court on July 22, 1980 (including any case on remand), shall be considered to be the rate for purposes of determining permissible rate increases under chapter 107 of title 49, United States Code.

INFLATION-BASED RATE INCREASES

SEC. 307. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10712. Inflation-based rate increases

"(a) After the elimination of general rate increases under section 10706 of this title, the Commission may, on a quarterly basis and consistent with the rail transportation policy set forth in section 10101a of this title, prescribe a percentage rate increase or rate index for rail carriers in order to compensate for inflationary cost increases. Such percentage rate increase or rate index may be applicable on an industry-wide or on a carrier-by-carrier basis.

"(b) Within 60 days after the date the Commission prescribes a percentage rate increase or rate index under subsection (a) of this section, each rail carrier or group of rail carriers shall notify the Commission of any rate or group of rates which such carrier or carriers intend to be excluded from the application of such percentage rate increase or rate index.

"(c) For purposes of this section, a percentage rate index may permit rate increases within a specified range to allow carriers to recover a total revenue increase specified by the Commission as necessary to compensate for inflationary cost increases.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10711 the following new item:

"10712. Inflation-based increases.".

INVESTIGATION AND SUSPENSION OF RATES

SEC. 308. (a) Section 10707(b)(1) of title 49, United States Code, is amended to read as follows:

"(b)(1) The Commission must complete a proceeding under this section and make its final decision by the end of the 5th month after the rate, classification, rule, or practice was to become effective, except that if the Commission reports to the Congress by the end of such 5th month that it cannot make a final decision by that time and explains the reason for the delay, it may take an additional 3 months to complete the proceeding and make its final decision.".

(b) Section 10707(c) of title 49, United States Code, is amended to read as follows:

"(c)(1) The Commission may not suspend a proposed rate, classification, rule, or practice during the course of a Commission proceeding under this section unless it appears from the specific facts shown by the verified statement of a person that—

"(A) it is substantially likely that the protestant will prevail on the merits;

"(B) without suspension, the proposed rate change will cause substantial injury to the protestant or the party represented by the protestant; and

"(C) because of the peculiar economic circumstances of the protestant, the provisions of subsection (d) of this section do not protect the protestant.

"(2) The burden shall be on the protestant to prove the matters described in paragraph (1) (A), (B) and (C) of this subsection.".

(c) Section 10707(d) of title 49, United States Code, is amended to read as follows:

"(d)(1) If the Commission does not suspend a proposed rate increase under subsection (c) of this section, the Commission shall require the rail carrier to account for all amounts received under the increase until the Commission completes its proceedings under subsection (b) of this section. The accounting shall specify by whom and for whom the amounts are paid. When the Commission takes final action, it shall require the carrier to refund to the person for whom the amounts were paid that part of the increased rate found to be unreasonable, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days.

"(2) If a rate is suspended under subsection (c) of this section and any portion of such rate is later found to be reasonable under this title, the carrier shall collect from each person using the transportation to which the rate applies the difference between the original rate and the portion of the suspended rate found to be reasonable for any services performed during the period of suspension, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days, except that this paragraph shall not apply to general rate increases under section 10706 of this title.

"(3) If any portion of a proposed rate decrease is suspended under subsection (c) of this section and later found to be reasonable under this title, the rail carrier may refund any part of the portion of the decrease found to comply with this title if the carrier makes the refund available to each shipper who participated in the rate, in accordance with the relative amount of such shipper's traffic transported at such rate.".

(d) Section 10707(e) of title 49, United States Code, is repealed.

CONTRACTS

SEC. 309. (a) Subchapter I of chapter 107 of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new section:

"§ 10713. Contracts

"(a) One or more rail carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may enter into a contract with one or more purchasers of rail services to provide specified services under specified rates and conditions.

"(b) Each contract entered into under this section shall be filed with the Commission, together with a summary of the contract containing such nonconfidential information as the Commission prescribes. The Commission shall immediately make a summary of each such contract available to interested persons.

"(c) A contract filed under this section shall be approved by the Commission, as provided in subsection (e) of this section, unless the Commission determines in a proceeding under subsection (d) of this section that such contract is in violation of this section.

"(d)(1) No later than 30 days after the date of filing of a contract under this section, the Commission may, on its own initiative or on complaint, begin a proceeding to review such contract on the grounds described in this subsection.

"(2)(A) In the case of a contract other than a contract for the transportation of agricultural commodities, a complaint may be filed—

"(i) by a shipper only on the ground that such shipper individually will be harmed because the proposed contract unduly impairs the ability of the contracting carrier or carriers to meet their common carrier obligations to the complainant under section 11101 of this title; or

"(ii) by a port only on the grounds that such port individually will be harmed because the proposed contract will result in unreasonable discrimination against such port.

For purposes of this paragraph, the term 'unreasonable discrimination' has the same meaning as such term has under section 10741 of this title.

"(B) In the case of a contract for the transportation of agricultural commodities, in addition to the grounds for a complaint described in subparagraph (A) of this paragraph, a complaint may be filed by a shipper on the ground that such shipper individually will be harmed because—

"(i) the rail carrier has unreasonably discriminated by refusing to enter into a contract with such shipper for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue, and that shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered; or

"(ii) the proposed contract constitutes a destructive competitive practice.

"(3)(A) Within 30 days after the date a proceeding is commenced under paragraph (1) of this subsection, or within such shorter time period after such date as the Commission may establish, the Commission shall determine whether the contract that is the subject of such proceeding is in violation of this section.

"(B) If the Commission determines, on the basis of a complaint filed under paragraph (2)(B)(i) of this subsection, that the grounds for a complaint described in such paragraph have been established with respect to a carrier, the Commission shall order such carrier to provide rates and service substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence.

"(e) Approval of a contract filed under this section shall be effective—

"(1) on the date the Commission expressly approves such contract, but in no event before the end of the 30-day period beginning on the date such contract is filed or after the end of the 60-day period beginning on such date; or

"(2) if the Commission has not disapproved such contract by the end of the 60-day period beginning on the date such contract is filed, at the end of such 60-day period.

"(f) The Commission may not require a rail carrier to violate the terms of a contract that has been approved under this section, except to the extent necessary to comply with section 11128 of this title.

"(g) A party to a contract entered into under this section shall have no duty in connection with services provided under such contract other than those duties specified by the terms of the contract.

"(h)(1) A contract that is approved by the Commission under this section may not be subsequently challenged before the Commission or in any court on the grounds that such contract violates a provision of this subtitle.

"(2) The exclusive remedy for any alleged breach of a contract entered into under this section shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

"(i) The provisions of this section shall not affect the status of any lawful contract between a rail carrier and one or more purchasers of rail service that is in effect on the effective date of the Harley O. Staggers Rail Act of 1980.

"(j)(1) During the 3-year period beginning on the effective date of the Harley O. Staggers Rail Act of 1980, any rail carrier may, in accordance with the terms of this section, enter into contracts for the transportation of agricultural commodities involving the utilization of carrier owned or leased equipment not in excess of 40 percent of the capacity of such carrier's owned or leased equipment by major car type (plain boxcars, covered hopper cars, gondolas and open to hoppers, coal cars, bulkhead flatcars, pulpwood rackcars, and flatbed equipment, including TOFC/COFC), except that in the case of a proposed contract between a class I carrier and a shipper originating an average of 1,000 cars or more per year during the prior 3-year period by major car type on a particular carrier, not more than 40 percent of carrier owned or leased equipment utilized on the average during the prior 3-year period may be used for such contract without prior authorization by the Commission.

"(2) Any rail carrier or other party may seek relief from the limitations of paragraph (1) of this subsection, and the Commission may grant such relief as it considers appropriate, if it appears that additional equipment may be made available without impairing the rail carrier's ability to meet its common carrier obligations under section 11101 of this title.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10712, as added by this Act, the following new item:

"10713. Contracts.".

DEMAND SENSITIVE RATES

SEC. 310. Section 10727 of title 49, United States Code, and the item relating to such section in the section analysis for chapter 107 of such title, are repealed.

PHASEOUT OF CAPITAL INCENTIVE RATES

SEC. 311. (a) Section 10729 of title 49, United States Code, and the item relating to such section in the section analysis of chapter 107 of such title, are repealed.

(b) Notwithstanding any other provision of law, any rate established by a rail carrier under section 10729 of title 49, United States Code, prior to the effective date of this Act shall remain in effect in accordance with its terms, but for no longer than 5 years after the date it became effective, unless the parties otherwise agree. However, the Interstate Commerce Commission may, during the period such a rate is in effect, order such rate revised to a level equal to the incremental cost of providing the transportation if the Commission finds that the level then in effect reduces the going concern value of the rail carrier.

PERMISSIVE LIMITED LIABILITY RATES

SEC. 312. (a) Section 10730 of title 49, United States Code, is amended—

(1) by inserting "(a)" immediately before "The";

(2) by inserting "(other than a rail carrier)" immediately after "carrier" the first place it appears; and

(3) by adding at the end thereof the following new subsection:

"(b) A rail carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may establish rates for transportation of property under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by a written agreement between the shipper and the carrier, and may provide in such written declaration or agreement for specified amounts to be deducted from any claim against the carrier for loss or damage to the property or for delay in the transportation of such property.".

(b)(1) Section 11707(c) of title 49, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(5) The liability of a rail carrier under subsection (a) of this section shall not exceed the value of the physical loss of or damage to the property transported, or the cost of repair to such property, to the extent that the loss or damage thereto is caused by the rail carrier. Any other or special damages shall not be recoverable.

"(6) If property transported by a rail carrier is lost, damaged, or delayed by reason of the act or negligence of both the carrier and the shipper, owner, or consignee, such carrier shall not be liable for the portion of loss, damage, or delay caused by the act or negligence of such shipper, owner, or consignee.".

(2) Section 11707(d) of title 49, United States Code, is amended—

(A) by inserting "(1)" immediately after "(d)";

(B) by inserting "(other than a rail carrier)" immediately after "delivering carrier" and

(C) by adding at the end thereof the following new paragraph:

"(2) A civil action under this section may be brought either against the originating rail carrier in a court having jurisdiction over the point of origin or against the delivering rail carrier in a court having jurisdiction over the point of destination. Such action may be brought in a district court of the United States or in a State court, and in any such action Federal law and Federal court decisions shall be applied. No other cause of action shall exist to recover for loss, damage, or delay to property.".

(3) Section 11707(e) of title 49, United States Code, is amended—

(A) by inserting "(1)" immediately after "(e)";

(B) by inserting "(other than a rail carrier)" immediately after "A carrier"; and

(C) by adding at the end thereof the following new paragraph:

"(2)(A) Except as provided in subparagraph (B) of this paragraph, a rail carrier may not provide by rule, contract, or otherwise a period of less than six months for filing a claim against such carrier under this section or a period of less than one year from the date such carrier declines such claim for bringing a civil action against it under this section. This period for filing claims shall be computed from the date of the loss of or damage to the property transported, and the period for bringing a civil action shall be computed from the date the person filing the claim receives notice that such claim is declined.

"(B) The limitations set forth in this paragraph shall not apply whenever a rail carrier has entered into a contract for the provision of transportation or service and such contract is filed with the Commission as a tariff under section 10762 of this title.".

RATE DISCRIMINATION

SEC. 313. Section 10741 of title 49, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) Differences between rates, classifications, rules, and practices of rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title do not constitute a violation of this section if such differences result from different services provided by rail carriers.

"(f) This section shall not apply to—

"(1) rates and conditions set forth in contracts approved under section 10713 of this title;

"(2) surcharges or cancellations under section 10705a of this title;

"(3) separate rates for distinct rail services under section 10728 of this title;

"(4) rail rates applicable to different routes; or

"(5) expenses authorized under section 10751 of this title,

except that with respect to rates described in paragraphs (2), (3), and (4), nothing in this subsection shall affect the authority of the Commission under this section with respect to rate relationships between ports or within the same port.

EXEMPTION

SEC. 314. Section 10505 of title 49, United States Code, is amended to read as follows:

"§ 10505. Authority to exempt rail carrier transportation

"(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons or a transaction or service when the Commision finds that the application of a provision of this subtitle—

"(1) is not necessary to carry out the transportation policy of section 10101a of this title; and

"(2) either (A) the transportation or service is of limited scope, (B) the application of a provision of this subtitle is not needed to protect shippers and receivers where there is an absence of effective competition, or (C) there is effective competition.

"(b) The Commission may, where appropriate, begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party.

"(c) The Commission may specify the period of time during which an exemption granted under this section is effective.

"(d) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary to carry out the transportation policy of section 10101a of this title.

"(e) No exemption order issued pursuant to this section shall operate to relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of section 11707 of this title. Nothing in this subsection or section 11707 of this title shall prevent rail carriers from offering alternative terms nor give the Commission the authority to require any specific level of rates or services based upon the provisions of section 11707 of this title.

"(f) The Commission may exercise its authority under this section to exempt transportation that is provided by a rail carrier as a part of a continuous intermodal movement.

"(g) The Commission may not exercise its authority under this section (1) to authorize intermodal ownership that is otherwise prohibited by this title, or (2) to relieve a carrier of its obligation to protect the interests of employees as required by this subtitle.".

INTRASTATE RATES

SEC. 315. (a) Section 11501(a) of title 49, United States Code, is amended—

(1) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(2) by striking out "subchapter I or subchapter IV" and inserting in lieu thereof "subchapter IV";

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(4) by striking out paragraph (2).

(b) Section 11501 of title 49, United States Code, is amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting immediately after subsection (a) the following new subsections:

"(b)(1) A State authority may only exercise jurisdiction over intrastate transportation provided by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title if such State authority exercises such jurisdiction exclusively in accordance with the provisions of this subtitle.

"(2) Within 120 days after the effective date of the Harley O. Staggers Rail Act of 1980, each State authority exercising jurisdiction over intrastate rates, classifications, rules, and practices for intrastate transportation described in paragraph (1) of this subsection shall submit to the Commission the standards and procedures (including timing requirements) used by such State authority in exercising such jurisdiction.

"(3)(A) Within 90 days after receipt of the intrastate regulatory rate standards and procedures of a State authority under paragraph (2) of this subsection, the Commission shall certify such State authority for purposes of this subsection if the Commission determines that such standards and procedures are consistent with the procedures applicable to regulation of rail carriers by the Commission under this title. If the Commission determines that such standards and procedures are not consistent, it shall deny certification to such State authority, and such State authority may resubmit new standards and procedures to the Commission for review in accordance with this subsection.

"(B) The standards and procedures existing in each State on the effective date of the Harley O. Staggers Rail Act of 1980 for the exercise of jurisdiction over intrastate rail rates, classifications, rules, and practices shall be deemed to be certified by the Commission from that date until the date an initial determination is made by the Commission under subparagraph (A) of this paragraph.

"(4)(A) Any State authority which is certified by the commission under this subsection may use its standards and procedures in exercising jurisdiction over intrastate rail rates, classifications, rules, and practices during the 5-year period commencing on the date of such certification. Any State authority which is denied certification may not exercise any jurisdiction over intrastate rates, classifications, rules, and practices until it receives certification under this subsection.

"(B) Any intrastate transportation provided by a rail carrier in a State which may not exercise jurisdiction over an intrastate rate, classification, rule, or practice of that carrier due to a denial of certification under this subsection shall be deemed to be transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title.

"(5)(A) Certification of a State authority under this subsection is valid for the 5-year period beginning on the date of such verification. Prior to the expiration of such 5-year period, the State authority shall resubmit its intrastate regulatory standards procedures to the Commission for subsequent certification in accordance with this subsection.

"(B) During any 5-year certification period, a State may not change its certified standards and procedures without notifying and receiving express approval from the Commission.

"(6) Notwithstanding any other provision of this section, a State authority may not exercise any jurisdiction over general rate increases under section 10706 of this title or inflation-based rate increases under section 10712 of this title.

"(C) Any rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may petition the Commission to review the decision of any State authority in any administrative proceeding in which the lawfulness of an intrastate rate. classification, rule, or practice is determined on the grounds that the standards and procedures applied by the State were not consistent with the provisions of this subtitle. The Commission shall dispose of any such petition within 30 days after the date it is received. If the Commission determines that the standards and procedures were not in accordance with the provisions of this subtitle, its order shall determine and authorize the carrier to establish the appropriate rate, classification, rule, or practice.".

(c)(1) Section 11501(d)(2) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by inserting "and chapter 107 of this title" immediately before the period at the end of the first sentence.

(2) Section 10103(a) of title 49, United States Code, is amended by striking out "The" and inserting in lieu thereof "Except as otherwise provided in this subtitle, the".

(3) Section 10501(a)(2) of title 49, United States Code, is amended by inserting "such jurisdiction is not limited by subsection (b) of this section or the extent" immediately after "to the extent".

(4) Section 10501(b)(1) of title 49, United States Code, is amended by inserting "other than transportation which is deemed to be subject to the jurisdiction of the Commission pursuant to section 11501(b)(4)(B) of this title" immediately after "(other than the District of Columbia)".

(5) Section 10501(c) of title 49, United States Code, is amended by striking out "transportation by carriers" and inserting in lieu thereof "transportation (other than transportation which is deemed to be subject to the jurisdiction of the Commission pursuant to section 11501(b)(4)(B) of this title) by carriers".

(6) Section 10501 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The jurisdiction of the Commission and of State authorities (to the extent such authorities are authorized to administer the standards and procedures of this title pursuant to this section and section 11501(b) of this title) over transportation by rail carriers, and the remedies provided in this title with respect to the rates, classifications, rules, and practices of such carriers, is exclusive.".

CUSTOMER SOLICITATION EXPENSES

SEC. 316. (a) Subchapter III of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10751. Customer solicitation expenses

"(a) Any business solicitation or entertainment expense incurred by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall not constitute a violation of section 10741 or 10761 of this title if such expense would not be unlawful if incurred by a person or corporation not subject to the jurisdiction of the Commission.

"(b) Any business entertainment expense authorized under this section that is paid or incurred by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall not be taken into account in determining the cost of service or the rate base for purposes of this title.

"(c) Within 180 days after the effective date of the Harley O. Staggers Rail Act of 1980, the Commission shall institute a rulemaking proceeding pursuant to which it shall issue rules establishing appropriate standards and guidelines for authorized business solicitation and entertainment expenses under this section. Such standards and guidelines shall be consistent with standards and guidelines applicable under existing law to persons not subject to this title, including competing unregulated surface transportation carriers.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10750 the following new item:

"10751. Customer solicitation expenses.".

(c) Section 10761 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) This section shall not apply to expenses authorized under section 10751 of this title.".

EFFICIENT MARKETING

SEC. 317. (a) Section 10762(c)(3) of title 49, United States Code, is amended by striking out the second sentence and inserting in lieu thereof the following: "In the case of a carrier other than a rail carrier, a proposed rate change or a new or reduced rate may not become effective for 30 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section. In the case of a rail carrier, a proposed rate change resulting in an increased rate or a new rate shall not become effective for 10 days after the notice is published and a proposed rate change resulting in a reduced rate shall not become effective for 5 days after the notice is published, except that a contract authorized under section 10713 of this title shall become effective in accordance with the provisions of such section.".

(b) Section 10762(d)(1) of title 49, United States Code, is amended by striking out "30-day" and inserting in lieu thereof "notice".

Redesignate sections 302 through 309 as sections 318 through 325, respectively.

Page 138, strike out line 23 and all that follows through line 12 on page 139 and insert in lieu thereof the following: "shall have such meaning as the Commission shall by regulation prescribe.".

Page 139, strike out line 20 and all that follows through line 9 on page 140 and redesignate the following subsections accordingly.

Page 140, immediately before the semicolon on line 19, insert ", except that for purposes of general rate increases only, if the Commission finds that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part.".

Page 141, strike out lines 3 through 12 and insert in lieu thereof the following: "part of a particular single route. This clause shall take effect on January 1, 1984, or on such earlier date as the Commission determines. If the Commission finds, at any time, that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part.".

Page 141, immediately after "rates." on line 25, insert the following new sentence: "If the Commission finds that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part.".

Page 146, strike out "to construct and operate a railroad" and insert in lieu thereof "both to construct and operate a new railroad".

Page 147, beginning on line 6, strike out "and joint service agreements".

Page 148, strike out line 1 and all that follows through line 12 on page 150 and insert in lieu thereof the following:

(b) Section 10706(a) of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(5)(A) Whenever two or more shippers enter into an agreement that relates to the amount of compensation such shippers propose to charge rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, for use by such rail carriers of rolling stock owned or leased by such shippers, the shippers shall apply to the Commission for approval of that agreement under this paragraph. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy set forth in section 10101a of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of approval. If the Commission approves the agreement, it may be made and carried out under its terms and under the terms required by the Commission, and the antitrust laws set forth in paragraph (2) of this subsection do not apply to parties and other persons with respect to making or carrying out the agreement.

"(B) If the Commission approves an agreement described in subparagraph (A) of this paragraph and the shippers entering into such agreement and the rail carriers proposing to use rolling stock owned or leased by such shippers are unable to agree upon the amount of compensation to be charged for the use of such rolling stock, any party directly involved in the negotiations may require that the matter be settled by submitting the issues in dispute to the Commission. The Commission shall render a binding decision, based upon a standard of reasonableness and after taking into consideration any past precedents on the subject matter of the negotiations, no later than 90 days after the date of the submission of the dispute to the Commission.".

Page 152, line 7, strike out "or carriers involved".

Page 152, after line 13, insert the following new sections:

SAFE RAILROAD REINVESTMENT REQUIREMENTS

SEC. 326. (a) The Secretary of Transportation shall, on the basis of inspections of the track, physical facilities, and operations of a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of title 49, United States Code, notify the Commission that such carrier (1) does not meet the safety requirements of applicable Federal statutes, and (2) is not maintained and operated in a manner which protects the public health and safety and the health and safety of railroad employees. The Secretary may include in his notification to the Commission that, for purposes of reviewing rate increases over which the Commission has jurisdiction, a rail carrier has excessively deferred its maintenance without good cause. For the purposes of this subsection, inspection of track shall be conducted at least once each year.

(b) (1) Upon receipt of the Secretary's notification under subsection (b) of this section with respect to a rail carrier, the Interstate Commerce Commission may, to the extent of its authority under chapter 113 of title 49, United States Code, review the financial arrangements of such carrier and prohibit any financial transactions which would unreasonably impair the ability of such carrier to (A) meet the safety requirements of applicable Federal statutes, and (B) operate in a manner which protects the public health and safety and the health and safety of railroad employees.

(2) The Commission may exercise its authority under this subsection with respect to a rail carrier until such time as the Commission determines that the safety deficiencies of such carrier which were the basis of the Secretary's notification have been remedied. In exercising such authority, the Commission shall take all steps necessary to avoid impairing the ability of such carrier to obtain financing.

(c) The Interstate Commerce Commission shall submit an annual report to the Congress setting forth its findings with respect to whether rail carriers that are subsidiaries of other companies are involved in financial transactions with the parent company which (1) result in the transfer of funds or assets, directly or indirectly, from the rail carrier to its parent company, and (2) impair the ability of the rail carrier to (A) meet the safety requirements of applicable Federal statutes, and (B) operate in a manner which protects the public health and safety and the health and safety of railroad employees.

ROCK ISLAND AND MILWAUKEE RAILROADS AMENDMENTS

SEC. 327. (a) (1) The Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1001 et seq.) is amended by redesignating section 124 as section 125 and by inserting immediately after section 123 the following new section:

"JUDICIAL REVIEW

"SEC. 124. (a) Notwithstanding any other provision of law, any appeal from—

"(1) any decision of the bankruptcy court with respect to the constitutionality of any provision of this Act; and

"(2) any decision of the court having jurisdiction over the reorganiaztion of the Milwaukee Railroad with respect to the constitutionality of the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.), shall be taken to the United States Court of Appeals for the Seventh Circuit.

"(b) If appeals are taken from decisions described in subsection (a) of this section involving section 106 or 110 of this title or section 9 or 15 of the Milwaukee Railroad Restructuring Act, the court of appeals shall determine such appeals in a consolidated proceeding, sitting en banc, and shall render a final decision no later than 60 days after the date the last such appeal is filed.

"(c) Nothing in this Act or in the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.) shall limit the right of any person to commence an action in the United States Court of Claims under section 1491 of title 28, United States Code (commonly referred to as the Tucker Act).".

(2) Section 110(e) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1008(e)) is amended by inserting "to employees" immediately after "liability".

(3) Section 15(e) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 914(e)) is amended by inserting "to employees" immediately after "liability".

(b) (1) Section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005) is amended to read as follows:

"EMPLOYEE PROTECTION AGREEMENTS

"SEC. 106. (a) No later than 5 days after the date of enactment of the Harley O. Staggers Rail Act of 1980, in order to avoid disruption of rail service and undue displacement of employees, the Rock Island Railroad and labor organizations representing the employees of such railroad with the assistance of the National Mediation Board, may enter into an agreement providing protection for employees of such railroad who are adversely affected as a result of a reduction in service by such railroad. Such employee protection may include, but need not be limited to, employee relocation incentive compensation, moving expenses, and separation allowances.

"(b) If the Rock Island Railroad and the labor organizations representing the employees of such railroad are unable to enter into an employee protection agreement under subsection (a) of this section within 5 days after the date of enactment of the Harley O. Staggers Rail Act of 1980, the matter shall be immediately submitted to the Commission. The Commission shall impose upon the parties by appropriate order a fair and equitable arrangement with respect to employee protection no later than 15 days after the date of enactment of the Harley O. Staggers Rail Act of 1980, unless the Rock Island Railroad and the authorized representatives of its employees have by then entered into a labor protection agreement. For purposes of this subsection, the term 'fair and equitable' means no less protective of the interests of employees than protection established by and pursuant to section 9 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 908), subject to the limitations set forth in section 110 of this title.

"(c) If an employee protection arrangement is imposed by the Commission under subsection (b) of this section, the bankruptcy court shall immediately authorize and direct the Rock Island Railroad trustee to, and the Rock Island Railroad trustee and the labor organizations representing the employees of the railroad shall, immediately implement such arrangement.

"(d) Any order of the Commission under subsection (b) of this section and any order of the bankruptcy court under subsection (c) of this section may be appealed only to the United States Court of Appeals for the Seventh Circuit. Any such appeal to such court of appeals shall be filed within 5 days after the date of entry of the order of the Commission or the bankruptcy court, as the case may be, and such court of appeals shall finally determine such appeal within 60 days after the date such appeal is filed.

"(e) (1) Any claim of an employee for benefits and allowances under an employee protection agreement or arrangement entered into under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under such agreement or arrangement and shall certify such amount to the Rock Island Railroad for payment.

"(2) Benefits and allowances under such agreement or arrangement entered into under this section shall be paid by the Rock Island Railroad from its own assets or in accordance with section 110 of this title, and claims of employees for such benefits and allowances shall be treated as administrative expenses of the estate of the Rock Island Railroad.

"(f) The first sentence of section 7(b) (7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b) (7)) is amended by striking out "and the Milwaukee Railroad Restructuring Act" and inserting in lieu thereof ", the Milwaukee Railroad Restructuring Act, and the Rock Island Railroad Transition and Employee Assistance Act".

(2) Section 108(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1007(a)) is amended by inserting immediately before the period at the end thereof the following: "(other than as provided in the agreement entered into in Washington, D.C., on March 4, 1980, entitled 'Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations Operating Through the Railway Labor Executives' Association')."

(3) Section 103(5) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1002(5)) is amended by inserting immediately before the period at the end thereof the following: ", the estate of such Company in its reorganization proceeding, or the trustee appointed in such proceeding".

(c) Section 102 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1001) is amended to read as follows:

"CONGRESSIONAL FINDINGS

"SEC. 102. The Congress finds that—

"(1) the Railroad Revitalization and Regulatory Reform Act of 1976 was not intended to imply that there would be no labor protection in the event of a total abandonment by a major rail carrier and the Milwaukee Railroad Restructuring Act requires the imposition of employee protection in all abandonments when the rail carrier is in bankruptcy whether such carrier is being reorganized or has been ordered to be liquidated;

"(2) the statutory imposition of employee protection has and continues to serve the public interest by stabilizing employment in the railroad industry and promoting improved labor-management relations and sound employment practices;

"(3) imposing employee protection in abandonments as part of a reorganization while not imposing employee protection in an abandonment proceeding pursuant to an order of liquidation would violate the clear and unequivocal congressional policy encouraging continued rail service through railroad reorganizations rather than liquidations;

"(4) Congress has given the Rock Island Railroad, its creditors, and its shareholders extraordinary benefits under this Act and the

Milwaukee Railroad Restructuring Act by, among other benefits—

"(A) giving preference to all proceedings at the Commission involving the Rock Island Railroad, authorizing the bankruptcy court to approve abandonments and sales of lines and facilities of such railroad without procedural delays at the Commission, and expediting appeals from this Act;

"(B) establishing conditions which will have the effect of limiting the Rock Island Railroad employee protection liability that would otherwise be imposed by law, both directly and indirectly; and

"(C) providing the Rock Island Railroad revenues from the lease of its facilities by other rail carriers by permitting the use of such facilities thereby maintaining their value as a going concern, and by providing Federal financial assistance to purchasers of Rock Island facilities, thereby promoting purchases, to the enrichment of Rock Island Railroad, its creditors, and its shareholders; and

"(5) the employees of the Rock Island Railroad relied in good faith upon the representation by the Federal Government that employee protection for employees who would not be provided protection through a private agreement with acquiring rail carriers would be protected by the provisions of this Act and cooperated with all parties to insure continued rail service in the Midwest, thereby enhancing the value of the Rock Island Railroad by maintaining its value as a going concern.".

(d) (1) Section 7 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 906) is amended by adding at the end thereof the following new subsection:

"(h) (1) All obligations to the United States or any agency or instrumentality of the United States incurred pursuant to this section by the Milwaukee Railroad or the trustee of the property of the Milwaukee Railroad shall be waived and cancelled when—

"(A) the Milwaukee Railroad is reorganized as an operating rail carrier; or

"(B) substantially all of the Milwaukee Railroad is purchased.

"(2) For purposes of this subsection, substantially all of the Milwaukee Railroad shall be considered as having been purchased when (A) more than 50 percent of the rail system operated by the Milwaukee Railroad on the date of enactment of the Harley O. Staggers Rail Act of 1980 has been purchased, and (B) more than 50 percent of the employees employed by the Milwaukee Railroad on such date of enactment have obtained employment with other rail carriers.".

(2) Section 14 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) There are authorized to be appropriated $15,000,000 for purposes of providing transaction assistance in accordance with section 505(h) (1) (A) and (B) of the Railroad Revitalization and Regulatory Reform Act of 1976.".

(e) Section 505(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(h)) is amended—

(1) in paragraph (1) (A), by striking out "$25.000,000" and inserting in lieu thereof "$38,000,000";

(2) in paragraph (1) (B), by striking out "$18,000,000" and inserting in lieu thereof "$27,000,000"; and

(3) in paragraph (4), by inserting "or such other time as the Secretary considers appropriate." immediately after "September 15, 1980.".

(f) The amendments made by this section shall take effect on the date of enactment of this Act.

LOAN GUARANTEES

SEC. 328. (a) To promote competition in the transportation of coal, the Secretary of Transportation shall, no later than 45 days after the date of enactment of this Act, take final action of any application for loan guarantees, under section 511 of the Railroad Revitalizaiton and Regulatory Reform Act of 1976, to be used in connection with joint ownership, construction, or rehabilitation of any facilities (including support facilities) for a second rail carrier to serve the Powder River Coal Region in Montana and Wyoming.

(b) The Secretary of Transportation may waive the provisions of section 511(g) of the Railroad Revitalization and Regulatory Reform Act of 1976 in making the loan guarantees described in subsection (a) of this section.

(c) The provisions of section 4(f) of the Department of Transportation Act shall not apply to any loan guarantee described in subsection (a) of this section.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 329. The second sentence of section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by inserting "is not required to make the findings with respect to subsections (e) (3) and (f) and" immediately after "the Association" the first place it appears.

SAVINGS PROVISIONS

SEC. 330. (a) Any rate that is in effect on the effective date of this Act for transportation by a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of title 49, United States Code, may, during the 180 day period beginning on such effective date, be challenged in a complaint filed with the Interstate Commerce Commission by any interested party alleging that the rail carrier has market dominance over the transportation to which the rate applies, as determined under section 10709 of such title, and that the rate is not reasonable under section 10701a of such title.

(b) Any rate described in subsection (a) of this section—

(1) which is not challenged in a complaint filed within the 180-day period provided in such subsection; or

(2) which is challenged in such a complaint, but (A) the rail carrier is found not to have market dominance over the transportation to which the rate applies, or (B) the rate is found to be reasonable,

shall be deemed to be lawful and may not thereafter be challenged in the Commission or in any court.

(c) The provisions of this section shall not apply to any rate under which the volume of traffic moved during the 12-month period immediately preceding the effective date of this Act did not exceed 500 net tons and has increased tenfold in the 3-year period immediately preceding the bringing of a challenge to the increase of such rate.

RELATIONSHIP TO TITLE II

SEC. 331. In any case in which any provision of or amendment made by title II of this Act conflicts with any provision of or amendment made by this title, the provision of or amendment made by this title shall control.

RAIL TECHNOLOGY AND SHIPPER NEEDS BOARD; OTHER SHIPPER ASSISTANCE

SEC. 332. (a) (1) There is hereby established a Rail Technology and Shipper Needs Board (hereinafter in this section referred to as the "Board"), which shall be composed of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Labor, and the Chairman of the Interstate Commerce Commission. The Secretary of Transportation shall serve as Chairman of the Board and shall have the responsibility for expediting the proceedings of the Board.

(2) (A) The Board shall select personnel from the Federal Government, with the consent of the head of the appropriate Federal department or agency, or appoint individuals from private life, to serve on advisory committees, task forces, and advisory panels. Such individuals shall be selected on the basis of their proven expertise in transportation related fields.

(B) Individuals selected under this section may be compensated for their services at the discretion of the Board, but in no event shall any such individual receive compensation in excess of 1/260 of the rate prescribed for level IV of the Executive Schedule, under section 5315 of title 5, for each day (including travel time) in which he is engaged in the actual performance of duties vested in the Board.

(b) (1) The Board may conduct studies of technological means to improve rail productivity and of the continuing transportation needs of urban and rural rail shippers, and shall submit reports to the Congress, in accordance with paragraph (2) of this subsection, on the results of such studies. Such reports shall include—

(A) an assessment of current rail technology limitations, with recommendations for rail technological innovations and improvements designed to—

(i) reduce rail operating and future investment costs;

(ii) reduce consumer prices, including food prices;

(iii) reduce energy consumption;

(iv) promote inter-modal and intra-modal coordination;

(v) provide financially self-sustaining and continuing rail service to light traffic density agricultural areas; and

(vi) enhance the competitive position of United States exports (including agricultural products) in world markets;

(B) estimates of future labor and capital investment requirements to rehabilitate the essential rail system of the United States;

(C) a recommendation with respect to the need to develop and disseminate, on a continuing basis, information, and analysis on projected transportation needs of urban and rural shippers for the purpose of improving private and public investment decisionmaking;

(D) an analysis of the affect of the provisions of this Act on urban and rural shippers, including so-called "captive" shippers;

(E) recommendations with respect to improving economic, regulatory, and legislative conditions to enhance the acquisition and financially self-sustaining operation of rail feeder lines by cooperative organizations; and

(F) an analysis of potential and existing urban and rural Federal rail programs which need to be coordinated in order to insure the maximum utilization of Federal funds.

(2) The Board shall submit an interim report to the Congress under this subsection no later than January 1, 1982, and shall submit a final report to the Congress no later than January 1, 1984.

(c) (1) The Board shall cooperate with existing Federal departments and agencies to assure that sufficient resources and facilities exist to assist agriculture shippers in forming cooperative shipper associations and in taking advantage of expanded opportunities for contracting.

(2) All Federal departments and agencies are authorized to cooperate with the Board and to furnish information, appropriate personnel (with or without reimbursement), and such financial and other assistance as may be agreed upon by the Board and the Federal department or agency involved.

(d) The Board shall cease to exist 5 years after the effective date of this Act.

(e) In evaluating restructuring plans submitted under section 518(h) of the Railroad Revitalization and Regulatory Reform Act of 1976, the Secretary of Transportation shall consult with the Secretary of Agriculture with respect to any aspect of such a plan that impacts upon the provision of transportation services to agricultural and rural areas.

(f) The Secretary of Agriculture, in cooperation with the Secretary of Transportation, may establish regional agricultural transportation representatives to assist shippers in securing railroad or alternative transportation services on the most favorable possible terms.

(g)(1) The Secretary of Transportation and the Secretary of the Treasury shall jointly submit to the Congress, within 9 months of the effective date of this Act, a comprehensive report on the anticipated effect (including the loss of revenue to the Federal Treasury) of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines. Such report shall also include such criteria as may be necessary to prevent the abuse of such special tax status.

(2) For purposes of this section, railroad feeder line rehabilitation includes the acquisition, construction, reconstruction, or erection of any feeder line roadbed, track, trestle, depot, switching, and signalling equipment, or any other rail equipment (other than rolling stock).

(h) There are authorized to be appropriated for purposes of carrying out the provisions of this section not to exceed $2,000,000.

Page 98, strike out the item in the table of contents relating to section 301 and insert in lieu thereof the following new items:

Sec. 301. Compensatory joint rate relief.
Sec. 302. Expedited division of revenues proceedings.
Sec. 303. Regulation of railroad rates.
Sec. 304. Determination of market dominance.
Sec. 305. Zone of rate flexibility.
Sec. 306. Rate regulation proceedings and study.
Sec. 307. Inflation-based rate increases.
Sec. 308. Investigation and suspension of rates.
Sec. 309. Contracts.
Sec. 310. Demand sensitive rates.
Sec. 311. Phaseout of capital incentive rates.
Sec. 312. Permissive limited liability rates.
Sec. 313. Rate discrimination.
Sec. 314. Exemption.
Sec. 315. Intrastate rates.
Sec. 316. Customer solicitation expenses.
Sec. 317. Efficient marketing.

Redesignate the following items in the table of contents for title III accordingly.

Page 98, at the end of the items relating to title III in the table of contents, insert the following new item:

Sec. 326. Safe railroad reinvestment requirements.
Sec. 327. Rock Island and Milwaukee Railroad amendments.
Sec. 328. Loan guarantees.
Sec. 329. Amendment to the Regional Rail Reorganization Act of 1973.
Sec. 330. Savings provisions.
Sec. 331. Relationship to title II.
Sec. 332. Rail Technology and Shipper Needs Board; other shipper assistance.

By Mr. KOSTMAYER:

(1) On page 16, after line 4, insert a new section 105(b) to read as follows:

"(b) PARTICIPATION IN REPOSITORY LICENSING DECISIONS.—Upon the submission to the President of the recommendation of a site for a repository for the disposal of high-level waste, the State Review Board of the State in which the site is located may, by majority vote of the membership of the Board, submit a petition to the Congress requesting that the Congress disapprove the site designation. A State Review Board may submit such a petition to the Congress not later than the 30th day after the date that the President approves the site recommendation under section 107(b) and submits the recommendation and report of the Secretary of Energy to the Congress. A petition shall be considered to be submitted to the Congress on the date of the transmittal of the petition to the Speaker of the House and the President pro tempore of the Senate. The petition shall be accompanied by a statement of reasons explaining why the petition should be granted."

(2) On page 24, after line 6, insert a new section 107(b)(3) to read as follows:

"(3) The designation of site for a repository for high-level waste shall be effective upon approval of the President under paragraph (1) unless a State Board has submitted to the Congress a petition for disapproval under section 105(b) or the governing body of an Indian tribe has submitted such a petition under section 106. If any such petition has been submitted, the approval of the designation shall not be effective except as provided under subsection (c)."

(3) On page 24, line 18, after the comma, insert the phrase, "and either a State Board submits to the Congress a petition for disapproval under section 105(b) or the governing body of an Indian tribe submits to the Congress such a petition under section 106."

(4) On page 24, line 23, after the phrase "high-level waste shall," insert the word "not".

(5) On page 25, line 4, strike the word "disapproves" and insert the word "approves".

EXTENSIONS OF REMARKS

GOOD NEWS FOR AMERICA AND HER VETERANS: WESTERN NEW YORK'S MICHAEL KOGUTEK'S ELECTION AS THE AMERICAN LEGION'S NATIONAL COMMANDER

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. KEMP. Mr. Speaker, the election of Michael J. Kogutek as national commander of the American Legion by his fellow Legionnaires at the recent convention in Boston is gratifying to me, an honor for western New York, and most fitting for Mike, a native of Lackawanna, N.Y., and an outstanding leader of our community.

Following his election by acclamation, Mike did not waste any time. As expected by those of us who know him, he came out fighting for American veterans. Last week he already was on Capitol Hill, presenting our distinguished colleague, RAY ROBERTS, the chairman of the Veterans' Affairs Committee, with telegrams protesting the President's veto of the bill we passed to increase salaries for doctors and dentists in our veterans' hospitals.

And before that—in his acceptance speech at the convention—Mike Kogutek spoke out forcefully for modernizing the pay structure for the men and women of our Armed Forces, an effort I fully support and urge all my colleagues to rally behind.

We are fully aware that many of our military personnel must take moonlight jobs in order to compensate for the inroads of inflation upon their paychecks. Like Mike Kogutek, I believe that Americans who stand ready to defend our country make enough sacrifices without being called upon to make an additional monetary sacrifice.

Just as important, Mike stands in the front ranks of us who believe we must provide our Armed Forces with the kinds and numbers of weapons, both conventional and strategic, and logistical support that will redress the growing imbalance of power between the Soviet Union and its surrogates on the one hand and the United States and our allies on the other.

In his acceptance speech, Mike reiterated the American Legion's continuing opposition to ratification of the SALT II agreement until, as he said, that pact is amended "to remove the military disadvantages to the United States."

"In the area of national security," Mike declared, "we continue to advocate and support a position of peace through strength, the only language our potential adversaries understand."

A veteran who served with the U.S. Navy in the South Pacific during World War II, Mike Kogutek is squarely on target in our continuing struggle to strengthen our Nation's defense and foreign policy and enhance our goal for peace, through strength.

Mr. Speaker, I wish to share with the Members of this body, some of the credentials of Mike Kogutek for the leadership of that most worthy institution, the American Legion.

At age 54, he has devoted 34 years to the Legion, veterans, and the worthy causes indentified with both. Mike is a charter and lifetime member of Lackawanna's Matthew Glab Post No. 1477. He has steadily climbed the ranks of responsibility at all levels with the Legion.

During the years 1961 and 1962, Mike was commander of post 1477 following service in a variety of post positions. He was adjutant of Erie County, N.Y., before becoming county commander in 1964 and was elected as commander of the eighth district of the Legion for the years 1966 and 1967.

Mike Kogutek was commander of the department of New York during the American Legion's golden anniversary in 1968-69. At the State level, he served as chairman of special activities, resolutions, membership, convention arrangements, and as a member of the National Executive Committee.

He is a past alternate national executive committeeman and currently is a member of the National Finance Commission and the board of directors of the National American Legion Child Welfare Foundation. His previous national appointments include the National Economic Commission, National Veterans' Preference Committee, and the National Economic Subcommittee for which he served as liaison with the Small Business Administration of the Federal Government.

Mike was born in Lackawanna, N.Y., September 30, 1925, and was educated in Lackawanna's public and parochial schools. He studied industrial and labor relations at Cornell University and holds an associate degree in science from Empire State College. He is plant manager for Buffalo Brake Beam Co. and a former police commissioner and commissioner of public works for the city of Lackawanna.

He is past president of both the Lackawanna Chamber of Commerce and the Central Railway Club of Buffalo, and holds membership in the Professional and Businessmen's Association, the Associated Industry Association of New York, the Knights of Columbus, and the Buffalo Chamber of Commerce.

In 1977, Mike was the recipient of the Citizen-of-the-Year Award, presented by the highly esteemed voice of Polonia in western New York, the weekly newspaper The AM-POL Eagle. This recognition was most deserved by Mike who had, as the Buffalo Evening News observed, "acquired a reputation as an aggressive spokesman of Legion platforms" and who, during his tenure as New York State commander, brought Legion membership to a record high.

Mr. Speaker, Mike Kogutek has announced he will take a 1-year leave of absence from his position at the Buffalo Brake Beam Co. to devote full time to his new responsibilities as national commander. These will involve his lobbying from the Legion headquarters here in Washington and Indianapolis and extensive traveling across our Nation in behalf of millions of his fellow veterans.

As a member of the Defense Appropriations Subcommittee, I welcome the opportunity to work with him to achieve our common goals. And I congratulate him and wish him, his wife, Dorothy, and his son, Michael, and daughter, Sharon, my very best.

At this point, I wish to add to my remarks an editorial which appeared in the August 28 edition of the AM-POL Eagle:

CONGRATULATIONS DUE KOGUTEK

Thirty-four years of dedicated service resulted in the ultimate achievement last week as Michael Kogutek of Lackawanna was elected National Commander of the American Legion during the organization's annual convention in Boston. Mr. Kogutek, a member of Lackawanna's Matthew Glab Post, becomes the first Western New Yorker and the first Polish American to head the 2.6 million member organization.

The election of Mr. Kogutek is an event in which all Western New Yorkers and all Polish Americans can take pride. The American Legion is one of our nation's most respected and influential organizations and to have one of our leading citizens heading the body is indeed a significant achievement.

Mr. Kogutek's attainment of the pinnacle of success in the American Legion did not come about by chance. Instead, it is a reflection of more than three decades of dedication to the ideals of not only the organization, but our nation as well.

We are most proud to have been among the first to recognize Mr. Kogutek's outstanding abilities and accomplishments back in 1977 when we honored him as an Am-Pol Eagle Citizen of the Year. We wrote at that time that he was a "dedicated" and "outstanding" leader whom we predicted would be a powerful force in the destiny of the American Legion in the years ahead. Our prediction was fulfilled last week in Boston.

We offer our sincere congratulations to Mr. Kogutek, his family and his fellow legionnaires. We wish him well during his tenure in office, confident in our knowledge

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

that he will lead with distinction, dedication and a sense of purpose.●

RAIL ACT OF 1980

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. LEE. Mr. Speaker, today I offer for entry into the Record a letter which I received from Transportation Secretary Neil Goldschmidt, which outlines the Secretary's enthusiastic endorsement of H.R. 7235, Harley O. Staggers' Rail Act of 1980.

This legislation is due for consideration by this House within a matter of days. Because of this, I feel it is important to share Secretary Goldschmidt's views of this important bill with my colleagues prior to any vote.

Following is the text of that letter, received in my office September 3, 1980:

The Secretary of Transportation,
Washington, D.C., September 3, 1980.
Hon. Gary A. Lee,
House of Representatives, Cannon House Office Building, Washington, D.C.

Dear Mr. Lee: On behalf of the Administration, I am most pleased to support, and urge the enactment of H.R. 7235, the Harley O. Staggers Rail Act of 1980, as it will be modified by the Staggers-Rahall-Lee compromise. The bill, as amended, will be an extremely important step forward toward meeting the twin goals of reducing unnecessary regulation and improving the financial health of the railroad industry, an essential element of the nation's economy.

As you are undoubtedly aware, the railroad industry has been plagued in recent years by extremely low rates of return on investment. The result has been decreased maintenance, poor service, more accidents and higher rates. Although it is clear that overregulation is not the sole cause of this problem, it is a significant part of it. And H.R. 7235, with the Staggers-Rahall-Lee compromise, is a vital part of the solution.

We recognize that many shippers, as well as some of the smaller railroads, were concerned that as reported by the Interstate and Foreign Commerce Committee, the bill would not have adequately protected their interests. It is clear that in a transition to a more flexible rate and service system for railroads, there is a potential for some individual difficulties. The original bill attempted to balance the competing interests. The Staggers-Rahall-Lee compromise builds on this, and should, in our opinion, provide adequate reassurance to shippers that the burden of the transition will not fall unfairly upon them.

In particular, in lieu of the initial threshold for Interstate Commerce Commission (ICC) review of rail rates provided by the bill as reported (estimated to be 200 percent of variable cost), the Staggers-Rahall-Lee compromise would set the threshold level at 160 percent for the first year after enactment, increasing gradually to a maximum of 180 percent after five years. In addition, a major source of concern to shippers, the "reasonable transportation alternative test" (proposed section 10709(c)(2)(A)(ii)), has been eliminated, and the Staggers-Rahall-Lee compromise would maintain existing law on market dominance. This agreement recognizes the need for further study and analysis by the ICC of the difficult concepts of product, market and geographic competition.

The compromise also explicitly responds to the particular concerns of agricultural shippers and ports. The compromise language will make clear that the new rate and service flexibility (particularly surcharges) will not abrogate or in any way adversely affect existing law as it relates to inter- and intra-port relationships. In addition, the compromise strikes existing law permitting the establishment of demand-sensitive rates, and will, for agricultural shippers and ports, allow a proposed contract to be challenged on the grounds that it unfairly discriminates against other similarly situated shippers. These changes, together with the elimination of the reasonable transportation alternative test, respond to the major concerns voiced by agricultural shippers.

The surcharge section, section 301 of H.R. 7235, would be amended in several important respects to respond to the concerns of small railroads, ports, and small shippers. In essence, the revised provision would limit surcharges to the level needed to cover the direct operating costs of a movement. Thus, shippers will no longer have to suffer poor service from a railroad that loses money on every shipment, and short line railroads will be assured that larger carriers will not be able to use unreasonably high surcharges to divert traffic away from smaller carriers. In addition, the total joint rate that results from a surcharge would be subject to review by the ICC under the maximum rate provisions discussed above. I wish to emphasize that the surcharge provision under the compromise does no more than guarantee a railroad that it will no longer be forced to carry goods at less than its out-of-pocket costs. This proposition is essential to a strong and sound railroad system and I urge you to vote against any attempt to weaken it.

In summary, our economy needs a financially healthy and productive railroad system in private hands. In an age of diminishing energy resources, the energy-efficient railroads are essential. H.R. 7235, as modified by the Staggers-Rahall-Lee compromise, will move us closer to a healthy railroad industry, with manifest benefits for shippers, employees, and consumers. The Administration strongly supports the bill. I urge all Members to vote for the Staggers-Rahall-Lee compromise, and for H.R. 7235 with no further amendments.

Sincerely,

Neil Goldschmidt. ●

MAYOR OF FLINT, MICH., TESTIFIES AT AUTO TASK FORCE HEARING

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. KILDEE. Mr. Speaker, in an effort to determine the specific impact of the current unemployment crisis in the American automotive industry on the communities in which plants are located, the Congressional Auto Task Force held a hearing in Detroit on September 2. Mayors and Governors were invited to testify, and their testimony provided disturbing insights into the economic crisis that their communities and States have been thrown into because of the drastic downturn in the auto industry. I wish to draw to the attention of my colleagues the excellent testimony presented by Hon. James W. Rutherford, mayor of the city of Flint, Mich. As one of the members of the auto task force who attended the hearing, I was struck by Mayor Rutherford's assertion that the national recession has reached depression conditions in Flint, my home town and the center of my district. I must agree that conditions there are as bad as I have ever seen them in my adult life. Following is Mayor Rutherford's testimony, with some of his recommendations for what the Congress can do to help the affected cities:

Good afternoon, my name is James W. Rutherford and I am the elected Mayor of the City of Flint. I am in my second term as Mayor of an industrial city of 165,000 population and an area population of about 500,000. The City of Flint is the birthplace of General Motors and contains the following General Motors Plants: Buick Motor Division, Chevrolet Manufacturing Plant, AC Spark Plug Plant, Chevrolet Truck Plant, Chevrolet Engine Plant, Chevrolet Metal Fabricating Plant, and Fisher Body.

The City of Flint plants are augmented by three area General Motors facilities: two Fisher Body Plants and General Motors Parts Division Headquarters. These General Motors plants have over 78,000 employees when there is full employment.

I would like to state that Flint is undoubtedly one of the greatest auto industry towns in the world. When things are going good—as they were as late as January of 1979—the workers were enjoying overtime and building autos and trucks galore—we enjoyed a prosperity. When things go bad as they did in 1958 and 1973-75, things got pretty dismal. This recession, however, has reached depression-dimensions. Our unemployed are estimated at 25.9% of the work force. The truth is, the figures are conservative. When the hard-core unemployed cannot get a job in prosperous times they, for the most part, give up going to employment offices and become non-statistics—for example, when Congress was discussing a "kicker" for Counter-cyclical funds, we were already entitled based on our unemployment rate.

You know Flint is a hard-working, typically American industrial town—a part of the heart of this great nation. We face the future with optimism and without fear. Even with over 20% of our municipal employees laid off and a reduction of our city budget from 58 million to 43 million dollars, we know we will survive. But, Congress can help cities like Flint and Pontiac and Saginaw and Muskegon to do more than survive. Prioritizing and implementing a recovery package should be our pledge.

I would like to reassure this committee I have no intention of crying the blues about cities our size which frequently are forgotten among the Detroit's and Philadelphia's. Nor, will you have to sit through our financial trouble story—for we are just one among the best of cities in these inflationary and yet recession-ridden times. Rather, I would like to try to offer a couple of suggestions to overcome the problems on a short-term and long-term basis.

First of all, when Congress reconvenes, they could, they should, they must, provide some flexibility in CETA regulations. The regulations must address the problems of industrial cities that are an endangered species without such help. There are a few regulations which, if waived, can provide instant help and re-employment of municipal employees currently and/or soon to be laid off.

(1) The eighteen month enrollment period should be waived until unemployment is 6 or 7 per cent in that community, not the

nation. The reason I emphasize nation as not being the standard is that we and others had 13.6% unemployment when the national average was set at 6%.

(2) Coinciding with that waiver should be new regulations—tied to a 6% local unemployment factor—as to the maximum wages which can be paid to municipal employees.

(3) The regulations should waive the regulation of mandatory lay-offs (the so-called maintenance of effort clause) if a general fund employee must be laid off for lack of non-CETA funds. Let the cities negotiate with the employee's union over this matter.

There are several ways Congress could give immediate impetus to reindustrialization of the northeast and mid-west communities. I stress "immediate" because that is what is needed to change the mood and despair brought about by the downturn of the recovery. Even with this action, it will take some time to turn the cities around.

1. Increase financing of UDAG to encourage industrial investment in the cities of the two regions.

2. Increase EDC bond limits drastically for industrial growth and/or rehabilitation for cities of the two regions.

3. Permit Industrial Revenue Bonds in massive amounts for the cities of the two regions.

4. Re-establishment of Local Public Works projects.

Let me quickly address those four issues. Industrial UDAG Projects. HUD's UDAG Program is basically sound, well-conceived and administered. The financing for industrial growth and/or reindustrialization can use this positive program.

The manufacturing, assembly plant component should be funded separate from the existing UDAG and not compete with the non-industrial UDAG projects. Congress can and should address this issue as a priority.

EDC bond limitations.—Congress should recognize the dire consequences of the economy of the northeast and midwest through special legislation to overcome the bleak outlook of the area. Self-help can be encouraged through the waiver of present dollar limits of E.D.C. bonds when sold for manufacturing plant rehabilitation or construction. Such a program could provide a tool to make the cities competitive and resourceful. The difference of the cost of interest on non-taxable bonds and taxable bonds could thus make the cities a first-thought location instead of an afterthought.

Industrial revenue bonds restrictions.—Congress should, even if the Office of the Budget objects, give hard-core cities exclusive rights to construct or rehabilitate structures for industrial growth within their communities through Industrial Revenue Bonds. Technically, this issue could be resolved through use of the Economic Develoment Commission Bonds if exclusivity was made possible.

Local public works.—I would like to state I support Local Public Works' projects. Then let me make a suggestion that we have one to fifteen or twenty million dollars for those cities hard hit to utilize in any fashion they see fit to provide a renaissance job-wise for their community. One city might choose to build a parking lot for an industrial park or another might put in a massive lighting system to attract a plant, another community might acquire land and sell it with a writedown to make it competitive. Perhaps, some will say this is a give-away—not so—it is an investment by the Federal Government which will pay off in income taxes very quickly. Nor is it a form of UDAG since it would not be one of competition between large and small cities. It would be an entitlement with few restrictions and require few staff additions. The entitlement would be for two years or three at the maximum.

Ladies and gentlemen, I know you will be in receipt of fiscal tales of woe—I have chosen to give you some solutions which should be instituted this Session while others are going to take longer to accomplish. I know your job is not an easy one and you desire the same results that the mayors and managers seek—a stronger nation which is the leader not the follower! Thank you for your interest and time and God Bless You.●

SHALLOW UNDERWATER MISSILE (SUM)

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. DASCHLE. Mr. Speaker, I am introducing legislation to authorize funds for the research, development, testing, and evaluation of the shallow underwater missile submarine system which would be capable of launching existing intercontinental ballistic missiles (ICBM's) or the proposed MX missiles now nearing the production stage.

I believe it is very important not to let the SUM concept go by the boards. There are elements to such a system that are superior to the proposed horizontal multiple protective basing system—racetrack—of deploying nuclear weapons. These elements need to be explored and thoroughly analyzed in test conditions above and beyond the feasibility studies that have already been completed. This legislation will authorize the go-ahead for this next stage of development.

The shallow underwater missile concept would consist of small 450-600-ton submarines outfitted with ICBM or MX missiles encapsulated outside the hull of the submarine. Horizontal placement of the missiles outside the submarine would avoid potential problems with buoyancy and the need to make other technical refinements in designing the proper submarine. The submarine itself would be diesel powered and have a crew of 12. Prototypes of such a submarine have already been constructed in Germany. The light weight of the submarine—450 tons—as compared to 18,000 tons for the new nuclear-powered Trident class submarines means that massive support facilities and the construction of new ports will be unnecessary.

There are two major and several tertiary advantages the SUM concept has over the MX and its multiple protective basing system. One of the major advantages is cost. Total cost figures for the SUM system have been estimated to be in the $12 to $15 billion range. Conservative estimates of the MX racetrack network figure it will cost $30 to $35 billion. Thus, SUM is a far less expensive system to build than the MX racetrack. I think this is very important as these extra funds could then be utilized to beef up other areas of the military, such as additional surface ships for the navy, spare parts for F-15's, and incentives to encourage active duty personnel to reenlist.

Another significant advantage of this concept is the fact that deployment can occur much earlier than with the racetrack method. Estimates are that the SUM network could be established within 3 to 6 years from approval date while the MX racetrack system will take until the end of this decade to complete. This is extremely important as our most dangerous period of vulnerability to a preemptive Soviet strike will be at the same time that the MX system is under construction.

Another reason to further explore SUM is the fact that the Air Force is considering the possibility that an antiballistic missile (ABM) defense network may be necessary to protect the MX and its multiple protective basing system. I seriously question the propriety of pouring billions of dollars into multiple protective structures if it will soon become necessary to construct additional costly defense facilities to protect the MX. The SUM concept has no such disadvantage.

Furthermore, deployment of missiles under the SUM concept would create a quadrad of strategic capabilities. Such deployment would further complicate Soviet targeting of strategic targets and force them to increase spending for improved antisubmarine warfare (ASW) capabilities at the expense of other programs. The addition of a fourth strategic nuclear capability would also give the United States additional leverage when dealing with the Soviets in strategic arms limitation discussions. This leverage could be utilized to further restrict the Backfire bomber if so desired.

Claims that submarine-launched missiles from the SUM system would largely be inaccurate have been discounted by Dr. Richard Garwin, former consultant to the White House and the Arms Control and Disarmament Agency, director of applied research at the IBM Corp. and now a professor of public policy at Harvard University. Garwin and Dr. Sidney Drell, of the Stanford Research Institute have been leading advocates of the SUM system and insist that the navigation and traffic control system (NAVSTAR) and global positioning system (GPS) receiver-computers can be utilized to perfect missile accuracy and even assist in submarine navigation.

In conclusion, it is my deepest hope that neither the MX or SUM missiles will ever have to be utilized. Unfortunately, the balance of power in the world today necessitates that the United States be prepared for any eventuality, including nuclear war. It is thus up to the Congress and the President to grasp this responsibility and determine which weapon systems are most compatible with our national interest. An intelligent decision on this matter cannot be made unless such factors as cost, environmental impact, availability of scarce resources—especially water supplies, and the expediency with which such weapons can be developed and deployed are considered. I am convinced that the multiple protective structures designed to protect the MX are not compatible with the majority of these concerns. Simply stated, the SUM alternative is less expensive and can be deployed much earlier. These are two critical factors considering the increasing vulnerability of our land-based minuteman missiles and the need to control Federal spending, balance the budget, and prevent the misuse of taxpayer money on expensive boondoggles which will contribute little to productivity and the long-term viability of our economic and political system. Mr. Speaker, for these reasons, I have introduced this legislation today.●

MAYORS BRUNER OF WALKER, MICH., AND ISENGA OF WYOMING, MICH., TESTIFY BEFORE THE CONGRESSIONAL AUTO TASK FORCE

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. SAWYER. Mr. Speaker, I recently asked two mayors who represent cities in my district to testify before the Congressional Auto Task Force meeting in Detroit, on September 2. As a member of the task force, I was extremely pleased that the Fifth District could be represented in this forum, to provide an assessment of how severely the difficulties of the auto industry have affected even our smaller communities and cities, as well as larger cities such as Grand Rapids and the State as a whole.

I include with my statement today copies of the testimonies presented by Mayor Bruner and Mayor Isenga, as examples of how critical and urgent it is that we recognize this impact and set about to address the problems.

Our hearing in Detroit was definitely a positive step in that direction. The comments and observations which were provided at this meeting will be valuable to our task force panel as we strive to assist in revitalizing the auto industry and restoring stability and growth to our smaller cities and communities, which have been impacted by these problems.

The testimonies follow:

My name is Harold Isenga. I am Mayor of the City of Wyoming, Michigan.

The City of Wyoming is a community of approximately 60,000 persons, located south of and contiguous to the City of Grand Rapids, which is in the western part of Michigan.

The City has a tax base of approximately 57 percent industry and business and 43 percent residential. General Motors has two plants in the City, known as Fisher Body and GM Diesel. Although there are several other large industrial plants in the City, there are numerous small manufacturing facilities, many of whom are geared to furnishing parts to the major auto producers. Most of the residents of Wyoming are primarily blue collar workers.

Unlike some of the larger cities in Michigan where unemployment is as high as 25 percent (Flint) and the average unemployment in Michigan of approximately 14 percent, the unemployment rate in our area is only approximately 10 percent.

According to the Grand Rapids Press, the help wanted advertising was off 47.5 percent in July, compared to July of 1979. Although the index is not predicting an early upturn in job availability, it should be noted that there has been no further deterioration in the last few months.

Even though the mortgages of less than $150,000.00 in size is still well below the level for this time in 1979, there seems to be an indication that there has been an improvement in home building within the area.

One of the hardest hit businesses in the area is that of new car and truck sales within Kent County. The State of Michigan, during the month of July, offered special incentives for the purchasing of vehicles and, during that time, sales increased.

However, sales plummeted during the first week of August after the ending of those incentives. The average weekly sales in Kent County for new cars for 1979 was 493 and for new trucks 156. However, the average weekly sale of new cars for 1980 has been 390, or a 21 percent reduction, and for new trucks has been 67 or a 43 percent decrease.

RETAIL SALES—PERCENT CHANGE FROM PREVIOUS YEAR

[In percent]

	General merchandisers		Department and soft goods stores		Hard goods and household furnishings	
	July	7 Mos	July	7 Mos	July	7 Mcs
Average percent sales change	+4.7	−0.3	+5.3	+1.7	−14.2	−5.4
Median percent sales change	+1.2	−1.8	+0.4	−1.3	−11.1	−7.1
Average of top quartile	+17.9	+11.2	+19.2	+11.7	+36.5	+12.7
Average of bottom quartile	−7.0	−10.5	−2.6	−7.4	−28.7	−23.7

As stated before, many of the local industrial plants furnished parts to the major automobile manufacturers, which parts consist of bumpers, ash trays, door handles, etc. Although I do not have the exact figures it is estimated that these businesses have suffered a 20 to 30 per cent reduction in their orders for 1980 as compared to the prior year. For example, Reynolds Metals Company, which has a plant in Wyoming, has a sizable overall business geared to the processing of bumpers and the balance of its business to the extrusion of metals. Although the extrusion of metals area has not been affected during the past two years, the bumper fabrication has suffered so that the total output is down by approximately 20 per cent, with the reduction in the corresponding work force of about 5 per cent.

I, like many other leaders of small cities throughout the United States, am quite concerned with several aspects of the automobile industry.

First, I am quite concerned by the unbridled freedom that Japan and other countries have in flooding the United States with automobiles. This has resulted in reduced output by the American manufacturers, layoffs resulting from the reduced output and further resulting in unemployment especially in cities which depend heavily on automobile manufacturing. Action must be taken to reduce the number of imports of automobiles from Japan and other countries.

Secondly, I believe that the government should help industry to retool its plants so that they are as modern and efficient as any foreign car manufacturer. I do not advocate direct government subsidy but I believe tax incentives to industries would help them compete with the foreign car manufacturers.

Thirdly, the Federal Government should refrain from enacting any further regulations or restrictions on the automobile industry at this time and should seriously consider putting a moratorium on certain of the existing regulations. These actions would assist the automobile industry in competing with the foreign manufacturers and would also ease the financial burdens they are facing.

Lastly, foreign car manufacturers should be required to build into their cars the same safety and crashworthiness features that the American manufacturers already have as indicated by the most recent Traffic Institute tests.

Even though, as I have stated in the beginning, the City of Wyoming has not been adversely affected as other communities within our nation have, many of our small businesses have suffered and some have even folded their doors because of lack of orders from the major automobile manufacturers. If some of the larger cities continue to have unemployment because of low car production, this can only adversely affect other cities.

I encourage you in Congress to take whatever reasonable steps are necessary, not only to correct this situation, but to see a growth once again in one of the largest industries in the nation, namely, automobile manufacturers, and that such action should be taken immediately.

OPENING STATEMENT BY ROBERT L. BRUNER, MAYOR, CITY OF WALKER

I would like to thank this committee for the opportunity to be a witness regarding this very grave problem dealing with automotive sales and manufacturing slowdown that confronts not only our cities, but our states and nation.

Upon gathering this information many of the businesses contacted expressed appreciation that these hearings were being held and hold out hope that something will be accomplished to turn the situation around.

IMPACT ON LOCAL BUSINESS—AUTOMOBILE RELATED

North American Industries—This firm makes parts for the auto industry. Mr. Smith, one of the owners, reports that their employment has dropped from 125 employees to 55 employees. Also, they are now only working four days per week. Mr. Smith estimates their business is down 50-60% of what it was.

General Motors Trim Plant—This is the second highest tax payer in the City of Walker. Bill Malone, Personnel Director, states that a year ago, hourly and salaried people totaled 2100. As of this date, the total is 1600 people. Over the past four months, they have been calling a few people back but this figure is minimal. There is very little overtime—maybe, an hour or so per week. Production on trim for the new "J" model car will not start until late in the fall as this car will not be in production until next March at the Lordstown plant.

Grand Rapids Spring and Wire Products—Larry Berkins—70 percent of their business is automobile-related. Loss of production is 25 percent. Ten persons have been laid off due to this loss. Addition to the building was built in 1979, however, due to the above factors, has not been used as yet.

Northwest Tool and Die Co.—Richard Alfen—95 percent of their business is automobile-related. Estimate a 5 to 10 percent loss. No employees have been laid off as yet, however, they are all working reduced hours. As to plant expansion, there is none planned.

Link Manufacturing Co.—Dennis Link—60 percent of their production is automobile-related. There have been no layoffs, as yet, however, it is estimated their production is down 35 percent. They are trying to secure new contracts in other than automobile-related fields so they will not have to cut hours for remaining employees. No planned expansion as of this time.

Walker Tool and Die, Inc.—Mr. Hendricks—70 percent of their production is automobile-related and their loss of production is between 20 and 25 percent. While there have been no layoffs as yet, average employee has been cut back 8 hours per week. They do not plan any expansion in equipment and/or building until 1982. Then, only if feasible.

Jack Keller Ford—Employment is down from 101 employees to 56 employees. Inventory is down 40 percent. At the present time they are carrying only 60 percent of prior inventory. Jim Hoeksema, Sales Manager, stated that most dealers are in the same situation and all attribute the decline in auto sales and employment, to the unemployment in the automotive field.

C. Bell Chevrolet—Chuck Gladstone, General Manager, states that they have dropped from 98 employees to 60 employees. All employees, including management, have taken a 10 percent cut in pay. Their inventory in January was about two million. It is now one-half, or one million. They have also closed their truck sales department and moved it into another building with new car sales and now have a Truck Sales Manager instead of a Manager, his Assistant, and sales personnel. They no longer have a full-time car leasing person. This person does many jobs now because business is down so much. They feel this impact is also from the automotive industry shutdown and slowdown.

IMPACT ON EFFICIENCY OF CITY OPERATIONS

For one thing, the several businesses that have slowdowns and layoffs immediately affects the City because it affects the buying power of these people who, in turn, buy less which, in turn, hastens many of the foreclosures and bankruptcy filings that we have had within the City the past eighteen months. This, in turn, affects the revenue coming into the City for City operations in the way of personal property tax, sales tax, income tax, gas and weight tax, etc. One of the more outstanding facts regarding this within the City Hall is the decrease in building permits which is down between 30 and 40 percent. This is caused by a couple factors. Admittedly, one is the high interest factor. The second is loss of income caused in great part by the problems that the automotive industry faces today. When building permits are down, revenue that the City anticipates from new property taxes and improved property taxes is not forthcoming which immediately affects the City by curtailing further extension of needed public services which are very important to insure the public health, safety and welfare of the community. One of these much needed services is the increase in law enforcement. The needed revenue to further increase this service is not forthcoming nor does it seem likely in the near future that this will better itself and puts the City in a precarious position as to what will happen if the unemployment lines grow longer and the people start running out of monies to feed their families. For example, the following is a breakdown in the percentages of crime increases in the past year:

Larcenies, 15 percent.
Assaults, 18 percent.
Breaking and entering, 10 percent.
Narcotics, 10 percent.
Disorderlies, 11 percent.
Driving under influence, 69 percent.
Robberies, 300 percent.

I am fully aware that the total blame of all these problems cannot be placed on the automobile industry. However, in our locality, a great deal of importance and reliability is placed on the automotive industry and the very fact that it has been badly curtailed in the past eighteen months due to several factors, does directly affect the City's operation and the public safety, health, and welfare of its residents.

IMPACT ON SCHOOLS

An additional impact on the community is the effect of unemployment on the schools and educational system. The schools have applied twice to the community for additional millage for operation due to the inflationary spiral of costs, and have been soundly rejected both times by the community. A good deal of this rejection was due to the unemployment status of the community caused by the slowdown or shutdown of automotive companies and subsidiary manufacturing plants which do considerable automotive work. On the surface, the defeat of this school millage does not seem to have a terrific impact. However, as it is studied more closely, the end result could be very serious. For example, the school in losing the millage had to cut many programs. One of the first to be chopped off is all recreational and extracurricular activities for the school. School buildings will not be open for the many and varied activities as they have been in the past. This results in putting many young people out on to the streets to find other interests or activities to fill up the void left by the lack of sports and other athletic events, either as participants or spectators. This not only includes football, basketball, tennis, track, etc., but also, other extracurricular activities such as school dances, school plays, band and orchestra, and so on. Plus, there are many related things involved such as team managers, cheer leaders, pom-pom girls, and the bus drivers needed to transport students to various events in the area. These young people are vulnerable to any suggestions, good and bad, that can come down the pike. The main reason being that they are very unhappy for the loss of "fun" times which the schools do provide and with the least provocation could strike back at the community for what they feel they have lost. Even though, in reality, the impact was caused in great part by the closing or slowdown of the automotive industry.

The summation of these reports indicates that the continued drop of automotive sales and resultant decrease in manufacturing will cause more problems than we are already experiencing.

I feel there are a number of actions that could be taken to get this turned around, they are as follows:

1. Some kind of tax rebate, possibly income tax—Michigan's July sales tax seemed to be quite effective in increasing sales.
2. Lower interest rates on the financing of new cars.
3. Balancing import tariffs to make U.S. manufactured cars competitive with foreign cars in their own countries and in the United States.
4. Less governmental regulations of the automotive industry.●

THE NEED FOR CONGRESSIONAL ADVOCACY FOR CHILDREN'S RIGHTS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. BIAGGI. Mr. Speaker, for the past number of years, the voice of Eleanor McGovern, wife of our colleague from the Senate GEORGE MCGOVERN, has been eloquently heard on the topic of children's rights in the United States.

Recently Mrs. McGovern wrote an article in the New York Daily News entitled "The Price Children Pay for a Jobless Home." The article presents some graphic statistics on what Mrs. McGovern refers to as the "saddest victims of unemployment, inflation, and poverty—our children." These figures include 10 million children living in poverty, nearly 6 million in dilapidated housing—350,000 children under 6 had both parents unemployed and 3.9 million had 1 parent unemployed.

Tragically, when a young person seeks employment—he finds barriers. Youth employment is at its highest levels in 5 years. Happily in this area, the House has responded with the enactment last week of the Youth Employment Act.

While Congress has responded to some of the problems facing children with enactment of such laws as the Child Abuse Prevention and Treatment Act—the fact remains we lack a coordinated national policy on children and youth. It should be placed high on the agenda of the next Congress.

I now insert the article for the consideration of my colleagues:

THE PRICE CHILDREN PAY FOR A JOBLESS HOME

When the "unemployment story" is pictured on television newscasts or in the newspapers, the people shown standing in lines are always adults. The jobless figures are usually given for men and women. But among the most numerous and certainly the saddest victims of unemployment, inflation and poverty are our children. The American economy, in fact, is perhaps the most serious problem of childhood today.

Some 10 million children live in poverty. According to the last census, nearly 6 million children under 18 years old live in dilapidated housing. By one count, 350,000 children under six had both parents unemployed, and 3.9 million had one parent unemployed and needing work. Last year, some 10 million children received no health care at all, and 5 million children received no dental care.

And while it's true that most of today's young children will grow up to be strong and capable, healthy and whole adults, for a substantial number the prospects for such a future are clouded. Nationally, three million arrests were made for juvenile crime last year; millions of children and adolescents suffer from drug and alcohol abuse; one million teenage girls become pregnant each year; a million youngsters run away from home; suicide has become the highest killer of teenagers after accidents. We know that the abuse and neglect of children have reached shocking proportions, that hundreds of thousands of children lead miserable lives in institutions, that millions are physically, mentally, or emotionally disabled, that half a million are in foster care, that well over a million under the age of 15 are not in school, that the national school dropout rate is 15 percent, and that upwards of 500,000 children age 16 and under, most of them from migrant families, are working in the fields because of loopholes in the child labor laws, while the real unemployment rate for urban black youths is believed to be over 50 percent.

What can be done for the children?

"Children's issues" have never been a dominant theme in any session of the Congress. Consideration of policies affecting children and families occupies a minute proportion of the total time of members and committees of the Congress. Yet Congress, by both its actions and its failures to act, often creates the policies which make a diffence in the lives of millions of children. These policies determine whether children get a nutritious breakfast or lunch; whether they receive adequate health care or education; and whether they even have a permanent home.

For better or worse, decisions about national policies affecting children are made in the same way and by the same legislators as decisions on tax policy, the energy shortage or foreign policy. We must learn to use the policy-making process to convince our legislators that meeting children's needs should be given at least the same amount of attention and priority as these other issues.

We have for years held the view that children are somehow above the political process—that we should separate them from the political process. That's a mistake, because nobody in this country does very well who is outside that political process and not in there bargaining for his interest.

We must pull all groups in our communities together into a political and educational network so that every piece of legislation begins to be looked at in terms of its impact upon children. On specific critical issues we must stop competing and join forces. As the pie gets smaller and there are fewer pieces, we must join forces so that stronger, more organized groups can't finish that pie before we even get to the table.

The political process is slow. It would be foolish to believe that changes in rules or institutions can be accomplished overnight. But attitudes, bureaucracies, and laws do change under sufficient pressure.

The time is ripe for questions and action regarding children and families. 1979 was the International Year of the Child. The White House Conference on Families has just concluded. The White House Conference on Children and Youth is just beginning.

In the United States we consider that our children are the responsibility of their parents. They are the individual family's joy or sorrow. Their achievements are worn like medals, their defeats are to be endured. The fact is, while the family bears the most difficult burden, the entire community pays the cost of illness, failure and defeat in lost productivity, low talent and lost revenue. Similarly, the community reaps the benefit of the child's successes and triumphs. A successful child is one who will enrich the nation.

The time to begin is now. The place to begin is at home—home is the place closest to the problem and home is the place closest to each and every legislator's heart.●

GOSPEL MUSIC WEEK

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. RODINO. Mr. Speaker, I want to recognize the World Gospel Music Association which has its roots in my home city of Newark. Its founder and president, Prof. Albert J. Lewis, Jr. has worked hard to bring the joy of gospel music to the citizens of Newark, and in so doing has enriched the State of New Jersey and the Nation. Many famous entertainers such as Sarah Vaughn, Dionne Warwick, Dee Dee Warwick, Sissy Houston, and others started in the Newark area, and Professor Lewis is continuing the tradition through his World Gospel Music Association.

The association held a World Gospel Music Convention earlier this summer which was widely recognized by the media and those of us in Government. The Newark Municipal Council and Mayor Kenneth Gibson proclaimed June 14 through June 21, Gospel Music Week in the city. Newark's WNJR radio station declared Newark, the "Gospel Music Capital of the Garden State," and New Jersey Governor Brendan Byrne also signed a proclamation designating June 14 as Gospel Music Day in our State.

Mr. Speaker, I believe that the time has come for all Americans to celebrate the greatness of gospel music as an integral part of American culture.

I am proud of the leadership role played by my home city of Newark in the effort to bring gospel music to all Americans and I commend Professor Lewis on his diligence and determination in this task. I ask my colleagues to support his efforts.

Mr. Speaker, I include the Gospel Music Week proclamations by Mayor Gibson, Governor Byrne, and the Newark Municipal Council in the RECORD as follows:

PROCLAMATION

Whereas spirituals were the first original songs created by Protestant Negro slaves on American soil, they were excellent examples of a blending of African and European cultures and can be easily traced back to the 1700's. The slaves added their own rhythmic emphasis to any music taught to them, liturgical or any other kind; and

Whereas there were sometimes symbolic references to railways or rivers leading to freedom or to heaven; sometimes these references even gave directions to aid escape from slavery; and

Whereas music was a means of preserving the traditions, ambitions, and lore of the tribe, music performed a vital role in maintaining the unity of the social group. Singing the same songs in the same way at the same time bound the individuals together, and a strong group feeling was established; and

Whereas it was this background, nurtured by woe and human hardship in slavery, from which sprang the seeds of Gospel Music as we know it today; and

Whereas on June 14, 1980, the soul of the City of Newark will come alive with the sounds of Gospel Music when the Macedonia Church of Christ becomes the setting for the World Gospel Musical Convention.

Now, therefore, I, Kenneth A. Gibson, mayor of the City of Newark, New Jersey, do hereby proclaim the week of June 14-21, 1980 Gospel Music Week in the City of Newark, and I urge all citizens to go "Back to the Roots" of the music which spanned distance, time and adversities, thus enriching the total American Culture.

PROCLAMATION

Whereas, Gospel Music has long been a source of spiritual stimulation and expression and has inspired many persons to a better way of life; and

Whereas, Gospel Music is important to the proper conduct of many religious services and has brought much pleasure and comfort to many citizens, not only in New Jersey, but around the Nation; and

Whereas, the World Gospel Musical Association of Newark seeks to support and perpetuate the Gospel Music Arts through promotion of various programs emphasizing the historical, cultural and educational aspects of gospel music, recognized as the progenitor of blues, jazz, ballad, country and western music; and

Whereas, the 12th Annual World Gospel Musical Convention will be held at the Macedonia Church of Christ in Newark;

Now, therefore, I, Brendan Byrne, Governor of the State of New Jersey, do hereby proclaim June 14, 1980 as Gospel Music Day.

THE NEWARK MUNICIPAL COUNCIL HEREBY ISSUES THIS RESOLUTION

Whereas, the City of Newark has a history rich in the cultural accomplishments of its residents, past and present; and

Whereas, the racial and ethnic diversity of Newark's residents has always contributed in a positive manner to this long list of accomplishments; and

Whereas, one of the many contributions of the City's Black community has been the beauty and magnificence of Gospel Music which has left an indelible mark on the American music scene and which continues to greatly influence numerous other forms of modern music; and

Whereas, the City of Newark is home to a number of Gospel Music organizations whose programs are attempting to nurture and promote the study, performance and appreciation of Gospel Music; and

Whereas, in acknowledgement of Newark's importance as a center of Gospel Music and the many famous entertainers the Greater Newark area has produced such as Sarah Vaughn, Dionne Warwick, Dee Dee Warwick, Sissy Houston, etc., the World Gospel Musical Association under the auspices of its President, Professor Albert J. Lewis, Jr., is hosting a World Gospel Musical Convention on June 14, 1980, in Newark; and

Whereas, the Newark Municipal Council has determined that this event is important to the cultural life of the City and is deserving of the official recognition of the Governing Body: Now, therefore, be it

Resolved by the Municipal Council of the City of Newark, New Jersey that they do hereby declare the week of June 14–June 20, to be Gospel Music Week in Newark and recognize the City of Newark as the Gospel Music Capital of New Jersey; and be it further

Resolved, that a copy of this Resolution suitably inscribed be presented to the World Gospel Musical Association in recognition of this event.●

FEDERAL WORKERS DESERVE PAY COMPARABILITY

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. HARRIS. Mr. Speaker, I am pleased that President Carter has decided to scrap his earlier plan to limit Federal workers to a 6.2 percent pay adjustment this October. I felt this was totally unrealistic, and in a telegram on January 28, 1980, I urged President Carter to reconsider his proposal and support a more objective pay raise that was in line with the goals of the Pay Comparability Act.

Although the 9.1 percent pay increase the President has now proposed is less than the 13.5 percent needed to keep Federal wages fully comparable to salaries in business and industry, it is a step in the right direction.

Holding down Federal pay and benefits in the long run will cost the taxpayer more money as highly qualified Federal employees leave the Government for more lucrative jobs with private contractors who act as brokers to do the work which could be done more economically by the Government. This problem is forcing many talented Federal workers to leave the Government for higher paying jobs in the private sector.

The Pay Comparability Act of 1970 was enacted by Congress to keep Federal wages competitive with private industry so the Government could recruit and retain qualified personnel. This law has been substantially eroded over the past several years and salaries for Federal managers now lags 46 percent behind the salaries of their counterparts in private industry.

I can name hundreds of Federal installations across the country where engineers, technicians, and typists are leaving their Federal jobs to go to work for Government contractors. There is no cap on the amount of money that can be paid to a contractor and these employees are getting hundreds of dollars a day for work which could feasibly be performed by inhouse employees.

As pay disparity forces many employees out of Federal service and ceilings force work out, the Government ends up indirectly hiring the same or comparable employees through contract at a much higher cost to the taxpayer.

I hope the President's decision to change his mind on this year's pay increase will be followed by a decision to drop the administration's proposal to make sweeping changes in the way Federal pay is computed and to eliminate one of the two semiannual cost-of-living adjustments (COLA) for Federal and military retirees. In addition, I hope President Carter will join me in opposing any merger of the social security and civil service retirement systems.●

STEPHEN L. HILL, SR.

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. SKELTON. Mr. Speaker, recently, an outstanding resident of my district passed away—Stephen L. Hill, Sr. He resided in Blue Springs, Mo. He was an administrative law judge for the Social Security Administration and previously was an assistant U.S. attorney for the western district of Missouri for 9 years.

He was graduated from the University of Missouri School of Law in 1962 and was a member of the American Bar Association, the Administrative Law Judge Association, the Greene County, Mo., Bar Association, Phi Delta Phi legal fraternity and the Trenton, Mo., United Methodist Church.

He was extremely well thought of and was highly respected by those who knew him. He leaves his wife, Mrs. Carolyn L. Hill, and two sons, Stephen L. Hill, Jr., and Sidney Hill. He was certainly a remarkable person and family man.●

SCIENTISTS AND ENGINEERS DEVISE SENSIBLE ENERGY CONTINGENCY PLAN

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. WYDLER. Mr. Speaker, recently, a 3-day colloquium on "Contingency Planning for an Energy Emergency" was held at Stanford University, jointly sponsored by the Scientists and Engineers for Secure Energy and the Hoover Institution. Scientists and Engineers for Secure Energy is primarily an association of scholars, educators, and research engineers working the fields of theoretical, and applied, natural sciences and, as such, does not take stands on economic matters. This group made a most responsible statement on contingency planning in the colloquium which dealt with sudden consequences of a sudden cutoff of oil from the Persian Gulf. I strongly recommend that my colleagues read this statement which includes a collection of the most sensible energy steps that this Nation can take in case of a serious shortfall. I should also note for my colleagues that many of these steps recommended are, in fact, the framework for a long-term national energy policy which would encourage domestic sources of supply.

The statement follows:

STATEMENT OF COLLOQUIUM

CONTINGENCY PLANNING FOR AN ENERGY EMERGENCY

A sense of urgency permeated a meeting of 60 of the nation's leading academicians and industrialists concerned with energy problems, convened June 16–18 at Stanford University. Entitled "Contingency Planning for an Energy Emergency," the colloquium dealt with the consequences of a sudden cut-off of oil from the Persian Gulf.

The prolonged interruption of oil supplies from the Gulf by any one of a number of scenarios (for example: revolution or Soviet expansionism) is a real possibility. There was nearly unanimous agreement that the economy of the United States and of its allies would be in jeopardy if this occurred, and that immediate programs to reduce this vulnerability should be instituted.

The colloquium was sponsored by Scientists and Engineers for Secure Energy and by the Hoover Institution. The participants considered how the energy requirements of the United States could be met if the contingency occurred. The physical limits of a national response covering a period of five years from the cut-off were investigated. Topics discussed included: emergency conservation measures; possible expansion of oil supplies from alternate sources; substitution, when possible, of gas, coal and electricity for oil; effects on electric power generation; rationing and other forms of allocation; economic effects and changes in life style; and advance preparations to reduce our vulnerability.

The colloquium findings are:

The initial situation faced by the industrial democracies after a complete cut-off (which is a limiting case of more probable partial cut-offs) would be a short-fall of about 45 percent of their oil supplies, or 16 million barrels/day. According to the existing oil-sharing agreements between the U.S. and the other members of the International Energy Agency, the short-fall would be distributed as follows:

U.S. oil supply would be reduced about 35 percent, by 6 million barrels/day,

Oil supply of our allies would be reduced about 55 percent, by 10 million barrels/day.

As a result, in the United States a Mideast cut-off would: Cause the transportation system to be greatly disrupted. Private automobile use would be reduced about 50 percent, and other vehicle transportation would be cut about 30 percent; cause massive additional unemployment of over 8 million workers, and reduce annual disposable income by over $3,000 per household; impair our ability to mobilize effectively to defend ourselves, and imperil the security of the free world; and lower the Gross National Product by $350–650 billion dollars per year (about 15 to 25 percent).

Further, depending on the timing of the cut-off and the region of the country, one could expect the closing off of some housing space, or abandonment of some types of housing which the users might not be able to heat; accelerated movement of people to a warmer climate; relocation of people closer to their places of work; and perhaps even dormitory housing for younger workers near industrial enterprises (as occurred, for example, at Oak Ridge during World War II); shopping habits would undergo dramatic changes, and recreational and cultural activities would be greatly curtailed.

In the five years subsequent to an oil cut-off, assuming only present technologies could be effective on a large-scale, replacement of the U.S. oil supply deficit by determined expansion of domestic and other foreign oil supplies, and by substitution of other fuels, would be substantial but still only partial (40-60 percent).

To avoid the vulnerability of our society to these consequences, participants recommended a number of measures. While further measures may be necessary or advisable, there was general agreement that the following should be adopted:

1. The security of the United States requires the implementation of an aggressive program to increase both energy production and the more efficient use of oil. The object of this program should be to reduce vulnerability to loss of imported oil as quickly as possible. Examples of opportunities for increased sources of energy supply are: coal, gas, nuclear power, biomass, and on a longer time scale, shale oil. As was proven during World War II, high level policy organization is an absolute prerequisite for organizing and implementing an effective program.

2. Rapid decontrol of oil and gas prices and abolition of entitlements are the most important ways of providing needed incentives to displace oil imports by inducing real conservation and increasing supply. Equity concerns, such as undue burdens on people with low incomes, should be dealt with by income transfers rather than by manipulating prices or by allocations.

3. Environmental laws should be administered and perhaps amended to encourage energy production as well as to protect the environment, thus reducing the danger that curtailments caused by an oil cut-off will harm the health and welfare of the American people.

4. Licensing for operation of completed nuclear plants should be expedited in order that the plants may be put in production immediately. Partially completed power plants (both coal and nuclear) should be completed on an accelerated schedule. Unnecessary regulatory impediments to other energy facilities (such as pipelines, port facilities, and drilling platforms) should be removed.

5. Oil for non-transportation uses should be replaced by natural gas and coal- and nuclear-generated electricity as soon as possible. Limitations on production and use of natural gas and electricity should be reduced to permit price competition to determine their relative market shares. Electric utility rates should more nearly reflect the marginal costs of new power plants.

6. The energy industries should with government encouragement jointly prepare emergency plans against an oil cut-off. Among other measures, acquiring spare production and storage capacity should be encouraged.

7. The automotive industries should be encouraged to increase their efforts to produce more fuel efficient automobiles, including electrical and hybrid vehicles.

8. Contingency plans should be made to curtail energy consumption, and to suspend temporarily some procedural requirements and environmental standards, in the event of an oil cut-off. Wide public discussion of these plans at the community and the factory levels should be inaugurated.

9. In addition to our present commercial operational oil reserve (about 30-40 days of total imports), we should begin to fill the Strategic Petroleum Reserve at a rate of more than 300,000 bbl/day. Note that at a rate of 100,000 bbl/day, it would take 20 years to accumulate an amount of oil which would cover the maximum projected deficit (6 million bbl/day) for four months. To the extent possible, the SPR fill should be achieved by reduction of current oil consumption according to the preceding recommendations.

10. Since the use of oil in Western Europe and Japan for generating electricity is about 3 million barrels per day, it is in our mutual interest to reduce their vulnerability by encouraging and assisting their conversion to nuclear energy and coal.

Implementing the foregoing recommendations would, as time passes, progressively reduce the severity of the initial shock of an oil cut-off and the duration of the recovery period.

The undersigned participants subscribe to the general sense of the above statement as individuals (affiliation for identification only):

SIGNATORIES AS OF JULY 24, 1980

Robert K. Adair, Yale University.

Donald G. Allen, New England Electric Co. (ret.).

Hans A. Bethe, Cornell University.

Elliot Bloom, Stanford Linear Accelerator Center.

Harvey Brooks, Harvard University.

Arthur M. Bueche, General Electric Company.

Toby Burnett, Westinghouse Electric Corporation.

Peter Camp, General Electric Company.

Roger S. Carlsmith, Oak Ridge National Laboratory.

Karl Cohen, Stanford University.

Thomas Connolly, Stanford University.

Gordon R. Corey, Commonwealth Edison Co. (ret.)

W. Kenneth Davis, Bechtel Power Corporation.

R. Leslie Dugan, SE$_2$.

Lloyd E. Elkins, Petroleum Consultants, Tulsa, OK.

Robert Erdmann, Science Applications, Inc.

Gary J. Feldman, Stanford Linear Accelerator Center.

John S. Foster, Jr., TRW, Inc.

Michehl R. Gent, National Electric Reliability Council.

Tsahi Gozani, Science Applications, Inc.

Elmer E. Hall, Pacific Gas & Electric Co.

Carl E. Hedeen, General Motors Corporation (ret.).

Carolyn Meinel Henson, L5 Society.

Frederick A. L. Holloway, Treasurer, National Academy of Engineering.

Richard J. Kessler, Center for Strategic and International Studies.

George Marotta, Hoover Institution.

Sullivan S. Marsden, Jr., Stanford University.

John McCarthy, Stanford University.

Robert R. Nathan, Consulting Economist, Washington, D.C.

Kenneth D. Nichols, U.S. Army (ret.).

W. E. Parkins, Rockwell International.

Norman Parlee, Stanford University.

S. S. Penner, University of California at San Diego.

Robert B. Richards, General Electric Company.

Larry E. Ruff, Brookhaven National Laboratory.

Andrew Safir, Business & Transportation Agency, State of California.

Benjamin Schlesinger, American Gas Association.

Herman E. Schroeder, E.I. DuPont de Nemours & Co. (ret.).

Paul Seabury, University of California at Berkeley.

Frederick Seitz, Rockefeller University.

Rudolf Sher, Stanford University.

George P. Shultz, The Bechtel Group.

Chauncey Starr, Electric Power Research Institute.

John S. Taylor, Westinghouse Corporation.

Edward Teller, Hoover Institution.

Miro M. Todorovich, City University of New York.

Robert K. Whitford, Purdue University.

Eugene P. Wigner, Princeton University.

Bertram Wolfe, General Electric Company.

Charles A. Zraket, The Mitre Corporation.●

MICHTER'S DISTILLERY

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. WALKER. Mr. Speaker, on July 19, 1980, a ceremony was held to designate Michter's Distillery of Schaefferstown, in the heart of Pennsylvania's Dutch country and my congressional district, as a national historic landmark. The decision to recognize the historic value of this enterprise was made by the Department of the Interior and signifies that Michter's is a landmark of importance in our Nation's heritage. Mr. T. D. Veru, chairman and president of the distillery, accepted this honor from Interior Secretary Cecil Andrus while National, State, and local dignitaries looked on.

Michter's had its beginning in 1753 when John and Michael Shenk, Swiss Mennonite farmers and millers, started the distillery as a home-farm operation. In time, because of the relative ease of transporting spirits, and the instability of currency, the converted grain became the accepted medium of exchange. In fact, prior to 1840, whisky was the currency of the Commonwealth of Pennsylvania.

In 1861 Michter's farm and distillery was purchased by another Pennsylvanian who increased production threefold. Abe Bomberger began the growth process that has resulted in a modern distillery whose reputation for producing quality sour mash has never faltered. Michter's is the only distillery that was in operation during the American Revolution and remains in operation today. It alone has survived out of over 3,000 distilleries that once dotted the Pennsylvania countryside.

I would like to offer my heartiest congratulations to Mr. Veru and his associates for the outstanding work they have done in preserving the historic value of the distillery site, and for the recognition they received on July 19, citing Michter's Distillery as a national historic landmark.●

OUR CHINA POLICY

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. DICKINSON. Mr. Speaker, in view of the recent attention focused on our China policy, the following article written by Dr. Anthony Kubek, professor of political science at Troy State University, should be of interest to the Members of the House. Dr. Kubek has watched our policies in the Pacific area—particularly the People's Republic of China and the Republic of China in Taiwan—for a number of years and his views as outlined in the article from the August 17, 1980, Birmingham News bear paying attention to:

REAGAN AND REPUBLIC OF CHINA

If Ronald Reagan is elected this fall, it will be important to the future of the Republic of China on Taiwan as well as to the future of American interests in East Asia and the global security of the United States. Though Reagan has not yet defined a "China policy" which he would pursue as president, his campaign statements clearly indicate he favors closer ties with Taipei government. In various speeches Reagan has boldly criticized the crude, shoddy treatment of the Republic of China by the Carter Administration. As president, Reagan would move promptly to upgrade relations with the Taipei government to an official status and thus redress Washington's insulting behavior in December, 1978, when President Carter announced recognition of the Chinese Communist regime at Peking.

The prospect of such a correction is heartening to the many longtime supporters of the Republic of China in the United States. And, what is more, such a step is certain to be received with enthusiasm by a large majority of the American people whose sense of fair play was offended by President Carter's rude dismissal of a faithful friend and firm ally.

Reagan has for years appreciated the consistency of the Republic of China. He has visited Taiwan and talked with President Chiang Ching-kuo and other leaders. His election in November will lead to a positive change in American treatment of an old partner whose sensitivities have been cruelly hurt in recent years. In a speech at Cleveland during the primaries, Reagan declared he would seek to re-establish "official relations" between Washington and Taipei. For this, he was castigated in the Chinese Communist press. From Peking on June 14 came a comment in the People's Daily that Reagan was undermining "the foundation of Sino-U.S. relationship" and threatening "the will of the two peoples." What, one may properly ask, does that mean? The "will" of the American people certainly is not pro-communist in 1980, even though staunch anti-communism is perhaps not as commonplace in our country as it once was. And "the will of the people" in Communist China has no real meaning at all.

Reagan clearly understands the central fact that 30 years of Maoism have left the economic system of mainland China a miserable failure. The standard of living is slightly higher than in India. And the people of mainland China continue to vote for freedom with their feet, as witnessed by the thousands who still flee southward every month to Hong Kong.

Also evident to Reagan is the core reason why American prestige is so impoverished throughout the world today. Our old friends and allies are naturally disillusioned when they watch American leaders become blind to the difference between international cooperation and opposition. The Carter administration has tried hard to make friends of enemies, but it has succeeded only in making enemies out of friends. The Republic of China, though grossly insulted and ignored by Washington, has not become unfriendly. Reagan knows this, and he wishes to reward Taiwan for its steadfastness.

After the incredible crudeness of President Carter's manner of breaking diplomatic ties with the Republic of China in 1978, Congress tried to pick up the pieces of the disavowed Defense Treaty of 1954. The answer has been the Taiwan Relations Act. While this bill falls short of an outright military commitment to defend Taiwan against attack, it does repair some of the damage inflicted on the Republic of China by President Carter's precipitous recognition of Peking. Reagan realizes its value as well as its shortcomings. He realizes, moreover, that the Carter administration has foot-dragged in carrying out what Congress mandated. Sen. Barry Goldwater has called attention to a dozen violations of the Taiwan Relations Act on the part of the Carter administration in recent months, and has recommended further action by Congress to ensure the safety and independence of Taiwan. Reagan approves such action.

Reagan knows that the Chinese on Taiwan have violated no treaties, made no deals behind our backs, and uttered no words of disrespect or enmity for the American people. He knows also that they have liquidated no landlords, closed no churches, and set up no slave labor camps. He knows they have done nothing to deserve the deplorable treatment dealt them by the Carter administration, which sailed into office under a brave banner called human rights but so abruptly struck its colors.

It is clear to Reagan that President Carter and his assorted advisors have been almost acrobatic in bending over backwards to please the Chinese Communists. Their determination to "play the China card" against the Soviet Union has amounted to a fixation. At the same time the Carter administration has gone to great pains, until recently at least, in encouraging détente with the Soviets. Reagan recognizes the fatal inconsistency here. He knows it has been the plague of U.S. foreign policy for a long time. As he said in a recent speech, "Some in the Carter administration seem so anxious to buy short-term friendship from Peking that they fail to see the long-term price in terms of damage that can be done by such a strategy to American interests and credibility in the free world."

Reagan understands that the Republic of China meets every test of a legitimate government under the definitions of international law. It has five times as many people as Israel, as many as Australia and New Zealand combined, and appreciably more than such old established nations as Greece, Sweden and Venezuela. Further, the Republic of China conducts more trade with the United States than all the Communist countries taken together. No other government of a so-called "developing country" has done more during the last quarter century in improving the welfare of its people.

Chapters of "Friends of Free China" are popping up all over the United States. Just recently, more than 11,000,000 signatures from American supporters of the Republic of China were presented to officials at Taipei by Anna Chennault, widow of the famous Flying Tiger of World War II, and by the well known Washington, D.C., attorney, Thomas C. Cocoran. Reagan appreciates the fact that there is a groundswell of sympathy and sentiment for the Republic of China in the United States.

It is noteworthy that Ronald Reagan has been the only presidential candidate on record in 1980 in support of the Republic of China in its present predicament. As for the Chinese Communist regime at Peking, it will doubtless be difficult to undo what the Carter administration has already done. Relations with Peking will probably remain unchanged. But the voters should understand that a Reagan victory will mean due respect and a sympathetic ear from a brave government and an industrious people on the island of Taiwan. The Republic of China merits our enduring friendship and highest commendation as a nation that can stand strong and tall on its own two feet. It is squarely within the American tradition as a land of the free and home of the brave—a tradition which Ronald Reagan personifies—that this should be so. Anything less is simply not enough for Americans.●

BUSINESS AND PROFESSIONAL WOMEN'S CLUB AT SUNBURY, PA.

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. ERTEL. Mr. Speaker, I want to take this opportunity to bring to the attention of the Members of the House the purpose and work of the Business and Professional Women's Club of Sunbury, Pa. This coming Saturday, September 6, 1980, marks the 50th anniversary of this fine organization.

First, let me tell you about the Sunbury club's parent organization, the National Federation of Business and Professional Women's Clubs, Inc. Founded in 1919, the National Federation of Business and Professional Women's Clubs has 3,700 local clubs across the Nation. Its membership includes employed women in all 50 States, the District of Columbia, the Virgin Islands, and Puerto Rico. The purpose of the National Federation of Business and Professional Women's Clubs is fourfold. It strives:

One, to elevate the standards for women in business and the professions,

Two, to promote the interest of business and professional women,

Three, to bring about a spirit of cooperation among business and professional women in the United States,

Four, to extend opportunities to business and professional women through education along lines of industrial, scientific, and vocational activities.

Perhaps the most outstanding accomplishment of the National Federal of Business and Professional Women's Clubs has been the establishment of the Business and Professional Women's Foundation. This foundation was created in 1956 and provides scholarship funds and financial support to programs for training and educating and for improving and developing the capabilities of business and professional women.

The Business and Professional Women's Club of Sunbury, Pa. for 50 years has met the high goals of the National Federation, making distinctive contributions to the community. One project more than any other testifies to the good intentions of the Business and Professional Women's Club of Sunbury—the establishment of a community library. The club, in conjunction with other community organizations and interested individuals, initiated an effort in 1935 to establish a public library in Sunbury. The library became a reality in 1937 and still serves the Sunbury community today.

Mr. Speaker, I congratulate the Business and Professional Women's Club of Sunbury, Pa. on its 50th anniversary. I know this fine community organization will continue its efforts to serve the women and community of Sunbury.●

AMENDMENTS TO THE LIABILITY PORTIONS OF H.R. 7020, THE "SUPERFUND" BILL, ARE NEEDED

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. GORE. Mr. Speaker, we will shortly be considering one of the most significant pieces of legislation introduced in this Congress, H.R. 7020, the "superfund" bill to clean up abandoned hazardous waste sites.

My colleagues on the Oversight and Investigations Subcommittee of the Interstate and Foreign Commerce Committee and I have conducted 18 hearings on the enormous problems associated with hazardous waste disposal, both in this Congress and in the 95th Congress. The case for remedial action has been made beyond any reasonable dispute. The legislation we will soon be debating is an effective response to the problem. It is a good bill, worthy of the enthusiastic support of every Member of this body. It is well thought out and accurately targeted on the problem it addresses. Nevertheless, it requires some improvement on the floor. Members will be called upon to choose between two versions of the superfund, one crafted in the Ways and Means Committee, the other crafted in my own Commerce Committee. I would like to take this opportunity to urge my colleagues in the strongest possible terms to choose the Ways and Means Committee's version of the superfund. The Commerce Committee's version is far too small to do the job and its insistence on a 50-50 split of the responsibility for the problem between the taxpayers and the industry which primarily caused the problem is unfair and inequitable. The $1.2 billion provided for in the Ways and Means version will allow us to make significant progress in cleaning up the worst of the abandoned dumpsites, and their division of responsibility—75-25—is far more equitable, although I would prefer to see even more responsibility assigned to the industry principally responsible for creating this problem.

Much will be said and written during the coming days about this impending debate. Before that debate begins, I would like to serve notice of three other amendments which I will be offering to the liability portions of H.R. 7020. Although these portions of the bill have not attracted quite as much attention as the financing mechanism for the superfund, they are extremely significant, and must receive the closest possible scrutiny. I am extremely concerned about what I regard as serious deficiencies in these portions of the bill. It is for that reason that I will offer three amendments which I would like to describe in some detail. The first amendment I will offer is to the so-called third party defense granted in section 307(a)(1)(C). The second amendment I will offer is to the joint and several liability section, 3071(a)(1). The third amendment I will offer establishes a Federal cause of action for hazardous waste victims. With your indulgence, Mr. Speaker, I would like to discuss these three amendments one by one:

THIRD PARTY DEFENSE UNDER H.R. 7020

As presently drafted, section 307 (a)(1)(C) of H.R. 7020 provides that a defendant can escape liability for a release, or threatened release of hazardous waste if he or she can demonstrate that such was:

> Caused solely by * * * an act or omission of a third party if the defendant establishes that he exercised "due care" with respect to the hazardous waste concerned, taking into consideration the characteristics of such hazardous waste.

This language alters the existing common law rules of: First, strict liability for abnormally dangerous—ultrahazardous—activity and alternatively; second, liability for inherently dangerous activity that would otherwise be applicable to parties dealing with hazardous waste.

STRICT LIABILITY

A. HAZARDOUS WASTE DISPOSAL IS ABNORMALLY DANGEROUS/ULTRAHAZARDOUS ACTIVITY

There can be little doubt that actions involving hazardous waste would be considered by the courts as abnormally dangerous or ultrahazardous activity sufficient to subject a responsible party to strict liability. While there may at present be no decision in which an individual has been held strictly liable to damages resulting from a release of hazardous waste, this is due to the "newness" of waste problems rather than a reticence on the part of the judiciary. The common law proceeds on the basis of analogy and by extrapolation of existing doctrine to new fact situations. Absence of case law on the specific issue of strict liability for hazardous waste in no way invalidated the conclusion of the doctrine's applicability.

Strict liability for abnormally dangerous/ultrahazardous activity originated with the historic case of *Rylands* v. *Fletcher,* 159 Eng. Rep. 737 (1865), rev'd, L.R.1 Ex. 265, aff'd, L.R.3 H.L. 330 (1868). In Rylands, the defendant was held liable without fault when a reservoir built on his land broke through the ground, and flooded an abandoned coal mine shaft. The water flowed along connecting passages and eventually flooded and damaged the adjoining mine of the plaintiff. In holding the defendant strictly liable, Lord Cairns, speaking for the House of Lords, concluded:

> (I)t seems but reasonable and just that the neighbour who has brought something on his property (which was not naturally there), harmless to others so long as it is confined to his own property, but which he knows will be mischievious if it gets on his neighbour's, should be obliged to make good the damage which ensues if he does not succeed in confining it to his own property. But for his act in bringing it there, no mischief could have accrued, and it seems but just that he should at his peril keep it there, so that no mischief may accrue, or answer for the natural and anticipated consequence. L.R.3 H.L. 330 at 338.

In the more than 100 years since Rylands the law of strict liability has progressed and expanded tremendously. Today, numerous activities have been held to constitute abnormally dangerous-ultrahazardous activities for which strict liability will be imposed. Most of these are far less dangerous than the handling, generation, and disposal of hazardous waste. Such activities include the handling and shipping of explosives, blasting, quarrying, handling of nuclear materials, aerial spraying of pesticides, fumigation, sonic booms, handling oxygen, testing rocket fuels, storage of natural gas in populated areas, the operation of a gasoline station so as to affect families' wells, pile driving, and transportation of hazardous chemicals. See Prosser, Law of Torts 512-16 (1971). Undoubtedly, as litigation involving hazardous waste develops, court will add the generation and disposal of such wastes to the list of ultrahazardous activities. Indicative of this is the recent case of *New Jersey* v. *Ventron Corporation,* Nos. C-2996-75 and C-1110-78 (Superior Court of New Jersey, Chancery Division, Bergen County, Aug. 29, 1979), a case cited by the Justice Department in its correspondence and its testimony before the Committee on Ways and Means, in which a mercury processing operation was held strictly liable for damages caused by a release of mercury from its plant.

Section 520 of the Restatement (Second) of Torts sets forth six factors to consider in the classification of an activity as abnormally dangerous.

Note: "Ultrahazardous" activity was the term used in the first Restatement; the phrase "abnormally dangerous" is used by the Restatment (Second):

> (a) existence of a high degree of risk of some harm to the person, land or chattels of other;
>
> (b) likelihood that the harm that results from it will be great;
>
> (c) inability to eliminate the risk by the exercise of reasonable care;
>
> (d) extent to which the activity is not a matter of common usage;
>
> (e) inappropriateness of the activity to the place where it is carried on; and
>
> (f) extent to which its value to the community is outweighed by its dnagerous attributes.

Not all these factors need be present before an activity can be said to be abnormally dangerous and strict liability imposed. Most, however, if not all of the factors are applicable to release of hazardous waste.

First, as has been demonstrated at Love Canal and elsewhere, release of hazardous waste obivously posed great harm and danger to a community. It does not matter that there may be only a slight possibility that a release might occur in a given area. As comment g to section 520 points out:

> If the potential harm is sufficiently great . . . the likelihood that it will take place may be comparatively slight and yet the activity be regarded as abnormally dangerous.

Second, releases of waste can occur despite the exercise of reasonable care. Certainly, a great deal of risk can be eliminated by the exercise of due care; however, strict liability will still attach because of the inherent potential of hazardous waste to cause harm despite proper precautions. As comment h explains:

> There is probably no activity . . . from which all risks of harm could not be eliminated by the taking of all conceivable precautions, and the exercise of utmost care, particularly as to the place where it is carried on. . . . It is not necessary, for the factor stated in Clause (c) to apply, that the risk be one that no conceivable precautions or care could eliminate. What is referred to here is the unavoidable risk remaining in the activity, even though the actor has taken all reasonable precautions in advance and has exercised all reasonable care in his operation, so that he is not negligent.

Additionally, most activities that could result in a release of hazardous waste are not "customarily carried on by the great mass of mankind or by many people in the community" and so cannot be said to be a matter of common usage. See comment i, section 520. Appropriateness of the activity to its surrounding and value to the community, moreover, will usually excuse only those activities that, while dangerous, can be carried on only in a particular area and/or support the economic well-being of a community to an extraordinary degree. See comments j and k, section 520. Given the above, it is inconceivable that actions involving hazardous waste would not be considered abnormally dangerous. Strict liability would thus be imposed upon anyone responsible for a release of such waste.

B. THE IMPACT OF § 307(a)(1)(C)

To understand the impact of the third party defense provided by H.R. 7020, it is important to keep in mind the policy underlying the doctrine of strict liability. Certain activities carry with them the inherent possibility of harm to others and so, as outlined above, are deemed abnormally dangerous, or ultrahazardous, activities. Society makes a basic policy decision, however, that, despite the inherent danger, these activities are needed and so they are permitted to occur. Were it not for this value determination, the activities would be considered too dangerous to allow, and anyone engaged in any of the activities would be guilty of negligence. In other words, the activity is felt to be of such utility that the risk which is involved in it cannot be regarded as so great or so unreasonable as to make it negligence merely to carry on the activity at all. See comment b, section 520, Restatement (Second) of Torts. Consequently, because of the social utility of their manufactured products, generators of hazardous wastes are not considered negligent simply because they are engaged in their business.

Having decided to permit the abnormally dangerous activity, however, society imposes certain obligations on those individuals engaged in such activities. Fundamentally, an abnormally dangerous activity must pay for itself. The activity may be carried on, but if an innocent party is injured, he must be compensated regardless of whether the defendant was at fault. As Justice Stewart explained in dissent in *Laird* v. *Nelms*, 406 U.S. 797 (1972), (which involved the Federal Torts Claim Act and is factually inapposite to the concerns here):

> The law . . . imposes liability for harm caused by certain narrowly limited activities even though those activities are not prohibited and even though the actor may have exercised the utmost care. Such conduct is "tortious" not because the actor is necessarily blameworthy, but because society has made a judgment that while the conduct is so socially valuable that it should not be prohibited, it nevertheless carries such a high risk of harm to others, even in the absence of negligence, that one who engages in it should make good any harm caused to others thereby. 406 U.S. at 805 (Stewart, J., dissenting).

Thus, while the generation and disposal of hazardous waste are deemed a necessary evil in our society, the unavoidable risk of harm that is inherent in—handling waste—requires that it be carried on at—the defendant's—peril, rather than at the expense of the innocent person who suffers harm as a result of it. Restatement (Second) section 520, comment h. In accordance with the foregoing, section 520(1) of the Restatement (Second) of Torts provides:

> One who carries on an abnormally dangerous activity is subject to liability for harm to the person, land, or chattels of another resulting from the activity, *although he has exercised the utmost care to prevent the harm.* (Emphasis added.)

As comment d to section 520 relates, the defendant's liability is not based on any negligence:

> Either in attempting to carry on the activity itself in the first instance, or in the manner in which it is carried on. The defendant is held liable although he has exercised the utmost care to prevent the harm to the plaintiff that has ensued. The liability arises out of the abnormal danger of the activity itself, and the risk that it creates, of harm to those in the vicinity. It is founded upon a policy of the law that imposes upon anyone who for his own purposes creates an abnormal risk of harm to his neighbors the responsibility of relieving against that harm when it does in fact occur.

The defendant, then, is basically an insurer against the consequences of his abnormally dangerous conduct. As Prosser stated, "He is liable although he has taken every possible precaution to prevent the harm and is not at fault in any moral or social sense." Prosser, supra, at 517.

The effect of section 3071(a)(1)(C) is thus readily apparent. By enabling a defendant to escape liability by a showing of due care, H.R. 7020 erects a negligence standard where one of strict liability would otherwise apply. As shown above, under the common law, negligence is irrelevant to a finding of liability for abnormally dangerous/ultrahazardous activity. H.R. 7020 changes this common law rule. Under section 3071(a)(1)(C), a defendant can avoid liability, despite being engaged in ultrahazardous activity, by contracting with a third party to dispose of the hazardous waste. As long as the defendant can sustain his/her burden of proof regarding the exercise of due care in selecting a transporter or disposer, the defendant cannot be held liable and no recovery can be had from him/her. Although it couches its language in terms of "new" duties imposed on a defendant, the Commerce Committee Report is quite open as to the effect of section 3071(a)(1)(C):

> With respect to the third party defense, a defendant is also required to establish that he exercised due care with respect to the hazardous waste concerned, taking into consideration the characteristics of such waste. The defendant must show that he exercised due care with respect to all reasonable foreseeable acts or ommissions of a third party. For instance, in the case of a defendant generator, shipper, transporter, or disposer, the defendant must demonstrate that he exercised due care in the selection and instruction of a responsible contractor or other independent party engaged by such defendant for the transportation, storage, treatment, or disposal of the waste, provided adequate information as to the identity, quantity, composition, condition and characteristics of the waste to such person, and took reasonable measures to assure or verify that such person properly carried out the activities for which he was engaged. Such defendant must also demonstrate that he properly labeled, loaded, and packaged the waste and properly equipped and maintained the container or facility used for the transportation, storage, treatment, or disposal of the waste. In general, the Committee intends that for a defendant to establish that he exercised due care, the defendant must demonstrate that he took all precautions with

> respect to the particular waste that a similarly situated reasonable and prudent person would have taken in light of all relevant facts and circumstances. *Commerce Committee Report* at 34.

While a defendant must thus show that he took a number of precautions and acted with due care in order to escape liability, the basic problem still remains. Under the common law, the defendants could not escape liability even if he did take every precaution. H.R. 7020, then, effectively destroys a rule that has been in effect for over 100 years.

In addition to interposing the negligence barrier between the plaintiff and defendant, the defense provided in section 3071(a)(1)(C) flies in the face of section 522 of the Restatement (Second) of Torts. That section provides:

> One carrying on an abnormally dangerous activity is subject to strict liability for the resulting harm although it is caused by the unexpectable.

(a) Act, negligent or reckless conduct of a third person * * * As the comment to section 522 explains, the abnormally dangerous nature of an activity is the basis for the defendant's liability when the activity results in damage or injury. Just as the negligence of the defendant is irrelevant when the activity is considered abnormally dangerous, acts by a third party cannot affect liability under the common law. It is the activity itself, not an individual's conduct, that determines the liability.

INHERENTLY DANGEROUS ACTIVITY

Related to the doctrine of strict liability is the rule that holds a defendant liable for injuries resulting from inherently dangerous activity even though he/she contracted with a third party for the performance of that activity. This is basically a rule of vicarious liability, whereby the employer is held liable for the negligence of the independent contractor, regardless of whether the employer himself has been at fault. As with strict liability, policy reasons dictate that the employer not be permitted to shift responsibility to the contractor. The difference between the liability here and that for abnormally dangerous activity appears to be that the defendant here has himself actually been engaged in no activity; the contractor performs all the work. This rule seems more applicable to situations involving middlemen—if such are used—in hazardous waste disposal that to the generators of waste.

Under the rule here, it does not matter that the defendant exercised due care in his selection or instructions to the contractor. The inherently dangerous nature of the activity to be performed provides the grounds for liability. As section 416 of the Restatement (Second) of Torts provides:

> One who employs an independent contractor to do work which the employer should recognize as likely to create during its progress a peculiar risk of physical harm to others unless special precautions are taken, is subject to liability for physical harm caused to them by the failure of the contractor to exercise reasonable care to take such precautions even though the employer has provided for such precautions in the contract or otherwise.

Under section 416 the employer remains liable for injuries resulting from dangers that he should contemplate at the time that he enters into the contract; he cannot shift to the contractor the responsibility for such dangers or for taking precautions against them. The employer will remain liable even if the contract contains express stipulations for the taking of adequate precautions and even if the contractor agrees to assume all liability for harm caused by his failure to take such precautions.

Clearly, by enabling a defendant to exonerate himself by demonstrating due care, H.R. 7020 abrogates this common law rule as well. Section 3071(a)(1)(C) enables—indeed encourages—a defendant to contract out disposal of hazardous wastes and thereby contract away liability. Because of the inherently dangerous nature of the work performed, the negligence of the contracting party is irrelevant to liability under the common law. H.R. 7020, however, alters the rule to provide a defense where, for sound policy reasons, one heretofore has not existed.

Although I would have preferred the deletion of any third party defense, after consultation with Chairman FLORIO, I have decided to offer a compromise. My amendment strikes a middle ground between the path followed under common law and the process currently envisioned under H.R. 7020. My amendment would restrict the application of the third party defense to situations where the third party is not an employee or agent of the defendant, or where the third party's act or omission does not occur in connection with a contractual relationship, direct or indirect, with the defendant. My amendment would further restrict the application of the third party defense to situations in which the third party has acted negligently.

Finally, I would clarify the requirement that the defendant exercised due care by defining that term directly in the statute. The definition is taken from the committee's report. I feel that a statutorily defined term is critical to assure that there is no ambiguity over what we mean by due care, and therefore everyone—defendants, prosecutors, judges and juries, and anyone else who traffics in hazardous wastes—will know what are the rules of the game.

These changes are more in accord with the common law relating to abnormally dangerous activities and they promote incentives for generators, handlers, and disposers of hazardous waste to eliminate as many of the hazards as possible that accompany the presence of such wastes. My amendment will encourage greater cooperation in discovery and cleanup of waste disposal sites, as an alternative to this liability provision—remembering that Government cleanup is a last resort where those responsible cannot or will not take appropriate actions.

The amendment will cultivate responsible hazardous waste disposal and it will encourage industry to ferret out and exclude those parties who have a poor waste disposal track record. In addition, this closer adherence to a true strict liability format greatly improves the prospects of recovering public funds used for emergency response efforts.

The text of my first amendment follows:

> Page 47, line 17 strike out "an" and insert in lieu thereof "a negligent"
>
> Page 47, line 17 after "party" insert: "other than an employee or agent of the defendant, or than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant,"
>
> Page 48, after line 4 insert the following new paragraph, renumbering as appropriate.
>
> (2) For purposes of subparagraph (1)(C) a defendant (including a generator, transportor, shipper, or disposer) must demonstrate that he exercised due care with respect to all foreseeable acts or omissions of any third party and that he exercised due care in light of all relevant facts and circumstances, including:
>
> (A) exercised due care in the selection and instruction of a responsible person engaged by such defendant for the transportation, storage, treatment or disposal of said hazardous waste;
>
> (B) provided adequate information as to the identity, quality, composition, condition, characteristics and potential hazard of the waste to such person;
>
> (C) took reasonable measures to assure and verify that such person properly carried out the activities for which he was engaged;
>
> (D) properly labeled, loaded and packaged the waste and properly equipped and maintained the container or facility used for the transportation, storage, treatment, or disposal of the waste, and

JOINT AND SEVERAL LIABILITY UNDER H.R. 7020

Although section 3071(a)(1) of H.R. 7020 proclaims that the liability of any party found to have caused or contributed to a release of hazardous shall be joint and several with any other such person, exceptions created by the bill effectively render that term meaningless here. Joint and several liability ordinarily would mean that whenever a single, indivisible harm is sustained as a result of independent, separate, but concurring tortious acts by two or more actors, each can be held liable for the entire amount of damages incurred. See Harper and James, 1 Law of Torts 693 (1956). The defendants in such a case would be jointly liable in that collectively they would be responsible for any damage caused; they would also be severally liable in that each is individually liable for the full amount of damage. The plaintiff could collect the total sum of damages awarded from a single defendant and could avoid the agony of multiple suits against the defendants that would otherwise be necessary to achieve full compensation. See Prosser, Law of Torts 315-17 (1971). Under the theory of contribution, the defendant from whom the plaintiff receives payment may then collect from the other defendants for that part of the damages for which each is responsible. Prosser, supra, at 505-10. Under the theory of satisfaction, the plaintiff, once he receives from one or more defendants an amount equal to the judgment awarded, cannot collect more than that sum. Prosser, supra, at 299-301.

JOINT AND SEVERAL LIABILITY GENERALLY

Originally, courts were reluctant to impose joint and several liability on defendants in cases wherein the injury suffered was considered indivisible. Because contribution was not formerly allowed among defendants, courts were reluctant to place the full burden of liability on any one defendant. On the other hand, because the injury was indivisible, the plaintiff had difficulty establishing the respective responsibility of each defendant for portions of the harm. Consequently, courts often denied recovery.

Eventually, as States enacted statutes providing for contribution among defendants, courts became more accepting of joint and several liability and permitted plaintiffs to recover the full amount of damages from a single defendant. The courts concluded that because the defendants were the ones at fault, it would be unfair to place the burden of demonstrating the apportionability of the damage on the plaintiff. The burden was thus placed on the defendants to work out for themselves who was responsible for what part of the injury under the process of contribution. The plaintiff would be allowed to recover his judgment, and the paying defendant would now be reimbursed under one of the new statutes for that portion of the payment for which he was not responsble. Joint and several liability gained its greatest acceptance early in cases involving multiple simultaneous or successive automobile collisions when a single plaintiff was injured by the acts of several negligent drivers.

DIVISIBILITY OF HARM

As stated, the indivisibility of the harm suffered is the key to a ruling of joint and several liability. The harm must be of such a nature that is not practicably apportionable, for where some reasonable means of apportioning the damages is evident, the courts will generally not hold the tortfeasors jointly and severally liable. See Harper & James, 1 Law of Torts 693-94 (1956). Prosser explained that:

> (t)he question is primarily not one of the fact of causation, but of the feasibility and practical convenience of splitting up the total harm into separate parts which may be attributed to each of two or more causes. Where a logical basis can be found for some rough apportionment, which limits a defendant's liability to that part of the harm which he in fact has caused, it may be expected that the division will be made.

Prosser, supra, at 313-14. Section 433A of the Restatement (Second) of Torts concurs in this analysis. That section provides:

> (1) Damages for harm are to be apportioned among two or more causes where (a) there are distinct harms, or (b) there is a reasonable basis for determining the contribution of each cause to a single harm.
>
> (2) Damages for any other harm cannot be apportioned among two or more causes.

Subsection (1)(b) embodies the specific rule that joint and several liability does not apply where the injury is divisible.

Subsection (2) of section 433A represents the flip side of subsection (1)(b)—namely that joint and several liability is appropriate where the harm cannot be practicably apportioned. As Prosser noted:

> Certain results, by their very nature, are obviously incapable of any logical, reasonable, or practical division. . . . No ingenuity can suggest anything more than a purely arbitrary apportionment of such harm. Where two or more causes combine to produce a single result, incapable of any logical division, each may be a substantial factor in bringing about the loss, and if so, each must be charged with all of it. Prosser, supra, at 315.

Basically, the joint and several liability is possible whenever an injury is indivisible. The trick is to determine when an injury can in fact be considered indivisible and thereby permit employment of joint and several liability. This requisite indivisibility can be of two sorts. First, the injury can be the type that is not even theoretically divisible. Damages of this nature are such things as death or the total destruction of one's property or chattel. Most personal injury suits present damages like these. Alternatively, however, the harm can be such that, although theoretically divisible, it is indivisible in a practical sense insofar as the plaintiff's ability to apportion it among the wrongdoers is concerned. Pollution by multiple defendants would usually fall within this classification.

Courts uniformly will permit entire recovery from any or all defendants under the first type of indivisibility. There is conflict, however, regarding the second situation. As stated earlier, where there has been some rational basis for apportioning damages, courts in the past in pollution cases have denied joint and several liability. There is a growing body of case law, however, that holds that a plaintiff's right to recover for his harm should not depend on his ability to apportion the damage; instead, apportionment is seen as a problem properly left to the defendants themselves. See Harper & James, supra, 701-02.

Along these lines, most pollution cases pose a special problem regarding the indivisible injury issue. Because the overall, and allegedly indivisible, harm is caused by a series of independent, concurrent tortfeasors, it is usually the case that some damage would have been done even had some of the defendants not contributed; the damage would not be as great, however, as that actually sustained. In other words, each polluter has contributed to produce some but not all of the harm. This is the sort of injury that most earlier cases held to be at least theoretically divisible and which therefore mandated apportionment of liability. For sound policy reasons, however, courts have begun to view pollution by multiple defendants as a form of indivisible harm by examining the problem from the plaintiff's perspective. Joint and several liability has thus been frequently imposed. As Harper and James related:

> These cases emphasize that the burden of apportioning damages, if possible, more properly should be placed on the multiple defendants who have been sued for injuries resulting from their independent, concurring—although not necessarily simultaneous—(actions) under circumstances in which it is not alleged that any one defendant was responsible for the entire injury or any specified part of it. (Harper & James, supra, at 708.)

For example, in *Landers* v. *East Texas Salt Water Disposal Company,* 151 Tex. 251, 248 S.W. 2d 731 (1952), the plaintiff sued a salt water disposal company and an oil company jointly and severally for damages caused when they independently dumped salt water in his lake. Assuming that neither defendant alone would have caused the entire damages, the court nevertheless decreed that the defendants should be held jointly and severally liable. As the court concluded:

> Where the tortious acts of two or more wrongdoers join to produce an indivisible injury, that is, an injury which cannot be apportioned with reasonable certainty to the individual wrongdoers, all of the wrongdoers will be held jointly and severally liable for the entire damages and the injured party may proceed to judgment against any one separately or against all in one suit. (151 Tex. at 256, 248 S.W. 2d at 734).

Although the court also provided that a defendant could reduce his liability by demonstrating the amount of damage caused by his acts only, or that caused by other defendants, the effect of the decision was to require the defendants, rather than the plaintiff, to show that other tortfeasors contributed to the harm and in what quantities they so contributed. This incentive to locate all other responsible parties is one of the prime considerations underlying use of joint and several liability in pollution suits. In fact, in addition to shifting the burden of proving the cause of plaintiff's injury, the court placed on the sued defendants ultimate responsibility for bringing any other defendants into the suit as codefendants. Facing the prospect of either proving that other parties were also responsible for the injury or paying the full judgment themselves, defendants would henceforth have incentive to insure that no parties have been inadvertently omitted from the suit. As the court in Landers stated:

> If fewer than the whole number of wrongdoers are joined as defendants to plaintiff's suit, those joined may by proper cross action under the governing rules bring in those omitted.

Thus, any responsible parties not named as defendants initially by the plaintiff would be located by the named defendants and included by cross-claim.

The emerging rule of joint and several liability in pollution cases was also noted in *Phillips Petroleum Company* v. *Hardee,* 189 F. 2d 205 (5th Cir. 1951). In that case, a number of rice farmers sued several oil companies for damages to their crops caused by oil pollution of their irrigation water. As in Landers, each defendant's pollution alone was insufficient to cause the whole damage. Nevertheless, the court stated that:

> Where persons acting independently are guilty of negligence, and the results of their negligence combine to set up a chain of causation resulting in the complaint of damage, these persons, though not acting in concert, are yet joint tortfeasors and as such, are liable for the damage caused by the conjunction of their separate negligence.

That the defendants bear the burden of proving the apportionability of harm in the new wave of pollution decisions was demonstrated well by the leading case of *Michie* v. *Great Lakes Steel Division,* 495 F. 2d 213 (6th Cir. 1974). In Michie, 37 residents of Ontario, Canada, brought suit against three Michigan corporations for damages caused by pollution emitted by the defendants into the ambient air. Rejecting the old Michigan rule denying joint and several liability in pollution cases, the sixth circuit reasoned that, in any claim for relief, there is a manifest unfairness in "putting on the injured party the impossible burden of proving the specfic shares of harm done by each (defendant)." 495 F. 2d at 216. As a result, the court placed on the defendants the burden of proving "which one was responsible and to what degree" for the plaintiffs' injuries.

As one commentator has noted, after Michie a defendant cannot now escape liability merely by proving that other parties contributed to the injury in such a way as to make apportionment impracticable. See Comment, 1974 Utah L. Rev. 603, 607. The court essentially analyzed the issue as a contest between the rights of individuals and the rights and duties of industry. In the end, the court concluded that the rights of the injured party were superior.

The Michie case thus stands for the proposition that if a plaintiff in a pollution suit can show a causal connection between the defendants' acts and the plaintiff's injury, as well as the violation of some duty owed by the defendants to the plaintiff (where there is no ultrahazardous material involved) the burden of proof will shift to the defendants to demonstrate which defendant is responsible for what portion of the injury. The rule espoused in Michie is similar to that presented in section 433B of the Restatement (Second) of Torts, which provides:

> (2) Where the tortious conduct of two or more actors has combined to bring about harm to the plaintiff, and one or more of the actors seeks to limit his liability on the ground that the harm is capable of apportionment among them, the burden of proof as to the apportionment is upon each such actor.

Basically, as both Prosser and the Michie court noted, if apportionability cannot be demonstrated, the acts of each defendant could then be considered a substantial factor in the plaintiff's injury, and each would be liable for the full amount of damages. Contribution among the defendants, however, would prevent one defendant from absorbing the entire loss.

IMPACT OF H.R. 7020

While the essence of joint and several liability is that multiple defendants are each liable for the full amount of damages unless the feasibility of apportionment can be demonstrated by the defendants, sections 3071(a)(2) (A), (B), and (C) effectively foreclosed the possibility that any defendant will be held fully liable. Particularly, subsections 2 (B) and (C) emasculate the effect of the indivisible injury rule by providing that a court shall apportion liability even when the defendants have not established that such is feasible or warranted.

Subsection (2)(A) appears to reflect the procedure utilized by most courts in approaching joint and several liability. That section sets up a process by which a defendant may demonstrate by a preponderance of the evidence that he is responsible for only a certain portion of the damage done. If the defendant is successful in proving the limited extent of his responsibility, the injury is considered apportionable to that extent and that particular defendant's liability is limited. The remaining amount of the damages would then be imposed on the remaining defendants.

Ordinarily, if the remaining defendants could not establish their respective liability for the damages left after the section (2)(A), apportionment is subtracted, each would be fully liable for the remaining damages. Subsection (2)(B) changes this rule, however. That section provides that even if the defendants do not establish the apportionability of the remaining damages, the court shall itself apportion the liability. Subsection (2)(C) goes on to provide that once this apportionment has been made by the court, no defendant shall be liable for more than his apportioned share. The effect is that no one defendant can ever be held responsible for the full amount of the damages and the fund will sometimes be used to pay for damages when responsible parties can be identified. Thus, there actually is no joint and several liability at all in H.R. 7020.

One obvious problem with the apportionment system erected by H.R. 7020 is that a plaintiff—the Government under the present bill—would be forced to seek payment from each of the defendants based on the amount designated by the court as that which he owes. Under a scheme of joint and several liability, where the defendants cannot themselves establish their respective liabilities, each is responsible for the full amount, and the plaintiff may collect that full sum from any one of them. The paying defendant would then have the right to go against the other "nonapportioned" defendants for contribution; the defendants would bear the burden of deciding who would pay how much to whom among them. The theory behind enabling the plaintiff to collect fully from one defendant is essentially that as wrongdoers, the defendants each bear the burden of proving that he is not liable for the full extent of the damage caused. If the defendant cannot meet this burden and shows that he is not fully responsible, then he is fully liable. H.R. 7020 clearly abrogates this theory.

THE ONE-BARREL DUMPER

One concern expressed about imposing joint and several liability for cleanup of hazardous waste sites is that a one-barrel dumper may be held liable for millions of dollars in damages. Such concern is completely unfounded, for if such one-barrel dumpers actually exist, they are protected from full liability by the present common law procedures.

For a defendant to be held liable for full damages under joint and several liability, not only must the nature of the harm be incapable of apportionment, but the particular defendant's actions must also have been a substantial factor in bringing about the damage.

There is no single standard for what constitutes a substantial factor. That determination is a question of fact to be determined by the trier of fact at trial. As Prosser exlained:

> Whether (a defendant's conduct) is a * * * substantial factor is for the jury to determine, unless the issue is so clear that reasonable men could not differ. It has been considered that "substantial factor" is a phrase sufficiently intelligible to the layman to furnish an adequate guide in instructions to the jury, and that it is neither possible nor desirable to reduce it to any lower term.

Prosser, supra, at 240. The case of the one-barrel dumper is perhaps most analogous to the situation in which an individual tosses a lighted match into an already flaming forest fire. It can hardly be contended that the individual's act was a substantial factor in bringing about any harm caused by the spread of the fire. This is not to say, however, that there would never be an occasion to hold a small dumper fully liable. For example, the particular barrel that that individual dumped could have been improperly sealed, allowing its contents to spill and corrode the other containers at the site; or the barrel might contain a particularly hazardous and dangerous substance.

Paragraph (2)(B) of section 3071 in H.R. 7020 establishes a perverse incentive system for those who have caused or contributed to hazardous waste incidents. It encourages all defendants, except for those who are insignificant contributors, to ignore the burden of proof requirements of paragraph (A) and to cast their lot with any other defendants under the mandated apportionment formula of (2)(B). Hence, a major contributor would seek to establish the culpability of other defendants—although he would not quantify the harm contributed by each—to enlarge the pool of liable parties thereby reducing each defendant's cost obligations. Consequently, the defendant can shift the burden of proof responsibility onto the plaintiff to demonstrate to the maximum extent practicable what each party has contributed to the damages.

Paragraph (2)(B) should be removed from the liability provision to allow a court to proceed under a true joint and several liability scheme. I reluctantly relaxed my efforts to completely delete this misguided subsection and in a spirit of compromise, I am instead offering an amendment to help ease its adverse effects.

My proposal would affirm the court's authority to apportion the remaining costs under (2)(B), but would not require such apportionment. The language would permit the court to apportion the remaining damages among the remaining defendants, taking into account certain equitable factors. Apportionment would be solely at the discretion of the court.

The text of this amendment follows:

Page 48, line 6, after "establishes" insert "by a preponderance of the evidence"

Page 48, line 11 after "establishes" insert "by a preponderance of the evidence"

Page 48, strike out lines 16 through 20 and insert in lieu thereof:

"(B) To the extent apportionment is not established under subparagraph (A), the court may apportion the remaining costs among the parties if the court deems such apportionment appropriate. In apportioning liability under this subparagraph, the court may consider factors, including:

(i) the ability of the party to demonstrate that his contribution to a discharge, release, or disposal of a hazardous substance can be distinguished;

(ii) the amount of hazardous substance involved;

(iii) the degree of toxicity of the hazardous substance involved;

(iv) the degree of involvement in the manufacture, treating, transporting, disposing of the hazardous substance; and

(v) the degree of cooperation with Federal, State, or local officials to prevent any harm to the public health or the environment."

Page 48, line 21 strike "this paragraph" and insert "subparagraph (A)"

FEDERAL CAUSE OF ACTION FOR HAZARDOUS WASTE VICTIMS—ARGUMENTS FAVORING A FEDERAL CAUSE OF ACTION

Mr. Speaker, there are many reasons for granting private parties the right to sue in Federal court for injuries caused by hazardous waste:

(1) Statute of limitations problems faced by plaintiffs in State courts;

(2) Strict proof of causation requirements in State courts;

(3) The need for uniformity in the law regarding liability for waste-caused injuries; and

(4) Greater acceptance by Federal courts of prevailing legal theories of recovery for such injuries.

All of these considerations are valid and forceful reasons for providing a Federal forum via the "superfund" legislation.

STATUTE OF LIMITATIONS PROBLEMS

This is possibly the best argument in favor of creating a Federal cause of action. A number of States have restrictive statutes of limitations that effectively preclude any plaintiff injured by exposure to hazardous wastes from bringing suit. A Federal cause of action is needed to enable injured parties to overcome what, in this situation, amounts to an arbitrary and unreasonable barrier to recovery.

In the majority of States the statute of limitations for personal injury suits begins to run at the time at which the plaintiff discovers or should have discovered his injury. This is known as the time of discovery rule. In the remaining States, however, the statute of limitations begins to run immediately upon the plaintiff's exposure to the toxic or hazardous substance(s). This time of exposure rule reflects the older, traditional, but now minority rule in tort law.

The problems that the time-of-exposure rule pose for a prospective plaintiff are readily apparent. Physical symptoms resulting from exposure to hazardous substances often are not manifest until several years after the initial contact. In many cases the physical effects do not appear until as long as 15 to 20 years after first exposure. Because, depending on the State, statutes of limitations range from 2 to 6 years, plaintiffs who do not experience physical symptoms until after this period are blocked from bringing suit where the time of exposure rule is in effect.

All States agree that the statute of limitations should begin to run from the date of the party's injury. The point of disagreement among the jurisdictions is defining when the injury occurred. Those States that have adopted the time-of-discovery rule have chosen to designate the real injury as occurring at the time of some actual manifestation of physical harm; the statute runs, in other words, from the time at which the injury was discovered or should reasonably have been discovered. States employing the time-of-exposure rule take a strict and literal view of the time of injury. A few States, not wishing to accept either interpretation, have adopted a continuing injury theory. Under this approach, a new injury to the aggrieved party is said to occur each day there is exposure to the hazardous substance. This theory removes the statute of limitations problem for a citizen living near a waste site who does not discover his/her injury until several years after his initial exposure; it does not, however, help an individual who moved away from a site area and whose exposure to the substances ended beyond the limiting period. A Federal cause of action is thus needed to provide a forum for injured parties whose claims are precluded by either the time-of-exposure or continuing injury theories.

The most striking example of a State employing the time-of-exposure rule is New York. Three major cases have contributed to this approach on the part of the New York judiciary. The leading case is *Schmidt* v. *Merchants Dispatch Transportation Company,* 270 N.Y. 287, 200 N.E. 824 (1936), in which a victim of occupationally induced pneumoconiosis was denied access to the courts because he filed suit more than three years after terminating his employment with the defendant. Despite the fact that the plaintiff's injury was not diagnosed until after leaving employment, the court ruled that his cause of action had accrued at the point of initial inhalation. Although the court recognized the inequity of its decision, it declared:

> The statute of limitations is a statute of repose. At times, it may bar the assertion of a just claim. Then its application causes hardship. The Legislature has found that such occasional hardship is outweighed by the advantage of outlawing stale claims. 200 N.E. at 827-28.

Schmidt set the tone for subsequent decisions by the New York courts. In *Schwartz* v. *Heyden Newport Chemical Corporation,* 12 N.Y. 2d 212, 237 N.Y.S. 2d 714, 188 N.E. 2d 142, amended, 239 N.Y.S. 2d 896, 190 N.E. 2d 253, cert. denied, 374 U.S. 808 (1963), plaintiff filed suit in 1959 for loss of an eye in 1957 due to a carcinoma that had been produced by a drug administered to the plaintiff in 1944. The court dismissed the claim, stating that under Schmidt the plaintiff's cause of action accrued in 1944. Again accepting the inequity of its decision, the court stated:

> Considering the function of a statute of limitations as a device for repose, a potential defendant's equities are the same whether the plaintiff knows of his condition or not. Repose is as beneficial to society in the one case as in the other * * *. It is hard to say for certain, but perhaps the possibility of feigned cases against unprepared defendants and the difficulties of proof in meritorious cases led to a decision that society is best served by complete repose after certain number of years even at the sacrifice of a few unfortunate cases. 237 N.Y.S. 2d at 718-19.

Finally, last year the New York court reaffirmed Schwartz and

Schmidt in *Thornton* v. *Roosevelt Hospital,* 47 N.Y. 2d 780, 417 N.Y.S. 2d 920, 391 N.E. 2d 1002 (1979), in which the plaintiff had been administered a drug through injection that produced cancer in 1972. The court barred the plaintiff's suit declaring:

> It is well established in this State that when chemical compounds are injected into a person's body, the injury occurs upon the drug's introduction, not when the alleged deleterious effects of its component chemicals become apparent. Here, plaintiff's claim being interposed some 20 years after the decedent's injection—the date of injury—the action is time-barred, irrespective of whether the cause of action is couched in terms of strict products liability. 417 N.Y.S. 2d at 922.

The import of these and similar decisions for parties injured by hazardous wastes, such as those at Love Canal, is clear. Under the time-of-exposure rule espoused in these cases countless claims would be barred arbitrarily.

It must be noted that the New York State Legislature is presently considering legislation to amend the statute of limitations in that State to the time-of-discovery rule. The bill has been approved by the State assembly and now rests in the rules committee of the senate. There is no estimate of its possibilities for passage.

That the time-of-discovery rule is the superior and more logical rule was forcefully argued in the leading case of *Karjala* v. *Johns-Manville Products Corporation,* 523 F. 2d 155 (8th Cir. 1975). In that case, plaintiff instituted an action against several manufacturers of asbestos insulation after he contracted asbestosis. Plaintiff had been an installer of asbestos insulation but had been forced to leave his job because of his condition. Plaintiff had been constantly exposed to great quantities of asbestos dust from 1940 to 1966. In 1959 plaintiff began to experience a shortness of breath, congestion, loss of appetite, and general weakness. Plaintiff suspected he had tuberculosis, but a chest X-ray did not confirm this condition. In early 1963 a tumor was discovered on plaintiff's right lung and was removed in May. Finally, after coughing up blood in 1966, plaintiff was told by his physician that he had asbestosis and would have to leave his job. Plaintiff filed suit in 1966.

The defendants argued that the statute of limitations barred plaintiff's suit. The Eighth Circuit Court of Appeals, upholding the trial court, concluded, however, that the statute of limitations did not begin to run until some harm or impairment, for which the defendant could be liable, manifested itself. As the court explained:

> [T]here is rarely a magic moment when one exposed to asbestos can be said to have contracted asbestosis; the exposure is more in the nature of a continuing tort. It is when the disease manifests itself in a way which supplies some evidence of causal relationship to the manufactured product that the public interest in limiting the time for asserting a claim attaches and the statute of limitations will begin to run. 523 F.2d at 160.

The time-of-discovery rule was also praised in *Harig* v. *Johns-Manville Products Corporation,* 284 Md. 70, 394 A. 2d 299 (1978). In Harig, plaintiff sued for damages resulting from occupationally induced malignant mesothelioma. Plaintiff had terminated her employment with the defendant in 1955 but did not develop the disease until 1975. Plaintiff brought suit in 1977. In ruling that the statute of limitations did not begin to accrue until the time of discovery, the court declared:

> In cases where the initial injury is inherently unknowable * * * the statute of limitations should not begin to run until the plaintiff should reasonably learn of the cause of action. Avoiding possible injustice in such cases outweighs the desire for repose and administrative expediency, which are the primary underpinnings of the limitations statute. 394 A.2d at 305.

The time-of-discovery rule has, moreover, been adopted by the U.S. Supreme Court in its construction of the statute of limitations for the Federal Employer's Liability Act. In *Urie* v. *Thompson,* 337 U.S. 163 (1949), plaintiff sued for injuries sustained from breathing silica dust over a 30-year period. The Court rejected any theory that would bar a plaintiff's cause of action before he was aware of the nature of his injury. The Court stated:

> We do not think the humane legislative plan intended such consequences to attach to blameless ignorance. Nor do we think those consequences can be reconciled with the traditional purposes of statutes of limitations which conventionally require the assertion of claims within a specified period of time after notice of the invasion of legal rights. The record * * * is clear that Urie became too ill to work in May of 1940 and that diagnosis of his condition was accomplished in the following weeks. There is no suggestion that Urie should have known he had silicosis at any earlier date. It follows that no specific date of contact with the substance can be charged with being the date of injury, inasmuch as the injurious consequences of the exposure are the product of a period of time rather than a point in time; consequently, the affected employee can be held to be "injured" only when the accumulated effects of the deleterious substance manifest themselves. 337 U.S. at 170.

The Court thus clearly adopted the view that when an injury does not manifest itself immediately, the cause of action should accrue not when the injury was initially inflicted, but when the plaintiff had reason to know that he had been injured. Generally, then, the cause of action would accrue when the plaintiff's condition was diagnosed, unless there was evidence that the plaintiff should have known at an earlier date that he was injured.

NEED FOR A DEFINED LIMITING PERIOD

In order to facilitate suits by victims of hazardous wastes, any statutory provision should contain not only a grant of Federal jurisdiction but also reference to use of the time-of-discovery rule and a specific limiting period. The "superfund" legislation in the other body, S. 1480, provides that there shall be liability under the act for "all damages for economic loss or loss due to personal injury," including, among others, damages for harm to personal and real property, loss of income and profits, impairment of earning capacity, and medical and burial expenses. While more detailed, this language is similar to that contained in the original House bill, H.R. 7020. The other body's bill provides additionally, however:

> No claim may be presented nor may an action be commenced for damages under this Act unless that claim is presented or action commenced within three years from the date of discovery of the loss or the date of enactment of this Act, whichever is later.

Delineation of a specific time for the commencement and duration of the applicable statute of limitations here is necessary to avoid any uncertainties and ambiguities that could develop with less explicit language. For example, the original version of H.R. 7020 created liability simply for all damages for personal injury, injury to real or personal property, and economic loss resulting from a release of hazardous waste. It is unclear exactly what impact this language could have on plaintiffs' claims. In the absence of a specifically defined limiting period, the courts might create a Federal statute of limitations for these actions under the guise of Federal common law. Given the limited use of Federal common law, however, this is improbable. Alternatively, the courts, in a stretch of jurisprudence, might grant an unlimited cause of action. This, too, is improbable; and even if such were possible, its fairness to defendants would be highly questionable.

The more likely result is that without a specific limiting period, the language would provide only access to a Federal forum for tort claims. The Federal courts, under the doctrine of Erie against Tompkins, would then have to look to State law to ascertain the relevant statute of limitations. If so, those plaintiffs able to bring a hazardous waste injury suit would be only slightly better off than if they had sued in State court. More importantly, many potential plaintiffs would still be blocked by restrictive State statutes of limitations that would now be applied also by Federal courts in the particular forum States. Whichever path might ultimately be chosen by the courts, it seems desirable to avoid any possible confusion by making the House bill's language as explicit as possible and incorporating into it a set year limit on injury actions comparable to that in the Senate bill.

POLICY BEHIND STATUTES OF LIMITATIONS

When considering the Federal forum issue, it is useful to bear in mind the policy reasons behind the statute-of-limitations concept. A statute of limitations is intended to protect unsuspecting defendants from stale claims by plaintiffs who, intentionally or negligently, fail to bring suit expeditiously. This concern is basically inappropriate in actions delayed, not out of deceit or sloth, but because it was impossible for the plaintiff to have known of his/her injury. The punitive effect of a statute of limitations was never intended to apply in such an instance. Where the time of exposure rule is in effect, however, courts have felt obliged to deny suits for latent personal injuries, believing that alteration of the rule is a legislative prerogative. Although some States have adopted the time of discovery rule judicially, legislative action is thus needed. Such action would indeed change existing restrictive limiting statutes in the minority of States that retain them; this is the desired effect. For the majority of jurisdictions, moreover, a Federal statute of limitations would merely codify and affirm the existing procedures.

In addition to avoiding any punitive impact on plaintiffs, the time of discovery rule had been cited as capable of furthering the procedural policy behind statutes of limitations in cases involving delayed-effect injuries. In *Raymond* v. *Eli Lilly & Company*, 117 N.H. 164, 371 A. 2d 170 (1977), the New Hampshire Supreme Court articulated five reasons for the desirability of the discovery rule for latent injuries. First, the rule does not facilitate unfair surprise against potential defendants because industry is fully aware of the latency period required for many injuries to manifiest themselves. Second, because the evidence in toxic substances cases is primarily documentary, the traditional concerns about stale evidence, disappearing witnesses, and fading memories, which constitute the major justification for a restrictive statute of limitations, become less important. Third, the passage of time in such cases is actually likely to improve the quantity and quality of scientific evidence available to establish—or disprove—a causal connection between a plaintiff's injury and a defendant's activities. Fourth, by removing procedural obstacles to liability, the body of scientific knowledge concerning toxic/hazardous substances will increase because industry will perform additional tests on these substances when it is to their advantage to do so. Finally, the possibility of actual liability will act as a strong incentive for industry to exercise greater care in its activities and reduce any unnecessary exposure to these substances. While the court in Raymond was concerned specifically with a drug-caused injury, its remarks are applicable to latent injuries caused by hazardous waste as well.

TWO-PART TIME-OF-DISCOVERY RULE

While granting a Federal cause of action with the time of discovery rule will enable plantiffs to overcome existing restrictive State practices, such may nonetheless not provide victims of hazardous waste with all the procedural relief that is actually needed. A strong argument can be made that the Federal statute of limitations should be triggered by a two-part discovery rule: that the statute should not begin to run until such time that the plaintiff (1) discovered or should have discovered his/her injury, and (2) discovered or should have discovered a causal relationship between his/her injury and the defendant's conduct. Such a provision would accommodate those cases in which discovery of an injury and discovery of the causal relationship do not take place simultaneously—or at least not with sufficient proximity to permit a suit within the statute of limitations. It is not improbable that some victims, upon discovering their injuries, will not immediately realize the cause or the source of their harm. A physician may not attribute a victim's symptoms to exposure to hazardous waste; or even if the general medical/chemical cause can be traced, the waste disposal site may still be unknown to the public. Moreover, even if the disposal site is discovered it may be inactive, and the statue of limitations may run before the dumpers—that is, defendants—can be identified. Accordingly, employment of the discovery of the causal relationship rule would comport with the general notion of when the statute of limitations should commence: the point at which the plaintiff could first have maintained an action to a successful conclusion. It is difficult to maintain a successful suit without knowledge of either the cause of the injury or the party responsible.

CAUSATION REQUIREMENTS

This is a more controversial justification for providing a Federal cause of action to parties injured by hazardous waste. A Federal cause of action may not in itself ease the requirements for proof of causation. It is highly possible that Federal courts in hearing suits brought under H.R. 7020, will simply adopt the present, restrictive common law causation standards of the respective forum States. On the other hand, as the Federal courts adjudicate claims under the statute, they may develop their own Federal requirements for causation. These requirements, if developed, would likely be more lenient in their demands on plaintiffs. Creation of a Federal cause of action might thus indirectly ease a plaintiff's burden of proof.

A more direct method of lessening plaintiff's currently unreasonable burden is to articulate in the act itself the requirements of causation. The other body's bill, S. 1480, enunciates factors by which a finding of presumptive causation can be made in personal injury suits brought under that act. Section 4(a)(3)(A) of S. 1480 declares that "it shall be presumed that a defendant caused or significantly contributed to—plaintiff's—injury or disease" if the plaintiff can show:

> (1) that the plaintiff was exposed to a hazardous substance found in a discharge, release, or disposal which the defendant caused or to which he contributed; and
>
> (2) that there exists a reasonable likelihood that exposure to such substance causes or significantly contributes to injury or disease of the class or type which the (plaintiff) claims to have suffered.

The presumption thereby created, however, is rebuttable by the defendant if he can demonstrate that the plaintiff's exposure to the substance in question did not cause or significantly contribute to the plaintiff's injury. The Senate bill also seems to limit use of the presumptive causation formula to claims for medical expenses.

Under the existing common law system, proof-of-causation requirements vary among the States. While some States are more lenient than others, a plaintiff would have difficulty in nearly every State demonstrating the requisite linkage between his/her injury, exposure to a hazardous substance (which may have occurred years before), and the action of the defendants, even under a scheme of strict liability. This situation may change as more waste-related suits are tried in the State courts and the judiciary becomes more familiar with the questions and factors involved. Even then, however, there will likely still be a disparity between the States in their causation requirements, and a plaintiff's likelihood of recovery could depend upon where his/her claim is brought.

UNIFORMITY IN THE LAW

Related to the problems discussed regarding proof of causation, there is a need for consistency in theories and procedures in finding liability for waste-caused injuries. Presently, the common law tort system is disjointed and fragmented as each State maintains its own rules and requirements regarding not only causation, but evidence, pleadings, degree of liability, and so on, for personal injury cases. These disparities are accentuated when waste-related injuries are considered, for the hazardous waste issue is so new that there is no real, existing body of common law here on which State courts can rely in adjudicating claims. Each State is thus likely either to develop its own unique set of rules for such cases or to extrapolate rules from those that it already employs in other tort matters.

While differing standards of liability, et cetera, may not, in themselves, be undesirable in the usual tort case, hazardous waste injuries present a special need for consistency. As previously discussed, proof of causation will be difficult, and as each State develops its causation requirements, liability could well be dependent on the choice of forum. Because of the complexities involved here, uniformity is needed not only to lessen plaintiffs' difficulties but also to provide defendants with sufficient notice of their potential liability.

Uniformity is also needed for evidentiary purposes. For example, biostatistical data of varying sorts is likely to be an essential element of any plaintiff's suit. Nevertheless, some States may refuse to permit the introduction of such data. Not only would this occurrence severely handicap those plaintiffs unable to present biostatistical data as evidence, it would also hinder the development of an adequate body of knowledge about the effects of hazardous wastes. Such information is sorely needed now, and private litigation can help compile it.

A Federal cause of action would facilitate uniformity because of the manner in which Federal courts rely upon one another for guidance. While State judiciaries operate more as autonomous entities, the Federal courts exist as components of an overall, interrelated Federal legal network. Once theories and procedures are developed by some Federal courts for handling hazardous waste cases, the odds are good that they will be adopted by the other Federal courts as well. This is not true for State courts.

INNOVATIVENESS OF FEDERAL COURTS

Just as the Federal courts can promote uniformity of law in hazardous waste injury suits, they can contribute to the development of new approaches to liability that are better suited to the complexities of such litigation than existing tort law. Many State courts will likely accept the view that the generation and disposal of hazardous waste constitutes ultrahazardous activity and so subjects producers and dumpers to strict liability. It is also possible, however, that some States will make great demands of proof, causation, et cetera, before they will hold a defendant strictly liable. There is a natural hesitancy on the part of State courts generally to accept new methods of proof and theories of liability. It may thus be difficult for an injured party to meet the traditional tort test because of the exceptional circumstances—causation, delayed overt injury—that will surround many waste-related harms.

Although the Federal courts have not always proved to be a haven for progressive legal theory, they do exhibit greater receptivity to new modes of thinking when exigent circumstances arise. Rather than deny a deserving plaintiff recovery, the Federal courts have been willing to extend existing legal theories to cover novel situations or even to create new legal rules to meet changing times. Certainly, some State courts, such as California's, have played a leading role in judical innovation. Many State courts, however, are not as bold and will deny recovery rather than establish new precedent.

DIVERSITY JURISDICTION

The preceding discussion was not meant to imply that presently plaintiffs are completely denied access to the Federal courts. A plaintiff may bring suit in Federal court on the basis of diversity of citizenship if the defendant is a citizen of another State. Jurisdiction on diversity grounds, however, is not available to all victims of hazardous waste. Moreover, diversity jurisdiction does nothing to bring about the objectives enumerated at the outset of this paper. While a Federal court hearing a diversity claim might be sympathetic to creative legal theories, the Federal courts will generally apply the law of the forum State, since the claim is brought under the common law. Additionally, because the Federal courts will apply State law, uniformity of rules and procedures is not encouraged—although all evidentiary considerations are governed by the Federal Rules of Evidence. Finally, the problem with statutes of limitations and proof of causation are not alleviated.

On occasion, a Federal court has deviated from State law and established its own approach for handling complicated injury cases similar to those involving hazardous waste. Such cases will in part help to establish some Federal common law on the subject; but these cases are infrequent and the precedents too disjointed to have a significant impact. A simple grant of Federal jurisdiction, even without language affecting the statute of limitations question and requirements for causation, would be an improvement over the present system.

The text of my third amendment is as follows:

Page 47, line 25, after "costs" insert ", damages, or losses".

Page 48, in lines 2, 6, 11 and 23 after "costs" insert ", damages, and losses".

Page 49, line 1, after "COSTS" insert "DAMAGES, AND LOSSES" and after "costs" insert "damages, and losses".

Page 49, line 3, after "are" insert "(1)".

Page 49, line 9, before the period insert: ", and (2) all damages for personal injury, injury to real or personal property, and economic loss, resulting from such release or threatened release".

Page 49, line 10, after "To Whom Liable.—" insert "(1)".

Page 49, line 11, after "(b)" insert "(1)".

Page 49, after line 19, insert:

"(2) The liability for damages or loss described in subsection (b)(2) shall be to the person who sustained such damages or loss. In the case of any such damages or loss to natural resources owned, controlled, or managed by the United States or by a State or local government, the liability shall be to the United States, the State, or the local government, as the case may be. No action may be brought under this section for any damages or loss described in subsection (b)(2) after the date three years after the date on which the plaintiff discovers such damages or loss, or after the date three years after the date of the enactment of the Hazardous Waste Containment Act of 1980, whichever is later."

CONCLUSION

Mr. Speaker, all three of these amendments merit the support of this body. In closing, I would like to express my deep thanks to two members of my staff who have devoted long hours and great effort to serving the public interest with respect to this issue. Mr. Ted von Glahn has been principally responsible for the work in my office on the hazardous waste issue. His assistance has been invaluable. Mr. Steve Owens has been principally responsible for the work in my office on the liability portion of this legislation and has crafted the three amendments that I have just discussed. All three of us share with many other Americans a deep commitment to finding a just remedy for the enormous problems associated with hazardous waste disposal.●

MAYOR YOUNG TESTIFIES BEFORE AUTO TASK FORCE

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. BRODHEAD. Mr. Speaker, on September 2, the auto task force held its first public hearing in the city of Detroit. We met in Detroit because the auto industry—the largest single manufacturing industry in the United States—is now facing the most difficult period of its history. As of last month, sales of American-made cars had plunged to an annual rate less than three-fifths of what it was just 2 years ago. This plunge was accompanied by an unprecedented jump in the sale of foreign imports. Today more than one car in four sold in the United States is in fact produced by foreign labor.

We know the results: As of last month, a total of 239,000 U.S. auto workers had been laid off indefinitely. Another 450,000 workers in supply industries were also out of work. Many of these unemployed workers are now exhausting their unemployment benefits and have no prospect of reemployment. In Michigan, our welfare caseload has risen to its highest level in history: The number of families on welfare is increasing by 3,000 to 4,000 each month.

The full human cost of this disruption cannot be measured. However, in economic terms, each lost job requires additional payments for unemployment benefits, and often for food stamps and welfare. These additional dollars must be taken from the pockets of the remaining work force, creating a heavy drain on the wealth and productive capacity of the entire economy.

Each and every member of this task force agrees that this disruption must not continue. Each of us believes that Congress must move quickly to help the industry recover its vitality and its competitive edge. In recent weeks and months, many individuals and groups have offered specific proposals for congressional action. Our task force, however, wants to build its joint plan of action on the views of leaders of the communities which have suffered most. One such individual, Mayor Coleman Young of Detroit, provided the task force with valuable suggestions. I would like to share his views with my colleagues in the House.

Testimony of Coleman A. Young, Mayor, City of Detroit

Mr. Chairman, Members of the United States House of Representatives Auto Task Force. I am Coleman A. Young, Mayor Detroit. On behalf of the the City, Welcome! I compliment the Congress for having the wisdom to appoint a Detroiter, Bill Broadhead, as Chairperson of this Task Force and for holding its first hearing here in Detroit—the nation's Automobile Capital.

Detroit's lifeblood is still the manufacture of automobiles and auto parts and supplies despite efforts to diversify the local economy. Nationally, one in five job holders work in a motor vehicle-related industry. Locally, forty percent (40 percent) of all manufacturing employment is in the automotive industry. This means, therefore, that the City of Detroit's health is inextricably tied to the health of the American auto industry. It can hardly be news to you, then, when I tell you that Detroit is in very, very poor health. The City is in serious recession due to the severe downturn in auto sales and profits. Domestic automotive vehicle production during the Second Quarter of 1980 dropped 41 percent below the comparable 1979 Quarter. During the same period, the percent of sales captured by foreign auto makers increased from 23 to 28 percent.

In the 10 days ending August 20, the last period for which sales data are available, GM car sales had declined 35.2 percent from the same period in 1979, Chrysler sales had declined 23.5 percent and Ford sales had declined 51.3 percent. The Total U.S.-produced cars sold during that August 10-20 period, including Volkswagen of America which increased sales by 162 percent, declined from 239,579 in 1979 to 171,265 this year. That is a 36.5 percent decline.

Domestic autos which lost the greatest market share were the larger, less efficient cars produced in the aged factories of Detroit. Motor vehicle production in the Detroit SMSA fell from 739,000 in the second quarter of 1978 to 301,000 in the first quarter of 1980, a 60 percent decrease! Second quarter 1980 data are not available, but I have every certainty that the decline is even more dramatic.

IMPACT ON THE PEOPLE

The effect of these plummeting sales and production figures on Detroit has been swift and disastrous. Between May, 1979 and May, 1980, the number of workers employed in motor vehicles and equipment manufacturing in the Detroit SMSA dropped 35 percent (248,100 to 160,800).

Currently, Detroit has an "official" unemployment rate of 18.3 percent (June, 1980). The City's previous high of 17.9 percent was reached in March, 1975. During the second quarter of this year, the unemployment rate for Detroit's Black males was 33 percent.

While no data are available for Detroit City only, SMSA unemployment claims against the auto companies rose from 10,000 in June of 1979 to 90,000 in June of 1980. Again using an SMSA base, in June of 1980 there were 160,000 workers drawing regular unemployment benefits and 39,000 drawing extended benefits. The 39 weeks of available benefits are being exhausted at an alarming rate. Statewide, 253,000 will exhaust their unemployment benefits this year. In June alone, benefits ran out for 46,000, three-fourths of them in Wayne County.

John Dempsey, Director of the State of Michigan's Department of Social Services, has predicted that State welfare rolls will reach 250,000 families by late winter. That is 20,000 more than at present and 43,000 more than at the peak of the 1975 recession. Those new clients are expected to be laid off skilled workers who have exhausted all union and State unemployment benefits.

In Detroit, welfare rolls have exploded in the last year. On July 1, 1980 there were 45,000 Detroiters receiving general assistance, 225,000 receiving ADC, 33,000 receiving SSI (Supplemental Security Income), 35,000 receiving medical assistance only, and a whopping 302,000 in food stamp certified households.

IMPACT ON CITY GOVERNMENT

A. Tax losses

The combined effects of drastic industry declines and massive unemployment on the City government structure are enormous. Local revenues account for over 60 percent of Detroit's $1.5 billion budget. Major sources of local revenues are property taxes, 11.3 percent of the 1980 City budget, (property taxes also fund County operations and the independent public school system) and the municipal income tax, 10.5 percent of the total budget.

Income tax receipts have been immediately and directly affected by the drastic decline of the auto industry. Corporations are taxed 2 percent on net profits derived within the City, the apportionment being calculated from a combination of payroll, property and sales. Both Chrysler and General Motors have extensive operations in the City. Chrysler has fourteen (14) plants here. GM World Headquarters and ten (10) of its plants are in Detroit. Because of recent losses, none of the automobile companies are expected to pay any corporate income tax to the City this year. And, carry forward provisions insure that corporate income tax receipts from automobile companies will remain depressed long after the expected recovery occurs.

The City collects a 2 percent income tax from residents and ½ percent from non-residents who work in the City. City income taxes withheld by employers grew from $105.2 million in fiscal 1977 to $113.9 million in fiscal 1978, to $123.6 million in fiscal 1979, healthy 8.3 and 8.5 percent increases. In fiscal 1980, only $124.6 million was collected, less than ⅒ of one percent growth. This year, our Income Tax Division expects withholding tax collections to shrink to $114 million, an 8.5 percent decline, if there are no further major layoffs.

Net (after refunds) municipal income tax receipts from corporations, partnerships and individuals for fiscal 1980 was $138 million. This was $19.9 million less than budget.

The fiscal 1981 City budget depends on net municipal income tax receipts of $154.4 million. Based on current activity, the collections may be as low as $125 million. If that proves to be the case, it would put a $28.4 million hole in this year's budget.

General Motors and Chrysler are two of the three largest property taxpayers in the City. Ford Motor Company has much less property here, (although many hundreds of Detroiters work at Ford's huge Rouge Complex in Dearborn).

The combined City of Detroit 1980 real property assessment (50 percent of market value) for the "Big Three" is $205.4 million, nearly 10 percent of the City total. This property generates $13.9 million in City and school taxes, and will generate about $2 million in County taxes based on the 1979 County tax rate.

We have heard numerous rumors of plant closings. Although no City of Detroit auto plant has yet been permanently shut down, some are indefinitely closed, and the effects on City revenues substantial.

Chrysler Corporation plants which are considered likely to close are Lynch Road, Huber Foundry, Outer Drive Stamping, and Mack Avenue Stamping. These properties are currently assessed at $47 million, and generate $3.2 million in City and school taxes, and $½ million in County taxes.

Potential GM closings include Cadillac Motor Michigan Avenue-Clark Street, Conner Avenue Stamping, Fisher Body Fleetwood, and Fisher Body Detroit Fort Street plants. They are assessed at $60 million and generate $4 million in City and school taxes and $600,000 in County Taxes.

The closing of these facilities would reduce the real property taxes collected on the facilities by 25 to 50 percent, up to $4.1 million.

City personal property taxes are applied to the content of factories. In 1980, $5.7 million will be collected from the "Big Three" on $168.4 million worth of machinery and equipment, some 35 percent of the personal property taxed in Detroit. Another $5.6 million in personal property taxes will be paid to the Detroit Public School System. County taxes rates for 1980 are not available, but in 1979, the automobile companies paid $1.6 million to Wayne County in personal property taxes.

The equipment in those Chrysler plants rumored as likely to be closed is assessed at $44 million; that in the rumored GM plants at $54 million. Combined, they generate $6.5 million in City and school taxes, and $1 million in County taxes. If the companies were able to dispose of all the equipment in those plants under discussion, the total local personal property tax loss would be $7.5 million.

In addition, the City collects a 5 percent Utility Users Excise Tax, capped at $37 million. About half of this tax has traditionally been collected from industry, with Chrysler and General Motors paying an estimated 20 percent of the industrial portion. Depressed auto activity will result in a fall off of this city revenue.

The budget problems these reductions in tax revenues have caused have been exacerbated by the steps taken by the State and Federal governments to reduce their spending. The failure to enact countercyclical fiscal assistance legislation at the Federal level, the failure of State passage of court reorganization and "Census Hold-Harmless" legislation, and reductions in State Revenue Sharing contributed significantly to the City's fiscal year 1980 budget deficit.

B. Reduction of city services

In fiscal 1979-80 my Administration was faced with a potential budget deficit of $106.4 million. I instituted a hiring freeze, and in October, 1979, laid off 907 City employees, including 400 Police Officers. This layoff affected about 5½ percent of the 16,624 General City employees. In spite of this, we ended the fiscal year with a deficit of about $85.5 million; $50 million of which was the result of a fire and police arbitration award. The deficit and local economic conditions has recently resulted in the lowering of our bond rating to "below investment" grade.

We have just completed the first two months of fiscal 1980-81, and we see the problems worsening: tax revenues continue to fall; State Revenue Sharing will be $9.5 million less than anticipated; new union contracts will cost $12.6 million more than budgeted; last year's deficit is $26.3 million more than expected; and, State and Federal legislation that would grant us essential operating revenues are stalled.

Another 690 Police Officers will be laid off effective September 5 reducing the uniformed complement to about 4,225, a reduction of 23 percent in the past year. This is the first of two Police layoffs planned in the 1979-80 budget.

My staff has been working for the past several weeks to formulate additional layoff and savings plans. City services have already been reduced below "adequate." They will, of necessity, be reduced still further. The reductions in City programs come at a time when our citizens can least afford it. After three years of steady decline, crime has started an upward trend, a result of the depressed economy. Yet we have been forced to lay off over 1,000 Police Officers in the last year.

Michigan Employment Security Commission data for Detroit indicates that in the second quarter of 1980, the unemployment rate for non-white males aged 16-19 was 61.5 percent. But, we have had to reduce summer recreation programs for lack of funds.

With total unemployment reaching 20 percent, employment and training programs are being slashed.

Public health services are being squeezed when demand indicates they should be expanded.

Bus routes are being reduced at a time when public transportation needs are growing.

I could continue, but I think you get the idea. City government is being forced by financial necessity to contract when it should expand to meet the increased need for services. And, the State of Michigan, faced with the similar budget problems, has been slashing programs and reducing its vital services. For example, the State Department of Social Services will spend approximately $2.9 billion this year due to the soaring welfare rolls. In an attempt to reduce State Social Service cost, Governor Milliken has proposed denying assistance to single employable persons aged 45 or under. This could leave some 40,000 persons in Wayne County alone without income. I shudder to think what the repercussions of this action, if upheld by the State legislature, will be.

LOCAL REVITALIZATION EFFORTS

During the past seven years I have worked with business, labor and community leaders to strengthen that public-private partnership which is so very necessary to ensure healthy urban economics—particularly in the Northwest and Upper Midwest regions of this country. The three major automotive companies have been active members of the Economic Growth Corporation of Detroit, Detroit Renaissance, and New Detroit, three of the most prominent partnership organizations in the City.

The City recognizes the significant role the automotive companies have played in Detroit's economy and to the people of Detroit. One example of our concern for these companies, and for other Detroit firms, is the special tax exemption program Detroit has operated for the past five years. Under a 1974 State Act, Detroit grants special 12 year tax exemption districts to encourage industry to expand and rehabilitate existing facilities. Over 75 firms in Detroit have applied for and received such exemptions. Chrysler and General Motors have used this program at several of their facilities.

In 1979 alone, Chrysler received tax abatements (City, School, and County) valued at $3.1 million. In 1977 and 1978 plant investments by General Motors in Detroit have resulted in approximately $1 million in taxes. Currently, there's a total of $14.2 million annually in taxes abated citywide, to all approved Industrial Districts.

The future of the automotive industry is of extreme importance to the City. That is why we presently are working closely with the Chrysler Corporation to provide local financial assistance for the firm's $100 million renovation of its Jefferson Avenue Assembly facility. This project made possible the production of the highly competitive, fuel efficient, front-wheel drive "K" car.

In addition, the City is working with the Corporation in the development of a five-year capital investment program in Detroit. This investment program to modernize Detroit plants would ensure the competitiveness of Chrysler in the automotive industry. By participating in this plan, the City believes we can retain a viable Chrysler Corporation in Detroit, and maintain jobs for Detroiters.

The City of Detroit together with the General Motors Corporation and the Trizec Corporation of Canada, with major assistance from the Federal Government, have launched an exciting inner-city residential/commercial revitalization project. Two Urban Development Action Grants are involved totalling some $12.4 million with General Motors' contribution amounting to approximately $11 million.

In addition, the city currently is working with General Motors on its plan to build a modern assembly plant for its Cadillac Division in Detroit. Federal, State and local resources will be tapped to enable the City to deliver some 450 acres cleared and improved land to General Motors.

Mr. Chairman, these are but a few examples of what Detroit is doing and must do if it is to retain and, hopefully, expand its existing economic base. At the same time, Detroit must make every effort to diversify its economy so that the economic and fiscal depressions we have experienced so often in the past and are experiencing now will be minimized in the future.

SERVING THE NATIONAL INTEREST

Mr. Chairman, I would like to conclude my remarks this morning by pointing out why the National interest would be best served if the Federal Government would become an even stronger member of the Government/Industry/Labor partnership in place here in Detroit.

As the Mayor of a city which some characterize as being a mature, industrial city in need of assistance, I am pleased that the present Administration and the Congress have enacted laws which provide the City with additional tools to revitalize and enhance Detroit's economic base as well as provide community development and human service opportunities for those unable to totally provide for themselves. Many of our cities are benefiting from these very effective federal programs. For the first time, the federal government has made a commitment to the Nation's cities and has begun to implement a National Urban Policy.

The same kind of national commitment to our industrial sector must be made if our basic national industries such as automotive are to withstand the pressure of world-wide markets and competition and retain our world industrial status. It is time we realize that our basic industries are in serious trouble. They have become increasingly obsolete and are in critical need of overhaul and modernization. The cause of their current problems are numerous—the draining of dollars and jobs out of the United States due to international trade practices, our domestic energy crisis, world competition by other industrialized nations which appear to have better working relations with their basic industries and more. No matter the cause, the problem is too great for any one corporation to solve by itself. Initiative must be taken now by our national government. Federal investment in the automotive industry would not only make that industry modern and competitive, but would act as a catalyst to stimulate all the other industries such as steel, glass, rubber and more, which are so dependent on the auto industry.

I enthusiastically commend President Carter on his recently-announced economic revitalization program for the 1980's. It is a major step forward for the industrial sector of our economy and for those regions of the country so closely tied to manufacturing. I challenge you, the United States House of Representatives, and the United States Senate to enact expeditiously his legislative proposals and to capitalize on the momentum which his initiatives have created.●

TRIBUTE TO FRANCOIS MIGNON

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. LONG of Louisiana. Mr. Speaker, the State of Louisiana has suffered a great loss with the recent death of an outstanding citizen, Mr. Francois Mignon, 81, one of our premier authors and historians.

Throughout his life, Mr. Mignon devoted himself to preserving the historical Natchitoches area and popularizing local culture and traditions. His award-winning newspaper column featured every topic from native flora and fauna to ancient Greece and modern Louisiana. In addition to his talents as a writer and historian, a series of plates he designed depicting Natchitoches history and legend illustrated his ability as an artist, too.

Mr. Mignon's contributions to Louisiana was not only displayed in his personal achievements, but also in the guidance and inspiration he gave to those who had the opportunity to work with him and know him as a friend. We are especially grateful to Mr. Mignon for introducing primitive painter Clementine Hunter to the world. Under Mignon's guidance, the painter, once a field hand and plantation cook, became the first black to have a one-person showing at New Orleans Delgado Museum. Ms. Hunter went on to achieve international recognition for her fascinating and unique primitive art style.

To list all of Mr. Mignon's contributions to society would be an extraordinary, if not impossible task. I am pleased at this time, in these few words, to express tribute to Mr. Mignon and all that he has given to our great State and Nation.●

THE WELFARE MYTH

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. FORD of Michigan. Mr. Speaker, one of the most common complaints in America today is that too many lazy, shiftless people are taking advantage of the welfare system to enjoy comfortable lives at the expense of those Americans who work for a living.

The falsity of this all-too-common belief is effectively exposed in an excellent editorial by the Detroit News, entitled "The Welfare Myth."

Michigan's growing unemployment rate, already the Nation's highest, has created a large pool of jobless persons whose unemployment benefits have been exhausted, forcing them to seek public assistance for the first time in their lives. These families are discovering that welfare is not easy to obtain and that the benefits hardly provide a comfortable existence.

Mr. Speaker, I insert the text of the editorial at this point in the RECORD. I urge my colleagues to read it carefully and keep it in mind next time they hear complaints about welfare cheaters living on steaks and champagne.

WELFARE MYTHS

State Social Services Director John Dempsey attacked what he called welfare "myths" at a Detroit press conference the other day. Two myths are that many people are on public assistance fraudulently and that they get public assistance without much checking.

A growing group of Michiganians are, unfortunately, finding out that easy access to the welfare system is indeed mythical. They are the laid-off workers whose union and state unemployment benefits have run out and who are now applying for public assistance for the first time in their lives.

According to Mr. Dempsey and district welfare offices, a lot of these first-time applicants are angry and confused when they find that getting money out of the government isn't as simple as they had assumed.

First of all, anyone applying for aid to families with dependent children (ADC), general assistance, food stamps, or other programs will have to fill out a new 22-page form that, like any piece of government paperwork, is a test of determination in itself.

The questions on that form are intimate and exhaustive, and each answer has to be backed up by written proof. For example, when the government wants to know how many children the family has in school, the applicant must show evidence of school attendance. Neither the applicant's word nor a verifying phone call is enough.

Rather than wait long hours only to be told to return with the necessary papers, welfare offices advise prospective clients to bring in the following: Social Security cards for every member of the family, children included; bank books; insurance information; car registrations; mortgage company or landlord statements; recent utility bills; information on Social Security benefits; and if employed, the last month's pay stubs.

Unfortunately, many of the laid-off workers who become new welfare clients will be surprised to learn that, although they don't have a cent in the bank, they may not be able to qualify for ADC or general assistance.

Many will be told they have too many assets. Public assistance allows clients one home or apartment, household goods, and one car. The second car, the snowmobile, the motor home, the boat, the cottage up North, all painfully purchased in more prosperous times, will be considered unnecessary assets. To qualify for aid, many laid-off workers are going to have to sell those items. And selling real estate, cars, boats, or snowmobiles is very difficult in the current market. Many people will be forced to take a loss on their investments.

Those who sell assets to be eligible for assistance must also show proof of how they used the proceeds. Reinvesting in new household items isn't allowed; the money from the sale of the snowmobile must have been used up by rent, food, health care, or other necessities.

Those who still wonder about all the supposed cheaters can consider these facts: Only 1.8 percent of the state's total caseload is referred to the inspector general for suspected fraud, and 70 percent of those cases are said not to involve any actual cheating. Certainly, some fraud is going undetected and one can complain that the fraud that is detected tends to go unpunished. But welfare cheating is not as widespread as many assume.

Once the new applicant is eligible for welfare, the checks don't begin arriving immediately. It takes 30-45 days to be processed. In the meantime, an emergency-needs program is available to prevent eviction or utility shutoffs and food stamps prevent starvation, but it's better not to wait until creditors are banging at the door (welfare won't help with your department-store charge or auto loans).

And once those welfare payments are coming in, the amount might seem trifling. A family of three or four gets about $130 a month for rent, up to about $230 with more children. A house payment will be budgeted for a maximum of $230. You can own a car, but ADC will not cover car payments or car insurance. With ADC, personal needs—meaning both food and clothing—are covered by a $73 per person per month allotment.

Clearly, it's not possible to pay for a nice suburban home, a good car, and new clothes on that budget. Traditional welfare clients may be used to the $130 apartment, but the flood of laid-off workers may face painful cuts in living standards to make ends meet with ADC or general-assistance programs.

Welfare, for all its faults, is not an easy-money program for high-living chiselers. And a lot of first-time applicants are discovering the truth about such misconceptions the hard way.●

HERKIMER AMERICAN LEGION BASEBALL SQUAD

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. MITCHELL of New York. Mr. Speaker, it gives me great pleasure to bring my colleagues attention to the significant achievement of a group of young men from my hometown—Herkimer, N.Y. Under the able leadership of manager Larry Hughes and pitching coach Jim Aiello, the Herkimer American Legion baseball squad has become the Cinderella team of American Legion baseball by winning the New York State American Legion baseball championship.

On Saturday, August 16, at historic Doubleday Field in Cooperstown, N.Y., Herkimer's American Legion Post 38 won the 1980 State championship. On its way to the championship, this group of young men, composed entirely of the Herkimer High School ballplayers, defeated big city rivals whose teams were built with recruits from varied and larger high schools and, in some cases, colleges.

Their 6 to 1 victory over defending champion North Albany raised the Herkimer record to 20 wins and 7 losses. It also rewarded the hard work of the players and coaches and the enthusiastic support of parents and the community.

The members of the 1980 New York State American Legion baseball champions—Michael Atkins, Ronald Brown, Joseph Casale, Anthony Cirelli, Daniel Hughes, Robert Jackson, Pasquale Mula, Daniel Murphy, David Preische, Troy Rice, Gerald Sakowski, John Sarafin, Andrew Scialdo, Joseph Wood, William Wood, Mark Vallese, and Timothy Newman—should all be extremely proud of their accomplishment.●

CONGRESSMAN ROBERT A. YOUNG, MAYOR JAMES CONWAY, AND CLYDE WISEMAN TESTIFY BEFORE AUTO TASK FORCE

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. YOUNG of Missouri. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

STATEMENT OF CONGRESSMAN ROBERT A. YOUNG

Mr. Chairman and fellow Members of the Congressional Auto Task Force, my name is Robert A. Young, U.S. Representative from the Second District of Missouri. It is indeed an honor and a pleasure to serve on the first Congressional Auto Task Force.

As everyone here is aware, the U.S. automobile industry experienced the lowest sales record and the highest unemployment levels in recent history. It is clearly a matter of grave concern that the U.S. auto industry is in severe trouble, when little relief is in sight for the near future.

The difficulties of the industry stem from a wide range of sources. The gasoline shortages and rapidly rising gas prices which are a consequence of our ongoing energy crisis have led to a major shift in consumer preference to small, fuel efficient, quality automobiles.

Domestic producers, for a number of reasons, have been unable to respond quickly to this irreversible shift in consumer preference. Although we have made great progress in producing small, fuel efficient cars in the United States, it will, however, take several years for American manufacturers to complete this conversion of retooling our factories.

Foreign cars now hold the second biggest share of the United States market after General Motors. The Japanese have made the biggest gains by selling over 2 million cars here last year, as compared to 19,000 American-made cars sold in Japan. It has been suggested that Japanese producers should begin making some of their automobiles here in the United States. Such an investment would have the dual advantage of creating jobs for American workers, while providing the small, fuel efficient cars to the American consumers.

It has also been suggested that the Japanese should allow American manufacturers greater access to the Japanese market. This of course, would be very beneficial, however, the Japanese persist in maintaining needless regulations and standards which serve as nontariff barriers to trade in American-made automobiles.

It is of course, imperative, that American manufacturers become more inventive in producing small, fuel efficient cars which can continue to compete domestically, as well as compete in foreign markets.

To be sure, American productivity and competitiveness is of great concern. As is the question of the foreign imports. However, more importantly is the issue of over one-third of the nation's auto workers that are unemployed and nearly half a million jobs in auto-related industries that have been lost. It is vital that we in the Congress, develop a national strategy to alleviate the burdens of the unemployed.

Another area of concern is the increasing number of older plants being abandoned by the industry in our urban areas. We must develop a program where these older plants could be rehabilitated and revitalized so as to become an asset rather than a liability to the community.

In the final analysis, a number of proposals and programs have been advanced to spur industrial growth; programs which will increase private and public sector investment and that will encourage rehabilitation of existing facilities, as well as investment in new plants and equipment. I believe the President's program announced last Thursday, August 28th, 1980, is an important step in providing for America's industrial revitalization.

I would now like to take time to focus on the situation in the State of Missouri, and more specifically, the automobile manufacturers in St. Louis.

The state of Missouri ranks second among the states in the production of passenger cars and third in the production of trucks. Between May of 1979 and May of this year, employment in the production of motor vehicles and equipment went down from 41,000 to 23,100.

My own home area of St. Louis produces more cars and trucks than any other urban area except Detroit. At present, there are about 14,000 persons employed in vehicle assembly and parts production in the St. Louis metropolitan region. That is down from 28,500—a 50 percent drop—since 1977 and 1980.

You can see why I am extremely concerned about the difficulties facing the American automobile industry.

We have factories of all the big three auto producers in the St. Louis region, and employment at all three is down drastically.

Chrysler closed down its truck line completely this summer, eliminating 2,100 jobs. More than 1,800 workers had already been laid off there. We are hoping it will be reopened, but that does not seem to be likely any time soon.

Both Ford and Chrysler have eliminated second shifts on their auto assembly lines, costing us another 3,000 jobs.

Our Chevrolet plant is pretty well shut down until a new plant is finished in another part of the St. Louis area. Even when that plant starts up, there will be fewer jobs than at the old plant . . . and the Corvette assembly operation is moving out of the area entirely after next year, eliminating 1,450 jobs.

Another concern in my district is what is to be done with the old Chevrolet plant that General Motors is about to vacate. Those of us in the Congress might want to consider whether it would be a good idea to offer some federal assistance in rehabilitating such property for some other job-producing activity.

That is the situation in my home area, and it is a bad situation.

Mr. Chairman and fellow Members of the Congressional Auto Task Force, that concludes the remarks of my opening statement.

STATEMENT OF MAYOR JIM CONWAY

Mr. Chairman, Honorable Members of the Ad Hoc Auto Task Force, I'm Jim Conway, Mayor of the City of Saint Louis, and I want to express my appreciation to you for inviting me to appear before you today. I'd like to take just a few minutes of your time to talk to you about the current state of the American automobile industry in the context of that industry's primary environment—the older major industrial cities of the Northeast and Middle West.

Saint Louis has been this country's second largest automobile manufacturing center for many years, but recent events suggest that by 1985 or 1990, this may no longer be the case, unless we as public officials take quick and decisive action. Such action must include both incentives for reinvestment in, and retooling of, existing plant facilities, and disincentives for ex-urban relocation. I know this to be true owing to my recent experience with the General Motors assembly plant in the City of Saint Louis.

That facility, located on our city's north side, which at peak has employed 10,000 plus workers, will close sometime within the next two years, to coincide with the opening of a new plant some thirty miles away in rural Wentzville, Missouri. While I am glad that the State of Missouri was able to retain General Motors, I have to live with the crippling blow this move has dealt to the City's fragile economic base, and I strongly believe that this type of plant relocation runs totally counter to the national interest.

There is no doubt that our country's mission over the next decade will be to effect what has been popularly dubbed "reindustrialization"—the retooling and modernizing of our plant, equipment, and production techniques—so that we can continue to compete effectively on the world market. To go about this task by encouraging the abandonment of literally billions of dollars in existing physical plant and public infrastructure would, however, be not merely shortsighted, but in the final analysis ineffective in bringing about a true economic recovery. We in this country are finally coming to grips with the necessity to conserve energy in all its forms. The broad mandates of energy conservation are that we cannot continue our wasteful process of casually discarding the old for the new, our reluctance to assess the cost of long-distance employee commuting, our seeming willingness to abandon a skilled workforce. We must rather remodel, renovate, retrain and maximize the use of the massive investments of energy, materials and talent we have made over the years.

Industry must enter into a truly meaningful partnership with the community to accomplish our nation's economic and social goals. Frankly, my disappointment with Generals Motor's actions toward the City of Saint Louis during the last year stem in great part from that corporation's apparent lack of willingness to join just such a partnership with us. On the contrary, the story of General Motors' dealing with the public officials of the City of Saint Louis over the past eighteen months is one of bad faith on their part.

In March of 1979, Tom Murphy, Chairman of GM, came to Saint Louis to announce GM's decision to move its Corvette operations from Saint Louis to Bowling Green, Kentucky. To soften that blow, he also announced that the company planned to invest $100,000,000 to modernize its other facilities at its City location on Union and Natural Bridge. To this end, the City committed to the assembly of 44 acres adjoining that site for purposes of GM's supposed plant expansion. Consultations between GM real estate personnel and the City got underway immediately and were continuing right up to January 31, 1980. Never once did GM indicate it had changed its mind on this expansion program until I and the media were handed a press release on that Thursday, January 31, 1980, announcing the phasing out of the GM plant in our City.

Starting that very day, we began to move to make available to GM a city site meeting their requirements, to the extent, of course, that they were willing to make those requirements known to us. While I am proud of the job we did, I knew from the start that the prognosis for success was very poor. GM's program had clearly been planned for quite some time, and a decision had already been made. All of us are naturally quite reluctant to admit that we may not have made the best decision possible once that decision has been publicly announced.

Had city officials known of GM's needs sufficiently early in the planning process, I am confident that we would have had at least a reasonable chance of selling our proposal. And while we had planned for several years to acquire and make available for industrial development the 44 acres adjoining the existing GM facility, I doubt that we would have prioritized the expenditure of the $1,000,000 to make it happen when we did, had GM not requested us to work with them on their supposed expansion. We obviously are faced with the need to target every scarce public dollar for our most pressing problems, and in all probability, we would have elected to hold this particular industrial land project on the back burner a little longer.

I have been deeply disturbed as well by the use of public funds to accommodate GM's ex-urban plant facility. While proponents of the relocation made numerous assurances that any and all necessary transportation and other infrastructure improvements at and around the site would be made either at GM's expense or through the issuance of county bonds, it seemed clear then and is proving to be the case now that the magnitude of improvements necessary could not be financed completely on the local level, nor would GM assume non-plant costs.

A case in point. We in the Saint Louis community have attempted for many, many years to convince our State Highway Department to complete two vital road projects—the reconstruction of the Vandeventer Overpass on U.S. Highway 40, and the completion of the Innerbelt Highway between Highway 40 and Interstate 270. The delays, backsliding, excuses and apologies we have received from the State fill several files. Most recently, we have consistently been told that these projects are the State's number one priorities and have not been completed only because of the Highway Department's severe shortage of funds. Yet several months ago, I, as a member of the board of directors of our metropolitan planning organization, was confronted with a request from the State for amendments to the highway work program, namely, including major improvements to Interstate 70 and Highway 61 in the vicinity of the new GM plant at Wentzville, and the expediting of a long-dormant project to construct a new bridge over the Missouri River on Highways 40-61 leading to Wentzville. Clearly, this is partly a matter of state priorities, but I wish to point out to this distinguished committee that the funds in question are federal funds, and to my mind, they are being spent in a manner totally at odds with the President's Urban Policy.

I am aware as well that at the time when General Motors needed source permits for air emissions at the new location, the State of Missouri's State Implementation Plan in terms of what are called PSD regulations had not yet been approved by the Environmental Protection Agency. Our State Air Pollution Control Division and EPA moved in what may well be record time to issue major source permits for GM within 45 days. In doing so, the State made a number of quick concessions to EPA on points at issue relative to the State's overall plan to regulate stationary sources, and now those concessions, after having been made to accommodate General Motors, are beginning to have significant repercussions on other industries throughout the City and State.

Again, I must emphasize that I'm not interested in indulging in some kind of community self-pity, or in doing anything whatsoever to thwart the construction of a new G.M. plant in our state. The City put forth its best effort in difficult circumstances, and the decision has been made. On the other hand, I cannot stand idly by and permit City and regional priorities to suffer as a result.

Saint Louis will recover from the loss of General Motors, but the recovery will be lengthy and difficult. The direct effects to city revenues are devastating and the spin-off loss from suppliers and support businesses virtually incalculable. In gasoline usage alone, we as Americans may be using 5.6 million additional gallons of fuel per year as a result of commuting to the Wentzville General Motors site. This would be an ironic waste of energy, particularly when auto producers are gearing up for production of smaller, more fuel-efficient automobiles. Of course, this additional gasoline usage is projected based on the assumption that a fair number of City residents will be able to retain their jobs. I personally feel that this may not be the case—the costs of either long-distance communting or relocating one's family will in many cases simply be too great.

Hardest hit will be the black community of North Saint Louis, which now relies heavily on the General Motors plant for employment. At maximum capacity, GM employed 3,500 black skilled and semi-skilled workers whose average educational level is twelfth grade. It is nearly impossible for the City of Saint Louis to place these workers in productive jobs given the already high unemployment rate (nearly 40%) for blacks 18 to 35 years of age. There will inevitably follow serious erosion of our recent hard-fought gains in improving black neighborhood stability and residential conservation.

I do not come before you today to suggest that we ought not to assist the nation's automobile industry to meet head-on the threat of foreign competition. I am, in fact, a strong supporter of recent proposals to encourage retooling and plant modernization through the granting of accelerated depreciation and other targeted tax considerations. Large numbers of Chysler and Ford employees, as well as those of General Motors, are currently laid off in the Saint Louis community, and the future of those plants is very problemmatic. The frame plant in nearby Granite City has closed for good, and there is every reason to believe that numerous support and supplier industries, such as Carter Carburetor, are in jeopardy. I am a member of our state's "Support Chysler Committee," and I plan to continue my active involvement with reasonable and thoughtful programs for putting this country's automobile industry back on its feet. Such actions are vital to this nation's overall economy and vital to the economic well-being of countless millions of American families, including my own. My father helped to organize the Saint Louis General Motors plant for the United Auto Workers and was employed there for over forty years. I worked there myself during high school, and following high school, attended the General Motors Institute until the time when I was required to enter the United States Army to perform my military obligations. Dozens of my friends and relatives depend either directly or indirectly on the local automobile industry for their own and their families' livelihood.

I do want to urge you in the strongest possible terms, however, to develop a plan of action which will incorporate revitalization of the auto industry into the overall framework of urban conservation, urban economic stimulation and recovery, prudent management of scarce resources, and the provision of job opportunities for minorities and the economically disadvantaged who are concentrated in our older urban centers. We must begin to work more closely together—industry, labor, government—to achieve the economic renaissance of this country and the cities where the majority of our citizens live and work.

Thank you very much for your time and interest. I'd be pleased to answer any questions you may have.

STATEMENT OF CLYDE WISEMAN

Thank you, Representative Young.

Mr. Chairman and members of the task force, I am Clyde Wiseman, urban affairs director for the St. Louis Regional Commerce and Growth Association. As such, I supervise the organization's cooperation with elected officials like Representative Young and with various government agencies whose actions affect our members.

Our thanks to you for demonstrating concern for the difficulties the automobile industry slump is causing communities across the nation.

Representative Young has told you of the drastic drop in auto and truck assembly and parts manufacturing employment in our region. We figure that every assembly line job means 1.67 additional jobs elsewhere in our regional economy, so the loss of 10,000 assembly jobs means a total of 26,700 persons eventually out of work. We estimate the cost to local businesses of that kind of displacement at $3 billion and the loss of personal income at $380 million on a yearly basis.

I am not here to tell you that St. Louis is going to fold up because of conditions in the auto industry. We are fortunate in having a widely diversified economy and we have weathered slow-downs in motor vehicle production before.

However, we are hurting and hurting badly. Even though we have nearly a million job-holders in our region, a loss of more than 26,000 paying positions can be felt throughout any community.

Not only are personal incomes affected, our local governments find their tax revenues decreasing while pressures on public services increase.

We hope that this task force of concerned legislators can take some proposals to the Congress which would help our region over the worst of the present difficulties.

Mr. Chairman, I'd like to suggest for your consideration several things that might help the motor vehicle manufacturers and their workers. And if you will allow me, I would like to point out that these measures would help more than just the auto industry, whose problems may differ from general business problems more in their intensity than in their quality.

The St. Louis area has long been a manufacturing center, but we have been losing manufacturing jobs for several decades now. In the prosperous year of 1967, our region had 294,000 persons engaged in manufacturing work. In the prosperous first half of 1979—before the auto industry slump—that number was down by 34,000 to 260,000.

Part of the problem is the age of our plants and machinery. We are an old industrial city, and as you know, the most efficient plants are the new ones. Yet there have been disincentives in our tax laws to make capital investments for more productive facilities.

There has to be declaration of national policy recognizing the free enterprise system as an essential natural resource. A commitment is needed to a partnership of business, labor and government. The need for reindustrialization could provide the national sense of purpose that has been so lacking in our country.

The time has come when the federal government must change its policies to encourage capital expenditures, through tax abatements and depreciation allowances, if we are to accomplish the necessary retooling of American industry. Besides abatements, incentives and more favorable depreciation allowances, immediate tax relief is needed for an economic stimulus.

Imports hurt more than the automobile industry. In our area, the shoe manufacturers are the outstanding example of an industry drastically cut back because of foreign competition.

We feel strongly that our friends in Japan and elsewhere should be encouraged in a very firm way to build automobiles in this country. They know they have a market here. Providing jobs for some of the American workers displaced by their success in the American marketplace would not only seem fair but would seem to be in the interest of the foreign manufacturers.

Some of the very stringent and expensive requirements imposed on the auto industry by federal regulatory bodies should be relaxed or extended in time to help our auto manufacturers through this problem period.

Government regulation, it has been estimated, added an average $666 to the cost of each car in the 1978 model year.

And on that subject, it is well to keep in mind that regulations are adding to the cost of virtually every product. The average consumer pays $500 more a year because of government regulations, according to an estimate.

Small businesses file 305 million federal forms a year at an average cost of $1270 per business; a study of 48 large companies in 1977 showed they spent $2.6 billion, almost 16 per cent of their after-tax income, on direct costs of government regulation.

Gentlemen, we are placing a very heavy burden on our American businesses. We would like to see the government cooperate with business a bit more enthusiastically. While some regulations are necessary, overregulation simply adds to business failure and increased unemployment.

We have proposed to our Congressional delegation that a comprehensive review of the Clean Air Act be undertaken by the 97th Congress. The economic impact of all regulatory activities must be taken into consideration and recognition has to be given to the fact that nothing worthwhile can be accomplished without an element of risk.

Mr. Chairman, we would also like to suggest that some of the federal money now being channeled into job training programs be earmarked for the retraining of workers who, because they are neither unskilled nor poor, are ineligible for present programs.

A good many of the jobs related to auto production in the St. Louis area seem to be gone for good. The A. O. Smith Corporation has just closed down a plant in nearby Illinois which made frames for large automobiles. The down-sized cars now being produced have integrated frames and bodies, so A. O. Smith's local market has dried up. Sixteen hundred people are out of work as a result—1400 of them production workers.

These are good, smart, experienced workers, but there is little demand for their particular skills now. This is the human side of economic change and dislocation. Almost equally depressing are the shells of antiquated, noncompetitive plants that have been abandoned in older manufacturing centers like St. Louis. Assistance is needed to remove existing buildings and rehabilitate the sites to attract new job-producing investment.

Finally, we in St. Louis, consider inflation to be a tragic economic result of present national policies. Government spending has to be brought into perspective with our national income. We suggest that lessening of government regulation would not only reduce the cost of government but would contribute toward reduction of our sagging productivity rate in the private sector.

Once again, thank you for giving us an opportunity to express our concerns to you. We have every confidence that the American automobile industry—and American industry in general—can meet the challenges they now face. The sooner we can help them adjust and retool for the future, the sooner the challenge will be met successfully. The challenge is one that needs and deserves the dedicated commitment of all segments of society.●

JOEY ADAMS—HUMOROUS HUMANITARIAN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. BIAGGI. Mr. Speaker, over two centuries ago in 1712 Joseph Addison, the distinguished 18th century English literary figure, wrote in his book, "The Spectator," that man is distinguished from all other creatures by the faculty of laughter. In medieval times court jesters were called in to bring joy and diversion to communities obsessed with the black plague and other crises. During our own country's devastating depression in the 1930's, comedians such as W. C. Fields and Laurel and Hardy brought laughter to millions caught in the grip of economic catastrophe. In recent times one man has stood forth as America's champion of good will, traveling across the globe to bring humor and joy to millions. That man, whom we honor today, is Joey Adams. For almost a quarter of a century as Ambassador for three Presidents, star of night clubs, author, humanitarian, Mr. Adams has won the love and admiration of his fellow Americans and people across the world.

Mr. Adams greatest service to the world and to his country began in 1961 when he suggested to President Kennedy that a group of entertainers be sent around the world as part of a deliberate American foreign policy of good will. The White House and the State Department saw infinite possibilities in Adams' suggestion and Kennedy sent him, with a delegation of 23 Americans, to the Middle East and to Asia. Adams' tours brought him to a wide variety of countries—Afghanistan, Thailand, Cambodia, Laos. Everywhere his appearance was hearalded as stupendous; his work, indeed the entire trip, was termed an unqualified success. Delighting audiences with his wit, Adams prompted Indonesia's Prime Minister to remark that "if the price of rice goes up, the people of Indonesia will revolt, but if the price of Joey Adams' show goes up, people will pay it gladly." Adams himself commented on the good will and warmth toward America he saw while on the tour: "Everywhere we put our hand out to the people they took it and shook it. There were no Yankee go home signs, not one." Since that first trip, Adams has served as such a good will ambassador for three Presidents. He has toured the world for the armed services and has represented the State Department on tours of South East Asia, India, and Africa. In an era of declining respect for America abroad, an era in which so many countries are turning to the Soviet Union or to the nonalined block, Adams has done much to solidify support for our country and restore love and laughter to a world plagued with crises.

Praised by Congressman Seymour Halpern in 1962 as "a man of rare ability and great warmth," Mr. Adams, a close personal friend, has been one of the great humanitarians of our times. Born himself on New York's East Side, he has never lost his deep compassion for the poor, the homeless, the oppressed. While on tour he and his wonderful wife Cindy have visited orphanages, hospitals, and children across the world. Several years ago, Cindy told a reporter of the difficulties she and Mr. Adams have endured just to bring their message to the heart of the poor in the far East: "Many times we had no hot water, no electricity; we tramped through mud in evening gowns to get to our stages." As president of the American Guild of Variety Artists, Mr. Adams has done considerable work to fight juvenile delinquency. Describing the role of the organization as acting as "middleman for God," Mr. Adams has brought special shows to schools in juvenile delinquency areas, entertaining the children and teaching them the crafts of show business. He has been founder and chairman of two great humanitarian programs—the Actor's Youth Fund of America and the Senior Citizens of America. In short, Mr. Adams is a lover of mankind, a compassionate humanitarian, whose work for the good of all will not soon be forgotten.

Mr. Adams is well noted for the unique personal touch that makes everyone love him. During a show in New Delhi on one occasion, a fight erupted between an American and an Indian over the last of hundreds of red, white, and blue balloons. Joey personally took both combatants backstage in the middle of the performance and gave each his own balloon. Another time his presence so moved a group of 600 children at an orphanage in Saigon that they stood up and sang "God Bless America" in English. As has so often been noted, Joey's lovely wife Cindy has delighted audiences in many lands by insisting on introducing the acts in the native tongue. In all, both Joey and Cindy Adams have added that special touch that has made so many friends and won the hearts of people both at home and abroad.

Revered worldwide, Mr. Adams is held in special esteem in his hometown of New York. He often refers to himself as the adopted son of former Mayor Fiorello La Guardia. Indeed it was his special relationship with the "Little Flower" that introduced Mr. Adams to the political arena and that instilled in him a deep love for New York and all her people. Today, 35 years after La Guardia left the scene, the late mayor is enshrined among those who have made America great. Joey Adams too has become a part of the La Guardia legacy, carrying on the noble tradition—of humor, public service, devotion to the "Big Apple" and all it represents.

In addition to his work as diplomat, New York City public servant, and world humanitarian, Mr. Adams has written an enormous number of books, with titles ranging from the "Encyclopedia of Humor" to "Laugh Your Calories Away." He has starred in "Guys and Dolls" and the "Gazebo," has produced his own motion pictures, and has a daily radio show on WEVD as well as a syndicated column that appears frequently in the New York Post and in newspapers across the world.

On a purely personal note, I must add that Joey Adams has always shown me the deepest kindness. He is always willing to help on very little notice. Every year when my friends gather at a testimonial luncheon, he serves as the master of ceremonies. He has added such warmth, such exuberance, and wit to each affair that he has become an integral part of the tradition. Indeed, it may truly be said that the annual event would not be the same without him. As Congressman Halpern said in 1962, Joey Adams "is more than an entertainer. He is gifted with charm, dedication, and a seemingly endless storehouse of energy."

Over the years, Mr. Adams has been honored in a myriad of ways for his service to his country and to all the people of the world—as "Man of the Year" by the March of Dimes, as "Trouper of the Year" by Show Business, and as "Scout of the year" by the

Boy Scouts. He has received thousands of awards from charities and philanthropic organizations for his famed humanitarian efforts. Today, it is my proud privilege to honor him once again: Joey Adams—Ambassador of Good Will, humanitarian, dear personal friend. In closing my remarks about this great American, Mr. Speaker, I shall remind us all of what the late Adlai E. Stevenson once said of Eleanor Roosevelt, a tribute we apply today to Joey Adams: "He would rather light candles than curse the darkness, and his glow has warmed the world."●

RULE ON BUDGET RECONCILIATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. DORNAN. Mr. Speaker, we are all concerned with the integrity of the budget process. The underlying reason for this concern is the control of Federal spending. Reconciliation is an important component in the effort to reduce expenditures, but H.R. 7765 permits an increase in spending of over $3 billion over the next 5 years. The purpose of the reconciliation process is to require fiscal austerity, not provide an opportunity for additional spending after the budget resolution is passed.

If a proposal is made to increase Federal spending, let it be made in an authorization bill. The reconciliation bill is not the legislation to increase funding, it is the legislation to cut expenditures.

I oppose the adoption of a closed rule on the reconciliation bill not because I oppose reconciliation—I support it—but because I cannot support this legislation which is being used to increase revenues.

The defeat of the closed rule would bring to this body the opportunity to display some real fiscal restraint in the form of an amendment providing for a responsible reduction in tax rates and depreciation reform.

I have spoken often on the House floor of the need to revive this economy with a reduction in the taxes that are discouraging production in our country. Defeat of the closed rule is our opportunity to demonstrate a real commitment to the spirit of reconciliation and vote for a tax reduction. The major issue here, and the major issue for this session, is Federal spending and let us not forget it. If we are to maintain the trust of an electorate that is looking for economic relief, we must allow the tax cut amendment to the reconciliation bill.●

THE DORNAN AMENDMENT TO H.R. 8061

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. BIAGGI. Mr. Speaker, during yesterday's consideration of H.R. 8061—the District of Columbia Appropriations Act—an amendment was offered to bar the use of those funds to pay for any abortions. I joined the majority of my colleagues in defeating this amendment, and I wish to discuss my reasons for taking such action.

First, it is important to understand that this amendment was far different than the so-called Hyde amendment which has been attached to various authorizations and appropriations measures. The difference is very fundamental. Under the Hyde amendment, Federal financing of abortions is prohibited except when the life of the mother is endangered by carrying the fetus to term. The amendment offered yesterday by Mr. DORNAN did not contain this most essential and humane feature. To me, that omission was critical and as a result, I could not support the Dornan amendment. I was gratified that the House eventually adopted a compromise amendment offered by Mr. ASHBROOK which more closely reflected the sentiments of those of us who have long supported the prolife movement as contained in the language of the Hyde amendment.

In summary, my vote yesterday was consistent with my past record, which reveals that in this Congress alone, I have voted on 10 occasions against the use of Federal funds for abortions except when the life of the mother was endangered. On these occasions, I have remained firm in my opposition to efforts aimed at expanding the conditions under which abortions could be performed.

My views regarding this extremely controversial issue reflect the overwhelming sentiments of my constituents. In a questionnaire which was sent out just 1 month ago, a random sampling shows that 68.5 percent of my constituents support limiting Federal funding of abortions to those instances when the life of the mother is endangered.

I consider it important to clarify my position on the abortion issue and I appreciate this opportunity to do so.●

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. LEHMAN. Mr. Speaker, I am very pleased to report that I am today joining with many of my distinguished colleagues in introducing legislation to establish, as a permanent body, the United States Holocaust Memorial Council.

The Holocaust Memorial Council will have the responsibility to plan and carry out the recommendations of the President's Commission on the Holocaust. The Commission was established by the President on November 1, 1978, to recommend a fitting memorial to all those who perished in the Nazi holocaust as well as other victims of persecution. The Commission recommended to the President that a permanent living memorial/museum to the victims of the holocaust be established, that an educational foundation be established, and that there be created a Committee on Conscience to provide early warning of threats of genocide against any people throughout the world. In addition, the Commission recommended that 1 week each year be designated as "Days of Remembrance" to be marked by a national, civic commemoration and appropriate private and public observances.

Private contributions, Mr. Speaker, will provide most of the funding for these projects. The Holocaust Memorial Council, which was itself established by Executive order as a temporary body, has already established the United States Holocaust Remembrance Foundation, Inc., for the purpose of accepting private contributions.

Mr. Speaker, the establishment of a permanent Holocaust Memorial Council to plan and oversee the construction and operation of a memorial museum and to oversee the implementation of the other recommendations is of great importance, not only to the memory of the victims of the holocaust but to all people who have been persecuted and those who may perhaps escape persecution in the future. While the Council will be concerned with commemorating the holocaust, its work will be dedicated to seeking to prevent genocide directed against any people, anywhere in the world.

For these reasons, I would like to urge my colleagues to join with the 100 Members on the House side who have already sponsored this legislation to establish a permanent United States Holocaust Memorial Counicl.

Mr. Speaker, I would also like at this time to share with our colleagues the letter from President Carter to the Honorable Elie Wiesel requesting Mr. Wiesel to serve as chairman of the Holocaust memorial Council, and the text of an address presented by the Honorable Monroe Freedman, Director of the United States Holocaust Memorial Council, at the May 1980 meeting of B'nai B'rith International in Washington, D.C.

The material follows:

THE WHITE HOUSE,
Washington, D.C., April 18, 1980.

Hon. ELIE WIESEL,
New York, N.Y.

I want you to know once again how greatly I have valued your distinguished service as Chairman of the President's Commission on the Holocaust. Under your guidance and leadership, the Commission has made an invaluable contribution to our country and to the memory of the six million Jews who perished in the Holocaust, and the other victims of Nazism in World War II.

I have been gratified by our developing friendship, and deeply touched by the opportunity to broaden my awareness and perception of the Holocaust—a period of darkness that revealed the most profound evil and the highest spirituality that the human soul is capable of achieving.

In order to carry out the Commission's recommendations, I have now established the United States Holocaust Memorial Council. Specifically, the Council will be responsible for the establishment of an appropriate memorial museum, an educational and research foundation, and a Citizens Committee on Conscience to commemorate the Holocaust.

I think it is essential that these projects recognize the distinctively Jewish nature of the Holocaust. As you so eloquently wrote in submitting the Commission's report, while not all victims were Jews, all Jews were victims, destined for annihilation solely because they were born Jewish. Of course, it is also important to take into account, as the Council's work proceeds, that there were Nazi atrocities committed against other nationalities and ethnic groups in all of the occupied countries of Europe.

Although the Holocaust took place in Europe, the event is of fundamental significance to Americans for at least three reasons. First, it was American troops who liberated many of the death camps, and who helped to expose the horrible truth of what had been done there. Also, the United States became a homeland for many of those who were able to survive. Secondly, however, we must share the responsibility for not being willing to acknowledge forty years ago that this horrible event was occurring. Finally, because we are humane people, concerned with the human rights of all peoples, we feel compelled to study the systematic destruction of the Jews so that we may seek to learn how to prevent such enormities from occurring in the future.

I am pleased to invite you to serve as Chairman of the Holocaust Memorial Council. In view of your previous service and your extraordinary record as a survivor, witness, author, scholar, and teacher, it is uniquely appropriate that you once again assume the responsibilities of leadership in this vital mission.

As always, you will have my strongest personal support.

Sincerely,

JIMMY CARTER.

The Particular Holocaust

Two years ago President Carter established the President's Commission on the Holocaust, under the chairmanship of Elie Wiesel. In September 1979, that Commission fulfilled its responsibilities by presenting to the President its Report and Recommendations. The Commission recommended a permanent memorial/museum to the victims of the Holocaust, an educational foundation, and a Committee on Conscience, to monitor and provide early warning against threats of genocide worldwide. Funding is to be primarily through private contributions. The present body, the United States Holocaust Memorial Council, was established by a second Executive Order to seek legislation to carry out the Commission's recommendations.

In forming the Holocaust Memorial Council, President Carter noted the reasons that the Holocaust is of fundamental significance to Americans, and why there should be an American commemoration of its victims. It was American troops who liberated many of the death camps and exposed the horrible truth of what had been done there. Also, the United States subsequently became the homeland of many survivors. The President noted further that Americans must bear responsibility for not being willing to acknowledge 40 years ago that the tragedy was occurring. Thus, thousands of refugees were turned away from our shores, and countless thousands of lives were lost that otherwise could have been saved. Further, Americans are a humane people, concerned with the human rights of all peoples. In studying the systematic destruction of the Jews by the Nazis, the President added, we can seek to learn how to prevent the recurrence of genocidal threats against any national or ethnic group.

The original Commission recognized at an early point, however, that the Holocaust could not be appropriately memorialized—historically, logically, or morally—as an event unrelated to Nazi atrocities throughout the occupied countries of Europe. In addition, the earlier annihilation of one and one-half million Armenians is a relevant, significant precedent for genocide unrestrained by a community of nations claiming to be civilized.

Moreover, just as the Armenian genocide should have become an object lesson to the world, rather than a precedent for brutality unrestrained, so the Holocaust must provide lessons to humanity of the individual, national and international moral responsibility for such catastrophes as we have subsequently witnessed in Bangladesh and Nigeria, and are witnessing today in Cambodia.

Just as it would be illogical, unhistorical, and immoral to commemorate the Holocaust unrelated to historical precedent and context, and without regard to the continuing confrontation with genocide, so too would it defy logic, history, and morality to deny what the Holocaust itself was. As recognized in literature, philosophy, and theology (and even on television), the Holocaust was the annihilation of six million Jews as a formal, systematic act of state, pursuant to what the Nazis referred to as the Final Solution of the Jewish question. The event was all the more ghastly because it was committed by a modern European country with an extraordinary history of achievement in science, the arts and philosophy. Indeed, those very achievements, which might have been expected to provide a civilizing bulwark against bestiality, were put to work to expedite the mass slaughters, to ease the consciences of the slaughterers and even to attempt to rationalize and to justify the evil. And through the years of anti-Semitic race laws, persecution and extermination, the world acquiesced in its silence and inaction.

To say, therefore, that the Holocaust was unique, and that its victims were Jews who died as Jews because they were Jews, is to recognize a horrible historical truth. Surely, however, that observation does not denigrate in the least the sufferings of other peoples. For just as each person is unique, so is each people, and the calamities of each people, unique. To say that is to emphasize, not to deny, our common humanity.

It has been suggested, however, that a commemoration of the Holocaust—even in its historical context and with full recognition of its universal implications—is somehow inappropriate, unless the Holocaust is to be redefined as an event involving not six million Jews, but eleven million civilians. That is, the Holocaust, it is suggested, should be universalized, not only in its implications, but also in such a way as to deny that it was, fundamentally, the policy and execution of genocide against the Jewish people. As the universalist view has been expressed, rhetorically, are Jewish lives more precious, or more deserving of commemoration, than are those of other civilian victims of Nazism?

Of course not. And, as I have already emphasized, other victims of Nazi atrocities will, unquestionably, be a significant part of any United States Holocaust Memorial. Accomplishing that, however, does not require either a redefinition of the Holocaust, or a falsification of the historical fact of the Final Solution, or a denial of the uniqueness of the Jewish experience that the Holocaust represents.

That suggests no lack of compassion, much less disrespect, for others who have suffered. Indeed, the extreme universalist position succumbs ineluctably to the logic of its own rhetoric. If commemoration of the Holocaust is somehow ethnocentric, and implies lack of compassion for others, then where, rationally or morally, is the stopping point? How can we be so callous as to exclude the civilian victims of the Nazi firebombings of London? And indeed, why should a memorial be limited to civilians? Are their lives somehow more precious, or are they more worthy of being commemorated, than are the young men who were drafted into military service to be killed before their time? Moreover, what of the civilians on the other side? Are we to deny, for example, the humanity of those who perished so horribly in the destruction of Dresden? Indeed, why are those who died during World War II more worthy of remembrance than those who died in other wars—or in peacetime, for that matter?

Where, indeed, is the rational or moral stopping point? Once one starts trying to impose a sense of guilt for commemorating a particular group of victims, there is no valid justification to stop short of all humankind.

For the reasons stated earlier, it is clear to me that the Jewish victims of the Holocaust are entitled to particular recognition. Moreover, they died as Jews, because they were Jews. I am offended, therefore, by efforts to strip them of their Jewishness. I understand that there are religious groups who posthumously convert people to their faith. In a sense, the insistence of referring to six million Jews as an indistinguishable part of eleven million civilians is a similar effort—if not of conversion, then of posthumous assimilation.

If we are to have a philosophical objection to commemorating the Jews of the Holocaust, then I am afraid we must also rethink other particularist causes, such as our support of Soviet Jewry. What, for example, if one were to argue as follows:

People say to me, "We must help the Jews in the Soviet Union," and I reply, "You can't improve the lot of Jews in the Soviet Union until you improve the lot of the whole (Soviet) population."

That is another aspect of universalism. Nor have I fabricated an argument ad absurdum to make the point. That quotation is from a statement by Simon Wiesenthal. As a further example of Mr. Wiesenthal's universalism, we have a full-page ad from the Wiesenthal Holocaust Center. Nowhere on that entire page does the word "Jew" appear, even once. Although I admire much of what Mr. Wiesenthal has done, I cannot concur in his apparent compulsion to assimilate every Jew, living and dead, into the non-Jewish community.

Let me state as a fact, without expressing either pride or apology, that I rarely have been involved previously with particular

Jewish causes, although I have always been involved with a sense of Jewish identity and obligation. Whether black civil rights, the anti-war movement, the rights of indigent criminal defendants, prisoners' rights, women's liberation, affirmative action, homosexuals' rights, the handicapped, union democracy, institutionalized children—even the rights of Nazis to march in Skokie—each was a particular cause. And each, in my mind, has had universal implications.

It is in that spirit that I speak for the integrity of our remembrance of the Holocaust. It was a uniquely Jewish event, and it cannot be understood if we deny that fact. It occurred, however, in a historical context of suffering of millions of others, who cannot, who should not, be ignored. And its implications are, awesomely, frighteningly universal.●

CONGRESS AND THE BUDGET: AN EDITORIAL VIEWPOINT

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. BEREUTER. Mr. Speaker, today's debate on the budget reconciliation measure brings to mind an editorial I read in one of the newspapers in my congressional district. Titled, "Faulty Act," the editor of the Norfolk Daily News discusses the congressional budget process. I found the analysis to be most interesting, and wish to commend excerpts of the editorial to the attention of my colleagues.

With two more months left in the federal fiscal year, experts are guessing that the deficit may turn out to be $60 billion, more than twice as much as originally feared. And the once-projected balance for fiscal 1981 has already disappeared without a dime yet spent or a dollar collected for the period from Oct. 1, 1980, to Sept. 30, 1981.

The resolve to do better about spending has produced little; a Budget Act which Congress heralded as a means to get control of the appropriations process has yielded nothing but more public estimates about the sizes of the deficits.

A Wall Street Journal editorial more than a year ago pointed out the shortcomings of that act. The Journal remarked, "The original idea (of the Budget Act), you may remember, was that unintended deficits resulted because spending decisions were made piece-by-piece, with no overview of the budget's economic impact.

"So the Budget Act provided a mechanism for setting a spending ceiling and a floor before any action on appropriations or taxes. Many people hoped that this would help balance the budget.

"In fact, however, the combined deficits for the three years immediately following the Budget Act turned out to be three times the size of the deficit for the three years prior to the new process. This is remarkable when you consider that the deficits for 1971-73 were, at that time, the largest in our peacetime history and the source of much of the concern that led to the 1974 Budget Act."

The editorial continued: "Performance is worsening rather than improving. Comparing five years each side of the Budget Act shows more than a four-fold increase in the size of the deficit. Why has Congress' budget control process turned out to be worse than no control at all?

"The reason is that the budget committees have defined budget control in terms of Keynesian fiscal policy rather than budget balance. The Congressional Budget Office provides alternative 'low growth' and 'high growth' budgets: the first with small deficits and high unemployment, the latter with large deficits and fast inflation. The committee then picks a middle course as a deficit 'appropriate in light of the economy's need for stimulation,' which happens to provide the spending totals the big spenders want.

"This convenient outcome probably results because the fix is in to begin with. At least in theory, Keynesian fiscal policy is not supposed to justify deficits at every stage of the business cycle, but that is how it has turned out in practice. Deficits are justified in bad times to fight recession. They are justified in periods of recovery in order to keep the recovery going. And they are justified in good times in order to fight off the recession that is predicted to be around the corner.

"House Republicans, who caught on early to the game that still escapes the Senate Budget Committee minority, have been the only threat to the big spenders' control over the purse strings. They have consistently embarrassed the spenders by pointing out that tax rate reductions are a cheaper way than spending increases of providing any deficits deemed necessary to stimulate the economy.●

OAHE

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. DASCHLE. Mr. Speaker, I am introducing today, by administration request, a bill to deauthorize the Oahe unit, James division, Missouri River Basin project, South Dakota. This bill is the result of an agreement between the South Dakota delegation and the administration which will allow the South Dakota delegation to proceed in seeking the authorization of WEB, while at the same time giving the State of South Dakota a 15-month period whereby it can be determined whether an acceptable Oahe deauthorization package which identifies other water projects can be developed.

Text of the amendment follows:

H.R. —

A bill to deauthorize, by request, the Oahe unit, James division, Missouri River basin project, South Dakota

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the construction, operation, and maintenance by the Secretary of the Interior of the Oahe Unit, the James division, Missouri River Basin project, South Dakota, authorized by the Act of August 3, 1968 (Public Law 90-453; 82 Stat. 624), for the purpose of furnishing a surface irrigation water supply and for other purposes, is hereby deauthorized and hereafter is not authorized for construction and is no longer a part of the James division, Missiouri River Basin Project. Any action by the Secretary of the Interior to wholly or partially accomplish the purposes of the Oahe Unit previously set out in the Act of August 3, 1968, shall require further action by the Congress.●

LELAND HAZARD: A RENAISSANCE MAN

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, on Sunday, August 17, 1980, the city of Pittsburgh was saddened by the death of a remarkable civic and business leader, Leland Hazard, 87. Mr. Hazard was largely responsible for one of the country's greatest urban successes, the renaissance of Pittsburgh. It was his concern as a friend and his creativity as a leader and an innovator that provoked the significant growth of urban renewal and brought about a new life for Pittsburgh. His busy and dedicated life encompassed the fields of business, law, literature, art, urban affairs, and transportation. The editorial written in the Pittsburgh Post-Gazette gives a deserving tribute to this great man.

The editorial follows:

HAZARD: A RENAISSANCE MAN

Although the late R. K. Mellon was clearly the business leader of Pittsburgh's Renaissance I, it took a number of others with varied talents to achieve that remarkable urban success.

Without question one of the key persons in that unusual band was Leland Hazard, who died Sunday at 87. Mr. Hazard, then an attorney for Pittsburgh Plate Glass Co., was especially valuable to the cause because of his ability to write clearly and interestingly, to speak in the same way and because he was not afraid of being a controversial figure. A Renaissance man in the customary sense of the word, Mr. Hazard could draw on a wide background of knowledge in law and business, literature and art, history and urban affairs to articulate a philosophical underpinning for the Pittsburgh Renaissance and often personally to spearhead it publicly.

Mr. Hazard won many battles and lost some—notably the Skybus struggle. And his sage criticism of the county for not supporting a metropolitan form of government and his proposals for revitalizing downtown with such innovations as free mass transit, crossover bridges for pedestrians and forbidding truck deliveries except at night unfortunately fell on deaf ears at the time.

But he will be remembered in Pittsburgh not only for his successes as a leader in the Allegheny Conference on Community Development but also for his important role in the founding of public television here with WQED and for his efforts on behalf of the arts. Indeed, in his 1975 autobiography, "Attorney for the Situation," about the only note of criticism of the community's leadership which Mr. Hazard allowed himself to make was some acid comment about stiff-necked bungling by the establishment in losing for Pittsburgh the vast collection of paintings and sculpture owned by G. David Thompson.

An example of the largeness of Mr. Hazard's vision which should remain as part of his legacy to Pittsburgh was his frequent comment about this city's physical renaissance—that it takes more than a park, a symphony concert or a museum to make culture.

"If Pittsburgh is to become pre-eminent in spirit," he said, "she must make herself a place where tolerance is stronger than fear of dissident thought and taste; where untruth will be looked in the face and talked, not shouted, down; where what is right is more searched for than what is wrong."●

BOSTON GLOBE EDITORIALIZES AGAINST H.R. 5615—INTELLIGENCE COMMITTEE'S NAMES OF AGENTS BILL

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. DRINAN. Mr. Speaker, yesterday the House Judiciary Committee gave its approval to H.R. 5615, an Intelligence Committee bill which makes it a Federal crime to disclose the names of CIA and certain FBI agents regardless of whether that information was already in the public domain. The Subcommittee on Civil and Constitutional Rights, after hearings on this proposal recommended making a Federal crime the disclosure of a CIA agent's identity by a present or former Government employee who learned the identity in the course of such employee's access to classified information. This was the approach originally favored by the Justice Department.

The majority of the Subcommittee on Civil and Constitutional Rights, as well as a number of constitutional law professors, urged the committee to reject criminal penalties for the disclosure of information derived from public sources. Our outrage over the disclosure of CIA agent's identities cannot be an excuse for limiting first amendment guarantees of freedom of speech and freedom of the press. I would like to share with my colleagues an editorial on this matter from today's Boston Globe:

THE PENALTY FOR NAMING NAMES

The five-year fight, still unresolved, over establishment of charters for the FBI and CIA have demonstrated clearly the difficulties of resolving the conflicting needs of secret intelligence agencies and the demands of an open society. One aspect of that conflict is highlighted in legislation now before Congress that would make it a crime to publish the names of agents. The idea sounds fine, but as the intelligence committees in the House and Senate have proposed to accomplish it, it could cause a serious abridgement of First Amendment rights.

The issue is due to come soon before the House and Senate judiciary committees, the latter chaired by Sen. Kennedy. They must make certain the First Amendment survives intact.

The notion of making it a crime for a present or former government official, who learned the identity of an FBI or CIA agent through access to classified information, knowingly to reveal that name is entirely sensible. The government needs classified information and has every right to require government officials to keep its secrets. A bill with this narrow focus would be wholly supportable.

But the intelligence committees are seeking to go substantially further. Their proposals would make it a crime for any person using any information, including nonclassified information, to identify a covert agent to any individual not authorized to receive such information. Further, the Senate version of the bill would extend such protection to FBI agents working within the United States and to any foreigner, residing inside or outside the country, who is "a present or former agent of, or a present or former informant or source of operational assistance to an intelligence agency."

The legislation does require that the person charged undertake a "pattern of activities intended to identify and expose covert agents" and that he must have reason to "believe such activities would impair or impede the foreign intelligence activities of the United States . . ." Yet, an investigative reporter or a scholar seeking to trace the role of the CIA in the overthrow of the Allende government in Chile or the involvement of CIA agents in Watergate or the extent of FBI infiltration of the antiwar movement could be prosecuted were he to publish an agent's name. Even an organization policing itself, a church seeking to determine whether its missionaries are in the employ of the CIA, could run afoul of the proposed bill.

Congressional interest in the "names of agents" legislation was reawakened after the Covert Action Intelligence Bulletin, which claims to rely on analysis of public information, published the name of a CIA station chief in Jamaica and his home was shortly thereafter fired upon. The concern on Capitol Hill is understandable.

But outrage over the activities of the Bulletin and others who would strain the limits of America's free-speech rights cannot be the excuse for narrowing the freedom of those who seek to employ those rights constructively. Certainly the appropriate balance between the needs of intelligence agencies and the demands of an open society will not be struck if the intelligence agencies are placed beyond the reach of responsible criticism.●

TRIBUTE TO JAMES A. BYRNE

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. YATRON. Mr. Speaker, I join with my colleagues on this sad occasion to honor a personal friend and fellow U.S. Representative from Pennsylvania, the late James A. Byrne.

For 20 years, Congressman Byrne was a talented, able, and effective legislator whose accomplishments will be long remembered by the people of the Kensington area of Philadelphia, who he represented. As a member of the House Armed Services Committee he was successful in his efforts to keep the Philadelphia Naval Shipyard open, thus, preserving many jobs for the people of Pennsylvania's largest city. He was also responsible for much of the restoration to the Independence Mall area of Philadelphia, an area which is known by most Americans for its importance to our country's historical heritage.

Moreover, Congressman Byrne was respected and admired by his colleagues in the U.S. House of Representatives, regardless of their party affiliation or political inclination. He could always be counted on to speak out for the less fortunate and disenfranchized citizens whose voice is seldom heard in the Halls of Government. He provided these people with representation and they, in turn, developed a confidence and faith in our system of government.

I am privileged to have served with Jim for 4 years in the House where we developed a close friendship. I was also able to witness and appreciate his many unique skills. James Byrne truly distinguished himself not only as an adept legislator, but also as an outstanding citizen of Pennsylvania and the United States.●

ELIMINATE CAPITAL GAINS TAX

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. COLLINS of Texas. Mr. Speaker, great strides forward will be made when Congress reduces taxes. The cut we took in 1979 on the capital gains tax proves the tremendous economic impetus provided through lower taxation. In reading my current Forbes magazine, I saw an excellent advertisement by the W. R. Grace Co. Grace people are strong advocates of free enterprise and graphically showed how equity capital was encouraged with lower taxes. They took companies with a net worth under $5 million and compared them in 1969 when we had a 25-percent capital gains rate and there were 698 stock offerings. In 1975 with a 49-percent rate there were only four. In 1977 with a 49-percent rate there were only 13. But in 1979 with a 28-percent rate there were 46. And momentum is growing.

New jobs are developed when we have capital that can provide modern machinery, better plants, and finance the working capital to produce more.

One of the greatest problems with today's inflation is the fact that taxation is based on the increased price. If you had a stock you bought for $10,000, and a few years later with inflation it was selling for $20,000, the stock might have equal value. But when you sold it, you would be taxed on the inflationary price increase.

Businessmen understand the negative impact of excessive taxation. They agree with Chief Justice Marshall who so wisely said, "The power to tax is the power to destroy." Government does not create jobs. When government pays people, it represents 100-percent tax income from the other citizens.

When industry through capital formation creates jobs, it means we have more people working. Let us take a giant step forward and abolish the capital gains tax.●

CMF FELLOWS PROGRAM

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. LEACH of Iowa. Mr. Speaker, many of us have expressed deep concern over the abuses which have come to light in the area of private-sector contracts with Federal agencies. For that reason, it is a pleasure to learn of organizations which seem genuinely to have the public interest at heart. The Congressional Management Foundation is one such nonprofit, educational foundation which has just recently initiated a fellows program whereby private sector management expertise will be made available to Members of Congress at no expense to the Congress itself. This effort by the CMF which is, I might add, supported by private sector corporations, shows potential for bringing to the Hill greater efficiency and effectiveness in the conduct of congressional operations at all levels. A brief explanation of the task the Congressional Management Foundation fellows program sets for itself follows:

CMF FELLOWS PROGRAM

THE CASE: AN S.O.S. FOR ORGANIZATIONAL DEVELOPMENT IN CONGRESS

The responsibilities of Congress have multiplied tremendously in recent years. As a result, Members of Congress are finding it difficult to meet these increasing demands. For example, between the 84th and the 94th Congresses, the number of committee and subcommittee hearings and hours the House was in session more than doubled. The number of recorded votes increased ten fold. Twice as many bills were introduced during the 94th Congress bringing that session's total to 16,986. During the last six years, the amount of mail received by Congress has grown 400 percent to 53 million pieces annually.

With such an increase in workload, it is logical to assume that the institution of Congress also changed to accommodate these heavier responsibilities. Unfortunately, the facts prove otherwise. Studies indicate an organization in disarray. Between January and May 1977, 14,482 committee meeting conflicts occurred. During the ten busiest days of meetings, 91 percent of the representatives had at least one meeting conflict. One-third of the Members of Congress told the Commission on Administrative Review they have problems assessing the national or local impact of pending legislation. Forty percent cited difficulty gathering information concerning existing needs, past efforts or other proposals that are reported from committees on which those Members do not sit. Nearly two-thirds of the Members have trouble recruiting, training, and managing personal offices and staff.

Why does this situation persist? Most politicians lack experience and training in the use of management techniques. Many of the management tools that have proven themselves in the private sector are surprisingly absent in Congress. Words like accountability, goal setting, performance review, delegation of authority and even planning are rarely mentioned in House and Senate offices.

Not only are these techniques under-utilized, but our system of elections fails to promote organizational development. There is no built-in accountability for the overall performance of Congress, but rather 535 different individuals from separate districts. The election of individual representatives has not proven to be an effective vehicle for expressing the voter's frustration with the performance of Congress as a whole. During the 1976 elections, public opinion polls showed that three out of every four people were dissatisfied with the performance of Congress, yet 96 percent of all incumbents seeking reelection were successful.

It is obvious that we must go beyond the election process if we are to address the organizational inadequacies of Congress as it is presently functioning. The impact on our lives of the decisions made in Congress is too great for us to allow the perpetuation of a legislative body in disarray. When Members complain of being inadequately informed, cast votes on bills with which they are totally unfamiliar and find it virtually impossible to initiate any long-range planning or effective federal program oversight, the risks become too great.

THE PROJECT: AN EFFORT USING THE RESOURCES OF THE PRIVATE SECTOR TO IMPROVE THE PERFORMANCE OF CONGRESS

In January, 1977, the Congressional Management Foundation was established to work in and out of Congress to improve the operations of Congress. During the last three years, over three hundred congressional offices have benefited from seminars, retreats, individual consulting and publications. CMF has gone a long way towards building a receptivity in Congress for new, improved techniques for meeting the overwhelming workload.

But CMF is presently not doing enough. The problem is too great and CMF's resources too small. To help meet this challenge, CMF is initiating the CMF Fellows Program involving business, labor, and academia in specific projects to improve management techniques in Congress. This program is an opportunity for corporations and other organizations to play a direct role in improving the effectiveness of Congress, while, at the same time, gaining a better understanding of how to communicate and work with the federal legislature.

The CMF Fellows Program will provide management research and technical assistance on methods for improving congressional operations. The program will involve nine projects during the first year. Each project will investigate a specific management problem through the use of three to seven-person teams. Corporate, labor and academic representatives, as well as CMF staff, will comprise each team. Each project will take between five and fifteen days to complete. Examples of probable project areas include time management in the congressional setting, personnel problems and solutions, computer applications in a congressional office, establishing an efficient filing system, decision-making models in the public sector, paper flow, and coping with stress as an elected public official.

Each project will culminate with a confidential management report for participating congressional offices and a training seminar and written report for all Members of Congress. The CMF staff has gained a special understanding in our daily work with congressional offices. We are uniquely equipped to apply the fresh, objective perspective of outside management experts to the political setting.

This program offers several substantive benefits. Members of Congress will receive new ideas on methods to improve congressional operations. Business, labor and academia will gain a better understanding of the uniqueness of Congress and how to work with the institution. The CMF Fellows will find this project a new and interesting challenge and a motivating diversion from their on-going work. The program will inform Members of Congress that private sector leaders care about our system of government and want to do their part to help make it work.

THE STRUCTURE: ORGANIZING THE CMF FELLOWS PROGRAM

A special Board of Trustees comprised of leaders from business, labor and academia will initiate the project. This Board will appoint a Management Committee which will review all project proposals and assist in recruiting organizations to participate. The Management Committee will meet twice each year to oversee the project. CMF's Board of Directors will retain all financial liability for the CMF Fellows Program and the CMF staff will be responsible for the day-to-day implementation of the program.

Funding grants will be required to begin the CMF Fellows Program. The initial year will require a budget of $57,050. This will cover the cost of reports, follow-up seminars, CMF staff coordination, project design and implementation. Each organization will be responsible for the expenses of its individual participants.

Following the first year, the CMF Fellows Board of Trustees will host a Good Government Day and Dinner to support the program. This event will consist of a day of workshops designed to improve the working relationships between the private sector and Congress. During the evening, a dinner will bring together Members of Congress and organizations from across the country to enhance the spirit of cooperation between the public and private sector.

The Congressional Management Foundation is the only organization in a position to successfully sponsor a project like the CMF Fellows Program. Through CMF's work in Congress, and through our Charter Associate Program for corporations, CMF has earned the respect and trust of both groups. CMF is unencumbered by partisan or ideological bias in either Congress or the private sector. As an independent, non-partisan organization, CMF does not report to, work under, or answer for any particular Member of Congress or congressional committee. Functioning as an objective third party, CMF has no other agenda than that of helping Congress become better able to meet the legislative needs of our nation.

CMF is a 501(c)(3), tax exempt, non-profit educational foundation.●

FURTHER FUNDING URGED FOR SENIOR CITIZENS

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. HOPKINS. Mr. Speaker, recently we had a valuable opportunity to benefit older Americans so that they may be self-sufficient and secure from the threat of being institutionalized. This opportunity was provided when the House passed H.R. 7998. I was particularly pleased that the House appropriated $10 million over the $247 million recommended by the second budget resolution for title III-B of the

Older Americans Act of 1965 as amended.

Title III-B provides essential services for senior citizens: services for health, continuing education, and recreational, services for transportation that provide access to nutrition centers and services to obtain adequate housing. Title III-B is not only undertaking these services, but it is also authorized to take on the supportive services that at one time were assumed by title III-C. With the rising costs of these services, along with the assumption of new responsibilities, an increase of funds is vital to the effectiveness of title III-B.

Unfortunately, to date, we as Members of Congress have been unable to insure those senior citizens the self-reliance they seek. It is imperative that title III-B be funded at the fiscal year 1981 first budget resolution recommendation of $280 million. H.R. 7998, as passed by the House is $23 million short of this recommended level. At this lower level, the elderly are provided with food services; however, the transportation provided to get to these services is disastrously inadequate.

I am not in the habit of urging an increase in funds where they are not needed. However, I feel that these are warranted. To deny the needs of our older Americans would be a grave injustice.

Today I have written to Senate Appropriations chairman, Senator MAGNUSON, to stress my support for additional appropriations for H.R. 7998. I strongly urge those of my colleagues who share my concern about this matter to join me in this worthy effort.●

BLOCK NUCLEAR FUEL SALE TO INDIA

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. MARKEY. Mr. Speaker, less than 1 month remains for Congress to block the shipment of nuclear fuel to India. If we do not strictly apply sanctions against countries such as India that have manufactured nuclear explosives from civilian activities, then we face a collapse of U.S. nuclear nonproliferation policy. Our opposition to the spread of atomic bombs will be ignored by country after country.

The India case is the first major test of the 1978 Nuclear Non-Proliferation Act, which sought to ban shipments to countries that do not renounce all attempts to acquire nuclear weapons.

In 1974, India exploded an atomic bomb. It thus became the sixth member of the nuclear bomb club, and the only member to have used plutonium from a civilian nuclear program—in this case, a Canadian-supplied research reactor with American-supplied heavy water coolant.

The explosion brought a vow from Pakistani leaders that it would finance an atomic bomb even if "its people had to eat grass or leaves, or go hungry." Pakistan has since been reported to be working on two different methods of securing the necessary ingredients for weapons manufacture: a centrifuge method of uranium enrichment and a reprocessing plant.

I urge my colleagues to consider carefully the views of the Federation of American Scientists, an organization of 5,000 natural and social scientists concerned with the problems of science and society. Recently, the national council of this distinguished organization announced its opposition to the sale of enriched uranium to India. In their words, "From the point of view of the Nuclear Non-Proliferation Act, the Indians have done everything possible to deserve a cutoff."

The views of the National Council of the Federation of American Scientists are printed in the September 1980 issue of the F.A.S. Public Interest Report. The full text of the council's statement will be included at the close of my statement.

I would draw the attention of my colleagues to several of the passages in this statement:

* * * supporters of U.S. non-proliferation efforts have ample reason to fear that the Nuclear Non-Proliferation Act—if not U.S. non-proliferation policy generally—is about to be destroyed on the rock of Indian resistance unless strong action is taken.

* * * much of the proliferation problem springs from Indian interest in playing a major nuclear power role, and Pakistan's interest in not being forced consequently to bargain from a felt position of inferiority.

In particular, FAS recommends that the uranium sale to India be viewed as a prime example of the leverage we have.* * * If, in the face of this leverage, the Indians were nevertheless unwilling even to discuss the matter with the Pakistanis (who have called for a South Asian nuclear free zone) it is hard to avoid the conclusion that the sale of Tarapur fuel would utterly destroy our nonproliferation efforts by exposing them as utterly without force.

The full text of the FAS statement, follows:

PUBLIC INTEREST REPORT

TARAPUR: RETHINKING NON-PROLIFERATION STRATEGY IN SOUTH ASIA

It became evident in the 1950's that the secret of the atomic bomb could not be kept. Efforts to prevent the proliferation of nuclear weapons turned to a non-proliferation treaty which most nations would sign.

In the seventies it became evident that stronger action would be necessary in those hard-core cases that could not be resolved by rhetoric or a bandwagon approach. These involved states which considered themselves to have national security problems to which the bomb was somehow relevant. There were Arab states that thought the Israelis had a bomb and, in any case, wanted a bomb to pressure Israel (e.g. Iraq and Libya). There was the Taiwanese and South Korean desire for a bomb to dissuade northern neighbors from violent takeover. There was the South African desire to strengthen its geopolitical hand. And there was, of course, the Indian-Pakistani rivalry.

It was obvious to bystanders that few if any of these conflicts could really be usefully influenced by the possession of a nuclear weapon. Nevertheless, to the states involved, there was sufficient motivation to move ahead.

The U.S. response to this new stage in non-proliferation prospects was to put some teeth into its policy in 1977 and 1978. Under the Non-Proliferation Act of 1978, no help with nuclear reactors would be provided to states unless they committed themselves to eschew nuclear explosives and to permit International Atomic Energy Agency (IAEA) safeguards on all peaceful uses of nuclear energy. In addition, the Symington and Glenn Amendments to the 1977 International Security Assistance Act call on the President to terminate all economic and military aid to non-nuclear weapon states receiving nuclear technology outside IAEA channels, or detonating a nuclear weapon.

Predictably even this has not been enough in the several cases where states are more concerned about their neighbors than they are about any pressures which the U.S. would likely generate.

The Indian-Pakistani issue is such a case. This month, the Senate must debate whether to continue to supply 38 tons of enriched uranium to the Indians for use in their Tarapur Atomic Power Station designed to generate electricity in the Bombay region. From the point of view of the Nuclear Non-Proliferation Act, the Indians have done everything possible to deserve a cutoff.

(a) They detonated a nuclear explosive device on May 18, 1974 under the thin cover of "peaceful purposes" and refused to sign the non-proliferation treaty;

(b) They refused the IAEA "full-scope" safeguards which the Act demands over "all peaceful nuclear activities" and, indeed, struggled, with some success, to limit the application of safeguards even where U.S. assistance was given.

(c) They refused any "strict undertaking" not to detonate more nuclear explosives and, it is widely believed, violated (or legalistically distorted) a previous obligation not to use Western assistance in their work on their first nuclear device.

Nevertheless, the Administration wants to carry through on the sale with a waiver of the Nuclear Non-Proliferation Act provisions because it senses that its bargaining position is too weak; it fears that the Indians might in response:

(a) Reprocess U.S. supplied spent fuel that is still in India for subsequent recycle of the plutonium in its reactors; this would set a world-wide reprocessing precedent we oppose as an important step toward nuclear proliferation.

(b) Remove the Tarapur facility from IAEA safeguards; such removal has again, never been done.

(c) Violate its agreement with us not to use materals supplied for Tarapur for nuclear explosion.

In sum, it fears that India could ignore U.S. strictures and simply, in response, roll back existing agreements. On the other hand, supporters of U.S. non-proliferation efforts have ample reason to fear that the Nuclear Non-Proliferation Act—if not U.S. non-proliferation policy generally—is about to be destroyed on the rock of Indian resistance unless strong action is taken. And if the Indians react badly in response, they see ample American capacity to retaliate with an American opinion primed to back up a tough line.

What neither side in this debate has yet admitted, however, is the depth of the nonproliferation problem at issue. The Indian explosion of 1974 has made Pakistan feel that it must have a bomb. Pakistan has been reported in the press to be working on two different methods of securing the necessary material: a centrifuge method and a reprocessing plant. And the Pakistani efforts have further reinforced Indian interest in its own bomb. Meanwhile, the Chinese nuclear arsenal provides another reason for Indian proliferation. And the Soviet action in Afghanistan provides the Pakistanis with another motivation to have its nuclear weapon lest an Indian-Soviet alliance dismember Pakistan.

Something new has to be added. In general, the U.S. must begin to base its non-proliferation policy on the interest of the regional parties themselves in avoiding proliferation rather than on U.S. interest in preventing them from moving ahead. This is also more consistent with the Indian and Pakistani sense of injustice that such nuclear powers are pressuring poorer non-nuclear powers into foregoing nuclear weapons. We propose that what U.S. leverage exists over Pakistan and India be used to draw them into serious and sustained talks on the control of their incipient arms race. And, in order to create a fruitful context for such talks—recognizing that the nuclear pressures come not only from each other but from regional superpowers—that the U.S. stand ready subsequently to explore separately with the Soviet Union and the People's Republic of China the possibility that U.S., USSR and PRC assurances might support whatever the Indians and Pakistanis might need to underpin their agreement.

In other words, the U.S. should be asking the Indians and Pakistanis upon what terms they might forego nuclear weapons and then offering to help guarantee those terms. The U.S. ought to have enough leverage to get talks along these lines started even where it fails to have the strength to insist to the powers separately that they restrain themselves. In particular, FAS recommends that the uranium sale to India be viewed as a prime example of the leverage we have, and used to secure Indian involvement in such talks. If, in the face of this leverage, the Indians were nevertheless unwilling even to discuss the matter with the Pakistanis (who have called for a South Asian nuclear free zone) it is hard to avoid the conclusion that the sale of Tarapur fuel would utterly destroy our non-proliferation effort by exposing them as totally without force.

This effort to start the Indians and Pakistanis thinking about their demands upon each other (and others) to maintain a non-nuclear status captures what hope now remains of control of nuclear weapons on the Indian subcontinent. And there is some hope left. Nuclear weapons are not particularly relevant to such territorial disputes as those in Kashmir. And the military forces of India and Pakistan may be civilized enough in dealing with each other to so recognize. Indeed, much of the proliferation problem springs from Indian interest in playing a major nuclear power role, and Pakistan's interest in not being forced consequently to bargain from a felt position of inferiority. The subcontinent incentives for nuclear weaponry are therefore not great.

Meanwhile the costs and risks are obvious of building nuclear weapons and being confronted with them in turn by a neighbor. And both nations have an interest in securing guarantees from their larger northern neighbor against the use of force. The Indians might be able to secure from the Chinese, and the Pakistanis from the Soviets, some guarantee of non-violation of frontiers in return for non-nuclear status. Certainly the Chinese and the Soviets have an interest in restraining the number of nuclear powers in their region.

So the outlines of a bargain exist. But the bargain can be negotiated only by the subcontinent powers themselves. Tarapur's real significance may lie in announcing the last clear chance for avoiding a nuclear arms race in the subcontinent. All efforts, including in particular the Tarapur leverage, ought be directed at catalyzing a lasting regional solution, designed by the regional powers themselves.●

WELFARE SYSTEM NEEDS WORK INCENTIVES

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. LUKEN. Mr. Speaker, recently a letter to the editor appeared in the Cincinnati Enquirer which poignantly expresses a problem faced by many Americans who receive welfare assistance. Just as the recipient manages to earn enough to come off the program, they find that in the long run they would be financially better off by earning less and remaining on the rolls. This perverse work incentive needs to be corrected. The Congress must meet the challenge of building work incentives into the welfare system that allow these Americans to gain the economic independence they seek. The letter follows:

WELFARE PROGRAM KILLS INCENTIVE, SELF-ESTEEM

To the EDITOR: I would like very much to bring to your attention a seemingly insurmountable problem within the welfare system.

To begin with, I recently started a new job. It was not enough income to take myself and four children off the welfare program. However, at this point in time, I have been offered a raise. I talked to my caseworker and she informed me I would be "overincomed" to receive any further benefits from welfare. It would seem this was a great improvement for myself and my four children. How wrong could anyone be!

If, in fact, the raise is approved, which by the way has not happened yet, I stand to lose more than I have gained by being on welfare. I ask you, is there not something wrong with a welfare system that in fact provides better living for a person than one working and trying to make a living on his/her own?

If I do get and accept said raise, I stand to lose not only $75 per month, but also my food stamps and my medical card. The raise serves no purpose in that the amount I will receive will not nearly cover the added expenses of food and medical bills.

It seems to me the government would be pleased that a person is doing all he/she can do in order not to be dependent upon the system. But if there is no program available to promote such self-reliance, why should I try to make a better living for myself and my family?

I feel there should be some type of program to supplement a person who is working, up to the time he/she can stand on his/her own two feet, so to speak. That's not to say he/she should continue to receive full benefits he/she received prior to becoming employed, but perhaps just enough food and medical benefits until the person becomes financially stable enough to pay added expenses for himself/herself. These expenses are not optional, but are very much a part of life and must be dealt with as such.

Public opinion holds that welfare recipients are the dregs of our society, along with being lazy and degenerate, to say the least. In my opinion, this is a great travesty and a grossly unjust statement.

I ask you, where and to whom can we plead our cause? We want only a chance to improve the conditions of our life.

I implore you to give this matter your most serious consideration. The self-esteem and independence of a great many people are at stake. Since childhood it has been my belief that this is the premise upon which this country was founded.

BETTY KNUCKLES.●

UNION CONTEST WITH GOVERNMENT—PART I

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. McDONALD. Mr. Speaker, there is a power structure in these United States which for years has been an enigma. Its exact relationship to constitutionally required individual liberty and a free market has been poorly defined; and yet it exercises great influence over our economy and Government. I am speaking specifically about labor unions. Few if any have ever been able to rival the Government's monopoly on coercion as has this body. There is also no question that if our free institutions are to survive, a better understanding must be had of their workings and this rivalry. England is a stark example of why this is so.

The following article entitled "Union Contest with Government" by Clarence B. Carson, is an excellent analysis of this subject and its history in this country.

I commend part I of a two-part series to the attention of my colleagues:

UNION CONTEST WITH GOVERNMENT

Labor unions are an enigma. Their enigmatic character begins to surface as we explore the questions of what they are and what they do. It does not take long to come upon aspects of unions that do not jibe with what they appear or claim to be. Labor unions claim to be organized against employers. In fact, however, they are most basically organized against other workers. Moreover they conceal this contest behind the screen of ideological formulations taken from socialism.

There is more to the enigma than that, however. One way to get to it is to look more closely at the character and functions of unions. In one sense, there is no mystery about what a union is. It is an organization, an organization of workers. When we go beyond that, however, we enter upon confusion. For example, what sort of organization is a labor union? Is it a charity? Is it a fraternity? Is it a business? Is it a government? In short, where does the labor union fit within the spectrum of organizations that are familiar?

In several respects, a union resembles a business. If those who are employed by the union are considered as distinct from the worker members, the union takes on some of the aspects of an agency. That is, those who are employed by the union are representatives or agents of the rank and file members. But what sort of agency? In one of its aspects, it bears some resemblance to an employment agency. In another, it resembles an agency such as actors, writers, and artists sometimes employ to make arrangements for their work. In another, it may resemble an insurance agency, collecting and handling retirement funds. However, a union is not just a business, for it also resembles a mutual aid society or a fraternal organization, and may sometimes do works of charity.

UNIONS EMPLOY COERCION

Be that as it may, there is one crucial difference between labor unions and the above organizations. It is that unions employ coercion. They have a tendency to compel people to become members, and, when they fail at this, to treat them as if they were. In their efforts to exclude non-union workers or those from other unions, they are monopolistic. And many of the tactics employed in organizing, in boycotting, and in labor disputes are coercive. In their use of coercion, unions resemble government. And it is their use of coercion that brings them into conflict with government.

Indeed, the contest between unions and government is a basic one. Union coercion challenges established government at its foundation. It challenges government's monopoly of the use of force. A government—any government—is that body which has a monopoly of the use of force within its jurisdiction. If it does not have it, the stage is set for armed conflict.

Union ideology lays claim to a jurisdiction for unions in which government (or other governments) is not supposed to interfere. The argument is usually made obliquely—unions do not claim to be governments—and goes something like this. Capital and labor (or management and labor) are the contestants in any labor dispute. Indeed, whatever is in dispute is solely between them. But capital has a large initial advantage in the dispute because of the accumulated wealth it represent and the control over the livelihood of workers involved. Not only are individual workers powerless to deal with them but also organized workers unless they are permitted to use the tactics which will enable them to match the power of wealth with the force of their numbers.

Unionists usually draw the battle lines in such a way that it is only possible for government to intrude into the dispute on one side or the other. "You are either for us or against us," they say, in effect. The basic posture of union leaders has usually been that government should stay out, though they have not been averse to legislation favorable to unions.

Their position came out rather clearly when they testified before the Senate Committee considering amendment of the Wagner Act after World War II. The chairman of the committee accused Walter Reuther of taking the position that "Government should not interfere at all and that we should not pass any laws because the Government should not interfere." But, the chairman pointed out, there were already laws on the book. To which Reuther replied, "The Wagner Act was remedial legislation to correct a particular abuse. Nobody can deny it was created because American labor in the face of this concentrated wealth could not begin to get the rightful status in American industry around the bargaining table."

John L. Lewis was asked this question by one Senator: "Do you not think there is a point where the exercise of the right and freedom by any group of individuals impinges so drastically on the rights, privileges, and freedoms of all others that the Government has to step in and do something about it?" Lewis answered, "No, I think definitely the Government should not, Senator, not if you want to preserve America as we know it, and its freedom, because you cannot regulate the human beings who work for a living in this country, and who, in a major sense are not rich and in a substantial sense are quite poor. . . ."

In sum, labor unions claim the right to use coercive tactics. Moreover, they claim a special jurisdiction within which they can employ these tactics. The bounds of that jurisdiction are supposed to be in the organization of workmen and in labor-management disputes. For any government to grant such a jurisdiction is either to recognize unions—or unions in conjunction with management—as having the status of a government or sharing in the powers of existing government. For example, they might be conceived as comparable to a town or city in the United States, incorporated by states to exercise certain political powers but not independent of the states.

NO SPECIAL STANDING

Actually, however, unions have had no special legal standing for most of American history. They were private organizations with no particular power, authority, or responsibility. Such rights as they possessed were those belonging to individual members. As one book puts it, "They are voluntary organizations without limited liability and are generally without a personality apart from that of their individual constituent members." Only one state has required incorporation and, though a Federal law permitted incorporation in the District of Columbia from 1886 to 1932, there was no rush of unions to achieve that status. They were organized into a body, banded together for concerted action, given to using coercive tactics, yet before the law they dissolved into their component parts.

It is not difficult to see why union action brings them into conflict with government. Every resort to coercion is a challenge to government. There is the continuing underlying conflict arising from government's effort to monopolize the use of force. Beyond that, there are the difficulties unions pose for government in the performance of its basic functions. Its basic functions are to protect the life, liberty, and property of those within its jurisdiction. To the extent that unions use coercive tactics, they challenge the exercise of these functions.

Contrary to union ideology, labor disputes are not simply a contest between unions and management (hence, nobody else's business). Basically, unions are organizations of some workers for the purpose of raising the price of labor by excluding competing workers from employment. If there is a strike, and management attempts to operate the struck facility, the visible conflict is usually between strikers and those who are willing to work. Union ideology attempts to conceal the character of the conflict by describing those who would work as instruments of the employer. They are described as "scabs," "rats," and "strikebreakers." This invective helps to obscure, too, a much broader situation that may prevail. There are not only those who do work during a strike but also others who might apply for work and be employed were they not intimidated by the strikers. These are the silent interests in what is billed as a labor-management dispute.

INJURY TO EMPLOYERS, SUPPLIERS, AND CONSUMERS

To say that the conflict with management is in the background—is secondary, if you will—is not to imply that the owners of facilities may not be harmed by union coercion. On the contrary, there are frequently assorted damages from which government action to prevent or bring a halt to the coercion might protect them. Their property may be trespassed upon. There may be work stoppages because workers are prevented from entering the plant. They may be unable to meet contractual obligations. They may lose business to competitors. They may be unable to pay their bills when they come due. And so on.

A third line of effects extends outward from strikes and boycotts. The flow of commerce may be interrupted. Suppliers may be damaged by the loss of a market. Those dependent upon the struck facility for goods or materials will have to look elsewhere or do without. Transportation facilities may lie idle. A whole category of interdependencies may be disrupted.

A fourth order of effects may also result from union coercion. It is the effect upon consumers. If strikes, boycotts, or other disruptive tactics, succeed in shutting down facilities, goods will not reach the marketplace. Shortages may develop, and prices will rise. If the product is in any way unique, customers will be denied choices. But whether any of this occurs, if unions succeed in raising wages, there will tend to be a rise in prices to compensate for the raise.

Union use of coercion inevitably brings it into a contest with government, then. It challenges the government monopoly of the use of force. Its coercion is exercised against those whom government is committed to protect. The extended effects reach eventually to all the inhabitants of the country.

HOW GOVERNMENTS HAVE RESPONDED

Governments in the United States have responded to the challenge implicit in union activity in three ways historically. One writer on labor policy describes them this way: "suppression, toleration, and encouragement." Until after the passage of the Sherman Antitrust Act in 1890 the federal government had no primary involvement in labor disputes. The responsibility for maintaining the peace and protecting life and property was exercised by the states. In the few instances prior to the 1890s when the federal government did become involved it was in response to requests from governors of states for military help.

Suppression is too strong a term for describing state action toward unions during the first half century or so of the existence of the United States. Some unions existed throughout this period. However, when cases came before the courts, unions were often found to be guilty of conspiracy either because of coercive tactics or for the exclusion of competing workers from employment. In short, unions had the same right to existence as any private organization, but they could not employ coercion to fix wages or other conditions of employment. For a variety of reasons, and it is not at all clear that their legal status was the most important, unions were usually shortlived and insignificant for the first half of the nineteenth century. There were no nationwide unions and little enough national commerce.

Toleration is imprecise for describing the posture of governments toward unions in the latter part of the nineteenth century (and well into the twentieth, for that matter). It might be more accurate to say that unions were usually ignored until they created some disturbance. At that point, when police or troops were called in, an ad hoc solution was applied. Courts did not generally concern themselves with such effects as the financial impact on workers excluded from employment or those which reached through to the consumer. Indeed, courts restricted themselves largely to trying individuals for acts of violence if and when such cases were brought before them until well into the 1890s.●

MORE ON THE FEDERAL ELECTION COMMISSION COVERUP

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. DORNAN. Mr. Speaker, when the Congress went on its short recess last week I told my colleagues that I would continue to place more information into the CONGRESSIONAL RECORD concerning the horrendous noninvestigation by the Federal Election Commission into the handling of campaign finances of two candidates for Federal office.

I now include more of the discrepancies which my own 1 year and 1 month investigation has uncovered regarding this sorry episode of obfuscation by Federal officials and some private citizens. I had originally intended to file these discrepancies with the FEC as a formal complaint. However, their performance, or rather nonperformance, has led me to believe that not only would I be treated unfairly, but that I would again be a victim of their continuing coverup. So, my colleagues, and other respecters of justice I present to you once again further information that I have uncovered.

My material follows:

PECK AND STEWART DID NOT REPORT RECEIPT OF SUSPICIOUS MONEY TO THE FEC YET FEC MAKES NO MENTION WHATSOEVER OF SUSPICIOUS NATURE OF DONATIONS TO PECK ALTHOUGH IT PUNISHED ANOTHER CAMPAIGN FOR SAME ACTION

The then F.E.C. Chairman Robert O. Tiernan told Congressman Dornan via phone on February 7, 1980, that "a reasonable man would certainly have been suspicious" when receiving 13 $1,000 cashiers checks from the same bank—sequentially numbered—from over two thousand miles away (as young Peck did). Not one other donation from Alabama or all states in between.

Chairman Tiernan subsequently indicated at a House Administration hearing on April 25, 1980, the following:

Congressman FRENZEL. What kind of advice do you give to a campaign committee regarding its obligation to verify the source of the contribution when these money orders, or similar kinds of anonymous instruments are received particularly when they are maximum contributions? What is the campaign committee's obligation?

Mr. TIERNAN. The regulations set forth in 103.3(b)(1), "contributions which appear to be illegal shall be within 10 days either returned to the contributor or deposited in the campaign repository box and reported. If deposited the treasurer shall make and retain a written record noting the appearance of illegality. A statement notifying that illegality should be included in the report . . ." and so forth. There are regulations that provide for that situation.

Congressman FRENZEL. OK.

The F.E.C. in *La Rouche* v. *F.E.C.* (a precedent setting case) raised statutory objection to a request for presidential matching money because small (under $51) sequentially numbered cashiers checks and money orders were given to the LaRouche campaign "in patterns that raised substantial statutory questions." (See Petition for Writ of Certiorari to the U.S. Court of Appeals for the District of Columbia Circuit Court Number 77-1184).

The Office of General Counsel for the F.E.C. thought that the following sequence of cashiers checks and money orders, all of which were in amounts of $50 or less, were suspicious because of the following chart:

Both Oldoker and Steel of the F.E.C. Office of General Counsel were on this case.

DISCREPANCY: THE FEC CLAIMS THAT A REVIEW OF PECK'S FEC FORMS ARE INCONCLUSIVE, REGARDING ILLEGAL DONATIONS, BECAUSE THEY DID NOT HAVE A COMPLETE LIST OF NAMES USED BY MR. DENNIS. YET, 7 OUT OF 13 PHANTOMS WERE THE SAME AS DENNIS' ILLEGAL CONTRIBUTIONS TO STEWART. INCREDIBLY, DENNIS, ON HIS OWN VOLITION, GAVE OGC/FEC ALL 13 PHANTOM NAMES IN MAY 1979 IN PERSON.

"The reports filed by Mr. Peck and his principal campaign committee, Carey Peck for Congress, were reviewed. However, without a complete list of the names used by Mr. Dennis, the review is inconclusive." (First General Counsel's Report by Judy Thedford, Office of General Counsel of the Federal Election Commission prepared May 31, 1979 and received by the FEC June 1, 1979.)

At the time this report was written, the FEC Office of General Counsel had evidence that Dennis had made 22 $1,000 contributions to Senator Stewart in the names of other Alabama residents and one (that we know of) $1,000 illegal corporation contribution in his own name.

Carey Peck had twelve names of $1,000 donors explicitly showing Alabama addresses on his forms which were filed for the period of October 24, 1978 through November 27, 1978. One of the "donors" of $1,000, Mike Henley of Alabama, was never identified by any address or occupation. (To this day that form is not amended.) Six of the Alabama names shown as contributors on Peck's forms were identical to Stewart's donors: James H. Dennis, Johnny Desmond, Wayne Moore, Gary Dennis and Richard Morehart. (See conciliation agreement.) On Stewart's forms for the 1978 campaign, the name of Max Gurley shows up as a contributor. His name was omitted from the conciliation list. Why? Nevertheless, Max Gurley is listed as a Peck contributor and both Roberta Gurley and Max Gurley are listed as Stewart contributors. Additionally, another Alabama name on Peck's forms shows the same last name as another of the names listed on Stewart's forms. This is probably not coincidence.

On May 16, the F.E.C. had received two news articles, both of which listed 19 individuals on whose behalf money was given to Stewart by Dennis. The Birmingham News article of May 9, 1979 indicated that Dennis donated $12,000 (in the names of others) to Carey Peck, and "Dennis said he used some of the same names for the Peck contribution that he used to give to Stewart."

Additionally, an article in the Anniston Star for April 13, 1979 received by the F.E.C. on April 27, 1979 states: "F.E.C. records on file at the Secretary of State's office in Montgomery show Stewart contributor Max Gurley and John Lee are listed as employees of Alabama and Tennessee Oil Company . . . checks with the Alabama Secretary of State's office revealed no information about the Alabama and Tennessee Oil Co . . . Gurley, whose home address was listed as Argo, Route 1, contributed $1,000 on August 17, 1978. Max Gurley is also listed on Peck's forms as giving the maximum $1,000 but his address is listed Route 1, Arley, Alabama. With the addition of Max Gurley, that makes six identical names out of 12 possible. Mike Henley, the other "phantom" Alabama donor was not listed by Peck as having any address or occupation whatsoever . . . Blank.

Furthermore, Peck's F.E.C. forms filed December 7, 1978 lists Roy J. Ledbetter of Birmingham as working for the non-existent Alabama and Tennessee Oil Company with a Birmingham address this time.

Unless Ms. Thedford and her other associates at the Office of General Counsel for the F.E.C. were purposely ignoring such blatant evidence, there should have been a much different conclusion regarding the Peck/Dennis contributions from what was stated in the O.G.C. report of May 31, 1979.

To summarize, the Office of General Counsel had before them the following:

1. List of similar names of Dennis' "phantom" donors to both Peck and Stewart campaigns as those names had appeared in the newspapers as a result of investigative reporting and Dennis' own open admissions of guilt.

2. Peck's and Stewart's F.E.C. forms listing the questionable donations.

Peck's F.E.C. forms listed the Alabama illegal contributors as follow: (1) James H. Dennis; (2) Johnny Desmond; (3) Wayne Moore; (4) Gary Dennis; (5) Richard Morehart; (6) Max Gurley; and (7) Andy Shadix.

Stewart's F.E.C. forms listed the Alabama contributors as follows: (1) James H. Dennis; (2) Johnny Desmond; (3) Wayne Moore; (4) Gary Dennis; (5) Richard Morehart; (6) Max Gurley (F.E.C. Report filed in Montgomery, Alabama. See April 13, 1980 Anniston Star); and (7) Terri Shadix (from Birmingham News article).

In addition, Roy Ledbetter is listed on Peck's F.E.C. forms showing him as employed by Alabama and Tennessee Oil Company. The Alabama and Tennessee Oil Company did not exist according to reporter from the Anniston Star in an article dated April 13, 1979.

Of the four Alabama names left on Peck's forms, three were from one family (Chancey). Dennis had indicated that he used only Alabama names for Stewart's contributions and that he also used Alabama names for the remaining Peck contributions. Peck's F.E.C. form for the relevant period showed a total of 101 individual contributions. Of these 88 were from California (most from Beverly Hills). The remaining 13 contributions were all for $1,000 and were all from Alabama. A "red flag" situation for any objective form checker! You will recall that 23 of the 24 Dennis donations to Stewart were for $1,000 each. Here is another "red flag" bit of easily observed evidence shoved aside by the F.E.C.

Peck had 12 Alabama $1,000 donors, plus Dennis himself, and Dennis said he gave $12,000 (actually $13,000) to Peck in the Birmingham News story of May 9, 1979. How in the devil did the Office of General Counsel not find reason to believe that Peck had obviously accepted illegal money?

To summarize, Peck's F.E.C. forms reveal he had 88 California donations of which only 13 gave $1,000 each: one maximum Alabama contribution for $1,000 although no address or occupation was listed, and 12 more

Alabama contributions for a maximum of $1,000 each with partial addresses with some addresses entered with a different typewriter.

DISCREPANCY: PECK CLAIMS HE RETURNED $13,000 TO DENNIS: DENNIS CLAIMS HE U-TURNED MONEY BACK TO PECK IN CASH—THE MOST IMPORTANT WEST COAST DISCREPANCY

Equally as strange as the acceptance of the $13,000 in illegal corporate money are the circumstances surrounding the alleged return of the $13,000 to James H. Dennis by Carey Peck.

Carey Peck's F.E.C. report for April 1, 1979 through June 30, 1979 was submitted by Peck's brand new treasurer, Mike Gordon. (Caiden, a lawyer of unquestionable integrity, had departed.) In that document, we find: Carey Peck for Congress Committee's:

1. Receipts—$13,000 on June 14, 1979 from Carey Peck

2. Itemized Expenditures of $13,000 on June 13, 1979 "refund of contribution (sic—singular) per attached list (and here Peck lists the 13 Alabama names but not two M. Chancey's and no reason why the return is necessary).

3. Debts and Obligations—$13,000 owed to Carey Peck, June 14, 1979 identified as "Advance for Campaign Expenditures"—from personal funds?

The last statement above is a flat lie. Carey Peck has been quoted as saying that he borrowed $9,000 from a bank to cover the claimed return of the money. Gregory Peck has been quoted elsewhere as saying that his son Carey borrowed $13,000 from a bank to obtain the money for the claimed return of the illegal corporate donations to his benefactor, James H. Dennis. The facts required by law regarding the name and branch location of the bank would be helpful elsewhere in other parts of this inquiry.

Furthermore, the F.E.C. Act requires that any bank loan by a candidate be reported in full listing: the amount, bank and co-signers if any. 11 C.F.R. 104.2(b)(s)(ii)(B): Each loan must be reported together with the identification, occupation and principal place of business if any, of each lender, endorser or guarantor, as the case may be. The report shall include the date and amount of the loan.

So, the reader will shortly see, this portion of the law has been violated by Peck.

According to testimony obtained by the FBI and Congressman Dornan in an extensive interview April 30, 1980 with James Dennis at the Taladega Federal Prison, Dennis flew to Los Angeles on or about June 14, 1979. He went to Carey Peck's lawyer's office. (Apparently Jules G. Radcliff, Jr., presently of Lewis, D'Amato, Brisbois, and Bisgaard, 261 South Figueroa St., Suite 300, Los Angeles, CA 90012).

Dennis said he waited in Radcliff's office while a $13,000 loan was arranged for Carey "at his daddy's bank." Carey himself then presented Dennis with a check, then they (?) drove Dennis to Carey's campaign bank on Wilshire Blvd. where Dennis cashed the check! He then went back to Radcliff's (?) office and presented Carey Peck with the $13,000 in cash! Dennis returned to Alabama that very afternoon. Dennis stated that the return of the money was a "real" loan because it was not for campaign expenses. (He directed that little incorrect rationalization to the FBI agent with mock seriousness then began smiling again and pouring on the charm.)

This was said in the presence of FBI Agent Will Deffenbaugh and Justice Department assistant district attoney Bill Barnett. This was discussed in a Jack Anderson column of June 21, 1980. Needless to say, Carey Peck did not list a felonious "loan" from Dennis on his F.E.C. form.

Did this U-turn of the $13,000 take place? Rick Cziment, a reporter for the Venice-Santa Monica Independent Journal claims he has seen a copy of the check, and he also told Congressman Dornan that "the money never left California." This latter information came from a discussion Cziment had with Carey Peck's campaign manager, Terry Pullen. Young Peck was avoiding the press that month. The check was cashed in California, and has no bank markings from Alabama. Cziment claims he has a xerox copy of the front and back of the check.

Peck has told Rick Cziment that he would sue if the Independent Journal ever printed this information. This was told to Dornan campaign manager Arnold Steinberg who also learned that the Independent Journal, while on solid ground on the relevant facts, is without funds for this type of harassing lawsuit.

In the absence of a personal transfer of the $13,000, other modes of exchanging money would leave traceable evidence on paper, i.e., federal express, postal money order, personal check made out to Peck from Dennis. (Dennis has already served 6 months in Federal Prison for "fraud-by-wire.")

According to an article which appeared in the Birmingham News on July 7, 1979, Dennis used wire communication for his dealings with the Itel Corporation when dealing in the hundreds of thousands of dollars. The question arises, why would Dennis fly out of California for the $13,000 transaction except to avoid having any easily discernable evidence surrounding the alleged return of the $13,000 and/or to physically U-turn the money to an aspiring politician as he claims he did with his winning U.S. Senate candidate, Don Stewart.

Dennis has told the FBI (see June 20, 1980 Jack Anderson column) that Stewart definitely pulled off the same U-turn trick.

Reporter Cziment asked young Peck why Dennis would want to fly across the country or to walk around with $13,000 cash in his pockets (let's say 130 hundred dollar bills!) Why? Peck responded slowly, "Well . . . he is a con-man, isn't he?" (Daaaaah)●

LIEUTENANT GOVERNOR BRICKLEY TESTIFIES BEFORE AUTO TASK FORCE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. BONIOR of Michigan. Mr. Speaker, on September 2, the auto task force held its first meeting in the city of Detroit. Lt. Gov. James Brickley of Michigan provided the task force with some valuable suggestions for strengthening the American auto industry and increasing its competitiveness. I would like to share these with my colleagues in the House.

Lt. Governor James H. Brickley testified today before the United States House of Representatives' Task Force on the Auto Industry. Co-chaired by William M. Brodhead of Michigan and Elwood Hillis of Indiana, the Task Force held its first hearing in Detroit for Governors and Mayors to offer comments. Lt. Governor Brickley made his comments on behalf of Governor William G. Milliken's administration.

The text follows:

Congressmen Brodhead and Hillis, it is a pleasure to have this opportunity to submit comments on behalf of Governor William G. Milliken's administration to your Auto Task Force.

For Michigan families, these are desperate times. There is anger and frustration among men and women who never before faced the humbling experience of unemployment. Their eyes tell you the pain they feel. Their bank accounts show their financial losses.

Industrial labor produced this nation's wealth. The men and women of this and other industrial states put this nation on wheels and built for us the highest standard of living in the world. These men and women built twentieth century America, and our debt to them is the fundamental wealth of our entire economy.

The problems of the auto industry can be laid to many different factors. Some suggest that corporate boardrooms have been stale of ideas. Some suggest that corporate mismanagement is to blame. Some suggest that wage rates out strip productivity. Some suggest that governmental policies are the culprit.

There is enough blame to go around. There is no one scapegoat. There is no one simple solution.

But this much we know: the auto industry is not expendable. Auto workers are not expendable. This country must open its eyes to the crisis; in its simplest terms, the crisis is that we have treated industry as though it were obsolete. For the last thirty five years, we have strengthened the industrial economies of many of our free world friends. While we rebuilt Japan and Germany, we let our own industrial cities and plants decay. It cannot continue.

We are painfully aware of the slump within the automotive industry. We should be just as aware of the ripple effect this slump has on the steel, iron ore, rubber, aluminium, and other industries.

Nearly 300,000 auto workers are unemployed. In Detroit, unemployment hit 14.4% in June. But merely looking at the terrible impact of this recession on Detroit does not begin to portray its effect on Michigan's overall economy.

The northern part of Michigan, for example, faces severe economic problems. Auto component suppliers, the iron and steel industries, mining, railroads, and marine shippers have suffered sharp setbacks.

The Cleveland Cliffs Iron Company has closed mining operations at Empire Mine and Republic Mine, idling 2,000 miners.

Forty-four ore carriers out of 240 ships have been laid up and ship passages through the Soo locks have declined from 55 a day to between 21 and 36 a day.

Essex Automotive Corporation has closed permanently its plant in Atlanta idling 250 workers and has laid off 50 workers at its plant in Boyne City.

Two automotive supply firms in Menominee have curtailed operations, laying off 215 employees.

Gulf and Western Stamping has laid off 470 employees at two northern Michigan plants.

The list goes on and on.

These examples from northern Michigan are mirrored around the nation. Detroit is not alone in feeling the impact of the auto recession.

We have waited too long to encourage industrial modernization. We urge the Congress to support accelerated depreciation, encouraging rehabilitation of existing plants and investment in new plants and equipment.

American automotive technology and plant design have been oriented toward a broad market of car purchasers, from those wanting compacts to those wanting large, luxury vehicles. The shift to small cars is well underway. Retooling facilities is very costly, often dictating relocation and construction of new facilities.

To encourage the use of industrial sites in urban centers, increased federal funding through the Urban Development Action Grant program should be used to help defray demolition costs associated with site development.

We support easing the overly stringent high altitude emission standards. We urge the Congress to reevaluate environmental regulations governing the auto industry. The time has come to recognize that overly rigid standards and regulations undermine the automakers' efforts to produce cars the public can afford.

We urge the Congress to consider allowing auto companies to claim a significant tax credit to offset research and development costs associated with developing small and fuel efficient cars. Toward that same end, Congress should reexamine federal antitrust laws currently prohibiting joint research and development. A greater portion of federal research and development monies should be targeted for the auto industry. We support directing a greater percentage of the crude oil windfall profits tax to the difficult task of reinventing passenger vehicles.

We support guaranteed loans through the Small Business Administration to auto dealers for working capital. To also assist sales, we urge Congress to consider providing tax credits to individuals who purchase new domestic cars meeting fuel economy standards. A national campaign promoting new car sales would reduce existing inventories and reward manufacturers of fuel efficient automobiles.

There has been much discussion regarding the restriction of Japanese imports. We know that in a freely competitive international market, American products will prevail, both in quality and price. Restricting foreign imports with rigid trade barriers is not the answer to our long term problem.

On the other hand, other nations impose restrictions on goods we hope to export. Japan, for example, has stiff restrictions on the importing of automobiles and computer technology.

The President must seriously consider winning temporary and voluntary assistance from Japan in its export of cars during this most difficult period in the American economy. In such discussions, the President should raise the problem of Japanese restrictions on our export products.

American labor and business benefit from free trade. We believe that Japanese auto manufacturers should invest in plants in America. On several occasions, Governor Milliken has visited the top management of Japanese auto firms to encourage that investment. The siting of a new Volkswagen plant in Michigan is proof that foreign firms find the United States an attractive and mutually beneficial place in which to build cars, as well as sell them.

In addition to aiding the industry, the federal government should recognize the critical problems in communities now depressed because of the auto downturn. Any program of help to these communities must include loan guarantees, development grants, direct loans, and interest subsidies to businesses in distressed areas. If targeted properly, these expenditures will provide a significant return on the dollar invested without damaging efforts to insure fiscal responsibility in the federal budget.

We support targeting funds through the Economic Development Administration for communities hard hit by the auto recession. Detroit, for example, has recently submitted an application for a $60.5 million HUD loan to help acquire land and relocate residents at a proposed General Motors replacement facility site within the city. Additional federal support may be necessary from the Departments of Transportation and Commerce. We urge prompt attention to the applications by these federal agencies and support from the Congress for their approval.

We urge Congressional repeal of the Maybank Amendment, which prohibits the targeting of defense contracts to depressed areas. The Labor Surplus Set-Aside program directs federal procurement, non-formula grants, and executive agreements to concerns in areas of high unemployment. Unfortunately, the Maybank Amendment exempts the Defense Department from this policy. Defense dollars account for almost 30% of all government procurements.

We strongly support congressional and administrative expansion of present procurement efforts as one measure of countering the transitional problems of our auto manufacturers and the communities in which they are located. More importantly, we urge Congress to eliminate the Maybank Amendment from all future Defense appropriation acts.

As the federal government assists the auto industry and our communities hard hit by the recession, we must extend a helping hand to the people who suffer the most: the laid off workers and their families.

Governor Milliken and I have recommended extending regular unemployment benefits to 52 weeks, as provided in Congressman Brodhead's bill HR 6540. We are pleased that, after initial opposition, the White House now supports the proposal. By the end of the year, 285,000 workers in Michigan will have exhausted both their regular and extended benefits. The current limitation of 39 weeks is woefully inadequate in a recession of this magnitude and depth. Income protection must be guaranteed until laid-off workers return to their jobs.

We also recommend that Trade Readjustment Assistance benefits be extended to workers and firms supplying essential parts or services or extracted materials to companies affected by imports. Workers hurt by the ripple effect are presently ineligible for benefits. Because people in support industries are unemployed for precisely the same reason that employees in directly affected firms are out of work, similar benefits should be available to them.

In conclusion, the Administration and Congress must place auto industry problems at the top of the governmental agenda. We must begin now to rebuild the industrial sector. We must encourage private development in our cities. We must protect the people hurt most in this period of transition and readjustment.

Thank you.●

POLISH CRISIS RENEWS DEBATE OVER ETHNIC LOBBYING

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. DERWINSKI. Mr. Speaker, the news media has now turned away from the situation in Poland as a result of the agreement between the strikers and that government. However, it is now more important than ever that we continue to keep a close eye on the Soviet Union's role in the actions of the Polish Government as well as other nations held captive by communism. It is important for us to develop a stronger foreign policy by using our economic, diplomatic, and moral leverage in dealing with the Soviet authorities.

I direct the attention of the Members to a pertinent article by John Maclean who covers the State Department for the Chicago Tribune's Washington bureau. His column appeared in the September 1 edition of that paper before the strike was resolved. His column follows:

POLISH CRISIS RENEWS THE DEBATE OVER ETHNIC LOBBYING

WASHINGTON.—Ever since the birth of the Republic, Americans have debated the merits and demerits of ethnic lobbying in foreign affairs.

The first occasion came with Loyalist efforts to keep the colonies British. That debate often ended with the Loyalists astride a rail on their way to Canada.

The most current episode involves the efforts of Polish-Americans to spur their government to a more active role in the Polish crisis, which the Carter White House has determined to weather as quietly as possible.

Following a visit to the State Department by 13 Polish-American leaders, an unidentified State Department spokesman called their proposals "preposterous" and generally criticized their efforts.

This sort of ill treatment must have some explanation other than inexperience, given the long history of this kind of activity. The Polish-Americans, represented by the Polish American Congress, Inc., lost no time in asking for an accounting.

Aloysius Mazewski, president of the Chicago-based group, said he telephoned Zbigniew Brzezinski, national security adviser, and Secretary of State Edmund Muskie about the matter. He received an official public disavowal of the characterization of "preposterous" and presumably a good deal of mollifying from his two fellow Polish-Americans.

In reporting the "preposterous" remark and subsequent developments, I was struck by several points as an observer of ethnic lobbying and foreign policy.

First, the unnamed source reflected a general attitude within the Carter administration that the U.S. should play a minimal role in the Polish unrest. His extensive remarks to me came unbidden, apparently from a sense of impatience that Polish-Americans would try to upset U.S. policy.

His statement, of course, had the opposite effect from what he intended, serving to inflame the matter rather than maintain the quiet watchfulness which has marked the U.S. reaction.

Second, it appeared to me the Polish-American program exhibited considerable restraint. Without judging whether it should be U.S. policy, the program they asked for could be called modest in comparison with the U.S. reaction in other recent crises.

The Polish-Americans asked for an economic assistance program for Poland, which has close commercial ties with the U.S. They also urged that Poland be called upon to live up to promises of freedom agreed upon in the Helsinki Accords.

Given the depth of feeling within the Polish-American community, these seem modest enough. They fall far short of calling for the overthrow of the Communist government in Poland. They seem especially constrained in light of Carter administration reactions to upheaval in Afghanistan and Iran.

In Afghanistan, the Soviet invasion created a more immediately menacing situation than a Polish workers' strike. But even so, the reaction here of creating a Persian Gulf doctrine without the troops to support it seems intemperate, and was described in those terms at the time.

In Iran, as strikes and unrest plagued the shah of Iran, President Carter found nothing wrong with personally calling on the shah to keep on liberalizing, a move which contributed to his downfall.

The course chosen in Poland may prove to be wise. The Polish-Americans are certainly entitled to debate the matter, and their special understanding of the area can help all of us to be more sensitive about the hopes of the Polish people.

For example, the fact that large numbers of Polish-Americans have not called for the overthrow of the Communist regime has made it far easier for the White House to pursue a muted course.

Given past performances, Carter's conversion to quiet diplomacy has come late in the game.●

A TRIBUTE TO ROBERT F. HURLEIGH

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. PHILIP M. CRANE. Mr. Speaker, for those of us who grew up in Chicago, we will all remember the fine journalistic contributions made by Robert F. Hurleigh. But his broadcasting career spanned more than the Chicago suburbs and he soon earned the reputation nationally as one of the top newsmen in the country, first with WBBM and later as news director of WGN radio and television.

He continued his distinguished career as president of the Mutual Network for 8 years. He later became publisher of the American Labor magazine and continued to be a commentator on national and international political issues, as well as the moderator for the "Reporter's Roundup," a public affairs program which he initiated at Mutual.

He was, to revive a fine old word, a great patriot, not merely in the parochial sense of American patriotism, but as a dedicated defender of democratic principles in the world. He was a strong advocate of the free enterprise system as well as an articulate and staunch defender of American interests and liberties.

Perhaps no greater tribute can be obtained that an acknowledgment of one's efforts by his peers. One such tribute came from his friend Paul Harvey when he stated, "No one loved his country more."

He was a dedicated and skillful wordsmith and his passing away leaves an empty void which cannot be matched. We all knew him as a professional, but he also was a compassionate human, as those whose lives he touched directly know. He is survived by his wife, Majorie; his mother, Elizabeth Lort of Washington, D.C.; his half-brother, Walter Blake; two sons, Robert and Steven; three daughters, Maryland Elizabeth Davis, Robin Marie Johanson, and Jan Teresa Hurleigh. He is also survived by six grandchildren.●

MILK PRICE SUPPORT PROGRAM

HON. ALVIN BALDUS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. BALDUS. Mr. Speaker, on October 1 the Secretary of Agriculture will announce a new support price for the milk price support program. Under the terms of Public Law 96-127, that support price must be set at 80 percent of the parity price.

Because of the increasing costs of factors affecting the dairy industry, the October increase will amount to approximately 65 cents per 100 pounds of milk. The market has been in a state of surplus for most of this year, and there are critics of the program who argue that the price should not be increased at this time. The problem is that these critics do not understand the dairy program or how it works. The current surplus situation can turn, and in the past has turned, into a dairy shortage almost overnight.

On July 19, the National Journal published an article explaining the dairy program which was written by a constituent of mine, Mr. Irvin J. Elkin. Irv is a dairyman himself and also serves as president of Associated Milk Producers, Inc.

I recommend this excellent article to my colleagues and include it in the RECORD at this point:

MILK PRICE SUPPORTS—AN EXPERIENCE IN SOUND FOOD POLICY

AGRICULTURAL PRODUCERS IN TROUBLE

The U.S. agricultural economy may be in its worst crisis since the great depression of the 1930s. Growers of corn, wheat, milo, hogs, chickens, turkeys and beef are absorbing losses. The 1980 general election will surely reflect the agony and frustration within the agricultural sector.

One notable exception to the list of major agricultural commodities in trouble is milk. Milk, with inherent supply-price volatility exceeding that of most commodities, has the best record of price stability. That is not an accident. It is the result of rational public policy; a public policy that genuine public interest groups and agencies strongly support.

Better dairy management and genetic improvement of cattle for milk production are enabling the remaining numbers of farms to provide enough milk for U.S. consumers, at lower unit profit margins. The resulting benefits have been passed along to consumers so that they are exchanging less labor for each unit of milk and dairy product purchased.

Statements by President Carter that productivity is the key to curbing inflation are certainly true. Currently, it is estimated that an average U.S. dairy farm produces milk for 900 consumers. As recently as 1950, the average dairy farm was able to supply the milk needs for only 44 consumers. Proof that our dairy programs have demanded and achieved production efficiencies. And from the viewpoint of consumers, that is a success story!

RESULTS

This highly efficient production system, coupled with the stability provided by the price support program, has prevented dairy products from increasing as much in price, since 1967, as have all other food products combined and all consumer items in the Consumer Price Index. That is the ultimate test of our milk marketing system—results.

SCAPEGOAT FOR CRITICS

Incredibly, the dairy program which has served U.S. consumers and producers so well is under irresponsible attack. These attacks come from several governmental agencies and from cause-seeking consumer activist groups whose very survival depends upon being perceived as the discoverer and eradicator of consumer "rip-offs".

Only through ignorant analysis or a dishonest presentation can dairy's performance be depicted as a consumer rip-off.

DOMESTIC FOOD POLICY

Milk may be the only U.S. farm commodity with a carefully designed and proven rational public policy. National dairy policy is designed to sustain dairy farm families that will produce enough milk for our domestic needs for the foreseeable future.

That policy has resulted in adequate supplies of fresh, wholesome milk at reasonable prices. The dairy price support program is genuine consumer legislation designed to provide adequate long-term milk supplies. Congress has long realized that if consumers are to enjoy such benefits, dairy farmers must have the incentive to maintain productive capacity. This system has worked well.

MILK PRICE SUPPORTS ARE THE CORNERSTONE

The cornerstone of this dairy program is price supports. Mechanically, the price support program is simple. The Commodity Credit Corporation (CCC), stands ready to buy cyclical or seasonal surplus dairy products, establishing a "floor" under milk prices. Without such "floors" the market erroneously signals dairy farmers to adjust their productive capacity. The needed productive capacity that would be eliminated is composed of highly specialized dairy labor, management, equipment, buildings and cows.

CCC also stands ready to sell its purchased products back to commercial buyers to meet their market needs. This "sell-back" helps maintain market price stability for consumers during times of decreased production.

A CASE IN POINT

In 1977, CCC purchases increased sharply. The price support floor prevented milk prices for dairy farmers from falling. Treasury expenditures began to alarm public officials, as well as concern dairy farmers, and there was talk of radical revision of the price support program. Fortunately, such action was not taken and consumers were protected from severe price escalations in subsequent periods. Early in the period 1978-79 milk supplies were inadequate. Market prices moved sharply upward as consumers bid for these limited supplies. The results would have been even worse with a lower floor price, thousands of additional cows would have been sold for slaughter and without their milk 1978-79 milk prices would have moved much higher. Furthermore, the dairy products purchased by CCC in 1977 moved back into consumer markets in 1978-79, preventing sharp increases in the market prices for such products.

Consumers realized a net savings in 1978-79 as a result of government price support expenditures in the prior year.

CRITICS IGNORE DAIRY'S DYNAMIC NATURE

Numerous superficial appraisals of dairy price supports always appear in those times when surplus product purchases are high, claiming that consumers could have an immediate net gain if milk prices were permitted to drop to market clearing levels, and that those gains foregone, plus the Treasury costs represent a net taxpayer-consumer "rip-off". Such an appraisal is downright dishonest, and ignores consumer benefits from milk productive capacity preserved for future years and from the dairy product sell-back from government stocks.

DAIRY IN PERSPECTIVE WITH OTHER FARM COMMODITIES

Agricultural enterprises are characterized by price instability. From the 1930s to the mid 1970s the "farm problem" was that farm productive capacity was great enough to drive commodity prices below costs of production. In the mid-70s, world agricultural production fell and the U.S. farm productive capability was inadequate to meet export needs. New farm prosperity prompted an end to programs restricting U.S. farm output. "Produce to the limit" became the watchword. Agricultural exports became our greatest hope of an avenue to avoid national bankruptcy in the new petroleum-dominated world economy.

All the risks of uncertain export markets were placed squarely upon individual farmers. As was ultimately certain, the feather-edged margin between world shortage and world surplus shifted, and the old farm problem reappeared. Now, U.S. agriculture has become expendable in the game of world politics, subject to the day-to-day whims of world leaders.

In these circumstances, it is not business as usual on America's farms. Business survival now holds paramount priority. Trouble in other farm enterprises accounts for much of the increased surplus milk products purchased by USDA. Farm resources are being shifted to dairy as the brightest prospect for making a profit or for minimizing losses. Yet University of Wisconsin figures show that average cows at today's prices can only return $2.59 per hour for a dairy farmer's labor after paying other production costs.

DAIRY—A USEFUL PAWN

A measure of milk price stability has been achieved, but when compared to the stability of non-farm segments of the economy, such as the average hourly wage received by U.S. manufacturing workers, milk price variations are erratic indeed. Consumer advocates, both within and outside of the Department of Agriculture, should be deeply concerned about potential milk price instability. But irresponsible "advocates" can be expected to continue to pursue minimum commodity prices regardless of the longer-term effect upon farm productive capacity. Such a course serves their purpose of building constituencies.

Dairy farmers have been used as pawns in world trade matters. Substantial volumes of 1980 price support purchases are a direct result of irresponsible concessions for additional foreign government subsidized cheese imports. Even larger volumes of 1980 price support purchases are a direct result of imported casein. Casein imports continue to escalate to higher levels in 1980, increasing government purchases of displaced domestic cheese, butter and non-fat dried milk.

Dairy farmers also serve as pawns for "inflation fighters". Superficial rhetoric on the evils of milk price supports may be impressive, but only if long-term effects are ignored. Consumers' long-term interests can only be served through assuring adequate milk productive capacity.

The price support program is most vital to consumers and producers when there is surplus product. It cannot serve its purpose if floor prices are set to minimize surplus purchases.

In summary, every genuine representative of consumer interests, should favor continuation of milk price supports at 80 per cent of parity, even if Treasury costs temporarily seem high, to allow time for improvement in other agricultural alternatives and in the general economy. It would be unfortunate indeed if the most successful agricultural program should be damaged because of temporary external circumstances.

IRVIN J. ELKIN,
President,
Associated Milk Producers, Inc.●

DESIGNATION OF THE LOUIS A. JOHNSON VETERANS' MEDICAL CENTER

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. MOLLOHAN. Mr. Speaker, it gives me great pleasure today to introduce legislation to name the VA medical center in Clarksburg, W. Va., after our Nation's second Secretary of Defense, Louis A. Johnson. His dedicated service to this country throughout his life certainly merits this recognition.

After receiving his law degree from the University of Virginia, Mr. Johnson settled in Clarksburg and was named district attorney of Harrison County. At the age of 26, he was elected to the West Virginia House of Delegates where he headed the Judiciary Committee and was the majority floor leader.

As a veteran of World War I, he was a commissioned officer and served in France as an infantry captain. He participated in the Muese-Argonne offensive and was decorated as a commander of the French Legion of Honor. After the war, his interest in military affairs continued and he remained a commissioned officer in the Reserve. In 1932, he was elected national commander of the American Legion.

Under President Roosevelt, Johnson served as Assistant Secretary of War from 1937 to 1940. Due to the effective job he did in this capacity, he was given credit for shortening World War II by 1½ years because he had purchased needed Army equipment, planned the industry's mobilization for war, organized munitions and war resources boards, and helped to write the Selective Service Act.

Among Johnson's many accomplishments as Secretary of Defense under President Truman were the unification of the armed services, abolition of 800 boards and agencies, and an end to racial segregation in the services. He promoted better interracial and interfaith understanding and was the Nation's first and foremost advocate of adequate preparedness. He once said, "a strong man, well armed, keepeth his palace in order." He strongly backed the Truman doctrine of opposing Communist aggression throughout the world.

It is only fitting that the VA medical facility in Clarksburg be named after one of Clarksburg's most outstanding and prominent citizen who demonstrated leadership throughout his career as a prominent lawyer, veteran, and Government official.

Mr. Speaker, it was my personal privilege to know Louis A. Johnson for many years. I knew him to be a dynamic leader, and unparalleled patriot, and a proud and forceful American. Thus, it is my fervent hope that this bill will be acted upon expeditiously.●

INTO THE 1980'S—ANOTHER SCHOOL YEAR BEGINS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. BIAGGI. Mr. Speaker, as the week after Labor Day traditionally begins the start of the new school year for students across this Nation, I think it important that we pause and think about what we expect from our educational system in the coming decade.

As New York's senior member of the House Education and Labor Committee, I am particularly acquainted with the problems of our urban high schools. This body approved a comprehensive work and training bill last week—the Youth Act of 1980—that is a first step in coordinating the needs of disadvantaged youth in helping them to obtain meaningful employment. As an original cosponsor of this measure, H.R. 6711, I hope that our colleagues in the Senate will move quickly on this bill since President Carter has expressed his willingness to sign it into law.

I commend to the attention of my colleagues an article which appeared in this week's U.S. News & World Report which provides a report card for education in this country. I think that it is a most thoughtful article and hope that my colleagues will take time to consider its implications for education in the coming decade.

DRIVE TO RESCUE AMERICA'S BATTERED HIGH SCHOOLS

(By Stanley Wellborn)

At the start of the first school year of the 1980s, the nation's educators are primed for an all-out drive to put the battered American high school back on course again.

Major aim of the campaign: To reverse a decline that has left many schools with rock-bottom standards, unruly classes, despairing teachers and idle, turned-off students.

Such conditions, built up over the past two decades, are being attacked by federal and state programs with strong assistance from concerned parents and local school boards.

For many critics of today's often chaotic classrooms, the turnaround cannot begin too soon.

"We risk losing a generation of young people if improvements in high schools aren't made soon," warns Robert Calfee, a Stanford University education professor. "Too many schools today are easy and unchallenging. We can't afford that kind of multibillion-dollar baby-sitting service."

Nowhere are the nation's educational shortcomings more acute than in the 25,300 public junior and senior high schools—with an enrollment of 16.7 million students and more than a million teachers and administrators.

While elementary schools and colleges have begun to navigate the back-to-basics tide in recent years, high schools have lagged behind in academic achievement, enrollment and public confidence.

Continuing declines in test scores tell only part of the story, says Patricia Albjerg Graham of Harvard University, a former director of the National Institute of Education. Writing in Daedalus, she decries the seeming inability of schools to make students, particularly those from poor families, fully literate.

"Many children in the high schools have not mastered the elementary-school curriculum. They are in the 10th grade, but their reading skills are similar to those expected in the third or fourth grade."

The Council for Basic Education, pointing to the chronic decline in high-school standards, observes that "there is cause to ask whether high-school diplomas are worth keeping now."

Today, say critics, schools have become places of empty ritual, performing only a "credentialing" function for students. Now, they say, is the time for an educational crusade of the magnitude prompted by the Russian launching of the Sputnik satellite in 1957—the last time that secondary education was given a thorough public reappraisal across the nation.

A DISMAL PICTURE

During the past year, a spate of studies has concluded that the high school—the historic backbone of American public education—is in desperate straits.

None disputed the fact that America's best high schools are producing better-educated graduates than ever before. But there are too few of them. Far too many students receive mediocre educations that are the great blot on America's 95-billion-dollar public-education system.

In an assessment of secondary education entitled "Giving Youth a Better Chance," the Carnegie Council on Policy Studies in Higher Education notes that ill-equipped graduates are largely responsible for today's long-term unemployment among young adults.

Poor schooling, the report added, contributes to "ruined lives, crime, drug addiction, lost hopes, social fears, reduced productivity, raised social expenditures and disdain for authority."

Further, the council warns: "Problems that have become endemic in many high schools have moved down into some junior high schools, including lack of discipline, absenteeism, vandalism and use of drugs."

Although educators agree that equality of access has been achieved in many school districts across the U.S., they say that goal may have resulted in a watering down of the curriculum and an alienating, even prisonlike, atmosphere in classrooms—particularly those in large urban areas.

Another study refers to high schools in many cities as "holding tanks" for idle youths, who find that staying in school can be as disastrous as dropping out.

Surveys of high school students also show disenchantment with what schools are providing. A Gallup Poll found that 53 percent of U.S. teenagers contend they are not being asked to work hard enough in school. Sixty-two percent say that there should be more emphasis on basic subjects in their schools.

In a massive study of U.S. schools done by the Institute for Development of Educational Activities (IDEA), researchers asked 13,700 students in junior and senior high schools to pick the "one best thing" about their schools. Only 7 percent chose "the classses I'm taking." Eight percent simply replied, "Nothing."

Many high schools, overburdened with "elective" courses, discouraged teaching staffs and skimpy financial resources, have become virtual remediation centers for many pupils.

Few educators fault the primary grades for the poor performance of many high schoolers. Until grades 4 and 5, the vast majority of students master the traditional "building block" skills and retain an enthusiasm for learning.

But from grades 6 through 9, the IDEA study found, students gain in self-respect and personal maturity, while their respect for academics falls off markedly. Thus, many students become high-school sophomores with a distracted or turned-off attitude toward traditional education.

Part of the problem: The "minimum competency" movement requiring basic knowledge for a high-school diploma has prompted many schools to emphasize survival skills to the exclusion of more-demanding course work.

What can reverse those negative feelings among students and bring about a change for the better in public high schools? Of many suggestions made by education authorities, three crop up again and again: Better teaching, a more rigorous curriculum and stronger support from homes and communities.

TEACHER TROUBLES

The quality of teaching has been attacked with increasing frequency as high-school achievement scores have declined.

John I. Goodlad, dean of the Graduate School of Education at the University of California, Los Angeles, suggests that lack of teacher inventiveness may be a key reason for student loss of interest.

"Far too many classrooms from the fourth grade up rely on homogenized textbooks and workbooks and on a narrow range of teaching techniques," comments Goodlad, adding that a "pedagogical renaissance is desperately needed" in U.S. schools.

However, the bureaucratic and disciplinary difficulties of teaching in modern schools have created a generation of demoralized teachers. "If you look generally at the training of teachers in the U.S.," says Stanford's Calfee, "it is an area of great despair. With declining enrollment, with resources being cut back, jobs are scarce. Salaries are going down. There is not much fun to teaching any more."

Bombarded by mounting criticism for the past 15 years, high-school teachers are leaving the field in greater numbers than ever before, says Diane Ravitch, professor at Columbia University Teachers College. "Many teachers wonder what they are doing there. Are they just caretakers and custodians? That's not the kind of role that makes them want to work hard, if they feel that they're nothing more than glorified baby-sitters."

Moreover, as the profession has lost social prestige, it has attracted more recruits who are themselves barely competent students. Confirmation of this has come from W. Timothy Weaver, an associate professor of education at Boston University, who discovered that high-school seniors nationwide who plan to major in education are "academic weaklings," performing well below average on standardized Scholastic Aptitude Tests.

Weaver notes that education majors scored 34 points below average on verbal tests and 43 points below average in math. Even worse, prospective teachers scored lower in English than majors in nearly every other field.

Some school administrators see hope in that poorer teachers will be weeded out as high-school enrollments decline in the 1980's. Others point to teacher-competency tests implemented by at least 15 states to insure that instructors are up-to-date in their subjects.

Above all, many educators say, teachers must begin to take more personal responsibility for students' successes and failures. Michael Rutter, author of "Fifteen Thousand Hours: Secondary Schools and Their Effects on Children," a highly praised study of British schools, says that teachers who are single-minded about helping youngsters always get the best results.

"Teachers, first of all, should expect all students to learn," says Rutter. "Then they should assign and check homework regularly, praise good work and good behavior, punish firmly and fairly, and waste no time in unproductive classwork."

Secretary of Education Shirley M. Hufstedler voiced agreement with this idea in July at the National Education Association meeting in Los Angeles: "The secret to being a successful teacher in the 1980's—and not simply a survivor—is to reject generalized blame for all of education's ills while accepting in a very personal way the responsibility for each student's success or failure.

"Those who fail to get through to their students tend to blame the students. Even more important, those teachers who do take personal responsibility for their student's successes and failures tend to produce higher-achieving students."

CURRICULUM COMPLAINTS

The extensive growth of electives in high schools also is blamed by critics for the lack of educational focus among many recent graduates.

Columbia's Ravitch describes today's curriculum as a "delicatessen assortment of silly, fluffy courses." She agrees with former Commissioner of Education Ernest Boyer, who suggests in an interview beginning on page 49 that high schools must return to a traditional core curriculum.

Examples of the trend in recent years: Courses in pop psychology and television soap operas now supplant social-studies classes. Required survey courses in American and world literature have given way in some schools to classes in underground newspapers and country-music lyrics.

Concern about lax course offerings is beginning to reach state education officials, too. Declares Michael Kirst, a Stanford School of Education professor and president of the California State Board of Education: "It's surprising and alarming to see students in the world's most advanced technological state taking courses more appropriate for a relatively backward region. If our high schools increased science, math and other academic offerings, there's reason to believe that the performance of our students would improve."

Another strategy—now employed in one form or another by most states—is a requirement that students demonstrate minimum competency in essential-skills examinations before graduation. In some jurisdictions, students are given different versions of high-school diplomas depending on how well they perform on the tests.

COMMUNITY-SCHOOL TIES

Taking hold in many localities is the view that broader support should come from the many groups that shape public high schools—parents, teachers, taxpayers and government.

"Education is too important to leave exclusively to the province of the schools," asserts B. Frank Brown, author of a new study entitled "The Transition of Youth to Adulthood: A Bridge Too Long," by the National Commission on Youth of the Charles F. Kettering Foundation. Among the commission's recommendations:

Lower to 14 the age at which students no longer will be legally required to attend school.

Develop work-study programs so high-school students can take part-time jobs during school terms and summers.

Establish programs in which high-school students tutor in elementary schools on a daily basis.

Provide part-time internships for high-school students in service and government agencies.

Says Brown: "No longer can society rely exclusively on schools to carry out a task that is clearly a function of both the school and the community."

Despite current problems, many educators believe the salvation of America's secondary schools is attainable. They point to growing insistence by parents and taxpayers on higher standards, and a movement away from educational excesses of the past.

If students, teachers, principals and administrators commit themselves to improvements, these educators say, there is every reason to believe American high schools can return to a state of excellence in the 1980s.●

PRESIDENT HARRY S. TRUMAN'S COMMITTEE ON CIVIL RIGHTS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. STOKES. Mr. Speaker, thank you for giving me this opportunity to acquaint my colleagues with a bit of history which up until this point has received minimal notice—the Civil Rights Committee of the late President Harry S. Truman.

Dr. Phillip A. Grant, Jr., associate professor of history at Pace University, has written a very concise and enlightening paper on the Civil Rights Committee instituted by President Truman and his actions in this area. The paper was delivered at the 64th annual meeting of the Association for the Study of Afro-American Life and History. At this time, I would like to share the paper and my thoughts about the implications and relationship of these historical events with my colleagues in the U.S. House of Representatives.

Mr. Speaker, it seems particularly appropriate to recount this historical information in the wake of the recent political conventions where the achievements of former Presidents were praised and used as models for the future. The reactions and rationales against President Truman's civil rights suggestions are not only characteristic of a bygone era. Rather, we hear some of the same arguments today when programs for the poor and disadvantaged which would raise them from the throes of a permanent underclass are proposed.

History notes that President Truman may well have been the first unsung Presidential hero for civil and human rights. History further documents that his leadership in this area with the appointment of the Civil Rights Committee and his call to the Congress met with extreme opposition. Then, like today, other issues were higher on the Congress agenda than the active uplifting of people's civil and human rights in regards to employment and general economic status.

This is buttressed by the fact that it was in 1947 that President Truman sounded the call that he was appointing the aforementioned Committee. Although the Committee issued its formal report entitled "To Secure These Rights," it was not until 1964 that the Congress approved the Civil Rights Act.

Mr. Speaker, I believe that this paper not only points up our faults as the decisionmakers in this Nation but also our failure to actively pursue the best course of action for all citizens. Many people have noted that history is the best teacher. I hope that in sharing this paper with my colleagues, it will help to illuminate our path as we continue to debate the programs and activities needed to overcome the social and economic discrimination which plagues our poor in this Nation.

It is with this personal note, Mr. Speaker, that I submit the paper written by Dr. Grant for the CONGRESSIONAL RECORD:

PRESIDENT HARRY S. TRUMAN'S COMMITTEE ON CIVIL RIGHTS

On December 5, 1946 President Harry S. Truman appointed a Committee on Civil Rights. On that date the President directed the fifteen members of the Committee to recommend "more adequate and effective means and procedures for the protection of the civil rights of the people of the United States."[1]

Designated as Chairman of the Committee on Civil Rights was Mr. Charles E. Wilson, President of General Electric. The other members of the committee included several of the nation's most illustrious religious, academic, labor, and business leaders. These ladies and gentlemen were as follows: The Right Reverend Henry Knox Sherrill, Presiding Bishop of the Protestant Episcopal Church; The Most Reverend Francis J. Haas, Bishop of the Catholic Diocese of Grand Rapids; Rabbi Roland B. Gittelsohn; Mrs. M. E. Tilly, Women's Society of Christian Justice of the Methodist Church; Dr. Channing H. Tobias, former Senior Secretary of the Young Men's Christian Association; Dr. John S. Dickey, President of Dartmouth College; Dr. Frank P. Graham, President of the University of North Carolina; Mr. Boris B. Shiskin, American Federation of Labor Economist; Mr. James B. Carey, Secretary-Treasurer of the Congress of Industrial Organizations; Mr. Morris L. Ernst, lawyer and author; Mr. Franklin D. Roosevelt, Jr., American Veteran's Committee; Mrs. Sadie T. Alexander, National Urban League; Mr. Charles Luckman, President of Lever Brothers; and Mr. Francis P. Matthews, former Supreme Knight of the Knights of Columbus and a director of the United States Chamber of Commerce.

On January 6, 1947 President Truman delivered his State of the Union Message to a joint session of Congress. Reminding the House and Senate that he had recently appointed the Committee on Civil Rights, the President lamented the "numerous attacks upon the constitutional rights of individual citizens as a result of racial and religious bigotry." Truman, disturbed that substantial numbers of Americans had been frustrated in attempting to exercise their right to vote and had been denied freedom of assembly, concluded that the "will to fight these crimes should be in the hearts of every one of us."[2]

Ten days after his address on Capitol Hill President Truman invited the members of the Committee on Civil Rights to the White House. Referring to the task of the committee as a "vitally important job," Truman stressed that he was determined to have the Bill of Rights "implemented in fact." Truman climaxed his remarks to the committee as follows: "I hope that you will bring me something tangible by which we can accomplish the purposes which we have been trying to accomplish for one hundred and fifty years."[3]

The Committee on Civil Rights issued its formal report to President Truman on October 29, 1947. Entitled "To Secure These Rights," the report was one hundred and seventy-eight pages in length. The document was based on the testimony offered by forty witnesses, the correspondence received from approximately two hundred and fifty private organizations and individuals, and the relevant information provided by an impressive number and wide variety of federal, state, and local agencies.[4]

The official committee report consisted of four distinct sections. They were labeled as follows: (1) The American Heritage: Promise of Freedom and Equality; (2) The Record: Short of the Goal; (3) Government Responsibility: Securing These Rights; (4) A Program: The Committee's Recommendations.

Section One enumerated the fundamental rights characteristic of a free society. According to the committee, a free society by definition guaranteed such rights as security of the person and freedom of expression. Moreover, the rights to equality and the privileges of citizenship were definitely inherent to a free society. In effect the object of Section One was to inquire whether the realities of American life in 1947 accurately reflected the nation's uniquely revolutionary heritage of freedom and justice.

Section Two alluded to those contemporary incidents of American life which were obviously at variance with the ideals of a free society. Special emphasis was focussed on the numerous lynchings of 1946 and 1947, the frequent police brutality inflicted on Blacks and other minority groups, the apparent failure of the judiciary to insist upon equal justice under law, and the systematic denial of the ballot to Blacks. Section Two also documented the appalling lack of equal opportunity in such crucial areas as education, employment, housing, medical care, and public accommodations. Perhaps of paramount significance in Section Two was the committee's unequivocal condemnation of both the principle and the practice of racial segregation in the United States. Denouncing segregation as totally incompatible with the values of a free society, the committee expressed grave concern that segregation was such a longstanding tradition in neighborhoods located in close proximity to the White House, the Capitol Building, and the chambers of the Supreme Court.

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[1] "Harry S. Truman: Messages and Papers of the Presidents of the United States, 1946" (Washington: United States Government Printing Office, 1962), p. 532; Harry S. Truman, "Memoirs" (2 vols.; Garden City: Doubleday and Company, Inc., 1956), II, 180–181; Post, Washington, D.C., December 6, 1946, pp. 1, 12.

[2] "The State of the Union Messages of the Presidents, 1790–1966" (New York: 3 vols.; Chelsea House, 1966), III, 2946–2947; United States Congress, Congressional Record, Eightieth Congress, First Session (Washington: United States Government Printing Office, 1947), XCIII, 135–139; Post, Washington, D.C., January 7, 1947, pp. 1, 6; Evening Star, Washington, D.C., January 6, 1947, pp. 1, 6, 7.

[3] "Messages and Papers of the Presidents, 1947," pp. 98–99; Post, Washington, D.C., January 17, 1947, p. 3.

[4] "To Secure These Rights" (Washington: United States Government Printing Office, 1947); Post, Washington, D.C., October 30, 1947, p. 1, 9, 10; Evening Star, Washington, D.C., October 29, 1947, pp. 1, 6.

Section Three accentuated the urgent need for the Federal government to assert itself more vigorously in the realm of the protection of civil rights. Convinced that civil rights was an enormous problem affecting the entire nation, the committee felt that only the federal government was vested with sufficient power and authority to provide a national solution. The committee not only cited appropriate provisions of the Constitution and numerous Supreme Court decisions as irrefutable evidence of the involvement of the federal government, but also declared that a meaningful precedent had been established by the creation of a civil rights section in the Department of Justice in 1939. Notwithstanding the inclinations of the federal government to safeguard civil rights, the committee maintained that it was imperative to secure more definitive statutory authority. Otherwise, the committee feared that the federal government would be severely impeded in its quest to assure protection to those American citizens whose rights were either threatened or nonexistent.

Section Four was the committee's comprehensive program for resolving the multitude of problems pertaining to the civil rights question. In this section the committee stressed the moral, economic, and diplomatic considerations which justified the federal government's immediate assumption of much greater responsibility for the protection of civil rights in American society. The committee advocated the improvement of the administrative machinery affecting civil rights questions, the strengthening of the rights to the safety and security of the person, the protection and enlargement of the right to citizenship and its privileges, and the fostering of the conditions for equality. The committee proposed the establishment of a Civil Rights Division within the Department of Justice, a permanent Commission on Civil Rights, and a Joint Congressional Committee on Civil Rights. It also recommended that Congress enact legislation to prosecute individual violators of civil rights, including more stringent penalties in the federal criminal code and anti-lynching laws. Moreover, the committee endorsed the abolition of the poll tax, laws protecting the right to vote in both primaries and general elections, local self-government for the District of Columbia, and the elimination of discrimination and desegregation in the armed forces. Finally, the committee urged Congress to approve a fair employment practices (FEPC) law and prohibit segregation in interstate transportation and implored the Executive Branch to limit the distribution of federal funds to public and private agencies which disavowed discrimination and to initiate legal action to challenge restrictive housing covenants.

On January 7, 1948 President Truman mounted the rostrum of the House of Representatives for the purpose of delivering his State of the Union Message. The President, noting that the United States had "always had a deep concern for human rights," declared that any abridgement of human rights was a "denial of our basic beliefs of democracy and of our regard for the worth of each individual." Deploring the fact that certain Americans were "still being denied equal opportunity for education, for jobs and economic advancement, and for the expression of their views at the polls," Truman emphasized that racial discrimination was "utterly contrary to American ideals of democracy." The President, acknowledging that the report of the Committee on Civil Rights "points the way to corrective action by the Federal Government," promised to send a subsequent special message to the Congress "on this important subject."[5]

President Truman's Civil Rights Message of twenty-four paragraphs was sent to Congress on February 2, 1948. Saddened by the fact that there were "examples"—flagrant examples—of discrimination which are utterly contrary to our ideals, Truman proclaimed that the federal government had a "clear duty to see that constitutional guarantees of individual liberties and equal protection of the laws are not denied or abridged anywhere in our Union." Truman strongly endorsed many of the major proposals of the Committee on Civil Rights. The President urged Congress to establish a permanent Commission on Civil Rights, strengthen existing civil rights statutes, approve anti-lynching legislation, protect more thoroughly the right to vote, authorize the creation of a Fair Employment Practices Commission, outlaw discrimination in interstate transportation facilities, and provide home rule and suffrage in presidential elections for the District of Columbia. Truman also stressed that the Executive Branch was striving "to improve the enforcement of civil-rights statutes and to eliminate discrimination in Federal employment, in providing Federal services and facilities, and in the armed forces." Asserting that the United States had been instrumental in advocating a "world order of law and justice fully protective of the rights and dignity of the individual," the President terminated his message as follows:

"If we wish to inspire the peoples of the world whose freedom is in jeopardy, if we wish to restore hope to those who have already lost their civil liberties, if we wish to fulfill the promise that is ours, we must correct the remaining imperfections in our practice of democracy.

"We know the way. We need only the will."[6]

Notwithstanding the constructive recommendations of the Committee on Civil Rights and the forcefully worded sentiments of President Truman, Congress steadfastly refused to address itself to the lingering problem of racial discrimination in the United States. For nearly a decade after the issuance of the committee's report a coalition of Republicans and Southern Democrats successfully resorted to a maze of parliamentary devices to forestall the enactment of civil rights legislation. Indeed it was not until August 1957 that Congress even sanctioned a modest proposal to facilitate the realization of voting rights. Finally, it was not until the historic Civil Rights Act of July 1964 that Congress approved the principle of equal opportunity in employment and prohibited discrimination in public accommodations. It was the Supreme Court rather than the Congress which provided the impetus for such landmark changes as the elimination of discrimination in interstate transportation and the end to segregation in public education.

Although Congress remained shamefully oblivious to the problem of civil rights, the essential questions raised by President Truman's committee were to assume increasing relevance in successive presidential elections. The adoption of a forthright civil rights plank by the Democratic Party in 1948 probably never would have occurred had it not been for the sustained publicity generated by the Committee on Civil Rights. In 1948 a substantial number of powerful Southern Democrats were so thoroughly embittered by President Truman's emphasis on civil rights that they defiantly bolted the Democratic Party and avidly supported the so-called "Dixiecrat" ticket. The unexpected election of Truman in November 1948 and the rise to prominence of such articulate civil rights proponents as Governor G. Mennen Williams, Senators Hubert H. Humphrey, Paul Douglas, and John F. Kennedy, and United Auto Workers President Walter Reuther proved extremely helpful in persuading a growing percentage of Americans that the prevalence of racial discrimination posed a monumental challenge to the integrity of our Democratic system. The election of Senator Kennedy to the presidency in 1960 was to be of pivotal importance to the momentum of the civil rights movement. It was ironic, of course, that most of the issues so passionately debated in the 1960 presidential contest had been subjected to calm deliberation by the Committee on Civil Rights thirteen years earlier.

President Truman's Committee on Civil Rights was comprised of fifteen unusually distinguished American citizens. These ladies and gentlemen were well-informed, compassionate, and broadly representative of the nation's population. Undertaking an exhaustive study of the overall question of civil rights in the United States, they conscientiously analyzed the problem of racial discrimination within the framework of our American heritage. Recognizing that the country had conspicuously failed to prevent the continuation of racial injustice. The members of the Committee on Civil Rights performed their assigned task remarkably well. They correctly dramatized the foremost domestic shortcoming of twentieth century American life. In every respect they have been vindicated by history. They were and are deserving of the profound gratitude of all Americans committed to eradicating the curse of racial discrimination and promoting the ideal of genuine equality.●

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[5] "State of the Union Messages of the Presidents," III, 2952; Congressional Record, XCIV, 33-36; Post, Washington, D.C., January 8, 1948, pp. 1, 4; Evening Star, Washington, D.C., January 7, 1948, pp. 1, 6.

[6] "Messages and Papers of the Presidents, 1948," pp. 121-126; Congressional Record, XCIV, 927-929; Post, Washington, D.C., February 3, 1948, pp. 1, 2; Evening Star, Washington, D.C., February 3, 1948, pp. 1, 5.

REAGAN ON THE MIDDLE EAST

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. GILMAN. Mr. Speaker, last night Senator Rudy Boschwitz of Minnesota, Representative Jack Kemp of New York, and I, while attending a B'nai B'rith forum, heard Governor

Reagan deliver a significant policy message on the Middle East.

Mr. Speaker, I request that Governor Reagan's speech delivered last night before the international convention of B'nai B'rith be inserted at this point in the RECORD so that our colleagues may have the opportunity to share his views on the important security interests of the United States and Israel in the resolution of the hostility in the Middle East.

The address follows:

ADDRESS BY HON. RONALD REAGAN

I know it will come as no surprise to you that I have chosen to speak to you tonight about the State of Israel, its importance to our own nation and world peace.

But in a sense when I speak of Israel, I speak as well of other concerns of B'nai B'rith and of the entire Jewish community in the United States. Israel is not only a nation—it is a symbol. During my campaign I have spoken of the values of family, work, neighborhood, peace and freedom. I made a commitment to see to it that those values would be at the heart of policy-making in a Reagan Administration. Israel symbolizes those values. What is Israel if not the creation of families, working together to build a place to live and work and prosper in peace and freedom?

In defending Israel's right to exist, we defend the very values upon which our nation is built.

The long agony of Jews in the Soviet Union is, of course, never far from our minds and hearts. All these suffering people ask is that their families get the chance to work where they choose, in freedom and peace. They will not be forgotten by a Reagan Administration.

But, I must tell you this:

No policy, no matter how heartfelt, no matter how deeply rooted in the humanitarian vision we share, can succeed if the United States of America continues its descent into economic impotence and despair.

Neither the survival of Israel nor the ability of the United States to bring pressure to bear on the situation of dissidents against tyranny can become realistic policy choices if our American economy continues to deteriorate under the Carter policies of high unemployment, taxes and inflation.

The rhetoric of compassion and concern becomes just that, mere words, if not supported by the vision—and reality—of economic growth. The present Administration does not seem to realize this. It seems to believe that if the right kind of words are chosen and repeated often enough, all will be well. Can those who share our humanitarian concerns ignore the connection between economic policy, national strength and the ability to do the work of friendship and justice and peace in our own nation and world?

The theme of this convention, "A Covenant With Tomorrow," speaks directly to the question of American interests and the well-being of Israel. There is no covenant with the future which is not firmly rooted in our covenant with the past. Since the rebirth of the State of Israel, there has been an iron-clad bond between that democracy and this one.

That bond is a moral imperative. But the history of relations between states demonstrates that while morality is most frequently given as a motive for actions, the true and abiding motive is self-interest. Well, the touchstone of our relationship with Israel is that a secure, strong Israel is in America's self-interest. Israel is a major strategic asset to America.

Israel is not a client, but a very reliable friend, which is not something that can always be said of the United States today under the Carter Administration.

While we have since 1948 clung to the argument of a moral imperative to explain our commitment to Israel, no Administration has ever deluded itself that Israel was not of permanent strategic importance to America. Until, that is, the Carter Administration, which has violated this covenant with the past. Can we now have confidence it will honor a covenant with tomorrow?

The interests of all the world are served by peace and stability in the Middle East. To weaken Israel is to destabilize the Middle East and risk the peace of the world, for the road to world peace runs through the Middle East.

How do we travel that road?

We cannot positively influence events at the perimeters of our power if power—including economic power—at the center is diminished.

The conduct of this nation's foreign policy in the last four years has been marked by inconsistency and incompetence.

We must have a principled, consistent foreign policy which our people can support, our friends understand, and our adversaries respect. Our policies must be based upon close consultation with our allies.

We require the defensive capability necessary to ensure the credibility of our foreign policy, and the security of our allies and ourselves. There can be no security for one without the other.

Today, under Jimmy Carter, our defensive capability has been so seriously eroded as to constitute not a deterrent but a temptation.

This is not a campaign issue, it is a matter of grave national concern; indeed so grave that the President considers it a liability to his personal political fortunes. He has tried to give the appearance of responding to it. But the half-hearted measures he proposes are clearly inadequate to the task.

We must restore the vital margin of safety which this Administration has allowed to erode, maintaining a defense capability our adversaries will view as credible and that our allies can rely upon.

As an ally of the United States, Israel must have the means to remain strong and secure. Over the years, the United States has provided economic and defense assistance, and a Reagan Administration will maintain this traditional commitment.

In 1976, Candidate Jimmy Carter came before this convention and said: "I have called for closer ties with our traditional allies, and stronger ties with the State of Israel. I have stressed," he said, "the necessity for a strong defense—tough and muscular, and adequate to maintain freedom under any conceivable circumstances."

One wonders, did the candidate listen to his own call? Today we have fewer real allies and, among those, we speak with diminished authority. Our relations with Israel are marked by doubt and distrust. Israel today is in grave danger, and so is freedom itself.

In 1976, Jimmy Carter declared that he would seek what he called a "comprehensive settlement" in the Middle East. What this might mean for Israel and how this might be achieved were questions neither asked nor answered.

The comprehensive agreement which Mr. Carter sought required, first, a reconvening of the Geneva Conference. Israel was amenable to this step. Her adversaries agreed conditionally. But, the conditions were that the Palestine Liberation Organization be represented and that Israel effectively agree in advance of negotiation to withdraw to the pre-1967 borders, which were in fact armistice lines resulting from the first effort to destroy the State of Israel. Israel rightly refused these conditions and was promptly accused of intransigence. Can we believe that Mr. Carter is not still in favor of dealing with the P.L.O. and desirous of forcing the terms of a settlement?

Mr. Carter invited the Soviet Union to join him in his effort to force Israel to accept the mockery of negotiations in Geneva. Before that, it had required a major effort to keep the Soviets out of the Middle East peace process. In October, 1977, Mr. Carter invited them back in free of charge, and they graciously accepted. The Carter Administration presented as a major achievement the conclusion of a joint Soviet-American accord which would have given the Russians a stranglehold on negotiations, as well as a convenient calling card for inserting themselves more deeply into the Middle East.

This seriously disturbed President Sadat. The President of Egypt did not share Mr. Carter's appreciation of the Soviets, and he came to the conclusion which other world leaders, including Mr. Brezhnev, have now reached: Mr. Carter is incapable of distinguishing between his own short-term political interests, and the nation's long-term foreign policy interests. Mr. Carter professed not to understand what all the fuss was about.

The result was that the United States Government, for the first time in the history of the rebirth of Israel, found itself on the outside looking in. President Sadat made his courageous trip to Jerusalem at the invitation of Prime Minister Begin, and a bilateral peace process began. Without, let me re-emphasize, the participation of Mr. Carter. The quick foreign policy success that Carter had hoped to achieve turned instead into another major foreign policy blunder.

What we do or fail to do in the Middle East is of vital importance not only to the peoples of the region, but also to the security of our country, our Atlantic and Pacific allies, Africa, China, and the Asian subcontinent.

Because of the weak and confused leadership of Jimmy Carter, we are approaching a flashpoint in this tragic process, with Soviet power now deployed in a manner which directly threatens Iran, the Persian Gulf and Arabian Sea; with Soviet forces and proxy forces building up again in the region; with Soviet fleets and air bases emplaced along the sea lanes on which we and our Allies and the entire free world depend.

In spite of this I am confident that if we act with vigor, vision and practical good sense, we can peacefully blunt this Soviet thrust. We can rely upon responsible Arab leaders in time to learn what Anwar Sadat learned, which is that no people can long endure the cost of Soviet patronage.

How we deal with Israel and her neighbors in this period will determine whether we rebuild the peace process or whether we continue to drift. But let it be clear that the cornerstone of our effort and of our interest is a secure Israel, and our mutual objective is peace.

While we can help the nations of that area move toward peace, we should not try to force a settlement upon them.

Our diplomacy must be sensitive to the legitimate concerns of all in the area. Before a negotiated peace can ever hope to command the loyalty of the whole region, it must be acceptable to Israelis and Arabs alike.

Most important, we must rebuild our lost reputation for trustworthiness. We must again become a nation that can be relied upon to live up to its commitments.

In 1976, Candidate Jimmy Carter said: "I am concerned with the way in which our country, as well as the Soviet Union, Britain and France have poured arms into certain Arab countries—five or six times more than Israel receives."

But it was Mr. Carter who agreed to sell sixty F-15 fighters to Saudi Arabia. To get the Congress to go along, he assured these aircraft would not have certain offensive capabilities. Now, the Secretary of Defense tells us he cannot say whether this commitment to Congress will be honored.

It was Mr. Carter who agreed to sell one hundred main battle tanks to Jordan.

It was Mr. Carter who agreed to provide U.S. licensed turbine engines for Iraqi warships.

Meanwhile, Israel is being increasingly isolated by international terrorism and by U.N. resolutions designed to undermine Israel's position in the world while Carter stands by and watches.

I was appalled to see the Carter Administration abstain from voting on, rather than veto, the Resolution passed by the United Nations Security Council two weeks ago, totally disregarding the Democratic Platform promises of 1976 and 1980. As I stated then, that Resolution not only undermines progress toward peace by putting the United Nations on record against Israel and on one side of the sensitive issue of the status of Jerusalem; it also presumes to order other nations—including our Dutch ally—to move their embassies from Jerusalem.

I believe this sorry episode sheds some light on an earlier action by Jimmy Carter concerning another U.N. resolution, voted on in March this year. On March 1st, the Carter Administration failed to veto a mischievous U.N. resolution condemning Israel's presence in Jerusalem, calling it an "occupation." That was the position of the Carter Administration on Saturday. Two days later, on a Monday, reacting to the public outcry, Jimmy Carter put the blame for this outrage on his Secretary of State and reversed the position of the Administration.

The man who asks "trust me," zigzags and flip-flops in ever more rapid gyrations, trying to court favor with everyone: Israel, the P.L.O., the voting bloc in the United Nations and the voters at home. On March 1st, it took the Carter Administration three days to switch positions. On August 20th, it took only three minutes. Secretary of State Muskie condemned the U.N. Resolution on Jerusalem in a long speech that was for the voters in this country. Minutes later, he abstained instead of vetoing the U.N. Resolution. That was for the P.L.O. and their friends.

This is the Carter record on the Middle East. Arab leaders are persuaded that we don't say what we mean. Israel is persuaded that we don't mean what we say. How do we build productive relations with either side on such a basis?

Before we can act with authority abroad, we have to demonstrate our ability to make domestic policy without asking permission of other governments.

Mr. Carter sent an emissary to Saudi Arabia to ask for permission to store petroleum here in our own country—a strategic reserve vital to our national security and long demanded by Congress. The Saudis, predictably, said no. Mr. Carter halted the stockpiling.

Can we have relations with our friends in the Arab world if those relations are built on contempt for us?

Clear away the debris of the past four years, and the following issues remain to test the good faith of the Arab nations and of Israel, and to challenge our national will and diplomatic skill in helping them to shape a peace.

There is the unresolved question of territorial rights resulting from the 1967 war.

There is the status of Jerusalem which is part of the first question.

There is the matter of refugees.

There is the matter of the P.L.O., which I consider distinct from the matter of the refugees.

The question of territory, putting aside Jerusalem for the moment, must still be decided in accordance with Security Council Resolutions 242 and 338. We will tolerate no effort to supersede those Resolutions. We must weigh the future utility of the Camp David accords against that position.

There are basic ambiguities in the documents Camp David produced, both in the links between the Israeli-Egyptian peace, and in the provisions for an autonomous regime in the West Bank and the Gaza Strip. These ambiguities have now brought negotiations to a dangerous impasse.

Let us remember that an autonomous Palestinian Arab regime for the West Bank and the Gaza Strip was an Israeli proposal—a major concession on Israel's part in the interest of progress toward peace.

Negotiations between Israel and Jordan could result in long and creative steps toward resolving these problems. Israel and Jordan are the two Palestinian states envisioned and authorized by the United Nations. Jordan is not recognized as sovereign in some 80 percent of the old territory of Palestine. Israel and Jordan are the parties primarily authorized to settle the future of the unallocated territories, in accordance with the principles of the Mandate and the provisions of Resolutions 242 and 338.

Thus, the autonomy plan called for in the Camp David Agreements must be interpreted in accordance with the two Security Council Resolutions, which remain the decisive and authoritative rules governing the situation. The Camp David Agreements cannot and should not lead to fundamental changes in the security position, or to the withdrawals of Israeli troops, until Jordan and other neighbors make peace.

Jerusalem has been a source of man's spiritual inspiration since King David founded it. Its centrality to Jewish life is known to all.

Now it exists as a shared trust. The holy places of all faiths are protected and open to all. More than this, each is under the care and control of representatives of the respective faiths. Unlike the days prior to 1967, Jerusalem is now and will continue to be one city, undivided, with continuing free access for all. That is why I disagree with the cynical actions of the Carter Administration in pledging to preserve the status of Jerusalem in its party platform and its undercutting Israel and Jerusalem by abstaining on a key U.N. vote. I believe the problem of Jerusalem can be solved by men of good will as part of a permanent settlement. The immediate problem is to make it easier for men of good will to come to the peace table.

President Carter refuses to brand the P.L.O. as a terrorist organization.

I have no hesitation in doing so.

We live in a world in which any band of thugs clever enough to get the word "liberation" into its name can thereupon murder school children and have its deeds considered glamorous and glorious. Terrorists are not guerrillas, or commandos, or freedom-fighters or anything else. They are terrorists and they should be identified as such. If others wish to deal with them, establish diplomatic relations with them, let it be on their heads. And let them be willing to pay the price of appeasement.

The P.L.O. is said to represent the Palestinian refugees. It represents no one but the leaders who established it as a means of organizing aggression against Israel. The P.L.O. is kept under tight control in every state in the area except Lebanon, which it has effectively destroyed. As for those it purports to represent, when any Palestinian breathes a word about peace to Israel, he is an immediate target for assassination. The P.L.O. has murdered more Palestinians than it has Israelis.

This nation made an agreement with Israel in 1975 concerning its relations with the P.L.O.

This Administration has violated that agreement. We are concerned not only with whether the P.L.O. renounces its charter calling for the destruction of Israel, we are equally concerned with whether it is truly representative of the Palestinian people. If we can be satisfied on both counts, then we will not be dealing with the P.L.O. as we know it, but a quite different organization, one truly representative of those Arab Palestinians dedicated to peace and not to the establishment of a Soviet satellite in the heart of the Middle East.

Finally, the question of Arab Palestinian refugees.

My analysis of this tragic situation begins with the Declaration of the Establishment of the State of Israel, May 14, 1948. Let me read the relevant paragraph:

"We appeal—in the very midst of the onslaught launched against us now for months—to the Arab inhabitants of the State of Israel to preserve peace and to participate with us in the upbuilding of the State on the basis of full and equal citizenship and due representation in all its provisional and permanent institutions."

Tragically, this appeal was rejected. People left their land and their homes confident Israel would be destroyed in a matter of days and they could return. Israel was not destroyed and the refugee problem is with us today.

One solution to this refugee problem could be assimilation in Jordan, designated by the U.N. as the Arab Palestinian state.

In the final analysis, this or some other solution must be found as part of a peace settlement. The Psalms speak to our concerns, for they encompass all that we strive for. They are a vision of our ideals, of the goal to which we strive with constancy, dedication and faith. They embrace our hopes for a just, lasting peace in the Middle East and our hopes that the works of justice and mercy be done at home:

. . . May our garners be full, affording
every kind of store; . . .
May there be no breach in the walls, no
exile, no outcry in our streets.
Happy the people for whom things are thus.

It is given to us to see that this vision is never lost, its message never forgotten, that the work of peace and justice and freedom goes on, inspired by our values, guided by our faith and made permanent by our commitment.●

SURVEY SUPPORTS QUOTAS ON IMPORTS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. GAYDOS. Mr. Speaker, I recently concluded a survey in the 20th Congressional District of Pennsylvania dealing with the problems of the

Nation, its trade laws, and the Federal social security program. I believe my colleagues might be interested in the results.

For example, residents of the 20th District indicate they have little faith in the traditional practice of the executive branch to achieve truly fair trade with certain foreign producers through negotiated or voluntary agreements or arrangements. Eighty-five percent of those responding to a question as to whether Congress should place mandatory limits on the amount of foreign products—steel, autos, and so forth—imported into the United States answered in the affirmative. Twelve percent oppose mandatory quotas and 3 percent had no opinion.

That percentage, I am certain, indicates people do understand what can happen when a foreign producer captures an unreasonable share of a domestic industry's home market. Our people know you can never achieve the goal of free trade among all nations until you also achieve fair trade as well.

A similar overwhelming majority also expressed their support of the use of general tax funds to insure the solvency of the social security program. As we all know, the ability of the social security fund to provide benefits for qualified recipients has come under serious questioning. The expansion of coverage coupled with a reduction in contributions resulting from adverse economic conditions has caused unrest among the Nation's elderly and young workers.

The elderly feel the fund will go bankrupt, leaving them destitute. Congress sought to allay these fears by increasing the tax and the base on which it is paid. This effort created turmoil among the ranks of contributors because it began draining huge sums from their income, destroying dreams of owning a home or of a brighter future.

Now, there is talk of increasing the tax even higher or go the other route and begin stripping benefits from the social security program. The people of the 20th District have rejected these alternatives. Seventy-three percent favored the use of general tax funds to bolster the program, 16 percent voted to support higher taxes, and only 12 percent sought a reduction in benefits.

I also asked our people what, in their opinion, was the most serious problem facing the Nation. Energy, defense, inflation, or recession? Sixty-one percent ranked inflation first; followed by national defense, 14 percent; the recession, 13 percent; and energy, 12 percent.

Mr. Speaker, I have forwarded the results of this survey to the President in the hope the opinions of residents in the 20th Congressional District will assist him in plotting the future course of our Government's actions in these areas.●

CHRISTIANITY AND POLITICS—PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1980

● Mr. McDONALD. Mr. Speaker, this is the second half of a two part series written by Rev. Joseph C. Morecraft of Atlanta, Ga., entitled, "The Counterproductivity of Not Linking Christianity and Politics: A Reply to Senator MARK HATFIELD." In part 1 Reverend Morecraft identifies the basic premises and arguments used by others to support the belief that religion should remain neutral in the political arena and some of the fundamental weaknesses of this position. In the following excerpt the reverend continues and explains why religious neutralism is inconsistent with a proper sense of law as well as Christian principles. I commend it to the attention of my colleagues:

> Religious neutrality in politics is especially dangerous, because of the far-reaching impact of legislation and laws. The source of law for a society is the god of that society. If the source of law is the Bible, then Almighty God is the God of that society. On the other hand, if the source of law is man, then Man becomes the god, and that spells slavery and chaos for that society. As Rushdoony has written, "Law is in every culture religious in origin. Because law governs man and society, because it establishes and declares the meaning of justice and righteousness, law is inescapably religious, in that it establishes in practical fashion the ultimate concerns of a culture. Accordingly, a fundamental and necessary premise in any and every study of law must be, first, a recognition of this religious nature of law.
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> "Second, it must be recognized that in any culture the source of law is the god of that society. If law has its source in man's reason, then reason is the god of that society. If the source is an oligarchy, or in a court, senate, or ruler, then that source is the god of that system.
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> "Modern humanism, the religion of the state, locates law in the state and thus makes the state, or the people as they find expression in the state, the god of the system. In Western culture, law has steadily moved away from God to the people (or the state) as its source, although the historic power and vitality of the West has been in Biblical faith and law.
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> "Third, in any society, any change of law is an explicit or implicit change of religion. Nothing more clearly reveals, in fact, the religious change in a society than a legal revolution. When the legal foundations shift from Biblical law to humanism, it means that the society now draws its vitality and power from humanism, not from Christian theism.
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> "Fourth, no disestablishment of religion as such is possible in any society. A church can be disestablished, and a particular religion can be supplanted by another, but the change is simply to another religion. Since the foundations of law are inescapably religious, no society exists without a religious foundation or without a law-system which codifies the morality of its religion.
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> "Fifth, there can be no tolerance in a law-system for another religion. Toleration is a device used to introduce a new law-system as a prelude to a new intolerance. Legal positivism, a humanistic faith, has been savage in its hostility to the Biblical law-system and has claimed to be an 'open' system."[7]
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> "Religious neutrality in politics", then, is a subversive, revolutionary, and anti-christian principle!
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> The second fundamental weakness of this principle is that it betrays two cardinal truths of the Christian religion: (1). the lordship of Christ over all of life; and (2). the all-embracing authority of the Bible, as the written Word of God.
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> One of the clearest teachings of Christianity is that Jesus Christ is King. He was hailed as such at His birth.[8] He professed to be such throughout His life.[9] He died as a King, in total control of the situation.[10] He arose from the grave as a majestic King.[11] He reigns over all today, and is working to establish His kingdom over all the earth.[12] He shall return at the end of history to consummate His reign.[13] Faith is spoken of in terms of submission to His lordship.[14] Two things, then, become absolutely clear: (1). The lordship of Christ is unlimited and unrestricted, i.e., it includes all areas of life without exception. There is no area of human life or in the entire creation that is not under his lordship and accountable to Him.
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> (2). Christ's lordship is of particular importance for the political realm. Revelation points out that Christ's rule includes the political arena, when He is called, "the ruler of the kings of the earth."[15] Psalm 2 directly addresses civil governments and calls upon them to "Do homage to the Son, lest He become angry, and you perish in the way * * *." The book of Acts indicates that the civil governments of Christ's day were intimidated by the political implications of the universal lordship of Christ. The early church certainly was aware of the conflict with Rome, the lordship of Christ brought them into. "And when they did not find them, they began dragging Jason and some brethren before the city authorities, shouting, 'These men who have upset the world have come here also; and Jason has welcomed them, and they all act contrary to the decrees of Caesar, saying that there is another king, Jesus,'" (Acts 17:6–7)
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> The point appears to be obvious. Jesus Christ is the unrivaled monarch of the political process of the United States of America. Christians have the duty to declare His lordship in the American political arena; and they may not rest until His divine rights and absolute authority are recognized and submitted to in the executive, legislative, and judicial branches of our civil government at the national, state, and municipal levels. For a Christian to seek anything less is to act as if Christ is something less than what He, in fact, is—King of kings and Lord of lords, Who possesses all authority and power in heaven and on earth.[16] Neutrality in politics is rebellion against the Lord Christ.
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> An example of proper zeal for the crown rights of Jesus Christ was Rev. James Henley Thornwell, who, in 1861, fought for the following preamble to be included in the constitution of the Confederacy: "Nevertheless we, the people of these Confederate States, distinctly acknowledge our responsibility to God, and the supremacy of His Son, Jesus Christ, as King of kings and Lord of lords; and hereby ordain that no law shall be passed by the Congress of these Confederate States inconsistent with the will of God, as revealed in the Holy Scriptures."[17]
>
> This brings us to the other cardinal truth at stake in this issue, which is the all-embracing authority of the Bible as the writ-

ten Word of God. American Christians, since the landing of the pilgrim fathers, have been committed to the authority of Biblical Law as the only basis for a just, orderly and prospering society.[18] If Jesus Christ is Lord, He has given a law that is to be obeyed by all men and all nations.[19] Since Christ is King, it is impossible for a relationship to exist without revealed law. God's Law was given to govern the entire life, thought and economy of godly nation.[20] "Righteousness, i.e., conformity to biblical law, exalts a nation, but sin is a reproach to any people." (Proverbs 14:34) God tells Israel in Deuteronomy 4:8 that there is no legal code or system of laws that is as just as the revealed Law Of God. Throughout the Old Testament, God judges Israel and many other nations, as nations, if they disregard or transgress Biblical Law. In the New Testament, the civil government is said to be "the minister of God for good" and the "avenger who brings wrath upon the one who practices evil." Both of these phrases are found in Romans 13:1-7. Their point is that it is the civil government's God-given responsibility to administer justice solely in terms of right and wrong. For the Christian, as well as the writers of the New Testament, the only standard of right and wrong is the written Word of God. As a "minister" the civil government has the responsibility before God to administer His Law. It does not have the right to legislate laws by fiat. Its authority is ministerial not legislative, according to the Bible. That makes the Bible of critical importance in politics, because justice is impossible, unless it is based upon the final authority of Biblical Law.[21] Jesus specifically says that the Scriptures, which can never be broken, were especially addressed to civil officials in John 10:35.

Consider these examples of the attitude the founding fathers of the United States had toward Biblical Law. First of all, we have a quotation from the "Fundamental Orders of Connecticut" (1638): "* * * well knowing where a people are gathered together the word of God requires that to maintain peace and union of such people there should be an orderly and decent government established according to God, to order and dispose of the affairs of the people at all seasons as occasion shall require; do therefore associate and conjoin ourselves to be as one public state or commonwealth; and do * * * enter into combination and confederation together, to maintain and preserve the liberty and purity of the gospel of our Lord Jesus Christ which we now profess * * *."[22]

Then we have a quotation from the New Haven Colony: "March 2, 1641/2: And according to the fundamental agreement made and published by full and general consent, when the plantation began and government was settled, that the judicial law of God given by Moses and expounded in other parts of scripture, so far as it is a hedge and a fence to the moral law, and neither ceremonial nor typical nor had any reference to Canaan, hath an everlasting equity in it, and should be the rule of their proceedings. April 3, 1644: It was ordered that the judicial laws of God, as they were delivered by Moses * * * be a rule to all the courts in this jurisdiction in their proceeding against offenders * * *."[23]

Last, we have a quotation from the "Address to the Reader" by Aspinwall in John Cotton's "Abstract of the Laws of New England" (1655): "This model far surpasseth all the municipal laws and statutes of any of the Gentile nations and corporations under the cope of Heaven. Wherefore I thought it not unmeet to publish it to the view of all, for the common good * * *. Judge equally and impartially, whether there be any laws in any state in the world, so just and equal as these be. Which, were they duly attended to, would undoubtedly preserve inviolable the liberty of the subject against all tyrannical and usurping powers * * *. This Abstract may serve for this use principally to show the complete sufficiency of the word of God alone, to direct his people in judgment of all causes, both civil and criminal * * *. But the truth is, both they we, and other the Gentile nations, are loath to be persuaded to lay aside our old earthly forms of governments, to submit to the government of Christ."[24]

For the United States to survive, prosper and enjoy peace under the blessing of Almighty God, we must as a people and as a political structure confess that "the Lord is our Judge, the Lord is our Law-giver, the Lord is our King; He will save us." (Isaiah 33:22) The Christian must work toward the repeal of all laws that originate with humanism and toward the reinstitution of Biblical Law as the basis for the laws and legislation of the United States. Religious neutrality here amounts to the questioning of the justice and integrity of the revealed Law of God. Rushdoony makes the point dramatically, in his comments on Deuteronomy 6:4-9, known as the Shema Israel, "The first principle of the Shema Israel is thus one God, one law. It is the declaration of an absolute moral order to which man must conform. If Israel cannot admit another god and another law-order, it cannot recognize any other religion or law-order as valid either for itself or for anyone else. Because God is one, truth is one.

"All this illustrates a second principle of the Shema Israel: one absolute, unchanging God means one absolute, unchanging law. Men's social applications and approximations of the righteousness of God may alter, vary, and waver, but the absolute law does not. To speak of the law as 'for Israel' but not for Christians is not only to abandon the law but also to abandon the God of the law. Since there is only one true God, and His law is the expression of His unchanging nature and righteousness, then to abandon the Biblical law for another law-system is to change gods. The moral collapse of Christendom is a product of this current process of changing gods.

"A third principle of the Shema Israel is that one God, one law, requires one total, unchanging, and unqualified obedience. The meaning is that man must obey God totally, in any and every condition, with all his being. Since man is totally the creature of God, and since there is not a fiber of his being which is not the handiwork of God and therefore subject to the total law of God, there is not an area of man's life and being which can be held in reservation from God and His law."[25]

This should suffice to impress us with the fact that a Christian cannot enter the political arena and leave the Law of God behind. To do so is to endanger his own welfare and to lay aside that guide which God gave to enhance the life, prosperity and peace of the nation according to Deuteronomy 28. Let it be made very clear, "Christ cannot be accepted if His sovereignty, His law, and His word are denied."[26]

In conclusion, I trust it has been shown that the religious neutrality in politics principle is destructive to justice and to Christianity. It is another myth of secular humanism. It must be repudiated by all Christians. It is my earnest prayer that Sen. Mark Hatfield will re-evaluate his position in the light of the principles we have set forth here, insofar as they are in accordance with God's Word. I sincerely pray that, in rebuilding his political position in exclusively Christian and biblical terms, God will richly bless Sen. Hatfield to be one of the powerful men in Congress whom God is using in the Christian reconstruction of the United States into a truly Christian Republic.

May all Christians everywhere re-commit themselves, by the grace of God, to pray for and diligently work towards the establishment of the crown rights of Jesus Christ over all the earth and the reconstruction of all aspects of American society and culture by the inerrant and all-sufficient Word of God in the power of the Holy Spirit to the glory of Almighty God.

FOOTNOTES

1. Hebden Taylor, E. L., "The Myth of Religious Neutrality in Politics", pg. 1, unpub.
2. Ibid. pg. 1.
3. Ibid. pg. 2.
4. Lee, F. N., "The Central Significance of Culture", Presbyterian and Reformed Publishing Co., Nutley, N.J., 1976, pg. 121.
5. Ibid. pg. 123.
6. Van Til, H., "The Calvinistic Concept of Culture", Presbyterian and Reformed Publishing Co., Nutley, N.J., 1972, pg. 27f.
7. Rushdoony, R. J., "The Institutes of Biblical Law", Craig Press, Nutley, N.J. 1973, pg. 4f.
8. Luke 2:11.
9. Mark 2:10,28.
10. Colossians 2:15.
11. Acts 2:32-36.
12. I Corinthians 15:23-28.
13. Philippians 2:9-11.
14. Romans 10:9.
15. Revelation 1:5.
16. Matthew 28:18.
17. "Thornwell's Theocracy" in "Presbyterian Heritage", vol. 1, No. 1, published by Atlanta Christian Training Center, Atlanta, Georgia.
18. Deuteronomy 28-30.
19. Exodus 20:1ff.
20. Study the book of Deuteronomy to see the all-embracing nature of God's Law.
21. Proverbs 28:4,5; 29:4,14.
22. Walton, R., "Fundamentals for American Christians", Vol. I, Plymouth Rock Foundation, N.H., pg. 44.
23. Rushdoony, "The Institutes of Biblical Law", Craig Press, Nutley, N.J., 1973, pg. 1f.
24. Bahnsen, G., "Theonomy in Christian Ethics", Craig Press, Nutley, N.J., 1977, pg. 549f.
25. Rushdoony, "The Institutes of Biblical Law", pg. 18ff.
26. Ibid. pg. 667.●

HOUSE OF REPRESENTATIVES—*Friday, September 5, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Eternal God, who has created the heavens and the Earth and the peoples of every nation, bless all those who turn to You for comfort and solace. Even as we thank You, O God, for the gift of freedom, we remember those who each day face oppression or anxiety because they do not know the liberty with which we have been blessed. O God, continue to support and strengthen those of Your creatures who face captivity or suppression, those who cannot freely worship You or follow their faith. May Your spirit support those who yearn for freedom and whose cause is just, that sustained by Your promise, they may ever continue and be upheld by Your abiding word. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate insists upon its amendments to the bill (H.R. 7018) entitled "An act to extend the Federal Insecticide, Fungicide, and Rodenticide Act until September 30, 1981, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. STONE, Mr. LEAHY, Mr. STEWART, Mr. HELMS, Mr. HAYAKAWA, and Mr. JEPSEN to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2718. An act to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

TRIBUTE TO THE LATE HONORABLE JAMES A. BYRNE

(Mr. MOORHEAD of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I rise with regret to advise the House of the death of former Congressman James A. Byrne, who served in the House of Representatives for 20 years beginning in 1952. During 14 of those years I had the pleasure of serving with him, I say pleasure because, although he took his job seriously, he never lost his delightful sense of humor.

Jimmy Byrne was a loyal Democrat.

He was a concerned and capable Congressman.

He worked in Washington but his heart was in Philadelphia and with the people of his district. He will be missed in both places.

As a fellow Pennsylvanian I pay tribute to his fine career and extend my condolences to his family on this sad occasion.

A newspaper article follows:

[From the Philadelphia Inquirer, Aug. 29, 1980]

JAMES A. BYRNE, CONGRESSMAN FROM KENSINGTON FOR 20 YEARS

(By Burr Van Atta)

Former U.S. Rep. James Aloysius Byrne, 74, who represented his Kensington constituency in Congress for 20 years, died Wednesday at St. Mary Hospital. He lived at 2315 E. Cumberland St. in the heart of his old Third District.

Mr. Byrne was a lifelong Democrat who followed in his father's footsteps and began working for the party long before he could vote. He built a record as a staunch liberal in Washington and was regularly scored as "perfect" or "near perfect" in ratings of congressmen by the Americans for Democratic Action.

He was first elected in 1952 to represent the district. He served 10 terms and held a number of key committee posts between 1953 and 1973.

Mr. Byrne was a strong supporter of civil rights legislation, Medicare, foreign aid and the Vietnam war. He changed his mind on the war in 1970 and joined in a resolution calling on President Richard M. Nixon to seek a quick end to the conflict.

Noting the changing mood of the people, he shifted his position on the war after several tours of the combat area. And, he noted, two members of his family were fighting there.

But the thrust of much of his work was toward projects that would benefit his constituents and the Philadelphia area.

A member of the House Armed Services Committee, he led the fight against Robert S. McNamara when the defense secretary first recommended closing of the Philadelphia Naval Shipyard and then the Frankford Arsenal. He won the first issue and lost the second.

Mr. Byrne was responsible for much of the work in the Independence Mall area, and was pleased when the new Federal Courthouse at Sixth and Market Streets was given his name.

Greatly interested in the area, he waged a fight against "a new Chinese wall" that would cut the city off from the Delaware River. He succeeded in convincing authorities to depress the Delaware Expressway (Interstate 95) through the Society Hill-Queens Village area.

While the liberal wing of the Democratic Party was high in its praise of his performance, it was at times critical of his high rate of absenteeism.

Mr. Byrne, who carefully tended his home precincts, spent much of his time in the city. Since 1937, he had also operated a funeral home from his home; the occupation won him the nickname "Digger," a nickname he did not enjoy. He preferred "Jimmy."

He became one of the great travelers in Congress, frequently making extended trips to investigate conditions around the world.

He considered his voting record and his trips part of the job of representing his constituents.

His people wanted to know what was going on in the world, he said, and it was his job to find out. To the end, he was sure they would support him. "They're people who have to work for a living, and the Democratic Party is the party of the working man," he said.

He explained his view of his political role while campaigning in 1968. "When I walk down the street, people think I'm Santa Claus," he said. "And I hear confessions at all hours."

Mr. Byrne began his life in the party when a student at St. Joseph's Preparatory School. He left St. Joseph's College after two years when he was elected a Democratic committeeman. He was leader of the 31st Ward for 35 years, always with support from labor unions.

From 1941 to 1945, he was U.S. marshal, and then was named chief of disbursement for the state treasurer. He was a state representative from 1950 to 1952 and campaigned for Congress from the House seat.

Through the years he made friends in the party, including an ally and later mayor, James H. J. Tate. He also made enemies, among them former state Sen. Henry J. (Buddy) Cianfrani and former Democratic City Chairman Peter J. Camiel. Cianfrani and Camiel regularly threatened to run for his congressional seat.

Mr. Byrne finally met defeat at the hands of the man who is now mayor, William J. Green 3d.

The two Democrats came into conflict in the 1972 primary after their districts were merged in a bit of gerrymandering that political writers said was "tailor-made for the younger, better-known Green."

Faced with what was clearly the fight of his life, Mr. Byrne brushed aside reports that he would retire. "Why should I retire?" he asked. "I like it here."

With full backing from the party and support from then-mayor Frank L. Rizzo, he was confident. Rizzo granted his support in reply to Green's primary race against him in 1971.

Byrne, then 66, waged a traditional campaign, visiting supermarkets and plants, holding his union support, pressing the flesh in endless rounds of handshaking and seeing to it that party workers were happy. Green, 33, a member of the House Ways and Means Committee, who was described by political writers as "sleek and glib, the son of the best political boss the city had seen in

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

this century," pulled out the stops, using Madison Avenue compaign techniques and summoning up all the "glitter and glamour at his command."

Green won the nomination by a 3-2 ratio. Camiel commented that Mr. Byrne could only blame himself for the defeat.

He is survived by his wife, Virginia Mullin Byrne, a brother and a sister.

A viewing will be held from 6 to 9 p.m. Monday and after 8:30 a.m. Tuesday at St. Ann's Church, Memphis Street and East Lehigh Avenue. A Mass of Christian Burial will be offered at 11 a.m. Tuesday at the church. Burial will be in Holy Sepulchre Cemetery, Wyndmoor.

IN MEMORY OF FORMER REPRESENTATIVE JAMES A. BYRNE

(Mr. GAYDOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GAYDOS. Mr. Speaker, I was deeply saddened to learn of the death of a dear friend and colleague from the State of Pennsylvania, former Representative James A. Byrne.

Jim Byrne was elected to the Pennsylvania State Legislature in 1950, beginning a long and illustrious career in public service. In 1952, he was elected to the U.S. Congress, where he served 10 terms and distinguished himself as a member of the Armed Services and Merchant Marine and Fisheries Committees.

Throughout his years of public service, Jim was dedicated to the cause of civil rights and the needs of the elderly, and was a friend and champion of the working man. He diligently maintained close contact with his constituency and devoted considerable time and efforts in support of those projects which would most benefit his congressional district and the people of Philadelphia.

Jim Byrne was a true statesman and clearly loved meeting people. He was always willing to lend a helping hand and rightfully earned the respect of his constituents and his colleagues in the House.

It was indeed a great honor to have served with Jim Byrne in this House, and it is with heartfelt sorrow that I join with my colleagues in paying him tribute today. My deepest and sincerest sympathy goes out to Jim's wife, Virginia.

THE PASSING OF FORMER CONGRESSMAN JAMES A. BYRNE

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LEDERER. Mr. Speaker, it is with great sadness that I join with my colleagues from Pennsylvania in announcing the passing of former Congressman James A. Byrne on August 27, 1980.

The people of Kensington, Fishtown, and the Third Congressional District were seen over the weekend spreading the sad news of the loss of this great leader. The "Digger" as he was affectionately called in the Halls of Congress and Jimmy to all those in Philadelphia who loved him so much was a man for all seasons.

Jimmy Byrne started his political career while a student at St. Joe's Prep School in Philadelphia. Among the many offices he held on his way to the U.S. Congress were Democratic leader of the 18th ward, Democratic leader of the 31st ward, a post which he held for 35 years. From 1941 to 1945 he was the U.S. marshal, appointed to that post by President Franklin D. Roosevelt. He served that office with distinction, a record to be emulated by his successors. He held the position of chief of disbursement for the State treasurer. In 1950 he was elected to the House of Representatives of the Commonwealth of Pennsylvania and in 1952 when President Eisenhower was sweeping the country Jimmy Byrne was elected to serve his first term in the U.S. House of Representatives where he stayed for 20 years. Congressman Byrne served on the Merchant Marine Committee and was a ranking member of the Armed Services Committee.

Jimmy Byrne led the fight to save the Philadelphia Naval Yard, was able for many years to keep the Frankford Arsenal open and probably more than any other person he was responsible for the Independence Mall National Park which houses Independence Hall and the Liberty Bell which was taken back through urban renewal.

During the Vietnam war Congressman Byrne on more than a few occasions was in the combat zone.

Jimmy's philosophy was that his constituents were a hard-working people and the Democratic Party was the party to represent their needs and interest. He was a legend in his own time in that he was never too busy to see a constituent in his offices or after Mass at his beloved St. Ann's parish, Memphis Street and East Lehigh Avenue.

I ask my colleagues to join with me today in extending our sympathy to his wife, Virginia Mullin Byrne; his brother, Robert; his sisters, Claire and Catherine; and to his many nieces and nephews, and to Senator Joseph Smith, his friend and confidant of many years; to Gerry Middleburg; his many friends and associates and the 31st ward Democratic executive committee.

FAILURE TO PASS BUDGET RESOLUTION VIOLATES THE LAW

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, title 31, section 1331(b) of the United States Code, the law of this country, says as follows:

> No later than September 15 of each year, the Congress shall complete action on the concurrent resolution on the budget referred to in subsection (a) of this section.

There is nothing in this section which authorizes anybody in this House to waive this law. In effect it requires the Congress to file a tax return. It is the law of the land. And yet we now have the specter of an impending lameduck session, ostensibly because we cannot complete our work before September 15.

What happens to the ordinary citizen when he or she fails to file a tax return as is required by the law?

Well, title 26, United States Code, section 7203, says that for any citizen who fails to file a tax return, they have up to a year in jail staring them in the face, or a $10,000 fine.

The American people should be alert to this prospective violation of the law, and one of the best ways to do it is a national debate, a national debate between the leaders of the two great powers who serve in this House would provide the American people with the opportunity to determine if we truly need a lameduck session.

The truth of the matter is that we have ample time to complete this task by September 15. The Democrats, who control this House by a 63-percent majority, want to keep from the American people until after the election the fact that in fiscal year 1981 we will incur a deficit of $30 to $40 billion. These deficits will only stop when the people of this country decide to change which party controls this Congress.

AMERICAN PEOPLE OUTRAGED BY ADMINISTRATION SECURITY LEAK

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, in his testimony to the Armed Services Committee yesterday, Defense Secretary Brown said it was a mysterious set of news leaks that prompted him to reveal our top secret plans for the stealth bomber.

But it was the Defense Department itself that caused the leaks and inspired the news reports. One reporter was even given a high level briefing on the stealth project and urged to publish an article.

Mr. Speaker, I am outraged by this clear indication that the administration is so desperate to be reelected. It is even willing to tamper with our Nation's security for a cheap, 2-day headline, and judging by the calls and messages that I have received from my constituents, the American people are outraged, too.

Mr. Speaker, we have our political differences, but traditionally we have joined together in bipartisan unity when it comes to defending our country from threats abroad. By clearly playing politics with his Defense Department, Mr. Carter has broken this tradition and betrayed the faith of the American people.

ACTION ON SECOND CONCURRENT BUDGET RESOLUTION IMPERATIVE

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, the deadline for consideration of the second concurrent budget resolution is September 15. I believe we must begin debate on the budget immediately if we are to make the tough decisions regarding defense spending, inflation, and taxes. By delaying this essential debate we are putting off critical decisions which must be made in order to get this country moving again. The effect of postponement is to deprive every American citizen of the right to know how his or her elected Representative voted on the 1981 budget prior to the November election. Surely, this would not be fair to the American people.

CARTER'S ANSWER FOR THE AMERICAN STEEL INDUSTRY: JOBS FOR JAPAN

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, candidate Jimmy Carter said unemployment would, "be the major thrust of my administration." Little did we know that he meant to fight unemployment in Japan.

Back on the home front: The American steel industry continues to suffer one of the worst slumps in its history. Yet, the first project initiated under the Synthetic Fuels Act will be constructed with steel gasifier vessels fabricated in Japan. To put it mildly, it seems ironic that the first project in a program to decrease our dependence on foreign energy will increase our dependence on foreign steel.

Mr. Speaker, it was clearly the intent of Congress to encourage full utilization of American industry through the synfuels act. The decision to award this contract to a Japanese firm must be rejected. America's development of synthetic fuels must not be used to support foreign industry at the expense of American jobs.

SECRETARY OF DEFENSE BROWN'S "NO COMMENT" ON STEALTH AIRCRAFT UNACCEPTABLE

(Mr. BEARD of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEARD of Tennessee. Mr. Speaker, yesterday I had my first chance to cross-examine Secretary of Defense Brown about the Pentagon's unbelieveable decision to confirm, against the advice of our uniformed military leadership, the existence of highly classified stealth aircraft technology. I remain completely dissatisfied.

Yesterday the Secretary of Defense repeatedly refused to answer my simple question as to whether or not he had received instructions from the White House Armed Services Investigative Subproject. I find his answer of "No comment" unacceptable. Obviously, the House Armed Services investigation subcommittee has every right to ask if the President or any of his assistants had decided to compromise our national security for the sake of political advantage.

I have requested that the Secretary of Defense immediately submit all pertinent records of written, oral, and telephonic communication between the Department of Defense, the National Security Council, the White House, and the Carter campaign staff. I am also requesting that all Department of Defense interoffice communications between Secretary Brown's staff and the Joint Chiefs or other uniformed personnel.

The implications in this matter are so grave that Congress and the American public must have full disclosure quickly. And for the administration to not immediately supply these records could tend to be self-incriminating.

DEMOCRATS RUNNING SCARED ON SECOND BUDGET RESOLUTION

(Mr. KRAMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KRAMER. Mr. Speaker, the House has acted on all but two appropriations bills for next year, and yesterday we approved the Reconciliation Act. Yet, the leadership has not budged from its intention to put off a vote on the second budget resolution until after the November 4 election. It is becoming increasingly apparent that the party which has controlled Congress the last 25 years is running scared. The Democratic majority does not want to admit to the American people that it has failed to deliver on its pledge to enact a balanced budget for 1981. Nor does it want to admit its intention to raise taxes nearly $100 billion next year, and that the tax cut President Carter has proposed for 1981 is as invisible as the bomber the administration says has altered the military balance.

Mr. Speaker, the American people are not in a mood to listen to rhetoric of "trust us." They want, and deserve to know, what we intend to do about inflation, unemployment, taxes, and defense spending before they go to the polls this November. A lameduck session is not necessary; we still have a month to go before the scheduled date of adjournment. If that is not enough, we should forgo campaigning by staying here until we get the job done that we were elected to do.

□ 1020

LAMEDUCK LEGISLATING

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, in the absence of a true emergency, is it not a violation of the concept of representative government to invite repudiated lame ducks to come back here, days after their defeat, and ask them to continue to vote on public policies that will continue in effect long after they have left this Chamber?

These are not the mere partisan maunderings of a devoted Republican, but rather a contemporary restatement of the wisdom which prevailed in 1932, when Congress acted to do away with lameduck sessions by the adoption of the 20th amendment to the Constitution.

At that time, Congressman Cartwright of Oklahoma observed:

> Of course it is no disgrace to be a lame duck, but they have been crippled. Their responsibility to the people has been lessened. They have been rejected by the people, yet they hold the balance of power in both houses, and so have it in their power to decide matters of the greatest importance to the nation.

Let us not disenfranchise the voters of as many as 30 to 50 congressional districts by undertaking this perilous exercise in lameduck legislating.

PRESIDENTIAL MANIPULATION OF GOVERNMENT FUNDS

(Mr. TRIBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRIBLE. Mr. Speaker, President Carter is again seeking to buy votes with taxpayer dollars.

On Wednesday, in an act whose contempt for Federal contracting procedures was exceeded only by its crass political opportunism, President Carter announced that the service life extension work on the aircraft carrier *Forrestal* would be performed at the Philadelphia Navy Yard in 1983.

It is my understanding that the Navy had not yet determined where this ship should be assigned and that, in fact, the necessary studies were incomplete.

Two years ago, it was conclusively demonstrated that work on the first SLEP carrier, the *Saratoga*, could be performed at a substantially lower cost to America's taxpayers at Newport News Shipbuilding in Virginia. That remains true today.

In an exercise of the naked power of an incumbent President, Mr. Carter has chosen to ignore the interests of the American people and to cynically dispense patronage through the Department of Defense.

I do not believe the American people will tolerate this crude manipulation of Government funds, and this Member—and his colleagues from Virginia—will do all he can to prevent this from occurring.

DEPOLITICIZE THE PRESIDENCY

(Mr. EVANS of Delaware asked and was given permission to address the

House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, the decision by the Carter administration to leak information on the stealth technology in order to gain some sort of temporary political advantage must rank as one of the greatest betrayals of the public trust in the history of our country.

President Carter has presided over a potentially disastrous decline in our military preparedness over the last 4 years. Now in a desperate attempt to cover over this record of neglect, the administration has rifled through the highest secrets of this country in order to find materials for a press release. As the campaign grows more and more heated, goodness knows what other secrets the Carter administration will trot out in an effort to garner votes.

I am sure the leaders at the Kremlin are ecstatic over this unmatched breach of national security at the highest levels of our Government.

I hope for our country's sake, it will not continue, and I hope also that we can depoliticize the Presidency and that this body and the American people will see the wisdom of one 6-year term for the President.

THE BOMBER "STEALTH"

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, how appropriate the name of the new suddenly discovered bomber Stealth.

This Member just looked it up in the dictionary. It says, "furtive or cunning or sly." That is the posture that this President takes in suddenly discovering buried in the depth of the Pentagon this great new bomber. This is the same President who sabotaged the B-1 program, the M-1 missile, the Trident and so forth, the man who had postured bordering on unilateral disarmament.

It is interesting to make a political move that is actually something that started back during the Ford administration that this President now suddenly decides to claim credit for.

Governor Reagan in his speech in Jacksonville pointed out the dangers in this type of politics, and I commend the gentleman from Tennessee (Mr. BEARD) for his interrogation of the Secretary of Defense, Mr. Brown, who furtively and slyly and cunningly evaded the questions on the Stealth.

America has traditionally maintained a posture of "peace through strength," which Carter abandoned, but Governor Reagan will restore.

RAIL ACT OF 1980

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7235) to reform the economic regulation of railroads, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 333, nays 2, answered "present" 2, not voting 95, as follows:

[Roll No. 521]

YEAS—333

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Anthony
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bevill
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broyhill
Buchanan
Burton, John
Burton, Phillip
Butler
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
de la Garza
Derwinski
Devine
Dicks
Dingell
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Marks
Marlenee
Marriott
Martin
Matsui
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Rahall
Railsback
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—2

Bauman
Lloyd

ANSWERED "PRESENT"—2

Bafalis
Ottinger

NOT VOTING—95

Ambro
Anderson, Ill.
Annunzio
Applegate
Ashley
Aspin
Beilenson
Bethune
Biaggi
Boggs
Brademas
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Burgener
Burlison
Byron
Campbell
Carney
Chisholm
Cleveland
Coelho
Corman
Cotter
Crane, Daniel
Crane, Philip
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Dickinson
Dixon
Dodd
Dougherty
Evans, Ga.
Ford, Tenn.
Garcia
Gephardt
Giaimo
Goldwater
Hansen
Hawkins
Heckler
Hinson
Holland
Holtzman
Horton
Ireland
Jenrette
Leach, La.
Livingston
Lujan
McCloskey
McCormack
McDonald
McEwen
Markey
Mathis
Mattox
Mazzoli
Mitchell, Md.
Murphy, N.Y.
Myers, Pa.
Neal
Nedzi
Nichols
Patterson
Pepper
Quayle
Quillen
Rangel
Reuss
Rodino
Roe
Sebelius
Seiberling
Shannon
Skelton
St Germain
Stark
Steed
Symms
Tauzin
Traxler
Vander Jagt
Walker
Waxman
Whitten
Wilson, Bob
Wilson, C. H.
Wright
Wydler
Young, Alaska

□ 1040

Mr. WILLIAMS of Ohio and Mr. CHAPPELL changed their votes from "present" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7235, with Mr. AUCOIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Thursday, July 24, 1980, title III was open to amendment at any point.

Are there any amendments to title III?

PARLIAMENTARY INQUIRY

Mr. ECKHARDT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ECKHARDT. Could the Chair delineate the parliamentary position that we are in at the present time respecting the Rail Act?

The CHAIRMAN. The Chair will state, as he has already stated, that title III was open for amendment at any point when the Committee rose on July 24, 1980. That is the situation. Title III is open for amendment at this point.

Mr. ECKHARDT. Further pursuing my parliamentary inquiry, Mr. Chairman——

The CHAIRMAN. The gentleman from Texas.

☐ 1050

Mr. ECKHARDT. Mr. Chairman, do I understand the parliamentary situation to be, restating the situation that occurred immediately before we arose, that there had been a vote on the Eckhardt-Rahall amendment to title II which prevailed; that we then moved into title III; the title having been read, under the rules we should proceed to amend title III at the present time? Is that the situation that presently prevails?

The CHAIRMAN. The Chair will state to the gentleman that is correct.

Mr. ECKHARDT. I thank the Chair.

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment, and I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. Staggers: Page 125, strike out line 14 and all that follows through line 17 on page 138 (including the material between lines 17 and 18) and insert in lieu thereof the following:

COMPENSATORY JOINT RATE RELIEF

Sec. 301. (a) (1) Chapter 107 of title 49, United States Code, is amended by inserting after section 10705 the following new section:

"§ 10705a. Joint rate surcharges and cancellations

"(a) (1) (A) Except as provided in subparagraph (B) of this paragraph, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may publish and apply a surcharge increasing or decreasing the through charge applicable to any movement between points designated by the surcharging carrier subject to a joint rate. Such a surcharge may be applied without the concurrence of the other carriers that are party to such joint rate.

"(B) A carrier earning adequate revenues (as defined in section 10704(a) (2) of this title) may not apply such a surcharge to any movement on a line operated by such carrier which carried more than 3,000,000 gross ton miles of traffic in the preceding calendar year.

"(C) Any surcharge applied pursuant to this subsection must be applied in equal dollar amounts to the movement subject to the surcharge over all routes between the points designated by the surcharging carrier which such carrier participates in under the joint rate involved, and, when the surcharge increases the through charges, under any of such carrier's single line rates between the same points.

"(2) (A) Whenever a rail carrier applies a surcharge increasing a through charge pursuant to paragraph (1) of this subsection, any other rail carrier that participates in any movement subject to such surcharge may cancel the application of such surcharge to any route participated in by such carrier, if such carrier makes the demonstration described in subparagraph (B) of this paragraph.

"(B) A rail carrier may cancel the application of a surcharge under this paragraph if such carrier demonstrates to the Commission that the surcharging carrier's share of the revenues, at the time the surcharge was filed with the Commission, from its participation in the movement over the route involved would have been equal to or greater than 110 percent of its variable costs of providing service over such route, under either—

"(i) the applicable joint rate, in effect at the time the surcharge was filed with the Commission, without the surcharge;

"(ii) a new rate division increasing the share of the surcharging carrier;

"(iii) a new higher lawful rate published by the canceling carrier; or

"(iv) a new, lesser surcharge which shall be prescribed by the Commission upon and in conformity with the request of the carrier proposing to cancel the surcharge. Any such prescribed surcharge shall, in conjunction with the surcharging carrier's division of the joint rate in effect on the date the original surcharge was filed with the Commission, provide the carrier proposing the original surcharge revenues equal to or greater than 110 percent of such surcharging carrier's variable cost of providing service over such route.

"(C) (i) The cancelling tariff shall only become effective if the rail carrier proposing to cancel the application of the surcharge makes the demonstration described in subparagraph (B) of this paragraph.

"(ii) If the demonstration described in clause (i) of this subparagraph is made on the basis of the applicable joint rate in effect at the time the surcharge was filed with the Commission, without the surcharge, the tariff shall become effective on one day's notice.

"(iii) If the demonstration described in clause (i) of this subparagraph is made on the basis of a new rate, division, or surcharge prescribed pursuant to subparagraph (B) (iv) of this paragraph, the tariff shall become effective the date such new rate, division, or surcharge becomes effective.

"(D) The remedy available to a call carrier cancelling the application of a surcharge under this paragraph shall be in addition to any other remedy available to such carrier under this chapter.

"(3) (A) The Commission may cancel the application of a surcharge to a route to which such surcharge applies if a shipper moving traffic over such route demonstrates to the Commission that—

"(i) there is no competitive alternative to such route for the movement of the traffic involved that is not subject to such surcharge; and

"(ii) the surcharging carrier's share of the revenues from its participation in the movement over the route to which such surcharge applies, under the applicable joint rate in effect at the time the surcharge was filed with the Commission, with the surcharge, would be greater than 110 percent of its variable cost of providing service over such route.

"(B) If the Commission cancels the application of a surcharge to a particular route pursuant to subparagraph (A) of this paragraph, the Commission shall determine the level of surcharge which, in conjunction with the surcharging carrier's division of the joint rate in effect at the time the surcharge was filed with the Commission, would equal 110 percent of the surcharging carrier's variable cost of providing service over such route, and shall authorize such carrier immediately to apply such a surcharge without any further proceedings under this subsection.

"(4) A rail carrier may not apply a surcharge under this subsection unless, for the one-year period preceding the surcharge, such carrier has concurred in all rate increases of general applicability applicable to the joint rate to which such surcharge applies and agreed to by all other carriers that are party to such joint rate.

"(5) A rail carrier may not apply a surcharge under this subsection increasing a through charge applicable to a particular movement more than once each calendar year.

"(6) Notwithstanding any other provision of this subsection, a rail carrier may, by tariff, reduce the total charges applicable to a movement over any specific joint line or single line route or routes in which such carrier participates, if such reduction does not lower the total charges applicable to such movement to a level that is less than the lowest total charges applicable to the same movement over a competing route. Any such reduction may be made without the concurrence of any other rail carrier, and shall be borne solely by the carrier reducing the charge.

"(b) (1) Notwithstanding subsection (a) of this section, a rail carrier may publish and apply a surcharge applicable to traffic originating or terminating upon any of its lines that carried less than 3,000,000 gross ton miles of traffic per mile, in the most recent calendar year for which traffic data is available. Such a surcharge may be applied without the concurrence of any connecting rail carrier.

"(2) A rail carrier may apply a surcharge under this subsection if, prior to the application of such surcharge, that portion of the charges applicable to traffic to and from the line to which the surcharge applies and accruing to the surcharging carrier does not provide such carrier revenues adequate to cover—

"(A) 110 percent of such carrier's variable cost of transporting the traffic involved to or from such line; plus

"(B) 100 percent of such carrier's reasonably expected costs of continuing to operate such line, which shall include all costs necessary to sustain service on the line.

"(3) (A) Upon petition of a shipper located upon a line to which a surcharge under this subsection is applied, the Commission may cancel the application of a surcharge under this subsection if such shipper demonstrates to the Commission that, after application of the surcharge, the surcharging carrier's revenues from all traffic originating or terminating upon the line to which the surcharge applies exceed 110 percent of such carrier's variable cost of transporting all traffic to or from such line plus such carrier's reasonably expected costs of continuing to operate such line.

"(B) (i) A rail carrier's revenue from all traffic originating or terminating upon a line shall be presumed to exceed 110 percent of its variable cost of transporting all traffic to or from such line plus its reasonably expected costs of continuing to operate such line if the complaining shipper demonstrates that the carrier is earning revenues from all traffic originating or terminating upon such line equal to or greater than the percentage set forth in section 10701(e) (1) of this chapter (as adjusted therein) of its variable costs.

"(ii) A surcharging carrier may rebut the presumption set forth in clause (i) of this subparagraph by demonstrating to the Commission that its reasonably expected costs for operating the line to which the surcharge applies exceed the percentage of variable cost set forth in such clause (i).

"(C) Upon a finding by the Commission that application of the surcharge will produce revenues in excess of 110 percent of the surcharging carrier's variable cost of transporting traffic to or from the line plus its reasonably expected costs for operating the line, the Commission shall determine the level of surcharge which would produce revenues equal to such figure and shall authorize such carrier immediately to apply such surcharges as will generate such revenues without any further proceedings, subject only to the right of a shipper to proceed under paragraph (4) of this subsection.

"(4)(A) A rail carrier may not apply a surcharge under this subsection that results in any shipper being required to bear more than a reasonable proportion of the reasonably expected costs of continuing to operate the line to which such surcharge applies.

"(B) Upon complaint of a shipper, the Commission shall determine whether the shipper is being required to bear more than a reasonable proportion of the costs described in subparagraph (A) of this paragraph.

"(C) If the Commission finds that a complaining shipper is being required to bear more than a reasonable proportion of the costs described in subparagraph (A) of this paragraph, the Commission may reallocate the surcharge among the traffic originating or terminating on the line to which the surcharge applies, but may not order relief which would result in the surcharging carrier's earning revenues less than those which the carrier would have earned had the surcharge been applied as filed.

"(5) A shipper may, in a single complaint, seek relief under paragraphs (3) and (4) of this subsection. In any such complaint, the Commission shall first determine the right to relief under paragraph (3) and shall grant such relief as is appropriate under such paragraph.

"(6) In any proceeding brought before the Commission challenging the application or amount of a surcharge under this subsection, whether the surcharge is claimed to violate this subsection or some other provision of this chapter, the Commission shall not suspend the application of any such surcharge unless the person filing the verified statement required by section 10707(c) of this title, in addition to the matters required by such section, also makes the demonstration required by paragraph (3)(A) of this subsection. If the demonstration required by paragraph (3)(A) is made, the Commission may suspend the application of only so much of the surcharge as will produce revenues in excess of the amount so demonstrated.

"(c)(1) Notwithstanding any other provision of this title, any prior agreement in effect on the effective date of the Harley O. Staggers Rail Act of 1980, or any requirement of the Commission, a rail carrier may cancel the application of a joint rate to a through route in which it participates, without the concurrence of any other rail carrier that is a party to such joint rate, unless another rail carrier that participates in such through route or a shipper that has no competitive alternative to such route makes the demonstration described in paragraph (2) of this subsection.

"(2) The application of a joint rate to a through route may not be canceled under this subsection if a rail carrier that participates in such through route or a shipper that has no competitive alternative to such route from an origin or destination served by such route demonstrates to the Commission that the canceling carrier's share of the revenues, under the joint rate in effect at the time the application of the joint rate is canceled, is equal to or greater than—

"(A) 110 percent of the canceling carrier's variable cost of providing service over such route; or

"(B) such lesser percent of the canceling carrier's variable cost as such carrier earns over a competing through route to which application of the joint rate has not been canceled, or over a competing single line route.

"(3) When a complaining party is unable to make the demonstration required by paragraph (2) of this subsection, the Commission may suspend the tariff canceling the joint rate only if—

"(A) a complaining carrier publishes a new rate division or a new higher lawful rate which increases the canceling carrier's share of the revenues over such route to the amount calculated under paragraph (2)(A) or (2)(B) of this subsection, whichever is less; or

"(B) a complaining carrier or shipper petitions the Commission and the Commission, in conformity with such petition, imposes a surcharge upon the joint rate which will accrue solely to the canceling carrier and which, in conjunction with the canceling carrier's division of the joint rate in effect on the date the tariff canceling the joint rate was filed, will provide the canceling carrier revenues equal to or greater than 110 percent of its variable cost of providing service over such route.

Unless a new rate, division, or surcharge described in this paragraph becomes effective within 120 days after the proposed effective date of the rate cancellation, the canceling tariff shall, nevertheless, become effective.

"(4) If the demonstration described in paragraph (2) is made or a new rate, division, or surcharge described in paragraph (3) becomes effective, the tariff canceling the joint rate shall be considered by the Commission in accordance with section 10705 of this title. The existing joint rate or the new rate, division, or surcharge, as appropriate, shall remain in effect during the pendency of the Commission's consideration.

"(5) Whenever the application of a joint rate to a through route is canceled under this subsection and a rate other than a joint rate is or has been published by the canceling carrier to apply to such route, such rate shall thereafter apply in lieu of all other rates (except joint rates subsequently agreed to by such carrier) and any through rate of which such rate is a factor shall divide as the separate factors of such rate are made.

"(6) Nothing in this subsection shall be construed to limit the authority of the Commission under section 10705(a) of this title to prescribe joint rates which provide a rail carrier participating in such joint rate revenues equal to or greater than 110 percent of its variable cost of providing service over each route to which such rate applies.

"(d)(1) Except as provided in paragraph (2) of this subsection, any increase or decrease in revenue resulting from the application of a surcharge under subsection (a) of this section, or from the cancellation of the application of a joint rate under subsection (c) of this section, shall accrue solely to or be borne solely by the carrier applying the surcharge or canceling the application of the joint rate, as the case may be.

"(2) Whenever a class III rail carrier which participates in a through route to which a surcharge has been applied under subsection (a) of this section by a carrier operating in the same rate territory as such class III carrier demonstrates to the Commission that the application of such surcharge to such route provides, in the absence of any increase in the joint rate in effect on the date the surcharge was filed with the Commission, revenues from traffic moving over such route to such surcharging carrier in excess of 110 percent its variable costs over such route, such surcharging carrier shall, from the date of such demonstration, share those revenues from such route, from the surcharge and the applicable joint rate in effect on the date the surcharge was filed with the Commission, in excess of 110 percent of its variable costs with all class III rail carriers participating in such route, on the basis of their existing divisions of the joint rate to which the surcharge applies.

"(e)(1) Except as provided in paragraph (2) of this subsection, whenever a rail carsubsection (a) of this section or to cancel rier proposes to apply a surcharge under the application of a joint rate under subsection (c) of this section and another rail carrier subsequently agrees to a new rate division or a new lawful rate that increases the surcharging or canceling carrier's share of the total through charges for a movement over a particular through route subject to a joint rate, such other rail carrier shall also agree to any other new rate division and new lawful rate—

"(A) that is proposed within 120 days after the date of the first agreement; and

"(B) that increases the surcharging or canceling carrier's share of the total through charges for movements over a competing through route subject to such joint rate.

"(2) A rail carrier shall not be required to agree under this subsection to any proposed new division or new rate which would—

"(A) reduce such carrier's share of the total through charges for a movement over any through route to less than (i) 110 percent of its variable costs of providing service over such route, or (ii) such lesser percent of its variable costs as such carrier earns from such movement over a competing through route with respect to which such carrier has agreed to a new division or rate;

"(B) increase the surcharging or canceling carrier's share of the total through charges for a movement over any through route to an amount in excess of 110 percent of its variable costs of providing service over such route;

"(C) reduce such carrier's share of the total through charges for a movement over any through route by a dollar amount in excess of the greatest dollar reduction which such carrier has agreed to make, for purposes of increasing the surcharging or canceling carrier's share, to its share of the total through charges for a movement over any competing through route; or

"(D) reduce such carrier's share of the total through charges for a movement over any through route in an amount in excess of such carrier's pro rata share (based on established divisions for movements over such route) of the increase of the surcharging or canceling carrier's share of the total through charges for movement over such route.

"(f) A rail carrier applying a surcharge or canceling the application of a joint rate under this section shall file a tariff with the Commission in accordance with section 10762 of this title. Such a tariff may not become effective until the expiration of the 45-day period (or such longer period as the filing carrier specifies) beginning on the date such tariff is filed.

"(g)(1) Any rail rate to which a surcharge is applied under this section shall be subject to section 10701a and 10709 of this title, and any such surcharge shall constitute a rate increase for purposes of such sections.

"(2) For purposes of rate regulation under section 10701a of this title—

"(A) only the rail carrier proposing a surcharge under this section shall be required to defend such surcharge; and

"(B) the reasonableness of the surcharge and the revenues received by the rail carrier proposing the surcharge under the joint rate to which the surcharge applies shall be determined without regard to amounts received and services performed by other rail carriers that are party to such joint rate.

"(3) Except as provided in subsection (i), (j), or (k) of this section, if the application of a surcharge or the cancellation of the application of a joint rate under this section is found to constitute a violation of any provision of this title, such violation shall not be ordered remedied in any manner which—

"(A) requires the carrier applying a surcharge under subsection (a) of this section or canceling the application of a joint rate under subsection (c) of this section to provide service over any route under a rate that provides revenues to such carrier that are less than 110 percent of its variable costs of providing such service; or

"(B) which requires the carrier applying a surcharge under subsection (b) of this section to provide service over the route to which such surcharge applies in a manner that provides revenues to such carrier that are less than 110 percent of such carrier's variable cost of transporting the traffic involved to or from the line to which the surcharge applies, plus such carrier's reasonably expected costs of providing service over such line.

"(h) Within 5 days after the request of a rail carrier participating in a joint rate subject to a surcharge or cancellation under this section, a shipper moving traffic over a route to which such surcharge or cancellation applies, or an affected port, the Commission shall make available to such carrier, shipper, or port the Commission's determination of the variable costs and revenues, over the route or routes to which the surcharge or cancellation applies, of the carrier applying the surcharge or canceling the application of the joint rate.

"(i)(1) Whenever a class III rail carrier, in a protest filed with the Commission, makes a prima facie showing that the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section will have an adverse effect on competition, the Commission shall investigate such protest. If on the basis of such investigation the Commission finds that the protested surcharge or cancellation is, or is intended to be, anticompetitive, the Commission shall, within 30 days after the date such protest is filed, enter an order rescinding such surcharge or cancellation, and may, on presentation of an adequate record, prescribe new joint rates or divisions of joint rates.

"(2) No order prescribed under this subsection shall require a carrier to provide service over any route under a rate which provides revenues less than 110 percent of the variable cost of providing such service unless the Commission determines that the public interest requires a lesser revenue to variable cost ratio to avoid anticompetitive action and to preserve service on the route involved.

"(j)(1) Any class III rail carrier which originates or terminates traffic subject to the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section may protest such surcharge or cancellation whenever—

"(A) such surcharge or cancellation affects the sole remaining route available to that carrier for that traffic; and

"(B)(i) such carrier demonstrates that alternative transportation is available or that a shipper dependent on that carrier will suffer significant market loss because of such surcharge or cancellation; or

"(ii) such surcharge or cancellation, alone or when considered in conjunction with other surcharges or cancellations affecting the carrier, is likely to unduly impair a carrier's ability to earn an adequate rate of return.

"(2)(A) The Commission may, after an investigation on the basis of a protest under this subsection, prescribe a lesser surcharge or a different division of the joint rate. The Commission shall grant the surcharging or canceling carrier revenues not less than 110 percent of its variable cost of the movement involved, unless it determines that the public interest requires a lesser revenue to variable cost ratio to preserve service on the route involved. Any action by the Commission based on a protest under this subsection shall be taken within 30 days after the date such protest is filed.

"(B) If the Commission prescribes a different division of a joint rate under this paragraph, the Commission shall, upon petition of the surcharging or canceling carrier or the protesting class III rail carrier, reopen the proceeding in which such division was prescribed to reconsider whether such prescribed division is reasonable. If, on the basis of such reconsideration, the Commission determines that such division is not reasonable, it shall prescribe a new, reasonable division of the joint rate to which the surcharge or cancellation applies.

"(k)(1) Upon the complaint of a class III rail carrier which originates or terminates traffic subject to the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section that such surcharge or cancellation will result in differences or greater differences in rates, including any surcharges, for the traffic to which the surcharge or cancellation applies over different routes in which the surcharging or canceling carrier participates—

"(A) from a single origin point to destination points within a 75 mile direct radius from the destination point on such class III rail carrier; or

"(B) to a single destination point from origin points within a 75 mile direct radius from the origin point on such class III rail carrier,

the Commission shall investigate such complaint and shall, within 30 days after the date such complaint is filed, take such actions, including rescinding surcharges or cancellations or prescribing new joint rates or surcharges, as it determines are required to eliminate such differences in rates, unless it finds that such actions are not warranted by the public interest in ensuring effective competition among rail carriers or in the preservation of rail service on the route involved.

"(2) No action taken by the Commission under this subsection shall require a carrier to provide service over any route under a rate which provides a revenue to variable cost ratio over such route less than that provided under the joint rate to which the surcharge or cancellation was applied or less than 110 percent, whichever is greater, unless the Commission determines that the public interest in ensuring effective competition among rail carriers or in preserving service over such route warrants requiring the surcharging or cancelling carrier to provide service at a lesser revenue to variable cost ratio.

"(3) Notwithstanding subsection (m)(1) of this section, if, in a proceeding under this subsection or under subsection (i) or (j) of this section, the Commission considers whether to require the revenues of a carrier applying a surcharge under subsection (a) of this section or cancelling the application of a joint rate under subsection (c) of this section to be less than 110 percent of its variable costs (as calculated using the Commission's Rail Form A cost finding methodology), such surcharging or cancelling carrier may prove its actual variable costs on the basis of evidence other than unadjusted costs calculated using such Rail Form A cost finding methodology. Such evidence shall be prepared in accordance with generally accepted accounting principles.

"(l) Whenever the application of a joint rate to a through route is cancelled under subsection (c) of this section, the Commission shall, upon petition by a class II or III rail carrier participating in such route, prescribe a new compensatory through rate or rates over such route within 30 days after the date such petition is filed.

"(m) For purposes of this section—

"(1) variable costs for a class I rail carrier shall be determined only by using such carrier's unadjusted costs, calculated using the Commission's Rail Form A cost finding methodology (or an alternative methodology adopted by the Commission in lieu thereof) and indexed quarterly to account for current wage and price levels in the region in which the carrier operates;

"(2) variable costs for a rail carrier other than class I shall be presumed to be the average variable costs of all class I rail carriers in the region in which such carrier operates (as determined under paragraph (1) of this subsection) unless a rail carrier rebuts such presumption with other proof of variable costs; and

"(3) at the option of a carrier applying a surcharge or canceling the application of a joint rate under this section, revenue share may be determined by reference to past revenue settlements actually made in the most recent calendar year by connecting lines.

"(n)(1) The authority to apply a surcharge under subsection (a) of this section, and (except as provided in paragraph (2)) the authority to cancel such a surcharge, shall expire 3 years after the effective date of the Harley O. Staggers Rail Act of 1980 unless extended for one additional year by the Commission upon petition of any rail carrier and for good cause shown.

"(2) Any surcharge lawfully applied under subsection (a) of this section shall remain in effect in accordance with its terms following the expiration of the provisions of this section. Any such surcharge applied during the 45-day period immediately preceding the date of the expiration of the provisions of this section shall, notwithstanding such expiration, be subject to cancellation under subsection (a)(2) or (a)(3) of this section during the 45-day period beginning on the date such surcharge is applied.".

(2) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10705 the following new item:

"10705a. Joint rate surcharges and cancellations.".

(b) For purposes of section 10705a of title 49, United States Code, the Interstate Commerce Commission shall classify all rail carriers on the basis of revenues, shall from time to time review its regulations setting forth revenue-based classifications for rail carriers, and shall make appropriate changes in such regulations in order to reflect inflation. The Commission shall not reclassify switching and terminal carriers, or any other rail carriers not classified on the basis of revenues on the effective date of this Act, for any purpose other than for purposes of such section 10705a.

(c)(1) The Interstate Commerce Commission shall include in its annual report to the Congress under section 10311 of title 49, United States Code, a report with respect to the application of surcharges and the cancellation of the application of joint rates

by the Consolidated Rail Corporation and other rail carriers, during the preceding year, under section 10705a of title 49, United States Code. Each such report shall include—

(A) an analysis of the effect of application of surcharges and the cancellation of the application of joint rates under such section 10705a on shippers, ports, class II and class III rail carriers, railroad employees, and other elements of the rail system;

(B) (i) the number of surcharges applied by the Consolidated Rail Corporation and other rail carriers under such section 10705a and the amount of revenue received by the Corporation and all other rail carriers from the application of such surcharges, (ii) the number of surcharges applied by the Corporation and all other rail carriers that were canceled under the procedures of such section 10705a, and (iii) the number of cancellations of the application of a joint rate by the Corporation and other rail carriers under such section 10705a; and

(C) an analysis of the operation of the remedies made available to class III rail carriers under subsections (i), (j), and (k) of such section 19705a and to class II and class III rail carriers under subsection (1) of such section 10705a.

(2) The Interstate Commerce Commission shall, within 2 years after the effective date of this Act, submit a report to the Congress with respect to whether the provisions of section 10705a of title 49, United States Code, have adequately addressed the joint rate problems of rail carriers. The report shall include such recommendations with respect to such joint rate problems as the Commission considers necessary and appropriate.

EXPEDITED DIVISION OF REVENUES PROCEEDINGS

SEC. 302. Section 10705(e) (1) of title 49, United States Code, is amended to read as follows:

"(e) (1) (A) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by a rail carrier within 9 months after the complaint is filed if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission. The Commission must take final action by the 180th day after completion of the evidentiary proceedings, except that—

"(i) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceedings preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary proceedings; and

"(ii) in all cases other than those specified in clause (i) of this subparagraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursuant to this clause, it must report its reasons to Congress.

"(B) The provisions of this paragraph imposing time limitations upon Commission action shall not apply to any division proceeding involving a joint rate participated in by a class III rail carrier.".

REGULATION OF RAILROAD RATES

SEC. 303. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by inserting after section 10701 the following new section:

"§ 10701a. Standards for rates for rail carriers

"(a) Except as provided in subsection (b) or (c) of this section and unless a rate is prohibited by a provision of this title, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may establish any rate for transportation or other service provided by the carrier.

"(b) (1) If the Commission determines, under section 10709 of this title, that a rail carrier has market dominance over the transportation to which a particular rate applies, the rate established by such carrier for such transportation must be reasonable.

"(2) In any proceeding to determine the reasonableness of a rate described in paragraph (1) of this subsection—

"(A) the shipper challenging such rate shall have the burden of proving that such rate is not reasonable if—

"(i) such rate (I) is authorized under section 10707a of this title, and (II) results in a revenue-variable cost percentage for the transportation to which the rate applies that is less than 20 percentage points above the revenue-variable cost percentage applicable under section 10709(d) of this title; or

"(ii) such rate does not meet the description set forth in clause (i) of this subparagraph, but the Commission does not begin an investigation proceeding under section 10707 of this title to determine whether such rate is reasonable; and

"(B) the rail carrier establishing the challenged rate shall have the burden of proving that such rate is reasonable if—

"(i) such rate (I) is greater than that authorized under section 10707a of this title, or (II) results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 20 percentage points above the revenue-variable cost percentage applicable under section 10709(d) of this title; and

"(ii) the Commission begins an investigation proceeding under section 10707 of this title to determine whether such rate is reasonable.

"(3) In determining whether a rate established by a rail carrier is reasonable for purposes of this section, the Commission shall recognize the policy of this title that efficient rail carriers shall earn adequate revenues, as established by the Commission under section 10704(a) (2) of this title.

"(c) (1) Any rate established after the effective date of the Harley O. Staggers Rail Act of 1980 for transportation by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title that does not contribute to the going concern values of such rail carrier is not reasonable.

"(2) A rate for transportation by a rail carrier that equals or exceeds the variable cost of providing the transportation is conclusively presumed to contribute to the going concern value of such rail carrier.

"(3) (A) Upon the filing of a complaint alleging that a rate is in violation of this subsection, the Commission shall take final action thereon by the 90th day after the date such complaint is filed.

"(B) If the Commission determines, based on the record after opportunity for a hearing, that a rate is in violation of this subsection, the Commission may order such rate to be raised, but only to the minimum level required by this subsection. The complainant shall have the burden of proving that such rate is in violation of this subsection.".

(b) (1) The first sentence of section 10701 (a) of title 49, United States Code, is amended by inserting "(other than a rail rate)" immediately after "A rate".

(2) Section 10701(b) of title 49, United States Code, is repealed.

(3) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately below the item relating to section 10701 the following new item:

"10701a. Standards for rates for rail carriers.".

DETERMINATION OF MARKET DOMINANCE

SEC. 304. Section 10709 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) (1) In this subsection—

"(A) 'fixed and variable cost' means all cost incurred by rail carriers in the transportation of freight, but limiting the return on equity capital to a rate equal to the embedded cost of debt.

"(B) 'cost recovery percentage' means the lowest revenue-variable cost percentage which, if all movements that produced revenues resulting in revenue-variable cost percentages in excess of the cost recovery percentage are deemed to have produced only revenues resulting in the cost recovery percentage, would produce revenues which would be equal, when combined with total revenues produced by all other traffic transported by rail carrier, to the total fixed and variable cost of the transportation of all traffic by rail carrier.

"(C) 'revenue-variable cost percentage' means the quotient, expressed as a percentage figure, obtained by dividing the total revenues produced by the transportation of all traffic received by rail carriers for rail transportation by the total variable cost of such transportation.

"(2) In any proceeding under this section, the Commission shall find that the rail carrier establishing the challenged rate does not have market dominance over the transportation to which the rate applies if such rail carrier proves that the rate charged results in a revenue-variable cost percentage for such transportation that is less than—

"(A) 160 percent during the period beginning on the effective date of the Harley O. Staggers Rail Act of 1980 and ending September 30, 1981;

"(B) 165 percent during the period beginning October 1, 1981, and ending September 30, 1982;

"(C) 170 percent during the period beginning October 1, 1982, and ending September 30, 1983;

"(D) 175 percent or the cost recovery percentage, whichever is less, during the period beginning October 1, 1983, and ending September 30, 1984; and

"(E) the cost recovery percentage, during each 12-month period beginning on or after October 1, 1984.

For purposes of subparagraphs (D) and (E) of this paragraph, the cost recovery percentage shall in no event be less than a revenue-variable cost percentage of 170 percent or more than a revenue-variable cost percentage of 180 percent.

"(3) A finding by the Commission that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the applicable percentage under paragraph (2) of this subsection does not establish a presumption that (A) such rail carrier has market dominance over such transportation, or (B) the proposed rate exceeds a reasonable maximum.

"(4) (A) Within 180 days after the effective date of the Harley O. Staggers Rail Act of 1980 and on an annual basis thereafter, the Commission shall determine the cost recovery percentage for transportation of all traffic received by rail carrier. The Commission shall make such determination after considering each individual revenue-variable cost percentage resulting from the revenues and costs of a valid and reliable statistical sample of all movements of commodities transported by class I rail carriers during the most recent calendar year for which such information is available.

"(B) If, on the basis of calculations under subparagraph (A) of this paragraph, the Commission determines that revenues earned by all class I rail carriers during the previous calendar year do not exceed the fixed and variable costs of such carriers, then the cost recovery percentage for purposes of this section shall be deemed to be equal to the cost recovery percentage last determined by the Commission.

"(C) The Commission shall, in its annual report submitted to the Congress under section 10311 of this title, set forth the cost recovery percentage determined for that year under subparagraph (A) of this paragraph.".

ZONE OF RATE FLEXIBILITY

SEC. 305. (a) Subchapter I of chapter 107 of title 49, United States Code is amended by inserting after section 10707 the following new section:

"§ 10707a. Zone of rail carrier rate flexibility.

"(a) In this section—

"(1) 'base rate' means the rate in effect on the effective date of the Harley O. Staggers Rail Act of 1980 for the transportation of a particular commodity. If no rate exists for the transportation of a particular commodity on such effective date, the base rate for the transportation of such commodity shall be the rate established by the rail carrier, unless such rate is found to be unreasonable by the Commission, in which case the base rate shall be the rate authorized by the Commission.

"(2) 'adjusted base rate' means the base rate, as adjusted on a quarterly basis to reflect inflation.

"(b) (1) Except as provided in paragraph (2) of this subsection, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may, in addition to rate increases authorized under subsection (b) or (c) of this section, increase any rate over which the Commission has jurisdiction under section 10709 of this title in order to cover cost increases due to inflation, so long as the increased rate is not greater than the adjusted base rate for the transportation involved.

"(2) A rail carrier may not increase a rate under this subsection to the extent that the cost increases to such carrier due to inflation are recovered through (A) general rate increases pursuant to section 10706 of this title, or (B) inflation-based rate increases under section 10712 of this title.

"(c) (1) During the 12-month period beginning on the effective date of the Harley O. Staggers Rail Act of 1980, a rail carrier may, in addition to rate increases authorized under subsection (a) of this section, increase any rate over which the Commission has jurisdiction under section 10709 of this title by an annual amount of not more than 6 percent of the base rate. During each of the 3 succeeding 12-month periods, a rail carrier may, in addition to rate increases authorized under subsection (a) of this section, increase any such rate by an annual amount of not more than 6 percent of the adjusted base rate, except that in no event shall the total increase under this subsection result in a rate which is more than 118 percent of the base rate.

"(2) If any portion of a rate increase under this subsection is not implemented in the year in which it is authorized, such portion may be implemented only in the next succeeding year.

"(d) (1) Except as provided in paragraph (3) of this subsection, during the 12-month period beginning on October 1, 1984, and during each succeeding 12-month period, a rail carrier may, in addition to rate increases under subsection (a) of this section, increase any rate over which the Commission has jurisdiction under section 10709 of this title by an annual amount of not more than 4 percent of the adjusted base rate.

"(2) No portion of any rate increase under this subsection which is not implemented in the year in which it is authorized may be implemented in any other year.

"(3) The provisions of this subsection shall not apply to (A) a rail carrier proposing to increase a single line rate if such carrier earns adequate revenues, as established by the Commission under section 10704(a) (2) of this title, or (B) rail carriers proposing to increase a joint rate if all carriers participating in the route to which the joint rate applies earn adequate revenues, as established under such section.

"(e) (1) Notwithstanding the provisions of section 10707 of this title, in the case of any rate increase by a rail carrier that is authorized under this section—

"(A) (i) the Commission may not suspend such rate increase pending final Commission action; and

"(ii) except as provided in paragraph (2) of this subsection, the Commission may not begin an investigation proceeding under section 10707 of this title with respect to the reasonableness of such rate increase; but

"(B) an interested party may file a complaint under section 11701(b) of this title alleging that such rate increase violates the provisions of this subtitle;

"(2) (A) If a rate increase authorized under this section in any year results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 20 percentage points above the revenue-variable cost percentage applicable in that year under section 10709(d) of this title, the Commission may, on its own initiative or on complaint of an interested party, begin an investigation proceeding to determine whether the proposed rate increase violates this subtitle.

"[(B) In determining whether or not to investigate a proposed rate increase, the Commission shall set forth its reasons therefor, giving due consideration to the following factors:

"[(i) the amount of traffic which is transported at revenues below going concern value and efforts made to minimize such traffic;

"[(ii) the amount of traffic which contributes only marginally to fixed costs and the extent, if any, to which rates for such traffic can be changed to maximize the revenue from such traffic; and

"[(iii) the impact of the proposed rate increase on attaining the long-term national energy goals and the rail transportation policy set forth in section 10101a of this title, taking into account the rail carrier's role as a primary source of energy transportation and the need for a sound rail system in accordance with the revenue adequacy goals of section 10704(a) (2) of this title.

This subparagraph shall not be construed to change existing law with respect to the nonreviewability of such determinations.]

"[(C) In determining whether a rate is reasonable, the Commission may consider, among other factors, evidence of the following:

"[(i) the amount of traffic which is transported at revenues below going concern value and efforts made to minimize such traffic;

"[(ii) the amount of traffic which contributes only marginally to fixed costs and the extent, if any, to which rates for such traffic can be changed to maximize the revenues from such traffic; and

"[(iii) whether any commodity is paying an inordinate and unreasonable share of the carrier's overall revenues.]

"(f) In any proceeding under this section, evidence of the underlying rail carrier rate is admissible.

"(g) A finding by the Commission that a rate increase exceeds the increase authorized under this section does not establish a presumption that the proposed rate exceeds a reasonable maximum.

"(h) The authority of the Commission to determine and prescribe reasonable rules, classifications, and practices may not be used, directly or indirectly, to limit the rates which rail carriers are otherwise authorized to establish under this section.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10707 the following new item:

"10707a. Zone of rail carrier rate flexibility.".

(c) (1) Any rail carrier rate which increased over 70 percent between 1976 and 1979 inclusive for the transportation, in shipper owned equipment over a distance exceeding 1,550 miles between points within the United States, of coal pursuant to a tariff calling for an annual volume of more than 2,000,000 tons per year purchased by a municipality owned utility for the generation of electric power under a 20-year purchase agreement entered into by such utility in the year 1974 shall not be increased so long as coal is purchased under such original agreement, except that—

(A) during the period beginning October 1, 1980, and ending September 30, 1987, the Interstate Commerce Commission may permit increases in such rate which result in a revenue-variable cost percentage of not more than 162 percent; and

(B) after October 1, 1987, such rate shall be subject to section 10701a of title 49, United States Code, and related provisions of such title governing regulation of rail carrier rates, except that until such rate results in a revenue-variable cost percentage that equals or exceeds the revenue-variable percentage applicable under section 10709(d) of such title, such rate may not be increased more than 4 percent, in addition to inflation, in any year.

(2) Neither the provisions of this subsection nor any rate subject to this subsection shall be admissible as evidence or considered in any way in any proceeding involving any other rail carrier rate that is commenced to determine market dominance under section 10709 of title 49, United States Code, or to determine reasonableness under section 10701a of such title.

RATE REGULATION PROCEEDING AND STUDY

SEC. 306. (a) (1) The Interstate Commerce Commission shall commence a proceeding for purposes of determining whether, and to what extent, product competition should be considered in proceedings under subtitle IV of title 49, United States Code, to determine the reasonableness of rail carrier rates. The Commission shall complete its proceeding under this subsection within 180 days after the effective date of this Act.

(2) On the basis of the proceeding conducted under this subsection, the Commission may find that, in determining the reasonableness of rail carrier rates—

(A) proof of product competition should be considered as a factor to the same extent as it is considered under existing law on the effective date of this Act;

(B) proof of product competition should be given greater weight than that described in subparagraph (A) of this paragraph; or

(C) proof of product competition should be conclusive.

(3) (A) For purposes of this subsection,

the term "product competition" means the availability to a consignee, at a competitive delivered cost and in sufficient quantities, of products or commodities which are of the same type as the commodity or product to which the rate in question applies, without regard to whether such products or commodities are available from the same or a different origin as those to which the rate applies.

(B) In determining the availability of alternative sources of a particular commodity for purposes of this subsection, such commodity must be capable, by reason of similar specifications such as Btu's, sulfur content, and ash content, of being effectively utilized by the consignee.

(C) In determining the availability of alternative sources of coal for purposes of this subsection, such coal must be capable, by reason of similar specifications such as Btu's and sulfur content, of being effectively utilized by the consignee.

(D) For purposes of this subsection, any coal imported in the United States for the generation of electricity by utilities shall not be taken into account in the determination of whether coal is available to a consignee from another source.

(4)(A) Nothing in this subsection shall be construed as requiring the Commission to modify its determination of the reasonableness of rail carrier rates under existing law and procedures.

(B) Nothing in this section shall be construed as altering the meaning, use, or interpretation by the Commission, the courts, or any party of the term "market dominance", as defined in section 10709(a) of title 49, United States Code. No determination under this subsection shall in any way alter the meaning of such term, even if such meaning denies the Commission jurisdiction over the transportation of commodities where product competition exists.

(b)(1) The Interstate Commerce Commission shall, within 3 years after the effective date of this Act, submit a report to the Congress setting forth its recommendations with respect to the appropriate jurisdictional threshold to be used for purposes of determining those cases in which the Commission will have jurisdiction to determine whether a proposed rail carrier rate is reasonable.

(2) The report submitted under this subsection shall include a consideration of feasibility of utilizing, as the criteria for establishing the jurisdictional threshold described in paragraph (1) of this subsection—

(A) the cost recovery percentage, as defined in section 10709(d) of title 49, United States Code;

(B) a specific revenue-variable cost percentage;

(C) a reasonable transportation alternative test;

(D) a revised statutory or administrative market dominance test;

(E) a test based on rail carrier return on investment; or

(F) such other criteria as the Commission considers appropriate.

(c)(1) The Interstate Commerce Commission shall, within 180 days after the effective date of this Act and thereafter as necessary, establish standards for determining what constitutes adequate revenues for rail carriers under section 10704 of title 49, United States Code.

(2) On the basis of the standards established under paragraph (1) of this subsection, the Commission shall, within 180 days after the effective date of this Act and on an annual basis thereafter, determine which rail carriers are earning adequate revenues.

(d) The rail carrier rate level resulting from any case pending in any Federal court on July 22, 1980 (including any case on remand), shall be considered to be the rate for purposes of determining permissible rate increases under chapter 107 of title 49, United States Code.

INFLATION-BASED RATE INCREASES

SEC. 307. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10712. Inflation-based rate increases

"(a) After the elimination of general rate increases under section 10706 of this title, the Commission may, on a quarterly basis and consistent with the rail transportation policy set forth in section 10101a of this title, prescribe a percentage rate increase or rate index for rail carriers in order to compensate for inflationary cost increases. Such percentage rate increase or rate index may be applicable on an industry-wide or on a carrier-by-carrier basis.

"(b) Within 60 days after the date the Commission prescribes a percentage rate increase or rate index under subsection (a) of this section, each rail carrier or group of rail carriers shall notify the Commission of any rate or group of rates which such carrier or carriers intend to be excluded from the application of such percentage rate increase or rate index.

"(c) For purposes of this section, a percentage rate index may permit rate increases within a specified range to allow carriers to recover a total revenue increase specified by the Commission as necessary to compensate for inflationary cost increases.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10711 the following new item:

"10712. Inflation-based increases.".

INVESTIGATION AND SUSPENSION OF RATES

SEC. 308. (a) Section 10707(b)(1) of title 49, United States Code, is amended to read as follows:

"(b)(1) The Commission must complete a proceeding under this section and make its final decision by the end of the 5th month after the rate, classification, rule, or practice was to become effective, except that if the Commission reports to the Congress by the end of such 5th month that it cannot make a final decision by that time and explains the reason for the delay, it may take an additional 3 months to complete the proceeding and make its final decision.".

(b) Section 10707(c) of title 49, United States Code, is amended to read as follows:

"(c)(1) The Commission may not suspend a proposed rate, classification, rule, or practice during the course of a Commission proceeding under this section unless it appears from the specific facts shown by the verified statement of a person that—

"(A) it is substantially likely that the protestant will prevail on the merits;

"(B) without suspension, the proposed rate change will cause substantial injury to the protestant or the party represented by the protestant; and

"(C) because of the peculiar economic circumstances of the protestant, the provisions of subsection (d) of this section do not protect the protestant.

"(2) The burden shall be on the protestant to prove the matters described in paragraph (1)(A), (B) and (C) of this subsection.".

(c) Section 10707(d) of title 49, United States Code, is amended to read as follows:

"(d)(1) If the Commission does not suspend a proposed rate increase under subsection (c) of this section, the Commission shall require the rail carrier to account for all amounts received under the increase until the Commission completes its proceedings under subsection (b) of this section. The accounting shall specify by whom and for whom the amounts are paid. When the Commission takes final action, it shall require the carrier to refund to the person for whom the amounts were paid that part of the increased rate found to be unreasonable, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days.

"(2) If a rate is suspended under subsection (c) of this section and any portion of such rate is later found to be reasonable under this title, the carrier shall collect from each person using the transportation to which the rate applies the difference between the original rate and the portion of the suspended rate found to be reasonable for any services performed during the period of suspension, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days, except that this paragraph shall not apply to general rate increases under section 10706 of this title.

"(3) If any portion of a proposed rate decrease is suspended under subsection (c) of this section and later found to be reasonable under this title, the rail carrier may refund any part of the portion of the decrease found to comply with this title if the carrier makes the refund available to each shipper who participated in the rate, in accordance with the relative amount of such shipper's traffic transported at such rate.".

(d) Section 10707(e) of title 49, United States Code, is repealed.

CONTRACTS

SEC. 309. (a) Subchapter I of chapter 107 of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new section:

"§ 10713. Contracts

"(a) One or more rail carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may enter into a contract with one or more purchasers of rail services to provide specified services under specified rates and conditions.

"(b) Each contract entered into under this section shall be filed with the Commission, together with a summary of the contract containing such nonconfidential information as the Commission prescribes. The Commission shall immediately make a summary of each such contract available to interested persons.

"(c) A contract filed under this section shall be approved by the Commission, as provided in subsection (e) of this section, unless the Commission determines in a proceeding under subsection (d) of this section that such contract is in violation of this section.

"(d)(1) No later than 30 days after the date of filing of a contract under this section, the Commission may, on its own initiative or on complaint, begin a proceeding to review such contract on the grounds described in this subsection.

"(2)(A) In the case of a contract other than a contract for the transportation of agricultural commodities, a complaint may be filed—

"(i) by a shipper only on the ground that such shipper individually will be harmed because the proposed contract unduly impairs the ability of the contracting carrier or carriers to meet their common carrier obligations to the complainant under section 11101 of this title; or

"(ii) by a port only on the grounds that such port individually will be harmed because the proposed contract will result in unreasonable discrimination against such port.

For purposes of this paragraph, the term 'unreasonable discrimination' has the same meaning as such term has under section 10741 of this title.

"(B) In the case of a contract for the transportation of agricultural commodities, in addition to the grounds for a complaint described in subparagraph (A) of this paragraph, a complaint may be filed by a shipper on the ground that such shipper individually will be harmed because—

"(i) the rail carrier has unreasonably discriminated by refusing to enter into a contract with such shipper for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue, and that shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered; or

"(ii) the proposed contract constitutes a destructive competitive practice.

"(3)(A) Within 30 days after the date a proceeding is commenced under paragraph (1) of this subsection, or within such shorter time period after such date as the Commission may establish, the Commission shall determine whether the contract that is the subject of such proceeding is in violation of this section.

"(B) If the Commission determines, on the basis of a complaint filed under paragraph (2)(B)(i) of this subsection, that the grounds for a complaint described in such paragraph have been established with respect to a carrier, the Commission shall order such carrier to provide rates and service substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence.

"(e) Approval of a contract filed under this section shall be effective—

"(1) on the date the Commission expressly approves such contract, but in no event before the end of the 30-day period beginning on the date such contract is filed or after the end of the 60-day period beginning on such date; or

"(2) if the Commission has not disapproved such contract by the end of the 60-day period beginning on the date such contract is filed, at the end of such 60-day period.

"(f) The Commission may not require a rail carrier to violate the terms of a contract that has been approved under this section, except to the extent necessary to comply with section 11128 of this title.

"(g) A party to a contract entered into under this section shall have no duty in connection with services provided under such contract other than those duties specified by the terms of the contract.

"(h)(1) A contract that is approved by the Commission under this section may not be subsequently challenged before the Commission or in any court on the grounds that such contract violates a provision of this subtitle.

"(2) The exclusive remedy for any alleged breach of a contract entered into under this section shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

"(i) The provisions of this section shall not affect the status of any lawful contract between a rail carrier and one or more purchasers of rail service that is in effect on the effective date of the Harley O. Staggers Rail Act of 1980.

"(j)(1) During the 3-year period beginning on the effective date of the Harley O. Staggers Rail Act of 1980, any rail carrier may, in accordance with the terms of this section, enter into contracts for the transportation of agricultural commodities involving the utilization of carrier owned or leased equipment not in excess of 40 percent of the capacity of such carrier's owned or leased equipment by major car type (plain boxcars, covered hopper cars, gondolas and open top hoppers, coal cars, bulkhead flatcars, pulpwood rackcars, and flatbed equipment, including TOFC/COFC), except that in the case of a proposed contract between a class I carrier and a shipper originating an average of 1,000 cars or more per year during the prior 3-year period by major car type on a particular carrier, not more than 40 percent of carrier owned or leased equipment utilized on the average during the prior 3-year period may be used for such contract without prior authorization by the Commission.

"(2) Any rail carrier or other party may seek relief from the limitations of paragraph (1) of this subsection, and the Commission may grant such relief as it considers appropriate, if it appears that additional equipment may be made available without impairing the rail carrier's ability to meet its common carrier obligations under section 11101 of this title.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10712, as added by this Act, the following new item:

"10713. Contracts.".

DEMAND SENSITIVE RATES

SEC. 310. Section 10727 of title 49, United States Code, and the item relating to such section in the section analysis for chapter 107 of such title, are repealed.

PHASEOUT OF CAPITAL INCENTIVE RATES

SEC. 311. (a) Section 10729 of title 49, United States Code, and the item relating to such section in the section analysis of chapter 107 of such title, are repealed.

(b) Notwithstanding any other provision of law, any rate established by a rail carrier under section 10729 of title 49, United States Code, prior to the effective date of this Act shall remain in effect in accordance with its terms, but for no longer than 5 years after the date it became effective, unless the parties otherwise agree. However, the Interstate Commerce Commission may, during the period such a rate is in effect, order such rate revised to a level equal to the incremental cost of providing the transportation if the Commission finds that the level then in effect reduces the going concern value of the rail carrier.

PERMISSIVE LIMITED LIABILITY RATES

SEC. 312. (a) Section 10730 of title 49, United States Code, is amended—

(1) by inserting "(a)" immediately before "The";

(2) by inserting "(other than a rail carrier)" immediately after "carrier" the first place it appears; and

(3) by adding at the end thereof the following new subsection:

"(b) A rail carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may establish rates for transportation of property under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by a written agreement between the shipper and the carrier, and may provide in such written declaration or agreement for specified amounts to be deducted from any claim against the carrier for loss or damage to the property or for delay in the transportation of such property.".

(b)(1) Section 11707(c) of title 49, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(5) The liability of a rail carrier under subsection (a) of this section shall not exceed the value of the physical loss of or damage to the property transported, or the cost of repair to such property, to the extent that the loss or damage thereto is caused by the rail carrier. Any other or special damages shall not be recoverable.

"(6) If property transported by a rail carrier is lost, damaged, or delayed by reason of the act or negligence of both the carrier and the shipper, owner, or consignee, such carrier shall not be liable for the portion of loss, damage, or delay caused by the act or negligence of such shipper, owner, or consignee.".

(2) Section 11707(d) of title 49, United States Code, is amended—

(A) by inserting "(1)" immediately after "(d)";

(B) by inserting "(other than a rail carrier)" immediately after "delivering carrier" and

(C) by adding at the end thereof the following new paragraph:

"(2) A civil action under this section may be brought either against the originating rail carrier in a court having jurisdiction over the point of origin or against the delivering rail carrier in a court having jurisdiction over the point of destination. Such action may be brought in a district court of the United States or in a State court, and in any such action Federal law and Federal court decisions shall be applied. No other cause of action shall exist to recover for loss, damage, or delay to property.".

(3) Section 11707(e) of title 49, United States Code, is amended—

(A) by inserting "(1)" immediately after "(e)";

(B) by inserting "(other than a rail carrier)" immediately after "A carrier"; and

(C) by adding at the end thereof the following new paragraph:

"(2)(A) Except as provided in subparagraph (B) of this paragraph, a rail carrier may not provide by rule, contract, or otherwise a period of less than six months for filing a claim against such carrier under this section or a period of less than one year from the date such carrier declines such claim for bringing a civil action against it under this section. This period for filing claims shall be computed from the date of the loss of or damage to the property transported, and the period for bringing a civil action shall be computed from the date the person filing the claim receives notice that such claim is declined.

"(B) The limitations set forth in this paragraph shall not apply whenever a rail carrier has entered into a contract for the provision of transportation or service and such contract is filed with the Commission as a tariff under section 10762 of this title.".

RATE DISCRIMINATION

SEC. 313. Section 10741 of title 49, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) Differences between rates, classifications, rules, and practices of rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title do not constitute a violation of this section if such differences result from different services provided by rail carriers.

"(f) This section shall not apply to—

"(1) rates and conditions set forth in contracts approved under section 10713 of this title;

"(2) surcharges or cancellations under section 10705a of this title;

"(3) separate rates for distinct rail services under section 10728 of this title;

"(4) rail rates applicable to different routes; or

"(5) expenses authorized under section 10751 of this title,

except that with respect to rates described in paragraphs (2), (3), and (4), nothing in this subsection shall affect the authority of the Commission under this section with respect to rate relationships between ports or within the same port.

EXEMPTION

Sec. 314. Section 10505 of title 49, United States Code, is amended to read as follows:

"§ 10505. Authority to exempt rail carrier transportation

"(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons or a transaction or service when the Commision finds that the application of a provision of this subtitle—

"(1) is not necessary to carry out the transportation policy of section 10101a of this title; and

"(2) either (A) the transportation or service is of limited scope, (B) the application of a provision of this subtitle is not needed to protect shippers and receivers where there is an absence of effective competition, or (C) there is effective competition.

"(b) The Commission may, where appropriate, begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party.

"(c) The Commission may specify the period of time during which an exemption granted under this section is effective.

"(d) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary to carry out the transportation policy of section 10101a of this title.

"(e) No exemption order issued pursuant to this section shall operate to relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of section 11707 of this title. Nothing in this subsection or section 11707 of this title shall prevent rail carriers from offering alternative terms nor give the Commission the authority to require any specific level of rates or services based upon the provisions of section 11707 of this title.

"(f) The Commission may exercise its authority under this section to exempt transportation that is provided by a rail carrier as a part of a continuous intermodal movement.

"(g) The Commission may not exercise its authority under this section (1) to authorize intermodal ownership that is otherwise prohibited by this title, or (2) to relieve a carrier of its obligation to protect the interests of employees as required by this subtitle.".

INTRASTATE RATES

Sec. 315. (a) Section 11501(a) of title 49, United States Code, is amended—

(1) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(2) by striking out "subchapter I or subchapter IV" and inserting in lieu thereof "subchapter IV";

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(4) by striking out paragraph (2).

(b) Section 11501 of title 49, United States Code, is amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting immediately after subsection (a) the following new subsections:

"(b)(1) A State authority may only exercise jurisdiction over intrastate transportation provided by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title if such State authority exercises such jurisdiction exclusively in accordance with the provisions of this subtitle.

"(2) Within 120 days after the effective date of the Harley O. Staggers Rail Act of 1980, each State authority exercising jurisdiction over intrastate rates, classifications, rules, and practices for intrastate transportation described in paragraph (1) of this subsection shall submit to the Commission the standards and procedures (including timing requirements) used by such State authority in exercising such jurisdiction.

"(3)(A) Within 90 days after receipt of the intrastate regulatory rate standards and procedures of a State authority under paragraph (2) of this subsection, the Commission shall certify such State authority for purposes of this subsection if the Commission determines that such standards and procedures are consistent with the procedures applicable to regulation of rail carriers by the Commission under this title. If the Commission determines that such standards and procedures are not consistent, it shall deny certification to such State authority, and such State authority may resubmit new standards and procedures to the Commission for review in accordance with this subsection.

"(B) The standards and procedures existing in each State on the effective date of the Harley O. Staggers Rail Act of 1980 for the exercise of jurisdiction over intrastate rail rates, classifications, rules, and practices shall be deemed to be certified by the Commission from that date until the date an initial determination is made by the Commission under subparagraph (A) of this paragraph.

"(4)(A) Any State authority which is certified by the Commission under this subsection may use its standards and procedures in exercising jurisdiction over intrastate rail rates, classifications, rules, and practices during the 5-year period commencing on the date of such certification. Any State authority which is denied certification may not exercise any jurisdiction over intrastate rates, classifications, rules, and practices until it receives certification under this subsection.

"(B) Any intrastate transportation provided by a rail carrier in a State which may not exercise jurisdiction over an intrastate rate, classification, rule, or practice of that carrier due to a denial of certification under this subsection shall be deemed to be transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title.

"(5)(A) Certification of a State authority under this subsection is valid for the 5-year period beginning on the date of such verification. Prior to the expiration of such 5-year period, the State authority shall resubmit its intrastate regulatory standards procedures to the Commission for subsequent certification in accordance with this subsection.

"(B) During any 5-year certification period, a State may not change its certified standards and procedures without notifying and receiving express approval from the Commission.

"(6) Notwithstanding any other provision of this section, a State authority may not exercise any jurisdiction over general rate increases under section 10706 of this title or inflation-based rate increases under section 10712 of this title.

"(C) Any rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may petition the Commission to review the decision of any State authority in any administrative proceeding in which the lawfulness of an intrastate rate, classification, rule, or practice is determined on the grounds that the standards and procedures applied by the State were not consistent with the provisions of this subtitle. The Commission shall dispose of any such petition within 30 days after the date it is received. If the Commission determines that the standards and procedures were not in accordance with the provisions of this subtitle, its order shall determine and authorize the carrier to establish the appropriate rate, classification, rule, or practice.".

(c)(1) Section 11501(d)(2) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by inserting "and chapter 107 of this title" immediately before the period at the end of the first sentence.

(2) Section 10103(a) of title 49, United States Code, is amended by striking out "The" and inserting in lieu thereof "Except as otherwise provided in this subtitle, the".

(3) Section 10501(a)(2) of title 49, United States Code, is amended by inserting "such jurisdiction is not limited by subsection (b) of this section or the extent" immediately after "to the extent".

(4) Section 10501(b)(1) of title 49, United States Code, is amended by inserting "other than transportation which is deemed to be subject to the jurisdiction of the Commission pursuant to section 11501(b)(4)(B) of this title" immediately after "(other than the District of Columbia)".

(5) Section 10501(c) of title 49, United States Code, is amended by striking out "transportation by carriers" and inserting in lieu thereof "transportation (other than transportation which is deemed to be subject to the jurisdiction of the Commission pursuant to section 11501(b)(4)(B) of this title) by carriers".

(6) Section 10501 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The jurisdiction of the Commission and of State authorities (to the extent such authorities are authorized to administer the standards and procedures of this title pursuant to this section and section 11501(b) of this title) over transportation by rail carriers, and the remedies provided in this title with respect to the rates, classifications, rules, and practices of such carriers, is exclusive.".

CUSTOMER SOLICITATION EXPENSES

Sec. 316. (a) Subchapter III of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10751. Customer solicitation expenses

"(a) Any business solicitation or entertainment expense incurred by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall not constitute a violation of section 10741 or 10761 of this title if such expense would not be unlawful if incurred by a person or corporation not subject to the jurisdiction of the Commission.

"(b) Any business entertainment expense authorized under this section that is paid or incurred by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall not be taken into account in determining the cost of service or the rate base for purposes of this title.

"(c) Within 180 days after the effective date of the Harley O. Staggers Rail Act of 1980, the Commission shall institute a rulemaking proceeding pursuant to which it shall issue rules establishing appropriate standards and guidelines for authorized business solicitation and entertainment expenses under this section. Such standards and guidelines shall be consistent with standards and guidelines applicable under existing law to persons not subject to this title, including competing unregulated surface transportation carriers.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10750 the following new item:

"10751. Customer solicitation expenses.".

(c) Section 10761 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) This section shall not apply to expenses authorized under section 10751 of this title.".

EFFICIENT MARKETING

SEC. 317. (a) Section 10762(c)(3) of title 49, United States Code, is amended by striking out the second sentence and inserting in lieu thereof the following: "In the case of a carrier other than a rail carrier, a proposed rate change or a new or reduced rate may not become effective for 30 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section. In the case of a rail carrier, a proposed rate change resulting in an increased rate or a new rate shall not become effective for 10 days after the notice is published and a proposed rate change resulting in a reduced rate shall not become effective for 5 days after the notice is published, except that a contract authorized under section 10713 of this title shall become effective in accordance with the provisions of such section.".

(b) Section 10762(d)(1) of title 49, United States Code, is amended by striking out "30-day" and inserting in lieu thereof "notice".

Redesignate sections 302 through 309 as sections 318 through 325, respectively.

Page 138, strike out line 23 and all that follows through line 12 on page 139 and insert in lieu thereof the following: "shall have such meaning as the Commission shall by regulation prescribe.".

Page 139, strike out line 20 and all that follows through line 9 on page 140 and redesignate the following subsections accordingly.

Page 140, immediately before the semicolon on line 19, insert ", except that for purposes of general rate increases only, if the Commission finds that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part.".

Page 141, strike out lines 3 through 12 and insert in lieu thereof the following: "part of a particular single route. This clause shall take effect on January 1, 1984, or on such earlier date as the Commission determines. If the Commission finds, at any time, that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part.".

Page 141, immediately after "rates." on line 25, insert the following new sentence: "If the Commission finds that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part.".

Page 146, strike out "to construct and operate a railroad" and insert in lieu thereof "both to construct and operate a new railroad".

Page 147, beginning on line 6, strike out "and joint service agreements".

Page 148, strike out line 1 and all that follows through line 12 on page 150 and insert in lieu thereof the following:

(b) Section 10706(a) of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(5)(A) Whenever two or more shippers enter into an agreement that relates to the amount of compensation such shippers propose to charge rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, for use by such rail carriers of rolling stock owned or leased by such shippers, the shippers shall apply to the Commission for approval of that agreement under this paragraph. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy set forth in section 10101a of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of approval. If the Commission approves the agreement, it may be made and carried out under its terms and under the terms required by the Commission, and the antitrust laws set forth in paragraph (2) of this subsection do not apply to parties and other persons with respect to making or carrying out the agreement.

"(B) If the Commission approves an agreement described in subparagraph (A) of this paragraph and the shippers entering into such agreement and the rail carriers proposing to use rolling stock owned or leased by such shippers are unable to agree upon the amount of compensation to be charged for the use of such rolling stock, any party directly involved in the negotiations may require that the matter be settled by submitting the issues in dispute to the Commission. The Commission shall render a binding decision, based upon a standard of reasonableness and after taking into consideration any past precedents on the subject matter of the negotiations, no later than 90 days after the date of the submission of the dispute to the Commission.".

Page 152, line 7, strike out "or carriers involved".

Page 152, after line 13, insert the following new sections:

SAFE RAILROAD REINVESTMENT REQUIREMENTS

SEC. 326. (a) The Secretary of Transportation shall, on the basis of inspections of the track, physical facilities, and operations of a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of title 49, United States Code, notify the Commission that such carrier (1) does not meet the safety requirements of applicable Federal statutes, and (2) is not maintained and operated in a manner which protects the public health and safety and the health and safety of railroad employees. The Secretary may include in his notification to the Commission that, for purposes of reviewing rate increases over which the Commission has jurisdiction, a rail carrier has excessively deferred its maintenance without good cause. For the purposes of this subsection, inspection of track shall be conducted at least once each year.

(b)(1) Upon receipt of the Secretary's notification under subsection (b) of this section with respect to a rail carrier, the Interstate Commerce Commission may, to the extent of its authority under chapter 113 of title 49, United States Code, review the financial arrangements of such carrier and prohibit any financial transactions which would unreasonably impair the ability of such carrier to (A) meet the safety requirements of applicable Federal statutes, and (B) operate in a manner which protects the public health and safety and the health and safety of railroad employees.

(2) The Commission may exercise its authority under this subsection with respect to a rail carrier until such time as the Commission determines that the safety deficiencies of such carrier which were the basis of the Secretary's notification have been remedied. In exercising such authority, the Commission shall take all steps necessary to avoid impairing the ability of such carrier to obtain financing.

(c) The Interstate Commerce Commission shall submit an annual report to the Congress setting forth its findings with respect to whether rail carriers that are subsidiaries of other companies are involved in financial transactions with the parent company which (1) result in the transfer of funds or assets, directly or indirectly, from the rail carrier to its parent company, and (2) impair the ability of the rail carrier to (A) meet the safety requirements of applicable Federal statutes, and (B) operate in a manner which protects the public health and safety and the health and safety of railroad employees.

ROCK ISLAND AND MILWAUKEE RAILROADS AMENDMENTS

SEC. 327. (a)(1) The Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1001 et seq.) is amended by redesignating section 124 as section 125 and by inserting immediately after section 123 the following new section:

"JUDICIAL REVIEW

"SEC. 124. (a) Notwithstanding any other provision of law, any appeal from—

"(1) any decision of the bankruptcy court with respect to the constitutionality of any provision of this Act; and

"(2) any decision of the court having jurisdiction over the reorganization of the Milwaukee Railroad with respect to the constitutionality of the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.), shall be taken to the United States Court of Appeals for the Seventh Circuit.

"(b) If appeals are taken from decisions described in subsection (a) of this section involving section 106 or 110 of this title or section 9 or 15 of the Milwaukee Railroad Restructuring Act, the court of appeals shall determine such appeals in a consolidated proceeding, sitting en banc, and shall render a final decision no later than 60 days after the date the last such appeal is filed.

"(c) Nothing in this Act or in the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.) shall limit the right of any person to commence an action in the United States Court of Claims under section 1491 of title 28, United States Code (commonly referred to as the Tucker Act).".

(2) Section 110(e) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1008(e)) is amended by inserting "to employees" immediately after "liability".

(3) Section 15(e) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 914(e)) is amended by inserting "to employees" immediately after "liability".

(b)(1) Section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005) is amended to read as follows:

"EMPLOYEE PROTECTION AGREEMENTS

"SEC. 106. (a) No later than 5 days after the date of enactment of the Harley O. Staggers Rail Act of 1980, in order to avoid disruption of rail service and undue displacement of employees, the Rock Island Railroad and labor organizations representing the employees of such railroad with the assistance of the National Mediation Board, may enter into an agreement providing protection for employees of such railroad who are adversely affected as a result of a reduction in service by such railroad. Such employee protection may include, but need not be limited to, employee relocation incentive compensation, moving expenses, and separation allowances.

"(b) If the Rock Island Railroad and the labor organizations representing the employees of such railroad are unable to enter into an employee protection agreement under subsection (a) of this section within 5 days after the date of enactment of the Harley O. Staggers Rail Act of 1980, the matter shall be immediately submitted to the Commission. The Commission shall impose upon the parties by appropriate order a fair and equitable arrangement with respect to employee protection no later than 15 days after the date of enactment of the Harley O. Staggers Rail Act of 1980, unless the Rock Island Railroad and the authorized representatives of its employees have by then entered into a labor protection agreement. For purposes of this subsection, the term 'fair and equitable' means no less protective of the interests of employees than protection established by and pursuant to section 9 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 908), subject to the limitations set forth in section 110 of this title.

"(c) If an employee protection arrangement is imposed by the Commission under subsection (b) of this section, the bankruptcy court shall immediately authorize and direct the Rock Island Railroad trustee to, and the Rock Island Railroad trustee and the labor organizations representing the employees of the railroad shall, immediately implement such arrangement.

"(d) Any order of the Commission under subsection (b) of this section and any order of the bankruptcy court under subsection (c) of this section may be appealed only to the United States Court of Appeals for the Seventh Circuit. Any such appeal to such court of appeals shall be filed within 5 days after the date of entry of the order of the Commission or the bankruptcy court, as the case may be, and such court of appeals shall finally determine such appeal within 60 days after the date such appeal is filed.

"(e)(1) Any claim of an employee for benefits and allowances under an employee protection agreement or arrangement entered into under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under such agreement or arrangement and shall certify such amount to the Rock Island Railroad for payment.

"(2) Benefits and allowances under such agreement or arrangement entered into under this section shall be paid by the Rock Island Railroad from its own assets or in accordance with section 110 of this title, and claims of employees for such benefits and allowances shall be treated as administrative expenses of the estate of the Rock Island Railroad.

"(f) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(7)) is amended by striking out "and the Milwaukee Railroad Restructuring Act" and inserting in lieu thereof ", the Milwaukee Railroad Restructuring Act, and the Rock Island Railroad Transition and Employee Assistance Act".

(2) Section 108(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1007(a)) is amended by inserting immediately before the period at the end thereof the following: "(other than as provided in the agreement entered into in Washington, D.C., on March 4, 1980, entitled 'Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations Operating Through the Railway Labor Executives' Association')."

(3) Section 103(5) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1002(5)) is amended by inserting immediately before the period at the end thereof the following: ", the estate of such Company in its reorganization proceeding, or the trustee appointed in such proceeding".

(c) Section 102 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1001) is amended to read as follows:

"CONGRESSIONAL FINDINGS

"SEC. 102. The Congress finds that—

"(1) the Railroad Revitalization and Regulatory Reform Act of 1976 was not intended to imply that there would be no labor protection in the event of a total abandonment by a major rail carrier and the Milwaukee Railroad Restructuring Act requires the imposition of employee protection in all abandonments when the rail carrier is in bankruptcy whether such carrier is being reorganized or has been ordered to be liquidated;

"(2) the statutory imposition of employee protection has and continues to serve the public interest by stabilizing employment in the railroad industry and promoting improved labor-management relations and sound employment practices;

"(3) imposing employee protection in abandonments as part of a reorganization while not imposing employee protection in an abandonment proceeding pursuant to an order of liquidation would violate the clear and unequivocal congressional policy encouraging continued rail service through railroad reorganizations rather than liquidations;

"(4) Congress has given the Rock Island Railroad, its creditors, and its shareholders extraordinary benefits under this Act and the Milwaukee Railroad Restructuring Act by, among other benefits—

"(A) giving preference to all proceedings at the Commission involving the Rock Island Railroad, authorizing the bankruptcy court to approve abandonments and sales of lines and facilities of such railroad without procedural delays at the Commission, and expediting appeals from this Act;

"(B) establishing conditions which will have the effect of limiting the Rock Island Railroad employee protection liability that would otherwise be imposed by law, both directly and indirectly; and

"(C) providing the Rock Island Railroad revenues from the lease of its facilities by other rail carriers by permitting the use of such facilities thereby maintaining their value as a going concern, and by providing Federal financial assistance to purchasers of Rock Island facilities, thereby promoting purchases, to the enrichment of Rock Island Railroad, its creditors, and its shareholders; and

"(5) the employees of the Rock Island Railroad relied in good faith upon the representation by the Federal Government that employee protection for employees who would not be provided protection through a private agreement with acquiring rail carriers would be protected by the provisions of this Act and cooperated with all parties to insure continued rail service in the Midwest, thereby enhancing the value of the Rock Island Railroad by maintaining its value as a going concern.".

(d)(1) Section 7 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 906) is amended by adding at the end thereof the following new subsection:

"(h)(1) All obligations to the United States or any agency or instrumentality of the United States incurred pursuant to this section by the Milwaukee Railroad or the trustee of the property of the Milwaukee Railroad shall be waived and cancelled when—

"(A) the Milwaukee Railroad is reorganized as an operating rail carrier; or

"(B) substantially all of the Milwaukee Railroad is purchased.

"(2) For purposes of this subsection, substantially all of the Milwaukee Railroad shall be considered as having been purchased when (A) more than 50 percent of the rail system operated by the Milwaukee Railroad on the date of enactment of the Harley O. Staggers Rail Act of 1980 has been purchased, and (B) more than 50 percent of the employees employed by the Milwaukee Railroad on such date of enactment have obtained employment with other rail carriers.".

(2) Section 14 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) There are authorized to be appropriated $15,000,000 for purposes of providing transaction assistance in accordance with section 505(h)(1)(A) and (B) of the Railroad Revitalization and Regulatory Reform Act of 1976.".

(e) Section 505(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(h)) is amended—

(1) in paragraph (1)(A), by striking out "$25,000,000" and inserting in lieu thereof "$38,000,000";

(2) in paragraph (1)(B), by striking out "$18,000,000" and inserting in lieu thereof "$27,000,000"; and

(3) in paragraph (4), by inserting "or such other time as the Secretary considers appropriate," immediately after "September 15, 1980,".

(f) The amendments made by this section shall take effect on the date of enactment of this Act.

LOAN GUARANTEES

SEC. 328. (a) To promote competition in the transportation of coal, the Secretary of Transportation shall, no later than 45 days after the date of enactment of this Act, take final action of any application for loan guarantees, under section 511 of the Railroad Revitalizaiton and Regulatory Reform Act of 1976, to be used in connection with joint ownership, construction, or rehabilitation of any facilities (including support facilities) for a second rail carrier to serve the Powder River Coal Region in Montana and Wyoming.

(b) The Secretary of Transportation may waive the provisions of section 511(g) of the Railroad Revitalization and Regulatory Reform Act of 1976 in making the loan guarantees described in subsection (a) of this section.

(c) The provisions of section 4(f) of the Department of Transportation Act shall not apply to any loan guarantee described in subsection (a) of this section.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 329. The second sentence of section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by inserting "is not required to make the findings with respect to subsections (e)(3) and (f) and" immediately after "the Association" the first place it appears.

SAVINGS PROVISIONS

SEC. 330. (a) Any rate that is in effect on the effective date of this Act for transportation by a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of title 49, United States Code, may, during the 180 day period beginning on such effective date, be challenged in a complaint filed with the Interstate Commerce Commission by any interested party alleging that the rail carrier has market dominance over the transportation to which the rate applies, as determined under section 10709 of such title, and that the rate is not reasonable under section 10701a of such title.

(b) Any rate described in subsection (a) of this section—

(1) which is not challenged in a complaint filed within the 180-day period provided in such subsection; or

(2) which is challenged in such a complaint, but (A) the rail carrier is found not to have market dominance over the transportation to which the rate applies, or (B) the rate is found to be reasonable,

shall be deemed to be lawful and may not thereafter be challenged in the Commission or in any court.

(c) The provisions of this section shall not apply to any rate under which the volume of traffic moved during the 12-month period immediately preceding the effective date of this Act did not exceed 500 net tons and has increased tenfold in the 3-year period immediately preceding the bringing of a challenge to the increase of such rate.

RELATIONSHIP TO TITLE II

SEC. 331. In any case in which any provision of or amendment made by title II of this Act conflicts with any provision of or amendment made by this title, the provision of or amendment made by this title shall control.

RAIL TECHNOLOGY AND SHIPPER NEEDS BOARD; OTHER SHIPPER ASSISTANCE

SEC. 332. (a)(1) There is hereby established a Rail Technology and Shipper Needs Board (hereinafter in this section referred to as the "Board"), which shall be composed of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Labor, and the Chairman of the Interstate Commerce Commission. The Secretary of Transportation shall serve as Chairman of the Board and shall have the responsibility for expediting the proceedings of the Board.

(2)(A) The Board shall select personnel from the Federal Government, with the consent of the head of the appropriate Federal department or agency, or appoint individuals from private life, to serve on advisory committees, task forces, and advisory panels. Such individuals shall be selected on the basis of their proven expertise in transportation related fields.

(B) Individuals selected under this section may be compensated for their services at the discretion of the Board, but in no event shall any such individual receive compensation in excess of 1/260 of the rate prescribed for level IV of the Executive Schedule, under section 5315 of title 5, for each day (including travel time) in which he is engaged in the actual performance of duties vested in the Board.

(b)(1) The Board may conduct studies of technological means to improve rail productivity and of the continuing transportation needs of urban and rural rail shippers, and shall submit reports to the Congress, in accordance with paragraph (2) of this subsection, on the results of such studies. Such reports shall include—

(A) an assessment of current rail technology limitations, with recommendations for rail technological innovations and improvements designed to—

(i) reduce rail operating and future investment costs;

(ii) reduce consumer prices, including food prices;

(iii) reduce energy consumption;

(iv) promote inter-modal and intra-modal coordination;

(v) provide financially self-sustaining and continuing rail service to light traffic density agricultural areas; and

(vi) enhance the competitive position of United States exports (including agricultural products) in world markets;

(B) estimates of future labor and capital investment requirements to rehabilitate the essential rail system of the United States;

(C) a recommendation with respect to the need to develop and disseminate, on a continuing basis, information, and analysis on projected transportation needs of urban and rural shippers for the purpose of improving private and public investment decisionmaking;

(D) an analysis of the effect of the provisions of this Act on urban and rural shippers, including so-called "captive" shippers;

(E) recommendations with respect to improving economic, regulatory, and legislative conditions to enhance the acquisition and financially self-sustaining operation of rail feeder lines by cooperative organizations; and

(F) an analysis of potential and existing urban and rural Federal rail programs which need to be coordinated in order to insure the maximum utilization of Federal funds.

(2) The Board shall submit an interim report to the Congress under this subsection no later than January 1, 1982, and shall submit a final report to the Congress no later than January 1, 1984.

(c)(1) The Board shall cooperate with existing Federal departments and agencies to assure that sufficient resources and facilities exist to assist agriculture shippers in forming cooperative shipper associations and in taking advantage of expanded opportunities for contracting.

(2) All Federal departments and agencies are authorized to cooperate with the Board and to furnish information, appropriate personnel (with or without reimbursement), and such financial and other assistance as may be agreed upon by the Board and the Federal department or agency involved.

(d) The Board shall cease to exist 5 years after the effective date of this Act.

(e) In evaluating restructuring plans submitted under section 518(h) of the Railroad Revitalization and Regulatory Reform Act of 1976, the Secretary of Transportation shall consult with the Secretary of Agriculture with respect to any aspect of such a plan that impacts upon the provision of transportation services to agricultural and rural areas.

(f) The Secretary of Agriculture, in cooperation with the Secretary of Transportation, may establish regional agricultural transportation representatives to assist shippers in securing railroad or alternative transportation services on the most favorable possible terms.

(g)(1) The Secretary of Transportation and the Secretary of the Treasury shall jointly submit to the Congress, within 9 months of the effective date of this Act, a comprehensive report on the anticipated effect (including the loss of revenue to the Federal Treasury) of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines. Such report shall also include such criteria as may be necessary to prevent the abuse of such special tax status.

(2) For purposes of this section, railroad feeder line rehabilitation includes the acquisition, construction, reconstruction, or erection of any feeder line roadbed, track, trestle, depot, switching, and signalling equipment, or any other rail equipment (other than rolling stock).

(h) There are authorized to be appropriated for purposes of carrying out the provisions of this section not to exceed $2,000,000.

Page 98, strike out the item in the table of contents relating to section 301 and insert in lieu thereof the following new items:

Sec. 301. Compensatory joint rate relief.
Sec. 302. Expedited division of revenues proceedings.
Sec. 303. Regulation of railroad rates.
Sec. 304. Determination of market dominance.
Sec. 305. Zone of rate flexibility.
Sec. 306. Rate regulation proceedings and study.
Sec. 307. Inflation-based rate increases.
Sec. 308. Investigation and suspension of rates.
Sec. 309. Contracts.
Sec. 310. Demand sensitive rates.
Sec. 311. Phaseout of capital incentive rates.
Sec. 312. Permissive limited liability rates.
Sec. 313. Rate discrimination.
Sec. 314. Exemption.
Sec. 315. Intrastate rates.
Sec. 316. Customer solicitation expenses.
Sec. 317. Efficient marketing.

Redesignate the following items in the table of contents for title III accordingly.

Page 98, at the end of the items relating to title III in the table of contents, insert the following new item:

Sec. 326. Safe railroad reinvestment requirements.
Sec. 327. Rock Island and Milwaukee Railroad amendments.
Sec. 328. Loan guarantees.
Sec. 329. Amendment to the Regional Rail Reorganization Act of 1973.
Sec. 330. Savings provisions.
Sec. 331. Relationship to title II.
Sec. 332. Rail Technology and Shipper Needs Board; other shipper assistance.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. FRENZEL. Reserving the right to object, Mr. Chairman, over the last few days this body has been treated to a spectacle of writing and rewriting the amendment which I understand has now been offered by the gentleman from West Virginia.

We have seen a fair amount of articles in the press. We have had laudatory, and otherwise, letters, Dear Colleague letters, written to us about it. But none of us—or, that is, those of us who are not in the elite corps of substitute drafters—have been able to see this amendment.

Last night there were some copies drifting around, none of which were made available to me. This morning I was given a copy by a member of the committee when the House convened. About 10 short minutes ago I was given another copy of the substitute which seems to be quite different and six pages longer. It is time to ask the real substitute to stand up.

Mr. Chairman, the House has been put in an impossible situation. We are confronted with 91 pages of new material about which most of us have little or no information. It is said to be a rewrite, and yet I have found sections of it which are totally new material which are, in my judgment, nongermane.

Even if they are not, they are certainly a surprise for this House. I am reserving the right to object because I want to call the attention of this body to what I think is outrageous legislative procedure.

Several times in the history of the House, at least since I have been here, we have accepted substitute amendments after working on a bill for a long period. Many of us did not understand those substitutes, and in every instance in which that occurred, that legislation which we did not know very much about has come back to bite us.

This committee has worked long and hard to put together a compromise. The Members are to be complimented. But why could they not have presented the compromise and had it printed in the RECORD so that all Members would have a chance to look at it?

In this regard I would like to yield to the distinguished chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS), so that he might explain that problem.

Mr. STAGGERS. I thank the gentleman for yielding, and I think he has brought up a point that is worthy of consideration. I would say to the gentleman I hope he does not object because it would just take the time of the House to read this. We will explain each and every section of the amendment, especially where the changes are, so that the gentleman will understand and the rest of the House will understand. I can assure the gentleman that I believe that we will have the Members just sitting here needlessly, and everybody will leave as soon as we start reading the bill anyhow. Nobody will be listening. I will say to the gentleman I hope he will not object to the bill being considered as read and printed in the RECORD.

Mr. FRENZEL. I thank the chairman.

Further reserving the right to object, Mr. Chairman, I realize the committee has had a difficult time with this bill, and I realize it is important, or at least that many Members feel it is important, to go ahead with it.

On the other hand, I really believe that this is a procedural outrage, and I am disturbed that the leadership of the House and the leadership of the committee would be willing to go ahead on this basis, knowing that most of the Members really do not know what they are doing—or I will take that back and say that some of the Members like myself do not know what they are doing on this particular bill.

My own rule of thumb has been if you do not know what is in the bill, your best option is to vote against it until you do know what is in the bill.

Mr. Chairman, I have no desire to unnecessarily prolong the proceedings today. My sermon is, however, when you try to shortcut normal procedures, when you try to prevent the light from shining in on our work here, you are going to put that bill or whatever we are considering, in dire jeopardy. I think the chairman and the members of the committee who put this together should know that they are taking perilous risks in moving ahead in this way.

Mr. Chairman, with that said, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. ECKHARDT. Mr. Chairman, reserving the right to object, I reserve the right to object but I shall not object because, as I understand it, we may proceed on this bill in an orderly way as has been discussed with the Parliamentarian. I understand that the amendment that is now offered is subject to debate, would be subject to a substitute, and that such substitute would be subject to debate. The original Staggers amendment in the nature of a substitute would then be open for amendment at any point. If the amendment at any point, after which the substitute I shall offer would be so open amendment which I shall offer should fail, the Staggers amendment would be subject to amendment in its detail in the ordinary manner. I understand all of that to be correct parliamentarily, and I understand there will be no attempt to frustrate that, of course, reserving to those who are offering the amendment all rights with respect to cutting off debate by the normal means.

Do I have a correct understanding on these points, Mr. Chairman?

Mr. STAGGERS. If the gentleman will yield, what did the gentleman say about cutting off debate? I think we should set a time sometime this afternoon that we could stop on this bill, but that will come up later. I have no vision of that now. I think it should be at that time.

Mr. ECKHARDT. Further reserving my right to object, Mr. Chairman, I would like before I choose not to object to let the entire House know in very general terms what this amendment does. I should also like to address a few questions to the distinguished chairman of the subcommittee on this point, if I may do so. I must say that I agree with the gentleman of the other party on the proposition that it is a long and complex amendment.

Mr. STAGGERS. Mr. Chairman, would the gentleman yield?

Mr. ECKHARDT. Yes, I yield to the gentleman.

Mr. STAGGERS. I thank the gentleman for yielding. I would hope that before the gentleman started asking questions, he would let me present the amendment, and then in the orderly procedure that he would get time and ask any questions that he wishes to ask.

Mr. ECKHARDT. I think my questions will be very short, and they will go to the question of whether or not an objection should be made at this time.

□ 1100

I want to be sure what we have before us. If the distinguished gentleman from New Jersey would respond to these questions, I would appreciate it.

We have received on September 2 a document called, "Proposed Compromise Amendment." Now, that was a document of some 79 pages. Then, we received a document on September 4 containing some 91 pages. We received that at about 6 o'clock yesterday. This morning, just before the commencement of this session, the gentleman from Texas received another document dated September 5, 1980, containing some 91 pages.

I am informed by counsel for the subcommittee that there is textual change beginning on about page 30 of that amendment which uses different wording, but according to the statement of the counsel no different intent or effect is intended.

Could the gentleman point out to me where the changed language commences and where it ends?

Mr. FLORIO. Mr. Chairman, if the gentleman will yield, while the language is being obtained, I can represent to the gentleman that the representation of the counsel is correct. There has been no substantive change that has been made since the bill was printed in the RECORD. The langauge which has been modified is on page 30, and begins on line 14 and extends through page 31, line 18.

Mr. ECKHARDT. Line 18, and then what language is supplanted in the document dated September 4?

Mr. FLORIO. This langauge is essentially the same as the amendment which was printed in the RECORD. As the gentleman knows, the documents have been floating back and forth between his office, my office, and other Members' offices, and are essentially the same, with minor modifications. What we are working from is the amendment that was printed in the RECORD, and what the gentleman has in his hand is that amendment with the modification, a technical modification that I have indicated and have called to the attention of the gentleman.

Mr. ECKHARDT. I think I understand it then, the textual material that has been somewhat altered in the document of September 5, 1980, is from about line 14 on page 30 through line 18 on page 31.

Mr. FLORIO. Only technical modifications, that is correct.

Mr. ECKHARDT. Of course, whether it is substantive, I guess we all have to use our own judgment on that.

Mr. FLORIO. That is correct.

Mr. ECKHARDT. But what does it supplant in the previous document?

Mr. FLORIO. This, as the gentleman knows, deals with the question of the burden of proof in the 6-percent zone, and attempts to clarify the language that was in the amendment. It in no way changes the burden of proof. It just uses language to clarify the intent of the language that was introduced.

Mr. ECKHARDT. For the purpose of the Members of the House, do I understand that when the gentleman refers to the 6-percent zone, he is referring to that zone of flexibility above the threshold figures that are referred to in the later section of the bill beginning with 160, 165, 170, 175?

Mr. FLORIO. The gentleman is correct. That is the essence of the compromise, phasing in from the number that the gentleman advocates to a cost recovery percentage. The gentleman is correct.

Mr. ECKHARDT. And do I understand that there are no changes between the September 4 document and the one dated September 5 with respect to the section setting out the threshold figures?

Mr. FLORIO. That is correct.

Mr. ECKHARDT. And there are no changes respecting the provisions headed, "Determination of market dominance"?

Mr. FLORIO. That is correct as well.

Mr. KAZEN. Mr. Chairman, will the gentleman yield to me under his reservation of objection?

Mr. ECKHARDT. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, a moment ago, when the gentleman was talking about his understanding of procedures, did I hear correctly that there would be a move to cut off debate in order to have a vote on final passage today?

Mr. ECKHARDT. Well, I cannot answer for the leadership on this bill on that proposition. It would be possible for them to so move, as I understand the rules.

Mr. KAZEN. I was wondering what the gentleman's understanding of the procedure was going to be as far as setting time limits.

Mr. ECKHARDT. This gentleman has agreed to no setting of time limits, nor has the gentleman from New Jersey agreed in advance to any change with respect to the rights of the Members to debate or the rights of the committee to seek a cutoff by a majority vote of the House. I do think we could agree to that bindingly without unanimous consent, and no such unanimous consent has been sought.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. KAZEN. Mr. Chairman, reserving the right to object, I do so for the purpose of asking the manager of the bill if it is his intention to limit debate in order to get a vote on final passage before the House adjourns this afternoon.

Mr. FLORIO. If the gentleman would yield, it is not my present intention to do that. It is my hope that we will be able to expedite consideration to finish this bill today. Knowing that the heart of the bill is the Staggers-Rahall-Lee-Loeffler amendment, and of the intention of the gentleman from Texas to offer a substitute, I think it is key that we deal with that question without any limit. When we deal with that question and dispose of it, it is my personal opinion that there will not be too terribly much left in the bill. I hope we can go forward hopefully without limitation. We then, of course, reserve our rights to reevaluate our positions later in the day.

Mr. KAZEN. I thank the gentleman for his answer. I just want to make sure he understood that there are other Members interested in this bill besides the gentleman he mentioned, because I have, to this moment, yet to see the last amendment or the last bill that is going to be considered here this afternoon.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. GIBBONS. Reserving the right to object, Mr. Chairman, I have a great deal of respect for the subcommittee chairman and the committee chairman who are handling this legislation, and I do not think that I have ever objected to a request like this in the 18 years that I have been in Congress. But, I want to state very seriously that I may object to this unanimous-consent request right now.

I would like to lay the predicate for it first before I do it. My community, the congressional district that I represent, is served by only one railroad. That railroad is the lifeblood of my community.

☐ 1110

I want to point out how serious it is because of the inability of the public utility in my area and the railroad to get along together. I want to ask the Members if they can guess where my people have to buy the coal from to fire the utility plant that serves all of my area. I will not push the Members too hard on that, but let me just say they find it is cheaper to buy coal in Poland and transport it all the way to Tampa than it is to bring it just a short distance from Kentucky.

So the Members can understand why my folks are interested in this legislation. I have received phone calls as recently as just before this session started from governmental agencies in my area, not knowing what is going on, and, frankly, because of the confusion that has taken place here I am not able to inform them as to just what is going on.

So my question to the chairman of the subcommittee is this: Does the gentleman intend to press for a final vote on this substitute before 2 o'clock this afternoon?

Mr. FLORIO. Mr. Chairman, if the gentleman will yield, it would be my hope that that would take place. As I have indicated, I am fully convinced that there will be an adequate airing of the views as to the merits or the demerits of the alternative proposal.

Certainly there are those who are very articulate who may not agree with what is in the compromise. I happen to believe the compromise satisfies the needs of those like the gentleman from Florida (Mr. Gibbons) who are concerned about the question of utilities and particular rail lines.

I think the gentleman should have sufficient confidence in the Members of this House to have a full and adequate threshing out of the merits. Of course the gentleman has the right to vote as he sees fit.

I think it is important to the country as well as to the gentleman's constituents that there be this discussion, and that this discussion go forward in an orderly way.

Therefore, Mr. Chairman, I would hope that the gentleman would permit us to go forward in an orderly way to discuss the merits of what this proposal provides.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I rise because I want to make it clear, since the term, "compromise," has been used and since I have heard over the last week that an agreement was reached to which no one dissented with the gentleman from Texas, that there has been no such compromise. I want to say that the opponents of the Staggers amendment and those who favor what the House did when we last acted on this bill include the Edison Electric Institute, the American Public Power Association, the National Rural Electric Cooperatives, the National Association of Regulatory Utility Commissioners, United States Steel, National Steel, the Consumer Federation of America, the Consumer Energy Council of America, 60 shortline railroads, the National Council of Farmer Cooperatives, the American Association of Port Authorities, International Paper Company, American Feed Manufacturers Association, the American Soybean Association, the National Corn Growers Association, and the Grain and Feed Dealers Associations of 11 States. There may be others. At least there are those from whom we have not gotten a consensus nor an agreement at this time.

Mr. BAUMAN. Mr. Chairman, will the gentleman from Florida yield?

Mr. GIBBONS. I will be glad to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman for yielding under his reservation.

Mr. Chairman, I just want to say that I have the same concern. I personally would not want to delay the proceeding today, but I would not like to see the House act finally on this legislation for the very reasons the gentleman has suggested.

I happen to represent an area in the Delmarva Peninsula which has very unique real problems, and this bill would deal with that subject. I have been contacted by the Secretary of Agriculture of the State of Maryland yesterday asking us not to proceed with legislation dealing with the short lines in my area. The major complaint is not that they are opposed to latest compromise but that they do not know what it does.

If we proceed, as the gentleman from New Jersey (Mr. Florio) says, we may, since he has given us no guarantee and since it is final as of today, wake up tomorrow, having read the proceedings in the Record and find that this might harm my area and it might harm the areas of other Members.

No amount of guarantee about the length of debate would prevent that, unless we have a guarantee that we would go to a certain point and stop, not finish the bill, and that would let us have a chance to take up this matter again in a fashion that would allow us to be informed, because we are not informed today.

Mr. GIBBONS. Mr. Chairman, I agree with the gentleman's observation. I was just trying to be as cooperative as possible, but I am not satisfied with the answer of the gentleman from New Jersey (Mr. Florio).

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I will be glad to yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, the gentleman in the well is a very senior and respected and distinguished member of the Committee on Ways and Means.

There have been many occasions when amendments to Ways and Means Committee bills coming from the Committee on Ways and Means were not even printed in the Record before this Member was required to cast his vote upon them. But recognizing the expertise and experience of members of the committee like the gentleman in the well, this Member has been satisfied to accept their explanations about things on which he was about to be required to vote.

This amendment which I hope we are going to address in debate very soon was printed in the Record last night and could have been read by anyone who wanted to read the Record.

Mr. Chairman, I would ask the gentleman in the well if the procedure which we are asking to be followed today is so very much different from that which the Committee on Ways and Means frequently asks us to follow here on the floor of the House.

Mr. GIBBONS. Mr. Chairman, if the gentleman thinks I am going to be foolish enough to defend everything that the Committee on Ways and Means does on this floor, he does not understand me.

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield further?

Mr. GIBBONS. I yield to the gentleman from Michigan.

Mr. ALBOSTA. Mr. Chairman, I agree with what the gentleman is saying. I do not believe the only issues here are the compromises that have been reached between the gentleman from Texas and the gentleman from New Jersey.

I think it is very important that this body understand what we are going to be getting into if we abandon all the rail lines today that could be abandoned because of this piece of legislation. I think it would be short changing the American people, and it would be irresponsible on the part of this country not to consider a rail bank.

If we do not consider and do a study on what may be needed in the future for rail lines in this country, then we are going to be making a drastic mistake.

I personally would not agree that we should end debate at any time today. I believe we ought to discuss this issue fully so each Member of this Congress understands what the problem really is.

Mr. Chairman, if we do not have the foresight to see that we may need a line somewhere and need these easements and rights-of-way, we might find that it would be impossible to purchase those lines in the future.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I am glad to yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Chairman, I appreciate my colleague and good friend yielding.

I certainly recognize the fact that this amendment was indeed printed in the Record, but we just now received that in our offices. This is a very complex and technical type of bill.

The reason so many agricultural groups are against this as it stands is because of their concern with and their perception of section 301, for instance, that would provide for de facto abandonment of branch lines, in their legal counsels' opinion.

I have checked with some of my good friends, including my friend, the gentleman from Illinois, and there are differences of opinion as to what that would do. I respect their opinions, but there is still that difference of opinion.

If this bill would allow, for instance, the Burlington Northern, for which our farmers in North Dakota have no great degree of love and affection because they keep increasing freight rates and increasing freight rates, while providing less and less service, to take a line like the Wilton-Pingree Line in North Dakota, which is a branch line, and put a surcharge on those freight rates and get that rate up so the freight is shoved off onto trucks, a couple of things would happen: First, we would have more trucks going down our inadequate roads, fighting with the smaller and smaller cars that we have got to drive, and that is not good because they use more fuel than shipping on rail; and second, there will be no freight going down that branch line after the surcharge forces the grain to trucks so the railroad can then abandon the branch line, and this bill, according to our agricultural groups, will allow that to happen.

I would like to have a little bit more time to find out how these provisions will work. There is another section in the bill, I am told by my agricultural people, that allows Government money to be used to finance a Union Pacific line directly parallel to an already built line into the Powder River basin to ship coal.

This is in an area where we have seen the abandonment of one of the major lines through northern South Dakota that is greatly needed to move coal to an already existing 800-megawatt powerplant that will have to be abandoned at tremendous cost to electric consumers if we cannot get a transfusion of money. Why build competing lines with Government loan guarantees when other areas are seeing their only service abandoned?

□ 1120

To put money into a duplicating line and not have it then available for a line that needs it so desperately does not make sense.

These are just a couple of the reasons why I think it is extremely important that we follow the suggestion made by my good friend, the gentleman from Florida, and let time bring a little bit of sunshine in on this bill, let some of these people be heard, so that we are certain what these provisions do before we vote on them.

Our farmers cannot afford more branch-line abandonment any more than my colleague, the gentleman from Florida, can afford a situation where it is cheaper to import coal from Poland instead of getting it from the United States which would have provided job opportunities for American coal miners and would preclude the further export of capital and the imbalance of payments that are raising havoc right now with our balance of payments and our inflation rate.

So I salute my colleague, the gentleman from Florida, and I hope he will take the proper action to allow the maximum amount of time for discussion so that we may actually know the impact of what is in this bill.

Mr. ECKHARDT. Mr. Chairman, will the distinguished gentleman from Florida yield?

Mr. GIBBONS. Mr. Chairman, further reserving my right to object, I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I should like to urge upon my colleague, the gentleman from Florida, that he permit the biill to go forward without the reading of the section. I understand his position, and I share it. As I have pointed out, though, we have had some access to the very long amendment. The provisions in that amendment which embrace both title II and title III have been the subject of grave concern to a great number of people.

We have had negotiations, not much, I must say, between the gentleman from New Jersey and myself—though I have urged it—but considerable talk with various interest groups, and there has been some movement toward agreement, but there has been no final agreement by any means.

I would suggest to the gentleman from Florida, and I would respectfully suggest to the manager of this bill—and I may say, inferentially, that the gentleman from Florida, I am sure, will assure this body and the gentleman from New Jersey that we have had no discussion, you and I, about this matter before. But I would like to move on this. And I would suggest that if we could complete title III today, if we could proceed on that—and I doubt that we could get any further by the time of our deadline anyhow—take a vote on title III and then not proceed further, the interests of the gentleman from Florida would be totally protected; because just as the gentleman from New Jersey is arguing, and I shall oppose it on a point of order, but if the gentleman from New Jersey is correct that in amending title III or substituting title III he may change what we did in title II—and there is argument to that effect—in the same way, the gentleman from Florida could offer a new title IV and change all we did, once he finds out what the effect of this 91-page document is.

So the gentleman would not be precluding his rights to study the amendment carefully.

There is another means by which the same thing could be accomplished if we do not complete the bill today, and that is, after we have observed what has been done on the floor of the House, we could go back and see if we could reconcile our differences in a total substitute that would be in order at the end of the reading of the bill.

Therefore, I would suggest that the gentleman might invite from the chairman of the subcommittee the agreement not to require the reading of this long document. If it were required, another substituted long document could be offered and it could be required to be read.

But I would suggest that we withhold such procedural delay if the gentleman from New Jersey would agree with us that we would complete title III and then rise.

Mr. GIBBONS. Mr. Chairman, I think the gentleman from Texas has made a good suggestion.

And, further reserving my right to object, Mr. Chairman, what say the gentleman from New Jersey?

Mr. FLORIO. If the gentleman will yield, it is my hope that we could complete the bill. I certainly will consult with all of the interested Members.

Mr. GIBBONS. Then, Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read the amendment.

The Clerk continnued the reading of the amendment.

□ 1130

Mr. STAGGERS (during the reading). Mr. Chairman, I renew my request that the amendment be considered as read and printed in the RECORD at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

□ 1140

Mr. GIBBONS. Mr. Chairman, reserving my right to object to the unanimous-consent request by the gentleman from West Virginia (Mr. STAGGERS), Mr. Chairman, I have never engaged in dilatory tactics in my life on this House floor and I do not intend to now.

I am merely seeking to work out some orderly procedure in which I can find out what this bill does to the people that I represent, my congressional constituents.

As I say, they are very vitally affected by it, because we are only served by one railroad. Not only is the utility that serves my people affected by it, but the Port Authority which actually accounts for 36,000 jobs in my district is vitally affected by this legislation, because they must be served by the only one railroad.

As of the time I came to the floor this morning, those two agencies did not know how they stood with the so-called compromise.

It is only in that spirit that I reserve the right to object.

Now, I shall not object, Mr. Chairman, and I have not talked but briefly with the gentleman from Texas (Mr. ECKHARDT) about this this morning, and never before, but I have been following his action. If we could work out some reasonable arrangement so that we are not foreclosed from taking further affirmative action after we find out what is in this title.

Now, I would like to hear from the gentleman from New Jersey, who is the floor manager of this bill.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I would be happy to yield to the gentleman.

Mr. FLORIO. Mr. Chairman, it is my understanding that the Speaker is prepared to schedule this rail bill on Monday as the first item of business and to continue until the conclusion of the bill, if the bill is not finished today.

It is not my intention to ask for a limitation on time and I would hope that the bill would go forward in an orderly fashion. At this late hour it seems highly unlikely that we would be able to complete the entire bill. It would be my hope that we could conclude title III, which is the major section of the debate and the major point in contention. It would be my hope that we could finish that, but I do not intend to limit debate, particularly in light of the representation that this would be the first item of business up on Monday.

Mr. KAZEN. Mr. Chairman, will the gentleman yield to me under his reservation?

Mr. GIBBONS. I would be glad to yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, I just want to make sure, is this bill going to be read by titles or will it be open to amendment at any point, to the point where if title II and title III are taken care of today, but Monday we find there is something that has got to be corrected, that we could go back to titles II and III?

Now, if this is going to be precluded, then I would object. I would like an answer or a clarification of the procedure.

Mr. GIBBONS. Well, I think we better satisfy the gentleman from Texas (Mr. KAZEN) if we can, because he may supersede me.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield further, I just want to make sure that the bill would be open to amendment at any point. I understand that under that procedure, we can offer an amendment to correct title II or title III after they have been amended.

The CHAIRMAN. Does the gentleman from Florida continue to reserve his reservation of objection?

Mr. GIBBONS. Mr. Chairman, the gentleman from Florida continues to reserve his right to object.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. Yes. Let me yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I would hope the gentleman from Texas would not object.

May I suggest that opening the bill to amendment at any point would not permit us to go back to things that we have already completed, except by means of offering a substitute at the end.

I want to suggest to all Members here, I would not object under any conditions to this reading. I make no condition on it, but I merely suggest to my colleagues who are likely to object and wish to preserve an opportunity to act later, and also I would like to urge upon the chairman of the subcommittee that the suggestion I am about to make will not really change the situation here. At this point we cannot possibly do more than get through title III and possibly title IV. If we could only have the agreement that there will not today be the final conclusion of the bill that would prevent a substitute at the end, the gentleman from Florida and the gentleman from Texas are absolutely protected.

The gentleman from New Jersey is protected in all practical ways, because at this stage we cannot possibly get to that point.

I would suggest it would be far better for us to move today than to have the Clerk merely read.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I would be glad to yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I wonder in view of the request or the suggestion of the gentleman from Texas, if we could have some assurance from the gentleman from Texas that the suggestion that he is outlining will not simply be a procedure which will enable him to offer again ad infinitum variations of the same proposals.

Mr. ECKHARDT. I will assure the gentleman that I have no intention of merely varying a proposal previously offered for the occupation of time. The gentleman from Texas, I think, has never engaged in dilatory practices, except once in this body, and I remember that with some regret.

I would not do so at this time.

Mr. BAUMAN. Mr. Chairman, will the gentleman from Florida yield?

Mr. GIBBONS. I would be glad to yield to the gentleman from Maryland.

Mr. BAUMAN. Summoning up all my legal training at Georgetown Law Center, I listened carefully to what the gentleman from New Jersey said to the gentleman from Florida. What he said was that the Speaker would allow this bill to be finished on Monday if it were not concluded today.

Now, I read that as no guarantee at all that we will have a chance next Monday or whatever day next week to address in an intelligent fashion the portions of the bill that many of us are still in the dark about. If we could simply have the word of the gentleman from New Jersey that we will finish title III today and proceed further on the bill next week, I think the reading could go forth; but so far we have not had that representation from the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, would the gentleman yield?

Mr. GIBBONS. I am happy to yield to the gentleman from New Jersey.

Mr. FLORIO. If the gentleman would just let me correct the representation that I made, it was that I would not in any way take part in attempting to limit debate.

I think the suggestion of the gentleman from Texas is one that is worthy of consideration, that we go forward as far as we can go today. He injects the new point that perhaps the process should be terminated before we come to final vote so that if someone sees fit to offer a substitute for whatever it is that has been done. That would be something that would be acceptable to me, particularly in light of the representation from the Speaker's office that the bill would be dealt with expeditiously on Monday.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I would be glad to yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I strongly urge the gentleman in the well and the gentleman from Texas to accede to the offer of the gentleman from New Jersey at the present time, because I think it protects everyone.

Mr. GIBBONS. As I understand the offer of the gentleman from New Jersey, it is this, that we proceed today, that we go as far as we can, but that the bill not be put on final passage, but that the bill still be available for amendment on Monday; is that correct?

Mr. FLORIO. That is correct.

Mr. GIBBONS. Then, Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia (Mr. Staggers)?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, do I understand that the gentleman from New Jersey then will move that the Committee rise and report the bill back to the House without conclusion, at whatever point he deems, but without final action scheduled today; is that the guarantee?

Mr. FLORIO. That is correct.

Mr. BAUMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia (Mr. Staggers)?

Mr. ECKHARDT. Mr. Chairman, reserving the right to object, I merely wish to preserve my point of order at the proper time.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia (Mr. Staggers)?

Mr. GONZALEZ. Mr. Chairman, I reserve the right to object.

Mr. Chairman, I rise for the purpose of making sure we understand what this assurance or semiassurance is. I have been intrigued by what has been going on. The gentleman from Minnesota made it clear that really none of us has had an opportunity to look at it. I thought perhaps the gentleman from Texas, my colleague, since he has been intimately following the course of this and he belongs to the committee, after he got up a while ago revealed that he did not know any more. The gentleman asked questions that clearly revealed he has not had ample opportunity to obtain or study the bill. None of us have.

I think the issue is not whether we are going to have an opportunity to complete it today or whether we should or should not. I think the real issue is the one originally raised by the gentleman from Minnesota and that is, that we know what we are doing. That still remains unresolved.

We have no assurance that somebody else will not insist.

Do I understand that the motion will be made to rise at a point certain in time this afternoon; is that the assurance we have?

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. Certainly.

Mr. ECKHARDT. As I understand the assurance, and I think it would totally protect the gentleman from Texas, it is that we would rise at a time that would permit on Monday an amendment in the nature of a substitute for the whole bill to be offered. In that way no one would be precluded from reading the bill and ultimately offering a complete substitute which might, for instance, put into effect the will of the body to that point with the changes that the author of the substitute wished to make. In that way the gentleman would be protected on any major or substantive change he wished to make at that time.

I would like the gentleman to yield and see if I am correct on that.

Mr. GONZALEZ. Mr. Chairman, if I may continue with my reservation, I do not know that that is an assurance, because I have just as vital a stake as far as my representation is concerned as any Member, including the gentleman from Florida; in fact, probably more so; but if you have a resolution on the so-called compromise, which up to now has not been printed and given to us in ample time to analyze, and in my cursory examination of the compromise, I hate to use the words, but I am blunt, and that is the way it impresses me, it is a sellout. It is not a compromise. It is a sellout. If we are going to discuss that today and if we are going to resolve that issue today, I, for instance, do not feel I am better informed or knowledgeable or prepared to deal with that issue than I was when they started reading the bill.

Now, the gentleman is telling me that is what is going to happen.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. Certainly.

Mr. ECKHARDT. Mr. Chairman, there is no Member of this House that can state in more plain, blunt, effective terms, than the gentleman from San Antonio, Tex., what the real issue is, and on all those points I agree with him.

The only thing I am saying is this, that when we last dealt with this bill, we established a threshold for ICC consideration, which was at that time called the Eckhardt-Rahall amendment.

What would be sought by this amendment would be to go back and change that. I shall say that that cannot be done in my argument on points of order; but if it can be done, there is no question but that the gentleman from San Antonio can do exactly the same thing. He can erase what has been done today by an amendment in the nature of a substitute, go back to the title II thing and restore what we did last in this House. I hope he does not have to. I hope we beat this; but if he has to, he is totally protected. That is the reason I urge so strongly that we proceed at this time, because I think the gentleman is totally protected.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia (Mr. Staggers)?

Mr. GONZALEZ. Mr. Chairman, further reserving the right to object, I wish I could accede to that plea; but I am afraid I am a little bit more hardened in my expectations.

I see what has happened here to my colleague that shares representation of the city of San Antonio, the gentleman from Texas (Mr. Loeffler) in his so-called compromise, which I am afraid has no guarantee that it is going to survive 5 minutes in the conference.

Therefore, Mr. Chairman, I am constrained to object, and I do object.

☐ 1150

Objection is heard.

The Clerk will read the amendment.

The Clerk continued the reading of the amendment.

☐ 1210

Mr. MADIGAN (during the reading). Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair observes that a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 522]

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N.Dak.
Anthony
Archer
Ashbrook
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Breaux
Brinkley
Brooks
Brown, Calif.
Broyhill
Buchanan
Burton, John
Butler
Byron
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Philip
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Deckard
Dellums
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McHugh
McKay
Madigan
Maguire
Marks
Marlenee
Marriott
Martin
Matsui
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish

Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Ritter
Roberts
Robinson
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Simon
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stenholm
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Van Deerlin
Vento
Volkmer
Walgren
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1220

The CHAIRMAN. Three hundred and twenty-four Members have answered to their names, a quorum is present, and the Committee will resume its business.

The Clerk will continue to read the amendment.

The Clerk continued the reading of the amendment.

□ 1300

Mr. FRENZEL (during the reading). Mr. Chairman, I reserve a point of order against the Staggers-Rahall-Lee substitute now being read.

The CHAIRMAN. The gentleman from Minnesota (Mr. Frenzel) reserves a point of order.

The Clerk will continue to read.

The Clerk continued the reading of the amendment.

□ 1310

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. HANCE. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued the reading of the amendment.

(During the reading, by unanimous consent, Mr. Madigan was allowed to speak out of order.)

FURTHER LEGISLATIVE PROGRAM

Mr. MADIGAN. Mr. Chairman, I take this time for the purpose of addressing to the manager on the majority side of the aisle a question as to what his understanding is as to how we are going to proceed for the balance of the afternoon.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I will be happy to yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding. It had been my hope that we could proceed. I made my request for unanimous consent that this amendment be considered as read in the hope that this amendment could be considered as read. At that point there would be an opportunity for those who have points of order to raise those points of order and that matter resolved one way or the other. It would then be my hope that the amendment offered by the gentleman from Texas (Mr. Eckhardt) would be offered again and placed in the Record. This would give all of those who have indicated some interest in having the weekend to read in depth the relevant amendments that will be before us an opportunity to use the weekend period. It would then be my intention to rise.

Mr. MADIGAN. So it is the gentleman's intention to move that the Committee rise without any other votes being taken this afternoon on any amendment or substitute amendment to the rail bill?

Mr. FLORIO. That is correct.

Mr. MADIGAN. I thank the gentleman.

Mr. FLORIO. Mr. Chairman, I would, therefore, ask unanimous consent that the amendment which is pending be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey (Mr. Florio)?

Mr. ECKHARDT. Reserving the right to object, let me understand what is attempting to be done here. I understand the gentleman will not go to a vote on any matter but will rise before a vote is called for?

Mr. FLORIO. If the gentleman will yield, that is correct.

Mr. ECKHARDT. The position that I am in now is a little bit different than that which existed in the beginning. That is, if we did have a vote, many Members have departed. That is the reason I want to be sure that we will not proceed to a vote. I did not object to dispensing with the reading in the beginning. I would be concerned now if we were to proceed and go to a vote with so many people gone, but the gentleman is saying there will be no vote this afternoon.

Mr. FLORIO. That is correct.

Mr. ECKHARDT. There will, of course, be a point of order raised at such time as no objection may be made, if such occurs this afternoon. I intend to make a point of order at that time, and I would presume that we will argue the point of order. Does the gentleman intend to proceed with any debate on the Staggers amendment this afternoon?

Mr. FLORIO. If the gentleman will yield, it would be my hope that since a number of people have expressed so much concern about having an opportunity to read the major proposals that are going to be immediately before us that we would not have debate on those proposals. If the gentleman from Texas would offer his substitute to be put in the Record, we would terminate at that point. When we come back on Tuesday—and the new date we have from the Speaker is Tuesday—the parliamentary situation would be that both of these amendments would be before us. Both could be offered, and, therefore, it would be appropriate to have our full debate on the merits of the competing amendments conducted at that time.

□ 1320

Mr. ECKHARDT. Well, let me express perfectly frankly what my problem is with that procedure, and suggest that there might be a slight alteration to it. I do think that Members should know in advance what the amendment in the nature of a substitute is, and what the substitute is, but the situation I am in is that I had received the amendment only at 6 o'clock yesterday. There may be ways to reconcile our positions on section 301. I would not like to set my substitute amendment in concrete today if it might preclude such reconciliation.

I would like to say that I would place a written substitute in the Record by Monday, but I would not like to be bound at this time to the specific substitute.

Mr. FLORIO. If the gentleman would yield further, I am very surprised at that statement because that is exactly the position we find ourselves in now. The gentleman has led the effort here, saying that people need more time. If the gentleman is talking about putting something in on Monday for Tuesday's Record, we are going to hear the same charge, that Members have not had an adequate opportunity to review the amendment.

The gentleman had his substitute prepared last night, and it seems to me that it is appropriate that he provide to all of the Members the opporunity to read it and to absorb it over the weekend at leisure. I do not find any thread of consistency in the position of the gentleman now with regard to his position just a few minutes ago.

The CHAIRMAN. Does the gentleman from Texas continue to reserve the right to object?

Mr. ECKHARDT. Yes, I continue to reserve the right to object.

I did not receive the final amendment until approximately 10 o'clock this morning. It contained some changes that the staff is reviewing. The draft of one amendment that, according to the gentleman's staff, is essentially the same as that now before us was not supplied me until 6 o'clock last night. I had read through the previous amendment, and then I had to start reading another document about 90 pages long.

All I am saying is that I would like an opportunity to digest this just like all other Members are seeking to digest it. That is what I am concerned about. If notice over the weekend is necessary, we would attempt to place in the Record of today the proposed substitute, but we would not like to be absolutely bound. The gentleman from New Jersey has not been bound and has changed his amendment three times between September 2 and the present time.

He says all of these are merely technical amendments. I may say that I am at something of a disadvantage in having to frame my amendments in advance and be sewed into them on so short notice. I think other Members would feel the same way. I am not the only one who can offer a substitute.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield for a moment?

Mr. ECKHARDT. I yield to the gentleman from Illinois.

Mr. MADIGAN. Speaking for the minority, on this side we are perfectly willing to stay here the balance of the afternoon and have the Staggers amendment read in full, and the amendment of the gentleman from Texas read in full and placed in the Record so that all Members may have the entire weekend and Monday, even, to study those things. We would prefer to do that. The purpose of my interrupting the reading now was so that all the Members here present and those in their offices will have the opportunity to understand that we do not contemplate taking any further votes this afternoon, but I have canceled my traveling arrangements and I am perfectly willing and anxious to have all of these things read in their entirety, printed in the Record to lie there until Tuesday next. I thank the gentleman for yielding.

Mr. ECKHARDT. Further reserving the right to object, I have no objection whatsoever to our considering this matter as read if we may terminate immediately before the offering of my substitute. That is the only point I am making. I feel that is only fair. We have not had time to digest the full amendment in the nature of a substitute.

Mr. FLORIO. Mr. Chairman, will the gentleman yield further?

Mr. ECKHARDT. I yield to the gentleman.

Mr. FLORIO. Could the gentleman explain to me why we will be in a different position on Tuesday than we are today with Members, perhaps some on the other side of the debate, coming in and saying, "We only got Mr. Eckhardt's amendment yesterday. Maybe we should not go forward. We need more time."

The point, that Members need an adequate opportunity to review amendments, has been raised. We are convinced of the sincerity of the Members and believe that is a valid point. We are trying to now resolve this matter by placing into the Record the two relevant substitutes so that Members will have adequate opportunity to review both amendments before the debate.

I have a copy of the gentleman's amendment that he offered to me for review. I will be happy to put it into the Record just for academic purposes, but I would hope that the gentleman would go forward and put his amendment into the Record.

Mr. ECKHARDT. Certainly, I have no objection to putting it into the Record. I simply do not want to be foreclosed from some technical or minor changes, or perhaps some additions that might arise from the questions that are brought up in the gentleman's longer amendment available this morning. But, if the gentleman is concerned about requiring a long reading of my amendment: In the first place I would not insist on it; and in the second place I have no intention of offering an amendment that is more than four or five pages, perhaps only two, as the gentleman has before him.

Mr. FLORIO. With the gentleman's assurance that the modifications that would occur would merely be technical or clerical, I have no difficulties with that and do not have any problem in agreeing to those conditions.

Mr. ECKHARDT. I cannot say that they would be only technical. I can say that they will not be a comprehensive, 90-page document, or a document that is more than, at most, four or five pages. We may offer the same thing, but there are certain provisions in the gentleman's 90-page amendment that we are entirely in agreement with, and I do not wish to write an amendment that wipes out certain provisions in the 90-page amendment with which we may agree on.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield further?

Mr. ECKHARDT. I yield.

Mr. MADIGAN. I thank the gentleman for yielding. Just for the purposes of the gentleman's information, I will object to unanimous-consent request if what the gentleman is suggesting is that the chairman of the committee, Mr. Staggers, must be locked into the amendment which is being read now, but the gentleman from Texas would be free to offer whatever he would want to offer, with nobody having had the opportunity to review it. I think both these things should lie in the Record over the weekend, and if the only way we can accomplish that is to proceed with the reading of the Staggers amendment in its entirety, then I will object to any other procedure.

The CHAIRMAN. Objection is heard.

The Clerk will read the amendment.

The Clerk concluded the reading of the amendment.

□ 1410

POINTS OF ORDER

Mr. ECKHARDT. Mr. Chairman, I reserve a point of order on the Staggers amendment.

The CHAIRMAN. The gentleman is recognized. Does the gentleman reserve a point of order or make a point of order?

Mr. ECKHARDT. Mr. Chairman, at this time I reserve, in case the proponents wish to explain the bill. Otherwise, I will make the point of order.

The CHAIRMAN. The gentleman makes a point of order. The gentleman from Texas is recognized on his point of order.

Mr. ECKHARDT. Mr. Chairman, in considering the point of order, the nature of the amendment must be considered. The salient question is whether or not by amending title III, a title dealing with the question of railroad intercarrier practices, and by including in that amendment a number of specific matters which I will deal with later in my point of order, and including provisions on title II dealing with railroad rates, profits, and reinvestment, whether or not the Staggers amendment is germane to the provisions in title III. That is the essential question.

In an amendment offered in this way, which, incidentally, is a very, very unusual way of offering an amendment, or a substitute, the question is not only one of the germaneness to the bill as a whole, but the question of whether or not the amendment is germane to the title sought to be amended. Such would not be true had an amendment of this nature been offered after the completion of title III and as a new title to the bill, or had the amendment been offered as a full substitute altering the provisions previously put into effect under title II.

The first point I wish to make is the broadest point upon which my point of order rests, and that is that the general subject matter of title II is quite different from the subject matter dealt with in title III. Essentially title II is what its title says it is. It is a title dealing with railroad rates, profits, and reinvestment.

In that connection, the most crucial measure dealt with in that title and, indeed, the most crucial measure which comes before this body is the question of what should be the scope of review by the Interstate Commerce Commission. Should that scope, as under existing law, cover the whole area of dominant carrier situations. If not, how should it be limited within the dominant carrier area of control.

As I think is generally understood, the existing 4R Act deregulates all railway rates which are not in the area of dominant carrier prescribed rates. We are, in this act, and probably in its most important phase, dealing with how far we should assume that ICC jurisdiction should be removed, even in areas where there is a monopoly or a near monopoly situation.

□ 1420

Essentially the difference between the original bill in title II and the Eckhardt-Rahall amendment which was offered to it and which was successful in the last sitting of the Committee of the Whole House on this bill, is that the original bill provided a threshold at 200 percent of variable cost. That was accomplished by what was called and what constituted a formula to determine the area in which the threshold would be met. The formula resulted, as the committee has stated, in somewhere between 190 and 110 percent of variable costs. The Eckhardt-Rahall amendment put into effect 160 percent. In the Eckhardt-Rahall amendment at the conclusion of 3 years a cost recovery percentage formula identical with that in the original bill would cut in, and at that point such would constitute the threshold for ICC contracts of rates imposed by railroads above such thresholds.

The attempt in this substitute is to go back and undo the provisions contained in the Eckhardt-Rahall amendment, not to undo it to the extent of putting it in its original form, but to strike some compromise position between the Eckhardt-Rahall amendment and some 200 percent of variable cost threshold. The attempt would be to start out with the same figure as in Eckhardt-Rahall amendment of 160 percent of variable cost and then go up by increments until 1984 when the cost recovery percentage formula would go into effect, but to bind that formula between two somewhat flexible brackets—170 percent at the low point and 180 at the high point. I shall not go into the details of additional flexibility above that point other than to say the ultimate result would be, as we understand it as a practical matter to be, an overall limit of about 190 percent after 4 years, and, of course, at that point we would enter into the merits if we discussed and characterized the effect of that proposition.

The real question is not whether a compromise should be arrived at nor the question of the desirability of such compromise, but the question of whether or not dealing with that subject matter in a title which deals in an entirely different subject field is germane to title III. If the Staggers-Rahall-Lee amendment in the nature of a substitute deals with a different subject matter not germane to the subject matter dealt with in title III, or if any part of the amendment in the nature of a substitute deals with some subject matter not germane to title III, then the whole amendment must fall. Title III, as I have pointed out, deals with railroad intercarrier practices. It is true, of course, that under that general heading there are several different categories that I think could be understood by the sections and their headings.

The 301 deals with compensatory joint rate relief. That has to do, of course, with the division between various carriers having a joint rate.

Rate bureaus, which has to do with the subject matter relating to rather specific areas of control where rate bureaus are established, and, of course, which has an impact on railroad intercarrier practices.

Long- and short-haul transportation. There is, of course, as one of the major conflicts in the bill certain conflicts between railroads—long-haul and short-haul railroads.

Railroad entry.

Service during periods of peak demand, again a question largely relating to interrailroad questions.

Reciprocal switching, again railroad carrier practices.

Car service compensation, which deals with another specific area not related to the question of rates in general and the ICC's jurisdiction.

Car service order for exigent circumstances.

Employee protection.

The subject matter of title II deals primarily with a question involved with ICC within the brackets of control defined in that area and with the question of relationship between the carrier and the shipper, the most salient and sensitive of which is a situation involving what we call the captive shipper. Therefore, we urge as a broad proposition, and the broadest proposition of our point of order, that provisions relating to the title II matters and in effect attempting to strike a compromise in that area of contracts, that is, the rate control area, the jurisdictional area of ICC, is not germane to the provisions dealing essentially with the intercarrier relationships and certain other provisions in title III. We are aware of the fact that there are instances where a miscellaneous section of the bill deals with such a wide variety of subjects that it may be said if that were an original bill, the provisions of another title of the bill would be germane to it, even though the subject matter of the other title has already been dealt with, but we urge that that is not the case here. This is not a wide variety of subject matter. It is a subject matter related to the question of interrailroad relations.

Where there are other subject matters involved, they are narrow and in most instances related to that broader topic. But the position we are taking here is not limited to that broad contention. There are other provisions in the Staggers substitute which deal with a variety of subjects not touched even in the original bill. These are sought to be brought under consideration or perhaps as a matter of compromise and sweetener to various groups, and they go far beyond the original area of title III. They actually would amend provisions of other laws besides those related to title III. It should be noted that the scope of title III is limited to provisions amending the codified Interstate Commerce Act, title 49 of the United States Code. In contrast, the Staggers-Rahall-Lee amendment in section 327 amends several other laws and titles of the United States Code.

□ 1430

Section 327 includes major amendments to the Rock Island Railroad Transportation and Employee Assistance Act, 45 U.S. 1001 et seq.; and the Milwaukee Restructuring Act.; 45 U.S. 901, et seq. The subject matter of section 327 of the proposed substitute relating to the Rock Island and Milwaukee Railroads varies substantially from the scope of title III of the pending legislation. Now, while I would not object to the offering of the section—and there could be no objection—as a separate title at a later time, this provision is clearly not germane to title III. Whereas title III does not authorize any expenditure of Federal funds, section 327 would authorize $37 million of Federal moneys for railroad revitalization purposes. That is contained in section 327(d)(1).

If specified conditions are met, the United States would forgo the recovery of several million dollars in loans from the Milwaukee Railroad. Clearly, were title III a single and separate bill—and we must for the purpose of determining germaneness consider it as such—it would be outlandish to provide in such a bill dealing with divisions between railroads a large expenditure from the Federal Treasury with respect to foregoing recovery of several million dollars of loans. The situation is clearly analogous to a situation presented to the Speaker in ruling on the germaneness on a Senate amendment incorporated in the conference report of the Tax Reduction Act of 1975. I refer here to the bound CONGRESSIONAL RECORD of March 26, 1975, page 8931.

In that case, the original House bill contained amendments to diverse portions of the Internal Revenue Code. However, Mr. CONABLE objected to a section of a Senate amendment in the nature of a substitute relating to social security recipients, and the Speaker ruled that the section in question was not germane because: First, it was related to the Internal Revenue Code; and second, it provided for an authorization of appropriations from the U.S. Treasury.

Section 327 fails to meet the test of germaneness for the same reasons that the Senate amendment was deemed nongermane. First, the section contains substantial amendments to existing laws which are not amended by title III. Second, in contrast to title III, the section provides for a substantial authorization of appropriations from the U.S. Treasury and significantly alters the rights of the United States as a creditor.

Moreover, the Milwaukee and Rock Island amendments are subjected to a point of order because the provision seeks to accomplish the purposes of title III by methods that are not closely allied to methods encompassed in title III. See Deschler's Procedure, chapter 28, section 33.11, providing that:

> To a bill designed to aid in the control of crime through the research and training an amendment aimed at the control of crime through regulation of the sale of firearms and affecting laws not amended by the bill was held not germane.

While title III seeks to further railroad revitalization by revisions and regulatory requirements, section 327 seeks to accomplish this objective in part through a substantial expenditure of Federal funds.

Now, I should like to address the question of intrastate rates in section 315. Section 315 of the proposed amendment dealing with intrastate rates, classifications, rules, and practices also fails to meet the subject matter test of germaneness. Title III of the Rail Act deals with relationship between railcarriers; section 301, joint rates; and section 302, rate bureaus, relationship between the railcarriers and water carriers; section 303, long- and short-haul transportation, relationships between railcarriers and their employees; section 309, employee protection and relationships between railcarriers and shippers; section 303, long- and short-haul transportation; section 305, service during peak demand.

Now, the chairman will quickly note that none of these headings, none of these subject matters dealt with in title III have anything whatsoever to do with the question of the relationship between the States and their regulatory authority and the Federal Government. Title III is exclusively limited to Federal controls, Federal matters, Federal matters as applying in most instances to the question of relationships between railroads, but also Federal matters relating to the relationship between railroads and their employees. At no place does it in anywise entrench on the State's right to deal with these areas of concern.

I would like to point out to the chairman that this does not only deal with rates established by the States; incidentally, as I recall, the very first draft of the amendment did deal only with rates, but it is also now expanded to classifications, rules, and practices. Now, there are many classifications, rules, and practices imposed by States relating to questions of safety, questions relating to railway labor, questions widely ranging but within intrastate jurisdiction.

This provision enters into that field and purports to regulate through Federal law an area far beyond the original provision of title III. None of the title III provisions relate to the relationship between the Federal Government and State governments, or alter State jurisdiction over rules, classifications, and rates and practices in any way. The scope of title III is limited to interstate transportation by railcarriers. Therefore, section 315 of the proposed amendment dealing with intrastate transportation is subject to a point of order.

Moreover, the scope of the intrastate amendment to title III is even broader than the intrastate language in title II. The title II language is limited to certain preemptions of intrastate ratemaking, and as I have pointed out, this has been enlarged to classifications, rules, and practices. Thus, section 315 provides authority for a Federal Government to preempt State regulatory authority over virtually the entire operations of intrastate railcarriers.

Previous rulings by the Speaker support this conclusion that this provision is, therefore, not germane. For example, volume VIII of Cannon's Precedents, section 2964, notes that—and I quote:

> To a bill relating to interstate commerce a proposition relating to intrastate commerce is not germane.

Similarly, volume V of Hinds Precedents, section 5841, emphasizes that, and I quote:

> To a bill relating to commerce between the States, an amendment relating to commerce within the several States was offered and held not to be germane.

□ 1440

In our Federal form of Government the relationship between the States and the Federal Government is clearly a major issue. It is an issue that we have fought on this floor many times. It is an issue that has been in controversy with respect to this bill in other portions of the bill. There are those of us who in other portions of the bill would permit the State to act first, and then ICC control might come in at a later time.

When this bill was originally offered, the State's authority was absolutely removed, but this question of State and Federal relationship was not at any time considered or provided for or impinged on or touched by title III. We may not now engage in this very important change—and it is a widening change, as I have pointed out—by an attempt to amend title III to reach into other sections to accomplish such a change.

Now, I have already alluded to the threshold question, and I think I have discussed that rather thoroughly. I would, though, like to point out one thing, and this, I think, is at the practical basis of a rule requiring that an amendment reaching back to deal with something that has previously been dealt with and including matters not germane to the section which has already been dealt with should not later be revisited by a wide-ranging amendment in a given title of the bill that ranges not only through the areas of title III but through the entire gamut of title II and into many other areas not touched by either title II or title III and, in the Rock Island case, not even touched by the original bill.

The reason for the rule is simply this: That there should be some sort of order to our proceedings. We should deal with one subject matter and not inject into it other subject matters during the reading of the bill. There are ways to get to these points which I have alluded to, either by adding a new section or a new title, which would then fall within the germaneness rule with respect to the whole bill, or by offering a substitute amendment at the end.

But let us note the ingenious manner in which it is attempted to leave in place, without touching it, the provisions that this body with careful deliberation has established through the Eckhardt-Rahall amendment to title II. The language which is contained in this amendment that attempts to get by that is this:

> In any case in which any provision of or amendment made by title II of this Act conflicts with any provision of or amendment made by this title, the provision of or amendment made by this title shall control.

What is attempted to be done is to enter into the whole major subject matter of title II and reverse it by putting this in a title which does not have anything to do with the question of the jurisdictional scope and limitations of the ICC.

But as I have pointed out, that is not as egregious an error as to reach clean outside the bill to deal with other statutes not even touched by title III and with matters which are not even touched by the bill itself.

Title III does include two provisions relating to ratemaking: Section 301 relating to joint rate relief and section 302 relating to rate bureaus. However, neither of these provisions relate to the trigger for ICC jurisdiction over interstate rates. Thus section 304 of the proposed amendment is subject to a point of order.

Mr. Chairman, there is yet another section which is itself subject to the point of order. That is section 332. This is subject to a point of order under the committee jurisdiction test as well as the subject matter test.

In particular, section 322(g) requires the Secretary of the Treasury to submit a report on the anticipated effect of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines.

This matter is clearly within the jurisdiction of the Committee on Ways and Means, and, therefore, it is not germane to legislation within the jurisdiction of the Committee on Interstate and Foreign Commerce. See Deschler's Procedure, chapter 28, section 4.42, where it is said:

> To a title of a bill reported from the Committee on Interstate and Foreign Commerce containing diverse petroleum conservation and allocation provisions, an amendment imposing quotas on the importation of petroleum products from certain countries was held to be a matter within the jurisdiction of the Committee on Ways and Means and was ruled out as not germane.

Mr. Chairman, for these many reasons, all of which are supported by reason and all of which are based upon the protection of the processes of this House, I urge that the Chair should rule the Staggers-Rahall-Lee amendment not germane.

The CHAIRMAN. Does the gentleman from New Jersey (Mr. FLORIO) care to be recognized on the point of order?

Mr. FLORIO. Yes, Mr. Chairman, I do. I will try to be a little more succinct and state the reasons why the point of order should not be sustained.

Mr. Chairman, title III, as reported by the Committee, is a diverse title dealing with many and diverse railroad issues, including surcharges and cancellations, rate bureaus, and employee protection in abandonment proceedings involving bankrupt carriers. The title has unrelated provisions dealing with many sections of the Interstate Commerce Act. These provisions were separated from title II simply to break up an otherwise unwieldy series of provisions. A quick synopsis of the provisions in title II will bear this out.

Section 301 permits carriers recovering less than 110 percent of their variable costs in a particular movement to surcharge or cancel such rates. Section 302 narrows the antitrust immunity railroads have under the Reed-Bullwinkle Act to establish rates collectively. Section 303 permits a railroad to charge more for a longer haul than a shorter haul in the same direction over the same route, contrary to existing law.

Section 304 allows one railroad to construct a new railroad line across another railroad. Section 305 provides that carriers which meet commitments on contracts do not violate their common carrier obligations.

Section 306 permits the ICC to order one railroad to pick up and deliver cars not on its own lines. Section 307 gives the ICC the discretion to grant antitrust immunity to shippers to discuss the compensation that will be paid for the use of their own cars.

Section 308 defines the conditions which must exist before the ICC may issue car service orders and limits the duration of such orders. Section 309 provides for employee protection in abandonment proceedings involving bankrupt rail carriers and amends title II of the United States Code which deals with bankruptcy proceedings for railroads.

It is clear from a mere recitation of the extent of this title that there is no common thread running through title III, except that all sections deal with railroad matters. The name of title III, the "Railroad Inter-Carrier Practices," was used primarily because section 301, the most important provision in the title, addresses such practices. The title was not intended to govern the subject matter of that entire title. The amendment we are offering is germane because it generally deals with railroads and it includes section 301 of the bill as reported by the committee with other minor changes.

The amendment contains minor changes in the present section 301 which are clearly germane to title III. It also contains sections dealing with regulation of rates by the ICC, the establishment of competition between a rail movement and existing or potential movements by rail or other modes, a study by the ICC on the extent to which competition should enter into the ICC decisionmaking process, the establishment of a percentage zone of permissible rate increases which is identical to a provision currently in title III relative to general rate increases, suspension or investigation of rates, contracts, exemption of rail carriers from most provisions of the act, specific changes to sections of title III which will be maintained, and changes to the Rock Island Transition and Employee Assistance Act.

□ 1450

Present title III amends and affects a great number of sections of the Interstate Commerce Act and other statutes, a list of which has been provided to the Parliamentarian, and including title II of the United States Code.

In conclusion, title III covers a broad range of railroad issues, as does the amendment. There is no unifying factor in title III, but they address matters affecting railroads and, accordingly, and under the precedents, the amendment is and does appear to us to be germane.

The CHAIRMAN. The gentleman from Minnesota (Mr. FRENZEL) reserved a point of order.

Does the gentleman from Minnesota wish to be heard on the point of order?

Mr. FRENZEL. I do, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I have a further point of order.

The point of order of the gentleman from Texas does deal with germaneness, and the argumentation by the subcommittee chairman also dealt with that.

Mr. Chairman, my point of order against this amendment is one of germaneness, as well. I invite the Chair's attention to section 328 of the proposed amendment dealing with loan guarantees. That section states as its purpose, and I quote, "to promote competition in the transportation of coal."

The purpose of the bill before us, according to its purpose in section 3, is "to provide for the restoration, maintenance and improvement of the physical facilities and financial stability of the rail system of the United States."

Nowhere in the bill are we dealing with promoting competition in the transportation of one particular item. The proposed amendment's purpose is, as I stated, "competition in the transportation of coal," and not the "rehabilitation (of) the rail system in order to meet the demands of interstate commerce and the national defense," as the bill proposes to do.

The chairman of the subcommittee argues that because there are a lot of different things in the bill, somehow it escapes the rules of germaneness. If we are to accept that kind of reasoning, any substitute, however gross, however nongermane, would somehow be declared germane.

This particular section, section 328, was not included in the original bill and cannot escape that rule of germaneness, Mr. Chairman.

The amendment specifically amends section 4(f) of the Department of Transportation Act and states that such section of the Department of Transportation Act shall not apply to any loan guarantee described in the loan guarantee section attempting to promote competition in the transportation of coal. The bill and the amendment in the nature of a substitute offered by the committee do not amend this provision of the law, and this new amendment is waiving a section of another law not contained in the original bill nor in the committee amendment.

This is an omnibus bill, I grant that. It does involve financing of the rail system. But the amendment proposed by the gentleman from West Virginia, and others, goes much farther than the bill and expands the scope to involve loan guarantees to promote competition in the transportation of a single commodity.

I have a couple of citations, Mr. Chairman. One of them is Deschler's Procedure, chapter 28, section 33.6 where an amendment proposing changes in the Agricultural Marketing Agreement Act, amending several laws relating to agriculture, which was not otherwise amended in the bill, that is, the amendment to a section not otherwise amended in the bill, was ruled not germane.

In Deschler's Procedure, chapter 28, section 16.6, "* * * a substitute for an amendment must be confined in scope to the subject of the amendment."

As I pointed out earlier, section 328 far exceeds the scope of the amendment that it seeks to amend.

Another Deschler's Procedure citation, chapter 28, section 16.7, reads as follows:

> A substitute amendment must be germane to the amendment for which offered and must relate to the same portion of the bill being amended by the amendment.

The gentleman from Texas, I think, carefully pointed out that the amendment offered by the gentleman from West Virginia does not conform to this standard of germaneness, and I urge that the Chair rule the amendment out of order.

The CHAIRMAN. Does the gentleman from New Jersey (Mr. FLORIO) wish to be recognized?

Mr. FLORIO. Mr. Chairman, on the point that has been raised, I think I have adequately addressed the question that the scope of this amendment and the scope of the bill, titles I and II, are sufficiently broad, related to railroad matters, that they are germane, and I would just renew our request that the Chair so rule.

The CHAIRMAN. Does the gentleman from Illinois (Mr. MADIGAN) wish to be recognized on the point of order?

Mr. MADIGAN. Mr. Chairman, I should like to be heard on the question of germaneness of the Staggers substitute.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I point out at the outset that in his argument the gentleman from Texas has referred to the Staggers substitute as containing a provision to amend the Internal Revenue Code.

As a matter of fact, there is no such provision in the Staggers substitute. There is only a request for a study and a report of the results of that study.

Mr. Chairman, I believe the amendment is germane to title III of this bill. Title II affects a broad range of issues affecting railroads. It amends many provisions of the Interstate Commerce Act, both in subchapter 107, subchapter 109, subchapter 111, and subchapter 113, and it, as well, amends title 11 of the United States Code as it applies to railroads.

Similarly, the amendment affects a broad range of issues affecting railroads. It includes amendments to various subchapters of the Interstate Commerce Act and to title 45 of the United States Code as it affects railroads.

The only unifying factor in title III is that all of the provisions affect railroads. In the same way, the amendment is a diverse one which deals with many issues affecting railroads.

Title III was separated from other parts of this bill only so that the bill would be easier to follow. There is no logical distinction between the titles of the bill. The heading for title II, "Inter Carrier Practices," was chosen because the most important provision in that title deals with how railroads divide revenues. The other provisions do not relate only to inter-railroad practices.

The amendment is germane and I believe the Chair should so rule.

I would cite, in making that argument, chapter 27, section 27.9 of Deschler's Precedents, which deals with the issue now before us as I see that issue. I believe that the gentleman from Texas is questioning whether or not we can amend in title III something that has already been amended in title II.

The reference that I have made reads, and I wish to quote:

> While the Committee of the Whole may not amend a section of a bill already passed during the reading under the 5-minute rule, it may adopt an amendment to a later section which has the effect of negating the provisions of the earlier section.

There are references there cited.

On the basis of that, I would urge that the Chair would uphold the gentleman from New Jersey and find the amendment to be germane.

The CHAIRMAN. Does the gentleman from Texas (Mr. ECKHARDT) wish to be recognized?

Mr. ECKHARDT. Just briefly, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, in the statement of the gentleman from Illinois as to my position, I have exactly what I said a moment ago. I did not say that section 332(g) seeks to amend the Revenue Code. What I said, in particular, section 332(g) requires the Secretary of the Treasury to submit a report on the anticipated effect of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines.

I did not say that it amended the Code. I said precisely what it does. Yet I think it is quite clear that it calls upon the Secretary of the Treasury to make a recommendation. Such recommendation is clearly also within the jurisdiction of the Committee on Ways and Means.

The CHAIRMAN. The Chair is prepared to rule.

The gentleman from Texas makes the point of order that the amendment offered by the gentleman from West Virginia (Mr. Staggers) is not germane to title III of H.R. 7235 but rather is an attempt to indirectly amend provisions already amended in title II of the bill which has been passed in the reading for amendment, and also to include extraneous provisions relating to railroads not addressed by title III.

First, the Chair would state that the Chair does not rule on the consistency of amendments but rather on the substance of amendments.

Under the provisions of House Resolution 716 governing consideration of the bill pending, the bill is being considered by titles, and title III, not merely section 301, is now open to amendment at any point. Thus, the relevant test of germaneness of the amendment is its relationship to the entire pending text, title III, and not merely to section 301 relating to joint rates.

The Chair has had an opportunity to examine the scope of title III and basically agrees with the characterization of that title made by the gentleman from New Jersey that title III is diverse in its treatment of railroad regulation and employee protection and bankruptcy issues and is not merely confined to intercarrier practices issues, as suggested by the title heading.

The Chair would also agree that the revenue provisions cited by the gentleman from Texas do not amend the Internal Revenue Code but do instead call for a study on taxation, which study, if submitted, would be referred to the Committee on Ways and Means.

In a similar situation, an amendment requesting a study of a possible change in tax law, but not amending the Internal Revenue Code, was held germane to a bill not reported by the Committee on Ways and Means; this ruling on October 18, 1979.

□ 1500

The Chair would also note that the loan guarantee provision cited by the gentleman from Minnesota relates to railroad carriers only although applicable to rail transportation of coal. The Chair would in this case rely on the precedent cited in Deschler's Procedure, chapter 28, sections 2.15 and 2.16, standing for the proposition that an amendment may be germane to more than one portion of the bill, and involving a comparable situation wherein a title of the bill in which the amendment would have been particularly germane had been passed in the reading for amendment. The amendment in that case was offered to a subsequent title of the bill containing miscellaneous provisions on a general subject; and Chairman Price stated at that time that while "an examination of the amendment shows that it would have been more appropriately offered to another title of the bill, the Chair does observe that the title which is under consideration is referred to as miscellaneous amendments, and it amends several other acts."

The Chair would state that there are two other precedents in chapter 28 of Deschler's that are applicable in this case. Section 14.3 states that an amendment may be germane at more than one place in the bill, thus where the first several sections of the bill pertain to one category within the subject under consideration and subsequent sections introduce other such categories, an amendment adding a further such category may be offered at either of two places, the point which in the reading of the text the sections dealing with the first category have been passed, or at the end of that part of the text where the other categories have been added.

Section 14.11 states that the test of germaneness of an amendment in the form of a new section to the title of the bill being read by titles is the relationship between the amendment and the pending title.

The Chair feels that title III is sufficiently broad in scope to admit as germane an amendment dealing, inter alia, with the subject of railroad rates and other railroad related employee protection, bankruptcy, and financial assistance provisions although they may only be applicable to specific railroads or to specific commodities transported by rail.

The Chair overrules the point of order.

The gentleman from New Jersey (Mr. Florio) is recognized for 5 minutes in support of the amendment.

Mr. FLORIO. Mr. Chairman, to start the debate officially on this amendment. I would like to assure the Members of this body that when we go forward on Tuesday, we are prepared to debate this matter.

Before moving to rise, I would like to ask if the gentleman from Texas (Mr. Eckhardt) intends to offer at this point, or to insert in the Record, the amendment that he has in the nature of a substitute, which has been provided to us?

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Texas believed, he has argued on the point of order, that he was confined to offering his amendment within what he conceived at the time as the scope of title III.

The gentleman from Texas did not believe he was permitted to offer the many sweetening amendments that the gentleman from New Jersey (Mr. Florio) has placed in his amendment.

The gentleman from Texas is going to have to look at the ruling, because he is now apparently permitted, for instance, to offer in his amendment things like the sweetener with respect to the Rock Island with respect to other railroads, which he thought were precluded to the gentleman, as he stated in his argument.

Therefore, we are not prepared at this time, in view of the ruling, which has frankly surprised us, to agree that the substitute will be so limited. We find now that we may range out much more broadly than we had thought when we drafted the amendment.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for his answer, which I assume is, no, he is not going to offer his amendment that has been represented as the amendment to be offered as a substitute to the Staggers-Lee-Rahall-Loeffler amendment.

This Member assumes that we can foresee the gentleman putting into the Record at the next available opportunity, Monday, which will be printed and available on Tuesday, the day we are to take up this bill. This will be the first time many Members will have the opportunity to look at the amendment. Of course, this will start the whole process that we have had today all over again. This Member is hopeful that that will not be the case; but he appreciates the gentleman's position and is hopeful that we can go forward on Tuesday as expeditiously as possible to resolve this matter. This is a very important piece of legislation which should be dealt with in the legislative process without obstacles being put forth to stop this body from debating this and coming to a conclusion on the merits of this legislation.

Title III as reported by the committee is a diverse title dealing with many and diverse railroad issues, including surcharges and cancellations, rate bureaus, and employee protection in abandonment proceedings involving bankrupt carriers. The title has unrelated provisions dealing with many sections of the Interstate Commerce Act. These provisions were separated from title II simply to break up an otherwise unwieldy series of provisions. A quick synopsis of the provisions in title II bears this out.

Section 301 permits carriers recovering less than 110 percent of their variable costs in a particular movement to surcharge or cancel such rates. Section 302 narrows the antitrust immunity railroads have under the Reed-Bullwinkle Act to establish rates collectively. Section 303 permits a railroad to charge more for a longer haul than a shorter haul in the same direction over the same route, contrary to existing law. Section 304 allows one railroad to construct a new railroad line across another railroad. Section 305 provides that carriers which meet commitments on contracts do not violate common carrier obligation. Section 306 permits the ICC to order one railroad to pick up and deliver cars not on its own lines. Section 307 gives the ICC the discretion to grant antitrust immunity to shippers to discuss the compensation they will be paid for use of their own cars. Section 308 definues the conditions which must exist before the ICC may issue car service orders and limits the duration of such orders. Section 309 provides for employee protection in abandonment proceedings involving bankrupt rail carriers and amends title II of the United States

Code, which deals with bankruptcy proceedings for railroads.

It is clear that there is no common thread running through title III, except that all sections involve railroads. The name of title III "Railroad Inter-Carrier Practices" was used because section 301, the most important provision in the title, addresses such practices. The title was not intended to govern the subject matter of that title. The amendment we are offering is germane because it generally deals with railroads and it includes section 301 of the bill as reported by the committee with minor changes.

The amendment contains minor changes to the present 301, which are clearly germane to title III. It also contains sections dealing with regulation of rates by the ICC, the establishment of competition between a rail movement and existing or potential movements by rail or other modes, a study by the ICC on the extent to which competition should enter into ICC decisionmaking, the establishment of a percentage zone of permissible rate increases which is identical to a provision currently in title III, suspension or investigation of rates, contracts, exemption of rail carriers from most provisions of the act, specific changes to sections of title III which will be maintained, and changes to the Rock Island Transition and Employee Assistance Act.

Present title III amends and affects a great number of sections of the Interstate Commerce Act and other statutes. This list—including title II of the United States Code—has been provided to the Parliamentarian:

1. 10705.
2. 10706.
3. 10726.
4. 10901.
5. 11101.
6. 11103.
7. 11122.
8. 15 USC et seq. (Sherman Act), 15 USC et seq. (Clayton), 15 USC 41 et seq. (Federal Trade Commission Act), 15 USC 8 and 9 (Wilson Tariff Act), 15 USC 13, 13a, 13b, and 21a.
9. 1123.
10. 11347.
11. 11 USC 1170 (Bankruptcy Act).

The amendment amends the following provisions of the Interstate Commerce Act or other statutes:

1. 10705.
2. 10701.
3. 10709.
4. 10707.
5. 10712.
6. 10713.
7. 10727.
8. 10729.
9. 10730.
10. 10741.
11. 10505.
12. 11501.
13. 10751.
14. 10762.
15. 10706.
16. 45 USC 1001 et. seq. (Rock Island Railroad Transition and Employee Assistance Act).
17. 45 USC 901 et seq. (Milwaukee Railroad Restructuring Act).
18. 45 USC 231 (Railroad Retirement Act).
19. 45 USC 825(h).

Title III covers a broad range of railroad issues, as does the amendment. There is no unifying factor in title III but that it addresses matters affecting railroads. The amendment does the same and is germane.

Mr. FLORIO. Mr. Chairman, I would like to insert in the RECORD at this point the amendment that the gentleman from Texas (Mr. ECKHARDT) provided to me as the amendment that he intended to offer as a substitute to the Staggers amendment. I do this so the Members will have the weekend and Monday to review the substitute of the gentleman from Texas and analyze it along with the Staggers amendment.

EXPEDITED DIVISION OF REVENUE PROCEEDINGS

SEC. 301. Section 10705(e)(1) of title 49, United States Code, is amended to read as follows:

"(e)(1) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by a rail carrier within 9 months after the complaint is filed if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission. The Commission must take final action by the 180th day after completion of the evidentiary procceedings, except that—

"(A) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceedings preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary proceedings; and

"(B) in all cases other than those specified in subparagraph (A) of this paragraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursuant to this subparagraph, it must report its reasons to Congress.".

Page 98, strike out the item relating to section 301 and insert in lieu thereof the following:

SEC. 301. Expedited division of revenue proceedings.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. AUCOIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, H.R. 7235, to reform the economic regulation of railroads, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time in order to inquire of the gentleman from Michigan (Mr. DINGELL), the distinguished acting majority leader, as to the program for the balance of the week and for the next week.

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, the schedule for next week is as follows:

On Monday, September 8, the House will meet at noon. It is District Day. There are no bills.

The House will consider the following 11 bills under suspension of the rules:

H.R. 7817, criminal procedure and evidence rules amendments.

H.R. 7306, provide for disposal of certain Federal lands in Nevada.

H.R. 6629, Indian health care programs.

S. 1250, Stevenson Technology Innovation Act of 1980.

H.R. 6372, withholding State income tax from civil service retirement annuities.

H.R. 7466, personal assistants for handicapped Federal employees.

H.R. 7666, life insurance program improvements.

S. 299, Small Business Regulatory Flexibility Act.

H.R. 7779, IRC amendments re Tax Court judges.

H.R. 7956, Miscellaneous Revenue Act of 1980.

H.R. 20, Aquaculture Act.

Also to be considered is H.R. 6790, Foreign Service Act of 1980, under an open rule with 2 hours of general debate.

Then we will consider H.R. 7301, military construction authorizations, fiscal year 1981, under an open rule with 2 hours of general debate.

On Tuesday, September 9, the House will meet at 12 o'clock noon. There will be no bills under suspension. Recorded votes, if ordered, on suspensions debated on Monday, September 8, 1980, will be taken.

Also to be considered is H.R. 7235 the Rail Act of 1980, and it is expected that consideration will be completed that day.

If time remains we will also consider:

H.R. 7265, DOE authorizations of Defense programs, under an open rule with 1 hour of general debate. The rule already will have been adopted; and

H.R. 7244, increase U.S. quota in International Monetary Fund, under an open rule with 1 hour of general debate.

On Wednesday, September 10, the House will meet at 10 a.m., for the consideration of:

H. Res. 745, resolution of inquiry directed to the President of the United States.

H.R. 7668, Intelligence Oversight Act of 1980.

H.R. 85, Comprehensive Oil Pollution Liability and Compensation Act.

And, H.R. 7020, Hazardous Waste Containment Act of 1980.

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H.R. 7668, Intelligence Oversight Act of 1980, under an open rule, with 2 hours of general debate.

H.R. 85, Comprehensive Oil Pollution Liability and Compensation Act, under a modified rule, with 3 hours of general debate.

H.R. 7020, Hazardous Waste Containment Act of 1980, under a modified rule, with 2 hours of general debate.

On Thursday and Friday, the House will not be in session in observance of the Jewish New Year.

The House will adjourn by 3 p.m. on Wednesday. Adjournment times on Monday and Tuesday will be announced.

I also would advise that conference reports may be brought up at any time and any further program will be announced later.

Mr. RHODES. Could the gentleman

inform the House as to whether or not all votes on Monday will go over until Tuesday? The tentative 7 schedule says that recorded votes on suspension debated on Monday go over and the program calls for two other bills to be considered on Monday.

I wondered what the status might be on any votes that might occur on those bills.

Mr. DINGELL. Mr. Speaker, will the gentleman yield further?

Mr. RHODES. I yield.

Mr. DINGELL. The votes on suspensions will be put over until Tuesday. Votes on bills which will be up under a rule will take place on Monday.

Mr. RHODES. Could the gentleman inform us as to the probable time of adjournment on Monday, September 8?

Mr. DINGELL. I do not really think I can give the gentleman good counsel on that. It would depend on how long it would take to conclude the business.

I note that there are 4 hours of debate and 11 hours of suspensions, or rather there is a potential of 11 hours of suspensions. Probably they will not take that long, but that could be apart from votes and apart from amendments and consideration under the 5 minute rule; it could be up to 13 hours, but I do not know.

Mr. RHODES. I gather it is the intention of the leadership to complete the work on Monday which is set forth here, 11 suspensions and 2 bills, before adjournment on Monday night.

Mr. DINGELL. I believe that is correct; yes.

Mr. RHODES. Also, I do understand that the fourth suspension, S. 1250, when it passes the House will not just be the Stevenson Technology Innovation Act of 1980, it will be the Stevenson-Wydler Technology Innovation Act of 1980; is that correct?

Mr. DINGELL. If the gentleman would yield, I have no intention of intruding on that. I believe that will be decided by the committee. I do know that the gentleman from New York (Mr. WYDLER) is a very distinguished member of that committee; I would be ill put to quarrel with that judgment.

Mr. RHODES. I just wondered, because the name WYDLER was marked off on tentative schedule No. 7. I assume that it will be reinstated at the proper time.

Mr. DINGELL. I am not prepared to tell the gentleman what the fact is.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman from Arizona for yielding.

I really do not direct this as a question to the gentleman from Michigan, because know he is only acting as the majority leader to give us the program. It is more of a comment.

I have looked at this program carefully. I consider it to be in essence a joke. There is no way that the legislation that has been announced can be completed next week.

For instance, on Wednesday, there is listed 7 hours of general debate on three different bills and the program also says that we will only be in session for 6 hours. That does not even consider the fact that we will have a resolution of inquiry that might take some time.

If I may just finish, I understood some weeks ago we were told that we would be recessing on October 4 and coming back for a lameduck session sometime after the elections. In the last 24 hours I have heard the rumor that we may recess on September 20 or September 26 to accommodate the other body, which has apparently a massive and collective urge to get out on the campaign trail, for good reason.

I do think it is incumbent on somebody in the leadership in this House, if there is any on the majority side, to come forward and tell the House and the people of the United States what is their legislative program for the rest of the year if, indeed, they have any. Maybe this one lone voice crying in the wilderness will spur them to do the courtesy to the Members of the House to tell them exactly what is going on around here, because obviously, nobody knows.

Mr. DINGELL. Mr. Speaker, will the gentleman from Arizona yield?

Mr. RHODES. I yield.

Mr. DINGELL. In response to the first point, it means that we shall have to debate matters rather rapidly on Wednesday next. I am sure that the gentleman from Maryland will assist us in that undertaking.

With regard to the next point, it is the intention of the leadership that we shall adjourn on October 4, as announced. Hopefully, we will be able to meet that date. Regrettably, if the business is not transacted in good time and we are not able to do so, there probably will be occasion that there will be some further attention by this body to its legislative business.

I do thank the gentleman for yielding.

Mr. RHODES. I do think I should reassure the gentleman from Michigan, as I have assured the majority leadership, that if the majority leadership desired to stay in session until all business is completed, the minority would be glad to cooperate in staying. We might not be cooperating in passing the bills, but we would certainly cooperate in considering them.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

I have several questions. The first relates to the bill on suspension, S. 299. Could the gentleman from Michigan inform me whether this bill has been considered by any committee of the House, and if so, which committee?

Mr. DINGELL. I know the number of the bill because the gentleman has mentioned it. The name of the bill and what it does, I must confess, I am not familiar with.

Mr. LEVITAS. It has to do with regulatory flexibility.

Mr. DINGELL. I observe that it is I believe a Judiciary Committee bill, S. 299, Small Business Regulatory Flexibility Act. It may also be that that is one that came jointly from the Committee on the Judiciary and the Committee on Small Business.

Mr. LEVITAS. Has that legislation been considered by either or both of those committees, so far as the gentleman knows?

Mr. DINGELL. I can only assume that the answer to that question is "Yes"; otherwise it would not be on the Suspension Calendar.

Mr. LEVITAS. I would hope that no bill would be on suspension that had not been considered by some committee of this body, although I am informed that it has, in fact, not been considered by any committee.

Mr. DINGELL. I would say, if the gentleman from Arizona would yield further, that it is probably good grounds for attacking the bill, but I am not able to give the gentleman competent counsel on that.

Mr. LEVITAS. If the gentleman will yield further, I notice an absence on the calendar, even subject to a rule or otherwise, for consideration of two bills, one of which is an administration bill known as the Regulation Reform Act, which is the centerpiece, I am told, of the administration's regulatory reform program.

Can the gentleman from Michigan advise the gentleman from Georgia and Members of this House whether or not there is any intention on the House having an opportunity to vote on the Regulation Reform Act?

Mr. DINGELL. I believe that bill has yet to be reported from the committee and it has yet to get a rule. Until such time as that has occurred, I would suspect it would be quite difficult to program the bill.

If the gentleman would yield further, and I do thank him for yielding, I would assume that the leadership would program that expeditiously when the committees of appropriate responsibility have acted.

Mr. RHODES. I say to the gentleman from Georgia, if my memory serves me correctly, the bill that the gentleman mentioned was not on the list of "must" legislation that came from the majority leadership.

Mr. LEVITAS. If the gentleman from Arizona will yield further, I thank the gentleman for that observation.

I find it almost amazing, since it is the centerpiece of the administration's regulatory reform program, that it is not considered an important piece of legislation. I just would like to mention that.

Mr. RHODES. I share the gentleman's amazement.

I yield back the balance of my time.

REQUEST TO DISPENSE WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER pro tempore (Mr. RAHALL). Is there objection to the request of the gentleman from Michigan?

Mr. LEVITAS. Mr. Speaker, reserving the right to object, and I do so to inquire whether or not the acting majority leader feels that we could expedite the proceedings of this body by getting the Regulatory Reform Act reported out of committee, which I understand has been sabotaged since May 14, and perhaps even avoid the necessity of offering a legislative veto amendment to the rail bill, which will be pending on Tuesday. Does the gentleman know?

Mr. DINGELL. Well, if the gentleman will yield, I certainly have no objection to the gentleman offering an amendment to the rail bill. As the gentleman knows, I am not over much in sympathy with it myself; but with regard to the question of getting it reported, I think that is a matter that should more appropriately be addressed to the majority leader or to the chairman of the committee or perhaps the Speaker.

Mr. LEVITAS. Mr. Speaker, further reserving the right to object, I would like to state that it is the intention of the gentleman from Georgia to take such steps as are within his authority, power, and jurisdiction, to create as many incentives as possible for the leadership of the House to see that the Regulatory Reform Act is reported out expeditiously and pending that occurrence to offer such amendments and make such motions and objections as is necessary to provide adequate incentives.

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Mr. LEVITAS. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ADJOURNMENT TO MONDAY, SEPTEMBER 8, 1980

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday, September 8, 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DOT REFUSES WAIVER IN ABILENE, TEX., CASE

(Mr. SIMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIMON. Mr. Speaker, if Senator PROXMIRE of Wisconsin is seeking another place to award a Golden Fleece Award, I have a nomination for him. If anyone in Government wonders why many people get irritated with officialdom, I have a perfect illustration of Government regulation gone rigid and insensitive, serving itself rather than the public. If President Carter wonders why those who supposedly serve the public under his direction can be causing political problems for him, I have a detailed case for him.

The relatively new Department of Transportation is already at least partially ossified.

Some of you may recall that when the Department of Transportation appropriation was before our body, our distinguished colleague from Texas, (Mr. STENHOLM), offered an amendment giving local authorities the option of meeting the present requirements of accessibility. I resisted that amendment, and it was defeated, as it should have been. But in the course of debate I assured our colleague from Texas (Mr. STENHOLM) that I would be happy to meet with him and with the officials from Abilene, that if, indeed, they had an unusual situation, I would join him in asking the Department of Transportation to grant a waiver, that the law did not need to be emasculated in order to secure flexibility.

Shortly after that debate I met with the mayor of Abilene, Mr. Oliver Howard, and its city manager, Mr. Ed Seegmiller. Meeting with us was Ms. Judith Wagner, staff director of the Subcommittee on Select Education. I have the honor of chairing that committee, which among other responsibilities has the major oversight role on most of the programs for the handicapped. I have been proud to champion the cause of these people who need a greater opportunity in our society. I made clear at that meeting that accessibility must continue to be the law of the land. It must be the rule and not the exception. Mainstreaming must be the general pattern.

At the meeting with the Abilene officials I said that I was willing to send a subcommittee staff member down to Abilene to look at their situation, though I frankly was skeptical that any waiver would be warranted. I have talked to too many officials in too many cities who believe they should be exempt from the law and regulations. But I felt that I owed their city and our colleague from Texas, Mr. STENHOLM, this extra look. I asked Marylyn McAdam, who spends her waking hours in a wheelchair and who understands the problems of the handicapped, to go to Abilene. She went and spent 2 days there. She went over every bus route. She talked to the handicapped. She talked to city officials. She came back and reported that Abilene is indeed different, that a partial waiver is both justified and desirable, that two of the bus routes which serve the main part of the city and the two malls, as well as the West Texas Rehabilitation Center, should be required to have lifts because these areas are accessible, but that because of the unusual terrain and street structure, that the rest of the bus routes should be served by special vans for the handicapped.

Her report provided better answers for the handicapped. It included accessibility. Her report provided better answers for city officials who wanted to serve the people rather than waste money. Her report could save money for the taxpayers of Abilene and the taxpayers of the Nation, since the Federal Government picks up 80 percent of the additional cost.

I checked with Congressman STENHOLM and he reported back to me that while her recommendation was not the complete waiver Abilene had requested, on reflection they felt it was an excellent recommendation and they could accept it.

We had the complication of time pressing upon us. By the time the city had contacted my Texas colleague and me they had only about 2 weeks before they had to make a decision on signing a contract for buses which included lifts. If they failed to sign the contract, the price would go up on a rebid.

Our staff and I immediately made contact with the Department of Transportation. At first the staff was told that the Department did not have the legal authority to waive the requirements. That shield disappeared quickly; they do have the legal authority.

I tried to reach Secretary of Transportation Neil Goldschmidt, who has always made a favorable impression on me, but he was on a vacation, one that I have every reason to believe he richly deserved. I was told he could not be reached. I then talked to the Deputy Secretary, William Beckham, and he admitted there was no legal barrier to a waiver, and he assured me that the reason they were denying the waiver—even after Marylyn McAdam went over to discuss her report with them—had nothing to do with the facts or the legality, but the philosophy of the matter. He also told me—as others did over and over—that if they granted this partial waiver, there would be increased pressure on them to grant other waivers. He admitted that the Department's representative in Texas who also visited Abilene made a recommendation for a waiver, as did their regional manager. He did not dispute that the handicapped of Abilene would be better served by the McAdam recommendation; he did not dispute that the taxpayers of the Nation would save money; what he was telling me essentially was that it was a matter of administrative convenience to reject the waiver request. He was polite at all times, but unbending.

I called Stu Eizenstat, who heads President Carter's domestic staff at the White House and who I regard as one of the finest public servants I have ever known. He is a quality person in every respect. I caught him a few minutes before he was to leave for a weekend with his family. He turned the matter over to a member of his staff with whom I visited at length on at least two occasions. She ultimately said that the key person was Theodore Lutz, counsel for the Department of Transportation.

I had phone conversations with him similar to those with Mr. Beckham. He did not dispute the facts. I asked him (on a Friday) whether he would be willing to make a trip to Abilene to find out the facts for himself or if he preferred to make decisions without the facts. He seemed most reluctant to even consider making a trip to Abilene.

So we found ourselves facing a contract deadline with someone sitting at a desk in Washington who was making a decision, not on the basis of facts, but despite the facts, who has in the past rendered a service to the handicapped community by not caving into pressure for waivers when the facts did not warrant it, but who has now caused problems for the handicapped because of his rigidity.

During this period I tried reaching a variety of other officials who might talk sense into the Department of Transportation because by this time I could not believe what I was being told on the phone. One of these I tried to reach was the Secretary of Transportation. He returned from his vacation and apparently tried to reach me on Sunday night, August 31. Tuesday afternoon I called his office at least twice and then he returned the call from his automobile, on the way home. We chatted briefly about the situation and he said he would be back to me that night. Later he called and repeated the same line that he did not want to be inundated with waiver requests and so he would have to deny the request for a waiver. If the law should change—and it may soon—he would be willing to reimburse the city of Abilene for some of their losses. I conveyed this less than satisfactory response to Congressman STENHOLM and Mayor Howard.

In one final attempt to work this out, the next day I tried to work in a conference call between Marylyn McAdam, Secretary Goldschmidt, Mayor Howard, Congressman STENHOLM, and myself. The Secretary was too busy to join such a conference call. We were offered the Deputy Secretary instead, and I declined that high honor.

Complicating all of this is that we soon will face the authorization for the Department of Transportation and there are those who would emasculate the present requirements in the law which require accessibility for the handicapped. The law has been a giant step forward for a sizable body of Americans and there should be no retreat. Unfortunately, the rigidity of the Department of Transportation is ammunition for those who say bureaucracies cannot be trusted, that they do not exercise commonsense. And so we face increased pressure because of Abilene to take a step backward. What we need to do is not to take any backward steps but simply to make clear to the Department that we expect them to pay attention to facts, to be sensitive to the needs of the handicapped, to continue to push for accessibility, and to exercise a little commonsense. That is asking more than we have received, but it is not asking too much.

It was with great reluctance that I called Mayor Howard and told him toward the end of the day on Tuesday that there no longer was any hope, that the public image of bureaucracy—and I hasten to add I have not found this typical—had prevailed over compassion and commonsense.

I want to pay tribute to Mayor Howard, and particularly to my colleague, Mr. STENHOLM, who played a much more prominent role in all of this than my relating this narrative suggests. Though I disagreed, and disagree, with his amendment, I have found him to be practical, hard working, sensitive to the complex problems we were dealing with. The people of Abilene should know that he served them well in this matter, even though everyone lost.

DOT INFLEXIBLE ON PROBLEMS OF HANDICAPPED IN ABILENE

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, may I say at the beginning that I sincerely appreciate the effort of my colleague, the gentleman from Illinois, Mr. PAUL SIMON, in trying to be of help to the people of Abilene, Tex., in meeting the needs of the handicapped in that area. We were not successful.

As we remember, on July 31 the amendment that I offered in the House was turned down by some 27 votes because it was felt that we should not legislate on an appropriations bill. The result of this now has been that the city of Abilene has had to purchase, because of contractual agreements, 14 wheelchair lifts for buses in Abilene, Tex., which will be a waste of money and will not meet the needs of the handicapped, as testified by a majority of the handicapped of the Abilene commmunity.

Since the beginning of my work in the U.S. Congress I have been witness to the manufacturing and implementation of new, arbitrary, meaningless, illogical, ill-conceived, ill-timed, poorly executed, and uncompromising regulations by various Federal agencies day after day. This latest example of an unbending attitude by the bureaucracy, which is not elected by the American people, must be made known, because we in the Congress have the responsibility.

Mr. Speaker, we cannot run America from Washington. Yet we in the Congress continue to allow the bureaucracy we have created to do that, and they do just that day after day.

The Department kindly provided me with a copy of its "Transportation Agenda for the 1980's" on August 18, 2 weeks after my amendment failed. In that agenda the Department states:

> We must not retreat from present policy that affords a significant and growing portion of our population accessible public transportation. At the same time, we should recognize that the handicapped are a diverse group and will need flexible door-to-door service where regular public transportation will not do the job.

With this information in hand, I attempted to work with the Department to work out a flexible resolution to Abilene's problems. Congressman PAUL SIMON, chairman of the Subcommittee on Select Education, and I were almost totally ignored in our effort to provide a meaningful service to the handicapped of Abilene.

I take this opportunity to personally commend and publicly thank my colleague, the Honorable PAUL SIMON, for his untiring efforts to help.

You cannot run America from Washington. Yet we in Congress continue to allow the bureaucracy we have created to do just that.

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LET'S GET ON WITH REGULATORY REFORM

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, the American public is fed up with being run by an unelected bureaucracy. The rules and regulations that pour out of the agencies in Washington, without any control by the elected representatives of the people, is shameful.

The two speakers who have preceded me have documented only one more in a long list of the abuses and arrogance of the unelected officials in Washington trying to run this country without control by the elected Congress. My two colleagues who have just spoken come from different ends of the political spectrum, yet their complaint was in unison. They decried the arbitrary, arrogant bureaucratic rules and decisions of the Department of Transportation which will waste taxpayers dollars and not assist the handicapped citizens who were supposed to be aided.

There are bills now pending in the Congress which could remedy that situation of bureaucratic dictatorship. But those bills are being pigeon-holed. Those bills are being held up. Those bills are being sabotaged by the administration with the help of the leadership of this House.

Mr. Speaker, where is the regulatory reform bill? It has been ready for action since May of this year. It has widespread support. The legislative veto bill, H.R. 1776, has more than 230 cosponsors. Why cannot this House exercise its will on that legislation? Mr. Speaker, either you or the White House could cause these bills to come out for a vote in keeping with the democratic legislative process. Let the people's representatives have an opportunity to represent the people's will. Mr. Speaker, you are Speaker of this House. You are not the Speaker of the White House. Let your Members have a chance to vote. Let your Members do their constitutional duty.

Let us return Congress to the people and give Members of this body the opportunity to vote on these two important bills.

CREDIT CONTROL SUNSET ACT OF 1980

(Mr. STANTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STANTON. Mr. Speaker, today I am introducing the Credit Control Sunset Act of 1980. As you know, the Credit Control Act of 1969 grants the Federal Reserve Board almost absolute power "to regulate and control any or all extensions of credit" and is the basis for the Board's special credit restraint program of March 14, 1980.

The benefits of this sunset legislation are twofold. First, the adoption of a sunset provision to the Credit Control Act—together with a reporting requirement that would require the Federal Reserve Board justify the continued need for that act—will force the Congress to review the legislation before a date certain. Second, this bill neither passes judgment on the merits of the current credit restraint program nor interferes with the administration of those controls. Indeed, this legislation allows the Board's program ample time to achieve its intended purpose of controlling that portion of inflation which may be generated by the excessive extension of credit.

Since the Federal Reserve Board announced its credit restraint program, there has been renewed interest in the long dormant authority for the Board's actions. If any of my colleagues who were not present in this Chamber over 10 years ago think that the present credit controls are controversial, then you should be aware of the controversy surrounding the enactment of the Credit Control Act. What started out as a simple extension of regulation Q soon became the vehicle for this unprecedented authority over a particular segment of the economy. On December 17, 1969, a motion to delete the credit controls title from the bill failed in the House of Representatives by the slim margin of only 13 votes: 193 yeas to 206 nays. It is little wonder that a program questioned by so many people is the end result of such contentious legislation.

The recent action by the Federal Reserve Board has been the first case of imposing credit controls since the Credit Control Act was enacted in 1969. In light of the recent credit restraint program, I believe that it is appropriate for Congress to reexamine the purpose and continuing need for that act.

As early as April 21, 1980, just 5 weeks after the controls were imposed, Paul Volcker, chairman of the Board of Governors of the Federal Reserve System, publicly expressed his reservations about the utility of the Credit Control Act while a guest on the "MacNeil/Lehrer report." Chairman Volcker termed the March 14 measures as "extraordinary actions" and offered these sentiments about the credit controls:

> I'd like to get rid of those [credit controls] as soon as we can. I'm sure everybody else in the Federal Reserve Board would like to get rid of them as soon as we can. . . .

Since his initial remarks Chairman Volcker has characterized these same extraordinary measures as "disruptive of normal market processes." Speaking before the annual meeting of the National Association of Mutual Savings Banks, Chairman Volcker succinctly stated what I consider to be a proper and fundamental tenet of Federal Reserve policy:

> We are not interested in fostering any impression that credit allocation, formal or informal, can be any part of the basic continuing armory of monetary policy; the special measures are, to put it most simply, no substitute for general instruments of policy, and the side effects, if prolonged, can be counterproductive.

Similarly, former chairman of the Federal Reserve Board Arthur Burns recently testified before the Joint Economic Committee that repeal of the Credit Control Act should be the highest item of priority on the congressional agenda. Without mincing any words, Dr. Burns labeled the legislation as "stupid," "potentially destructive of our economic system," and "a demagogic piece of legislation, one that has really put dictatorial power into the hands of the Federal Reserve Board."

Mr. Speaker, I am concerned that the current administration and this Congress as well as previous Congresses have placed far too great a burden on the Federal Reserve to fight inflation singlehandedly. As Alan Greenspan, former chairman of the Council of Economic Advisers, correctly stated in testimony before the Senate Banking Committee last year on legislation to amend the Credit Control Act: "mismanagement of our fiscal affairs has led us to the point where there is currently no simple alternative to monetary tightness."

There can be no doubt that necessary restraints on the growth of money and credit must be a key part of the unfortunately slow process of defusing the inflationary bias that threatens this Nation's economy. Today, many economic observers rightly are questioning whether this most recent regulatory reflex is all that necessary or will be all that effective. This questioning becomes particularly acute when these same observers realize that the necessary restraint is—and will continue to be—based primarily on the control of bank reserves, which has been emphasized recently by both the October 1979 Federal Reserve actions as well as the passage of the Monetary Control Act of 1980 (title I of Public Law 96-221), and on other traditional instruments of monetary policy such as open market operations.

It is obvious that many people including myself are troubled by the March 14 credit restraint program, just as I was disturbed by the passage of the Credit Control Act which I strongly opposed in 1969. It is also obvious that the great majority of my colleagues in the House of Representatives was not present in this Chamber when the legislation was enacted. For three important reasons it is time to conduct a serious review of that legislation.

First, the Credit Control Act as imposed places an unfair burden upon consumer credit and hurts the average American in an inequitable manner. One tangible result of the March 14 program is that the average consumer has been affected visibly, while the more affluent investor or the larger corporation can find ways to circumvent these controls.

While many banks and credit card companies have implemented policies which have a relatively greater impact on the average consumer—such as raising monthly credit card payments, adding new annual service fees, or curtailing the issuance of credit cards—wealthier individuals and businesses still have access to other forms of financial services. Thus, credit controls invariably hurt the average consumer and small businesses because they have fewer, alternative sources of funds.

Second, no matter in what light such programs are cast, credit controls are a form of allocating credit. Invariably, the result of allocating credit through Government programs is a less efficient and less productive allocation than would be determined by market forces. Recent studies indicate that credit growth has slowed dramatically, even before the credit restraint program, because of these same market forces. Outstanding consumer installment credit is down from a 20-percent rate of increase during 1978 to a 5-percent rate in late 1979 and early 1980. A look at market innovations that have been a direct response to other forms of financial controls—the growth of the Eurodollar market, the growth of the commercial paper market, and the growth of money market funds—will show the frustration and futility of imposing such controls.

Third, the Credit Control Act places too much of a burden on an already overburdened Federal Reserve Board and does nothing to correct the structural causes of inflation. By implementing the Credit Control Act, is not the administration shirking its responsibilities for fighting inflation in the areas of budgetary and fiscal restraint? We in Congress must reverse the Federal Government's increasing direct and indirect preemption of the Nation's available credit, thereby relieving some of the enormous inflationary pressures from the private credit markets.

Let no one misunderstand the purpose of this legislation. The addition of a sunset provision to the Credit Control Act which gives the Congress sufficient time to review the continuing need for that act should not be interpreted by the domestic or international money markets as any diminution on the part of our determination to fight inflation. On the contrary, traditional policies to fight inflation—whether they take the form of controlling the money supply through the size of bank reserves or curtailing Government spending—should be implemented fully without resorting to the temptation of a quick fix through selective methods of allocating credit.

Mr. Speaker, I am pleased to announce that the Credit Control Sunset Act of 1980 has the bipartisan support of many of my colleagues on the Banking Committee. Among the cosponsors are: Chalmers Wylie, Stewart McKinney, George Hansen, Henry Hyde, Richard Kelly, Jim Leach, Tom Evans, Bill Green, Ron Paul, Ed Bethune, Norm Shumway, Carroll Campbell, Don Ritter, Jon Hinson, John Edward Porter, Parren Mitchell, Steve Neal, Carroll Hubbard, Dave Evans, Doug Barnard, and Wes Watkins.

In closing, Mr. Speaker, I urge all of my colleagues to support this legislation when it is considered on the floor of the House of Representatives.

PRESIDENT CARTER BREAKS FAITH ON PLEDGE TO BUILD SUPERIOR NAVAL FORCES

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, despite the proven speed and superior capabilities of all-nuclear U.S. naval task forces, such as the one dispatched to the Persian Gulf in response to the Soviet invasion of Afghanistan, President Carter has canceled the planned construction of any new nuclear-powered surface warships for the U.S. Fleet.

The President has scrapped the entire U.S. program to build sufficient nuclear-powered escorts for our nuclear aircraft carriers, despite earlier congressional appropriations for this program based on administration promises that this would be done.

I think this action is an outrage at a time when we need to strengthen America's ocean-going military forces.

I would like to include in the Record at this point a letter I have received on this serious matter from Adm. Hyman G. Rickover, one of our country's leading experts and the pioneer and inspiration of our nuclear fleet.

USS ARKANSAS (CGN-41),
New York, September 1, 1980.
Hon. ELDON RUDD,
House of Representatives.

DEAR MR. RUDD: We are returning from the first sea trials of the nuclear-powered guided-missile cruiser *Arkansas* (CGN 41), our ninth nuclear cruiser and twelfth nuclear-powered surface warship. The *Arkansas*, fourth and last currently authorized ship of the *Virginia* Class, put to sea yesterday from the Newport News Shipbuilding and Dry Dock Company, Newport News, Virginia. This ship, in conjunction with nuclear-powered aircraft carriers and other nuclear-powered guided-missile cruisers, will give the Navy the most capable surface strike forces we can build.

Three other ships of the U.S. Navy and one Confederate warship have borne the name *Arkansas*. The Confederate ship *Arkansas*, an iron-clad river ram, saw action in 1862 where she successfully disabled three Union warships before being attacked and disabled, grounded, and set afire to avoid falling into Union hands near Baton Rouge, Louisiana. The last previous U.S. Navy ship *Arkansas* was a battleship, commissioned in 1912. She saw service in both World Wars and fought in the invasions of Normandy, Southern France, Iwo Jima, and Okinawa, earning four battle stars.

The present *Arkansas* is 585 feet long, has a beam of 63 feet, and displaces 11,000 tons. She carries two twin-armed launchers for antiaircraft missiles and antisubmarine rockets; also two five-inch guns, long range sonar, torpedoes, electronic warfare equipment, and a helicopter hangar. The initial reactor cores contain enough energy for at least 10 years of operation without refueling.

The *Arkansas'* primary mission is to provide antiaircraft and antisubmarine protection to an aircraft carrier task group. The all-nuclear carrier task group has far greater capability for sustained combat operations than an oil-fired group by virtue of its essentially unlimited high speed endurance and increased capacity for carrying combat consumables. This permits longer periods between replenishments and enables the task group to retire at high speed for replenishment in low threat areas.

All-nuclear task groups can transmit quickly to remote areas and arrive ready for protracted combat without the need for preplaced oilers to supply propulsion fuel. This unique capability was recently and dramatically demonstrated in response to the Soviet invasion of Afghanistan when a nuclear-powered battle group consisting of the aircraft carrier USS *Nimitz* (CVN 68) and the cruisers USS *California* (CGN 36) and USS *Texas* (CGN 39) transited from the Mediterranean around Africa to the Arabian Sea in January 1980, covering the 11,000 mile distance at 25 knots in just over 18 days, arriving on station without requiring or having required refueling.

The continuing decline in the number of U.S. overseas bases and the current naval operations in the Indian Ocean highlight the vulnerability of the long supply lines required to provide fuel for our oil-fired warships. In war, the vulnerability of oilers could well make it impossible to provide fuel for our oil-fired naval forces when and where they need it.

The increased mobility and tactical flexibility of the all-nuclear carrier task group increases its offensive capability and reduces its vulnerability to enemy attack. Only a task force consisting entirely of nuclear-powered ships can match the sustained high speed endurance of enemy nuclear submarines. The nuclear group's sustained high speed capability eliminates the increased susceptibility to attack during the frequent slowings required to refuel oil-fired ships.

Nuclear propulsion in guided-missile ships like the *Arkansas* also makes them uniquely suited for independent missions when logistic support is not practicable. Commanding Officers of nuclear-powered cruisers often write me describing missions assigned them beyond the normal capabilities of a conventionally-powered cruiser. The nuclear cruiser's increased tactical flexibility afforded by freedom from propulsion fuel concerns, and greater on-station time resulting from the inherent high speed endurance of the nuclear propulsion plants, enabled successful completion of these assigned tasks.

Notwithstanding the repeatedly demonstrated superior capabilities afforded by nuclear propulsion in surface warships, the *Arkansas* is now the last nuclear-powered cruiser in the Navy shipbuilding program. In fiscal year 1978, Congress appropriated advance procurement funds for the CGN 42, the first of a new class of nuclear-powered cruisers, on the basis of Department of Defense assurance that the ship would be requested for authorization in fiscal year 1979. The CGN 42 Class cruisers were to be equipped with the AEGIS fleet air defense weapons system. Subsequent Department of Defense five year shipbuilding programs have slipped the planned authorization of CGN 42 from 1979 to 1980, then to 1983. Finally, last year, the CGN 42 was deleted completely.

The current Department of Defense fiscal year 1981 five year shipbuilding plan not only omits the CGN 42, but contains no new nuclear-powered surface warships. If all-nuclear task groups are envisioned, then this shipbuilding plan disregards the Navy's long-standing position that each aircraft carrier should have four escorts. With Congressional authorization last year for construction of the fifth nuclear carrier, CVN 71, delivery of *Arkansas* will give the Navy only nine nuclear-powered cruisers, not enough to provide two nuclear-powered escorts for each nuclear-powered aircraft carrier.

The nuclear surface fleet which the *Arkansas* will join consists of eight nuclear cruisers, the *Long Beach* (CGN 9), *Bainbridge* (CGN 25), *Truxtun* (CGN 35), *California* (CGN 36), *South Carolina* (CGN 37), *Virginia* (CGN 38), *Texas* (CGN 39), and *Mississippi* (CGN 40), and the three nuclear carriers, *Enterprise* (CVN 65), *Nimitz* (CVN 68), and *Dwight D. Eisenhower* (CVN 69). The fourth nuclear carrier, *Carl Vinson* (CVN 70), is under construction and the contract to begin construction of CVN 71 is being negotiated with the shipbuilder.

That the Navy has these nuclear-powered aircraft carriers and cruisers is due to the wisdom and foresight of Congress in taking the initiative to provide nuclear propulsion for our naval strike forces.

Respectfully,

H. G. RICKOVER.

MR. CARTER'S ECONOMICS

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, everybody knows that the Carter administration has lost the key to the economy. Last week Mr. Carter admitted one more setback in his failed policies by announcing the seventh new economic policy since he took office, and the third in the last 8 months. The President wants us to forget that he has failed six times in a row. He tells us "Unlike all my other plans, this one is going to work; but let us not try it right now. Let us wait until after the election." Our beseiged President has added to the liberal economic policies that passed off as Keynesian economics, later Walter Heller's "new economics." Now we have Carter's "election year economics."

I can understand why Mr. Carter does not want the voters to judge his economic policies according to performance rather than promise. But it is a little late in the game to ask for such favors. Under Mr. Carter's stewardship, a family of four now has to earn more than $20,000 to achieve the same real after-tax income that they could get by earning $10,000 in 1970. Our working men and women need relief now, not 8 or 10 months down the road.

But Mr. Carter, who 4 years ago was campaigning against Gerald Ford's use of the veto against spending bills, tells us that he will veto any tax cut passed by Congress before election day. If he wins the election, the President can then continue the pattern of changing his whole game plan every 6 months. The stark reality is that if this administration will not accept a tax cut during an election year, then there is no time when it will ever accept one.

Through all the zigzags and flip-flops in economic policy during the last 3½ years, there has been one consistent element: Higher taxes. Even if Mr. Carter sticks by his new package, and even if he succeeds in getting every piece of it enacted next year, the net result will be a tax increase of $80 billion. If you think the largest peacetime tax burden in American history is still not large enough, if you think it is irresponsible for the voters to be demanding relief from this burden, if you think that the way to stimulate the economy is to hang still heavier lead weights onto workers and businesses—then you will love this President's economics.

CARTER TAX PROPOSALS DO NOT END THE MARRIAGE TAX

(Mr. ROYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROYER. Mr. Speaker, I am glad that the administration has finally admitted, at least tacitly, that our economy needs a tax cut. I am, however, disappointed that Mr. Carter still believes that we should not consider the cuts he has proposed until next year. His posturing and flip flopping on the tax issue is unseemly, though totally in character. But I am particularly distressed by his proposal as it relates to the marriage tax. The relief provided is a crumb. A couple making $30,000 to $50,000 last year will be penalized under current law $860. Under the President's proposal, the couple would get a paltry $130 in relief and still be penalized $730 above what similar couples living together, but unmarried, would pay filing as singles. Is this the much ballyhooed reform of the tax system that was characterized by candidate Carter in 1976 as a disgrace to the human race? I think not. Let us get it right and end this needless discrimination.

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 15 minutes.

● Mr. NEAL. Mr. Speaker, I am notifying the House today of a proposal by the U.S. Export-Import Bank to provide a loan guarantee to make possible the sale of five new Boeing 767 jet aircraft valued at $263 million for use by Britannia Airways Ltd. of the United Kingdom.

The Eximbank is prepared to guarantee a private loan of $223,550,000 to T. N. H. Leasing A. G., which will lease the five airliners, plus spare engines, parts, and ground support equipment to Britannia Airways. The planes would be delivered from 1984 to 1986.

This notification was referred to me as chairman of the Banking Committee's Subcommittee on International Trade, Investment and Monetary Policy. Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, requires that the Eximbank notify Congress of proposed loans or financial guarantees, or combinations thereof, of $100 million or more. Unless the Congress determines otherwise, the Eximbank may give final approval to the transaction after 25 days of continuous session of the Congress after notification.

I am submitting for the RECORD at this time a copy of the Eximbank notification providing the terms and details of the proposed financing. I would welcome any comments or questions my colleagues might have on this proposal.

The Eximbank material follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., August 27, 1980.

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

H. K. ALLEN.

Enclosure.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., August 27 1980.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES,
The Speaker's Room,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to the United Kingdom.

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to make available financing in the form of a financial guarantee of a commercial loan of $223,550,000 to be extended by a United States private lender to T.N.H. Leasing A.G. The purpose of this Eximbank financing is to facilitate the purchase in the United States and lease to Britannia Airways Limited ("Britannia") of five new Boeing 767 jet aircraft, spare engines, related spare parts and ground support equipment. The total U.S. export value for this transaction is estimated to be $263,000,000.

2. Identity of the parties

Britannia, based in the United Kingdom, is a charter airline and a third-tier wholly-owned subsidiary of International Thomson Organisation Limited ("ITOL"), a diversified Canadian holding company whose principal activities are printing and publishing newspapers, magazines and books, operating travel agencies, and participating in North Sea and other oil and gas fields. Britannia's current fleet consists of twenty-two 737 aircraft. The airline, established in 1962, operates package tours primarily from London to the Canary Islands and various Southern European and Mediterranean resort areas. Britannia will lease the aircraft from a wholly-owned subsidiary of ITOL.

3. Nature and use of goods and services

The principal goods to be exported from the U.S. are five new medium-range, wide-bodied commercial jet aircraft, related spare parts and ground equipment to be delivered during the period 1984–1986. Most of the airframe components will be manufactured in the Seattle-Renton-Everett area by The Boeing Company of Seattle, Washington. It is also expected that other United States firms will furnish components and spare parts. Potential engine manufacturers are the Pratt and Whitney Aircraft Division of United Technologies Corporation in Hartford, Connecticut, the jet aircraft engine division of General Electric Company in Cincinnati, Ohio, and Rolls-Royce Limited in the United Kingdom. In the event Rolls-Royce engines are selected by Britannia, they will not be financed by Eximbank and Eximbank's financing will be reduced accordingly. Non-United States components manufactured in Japan and Italy will cost about $28 million, or approximately 11 percent of the United States goods, and are not included in the financing plan set out below.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The Eximbank financial guarantee of $223,550,000 will facilitate the export of $263,000,000 United States goods and services. Sales, profits and employment for U.S. aircraft manufacturers and their subcontractors are heavily dependent upon exports. Through 1990, aircraft purchases by foreign airlines are expected to account for approximately 40 percent of total U.S. aircraft sales. Eximbank's financing support for the export of U.S. aircraft has assisted U.S. aircraft manufacturers in obtaining approximately 80 percent of the world market for commercial jet aircraft. In order to maintain the existing market share for U.S. commercial jet aircraft over the next several years, Eximbank must strive to meet both borrowers' needs and foreign competition, in particular that from the European consortium, Airbus Industrie.

Airbus Industrie's A–310 jet aircraft was determined by Britannia to be technically and economically competitive with the 767 aircraft. Adequate financing from U.S. sources was necessary to enable Britannia to proceed with the purchase of all five aircraft, of which three are optional, and to enable Boeing to penetrate the European market with the first sale of 767 aircraft. The Eximbank financing appears to have been a decisive factor in winning the sale for the U.S. suppliers.

Boeing estimates that the production of each 767 aircraft will generate 1,017,900 man-hours of work for Boeing and its sub-suppliers consisting of 870,000 for each airframe and 147,900 for each engine. Additional benefits which will flow to the United States from the transaction include sizeable follow-on exports of spare parts, ground support and other related equipment.

2. The financing plan

The financing plan for the total U.S. procurement supported by Eximbank is as follows:

	Percent of U.S. costs	Amount
Cash payment	15	$39,450,000
Private financing with Eximbank guarantee	85	223,550,000
Total	100	263,000,000

(a) Eximbank charges

The financial charge on the financing extended under the Eximbank guarantee will be 10.7 percent per annum, payable semiannually, a rate established in a Preliminary Commitment authorized by Eximbank for Britannia on February 7, 1980. It is possible that if market conditions require, some Eximbank credit will be blended with the financing extended under the Eximbank guarantee. A commitment fee of ½ of 1 percent per annum and a guarantee commitment fee of ⅛ of 1 percent per annum will also be charged on the undisbursed portion of the Private Financing. The financing will be secured by the guarantee of ITOL and mortgages on the aircraft.

(b) Repayment terms

The financing for the aircraft will be repaid in three repayment schedules of 20 semiannual installments each, beginning November 15, 1984 with respect to aircraft to be delivered in 1984; beginning November 15, 1985 with respect to aircraft to be delivered in 1985; and beginning November 15, 1986 with respect to aircraft to be delivered in 1986.

Attached is certain additional information on Eximbank activity in and economic data about the country involved in this transaction.

Sincerely,

H. K. ALLEN.

EXIMBANK EXPOSURE IN THE UNITED KINGDOM
(AS OF JULY 31, 1980)

	Outstanding	Undisbursed
Direct loans	$394,379,199.71	$185,237,734.86
Financial guarantees	56,682,480.00	110,257,520.00
CFF loans	38,400.00	
Bank guarantees	6,004,348.64	13,566,722.75
Insurance medium	3,130,226.94	3,958,562.55
Insurance short	123,596,239.42	
Total for the United Kingdom	583,830,894.53	313,020,540.16

DEFAULTS AND RESCHEDULINGS

Loan No. 4097 was rescheduled November 3, 1977 in the amount of $1,619,998.84. This loan was paid in full January 17, 1979. There have been no other defaults to date.

ATTACHMENT II—AUGUST 25, 1980

UNITED KINGDOM

Area and population

Area: 244,000/sq. km.
Population (mid-1979): 55.8 million.
Population Density: 229/sq. km.
GDP per capita (1979): $6,129.

Sources and application of national product

[In percent]

Uses (1978):	
Consumption	53.8
Government	23.2
Capital Formation	20.7
Stocks	1.0
Exports	33.9
Imports	−32.6
	100
Sources (1978):	
Agriculture, forestry and fishing	2.6
Mining and quarrying	3.2
Manufacturing	28.7
Construction	6.0
Transportation and Communication	8.2
Services	51.3
	100

	1976	1977	1978	1979	1980 (E)
GDP data:					
Billions of dollars (nominal)	$221	$246	$308	$342	$305
Rate of change (real) (percent)	3.6	1.4	3.3	1.5	−3.0
Fiscal and monetary data:					
Government deficit (billions)	$12.3	$7.8	$16.1	$17.4	NA
Deficit as percent of GNP	5.5	3.2	5.2	5.1	NA
Increase in money supply (M3) (percent)	11.2	9.8	14.9	12.7	12.7
Savings ratio (percent)	14.6	13.9	15.2	15.7	17.0
Price data (percent increase over preceding year):					
CPI	16.5	15.9	8.3	17.5	18.5
WPI	17.3	19.8	9.1	12.2	18.0
Labor data (percent increase over preceding year):					
Wages (weekly rates)	16.5	10.3	14.6	15.5	19.0
Unemployment	5.3	5.7	5.7	5.4	7.1

	1976	1977	1978	1979	1980 (E)
External debt:					
Outstanding Public Debt (billions)	$14.2	$18.0	$15.8	$14.6	$13.9
Debt/GDP (percent)	6.4	7.3	5.1	4.3	4.6
Debt service ratio (public debt only)[1] (percent)	7.3	4.8	2.9	4.9	NA
Balance of payments data (billions):					
Exports	$45.9	$56.1	−$67.3	$86.3	$111.5
Imports	−52.4	−59.2	−70.2	−93.3	−119.8
Trade balance	−6.5	−3.1	−2.9	−7.0	−8.3
Invisibles balance	4.5	3.8	4.2	1.9	1.7
Current account balance	−2.0	.7	1.3	−5.2	−6.6
Capital account	−4.6	12.2	−3.0	9.0	NA
Overall balance	−6.6	12.9	−1.7	3.8	NA
Reserve data (billions):					
Foreign exchange (excluding gold)	3.4	20.1	16.0	19.9	-------
Gold (average London price)	2.6	3.3	4.4	12.1	-------

[1] For 1976 and 1977 includes only capital repayment.

Sources: IMF, IFS, and OECD survey, OECD.

EXPORT-IMPORT BANK OF THE
UNITED STATES,
Washington, D.C., August 27, 1980.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES,
The Speaker's Room,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2 (b) (3) (i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to Mexico.

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to make available financing in the forms of loans and guarantees ("Eximbank Financing") of $111,387,400 to Comision Federal de Electricidad ("CFE"). The purpose of the Eximbank Financing is to facilitate the purchase in the U.S. for export to Mexico of 14 gas turbines and ancillary equipment to be manufactured by Westinghouse, General Electric, United Technologies and Brown Boveri. The total U.S. export value for this transaction is $131,044,000. In addition, Eximbank has issued a preliminary commitment to CFE to facilitate the purchase in the United States of $130 million of steam turbines and boilers.

2. Identity of the borrower

CFE is an autonomous institution of the Federal Government of Mexico which is responsible for providing most of Mexico's electric power. Eximbank has made many loans to CFE, and repayments have been made on a timely basis.

3. Nature and use of goods and services

The goods to be exported will be installed in and operated as part of CFE's electric power system. Mexico is in the midst of a severe power shortage, and the expansion of the system is a critical necessity. Mexico has abundant supplies of natural gas and petroleum to fuel the new units.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The Eximbank Financing of $111,397,400 will facilitate the export of $131,044,000 of U.S. goods and services. CFE has signed letters of intent to purchase the gas turbine units from Westinghouse, General Electric, Brown Boveri and United Technology. CFE is requiring suppliers to provide 85 percent fixed rate financing. European and Japanese suppliers are now including such financing as a part of their government supported bids. Over the past few years much of CFE's electrification programs have been so financed by EID/MITI of Japan. The Eximbank Financing will assist in the generation of some 5,240 jobs in the U.S. over the period of fabrication of the items. U.S. electrical equipment manufacturers are generally operating below capacity and are anxious to secure additional orders.

2. The financing plan

The total cost of the U.S. goods and services to be purchased by CFE will be financed as follows:

	Amount	Percent of U.S. costs
Cash	$19,656,600	15
Eximbank financing	111,387,400	85
Total	131,044,000	100

It is expected that 65 percent of the Eximbank Financing will consist of a blend of an Eximbank direct loan and a loan of a private financial institution guaranteed by Eximbank ("Blended Eximbank Financing"). The remaining 35 percent of the Eximbank Financing will consist of a loan by a financial institution guaranteed by Eximbank.

a. Eximbank Charges

The financial charges on the Blended Eximbank Financing to be paid by CFE will be 8.75 percent per annum, payable semiannually. A commitment fee of 0.5 percent per annum will also be charged on the undisbursed portion of the Eximbank Financing.

b. Repayment Terms

CFE will repay the Eximbank Financing in 20 semiannual installments, beginning on August 15, 1981.

Attached is certain additional information on Eximbank activity in and economic data about the country involved in this transaction.

Sincerely,

H. K. ALLEN.●

ENI COMPANIES IN FOREFRONT IN ACHIEVING ENERGY INDEPENDENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. DICKS) is recognized for 5 minutes.

● Mr. DICKS. Mr. Speaker, the State of Washington has been in the forefront of efforts to achieve greater energy independence for our Nation. Prominent in this effort has been the leading independent firms marketing and managing oil and gas drilling programs. The ENI companies, based in Seattle, have raised more than a third of a billion dollars in support of the drilling activities of the domestic independent petroleum industry.

This highly successful venture was founded in 1971 by Victor Alhadeff—then only 24 years of age. Today ENI has marketing offices in 14 major cities, employs nearly 100 marketing representatives, and projects $1 billion in drilling fund sales during the 1980's.

A few weeks ago, Mr. Alhadeff was interviewed by the Houston Chronicle's oil editor. During the interview he made a number of cogent observations, among them a prediction of "a tremendous increase" in domestic drilling activities. Given the urgent need to expand our domestic oil and gas production, I would like to share Mr. Alhadeff's insights with my colleagues and ask unanimous consent that the interview be printed in the RECORD.

INTEREST IN OIL DRILLING INDUSTRY HIGH, FUND RAISING EXPERT SAYS

(By Albert T. Collins)

Victor D. Alhadeff, a specialist in raising private capital for investment in oil and natural gas drilling ventures, says institutonal investors, including pension funds and insurance companies, are displaying "a tremendous amount of interest" in getting into petroleum exploration.

Alhadeff, the Seattle-based chairman of ENI Companies, said industrial companies similarly are interested in exploration because they view a barrel of oil or a cubic foot of natural gas as "the purest hedge against inflation."

In Houston Tuesday for a review of ENI's current activities, Alhadeff said institutional investors and industrial companies feel they can "offset inflation through ownership of oil and gas reserves."

He pointed out that such insurance companies as Aetna, Prudential and INA are involved in oil and gas exploration.

Alhadeff founded ENI in 1971 when he was 24 years old to provide, he said, a link between the private investor and oil and gas explorers. ENI has since moved into exploration itself through ENI Exploration Co.

The company's goal is participating in 200 wells a year. In the first half, it participated in 155 new wells, including 87 which were completed as commercial producers, Alhadeff said at a Hyatt Regency Houston news briefing.

This year it expects to raise about $100 million for drilling ventures. It is participating with more than 74 different operating companies.

Alhadeff recalled that he did not oppose enactment of the controversial windfall profits tax last year at a time when the oil industry was generally against levying the tax on revenues of producers benefitting from the phased removal of federal price controls from domestic crude oil production.

He said he favored the tax's concept because he felt the industry could live with the tax if it knew the rules under which it would have to operate.

Domestic oil not subject to federal price controls is now selling at $40 to $42.50 a barrel, Alhadeff said, adding: "Net of the windfall profits tax, this figures to about $35 a barrel.

That is a strong incentive to drill for oil, he said, noting that ENI has committed about $40 million in its 1980 budget for oil exploration.

Another strong incentive, he said, is the Natural Gas Policy Act of 1978 which provides for an inflation escalator adding 3 to 4 percent to the price of gas.

Natural gas prices, he said, "are going up faster than inflation."

Alhadeff said "we tend to like deep gas wells," those wells which are drilled at least 15,000 feet, because the gas is not subject to federal price controls. Such gas is selling for as much as $6.50 to $6.75 a thousand cubic feet in some cases, he said.

The ENI chairman agrees with major oil company forecasts that domestic oil production will decline in the years ahead, but said he believes the rate of decline will be slowed because of the increased deep drilling for natural gas that is taking place.

"A vast amount of the energy remaining to be discovered in the United States," he predicted, "will come from deep wells."

Alhadeff said: "I have never seen as much money in Houston as I have seen today. Oil and gas deals are being sold rapidly. People are looking for pospects."

But the ENI executive said the quality of prospects is declining.

He said he believes it will be "wasted effort" if independent oilmen push a legal fight to have the windfall profits tax repealed.

"I have been asked to participate, but I have declined," he said. "It would be better to work for exemption for independent producers and royalty owners."

By the time the fight is ended, he said, prices will be freed from controls.

Acknowledging that the tax is "hurting" some small companies, royalty owners and family land-owners, Alhadeff said this poses "an improved situation for negotiating an exemption."

Alhadeff, predicting "a tremendous increase" in domestic drilling rig activity, said rigs capable of drilling to depths of 30,000 to 40,000 feet "will be a major area of growth" in the future.●

OPEN RULE REQUESTED FOR CONSIDERATION OF H.R. 5615

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. Boland) is recognized for 5 minutes.

● Mr. BOLAND Mr. Speaker, I have today sent a letter to Chairman Bolling requesting a modified open rule for floor consideration of H.R. 5615, the Intelligence Identities Protection Act.

The rule would make in order only those amendments which were offered during the Judiciary Committee's markup of the bill and another amendment, to be offered by Mr. Ashbrook concerning the culpability standard of section 501(c).●

TRADE FOLLOWS AID

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. Alexander) is recognized for 30 minutes.

● Mr. ALEXANDER. Mr. Speaker, the axiom "trade follows aid" is as well established as the trade routes over which goods are carried to the ports of the world. With U.S. Government participation of only $7 billion the international development banks have financed roughly $11 billion in export of U.S. goods and services from their inception through 1978.

Last night, Secretary of the Treasury G. William Miller addressed the Economic Club of New York during which he discussed "The International Financial Institutions: A Time To Recognize U.S. Self-interest." I was privileged to have been present on this occasion to hear the Secretary's remarks. Secretary Miller did an excellent job in reviewing this timeless subject. Inasmuch as the United States is attempting to reach out and expand exports, aspiring to become a trading nation again I commend the Secretary's remarks for the consideration of my colleagues interested in the subject of foreign trade.

The International Financial Institutions: A Time to Recognize U.S. Self-Interset

(Remarks by the Honorable G. William Miller, Secretary of the Treasury)

It's a pleasure to meet with this distinguished group to discuss a matter of central importance to U.S. interests—our participation in the international financial institutions, the International Monetary Fund, the World Bank Group and the Regional Development Banks.

The 1980s will be a period of great economic challenge and opportunity for this nation. If we meet the challenge in a forthright and courageous way, we can ascend to even higher levels of prosperity; if we do not, we will slip into a steady decline to economic mediocrity. The program announced by President Carter on August 28 will put us on a course to revitalize our economy through increased investment and higher productivity. We are also taking strong steps to increase U.S. competitiveness in world trade.

Equally important to achievement of our domestic economic objectives is action to assure maintenance of the expanding and open world economy to which our own economic health has become so closely tied. The dependence of the United States upon world trade and financial flows has become enormous. The share of U.S. economic output devoted to exports has almost doubled over the past decade, from 6.4 percent in 1970 to over 12 percent in the first half of 1980. Today, one out of every seven U.S. manufacturing jobs and one out of every three acres of U.S. farmland produce for export. Imported goods, ranging from raw materials to highly sophisticated capital equipment, are thoroughly enmeshed in all phases of U.S. economic activity. International investment has become a major factor in U.S. production, both at home and abroad. One of every three dollars of U S. corporate profit derives from the international activities of U.S. firms. The U.S. and international capital markets are highly integrated, and the dollar serves as the principal vehicle for trade and finance internationally as well as domestically.

The international financial institutions are central to the effort to maintain a strong and growing world economy. Yet at a time of acute need for leadership in support of this effort, this country has fallen behind in its financial support for the institutions. To allow this situation to persist would be shortsighted and gravely damaging to key U.S. interests—foreign policy, economic and humanitarian. This audience, perhaps as much as any single group that could be assembled in this country, should be attuned to the importance of a strong and cooperative world economy to the achievement of U.S. objectives at home and abroad

The world economy faces challenges of financing of huge payments deficits and promoting fundamental adjustment to the changed world energy situation which is at the heart of current global economic difficulties. The International Monetary Fund and the Banks are leading the international community's effort to meet these challenges. Whether the institutions succeed in restoring a strong and stable global economy has a critical and direct bearing on the economic well-being of the United States. The health of the world economy directly affects markets for the production of our farms and factories and for the employment of our labor. In difficult times, such as we are experiencing now, there is always a temptation to retrench, to cut back on our support for international organizations that seem to have no domestic constituency. This would be a tragic mistake. Our stake in a healthy world economy is large and growing larger.

Unfortunately, international tensions—political and economic—pose serious threats to the global economy. The disruption in Iran and Soviet aggression in Afghanistan make us acutely aware of the vulnerability of the world's major oil producing region to internal instability and external conflict. The turmoil in Southwest Asia has contributed to further uncertainty about oil supplies at a time when the world economy already faces extremely difficult problems. The dramatic oil price increases since the end of 1978 have caused a slow-down in world economic growth, a surge of inflation, and sharp deterioration in the balance of payments position of the oil-importing world. Today's world economic environment is likely to make it not only more difficult for nations to obtain needed financing, but also more difficult for them to make the economic adjustments required by changed external circumstances.

In more concrete terms:

Economic growth has slowed to a bare one percent in the industrial nations this year and to 4½–5 percent in the non-oil exporting developing countries. Unemployment is increasing in virtually all countries, compounding the difficulties of adjustment.

Inflation rates have surged to double-digit figures in many of the OECD nations and to an average of 35 to 40 percent in the developing world.

OPEC's current account surplus is rising sharply, to a range of $100–$120 billion, with a corresponding deteriorating in the current account position of the oil-importing world.

As growth slows, unemployment rises and balance of payments deficits widen, countries will inevitably face increasing internal pressures for restrictive trade actions, unfair or inappropriate exchange rate practices, or other "beggar-thy-neighbor" policies.

But such an inward turn, by this nation or other nations, is not a viable response to the world's economic problems. History has demonstrated forcefully that efforts by individual countries to deal with their internal problems through such devices cannot succeed and in the end only worsen the situation for all. The need is for a coordinated and cooperative international response to the problems of the world economy in order to assure an effective solution and to maintain the essential economic framework for cooperation across the broad range of international relations.

This need is recognized by the international community. The IMF and the development banks are at the forefront of efforts to carry out a coordinated approach. They are the natural vehicles to spearhead this collective effort. These institutions have the experience, the expertise, the proven track record. And they are moving rapidly to adapt their policies to meet the needs for balance of payments financing, for structural adjustment and for expanded energy production that will be imperative in the period ahead.

The so-called "recycling problem" has in general been handled satisfactorily to date. Markets have worked smoothly. But success so far is not a reason for complacency. Commercial banks are scrutinizing loan requests more carefully. Individual countries are beginning to encounter financing difficulties. Some—as yet only a few—appear to be approaching limits of borrowing capacity and are facing growing pressures to adjust their economies. Adjustment is of course needed. The question is whether it can be carried out smoothly and responsibly, in a manner that benefits both the economies concerned and the world economy generally.

Recourse to the IMF has accelerated sharply in 1980, and the Fund is positioning itself to meet potentially major demands for balance of payments financing and to assist countries in undertaking longer-term programs to revitalize their economies. An IMF quota increase is in process, and the Fund is exploring the possibility of borrowing additional funds from major surplus countries. Four other important steps have already been taken or are in process.

Countries will be able to borrow substantially more from the IMF, enabling them to sustain positive growth rates and maintain needed imports while adjustment measures take effect.

The period for implementing IMF adjustment programs is being lengthened, in recognition of the time required to accomplish the structural changes that are needed in many cases.

The maturities on some IMF credits have been lengthened, again in recognition of the structural nature of some of the economic changes required.

Greater emphasis is being placed on stimulation of productive investment and enhanced supply to enable countries to maintain living standards while basic adjustments—particularly in the energy area—are undertaken.

These efforts by the IMF closely parallel a major initiative being undertaken by the World Bank to promote structural adjustment in the developing nations. The Bank has initiated a new program of non-project lending in the form of sequential loan agreements over a medium-term period, 5 to 7 years. Disbursement of the loan segments, and decisions on subsequent loans in the sequence, are conditioned on various identified micro- and macro-economic policy changes by the borrowing country which are designed to produce "structural adjustment"—especially in response to the changing energy situation—in its economy. The United States strongly supports this Bank initiative as an important and necessary complement to its regular practice of project lending and its focus on energy development.

By cooperating closely in implementing these programs, the Fund and Bank can support efforts of their member countries to undertake difficult adjustments, which necessarily have a medium-term horizon, while simultaneously addressing their shorter-term external financing needs. At the same time, it is essential that flows of development assistance, both bilateral and through the development banks, be sustained to permit the development process to continue during this difficult period of adjustment.

Major steps are under way to strengthen the resources of both IMF and the development banks to enable them to carry out these tasks. It is in the national interest of the United States to participate fully in these efforts. Let me discuss them in turn.

INTERNATIONAL MONETARY FUND

The purpose of the International Monetary Fund is the maintenance of a strong and orderly international monetary system. It is a revolving fund, from which all participants benefit directly. It is not foreign aid. It is not commodity financing. It is unique, not like any other institution in which the United States participates.

The IMF has two basic functions. The first is general guidance over the operations and evolution of the international monetary system. The second, closely related, is provision of temporary financing in support of adjustment programs by IMF members facing balance of payments problems.

The IMF is a source of funds, provided by all member nations and available to all through assigned quotas, for supporting countries in their efforts to overcome balance of payments difficulties. A 50 percent overall expansion of quotas—from about SDR 39 billion to SDR 58 billion or, in dollar terms, from about $50 billion to $75 billion—has been agreed upon as a key element of the international community's response to increasing and potentially major world balance of payments problems. The IMF has periodically required increases in its resources, in response to rapid growth of world economic activity and international trade and financial transactions. Today, at a time when world payments imbalances and demands on the IMF are rising sharply, quotas represent barely four percent of world trade—as compared with 12 to 14 percent during the 1960s. To maintain a strong IMF, capable of encouraging needed adjustment and providing the temporary financing required to maintain monetary stability, we must assure that its resources are adequate to meet potential needs.

Quotas are key to IMF operations. They are its permanent resources. They determine the amounts of financing which countries can draw in time of need. They determine the distribution of SDR allocations. And they determine voting power. Because of these important advantages, nations compete for increases in IMF quota shares, rather than trying to reduce their shares as they do in many other international institutions. The United States has by far the largest IMF quota, the largest share of votes and the largest potential access to IMF resources. Over the years, the United States has drawn about $7½ billion in foreign currencies from the IMF, second only to drawings by the United Kingdom. Drawings of $3 billion equivalent of German marks and Japanese yen from the IMF were a major part of our November 1978 program to combat speculation against the dollar.

In support of the general IMF quota increase, the Administration has requested Congressional approval of a 50 percent increase in the U.S. quota, amounting to SDR 4.2 billion or about $5½ billion at current exchange rates. The proposed increase in the U.S. quota will maintain our share of total IMF quotas, intact at 21.5 percent, and thus will preserve our voting position and ability to influence key IMF decisions on the nature and operations of the international monetary system.

THE WORLD BANK AND THE REGIONAL DEVELOPMENT BANKS

The development banks have received strong, sustained U.S. support throughout their history. Active, undiminished support during the 1980s will be critical to fundamental U.S. economic, political and security interests.

Loan commitments by these banks represent by far the largest official source of external capital for the developing world, equivalent to $14 billion in 1979. These loans contribute in a major way to economic growth and stability in recipient developing countries. Economic growth in the developing countries is an important U.S. objective, both in terms of basic humanitarian concerns and as a source of strength to the global economy as a whole. The developing nations are today—at a time of a general slowdown—the main area of world economic growth, the world's engine of expansion. Growth generates increased imports—and non-oil developing countries now take 20 percent of total U.S. exports, 25 percent of our exports of manufactured goods, and support more than half a million U.S. manufacturing jobs. They are our most dynamic export market.

In providing policy advice, preparing development projects based upon objective economic criteria, and serving as a financial catalyst, the development banks are an important and respected force for the development of an efficient, responsive international market economy. They play a key role in the transfer of technology and in "human capital formation," which represent perhaps the greatest contribution to long-term development.

The Banks also provide an important forum for cooperative efforts among developed and developing countries to respond rapidly to critical world needs. Most recently, this has produced initiatives in two key product areas and, as I noted earlier, in the area of structural adjustment:

The United States has actively supported a shift in the allocation of lending by the development banks away from infrastructure projects toward agricultural and rural development, and subsequently toward education, health, and population projects, as the banks increasingly have adopted a basic human needs strategy to target project benefits directly for the poor. The World Bank is far and away the largest single source of external funding for agricultural and food production, providing over 40 percent of all official commitments to agriculture. Over the five years ending in 1979, total lending commitments for these projects equaled $11.6 billion, representing 33 percent of total lending. The World Bank expects to finance projects which will contribute on the order of one-fifth of the increase in annual food production in its developing member countries in the 1980s.

With strong support from the United States, the World Bank is moving to intensify its programs for energy exploration and development. It has already programmed financing for oil and gas projects which, combined with other official and private financing, will total more than $33 billion over the next five years. This effort should ultimately yield an additional 2.5 million barrels of oil equivalent a day. By increasing world energy supplies, this will help reduce pressures on world oil prices, as well as deal directly with one of the most critical bottlenecks to development.

Thus the international financial institutions, with strong U.S. leadership, are moving forcefully in directions that are essential to maintenance of a strong and stable world economy and are directly in the U.S. interest. But there is a potentially critical weakness in this approach. And that is the fact that the United States, whose full participation above all is needed for the institutions to carry out their tasks, is falling seriously behind in providing financial support.

U.S. arrearages to the multilateral development banks have been increasing in recent years and now exceed $1.3 billion. We are the only major contributor in this position. We are behind because we have not been able to obtain full and timely Congressional approval of our requests. For example, legislation authorizing U.S. participation in providing additional funds to the Inter-American Development Bank was needed to bring into effect the agreement by all of the donors to provide funding. Although such legislation was submitted to the Congress in January 1979, there were lengthy delays and the bill was not signed into law until June 1980. As a direct result of these U.S. delays, the Bank was forced to suspend all new lending operations. That suspension affected every developing country in this hemisphere, including such key nations as Brazil and Mexico, and posed particularly severe problems for the smaller countries in Central America and the Caribbean.

Similar delays in passing authorizing legislation for the Asian Development Fund halted concessional lending by that institution to some of the poorest countries in the world, such as Pakistan, Nepal and Bangladesh, and interrupted lending programs for key U.S. allies such as Thailand and the

Philippines. Indeed, at the very time the West was trying to respond to the Russian invasion of Afghanistan, all ADF lending to Pakistan was being held up by our legislative delays, effectively blocking more than $250 million that was in the pipeline. As of June 30, 1980, the mid-point of its fiscal year, the Asian Development Fund had been able to make new loan commitments of less than eight percent of its program for the entire year.

Legislative delays in our contribution to the sixth replenishment of the International Development Association (the World Bank's concessional lending window) are now preventing the entire replenishment agreement from taking effect.

The Congress is now considering major legislation to increase the U.S. quota in the IMF, to authorize U.S. participation in the sixth replenishment of IDA, and to fund this year's contributions to the multilateral development banks. Failure by the United States to participate fully and promptly in these funding programs would not only jeopardize their lending operations, it would disrupt our own strategy to deal with the most serious world economic crisis of the post-World War II period.

The fact is that this country has come to take for granted a world economy hospitable to its own interests. To be sure, there has been economic tension and instability in the past. Yet, because it has been handled with relative ease and efficiency, we have tended to assume that stability and order were the natural state of affairs. We have allowed our support for the institutions—designed to assure that stability and order—to erode.

We can no longer afford this assumption and neglect. We must recognize our own strong self-interest in actively providing needed financial support to the institutions as they confront the problems of the 1980s.

In doing so, we should bear in mind two additional points.

First, participation in these institutions is of minimal cost to the United States. The monetary character of our transactions with the IMF assures that, for every dollar we transfer to the IMF under our quota, we receive an automatically available, interest bearing reserve claim on which we can draw foreign exchange in case of balance of payments need. Consequently, U.S. transfers to the IMF under our quota have no net effect on budget expenditures or the Federal budget deficit.

U.S. payments to the development banks likewise have little budgetary cost. Financial responsibility for the banks is shared broadly with many other countries, developed and developing alike, and the banks raise the largest part of their resources through the private capital markets. The cost-sharing principle and reliance on private markets together allow major development bank lending activity at very small cost to the taxpayer. The World Bank, for example, lends about $50 for each dollar paid in by the United States. For the banks as a whole, lending from their inception through 1978 financed roughly $11 billion in exports of U.S. goods and services, against total U.S. government payments to the banks of only $7 billion. These purchases of U.S. goods and services have major beneficial effects on U.S. employment and profits—yielding GNP growth of $3 for each dollar we pay to the banks—and this in turn leads to increased tax receipts. Ultimately, we believe, the net budgetary impact of this process has been minimal.

Second, our participation in the institutions provides major leverage for obtaining financing by other countries and assuring effective burden-sharing. The United States over the years has consistently sought a more equitable sharing of international assistance provided through the development banks as a fair assumption of increased responsibilities by other nations in response to today's more pluralistic global economy. This effort has been highly successful, and the U.S. share is declining in every development bank in which we have participated since the 1960s.

For example, we have been able to reduce our share in the World Bank from 35 percent in 1945 to 22 percent today, and our share of IDA from 43 percent at its inception in 1960 to 27 percent currently. But we must be careful not to travel this path too far. The United States must continue to play a substantial role in the banks, not only because of the broad benefits we derive and in order to retain our influence, but also as a measure of cooperation. It is axiomatic that if we do not support other nations in achieving their legitimate economic objectives, we cannot expect their cooperation in achieving ours.

CONCLUSION

The international economy is in a critically difficult period, easily as dangerous as any since the Second World War. Success in overcoming global difficulties is essential to success in dealing with the problems confronting our own nation.

The international financial institutions, with strong U.S. support and leadership, are positioned to guide the international effort. But a potentially major threat to this effort is our own failure—a failure to recognize our own self-interest—to provide full and timely financial support for the institutions. This must be corrected. The world community has charged the institutions with enormous tasks, They need the resources to do the job.

The costs to us are minimal. The potential benefits are enormous.

These issues and concerns are not esoteric debating points to be thrashed out solely by government officials in Washington. Leaders of the business and financial community in this country—many of whom are here tonight—must assume part of the responsibility for making the American people aware of the benefits of strong U.S. leadership in the international financial institutions. Once the facts are known, then I am confident that the American people and the political process will respond with the necessary suppport that is so clearly in our national self-interest.●

DISASTROUS CUTS IN EMIGRATION RATE FOR SOVIET JEWRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

● Mr. WAXMAN. Mr. Speaker, on the eve of the Madrid Conference, which is to review the compliance of all the signers of the 1975 Helsinki Accords, it is increasingly evident that the tragedy of the repression of Soviet Jewry is being renewed with even greater intensity by the Soviet Government. In a policy apparently implemented last summer—before the invasion of Afghanistan and the suspension of SALT—the U.S.S.R. began cutting in half the number of Jews permitted to emigrate. This preceded the wholesale "cleaning" of Moscow of refuseniks, dissidents, and other undesirables in preparation for the Olympics. These terribly restrictive emigration quotas are being imposed despite the solemn commitments the Soviets made to its own citizens and the world at Helsinki, despite the importance of this issue to the United States, and despite the growing desire of Soviet Jews to exercise the simple human right of freedom of emigration.

The cold statistics speak for themselves. In January 1979, 3,722 Soviet Jews arrived in Vienna; a year later, only 2,803 came—a decrease of 25 percent. During last May, only 1,976 arrived—a 53-percent reduction from the 4,613 of May 1979. In the meantime, over 12,000 invitations arrive each month to Soviet Jews to join families in Israel. Because of Soviet policy, they remain unanswered. And in the key Ukrainian cities of Kiev, Odessa, and Kharkov, the processing of visa applications has ceased completely.

These actions are the most serious threat to Soviet Jewry since large-scale emigration began in 1971. It exceeds even the dark days of 1975, when the rate of emigration was slashed 35 percent. It is doubtful that more than 20,000 Jews will be able to leave this year. These reductions coincide with a crude campaign of anti-Semitism being waged in the media, the arts, and academia. Soviet Jews are being singled out and punished for the failures and frustrations of the regime.

The Jews of the Soviet Union know that the new year, which begins with Rosh Hashanah next week, promises to be a bitter one for their hopes and dreams of finding freedom in Israel. We must not abandon them in these days of renewal and rededication.

Following for the benefit of my colleagues are data prepared by the National Conference on Soviet Jewry, and a recent article on these developments.

ARRIVALS IN VIENNA

	1979	1980	Decrease (percent)
January	3,722	2,803	24.7
February	3,837	3,023	21.2
March	4,418	3,049	31.0
April	4,296	2,469	42.5
May	4,163	1,976	52.5

Jewish emigration from the U.S.S.R.—annual statistics

October 1968–70	4,235
1971	13,022
1972	31,681
1973	34,733
1974	20,628
1975	13,221
1976	14,261
1977	16,736
1978	28,864
1979	51,320

From October 1968 to December 1979, 228,701 persons left the Soviet Union with Israeli visas. Approximately 153,000 went to Israel. In that period 598,100 Israeli invitations were sent to Soviet Jews.

City	Jewish population (January 1970 census)	Emigrated (1970 to 1979)	
		Total	Percent
Odessa	117,000	23,840	20.4
Kiev	152,000	21,590	14.2
Kharkov	76,490	3,730	4.9
Lvov	27,720	7,080	25.5
Moscow	251,250	12,910	5,1
Leningrad	162,590	11,590	7.1
Minsk	47,060	4,370	9.3
Kishinev	49,9[illegible]0	13,180	26.4

[From the New York Times, July 11, 1980]

EMIGRATION OF SOVIET JEWS HAS SLOWED TO A TRICKLE

(By Craig R. Whitney)

Moscow, July 10.—Emigration of Soviet Jews, which reached a record of more than

51,000 in 1979, has fallen steadily this year and has slowed to a trickle this month. Western diplomats tend to attribute the decline to the fact that Soviet visa officials are preoccupied with the Moscow Olympics.

These diplomats, and activists in the emigration movement, believe there are several other reasons for the decline, including Soviet retaliation against the United States for cutting back this year on trade, an issue Congress linked to emigration in 1974.

But there are also signs of official concern about the economic consequences of the emigration, which has seen nearly 240,000 Jews, most of them well-educated people from urban areas, leave the country in the last decade.

ANTI-SEMITISM TONED DOWN

"Last year there was open anti-Semitism in the official press coverage of the Middle East," said an activist who has been trying to emigrate for six years. "This year it's been toned down a little. They may be trying to get people to stay now."

In October, the peak month last year, 4,867 people were issued exit visas for Israel. By January, after the sharp American reaction to the Soviet intervention in Afghanistan, the monthly total had dropped to 3,271, by May to 2,100 and by June to about 1,500, according to officials involved.

Now, with Soviet visa offices in Moscow, Leningrad, Kiev, Minsk and Tallinn devoted to processing visitors to Olympic events in those cities beginning this month, the flow of emigrants from these places has been almost cut off.

PEOPLE STILL SHOWING UP

"It hasn't stopped entirely," a Western diplomat said, "and people are still showing up in Moscow with exit permission from places like Moldavia and Azerbaijan and outlying cities in Russia not affected by the Olympics."

He predicted that the total might be well below 1,000 in July, but said he could only speculate about whether Soviet authorities would resume granting more exit visas after the Olympic Games end on Aug. 3.

"The people showing up here now can't even get hotel rooms in Moscow while they complete their paperwork, because all hotels are reserved for the Olympics," a diplomat said. "So many of them are living with their families in the railroad station waiting rooms."

According to information available here, about 14,000 Jews have received permission to emigrate so far this year.

While this is far fewer than last year's total, which was a record, it is almost as many as the 16,737 who were allowed to leave in 1977 and more than the 13,221 who left in 1975. The previous record was set in 1973, also a time of official Soviet expectations of trade concessions from the United States. A total of 34,733 Jews left that year.

In 1974 Congress enacted legislation tying improved trade terms to increased emigration. This year the Carter Administration said it would make no effort to cut the link and sharply curtailed Soviet trade after Moscow's Afghanistan moves last December.

ARMENIANS ALLOWED TO GO

That may be one of the reasons why the rate of Jewish emigration has been sharply reduced, though paradoxically the authorities are allowing Armenians to emigrate to the United States this year in record numbers. As many as 7,000 may leave by December, according to the United States Embassy here.

Soviet Jews say there are other explanations for the drop.

The Soviet visa offices in the Ukraine, from where a large part of last year's emigrants came, have imposed strict regulations on applicants this year. No one who does not have an authentic invitation from a close relative in Israel is allowed to apply for a visa, sources in the emigration movement say. In the past, Soviet authorities accepted invitations without examining them closely.

The restrictions are said to be most severe in Kiev, the capital of the Ukraine, where visa offices will only accept invitations from a parent or child of the applicant. Ten thousand Jews left Kiev last year, and most of them went to the United States instead of Israel.

Some Jews say the authorities may be beginning to realize that harsh anti-Israeli propaganda, with its overtones of anti-Semitism, was one reason for the surge in emigration, and that they are taking tentative steps to tone it down.

A few days ago a woman who was about to emigrate got an appointment with Vladimir V. Sazanov, an official of the Communist Party Central Committee in Moscow, to present a hefty collection of quotations from Soviet books, magazines and newspapers that she judged anti-Semitic.

Instead of rejecting her claim, Mr. Sazanov reportedly agreed with the woman. "You are not entirely wrong," he said, when she charged that the writers Valentin Pikul, Vladimir Begun and Yevgeny Yevseyev had been particularly offensive in their works. "We try, but we cannot always control these things," he added.

"On the Brink," a novel by Mr. Pikul, received several sharply negative reviews in the official Soviet press last year for what were called its distortions of history. It portrays the last days of the Romanov dynasty in the clutches of a conspiracy of Jewish capitalist millionaires and Rasputin, the mystic and charlatan faith healer.

"There are a few signs of a change of emphasis at high levels," said Viktor Brailovsky, editor of an underground journal called Jews in the U.S.S.R. "But how long it will last is unclear."

JEWS GAIN LENIN PRIZES

This spring's crop of Lenin Prizes, prestigious state awards, included a surprising number of Jewish names, including the popular comedian and actor Arkady Raikin.

In addition, a Yiddish musical theater founded in 1978 by the composer Yuri Sherling was finally given permission this spring to settle in Moscow after two years in the remote Jewish Autonomous Region of Birobidzhan in the Soviet Far East. But it was closed last week because its auditorium, an abandoned movie theater off Taganka Square in Moscow, did not meet fire regulations.

Mr. Brailovsky was arrested last spring in an investigation of his journal. But since then, he said, the authorities have left him alone and, unlike many other dissidents, he has not been ordered to leave Moscow or shunt foreign visitors when the Olympic Games begin on July 19.

EXODUS FROM ODESSA CITED

Friends tell him that in Odessa, a Ukrainian city from which emigration has almost ceased because of new and stricter regulations, people are being told that the Jewish exodus was harming the well-being of the city as a whole.

"If the West can use these people," the message goes, "so should we." Other versions of what is being said are more chilling. "We shouldn't let the jews go West," another story has it. "In 20 years they'll be so rich they'll come back and take over."

Only 1,811,000 people identified themselves as Jews in the 1979 Soviet census, down from 2.15 million in 1970.

Arye Dulzin, chairman of the World Zionist Organization, said in New York recently that the true number might be closer to three million.●

BASIC LAW: JERUSALEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 15 minutes.

● Mr. ADDABBO. Mr. Speaker, as millions of Jewish people throughout the world prepare to celebrate the holy day of Rosh Hashanah, the Jewish New Year, I would like to take this opportunity and call to the attention of my colleagues, Jerusalem, the capital of the modern State of Israel.

Over 3,000 years old, Jerusalem is mentioned in the daily liturgy, and throughout the centuries of Jewish dispersion it was the symbol of the nation's glorious past, as well as of hope for the ultimate restoration of the national Jewish homeland. On April 1, 1980 the Egyptian People's Assembly issued a statement determining that East Jerusalem was sovereign Arab territory, the Egyptian parliament calling for the establishment of the city as the seat of the Palestinian autonomous authority.

I strongly protest such a decision, for I believe the sovereignty of the State of Israel must be maintained. I also am in the opinion that Jerusalem must continue to remain as an open one, open to all peoples who wish to practice the religion of their choice, and no action by the United States in seeking a lasting peace in the Middle East should be allowed to compromise that fact.

I recently received a very informative and interesting paper from the Embassy of Israel in regards to this most pressing question and I would like to share it with my colleagues.

BASIC LAW: JERUSALEM

1. From time to time, forces hostile to Israel bring up the "Jerusalem question" in international forums, in an attempt to undermine the city's status as the Capital of Israel and as the living heart of the Jewish people as a whole. The latest furor over Jersalem was raised, at the U.N. and elsewhere, on the initiative of the Arab states, aided by some of the countries of Europe and the "Third World;" it was not Israel that initiated this move. It is those countries, and not Israel, that are responsible both for the timing and for the strident to one of this most recent assault on the integrity of Jerusalem.

2. Originally established by King David as the capital of the United Jewish Kingdom 3,000 years ago, Jerusalem has known repeated cycles of glory, conquest, destruction and exile, followed each time by return, rebuilding and Jewish renaissance.

3. Upon the creation of the State of Israel in 1948, Transjordan (now Jordan) unleashed its army in a ferocious attack upon Jerusalem. Despite U.N. condemnations and calls for at least a local cease-fire to protect Jerusalem's holy places, the beleaguered and besieged Jewish population, fighting desperately for survival, narrowly escaped annihilation by indiscriminate shelling and round-the-clock armored and infantry attacks—while the world stood by without lifting a finger to help save the city so sacred to all religions. Only the tenacity and heavy sacrifices of Jersualem's 100,000 Jews ultimately

ensured the survival of most of the town, leaving but the walled Old City and some of its surroundings in the attackers' hands. For 19 years, the Jordanian army desecrated the Old City's precious synagogues, vandalized its ancient Jewish quarter and used tombstones from the nearby Jewish cemetery to build latrines. Under the armistice agreement, Jordan undertook to allow access to worship at Judaism's holiest shrine, the Western Wall. Not for one day was that commitment ever honored.

4. Jerusalem became the capital of the modern State of Israel when the Knesset, its democratically elected parilament, convened there on Feb. 15, 1949. On Dec. 13 of that year the then Prime Minister, David Ben-Gurion, declared: "The State of Israel has had in the past, and will have in the future, only one capital, as we believe, till the end of time."

5. On the morning of June 5, 1967, as Israel faced renewed aggression from Egypt and Syria, the late Prime Minister Eshkol sent an urgent and solemn message to King Hussein, calling on Jordan to desist from joining the battle and thereby avoid any action against it by the Israel Defense Forces. Alas, the king chose to spurn that appeal. Having joined in a military pact with Egypt, he went to war against Israel. Jordanian artillery and armor opened up a violent artillery barrage against the Israeli sector of Jerusalem and along the whole border with Israel. In the battles that followed, while Israel was fighting for its very existence, the Jordanian aggressors were defeated and withdrew across the Jordan River.

6. The Arab and Islamic campaign against Israel on the subject of Jerusalem began back in 1974, at the Conference of Islamic States, and was given renewed impetus, on the initiative of the Arab Rejectionist States, after the signing of the Camp David Agreements in September, 1978.

7. The subject of Jerusalem came up for discussion at Camp David. When it transpired that agreement could not be reached between the parties, each side presented its position on the subject in a separate letter appended to the Agreements. It was understood by both sides, together with the United States, that priority be given, in the peace negotiations, to the subject of autonomy for the inhabitants of Judea-Samaria and the Gaza district.

8. It was Egypt that first deviated from this understanding. As far back as March 21, 1980, in an interview with NBC, President Sadat minimized the sanctity of Jerusalem for the Jews, in comparison with its sanctity for the Moslems, citing the fact that there are 800 million Moslems but only 13 million Jews. (In moslem religious law and tradition, Jerusalem actually ranks third in holiness after Mecca and Medina—a fact dramatized by President Sadat himself when, on his visit to Jerusalem in November, 1977, he attended prayer services at the El-Aqsa Mosque and, of course, together with the other Moslem worshippers in the mosque, turned his face southward—towards Mecca, which is the center of Islam.)

9. A move of particular gravity was made by Egypt on April 1, 1980, when Egypt's People's Assembly (parliament) issued a statement determining that East Jerusalem was sovereign Arab territory, that it was "an integral part of the West Bank, which had been occupied by armed force." All the steps that had been taken in the city by Israel since the Six-Day War were proclaimed "illegal, null and void and non-binding." The Egyptian parliament called for the establishment of Jerusalem as the seat of the Palestinian autonomous authority.

10. No one outside of Israel raised any objections to this flagrant, unprovoked interference in Israel's internal affairs. Those who stood by in silence when the Egyptian parliament declared Jerusalem to be Arab have forfeited the right to express consternation, now, over the declaration by Israel's Knesset that Jerusalem is Jewish and Israeli.

11. The fact is that no country in the world could fail to react in the strongest terms to so prolonged and persistent a series of provocative interventions in its affairs as has taken place in this instance. Israel was finally compelled to rise to the challenge and to act to protect and clarify its rights. This it did in the form of the Knesset's "Basic Law: Jerusalem," which originated as a Private Member's Bill submitted to the House for the first time on May 14, 1980—in the wake of, and as a reaction to, the anti-Jerusalem campaign that had been mounted in the preceding months and some of whose elements have here been detailed.

12. The wide support given this law by the representatives of the various parties in Israel, in the Coalition as well as the Opposition, underlines the unity of view and of purpose prevailing in this country concerning the fact of Jerusalem's being the eternal capital of Israel—and, in the wider sense, of the entire Jewish people. This fact is deeply rooted in the Jewish consciousness and in the history, culture and religion of the people of Israel.

13. The people and the Government of Israel are keenly aware of the religious meaning of Jerusalem to the followers of Christianity and Islam, whose rights, interests and free access will continue to be meticulously guarded by the Government of Israel, in the future as in the past. But the nature of their attachment to the city is different from that of the Jews. This difference was defined with admirable clarity and precision in an editorial in the London Daily Telegraph on June 25, 1967, shortly after the Six-Day War:

"To Christians and Moslems, Jerusalem is a place where supremely important things happened long ago. To them, therefore, it is an object of pilgrimage. To Jews on the other hand, it is the living centre of their faith, or, if they have no faith, of their identity as a people. To them, it is a place to be possessed, today and forever."

"There is no essential incompatibility between these differing needs. Jewish political possession of Jerusalem and absolute freedom of access to it by Christians and Moslems—these have always been twin declared principles of the State of Israel."

14. Jerusalem's international standing as a holy city derives essentially from its history and character, as a Jewish city—the city in which Judaism, as a religion and a civilization, and the Jewish people, as a nation, came into their own; the city, moreover, in which, for the last 100 years and more, the Jews have constituted a clear majority of the population. It is indeed unfortunate that so many governments still fail to recognize this reality. But that does not make it any less a reality, molded as it has been by thousands of years of history. Certainly, any attempt to strike at this unalterable reality is to deal a blow to the peace process and to Israel itself. Jerusalem is the very symbol of the sovereignty of Israel and a central element in the self-determination of the Jewish people as a nation.

15. From the judicial point of view, there is virtually nothing new in this law. It simply reaffirms the existing situation as established either by previous laws or by accepted norms:

(a) The first paragraph of the law reaffirms the long established fact that Jerusalem, complete and united, is the capital of Israel.

(b) The second paragraph states that Jerusalem is the seat of the President of the State, of the Knesset, of the Government and of the Supreme Court—as already laid down in the specific laws relating to these official bodies.

(c) The third paragraph, dealing with the inviolability of the holy places of all religions and free access to them, repeats what is stated in the Protection of the Holy Places Law, 1967, which, as is universally known, has been fully and meticulously observed.

(d) The fourth paragraph deals with the development of the city and the resources to be allocated for this purpose.

16. The real significance of this law lies in the political-declarative realm—in other words, in it serving as a reply to those who would question or undermine Israel's sovereignty over the capital city. It should be understood as a restatement of basic facts concerning Jerusalem and as an official reaffirmation of Israel's rights, in the wake of the Arab-Moslem campaign to negate those facts—and those rights. In the light of the fact that Jerusalem is and has been Israel's capital, one must understand that the recent legislation merely serves to confirm the prevailing situation. For those who question Israel's rights in this regard, the law will serve to clarify Israel's position.●

HAROLD RUNNELS—A NICE GUY

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. PERKINS. Mr. Speaker, one of the people in the House it was always a pleasure to talk with, about Congress or anything else, was Harold Runnels. He was a proverbial "nice guy," as the expression goes, and we need more of them, not fewer, in our midst.

But aside from that, Congressman Runnels was a well-informed man, informed about the issues that concerned his State and the Nation, and an active mover with legislation directly reflecting his constituents' needs.

In addition to that, he was a farmer, and I really think that farming was what he liked more than anything else. We used to talk about agriculture often, especially livestock, and once we traded some bulls. I can attest to the quality of his livestock, and I think—if I know how farming people value opinions—that Harold would appreciate knowing I chose to say, on the floor, that he was a quality person, and a quality farmer.

He had served five terms when he died at the relatively early age of 56, and we are going to think of him often here, and we are going to miss him very much.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. BURGENER (at the request of Mr. RHODES), for today, and September 8, 1980, on account of official business.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DINGELL) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Neal, for 15 minutes, today.

Mr. Dicks, for 5 minutes, today.

Mr. Boland, for 5 minutes, today.

Mr. Alexander, for 30 minutes, today.

Mr. Waxman, for 5 minutes, today.

Mr. Eckhardt, for 5 minutes, today.

Mr. Addabbo, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Florio, and to include extraneous material, on the bill, H.R. 7235, in the Committee of the Whole today.

(The following Members (at the request of Mr. Kramer) and to include extraneous matter:)

Mr. Coleman.

Mr. Hillis.

Mr. Broyhill.

Mr. Lewis.

Mr. Derwinski in two instances.

Mr. Dornan in four instances.

Mr. Young of Florida.

Mr. Vander Jagt.

Mr. Ashbrook in two instances.

Mr. Rousselot.

(The following Members (at the request of Mr. Dingell) and to include extraneous matter:)

Mr. Mineta.

Mr. Weiss.

Mr. Heftel.

Mr. Early.

Mr. Bingham.

Ms. Oakar.

Mr. McDonald.

Mr. Dellums.

Mr. Aspin.

Mr. Barnes.

Mr. Stark.

Mr. Obey in five instances.

Mr. Harkin.

ADJOURNMENT

Mr. DINGELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 25 minutes p.m.) the House adjourned until Monday, September 8, 1980, at 12 o'clock noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees, and delegations traveling under an authorization from the Speaker, concerning the foreign currencies and U.S. dollars utilized by them during the second quarter of calendar year 1980 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1980

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Bill Alexander	4/8	4/11	Japan		368.00						368.00
	4/11	4/15	China (PRC)		(3)		1,964.70				1,964.70
Hon William Lehman	4/3	4/5	France		188.00						188.06
	4/5	4/8	Egypt		225.00						225.00
	4/8	4/11	Israel		245.00						245.04
	4/11	4/12	Italy		75.00						75.00
	4/12	4/14	Tunisia		246.00						246.00
	4/14	4/15	Spain		96.00						96.00
Military transportation							3,228.00				3,228.00
Hon. Clarence Long	5/25	5/26	Switzerland		192.00		2,036.00				2,228.00
Hon. Matthew McHugh	4/3	4/5	France		188.00						188.00
	4/5	4/8	Egypt		225.00						225.00
	4/8	4/12	Israel		320.00						320.00
	4/12	4/14	Tunisia		246.00						246.00
	4/14	4/15	Spain		96.00						96.00
Military transportation							3,228.00				3,228.00
Hon. Sidney Yates	5/23	5/24	Italy		172.00						172.00
	5/24	5/28	Israel		195.32						195.32
Military transportation							5,601.60				5,601.60
Hon. C. W. Bill Young	5/25	5/26	Switzerland		192.00						192.00
Military transportation							2,036.00				2,036.00
Jimmy R. Fairchild	4/3	4/5	France		188.00						188.00
	4/5	4/8	Egypt		225.00						225.00
	4/8	4/12	Israel		320.00						320.00
	4/12	4/14	Tunisia		246.00						246.00
	4/14	4/15	Spain		96.00						96.00
Military transportation							3,228.00				3,228.00
Robert S. Kripowicz	4/5	4/10	Brazil		414.00		90.97				504.97
	4/10	4/12	South Africa		150.00						150.00
	4/12	4/14	United Kingdom		351.00		15.84				366.80
Commercial transportation							3,299.46				3,299.40
Edwin F. Powers	4/3	4/5	France		188.00						188.00
	4/5	4/8	Egypt		225.00						225.00
	4/8	4/12	Israel		320.00						320.00
	4/12	4/14	Tunisia		246.00						246.00
	4/14	4/15	Spain		96.00						96.00
Military transportation							3,228.00				3,228.00
Total					6,334.32		27,956,57				34,290.89
Surveys and Investigations staff:											
George T. Prosser	4/12	4/15	United Kingdom		354.75						
	4/15	4/25	Germany		804.75						
	4/25	4/29	France		399.50						
	4/29	5/2	Spain		225.00		2,471.87				4,255.87
Ralph A. Regalbuto, Jr	4/12	4/15	United Kingdom		354.75						
	4/15	4/25	Germany		806.75						
	4/25	4/29	France		376.00		2,465.45				4,002.95
Robert J. Reitwiesner	4/12	4/17	United Kingdom		446.25						
	4/11	4/12									
	4/17	4/25	Germany		736.25						
	4/25	4/29	France		399.50						
	4/29	5/2	Spain		225.00		2,624.50				4,431.50
Leonard M. Walters	4/12	4/17	United Kingdom		417.25						
	4/11	4/12									
	4/17	4/25	Germany		754.25						
	4/25	4/29	France		376.00		2,628.35				4,175.85
Total					6,676.00		10,190.17				16,866.17

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] None claimed.

Aug. 29, 1980.

JAMIE L. WHITTEN, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1980

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S currency [3]
Nancy Kay	5/13	5/14	Canada	$177.52	150.00		160.00				310.00
Michael Telson	6/22	6/25	United Kingdom	£213.78	504.00	£493	1,163.00				1,667.00
Total					654.00		1,323.00				1,977.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Aug. 20, 1980.

ROBERT N. GIAIMO, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1980

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Andrew Maguire	4/3	4/4	Sudan	0	75.00					0	75.00
	4/4	4/5	Somalia	464.20	75.00					464.20	75.00
	4/5	4/6	Oman	73.870	216.00					73.870	216.00
	4/7	4/9	Pakistan	1504.80	[3] 152.00					1504.80	[3] 152.00
	4/9	4/10	Saudi Arabia	506.20	152.00					506.20	152.00
	4/10	4/11	Kuwait	41/400	154.00					41/400	154.00
	4/11	4/13	Turkey	11,055	150.00					11,055	150.00
Transportation, Department of the Air Force.							5,404.36				5,404.36
Hon. Elliott Levitas	4/10	4/11	Belgium	6,250	206.00	NKR2,655	527.41				733.41
Total					1,180.00		5,931.77				7,111.77

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] $76 overpayment returned to U.S. Treasury; this figure reflects only what should have been received.

July 31, 1980.

JACK BROOKS, Chairman.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1980

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S, currency[2]
Hon. Lester L. Wolff	5/23	5/24	Italy	144,800	172.00					144,800	172.00
	5/24	5/28	Israel	14,496	320.00					14,496	320.00
	5/28	5/31	India	1,741.50	225.00					1,741.50	225.00
	5/31	6/3	Pakistan	2,257.20	228.00					2,257.20	228.00
Hon. Leo C. Zeferetti	5/23	5/25	Italy	289,280	344.00		1,196.00			289,280	1,540.00
Hon. James H. Scheuer	5/23	5/24	Italy	144,800	172.00					144,800	172.00
	5/24	5/28	Israel	14,496	320.00					14,496	320.00
	5/28	5/30	India	1,741.50	225.00		1,370.00			1,741.50	1,595.00
Hon. Robert K. Dornan	5/23	5/24	Italy	144,800	172,00					144,800	172.00
	5/24	5/28	Israel	14,496	320.00		1,160.40			14,496	1,480.40
Patrick L. Carpentier	5/23	5/24	Italy	144,800	172.00					144,800	172.00
	5/24	5/28	Israel	14,496	320.00					14,496	320.00
	5/28	5/31	India	1,741.50	225.00					1,741.50	225.00
	5/31	6/3	Pakistan	2,257.20	228.00					2,257.20	228.00
Roscoe B. Starek III	5/23	5/24	Italy	144.800	172.00					144,800	172.00
	5/24	5/28	Israel	14,496	320.00					14,496	320.00
	5/28	5/31	India	1,741.50	225.00					1,741.50	225.00
	5/31	6/3	Pakistan	2,257.20	228.00					2,257.20	228.00
C. Robert Pfeifle	5/23	5/24	Italy	144,800	172.00					144,800	172.00
	5/24	5/28	Israel	14,496	320.00					14,496	320.00
	5/28	5/31	India	1,741.50	225.00					1,741.50	225.00
	5/31	6/3	Pakistan	2,257.20	228.00					2,257.20	228.00
Total					5,333.00		3,726.40				9,059.40

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Note: Military transportation costs totaled $25,756.71. Local transportation costs incurred in New Delhi totaled $446.62.

July 31, 1980.

LESTER L. WOLFF, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ITALY, ISRAEL, INDIA AND PAKISTAN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1980

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Edward J. Palmer	5/23	5/24	Italy	144, 800	172.00					144, 800	172.00
	5/24	5/28	Israel	14, 496	320.00					14, 496	320.00
	5/28	5/31	India	1, 741. 50	225.00					1, 741. 50	225.00
	5/31	6/3	Pakistan	2, 257. 20	228.00					2, 257. 20	228.00
Jon D. Holstine	5/23	5/24	Italy	144, 800	172.00					144, 800	172.00
	5/24	5/28	Israel	14, 496	320.00					14, 496	320.00
	5/28	5/31	India	1, 741. 50	225.00					1, 741. 50	225.00
	5/31	6/3	Pakistan	2, 257. 20	228.00					2, 257. 20	228.00
Susan S. Hardesty	5/23	5/24	Italy	144, 800	172.00					144, 800	172.00
	5/24	5/28	Israel	14, 496	320.00					14, 496	320.00
	5/28	5/31	India	1, 741. 50	225.00					1, 741. 50	225.00
	5/31	6/3	Pakistan	2, 257. 20	228.00					2, 257. 20	228.00
James DeChaine	5/23	5/24	Italy	144, 800	172.00					144, 800	172.00
	5/24	5/28	Israel	14, 496	320.00					14, 496	320.00
	5/28	5/31	India	1, 741. 50	225.00					1, 741. 50	225.00
	5/31	6/3	Pakistan	2, 257. 20	228.00					2, 257. 20	228.00
Benek Geizhals	5/23	5/24	Italy	144, 800	172.00					144, 800	172.00
	5/24	6/1	Israel	14, 496	320.00					14, 496	320.00
Total					4, 272.00						4, 272.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Note: Military transportation costs totaled $18,397.65.

July 31, 1980.

BENEK GEIZHALS, Chairman.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rules XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 96–1288). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 7945. A bill to provide financial asistance for the establishment and implementation of energy plans by units of local government, and for other purposes; with amendment (Rept. No. 96–1299). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 3806. A bill to establish a U.S. Court of Appeals for the Federal Circuit, to establish a U.S. Claims Court, and for other purposes; with amendment (Rept. No. 96–1300). Referred to the Committee of the Whole House on the State of the Union.

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 7273. A bill to amend the Immigration and Nationality Act, and for other purposes; with amendment (Rept. No. 96–1301). Referred to the Committee of the Whole House on the State of the Union.

Mr. DRINAN: Committee on the Judiciary. H.R. 7817. A bill to amend or disapprove certain amendments to the Federal Rules of Criminal Procedure and the Federal Rules of Evidence proposed by the Supreme Court, and to amend chapter 231 of title 18, United States Code (relating to probation; with amendment (Rept. No. 96–1302). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rules XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 935. For the relief of Jessie Kuo Tang and Sharon Kuo Tang; with amendment (Rept. No. 96–1289). Referred to the Committee of the Whole House.

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 936. For the relief of Kit Tung (Rept. No. 96–1290). Referred to the Committee of the Whole House.

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 3096. For the relief of Raymond M. Gee (Rept. No. 96–1291). Referred to the Committee of the Whole House.

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 3869. For the relief of Eileen Angella Crossdale; with amendment (Rept. No. 96–1292). Referred to the Committee of the Whole House.

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 4522. For the relief of Annette Jutta Wohrle; with amendment (Rept. No. 96–1293). Referred to the Committee of the Whole House.

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 5157. For the relief of Lilia Ester Cantu; with amendment (Rept. No. 96–1294). Referred to the Committee of the Whole House.

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 5379. For the relief of Jaramporn Sermsri and Akharata Sermsri; with amendment (Rept. No. 96–1295). Referred to the Committee of the Whole House.

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 5745. For the relief of Michael Chinwen Ke. (Rept. No. 96–1296). Referred to the Committee of the Whole House.

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 6030. For the relief of Elena Patricia Mattos. (Rept. No. 96–1297). Referred to the Committee of the Whole House.

Ms. HOLTZMAN: Committee on the Judiciary. S. 215. A bill for the relief of Renuka Pavla (Rept. No. 96–1298). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GIBBONS:

H.R. 8082. A bill to amend the Internal Revenue Code of 1954 to extend the benefits of special farm valuation for estate tax purposes; to the Committee on Ways and Means.

By Mr. ADDABBO (for himself and Mr. Zeferetti):

H.R. 8083. A bill to amend the Social Security Act to provide that the Federal Government will gradually take over the local share of welfare and medicaid costs, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. OBEY:

H.R. 8084. A bill to amend the Wild and Scenic Rivers Act to authorize the acquisition of certain lands in Douglas County, Wis.; to the Committee on Interior and Insular Affairs.

By Mr. STANTON (for himself, Mr. Wylie, Mr. Hansen, Mr. Hyde, Mr. Kelly, Mr. Leach of Iowa, Mr. Evans of Delaware, Mr. Green, Mr. Paul, Mr. Bethune, Mr. Shumway, Mr. Campbell, Mr. Ritter, Mr. Hinson, Mr. Porter, Mr. Mitchell of Maryland, Mr. Neal, Mr. Hubbard, Mr. Evans of Indiana, Mr. Barnard, and Mr. Watkins):

H.R. 8085. A bill to sunset the Credit Control Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FORD of Michigan (for himself, Mr. Albosta, Mr. Andrews of North Carolina, Mr. Bailey, Mr. Bedell, Mr. Benjamin, Mr. Blanchard, Mr. Bonior of Michigan, Mr. Brodhead, Mr. Broomfield, Mr. Carter, Mr. Clay, Mr. Davis of Michigan, Mr. Dingell, Mr. Frost, Mr. Kildee, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Murphy of Pennsylvania, Mr. Neal, Mr. Nedzi, Mr. O'Brien, Mr. Ritter, Mr. Royer, Mr. Traxler, Mr. Vento, Mr. Charles Wilson of Texas, and Mr. Young of Missouri):

H.J. Res. 606. Joint resolution authorizing the President to enter into negotiations with foreign governments to limit the importation of automobiles and trucks into the United States; to the Committee on Ways and Means.

By Mr. PHILLIP BURTON:

H. Con. Res. 429. Concurrent resolution expressing the sense of the Congress regarding the biennial cost-of-living adjustments for Federal retirees; jointly, to the Committees on Armed Services and Post Office and Civil Service.

By Mr. DONNELLY:

H. Con. Res. 430. Concurrent resolution expressing the sense of the Congress with respect to the equal treatment by the U.S. Government of persons violating the law; to the Committee on the Judiciary.

By Mr. PATTERSON:

H. Res. 782. Resolution authorizing the printing as a House document of the transcript of hearings of the Select Committee on Committees relating to energy jurisdiction of House committees; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ROYER introduced a bill (H.R. 8086) for the relief of Charles Evans and Associates of San Mateo, Calif.; which was referred to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 654: Mr. Moorhead of California.

H.R. 1918: Mr. Baldus and Mr. Leach of Louisiana.

H.R. 3764: Mr. Lloyd.

H.R. 6540: Mr. Studds.

H.R. 6709: Mr. Bethune.

H.R. 6977: Mr. Green.

H.R. 7505: Mr. Mavroules.

H.R. 7983: Mr. D'Amours, Mr. AuCoin, Mr. Martin, Mr. Mineta, and Mr. Downey.

H.J. Res. 506: Mr. Alexander, Mr. Barnard, Mr. Bowen, Mr. Burgener, Mr. Campbell, Mr. Carney, Mr. Cheney, Mr. Clausen, Mr. Daniel, B. Crane, Mr. de la Garza, Mr. Downey, Mr. Evans of Delaware, Mr. Howard, Mr. Kogovsek, Mr. Lehman, Mr. Long of Maryland, Mr. Lagomarsino, Mr. Madigan, Mr. Matsui, Mr. McEwen, Mr. McHugh, Mr. Neal, Mr. Nelson, Mr. Oberstar, Mr. Ottinger, Mr. Petri, Mr. Roe, Mr. Stack, and Mr. Wirth.

H.J. Res. 511: Mr. Clinger.

H.J. Res. 568: Mr. Kostmayer, Mr. Corman, and Mr. Vento.

H. Con. Res. 412: Mr. Badham, Mr. Carter, Mr. Fazio, Mr. Guyer, Mr. Hughes, Mr. Lungren, Mr. McClory, Mr. Stark, and Mr. Robert W. Daniel, Jr.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 20

By Mr. BREAUX:

—Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "National Aquaculture Act of 1980".

FINDINGS, PURPOSE, AND POLICY

Sec. 2. (a) Findings.—Congress finds the following:

(1) The harvest of certain species of fish and shellfish exceeds levels of optimum sustainable yield, thereby making it more difficult to meet the increasing demand for aquatic food.

(2) To satisfy the domestic market for aquatic food, the United States imports more than 50 per centum of its fish and shellfish, but this dependence on imports adversely affects the national balance of payments and contributes to the uncertainty of supplies.

(3) Although aquaculture currently contributes approximately 10 per centum of world seafood production, less than 3 per centum of current United States seafood production results from aquaculture. Domestic aquacultural production, therefore, has the potential for significant growth.

(4) Aquacultural production of aquatic plants can provide sources of food, industrial materials, pharmaceuticals, and energy, and can assist in the control and abatement of pollution.

(5) The rehabilitation and enhancement of fish and shellfish resources are desirable applications of aquacultural technology.

(6) The principal responsibility for the development of aquaculture in the United States must rest with the private sector.

(7) Despite its potential, the development of aquaculture in the United States has been inhibited by many economic, legal, and production factors such as inadequate credit, diffused legal jurisdiction, the lack of management information, and the lack of reliable supplies of seed stock.

(8) Many areas of the United States are suitable for aquaculture, but are subject to land-use or water-use management policies that do not adequately consider the potential for aquaculture and that may inhibit the development of aquaculture.

(b) Purpose.—It is the purpose of this Act to promote aquaculture in the United States by—

(1) declaring a national policy for aquaculture;

(2) establishing and implementing a national aquaculture development plan; and

(3) encouraging aquaculture activities and programs in both the public and private sectors of the economy;

that will result in increase aquacultural production, the coordination of domestic aquacultural efforts, the conservation and enhancement of aquatic resources, the creation of new industries and job opportunities, and other national benefits.

(c) Policy.—Congress declares that aquaculture has the potential for augmenting existing commercial and recreational fisheries and for producing other renewable resources, thereby assisting the United States in meeting its future food needs and contributing to the solution of world resource problems. It is, therefore, in the national interest, and it is the national policy, to encourage the development of aquaculture in the United States.

DEFINITIONS

Sec. 3. As used in this Act, unless the context otherwise requires—

(1) The term "aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching (except private ocean ranching of Pacific salmon for profit in those States where such ranching is prohibited by law).

(2) The term "aquaculture facility" means any land, structure, or other appurtenance that is used for aquaculture and is located in any State. Such term includes, but is not limited to, any laboratory, hatchery, rearing pond, raceway pen, incubator, or other equipment used in aquaculture.

(3) The term "aquatic species" means any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant.

(4) The term "coordinating group" means the interagency aquatic coordinating committee established by section 6.

(5) The term "person" means any individual who is a citizen or national of the United States or of any State, any Indian tribe, any institution of higher education, and any corporation, partnership, association or other entity (including, but not limited to, any community development corporation, producer cooperative, or fishermen's cooperative) organized or existing under the laws of any States.

(6) The term "Plan" means the National Aquaculture Development Plan required to be established under section 4.

(7) The term "Secretaries" means the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior.

(8) The term '"State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands or any other territory or possession of the United States.

NATIONAL AQUACULTURE DEVELOPMENT PLAN

Sec. 4. (a) In General.—(1) Within eighteen months after the date of the enactment of this Act, the Secretaries shall establish the National Aquaculture Development Plan.

(2) In developing the Plan, and revisions thereto under subsection (d), beginning not later than six months after the date of enactment of this Act, the Secretaries shall consult with other appropriate Federal officers, States, regional fishery management councils established under section 302 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852), and representatives of the aquaculture industry. In addition, the Secretaries shall give interested persons and organizations an opportunity to comment during the development of the Plan.

(3) If the Secretaries deem it to be appropriate, they may establish, and appoint the members of, an advisory committee to assist in the initial development of the Plan. Individuals appointed to the advisory committee shall be knowledgeable or experienced in the principles and practices of aquaculture. The members of the advisory committee (other than officers or employees of the Federal Government), while away from their homes or regular places of business in the performance of services for the advisory committee, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5708 of title 5 of the United States Code.

(b) Contents of Plan.—The Plan shall—

(1) identify aquatic species that the Secretaries determine to have significant potential for culturing on a commercial or other basis;

(2) recommend actions to be taken by the public and private sectors (which may include, but are not limited to, research and development, technical assistance, demonstration, extension education, and training activities) that are necessary to achieve such potential;

(3) taking into account the status of aquaculture regarding the aquatic species concerned, address—

(A) aquaculture facility design and operation;

(B) water quality management,

(C) use of waste products (including thermal effluents),

(D) nutrition and the development of economical feeds, including natural food sources,

(E) life history, genetics, physiology, pathology, and disease control (including research regarding organisms that may not be harmful to fish and shellfish, but are injurious to humans),

(F) processing and market development,

(G) production management and quality control, and

(H) the development of adequate supplies of seed stock;

(4) include, where appropriate, research programs on the effect of aquaculture on estuarine and other water areas and on the management of such areas for aquaculture;

(5) include, where appropriate, programs to analyze, and to formulate proposed resolutions of, the legal or regulatory constraints that may affect aquaculture; and

(6) include such other research and development, technical assistance, demonstration, extension education, and training programs as the Secretaries deem necessary or appropriate to carry out this Act.

In formulating the Plan, the Secretaries shall, to the extent practicable, take into account any significant action that (i) has been, or is proposed to be, undertaken by any other Federal department or agency, any State agency, or any person; and (ii) may affect the implementation of the Plan.

(c) Actions and Implementation.—The Plan shall specify—

(1) with respect to those actions that the Secretaries determine should be undertaken, the period of time within which each such action should be completed, in order to implement the Plan; and

(2) with respect to each such action which of the Secretaries, acting individually, jointly, or collectively, has the responsibility for implementing the action.

The specifications of Secretarial responsibilities under paragraph (2) for implementing actions shall be determined on the basis of—

(A) the responsibilities conferred on the respective Secretaries by law or by any executive action having the effect of law (including, but not limited to, Reorganization Plan Numbered 4 of 1970); and

(B) the experience, expertise, and other appropriate resources that the department of each such Secretary may have with respect to the action required under the activity concerned.

(d) Revision of Plan.—The Secretaries shall undertake periodic reviews of the operation and effectiveness of the Plan. If as a result of any such review, or the aquacultural assessment required under subsection (e), the Secretaries determine that—

(1) any aquatic species not currently identified in the Plan has significant potential for aquaculture;

(2) any action specified in the Plan is not being accomplished on a successful and timely basis; or

(3) any action specified in the Plan should be terminated because its objectives have been achieved or its projected benefits do not warrant further support;

the Secretaries shall appropriately amend the Plan.

(e) Continuing Aquaculture Assessment.—The Secretaries, through the coordinating group, shall undertake a continuing assessment of aquaculture in the United States for the purpose of maintaining, on a continuing basis—

(1) a complete profile of the aquacultural industry with respect to the incidence, size, and status of commercial aquacultural enterprises;

(2) the identification of the private and public institutions and organizations involved in aquacultural research, extension, credit, and market development;

(3) the identification of the various aquatic species being cultured and a description of the status of commercial development of each of those species;

(4) to the extent practicable, the identification of aquacultural production regions, species, and markets that have significant potential for development;

(5) a catalog describing all Federal programs and activities that directly or indirectly encourage, support, or assist aquaculture; and

(6) the identification of the economic, physical, legal, institutional, and social constraints that inhibit the development of aquaculture in the United States.

FUNCTIONS AND POWERS OF SECRETARIES

Sec. 5. (a) Mandatory Functions.—In implementing the Plan, the Secretaries shall—

(1) provide advisory, educational, and technical assistance (including training) with respect to aquaculture to interested persons, and in providing such assistance, shall, to the maximum extent practicable, avoid duplication of similar assistance provided by other Federal departments and agencies and by State agencies;

(2) consult and cooperate with interested persons, Federal departments and agencies, State agencies, and regional fishery management councils established under section 302 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852);

(3) encourage the implementation of aquacultural technology in the rehabilitation and enhancement of publicly owned fish and shellfish stocks (including rehabilitation and enhancement by private nonprofit enterprises), and in the development of private commercial enterprises; and

(4) prescribe such regulations as may be necessary to carry out the Plan.

(b) Discretionary Functions.—In implementing the Plan, the Secretaries may—

(1) for the purposes of assessing the biological, technical, and economic feasibility of any aquacultural system—

(A) conduct tests of the system and, if necessary to determine its feasibility, construct, operate, and maintain developmental aquaculture facilities for testing laboratory results, and

(B) conduct such other tests or analyses as may be necessary;

(2) develop methods to enhance seed stocks of aquatic species; and

(3) conduct such other tests or analyses or take such other actions as the Secretaries deem necessary or appropriate.

(c) Information Services.—(1) In addition to performing such other required functions under this Act, the Secretaries shall—

(A) establish and maintain an information service for the collection, analysis, and dissemination of scientific, technical, legal, and economic information relating to aquaculture;

(B) conduct appropriate surveys, in coordination with other Federal departments and agencies, of public and private aquacultural activities being conducted in the United States for the purpose of acquiring information on acreages, water use, production, culture techniques, and other relevant matters;

(C) arrange with foreign nations for the exchange of information relating to aquaculture and support a translation service;

(D) conduct a continuing study to determine whether existing capture fisheries could be adversely affected by competition from products produced by commercial aquacultural enterprises and include in such study—

(i) an assessment of any adverse effect, by species and by geographical region, on such fisheries, and

(ii) recommended measures to ameliorate any such effect; and

(E) report to Congress on the findings of the study conducted under subparagraph (D) in the biennial status report required under subsection (d).

(2) Any production information submitted to the Secretaries under paragraph (1)(B) shall be confidential and may only be disclosed if required under court order. The Secretaries shall prescribe such procedures as may be necessary to preserve such confidentiality. The Secretaries may release or make public any information in any aggregate or summary form that does not directly or indirectly disclose the identity, business transactions, or trade secrets of any person who submits such information.

(d) Biennial Report.—The Secretaries, though the coordinating group, shall prepare on a biennial basis, and submit to Congress, a report on the status of aquaculture in the United States. Each such report shall contain a description and evaluation of the actions undertaken with respect to the Plan during the reporting period, an explanation of any revisions made to the Plan under section 4(d) during the reporting period, and such other comments and recommendations as the Secretaries deem appropriate. The first report required under this subsection shall be submitted to Congress by September 30, 1981.

COORDINATION OF NATIONAL ACTIVITIES REGARDING AQUACULTURE

Sec. 5. (a) Establishment.—There is established within the Office of Science and Technology Policy on interagency aquaculture coordinating group that shall, subject to subsection (f), operate as a Joint Subcommittee on Aquaculture of the Federal Coordinating Council on Science, Engineering, and Technology (hereinafter in this section referred to as the "Federal Council") established by Executive Order 12039, dated February 24, 1978. The coordinating group shall be composed of the following members or their designees:

(1) The Secretary of Agriculture.

(2) The Secretary of Commerce.

(3) The Secretary of the Interior.

(4) The Secretary of Energy.

(5) The Secretary of Health and Human Resources.

(6) The Administrator of the Environmental Protection Agency.

(7) The Chief of Engineers.

(8) The Administrator of the Small Business Administration.

(9) The Administrator of the Agency for International Development.

(10) The Chairman of the Tennessee Valley Authority.

(11) The Director of the National Science Foundation.

(12) The Governor of the Farm Credit Administration.

(13) The heads of such other Federal agencies as are deemed appropriate by the Director of the Office of Science and Technology (hereinafter in this section referred

to as the "Director"), after consultation with the coordinating group.

(b) PURPOSE AND FUNCTIONS.—The purpose of the coordinating group is to increase the overall effectiveness and productivity of Federal aquaculture research, transfer, and assistance programs. In fulfilling this purpose the coordinating group shall—

(1) review the national needs for aquaculture research, transfer, and assistance;

(2) assess the effectiveness and adequacy of Federal efforts to meet those national needs;

(3) undertake planning, coordination, and communication among Federal agencies engaged in the science, engineering, and technology of aquaculture;

(4) collect, compile, and disseminate information on aquaculture;

(5) encourage joint programs among Federal agencies in areas of mutual interest; and

(6) recommend to the Federal Council specific actions on issues, problems, plans, and programs in aquaculture.

(c) CHAIRMAN.—Each of the Secretaries or their designees, on such rotating basis as shall be determined by the Director, shall serve as the chairman of the coordinating group. The term of office of the chairman is two years.

(d) REPORTS.—The coordinating group shall regularly report to the Chairman of the Federal Council on the coordinating group's activities and on recommendations concerning Federal policies and programs related to aquaculture.

(e) FEDERAL CONSISTENCY.—Each Federal department and agency that has functions or responsibilities with respect to aquaculture or has jurisdiction over any activity that affects, or that may affect, the achievement of the purpose and policy of this Act, shall, in consultation with the coordinating group and to the maximum extent practicable, perform such function, responsibility, or activity in a manner that is consistent with the purpose and policy of this Act.

(f) FUNCTIONS IF FEDERAL COUNCIL TERMINATED.—If at any time after the date of the enactment of this Act, the functions of the Federal Council are by executive action terminated or transferred to any agency other than the Office of Science and Technology Policy, the coordinating group shall carry out its purpose under the direction of the Director. In that event, the recommendations of the coordinating group referred to in subsection (b)(6) and the report required under subsection (d) shall be made to the Director.

CONTRACTS AND GRANTS

SEC. 7. (a) IN GENERAL.—The Secretaries may each carry out any action that such Secretary is responsible for implementing under the Plan through grants to, or contracts with, any person, any other Federal department or agency, any State agency, or any regional commission.

(b) TERMS AND CONDITIONS.—Any contract entered into, or any grant made, under subsection (a) shall contain such terms and conditions as the Secretary shall by regulation prescribe as being necessary or appropriate to protect the interests of the United States. No contract may be entered into, and no grant may be made under subsection (a), for any purpose that is in violation of any applicable State or local law.

(c) LIMITATION.—The amount of any grant made under subsection (a) may not exceed an amount equal to one-half the estimated cost of the project for which the grant is made.

(d) AUDIT.—Each recipient of a grant or contract under this section shall make available to the Secretary concerned and to the Comptroller General of the United States, for purposes of audit and examination, any book, document, paper, or record that is pertinent to the funds received under such grant or contract.

CAPITAL REQUIREMENTS FOR AQUACULTURE

SEC. 8. (a) CAPITAL REQUIREMENTS STUDY.—The Secretaries, through the coordinating group, shall conduct within twelve months after the date of enactment of this Act, a study of the capital requirements of the United States aquaculture industry. The study shall—

(1) document and analyze any capital constraints that affect the development of aquaculture in the United States; and

(2) evaluate the role that appropriate Federal financial assistance does or could play in filling gaps in the normal credit market with respect to aquaculture.

The study will identify the capital needs of the United States aquaculture industry, with emphasis on the needs that are not being filled either in normal credit channels or through government programs for direct loans, loan guarantees, disaster loans, and insurance. Upon its completion, the Secretaries shall submit the results of the study to Congress.

(b) CAPITAL REQUIREMENTS PLAN.—Based on the results of the Capital Requirements Study conducted under subsection (a), and within six months of the completion of the study, the Secretaries shall formulate a plan for acting on the study's findings. The plan shall include: (1) those Federal actions, if any, found to be necessary to meet financial needs unmet through normal credit channels and existing Federal programs; and (2) recommendations, if any, for legislative actions. Upon completion, the plan shall be submitted to Congress.

REGULATORY CONSTRAINTS ON AQUACULTURE

SEC. 9. (a) REGULATORY CONSTRAINTS STUDY.—The Secretaries, through the coordinating group, shall conduct, within twelve months after the date of enactment of this Act, a study of the State and Federal regulatory restrictions to aquaculture development in the United States. The study shall—

(1) include a literature review and a descriptive list identifying the parameters of the issue;

(2) identify and list relevant current and pending Federal regulations restricting the development of commercial aquaculture operations;

(3) identify and list relevant current State regulations restricting the development of commercial aquaculture operations in five States selected randomly in five separate geographic regions of the United States;

(4) conduct case studies of ten commercial aquaculture operations in the United States representing a wide range of marine and fresh water species to determine the practical effects of regulatory restrictions on aquaculture; and

(5) develop a flow-chart time line using the information obtained by means of paragraphs (1) through (4) to identify those regulations and restrictions that could have the most detrimental effect in establishing commercial aquaculture operations in the United States.

Upon completion of the study, the Secretaries shall submit its results to Congress.

(b) REGULATORY CONSTRAINTS PLAN.—Based on the results of the Regulatory Constraints Study conducted under subsection (a), and within six months of the study's completion, the Secretaries shall formulate a plan for acting on the study's findings. The plan will contain specific steps the Federal Government can take to recove unnecessarily burdensome regulatory barriers to the initiation and operation of commercial aquaculture ventures. Upon its completion, the Secretaries shall submit the plan to Congress.

AUTHORIZATIONS FOR APPROPRIATIONS

SEC. 10. For purposes of carrying out the provisions of this Act, there are authorized to be appropriated—

(1) to the Department of Agriculture—
(A) $7,000,000 for fiscal year 1981,
(B) $10,000,000 for fiscal year 1982, and
(C) $12,000,000 for fiscal year 1983;
(2) to the Department of Commerce—
(A) $7,000,000 for fiscal year 1981,
(B) $10,000,000 for fiscal year 1982, and
(C) $12,000,000 for fiscal year 1983; and
(3) to the Department of the Interior—
(A) $3,000,000 for fiscal year 1981,
(B) $4,000,000 for fiscal year 1982, and
(C) $5,000,000 for fiscal year 1983.

Funds authorized by this section shall be in addition to, and not in lieu of, funds authorized by any other Act.

DISCLAIMER

SEC. 11. Nothing in this Act shall be construed to amend, repeal, or otherwise modify the authority of any Federal officer, department, or agency to perform any function, responsibility, or activity authorized under any other provision of law.

H.R. 6721

By Mr. MOORE:

—Page 80, line 25, strike out ", operate,".

Page 81, line 2, strike out "manner" and insert in lieu thereof "condition".

Page 81, line 3, insert the word "maintenance" immediately before the word "expenses".

Page 81, line 5, strike out "The amounts appropriated" and all that follows through the date "1985" on line 10 and insert in lieu thereof the following: "The amounts appropriated from the Trust Fund for the purposes of clauses (1) and (2) of this subsection may not exceed $400,000,000 for fiscal year 1981; $428,000,000 for fiscal year 1982; $458,000,000 for fiscal year 1983; $490,000,000 for fiscal year 1984; and $524,000,000 for fiscal year 1985.".

H.R. 7020

By Mr. FLORIO:

—Page 56, line 14, strike out "0.6" and insert in lieu thereof "0.4".

Page 57, line 7, strike out "0.6" and insert in lieu thereof "0.4".

Page 60, line 19, strike out "$2.54" and insert in lieu thereof "1.88".

Page 60, line 21, strike out "$2.33" and insert in lieu thereof "$1.73".

Page 62, line 2, insert after "chromite" the following: "(excluding that portion used to make ferrochrome)".

Page 67, line 12, strike out "$75,000,000" and insert in lieu thereof "$85,000,000".

Page 67, line 13, strike out "$75,000,000" and insert in lieu thereof "$85,000,000".

Page 67, line 14, strike out "$100,000,000" and insert in lieu thereof "$113,000,000".

Page 68, beginning in line 4, strike out "as in" and all that follows down to the period in line 6.

H.R. 7244

By Mr. HANCE:

—Page 9, line 23, strike out "SEC. 6." and insert in lieu thereof "SEC. 7.".

Page 9, after line 21, insert the following new section:

ASSISTANCE TO THE PRIVATE SECTOR OF EL SALVADOR AND OTHER NATIONS

SEC. 6. The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"SEC. 37. It is the sense of the Congress that in providing assistance through loans or other means to any nation, in particular El Salvador, the Fund and the Bank should encourage programs which assist the private sector, and which provide funds to the private sector, to create an environment which will stabilize the economy of the nation. The United States representatives to the Fund and the Bank shall promote the use of assistance by the Fund and the Bank to encourage such programs.".

EXTENSIONS OF REMARKS

ISRAEL AS A NATION AND A SYMBOL: RONALD REAGAN'S STATEMENT BEFORE THE B'NAI B'RITH

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. KEMP. Mr. Speaker, no single nation has assumed the immense importance to American security—with or without benefit of a formal alliance—that Israel has acquired in her three decades of existence. Israel is, quite literally, a strategic asset to the United States in the midst of a troubled but vital region that is now the focus of Soviet covert as well as overt aggression. As a nation, Israel has stood without reservation as America's most loyal and valuable ally in the region.

Its resolve to retain its freedom in the face of implacable hostility and long odds have also served to make Israel a symbol of the relentless effort required to preserve peace.

Until the advent of the Carter administration, the central relationship of Israel to American security was well understood by every President since Truman. As a result, American diplomacy was directed to support Israel and her right to exist. Under the present administration, three decades of consistent American policy has been threatened. Israel's enemies are armed by the administration with advanced American offensive weapons. Crucial votes in international organizations on questions of profound concern to the security of Israel are met not with American support, but indifference. As one observer expressed it, "the stench of America's abstention—from voting—in the United Nations has the smell of oil"—a Faustian bargain the administration appears to believe it can make to trade off Israel's security for the favor of the Petro-Shieks.

In a statement before the B'nai B'rith forum on September 3, 1980, Ronald Reagan reaffirmed his commitment to the traditional American understanding of the importance of Israel to our national interest.

In his remarks, he called attention to the grave risks associated with the administration's policy. "To weaken Israel is to destabilize the Middle East and risk the peace of the world, for the road to world peace runs through the Middle East." Governor Reagan's reaffirmation of our commitment to Israel stands in stark contrast to the unremitting efforts of the Carter administration to pressure Israel into accepting terms for a Middle East settlement which jeopardizes Israel's security. Ronald Reagan's statement on Israel deserves to be read as an assertion of a change of course in American policy in the Middle East that will restore our policy to one which supports our interests in the region.

Governor Reagan's speech follows:

ADDRESS BY HON. RONALD REAGAN

I know it will come as no surprise to you that I have chosen to speak to you tonight about the State of Israel, its importance to our own nation and world peace.

But in a sense when I speak of Israel, I speak as well of other concerns of B'nai B'rith and of the entire Jewish community in the United States. Israel is not only a nation—it is a symbol. During my campaign I have spoken of the values of family, work, neighborhood, peace and freedom. I made a commitment to see to it that those values would be at the heart of policy-making in a Reagan Administration. Israel symbolizes those values. What is Israel if not the creation of families, working together to build a place to live and work and prosper in peace and freedom?

In defending Israel's right to exist, we defend the very values upon which our nation is built.

The long agony of Jews in the Soviet Union, is, of course, never far from our minds and hearts. All these suffering people ask is that their families get the chance to work where they choose, in freedom and peace. They will not be forgotten by a Reagan Administration.

But, I must tell you this:

No policy, no matter how heartfelt, no matter how deeply rooted in the humanitarian vision we share, can succeed if the United States of America continues its descent into economic impotence and despair.

Neither the survival of Israel nor the ability of the United States to bring pressure to bear on the situation of dissidents against tyranny can become realistic policy choices if our American economy continues to deteriorate under the Carter policies of high unemployment, taxes and inflation.

The rhetoric of compassion and concern becomes just that, mere words, if not supported by the vision—and reality—of economic growth. The present Administration does not seem to realize this. It seems to believe that if the right kind of words are chosen and repeated often enough, all will be well. Can those who share our humanitarian concerns ignore the connection between economic policy, national strength and the ability to do the work of friendship and justice and peace in our own nation and world?

The theme of this convention, "A Covenant with Tomorrow," speaks directly to the question of American interests and the well-being of Israel. There is no covenant with the future which is not firmly rooted in our covenant with the past. Since the rebirth of the State of Israel, there has been an iron-clad bond between that democracy and this one.

That bond is a moral imperative. But the history of relations between states demonstrates that while morality is most frequently given as a motive for actions, the true and abiding motive is self-interest. Well, the touchstone of our relationship with Israel is that a secure, strong Israel is in America's self-interest. Israel is a major strategic asset to America.

Israel is not a client, but a very reliable friend, which is not something that can always be said of the United States today under the Carter Administration.

While we have since 1948 clung to the argument of a moral imperative to explain our commitment to Israel, no Administration has ever deluded itself that Israel was not of permanent strategic importance to America. Until, that is, the Carter Administration, which has violated this covenant with the past. Can we now have confidence it will honor a covenant with tomorrow?

The interests of all the world are served by peace and stability in the Middle East. To weaken Israel is to destabilize the Middle East and risk the peace of the world, for the road to world peace runs through the Middle East.

How do we travel that road?

We cannot positively influence events at the perimeters of our power if power—including economic power—at the center is diminished.

The conduct of this nation's foreign policy in the last four years has been marked by inconsistency and incompetence.

We must have a principled, consistent foreign policy which our people can support, our friends understand, and our adversaries respect. Our policies must be based upon close consultation with our allies.

We require the defensive capability necessary to ensure the credibility of our foreign policy, and the security of our allies and ourselves. There can be no security for one without the other.

Today, under Jimmy Carter, our defensive capability has been so seriously eroded as to constitute not a deterrent but a temptation.

This is not a campaign issue, it is a matter of grave national concern; indeed so grave that the President considers it a liability to his personal political fortunes. He has tried to give the appearance of responding to it. But the half-hearted measures he proposes are clearly inadequate to the task.

We must restore the vital margin of safety which this Administration has allowed to erode, maintaining a defense capability our adversaries will view as credible and that our allies can rely upon.

As an ally of the United States, Israel must have the means to remain strong and secure. Over the years, the United States has provided economic and defense assistance, and a Reagan Administration will maintain this traditional commitment.

In 1976, Candidate Jimmy Carter came before this convention and said: "I have called for closer ties with our traditional allies, and stronger ties with the State of Israel. I have stressed" he said, "the necessity for a strong defense—tough and muscular, and adequate to maintain freedom under any conceivable circumstances."

One wonders, did the candidate listen to his own call? Today we have fewer real allies and, among those, we speak with diminished authority. Our relations with Israel are marked by doubt and distrust. Israel today is in grave danger, and so is freedom itself.

In 1976, Jimmy Carter declared that he would seek what he called a "comprehensive settlement" in the Middle East. What this

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

might mean for Israel and how this might be achieved were questions neither asked nor answered.

The comprehensive agreement which Mr. Carter sought required, first, a reconvening of the Geneva Conference. Israel was amenable to this step. Her adversaries agreed conditionally. But, the conditions were that the Palestine Liberation Organization be represented and that Israel effectively agree in advance of negotiation to withdraw to the pre-1967 borders, which were in fact armistice lines resulting from the first effort to destroy the State of Israel. Israel rightly refused these conditions and was promptly accused of intransigence. Can we believe that Mr. Carter is not still in favor of dealing with the P.L.O. and desirous of forcing the terms of a settlement?

Mr. Carter invited the Soviet Union to join him in his effort to force Israel to accept the mockery of negotiations in Geneva. Before that, it had required a major effort to keep the Soviets out of the Middle East peace process. In October, 1977, Mr. Carter invited them back in free of charge, and they graciously accepted. The Carter Administration presented as a major achievement the conclusion of a joint Soviet-American accord which would have given the Russians a stranglehold on negotiations, as well as a convenient calling card for inserting themselves more deeply into the Middle East.

This seriously disturbed President Sadat. The President of Egypt did not share Mr. Carter's appreciation of the Soviets, and he came to the conclusion which other world leaders, including Mr. Brezhnev, have now reached: Mr. Carter is incapable of distinguishing between his own short-term political interest, and the nation's long-term foreign policy interests. Mr. Carter professed not to understand what all the fuss was about.

The result was that the United States Government, for the first time in the history of the rebirth of Israel, found itself on the outside looking in. President Sadat made his courageous trip to Jerusalem at the invitation of Prime Minister Begin, and a bilateral peace process began. Without, let me re-emphasize, the participation of Mr. Carter. The quick foreign policy success that Carter had hoped to achieve turned instead into another major foreign policy blunder.

What we do or fail to do in the Middle East is of vital importance not only to the peoples of the region, but also to the security of our country, our Atlantic and Pacific allies, Africa, China, and the Asian subcontinent.

Because of the weak and confused leadership of Jimmy Carter, we are approaching a flashpoint in this tragic process, with Soviet power now deployed in a manner which directly threatens Iran, the Persian Gulf and Arabian Sea; with Soviet forces and proxy forces building up again in the region; with Soviet fleets and air bases emplaced along the sea lanes on which we and our Allies and the entire free world depend.

In spite of this I am confident that if we act with vigor, vision and practical good sense, we can peacefully blunt this Soviet thrust. We can rely upon responsible Arab leaders in time to learn what Anwar Sadat learned, which is that no people can long endure the cost of Soviet patronage.

How we deal with Israel and her neighbors in this period will determine whether we rebuild the peace process or whether we continue to drift. But let it be clear that the cornerstone of our effort and of our interest is a secure Israel, and our mutual objective is peace.

While we can help the nations of that area move toward peace, we should not try to force a settlement upon them.

Our diplomacy must be sensitive to the legitimate concerns of all in the area. Before a negotiated peace can ever hope to command the loyalty of the whole region, it must be acceptable to Israelis and Arabs alike.

Most important, we must rebuild our lost reputation for trustworthiness. We must again become a nation that can be relied upon to live up to its commitments.

In 1976, Candidate Jimmy Carter said: "I am concerned with the way in which our country, as well as the Soviet Union, Britain and France have poured arms into certain Arab countries—five or six times more than Israel receives."

But it was Mr. Carter who agreed to sell sixty F-15 fighters to Saudi Arabia. To get the Congress to go along, he assured these aircraft would not have certain offensive capabilities. Now, the Secretary of Defense tells us he cannot say whether this commitment to Congress will be honored.

It was Mr. Carter who agreed to sell one hundred main battle tanks to Jordan.

It was Mr. Carter who agreed to provide U.S. licensed turbine engines for Iraqi warships.

Meanwhile, Israel is being increasingly isolated by international terrorism and by U.N. resolutions designed to undermine Israel's position in the world while Carter stands by and watches.

I was appalled to see the Carter Administration abstain from voting on, rather than veto, the Resolution passed by the United Nations Security Council two weeks ago, totally disregarding the Democratic Platform promises of 1976 and 1980. As I stated then, that Resolution not only undermines progress toward peace by putting the United Nations on record against Israel and on one side of the sensitive issue of the status of Jerusalem; it also presumes to order other nations—including our Dutch ally—to move their embassies from Jerusalem.

I believe this sorry episode sheds some light on an earlier action by Jimmy Carter concerning another U.N. resolution, voted on in March this year. On March 1st, the Carter Administration failed to veto a mischievous U.N. resolution condemning Israel's presence in Jerusalem, calling it an "occupation." That was the position of the Carter Administration on Saturday. Two days later, on a Monday, reacting to the public outcry, Jimmy Carter put the blame for this outrage on his Secretary of State and reversed the position of the Administration.

The man who asks "trust me," zigzags and flip-flops in ever more rapid gyrations, trying to court favor with everyone: Israel, the P.L.O., the voting bloc in the United Nations and the voters at home. On March 1st, it took the Carter Administration three days to switch positions. On August 20th, it took only three minutes. Secretary of State Muskie condemned the U.N. Resolution on Jerusalem in a long speech that was for the voters in this country. Minutes later, he abstained instead of vetoing the U.N. Resolution. That was for the P.L.O. and their friends.

This is the Carter record on the Middle East. Arab leaders are persuaded that we don't mean what we say. How do we build productive relations with either side on such a basis?

Before we can act with authority abroad, we have to demonstrate our ability to make domestic policy without asking permission of other governments.

Mr. Carter sent an emissary to Saudi Arabia to ask for permission to store petroleum here in our own country—a strategic reserve vital to our national security and long demanded by Congress. The Saudis, predictably, said no. Mr. Carter halted the stockpiling.

Can we have relations with our friends in the Arab world if those relations are built on contempt for us?

Clear away the debris of the past four years, and the following issues remain to test the good faith of the Arab nations and of Israel, and to challenge our national will and diplomatic skill in helping them to shape a peace.

There is the unresolved question of territorial rights resulting from the 1967 war.

There is the status of Jerusalem which is part of the first question.

There is the matter of refugees.

There is the matter of the P.L.O., which I consider distinct from the matter of the refugees.

The question of territory, putting aside Jerusalem for the moment, must still be decided in accordance with Security Council Resolutions 242 and 338. We will tolerate no effort to supersede those Resolutions. We must weigh the future utility of the Camp David accords against that position.

There are basic ambiguities in the documents Camp David produced, both in the links between the Israeli-Egyptian peace, and in the provisions for an autonomous regime in the West Bank and the Gaza Strip. These ambiguities have now brought negotiations to a dangerous impasse.

Let us remember that an autonomous Palestinian Arab regime for the West Bank and the Gaza Strip was an Israeli proposal—a major concession on Israel's part in the interest of progress toward peace.

Negotiations between Israel and Jordan could result in long and creative steps toward resolving these problems. Israel and Jordan are the two Palestinian states envisioned and authorized by the United Nations. Jordan is now recognized as sovereign in some 80 percent of the old territory of Palestine. Israel and Jordan are the parties primarily authorized to settle the future of the unallocated territories, in accordance with the principles of the Mandate and the provisions of Resolutions 242 and 338.

Thus, the autonomy plan called for in the Camp David Agreements must be interpreted in accordance with the two Security Council Resolutions, which remain the decisive and authoritative rules governing the situation. The Camp David Agreements cannot and should not lead to fundamental changes in the security position, or to the withdrawals of Israeli troops, until Jordan and other neighbors make peace.

Jerusalem has been a source of man's spiritual inspiration since King David founded it. Its centrality to Jewish life is known to all.

Now it exists as a shared trust. The holy places of all faiths are protected and open to all. More than this, each is under the care and control of representatives of the respective faiths. Unlike the days prior to 1967, Jerusalem is now and will continue to be one city, undivided, with continuing free access for all. That is why I disagree with the cynical actions of the Carter Administration in pledging to preserve the status of Jerusalem in its party platform and its undercutting Israel and Jerusalem by abstaining on a key U.N. vote. I believe the problem of Jerusalem can be solved by men of good will as part of a permanent settlement. The immediate problem is to make it easier for men of good will to come to the peace table.

President Carter refuses to brand the P.L.O. as a terrorist organization.

I have no hesitation in doing so.

We live in a world in which any band of thugs clever enough to get the word "liberation" into its name can thereupon murder school children and have its deeds considered glamorous and glorious. Terrorists are not guerrillas, or commandos, or freedom-fighters or anything else. They are terrorists and they should be identified as such. If others wish to deal with them, establish diplomatic relations with them, let it be on their heads. And let them be willing to pay the price of appeasement.

The P.L.O. is said to represent the Palestinian refugees. It represents no one but the leaders who established it as a means of organizing aggression against Israel. The P.L.O. is kept under tight control in every state in the area except Lebanon, which it has effectively destroyed. As for those it purports to represent, when any Palestinian breathes a word about peace to Israel, he is an immediate target for assassination. The P.L.O. has murdered more Palestinians than it has Israelis.

This nation made an agreement with Israel in 1975 concerning its relations with the P.L.O.

This Administration has violated that agreement.

We are concerned not only with whether the P.L.O. renounces its charter calling for the destruction of Israel, we are equally concerned with whether it is truly representative of the Palestinian people. If we can be satisfied on both counts, then we will not be dealing with the P.L.O. as we know it, but a quite different organization, one truly representative of those Arab Palestinians dedicated to peace and not to the establishment of a Soviet satellite in the heart of the Middle East.

Finally, the question of Arab Palestinian refugees.

My analysis of this tragic situation begins with the Declaration of the Establishment of the State of Israel, May 14, 1948. Let me read the relevant paragraph:

"We appeal—in the very midst of the onslaught launched against us now for months—to the Arab inhabitants of the State of Israel to preserve peace and to participate with us in the upbuilding of the State on the basis of full and equal citizenship and due representation in all its provisional and permanent institutions."

Tragically, this appeal was rejected. People left their land and their homes confident Israel would be destroyed in a matter of days and they could return. Israel was not destroyed and the refugee problem is with us today.

One solution to this refugee problem could be assimilation in Jordan, designated by the U.N. as the Arab Palestinian state.

In the final analysis, this or some other solution must be found as part of a peace settlement. The Psalms speak to our concerns, for they encompass all that we strive for. They are a vision of our ideals, of the goal to which we strive with constancy, dedication and faith. They embrace our hopes for a just, lasting peace in the Middle East and our hopes that the works of justice and mercy be done at home:

May our garners be full, Affording every kind of store;
May there be no breach in the walls, No exile, no outcry in our streets.
Happy the people for whom things are thus.

It is given to us to see that this vision is never lost, its message never forgotten, that the work of peace and justice and freedom goes on, inspired by our values, guided by our faith and made permanent by our commitment.●

TRIBUTE TO HAROLD SAY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. ANDERSON of California. Mr. Speaker, it was with great sadness this morning that I learned of the death of our good friend Harold Say. He was for many years the legislative director of the Veterans of World War I organization.

I do not want to recount all of his substantial and sometimes colorful accomplishments. But I do want my colleagues who may not have been so fortunate to know him well, to be aware that we have lost someone very special. Ever since I have been in Congress, I have been promoting a service pension for veterans of World War I and their widows. In this effort, I have been privileged to work closely with Harold Say. I have seen him as a determined, firm and irrepressible fighter for just programs for all veterans. I knew him personally as a very warm, honest, and likable individual.

One of Harold's dreams was the pension I mentioned. One of the tragic aspects of that proposal is that every day there are fewer veterans left who could receive it. Now their ranks are diminished by one more, diminished by one who is not replaceable. So, my sadness comes not only from losing a friend, but also from seeing his dream unfulfilled in his lifetime.

My sincere sympathy goes out to his wife, Lillian, and his family.●

FARMERS HIT FROM ALL SIDES

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. COLEMAN. Mr. Speaker, there is no question that this year has been one of the toughest ever faced by the American farmer. Many of the problems have been at the hands of Mother Nature. Recently I have toured some of the farms in my district to survey damage from the heat wave and unusual storms that have significantly affected crop yields. I do not know if more people are using that margarine they advertise on TV, but something riled Mother Nature this year and she let us know that she is one lady who does not fool around.

What has been even harder on the American farmer than the weather, however, has been the policies and economic factors originating in Washington. A monolithic bureaucracy and a mixed up administration have created an economic climate more damaging to farmers that any heat wave.

Mr. Speaker, I would like to address three major points. The first is an overview of the present economic conditions created in Washington that I just mentioned. How it got rolling and where it is going. The second is an update on some of the things done by the Agriculture Committee to address these problems and what we intend to do next year as we draft the 1981 farm bill. Finally, I want to share some ideas of mine—of the farmers role in reestablishing the preeminence of our Nation while developing for themselves and their families a stable economic foundation.

The stage is set for a disastrous year. In 1980 we have seen:

First. Low prices weakened further by the administration's embargo of grain to the Soviet Union;

Second. Sharply rising production costs being driven up daily by spiraling inflation;

Third. A farm credit crunch brought on by an administration demand for higher interest rates—up to 20 percent;

Fourth. A precipitous drop in livestock prices, falling to the point where many producers are unable to regain even their costs of production;

Fifth. Transportation and storage problems; and

Sixth. On top of it all, the heat wave and drought.

Specifically, the USDA shows farm income down 39 percent during the second quarter of 1980, compared to the same period of 1979.

Production expenses jumped from $112 billion in the second quarter of 1979 to $126 billion during the same period this year.

This is the effect of inflation on the family farmer. And, what does Washington do about it? The administration and the majority in Congress promise a balanced budget.

But as we move toward final passage of the Federal budget, we see $60 billion worth of red ink, the second largest deficit in our history. The big spenders and supporters of big government do not have the guts to cut the fat out of the many misdirected and mismanaged social programs. Instead, they settle for rising unemployment, a deepening recession, and continued inflation. For 25 years the big spenders have dominated Congress. That domination means taxes are up eightfold from 1955; Federal spending is up 800 percent since 1955; the national debt has risen from $270 billion in 1955 to $900 billion today; and, the 1955 dollar is worth just 36 cents.

With the cost-price squeeze I mentioned a few moments ago, it is obvious that the farmer is really getting stuck under inflationary policies like these. That is why we must, for the good of the farmer and the entire Nation, slash Federal spending and balance the Federal budget. Many of us feel a constitutional amendment requiring a balanced Federal budget is the only answer to force Congress and the White House to get serious about inflation. The mood of the country is finally shifting our way and hopefully in the near future we can end the domination of the big spenders and bring inflation under control.

Two years ago I sat on the same platform with President Carter at a convention of the Missouri Farmers Association in Columbia, Mo. Two years ago President Carter stood before the MFA and the entire Nation, and declared there would be no more embargoes.

Of course we must stand up to the Soviet Union. We cannot condone Soviet expansionism into Afghanistan. But an embargo of grain has not and will not scare the Russian troops out of Afghanistan.

The farmers of America have a record of patriotism that cannot be questioned. But, they have every right to wonder if they are having to bear an unfair burden in this administration's response to Soviet aggression. With all the resources of this Nation and the Federal Government why should the burden fall almost totally on the shoulders of 4 percent of the American people—the American farmer? We must be dedicated to the proposition that our farmers will not be the first or only card played in world politics.

Now let us look at the prices farmers were faced with before the embargo and then after the embargo, but before the recent heat wave ruined many crops and escalated prices somewhat. In fact, commodity prices have gone up along with the temperature, not because of any administration farm policy:

Wheat before the embargo—$4.39 per bushel.

After the embargo—$4.01 per bushel.

Corn before the embargo—$2.56 per bushel.

Corn after the embargo—$2.30 per bushel.

Soybeans before the embargo—$6.15 per bushel.

Soybeans after the embargo—$5.63 per bushel.

And while American farmers were suffering depressed prices, were the Soviets faced with lower quantities of grain? No, the Russians are getting their grain and the other exporting nations are getting rich. Let us look at the figures again. In Australia wheat prices went from $173 per ton on January 3 to $210 per ton on February 7. And in Argentina, corn prices went from $123 per ton on January 3 to $150 per ton of February 7.

So much for showing the Kremlin we mean business. So much for a promise made 2 years ago in Columbia.

And now, to the credit crunch of 1980.

Thousands of farmers went to the bank this year for loans, none of them could believe their ears when their friendly banker said 17 percent, 18 percent, 19 percent, 20 percent interests.

And in Washington the economic soothsayers of the administraton and the Federal Reserve demand higher interest rates and sagely proclaim they will slow down inflation. Cut up your credit cards, they say. Do not buy unnecessary luxuries on credit.

Well, farmers are not borrowing money to buy their wives a fur coat, or to get their children a new stereo, or to buy themselves a new set of golf clubs. Farmers are borrowing money to farm. To plant their crops in spite of low prices. To work the land. To try to make a living and feed our Nation.

This spring, after talking to some of the farmers in my district, I went to the Federal Reserve to tell them of my concerns about the credit squeeze. Needless to say, the Fed underestimated the impact of their decision. Later in the year, Congress extended an economic emergency loan program to help farmers survive the credit crunch, but not before it took its toll on thousands of producers throughout the Nation.

So in 1980, with a backdrop of double-digit inflation, the administration ushered in the New Year with an embargo and marked the coming of spring with a credit crunch and the costs of farming keep going up.

Using the USDA's own figures: the cost of planting an acre of soybeans went up 21 percent from 1979 to 1980. An acre of wheat cost 23 percent more to grow. Corn, 24 percent more. From last year to this the cost of tractors and machinery jumped 12 percent; fertilizer up 26 percent; farm equipment supplies climbed 40 percent; and fuel and energy skyrocketed 41 percent over the last year.

In the last decade the costs of production to the farmer went up an average of 84 percent, while at the grocery store, every dollar increase in the typical marketbasket means only 32 cents to the farm producer.

Is it any wonder, with policies like the embargo and credit restraints, coupled with inflation, that the ranks of the farmer has dwindled from 23 million in the mid-1950's to fewer than 8 million today?

But, 1980 has not been a total loss. There have been some positive accomplishments in the House Agriculture Committee. We have approved legislation ranging from increases in crop price supports to measures dealing with credit, transportation, pesticides and energy.

Among the successes I am most proud of is the repeal of the carryover basis provision. Congress repealed this tax provision which would have forced many heirs to sell off their family farms in order to pay the estate taxes. By repealing the carryover basis heirs who inherit property will be able to keep it thanks to a significant reduction in their potential capital gains tax liability. But I feel our job is not finished until we repeal all taxes on the transfer of family farms to family members.

Also passed into law was a 7-percent increase in target prices for 1980 crops; an extension of natural disaster compensation payments; and a major synthetic fuels act which provides significant funds for the development of gasohol and other alternative fuels. Hopefully, the Synthetic Fuels Act will provide even greater encouragement to farm producers throughout the Nation to help us become energy independent while providing yet another market for American commodities.

Among legislation awaiting final passage in Congress this year is a bill which would end the unfair advantage foreign investors have in buying U.S. farmland. The bill would tax capital gains on all U.S. real estate owned by foreign citizens. Until now, believe it or not, foreigners have been able to escape capital gains taxes when selling property while American farm families are taxed to the limit.

While these steps have been necessary and important, there is a bigger question at hand. What will the role of agriculture be in the coming decade as our Nation faces one of its most perilous times in history.

Together we face a great challenge to assure that farmers and ranchers continue to be the strong backbone of America. We must look to the agricultural sector of our economy to help expand our Nation's influence and preeminence throughout the world; to revitalize our spirit as a world leader; and to rekindle the flames of freedom in the oppressed countries of the world.

To this end we must be aware of and prepared to meet the challenges of an ever growing world population.

Many nations, notably those in the so-called Third World, face expanding populations in the coming 10 years with no corresponding ability to feed their people. This situation presents us with great opportunities to expand trade relations throughout the world while significantly helping offset our own negative trade balance. Many of these developing countries have the natural resources that America needs to continue our own development and leadership in the world.

From $6 billion worth of agricultural trade in 1968, we have seen American farm exports grow to a record $32 billion in fiscal 1979. Of that, my home State of Missouri contributed $1.14 billion, ninth highest in the Nation. These exports are not giveaway programs. Most are earning dollars from the marketplaces of the world. In fact, U.S. farm exports have significantly cushioned the impact of rising imported oil costs the last couple of years. If our other areas of export could expand at the rate of the agricutural sector, we could substantially reduce, if not eliminate, the negative trade balance which has seriously weakened the dollar at home and abroad.

It is my personal goal that the 1980's herald an even stronger period of trade expansion. Specifically, Congress should call for full implementation of the foreign trade offices authorized in legislation passed in 1978. Of 25 offices authorized in the bill, the administration has so far opened only 6. We must open the full complement of U.S. foreign trade offices in order to promote new markets for American farm products. Furthermore, we should better utilize our farm trade programs, such as food-for-peace—Public Law 480—to develop stronger economic and philosophical ties with Third World nations.

Conservation measures must also receive priority consideration. Each year the average farm in the United States loses an estimated 12 tons of soil per acre to erosion. As much as 900 tons of topsoil per minute flow from the mouth of the Mississippi River. This is why a strong, continuing effort to control erosion is necessary to prevent our wealth in soil from literally going down the drain.

Just as we pledge to work for the future of American agriculture, we must continue working to make rural America a good place to live. We must address the needs and problems of rural America in such areas as water and sewer facilities, electrical and telephone services and economic development. In recognizing that there is a role for the Federal Government in rural communities, most farmers believe as I do that local solutions are best for local problems and that Federal programs must work to reflect local priorities and minimize bureaucratic interference. We have the opportunity to learn from the lessons taught by years of Federal programs aimed at urban problems, with enormous costs, questionable benefits and increased bureaucratic control over local matters. Our commitment to finding solutions to the problems of our rural communities must be equaled by our determination to avoid the mistakes created by misguided Federal involvement in urban areas.

In order to accomplish many of these goals, it is important to reestablish the USDA's traditional role as the advocate of the American farmer rather than its current stature as a collector of statistics and an arm of the social welfare system.

Mr. Speaker, there are some who say the American will is gone; that the problems we face are too heavy a burden to carry and too difficult to solve.

Let me just say if there has been a decline in American will it has not been a failure of the people but of her leaders. The people want America to be respected. They want America to be secure. They want America to be strong. It is time America's leaders respond to the people and define her purpose, restore her strength and revitalize her will.

In closing, as I said earlier, we have seen the ranks of the farmer dwindle over the past 25 years from more than 23 million to fewer than 8 million. But those who remain are an inspiration to all Americans and the hope of the entire world. We cannot allow this vibrant sector of American life to slip from our grasp for if we do we will lose the very qualities upon which our Nation was founded. Those qualities of American spirit: of hard work, perseverance in the face of adversity, love of family, bold determination, freedom and independence.●

A WELL-MERITED TRIBUTE TO FORMER CONGRESSMAN JOSEPH E. CASEY OF MASSACHUSETTS

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. EARLY. Mr. Speaker, I was very sorry to learn of the passing, here in the District of Columbia last Tuesday, of one of the most distinguished native sons of our Massachusetts Commonwealth, former U.S. Representative Joseph E. Casey. Mr. Casey was an outstanding Representative, in this House, of the people of the Third Massachusetts Congressional District from 1934 to 1942. In 1942 he was an unsuccessful candidate for the U.S. Senate. Shortly thereafter he returned to Washington and was an eminently respected practicing attorney here during the intervening years. However, he maintained his friendships in Massachusetts and is a legend in the Clinton area where he was born, and which is part of the Third District that I now have the honor to represent in the Congress.

Even before he came to the U.S. House of Representatives "Joe" Casey was a well recognized young and rising figure in the legal and political circles of central Massachusetts. He had an unusually attractive personality, a genial nature, scholarly disposition, gifted mind, and eloquent voice. He had the reputation of always being well prepared for anything in which he engaged, was very warmly regarded by his friends and neighbors in Clinton and highly respected by his professional associates. He was universally admired for his exceptionally high character, integrity, and competence and commonly held to be one of the most persuasive orators in the legal and political history of Massachusetts.

In the comparatively short time of 8 years Joe Casey rose to become a leading influence in the U.S. Congress. He was a pioneering pleader for the enactment of such landmark legislation as the Lend-Lease Act of 1941, minimum wage and hour laws, public housing, rural electrification, social security, and a host of other social betterment measures and programs designed to realistically fulfill our constitutional pledge to extend equal justice, opportunity, and treatment to all American citizens of whatever level or class. These basic legislative achievements will always remain in this House as an everlasting monument to the patriotic dedication, diligence and effectiveness of Congressman Joe Casey in trying to improve the quality of life for his contemporary fellow Americans and all who would come after him in this great country.

Mr. Speaker, it was my great privilege to meet Joe Casey shortly after I came here as a Member of Congress 6 years ago. Through the years I came to know him as a kind and courteous and thoughtful man. He was immensely proud of having been the first Democrat to be elected to the U.S. House of Representatives from the Third Massachusetts Congressional District. On every occasion that we met he was intensely interested in national issues, amazingly energetic, and deeply enthusiastic about the future of the United States. I am a most grateful beneficiary of his profound wisdom and guidance. I will long and greatly miss him as a valued adviser and dear friend. I extend my deepest sympathy to his gracious wife, Constance and his five children in their great sorrow.●

IMMIGRATION POLICY

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. ASPIN. Mr. Speaker, the United States is in danger of having its immigration policy determined by any other country that wants to shed itself of population.

The Carter administration has no real policy; the Congress has no real policy; we are floundering.

For many decades it has been the policy of dictatorial regimes to hem in their peoples and prevent anyone from getting out. The Soviet Union has more border guards than many countries have people; the Berlin wall is the most graphic example of the extremes totalitarian states will go to prevent their people from seeking better lives for themselves.

But now there is a shift away from the Soviet approach. Cuba and Vietnam exemplify the growing attitude that it is easier to rule if you simply let those elements that might coalesce as an opposition leave the country. Hanoi not only lets people leave, it made a profit out of them by selling the chance to leave for top dollar.

For the past 30 years, most refugees were fleeing war, insurrection or famine and simply walked to the next country where the United States helped by supplying food and funds but accepted few as immigrants. In that time we developed a special policy toward those fleeing Communist rule. Basically, it was an open door policy. That was acceptable to almost all Americans because, quite frankly, few people had the chance to get near the open door.

Now we face the growing prospect that more Communist countries, especially Castro's Cuba, will unleash their "people weapon" against the United States. On top of that we have burgeoning discontent in many Caribbean countries with the possibility of elicit boatlifts from many more islands than Cuba and Haiti. And on top of that, polls show that two out of every three people in Latin America would come here if they could. Modern transportation in the hands of the unscrupulous means that each year more and more can.

The absence of a policy is not just the fault of the administration. We have not really had a national debate on this because the public has not yet come to grips with it. And we cannot have a real policy until we have something approaching a national consensus.

The easy and obvious policy alternatives are all undesirable.

First, if we dump all illegal aliens found in this country in jail and leave them there until they arrange to leave this country, it would tend to discourage others from coming. But this society is not about to condone such concentration camp tactics.

Second, if we spend untold billions to vastly expand our border and coastal patrols, we might limit the inflow. But it will undoubtedly remain easier and cheaper for them to punch holes in our 10,000-mile wall than for us to plug the holes.

Third, we can severely crimp any boatlifts by letting vessels sink—a policy we have not and I hope we never will seriously consider.

It will take a lot more finesse to limit the refugee flow, but we will still continue to see periodic spurts. It was Hungarians in 1956, Cubans in the early 1960's, Vietnamese in 1975 and 1978, and Cubans in 1980. Every time there has been an outburst of refugees, there has been an outburst of protest.

Recently Congress passed the Refugee Act of 1980 specifically to try to control and regulate the inflow of refugees. The act, which went into effect just last spring, envisioned an influx of 50,000 refugees a year. Castro has neatly made mincemeat of our own legislation. Given that periodic bursts of large numbers of refugees can be expected to continue, we had better decide now how we are going to deal with them.

Therefore, I am outlining today a five-point immigration program designed to address the problems of immigration without punishing the immigrant.

The Nation needs to sail a careful course between our limited resources and our traditions of hospitality. I have no truck for the small minds of those who would lock our gates to all newcomers once they themselves are inside, but it is also a simple fact that we cannot accept anyone and everyone who would like to be an American or we will be overwhelmed and our resources depleted.

My program is designed to discourage what for lack of a better word we call moochers while attracting the kind of hard working immigrant who helped build America in the past and will continue to help build it in the future.

The five points are:

First, selectivity. We will accept refugees of our choosing, not Fidel Castro's or anyone else. The Coast Guard has proved that it can seal our sea borders reasonably tightly. It was President Carter's blunder not to use that ability from the first day that Castro unleashed his boat offensive. We have accepted Cuban refugees for two decades after selecting out the felons and the prostitutes. We can continue and should continue to do so through our mission in Havana.

Second, reduce costs. We are spending more than $1.3 billion this year to support refugees and even have at least one welfare program that is closed to citizens and open only to refugees. We ought to switch to a system of no-interest, long-term loans for new arrivals. We will capitalize them to help get them settled. As they enter the mainstream, they will repay Uncle Sam. I think they will be more than happy to do so—certainly the type we want to attract would be most happy to do so.

Third, sponsor responsibility. Sometimes families now sponsor an aging relative into this country and then abandon the newcomer to the welfare rolls. Sponsors of these immigrants should be made financially liable for their arriving relatives.

Four, a special Mexican program. Geography means we cannot stop the flow of illegal immigrants across the Mexican border. We should make an agreement with Mexico to allow a certain number of their citizens to work in this country on a temporary basis each year. We did this before in the 1950's. While it did not work perfectly, it was far better than the mess we have now. The problem with the bracero program of the 1950's was that the Mexicans helped to hold down wage levels. The problem now is that the uncontrolled, illegal flood of Mexicans holds down wage levels even more. We have gone from the frying pan into the fire. Let us go back to the frying pan. The Mexican Government has indicated it is interested in a regularized flow. It is the United States that is sitting down and doing nothing.

Five, address the Caribbean now. The next refugee explosion could come from the Caribbean where dozens of poor and overcrowded islands have little future. Social upheaval could produce pro-Soviet regimes and send floods of refugees this way. We should allow more temporary workers into this country from the Caribbean and also create a special import preference program to encourage small-scale industry to locate in the islands knowing they would have a market in this country. These kinds of programs are not popular, but a responsible government spends large sums on preventatives rather than immense sums on curatives.

I should say a word about refugee costs, which are scattered all over the Federal budget. Finding out how much we spend on refugees is almost as bad as trying to find out how much the Pentagon has overrun its weapons budget.

I have tracked down at least $1.3 billion that will be spent this year on refugees who come to this country. That doesn't include the $162 million we will send overseas to help maintain refugee camps in other countries.

The $1.3 billion includes about a half billion in welfare program costs, largely for the Indochinese, close to $400 million to run the refugee camps for the newly arrived Cubans and Haitians and almost $300 million to help bring Indochinese here at the rate of 14,000 a month.

I mentioned earlier that there is a special welfare program open only to refugees and not to citizens. I saw some jaws drop at mention of that so I think I had better explain it.

This special refugee assistance program—which will cost about $200 million this year—is calculated the same way as the main welfare program, Aid to Families with Dependent Children. AFDC provides funds in half the States only to one-parent families with minor children. The special refugee assistance program says that so long as your income is under the ceiling for AFDC eligibility, you can get AFDC-type payments even though you may be a married couple, a childless couple or even a single person.

This program was not dreamed up in a void. The logic behind the idea was that the Federal Government should pick up all refugee costs and should not leave some refugees to go on State welfare programs. I could not agree more wholeheartedly with the thought—but the practice leaves a great deal to be desired because there are two massive holes in the program:

First, about 10 States have no general assistance welfare programs so refugees there get funds while citizens in equally dire straits get zero. In many other States, general assistance is less than the AFDC payments so the refugees get more aid than citizens.

Second, under the Carter administration's proposal, none of the Cubans and Haitians who entered this country this year would come under the special Federal refugee aid plan. Despite the philosophy of having the Federal Government pick up all refugee costs, Washington would leave the States with general assistance programs to pick up the tab for the Cubans and Haitians.

Let us say there is a Cambodian family of four that came here in May, and a Cuban family of four that came here the same day. They both live on the same block with a native born American family of four in a State with no general assistance program. And they all have the same poverty-level income.

The American family gets no government aid at all from either the State or Federal Government. The Cambodian family will get a few hundred dollars from Washington on the logic that the local authorities should not have to pay what is a nonexistent bill for refugee welfare. And the Cuban family will get nothing from anywhere because the administration simply does not want to spend more money.

Somehow, we have now managed both to discriminate between refugee and citizen and to discriminate among refugees depending on their place of birth. With the goal of complete fairness in mind, the system has produced a program that really is not fair to anybody.

If we want to be fair to the States and not leave them with a refugee bill, then Washington should reimburse the States for any general assistance costs—but it should not be paying welfare to foreigners who would not qualify if they were citizens. And if we are going to provide aid for refugees, we should not discriminate between the Cubans and Haitians on one hand and everybody else on the other hand.

If we simply dole out billions and include programs that even citizens cannot qualify under, then we are asking for trouble. We will feed hatred and animosity toward the refugees and end up making their lives here miserable.

That is why I am suggesting we supplant the bulk of the existing welfare programs with a Federal, no-interest loan program for refugees. They would get money to resettle and to start up new lives. But that money would not be a gift. They would be expected to repay it over succeeding years.

This idea has a number of benefits. For one thing, it would be a lot cheaper than the present costly approach. For another, it would help to sort out the refugees who are simply looking for a free ride here from those whom we want to attract—the hard-working, nose-to-the-grindstone types that helped build America over the last two centuries.

Another key question is how many refugees should be accepted. That is harder to answer because, first, almost any number is going to be arbitrary and, second, the flow of refugees obviously reflects disasters abroad and not just the desires of bureaucrats in Washington for an even and manageable flow. It is our nature in government to try to fix some annual figure. It might be better if we set a limit by the decade and recognized that half that number might come in any one year, like the surges of Hungarians, Cubans, and Indochinese I cited earlier.

I should note that we may face another explosion of Cuban refugees in the foreseeable future.

There are several pieces of evidence to support this:

First, economic conditions in Cuba and crime continue to be a problem.

Second, there is evidence that Castro has been improving the departure port of Mariel, giving it the look of a permanent installation.

Third, there is evidence that Castro has alined himself with a hard line faction that favors a policy of confrontation with the United States.

Of course, a harsh clampdown by the United States on skippers who bring refugees over in their boats could severely crimp any boatlift. But that does not eliminate Castro's options.

I am concerned that Castro might retaliate by unloading truckloads of refugees outside the fence at the Guantanamo base and telling them to clamber over. It is not an invasion by Cuban troops that the Marines at Guantanamo have to worry about.

The Nation must give more thought to what policy we will pursue if there is another refugee flood because the chances are very good that Castro isn't finished cleansing his island of elements he doesn't like. What is more, there is the likelihood of more illegal inflows from Haiti and elsewhere around the Caribbean.

There are indications that an organized group using a secret mother ship is bringing Haitians to this country and only placing them on rickety old ships for the last few miles.

I am sure anyone who has looked at the news photos of hundreds of people jampacked on a tiny boat has wondered how they could have spent a week at sea in such a vessel. The Coast Guard wonders too—especially since officers who have met the boats report that the hordes of people on them are reasonably clean, neat, and well fed—too clean, neat and well fed to have spent many days at sea.

Coast Guard officials have compared the Haitians with the Cubans who generally arrived haggard and hungry despite a trip that is ostensibly only about a fifth as long.

This has led to the belief that some person or persons is actually bringing the refugees—for a large fee, of course—aboard a mother ship. Then they are put aboard a rickety boat only for the last segment of the trip to the Florida coast.

I am concerned that the proposal to amnesty all illegal Haitians in this country will simply spur even more to come here. Furthermore, this same boat ploy could be used to relieve dozens of other Caribbean islands of their population pressures. That is why one of my five points specifically addresses the unique problems of the Caribbean.

We need a far more comprehensive policy on refugees than the one we have now, which merely addresses what we will do if we can have a controlled, regulated and limited flow of 50,000 a year into the United States. This does not reflect the realities of the periodic bursts of refugees we have seen since World War II.

Mr. Speaker, I suggest that we frame a refugee policy that reflects the real rather than the ideal world. I submit my five-point proposal as the framework for just such a policy.●

THROWING MONEY AT A PROBLEM

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. HARKIN. Mr. Speaker, Ed Sidey has written another one of his very fine editorials which cuts through the surface and gets right to the heart of the matter. Mr. Sidey, who is editor and publisher of the Adair County Free Press in Greenfield, Iowa, is widely known for his thoughtful and incisive editorials. This is another of his to the point editorials about how some political candidates accuse others of throwing money at a problem in order to solve that problem, and then that very same individual will turn right around and try to solve our defense problem by throwing money at it. It is an editorial which I am sure will be of interest to my colleagues. The editorial follows:

POSSIBLE TO "THROW MONEY" AT DEFENSE

In the political campaign ahead of us this fall, we will hear much comment about certain candidates who are supposed to be "strong" on defense or "weak" on defense. Too often, their positions on defense are equated with how much money they have voted or would vote for the defense budget.

Somewhere in the campaign, we hope the idea comes across that sometimes it isn't the amount of money spent, but how and for what it is spent, that determines whether we have strengthened our armed forces.

Republicans have been fond of accusing Democrats of "throwing money at a problem" in a futile attempt to solve it. We submit that it is possible to "throw money at defense" in a similar fashion, and just as futile. Some of the hawkish candidates, who pride themselves on being financial conservatives, are most guilty of throwing money at our defense problems.●

IN HONOR OF RABBI AND MRS. JACOB GOLDBERG

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. WEISS. Mr. Speaker, there are citizens in every part of this Nation who give inspiring, unselfish service to their communities. Two such citizens, Rabbi and Mrs. Jacob Goldberg, have left their mark on two parts of New York for the past several decades: The Lake Peekskill area upstate, and the Washington Heights neighborhood in New York City, which I have the privilege to represent in this House.

In each of these areas, Jewish congregations claim Rabbi Goldberg for their own. In Lake Peekskill, where the Goldbergs spend their summers, he has led Temple Israel. In Washington Heights, it is the Fort Tryon Jewish Center that cherishes him the rest of the year.

Our distinguished colleague, Hamilton Fish, Jr., who represents Lake Peekskill in Congress, recently took part in ceremonies honoring the Goldbergs in that community. As a friend and admirer of my constituent, Jacob Goldberg, I join Mr. Fish in applauding the rabbi's rare dedication to public service.

The Goldbergs have been particularly active in the struggle to end the persecution of Jews in the Soviet Union, a cause to which Mr. Fish has also lent his considerable talents.

I am honored, and proud, to commend the following remarks of Mr. Fish at the Lake Peekskill celebration to the attention of my colleagues. The remarks follow:

Temple Israel Remarks Honoring Rabbi and Mrs. Jacob Goldberg By Hon. Hamilton Fish, Jr.

Ladies and gentlemen, it is indeed a privilege to be here with you this evening to honor Rabbi and Rabbitzen Goldberg for their dedication and good works here in Lake Peekskill, in New York City, and around the world.

I would like to mention Al Brenner, Sam Slutzky, and Abe Meltzer for their efforts in making tonight possible. I want to thank them all for their assistance in bringing us together for this special occasion.

Outstanding citizens like Rabbi and Rabbitzen Goldberg reaffirm my belief that this country does not suffer from a lack of moral leadership and unselfish commitment. They symbolize the faith, values, and social involvement—Americans dedicated to serve their community and to improve the lives of citizens of all denominations. By their continuing relationships with the Washington Heights and Lake Peekskill communities, Rabbi and Rabbitzen Goldberg have formed lasting and firm bonds with the members of the two congregations. We are all proud and delighted at celebrating thirty-two years of inspiration and wisdom from Rabbi Goldberg here at Temple Israel and I am honored to call him friend.

Rabbi Goldberg epitomizes that which Jewish congregation leaders have been throughout the centuries. For Rabbi Goldberg is a guiding force in prayer, study, cause and counseling. He carefully preserves the Jewish tradition and therefore the Jewish people. He is available to share times of happiness, console the bereaved, and to be a friend. For that we all are greatful, Rabbi.

Most of all, Rabbi Goldberg is that which all Rabbis are by definition—a teacher. He brings great scholarship and historical perspective to the traditional themes of prayer. His interpretations of the Hebrew Scriptures illuminate our understanding. It has been my good fortune, as you know, to attend some of Rabbi Goldberg's services and I have always come away better informed about the rich Jewish tradition.

Rabbi and Rabbitzen Goldberg have long been dedicated to a cause to which I am also fully committed, Soviet Jews. In 1967, Rabbi Goldberg was among the first of American Rabbis to visit the Soviet Union. The persecution and mistreatment of Soviet Jews, the suffering of those imprisoned or tortured just because they were Jewish, and the horrors of the Gulag Archipelago were visions which Rabbi Goldberg has never forgotten.

Upon his return to the United States in 1967, Rabbi Goldberg helped form and became the first president of the New York Coordinating Council on Soviet Jewry, now the Greater New York Conference on Soviet Jewry. Rabbi Goldberg created this group and worked hard to expand its influence and activities because of his anguish and dismay at what was happening to Jews in the Soviet Union. He continues this work today. And as we all know from my recent remarks to this congregation, there are still many Jews inside the Soviet Union, such as Vladimir Kislik, Ida Hindel, and Anatoly Shcharansky who are not free to live as they choose.

It is on behalf of these men and others equally unfortunate that Rabbi Goldberg and the organization he created will not cease their vigorous efforts until all who wish to live in freedom achieve their goal.

In order to further his education and knowledge, Rabbi and Rabbitzen Goldberg spent a year in Israel. He came back infused with the spirit of Israel and the Jewish people. This awareness is apparent in all that Rabbi Goldberg says and does among the congregation and in the outside world.

I think it is important for us to note the academic achievements of Rabbi Goldberg. The clarity and quality of his teaching reflects his three masters degrees in history, rabbinics, and counseling. His exceptional background benefits his entire congregation.

One of Rabbi Goldberg's degrees, his masters in counseling, has led him to involvement in a new area—bereavement counseling. In conjunction with an interfaith group in New York City, Rabbi Goldberg—ceaseless in his search for services—is developing a new and important program for educating clergy to better perform the difficult task of comforting the bereaved. This is just another example of Rabbi Goldberg's leadership in the community he so faithfully serves.

I again note my privilege in being able to speak to you on this special occasion. I would like to extend my best wishes to Rabbi and Rabbitzen Goldberg's family, his son and two daughters and their spouses and children, who are attending this ceremony this evening. This congregation is justifiably proud of Rabbi Goldberg, enriched by him as we all are. We all wish that he serve many more years here in Lake Peekskill.●

UNION CONTEST WITH GOVERNMENT—PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. McDONALD. Mr. Speaker, the following excerpt is the second part of a two-part series on unions by Clarence B. Carson. In part I, Mr. Carson examined union organization and their legal definition, union competition with Government regarding the latter's monopoly on coercion, and finally the response of Government to this competition. Part II takes a different tack and examines, from a historic perspective, labor union development and serious strikes since the Civil War along with the attendant legal developments.

There are few if any power structures in our society today which strike at such a fundamental issue as Government control and monopoly on force as labor unions do. Misunderstanding of the constitutional necessities regarding this subject is the seed of serious civil upheaval and the foundation for what could well be a stifling hold on all production as well as the freedom of workers. For this reason I commend the conclusion of this paper to the careful attention of my colleagues:

Union Contest With Government

UNIONS AFTER THE CIVIL WAR

Unions did begin to become nationally important after the Civil War. Several national unions were organized, and there were successful efforts to organize workers in many industries. "The Industrial Commission of 1900 reported that there were 22,793 strikes between 1881 and 1900 which affected some 117,000 businesses. During the same period there were 1,005 lockouts." A lockout occurs when facilities are closed to protect the premises from trespass and the property from damage. The number of them may provide some indication of the fear of destruction during labor disputes.

The union contest with government became visible, vociferous, sometimes violent during this period. The first national instance was the Railway Strike of 1877. This was not a single strike coordinated by a central union but a series of strikes which spread to several railroads and states during that year. The strike began in Baltimore following the announcement of a wage cut on the Baltimore and Ohio Railroad. Crewmen refused to move trains, replacements were hired, and when the strikers remained in the yards, they were arrested. The trouble then shifted to Martinsburg, West Virginia. When the crewmen refused to take the trains through, the railroad asked the governor for troops. When the state troops met resistance they killed a striker and one of them was wounded. The governor requested Federal troops, and several hundred were dispatched. After a change of commander, these were able to get the trains moving again.

Much worse violence lay ahead in Pittsburgh, however. The reduction of wages was not the issue there. The trouble arose over the decision of the Pennsylvania Railroad to haul longer trains by using two engines. Crewmen and yardmen refused to move the train and, when an attempt was made to move it, they attacked it. All train traffic was stopped and the sheriff wired the governor for troops. Local Guardsmen from Pittsburgh were supplemented by a large contingent from Philadelphia.

When the sheriff assisted by Guardsmen, attempted to arrest the leaders, shooting broke out, and the Pittsburgh troops threw down their weapons and took sides with the strikers. The Philadelphia Guard withdrew to the railroad roundhouse. "Shut up in the roundhouse, the guardsmen were surrounded by a large crowd that called upon them to surrender. A gun brought by the rioters and loaded with couplings and broken rails steadily pelted the roundhouse, but the guardsmen held out and marched out only when the pickets had pushed burning oil cars against the building. The retreating troops were fired upon as they moved through the streets, and several fell from revolver and rifle shots." After another day of violence, things quieted down, but trouble was spreading in Pennsylvania.

The governor requested troops from President Hayes. These were dispatched from Baltimore, but "Strikers blocked the road at Altoona and refused to allow National Guardsmen to proceed to Pittsburgh. . . . The governor set up headquarters in Philadelphia, assembled troops and set out for Western Pennsylvania, followed by several hundred regular army troops equipped with artillery." When a sympathy strike broke out in Scranton, large damage in mines was anticipated. "A clash between pickets and a posse that had been recruited by the mayor of Scranton resulted in the killing of four and the wounding of several others. Aid was sought from the governor while armed citizens patrolled the city streets. A force of 1,800 men was dispatched and was followed by 2,000 additional troops."

Trouble spread to Ohio, Indiana, and Illinois. In Chicago, pickets went from one plant to another attempting to make them close down and go out on strike. Pleas from the mayor and governor were unavailing, for "crowds clashed with the police, some of them were killed and many others wounded." The army was brought in. "Order was restored with the arrest of rioters and their leaders."

THE HAYMARKET RIOT

Surely, these clashes between unions and government were unusual in scope and severity. However, there were instances when clashes were more pointedly ideological than those in the Railway Strike. Perhaps the most well known was the Haymarket Riot in 1886. There were anarchists directly involved in events which led to this series of events in Chicago, men who believed and taught that government was an instrument of capitalists to oppress the workers, that government, then, was an enemy to be overthrown.

Cyrus McCormick, owner of a harvester works in Chicago, had refused to accept a union to represent his employees. When pressed, he closed his factory and opened it later with non-union workers. Conflicts between the union men now on strike and the workers were frequent. Meanwhile, organized labor launched a campaign for the 8-hour day with a general strike. For whatever reasons, probably as a conciliatory measure toward his workers, McCormick granted the 8-hour day and gave his workers a half-day holiday to celebrate. "As the workers came out of the factory they were greeted with hoots of contempt and derision by the union men assembled near by. Not far away, in a vacant lot, striking lumbermen were holding a meeting. . . . The two groups joined forces. The owner summoned the police and, in the fighting that followed, several workingmen were killed and a score or so wounded."

A protest meeting was scheduled for the next night to be held in Haymarket Square. Circulars were printed up in English and German and distributed over the city. The heading read: "Revenge! Revenge! Workmen to arms!" The body of it spelled out the antagonism toward the police:

"Men of labor, this afternoon the bloodhounds of your oppressors murdered six of your brothers at McCormick! Why did they murder them? Because they dared to be dissatisfied with the lot which your oppressors have assigned to them. They demanded bread, and they gave them lead for an answer."

Toward the end of the meeting a squad of police arrived and asked the crowd to disperse. A bomb was thrown into the ranks of police; the explosion killed one and wounded others. Shooting broke out; sixty-eight policemen were wounded, and seven of them died. Four people in the crowd were killed. In the aftermath several anarchists were tried and convicted of murder.

THE HOMESTEAD STRIKE

The Homestead Strike of 1892 provides an example of another aspect of the contest. Companies sometimes hired their own police. When a strike portended, these might be supplemented by private forces such as the Pinkerton Detective Agency. The Homestead (Pennsylvania) plant was a part of Carnegie Steel. Henry C. Frick was the chief administrator. When the Amalgamated Association of Iron and Steel Workers called a strike in 1891, Frick tried to operate the Homestead plant. More than a hundred deputy sheriffs were sent to the site. However, pickets refused to allow them to enter the plant, and the deputies would not force the picket lines. The sheriff managed to get negotiations opened, and the strike was settled.

Things went differently in 1892. Frick caused a three-mile-long fence to be constructed around the plant. The fence was topped with barbed wire, spaced holes were cut in it, and search-lights were mounted along it. When the union decided to strike, the company did ask the sheriff for protection, but Frick did not intend to place much reliance on him. Instead, he had already placed a tentative order with Pinkerton Detective Agency to supply guards, for he had concluded, he said, that "it would be necessary to protect our own property and secure new workmen.

Three hundred Pinkerton detectives tried to reach the plant by way of boats on the river. However, their approach was detected by the strikers who broke through the fence that had been erected and would not permit them to land. Shooting broke out and several were killed. The Pinkertons made two other unsuccessful assaults before they surrendered. The plant was taken over by the strikers and the guards held captive. The sheriff applied to the governor for troops, and 7,000 were sent. They removed the strikers from the premises, and the mill was eventually reopened without them. In the midst of these developments an anarchist shot and stabbed Frick but failed in the effort to kill him.

THE PULLMAN STRIKE

The Pullman Strike of 1894 provided the setting for a major shift in dealing with labor disputes. Theretofore, state and local governments had been primarily responsible for maintaining the peace in labor disputes. In this strike, the United States became involved on its own initiative (not simply as a backup force). A contest between a union and the federal government developed. Secondly, it began the shift to the widespread use of the injunction in labor disputes. Third, the Sherman Antitrust Act was invoked in a labor dispute.

Actually, Pullman Strike is a misnomer for the events that brought action by the federal government. There was a Pullman strike, but it was only the approximate cause of the trouble. It could more aptly be called the American Railway Union Boycott. When the workers at the Pullman plant near Chicago went out on strike, the American Railway Union proclaimed a boycott of Pullman cars on trains. That is, the members of their union were not to handle Pullman cars on the train that they worked. The associated railroads which came into Chicago determined that the lines would not be used in that way, that they would continue to use and pull Pullman cars. When the union men refused to comply with company orders, they were replaced by those who would. Many railway workers then struck.

The railroads experienced increasing difficulty in operating. The mail was piling up in some cities because the railroads were tied up by the strike. Injunctions were obtained which enjoined interference with the railroads. A witness described the response to the reading of the injunction this way:

"Marshal Arnold stood in a mail car and read one injunction. He was jeered considerably . . .; then the other injunction was read from the back of a passenger car by his deputy . . . The men, of course, gathered around and I suppose there were 500 men upon the hill, in the roadway and around the cars . . . It was from that crowd that the cry came, 'To hell with the Government.' 'To hell with the President.' 'To hell with the court and injunctions.' "

The United States Marshal wired that he was unable to enforce the injunction and requested that troops be sent in. This was done, but the immediate result was an increase in the violence. Several marshals and their resisters were killed and wounded. Shortly after the union leaders were arrested, the violence subsided, and the strike was called off.

The United States Strike Commission, appointed by President Grover Cleveland, described the situation this way in the latter part of the nineteenth century:

"It is encouraging to find general concurrence . . . in condemning strikes, boycotts, and lockouts as barbarisms unfit for the intelligence of this age, and as, economically considered, very jurious and destructive forces. Whether won or lost is broadly immaterial. They are war—internecine war—and call for progress to a higher plane . . . These barbarisms waste the products of both capital and labor, defy law and order, disturb society, intimidate capital, convert industrial paths where there ought to be plenty into highways of poverty and crime, bear as their fruit the arrogant flush of victory and the humiliating sting of defeat, and lead to preparations for greater and more destructive conflicts."

The Commission recommended that the government encourage labor combinations as it had capital formation in the interest of industrial peace.

Except for the railroads and more generally for a brief period during World War I, that would not be the course the government followed for the next four decades. (When the government did eventually turn to the encouragement of unions, as Metz called it—it might better be called empowerment—it hardly resulted in industrial peace.) The contest between unions and government did, however, shift to a different plane between the 1890s and early 1930s. Much of the initiative for maintaining the peace shifted from the police (and armed forces) to the courts. The main instrument for controlling labor unions was the injunction.

The injunction was increasingly used in labor disputes from the 1880s through the 1920s. Both state and Federal courts issued them. A total of 28 such injunctions were issued in the 1880s, 122 in the 1890s, 328 from 1900 through 1909, 446 from 1910 through 1919, and 921 in the 1920s. One authority described the impact of this use of the injunction this way:

"For almost a generation and a half, from the 1890s to the early 1930s . . . the power of the courts was invoked to assist in defeating most of the more important strikes—among them, the Pullman Strike of 1894, the coal strike of 1919, the shopmen's strike of 1922—and only a smaller proportion of the relatively less important ones . . . to prevent the successful spreading of labor boycotts . . . and . . . to prevent organizing activities where the workers were engaged under individual nonunion or 'yellow-dog' contracts."

SHERMAN ACT OF 1890

The Sherman Act of 1890 provided legislative support to the use of the injunction in labor disputes. It was not essential to the use of the injunction in this way, per se, since courts of equity could, and did, issue injunctions to forestall irreparable damages where they were the appropriate remedy. The Sherman Act went much further, however. It prohibited combinations or conspiracies which restrained or obstructed interstate commerce. It provided for criminal prosecution, for injunction relief, and for suits in which triple damages could be awarded.

Labor unions were neither exempted from nor specifically mentioned in the Sherman Act. However, a provision to exempt combinations of laborers from its application was not adopted by Congress, and the language was altered to refer not only to trusts but to "other" combinations as well. In any case, the courts began to apply it, and in the Danbury Hatters case, heard in 1908, triple damages were assessed against a union. The Supreme Court eventually affirmed its validity.

The courts had now moved toward the position that labor unions were at least partially responsible legal entities. The fine in the Danbury Hatters case was levied against the membership of the American Federation of Labor. I say partially responsible, however, for only damage to employers was assessed, not that to non-union workers, to government, or to the general public. Indeed, there may be no way equitably to arrive at such damages. In any case, these developments concerned union leaders greatly. They launched a political campaign to get the antitrust laws modified so as to exempt unions from their applications.

THE CLAYTON ACT: "LABOR'S MAGNA CARTA"

This campaign bore fruit, or so many union leaders thought, with the passage of the Clayton Antitrust Act in 1914. Section 6 of the Act does appear to exempt labor unions. It reads, in part:

"That the labor of a human being is not a commodity or article of commerce. Nothing contained in the anti-trust laws shall be construed to forbid the existence and operation of labor . . . organizations . . .; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the anti-trust laws."

Samuel Gompers, head of the AFL, hailed it as "Labor's Magna Carta," and declared that it was "the most important and comprehensive measure ever enacted touching the freedom of workers."

Indeed, the Act may have been a boon to "the freedom of workers," but it was hardly a victory for labor unions, as matters turned out. Section 20 of the Act did provide that no restraining order should be issued by the courts of the United States in cases involving employers and employees, but there was an exception: "unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law. . ." Section 20 goes on to assert that labor organizations may engage in "peaceful" and "lawful" acts. Many states proceeded to pass acts modeled on the Clayton Act.

What the courts tended to do thereafter was to rule that the Clayton Act made no substantial change in the situation. (It did make one change, for theretofore the government had to initiate requests for injunctions; this power was now extended to private parties.) It had simply declared what was settled law and good construction before it had been enacted. The injuction was more widely used than ever after its passage.

The Clayton Act did not, of course, end, or even reduce, the contest between unions and government. If anything, it sharpened and focused it. One writer says that "The result was that the labor injuction 'weakened and undermined the courts' and so respect for law and government, since unions considered the law so unfair and unduly restrictive of their right to self-protection." Moreover, "they did not prevent the violence which continued to be an accompaniment of industrial disputes."

In essence, there is a conflict between union coercion and government. The conflict has often been obscured by treating labor disputes as if they were simply something between employers and employees. When viewed in that light exclusively, government action becomes "interference" in a labor dispute. However, when the matter is looked at from the broad perspective of its impact on others, it takes on a different cast. When unions resort to coercion, government becomes a party to the dispute, else it forgoes its monopoly of the use of force. More, if government does not intervene, it does not perform the function which justifies its existence, namely the maintenance of the peace and the protection of life and property. These have been at issue in the union contest with government.●

OVER 80'S TOURNAMENT

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Ms. OAKAR. Mr. Speaker, as a member of the Select Committee on Aging, I was very pleased to view the "Tic Tac Dough Over 80's Tournament" produced by Mr. Allen Koss and the Barry & Enright Productions. The "Over 80's Tournament" provided an outstanding opportunity for all Americans to recognize not only the intelligence but also the warmth, charm, courage, and humor of a small number of people over 80 years old who mirror the qualities of our older Americans. Programs such as this present a serious and human projection of our senior citizens who should be the most respected and honored members of our society. I commend Mr. Allen Koss and the Barry & Enright Productions for their foresight and sensitivity in presenting the well-done and outstanding "Over 80's Tournament."

Additionally, I commend the senior citizens whose lively participation in the tournament contributed to the entertainment and interest of all the viewers. In particular, the final contestants, Dr. Reba Kelley and Ms. Bobbi Tremain, deserve our commendation for their knowledge and charm, and our highest admiration for the generosity of Ms. Tremain in offering to share her winnings with Dr. Kelley. I certainly support Ms. Tremain's hope that programs such as the "Over 80's Tournament" will continue to be produced—programs such as this will truly show the value of our older Americans.

Finally, I would like to commend the program host, Mr. Wink Martindale, whose warmth and sensitivity toward the contestants certainly contributed to the success of the "Over 80's Tournament."●

WHO WILL REGULATE THE REGULATORS?

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. BROYHILL. Mr. Speaker, by now, I am sure my colleagues are aware of the ongoing efforts to secure passage of a regulatory reform bill this year. To this end, I have initiated discharge petition No. 12, to bring H.R. 3263, the Regulation Reform Act of 1980, to the House floor as quickly as possible.

Those of my colleagues who have not signed the petition are urged to do so.

Let me point out another compelling example of why regulatory reform on a comprehensive scale is needed.

Early this year, I had a meeting with Paul S. Ellison, director of the Cleveland Memorial Hospital in Shelby, N.C. Mr. Ellison related a story to me which I found, frankly, to be amazing.

It seems that Cleveland Memorial Hospital wanted to replace two X-ray machines. Out of curiosity, hospital officials monitored the paperwork and expense necessitated by compliance with the Department of Health and Human Services regulations promulgated under the Health Planning Act which require review and documentation of all hospital purchases of capital equipment in excess of $100,000.

What Mr. Ellison found was that the staff at the Hospital spent 161 hours to prepare the 47 pounds, 3 ounces of paperwork necessitated by the regulations.

What a graphic example of the often burdensome effects of overregulation.

I asked Mr. Ellison to provide me with the documentation he had of the cost and efforts to replace the machines, and I believe my colleagues may find it of interest. If this does not convince you to sign Discharge Petition No. 12, then I would urge you to talk with some hospital administrators in your home district who, I am positive, can relate similar stories.

The material follows:

CLEVELAND MEMORIAL
HOSPITAL, INC.,
Shelby, N.C., February 13, 1980.

HON. JAMES T. BROYHILL,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN BROYHILL: In my recent discussion with you, I described the process we went through in replacing two radiographic diagnostic x-ray machines. Ordinarily, the x-ray machines would be depreciated over a ten-year period and we would reserve sufficient funds in our depreciation schedule for the appropriate replacement, subject to the approval of the Board of Trustees of Cleveland Memorial Hospital. However, to replace the two machines we complied with Public Law 92-603 which mandates that all capital equipment in excess of $100,000 be reviewed under Section 1122 of the Social Security Amendments. We prepared the appropriate documentation required by Public Law 93-641, National Health Planning and Resources Act, for review by health Systems Agency I and for further review by the State Planning Agency. From October 26, 1978 through December 13, 1978, our staff spent 161 manhours preparing the 47 pounds and 3 ounces of paper necessary to provide the required copies for the agencies. Since we are in the eastern section of the 26-county Health Systems Agency I, we were required to make several trips to Asheville for our project review hearing and the Health Systems Agency Board hearing. After we received notification of approval for the replacement of the two x-ray machines, the accepted bid for the machines amounted to $450,000 ($225,000 per machine). As a matter of interest, one of the machines was purchased in 1966 at a cost of $32,134, and the other machine was purchased in 1967 for a price of $33,104. Documentation of the cost and efforts to replace the machines is enclosed.

I also discussed with you my concerns about the changes in the Hill-Burton program, and I am enclosing a statement which reflects the impact on Cleveland Memorial Hospital as a result of the changes.

These are two of the many reasons our health care costs continue to escalate.

Sincerely,

Paul S. Ellison, FACHA,
Director.

Enclosures.

COSTS AND EFFORTS INVOLVED IN FILING OF 1122 APPLICATION FOR RADIOGRAPHIC AND FLUOROSCOPIC EQUIPMENT IN RADIOLOGY

[Oct. 26, 1978 to Dec. 13, 1978]

Weight of application	Each	8 copies	10 copies
Prepared	2 lbs, 7.5 oz		24 lbs, 11 oz.
Requested from State and HSA.	4 lbs, 11.5 oz		47 lbs, 3 oz.
Sent to State and HSA.	2 lbs, 7.5 oz	19 lbs, 12 oz	

HOURS SPENT ON APPLICATION

Name	Hours
Clontz	78.5
Plyler	13.5
Friend	12.0
Ellison	5.0
Secretarial services	15.0
Subtotal	124.0
From page 3	37.0
Total	161.0

MAN-HOUR COSTS

Name	Hours paid	Dollars
Clontz:		
Application	44.0	254
3 trips to HSA—Morganton and Charlotte	10.0	58
Trip to Morganton—Con. meeting	3.5	20
Total	57.5	332
Plyler:		
Application	3.0	
2 trips to HSA—Morganton	7.0	
Trip to Morganton—Con. meeting	3.5	
Total	13.5	
Friend: Application	12.0	
Ellison:		
Application	1.5	
Trip to Morganton—Con. meeting	3.5	
Total	5.0	
Secretarial services: Application and Xeroxing	15.0	61
Travel expense		61
Mailing:		
If mailed package to Raleigh [1]		4
Mailing of package to Morganton		1
Total		5
Xerox: 2,000 copies × $.0304		61
Paper and supplies		3

[1] In actuality, the applications were delivered in person.

COST TO DATE

Expenses	Dollars
Salary:	
Clontz	332
Secretarial	61
Administrative	
Travel	61
Mailing	5
Xerox	61
Paper and supplies	3
Total (Administration staff)	523

ACTUAL FUTURE COSTS AND EFFORTS

[Man-hour costs]

Name	Hours	Dollars
Clontz	14	
Plyler	16	
Radiologist	7	
Total	37	
Travel:		
Travel to meetings in Asheville		51
Breakdown of future efforts:		
A. Public hearing in Shelby	2	
B. Project Review Committee meeting in Asheville	7	
C. Full HSA Board meeting in Asheville	7	

●

FIRING A POLITICAL WEAPON

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. LAGOMARSINO. Mr. Speaker, a recent editorial in the Santa Barbara News Press raises serious questions about the motives of the Carter administration in leaking news of the Stealth bomber. I believe the questions raised are valid ones and that President Carter owes the American people straightforward answers on them.

The editorial follows:

Firing a Political Weapon

The more we learn about the "leak" of information about the Stealth bomber project, the more disturbing the case becomes. The evidence indicates that it is an ugly blight on the Carter administration.

Stealth is the name that the Pentagon gave to a project for developing a new attack airplane. Supposedly the use of some special materials in the construction of the plane would make it, in effect, all but "invisible" to detection devices. The research and development have been going on for two years or more, a top-secret project of the Air Force.

But recently someone "leaked" information on the project to a magazine named Armed Forces Journal. After the Journal's September issue carried an article about Stealth, defense officials confirmed the story. Then they went further. They held a news briefing and disclosed more details about the project. Clearly this would show that, though the Carter administration has been criticized for cutting military plans, in fact it had been secretly pushing a revolutionary aerial warfare program. Secretary of Defense Harold R. Brown held a briefing that told the world about Stealth.

A House subcommittee got the story this week on how the "leak" of information happened.

Benjamin F. Schemmer, editor of the Armed Forces Journal (not an official publication), testified that his magazine learned something about Stealth in early 1978. Pentagon officers persuaded him not to publish anything, on national security grounds. He agreed.

A few weeks ago, the Pentagon decided Schemmer could now publish the story. He was given a briefing on the project by William J. Perry, undersecretary of defense for research and engineering. Schemmer told the house subcommittee that he was assured that Secretary Brown would not announce the Stealth project until after the magazine's September issue was distributed. Schemmer also told the subcommittee that he thinks the official strategy was "irresponsible."

The case raises serious questions.

If secrecy was vital in the first years of the project, why was it of no consequence in August 1980, even though this program is still far from operational?

Does the heavy publicizing of Stealth now give the administration a new "image" of strong defense-mindedness, even though U.S. military strength has declined during the past three years?

Or does the handling of the publicity indicate that Carter is playing campaign politics with military secrets?

In our view, the answer to that last question is yes, and that leaves us shaken.

An incumbent president has many campaign advantages. A lot of departments are at his beck and call, and he has much control over the propagandizing of their projects. In the case of Stealth, he or someone on his first team apparently fired a political weapon long before it was ready for use.●

TRIBUTE TO CLAUDE PEPPER

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. DRINAN. Mr. Speaker, I know that our colleagues will want to read the tribute to our friend, Congressman Claude Pepper, which appeared in the Boston Herald-American on September 4, 1980.

The article was written by prize winning Wendell Coltin, an expert who is nationally recognized on issues related to senior citizens.

This well-deserved tribute to Congressman Pepper notes that his 80th birthday will occur on Monday, September 8.

The article follows:

Happy 80th to Representative Claude Pepper

(By Wendell Coltin)

This Labor Day week, if you have a birthday card on hand—or would like to send a brief note of birthday greetings to someone who has labored for the elderly, you can address it to Rep. Claude Pepper, House of Representatives, Washington, D.C. 20515.

Pepper, chairman of the House Select Committee on Aging, and, appropriately, the oldest member of the House, will be 80 next Monday, Sept. 8. He has been a true friend of the elderly; loyal to their cause.

Under his leadership, the Committee on Aging has concerned itself with many problems of the elderly. Pepper has initiated numerous public hearings related to those problems, to unearth evidence that called for changes, improvements in certain public programs, and dignified treatment of elders. Hearings that he and fellow committeeman Rev. Robert F. Drinan held in Brookline and Waltham produced overwhelming testimony against mandatory retirement of workers because of age.

Pepper achieved fame for his crusade in behalf of the elderly. He played a major role in the enactment of legislation that led to abolition of mandatory retirement in the Federal Government and raising of the mandatory retirement age from 65 to 70 in the private sector. It is his aim—as it has been Drinan's, too—that mandatory retirement be eliminated entirely.

Pepper's admirers point to his fighting leadership in getting a program of meals on wheels for persons too incapacitated to leave their homes; a $32 million program to combat crime in the elderly's public housing projects; and discounts for elderly riders on Amtrak trains.

The Brookline and Waltham hearings demonstrated the importance of a state having membership on a congressional committee. Those hearings were held in Massachusetts because of Drinan's membership on the committee and a mutual respect that he and Pepper have publicly proclaimed for each other. When Sen. Edward M. Kennedy and former Sen. Edward W. Brooke were on the Senate Committee on Aging, the then chairman, Sen. Frank Church, D.-Idaho, came to Boston to conduct a hearing in Gardner Auditorium, which was largely attended.

Val Halamandaris, an attorney on the staff of the House Committee on Aging, formerly on the Church-chaired Senate Committee on Aging, told me a few days ago, when I asked for a comment from him on Pepper:

"He is easily the most articulate and most able and most genteel member in the Congress.

"He has the greatest sensitivity, as far as understanding and appreciation of the problems of older Americans."

He recalled a meeting conducted by the leadership of the American Association of Retired Persons. He said, "Every major political figure came to address it. Pepper made the greatest impression. He has the ability to move a crowd. He loves people. He turns them on. Frank Church, a great orator, spoke; Kennedy, too. Pepper got the longest reception and a prolonged standing ovation."

Halamandaris revealed that the committee is soon to come out with a report on 15 years of Medicare. Asked what it would say, he disclosed, "It will state there is a need to expand the program, that Medicare is on the verge of becoming a broken promise; that fewer and fewer doctors are taking assignment (on Medicare claims) and it will urge more doctors to take assignment."

Henry Pulchalsky, take a bow!

Barre resident Pulchalsky, formerly of Worcester, is a Massachusetts Rehabilitation Commission ombudsman and last week I contacted him for assistance in the case of a young North Shore man, who received aid through the commission while a student and had been trying, without success, recently to find out if he was still registered with the commission.

Pulchalsky came through beautifully.

When thanked for his efforts, he graciously mentioned there is another person working with him in the ombudsman's office, Paul Dowd, who was on vacation at that time.

The Massachusetts Rehabilitation Commission makes the determination of whether applicants for disability benefits under Social Security or Supplemental Security Income qualify, by reason of disability, and much of the ombudsman's office's work involves checking on the status of applications for benefits, in the interest of men and women who anxiously contact Mass. Rehab. for such information.

Memo to persons who will be 65 in December and are not collecting Social Security benefits: This is a good month for you to enroll in Medicare.●

WHITE HOUSE LOOKS OTHER WAY ON YUGOSLAVIAN HUMAN RIGHTS VIOLATIONS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. ASHBROOK. Mr. Speaker, while we are concerned about human rights all over the world, the administration tends to ignore violations in certain countries.

The Communist dictatorship of Yugoslavia is an example. While it is not quite as oppressive as most of the other Communist states, it does its share of persecution of dissidents. The victims range from supporters of individual freedom, nationalists, to even dissident Communists—called in Yugoslavia "Cominformists."

The Committee to Aid Democratic Dissidents in Yugoslavia headed by the writer Mihajlo has released a report on political prisoners in Yugoslavia. The report also reveals how our State Department stonewalls on this issue.

The report follows:

Memorandum on Human Rights in Yugoslavia

The Commission on Security and Cooperation in Europe has released its report to the Congress on "Implementation of the Final Act of the Conference on Security and Cooperation in Europe: Five Years After Helsinki," in Washington on July 31, 1980. In spite of the numerous indications of human rights violations, including Amnesty International Reports, the Commission's Report ignores these violations in Yugoslavia!

At the Department of State daily press briefing on July 29, 1980, and in commemoration of the Fifth Anniversary of the Helsinki Accord, two questions were asked regarding Yugoslavia:

Q. "Does the US intend to give support to the amnesty movement in Yugoslavia, which was recently launched by the petition of 36 prominent intellectuals asking for amnesty for all political prisoners?"

A. "While the United States supports all efforts designed to advance the cause of human rights at home and abroad, we do not believe it would be useful to comment on the June 11 amnesty appeal by 36 Belgrade intellectuals. The Yugoslav Government is aware of the fact that its positive approach to many aspects of human rights is an important component of the special respect which Yugoslavia enjoys in this country."

Q. "Is the US Government intending to approach the Yugoslav Government regarding the case of Momcilo Selic, a young architect, in prison for criticizing US-Yugoslav relations?"

A. "We do not intend to approach the Yugoslav Government with regard to the case of Momcilo Selic. While our knowledge of his case is incomplete, on the basis of the information available to us and given the fact that an appeal process is underway in the Yugoslav courts, we do not believe it would be appropriate to raise his case at this time. Our understanding is that Selic was not imprisoned for criticizing US-Yugoslav relations."

While the Helsinki Commission ignores the intensified violations of human rights in Yugoslavia and the Department of State clings to the idea that Yugoslav Government pursues a "positive approach", the Federal Public Prosecutor in Belgrade, General Vuko Goce-Gucetic, claims that there are about 300 prosecutions for political crimes each year. He further states: "Nine-tenths of political crimes are committed verbally. Only every sixth verbal crime is of a serious nature and can be classified as enemy propaganda." (NIN, June 29, 1980).

Since the Helsinki Accord, signed by the Yugoslav Government, does not stipulate as a crime a verbal or written criticism of the existing socio-political order, and since the nonviolent exercise of human rights, freedom of expression and association are being punished by imprisonment, it is clear that the Yugoslav Government is violating the Helsinki Accord. In support of this contention, a partial list of arrests and sentences given, since the Accord was signed, is attached (Political Arrests 08/1/75–08/1/80).

POLITICAL ARRESTS 08/01/75—08/01/80

08/15/75—Dusan Brkic, former deputy premier of Croatia, and five others, for "Cominformist leanings". NYT.

09/13/75—Kostadin Dimevski, a salesman; Pende Eftimov, a reporter; and Djordje Ordev, publishing house employee, for "Macedonian separatism". VUS.

09/17/75—Esad Ajdini, 30, for "connection with emigre groups". VUS.

10/25/75—Branko Nazor, 28, a returnee from Australia, for "belonging to Croatian separatist organization", in Split, 3 yrs. BOR.

11/01/75—Arrested in Croatia: Lav Znidarcic, a defense attorney; Definka Vecerina, a lawyer; Tomislav Drazic, editor of daily Vjesnik; Mladen Grubisic and Mile Vukosav. LEM.

11/07/75—Thirty-five Cominformist sympathizers reported arrested. TEL.

11/23/75—Nine persons arrested for being "pro-Soviet communists". NYT.

11/27/75—Laszlo Toth, 43, US citizen, in a secret trial for "economic espionage", 7 yrs. NYT. Toth was released (07/24/76 NYT), however, the fate of the Yugoslav plant manager, the director of research, and the plant photographer, who were sentenced with Toth, is unknown.

12/21/75—A Swedish couple jailed for "passing out religious literature", 20 days. NYT.

12/25/75—In Banja Luka: Slavoljub Vranjesevic, 71, a former army officer, 9 yrs; Petar Trivunovic, 33, a worker, 12 yrs; Krstan Jagodic, 28, a worker, 2½ yrs; and Bozidar Gajic, 35, a worker, 2½ yrs. OSL.

01/—/76—In Tuzla, on variety of charges, from "hostile propaganda" to "insulting the President of the Republic"; Branko Rakisic, 50, to 7 yrs; Danica Rakisic, 42, to 2½ yrs; Vinko Jozic, 50, to 4 yrs and Stjepan Blazevic, 46, to 1½ yrs.

02/06/76—Seventeen persons including an Orthodox priest, sentenced in Belgrade for "opposing the regime of Marshal Tito." NYD.

02/14/76—Prof. Adam Demaci, 40, and others for "association against the People and the State," in Pristina. Prof. Demaci, 15yrs; Skender Kastrati, 29, to 12yrs; Ethem Bajrami, 30 to 7yrs; Hasan Dermalu to 7yrs; Osman Dumösa, 30, to 7yrs; Recep Malja, 25, to 9 yrs; Seljani Novoseli, 31, 7yrs; Ilijaz Pireva, 28, to 7yrs; Hakmir Salobu, 25, to 7yrs; David Dermaku, 27, to 9yrs; Sefir Masurica, 27, to 7yrs; Sami Dermaku, 27, 6yrs; Zihadin Spahiu, 31, 5yrs; prof. Isa Kastrati, 29, to 6yrs; Ahmet Hoti, 29, 6yrs; Nijaju Korca to 6yrs; prof. Irfan Sadjiri, 26, to 7yrs; Hilmi Ramadavi, 23, to 5yrs; Nazim Surlani, 26, to 4yrs. A78, VUS, NYT (04/26).

03/05/76—Rev. Miroslave Cvitkovic, 50, to 6yrs. and Drago Govan, 46, to 3yrs. for bringing "antigovernment publications to Yugoslavia." VEN. Rev. Cvitkovic released in November 1977.

03/11/76—In Valjevo, Srdja M. Popovic, 38, an attorney, for "maliciously spreading false information and causing public disorder" while defending his client, to 1yr. NYT (NYT editorial 03/26). The sentence was suspended 05/27.

03/13/76—Milivoje Stevanovic, 64, former editor of Tanjug, 10yrs; Dusan Brkic, former deputy premier of Croatia, 8yrs. (released Nov. 77); Radovan Zigic, 55, former minister of industry, 8½yrs, and Ljubomir Radulovic, 58, to 7½yrs, for allegedly "asking Yugoslav emigres if the Soviet army would interfere in Yugoslavia after Tito's death." NYT.

03/13/76—Ivan Čirk, 40, a returnee from abroad, for "hostile acts against the state," 12yrs. VUS.

03/16/76—In Sarajevo: Milorad Dacic, 45, an attorney, 8yrs. and Hristofor Siljanovic, 58, 5yrs. 8mos., for "nationalistic, dogmatic and separatist ideas". BOR, VUS(03/27).

03/16/76—In Novi Sad, for "forming an illegal organization with the aim to change, by force, the existing social system": Djuro Sargin, 63, to 15yrs; Velimir Moraca, 46, to 15yrs; Djordje Bikicki, 60, to 15yrs; Grga Lubic, 63, to 13yrs; Nikola Zec, 51, to 12yrs; Milena Sargin, 56, to 10yrs; Roman Milic, 36, an engineer, to 10yrs; Miroslav Moraca, 28, a student, to 10yrs; and Dr. Bojan Rucnov, 28, to 4yrs. BOR.

03/21/76—In Titograd, Radisav Gajic, 23, as a member of a Croatian separatist group. LEM.

03/22/76—In Zajecar, Milan Petrojkic, 38, a lawyer, for "attempting to form an enemy group", 13yrs. POL, LEM(03/25).

03/31/76—Stipe Kasunovic, 46, for "uttering hostile remarks", near Sibenik, sentence unknown. POL.

03/31/76—In Zajecar, Dragoljub Jovanovic, 47, a lawyer, for "defamatory and false statements", 2yrs. POL.

04/—/76—In Banja Luka, for "Creating a counter-revolutionary organization": Gojko Bjelajac, to 12yrs; Djordje Dadjenkovic, to 5yrs; Cedo Knezevic, to 6yrs; Dusan Strbac, to 1yr; Dr. Branka Mraovic, to 9yrs; Dr. Tuifo Bukva, to 8yrs; Jefto Tadic, to 7 yrs; Milenko Jankovic, to 7yrs; and Momcilo Pavicevic, to 6yrs.

05/12/76—In accordance with the report of Amnesty International, five newspaper reporters have disappeared in Yugoslavia. LEM

05/21/76—In Split: Nikola Bijader-Kutlecic, to 8yrs; Slavko Stanic, to 3yrs; and Andrija Bakota to 2yrs., for "organizing a group to fight against Yugoslav socialist structure and its constitution".

05/27/76—Ms. Irina Pozega, 30, a Soviet Citizen, to 5yrs, for "spying". Fate of three Yugoslavs arrested with her is unknown. Ms. Pozega was released 07/20/76. NYT, LEM.

06/20/76—Rev. Ljubo Krasic, a permanent resident in the U.S., forcibly detained in Yugoslavia. NYT.

06/26/76—In Bihac: Rev. Marko Srdic, 28, to 9yrs; Bogoljub Vidovic, 58, a plant manager, to 15yrs; Lazar Arezina, 30, a barber, to 7yrs., for "hostile activities against the state while travelling abroad". POL.

07/26/76—In Belgrade, Vladimir Dapcevic, 59, a Belgian citizen and a former colonel in Tito's army, after abduction from Romania, to 20yrs, as an alleged Soviet agent. NYT.

07/18/76—Robert Edwards, British subject, editor of London Sunday Mirror, arrested for "photographing a steam engine". Sunday Mirror.

07/22/76—In Rijeka, four persons sentenced for "Cominformist connections", from 5 to 15yrs. LEM.

07/28/76—One of the five Americans held in Yugoslav prisons is Mihajlo Sedmak, 60, arrested in September 1974 on "spying" charges. NYT.

08/03/76—Rev. Peter Devey, a British subject, and Ms. Hillary Rishetts, sentenced to 30 and 15 days respectively, and held incommunicado. NYT.

09/29/76—In Ljubljana, Viktor Blazic, a writer for the Party paper Delo, to 2 yrs, for "articles in defense of Edvard Kocbek's ideas". NYT.

10/16/76—In Kranj, Judge Franc Miklavcic, 55, for "disseminating hostile propaganda", to 6 yrs. NYT.

11/08/76—Djordje Djuranovic, 55, a retiree from Vranje, for "handing out leaflets with enemy contents regarding our social system. . .", 4 yrs. NOV.

03/12/77—In Sarajevo, Mate Rajic, 53, a lawyer, for his activities as a "counter-revolutionary, Cominformist and nationalist", 5 yrs. VUS.

04/13/77—In Sarajevo, Zivadin Radovic, an engineer, for stating that there will be "more freedom after Tito's passing", 2½ yrs. IHT.

04/29/77—Momcilo Jokic, the editor of Pobeda, Party paper in Titograd. NYT.

05/07/77—Vitomir Djilas, 41, a lawyer, for "advocating democratic liberties in a letter", 2½ yrs. (The letter to a Belgrade newspaper was never published). NYT.

07/31/77—There are 201 persons serving prison terms for political offenses in Croatia, 127 persons sentenced but had not begun to serve their terms, and the prosecution of 180 others is still pending. NYT.

07/—/77—In Banja Luka, Dzemel Zulic, 31, upon returning from West Germany for having "hostile emigre papers" and belonging to a "terrorist group", to 9 yrs. Sentence reduced to 3 yrs. in Nov. 1979. A78.

08/06/77—Dr. Nikola Novakovic, medical doctor, for "establishing contact with hostile groups abroad" (in 1962), and for "disseminating hostile propaganda", in Sarajevo, to 12 yrs. LEM, A78.

08/27/77—Franjo Rupic, in Djebala near Bjelovar, for passing out "enemy, pro-western materials", to 3 yrs. VUS.

10/30/77—For the first half of 1977 there were 102 persons accused of political crimes, compared to 152 for the same period in 1976. NIN.

11/01/77—Trajko Canevski and Mihailo Nastasievic, director and president of central worker's committee of shoe factory "Cik", for "abuse of self-management", in Kumanovo. POL.

11/29/77—In Tuzla, Manda Paric, a nurse, for "contacts with emigres", to 6yrs. NYT, A79.

12/03/77—Rev. Stjepan Brajkovic, 46, from Mostar, for "hostile propaganda", to 5 yrs. A78.

—/—/77—In Sarajevo, Mirko Kovacevic, a high-school teacher, for "enemy propaganda", to 8 yrs. A79.

—/—/77—Nenad Vasic, a lawyer, for "hostile propaganda" (opinion expressed in a private conversation), in Sarajevo, to 10 yrs. A79.

03/02/78—Bogdan Jovovic, member of the illegal communist party was kidnapped from abroad. TEL.

03/—/78—In Sremska Pozega, Anton Brkic, 22, for "hostile propaganda and possession of Croatian emigre publications", to 3 yrs. A78.

04/13/78—In Belgrade, Mileta Perovic, 54, general secretary of the illegal communist Party, kidnapped from Switzerland, his arrest announced 11/23/77, for "counter-revolutionary activities", to 20 yrs. A78.

08/—/78—Vjenceslav Cizek, in Nov. 1977 disappeared while on a trip from Germany to Italy. Subsequently sentenced for "acting from counter-revolutionary positions subversive to Yugoslav social system", in Sarajevo, to 15yrs. A79.

10/01/78—Mirko Rajcic, Marko Juranovic, Fabjan Dumancic, Jakoslav Rojnica, and Ante Rakic, all students from Zagreb, sentenced to prison terms for "liaison with emigres". A79.

12/—/78—Dr. Veselin Masic, 56, a gynaecologist, for "hostile propaganda" (conversation in his own home), in Tuzla, to 6yrs. A79.

02/18/79—In Skopje, Dragan Bogdanovski, former editor of a Macedonian emigre paper, for "having conspired against the Yugoslav state and having illegally entered Yugoslavia", to 13yrs. LEM, A79.

03/18/79—Zvonimir Kisic, 53, a barber, who demanded free Dubrovnik Republic, for "slandering social and political conditions in the country", to 2yrs. VJE.

05/23/79—Vladimir Markovic, 28, a student, sentenced to mandatory treatment in a psychiatric hospital, for "spreading false information". RCD.

08/08/79—In Sabac, Bogdan Stefanovic and a group of his followers from "Realistic European Union—Yugoslav Movement European", sentenced to terms of 1½ to 6yrs.

09/15/79—In Zajecar, Milan Budic, 26, a factory worker, for "falsely presenting socio-political conditions in the SFRY", to 2yrs. POL.

10/16/79—In Belgrade, Dragoljub Ignjatovic, a writer and the editor of the underground journal Casovnik (The Clock), for "illegal publication", to 30dys. NYT.

12/09/79—Jovo Ilic, a factory worker, upon return from West Germany, for "association with emigre political organization", in Tuzla, to 9½ yrs. POL.

03-11-80—Zlatko Tomicic, writer and former editor of the Croatian Literary Journal, arrested in Jan. 1980 for "writing his memoires from prison" (previously served 3-5yrs). Presently free in Rijeka, pending his trial. LEM.

03-12-80—Ivan Zalembar, 46, for "bringing banned publications into the country", in Osjek, to 5yrs.

03/15/80—In Cacak, during 1979 seven persons sentenced for "enemy activity against the country", sentences range from 3½ to 9yrs. POL.

03/30/80—Fifty Albanian nationalists in the Province of Kosovo to be tried for allegedly undermining "brotherhood and unity". POL.

04/04/80—In Zadar, Pavao Despot, professor of Croatian language, arrested for "enemy propaganda". VEL.

04/09/80—In Doboj, Zarko Aleksic, a lawyer, to 7yrs for "nationalistic activities", and Milorad Joksimovic, 40, a worker, for "attacking the policy of the LCY and our constitution", while living abroad. BOR.

04/25/80—In Belgrade, Momcilo Selic, 34, an architect and a writer, for dessiminating "enemy propaganda". This was in a six page article given to friends, to 7yrs. OSL.

05/23/80—Dragutin Trumbetas, graphic artist and factory worker, author of the book 'Gastarbeiter', arrested upon return from West Germany. Released pending trial. GUA.

06/02/80—In Smederevo, Miroslav Cvetkovic, 28, a locksmith, for "enemy activities while living abroad", to 8 yrs.

06/10/80—In Pristina, for "enemy propaganda and for forming a coalition for enemy activities": Sefcet Jasari, 36, an interpreter, to 8 yrs; Ramadan Plana, 33, a student, to 7 yrs; Avdi Kelmendi, 29, a foreman, to 5 yrs; Avdulj Ljahu, 36, a clerk, to 4 yrs; Isa Demaj, 34, a teacher, to 4 yrs; Sulejman Djucala, 26, a factory worker, to 4 yrs; Skender Jasari, 26, a clerk, to 3 yrs, and Hisen Grvala, 39, a farmer, to 3 yrs. BOR.

06/17/80—In Zagreb: Andrija Mart, 45, to 15 yrs; Franjo Belancic, 38, to 13 yrs; Stjepan Jankovic, 62, to 8 yrs; Ivo Juric, 36, to 10 yrs; Djuro Krznar, 43, to 7 yrs; Branko Hodak, 43, to 6 yrs, and Vladimir Uzelac, 37, to 5 yrs, for alleged "terrorist activities". TAN.

06/19/80—Josip Cesarec, 25, for stating "a day will come when the political system in Yugoslavia will collapse", in Osjek, to 4 yrs.

07/08/80—Prof. Gani Sula, to 6 yrs; Muharem Shaliani, an attorney, to 5 yrs, and Ms. Hatixhe Maliqi, a student, to 3 yrs, in Skopje, for "anti-state activities". RAB.

07/13/80—In Sarajevo, Rev. Franjo Vidovic, 21, and Franciscan novice Ivan Turudic, 20, for "enemy propaganda", to 6 and 5½ yrs respectively. GLK.

ABBREVIATIONS FOR SOURCES

A78	Amnesty International Report 1978.
A79	Amnesty International Report 1979.
BOR	Borba, organ of the LCY, daily.
GLK	Glas Koncila, Zagreb, weekly.
GUA	The Guardian, London, daily.
IHT	Inter. Herald Tribune, daily.
LEM	Le Monde, Paris, daily.
NIN	Belgrade, weekly.
NOV	Novosti, Belgrade, daily.
NYD	Daily News, New York.
NYT	The New York Times.
OSL	Oslobodjenje, Sarajevo.
POL	Politika, Belgrade, daily.
RAB	Radio Belgrade.
RCD	Religion in Communist Dominated Areas, New York, mo.
TAN	Yugoslav Press Agency
TEL	The Daily Telegraph, London.
VEL	Vecernji List, Zagreb.
VEN	Vecernje novosti, Belgrade.
VJE	Vjesnik, Zagreb, daily.
VUS	Zagreb, weekly.●

442D REGIMENTAL COMBAT TEAM

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. MINETA. Mr. Speaker, in one of the more ironic episodes in our recent past, thousands of Americans of Japanese ancestry served with distinction in this Nation's armed services during World War II while their families and neighbors were being detained in internment camps in the country's interior. In particular, many Americans will recall the outstanding record of the 442d Regimental Combat Team, which was proposed by Mike M. Masaoka, then executive secretary of the Japanese American Citizens League, to the War Department and approved by the President. The 442d consisted largely of Japanese Americans, among them the distinguished Senators from Hawaii, DANIEL K. INOUYE and SPARK M. MATSUNAGA.

The 442d served in seven major campaigns, and its men were awarded more than 18,000 individual decorations, including 1 Congressional Medal of Honor, 52 Distinguished Service Crosses, 1 Distinguished Service Medal, nearly 600 Silver Stars, more than 5,000 Bronze Stars, and nearly 9,500 Purple Hearts.

One battle in particular stands out in this distinctive record, the rescue of the "Lost Battalion" of the Texas 36th Division by the 442d in southern France in October 1944. I would like to direct the attention of my colleagues to the following account of a recent reunion of the men from the 442d and those of the 36th Division "Lost Battalion" from the Los Angeles Times, September 1, 1980.

JAPANESE-AMERICANS GET TEXANS' SALUTE AS HEROES

(By Charles Hillinger)

For the first time in 36 years, members of two Army units involved in one of the most heroic battles of World War II held an emotional reunion during the Labor Day weekend here.

Few of the 500 Texans or 250 Japanese-Americans had seen each other since the week-long battle to rescue the "Lost Battalion" in German-occupied southern France in October, 1944. For many of the Texans, the war was the only time they have ever had any contact with Japanese-Americans.

The Allies had landed the previous August but the fighting was still very heavy and Hitler's forces were still in control.

It was the famed all-Japanese-American 442nd "Go-for-Broke" regimental Combat Team that came to the rescue of the 2nd Battalion, 141st Infantry of the all-Texan 36th Division.

The Texas battalion was trapped behind German lines for seven days. Repeated attempts by other Texas combat units were repulsed, resulting in heavy casualties. Some of those men attended the reunion, too. Finally the Japanese-American forces were thrown into the fray.

The fighting was so fierce that there were more Japanese-American casualties in the rescue operation than there were Texans trapped behind the German lines.

The "Go-for-Broke" regiment suffered 800 casualties in the battle to free the 275 members of the Lost Battalion. More than 200 Japanese-Americans were killed and more than 600 were wounded in the effort. Of the trapped Texans, 211 were rescued by the 442nd and 64 were killed in the battle.

"It was the ultimate of patriotism. These men came from behind barbed-wire internment camps, where the Japanese-Americans were held, to volunteer to fight and give their lives," said Sen. Daniel K. Inouye of Hawaii, a member of the 442nd who lost his right arm fighting the Germans in France.

WE KNEW WE WERE EXPENDABLE

Inouye was the principal speaker at the reunion.

"We knew we were expendable. We were willing to do this. We accepted the challenge," he said. "It wasn't easy. There was a lot of bloodshed.

"Out of this experience we—our Texas comrades and we of the 442nd—have developed a friendship that will last forever."

"Rescuing the Texans was something we had to do," said Hoppy Kaneshina, 56, who operates a small cafe in Gardena, Calif. His entire company was almost wiped out in the effort to rescue the Texans.

"It was the go-for-broke, shoot-the-works spirit of our men. We were out to prove ourselves, to prove that we were loyal Americans. We had to rescue those Texans no matter what the cost."

At the reunion were scores of Texans and Japanese-Americans like Inouye with arms and legs missing and scars from bullet wounds and shrapnel from the battlefield.

"I paid a high price—my leg—to get the Texans out from behind the enemy lines," said Frank Fujino, 62, of Culver City, Calif., who came to the reunion in a wheelchair. "I have no regrets," he added.

YOU ARE OUR HEROES

Among the Texans at the reunion were members of the Lost Battalion and many others of the 36th Division who were involved in the engagement.

Jack L. Scott, 60, president of the 36th Division Assn., saluted the assembled 442nd veterans:

"You are our heroes. To be with you men again is the most powerful experience I have ever had."

The groups celebrated their 36 years of separation with a four-day down-home Texas party with barbecue dinners, square dancing and an excursion to the Dallas Cowboy-Pittsburgh Steeler football game.

Among the veterans of the 36th division was John D. McKeel Sr. of Balch Springs, Tex., who wore a yellow ribbon on his lapel. His son, Marine Sgt. John D. McKeel Jr., 27, is a hostage in Iran.

FRESNO ATTORNEY SOUGHT REUNION

It was Fresno attorney Shim Hiraoka, 65, who had the original idea to get the two groups together and who worked to bring the reunion about.

"I thought the story of the 442nd and the 36th Division ought to be heard at this time," Hiraoka said. "No longer in our country is there a feeling of the necessity to sacrifice to keep this nation strong.

"If we had been surrounded by an enemy force and virtually captured like the Lost Battalion, we would have wanted someone to come and get us.

"There are 50 Americans in Iran and no one is going after them. . . ."

Texans and Japanese-Americans spent hours during the four-day reunion reminiscing.

In one room, survivors of the Lost Battalion and the Japanese-Americans from "I" company of the 442nd who made the breakthrough and were the first to contact the trapped Texans recalled that battle.

THEY HAD US SANDBAGGED

Everyone in the room had been shot or hit by shrapnel in the skirmish.

"There were 275 of us completely surrounded by the Germans. They had us sandbagged," recalled Harry McGowan, 58, a retired San Antonio fireman.

"We were trapped in the woods in the hills of southern France for seven days, with fighting all around us. We cut down trees to cover our fox holes for protection. We were running out of ammunition. We were out of food," said Bill Stadler, 56, of Erie, Pa.

"It was desperate," chimed in Bob Harrison, 55, of Pryor, Okla, "Our 2nd Battalion tried to break through and reach us and were thrown back with heavy casualties from German fire.

"Then you fellows from the 442nd made it through at a heavy loss and got us out of there."

"How did it feel to have us Buddha Heads save you?" asked Monte Fujita, 64, of Los Angeles. (The 442nd veterans all through the war and to this day call one another Buddha Heads as a nickname.)

THE BEST DAMNED SOLDIERS EVER

"Hey, you guys are the greatest! You're the best damned soldiers ever. Because of you, 211 of the 275 men in our battalion walked out of that trap alive. If it wasn't for you, we would all have been slaughtered by the Germans," McGowan said.

"There's a lump in my throat and I've got this feeling in my heart," he continued, as tears welled in his eyes and he choked up with emotion. "There just are not the words to describe the deep feelings I have to be with you here today after all these years."

"God, remember how the Germans machine-gun emplacements were all over the place," said Hideo Takahashi, 63, of Ontario, Ore. "We gave them a banzai attack but we never had so many casualties in one battle. We had to step over bodies of our dead comrades to keep going up that hill to get to you Texans."

"It was one helluva battle. It took us four days just to go 1,000 yards. It took us a week to make it. Our fellows were being shot by Germans like flies. We kept fighting our way up that hill through machine-gun fire," recalled Shiro (Kash) Kashino, 58, of Seattle.

"What a good feeling we had when we finally broke through and reached you."

"You didn't feel half as good as we did," said Bill Stadler.

OUR GUYS WERE ALL VOLUNTEERS

"You know our guys were all volunteers, most of us came out of the barbed-wire Japanese interment camps on the West Coast and from Hawaii. When the war broke out all of us Japanese-Americans, guys like me who were born in America, were classified as enemy aliens," Kashino said.

"We had to prove to the rest of America that we were loyal to America. That's why we joined the Army as soon as we were permitted to, to show Americans that we love this country as much as everyone else born and living here."

"I had a feeling of anger, resentment and humiliation when myself and my family were hauled out to a concentration camp. All of our rights were taken away. It wasn't easy. We thought we were Americans. It means loyalty to a country that rejected us. It meant duty before human rights," said Victor Izui, 61, an Evanston, Ill., dentist.

"I was in Honolulu and was working near the Aloha Tower when the Japanese attacked Pearl Harbor," said James Okimoto, 68, of Kaneohe, Hawaii. "I saw those planes fly over and saw the red meatball on the wings (the Japanese rising-sun emblem) and I knew this was it—that we were at war.

I COULDN'T WAIT TO FIGHT

"For me it didn't make any difference what my ancestry was. Those planes were dropping bombs and trying to kill everyone in Hawaii. I couldn't wait to fight to defend my country."

Kashino turned to the Texans and said "Did you guys know we were in concentration camps?"

"It was a shame. It should never have happened. God Almighty knows it should never have happened," Stadler replied.

"There were a lot of ironies in those years," said Henry Nakada. "There were seven of us brothers in the service. In 1945 my mother was selected as the service mother of the year. She was in a concentration camp at the time. You should have seen all those gold stars for sons killed in action on the doors of the barracks in those concentration camps."

YOU LAID YOUR LIVES ON THE LINE

Bob Harrison recalled how some of the wounded in the Go-for-Broke unit and Texas soldiers wound up in the same military hospital in California.

"Do you remember how we would leave the hospital on passes and people would give you guys a bad time because you were of Japanese ancestry?" Harrison asked. "How we would go into a bar or into a place to eat and they refused to serve you fellows?

"And hell, this is only a few weeks after you laid your lives on the line for us and lost so many of your comrades."

The Japanese-American veterans all nodded as they remembered.

"We made sure you were served when you fellows were out with us," Harrison continued.

"Sometimes it would wind up in a real donnybrook and we would have to eat on broken chairs or tables but we made sure they served all of us, you Go for Brokers and us guys from Texas."●

STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. FUQUA. Mr. Speaker, on July 29, 1980, I filed the report on S. 1250, the Stevenson Technology Innovation Act of 1980. This is a bill which provides a legislative basis for a number of steps which the administration has proposed to take to promote innovation.

The bill has had strong bipartisan support in the Committee on Science and Technology. Because of the contributions to this legislation of the gentleman from New York, Mr. WYDLER, ranking minority member of the Science and Technology Committee, who is retiring from Congress at the end of this session, I am proposing to retitle the bill as the Stevenson-Wydler Technology Innovation Act of 1980.

The administration was not completely satisfied with the bill because it went beyond the administration's proposals in several respects, so since the time the bill was filed, the staff of the Committee on Science and Technology has been negotiating with the administration to arrive at a compromise version of the bill which is acceptable to the administration. A suitable compromise has now been reached resolving all but minor differences on the amounts authorized and amounts for research and development utilization. This compromise version of the bill is scheduled for consideration on the House floor on Monday, September 8, 1980, under suspension of the rules.

I am putting the compromise version of the bill in the RECORD at this point so that Members will have a chance to study it before floor action Monday:

S. 1250

An act to promote United States technological innovation for the achievement of national economic, environmental, and social goals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Stevenson-Wydler Innovation Act of 1980".

SEC. 2. FINDINGS.

The Congress finds and declares that:

(1) Technology and industrial innovation are central to the economic, environmental, and social well-being of citizens of the United States.

(2) Technology and industrial innovation offer an improved standard of living, increased public and private sector productivity, creation of new industries and employment opportunities, improved public services and enhanced competitiveness of United States products in world markets.

(3) Many new discoveries and advances in science occur in universities and Federal laboratories, while the application of this new knowledge to commercial and useful public purposes depends largely upon actions by business and labor. Cooperation among academia, Federal laboratories, labor, and industry, in such forms as technology transfer, personnel exchange, joint research projects, and others, should be renewed, expanded, and strengthened.

(4) Small businesses have performed an important role in advancing industrial and technological innovation.

(5) Industrial and technological innovation in the United States may be lagging when compared to historical patterns and other industrialized nations.

(6) Increased industrial and technological innovation would reduce trade deficits, stabilize the dollar, increase productivity gains, increase employment, and stabilize prices.

(7) Government antitrust, economic, trade, patent, procurement, regulatory, research and development, and tax policies have significant impact upon industrial innovation and development of technology, but there is insufficient knowledge of their effects in particular sections of the economy.

(8) No comprehensive national policy exists to enhance technological innovation for commercial and public purposes. There is a need for such a policy, including a strong national policy supporting domestic technology transfer and utilization of the science and technology resources of the Federal Government.

(9) It is in the national interest to promote the adaptation of technological innovations to State and local government uses. Technological innovations can improve services, reduce their costs, and increase productivity in State and local governments.

(10) The Federal laboratories and other performers of federally funded research and development frequently provide scientific and technological developments of potential use to State and local governments and private industry. These developments should be made accessible to those governments and industry. There is a need to provide

means of access and to give adequate personnel and funding support to these means.

(11) The Nation should give fuller recognition to individuals and companies which have made outstanding contributions to the promotion of technology or technological manpower for the improvement of the economic, environmental, or social well-being of the United States.

Sec. 3. Purpose.

It is the purpose of this Act to improve the economic, environmental, and social well-being of the United States by—

(1) establishing organizations in the executive branch to study and stimulate technology;

(2) promoting technology development through the establishment of centers for industrial technology;

(3) stimulating improved utilization of federally funded technology developments by State and local governments and the private sector;

(4) providing encouragement for the development of technology through the recognition of individuals and companies which have made outstanding contributions in technology; and

(5) encouraging the exchange of scientific and technical personnel among academia, industry, and Federal laboratories.

Sec. 4. Definitions.

As used in this Act, unless the context otherwise requires, the term—

(1) "Office" means the Office of Industrial Technology established under section 5 of this Act.

(2) "Secretary" means the Secretary of Commerce.

(3) "Director" means the Director of the Office of Industrial Technology, appointed pursuant to section 5 of this Act.

(4) "Centers" means the Centers for Industrial Technology established under section 6 or section 8 of this Act.

(5) "Nonprofit institution" means an organization owned and operated exclusively for scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(6) "Federal laboratory" means any laboratory, any federally funded research and development center, or any center established under section 6 or section 8 of this Act that is owned and funded by the Federal Government, whether operated by the Government or by a contractor.

(7) "Supporting agency" means either the Secretary of Commerce or the National Science Foundation, as appropriate.

Sec. 5. Commerce and Technological Innovation.

(a) In General.—The Secretary shall establish and maintain an Office of Industrial Technology in accordance with the provisions, findings, and purposes of this Act.

(b) Director.—The Secretary shall appoint, a Director of the Office, who shall be compensated at the rate provided for level V of the Executive Schedule in section 5316 of title 5, United States Code.

(c) Duties.—The Secretary through the Director, on a continuing basis, shall—

(1) determine the relationships of technological developments and international technology transfers to the output, employment, productivity, and world trade performance of United States and foreign industrial sectors;

(2) determine the influence of economic, labor and other conditions, industrial structure and management, and government policies on technological developments in particular industrial sectors worldwide;

(3) identify technological needs, problems, and opportunities within and across industrial sectors that, if addressed, could make a significant contribution to the economy of the United States;

(4) assess whether the capital, technical and other resources being allocated to domestic industrial sectors which are likely to generate new technologies are adequate to meet private and social demands for goods and services and to promote productivity and economic growth;

(5) propose and support studies and policy experiments, in cooperation with other Federal agencies, to determine the effectiveness of measures with the potential of advancing United States technological innovation;

(6) consider government measures with the potential of advancing United States technological innovation and exploiting innovations of foreign origin; and

(7) publish the results of studies and policy experiments.

(d) Report.—The Secretary shall prepare and submit to the President and Congress, within 3 years after the date of enactment of this Act, a report on the progress, findings, and conclusions of activities conducted pursuant to sections 5, 6, 8, 11, 12, and 13 of this Act and recommendations for possible modifications thereof.

Sec. 6. Centers for Industrial Technology.

(a) Establishment.—The Secretary shall provide assistance for the establishment of Centers for Industrial Technology. Such Centers shall be nonprofit institutions and shall be affiliated with any university, or other nonprofit institution, or group thereof, that applies for and is awarded a grant or enters into a cooperative agreement under this section. The objective of the Centers is to enhance technological innovation through—

(1) the participation of individuals from industry and universities in cooperative technological innovation activities;

(2) the development of the generic research base, important for technological advance and innovative activity, in which individual firms have little incentive to invest, but which may have significant economic or strategic importance, such as manufacturing technology;

(3) the education and training of individuals in the technological innovation process;

(4) the improvement of mechanisms for the dissemination of scientific, engineering, and technical information among universities and industry;

(5) the utilization of the capability and expertise, where appropriate, that exists in Federal laboratories; and

(6) the development of continuing financial support from other mission agencies, from State and local government, and from industry and universities through, among other means, fees, licenses, and royalties.

(b) Activities.—The activities of the Centers shall include, but need not be limited to—

(1) research supportive of technological and industrial innovation including cooperative industry-university basic and applied research;

(2) assistance to individuals and small businesses in the generation, evaluation and development of technological ideas supportive of industrial innovation and new business ventures;

(3) technical assistance and advisory services to industry, particularly small businesses; and

(4) curriculum development, training, and instruction in invention, entrepreneurship, and industrial innovation.

Each Center need not undertake all of the activities under this subsection.

(c) Requirements.—Prior to establishing a Center, the Secretary shall find that—

(1) consideration has been given to the potential contribution of the activities proposed under the Center to productivity, employment, and economic competitiveness of the United States;

(2) a high likelihood exists of continuing participation, advice, financial support, and other contributions from the private sector;

(3) the host university or other nonprofit institution has a plan for the management and evaluation of the activities proposed within the particular Center, including:

(A) the agreement between the parties as to the allocation of patent rights on a nonexclusive, partially exclusive, or exclusive license basis to and inventions conceived or made under the auspices of the Center; and

(B) the consideration of means to place the Center, to the maximum extent feasible, on a self-sustaining basis;

(4) suitable consideration has been given to the university's or other nonprofit institution's capabilities and geographical location; and

(5) consideration has been given to any effects upon competition of the activities proposed under the Center.

(d) Planning Grants.—The Secretary is authorized to make available nonrenewable planning grants to universities or nonprofit institutions for the purpose of developing a plan required under subsection (c)(3).

(e) Additional Consideration.—The supporting agency may request the Attorney General's opinion whether the proposed joint research activities of a Center would violate any of the antitrust laws. The Attorney General shall advise the supporting agency of his determination and the reasons for it within 120 days after receipt of such request. However, the establishment of a Center, the rendering of an opinion by the Attorney General, or any other activity undertaken or approved under this Act, shall not convey to any person, association, corporation or other business organization immunity from civil or criminal liability, or create defenses to actions under any antitrust law.

Sec. 7. Grants and Cooperative Agreements.

(a) In General.—The Secretary may make grants and enter into cooperative agreements according to the provisions of this section in order to assist any activity consistent with this Act, including activities performed by individuals. The total amount of any such grant or cooperative agreement may not exceed 75 percent of the total cost of the program.

(b) Eligibility and Procedure.—Any person or institution may apply to the Secretary for a grant or cooperative agreement available under this section. Application shall be made in such form and manner, and with such content and other submissions, as the Secretary shall prescribe. The Secretary shall act upon each such application within 90 days after the date on which all required information is received.

(c) Terms and Conditions.—

(1) Any grant made, or cooperative agreement entered into, under this section shall be subject to the limitations and provisions set forth in paragraph (2) of this subsection, and to such other terms, conditions, and requirements as the Secretary deems necessary or appropriate.

(2) Any person who receives or utilizes any proceeds of any grant made or cooperative agreement entered into under this section shall keep such records as the Secretary shall by regulation prescribe as being necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition by such recipient of such pro-

ceeds, the total cost of the program or project in connection with which such proceeds were used, and the amount, if any, of such costs which was provided through other sources.

SEC. 8. NATIONAL SCIENCE FOUNDATION CENTERS FOR INDUSTRIAL TECHNOLOGY.

(a) ESTABLISHMENT AND PROVISIONS.—The National Science Foundation shall provide assistance for the establishment of Centers for Industrial Technology. Such Centers shall be affiliated with a university, or other nonprofit institution, or a group thereof. The objective of the Centers is to enhance technological innovation as provided in section 6(a) through the conduct of activities as provided in section 6(b). The provisions of section 6(e) shall apply to Centers established under this section.

(b) PLANNING GRANTS.—The National Science Foundation is authorized to make available nonrenewable planning grants to universities or nonprofit institutions for the purpose of developing a plan, as required under section 6(c)(3).

(c) TERMS AND CONDITIONS.—Grants, contracts, and cooperative agreements entered into by the National Science Foundation in execution of the powers and duties of the National Science Foundation under this Act shall be governed by the National Science Foundation Act of 1950 and other pertinent Acts.

SEC. 9. ADMINISTRATIVE ARRANGEMENTS.

(a) COORDINATION.—The Secretary and the National Science Foundation shall, on a continuing basis, obtain the advice and cooperation of departments and agencies whose missions contribute to or are affected by the programs established under this Act, including the development of an agenda for research and policy experimentation. These departments and agencies shall include but not be limited to the Departments of Defense, Energy, Education, Health and Human Services, Housing and Urban Development, the Environmental Protection Agency, National Aeronautics and Space Administration, Small Business Administration, Council of Economic Advisers, Council on Environmental Quality, and Office of Science and Technology Policy.

(b) COOPERATION.—It is the sense of the Congress that departments and agencies, including the Federal laboratories, whose missions are affected by, or could contribute to, the programs established under this Act, should, within the limits of budgetary authorizations and appropriations, support or participate in activities or projects authorized by this Act.

(c) ADMINISTRATIVE AUTHORIZATION.—

(1) Departments and agencies described in subsection (b) are authorized to participate in, contribute to, and serve as resources for the Centers and for any other activities authorized under this Act.

(2) The Secretary and the National Science Foundation are authorized to receive moneys and to receive other forms of assistance from other departments or agencies to support activities of the Centers and any other activities authorized under this Act.

SEC. 10. EXTERNAL ADVICE.

The Secretary shall require an appropriate advisory committee to review annually the activities of the Office and to advise the Secretary and the Director with respect to—

(1) the formulation and conduct of activities under section 5 of this title;

(2) the designation and operation of Centers and their programs under section 6 of this Act including assistance in establishing priorities;

(3) the preparation of the report required under section 5(d); and

(4) such other matters as the Secretary or Director refers to the Committee for review and advice.

The Director shall make available to the Committee such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties.

SEC. 11. UTILIZATION OF FEDERAL TECHNOLOGY.

(a) POLICY.—It is the continuing responsibility of the Federal Government to ensure the full use of the results of the Nation's Federal investment in research and development. To this end the Federal Government shall strive, where appropriate, to transfer federally owned or originated technology to State and local governments and to the private sector.

(b) ESTABLISHMENT OF RESEARCH AND TECHNOLOGY APPLICATIONS OFFICES.—Each Federal laboratory shall establish an Office of Research and Technology Applications. Laboratories having existing organizational structures which perform the functions of this section may elect to combine the Office of Research and Technology Applications within the existing organization. The staffing and funding levels for these offices shall be determined between each Federal laboratory and the Federal agency operating or directing the laboratory, except that (1) each laboratory having a total annual budget exceeding $20,000,000 shall provide at least one professional individual full-time as staff for its Office of Research and Technology Applications, and (2) after September 30, 1981, each Federal agency which operates or directs one or more Federal laboratories shall make available not less than 0.5 percent of the agency's research and development budget to support the technology transfer function at the agency and at its laboratories, including support of the Offices of Research and Technology Applications, unless, at the time the agency transmits its annual budget to Congress, the agency also transmits to Congress a written justification for a waiver of requirement (1) of this subsection and/or requirement (2) of this subsection with a full and complete explanation of the reasons for the waiver and alternate plans for conducting the technology transfer function at the agency.

(c) FUNCTIONS OF RESEARCH AND TECHNOLOGY APPLICATIONS OFFICES.—It shall be the function of each Office of Research and Technology Applications—

(1) to prepare an application assessment of each research and development project in which that laboratory is engaged which has potential for successful application in State or local government or in private industry;

(2) to provide and disseminate information on federally owned or originated products, processes, and services having potential application to State and local governments and to private industry;

(3) to cooperate with and assist the Center for the Utilization of Federal Technology and other organizations which link the research and development resources of that laboratory and the Federal Government as a whole to potential users in State and local government and private industry; and

(4) to provide technical assistance in response to requests from State and local government officials.

Agencies which have established organizational structures outside their Federal laboratories which have as their principal purpose the transfer of federally owned or originated technology to State and local government and to the private sector may elect to perform the functions of this subsection in such organizational structures. No Office of Research and Technology Applications or other organizational structures performing the functions of this subsection shall substantially compete with similar services available in the private sector.

(d) CENTER FOR THE UTILIZATION OF FEDERAL TECHNOLOGY.—There is hereby established in the Department of Commerce a Center for the Utilization of Federal Technology. The Center for the Utilization of Federal Technology shall—

(1) serve as a central clearinghouse for the collection, dissemination and transfer of information on Federally-owned or originated technologies having potential application to State and local governments and to private industry;

(2) coordinate the activities of the Offices of Research and Technology Applications of the Federal laboratories;

(3) utilize the expertise and services of the National Science Foundation and the existing Federal Laboratory Consortium for Technology Transfer, particularly in dealing with State and local governments;

(4) receive requests for technical assistance from State and local governments and refer these requests to the appropriate Federal laboratories.

(5) provide funding, at the discretion of the Secretary, for Federal laboratories to provide the assistance specified in subsection (c)(4); and

(6) use appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems.

(3) AGENCY REPORTING.—Each Federal agency which operates or directs one or more Federal laboratories shall prepare biennially a report summarizing the activities performed by that agency and its Federal laboratories pursuant to the provisions of this section. The report shall be transmitted to the Center for the Utilization of Federal Technology by November 1 of each year in which it is due.

SEC. 12. NATIONAL TECHNOLOGY MEDAL.

(a) ESTABLISHMENT.—There is hereby established a National Technology Medal, which shall be of such design and materials and bear such inscriptions as the President, on the basis of recommendations submitted by the Office of Science and Technology Policy, may prescribe.

(b) AWARD.—The President shall periodically award the medal, on the basis of recommendations received from the Secretary or on the basis of such other information and evidence as he deems appropriate, to individuals or companies, which in his judgment are deserving of special recognition by reason of their outstanding contributions to the promotion of technology or technological manpower for the improvement of the economic, environmental, or social well-being of the United States.

(c) PRESENTATION.—The presentation of the award shall be made by the President with such ceremonies as he may deem proper.

SEC. 13. PERSONNEL EXCHANGES.

The Secretary and the National Science Foundation, jointly, shall establish a program to foster the exchange of scientific and technical personnel among academia, industry, and Federal laboratories. Such program shall include both (1) federally supported exchanges and (2) efforts to stimulate exchanges without Federal funding.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) There is authorized to be appropriated to the Secretary for purposes of carrying out section 6, not to exceed $19,000,000 for the fiscal year ending September 30, 1981, $40,000,000 for the fiscal year ending September 30, 1982, $50,000,000 for the fiscal year ending September 30, 1983, and $60,000,000 for each of the fiscal years ending September 30, 1984, and 1985.

(b) In addition to authorizations of appropriations under subsection (a), there is authorized to be appropriated to the Secretary for purposes of carrying out the provisions of this Act, not to exceed $5,000,000 for the fiscal year ending September 30, 1981, $9,000,000 for the fiscal year ending September 30, 1982, and $14,000,000 for each of the fiscal years ending September 30, 1983, 1984, and 1985.

(c) Such sums as may be appropriated under subsections (a) and (b) shall remain available until expended.

(d) To enable the National Science Foundation to carry out its powers and duties under this Act only such sums may be appropriated as the Congress may authorize by law.●

TESTIMONY PRESENTED TO THE CONGRESSIONAL AUTO TASK FORCE

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. PURSELL. Mr. Speaker, as a charter member of the Congressional Auto Task Force, I was pleased to have an opportunity to participate in its first public meeting, appropriately held in Detroit, Mich., on September 2. Today, I would like to share with my colleagues here in the House a statement I presented at that time.

The task force will be holding its next hearing in Washington on September 15. The following day, the House Foreign Affairs Subcommittee on Asian and Pacific Affairs is scheduled to take up a related resolution, House Concurrent Resolution 363, which I introduced in June. I am hopeful that as many Members as possible will be able to participate in these proceedings.

STATEMENT OF HON. CARL D. PURSELL

As a charter member of the Congressional Auto Task Force, I am pleased to have an opportunity to participate in its first public meeting, appropriately being held here in Detroit today. I come, not only as a member of the Michigan delegation but also, as one privileged to serve on the powerful House Appropriations Committee and as Co-Chairman of the Northeast/Midwest Coalition's Budget Task Force.

Needless to say, the automobile industry is facing its greatest challenge in our lifetime, and the adverse consequences of this situation are being felt throughout the Nation's economy. One out of every 12 manufacturing jobs are directly, and one of six jobs are indirectly, dependent upon the auto industry. For every hourly job involved in the manufacture of motor vehicles, an additional 2 jobs are created in the entire economy. Steelworkers, in particular, can attest to the harmful effects on related industries of the downturn in the auto sector.

Over 300,000 auto workers currently are on layoff, as are an estimated 550,000 additional workers in auto-dependent industries. That means, not only hardships and suffering by the families of those out of work, but less tax revenue and more federal expenditures, which add to the burdens of those of us lucky enough to have a job.

However, I am not here to paint bleak pictures, join in a handringing session, or—most importantly—assess blame. Rather, I would like to offer some potential solutions for dealing with the short term, intermediate, and long-run problems associated with these serious conditions.

First, we cannot delay any longer in dealing with the flood of foreign automobiles and trucks—primarily from Japan—that are taking an increasing share of the American market. While our plants are being idled and shut down, Japanese plants are running overtime and producing an unprecedented volume of vehicles, which now represent 22 percent of the U.S. market.

Make no mistake about it, this is not happening by chance, but is part of a conscious, well-planned design. Shortly after World War II, Japan decided to develop its own passenger car industry. This was accomplished by excluding imports from the United States and other established producers through preventing foreign investment, as well as imposing prohibitive tariffs and discriminatory commodity taxes, and leaving the burdens of defense to others.

Once the Japanese auto industry got firmly on its feet, most of their barriers to foreign imports were reduced. (Although a U.S.-built car still costs almost twice as much in Japan as it sells for domestically.) Meanwhile, potential markets in Europe and elsewhere maintained quotas or other restraints to trade. Thus, the United States, the only substantial "open" market available, became the prime target for Japan's aggressive new export efforts.

The geographic size of Japan, its uncontrolled fuel costs, urban driving conditions, along with a host of other factors, demanded a small, fuel-efficient vehicle. Accordingly, when American driving and car-buying habits abruptly changed following the Iranian crises, the Japanese were the lucky beneficiaries. That is, their "grand design" worked better than they ever dreamed.

The U.S. automobile industry is currently in the midst of an $80 billion conversion to meet the new demands of its driving public. And what is needed now is some "breathing room", such as that experienced by the Japanese industry during its time of conversion in the 1950's and 60's.

On September 16, the House Foreign Affairs Subcommittee on Asian and Pacific Affairs will be holding hearings on a measure (H. Con. Res. 363) I introduced in June, along with my colleagues Bill Brodhead, Bob Davis, and Jim Blanchard. This resolution urges the President "to enter into negotiations with the representatives of the Government of Japan with respect to a temporary restraint in the exportation of automobiles into the United States, an equitable relationship between prices changed in domestic and foreign sales, and elimination of trade barriers affecting purchase of American products." I am hopeful that Congress will act promptly on this resolution following those hearings.

Now let us turn briefly to the intermediate problems facing the auto industry—and for that matter the American economy in the aggregate. Although increased imports have greatly exacerbated the current recession, they did not cause it. For example, it should be noted that total car sales—including imports—have declined from 11 million units in 1977 and 1978 to a present rate of about 9 million vehicles.

Many Americans simply cannot afford a new car, imported or domestic. One fast and effective way of improving this situation would be to enact a meaningful tax cut. Such action would leave billions of dollars in the paychecks of working men and women—money available to spend and save, in turn, providing increased demand for goods and services. That, not incidentally, also means more jobs.

In July, along with 84 cosponsors, I introduced a new five-year tax cut proposal designed as a common ground for a bipartisan agreement. The bill (H.R. 7730) combines a total 30% tax rate cut for individuals, with tax rate indexing beginning in 1986, after all the cuts have been implemented.

As you probably know, the House Ways and Means Committee has been holding hearings on various tax proposals affecting both individuals and businesses. Again, I am hopeful that Congress will act on this important subject as promptly and effectively as possible.

Finally, I want to speak about the long-term—something which we in government do all too little. Budgets are battled out on an annual basis, Congressional elections are held every two years, and it seems like we now go from one Presidential campaign right into the next. Like most physicians, we spend almost all of our time fighting diseases, not preventing them.

Once again, we can learn a lesson from our friends in Japan. Let me briefly quote from a recent report by the U.S. Comptroller General:

"There is an important time-frame difference between Japan and the United States . . . Japan anticipates. Its conception of 'early warning' rests on economic projections 5 to 10 years or more in the future . . . the United States reacts."

In addition to looking beyond the current decade, Japan involves all aspects of its society in a voluntary planning process—management, labor, education, and government at all levels. On the contrary in the U.S. these various groups usually take on an adversarial relationship, even when their best interests would seem to require a cooperative approach.

I strongly believe that we can forge meaningful partnerships to solve common problems, without destroying the individual identity of institutions, without reducing competitiveness, and without damaging the diversity that has been our strength for over 200 years.

I am proud of the work of the Northeast/Midwest Coalition in recognizing this approach and in taking small, but important steps to implementing it on a regional basis in Congress. In addition, I have been working with various government and private sector leaders in Michigan to help lay the groundwork for long-range cooperative planning sessions on a statewide basis.

I challenge all of you here to seriously consider the opportunities available by such planning at the local, state, regional and even national levels.

Our nation was founded in the midst of conflict and has been at its best when facing adversity. Despite abundant natural resources, America's greatest wealth has always been its people. Through depressions, wars, and various social struggles leaders have emerged and the people have responded in a way that has produced a country stronger and more desirable than ever.

We are not now marching to war or facing the depths of the Great Depression; however, in many ways the tasks before us are every bit as difficult and serious as those of the 1930's and 40's. Let us not shirk our duty, but respond in the tradition that has been established for us. We have no other choice!●

PATRIOTISM AND THE NATIONAL ANTHEM

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. ANDERSON of California. Mr. Speaker, I would like to draw your attention to an article written by Bill Gold which appeared in his August 28, 1980, column in the Washington Post. The article follows:

THE PUNKS WON

A few days ago, this newspaper carried a dispatch from Waukegan that began with these words:

"The Star Spangled Banner waves over the Great Lakes Naval Training Center, but the national anthem singing its praise has been silenced at the base movie theater."

It used to be the custom to play the anthem before the start of every evening's entertainment. But one night a few catcalls and jeers broke out among the audience in the darkened theater, and thereafter the show of disrespect became standard operating procedure. The anthem was booed every night.

Adm. Charles Gurney III was furious. He ordered the playing of the anthem stopped "for as long as I am commander here," and added disgustedly, "The punks won."

When Maj. John M. Alley of Alexandria read those lines, he reacted to them pretty much as I had. "To say I was shocked would be an understatement," he wrote.

"What the commander should have done was to close the theater until assurances were received that the audience would act properly. I think more should be done about this."

I agree wholeheartedly.

Recruits in basic training are not permitted to attend the theater at Great Lakes. Those in attendance, from whose ranks the disorderly conduct emanated, were personnel in the technical training school, the base staff, and their dependants.

They should have known better. They should have had the decency to show respect for the government that pays them, feeds them and houses them.

Lt. Cherie Davis, a public information officer at the base, seemed annoyed that the public expects that "people in the service should have one standard of conduct and the civilian population should have another." She said people in the civilian community had been brought up to show disrespect for the flag and the anthem. "You've seen them at sporting events," she said. "They jeer, they slouch, they talk, they throw popcorn and spit, during the national anthem."

What she said is true. Some civilians do act like uncivilized animals, not only during the playing of the Star Spangled Banner but throughout their lives. But what does that have to do with the respect that a serviceman should show the flag to which he had taken an oath of allegiance? And what does it have to do with the respect that should be shown by a civilian employed by the military, or by his family?

Does Lt. Davis have any conception of what a military PIO's function is supposed to be? Is Adm. Gurney the most effective commander the Navy could find for this assignment?

I am thoroughly disgusted with the episode at Great Lakes and with the entire subject of disrespect to our nation and its symbols.

I wish the people who are so determined to show public disrespect for this country would go live in a country that suits them better and leave this one to those of us who thank God for granting us the blessings of liberty that flow from our American citizenship.

Your punks may have won, admiral, but if punks ever become a majority in this country they'll find out in short order what they've really won. They're not going to like that, either.

Mr. Speaker, however, after reading Mr. Gold's column on September 3, 1980, it seems that, after the original story was published, such an uproar of protest was made Admiral Gurney decided to resume playing the national anthem.

Needless to say, I was certainly glad to see that this ugly problem had been rectified; however, it should have never had happened to begin with. When Admiral Gurney decided that the solution to the situation was to stop playing the anthem, he did not solve the problem but became part of it. Admiral Gurney should have had the guts to have those individuals involved with this disgusting display of behavior apprehended and disciplined, or if this was infeasible, to simply close the theater until other patrons exerted sufficient pressure on the troublemakers to bring them into line.

In a time when Americans all across the country are once again joining together in a patriotic bond of unity for our hostages in Iran, this type of repulsive behavior should not be tolerated.

As you know, over 110 of our colleagues have joined in cosponsoring legislation I have introduced which would designate the week commencing with the third Monday in February 1981 as "National Patriotism Week." I only hope that this significant bill will be enacted into law this 96th Congress, to encourage Americans everywhere to demonstrate their patriotic feelings. This should show those few individuals at the Great Lakes Naval Training Center that there is a great deal of love and respect for our Nation, its flag, and its national anthem, and for what it represents.●

SANTA MARIA'S 75TH ANNIVERSARY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. LAGOMARSINO. Mr. Speaker, I am pleased to announce to my colleagues that Santa Maria, Calif., will be celebrating its 75th anniversary on September 12, 1980. Mayor George Hobbs declared that the occasion will be commemorated with the celebration of "Diamond Jubilee Week."

The week's events will include concerts, dances, a western barbeque sponsored by the Santa Maria Historical Society, and the burying of a time capsule. Also, the city's senior citizens' center will be renamed as the Elwin Mussell Senior Citizens Center, in honor of the late mayor.●

FOREIGN INVESTMENT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. DERWINSKI. Mr. Speaker, I would like to direct the attention of the Members to an editorial broadcast over Chicago's highly respected and popular radio station, WBBM 78. The editorial, carried on August 15, presents some very perceptive and farsighted views on foreign investment in American business and property. I believe that this editorial is worthy of review:

FOREIGN INVESTMENT

Yesterday we said that foreign interests are buying up our nation from under our feet, and that we aren't doing much about it. Today we'll suggest some measures to control this situation.

Most important, there must be Federal registration of all past and future foreign direct investment in American business and property. We also need a screening mechanism to assure that a foreign investment will be beneficial to the U.S. economy. And we need a complete and immediate restructuring of the interagency Committee on Foreign Investment in the United States. This committee has had the responsibility to evaluate foreign investment in light of U.S. interests. Unfortunately, a recently released government report accuses the Committee of shirking its duties.

We also need a presidential commission to conduct a major federal policy reappraisal on better ways to attract and manage foreign investment.

We don't believe these measures will harm foreign investment in our country. Registration and screening are already being used in other countries. Rather, our goal is to encourage foreign investment that will benefit the United States. As New York Congressman Benjamin Rosenthal says, "We need to understand the true sources and likely effects (of foreign investment). And we need to protect our businesses, workers and communities from harmful consequences. We are already hostage to foreign oil. We cannot become hostage to foreign control."●

CORRECTIONS IN H.R. 7972 AS INTRODUCED

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. HEFTEL. Mr. Speaker, on August 20, 1980, I introduced H.R. 7972, a bill to amend title XVIII of the Social Security Act to provide for an independent Provider Payment Review Board to review disputes on cost reimbursement under the medicare program between provider of services and the Secretary of Health and Human Services.

There are two inadvertent errors to the bill as printed which I wish to hereby clarify. These errors in H.R. 7972 are:

First, on page 10, line 2, instead of "A final decision," it should read: "In the case of entities which were not parties to the hearing, a final decision."

Second, on page 11, beginning on line 3, instead of "covered by the decision," it should read: "beginning after the date the decision was rendered."

I offer these changes in order to clarify the intent of the legislation and to expedite the dialog which will ensue.●

RONALD REAGAN SPEAKS OUT

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. ROUSSELOT. Mr. Speaker, the liberal left and the media have been giving Ronald Reagan a lot of flack lately. Why? He has been committing one of the more serious of the political "sins." Governor Reagan has been honestly speaking his mind.

As columnist James J. Kilpatrick points out in the editorial that follows, Ronald Reagan should be commended—not condemned—for truthfully expressing his views. He is willing to "call a spade a spade instead of an implement for digging." And, as in the case of his comments on both Taiwan and the Marxist nature of the progressive income tax, Reagan's observations are generally right on target.

Mr. Speaker, I commend Mr. Kilpatrick's editorial, in its entirety, to the attention of my colleagues:

The editorial follows:

MR. REAGAN IS SPEAKING HIS MIND

(By James J. Kilpatrick)

Ronald Reagan has been catching some garbage lately from the quiche-eating set of the liberal left. The general idea is to depict him as a blockhead, ignorant of history and diplomacy alike, a fellow who is just too stupid, my dears, to be entrusted with the White House. The two principal targets have to do with Karl Marx and Taiwan.

Let me take them one at a time. It appears that back in 1964, in a speech entitled "Losing Our Freedoms By Installments," Mr. Reagan spoke generally of an income tax characterized by disproportionately higher rates on personal income. "This progressive system," he said, "was spawned by Karl Marx and declared by him to be the prime essential of a socialist state—the method prescribed for taxing the middle class out of existence."

Sen. Edward Kennedy's speech-writers dug out the 16-year-old quote. In his rousing address in New York, Mr. Kennedy ridiculed Mr. Reagan for denouncing the progressive income tax "as the invention of Karl Marx." Mr. Kennedy was afraid Mr. Reagan "has confused Karl Marx with Theodore Roosevelt." Writing in The New Republic, Richard Strout was appalled by Mr. Reagan's ignorance. "Can America really elect a man president who believed (or at least declared) that the graduated income tax was invented by Karl Marx? Why does Reagan say such things?"

REAGAN AND MARX

The answer may be that Mr. Reagan had read the Communist Manifesto and that Messrs. Kennedy and Strout have not. Toward the end of this seminal work, Marx listed 10 measures by which the proletariat would wrest power. This was his second measure: "A heavy progressive or graduated income tax." Now, this pernicious scheme may have been invented, for all I know, by Hammurabi. But if Teddy Kennedy thinks it was invented by TR, who's the blockhead?

The point is that Reagan was precisely right in identifying a graduated income tax with Marx. On the matter of Taiwan: Here again, as in his assertion that Vietnam was a "noble cause," Mr. Reagan's distaste for sham has got him in trouble. He doubtless should have been more careful in defending an "official" relationship with Taiwan.

This is a buzz word. Chinese Communists and American liberals came to him like so many hornets. But why not call a spade a spade instead of an implement for digging? Must we forever persist in make-believe? Under the act passed by Congress after President Carter imperially nullified our treaty with Taiwan, our relations are conducted through "the American Institute in Taiwan."

The institute is a charade. It is financed entirely by the U.S. Treasury under appropriations approved by Congress. Its contacts go through the State Department. The law directs the institute to function "as if" it were a consulate. This is exactly what Mr. Reagan has agreed to support.

Yes, Mr. Reagan has been critical of President Carter's abandonment of a 25-year-old treaty with our small ally. The criticism is richly deserved. And without rehashing the whole unhappy story, it may be observed that "normalization" with the People's Republic has accomplished nothing in terms of Sino-Soviet relations, or in terms of worldwide balancing of powers, that would not have happened anyhow. Mr. Reagan is honestly speaking his mind. It is small wonder that liberal spokesmen are dumbfounded. As they say down South, you just don't hardly ever hear that kind of talk no more.●

JOHN BURTON—FOUNDER OF GRANDPARENTS DAY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. STARK. Mr. Speaker, Sunday is Grandparents Day. In addition to honoring all the grandparents of this country in these remarks, I would also like to honor the man who provided the inspiration for their celebration—our colleague JOHN BURTON.

While JOHN is not a grandparent, a candy salesman, a florist, or a stockholder in Hallmark Cards, he does have a vested interest in Grandparents Day—he invented it. He is a sincere admirer of those in our population who have earned the right to be called grandpa or grandma.

Sunday is their day and my colleague from California and the bay area deserves credit for what he has wrought.

Well done, JOHN, and best wishes to all the grandparents of the United States and everywhere.●

SOME FRIEND

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. YOUNG of Florida. Mr. Speaker, according to the Washington Post, the education plans of 128,000 veterans who served our country during the Vietnam war may have to be changed either because of mismanagement by the Carter administration or lack of interest on their part. These veterans, who were guaranteed educational benefits under the GI bill, now have been told there is no money available for them.

Nearly 2 months ago, the VA notified the administration of the shortage, but OMB sat on the request until yesterday before sending us a supplemental appropriation request for the funds needed to cover the shortage. Most colleges have just begun classes or will just be beginning classes and what will the Veterans' Administration be able to say to those veterans who were planning on using this money to start school.

As a member of the Appropriations Subcommittee that oversees the funding for Veterans' Administration programs, I can assure you that I will do everything possible to expedite this funding so that these veterans will not have to postpone their education plans. But this whole situation seems ironic to me. Several weeks ago President Carter stood before veterans organizations and claimed that his administration is a friend of veterans. Today's news about the problems created for the veterans by the Carter administration is certainly a strange way to express that friendship.●

VOTERS ARE STILL WAITING ON CARTER TO DELIVER ON HIS PROMISES OF 1976

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. ASHBROOK. Mr. Speaker, as the Presidential campaigns start to pick up steam, it is always best to consult the records of the two candidates. The Rome News-Tribune of Rome, Ga., did look at President Carter's promises made in 1976 and compared them with what he has delivered and found him wanting the other day in an editorial printed on Sunday, August 17, 1980. I think it is an excellent summary of campaign promises made, but not kept. The voters should certainly keep this in mind next fall. The editorial follows:

VOTERS ARE STILL WAITING ON CARTER TO DELIVER ON HIS PROMISES OF 1976

President Carter would have us believe that we must either return him to office for another four years in November or watch our nation move to the brink of economic chaos and international conflict. The choice is that simple, he says, between his candidacy and that of the Republican Party standard bearer.

Unfortunately for Mr. Carter, such rhetoric doesn't cut the mustard, not anymore. They are just meaningless words shot full of holes by Mr. Carter's miserable track record of the last three and a half years. Lest we forget, four years ago he promised the nation peace and prosperity. Four years ago he promised to return government to the people, to eliminate much of the bureaucracy that dictates our lives and to balance the budget. Four years ago he vowed to bring under control the cancer of inflation.

Four years ago he painted himself as America's saviour who has his hand on the pulse of the people—a man not infected by or influenced by the self-serving and special interest politics of Washington.

It is difficult for us to forget these promises because we're still waiting for Mr. Carter to deliver.

If there is peace in the world, Mr. Carter must have coined a new definition of the word. If there is prosperity he must be excluding the millions on food stamps, those who swell the welfare rolls, and the growing number of unemployed who are trying to retain what little pride they have left. The working people watched the purchasing power of their earnings diminish. Housing prices skyrocketed and finally the home building industry ground to a halt. Our giant automotive and steel industries posted record losses and record layoffs.

All of this under the administration of Mr. Carter, who promised us peace and prosperity.

Moreover, government still has control of our lives, contrary to what Mr. Carter promised. Business and industry grinds to a halt under the weight of federal regulations. Just as he did while serving as governor of Georgia, Mr. Carter's idea of reducing the size of government is to eliminate small agencies and create new cabinet-level monsters. That's like swapping mosquitoes for rats.

Mr. Carter juggled figures and projected record revenues to have us believe, at one time, that the federal budget would be balanced. He even tried to slip in a new tax on gasoline in the process. But, when the truth came out the administration had to hide—tuck its tail between its legs in the wake of another projected deficit.

Through all this—the undelivered promises and the dismal failure of Mr. Carter's administration—inflation remains an unwanted member of every home.

And now Mr. Carter talks with pride about the accomplishments of his Democratic administration. He asks the people to return him to office for another four years and tell us we cannot accept the alternative of voting for his opponent.

But, if Mr. Carter thinks the people are fooled by his rhetoric he had better think again. When a person can't accomplish at least a portion of his major goals with a Congress dominated by members of his own party, then he's a failure as a president.●

DO NOT WEAKEN GUN LAWS

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. BARNES. Mr. Speaker, earlier this summer the House Judiciary Committee overwhelmingly rejected an amendment to the criminal code bill which would have drastically weakened existing Federal laws on firearms. There is currently underway a massive lobbying campaign to reverse this result when the bill comes to the floor. I strongly urge my colleagues to uphold the committee's action and reject the amendment again, not only because the amendment is bad policy but also because it has no place in legislation recodifying criminal law.

Mr. Speaker, I place in the RECORD for the information of the House an editorial on this subject which appeared in the Washington Post of Wednesday, September 3.

The editorial follows:

GUNRUNNERS' SNEAK ATTACK

It's been a busy summer for the master gun-worshippers of the National Rifle Association—whose troops have been all over Capitol Hill; methodically whipping up an ugly legislative surprise for all who believe in reasonable controls on handgun traffic. The NRA threat this year is double-barreled: If unchecked, it would mean (1) the end of almost all existing federal regulations of guns and (2) a go-ahead for handgun purchases by certain convicted felons and for free-wheeling interstate traffic in all sorts of pistols, machine guns and other firearms that can hardly be considered as sporting equipment.

Besides the old pistol-packers' game of loading key politicians' pockets with campaign contributions, this round of gun-lobby efforts includes sneak attacks to undo votes just taken in Congress that have gone against the NRA. Thanks to cooler heads in the House and Senate committees that traditionally consider gun-control legislation, the gun lobby's initial efforts were voted down. But now the NRA, having disguised its free-for-all gun proposal as a "Federal Firearms Reform Bill," seeks to slip its proposals into law in the form of an amendment to the Criminal Code Bill. In the House, where a committee voted 22 to 5 against the effort to repeal gun controls, a variation may be tried.

Whatever the camouflage, people shouldn't be fooled by this destructive legislative attempt to repeal the reasonable, minimum gun controls that do exist. The 1968 Gun Control Act, which the NRA would repeal, was enacted after the assassinations of Robert F. Kennedy and the Rev. Dr. Martin Luther King, Jr., to put some basic safety rules on the books: licensing of gun dealers, bans against certain types of weapons such as machine guns, prohibitions against sales to out-of-state residents and against gun trafficking by convicted felons.

None of this has, or would, disarm the sportsman. National polls have shown time and again that a solid majority of Americans support federal handgun controls to place some responsibility on handgun ownership and handgun commerce. If thoughtful legislators respect this desire, and if they stop listening to a narrow special-interest lobby, the scant controls now on the books can be preserved.●

THE NINTH DISTRICT OF MICHIGAN ANNUAL CONGRESSIONAL QUESTIONNAIRE RESULTS

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. VANDER JAGT. Mr. Speaker, the residents of the Ninth Congressional District of Michigan have returned thousands of congressional questionnaires to me, and the results have been tabulated in the last few weeks. I would like to take this opportunity to share the results with my colleagues.

Of particular interest to me were the very strong opinions held on national defense issues, with 87 percent of the respondents agreeing that the United States should be prepared to defend our vital interests in the Persian Gulf region but only 6 percent saying that they are satisfied that the U.S. military is sufficiently strong. It was also interesting to note that only 21 percent said they approved of President Carter's handling of the Iranian hostage situation, and only 38 percent felt the President responded appropriately to the Soviet invasion of Afghanistan.

Inflation remains the No. 1 issue to most Ninth District residents who responded to the annual questionnaire survey I sent in June, with 41 percent listing it as the most serious issue facing the Nation. Few, 18 percent, said they are optimistic that they will be better off economically 1 year from now than they are today, indicating to me a very low degree of confidence in the handling of the economy.

Another indication of the low esteem now held for our leaders was exhibited by the response to the general question asked on the single most serious problem facing our Nation. After inflation, most people, 31 percent, listed "Government leadership" as the Nation's most serious problem.

While energy was not listed as one of the greatest problems facing the Nation—only 7 percent listed it as such—there was evidence of concern over energy supplies; 83 percent favored the relaxation of some air pollution standards to permit more coal to be burned, and 73 percent favored the continued development of nuclear power; 59 percent said they favored Federal restrictions on the use of automobiles in the event of a gasoline shortage.

Mr. Speaker, I would like to express my appreciation to the many newspapers throughout the Ninth District which assisted me by printing the 1980 congressional questionnaire to insure that every district resident would have the opportunity to participate.

The complete results of the 1980 questionnaire are:

Annual Ninth District Questionnaire Results in Percent

1. Do you approve of President Carter's handling of the Iranian hostage situation? yes, 21; no, 78.

2. Do you feel President Carter responded appropriately to the Soviet invasion of Afghanistan? yes, 38; no, 62.

3. Do you agree that the United States must be prepared to "defend" vital interests in the Persian Gulf region? yes, 87; no, 13.

4. Are you satisfied that the U.S. military is sufficiently strong? yes, 6; no, 94.

5. Should the Federal budget be balanced even if it means slowing the growth of Federal support in areas such as health, education and other social programs? yes, 81; no, 19.

6. Do you feel that Federal tax cuts will help fight inflation? yes, 49; no, 51.

7. Are you optimistic that you will be better off economically one year from now than you are today? yes, 18; no, 82.

8. Would you favor the relaxation of air pollution standards to permit more coal to be burned? yes, 83; no, 17.

9. Do you favor the continued development of nuclear generated power to meet our energy needs? yes, 73; no, 27.

10. In the event of a gasoline shortage, should the Federal Government impose restrictions on the use of individuals' automobiles? yes, 59; no, 41.

11. Do you favor limitations on commercial fishing by Indians in the Great Lakes? yes, 84; no, 16.

12. Should state and local governments assume greater responsibility for programs and services now provided by the Federal Government? yes, 85; no, 15.

What do you consider is our Nation's most serious problem?

Inflation—41; taxes—6; national defense—9; energy—7; unemployment—6; Government leadership—31.●

TOOTHLESS WATCHDOGS OF THE FEC

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1980

● Mr. DORNAN. Mr. Speaker, I would like to call to the attention of my colleagues, four more discrepancies in the continuing FEC coverups of the west coast, gulf coast, Potomac scandal involving Carey Peck and Donald Stewart.

The material follows:

Discrepancy: Dennis Claims He Gave $11,000 "In Cash" to Stewart: Stewart Denies Yet Bank Records Never Checked by FEC To Verify Stewart's Denial

On June 20, 1979, the F.E.C. General Counsel Oldaker sent James Dennis a letter through his lawyer, Stephen Salter, (Get this: Salter and his partner Groenendyke are major donors to Stewart—$2000.00—and presumably function as his lawyers behind the scenes. Conflict?), which stated in part:

"A summary of the evidence is as follows . . . (4) Mr. James H. Dennis, Sr., made contributions equaling $11,000 in cash to the Friends of Donald Stewart in violation of 2 U.S.C. § 441(g) and 11 C.F.R. § 110.4 (c)(1)." A similar statement was included in a June 20, 1979 letter to the Stewart campaign. Both June 20, 1979 letters contained the following sentence: "Under the Act, you have an opportunity to demonstrate that no action should be taken against you."

This ludicrous statement of the F.E.C. Office of General Counsel was made in light of a prior June 4 Dennis affadivit which stated: "I utilized corporate funds of Dennis Mining Supply and Equipment, Inc., an Alabama Corporation, (a "dummy corporation" according to an investigative reporter who has been working on this case for months) to acquire the cashier's checks used to make all contributions to the campaigns of both Honorable Donald Stewart and Carey Peck."

What evidence for the cash contribution to Stewart the O.G.C. is referring to in item No. (4) does not appear in the F.E.C. MUR 970 or in the files. Nor does anybody associated with Stewart "demonstrate" that no cash was given. John W. (Jack) Vardaman, Counsel for Senator Stewart in a July 2, 1979 hand delivered letter to F.E.C. General Counsel William Oldaker, simply denies that any Dennis contributions were made in cash. (Is this the beginning day of the internal cover up?)

The Dennis affadavit of July 16, 1979 is silent about cash contributions. Nowhere in the above cited affadavit does Dennis deny the original allegation referred to the F.E.C. by the Justice Department, and repeated by General Counsel Oldaker in two letters sent out to the principals regarding the $11,000 cash contribution Dennis allegedly made to Stewart. How did the $11,000 cash contribution first arise except from a principal in the matter? Maybe U.S. Attorney J. R. Brooks was the first to learn this.

Since the original referral came from this Alabama Justice Department prosecutor, Mr. "J. R." Brooks (whose continuance in that job is at the sufferance of the Senator from Alabama, who was named as possibly receiving $11,000 in illegal cash contributions from corporate funds) it stands to reason that Brooks has in his possession substantive evidence in order to forward to the Federal Election Commission in Washington, D.C.

"The ravings of a tea leaf reader" would hardly cause a U.S. District Attorney to forward evidence to the F.E.C., involving in effect the employer of that U.S. District Attorney, and yet the F.E.C. does not check the records of the First National Bank of Birmingham to verify, even as Dennis had frankly advised, whether Stewart received all of the $23,150 from Dennis in the form of cashier's checks, mostly sequentially numbered. All this is what we get from an agency (F.E.C.) that was created because of Watergate! Tragic . . .

Discrepancy: FEC Composes Letter to Peck Which Was Never Sent to Him. Why?

One of the 13 illegal Alabama "Phantom" contributions is listed by Carey Peck as having been giving by a Robbie Chancey of 2106 Starlake Drive, Birmingham, Alabama and transmitted by C. Mike Chancey (F.E.C. Report for 10-24 through 11-27-78).

James Dennis laughingly told Congressman Dornan, while the Congressman interogated him in the Warden's Conference Room at the Taladega Federal Prison in Alabama on April 30, 1980, that Robbie Chancey was 4 years old at the time of the 1978 election. "The Congressman can have fun with that one," Dennis told the FBI agent. Additionally, no cashier's check made out in Robbie Chancey's name was among those submitted by James Dennis in his July 4, 1979, contact with the F.E.C. There is a check from Mike Chancey, #1083646, dated November 14, 1978. (The day before the "defeat party" at Gregory Peck's house and Chasen's.) This apparently is the check which Carey Peck lists as coming from Robbie Chancey, then four years old. The F.E.C. has possessed a customer's copy of this check since June 7, 1979!

Did the F.E.C. believe that Robbie Chancey gave the money or that C. Mike Chancey gave the money or that Mike Chancey gave the money. The Office of General Counsel apparently believed that the contribution to Peck came from all three at various times. Did this bother Peck or the O.G.C., William Oldaker, at the F.E.C.? Apparently not. Let's look at the following facts:

In the letter which the O.G.C. prepared on August 9, 1979 for Peck, Mike Chancey is listed as a contributor of $1000 on November 24, 1978. Yet the Mike Chancey check is dated November 14, 1978. The only place that the date of November 24, 1978 shows up in any F.E.C. file is on Carey Peck's form for the period of 10-24-78 through 11-27-78. Yet, in finding the date for that particular contribution, the person (?) who prepared the letter from General Counsel Oldaker's signature, would also have had to see that Carey Peck listed the contribution as coming from Robbie Chancey, "transmitted by" C. Mike Chancey (whatever the hell that means). So, although the F.E.C.'s "pretend letter" disputes on its face the Peck claim about the name of the donor, the F.E.C. General Counsel just let this discrepancy slide under the covers.

In fact, this F.E.C. official omitted two points from the "Peck report form" for inclusion on the proposed F.E.C. letter to Carey Peck: (1) Robbie Chancey was the contributor listed by Peck! and (2) the initial "C" was omitted by the F.E.C. from "C" Mike Chancey's name. This covered Peck's acceptance of TWO Mike Chancey $1000 checks.

Was this done by the F.E.C. because of the Office of General Counsel's policy that "Carey Peck hadn't done anything which even appeared to violate the law" which would be contradicted by an F.E.C. letter to Peck, which itself listed contributions from both a Charles Mike Chancey and a "C" Mike Chancey both of the same address? The answer is probably, Yes.

Yet, when the O.G.C. sent out a proposed conciliation agreement to Dennis, the "Mike Chancey" contribution was changed back to "Robbie Chancey."

In short, the O.G.C. saw a First National Bank of Birmingham check made out to "Carey Peck for Congress" apparently purchased by a Mike Chancey, but which Carey Peck's F.E.C. forms listed as having come from Robbie Chancey as transmitted by "C" Mike Chancey and couldn't have cared less.

None of this, as witnessed by the F.E.C. MUR 970, apparently bothered the O.G.C. then under William Oldaker or now under Charles Steele.

Discrepancy: FEC Takes No Action Against Peck Because No Complaint Was Filed

According to an A.P. news story by Reporter Jay Perkins dated in April of 1980, F.E.C. spokesman Fred Eiland claimed that the F.E.C. took no action on Dennis' contributions to Peck because there was never a complaint filed about the scandal.

Yet, F.E.C. law, 2 U.S.C. 437 g(a)(2) states that the F.E.C. shall notify any candidate of a suspected violation and shall investigate such violation on the basis of information ascertained "in the normal course of carrying out its supervisory responsibilities" after four members of the F.E.C. agree that there is reason to believe a violation has occurred.

Discrepancy: The FEC, OGC Seems To Protect Young Carey Peck at All Costs in Violation of Their Own Law

In the lengthy period since the Dennis contributions to Senator Stewart and Carey Peck first came to the attention of the F.E.C. and its O.G.C., there is not so much as a letter to be found in the F.E.C. files which the O.G.C. had actually sent to Carey Peck.

This O.G.C. policy is in conflict with what then F.E.C. Chairman Tiernan told Congressman Carroll Campbell, Jr., and others at an April 25, 1980 House Administration hearing:

Congressman Campbell. All right. For instance, say I was running and I got a contribution from six or seven different people and later found out that the money had been given to six or seven different people by John Doe, and they sent it in. Under the circumstance, I would be directed to refund that money, or what?

Mr. Tiernan. Well, if you were to find out about it, you know, a situation like that, and you on your own initiative returned those contributions to the individuals, the Commission certainly would take that—that is the primary purpose of the Act, and the function of the Commission, to see that there is voluntary compliance with the Act, and (but) if in fact we found out about it, we would notify the candidate or the treasurer of that candidate's committee that we have reason to believe that there was a prohibited contribution, and then proceed on that basis.

On June 20, 1979, the O.G.C. sent letters out to two of the principals in this case (1) James Stewart, Treasurer, Friends of Donald Stewart, and (2) Stephen Salter, lawyer for James Dennis, about the illegal contributions to Stewart and Carey Peck (MUR 970).

No letter was ever sent to Carey Peck by the O.G.C. even though at this time the O.G.C. had received 8 customer's copies of the 13 sequentially numbered cashier's checks which Dennis had given to Carey Peck's campaign coffers. An investigative windfall—the remainder of the customers copies were burned, says Dennis. Arson has been charged in Alabama and by the Itel executives. Additionally, James Dennis had submitted an affadavit signed June 3, 1979 along with the customer's copies of the 8 cashier's checks which stated in part:

"I utilized corporate funds of Dennis Mining Supply and Equipment Inc., an Alabama corporation, (To do what? No one knows.) to acquire the cashier's checks to make all contributions to the campaigns of both Hon. Donald Stewart and Mr. Carey Peck." (MUR 970).

Even through Dennis would be charged with violating the F.E.C. Act regarding the prohibitions on corporate contributions, the F.E.C. never—repeat, never—notified Carey Peck on this account. Unbelievable.

The copies of checks given to Peck with affadavit admissions were sent by Dennis' lawyer on June 4, 1979 directly to William Clyde Oldaker, General Counsel, F.E.C. They stamped in to the F.E.C. as received on June 7, 1979 (MUR 970).

Former Chairman Tiernan's words before Congress, and General Counsel Oldaker's action in the Dennis/Peck, Sr./Peck, Jr./Steward scandal do not square.

However, other letters from the F.E.C. during the same time period, regarding so-called minor, very minor surface violations of the Peck campaign were sent to the Peck treasurer. One "surface" violation involved an $8,000 contribution which was later returned! The other involved a $1,000 contribution from K. B. Tabatabay Development (a corporation?). Peck later told the F.E.C. that the $1,000 Tabatabay contribution was K. R. Tabatabay—wholly owned. This two word explanation apparently satisfied the F.E.C. reviewers, even though a corporation could be wholly owned by one person and still be not allowed to make political contributions by law.

Another point to note is that in that Oldaker letter of June 20, 1979, to James Stewart (brother), treasurer of "Friends of Donald Stewart," he states in part:

"Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are related to the Commission's analysis of the matter."

In the public records of the matter (MUR 970) nowhere does Stewart or his agents demonstrate that they did not accept cash. In a July 2, 1979 letter from Stewart's lawyer, Jack Vardaman to William Oldaker, we find Mr. Vardaman stating in part, "(3) In the course of a thorough investigation by our Committee, Mr. Dennis admitted that he contributed $33,000 to the Committee in the names of other people. None of the contributions were made in cash." (MUR 970).

A clear demonstration that Stewart had not received $23,150 from Dennis, $11,000 of which was indicated to have been in cash, would be copies of all the cashiers checks. Interestingly enough, Dennis in a July 16, 1979 affadavit suggested that the F.E.C. "go to the First National Bank of Birmingham" to get actual cancelled cashier's checks. If the F.E.C. did go to the bank where Dennis says he purchased the checks, MUR 970 does not reflect this.

Did Senator Stewart or his lawyer, Jack Vardaman, show the F.E.C. xerox copies of the 23 checks from Dennis? Most campaigns copy every large check. Some campaigns like Congressman Dornan's copy every, repeat every, check. MUR 970 does have a hand delivered letter from Jack Vardaman dated Wednesday, August 1, 1979, regarding a prior phone conversation with Hal Ponder, office of the General Counsel and a personal meeting scheduled for Friday, August 3, 1979. Did Mr. Ponder see the checks? The public record is silent. However, from the letter's content and lack of reference to the $11,000 cash contributions, it does not appear that the $11,000 illegal cash contributions were to be discussed.

On August 16, 1979, General Counsel Oldaker sent Mr. Vardaman a letter regarding certain Commission determinations which said in part that "the $22,000 in contributions made in the name of another by James Dennis to 'Friends of Donald Stewart' was not made in cash."

How did Oldaker know either tentatively or conclusively (the standard used by O.G.C.'s first memo, dated May 31, 1979, regarding the contributions to Peck) that all of the Dennis money to Stewart was in the form of cashier's checks? Did he, or Hal Ponder, or any other member of the O.G.C. staff see copies of all of the cashier's checks made out to Stewart? Did they total up to $23,150? This is the only way that Stewart could "demonstrate" (Oldaker's words to Stewart's campaign) that he had received 23 ($23,000) or 24 (the extra $150) cashier's checks, and not a grab bag $23,150 of which $11,000 was in cash.

If O.G.C. saw the 23 or 24 cashier's checks, why are they not in the public record of MUR 970? Could it be the F.E.C. did ask the First National Bank of Birmingham for records? Why doesn't a reporter or the F.B.I. ask lawyer Ed Ashton of the First National Bank of Birmingham if the F.E.C. ever asked for copies of the checks, or if another legal body (a grand jury) has ever asked for copies of the checks? If this was done, why is there no reference to this logical procedure in the files? Mr. Ashton told Congressman Dornan that all Dennis checks were subpoened in the spring of 1979. By whom?

Could it be that anyone who saw the checks in sequential order would have been naturally suspicious of the source of the monies but that the O.G.C. didn't want to expose this?

Reporter Tim Nagler of the Montgomery Advertiser, Alabama, wrote two editorials critical of the F.E.C.'s handling of the Peck/Dennis/Stewart affair. He told Bob Marshall of Dornan's staff that he (Nagler) had sent his two critical editorials to the F.E.C. and that they were sent by registered mail, return receipt requested.

Even without copies of the checks, Nagler and other Alabama reporters "smelled a rat" in the Stewart contributions. Nagler pointed out the obvious. Nagler also told Marshall that the F.E.C. gave him a "rough run-around." Stewart's campaign disclosure forms showed that 10 maximum $1000 donors all came from the same post office box in tiny Sumiton, Alabama. If Nagler and others in Alabama who are only peripherally familiar with F.E.C. forms can see that 10 individuals who make maximum contributions to Senator Stewart would not obviously not have the same post office box as an address, why didn't Stewart and/or the O.G.C. of the F.E.C. also see that something was " rotten in the state of Alabama"? Perhaps they did; but if so, a sophisticated cover up would have been under way if the F.E.C./O.G.C. had failed to vigorously investigate.

F.E.C. reviewers and the Office of General Counsel cannot plead ignorance in this matter. Why? Because the "Friends of Donald Stewart" filed a complaint regarding campaign monies spent on behalf of their general election opponent, Mr. Jim Martin. (See MUR 820)

At the time this complaint was filed (November 3, 1978) 2 U.S.C. 437g(a)(3) required that F.E.C. officials audit the opposing campaign. The complaint was sent by James Stewart, treasurer, "Friends of Donald Stewart," to the Office of General Counsel. Why wasn't the O.G.C. suspicious when they routinely reviewed Stewart's forms in connection with the complaint about Martin and obviously saw 10 maximum donors all listed as receiving mail at Drawer S, Sumiton, Alabama?

Additionally, in a May 9, 1979, Birmingham Post Herald article, the Stewart campaign told the press that they had sent registered letters to all of the alleged illegal contributors and included a copy of the "money order or cashier's checks" of those individuals.

Yet, when James Stewart sent a letter to the F.E.C. about their "thorough investigation" he is silent about sending copies of the cashier's checks? Why didn't "good citizen Stewart" send the F.E.C. those valuable copies of the cashier's checks? Another question: how did Stewart receive all of those Dennis contributions (2 dozen)? By mail? By good ol' Federal Express? By a lackey? In person?●